

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, February 9, 2023

4:30 PM

City Hall Room 111

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 23rd, 2023 Planning Commission Meeting - Mirinda Hopkins, Development Coordinator

2. VAR-2023-0005

Planning Commission Variance (1691 S DEAD HORSE MOUNTAIN RD/WATERSHED CONSERVATION RESOURCE CENTER, 604 & 606): Submitted by WATERSHED CONSERVATION RESOURCE CENTER for property located at 1691 S. DEAD HORSE MTN. RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 392.60 acres. The request is for a variance from water and sewer requirements for a lot split. - Jessica Masters, Development Review Manager

Unfinished Business**New Business****3. ADM-2023-0002**

Administrative Item (NE OF WEDINGTON & 54TH AVE./COBBLESTONE FARMS, 398): Submitted by CRAFTON TULL for property located NE OF WEDINGTON DR. & 54TH AVE. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 14.94 acres. The request is to amend LSD-2021-000040. - Ryan Umberger, Senior Planner

4. VAR-2023-0002

Planning Commission Variance (3825 N. SHILOH DR/CAJAKAJO HOLDINGS INC, 174): Submitted by BLEW & ASSOCIATES for property located at 3825 N. SHILOH DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.60 acres. The request is for a variance to the flood damage protection ordinance.

ITEM HAS BEEN WITHDRAWN BY THE APPLICANT. - Alan Pugh, Staff Engineer

5. VAR-2023-0003

Planning Commission Variance (401 W. WATSON ST/THE LEGACY

BUILDING, 484): Submitted by DOWNTOWN PROPERTIES REAL ESTATE GROUP for property located at 401 W. WATSON ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.40 acres. The request is for a variance of minimum parking requirements for residential uses. - Donna Wonsower, Planner

6. LSD-2022-0031

Large Scale Development (S. OF S. LEFLAR WAY/PIGSKIN RV PARK, 569): Submitted by CRAFTON TULL for property located S.OF S. LEFLAR WAY. The property is split-zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE, CPZD, COMMERCIAL PLANNED ZONING DISTRICT, and CS, COMMUNITY SERVICES and contains approximately 43.55 acres. The request is for 165 proposed RV parking stalls and associated amenities. - Ryan Umberger, Senior Planner

7. LSD-2022-0033

Large Scale Development (2992 N. OAK BAILEY DR/MARKER DEVELOPMENT, 254): Submitted by COMMUNITY BY DESIGN for property located at 2992 N. OAK BAILEY DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE and contains approximately 2.67 acres. The request is for a cluster housing development with 18 residential units. - Gretchen Harrison, Planner

8. VAC-2023-0001

Vacation (N. BOB YOUNKIN DR & W. BISHOP DR/APPLEBY LANDING, 251): Submitted by LEGACY VENTURES NWA INC for property located at N. BOB YOUNKIN DR AND W. BISHOP DR. The property is zoned R-O, RESIDENTIAL-OFFICE and contains approximately 7.76 acres. The request is to vacate a 0.44-acre portion of right-of-way. - Gretchen Harrison, Planner

9. CUP-2022-0136

Conditional Use Permit (150 N. SKYLINE DR, UNIT 108/AMERICAN TOWER, 486): Submitted by SMJ INTERNATIONAL for property located at 150 N. SKYLINE DR, UNIT 108. The property is zoned P-1, INSTITUTIONAL and contains approximately 26.04 acres. The request is to add capacity to an existing cell tower.

ITEM HAS BEEN WITHDRAWN BY CITY STAFF. - Jessica Masters, Development Review Manager

10. CUP-2023-0003

Conditional Use Permit (N. OF W. EMIL DR/CRYSTAL SPRINGS SD, 285): Submitted by RAUSCH COLEMAN HOMES for property located at N. OF W.

EMIL DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.25 acres. The request is for an 8-unit cluster housing development. - Ryan Umberger, Senior Planner

11. RZN-2022-0056

Rezoning (4302 W. BRONCO DR/BAUMANN CONSTRUCTION, 517): Submitted by ENGINEERING SERVICES INC for property located at 4302 W. BRONCO DR. The property is zoned CS, COMMUNITY SERVICES and contains approximately 0.38 acres. The request is to rezone the property to RSF-18, RESIDENTIAL SINGLE-FAMILY, EIGHTEEN UNITS PER ACRE. - Gretchen Harrison, Planner

12. RZN-2023-0001

Rezoning (W. OF N. WASHINGTON AVE/SPRING STREET COTTAGES, 485): Submitted by COMMUNITY BY DESIGN for property located W. OF N. WASHINGTON AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.12 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN. - Ryan Umberger, Senior Planner

13. RZN-2023-0002

Rezoning (N. GREGG AVE AND W. ELM ST/LEGACY VENTURES LLC, 367): Submitted by COMMUNITY BY DESIGN for property located at SOUTHEAST OF N. GREGG AVE AND W. ELM ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.71 acres. The request is to rezone 0.76 acres of the subject property to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE and 0.95 acres to RI-U, RESIDENTIAL INTERMEDIATE-URBAN. - Ryan Umberger, Senior Planner

14. CUP-2022-0127

Conditional Use Permit (2415 S. SHILOH DR/DE LOS ANGELES, 637): Submitted by BLANCA SHERINE, LLC for property located at 2415 S. SHILOH DR. The property is zoned R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 2.21 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

15. CUP-2023-0002

Conditional Use Permit (2300 N. BRIARWOOD LN/STEINWEG, 330): Submitted by EMERY STEINWEG for property located at 2300 N. BRIARWOOD LN. The property is zoned RSF-4, RESEDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approx. 0.32 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

16. CUP-2022-0135

Conditional Use Permit (1605 N. APPLEBURY DR/COOPER, 409): Submitted by ADRIA COOPER for property located at 1605 N. APPLEBURY DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.60 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

17. CUP-2023-0001

Conditional Use Permit (1254 S. IVORY BILL LN/THORPE, 564): Submitted by STEPHANIE STRACK INTERIORS for property located at 1254 S. IVORY BILL LN. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.11 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

18. CUP-2022-0134

Conditional Use Permit (1640 N. LINDA JO PL/GUNN, 403): Submitted by BYRON GUNN for property located at 1640 N. LINDA JO PL. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approx. 0.10 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

19. CUP-2022-0137

Conditional Use Permit (829 S. ONE MILE RD/SHUFFIELD, 557): Submitted by MARK SHUFFIELD for property located at 829 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.06 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

Items Administratively Approved by Staff**20. LSP-2022-0066**

Lot Split (HIGHLAND CHURCH RD/WOLLENZIEN, 469 & 470): Submitted by ATLAS PLS for property located at HIGHLAND CHURCH RD. The property is in the FAYETTEVILLE PLANNING AREA, and contains approximately 7.16 acres. The request is to divide the property into two lots containing 2.16 acres, and 5.00 acres. - Jessica Masters, Development Review Manager

21. LSP-2022-0068

Lot Split (5054 W. WHEELER RD/ARMSTRON, 281): Submitted by BLEW AND ASSOCIATES for property located at 5054 W. WHEELER RD. The property is in the FAYETTEVILLE PLANNING AREA, and contains approximately 34.04 acres. The request is to divide the property into four lots containing 15.37 acres, 1.74 acres, 15.31 acres, and 1.62 acres. - Gretchen Harrison, Planner

22. LSP-2022-0070

Lot Split (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 23.14 acres. The request is to divide the property into three lots containing 7.59 acres, 7.97 acres, and 7.58 acres. - Gretchen Harrison, Planner

23. LSP-2023-0001

Lot Split (S. OF 2130 N. BOX AVE/COLLIER, 372): Submitted by BATES AND ASSOCIATES for properties located S OF 2130 N. BOX AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – 4 UNITS PER ACRE and contains approximately 1.64 acres. The request is to split two properties into four lots with approximately 0.41 acres each. -

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, 1/23/2023			
Time:	5:30pm					
Staff :	☒ Melissa Evans ☐ John Scott ☒ Jessie Masters ☒ Ryan Umberger ☒ Gretchen Harrison ☐ Donna Wonsower					
	☒ Britin Bostick ☒ Sherry Smith ☒ Josh Boccaccio ☐ Melissa Boyd ☐ Fire Marshall					
	Roll Call	(1) Minutes 01-09-2023	2) ADM-2022-0066 (COURTYARDS AT OWL CREEK)	3) ADM-2022-0069 (MARKHAM HILL HOSPITALITY)	4) VAR-2022-0063 (BROCK)	5) VAC-2022-0029 (THE TRAILS ON THE CREEK)
Garlock	1	1	1	1	1	1
Madden	1	1	1	1	1	1
Holcomb	1	1	1	1	1	1
Brink	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Winston	1	1	1	1	1	1
Canada						
Sparkman	1	1	1	1	1	1
Johnson	1	1	1	1	1	1
Agenda		Consent	Consent	Consent	Consent	Consent
Motion By		Brink	Brink	Brink	Brink	Brink
Motion 2nd		Johnson	Johnson	Johnson	Johnson	Johnson
Vote		8-0-0	8-0-0	8-0-0	8-0-0	8-0-0
Action		Approve	Approve	Approve	Approve	Approve
Time		5:34pm	5:34pm	5:34pm	5:34pm	5:34pm
Motion Detail						

(pg. 2) Planning Commission		Monday, 1/23/2023			
	6) VAR-2022-0062 (REINDL)	7) CUP-2022-0115 (TILLMAN)	8) CUP-2022-0122 (STRANGE)	9) VAR-2022-0066 (PORTMANN)	10) CUP-2022-0133 (JJ'S SPORTS COMPLEX)
Garlock	1		1	1	1
Madden	1		1	1	1
Holcomb	1		1	1	1
Brink	Recuse		1	1	1
McGetrick	1		1	1	1
Winston	1		1	1	1
Canada					
Sparkman	1		1	1	1
Johnson	1		1	1	1
Agenda	Old	Old	Old	New	New
Motion By	Winston	WITHDRAWN	Johnson	Garlock	Brink
Motion 2nd	McGetrick	BY APPLICANT	Garlock	Johnson	Johnson
Vote	7-0-1		8-0-0	8-0-0	8-0-0
Action	Approve		Table Indefinetly	Approve	Approve
Time	6:02pm		6:05pm	6:09pm	6:25pm
Motion Detail	No public comment		No public comment	No public comment	Operation hours 5am-9pm 7 days a week Strike number of employees All other conditions as recommended by staff No public comment

(pg. 3) Planning Cc		Monday, 1/23/2023			
	11) RZN-2022-0053 (ARNOLD)	12) RZN-2022-0054 (3V Q0ZB LLC)	13) RZN-2022-0055 (MIDWEST TRUST CO.)	14) CUP-2022-0128 (JEFFUS)	15) CUP-2022-0120 (NEWMAN)
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					
Sparkman	1	1	1	1	1
Johnson	1	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Garlock	Garlock	Brink	Johnson	Brink
Motion 2nd	Brink	Sparkman	Winston	Winston	Winston
Vote	8-0-0	8-0-0	8-0-0	8-0-0	8-0-0
Action	Forward	Deny	Forward	Approve	Approve
Time	6:37pm	6:47pm	7:15pm	7:30pm	7:34pm
Motion Detail	With recommendation of approval No public comment	Passed-Denied 1 Public comment	With recommendation of approval 6 Public comments	With conditions as outlined by staff No public comment	With conditions as outlined by staff No public comment

(pg. 4) Planning Commission		Monday, 1/23/2023			
	16) CUP-2022-0121 (FIELDS)	17) CUP-2022-0129 (BAXTER)	18) CUP-2022-0130 (GINGER)	19) CUP-2022-0131 (YOUNG CAPITAL INVESTMENTS)	20) CUP-2022-0132 (YOUNG CAPITAL INVESTMENTS)
Garlock	1	0	1		
Madden	1	0	1		
Holcomb	1	1	1		
Brink	1	1	1		
McGetrick	1	0	1		
Winston	1	1	1		
Canada					
Sparkman	1	1	1		
Johnson	1	0	1		
Agenda	New	New	New	New	
Motion By	Garlock	Brink	Johnson	Garlock	Johnson
Motion 2nd	Johnson	Sparkman	Garlock	Johnson	Madden
Vote	8-0-0	4-4-0	8-0-0	8-0-0	8-0-0
Action	Approve	Approve	Approve	Deny	Deny
Time	7:37pm	7:49pm	7:57pm	8:44pm	8:46pm
Motion Detail	With conditions as recommended by staff No public comment	Motion failed-Denied No public comment	No public comment	Motion passed - Denied No public comment	Motion passed - Denied No public comment



TO: City of Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
Josh Boccaccio, Engineering Development Review Manager

MEETING DATE: February 13, 2023

SUBJECT: **VAR-2023-0005: Planning Commission Variance (1691 S DEAD HORSE MOUNTAIN RD/WATERSHED CONSERVATION RESOURCE CENTER, 604 & 606):** Submitted by WATERSHED CONSERVATION RESOURCE CENTER for property located at 1691 S. DEAD HORSE MTN. RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 392.60 acres. The request is for a variance from water and sewer requirements for a lot split.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0005**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0005**, determining:*

- In favor of the requested variance to 166.04(B)(3)(c); and*
- In favor of all other conditions recommended by staff."*

BACKGROUND:

The subject property is in south Fayetteville along S. Dead Horse Mountain Road. The West Fork of the White River runs through the property along the northern side and continues to border the property to the west. A lot split (LSP-2023-0003) has been submitted on the property to subdivide the 392.60-acre site into two lots, one with 222.71 acres, and the other with 165.64 acres. The purchaser of the property, the Watershed Conservation Resource Center, intends to use the 222.71-acre portion of the site for long-term land conservation, restoration, and enhancement for water quality improvements and protection of the Beaver Lake watershed. City Council approved a resolution on November 1, 2022 (Res. 257-22) to contribute to this land purchase with American Rescue Plan Act (ARPA) funds totaling in the amount of \$1,445,000.00. The property is almost entirely within Floodway and Zone AE floodplain. 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, Undeveloped, Commercial, Office	R-A, Residential-Agricultural; RSF-4, Residential Single-Family, 4 Units per Acre; NS-L, Neighborhood Services – Limited; C-1, Neighborhood Commercial; RSF-1, Residential Single-Family, 1 Unit per Acre
South	Undeveloped; Rural Residential	R-A, Residential-Agricultural; RSF-4, Residential Single-Family, 4 Units per Acre
East	Undeveloped; Rural Residential	R-A, Residential-Agricultural; RSF-1, Residential Single-Family, 1 Units per Acre

West	Undeveloped; Industrial; City Parkland	I-2, General Industrial; P-1, Institutional
------	---	--

Request: The applicant is requesting a variance to 166.04(B)(3)(c), which requires that any lot that is created through an administrative lot split shall have access to public water and sewer as required by city and state code. If a lot split would cut off a property from water or sewer access, the lot split may not be filed unless a variance is granted by the Planning Commission. The applicant is requesting a variance to this standard.

DISCUSSION:

Staff recommends approval of the applicant's request. While UDC section 166.04 requires developers to install infrastructure improvements according to project type, UDC 166.04 also requires the City to only require improvements that are roughly proportional to the proposed development. The intent of section 166.04(B)(3)(c) is to create new lots that are developable, and that could bear the impact of any future structures or uses that could be placed on the newly created lot. In this case, staff finds that to require the current owner to extend water and sewer to the proposed lots at this time would exceed the standard of rough proportionality. The distance needed to make the extension, as well as the topography that would need to be overcome would far outweigh the level of impact that this proposed development would have on existing City infrastructure. Given that the proposed lots are large tracts, that there are only two being created with the current proposal, and that one is intended for long-term conservation, staff finds that the intent of the ordinance is being met with the granting of this variance.

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

RECOMMENDATION: Staff recommends approval of VAR-2023-0005, with the following conditions of approval;

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.04(B)(3)(c), which states that any lot that is created must have access to public water and sewer. Staff recommends approval of the request for the reasons stated above.**
2. Approval of this variance does not constitute approval for any associated lot split, or constitute approval for any future development;
3. Approval of this variance does not preclude water and sewer extensions from being required in association with any future, roughly proportional development, in a manner consistent with the requirements as outlined in 166.04.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>February 13, 2023</u>	☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §166.04 Required Infrastructure Improvements — Development In City Limits
 - Resolution 257-22 – Excerpt
 - Engineering Memo
 - Applicant Request letter
 - Site Plan
 - Staff Exhibit
 - One Mile Map
 - Close-up Map
 - Current Land Use Map
-

166.04 Required Infrastructure Improvements — Development In City Limits

(A) *Generally.* Required of developer.

- (1) *On and Off-Site Improvements.* On-site improvements are adjacent to or within a project site; such as widening the street along the project street frontage, constructing interior streets and utilities, etc. Off-site improvements are not adjacent to a project; such as the extension of an off-site sewer line to the property boundary, off-site storm drainage improvements, or an off-site intersection improvement, etc.
- (2) *Standards Applicable.* Any required on or off-site improvements in the city and within one (1) mile of the city limits shall be installed according to the city's standards; provided on or off-site improvements to roads located outside one mile of the city limits shall be installed to the county's standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the development.
- (3) *Required Infrastructure Improvements.* On and off-site improvements that are roughly proportional and bear a rational nexus to the impact of the development are required for all development within the City of Fayetteville. The developer shall be required to install on and off-site improvements where the need for such improvements is created in whole or in part by the proposed development.

...

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

...

(3) *Lot Split, Building Permit Requiring Grading Review.*

- (a) *Dedication of Right-of-Way.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Subdivision Committee or Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.
- (i) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Fayetteville Planning Commission/Subdivision Committee.

- (b) *Monuments and Lot Stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes marking the corners of a parcel to be set in accordance with Section 3.2, General Procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.
- (c) *Water, Sewer, or Street Frontage.* Any lot that is created shall have adequate street frontage or street access that meets the minimum requirements of the zoning code, and access to public water and sewer as required by city and state code. If a lot split would create or exacerbate a nonconforming situation (such as cutting off a lot from public water, sewer, street frontage, or street access), the lot split may not be filed of record until the required easement is dedicated and/or the infrastructure is first constructed to city specifications, or a variance or waiver is granted by the Planning Commission.
- (d) *Parkland Dedication.* Parks fees shall be assessed for each new residential unit that is constructed on the additional lot(s) in accordance with the parkland dedication requirements outlined in Fayetteville Unified Development Code Chapter 166. Said fees shall be paid prior to issuance of a building permit for construction on the new lot.

(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)



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Resolution: 257-22

File Number: 2022-1000

SUBRECIPIENT AGREEMENT WCRC DEAD HORSE MOUNTAIN RD. LAND PURCHASE:

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A SUBRECIPIENT AGREEMENT WITH THE WATERSHED CONSERVATION RESOURCE CENTER FOR THE PURCHASE OF ABOUT 223 ACRES OF LAND NEAR DEAD HORSE MOUNTAIN ROAD UTILIZING AMERICAN RESCUE PLAN ACT FUNDS IN THE AMOUNT OF \$1,445,400.00, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville has received funding from the American Rescue Plan Act (ARPA) that can be used to support the protection of water quality and watersheds and invited non-profit organizations to submit proposals for environmental projects to fund with the available ARPA funding; and

WHEREAS, the Watershed Conservation Resource Center submitted an application requesting \$1,445,000.00 in American Rescue Plan Act funds for the purchase of about 223 acres of land near Dead Horse Mountain Road for the purpose of conservation, restoration, and enhancement to provide water quality improvements and protection of the Beaver Lake Watershed; and

WHEREAS, the property can provide significant ecological, green infrastructure, and social value to the citizens of Fayetteville for generations to come and helps to prevent additional water treatment costs, keeping future drinking water costs for citizens of Fayetteville economical; and

WHEREAS, the property treats stormwater runoff and supports water quality protection of our drinking water source for the residents of Fayetteville and Northwest Arkansas; and

WHEREAS, the Subrecipient Agreement would provide funding in the amount of \$1,445,400.00 in addition to a contribution from the Beaver Water District in the amount of \$800,000.00 for the

purchase of the land.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a Subrecipient Agreement with the Watershed Conservation Resource Center to provide the amount of \$1,445,400.00 in American Rescue Plan Act funds to purchase approximately 223 acres near Dead Horse Mountain Road, and further authorizes Mayor Jordan to execute all other documents necessary to consummate the purchase of the land as well as any additional agreements related to the ownership, use, and conservation of the land.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

PASSED and APPROVED on 11/1/2022

Approved:


Lioneld Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer





TO: Jessie Masters, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: January 31, 2023

SUBJECT: **Planning Commission Engineering Comments for
VAR-2023-0005 Watershed Conservation Resource Center**

Discussion:

The Engineering Division supports the applicant's request for a variance of UDC 166.04(B)(3)(c) which would allow a lot to be created that does not have access to public water or sewer. The proposed lot is intended to be used for conservation purposes and most of it lies within the 100 year floodplain.



January 20, 2023

Jonathan Curth, AICP
Development Services Director
Development Services Department
City of Fayetteville, Arkansas
113 W. Mountain Ave
Fayetteville, AR 72701

RE: Request for Variance of Water and Sewer Requirements Associated with Lot Split

Dear Mr. Curth:

The Watershed Conservation Resource Center (WCRC), Beaver Water District, and the City of Fayetteville, collectively referred to in this request as “Conservation Partners” is requesting a variance of the water and sewer requirements of the City of Fayetteville Unified Development Code for a proposed lot split that is part of a real estate transaction associated with the following parcels:

765-02329-000	765-15202-000
765-15267-000	765-15268-101
765-15268-351	765-24107-100

The property is located to the west of Deadhorse Mountain Road near the West Fork White River (WFWR).

On November 1, 2022 the Fayetteville City Council approved a resolution to authorize the use of ARPA funds to subsidize the purchase of 223 +/- acres of property near Deadhorse Mountain Road south of and adjacent to the WFWR. The proposed purchase was made in partnership with the Conservation Partners and all parties will be tenants-in-common. The purpose of purchasing the property is to place the land into conservation for the benefits of water quality and floodplain management. Most of the property lies in the 100 year floodplain, and it is not meant for development. Also, due to the remoteness of the area, it would be a hardship to extend water and sewer to the new lots.

Thank you for your consideration,

Sandi J. Formica
Executive Director

EXHIBIT
STAFF MARKUP

Tract proposed for
conservation.

Approximate
location of
existing sewer

Approximate
location of existing
water line

DRAWING LEGEND

- PROPERTY LINE
ASPHALT/CONCRETE GRAVEL
RIGHT-OF-WAY
ACCESS EASEMENT
EXISTING LOT LINES PER GIS
ROAD CENTERLINE
EXISTING BUILDING
EXISTING PIPE FENCE
EXISTING ELECTRICAL LINES
SANITARY SEWER LINES
OVERHEAD ELECTRICAL LINES
FLOODPLAIN LINES
FLOODWAY LINE

- SET 1/2" REBAR WITH CAP, PS #1547
(UNLESS OTHERWISE NOTED)
● CALCULATED POINT
● FOUND MONUMENT (AS NOTED)
⊗ EXISTING MANHOLE
⊗ EXISTING WATER VALVE
⊗ EXISTING UNDERGROUND JCT. BOX
⊗ EXISTING ELECTRIC METER

GENERAL SURVEY NOTES

PLAT REPRESENTS A PART OF SECTION 23 AND A TOWNSHIP NORTH, RANGE 30 WEST, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. THE PROPERTY ADDRESS IS SOUTH DEAD HORSE MOUNTAIN ROAD.

- UTILITY NOTE: ONLY PART OF THE ADJACENT UNLINED SURVEY HEREIN WERE LOCATED BASED ON FIELD OBSERVATIONS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES GUARANTEE THAT THEY ARE LOCATED ACCORDING TO AVAILABLE RECORDS. THE SURVEYOR DOES NOT GUARANTEE THE ACCURACY OF THE UTILITIES SHOWN.
- EVERY DOCUMENT OF RECORD RECEIVED AND CONSIDERED AS A PART OF THIS SURVEY IS NOTED HEREIN, ONLY THE DOCUMENTS NOTED HEREIN WERE SUPPLIED TO THE SURVEYOR. THERE MAY BE OTHER DOCUMENTS OF RECORD WHICH WOULD AFFECT THIS SURVEY.
- THE SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE SEAL AND SIGNATURE OF THE SURVEYOR.
- THE SURVEY MEETS OR EXCEEDS CURRENT ARKANSAS STATE MINIMUM STANDARDS FOR SURVEYS OF THIS TYPE.
- DECLARATION IS MADE TO OWNERS, PURCHASERS OF THE SURVEY, IF IT IS NOT TRANSFERABLE TO ADJUDICIAL INSTITUTIONS OR SUBSEQUENT OWNERS.
- SUBSIDIARY AND CONSEQUENTIAL CONTINGENTS WERE NOT OBTAINED OR CONSIDERED AS A PART OF THE SURVEY.
- ALL AREAS OF ASPHALT AND CURB & GUTTER ARE IN TOWNSHIP CENTER UNLESS OTHERWISE NOTED.
- THE SURVEYOR HAS NOT OBSERVED EVIDENCE OF CURRENT EARTHWORK, ROAD, BUILDING CONSTRUCTION, OR BUILDING NOTATIONS ON THE SITE.
- THE SURVEYOR HAS NOT OBSERVED EVIDENCE OF PROPOSED CHANGES IN STREET RIGHT-OF-WAY LINES AND PRESENT STREET OR INTERLOCAL CONSTRUCTION OR REPAIRS.
- THE SURVEYOR HAS OBSERVED EVIDENCE OF THE USE OF A SOIL WATER DUMP PUMP OR SANITARY LANDFILL.
- NO METAL AND SENSITIVE OR DETERIORATION WAS DONE AS PART OF THIS SURVEY.
- SURVEYOR CERTIFIED THAT THE SURVEY DESCRIPTION NOTED HEREIN IS THE SAME PROPERTY DESCRIBED IN THE TITLE COMMITMENT DESCRIPTION LIMITED HEREIN.

CERTIFICATE OF OWNERSHIP & DEDICATION

WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO THE CITY OF FAYETTEVILLE AND TO THE PUBLIC UTILITY COMPANIES (INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY THE CITY OF FAYETTEVILLE) THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREIN IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

DATE OF EXECUTION: _____ SIGNED: _____ OWNER _____ PRINTED: _____

DATE OF EXECUTION: _____ SIGNED: _____ OWNER _____ PRINTED: _____

CERTIFICATE OF FINAL PLAT APPROVAL

I, MICHAEL J. NGUYEN, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND BOUNDARY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, TYPE, AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM STANDARDS FOR SURVEYS HAVE BEEN MET.

DATE OF EXECUTION: _____ SIGNED: _____ MICHAEL J. NGUYEN
REGISTERED LAND SURVEYOR
NO. 1547
STATE OF ARKANSAS

SURVEY CERTIFICATION

FOR THE USE AND BENEFIT OF WATERSHED CONSERVATION RESOURCE CENTER AND WACO TITLE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE MOST CURRENT ARKANSAS STATE MINIMUM STANDARDS FOR SURVEYS OF THIS TYPE. NO ATTEMPT WAS MADE TO LOCATE UTILITIES ABOVE OR BELOW SURFACE. SUBJECT TO ANY EASEMENTS PRESCRIPTIVE AND NON-PRESCRIPTIVE, SUBJECT TO ANY FACTS AN ACCURATE TITLE SEARCH MAY REVEAL. THE FIELD WORK WAS COMPLETED UNDER MY SUPERVISION ON 12/28/2022.

DATE OF PLAT OR MAP: 01/18/2023



500-16N-30W-0-23-000-72-1547
STATE PLAT CODE: 500-16N-30W-0-24-440-72-1547

RECORD INFORMATION

1. GLO NOTES OF RECORD
2. GLO PLATS OF RECORD
3. QUIT CLAIM DEED
4. FILE #010-00000000, RECORDS OF WASHINGTON COUNTY, ARKANSAS, DATED 08/18/2010
5. SURVEY BY PS #1528, DATED 08/11/2020
6. SURVEY BY PS #1496, DATED 11/25/2016

GRAPHIC SCALE IN FEET
500' 0 500'
1 FOOT = 500 FEET

BASIS OF BEARINGS
STATE PLANE COORDINATE SYSTEM, ARKANSAS NORTH ZONE, NAD 83 U.S. SURVEY FOOT BEARINGS: GRID
DISTANCES: GROUND
SCALE FACTOR: 0.99999546089
CONVERGENCE ANGLE: -1° 14' 25.08551816"
VALUES TAKEN AT P.O.B.

BOUNDARY SURVEY
PART OF THE NE 1/4, SE 1/4, NW 1/4 AND NW 1/4 OF SEC. 23
PART OF THE NW 1/4 OF SEC. 24
TOWNSHIP 16 NORTH, RANGE 30 WEST

PREPARED FOR:
WATERSHED CONSERVATION RESOURCE CENTER
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

VICINITY MAP

DATE	DESCRIPTION	DATE

This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the property of Crafton, Tell & Associates, Inc., and is not to be used, in whole or in part, for any other project, without the written authorization of Crafton, Tell & Associates, Inc.

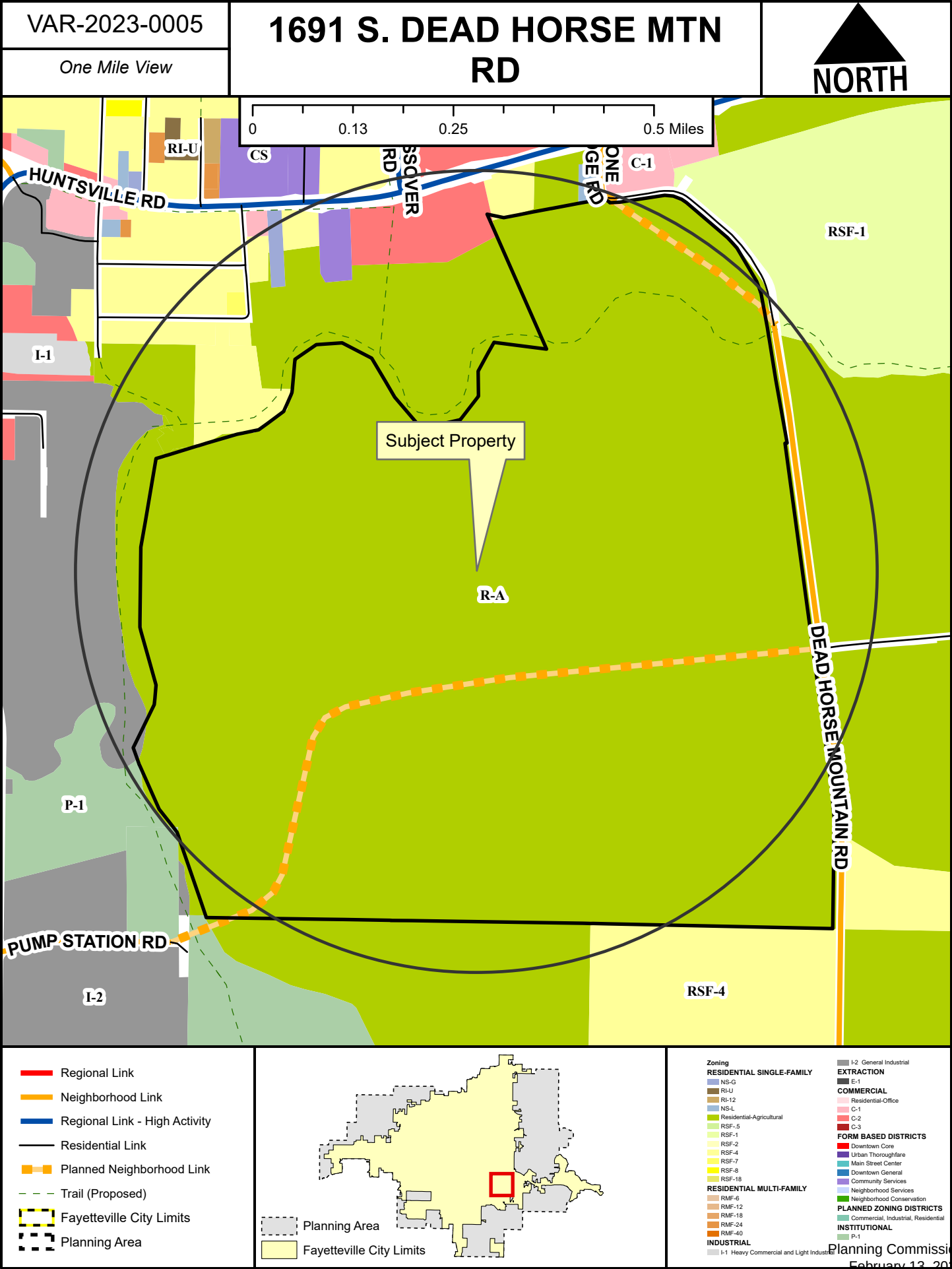
1800 LeGarrison Dr.
Cottondale, Arkansas 72034

Crafton Tell & Associates, Inc.
engineers and surveyors

501.328.2314 | 501.328.3355
www.craftontell.com

CERTIFICATE OF AUTHORIZATION
STATE OF ARKANSAS
MICHAEL J. NGUYEN
REGISTERED LAND SURVEYOR
NO. 1547

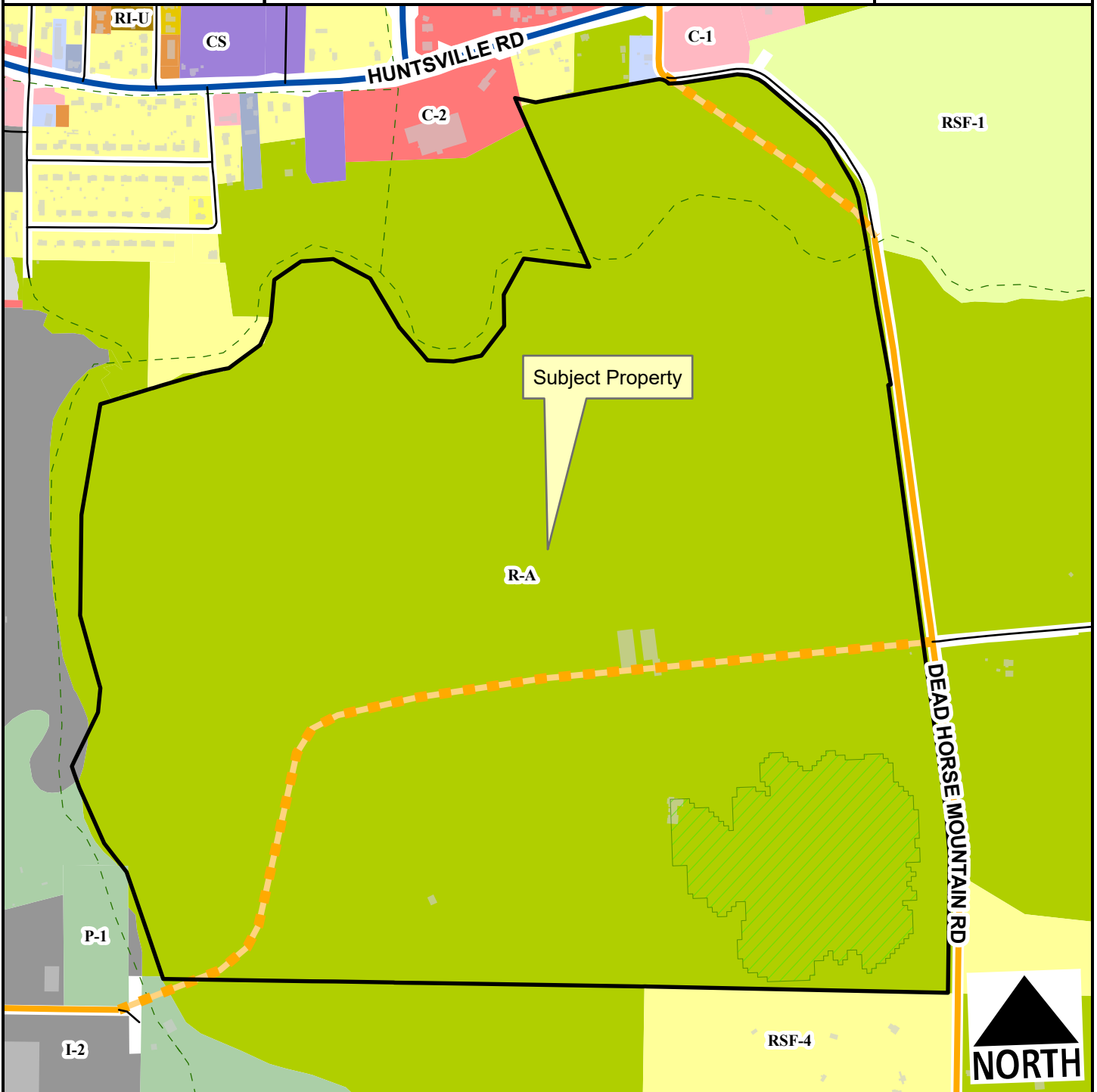
PROJECT NO.: C2500003
ISSUE DATE: 01/17/2023
DRAWN BY: J. LANGSTON
APPROVED BY: J. LANGSTON
SHEET NO.: 1



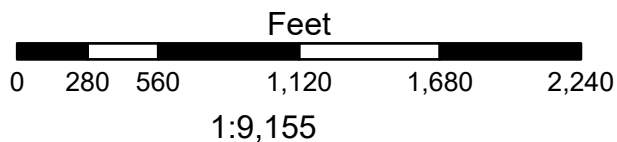
VAR-2023-0005

1691 S. DEAD HORSE MTN RD

Close Up View



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



- Residential-Agricultural
- RSF-1
- RSF-4
- RSF-7
- RI-12
- RI-U
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial
- C-1
- C-2
- Community Services
- Neighborhood Services - Ltd.
- Neighborhood Services - Gen.
- P-1

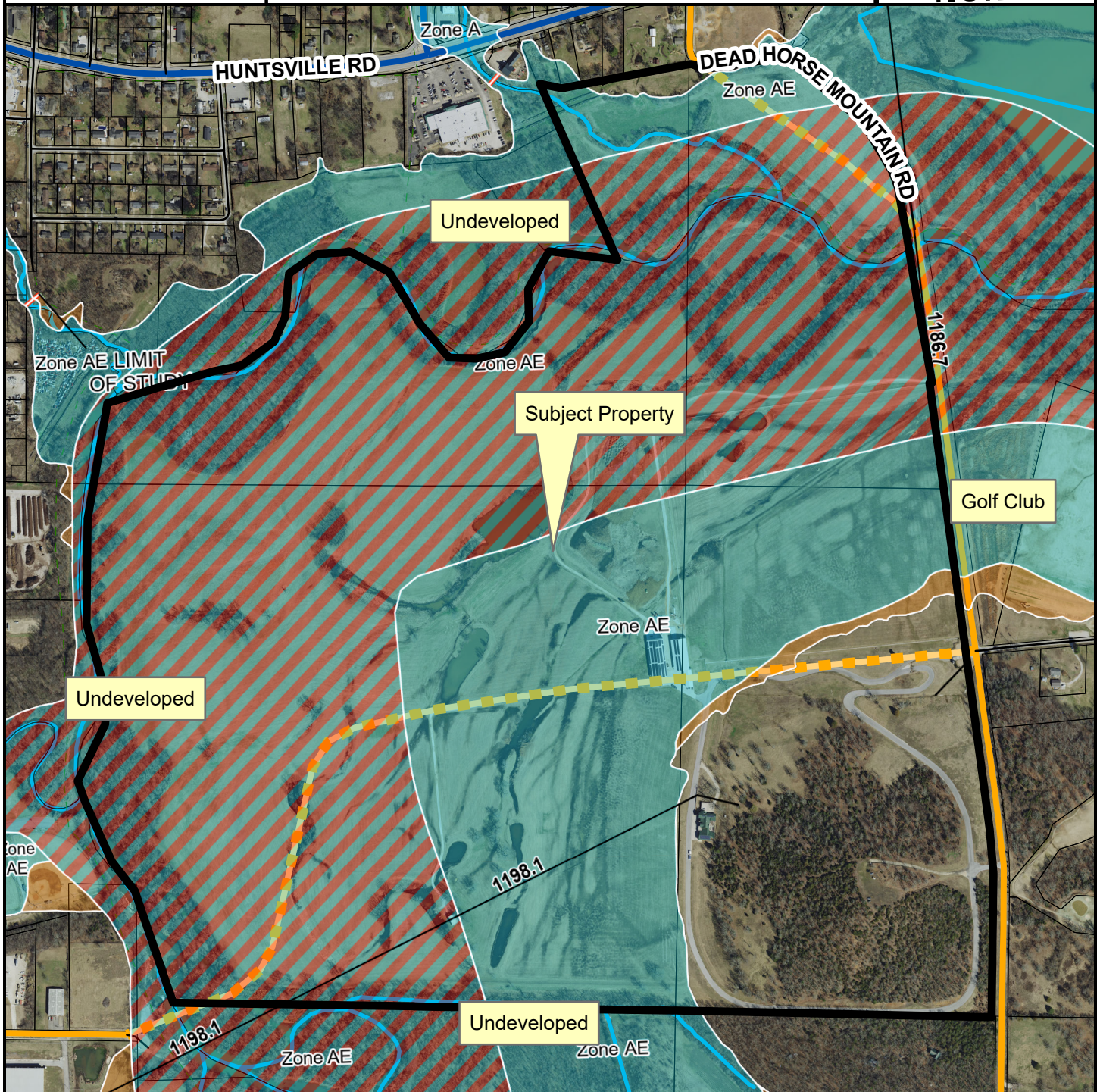
Planning Commission
February 13, 2023

VAR-2023-0005 (WATERSHED CONSERVATION RESOURCE CENTER)

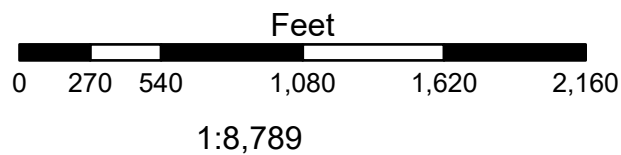
VAR-2023-0005

1691 S. DEAD HORSE MTN RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

VAR-2023-0005 (WATERSHED CONSERVATION RESOURCE CENTER)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester
Ryan Umberger, Senior Planner

MEETING DATE: February 13, 2023

SUBJECT: **ADM-2023-0002 Administrative Item (NE OF WEDINGTON & 54TH AVE./COBBLESTONE FARMS, 398):** Submitted by CRAFTON TULL for property located NE OF WEDINGTON DR. & 54TH AVE. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 14.94 acres. The request is to amend and extend the approval of LSD-2021-000040.

RECOMMENDATION:
Staff recommends tabling **ADM-2023-0002**.

RECOMMENDED MOTION:
*"I move to table **ADM-2023-0002** to the February 27th Planning Commission meeting."*

BACKGROUND:

The subject property is in west Fayetteville, on the northeast corner of W. Wedington Drive and N. 54th Avenue. The site extends north of the W. Wedington Drive right-of-way roughly ¼ mile and covers a portion of a larger property occupied by the non-profit, Cobblestone Farms. Several agricultural buildings and row crops associated with Cobblestone Farms occupy the northern extents of the subject property. In early 2020, the subject area was incorporated into city limits (ANX 20-6981) and rezoned (RZN 20-6982) to its current CS, Community Services and RI-U, Residential Intermediate-Urban designation. On November 22, 2021, a large scale development was approved for 108 residential units (LSD-2021-000040). The large scale development expired one year later on November 22, 2022. A request to extend the approval of the project has not been received. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	AG/SF Res 1 (Unincorporated Washington County)
South	Single-family Residential	R-A, Residential Agricultural
East	Undeveloped	AG/SF Res 1 (Unincorporated Washington County) / R-A, Residential Agricultural
West	Single-family Residential; Outdoor Materials Storage	R-A, Residential Agricultural / RI-12, Residential Intermediate, 12 Units per Acre

Request: The applicant is proposing to amend their previously approved large scale development to alter the project site area. Specifically, the request would amend the tree preservation plan to omit a portion of the site currently reserved for tree preservation. The applicant's request letter

says the purpose behind the request is to avoid future development restrictions associated with a tree preservation easement.

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

DISCUSSION:

Staff finds there is not sufficient justification to amend the large scale development as proposed. The applicant proposes to retroactively omit a portion of the site from the overall project area in an effort to modify their overall tree preservation requirements. This portion of the site was originally intended for tree preservation per the approved large scale plans. The applicant's request letter suggests they do not intend to remove the trees but would like to avoid development restrictions in this area so they can be evaluated later with another project. Several trees were removed as a result of the large scale development entitlements but, those in the northeast corner of the site were the only trees intended to be preserved. A stated principal of UDC §167 – Tree Preservation and Protection establishes that preservation shall be the first, best, and standard approach. Accordingly, the chapter requires that large scale developments dedicate a tree preservation easement when any existing trees are to be preserved. Staff contends that the original landscape plan should be upheld and a tree preservation easement should be dedicated to protect the trees and prevent removal with future phases of the development.

RECOMMENDATION: Staff recommends tabling ADM-2023-0002. Should Planning Commission choose to approve the item staff recommends the following conditions:

Conditions of Approval:

1. Should the modification be approved, the applicant shall submit a property line adjustment to revise the property boundary to reflect that of the project area.
 - 2.
 3. Approval of this variance does not represent approval of other development issues that have not been fully reviewed at this stage, nor does it represent needed development entitlement or approval for any associated plan.
 4. All other conditions of the associated large scale development (LSD-2021-000040) shall apply.
-

PLANNING COMMISSION ACTION: Required YES

Date: February 13, 2023 ☐ Tabled ☐ Approved ☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Urban Forestry Memo
- LSD-2021-000040 Conditions of Approval
- LSD-2021-000040 Site Exhibit
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map



Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Ryan Umberger, Senior Planner

FROM: Melissa Evans, Urban Forester

MEETING DATE: January 23, 2023

SUBJECT: **ADM-2023-0002 Administrative Item (Cobblestone Farms, 1388 N. Diorite Ave):** Submitted by CRAFTON TULL for property located at 1388 N. Diorite Ave. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE-URBAN, and contains approximately 19 acres. The request is for a modification to LSD-2021-000040 due to the Tree Preservation Easement requirement per Chapter 167.04(L)(1). The applicant requests not to place preserved trees in a Tree Preservation Easement in this phase of the development.

RECOMMENDATION:

Urban Forestry Staff does not recommend approval of ADM-2023-0002, which would allow the Cobblestone Farms Large Scale Development project to not provide a Tree Preservation Easement. The applicant is proposing to not place an easement around the trees which are to be preserved on the Cobblestone Farms Phase 1 project, as required per chapter 167 for Tree Preservation and Protection, by modifying the Large Scale Development project area line. Per Chapter 167.04(L)(1), "Large scale developments, large scale site improvements, and commercial preliminary plats are required to dedicate a tree preservation easement, if any existing tree are to be preserved..." The applicant revised the plans to omit proposing a tree preservation easement at the NE corner of the site. They are preserving the trees in the first phase but want flexibility regarding the trees with future phases of Cobblestone Farms. Once Tree Preservation Easements are dedicated, they are only changeable by City Council approval.

BACKGROUND:

The proposed trees to be preserved will remain in place and the landscape requirements are the same and will be met with the revision. The trees will be protected from construction with fencing around them during the work for Phase 1. However, the trees will not be protected after construction since they will not be placed in a tree preservation easement and are subject to removal with the next phase of development to be considered. Several trees were removed for Phase 1 of this project and the trees in the NE corner are the only ones that were preserved. The plans have been revised with an LSD Boundary in which the trees are out of the limits of construction with no Tree Preservation Easement proposed.

Of the twelve existing trees in this Phase area of the project, three trees are being preserved. Tree Preservation Easement is needed around those three trees to ensure their continued preservation as per Code.

LSD-2021-000040 Conditions of Approval:

1. **Planning Commission determination of street improvements.** *Staff recommends the development construct the property's N. 54th frontage to the Master Street Plan Standard for a Residential Link street including 13-foot paved width from centerline, curb and gutter, 6-foot greenspace, streetlights and street trees. Additionally, staff recommends installation of a 10 foot-wide multi-use trail in-lieu of sidewalk along the property's 54th Avenue frontage.*

Subdivision Committee recommended in favor of the recommended street improvements.

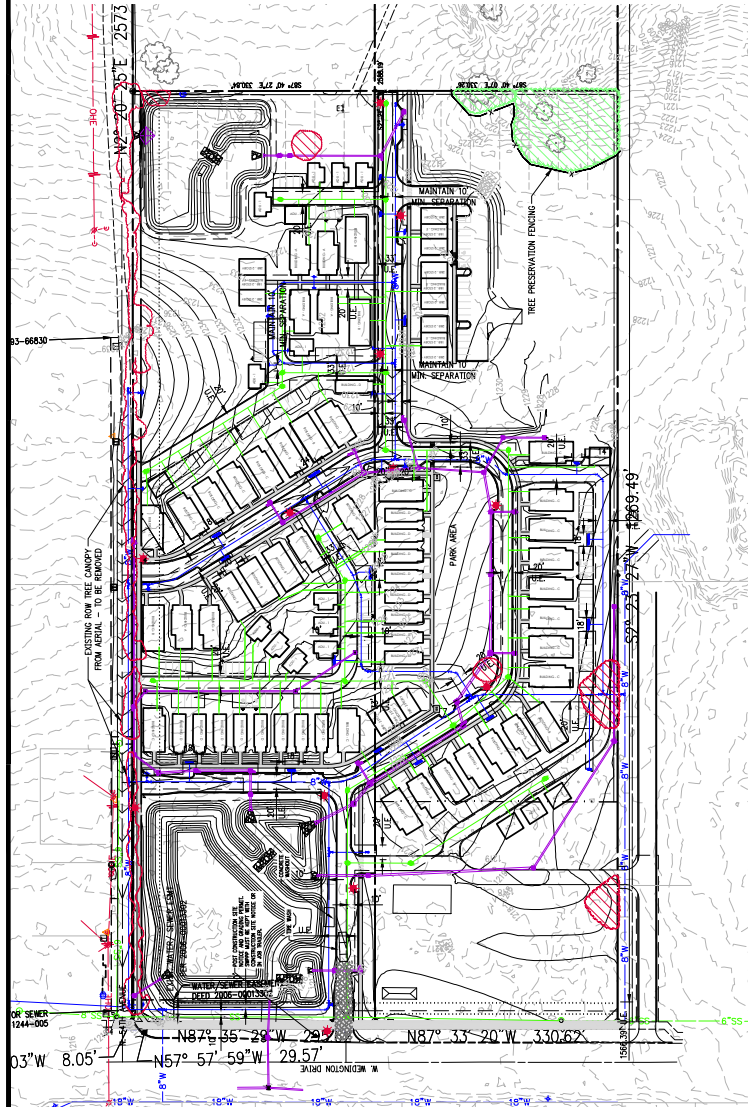
2. Structures subject to Urban Residential Design Standards will be evaluated in full time at the time of building permit submittal. This includes standards requiring variety in attached residential structures.
3. Right-of-way dedication in the amount of 11 feet from-centerline along N. 54th Avenue.
4. An access easement shall overlay the internal, private street network to ensure ingress and egress throughout the development.
5. Streetlights shall be installed in accordance with code at all street intersections and spaced every 300 feet.
6. Planning Commission determination of money in-lieu of parkland dedication amounting to \$99,960 dollars for 108 residential units. *Staff recommends in favor of money in-lieu, to be paid prior to building permit.*
7. All remaining comments from other City departments and divisions, including Engineering, Urban Forestry, and 9/11 Addressing, shall be addressed.

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 Energy, AT&T, Ozarks Electric, SWEPCO, and Cox Communications);
10. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
11. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;

12. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
 13. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, 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 the City's current requirements;
 14. 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;
 15. 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;
 16. Large scale development shall be valid for one calendar year;
 17. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit. The coordinator has noted that a separate street name is required;
 18. 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
 19. 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.
-

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>November 22, 2021</u>	☐ Tabled	☒ Approved	☐ Denied
Motion: Garlock	As recommended by staff with amendments:		
Second: Madden	#1: requiring an 8' trail to be constructed on the east side of 54th street for the length of the project area, with ROW dedicated at 26' from centerline		
Vote: 6-0-0	#2: reduction to greenspace is subject to approval by the Urban Forester		



LIMITS OF ROOT PRUNING
TREE PRESERVATION FENCING
ONSITE CANOPY TO BE PRESERVED
ONSITE CANOPY TO BE REMOVED

LEGEND



SOIL TYPES

[illegible]

CITY OF FAYETTEVILLE CALCULATIONS

Tree Preservation Calculations		Square Feet	Percent of Site
Total Site Area "Minus Right of Way and Easements"		1,379,935	100%
Zoning Designation * "Select Below with drop down"			
APR 5 Multi-Family Residential Twenty-Four Units Per Acre		315,859	20%
HHO? "Select Below with Drop Down Arrow"			
No		0	0%
Total Canopy for Minimum Preservation Requirements		315,859	20.0%
Existing Tree Canopy * "Minus Right of Way and Easements"		22,904	1.5%
Tree Canopy Preserved		16,164	1.0%
Tree Canopy Removed * "On Site"		6,740	0.4%
Tree Canopy Removed * "Off Site"		0	0
Tree Canopy Removed Total		6,740	0.4%
Remaining Below Minimum		299,095	
Anticipated Preservation Requirements		5,740	

CITY OF FAYETTEVILLE CALCULATIONS

Mitigation Requirements				
Canopy Below Requirements 5q; P.				
		Preservation Priority Type	Forestation Base Density	Number of 2" Caliper Trees to be Planted
		High Priority	218	0
		Mid Priority	290	0
6740		Low Priority	436	15
*High Priority is defined as native woodlands, riparian buffers and canopied slopes.		*Mid Priority is defined as containing native woodlands, riparian woodlands, and used as buffers.	*Low Priority is defined as native woodlands, riparian woodlands and less desirable species.	

SEE SHEET L-501 FOR TREE
PRESERVATION NOTES AND DETAILS



January 13, 2023

City of Fayetteville
Planning Staff
125 W. Mountain Street
Fayetteville, AR 72701

RE: Cobblestone Farms – Large Scale Development Plan
CTA Job No. 20111300

To whom it may concern,

This submittal is for a modification to the Large Scale Development Plans. We would like to revise the plans to omit the tree preservation area in the NE corner of the site. We are not asking to remove these trees, and we will leave the fencing up as currently installed through construction of this large scale. The request is to avoid future development restrictions in this area because of a tree preservation easement. We have revised the plan to show our current construction limits of this project and the trees in question are well beyond this. This change would allow these trees to be evaluated at a later time with a different project, should one come forward.

If you have any questions, or require any additional information, please contact us at your convenience.

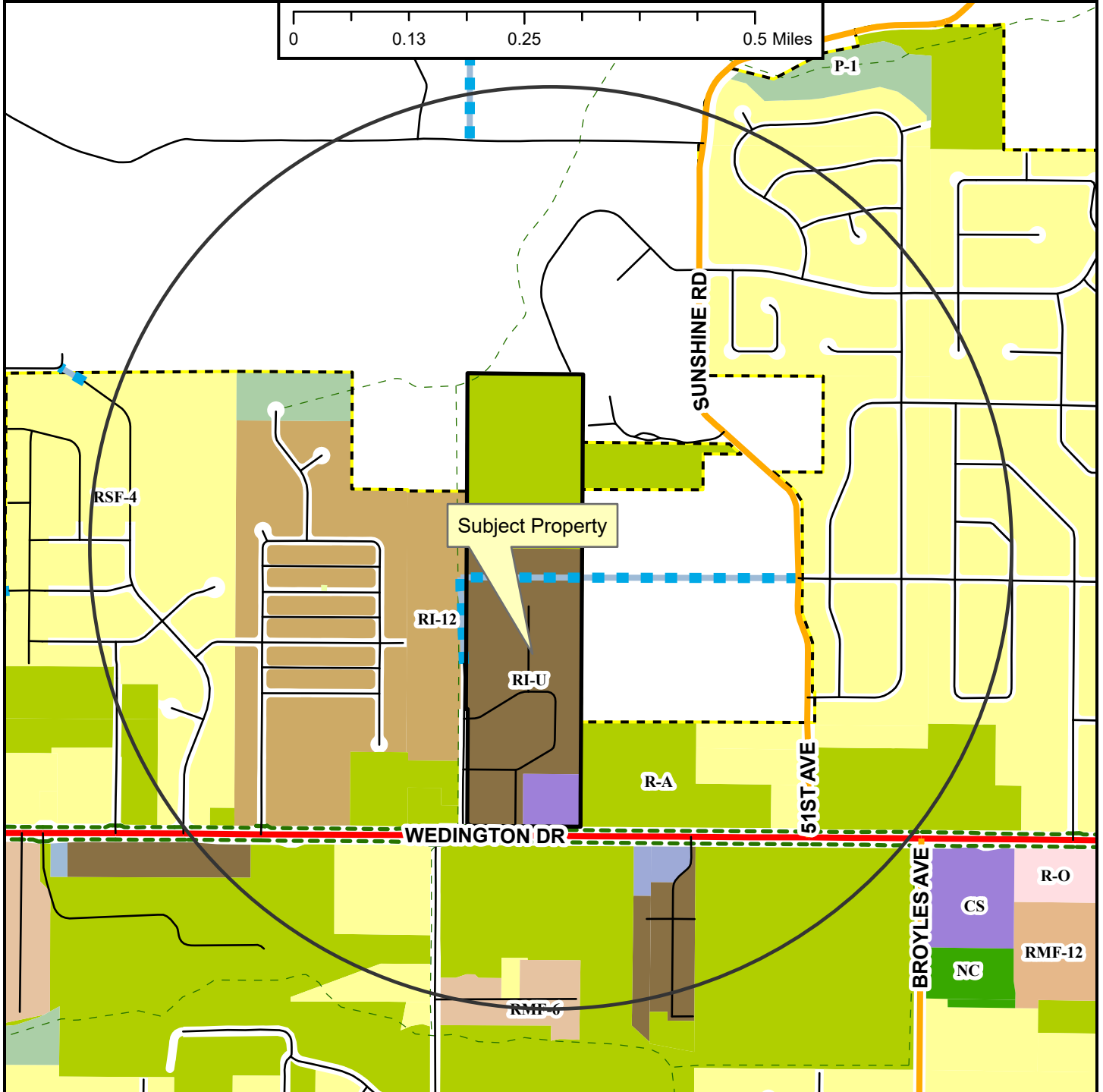
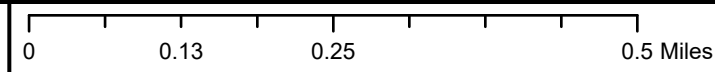
Sincerely,

Taylor Lindley, P.E.
Project Manager

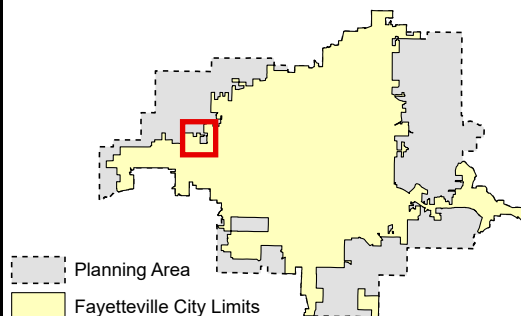
ADM-2023-0002

1388 N DIORITE AVE

One Mile View



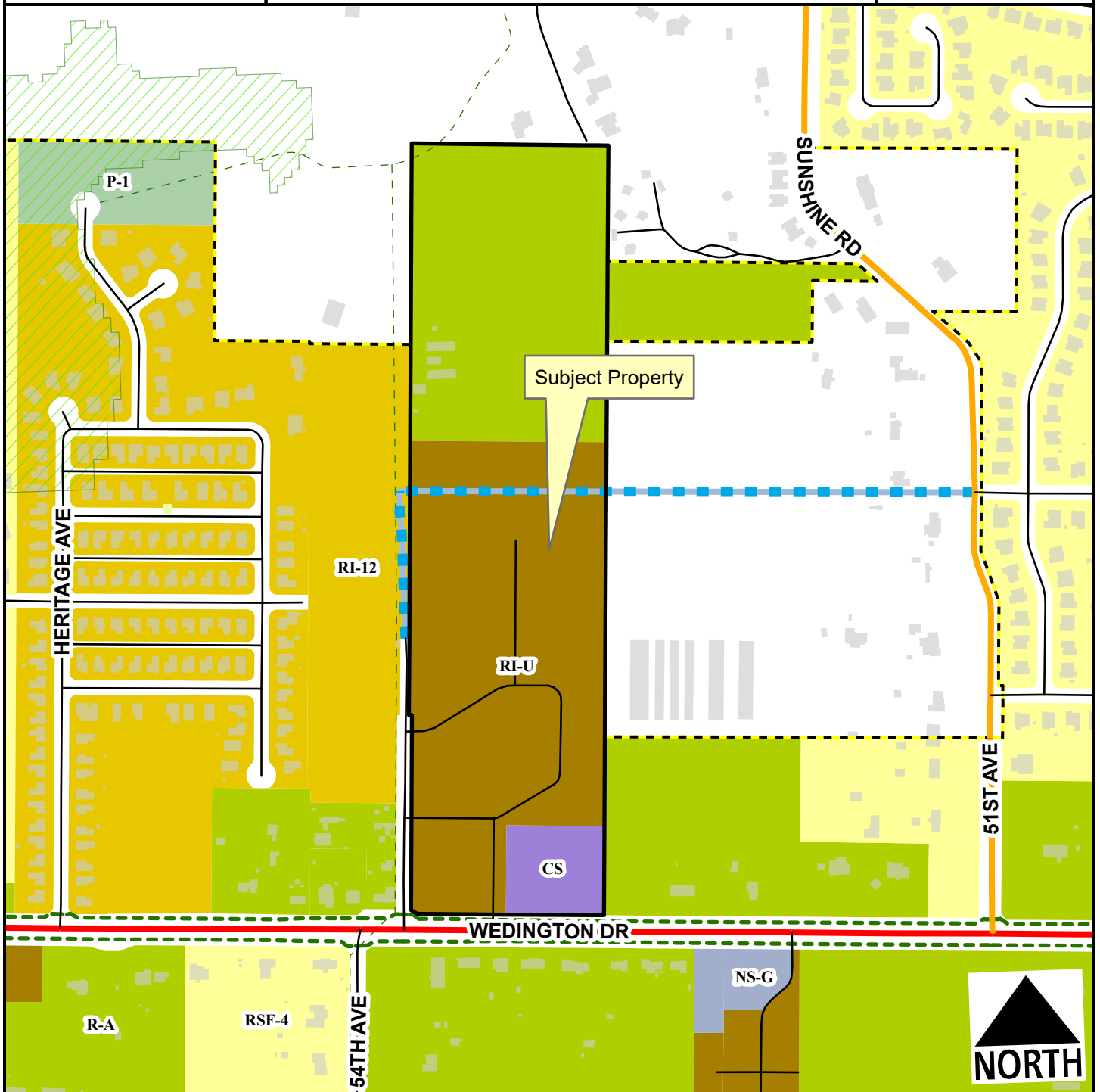
- Regional Link
- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



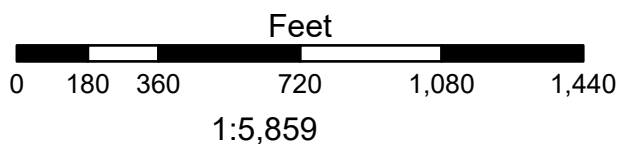
- | | |
|---|---|
| Zoning
RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18
RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-13
RMF-24
RMF-40
INDUSTRIAL
I-1 Heavy Commercial and Light Industrial | EXTRACTION
E-1
COMMERCIAL
C-1
C-2
C-3
FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential
INSTITUTIONAL
I-1
I-2 General Industrial |
|---|---|

Planning Commission
February 13, 2023

ADM-2023-0002 (COBBLESTONE FARMS)



- Regional Link
- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



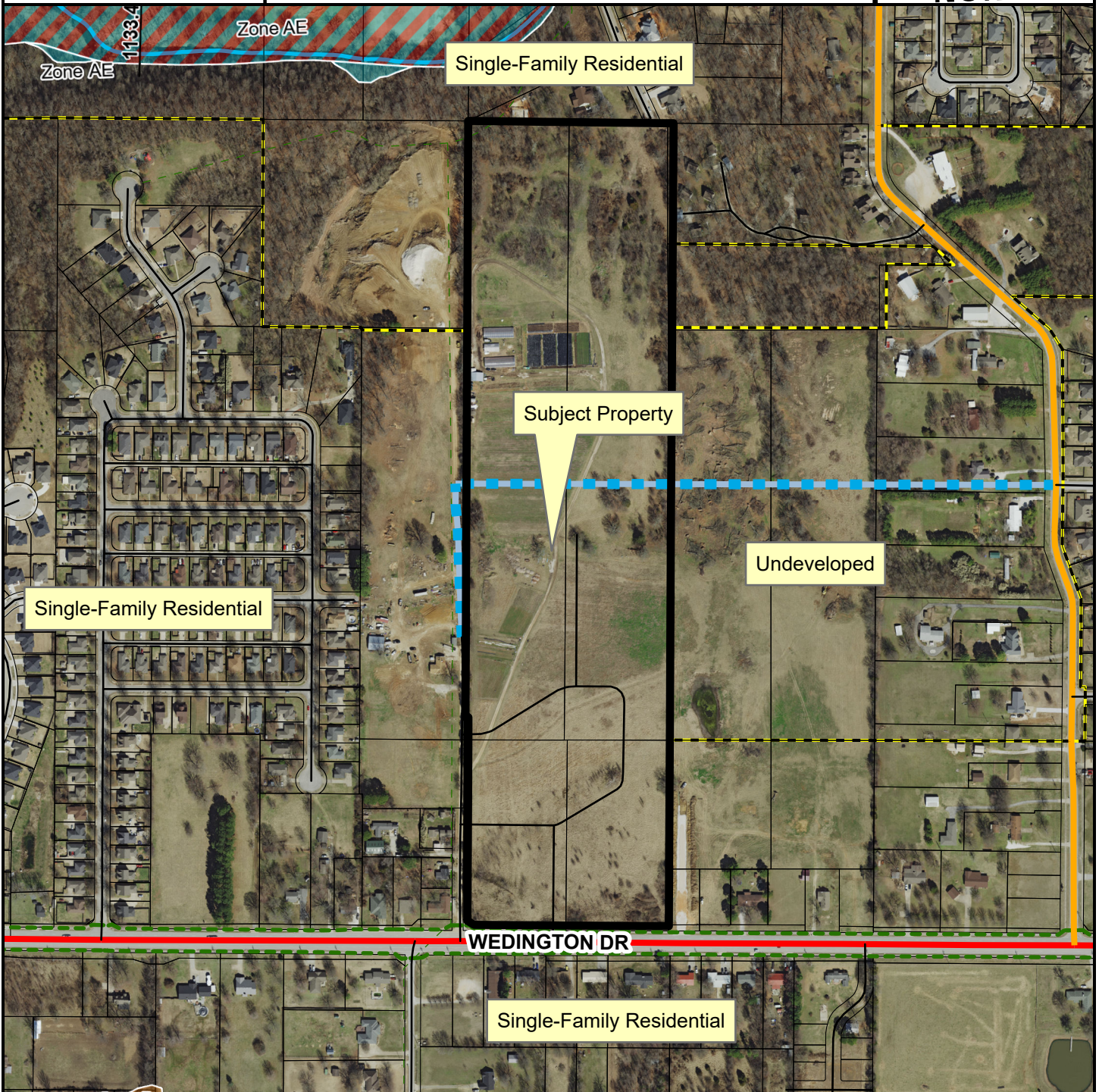
- Residential-Agricultural
- RSF-1
- RSF-4
- RI-12
- RI-U
- Community Services
- Neighborhood Services - Gen.
- P-1



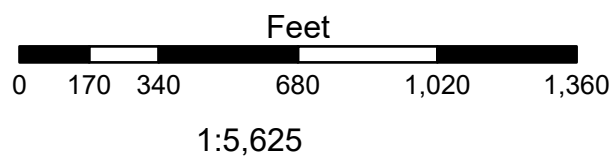
ADM-2023-0002

1388 N DIORITE AVE

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

ADM-2023-0002 (COBBLESTONE FARMS)



TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 13, 2023

SUBJECT: **VAR-2023-0003: Variance (401 W WATSON ST/ THE LEGACY BUILDING, 484):** Submitted by DOWNTOWN PROPERTIES REAL ESTATE GROUP for property located at 401 W. WATSON ST. The property is zoned MSC, MAIN STREET CENTER and contains approx. 0.40 acres. The request is for a variance of minimum parking standards.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0003**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0003**, determining:*

- In favor of the requested variance for parking requirements;*
- In favor of the other conditions recommended by staff."*

BACKGROUND:

The subject property is located in the Legacy Building in the block directly north of the Walton Arts Center on W. Watson St. It is zoned MSC, Main Street Center, and is part of the downtown design overlay district. The building is currently mixed-use, hosting nearly forty residential condominiums, "The Hills Hideaway" restaurant, and a parking structure.

The property contains approximately 0.40 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	Downtown General (DG) / Main Street Center (MSC)
South	Single-Family Residential	Main Street Center (MSC)
East	Multi-Family Residential	Main Street Center (MSC)
West	Multi-Family Residential	Main Street Center (MSC)

Request: The applicant is requesting a variance to **§172.05(A) Required Parking Table 3**, which states that multifamily residential uses shall have one (1) parking space per bedroom. The applicant is seeking to convert unit 201 (currently a commercial space) into four (4) residential units with two (2) bedrooms each. According to the applicant, Unit 201 currently has three (3) parking spaces allocated to the unit, and the proposed renovation would create one (1) additional vehicle parking space for a total of four.

However, based on the site plan provided, the renovation will create two (2) additional parking spaces (one vehicular space and one motorcycle space) for a total of five parking spaces, which would mean that a variance would only be needed for one parking space rather than two.

Under 172.05(A)(2)(a), the developer has requested the following administrative reductions allowable by code to the parking requirements:

- Transit Stop within ¼ Mile (15% reduction): $8 \times 0.15 = 1.2$ Rounded to **1 Parking Space Reduction** (See attached map)
- Motorcycle and Scooter Space (10% Substitution): $8 \times 0.1 = .8$ Rounded to **1 Parking Space Reduction**
- Bike Rack (10% Substitution): $8 \times 0.1 = .8$ Rounded to **1 Parking Space Reduction**
- Number of spaces required after reductions = 8 (Required) – 5 (Existing + Proposed) – 3 Parking Spaces = 1 Space Remaining

A variance is required for the one (1) parking space necessary to meet the ordinance after taking the allowable reductions.

DISCUSSION:

Staff is supportive of the applicant's request, subject to conditions. The proposal is for a renovation of the existing Legacy Building. The parcel boundaries are constrained nearly to the exterior limits of the building itself with adjacent exterior parking owned by the city, which limits potential expansion of new parking spaces on-site. In the renovation, the applicant is adding parking where possible, including one full vehicle space, one parking space, and one bicycle rack, and is utilizing applicable parking reductions within municipal code. Staff finds that the limitations of the existing building, tight parcel configuration, and surrounding development patterns restrict the applicant's ability to install an additional space to meet the strict interpretation of the ordinance.

As the request is for a single parking space, staff foresees minimal impact to the surrounding properties, particularly given the Legacy Building's location within Fayetteville's walkable downtown area in direct proximity to the new cultural arts corridor.

Per UDC156.03(C)(5), the Planning Commission shall consider the following findings when reviewing parking variances:

- **(a) Parking Generated:** The applicant states in their narrative letter that several of the new units will be owned by part-time residents. The residential units were previously utilized as commercial and are being redeveloped as four residential units. Multiple services, entertainment, and conveniences are available downtown and residential vehicular traffic generation is not anticipated to be as high in this area as in other areas of the city due to the availability of alternative forms of transportation.
- **(b) Shared Parking:** The first floor of the Legacy Building consists largely of a parking structure with shared parking. The master deed describes parking ownership and maintenance.
- **(c) On-Street Parking:** The Legacy Building is located less than 0.1 miles from the new parking deck under construction at the Depot Lot (NW corner of Dickson St & West Ave). This parking deck is intended to replace the existing 290 parking spaces available adjacent to the Walton Arts Center's west entrance.

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

RECOMMENDATION: Staff recommends Planning Commission approve VAR-2023-0003 based on the findings in this report.

Conditions of Approval:

1. **Planning Commission determination of a variance to §172.05(A).** The minimum and maximum number of spaces required for residential use shall conform to the parking ratios listed in Table 3. *Staff recommends approval of the request for the reasons stated above.*
2. Per UDC156.03(C)(5)(c)(a), An in-lieu fee of \$1,200.00 for each on-site parking space shall be paid to the city. This money shall be held in an interest-bearing account and shall be expended for public parking facilities within the district it is collected within ten (10) years from the date it is collected. If said money has not been so expended within ten (10) years of the date collected, said money, together with the interest thereon, shall be refunded to the person or entity who made the contribution
3. 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	<u>YES</u>		
Date: <u>February 13, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §172.05 Standards For The Number Of Spaces By Use
- Applicant Request letter
- Existing Floor Plan
- Proposed Preliminary Floor Plan
- Parking Variance Diagram
- Transit Proximity Map
- One Mile Map
- Close-up Map
- Current Land Use Map

172.05 Standards For The Number Of Spaces By Use

(A) Required Parking.

...

- (2) *Residential.* The minimum and maximum number of spaces required for residential use shall conform to the parking ratios listed in Table 3. The minimum and maximum number of spaces required for a use not specifically included in this section shall be as required for the most similar use listed or as otherwise determined by the Planning Division utilizing reference standards.
- (a) *Reductions for Residential Use.* Residential uses may utilize the following reductions to the minimum number required off-street parking ratios listed in Table 3 when the following standards are met:
- (i) *Transit Stops.* Properties located within a ¼ mile radius of a transit stop may further reduce the minimum off-street parking requirements by up to 15%.
 - (ii) *Motorcycle and Scooter Spaces.* Up to 10% of the required automobile parking spaces may be substituted with motorcycle/scooter parking at a rate of one (1) motorcycle/scooter space for one (1) automobile space.
 - (iii) *Bike Racks.* Up to 10% of required automobile parking may be substituted with bicycle parking at a rate of one (1) additional bicycle rack for one (1) automobile space. This reduction shall be allowed in addition to other variances, reductions and shared parking agreements.

...

- (4) *Parking Ratio Calculation.* The number of spaces required for a use not specifically included in Table 3 shall be as required for the most similar use listed or as otherwise determined by the City Planning Division utilizing industry standards. For all parking space requirements resulting in a fraction, the fraction shall be:
- (a) Rounded to the next higher whole number when the fraction is 0.5 or higher.
 - (b) Rounded to the next lower whole number when the fraction is less than 0.5.
- (5) *On-Street Parking.* Each permitted on-street parking space adjacent to a project frontage may count toward the parking requirements for all development. The approval of on-street parking is subject to approval by the Zoning and Development Administrator.
- (6) *Motorcycle and Scooter Parking.* One (1) Motorcycle and scooter parking. In parking lots containing twenty-five (25) parking spaces or more, one (1) space for every twenty-five (25) parking spaces of the required number of parking spaces for a use or combination of uses shall be striped as a motorcycle and scooter parking space.
- (7) Increases or reductions in excess of those identified herein shall be allowed only by the Planning Commission as a variance and shall be granted in accordance with Chapter 156.03

TABLE 3
PARKING RATIOS
(Use/Required Spaces)

Residential

Single-family, duplex, triplex	2 per dwelling unit
Multi-family or townhouse	1 per bedroom

...

(Ord. No. 4567, 05-04-04; Ord. No. 4930, 10-03-06; Ord. No. 5118, 3-18-08; Ord. No. 5297, 12-15-09; Ord. No. 5435, 8-16-11; Ord. No. 5801, §1(Exh. A), 10-6-15)

arch+craft design, pllc

1617 N. College Ave., Suite 101
Fayetteville, AR 72703

870.215.3024

kara@archandcraftdesign.com

2023 January 17

City of Fayetteville
Development Services 125
W. Mountain St.
Fayetteville, AR 72701

Re: The Legacy Building
401 W. Watson St.
Fayetteville, AR 72703

To Whom It May Concern:

We would like to request a parking variance for new residential units at The Legacy Building in Fayetteville, AR. The space in question (Unit 201) has previously been used for commercial purposes. Per the master deed, an owner has the right to convert it to less than five (5) residential units. The prospective owner would like to convert the space to four (4) units with two (2) bedrooms each. Per the Fayetteville Code of Ordinances, one parking space is required per each bedroom for a total of eight (8) spaces required for this project. The Unit currently has three (3) allocated spaces within the building's parking garage. The unit conversion will create an additional parking space for a total of four (4). Per the Fayetteville Code of Ordinances, we are applying the following reductions:

- Transit Stop within ¼ mile (15% reduction): $8 \times .15 = 1.2$
- Motorcycle and Scooter Space (10% substitution): $8 \times .10 = .8$
- Bike Rack (10% substitution): $8 \times .10 = .8$
- Number of space needed after reductions: $8 - 4 - 1.2 - .8 - .8 = 1.2$

We are asking for a variance for the 1.2 parking spaces still needed. Since there will be four (4) assigned parking spaces, at least one (1) motorcycle/scooter spot, and one (1) bike rack, we believe this number will be sufficient since the building is located in the downtown area with plentiful public parking and several of the new units will be owned by part time residents.

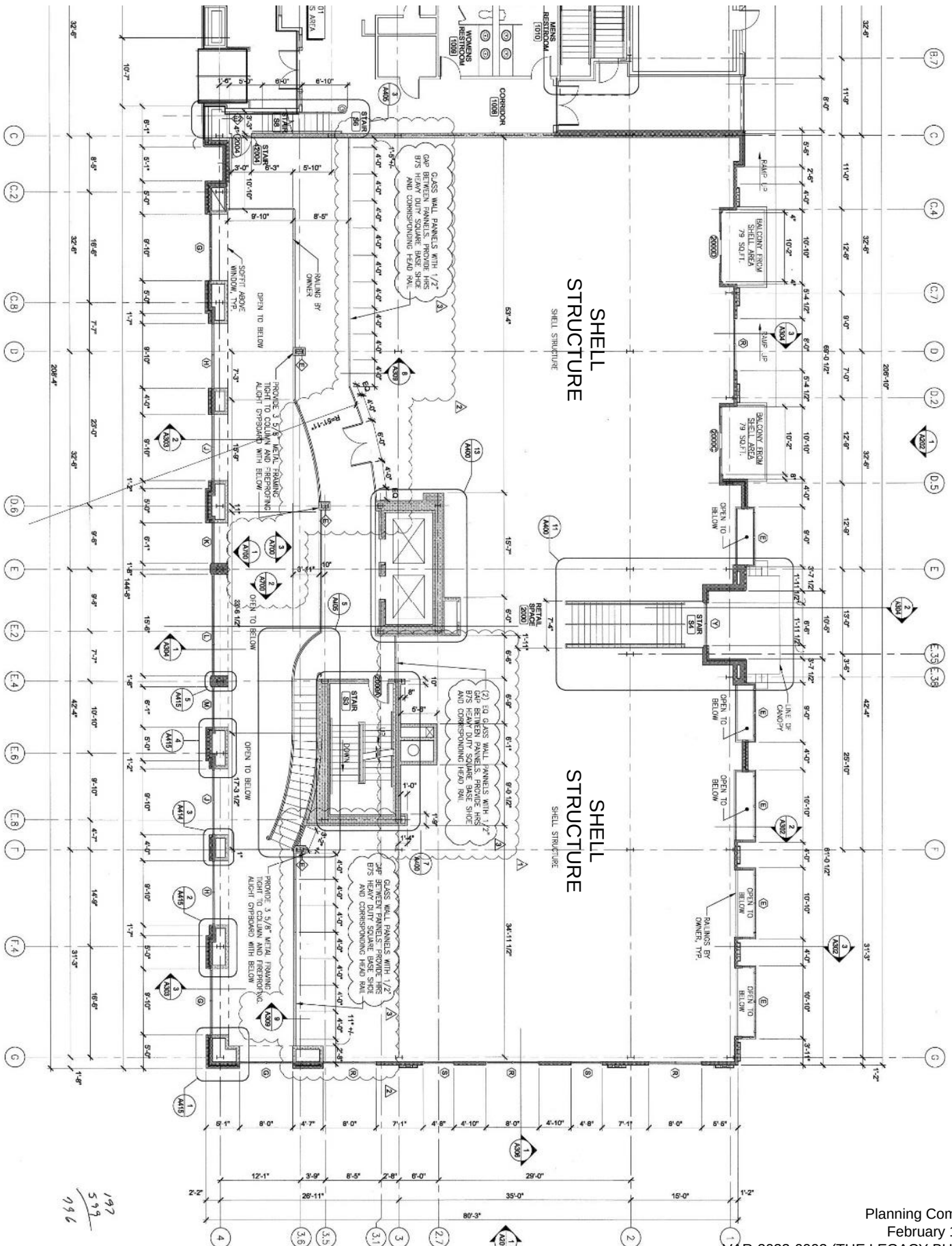
RE: Please see attached Master Deed for exhibits of the existing parking within the building (Exhibits B-1, B-2, and B-10 through B-85), as well as attached A101 for modifications to the existing parking.

Sincerely,

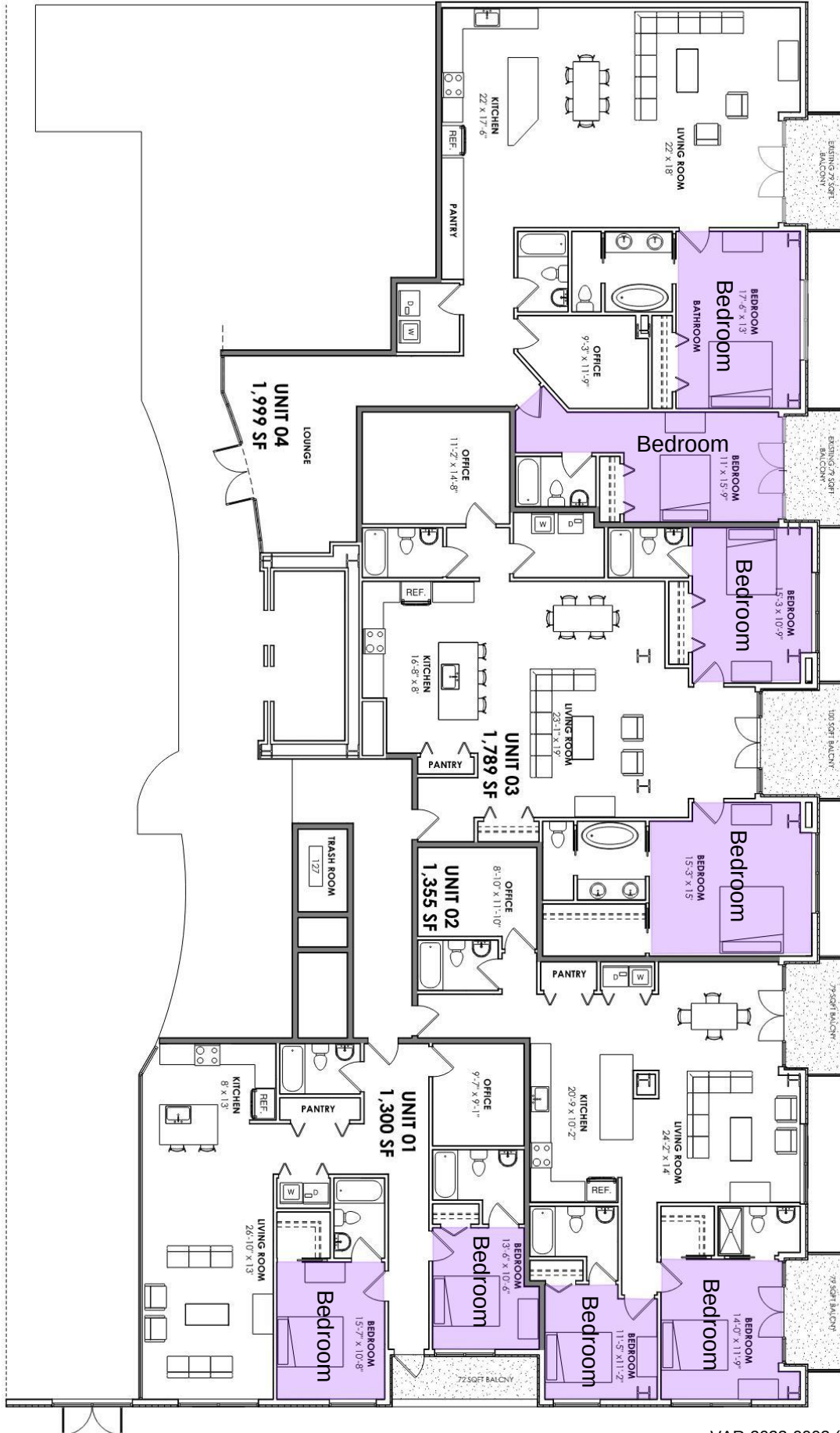


Kara McElyea, AIA

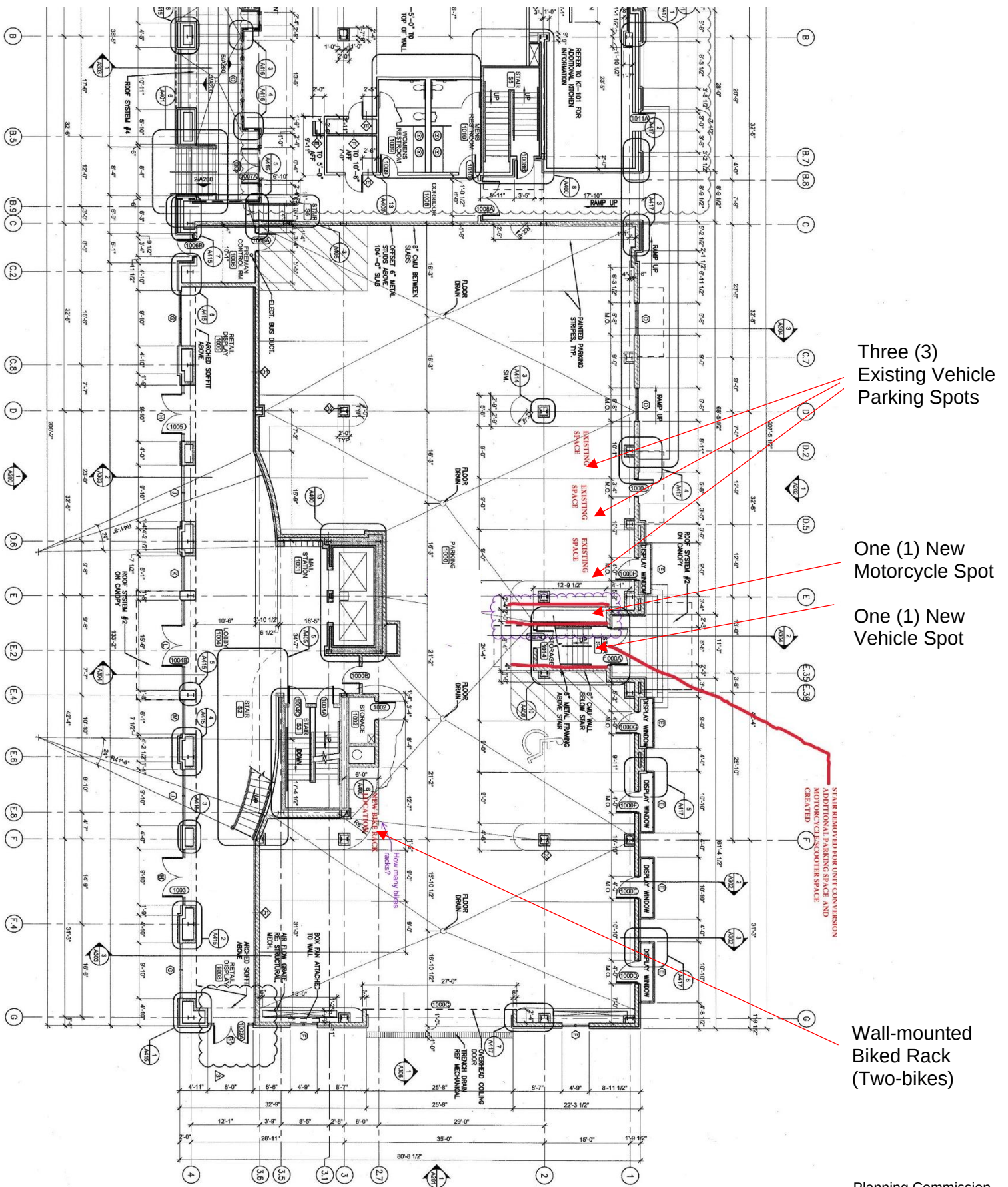
EXISTING FLOOR PLANS



PROPOSED PRELIMINARY FLOOR PLANS (8 BEDROOMS)



PARKING VARIANCE DIAGRAM



Three (3)
Existing Vehicle
Parking Spots

One (1) New
Motorcycle Spot

One (1) New
Vehicle Spot

Wall-mounted
Biked Rack
(Two-bikes)



Route 10

Connections

ORT On Demand serving East Fayetteville
Route 20—Hillcrest Towers
Route 61—NWA Mall
Route 490—NWA Mall
Razorback Transit Route 26—NWA Mall
Razorback Transit Route 17—Hillcrest Towers and Walton Arts Center

Points of Interest (within .25 mile)

NWA Mall
Whole Foods
Fiesta Square
Hobby Lobby
VA Medical Center
Evelyn Hills Shopping Center
Ozark Natural Foods Co-Op
Walton Arts Center
Fayetteville Library

Northbound		Southbound	
Hillcrest Towers	NWA Mall	NWA Mall	Hillcrest Towers
6:30 AM	7:00 AM	6:30 AM	7:00 AM
7:00 AM	7:30 AM	7:00 AM	7:30 AM
7:30 AM	8:00 AM	7:30 AM	8:00 AM
8:00 AM	8:30 AM	8:00 AM	8:30 AM
8:30 AM	9:00 AM	8:30 AM	9:00 AM
9:00 AM	9:30 AM	9:00 AM	9:30 AM
9:30 AM	10:00 AM	9:30 AM	10:00 AM
10:00 AM	10:30 AM	10:00 AM	10:30 AM
10:30 AM	11:00 AM	10:30 AM	11:00 AM
11:00 AM	11:30 AM	11:00 AM	11:30 AM
11:30 AM	12:00 PM	11:30 AM	12:00 PM
12:00 PM	12:30 PM	12:00 PM	12:30 PM
12:30 PM	1:00 PM	12:30 PM	1:00 PM
1:00 PM	1:30 PM	1:00 PM	1:30 PM
1:30 PM	2:00 PM	1:30 PM	2:00 PM
2:00 PM	2:30 PM	2:00 PM	2:30 PM
2:30 PM	3:00 PM	2:30 PM	3:00 PM
3:00 PM	3:30 PM	3:00 PM	3:30 PM
3:30 PM	4:00 PM	3:30 PM	4:00 PM
4:00 PM	4:30 PM	4:00 PM	4:30 PM
4:30 PM	5:00 PM	4:30 PM	5:00 PM
5:00 PM	5:30 PM	5:00 PM	5:30 PM
5:30 PM	6:00 PM	5:30 PM	6:00 PM
6:00 PM	6:30 PM	6:00 PM	6:30 PM
6:30 PM	7:00 PM	6:30 PM	7:00 PM
7:00 PM	7:30 PM	7:00 PM	7:30 PM

For Real Time Bus Tracking
visit: ozark.passiogo.com
or search for "Passio Go" in
your mobile app store.



Mount Sequoyah Woods

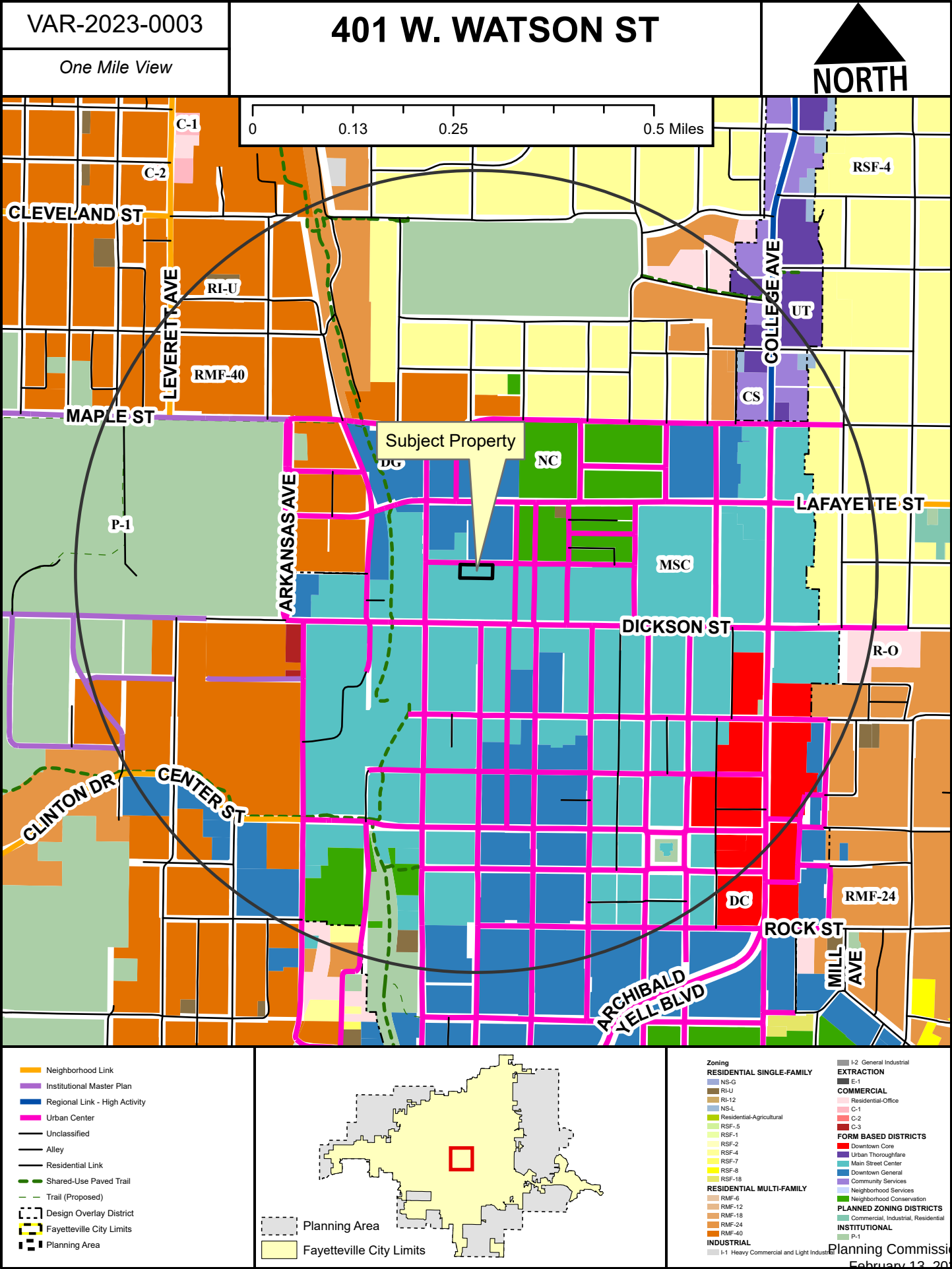
VAR-2023-0003

1000 ft



Planning Commission
February 13, 2023
THE LEGACY BUILDING

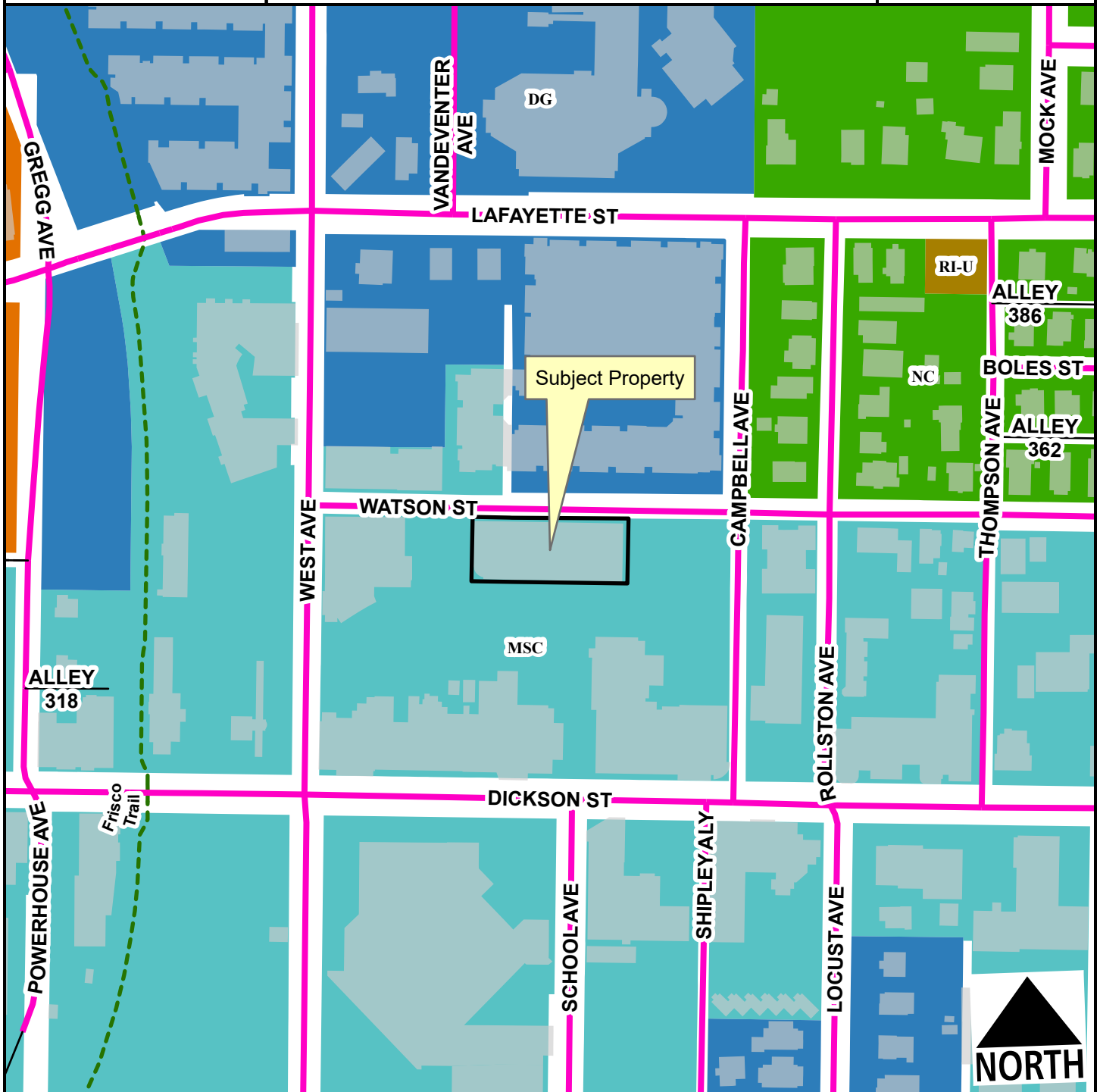
Page 45 of 334



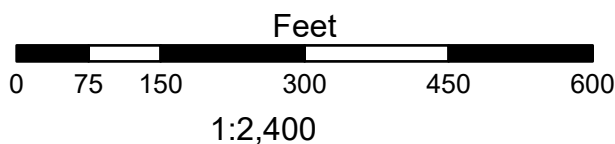
VAR-2023-0003

401 W. WATSON ST

Close Up View



- Urban Center
- Unclassified
- Alley
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Design Overlay District



- RI-U
- RMF-40
- Main Street Center
- Downtown General
- Neighborhood Conservation

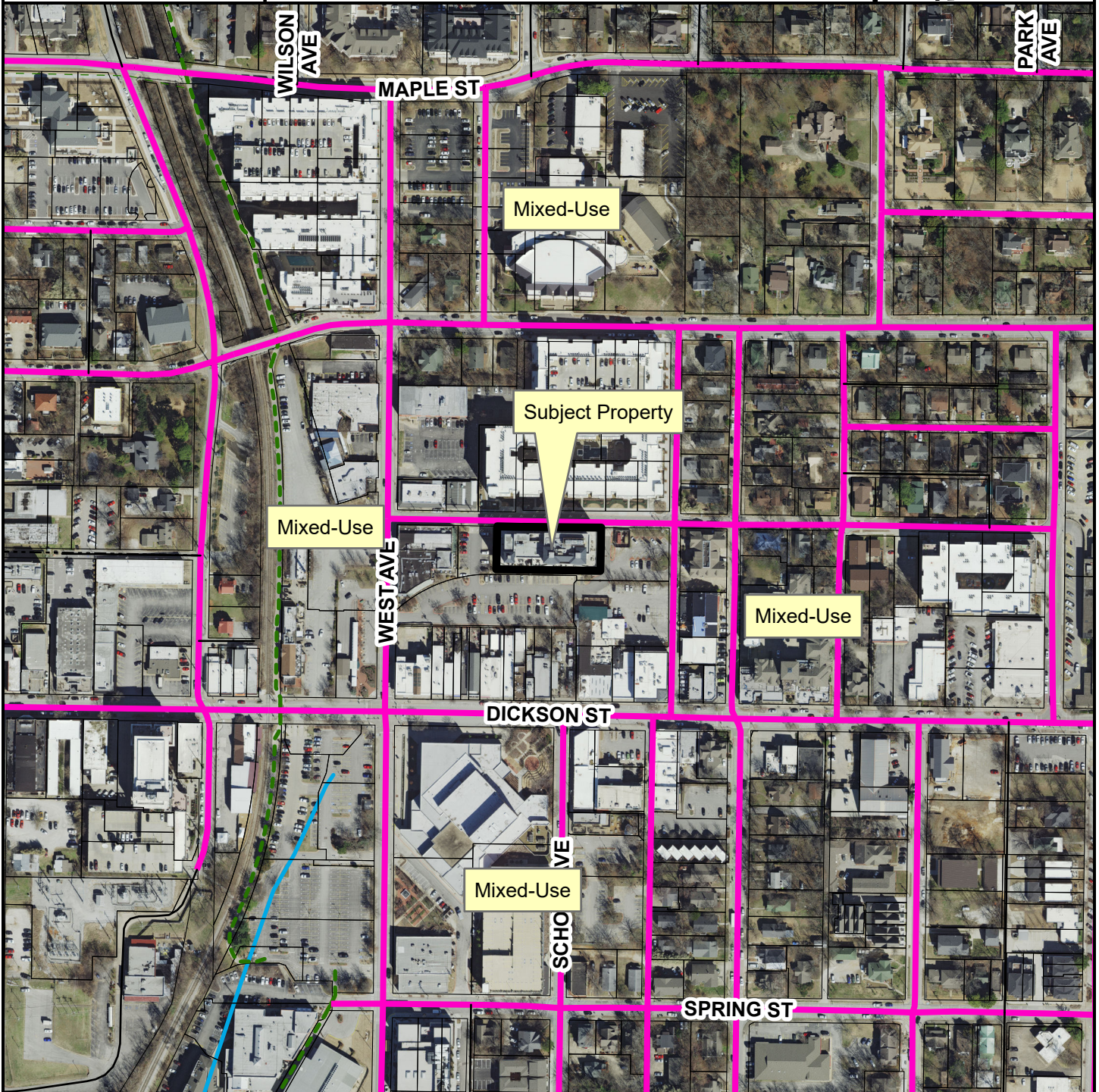
Planning Commission
February 13, 2023

VAR-2023-0003 (THE LEGACY BUILDING)

VAR-2023-0003

401 W. WATSON ST

Current Land Use



- Institutional Master Plan
- 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
February 13, 2023

VAR-2023-0003 (THE LEGACY BUILDING)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner
Josh Boccaccio, Staff Engineer
Melissa Evans, Urban Forester

MEETING: February 13, 2023

SUBJECT: **LSD-2022-0031: Large Scale Development (S. OF S. LEFLAR WAY/PIGSKIN RV PARK, 596):** Submitted by CRAFTON TULL for property located S. OF S. LEFLAR WAY. The property is split-zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE, CPZD, COMMERCIAL PLANNED ZONING DISTRICT, and CS, COMMUNITY SERVICES and contains approximately 43.55 acres. The request is for 165 proposed RV parking stalls and associated amenities.

RECOMMENDATION:

Staff recommends tabling **LSD-2022-0031**.

RECOMMENDED MOTION: *"I move to table **LSD-2022-0031** to the February 27th Planning Commission meeting.*

BACKGROUND:

The subject property is in southwest Fayetteville, roughly 650 feet south of the intersection of W. Martin Luther King Jr. Boulevard and S. Leflar Way. The site is at the southern terminus of S. Leflar Way, totals roughly 43.55 acres, and is entirely undeveloped. The Farmington Branch, which is in the Illinois River watershed, bisects the easternmost portion of the site and there are steep grades south and west of the stream. A FEMA designated Floodplain Zone A associated with the stream encumbers roughly 7.5 acres of the site. The approximately 43.55-acre property is undeveloped and almost entirely covered in tree canopy with approximately four acres near the south property line falling within the Hillside Hilltop Overlay District.

On January 10, 2022, the Planning Commission approved a conditional use permit (CUP-2021-000051) allowing the property to be used as an RV park in an RSF-4 zoned property. RV parks are categorized under Use Unit 2, City-Wide Uses by Conditional Use Permit. At that time the park contained 172 parking stalls with access to water and sanitary sewer service, greenspaces, pavilion restrooms, a security kiosk and two security gates. The property was approved to be subdivided on July 11, 2022. Associated with that lot split a variance (VAR-2022-0029) was approved to allow a lot to be created without sanitary sewer access. On October 10, 2022, the applicant submitted a request to amend the conditional use permit and extend its approval (ADM-2022-0052). The change added more amenities for users of the RV park including an outdoor pool, sports courts, playground, and parking lot with 26 spaces. An emergency access drive connecting to S. Finger Road was also approved. Approval of the conditional use permit was extended through January 10, 2024. Surrounding land use and zoning is depicted in Table 1.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Undeveloped/Lowe's	R-A, Residential Agricultural/RMF-24, Residential Multi-family, 24 Units per Acre/CPZD, Commercial Planned Zoning District
South	Undeveloped/Conservation Easement	R-A, Residential Agricultural
West	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
East	Undeveloped/Single-family Residential	R-A, Residential Agricultural/RSF-4, Residential Single-family, 4 Units per Acre

Proposal: The applicant requests Large Scale Development approval to develop the site with 165 RV stalls and associated amenities. The site will have an emergency entrance from S. Leflar Way, crossing the Farmington Branch.

Right-of-Way to be Dedicated: The site has frontage along S. Leflar Way and S. Finger Road. S. Leflar Way is an unclassified private drive and S. Finger Road is designated as a Residential Link Street. S. Finger Road currently has 26 feet of right-of-way from centerline which aligns with the street classification as prescribed by the 2040 Master Street Plan. Accordingly, staff is not recommending any additional right-of-way dedication with the subject development.

Street Improvements: S. Finger Road is a Residential Link Street, typically requiring six-foot sidewalk and six-foot greenspace. Staff is recommending that the property's S. Finger Road frontage is improved with greenspace and six-foot sidewalk at the back of the existing right-of-way. Per a condition of CUP-2021-000051, access easements shall be platted over S. Leflar Way to ensure that cross access will be available for use of future developments along Martin Luther King Jr. Boulevard.

Access Management/Connectivity: Staff has determined that the project meets access and connectivity requirements. Ingress and egress to the site is proposed mainly via S. Leflar Way, an existing shared private driveway. An emergency access drive connecting to S. Finger Road is also proposed. The drive is proposed to be gated to prevent recreational traffic from utilizing the access road. No new curb cuts are proposed with this development. A pedestrian connection to the property to the south is proposed in the southwest corner of the site.

Design Standards: The Commercial, Office and Mixed Use Design and Development Standards in UDC §166.25 will apply to any structures proposed on-site. A pavilion and two free-standing restrooms are shown on the site plan. To-date staff has not received elevations for the proposed structures. Any structures will be reviewed for compliance with through the building permit review.

Water and Sewer System: City water is available to the site. The development is proposed to access a twelve-inch water main along W. Martin Luther King Jr. Boulevard and a six-inch water main in the S. Finger Road right-of-way. An eight-inch sanitary sewer main is proposed to be extended to the northwest corner of the site from the W. Martin Luther King Jr. Boulevard right-of-way.

Parkland dedication or fee in-lieu: Non-residential uses are not subject to parkland dedication requirements.

Tree Preservation:

Canopy minimum requirement: 30%

Existing canopy: 95.3%
Preserved canopy: 47%
Mitigation required: 49 two-inch caliper trees.

Public Comment: Staff received public comment in opposition to the request. Those opposed expressed concerns with traffic, the number of parking stalls, and degradation of the natural environment among their objections to the request.

RECOMMENDATION: Staff recommends tabling **LSD-2022-0031**. Should the Planning Commission approve the item staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends no right-of-way dedication;*

Subdivision Committee recommended in favor of staff's recommendation.

2. **Planning Commission determination of street improvements.** *Staff recommends that the property's S. Finger Road frontage be improved with six feet of greenspace and a six-foot sidewalk at the back of the existing right-of-way;*

Subdivision Committee recommended in favor of staff's recommendation.

3. All comments from Planning staff must be addressed including:
 - a. Please submit conceptual elevations for any newly proposed structures associated with the proposed amenities. Show detail for amenities, including impervious surfaces.
 - b. A view-obscuring fence must be installed south of the emergency access drive and along adjoining residential properties.
 - c. Staff recommends the property's S. Finger Road frontage is improved with greenspace and six-foot sidewalk at the back of the existing right-of-way.
4. Newly proposed structures and hardscapes will be reviewed and approved via separate permit. Newly proposed structures shall be compliant with UDC §166.25 – Commercial, Office and Mixed Use Design and Development Standards;
5. This Large Scale Development is subject to the conditions of approval of CUP-2021-000051, VAR-2022-0029, and ADM-2022-0052, attached herein;
6. A copy of any proposed covenants shall be submitted prior to grading permit approval;
7. Streetlights shall be installed in accordance with code at all street intersections and at intervals of no more than 300 feet. Streetlights must be purchased and/or installed at the time of grading permit;
8. The trash enclosure shall be constructed with material that is complimentary to, and compatible with, the proposed building;

9. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached herein;

Standard conditions of approval:

1. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
2. 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 Energy, AT&T, Ozarks Electric, SWEPCO, and Cox Communications);
3. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
4. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
5. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
6. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, 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 the City's current requirements;
7. 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;
8. 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;
9. Large scale development shall be valid for one calendar year;
10. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit. The coordinator has noted that a separate street name is required;
11. 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
12. 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.
-

PLANNING COMMISSION ACTION: Required YES

Date: February 13, 2023 ☐ Tabled ☐ Approved ☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- CUP-2021-000051 Conditions of Approval
- ADM-2022-0052 Conditions of Approval
- Engineering Comments
- Urban Forestry Comments
- Public Comment
- Request Letter
- Site Plan
- One Mile Map
- Close Up Map
- Current Land Use Map

CUP-2021-000051 Conditions of Approval:

1. Planning Commission determination of compatibility with adjacent properties, *Staff finds the reduced footprint of the proposed campground facility to be compatible with the surrounding area;*
2. ~~A traffic study and~~ copy of any proposed covenants shall be submitted with the applicable development application(s) for the site.
3. Access easements shall be platted over S. Leflar Way to ensure that cross access will be available for use of future developments along Martin Luther King Jr. Boulevard.
4. This conditional use permit is limited to a campground for a maximum of 172 recreational vehicles and associated access roads, accessory buildings, and amenities as described in the applicant's submittal materials.
5. The site shall be developed in a manner generally consistent with the attached site plan, after entitlement review and approval as required by UDC Chapter 166. Approval of this Conditional Use Permit does not constitute approval of the submitted site plan or support for any future rezoning.
6. The campground use may only be expanded by amendment to this conditional use permit approval;
7. Solid Waste and Recycling Department and the City Planning Division shall have final approval regarding trash service type and placement;
8. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year; and
9. Exterior lighting package must be provided to the Planning Division prior to building permit approval. Common area lighting shall comply with UDC §176 Outdoor Lighting.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>January 10, 2022</u>	☐ Tabled	☒ Approved	☐ Denied	
Motion:	Winston				
Second:	Sharp	Amending condition #2 to remove the requirement for a traffic study to be supplied.			
Vote:	5-3-0				

ADM-2022-0052 Conditions of Approval:

1. Planning Commission determination of compatibility with adjacent properties.
2. Approval of the subject amendment shall extend the approval of the associated conditional use permit (CUP-2021-000051) for an additional year through January 10, 2024.
3. All other conditions of the associated conditional use permit (CUP-2021-000051) shall apply.
4. A view-obscuring fence shall be installed south of the emergency access drive and along the boundary of adjoining properties to prevent accidental trespass from RV park users.
5. The proposed parking lot is limited to the maximum number of spaces for a regional or community park as specified by UDC §172.05.
6. ~~The outdoor pool and dog park shall not be included with the approval of the amendment.~~ If the Planning Commission chooses to approve the pool and dog park, hours shall be limited from 8:00 AM to 8:00 PM.
7. Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a grading permit. All new signs shall be permitted according to City codes.
8. All newly proposed exterior lights shall comply with the regulations in UDC §176 – Outdoor Lighting.
9. Approval of this amendment does not constitute approval of the associated large scale development application and compliance with other ordinances that are not under review with the subject request; and
10. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate amendment request and applicable development review, pursuant to ordinance.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>October 10, 2022</u>	☐ Tabled	☒ Approved	☐ Denied
Motion: Winston			
Second: McGetrick			
Vote: 7-1-0	Amending condition #5 to allow 26 vehicle spaces; Amending condition #6 to allow a dog park and swimming pool; to require the pavilion to be enclosed on its east side to assist in limiting noise trespass; to require the pool to be located on the west end of the site; and to require the pavilion to be located on the east end of the site.		



TO: Ryan Umberger, Senior Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: January 18, 2023

SUBJECT: Subdivision Committee Engineering Comments for
LSD 2022-0021 Pigskin Park

Water: The applicant is proposing to extend 8" water mains through the site to accommodate fire protection and domestic water service. They will connect to the existing water main along Martin Luther King, Jr. Blvd and will also have a second connection to the water main along Finger Rd. A second connection to the proposed water main should be installed along the proposed road alignment.

Sewer: A variance (VAR-2022-0029) was granted for the property to be split without having direct sewer access and as a condition the appropriate easements were dedicated for the future extension of a sewer main. The applicant is proposing to extend a public sewer main at this time from Martin Luther King Jr. Blvd. into the property to serve the development. Once into the development site the applicant is proposing to have private sewer mains and sewer services. In speaking with the utility division, the sewer serving the individual spaces must be public. The depth and number of services shown will lead to future inflow and infiltration issues that will impact the public sewer system if not adequately maintained or repaired.

Natural Features: The Farmington Branch and its flood plain impact this site. There also are hydric soils present on site as shown on Fayetteville's GIS maps. A wetland delineation will be required for development and must be submitted with the first grading permit submittal or before.

Drainage: The proposed development will have to meet the 4 Minimum Standards outlined in the Drainage Criteria Manual. Water Quality is proposed to be met with 2 retention ponds and a proprietary device. Standards 3-4 are proposed to be met using the previously mentioned ponds.

Variances:

The applicant has previously provided variance request to UDC 168, however, the site lay out has changed since those were first submitted and as a result the applicant must provide updated variance requests. A conditional letter of map revision (CLOMR) is required from FEMA based on UDC 168.10(T)(5). The stream crossing may increase the flood heights or flows based on the flood study provided.

Administrative Waivers:

The applicant has requested a determination of “no feasible alternative” from the City Engineer for the proposed road crossing of the Farmington Branch, which is a protected stream. Staff has worked with the applicant to locate the crossing such that its impact will be minimal as possible.

In addition, the applicant has also requested a “no feasible alternative” determination from the City Engineer for utility crossings of the same stream. These crossings must be accomplished via a bore method.

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):
 - Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
 - Sanitary Sewer pipe sizing, profiles, or utility conflicts
 - Waterline fittings, callouts, or utility conflicts
 - Street profiles
 - Fine grading/spot elevations



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Taylor Lindley, P.E., Crafton Tull

From: Melissa M. Evans, Urban Forestry

CC: Ryan Umberger, Senior Planner

Meeting Date: January 26, 2023

Subject: LSD-2022-0031: Pigskin Park: S. of S. Leflar Way, 569

1. General Landscape Plan Checklist		Yes	No	N/A
a.	Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03C7g, 177.04B3a</i>	X		
b.	Species of plant material identified <i>UDC Chapter 177.03C7d,e</i>	X		
c.	Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03C7b,c</i>	X		
d.	Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e.	Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f.	LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>		X	
g.	Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h.	Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>	X		
i.	Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2g</i>	X		
2. Parking Lot Requirements		Yes	No	N/A
1 Tree : 12 Parking Spaces				
a.	Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>			X
b.	Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>			X

c. Tree Island (8' min. width, 18.7' min length OR 150 square feet)
UDC Chapter 177.04C X

d. Placement of Trees (either side at entrances and exits)
UDC Chapter 177.04C2 X

3. Perimeter Landscaping Requirements

Yes No N/A

a. Front Property Line (15' wide landscape) and five on sides.
UDC Chapter 177.04D2a X

b. Side and Rear Property Lines (5' Wide Landscape Area)
UDC Chapter 177D1 X

c. Shade trees planted on south and west sides of parking lots
UDC Chapter 177.04D2e X

d. Screening of parking lot from adjacent residential properties. X

4. Street Tree Planting Requirements

Yes No N/A

a. Residential Subdivisions
1 Large Shade Species Tree per Lot
UDC Chapter 177.05B1a X

b. Non-Residential Subdivisions
1 Large Species Shade Tree every 30' (planted in greenspace)
UDC Chapter 177.05B2a X

c. Urban Tree Well – Urban Streetscapes
Trees every 30' (8' sidewalk)
UDC Chapter 177.05B3a-f X

d. Structured Soil – Urban Tree Wells
Include a note and/or detail of structural soil on Landscape Plan
UDC Chapter 177.05B3a-f X

e. Residential Subdivisions
Timing of planting indicated on plans
UDC Chapter 177.05A4 X

f. Residential Subdivisions
Written description for method of tracking planting
UDC Chapter 177.05A4e X

5. Landscape Requirement Totals	Amount
Mitigation Trees	49
Parking Lot Trees	19
Street Trees	75
Detention Pond – Large Trees (1 Tree/3,000 square feet)	29
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	115
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	173

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	8-30-22	01-18-23	
	10-18-22		
Approved			
Tabled	11-08-22		
Denied			

Comments
1. Address items above marked “No” and all Redlines provided.
2. How will the adjacent residential property to the north be screened?
3. Landscape plan needs to be stamped, signed and dated by the landscape architect.



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Taylor Lindley, P.E., Crafton Tull

From: Melissa M. Evans, Urban Forestry

CC: Ryan Umberger, Senior Planner

Meeting Date: January 26, 2023

Subject: LSD-2022-0031: Pigskin Park: S. of S. Leflar Way, 569

1. Submittal Requirements	Yes	No	N/A
Initial Review with the Urban Forester	X		
Site Analysis Map Submitted (if justification is needed)			X
Site Analysis Written Report Submitted (justification is needed)			X
Complete Tree Preservation Plan Submitted	X		
Tree Mitigation Table on Plans			X
Tree Preservation Waiver Submitted (only use if no trees onsite or near P/L)			X

2. Tree Preservation Calculations

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	1,892,249	100%
Zoning Designation * Select Below with drop down arrow		
RSF-4 Single-Family Residential, Four Units Per Acre	473,062	25%
HHOD * Select Below with Drop Down Arrow		
Yes	94,612	5%
Total Canopy for Minimum Preservation Requirements	567,675	30.0%
Existing Tree Canopy * Minus Right of Way and Easements	1,803,106	95.3%
Tree Canopy Preserved	889,167	47.0%
Tree Canopy Removed *On Site	913,939	48.3%
Tree Canopy Removed *Off Site	10,658	
Tree Canopy Removed Total	924,597	48.9%
Removed Below Minimum	0	
Mitigation Requirements	10,658	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	10,658	49
Low Priority		
Total Mitigation Trees Required	10,658	49

4. Mitigation Type	Yes	No	N/A
On-Site Mitigation	X		
Off-Site Mitigation			X
Tree Escrow (See Conditions of Approval)			X

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes		
b. Property Boundary	Yes		
c. Natural Features (100ft beyond limits of disturbance)	Yes		
d. Existing Topography and Proposed Grading	Yes		
e. Soil Types	Yes		
f. Significant Trees	Yes		
g. Groupings of Trees	Yes		
h. Table Inventory List (species, size, health, priority)	Yes		
i. All Existing and Proposed Utilities	Yes		
j. All Existing and Proposed Utility Easements and ROW's	Yes		
k. All Streams (with approximate center line)	Yes		
l. Floodplains and floodways	Yes		
m. Existing Street, Sidewalk or Bike Path ROW	Yes		
n. Submitted Site Analysis Plan (if required)	N/A		
o. Shows ALL Proposed Site Improvements	Yes		
p. Delineates trees/canopy to be preserved and removed	Yes		

Tree Protection Methods

a. Tree Protection Fencing	Yes
b. Limits of Root Pruning	Yes
c. Traffic flow on work site	No
d. Location of material storage	No
e. Location of concrete wash out	Yes
f. Location of construction entrance/exit	Yes

6. Site Analysis Report (if required)	Yes	No	N/A
UDC Chapter 167.04H4			

- | | | | |
|--|--|--|---|
| a. Provide graphic examples of multiple options used to minimize removal of existing canopy | | | X |
| b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy. | | | X |

7. Review Status	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	8-30-22 10-18-22	01-18-23	
Approved			
Tabled	11-08-22		
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. Please add the tree tag numbers to the plan.
3. Where is the off-site canopy to be removed?
4. Thank you for providing 20’ width of tree preservation along the southern property lines so as to preserve the neighbor’s trees. However, what about the grading that goes up to the northern property line? Will that neighbor agree to that? Please move it back if you can, ideally 20’.
5. What are the conservation easements? Is that land being dedicated to the NWA Land Trust or some other entity? Has it been counted with the tree preservation calculations? Tree Preservation Easement/s must be dedicated for this project since it is an LSD per Ch. 167.

Umberger, Ryan

From: Jim Reed (he/him) <jreed@wildlifelandtrust.org>
Sent: Monday, January 9, 2023 1:16 PM
To: Sparkman, Sarah; Johnson, Matthew; Canada, Quintin; Brink, Andrew; Garlock, Jimm; Holcomb, Joseph; Madden, Mary; Winston, Porter
Cc: Umberger, Ryan
Subject: Stakeholder comments for: LSD-2022-0031 (S. OF S. LEFLAR WAY)

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear members of the Fayetteville Planning Commission,

I am writing to voice the Humane Society Wildlife Land Trust's (HSWLT) continued opposition to the proposed Pigskin RV Park, LSD-2022-0031 (S. OF S. LEFLAR WAY).

The HSWLT holds a perpetual conservation easement on the lands adjoining the proposed Pigskin RV Park. We have opposed this development since its first inception and continue to maintain that stance.

We do not feel that such a large-scale development is in the best interest for wildlife. We are most especially concerned about the impacts this rv park will have on the adjoining lands that we protect.

Should this project move forward, the HSWLT requests that a significant natural buffer be maintained between the proposed RV park and our easement protected property. We also request that a substantial physical barrier, such as an adequate fence, be installed to prevent trespass on our easement by people and their pets who may be staying at the proposed RV park.

The HSWLT is also concerned about the inevitable increase in noise and air pollution from RV generators, air pollution from campfires, light pollution coming from the facilities and an increase in traffic on already inadequate and overcrowded roads. We would like to see those concerns adequately addressed in any review process.

We hope that you will deny the proposed RV park LSD-2022-0031 in its entirety. Should that not be the case then we kindly ask that you address our concerns.

Sincerely,

Jim Reed
Executive Director
Human Society Wildlife Land Trust
301-471-4762
jreed@wildlifelandtrust.org

Umberger, Ryan

From: Michael Turner <michaeltturner008@gmail.com>
Sent: Wednesday, August 24, 2022 7:53 PM
To: Umberger, Ryan
Subject: Re: Fayetteville Tech Plat agenda for August 31

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Ryan,

My name is Michael Turner and I live on a lot adjacent to the project outlined in LSD-2022-0031.

I wanted to ask about the discrepancy between the plan that is outlined in the tech plat LSD-2022-0031 and the plan that was outlined in the original CUP-2021-00051, that allowed for the RV park in the first place.

In the original [CUP-2021-00051](#) plan which can be found on page 174, there was a respectable amount of space between our property and a couple of small buildings mentioned in the plan. See below for a screenshot.

However in the [LSD-2022-0031](#) there is considerably more development on the east side of the watershed, and those buildings now go right up to our property line - including a dog park and swimming pool. See below for a screenshot.

We moved into this space because we love how green it is, and we withdrew our objections to the CUP after what felt like a fair compromise/revision of the original plan when the developers removed the portion of the plan that abutted our property. But now I'm feeling both discouraged and frustrated - it feels like the developer is being dishonest in this change. I'm not sure there is anything to be done at this point, but if this had been included in the CUP, I certainly would have asked for more consideration of our space.

We enjoy quiet walks around our property and with a dog park, swimming pool, and large pavilion for well over 200 guests at any time, I'm assuming our days of peaceful walks are essentially done. I'm all for people having a good time, but I'm bummed to see a large commercial swimming pool and dog park (that weren't in the original agreement) moving in 5 ft from my property line.

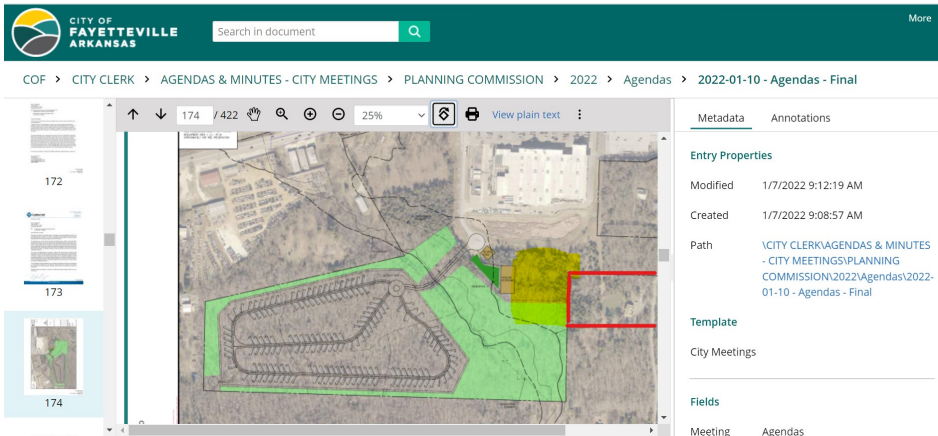
Is there anything that can be done to limit the developer to the original CUP plan they outlined, or is this plan already approved?

Thank you,

Michael Turner

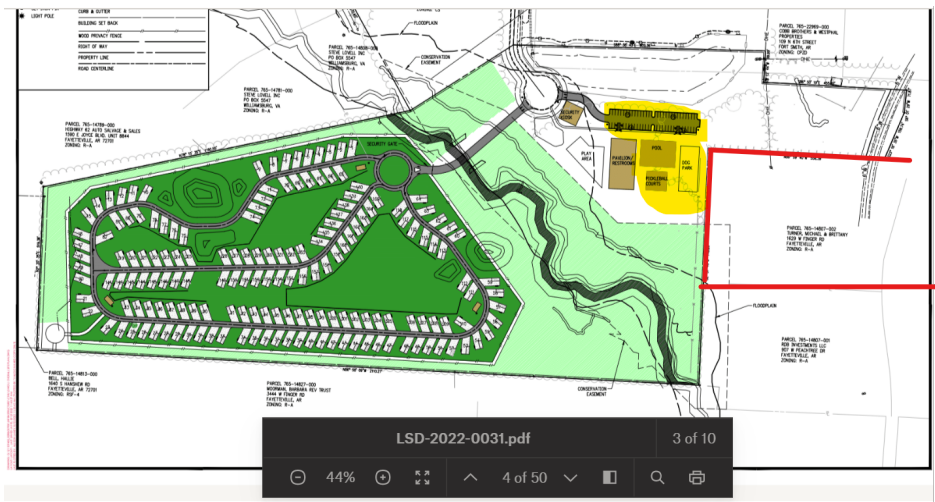
CUP-2021-00051

The red is our property line, while the yellow is the space between their development and our property line that was included in the original plan.

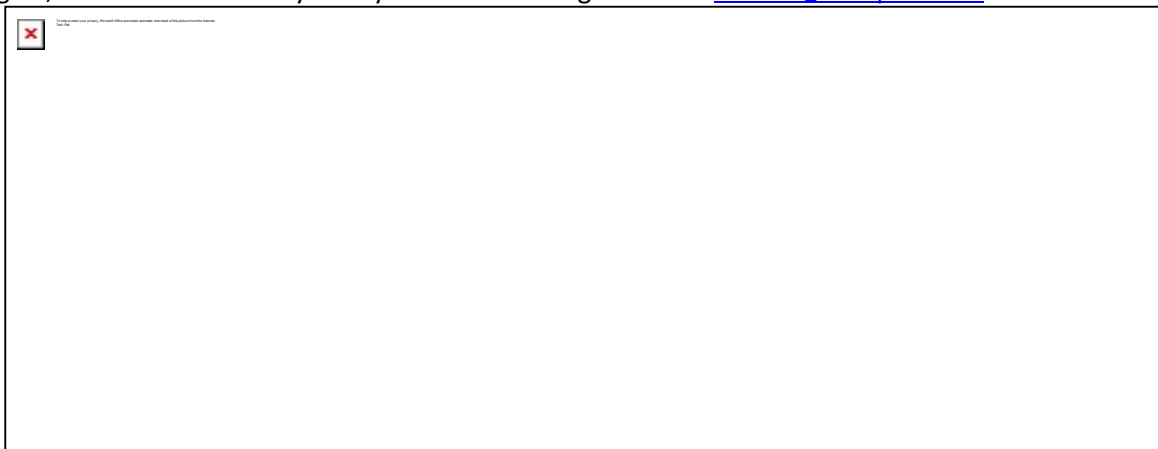


LSD-2022-0031

The red is our property line, while the yellow is the new development that was not originally included in the CUP.



On Wed, Aug 24, 2022 at 3:38 PM City of Fayetteville Planning Division <listserv@civicplus.com> wrote:



08-31-2022 Tech Plat

Please click [this link](#) to view the agenda for the upcoming Tech Plat meeting.

PLEASE NOTE THAT TECH PLAT MEETINGS ARE BEING HELD IN PERSON AND REMAIN VIRTUAL AS WELL. YOU CAN ATTEND EITHER WAY. YOU CAN SIGN UP FOR VIRTUAL MEETINGS AT [THIS LINK](#).

PLEASE NOTE THAT MEETINGS DO NOT SHOW UP ON THE CITY CALENDAR UNTIL THE WEEK OF THAT MEETING.

If you would like to view the plans associated with this agenda please click the link below to go to our Dropbox site (*please note you need a free Dropbox account to access these documents*).

[Tech Plat Development Plans](#)

Thank you.



Share on Facebook



Share on Twitter



Share via Email

Copyright © 2022 City of Fayetteville, Arkansas. All rights reserved.
113 W. Mountain St.

Powered by



If you no longer wish to receive emails from us, you may [Unsubscribe](#).

Email not displaying correctly? [View it in your browser](#).

Umberger, Ryan

From: Barbara Moorman <blmoorman@sbcglobal.net>
Sent: Tuesday, August 30, 2022 11:36 AM
To: Umberger, Ryan
Subject: RV park plan

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ryan, You may recall our correspondence of some months ago when I expressed concern about what was then an application for rezoning of the 50 A (mol) property adjoining (to my north) my conservation easement land for an RV park. All my objections stated then obtain today. I won't repeat them here.

I'm writing now to let you know that I believe Fayetteville, styling itself "green", should mandate at least two things:

(1) mapping, inventory, and retention of trees between my boundary and the ostensibly to-be-tree-lined south boundary of the development. I'm sure I mentioned in the past that the City's then tree specialist Kim Hesse – as background to an earlier plan to rezone and develop – drew a map of large trees and wetland. (I assume the City still has it. In any event, I do have it, as well as a record of past commitments by the developer to maintain that area as only moderately developed and as residential only.)

(2) the second mandate I would hope for from the City is for a fence on their property that would clearly prevent trespassing by people, dogs, passersby on to my property.

Thanks for your help in the past with information.

Barbara Moorman
3450-3444 W Finger Road
Fayetteville
444-9247

Umberger, Ryan

From: Jim Reed (he/him) <jreed@wildlifelandtrust.org>
Sent: Wednesday, August 31, 2022 2:51 PM
To: Umberger, Ryan
Cc: Barbara Moorman
Subject: Comments on 2022-31 Pigskin Park

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ryan,

I understand there will be a meeting tonight on the proposed 2022-31 Pigskin Park. As a coholder (with Ozark Land Trust) of a conservation easement on the adjoining lands owned by Barbara Moorman we continue to have concerns that this development may negatively impact our conservation easement.

The Humane Society Wildlife Land Trust respectfully requests that if this trailer park development is going to move forward that a few steps be taken to protect the habitat conservation values of our easement. First, we would like to see a fence installed along the common boundary with Pigskin Park to keep the users of Pigskin Park and their companion animals off of our conservation easement. We also request that a thorough tree inventory be done along the boundary to protect our easement. We would also like to see an inventory for the property to be developed and an assurance that no significant trees be destroyed in the construction process.

Sincerely,

Jim Reed
Executive Director
Humane Society Wildlife Land Trust

Umberger, Ryan

From: Mary Robin Harriell <maryrobinharriell@gmail.com>
Sent: Thursday, October 27, 2022 10:21 AM
To: Umberger, Ryan
Subject: Re: Pigskin Park

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Ryan.

I spoke with Byron Humphries who handles maintenance at the Regional Park. They use Musco LED, programmable lighting on the fields which you can set the dimmer at any level, for instance 50% reduction at night. If you can pass this suggestion along to the planning commission, that would be great.

Thank you,

Mary Robin

On Oct 21, 2022, at 3:18 PM, Umberger, Ryan <rumberger@fayetteville-ar.gov> wrote:

Mary,

Currently the project is tabled and pending a resubmittal. They are not on the development review schedule, nor do they have an associated Planning Commission meeting date at this time. I do anticipate, however, that they will resubmit the project at the earliest possibility, once some drainage comments from Engineering are addressed to staff's satisfaction.

Best,

Ryan Umberger, AICP
Senior Planner
City of Fayetteville, Arkansas
rumberger@fayetteville-ar.gov
(479) 575-8327

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)

<image001.png>

From: Mary Robin Harriell <maryrobinharriell@gmail.com>
Sent: Friday, October 21, 2022 3:11 PM
To: Umberger, Ryan <rumberger@fayetteville-ar.gov>
Subject: Re: Pigskin Park

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you, Ryan. I've reached out to the Parks dept. What is the deadline for getting my notes back to you to include in the staff report?

On Oct 21, 2022, at 3:09 PM, Umberger, Ryan <rumberger@fayetteville-ar.gov> wrote:

Hi Mary,

Thank you for the clarification. We do have specific standards for sport field lighting which, unfortunately, may not apply in this instance. I'm not certain if those standards specify the lower level of light that you've witnessed but some of our folks in Parks may be able to dig up the specifications on those fixtures. I'm happy to forward along if you'd like?

From our correspondence below I haven't heard any specific statements in opposition or in favor of the request but if you'd like to offer public comment I'd be happy to include it in a staff report. That would include a recommendation that they consider low-impact lighting fixtures. While we may not have a mechanism in place to require dimmer lighting at certain hours, it may be something that could be considered if any variances were requested with the project.

Hope that is helpful.

Best,

Ryan Umberger, AICP
Senior Planner
City of Fayetteville, Arkansas
rumberger@fayetteville-ar.gov
(479) 575-8327

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)
<image001.png>

From: Mary Robin Harriell <maryrobinharriell@gmail.com>
Sent: Thursday, October 20, 2022 1:08 PM
To: Umberger, Ryan <rumberger@fayetteville-ar.gov>
Subject: Re: Pigskin Park

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Kessler Mountain regional Park

On Oct 20, 2022, at 11:52 AM, Umberger, Ryan
<rumberger@fayetteville-ar.gov> wrote:

Mary,

I'm afraid I might be unaware of the baseball/soccer park you're referring, especially their lighting specifications. Could you provide an address or a nearby intersection? In any case, we do not have regulations that limit wattages or lumens for a campground use. Our regulations specify that lighting is required to be shielded, directed downward, and that direct illumination is within the boundaries of the owner's property.

Happy to see if we have any specifications on those other lights if it's helpful.

Best,

Ryan Umberger, AICP
Senior Planner
City of Fayetteville, Arkansas
rumberger@fayetteville-ar.gov
(479) 575-8327

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)
<image001.png>

From: Mary Robin Harriell <maryrobinharriell@gmail.com>
Sent: Thursday, October 20, 2022 11:43 AM
To: Umberger, Ryan <rumberger@fayetteville-ar.gov>
Subject: Re: Pigskin Park

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you for your thorough response, Ryan. Follow-up question on the lighting: the new baseball / soccer park off of Cato Springs Road has a very low light at night, which is helpful. Is this what would be required for their lighting?

On Oct 20, 2022, at 11:33 AM, Umberger, Ryan
<rumberger@fayetteville-ar.gov> wrote:

Good morning Mary,

Thanks for your patience as I've been slow to dig my way out of a pile of emails. Please see my replies below in red. The project was reviewed and tabled by Engineering at the Tech Plat meeting yesterday, Oct. 19th. They will need to revise and resubmit to demonstrate compliance with our regulations before the project will be forwarded to public meetings.

Thanks,

Ryan Umberger, AICP
Senior Planner
City of Fayetteville, Arkansas
rumberger@fayetteville-ar.gov
(479) 575-8327

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)
<image001.png>

-----Original Message-----

From: Mary Robin Harriell
<maryrobinharriell@gmail.com>
Sent: Monday, October 17, 2022 4:09 PM
To: Umberger, Ryan <rumberger@fayetteville-ar.gov>
Subject: Pigskin Park

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Ryan,

We see that the Pigskin Park is on the upcoming agenda. A couple of questions for the group:

1. Will there be some sort of security or oversight so that we don't have a lot of trespassers? I'm not sure if you know this but they're quite a bit of trespassers around the area and without some sort of oversight, this could quickly become a hotspot.

The applicant is proposing to have on-site security, gated entries, and they are required to provide fencing between the development and adjacent residential properties to prevent

accidental trespass. Perhaps obvious, but trespassing is illegal whether or not the development is approved. I recommend reporting any issues to the Police Department (non-emergency line (479) 587-3555).

2. What is the lighting going to be?

Outdoor lighting is required to be compliant with the Outdoor Lighting ordinance ([UDC §176](#)). Planning will require the applicant to submit manufacturer's specifications for all proposed outdoor lighting with grading or building permit submittal. Violations can be reported through the City's [See Click Fix](#) system.

3. What kind of year-round occupancy is expected or will it just be home-games?

Occupancy of the park is not limited to specific times of the year. RV users would be allowed to visit the park year-round, if desired.

Thank you,

Mary Robin



August 17, 2022

City of Fayetteville
Planning Staff
125 W. Mountain Street
Fayetteville, AR 72701

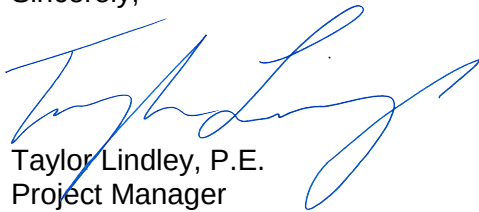
RE: Pig Skin RV Park
CTA Job No. 21109400

To whom it may concern,

This submittal is for a Large Scale Development Plan for Pig Skin RV Park. This site is located southeast of the intersection of S. Leflar Way and M.L.K Jr. Blvd. The site area is approximately 43 acres with 165 proposed RV parking stalls and several amenities for the community. The current zoning is RSF-4 but has an approved CUP for up to 172 RV stalls. This site will have a private entrance off of S. Leflar Way and cross the Farmington Branch with a series of designed box culverts and an associated LOMR. We have also verified the existing 6" sanitary line downstream of the site has adequate capacity based on as-built survey information.

This is a preliminary plan submittal. Further detail will be provided for engineering review regarding the proposed retaining walls and drainage design as well as the floodplain crossing. Should you have any questions, or require any additional information, please contact us at your convenience.

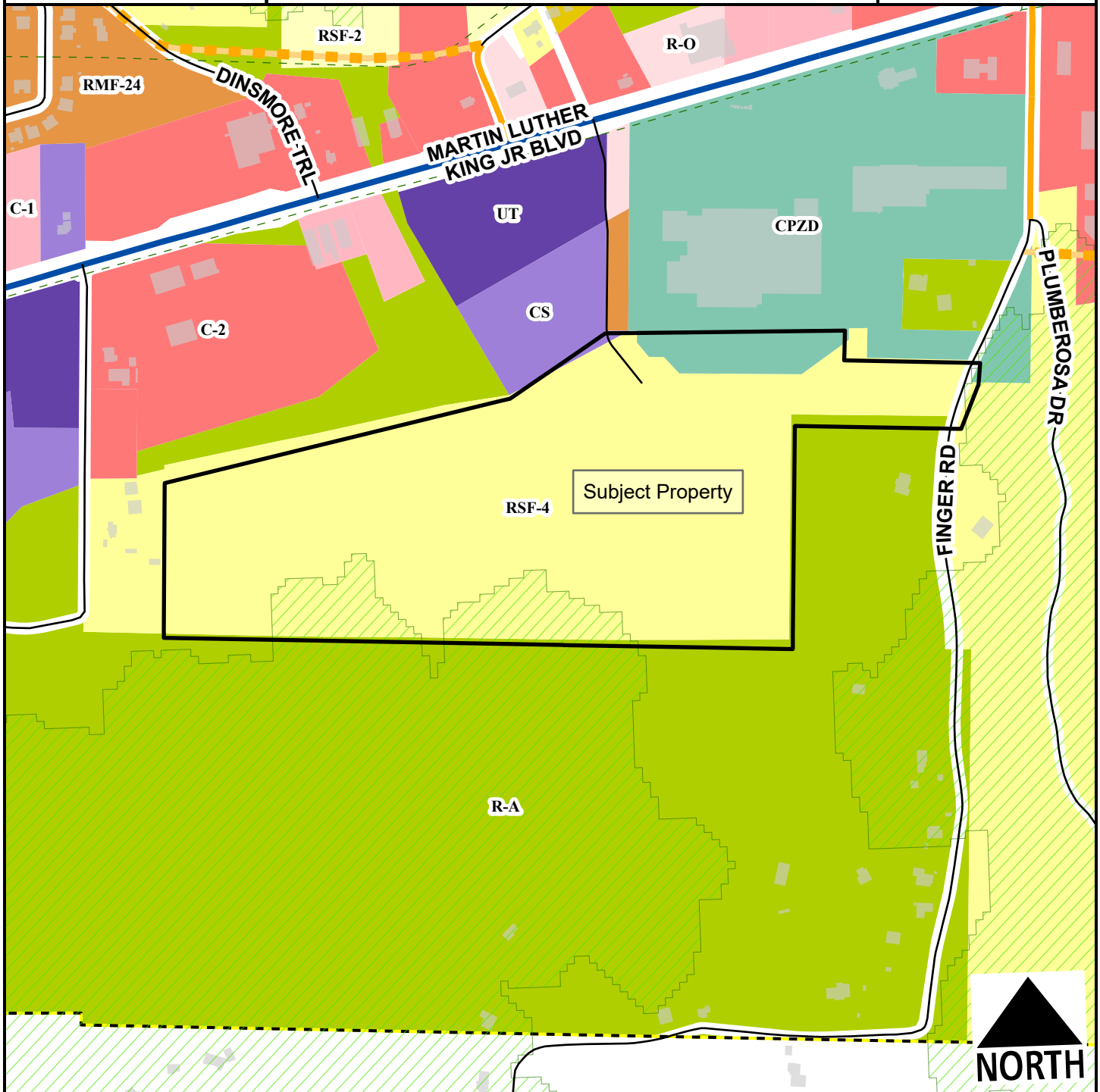
Sincerely,



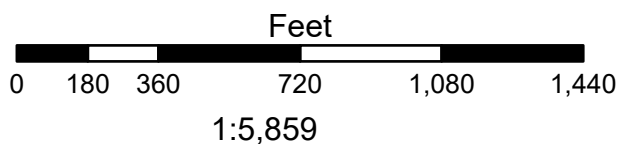
Taylor Lindley, P.E.
Project Manager



Close Up View



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



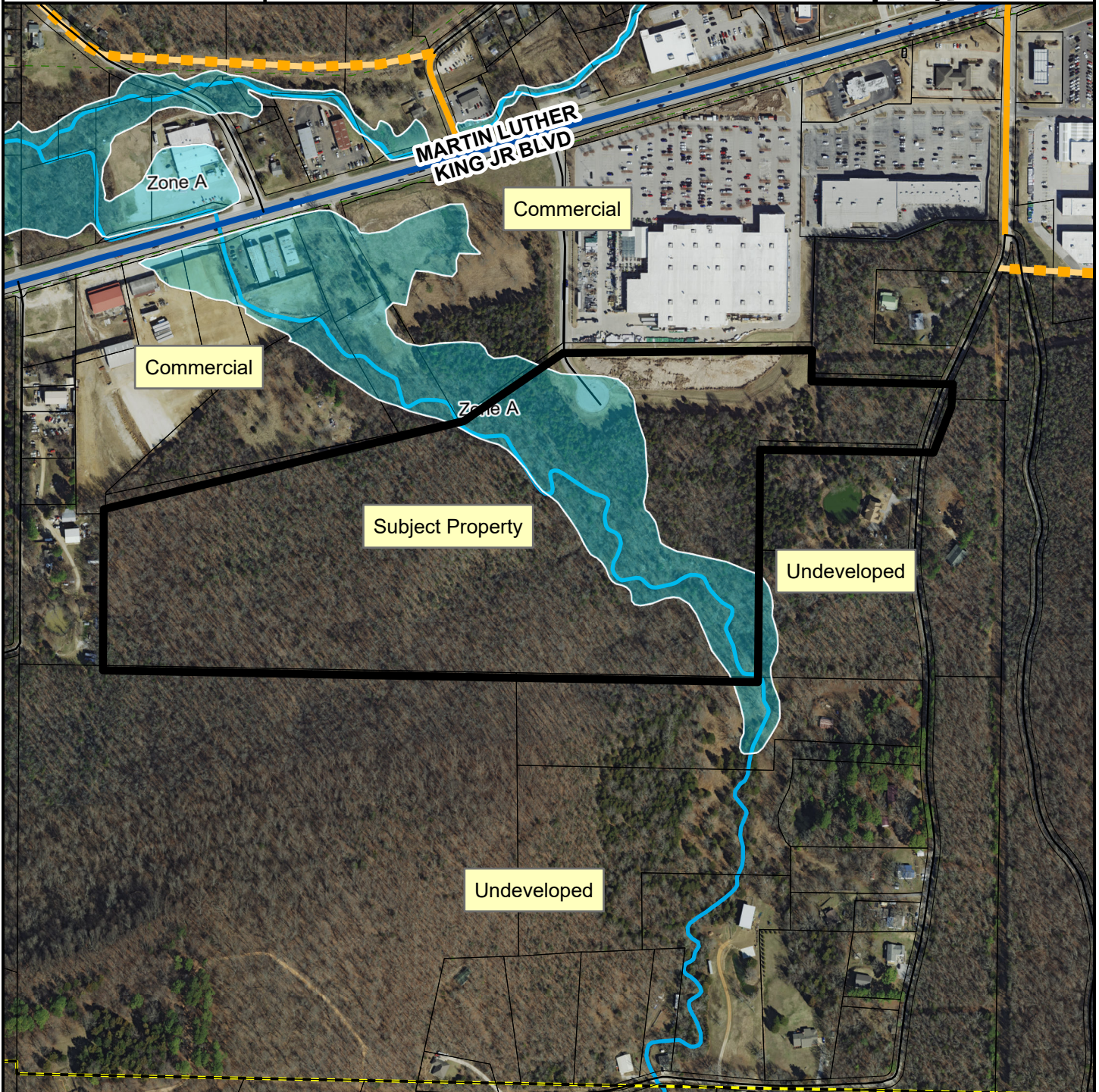
- Residential-Agricultural
- RSF-2
- RSF-4
- RI-12
- RMF-24
- Residential-Office
- C-1
- C-2
- Urban Thoroughfare
- Community Services
- Commercial, Industrial



LSD-2022-0031

S. OF S. LEFLAR WAY

Current Land Use



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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

LSD-2022-0031 (PIGSKIN RV PARK)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forester

MEETING: February 13, 2023

SUBJECT: **LSD-2022-0033: Large Scale Development (2992 N. OAK BAILEY DR./OAK BAILEY CLUSTER DEVELOPMENT, 254):** Submitted by COMMUNITY BY DESIGN for property located at 2992 N. OAK BAILEY DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 2.67 acres. The request is for a cluster housing development with 18 residential units.

RECOMMENDATION:

Staff recommends approval of **LSD-2022-0033** with conditions.

RECOMMENDED MOTION: *"I move to approve LSD-2022-0033, determining:*

- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements,*
- In favor of a variance to UDC §164.22(G)(2),*
- In favor of a variance to UDC §164.22(G)(8),*
- In partial favor of a variance to UDC §172.02(B), and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in northeast Fayetteville just northeast of the intersection of Oak Bailey Drive and Old Wire Road. The property is zoned RSF-4, Residential Single-Family, 4 Units per Acre and contains approximately 2.67 acres. A conditional use permit for a cluster housing development (CUP-2022-0039) was approved by the Planning Commission last year, though several neighbors requested to appeal that decision. The City Council heard the neighbors' appeal and voted to approve the conditional use permit with added conditions, including reduced density and heightened tree preservation, buffering, and pedestrian connectivity. 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	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

Proposal: The applicant requests Large Scale Development approval to develop the subject property with an 18-unit cluster housing development. Three variances from the Unified Development Code have been requested. Each variance is described below alongside staff's recommendations:

- **§164.22(G)(2): Building Orientation.** A minimum of 75% of dwelling units in a cluster housing development shall be oriented around and face the common open space, a public trail or towards the street, having pedestrian access to the common open space and the street. Where a cluster housing unit fronts onto a public trail, the façade facing the public trail shall be considered a principal façade for the purposes of meeting design standards. The applicant has requested a variance from this requirement to orient none of the proposed cluster housing units around a common open space, trail, or public street. The applicant has stated that the shared circulation system, while not a public street, has been designed to form and function as a shared street. All units, as proposed, face the shared circulation system.
 - *Staff recommendation: Staff is supportive of this variance. The applicant has stated that the design of the circulation system was guided by 'The Woonerf Concept,' with streets shared among pedestrians, bicyclist, and motor vehicles. As designed, the internal circulation system functions as an extension of the common open space at the center of the development. All units are proposed to be oriented toward the internal circulation system, which staff finds would contribute towards the type of placemaking that common open spaces and cluster housing developments are intended to create. Thus, staff recommends approval of this variance.*
- **§164.22(G)(8): Pedestrian Connectivity.** All buildings and common spaces shall be served by a pedestrian circulation system that connects to an existing or planned sidewalk or trail system. The applicant has requested a variance from this section of code to allow for a circulation system that is shared among pedestrians, bicyclists, and motor vehicles. The applicant has stated that the proposed shared space is intentionally designed without a clear distinction between pedestrian and vehicular space so that cars are forced to slow down and use caution, noting that having a shared circulation system would also allow for increased landscaping and common open space.
 - *Staff recommendation: Staff is supportive of this variance request. While the applicant is not meeting the letter of the code, which requires a pedestrian circulation system that is separate and distinct from the vehicular circulation system, the applicant has demonstrated a clear effort to meet the intent of the code. The proposed shared space is designed to improve pedestrian and vehicular maneuverability and safety while creating more opportunities for landscaping and seating areas around the common open space. Further, as required by an approved City Council resolution, an additional pedestrian path is proposed to connect the shared circulation system to the recommended sidewalk along the property's Old Wire Road frontage.*
- **§172.02(B): Surfacing.** Parking lots shall be asphalt, semi-permeable soil pavers, or concrete, graded and drained to dispose of surface water into appropriate structures. The applicant has requested a variance to allow for the construction of a pavement surface and subgrade that consists of angular and washed gravel along the secondary drives and parking spaces. The primary drive lane will be constructed to the City's Drainage Criteria Manual's standard permeable paving asphalt section, so this variance request does not extend to that area. The surface layer of the secondary drives

and parking areas would be approximately 4 inches of 3/8-inch diameter brown washed chip while the subgrade will generally consist of 1/2-inch or 3/4-inch clean limestone. The section allows for water to drain through the gravel and be collected in a perforated, below surface under drain. The applicant has stated that this would be beneficial to residents and would work best with other permeable paving water quality features.

- *Staff recommendation: The City's Engineering Division has consistently supported the use of low-impact development in typically paved areas when used in a way that provides adequate support, longevity, and ease of maintenance. However, part of this support hinges on a grid or ring containment system for gravel surfaces. Those systems keep gravel in place and provide additional support for the surface. Considering the applicant's request, Engineering staff is partially supportive of this variance with the condition that a ring or grid system be used in conjunction with the gravel surface. Engineering staff does not support the use of gravel pavement with or without a grid or ring system on steep slopes. The applicant is showing a drive and parking lane with a 10% slope. Steep slopes may cause gravel to migrate down and eventually collect in the storm infrastructure that the applicant is proposing to install.*

Right-of-Way to be Dedicated: The subject property has frontage along Old Wire Road, which is classified as a Neighborhood Link street. Neighborhood Links require right-of-way in the amount of 33.5 feet from the centerline of the road. Staff recommends that right-of-way be dedicated with this development in the amount of 33.5 feet from centerline to align with the standard street section for a Neighborhood Link.

Street Improvements:

On-site: This portion of Old Wire Road is partially-improved with asphalt paving and open ditches. Staff recommends that a six-foot sidewalk be installed along the property's frontage, in line with the standard street section for a Neighborhood Link.

Off-site: Staff also recommends that a six-foot sidewalk be installed along the lot at the northeast corner of Oak Bailey Drive and Old Wire Road within the existing right-of-way. This recommendation is based upon the rough proportionality of the impact of the development upon the sidewalk infrastructure needs near the development. A staff exhibit illustrating this request is attached to this report.

Access Management/Connectivity: Staff has determined that this proposal is compliant with the City's access management and connectivity standards. The applicant proposes to access the site through an existing shared driveway on an adjacent parcel with access onto Oak Bailey Drive. Since the driveway is serving single-family homes and is located less than 10 feet away from adjacent driveways and intersections, staff finds that the driveway is compliant with the City's access requirements.

Design Standards: This proposal is subject to the design standards outlined in UDC §164.22, Cluster Housing Development. In reviewing the provided site plan and elevations, staff has determined that this development is partially compliant with those standards. The applicant has requested a variance from the cluster housing requirements for building orientation and pedestrian circulation as described above alongside staff's recommendations. The applicant has indicated that the cluster housing requirements for building design will be met by providing variety in building material finishes, variation in adjacent unit floor plans that alter the location of exterior windows and doors, and variation in roof shapes or gables between adjacent structures. Updated building elevations have not been provided, though staff has added a condition of approval

recommending that compliance with the building design standards be confirmed prior to building permit issuance.

Water and Sewer System: The applicant is proposing to extend a public eight-inch water main into the development to provide domestic water and fire protection. The applicant is also proposing to extend a public eight-inch sewer main into the development to provide sanitary sewer to several proposed units. There is also an existing sewer main that will serve the development. The applicant is proposing to extend a public eight-inch water main into the development to provide domestic water and fire protection. The applicant is also proposing to extend a public eight-inch sewer main into the development to provide sanitary sewer to several proposed units. There is also an existing sewer main that will serve the development.

Parkland dedication or fee in-lieu: This proposal was discussed by the Parks and Recreation Advisory Board (PRAB) at their October 3, 2022 meeting. PRAB recommended fee-in-lieu for this development in the amount of \$19,602 based on 18 single-family units. Payment of parks fees will be required prior to building permit issuance.

Tree Preservation:

Canopy minimum requirement: 25%

Existing canopy: 29.2%

Preserved canopy: 12.6%

Mitigation required: 39 two-inch caliper trees

Public Comment: To date, staff has received no public comment on this item.

RECOMMENDATION: Staff recommends approval of **LSD-2022-0033** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of right-of-way dedication. *Staff recommends right-of-way dedication in the amount of 33.5 feet from centerline along the property's Old Wire Road frontage to align with the standard street section for a Neighborhood Link;*

Subdivision Committee recommended in favor of this.

2. Planning Commission determination of street improvements. *Staff recommends improvements along the property's Old Wire Road frontage in line with the typical Master Street Plan standard for a Neighborhood Link, including a six-foot sidewalk. Staff recommends that a six-foot sidewalk also be installed along the frontage of the lot at the northeast corner of Oak Bailey and Old Wire road within the existing right-of-way;*

Subdivision Committee recommended in favor of this.

3. Planning Commission determination of a variance to UDC §164.22(G)(2): Building Orientation. *Staff recommends in favor of this variance for the reasons stated above;*

Subdivision Committee recommended in favor of this variance.

4. Planning Commission determination of a variance to UDC §164.22(G)(8): Pedestrian Connectivity. *Staff recommends approval of this variance for the reasons stated above;*

Subdivision Committee recommended in favor of this variance.

5. Planning Commission determination of a variance to UDC §172.02(B): Surfacing. *Staff recommends partial approval of this variance with the condition that a ring or grid system is used in conjunction with the gravel surface. Staff also does not support the use of gravel pavement with or without a grid or ring system on steep slopes;*

Subdivision Committee recommended in partial favor of this variance.

6. All conditions of approval associated with the conditional use permit for this project (CUP-2022-0039) and the associated City Council resolution (Res. 290-22) shall be met;
7. All parking clusters around the common open space shall be separated by a change in ground cover materials or other feature that prevents cars from parking in those areas;
8. Building design standards for this cluster housing development shall be met by providing variations in building material finishes, variations in adjacent cluster housing unit floor plans that alter the location of exterior windows and doors, and variations in roof shapes or gables between adjacent structures;
9. Remaining comments from the Planning Division shall be addressed, including:
 - a. Clarify dimensions for scooter parking spaces. UDC §172.04 requires that motorcycle/scooter spaces have a width of 3' and a depth of 7.5' – 9'.
10. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

11. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or their representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);
13. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
14. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
15. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;

16. 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;
17. 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;
18. 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;
19. Large scale development shall be valid for one calendar year;
20. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
21. 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
22. Prior to the issuance of a building permit the following is required:
 - b. Grading and drainage permits;
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - d. Exterior lighting package must be provided to the Planning Division;
 - e. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - f. Project Disk with all final revisions; and
 - g. 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.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>February 13, 2023</u>		☐ Tabled	☐ Forwarded	☐ Denied	
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Engineering Memo
- Urban Forestry Comments
- Request Letter
- Variance Request Letter
- Site Plan
- Grading Plan
- Elevations
- Staff Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map



TO: Gretchen Harrison, Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: February 1, 2023

SUBJECT: **Subdivision Committee Engineering Comments for
LSD 2022-0033 Oak Bailey Cluster Housing**

Water: The applicant is proposing to extend a public 8" water main into the development to provide domestic water and fire protection.

Sewer: The applicant is proposing to extend a public 8" sewer main into the development to provide sanitary sewer to a number of proposed houses. There is also existing sewer that will serve the development as well.

Drainage: The applicant is proposing to meet the assumptions outlined in the original drainage report for the overall development. In areas where there is an increase in impervious material, the applicant is proposing to modify the existing pond for the subdivision.

Variances:

The applicant has proposed to use a gravel surface in areas of the development they consider secondary drives and parking spaces. The Engineering Division has consistently supported the use of low impact development in typically paved areas when used in a manner that provides adequate support, longevity, and ease of maintenance. Part of this the Engineering Division's support of these gravel pave installation hinges on a grid or ring containment system for gravel surfaces. While they are an additional up front cost, these containment systems ensure the longevity of the gravel pave system by keeping gravel in place and providing additional support for the surface. The turning movements that will occur in the secondary drive and parking areas have a larger impact than vehicles just passing over these systems. Considering the applicant's request, Engineering staff will partially support the variance request on the condition a ring or grid system is used in conjunction with the gravel surface.

Plan Comments:

1. Permeable pavement cannot be used on slopes steeper than 3% per the drainage criteria manual. This will impact the drainage calculations that have previously been provided. New calculations must be submitted.
2. Private drainage infrastructure cannot be located parallel in a public easement.
3. Please explore a using a public sewer main on the north side of the property to provide sewer to those structures.
4. More information is needed on the proposed bioretention areas located near the structures.
5. Trees cannot be planted over public water or sewer mains and must be located at least 5' off the mains.

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):
 - Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
 - Sanitary Sewer pipe sizing, profiles, or utility conflicts
 - Waterline fittings, callouts, or utility conflicts
 - Street profiles
 - Fine grading/spot elevations



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Brian Teague, Community By Design

From: Melissa M. Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: February 13, 2023

Subject: LSD-2022-0033: Marker Development LLC: 2992 N. Oak Bailey Dr., 254

1. Submittal Requirements	Yes	No	N/A
Initial Review with the Urban Forester	X		
Site Analysis Map Submitted (if justification is needed)	X		
Site Analysis Written Report Submitted (justification is needed)	X		
Complete Tree Preservation Plan Submitted	X		
Tree Mitigation Table on Plans	X		
Tree Preservation Wavier Submitted (only use if no trees onsite or near P/L)			X

2. Tree Preservation Calculations

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	86,118	100%
Zoning Designation * Select Below with drop down arrow		
RSF-4 Single-Family Residential, Four Units Per Acre	21,530	25%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	21,530	25.0%
Existing Tree Canopy * Minus Right of Way and Easements	25,124	29.2%
Tree Canopy Preserved	10,813	12.6%
Tree Canopy Removed *On Site	14,311	16.6%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	14,311	16.6%
Removed Below Minimum	10,717	
Mitigation Requirements	10,717	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	4,842	22
Low Priority	5,875	13
Total Mitigation Trees Required	10,717	35

4. Mitigation Type	Yes	No	N/A
On-Site Mitigation	X		
Off-Site Mitigation			X
Tree Escrow (See Conditions of Approval)			X

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes
d. Existing Topography and Proposed Grading	Yes	Yes	Yes
e. Soil Types	Yes	Yes	Yes
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	Yes	Yes	Yes
i. All Existing and Proposed Utilities	Yes	Yes	Yes
j. All Existing and Proposed Utility Easements and ROW's	Yes	Yes	Yes
k. All Streams (with approximate center line)	N/A	N/A	N/A
l. Floodplains and floodways	N/A	N/A	N/A
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan (if required)	Yes	Yes	Yes
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes

Tree Protection Methods

a. Tree Protection Fencing	Yes	Yes	Yes
b. Limits of Root Pruning	Yes	Yes	Yes
c. Traffic flow on work site	No	No	No
d. Location of material storage	No	No	No
e. Location of concrete wash out	No	No	No
f. Location of construction entrance/exit	Yes	Yes	Yes

6. Site Analysis Report (if required)	Yes	No	N/A
<i>UDC Chapter 167.04H4</i>			

- | | |
|--|---|
| a. Provide graphic examples of multiple options used to minimize removal of existing canopy | X |
| b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy. | X |

7. Review Status	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	01-18-23	02-01-23	02-06-23
Approved			
Tabled	9-13-22		
	10-17-22		
Denied			

Comments

1. Address items above marked "No" and all Redlines provided.
2. Low Priority trees are considered to only be ones that are hazardous or invasive. All others are High Priority. Please double check the existing trees with this consideration in your mitigation chart since your numbers changed to more low priority. Dead trees do not have to be counted at all.
3. The existing trees near the entrance may be damaged or killed with the construction work. Please make sure the adjacent property owner is aware. Thank you for your note acknowledging this.
4. Thank you for providing Tree Preservation Easements per Ch. 167 since this is an LSD.



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Brian Teague, Community By Design

From: Melissa M. Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: February 1302-, 2023

Subject: LSD-2022-0033: Marker Development LLC: 2992 N. Oak Bailey Dr., 254

1. General Landscape Plan Checklist		Yes	No	N/A
a.	Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03C7g, 177.04B3a</i>	X		
b.	Species of plant material identified <i>UDC Chapter 177.03C7d,e</i>	X		
c.	Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03C7b,c</i>	X		
d.	Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e.	Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f.	LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>		X	
g.	Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h.	Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>	X		
i.	Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2g</i>	X		
2. Parking Lot Requirements		Yes	No	N/A
1 Tree : 12 Parking Spaces				
a.	Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>		X	
b.	Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>			X

c. Tree Island (8' min. width, 18.7' min length OR 150 square feet)
UDC Chapter 177.04C

X

d. Placement of Trees (either side at entrances and exits)
UDC Chapter 177.04C2

X

3. Perimeter Landscaping Requirements

Yes

No

N/A

a. Front Property Line (15' wide landscape) and five on sides.
UDC Chapter 177.04D2a

X

b. Side and Rear Property Lines (5' Wide Landscape Area)
UDC Chapter 177D1

N/A

c. Shade trees planted on south and west sides of parking lots
UDC Chapter 177.04D2e

X

d. Screening of parking lot from adjacent residential properties.

X

4. Street Tree Planting Requirements

Yes

No

N/A

a. Residential Subdivisions
1 Large Shade Species Tree per Lot
UDC Chapter 177.05B1a

X

b. Non-Residential Subdivisions
1 Large Species Shade Tree every 30' (planted in greenspace)
UDC Chapter 177.05B2a

X

c. Urban Tree Well – Urban Streetscapes
Trees every 30' (8' sidewalk)
UDC Chapter 177.05B3a-f

X

d. Structured Soil – Urban Tree Wells
Include a note and/or detail of structural soil on Landscape Plan
UDC Chapter 177.05B3a-f

X

e. Residential Subdivisions
Timing of planting indicated on plans
UDC Chapter 177.05A4

X

f. Residential Subdivisions
Written description for method of tracking planting
UDC Chapter 177.05A4e

X

5. Landscape Requirement Totals	Amount
Mitigation Trees	35
Parking Lot Trees	5
Street Trees	18 Lots
Detention Pond – Large Trees (1 Tree/3,000 square feet)	2
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	12
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	8

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	01-18-23	02-01-23	02-06-23
Approved			
Tabled	9-13-22		
	10-17-22		
Denied			

Comments
1. Address items above marked “No” and all Redlines provided.
2. Please double check the pond area and 10’ around the basin. It measures as requiring 3 trees and more shrubs than what you are showing. 17 mitigation trees were planted in the pond that need to be replaced as well from the last phase of construction. Please show the correct number and note how many were planted previously and how many will be planted now.
3. Please make sure you are screening the residences to the west and south adequately. Button Bush does not make a good screen. Please consult with your landscape architect, who should be designing the landscape plan, if you are not already.

August 31, 2022
Via EnerGov

Ms. Gretchen Harrison
Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

**RE: 2992 N Oak Bailey Drive Cluster Development – Large Scale Development Application
Submittal Package**

Ms. Harrison,

As a representative of the owner of Washington County Parcel 765-31975-000, please find the attached Large Scale Development Application for the development of a cluster housing development containing 19 new single-family residential units. The proposal is in accordance with a conditional use permit that was previously approved by the Planning Commission in 2022. The application includes the following supporting documents attached to this letter:

- One (1) copy of a written submittal letter describing the project
- One (1) copy of a county parcel map
- One (1) copy of a consent of owner form
- One (1) copy of site, utility, grading, tree preservation, and landscape plans
- One (1) copy of a drainage letter
- One (1) copy of the completed fire department technical plat form
-

General - Conditional Use Permit (CUP) 2022-000039 was approved for the property in 2022. In accordance with the approved CUP the proposed large scale development plan consists of constructing 19 new single-family houses. The improvements also include private driveways and associated parking. The property is zoned RSF4 and contains approximately 2.70 acres. A detailed site plan has been provided which should present a proposal that meets the zoning and site requirements of UDC 164.22 Cluster Housing Development. The request is for the development approval of a cluster housing development containing 19 total single-family residential units.

Fire, Solid Waste, Vehicular Access and Parking – Fire, solid waste, and vehicular access is proposed along a new looped private drive. The proposed shared private drive or drive incorporates the principles of a “woonerf”, which is a shared space for use of pedestrians and vehicles. The shared drive maintains a minimum clear width of 20’ to meet requirements for fire and solid waste access. The shared drive will be paved with permeable paving to meet drainage requirements. 27 parallel parking spaces are proposed along the looped private drive and an additional 30 parking spaces are proposed to the rear or to the side of the houses. A total of 57 parking spaces or 1 parking space per bedroom is planned.

Architectural Floor Plans and Elevations – Each of the houses are proposed to be approximately 1,650 square feet and contain 3 bedrooms and 2.5 bathrooms. As proposed each house has a large front porch and also a private courtyard. Common open space is also provided of in the form of 1 large central green space that the houses articulate and front onto. Elevation variation is provided focusing on roof structure massing or projected gables, window and door placement, window trim detailing, porch column and beam detailing, brick type and color, and roof shingle color. Please refer to the floor plans and elevations submitted with the conditional use permit. Modifications are currently be made to those plans. Expect a supplemental submittal containing revised floor plans and elevations in 7 days.

Letter to Gretchen Harrison
RE: 2992 N. Oak Bailey Drive LSD
August 31, 2022

The proposal will not have a measurable impact on vehicular traffic in the area. The proposal utilizes an existing curb cut onto N Oak Bailey Drive.

Thank you for your consideration of this request. Please let me know if you have any questions or if you need additional information.

Sincerely,

A handwritten signature in blue ink, reading "Brian Teague", with a long horizontal flourish extending to the right.

Brian Teague
Community By Design

January 25, 2023
Via EnerGov

Ms. Gretchen Harrison
City of Fayetteville – Senior Planner
125 W. Mountain Street
Fayetteville, AR 72701

RE: 2992 N. Oak Bailey Drive Large Scale Development – LSD 2022 0033 – Variance Requests – Cluster Housing Development Ordinance Pedestrian Circulation System (UDC 164.22(G)(8)), Cluster Housing Development Ordinance Building Orientation (UDC 164.22(G)(2)), Parking Lot Design Standards Dimensions (UDC 172.04(E)), and Parking Lot Design Standards Paving Materials (UDC 172.02(B)),

Ms. Harrison,

Please allow this letter to serve as a variance request from both the City of Fayetteville's Cluster Housing Development Ordinance and the Parking Lot Design Standards. Please refer to latest revision of the site plans, site views and perspectives, and the approved conditional use permit master plan. Also included with the submittal is a publication from the National Association of City Transportation Officials entitled "The Woonerf Concept – Rethinking a Residential Street in Somerville". This publication was used for guidance in the design of the proposed shared space at 2992 N. Oak Bailey Drive.

Cluster Housing Development Ordinance Pedestrian Circulation System (UDC 164.22(G)(8)) - The primary variance request is to allow the required pedestrian circulation system to be constructed so that the space is shared among pedestrians, bicyclist, and motor vehicles in way that gives priority to pedestrians over the cars that will use the space for access to parking. The proposed shared space is intentionally designed without a clear distinction between pedestrian and vehicular space so that cars are forced to slow down and use caution. Average vehicular speeds of 10 mph or less are expected. Limiting vehicular speed will not only increase safety but will also increase the use of the space by pedestrians. This shared space concept will create more opportunity for landscape, trees, and seating areas and will significantly expand upon the proposed common open space and its features in a way that will increase social interaction among the residents.

The proposed houses line the perimeter of the shared space with front doors and porches facing inward towards the space creating one large outdoor room. Interior to the proposed shared space is the central common open space, which will be programmed with a fire pit seating area, a bocce court, and includes the preservation of two significant trees. The shared circulation system and both common open spaces are well connected and have been designed to encourage social interaction, and will be an amenity to the residents. The shared space design balances the requirement to give vehicles access to parking with other pedestrian uses and activities. This efficiency in use of the space will reduce impervious surface and ultimately will make the common open spaces larger and more frequented by pedestrians.

Cluster Housing Development Ordinance Building Orientation (UDC 164.22(G)(2)) - A secondary variance is requested from the building orientation requirements of the Cluster Housing Development Ordinance. The specific requirement calls for front of 75% the houses to orient to either the common space, a trail, or towards the street. While not a public street, the shared circulation system has been designed in form and function to be a shared street and not resemble a parking lot in any way. 100% of the houses are front oriented to the shared space.

Parking Lot Design Standards Dimensions (UDC 172.04(E)) - A third variance is requested from the dimensional requirements of the parking lot design standards that would allow for a 20' wide drive aisle along the shared space while

24' is required in parking lots. The 24' requirement is typically needed for 90-degree parking but 90-degree parking is not proposed in the shared space, only parallel parking. The 20' wide drive aisle meets fire department access requirements. All together with a 20' wide drive aisle and 8' wide parallel parking on one side of the drive aisle, dimensionally the shared space is very similar to most lesser traveled, residential streets.

Parking Lot Design Standards Paving Materials (UDC 172.02(B)) – A variance is requested from UDC 172.02(B) to allow for the construction of a pavement surface and subgrade that consists of angular and washed gravel along the secondary drives and parking spaces. The primary 20' drive lane will be constructed per the City of Fayetteville Drainage Criteria Manual's standard permeable paving asphalt section and thus this variance is not applicable in these areas. The surface layer of the secondary drives and parking spaces would be approximately 4 inches of 3/8" diameter brown washed chip while the subgrade will generally consists of 1/2" or 3/4" clean limestone. The section allows for water to drain into the void spaces of the gravel and be collected in a perforated, below surface under drain. The aesthetic would be very beneficial to the residents and would also work best with other permeable paving water quality features.

The gravel would be completely self contained and not be able to wash onto other areas as is typical in some non-designed examples. In addition the void space in the gravel will collect storm water runoff and not allow it to concentrate on the surface. This condition will be in accordance with a case study located in a private parking lot at 132 and 144 North Washington Ave. that has been ongoing now for over two years. Frequent observations at this location reveal that even in heavy rainfall events storm water immediately enters the void space in the gravel and does not pond or move on the surface of the gravel. The landscape is proposed to be 3/8" brown chips for paving with pine straw mulch and native foundation plantings at the vertical transition to fences and houses. With the brown chip paving, pine straw mulch, trees, and native plantings the intent is to create more of an enclosed wooded type landscape rather than a parking lot.

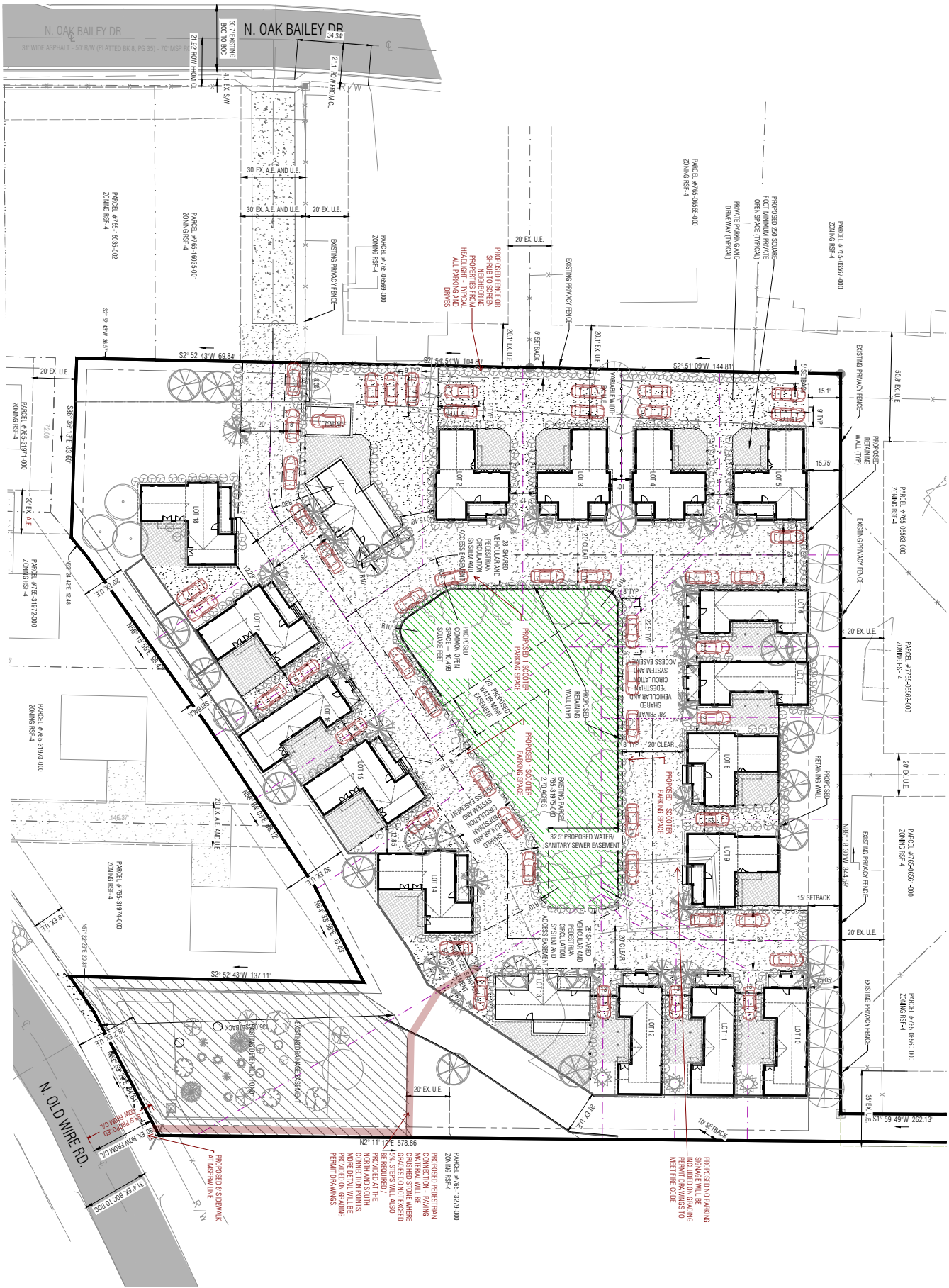
Thank you for considering this request. Please let me know if you have questions or if additional information is needed.

Sincerely,



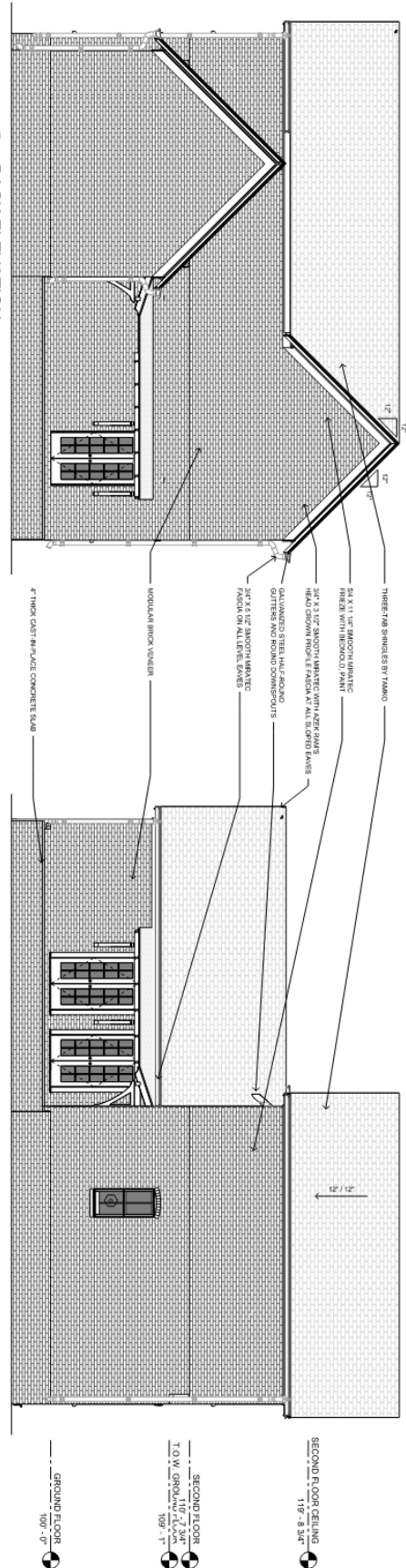
Brian Teague
Community By Design

Attachments:
Conditional Use Permit Master Plan Dated 7/12/22
Site Plans Dated 1/25/23
Site View Dated 9/7/22
The Woonerf Concept NACTO Publication



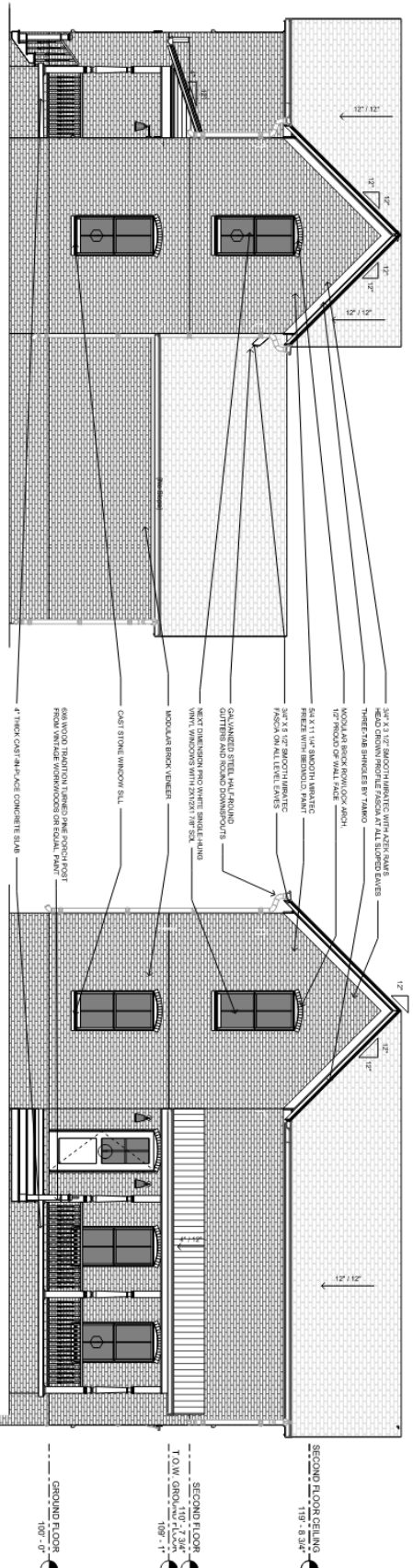


community, and
Planning Commission
February 13, 2023
KEY DEVELOPMENT)
Page 21 of 34
Page 106 of 334



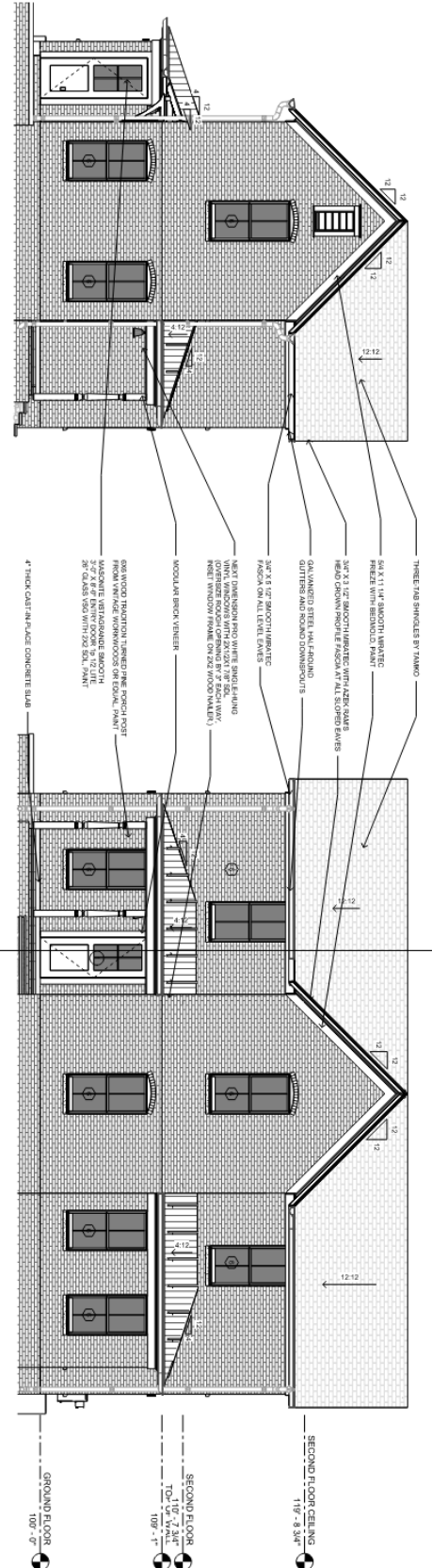
4 BACK ELEVATION
1/8" = 1'-0"

3 LEFT ELEVATION
1/8" = 1'-0"

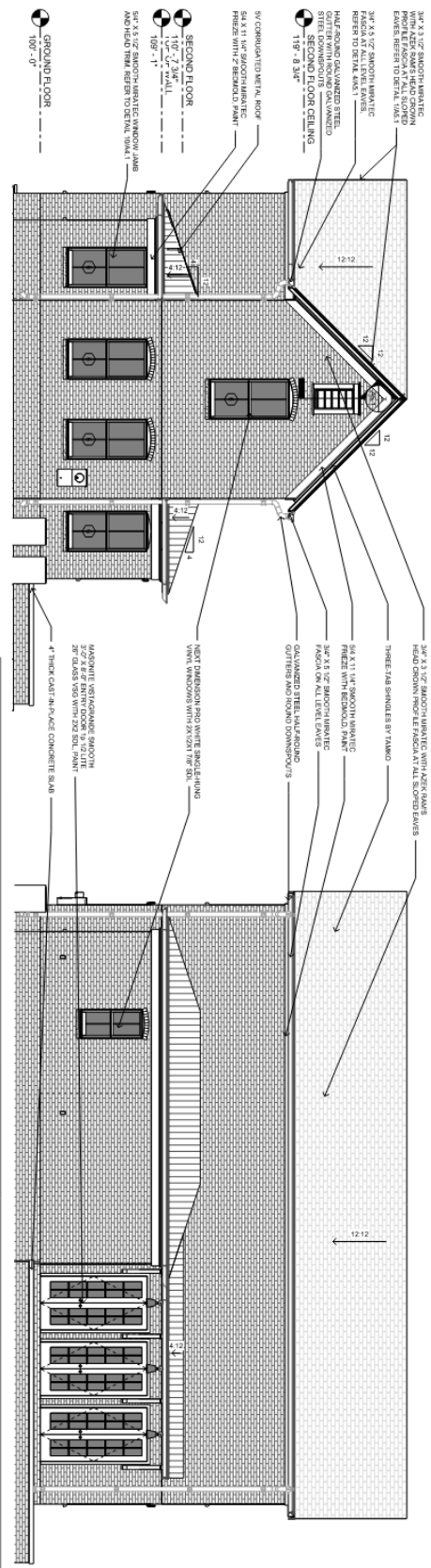


2 RIGHT ELEVATION
1/8" = 1'-0"

1 FRONT ELEVATION
1/8" = 1'-0"

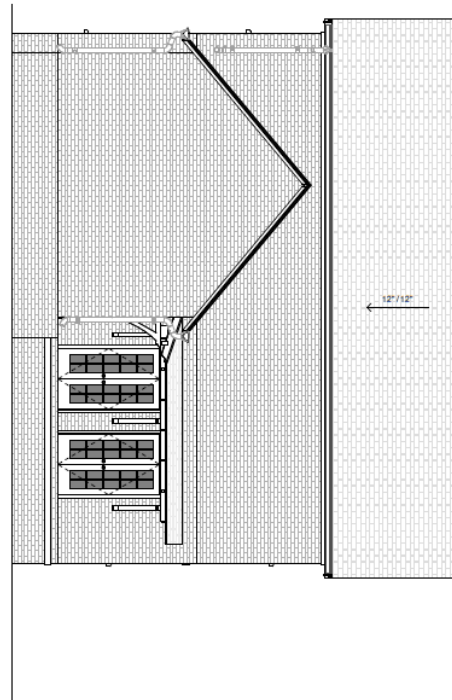


3 WEST ELEVATION
1/4" = 1'-0"

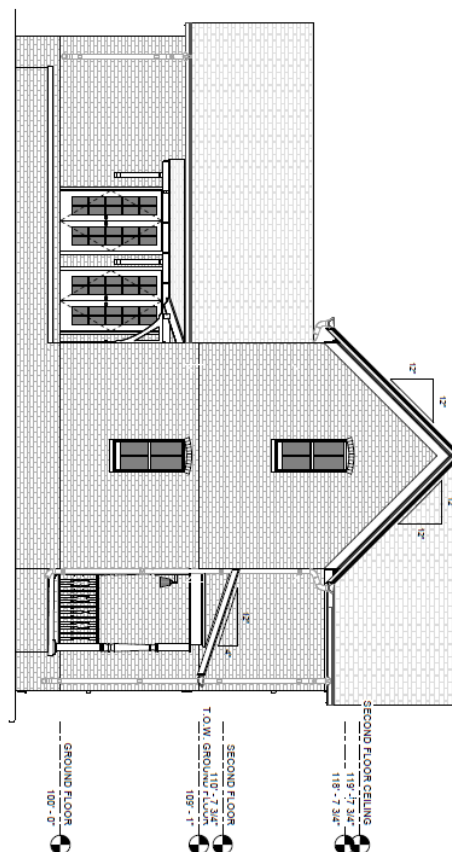


1 SOUTH ELEVATION
1/4" = 1'-0"

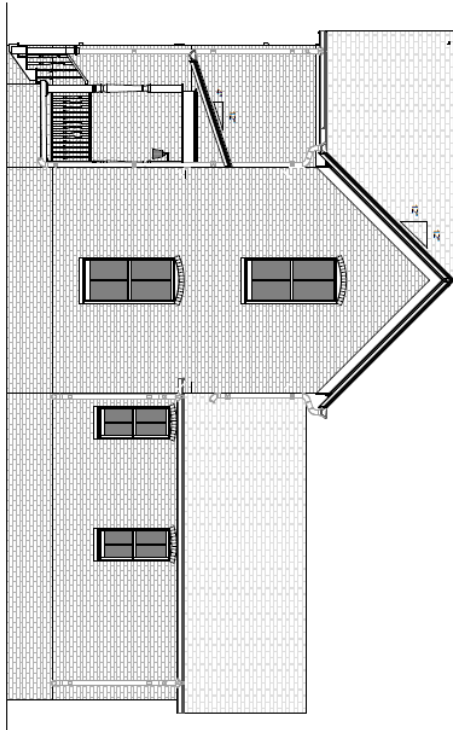
2 EAST ELEVATION
1/4" = 1'-0"



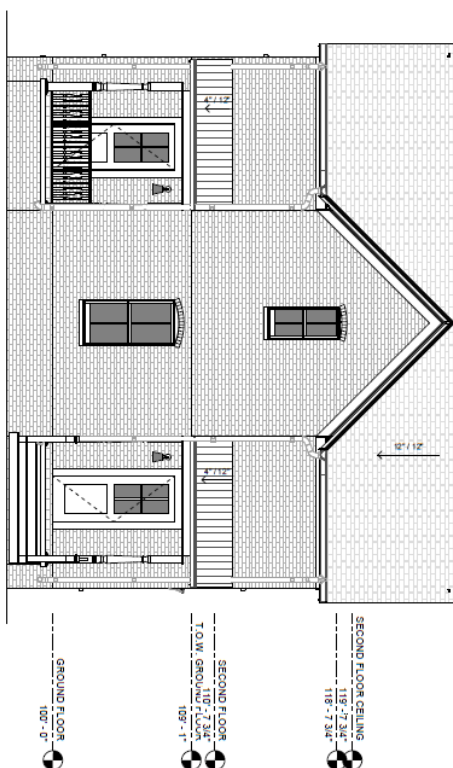
4 BACK ELEVATION
1/4" = 1'-0"



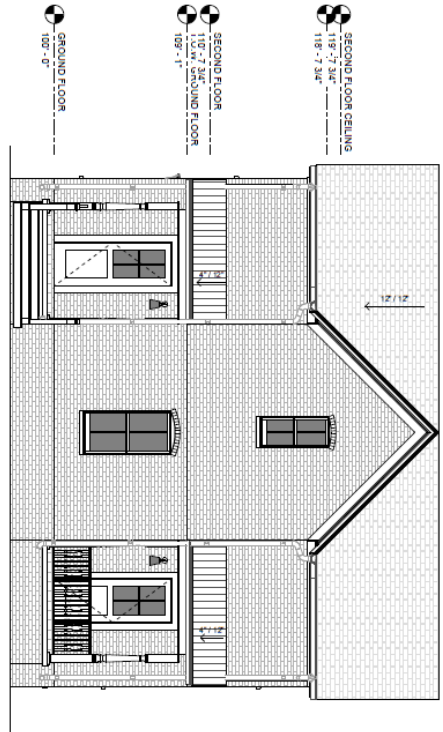
3 LEFT ELEVATION
1/4" = 1'-0"



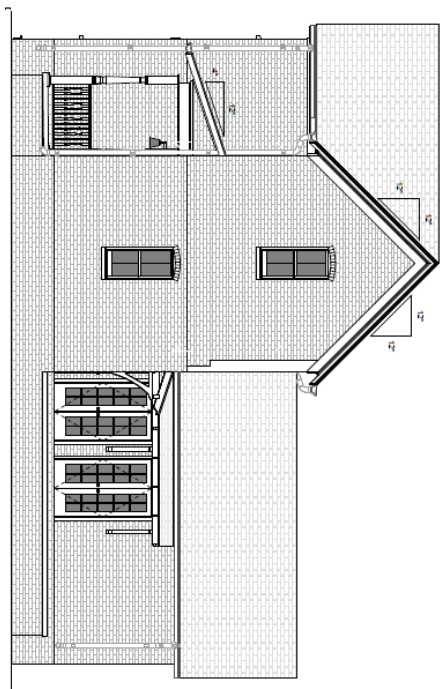
2 RIGHT ELEVATION
1/4" = 1'-0"



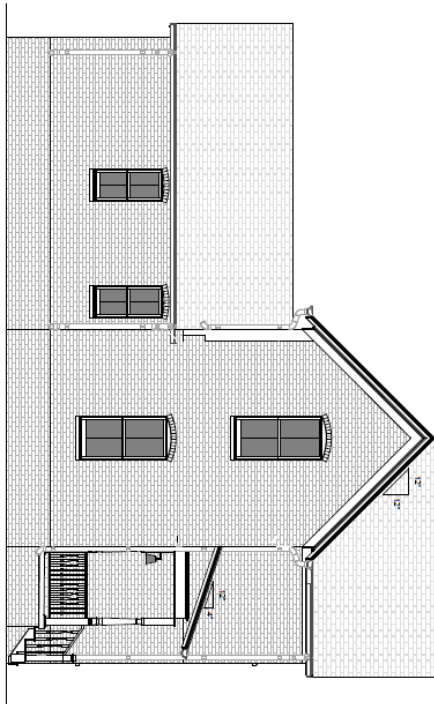
1 FRONT ELEVATION
1/4" = 1'-0"



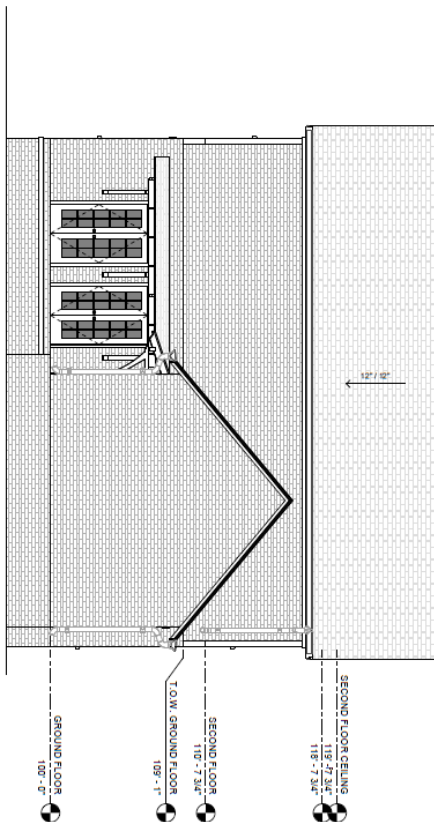
1 FRONT ELEVATION
1/8" = 1'-0"



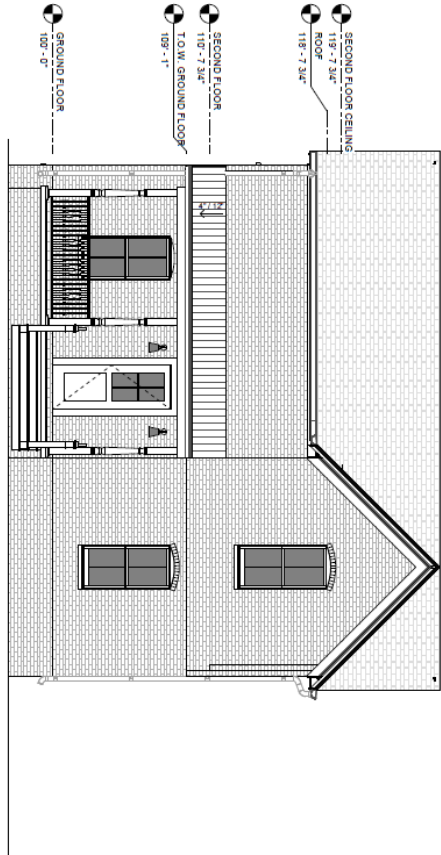
3 LEFT ELEVATION
1/8" = 1'-0"



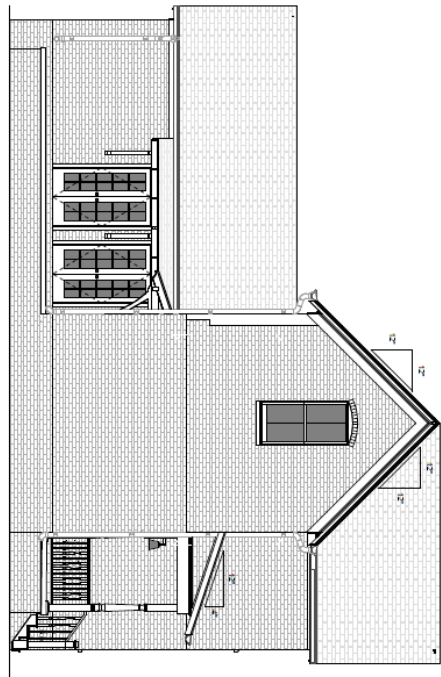
2 RIGHT ELEVATION
1/8" = 1'-0"



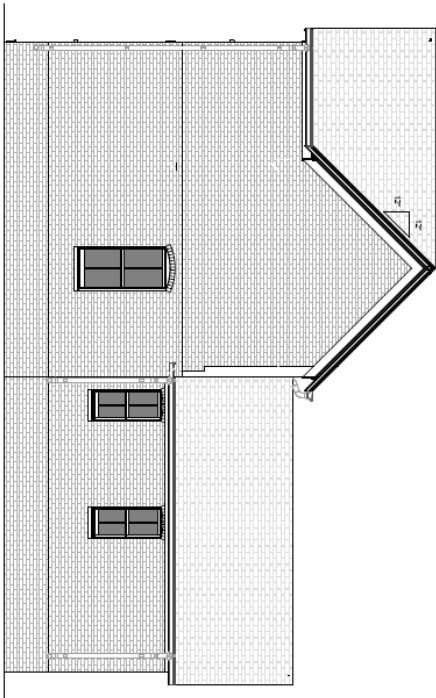
4 BACK ELEVATION
1/8" = 1'-0"



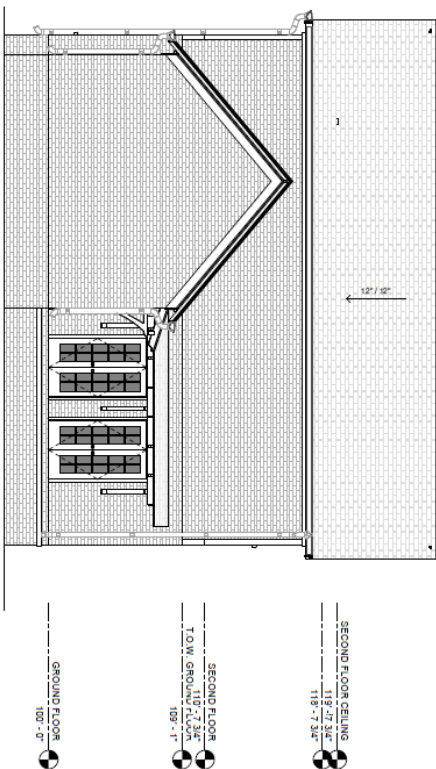
1 FRONT ELEVATION
1/8" = 1'-0"



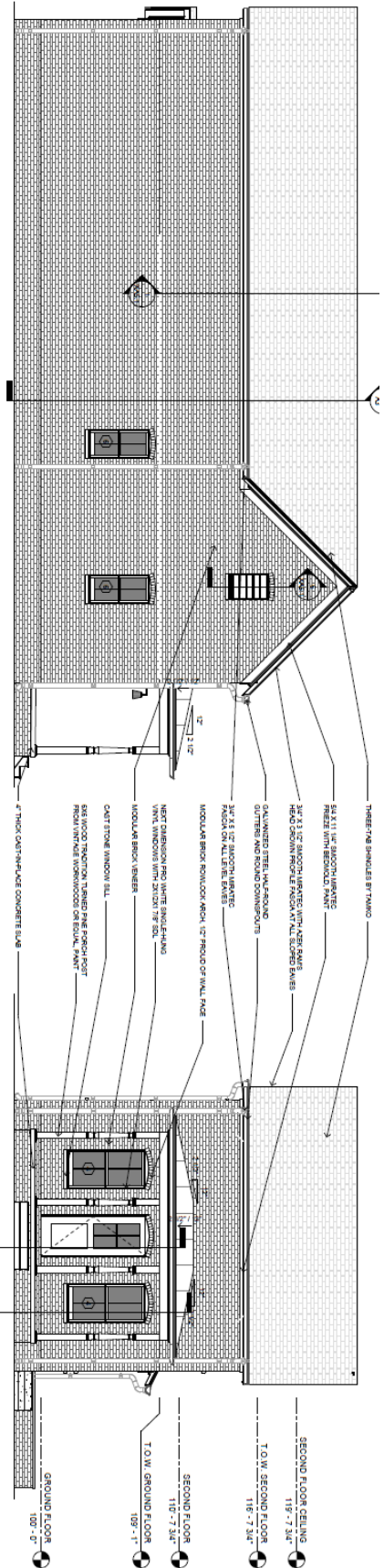
3 LEFT ELEVATION
1/8" = 1'-0"



2 RIGHT ELEVATION
1/8" = 1'-0"

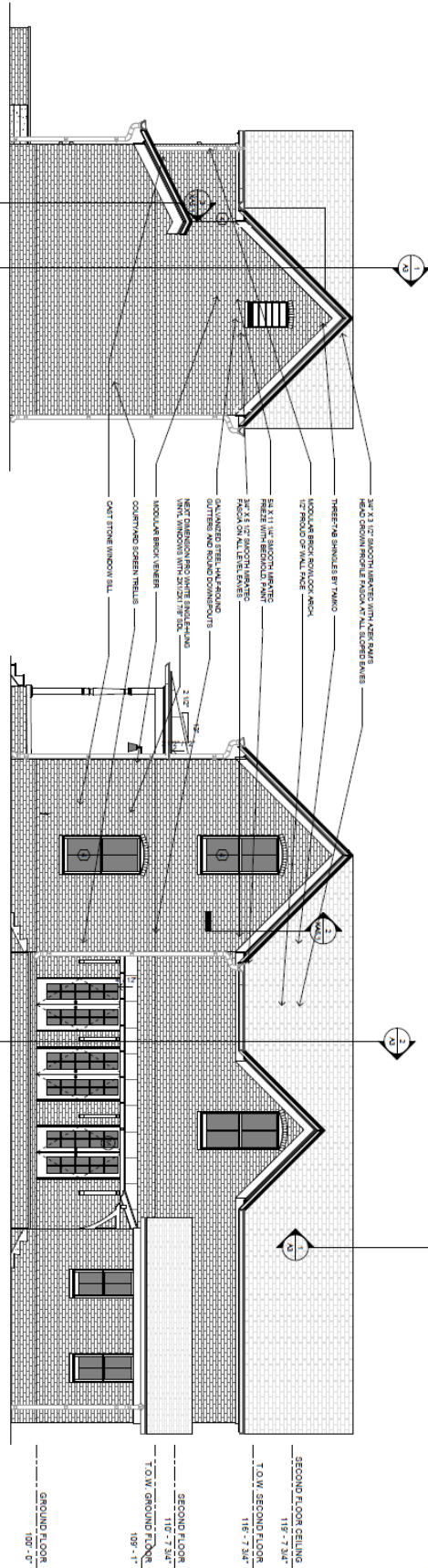


4 BACK ELEVATION
1/8" = 1'-0"



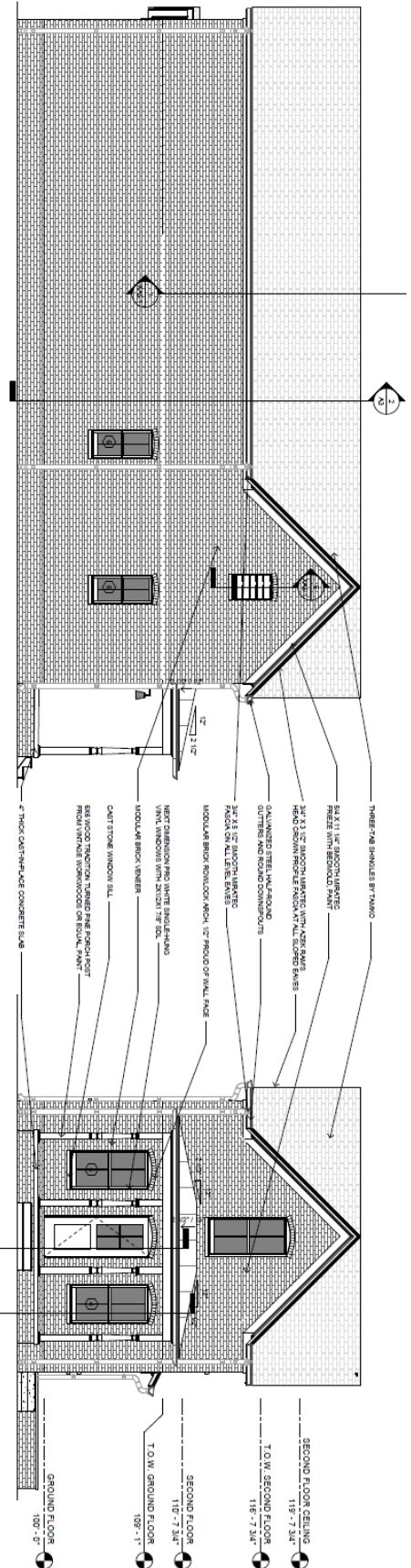
4 LEFT ELEVATION
1/8" = 1'-0"

3 FRONT ELEVATION
1/8" = 1'-0"

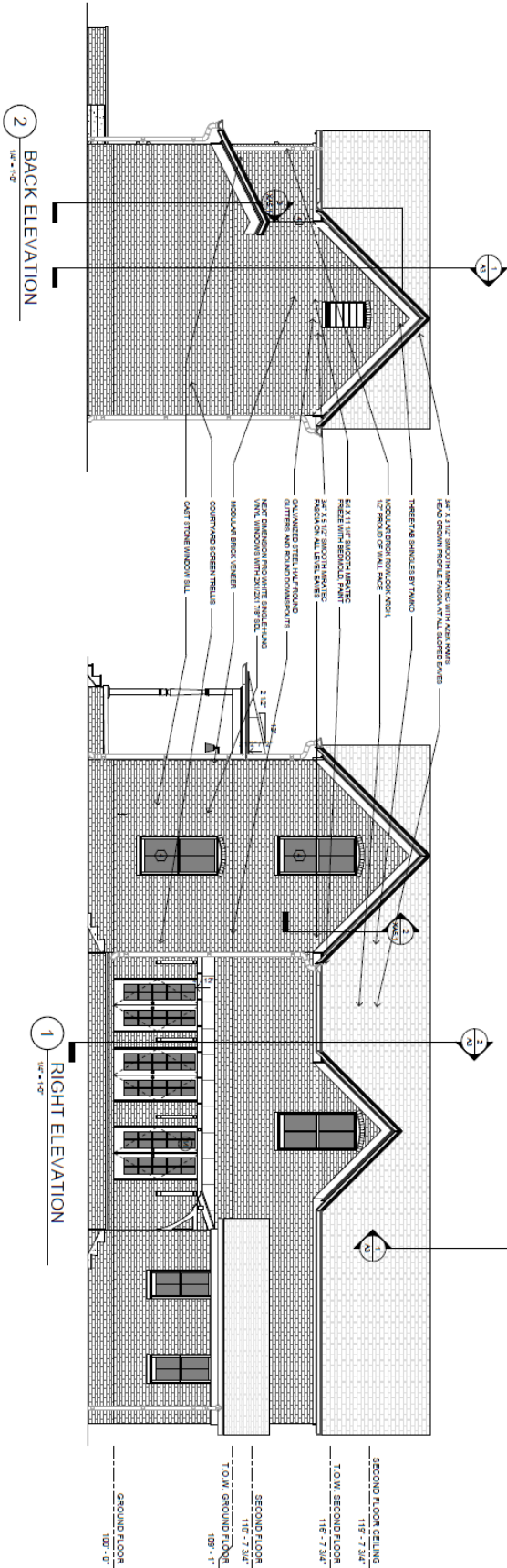


2 BACK ELEVATION
1/8" = 1'-0"

1 RIGHT ELEVATION
1/8" = 1'-0"



3 FRONT ELEVATION
1/8" = 1'-0"



1 RIGHT ELEVATION
1/8" = 1'-0"

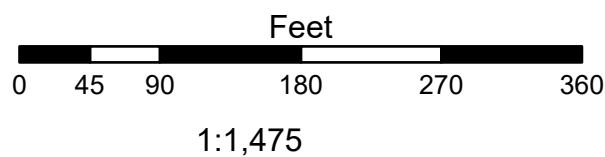
LSD-2022-0033

2992 N. OAK BAILEY DR

Staff Exhibit



- Neighborhood Link
- Residential Link
- Planned Neighborhood Link
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

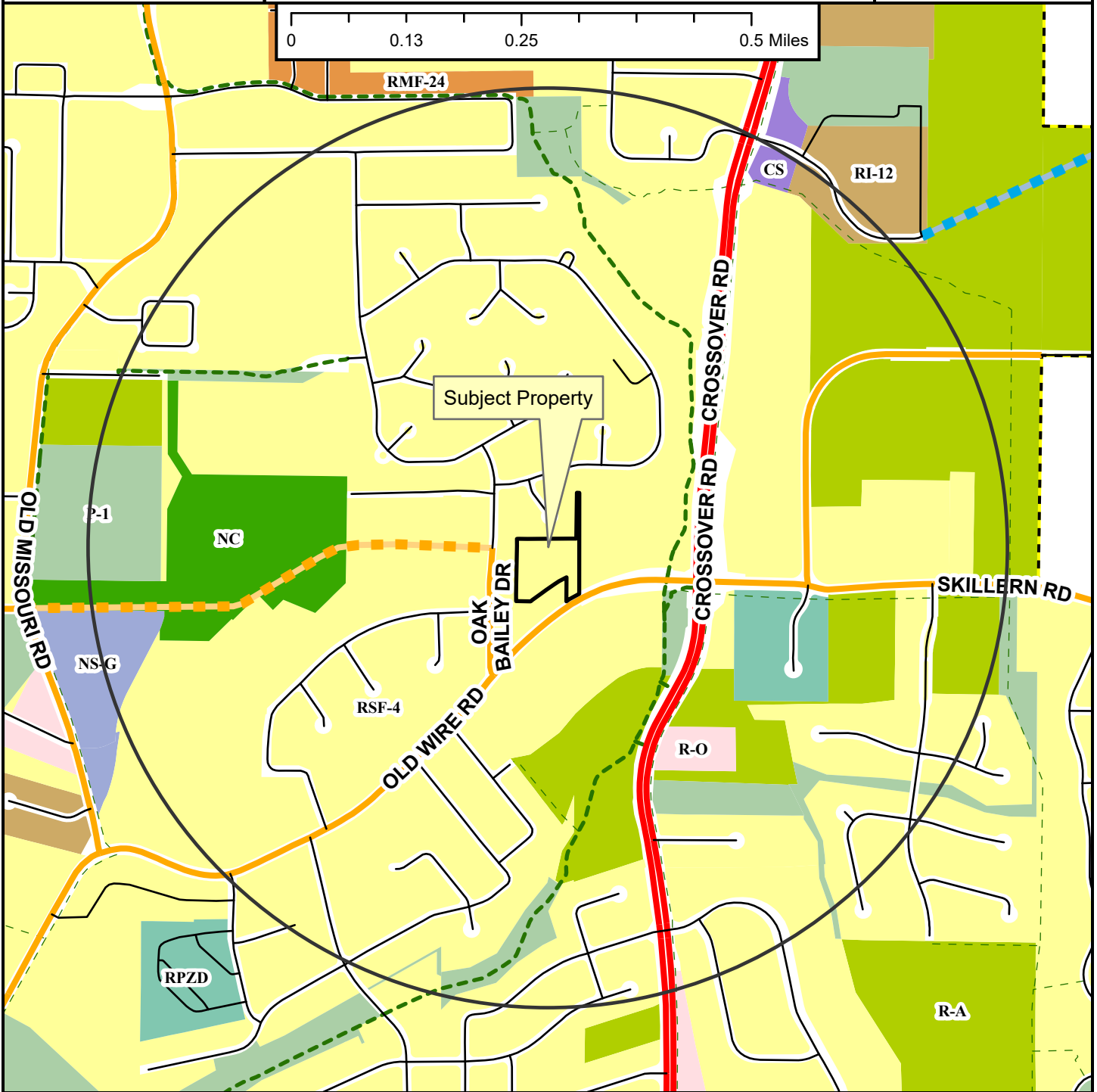
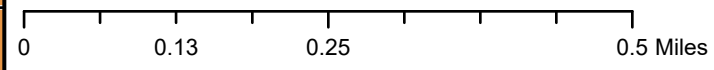
Planning Commission
February 13, 2023

LSD-2022-0033 (MARKER DEVELOPMENT)

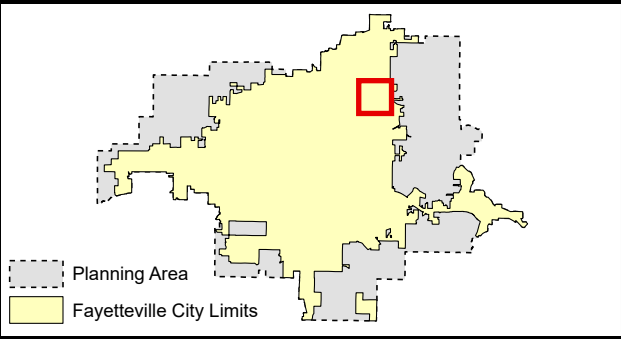
LSD-2022-0033

2992 N Oak Bailey Dr

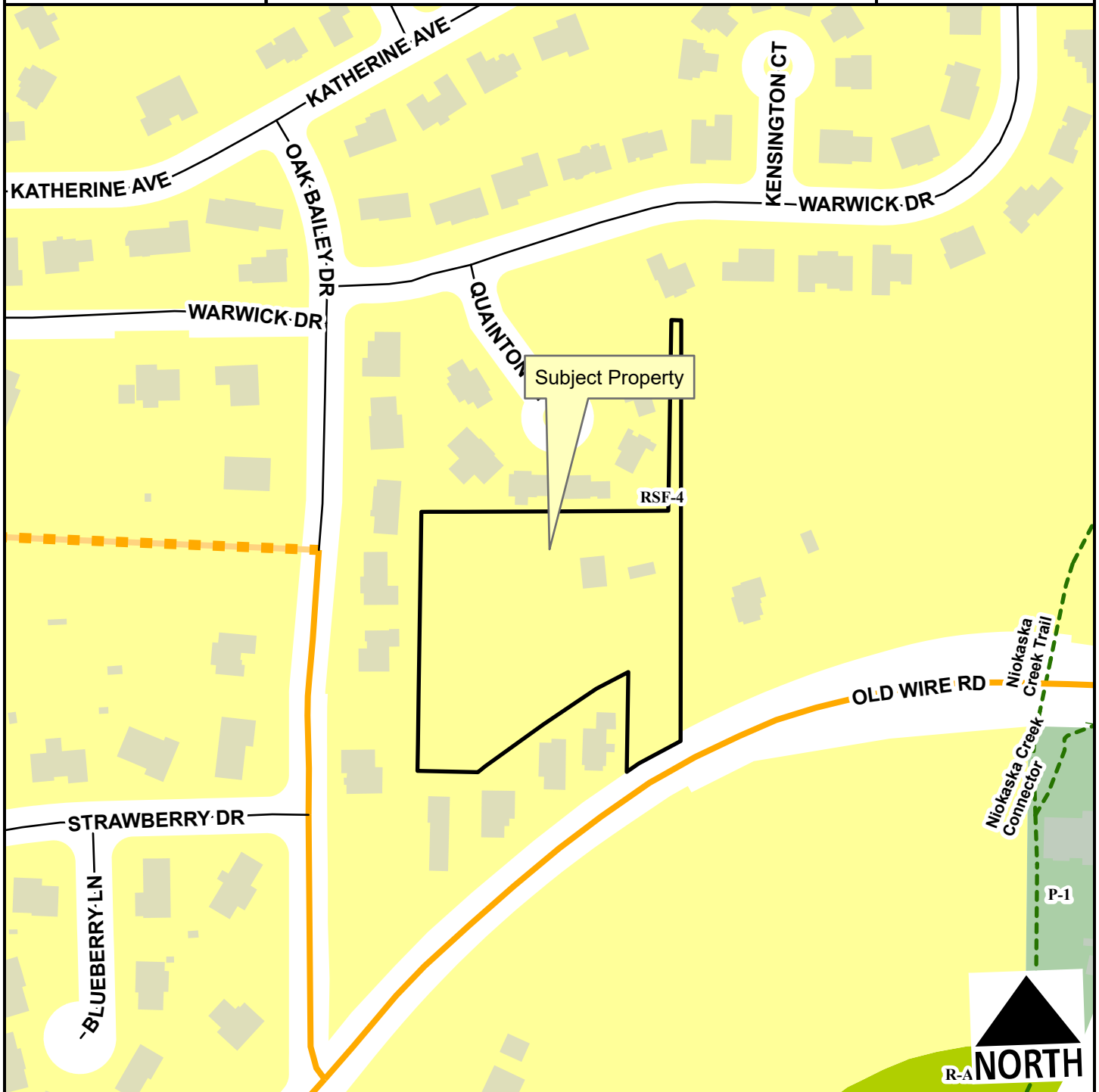
One Mile View



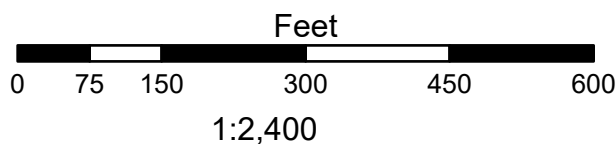
- Regional Link
- Neighborhood Link
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



- | | |
|---|-------------------------------------|
| 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 | |



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

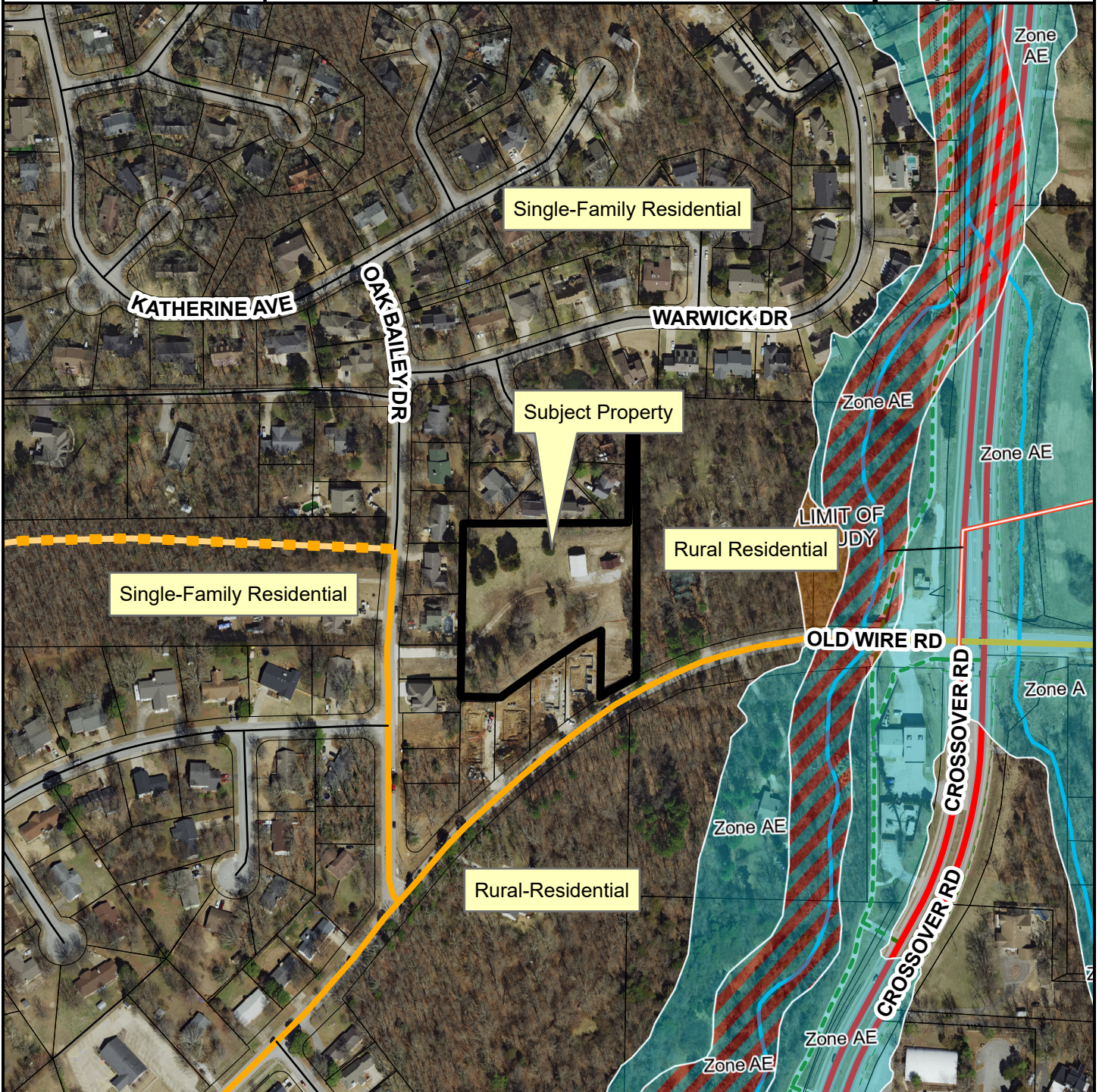


- Residential-Agricultural
- RSF-4
- P-1

LSD-2022-0033

2992 N Oak Bailey Dr

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

LSD-2022-0033 (MARKER DEVELOPMENT)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: February 13, 2023

SUBJECT: **VAC-2023-0001: Vacation (N. BOB YOUNKIN DR. & W. BISHOP DR./LEGACY VENTURES, 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 vacate a 0.44-acre portion of right-of-way.

RECOMMENDATION:

Staff recommends forwarding **VAC-2023-0001** to City Council with a recommendation of approval, with conditions.

RECOMMENDED MOTION:

*"I move to forward **VAC-2023-0001** to City Council with a recommendation of approval, with conditions as recommended by staff."*

BACKGROUND:

The subject property consists of seven lots totaling 7.76 acres in the Appleby Landing Subdivision, located on either side of the south end of Bob Younkun Drive in north Fayetteville. The property is currently undeveloped though it is surrounded by established single- and two-family residential neighborhoods to the east and west, a multi-family development to the south, and medical offices to the north. An eight-inch water main and eight-inch sewer main are present along the west side of Bob Younkun Drive. A separate request to rezone the property from R-O, Residential-Office to CS, Community Services and RMF-24, Residential Multi-Family, 24 Units per Acre (RZN-2022-0055) was recently forwarded with a recommendation of approval to City Council. That item is scheduled to be heard by City Council on February 21, 2023. Surrounding land use and zoning is depicted on *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

Proposal: The applicant proposes to vacate two 9-foot-wide sections of street right-of-way along Bob Younkun Drive.

DISCUSSION:

Staff is supportive of the proposed right-of-way vacation. The existing right-of-way along this portion of Bob Younkin Drive has a total width of 70 feet which exceeds what is typically required for a Residential Link street. The requested vacation would reduce the width of the right-of-way to 26 feet from centerline to align with the standard street section for a Residential Link street. Further, any future development along the south end of Bob Younkin Drive has the potential to necessitate a full reconstruction of the street to align with the Master Street Plan, which may help control speeds and traffic flows in the area.

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

<u>Utility</u>	<u>Response</u>
Cox Communications	No objections, provided that any damage or relocation of existing Cox facilities will be at the applicant's expense.
AEP/SWEPCO	No objections, provided that SWEPCO can retain existing easements and request new ones when the land is further subdivided or developed.
Black Hills Energy	No objections and no comments.
AT&T	No objections and no comments.
Ozarks Electric	No objections and no comments.
<u>City of Fayetteville</u>	<u>Response</u>
Water/Sewer	No objections, provided that water and sewer lines must be filed located, surveyed, and adequate easements retained and dedicated. Easements must be appropriate widths. Some deep sewer may be present requiring larger easements than the standard 20-foot width.
Solid Waste & Recycling	No objections and no comments.
Transportation	No objections and no comments.

Public Comment: Staff received one inquiry about this request, though no support or opposition to the vacation was offered.

RECOMMENDATION: Staff recommends forwarding **VAC-2023-0001** with the following conditions:

Conditions of Approval:

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense; and

2. Water and sewer lines must be filed located, surveyed, and adequate easements retained and dedicated. Easements must be appropriate widths. Some deep sewer may be present requiring larger easements than the standard 20-foot width.
-

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 13, 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

January 3, 2023

City of Fayetteville Planning Commission / City Council
125 West Mountain Street
Fayetteville, AR 72701

RE: Appleby Landing ROW Vacation Request

Dear Planning Commission and City Council,

Please accept this written request to vacate a portion of the Right of Way (ROW) along lots three (3), four (4), five (5), six (6), seven (7), eight (8) and nine (9) of Appleby Landing subdivision. Bob Younkin Drive is classified as a Residential Link street and as such only requires a 52 foot ROW. When originally plated, Bob Younkin Drive dedicated 70 feet of ROW and therefore we are respectfully requesting to vacate the additional 18 feet of ROW.

There is an existing utility easement on the west side of Bob Younkin and across the frontage of lots three (3), four (4), five (5), and six (6). This easement would remain in place and not be impacted.

Our objective with this request is twofold; (1) to align the street more closely with the City of Fayetteville's Residential Link street section and (2) allow the placement of our buildings closer to the street creating a unique street scape. We are envisioning a street planted heavily with trees in the 6 feet of greenspace on either side, on street parking and pedestrian friendly area with wide sidewalks done either side. We will have minimal curb cuts down the street with no need for the large turn lane running the length of Bob Younkin Drive.

Furthermore, we want to take advantage of the potentially vacated ROW to be able to place our buildings closer to the street with parking in the rear hidden from public view. Welcoming front porches and stoops will connect the buildings to the public way and be a very inviting community.

We have talked to all utilities, and they have all provided their approval in writing. Additionally, the lots mentioned above are the only ones impacted by this request.

We feel by granting this ROW vacation and granting our approval of the previously submitted rezone request will pave the way for a wonderful new community providing much needed housing to an aging population. 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. 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. This community will contain units ranging in both size and bedroom count as well as one- and two-story units.

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



PETITION TO VACATE A PORTION OF THE RIGHT-OF-WAY LOCATED IN (), CITY OF FAYETTEVILLE, ARKANSAS

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

We, the undersigned, being the owner's representative for the real estate abutting the right-of-way hereinafter sought to be abandoned and vacated, lying in (lot Block subdivision), City of Fayetteville, Arkansas a municipal corporation, petition to vacate a right of way which is described as follows:

Legal

That the abutting real estate affected by said abandonment of the right of way are () 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 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 the respective benefit ad purpose as now approved by law.

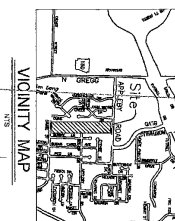
The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

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 sough 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 easements of the public for the use of said right of way.

Dated this 3rd day of January, 2023.



Tim Brisiel



Page 119 of 334

NOTES

- 2) Sidewalks shall be continuous through driveways with a maximum of 2 percent cross slope and elevated 2 percent above top of curb.
- 3) Total Linear feet streets: 2,143
- Total Linear feet 6' Sidewalks: 4,500

BUILDING SETBACKS

- 5) The proposed sidewalk measurement.
- 6) All installed driveways shall have a maximum width of 24 measured at the right of way line.
- 7) Driveway approaches shall be constructed of Portland Cement with a brown finish. Textured, stamped or exposed aggregate concrete is not allowed within the street right of way.
- 7.1) All retaining walls shall be set back a minimum of 2 feet from the right of way sidewalk.
- 8) The driveway ponds are to be seeded and maintained by the developer.
- 9) Property owner's responsibility.
- 10) Property owner's driveway.

11) New sidewalks, driveway approaches, or access ramps constructed in

LEGAL DESCRIPTION OF ENTIRE TRACT,
THE RIGHT OF WAY SHALL MEET UNITED DEVELOPERS ORDINANCE SECTION 17.1,
A.K.A. (C4005) (AN INSPECTION IS REQUIRED PRIOR TO THE CONCRETE POUR,
P) SE 1/4 OF SECTION 35, TOWNSHIP 17
N, RANGE 30 WEST, FAYETTEVILLE, ARKANSAS, BEING
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

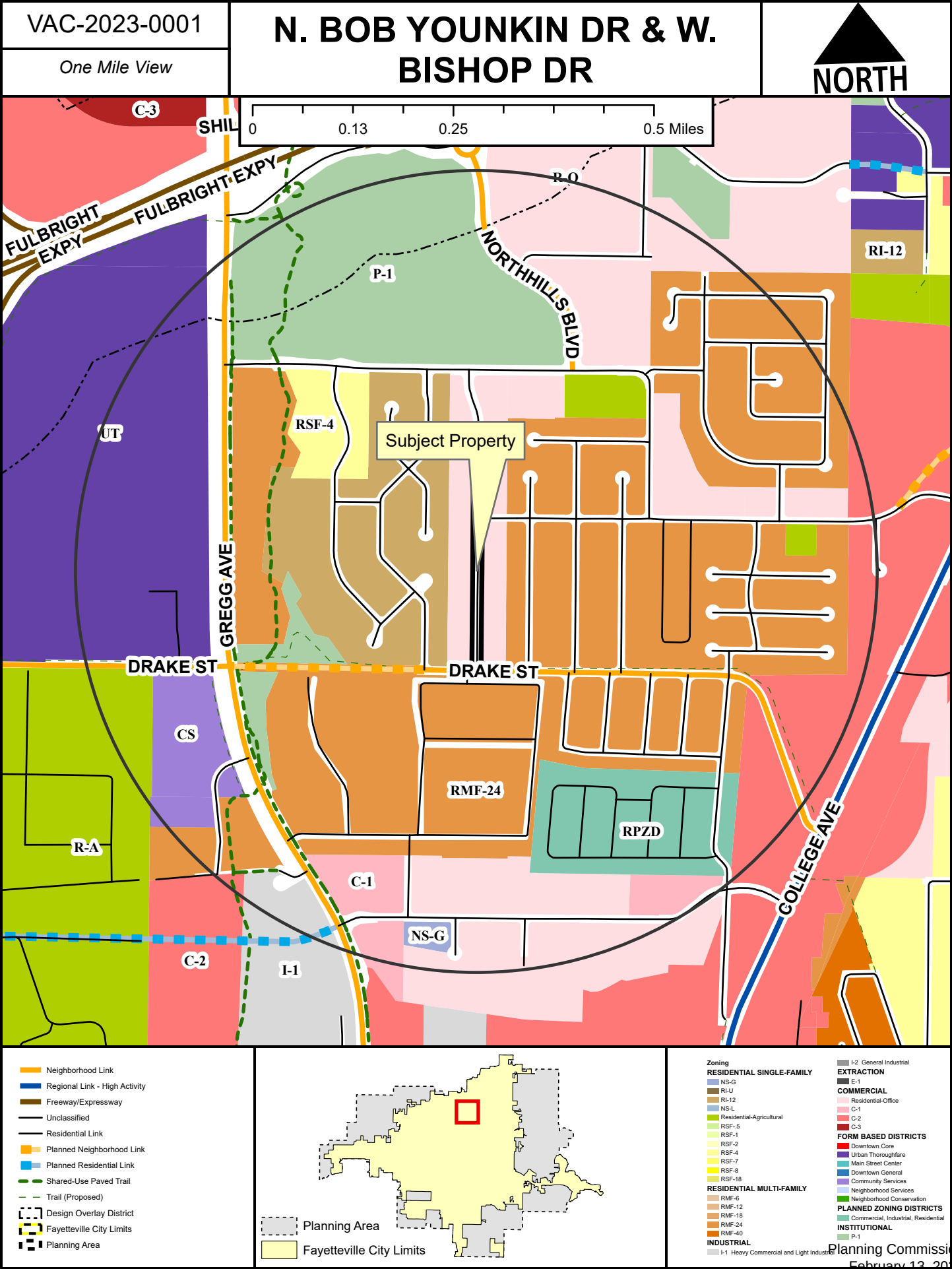
BEGINNING AT THE NW CORNER OF THE S1/2 OF THE NW1/4 OF THE NW1/4 OF SAID SECTION 35; THENCE ALONG THE NORTH LINE OF SAID SECTION 35; THENCE THE NW1/4 S87.231292E. 393.82 FEET; THENCE LEAVING SAID NORTH LINE S02.31153W 316.46 FEET; THENCE N85.55 S03W 1.47 FEET; THENCE S02.49 S26W 101.51 FEET THENCE S02.49 S14W 188.75 FEET; THENCE S87.01028E 106.66 FEET; THENCE S24.27177W 1374.19 FEET TO THE

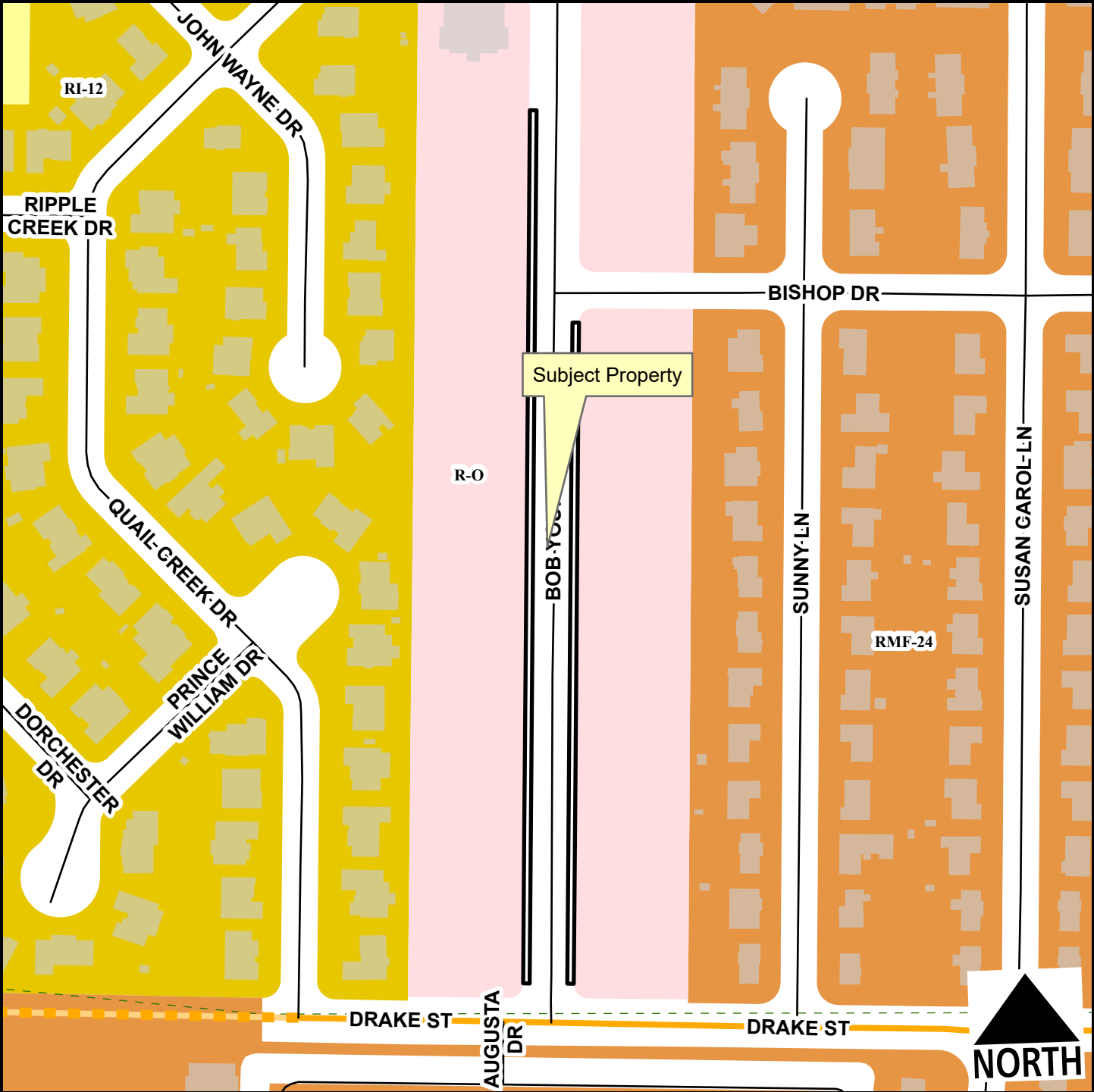
STREET MAP			
NAME	ROW	WIDTH/Feet/Right	WIDTH/Green/Green/Left
Bob Vardola	36	36	42
Intersect with	52	50	10

Clark Con
3715 Business Drive
Fayetteville, Arkansas
(479) 444-8

SCALE: 1" = 100'	DATE REVISED	CHECKED BY:	DRAWN BY:
DATE: 08/31/05	10/24/05	JSC	Konold
Appleby Landing			1 1
Final Plat			

3





Neighborhood Link

Unclassified

Residential Link

Planned Neighborhood Link

Planning Area

Fayetteville City Limits

Trail (Proposed)

0

75

150

300

450

600

Feet

1:2,400

RSF-4

RI-12

RMF-24

Residential-Office

VAC-2023-0001

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



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: February 13, 2023

SUBJECT: **CUP-2023-0003: Conditional Use Permit (N. OF W. EMIL DR/CRYSTAL SPRINGS CLUSTER DEVELOPMENT #2, 285):** Submitted by RAUSCH COLEMAN HOMES for property located at N. OF W. EMIL DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 1.25 acres. The request is for an 8-unit cluster housing development.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0003** with conditions, based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0003**, 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, consisting of 1.25 acres immediately north of a stub-out of W. Emil Drive. The site is roughly ¼ mile northwest of the intersection of W. Mount Comfort Road and N. Shiloh Drive. The property is undeveloped and zoned RSF-4, Residential Single-family, 4 Units per Acre. In September of 2019, a preliminary plat (PPL 19-6719) was approved for a 161 lot, single-family subdivision including two lots for detention ponds. Originally proposed to occur in three phases, a minor modification was administratively approved in 2020 to amend the project to be completed in two phases. The area designated for cluster housing is identified to be developed during phase two of the subdivision. Surrounding land use and zoning are depicted in Table 1.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre
South	Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-family Residential	CPZD, Commercial Planned Zoning District
West	Undeveloped	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 develop the property with a cluster housing development containing eight detached single-family units. Cluster housing developments are classified as Use Unit 44, which is a conditional use in the RSF-4 zoning district. Conformance with development requirements, including drainage, tree preservation, and fire apparatus access will be reviewed at the time of large scale development.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0003**, subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed cluster housing development to be compatible with the surrounding neighborhood based on the findings herein;*
2. Approval of the conditional use permit does not ensure approval of a development application. The conditional use permit grants the applicant the right to submit a development proposal based on the conceptual layout included herein. However, the applicant must still be able to comply with all other development requirements, including but not limited to, tree preservation, drainage, utility installation and Fire Department access. These details shall be reviewed with the development application. The final project design shall follow the general layout and design of the conditional use concept plan;
3. A condominium association, homeowner's association, or similar mechanism to maintain the common amenities shall be established prior to issuance of construction permits. The City of Fayetteville does not enforce these private agreements, but will require that this agreement be in place prior to issuing building permits;
4. Prior to receiving a certificate of occupancy for the first home, all shared drives, sidewalks and bike racks shall be installed. All development requirements, such as detention facilities, utilities, required landscaping, etc. shall be installed prior to any building permits being issued. The exact phasing of improvements will be determined at development review;
5. The maximum number of unrelated persons in any dwelling unit is three, pursuant to the underlying single-family zoning district;
6. Per UDC §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is valid for one year; and
7. An exterior lighting package must be provided to the Planning Division prior to building permit approval. Common area lighting shall comply with UDC §176, Outdoor Lighting.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 13, 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 Use Unit 44, Cluster Housing Development, in the RSF-4 zoning district, including permission to develop eight cluster housing units.

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 §161.07, District RSF-4, Residential Single-Family, 4 Units per Acre 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 not likely to adversely affect the public interest. The development is proposed to occur in a neighborhood that currently being constructed. The proposed detached, single-family dwellings are of a type and scale that is comparable to those existing in surrounding neighborhoods and those built in the subdivision under current entitlements. Developing the property as a cluster housing development will subject it to the City's tree preservation and drainage requirements, which are both intended to minimize off-site impacts and protect the public's interest. Cluster housing developments also carry heightened design requirements for individual structures beyond what is typically applied to single-family dwellings. All units will front onto a common open space and have a two-car garage with additional parking in driveways. On street parking is also available throughout the development. The applicant indicates each units will provide parking at a rate of two spaces per unit since all units are over 1,000 square feet.

(c.) The Planning Commission shall certify:

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

Finding: There are specific rules governing Use Unit 44, Cluster Housing Development, as follows:

§164.22. CLUSTER HOUSING DEVELOPMENT

D. Dwellings Permitted.

1. *Number of Cluster Housing Units Permitted.* A cluster housing development shall contain a maximum of twelve (12) dwelling units. In multi-family zones where the proposed cluster housing development exceeds the minimum open space requirements of 164.22(G)(3)(a) by at least 20%, and in which at least 75% of the planned units are attached dwellings, there shall be no maximum number of dwelling units, except to conform to the density limitations herein.

Finding: The proposed cluster housing development would contain eight detached single-family dwelling units.

2. *Existing Nonconforming Structures.* On a lot to be used for a cluster housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be included in the maximum permitted cluster density.

Finding: There are no existing nonconforming structures on the subject property.

E. Zoning Regulations.

1. *Permitted and Conditional Use.* Cluster housing development is permitted as identified in Chapter 161, Zoning Regulations, as a permitted or conditional use.

Finding: Use Unit 44 is a conditional use in the RSF-4 zoning district.

2. *Density.* Cluster housing development permitted as a use by right shall be allowed a density in conformance with the underlying zoning district. Zoning districts that allow cluster housing developments as a conditional use shall be allowed a density not to exceed two (2) times the maximum density allowed in the underlying zoning district.

Finding: The proposed cluster housing development would have a density of approximately 6.4 units per acre. A cluster housing development in the RSF-4 zoning district is permitted a maximum density of 8 units per acre.

3. *Bulk and Area Regulations.*
 - (a.) Lot Width Minimum. There is no lot width requirement for individual cluster housing lots.
 - (b.) Lot Area Minimum. The lot area minimum for cluster housing lots is 750 square feet.
 - (c.) Land Area per Dwelling Unit. The land area per dwelling unit requirement is 750 square feet.

Finding: The provided request letter and site plan indicates that bulk and area regulations will be met. Each unit will be separated by at least 10 feet, have a 750 square foot lot area, and 250 square feet of private open space; 500 square feet of common open space is allocated for each proposed unit per unit. Structures are indicated to be 10 feet apart and the common open space totals roughly 22,455 square feet which far exceeds what would typically be required. Dimensions are not indicated on the provided site plan for lot area and private open space but there appears to be adequate space to meet the minimum requirements. Lot widths, lot areas, and land areas will be fully considered at the time of large scale development review.

4. *Setback Requirements.* All structures shall meet setback and separation requirements of the International Building Code, as applicable. For zoning purposes:
 - (a.) In single family districts, all cluster housing units shall have a minimum separation from one another of ten feet measured from exterior wall to exterior wall, not counting eaves or other architectural projections.
 - (b.) In multi-family districts, there are no separation requirements from one cluster housing structure to another.
 - (c.) The setbacks from the exterior property lines of the original parent tract shall be set by the underlying zoning district.

Finding: **Setback and separation requirements for the RSF-4 zoning district will apply along exterior property lines. Based on the conceptual site plan provided, individual buildings appear to be meeting the separation requirements of the International Building Code.**

5. *Building Height Regulations.* The height for all structures in a cluster housing development shall not exceed the permitted height requirement of the underlying zoning district.

Finding: **The RSF-4 zoning district permits building heights of three stories. All dwellings within the proposed cluster housing development are one and two stories.**

6. *Building Area.* None.

Finding: **N/A**

7. *Accessory Dwelling Units.* Accessory dwelling units are permitted in cluster housing developments by conditional use. Where a cluster housing development is permitted as a conditional use, accessory dwelling units may be requested within the same application.

Finding: **Accessory dwellings are not proposed.**

- F. **Common Property Maintenance.** Community buildings, parking areas and common open space shall be owned and maintained commonly by the cluster housing development residents, through a condominium association, a homeowners' association or a similar mechanism, and shall not be dedicated to the city unless accepted by the City Council.

Finding: **Proof of common property maintenance regulations will be required during the development review process. Parking areas and common open space shall be owned and maintained commonly by residents, through a condominium association, a homeowners' association or a similar mechanism.**

- G. **Development Standards.** The UDC outlines specific development standards for Cluster Housing Developments.

Finding: **Structures are alley loaded and front onto common open greenspace to the west. Based on the provided site plan and request letter it appears adequate space is being allocated to meet parking requirements off-street, and pedestrian connectivity is in place. Development standards including floor area, building orientation, open space, parking, bicycle racks, Fire Department access, pedestrian connectivity, utilities, and recycling and trash collection will be considered at the time of large scale development review.**

- H. **Building Design Standards.**

1. Variety in Detached Cluster Housing Units Floor Plans and Architectural Treatments. These standards are intended to avoid the overly repetitive

use of the same building design, structural features, detailing or finishes among detached units within the cluster housing development. In cluster housing developments, no two (2) structures shall be identical in terms of exterior finishes. All cluster housing units shall differ from each other by utilizing at least two (2) of the following options:

- (a.) Variations in building material finishes such as clapboard, shake shingles, stone, brick, etc., and building color;
- (b.) Variations in adjacent cluster housing unit floor plans that alter the location of exterior windows and doors;
- (c.) Variations in the size of main floor area and/or building height of adjacent structures; or
- (d.) A front porch with a minimum width no less than 50% of the front building façade. Front porches shall have a minimum depth of six feet. No structurally identical front porches shall be located on adjacent cluster housing units.
- (e.) Variations in roof shapes or gables between adjacent structures.
- (f.) Other variations as approved by the Zoning and Development Administrator.

Finding: In cluster housing developments, no two structures shall be identical in terms of exterior finishes and must vary in building height, main floor size, location of windows and doors, porches, and/or roof shape. The provided building elevations and site plan suggest the development will meet the applicable design standards. Eight elevations were provided and each units appears to vary in building material finishes and variation in roof shaps between adjacent structures. Compliance with building design standards will be fully determined at the time of large scale development review. A variance to the building design standards has not been requested to date.

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

- (ii.) 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: As proposed, the individual units will be accessed through a 20-foot-wide public alley. The alley is proposed to connect W. Obsidian Street to the north to W. Emil Drive to the south. Staff finds that the proposed cluster housing development is not likely to have an adverse impact on traffic given the relatively low number of units proposed and the site's access to the neighborhood's internal street network. Any impacts to traffic danger or congestion will be fully evaluated and addressed at the time of large scale development review.

- (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 submitted site plan includes on-site parking in garages and driveways. In cluster housing developments, the owner/development may choose to supply one parking space per bedroom for the entire cluster housing development or at a rate of 1.5 spaces per unit for dwellings less than 1,000 square feet in size, and at a rate of two spaces per unit for dwellings greater than 1,000 square feet. The application letter suggests they will elect to provide parking per dwelling unit and, since each unit will exceed 1,000 square feet and, two parking spaces will be provided. As proposed, 16 parking spaces are required and appear to be provided in garages and driveways. On-street parking is also available throughout the adjoining development.

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

Finding: The Recycling and Trash Collection Division will review the proposed site plan at the time of large scale development review. Vehicular ingress and egress to the development is proposed through a 20-foot-wide public alley.

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

Finding: Utilities are currently available to the site. Six- and eight-inch water mains are present and eight-inch sanitary sewer mains are available along W. Emil Drive and N. Raven Lane. Determinations of capacity or the need for improvements will be determined at the time of large scale development review.

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

Finding: Given the single-family residential nature of the proposal and surrounding areas, staff does not recommend buffering from adjacent properties.

(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 and exterior lighting in common areas will be subject to the City's ordinances and all the regulations therein.

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

Finding: The submitted conceptual plan suggests that the open space requirements for cluster housing can be provided. All required yards and open spaces will be fully reviewed at the time of large scale development approval.

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

Finding: Staff finds the applicant's proposal to be compatible with adjacent properties and those in the surrounding neighborhood. While varying from a typical single-family residential neighborhood, cluster developments are intended to orient dwelling units around a common open space and foster a sense of community. When considering the intent of cluster housing in relation to the proposed single-family residential cluster housing development, staff finds the proposed use to be generally compatible.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.07 – RSF-4, Residential Single-Family – Four (4) Units Per Acre
 - §164.22 – Cluster Housing Development
- Request Letter
- Variance Request Letter
- Site Plan
- Floorplans & Elevations
- One Mile Map
- Close-Up Map
- Current 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
-------------------------	-----------

- (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)

164.22 - Cluster Housing Development

- (A) *Purpose.* The purpose of the cluster housing development ordinance is to encourage innovation and variety in housing while ensuring compatibility with established neighborhoods, and to provide housing opportunities for a population diverse in age, income and household size.
- (B) *Applicability.* The provisions of this section shall apply to proposed cluster housing development proposals, as defined in Chapter 162, Use Units, and authorized by Chapter 161, Zoning Regulations of the Unified Development Code, however zoning and development regulations such as density, bulk and area, building area, street frontage requirements, lot splits and other standards for cluster housing development are enforced subject to the criteria adopted in this chapter.
- (C) *Development Review Process.* For the purpose of development review, cluster housing developments less than one (1) acre shall be processed as a site improvement plan. Cluster housing development on lots one (1) acre or larger shall be processed as a large scale development. If individual cluster housing unit lots are proposed and the proposal meets all of the requirements in this section, the subdivision shall be processed through the subdivision platting process as a lot split regardless of the number of lots created.
- (D) *Dwellings Permitted.*
 - (1) *Number of Cluster Housing Units Permitted.* A cluster housing development shall contain a maximum of twelve (12) dwelling units. In multi-family zones where the proposed cluster housing development exceeds the minimum open space requirements of 164.22(G)(3)(a) by at least 20%, and in which at least 75% of the planned units are attached dwellings, there shall be no maximum number of dwelling units, except to conform to the density limitations herein.
 - (2) *Existing Nonconforming Structures.* On a lot to be used for a cluster housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased. Such nonconforming dwelling units shall be included in the maximum permitted cluster density.
- (E) *Zoning Regulations.* The parent tract prior to development shall conform to the zoning criteria of the underlying zoning district.
 - (1) *Permitted and Conditional Use.* Cluster housing development is permitted as identified in Chapter 161, Zoning Regulations, as a permitted or conditional use.
 - (2) *Density.* Cluster housing development permitted as a use by right shall be allowed a density in conformance with the underlying zoning district. Zoning districts that allow cluster housing developments as a conditional use shall be allowed a density not to exceed two (2) times the maximum density allowed in the underlying zoning district.
 - (3) *Bulk and Area Regulations.*
 - (a) *Lot Width Minimum.* There is no lot width requirement for individual cluster housing lots.
 - (b) *Lot Area Minimum.* The lot area minimum for cluster housing lots is 750 square feet.
 - (c) *Land Area per Dwelling Unit.* The land area per dwelling unit requirement is 750 square feet.
 - (4) *Setback Requirements.* All structures shall meet setback and separation requirements of the International Building Code, as applicable. For zoning purposes:
 - (a) In single family districts, all cluster housing units shall have a minimum separation from one another of ten feet measured from exterior wall to exterior wall, not counting eaves or other architectural projections.
 - (b) In multi-family districts, there are no separation requirements from one cluster housing structure to another.
 - (c) The setbacks from the exterior property lines of the original parent tract shall be set by the underlying zoning district.
 - (5) *Building Height Regulations.* The height for all structures in a cluster housing development shall not exceed the permitted height requirement of the underlying zoning district.
 - (6) *Building Area.* None.
 - (7) *Accessory Dwelling Units.* Accessory dwelling units are not permitted in cluster housing developments.
- (F) *Common Property Maintenance.* Community buildings, parking areas and common open space shall be owned and maintained commonly by the cluster housing development residents, through a condominium association, a

homeowners' association or a similar mechanism, and shall not be dedicated to the city unless accepted by the City Council.

(G) *Development Standards.* All cluster housing developments are subject to the following standards:

- (1) *Floor Area.* The total conditioned floor area of any individual cluster housing unit shall not exceed 2,500 square feet.
- (2) *Building Orientation.* A minimum of 75% of dwelling units in a cluster housing development shall be oriented around and face the common open space, a public trail or towards the street, having pedestrian access to the common open space and the street. Where a cluster housing unit fronts onto a public trail, the façade facing the public trail shall be considered a principal façade for the purposes of meeting design standards.
- (3) *Open Space.*
 - (a) For units up to 1,500 square feet, a minimum of 250 square feet of common open space shall be provided per unit. For units exceeding 1,500 square feet and up to 2,000 square feet, 500 square feet of common open space shall be required per unit. For units exceeding 2,000 square feet, 750 square feet of common open space shall be required per unit. Common open space is subject to the following performance criteria:
 - (i) No dimension of a common open space area used to satisfy the minimum square footage requirement shall be less than ten feet.
 - (ii) Required common open space shall be divided into no more than two (2) separate areas per cluster of dwelling units.
 - (iii) Common open space shall be improved for passive or active recreational use, garden/food production, social gathering spaces or landscaped areas. Examples may include but are not limited to courtyards, orchards, landscaped picnic areas, plazas or gardens. A detailed site plan of the common open space depicting the design and amenities of the space shall be reviewed with the site plan for approval.
 - (iv) Amenities such as permanent or movable seating, landscaping, trails and paths, barbeque or eating facilities, covered shelters or water features shall be included within the common open space. Low Impact Development stormwater management facilities may be placed within the common open space when they are integrated with the amenities listed above.
 - (b) Each cluster housing unit shall be provided with a private open space of 250 square feet with no dimension of less than ten feet. Private open space should be contiguous to each dwelling unit, for the exclusive use of each respective resident. In multi-family zones in which at least 75% of the planned units are attached dwellings, private open space shall not be required where the development exceeds the minimum open space requirements of (G)(3)(a) by at least 20% and it can be demonstrated that each unit has easily available access to open space amenities.
 - (c) Parking areas and driveways shall not be counted as open space.
- (4) *Fences.* Fencing located between a cluster housing unit and a public street or trail or the common open space shall not exceed 48 inches in height.
- (5) *Parking Requirements and Standards.* Parking areas should be located within the cluster housing development in such a way as to maintain the character along the public street and to minimize the noise and light impacts on private residences and public spaces. Reductions in parking space allowances are permitted in cluster housing developments as described in Chapter 172, Parking and Loading. Permitted on-street parking spaces adjacent to a project's frontage may count towards the parking requirements of the development. Parking standards for cluster housing developments shall be as follows:
 - (a) The owner/developer may choose to supply one (1) parking space per bedroom for his or her entire cluster housing development. Otherwise, the required number of parking spaces shall be determined according to the square footage of the cluster housing unit as described below:
 - (i) Dwelling units less than 1,000 square feet shall have one and one-half (1.5) parking spaces provided.
 - (ii) Dwelling units over 1,000 square feet shall have two (2) parking spaces provided.
 - (b) Shared covered parking shall be designed to be similar and compatible to the design, materials and roof pitches used for the cluster housing units.
- (6) Cluster housing developments shall provide at least one (1) bicycle parking rack per cluster housing unit.
- (7) *Fire Department Access.* Fire Department access shall be determined at the time of development review.
- (8) *Pedestrian Connectivity.* All buildings and common spaces shall be served by a pedestrian circulation system that connects to an existing or planned sidewalk or trail system.

- (9) *Utilities.* Individual cluster housing lots shall have a unique connection to the main water and sewer lines. Main water and sewer lines on private property servicing cluster housing unit developments shall be located in a dedicated easement.
 - (10) *Community Buildings.* Indoor or covered common areas less than 2,000 square feet are permitted by right in cluster housing development. These structures shall be architecturally integrated with the architectural style of the cluster housing development.
 - (11) *Recycling and Trash Collection Service.* For the purposes of recycling and trash collection cluster housing developments are considered a residential use and should receive residential recycling and trash collection service (individual carts and recycling bins) where possible. In certain instances, it may be necessary to service cluster housing developments with commercial trash collection equipment (dumpsters). This may occur when a project is located in a predominately commercial area serviced by commercial trash pickup. It is incumbent on the developer to design recycling and trash collection facilities into the cluster housing development plan early in the process. The final determination of recycling and trash collection service and pick-up areas will be made at the time of development review by the city. Specific requirements for residential and commercial trash and recycling pick-up shall be as follows:
 - (a) Residential trash and recycling collection service requires a designated location near the street curb for trash carts and recycling bins. This location shall be kept clear of obstructions on the designated pick-up day. If this location is also used for on-street parking it shall be clearly marked and a sign posted restricting use for the designated pick-up day. An appropriate linear distance is required to accommodate each cluster housing unit's trash cart and recycling bin, subject to city approval.
 - (b) Commercial trash collection service requires a dumpster location that is freely accessible for front end loading and screened from public view.
 - (c) Recycling and trash facilities shall be located behind the front building setback line and shall be screened from the right-of-way and adjacent property owners by either architectural treatments or vegetative screening.
- (H) *Building Design Standards.*
- (1) *Variety in Detached Cluster Housing Units Floor Plans and Architectural Treatments.* These standards are intended to avoid the overly repetitive use of the same building design, structural features, detailing or finishes among detached units within the cluster housing development. In cluster housing developments no two (2) structures shall be identical in terms of exterior finishes. All cluster housing units shall differ from each other by utilizing at least two (2) of the following options:
 - (a) Variations in building material finishes such as clapboard, shake shingles, stone, brick, etc., and building color;
 - (b) Variations in adjacent cluster housing unit floor plans that alter the location of exterior windows and doors;
 - (c) Variations in the size of main floor area and/or building height of adjacent structures; or
 - (d) A front porch with a minimum width no less than 50% of the front building façade. Front porches shall have a minimum depth of six feet. No structurally identical front porches shall be located on adjacent cluster housing units.
 - (e) Variations in roof shapes or gables between adjacent structures.
 - (f) Other variations as approved by the Zoning and Development Administrator.
 - (2) All attached cluster housing units shall comply with §166.23, Urban Residential Design Standards. Where a cluster housing unit fronts onto a public trail or open space, the façade facing the public trail or open space shall be considered a principal façade, for the purposes of meeting this section.
- (I) *Variances From the Minimum Cluster Housing Development Requirements.* Variances of this section, Cluster Housing Development, shall be administered as normal development regulations for variances of General Design Standards, except that (E) Zoning Regulations shall be administered as zoning regulations for variance purposes.

(Ord. No. [5921](#), §5(Exh. A), 11-1-16; Ord. No. [6067](#), §1, 5-1-18)

Editor's note— Ord. No. [5921](#), §5(Exh. A), adopted Nov. 1, 2016, repealed §164.22 and added a new section as set out herein. The former §164.22 pertained to cottage housing development and derived from Ord. No. 5462, adopted Dec. 6, 2011.



February 6th, 2023

Jessie Masters
City of Fayetteville

RE: Crystal Springs Cluster Housing

Please accept this letter as a request for a conditional use permit to allow a second cluster housing development within the Crystal Springs Subdivision. As many may remember, the Planning Commission previously requested that we retain an area for a cluster housing development when our preliminary plat originally went through City review in 2019. The first cluster housing development has been approved and is moving forward with phase 2 development. We are requesting a second cluster area containing 8 units. The location will be on Lots 1 and 2 of Phase 1, and Lots 3 through 5 of Phase 2.

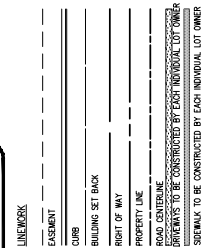
Attached is a proposed plan for the 8 cluster housing units on approximately 1.25 acres on the east side of our development. The development will include a common seating area and a large common green along the street. All units will be rear loaded from a public alley way. A common sidewalk will connect all units to the public sidewalk along the street.

The development will comply with all required cluster regulation, including at least 750 square feet of lot area per unit; 500 square feet of common open space per unit; 250 square feet of private open space per unit; and at least 10-feet of separation between each unit. All units will front onto a common open space and have a 2-car garage with additional parking on the driveway, as well as on-street parking. The cluster area will provide 2 parking spaces per unit as all units are over 1,000 square feet. Residents will store trash bins in garage or on driveway and roll them to Emil Drive for trash pick-up. There will be a 2-foot-wide buffer of green space between the drive alley and Eastern property line. No screening is being proposed since this is residential adjacent to a former golf course and one single family dwelling.

All buildings will also comply with the building design standards, using varying building materials and finishes, variations in roof form, as well as other distinguishing factors. Images of the types and styles of units proposed are attached.

Sincerely,

Jesse Fulcher



LOT:

BLOCK:

RAUSCH

COLEMAN

HOMES

Elevation C 6-12

The RC Monaco-RH

SHEET NAME:

PLAN NAME:

DR BY:

HBS

PRINT DATE:

11/2/2021

SCALE:

1/8" = 1'-0"

VERSION NUMBER:

05.01

NEW HOMEOWNERS

SHEET NO:

A1.1

Exterior Paint Color: Labradorite

Exterior Brick Color: Summer Sage Brick

Location: Lot 2

22" OCTAGON VENT

12"

6"

2'-0"

SHANK STONES AS SPEC

404 CEDAR POST

BRICK ROWLOCK

BRICK VENEER

BRICK ROWLOCK

SOLDER COURSE

SLAB

15'-5 3/4"

6'-8"

6'-1"

15'-0"

FRONT ELEVATION 8' PLATE

SCALE: 1/8" = 1'-0"

22" OCTAGON VENT

12"

6"

2'-0"

SHANK STONES AS SPEC

404 CEDAR POST

BRICK ROWLOCK

BRICK VENEER

BRICK ROWLOCK

SOLDER COURSE

SLAB

15'-5 3/4"

6'-8"

6'-1"

15'-0"

FRONT ELEVATION 9' PLATE

SCALE: 1/8" = 1'-0"

NOTE:

1. WINDOW SIZES ARE PICTORIAL REPRESENTATION AND NOT TO SCALE

2. SHUTTERS ARE PICTORIAL REPRESENTATION AND NOT TO SCALE

3. DOOR SIZES ARE PICTORIAL REPRESENTATION AND NOT TO SCALE

4. OPTIONAL REAR LEFT AND RIGHT ELEVATIONS ARE NOT TO SCALE

5. OPTIONAL WINDOW W/ 70% SILL PLATE OR FULL BRICK

Planning Commission

February 13, 2023

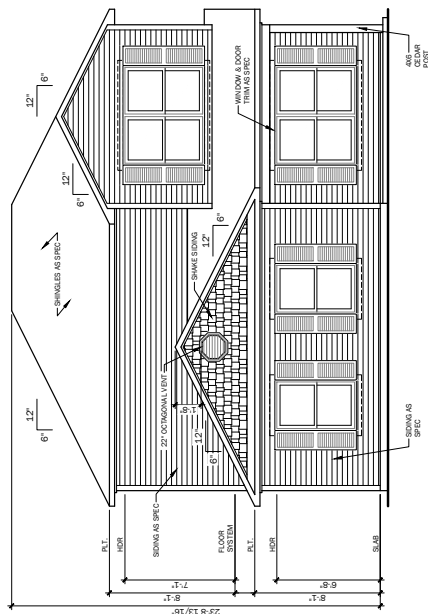
CUP-2023-0003 (CRYSTAL SPRINGS SD)

Page 141 of 334

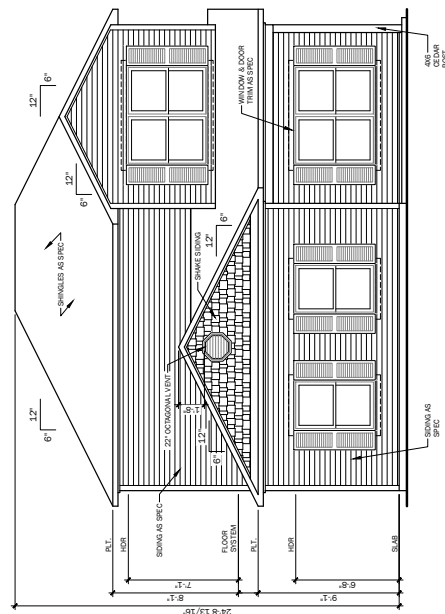
COPYRIGHT NOTICE: THESE HOME PLANS ARE PROTECTED UNDER THE FEDERAL COPYRIGHT ACT AND RAUSCH COLEMAN RETAINS TITLE AND OWNERSHIP OF THE PLANS AND ORIGINAL DOCUMENTS. REPRODUCTION OF THESE PLANS, INCLUDING ANY FORM OF COPYING OR PREPARATION OF DERIVATIVE WORKS, WITHOUT PRIOR WRITTEN PERMISSION IS STRICTLY PROHIBITED.

LOT: —	BLOCK: —	RAUSCH COLEMAN HOMES		FRONT ELEVATION 'B' 8' & 9'		ADDRESS:
				SHEET NAME:	MODEL:	DR. BY: HBS
				PRINT DATE:	9/22/2022	
				SCALE:	1/8" = 1'-0"	
				ARCHITECTURAL VERSION:	07.02	
				ENGINEERING VERSION:	07.01	
				HOUSE NUMBER:	—	
				PROJECT NUMBER:	RC-Plumtree	
				ADDENDUM NUMBER:	001	
				SHEET NUMBER:		
				A-1.0-B		

Exterior Paint Color: Silken Peacock
Location: Lot 5



FRONT ELEVATION 8' PLATE



FRONT ELEVATION 9' PLATE

COPYRIGHT NOTICE: THESE HOME PLANS ARE PROTECTED UNDER THE FEDERAL COPYRIGHT ACT AND RAUSCH COLEMAN RETAINS TITLE AND OWNERSHIP OF THE PLANS AND ORIGINAL DOCUMENTS. REPRODUCTION OF THESE PLANS, INCLUDING ANY FORM OF COPYING OR PREPARATION OF DERIVATIVE WORKS, WITHOUT PRIOR WRITTEN PERMISSION IS STRICTLY PROHIBITED.

RAUSCH
COLEMAN
HOMES

LOT:
BLOCK:
The RC Monaco-RH
Elevation B 6-12

SHEET NAME:
PLAN NAME:
DR BY: HBS
PRINT DATE: 11/2/2021
SCALE: 1/8" = 1'-0"
VERSION NUMBER:
05.01
NEW HOMEOWNERS
SHEET NO: A1.1

Exterior Paint Color: Foggy Day
Exterior Stone Color: Yukon Ledge Stone
Location: Lot 8

NOTE:

1. WINDOW SIZES ARE PICTORIAL REPRESENTATION AND NOT TO SCALE.
2. SHUTTERS ARE PICTORIAL REPRESENTATION AND NOT TO SCALE.
3. WINDOW SIZES ARE PICTORIAL REPRESENTATION AND NOT TO SCALE.
4. OPTIONAL BEAR LEFT AND RIGHT RELEVANT TO WINDOW SIZES.
A 10 WINDOW IN 10 S PLATE OR FULL BRICK

FRONT ELEVATION 8' PLATE
SCALE: 1/8" = 1'-0"

FRONT ELEVATION 8' PLATE
SCALE: 1/8" = 1'-0"

FRONT ELEVATION 9' PLATE
SCALE: 1/8" = 1'-0"

FRONT ELEVATION 9' PLATE
SCALE: 1/8" = 1'-0"

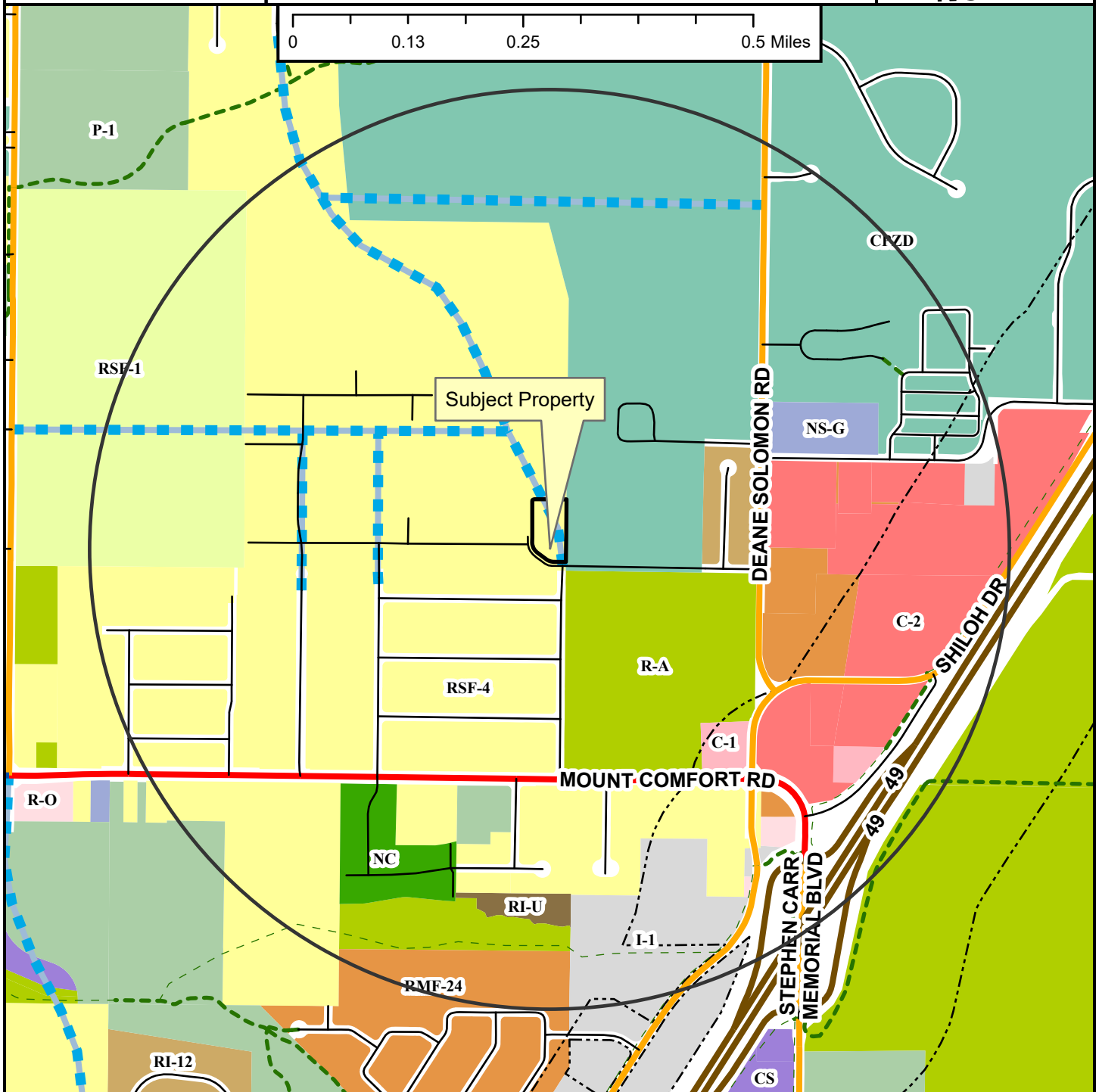
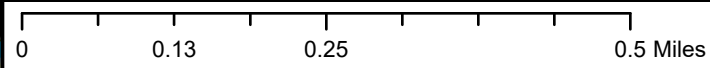
COPYRIGHT NOTICE: THESE HOME PLANS ARE PROTECTED UNDER THE FEDERAL COPYRIGHT ACT AND RAUSCH COLEMAN RETAINS TITLE AND OWNERSHIP OF THE PLANS AND ORIGINAL DOCUMENTS. REPRODUCTION OF THESE PLANS, INCLUDING ANY FORM OF COPYING OR PREPARATION OF DERIVATIVE WORKS, WITHOUT PRIOR WRITTEN PERMISSION IS STRICTLY PROHIBITED.

Planning Commission
February 13, 2023
CUP-2023-0003 (CRYSTAL SPRINGS SD)
Page 147 of 334

CUP-2023-0003

2716 W. EMIL DR

One Mile View

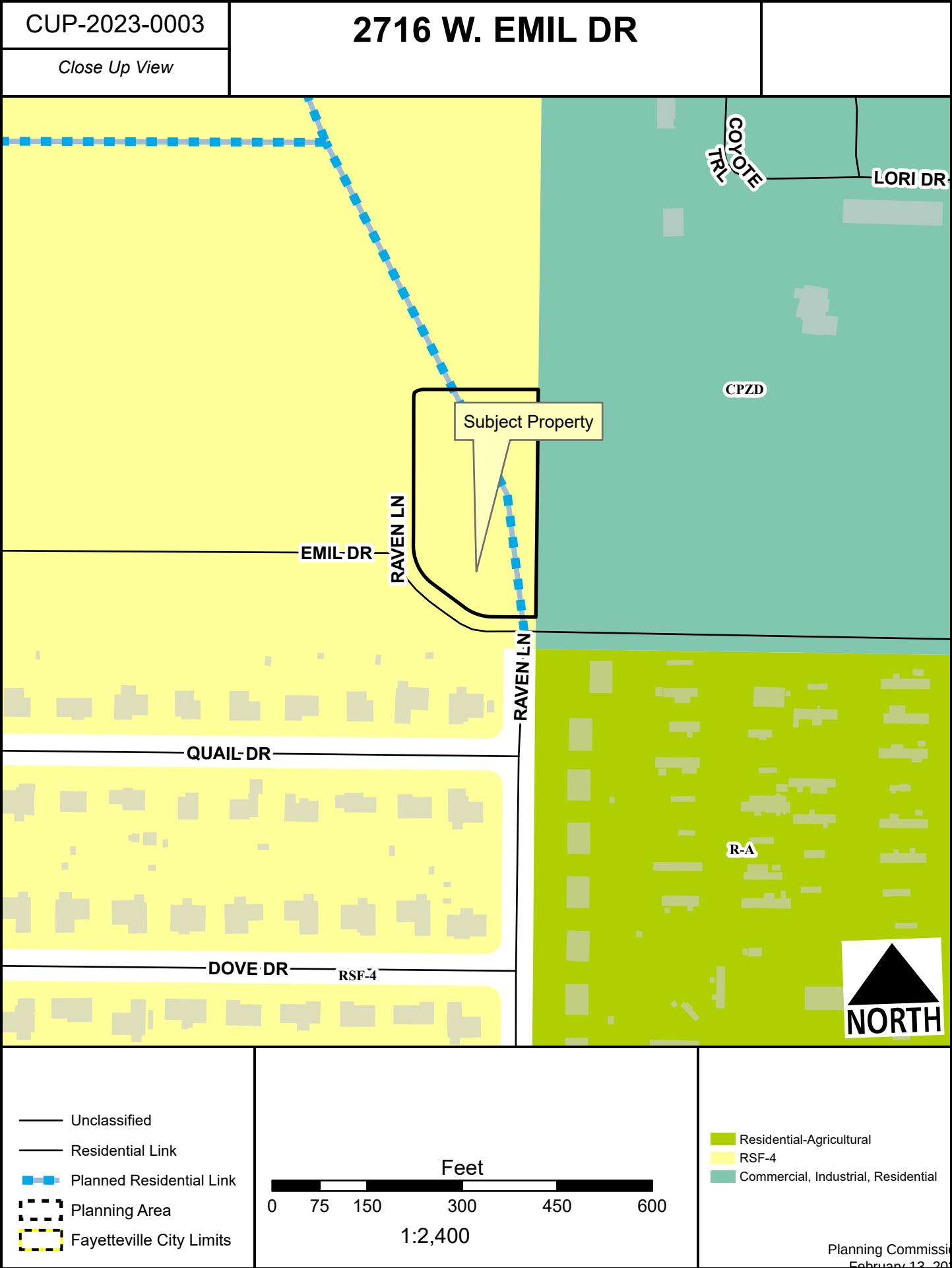


- Regional Link
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link

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

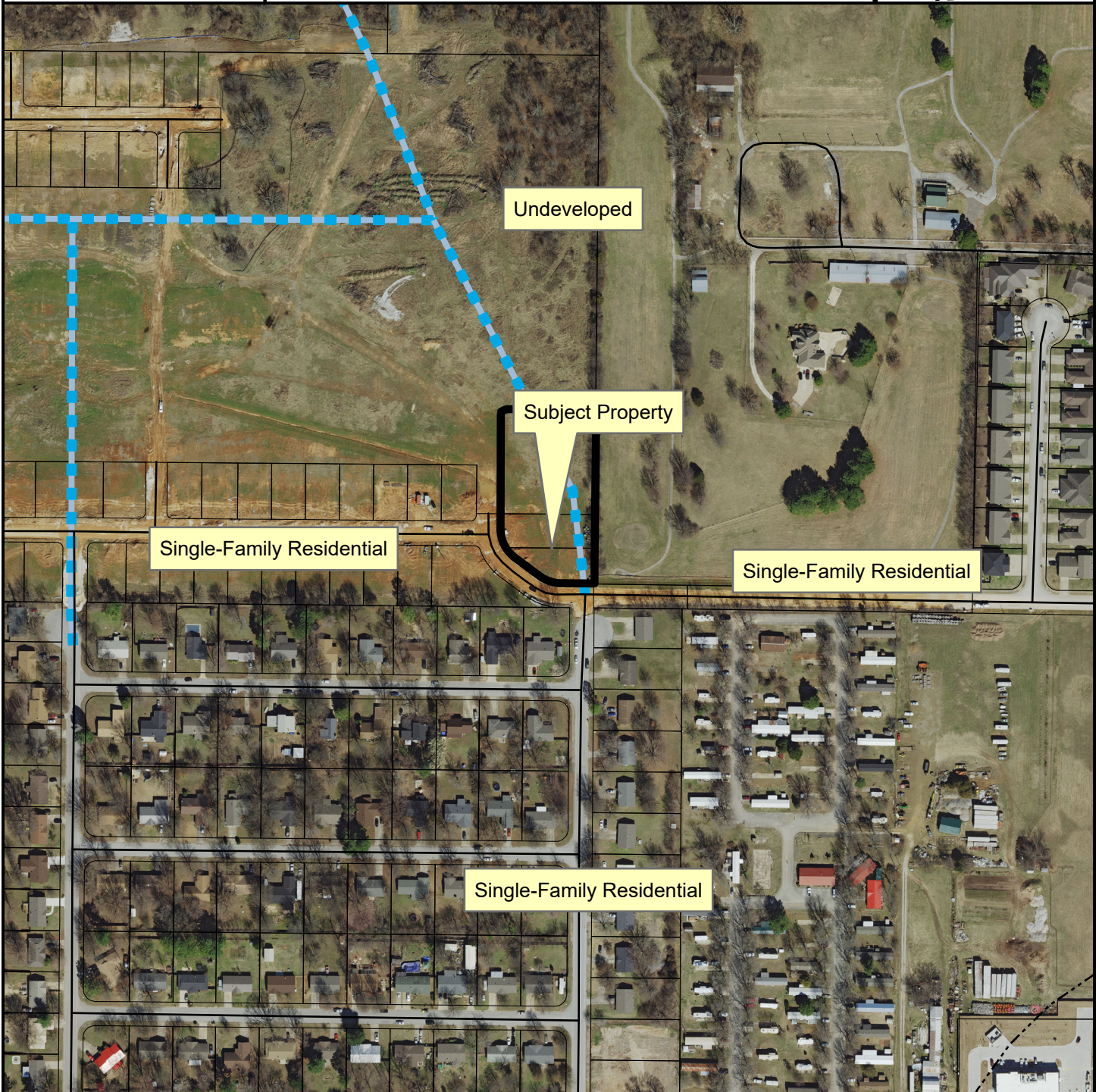
Planning Commission
February 13, 2023



CUP-2023-0003

2716 W. EMIL DR

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

CUP-2023-0003 (CRYSTAL SPRINGS SD)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: February 13, 2023

SUBJECT: **RZN-2022-0056: Rezoning (4302 W. BRONCO DR./BAUMANN CONSTRUCTION, 517):** Submitted by ENGINEERING SERVICES INC. for property located at 4302 W. BRONCO DR. The property is zoned CS, COMMUNITY SERVICES and contains approximately 0.38 acres. The request is to rezone the property to RSF-18, RESIDENTIAL SINGLE-FAMILY - 18 UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2022-0056** to City Council with a recommendation of approval based on the findings herein.

RECOMMENDED MOTION:

*"I move to forward **RZN-2022-0056** to City Council with a recommendation for approval."*

BACKGROUND:

The subject property contains three lots in Phase 2 of the Towne West Subdivision, just west of Benchmark Lane on either side of Bronco Drive. The property is zoned CS, Community Services, totals approximately 0.38 acres, and is undeveloped. No zoning overlays apply to this site though hydric soils are present which are known indicators of wetlands. Before permits are issued for this property, a statement/report from an environmental professional summarizing the existence of wetlands will be required. 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 (under construction)	CS, Community Services
South	Single-Family Residential (under construction)	CS, Community Services
East	Single-Family Residential (under construction)	CS, Community Services
West	Single-Family Residential (under construction)	RSF-18, Residential Single-Family – 18 Units per Acre

Request: The request is to rezone the subject property from CS, Community Services, to RSF-18, Residential Single-Family – 18 Units per Acre. The applicant has stated that this rezoning is necessary since the setbacks required by the current zoning district have rendered each lot unbuildable.

Public Comment: To date, staff has received no public comment on this item.

INFRASTRUCTURE:

Streets: The subject property has frontage along West Bronco Drive and South Benchmark Lane. Both streets are fully-improved Residential Link streets 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 eight-inch water main is present on the north side of West Bronco Drive.

Sewer: Sanitary sewer is available to the subject property. An existing eight-inch sewer main is present on the south side of West Bronco Drive.

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

Fire: Station 7, located at 835 N. Ruppel Rd., protects this site. The property is located approximately 1.5 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 RSF-18, Residential Single-Family, 18 Units per Acre, requires **20% minimum canopy preservation**. The current zoning district of CS, Community Services, also 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.

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.

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

- 4 Minute Fire Response (Station #7, 835 N. Ruppel Rd.)
- Near Sewer Main (eight-inch main, W. Bronco Dr.)
- Near Water Main (eight-inch main, W. Bronco Dr.)
- Near Public School (Colbert Middle School, Owl Creek School)
- Near City Park (Holland Park, Centennial Park)
- Near Paved Trail (S. Ruppel Rd.)

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 request to be compatible with surrounding land uses. The Towne West Subdivision is currently under construction with all lots in Phase 2 being developed with single-family dwellings. The three lots under consideration are located on a block that is largely zoned RSF-18, and staff believes that rezoning the property would allow Benchmark Lane to serve as a natural boundary between CS and RSF-18 zoning districts. When compared to the property's current zoning designation of CS, RSF-18 would limit by-right development to single-family dwellings with a density of 18 units per acre. Both existing and proposed zoning designations require urban form setbacks that are consistent with the subdivision's existing development pattern. Generally, RSF-18 is a more restrictive zoning designation than CS. Where CS permits a maximum building height of five stories, a rezoning to RSF-18 would reduce the maximum building height to three stories. A rezoning to RSF-18 would also place additional restrictions on the size of lots and the scale of future development. While there are no restrictions on lot size or buildable area associated with the CS zoning district, RSF-18 requires a minimum lot size of 2,500 square feet for single-family dwellings and a maximum buildable area of 60% of the total lot area.

Land Use Plan Analysis: Staff finds that the proposed rezoning is consistent with the City's land use and zoning plans. A rezoning to RSF-18 would be consistent with the property's Future Land Use Map designation as a Residential Neighborhood area since it would allow for residential development that would be aligned with existing zoning and development patterns. A rezoning to RSF-18 could also support Goal 6 of City Plan 2040 by allowing for development on housing on three lots that are currently rendered virtually unbuildable due to the existing zoning.

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

Finding: Staff finds that a rezoning to RSF-18 is justified. Each lot is currently undevelopable due to the required side setback associated with lots in CS zoning that are adjacent to single-family residential districts. Rezoning the property to RSF-18 would reduce the required side setback for single-family dwellings from 15 feet to five feet. This would allow each lot to be developed in a manner that is consistent with the existing Towne West Subdivision and its future phases.

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

Finding: Staff finds that rezoning the property to RSF-18 would not create or appreciably increase traffic danger or congestion. The size of each lot and the density allowance associated with the RSF-18 zoning district 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 CS to RSF-18 is not likely to alter the population density or increase the load on public services when considering that there is no density limitation associated with the current CS zoning district. 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-2022-0056 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required YES

Date: February 13, 2023

☐ Tabled

☐ Forwarded

☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §161.10 District RSF-18, Residential Single-Family - Eighteen (18) Units Per Acre
 - §161.22 Community Services
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

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
----------------	-----------------------

(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."

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
-------------------------	-----------

(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 19, 2022

City Council & Planning Commission
City of Fayetteville, Arkansas
125 West Mountain Street
Fayetteville, AR 72701

Submitted Electronically via EnerGov

RE: Rezoning Petition
Lots 109-111 in Towne West Subdivision, Phase 2

City Council and Planning Commission Members,

On behalf of our client, we are submitting application materials to rezone three lots in Phase 2 of Towne West Subdivision from CS to RSF-18. The lots to be rezoned are located along West Bronco Drive and to the west of South Benchmark Lane.

The owners of these lots encountered an issue when attempting to permit residential construction on lot 111. By code, the side setback for a CS lot adjacent to an RSF-18 lot is fifteen feet rather than the 5' side setback that would otherwise be required. The result is that lot 111 is rendered virtually unbuildable with any plan that is similar at all to the other houses being built in this neighborhood.

In discussions with the lot owners, planning staff recommended rezoning all three of these lots from NC to RSF-18 so all lots along West Bronco Drive and west of South Benchmark Lane will be in the same zoning district with uniform zoning standards rather than having a zoning change mid-block as is currently the case. It does not appear the requested zoning change would create any compatibility issues or have any adverse impacts on any surrounding properties.

Thank you for your consideration of this request.

Sincerely,



Daniel Lazenby

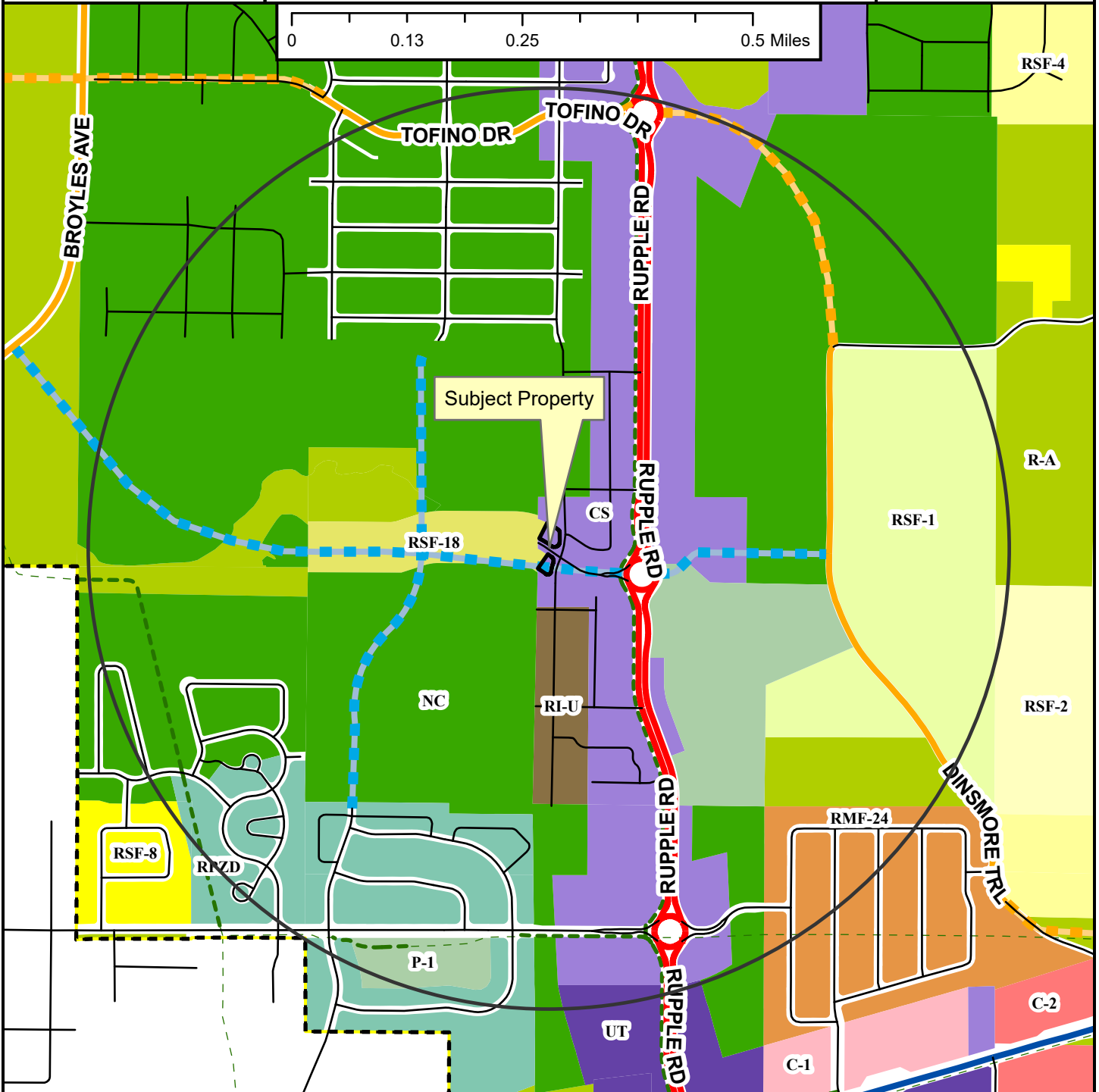
RZN-2022-0056

4302 W. BRONCO DR

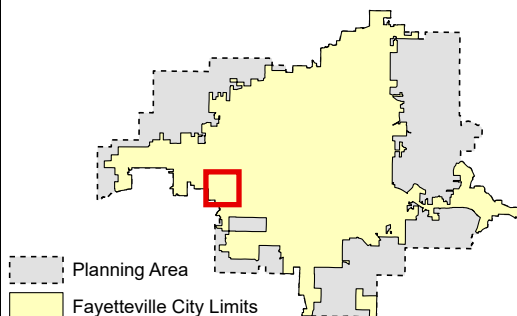
One Mile View



0 0.13 0.25 0.5 Miles



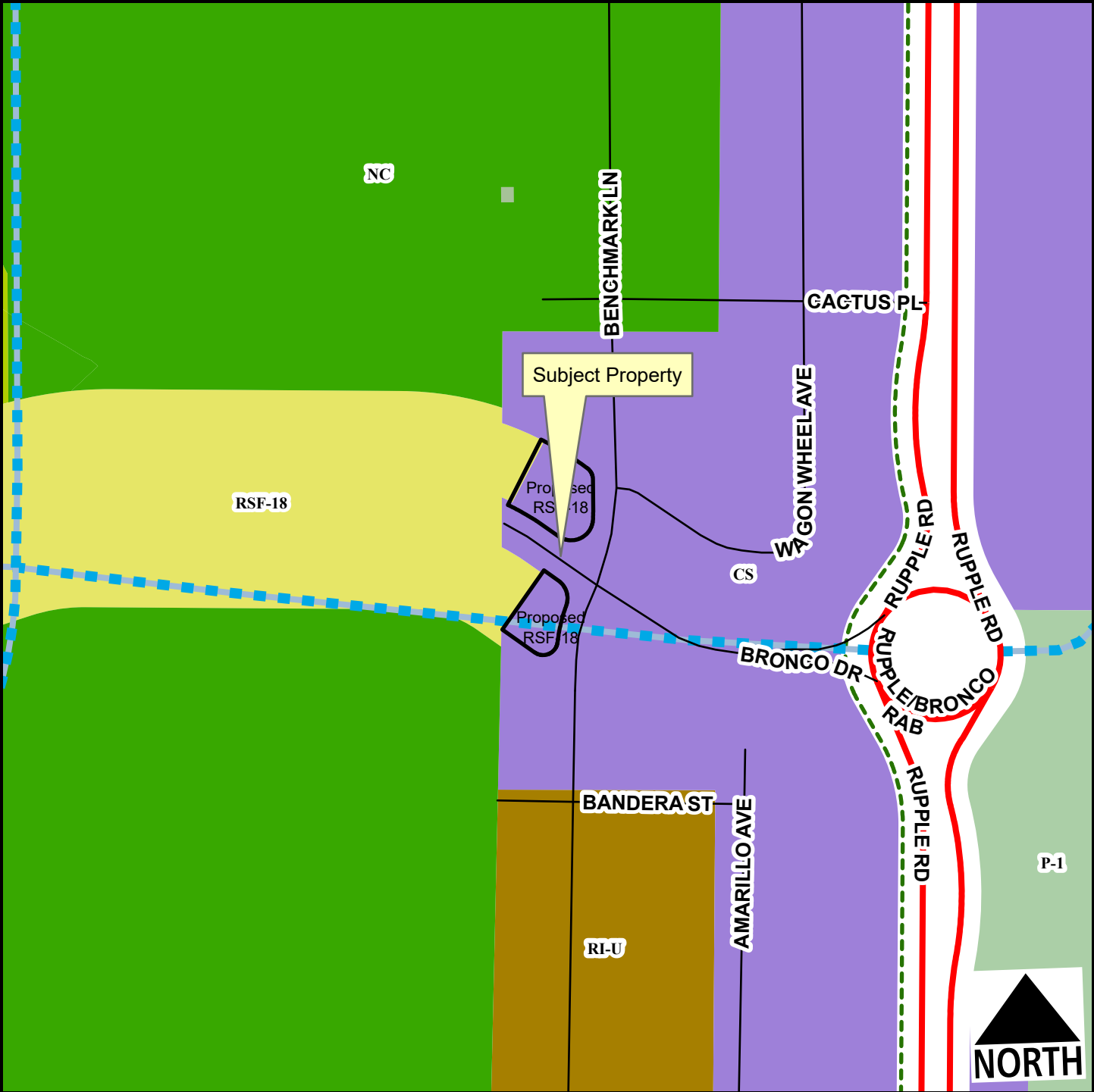
- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - 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
February 13, 2023

RZN-2022-0056 (BAUMANN CONSTRUCTION)

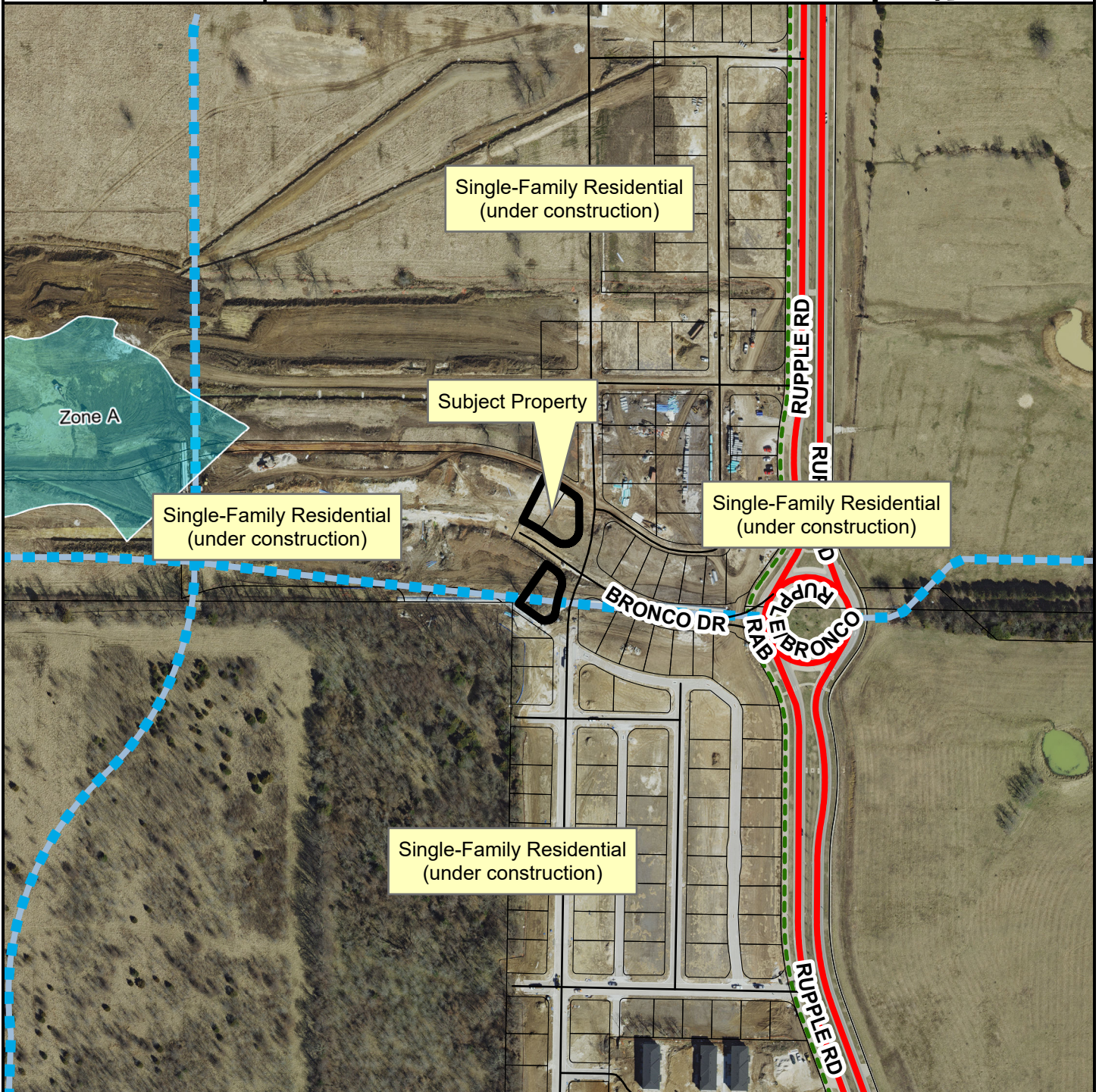


Regional Link Residential Link Planned Residential Link Planning Area Fayetteville City Limits	Feet 0 75 150 300 450 600 1:2,400	<table><tr><th><u>Zone</u></th><th><u>Current</u></th><th><u>Proposed</u></th></tr><tr><td>CS</td><td>0.4</td><td>0.0</td></tr><tr><td>RSF-18</td><td>0.0</td><td>0.4</td></tr></table> Total 0.4 ac Planning Commission February 13, 2023	<u>Zone</u>	<u>Current</u>	<u>Proposed</u>	CS	0.4	0.0	RSF-18	0.0	0.4
<u>Zone</u>	<u>Current</u>	<u>Proposed</u>									
CS	0.4	0.0									
RSF-18	0.0	0.4									

RZN-2022-0056

4302 W. BRONCO DR

Current Land Use



- Regional Link
- Residential Link
- Planned Residential Link
- Planning Area
- Fayetteville City Limits

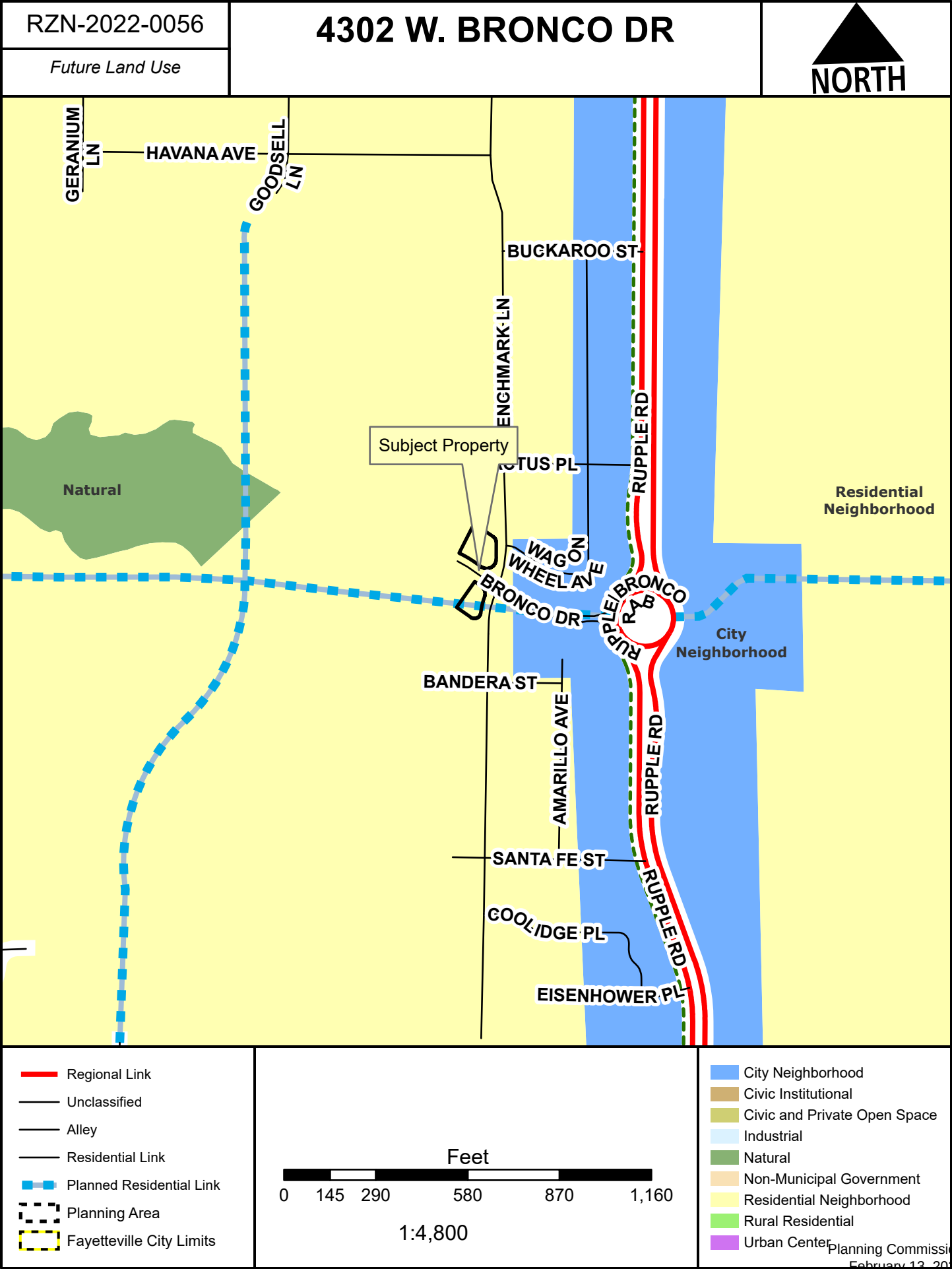


FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

RZN-2022-0056 (BAUMANN CONSTRUCTION)





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: February 13, 2023

SUBJECT: **RZN-2023-0001: Rezoning (W. OF N. WASHINGTON AVE/SPRING STREET COTTAGES, 485):** Submitted by COMMUNITY BY DESIGN for property located at W. OF N. WASHINGTON AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.12 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0001** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0001** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is located in central Fayetteville, roughly 80 feet south of the intersection of E. Spring Street and N. Washington Avenue. The property is zoned RMF-24, Residential Multi-family, 24 Units per Acre, totals approximately 0.12 acres, and is undeveloped. No zoning overlays or special regulations apply to the site however it is characterized by dense vegetation and a roughly 8% grade, sloping from a high point in the northeast corner of the site, down to the southwest. Surrounding land uses and zoning is 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	Two-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	Mixed-Density Residential	RMF-24, Residential Multi-Family, 24 Units Per Acre

Request: The request is to rezone the property from RMF-24, Residential Multi-Family, 24 Units per Acre to RI-U, Residential Intermediate-Urban.

Public Comment: One member of the public offered comment in opposition of the item. Among their concerns was the potential increase in traffic, noise, and burden on existing infrastructure that rezoning the property will create.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along the north side of N. Washington Avenue. W. Washington Avenue is a partially-improved Residential Link Street with asphalt paving, sidewalks on the west side of the street and curb and gutter. 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 west side of N. Washington Avenue.

Sewer: Sanitary Sewer is available to the subject area. An existing 8-inch sanitary sewer main is present on the east side of N. Washington Avenue.

Fire: Station 1, located at 303 W. Center Street protects this site. The property is located approximately 0.6 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 expressed no concerns with this request.

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District or within a FEMA floodplain, there are no protected streams present in the subject area, nor are there any hydric soils present on the site. Any additional improvements or requirements for drainage will be determined at time of development.

Tree Preservation:

The proposed zoning district of RI-U, Residential Intermediate-Urban requires **15% minimum canopy preservation**. The current zoning district of RMF-24, Residential Multi-Family, 24 Units per Acre 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 a **Residential Neighborhood**.

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 10 for this site, with a weighted score of 14.5 at the highest. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (8" sewer main, N. Washington Ave.)
- Near Water Main (6" water main, N. Washington Ave.)
- Near Grocery Store (Ozark Natural Foods, 380 N. College Ave.)
- Near Public School (Washington Elementary School)
- Near University of Arkansas Campus
- Near City Park (Mt. Sequoyah Gardens, Yvonne Richardson Community Center)
- Near ORT Bus Stop (Route 20)
- Near Razorback Transit Stop (Route 13, 17 Detour Peak)
- 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 request to be compatible with the surrounding context. Residential uses and densities located near the subject property vary substantially. Neighboring properties are of a variety of sizes but generally follow a typical lot and block development pattern. Both the existing and proposed zoning designations are high-density residential districts with urban form setbacks that are congruent with the existing pattern in the neighborhood. When compared to RMF-24, RI-U would increase the permitted buildable area from 50% to 60% of the lot's overall area. Since the subject property contains roughly 0.12 acres, a maximum of two units are permitted under current entitlements, where rezoning to RI-U would remove the density limitation. That said, any future development would be subject to, and limited by, minimum parking requirements, tree preservation, drainage, and access management standards. RMF-24 zoning allows multi-family dwellings by-right where they are only allowed as a conditional use in RI-U. Rezoning to RI-U would reduce side and rear setbacks for three- and four-family dwellings, increasing the buildable area on site. RMF-24 also prescribes bulk and area regulations for lot width and area based on the specific use of the property where RI-U merely requires an 18-foot lot width minimum and no lot area minimum for residential uses. Conversely, RMF-24 includes a five-story height limit, compared with the smaller single-, 2-, 3-, and 4-family buildings allowed under RI-U with a three-story height limit.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from RMF-24 to RI-U serves to contribute towards City Plan 2040 Goals #1 – Appropriate Infill, Growing a Livable Transportation Network, and #6 – Create Opportunities for Attainable Housing. The site scores high on the Infill Scoring Matrix due to water/sewer access, public schools, the university campus, parks and trails, transit, and groceries nearby. Because

of the flexible zoning regulations associated with the RI-U district, rezoning may allow for redevelopment or added density near these services. Additionally, where large multi-family buildings are currently permitted under RMF-24, RI-U encourages more appropriately scaled buildings in relation to the existing neighborhood. The Future Land Use Map designates the site as a Residential Neighborhood Area – a designation which supports support a wide variety of housing types of appropriate scale and context including single-family, duplexes, rowhouses, multifamily and accessory dwelling units. Increasing density is likely best facilitated on a site of this size due to the generous regulations in RI-U zoning and it is justified given the property's proximity to commercial and non-residential uses in downtown Fayetteville.

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

Finding: Staff finds that a rezoning to RI-U is justified. The RMF-24 zoning regulations often facilitate development on larger sites. Rezoning may be less restrictive in allowing the property to develop under proportional regulations. Because rezoning will better support infill redevelopment on the property, staff finds the proposed zoning to be consistent with the City's future land use goals and therefore needed at this time.

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

Finding: Rezoning to RI-U has an associated potential to increase traffic at this location. RI-U permits development at an unlimited density where it is currently limited to 24 units per acre. Staff finds, though, the potential to increase the number of residential units is marginal given the size of the lot and unlikely to result in increased traffic danger or congestion. The subject property has access to N. Washington Ave., an improved Residential Link. Future development would be required to meet the City's applicable access management and parking standards.

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 RI-U may increase the load on public services, but the impact is not expected to be detrimental. The size of the property and access to existing water and sewer infrastructure means future development will likely avoid the need for costly extensions to 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 approval of RZN-2023-0001.

PLANNING COMMISSION ACTION: Required YES

Date: February 13, 2023 ☐ Tabled ☐ Forwarded ☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.12 District RI-U, Residential Intermediate – Urban
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
- Public Comment
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.12 District RI-U, Residential Intermediate - Urban

(A) *Purpose.* The RI-U Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a range of housing types compatible in scale with single-family homes and to encourage a diversity of housing types to meet demand for walkable urban living.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) 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 12a	Limited business
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

	Dwelling (all types)
Lot width minimum	18 feet
Lot area minimum	None

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear, from centerline of an alley
A build-to zone that is located between the front property, line and a line 25 feet from the front property line.	None	5 feet	5 feet	12 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
-------------------------	----------------------

* 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. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (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.

(Ord. No. 5945 , §5(Exh. A), 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)

Editor's note(s)—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."

161.16 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
----------------	------------

(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
-------------------	-------------------

(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*
-------------------------	--------------------------------

* 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."

Umberger, Ryan

From: Dj <djaxon2015@yahoo.com>
Sent: Monday, February 6, 2023 4:05 PM
To: Umberger, Ryan
Subject: RZN 2023-0001

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

My name is David Jackson. I'm a property owner adjacent to the property that they want to build on. We've had four new apartments built over the past seven years on the little properties on N Washington. The street in front of our houses has doubled if not tripled in traffic, which means more noise. The foot traffic has doubled. I'm writing you because I'm against, and asking you to deny the request to rezone the property located directly across the street from 132 and 144 N Washington Ave. Please deny the request to rezone the property to RI-U, Residential Intermediate-Urban. Please let it stay as is RMF-24, Residential Multi Family. If more apartments are added to that tiny property it's going to really be congested up and down the street. We don't need the extra traffic or people.

Thank You,
David Jackson / Homeowner
116 N Washington Ave
Fayetteville, AR 72701

January 3, 2023
Via EnerGov

Ms. Jessica Masters
Zoning and Development Administrator
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

**RE: North Washington Avenue – Rezone Request
Submittal Package**

Ms. Masters,

As the owner of Washington County Parcel 765-12693-000, I respectfully request the City of Fayetteville to approve an ordinance to rezone the subject property from the existing zoning classifications of RMF-24 to the Residential Intermediate Urban (RI-U) Zoning District. Please find the following documents required for processing the rezoning request:

- One (1) copy of – Survey Description of Property to be Rezoned
- One (1) copy of – County Parcel Map
- One (1) copy of – Written Description of Request per City of Fayetteville Rezoning Application

The primary reason for the zoning change request is to ensure compatibility with the existing neighborhood in terms of building form and building scale in the event of future development on the property.

This request is coupled with a conditional request to vary from UDC 172.05 to allow a duplex or triplex on the property to provide parking at a rate of 1 parking space per bedroom.

Please let me know if you have any questions or if you need additional information in order to process this request.

Sincerely,



Brian Teague
Community By Design

WRITTEN DESCRIPTION OF N WASHINGTON AVE RI-U REZONE REQUEST PER THE CITY OF FAYETTEVILLE
REZONING APPLICATION

a. Current ownership information and any proposed or pending property sales.

The subject property is owned by Spring Street Cottages LLC and John Brian Teague. There are no proposed or pending property sales.

b. Reason (need) for requesting the zoning change.

The reason for the zoning change request is to ensure compatibility in building form and scale in the event of future development on the property. The zoning regulations provided by the RI-U district, specifically in regards to building height and multi-family use would require a building form similar to those that currently exist in the East Spring Neighborhood. The RMF-24 district allows 5 story buildings and multi-family use which is not compatible with the existing buildings in the Neighborhood.

c. Statement of how the proposed rezoning will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

In the event of future development on the property, the RI-U district would require buildings to be smaller scaled (3 story maximum) and a multi-family use would not be allowed. This scenario is consistent with the scale and use of the existing buildings in the neighborhood.

The existing RMF-24 district allows for buildings up to a 5 stories tall and also allows for a multi-family use. This is significantly inconsistent with the scale and use of the existing buildings in the neighborhood.

Traffic would not be impacted.

d. Availability of water and sewer (state size of lines).

Water and Sewer is available. A 8" water main and 8" sanitary sewer main is accessible along N Washington Avenue.

e. The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

The proposed zoning is highly consistent with City Plan 2040. The Residential Intermediate Urban (RI-U) Zoning District will encourage development that is in accordance with the principles of traditional town form. The Residential Intermediate Urban (RI-U) Zoning District allows for appropriate infill and advances the City's goal to grow a livable transportation network.

f. Whether the proposed zoning is justified and/or needed at the time of the request.

The proposed zoning is needed at this time in order to ensure that any future development is more in accordance with the principles of City Plan 2040.

g. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

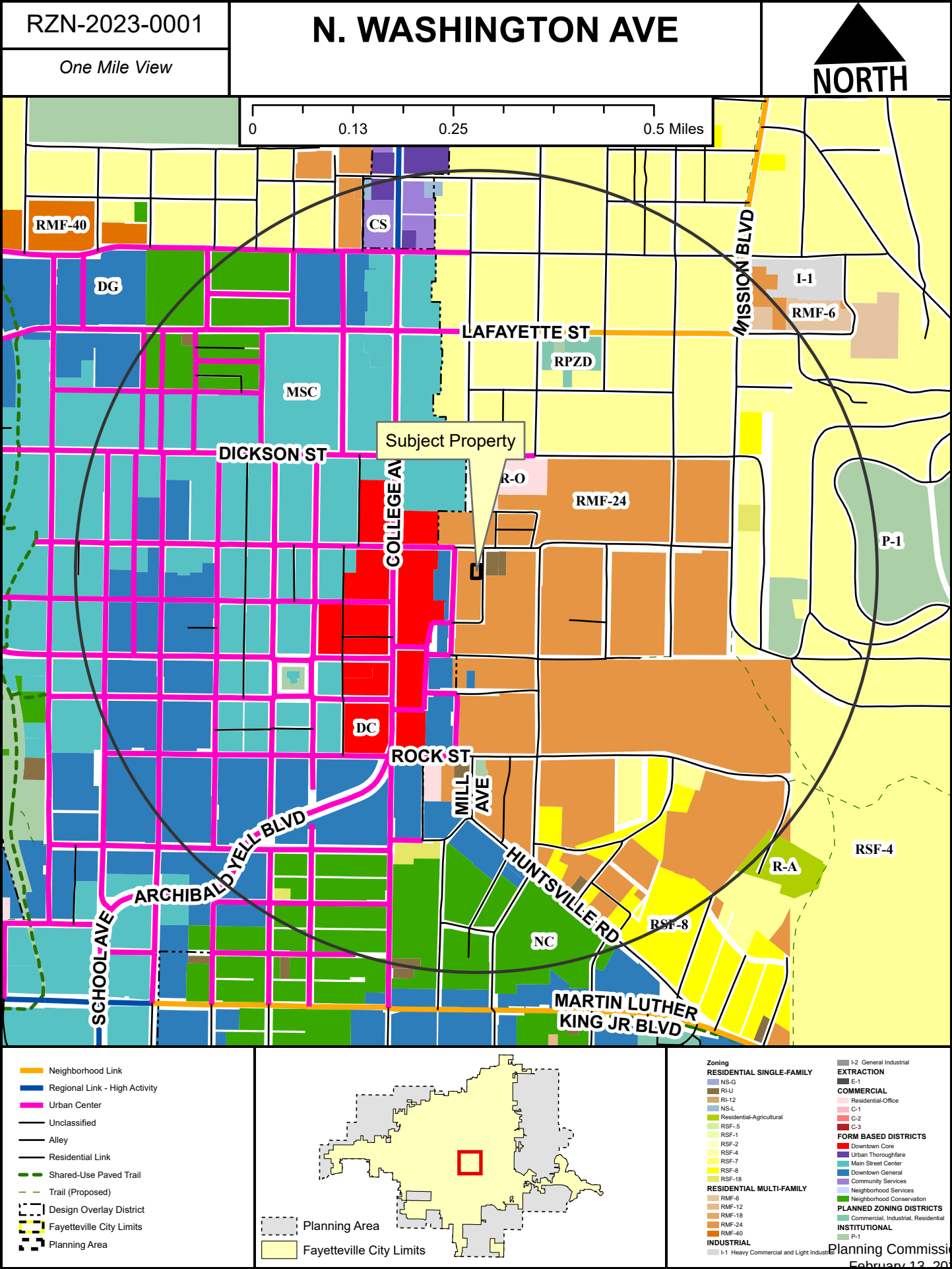
The proposed zoning will not create or appreciably increase traffic danger or congestion.

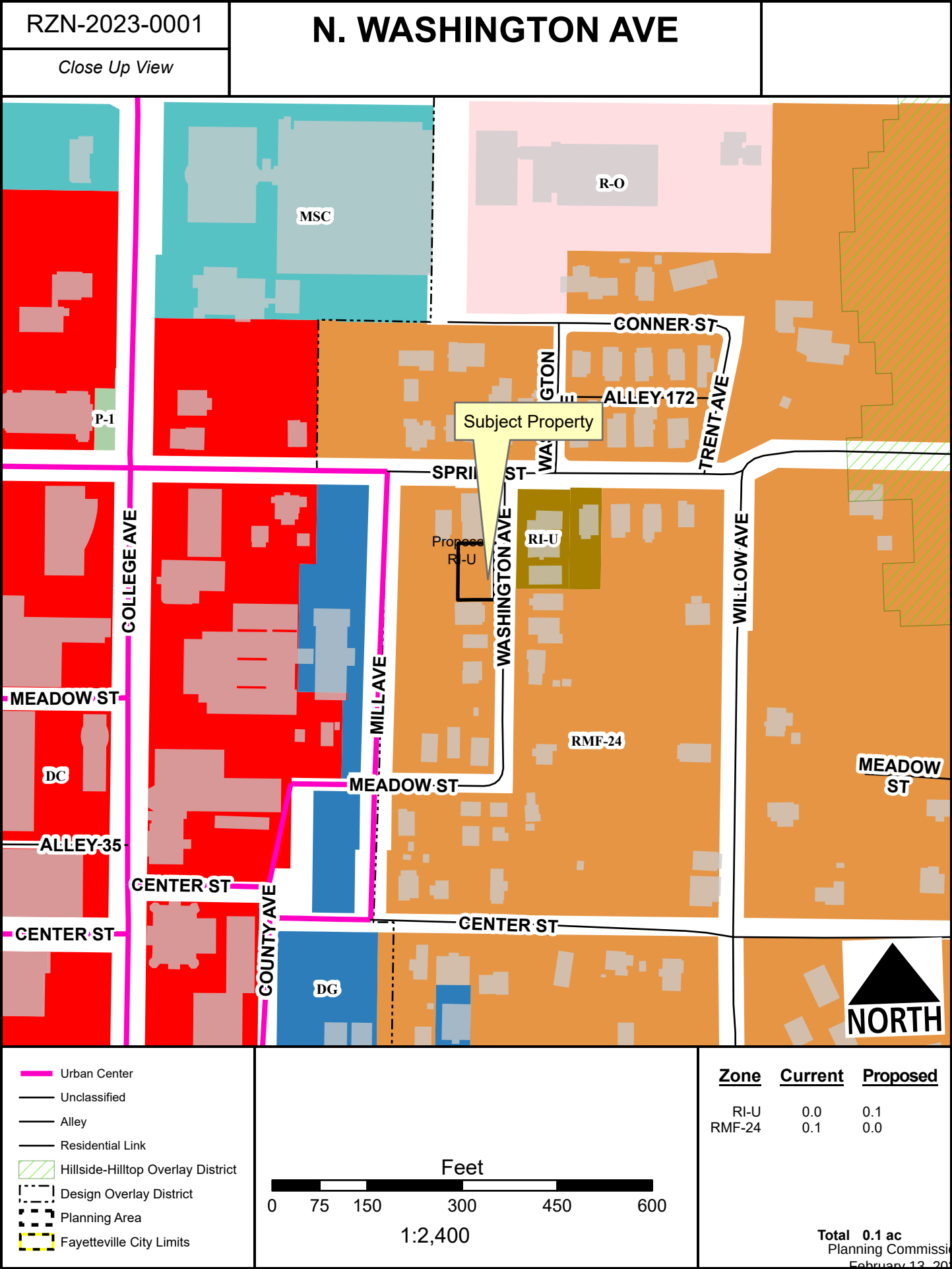
h. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

The proposed zoning will not make possible more density on the property.

i. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

The proposed zoning encourages use and form that is more in accordance with the existing neighborhood and will encourage a development form that is more in accordance with City Plan 2040.

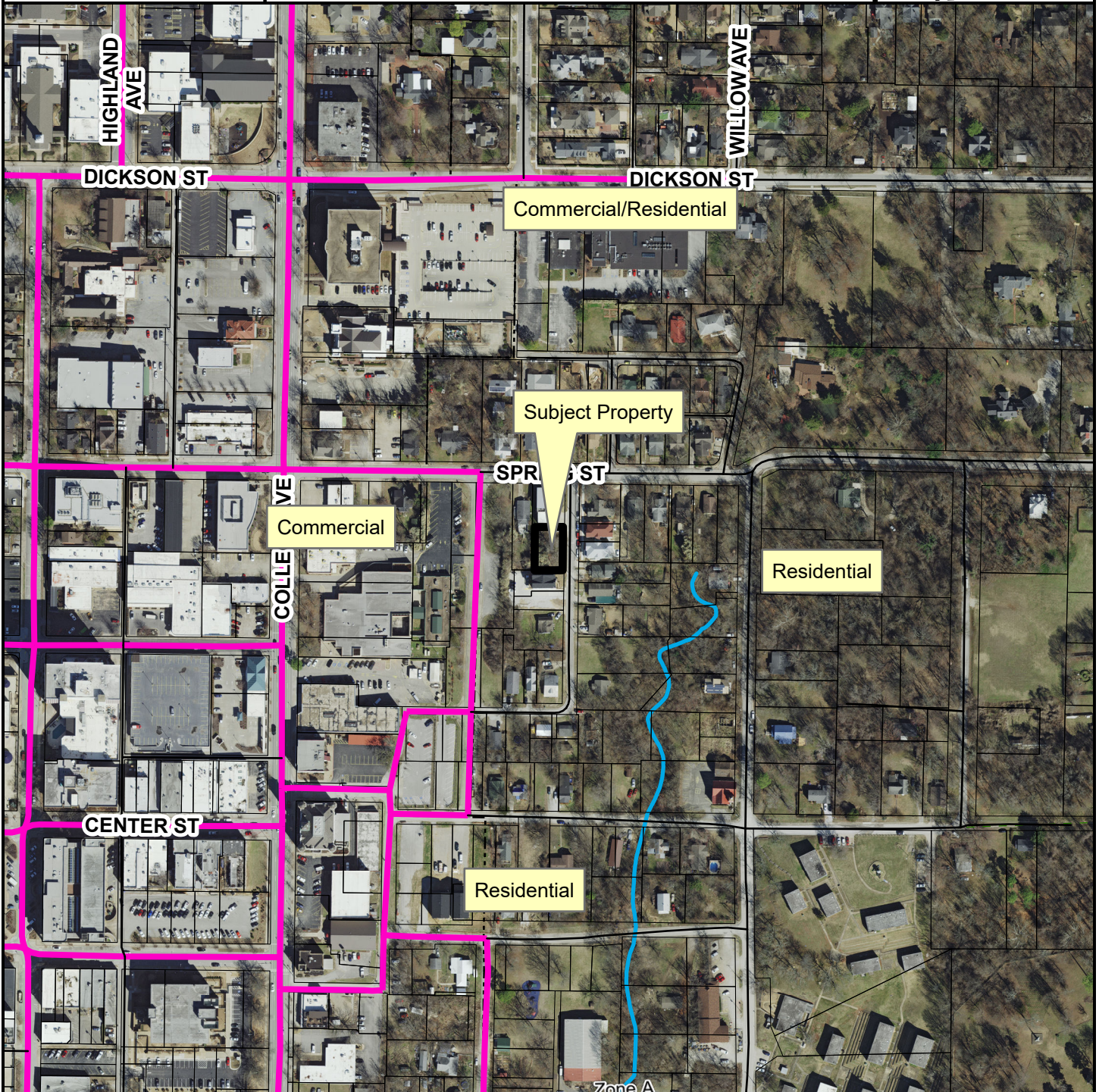




RZN-2023-0001

Current Land Use

N. WASHINGTON AVE



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

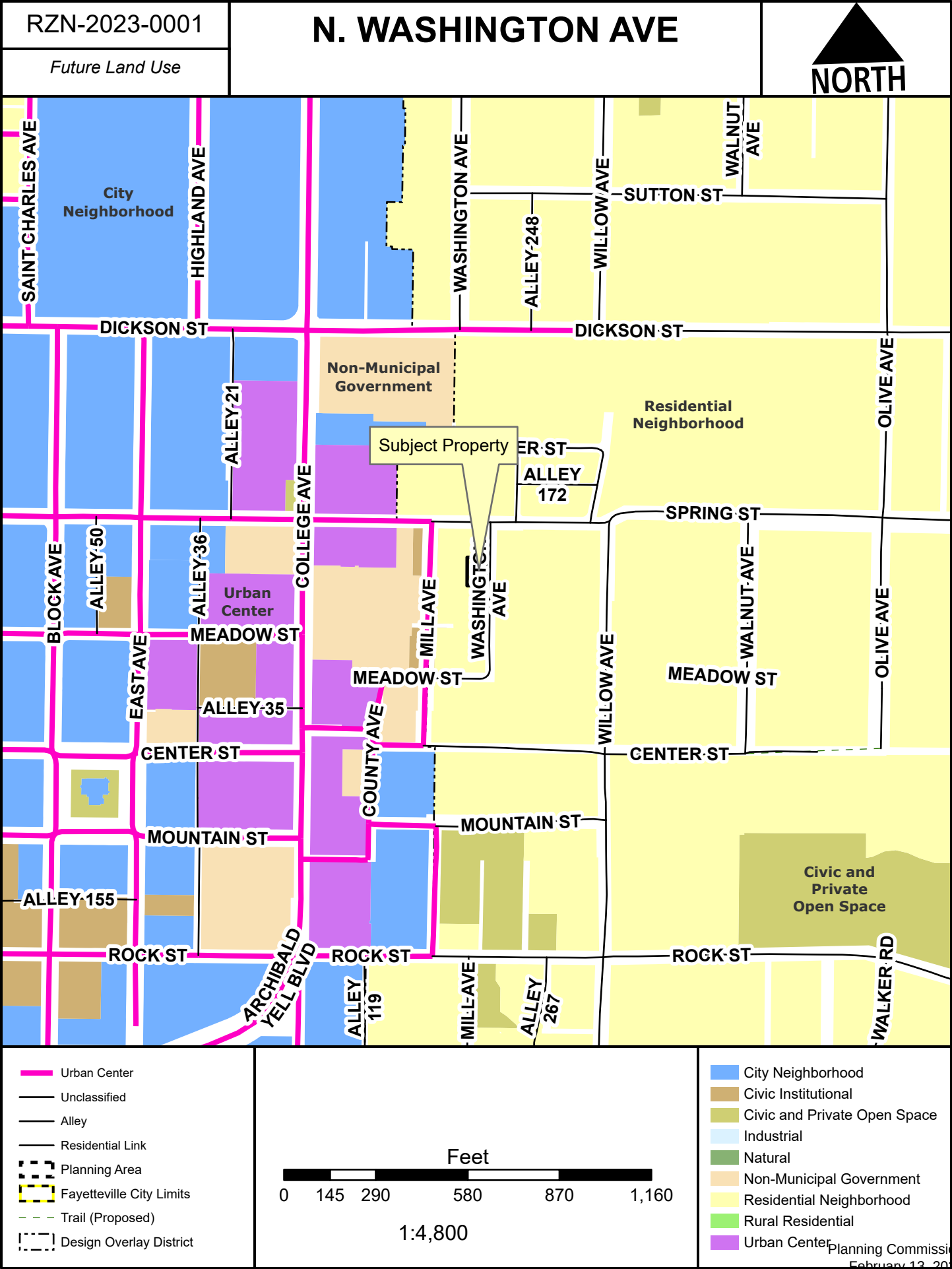


FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

RZN-2023-0001 (SPRING STREET COTTAGES)





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: February 13, 2023

SUBJECT: **RZN-2023-0002: Rezoning (SE OF N. GREGG AVE AND W. ELM ST/LEGACY VENTURES LLC, 367):** Submitted by COMMUNITY BY DESIGN for properties located SE OF N. GREGG AVE AND W. ELM ST. The properties are zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contain approximately 1.71 acres. The request is to rezone 0.76 acres of the subject property to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE and 0.95 acres to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0002** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0002** to City Council with a recommendation of approval."

BACKGROUND:

The subject properties are immediately southeast of the intersection of N. Gregg Avenue and W. Elm Street. The site is composed of two lots totaling 1.71 acres and is zoned RSF-4, Residential Single-family, 4 Units per Acre. No existing structures occupy the property, though there are overhead transmission lines along the south boundary. No zoning overlays or special regulations apply to the site. There is, however, dense mature tree canopy throughout the site. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential/Undeveloped	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	Mixed-density Residential/Ridout Lumber Company	RMF-24, Residential Multi-Family, 24 Units per Acre; I-1, Heavy Commercial and Light Industrial

Request: The request is to rezone the property from RSF-4, Residential Single-Family, 4 Units per Acre to RI-12, Residential Intermediate, 12 Units per Acre RI-U, Residential Intermediate-Urban.

Public Comment: Staff has received public comment in favor and opposed to the rezoning. A letter

of support states they are agreeable due to prior high-quality development that has been completed by the applicant. A letter opposing the rezoning stated a preference for single-family development and identified issues with vehicular and bicycle safety.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along N. Gregg Avenue and W. Elm Street. N. Gregg Avenue is an improved Neighborhood Link Street with asphalt paving, sidewalk, and curb and gutter. W. Elm Street is a partially-improved Residential Link Street with asphalt paving and open ditches along the property's frontage. 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. Existing 8-inch water mains are present on the west side of N. Gregg Avenue and the north side of W. Elm Street.

Sewer: Sanitary Sewer is available to the subject area. Existing 18-inch sanitary sewer mains are present in the center of N. Gregg Avenue and W. Elm Street.

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 2, located at 708 N. Garland Avenue protects this site. The property is located approximately 1.6 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 six minutes for an engine and eight minutes for a ladder truck.

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

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District or within a FEMA floodplain, there are no protected streams present in the subject area. Any additional improvements or requirements for drainage will be determined at 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 districts of RI-12, Residential Intermediate, 12 Units per Acre and RI-U, Residential Intermediate - Urban require a **20% and 15% minimum canopy preservation**, respectively. The current zoning district of RSF-4, Residential Single-Family, 4 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 a **Residential Neighborhood** and **City 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 Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. City Neighborhood Areas encourage complete, compact and connected neighborhoods and non-residential uses are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **7-9** for this site, with a weighted score of **11.5** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #2, 708 N. Garland Avenue)
- Near Sewer Main (8" sewer main, N. Gregg Avenue & W. Elm Street)
- Near Water Main (18" sewer main, N. Gregg Avenue & W. Elm Street)
- Near Public School (Woodland Junior High)
- Near City Park (Gregory Park)
- Near ORT Bus Stop (Route 10)
- Near Razorback Transit Stop (Route 26 Peak)
- Near Paved Trail (Woodland Poplar Trail & Scull Creek Trail)
- Appropriate Future Land Use (City Neighborhood Area)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the request to rezone the subject properties to RI-12 and RI-U is compatible given the surrounding context. Properties in the near vicinity are primarily used for residential purposes with some non-residential uses further afield to the north or separated by street and railroad right-of-way to the west. Two-family up to multi-family dwellings are present to the south along N. Gregg Avenue; to the north, west, and east properties are mostly developed with single-family homes. RSF-4 limits the use of the property to single-family dwellings and accessory uses. Rezoning broadens the permitted housing types, allowing everything from single- up to four-family dwellings by-right. RI-12 and RI-U prescribe the inclusion of a build-to-zone which requires that buildings address the public street where RSF-4 has a 15-foot front setback. Cluster housing developments are permitted by-right in RI-12 and RI-U zoning where they are a conditional use in RSF-4. The proposed rezoning would increase the permitted density at the site. RI-12 limits density to 12 units per acre and RI-U has an unlimited density. Of the overall lot area, 0.76 acres of the east and south sides of the property are proposed to be rezoned to RI-12; 0.95 acres along the west side of the property is proposed to be rezoned to RI-U. Staff also finds that the bulk and area regulations are suitable and not out of context with the surrounding properties. The east and south extents are proposed to be rezoned to RI-12. In RI-12 zoning single family developments are permitted the smallest lot size with 50-foot minimum widths and 5,000 square foot minimum areas. Two-family dwellings have the same minimum lot width but require 7,260 square feet in area, and three-family dwellings and above require 90-foot lot widths and 10,890 square foot lots. RI-12 zoning merely requires an 18-foot lot width minimum for residential uses, meaning the higher density development pattern would be likeliest to occur along N. Gregg Avenue where there are other mixed density residential developments. The inclusion of a build-to-zone with the RI-12 and RI-U zoning districts also requires that buildings address N. Gregg Avenue which promotes walkability and pedestrian friendliness along a street lacking comfortable amenities.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning to RI-12 and RI-U serves to contribute towards City Plan 2040 goals #1 – Appropriate Infill, 4 – Growing a Livable Transportation Network, and 6 – Create Opportunities for Attainable Housing. First, the site scores moderately on the Infill Scoring Matrix. Rezoning would put added residential density on properties with ready access to basic development needs such as public streets, water, and sanitary sewer. The property is also proximate to multiple schools including a Woodland Junior High, The New School, and the Fayetteville Montessori School. Rezoning aligns with Goal #4 since additional residential density would be located near multiple transit routes, non-residential uses and employment centers like the VA Medical Center. Last, rezoning allows more diverse housing options than its current entitlements. A range of single- to four-family dwellings provides more opportunity for affordable options than a strictly single-family district. The request is consistent with the future land use map which designates the site as split between a Residential Neighborhood and City Neighborhood Area.

Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. City Neighborhood Areas encourage density in all housing types provide and provide a varying mix of nonresidential and residential uses. Staff finds the subject rezoning will help facilitate redevelopment of an infill site rather than contributing to suburban sprawl, create opportunities for diverse and attainable housing, and promotes residential development that is connected to non-residential services.

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

Finding: Staff believes that there is sufficient justification for rezoning the property to RI-12 and RI-U including diversifying the mix of residential uses along a Neighborhood Link Street and increasing density where it generally aligns with the future land use map.

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

Finding: Rezoning the property to RI-U carries an associated potential to increase traffic at this location. Staff finds added traffic generated from the site may complicate the existing traffic condition leading to increased congestion or danger. The site has direct access onto N. Gregg Avenue and W. Elm Street. N. Gregg Avenue is a Neighborhood Link Street with a designed service volume of less than 6,000 vehicles per day. Arkansas Department of Transportation estimates 16,000 vehicles per day traversed the road at a study point roughly 250 feet north of the subject property. The subject property appears to have adequate space to access N. Gregg Avenue and meet access management standards however, there were 12 vehicle crashes that occurred near the intersection of its unsignalized intersection with W. Elm Street between 2017-2021. W. Elm Street has a designed service volume of less than 4,000 vehicle trips per day but the segment north of the subject property does not have a study point. Two routes are available to access W. Elm Street. First, the property's frontage appears to be wide enough for a driveway to access the street directly from its frontage. Second, a stub out of alley right-of-way extends to the east side of the site from N. Dutton Place. Nearby access to the regional trail system and two transit routes offers some opportunity for future residents to use alternative modes. The Scull Creek Trail can be accessed within a half mile of the site though N. Gregg Avenue and a segment of the Arkansas-Missouri Railroad separate the site from the regional trail system. Transit stops for both Ozark Regional Transit and Razorback Transit are located within ½ mile of the site and do not require crossing major thoroughfares. Lastly, staff acknowledges that redevelopment of the site will require street improvements proportional to the development of the site which may incrementally improve pedestrian comfortability and connectivity to the wider non-motorized transportation network.

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 RSF-4 to RI-U has the capacity to increase the population density at this location. Staff finds that limitations such as the property's size and other development obligations such as required parking, drainage, and tree preservation will prevent an increase in density beyond what is suitable for the site. Water and sewer are available at this location, negating the need to extend or improve services and the existing street system can support added density. The Fayetteville Public School District 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 approval of RZN-2023-0002.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 13, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre
 - §161.11 District RI-12, Residential Intermediate, 12 (12) Units Per Acre
 - §161.12 District RI-U, Residential Intermediate – Urban
- Public Comment
- Applicant Request Letter
- Applicant Exhibit
- 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
-------------------------	-----------

(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)

Editor's note(s)—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."

161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre

(A) *Purpose.* The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) 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 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12
----------------	----

(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

(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*
-------------------------	----------------------

* 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. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) 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(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; 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. 5592, 06-18-13; 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, §§4, 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."

161.12 District RI-U, Residential Intermediate - Urban

(A) *Purpose.* The RI-U Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a range of housing types compatible in scale with single-family homes and to encourage a diversity of housing types to meet demand for walkable urban living.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) 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 12a	Limited business
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

	Dwelling (all types)
Lot width minimum	18 feet
Lot area minimum	None

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear, from centerline of an alley
A build-to zone that is located between the front property, line and a line 25 feet from the front property line.	None	5 feet	5 feet	12 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
-------------------------	----------------------

* 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. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (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.

(Ord. No. 5945 , §5(Exh. A), 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)

Editor's note(s)—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."

Umberger, Ryan

To: Planning Shared
Subject: RE: RZN-2023-0002 (N. GREGG AVE AND W. ELM ST)

From: Scott Hill [<mailto:razorbackscott@gmail.com>]
Sent: Saturday, February 04, 2023 9:22 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: RZN-2023-0002 (N. GREGG AVE AND W. ELM ST)

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi,

I live about 3 blocks from this re-zoning. I support it. Community By Design usually plans wonderful development, so I don't hesitate to support them and whatever plans they have here for my neighborhood. I am a general contractor, although my company is not affiliated with this project in any way.

Thank you.

Scott Hill
61 E. Elm St
Fayetteville

Umberger, Ryan

To: belle_20042004@yahoo.com
Subject: RE: Rezoning of area by Elm and Gregg

From: belle_20042004@yahoo.com [mailto:belle_20042004@yahoo.com]
Sent: Tuesday, February 07, 2023 8:54 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Rezoning of area by Elm and Gregg

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

RZN-2023-0002 (N. GREGG AVE AND W. ELM ST)

Hello Planning committee,

I would like to say that putting apartments instead of keeping the area for single family homes goes against what the builder promised (if this is the same builder). But past that, it is hard enough trying to turn left onto Gregg from Elm street. I cannot image what more apartments will do for the safety of the area for vehicles and bicycles. Please do not let this area be rezoned.

Best regards
Sharon Brasko
Baker Drive.

[Sent from Yahoo Mail for iPhone](#)

January 17, 2023
Via Email

Ms. Jessica Masters
Zoning and Development Administrator
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **Gregg Avenue and Elm Street
Rezone Request RZN 2023 0002 - Revisions**

Ms. Masters,

Thank you for meeting with us on January 10. We have looked into it and have decided to revise a portion of our rezone request to RI-12. Please find the following revised documents which show the request to now include 0.95 acres of RI-U along the west side of the property and 0.76 acres of RI-12 along the east and south sides of the property:

- One (1) copy of – Revised Survey Description of Property to be Rezoned Dated 1/17/23
- One (1) copy of – Revised Lot Split Tract C Exhibit Dated 1/17/23
- One (1) copy of – Submittal Letter Dated 1/17/23

Please let me know if you have any questions or if you need additional information in order to process this request.

Sincerely,



Brian Teague
Community By Design

WRITTEN DESCRIPTION OF GREGG AVENUE AND ELM STREET RI-U REZONE REQUEST PER THE CITY OF FAYETTEVILLE REZONING APPLICATION

a. Current ownership information and any proposed or pending property sales.

The subject property is owned by Tim Brisiel and Legacy Ventures LLC. There are no proposed or pending property sales.

b. Reason (need) for requesting the zoning change.

The reason for the zoning change request is to better accommodate future development on the property to be more in accordance with the City Plan 2040 goals. Specifically goal #1, to make appropriate infill and revitalization our highest priority and goals #2 and #3 to discourage suburban sprawl and make compact, complete, and connected development the standard. Goals #4 and #6, to grow a livable transportation network and create opportunities for attainable housing will also be accommodated better if the rezoning change is granted. The zoning change will also create more opportunity to preserve natural features which could contribute to goal #5 of assembling and enduring green network.

The RI-U District will better accommodate development on the property that is more in accordance with the City Neighborhood Area Future Land Use Designation on the west side of the property, while at the same time making possible a compatible transition to the Residential Neighborhood Area Designation on the east side of the property. The RI-U District is designed to provide a range of housing types compatible in scale with single-family homes and also to encourage a diversity of housing types to meet demand for walkable urban living.

c. Statement of how the proposed rezoning will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The rules and regulations set forth in the RI-U District will make possible smaller-scaled development on the property that is compatible to existing multi-family development immediately adjacent to the property on the west side and that will also be compatible with single-family development that is currently occurring immediately east of the property. With direct access to Gregg Avenue and transit along the corridor, development of the property with the RI-U district will not negatively impact traffic.

d. Availability of water and sewer (state size of lines).

Public Water and Sewer is available and accessible along Gregg Avenue and Elm Street. 18" sanitary sewer mains and 8" water mains exist on both Gregg Avenue and Elm Street.

e. The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Given the properties close proximity to services located along the Gregg Avenue Corridor, development of the property under the rules and regulations set forth in the RI-U District would be highly consistent with land use planning objectives, principles, and policies. The RI-U District will make possible development that is in strict accordance with City Neighborhood Areas while providing the flexibility needed to create an appropriate and compatible transition to the Residential Neighborhood Areas to the east.

The property has an infill rating of 9 and 8. The higher infill rating coupled with close proximity to transit closely fits the RI-U districts intended purpose to provide a range of housing types compatible in scale with single-family homes. The rules and regulations set forth in the RI-U District also make possible a development form that will discourage suburban sprawl and make compact, complete, and connected development the standard. Those same rules and regulations will also make possible more preservation of land.

f. Whether the proposed zoning is justified and/or needed at the time of the request.

The proposed zoning is needed at this time in order to ensure that future development on the property is more in accordance with the principles of City Plan 2040.

g. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

The proposed zoning will not create or appreciably increase traffic danger or congestion. The Gregg Avenue corridor can easily and safely accommodate any new traffic generated from development of the property.

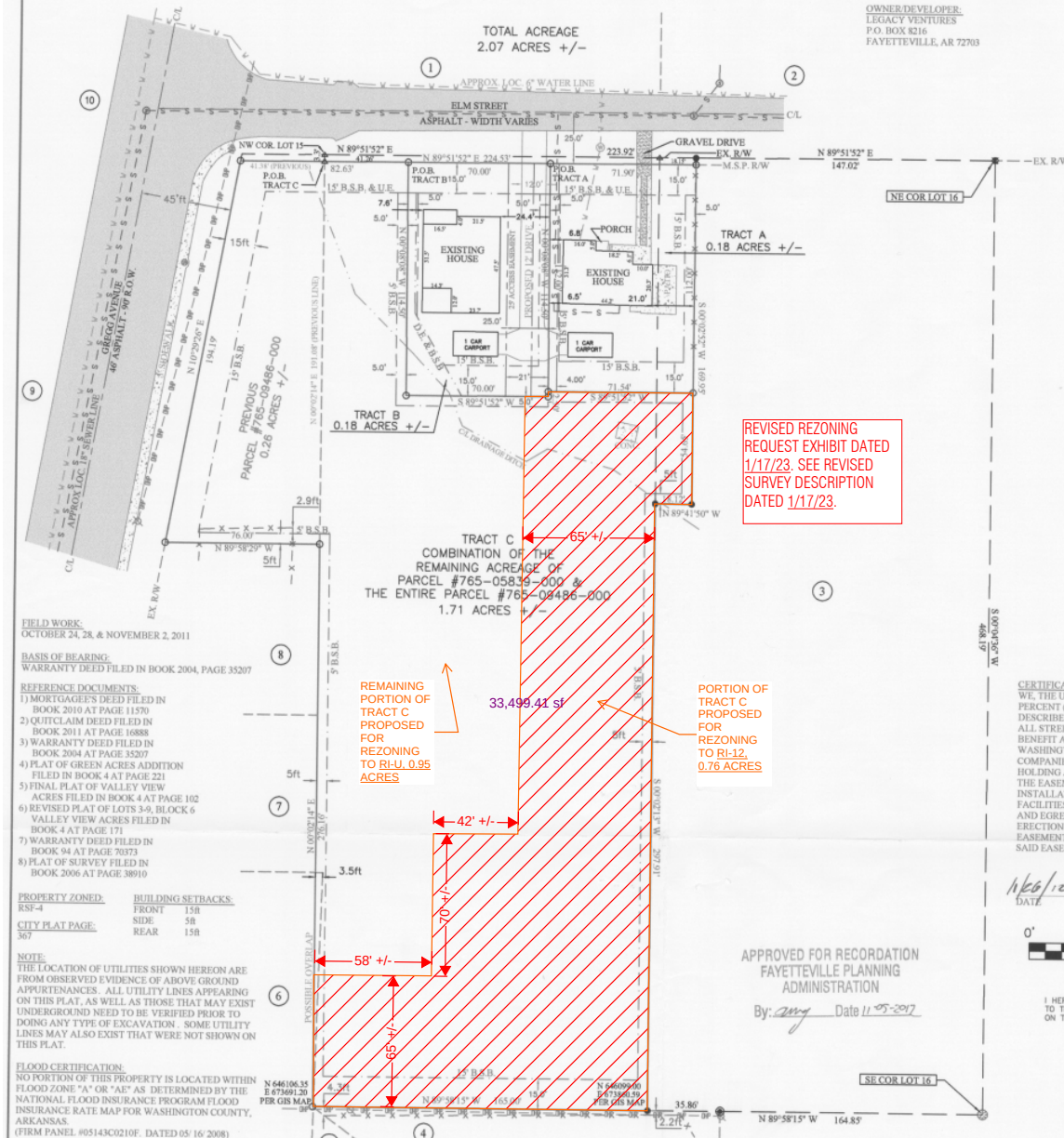
h. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

With only 1.71 acres proposed for rezoning to the RI-U District, the proposed zoning will not alter the population density in a way that would significantly increase the load on public services.

i. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

The proposed zoning will encourage a development use and form that is more in accordance with City Plan 2040 and contribute to the environmental, economic, and social benefits that City Plan 2040 offers.

PROPERTY LINE ADJUSTMENT/ LOT SPLIT



OWNER/DEVELOPER:
LEGACY VENTURES
P.O. BOX 8216
FAYETTEVILLE, AR 72703

ADJACENT LAND OWNERS

- 1) RAINWATER, DAMARIS H TRUST
2727 EAST CEDAR AVE #3
DENVER CO 80209
PARCEL #765-05836-000
ZONED: RSF-4
- 2) TERRY, LYNDA RENEE
P.O. BOX 315 F
FAYETTEVILLE AR 72702-0315
PARCEL #765-05838-000
ZONED: RSF-4
- 3) COOK, KYLE B & JENNIFER P
1335 N VANDEVENTER AVE
FAYETTEVILLE AR 72703-1844
PARCEL #765-05840-000
ZONED: RSF-4
- 4) DAUGHERTY, JOHN & SERA
140 W POPLAR ST
FAYETTEVILLE AR
PARCEL #765-05965-000
ZONED: RSF-4
- 5) BREWER, DEBI LYNN
1949 YATES AVE
Fayetteville AR 72703
PARCEL #765-05964-000
ZONED: RSF-4
- 6) STORAY, TICON & DEVON
2032 N GREGG AVE
PARCEL #765-05949-002
ZONED: RMF-24
- 7) KRAUPT, CONRAD C & VIRGINIA R
2603 N ROSEWOOD DR
FAYETTEVILLE AR 72703-3335
PARCEL #765-05948-000
ZONED: RMF-24
- 8) KRAUPT, CONRAD C & VIRGINIA R
2603 N ROSEWOOD DR
FAYETTEVILLE AR 72703-3335
PARCEL #765-05947-000
ZONED: RMF-24
- 9) RUBLE, DONALD
P.O. BOX 3653
FAYETTEVILLE, AR 72702
PARCEL #765-05958-000
ZONED: I-1
- 10) RICKOUT FAMILY LLLP
72 COUNTRY CLUB CIR
SEARCY, AR 72143
PARCEL #765-13353-001
ZONED: I-1

REVISOR REQUEST EXHIBIT DATED 1/17/23. SEE REVISED SURVEY DESCRIPTION DATED 1/17/23.

CERTIFICATE OF OWNERSHIP & DEDICATION.
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAN FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO WASHINGTON COUNTY, ARKANSAS AND TO THE PUBLIC UTILITY COMPANIES INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY THE CITY OF FAYETTEVILLE THE EASEMENTS AS SHOWN ON THIS PLAN FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

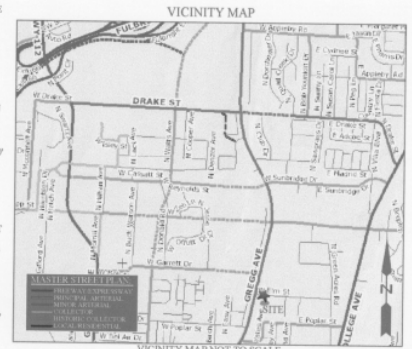
1/6/12
DATE
OWNER
0' 40' 80' 120'
GRAPHIC SCALE (IN FEET)
1 inch = 40ft

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING
ADMINISTRATION
By: *[Signature]* Date 11-05-2017

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT
TO THE BEST OF MY KNOWLEDGE AND BELIEF
ON THIS THE 3RD DAY OF NOVEMBER, 2011.



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



FIELD WORK:
OCTOBER 24, 28, & NOVEMBER 2, 2011

BASIS OF RECORD:
WARRANTY DEED FILED IN BOOK 2004, PAGE 35207

REFERENCE DOCUMENTS:
1) MORTGAGE DEED FILED IN BOOK 2010 AT PAGE 11570
2) QUITCLAIM DEED FILED IN BOOK 2011 AT PAGE 16888
3) WARRANTY DEED FILED IN BOOK 2004 AT PAGE 35207
4) PLAT OF GREEN ACRES ADDITION FILED IN BOOK 4 AT PAGE 221
5) FINAL PLAT OF VALLEY VIEW ACRES FILED IN BOOK 4 AT PAGE 102
6) REVISED PLAT OF LOTS 3-6, BLOCK 6 VALLEY VIEW ACRES FILED IN BOOK 4 AT PAGE 171
7) WARRANTY DEED FILED IN BOOK 94 AT PAGE 70373
8) PLAT OF SURVEY FILED IN BOOK 2006 AT PAGE 38910

PROPERTY ZONED: RSF-4
CITY PLAT PAGE: 367

NOTE:
THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APURTENANCES. ALL UTILITIES LINES APPEARING ON THIS PLAN, AS WELL AS THOSE THAT MAY EXIST UNDERGROUND NEED TO BE VERIFIED PRIOR TO DOING ANY TYPE OF EXCAVATION. SOME UTILITY LINES MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS PLAN.

FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS.
(FIRM PANEL #05143C0210F, DATED 05/16/2008)

SURVEY DESCRIPTIONS:
OVERALL (EXISTING LEGAL) PARCEL #765-05839-000:
ALL OF LOT NUMBERED FIFTEEN (15) AND PART OF LOT SIXTEEN (16) IN GREEN ACRES, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, ALL IN TOWNSHIP 16 NORTH, RANGE 30 WEST, AS DESIGNATED UPON THE RECORDED PLAT OF SAID SUBDIVISION, SAID PART OF LOT 16 BEING DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 16 AND RUNNING THENCE N89°51'52"E 169.81' TO THE POINT OF BEGINNING, THENCE N89°41'50"W 18.12', THENCE N02°02'13"E 169.81' TO THE POINT OF BEGINNING, CONTAINING IN ALL 1.84 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

TRACT A:
A PART OF LOT NUMBERED FIFTEEN (15) AND A PART OF LOT NUMBERED SIXTEEN (16) IN GREEN ACRES, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, ALL IN TOWNSHIP 16 NORTH, RANGE 30 WEST, AS DESIGNATED UPON THE RECORDED PLAT OF SAID SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON THE SOUTH MASTER STREET PLAN RIGHT-OF-WAY OF ELM STREET WHICH IS 80°02'14"W 3.30' AND N89°51'52"E 111.26' FROM THE NORTHWEST CORNER OF SAID LOT FIFTEEN (15), THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY N89°51'52"E 71.90', THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 89°51'52"W 112.00', THENCE S89°51'52"W 71.54', THENCE N89°08'08"W 112.00' TO THE POINT OF BEGINNING, CONTAINING 0.18 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

TRACT B:
A PART OF LOT NUMBERED FIFTEEN (15) IN GREEN ACRES, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 3, AND A PART OF THE NORTHEAST QUARTER OF SECTION 4, ALL IN TOWNSHIP 16 NORTH, RANGE 30 WEST, AS DESIGNATED UPON THE RECORDED PLAT OF SAID SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON THE SOUTH MASTER STREET PLAN RIGHT-OF-WAY OF ELM STREET WHICH IS 80°02'14"W 3.30' AND N89°51'52"E 111.26' FROM THE NORTHWEST CORNER OF SAID LOT FIFTEEN (15), THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY N89°51'52"E 71.90', THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 89°51'52"W 112.00', THENCE S89°51'52"W 71.54', THENCE N89°08'08"W 112.00' TO THE POINT OF BEGINNING, CONTAINING 0.18 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

TRACT C:
A PART OF LOT NUMBERED FIFTEEN (15) AND A PART OF LOT NUMBERED SIXTEEN (16) IN GREEN ACRES, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 3, AND A PART OF THE NORTHEAST QUARTER OF SECTION 4, ALL IN TOWNSHIP 16 NORTH, RANGE 30 WEST, AS DESIGNATED UPON THE RECORDED PLAT OF SAID SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON THE SOUTH MASTER STREET PLAN RIGHT-OF-WAY OF ELM STREET WHICH IS 80°02'14"W 3.30' AND N89°51'52"E 111.26' FROM THE NORTHWEST CORNER OF SAID LOT FIFTEEN (15), THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY N89°51'52"E 71.90', THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 89°51'52"W 112.00', THENCE S89°51'52"W 71.54', THENCE N89°08'08"W 112.00' TO THE POINT OF BEGINNING, CONTAINING 1.71 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

FOR USE AND BENEFIT OF:
LEGACY VENTURES
ADDRESS: 111 ELM ST
FAYETTEVILLE, ARKANSAS 72703

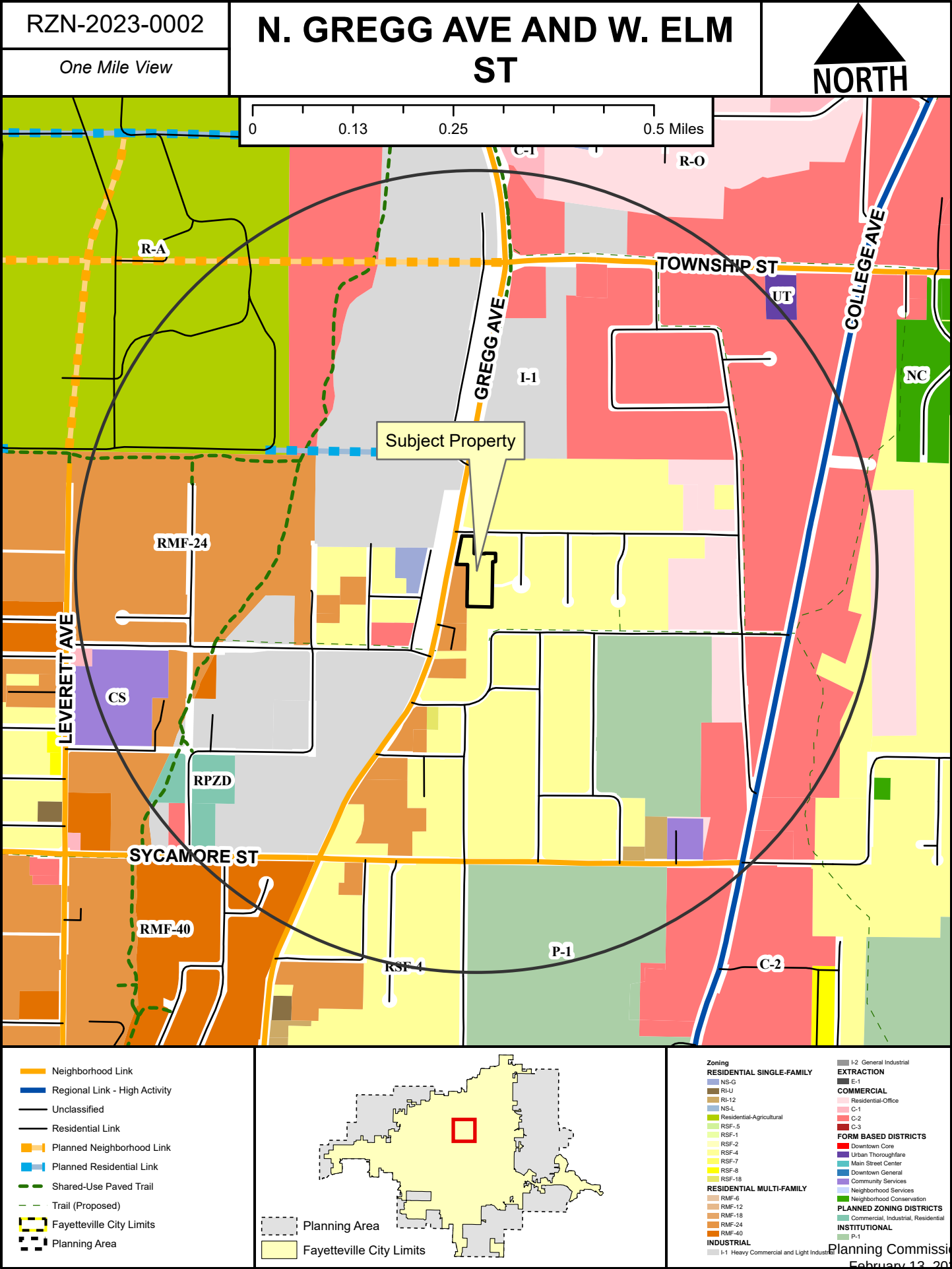
Bates & Associates, Inc.
Civil Engineering & Land Surveying
1811 N. Col. Rogers Dr., Fayetteville, Arkansas 72703-4702-4000 Fax: 479-311-0000

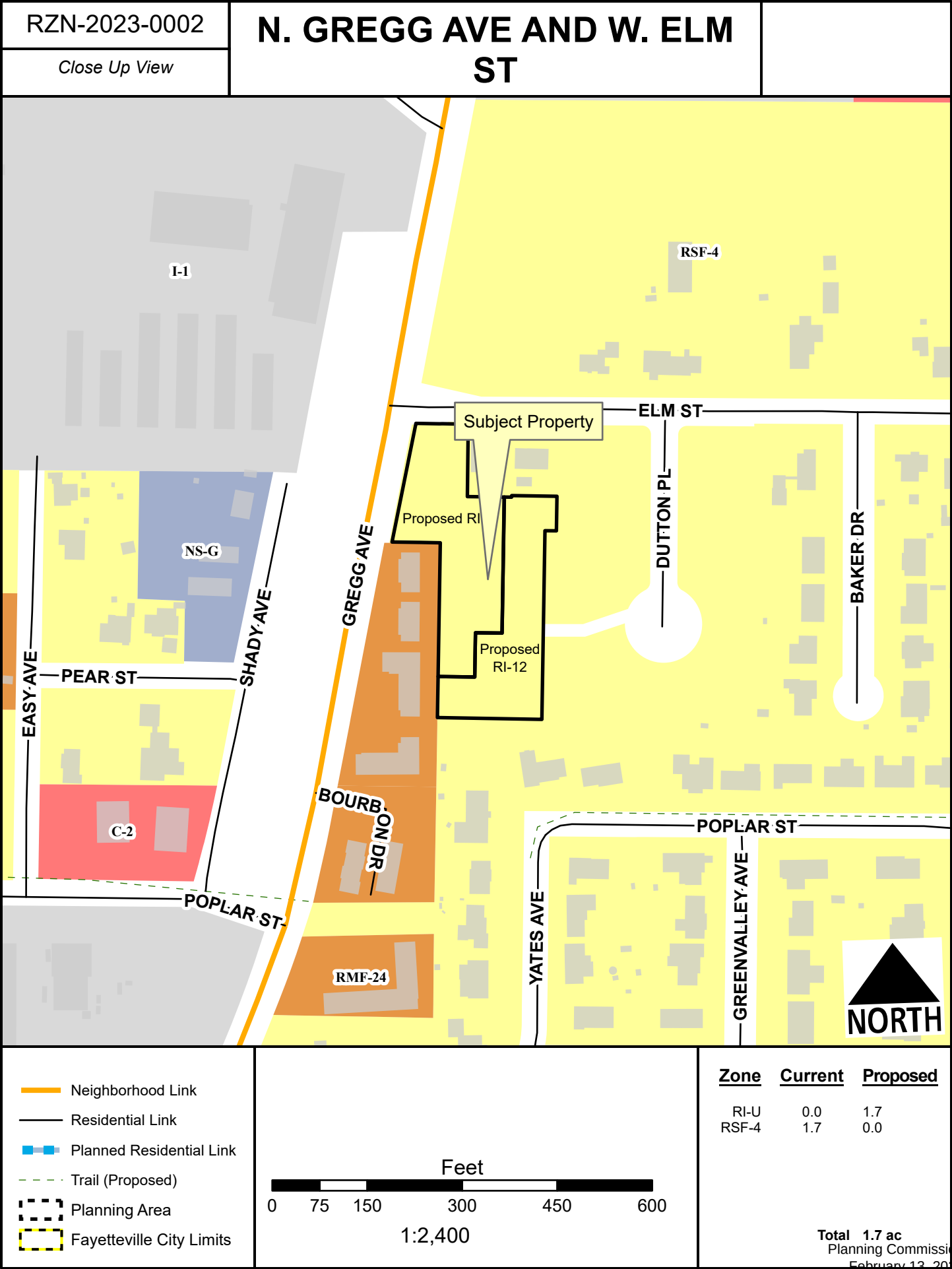
LEGEND: THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

- FOUND S/W REBAR FINS
- FOUND S/W REBAR
- FOUND S/W REBAR
- FINISH CORNER POST
- SET S/W REBAR/CAP
- BOUNDARY LINE (MEASURED)
- CENTERLINE OF ROAD
- FENCE LINE
- FENCE LINE
- PREVIOUS PARCEL LINE
- WATER METER
- SEWER LINE
- SANITARY SEWER MH
- WATER LINE
- OVERHEAD POWER LINE
- BOWER LINE
- ACRES



RECORDING NUMBER/DATE
Doc ID: 014875910001 Type: REL
Kind: Survey
Recorded: 11/05/2012 at 10:50:07 AM
Fee Amt: \$15.00 Page 1 of 1
Bette Stamos Clerk of Court
File #2012-Planning Commission
February 13, 2023





RZN-2023-0002

N. GREGG AVE AND W. ELM ST

Current Land Use



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

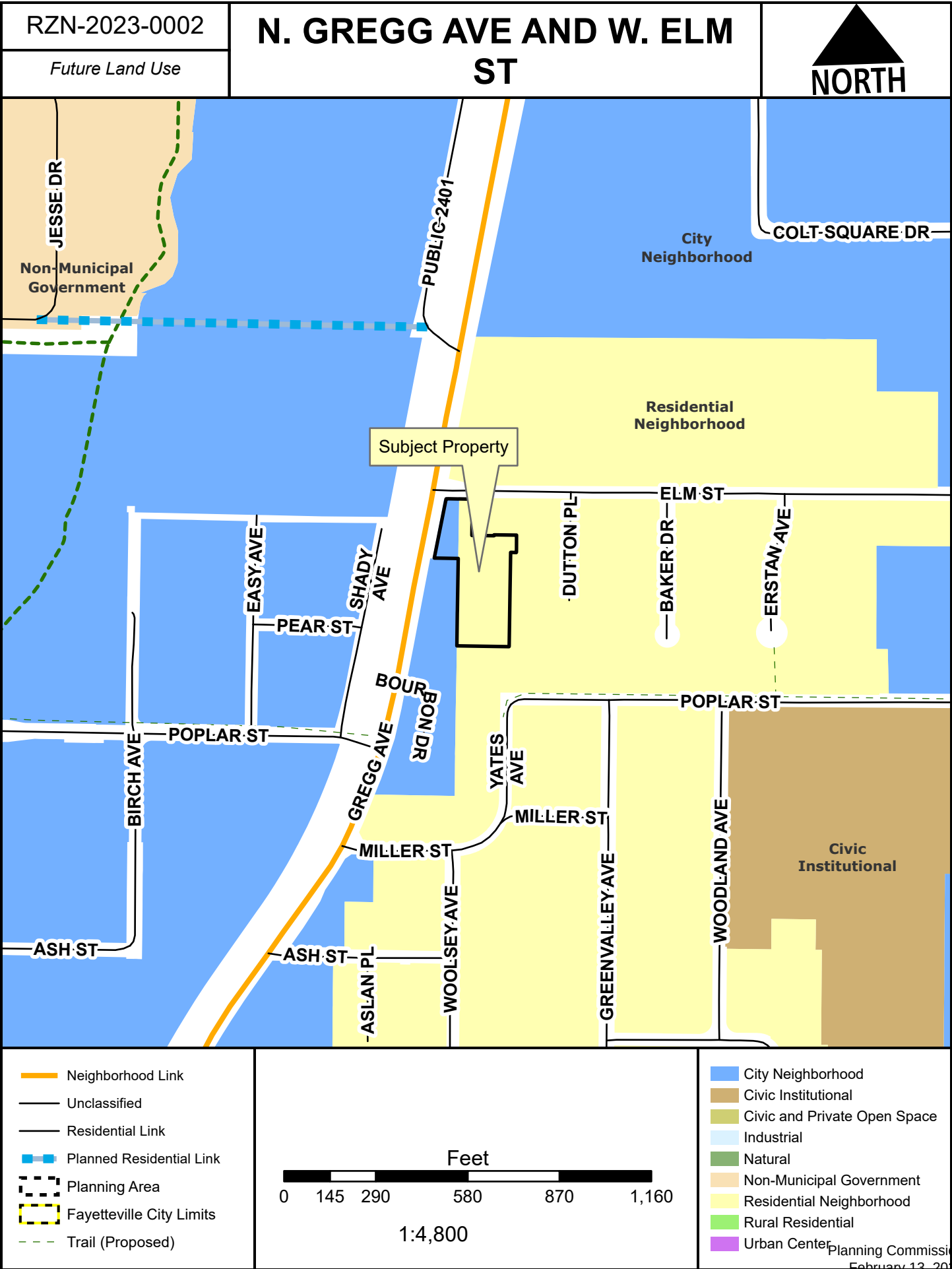


FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

RZN-2023-0002 (LEGACY VENTURES LLC)





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: February 13, 2023

SUBJECT: **CUP-2022-0127: Conditional Use Permit (2415 S. SHILOH DR./DE LOS ANGELES, 637):** Submitted by BLANCA SHERINE, LLC for property located at 2415 S. SHILOH DR. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 2.21 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0127** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0127**, 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 southwest Fayetteville at the south end of Shiloh Drive. The property is zoned R-A, Residential-Agricultural, totals approximately 2.21 acres, and is currently developed with a 2,128-square-foot single-family home. 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	Rural Residential	R-A, Residential-Agricultural
South	Agricultural	R-A, Residential-Agricultural
East	Undeveloped / I-49	R-A, Residential-Agricultural
West	Agricultural	R-A, Residential-Agricultural

City Plan 2040 Future Land Use Designation: **Rural Residential**

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-2022-0127** 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>February 13, 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 R-A zoning.

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 Business Regulations §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 R-A zoning. Type 2 short-term rentals operating within the R-A zoning district require conditional use permit approval.

- 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 house contains four bedrooms, occupancy will likely be limited to a maximum of 10 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). Single-family dwellings are required to have two parking spaces and are permitted to have up to four cars parked outside. The applicant has indicated that there is space in an existing carport and driveway to accommodate at least three vehicle parking spaces.

- 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 2415 S. Shiloh 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 304 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in R-A zoning, so this short-term rental would contribute to the city-wide density cap. 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. The property is accessed by a driveway that is long enough to accommodate four vehicle parking spaces, and staff does not anticipate any on-street parking since the house associated with this request is located over one-tenth of a mile away from the nearest public street. There are no active short-term rentals within a quarter-mile radius of the property and no zoning or code violations have been issued to date.

§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 shared private driveway. There are no existing sidewalks in the immediate vicinity, though the City's Active Transportation Plan calls for a future trail connection along the south side of the property between Shiloh Drive to the north and the Cato Springs Trail to the south. Staff finds that this proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of ten 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 at least three guest vehicle parking spaces available in an existing carport and 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 isolated from nearby residences and there appears to be adequate parking to accommodate the number of guests permitted. Since the R-A zoning district does not allow hotel/motel uses by right, 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
 - §161.03 District R-A, Residential-Agricultural
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Type 2 STR Concentration Exhibit
- Applicant Request Letter
- Building Floor Plan
- Building Elevations
- 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)

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)

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.

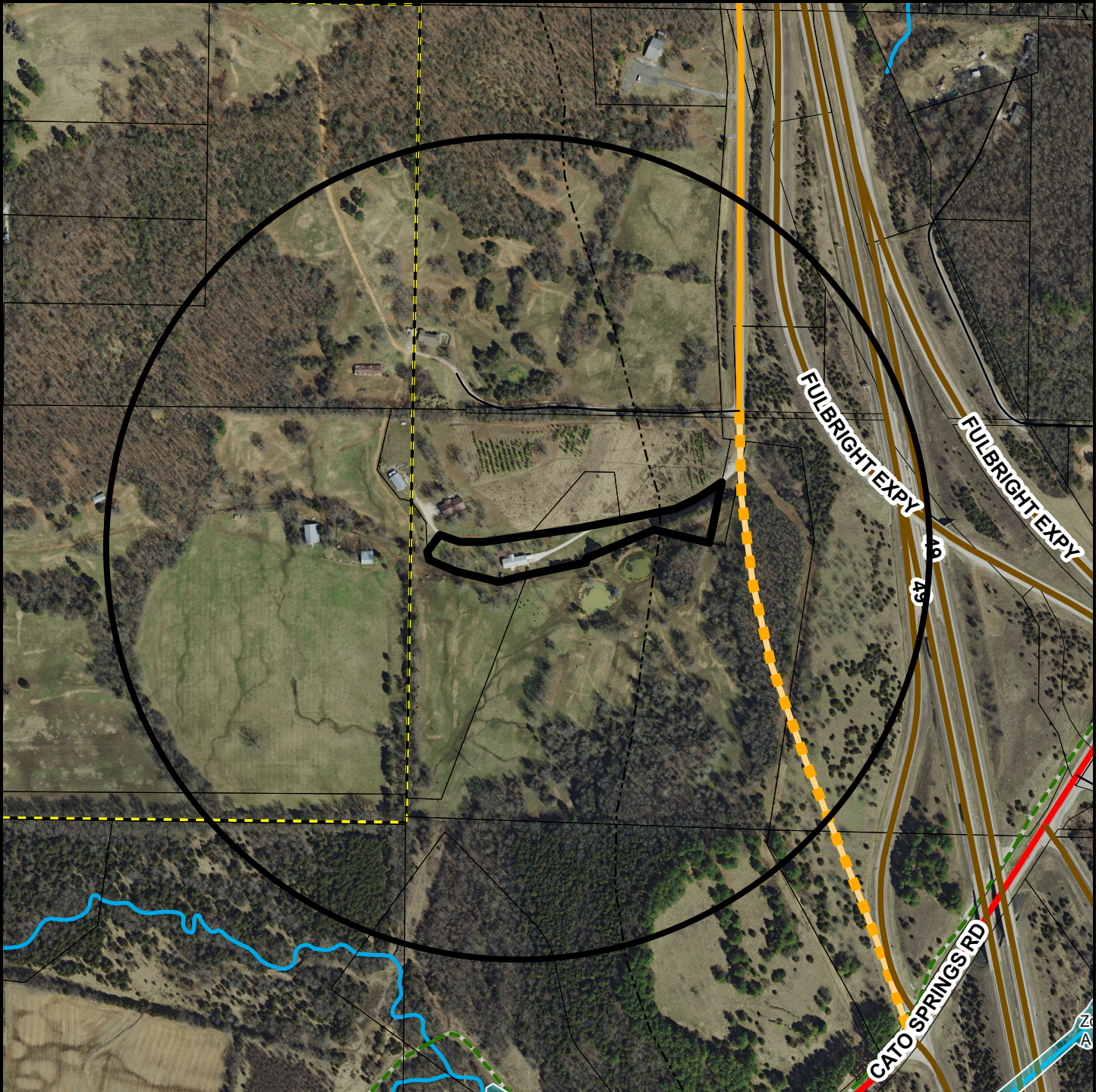
Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (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)

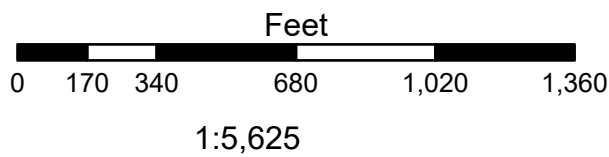
CUP-2022-0127

2415 S. SHILOH DR

Type 2 STR Concentration



- Type 2 Short-Term Rental
- Regional Link
- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Fayetteville City Limits
- Design Overlay District



Stefanie De Los Angeles

2415 S. Shiloh Drive

Fayetteville, AR 72701

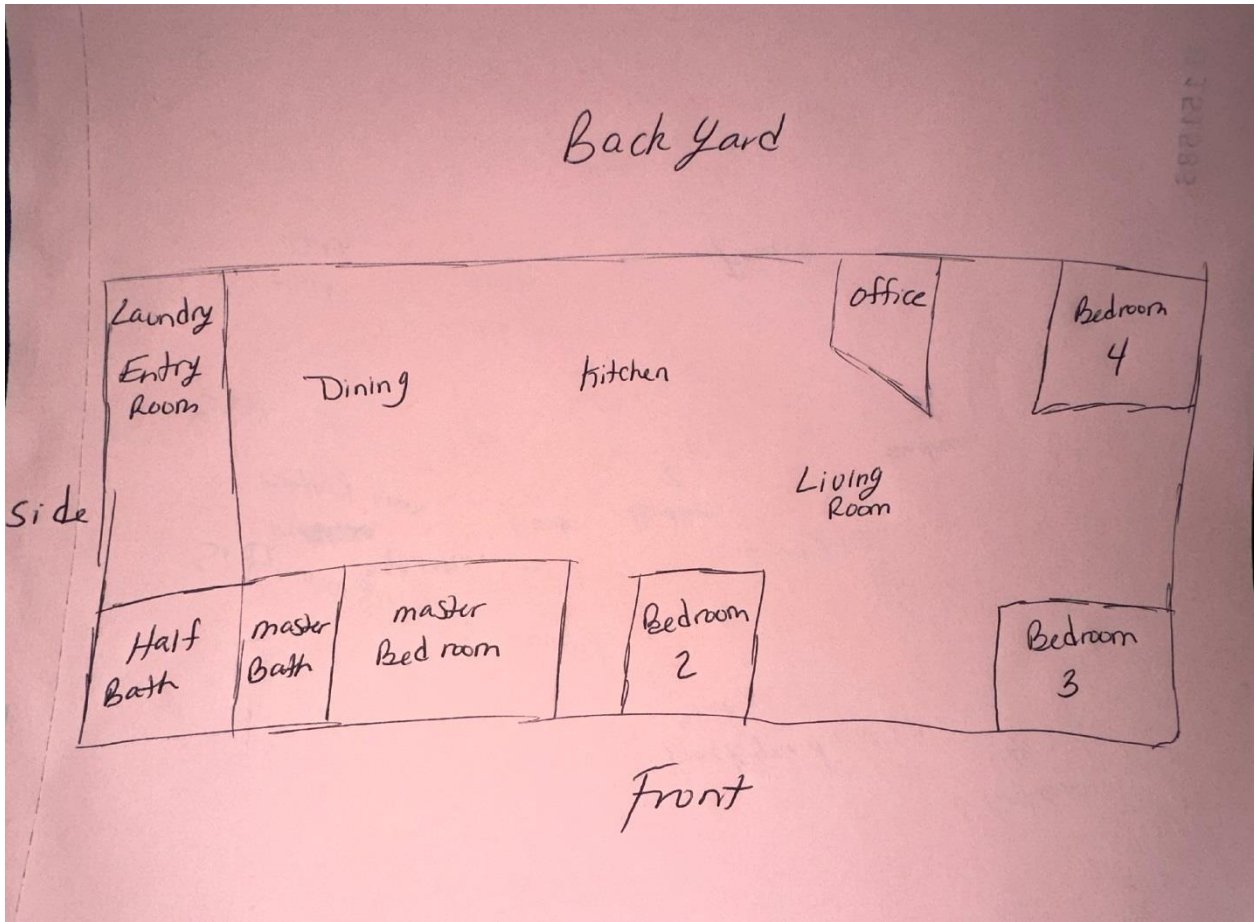
- (A) 2,128 Sqft
- (B) White Exterior
- (C) 3 parking spaces
- (D) 1. Hours of operation- upon request
2. Number of employees- possibly 1
3. No patrons, possibly 1-2 customers per week
- (E) Spotlight on each door (3), 1 street light
- (F) Quiet street
- (G) NONE
- (H) Trash pick up every Wednesday before 11:00AM
- (I) NONE
- (J) Had a short discussion with my neighbor about using my home as an Airbnb

Photos of Property:

[https://www.realtor.com/realestateandhomes-detail/2415-S-Shiloh-Dr Fayetteville AR 72701 M88801-81689?cid=eml_saf_property_detail](https://www.realtor.com/realestateandhomes-detail/2415-S-Shiloh-Dr_Fayetteville_AR_72701_M88801-81689?cid=eml_saf_property_detail)

County Parcel Map

<https://arcserv.co.washington.ar.us/portal/apps/webappviewer/index.html?id=938d4bc3cd6e4676a17b0370086cbb15&extent=663064.466%2C626914.6472%2C664731.1327%2C627643.8139%2C102651>



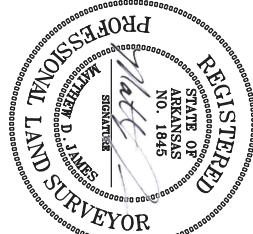


P.O.C.
COMPUTED POINT
NW CORNER
SW 1/4 NW 1/4
SECTION 29
T-16-N, R-30-W
PER PLAT 97-025045

LEGEND

- MONUMENT FOUND (AS NOTED)
- MONUMENT SET (AS NOTED)
- ADJ. R.O.W. MONUMENT
- UTILITY POLE
- TELEPHONE RISER
- FIRE HYDRANT
- WATER SPOUT
- WIRE FENCE
- OVERHEAD ELECTRIC LINE
- PROPERTY LINES
- EASEMENT

SCALE: 1" = 100'

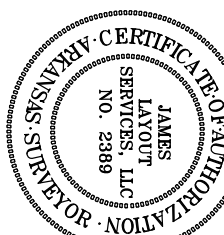
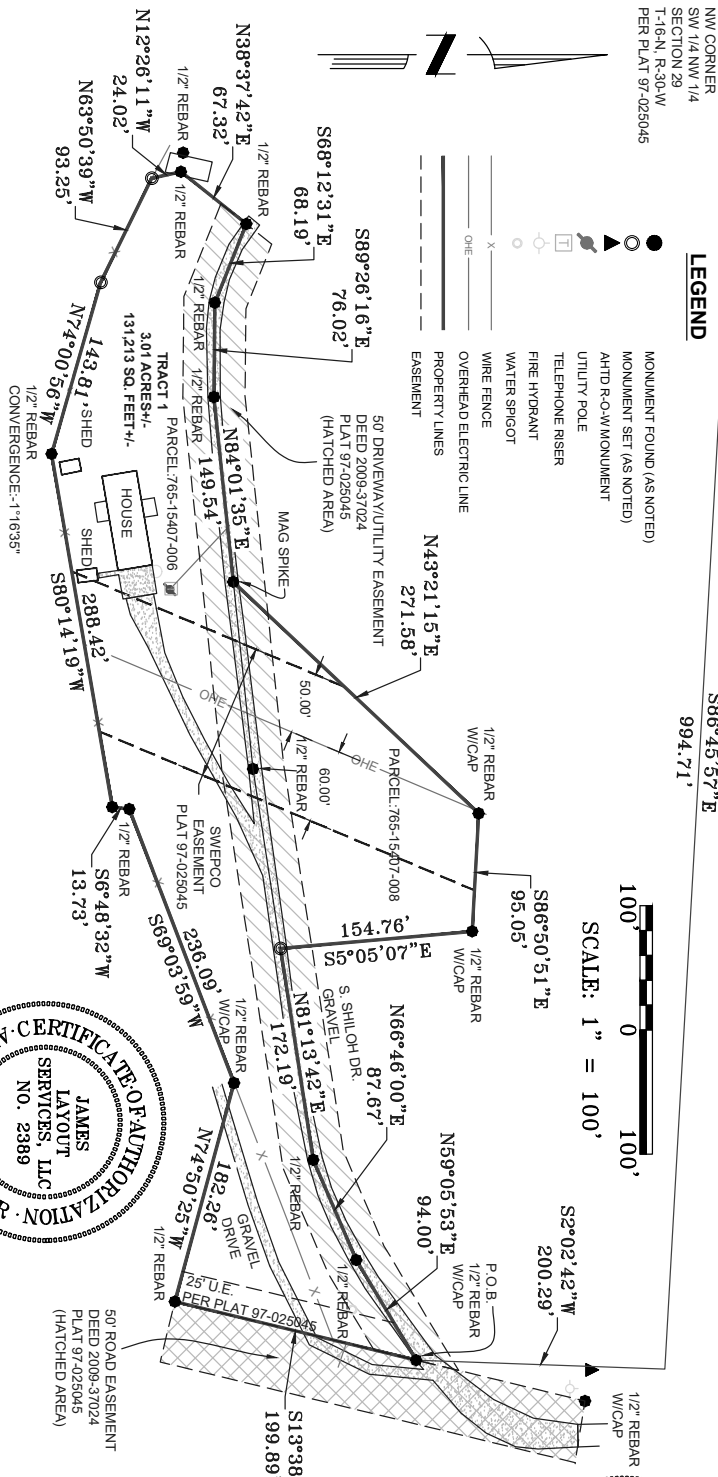


Recording Information

Planning Commission
February 13, 2023

CUP-2022-0127 (DE LOS ANGELES)

Page 16 of 334

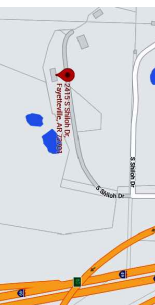


TRACT 1 SURVEY DESCRIPTION:
A PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 29, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST (NW) CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 29, THENCE SOUTH 86°45'57\"/>

Notes:

- Except as specifically stated or shown on this plat, the survey does not purport to reflect any of the following which may be applicable to the subject real estate:
Easements, other than possible easements which were visible at the time of making of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, or any other facts which an accurate and current title search may disclose.
- Every document of record reviewed and considered as a part of this survey is noted hereon. Only the documents noted hereon were supplied to the surveyor.
- This plat represents a boundary survey of the parcel recorded in Deed Records, Book 2022, Page 4413 & Book 2009, Page 37024 at the Office of the Circuit Clerk, Washington County, Arkansas.
- Basis of Bearings: Arkansas State Plane System North Zone (NAD83).
- This survey is valid only if the drawing includes the seal and signature of the surveyor.
- This survey meets current Arkansas Minimum Standards for Property Boundary Surveys and Plats."
- No abstract of title, nor title commitment, nor results of title searches were furnished to the surveyor. There may exist other documents of record which would affect this parcel.
- Declaration is made to the original purchaser of the survey and is not transferable to any additional institutions or subsequent owners.
- No attempt was made to show building setback lines graphically on the survey.
- Subsurface and environmental conditions were not examined nor considered a part of this survey.
- No attempt has been made as a part of this boundary survey to obtain or show data concerning existence, size, depth, condition, capacity, or location of any utility or facilities.

Vicinity Map

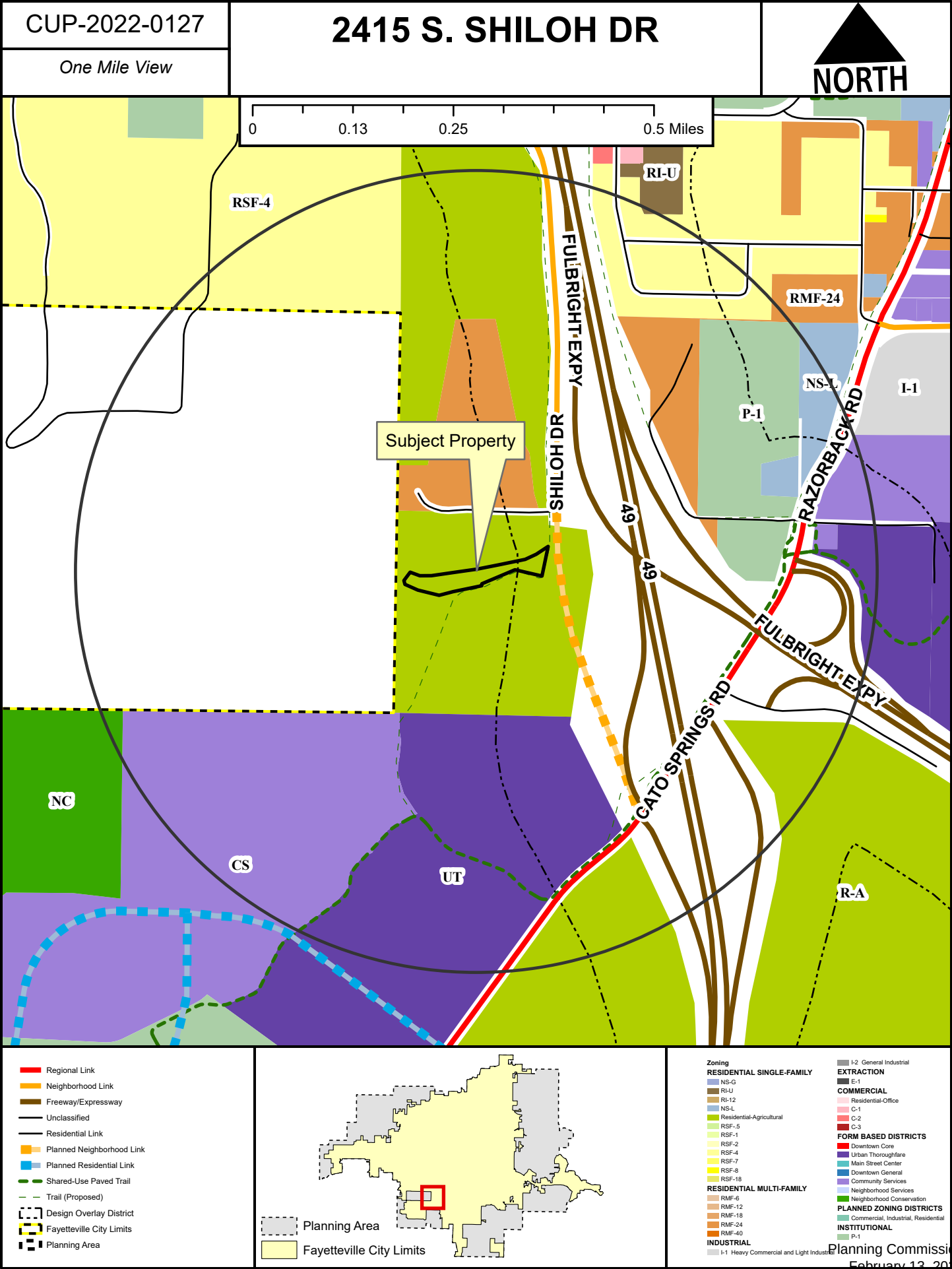


Boundary Survey for: Payton Parker

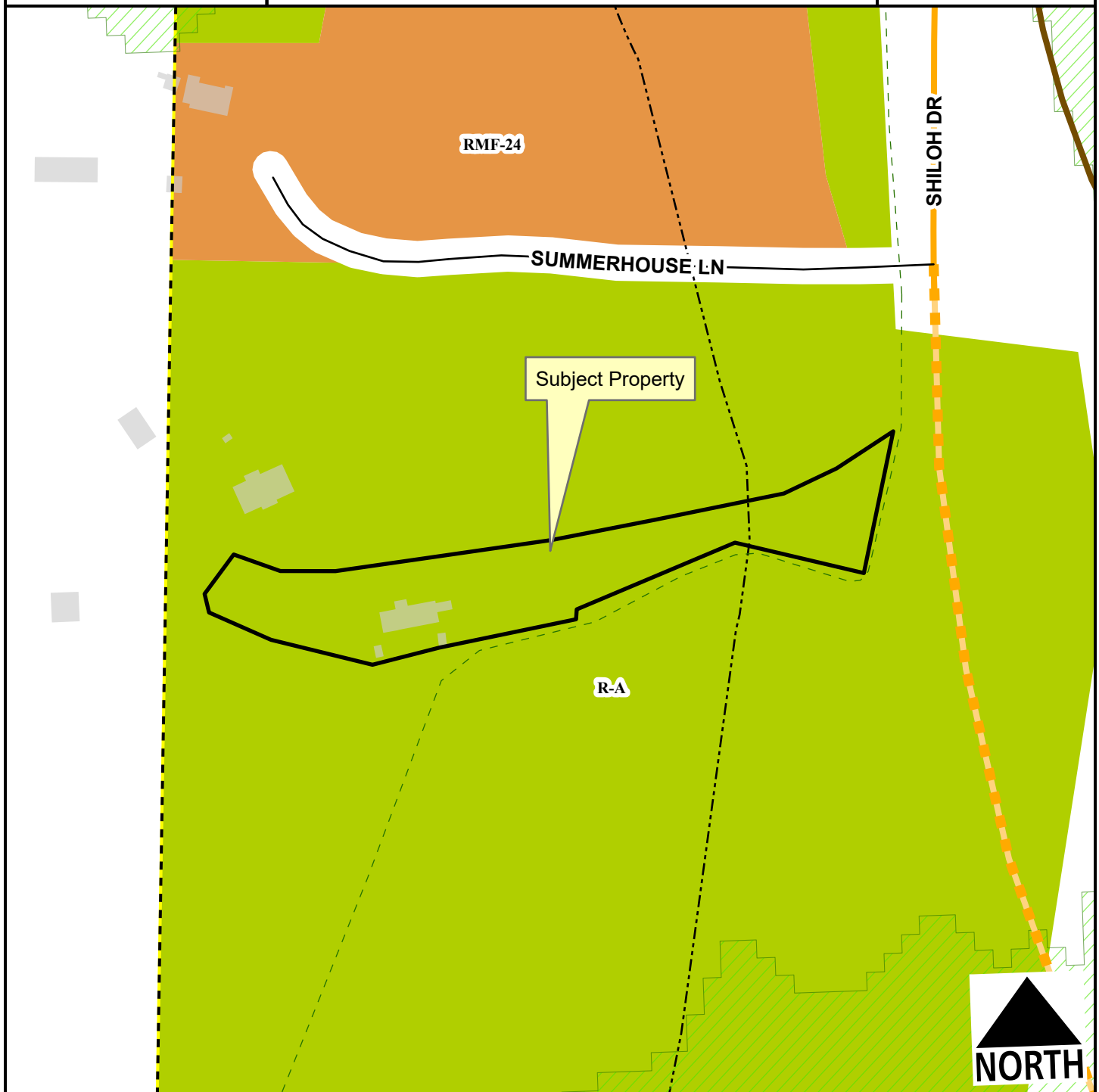
State Filing Code:
500-16N-30W-0-29-420-72-1845

JLS
James Layout Services, LLC
P.O. Box 611
Farmington, Arkansas 72730
Telephone: (479) 439-9829
survey@jlsnw.com

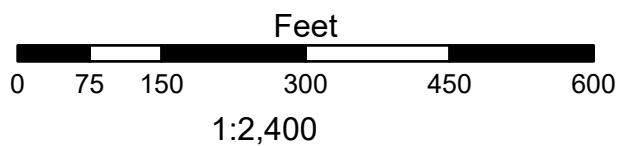
Proposed Date	22-16BNDY
Job Number	06/03/2022
Date	System: AR SPC North Zone
Field Op.	W.A.
Drawn By	N.R.
Checked By	M.J.
Scale	1"=100'
Sheet	1 of 1
Revision	0



Close Up View



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



- Residential-Agricultural
- RMF-24

CUP-2022-0127

2415 S. SHILOH DR

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

CUP-2022-0127 (DE LOS ANGELES)

Page 19 of 34



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: February 13, 2023

SUBJECT: **CUP-2023-0002: Conditional Use Permit (2300 N. BRIARWOOD LN./STEINWEG, 330):** Submitted by EMERY STEINWEG for property located at 2300 N. BRIARWOOD LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 0.32 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0002** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0002**, 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 North Ridge Subdivision on the east side of Briarwood Lane, about 500 feet south of the street's intersection with Township Street. The property contains approximately 0.32 acres and is currently developed with a 2,148-square-foot, three-bedroom house. 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**

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-2023-0002** 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>February 13, 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 RSF-4 zoning.

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 Business Regulations §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-.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, 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 RSF-4 zoning.

- 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 three bedrooms, occupancy will likely be limited to a maximum of eight 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 that parking be limited as described in UDC §163.18(A)(4). Parking for single-family homes is required to be provided at a rate of two spaces per unit. According to the applicant, there are two spaces available in an attached garage and two additional spaces available in an adjacent 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 2300 N. Briarwood Ln. 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 304 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in the underlying RSF-4 zoning district, so this short-term rental would contribute to the city-wide density cap. 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 public street that is wide enough to accommodate on-street parking. City business license records indicate that one other house within a quarter-mile radius has an active Type 2 short-term rental business license. Three code case violations have been reported on this property for junk and debris in the front yard, and one code case violation has been reported for storage of an inoperable vehicle. However, ownership of the property has changed since those violations were reported.

§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 Briarwood Lane and there is a sidewalk present on the east side of the street. 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.

- (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, 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 the RSF-4 zoning district. 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 RSF-4 zoning district 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
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Type 2 STR Concentration Exhibit
- Applicant Request Letter
- Building Floor Plan
- 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)

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
-------------------------	-----------

(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."

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.

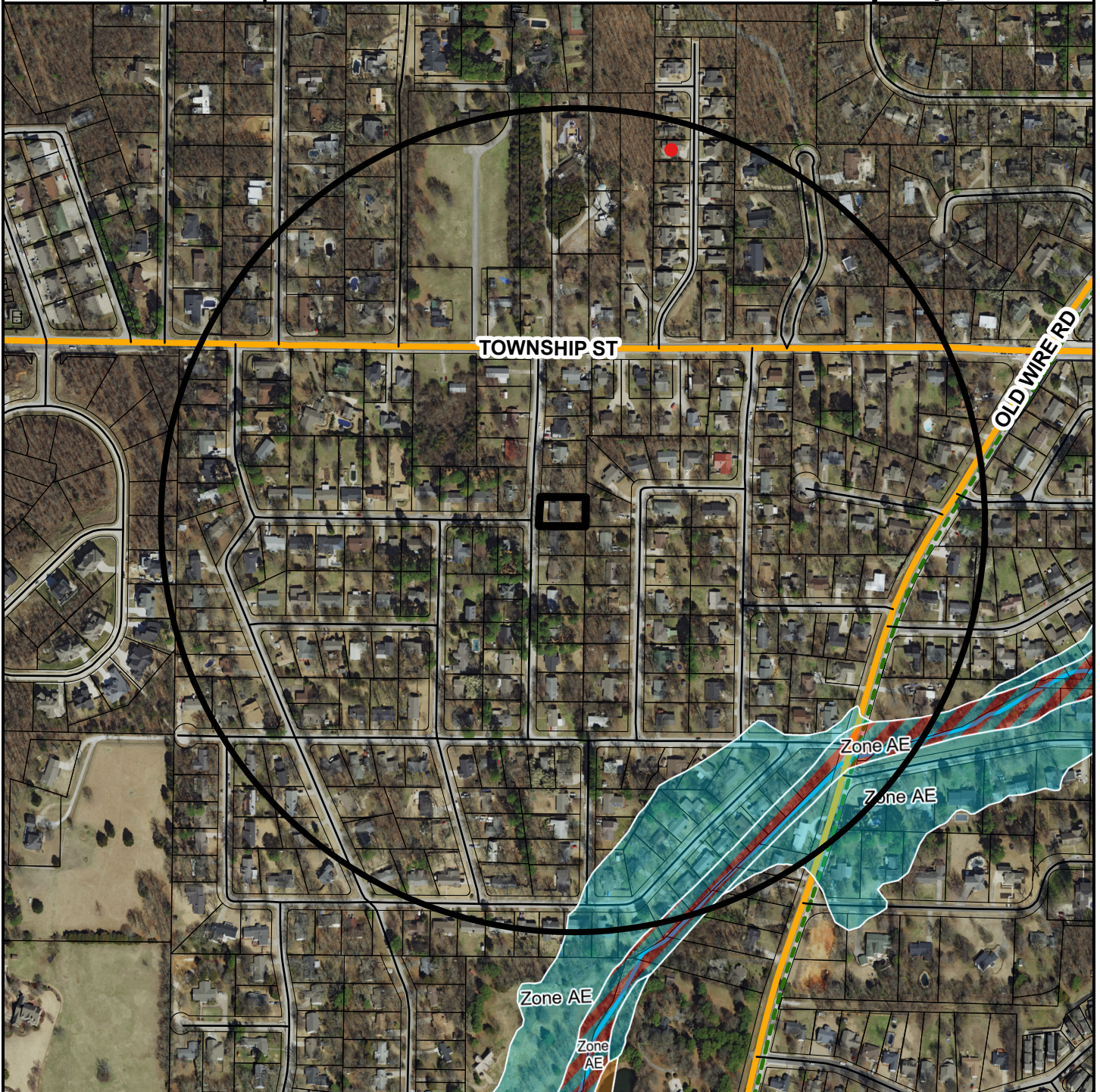
- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special 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)

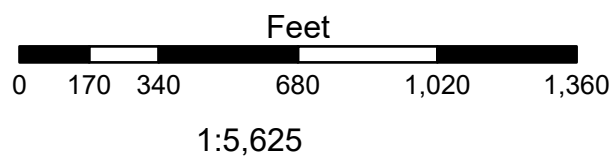
CUP-2023-0002

2300 N. BRIARWOOD LN

Type 2 STR Concentration



- Type 2 Short-Term Rental
- Neighborhood Link
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits



Hannah Collazo and Emery Steinweg are applying for a Conditional Use Permits - General

Legal description of property: Subdivision Lots 2 Block A, North Ridge Subdivision,
Washington County, Arkansas

Address: 2300 N. Briarwood Lane Fayetteville AR 72703

Request Letter

(a) Building size in square feet; existing and proposed

2,148 sqft

(b) Color elevations of all exterior sides of the structure

All exterior sides of the structure are white: See images below



Continued on next page.



(c) Number of off-street parking spaces to be provided / number required

2 off-street parking spots & 2 spots in the driveway of the house. See street view below.



(d) When request applies to a business or non-residential use:

-Hours of operation n/a

-Number of employees n/a

-Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour) n/a

(e) Outdoor lighting

3 exterior lights on the exterior of the house facing N. Briarwood Ln. and 1 exterior light facing the backyard



(f) Noise

Will comply with applicable local noise ordinance

(g) Screening or buffering from adjacent properties

A metal fence has been installed along the property border to differentiate property from bordering neighbors.



Continued on the next page.



(h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)

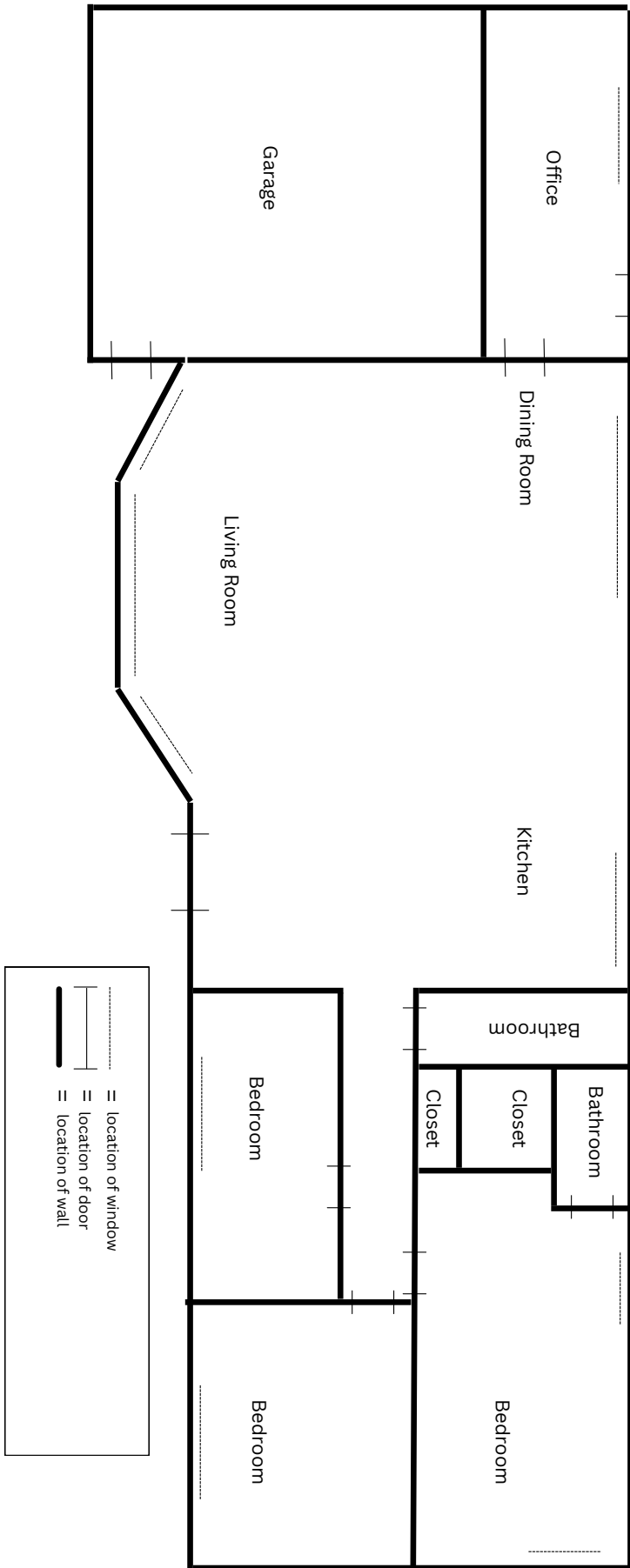
Residential trash services the property once a week (Monday mornings)

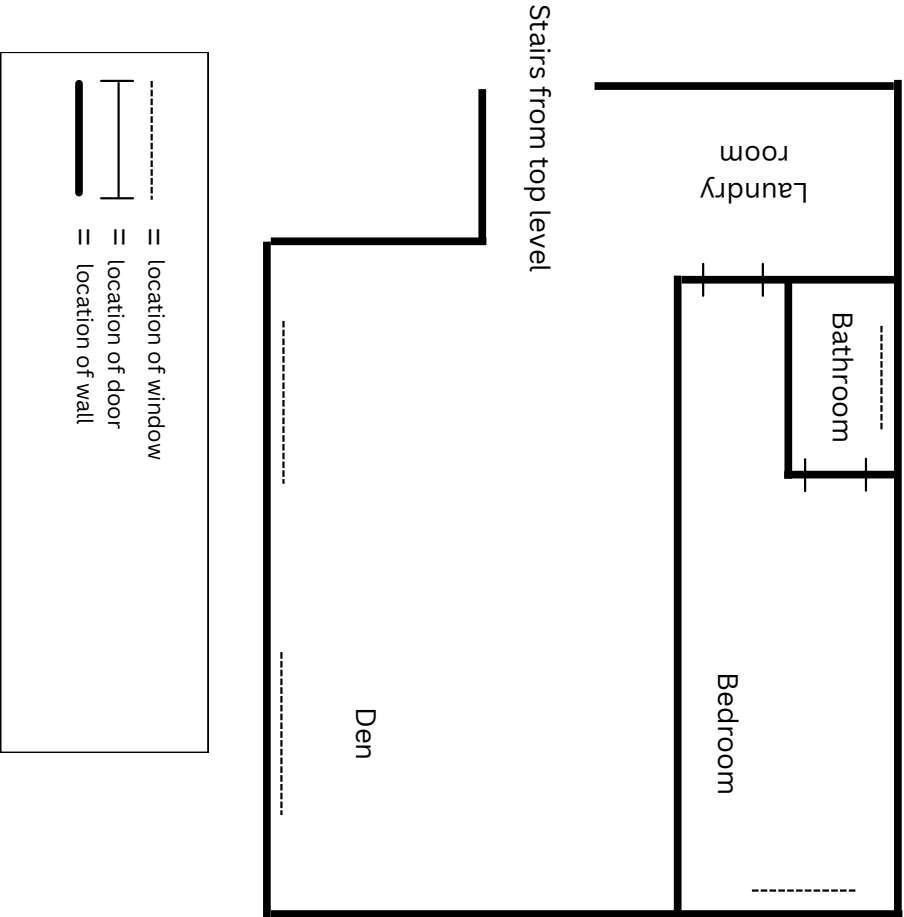
(i) Ingress and egress to the property; traffic impacts

Traffic impacts will not exceed the number of parking the residence can reasonably accommodate (see e)

(j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood

The property will not be utilized in any way not compatible with a residence. The proposed use is to accommodate up to, but no more than the assigned occupancy limit for the property for residential use.





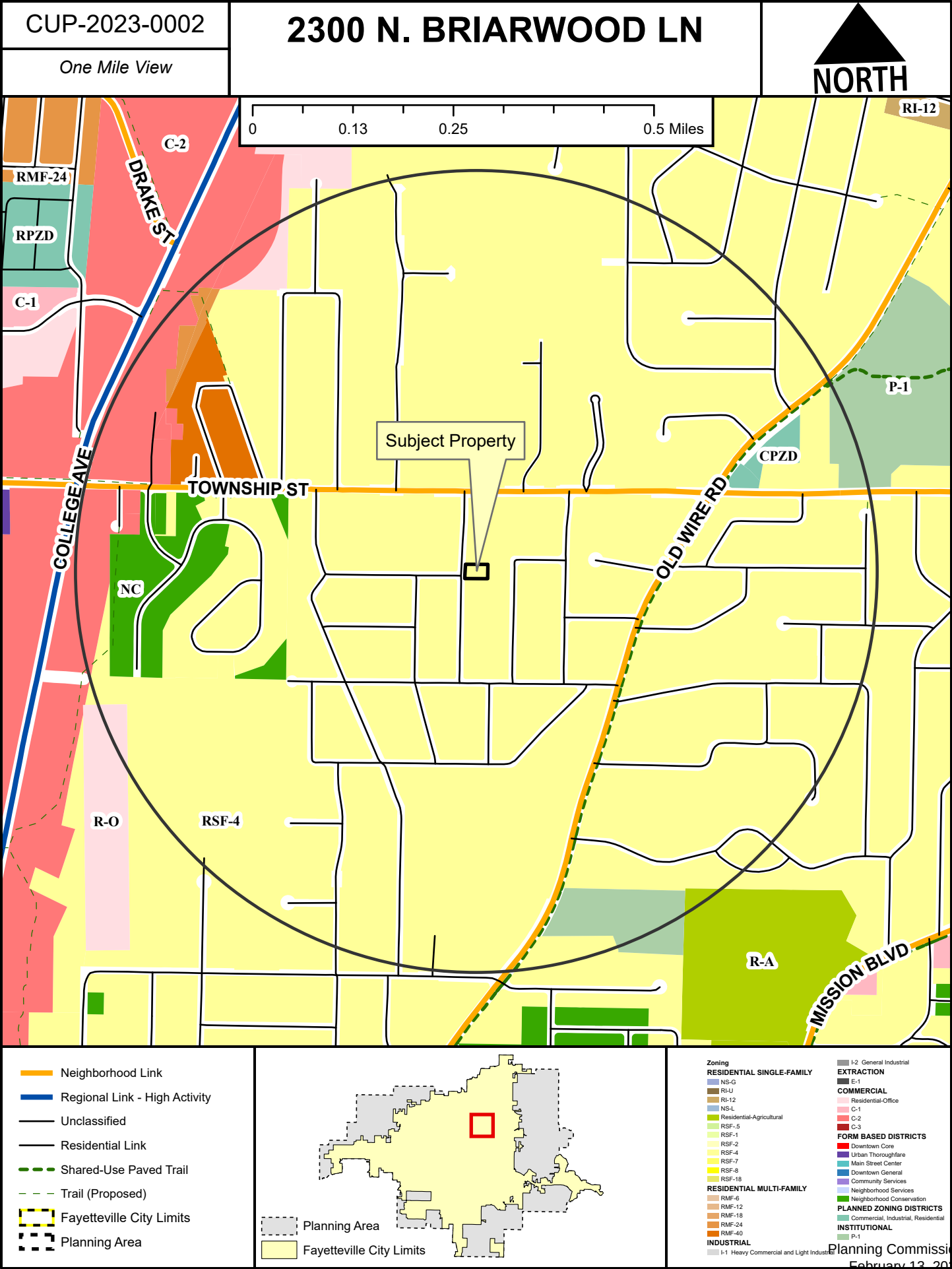


2 parking spots here

2 parking spots here

Outdoor light on front porch and garage

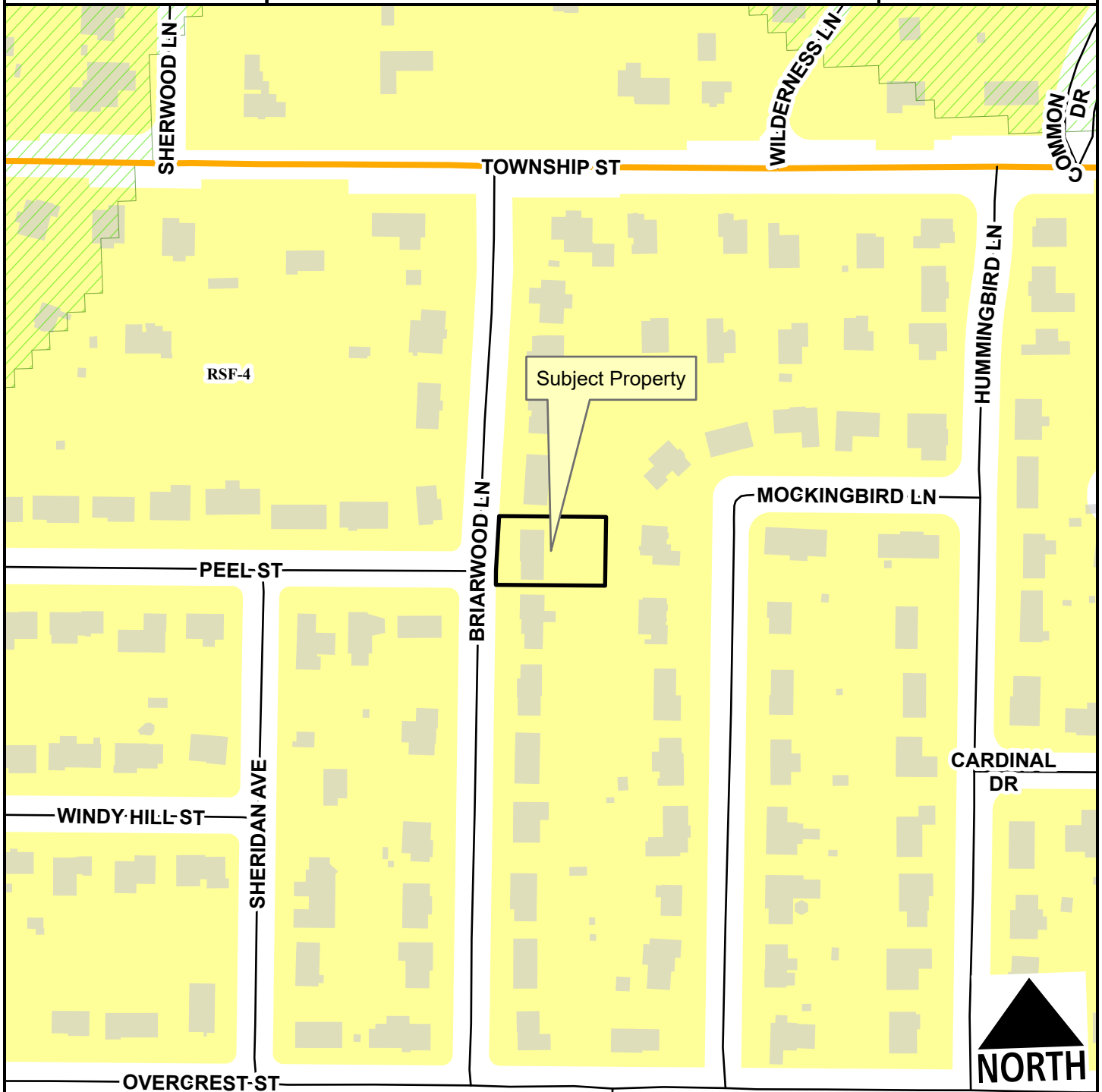
Structure (only one on the property)



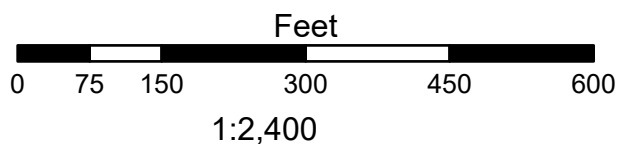
CUP-2023-0002

2300 N. BRIARWOOD LN

Close Up View



- Neighborhood Link
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



RSF-4

CUP-2023-0002

2300 N. BRIARWOOD LN

Current Land Use



-  Neighborhood Link
-  Unclassified
-  Residential Link
-  Planning Area
-  Fayetteville City Limits



FEMA Flood Hazard Data

-  100-Year Floodplain
-  Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 13, 2023

SUBJECT: **CUP-2022-0135: Conditional Use Permit (1605 N APPLEBURY DR, / COOPER, 409):** Submitted by ADRIA COOPER for property located at 1605 N. APPLEBURY DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.60 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0135** based on the findings in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0135 with conditions, determining:***

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

BACKGROUND:

The subject property is located approximately ¼ mile SE of Root Elementary School. The property is zoned RSF-4, Residential Single Family- Four Units per Acre. The 2,576 square foot single-family structure was constructed in 1973. 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 / Acre
South	Single-family Residential	RSF-4, Residential Single Family – 4 Units / Acre
East	Single-family Residential	RSF-4, Residential Single Family – 4 Units / Acre
West	Single-family Residential	RSF-4, Residential Single Family – 4 Units / Acre

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.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0135**. 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 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. Limit tenant occupancy to eight (8) 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.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
Date: <u>February 13, 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, Use Unit 46, in zoning. Use Unit 46 (Type 2) is a conditional use in the RSF-4 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). The residence is a three-bedroom structure per the Washington County Assessor, which limits the occupancy to eight (8).

(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. A two-car garage and 60' long driveway is available on property.

(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: Staff recommends a condition prohibiting special events at the proposed short-term rental facility. The narrative submittal is consistent with this condition.

(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 1605 N Applebury 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.

(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 304 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the Residential Single Family- Four (4) Units per Acre Zoning District (RSF-4), so this short-term rental will contribute to the city-wide density cap. Since it is single family 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 property has a two-car garage and a 60-ft long driveway available for parking. The maximum number of vehicles allowed by the STR ordinance could be parked on the property. The applicant states that neighbors often park on the street; however due to the adjacent intersection, potential sight line issues because of heavy tree / landscaping on the property across the street, and the narrowness of the street, on-street parking is not recommended by staff at this location.

There are zero (0) other type 2 short-term rentals within the 0.25 miles of the subject property. 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 is unlikely to negatively affect traffic flows given the availability of on-site parking and the location of the driveway on the far side of the lot from the street intersection.

- (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 dwelling has a two-car garage and driveway available for off-street parking. 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.

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

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

- (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 compatible with the surrounding properties. The property has adequate on-site parking to meet the anticipated needs for a short-term rental including garage parking. Further, screening is available for trash and other services that should remain hidden from the public right-

of way and the applicant's submittal suggests that the use of the property as a short-term rental will not create a public nuisance to the adjacent properties.

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 - Four (4) Units Per Acre
- Applicant Request Letter
- Building Floor Plans
- Site Map
- Elevations
- Corner Conditions Exhibit
- STR Adjacency Map
- 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
-------------------------	-----------

(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)

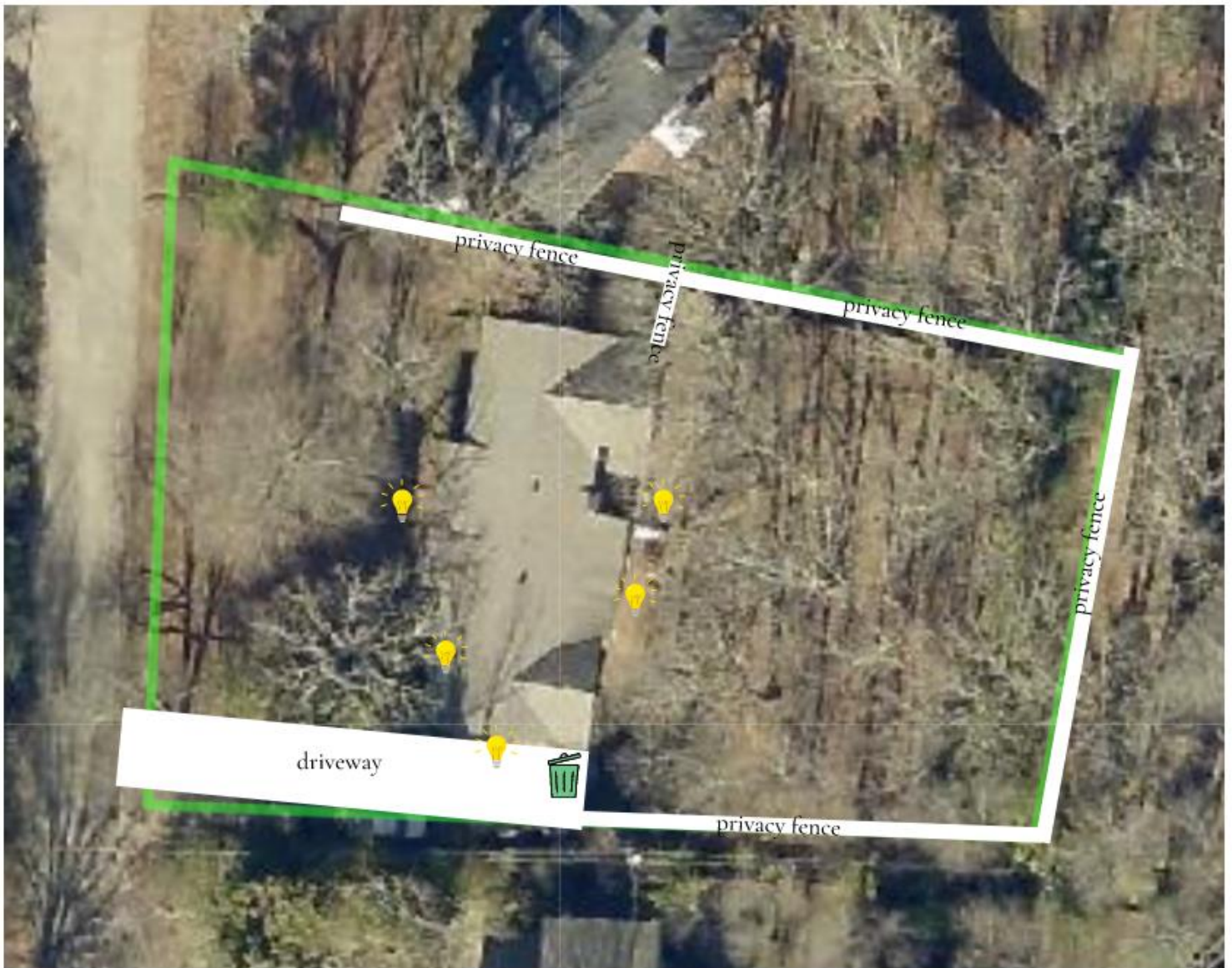
Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior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

I am proposing to utilize our property at 1605 N. Applebury Drive as a short term rental type 2. The house is 2250 square feet, and we are not proposing to make any changes to the home's size or structure. Below are images which illustrate the elevation of the home. Regarding parking, there is a driveway where guests will park. Additionally, they could park on the street, as many of our neighbors do. I would estimate there would be room for up to four cars to park on the street, although it would not be necessary. I have attached an illustration below that shows the outdoor lighting, the trash (which is not visible by neighbors or from the street), and the privacy fence that provides a buffer from the neighbors. We do not expect noise to be an issue, as our plan is to rent to families, and we will not allow pets. We live five minutes away and will be keeping a close eye on the property. There should not be an impact to traffic, as the vehicles that will be coming and going will simply replace our vehicles which were there previously. There should be no impact to our neighbors or our neighborhood.

Building Floor Plans



Site Plan



Legend



Elevations



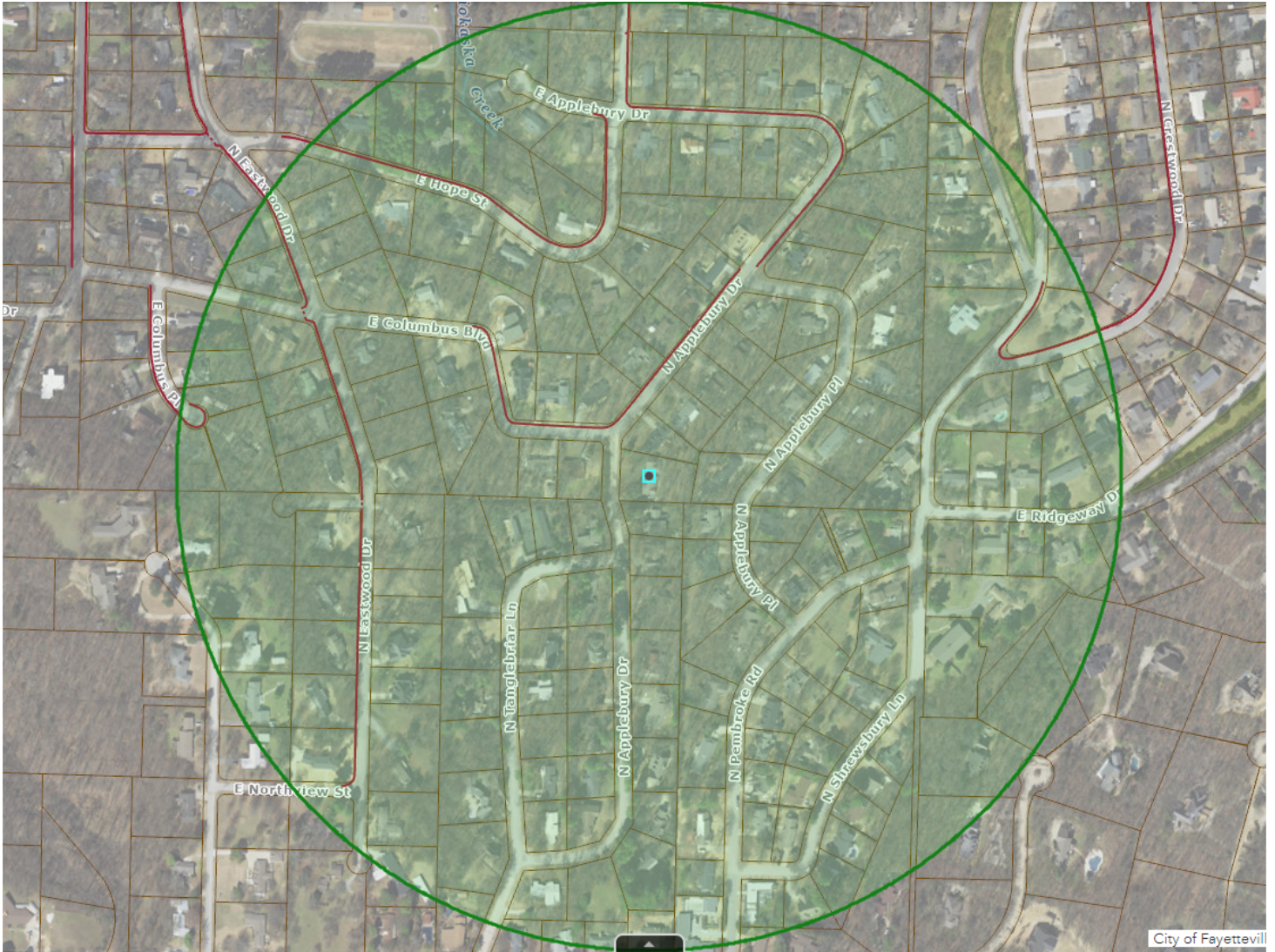
Corner Conditions



CUP-2022-0135
STRS WITHIN 1/4 MILE

1605 N Applebury Dr

STRS WITHIN 1/4 MILE



City of Fayettevill



Number of STR Licenses

Contributing to 2% density cap	0
--------------------------------	---

NOT contributing to 2% density cap	0
------------------------------------	---

Total	0
--------------	----------

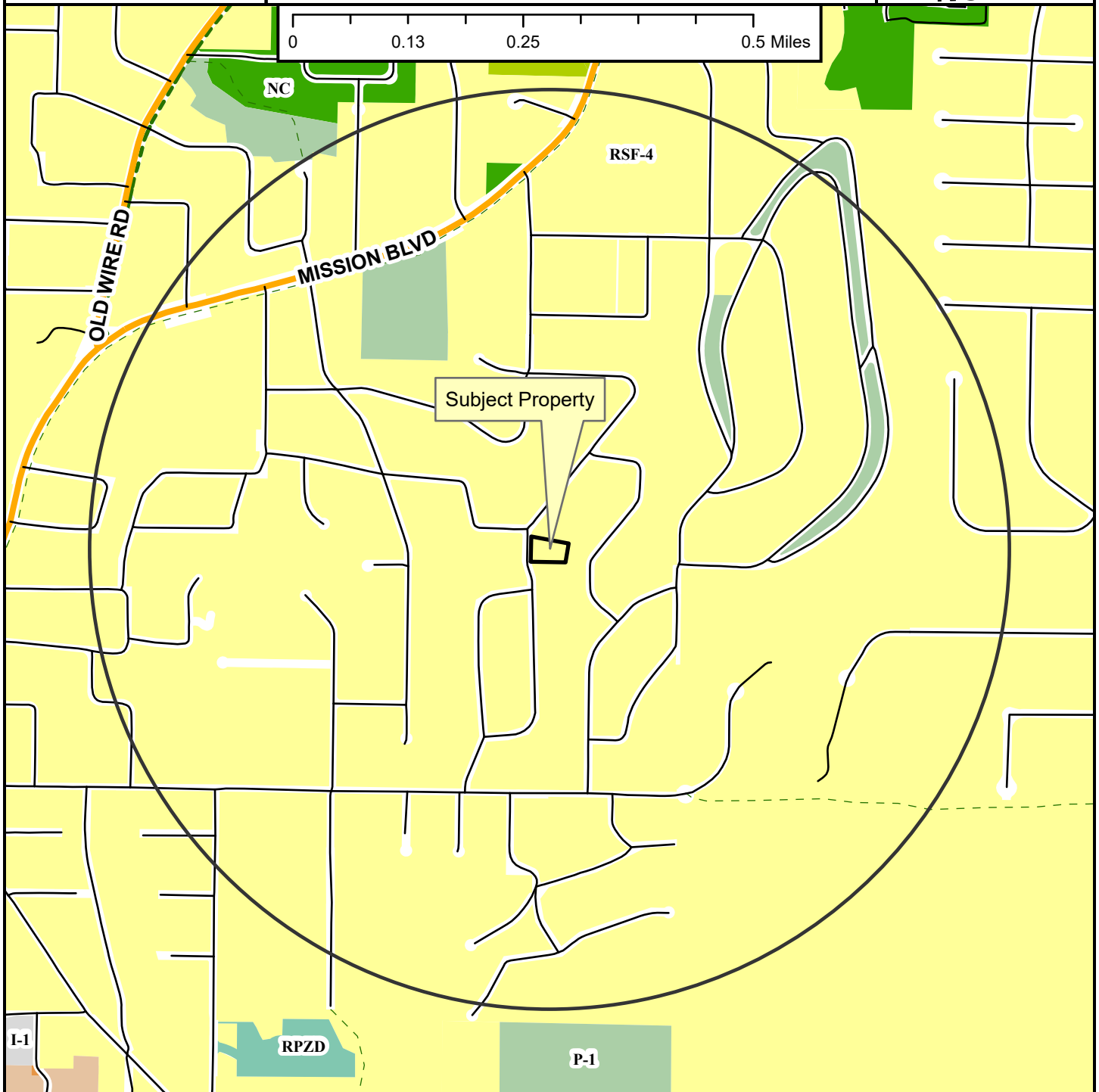
CUP-2022-0135

1605 N. APPLEBURY DR

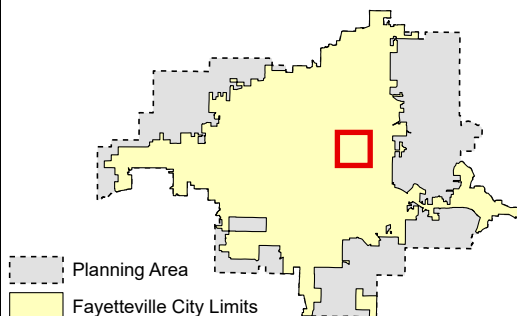
One Mile View



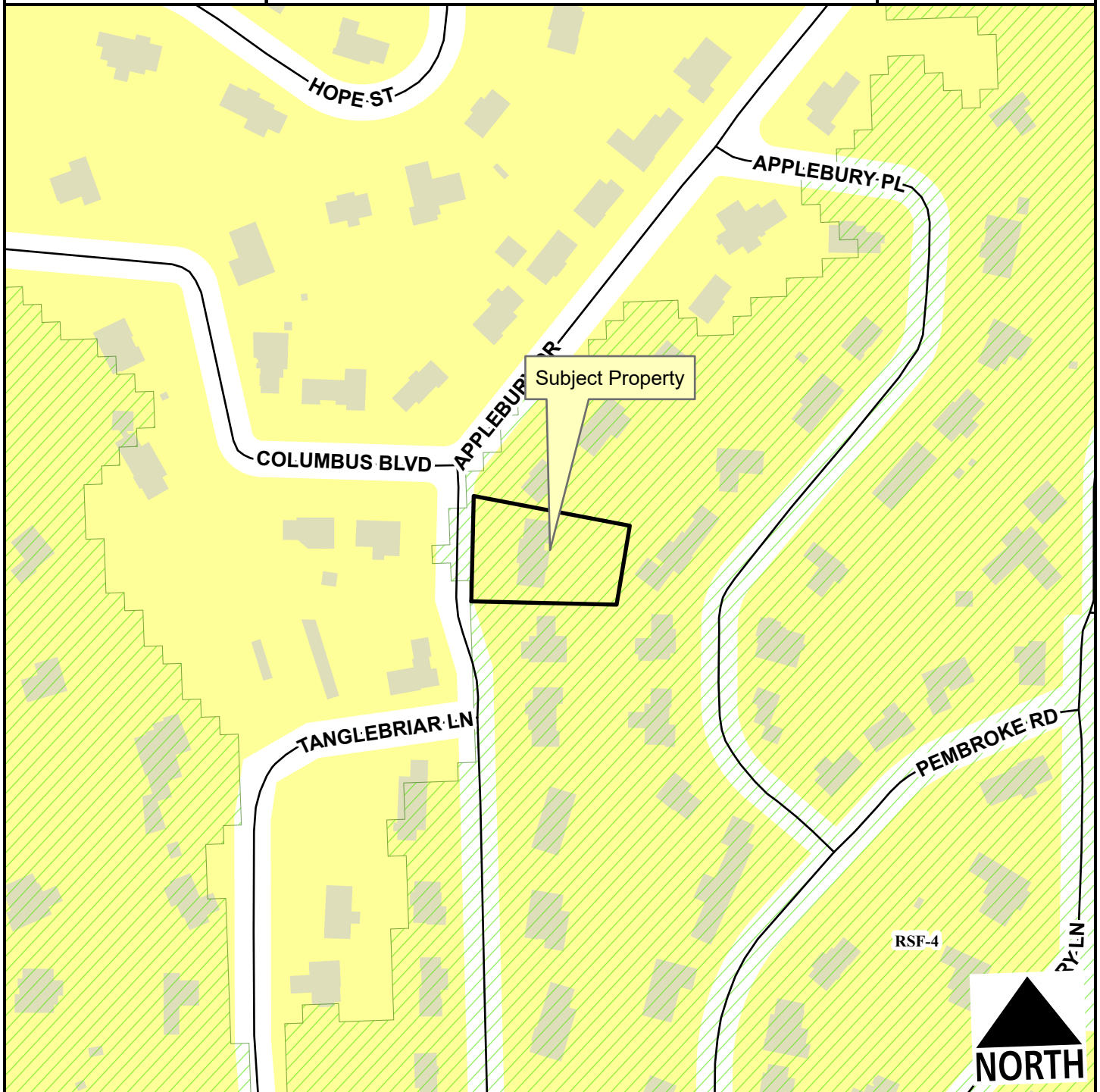
0 0.13 0.25 0.5 Miles



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



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



- Residential Link
- ▨ Hillside-Hilltop Overlay District
- ▤ Planning Area
- ▤ Fayetteville City Limits

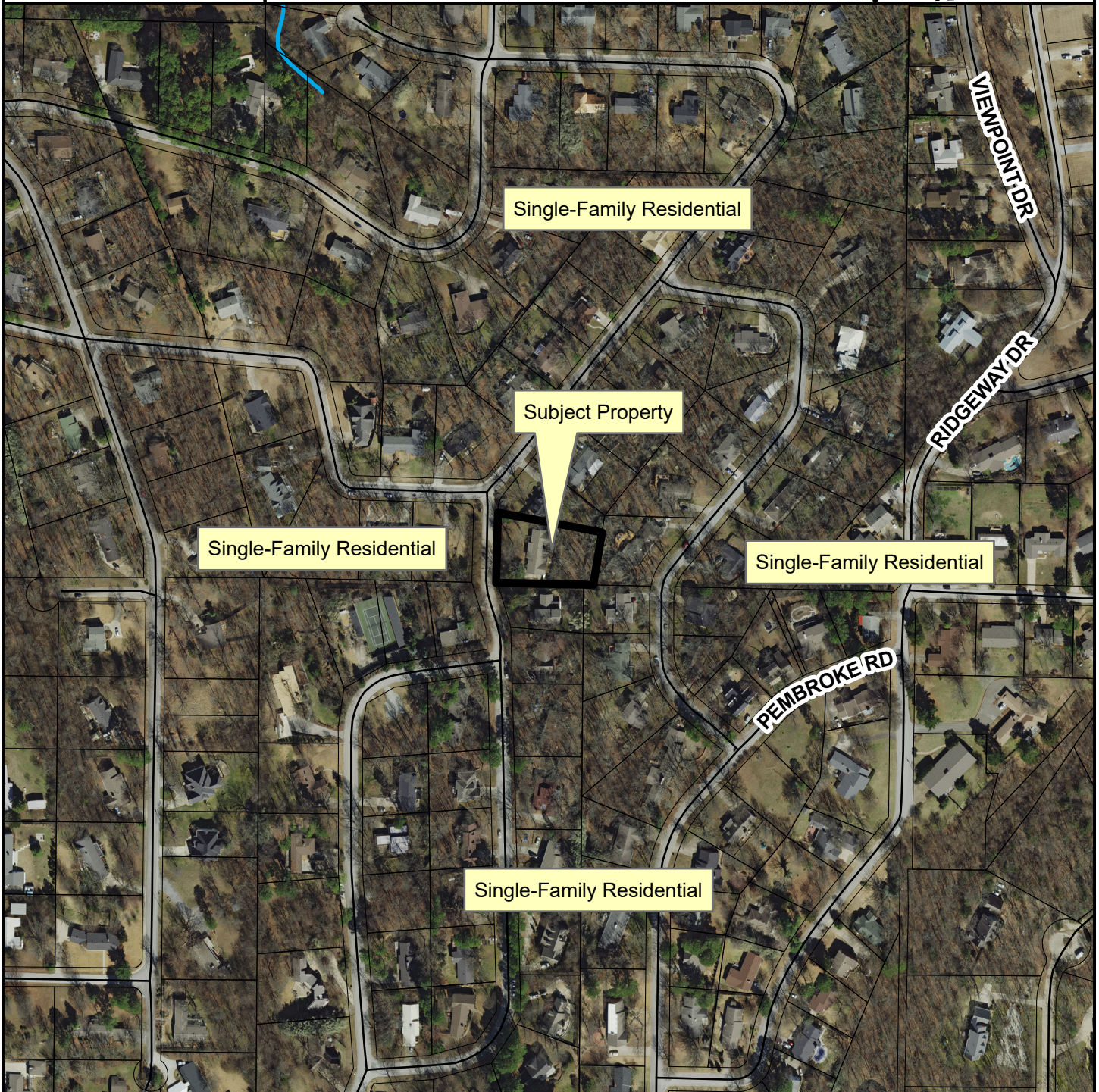


RSF-4

CUP-2022-0135

1605 N. APPLEBURY DR

Current Land Use



- Unclassified
- Residential Link
- - - Planning Area
- ▭ Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 13, 2023

SUBJECT: **CUP-2023-0001: Conditional Use Permit (1254 S. IVORY BILL LN/ THORPE, 564):** Submitted by STEPHANIE STRACK INTERIORS for property located at 1254 S. IVORY BILL LN. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.11 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0001** based on the findings in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0001** with conditions, determining:*

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

BACKGROUND:

The subject property is located approximately 0.6 miles east of Walker Park in the Park Meadows subdivision. The property is zoned NC, Neighborhood Conservation. The 2,020 square foot single-family structure was constructed in 2019. 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: **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.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0001** based on the findings in this report, 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. Limit tenant occupancy to eight (8) 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. The number of vehicles shall be limited by the underlying zoning (two cars per dwelling unit). Parking shall be restricted to either the garage or driveway.
10. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>February 13, 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, 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). The residence is a three-bedroom structure, which limits the occupancy to eight (8).

(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. A two-car garage and approximately 25' driveway is available on property.

(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 narrative states that special events will be prohibited at the property in compliance with city regulations.

(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 1254 S. Ivory Bill Ln. 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 304 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the NC, Neighborhood Conservation zoning district so this short-term rental will 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:

(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 property has an existing garage and an approximately 25' long driveway that should be able to park two vehicles without blocking the sidewalk. The adjacent street does not have sufficient width for on-street parking. There are three (3) other type 2 short-term rentals within the 0.25 miles of the subject property. 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 is unlikely to negatively affect traffic flows given the availability of on-site parking and multiple routes potential tenants could utilize to reach the property.

- (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 dwelling has a garage and driveway available for off-street parking. 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.

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

Finding: The property currently utilizes residential trash service, and use as a short term rental is not anticipated to impact provision of trash services.

- (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: The narrative letter provided did not address screening or buffering. Staff recommends that if the trash service is stored on the side of the home as shown, it be stored behind the privacy fence out of view of 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 existing structure permit, 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 compatible with the surrounding properties.

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
- STR Adjacency Map
- Site Map
- Building Floor Plans
- 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
--------------------	---------

(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
-------------------------	-----------

(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."

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Matt & Sara Thorpe
15 St. Charles Ct
Little Rock, AR 72211

To Whom it May Concern,

We are seeking approval to host our home as a short-term rental on 1254 S Ivory Bill Ln. My husband graduated from the U of A years ago and we have always loved the city of Fayetteville and dreamed of owning a home there. We purchased this property to be able to use when we come to Fayetteville to cheer on the Hogs. We have a large family and we wanted to cater to other big families that travel to the area and need a place where they can all stay together. We want other families to enjoy the home when we are not able to be there. Our house rules will include the following to protect not only our home but the neighbors as well.

1. A strict no party rule.
2. Quiet Hours 10pm-7am
3. No parking on the lawn.
4. Max 4 cars (2 in garage, 2 in driveway)
5. Max Occupancy of 8 people

Also, we have installed doorbell cameras at the front and rear doors so we can verify occupancy and monitor the home when we are not on site. Trash pick-up will remain residential curb side. We like to leave the front door and garage door exterior lights on, and we have added string lights to the back porch. These lights will be on a timer. We have local family and friends who will be able to help us manage the property and check on it in between our visits and will ensure our guests abide by all neighborhood rules as well as house rules. Thank you for your consideration as this is an investment that will likely turn into a home for one or more of our children that will live in it while attending the U of A in a few years.

Sincerely,



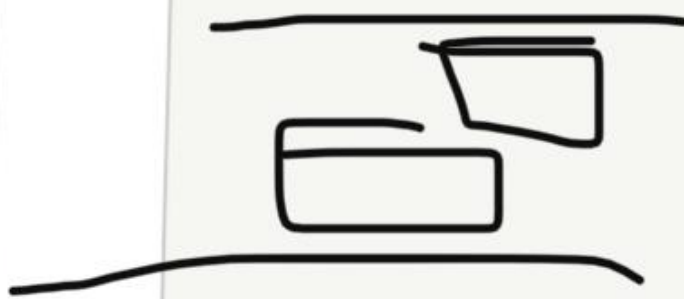
Matt & Sara Thorpe

CUP-2023-0001	1254 S Ivory Ln.	
STRS WITHIN 1/4 MILE		



Subject Property 1/4 Radius Business License Short-Term Rental, Type 2		Number of STR Licenses	
		Contributing to 2% density cap	3
		NOT contributing to 2% density cap	0
		Total	3

2 driveway parking spaces
2 garage parking spaces



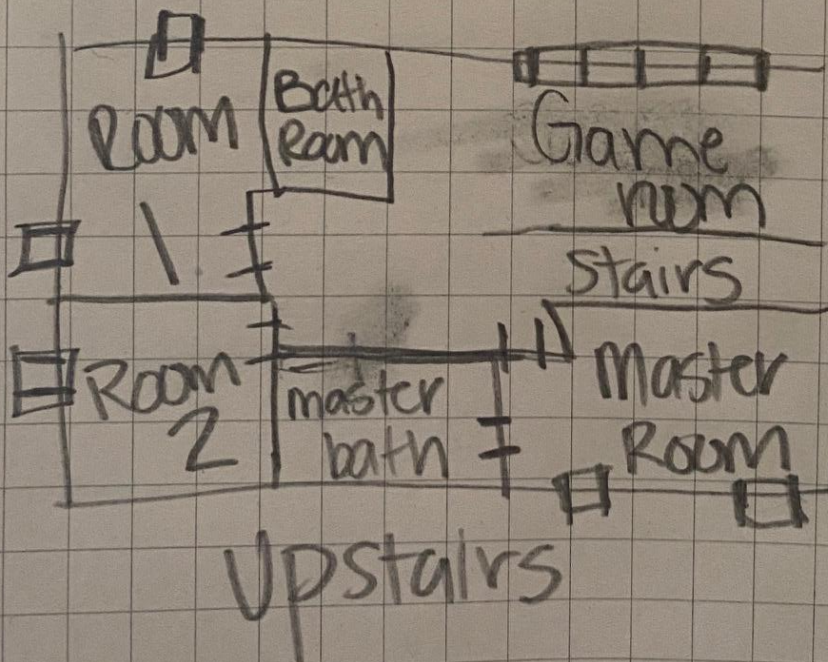
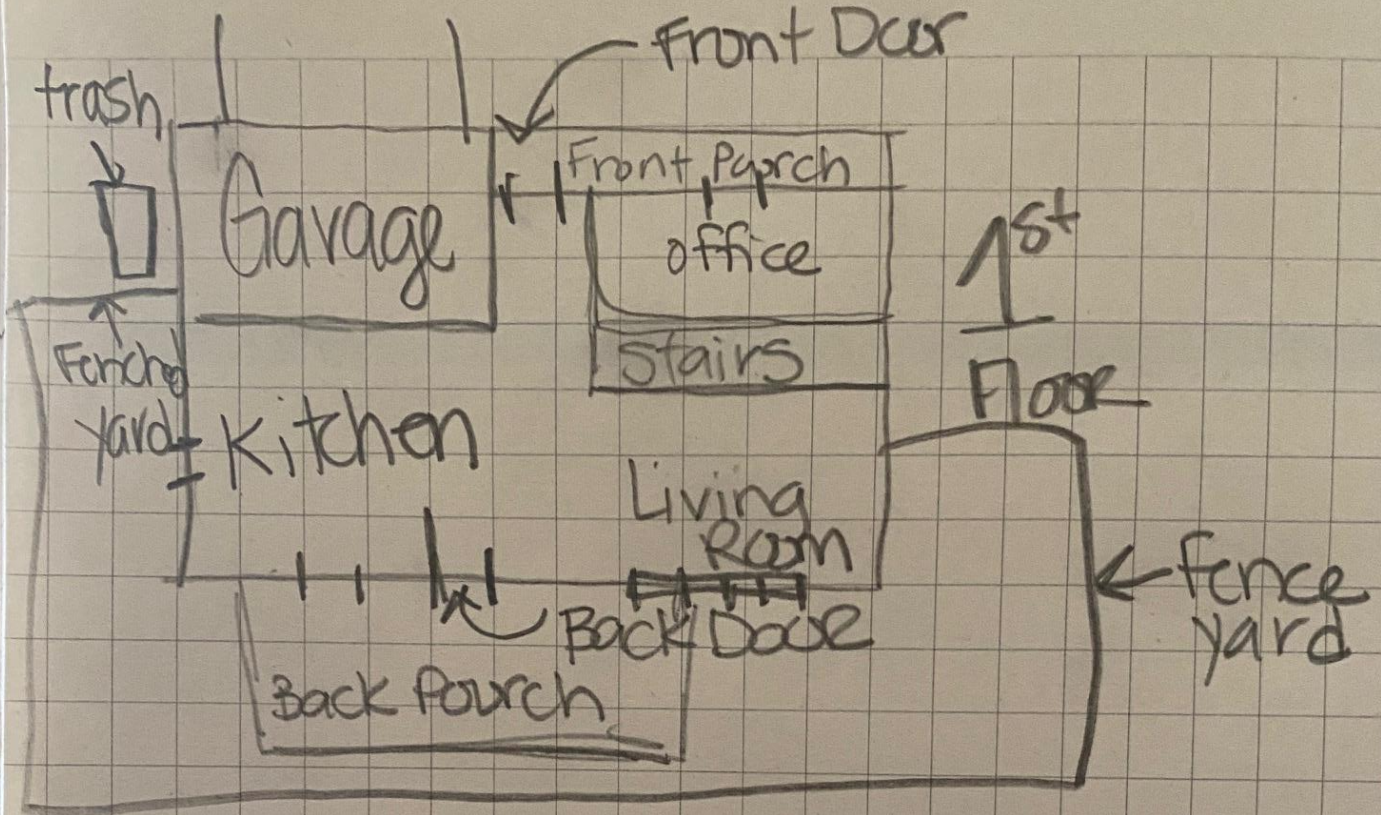
1254 S Ivory
Bill Ln

Trash



NOTES

1254 S. IVORY BILL





Elevations



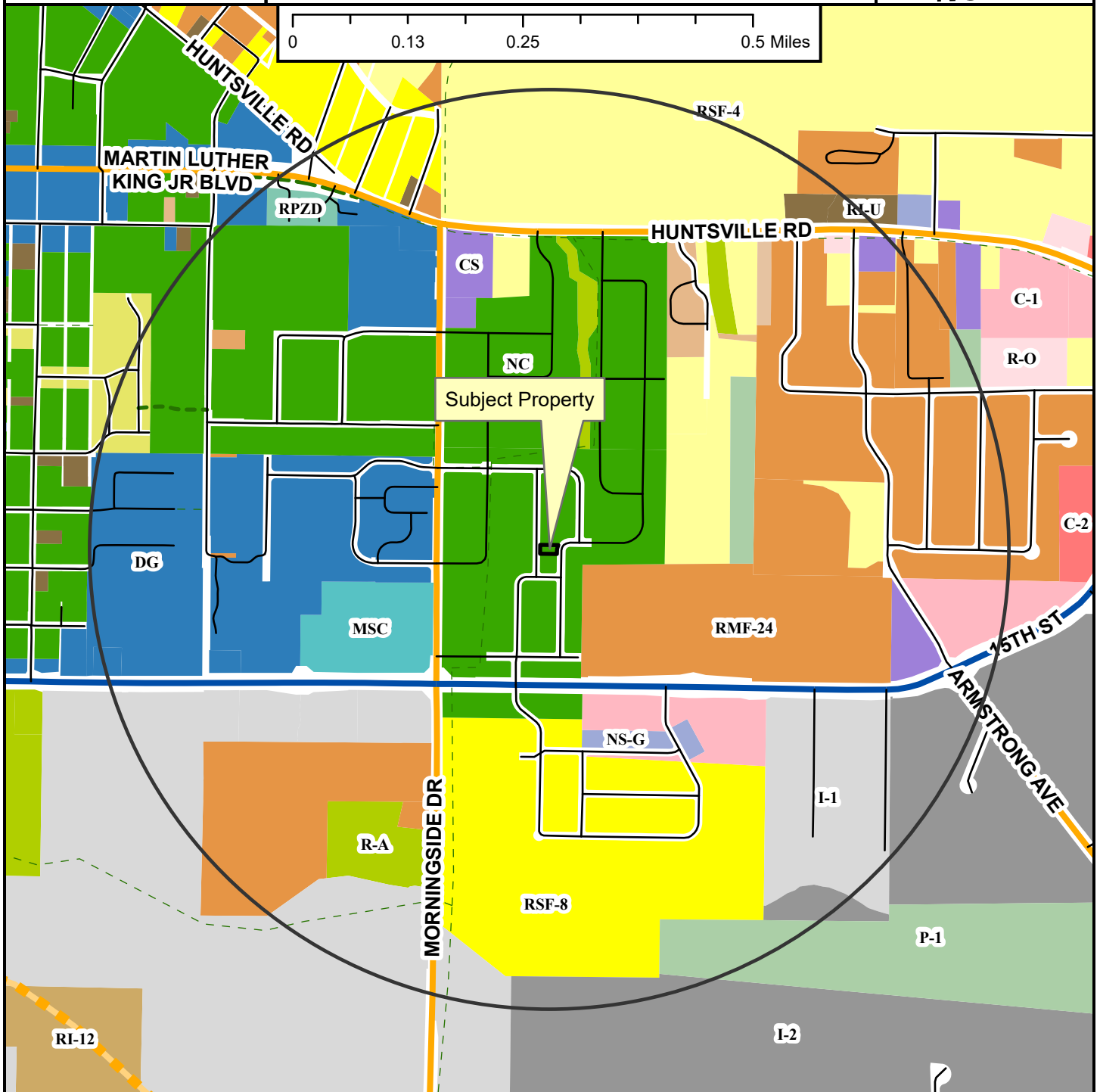
CUP-2023-0001

1254 S. IVORY BILL LN

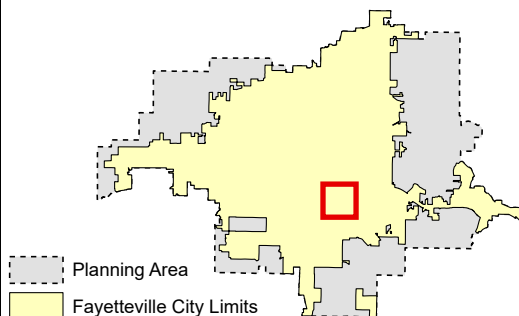
One Mile View



0 0.13 0.25 0.5 Miles



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

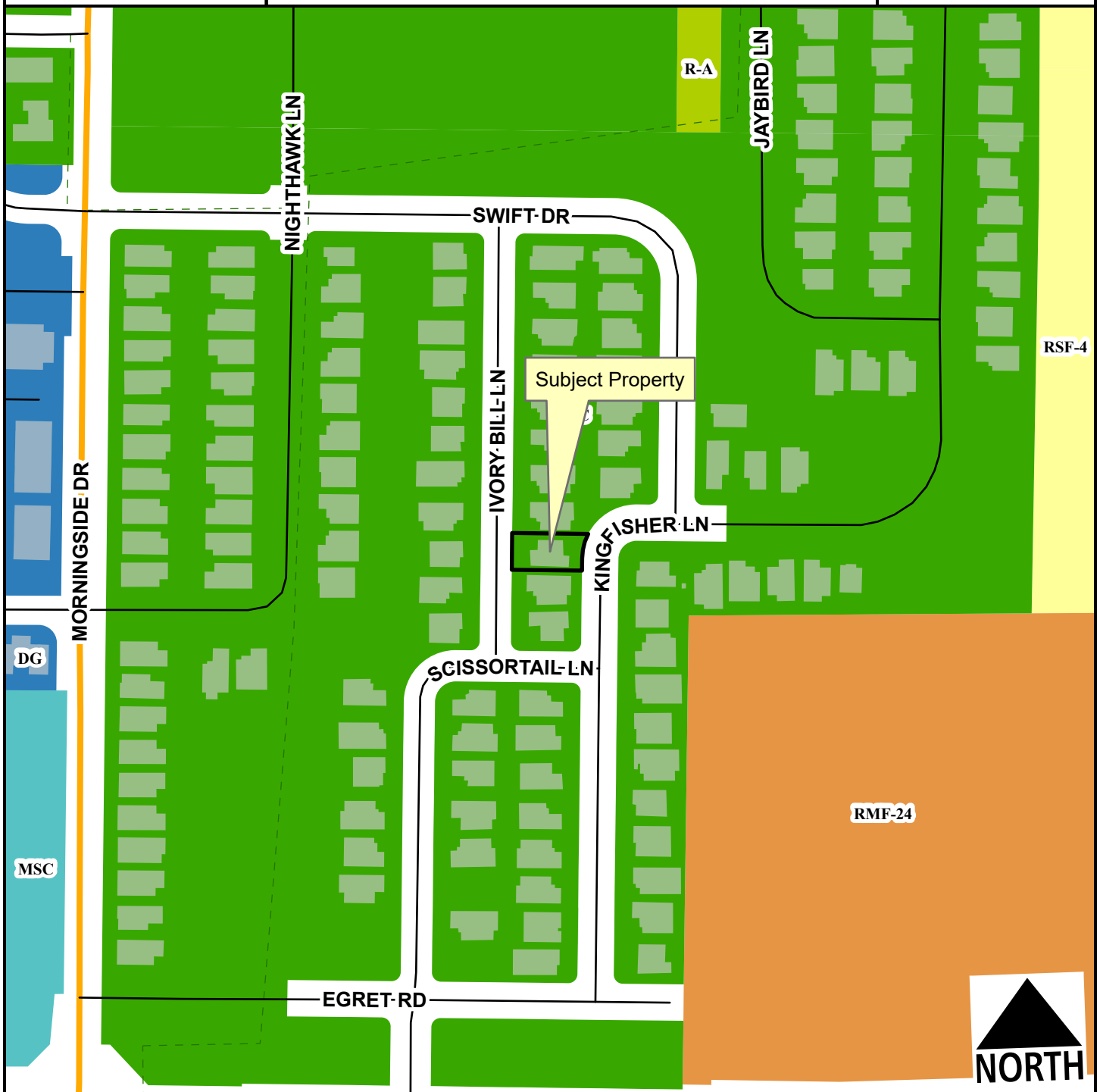
February 13, 2023

CUP-2023-0001(THORPE)

CUP-2023-0001

1254 S. IVORY BILL LN

Close Up View



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

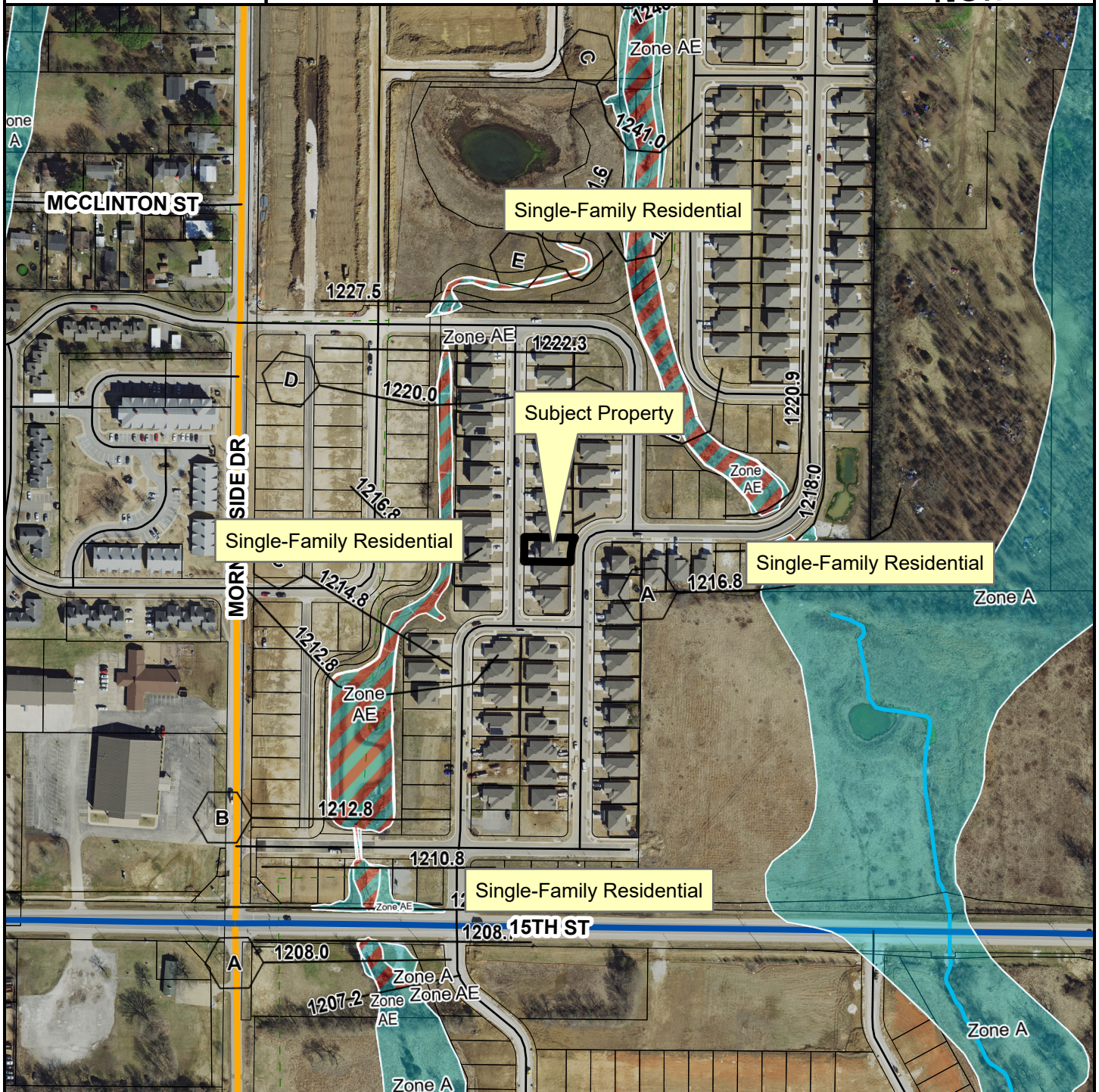


- Residential-Agricultural
- RSF-4
- RMF-24
- Main Street Center
- Downtown General
- Neighborhood Conservation

CUP-2023-0001

1254 S. IVORY BILL LN

Current Land Use



- Neighborhood Link
- Regional Link - High Activity
- 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: February 13, 2023

SUBJECT: **CUP-2022-0134: Conditional Use Permit (1640 N. LINDA JO PL/GUNN, 403):** Submitted by BYRON GUNN, for property located at 1640 N. LINDA JO PL. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY-FOUR UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0134** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0134**, determining:*

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

BACKGROUND:

The subject property is at 1640 N. Linda Jo Place, roughly 50 feet southeast of the intersection of W. Houston Street and N. Linda Jo Place. The property is currently zoned RMF-24, Residential Multi-family, 24 Units per Acre. A 999 square foot, two-bedroom, townhome built in 1994 occupies the site. Planning Commission has previously heard conditional use permit requests for two other proposed Type 2 short-term rentals in the neighborhood. A request at 1637 N. Linda Jo Place was denied at the September 26, 2022 Planning Commission meeting (CUP-2022-0065); the other, at 2352 W. Houston Street, was denied at the October 10, 2022 Planning Commission meeting (CUP-2022-0071). The request at 2352 W. Houston Street was successfully appealed to City Council and approved upon appeal. 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	Two-family Residential	RMF-24, Residential Multi-family, 24 Units per Acre
South	Two-family Residential	RMF-24, Residential Multi-family, 24 Units per Acre
East	Undeveloped	RMF-6, Residential Multi-family, 6 Units per Acre
West	Two-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-2022-0134**, 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>February 13, 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 RMF-24 zoning.

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 RMF-24 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. The proposed location has two bedrooms, so would therefore be subject to a maximum of 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: Two-family dwelling units are required to have two parking spaces. The driveway serving the property is roughly 30 feet by 9 feet, meaning the subject location appears to have space for one vehicle in the attached garage and one in the 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 1640 N. Linda Jo Place. 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 304 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the RMF-24 zoning district, so this short-term rental will contribute to the city-wide density cap. This short-term rental is in a townhome structure with both units on individual lots of record so it is not subject to a building 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 and garage. On street parking is also available. Within ¼ mile of the property city business license records indicate there are three 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 property has access through an existing driveway that is approximately nine feet in width. Staff finds 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 location has space to accommodate one vehicle in the driveway and one in the attached garage. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles to four, as allowed by the use of the property.

(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 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 the surrounding properties. The property is surrounded by mostly residential uses, and short-term rentals are a permitted use in the RMF-24 zoning district. There appears to be adequate parking to accommodate the number of permitted guests, and staff does not anticipate a negative impact on traffic from this proposal. The zoning district does not allow hotel/motel uses by-right, so this short-term rental license would contribute to the overall citywide 2% 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
 - §161.16 District RMF-24, Residential Multi-family, 24 Units per Acre
- Type 2 STR Concentration Exhibit
- Applicant Request Letter
- 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
----------------	------------

(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
-------------------	-------------------

(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*
-------------------------	--------------------------------

* 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.

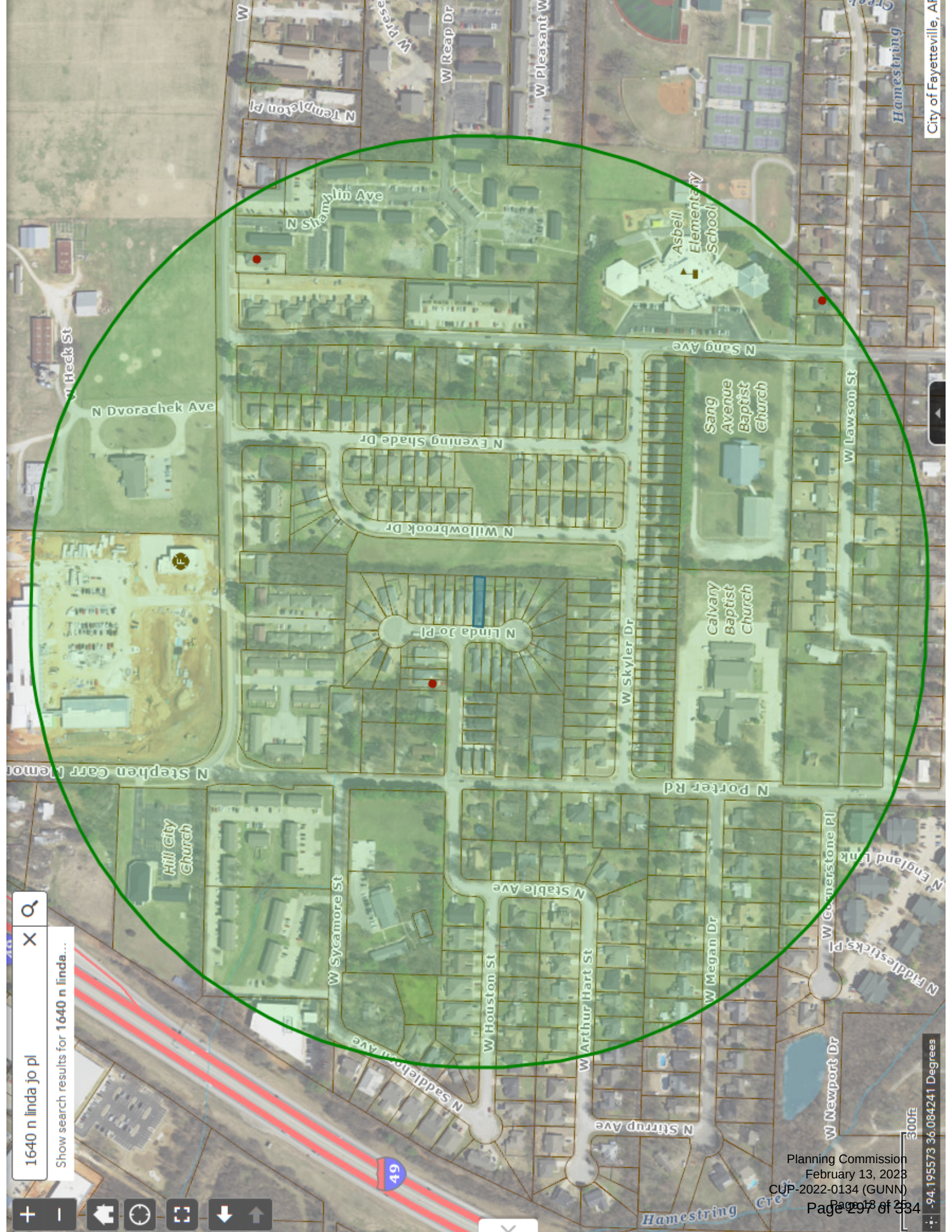
If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall 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)

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



1640 n linda jo pl
X
Q

Show search results for 1640 n linda...



CUP- 2022-

City Of Fayetteville Arkansas

Condition Use:

Byron W. Gunn is asking for approval for his Short-Term Rentals type 2 units at 1640 N Linda Jo Pl, Fayetteville, AR

118.01(E) (4) (a) and 163.18(A) (1) (9).

1. Payment

2. Legal description of property at 1640 N Linda Jo PL, Fayetteville AR. 72703.

Lot 19, Houston Meadows, a Townhouse Development, to the City of Fayetteville, Arkansas, as shown on plat Book 12 at Page 26, Plat Records of Washington County, Arkansas. There will be not changes!

The approval to making 1640 N Linda Jo Pl, Fayetteville, Arkansas a type 2 short-term rentals will make no difference to Houston Meadows subdivision, Washington County Property information, or the Fayetteville City planning records.

3. A, Building size: 999 soft

B. blueish

c. 2 parking space: one in garage and other in driveway

D 2 people per bedroom, plus two (2), for the entire unit.

e. Outdoor light: two - one in front and one for sliding door on left side.

F. Noise: Low level- below City requirements.

g. Noise from next door: We have a wood fence screening the two properties and limiting noise levels.

h. Tash will be out of sight in a block area and City of Fayetteville picks up.

i. Ingress and egress—Porter RD turns right on W Houston: straight to N Linda Jo Pl. 1640 N Linda Jo Pl has sidewalk

j. I used my 401K money to buy 1640 N Linda Jo Pl, for a rental residential dwelling to help my retirement income. I am in accordance with 163.18 Short-term rentals, 118.01 Applicability, and 161.16 RMF-24. I have no problems with renters or Life Styles workers in the Houston Meadows townhouse Development. It has some individuals with disabilities living in area. Life Styles workers insure their safety and protection at all times. Traffic problem is due to Life styles workers using their cars every day and park them on streets. Trucking Company parks their five trucks also on street. A Life Styles support living Coordinator worker is station at Linda Jo Pl area as boss. She always ensures 100% safety for individuals with disabilities and will straighten anyone out. No danger and very low noise level! Life Styles have a bus to take individuals whom are affected by disabilities to and from work. I talked with life styles workers about STR unit. They feel it will be no problem. There is a STR already in area, Haus Walnofer at 2352 W Houston St. STR has been working for years in area. They have shown there is no problem with short-term people. I owned rental property for 10 years in area, and rented to Life Styles people. I have not seen any problems the individuals with disability have. Live styles need to understand, I can no longer rent a 2bedroom/ 2-bathroom town house for a 1-bedroom price. I done want to sell my property. This is major portion of my retirement income. Short-term rental income will help me in my retirement. I feel short-term rental people will be no trouble for the area.

4/5 All Buildings have same layout. see attachments.

Byron W. Gunn and Kum Y. Gunn, owner of property, see the attach Consent of Owner Form signed.

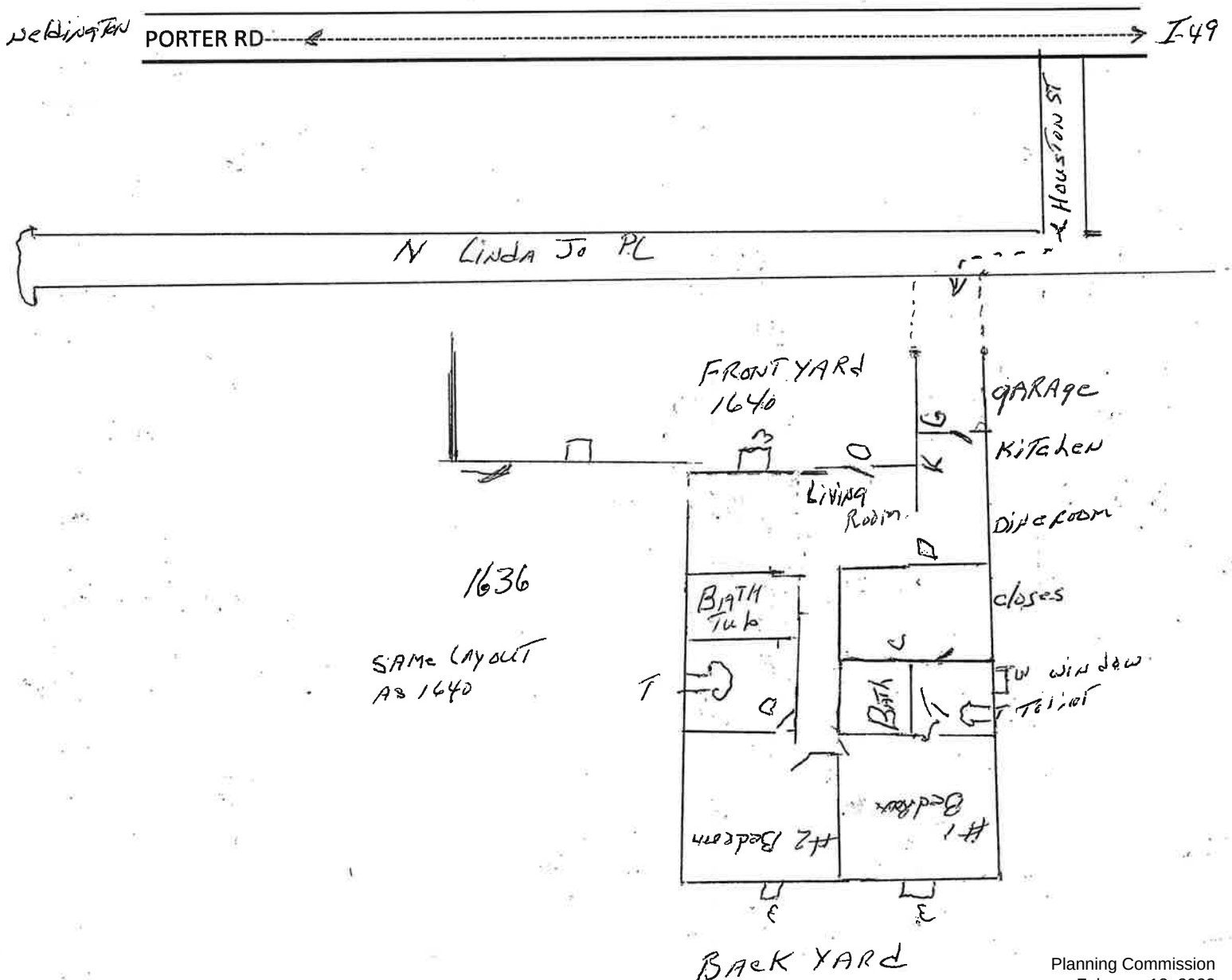
1640 Linda Jo Pl, Fayetteville, AR 72703 is located in Houston Meadow townhouse development area. In 1990's Houston Meadow was built in city of Fayetteville, AR 72703, as rental town house development area. Town houses have the same inside layout.

1640 Linda Jo Pl is 999 square feet. It has 2 bedrooms, 2 bathrooms, kitchen, dining area, living room, and single garage. Room size are #1 Bedroom is 14' x 11'; #2 Bedroom is 8 1/2' x 11'; dine room is 9' x 11'; living room is 17' x 12'; hall to bedrooms is 16 1/2' x 7'; and Garage is 17' x 13'.

Parking spaces are in the garage; private drive way; or on property grass area.

For noise control, the plan is only allowing minim people (4); and only one television which is in front living room.

Building has outside lighting and a cement walk way to enter town house.



CUP -2022-0134---Byron W Gunn **complaint**, Compatibility---added

Last time I was here, I had a bad time. I agree I was not prepared but to be prejudged so badly. Only one person who knew me was John Newman.

Well here I am and have proven that I am compatible with the neighborhood. I have been married for more than forty years.

I am 78 years old, a disable veteran, and Vietnam War veteran.

I worked my life and invested all my 401K saving on the properties in Houston Meadows Subdivision for retire income in 2010.

I have owned three townhouses in Houston Meadows Subdivision for more than 10 years. In the 10 years, I have always been compatible and gotten along well with the neighbors and disabled people living in the neighborhood. I am always casual chitchat with Life Styles coordinator and care workers. I am building my compatible skills by being a friendly neighbor, landlord, and finding out about neighborhood issues.

I am considerate of neighbor's rights, asking if they need any help, being courteous, polite, smiling, waving, and talking by at less saying hello, being quiet and treat neighbors like I want to be treated.

STR will be using 1640 N Linda Jo Pl for a place to sleep. As for compatibility, I talked with Susie who lives at 1636 N Linda Jo Pl next door. She stated she can get along with STR people. She is a disabled person. I talked with other people about 1640 N Linda Jo Pl being a STR and they did not feel a STR would be any problem.

The approval STR at 2352 Houston St has had no neighborhood complaints.

I feel disabled people are compatible the best they can: feel safe and like he/she fit in and he/she is comfortable.



1640
Linda Jo PL

1636



D.C. from Garage Door

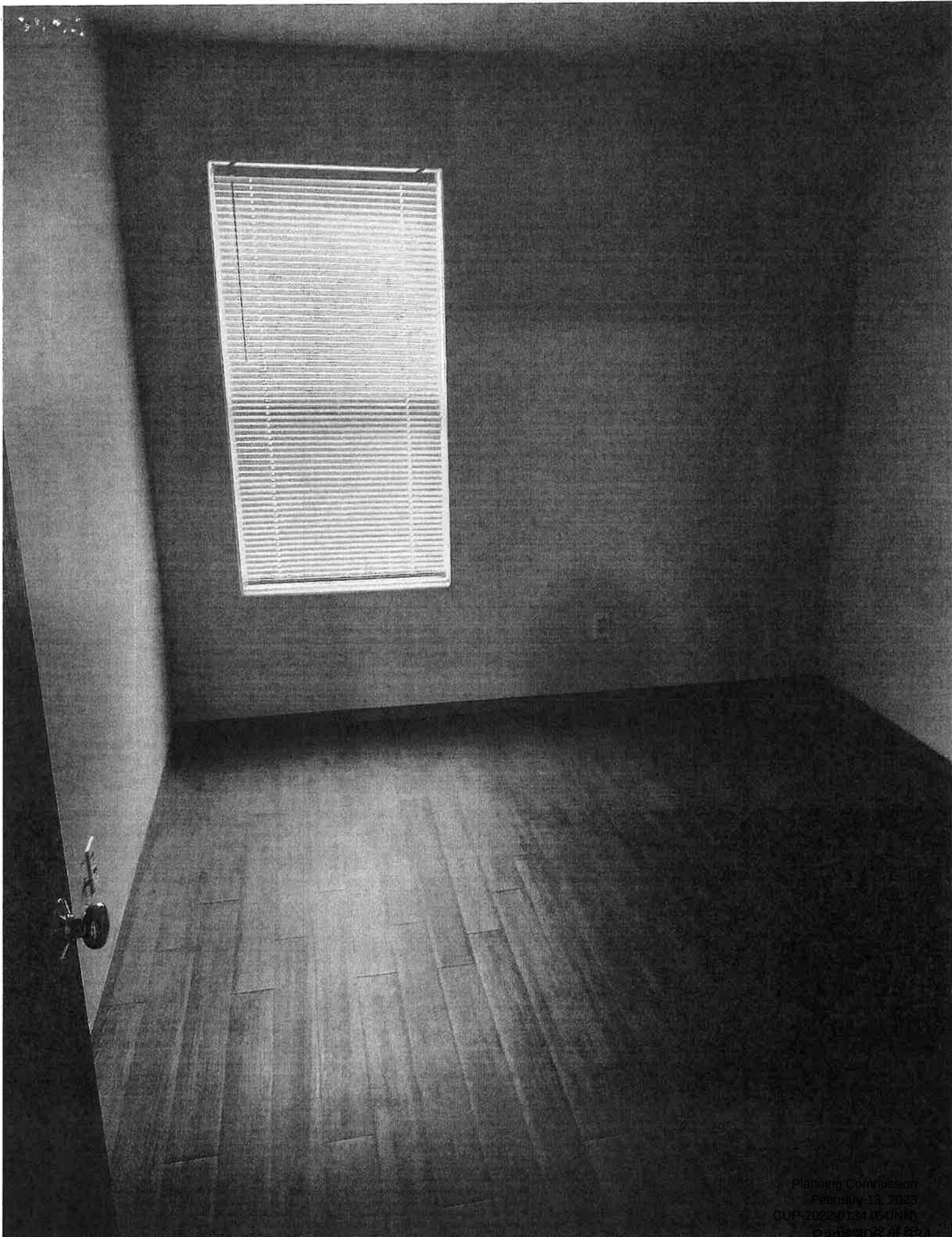
Kitchen - Dining Area





Two Bedroom ; on left #1 Bedroom

on right #2 Bedroom

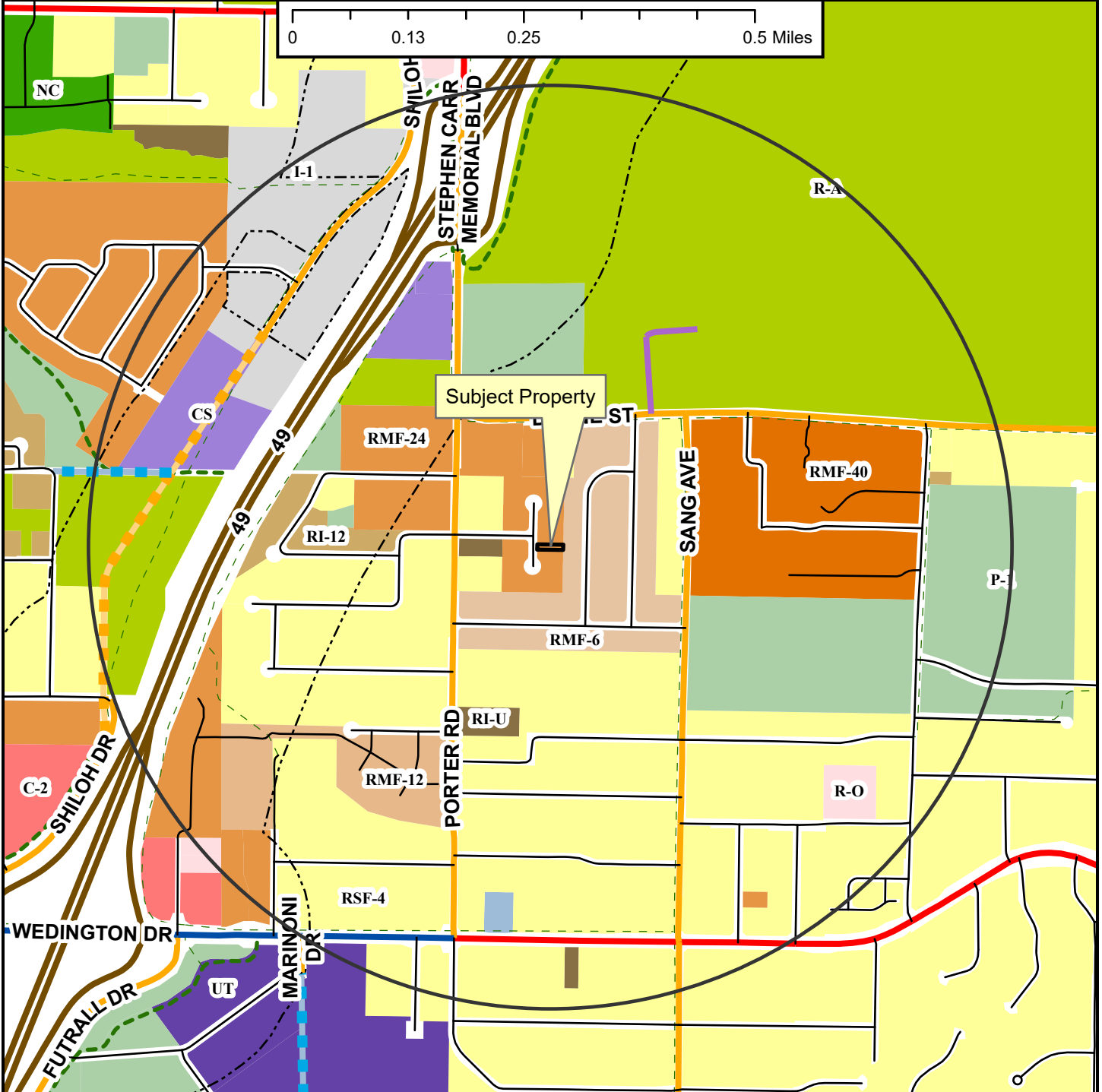
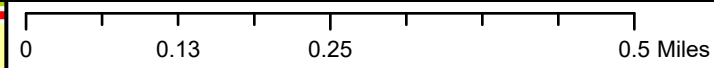


Pig Bedroom

CUP-2022-0134

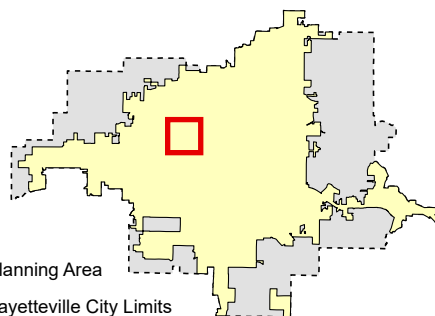
1640 N. LINDA JO PL

One Mile View



- Regional Link
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link

Planning Area
Fayetteville City Limits

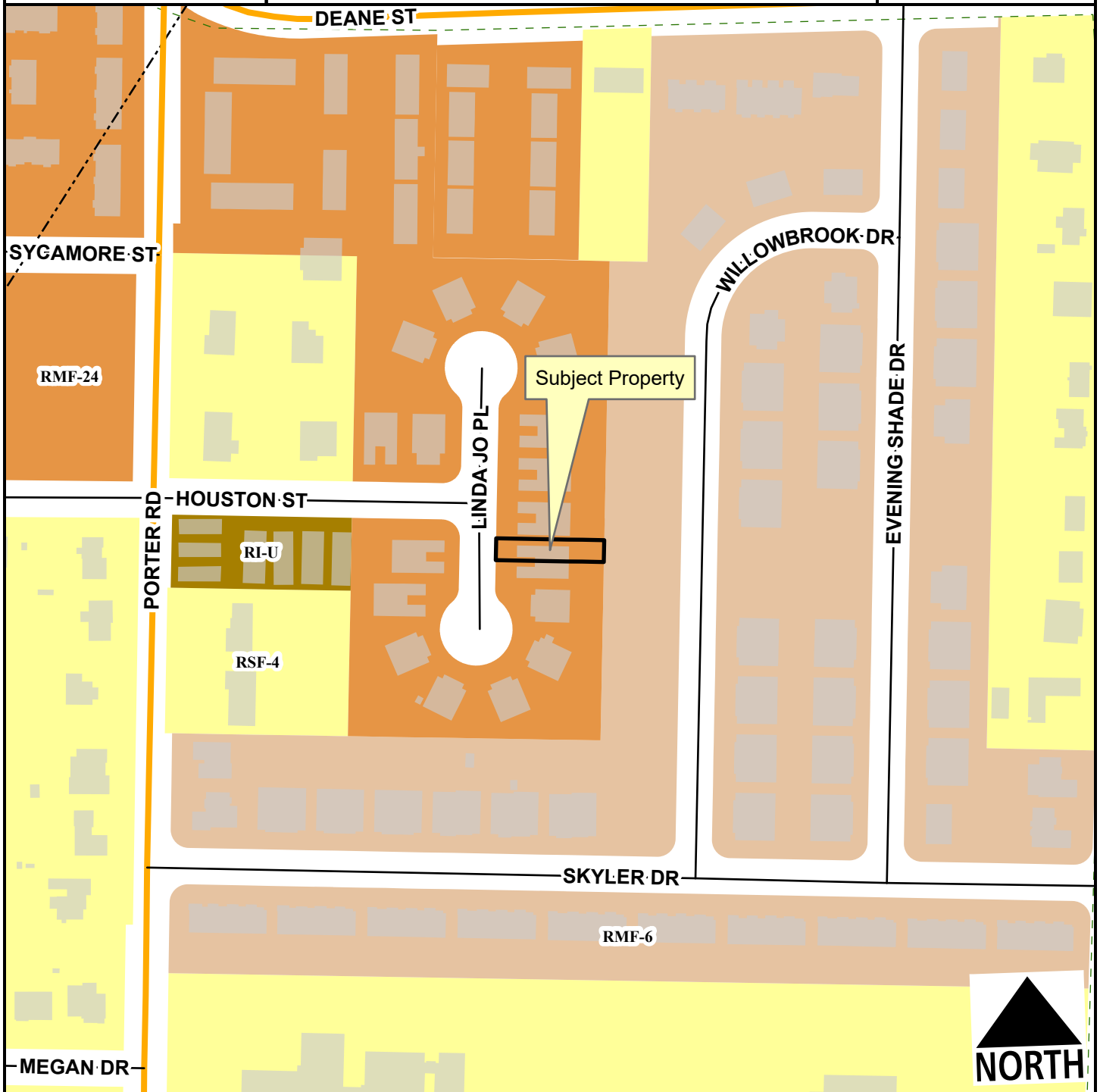


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial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

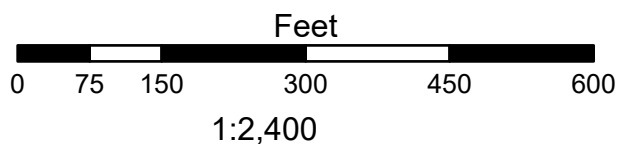
CUP-2022-0134

1640 N. LINDA JO PL

Close Up View



- Neighborhood Link
- Institutional Master Plan
- Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Design Overlay District

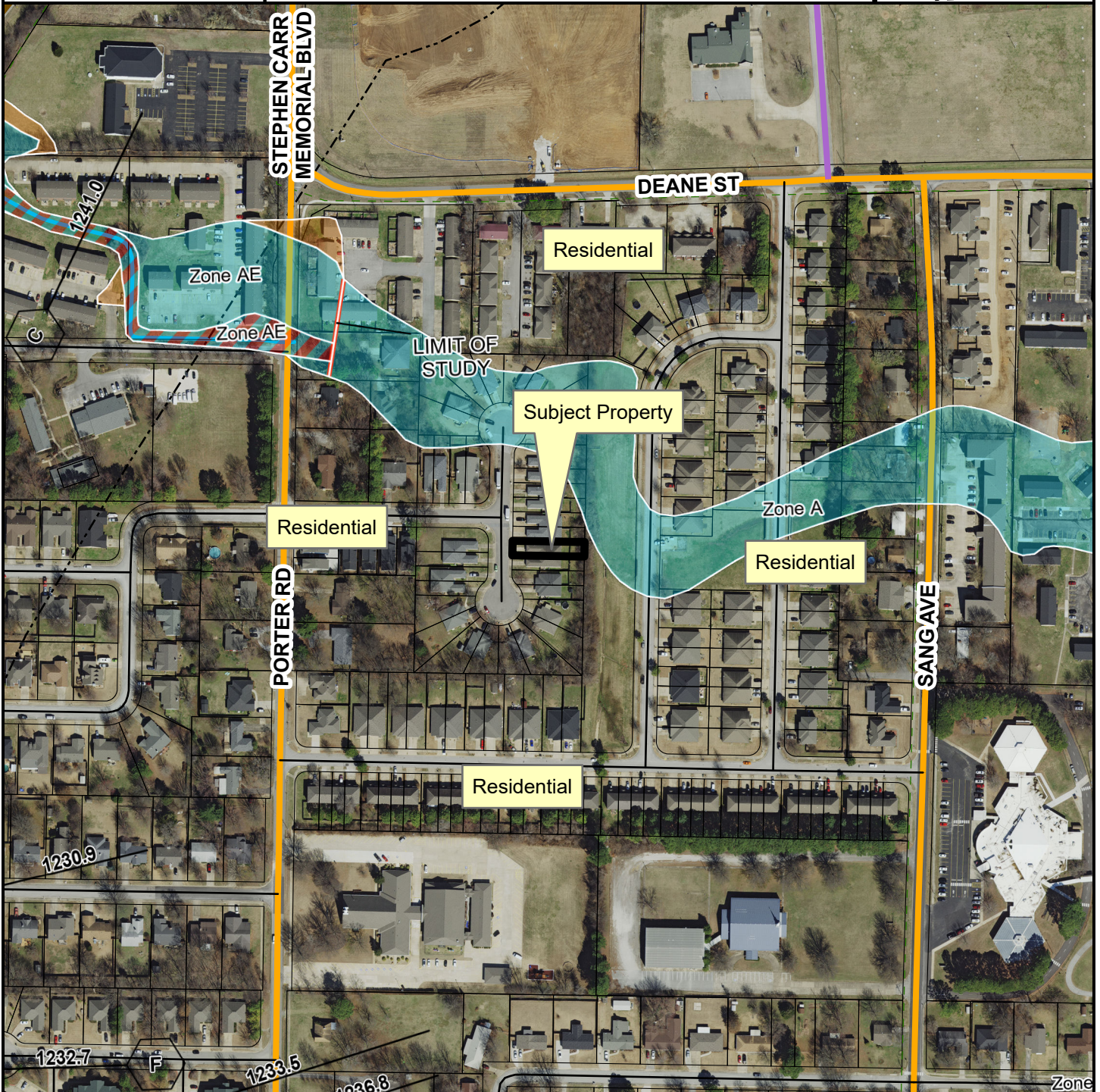


- RSF-4
- RI-U
- RMF-6
- RMF-24

CUP-2022-0134

1640 N. LINDA JO PL

Current Land Use



- Neighborhood Link
- Institutional Master Plan
- 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: February 13, 2023

SUBJECT: **CUP-2022-0137: Conditional Use Permit (829 S. ONE MILE RD/SHUFFIELD, 557):** Submitted by MARK SHUFFIELD, for property located at 829 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.06 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends denial of **CUP-2022-0137** based on the findings in this report.

RECOMMENDED MOTION:

"I move to deny CUP-2022-0137."

BACKGROUND:

The subject property is located in West Fayetteville, north of W. Old Farmington Road, in the recently developed One Mile Courts cluster housing development. The property is zoned NC, Neighborhood Conservation, and totals approximately 0.06 acres. The property is developed with a two-bedroom, single-family dwelling that was constructed in 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	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 denial of **CUP-2022-0137**. 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 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>February 13, 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 may negatively affect the public interest due to the concentration of Type 2 short-term rentals in the vicinity and the available parking in the vicinity. However, given the applicable business license requirements including a required building safety inspection, and through enforcement of parking regulations, staff finds the use could be regulated through the existing complaints-driven process.

(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). 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 two off-street parking spots are available in the parking area at the rear of the property.

(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 829 S. One Mile 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 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 304 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the NC zoning district, 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: 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: The proposed short-term rental is within an existing cluster housing development that already has one Type 1 and four Type 2 short-term rentals. Five other Type 2 short-term rentals are licensed within ¼ mile. Another Type 2 short-term rental request is under review and currently on-track for the February 27th Planning Commission meeting.

The cluster housing development has a single access point onto S. One Mile Road. Traffic is then routed onto W. Old Farmington Road, which cannot accommodate on-street parking. In addition, LSD 20-7116 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 to allow 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: The subject property has frontage along S. One Mile Road which is classified as a Residential Link Street. Staff finds that the proposal may adversely affect traffic flows because the proposed short-term rental is located on a dead-end street with five short-term rentals already approved. Staff finds the concentration of short-term rentals may generate traffic to a degree which exceeds what the cluster development was intended to handle. Insufficient parking or maneuverability associated with an excess of vehicle traffic may negatively impact other 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: The applicant indicates that two off-street guest vehicle parking spaces are available the parking court at the rear of the property. 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. The large scale development was approved accounting for one vehicle space provided for each bedroom for the cluster housing units.

(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 incompatible with the surrounding properties. Due to the relatively high concentration of short-term rentals in the vicinity, the development pattern of the cluster housing units, and an approved variance allowing a dead-end street, the addition of a short term rental unit is likely to inconvenience adjacent 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
- Type 2 STR Concentration Exhibit
- Parking Exhibit
- Applicant Request Letter
- 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
--------------------	---------

(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
-------------------------	-----------

(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."



1. Request Letter

Complete written description of this request (what is proposed by the applicant) to include:

The residence located at 829 S One Mile Road is a 2 bedroom 2.5 bath home that will be used as an occasional short term rental. The structure is approximately 1176 square feet. There are 2 off street parking spaces located at the rear of the property. The outdoor lighting is standard residential porch lights at the front and back.



No noise impact as it is a residential area. Adjacent properties do not have fencing or barriers. Trash and recycling services provided by the City of Fayetteville with residential containers.

Ingress and egress to the property is accessible via residential streets and no other traffic impacts. Adjacent properties are of the same type with other properties being used in the same manner.

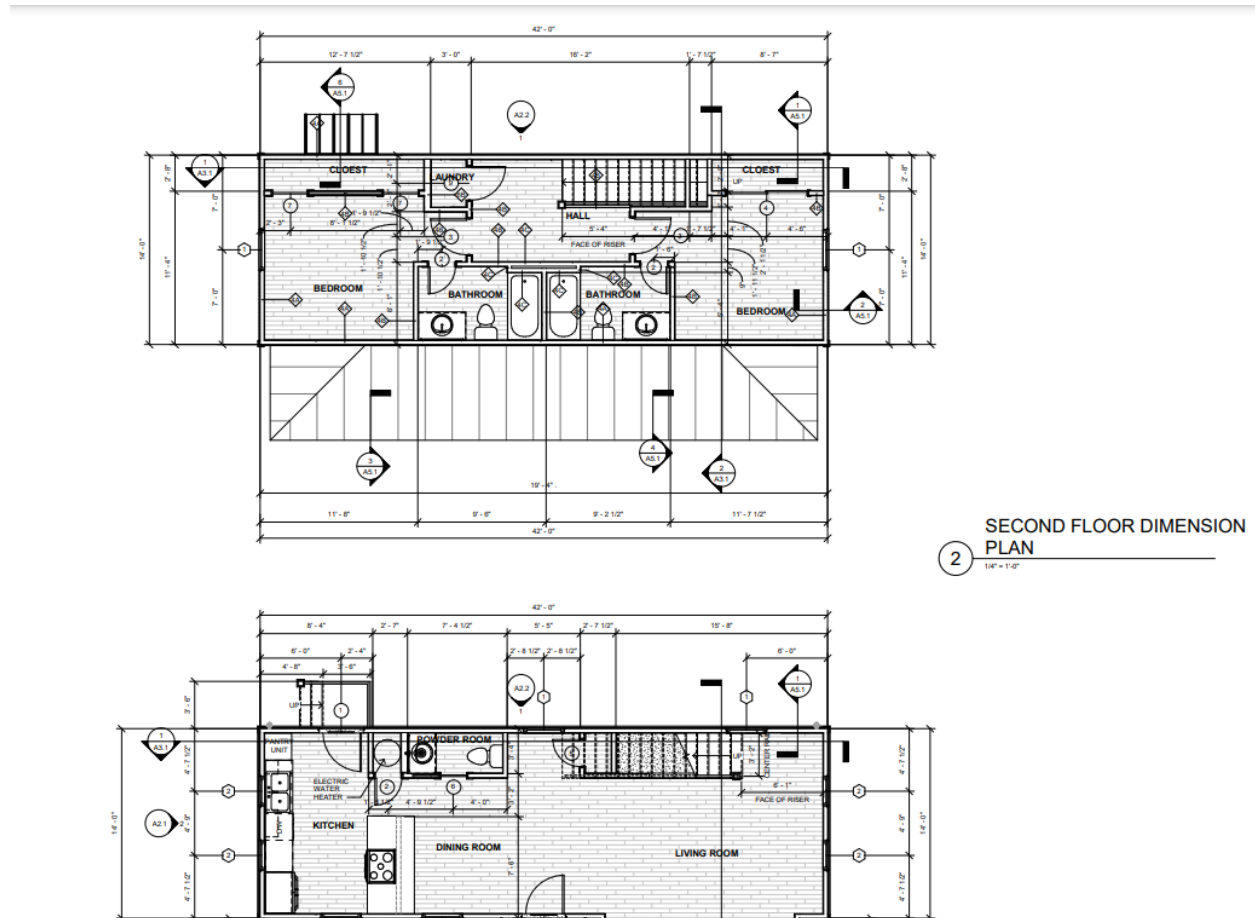
2. Legal Description

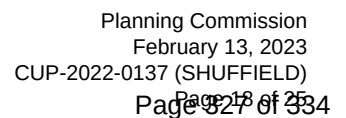
Lot 3 C Southern Woods Development

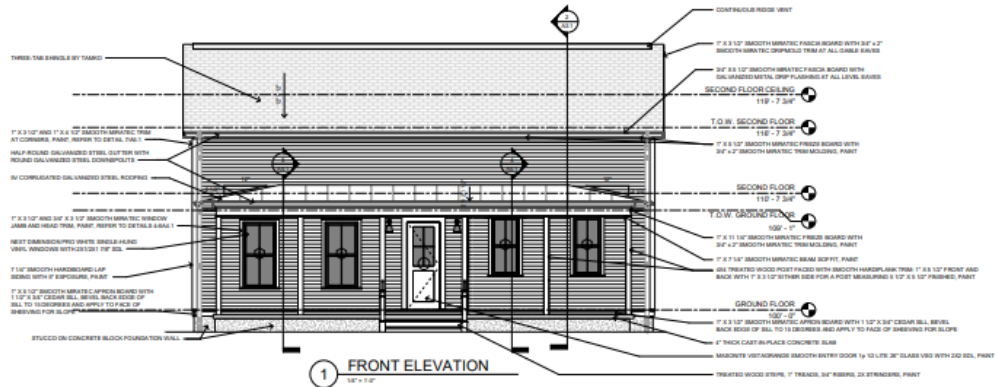
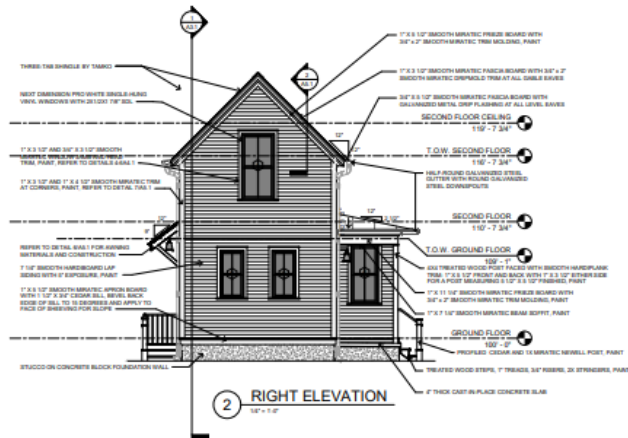
3. Site Plan

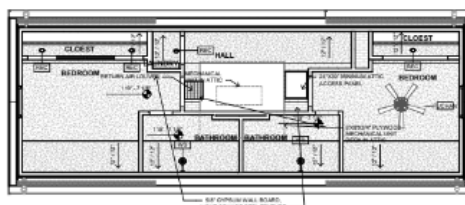
Site plan drawn to scale, based on the deed or survey, showing all proposed structures dimensioned from the overhang to the property line, parking, driveways, Master Street Plan right-of-way, required setbacks.

4. Preliminary Floor Plan

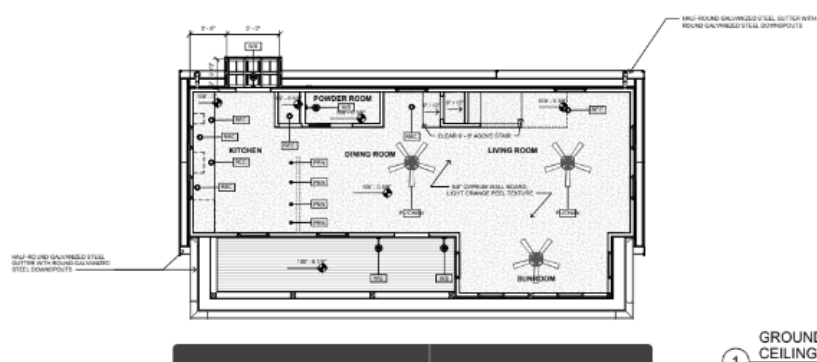




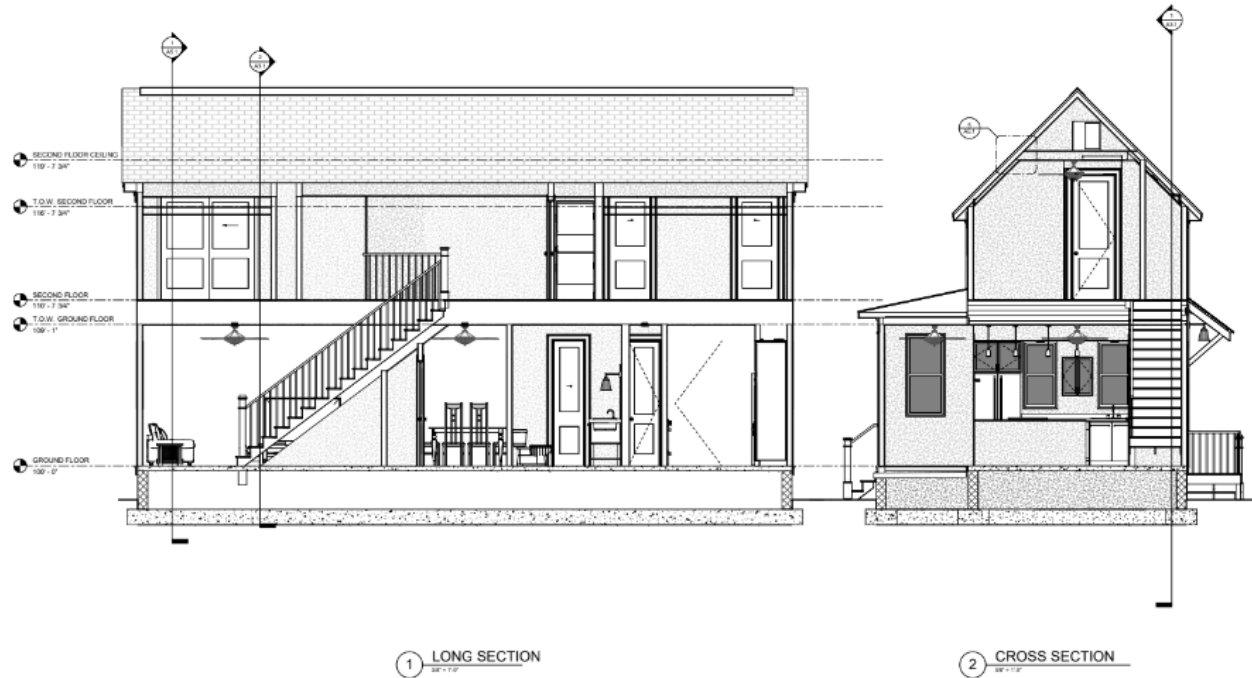




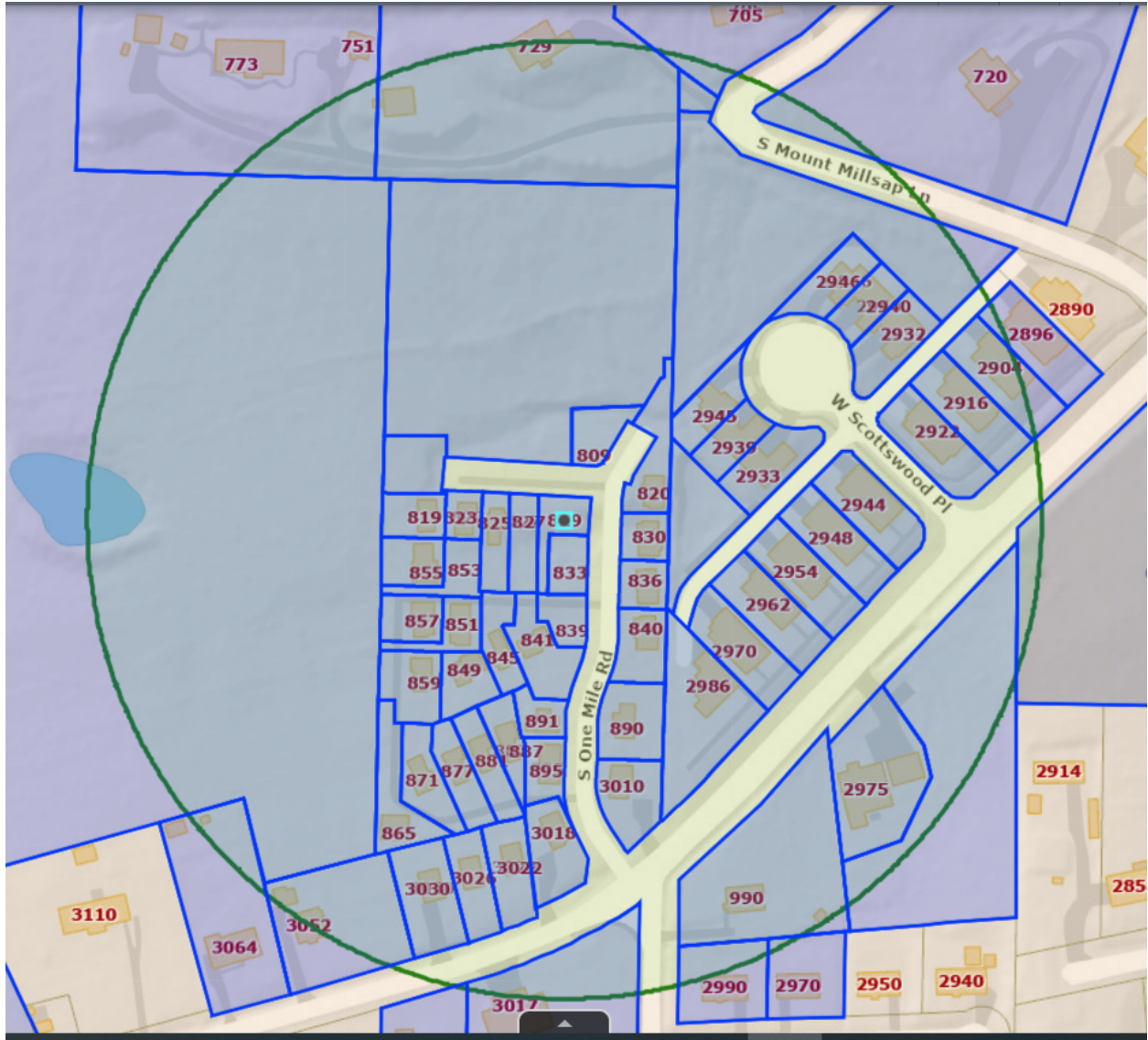
2 SECOND FLOOR REFLECTED
CEILING PLAN



1 GROUND FLOOR REFLECTED CEILING PLAN

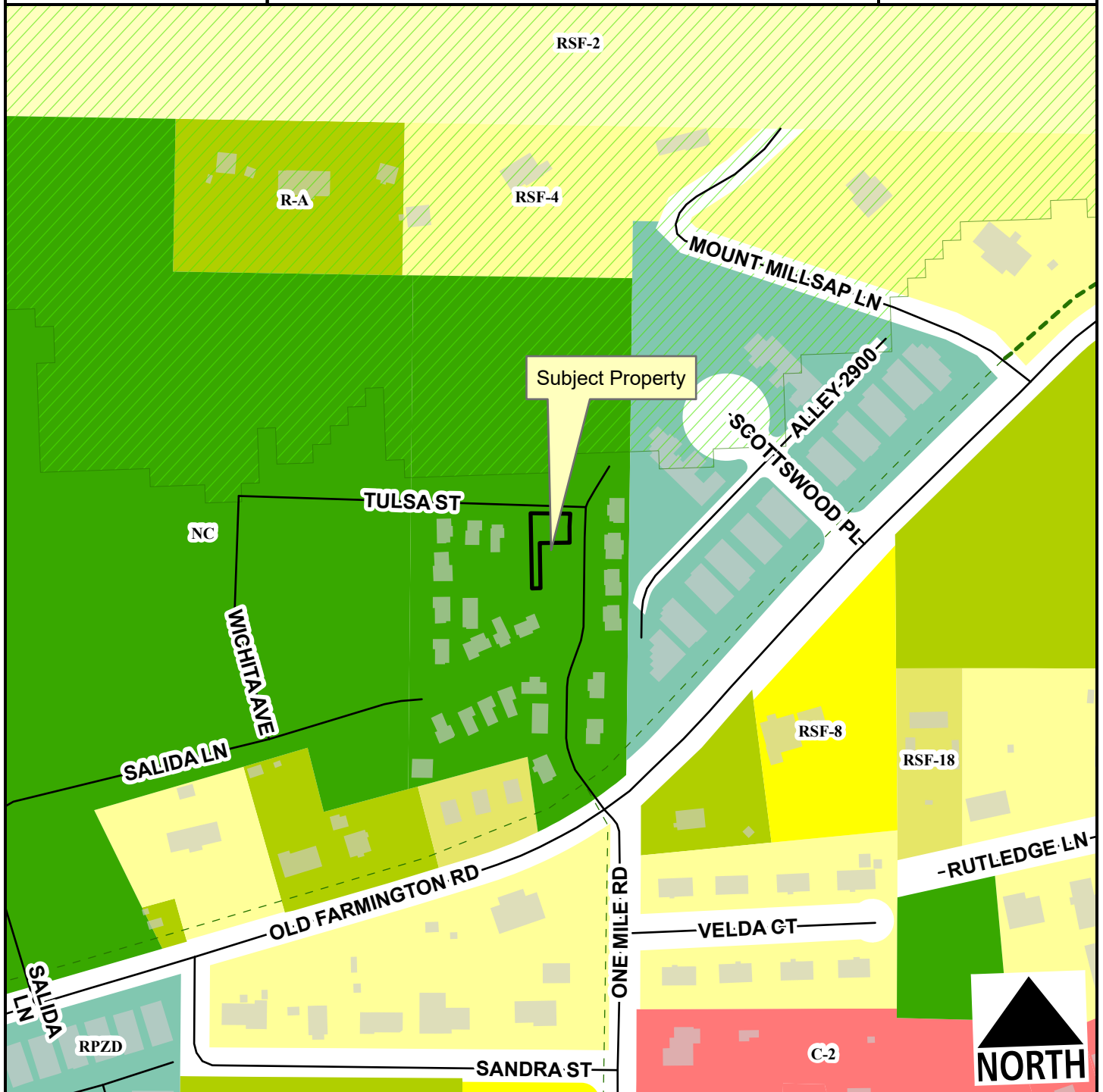


5. County Parcel Map



County parcel map 500'

Attached list of property owners with parcel information.



- 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-2022-0137

829 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

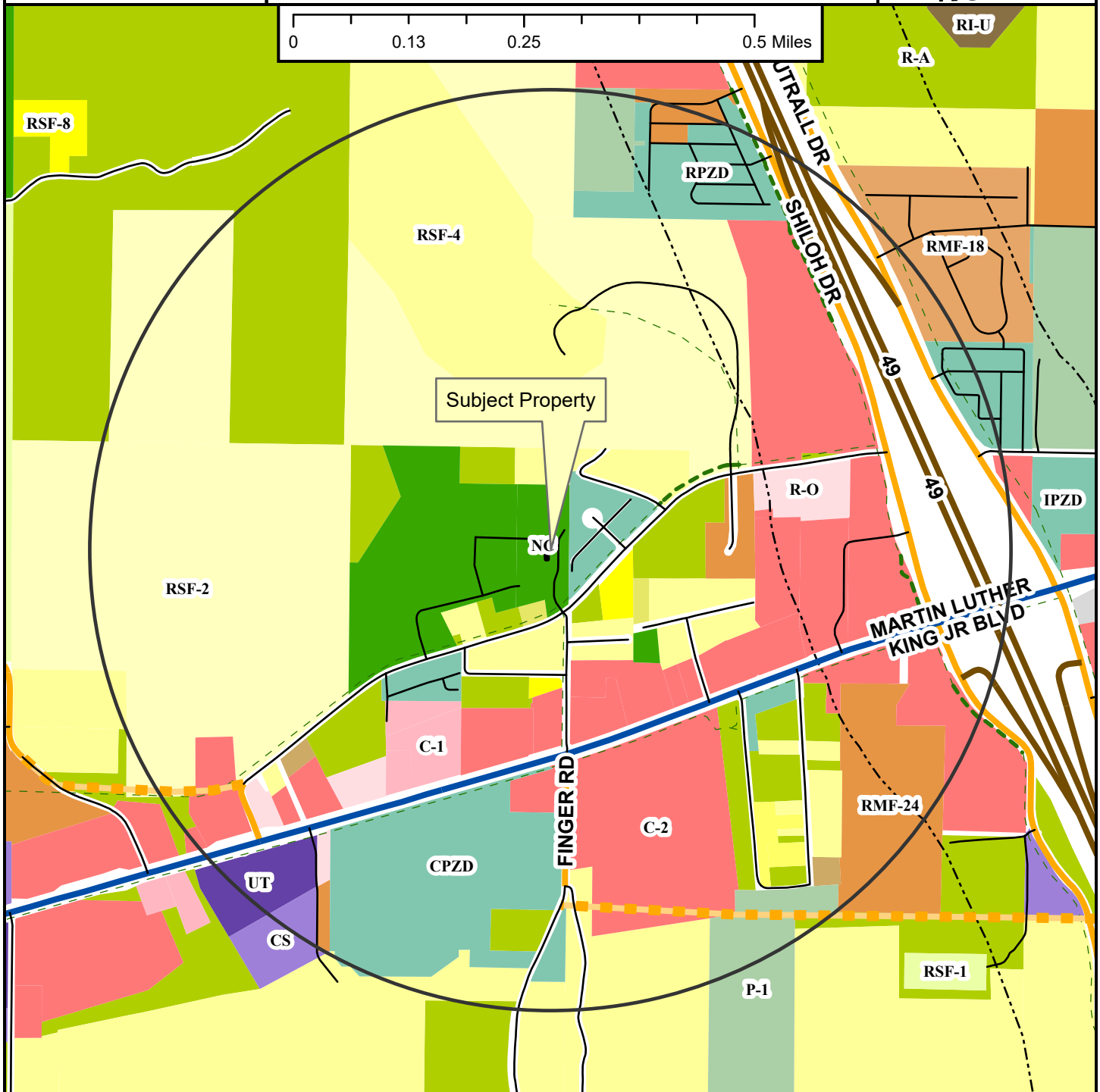
CUP-2022-0137

829 S. ONE MILE RD

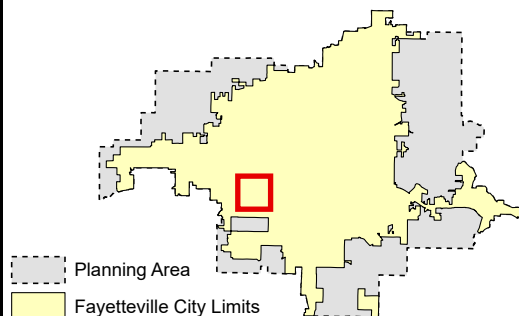
One Mile View



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



Planning Area
Fayetteville City Limits

- | | |
|--|--|
| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> NS-G RI-U RI-12 NS-L Residential-Agricultural RSF-5 RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RMF-6 RMF-12 RMF-13 RMF-24 RMF-40 <p>INDUSTRIAL</p> <ul style="list-style-type: none"> I-1 Heavy Commercial and Light Industrial | <ul style="list-style-type: none"> I-2 General Industrial <p>EXTRACTION</p> <ul style="list-style-type: none"> E-1 <p>COMMERCIAL</p> <ul style="list-style-type: none"> Residential-Office C-1 C-2 C-3 <p>FORM BASED DISTRICTS</p> <ul style="list-style-type: none"> Downtown Core Urban Thoroughfare Main Street Center Downtown General Community Services Neighborhood Services Neighborhood Conservation <p>PLANNED ZONING DISTRICTS</p> <ul style="list-style-type: none"> Commercial, Industrial, Residential <p>INSTITUTIONAL</p> <ul style="list-style-type: none"> P-1 |
|--|--|

Planning Commission

February 13, 2023

CUP-2022-0137 (SHUFFIELD)

Page 25 of 334