

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Final Agenda

Monday, February 27, 2023

5:30 PM

City Hall Room 219

Planning Commission Members

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

Assistant City Attorney Blake Pennington

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

Approval of the minutes from the February 13th, 2023 Planning Commission -
Mirinda Hopkins, Development Coordinator

Unfinished Business**2. 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 for a major modification and project extension of LSD-2021-000040.

THIS PROJECT WAS TABLED AT THE FEBRUARY 13TH, 2023 PLANNING COMMISSION MEETING. - Ryan Umberger, Senior Planner

3. LSD-2022-0031 Large Scale Development (SOUTH OF S. LEFLAR WAY/PIGSKIN RD PARK, 569):

Submitted by CRAFTON TULL for property located SOUTH 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.

THIS PROJECT WAS TABLED AT THE FEBRUARY 13TH, 2023 PLANNING COMMISSION MEETING. - Ryan Umberger, Senior Planner

New Business**4. PPL-2023-0001 Preliminary Plat (745 W. CHERRY ST/HABITAT FOR HUMANITY, 678):**

Submitted by BATES AND ASSOCIATES for property located at 745 W. CHERRY ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.81 acres. The request is for the preliminary plat of nine lots. - Gretchen Harrison, Planner

5. CUP-2023-0014 Conditional Use Permit (1519 S. SCHOOL AVE/SCOOTER'S COFFEE, 601):

Submitted by WILSON CIVIL DESIGN LLC for property located at 1519 S. SCHOOL AVE. The property is zoned MSC, MAIN STREET CENTER and two parcels approximately containing 0.90 acres. The request is for Use Unit 18, Gasoline service stations and drive-in/drive-through restaurants in MSC zoning. - Donna Wonsower, Planner

6. CUP-2023-0015 Conditional Use Permit (3243 N. LEE AVE/AMERICA'S CAR-MART INC, 213):

Submitted by BLEW AND ASSOCIATES for property located at 3243 N. LEE AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE and contains approximately 0.26 acres. The request is for an off-site parking lot for a commercial use in residential zoning. - Gretchen Harrison, Planner

7. RZN-2023-0003 Rezoning (1275 N. GREGG AVE/PATHWAY BAPTIST CHURCH, 405):

Submitted by BLEW & ASSOCIATES for property located at 1275 N. GREGG AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE, and contains approximately 2.24 acres. The request is to rezone the property to RMF-40, RESIDENTIAL MULTI-FAMILY – FORTY UNITS PER ACRE. - Ryan Umberger, Senior Planner

8. RZN-2023-0004 Rezoning (2910 N. OLD WIRE RD/VAN SCYOC, 255):

Submitted by JORGENSEN AND ASSOCIATES for property located SE OF N. OLD WIRE RD AND N. OAK BAILEY DR. The property is split zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 14.70 acres. The request is to rezone the property to R-A, RESIDENTIAL AGRICULTURAL on 5.75 acres and NC, NEIGHBORHOOD CONSERVATION on 9.54 acres. - Donna Wonsower, Planner

9. CUP-2023-0007 Conditional Use Permit (1370 S. VAN BUREN AVE./HJL INVESTMENTS, 561):

Submitted by HJL INVESTMENTS LLC for property located at 1370 S. VAN BUREN AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE and contains approximately 0.59 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

10. CUP-2023-0008 Conditional Use Permit (348 N. FLETCHER AVE./SCOTT, 485):

Submitted by MIKE SCOTT for property located at 348 N. FLETCHER AVE. The

property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY – 8 UNITS PER ACRE and contains approximately 0.08 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

11. CUP-2023-0009 Conditional Use Permit (332 N. FLETCHER AVE./ETG SHELF 3 LLC, 485):

Submitted by JUSTIN GUNN for property located at 332 N. FLETCHER AVE. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY – 8 UNITS PER ACRE and contains approximately 0.09 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

12. CUP-2023-0010 Conditional Use Permit (2525 N. GOOSEBERRY LN./DIFANI, 285):

Submitted by CHARLES DIFANI for property located at 2525 N. GOOSEBERRY LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – 4 UNITS PER ACRE and contains approximately 0.24 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

13. CUP-2023-0011 Conditional Use Permit (571 N. KEATS DR./SOTO, 439):

Submitted by CASA SOTO LLC for property located at 571 N. KEATS DR. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.11 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

14. CUP-2023-0012 Conditional Use Permit (833 S. ONE MILE RD./COPIA PROPERTIES, 557):

Submitted by COPIA PROPERTIES LLC for property located at 833 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. - Donna Wonsower, Planner

15. CUP-2023-0004 Conditional Use Permit (462 E. MIMOSA LN./TILLMAN, 251):

Submitted by WALTER TILLMAN for property located at 462 E. MIMOSA LN. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – 24 UNITS PER ACRE and contains approximately 0.14 acres. The request is to use the residence as a short-term rental.

WITHDRAWN BY STAFF FOR LACK OF PUBLIC NOTIFICATION. - Ryan Umberger, Senior Planner

16. CUP-2023-0005 Conditional Use Permit (1015 S. REGENCY DR./BAKER, 569):

Submitted by JAMES BAKER for property located at 1015 S. REGENCY DR. The property is zoned RSF-7, RESIDENTIAL SINGLE-FAMILY – 7 UNITS PER ACRE and contains approximately 0.15 acres. The request is to use the

residence as a short-term rental. - Ryan Umberger, Senior Planner

17. CUP-2023-0006 Conditional Use Permit (372 S. HILL AVE./SCHIPPANOSKI, 522):

Submitted by JAY SCHIPPANOSKI for property located at 372 S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY – 40 UNITS PER ACRE and contains approximately 0.71 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

Items Administratively Approved by Staff

18. LSP-2023-0002 Lot Split (170 E. MOUNTAIN ST./TWIN SUMMIT LLC, 524):

Submitted by BATES AND ASSOCIATES for property located at 170 E. MOUNTAIN ST. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.12 acres. The request is to split the property into two lots with approximately 0.06 acres each. - Gretchen Harrison, Planner

19. LSP-2023-0003 Lot Split (1949 S. DEAD HORSE MOUNTAIN RD./WATERSHED CONSERVATION RESOURCE CENTER, 566, 567, 605, 606):

Submitted by CRAFTON TULL for property located at 1949 S. DEAD HORSE MOUNTAIN RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 392.60 acres. The request is to split the property into two lots containing 221.71 and 165.64 acres. - Jessica Masters, Development Review Manager

Agenda Session Items

20. Planning Commission Officer Nominating Committee Announcement.

CHAIR: Quintin Canada, Matt Johnson, and Andrew Brink

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, 2/13/2023			
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 01-23-2023	2) VAR-2023-0003 (THE LEGACY BUILDING)	3) VAR-2023-0005 (WATERSHED CONSERVATION RESOURCE CENTER)	4) ADM-2023-0002 (COBBLESTONE FARMS)	5) VAR-2023-0002 (CAJAKAJO HOLDINGS)
Madden	1	1	1	1	1	
Holcomb	1	1	1	1	1	
Brink	1	1	1	1	1	
McGetrick	0					
Winston	1	1	1	1	1	
Canada	1	1	1	1	1	
Sparkman	1	1	1	1	1	
Johnson	1	1	1	1	1	
Garlock	1	1	1	1	1	
Agenda		Consent	Consent	Consent	New	New
Motion By		Winston	Winston	Winston	Johnson	WITHDRAWN
Motion 2nd		Johnson	Johnson	Johnson	Brink	BY APPLICANT
Vote		8-0-0	8-0-0	8-0-0	8-0-0	
Action		Approve	Approve	Approve	Table	
Time		5:33pm	5:33pm	5:33pm	5:35pm	
Motion Detail					Table till Feb. 27th PC Meeting No Public Comment	

(pg. 2) Planning Commission		Monday, 2/13/2023			
	6) LSD-2022-0031 (PIGSKIN RV PARK)	7) LSD-2022-0033 (MARKER DEVELOPMENT)	8) VAC-2023-0001 (APPLEBY LANDING)	9) CUP-2022-0136 (AMERICAN TOWER)	10) CUP-2023-0003 (CRYSTAL SPRINGS SD)
Madden	1	1	1		1
Holcomb	1	1	1		1
Brink	1	1	1		1
McGetrick					
Winston	1	1	1		1
Canada	1	1	1		1
Sparkman	1	1	1		1
Johnson	1	1	1		1
Garlock	1	1	1		1
Agenda	New	New	New	New	New
Motion By	Brink	Brink	Garlock	WITHDRAWN	Winston
Motion 2nd	Garlock	Winston	Johnson	BY CITY STAFF	Madden
Vote	8-0-0	8-0-0	8-0-0		8-0-0
Action	Table	Approve	Forward		Approve
Time	5:38pm	6:20pm	6:25pm		6:33pm
Motion Detail	Table till Feb. 27th PC Meeting No Public Comment	1) In favor of ROW, 2) In favor of street improvements excluding the off-site sidewalk 3) In favor of a variance to UDC §164.22(G)(2), 4) In favor of a variance to UDC §164.22(G)(8), 5) In partial favor of a variance to UDC §1742.02(B) while allowing no grid on slopes that do not exceed 3%. 1 Public Comment	With a recommendation of approval and all other conditions as recommended by staff. No Public Comment		With conditions as recommended by staff No Public Comment

(pg. 3) Planning Cc		Monday, 2/13/2023			
	11) RZN-2022-0056 (BAUMANN CONSTRUCTION)	12) RZN-2023-0001 (SPRING STREET COTTAGES)	13) RZN-2023-0002 (LEGACY VENTURES LLC)	14) CUP-2022-0127 (DE LOS ANGELES)	15) CUP-2023-0002 (STEINWEG)
Madden	1	1	1		1
Holcomb	1	1	1	1	1
Brink	1	1	1	1	1
McGetrick					
Winston	1	1	1	1	1
Canada	1	1	1	1	1
Sparkman	1	1	1	1	1
Johnson	1	1	1	1	1
Garlock	1	1	0	1	1
Agenda	New	New	New	New	New
Motion By	Canada	Brink	Brink	Johnson	Brink
Motion 2nd	Brink	Madden	Canada	Garlock	Madden
Vote	8-0-0	8-0-0	7-1-0	7-0-0	8-0-0
Action	Forward	Forward	Forward	Approve	Approve
Time	6:40pm	6:51pm	7:21pm	7:26pm	7:36pm
Motion Detail	With recommendation of Approval No Public Comment	With recommendation of Approval No Public Comment	With recommendation of Approval 3 Public Comment	With conditions as recommended by staff No Public Comment	With conditions as recommended by staff 1 Public Comment

(pg. 4) Planning Commission			Monday, 2/13/2023		
	16) CUP-2022-0135 (COOPER)	17) CUP-2023-0001 (THORPE)	18) CUP-2022-0134 (GUNN)	19) CUP-2022-0137 (SHUFFIELD)	
Madden	1	1	1	1	
Holcomb	1	1	1	1	
Brink	1	1	1	1	
McGetrick					
Winston	1	1	1	1	
Canada	1	1	1	1	
Sparkman	1	1	1	1	
Johnson	1	1	1	1	
Garlock	1	1	1	1	
Agenda	New	New	New	New	
Motion By	Garlock	Garlock	Winston	Canada	
Motion 2nd	Madden	Winston	Brink	Madden	
Vote	8-0-0	8-0-0	8-0-0	8-0-0	
Action	Approve	Approve	Approve	Deny	
Time	7:41pm	7:46pm	7:56pm	8:12pm	
Motion Detail	With conditions as recommended by staff No Public Comment	With conditions as recommended by staff No Public Comment	With conditions as recommended by staff No Public Comment		



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

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

MEETING DATE: February 27, 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 for an extension and a major modification of LSD-2021-00040.

RECOMMENDATION:

Staff recommends partial approval of **ADM-2023-0002**.

RECOMMENDED MOTION:

*"I move to approve **ADM-2023-0002**, with conditions finding:*

- 1. In favor of the request to extend approval of LSD-2021-000040; and*
- 2. In denial of the request to modify the project area of LSD-2021-00040."*

FEBRUARY 13, 2023 PLANNING COMMISSION MEETING:

On February 13th, the item was tabled by Planning Commission until the meeting scheduled for February 27, 2023. It was requested that the applicant provide a revised request letter to extend the approval of the project due to its expiration. The applicant has since provided a revised letter requesting that the project be extended.

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. 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 requests an extension to LSD-2021-000040. The large scale development originally received approval on November 22, 2021 and expired after a period of one year. The applicant submitted a letter requesting the extension on February 13, 2023. Staff received notification from the applicant to extend the large scale development within the 18-month timeline they are allotted per UDC §166.20 and finds that the applicant meets the requirements set forth.

The applicant also proposes 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 supports the applicant's extension to the large scale development. The request was received before November 22, 2023, the deadline which such request must be made. In the request letter the applicant says building permits were not able to be pulled within one year due to the style of the development and that an additional year will allow adequate time to complete all necessary tasks. While staff finds in the request letter does not provide specific cause for delays, staff finds the project's scale and low-income housing credits presumably led to a project that is more complicated than typical. The request otherwise meets all requirements set forth in UDC §166.20.

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 partial approval of ADM-2023-0002. Should Planning Commission choose to approve the item staff recommends the following conditions:

Conditions of Approval:

1. A one-year extension for LSD-2021-000040 will expire on November 22, 2023.
2. Should the major modification be approved, the applicant shall submit a property line adjustment to revise the property boundary to reflect that of the project area.
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) not affected by this extension shall remain in effect.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
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Date: <u>February 27, 2023</u>

☐ 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

TO: Fayetteville Planning Commission

THRU: Ryan Umberger, Senior Planner

FROM: Melissa Evans, Urban Forester

MEETING DATE: February 27, 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.

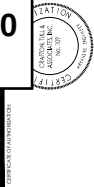
2. Structures subject to Urban Residential Design Standards will be evaluated in full time at the time of building permit submittal. This includes standards requiring variety in attached residential structures.
3. Right-of-way dedication in the amount of 11 feet from-centerline along N. 54th Avenue.
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		
		#2: reduction to greenspace is subject to approval by the Urban Forester		
Vote:	6-0-0			



GRAPHIC SCALE IN FEET
0 80'

COBBLESTONE FARMS
FAYETTEVILLE, AR

12/1/2020

DATE	03/03/2022
BY	
CHECKED	
DESIGNED	
IN CHARGE	
PROJECT	
LOCATION	
SCALE	
DATE	
BY	
CHECKED	
DESIGNED	
IN CHARGE	

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PRELIMINARY PLANS AND SAID DOCUMENT

1-L101

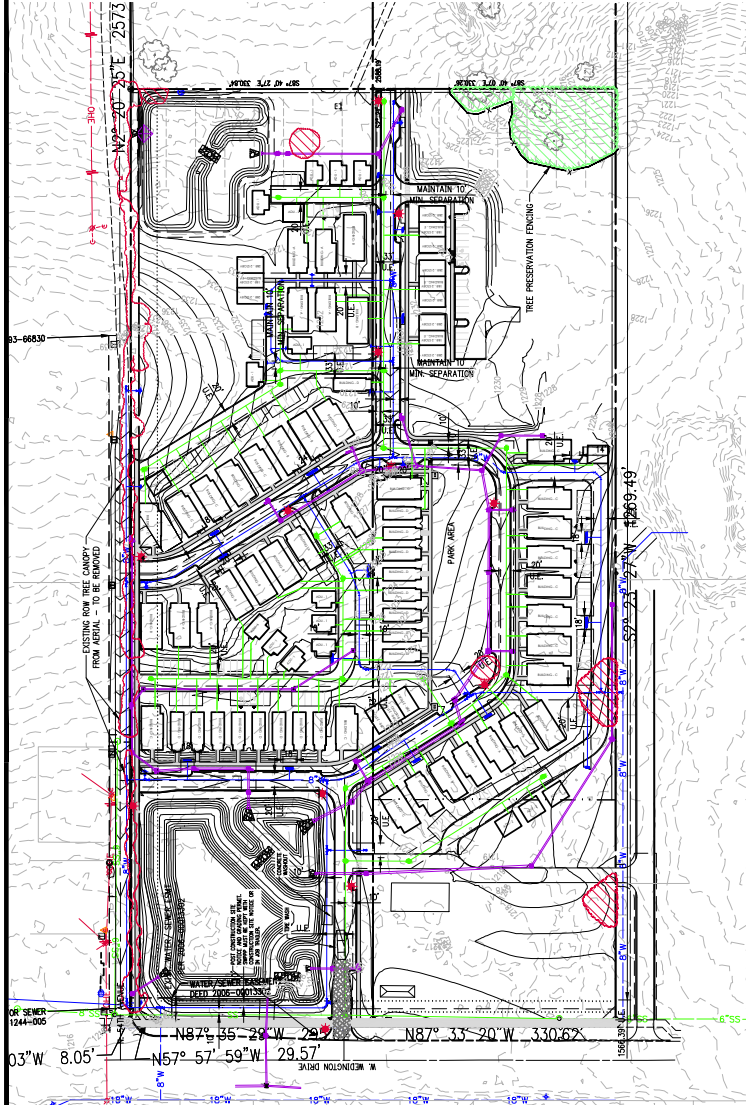


CITY OF FAYETTEVILLE CALCULATIONS

Tree Preservation Calculations	Square Feet	Percent of Site
Total Site Area * Minus Right of Way and Easements	1,279,295	100%
Zoning Designation * Select Below with drop down		
Adm-24 Multi-Family Residential Twenty-Four Units Per Acre		
Min-24 * Select Below with Drop Down Arrow	315,859	20%
No	0	0%
Total Canopy for Minimum Preservation Requirements	315,859	20.0%
Existing Tree Canopy * Minus Right of Way and Easements	22,804	1.5%
Tree Canopy Preserved	16,164	1.0%
Tree Canopy Removed * On Site	6,740	0.4%
Tree Canopy Removed * Off Site	0	0.0%
Tree Canopy Removed Total	6,740	0.4%
Removed Below Minimum	299,059	
Mitigation Requirements	6,740	

CITY OF FAYETTEVILLE CALCULATIONS

Mitigation Requirements	Preservation Priority Type	Forestation Base Density	Number of 2" Caliper Trees to be Planted
Canopy Below Requirements Set	High Priority	218	0
High Priority	Mid Priority	290	0
Mid Priority	Low Priority	435	15
Low Priority			
*High Priority is defined as containing significant trees, non-native woodlands, and used as buffers.			
*Mid Priority is defined as containing non-native woodlands, and used as buffers.			
*Low Priority is defined as containing non-native woodlands, and used as buffers.			



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

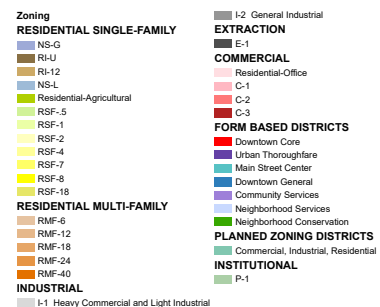
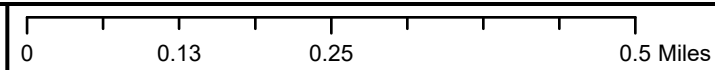
To whom it may concern,

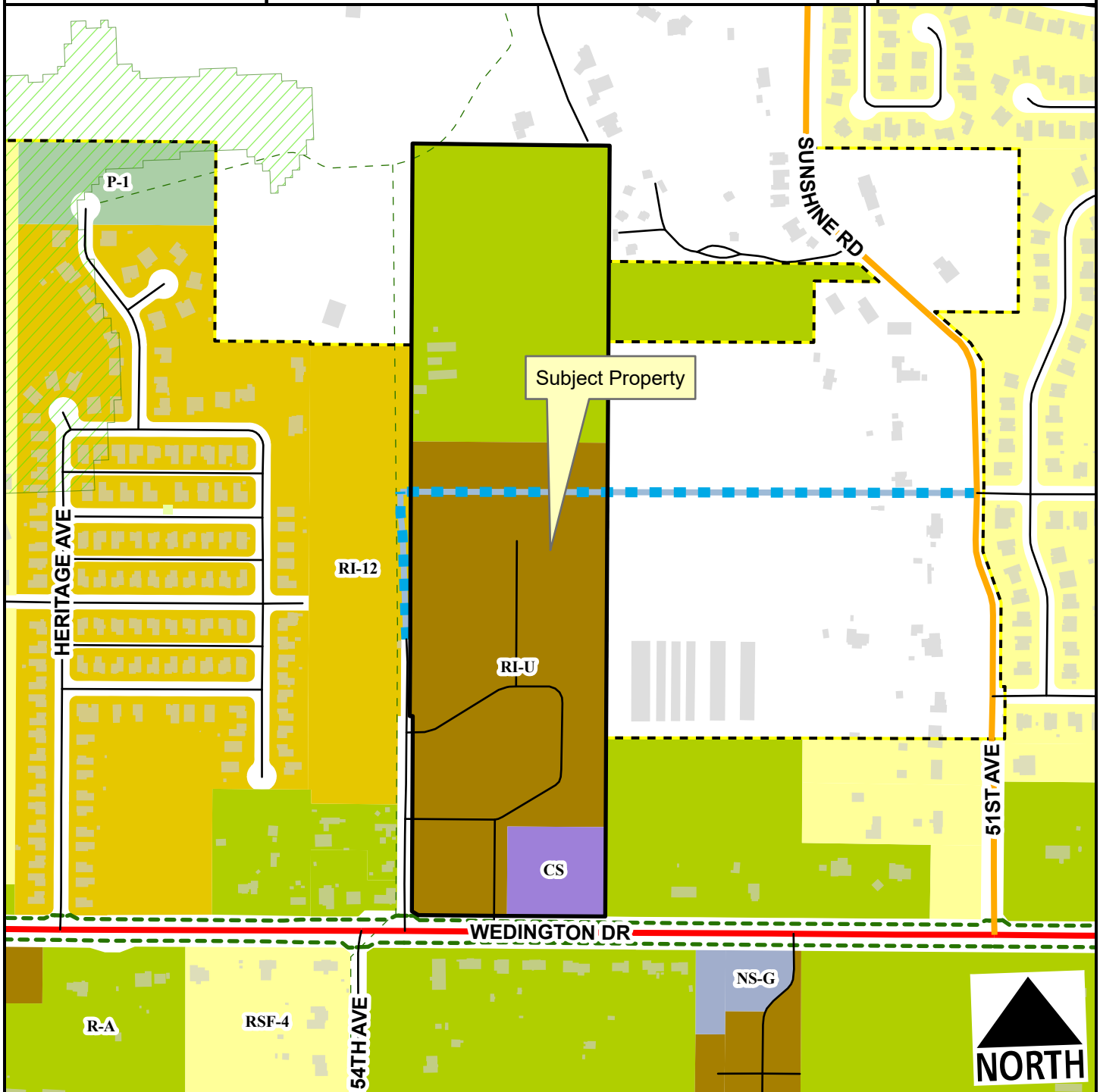
This submittal is for a modification to the Large Scale Development Plans. We would like to revise the plans to omit the tree preservation area in the NE corner of the site. We are not asking to remove these trees, and we will leave the fencing up as currently installed through construction of this large 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.

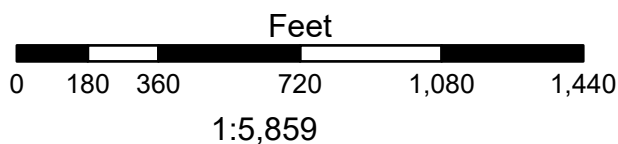
Sincerely,

Taylor Lindley, P.E.
Project Manager

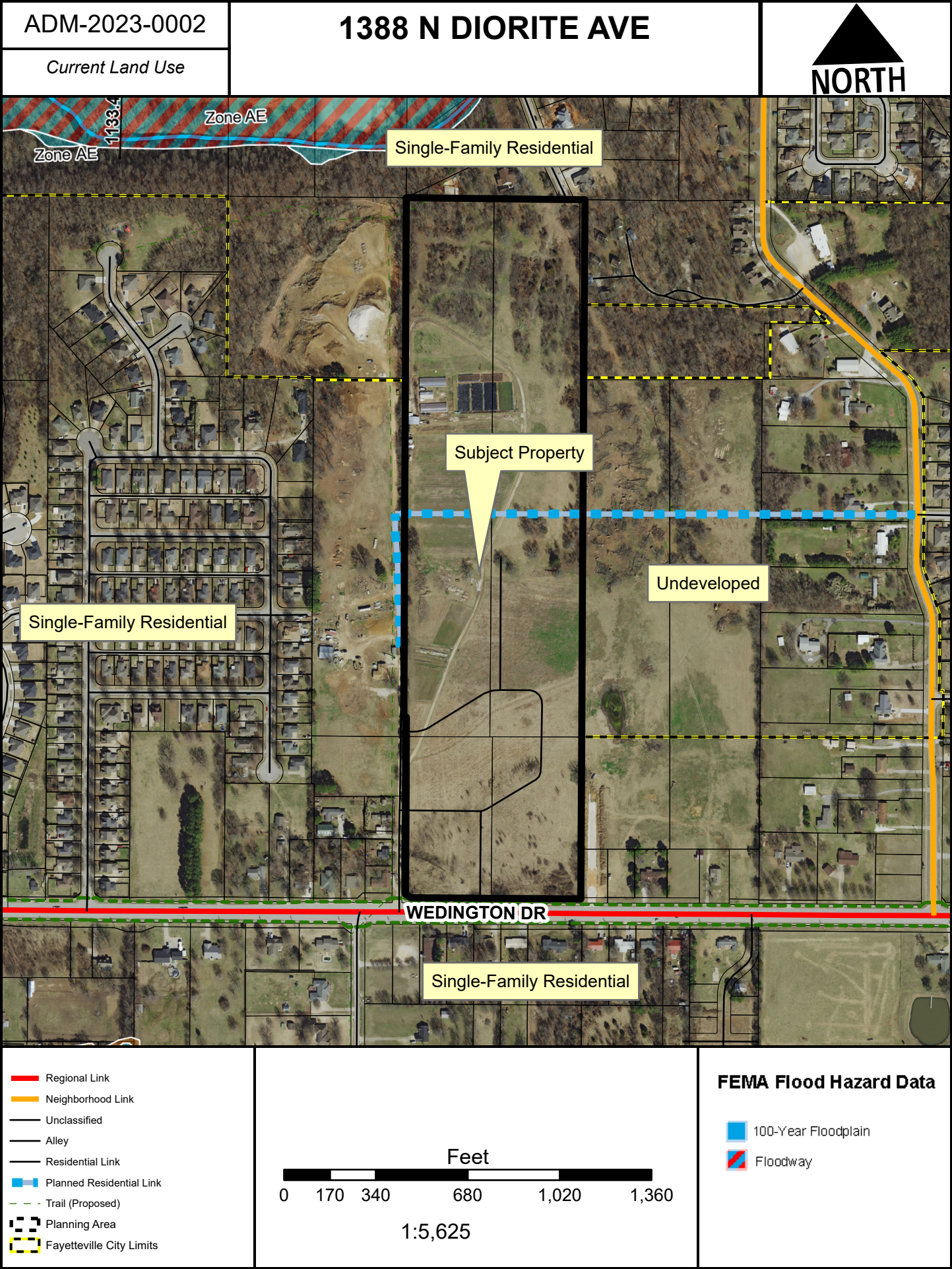




- Regional Link
- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



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





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forester

MEETING: February 27, 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 approval of **LSD-2022-0031** with conditions.

RECOMMENDED MOTION: “I move to approve **LSD-2022-0031**, recommending:

1. In favor of the recommended street improvements; and
2. All other conditions as recommended by staff.”

FEBRUARY 13, 2023 PLANNING COMMISSION MEETING:

On February 13th, the item was tabled by Planning Commission until the meeting scheduled for February 27, 2023. Planning Commission tabled the item, to allow time for the applicant to resubmit plans addressing comments about street improvements, structure elevations, and a revised variance request based on adjustments with the configuration of the site. In the intervening time the applicant has provided the revised documents.

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, community pool, sports courts, playground, and pavilion. 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. Further, as a condition of approval of ADM-2022-0052, the proposed pavilion is required to be enclosed on its east side to assist in limiting noise trespass and the pool is required to be located west of the pavilion. The supplied elevations and site plan confirm that the development is compliant with the applicable design standards and other required conditions.

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 approval of **LSD-2022-0031** subject to 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. This Large Scale Development is subject to the conditions of approval of CUP-2021-000051, VAR-2022-0029, and ADM-2022-0052, attached herein;
4. A copy of proposed covenants, if applicable, shall be submitted prior to grading permit approval;
5. 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;
6. The trash enclosure shall be constructed with material that is complimentary to, and compatible with, the proposed building;
7. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached herein;

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>February 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- CUP-2021-000051 Conditions of Approval
- VAR-2022-0029 Conditions of Approval
- ADM-2022-0052 Conditions of Approval
- Engineering Comments
- Urban Forestry Comments
- Request Letter
- Site Plan
- Elevations
- Public Comment
- 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				

VAR-2022-0029 Conditions of Approval:

1. Planning Commission determination of a variance to UDC §166.04(B)(3)(c) to allow the subject property to be subdivided into two lots without existing sanitary sewer infrastructure in place. *Staff is supportive of this variance based on the findings herein;*
2. A sanitary sewer main extension is required to service both Lot 3A and Lot 3B as depicted in LSP-2022-0023:
 - a. The applicant shall obtain a minimum 20-foot off-site sewer easement for the future extension of the sewer line to service Lot 3A,
 - b. The applicant shall dedicate a 20-foot sewer and utility easement along the western boundary of Lot 3A for a future sewer extension, and
 - c. The future sewer extension will be at the expense of the developer and must extend into the parcel it is proposed to service.
3. The developer shall be responsible to analyze the downstream capacity of the sewer system at the time of development. If off-site upgrades are required, they shall be completed at the developer's expense; and
4. Approval of this item does not represent approval of any other zoning or development variances, nor does it represent development entitlement approval for any associated plans.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>June 27, 2022</u>	☐ Tabled	☒ Approved	☐ Denied		
Motion: Brink	on consent				
Second: Winston					
Vote: 8-0-0					

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	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.		
Second: McGetrick			
Vote: 7-1-0			



TO: Ryan Umberger, Senior Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: February 23, 2023

SUBJECT: **Planning Commission Engineering Comments for
LSD 2022-0031 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. Sewer greater than 10' is not considered a standard spec and additional coordination must occur to determine sewer service.

Natural Features: The Farmington Branch and it's 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 provided variance requests to UDC 168(T)(5) and 168(U)(1) and (U)(3).

UDC 168(T)(5): Staff recommends approval of this variance to enable the development to start construction before obtaining a conditional letter of map revision (CLOMR). The applicant has started the CLOMR process which typically takes multiple months to finalize. As a condition of staff's recommendation of approval for this variance request, **the CLOMR must be approved prior to final occupancy.** In addition, there is a possibility that FEMA may require changes to the proposed crossing. It is as the applicant's own risk whether to proceed without final approval

from FEMA. After the improvements are complete, staff recommends the applicant file a letter of map revision (LOMR).

UDC 168(U)(1): The applicant has provided a hydraulic and hydrologic study which staff has reviewed. The study shows slight increases in flood heights and flood velocities due to the proposed crossing and fill associated with it. The applicant and staff have worked together on the location of the crossing and staff is comfortable supporting the variance at this time. The increased in heights and velocities are minimal and contained on the development's property.

UDC 168(U)(3): The applicant is requesting a variance to providing compensatory storage for the fill added to the flood plain. The added fill is for the berm of a detention pond and the proposed stream crossing. Staff is recommending in favor of this request due to the impact of removing the established vegetation to provide the compensatory storage. However, compensatory storage where the ground is already being disturbed must be explored.

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



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	01-18-23	
	10-18-22		

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.



August 17, 2022

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

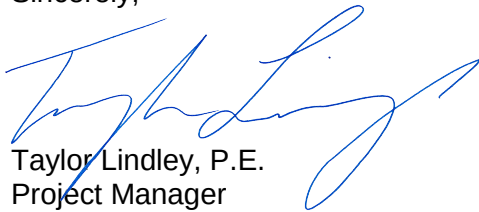
RE: Pig Skin RV Park
CTA Job No. 21109400

To whom it may concern,

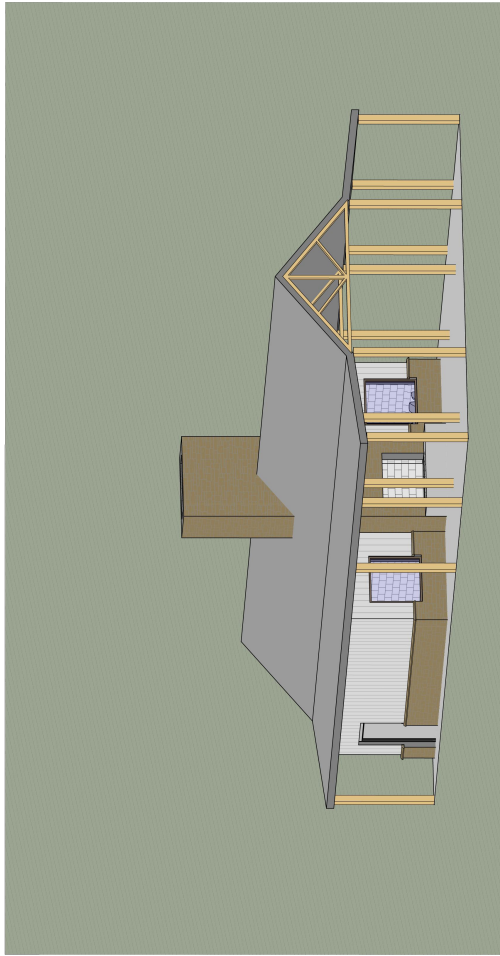
This submittal is for a Large Scale Development Plan for Pig Skin RV Park. This site is located southeast of the intersection of S. Leflar Way and M.L.K Jr. Blvd. The site area is approximately 43 acres with 165 proposed RV parking stalls and several amenities for the community. The current zoning is 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.

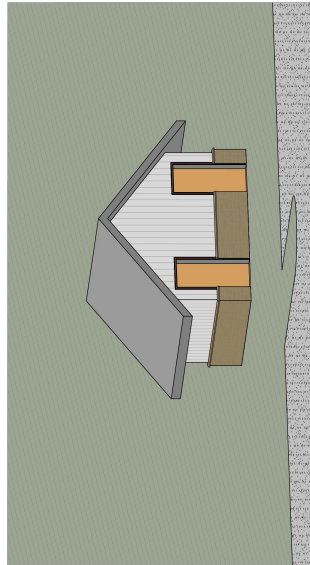
Sincerely,



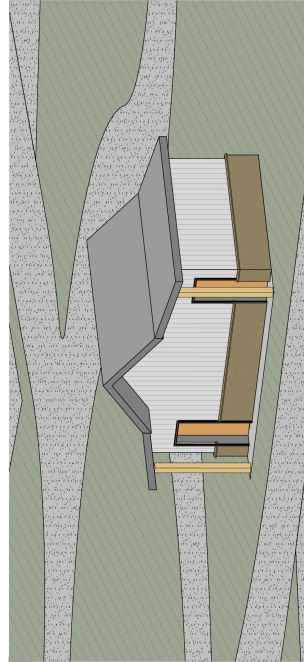
Taylor Lindley, P.E.
Project Manager



1 Pavilion Axon



2 Bathroom (No Showers) Axon



3 Bathroom Axon

PIGSKIN PARK

DATE: 12/29/2022

Enlarged Axonometrics



SHEET: 5 OF 7

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

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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.

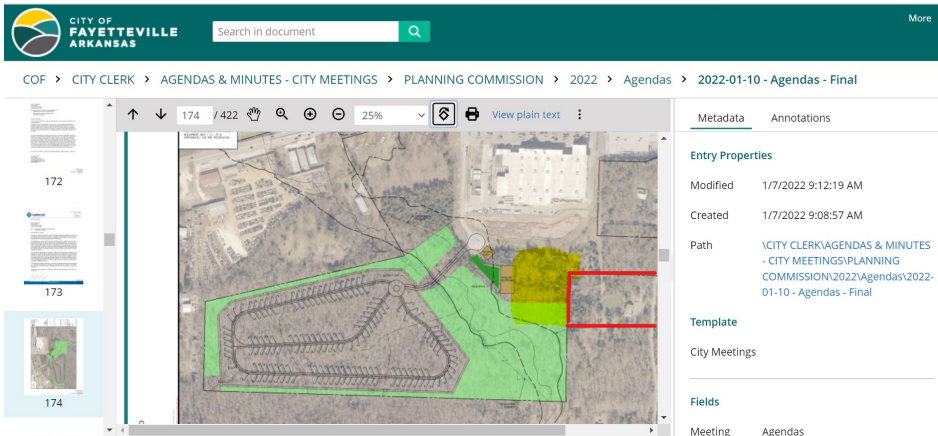
Is there anything that can be done to limit the developer to the original CUP plan they outlined, or is this plan already approved?

Thank you,

Michael Turner

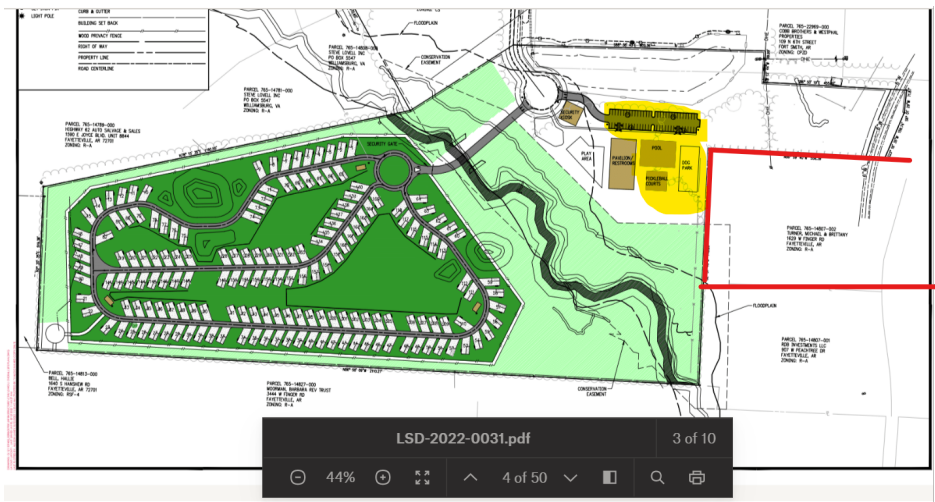
CUP-2021-00051

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.

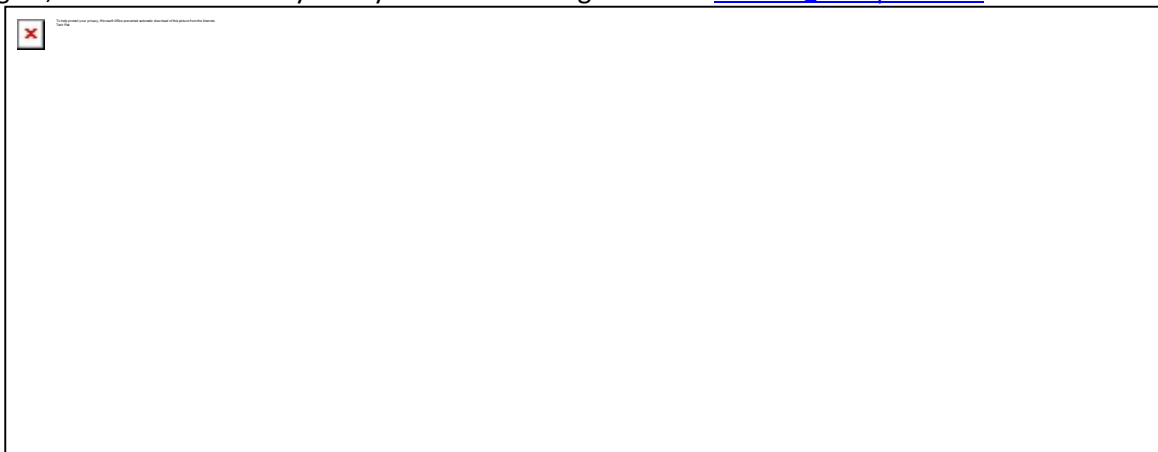


LSD-2022-0031

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.



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113 W. Mountain St.

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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

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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

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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

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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?

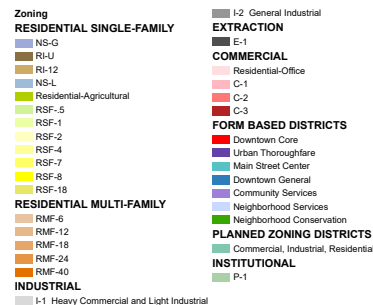
Outdoor lighting is required to be compliant with the Outdoor Lighting ordinance ([UDC §176](#)). Planning will require the applicant to submit manufacturer's specifications for all proposed outdoor lighting with grading or building permit submittal. Violations can be reported through the City's [See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

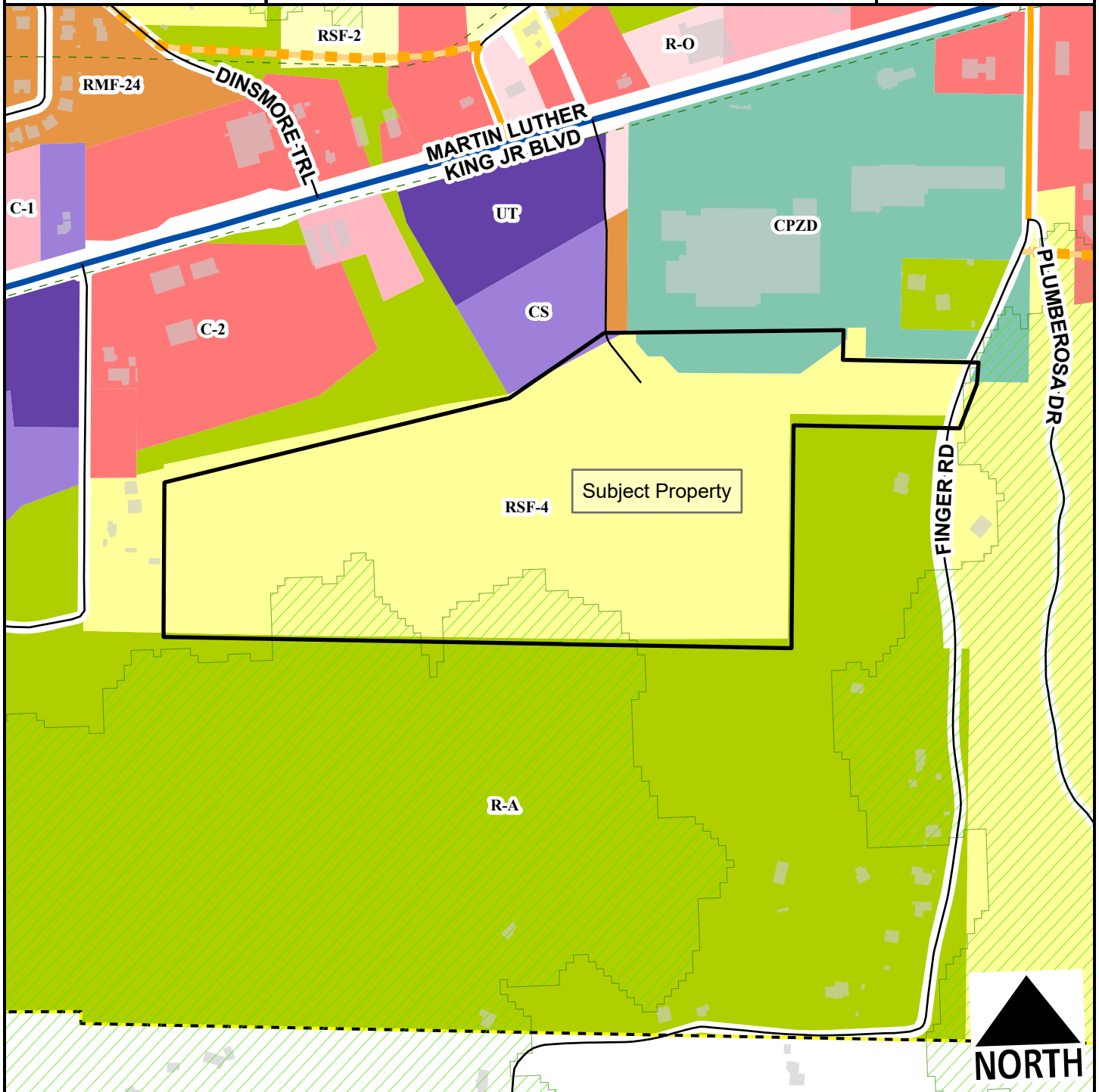
3. What kind of year-round occupancy is expected or will it just be home-games?

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.

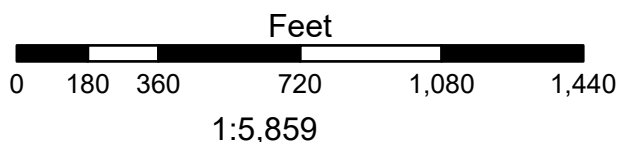
Thank you,

Mary Robin





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

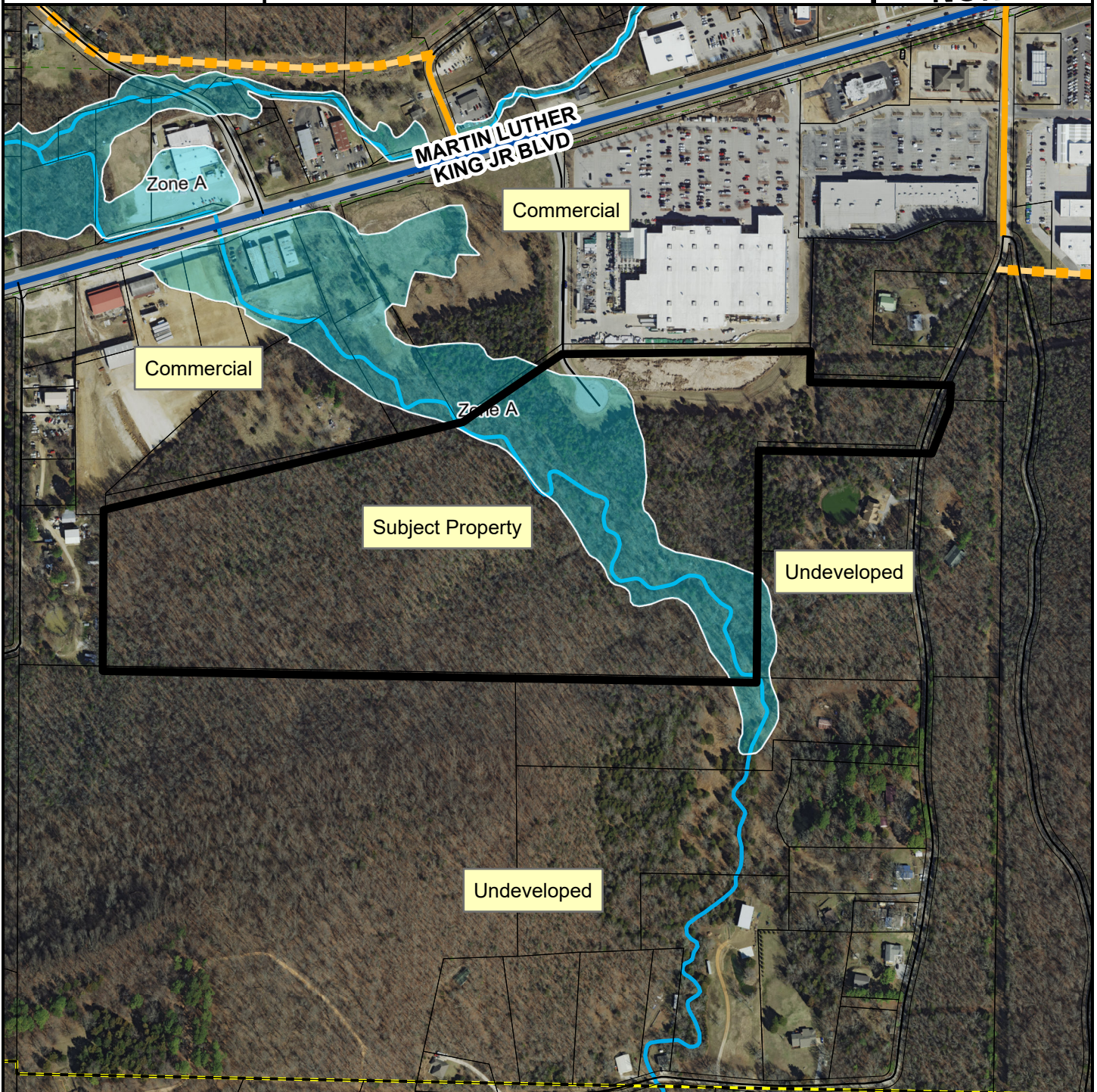


- Residential-Agricultural
- RSF-2
- RSF-4
- RI-12
- RMF-24
- Residential-Office
- C-1
- C-2
- Urban Thoroughfare
- Community Services
- Commercial, Industrial, Residential

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

Feet

0 170 340 680 1,020 1,360

1:5,625

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



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 27, 2023

SUBJECT: **PPL-2023-0001: Preliminary Plat (745 W. CHERRY ST./HABITAT FOR HUMANITY, 678):** Submitted by BATES AND ASSOCIATES for property located at 745 W. CHERRY ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.81 acres. The request is for the preliminary plat of nine lots.

RECOMMENDATION:

Staff recommends approval of **PPL-2023-0001** with conditions.

RECOMMENDED MOTION:

*"I move to approve **PPL-2023-0001**, recommending:*

- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in south Fayetteville on the south side of Cherry Street, just northeast of the intersection of School Avenue and the Fulbright Expressway. The property contains 1.81 acres and is currently undeveloped. The property received its current zoning designation of NC, Neighborhood Conservation as a result of a rezoning in 2021 (RZN-2021-000084). Most of the property lies within the I-540 Overlay District. Surrounding land uses and zoning is 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	Trailer Sales; Single-Family Residential	C-2, Thoroughfare Commercial; RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Tavern	C-2, Thoroughfare Commercial

Proposal: The applicant is proposing a subdivision with eight residential lots and one unbuildable lot reserved for detention. No variances have been requested.

Right-of-Way to be Dedicated: The subject property has frontage along Cherry Street, a partially-improved Residential Link with existing right-of-way varying between 0.6 feet and 4 feet from the

centerline of the road. Staff recommends that right-of-way be dedicated in the amount of 26 feet from centerline to align with the standard street section for a Residential Link.

Street Improvements: The subject property has frontage along Cherry Street, a partially-improved Residential Link with asphalt paving and open ditches. Staff is recommending that the property's frontage be improved with six-foot sidewalk, six-foot greenspace, curb, gutter, and asphalt to align with the standard street section for a Residential Link.

Block Length/Connectivity: Staff finds that the proposed preliminary plat complies with the City of Fayetteville's block length and connectivity standards. Each residential lot is proposed to be accessed through a shared drive with access onto Cherry Street. No new streets are proposed with this preliminary plat.

Water and Sewer System: There is an existing two-inch water main along Cherry Street that connects to the water main on the west side of School Avenue. If a hydrant is required, the applicant must install a new eight-inch main from the west side of School and extend it the length of the project's frontage. The new eight-inch main must tie into the two-inch main that continues along Cherry Street. The applicant has proposed to extend sewer so that the eastern portion of the site will have access for service. There is an existing eight-inch sewer main that can serve the western portion of the site.

Tree Preservation:

Canopy minimum requirement: 20%

Existing canopy: 72.1%

Preserved canopy: 15.3%

Mitigation required: 23 two-inch caliper trees

Parks: The Parks and Recreation Advisory Board (PRAB) reviewed this proposal at a meeting held on January 4, 2023. The Parks and Recreation Advisory Board recommended fee-in-lieu for this development in the amount of \$8,712 based on the number of proposed single-family lots. Park fees are due prior to building permit issuance.

Public Comment: Staff received public comment from one neighbor who expressed concerns about increased traffic along Cherry Street. The street is a narrow, dead-end road which ends in a private driveway, and the neighbor expressed concerns about more vehicles using their driveway to back out of the street.

RECOMMENDATION: Staff recommends approval of **PPL-2023-0001** 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 26 feet from centerline along the property's frontage;*

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

2. **Planning Commission determination of street improvements.** *Staff recommends that the property's frontage be improved with six-foot sidewalk, six-foot greenspace, curb, gutter, and asphalt to align with the standard street section for a Residential Link;*

Subdivision Committee recommended in favor of street improvements.

3. Fee in-lieu of parkland dedication is required in the amount of \$8,712 based on eight new single-family units and shall be paid prior to building permit issuance;
4. Streetlights shall be installed in accordance with code at all street intersections and at intervals of no more than every 300 feet;
5. Shared drives must be placed within the proposed access easements;
6. All residential lots will be subject to UDC §164.23 – Small Lot Design Standards;
7. Conditions of approval from Engineering, Urban Forestry, and Parks are included in the official conditions of approval;

Standard Conditions of Approval:

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

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Engineering Memo
- Urban Forestry Comments
- Parks Comments
- Request Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Gretchen Harrison, Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: February 23, 2023

SUBJECT: **Planning Commission Engineering Comments for
PPL-2023-0001 Cherry St Subdivision**

Water: There is an existing 2" water line along Cherry St that connects to the waterline on the west side of School. If a hydrant is required, the applicant must install a new 8" main from the west side of School and extend it the length of the project's frontage. The new 8" main must tie into the 2" that continues along Cherry St.

Sewer: The applicant has proposed to extend sewer so that the eastern portion of the site will have access for service. There is an existing 8" that can serve the western portion of the site.

Drainage: The project will have to meet the 4 Minimum Standards of the Drainage Criteria Manual. The applicant is proposing 2 bioretention features along with 2 detention ponds to meet the standards. Additional review of the drainage report will occur during grading permit reviews.

Plan Comments:

1. Final alignment and termination of the 8" water line to be considered during grading permit.

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: Jason Young, Bates & Associates, Inc.

From: Melissa Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: February 27, 2023

Subject: PPL-2023-0001: Habitat for Humanity: 745 W. Cherry St., 678

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	61,560	100%
Zoning Designation * Select Below with drop down arrow		
NC-Neighborhood Conservation	12,312	20%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	12,312	20.0%
Existing Tree Canopy * Minus Right of Way and Easements	44,381	72.1%
Tree Canopy Preserved	9,441	15.3%
Tree Canopy Removed *On Site	34,940	56.8%
Tree Canopy Removed *Off Site	2,207	
Tree Canopy Removed Total	37,147	60.3%
Removed Below Minimum	2,871	
Mitigation Requirements	5,078	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	5,078	23
Mid Priority		
Low Priority		
Total Mitigation Trees Required	5,078	23

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	No	No	Yes
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	No	No	No
i. All Existing and Proposed Utilities	No	Yes	Yes
j. All Existing and Proposed Utility Easements and ROW's	No	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	No	No	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	No	N/A	N/A
c. Traffic flow on work site	No	Yes	Yes
d. Location of material storage	Yes	Yes	Yes
e. Location of concrete wash out	No	No	No
f. Location of construction entrance/exit	No	No	No

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 (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	01-30-23	2-14-23	2-22-23
Approved			
Tabled			
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. Please show the buildings, hardscape features, utilities, grading and tree preservation fence overlapping the existing trees to be removed (and to remain). All of these items need to be visible. Thank you for sending the additional drawing to show all the layers.
3. It is ok that you did not have the initial review with the Urban Forester.



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Jason Young, Bates & Associates, Inc.

From: Melissa Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: February 27, 2023

Subject: PPL-2023-0001: Habitat for Humanity: 745 W. Cherry St., 678

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)
<i>UDC Chapter 177.04C</i> | X |
| d. Placement of Trees (either side at entrances and exits)
<i>UDC Chapter 177.04C2</i> | X |

3. Perimeter Landscaping Requirements

Yes No N/A

- | | | |
|--|-----|---|
| a. Front Property Line (15' wide landscape) and five on sides.
<i>UDC Chapter 177.04D2a</i> | | X |
| b. Side and Rear Property Lines (5' Wide Landscape Area)
<i>UDC Chapter 177D1</i> | N/A | |
| c. Shade trees planted on south and west sides of parking lots
<i>UDC Chapter 177.04D2e</i> | | 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 (2 per corner lot)
<i>UDC Chapter 177.05B1a</i> | X | |
| b. Non-Residential Subdivisions
1 Large Species Shade Tree every 30' (planted in greenspace)
<i>UDC Chapter 177.05B2a</i> | | X |
| c. Urban Tree Well – Urban Streetscapes
Trees every 30' (8' sidewalk)
<i>UDC Chapter 177.05B3a-f</i> | | X |
| d. Structured Soil – Urban Tree Wells
Include a note and/or detail of structural soil on Landscape Plan
<i>UDC Chapter 177.05B3a-f</i> | | X |
| e. Residential Subdivisions
Timing of planting indicated on plans
<i>UDC Chapter 177.05A4</i> | X | |
| f. Residential Subdivisions
Written description for method of tracking planting
<i>UDC Chapter 177.05A4e</i> | X | |

5. Landscape Requirement Totals		Amount
Mitigation Trees		23
Parking Lot Trees		0
Street Trees		9
Detention Pond – Large Trees (1 Tree/3,000 square feet)		1
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		3
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		4

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	01-30-23	02-14-23	02-22-23
Approved			
Tabled			
Denied			

Comments	
1.	Address items above marked “No” and all Redlines provided.
2.	Thank you for addressing previous comments.



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: January 30, 2023

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: January 4, 2023

Project Title: N/A

Project Number: PPL-2023-0001

Project Location: 745 W Cherry St

Plat Page: 678

Park Quadrant: SE

Billing Name & Address: Habitat for Humanity of Washington County
1421 E 15th St, Fayetteville, AR 72701

☐ Land Dedication

☒ Fee-in-Lieu

☐ Combination

LAND DEDICATION

Single Family: _____ units x 0.023 acres per unit = 0.00 acres

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

**TOTAL
Acres**

0.0

FEE-IN-LIEU

Single Family: 8 units x \$1,089 per unit = \$8,712

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

**TOTAL
Fees**

\$8,712

SUMMARY:

- Project proposes 8 SF units and 0 MF units.
- The final amount of fee-in-lieu and/or land dedication needed to satisfy Parkland Dedication requirements will be determined after Planning Commission's approval of the Final Plat.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- Prior to final receipt by the city, all fees must be paid **and any deeds for parkland dedication property must be:**
 - **Approved by the City's Land Agent in the Engineering Division.**

- Recorded at the Washington County Courthouse.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.



Bates & Associates, Inc.

Civil Engineering - Land Surveying

7230 S. Pleasant Ridge Dr / Fayetteville, AR 72704
PH: 479-442-9350 * FAX: 479-521-9350

January 17, 2023

Planning Staff
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Habitat for Humanity Cherry Street Preliminary Plat

Dear Planning Staff,

Bates & Associates, Inc., on behalf of Habitat for Humanity of Washington County Arkansas, has applied for a Preliminary Plat in the City of Fayetteville. The location of the proposed subdivision is at 745 West Cherry Street (Washington County Parcel 765-10805-000). The total acreage of the development is 1.81 acres. The current zoning district is NC – Neighborhood Conservation, and the subdivision will be developed per the requirements and restrictions of said zoning district. There are currently several existing permanent and temporary structures on the parcel, all of which will be removed or demolished upon development. The Developer wishes to develop the property into 8 single-family lots (Use Unit 8), with one remaining 0.70-acre lot designated for drainage and tree preservation.

Approximately 0.18 acres along West Cherry Street is proposed to be dedicated as Right-of-Way per Master Street Plan Requirements, and the south portion of West Cherry Street will be improved per current street standards. The resulting density after Right-of-Way dedication will be 4.42 units per acre.

According to City GIS records, there is an existing 2" CIP water main running east-west along West Cherry Street, connecting to a 6" CIP water main to the northwest of the subject property near the intersection of South School Avenue and West Cherry Street. To provide domestic water service to the development, an 8" water main extension will be provided from the termination of the existing 6" main across the street frontage of the proposed lots. A 6" sewer main exists within the right-of-way of West Cherry Street, terminating at manhole at about the half-way point of the subject parcel's street frontage and flowing west towards the intersection of South School Ave and West Cherry Street. This portion of existing sewer will be used to provide sewer service to the four proposed lots on the western side of the development. An 8" sewer extension will be provided to serve the remaining lots on the eastern half of the property, connecting to an existing manhole and 6" sewer main about 130' to the east on the north side of West Cherry Street.

The existing grade of the subject property slopes downwards to both the west and northeast. Stormwater Drainage and Water Quality requirements will be fulfilled by two separate stormwater facilities at the southwest and northeast corners of the properties. There are no existing stormwater improvements in the area.

The subject property forested with about 70% tree canopy. To allow for long-term tree preservation, the Applicant and Developer proposes a tree preservation area at the southeast portion of the property. A tree preservation easement can be provided to permanently protect the preserved trees. The Applicant and Developer look forward to a discussion with Urban Forestry about the best way to address tree preservation on this site.

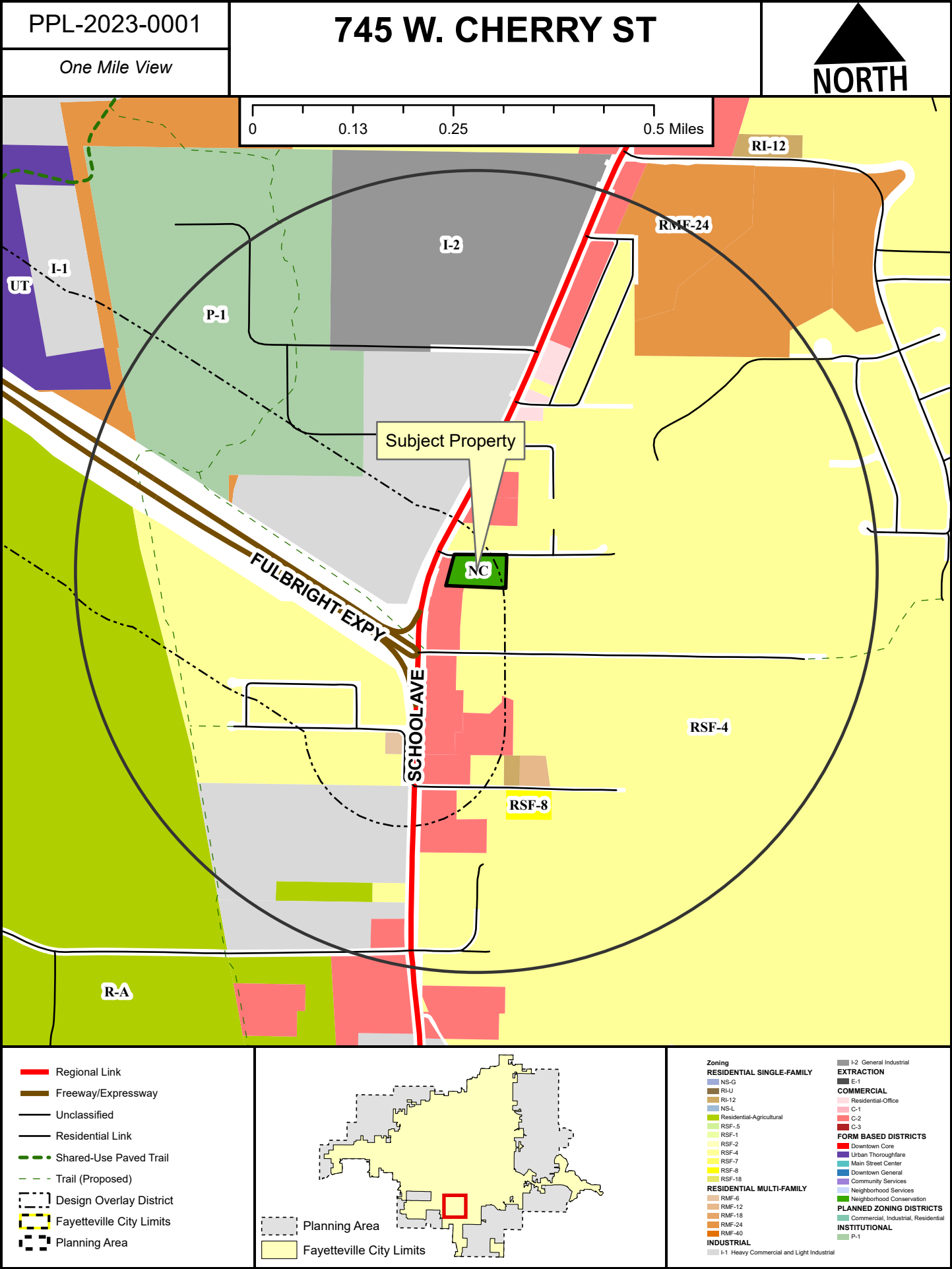
At the time of submittal, there is one potential variance required due to Street Frontage requirements of the Neighborhood Conservation Zoning Regulations. The total street frontage of this property at the Master Street Plan Right-of-Way is 351.93 linear feet. The 8 proposed single-family lots are 40' in width to meet the Zoning Regulations requirements. The remaining street frontage along West Cherry Street of the Drainage/Tree Preservation Easement is 31.60', or 79% of the requirement. Due to the proposed location of a Stormwater Facility and drainage infrastructure near said street frontage, this area of street frontage will not be accessible from Cherry Street. A granting of this variance will allow Habitat for Humanity to construct 8 single-family homes on the subject property. The Applicant and Developer look forward to working with Staff on this issue.

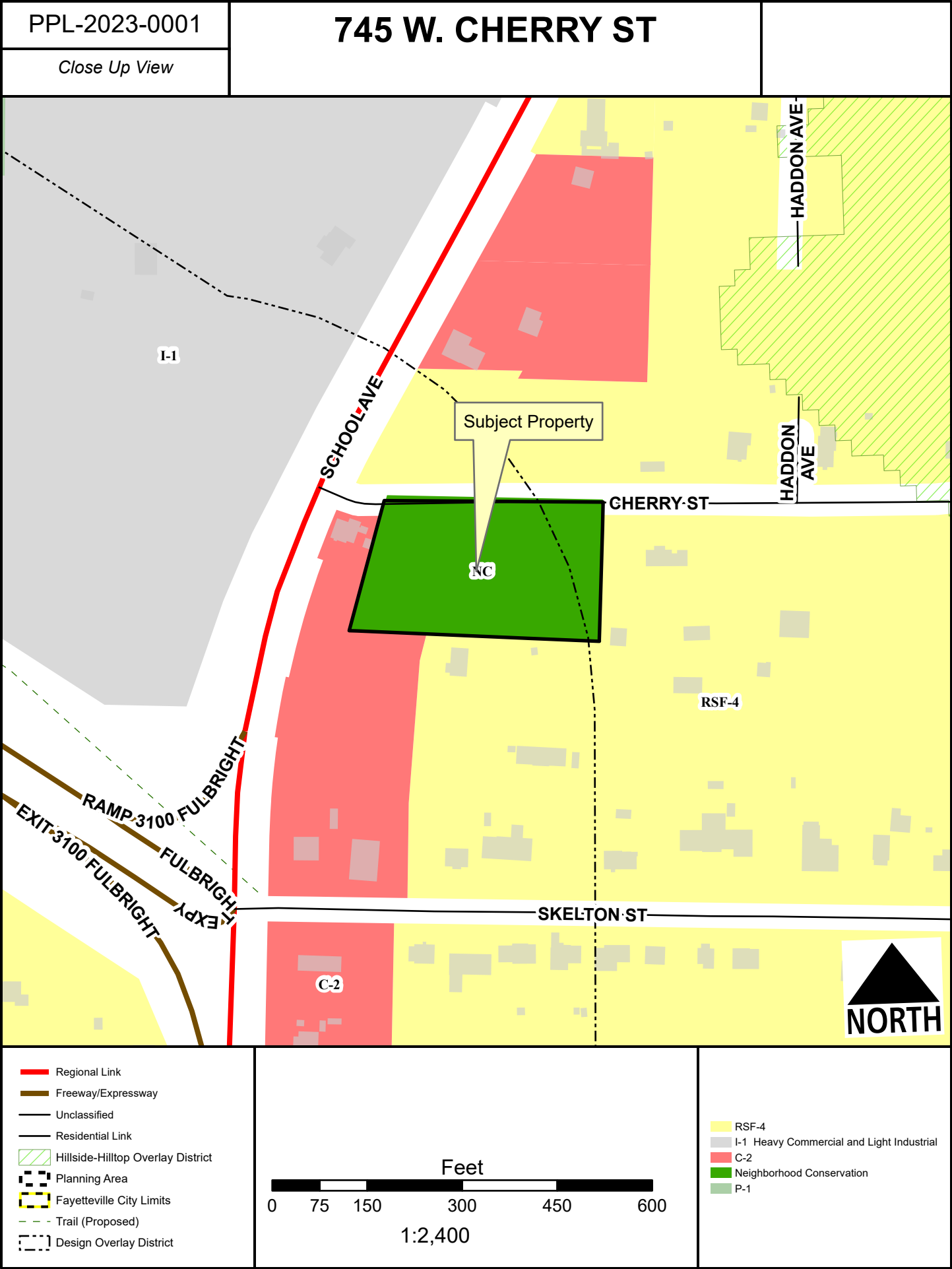
If you have any questions or require additional information, please feel free to contact me at your convenience.

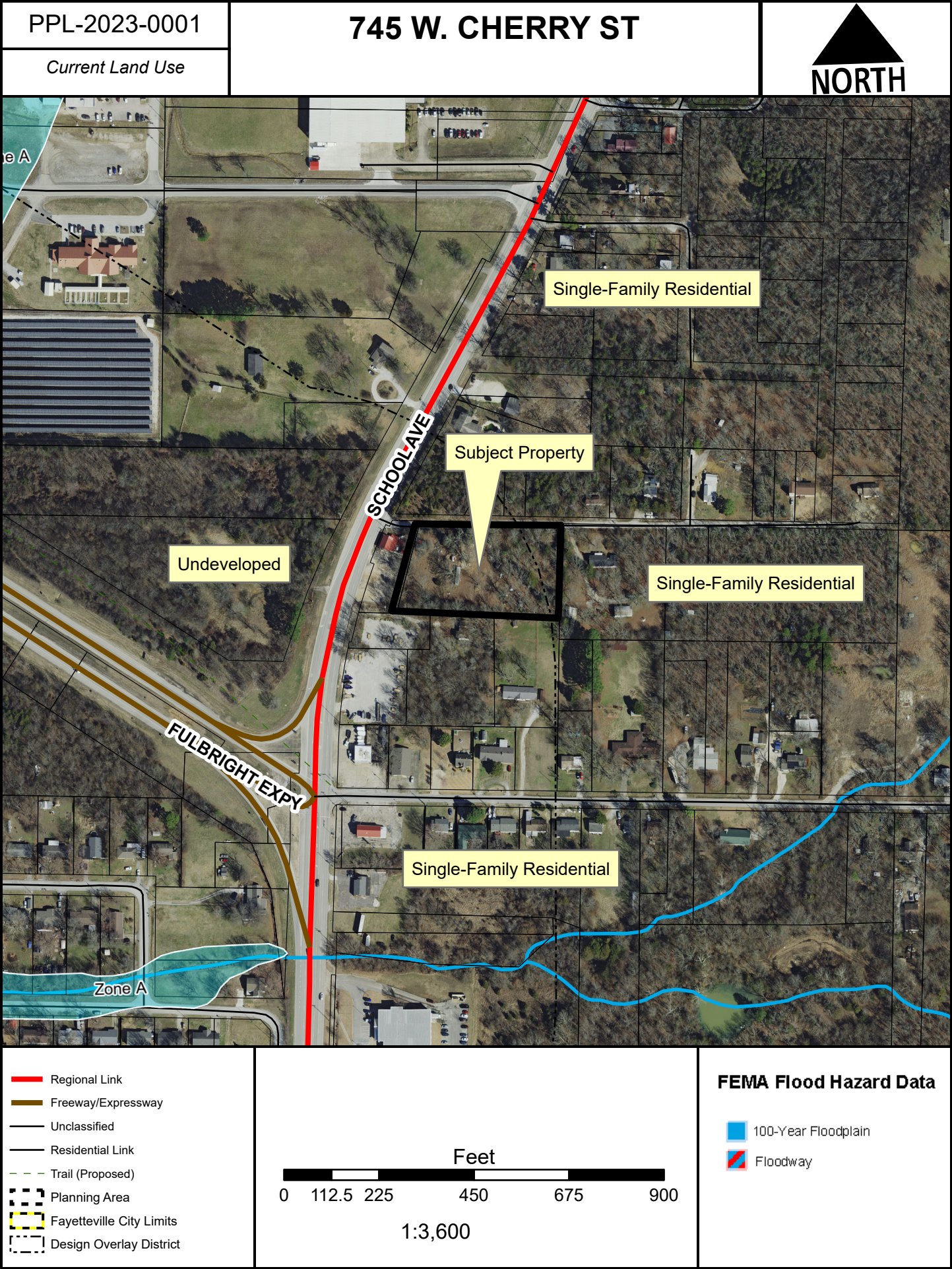
Sincerely,



Jason Young
Bates & Associates, Inc.
479-442-9350









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0014: Conditional Use Permit (1519 S SCHOOL AVE./SCOOTER'S COFFEE, 600):** Submitted by WILSON CIVIL DESIGN LLC for property located at **1519 S SCHOOL AVE.** The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.9 acres. The request is for Use Unit 18, Gasoline service stations and drive-in/drive-through restaurants in MSC zoning.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0014** with conditions as outlines by staff.

RECOMMENDED MOTION:

"I move to approval **CUP-2023-0014**, finding:

- In favor of compatibility with adjacent properties,
- In favor of variance to UDC 166.08(F)(2)(a) Street Design and Access Management Standards,
- Against variance to UDC 172.04(C)(4) Parking Lot Design Standards,
- In favor of variance to UDC 172.05(A)(1) Standards for The Number of Spaces by Use, and
- In favor of all other conditions as recommended by staff"

BACKGROUND:

The subject property is located in south Fayetteville at the SW corner of the intersection of W 15th St. and S School Ave. The property currently consists of two parcels developed as the 7Hills Homeless Shelter and its associated parking lot. The two parcels total approximately 0.9 acres and are zoned MSC, Main Street Center as of 2008. The property is also part of the Walker Park Neighborhood Master Plan and 71b Corridor Plan. Surrounding land uses and zoning are provided in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Restaurant	MSC, Main Street Center
South	Restaurant	MSC, Main Street Center
East	Fuel Station / Commercial	MSC, Main Street Center
West	Offices / Commercial	MSC, Main Street Center

City Plan 2040 Future Land Use Designation: City Neighborhood Area

Request: The applicant requests a conditional use permit to construct a drive-through only restaurant on the property. Drive-in/drive-through restaurants are classified as Use Unit 18, which is a conditional use in the MSC, Main Street / Center zoning district. Three variances to the UDC are included with this report and are discussed throughout. The following specifications were included with the request:

- Size of the business: Approximately 664 square feet
- Hours of operation: 6:00 AM - 6:00 PM Daily
- Parking: Nine (Proposed Drive-through Only)
- Number of employees: Approximately 3 per shift

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0014**. Should the Planning Commission choose to approve the permit, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed drive-through restaurant to be compatible with the surrounding neighborhood and the City's long-range plans for the area;*
2. **This conditional use permit is limited to the use for Scooter's Coffee as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:**
 - Size of the business: Approximately 664 square feet
 - Hours of operation: 6:00 AM - 6:00 PM Daily
 - Parking: Nine (Proposed Drive-through Only)
 - Number of employees: Approximately 3 per shift
3. **Planning Commission determination of variance to UDC 166.08(F)(2)(a) Street Design and Access Management Standards.** Staff is in support of the variance, with the condition that vehicular access to W. 15th Street shall be limited to right-in, right-out.
4. **Planning Commission determination of variance to UDC 172.04(C)(4) Parking Lot Design Standards.** Staff is not in favor of the variance as alternative conceptual designs have been presented meeting the code. If Planning Commission recommends in favor of this variance, staff recommends a condition that landscape screening shall be provided between vehicle stacking lanes and public right-of-way (W. 15th St, 96' ROW Total / S School Ave, 92' ROW Total).
5. **Planning Commission determination of variance to UDC 172.05(A)(1) Standards for The Number of Spaces by Use.** Staff is in support of the variance, with the condition that landscape screening be installed along the western parking area.
6. **An official zoning determination on the build-to-zone must be on file prior to building permit, either administratively from the Zoning and Development Administrator, or if necessary, through the Board of Adjustment.**

7. Compliance with relevant design standards will be reviewed for at the time of building permit.
8. Approval of this conditional use permit does not ensure approval of a development application. The conditional use permit grants the applicant rights to submit a development proposal based on the conceptual layout included herein. The applicant shall comply with all other development requirements, including but not limited to, tree preservation, drainage, exterior lighting, utility installation, and Fire Department access standards. These details shall be reviewed with the development application;
9. A business license shall be obtained for the proposed business at this location prior to occupancy of the property;
10. Any future expansion or change in the use shall require Planning Commission approval; and
11. Signs shall be limited to those permitted by UDC §174. Any proposed signage shall be reviewed for compliance with the underlying zoning district and shall be permitted by a separate sign permit prior to installation.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>February 27, 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 Use Unit 18 in the MSC zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

Finding: The Planning Commission is empowered under Unified Development Code §161.27 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 adversely affect the public interest. The MSC zoning district is designed primarily to provide a range of uses that are spatially compact. Establishments that fall under Use Unit 18 are designed to fulfill recurrent needs of nearby residents but are typically incompatible with more urban-oriented districts; however, the proposed use of the site does act to densify the area and provide a needed service. In addition, the proposed design does not add further curb cuts and will reduce the impervious area on the property. The property is part of the Southgate redevelopment area plan area within the 71b Corridor Master Plan. The plan calls for redeveloping adjacent vacant / underutilized land with residential or mixed uses, as well as extensive improvements to S. School Ave. These improvements include a cycle track on the west side of the road and a parking lane on the east side in a sixty-foot (60') section. Given the proposed use and layout of this site, this request may be compatible with the City's land use plans and goals.

(c.) The Planning Commission shall certify:

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

Finding: Chapter 172.04 covers parking lot design standards specific to drive-through facilities. Drive-through restaurants are required to meet a minimum of four (4) stacking spaces as measured from the drive through window. The site plan shows eleven (11) vehicles stacked outside of the parking area in compliance with the code. A variance is required to the design as it is located between the building and street, which is not permitted under 172.04(C)(4). Four conceptual designs have been provided to staff for review. Two met the minimum parking requirements and one met both the minimum stacking requirements and the driveway location standards. Given that a design has been provided meeting the both the parking and driveway standards, staff is not in support of the variance as presented. If Planning Commission elects to support the variance, staff recommends a condition that that landscape screening shall be provided between vehicle stacking lanes and public right-of-way.

(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: Per the submitted site plan, access to the property is proposed by two existing curb cuts with one on W 15th St and the other on S School Ave. Due to Chapter 166.08 (G), any non-conforming parking features are required to be brought into conformance with the construction of a new primary structure on the parcels. The existing curb cut onto W. 15th St is located less than the 250' minimum required on a regional link by Chapter 166.08(F)(1). Staff is supportive of this variance as accident data near this intersection notes only one accident near the proposed entrance from W 15th St Boulevard between 2017 and 2021 with no reported injuries. Given the curb cut is existing and is located as far west from the intersection as possible, staff recommend approval of the variance with a condition requiring right in/right out only access onto W 15th St in order to mitigate increased traffic into the property from this regional link.

(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: Nine off-street parking spaces are proposed with this development including one ADA accessible parking spot, plus eleven (11) stacking spots adjacent to the drive-through window. The design requires a variance as it exceeds the parking allowed by Chapter 172.05(A)(1). As there is a 662 square foot restaurant space, the code would allow seven (7) parking spaces plus four (4) stacking spaces. As the design is a renovation of an existing parking lot and is proposing to reduce the amount of impervious surface on the property, staff is supportive of the variance. Staff does recommend a

condition requiring landscape screening of the parking along the western property boundary in order to reduce visual impact of the vehicles.

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

Finding: Refuse enclosures are shown on the plans including screening. Applicant to coordinate with waste services to verify service vehicle access.

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

Finding: The property has access to City water and sewer.

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

Finding: The subject property is surrounded by commercial structures to the south and west, with minimal landscaping. Staff recommends a landscape buffer be installed adjacent to the vehicle stacking lanes between the stacking lane and ROW.

- (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 UDC §174 and all the regulations therein.

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

Finding: Based on the applicant's submittal, the development is not meeting the build-to zone requirements of the Main Street/Center zoning district. Per Chapter 166, the building shall be located facing the public ROW and must be in front of all driving and queuing lanes; however the proposed site layout has placed the ordering lane for the drive-through restaurant between the building and ROW in order to provide sufficient vehicle stacking. Given the nature of this use and proposed design of the site, a request to vary from the setback requirements of the Chapter 166 may need to be approved by the Board of Adjustment. Compliance with zoning regulations will be fully reviewed at the time of development review.

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

Finding: Staff finds that the proposed drive-through only restaurant facility is compatible with adjacent properties. The project is located at a major auto intersection approximately 0.1 miles off the Town Branch Trail, granting potential access to both vehicles and pedestrians. Staff finds that a condition limiting how vehicles access W 15th St. has the potential to mitigate

the generation of additional traffic hazards, and that the use will provide conveniences goods and personal services for persons living in the surrounding residential areas.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §161.27 – MSC, Main Street/ Center
 - § 166.08 Street Design and Access Management Standards
 - § 172.04 Parking Lot Design Standards
 - § 172.05
- Engineering Memo
- 71b Corridor / Southgate Re-development Exhibit
- Applicant Request Letter
- Variance Request Letter
- Site Plan
- Alternative Concepts
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.27 Main Street/Center

(A) *Purpose.* A greater range of uses is expected and encouraged in the Main Street/Center. The Center is more spatially compact and is more likely to have some attached buildings than Downtown General or Neighborhood Conservation. Multi-story buildings in the Center are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the Main Street/Center. The Center is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street/Center district is a commercial zone.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor stores
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 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
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 (all unit types)	18 feet
---------------------------	---------

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations.*

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

(F) *Minimum Buildable Street Frontage.* 75% of lot width.

(G) *Building Height Regulations.*

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

* A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or a portion of a building that is located greater than 15 feet from the master street plan right-of-way line shall have a maximum height of seven (7) stories.

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5042, 8-07-07; Ord. No. 5195, 11-6-08; 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. 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."

166.08 Street Design and Access Management Standards

...

- (F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.
- (1) *Curb Cut Separation.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.
 - (2) Separation for two (2) family, three (3) family, multi-family and nonresidential development.
 - (a) *Regional and Regional High Activity Links.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway.

...

(G) *Non-Conforming Access Features.*

- (1) *Existing.* Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:
 - (a) When new access connection permits are requested;
 - (b) Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor; or
 - (c) As roadway improvements allow.
 - (d) With development of a new primary structure on the property.
- (H) *Easements.* Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

(Code 1965, App. C., Art. IV, §§C, D, F—H; Ord. No. 1750, 7-6-70; Ord. No. 1801, 6-21-71; Ord. No. 2196, 2-17-76; Ord. No. 2353, 7-5-77; Code 1991, §§159.45, 159.58, 159.51—159.53; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4757, 9-6-05; Ord. No. 4919, 9-05-06; Ord. No. 5156, 8-5-08; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12; Ord. No. 5642, 12-03-13; Ord. No. 6179, §1, 4-16-19; Ord. No. 6207, §§1—4, 7-16-19; Ord. No. 6244, §1, 10-1-19; Ord. No. 6350, §4(Exh. C), 8-18-20)

172.04 Parking Lot Design Standards

...

- (C) *Build-to Zone*. A portion of a required parking lot may be located within the build-to zone, subject to the following:

- (1) A parking lot located within the build-to zone shall be screened with a masonry screen wall between 32 inches and 42 inches in height and 50% opaque minimum.
- (2) Parking lots that are located within the build-to zone shall comply with Chapter 177: Landscape Regulations, related to landscape setbacks.
- (3) Off-site parking lots shall be prohibited from being located within the build-to zone.
- (4) In urban zoning districts that specify urban form (i.e., a build-to zone) the intent is for drive-thru lanes, parking lot drive aisles, and parking spaces to be located to the side or rear of buildings. In urban zoning districts, a drive-thru lane, parking lot drive aisle, or parking spaces are not permitted to be located in the front yard directly between a building and the Master Street Plan right-of-way.

....

(Ord. No. 4725, 7-19-05; Ord. No. 4855, 4-18-06; Ord. No. 4917, 9-05-06; Ord. No. 5044, 8-07-07; Ord. No. 5079, 11-20-07; Ord. No. 5297, 12-15-09; Ord. No. 5592, 06-18-13; Ord. No. 5680, 4-15-14; Ord. No. 5841, §§1—3, 1-5-16; Ord. No. 5859, §2, 3-15-16; Ord. No. 6325, §1, 6-16-20; Ord. No. 6350, §9(Exh. G), 8-18-20)

172.05 Standards For The Number Of Spaces By Use

...

- (3) *Maximum Number Allowed for Residential and Non-Residential Uses*. Residential and non-residential developments may utilize the following increases to the required spaces listed in Table 3 when the following standards are met:

...

- (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.

...

- (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

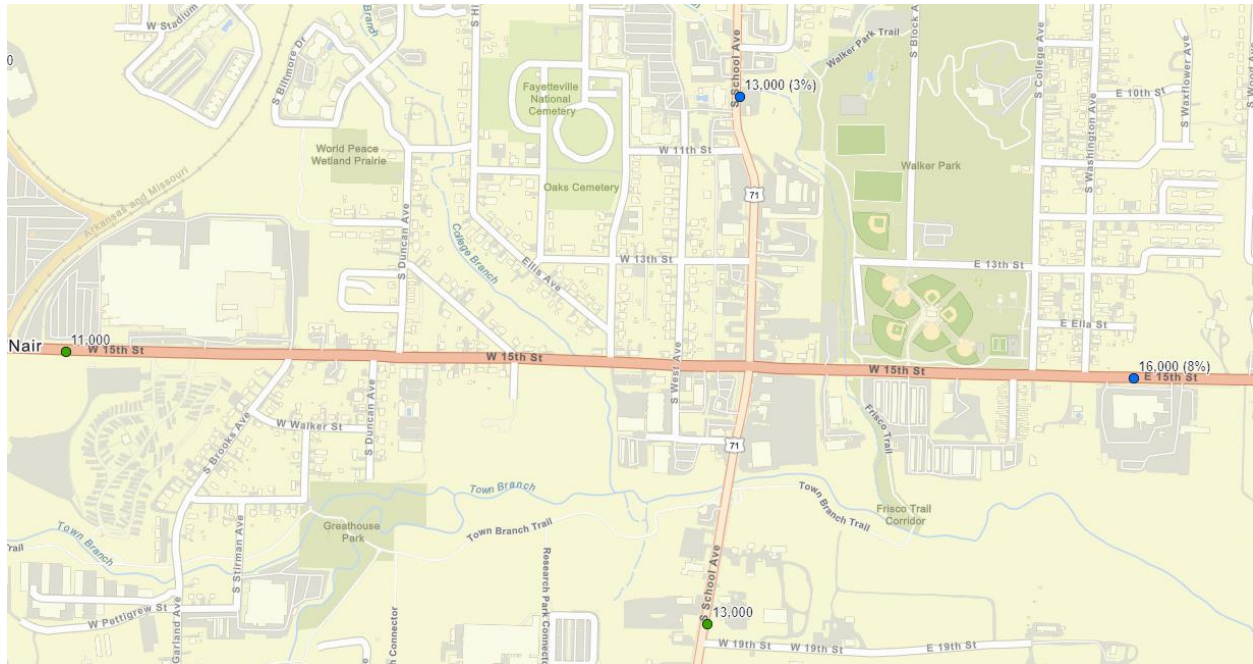
...

Commercial

Agricultural supply	1 per 500 sq. ft. of GFA
Amusement	1 per 200 sq. ft. of GFA
Auditorium	1 per 4 seats
Auto/motorcycle service stations	4 per each enclosed service bay
Bank	1 per 200 sq. ft. of GFA
Barber or beauty shop	2 per chair
Building/home improvement supply	1 per 500 sq. ft. of GFA
Coin-operated laundry	1 per 3 machines
Dry cleaning	1 per 300 sq. ft. of retail area and 1 per employee
Hotels and motels	1 per guest room, plus 75% of spaces required for accessory uses.
Furniture and carpet store	1 per 500 sq. ft. of GFA
Plant nursery	1 per 1,000 sq. ft of indoor/outdoor retail area
Restaurants	1 per 100 sq. ft. GFA plus 4 stacking spaces per drive-thru window.
Retail	1 per 250 sq. ft. of GFA
Retail fuel sales with convenience stores	1 per 250 sq. ft. of retail floor area. Owner may count spaces at pump islands as parking spaces.
Retail fuel sales only	1 per employee. Owner may count spaces at pump islands as parking spaces.

(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)

Traffic Counts:



(ArDOT)

Wonsower, Donna

From: wilson@wilsoncivildesign.com
Sent: Thursday, February 23, 2023 2:30 PM
To: 'Shanna Turner'
Cc: Wonsower, Donna; 'Lisa White'
Subject: RE: CUP-2023-0014 (417 W 15TH ST FAYETTEVILLE, AR 72701)

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.

Donna – Please use the information from Shanna below. Mine was based upon calculations from another location, not actual vehicle counts.

Wilson D. Waggoner, P.E.
Wilson Civil Design, LLC
200 Morewood Dr.
Manchester, MO 63011
(618)971-9270
wilson@wilsoncivildesign.com

From: Shanna Turner <shanna.turner@t4enterprises.org>
Sent: Thursday, February 23, 2023 2:28 PM
To: wilson@wilsoncivildesign.com
Cc: Wonsower, Donna <dwonsower@fayetteville-ar.gov>; Lisa White <lisa.white@scooterscoffee.com>
Subject: Re: CUP-2023-0014 (417 W 15TH ST FAYETTEVILLE, AR 72701)

The customer count was taken July 8th when school was out. The numbers car counts are as follows:

East & North
7:40-7:55: 196
8:10-8:25: 129
8:40-8:55: 174

West & South
7:55-8:10: 234
8:25-8:40: 188
8:55-9:10: 201

I honestly look for us to see close to 550 customers a day!

Shanna Turner

On Thu, Feb 23, 2023 at 2:20 PM <wilson@wilsoncivildesign.com> wrote:

Hi Donna,

71B CORRIDOR PLAN



Food and Shelter Village, Norman, OK

Housing "Village" for Temporarily Homeless Households

Homelessness is a significant challenge in the South Fayetteville part of the study corridor, but it encompasses different people with different needs. The interfaith 7Hills has established a Day Center along South School that provides support services including job assistance, transportation, meals, counseling, and other basic human services. It is also developing the Walker Community, a transitional housing environment that will provide 36 units for individuals and families in townhouse and efficiency apartments. Serve NWA's New Beginnings project, under development in 2019, addresses the needs of unsheltered people by providing bridge housing with supportive services to help them on the path to permanent settings. But others, including households with children, are temporarily homeless because of financial emergencies, domestic abuse, gentrification, and increasing housing costs. An interesting physical development model to address these needs is a "tiny house" community, providing individual detached units around common space with access to 7Hills support services through its service center. This approach was pioneered by Norman, Oklahoma's Food and Shelter program and appears highly relevant to this need in Fayetteville. It also provides a place for families to live on a short-term basis while other, more permanent housing is developed.



Focus on Southgate

The Southgate area, between Town Branch Creek and approximately 11th Street, merits a special focus because of the substantial new development opportunity that it presents. While most of the 71B corridor involves evolutionary change on opportunity sites, this area's underutilized or vacant land encourages a more aggressive, redevelopment-oriented approach. Such an approach also complements the major changes taking place in the Mill District, improvement efforts in the Walker Park neighborhood, and the continued growth of the University of Arkansas research campus. A key early initiative would be redevelopment of the under-occupied Southgate shopping center. In the concept, the vacant IGA grocery store, most of which is in the Town Branch Creek floodplain, would be demolished and replaced by a multi-family building with parking at grade (or floodplain) level. The iconic Mountain Man store would remain with improved parking and overall environment. A contemporary but vacant bank building would be reused, with a new mixed use building defining the 15th Street corner and more residentially scaled apartments lining the east side of the site.



The following pages illustrate the continuation of this redevelopment approach toward the Mill District. New development focuses on sites with low use and the concept maintains and enhances many existing buildings and business establishments. Existing salvage yards north of 15th Street would gradually be replaced with new commercial development and a medium-density townhome community with access to the Razorback Greenway and Walker Park. On the west side of School north of 15th, a mixed use project with two commercial spaces and multifamily buildings would replace vacant uses or distressed buildings. Parking and pedestrian access are improved to important existing neighborhood businesses.

PROJECT LOCATION



Southgate Plan Elements

Planning Commission

February 27, 2023

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WILSON CIVIL DESIGN

DESIGNING RESOURCEFULLY

Wilson@wilsoncivildesign.com

(618)971-9270

January 18th, 2023

To: Chair of the Planning Commission
Fayetteville, AR

From: Wilson Waggoner
Wilson Civil Design, LLC
200 Morewood Dr.
Manchester, MO 63011
E: wilson@wilsoncivildesign.com
P: (618)971-9270

RE: Planning Commission Variance Request for 417 W 15th Street, Fayetteville, AR 72701

The proposed development at 417 W 15th Street is a Scooter's Coffee shop, a drive-thru only oriented business. The provided site plan shows the desired layout of the site including the 664 square foot building, a drive lane, parking, a trash enclosure area, a queuing lane, sidewalk access, and signage. After review of the site with City Planning, it has been determined that the position of the building, with the rear facing toward S School Road and the side facing W 15th Street does not meet code as described in the Main Street/Center ordinances. Per Chapter 166 Development, the building is to face toward a public street and must be in front of all driving and queuing lanes. The proposed site layout has a queuing lane between the street and the building to provide sufficient stacking as vehicles approach the pick-up window. Multiple iterations have been created to accommodate the City code but result in too few vehicles in the queuing lane which would cause an overflow into the main drive aisle or the public road. It is our request that variances be approved for the proposed site layout.

Respectfully Submitted,

WILSON CIVIL DESIGN



Wilson D. Waggoner, PE
President

WILSON CIVIL DESIGN

DESIGNING RESOURCEFULLY

Wilson@wilsoncivildesign.com

(618)971-9270

February 23, 2023

To: **Donna Wonsower**
Planner, Development Services
City of Fayetteville, Arkansas
Office: 479.575.8358

From: Wilson Waggoner
Wilson Civil Design, LLC
200 Morewood Dr.
Manchester, MO 63011
E: wilson@wilsoncivildesign.com
P: (618)971-9270

RE: Variance Request for property at 1519 S School Avenue in Fayetteville, AR 72701

The proposed development is a Scooter's Coffee shop, a drive-thru only oriented business. The provided site plan shows the desired layout of the site including the 664 square foot building, a drive lane, parking, a trash enclosure area, a queuing lane, sidewalk access, and signage. After review of the site with City Planning, it has been determined that the position of the building, with the rear facing toward S School Road and the side facing W 15th Street does not meet code as described in the Main Street/Center ordinances. Per Chapter 166 Development, the building is to face toward a public street and must be in front of all driving and queuing lanes. The proposed site layout has a queuing lane between the street and the building to provide sufficient stacking as vehicles approach the pick-up window. Multiple iterations have been created to accommodate the City code but result in too few vehicles in the queuing lane which would cause an overflow into the main drive aisle or the public road. It is our request that variances be approved for the proposed site layout.

Requested variances:

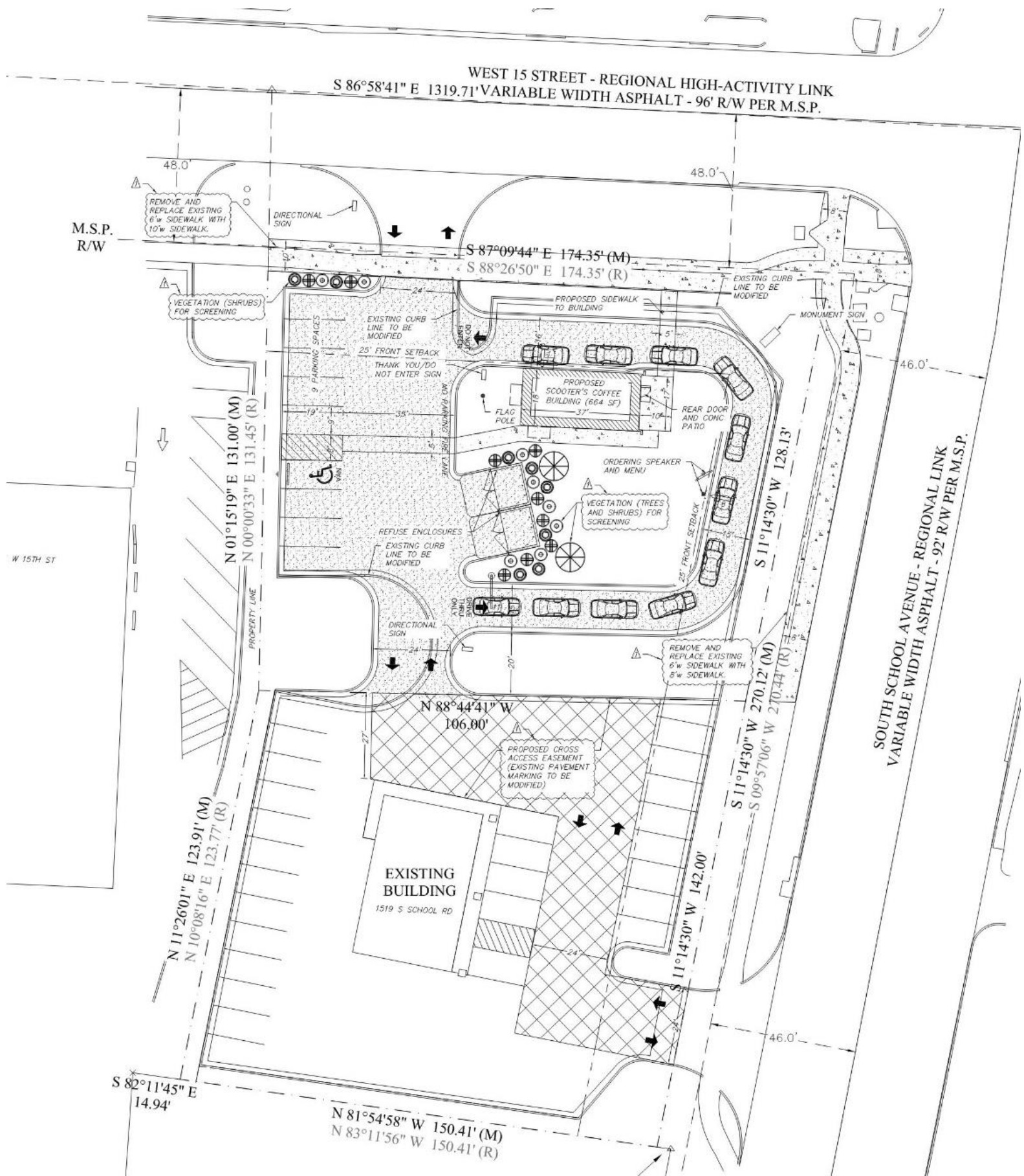
- UDC 166.08(F)(2)(a) Curb Cut Separation,
- UDC 172.04(C)(4) Build-to Zones,
- UDC 172.05(A)(1) Maximum Parking Standards, and

Respectfully Submitted,

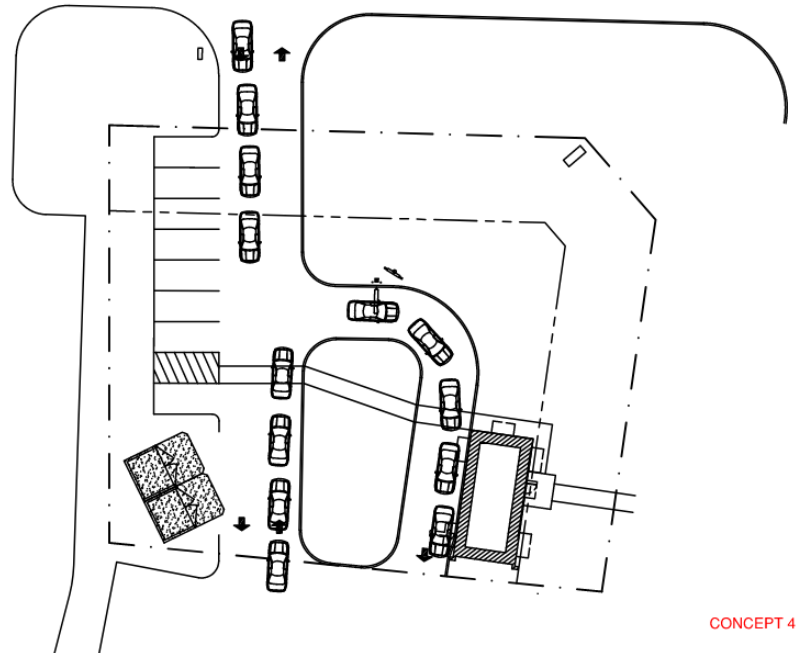
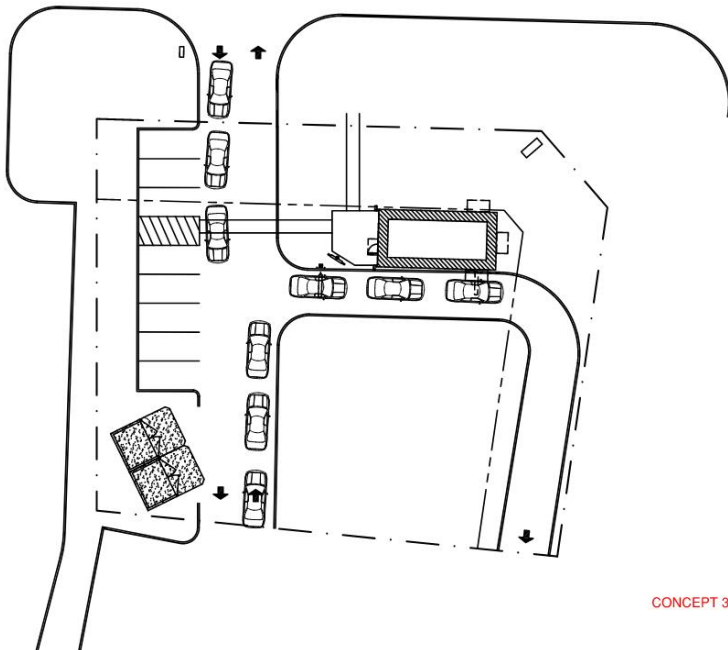
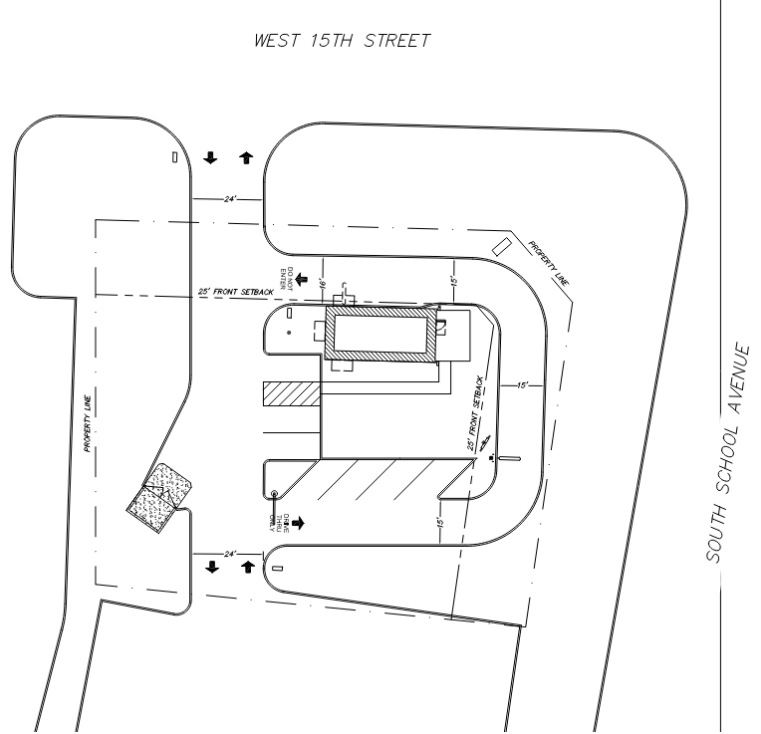
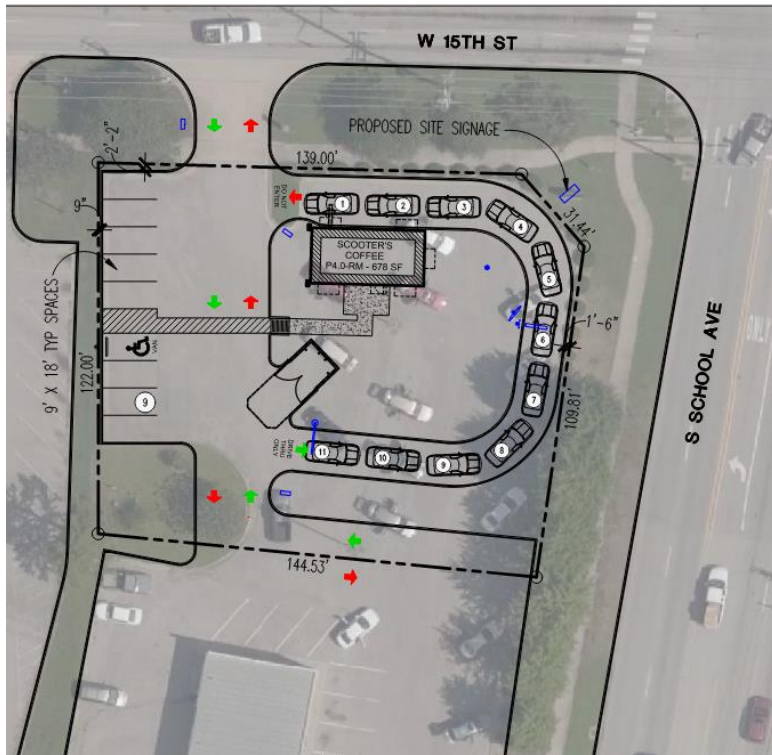
WILSON CIVIL DESIGN



Wilson D. Waggoner, PE
President



Other Conceptual Designs





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



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



3 DRIVE THROUGH SIDE ELEVATION
SCALE: 1/8" = 1'-0"

Reviewed by Donna Wonsower
Planner, Development Services
APPROVED



4 SIDE ELEVATION
SCALE: 1/8" = 1'-0"

KEYNOTES

1. HARDIE PLANK HZ10 LAP SIDING
CEDARMILL 6-1/4". SEE HARDIE DETAIL SHEET
A6.5 - COLOR: SHERWIN WILLIAMS SW6992
INKWELL EGGSHELL FINISH

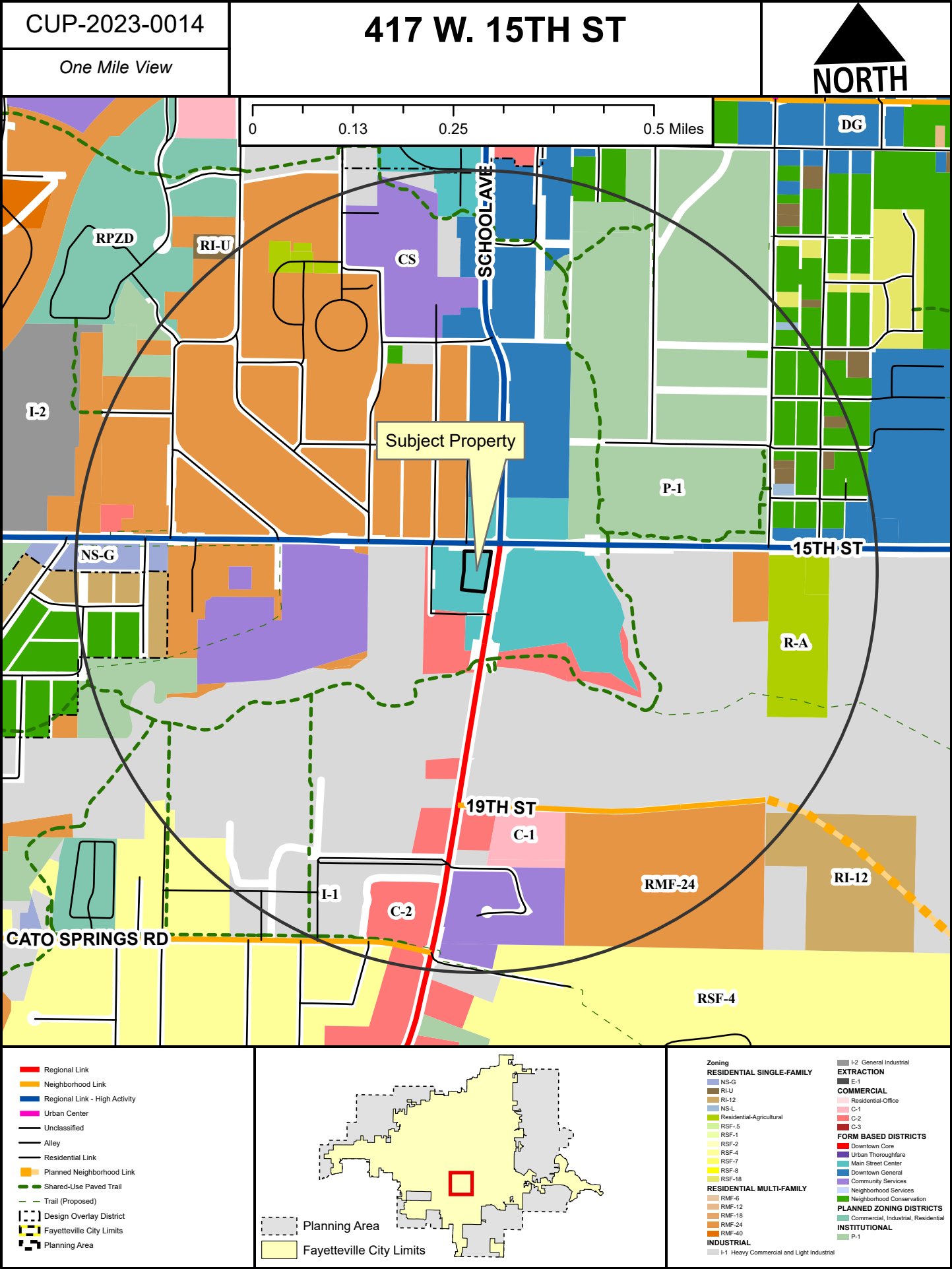
3. 3 1/2" HARDIE TRIM, SEE HARDIE DETAIL
SHEET A6.5 - COLOR: SHERWIN WILLIAMS
SW6992 INKWELL EGGSHELL FINISH

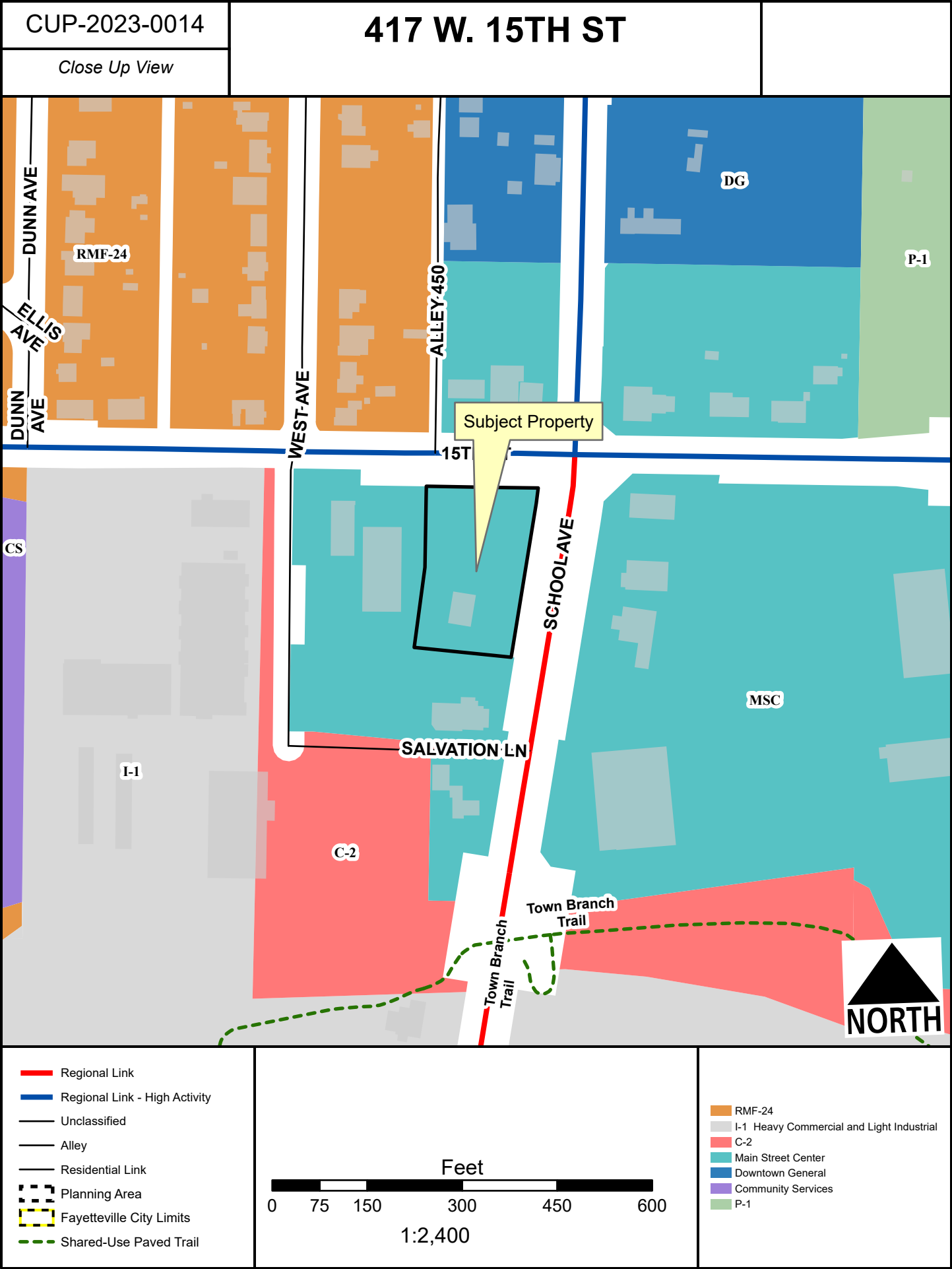
4. HARDIE PANEL ACCENTS AND SOFFITS -

4.1 PROTOTYPE





Planning Commission
February 27, 2023
CUP-2023-0014 (SCOOTER'S COFFEE)
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CUP-2023-0014

417 W. 15TH ST

Current Land Use



- Regional Link
- Regional Link - High Activity
- Unclassified
- Alley
- 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: Gretchen Harrison, Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0015: Conditional Use Permit (3243 N. LEE AVE./CAR-MART, 213):** Submitted by BLEW AND ASSOCIATES for property located at 3243 N. LEE AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – 4 UNITS PER ACRE and contains approximately 0.26 acres. The request is for an off-site parking lot for a commercial use in residential zoning.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0015** with conditions as outlined by staff.

RECOMMENDED MOTION:

"I move to approve **CUP-2023-0015** with conditions, 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 east of College Avenue directly behind Car-Mart on the west side of Lee Avenue. The property is zoned RSF-4, Residential Single-Family, 4 Units per Acre and contains one parcel totaling 0.26 acres which is currently undeveloped. The property was previously used between 1967 and 2009 as an unpaved accessory parking lot for various automobile dealerships, though it has remained vacant since that time. 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	Hair Salon	R-O, Residential-Office
East	Single-Family Residential	RSF-4, Residential Single-Family - 4 Units per Acre
West	Car Dealership	C-2, Thoroughfare Commercial

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use an off-site location in a residential zoning district to accommodate parking for a use in a nonresidential zoning district. The purpose of this request is to provide employee parking for the adjacent Car-Mart automotive dealership. Fayetteville's Unified Development Code, under §172.06 – Parking Lot Location Standards, notes that parking lots located in residential zones which serve uses in nonresidential zones, and parking lots that are not located on the same lot as the principal use, require conditional use permit approval from the Planning Commission.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0015** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility for an off-site parking lot in a residential district serving a nonresidential use, containing 22 parking spaces.** *Staff finds the proposed parking lot to be compatible for the reasons outlined in this report;*
2. **A view-obscuring fence, wall, vegetation, or combination thereof with a minimum height of six feet shall be installed or planted to sufficiently prevent light trespass from the parking lot to the adjoining properties to the north and east. Any fence installed along the eastern side of the property shall be set back a minimum of 15 feet from the Master Street Plan right-of-way;**
3. **This lot shall not be used for vehicle sales. This conditional use permit allows vehicle parking; however, sales activities and vehicle repair are not permitted in the underlying RSF-4 zoning district;**
4. **Accessible parking requirements shall be evaluated for compliance with the Unified Development Code and the Americans with Disabilities Act;**
5. **Signage shall not be installed anywhere on the subject property;**
6. **Outdoor lighting on this property shall comply with UDC Chapter 176, Outdoor Lighting;**
7. **Vehicular ingress and egress to Lee Avenue shall be prohibited for the proposed use;**
8. **Upon receiving a valid complaint that the holder of the conditional use is violating any condition of this permit, the Planning Department may refer the conditional use to the Planning Commission for review. The Planning Commission may amend or add conditions to the permit, may reaffirm the conditional use, or revoke the conditional use in its entirety; and**
9. **This approval does not grant permit approval for the associated parking lot. A grading permit shall be submitted for review in compliance with all city codes.**

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 27, 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 conditional use approval for an off-site parking lot in a residential zoning district serving a nonresidential use.

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;

Finding: The Planning Commission is empowered under Unified Development Code §172.06 to grant the requested conditional use permit.

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

Finding: Staff finds that granting the requested conditional use permit is not likely to adversely affect the public interest. The off-site parking lot will serve an adjacent commercial use and staff recommends conditions that will limit the impact of the proposed parking lot on adjacent residential properties. Any further alterations to the lot will be subject to compliance with the Unified Development Code or further review by the Planning Commission.

- (c.) The Planning Commission shall certify:

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

Finding: There are specific rules governing off-site parking locations in Unified Development Code §172.06, Parking Lot Location Standards.

§172.06. PARKING LOT LOCATION STANDARDS.

...

B. Permitted Locations as a Conditional Use.

1. Parking lots located within residential zones which serve uses in nonresidential zones may be allowed as a conditional use by the Planning Commission.
2. Parking lots for uses allowed as conditional uses within residential zones must also be approved as a conditional use. A conditional use for a parking lot may be approved at the same time the use is approved or may be approved separately if additional parking lots are developed later.

The Planning Commission shall make a finding based upon the size, scale, and location of these activities that the proposed parking lot will not adversely affect adjacent residential uses or the residential character of the neighborhood.

Finding: The request is for a parking lot located within a residential zone which serves a use in a nonresidential zone and is, therefore, subject to conditional use approval by the Planning Commission. Staff finds that the proposed parking lot will not adversely affect adjacent residential uses or the residential character of the neighborhood. Off-site parking is a historically established use on this property and several nearby commercial uses have parking lots with direct access onto Lee Avenue. Staff finds that the recommended conditions of approval will further limit the impact of this parking lot on adjacent residences beyond the existing parking areas nearby which are permitted by right.

- C. Off-Site Locations.** If off-street parking cannot be provided on the same lot as the principal use due to existing buildings or the shape of the parcel, parking lots may be located on other property not more than 600 feet distant from the principal use, subject to conditional use approval by the Planning Commission.

Finding: Staff finds that the proposed parking lot satisfies the regulations for off-site parking since the lot is within 600 feet of the principal use. The property that contains the principal use is fully developed with a dealership building, vehicle display/storage, and customer/employee parking.

...

§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: Vehicular ingress and egress to the parking lot is proposed through the existing Car-Mart property with full access onto Harold Street and College Avenue. Staff finds that the proposed access would serve to reduce the number of curb cuts on Lee Avenue to the east, facilitating increased parking for the dealership in a logical and safe manner.

(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: No substantial economic, noise, glare, or odor effects on adjoining properties are anticipated. The City of Fayetteville typically permits parking for car dealerships at a rate of one space per every 200 square feet of gross floor area. This excludes spaces reserved for vehicle sales. Given the size of the dealership building, Car-Mart can provide approximately 50 parking spaces for customers and employees, and 22 spaces are proposed in the off-site parking lot. Staff recommends screening along the north and east side of the property to limit the visual impact of the parking lot on adjacent residential properties. Staff also recommends prohibiting outdoor lighting and signage to maintain the residential character of the surrounding neighborhood.

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

Finding: No refuse generation is anticipated with the proposed off-site parking lot. The property owner is responsible for maintaining the lot.

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

Finding: No development is proposed on the subject property where water and sewer services are necessary. Adequacy of existing infrastructure would be evaluated at the time of any future development.

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

Finding: The off-site parking lot shall be subject to the City's landscaping requirements. As a condition of approval, staff recommends that a view-obscuring fence, wall, vegetation, or combination thereof be installed or planted to sufficiently prevent light trespass from the parking lot to the adjoining properties to the north and east.

(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: On-site freestanding signs are prohibited in the RSF-4 zoning district. Staff recommends a condition prohibiting the erection of any signage on this property.

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

Finding: No structures are proposed with this conditional use permit.

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

Finding: Staff finds that the proposal is compatible with adjacent properties. Surface parking lots are common in this part of Fayetteville and are reasonable to accommodate employee parking to allow for additional storage and display of vehicles for sale on-site.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §172.06 - Parking Lot Location Standards
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

172.06 - Parking Lot Location Standards

The location of all required and nonrequired parking lots with five (5) or more spaces shall meet the location requirements below. All conditional uses hereunder shall be granted by the Planning Commission in accordance with Chapter 163, governing applications of conditional uses; procedures.

(A) *Permitted Locations by Right.* Parking lots shall be located within the same zoning district as the use they serve. Required parking lots for uses allowed by right within a zoning district are allowed as a use by right in the same zoning district.

(B) *Permitted Locations as a Conditional Use.*

(1) Parking lots located within residential zones which serve uses in nonresidential zones may be allowed as a conditional use by the Planning Commission.

(2) Parking lots for uses allowed as conditional uses within residential zones must also be approved as a conditional use. A conditional use for a parking lot may be approved at the same time the use is approved or may be approved separately if additional parking lots are developed later.

The Planning Commission shall make a finding based upon the size, scale, and location of these activities that the proposed parking lot will not adversely affect adjacent residential uses or the residential character of the neighborhood.

(C) *Off-Site Locations.* If off-street parking cannot be provided on the same lot as the principal use due to existing buildings or the shape of the parcel, parking lots may be located on other property not more than 600 feet distant from the principal use, subject to conditional use approval by the Planning Commission.

...

January 18, 2023

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

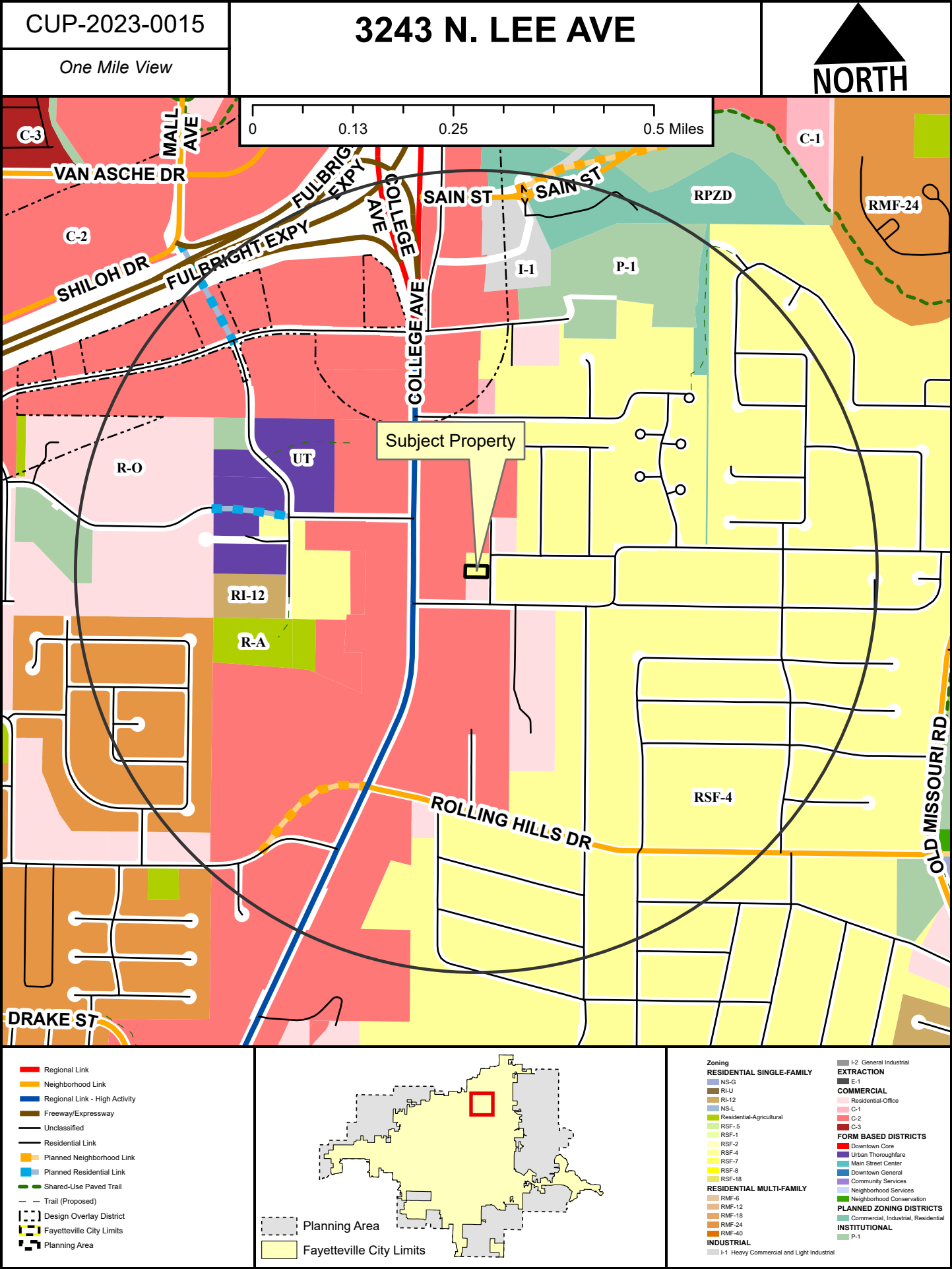
SUBJECT: Proposed CAR-MART Employee Parking
 Conditional Use Permit for Parking Lot

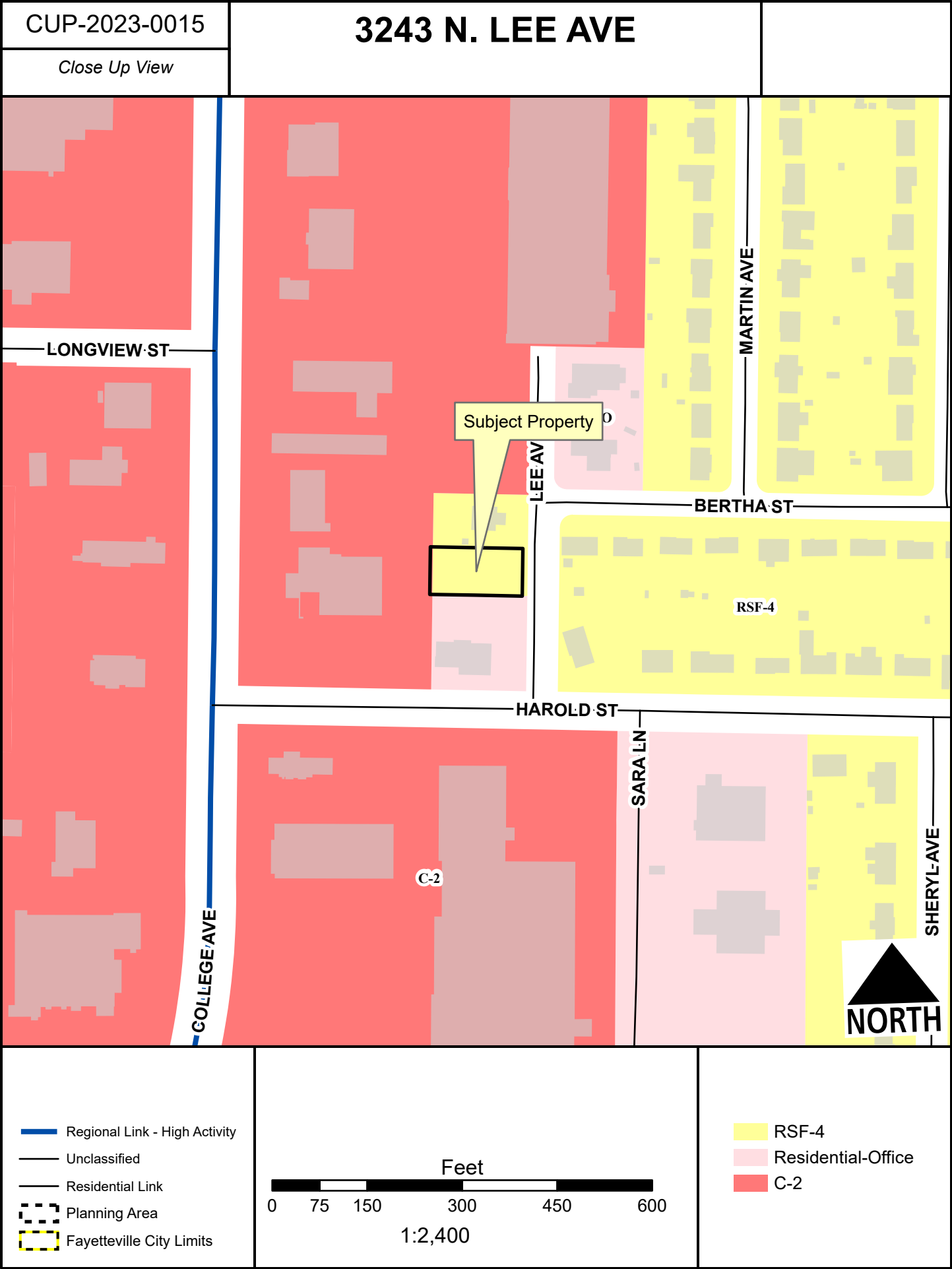
To Whom It May Concern:

America's CAR-MART, Inc. who is leasing the property from Honey Properties LLC is wanting to place a parking lot on Parcel 765-07679-000 for their employees. Said parking lot will meet all of City of Fayetteville Requirements. The parking lot will have 22 parking spaces. It will be in use during the operating hours of the CAR-MART business. Any outdoor lighting will meet all of City of Fayetteville's Requirements. Ingress and egress to the parking lot shall be through the existing CAR-MART property. The property will use screening to shield the residential properties surrounding the subject property.

Sincerely,

Jorge Du Quesne
Blew & Associates, PA





CUP-2023-0015

3243 N. LEE AVE

Current Land Use



- Regional Link - High Activity
- 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 27, 2023

SUBJECT: **RZN-2023-0003: Rezoning (1275 N. GREGG AVE/PATHWAY BAPTIST CHURCH, 405):** Submitted by BLEW & ASSOCIATES for property located at 1275 N. GREGG AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE and contains approximately 2.24 acres. The request is to rezone the property to RMF-40, RESIDENTIAL MULTI-FAMILY – 40 UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0003** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0003** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is located roughly 350 feet north of the intersection of W. North Avenue and N. Gregg Avenue. The site covers roughly the southern half of a single lot of record totaling approximately 2.24 acres. The property is zoned RMF-24, Residential Multi-Family, 24 Units per Acre and currently the site of Central Baptist Church, a single-family dwelling, and associated outbuildings. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Central Baptist Church	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Multi-family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
East	Single-Family Residential/Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre
West	Multi-family 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 RMF-40, Residential Multi-Family, 40 Units per Acre.

Public Comment: Staff received public comment in support of the request. The commenter stated they were in favor of additional density along the Gregg Avenue corridor.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

- Streets:** The subject area has frontage along N. Gregg Avenue. N. Gregg Avenue is a partially-improved Neighborhood Link Street with asphalt paving, curb and gutter, and sidewalk located at the back of curb. 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 8-inch water main is present on the west side of N. Gregg Avenue.
- Sewer:** Sanitary Sewer is available to the subject area. An existing 8-inch sanitary sewer main is present in the center of N. Gregg Avenue.
- Fire:** Station 2, located at 708 N. Garland Avenue protects this site. The property is located approximately 0.9 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 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck. 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:** There are no protected streams present in the subject area, no portion of the site lies within a FEMA floodplain, it is not within the Hillside-Hilltop Overlay District, 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 RMF-40, Residential Multi-Family, 40 Units per Acre requires **20% 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 **City Neighborhood Area**.

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. 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 **9-10** for this site, with a weighted score of **13**. 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)
- Near Water Main (8" water main, N. Gregg Avenue)
- Near Grocery Store (Harps, 1189 N. Garland Avenue)
- Near City Park (Wilson Park, Gregory Park)
- Near Paved Trail (Scull Creek Trail)
- Near University of Arkansas Main Campus
- Near Ozark Regional Transit Stop (Route 10, N. College Avenue)
- Near Razorback Bus Stop (Route 26 Peak, N. Leverett Avenue)
- 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 be compatible with the surrounding mix of uses. The surrounding area includes two multi-family developments, a church, and single-family dwellings across N. Gregg Avenue to the east. The permitted and conditional uses are identical between RMF-40 and RMF-24. Staff also finds that the bulk and area regulations are suitable and not out of context with surrounding properties. Single- and two-family lot widths and areas are required to be slightly larger in RMF-24 than in RMF-40 but otherwise the two districts are very similar. Setbacks and maximum building heights are identical. Given that the site adjoins other multi-family developments and zoning entitlements, staff finds the scale of what would be allowed is contextually appropriate. Single-family dwellings are prevalent in the area, but they are separated from the site by the intervening public street. Based on a simple calculation of the acreage of the site, and notwithstanding requirements for drainage, tree preservation, and parking, the increased density would allow for 89 total units across the site where the current zoning would allow 53 units to be developed. Staff finds the increased density is suitable due to the site's proximity to schools, work, jobs, and a multi-modal transportation network. Further the increased density is unlikely to have a noticeably different impact to the immediately surrounding multi-family developments.

Land Use Plan Analysis: Staff finds the proposal to be consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from RSF-4 to RI-12 serves to contribute towards City Plan 2040 goals #1 – Appropriate Infill and 4 – Growing a Livable Transportation Network. The site scores high on the Infill Scoring Matrix indicating that the site, as its currently developed, is not meeting its highest and best use. The proposed rezoning would locate additional residential density near groceries, two city parks, and between two significant employers: the veteran's hospital to the northeast and the University of Arkansas main

campus less than a half-mile to the south, as well as the nearby transit route and trail.

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 RMF-40. The request aligns with the future land use map and would increase density at a site proximate to many non-residential services. Further staff finds the existing transportation network can appropriately handle additional density since it is located along a Neighborhood Link Street with many options for alternative modes of transportation.

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

Finding: Rezoning the property to RMF-40 will potentially increase traffic at this location, though the increase is not anticipated to be beyond what is appropriate. The site has adequate space between driveways to the north and south for an access point to be compliant with curb cut separation standards. Conversely, Neighborhood Link Streets have a designed service capacity of 6,000 vehicles per day or fewer. The Arkansas Department of Transportation recorded an average annual daily traffic count of 9,400 vehicles at a point just south of the site. Two accidents have been recorded along the property's frontage between 2017 and 2021 with the intersection of N. Gregg Avenue and W. North Street, roughly 350 feet to the south, witnessing much more frequent collisions. Nearby access to trails and transit stops also offer alternative modes that would help to offset traffic effects associated with an increase to the number of dwelling units at this location. Any new development would also be required to improve the property's frontage to the 2040 Master Street Plan requirements, including 10-foot greenspaces and 8-foot sidewalks, which staff finds would complement the 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 to RMF-40 would increase the load on public services above the potential of the current zoning district, but the impact is not expected to be significant. The site has ready access to basic development standards including city water, sewer, and improved street frontage. Neither Fayetteville Public Schools or Fayetteville Police offered comment regarding the request.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommends approval of RZN-2023-0003.

PLANNING COMMISSION ACTION: Required <u>YES</u>
Date: <u>February 27, 2023</u> ☐ Tabled ☐ Forwarded ☐ Denied
Motion:
Second:
Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
 - §161.16 District RMF-40, Residential Multi-Family – Forty (40) Units Per Acre
- Applicant Request Letter
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
----------------	------------

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

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

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

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

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(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 CUP
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 occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	Forty (40) or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 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	2,500 square feet
Two (2) family	3,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
Fraternity of Sorority	500 square feet per resident

(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(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; 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, 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."



Blew & Associates, P.A.

Civil Engineers

Professional Land Surveyors

3825 N. Shiloh Dr.
Fayetteville, Arkansas 72703
479-443-4506
Fax 582-1883

January 10, 2023

To Whom It May Concern,

Rezone

Our Client, Pathway Baptist Church, is requesting to rezone the southern tract resulting from a Tract Split, for which Fayetteville Planning has issued a conditional letter of approval. The Rezoning request will be to change from RMF-24 to RMF-40. The southern tract in question is approximately 2.256 acres in size, and currently has multiple existing structures and asphalt parking. The owner's intent is to have this 2.256-acre tract rezoned to RMF-40, then complete the Tract Split. Following these approvals, the newly rezoned RMF-40 property will be sold, and the buyers will initiate the demolition and development permitting processes toward a multifamily development. Fayetteville's General Reference GIS map shows this location, and adjacent properties to the north and the south as "City Neighborhood" under the Future Land Use (2040) layer. Although the City's zoning map shows this property as RMF-24, and the southern adjacent property as RMF-40, this Future Land Use map does not make this differentiation.

If you have any additional questions or comments, feel free to contact our office.

Sincerely,

Nikki Littrell
Senior Project Coordinator
Blew & Associates, P.A.

Umberger, Ryan

From: Planning Shared
Sent: Friday, February 24, 2023 8:17 AM
To: Umberger, Ryan
Subject: FW: RZN-2023-003 support

FYI

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville
479-575-8267

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



From: Scott Hill <razorbackscott@gmail.com>
Sent: Friday, February 24, 2023 12:41 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: RZN-2023-003 support

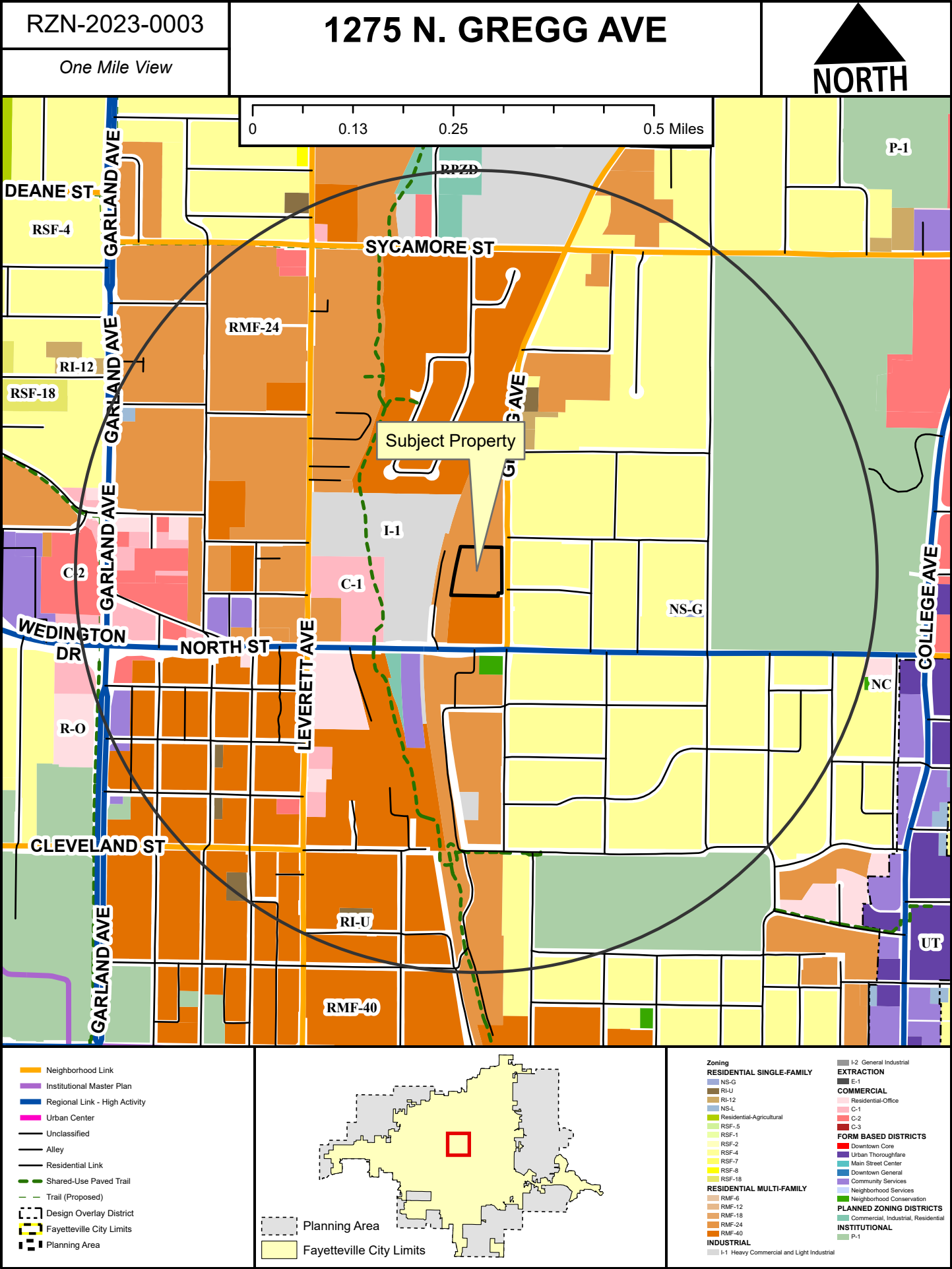
CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

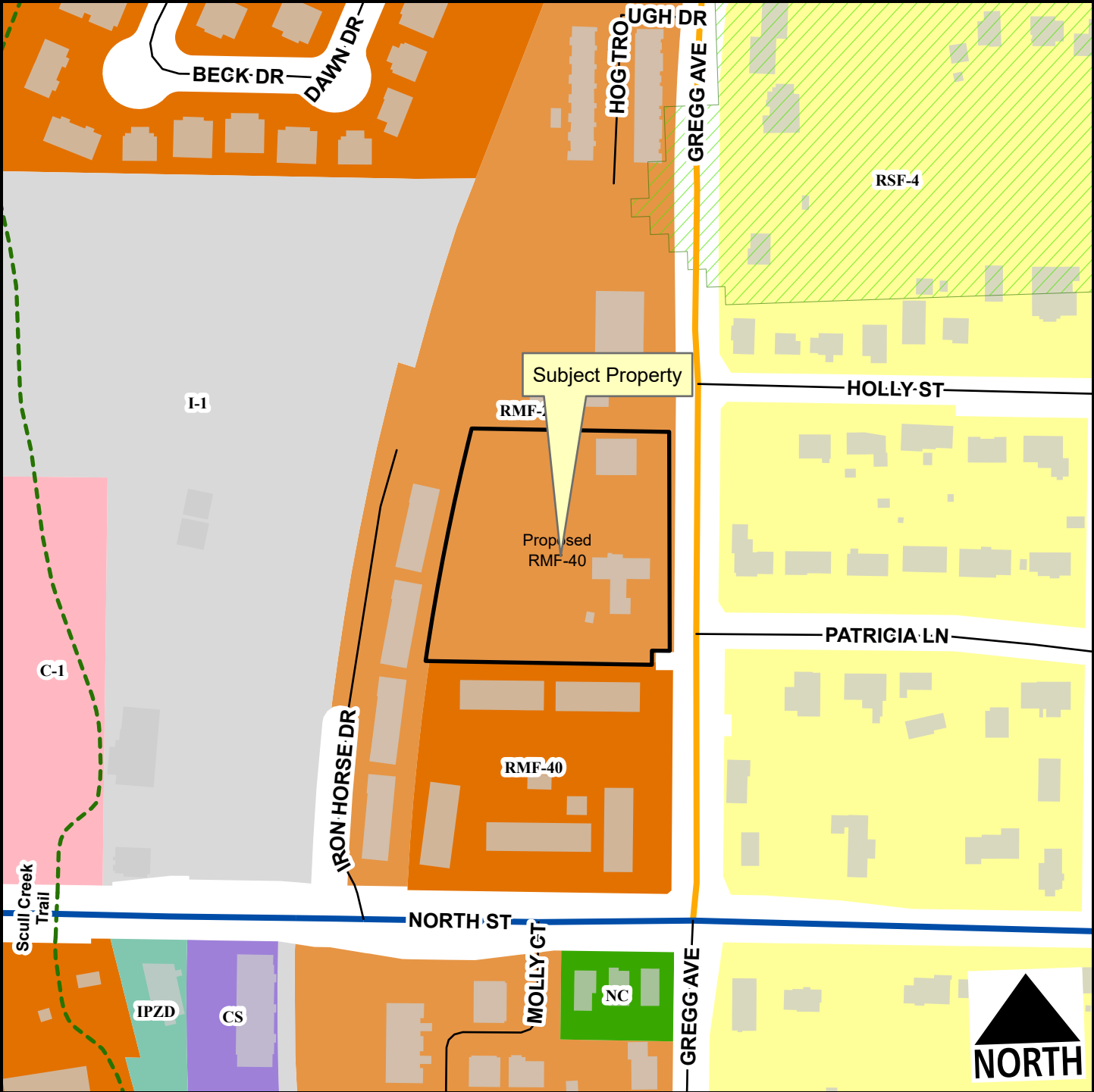
Hello,

I live on Elm Street about a mile northeast of the proposed rezone for Pathway Baptist Church to RMF-40.

I support more density along the Gregg Avenue corridor in this location.

Thank you.





Neighborhood Link

Regional Link - High Activity

Unclassified

Residential Link

Hillside-Hilltop Overlay District

Planning Area

Fayetteville City Limits

Feet

0 75 150 300 450 600

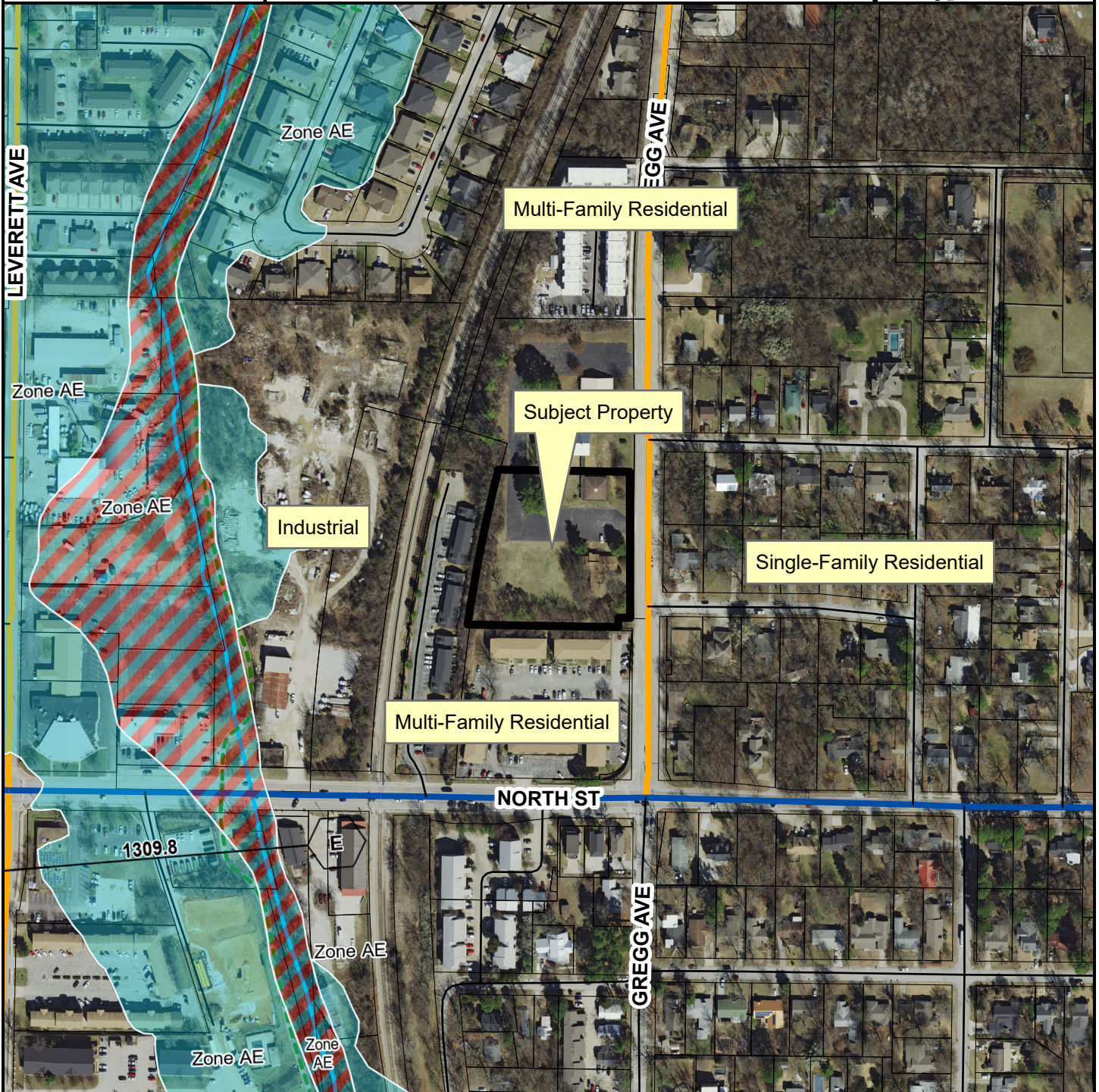
1:2,400

Zone	Current	Proposed
RMF-24	2.2	0.0
RMF-40	0.0	2.2
Total 2.2 ac		

RZN-2023-0003

1275 N. GREGG AVE

Current Land Use



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits



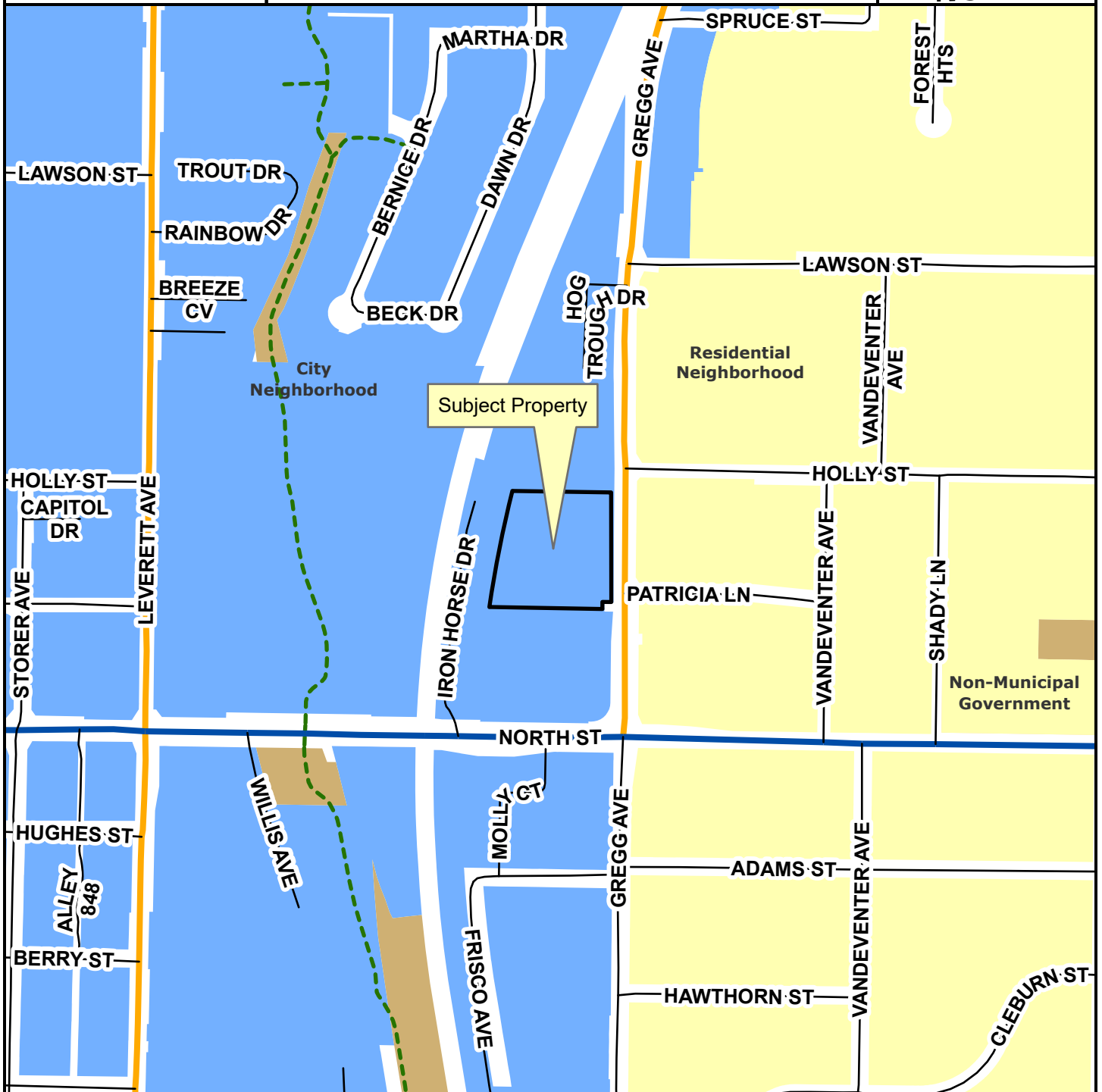
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

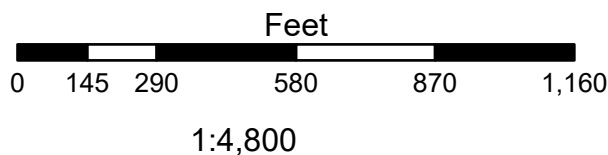
RZN-2023-0003

1275 N. GREGG AVE

Future Land Use



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits



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



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 27, 2023

SUBJECT: **RZN-2023-0004: Rezoning (2910 N. OLD WIRE RD. / VAN SCYOC, 255):**
Submitted by JORGENSEN AND ASSOCIATES for property located at 2910 N Old Wire Rd. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and R-A, RESIDENTIAL AGRICULTURAL, contains approximately 14.70 acres. The request is to rezone the property to R-A, RESIDENTIAL AGRICULTURAL on 5.75 acres and NC, NEIGHBORHOOD CONSERVATION on 9.54 acres.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0004** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0004** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is in east Fayetteville, roughly 700 feet west of the intersection of N. Crossover Rd. and N. Old Wire Rd. The property's zoning is currently split roughly half between RSF-4, Residential Single-Family, Four (4) Units per Acre on the western half and R-A, Residential Agricultural over the eastern half. Except for a single-single family house, the three parcels (cumulatively 14.7 acres) are undeveloped. The entire property is covered extensively with tree canopy and the eastern half is part of the streamside protection zone / floodplain & floodway of Niokaska Creek. Most of the land currently zoned R-A is designated as part of the Enduring Green Network.

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	RSF-4, Residential Single-Family, 4 Units per Acre
South	Streamside / Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre / R-A, Residential Agricultural
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

Request: The request is to shift the alignment of the existing R-A, Residential Agricultural zoning district to follow the boundary of the 100-year flood line, and to rezone the remainder of the property to NC, Neighborhood Conservation.

Public Comment: Two members of the public offered comment in opposition of the item. Among their concerns was the potential increase in traffic, environmental concerns, negative impact to home values and neighborhood character, and lacking existing infrastructure including schools.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along N. Old Wire Rd., a partially improved Neighborhood Link street with asphalt paving, and open ditches. The subject area also has frontage along N. Sumac Dr., a fully improved residential link street with asphalt paving, sidewalk, gutter and curb. Any street improvements required in these areas would be determined at the time of development proposal. Any additional improvements or requirements for drainage will be determined at time of development.

Water: Public water is available to the subject area. Existing 8-inch water main is present on the south side of N. Old Wire Rd. Existing 6-inch water main is present on the north side of N. Sumac Dr.

Sewer: Sanitary Sewer is available to the Subject area. Existing 6-inch sewer main is present on the North side of N. Old Wire Rd.

Fire: Station 5, located at 2979 N. Crossover Rd., protects this site. The property is located approximately 0.5 miles from the fire station with an anticipated drive time of approximately 1 minute using existing streets. The anticipated response time would be approximately 3.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

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

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District.

A portion of the property is designated as having hydric soils, 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'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.

A portion of the property lies within a FEMA floodplain. A floodplain development

review will be required at the time of permit or plan submittal. This will restrict the type of development and impact in flood zones; and may require additional documentation such as flood studies or elevation certificates depending on the type of development. If a development impacts a floodplain, those impacts may require review and approval from FEMA.

A portion of the property lies within a streamside protection zone. Streamside Protection Zones generally consists of a protected area on each side of a stream or creek. This “protected area” is meant to preserve woody vegetation and natural areas along stream corridors to improve/protect stream health. At a minimum, it will be 50ft wide as measured from the top of bank but depending on the shape and extents of the floodway, it could be substantially more. Certain construction activities such as trails and some utilities are allowed in these zones, but in general, improvements such as parking lots or buildings are prohibited.

Tree Preservation:

The proposed zoning district of NC, Neighborhood Conservation requires **20% minimum canopy preservation**. The zoning district of RA, Residential Agricultural, intended to be re-aligned but not removed, requires **25% minimum canopy preservation**. The current zoning district of RSF-4, Residential Single-Family, Four Units Per Acre requires **25% minimum canopy preservation**.

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

Natural Areas consist of lands approximating or reverting to a wilderness conditions, including those with limited development potential due to topography, hydrology, vegetation or value as an environmental resource. These resources can include stream and wildlife corridors, as well as natural hubs and cores, many of which are identified in the generalized enduring green network. A Natural Area designation would encourage a development pattern that requires conservation and preservation, prevents degradation of these areas, and would utilize the principles of low impact development stormwater infrastructure for all developments. Natural Areas are prime candidates for conservation subdivision design and/or clustered development patterns.

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** at the highest. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #5, 2979 N Old Wire Rd.)
- Near Sewer Main (8” sewer main, N Old Wire Rd.)
- Near Water Main (6” water main, N Old Wire Rd.)

- Near City Park (Gulley Park)
- Near Paved Trail (Niokaska Creek Trail)

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 cul-de-sac development pattern. The existing and proposed zoning districts have similar allowable uses, the NC includes urban form setbacks rather than traditional setbacks. When compared to RSF-4, rezoning to NC will decrease the buildable area of the lot for single and two-family uses from 8,000 and 12,000 square feet respectively to 4,000 square feet. In addition, NC would have a build-to zone of 25 feet rather than a front setback of 15 feet, and a rear setback of 12 feet rather than 15 feet. Since the subject property contains roughly 8.14 acres of RSF-4, a maximum of thirty-two (32) units are permitted under current entitlements, where the proposed rezoning to 9.54 acres of NC would increase the density cap to ninety-five (95) units. That said, any future development would be subject to, and limited by, minimum parking requirements, tree preservation, drainage, and access management standards. NC requires a 40-foot lot width minimum while RSF-4 requires a 70-foot lot width minimum for single-family dwellings and 80-ft lot width minimum for two-family dwellings. Conversely, both NC and RSF-4 include up to 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 RSF-4 to NC serves to contribute towards City Plan 2040 Goals #1 – Appropriate Infill, Growing a Livable Transportation Network, #5 - We Will Assemble an Enduring Green Network, and #6 – Create Opportunities for Attainable Housing. The site scores moderately on the Infill Scoring Matrix due to water/sewer access, public parks and trails, and the proximity of fire station #5. The RSF-4 and NC have similar allowed uses; however because of the form-based zoning regulations associated with the NC district, rezoning may allow for redevelopment or added density while maintaining more tree canopy and natural areas than would be possible under the RSF-4 zoning district.

The Future Land Use Map designates the site as split between Residential Neighborhood Area, which supports “a wide variety of housing types of appropriate scale and context including single-family, duplexes, rowhouses, multifamily and accessory dwelling units,” and Natural Area, which “promotes conservation of open space and areas of significant riparian benefit.” Staff is supportive of realigning the R-A zoning district to the 100-year flood boundary, as the change would more accurately reflect the intent of the future land use plan to preserve the riparian area adjacent to Niokaska Creek. Further, adding density as designated by the “Residential Neighborhood” designation is likely best facilitated by the regulations in NC

zoning and is justified given the property's proximity to commercial and non-residential uses in north 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 NC is justified. 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 NC has an associated potential to increase traffic at this location. NC permits development at 10 units per acre where it is currently limited to 4 units per acre. Staff finds potential to increase the number of residential units above what is currently allowed by right; subject to constraints such as steep slopes, tree preservation requirements, and other design requirements. Staff finds the increase in density is unlikely to result in increased traffic danger or congestion. The subject property has access to N. Old Wire Rd., an improved Neighborhood 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 NC 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 forwarding RZN-2023-0004 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 27, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.03 District R-A, Residential Agricultural
 - §161.07 District RSF-4, Residential Single-Family, Four Units per Acre
 - §161.29 District NC, Neighborhood Conservation
- Public Comment
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.*

Units per acre	One-half (½)
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(D) *Bulk and Area Regulations.*

Lot width minimum	200 feet
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

(F) *Height Requirements.* There shall be no maximum height limits in the R-A District, provided, however, if a building exceeds the height of one (1) story, the portion of the building over one (1)

story shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over one (1) story shall be equal to the difference between the total height of that portion of the building and one (1) story.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5195, 11-6-08; Ord. No. 5238, 5-5-09; Ord. No. 5479, 2-7-12; Ord. No. 5945, §3, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet

Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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

Wonsower, Donna

From: Wonsower, Donna
Sent: Wednesday, February 8, 2023 11:01 AM
To: makull1017@gmail.com
Cc: Umberger, Ryan; Hopkins, Mirinda
Subject: RE: Project Information (RZN-2023-0004)

Mary,

This project is scheduled for the February 27 Planning Commission meeting. The packets being posted on the website tomorrow are for the meeting held on February 13, and the packets for the February 27 meeting will be posted in a few weeks. Our apologies for any confusion. Regarding the required mailing, we received a certificate stating that the letters were sent out yesterday (2/7) in advance of the fifteen day requirement so keep an eye on your mailbox.

Short of hiring a traffic engineer, factually showing how any development will affect future traffic is difficult; however there are multiple online resources that you could utilize to present facts regarding the current traffic around your neighborhood such as traffic counts from ARDoT, records of vehicle crashes and their severity from the police, any news articles that discuss significant delays specific to your neighborhood and its immediate surroundings, or primary sources like this. My recommendation would be to stay away from opinions like "traffic is terrible here," and instead make statements such as "In the past three weeks, it has taken me an average of twenty minutes to leave my neighborhood every morning because of the amount of traffic on N Old Wire Rd," and to bring data to back up any sources you cite in your research. You are also welcome to email staff with any documents ahead of the meeting and to call with questions.

Best Regards,

Donna Wonsower

Planner, Development Services

City of Fayetteville, Arkansas

Office: 479.575.8358

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



From: Mary Anne Kull [[mailto:](#)]
Sent: Wednesday, February 08, 2023 8:48 AM
To: Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>
Subject: Project Information

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!

Thank you so much for providing this information. What do I need to do to prove that this change will factually affect vehicular patterns adversely for patrons of my neighborhood?

I am so thankful for this information. We have not received the required mailing for this zoning request. Do you know if it has been sent out as the application requires?

Thank you!
Mary Anne

On Wednesday, February 8, 2023, Hopkins, Mirinda <mhopkins@fayetteville-ar.gov> wrote:

Mary Anne,

I have attached the submitted request letter. Planning reports will be posted to our website tomorrow afternoon. Let me know if you need anything else.

<https://fayettevillear.portal.civicclerk.com/>

Thank you

Mirinda Hopkins

Development Coordinator

Planning Division

City of Fayetteville

479-575-8267

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



From: Mary Anne Kull [mailto:makull1017@gmail.com]

Sent: Tuesday, February 07, 2023 11:01 PM

To: Planning Shared <planning@fayetteville-ar.gov>; Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>

Subject: Project Information

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 Day,

I am inquiring about the project information for Plan Number: **RZN-2023-0004**

The posted written notification form indicates that project information is available for public view from the City of Fayetteville Planning Division, but I have not been able to locate it on the submitted application or the planning divisions portion of the website. I would appreciate your help with this information.

I am highly concerned about this area being rezoned as NC NEIGHBORHOOD CONSERVATION. Traffic on Old Wire is already highly congested. I am hardly able to make a left hand turn in the mornings to take my children to Butterfield Elementary School. I cannot imagine how that will be amplified with the potential of 10 residential units per acre being permitted in this area. The vocabulary "neighborhood conservation" is very misleading in this instance as currently this area is completely wooded. I am concerned that there is a deliberate deception by choosing this as the zoning to prevent neighbors from being concerned. This will allow signification change to my current neighborhood and will negatively affect the character and home values in the immediate area.

I believe that the current zoning of RSF-4 is appropriate to maintain true neighborhood conservation for this area.

I look forward to seeing more detailed plans.

Sincerely,
Mary Anne Kull

Wonsower, Donna

From: Curth, Jonathan
Sent: Tuesday, February 21, 2023 8:42 AM
To: Wonsower, Donna
Cc: Masters, Jessica
Subject: FW: Old wire/boxwood project

Donna,

Good morning. Please see the public comment shared with Councilmember Bunch about (presumably) RZN-2023-0004 at the beginning of the thread. It appears that it was subsequently issued to the Council and Commission through the Clerk.

Thanks,

Jonathan Curth, AICP
Development Services Director
Development Services Department
City of Fayetteville, Arkansas
jcurth@fayetteville-ar.gov
479.575.8308

[Website](#) | [Facebook](#) | [Twitter](#) | [Youtube](#)

From: CityClerk <cityclerk@fayetteville-ar.gov>
Sent: Tuesday, February 21, 2023 8:25 AM
To: Planning Shared <planning@fayetteville-ar.gov>; Sparkman, Sarah <sarah.sparkman@fayetteville-ar.gov>; Johnson, Matthew <matt.johnson@fayetteville-ar.gov>; Canada, Quintin <quintin.canada@fayetteville-ar.gov>; Brink, Andrew <andrew.brink@fayetteville-ar.gov>; Garlock, Jimm <jimm.garlock@fayetteville-ar.gov>; Holcomb, Joseph <joseph.holcomb@fayetteville-ar.gov>; Madden, Mary <mary.madden@fayetteville-ar.gov>; McGetrick, Mary <mary.mcgetrick@fayetteville-ar.gov>; Winston, Porter <porter.winston@fayetteville-ar.gov>; Berna, Scott <scott.berna@fayetteville-ar.gov>; Bolinger, Bonnie <bbolinger@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>; Brown, Chris <cbrown@fayetteville-ar.gov>; Bunch, Sarah <sarah.bunch@fayetteville-ar.gov>; CityClerk <cityclerk@fayetteville-ar.gov>; Curth, Jonathan <jcurth@fayetteville-ar.gov>; Harvey, Sonia <sonia.harvey@fayetteville-ar.gov>; Hertzberg, Holly <holly.hertzberg@fayetteville-ar.gov>; Batker, Jodi <jbatker@fayetteville-ar.gov>; Jones, D'Andre <dandre.jones@fayetteville-ar.gov>; Rogers, Kristin <krogers@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>; Jordan, Lioneld <ljordan@fayetteville-ar.gov>; Mathis, Jeana <jmathis@fayetteville-ar.gov>; Moore, Sarah <sarah.moore@fayetteville-ar.gov>; Paxton, Kara <kapaxton@fayetteville-ar.gov>; Mulford, Patti <pmulford@fayetteville-ar.gov>; Ramirez, Jonathan <jramirez@fayetteville-ar.gov>; Rea, Christine <crea@fayetteville-ar.gov>; Norton, Susan <snorton@fayetteville-ar.gov>; Spohn, Courtney <ckelley@fayetteville-ar.gov>; Thurber, Lisa <lthurber@fayetteville-ar.gov>; Turk, Teresa <teresa.turk@fayetteville-ar.gov>; Wiederkehr, Mike <mike.wiederkehr@fayetteville-ar.gov>
Cc: tiftim@gmail.com
Subject: Old wire/boxwood project

Good morning everyone,
Please see the e-mail below from Ms. Tiffany Meeks.

Thank you and have a nice day,

Jonathan

Office of the City Clerk Treasurer

City of Fayetteville, Arkansas
113 West Mountain St, Suite 308
Fayetteville, AR 72701
T 479.575.8323

cityclerk@fayetteville-ar.gov

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



From: Bunch, Sarah <sarah.bunch@fayetteville-ar.gov>

Sent: Monday, February 20, 2023 11:19 AM

To: CityClerk <cityclerk@fayetteville-ar.gov>

Cc: Tiffany Timmons <tiftim@gmail.com>

Subject: Fwd: Old wire/boxwood project

Can the Clerk's office please share this email with planning staff, the members of the planning commission, and the city council? Thank you very much.

Sarah

Sent from my iPad

Begin forwarded message:

From: Tiffany Timmons <tiftim@gmail.com>

Date: February 13, 2023 at 2:09:07 PM CST

To: "Bunch, Sarah" <sarah.bunch@fayetteville-ar.gov>

Subject: Old wire/boxwood project

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 am sending you this email to speak out in opposition to the proposed development near old wire and boxwood. I live off old wire and my kids attend FPS. We need more roads and schools in this area before any more residence come into the mix. We desperately need another middle school on the east side, as well as more side walks and a wider old wire to accommodate traffic.

The traffic in this area during commute times is too busy for more dwellings.

More schools and roads please, not more houses and people. Thank you.

Tiffany Meeks

479-530-1428

February 3, 2023

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

Re: Rezoning at 2910 N Old Wire Road

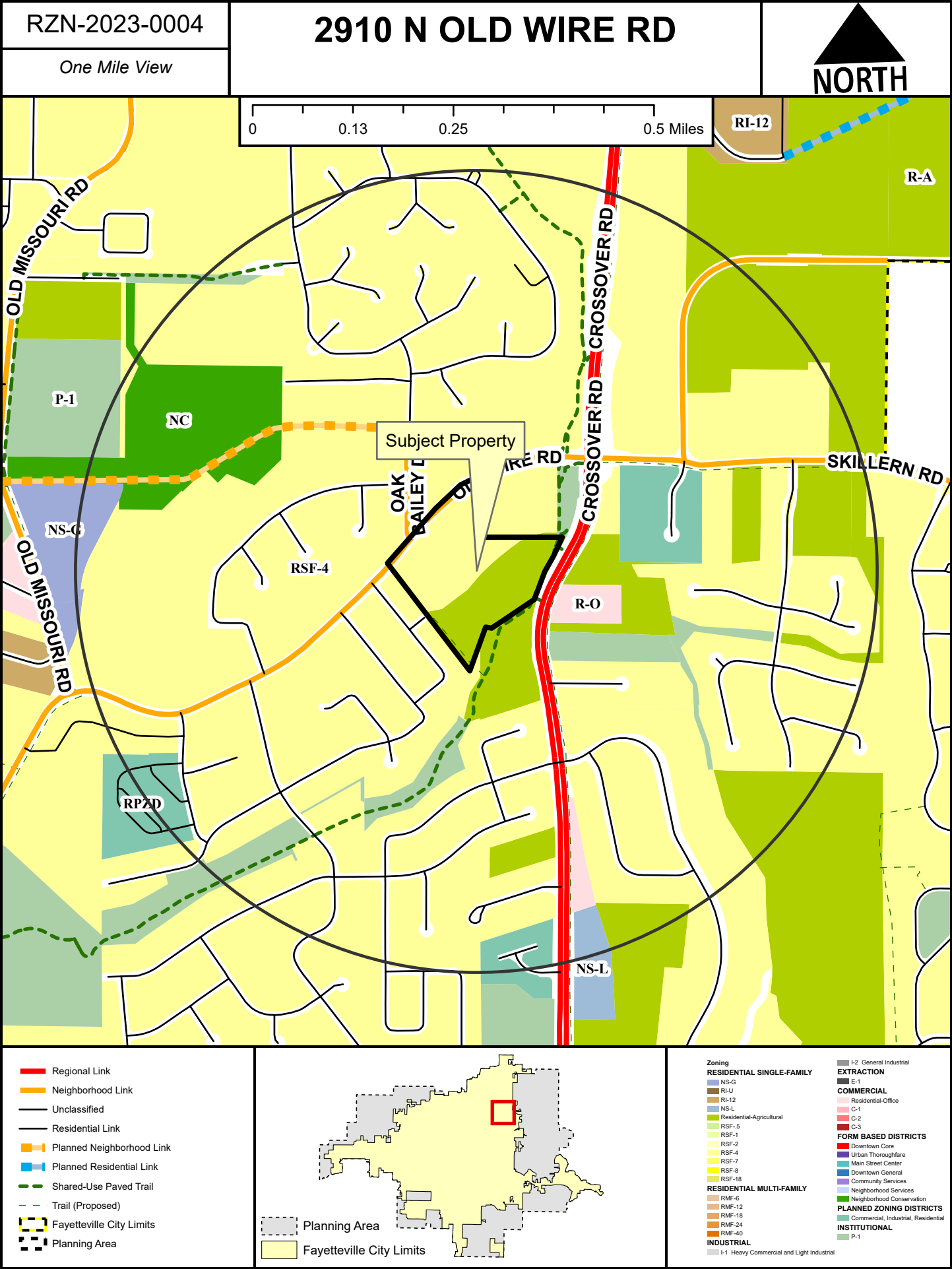
Dear City Staff;

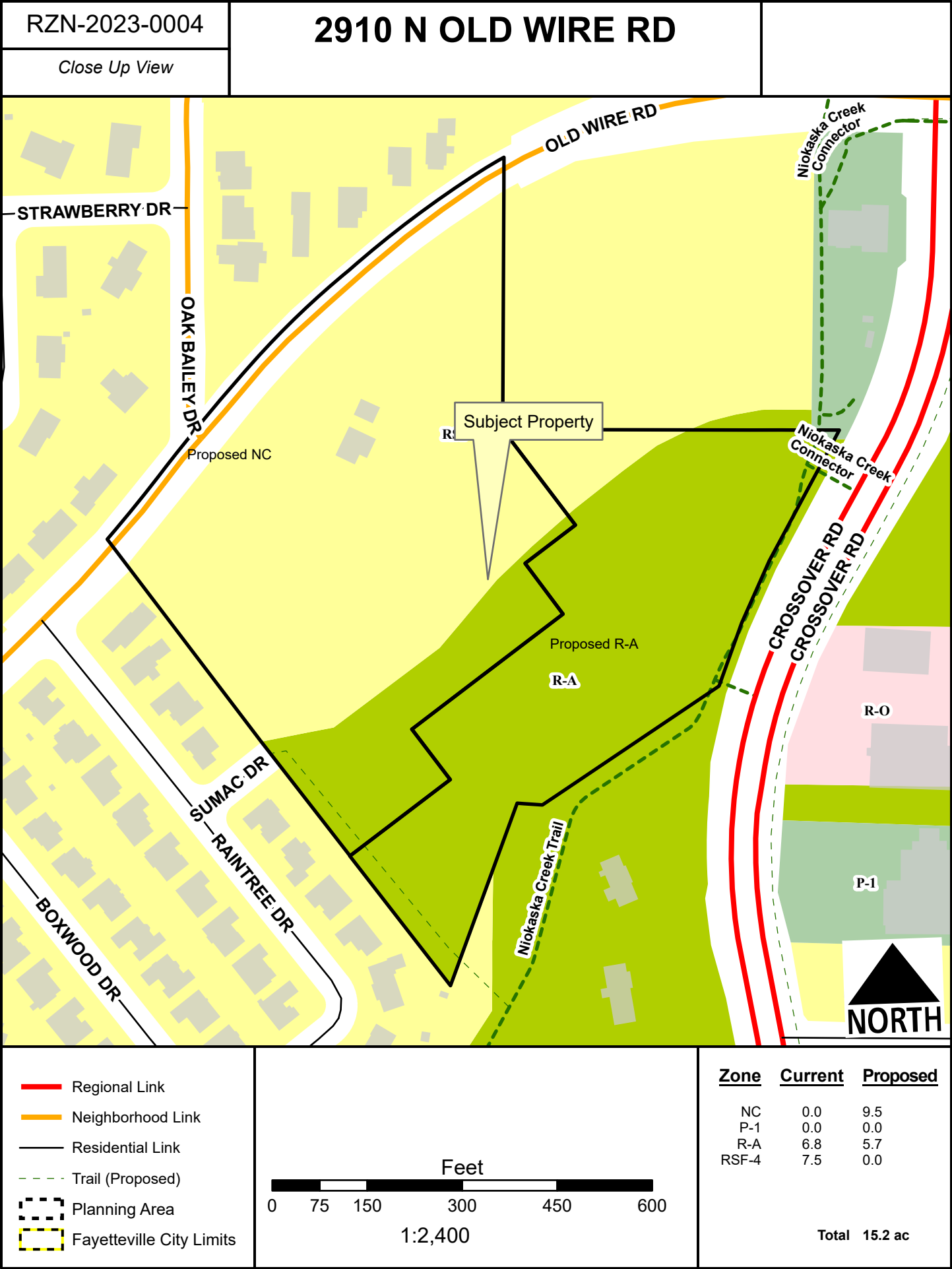
On Behalf of the Owner and their representatives, we are submitting a rezoning request for property located along 2910 N Old Wire, Fayetteville, AR 72703.

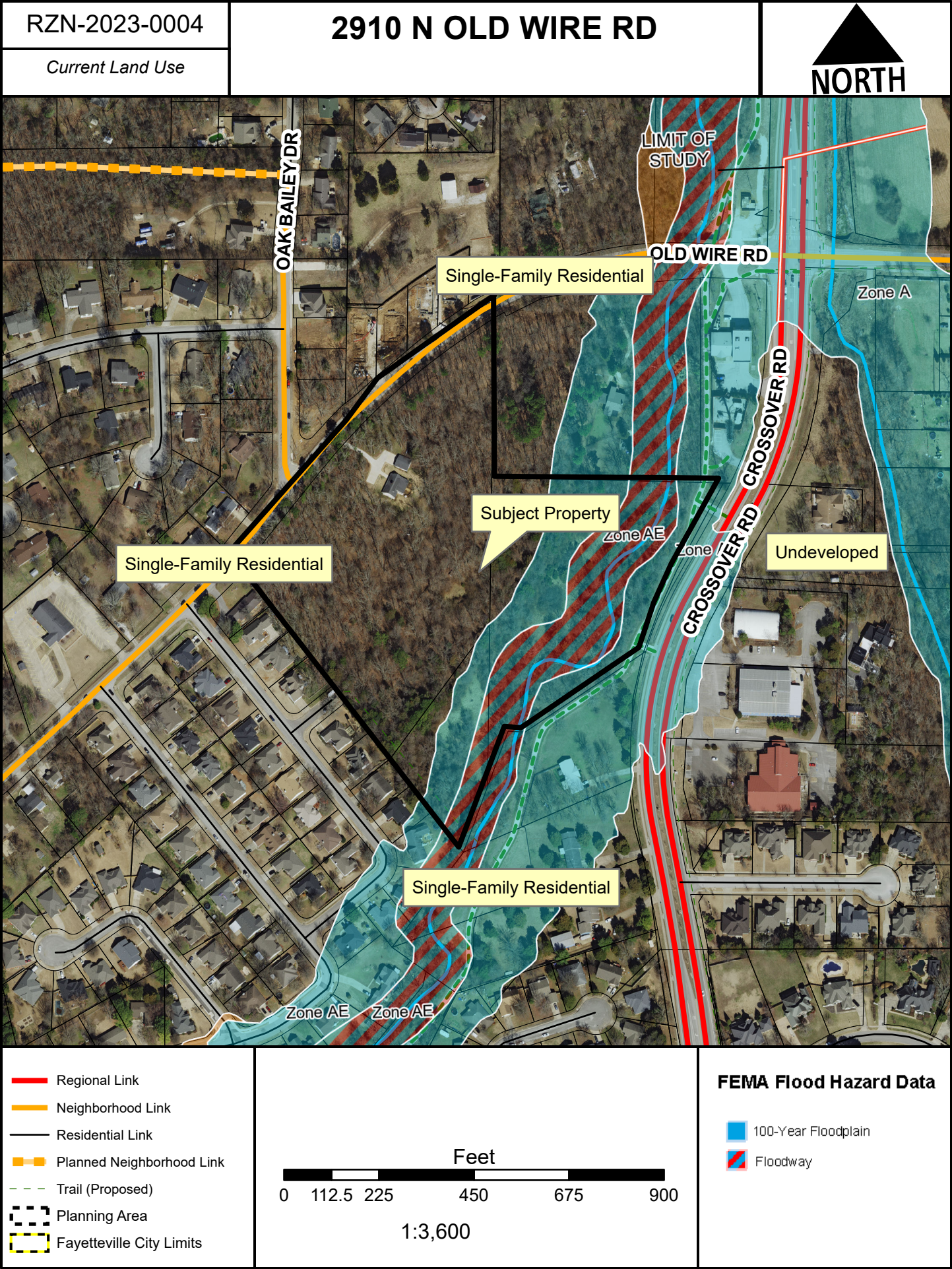
- A. The current owner of this site is as follows: Nola VanScyoc Revocable Trust (Parcel Numbers 765-16047-000, 765-13287-000. 765-16043-000.
- B. Currently this property is zoned RSF-4 and R-A.
- C. This property is surrounded by RSF-4 on the north and west, a portion of P-1 to the south and north, and section of R-O to the east.
- D. Existing adequate water and sewer are already at this site.
- E. We feel the requested rezoning is in line with the goals of the City Plan 2040 where the future land use calls for a portion of Residential Neighborhood and Natural.

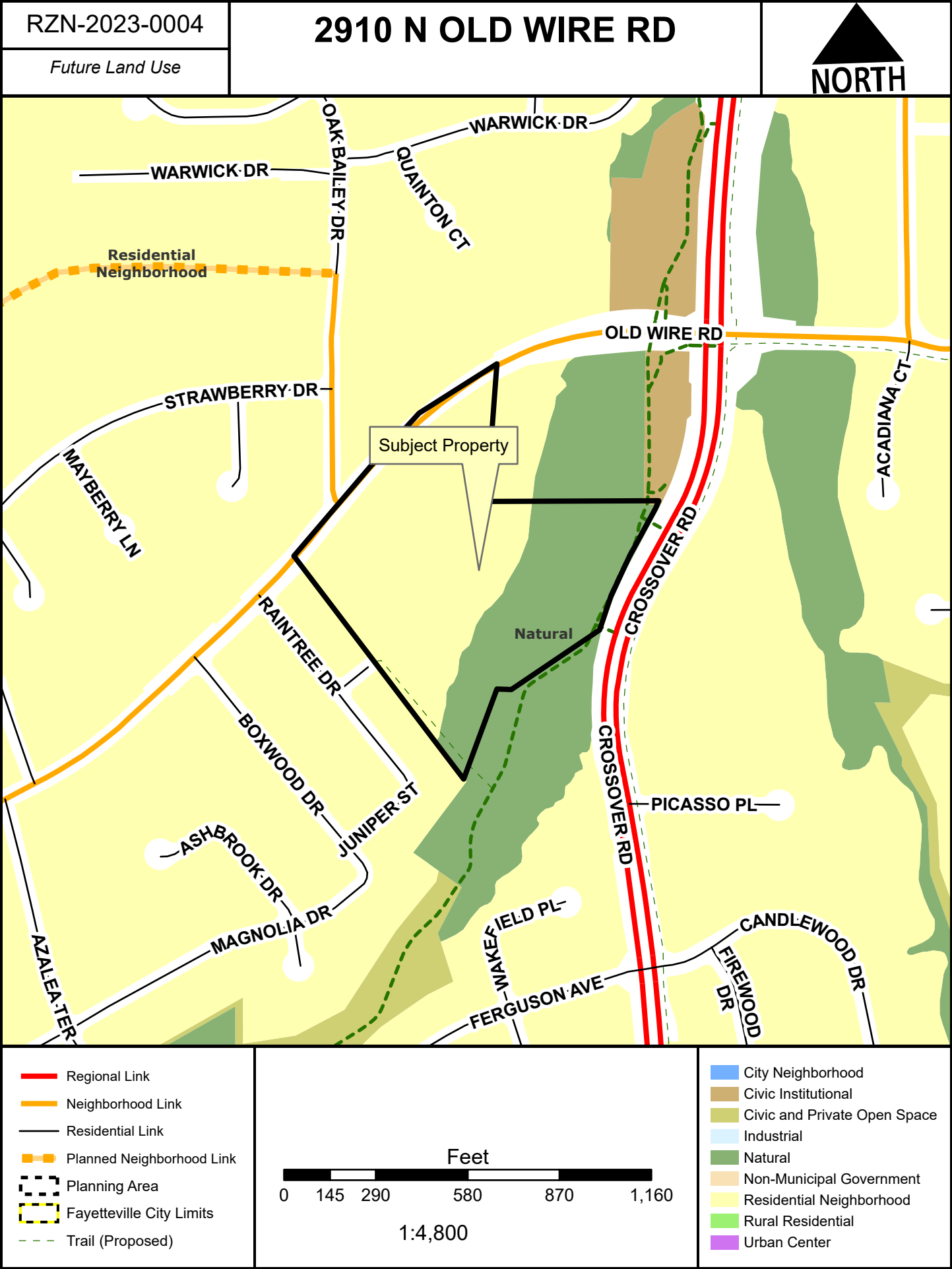
Statement of Compatibility:

This request to rezone a portion of the RSF-4 to Neighborhood Conservation and adjust the R-A zoning line to match the 100-year floodplain is compatible with neighboring property and will not unreasonably adversely affect or conflict with surrounding land uses. Within reasonable proximity, rezoning of the property south of Butterfield Elementary to NC, sets a precedence for similar development patterns that serve to promote and protect neighborhood character. The zoning line has been adjusted to follow the 100-year flood plain and this zoning line makes more sense than the current zoning line and will ensure that the floodplain would be of minimal impact. Given the proximity to the Fire Station, Crossover (Regional Link), and the Niokaska Trail, we feel that this rezoning is supported in a multitude of ways and will not adversely impact vehicular patterns.











TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0007: Conditional Use Permit (1370 S. VAN BUREN AVE./HJL INVESTMENTS, 561):** Submitted by HJL INVESTMENTS LLC for property located at 1370 S. VAN BUREN AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – 24 UNITS PER ACRE and contains approximately 0.59 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0007** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0007**, 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 south Fayetteville approximately 300 feet north of the intersection of 15th Street and Van Buren Avenue. The property is zoned RMF-24, Residential Multi-Family, 24 Units per Acre and is currently developed with an 875-square-foot single-family home which Washington County records indicate was built in 1936. The College Branch, which feeds into the Beaver Reservoir watershed, is present to the north, and nearly half of the property lies within a FEMA-designated flood zone. 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	Single-Family Residential	RMF-24, Residential Multi-Family – 24 Units per Acre
East	Single-Family Residential	RMF-24, Residential Multi-Family – 24 Units per Acre
West	Single-Family Residential	RMF-24, Residential Multi-Family – 24 Units per Acre

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

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% city-wide 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-2023-0007** 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 city code.
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one 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, Signs.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>February 27, 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 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 City 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 not likely to 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 RMF-24 zoning. Since RMF-24 is a residential zoning district, a conditional use permit is required.

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

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

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

Finding: Parking is limited as described in UDC §163.18(C). Parking for single-family homes is required to be provided at a rate of two spaces per unit. According to the applicant, there are three off-street parking spaces available in an existing 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 applicant's request 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 1370 S. Van Buren Ave. 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 311 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in the underlying RMF-24 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 three spaces are available in an existing paved driveway, and the property abuts a private street that is wide enough to accommodate on-street parking. City business license records indicate that there are eight units with active Type 2 short-term rental business licenses within a quarter-mile radius of the property. No zoning or code violations have been 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: Ingress and egress to the property is provided through an existing paved driveway with access onto Van Buren Avenue. Sidewalk is also present along the north 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 six guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The applicant has indicated that there are three guest vehicle parking spaces available in a 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. Single-family dwellings are required to have at least two parking spaces and are permitted to have up to four vehicles parked on site.

(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 UDC 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 there appears to be adequate off-street parking to accommodate the number of permitted guests. Since the RMF-24 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
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plan
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile 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)

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

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

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

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

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

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

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)

January 26, 2023

To City of Fayetteville Planning Commission:

I would like to propose granting a Conditional Use Permit (Short Term Rental) for the property at 1370 S. Van Buren Avenue in Fayetteville. The property is described as Lots 11 and 12 of Block 9 of Wilson-Dunn Addition to the City of Fayetteville.

The existing residence is an 875 square feet stone structure. It has exterior lighting outside both entry doors. There are lights under the porch outside the front door and a wall mounted light outside the rear door. There are street lights in the area but they are not directly adjacent to this property.

The residence is served by a residential trash cart and recycling bin. When not in use by the curb, the cart and bin are stored next to the residence on the Southeast side along the driveway.

Vehicular traffic accesses the driveway directly from S. Van Buren Avenue. There is a concrete driveway that is in good condition. It has room to park approximately 3 cars in the driveway and has on street parking on S. Van Buren Avenue immediately adjacent to the property.

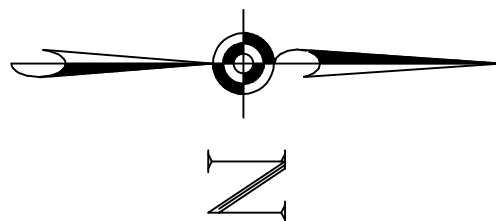
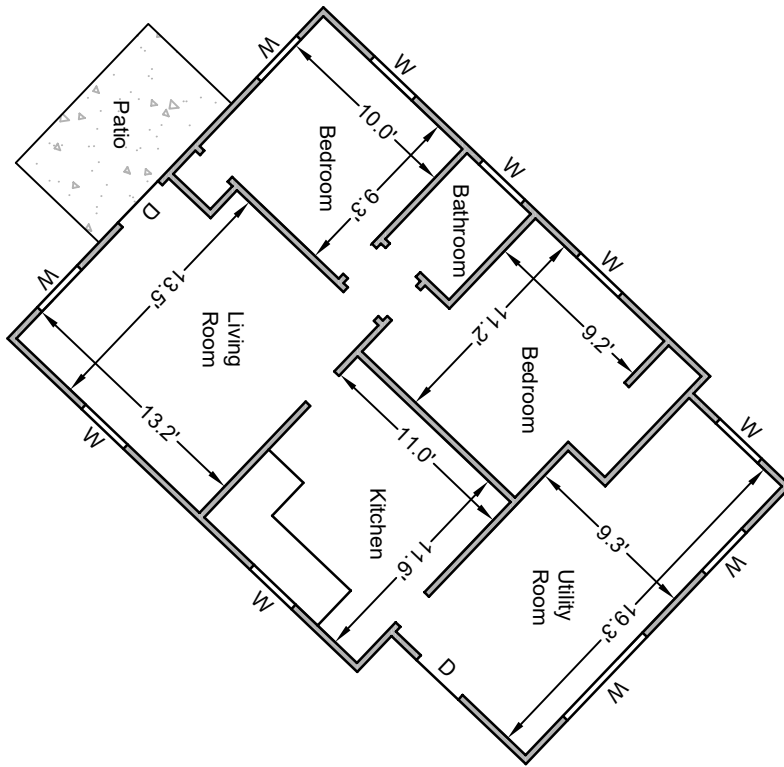
Walking traffic can access the property by sidewalk passing directly in front of the property between S. Van Buren Avenue and the residence. The Tsa-La-Gi, Frisco, and Town Branch trails are all within about half a mile walk or bike ride from this property.

I believe the proposed use of this property as a short term rental is generally compatible with the neighborhood. This neighborhood is a mix of owner-occupied and rental properties. This property is adjacent to 3 existing rental properties (1 duplex and 2 single family) on the Northwest and Southeast sides. There is an existing short term rental along 15th Street a few properties to the Southwest and another to the Northwest along S. Duncan Avenue. I don't believe operating this property as a short term rental will lead to any more nuisances or issues than the adjacent duplex to the Northwest which is to say very little. Large group gatherings/parties will not be allowed. This is a small house that I see primarily being used by couples, small families, or friends coming to Razorback events or to use the multitude of outdoor activities available in Northwest Arkansas.

Respectfully,



Edward Leon Lee
HJL Investments, LLC



10 0 10
 SCALE: 1" = 10'

Front View (From Southwest)



Side View (From Southeast)



Rear View (From Northeast)



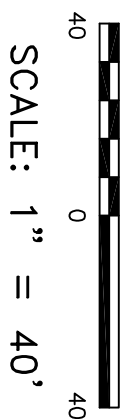
Side View (From Northwest)



mission

Planning Commission
February 27, 2023

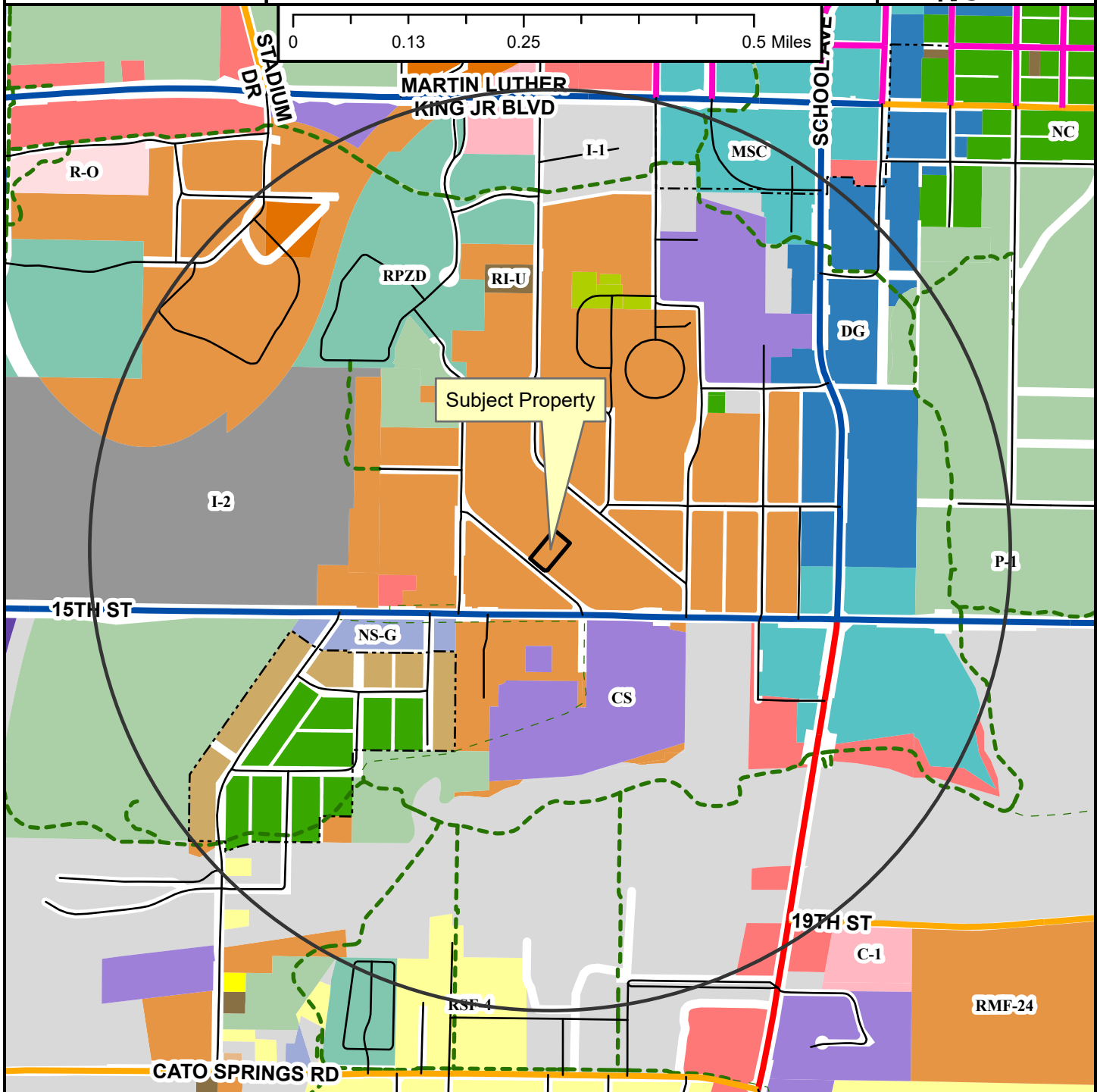
Page 19 of 23



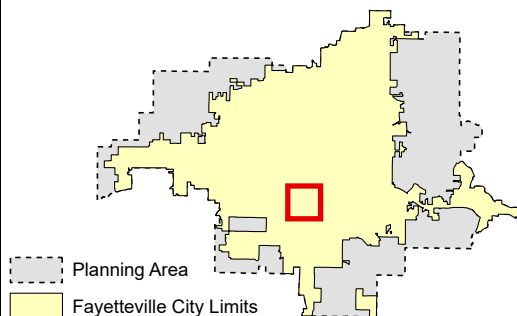
CUP-2023-0007

1370 S. VAN BUREN AVE

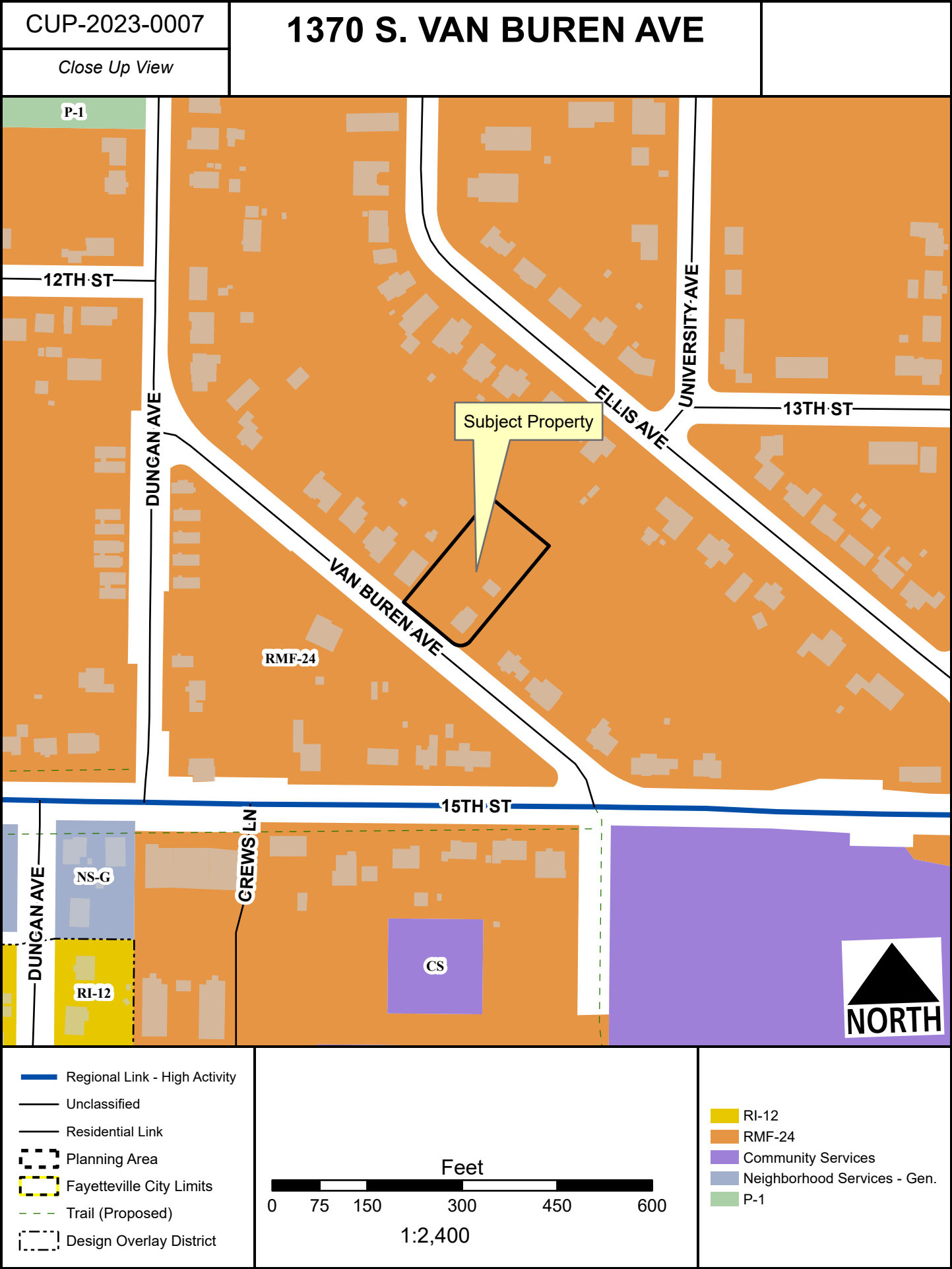
One Mile View



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



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - 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
- 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-2023-0007

1370 S. VAN BUREN AVE

Current Land Use



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



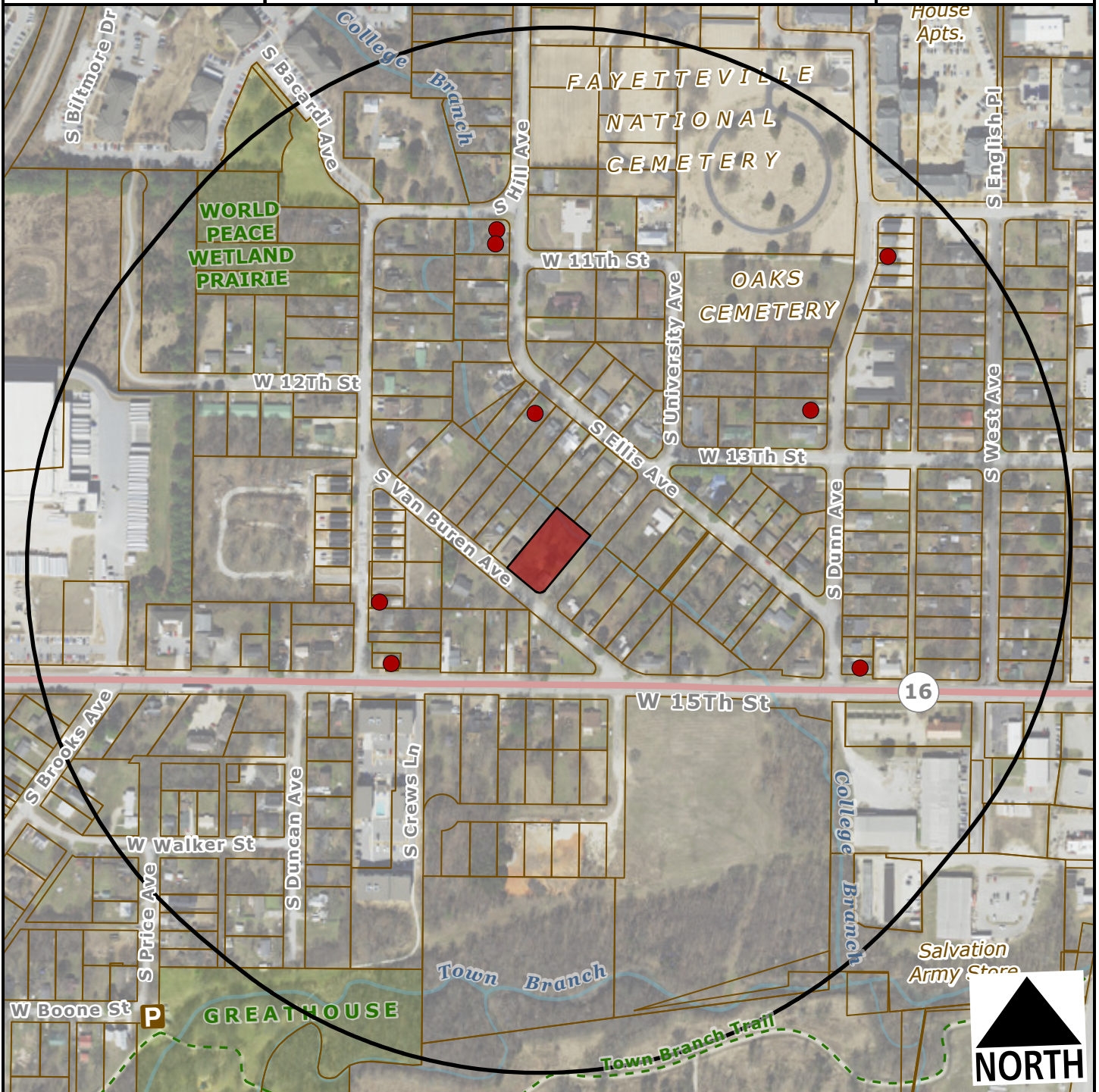
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0007

1370 S. VAN BUREN AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 8
2% density cap

NOT 0
contributing to
2% density cap

Total 8



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0008: Conditional Use Permit (348 N. FLETCHER AVE./SCOTT, 485):** Submitted by MIKE SCOTT for property located at 348 N. FLETCHER AVE. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY – 8 UNITS PER ACRE and contains approximately 0.08 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0008** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0008**, 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 near Mount Sequoyah, just northeast of the intersection of Dickson Street and Fletcher Avenue. The property is zoned RSF-8, Residential Single-Family, 8 Units per Acre, contains 0.08 acres, and is currently developed with a two-bedroom townhome. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Two-Family Residential	RSF-8, Residential Single-Family – 8 Units per Acre
South	Two-Family Residential	RSF-8, Residential Single-Family – 8 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family – 4 Units per Acre
West	Two-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% city-wide 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 received public comment in opposition to this request from an individual who expressed concerns about this short-term rental adversely impacting the residential character of the neighborhood. Their letter is attached for reference.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0008** 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 city code.
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one 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, Signs.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>February 27, 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-8 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 City 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 not likely to 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-8 zoning. Since RSF-8 is a residential zoning district, a conditional use permit is required.

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

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

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

Finding: Parking is limited as described in UDC §163.18(C). Parking for townhomes is required to be provided at a rate of one vehicle space per bedroom. According to the applicant, the unit has two bedrooms and two off-street parking spaces available in an existing carport.

- 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 applicant's request 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 348 N. Fletcher Ave. 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 311 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in the underlying RSF-8 zoning, so this short-term rental would contribute to the city-wide density cap. While this short-term rental is in a multi-unit structure, it is not subject to a building density cap since all units are on individual lots of record. No exceptions to the short-term rental standards are being requested with this conditional use permit.

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

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

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

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

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two spaces are available in a carport and a maximum of six guests are permitted. The property also has frontage along a portion of Fletcher Avenue that is wide enough to support on-street parking. City business license records indicate that three other units within a quarter-mile radius of the property have active Type 2 short-term rental business licenses. No prior zoning or code violations have been reported at this location.

§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 Fletcher Avenue through a shared private driveway and there is sidewalk present along the property's frontage. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The applicant has indicated that there are two guest vehicle parking spaces available in an existing carport. 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 UDC 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 RSF-8 zoning. 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. Since the RSF-8 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
 - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Building Elevations
- Site Plan
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile 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)

161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(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.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit.*

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area*. The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then 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.

(Ord. No. 4783, 10-18-05; 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)

Scott Holdings, LLC

Request Letter

01/13/2023

Re: 348 N Fletcher Avenue
Fayetteville, AR 72701

To whom it may concern:

This is a request letter to license the town home at 348 N Fletcher as a STR II Rental Property. The home will be providing a vacation destination to tourists and families coming into Fayetteville for University Activities as well as other tourist activities such as Mountain Biking and sightseeing. The property will also be used by the owners as a second home when in Fayetteville for work and to visit our University of Arkansas student.

The townhome is a 2 Bedroom 1.5 Bath. It is a new build and has been furnished as a STR / vacation home. The site is approximately 3625 sf and the Living area is approximately 1263 sf. It is a two-story townhome. It has a carport with 2 off street parking spaces. There are on building lights at both the front and rear entrance to the townhome. There shouldn't be any excess noise regarding this usage. The back yard is enclosed with a privacy fence to buffer. Trash pick-up is on weekly pick up by the city. Trash can is kept behind a fence near property. Several of these units are used as vacation properties and student housing currently.

Best Regards,



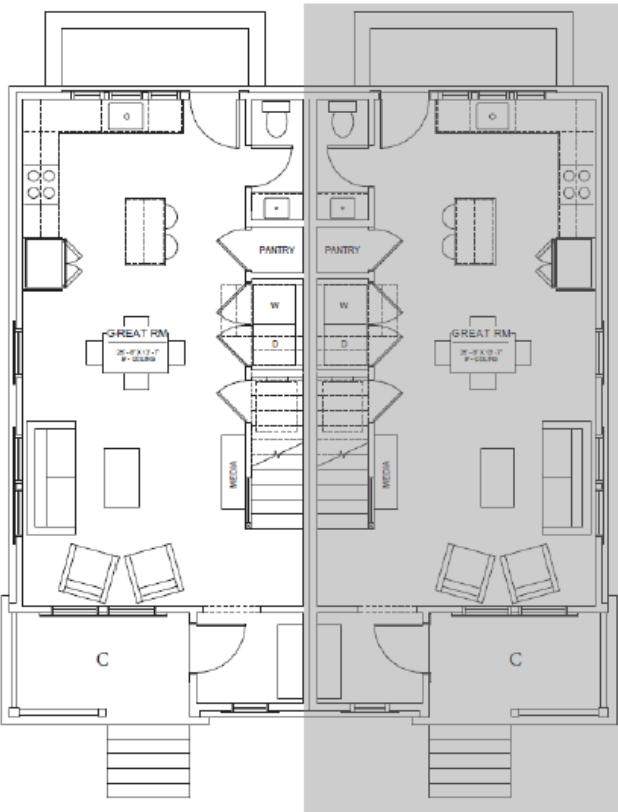
Mike Scott



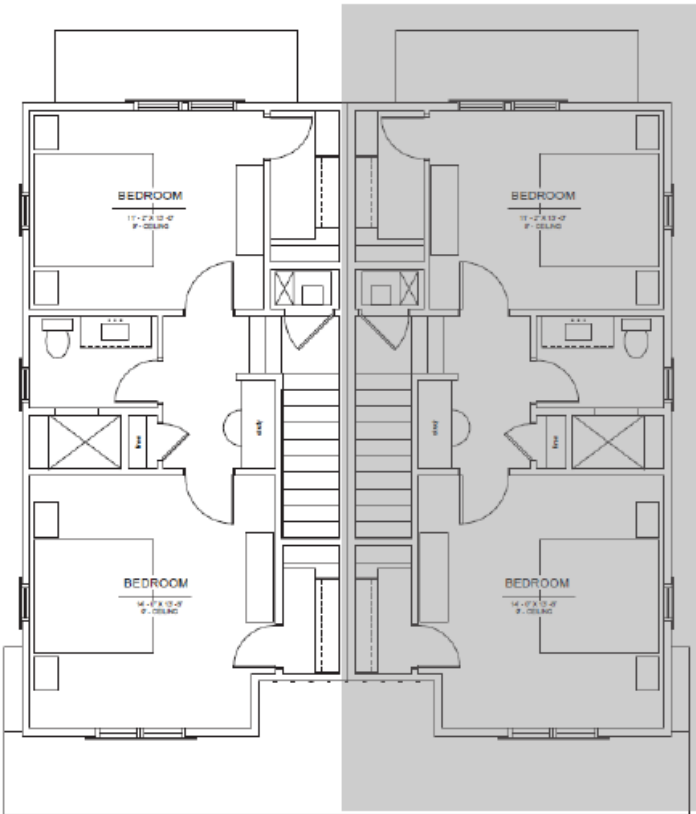
Christy Scott

20283 Country Creek Lane, Little Rock, AR 72223

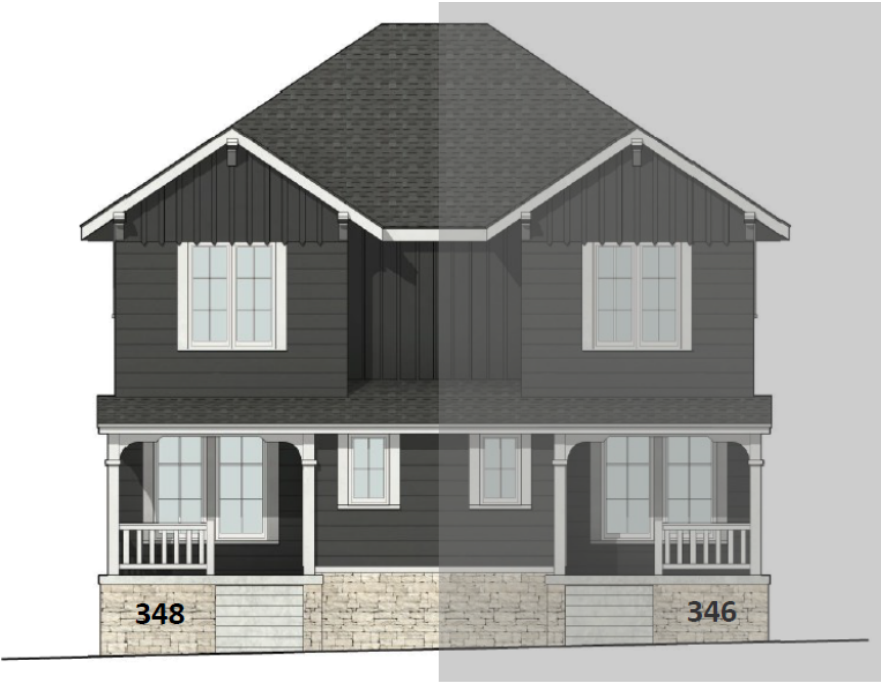
P 501-258-3242



First Floor



Second Floor



February 22, 2023

Fayetteville Planning Commission

RE: CUP 2023- 008, 009, and 0018

Commission Members:

This letter is to ask the Planning Commission not to approve the rezoning request to allow 332 North Fletcher, 344 North Fletcher and 348 North Fletcher to engage in short-termed rental agreements. These properties are currently zoned Residential/Single family.

The plot of land that these Townhouses set on had 2 houses at one time. A couple of years ago the plot was rezoned to allow 8 units per acre (this would allow for 7 single family homes) to be built. The public was told this followed the theory of “filling the infield” with affordable housing. The houses were never built. Instead, the plan changed and 5 (2 units each) townhouses were built. Due to lack of full-time occupancy these units do not add to any kind of “community feel” and certainly do not contribute to alleviating the affordable housing need in Fayetteville. In addition, valuable infield space has been lost.

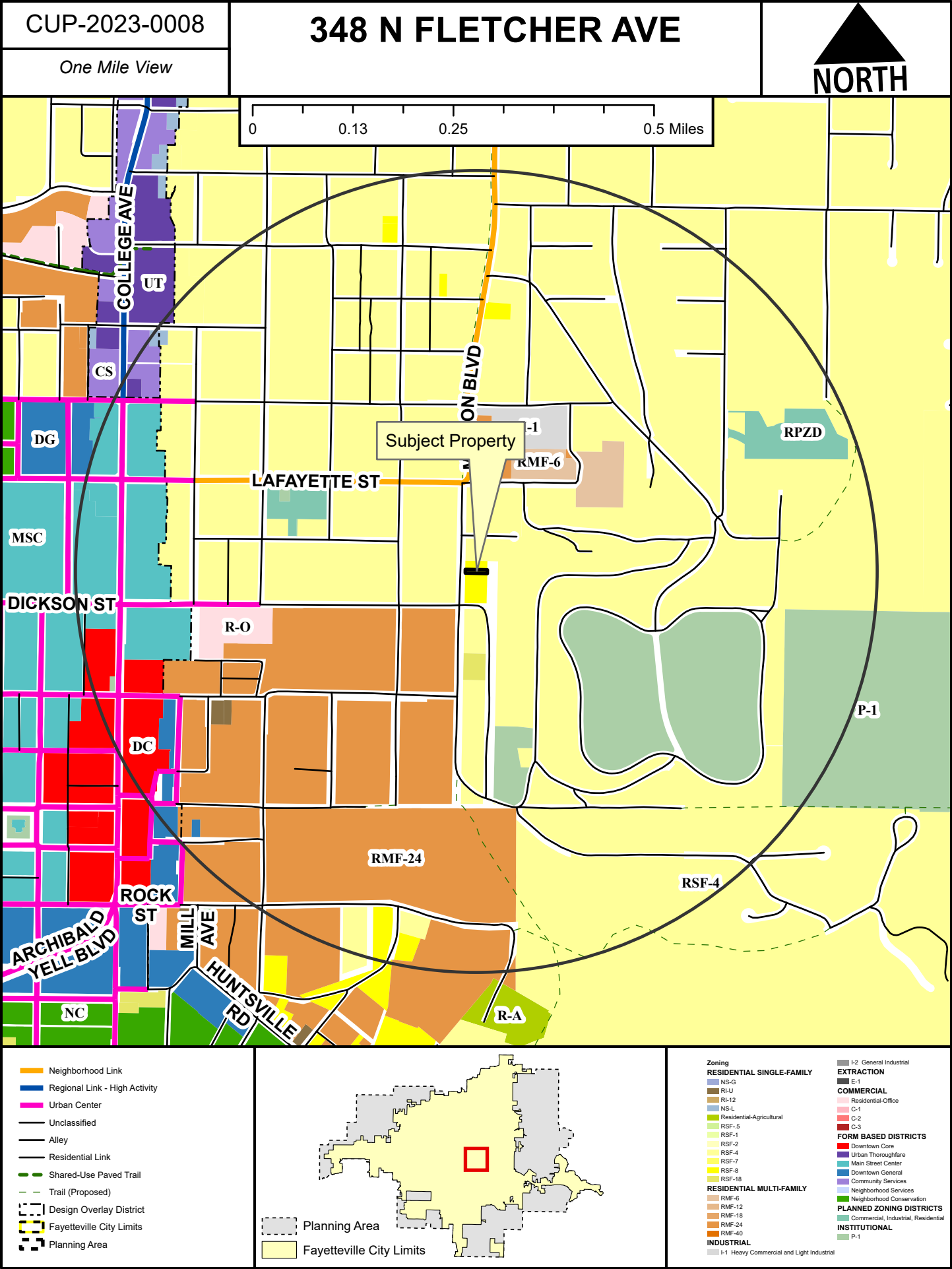
Now the requests to allow short term rentals will be like having “hotels” in the infield. The owners of these units knew how they were zoned when they purchased them. To come in and attempt to change that shows a complete lack of appreciation for the culture and ambience of this neighborhood. Should this request be approved, it will most likely be the beginning of more requests that will contribute to the detriment of not only this community, but others too. I live at 236 North Fletcher and I am not comfortable with having different people continually rotating through the neighborhood, with very little oversight. It is not what a residential community should be like.

Once again, I hope this request is denied. I would appreciate it if you would acknowledge receipt of this letter and share with others on the Commission. You have my permission to read aloud in the meeting. Thank you for your time.

Paul Blisard

417-766-5364

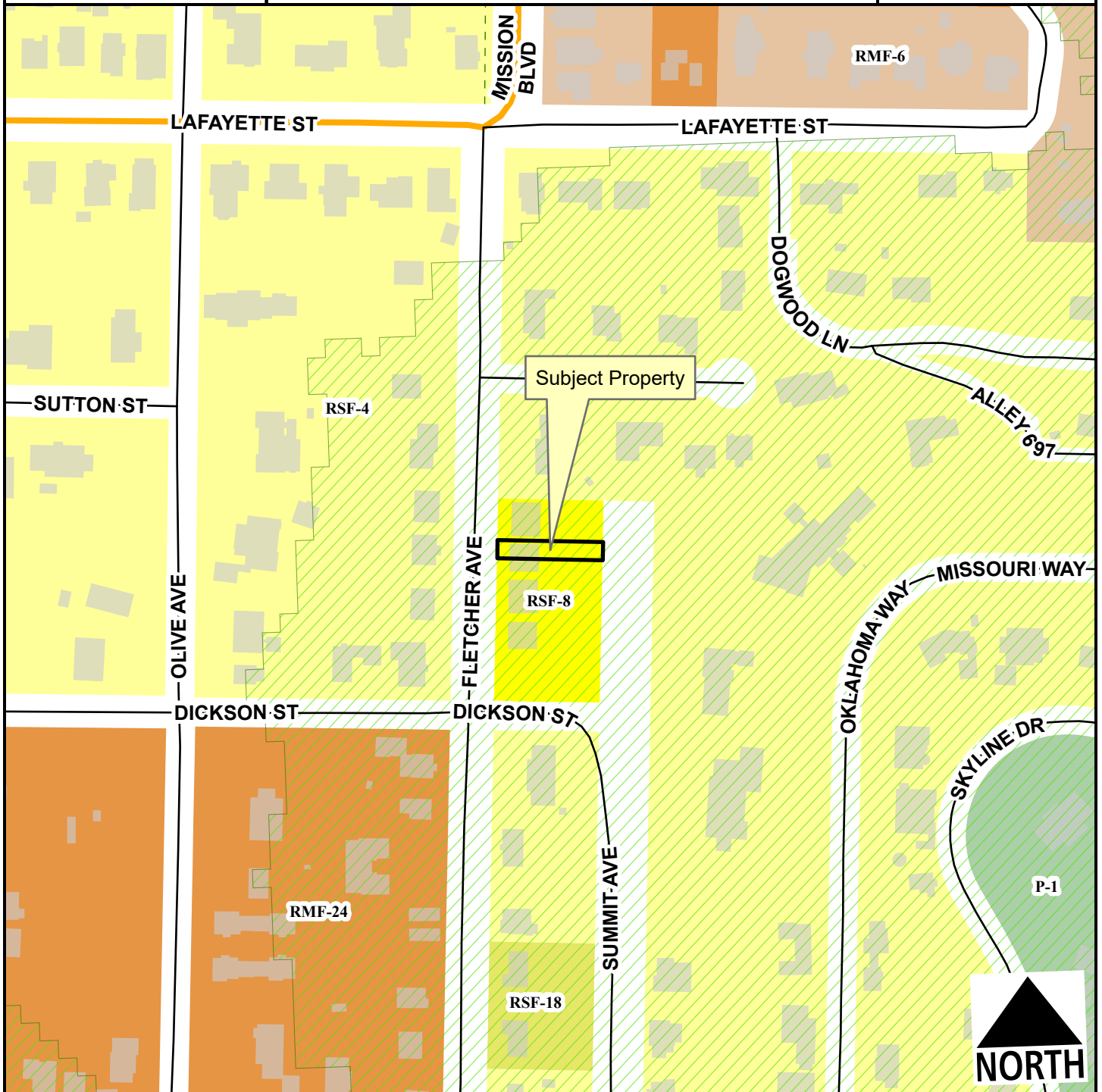
pblisard@uark.edu



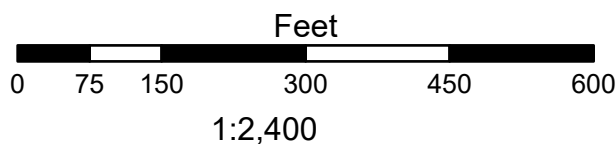
CUP-2023-0008

348 N FLETCHER AVE

Close Up View



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

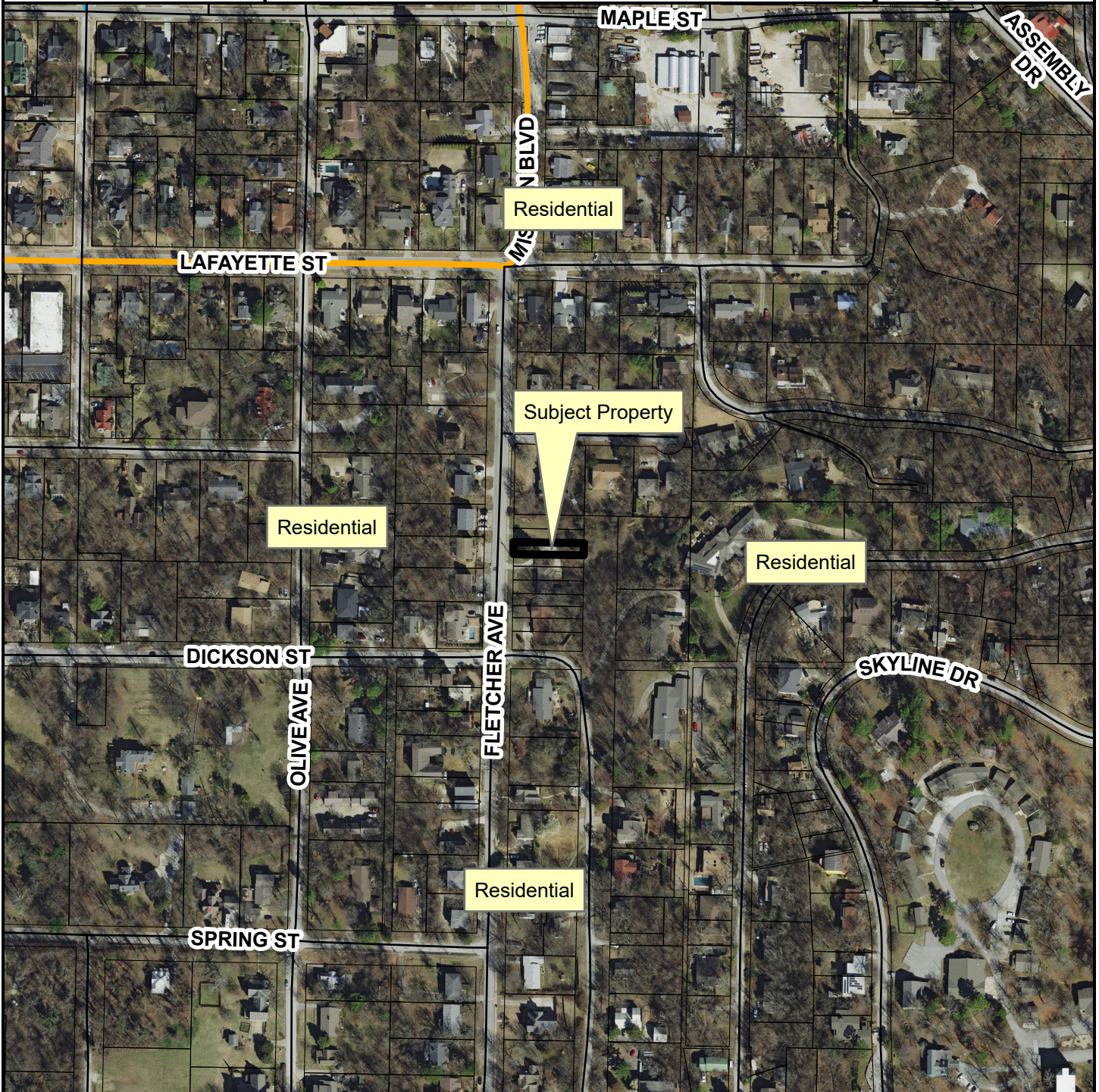


- RSF-4
- RSF-8
- RSF-18
- RMF-6
- RMF-24
- P-1

CUP-2023-0008

348 N FLETCHER AVE

Current Land Use



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



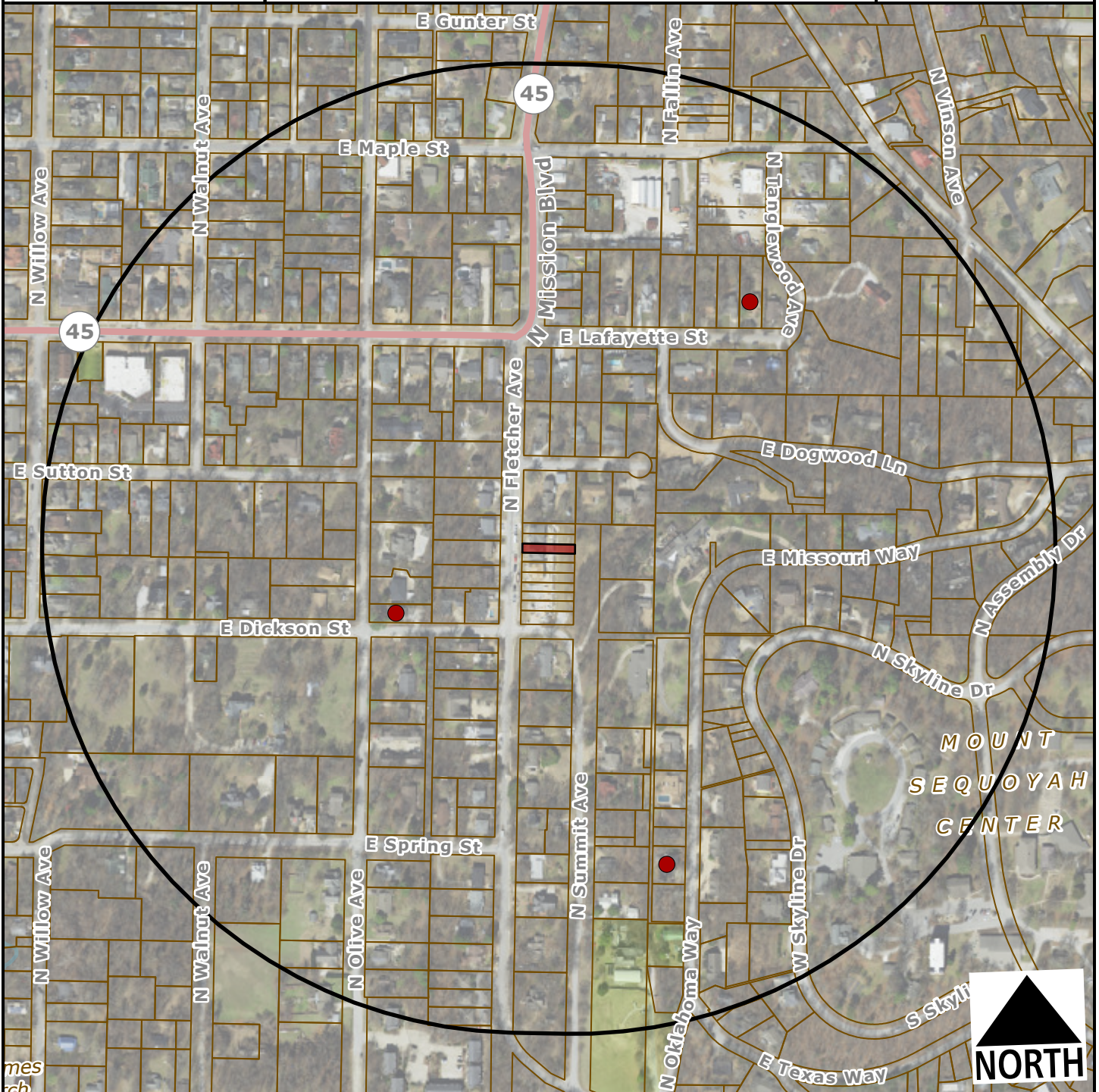
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

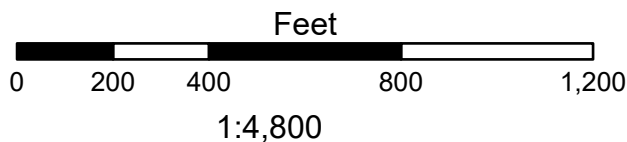
CUP-2023-0008

348 N FLETCHER AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 3
2% density cap

NOT 0
contributing to
2% density cap

Total 3



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0009: Conditional Use Permit (332 N. FLETCHER AVE./ETG SHELF 3 LLC, 485):** Submitted by JUSTIN GUNN for property located at 332 N. FLETCHER AVE. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY – 8 UNITS PER ACRE and contains approximately 0.09 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0009** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0009**, 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 near Mount Sequoyah, just northeast of the intersection of Dickson Street and Fletcher Avenue. The property is zoned RSF-8, Residential Single-Family, 8 Units per Acre, contains 0.09 acres, and is currently developed with a two-bedroom townhome. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Two-Family Residential	RSF-8, Residential Single-Family – 8 Units per Acre
South	Single-Family Residential	RSF-8, Residential Single-Family – 8 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% city-wide 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 received public comment in opposition to this request from an individual who expressed concerns about this short-term rental adversely impacting the residential character of the neighborhood. Their letter is attached for reference.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0009** 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 city code.
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one 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, Signs.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>February 27, 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-8 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 City 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 not likely to 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-8 zoning. Since RSF-8 is a residential zoning district, a conditional use permit is required.

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

Finding: Occupancy is limited as described in UDC §163.18(B). 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: Parking is limited as described in UDC §163.18(C). Parking for townhomes is required to be provided at a rate of one vehicle space per bedroom. According to the applicant, the unit has three bedrooms and two covered parking spaces available in the back of the property. On-street parking is also available along Fletcher Avenue.

- 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 applicant's request 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 332 N. Fletcher Ave. 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 311 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in the underlying RSF-8 zoning, so this short-term rental would contribute to the city-wide density cap. While this short-term rental is in a multi-unit structure, it is not subject to a building density cap since all units are on individual lots of record. No exceptions to the short-term rental standards are being requested with this conditional use permit.

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

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

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

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

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two spaces are available in a carport and a maximum of eight guests are permitted. The property also has frontage along a portion of Fletcher Avenue that is wide enough to support on-street parking. City business license records indicate that three other units within a quarter-mile radius of the property have active Type 2 short-term rental business licenses. No prior zoning or code violations have been reported at this location.

§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 Fletcher Avenue through a shared private driveway and there is sidewalk present along the property's frontage. 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 two guest vehicle parking spaces available in an existing carport. 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 UDC 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 RSF-8 zoning. 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. Since the RSF-8 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
 - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Site Plan
- Building Elevation
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile 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)

161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(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.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit.*

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area*. The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then 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.

(Ord. No. 4783, 10-18-05; 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)

J & S Legacy Builders, LLC

To Whom It May Concern,

My wife and I are requesting that our home, located at 332 N. Fletcher in Fayetteville, be allowed a license to operate as a Type 2-Short Term Rental. As a back-drop, Sheri and I are both graduates of the UofA and proud that our triplet children recently graduated as Razorbacks in May of 2022. During that last 4 years, we have truly fallen back in love with NW Arkansas. In the process, we have invested in 3 long-term rental properties that are located in areas of working professionals. The request for this property mentioned above provides two long-term objectives for us:

1. We are proud to provide a nice and well-kept home for families who are visiting Fayetteville.
2. We are looking to move back to Fayetteville in the future and want to participate in facilitating a great NW AR experience.

Lastly, we have owned and managed properties for over 20 years and have established a respectable home/brand for our renters and ensure alignment with rules, regulations, and professional expectations

Below you will find additional information regarding the property on 332 N. Fletcher:

Legal Description

New Lot 7A of the Lot Split filed for record in/as Document No. 2021-22842 and described as follows: A part of Lots 6 and 7, Block 3, McIlroy Addition to the City of Fayetteville, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows, to-wit: Commencing at an existing pipe marking the Northeast corner of said Block 3 and running thence along the East line thereof the following: S02°37'38"W 88.04 feet to an existing rebar, S02°58'30"W 87.96 feet to an existing rebar, S02°49'08"W 37.00 feet to the true point of beginning, thence continuing along said East line S02°49'08"W 28.00 feet, thence leaving said East line N86°53'38"W 144.97 feet to the East right-of-way of North Fletcher Avenue, thence along said right-of-way N02°43'31"E 28.00 feet, thence leaving said right-of-way S86°53'38"E 145.02 feet to the point of beginning, containing 0.9 acres, more or less.

Additional Descriptions:

- 332 N. Fletcher is a 3 BD & 2 ½ bath townhouse. The property is new construction and fully decorated.
- 1740 sq. feet – 2 story
- Newly painted dark green with a light red front door
- Property has front and back porch lighting
- Home shares one wall with similar structured townhouse. This is consistent with the project. 8 total townhomes attached by 2s.
- 2 covered parking spaces in back of property with access directly to back porch entrance. Installed 4 solar lights to provide appropriate lighting at night from home to auto.
- While homes have just recently been available to move in, the majority of homes are college students and/or parents 2nd homes with students at the UofA.

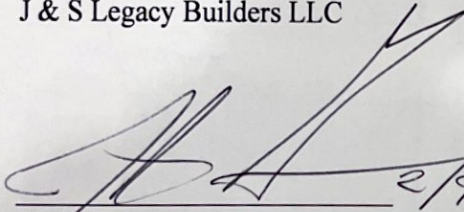
- Privacy fence around the back porch
- Behind the parking lot there is a large (around 10 foot) wall and designated set-aside land where the builder has planted trees. Homes are not located directly behind the complex.
- We will convey to tenants that noise is to be kept to a minimum to avoid any disruption to neighbors.
- We have city services for waste removal and have both garbage and recycle containers

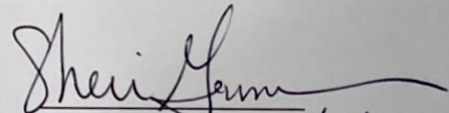
In closing, we are excited about providing a great experience for visitors to Fayetteville. We have been investors/owners that have managed our properties for over 20 years. We run a very respectable family business and have a great brand in our homes and how they are managed/maintained.

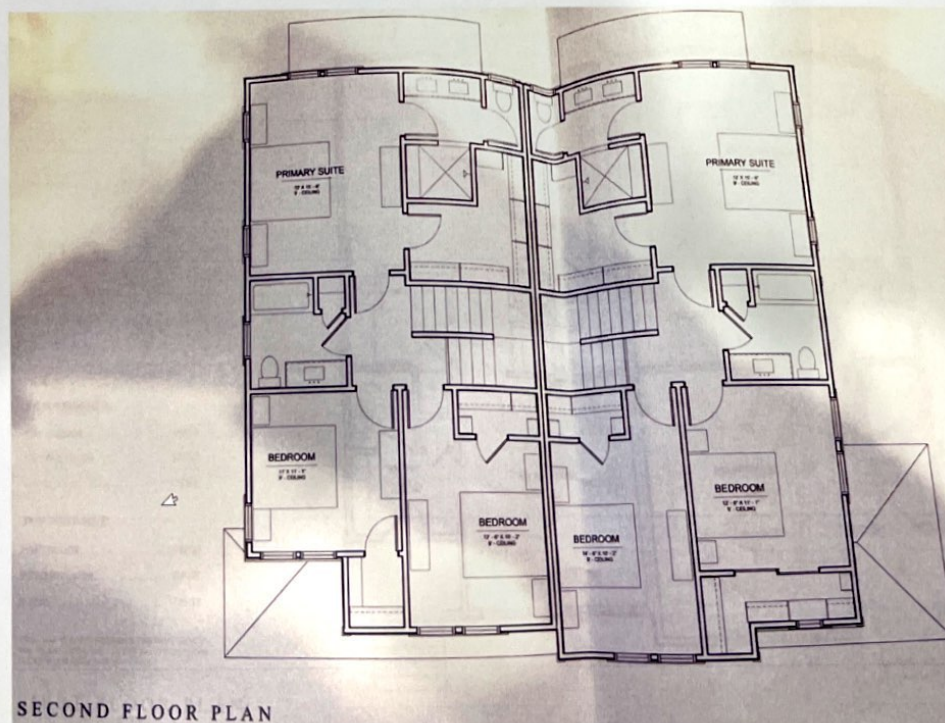
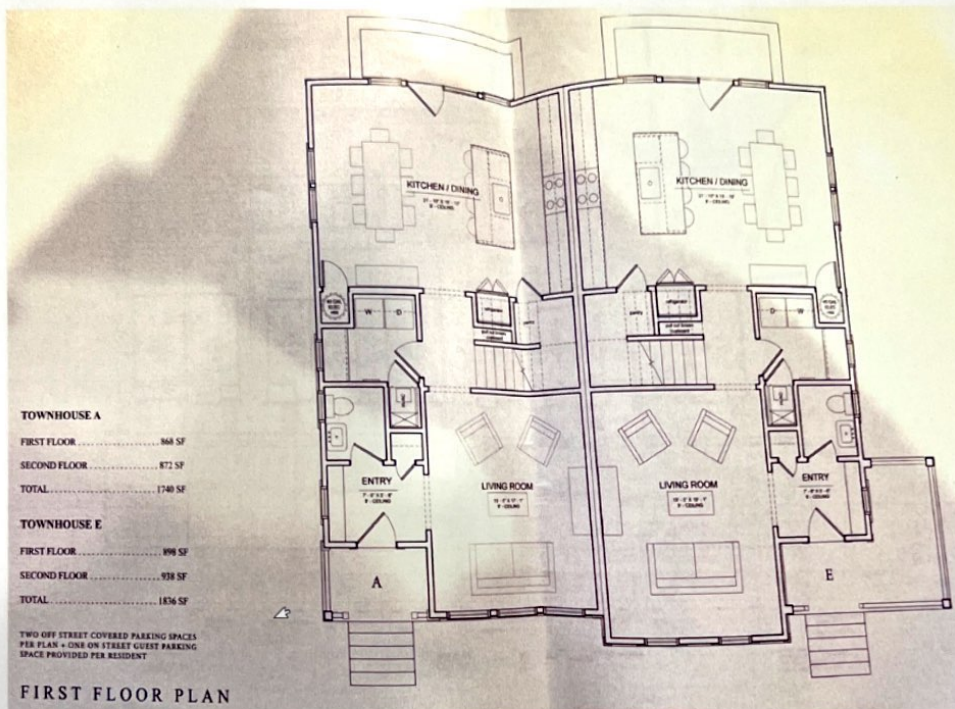
Enclosed are a few pictures of site location and floor plan.

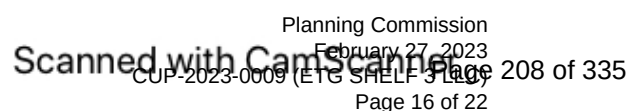
Respectfully submitted,

J & S Legacy Builders LLC


Justin Gunn 2/9/23


Sheri Gunn 2/9/23







February 22, 2023

Fayetteville Planning Commission

RE: CUP 2023- 008, 009, and 0018

Commission Members:

This letter is to ask the Planning Commission not to approve the rezoning request to allow 332 North Fletcher, 344 North Fletcher and 348 North Fletcher to engage in short-termed rental agreements. These properties are currently zoned Residential/Single family.

The plot of land that these Townhouses set on had 2 houses at one time. A couple of years ago the plot was rezoned to allow 8 units per acre (this would allow for 7 single family homes) to be built. The public was told this followed the theory of "filling the infield" with affordable housing. The houses were never built. Instead, the plan changed and 5 (2 units each) townhouses were built. Due to lack of full-time occupancy these units do not add to any kind of "community feel" and certainly do not contribute to alleviating the affordable housing need in Fayetteville. In addition, valuable infield space has been lost.

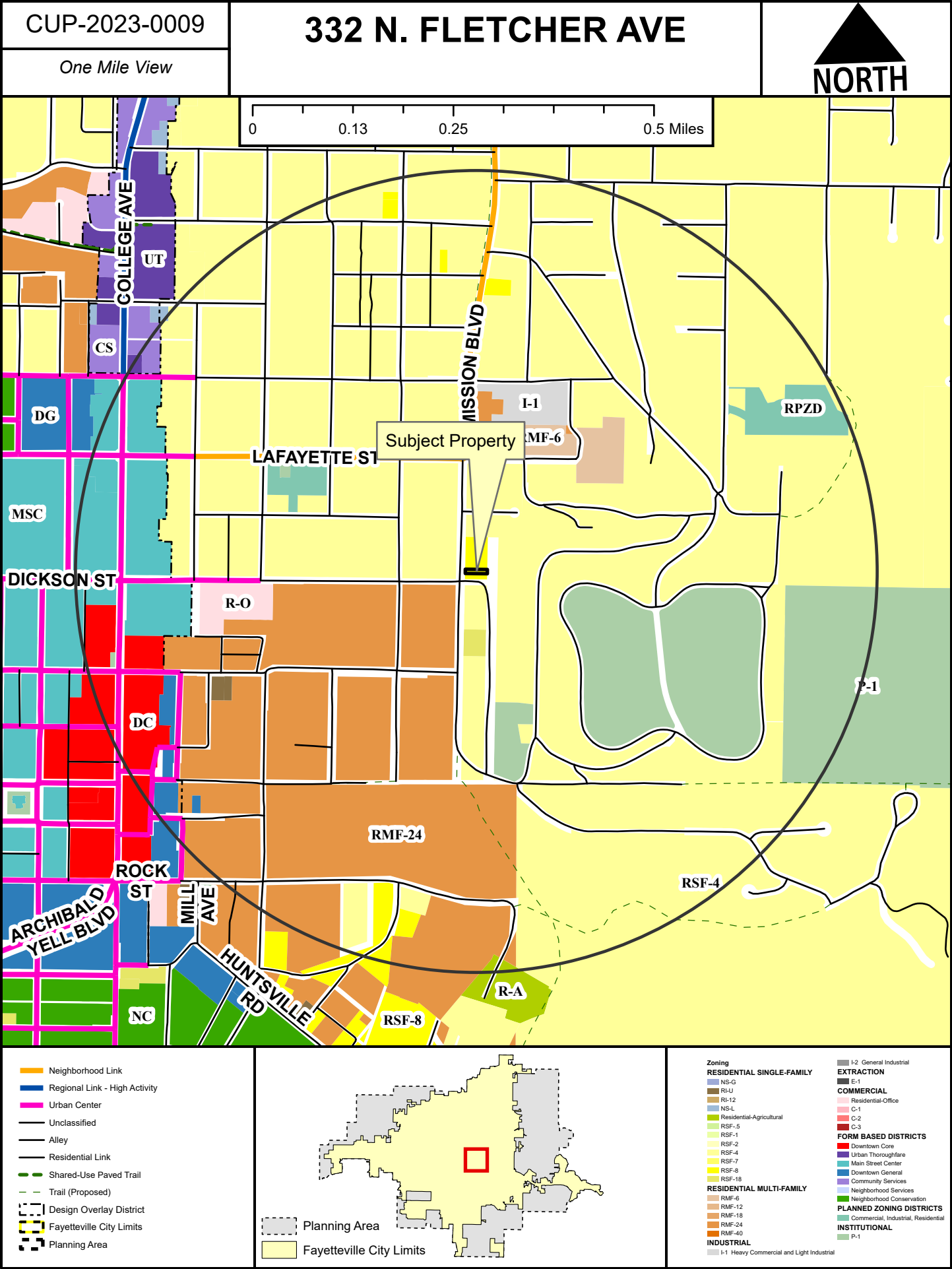
Now the requests to allow short term rentals will be like having "hotels" in the infield. The owners of these units knew how they were zoned when they purchased them. To come in and attempt to change that shows a complete lack of appreciation for the culture and ambience of this neighborhood. Should this request be approved, it will most likely be the beginning of more requests that will contribute to the detriment of not only this community, but others too. I live at 236 North Fletcher and I am not comfortable with having different people continually rotating through the neighborhood, with very little oversight. It is not what a residential community should be like.

Once again, I hope this request is denied. I would appreciate it if you would acknowledge receipt of this letter and share with others on the Commission. You have my permission to read aloud in the meeting. Thank you for your time.

Paul Blisard

417-766-5364

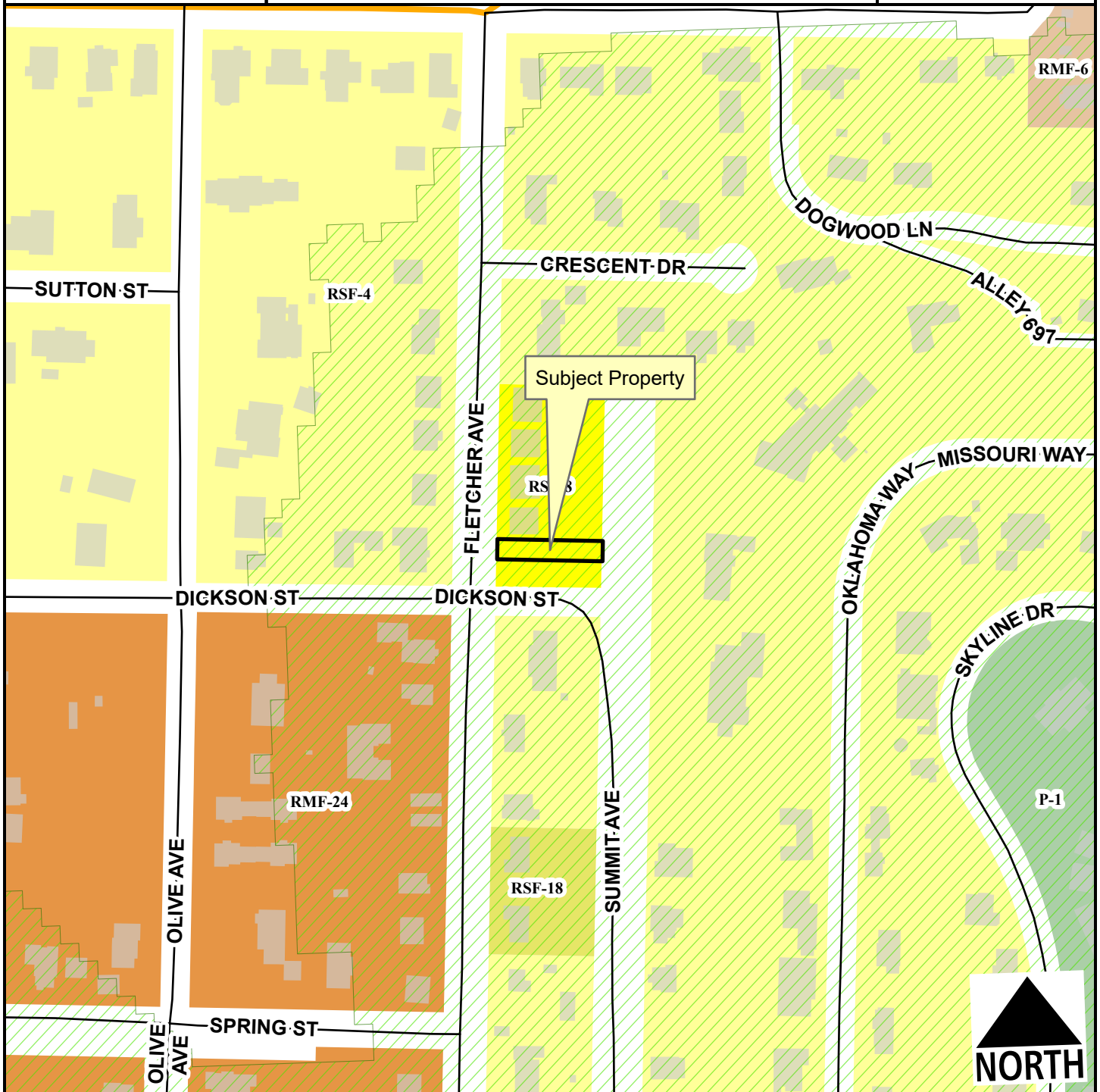
pblisard@uark.edu



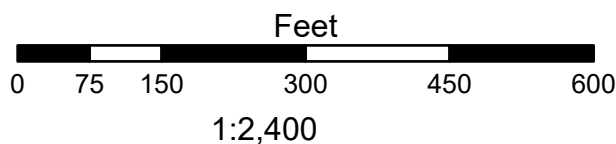
CUP-2023-0009

332 N. FLETCHER AVE

Close Up View



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



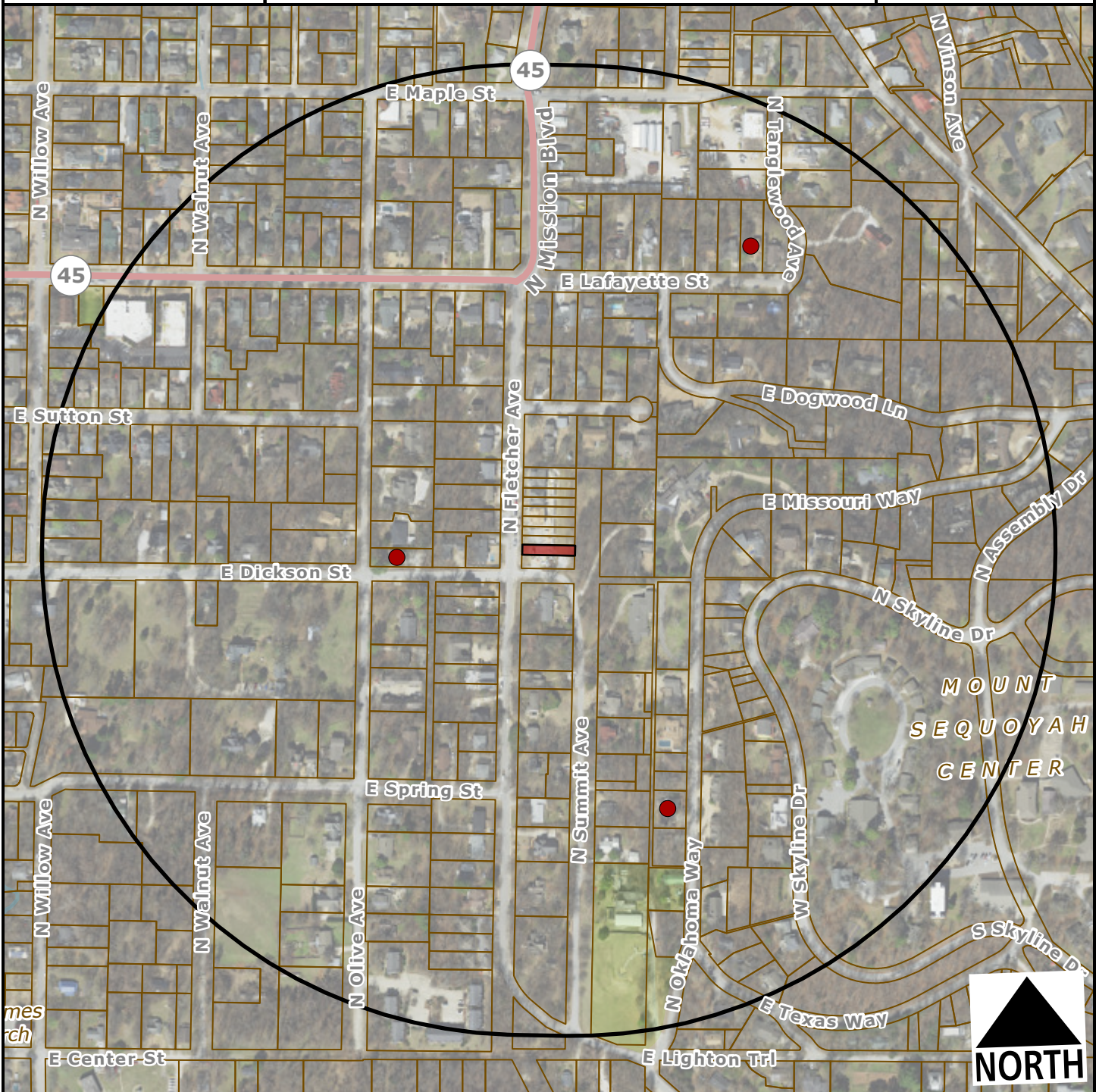
- RSF-4
- RSF-8
- RSF-18
- RMF-6
- RMF-24
- P-1



CUP-2023-0009

332 N. FLETCHER AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 3
2% density cap

NOT 0
contributing to
2% density cap

Total 3



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0010: Conditional Use Permit (2525 N Gooseberry Ln./HIDDEN JEM VENTURES, 285):** Submitted by CHARLES DIFANI for property located at 2525 N Gooseberry Ln. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – 4 UNITS PER ACRE and contains approximately 0.24 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0010** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0010**, determining:*

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

BACKGROUND:

The subject property is located in north Fayetteville off of N Gooseberry Ln approximately 0.4 miles north of Mt. Comfort Rd, 0.5 miles SE of the Gary Hampton Softball Complex, and 0.75 miles southwest of Underwood Park and Wilson Springs Preserve. The property is zoned RSF-4, Residential Single-Family, 4 Units per Acre and is currently developed with a 1,925-square-foot single-family home which was completed in January 2023. The property is not located in any zoning overlay district, streamside protection zone, and no other natural features such as historic prairies or habitats of interest have been designated on the Fayetteville interactive map.

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-2023-0010** 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 27, 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 City Code §118.01(E)(2) to grant the requested conditional use permit.

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

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

- (c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

- A. Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RSF-4, 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. Since RSF-4 is a residential zoning district, a conditional use permit is required.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains three bedrooms, occupancy will likely be limited to a maximum of eight guests; however, the applicant states in their letter that they do not plan to allow more than six guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Parking for single-family homes is required to be provided at a rate of two spaces per unit. According to the applicant, there is a two-car garage and a 20' long driveway available for parking.

- 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 2525 N Gooseberry 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 311 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 two spaces are available in an existing garage plus additional parking in the paved driveway, and the property abuts a private street that is wide enough to accommodate on-street parking. City business license records indicate that there are zero (0) units with active Type 2 short-term rental business licenses within a quarter-mile radius of the property. No zoning or code violations have been 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: Ingress and egress to the property is provided through an existing paved driveway with access onto N Gooseberry Ln. Sidewalk is also present along the west side of the street. Staff finds that the proposal will not adversely affect traffic flows considering applicant's intent to limit the use of the property to a maximum of six guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The applicant has indicated that there are two guest vehicle parking spaces available in a garage plus additional parking in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. Single-family dwellings are required to have at least two parking spaces and are permitted to have up to four vehicles parked on site.

- (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 UDC 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 there appears to be adequate off-street parking to accommodate the number of permitted guests. Since the RSF-4 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
 - §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 Plan
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile 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)

161.16 District RSF-4, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RSF-4 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

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

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

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

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

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

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) RSF-4
- 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
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(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

Request Letter: 2525 N Gooseberry Ln. Fayetteville, AR 72704 – Conditional Use Permit

My wife and I would like to utilize our home at 2525 N Gooseberry Ln as a short term rental property to host travelers and tourists coming to the Northwest Arkansas area. We are experienced property owners and managers as we currently own 7 total properties in Arkansas and Oklahoma. We've learned a lot about hosting people in our properties and feel confident it will be an asset to our community.

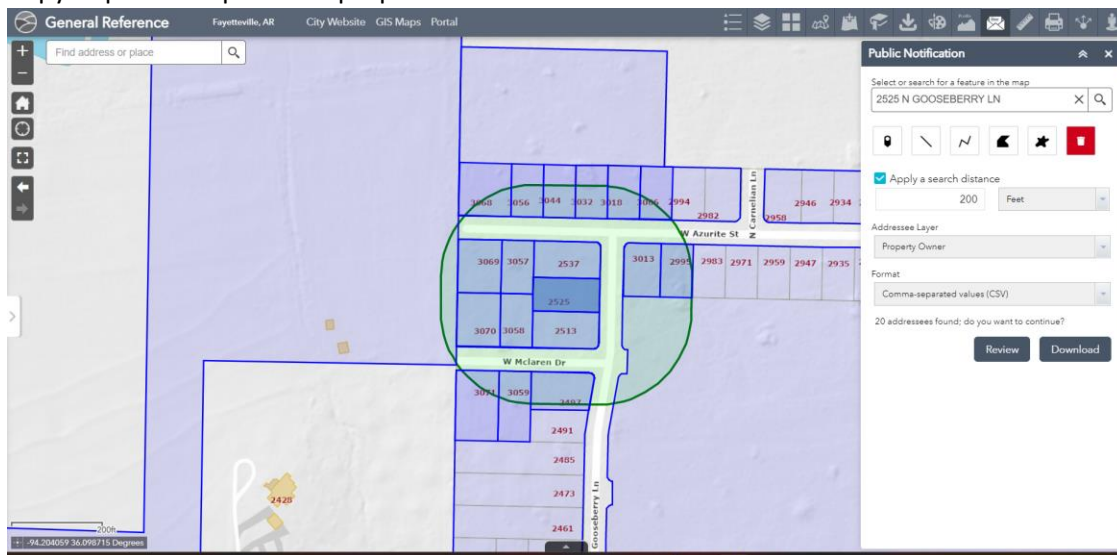
The size of the home is 1480 sf and it has 3 bedrooms, 2 bathrooms and a 2 car garage on a .24 acre lot. This a new construction home with a combination of brick and siding on the exterior (pictures attached). There is a 2 car garage for parking, a 20'+ driveway and also street parking is allowed on one side of the street. However, we don't intend for the home to house more than 6 guests so we don't intend to need street parking. The outdoor lighting is plenty with 2 coach lights outside the garage, front porch light and back porch light. We WILL NOT allow parties or events to be held at the property so noise is not expected to be an issue. With no more than 6 guests allowed in the home, again we do not expect noise to be an issue. There is currently not a fence around the property but we do plan to coordinate with neighbors to split the cost of bordering fences in the future and as finances allow. Regarding trash, we will have trash service and will keep the trash cans inside the garage unless a fence is built in the future at which point trash cans will likely be stored behind the fence at that point. There should be no traffic impacts as all guests vehicles should fit into the garage or driveway.

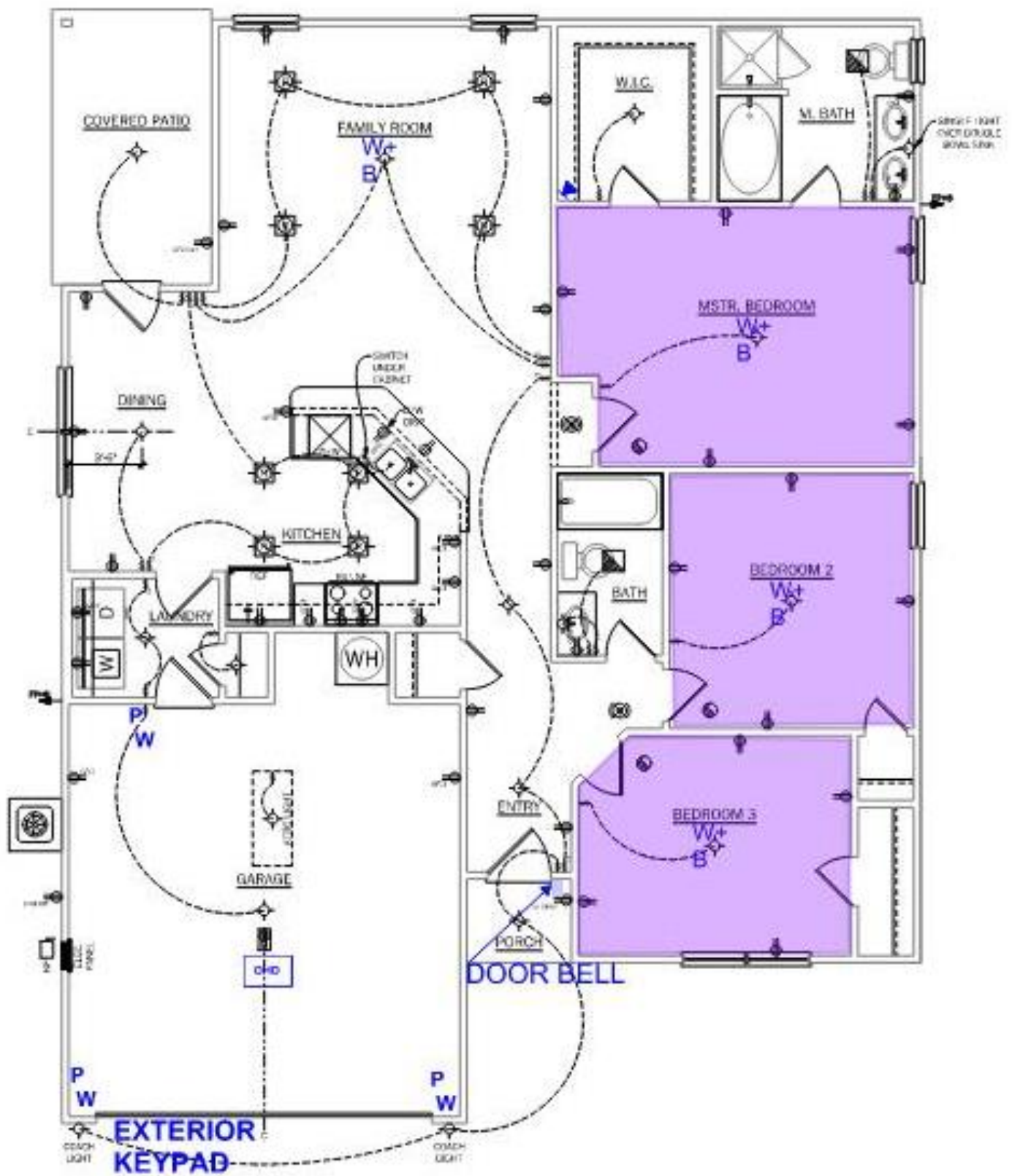
Legal Description: Washington Co tax records do not currently have the property in their records. I assume this is because it's new construction.

Site Map/Survey is attached separately.

Floor plan is attached separately.

Copy of parcel map with all properties within 200ft is attached below.



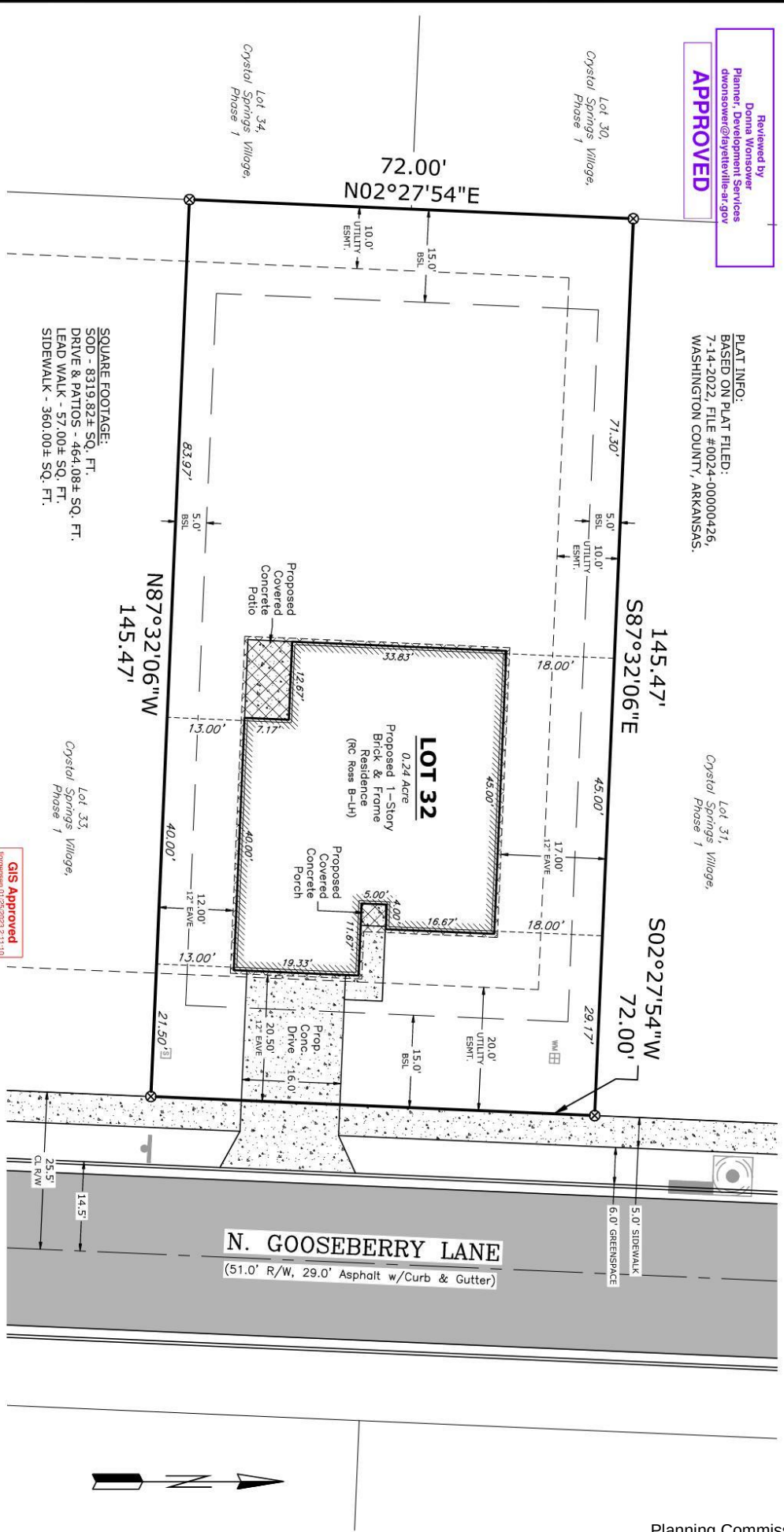




Reviewed by
Donna Wonsowier
Planner, Development Services
dwonsowier@lafayetteville-ar.gov

APPROVED

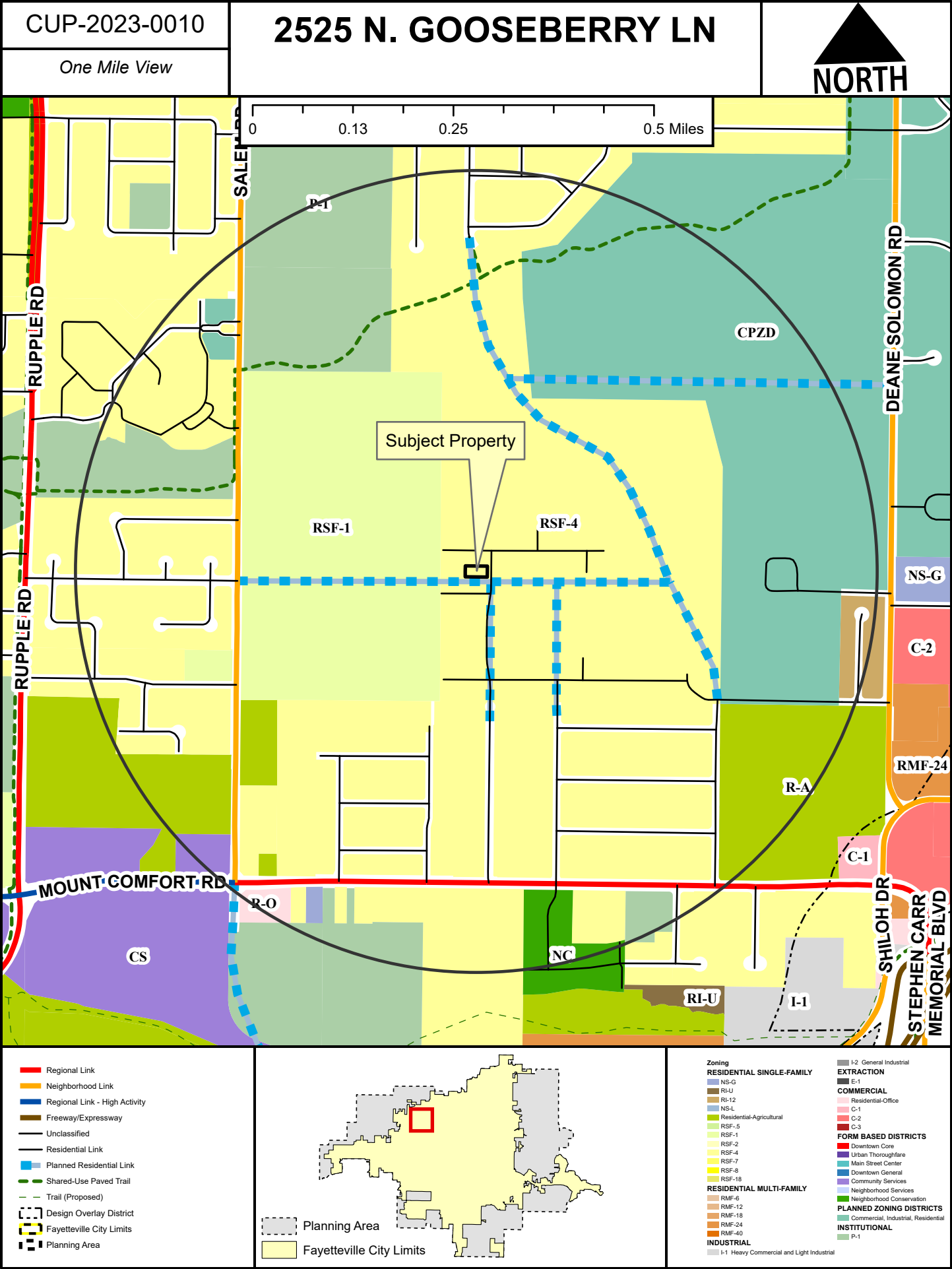
PLAT INFO:
BASED ON PLAT FILED:
7-14-2022, FILE #0024-00000426,
WASHINGTON COUNTY, ARKANSAS.

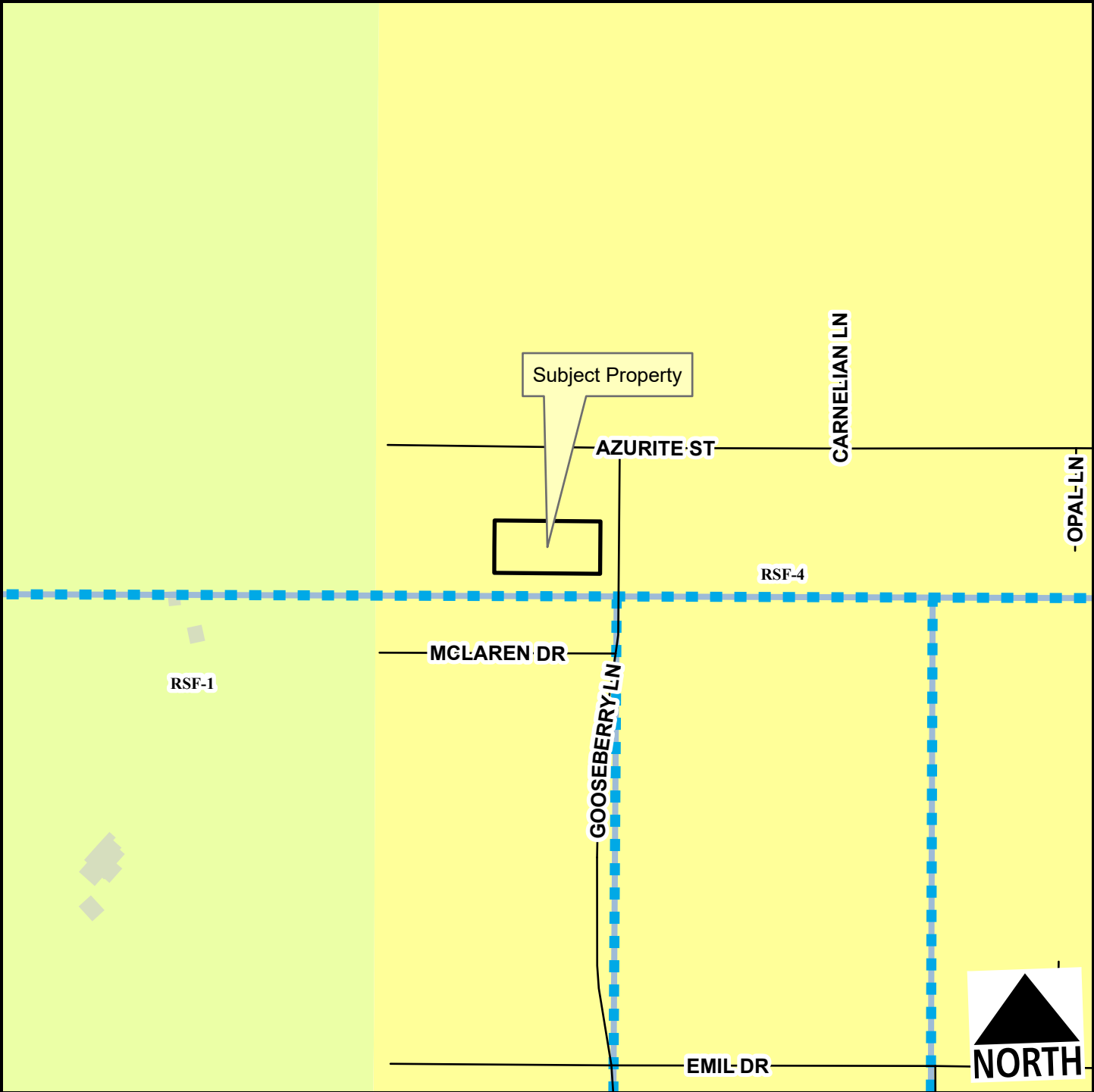


SQUARE FOOTAGE:
SOD - 8319.82± SQ. FT.
DRIVE & PATIOS - 464.08± SQ. FT.
LEAD WALK - 57.00± SQ. FT.
SIDEWALK - 360.00± SQ. FT.

GIS Approved
Registration 01262023 2:11:18

REVISIONS	DATE	LEGEND	GENERAL NOTES:
		- SUBJECT PROPERTY LINE - ADJOINER PROPERTY LINE - BOUNDARY LINE - EASEMENT LINE - CALCULATED POINT	- ALL DIMENSIONS SHOWN ARE IN DECIMAL FEET FORMAT. - ALL HOUSE DIMENSIONS SHOWN ARE TO OUTSIDE OF FRAME UNLESS OTHERWISE NOTED. - CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION. - ALL PROPERTY INFORMATION SHOWN IS BASED ON SUBDIVISION PLAT PROVIDED BY DEVELOPER AND MAY BE SUBJECT TO CHANGE.
		ABBREVIATIONS R/W - RIGHT-OF-WAY BSL - BUILDING SETBACK LINE PROJ. - PROPOSED ARC B - ARC BOUNDARY CHORD B - CHORD BEARING CHORD D - CHORD DISTANCE	
		FAVETTEVILLE, WASHINGTON COUNTY, ARKANSAS LOT 32, CRYSTAL SPRINGS VILLAGE, PHASE 1	
		DATE: 7-28-2022 JOB NO: 22-05-04 SCALE: 1"=15'	FOR USE BY: Rausch Coleman Homes NMA PROPERTY ADDRESS: 2525 North Gooseberry Lane Fayetteville, AR 72704
			JAKE WORTHINGTON Residential Plot Plans P.O. Box 93 Stillwater, OK 74076 (479)-226-6400 Email: jzjakew@gmail.com





 Residential Link Planned Residential Link Planning Area Fayetteville City Limits	Feet 0 75 150 300 450 600 1:2,400	 RSF-1 RSF-4
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CUP-2023-0010

2525 N. GOOSEBERRY LN

Current Land Use



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

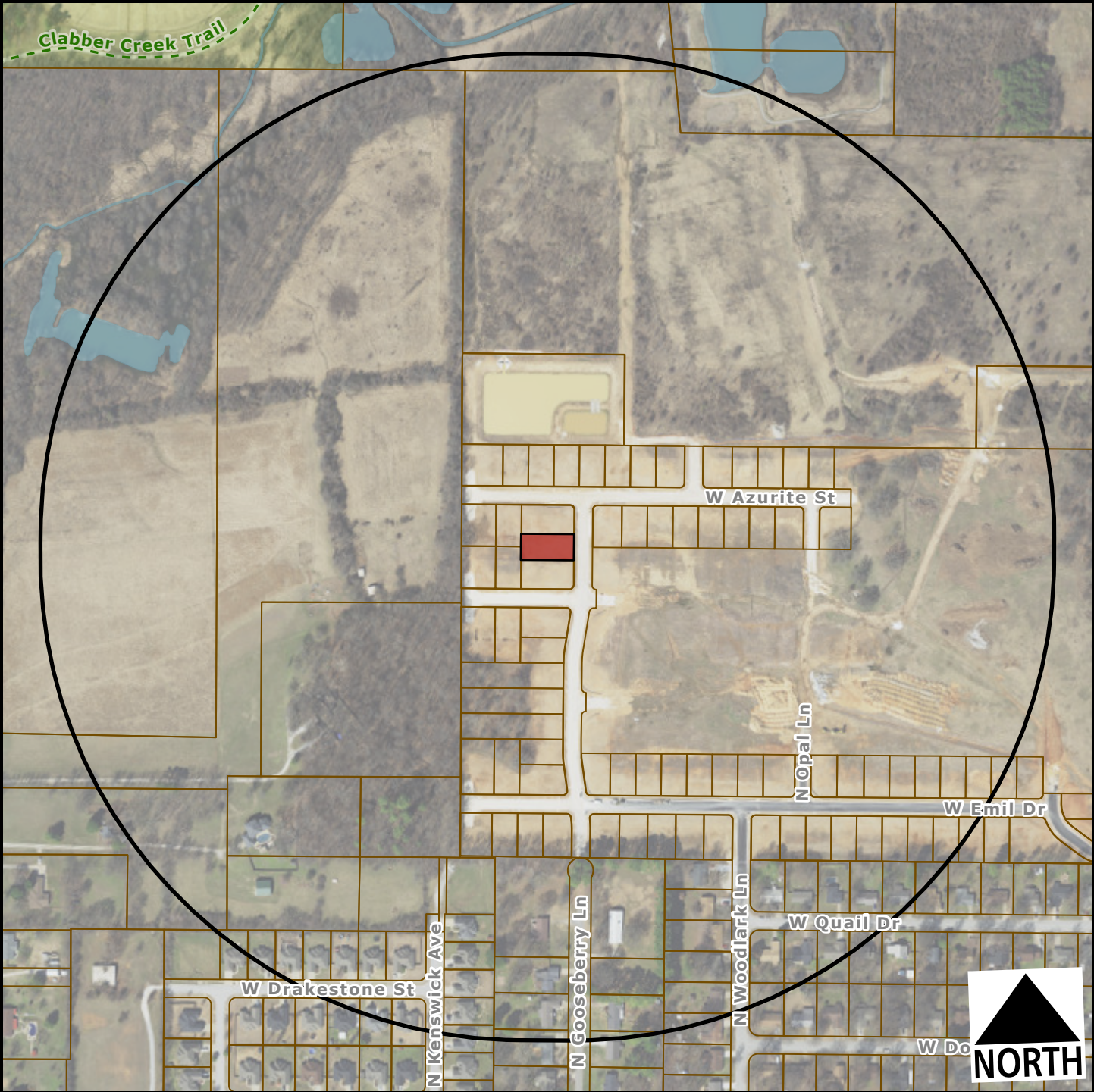
Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



 Subject Property  Short Term Rental, Type 2	Feet 0 200 400 800 1,200 1:4,800	Number of STR Licenses Contributing to 0 2% density cap NOT 0 contributing to 2% density cap Total 0
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TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0011: Conditional Use Permit (571 N KEATS DR./ SOTO, 439):** Submitted by CASA SOTO LLC for property located at 571 N KEATS DR. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.11 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0011** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0011**, 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 west Fayetteville in the Ruppel Rd Planned Zoning District. A fire station is located directly north of the parent parcel. Meadowlands Subdivision Ph1 & II lie to the northwest, and the Boys & Girls Club / Dale Clark Park is located directly across Ruppel Rd. In addition, the new public middle school is approximately one (1) mile south. It currently developed with a 1,974-square-foot single-family home which was constructed in 2015 according to the Washington County Assessor. The home is part of a "neo-traditional" neighborhood designed with rear-loaded alleys, 5-ft front setbacks, and small lot sizes. The property is not located in any zoning overlay district. 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	RPZD, Residential Planned Zoning District
South	Single-Family Residential	RPZD, Residential Planned Zoning District
East	Single-Family Residential	RPZD, Residential Planned Zoning District
West	Single-Family Residential	RPZD, Residential Planned Zoning District

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.

As the property is located within a residential planned zoning district, a conditional use application is required to operate a Type 2 short term rental within the RPZD.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0011** 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. **Occupancy shall be limited to eight guests per applicant statement of intent.**
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 27, 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 RPZD 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 City Code §118.01(E)(2) to grant the requested conditional use permit.

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

A. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-1, RSF-2, RPZD, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RPZD, 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 the Ruppel Rd Planned Zoning District, which does not list short term rentals as an allowable use. The uses listed are consistent with the residential zoning districts where Type 2 short term rentals require a conditional use. As such, a Type 2 short term rental will require a conditional use for this property.

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). Since this house contains four bedrooms, occupancy will likely be limited to a maximum of ten guests; Applicant confirmed intent to limit occupancy to a maximum of eight guests; staff is in favor of this limit given the site constraints and neighborhood design.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Parking for single-family homes is required to be provided at a rate of two spaces per unit. The applicant states that there are two covered parking spots available inside the garage and two spots available in the 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 571 N Keats 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 311 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in the underlying RPZD 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 two spaces are available in an existing garage plus additional parking in the paved driveway, and the property abuts a private street that is wide enough to accommodate on-street parking on one side. City business license records indicate that there are four (4) units with active Type 2 short-term rental business licenses within a quarter-mile radius of the property. No zoning or code violations have been 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: Ingress and egress to the property is provided through rear alleys within a 20' right-of-way, though on-street parking is allowed on one side of the interior streets. Sidewalk is also present along the west side of the street. Staff finds that the proposal will not adversely affect traffic flows considering applicant's intent to limit the use of the property 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 two guest vehicle parking spaces available in a garage plus two additional parking spaces in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. Single-family dwellings are required to have at least two parking spaces and are permitted to have up to four vehicles parked on site.

(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 UDC 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 there appears to be adequate off-street parking to accommodate the number of permitted guests. Since the RPZD 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
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - Excerpts of Ordinance 4580 RPZD, Residential Planned Zoning District
- Applicant Request Letter
- Building Floor Plan
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile 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) RPZD
- 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) RPZD
- 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)

ORDINANCE NO. 4580

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-06.00 LOCATED ON RUPPLE ROAD, SOUTH OF WEDINGTON DRIVE CONTAINING APPROXIMATELY 41.70 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RT-12, Residential Two and Three Family and RSF-4, Residential Single Family, four units per acre to R-PZD 04-06.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved development plan and development standards as shown on the plat and approved by the Planning Commission on May 10, 2004.

Section 3: That this ordinance shall take affect and be in full force at such time as all of the requirements of the development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this 15th day of June, 2004.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk




Doc ID: 007396590002 Type: REL
Recorded: 06/25/2004 at 11:18:00 AM
Fee Amt: \$11.00 Page 1 of 2
Washington County, AR
Bette Stamos Circuit Clerk
File # **2004-00025130**



Planning Commission approval of the proposed preliminary plat in association with R-PZD 04-056.00 subject to the following conditions:

Conditions of Approval:

1. Planning Commission determination of the appropriateness of the proposed parallel parking spaces along Ruppel Road, a Minor Arterial street. *Staff finds the parking spaces to be adequately located, however their position should be carefully evaluated to ensure the continued safety of traveling and parking motorists. Ruppel Road is a north-south Minor Arterial street, planned to continue south to Hwy 62 on the Master Street Plan.*
2. Allowed uses in this R-PZD shall be restricted to the following Use Units:
 - Use Unit 1, City-wide uses by right
 - Use Unit 2, City-wide uses by conditional use permit
 - Use Unit 8, Single family dwellings
 - Use Unit 9, Two-family dwellings
 - Use Unit 10, Three-family dwellings
 - Use Unit 24, Home occupations
3. The applicant shall submit a letter from WHM Investments or the current owners of record of the subdivision acknowledging that all parkland banked with FPL 01-07.00 (WHM Investments) for future parkland dedication use in the Southwest quadrant is being utilized with the current proposal. All future residential development within said subdivision will require park land dedication and/or money-in-lieu, based on park land dedication ordinances in place at the time of development.
4. Payment for Ruppel Road impact fees in the amount of **\$30,443.30** and a letter of credit in the amount of **\$20,295.70**, based on the number of dwelling units proposed, shall be submitted to the City of Fayetteville prior to Final Plat approval.
5. Parks fees in the amount of **\$7,482.75** are due prior to Final Plat approval. Fees in lieu of park land dedication shall be reviewed and approved by City Council, to comply with City ordinances.
6. Individual lot access shall be prohibited from Persimmon Street and Ruppel Road.
7. A note shall be included on the plat stating that the Common Area lots, maintained by the POA, are non-buildable lots.
8. A street tree planting plan shall be submitted before final plat as part of the requirements to meet tree mitigation and landscaping goals for the PZD.
9. No less than 33 trees shall be planted on-site to meet tree mitigation requirements.

Standard Conditions of Approval:

10. Plat Review and Subdivision comments (to include written staff comments provided to

K:\Reports\2004\PC Reports\05-10-04\R-PZD 04-06.00 (Ruppel Row) REVISED.doc

the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

11. 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.
12. Sidewalk construction shall be in accordance with current standards to include six foot sidewalks along Ruppel Road and Persimmon Street, at the right-of-way line. Sidewalks shall be constructed along the interior streets pursuant to Planning Commission approval.
13. Street lights shall be provided along all adjacent and proposed streets at a spacing of no more than 300 feet where not currently present, pursuant to city ordinances.
14. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
15. Preliminary Plat shall be valid for one calendar year.

Additional Conditions:

16. Streets within the proposed development shall allow for two-way traffic and on-street parking on one (1) side at the minimum width allowable, to be coordinated with City staff. Interior sidewalks shall be five (5) feet in width.
17. The option to utilize Use Unit 10, Three-family residential units, shall be limited to lots 164, 165 and 171 only.
18. Prior to Final Plat, a maximum square footage of the proposed homes shall be determined and reflected in the covenants to be filed of record.

PLANNING COMMISSION ACTION: yes Required

✓ Approved Denied

Date: May 10, 2004

The "CONDITIONS OF APPROVAL", beginning on page one of this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Title _____

Date _____

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REQUEST LETTER

(a.) Livable square footage is 1974 sqft.

(b.) N/A

(c.) Open street parking. Up to 4 spots total. Two in driveway and two in garage.

(d.) N/A

(e.) Patio lighting, Front door, and back door (Garage) lighting.

(f.) Noise will follow all ordinances. Also quiet hours will be put in place.

(g.) 4ft wooden fencing.

(h.) Trash bin is located in the rear of the house which is accessible through the alley way.

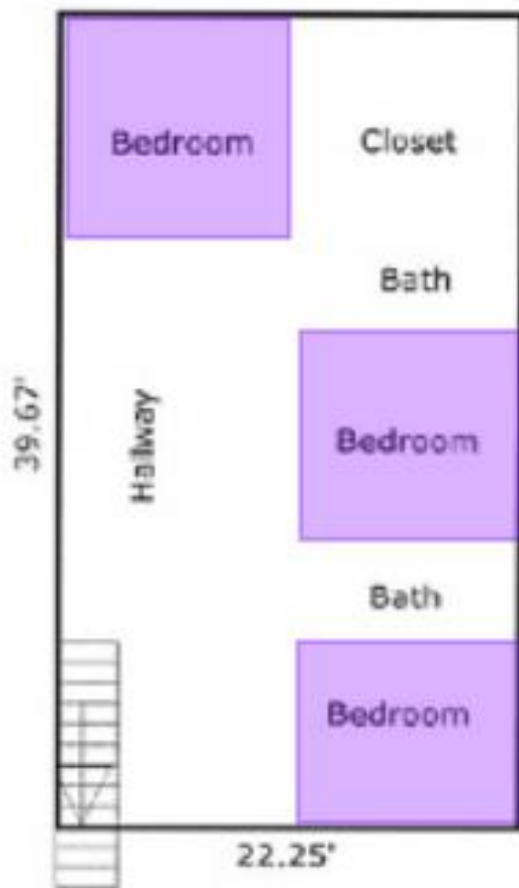
Trash bin will be in garage then brought out to street when pick up is scheduled.

(i.) Ingress and Egress to the property is accessible from both front and back of the home.

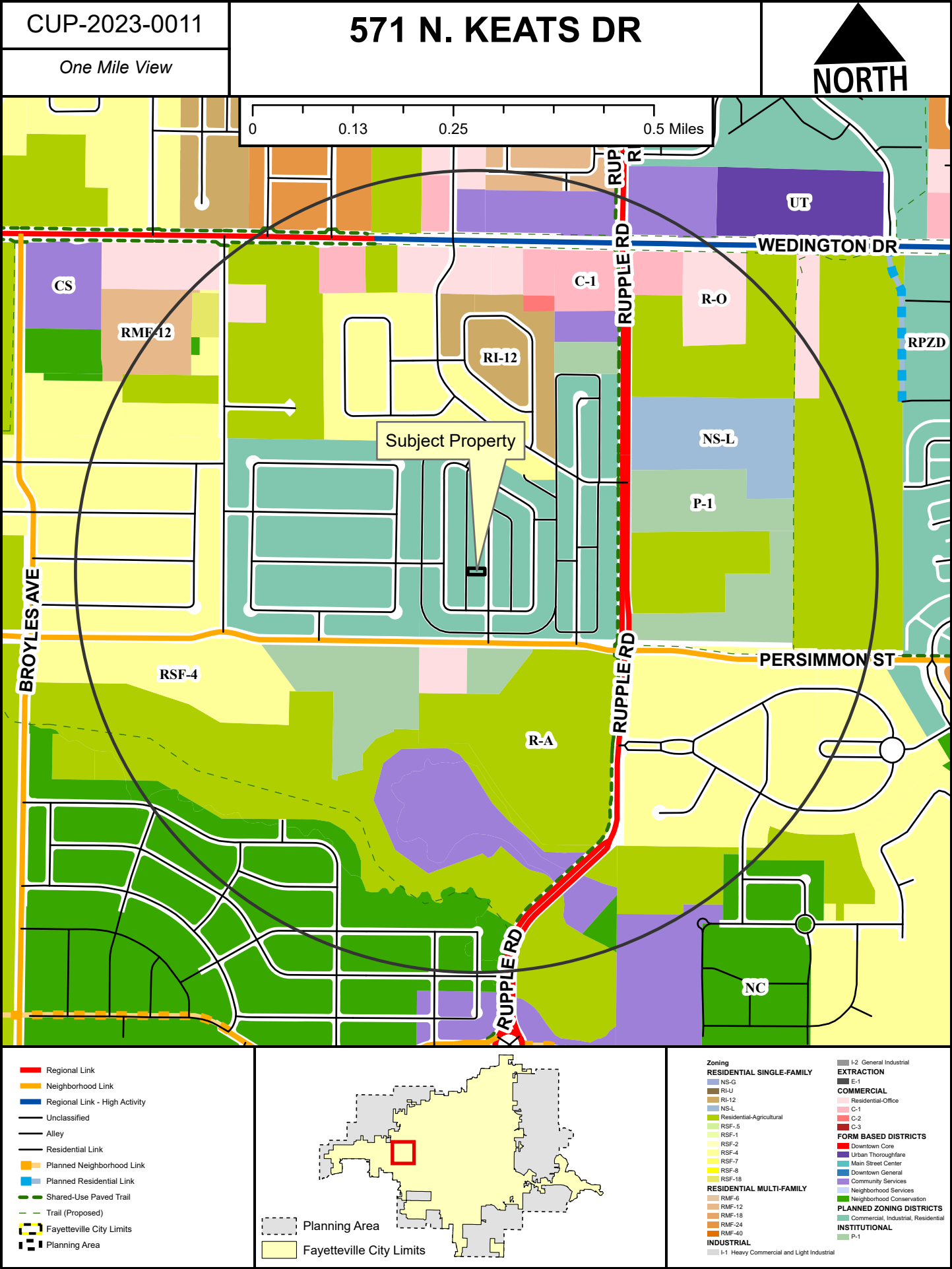
The front of the home will have open street parking. The back of the home will have the garage as well as drive way spots for easier access to the home.

(j.) This will be a great fit as it invites other people to visit and indulge in what Fayetteville has to offer. The proposed property may have little to no contact with adjacent properties as well as other properties in the neighborhood.





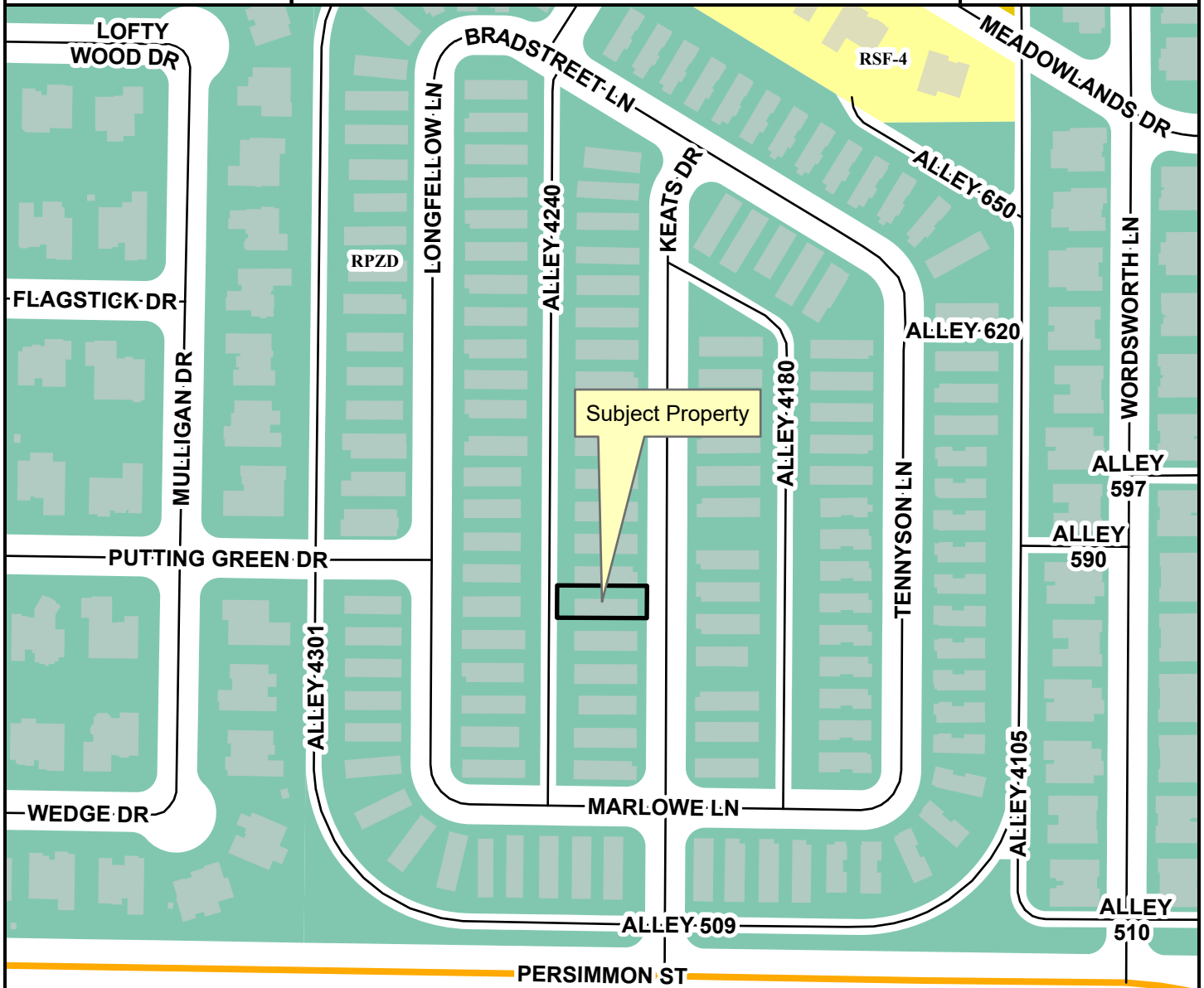




CUP-2023-0011

571 N. KEATS DR

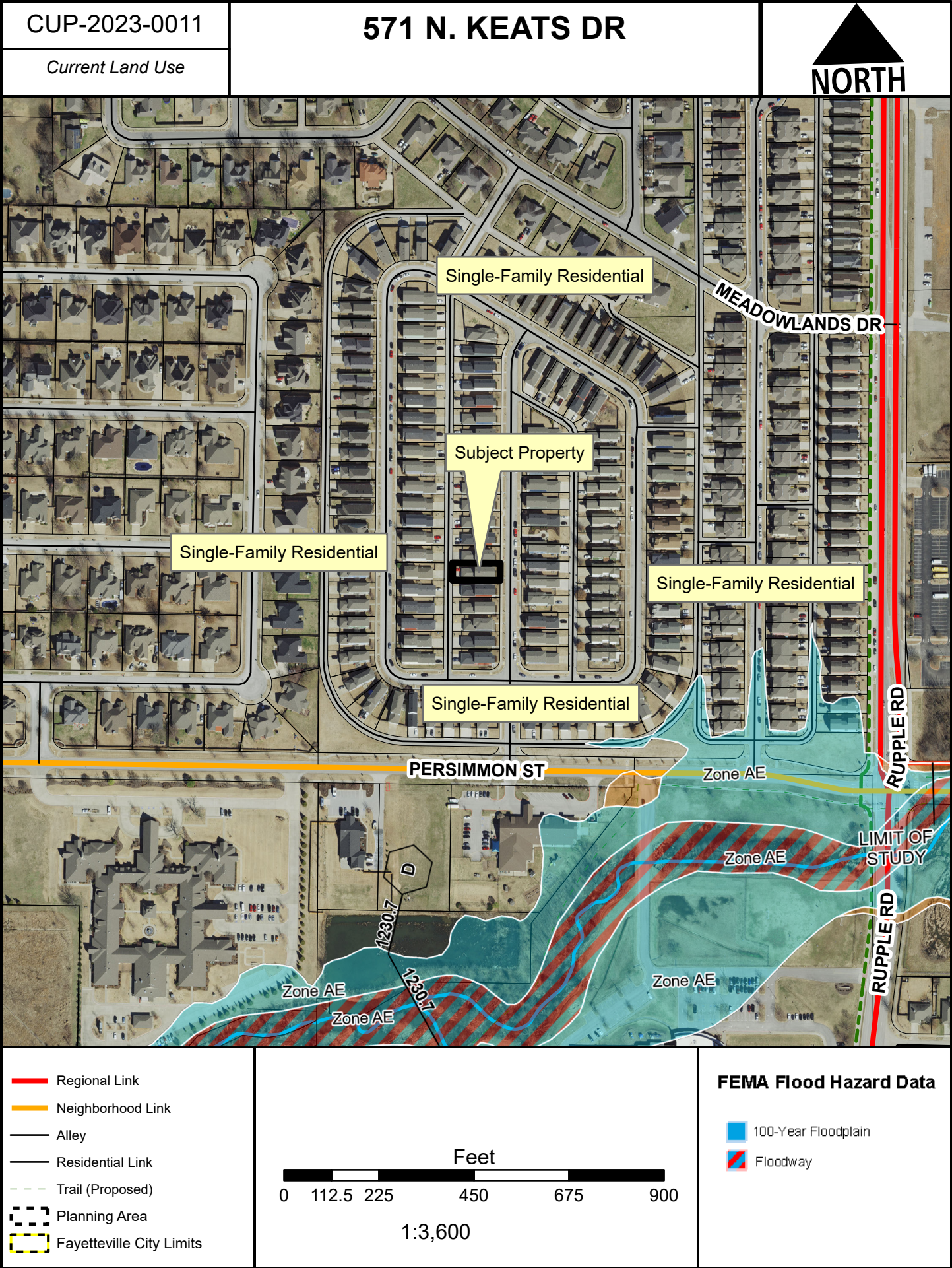
Close Up View



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



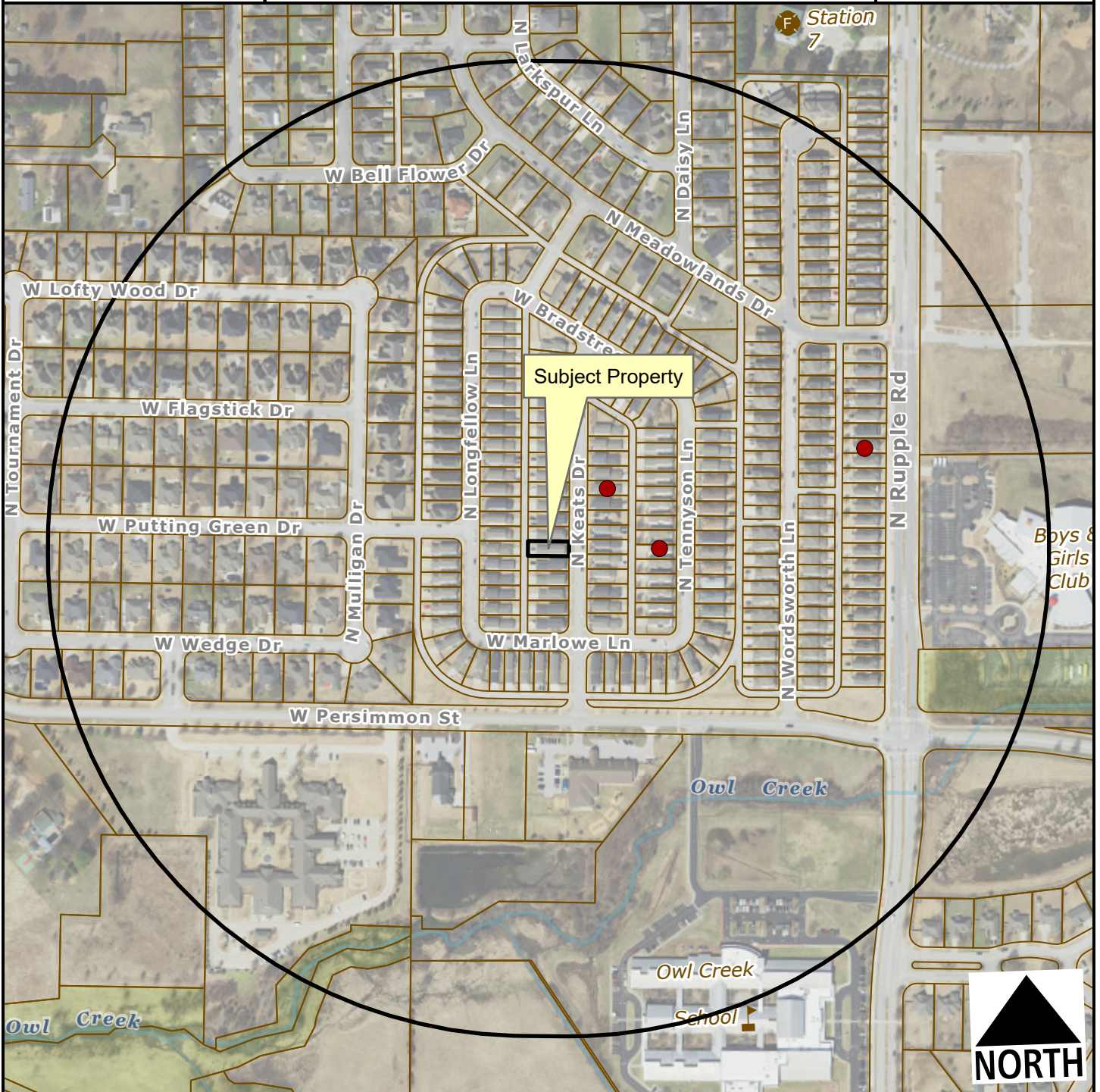
- Residential-Agricultural
- RSF-4
- RI-12
- Residential-Office
- Commercial, Industrial, Residential
- P-1



CUP-2023-0011

571 N. KEATS DR

STRs Within 1/4 Mile



● Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 4
2% density cap

NOT 0
contributing to
2% density cap

Total 4



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0012: Conditional Use Permit (833 S. ONE MILE RD/YOUNG CAPITAL INVESTMENTS, 557):** Submitted by COPIA PROPERTIES LLC for property located at 833 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-2023-0012** based on the findings in this report.

RECOMMENDED MOTION:

"I move to deny CUP-2023-0012."

BACKGROUND:

The subject property is located west of Hwy 49 south of Centennial Park within the Southern Woods Cluster Housing development. The property is zoned NC, Neighborhood Conservation, and falls within the Enduing Green Network, totaling approximately 0.06 acres. A certificate of occupancy for the 1,496 square foot single-family structure was released on 11/18/2022. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped (Extensive Canopy)	NC, Neighborhood Conservation
South	Single-family Residential	NC, Neighborhood Conservation
East	Single-family Residential	NC, Neighborhood Conservation
West	Single-family Residential	NC, Neighborhood Conservation

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

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

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

RECOMMENDATION: Staff recommends denial of **CUP-2023-0012**. Should Planning Commission choose to approve, staff recommends the following conditions:

Conditions of Approval:

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

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
Date: <u>February 27, 2023</u>	☐ Tabled	☐ Approved ☐ Denied
Motion:		
Second:		
Vote:		

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds that granting the requested conditional use is may negatively affect the public interest. While there are business license requirements including a required building safety inspection and applicable density caps on Type 2 short-term rentals, staff has specific concerns related to the site and related density within the cluster housing development (see finding 8 regarding reasons for denial)**

(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). Structure appears to be a two-bedroom unit, which per ordinance would mean a maximum occupancy limit of six (6) tenants.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle spaces per dwelling unit, as modified by the Cluster Housing Development code.

(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 833 S. One Mile Rd. Staff recommends a condition confirming that no recreational vehicle, trailer,

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

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year data from the 2021 list total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, there are 311 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the Neighborhood Conservation zoning district (NC), so this short-term rental will contribute to the city-wide density cap. Since it is a cluster housing development which separate ownership for each unit, no cap applies for the development overall.

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

Finding:

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

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

Finding: The proposed short-term rental is within an existing cluster housing development that already hosts one (1) type 1 short term rental unit and four (4) other type 2 short term rental facilities in direct proximity to the shared parking within the cluster housing development and another two (2) directly south of the development along W Old Farmington Rd.

The Type-2 short term rentals located at 825 & 827 S One Mile Rd were denied at the January 23 Planning Commission meeting and have not been appealed. The Type-2 short-term rental located at 829 S One Mile Rd was denied at the February 13 Planning Commission meeting and is still within the appeal period as of the writing of this report.

If 833 S One Mile Rd is approved as a type 2 short term rental, the total number of type-2 short-term rental facilities within the cluster housing development to out of 5 out 27 available units (or 18.5% of the dwelling units). Two additional type-2 short term rentals are located directly adjacent to the cluster housing development fronting W Old Farmington Rd.

The cluster housing development is currently accessible only via S One Mile Rd off of W Old Farmington Rd, which does not have the capacity for on-street parking. In addition, LSD20-7116 received a variance for alternative

residential link street section of less than the 33-ft permitted by the Master Street Plan as well as a variance for Street Design Principles for a dead-end street.

No known zoning or code violations were found for the requested property.

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

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

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

Finding: Staff finds the proposal has the potential to adversely affect traffic flows. Because the proposed short-term rental is located on a dead-end street with five short-term rentals already approved, the approval of an additional STR has the potential to severely impact traffic flow to both the proposed STR and adjacent properties within the cluster housing development.

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

Finding: Parking is located off-street within a central parking court or on-street on S One Mile Rd. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district which is typically two per single family dwelling unit. See attached parking exhibit for further information on locations of parking as defined by ADM-2021-000039. Note that while the parking spots are designated for each unit on the exhibit, staff is not aware of any enforcement of assigned parking within the cluster housing development.

The cluster housing development is currently located on a dead-end street with potential for future connectivity with the development of phase 2; however, at this time only one point of entry is available off of West Old Farmington Rd.

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

Finding: The applicant proposes typical residential trash cart service rather than dumpster service. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be incompatible with the surrounding properties. Due to the tight nature of the cluster housing development and the variance allowing a dead-end street, the addition of a sixth short term rental facility in the cluster housing development is likely to contribute to substantial inconvenience for adjacent long-term property owners.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter
- Overall Site Map
- Parking Exhibit
- Building Floor Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

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

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:
 - 1) R-A
 - 2) RSF-.5

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

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

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

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

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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

City of Fayetteville
Planning Committee
Request Letter for Conditional Use Permit for Short Term Rental Property
833 S One Mile Road
Fayetteville, AR 72704

To Whom It May Concern:

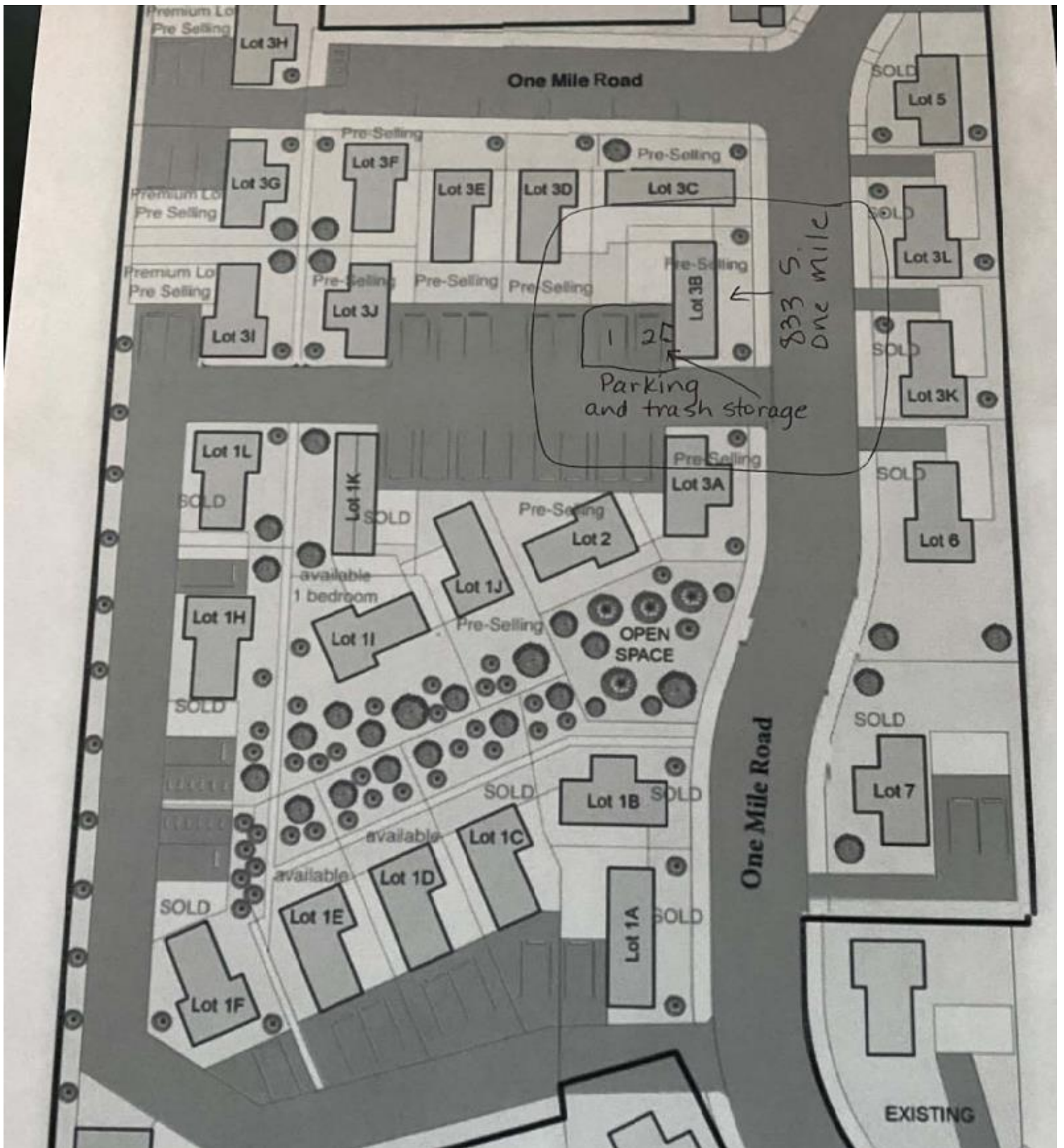
Copia Properties LLC is seeking a short-term rental permit for the newly built single family home address of 833 S One Mile Road, in the developing subdivision of Southern Woods in Fayetteville, AR. I own other properties in Fayetteville that are long term rentals and I am really excited to be able to provide a STR in Fayetteville in this location. This is a desired location because of its proximity to the U of A and Centennial Park and will be very profitable and would bring in taxes for the city and state. When I purchased the house, this was my primary goal for its use. The house only has two bedrooms and can sleep six – under no circumstances will more than six guests be allowed to stay overnight.

The cottage style tiny house is approximately 1280 sq feet and is a light gray color. It has two reserved parking spots in the back of it for guests and additional parking, if needed. The front porch is very well lit with two lights on each side of front door with a video doorbell and security system. The back porch has one LED light by back door and an additional LED spotlight to give sufficient light. The noise level is and will be minimal and will be enforced with guests for quiet hours of 10:00 p.m. – 6:00 a.m. and are listed in our house rules, no parties allowed either. No screen or buffering from adjacent properties was done or is needed. The trash cans/recycling bins are tucked out of the way in the back of the house under the back stairs. Traffic flows North and South on One Mile Road and eventually will open up to go West to the continuation of neighborhood that is being built currently. The parking lot that is behind house also opens up to the West side of neighborhood.

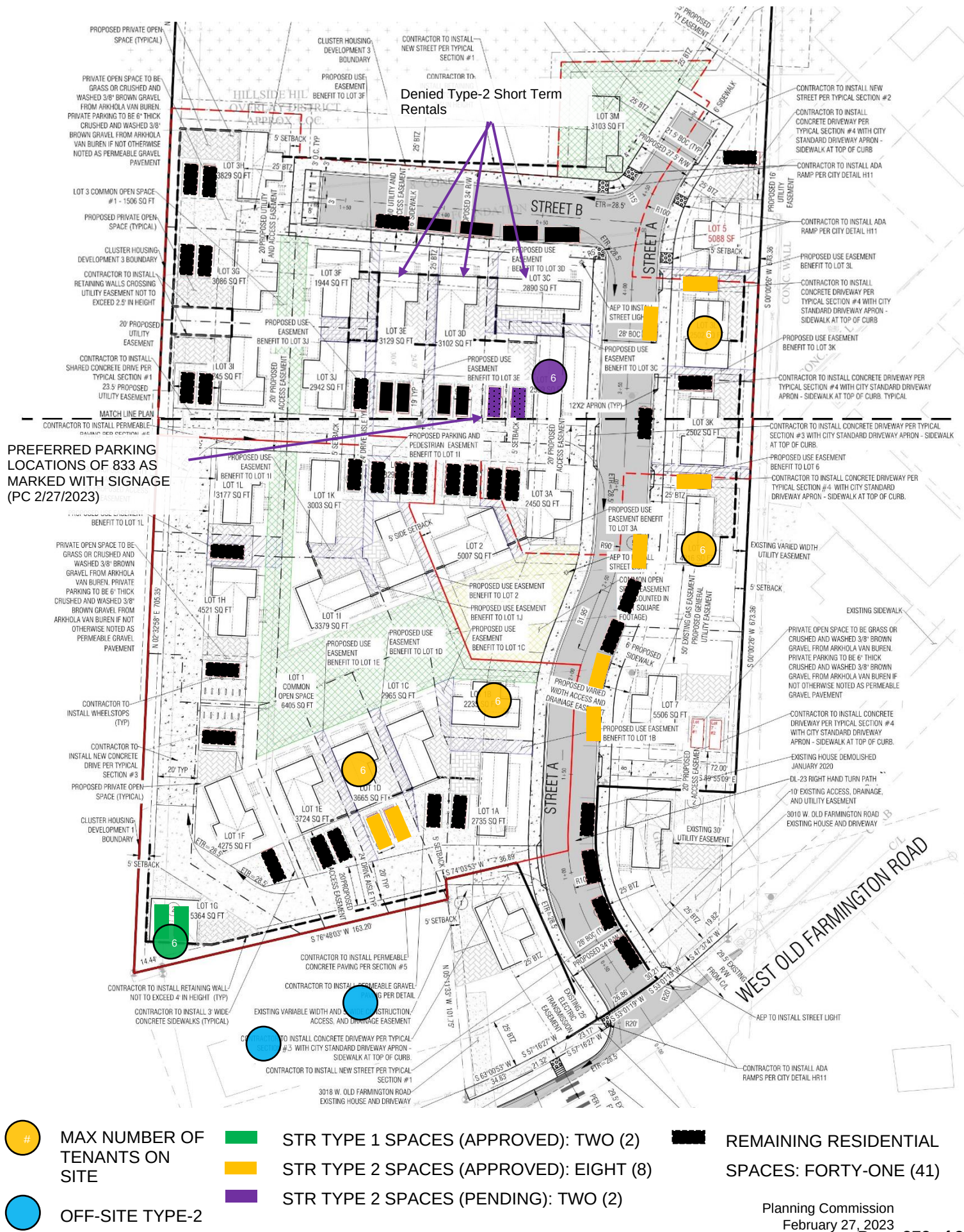
The neighborhood currently has other STR and permanent residents and is the perfect location for this - I know that there is a city ordinance that a neighborhood can only have a certain percentage of STR but please consider that this neighborhood is still under development and will have around 100 houses when completed. It currently has only 20-25 homes already built. This will extend the percentage of STR to a higher number. I ask that you take that into consideration when voting. If I am denied, I would not want others behind me getting permits when I didn't because of this. Mine is ready to go!

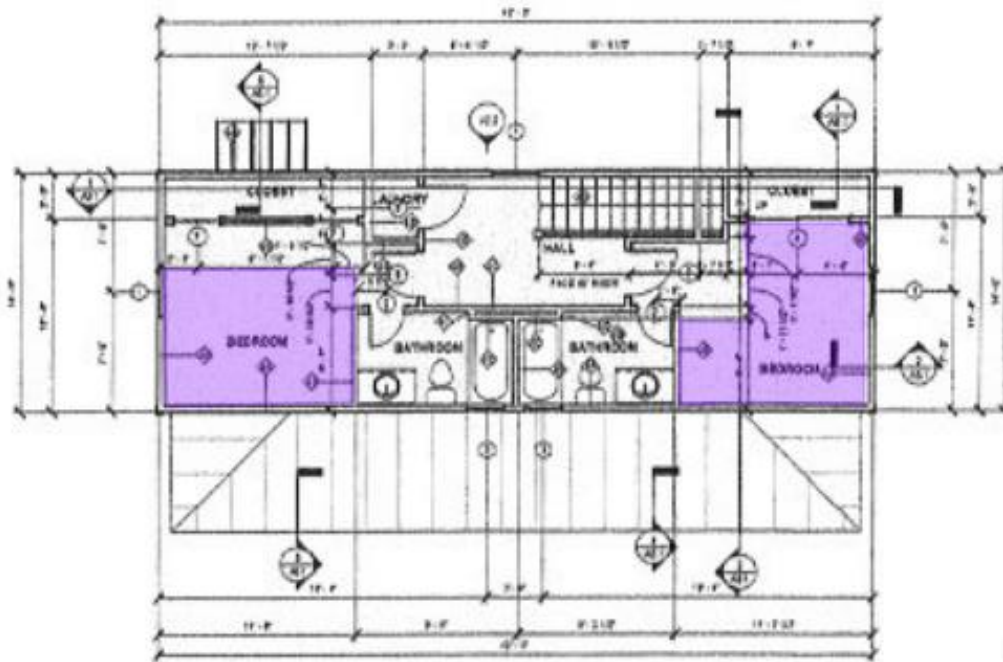
Thank you for your consideration in this matter and let me know if there is anything else you need from me!

Courtney Gwaltney, owner
Copia Properties LLC
P. O. Box 10742
Fayetteville, AR 72703
479-385-6809

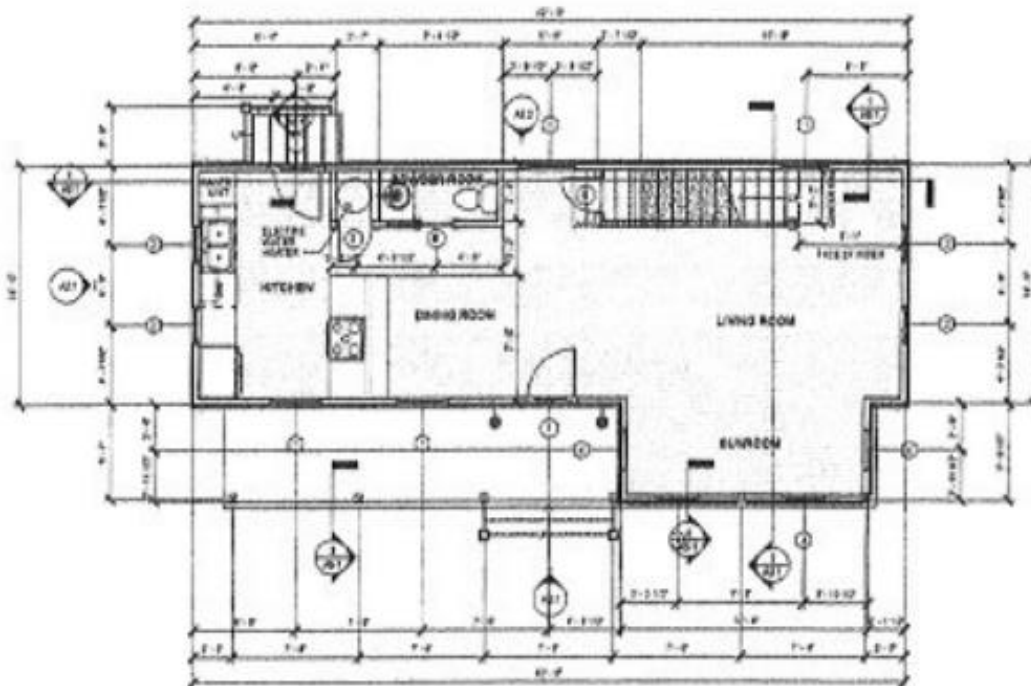


PARKING EXHIBIT PER DESIGNATED SPOTS (ADM-2021-000039)





2 SECOND FLOOR DIMENSION PLAN
18'-0" x 18'-0"



1 GROUND FLOOR DIMENSION PLAN
18'-0" x 18'-0"



833 S One Mile Rd
STR Type 2 Rental



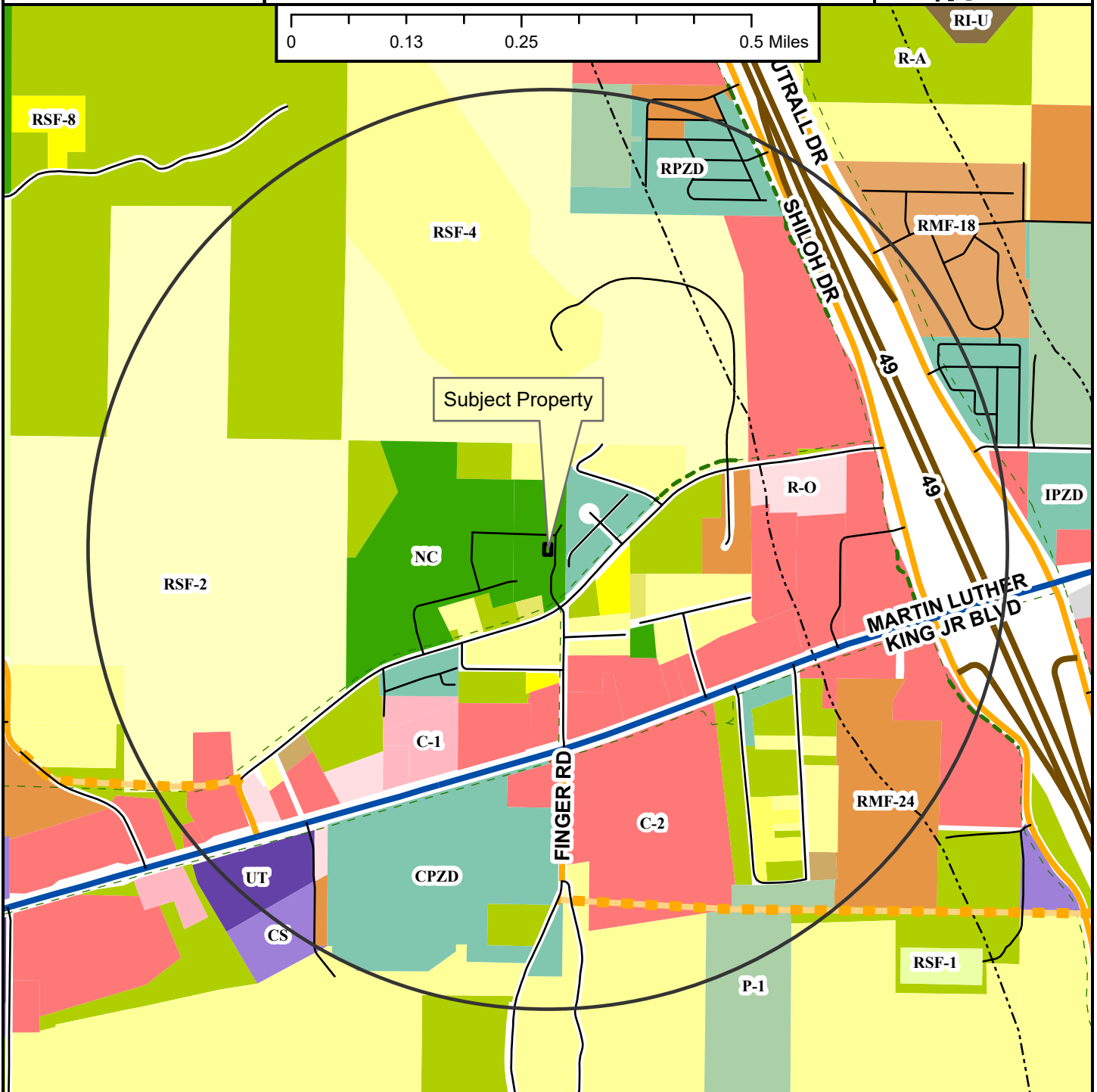
CUP-2023-0012

833 S. ONE MILE RD

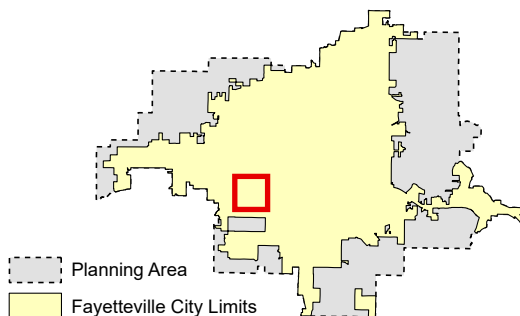
One Mile View



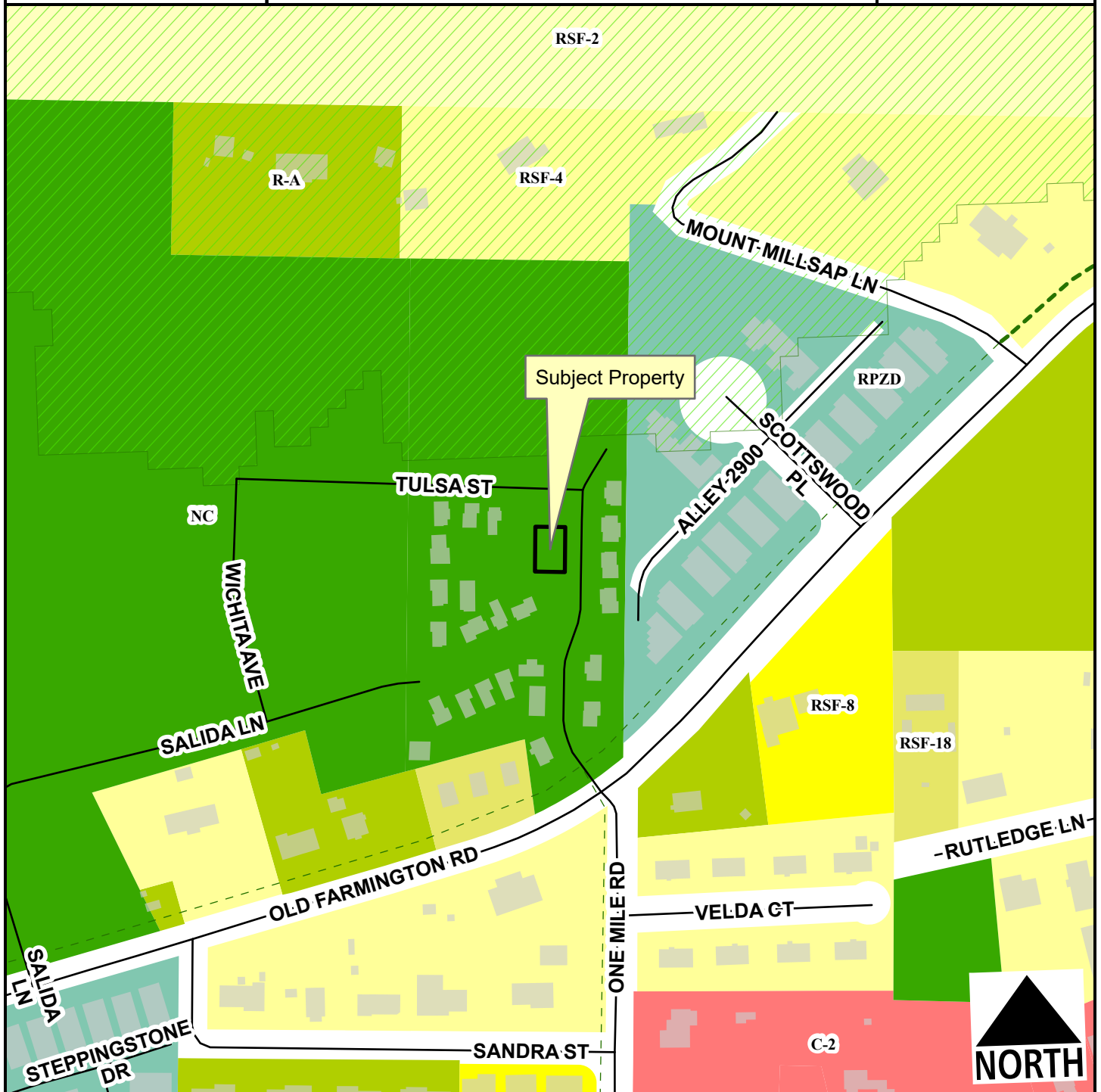
0 0.13 0.25 0.5 Miles



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



- | | |
|---|--------------------|
| Zoning | EXTRACTION |
| RESIDENTIAL SINGLE-FAMILY | E-1 |
| NS-G | Residential-Office |
| RI-U | C-1 |
| RI-12 | C-2 |
| NS-L | C-3 |
| 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 | |
| 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 | |



- 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-2023-0012

833 S. ONE MILE RD

Current Land Use



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



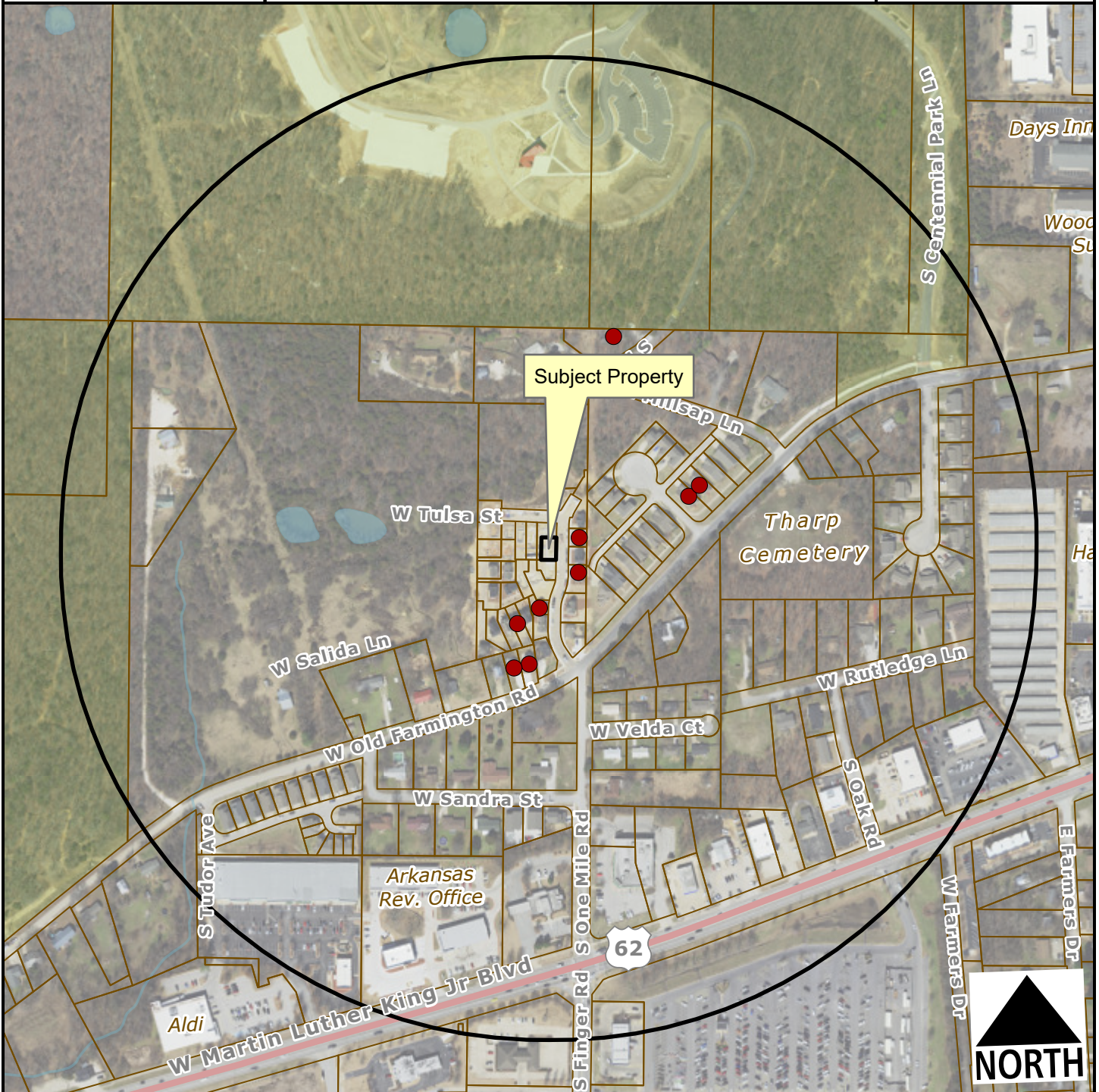
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0012

833 S. ONE MILE RD

STRs Within 1/4 Mile



● Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap 9

NOT contributing to 2% density cap 0

Total 9

Planning Commission

February 27, 2023

CUP-2023-0012 (COPIA PROPERTY) Page 278 of 335

Page 21 of 21



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0004: Conditional Use Permit (462 E. MIMOSA LN./TILLMAN, 251):** Submitted by WALTER TILLMAN, for property located at 462 E. MIMOSA LN. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – 24 UNITS PER ACRE and contains approximately 0.14 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends tabling **CUP-2023-0004**.

RECOMMENDED MOTION:
*"I move to table **CUP-2023-0004** to the March 13th Planning Commission meeting."*

BACKGROUND:
The property is in north Fayetteville, roughly ¼ mile southwest of the intersection of N. College Avenue and E. Applebury Road. It is on the north side of E. Mimosa Lane in the Fiesta Park subdivision. The property totals 0.14 acres and is currently developed with a 949 square-foot, two-bedroom single-family dwelling which was built in 1993, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

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

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

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

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

RECOMMENDATION: Staff recommends tabling **CUP-2023-0004**. Should the Planning Commission choose to approve the item, 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 27, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RMF-24 zoning district. However, staff did not receive a signed copy of the standard consent of owner form. Elevations and a legible site plan also did not accompany the request letter.

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. Since the dwelling has two bedrooms, the short-term rental would be limited to six guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. According to the applicant the property has access to two off-street parking spots in the existing driveway. On-street parking is available along E. Mimosa Lane.

(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 462 E. Mimosa Lane. 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 311 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RMF-24 zoning, so this short-term rental would contribute to the city-wide density cap.**

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

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

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

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

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two off-street spaces are available in the existing driveway. On street parking is also available along E. Mimosa Lane. Within ¼ mile of the property city business license records indicate there are eight Type 2 rental business licenses. There are no active or prior zoning code violations at the subject address.**

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

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

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

Finding: The subject property has frontage along E. Mimosa Lane, which is classified as a Residential Link Street. Access is provided through an existing driveway that is approximately 20 feet in width and 22-feet deep. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes. Sidewalks are not present along the property's frontage but are at the back of curb across E. Mimosa Lane and along one side of the street throughout the subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.16 District RMF-24, Residential Multi-Family, 24 Units per Acre
- Applicant Request Letter
- Site Plan
- Building Floor Plan
- Elevations
- STRs Within ¼ Mile 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)

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

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

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

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

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

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

Selection

Parcel ID

765-17017-000

RPID

54917

Owner

TILLMAN, ANNA CAROLINE & WALTER S

Owner Address

462 E MIMOSA LN FAYETTEVILLE AR 72703

CAMA Acreage

0

Parcel Address

462 E MIMOSA LN

Partial Legal

Total Value

133000

Real Estate Parcels

765-17017-000

Show Detailed Report

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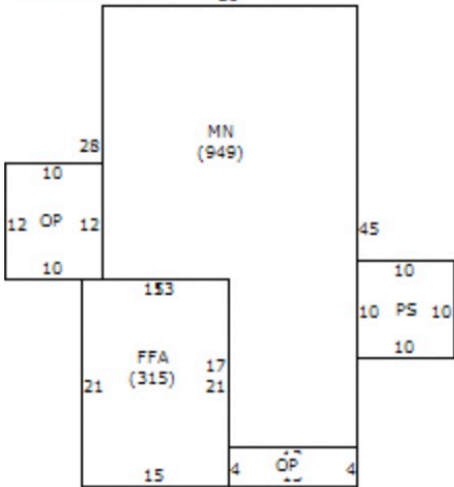
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Details for Residential Card 1

Occupancy	Story	Construction	Total Liv	Grade	Age	Year Built	Condition	Beds
Single Family	ONE	Frame Siding Std.	949	4	27	1993	Average	N/A

Exterior Wall:	VINYL	Plumbing:	Full: 2 Half: N/A
Foundation:	Slab	Fireplace:	Type: 1s Sgl. Qty: 1
Floor Struct:	ElevSlab	Heat/Cool:	Central
Floor Cover:	Carpet & Tile	Basement:	N/A
Insulation:	Ceilings Walls	Basement Area:	N/A
Roof Cover:	Fiberglass Shingle	Year Remodeled:	N/A
Roof type:	Gable	Style:	N/A

DataScout, LLC



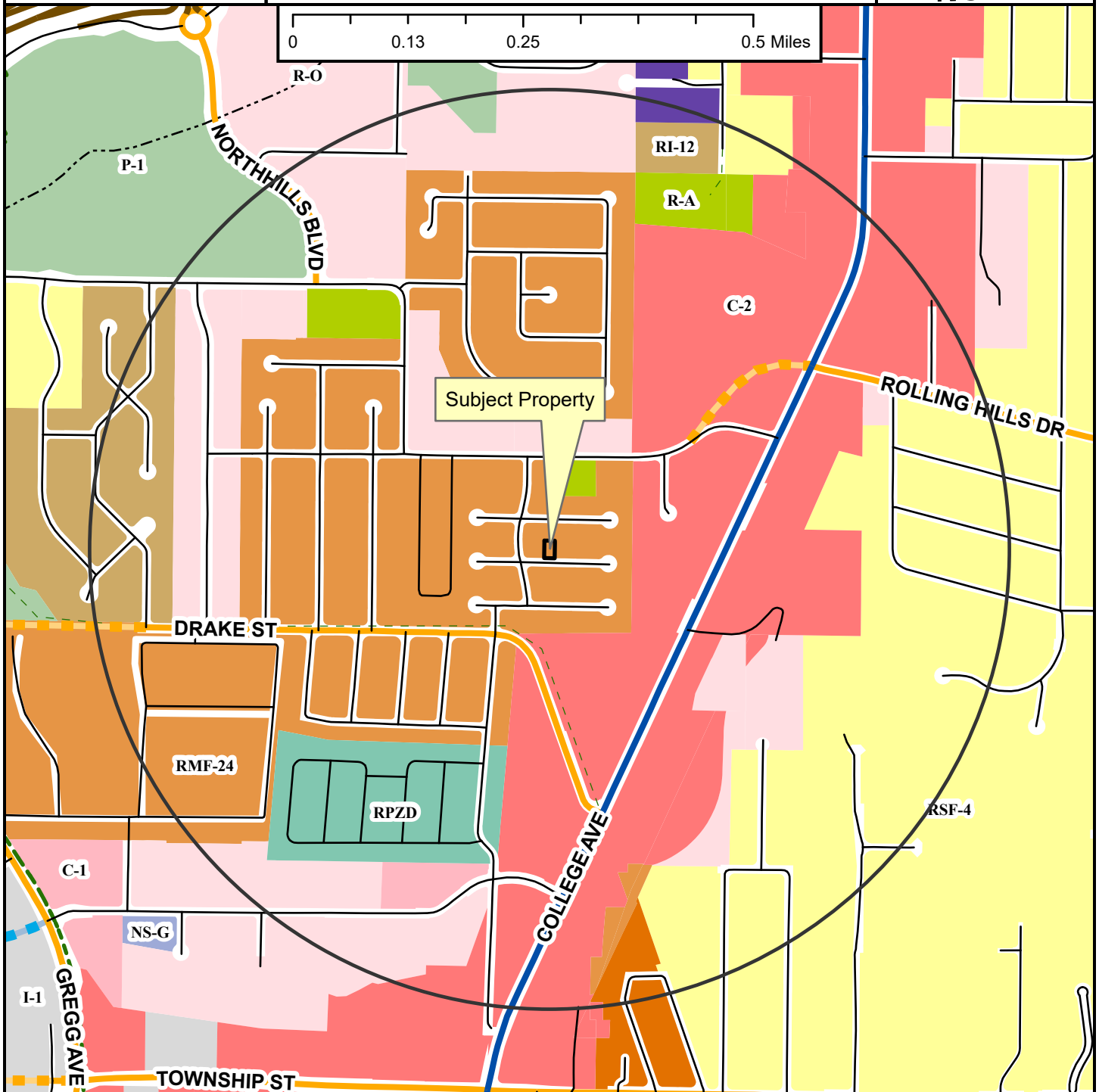
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462 E. MIMOSA LN

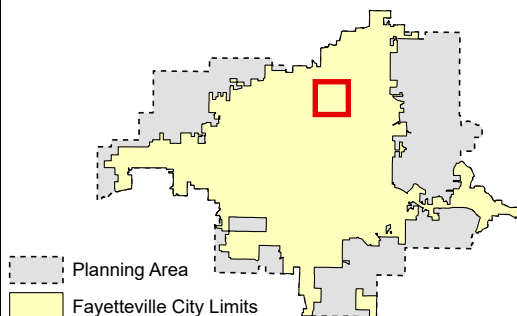
One Mile View



0 0.13 0.25 0.5 Miles



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

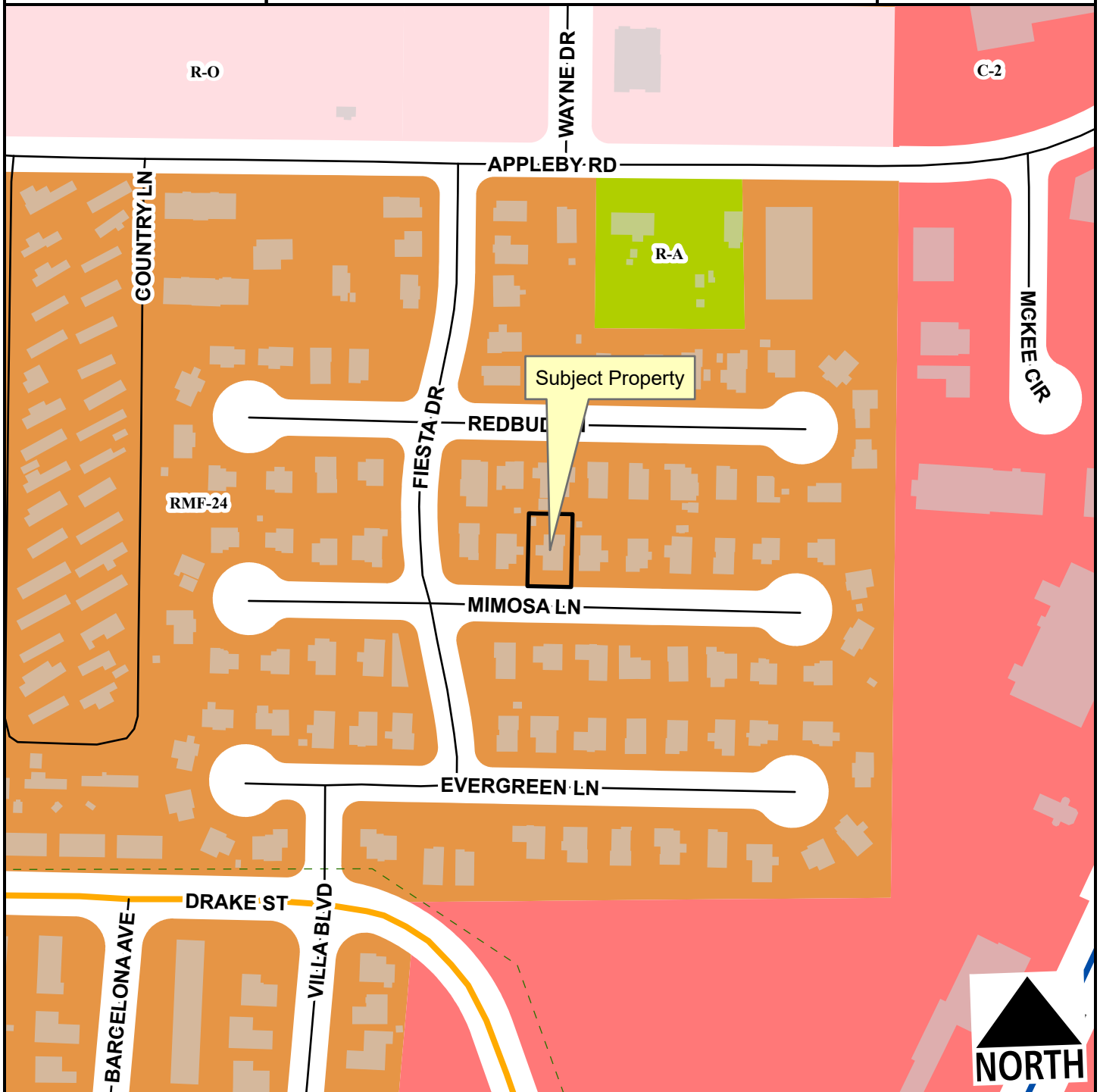


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - I-2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

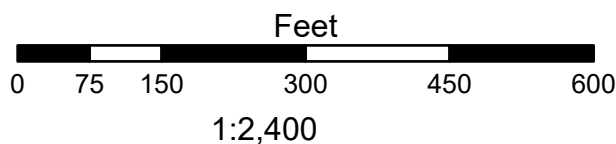
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462 E. MIMOSA LN

Close Up View



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



- Residential-Agricultural
- RMF-24
- Residential-Office
- C-2

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462 E. MIMOSA LN

Current Land Use



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



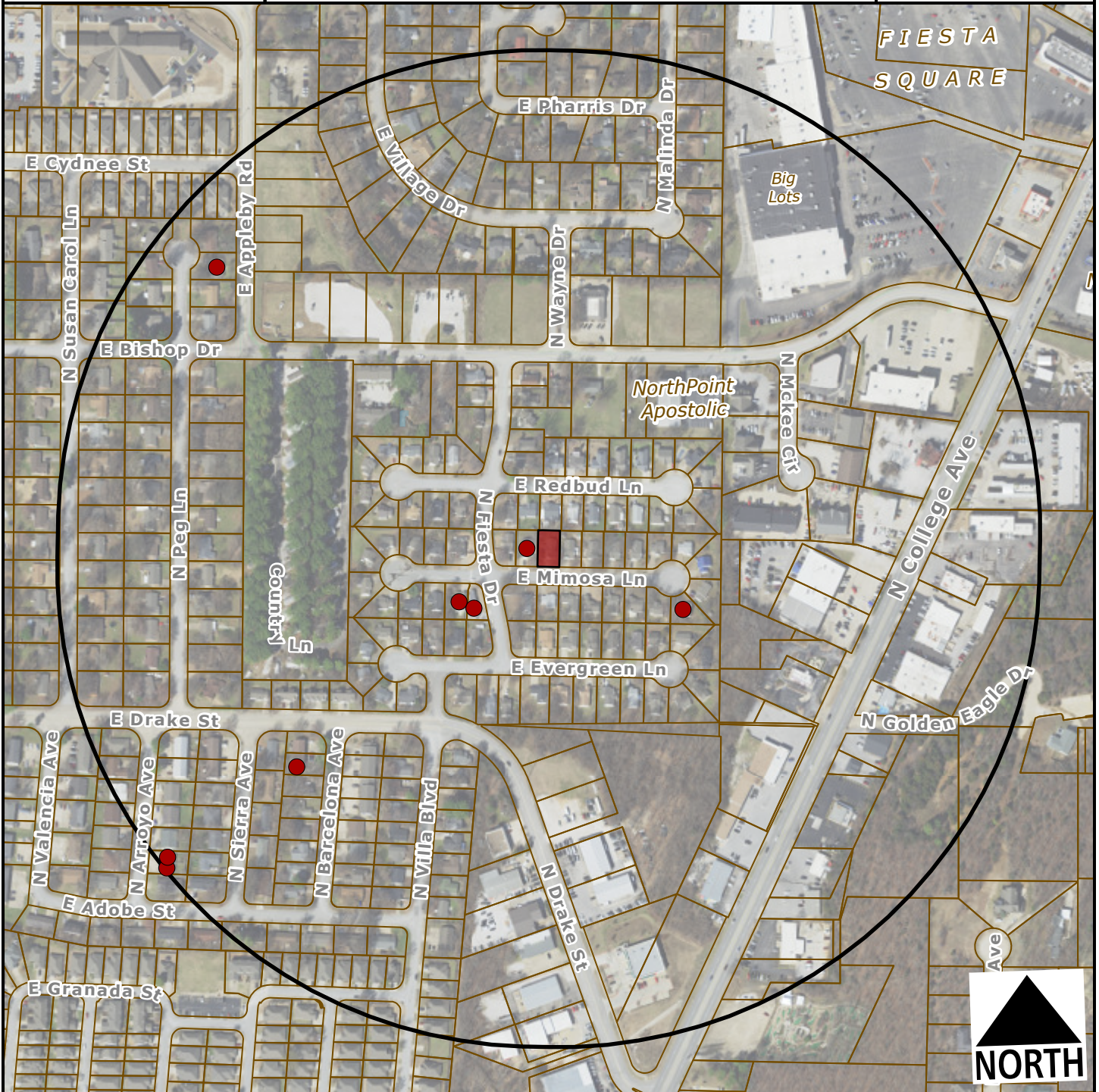
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0004

462 E. MIMOSA LN

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 2% density cap 8

NOT contributing to 2% density cap 0

Total 8



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0005: Conditional Use Permit (1015 S. REGENCY DR./BAKER, 569):** Submitted by JAMES BAKER, for property located at 1015 S. REGENCY DR. The property is zoned RSF-7, RESIDENTIAL SINGLE-FAMILY – 7 UNITS PER ACRE and contains approximately 0.15 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0005** with conditions as outlined by staff.

RECOMMENDED MOTION:

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

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

BACKGROUND:

The property is in southeast Fayetteville, roughly 400 feet northeast of the intersection of S. Colonial Drive and E. Huntsville Road. It is on the south side of S. Regency Drive in the River Hills subdivision. The property totals 0.15 acres and is currently developed with a 1,286 square-foot, three-bedroom single-family dwelling which was built in 2000, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-7, Residential Single-Family, 7 Units per Acre
South	Single-Family Residential	R-O, Residential Office
East	Single-Family Residential	RSF-7, Residential Single-Family, 7 Units per Acre
West	Single-Family Residential	RSF-7, Residential Single-Family, 7 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-2023-0005**, 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 27, 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-7 zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 short-term rental in RSF-7 zoning, which requires a conditional use permit.

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

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

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. In the request letter the applicant says visitors will have access to two off-street parking spots. The existing driveway appears to be roughly 18 feet wide by 30 feet deep.

(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 1015 S. Regency Drive. 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 311 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RSF-7 zoning, so this short-term rental would contribute to the city-wide density cap.**

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

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

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

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

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two off-street spaces are available. On street parking is also available along S. Regency Drive. Within ¼ mile of the property city business license records indicate there is one Type 2 rental business license. There are no active zoning code violations at the subject address. Previously there have been three health and sanitation cases for overgrown grass. Two cases were investigated in 2013 and one in 2016. 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 frontage along S. Regency Drive, which is classified as a Residential Link Street. Access is provided through an existing driveway that is approximately 18 feet in width and 30-feet deep. 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. Sidewalks are not present along the property's frontage but are across the street along S. Regency Drive and along one side of the street throughout the subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.08 District RSF-7, Residential Single-Family, 7 Units per Acre
- Applicant Request Letter
- Site Plan
- Building Floor Plan
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile 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)

161.08 District RSF-7, Residential Single-Family - Seven (7) Units Per Acre

(A) *Purpose* The RSF-7 Residential District is designed to permit and encourage the development of detached dwellings in suitable environments.

(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 dwelling units per acre	7 or less
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(D) *Bulk and Area Regulations.*

(E) *Lot Width Minimum.*

Single-family	60 feet
Two-family	60 feet
Townhouse, no more than two (2) attached	30 feet

(F) *Lot Area Minimum.*

Single-family	6,000 square feet
Two-family	6,000 square feet
Townhouse, no more than two (2) attached	3,000 square feet

(G) *Land Area Per Dwelling Unit.*

Single-family	6,000 square feet
Two-family	3,000 square feet
Townhouse, no more than two (2) attached	3,000 square feet

(H) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(I) *Building Height Regulations.*

Building Height Maximum	3 stories
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(J) *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.

(Code 1991, §160.046; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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

Request Letter
January 7, 2023

Owners James Caleb Baker and Summer Renee Baker of 1015 S Regency Dr Fayetteville, AR, are requested the city grant a Conditional Use Permit for Short Term Rental of this property.

Legal Description:

Lot 2, David Lyle Village, Phase II, Fayetteville, Arkansas, as per plat filed of record in Plat Book 15 at Page 54, on file in the office of the Circuit Clerk and Ex-Officio Recorder to Washington County, Arkansas.

- (a) Building size in square feet: 1286
- (b) Color elevations of all exterior sides of the structure: *See page 2 from appraisal
- (c) Number of off-street parking spaces to be provided: 2
- Hours of operation: 24/7
- Number of employees: 0
- Anticipated number of patrons, clients, children, customers, etc: 2 - 8
- (e) Outdoor lighting: Standard residential
- (f) Noise: Low
- (g) Screening or buffering from adjacent properties: None
- (h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties): Standard residential
- (i) Ingress and egress to the property; traffic impacts: None
- (j) 3 bedrooms
- (k) solid waste will be handled by residential waste management through City of Fayetteville Waste Management. The home is supplied with a city residential trash bin. Guests will leave trash in the bin and we will take the bin to the street on collection day each week.

We do not anticipate an impact on the neighborhood above normal residential activity.

Thank you for your consideration,

James Caleb Baker

Summer Renee Baker



Uniform Residential Appraisal Report

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

Property Address 1015 S Regency Dr City Fayetteville State AR Zip Code 72701
Borrower Baker, James C Owner of Public Record White Light Properties Inc County Washington

Legal Description David Lyle Village Phase II Lot 2
Assessor's Parcel # 765-21142-000 Tax Year 2016 R E Taxes \$ 1,424
Map Reference 22220 Census Tract 0101.05

Neighborhood Name Fayetteville
Occupant ☐ Owner ☐ Tenant ☒ Vacant Special Assessments \$ 0 ☐ PUD HOA \$ 0 ☐ per year ☐ per month

Property Rights Appraised ☒ Fee Simple ☐ Leasehold ☐ Other (describe)
Assignment Type ☒ Purchase Transaction ☐ Refinance Transaction ☐ Other (describe)

Lender/Client Arvest Bank & FHA Address P O Box 579 Lowell AR 72745-0579
Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? ☒ Yes ☐ No
Report data source(s) used, offering price(s), and date(s)
DOM Unk. Owner purchased at foreclosure on 02/27/2017 and now is for sale by owner who will be making updates and repairs to the house.

I ☒ did ☐ did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed.
Arms length sale. For sale by owner contract of 2 pages. Buyer to obtain an FHA loan of \$128,250 with terms not specified including closing date and possession. Contract is not dated.

Contract Price \$ 130,000 Date of Contract 03/27/2017 Is the property seller the owner of public record? ☒ Yes ☐ No Data Source(s) Assessor's Records
Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? ☐ Yes ☒ No
If Yes, report the total dollar amount and describe the items to be paid.
\$0.;

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics		One-Unit Housing Trends		One-Unit Housing		Present Land Use %	
Location ☐ Urban ☒ Suburban ☐ Rural	Property Values ☒ Increasing ☐ Stable ☐ Declining	PRICE	AGE	One-Unit	70 %		
Built-Up ☐ Over 75% ☒ 25-75% ☐ Under 25%	Demand/Supply ☒ Shortage ☐ In Balance ☐ Over Supply	\$(000)	(yrs)	24 Unit	10 %		
Growth ☐ Rapid ☒ Stable ☐ Slow	Marketing Time ☐ Under 3 mths ☒ 3-6 mths ☐ Over 6 mths	70	Low	0	Multi-Family		
Neighborhood Boundaries		275	High	50	Commercial		
East of Hwy 265/Crossover Rd, south of Wyman Rd, west of Elkins, and north of Black Oak Rd.		131	Pred.	10	Other		

Neighborhood Description
The neighborhood is comprised of residential properties on small acreage, homes in subdivisions and scattered commercial uses. The subject property is located in David Lyle Village Subdivision where most homes are similar in construction quality and design/appeal. Shopping and employment sources are located several miles west in Fayetteville.
Other land use is vacant landlots.

Market Conditions (including support for the above conclusions)
Market conditions are good in Fayetteville, with increasing values. Fayetteville grew 28.6% from 2000-2011 to about 74,674 according to the NWA Regional Planning Commission, and continued steady growth is expected. Market conditions are expected to improve due to low interest rates and steady growth.

Dimensions 60.00'x110.00' Area 6600 sf Shape Rectangular View N,Res;
Specific Zoning Classification RSF-7 Zoning Description Residential Single Family-Seven Units Per Acre
Zoning Compliance ☒ Legal ☐ Legal Nonconforming (Grandfathered Use) ☐ No Zoning ☐ Illegal (describe)
Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use? ☒ Yes ☐ No If No, describe.

Utilities Public Other (describe) Public Other (describe) Off-site Improvements-Type Public Private
Electricity ☒ ☐ Water ☒ ☐ Street Asphalt ☒ ☐
Gas ☒ ☐ Sanitary Sewer ☒ ☐ Alley None ☐ ☐
FEMA Special Flood Hazard Area ☐ Yes ☒ No FEMA Flood Zone X FEMA Map # 05143C0240F FEMA Map Date 05/16/2008
Are the utilities and off-site improvements typical for the market area? ☒ Yes ☐ No If No, describe.
Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? ☐ Yes ☒ No If Yes, describe.
The site is typical for the subdivision in size, shape and topography. No adverse easements or encroachments were observed. Site grading and drainage appears to be adequate. The site is relatively small, but there is a city park at the northwest corner of the subdivision with play ground equipment, picnic tables and a walking trail.

General Description		Foundation		Exterior Description materials/condition		Interior materials/condition	
Units ☒ One ☐ One with Accessory Unit	☒ Concrete Slab ☐ Crawl Space	Foundation Walls	ConcreteBlock/C4	Floors	Crpt,CerTile/PC		
# of Stories 1.00	☐ Full Basement ☐ Partial Basement	Exterior Walls	Brick/C3,Vinyl/C4	Walls	Shtrk-pntd/PC		
Type ☒ Det ☐ Att ☐ S-Det/End Unit	Basement Area 0 sq. ft.	Roof Surface	CompShingle/C4	Trim/Finish	Wood-pntd/PC		
☒ Existing ☐ Proposed ☐ Under Const.	Basement Finish 0 %	Gutters & Downspouts	Aluminum/PC	Bath Floor	CerTile/C4		
Design (Style) Bungalow	☐ Outside Entry/Exit ☐ Sump Pump	Window Type	SHVinyl/C3	Bath Wainscot	Fbgls/C4		
Year Built 2000	Evidence of ☐ Infestation	Storm Sash/Insulated	DblePane/C3	Car Storage	☐ None		
Effective Age (Yrs) 7	☐ Dampness ☐ Settlement	Screens	Yes/Half/C3	☒ Driveway # of Cars	2		
Attic ☐ None	Heating ☒ FWA ☐ HWBB ☐ Radiant	Amenities ☐ WoodStove(s) # 0		Driveway Surface	Concrete		
☒ Drop Stair ☐ Stairs	☐ Other Fuel Gas	☒ Fireplace(s) # 1 ☒ Fence Privacy		☒ Garage # of Cars	2		
☐ Floor ☐ Scuttle	Cooling ☒ Central Air Conditioning	☒ Patio/Deck Deck ☒ Porch Cvd		☐ Carport # of Cars	0		
☐ Finished ☐ Heated	☐ Individual ☐ Other	☐ Pool None ☐ Other None		☒ Att. ☐ Det ☐ Built-in			
Appliances ☐ Refrigerator ☒ Range/Oven ☒ Dishwasher ☒ Disposal ☒ Microwave ☐ Washer/Dryer ☐ Other (describe)							
Finished area above grade contains:	6 Rooms	3 Bedrooms	2.0 Bath(s)	1,286 Square Feet of Gross Living Area Above Grade			
Additional features (special energy efficient items, etc.)							

Gas log fireplace in living room; double pane vinyl windows; ceiling fans; mini blinds; elevated box ceilings in living room and also master bedroom; security system; 75 sf covered concrete porch; 118 sf concrete patio.

Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.).
C3.No updates in the prior 15 years. Proposed updates include: All new "wood look" ceramic tile flooring throughout with new carpet in bedrooms; new granite counter tops in kitchen and bathrooms; painted cabinets; all new stainless steel appliances; remove all popcorn ceiling texture throughout; prep and paint all interior of house; new hardware throughout; new light fixtures throughout; new stone facing on gas log fireplace; new aluminum gutters; new drop stair unit in garage for attic access; new exterior doors including sliding
SEE ADDENDUM

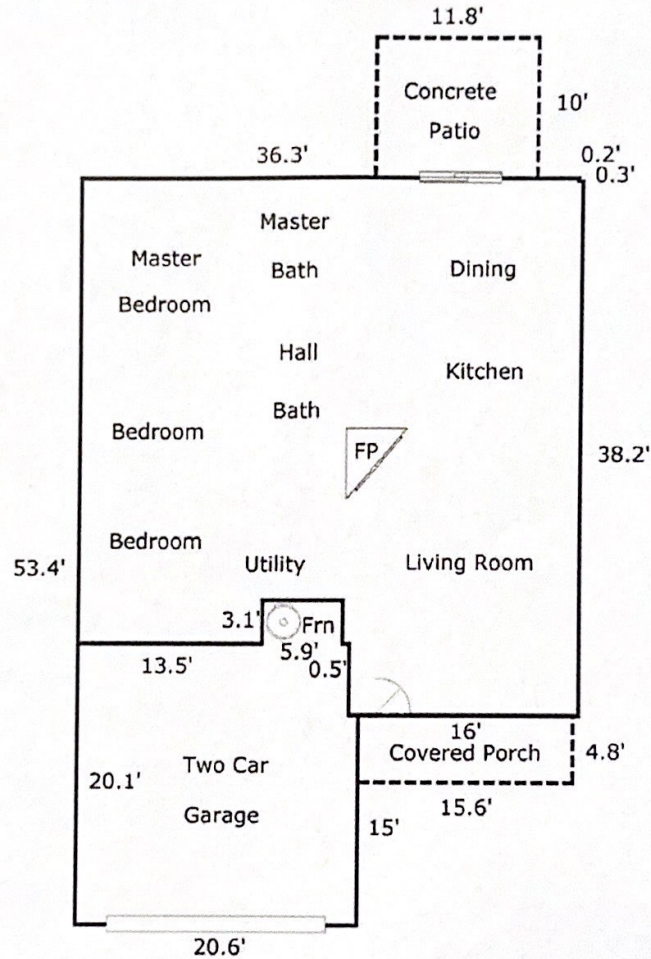
Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? ☐ Yes ☒ No If Yes, describe

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? ☒ Yes ☐ No If No, describe

SKETCH ADDENDUM

File # Baker1015

Borrower/Client	Baker, James C		
Property Address	1015 S Regency Dr		
City	Fayetteville	County	Washington
State	AR	Zip Code	72701
Lender	Arvest Bank & FHA		



TOTAL Sketch by a la mode, inc.

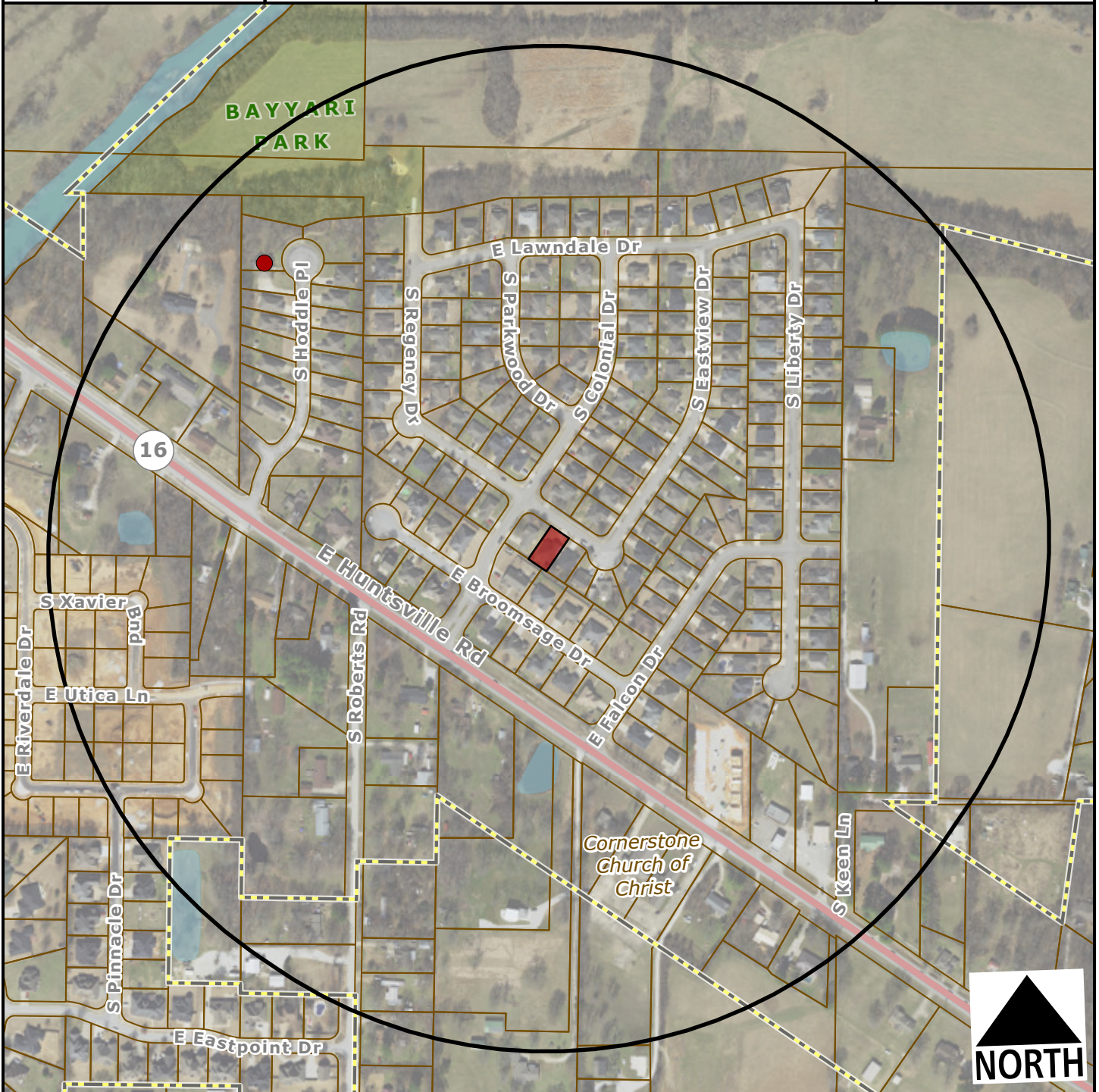
Area Calculations Summary

Living Area	Calculation Details
First Floor	1285.6 Sq ft
	$33.3 \times 13.5 = 449.55$ $16.7 \times 5.1 = 85.17$ $30.2 \times 5.9 = 178.18$ $17.2 \times 33.1 = 569.32$ $16.9 \times 0.2 = 3.38$
Total Living Area (Rounded):	1286 Sq ft
Non-living Area	
2 Car Attached	428.78 Sq ft
	$5.9 \times 3.1 = 18.29$ $20.1 \times 19.9 = 399.99$ $0.7 \times 15 = 10.5$
Concrete Patio	118 Sq ft
	$11.8 \times 10 = 118$
Covered Porch	74.88 Sq ft
	$15.6 \times 4.8 = 74.88$

CUP-2023-0005

1015 S. REGENCY DR

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 1
2% density cap

NOT 0
contributing to
2% density cap

Total 1

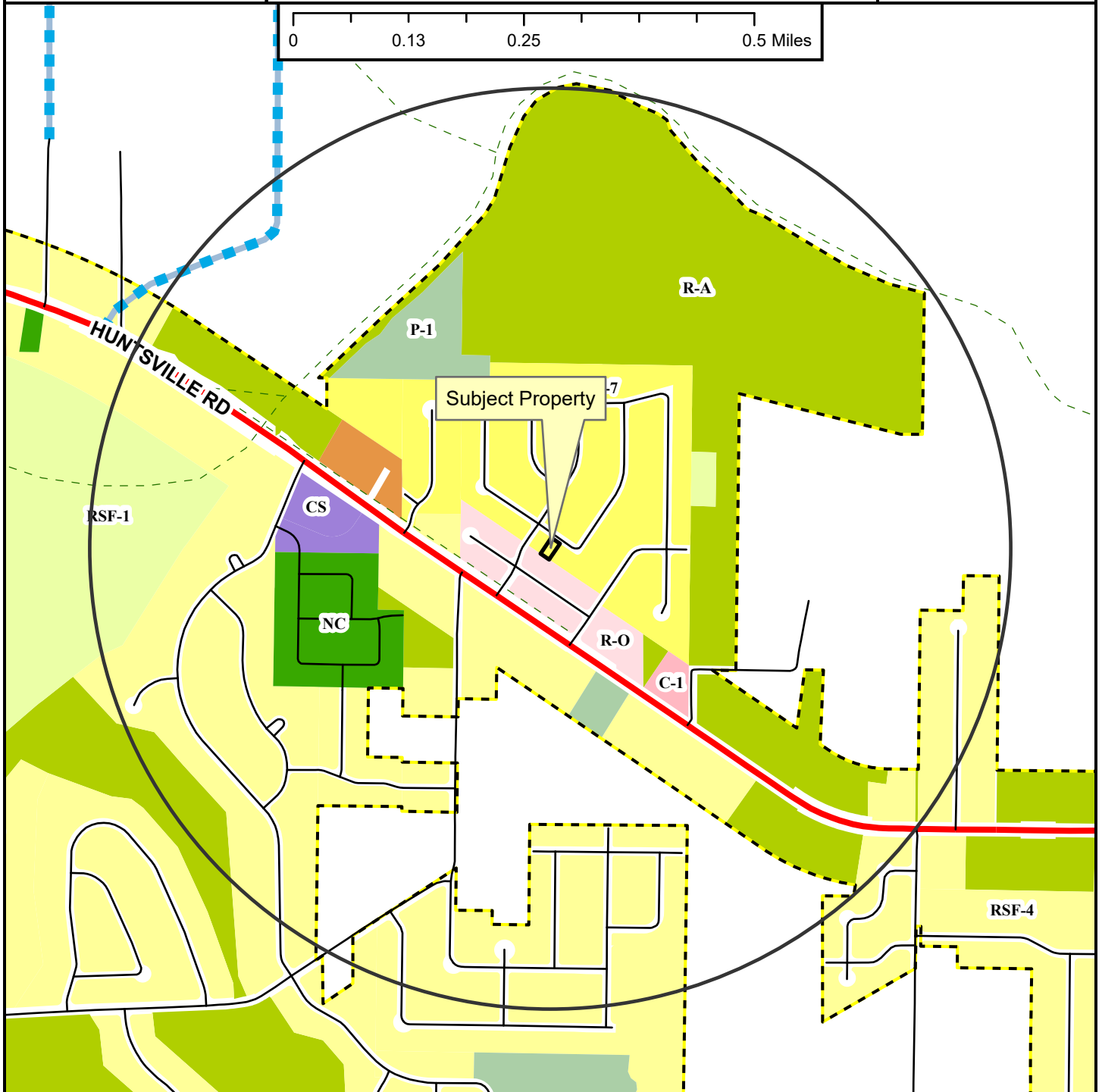
CUP-2023-0005

1015 S. REGENCY DR

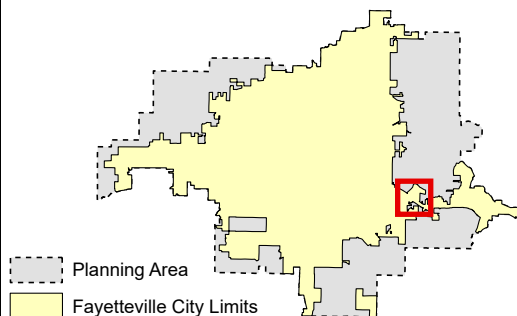
One Mile View



0 0.13 0.25 0.5 Miles



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

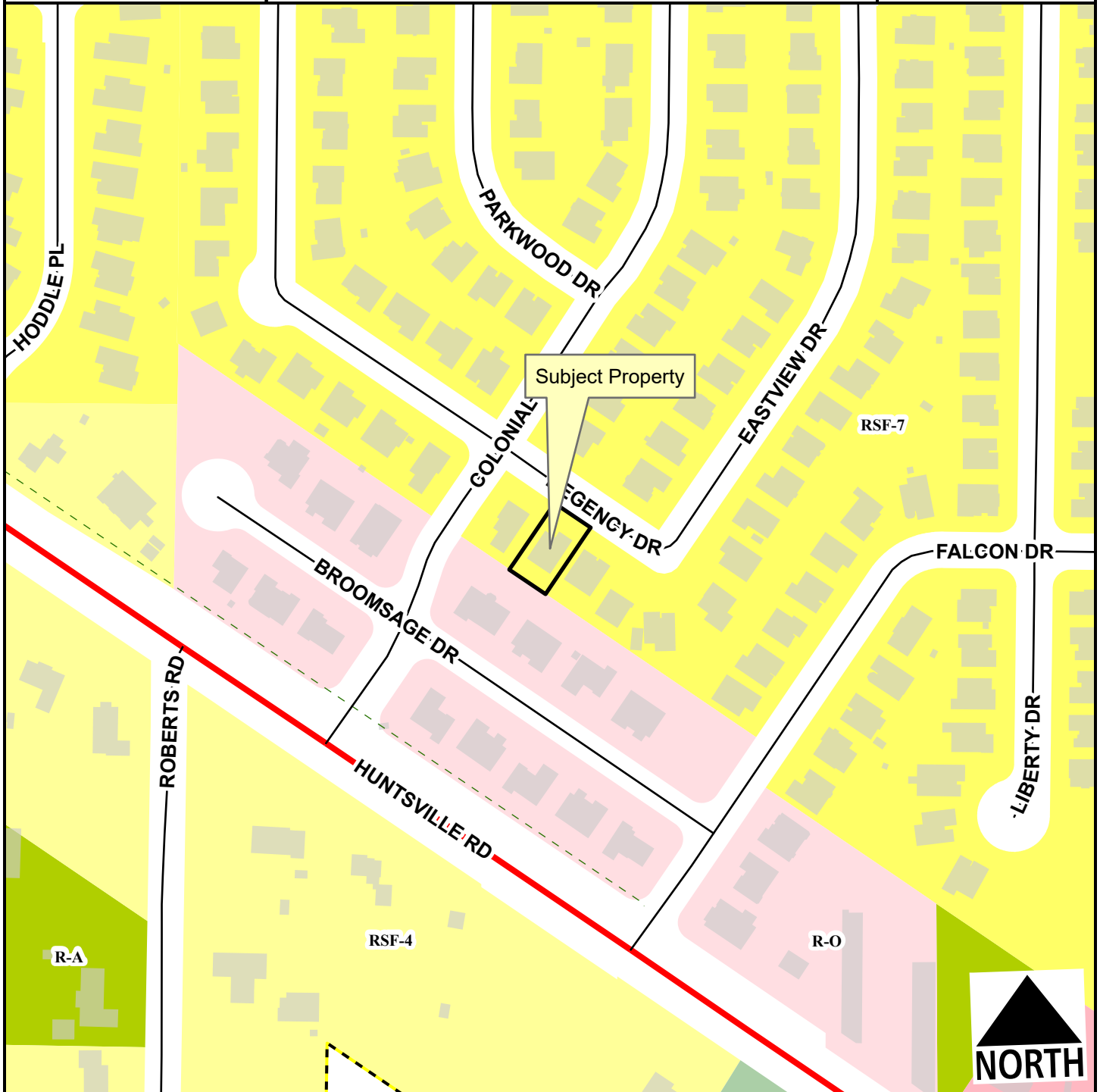


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
- 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-2023-0005

1015 S. REGENCY DR

Close Up View



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



- Residential-Agricultural
- RSF-4
- RSF-7
- Residential-Office
- C-1
- P-1

CUP-2023-0005

1015 S. REGENCY DR

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: February 27, 2023

SUBJECT: **CUP-2023-0006: Conditional Use Permit (372 S. HILL AVE./SCHIPPANOSKI, 522):** Submitted by JAY SCHIPPANOSKI, for property located at 372 S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY – 40 UNITS PER ACRE and contains approximately 0.71 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0006** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0006**, determining:*

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

BACKGROUND:

The property is in central Fayetteville, just north of the Walmart Neighborhood Market on the east side of S. Hill Avenue. The property totals 0.71 acres and is occupied by the Hill Avenue Townhomes. The development is a small-scale multi-family residential project in the final stages of development. The specific unit is a three-story townhome within the 13-unit complex. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

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

City Plan 2040 Future Land Use Designation: **City 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-2023-0006**, 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 27, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RMF-40 zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 short-term rental in RMF-40 zoning, which requires a conditional use permit.

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

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

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Multi-family townhomes are required to provide parking at a rate of one per bedroom. In the request letter the applicant says visitors will have access to a single parking space in an attached one-stall garage. Additional parking is available via eight shared on-site and four on-street vehicle spaces.

(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 372 S. Hill Avenue. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 311 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RMF-40 zoning, so this short-term rental would contribute to the city-wide density cap.**

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

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

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

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

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A private garage is available in addition to the on- and off-street parking spaces associated with the development. Within ¼ mile of the property city business license records indicate there are 17 Type 2 rental business licenses. There are no active or prior zoning code violations at the subject address.**

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

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

- (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience,

traffic flow and control and access in case of fire or catastrophe;

Finding: The subject property has frontage along S. Hill Avenue, which is classified as a Residential Link Street. Access to the multi-family development is provided through a 20-foot-wide existing driveway. Staff finds that the proposal will not adversely affect traffic flows considering the site's proximity to transit, the regional trail network, and non-residential businesses and services within a typical pedestrian walkshed. The use of the property would also be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The applicant has indicated that there is an attached single-stall garage. The development also features eight on-site and four on-street parking spaces. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.17 District RMF-40, Residential Multi-Family, 40 Units per Acre
- Applicant Request Letter
- Site Plan
- Building Floor Plan
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile 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)

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(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 CUP
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 occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	Forty (40) 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	30 feet
Two (2) family	30 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	2,500 square feet
Two (2) family	3,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
-------------------	-------------------

Fraternity of Sorority	500 square feet per resident
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(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

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

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; 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, 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."

Conditional Use Permit Request

372 S Hill Avenue

Fayetteville, Arkansas

72701

Submitted by: J&T Trust (Jay & Tracy Schippanoski)

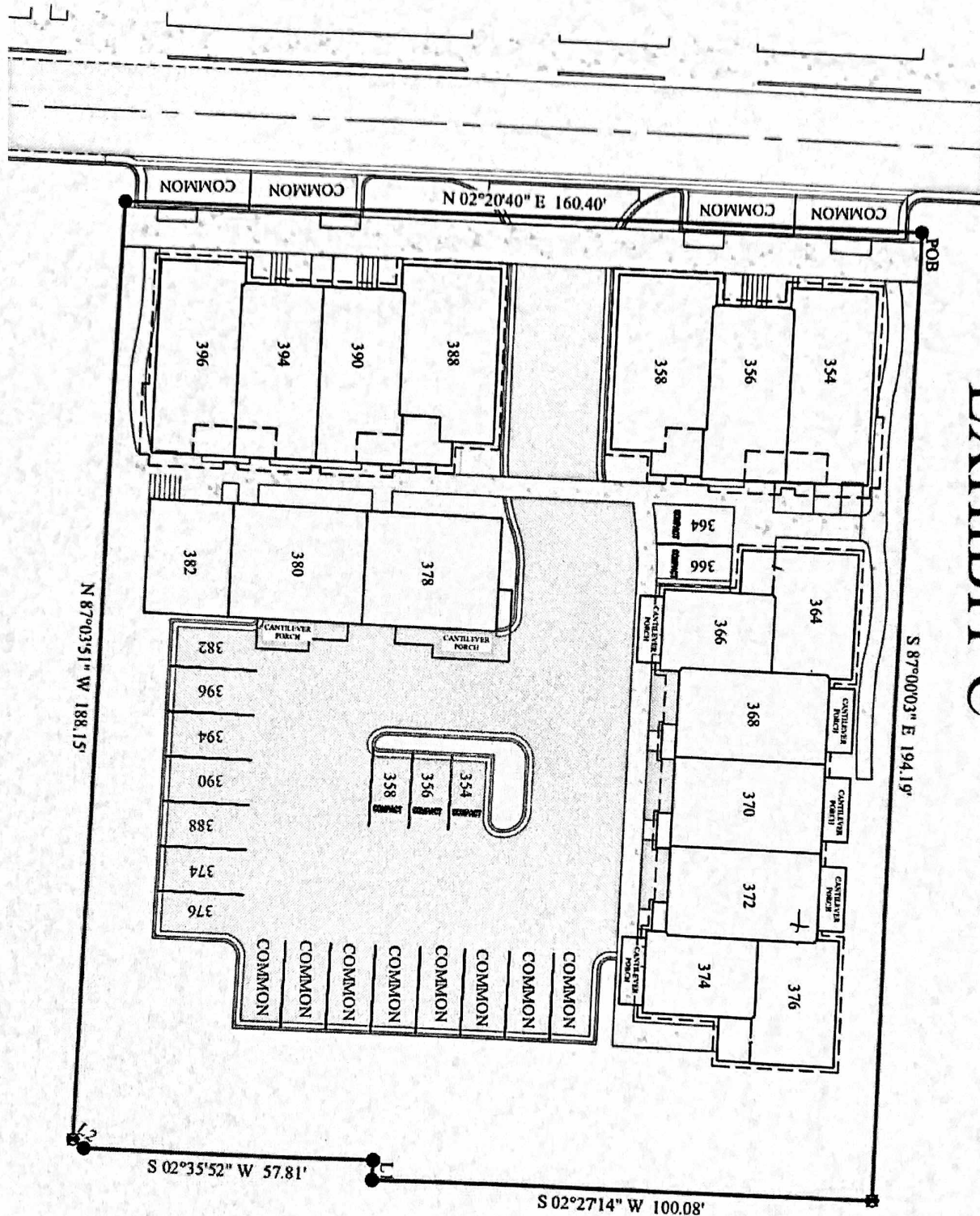
To Whom It May Concern,

This is a request for us to use this property as a periodic short term rental. The building is a 3 story townhouse, and a complex with 12 other similar homes. It is 1215 square feet with with, taupe and beige external finished colors. In line with the other townhomes in the development. It has a single space garage for parking one car. The property will be used as it was intended; residential. There are normal lights at the front entrance and rear patio door. Expected noise would be no different than any other normal residential property. Trash and refuse services are provided by the city of Fayetteville. The entire property has shared access to trash and recycling onsite and we have employed a management company to clean and maintain the property after each guest departs. COHO BNB is our management company. This property will be used as it was built and intended for. Residential use. My understanding is that many of the other units in this development are also being used in this manner.

Thank you for your consideration,

Jay & Tracy Schippanoski

EXHIBIT C



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

FOR USE AND BENEFIT OF:

NAME

ADDRESS:

CITY OF XXXXXXXXX
XXXXXXXXXX COUNTY, ARKANSAS

DATE: XX/XX/XX

1"=50'

LOCATION:

SEC.XX
T-XX-N, R-XX-W

SURVEYED: DRAFTED:

XX XX

REVIEWED: DT

COA #1335



**Bates &
Associates, Inc.**

Engineers - Surveyors

7230 S. Pleasant Ridge Dr. • Fayetteville, Arkansas 72704 • 479.442.9350 • Fax 479.521.9350

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DRAWING# 22-XXX

Planning Commission

February 27, 2023

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[illegible]

Architectural floor plan of a building section, likely a school or institutional structure. The plan shows a large central hall with a staircase labeled "STARTS UP" and a circular area labeled "CIRC". To the right is a large room labeled "3710" with a "FLOOR" label. To the left is a smaller room labeled "3709" with a "FLOOR" label. The plan includes various dimensions, door swings, and structural elements like walls and columns.

[illegible][illegible]

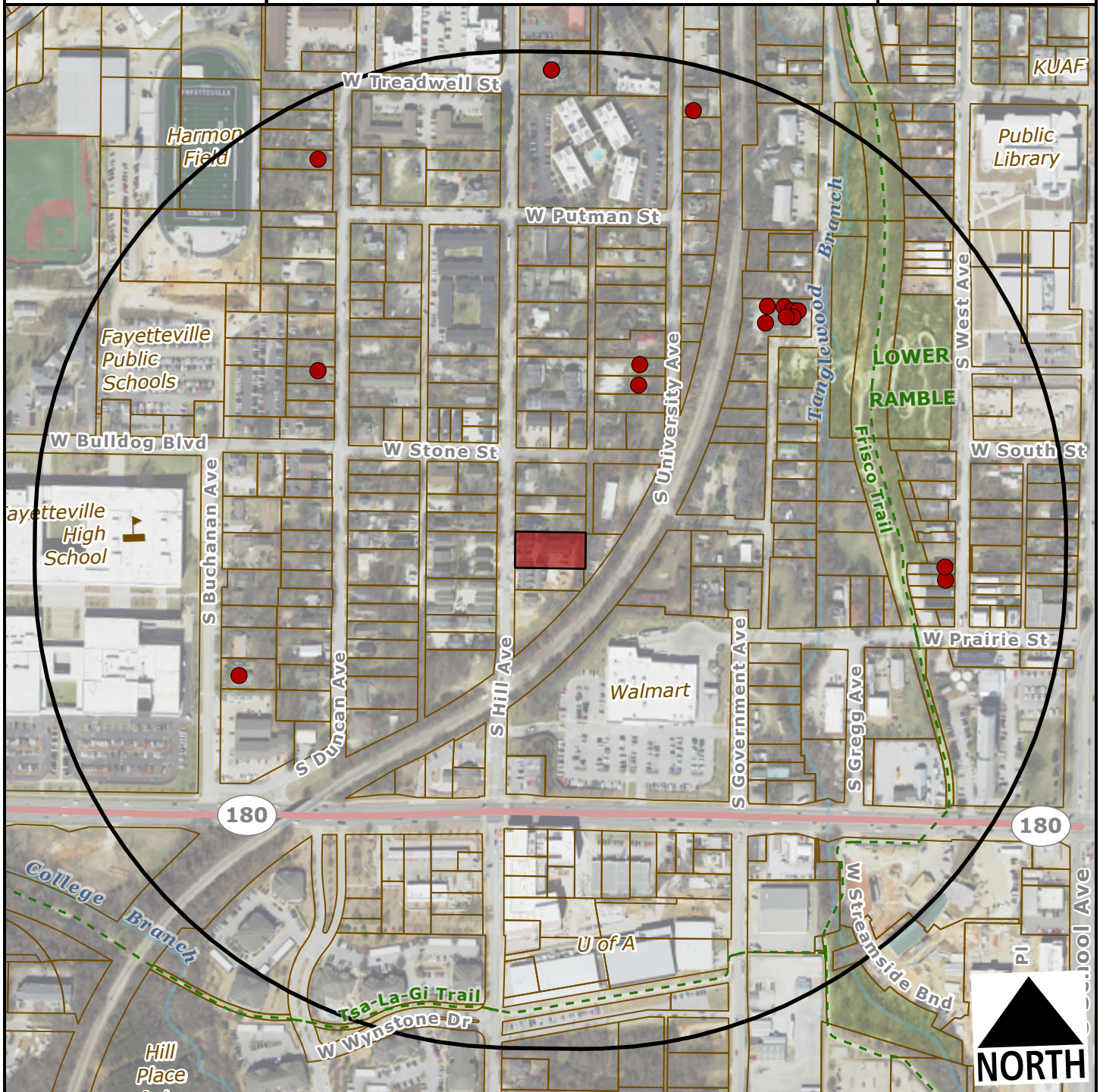
FOR SITE PLAN, DRAINAGE PLAN, AND GRADING PLAN, RETE-
BATES & ASSOCIATES INC DRAWINGS DATED SEPTEMBER 10,
2020

A1.1	PROJECT NUMBER 30-0000-000000 1/10/00 PLANNING A	HILL AVENUE TOWNHOUSES		THIS DOCUMENT AND THE IDEAS AND DESIGNS INCORPORATED HEREIN AS AN INSTRUMENT OF PROFESSIONAL SERVICES, IS THE PROPERTY OF COURTYARD BUILDING & BLOCK LLC, AND IS NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT WITHOUT WRITTEN AUTHORIZATION.	COURTYARD BUILDING & BLOCK LLC	
		370 S HILL AVENUE FAYETTEVILLE	AR		1600 W. CENTER ST FAYETTEVILLE	STE 300 72701
					PHONE: (714) 622-0000	FAX: (714) 622-0001

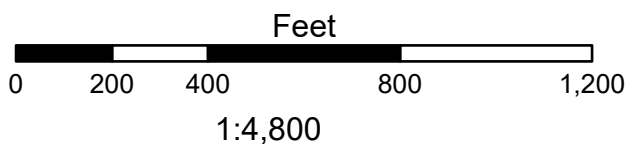
CUP-2023-0006

372 S. HILL AVE

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Number of STR Licenses

Contributing to 2% density cap 16

NOT contributing to 2% density cap 1

Total 17

