City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8267

Planning Commission Tentative Agenda

Monday, March 13, 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 27th, 2023 Planning Commission. - Mirinda Hopkins, Development Coordinator

2. ADM-2023-0005: Administrative Item (NORTH OF N. BITTERSWEET DR AND N. GREY SQUIRREL DR/HUGHMOUNT NORTH PH 2, 243):

Submitted by JORGENSEN & ASSOCIATES for property located at NORTH OF N. BITTERSWEET DR AND N. GREY SQUIRREL DR. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY - EIGHT UNITS PER ACRE and contains approx. 15.24 acres. The request is a major modification of PPL-2022-0009. - Ryan Umberger, Senior Planner

Unfinished Business

New Business

3. VAR-2023-0006: Planning Commission Variance (WEST OF 256 E. MOUNTAIN ST/CANTABERY, 524):

Submitted by FREDRICK CANTABERY for property located WEST OF 256 E. MOUNTAIN STREET The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.2 acres. The request is a variance to the streamside protection requirements.

ITEM WITHDRAWN BY STAFF FOR LACK OF PUBLIC NOTIFICATION. - Alan Pugh, Staff Engineer

4. LSD-2022-0041: Large Scale Development (N. HWY 112/112 ARONSON, 209):

Submitted by ENGINEERING SERVICES INC. for property located on N. HWY. 112. The property is zoned C-2, THOROUGHFARE COMMERCIAL and UT, URBAN THOROUGHFARE and contains approximately 31.20 acres. The request is for a development with 214 residential units, 40,000 sq. ft. movie theater, and associated parking. - Jessica Masters, Development Review Manager

5. LSD-2023-0001: Large Scale Development (2373 N. GREGG AVE/JRG HOLDINGS LLC, 328):

Submitted by JORGENSEN & ASSOCIATES for property located at 2373 N. GREGG AVE. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approx. 3.79 acres. The request is for a 12,000 square foot warehouse building and additional paved laydown area. - Gretchen Harrison, Planner

6. CUP-2023-0021: Conditional Use Permit (3333 W. DINSMORE TRL/GARDEN DAY GETAWAY, 518):

Submitted by DALE NEWBERRY for property located at 3333 W. DINSMORE TRL. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 2.97 acres. The request is for Use Unit 4: Cultural and Recreational Facilities.

ITEM WITHDRAWN BY STAFF FOR LACK OF PUBLIC NOTIFICATION. - Gretchen Harrison, Planner

7. CUP-2023-0023: Conditional Use Permit (704 S. WASHINGTON AVE/GARDEN DISTRICT TOWNHOMES LLC, 569):

Submitted by BOTTLE ROCKET SUBS, LLC for property located at 704 S. WASHINGTON AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.50 acres. The request is for Use Unit 14: Hotel, Motel, and Amusement Services in DG zoning.

APPLICANT HAS REQUESTED TO TABLE THIS ITEM TILL THE MARCH 27TH PLANNING COMMISSION MEETING. - Donna Wonsower, Planner

8. RZN-2023-0005: Rezoning (514 S. WILLOW AVE/COLLINS, 524):

Submitted by ADAM COLLINS for property located at 514 S. WILLOW AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.25 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN. - Donna Wonsower, Planner

9. RZN-2023-0006: Rezoning (920 S. WOOD AVE/MAHONEY, 563):

Submitted by BAJA OZARKS, LLC for property located at 920 S. WOOD AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.48 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN. - Gretchen Harrison, Planner

10. CUP-2023-0016: Conditional Use Permit (4479 W. PUTTING GREEN DR/PELTIER, 438):

Submitted by JARI PELTIER for property located at 4479 W. PUTTING GREEN DR. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.26 acres. The request is to use the residence as a

short-term rental. - Gretchen Harrison, Planner

11. CUP-2023-0017: Conditional Use Permit (578 N. SEQUOYAH DR/SOBBA, 447):

Submitted by SEAN SOBBA for property located at 578 N. SEQUOYAH DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.79 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

12. CUP-2023-0019: Conditional Use Permit (1275 N. RUPPLE RD/MOCKINGBIRD HOLDINGS, LLC, 400):

Submitted by MOCKINGBIRD HOLDINGS, LLC for property located at 1275 N. RUPPLE RD. The property is zoned RMF-12, RESIDENTIAL MULTI-FAMILY, TWELVE UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

13. CUP-2023-0018: Conditional Use Permit (344 N. FLETCHER AVE./SCHMIDT, 485):

Submitted by OLIVER SCHMIDT for property located at 344 N. FLETCHER AVE. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY – 8 UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

14. CUP-2023-0020: Conditional Use Permit (2554 E. NEELY PL/HOMETOWN PROPERTIES LTD, 527):

Submitted by LITTLE ROCK TRIAL ATTORNEYS PLLC for property located at 2554 E. NEELY PL. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 4.21 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

15. CUP-2023-0022: Conditional Use Permit (1669 W. CEDAR ST/GINGER, 404):

Submitted by CASSIDY GINGER for property located at 1669 W. CEDAR ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

16. CUP-2023-0024: Conditional Use Permit (833 N. RUSH DR/BARNES, 446):

Submitted by PATRICK BARNES for property located at 833 N. RUSH DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

17. CUP-2023-0025: Conditional Use Permit (2024 W. WEDINGTON

DR/SISEMORE, 403):

Submitted by LORI SISEMORE for property located at 2024 W. WEDINGTON DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.80 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

18. CUP-2023-0026: Conditional Use Permit (3381 W. FAIRFAX ST/WILLIAMS, 362):

Submitted by NAMA WILLIAMS for property located at 3381 W. FAIRFAX ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – 4 UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

Items Administratively Approved by Staff

19. LSP-2022-0036: Lot Split (656 E. HUNTSVILLE RD/SIEMEK, 524):

Submitted by SATTERFIELD LAND SURVEYORS for property located at 656 E. HUNTSVILLE RD. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 0.17 acres. The request is to split the property into four lots containing 0.08, 0.03, 0.03, and 0.03 acres. - Ryan Umberger, Senior Planner

20. LSP-2022-0064: Lot Split (E. ANSON ST/ELLISON, 487):

Submitted by ALAN REID AND ASSOCIATES for property located at E. ANSON ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE, and contains approximately 0.50 acres. The request is to divide the property into two lots containing 3.18 acres, and 6.85 acres each. - Gretchen Harrison, Planner

21. LSP-2023-0005: Lot Split (909 S. ELMHURST AVE/SIEMEK, 563):

Submitted by ALAN REID AND ASSOCIATES for property located at 909 S. ELMHURST AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.29 acres. The request is to split the property into two lots with approximately 0.14 acres, and 0.15 acres. - Gretchen Harrison, Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard at the public hearings. If you wish to address the Planning Commission on an agenda item, please queue behind the podium when the Chair asks for public comment. Once the Chair recognizes you, go to the podium and give your name and address. Address you 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, Telecomminications 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, 2/27/2023										
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 02-13-2023**	**2) ADM-2023-0002 (COBBLESTONE FARMS)**			**3) LSD-2022-0031 (PIGSKIN RD PARK)**	**4) PPL-2023-0001 (HABITAT FOR HUMANITY)**	**5) CUP-2023-0014 (SCOOTER'S COFFEE)**			
Holcomb	1	1	1	1	1	1	1	1	0	1	1
Brink	1	1	1	1	0	1	1	1	0	1	1
McGetrick			1	1	0	1	1	1	0	1	1
Winston	1	1	1	1	0	1	1	1	0	1	1
Canada											
Sparkman	1	1	0	1	1	1	1	1	0	1	1
Johnson	1	1	0	1	1	1	1	0	1	0	0
Garlock	1	1	0	1	1	1	1	0	1	0	1
Madden	1	1	1	1	1	1	1	1	1	0	1
Agenda		**Consent**	**Old**			**Old**	**New**	**New**			
Motion By		Brink	Brink	Garlock	Garlock	Winston	Winston	Winston	Johnson	Winston	Johnson
Motion 2nd		Johnson	Winston	Johnson	Johnson	Sparkman	Brink	Brink	Garlock	Brink	Garlock
Vote		7-0-0	5-3-0	8-0-0	5-3-0	8-0-0	8-0-0	6-2-0	3-5-0	5-3-0	7-1-0
Action		Approve	Divide	Approve	Deny	Approve	Approve	Divide	Deny	Approve	Approve
Time		5:33pm				6:37pm					
Motion Detail			Motion to divide the request approved No Public Comment	Motion to approve an extension to LSD-2021-000040 approved No public comment	Motion to deny a major modification to LSD-2021-000040 approved No public comment	With all conditions as reccomended by staff. No Public Comment	With all conditions as reccomended by staff. 2 Public Comment	Motion to divide the vote approved. No public comment	Motion to Deny variance to UDC failed. No public Comment	Motion to grant variance to UDC 172.04 (C)(4) with conditions as rec. by staff approved. No. public comment	Motion to approve remaining items with conditions as rec. by staff approved. No public comment

A Video of this meeting is accessible through the link below:
http://reflect-fayetteville-ar.cablecast.tv/CablecastPublicSite/show/4453?channel=1

(pg. 2) Planning Commission	Monday, 2/27/2023				
	6) LCUP-2023-0015 (AMERICA'S CAR-MART)	7) RZN-2023-0003 (PATHWAY BAPTIST CHURCH)	8) RZN-2023-0004 (VAN SCYOC)	9) CUP-2023-0007 (HJL INVESTMENTS)	10) CUP-2023-0008 (SCOTT)
Holcomb	1	1	Recuse	1	1
Brink	1	1	1	1	1
McGetrick	1	1	1	1	1
Winston	1	1	1	1	1
Canada					
Sparkman	1	1	1	1	0
Johnson	1	1	1	1	1
Garlock	1	1	0	1	1
Madden	1	1	0	1	1
Agenda	New	New	New	New	New
Motion By	Garlock	Brink	Brink	Madden	Garlock
Motion 2nd	Johnson	Garlock	McGetrick	Garlock	Madden
Vote	8-0-0	8-0-0	5-2-1	8-0-0	7-1-0
Action	Approve	Forward	Forward	Approve	Deny
Time	7:19pm	7:34pm	8:17pm	8:29pm	9:18pm
Motion Detail	With all conditions as recommended by staff No Public Comment	With a recomendation of approval by staff. No Public Comment	With a recomendation of approval by staff. 7 Public Comment	With all conditions as recomended by staff. No Public Comment	Denied 8 Public Comment

A Video of this meeting is accessible through the link below:
http://reflect-fayetteville-ar.cablecast.tv/CablecastPublicSite/show/4453?channel=1

(pg. 3) Planning Cc Monday, 2/27/2023

	11) CUP-2023-0009 (ETG SHELF 3 LLC)	12) CUP-2023-0010 (DIFANI)	13) CUP-2023-0011 (SOTO)	14) CUP-2023-0012 (COPIA PROPERTIES)	15) CUP-2023-0004 (TILLMAN)
Holcomb	1	1	1	1	
Brink	1	1	1	1	
McGetrick	1	1	1	1	
Winston	1	0	1	1	
Canada					
Sparkman	0	1	1	1	
Johnson	1	1	0	1	
Garlock	1	1	1	1	
Madden	1	1	1	1	
Agenda	**New**	**New**	**New**	**New**	**WITHDRAWN**
Motion By	Winston	Garlock	Brink	Johnson	
Motion 2nd	Garlock	Madden	Garlock	Garlock	
Vote	7-1-0	7-1-0	7-1-0	8-0-0	
Action	Deny	Approve	Approve	Deny	
Time	9:36pm	9:52pm	9:57pm	10:04pm	
Motion Detail	6 public comment	with all condition as recommeneded by staff. No public comment	with all condition as recommeneded by staff. No public comment	No public comment	

A Video of this meeting is accessible through the link below:
http://reflect-fayetteville-ar.cablecast.tv/CablecastPublicSite/show/4453?channel=1

(pg. 4) Planning Commission			Monday,	2/27/2023	
	16) CUP-2023-0005 (BAKER)	17) CUP-2023-0006 (SCHIPPANOSKI)			
Holcomb	1	1			
Brink	1	1			
McGetrick	1	1			
Winston	1	1			
Canada					
Sparkman	1	1			
Johnson	1	0			
Garlock	1	0			
Madden	1	0			
Agenda	New	New			
Motion By	Winston	Brink			
Motion 2nd	Madden	Madden			
Vote	8-0-0	5-3-0			
Action	Approve	Approve			
Time	10:11pm	10:22pm			
Motion Detail	with all conditions as recommeneded by staff. No public comment	with all conditions as recommeneded by staff. No public comment			

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner
Josh Boccaccio, Engineering Development Review Manager

MEETING DATE: March 13, 2023

SUBJECT: **ADM-2023-0005 Administrative Item (NORTH OF N. BITTERSWEET DR AND N. GREY SQUIRREL DR/HUGHMOUNT NORTH PH 2, 243):** Submitted by JORGENSEN & ASSOCIATES for property located NORTH OF N. BITTERSWEET DR AND N. GREY SQUIRREL DR. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY – EIGHT UNITS PER ACRE and contains approximately 15.24 acres. The request is to modify a previously approved preliminary pat.

RECOMMENDATION:
Staff recommends approval of **ADM-2023-0005**.

RECOMMENDED MOTION:
"I move to approve **ADM-2023-0005,** *with conditions finding:*

1. *Determining in favor of a variance to UDC §166.08(E)(3);*
2. *In favor of the request to modify PPL-2022-0009; and*
3. *All other conditions as recommended by staff."*

BACKGROUND:
The subject property is in northwest Fayetteville, immediately north of stub-outs to N. Grey Squirrel and N. Chapel Drive in Phase I of the Hughmount Village subdivision. Phase I of the subdivision was platted in 2015. The property is zoned RSF-8, Residential Single-Family, 8 Units per Acre and subject to a bill of assurance which limits density to six units per acre (Ord. 6326). The site is undeveloped, largely absent of significant vegetation, and encompasses approximately 15.24 acres. In October of 2022 a preliminary plat of 41 residential lots was approved (PPL-2022-0009). Surrounding land uses and zoning are depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	Washington County - Ag/SF 1 (Agricultural/Single-family Residential, One Unit per Acre)
South	Single-Family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-family Residential, One Unit per Acre)
West	Rural Residential	Washington County - Ag/SF 1 (Agricultural/Single-family Residential, One Unit per Acre)

Request: The applicant requests a major modification to an approved preliminary plat under the provisions outlined in UDC §166.01(D)(2). The change would have the effect of withdrawing a street stub out roughly 45-feet from the east property line. Additionally, the request requires approval of a Planning Commission variance to UDC §166.08(E)(3) which is outlined below alongside staff's recommendation:

- **§166.08(E)(3) – Wherever a proposed development abuts undeveloped land, street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.** The applicant proposes for Zinnia Street to result in a dead end without extending a stub-out to the east property line. The applicant says extending the street would require off-site grading which requires approval from the adjacent property owner.
    - *Staff Recommendation: Staff supports the request due to the adjoining owner's unwillingness to sign off on the request. Instead, staff recommends the applicant dedicate the requisite right-of-way for a Residential Link Street to their property line and pays a fee in-lieu in the amount of $17,691 for the construction of the street to the property line.*

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

DISCUSSION:
Staff supports the applicant's request to modify the stub out by pulling it back from the property line. The modification will allow the construction of a portion of the stub out without having to obtain permission for grading from the adjacent property owner. Per the applicant's letter, the adjacent property owner is unwilling to sign off on the necessary grading and, accordingly, plans are revised to show the stub out short of the east property line and grading to occur completely onsite. No other changes are requested to the previously approved preliminary plat.

RECOMMENDATION: Staff recommends approval of ADM-2023-0005, subject to the following conditions:

<u>Conditions of Approval:</u>

1. **Planning Commission determination of a variance to UDC §166.08(E)(3) – Connectivity.**

2. **The applicant shall dedicate right-of-way at a 52-foot width, consistent with the rest of the street, to the property line.**

3. **The applicant shall pay a fee in lieu for the construction of the street to the property line in the amount of $17,691.00 prior to approval of the associated grading permit.**

4. **Approval of this modification 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.**

5. **All other conditions of the associated preliminary plat (PPL-2022-0009) shall remain in effect.**

PLANNING COMMISSION ACTION: **Required** **YES**

Date: **March 13, 2023** ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Development Code:
  - §166.08 (E) – Block Layout/Connectivity
- Engineering Memo
- PPL-2022-0009 Conditions of Approval
- PPL-2022-0009 Exhibit
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map

166.08 Street Design And Access Management Standards

…

(E) *Block Layout/Connectivity.*

(1) *Block Length.* Block lengths and street intersections are directly tied to the functional hierarchy of the street pattern that exists or is proposed.

(a) *Regional and Regional High Activity Links.* Signalized intersections should be located at a minimum of one (1) every 2,640 feet (half a mile) along regional links and should be based on traffic warrants.

(b) *Neighborhood Links.* Intersections should be located at a minimum of one (1) every 1,320 feet (quarter of a mile) along neighborhood links.

(c) *Residential Link and Downtown/Urban Street.* Intersections shall occur at a minimum of one (1) every 660 feet.

(d) *Variances.* Block length standards may be varied by the Planning Commission when terrain, topographical features, existing barriers or streets, size or shape of the lot, or other unusual conditions justify a departure.

(2) With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted roadways such as expressways. Alleys are not considered as frontage. Double frontage lots may be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots. Unless otherwise approved by the Planning Commission, all primary structures shall be oriented toward the higher functional classification street.

(3) *Connectivity.* Wherever a proposed development abuts undeveloped land, street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.

…

…

(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)

CITY OF
FAYETTEVILLE
ARKANSAS

STAFF MEMO

TO: Ryan Umberger, Senior Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: February 13, 2023

SUBJECT: **Planning Commission Engineering Comments for ADM-2023-0005 Hughmount North Stub Out**

Discussion:

The engineering division supports the applicant's request to modify the stub out by pulling it back from the property line. The modification will allow the construction of a portion of the stub out without having to obtain permission for grading from the adjacent property owner.

Conditions of Approval:

1. The applicant dedicate right-of-way, consistent with the rest of the street, to the property line.
2. The applicant provides a fee in lieu for the construction of the street to the property line in the amount of $17,691.00

Attachments:

Jorgensen cost estimate

JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Established 1985

Unit Price Schedule for

Hughmount North - Zinnia Street Extension to East Property Line

Cost Estimate

February 16, 2023

Item #	Description	Quantity	Unit	Unit Price	Amount
1	Import Select Hillside for streets	676	C.Y.	$11	$7,436
2	Install Curb & Gutter (include 1' base behind curbs)	90	L.F.	$16	$1,440
3	3" Paving (Local streets)	125	S.Y.	$23	$2,875
4	8" Class 7 Base (Local streets)	150	S.Y.	$16	$2,400
5	Sidewalk	60	S.Y.	$59	$3,540
				Total	**$17,691**

PPL-2022-0009 Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication in the amount of 52 feet for all internal streets, N. Grey Squirrel Drive, N. Chapel Drive, Street 1 and Street 2.*

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

2. **Planning Commission determination of street improvements.** *Staff recommends each street in the subdivision is improved with six-foot sidewalk, six-foot greenspace, streetlights and street trees at required intervals in line with the standard street section for a Residential Link Street. Staff also recommends an assessment in the amount of $70,178 for off-site improvements to replace the bridge at Clabber Creek on N. Hughmount Road.*

Subdivision Committee recommended in favor of recommended street improvements.

3. Fee in-lieu of parkland dedication is required in the amount of $44,649 based on 41 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 spaced every 300 feet;

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

Standard conditions of approval:

6. All existing overhead utility lines 12kV and under shall be relocated underground. All proposed utilities shall be located underground;

7. 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;

8. 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;

9. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat;

10. A floodplain development permit is required prior to construction for any grading or structures in the flood zone;

11. 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);

12. 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

13. Preliminary Plat approval shall be valid for one calendar year.

PLANNING COMMISSION ACTION: **Required** **YES**

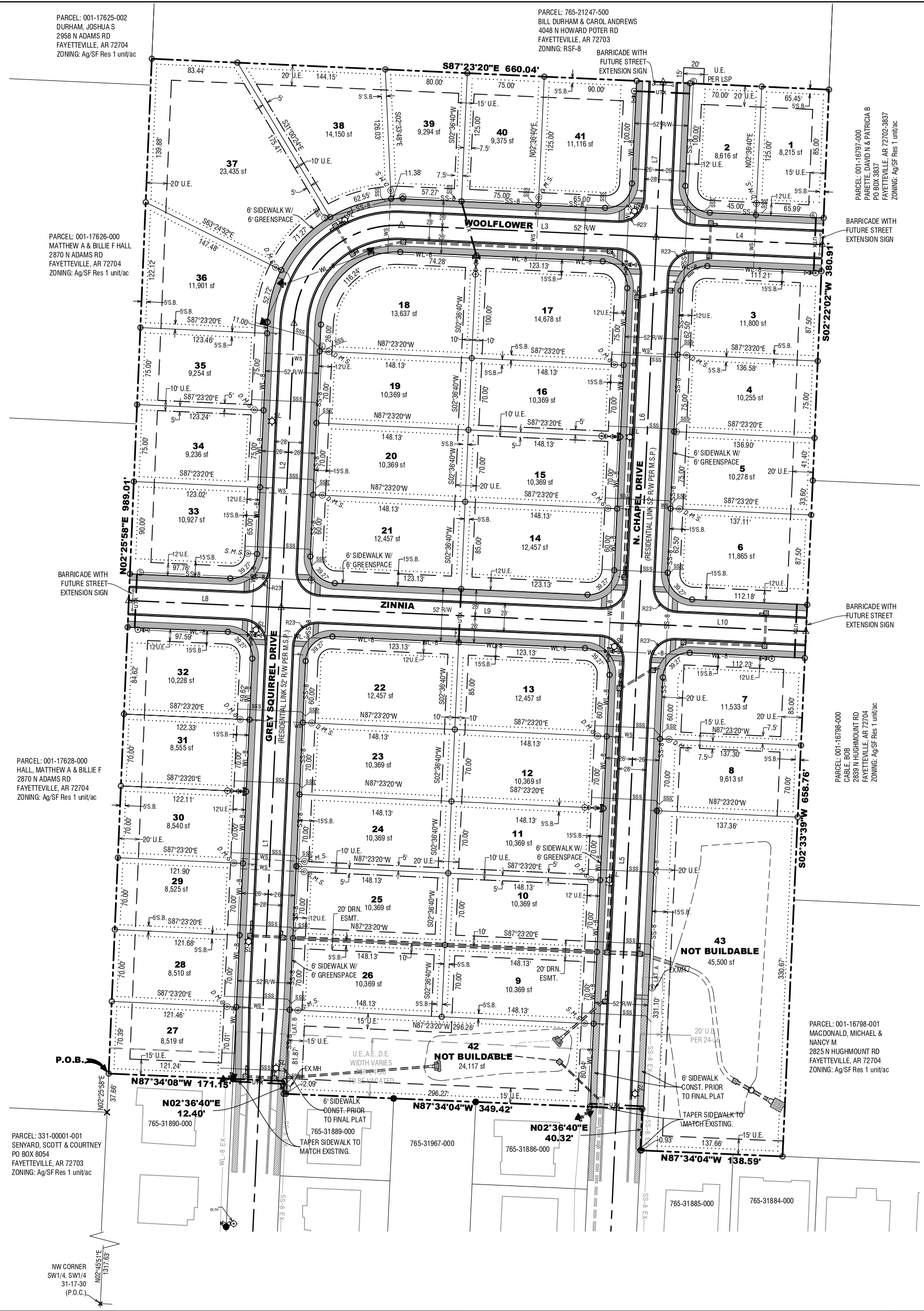
Date: **October 24, 2022** ❒ **Tabled** ☒ **Approved** ❒ **Denied**

Motion: Brink

On consent.

Second: Madden

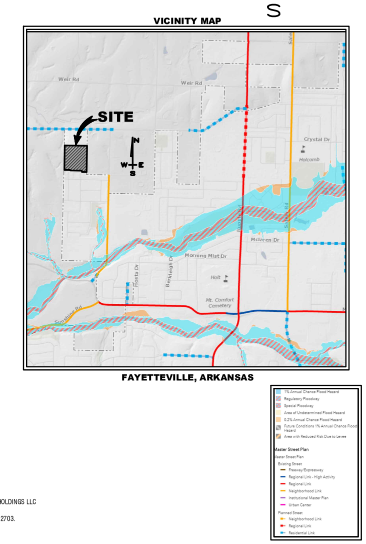
Vote: 8-0-0



GRAPHIC SCALE

(IN FEET)
1 inch = 60 ft.

VICINITY MAP



FAYETTEVILLE, ARKANSAS

STREET TABLE					
STREET	CLASSIFICATION	RIGHT OF WAY	STREET WIDTH	SIDEWALK	GREENSPACE
GREY SQUIRREL DRIVE	RESIDENTIAL LINK	52	28'	6'	6'
N. CHAPEL DRIVE	RESIDENTIAL LINK	52	28'	6'	6'
ZINNIA	RESIDENTIAL LINK	52	28'	6'	6'
WOOLFLOWER	RESIDENTIAL LINK	52	28'	6'	6'

LINE TABLE		
LINE	LENGTH	BEARING
L1	460.55'	N02°36'40"E
L2	277.00'	N02°36'40"E
L3	248.10'	S87°23'20"E
L4	162.10'	S87°23'20"E
L5	471.86'	N02°36'40"E
L6	377.00'	N02°36'40"E
L7	151.00'	N02°36'40"E
L8	148.68'	S87°23'20"E
L9	348.27'	S87°23'20"E
L10	163.20'	S87°23'20"E

CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	157.25'	100.00'	100.17	141.54	N47°39'36"E	90°05'51"

RSF-8 BUILDING SETBACKS		
FRONT	SIDE	REAR
15'	5'	5'

LEGAL DESCRIPTION:

A part of the W1/2 of the SW1/4 of the NW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NW Corner of said SW1/4, SW1/4, thence N02°45'51"E 1,317.63 feet, thence N02°25'58"E 37.66 feet to the POINT OF BEGINNING; thence N02°25'58"E 989.01 feet, thence S87°23'20"E 660.04 feet, thence S02°22'02"W 380.91 feet, thence S02°33'39"W 658.76 feet, thence N87°34'04"W 138.59 feet, thence N02°36'40"E 40.32 feet, thence N87°34'04"W 349.42 feet, thence N02°36'40"E 12.40 feet, thence N87°34'08"W 171.15 feet to the POINT OF BEGINNING, Containing 15.24 acres, more or less, subject to easements and right of ways of record.

WATER & SEWER CONTRACTOR SHALL CLEARLY MARK ALL WATER & SEWER SERVICE LOCATIONS. FINAL INSPECTION SHALL INCLUDE THESE MARKED SERVICES. FINAL PAYMENT WILL NOT BE MADE UNTIL SERVICES ARE MARKED.

WATER & SEWER CONTRACTOR SHALL CONSULT SEWER PROFILES AND STORM DRAIN PROFILES TO ENSURE PROPER DEPTHS OF UTILITIES TO AVOID CONFLICTS.

WATER MAIN TO BE 3' BELOW FINISHED GRADE.

CONTRACTOR TO CONTACT CITY TO OPERATE EXISTING SHUT-OFF VALVES. ENSURE NO EX. SERVICES ARE AFFECTED WHILE MAINS ARE TURNED OFF UNTIL THE NEW MAINS ARE INSTALLED, TESTED, AND ACCEPTED.

EX SSS & EX WM TO BE FIELD VERIFIED BY CONTRACTOR, METERS AND SERVICES NOT PRESENT OR IN THE CORRECT LOCATIONS, NEED TO BE INSTALLED BY THE CITY AT THE COST OF THE OWNER. EX METER SETS TO BE ADJUSTED TO FINAL GRADE. CONTRACTOR SHALL DIRECT THE FINAL GRADE OF METER & METER BOXES INSTALLED BY CITY, TO FOLLOW DETAIL.

- THE REVIEW BY THE ENGINEERING DIVISION WAS FOR GENERAL COMPLIANCE AND DOES NOT WARRANT YOUR DESIGN AND DOES NOT RELIEVE THE OWNER FROM ANY ITEMS DISCOVERED DURING CONSTRUCTION WHICH ARE DEEMED NECESSARY TO COMPLY WITH CITY ORDINANCES AND CRITERIA. THE APPROVAL OF THE ENGINEERING ITEMS ON THE PLANS FOR WATER, SEWER, DRAINAGE, AND GRADING IS NOT A GUARANTEE OF APPROVAL OF THIS PROJECT BY THE OTHER CITY DIVISIONS.
- THE ENGINEER OF RECORD SHALL PROVIDE "FULL TIME" INSPECTION OF UTILITIES AND "PART TIME" INSPECTION OF THE STORM SEWER AND ROADWAY CONSTRUCTION FOR THIS PROJECT

Clarification of Requirements
Water, Sewer, Streets, Drainage, and Inspections

A) Inspections and Testing Procedures:
1. All field tests required for a project shall be witnessed by the city in the presence of the Engineer and Contractor, or their representative.
2. The City requires a 48-hour notice on all tests. Calls to the City for the purpose of setting test times should be made by 10:00 am for test on the following day. Tests delayed by weather or other factors will be rescheduled on the same basis.
3. It is the responsibility of the Engineer and Contractor to coordinate the scheduling of such tests with the City.
4. All equipment, materials, and labor required for testing shall be furnished by the Contractor at his expense.
5. Prior to final acceptance by the City, the project shall be subject to a joint final inspection by a designated representative of the City Engineer's Office, a representative of the Fayetteville Water and Sewer Maintenance Department, the Engineer of record for the project, and the Contractor.

PARCEL NO	OWNER(s)	ADDRESS	ZONING
765-31890-000	KENNEDY, CODY Y	2799 N GREY SQUIRREL DR - FAYETTEVILLE, AR 72704	RSF-8
765-31889-000	LEWIS, RONALD KEITH	2800 N GREY SQUIRREL DR - FAYETTEVILLE, AR 72704	RSF-8
765-31886-000	RAGAR, JAMES ANTHONY & ERIKA OAKES	2799 N CHAPEL DR - FAYETTEVILLE, AR 72704	RSF-8
765-31885-000	CROWDER, RYAN & CYNTHIA	4770 W BITTERSWEET DR - FAYETTEVILLE, AR 72704	RSF-8
765-31884-000	SALMON, EDWARD L III & THERESA	4752 W BITTERSWEET DR - FAYETTEVILLE, AR 72704	RSF-8
765-31967-000	HUGHMOUNT VILLAGE P.O.A. INC	1370 OLD MISSOURI RD - SPRINGDALE, AR 72764	RSF-8

OWNER:

A & J REAL ESTATE HOLDINGS LLC
PO BOX 9534
FAYETTEVILLE, AR. 72703.

NOTES:

1. PLAT PAGE: #243
2. 41 BUILDABLE LOTS & 2 POND LOTS.
3. CURRENT ZONING = RSF-8.
4. PARCEL NUMBER = PART OF 001-16799-000.
5. TWO SIDEWALK ACCESS RAMPS WILL BE INSTALLED AT EACH STREET CORNER AS SHOWN ON THIS PLAT.
6. ALL UTILITY CROSSING SHALL BE 6 - 4" PVC PIPES BURIED MINIMUM 42" DEEP.
7. ALL DRIVEWAYS SHALL HAVE A MAXIMUM WIDTH OF 24' MEASURED AT THE RIGHT OF WAY LINE.
8. A PORTION OF SOME LOTS WITHIN THIS DEVELOPMENT HAVE SLOPES THAT ARE 15% OR GREATER.
9. THIS PROPERTY IS NOT SUBJECT TO THE 100-YEAR FLOODPLAIN AS PER FIRM #05143C0205F DATED MAY 16, 2008.
10. WHERE BUILDING SETBACKS DON'T OVERLAP WITH UTILITY EASEMENTS OR ACCESS EASEMENTS, STRICTLY BUILDING SETBACKS SHALL BE AS PER THIS PLAT AND THE BUILDING SETBACK TABLE PROVIDED ON THIS PLAT.
11. TAPS MADE ONTO EXISTING WATER AND SEWER MAINS SHALL BE MADE BY THE CITY, PAID FOR BY THE OWNER.
12. ALL NEW UTILITIES SHALL BE PLACED UNDERGROUND, AND ALL EXISTING UTILITIES UNDER 12 kV SHALL BE RELOCATED UNDERGROUND.
13. SITE DEVELOPMENT WILL FOLLOW THE APPROVED MASTER RESIDENTIAL LOT GRADING PLAN. EACH LOT MUST FOLLOW THE APPROVED MRLGP PREPARED BY THE ENGINEER OF RECORD FOR THIS PROJECT.
14. RIGHT OF WAY TREES TO BE PLANTED FOLLOWING CONSTRUCTION OF INDIVIDUAL HOUSES.
15. CURB CUT SEPARATION STANDARDS DO APPLY TO ALL LOTS, INCLUDING REGULATIONS ABOUT DISTANCE FROM PROPERTY LINES, OTHER DRIVEWAYS, INTERSECTIONS AND CURB RADII.
16. FIRE LANE SIGNS, AS SPECIFIED IN 2012 AFPC SECTION D103.6, SHALL BE POSTED ON ONE SIDE OF FIRE APPARATUS ACCESS ROADS MORE THAN 26 FEET WIDE AND LESS THAN 32 FEET WIDE. SIGNS MUST ALSO MEET SPACING REQUIREMENTS IN 2012 AFPC SECTION 503.3.
17. ALL LOTS SHALL MEET ACCESS MANAGEMENT STANDARDS.
18. ALL SIDEWALKS INDICATED ALONG UNBUILDABLE OR OPEN SPACE LOTS SHALL BE CONSTRUCTED BY THE DEVELOPER.
19. AT THE TIME OF REZONING THIS PROPERTY WAS REZONED WITH A BILL OF ASSURANCE FOR A MAX DENSITY OF 6 UNITS/ACRE.

STANDARD CITY NOTES:

1. THE REVIEW BY THE ENGINEERING DIVISION WAS FOR GENERAL COMPLIANCE AND DOES NOT WARRANT YOUR DESIGN AND DOES NOT RELIEVE THE OWNER FROM ANY ITEMS DISCOVERED DURING CONSTRUCTION OR FURTHER REVIEW, WHICH ARE DEEMED NECESSARY TO COMPLY WITH CITY ORDINANCES AND CRITERIA. THE APPROVAL OF THE ENGINEERING ITEMS ON THE PLANS FOR WATER, SEWER, DRAINAGE, AND GRADING IS NOT A GUARANTEE OF APPROVAL OF THIS PROJECT BY OTHER CITY DIVISIONS.
2. A GRADING AND DRAINAGE PERMIT WILL NOT BE ISSUED UNTIL:
   a. THE PERIMETER EROSION CONTROLS, CONSTRUCTION EXIT, AND SWPPP/GRADING PERMIT BOX HAVE BEEN INSPECTED AND APPROVED BY THE ENGINEERING DIVISION. (APPLICANT IS RESPONSIBLE FOR CONTACTING AND SCHEDULING THE EROSION CONTROL INSPECTION BY CALLING THE ASSIGNED PWI)
   b. A PRECONSTRUCTION CONFERENCE HAS TAKEN PLACE.
      i. ALL CONTRACTORS/SUBS INSTALLING PUBLIC INFRASTRUCTURE MUST BE PRESENT ALONG WITH THE INSPECTOR FROM ENGINEER OF RECORD.
      ii. IF THE SUPERINTENDENT ON SITE CHANGES AFTER THE CITY OF FAYETTEVILLE PRE-CONSTRUCTION MEETING, AN ADDITIONAL PRE-CONSTRUCTION MEETING WILL BE REQUIRED WITH THE NEW SUPERINTENDENT.
3. PRIOR TO ANY CLEARING TO INSTALL EROSION CONTROL STRUCTURES, TREE PRESERVATION FENCING MUST BE INSTALLED BY THE CONTRACTOR AND INSPECTED BY THE URBAN FORESTER (444-3469).
4. THE ENGINEER OF RECORD SHALL PROVIDE "FULL TIME" INSPECTION FOR UTILITIES AND "PART TIME" INSPECTION FOR THE STORM DRAINAGE AND ROADWAY CONSTRUCTION FOR THIS PROJECT. THE ENGINEER OF RECORD SHALL ALSO REVIEW AND APPROVE MATERIAL SUBMITTALS (APPROVED SUBMITTALS SHALL BE SUBMITTED TO THE CITY FOR CONCURRENCE BEFORE PRECONSTRUCTION MEETING AND BEFORE MATERIAL IS ORDERED) - WEEKLY INSPECTION REPORTS SHOULD BE SUBMITTED TO THE CITY OF FAYETTEVILLE'S PUBLIC WORKS INSPECTOR.
5. CONTACT DON OSBURN OF THE CITY OF FAYETTEVILLE METER OPERATIONS DIVISION, (575-8384) PRIOR TO THE PRECONSTRUCTION MEETING TO DISCUSS THE DOMESTIC AND/OR IRRIGATION WATER SERVICE DEMAND TO VERIFY SIZE OF METER PROPOSED.
6. ALL MATERIALS AND CONSTRUCTION SHALL COMPLY WITH THE CITY OF FAYETTEVILLES REQUIREMENTS. IN THE CASE OF CONFLICTS, THE CITYS CRITERIA SHALL GOVERN.
7. PRIOR TO PROJECT ACCEPTANCE (FINAL PLAT, CERTIFICATE OF OCCUPANCY, OR TEMPORARY CERTIFICATE OF OCCUPANCY) THE FOLLOWING ITEMS MUST BE PERFORMED OR PROVIDED TO THE SATISFACTION OF THE ENGINEERING DEPARTMENT:
   a. THE WORK SHOWN ON THE CIVIL SITE PACKAGE MUST BE COMPLETE AND THE ITEMS ON THE FINAL PUNCH LIST COMPLETED.
   b. VEGETATION MUST BE ESTABLISHED IN ACCORDANCE WITH SECTION 169.06 OF THE UDC AND PERIMETER CONTROLS REMOVED.
   c. ONE (1) SET OF AS-BUILT DRAWINGS OF THE COMPLETE PROJECT (EXCLUDING DETAILS) AS A HARD COPY AND IN TIFF OR PDF FORMAT:
      i. PUBLIC INFRASTRUCTURE AND SERVICES SHALL BE SURVEYED AFTER INSTALLATION IN RELATION TO EASEMENTS, PROPERTY LINES, AND RIGHTS-OF-WAY.
      ii. SANITARY SEWER, AND STORM DRAINAGE (INCLUDING PRIVATE) ELEVATIONS MUST BE VERIFIED AND UPDATED. (ELEVATIONS OUT OF DESIGN TOLERANCE MUST BE CORRECTED)
      iii. PROFESSIONAL SURVEYOR SHALL PROVIDE STAMP DRAWINGS SPECIFICALLY IDENTIFYING THE LIMITS OF AS-BUILT SURVEY PERFORMED.
      iv. ADEQUATE VERIFICATION SURVEY TO CONFIRM ACCURACY OF DRAINAGE REPORT.
   d. UNIT PRICE CONSTRUCTION COSTS FOR REVIEW AND APPROVAL AND A SINGLE 2 YEAR MAINTENANCE BONDS IN THE AMOUNT OF 25% OF THE PUBLIC IMPROVEMENTS;
   e. CERTIFICATION THAT THE STREETS, SIDEWALK, STORM SEWER, WATER, FIRE LINE, AND SEWER LINES, ETC., WERE INSTALLED PER APPROVED PLANS AND CITY OF FAYETTEVILLE REQUIREMENTS;
      i. PROVIDE ALL INSPECTION REPORTS; APPROVED SUBMITTALS; DATA FORMS FROM UTILITY SPECIFICATIONS (INCLUDING CONSULTANTS SEWER TV REPORT); COMPACTION TEST RESULTS, ETC...
   f. CERTIFICATION THAT THE DESIGNED RETAINING WALLS WERE INSTALLED PER APPROVED PLANS AND CITY OF FAYETTEVILLE REQUIREMENTS(INSPECTION AND TESTING REPORTS REQUIRED PER ORDINANCE);
   g. CROSS SECTIONS, VOLUME CALCULATIONS, AND CERTIFICATION RETENTION/DETENTION PONDS ARE IN ACCORDANCE WITH THE APPROVED DRAINAGE REPORT.
   h. SURVEYORS CERTIFICATION OF COMPLIANCE FOR MONUMENTS AND PROPERTY PINS.
   i. THE AS- BUILT FINAL DRAINAGE REPORT IN PDF FORMAT UPDATED PER AS-BUILT INVERT, SLOPE, INLET OPENING, ROAD PROFILE, CROSS SLOPE, ETC.
8. ANY DAMAGE TO THE EXISTING PUBLIC STREET DUE TO CONSTRUCTION SHALL BE REPAIRED/REPLACED AT THE OWNER/DEVELOPERS EXPENSE.
9. 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.
10. PRIOR TO ENGINEERING APPROVAL OF THE BUILDING PERMIT, EITHER THE REQUIRED PUBLIC IMPROVEMENTS MUST BE INSTALLED AND ACCEPTED, OR PERFORMANCE BONDS IN THE AMOUNT OF 150% OF THE CONSTRUCTION COST FOR ALL PUBLIC IMPROVEMENTS MUST BE SUBMITTED, ACCOMPANIED BY A UNIT PRICE ESTIMATE APPROVED BY THE ENGINEERING DIVISION AND ALL EASEMENTS MUST BE DEDICATED AND OR VACATED.
11. ALL MATERIAL DELIVERIES, CONSTRUCTION STAGING, AND WORKER PARKING MUST OCCUR ON YOUR SITE AND OUTSIDE THE PUBLIC STREETS DURING ALL PHASES OF THE PROJECT.
12. SIGNAGE IS NOT REVIEWED BY THE ENGINEERING DEPARTMENT. APPROVAL OF THESE PLANS DOES NOT IMPLY OR GUARANTEE APPROVAL OF YOUR PROPOSED SIGNAGE.

JORGENSEN +ASSOCIATES
124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Civil Engineering · Land Surveying Established 1985

LEGEND

- CALCULATED POINT
- FOUND IRON PIN
- SET IRON PIN & CAP
- POWER POLE
- CENTERLINE MARKER
- SEWER MANHOLE
- FIRE HYDRANT
- STREET LIGHT
- EXISTING 8" SEWER LINE (EX SS-8)
- PROPOSED 8" SEWER LINE (SS-8)
- EXISTING WATERLINE (EX WL-8)
- PROPOSED 8" WATER LINE (WL-8)
- CENTERLINE STREET
- BUILDING SETBACK
- UTILITY EASEMENT
- NEW SIDEWALK
- UTILITY CROSSING (UTX)
- EXISTING CONTOUR
- FINISHED CONTOUR

PROJECT DETAILS

PROJECT TITLE: HUGHMOUNT NORTH

PROJECT LOCATION: FAYETTEVILLE, AR

REVISIONS

DATE: 9.25.2020
DRAWN BY: PMM
PROJECT # 2019114
FILE PATH: Z:SUBD\2019114\PPL
SHEET SIZE: 22" x 34"
SCALE: 1" = 60'

CERTIFICATE OF AUTHORIZATION JORGENSEN & ASSOCIATES No. 722 ARKANSAS – ENGINEER

STATE OF ARKANSAS REGISTERED PROFESSIONAL ENGINEER No. 13637 JUSTIN L. JORGENSEN

SHEET TITLE

PRELIMINARY PLAT

SHEET NUMBER

C1.01

JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

January 30, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Preliminary Plat for Hughmount North

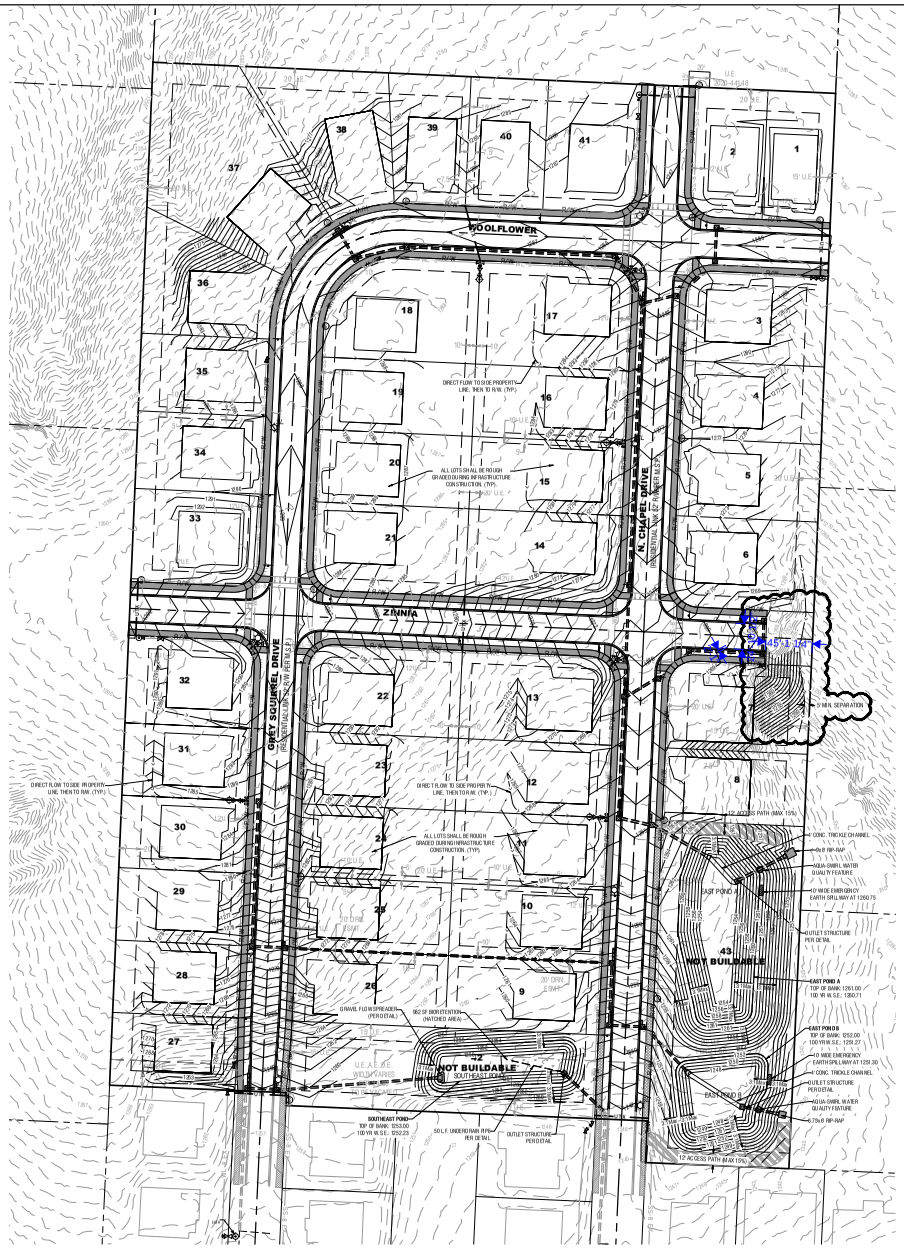
This letter is in regards to proposed changes to Preliminary Plat for Hughmount North that was previously approved at Planning Commission. It was agreed at Planning Commission that the stub out street to east side of the project would extend all the way to east property line and the necessary grading would take place offsite if the adjacent property owner would sign off on the grading. After conversations with the adjacent property owner they are unwilling to sign off on the grading so we are revising the plan to show the stubout short of the east property line and the grading to be completely onsite. There are no other changes being requested to the previously approved preliminary plat.

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

Thank you.

Sincerely;

Justin L. Jorgensen, PE



Contact the City Public Works Inspector and request an inspection prior to:
a. Pouring any sidewalk, trail, or driveway in the right-of-way or public easements.
b. Placing any pavement for ADA Accessible parking/loading areas.
c. Pouring any sidewalk that is a connection from ADA Accessible parking areas to the structure.

CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING BMP'S, POSTING SWPPP ONSITE, AND MODIFYING AND ADDING NECESSARY EROSION CONTROL MEASURES.

SLOPE GRADING IN PUBLIC UTILITY EASEMENTS SHALL NOT EXCEED 15% GRADE.

EROSION CONTROL NOTES:

- All disturbed areas shall receive 4 inches of top soil and re-vegetated per section 169.06 of the UDC. **Vegetation must be established to minimize erosion prior to issuance of certificate of occupancy.**
- When Silt Fence or Wattles are not placed at a constant elevation following contours on steep slopes, the "J" hoop method should be used (at 50 ft intervals) to create ponding and prevent erosion of the trench backfill of silt fence installation.
- All graded and otherwise disturbed areas shall be stabilized within 15 days immediately after grading or disturbance has ceased.
- Permanent improvements such as streets, storm sewers, curb and gutters, and other features for control of runoff shall be scheduled coincidental to removing vegetative cover from the area so that large areas are not left exposed beyond the capacity of temporary control measures.
- Top soil or other soil is to be stockpiled for more than 30 days, a temporary cover of annual rye or other suitable grass shall be planted.
- *Re-vegetation*. Re-vegetation shall be required to meet the following performance standards (sediment controls shall remain in place until re-vegetation is established) unless otherwise allowed by the City Engineer:
  - *Topsoil.* A minimum of 4 inches of topsoil shall be required to be either existing or installed in areas to be revegetated as set forth in §169.06(F)(6) below. Any application of topsoil and seeding under the drip line of a tree should be minimized to 3 inches so as not to damage the trees root system.
  - *Zero to 10% grade*: Re-vegetation shall be a minimum of seeding and mulching. Said seeding shall provide complete and uniform coverage that minimizes erosion and runoff.
  - *10:1 up to 4:1 grade*: Re-vegetation shall be a minimum of hydro-seeding with mulch and fertilizer, sod, or groundcover. Said planting shall provide complete and uniform coverage that minimizes erosion and runoff.
  - *4:1 to 3:1 grade*: The slope shall be covered with landscape fabric and hydro-seeded with mulch and fertilizer, or staked sod, or groundcover. Said planting shall provide complete and uniform coverage that minimizes erosion and runoff
  - *More than 3:1 grade*: Any finish grade over *3:1* shall be stabilized with one or more of the following:
    - Retaining walls; Cribbing with landscape fabric; Terracing with groundcover; Riprap; Staked Sod (up to 2:1 slope)
    - If Cribbing, Terracing, or Riprap is used, the slope's stability and erodibility must be equivalent to or better than its predevelopment state.
- *Permanent erosion control.* The developer shall incorporate permanent erosion control features at the earliest practical time. Temporary erosion control measures will be used to correct conditions that develop during construction that were unforeseen during the design stage, that are needed prior to installation of permanent erosion control features, or that are needed temporarily to control erosion that develops during normal construction projects, but are not associated with permanent control features on the project.
- *Dust.* Where excessive dust may become a problem, a plan for spraying water on heavily traveled dirt areas shall be addressed.
- *Construction Exits.* A stabilized rock exit is required on construction sites. Rock exits must be at least 20' wide by 50' long by 6" thick stabilized rock having a minimum average diameter of 3". If there is an existing curb, loose material such as fill dirt or gravel shall not be used to ramp up to it from the street. Temporary wooden ramps in front of curbs are acceptable.
- *Debris, mud, and soil in public streets.* Debris, mud and soil shall not be allowed on public streets but if any debris, mud, or soil from development sites reaches the public street it shall be immediately removed via sweeping or other methods of physical removal. Debris, mud, or soil in the street may not be washed off the street or washed into the storm drainage system. Storm drainage systems downstream of a development site should be protected from debris, mud, or soil in the event that debris, mud, or soil reaches the drainage system.
- *Franchise and Private Utilities.* The property owner or main contractor onsite will be responsible for restoring all erosion and sediment control systems and public infrastructure damaged or disturbed by underground private or franchise utility construction such as water and sewer service leads, telephone, gas, cable, etc. Erosion and sediment control systems must be immediately restored after each utility construction.

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- PROPOSED 8" WATER LINE — WL - 8 —
- CENTERLINE STREET
- BUILDING SETBACK
- UTILITY EASEMENT
- NEW SIDEWALK
- UTILITY CROSSING — UTX —
- EXISTING CONTOUR
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PROJECT DETAILS

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STATE OF ARKANSAS — REGISTERED PROFESSIONAL ENGINEER — No. 13537 — TIMOTHY L. JORGENSEN

SHEET TITLE

GRADING PLAN

SHEET NUMBER

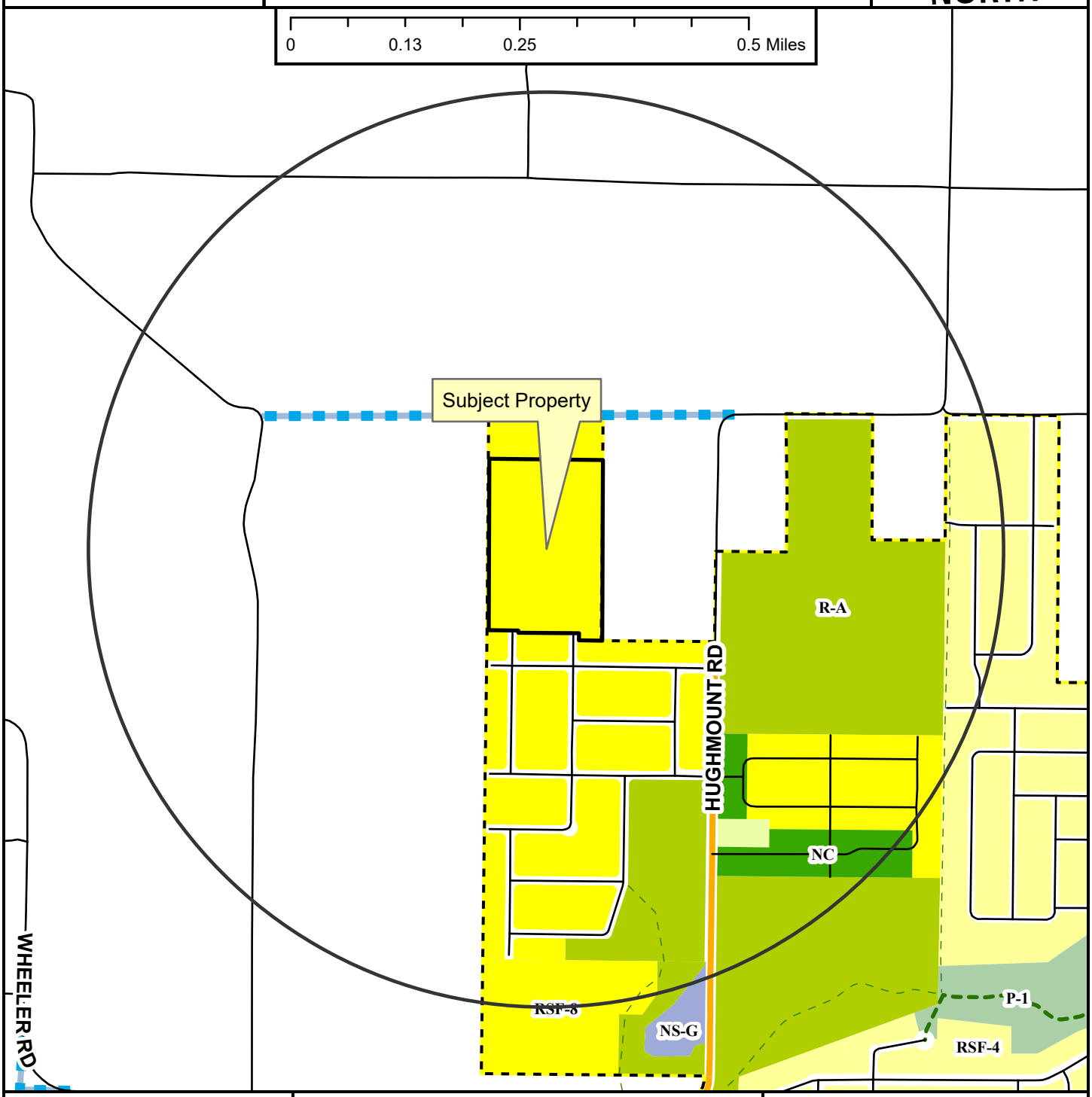
C1.13

ADM-2023-0005

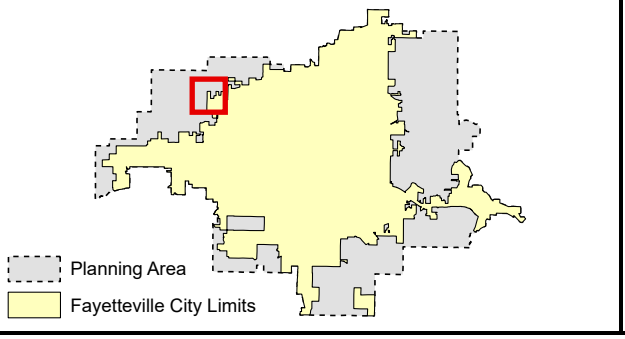
One Mile View

NORTH OF N. BITTERSWEET DR AND N. GREY SQUIRREL

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- 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

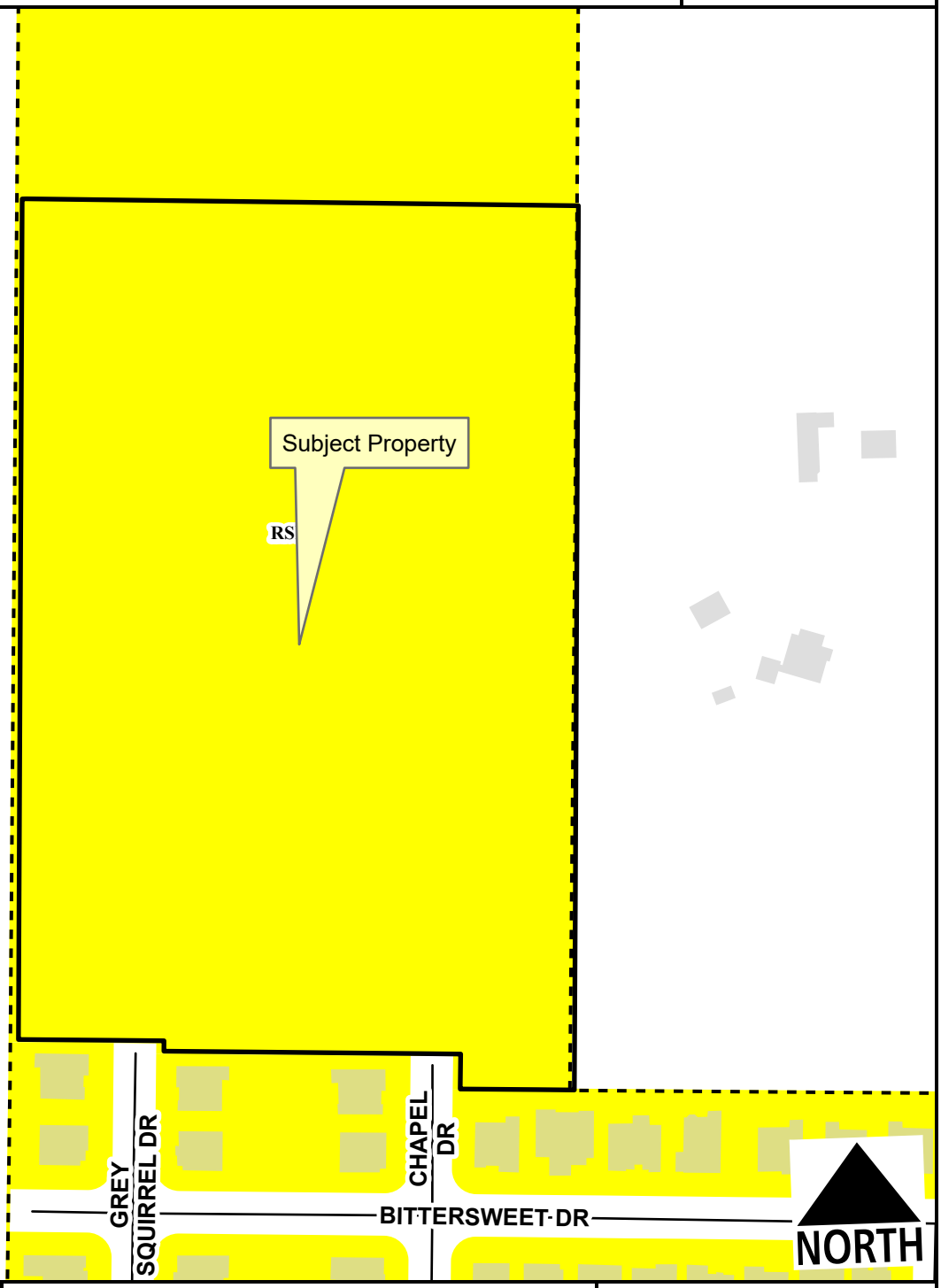
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

ADM-2023-0005

Close Up View

NORTH OF N. BITTERSWEET DR AND N. GREY SQUIRREL



Residential Link

Planned Residential Link

Planning Area

Fayetteville City Limits

Feet

0 75 150 300 450 600

1:2,400

RSF-8

ADM-2023-0005

Current Land Use

NORTH OF N. BITTERSWEET DR AND N. GREY SQUIRREL DR

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forester

MEETING: March 13, 2023

SUBJECT: **LSD-2022-0041: Large Scale Development (N. HWY 112/112 ARONSON, 209):** Submitted by ENGINEERING SERVICES INC. for property located on N. HWY. 112. The property is zoned C-2, THOROUGHFARE COMMERCIAL and UT, URBAN THOROUGHFARE and contains approximately 31.20 acres. The request is for a development with 214 residential units, 40,000 sq. ft. movie theater, and associated parking.

RECOMMENDATION:
Staff recommends tabling **LSD-2022-0041** to the next-scheduled Planning Commission meeting.

RECOMMENDED MOTION: *"I move to table* **LSD-2022-0041** to the next scheduled Planning Commission meeting on March 27, 2023.

BACKGROUND:
The subject property is the former site of the 112 Drive-In in north Fayetteville, southeast of the intersection of Highway 112 and Van Asche Drive. The property is zoned UT, Urban Thoroughfare, and C-2, Thoroughfare Commercial, and it received this zoning classification in 2022. The site is partially located within a FEMA floodplain, contains a protected stream and hydric soils, and is sparsely vegetated. Portions of the property are also located within the current boundary of the Enduring Green Network and 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	Commercial (Retail)	C-2, Thoroughfare Commercial
South	Commercial (Car Dealership)	C-2, Thoroughfare Commercial
East	Undeveloped	C-2, Thoroughfare Commercial
West	Undeveloped; Institutional (Church)	RPZD, Residential Planned Zoning District; CS, Community Services

Proposal: The applicant requests Large Scale Development approval of 214 residential units, three commercial buildings, including a movie theater, and associated parking. The applicant has requested several variances to the Unified Development Code:

- **§166.25(D)(2): Shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties.** The applicant has requested a variance from this requirement to the east, south, and north of the overall

property, citing conflicts with the streamside protection ordinance and floodplain requirements.

- *Staff recommendation: Staff is supportive of this variance. Staff finds that the environmental challenges adjacent to the commercially-developed portion of the site present significant hardship in creating a feasible future connection to the east and to the south. The project is not required to meet the same connectivity standard to the residential portion of the project because the applicant is proposing to use private drives; that said, the applicant is showing an intent to provide connectivity throughout the development itself, and staff finds that the spirit and intent of the ordinance is overall being met.*

- **§172.05(A)(7): Maximum number of parking spaces permitted.** The applicant has requested a variance to the maximum number of parking spaces permitted for a movie theater, which is typically calculated at 1 space per 4 seats. The applicant is requesting additional parking spaces to serve an outdoor movie theater portion of the property.
  - *Staff recommendation: Staff is supportive of this variance request. The intent of the ordinance is to prevent an oversupply of parking on site. Per ordinance, the applicant is permitted to have 211 parking spaces to serve the 844 indoor movie theater seats. Code allows for an additional, by-right increase of 15%, meaning the property is entitled to a total of 243 parking spaces for the use of a theater. The applicant is requesting a total of 256 parking spaces, which is 13 spaces above which is permitted by-right. The atypical nature of the spaces in question requires an atypical consideration, and staff is supportive of this since the parking spaces are meant to essentially act as additional seats for the movie theater complex.*

- **§172.04(E): Dimensional requirements for 90-degree parking spaces.** The applicant has requested a variance to the standard dimensional requirements for parking spaces, which is typically 9 feet by 19 feet. The applicant is proposing spaces that are approximately 13 feet by 20 feet.
  - *Staff recommendation: Staff is supportive of this variance request. Potential customers will stay in their vehicles while viewing movies on an outdoor screen. While seated, patrons can receive food and drink service from staff of the movie theater complex. Staff finds that the added width allows for employees to move in and out of the vehicle parking spaces to serve patrons at that location.*

- **§177.04(C)(1)(a) and (b): Narrow Tree Lawn or Tree Island shall be provided in parking lots containing ten or more spaces.** The applicant has requested a variance from providing either a narrow tree lawn or a tree island in the southern portion of the parking lot meant to serve the outdoor movie screen.
  - *Staff recommendation: Staff is supportive of this variance request, finding that due to the parking spaces being proposed as serving an outdoor movie theater, an additional landscape screen with trees may run counter to the proposal, since added landscaping in that location may prevent views to the theater.*

Right-of-Way to be Dedicated:
HWY 112 (ARDOT): Staff does not recommend any additional right-of-way dedication along the property's frontage. Right-of-way acquisition is being undertaken by ARDOT, and the proposed dimension exceeds that of the typical master street plan standards for a Regional Link street.

Street Improvements:
HWY 112 (ARDOT): Staff recommends that an 8-foot sidewalk and 10-foot greenspace be installed along the property's frontage. Staff recognizes the complexity of coordinating with a forthcoming street improvement that is being undertaken by a separate entity from the City, but recommends that the plans show full build-out of these elements and that the applicant submit to ARDOT for review to establish whether applicant will construct, or a pass-through agreement be made for the cost and for ARDOT to construct. Staff also recommends streetlights and street trees to be constructed in a manner consistent with ordinance.

Access Management/Connectivity: The applicant proposes to access the site in two locations and has been coordinating with ARDOT with regards to that entity's proposed expansion. The applicant is proposing a temporary entrance to the property that will eventually be converted to a roundabout at the southern end of the site, and a private drive at the northern end of the site. The two driveways meet the City of Fayetteville's typical access management standards as far as curb separation. Per the 166.25 Commercial, Office, Mixed-Use, Design and Development Standards, the applicant has requested a variance to the requirement for cross-access to the east, south, and north of the property as outlined above.

Design Standards: The structures located within the residential portion of the project are subject to the standards as outlined in chapter 166.23, the Urban Residential Design standards. The applicant is substantially compliant with these standards. The commercial portion of this site is zoned C-2, so the standards as outlined in 166.25, Commercial, Office, Mixed-Use, Design and Development standards are required to be met. The proposed movie theater structure appears to be largely compliant with the architectural design standards as outlined in this portion of code. The applicant has also requested variances to the parking lot design requirements, which are outlined in full above.

Water and Sewer System: An 8" water main is proposed to serve the development. 6" fire lines are proposed for the three multi-family buildings and the movie theater. Two connections will be made to the existing 6" water main, though that 6" water main is scheduled to be relocated and replaced with a 12" water main. Sewer is proposed to be extended throughout the site with three new connections to the existing 8" sanitary sewer main. This is also scheduled to be replaced in conjunction with the HWY 112 improvements.

Parkland dedication or fee in-lieu: The project went before the Parks and Recreation Advisory Board on August 1, 2022, where it was recommended for fee-in-lieu of parkland dedication. The amount was for $218,538 based on the applicant's proposed 212 units; at this time, the applicant is showing 214 residential units. The actual amount will be based upon the number of units ultimately approved by the Planning Commission, and must be paid prior to building permit.

Tree Preservation:
Canopy minimum requirement: 15%
Existing canopy: 10.9%
Preserved canopy: 7.6%
Mitigation required: (141) 2-inch caliper trees

Public Comment: Staff has received inquiries about the project, and one statement in opposition to the applicant's request for a variance to provide cross-access. The neighboring property owner would like to see cross access provided by the applicant to the property to the east.

RECOMMENDATION: Staff recommends tabling of **LSD-2022-0041** to the next scheduled Planning Commission meeting. If Planning Commission wishes to approve, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff does not recommend any additional right-of-way dedication, as right-of-way acquisition is being conducted by ARDOT;*

   Subdivision Committee recommended in favor.

2. **Planning Commission determination of street improvements.** *Staff recommends Master Street Plan Standards for HWY 112 frontage, which includes an 8-foot sidewalk and 10-foot greenspace. Coordination with ARDOT shall be conducted to either construct improvements, or pay cost of constructing improvements to ARDOT;*

   Subdivision Committee recommended in favor.

3. **Planning Commission determination of a variance to §166.25(D)(2), requiring shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties** *Staff recommends in favor of the variance for the reasons outlined above.*

   Subdivision Committee recommended in favor.

4. **Planning Commission determination of a variance to §172.05(A)(7), the maximum number of parking spaces permitted.** *Staff recommends in favor of the variance for the reasons outlined above.*

   Subdivision Committee recommended in favor.

5. **Planning Commission determination of a variance to §172.04(E), dimensional requirements for 90-degree parking spaces.** *Staff recommends in favor of the variance for the reasons outlined above.*

   Subdivision Committee recommended in favor.

6. **Planning Commission determination of a variance to §177.04(C)(1)(a) and (b): Narrow Tree Lawn or Tree Island shall be provided in parking lots containing ten or more spaces.** *Staff recommends in favor of the variance for the reasons outlined above.*

   Subdivision Committee recommended in favor.

7. A determination from the Zoning and Development Administrator must be on file prior to grading permit to exempt the project from the minimum buildable street frontage requirement in the UT zoning district;

8. Property line adjustment shall be filed to dissolve property lines to keep the entire site on one lot, or to create the desired legal lots of record;

9. Streetlights must be installed at intersections and at a linear spacing distance of no more than 300 feet;

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

Standard Conditions of Approval:

1. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;

2. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);

3. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;

4. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;

5. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;

6. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, 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;

7. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;

8. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;

9. Large scale development shall be valid for one calendar year;

10. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;

11. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of

the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and

12. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits;
    b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
    c. Exterior lighting package must be provided to the Planning Division;
    d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
    e. Project Disk with all final revisions; and
    f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 “Guarantees in Lieu of Installed Improvements” to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 13, 2023	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Engineering Memo
- Urban Forestry Comments
- Parks Memo
- Request Letter
- Variance Request Letter
- Site Plan
- Elevations
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map

CITY OF
FAYETTEVILLE
ARKANSAS

STAFF MEMO

TO: Jessie Masters, Development Review Manager

FROM: Melissa Boyd, Staff Engineer

DATE: March 9, 2023

SUBJECT: **Planning Commission Engineering Comments for LSD-2022-0041 THE ARONSON**

*****ENGINEERING RECOMMENDS THIS PROJECT BE TABLED*****

Water: Approximately 7,100 LF of 8" water main is proposed to serve the development. 6" fire lines are proposed for the three multifamily buildings and the movie theater. They are proposing two connections to the existing 6" water main along Highway 112. As part of the Arkansas Department of Transportation's improvements to Highway 112, the existing 6" water main will have to be relocated and is to be replaced with a 12" water main.

Sewer: The development is proposing to extend approximately 5,400 LF of sanitary sewer main throughout the property. There are three new connections shown to the existing 8" sanitary sewer main. This line will also be relocated and replaced with a new 8" sanitary sewer main due to the ArDOT Highway 112 improvements.

Natural Features: Most of the subject property lies within a FEMA Zone AE floodplain. Clabber Creek, a protected stream, is present along the southern property boundary and is within the floodway. An unnamed tributary, also a protected stream, is present for roughly two-thirds of the east property boundary and continues along the south portion of the property until its confluence point with Clabber Creek at Highway 112. No work is shown in the streamside protection zones.

Hydric soils are present on this property. The applicant has provided a wetland study identifying several areas as potential jurisdictional wetlands. Prior to grading permit issuance, permits shall be obtained from the U.S. Army Corps of Engineers for work proposed within all jurisdictional wetland areas.

Engineering is recommending this project be tabled to allow the applicant time to address the flood study comments that were provided 3/8/2023. Staff has reviewed two additional revisions to the flood study since the 3/2/2023 Subdivision Committee meeting. The most recent comments are outlined below:

1. The level pool of the pond increased in the 100-year event due to the tailwater condition. The new elevation is not reflected in the flood study.
2. The reported elevations are from the encroachment (floodway) analysis. Please include the elevations from profile 1 which appears to be the standard 100-year run event.
3. If profile 2, encroachments, is included it appears to increase the BFE more than a foot in certain areas and will need to be revised.

4. Compensatory storage would have to be that above/beyond the required storage for detention. This may impact that calculation due to the pond elevation increasing.

Drainage: This four Minimum Standards of the Drainage Criteria Manual are required to be met by this development. The water quality requirements are proposed to be met using wet extended detention and micropool extended detention. Channel protection has been met as the discharge from the pond for the 1-year, 24-hour storm is less than 2.0 cfs. Overbank flood protection requirements are shown to be met by sizing the pond outfalls to keep peak flows post-development below pre-development peak flows. The extreme flood protection requirement does not seem to be met at this point based on the most recent information from the Engineer's drainage report. Additional discussion is below.

Staff reviewed revisions to the drainage report that was received 3/7/2023 and has several concerns. The site-only pre-development time of concentration calculations indicate 1,422 LF of concrete pipe channel flow; however, it is unclear on the drainage maps or with known information where that pipe is in the existing condition. Pre-development flow lengths and slopes are also unclear between T_c calculations and drainage maps for the overall basin in the existing condition. Post-development flow lengths and slopes do not match between time of concentration calculations and drainage maps for the proposed conditions. The pre-development and post development drainage basin maps do not appear to adequately account for all areas draining to the study point. In addition, there seem to be areas included that should not be included. For the 100-year storm event, the peak elevation (1,207.60') is higher than the top of pond elevation (1,207.00'), which means the pond would be entirely under water and not function as intended. The applicant has also indicated that compensatory storage is proposed within the pond, but it is unclear how that storage interacts with the required detention mitigation from the development's stormwater impact for the 100-year storm.

Staff has consistently worked with the applicant during the entitlement process but at this point cannot recommend approval because the project does not appear to meet the required drainage and floodplain standards.

Plan Comments:

1. Include a table with pipe size, type, and length for proposed water main, fire line, and sanitary sewer main.
2. Retaining walls over 4 feet in height require plans designed and stamped by a Professional Engineer registered in the state of Arkansas.

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 <u>existing</u> infrastructure that does not conform to ADA guidelines or is otherwise damaged must be removed and replaced to correct the issue. Coordinate with the engineering department for inspection of existing facilities to determine compliance.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.

5. Note, the following portions of all projects will typically not be reviewed by the Engineering Division until time of construction-level review (unless specifically requested at plat review):
    - Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
    - Sanitary Sewer pipe sizing, profiles, or utility conflicts
    - Waterline fittings, callouts, or utility conflicts
    - Street profiles
    - Fine grading/spot elevations

URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Jason Appel, P.E., ESI

From: Melissa M. Evans, Urban Forestry

CC: Jessie Masters, Development Review Manager

Meeting Date: March 13, 2023

Subject: LSD-2022-0041: 112 Aronson: N Hwy 112, 209

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

2.	Parking Lot Requirements 1 Tree : 12 Parking Spaces	Yes	No	N/A
a.	Wheel Stops/Curbs *UDC Chapter 177.04B1*	X		
b.	Narrow Tree Lawn (8' min. width, 37.5' length) *UDC Chapter 177.04C*	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 and the street.	**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	**141**
Parking Lot Trees	**28**
Street Trees	**43**
Detention Pond – Large Trees (1 Tree/3,000 square feet)	**33**
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	**133**
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	**200**

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	**12-13-22**	**02-14-23**	**03-13-23**
	01-13-23	**03-01-23**	
	01-30-23		
Approved			
Tabled			
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. A narrow tree lawn is in place for the Drive-In parking area north spaces in lieu of tree islands. A variance from Planning Commission must be sought for the south parking row north of the pond by the drive-in screen, since the only exemptions for parking lot trees is areas for vehicle sales, lease or rental per Ch. 177.
   Urban Forestry supports the variance request from the applicant since it is understandable that a tree in the middle of that parking row would impede the view of the movie screen, and an extra parking tree is proposed in the narrow tree lawn north of the drive-in parking spaces.

To: Jason Appel, P.E., ESI

From: Melissa M. Evans, Urban Forestry

CC: Jessie Masters, Development Review Manager

Meeting Date: March 13, 2023

Subject: LSD-2022-0041: 112 Aronson: N Hwy 112, 209

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

Tree Preservation Calculations		
	Square Feet	**Percent of site**
Total Site Area *Minus Right of Way and Easements	1,389,746	100%
*Zoning Designation * Select Below with drop down arrow*		
C-2, Thoroughfare Commercial	208,462	15%
*HHOD * Select Below with Drop Down Arrow*		
No	0	0%
Total Canopy for Minimum Preservation Requirements	208,462	15.0%
Existing Tree Canopy * Minus Right of Way and Easements	151,469	10.9%
Tree Canopy Preserved	104,999	7.6%
Tree Canopy Removed *On Site	46,470	3.3%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	46,470	3.3%
Removed Below Minimum	**103,463**	
Mitigation Requirements	**46,470**	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	15,015	69
Low Priority	31,455	72
Total Mitigation Trees Required	**46,470**	**141**

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 *UDC Chapter 167.04H1*	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)	**Yes**		
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	**N/A**		
d. Location of material storage	**Yes**		
e. Location of concrete wash out	**Yes**		
f. Location of construction entrance/exit	**Yes**		

6.	**Site Analysis Report (if required)** *UDC Chapter 167.04H4*	**Yes**	**No**	**N/A**
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	**12-13-22**	**02-14-23**	**03-13-23**
		01-13-22	**03-01-23**	
		01-30-23		
	Approved			
	Tabled			
	Denied			

	Comments
1.	Address items above marked “No” and all Redlines provided.

CITY OF FAYETTEVILLE ARKANSAS

Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester

MEETING DATE: March 13, 2023

SUBJECT: **LSD-2022-0041: Variance (112 Aronson):** Submitted by ESI for property located at N. Highway 112. The property is zoned C-2, THOROUGHFARE COMMERCIAL and UT, URBAN THOROUGHFARE and contains approximately 31.20 acres. The request is for a variance to the Site Development and Parking Lot Landscape Standards requirement for Tree Islands.

RECOMMENDATION:
Urban Forestry Staff recommends approval of the variance to LSD-2022-0041 which would allow the property owner to not have a tree island in the middle of the southern parking bay for the Drive-In parking area.

Per Chapter 177.04(C) Interior Landscaping Requirements, a narrow tree lawn or tree islands must be placed for parking lot tree plantings. A narrow tree lawn is in place for the Drive-In parking area north spaces in lieu of tree islands. A variance from Planning Commission is requested for the south parking lot row north of the pond by the drive-in screen, since the only exemptions for parking lot trees is areas for vehicle sales, lease or rental per Ch. 177.

Urban Forestry supports the variance request from the applicant since it is understandable that a tree in the middle of the southern Drive-In parking row would impede the view of the movie screen, and an extra parking tree is proposed in the narrow tree lawn north of the Drive-In parking spaces. The overall number of parking lot trees being provided is not being decreased with this proposal.

CITY OF FAYETTEVILLE ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: January 27, 2023

SUBJECT: Parks & Recreation Technical Plat Review Comments

****

PRAB Meeting Date:	August 1, 2022
Project Title:	The Aronson (AKA Hwy 112 Development)
Project Number:	LSD-2022-0041
Project Location:	3552 HWY 112
Plat Page:	209
Park Quadrant:	NW
Billing Name & Address:	CL Partners LLC, 124 W Capitol Ave, Little Rock, AR 72201

☐ **Land Dedication** ☒ **Fee-in-Lieu** ☐ **Combination**

LAND DEDICATION

									TOTAL Acres
Single Family:	_____	units	x	0.023	acres per unit =	0.00	acres		0.0
Multi Family:	_____	units	x	0.020	acres per unit =	0.00	acres		

FEE-IN-LIEU

							TOTAL Fees
Single Family:	122	units	x	$1,089	per unit =	$132,858	$218,538
Multi Family:	90	units	x	$952	per unit =	$85,680	

SUMMARY:

- Project proposes **122** SF units and **90** MF units.
  - Single Family = 24 detached units and 98 duplex units
  - Multi-Family = 27 triplex units and 63 apartment units (which is 21 units per apt bldg.)
- 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 this project.
- 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.

ENGINEERING SERVICES INC.
1207 S. Old Missouri Rd. • P.O. Box 282 • Springdale, Arkansas 72765-0282 Ph: 479-751-8733 • Fax: 479-751-8746

November 30, 2022

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

RE: Overall Narrative
The Aronson Subdivision
Fayetteville, AR

To whom it may concern,

Please let this letter serve as a narrative to accompany the complete submittal for The Aronson Subdivision. The proposed subdivision is located along Highway 112, just north of the intersection of W Truckers Drive and N Highway 112. It is Washington County Parcel Numbers 765-15811-000, 765-15812-000, 765-15819-000, 765-15816-000, 765-15815-000, 765-15813-000. All six of these properties are owned by the same entity. These properties are currently zoned C-2 and UT, and no change in zoning is requested. There are 3 apartment buildings, 1 management building, and a mix of multifamily and single family units, totaling up to 200 residential units, accompanied by 3 commercial buildings, and one retention pond area.

Pre-Application Meeting

A pre-application meeting was held with Fayetteville Planning, Engineering, and Urban Forestry. All discussion at the meeting has been utilized in the design of the plans.

Parks and Recreation Advisory Board Meeting

Fee in lieu was requested and approved by the Fayetteville Parks and Recreation Advisory Board.

Utilities

This site has access to public water and sewer. The City is relocating the existing 6" water main to a 12" water main on the east side of the new Highway 112, and the 8" sewer will also be relocated with the project to improve Highway 112.

ENGINEERING SERVICES INC.
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Traffic

It is not anticipated that this development will cause any traffic issues as ArDOT is improving Highway 112 to have additional lanes and roundabouts.

This submittal includes the following items:

- No submittal fee is included. Once the invoice is generated, this will be paid by the developer.
- Preliminary Plat Plans
- Preliminary Drainage Report
- Warranty Deed
- Legal Description
- Consent of Owner Form

Please let me know if I can answer any questions.

Jason Appel, P.E.
Secretary/Treasurer

ESI ENGINEERING SERVICES INC.
Brian J. Moore, P.E. President | Tim J. Mays, P.E. Vice President | Jason Appel, P.E. Secretary/Treasurer | Jerry W. Martin Chairman of the Board
Consulting Engineers and Surveyors www.engineeringservices.com

ENGINEERING SERVICES INC.
1207 S. Old Missouri Rd. • P.O. Box 282 • Springdale, Arkansas 72765-0282 Ph: 479-751-8733 • Fax: 479-751-8746

February 22, 2023

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

RE: Variance Request
The Aronson Subdivision
Fayetteville, AR

To whom it may concern,

Please let this letter serve as a request for the following variances and exemption to accompany the complete submittal for The Aronson Subdivision.

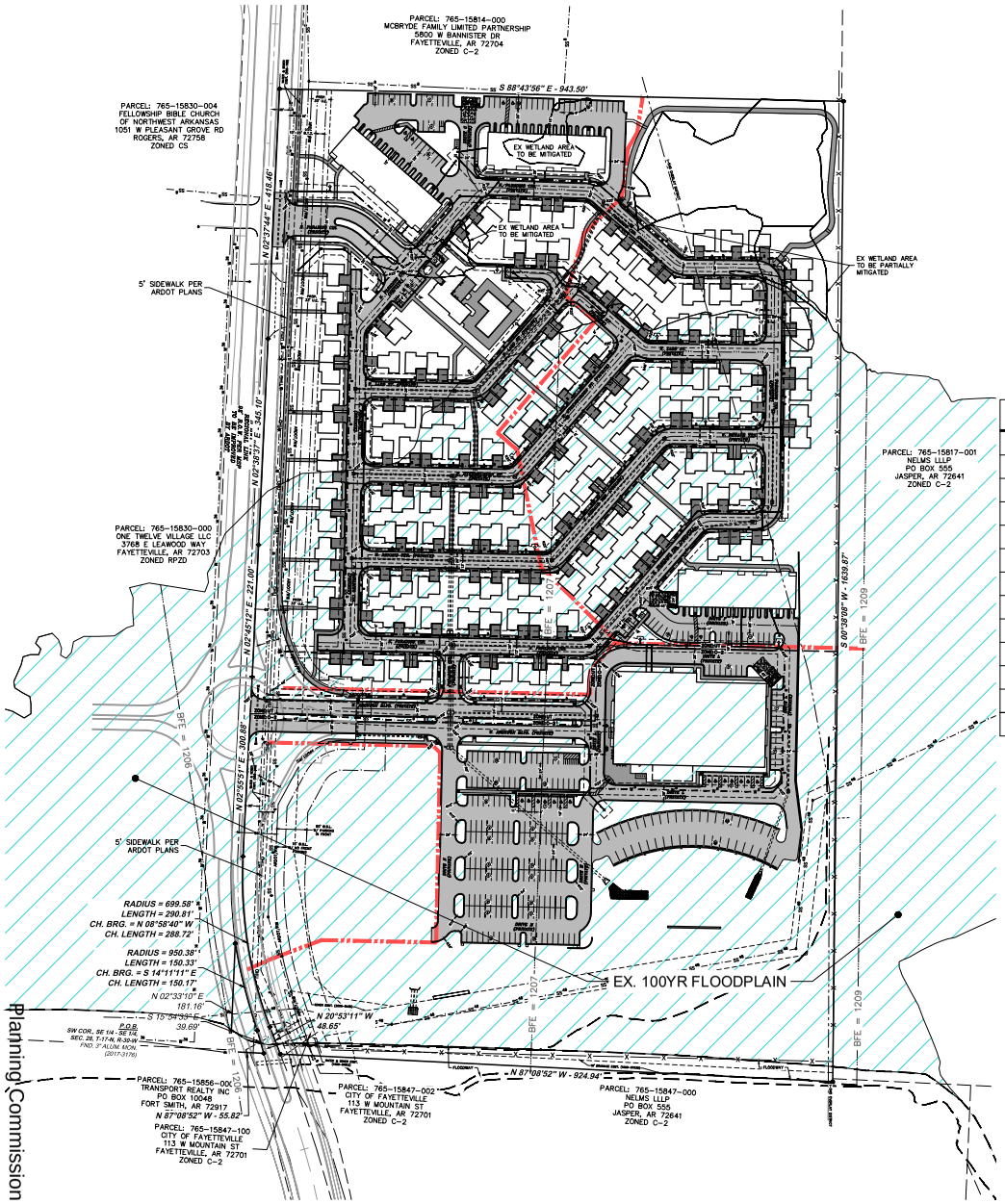
Build to Zone
There is a 10-25' build to zone that is required along Hwy-112. That build to zone requirement cannot be met as ARDOT's improvements require additional Right-of-Way to be dedicated and there is a proposed 33' utility easement along Hwy-112. However, the buildings have been placed as close to the 33' proposed utility easement as possible to attempt to meet the 10-25' build to zone.

Cross Access
A cross access variance has been requested as there are protected waters to the east and south of the development. Cross access would disturb the protected waters and the streamside protection. As for the north side of our development, the adjacent property is a developed warehouse that would not require a connection to a residential area.

Parking Request
At the south side of the proposed theatre where the outdoor screening service is located, a variance is requested to allow larger spaces for service between vehicles and to be exempt from the number of parking spaces allowed/required for the indoor theater. Furthermore, a landscape variance is also requested for the tree island required along the south row of the outdoor screening parking area. Parking trees would block line of sight and the ability for the outdoor screening area to function properly.

Please let me know if I can answer any questions.

Preston Locher
Project Engineer



UT ZONED BUILDING FRONTAGE				
STREET	LENGTH OF FRONTAGE	EXISTING EASEMENTS PERPENDICULAR TO STREET	SIDE SETBACKS	USEABLE FRONTAGE
HWY 112	1046'	0'	N/A	1046'
		REQUIRED BUILDING FRONTAGE (50% OF USABLE FRONTAGE)		523'
		PROVIDED BUILDING FRONTAGE		578'
		BUILDING FRONTAGE WITHIN B.T.Z.		0'*

* THE 848' OF FRONTAGE ALONG HWY-112. IS UNABLE TO BE LOCATED IN THE B.T.Z. DUE TO A 33' PROPOSED EASEMENT PREVENTING THE BUILDING FROM BEING WITHIN THE 25' B.T.Z.

GRID N

GRAPHIC REPRESENTATION ONLY

SCALE 1" = 100'

0 50' 100' 200'

STREET NAME	ROW (FT)	BACK OF CURB TO BACK OF CURB (FT)	GREEN SPACE/SIDE (FT)	SIDEWALK/SIDE (FT)	CL TO ROW (FT)
EXISTING HWY-112 (PUBLIC)	55	22 (EOA)	N/A	N/A	27.5
PROPOSED HWY-112 (PUBLIC)	92	67 *	5 *	5 *	66 *
W. ARONSON BLVD. (PRIVATE)	N/A	VARIES	5' NORTH SIDE 9.5' SOUTH SIDE	5	N/A
N. PARADISO CIR. (PRIVATE)	N/A	27	N/A	5	N/A
W. RENAUD TER. (PRIVATE)	N/A	27	N/A	5	N/A
W. STEENBURGEN ST. (PRIVATE)	N/A	27	N/A	5	N/A
W. LADD ST. (PRIVATE)	N/A	27	N/A	5	N/A
N. PARADISO SQ. (PRIVATE)	N/A	21	5	5	N/A
DRIVE F (PRIVATE)	N/A	27	N/A	N/A	N/A
DRIVE G (PRIVATE)	N/A	27	N/A	5	N/A
DRIVE L (PRIVATE)	N/A	27	N/A	5	N/A
DRIVE M (PRIVATE)	N/A	N/A	N/A	N/A	N/A
DRIVE N (PRIVATE)	N/A	N/A	N/A	N/A	N/A

* FUTURE ROW, BOC TO BOC GREENSPACE AND SIDEWALK PER ARDOT PLANS.

REQUIRED PARKING SPACES:

MOVIE THEATER: 1 PARKING SPACE PER 4 SEATS
844 SEATS / 4 = 211 SPACES REQUIRED
211 SPACES PROVIDED
7 ADA SPACES REQUIRED, 14 PROVIDED
1 MOTOR CYCLE SPACE PER 25 SPACES
211 SPACES / 25 = 8 MOTORCYCLE SPACES REQUIRED, 9 PROVIDED
1 BICYCLE RACK PER 20 SPACES
211 SPACES / 20 = 10 BICYCLE RACK PROVIDED

SOUTHERN APARTMENT BUILDING: 1 PER BEDROOM
40 BEDROOMS = 40 SPACES REQUIRED
14 GARAGE SPACES + 26 SPACES = 40 SPACES PROVIDED
2 ADA SPACES REQUIRED, 2 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
40 SPACES / 25 = 2 MOTORCYCLE SPACES REQUIRED, 2 PROVIDED
1 BICYCLE SPOT PER 30 DWELLING UNITS
21 DWELLING = 2 BICYCLE RACK PROVIDED

NORTHERN APARTMENT BUILDINGS: 1 PER BEDROOM
80 BEDROOMS = 80 SPACES REQUIRED
28 GARAGE SPACES + 52 SPACES = 80 SPACES PROVIDED
4 ADA SPACES REQUIRED, 4 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
80 SPACES / 25 = 3 MOTORCYCLE SPACES REQUIRED, 3 PROVIDED
1 BICYCLE RACK PER 30 DWELLING UNITS
42 DWELLINGS = 4 BICYCLE RACK PROVIDED

PRIVATE CLUBHOUSE: 1 PER 500 SQ.FT.
3,063 SQ.FT. / 500 =6 SPACES REQUIRED
7 SPOTS PROVIDED
1 ADA SPACE REQUIRED, 1 PROVIDED
1 MOTORCYCLE SPACE PER 25 SPACES
7 SPACES / 25 = 1 MOTORCYCLE SPACE REQUIRED, 3 PROVIDED

DUPLEX/TRIPLEX: 2 PER UNIT.
151 UNITS * 2 = 302 SPACES REQUIRED
29 COVERED SPOTS PROVIDED
273 UNCOVERED DRIVEWAYS SPOTS PROVIDED
302 TOTAL SPACES PROVIDED

LEGEND

	PROPERTY LINE	P.O.B.	POINT OF BEGINNING
	ADJACENT OWNER		FOUND MONUMENT (AS NOTED)
R/W	RIGHT-OF-WAY		SEWER MANHOLE (SMH)
	SETBACK LINE		GAS METER (GM)
	PHYSICAL CENTERLINE OF ROAD		POWER POLE (PP)
OHU	OVERHEAD UTILITIES		LIGHT POLE (LP)
W	WATER LINE		FIRE HYDRANT (FH)
SS	SANITARY SEWER LINE		WATER VALVE (WV)
	CURB AND GUTTER		CLEANOUT (CO)
			SIGN (AS NOTED)
			DRIVE IN SPEAKER
			2 INCH PIPE STICKING OUT OF GROUND

OWNER: CL PARTNERS LLC; D BRIGGS 112 EXCHANGE LLC
124 W CAPITOL AVE.
LITTLE ROCK AR. 72201

DEVELOPER/BUYER: CL DEVCO, LLC.

ENGINEER: ENGINEERING SERVICES, INC.
1207 S. OLD MISSOURI ROAD
P.O. BOX 283
SPRINGDALE, AR 72765

CITY ZONING: C-2 (THOROUGHFARE COMMERCIAL)
AND UT (URBAN THOROUGHFARE)

SETBACKS: UT: FRONT – BUILD-TO ZONE LOCATED BETWEEN 10' AND A LINE 25' FROM THE FRONT PROPERTY LINE
SIDE AND REAR – 0'
SIDE OR REAR, WHEN CONTIGUOUS TO A SINGLE-FAMILY RESIDENTIAL DISTRICT– 15'
C-2: FRONT – 15'
FRONT IF PARKING BETWEEN ROW AND BUILDING – 50'
SIDE: NONE
SIDE WHEN CONTIGUOUS TO A RESIDENTIAL DISTRICT – 15'
REAR: 20'

PROPOSED UNITS: 21 UNIT PER APARTMENT, 63 TOTAL APARTMENT UNITS
TOTAL UNITS: 214

SURVEY DESCRIPTION:

PART OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID E 1/2 OF THE SE 1/4, SAID POINT BEING A FOUND 3 INCH ALUMINUM MONUMENT; THENCE ALONG THE SOUTH LINE OF SAID E 1/2 OF THE SE 1/4, S87°08'52" E A DISTANCE OF 83.50 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN WITH CAP PLS 1156 ; THENCE LEAVING SAID SOUTH LINE, N20°53'11" W A DISTANCE OF 48.65 FEET; THENCE ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 699.58 FEET, AN ARC LENGTH OF 290.81 FEET, AND A CHORD BEARING AND DISTANCE OF N08°58'40" W – 288.72 FEET; THENCE N02°35'51" E A DISTANCE OF 300.08 FEET; THENCE N02°45'12" E A DISTANCE OF 221.00 FEET; THENCE N02°35'31" E A DISTANCE OF 345.10 FEET; THENCE N02°37'44" E A DISTANCE OF 418.46 FEET TO A SET IRON PIN WITH CAP PLS 1156 ; THENCE S88°43'56" E A DISTANCE OF 943.50 FEET TO A SET IRON PIN WITH CAP PLS 1156 ; THENCE S00°39'06" W A DISTANCE OF 1639.87 FEET TO A SET IRON PIN WITH CAP PLS 1156 ON THE SOUTH LINE OF SAID E 1/2 OF THE SE 1/4; THENCE ALONG SAID SOUTH LINE, N87°08'52" W A DISTANCE OF 924.94 FEET TO THE POINT OF BEGINNING, CONTAINING 36.11 ACRES (1,572,946 SQUARE FEET), MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS OR RESTRICTIVE COVENANTS OF RECORD AND FACT.

AND

A REMAINDER TRACT, BEING PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID E 1/2 OF THE SE 1/4, SAID POINT BEING A FOUND 3 INCH ALUMINUM MONUMENT; THENCE ALONG THE WEST LINE OF SAID E 1/2 OF THE SE 1/4, N02°33'10" E A DISTANCE OF 181.16 FEET TO A SET IRON PIN WITH CAP PLS 1156 ; THENCE LEAVING SAID WEST LINE, ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 950.38 FEET, AN ARC LENGTH OF 150.33 FEET, AND A CHORD BEARING AND DISTANCE OF S14°11'11" E – 150.17 FEET; THENCE S15°54'33" E A DISTANCE OF 39.69 FEET TO A SET IRON PIN WITH CAP PLS 1156 ON THE SOUTH LINE OF SAID E 1/2 OF THE SE 1/4; THENCE ALONG SAID SOUTH LINE, N87°08'52" W A DISTANCE OF 55.82 FEET TO THE POINT OF BEGINNING, CONTAINING 0.11 ACRES (4,669 SQUARE FEET), MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS OR RESTRICTIVE COVENANTS OF RECORD AND FACT.

FEMA FLOOD PLAIN ZONE:

THIS PROPERTY IS WITHIN THE FLOOD PLAIN ZONE "AE", DESIGNATED AS AN AREA WHERE BASE FLOOD ELEVATIONS HAVE BEEN DETERMINED. THE ANNUAL CHANCE FLOOD (100-YEAR FLOOD), ALSO KNOWN AS THE BASE FLOOD, IS THE FLOOD THAT HAS A 1% CHANCE OF BEING EQUALED OR EXCEEDED IN ANY GIVEN YEAR. AS SHOWN ON THE F.I.R.M. MAP #05143C0210F, PANEL 210 OF 575, WASHINGTON COUNTY, ARKANSAS & INCORPORATED AREAS. MAP REVISED: MAY 16, 2008.

THIS PROPERTY IS WITHIN THE FLOOD PLAIN ZONE "X", (GRAY SHADED) DESIGNATED AS AN AREA OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD. AS SHOWN ON THE F.I.R.M. MAP # 05143C0210F, PANEL 210 OF 575, WASHINGTON COUNTY, ARKANSAS & INCORPORATED AREAS. MAP REVISED: MAY 16, 2008.

THIS PROPERTY IS WITHIN THE FLOOD PLAIN ZONE "X", (NO SHADING) DESIGNATED AS AN AREA DETERMINED TO BE OUTSIDE OF 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON THE F.I.R.M. MAP # 05143C0210F, PANEL 210 OF 575, WASHINGTON COUNTY, ARKANSAS & INCORPORATED AREAS. MAP REVISED: MAY 16, 2008.

PLAT PAGE: 209

REVISION	DATE	DESCRIPTION

OVERALL LAYOUT
THE ARONSON
FAYETTEVILLE, ARKANSAS

SCALE: 1"=100' | DATE: February 21, 2023 | DRAWN BY: BAP

ENGINEERING SERVICES, INCORPORATED
SPRINGDALE, ARKANSAS

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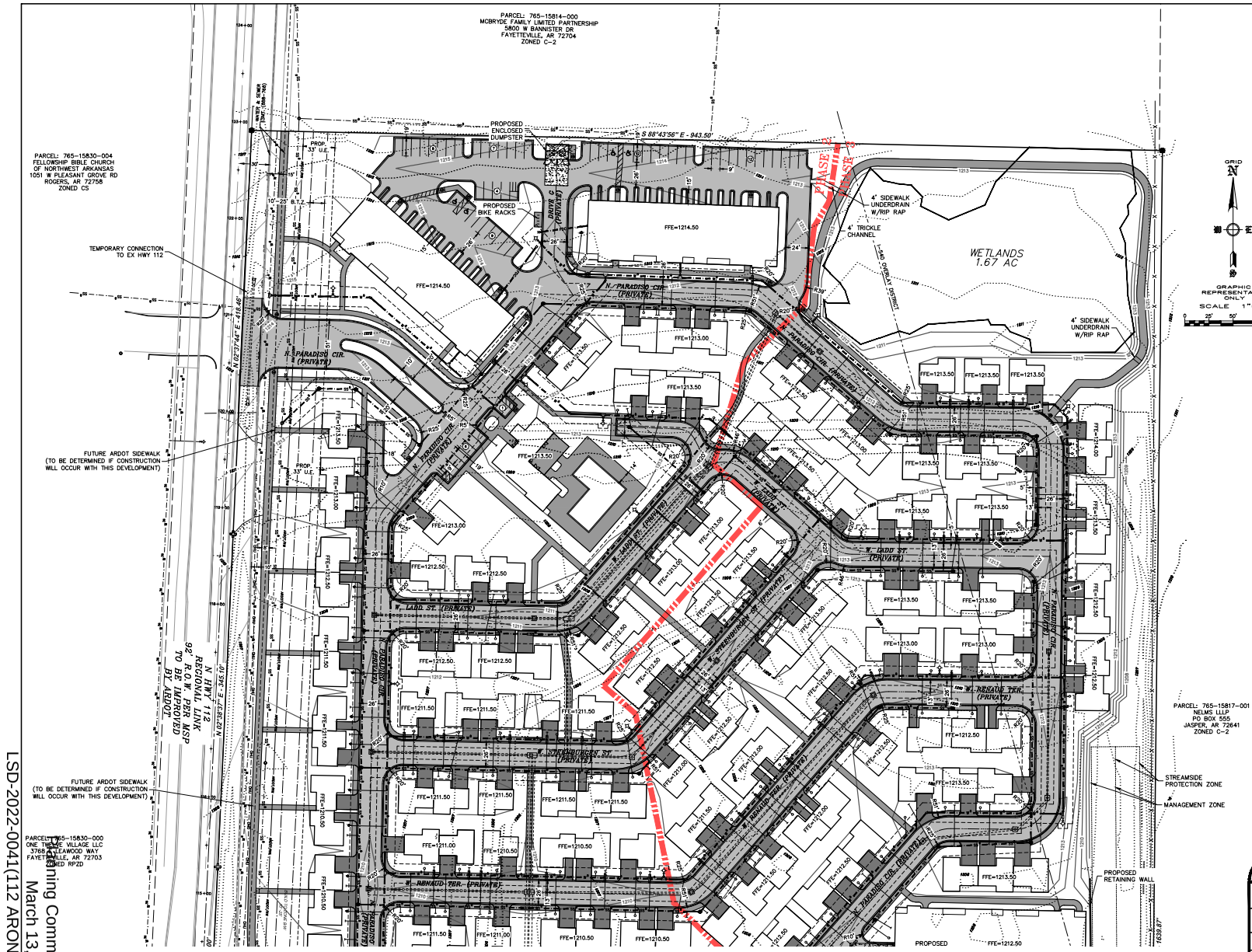
S:\JOB\22944 112 Drive-In Lot\22944 - LSD.dwg

W.O.# 22944 | SHEET 3



LEGEND

	PROPERTY LINE	P.O.B.	POINT OF BEGINNING
	ADJACENT OWNER		FOUND MONUMENT (AS NOTED)
R/W	RIGHT-OF-WAY		SEWER MANHOLE (SMH)
	SETBACK LINE		GAS METER (GM)
	PHYSICAL CENTERLINE OF ROAD		POWER POLE (PP)
OHU	OVERHEAD UTILITIES		LIGHT POLE (LP)
W	WATER LINE		FIRE HYDRANT (FH)
SS	SANITARY SEWER LINE		WATER VALVE (WV)
	CURB AND GUTTER		CLEANOUT (CO)
			SIGN (AS NOTED)
			DRIVE IN SPEAKER
			2 INCH PIPE STICKING OUT OF GROUND

OWNER: CL PARTNERS LLC; D BRIGGS 112 EXCHANGE LLC
124 W CAPITOL AVE.
LITTLE ROCK AR. 72201

DEVELOPER/BUYER: CL DEVCO, LLC.

ENGINEER: ENGINEERING SERVICES, INC.
1207 S. OLD MISSOURI ROAD
P.O. BOX 282
SPRINGDALE, AR 72765

CITY ZONING: C-2 (THOROUGHFARE COMMERCIAL)
AND UT (URBAN THOROUGHFARE)

SETBACKS: UT: FRONT – BUILD-TO ZONE LOCATED BETWEEN 10' AND A LINE 25' FROM THE FRONT PROPERTY LINE
SIDE AND REAR – 0'
SIDE OR REAR, WHEN CONTIGUOUS TO A SINGLE-FAMILY RESIDENTIAL DISTRICT– 15'
C-2: FRONT – 15'
FRONT IF PARKING BETWEEN ROW AND BUILDING – 50'
SIDE: NONE
SIDE WHEN CONTIGUOUS TO A RESIDENTIAL DISTRICT – 15'
REAR: 20'

PROPOSED UNITS: 21 UNIT PER APARTMENT, 63 TOTAL APARTMENT UNITS
TOTAL UNITS: 214

REQUIRED PARKING SPACES:

MOVIE THEATER: 1 PARKING SPACE PER 4 SEATS
844 SEATS / 4 = 211 SPACES REQUIRED
211 SPACES PROVIDED
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PRIVATE CLUBHOUSE: 1 PER 500 SQ.FT.
3,063 SQ.FT. / 500 =6 SPACES REQUIRED
7 SPOTS PROVIDED
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PLAT PAGE: 209

REVISION	DATE	DESCRIPTION

LARGE SCALE DEVELOPMENT
THE ARONSON
FAYETTEVILLE, ARKANSAS

SCALE: 1"=50' | DATE: February 21, 2023 | DRAWN BY: BAP

ENGINEERING SERVICES, INCORPORATED
SPRINGDALE, ARKANSAS

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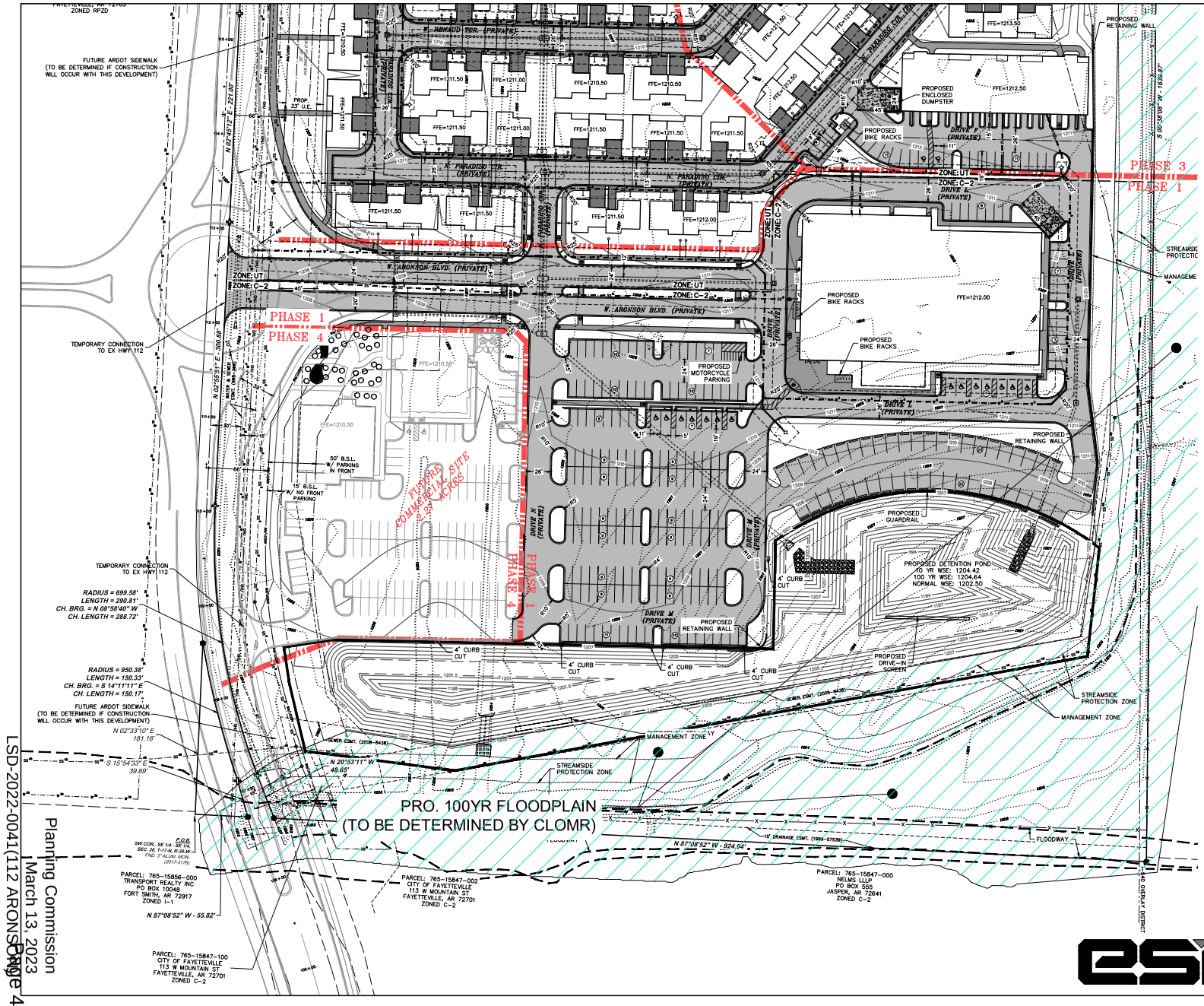

LEGEND

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OHU OVERHEAD UTILITIES	LIGHT POLE (LP)
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REAR: 20'

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PLAT PAGE: 209

REVISION	DATE	DESCRIPTION

LARGE SCALE DEVELOPMENT
THE ARONSON
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SCALE: 1"=50' | DATE: February 21, 2023 | DRAWN BY: BAP

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SPRINGDALE, ARKANSAS

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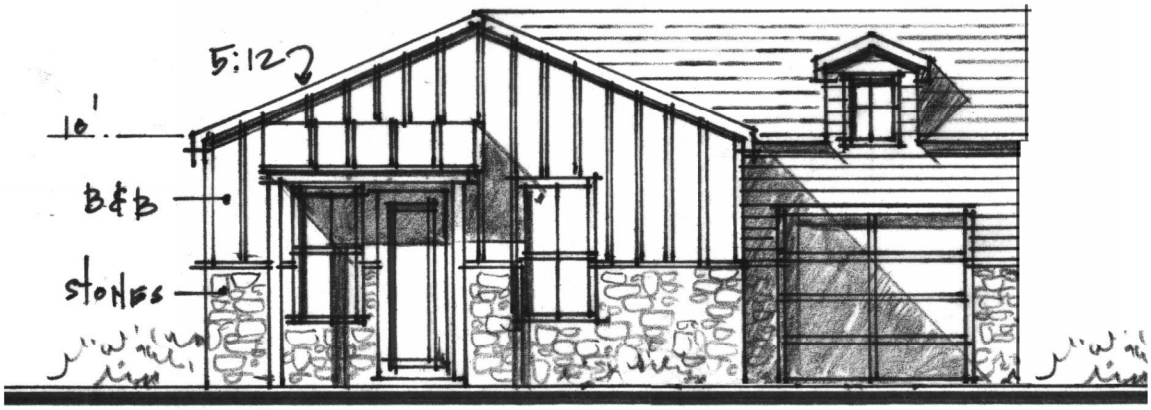
W.O.# 22944 | SHEET 5



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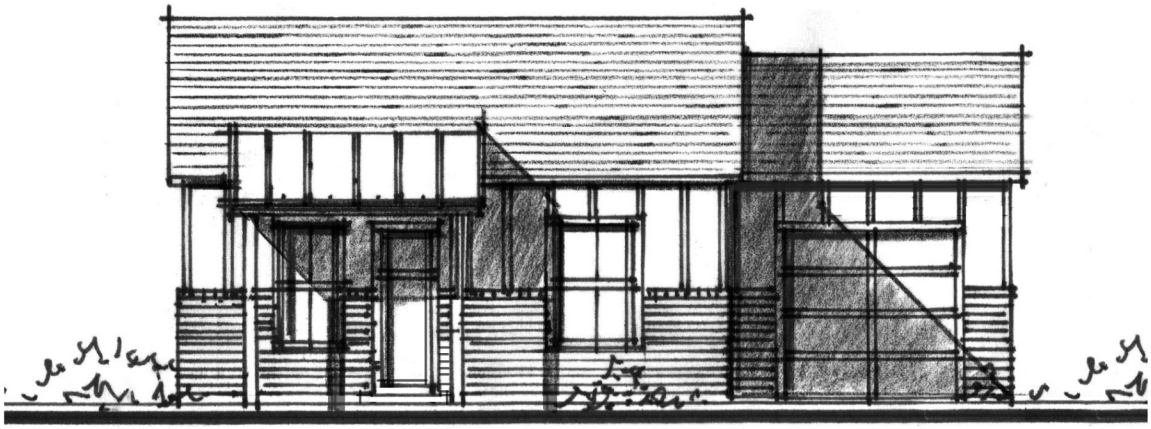
Plan 1A

1

Plan 1B



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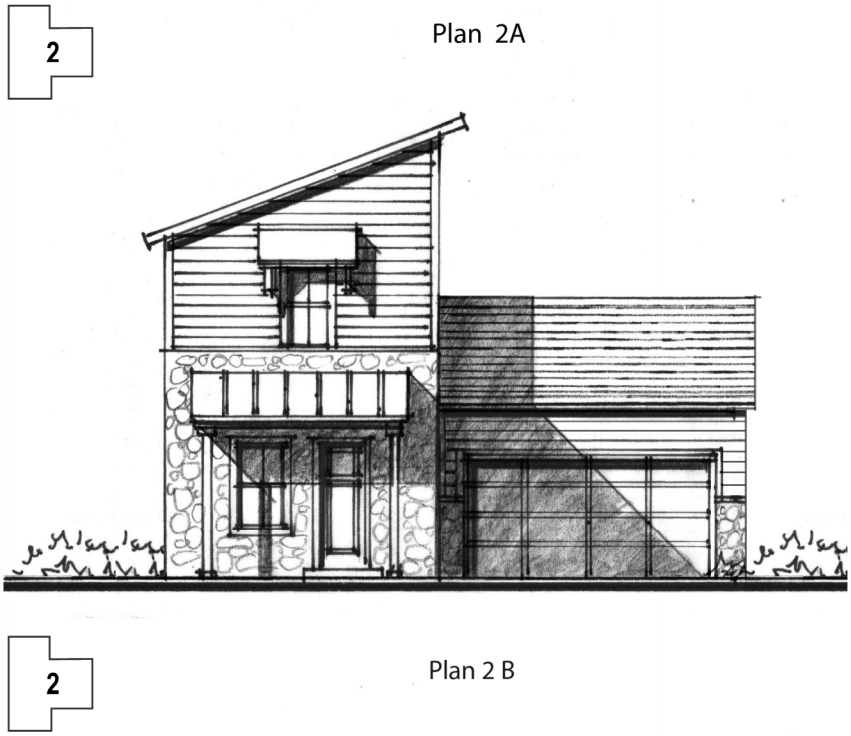
Plan 1C



Plan 2A

Plan 2 B

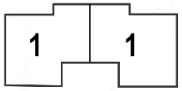
Plan 2 C

3

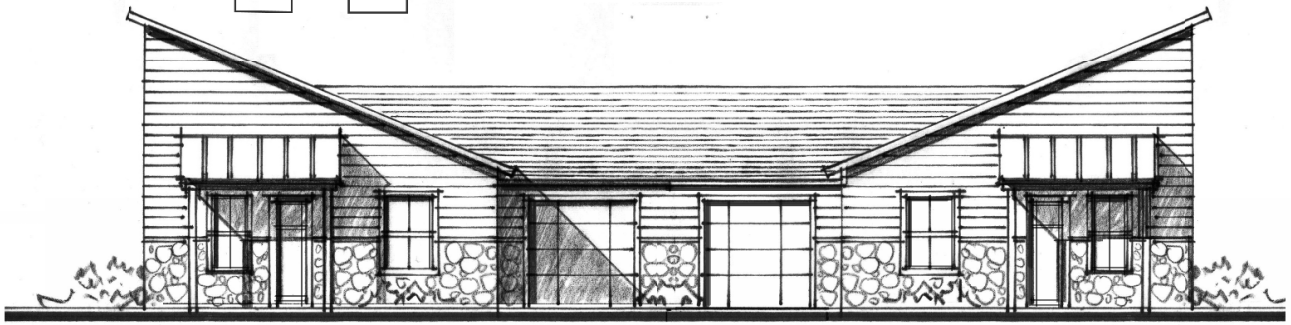
Plan 3A

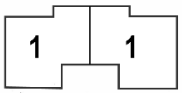
3

Plan 3B



Duplex 1-1A





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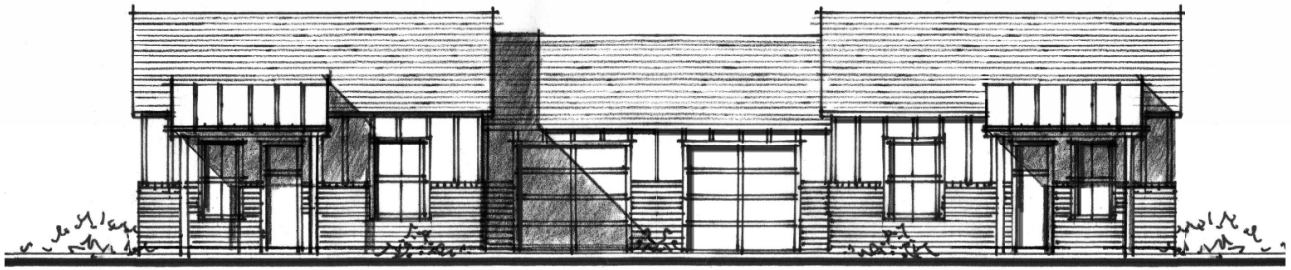
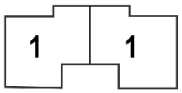
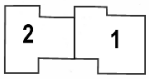




Duplex 1-1 C



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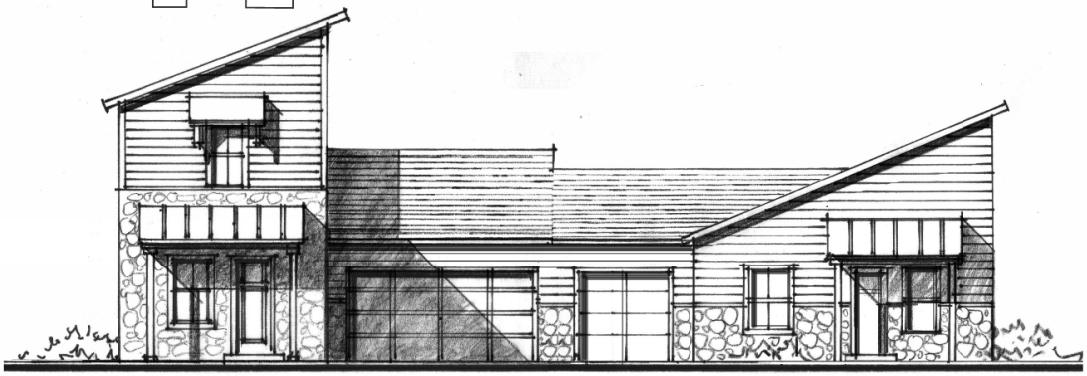

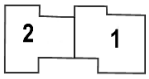

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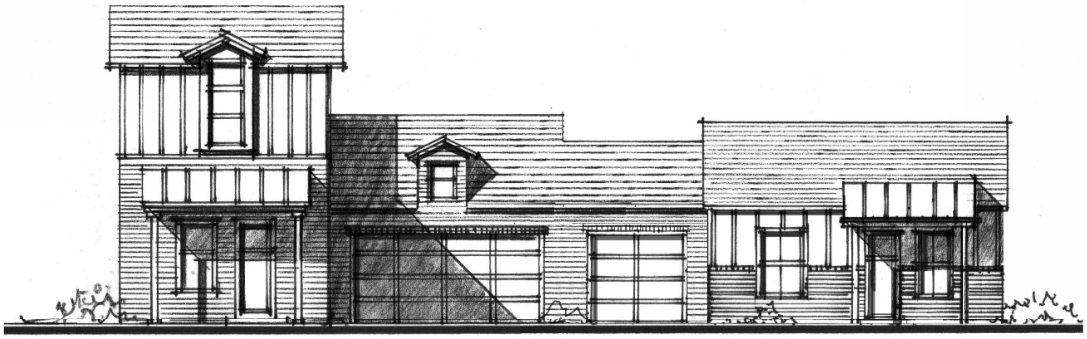

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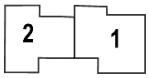
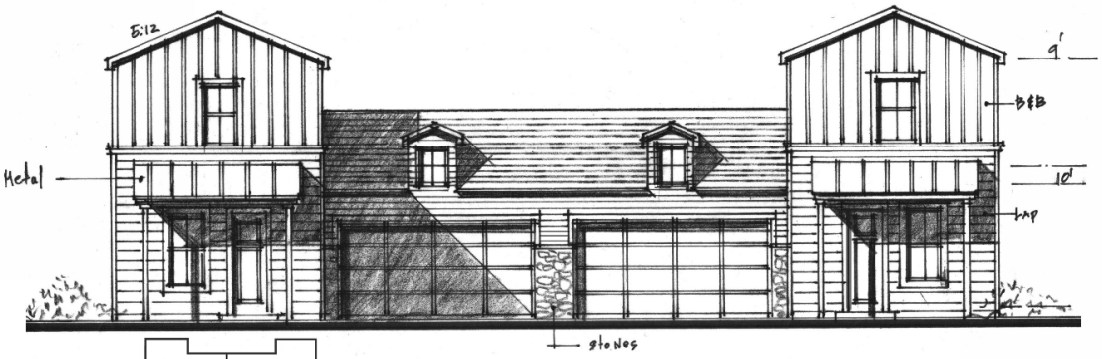
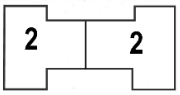
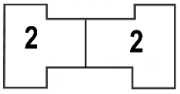






Duplex 2-2 A （Type A)



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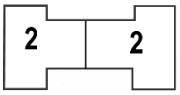
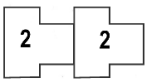
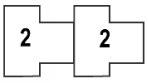


Duplex 2-2 C （Type A)



Duplex 2-2 A (Type B)



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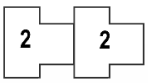

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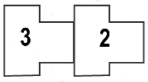
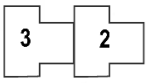


Duplex 3-2 A



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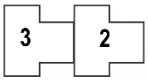

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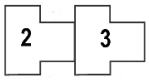

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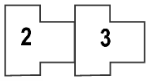
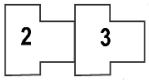


Duplex 2-3 (Type C)



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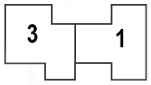
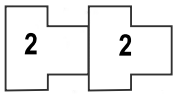
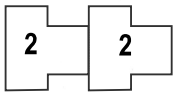


Duplex 3-1



Duplex 2-2 A (Type B) Side Driveway



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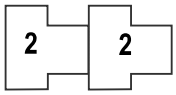
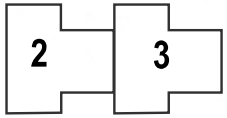
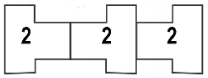


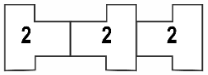
Duplex 2-2 C (Type B) Side Driveway



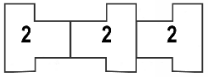
Duplex 2-3 (Type B) Side Driveway



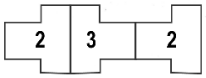
Triplex 2-2-2 A



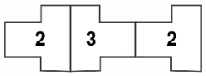
Plan 2-2-2 B



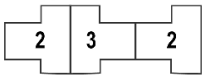
Plan 2-2-2 C



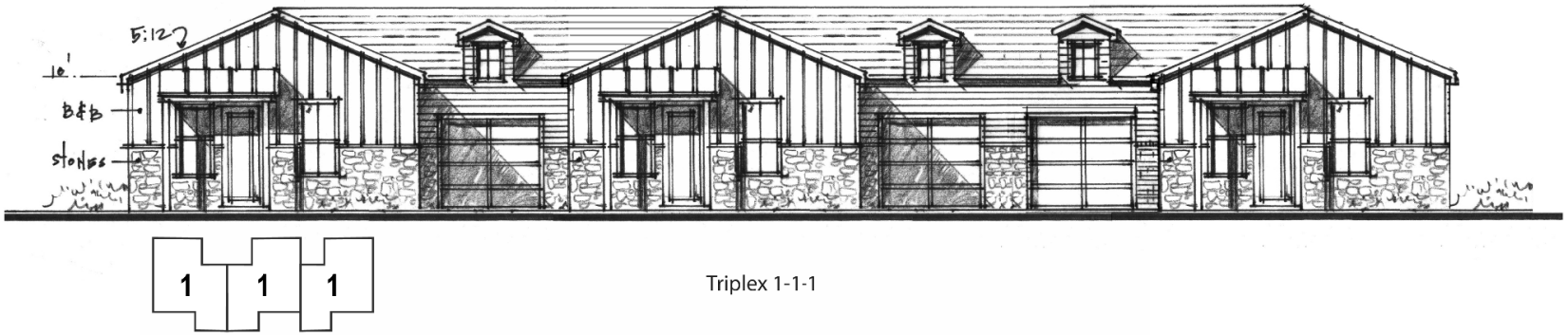
Triplex 2-3-2 A



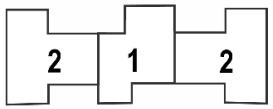
Triplex 2 3 2 B



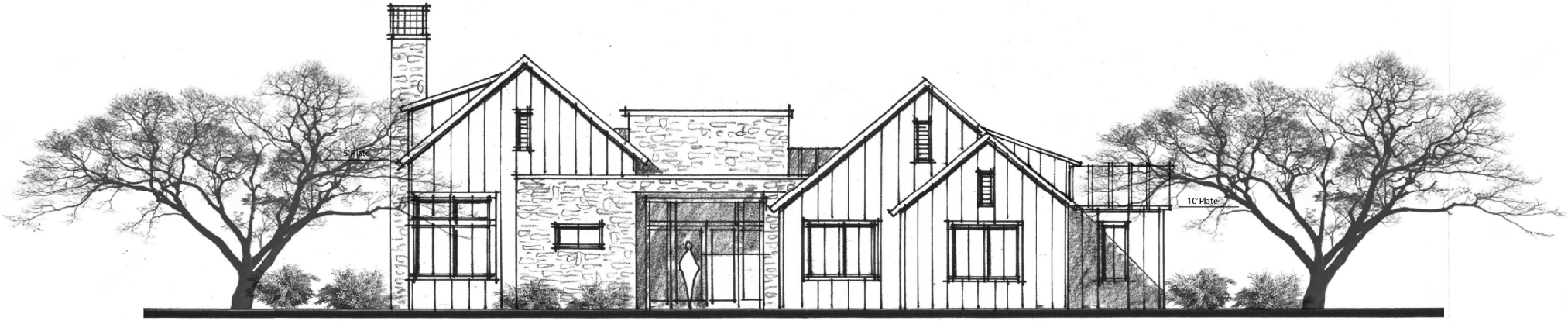
Triplex 2-3-2 C



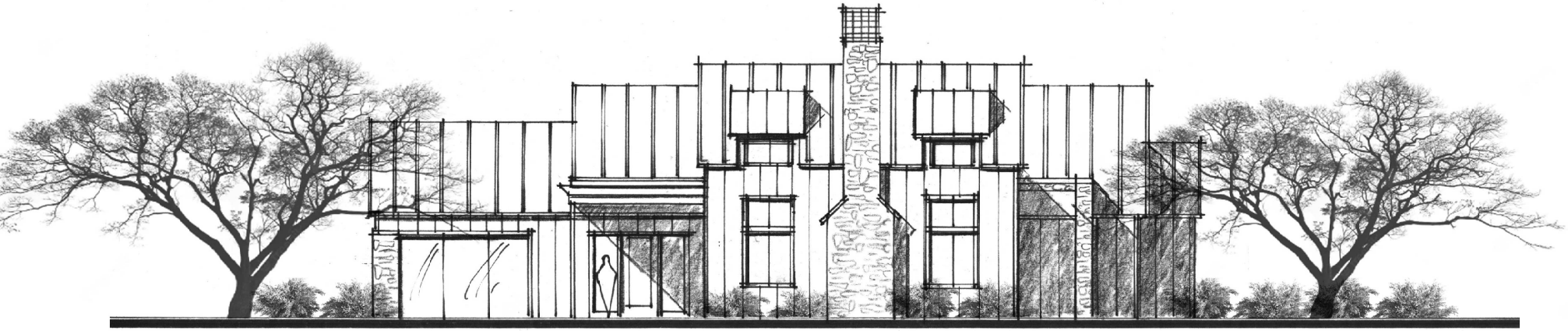
Triplex 1-1-1



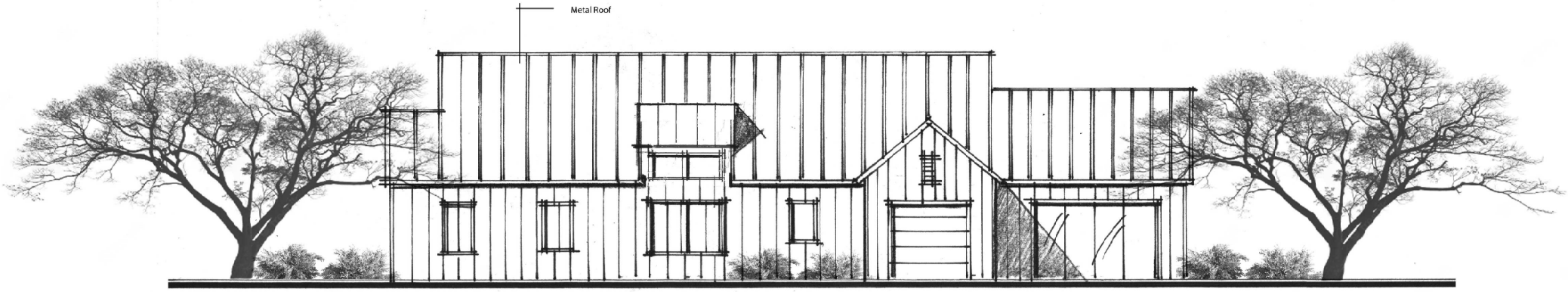
Triplex 2-1-2



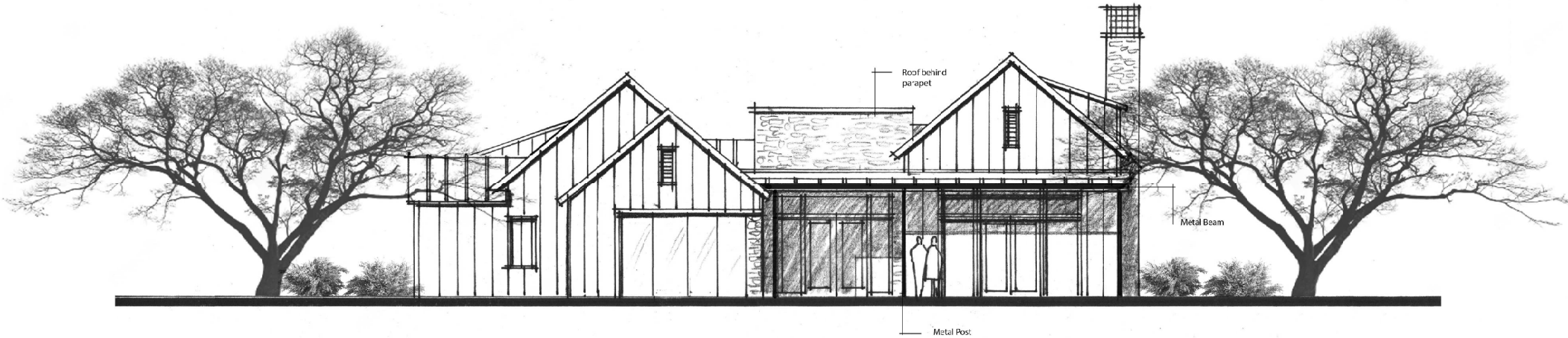
CLUBHOUSE FRONT ELEVATION



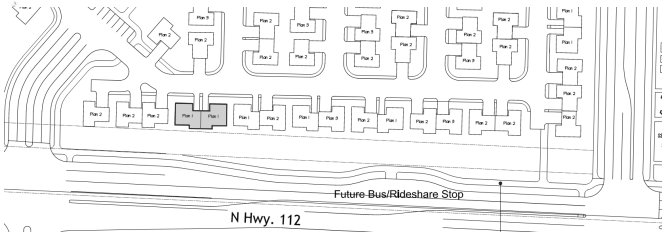
CLUBHOUSE LEFT SIDE ELEVATION



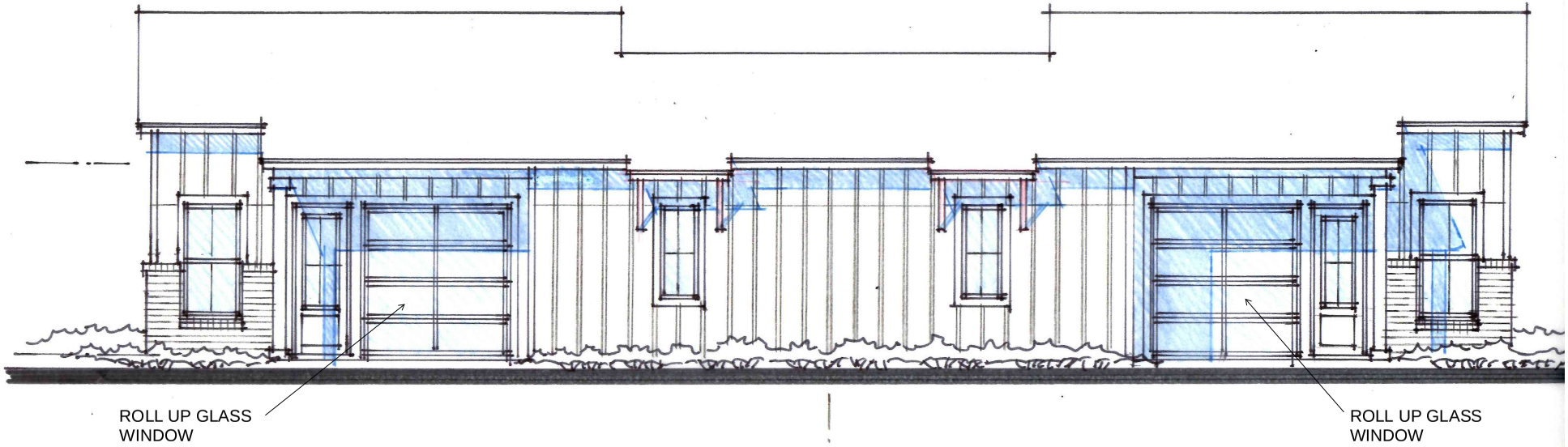
CLUBHOUSE RIGHT SIDE ELEVATION



CLUBHOUSE REAR ELEVATION



KEY PLAN



PLAN 1-1 WEST ELEVATION AT 112 RANCH ROAD

EX GROUP
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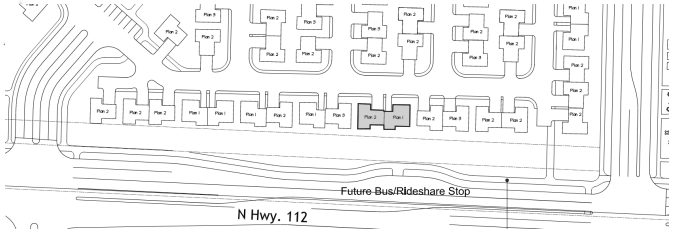

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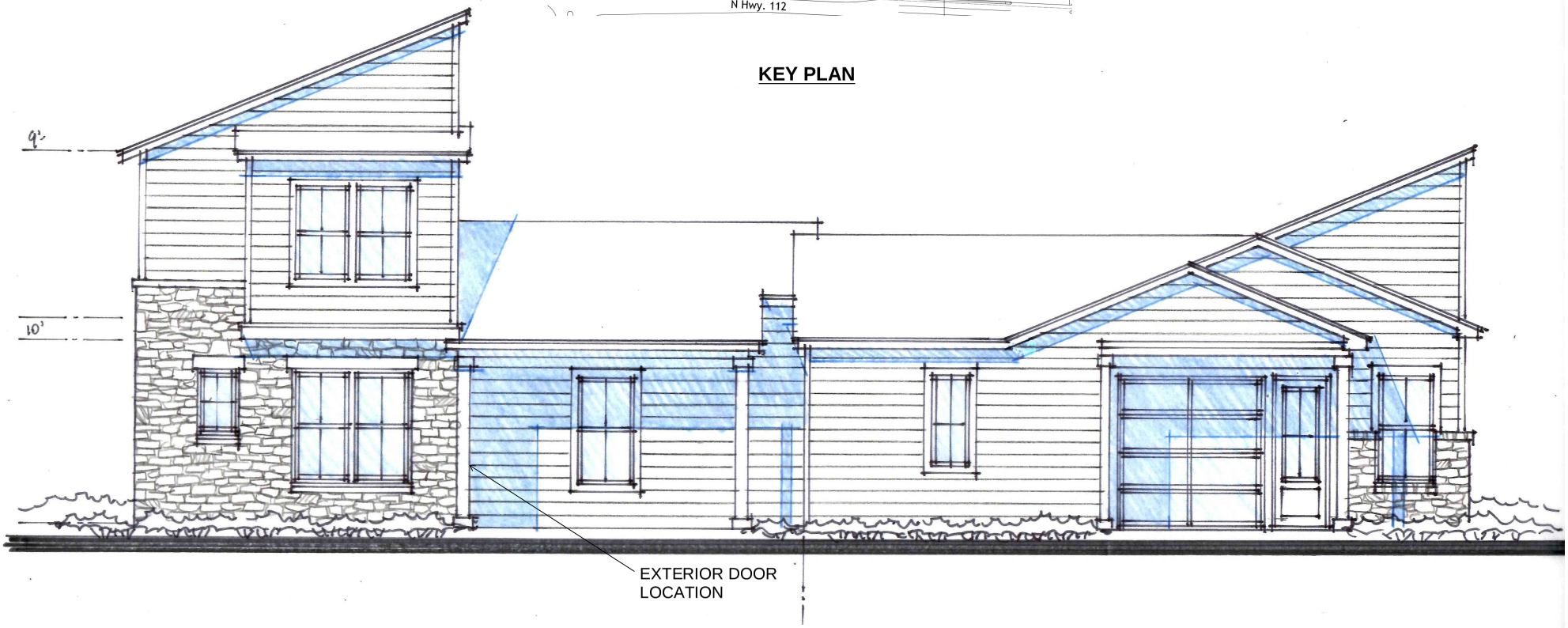

PLAN 1-2 WEST ELEVATION AT 112 RANCH ROAD

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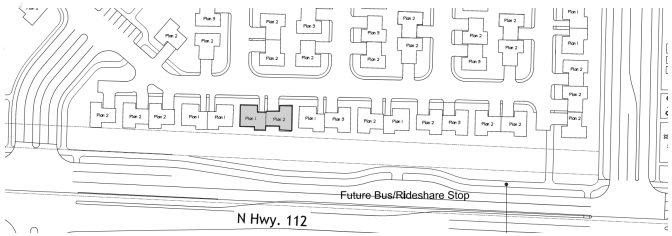
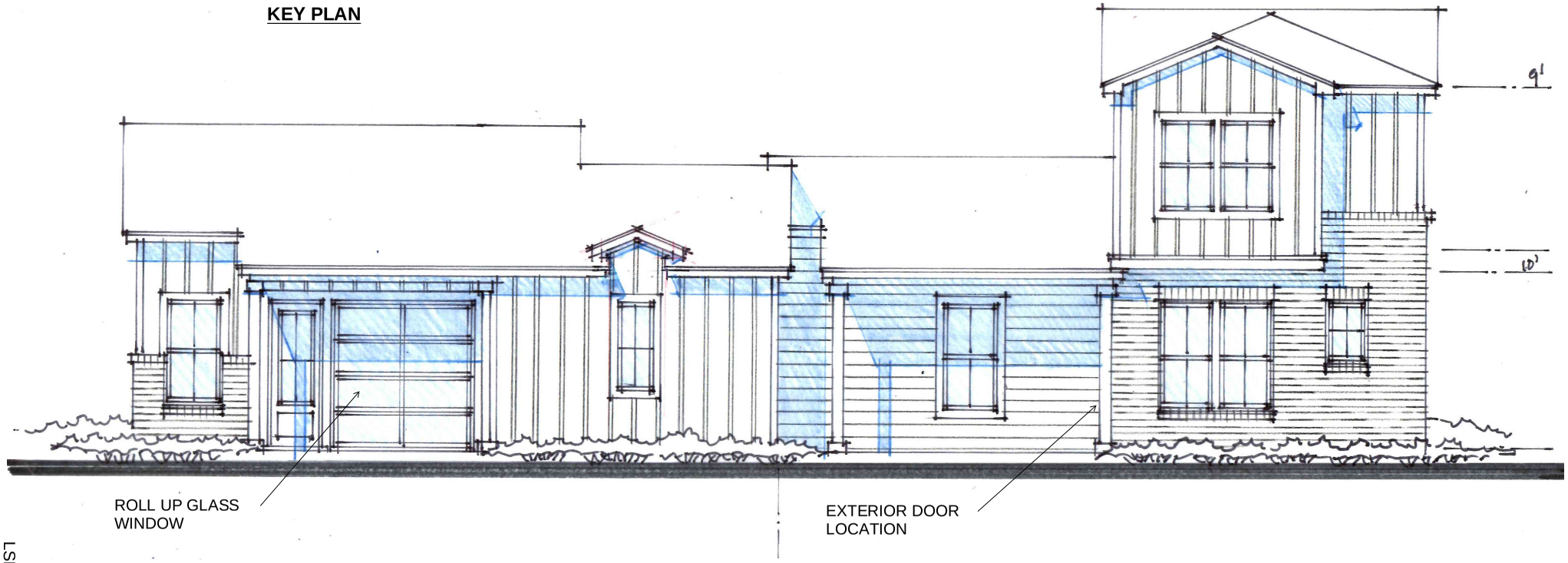


KEY PLAN



PLAN 2-1 WEST ELEVATION AT 112 RANCH ROAD

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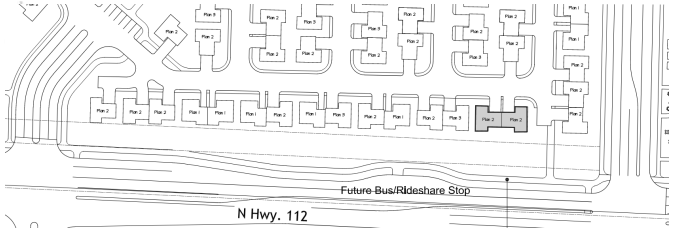

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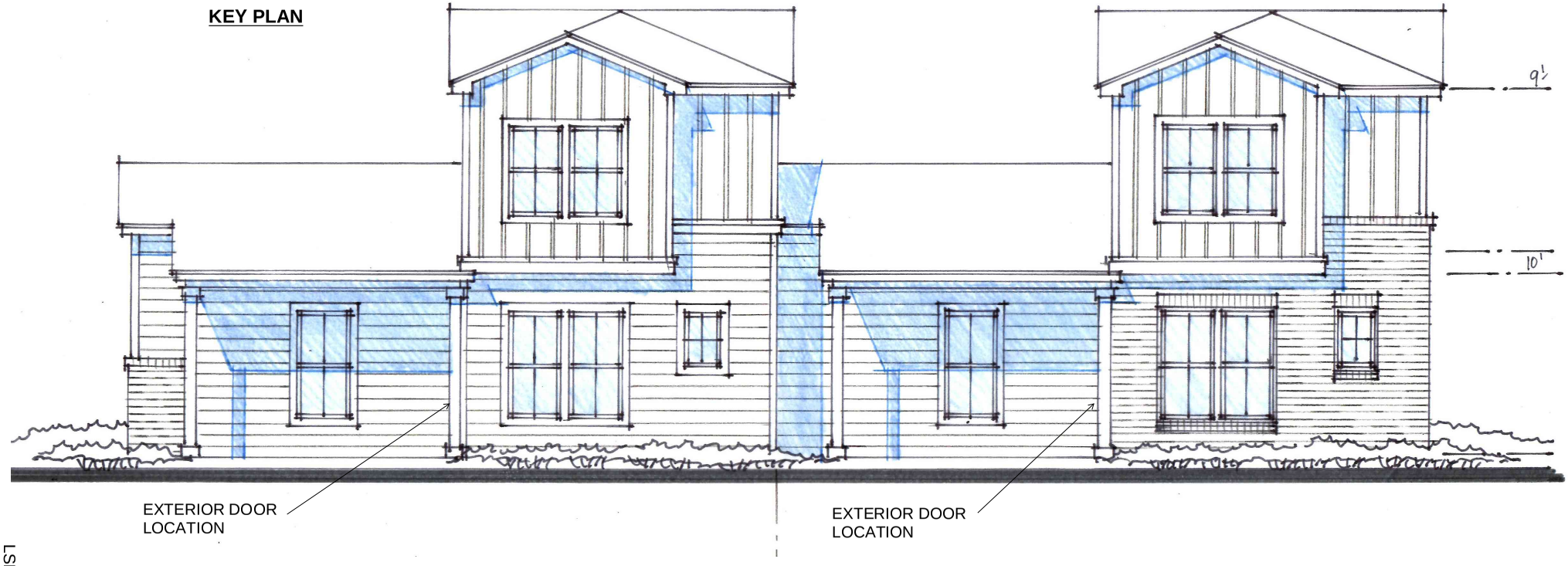

PLAN 2-2 WEST ELEVATION AT 112 RANCH ROAD

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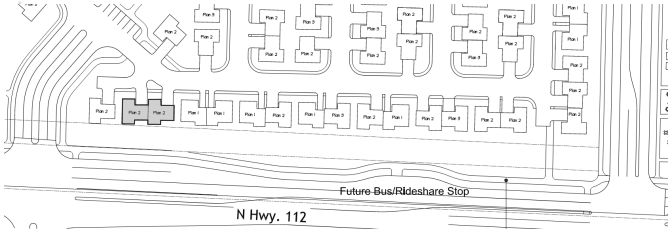
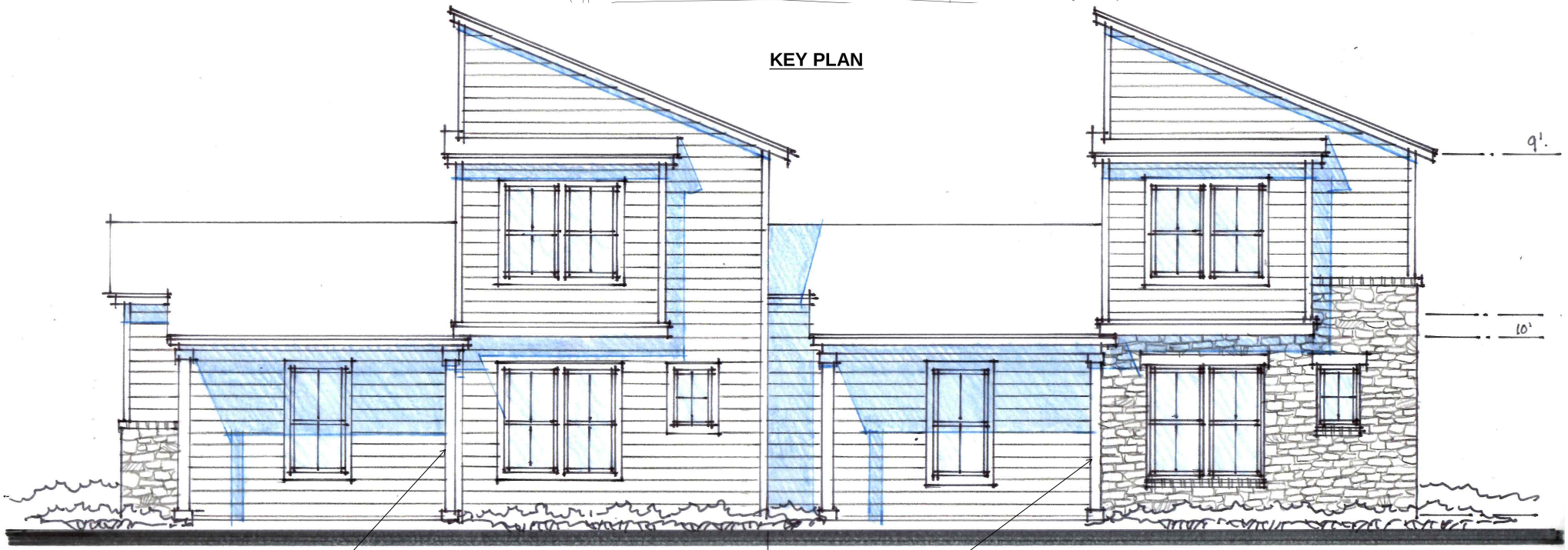


KEY PLAN



PLAN 2-2 WEST ELEVATION AT 112 RANCH ROAD

LEX GROUP
HOUSTON, TX

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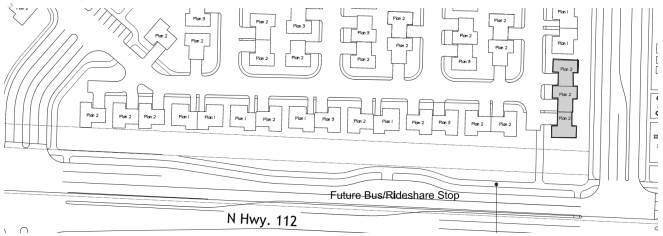

KEY PLAN

PLAN 2-2 WEST ELEVATION AT 112 RANCH ROAD

EX GROUP
HOUSTON, TX
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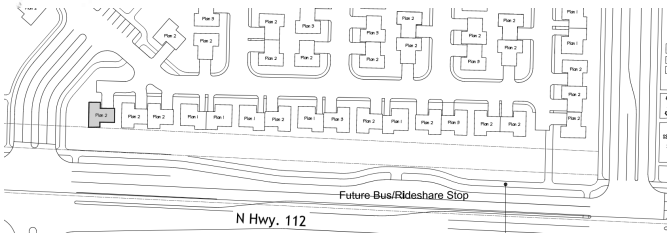
2023



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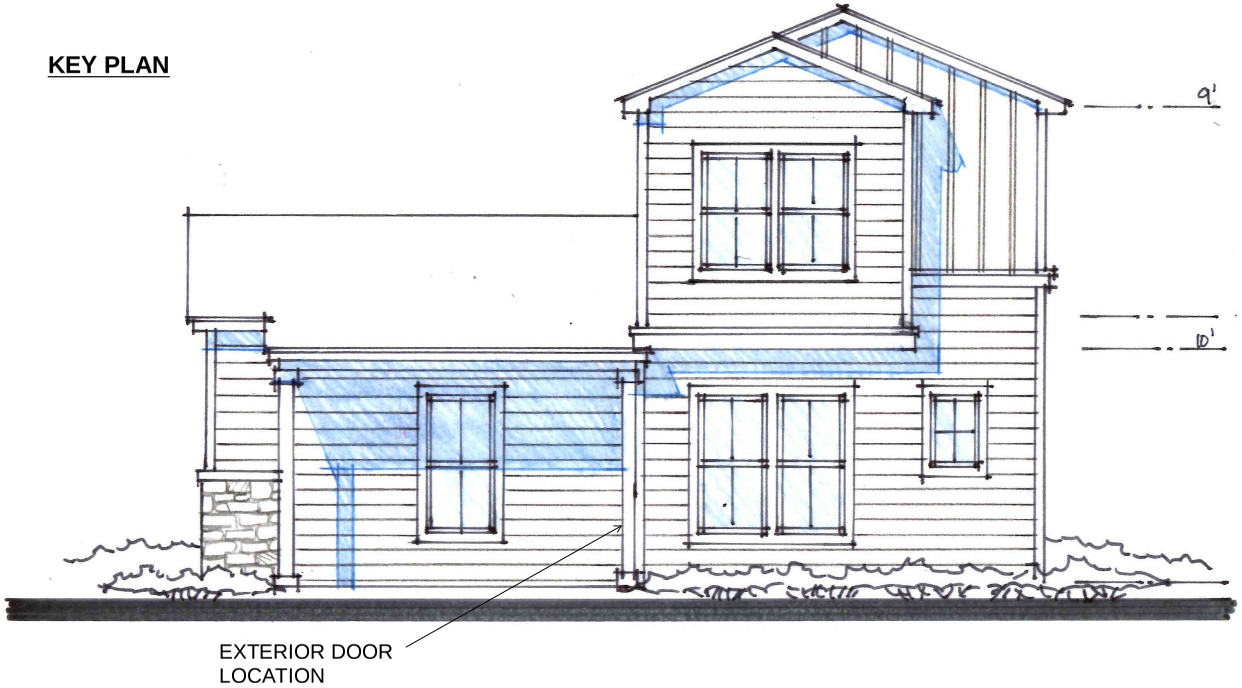

PLAN 2 WEST ELEVATION AT 112 RANCH ROAD

LEX GROUP
HOUSTON, TX
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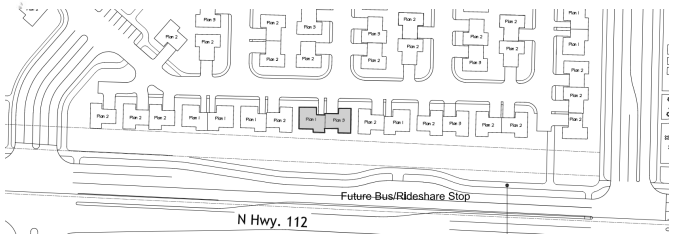
2023



KEY PLAN

PLAN 3-1 WEST ELEVATION AT 112 RANCH ROAD

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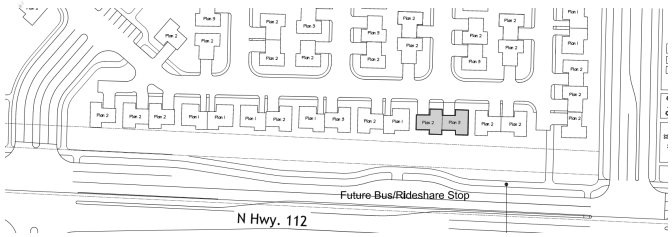
2023

EX GROUP
HOUSTON, TX



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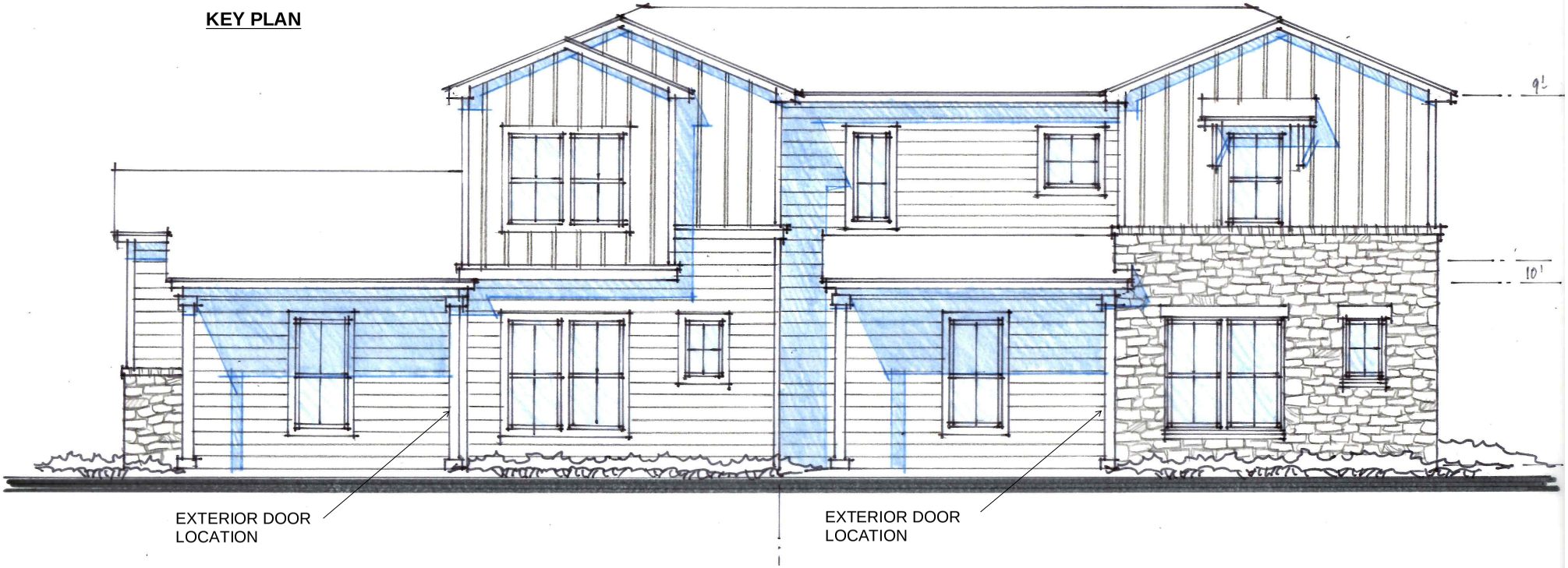

PLAN 3-2 WEST ELEVATION AT 112 RANCH ROAD

EX GROUP
HOUSTON, TX
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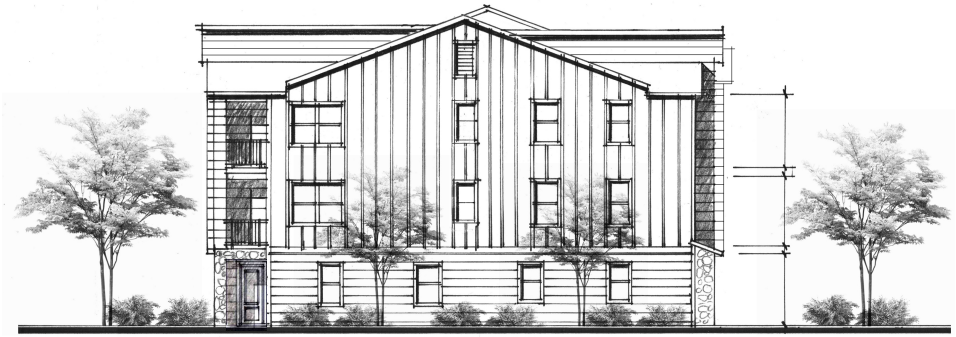
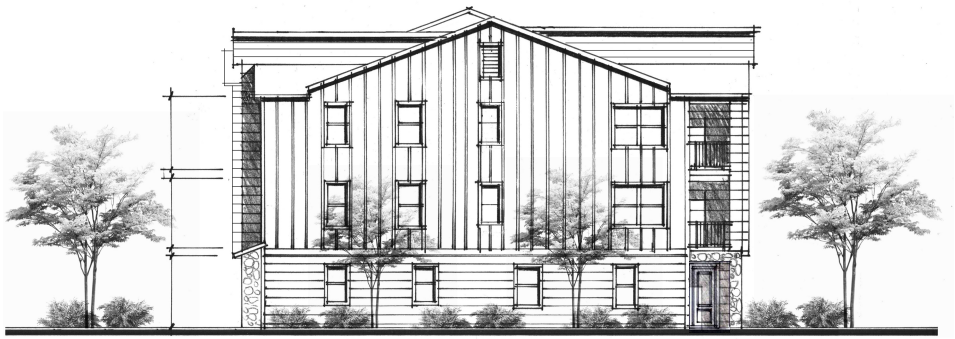
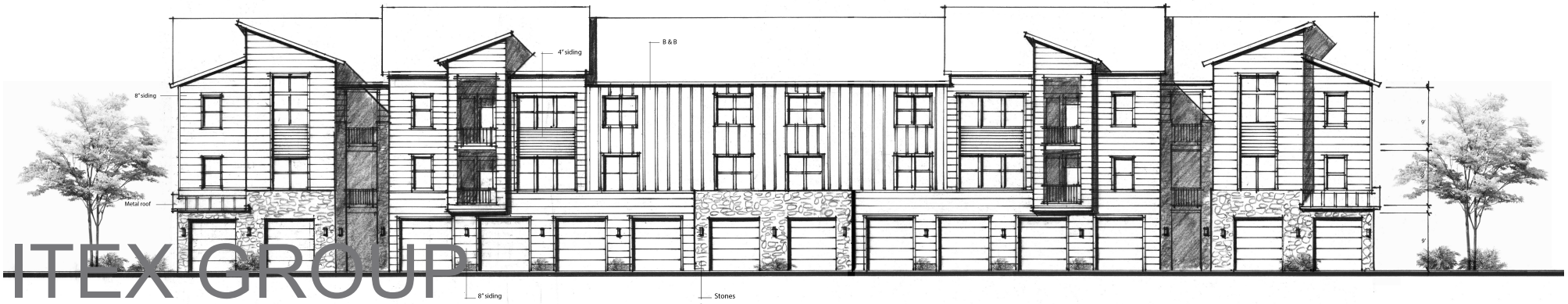
2023





Side Elevations



Rear Elevation

ITEX GROUP
HOUSTON, TX

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Front Elevation

1/8" scale

FAYETTEVILLE 112 REDEVELOPMENT

FAYETTEVILLE, ARKANSAS

SEPTEMBER 15, 2022 | SR220309

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GROUP

ON, TX

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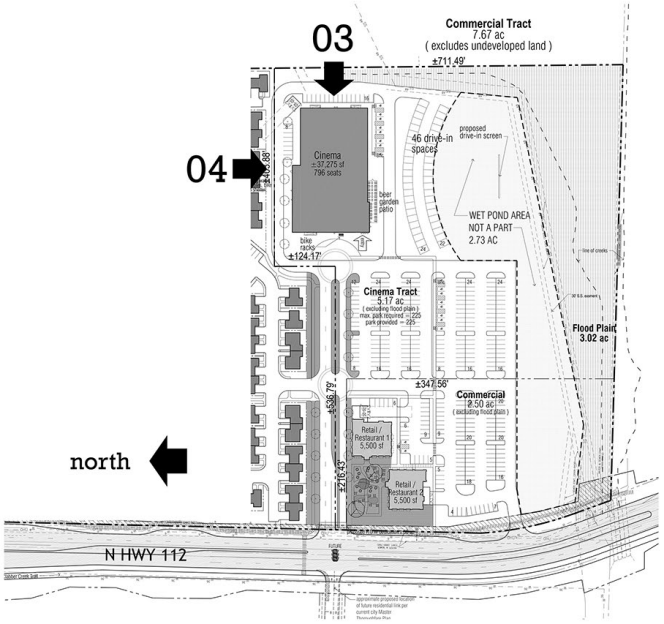
03 EAST ELEVATION CONCEPT



site key

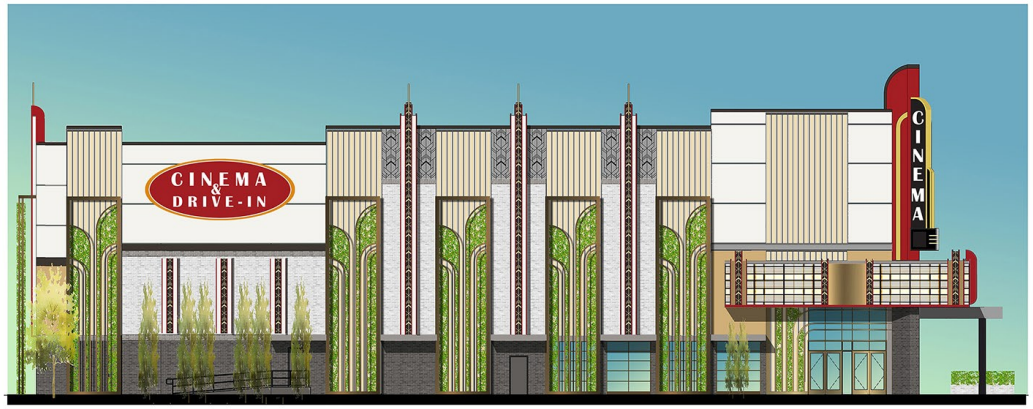
04 NORTH ELEVATION CONCEPT

CINEMA & DRIVE-IN

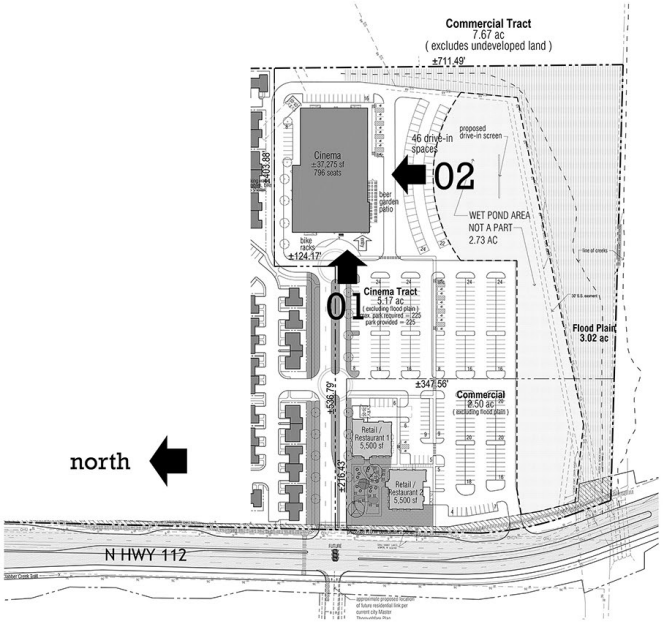
FAYETTEVILLE, ARKANSAS

HODGES Architecture

21074-02 TWS 10/18/22



01 WEST ELEVATION CONCEPT



site key

02 SOUTH ELEVATION CONCEPT

CINEMA & DRIVE-IN

FAYETTEVILLE, ARKANSAS

HODGES Architecture

31074-02 TWS 10/18/22

Masters, Jessica

From: Boyd, Melissa
Sent: Thursday, March 9, 2023 9:11 AM
To: David Nelms
Cc: Masters, Jessica; Boccaccio, Joshua
Subject: RE: Alamo LSD

Hi David,

Thank you for reaching out and pointing out the top elevation of the pond being below the 100-year floodplain.

We reached out to the engineer and asked them to add a tailwater condition to their detention modeling, which did raise water surface elevations in the pond. We are asking for clarification on this to ensure the pond will function correctly and not have an adverse impact on your property or others.

Please let me know if you have any additional questions.

Thank you,

Melissa Boyd, E.I.
Staff Engineer
Engineering Division
City of Fayetteville, Arkansas
T 479.444.3415
www.fayetteville-ar.gov

CITY OF FAYETTEVILLE ARKANSAS

From: David Nelms <daviddnelms@gmail.com>
Sent: Monday, March 6, 2023 11:26 AM
To: Boyd, Melissa <mboyd@fayetteville-ar.gov>
Subject: Alamo LSD

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.

Melissa:
I am reaching out to you as the representative of Nelms LLLP, the property owners to the south and east of the proposed LSD at the 112 drive-in.
I was looking at the elevations of their proposed retention pond in relation to the hundred year flood plane elevations, and it appears that the top elevation of their pond is below the hundred year flood plane and the outlet looks so low that in a flood event the water might run back into their pond.
I am no engineer, but wouldn't that make their pond worthless in a big rain event and push the water onto the Auto Park and Sam's Club?
Thank you for your consideration on this. If I'm just not seeing this right, I would appreciate a copy of the report that shows how the floodplain impacts the detention.

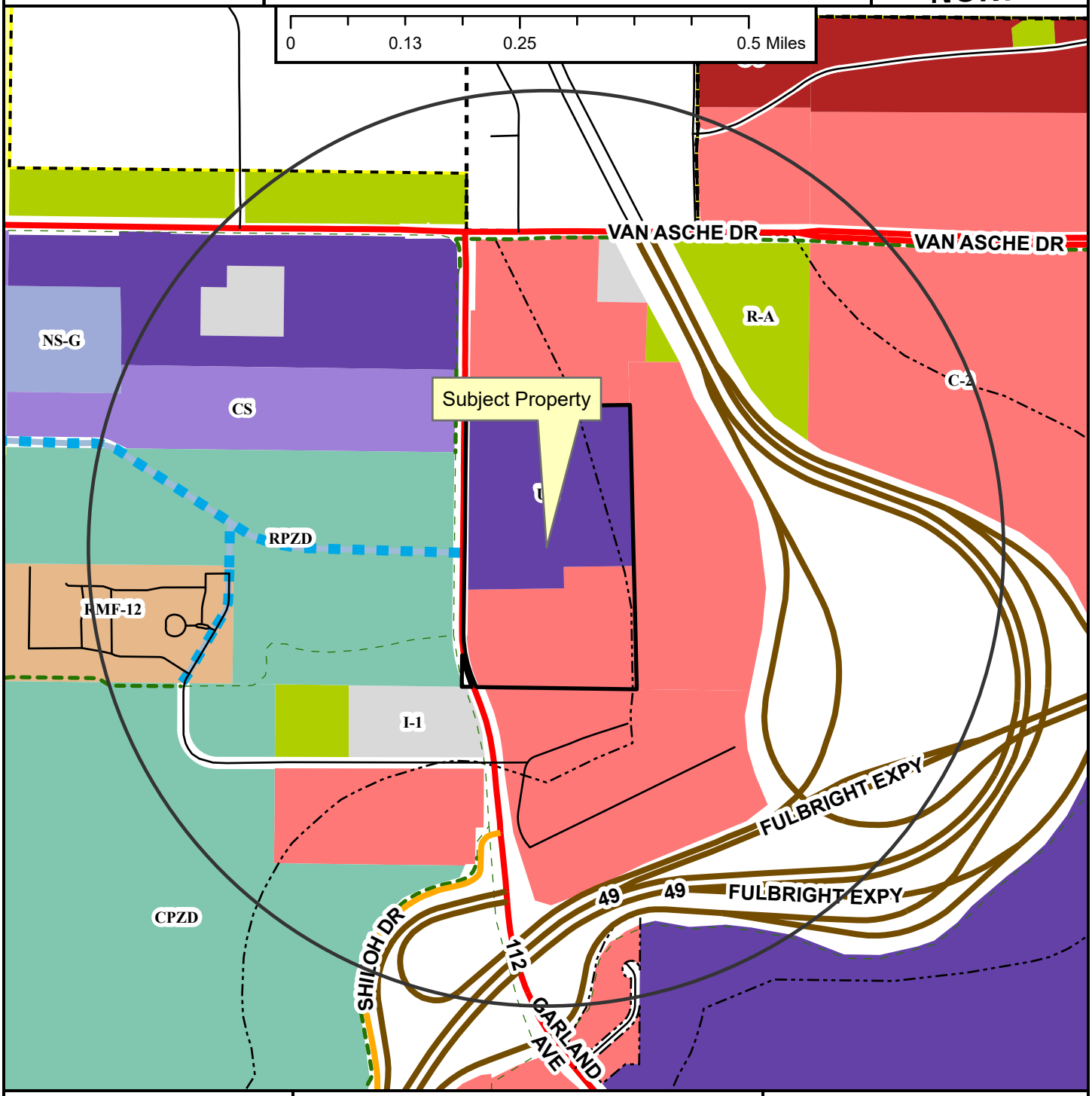
Thank You,
David Nelms
--
David D Nelms
(479) 527-7812

LSD-2022-0041

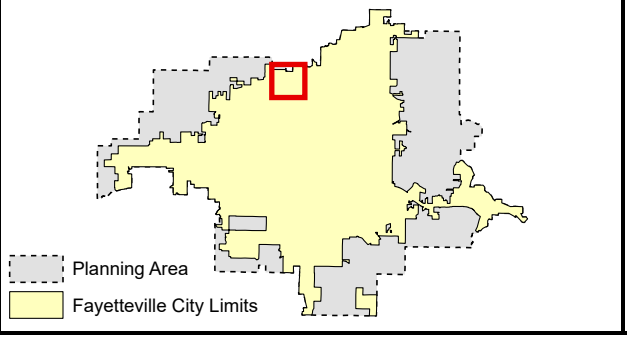
One Mile View

N. HWY 112

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- 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

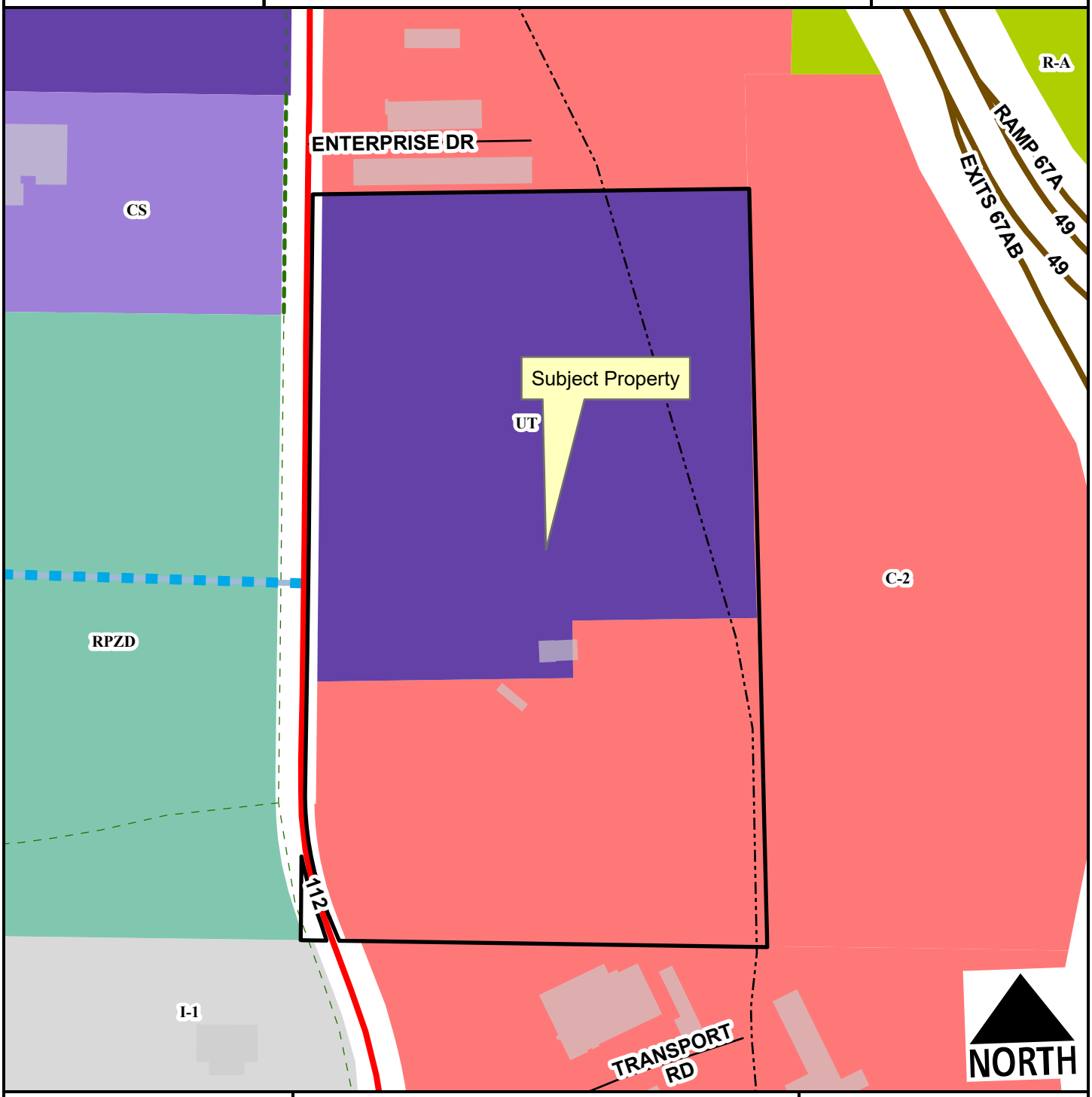
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

LSD-2022-0041

Close Up View

N. HWY 112



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

Feet

0 115 230 460 690 920

1:3,750

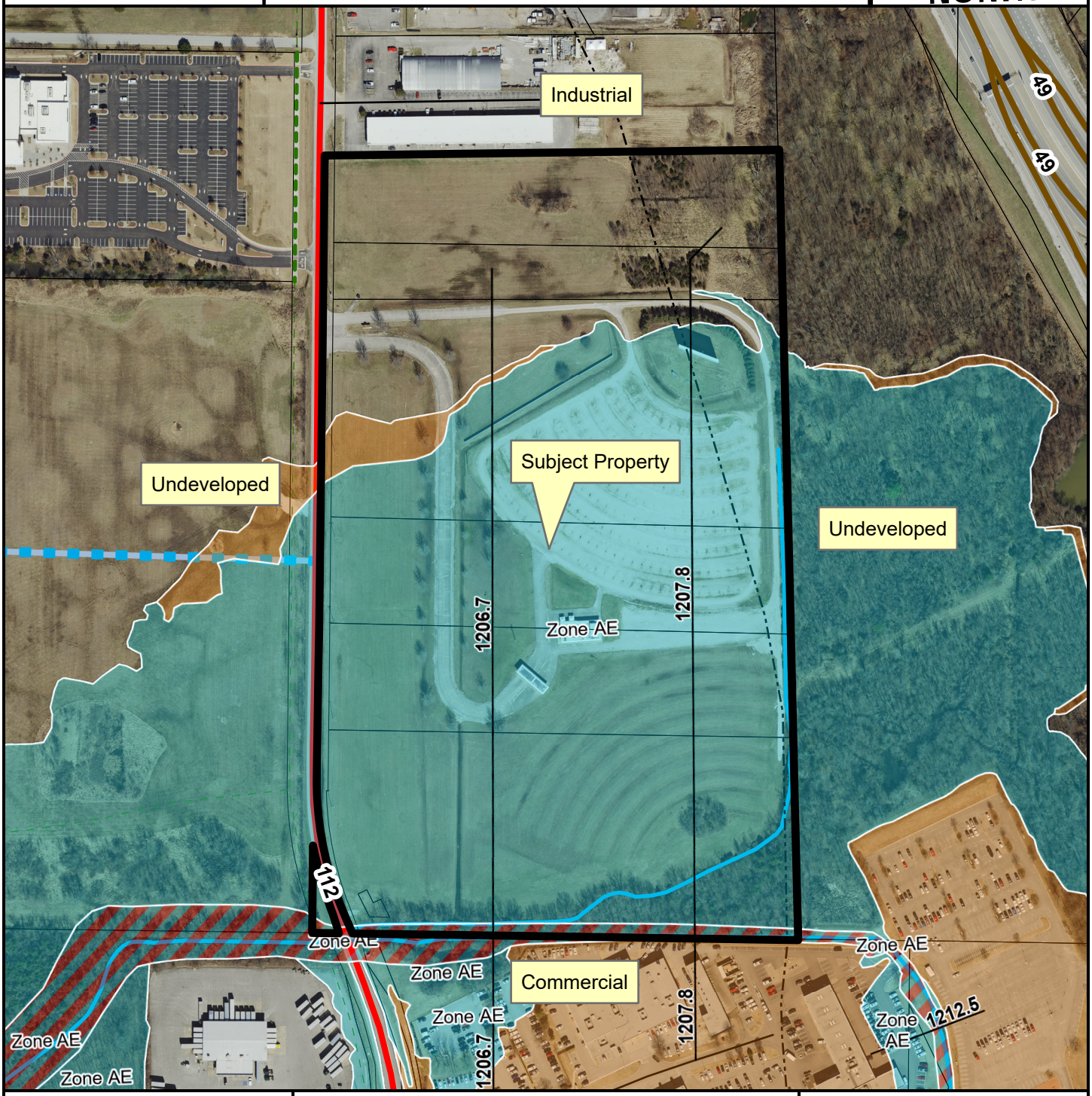
Residential-Agricultural
I-1 Heavy Commercial and Light Industrial
C-2
Urban Thoroughfare
Community Services
Commercial, Industrial, Residential

LSD-2022-0041

Current Land Use

N. HWY 112

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forester

MEETING: March 13, 2023

SUBJECT: **LSD-2023-0001: Large Scale Development (2373 N. GREGG AVE./JRG HOLDINGS LLC, 328):** Submitted by JORGENSEN & ASSOCIATES for property located at 2373 N. GREGG AVE. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approx. 3.79 acres. The request is for a 12,000-square-foot warehouse building and additional paved laydown area.

RECOMMENDATION:
Staff recommends tabling **LSD-2023-0001** until the March 27, 2023 Planning Commission meeting.

RECOMMENDED MOTION: *"I move to table* **LSD-2023-0001** *until the March 27, 2023 Planning Commission meeting."*

BACKGROUND:
The subject property is in north Fayetteville on the west side of Gregg Avenue just southwest of the street's intersection with Township Street. The property is the current location of Concrete Solutions and is developed with an industrial building and associated paved/gravel areas. The property totals roughly 3.79 acres and is currently zoned I-1, Heavy Commercial and Light Industrial. Scull Creek, a protected stream, runs along the west side of the property, and a portion of the site is located within a FEMA-designated floodplain. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Industrial	I-1, Heavy Commercial and Light Industrial
South	Industrial	I-1, Heavy Commercial and Light Industrial
East	Frisco Railroad	I-1, Heavy Commercial and Light Industrial; C-2, Thoroughfare Commercial
West	Scull Creek Trail; UA Agri Farm	C-2, Thoroughfare Commercial

Proposal: The applicant requests Large Scale Development approval to develop the subject property with a 12,000-square-foot warehouse and additional paved laydown area. One variance from the Unified Development Code has been requested which is described below alongside staff's recommendation:

- **§168.10(U): Provisions For Flood Hazard Reduction.** The applicant is requesting a variance to this section of code, which prohibits increases in flood flows, flood heights,

and flood velocities, to allow for an increase in flood velocities resulting from the installation of a retaining wall.

- *Staff recommendation: Staff is not supportive of this variance and recommends that the project be tabled to give the applicant time to address outstanding comments from the City's Engineering Division that were issued on the provided flood study. Engineering staff has expressed concerns about the flood study not accurately portraying potential impacts, noting that any impact on the base flood elevation could negatively impact other properties.*

Right-of-Way to be Dedicated: The subject property has frontage along an unnamed frontage road, which is classified as a Residential Link, with existing right-of-way in the amount of 24 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: Staff is not recommending any street improvements in association with this project.

Access Management/Connectivity: Staff has determined that the proposed development is compliant with the City's access management and connectivity standards. Access to the site is proposed through two existing driveways which the applicant intends to bring into compliance with the City's parking lot design standards as part of this development. A variance from the City's curb cut separation requirements was previously requested at Subdivision Committee for the driveway to the north, though that separation distance has since been administratively approved by the City Engineer.

Design Standards: N/A; industrial uses outside of the I-540 Overlay District are not subject to any design standards per the Unified Development Code.

Water and Sewer System: An eight-inch water main and six-inch fire line are proposed with this development to provide access to water. No new service lines or meters are proposed. No sanitary sewer main extensions or services are proposed for this development, either.

Parkland dedication or fee in-lieu: N/A; this project is not subject to parkland dedication requirements.

Tree Preservation:
Canopy minimum requirement: 15%
Existing canopy: 33.8%
Preserved canopy: 12.7%
Mitigation required: 18 two-inch caliper trees

Public Comment: To date, staff has not received any public comment on this item.

RECOMMENDATION: Staff recommends tabling **LSD-2023-0001** with the following conditions:

<u>Conditions of Approval:</u>

1. Planning Commission determination of right-of-way dedication. *Staff recommends right-of-way dedication in the amount of 26 feet from the centerline of the road along the property's frontage;*

Subdivision Committee recommended in favor of this.

2. Planning Commission determination of street improvements. *Staff recommends no street improvements with this project;*

Subdivision Committee recommended in favor of this.

3. Planning Commission determination of a variance to UDC §168.10(U), Provisions for Flood Hazard Reduction. *Staff recommends denial of this variance for the reasons stated above;*

Subdivision Committee did not make a recommendation on this variance.

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

Standard Conditions of Approval:

5. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;

6. 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, SWEPCO, and Cox Communications);

7. 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;

8. 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;

9. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;

10. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements;

11. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;

12. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;

13. Large scale development shall be valid for one calendar year;

14. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;

15. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and

16. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits;
    b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
    c. Exterior lighting package must be provided to the Planning Division;
    d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
    e. Project Disk with all final revisions; and
    f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: Required YES

Date: March 13, 2023 ❒ **Tabled** ❒ **Forwarded** ❒ **Denied**

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:
None

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

CITY OF
FAYETTEVILLE
ARKANSAS

STAFF MEMO

TO: Gretchen Harrison, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: March 8, 2023

SUBJECT: **Planning Commission Engineering Comments for LSD-2023-0001 CONCRETE SOLUTIONS**

*****ENGINEERING RECOMMENDS THIS PROJECT BE TABLED*****

Water: 353 LF of 8" water main and 202 LF of 6" fire line are proposed with this development. No new service lines or meters are proposed.

Sewer: No sanitary sewer main extensions or services are proposed for this development.

Natural Features: Scull Creek, a protected stream, is present along the western portion of the subject property and lies within a FEMA Zone AE floodplain. No improvements are proposed within the Streamside Protection Zones. A 480 LF retaining wall, up to 21' in height for approximately 280 LF of the wall's length, and associated fill are proposed within the floodplain.

A revised flood study was provided 3/7/2023 for the proposed fill within the floodplain, and staff sent comments to the applicant on 3/8/2023. The current variance request to the requirements of UDC §168.10(U) is for an increase in flood velocities. Engineering staff is not able to support this variance and is recommending this project be tabled to allow the applicant time to address several outstanding concerns with the flood study, which are outlined below:

1. Older flood studies are often on NGVD29, has it been confirmed that this study is in fact in NAVD88 or was an adjustment made? If not, the new cross section may be in NAVD88 while the older cross sections are in NGVD29, which would need to be rectified.
2. Is the right overbank coefficient being dropped to represent removal of invasive species? If so, what is the long-term maintenance plan?
3. At cross section 10998 there appears to be a significant increase in velocity due to the narrowing of the floodplain. It appears to increase a velocity to over 8 fps, which is likely to become erosive of the stream channel and would require a variance as it does not meet no adverse impact.
4. There does not appear to be compensatory storage, which also requires a variance.
5. At cross section 11169, the original with added cross sections model is over a foot higher than the original 11169. Please document why.
6. The right bank station on 10998 appears to be well outside the bank. Revise or explain why this location was chosen and why it differs between the models.
7. At cross section 10820, there is a tenth increase in base flood elevation. This would require a variance as it does not meet no adverse impact.
8. Cross section 10584 does not appear to be extended far enough on the right overbank on the original with added cross sections model.

Hydric soils appear to be present on the western portion of this site, and a wetland delineation study is required to determine if any U.S. Army Corps of Engineer jurisdictional wetlands will be affected by this development. Any area(s) determined to be jurisdictional wetlands will require appropriate permits be obtained from the USACE prior to engineering issuing the grading permit. The applicant indicates that this study is being performed and will be provided once it is completed.

Drainage: This development is required to meet the four Minimum Standards of the Drainage Criteria Manual. Water quality requirements are shown to be met by use of isolator rows in the StormTech underground detention system. Channel protection requirements are indicated to be met by sizing the outlet structure to release the runoff from 1-year, 24-hour storm event over a period of 40 hours. Overbank flood protection and extreme flood protection requirements will be met by sizing the pond outlet structure so that the peak flows leaving the site decrease from pre-development to post-development. Construction-level review will be conducted at time of grading permit application.

Plan Comments:

1. Pavement repair for water line construction within the street will be determined at the construction level. Mill and overlay of the street may be required.
2. Off-site modification to the existing shared curb cut to the south will require written approval from the adjacent property owner prior to engineering issuing the 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 <u>existing</u> 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

CITY OF FAYETTEVILLE ARKANSAS

To: Charles Zardin, PE, Jorgensen + Associates

From: Melissa M. Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: March 13, 2023

Subject: LSD-2023-0001: Concrete Solutions: 2373 N. Gregg Ave., 328

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

2. Tree Preservation Calculations

Tree Preservation Calculations Acres		
	Acres	**Percent of site**
Total Site Area *Minus Right of Way and Easements	3.79	100%
*Zoning Designation * Select Below with drop down arrow*		
I-1, Heavy Commercial and Light Industrial	0.57	15%
*HHOD * Select Below with Drop Down Arrow*		
No	0	0%
Total Canopy for Minimum Preservation Requirements	0.57	15.0%
Existing Tree Canopy * Minus Right of Way and Easements	1.28	33.8%
Tree Canopy Preserved	0.48	12.7%
Tree Canopy Removed *On Site	0.80	21.1%
Tree Canopy Removed *Off Site	0.00	
Tree Canopy Removed Total	0.80	21.1%
Removed Below Minimum	**0.09**	
Mitigation Requirements	**0.09**	
Mitigation Requirements in Square Feet	**3,855**	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	3,855	18
Low Priority	0	0
Total Mitigation Trees Required	**3,855**	**18**

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 *UDC Chapter 167.04H1*	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)	**Yes**		
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	**N/A**		
d. Location of material storage	**Yes**		
e. Location of concrete wash out	**Yes**		
f. Location of construction entrance/exit	**No**		

6.	**Site Analysis Report (if required)** *UDC Chapter 167.04H4*	**Yes**	**No**	**N/A**
a.	Provide graphic examples of multiple options used to minimize removal of existing canopy			**X**
b.	Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.	**X**		

7.	**Review Status**	**Tech Plat**	**Subdivision Committee**	**Planning Commission**
	Conditionally Approved	**01-18-23** **02-14-23**		**03-08-23**
	Approved			
	Tabled		**03-01-23**	
	Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. Please show Tree Preservation Easement/s as required by Ch. 167.04(L)(1) for LSD projects.

URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Charles Zardin, PE, Jorgensen + Associates

From: Melissa M. Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: March 13, 2023

Subject: LSD-2023-0001: Concrete Solutions: 2373 N. Gregg Ave., 328

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

2.	Parking Lot Requirements 1 Tree : 12 Parking Spaces	Yes	No	N/A
a.	Wheel Stops/Curbs *UDC Chapter 177.04B1*		X	
b.	Narrow Tree Lawn (8' min. width, 37.5' length) *UDC Chapter 177.04C*			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*	**Yes**		
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	**18**
Parking Lot Trees	**1 required**
Street Trees	**4**
Detention Pond – Large Trees (1 Tree/3,000 square feet)	**0**
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	**0**
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	**0**

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	**01-18-23**		**03-08-23**
	02-14-23		
Approved			
Tabled		**03-01-23**	
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. The plan must be stamped, signed and dated by the design landscape architect.

JORGENSEN
+ASSOCIATES
Civil Engineering + Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

January 3, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Large Scale Development for 2373 Gregg Ave.

This letter is in regards to a proposed Large Scale Development at 2373 Gregg Ave. The 3.79 acre property is the location of Concrete Solutions, which contains an existing industrial building with associated paved/gravel areas. The proposed development includes the addition of a 12,000 square foot warehouse building and additional paved laydown area. An underground detention facility is being proposed to provide stormwater control and water quality benefits.

The western portion of the site is located within Flood Zone AE. The site slopes down toward the Scull Creek Floodway. However, no construction or disturbance is proposed within the floodway.

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

Thank you.

Sincerely;

Charles A. Zardin, PE

JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

February 1, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: LSD 2023-0001 for Joe Gray

Please accept this request for a variance from the Unified Development Code 168.10.U:

Any new construction, addition or other development may be approved in a special flood hazard area only if:
The applicant has provided a detailed hydrologic and hydraulic study performed by a professional engineer licensed in the state of Arkansas which delineates the floodway, 1% annual chance (100-year) floodplain boundary, and base flood elevations and demonstrates through a hydrologic and hydraulic analysis, that the development will not increase flood flows (0.0 cubic feet per second), flood heights (0.00 feet) or flood channel velocities (0.0 feet per second) on the subject property or any property upstream or downstream.

With the installation of the Retaining Wall there will be a loss of floodplain storage. There will be a slight increase in the water surface elevation upstream and at the subject cross section, however these are very minor. There will be a decrease in the up stream velocity from 10.05 to 8.65 (-1.4 ft/s), however there will be a slight increase in the velocity at the subject cross section from 10.22 to 11.35 (+1.13 ft/s). The average impact is a net decrease in channel velocity of 0.27 ft/s. It is our opinion that the installation of this retaining wall will not adversely affect Scull creek. A decrease in the channel velocity, while minor, whether is be a net increase or decrease of this much is very consistent with trail corridors along the majority of our city's impressive trail network (wherein the addition of impervious surface will increase the velocities along the streams. We are simply asking to perform work that is similar in nature to other public improvements along and in stream sides.

We also propose to remove all invasive species of undergrowth from the wall to the stream, this will aid in creating a more natural floodplain and stream restoration.

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

Thank you.

I-1 (HEAVY COMMERCIAL AND LIGHT INDUSTRIAL)	
FRONT, WHEN ADJOINING A OR R DISTRICTS	50'
FRONT, WHEN ADJOINING C, I, OR P DISTRICTS	25'
SIDE, WHEN ADJOINING A OR R DISTRICTS	50'
SIDE, WHEN ADJOINING C, I OR P DISTRICTS	10'
REAR	25'
Height Regulations. There shall be no maximum height limits in I-1 District, provided, however, that if a building exceeds the height of two stories, the portion of the building that exceeds two stories 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 two stories shall be equal to the difference between the total height of that portion of the building, and two stories.	
Building Area. None	

NOTES:

1. CURRENT ZONING: I-1.
2. PARCEL NUMBER: 765-13527-000.
3. BOUNDARY BASED ON PLAT OF SURVEY BY BATES & ASSOCIATES RLE AT STATE LAND SURVEYOR OFFICE FILE No. 2015124382 & DEED 2014-32525.
4. THIS PROPERTY IS AFFECTED BY THE 100 YEAR FLOOD PLAIN AS PER FIRM #05143C0210F DATED MAY 16, 2008.
5. PLAT PAGE # 328.
6. OWNER: JRG HOLDINGS LLC - PO BOX 185 - FAYETTEVILLE, AR 72702
7. ROTATION BASED ON ARKANSAS STATE PLANE GRID NORTH ZONE (NAD83).
8. ANY PROPOSED SIGNAGE WILL REQUIRE A SEPARATE SIGN PERMIT.
9. ALL UTILITIES 12KV AND UNDER SHOULD BE RELOCATED UNDERGROUND.

LEGAL DESCRIPTION:

A part of the W1/2 of the Fr.NE 1/4 of Section 4, T16N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the SE Corner of said W1/2 of the Fr.NE1/4, thence S87°57'08"E 27.73 feet, thence N02°12'38"E 948.03 feet to the POINT OF BEGINNING, thence N87°57'08"W 824.06 feet, thence N02°12'38"E 127.74 feet, thence N24°25'38"E 75.16 feet, thence S8°75'70"E 832.63 feet, thence S12°49'39"W 200.79 feet to the POINT OF BEGINNING. Containing 3.79 acres more or less subject to easements and right of way of record.

PARKING REQUIREMENTS
REQUIREMENT FOR OFFICE: 1 SPACE PER 300 SQ.FT. 2,800 / 300 = 9.3 SPACES ALLOWED
REQUIREMENT FOR HEAVY INDUSTRIAL: 1 SPACE PER 1,200 SQ.FT. (13,200 + 12,000) / 1,200 = 21.0 SPACES ALLOWED
9.3 + 21.0 = 30.3 SPACES ALLOWED
11 SPACES PROVIDED
ADA SPACES: 1 ADA SPACE REQUIRED 1 ADA SPACE PROVIDED
REQUIRED MOTORCYCLES/SCOOTER SPACES (1 PER 25 PARKING SPACES) 11 / 25 = 1 MC SPACE REQUIRED 1 MC SPACE PROVIDED
BIKE RACKS FOR RESIDENTIAL (1 PER 20 PARKING SPACES) 11 / 20 = 0.55 BIKE RACKS REQUIRED 1 BIKE RACK PROVIDED

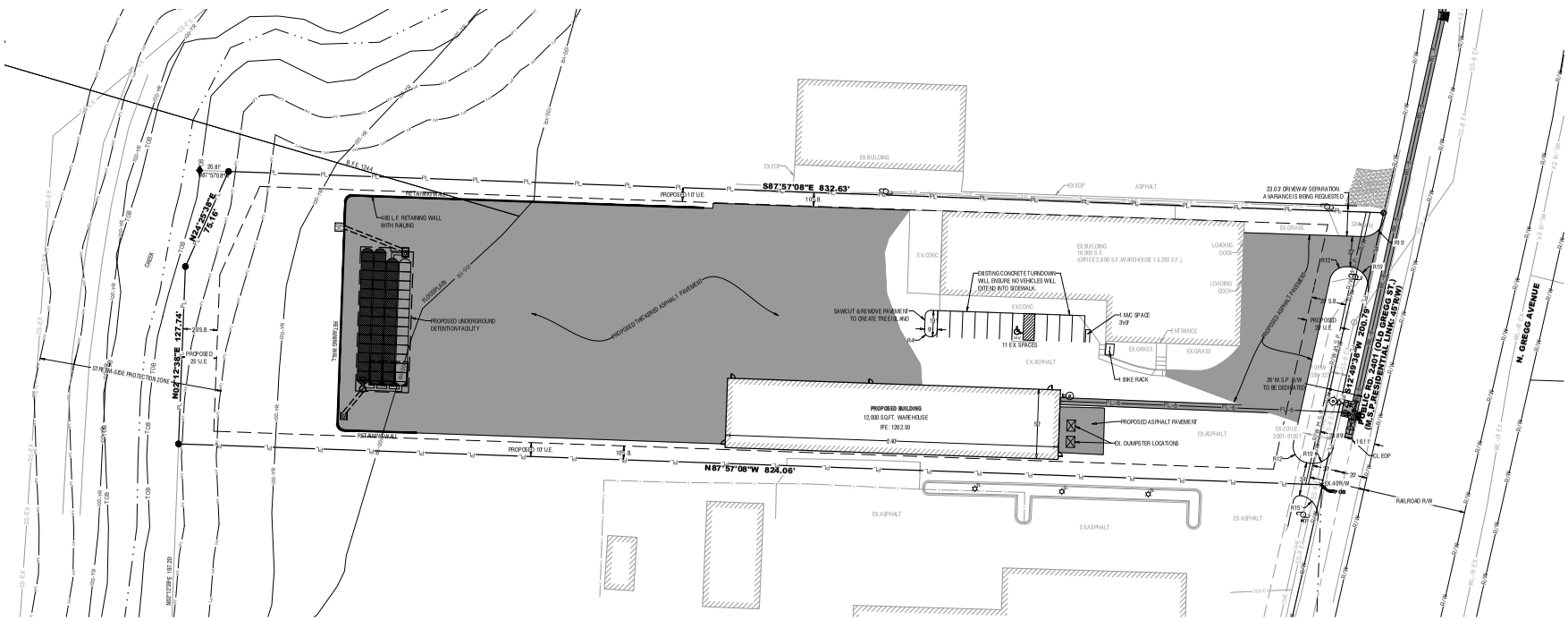
SITE AREA CALCULATIONS				
TOTAL AREA:	3.79 AC	165,200 S.F.		
PREDEVELOPMENT				
BUILDING:	0.52 AC	22,820 S.F.	13.81%	
PARKING/SIDEWALK:	0.70 AC	30,708 S.F.	18.59%	
GRAVEL:	0.56 AC	24,384 S.F.	14.76%	
TOTAL IMPERVIOUS:	1.79 AC	77,912 S.F.	47.16%	
PERVIOUS GREENSPACE:	2.00 AC	87,288 S.F.	52.84%	
POSTDEVELOPMENT				
BUILDING:	0.64 AC	28,000 S.F.	16.95%	
PARKING/SIDEWALK:	2.28 AC	99,317 S.F.	60.12%	
GRAVEL:	0.00 AC	0 S.F.	0.00%	
TOTAL IMPERVIOUS:	2.92 AC	127,317 S.F.	77.07%	
PERVIOUS GREENSPACE:	0.87 AC	37,883 S.F.	22.93%	

OWNER:

JRG HOLDINGS LLC
PO BOX 185
FAYETTEVILLE, AR 72702

GRAPHIC SCALE

(IN FEET)
1 inch = 40 ft.



JORGENSEN + ASSOCIATES
Civil Engineering • Surveying • Land Development
124 W. Sunbridge Drive, Suite 5
Fayetteville, AR 72703
(479) 443-1970
www.jorgensenassociates.com

Planning Commission
March 13, 2023

LEGEND

- CALCULATED POINT
- FOUND RAILROAD SPIKE
- SET IRON PIN & CAP
- POWER POLE
- CENTERLINE MARKER
- SEWER MANHOLE
- FIRE HYDRANT
- STREET LIGHT
- EXISTING 8" SEWER LINE — SS-8 —
- PROPOSED 8" SEWER LINE — SS-8 —
- EXISTING WATERLINE — EX WL-8 —
- PROPOSED 8" WATER LINE — WL-8 —
- CENTERLINE STREET
- BUILDING SETBACK
- UTILITY EASEMENT
- NEW SIDEWALK
- UTILITY CROSSING — UTX —
- EXISTING CONTOUR
- FINISHED CONTOUR

PROJECT DETAILS

PROJECT TITLE:
2373 GREGG

PROJECT LOCATION:
FAYETTEVILLE, AR

REVISIONS

DATE: 10.25.2022
DRAWN BY: PMM
PROJECT # 2022141
FILE PATH: Z:\LSD\2022141\DWG
SHEET SIZE: 22" x 34"
SCALE: 1" = 40'

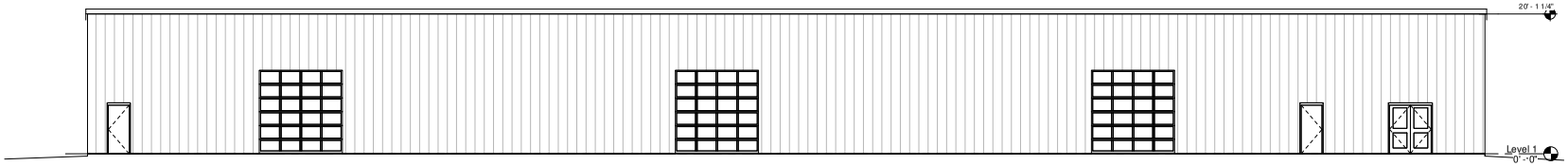
CERTIFICATE OF AUTHORIZATION
JORGENSEN & ASSOCIATES
No. 725
ARKANSAS – ENGINEER

SHEET TITLE

LARGE SCALE DEVELOPMENT PLAN

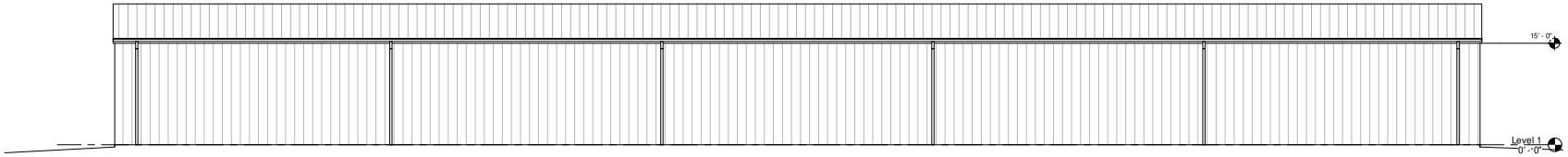
SHEET NUMBER

C1.02



North Elevation

scale 1/8" = 1'-0"



South Elevation

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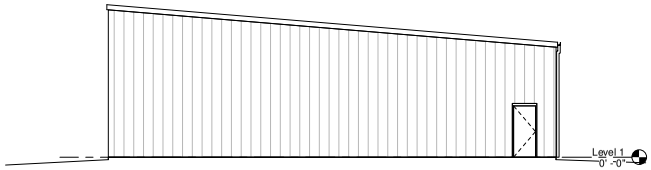
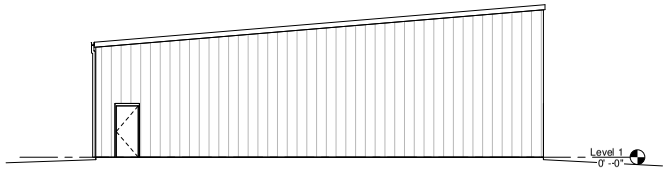


West Elevation

scale 1/8" = 1'-0"



East Elevation

scale 1/8" = 1'-0"

rh Designs
5413 Fireplace Dr.
Commerce
472-841-5541

Planning Commission
March 13, 2023

Concrete Solutions

10.10.2022

NOT FOR CONSTRUCTION

Exterior Elevations

A3

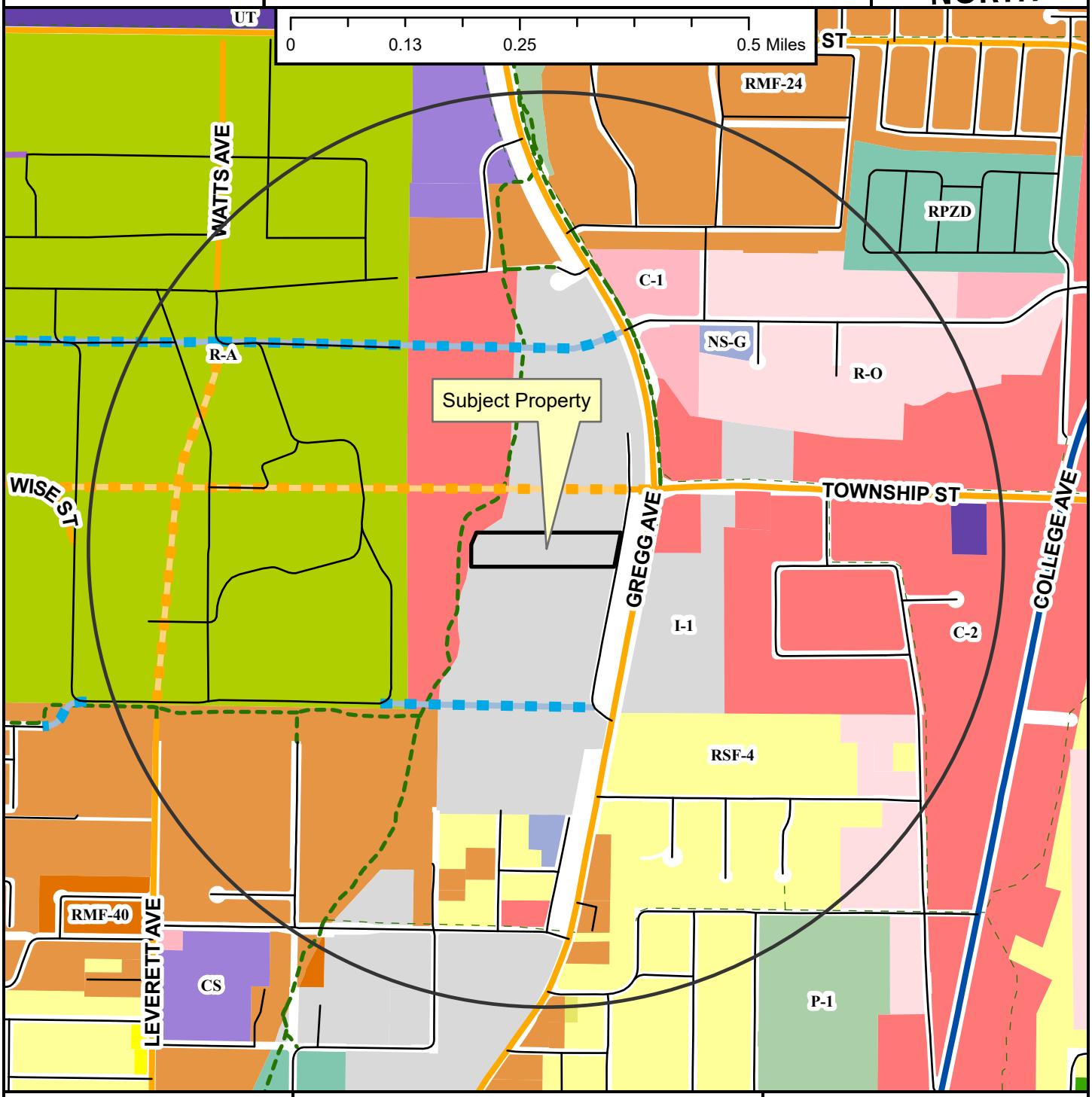
copyright 2022

LSD-2023-0001

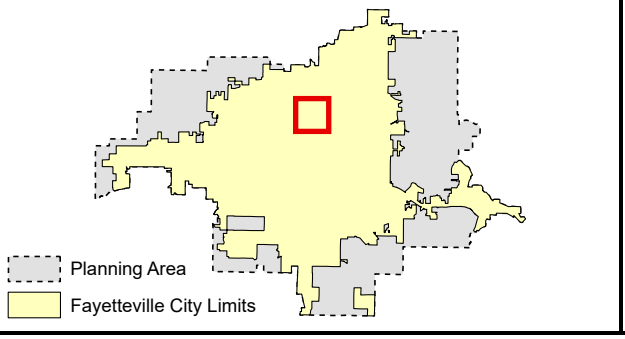
One Mile View

2373 N. GREGG AVE

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- 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

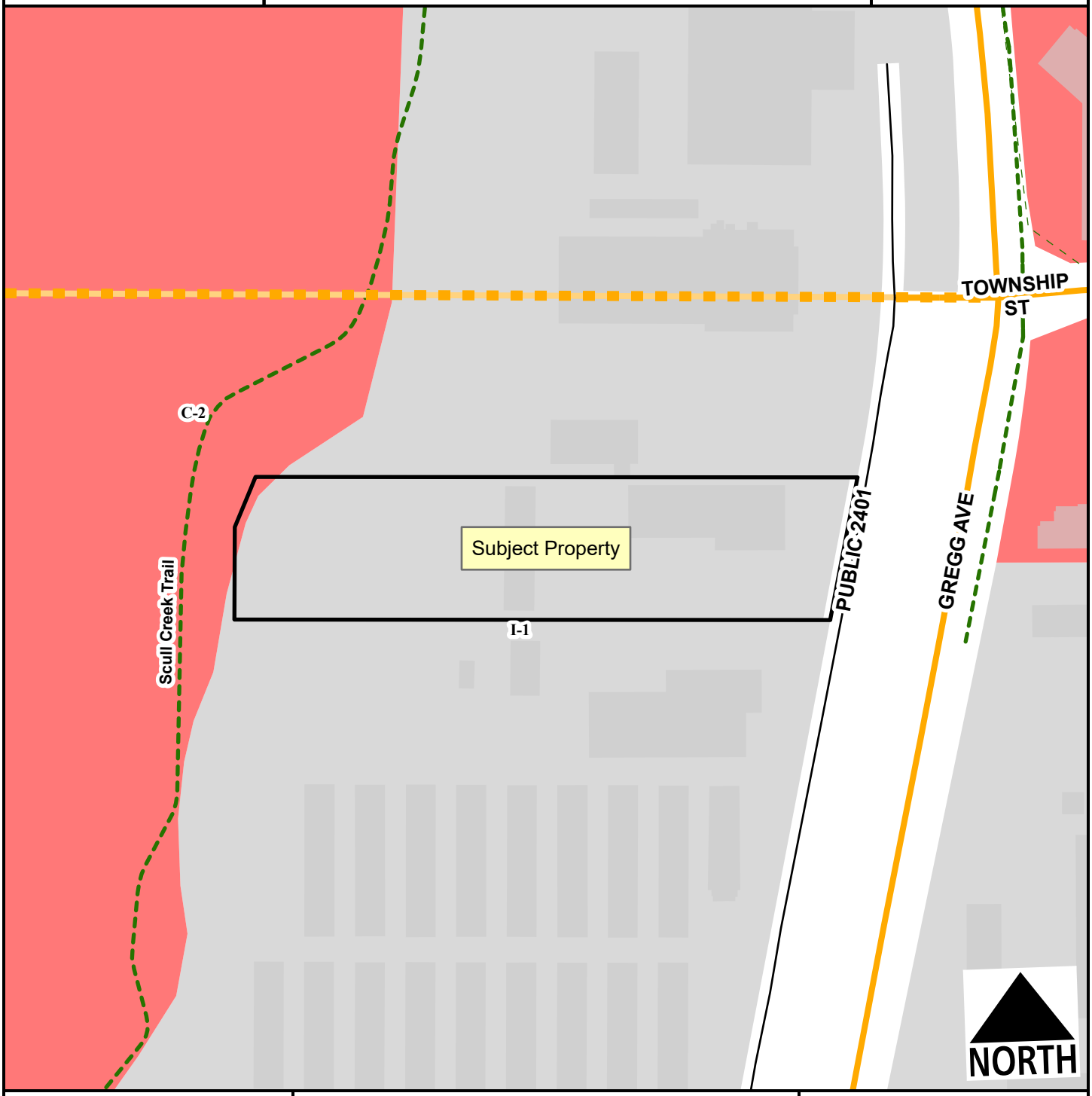
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

LSD-2023-0001

Close Up View

2373 N. GREGG AVE



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

Feet
0 75 150 300 450 600
1:2,400

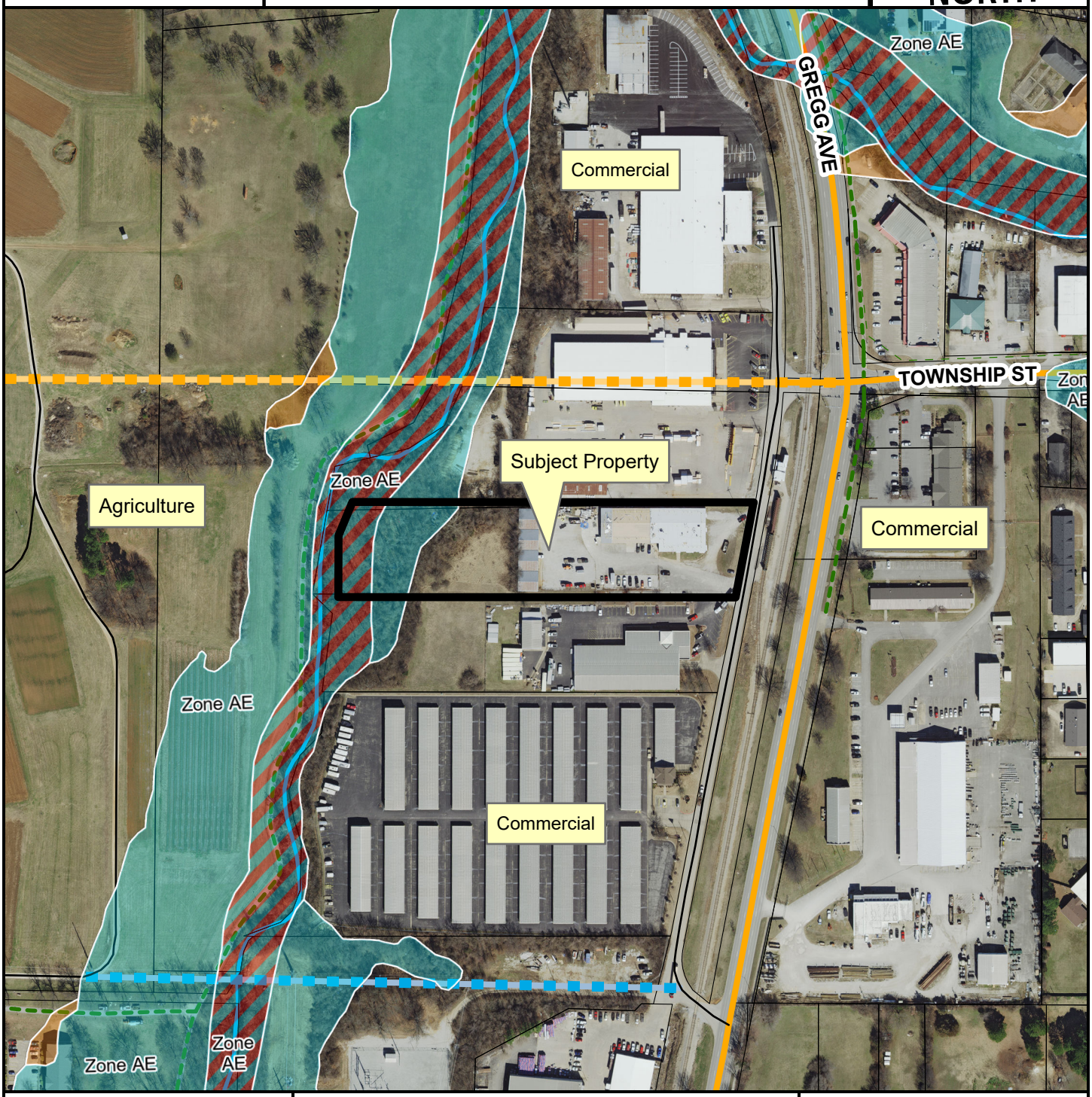
I-1 Heavy Commercial and Light Industrial
C-2

LSD-2023-0001

Current Land Use

2373 N. GREGG AVE

NORTH



- Neighborhood Link
- Unclassified
- Residential Link
- Planned Neighborhood 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

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0023: Conditional Use Permit (704 S WASHINGTON AVE./ GARDEN DISTRICT TOWNHOMES LLC, 669):** Submitted by BOTTLE ROCKET SUBS, LLC for property located at 704 S. WASHINGTON AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.90 acres. The request is for Use Unit 14: Hotel, Motel, and Amusement Services in DG zoning.

RECOMMENDATION:
Staff recommends tabling **CUP-2023-0023** to the next scheduled Planning Commission meeting, at the applicant's request.

RECOMMENDED MOTION:
*"I move to table **CUP-2023-0023** to the March 27, 2023 Planning Commission meeting."*

PLANNING COMMISSION ACTION: Required YES

Date: March 13, 2023 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 13, 2023

SUBJECT: **RZN-2023-0005: Rezoning (514 S WILLOW AVE./ COLLINS, 524):** Submitted by ADAMS COLLINS for property located at 514 S. WILLOW AVE. The property is zoned NC, NEIGHBROHOOD CONSERVATION and contains approximately 0.25 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

RECOMMENDATION:
Staff recommends forwarding **RZN-2023-0005** to City Council with a recommendation of approval.

RECOMMENDED MOTION:
"I move to forward **RZN-2023-0005** to City Council with a recommendation of approval."

BACKGROUND:
The subject property is located in south Fayetteville, roughly 150 feet north of the intersection of E. Martin Luther King Jr Blvd. and S. Willow Ave. The property is zoned NC, Neighborhood Conservation, totals approximately 0.25 acres, and is developed with a 720-square foot single-family structure, an existing non-conforming garage partially located on the adjacent property to the north, and an existing non-conforming shed partially located on the property to the east. The applicant intends to remove the non-conforming structures. No zoning overlays or special regulations apply to the site however it is within the Walker Park Neighborhood master plan area. The site is characterized by hydric soils along the western half and a roughly 3:1 slope in the rear yard. 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	NC, Neighborhood Conservation
South	Single-Family Residential	NC, Neighborhood Conservation
East	Undeveloped	NC, Neighborhood Conservation
West	Single-Family Residential / Undeveloped	NC, Neighborhood Conservation

Request: The request is to rezone the property from NC, Neighborhood Conservation to RI-U, Residential Intermediate-Urban.

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

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along the west side of S. Willow Ave. S. Willow Ave. is a partially improved Residential Link Street with asphalt paving, sidewalks on the east side of the street and curb and gutter. Any street improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to the subject area. Existing 6-inch water main is present on the West side of South Willow Avenue.

Sewer: Sanitary Sewer is available to the Subject area. Existing 6-inch sewer main is present in the center of South Willow Avenue.

Fire: Station 1, located at 303 W. Center St., protects this site. The property is located approximately 0.9 miles from the fire station with an anticipated drive time of approximately 3 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: No portion of the property lies within the Hillside-Hilltop Overlay District or within a FEMA floodplain. There are no protected streams present in the subject area.

There are hydric soils present on the site. Hydric soils are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric Soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal. Any additional improvements or requirements for drainage will be determined at time of development.

Tree Preservation:

The proposed zoning district of RI-U, Residential Intermediate-Urban requires **15% minimum canopy preservation.** The current zoning district of NC, Neighborhood Conservation requires **20% minimum canopy preservation**.

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

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

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

- Adequate Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (6" sewer main, S. Willow Av)
- Near Water Main (6" water main, S. Willow Ave.)
- Near City Park (Jefferson Park, Walker Park, Ralph "Buddy" Hayes Park)
- Near Paved Trail (E. Martin Luther King Jr. Blvd. Side Path Trail)
- Near ORT Bus Stop (Route 20)
- Within Master Plan Area (Walker Park Neighborhood)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** **Staff finds the request to be compatible with the surrounding context. Residential uses and densities located near the subject property vary substantially. Neighboring properties are of a variety of sizes but generally follow a typical lot and block development pattern. The existing and proposed zoning districts have similar allowable uses, though RI-U has more uses allowed by right. Both the existing and proposed zoning designations are residential districts with urban form setbacks that are congruent with the existing pattern in the neighborhood. When compared to NC, rezoning to RI-U will not affect the buildable area of the lot for single and two-family uses but would increase the permitted buildable area by 5% of the lot's overall area for other uses. Since the subject property contains roughly 0.2 acres, a maximum of two units are permitted under current entitlements, where rezoning to RI-U would remove the density limitation. That said, any future development would be subject to, and limited by, minimum parking requirements, tree preservation, drainage, and access management standards. NC zoning allows two-family, three and four family, and cluster housing developments by conditional use where they are allowed by-right in RI-U. Rezoning to RI-U would reduce side and rear setbacks for non-single and two-family dwelling uses, increasing the buildable area on site. RI-U requires an 18-foot lot width minimum and no lot area minimum for residential uses. Conversely, both NC and RI-U 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 NC to RI-U serves to contribute towards City Plan 2040 Goals #1- Appropriate Infill, #4- Growing a Livable Transportation Network, and #6- Create Opportunities for Attainable Housing. The site scores moderately on the Infill Scoring Matrix due to water/sewer access, proximity to multiple city parks and trails, and access to a nearby ORT bus stop. Because of the flexible zoning regulations associated with the RI-U district, rezoning may allow for redevelopment or added density near these services. Additionally, where only single-family or accessory dwellings are allowed by right in NC, RI-U encourages more appropriately scaled density in relation to the existing neighborhood. The Future Land Use Map designates the site as a Residential Neighborhood Area – a designation which supports support a wide variety of housing types of appropriate scale and context including single-family, duplexes, rowhouses, multifamily and accessory dwelling units. Increasing density is likely best facilitated on a site of this size due to the generous regulations in RI-U zoning and it is justified given the property's proximity to commercial and non-residential uses in downtown Fayetteville.**

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

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

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

Finding: **Rezoning to RI-U has an associated potential to increase traffic at this location. NC currently limits density to 10 units per acre, whereas RI-U does not have a set density requirement. Staff finds, though, the potential to increase the number of residential units is marginal given the size of the lot and unlikely to result in increased traffic danger or congestion. The subject property has access to S. Willow Ave., an improved Residential Link. Future development would be required to meet the City's applicable access management and parking standards.**

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

Finding: **Rezoning the property to RI-U may increase the load on public services, but the impact is not expected to be detrimental. The size of the property and access to existing water and sewer infrastructure means future development will likely avoid the need for costly extensions to services. Fayetteville Public Schools did not comment on this request.**

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

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

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

Finding: **N/A**

RECOMMENDATION: Planning staff recommends approval of RZN-2023-0005.

PLANNING COMMISSION ACTION: **Required** **YES**

Date: March 13, 2023 ❒ **Tabled** ❒ **Forwarded** ❒ **Denied**

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
  - §161.12 District RI-U, Residential Intermediate – Urban
  - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map
- Public Comment

161.12 District RI-U, Residential Intermediate - Urban

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

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster housing development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12a	Limited business
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*

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

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

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

(Ord. No. 5945 , §5(Exh. A), 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

All dwelling types	40 feet

(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations*.

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

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

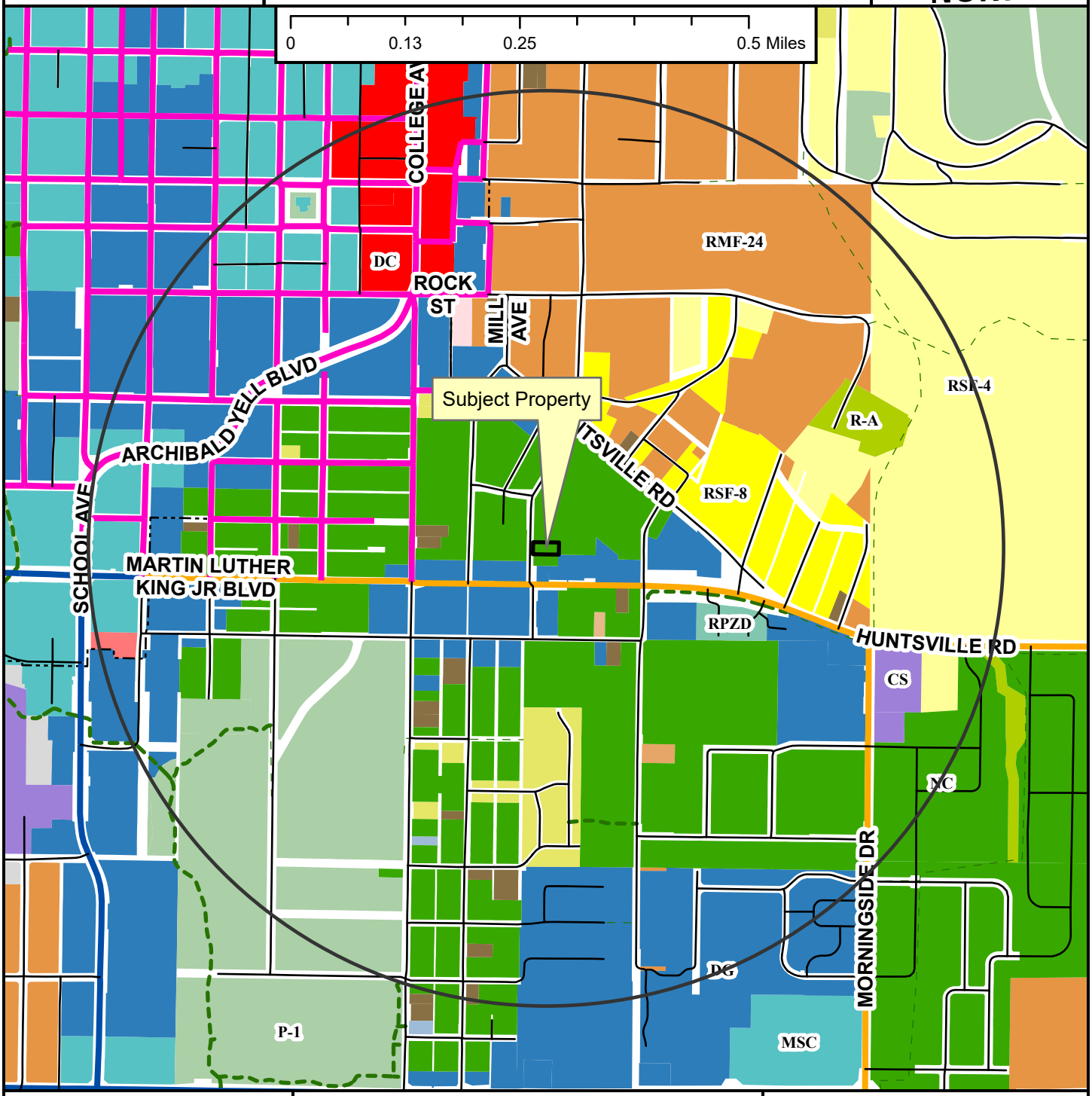
The request to rezone the property located at 514 S. Willow Avenue from the current Neighborhood Conservation (NC) to Residential Intermediate Urban (RI-U) we feel would be compatible with the neighboring property. In reviewing property in the surrounding area it appears other properties have requested and received the rezoning from NC to RI-U. This RI-U zoning would be compatible with the City of Fayetteville's 'Future Land Use Map' and the Walker Park Neighborhood Master Plan. The RI-U zoning would allow for more residential units than the current zoning based on the size of the lot if that were to be desired in the future.

RZN-2023-0005

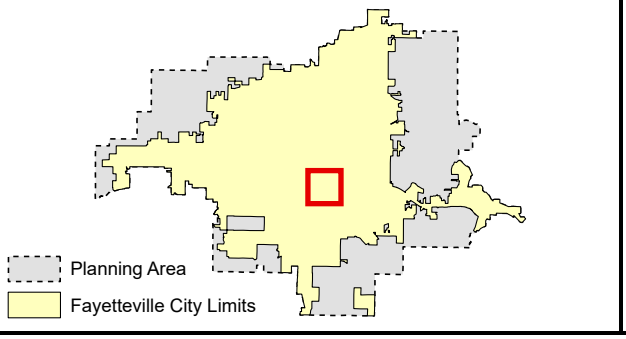
One Mile View

514 S. WILLOW AVE

NORTH



- 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-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- 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

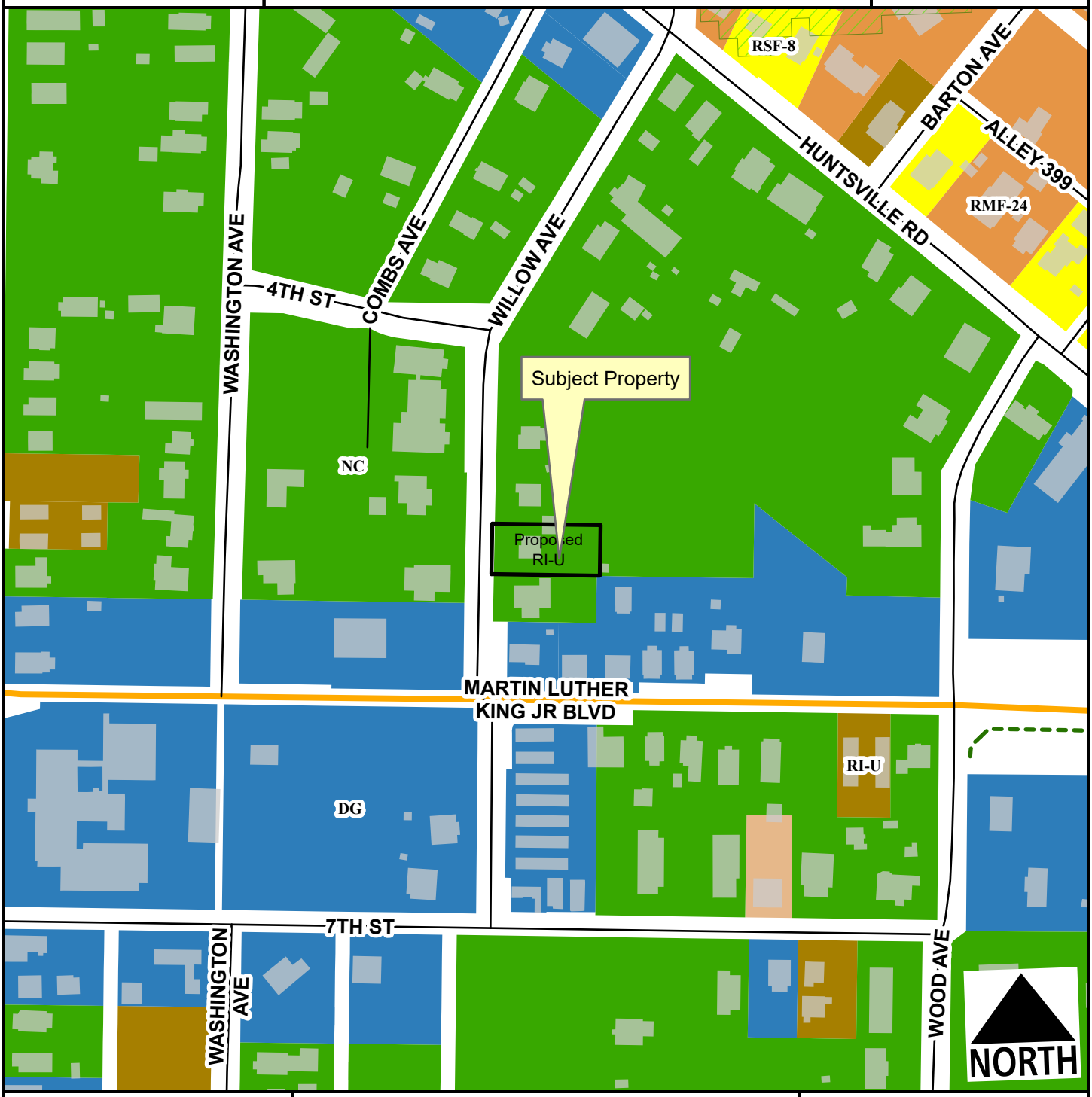
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

RZN-2023-0005

Close Up View

514 S. WILLOW AVE



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

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
NC	0.2	0.0
RI-U	0.0	0.2
Total	**0.2 ac**	

RZN-2023-0005

Current Land Use

514 S. WILLOW AVE

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

100-Year Floodplain
Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 13, 2023

SUBJECT: **RZN-2023-0006: Rezone (920 S. WOOD AVE./MAHONEY, 563):** Submitted by BAJA OZARKS, LLC for property located at 920 S. WOOD AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.48 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

RECOMMENDATION:
Staff recommends forwarding **RZN-2023-0006** to City Council with a recommendation of approval based on the findings herein.

RECOMMENDED MOTION:
*"I move to forward **RZN-2023-0006** to City Council with a recommendation of approval."*

BACKGROUND:
The subject property is in south Fayetteville on the east side of Wood Avenue about 300 feet north of the street's intersection with McClinton Street. The property contains one parcel totaling 0.48 acres and is currently developed with one single-family dwelling which Washington County records indicate was built in 1956. The property lies within the Walker Park Neighborhood Master Plan area and received its current zoning designation of NC, Neighborhood Conservation, as a result of that plan in 2008. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-18, Residential Multi-Family, 18 Units per Acre
South	Single-Family Residential	NC, Neighborhood Conservation
East	Single-Family Residential	NC, Neighborhood Conservation
West	Single- and Two-Family Residential	NC, Neighborhood Conservation

Request: The request is to rezone the subject property from NC, Neighborhood Conservation to RI-U, Residential Intermediate-Urban.

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

INFRASTRUCTURE:

Streets: The subject property has frontage along Wood Avenue, a partially-improved Residential Link street with asphalt paving and open ditches. Any street

improvements required in this area would be determined at the time of development proposal.

Water: Public water is available to the subject property. An existing 12-inch water main is present along the east side of Wood Avenue.

Sewer: Sanitary sewer is available to the subject property. An existing six-inch sewer main is present on the west side of Wood Avenue.

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District or a FEMA-designated floodplain and no protected streams are present. However, the property is largely encumbered by hydric soils. Hydric soils are known indicators of wetlands, though for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal. Any additional improvements or requirements for drainage will be determined at the time of development.

Fire: Station 3, located at 1050 S. Happy Hollow Rd., protects this site. The property is located approximately 1.4 miles from the fire station with an anticipated drive time of approximately three minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Tree Preservation:

The proposed zoning district of RI-U, Residential Intermediate-Urban requires **15% minimum canopy preservation**. The current zoning district of NC, Neighborhood Conservation, requires **20% minimum canopy preservation.**

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

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

conventional subdivision developments that may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment.

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

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

- 4 Minute Fire Response (Station #3, 1050 S. Happy Hollow Rd.)
- Near Sewer Main (six-inch main, S. Wood Ave.)
- Near Water Main (12-inch main, S. Wood Ave.)
- Near City Park (Jefferson Park, Walker Park)
- Near Paved Trail (E. MLK Jr. Blvd., E. 15th St.)
- Near ORT Bus Stop (Route 20)
- Within Walker Park Master Plan 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 proposed zoning of RI-U, Residential Intermediate-Urban, to be compatible with the surrounding area. Land uses in the immediate vicinity are primarily residential in nature, varying in both form and density. When compared to the property's current zoning designation of NC, Neighborhood Conservation, RI-U would allow for a greater variety of residential uses and densities by right. While NC allows single-family dwellings at a density of 10 units per acre, RI-U would allow single- to four-family dwellings with no stated density limitation. Since the subject property is directly adjacent to single-family dwellings, duplexes, and a multi-family dwelling, the land uses allowed by right in RI-U would be directly compatible with the surrounding area. Uses allowed conditionally in RI-U, including cultural and recreational facilities, limited businesses, and multi-family dwellings, may also be suitable at this site, though any land uses allowed conditionally would be subject to further review to determine full compatibility.**

Land Use Plan Analysis: **Staff finds that the proposed zoning is consistent with the property's Future Land Use map designation as a Residential Neighborhood area. The RI-U zoning district would allow for a mixture of residential densities in an urban form. If the property were to be redeveloped or subdivided, staff finds that RI-U could encourage an environment that is appealing to pedestrians by requiring buildings to be located close to the street and by reducing the visual impact of parking areas. The property has a relatively high weighted infill score of 8, indicating that it is likely a suitable location for infill. Since hydric soils are present on site, more information**

will be needed at the time of development proposal to determine whether wetlands are present. Regarding City Plan 2040, staff finds that a rezoning to RI-U could support Goals 1 and 3 by encouraging appropriate infill in an area that is highly walkable and near transit routes. With regard to the Walker Park Neighborhood Master Plan, a rezoning to RI-U could support the guiding principle of balancing uses and housing. Per the plan, ensuring a balance of uses and housing contributes to the overall sustainability of the community by reducing the number of vehicle trips needed, and smaller lot sizes exemplify a more sustainable development pattern than conventional subdivisions. Also, the variety of housing types permitted in RI-U would enable residents to remain in the Walker Park neighborhood as their housing needs change.

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

Finding: **Staff finds that the proposed rezoning from NC to RI-U is justified. Rezoning to RI-U would allow for housing types and densities that are comparable to the existing development pattern in the area and consistent with the City's planning policies and objectives.**

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

Finding: **Staff finds that rezoning the property to RI-U has the potential to increase traffic along Wood Avenue. However, the size of the property will naturally limit the scale of any future development and thus reduce any possible impacts on traffic danger or congestion. Any street improvements required in this area would be determined at the time of development proposal.**

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

Finding: **Rezoning the property from NC to RI-U has the potential to increase population density when considering there is no density limitation associated with the RI-U zoning district. However, staff finds that a rezoning is not likely to undesirably increase the load on public services. The property is near existing water and sanitary sewer infrastructure and is close to other public services. Fayetteville Public Schools did not comment on this request.**

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

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

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed

zoning is not desirable.

Finding: **N/A**

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0006 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 13, 2023	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code:
  - §161.12 – District RI-U, Residential Intermediate - Urban
  - §161.29 – Neighborhood Conservation
- Request Letter
- Walker Park Neighborhood Illustrative Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.12 District RI-U, Residential Intermediate - Urban

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

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster housing development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12a	Limited business
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*

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

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

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

(Ord. No. 5945 , §5(Exh. A), 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

All dwelling types	40 feet

(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations*.

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

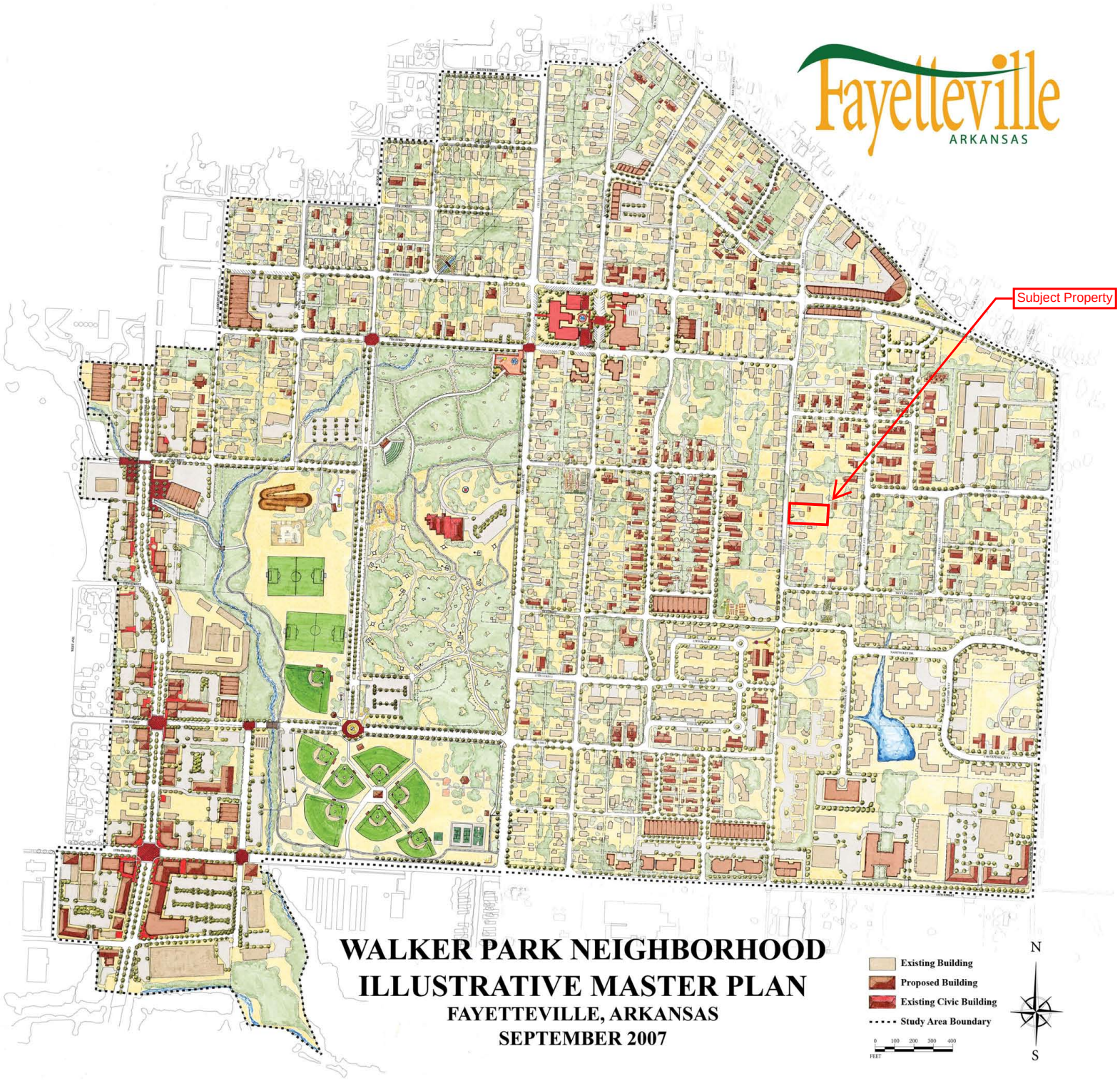
(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

I would like to rezone this property to an RI-U zoning in order to split into 4 lots. Currently an old 504 sq ft home sits on 0.48 +/- acres. The home is tiny and is in need of major renovations. The best and highest use of this large lot that is a 20 minute walk to downtown and similar distance to grocery stores, dining and the public library would be to offer the opportunity to develop further into more housing opportunity. There is currently an 8 unit condominium building on the northside of the property and a single family residential rental home to the south. The property is in South Fayetteville one mile to the historic square and in an area where a mix of zoning exists offering multi family housing, condos, a smaller home neighborhood, row homes, and even some tiny homes to provide density to this downtown area. I do not think that allowing 4 smaller lots to be made from this almost half acre lot will change the fabric of this neighborhood as it is close proximity to very similar sized lots.

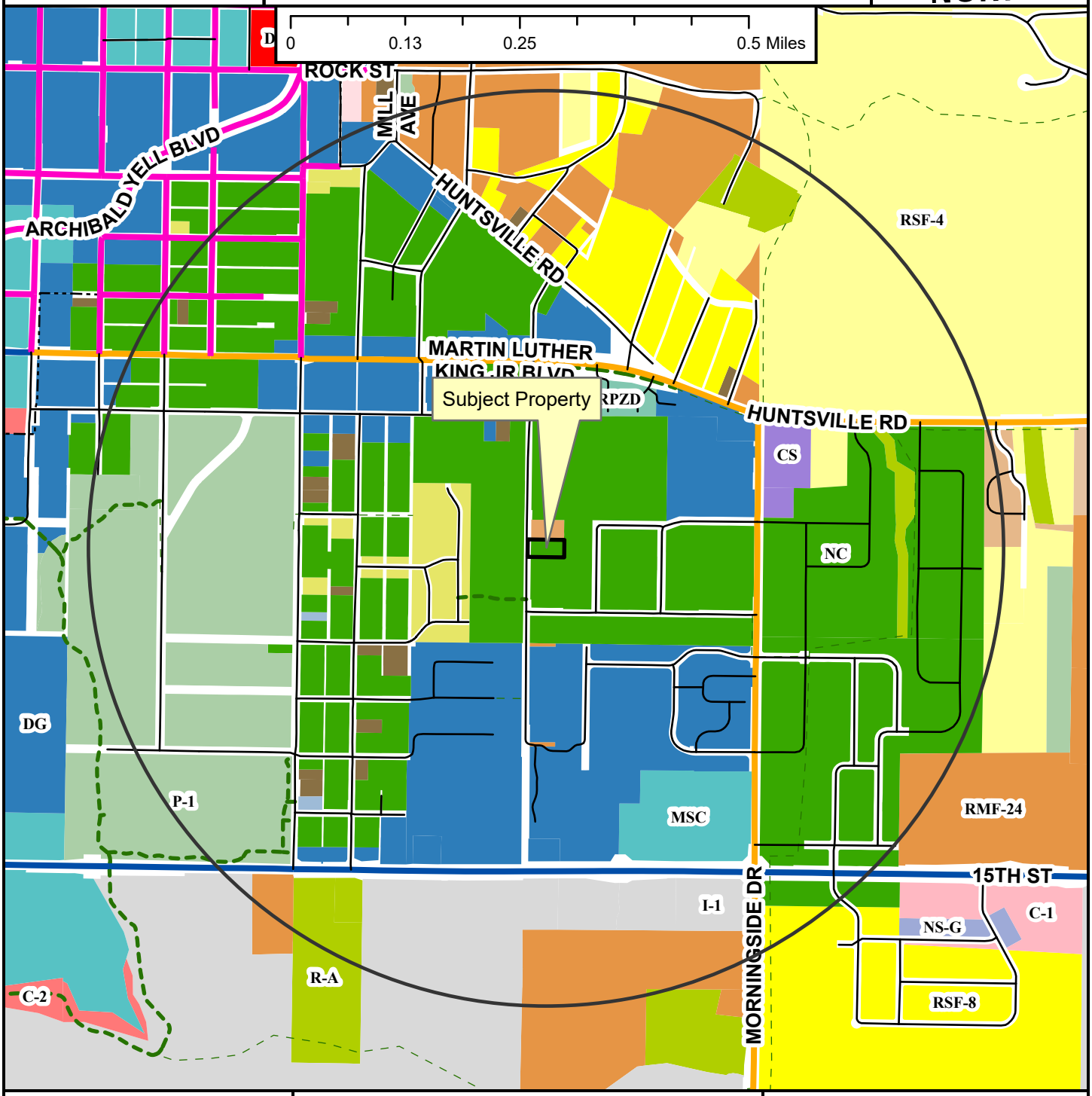

Fayetteville
ARKANSAS
Subject Property
WALKER PARK NEIGHBORHOOD
ILLUSTRATIVE MASTER PLAN
FAYETTEVILLE, ARKANSAS
SEPTEMBER 2007
Existing Building
Proposed Building
Existing Civic Building
Study Area Boundary
0 100 200 300 400
FEET
N
S

RZN-2023-0006

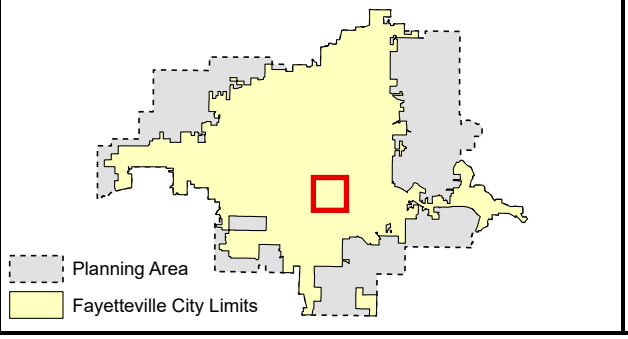
One Mile View

920 S. WOOD AVE

NORTH



- 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-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- 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

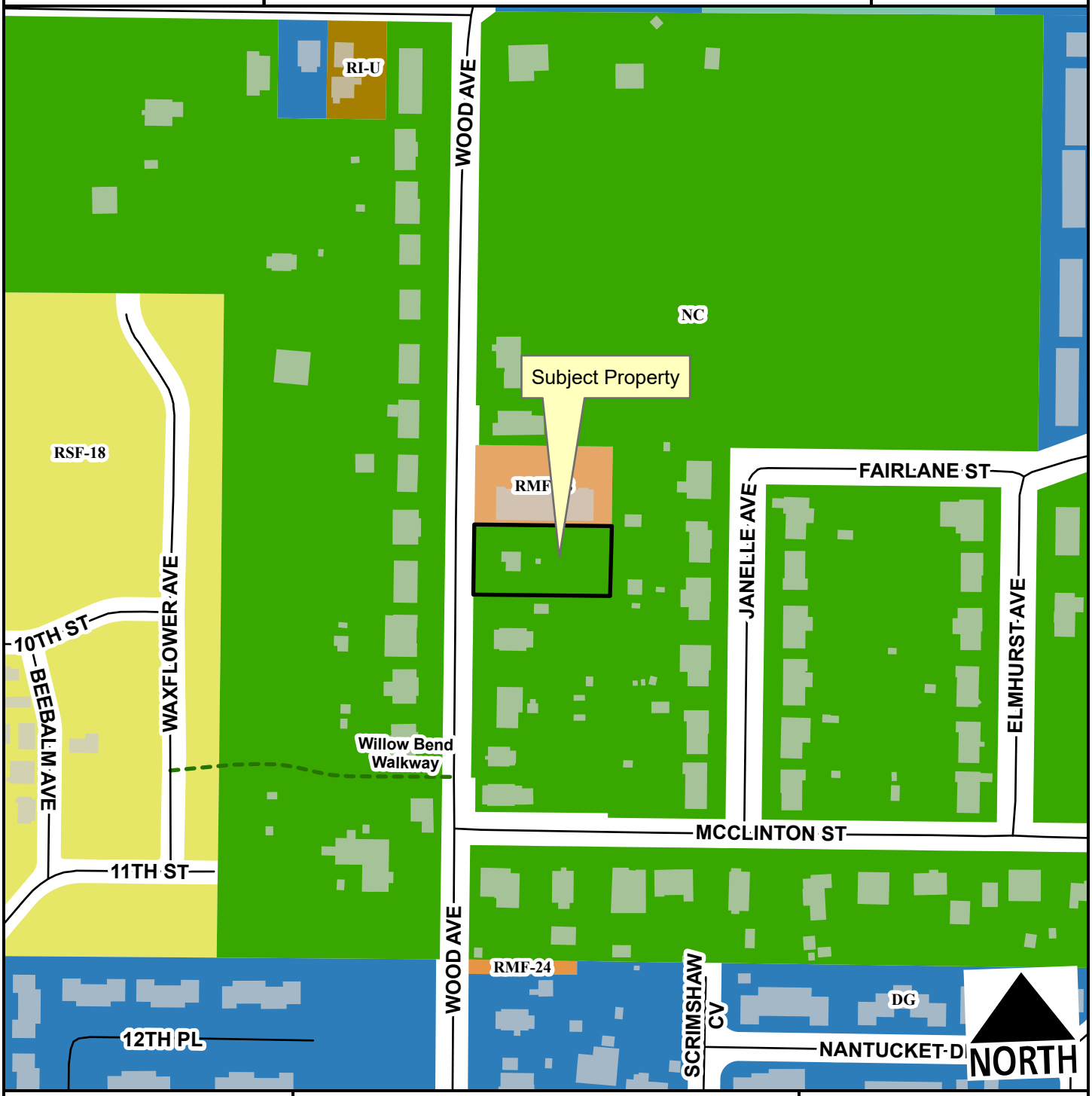
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

RZN-2023-0006

Close Up View

920 S. WOOD AVE



Unclassified

Residential Link

Planning Area

Fayetteville City Limits

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
NC	0.48 ac	0.00 ac
RI-U	0.00 ac	0.48 ac
Total	**0.48 ac**	

RZN-2023-0006

Current Land Use

920 S. WOOD AVE

NORTH

Neighborhood Link

Unclassified

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

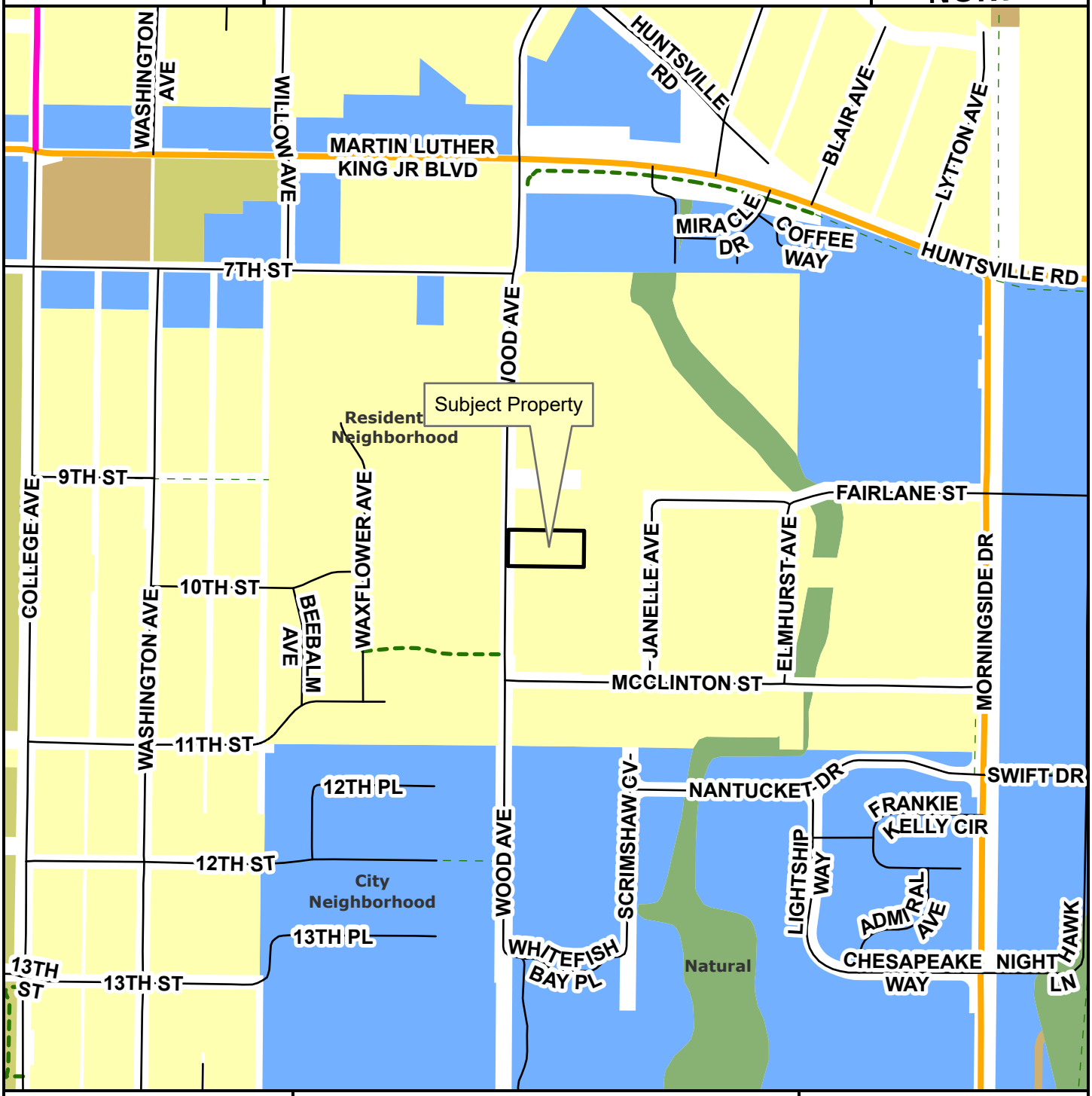
Floodway

RZN-2023-0006

Future Land Use

920 S. WOOD AVE

NORTH



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

Feet

0 145 290 580 870 1,160

1:4,800

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

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0016: Conditional Use Permit (4479 W. PUTTING GREEN DR./PELTIER, 438):** Submitted by JARI PELTIER for property located at 4479 W. PUTTING GREEN DR. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.26 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0016** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0016**, determining:*

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

BACKGROUND:
The subject property is on the south side of Putting Green Drive in the Cross Keys Subdivision in west Fayetteville. The property contains approximately 0.26 acres and is currently developed with a five-bedroom, single-family dwelling which was built in 2020. 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.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0016** 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 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 YES

Date: March 13, 2023 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. **Authority; Conditions.** The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

Finding: **The Planning Commission is empowered under 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 adversely 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 an RPZD. Since the Cross Keys RPZD is a residential zoning district that only allows residential uses by right, 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 five bedrooms, occupancy will likely be limited to a maximum of 12 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(A)(4). Parking for single-family homes is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. According to the applicant, the residence has a three-car garage with a driveway large enough to accommodate three additional vehicles for a total of six off-street parking spaces.**

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

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

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

Finding: **The application is for use of the property at 4479 W. Putting Green 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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in the underlying RPZD, so this short-term rental would contribute to the city-wide density cap. 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 six spaces are available in an attached garage and driveway, and the property abuts a public street that is wide enough to accommodate on-street parking. City business license records indicate that three other units within a quarter-mile radius have active Type 2 short-term rental business licenses. Four code case violations were reported on this property for overgrown grass prior to the construction of the existing residence.**

§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 Putting Green Drive and there is sidewalk present on each 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 twelve guests, which would not be out of character with the 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 six guest vehicle parking spaces available, with three spaces in an attached garage and three spaces in an adjacent driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

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

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

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

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

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

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

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

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

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

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

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

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Ordinance 4548, Cross Keys RPZD Land Use Regulations
- Applicant Request Letter
- Site Plan
- Building Floor Plans
- Building 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.

(18) 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)

Right-of-way being dedicated: 50' for all interior rights-of-way, 70' along Persimmon St., and 50' along 46th St.

Connectivity: Connectivity from this proposed residential subdivision is being provided west to 46th Street, south to Persimmon St., and east to a vacant tract of land for connectivity to future development.

Street Improvements: Construction of Persimmon Street along southern property line and a recommendation from Engineering Division to cost share for the developer to overlay the entire width of 46th Street for the length of the project.

Master Street Plan Streets:

North: Wedington Drive (principal arterial) approximately ½ mile north
South: Persimmon Street (collector) planned for construction with this development
East: 46th Street (local street)
West: 54th Ave. (collector) is approximately ¾ mile west

Tree Preservation:	Existing canopy:	0.13 %
	Preserved canopy:	0.08 %
	Mitigation:	$1,050 payment into the City's Tree Escrow Account prior to final plat approval.

Background: This proposal was heard at Subdivision Committee meeting on December 30, 2003 where it was forwarded to the Planning Commission. On January 12, 2004 the Planning Commission tabled the item back to Subdivision Committee for lack of developer notification. This item was heard again by the Subdivision Committee on January 29, 2004.

Recommendation:

Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed preliminary plat subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district for R-PZD 04-02.00 with all conditions of approval as determined by the Planning Commission.

2. An ordinance creating this R-PZD shall be approved by City Council.

3. A Final Plat is required to legalize the lot configuration, filed pursuant to City of Fayetteville requirements.

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4. Planning Commission determination of appropriate fence material, if desired, and appropriate timing for installation. The fence shall not encroach upon right-of-way or easement.

5. Planning Commission determination of street improvements. *Staff recommends 14' from the centerline of 46th Street including curb, gutter, and storm sewer,* and construction of Persimmon St. along the south property line.

6. Payment of **$1,050** into the City's Tree Escrow Account prior to final plat approval.

7. Allowed uses in this R-PZD shall be restricted to use unit 8, single family residential, + use units 1+ 24.

8. Covenants to be filed with the final plat to include maintenance of detention, common open space, fences, entry features, and landscape islands. (A draft is included in the report.)

Standard Conditions of Approval:

9. Payment of parks fees in the amount of **$59,940** for 108 single-family units shall be required prior to Final Plat.

10. Plat Review and Subdivision comments (to include written staff comments provided to 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 in accordance with current standards to include a six foot sidewalk and ten foot green space along Persimmon Street and a four foot sidewalk with a six foot greenspace along 46th Street and all proposed streets.

13. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

14. Preliminary Plat shall be valid for one calendar year.

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Date: February 22, 2023

To: City of Fayetteville Planning Department

Subject: Residential Property Change of Use to Short Term Rental Request Letter

Re: 4479 West Putting Green Drive
Fayetteville, AR 72704

Planning Department,

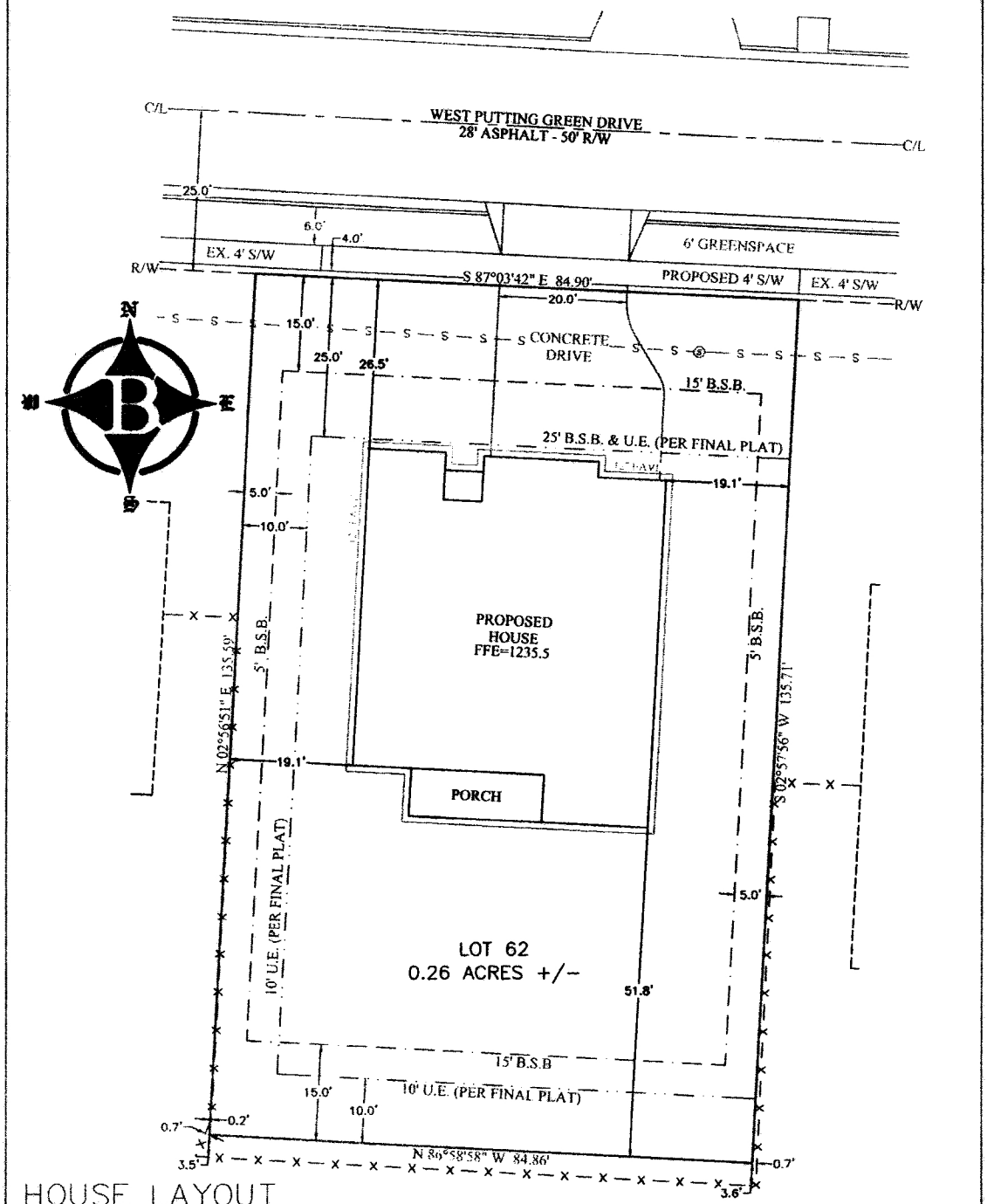
a. The facility is a two-story 2,720 SF under air (approx 3,360 SF under roof) single family residence and was constructed in 2020. It sits on a 0.30 acre interior lot.
b. The residence has a three car garage with enough driveway storage to accommodate another three vehicles for a total off-street storage of six vehicles.
c. Any outdoor lighting above and beyond typical illumination of a residential backyard will not be provided with our facility and will not be allowed by the customers.
d. The listing and rental agreements established by COHOBNB (our managing partner) do not host for venue related parties or events. Renters are required to abide to the restrictions and guidelines of the POA and all laws governed by the City of Fayetteville with reference to outside noise concerns.
e. The backyard area utilizes a six-foot high shadow box fence for screening from the adjacent properties. The neighborhood lots are all approximately 0.30 acres.
f. Trash and recycling disposal will utilize the residential curb-side collection services provided by the City of Fayetteville. We believe the standard collection system provided will be adequate to meet the demands. COHOBNB will insure that the trash receptacles will be timely taken to and removed from the West Putting Green Drive adhering to the restrictions and guidelines of the POA and all rules governed by the City of Fayetteville.
g. Customer ingress and egress will be via West Putting Green Drive in a typical fashion for a single family residence in the neighborhood. The property short term rental will result in a significant amount of time the property is not occupied. Therefore, we feel the overall traffic impact should be equal or less than the impact of a fully occupied residence.
h. As previously mentioned, COHOBNB will be our managing partner for the property. They will oversee all aspects of the property and renters. The property will be maintained to meet the expectations of the neighborhood and POA guidelines. The short term rental will provide visitors to the beautiful area of Fayetteville a safe and comfortable residential setting for lodging. The Northwest Arkansas area is experiencing significant growth and our customers that stay at our facility in Fayetteville will add to the economic growth of Fayetteville. We will be staying at the residence off and on throughout the year and strive to be considered an asset to the neighbors and neighborhood.

If you have any questions please do not hesitate to call.

Sincerely,

John and Jari Peltier
John 817.223.6841
Jari 817.239.6311

SITE PLAN



HOUSE LAYOUT

NOT FOR CONSTRUCTION

NOTES:

1. DIMENSIONS ARE PERPENDICULAR TO PROPERTY LINES.
2. THIS PLOT DEPICTS FUTURE CONSTRUCTION OF IMPROVEMENTS AS SHOWN.
3. THIS IS NOT A BOUNDARY SURVEY, IT IS NOT INTENDED FOR TRANSFER OF TITLE.
4. ALL DIMENSIONS MEASURED TO WALLS.
5. THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION OF THE BUILDING AND BUILDING DIMENSIONS SHOWN HEREON MUST BE VERIFIED BEFORE PROCEEDING WITH CONSTRUCTION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THAT THE BUILDING DOES NOT ENCROACH UPON ANY BUILDING SETBACKS AND OR EASEMENTS.

0' 20' 40' 60'

GRAPHIC SCALE (IN FEET)
1 Inch = 20ft.

DRAWING #19-251 SP

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

- BOUNDARY LINE
- CENTERLINE OF ROAD
- RIGHT-OF-WAY
- BUILDING SETBACK
- UTILITY EASEMENT

FOR USE AND BENEFIT OF:

BAUMANN & CROSNO

ADDRESS:

4479 W PUTTING GREEN
FAYETTEVILLE, ARKANSAS

DATE: 8/6/19	SCALE: 1"=20'	
LOCATION: LOT 62 CROSS KEYS PH I	SURVEYED: RS	DRAFTED: JY
	REVIEWED: DT	

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

7256 S. Pleasant Ridge Dr. · Fayetteville, Arkansas 72704 · 479.442.9350 · Fax 479.521.9350

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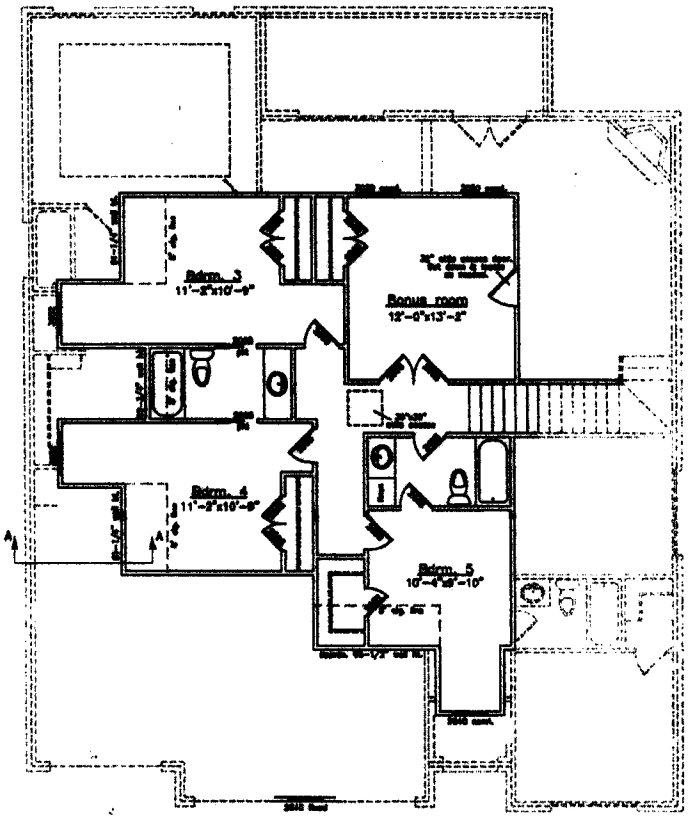
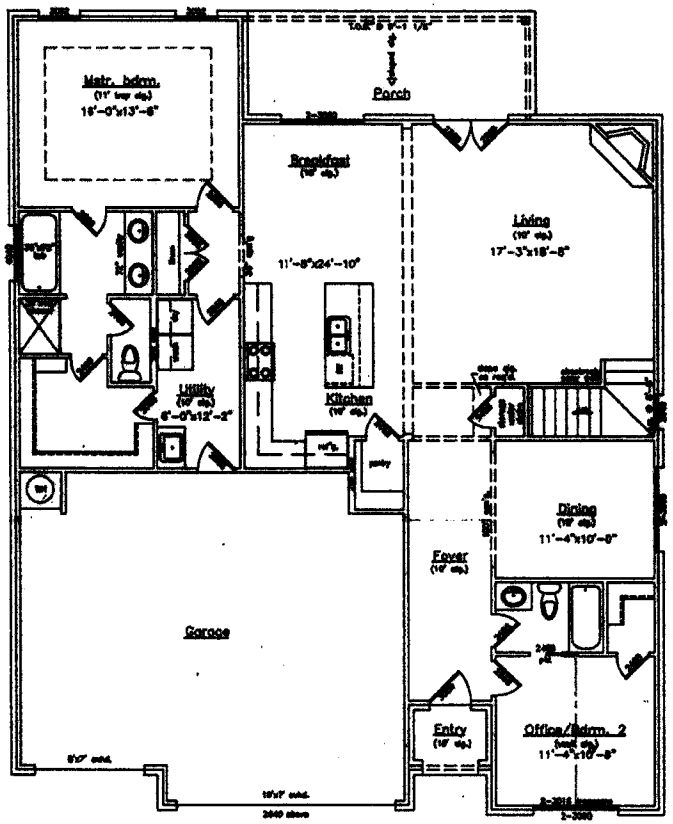
This survey was conducted for the person or persons whose name(s) appear on this plat. This plat is protected by copyright. No one including the person(s) named may reproduce this plat without the express written consent of Bates & Associates, Inc. Surveyor has made no independent investigation for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other fact which a complete and accurate title search may disclose. Any flood statement provided on this plat is for information only and Bates & Associates, Inc. assumes no liability for the correctness of the herein cited maps, furthermore the above statement does not reflect on the opinion of Bates & Associates, Inc. of the probability of flooding



2nd floor plan

2nd Floor notes (u.n.o.):
1. Ceiling heights are 8'-0"
2. Exterior walls are 2x4 studs
3. Interior walls are 2x4 studs



1st floor plan

1st Floor notes (u.n.o.):
1. Ceiling heights are 10'-0"
2. Exterior walls are 2x4 studs
3. Interior walls are 2x4 studs

General Notes

Structural Integrity Design is a residential design service not a registered architectural firm. The purchaser of this set of plans should consult a building professional prior to construction. The purchaser and builder of this plan releases Structural Integrity Design from any liability and/or claims that may arise during construction or anytime thereafter. Therefore, the builder must carefully inspect all aspects of these drawings, including but not limited to dimensions, details, accuracy and overall integrity, and assumes all responsibility. This plan may need to be modified to comply with local and/or governing codes.

Structural Integrity Design Services LLC
Residential design & drafting

Project Name and Address

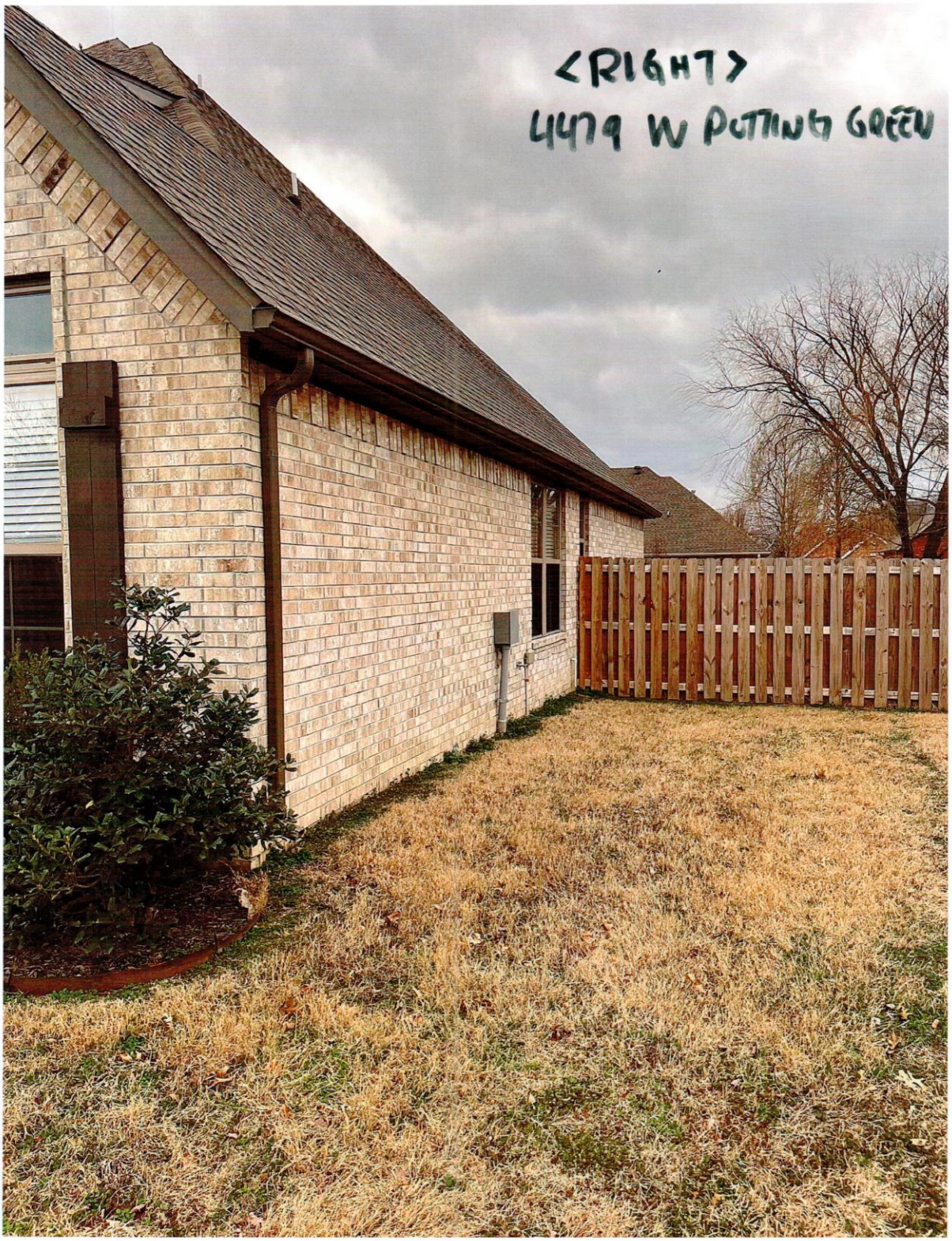
Baumann & Crosno
lot 62 Cross Keys
Fayetteville, AR.

Square footage

		(Drawing)	(Actual)
1st floor (htd.)	=	1725	1786
2nd floor (htd.)	=	934	934
Garage	=	648	671
Cov. porches	=	184	181
Total under roof	=	3491	3572

No.	Date	Revisions made

BC-62 Cross Keys	Sheet 1 of 1
Date 2/1/2020	
Scale 1/4" = 1'-0"	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<FRONT>
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PUTTING GREEN

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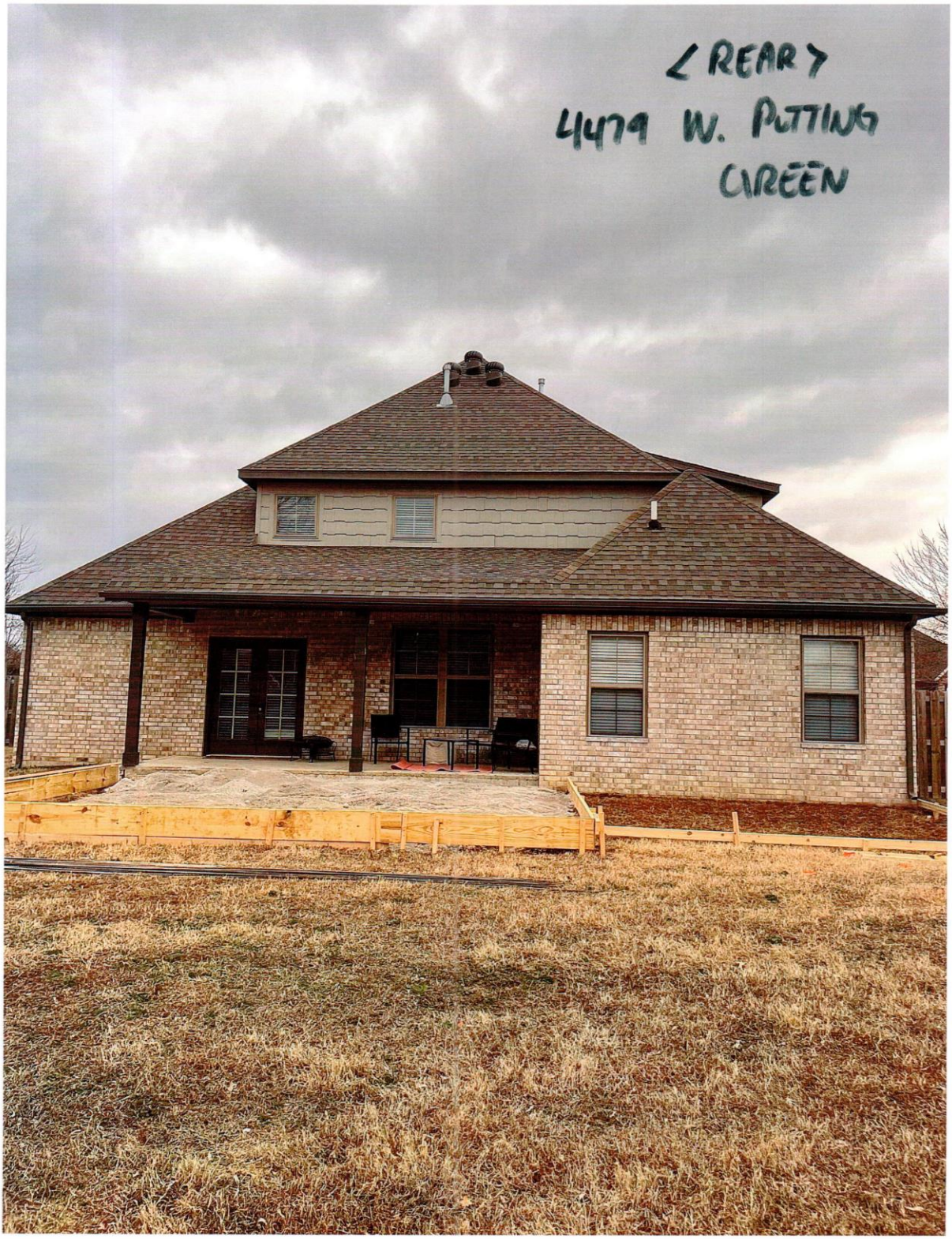
GREEN

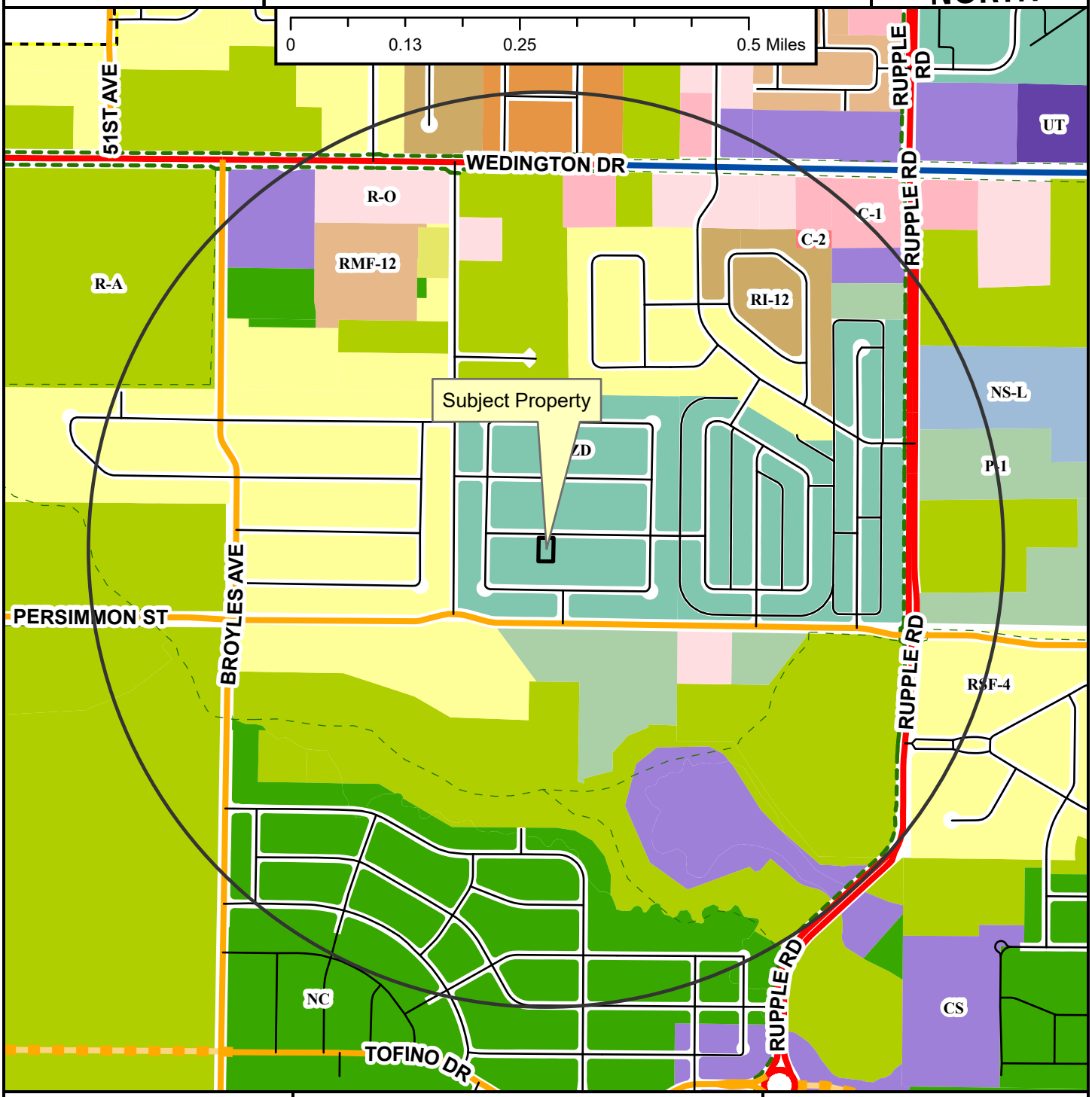

<REAR>
4479 W. PUTTING
GREEN

CUP-2023-0016

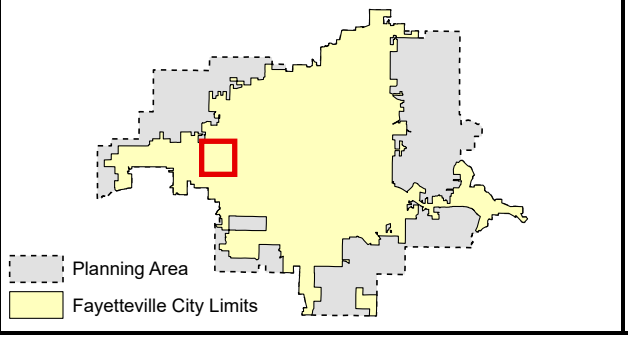
One Mile View

4479 W. PUTTING GREEN DR

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

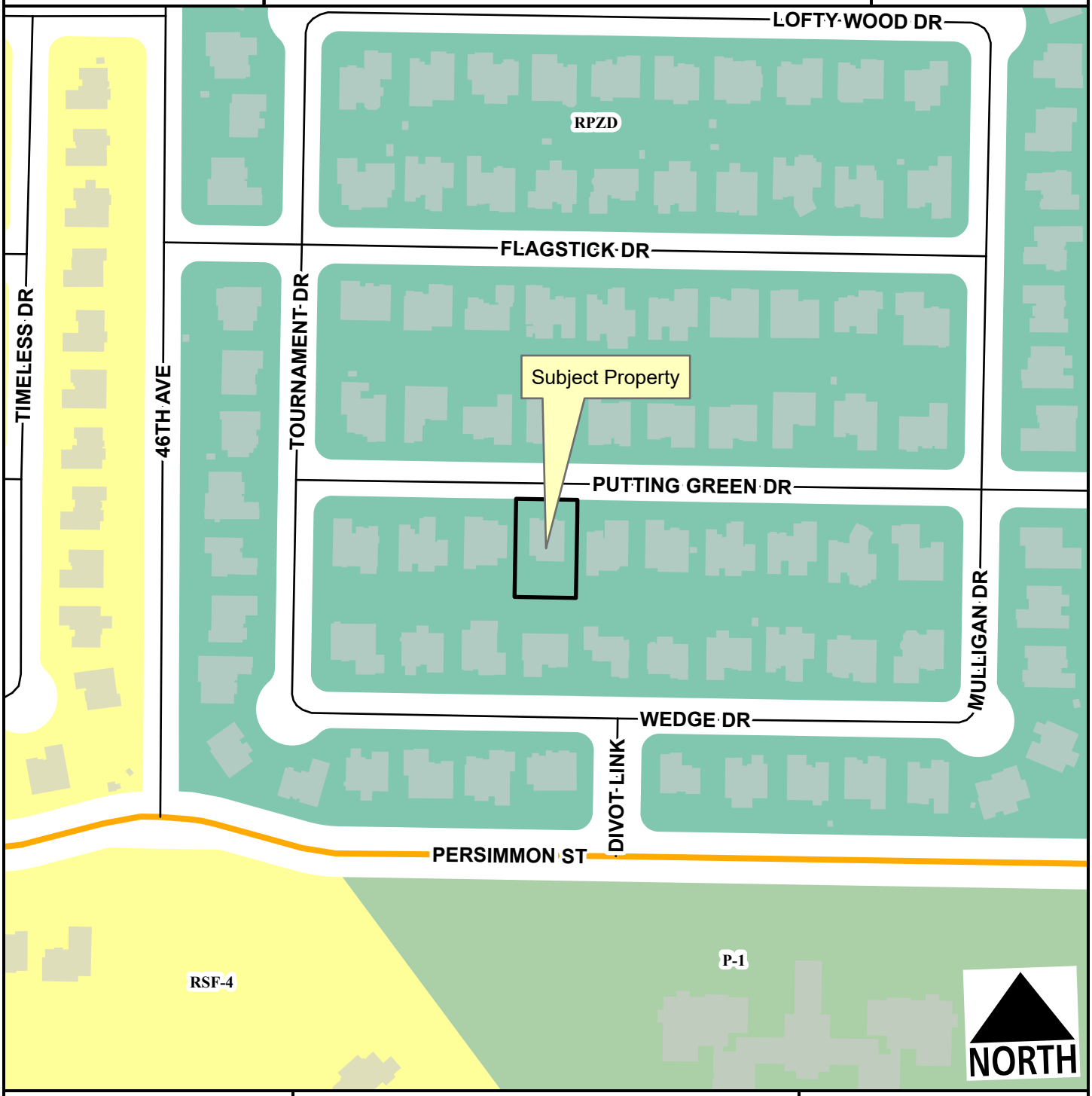
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0016

Close Up View

4479 W. PUTTING GREEN DR



Neighborhood Link
Alley
Residential Link
Planning Area
Fayetteville City Limits

Feet
0 75 150 300 450 600
1:2,400

RSF-4
Commercial, Industrial, Residential
P-1

CUP-2023-0016

Current Land Use

4479 W. PUTTING GREEN DR

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

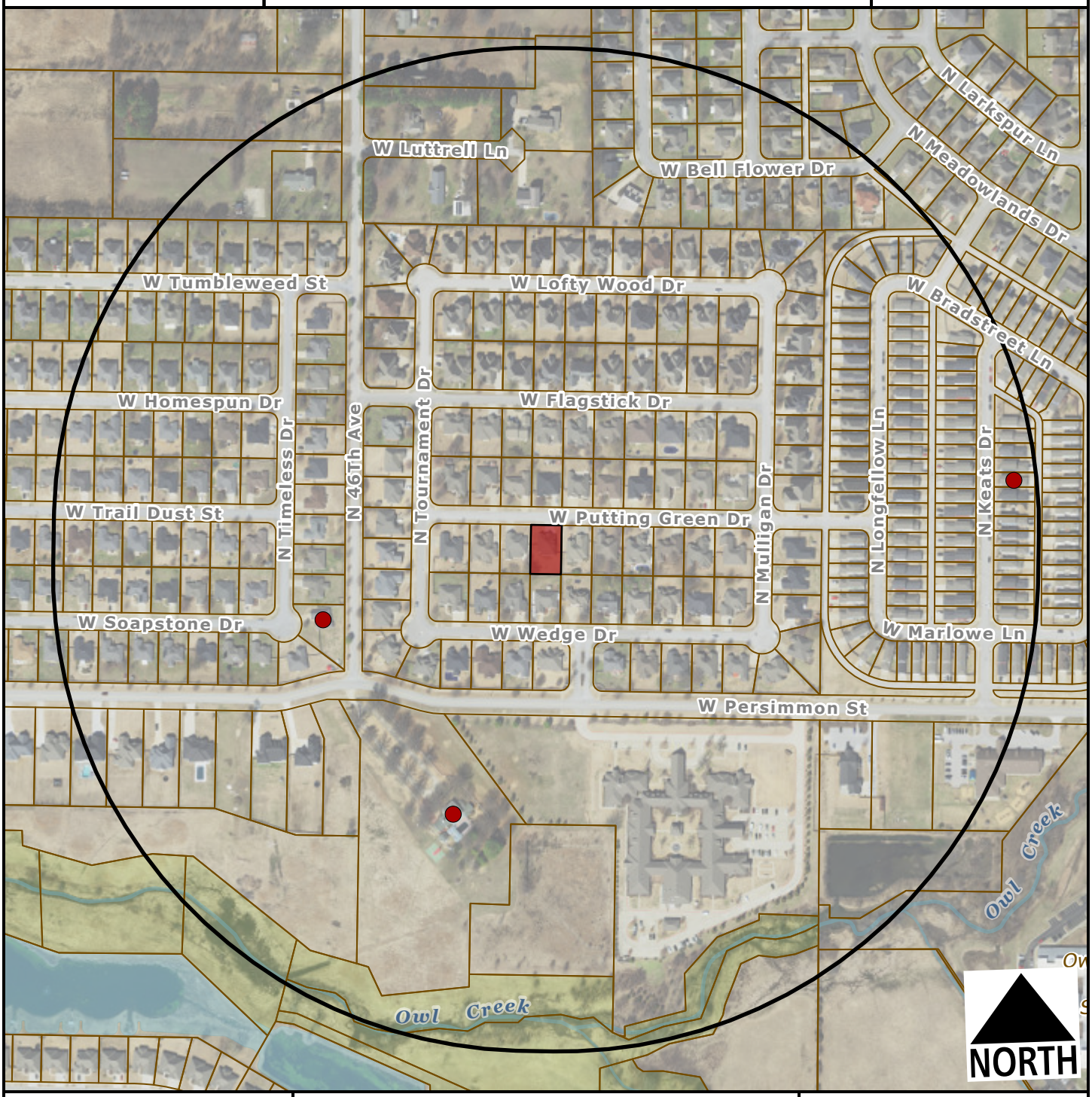
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0016

STRs Within 1/4 Mile

4479 W. PUTTING GREEN DR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	3
NOT contributing to 2% density cap	0
Total	**3**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0017: Conditional Use Permit (578 N. SEQUOYAH DR./SOBBA, 447):** Submitted by SEAN SOBBA for property located at 578 N. SEQUOYAH DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 0.79 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0017** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0017**, 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 east Fayetteville on the east side of Sequoyah Drive about a quarter-mile north of the street's intersection with Assembly Drive. The property contains approximately 0.79 acres and is currently developed with a three-bedroom, single-family dwelling which was built in 1953. 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	Undeveloped	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-2023-0017** 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 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 YES

Date: March 13, 2023 ❒ **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 adversely affect the public interest given the applicable business license requirements, including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.**

(c.) The Planning Commission shall certify:

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

Finding: **There are specific rules governing short-term rentals, as follows:**

§163.18. SHORT-TERM RENTALS.

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

Finding: **The request is to operate a Type 2 short-term rental in RSF-4 zoning. 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.**

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(A)(4). Parking for single-family homes is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, there appears to be space to park at least two vehicles in an attached garage and two additional vehicles under an adjacent 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 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 578 N. Sequoyah 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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in RSF-4 zoning, so this short-term rental would contribute to the city-wide density cap. No exceptions to the short-term rental standards are being requested with this conditional use permit.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four off-street parking spaces are available in an attached garage and carport. Sequoyah Drive and other nearby public streets do not appear to be wide enough to support on-street parking. City business license records indicate that one other unit within a quarter-mile radius has an active Type 2 short-term rental business license. No prior zoning or code violations have been reported on this property.**

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

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

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

Finding: **The subject property has access to Sequoyah Drive through an existing paved driveway. 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 the use of the property for residential purposes.**

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

Finding: **The applicant has indicated that there are at least four guest vehicle parking spaces available, with two spaces in an attached garage and two spaces under an adjacent 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 property and its use as a short-term rental is not anticipated to impact the provision of utilities.**

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

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

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

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

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

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

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

Finding: **Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses, and short-term rentals are permitted by right in the RSF-4 zoning district. There appears to be adequate parking to accommodate the number of permitted guests, and staff does not anticipate any adverse traffic impacts with this request. The RSF-4 zoning district does not allow hotel/motel uses by right, so this short-term rental would contribute to the city-wide density cap.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Site Plan
- Building 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.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

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 19, 2023
Sean Sobba
578 N Sequoyah Dr
Fayetteville, Ar 72701

City of Fayetteville
113 W Mountain St
Fayetteville, Ar 72701

Sub: CUP Request letter for short term rental

To whom it may concern,

I am writing you today to request a CUP for short term rental. Below are the answers to questions a-j that I believe apply to my request on the city's portal application.

(a) My home is 2022 sq ft.

(c) There is ample parking for guests.

(e) There is minimal outdoor lighting with a front door light and old lamp post.

(f) I've lived here since 2018 and have never experienced any noise issues or complaints.

(g) I have neighbors on both sides, the lots are an acre or close to so there is a good deal of privacy.

(h) Trash & Recycle service runs every Thursday.

(I) Ingress/Egress is a driveway.

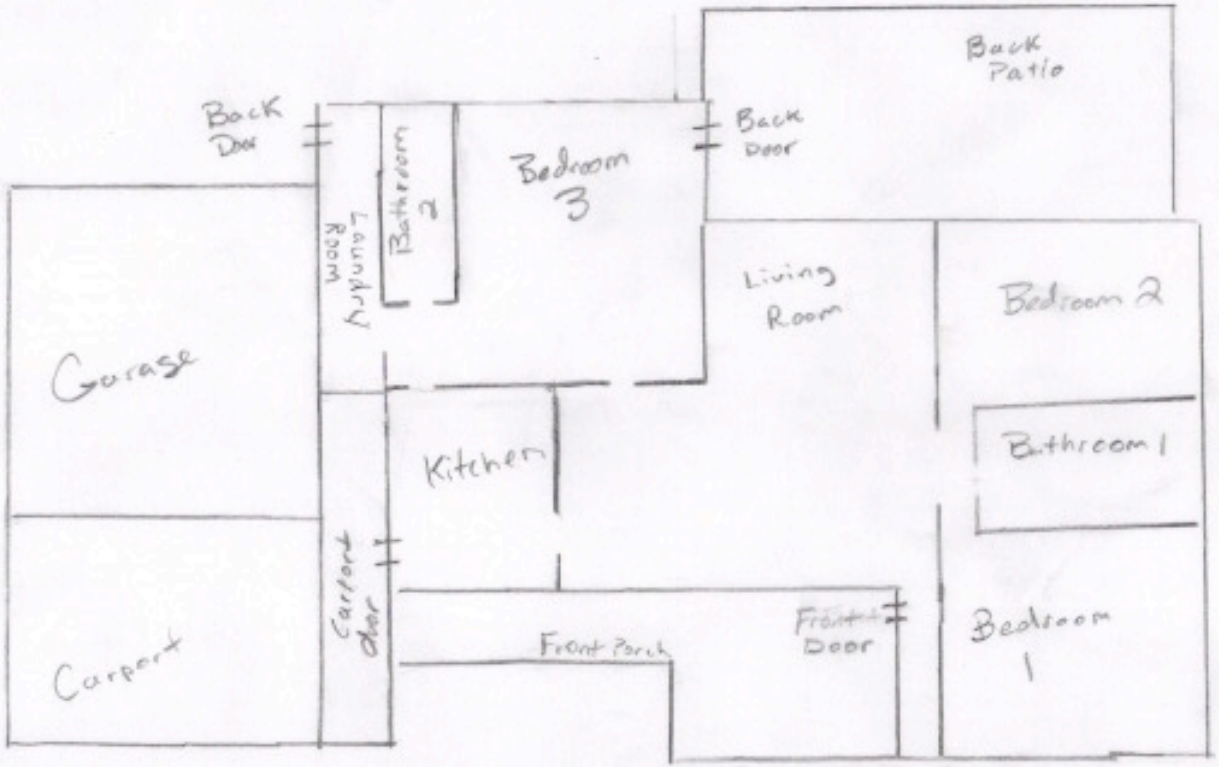
(j) I believe my home will be very compatible with the neighborhood as a short term rental. There will be no impact on traffic. I have a great relationship with my neighbors. I have lived here for four years and have held good stewardship in high regard during that time. I plan on continuing that effort as a short term rental owner.

Thank you,

Sean Sobba

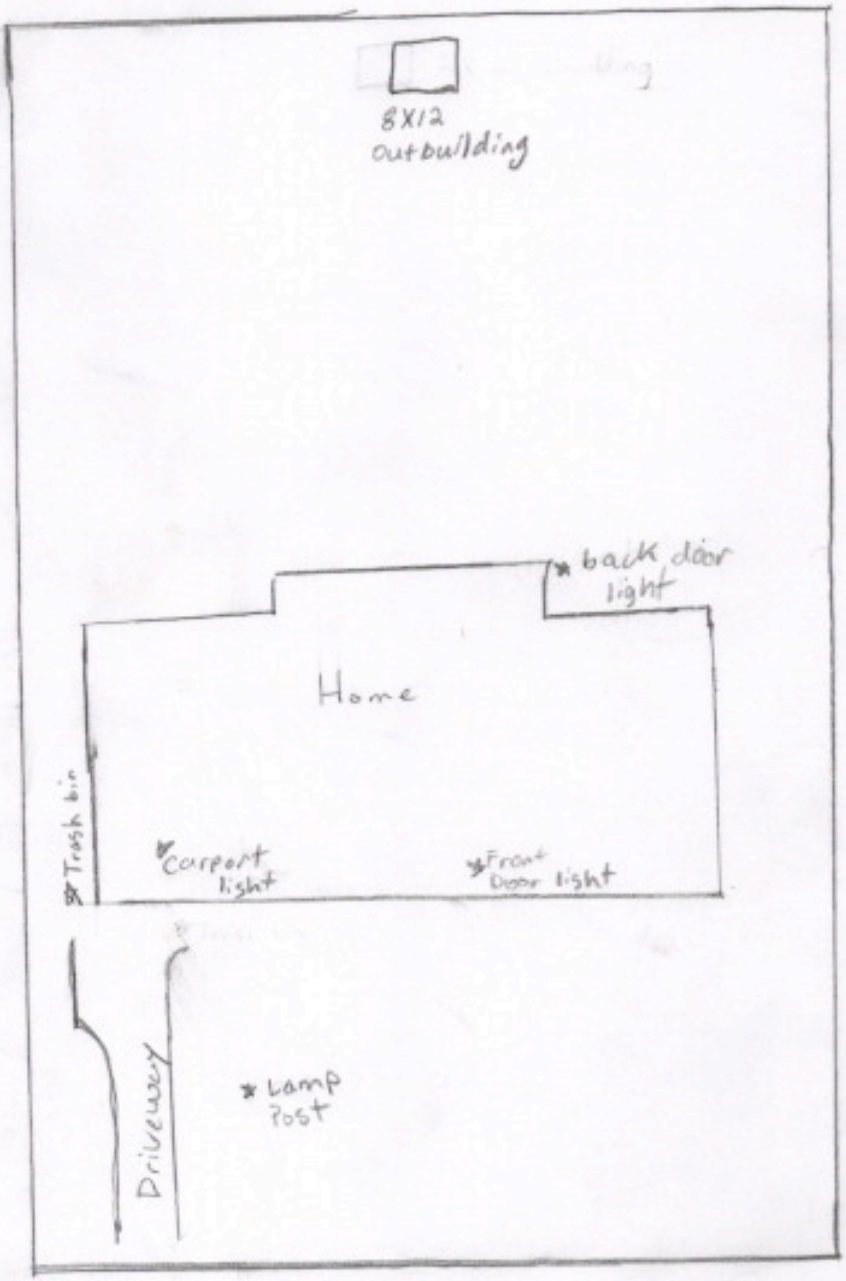
Floor Plan

578 N. Sequoyah dr.



Site Plan

578 N. Sequoyah dr.
Fayetteville, Ar 72701



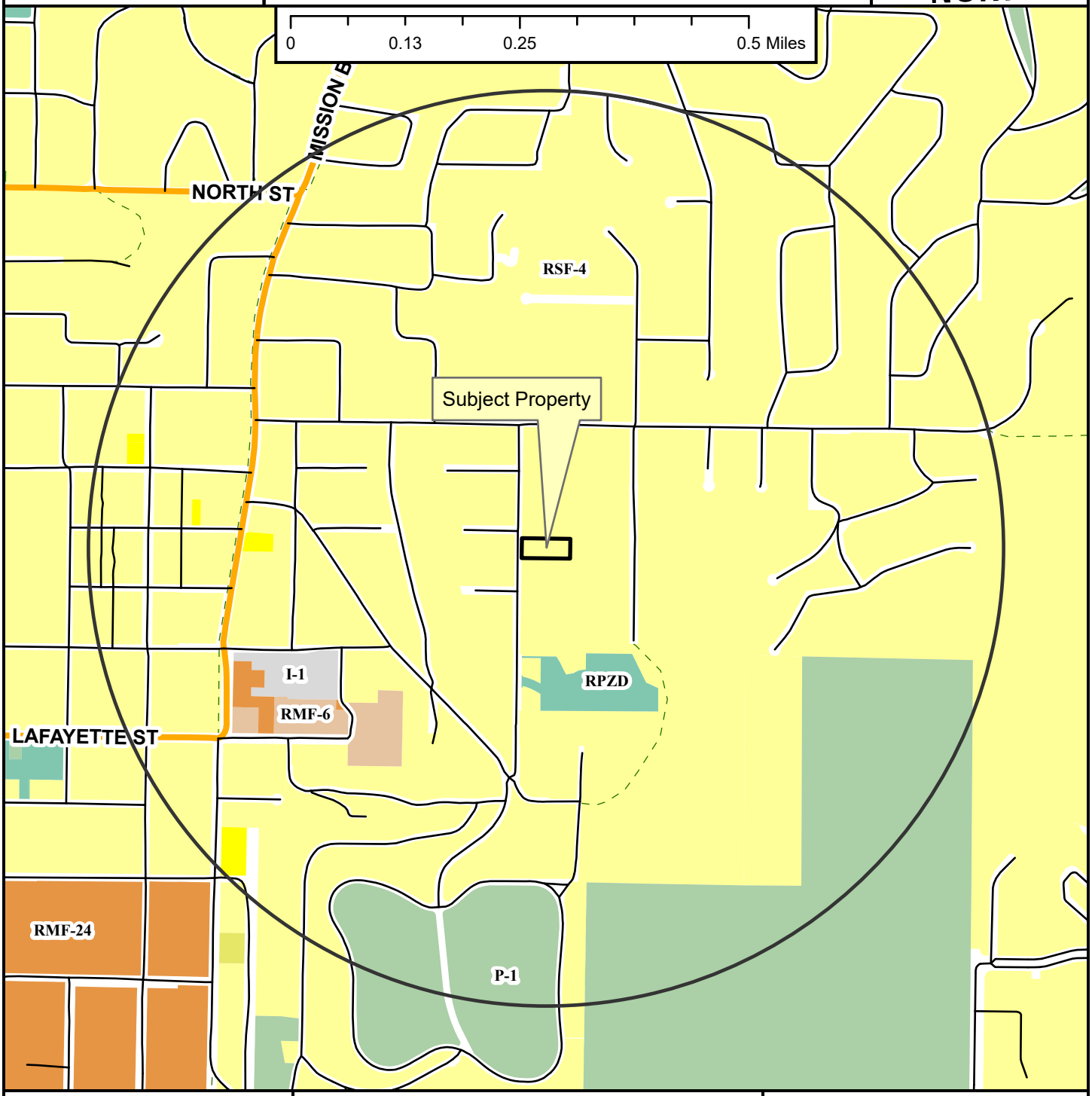
Sequoyah Dr.

CUP-2023-0017

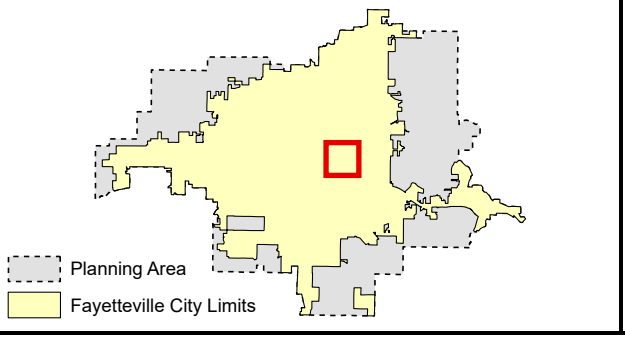
One Mile View

578 N SEQUOYAH DR

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

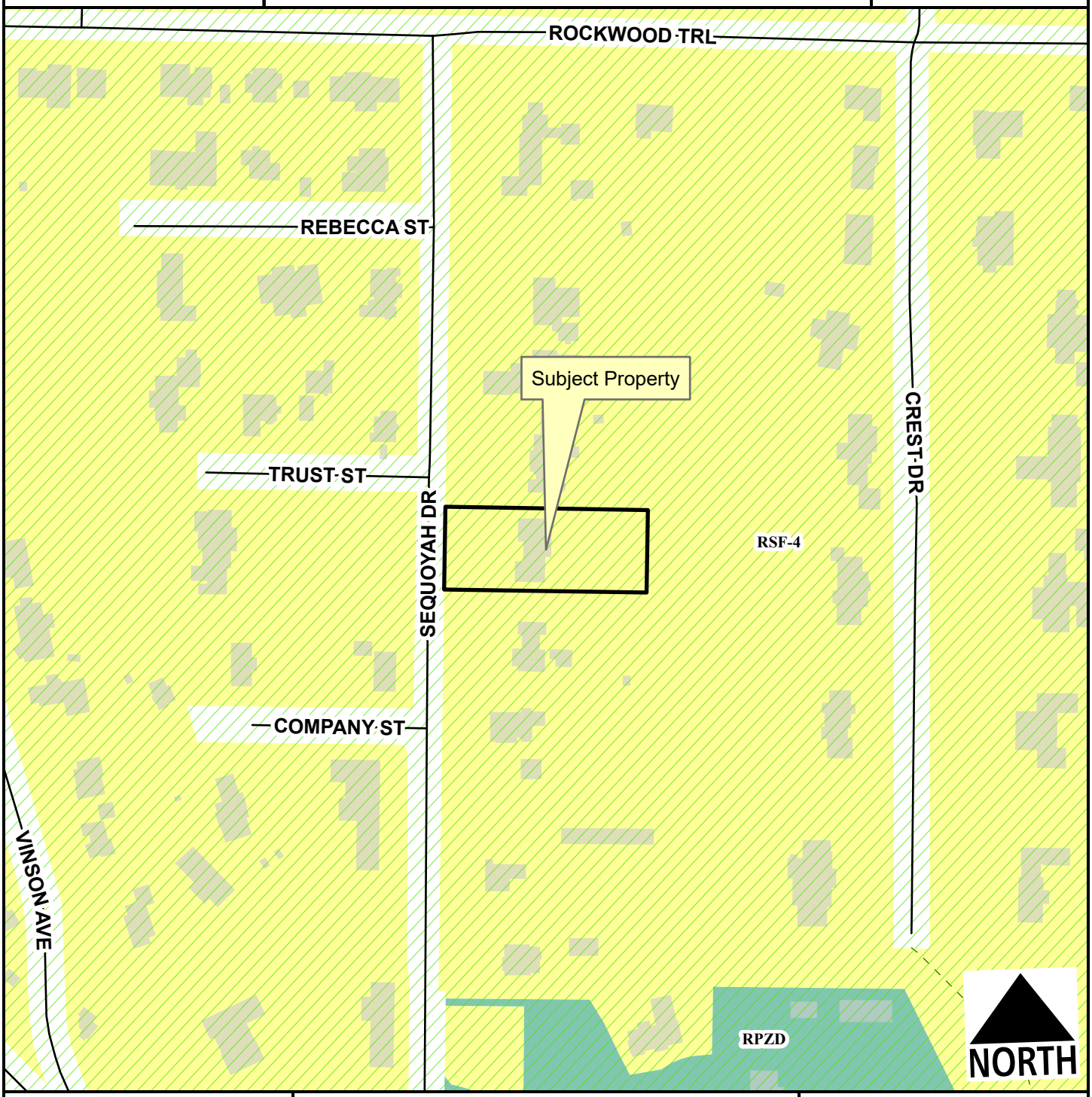
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0017

Close Up View

578 N SEQUOYAH DR



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

Feet
0 75 150 300 450 600
1:2,400

RSF-4
Commercial, Industrial, Residential

CUP-2023-0017

Current Land Use

578 N SEQUOYAH DR

NORTH

Residential Link

Trail (Proposed)

Planning Area

Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

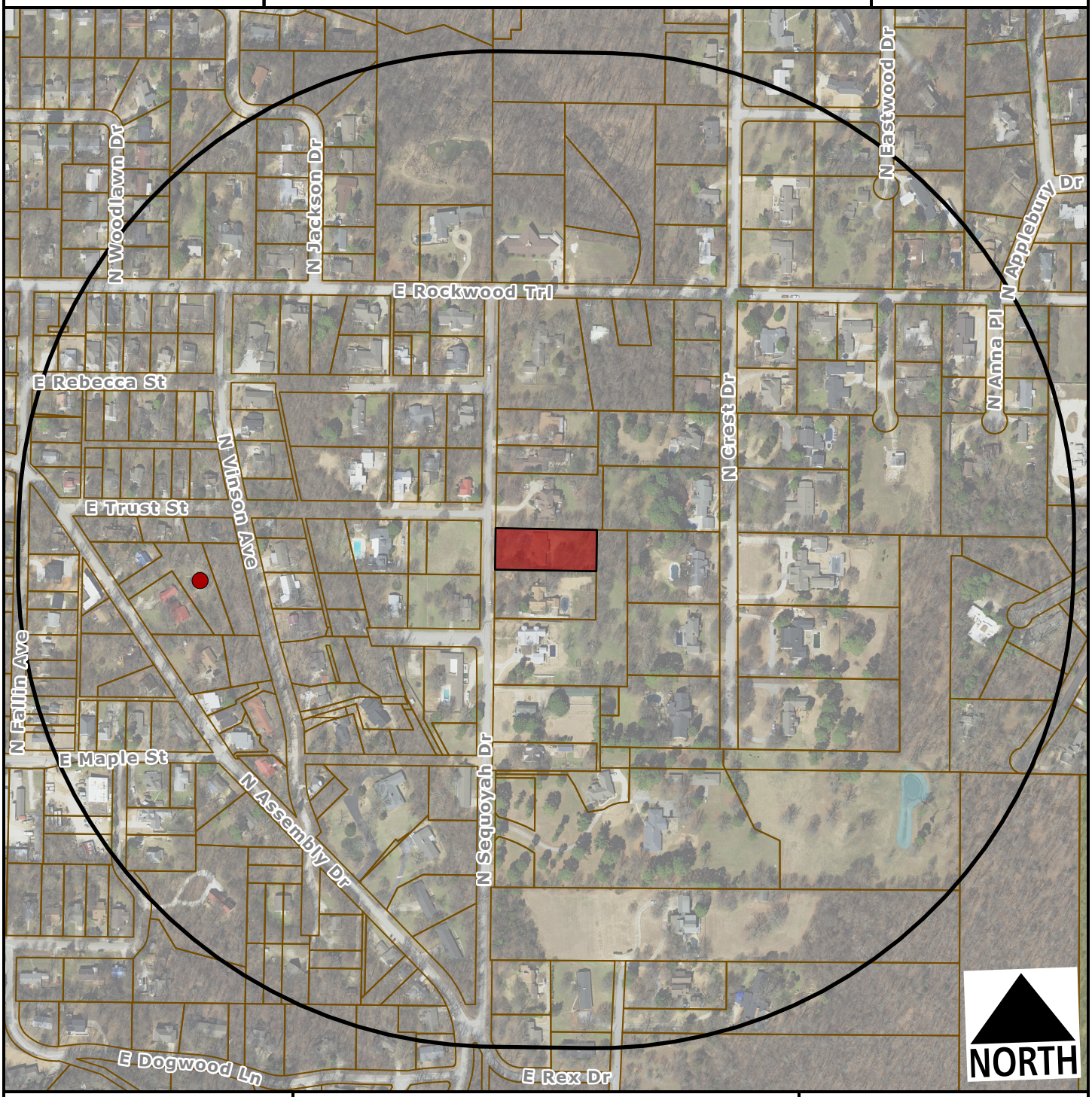
100-Year Floodplain

Floodway

CUP-2023-0017

STRs Within 1/4 Mile

578 N SEQUOYAH DR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	1
NOT contributing to 2% density cap	0
Total	**1**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0019: Conditional Use Permit (1275 N. RUPPLE RD./MOCKINGBIRD HOLDINGS, 400):** Submitted by MOCKINGBIRD HOLDINGS LLC for property located at 1275 N. RUPPLE RD. The property is zoned RMF-12, RESIDENTIAL MULTI-FAMILY, 12 UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0019** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0019**, determining:*

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

BACKGROUND:
The subject property is in west Fayetteville on the west side of Rupple Road about one-tenth of a mile north of the street's intersection with Wedington Drive. The property contains approximately 0.20 acres and is currently developed with a duplex which was built in 2018. 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	C-1, Neighborhood Commercial
South	Two-Family Dwellings	RMF-12, Residential Multi-Family, 12 Units per Acre
East	Multi-Family Dwellings	RPZD, Residential Planned Zoning District
West	Two-Family Dwellings	RMF-12, Residential Multi-Family, 12 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use one unit in the duplex on this 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-2023-0019** 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 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 YES

Date: March 13, 2023 ❒ **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-12 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 adversely 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-12 zoning. Since RMF-12 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.**

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(A)(4). Parking for duplexes is required to be provided at a rate of two spaces per unit. Based on the applicant's submittal, there appears to be space to park at least two vehicles in an attached garage and two additional vehicles in an adjacent driveway.**

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

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

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

Finding: **The application is for use of the property at 1275 N. Rupple 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.**

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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in RMF-12 zoning, so this short-term rental would contribute to the city-wide density cap. Since this unit is in a two-family dwelling that is owned by one entity, it is also subject to a building density cap. If this permit is issued, the other unit on the property could not operate as a Type 2 short-term rental. No exceptions to the short-term rental standards are being requested with this conditional use permit.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four off-street parking spaces are available in an attached garage and driveway. On-street parking is not available along Rupple Road or other streets nearby. City business license records indicate that one other unit within a quarter-mile radius has an active Type 2 short-term rental business license. No prior zoning or code violations have been reported on this property.**

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

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

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

Finding: **The subject property is rear loaded with ingress and egress through a shared private alley. The property also fronts onto Rupple Road and has a direct sidewalk connection to the paved trail on the west side of the street. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the 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: **A total of four off-street parking spaces are available in an attached garage and adjacent driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses, and short-term rentals are permitted by right in the RMF-12 zoning district. There appears to be adequate parking to accommodate the number of permitted guests, and staff does not anticipate any adverse traffic impacts with this request. The RMF-12 zoning district does not allow hotel/motel uses by right, so this short-term rental would contribute to the city-wide density cap.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §161.14 District RMF-12, Residential Multi-Family – Twelve (12) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Site Plan
- Building 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.

(18) 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)

161.14 District RMF-12, Residential Multi-Family - Twelve (12) Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(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	12 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	45 feet
Two (2) family	45 feet
Three (3) and more	80 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	4,500 square feet
Two (2) family	6,000 square feet
Three (3) or more	9,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) Land Area Per Dwelling Unit.

Manufactured home	3,000 square feet

(E) *Setback requirements.*

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

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*

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

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.

(Ord. No. 4325, 7-3-01; 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."

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)

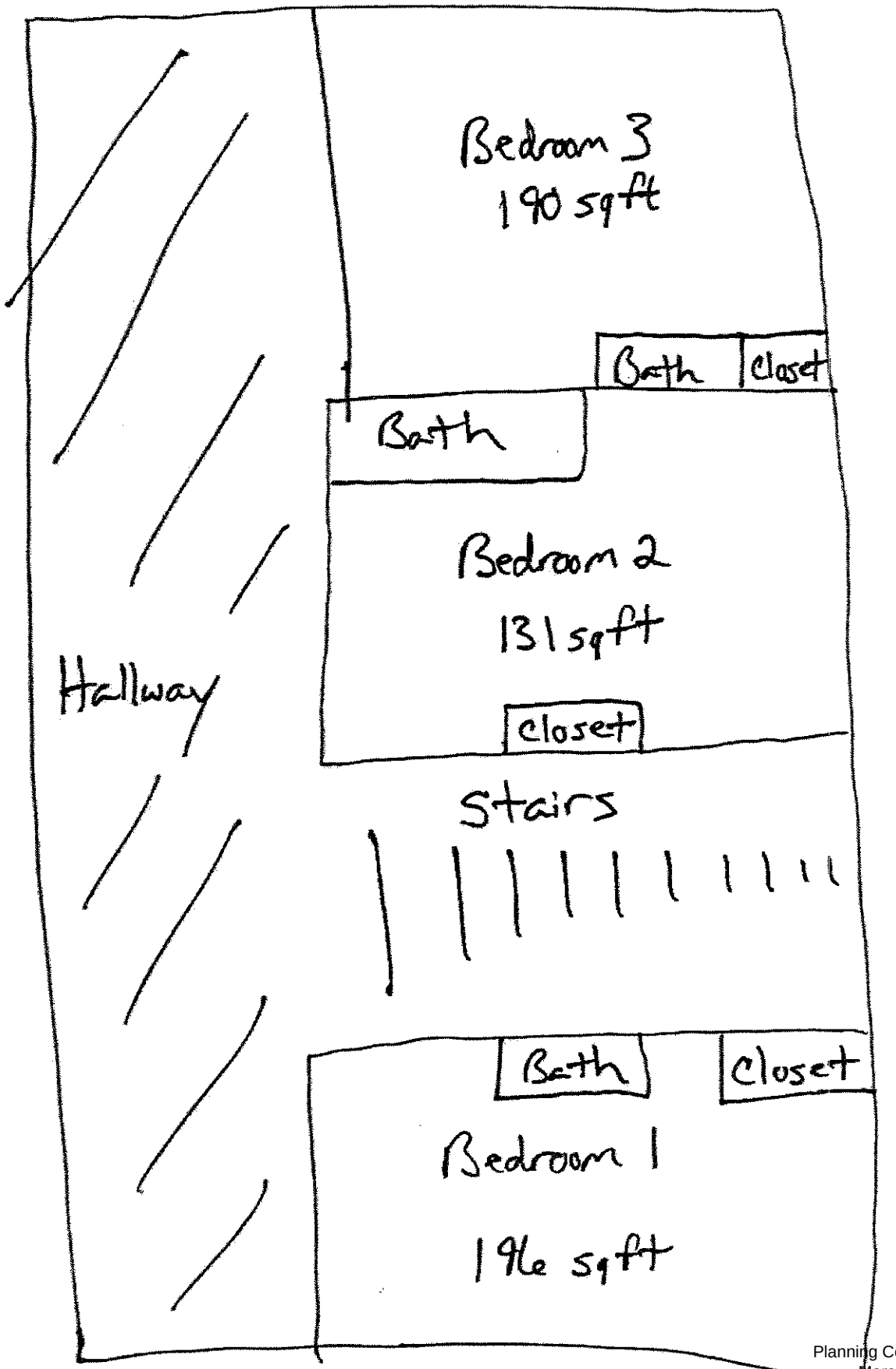
Request Letter

A) 1,703 square feet
B) Red brick, white siding, stone (see attachment)
C) 2 car garage parking, 2 car driveway parking
D) Front door and garage exit
E) N/A
F) N/A
G) N/A
H) City of Fayetteville, residential carts used
I) Sidewalk access along front of building, driveway access on back side of building.
J) This property is in a community of mostly duplex buildings built within the last 3-5 years. A large majority of them, including those surrounding this property are rentals. It is located a short drive from the University of Arkansas. Most of the tenants are university students that move and relocate on a regular basis. A short-term Airbnb unit should fit easily in this community and not provide any nuisance or disturbance to the surrounding neighbors.

Main Floor

Living Area
628 sqft
Kitchen
118 sqft
Bathroom
51 sqft
Garage

2nd Floor


Bedroom 3
190 sqft
Bath
Closet
Bath
Bedroom 2
131 sqft
Closet
Hallway
Stairs
Bath
Closet
Bedroom 1
196 sqft

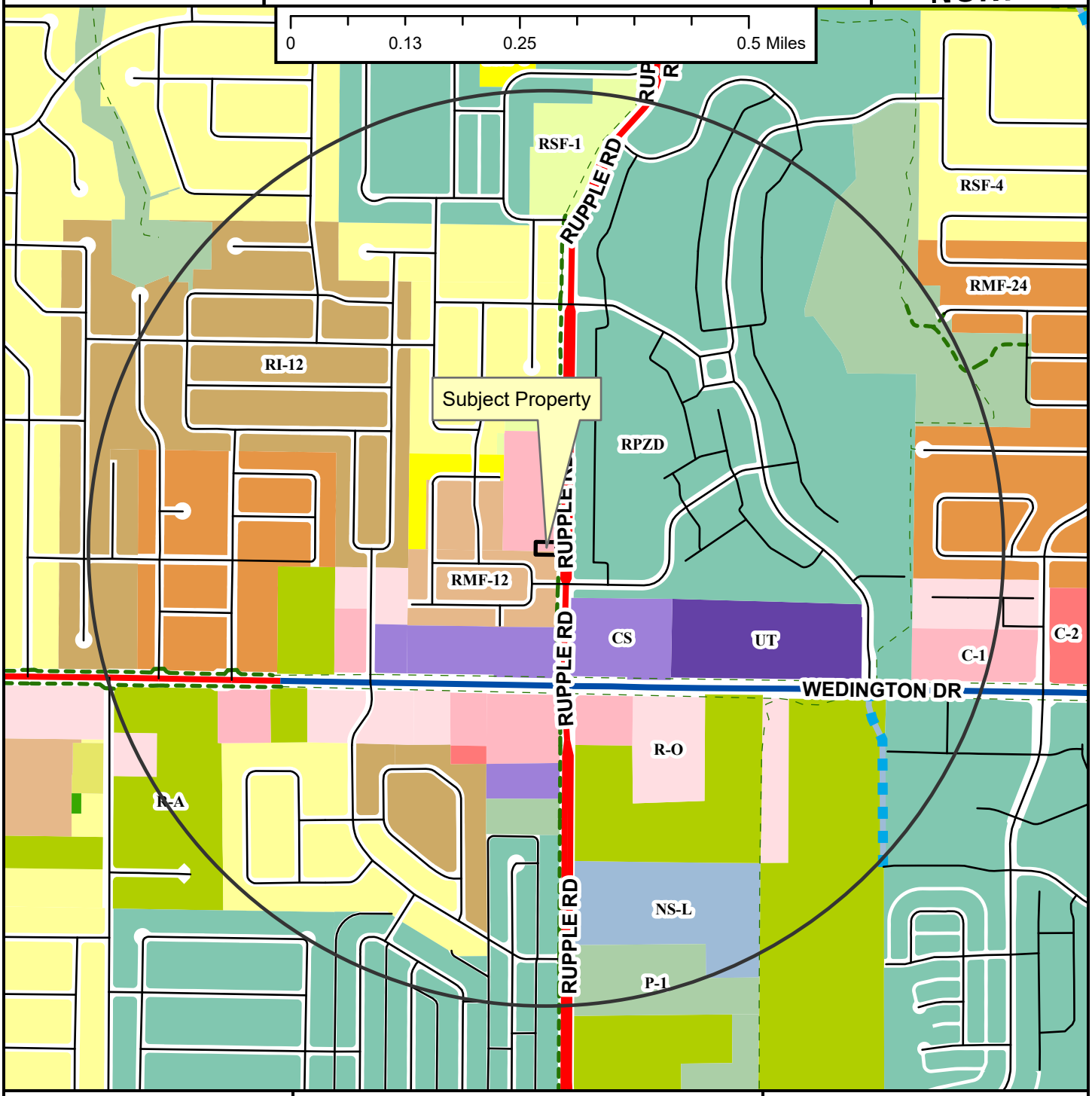
CUP-2023-0019 Site Plan

CUP-2023-0019

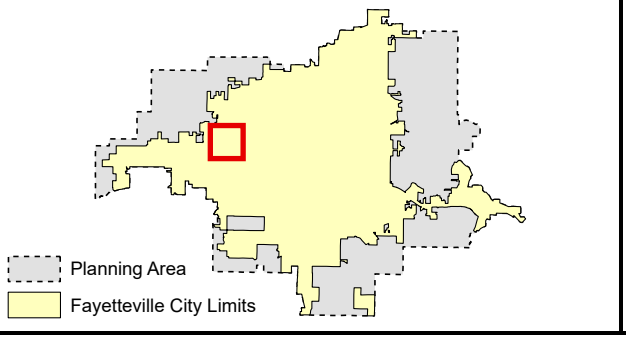
One Mile View

1275 N. RUPPLE RD

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

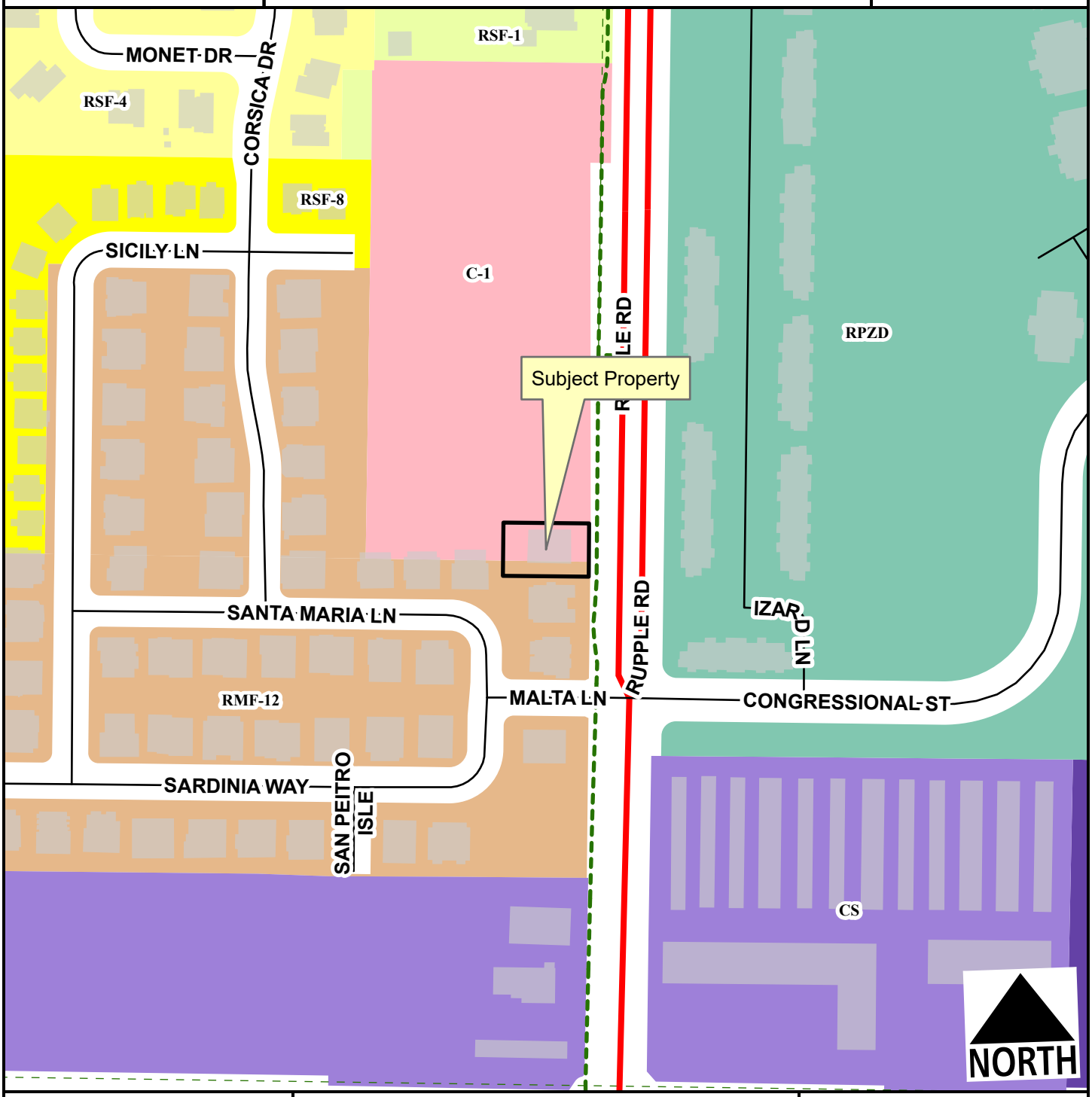
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0019

Close Up View

1275 N. RUPPLE RD



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

Feet
0 75 150 300 450 600
1:2,400

RSF-1
RSF-4
RSF-8
RMF-12
C-1
Urban Thoroughfare
Community Services
Commercial, Industrial, Residential

CUP-2023-0019

Current Land Use

1275 N. RUPPLE RD

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

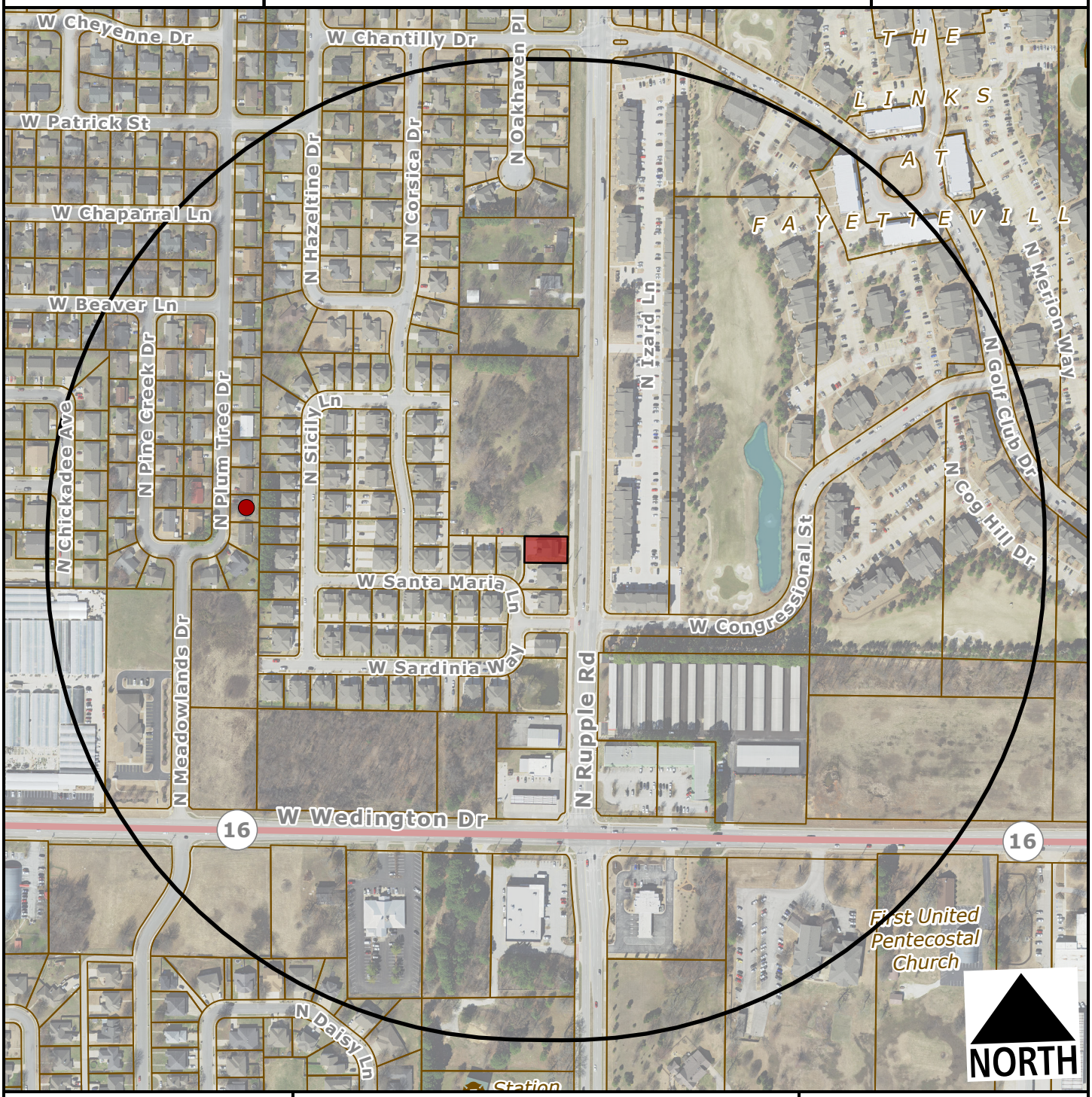
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0019

STRs Within 1/4 Mile

1275 N. RUPPLE RD



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	1
NOT contributing to 2% density cap	0
Total	**1**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0018: Conditional Use Permit (344 N FLETCHER AVE / SCHMIDT, 485):** Submitted by OLIVER SCHMIDT for property located at 344 N Fletcher Ave. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT (8) UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0018** based on the findings in this report.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0018 with conditions, determining:***

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

BACKGROUND:
The subject property is located near Mount Sequoyah, just northeast of the intersection of Dickson Street and Fletcher Avenue. It is zoned RSF-8, Residential Single-Family, Eight (8) Units Per Acre and is within the Hillside / Hilltop Overlay District. The 1,925 square foot townhome was granted a certificate of occupancy in December 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	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% 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 received public comment in opposition to this project from an individual expressing concerns about the impact of the short term-rental on the character of the neighborhood. There was also extensive public comment at the February 27 Planning Commission meeting regarding the application for three short term rental requests on Fletcher (including this property) where adjacent residents expressed concerns relating to parking, traffic trash, density of STRs, and impact on housing affordability.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0018** based on the findings in this report, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. 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. The number of vehicles shall be limited by the underlying zoning (two cars per dwelling unit). Parking shall be restricted to either the garage or driveway.

10. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 13, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) Residential Zoning Districts. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, Rl-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 RSF-8 zoning. Type 2 STRs require a conditional use permit in the RSF-8 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(B). Occupancy limitations are confirmed by the applicant during licensing. Since this townhome contains three (3) bedrooms, occupancy will likely be limited to a maximum of eight (8) 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: **Parking is limited as described in UDC §163.18(C). Parking for townhomes is required to be provided at a rate of one (1) vehicle space per bedroom. According to the applicant, the unit has three (3) bedrooms and two (2) covered parking spaces available in the back of the property. On-street parking is also available along Fletcher Avenue.**

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

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

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

Finding: **The application is for use of the property at 344 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.**

(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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the RSF-8, Residential Single-Family, Eight (8) Units per Acre zoning district so this short-term rental will contribute to the city-wide density cap. The other portion of the two-family dwelling does not have a Type 2 short-term rental business license.**

(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 (2) spaces are available in a carport at the rear of the property and a**

maximum of eight (8) 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 (3) 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: **Staff finds the proposal is unlikely to negatively affect traffic flows given the availability of on-site and street parking, and vehicular access through a shared private drive. The impact as a short term rental would not be out of character if the property were to be used as a long-term residential unit.**

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

Finding: **The dwelling has two (2) off-street parking spots available via a rear alley with access off of E Dickson St. 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 existing structure permit, the residence is meeting relevant setbacks.**

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

Finding: **Staff finds the use to be compatible with the surrounding residential properties. There are not a significant number of short-term rentals nearby, and the property appears to have adequate parking to handle the needs of the proposed use. 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
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre
- Applicant Request Letter
- Building Floor Plans
- Site Plan
- Building Elevations
- Public Comments
- 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)

161.09 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.

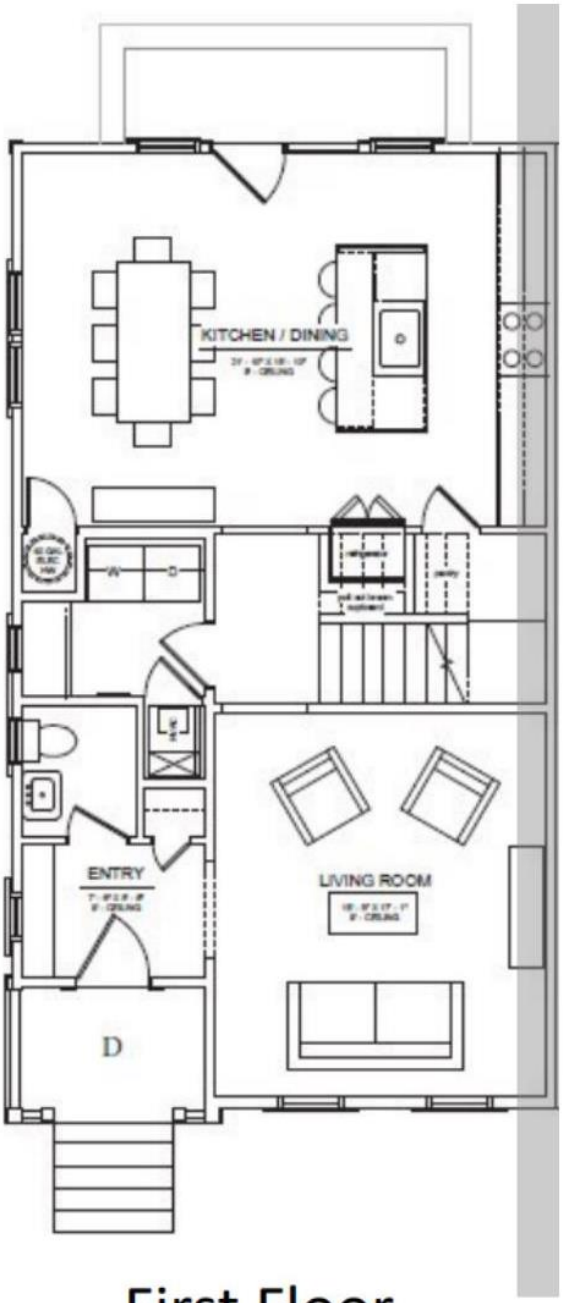
Building Height Maximum	3 stories

(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.

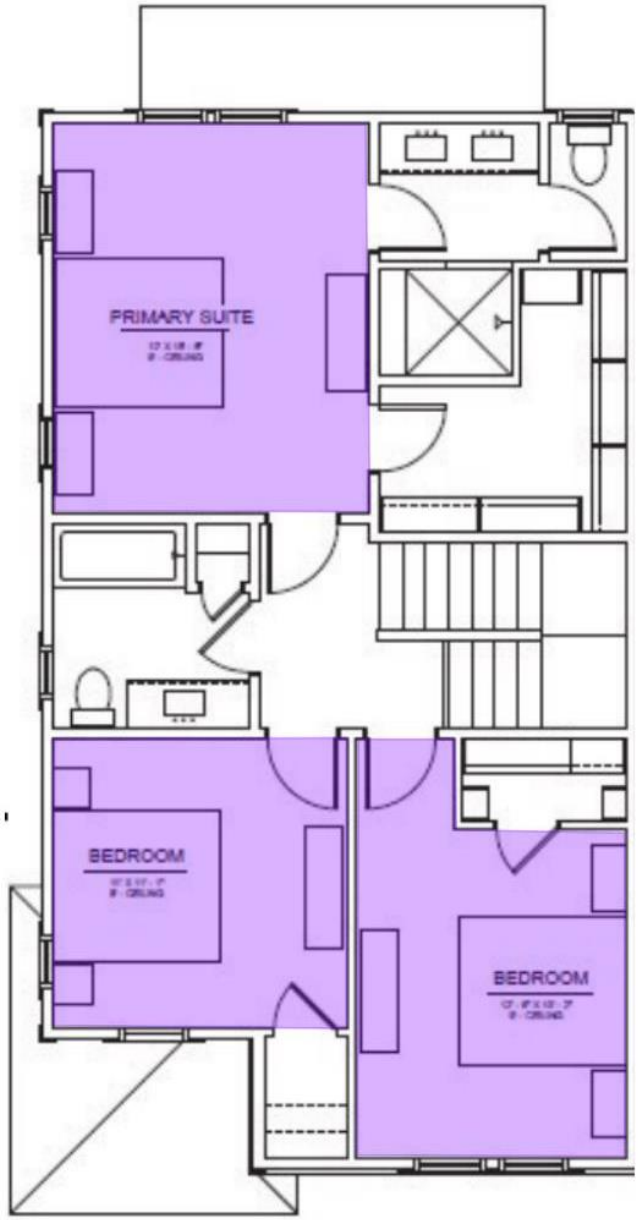
(Ord. No. 4783, 10-18-05; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 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."

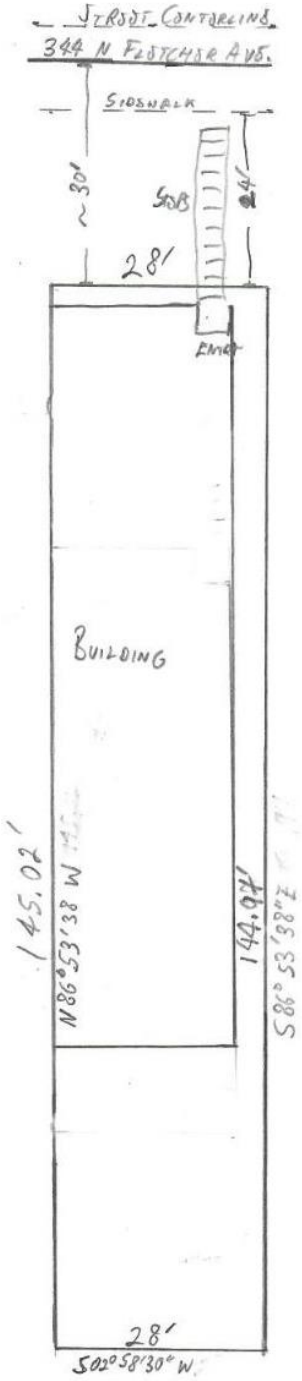
344 N Fletcher Avenue - Floor Plan

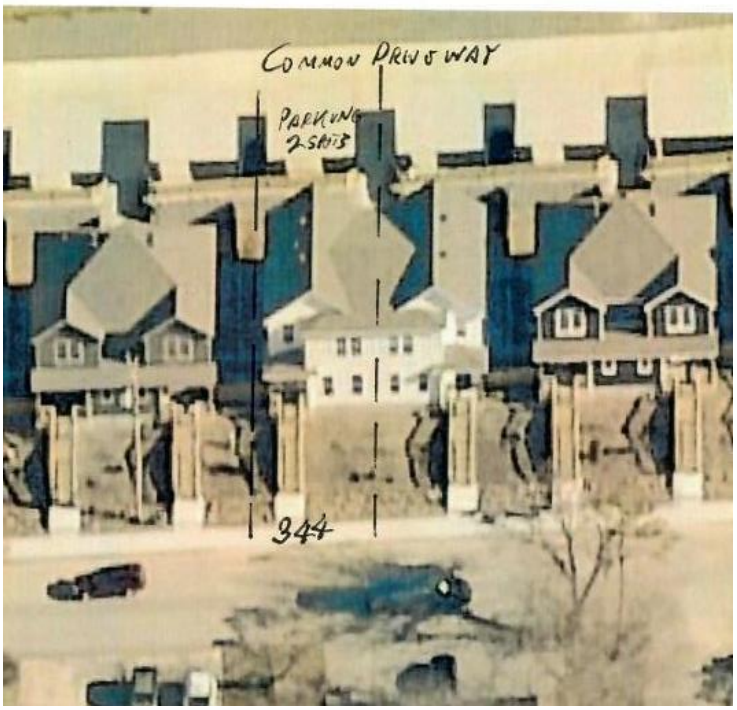


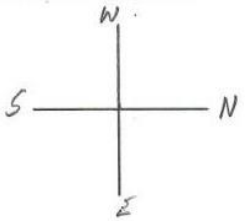
First Floor



Second Floor





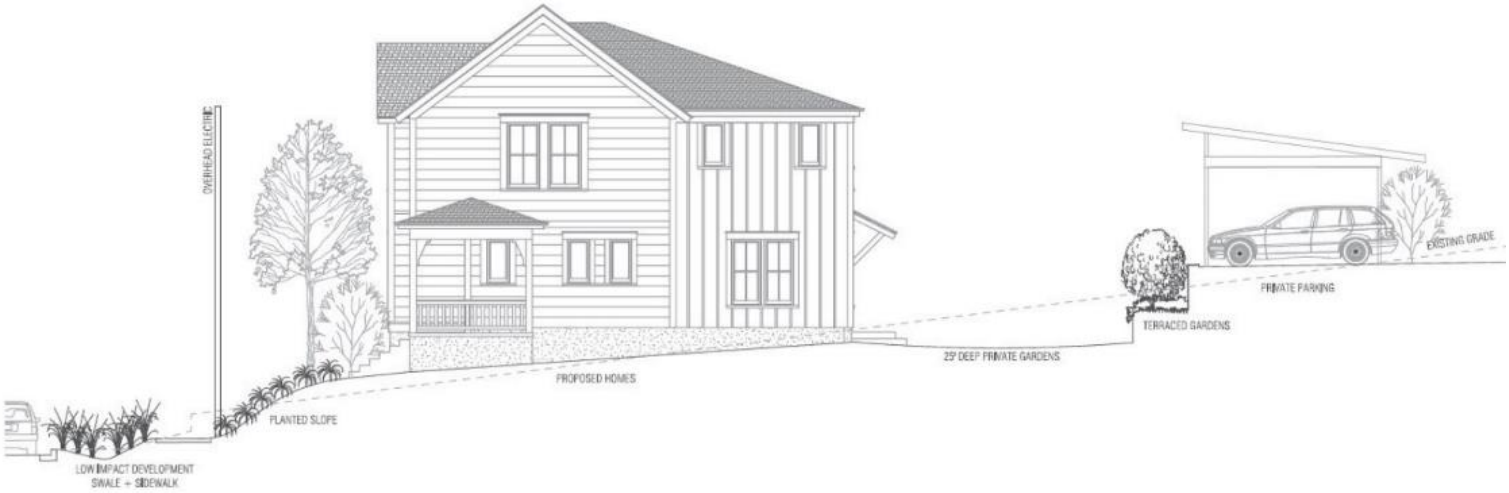


SCALE 1" = 20'

BUILDING FOOT PRINT APPROXIMATE

TRASH

OFF-STREET PARKING 2 CAR COVERED


OVERHEAD ELECTRIC
PLANTED SLOPE
LOW IMPACT DEVELOPMENT
SWALE + SIDEWALK
PROPOSED HOMES
25' DEEP PRIVATE GARDENS
TERRACED GARDENS
PRIVATE PARKING
EXISTING GRADE

It doesn't look like this was sent to the other commissioners.

Please share before Monday night's Planning Commission.

Thanks!

-- Mary

From: emily ervin <lnkedgirl1@cox.net>
Sent: Friday, February 24, 2023 5:08 PM
To: Madden, Mary <mary.madden@fayetteville-ar.gov>
Subject: fletcher ave townhomes

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 afternoon—

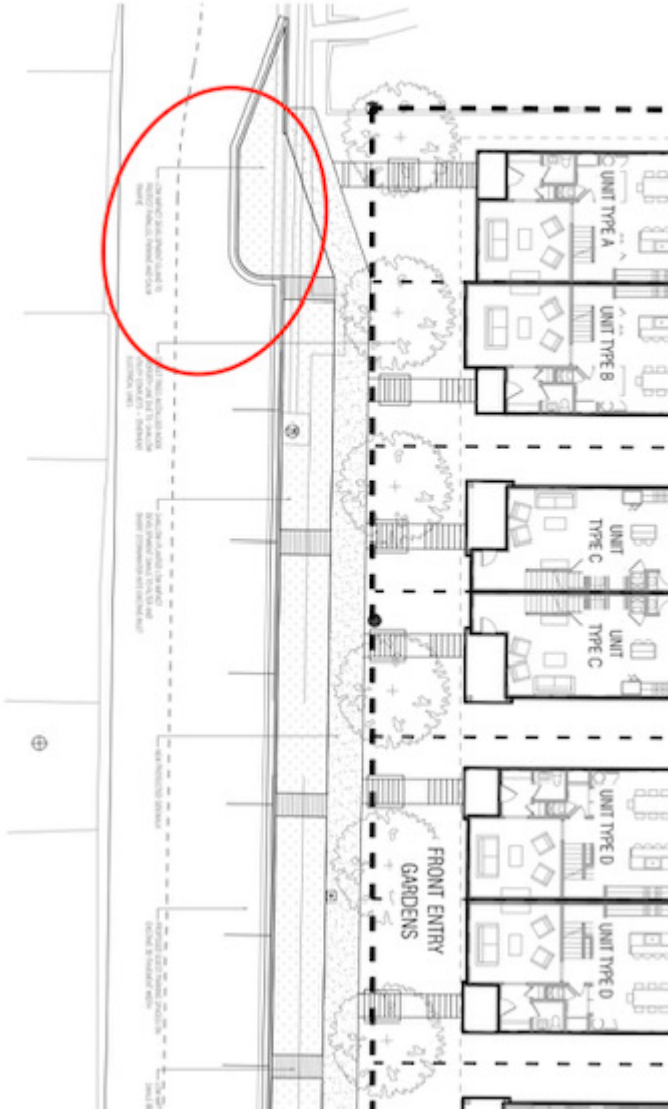
i've lived at 362 n. fletcher for 21 years, adjacent to the new townhomes being considered for short-term rentals. i watched the agenda meeting last night and wanted to confirm what you and Commissioner Garlock mentioned. you are correct in that these were touted and approved as "attainable" and "workforce" housing, both in writing, as well as in discussion during city meetings, during the initial rezone and the following CUP. additionally, i have written letters and spoken with the planning department a few times about this and other concerns. to be frank, i'm exhausted, defeated, and incredibly disappointed in the handling of this project and how we've been disregarded. not only was the applicant given preferential latitude (if that's a term) by city staff, but also was allowed to misrepresent water runoff issues to both theirs and the property seller's advantage. there were two cost shares with the city that benefited only the developer. we now have flooding issues due to the entirety of our adjacent property line being dug out (some parts several times over). i've held fayetteville to a higher standard in the 27 years it's been my home. the false housing narrative and public smearing by those who vote on our livelihood has been personally crushing. i appreciate your work and integrity in helping our city to grow responsibly. sure, change is hard, but i've always welcomed new folks to our community. we've got so much to offer.

thanks so much,
emily ervin

as a correction, this property has had code violations in the past, however the addresses were previously 310 and 326 north fletcher. the parking lot in the back is very hard to maneuver and cars "bottom out" at the entrance, so there's already been increased parking along fletcher, along with beer cans and folks coming into our yard after midnight. the plans presented to the commission had a "low impact development island to protect parallel parking and calm traffic" but wasn't implemented. i'm attaching a timeline with links to city meetings and agendas related to this development, for reference.

CUP-2021-000026... Done

CUP-2021-000026... Done



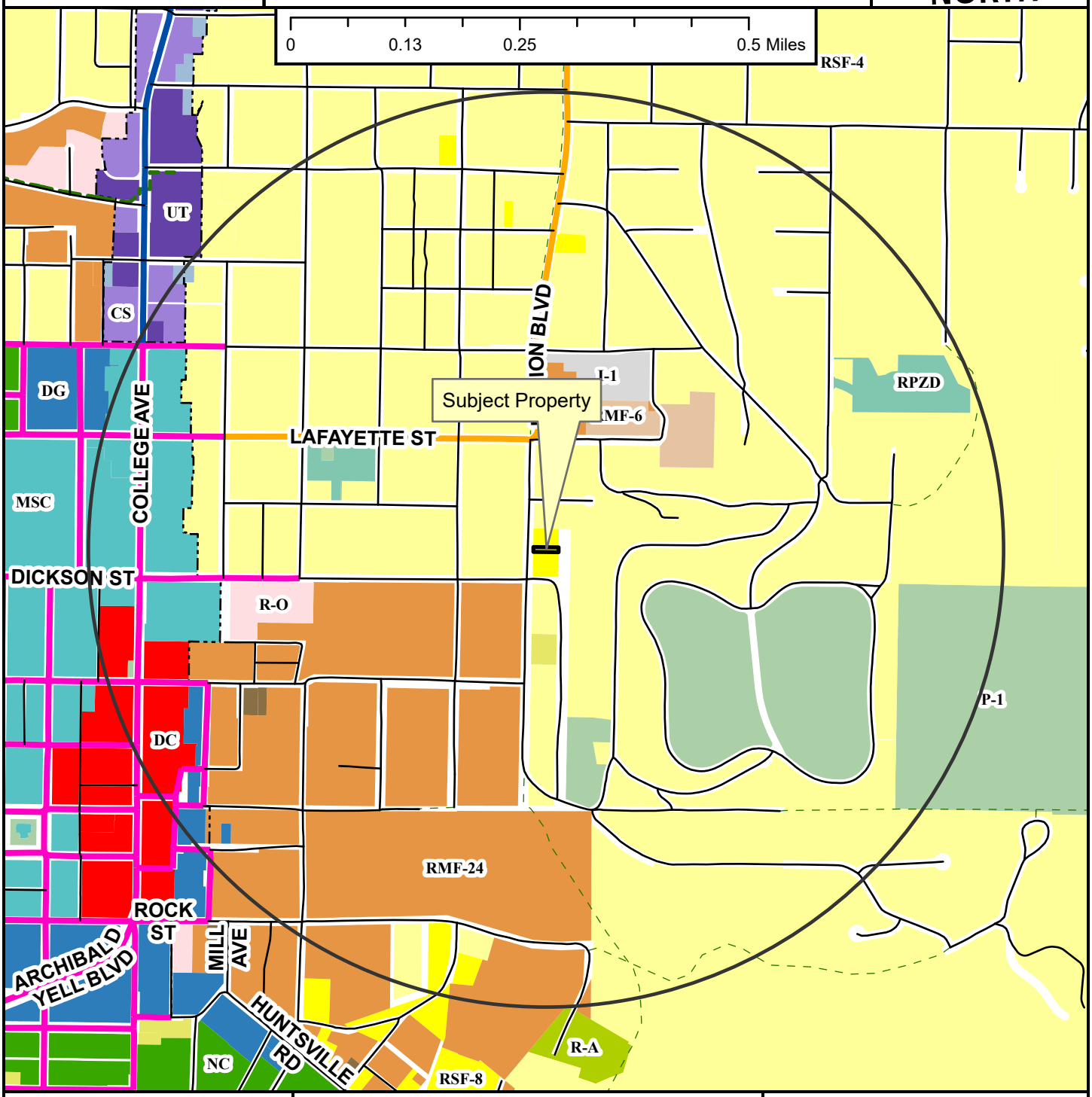
Sent from my iPhone

CUP-2023-0018

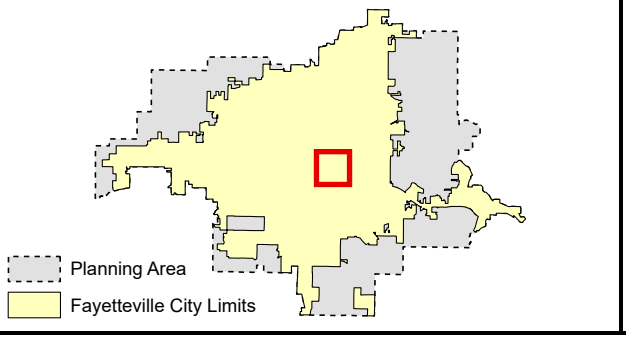
One Mile View

344 N FLETCHER AVE

NORTH



- 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-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

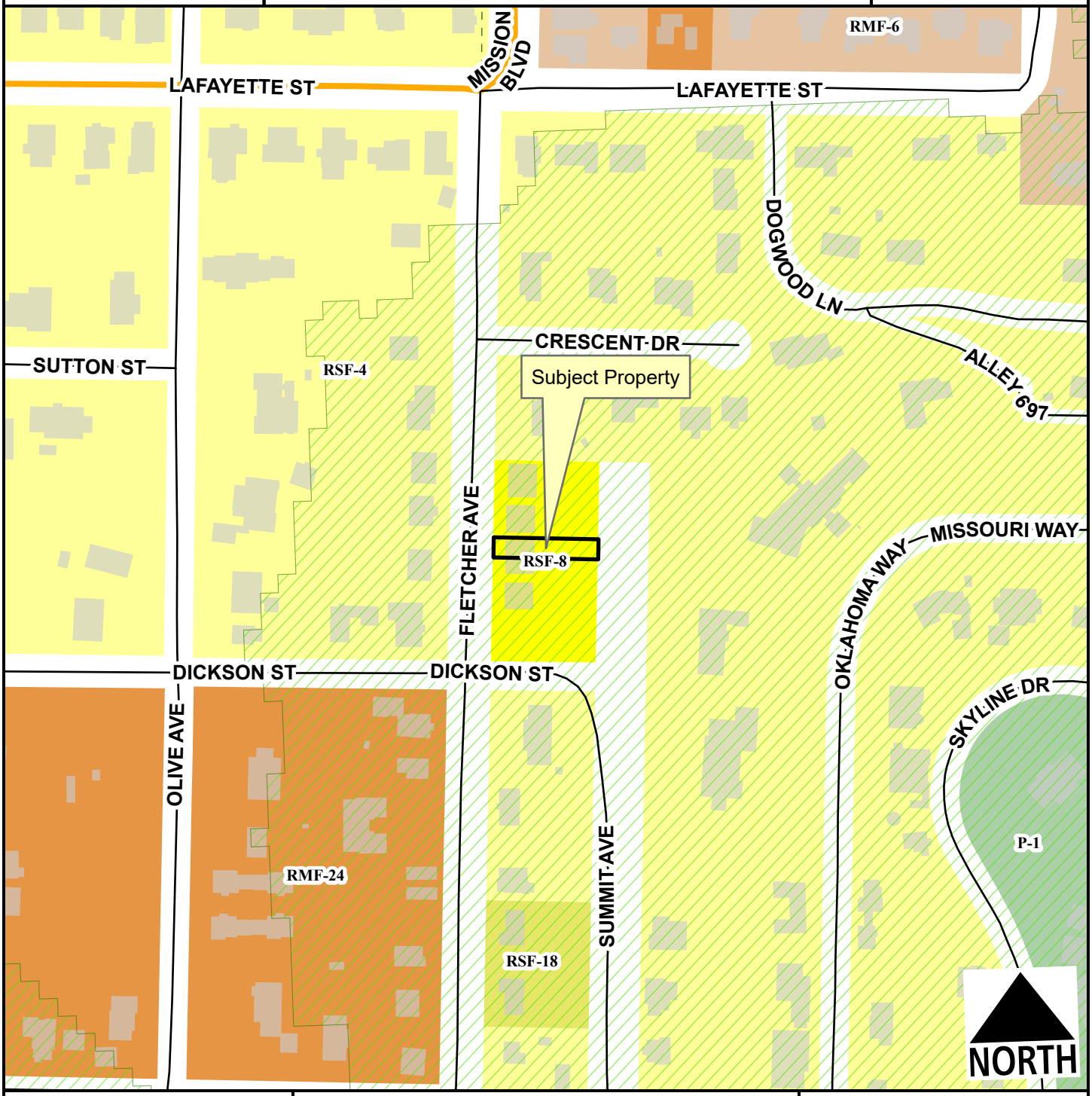
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0018

Close Up View

344 N FLETCHER AVE



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

Feet
0 75 150 300 450 600
1:2,400

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

CUP-2023-0018

Current Land Use

344 N FLETCHER AVE

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

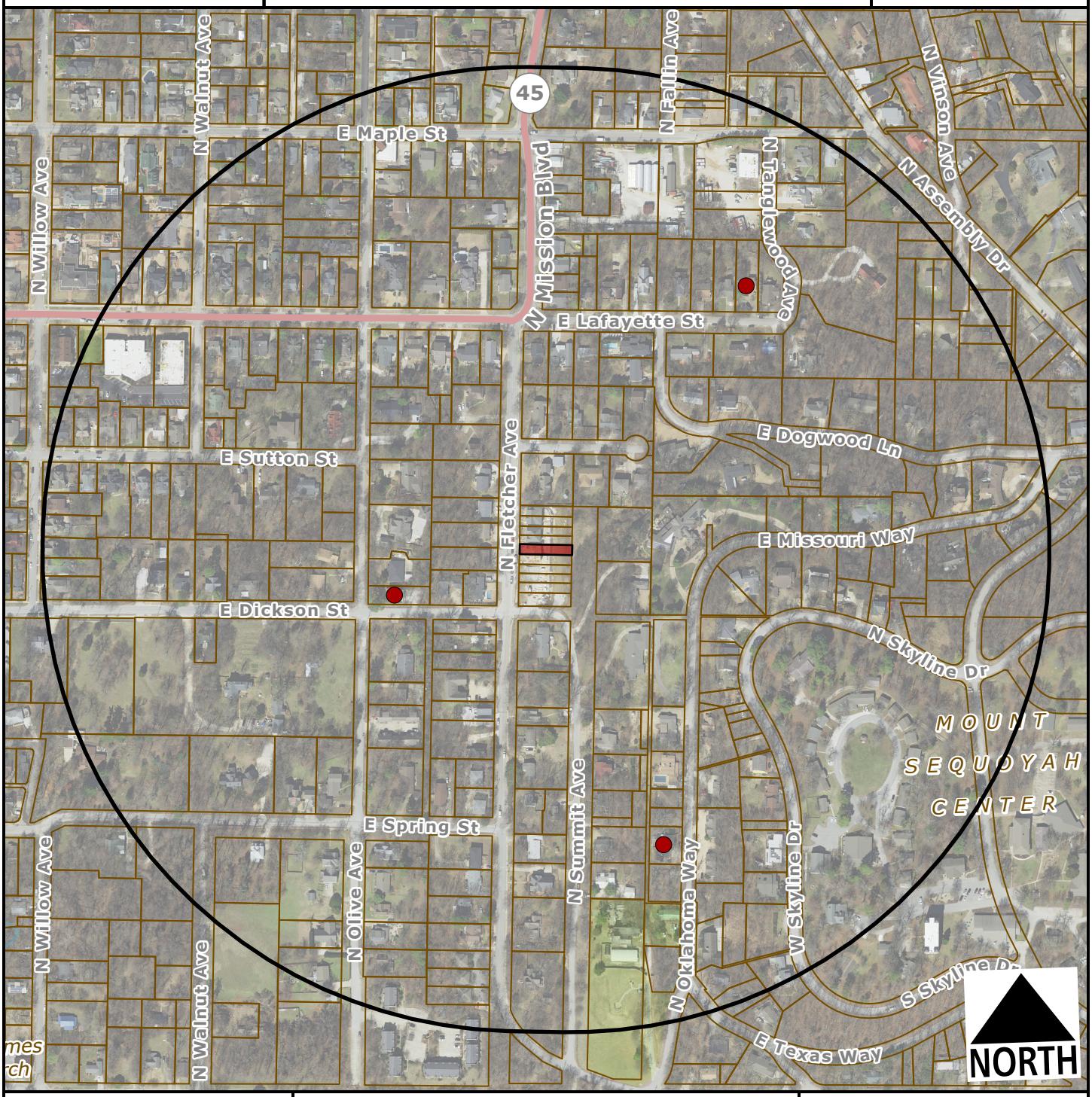
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0018

STRs Within 1/4 Mile

344 N FLETCHER AVE



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	3
NOT contributing to 2% density cap	0
Total	**3**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0020: Conditional Use Permit (2554 N NEELY PL/ HOMETOWN PROPERTIES LTD, 527):** Submitted by LITTLE ROK TRIAL ATTORNEYS PLLC for property located at 2554 N Neely Pl. The property is zoned R-PZD, Residential Planned Zoning District and contains approximately 4.21 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0020** based on the findings in this report.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0020** with conditions, determining:*

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

BACKGROUND:
The subject property is located in east Fayetteville approximately 0.25 north of the intersection of N Crossover Rd and E Huntsville Rd in the Benton Ridge RPZD, Residential Planned Zoning District, which was approved for the construction of 43 dwelling units on 23 residential lots (20 two-family units and 3 single-family units). The property is located at the SW corner of the PZD cattycorner to a large tree preservation easement and Buckner Cemetery at the end of a cul-de-sac. The two-family structure, owned as a condo, was constructed in 2005 and is not located within any overlay districts. 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	R-PZD, Planned Zoning District
South	Cemetery	RSF-4, Residential Single Family, 4 Units per Acre
East	Two-family Residential	R-PZD, Planned Zoning District
West	Tree Preservation Easement	R-PZD, 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.

Public Comment: Staff has not received any public comment.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0020** based on the findings in this report, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. 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. The number of vehicles shall be limited by the underlying zoning (two cars per dwelling unit).

10. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: March 13, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) Residential Zoning Districts. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT, 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 R-PZD zoning. Since R-PZD is a residential zoning district, a conditional use permit is required.**

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

Finding: **Occupancy is limited as described in UDC §163.18(A)(3). The structure has three (3) bedrooms; therefore the property would likely be limited to eight (8) tenants per ordinance.**

(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. The applicant states that the property has two (2) covered off-street parking spaces located in the garage and an additional four (4) available in the driveway.**

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

Finding: **The application 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 2554 N Neely Pl. 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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the R-PZD, Residential Planned Zoning District, Residential Single-Family, Eight (8) Units per Acre zoning district so this short-term rental will contribute to the city-wide density cap. The other portion of the two-family dwelling does not have a Type 2 short-term rental business license.**

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

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

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

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

Finding: **The property has two (2) covered off-street parking spots available and an additional four (4) spaces available in the driveway. Given the design of the cul-de-sac and location of adjacent driveways, staff does not recommend on-street parking; however, staff believes there is sufficient off-street**

parking to address the parking need outside of the ROW. There are zero (0) other type 2 short-term rentals within the 0.25 miles of the subject property per the city of Fayetteville's active business license records; however the applicant notes in their letter that "A search of properties in the immediate area indicate over 90% are owned by investment companies and rented either short or long-term." No prior zoning or code violations were found for this 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: **Staff finds the proposal is unlikely to negatively affect traffic flows given the availability of on-site parking. Given the property's location at the end of a cul-de-sac with multiple driveways located in close proximity, staff does not recommend on-street parking be allowed in this location.**

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

Finding: **The dwelling has a two (2) car garage available within the home, as well as four (4) additional spaces available in the driveway. The driveway measures approximately 65 linear feet from the edge of the sidewalk to the garage face. 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 existing structure permit, the residence is meeting relevant setbacks.**

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

Finding: **Staff finds the use to be compatible with the surrounding residential properties. There are not a significant number of short-term rentals nearby, and the property appears to have adequate parking to handle the needs of the proposed use. 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
  - §03-06.00 R-PZD Benton Ridge Ord 4538 Excerpt
- Applicant Request Letter
- Site Map
- Building Floor Plans
- 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)

<u>163.18 Type 2 Short-Term Rentals in Residential Zoning Districts</u>

(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) R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT
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)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of December 08, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: December 02, 2003

R-PZD 03-06.00: Planned Zoning District (Benton Ridge, pp 527) was submitted by Crafton, Tull and Associates, Inc. on behalf of Long LLC for property located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The property is zoned RSF-4, Residential Single-family, 4 units per acre and contains approximately 8.34 acres. The request is to rezone the subject property to a Residential Planned Zoning District, with a total of 43 dwelling units on 23 lots (20 Two-family, 3 Single-family). Planner: Jeremy Pate

Findings:

Proposal: The request is for a Residential Planned Zoning District on 8.34 acres currently zoned RSF-4, which allows a maximum density of 4 units per acre of single family dwellings. The applicant requests a rezoning and preliminary plat approval for a residential subdivision with 23 lots. Eighteen (18) lots are proposed to be constructed with two-family dwelling units for a total of 36 dwelling units. Two lots are proposed to be developed with one (1) four-unit multi-plex spanning the lot line, resulting in a total of 4 dwelling units. The three remaining lots near Crossover Road are proposed to be single family lots, for a total of 3 dwelling units. Total proposed dwelling units on the 8.34 acres numbers 43, therefore the proposed density for the R-PZD is **5.2 DU/acre.**

Proposed Lots:
R-PZD, Residential Planned Zoning District

Lot No.	Land Use	Structure	# of Units	# of Bedrooms
1	Multi-Family (One 4-plex)	Sarasota Grove Multi-plex	4	12
2				
3	Two-Family	Nutmeg Circle	2	6
4	Two-Family	Nutmeg Circle	2	6
5	Two-Family	Nutmeg Circle	2	6
6	Two-Family	Chelsea Blvd.	2	6
7	Two-Family	Cooper Lake	2	6
8	Two-Family	Chelsea Blvd.	2	6

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9	Two-Family	Cooper Lake ~~Creekside Way~~	2	6
10	Two-Family	Cooper Lake ~~Creekside Way~~	2	6
11	Two-Family	Chelsea Blvd.	2	6
12	Two-Family	Nutmeg Circle	2	6
13	Two-Family	Spruce Ridge	2	?
14	Two-Family	Chelsea Blvd.	2	6
15	Two-Family	Cooper Lake	2	6
16	Two-Family	Cooper Lake	2	6
17	Two-Family	Spruce Ridge	2	TBD
18	Two-Family	Morenci Court	2	6
19	Two-Family	Chelsea Blvd.	2	6
20	Two-Family	TBD	2	TBD
21	Single Family	Single Family Home	1	N/A
22	Single Family	Single Family Home	1	N/A
23	Single Family	Kennedy Cottage	1	N/A
24	Detention Pond	Detention Pond	0	0
25	Conservation Easement	No development	0	0
26	Conservation Easement	No development	0	0
27	Conservation Easement	No development	0	0
28	Conservation Easement	No development	0	0

The site contains significant groupings of trees, some of which are located along a natural drainage way, which is required to be considered as part of a Planned Zoning District:

> *Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. (§166.06)*
>
> *Natural Features. Maximum enhancement and minimal disruption of existing natural features and amenities. (§161.25)*

With this in mind, staff has worked with the applicant to preserve several groupings of trees and a portion of the natural drainage way that meanders through the center of the site, thereby protecting the trees that depend upon this water source.

A waiver for the maximum 500-foot length of a cul-de-sac has been formally submitted. The applicant requests a 965-foot length. In previous submittals, a loop drive was utilized, which both

residential development.

FINDING: The R-PZD proposed is consistent with the City's General Plan for residential development, and allows a more flexible means of development to better accommodate the siteing of structures and drives so as to preserve the existing natural amenities of the site, including significant stands of trees and a natural drainage channel.

(2) Permitted uses.

Unit 1 City-wide uses by right
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 8 Single-family dwellings
Unit 9 Two-family dwellings
Unit 10 Three-family dwellings
Unit 12 Offices, studios and related services
Unit 13 Eating places
Unit 15 Neighborhood shopping
Unit 19 Commercial recreation, small sites
Unit 24 Home occupations
Unit 25 Professional offices
Unit 26 Multi-family dwellings

FINDING: The proposal calls for Use Unit 8, Single Family Dwellings, and Use Unit 26, Multifamily dwellings.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The PZD proposed is entirely residential in use.

***Required Findings for Rezoning Request.**

RECOMMENDATION:

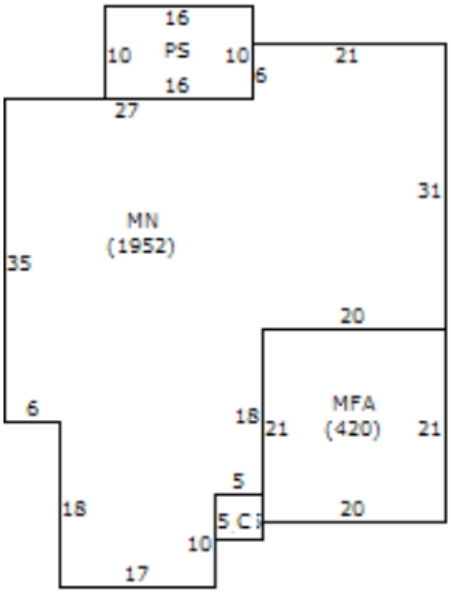
LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD03-06.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use

STAFF EXHIBIT: SITE PLAN

DataScout, LLC



Property Commentary & Analysis Breakdown

Comments:

The subject property is a 3 bed 2 bath 1,952 SF condo/townhome built in 2005 in Fayetteville. The home has a masonry exterior, average interior finishes, a two car garage, and is considered to be in average condition.

For the sales comparison approach, there were five comps analyzed in relation to the subject from HPR development around Fayetteville. All comps have sold over roughly the past twelve months. Adjustments were necessary for differences in SF, location, garage, bath count, and construction quality. Based on the comps, an adjusted $/sf range of $89.63/SF to $109.28/SF with an adjusted average $/SF of $98.76/SF was determined. The subject is under contract to be purchased for $191,400 or $98.05/SF. Therefore, Credit Admin will set the opinion of value in line with the purchase price.

Overall, Credit Admin believes this to be a fair and reasonable value for the subject property based on current market conditions.

Bedroom 1

Bedroom 2

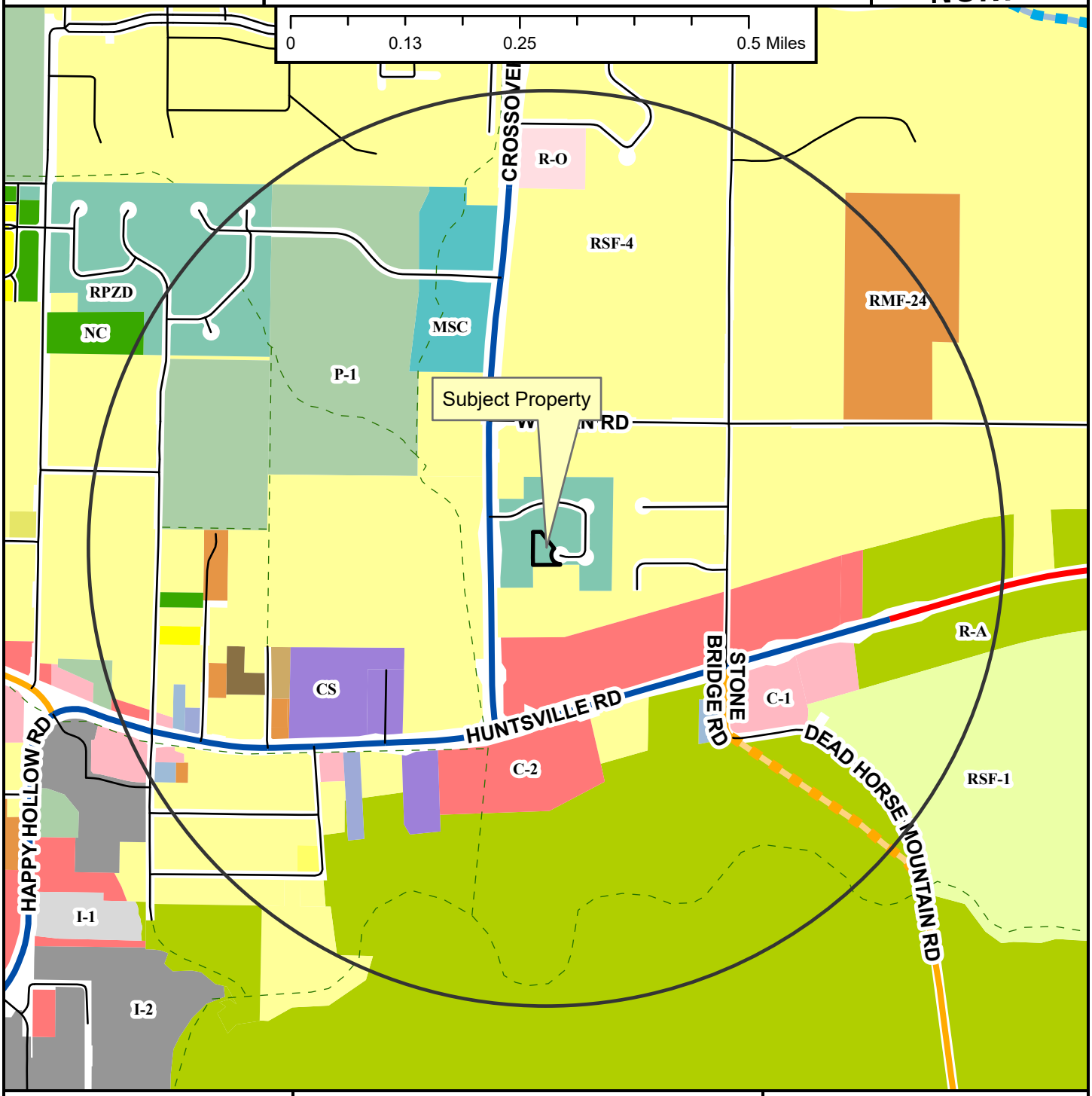
E Neely Pl
Precious Cargo
Used-2b-New
Google

CUP-2023-0020

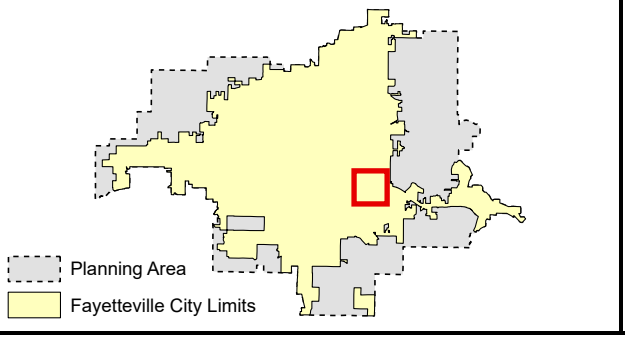
One Mile View

2554 E. NEELY PL

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

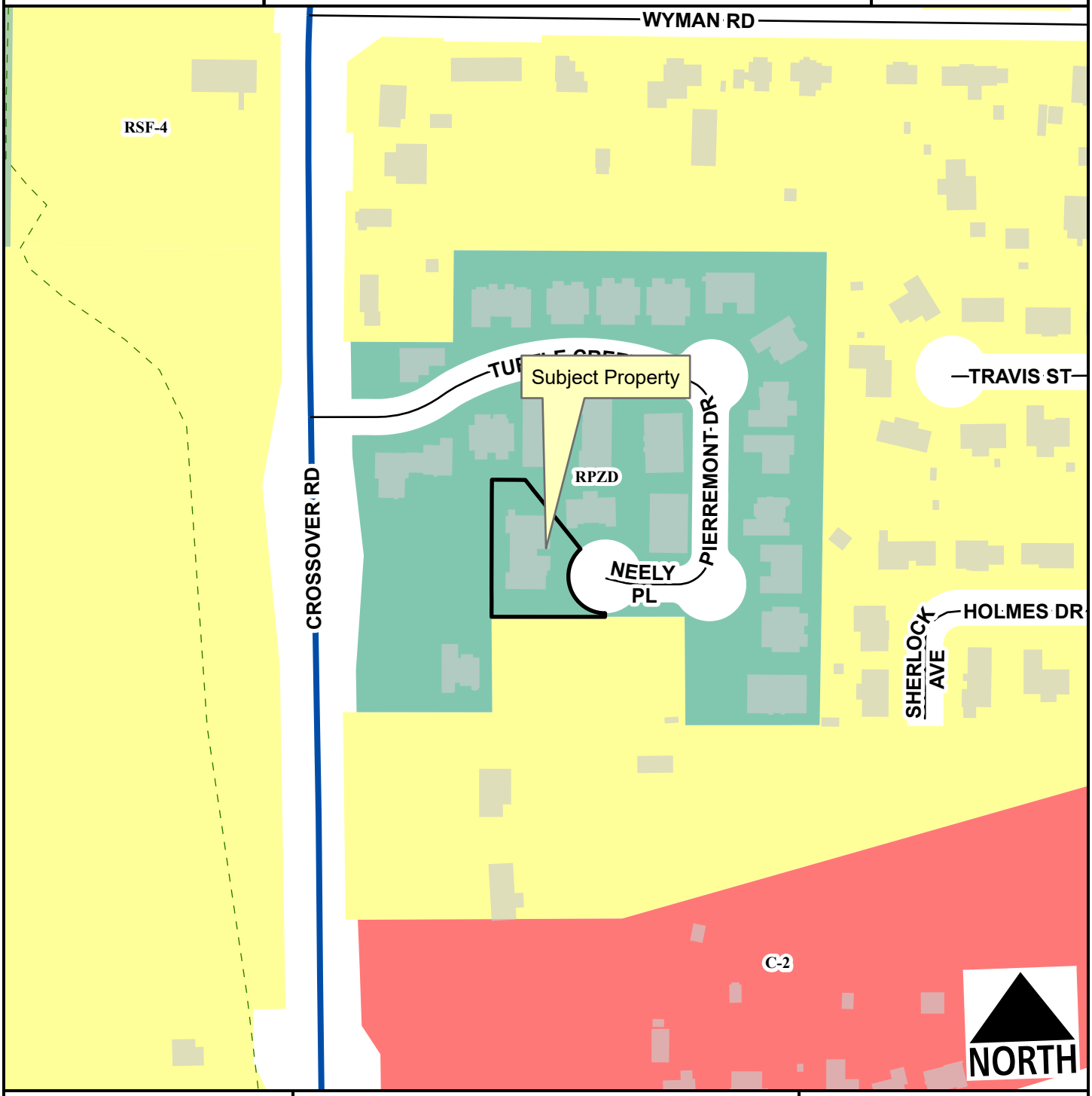
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0020

Close Up View

2554 E. NEELY PL



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

Feet
0 75 150 300 450 600
1:2,400

RSF-4
C-2
Commercial, Industrial, Residential
P-1

CUP-2023-0020

Current Land Use

2554 E. NEELY PL

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

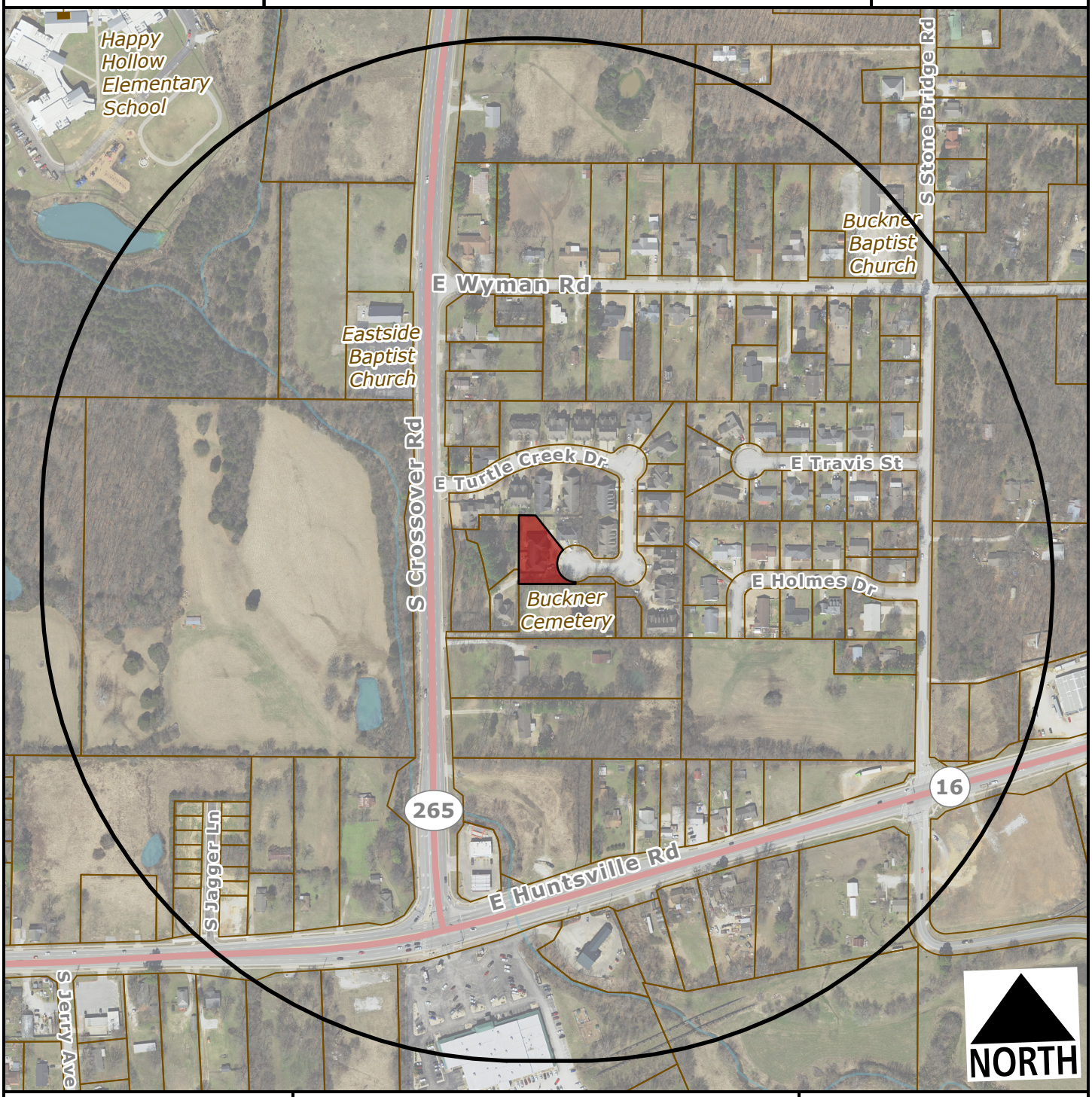
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0020

STRs Within 1/4 Mile

2554 E. NEELY PL



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	0
NOT contributing to 2% density cap	0
Total	**0**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0022: Conditional Use Permit (1669 W CEDAR ST/ GINGER, 564):** Submitted by CASSIDY GINGER for property located at 1669 W CEDAR ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR (4) UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0022** based on the findings in this report.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0022 with conditions, determining:***

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

BACKGROUND:
The subject property is located in central Fayetteville two (2) blocks south of the Lewis Soccer Complex and Asbell Elementary School and west of the Garden Park Apartments. It is zoned RSF-4, Residential Single-Family, Eight (8) Units Per Acre and is not located within any overlay districts. The property is currently developed with a 1,425 square foot single-family structure constructed in 1986. 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, 8 Units per Acre
South	Single -family Residential	RSF-4, Residential Single Family, 8 Units per Acre
East	Undeveloped	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.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0022** based on the findings in this report, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. 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. The number of vehicles shall be limited by the underlying zoning (two cars per dwelling unit). Parking shall be restricted to either the garage or driveway.

10. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION: Required YES

Date: March 13, 2023 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in zoning. Use Unit 46 (Type 2) is a conditional use in the RSF-4 zoning district.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). The residence is a three-bedroom structure, which limits the occupancy to eight (8) per ordinance.

(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. The property has a two-car garage and a thirty foot (30') long driveway of sufficient width to fit an additional two vehicles.

(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 1669 W Cedar St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year 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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the RSF-4, Residential Single-Family, Eight (8) Units per Acre zoning district so this short-term rental will contribute to the city-wide density cap.**

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

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

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

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

Finding: **The property has four(4) off-street parking spots available, and the adjacent street has sufficient width for on-street parking. There are two (2) other type 2 short-term rentals within the 0.25 miles of the subject property. Two (2) code cases were found for this address: a health and sanitation case from 2005 and 2020, both under previous ownership.**

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

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

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

Finding: **Staff finds the proposal is unlikely to negatively affect traffic flows given the availability of on-site and street parking. 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 dwelling has four (4) off-street parking spots available via garage and driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district which is typically two per single family dwelling unit.**

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

Finding: **The applicant proposes to 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 existing structure permit, the residence is meeting relevant setbacks.**

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

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four (4) spaces are available in the garage and driveway and a maximum of eight guests are permitted. The property also has frontage along a portion of W Cedar St that is wide enough to support on-street parking. City business license records indicate that two other units within a quarter-mile radius of the property have active Type 2 short-term rental business licenses. Code violations that were found at the address were under previous ownership of the property.**

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre
- Applicant Request Letter
- Site Map
- Building Floor Plans
- 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-4
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)

161.09 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

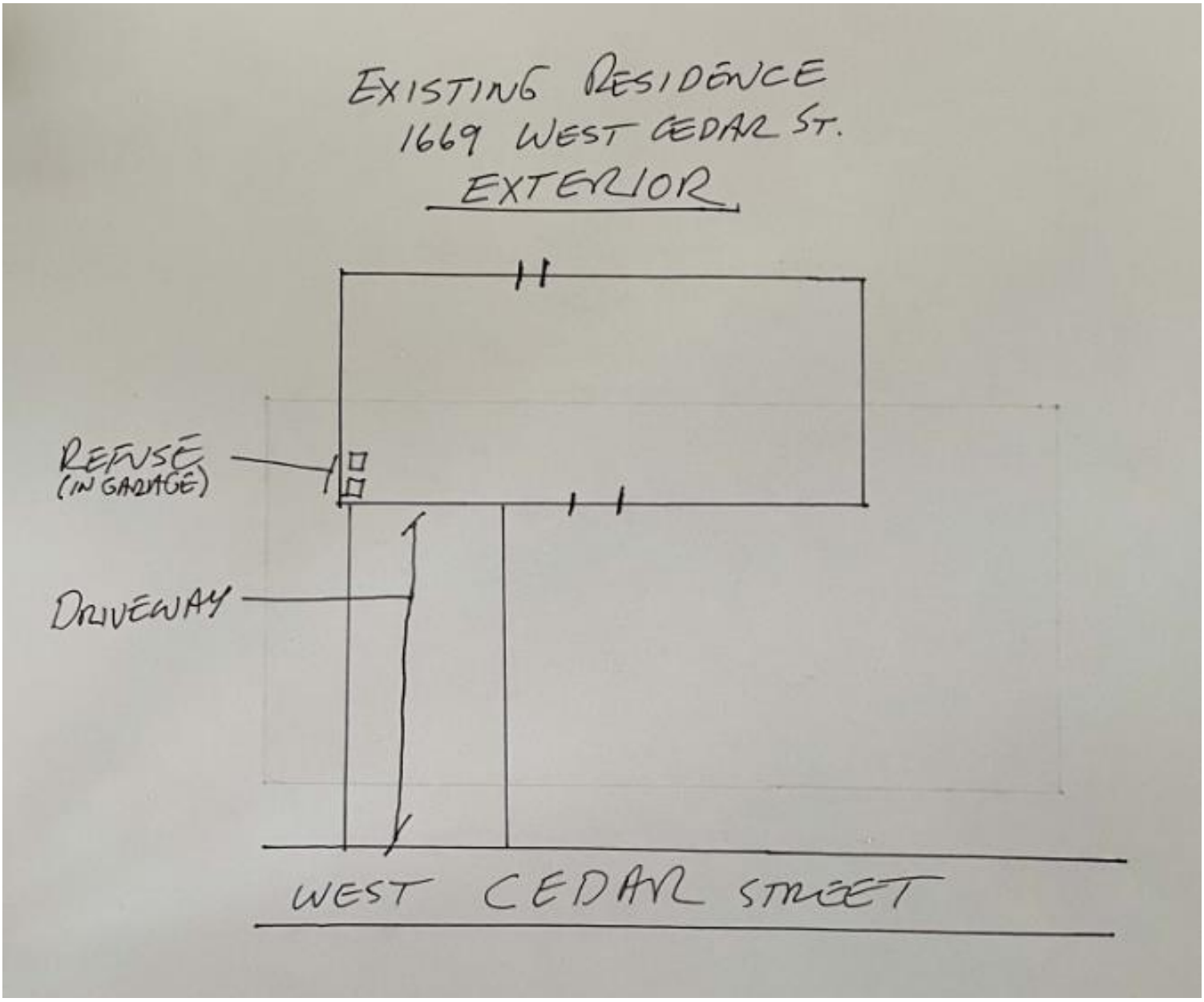
(F) *Height Regulations.*

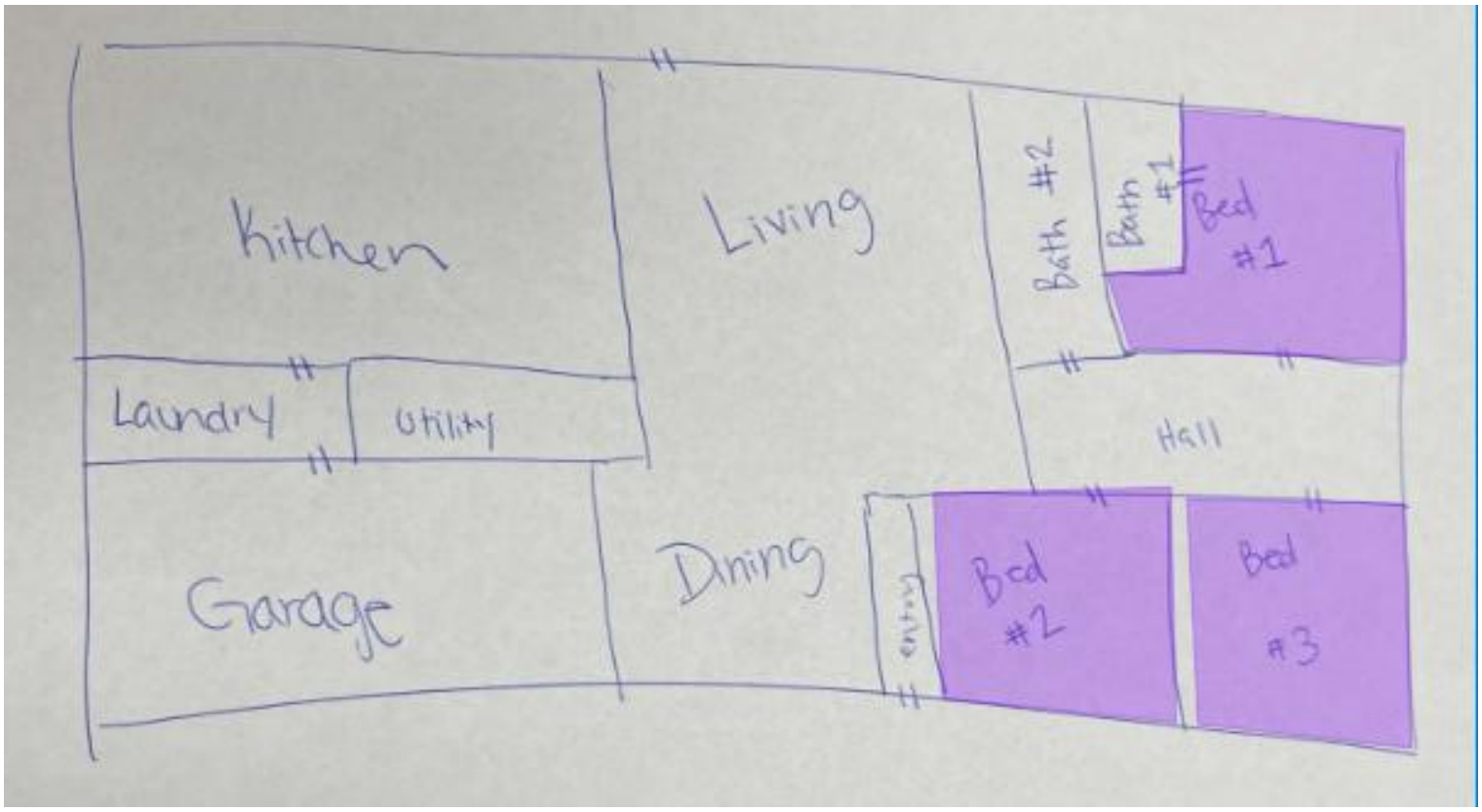
Building Height Maximum	3 stories

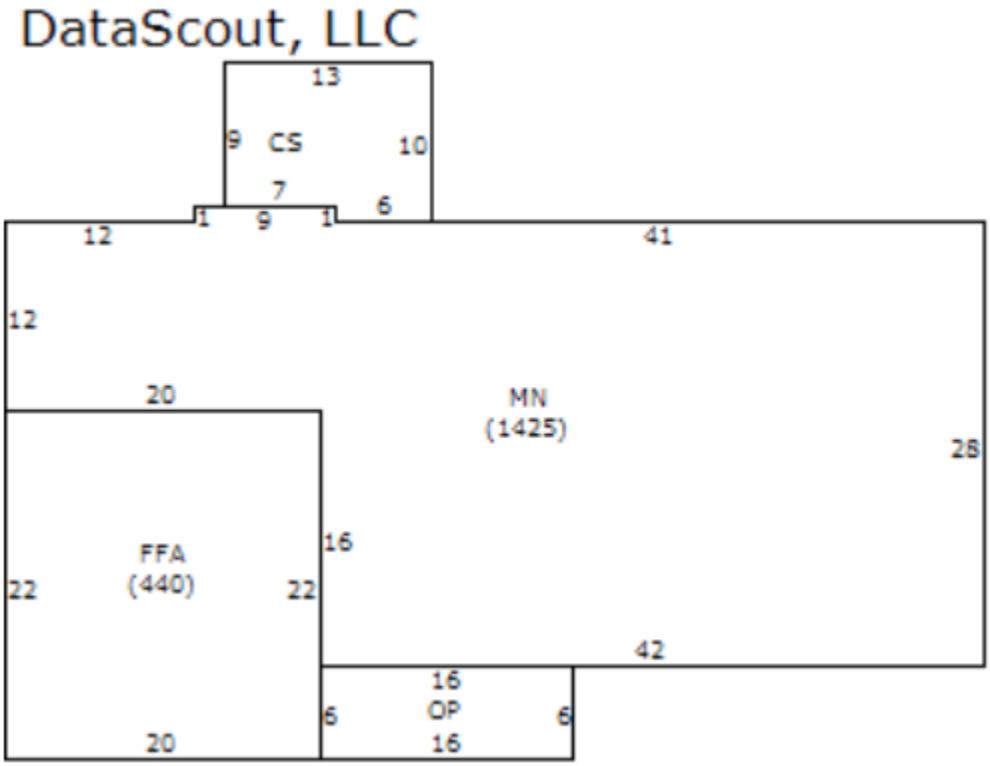
(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered 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."


EXISTING RESIDENCE
1669 WEST CEDAR ST.
EXTERIOR
REFUSE
(IN GARAGE)
DRIVEWAY
WEST CEDAR STREET


Kitchen
Living
Bath #2
Bath #1
Bed #1
Laundry
Utility
Hall
Garage
Dining
entry
Bed #2
Bed #3


DataScout, LLC
13
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(1425)
28
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FFA
(440)
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OP
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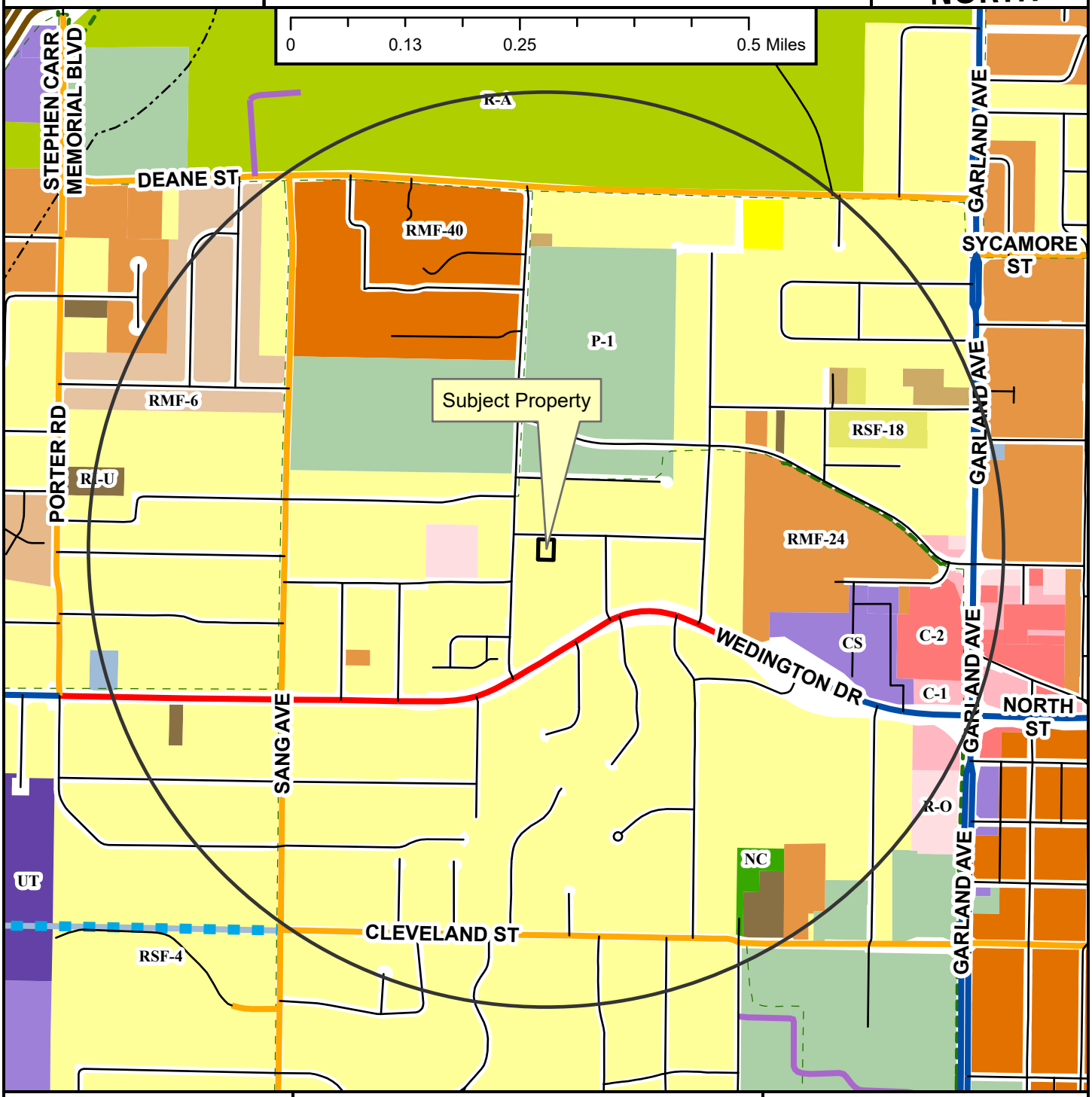
20

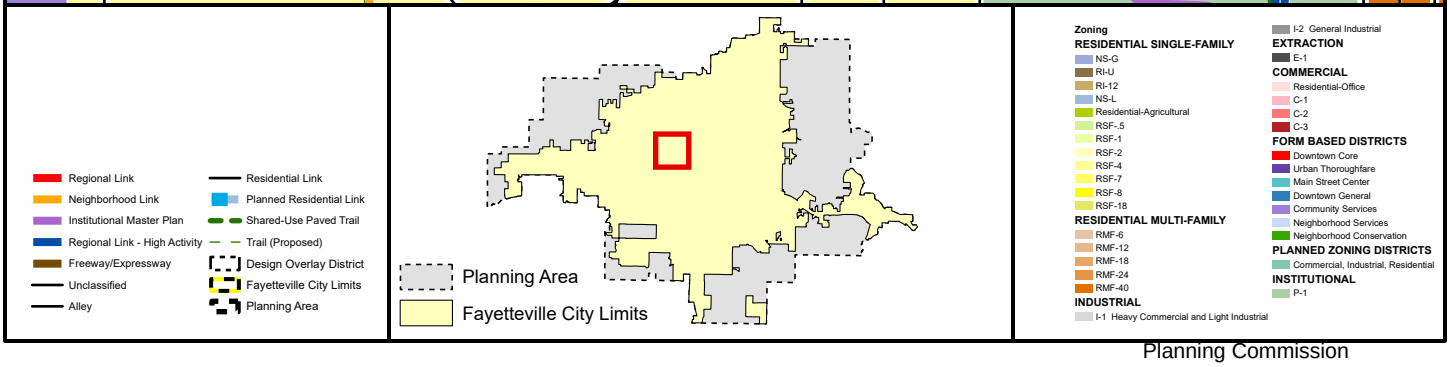
CUP-2023-0022

One Mile View

1669 W. CEDAR ST

NORTH

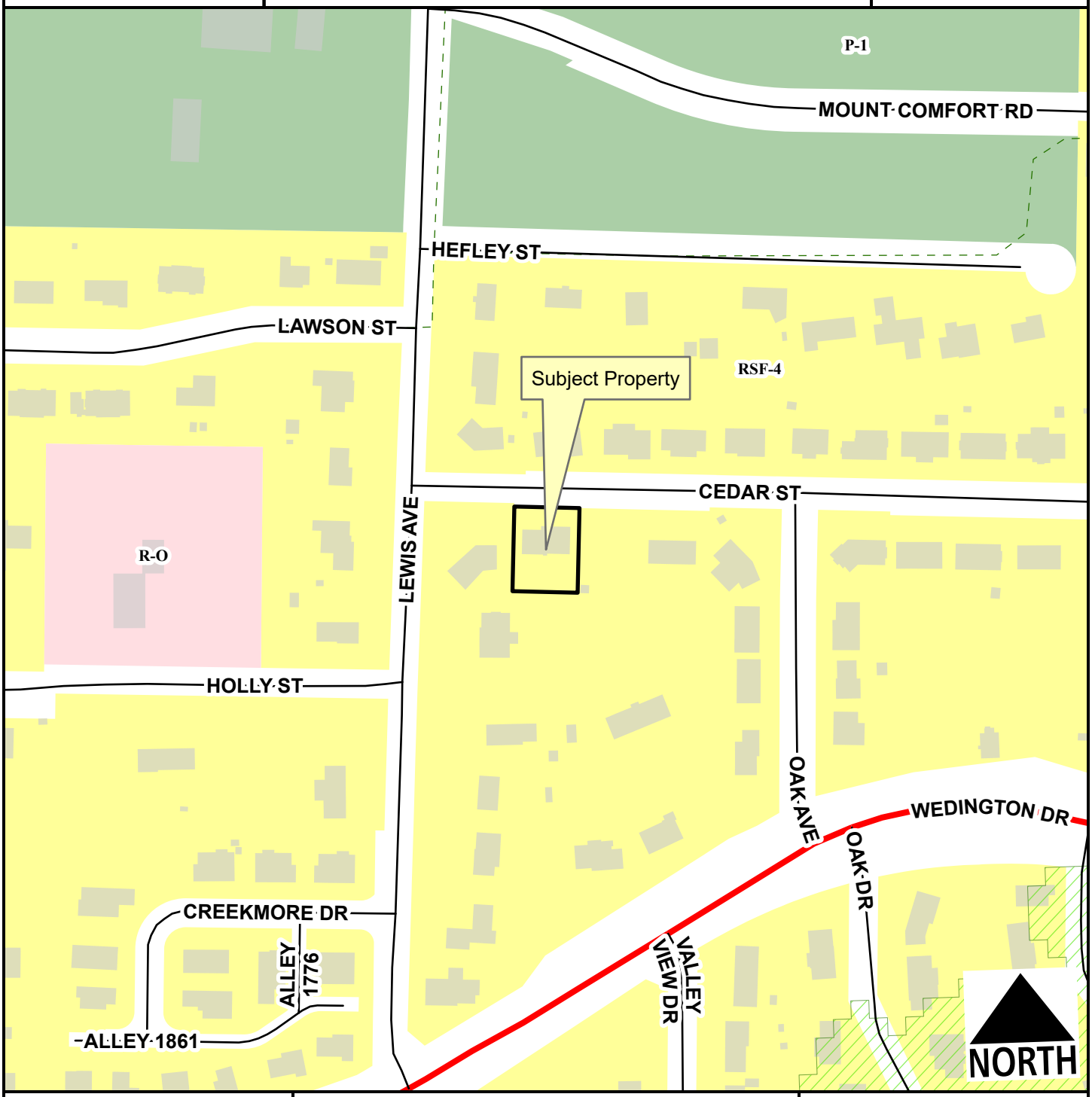




CUP-2023-0022

Close Up View

1669 W. CEDAR ST



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

Feet
0 75 150 300 450 600
1:2,400

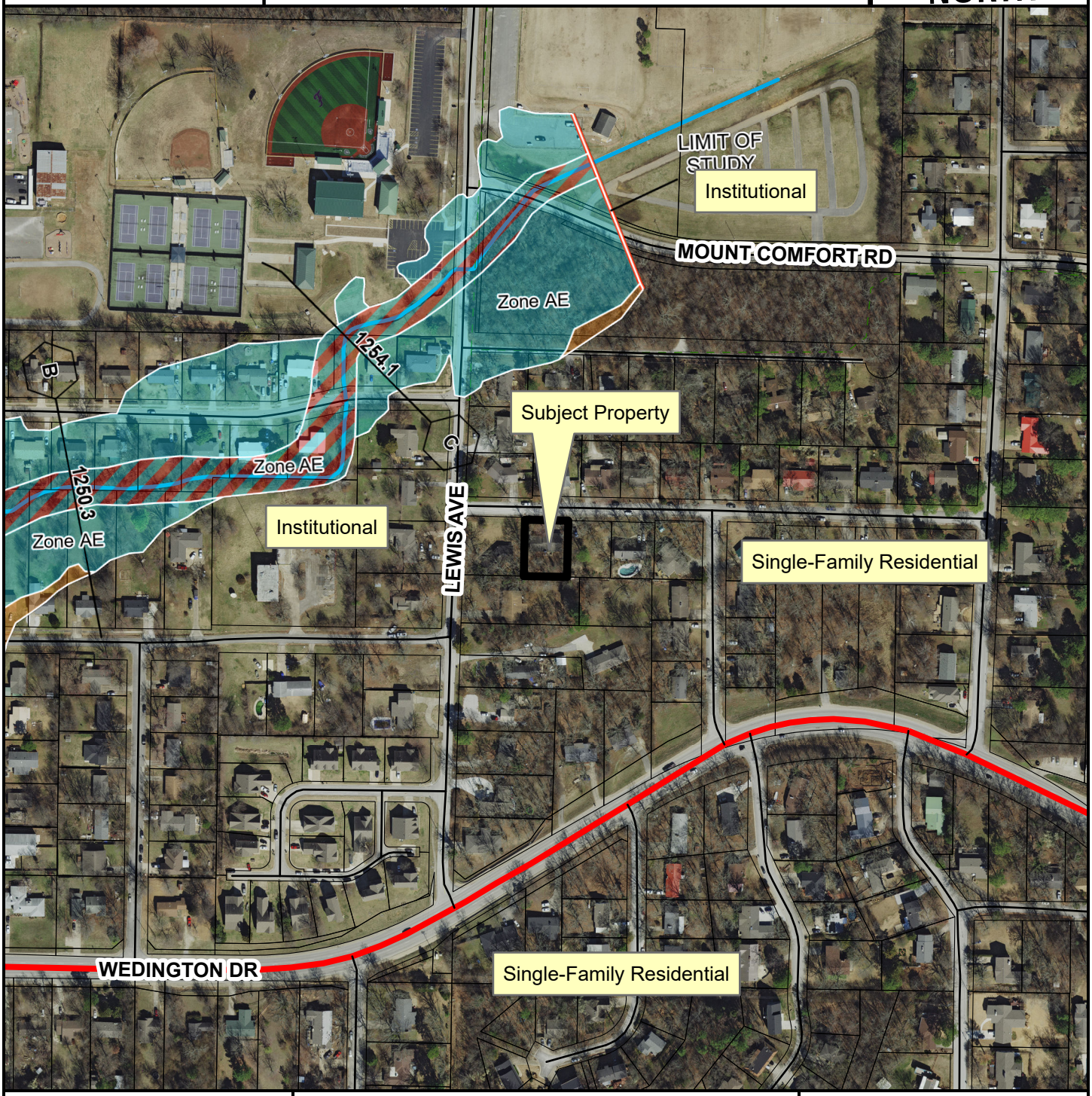
RSF-4
Residential-Office
P-1

CUP-2023-0022

Current Land Use

1669 W. CEDAR ST

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

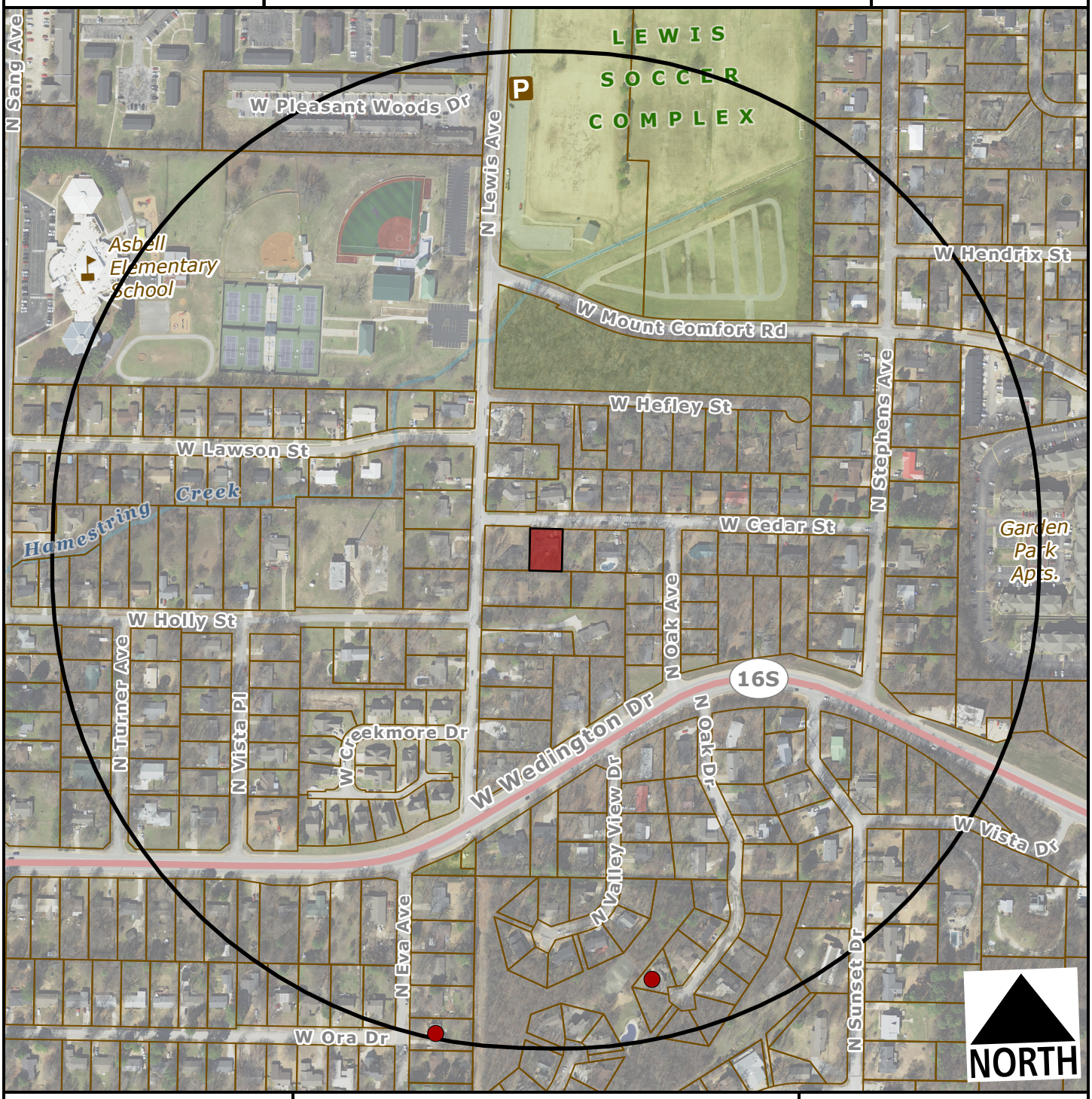
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0022

STRs Within 1/4 Mile

1669 W. CEDAR ST



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	2
NOT contributing to 2% density cap	0
Total	**2**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0024: Conditional Use Permit (833 N. RUSH DR/BARNES, 446):** Submitted by PATRICK BARNES, for property located at 833 N. RUSH DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0024** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0024**, 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, roughly 200 feet north of the intersection of N. Rush Drive and E. Prospect Street, on the west side of N. Rush Drive. The property totals 0.30 acres and is currently developed with a 1,422 square-foot, two-bedroom single-family dwelling which was built in 1905, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0024,** 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. Parking areas shall be clearly defined by pavement, a change in materials, edging, or other means prior to approval of the associated business license.

4. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

5. 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.

6. 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.

7. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

8. All trash receptacles shall be screened from view of the right-of-way.

9. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

10. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION: Required YES

Date: March 13, 2023 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

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

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

Finding: **Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license**

requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: **The request is to operate a Type 2 short-term rental in RSF-4 zoning, which requires a conditional use permit.**

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

Finding: **Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has 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. In the request letter the applicant says visitors will have access to four off-street parking spots in two existing driveways. The two driveways serving the site appear to be roughly 50 feet deep. Parking areas do not appear to be clearly defined by pavement, a change in materials, edging, or other means so staff is recommending confirmation that parking areas are clearly identified prior to approval of the associated business license.**

(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 N. Rush Dr. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year 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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RSF-4 zoning, so this short-term rental would contribute to the city-wide density cap.**

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

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

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

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

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on information provided in the applicant's submittal. A total of four off-street spaces are available. On street parking is also available along N. Rush Drive. Within ¼ mile of the property city business license records indicate there are five Type 2 rental business licenses. There are no prior or active 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 N. Rush Drive, which is classified as a Residential Link Street. Access is provided through two driveways that is approximately 50-feet deep. The existing driveways do not appear to meet separation requirements for single family lots with multiple driveways. Typically, a 30-foot separation between driveways is required. Staff finds that the proposal will not adversely affect traffic flows since the property fronts onto a low-volume, Residential Link Street. Also, considering the use of the property would be limited to a maximum of eight guests, the parking demand would not be out of character with use of the property for residential purposes. Sidewalks are not present along N. Rush Drive.**

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

Finding: **The applicant has indicated that there are four off-street guest vehicle parking spaces available. 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-4, Residential Single-Family, 4 Units per Acre
- Applicant Request Letter
- 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)

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

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

City of Fayetteville, Arkansas
Conditional Use Permit - 2023-0024

1) Payment made in full
2) 833 N. RUSH DR - the property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres
3) I am applying on behalf of my wife and me, for a conditional use permit from the city of Fayetteville for a property that we purchased in August of 2022, in order to obtain a short term rental Type 2 permit. We will not be residing in the residence. The property will be used for a nightly rental.
    a. The home is 1,422 square feet. (Note there is a detached storage/utility building on the property as well, it is not counted in the square footage because it does not have central heat/air.
    b. The home is two stories. On the first floor is a living room, den, kitchen, bathroom, and eating area. Upstairs, there are two bedrooms with closets, a sitting area, and a bathroom. Attached pictures will be at the end of this document.
    c. There are currently two driveway access points off of Rush Drive that lead to the house. These driveways are gravel and can both accommodate two cars. A maximum of 4 cars will be allowed at the house. No on the street parking will be allowed. Attached pictures will be at the end of this document.
    d. The home will not have operating hours or employees. When rented, the home will have up to 6 guest maximum for the two bedrooms and the queen pull out sleeper sofa. CoHoBnB will be the property manager and they have an in-house staff for cleaning and maintenance. The home will be cleaned after each stay, additionally they will perform quarterly deep cleanings and home safety/maintenance inspections.
    e. Exterior lighting – there are two outdoor lights located on either side of the front door. The shed which is at the back left of the house (SW corner of property) has a light on the front and back. The back door has an exterior light to the right of it.
    f. Noise – the property will be used for short stays of 1-6 people, so noise should be minimal. Absolutely no parties will be allowed.
    g. The house sits toward the south-central side of the property. The house of the north side is located approximately 57 feet away, and it is buffered by a fence and pine trees. The house to the west is approximately 53 feet away and it is buffered by bushes and a fence. The house to the south is approximately 43 feet away and there is some fence, trees/bushes, and the shed to buffer between the properties. The home to the east is approximately 165 feet away, across the street, and it is buffered by bushes and trees. Attached pictures will be at the end of this document.
    h. The trash can is kept back next to shed not visible from neighboring property. Our trash/recycling pickup day is on Monday. It will be taken to the street by CoHoBnB cleaning staff and then placed back behind the house upon removal of the trash. In the event of too much trash, CoHoBnB will dispose of trash off. Trash will not be allowed to pile up on the property.
    i. The house is located on Rush Drive, which can be accessed to the south from Prospect Ave by way of College or Mission or to the northeast off of N Mission Blvd. The house does not

add additional traffic on the road because this area is already used for short-term rentals and residential properties. Attached pictures will be at the end of this document.

j. The use of the property as a nightly rental is common in this part of Fayetteville. Several neighboring are also used as short term rentals.

4) The site plan drawn to scale of the property including structures dimensioned from the overhang to the property line, parking, driveway, and Master Street Plan right-of-way will be attached at the end of this document. Rush drive is classified as a Residential Link according to the interactive street map so the right of way is a minimum of 45 feet and a maximum of 52 feet, or looking at the Alternative Residential Link minimum 33 feet to maximum 40 feet. Currently there are no sidewalks or bike trails located on Rush Drive.
5) The existing floor plan drawn to scale showing walls, doors, windows, and identification of activity areas will be attached at the end of this document.
6) A copy of the county parcel map from the Washington County Assessor's office website will be attached at the end of this document. The picture shows the subject property and all parcels within 200 feet.
7) The consent of ownership form signed by both property owners is attached as a separate document.
8) Public notification sign was placed in the yard on Tuesday 2/21/2023. Letters to neighboring property owners will be mailed out on Wednesday 2/22/2023.

<u>Image Attachments</u>

3.b Elevations of all exterior sides of the structure

Front of house (East)

Left side of house (South)

Right side of house (North)

Back side of house (West)

3.c Parking Spaces

Parking left side (or south) of front door

Parking right side (or north) of front door

Parking left side (or south) of front door

Parking right side (or north) of front door

3.g Screening/Buffering from adjacent properties

Shed/Utility building buffering south side

Fence, Bushes, Trees buffering west side

Fence, Bushes, Trees buffering north side

Bushes, Trees buffering east side

3.i Ingress and Egress to the property

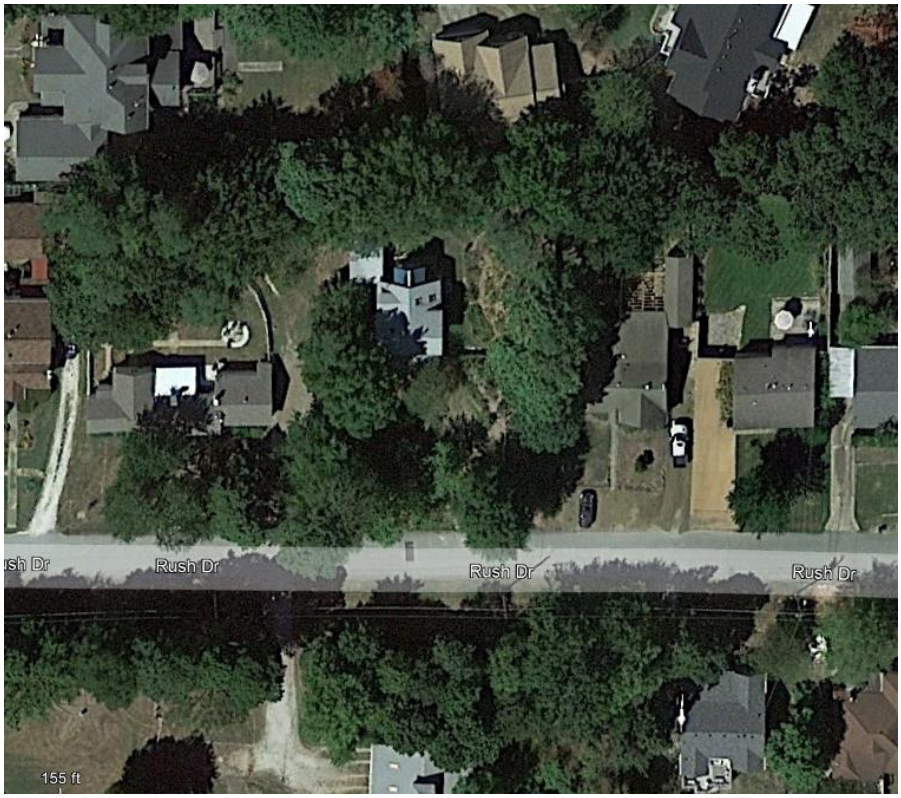
Looking towards the south where Rush Drive intersects Prospect Ave.

Looking towards the north where Rush Drive wraps around to the east to meet N Mission Blvd.

4. Site Plan Drawn to Scale

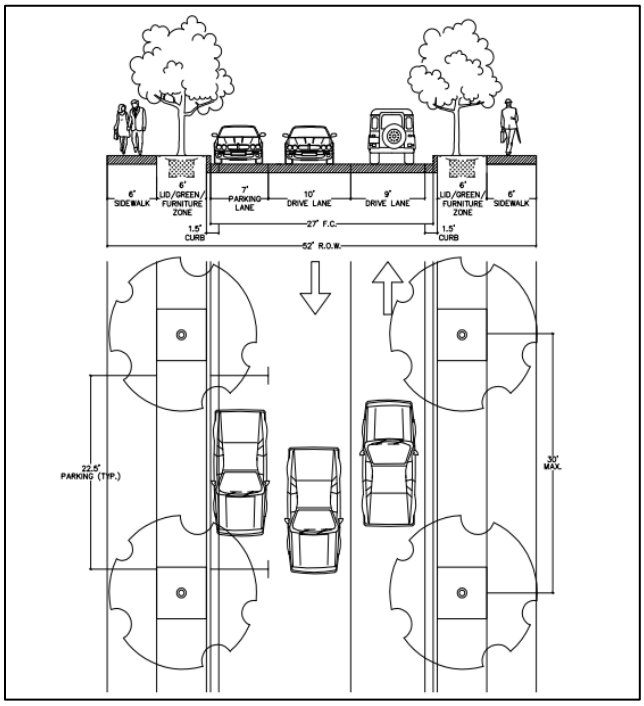
The attached images from the general reference map and google earth show a good overview of the site plan and the adjoining properties.

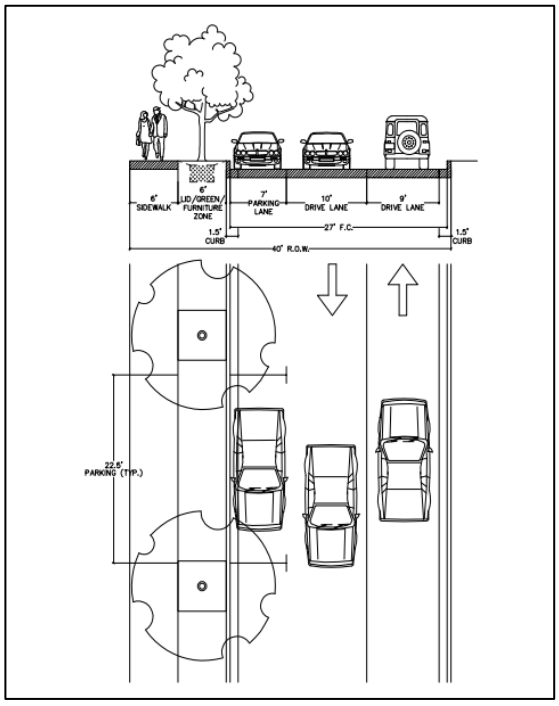
View of the house with the property limits of adjacent owners



House sits back far off the street, no sidewalk on Rush Drive

4. Copy of Master Street Plan Right of Way





Residential Link Street Typical Section

Alternative Residential Link Street Typical Section

As mentioned above there is currently no sidewalk on either side of Rush Dr.

5. Pictures of Floor Plan. Scroll for drawn out floor plan.

Living Room

Den

Dininging Area

Kitchen/Dining Area

Downstairs Bathroom

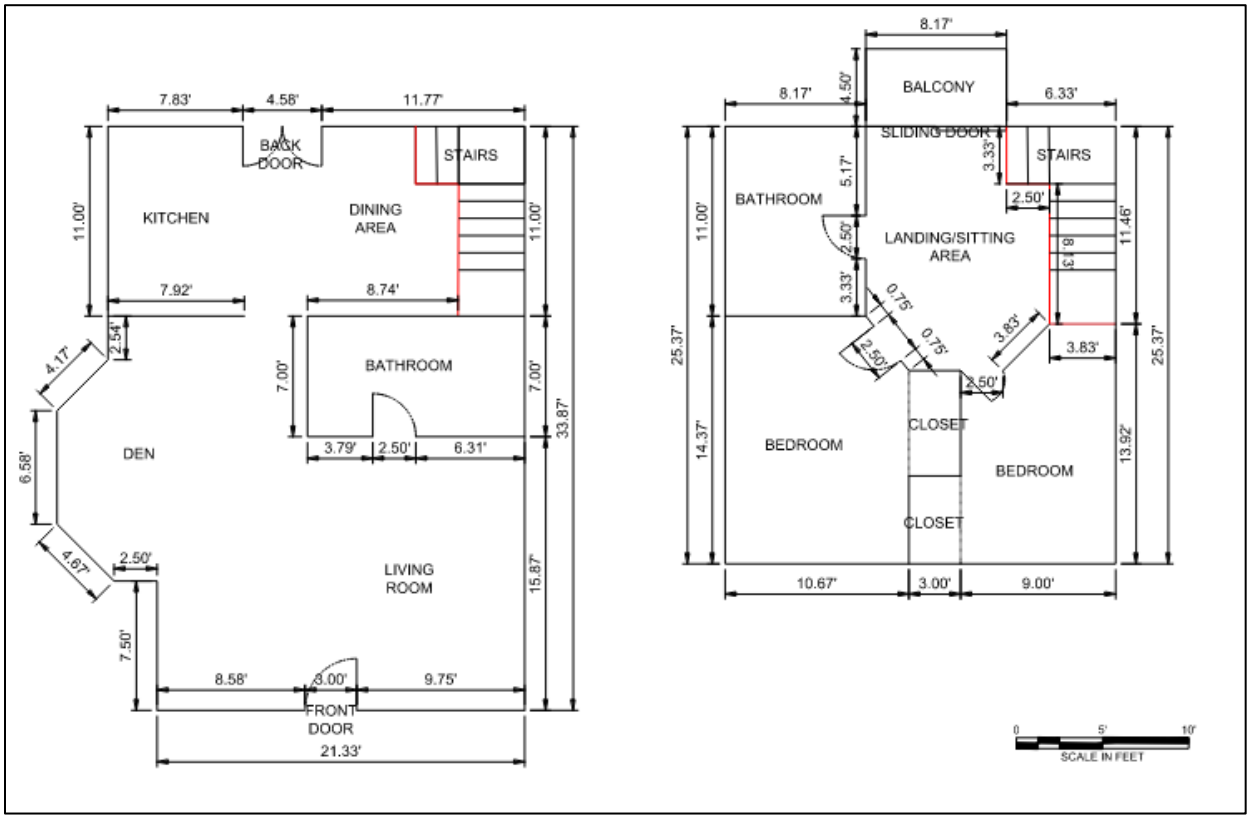
Living room/Fireplace/Front Door

Upstairs Bathroom

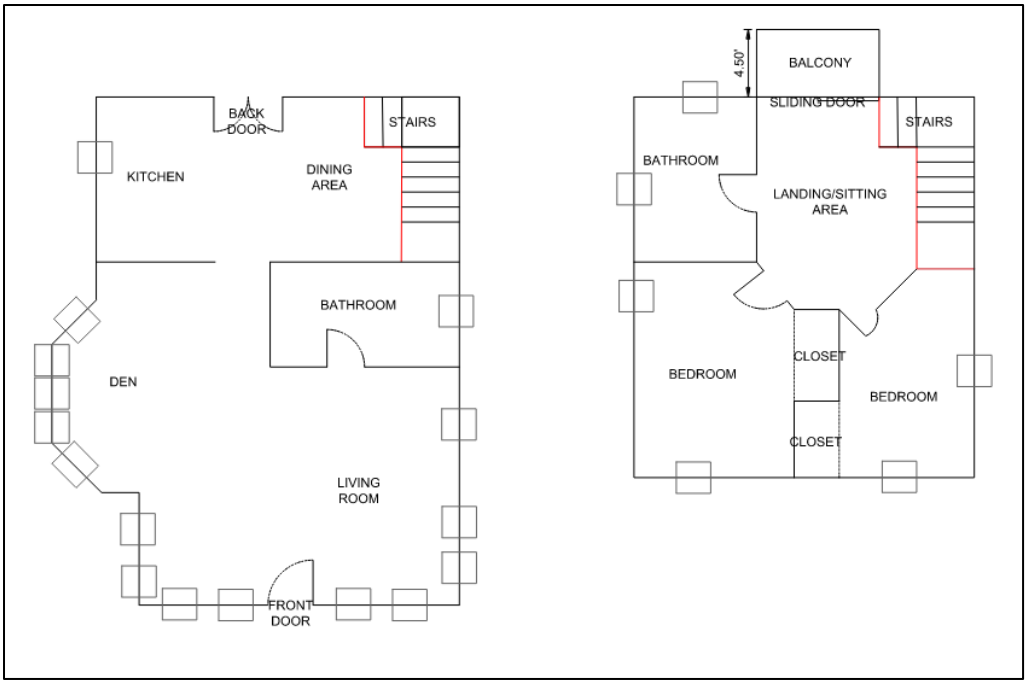
Upstairs landing area

Bedroom 1 Bedroom 2

5. Floor Plan- Drawn to scale

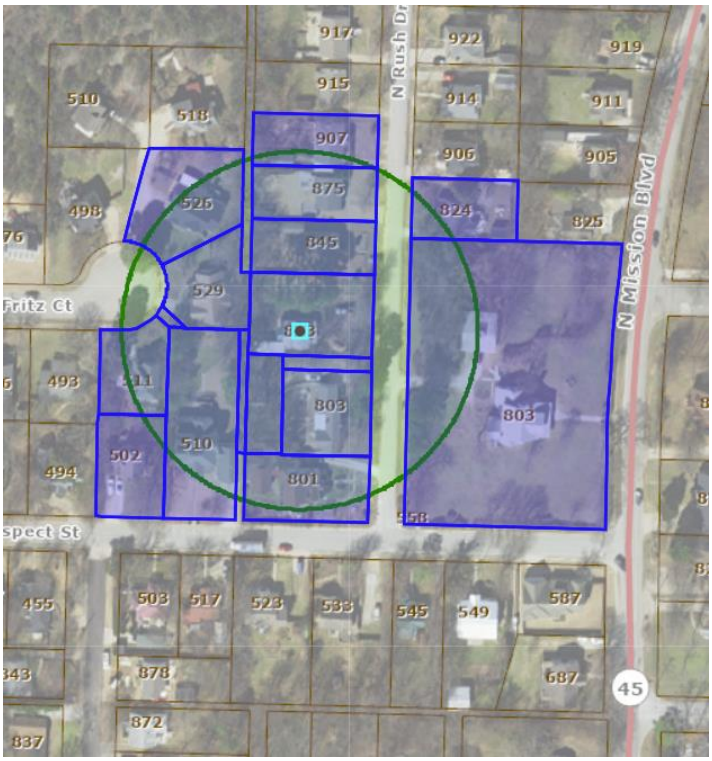


Floor Plan of the first level (left) and second level (right) based on measurements taken inside the house. Measurements taken to the best ability possible and drawn to scale as best as possible. Existing floor plans were not provided with any closing documents. Names of rooms shown along with locations of doors and the direction of opening. Red outline around the stairs which open out to the landing on the second floor.



Boxes are the locations of the windows for the first floor (left) and second floor (right).

6. County Parcel Map- Parcels within 200 ft



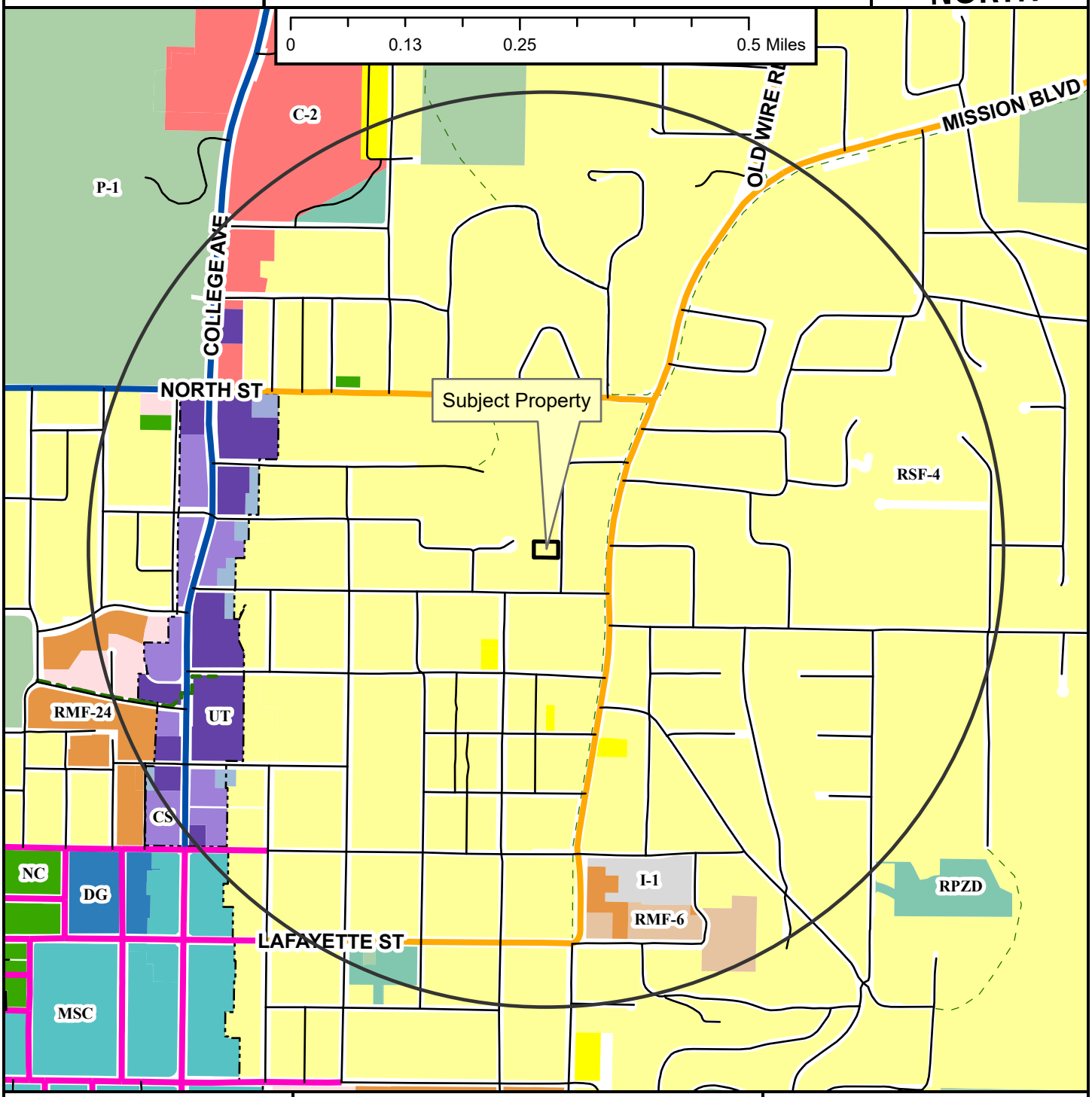
Letters will be mailed to the property owners within 200ft of the property.

CUP-2023-0024

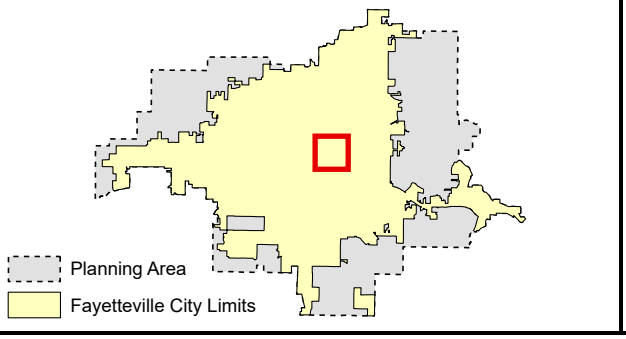
One Mile View

833 N. RUSH DR

NORTH



- 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-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

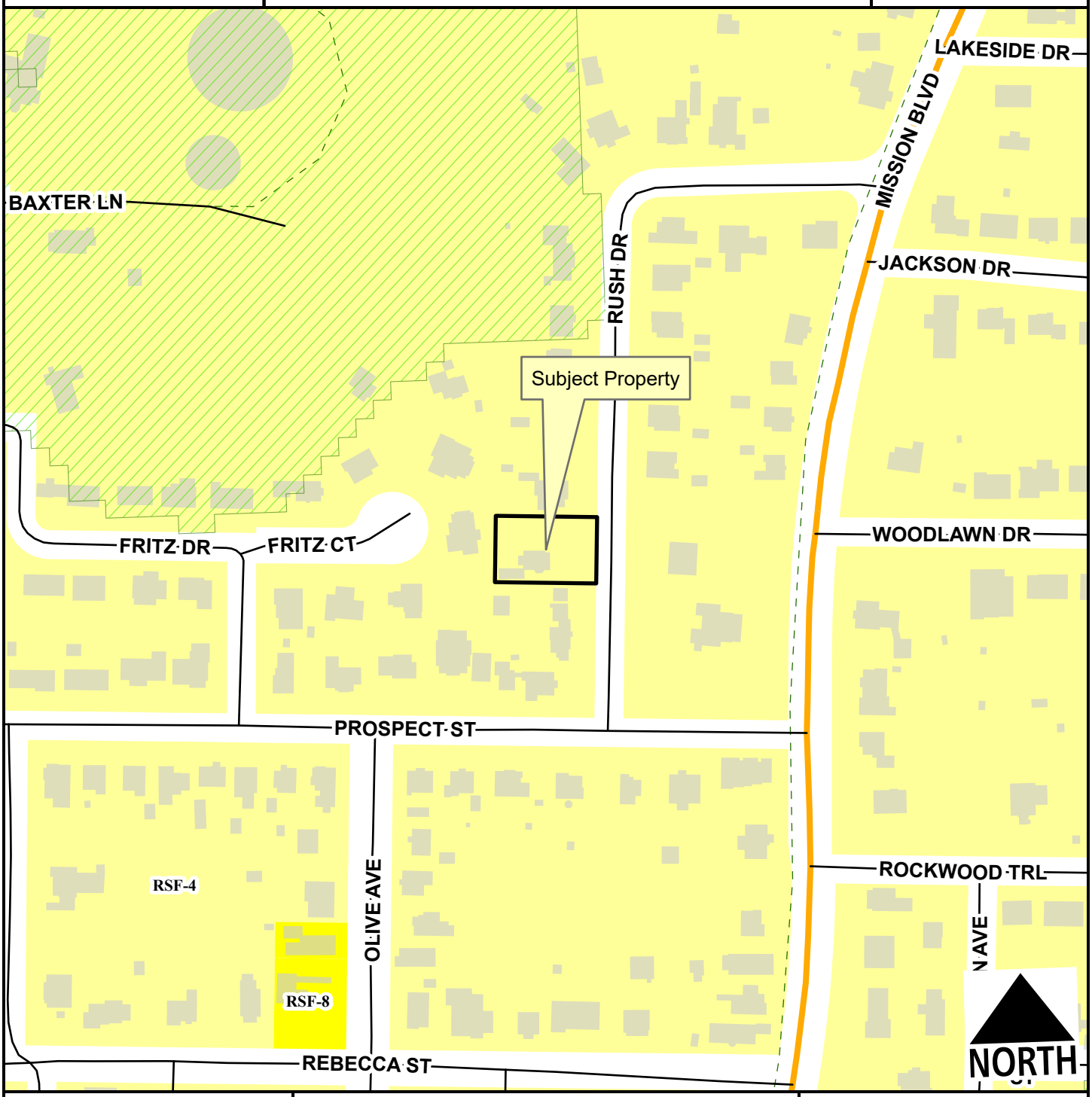
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0024

Close Up View

833 N. RUSH DR



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

Feet
0 75 150 300 450 600
1:2,400

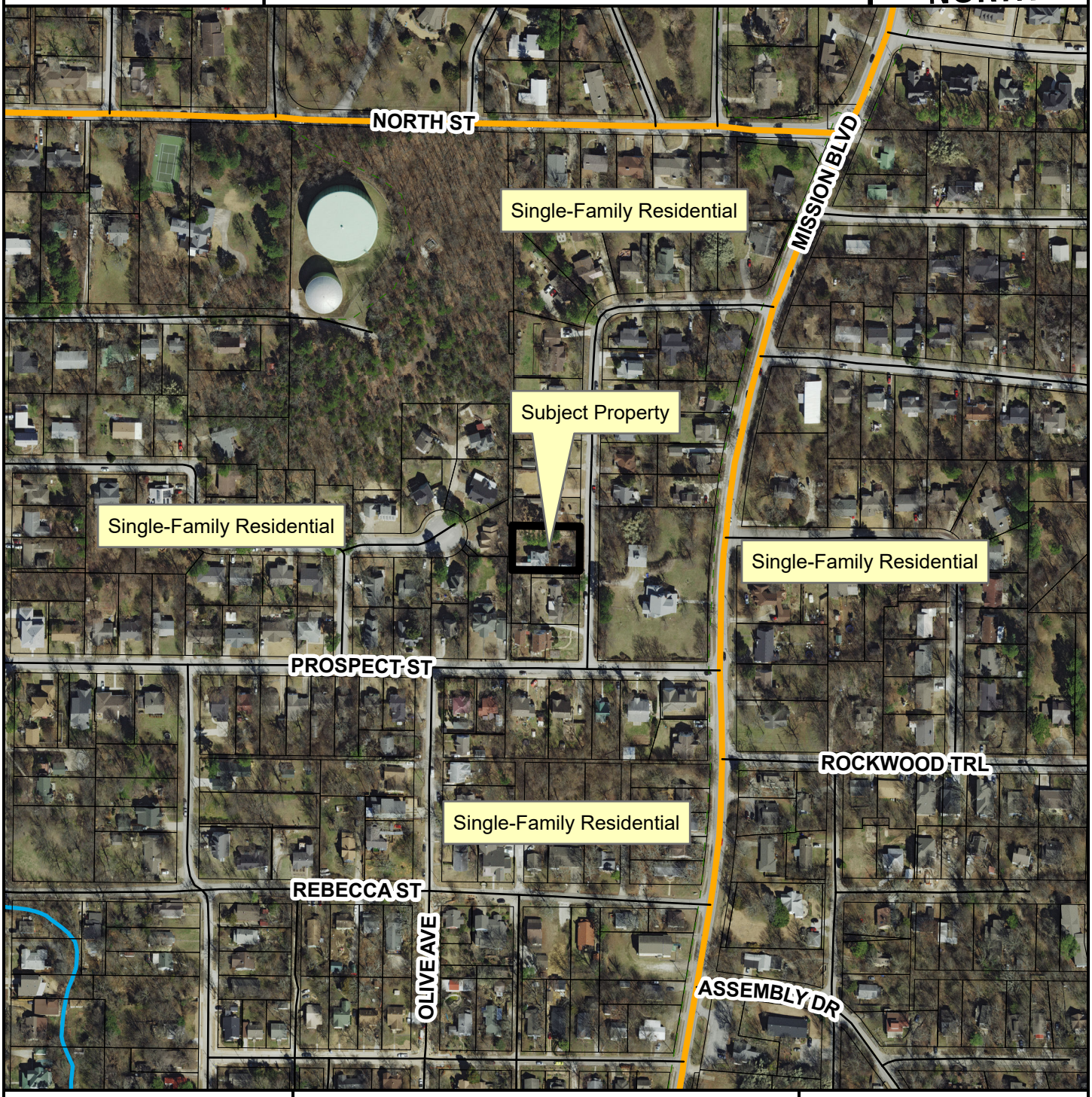
RSF-4
RSF-8

CUP-2023-0024

Current Land Use

833 N. RUSH DR

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

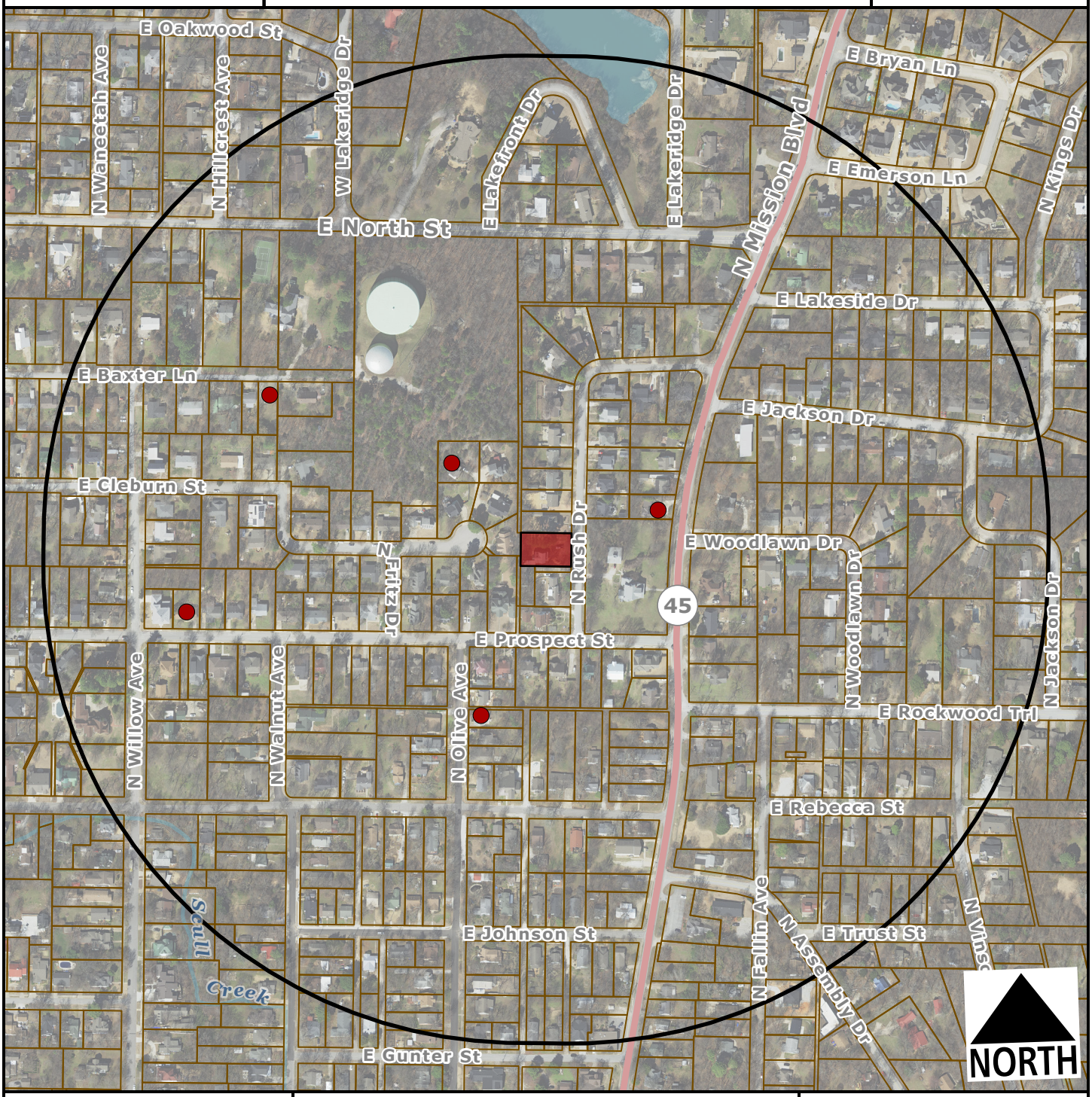
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0024

STRs Within 1/4 Mile

833 N. RUSH DR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	5
NOT contributing to 2% density cap	0
Total	**5**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0025: Conditional Use Permit (2024 W. WEDINGTON DR/SISEMORE, 403):** Submitted by LORI SISEMORE, for property located at 2024 W. WEDINGTON DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.80 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0025** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0025**, 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, at the northeast corner of W. Wedington Drive and N. Sang Avenue. The property totals 0.80 acres and is currently developed with a 1,422 square-foot, three-bedroom single-family dwelling which was built in 1905, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0025,** 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**	**YES**	
Date: March 13, 2023	❒ **Tabled**	❒ **Approved**	❒ **Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: **The request is to operate a Type 2 short-term rental in RSF-4 zoning, which requires a conditional use permit.**

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

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

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

Finding: **Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling. In the request letter the applicant says visitors will have access to off-street parking spots in two existing driveways and a one-stall garage. Driveways extend from both W. Wedington Drive and N. Sang Avenue and appear to be roughly 90 and 50 feet deep, respectively.**

(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 2024 W. Wedington 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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RSF-4 zoning, so this short-term rental would contribute to the city-wide density cap.**

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

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

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

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

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental. Four off-street spaces are available in the existing driveways which align with the standards for a single-family home. On-street parking is not available. Within ¼ mile of the property city business license records indicate there are six Type 2 rental business licenses. Four of which are separated from the subject property by W. Wedington Drive; one other Type 2 rental is licensed on the same block. There are no prior or active zoning code violations at the subject address.**

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

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

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

Finding: **The subject property has frontage along W. Wedington Drive and N. Sang Avenue. W. Wedington Drive is classified as a Regional Link Street and N. Sang Avenue is classified as a Neighborhood Link Street. Access is provided through two driveways near the southwest corner of the property. Staff finds that the proposal is unlikely to adversely affect traffic flows beyond its current use. Typically, driveways serving single-family homes on corner lots are required to be located as far as possible from street intersections while meeting a five-foot separation distance from side property lines. In this case the existing drives appear to be legal non-conforming and, according to aerial imagery, date back to at least 1965. Consequently, staff finds that occupancy limitations would result in the use not being out of character with use of the property for residential purposes and therefore does not recommend reconfiguration of the existing driveways. Sidewalks are present at the back of curb along both streets.**

(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 space for four 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-4, Residential Single-Family, 4 Units per Acre
- Applicant Request Letter
- 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)

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

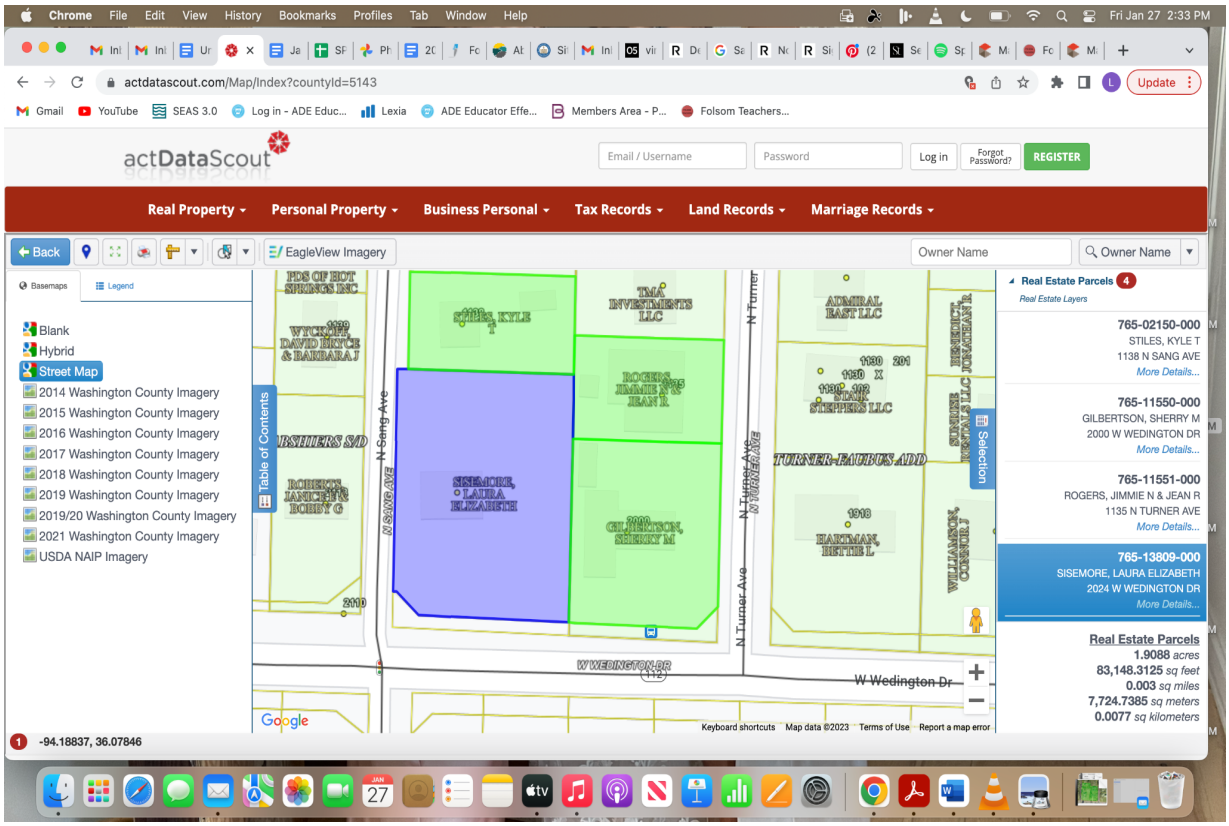
(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh.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

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

CUP-25

1) Paid in full
2) RSF-4 - 2024 W. Wedington
3) I am applying for a conditional use permit fro the City of Fayetteville for a property that I own for short term rental. I will not be residing in the home as it will be used for nightly rental.
    a) The house is 1737 sq ft.
    b) The house has three levels. One room is upstairs and the other is downstairs.Two are on the main floor.
    c) The house has up to 7 parking spaces.
    d) The house will not have any employees or operating hours. I will routinely be checking the site as well as the cleaning service..
    e) There is a light outside the front door, back door, and west side of the house.
    f) The house will be used for short term stays and could have up to 9 people and have no noise.
    g) There is a street in the front and west side of the house. The west side also has a privacy fence in the backyard. The east side has a privacy fence and trees. The back has a regular privacy fence.
    h) The trash can is located on the north east side of the house.
    i) The house can be accessed from Wedington as well as Sang Ave. You can enter and exit either way.
    j) The house is close to the University of Arkansas and there are many nightly rentals in this area.
4) Site plan is attached in a separate pdf. - I am in the neighborhood according to the Master street plan the Minimum Right-of-Way: 55-feet Maximum Right-of-Way: 67-feet. The property is close to parks and city bike trails.
5) Floor plan is attached in separate pdf

6)



7) Signature of consent in another pdf

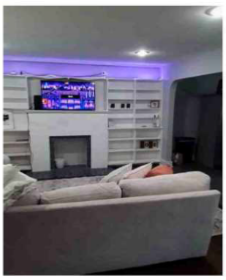
8) Images of rooms and exterior of house are below as well access to streets for ingress and egress. First from Wedington and then Sang and parking

Interior Photos

Borrower	Laura Sisemore						
Property Address	2024 W Wedington Dr						
City	Fayetteville	County	Washington	State	AR	Zip Code	72701
Lender/Client	Encore Bank						

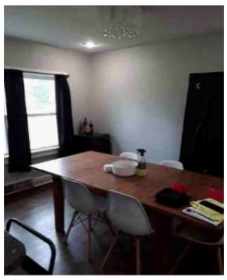
Side View Of Subject

Side View Of Subject

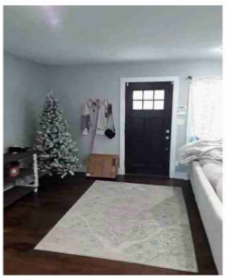


Living Room

Kitchen

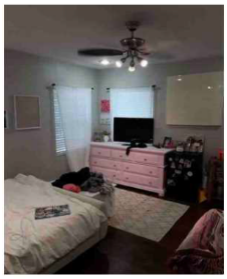


Dining Room



Entrance

Bathroom

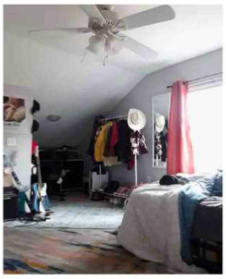


Bedroom

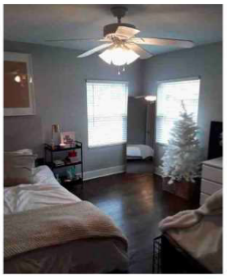
Bedroom

Bathroom

Alternate View of Bathroom



Bedroom



Bedroom

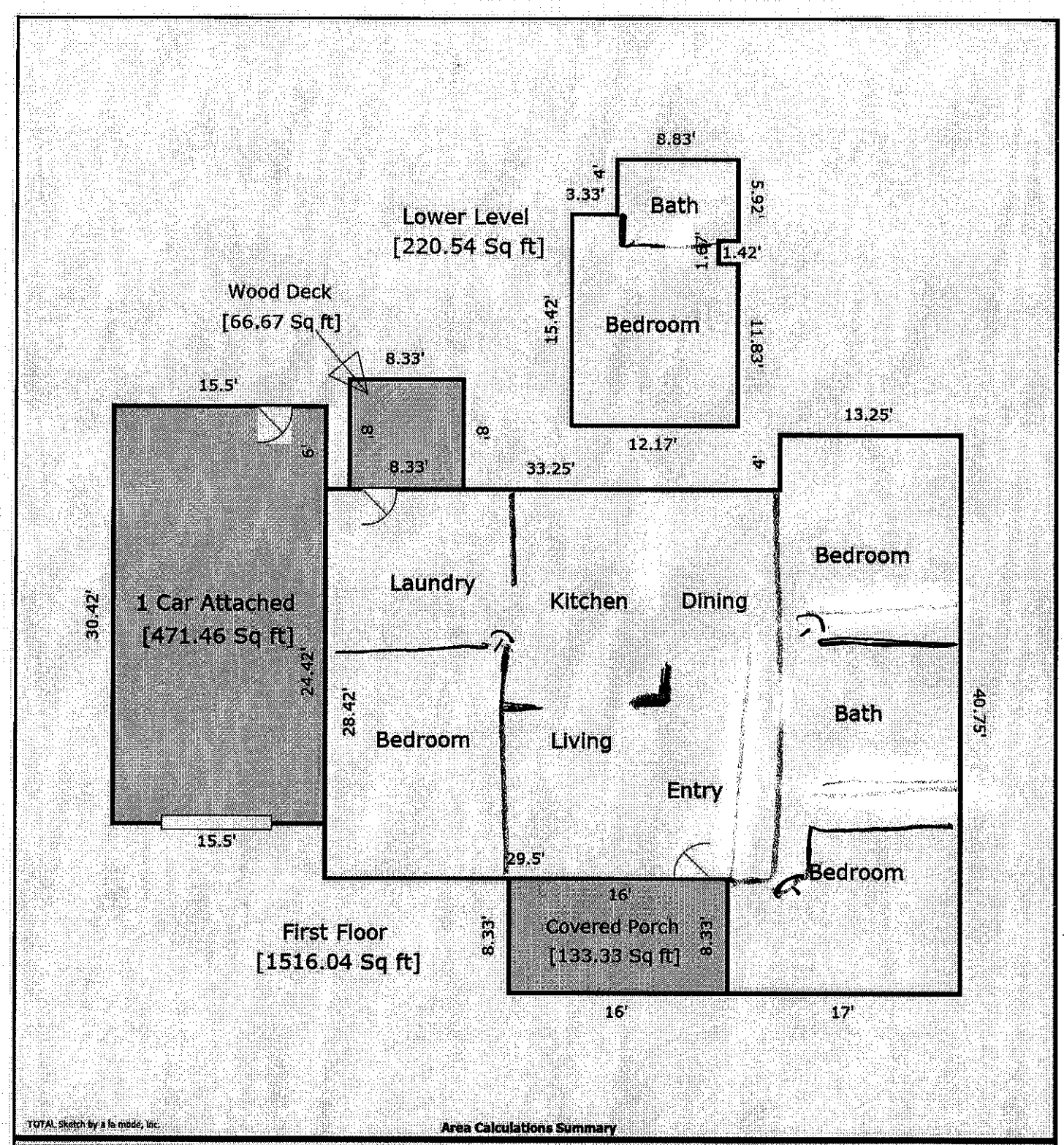
Back of House

Front of House

Site Plan - sent in separate pdf

Building Sketch

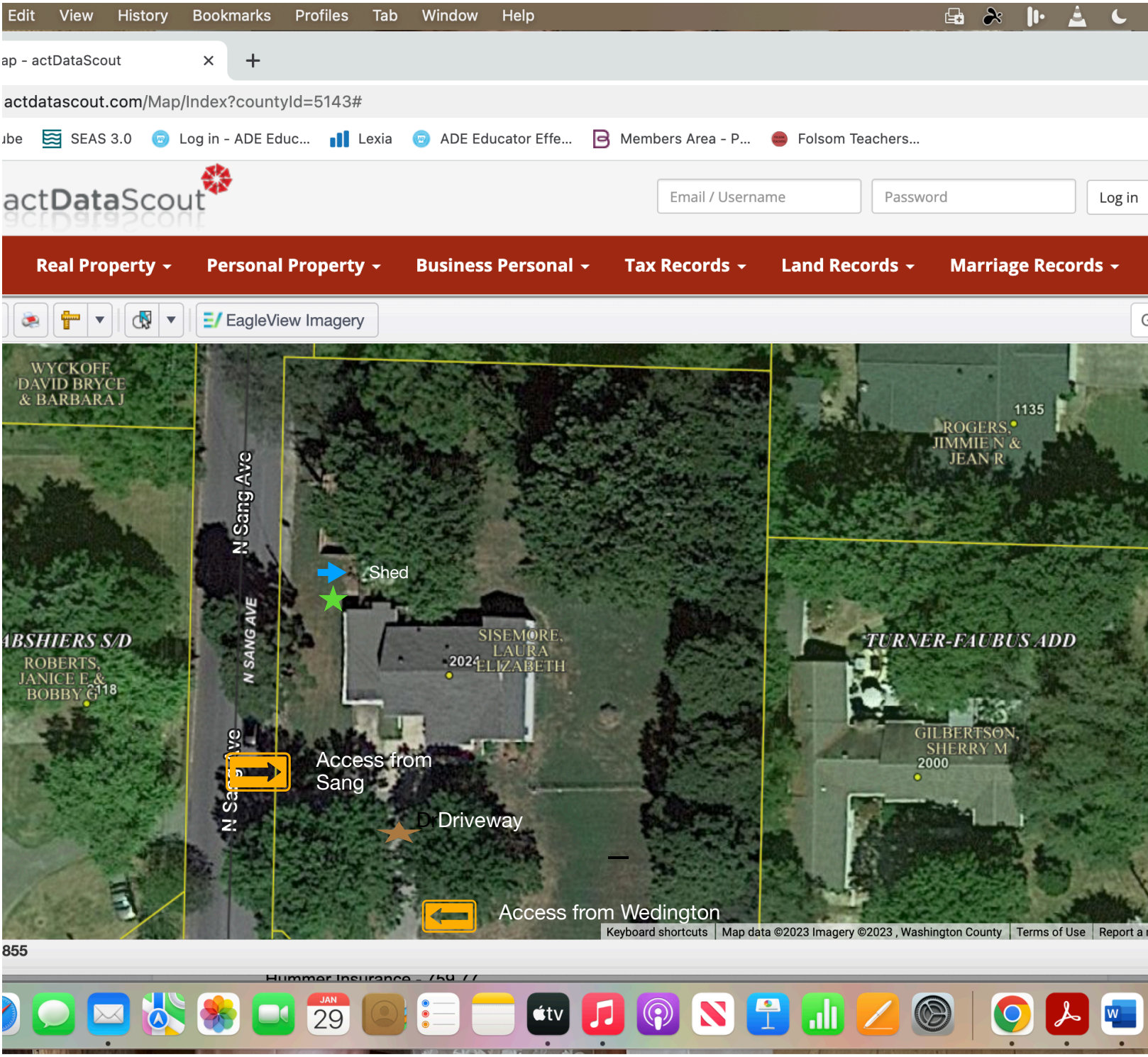
Borrower	Laura Sisemore						
Property Address	2024 W Wedington Dr						
City	Fayetteville	County	Washington	State	AR	Zip Code	72701
Lender/Client	Encore Bank						



TOTAL Sketch by a la mode, Inc.

Area Calculations Summary

Living Area		Calculation Details
First Floor	1516.04 Sq ft	28.42 × 29.5 = 838.29
		17 × 36.75 = 624.75
		4 × 13.25 = 53


Edit View History Bookmarks Profiles Tab Window Help
ap - actDataScout
actdatascout.com/Map/Index?countyId=5143#
SEAS 3.0
Log in - ADE Educ...
Lexia
ADE Educator Effe...
Members Area - P...
Folsom Teachers...
actDataScout
Email / Username
Password
Log in
Real Property
Personal Property
Business Personal
Tax Records
Land Records
Marriage Records
EagleView Imagery
WYCKOFF, DAVID BRYCE & BARBARA J
N Sang Ave
N SANG AVE
Shed
SISEMORE, LAURA ELIZABETH
2024
ABSHIERS S/D
ROBERTS, JANICE E & BOBBY G
118
Access from Sang
Driveway
Access from Wedington
1135
ROGERS, JIMMIE N & JEAN R
TURNER-FAUBUS ADD
GILBERTSON, SHERRY M
2000
Keyboard shortcuts
Map data ©2023 Imagery ©2023 , Washington County
Terms of Use
855

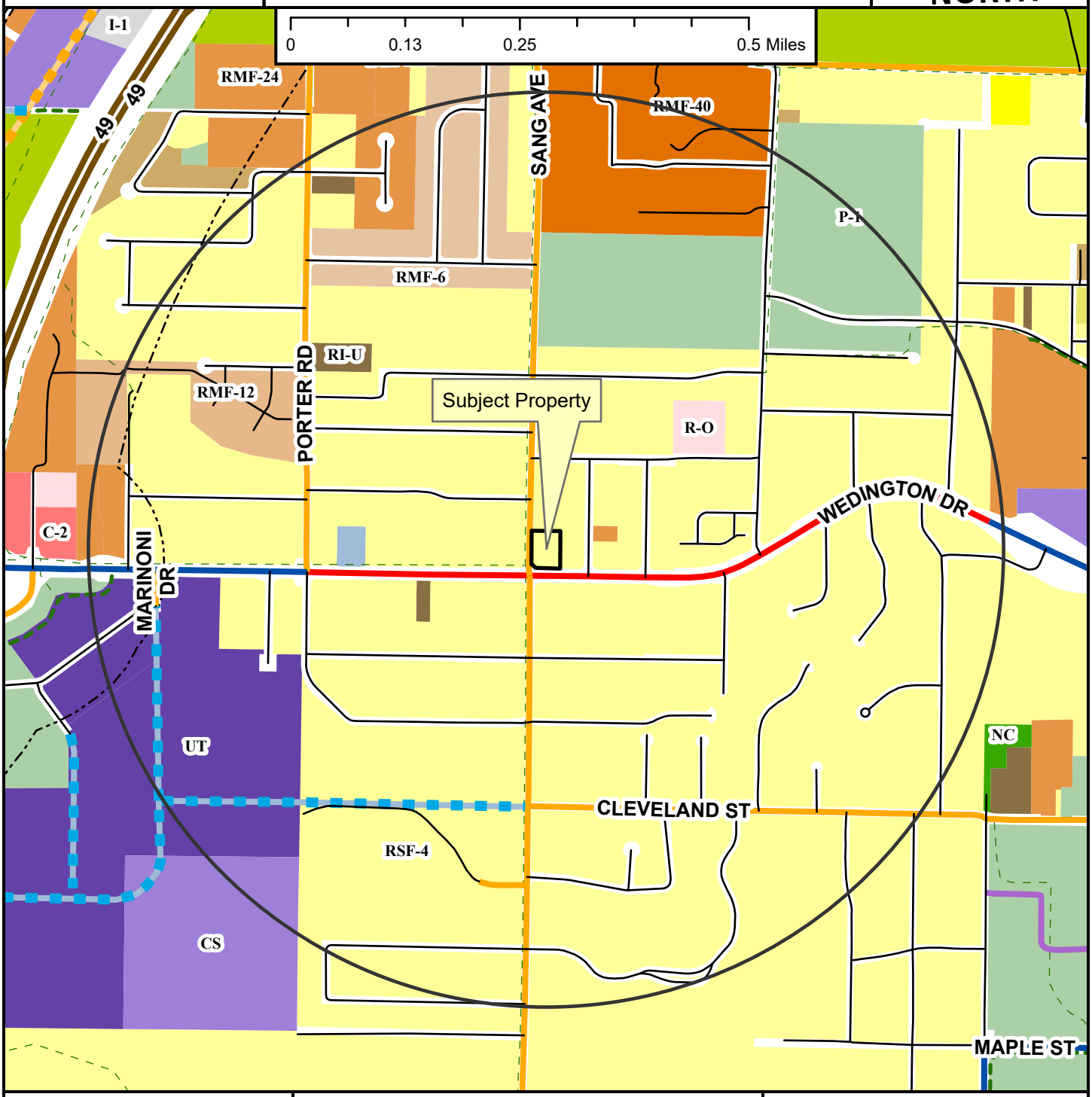
Caption

CUP-2023-0025

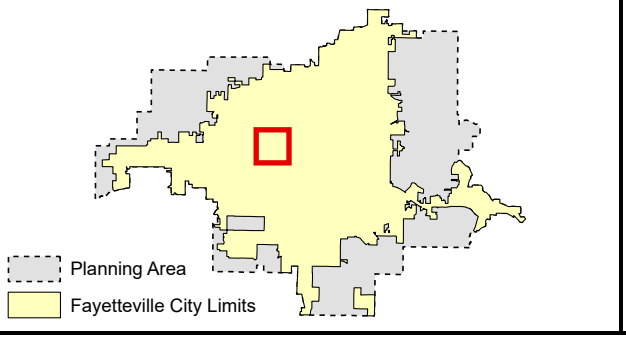
One Mile View

2024 W. WEDINGTON DR

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

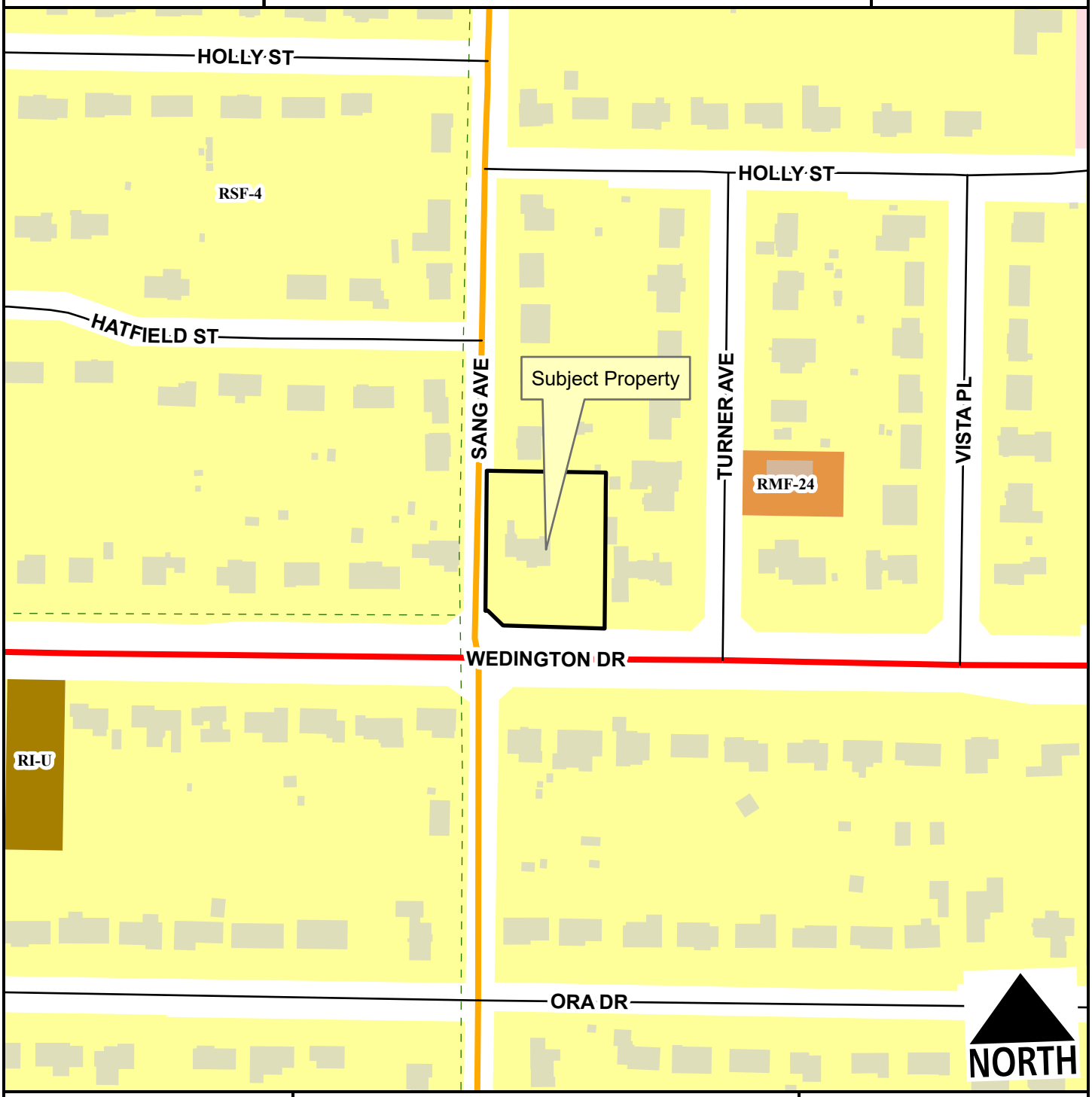
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0025

Close Up View

2024 W. WEDINGTON DR



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

Feet
0 75 150 300 450 600
1:2,400

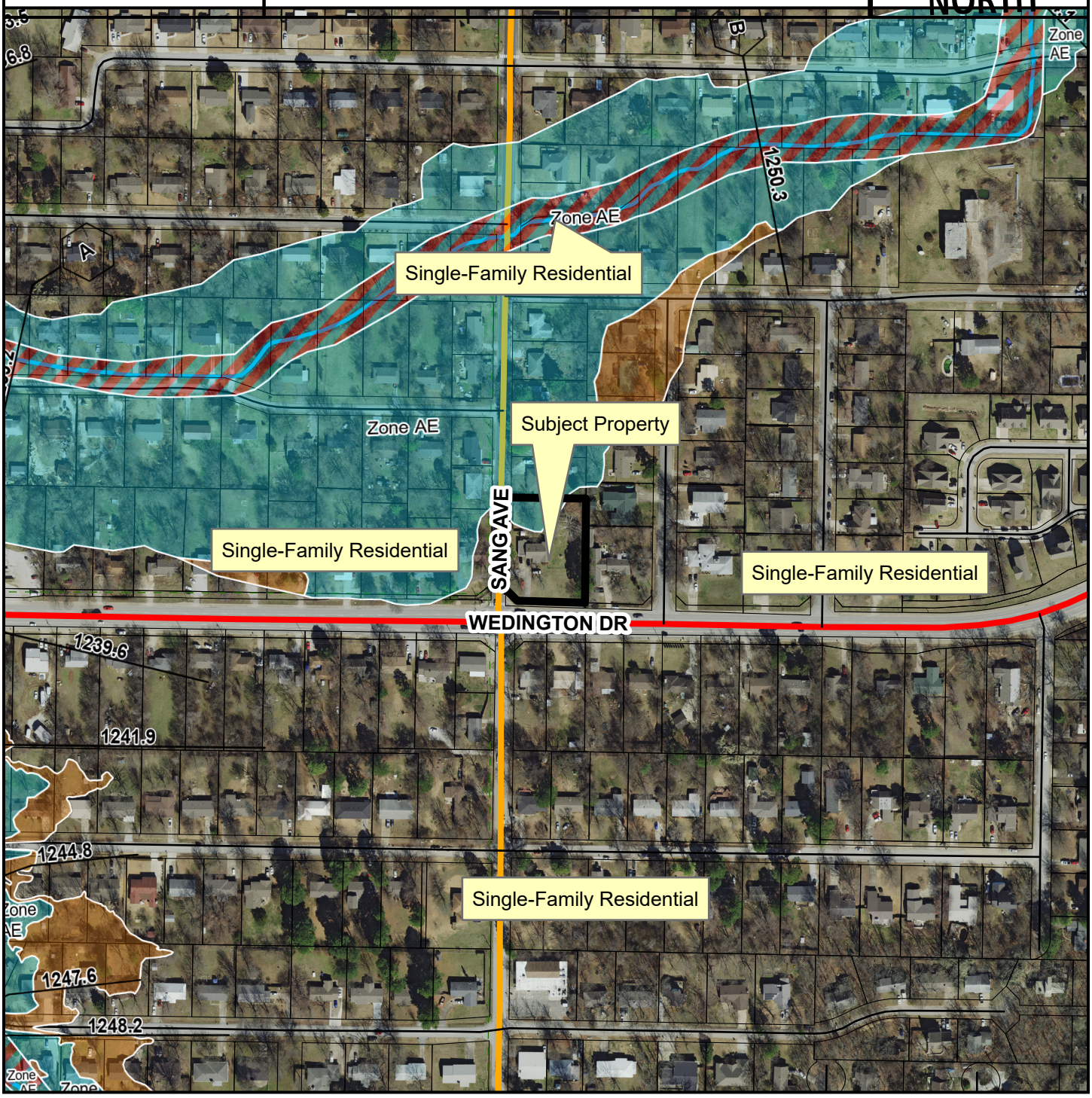
RSF-4
RI-U
RMF-24
Residential-Office

CUP-2023-0025

Current Land Use

2024 W. WEDINGTON DR

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

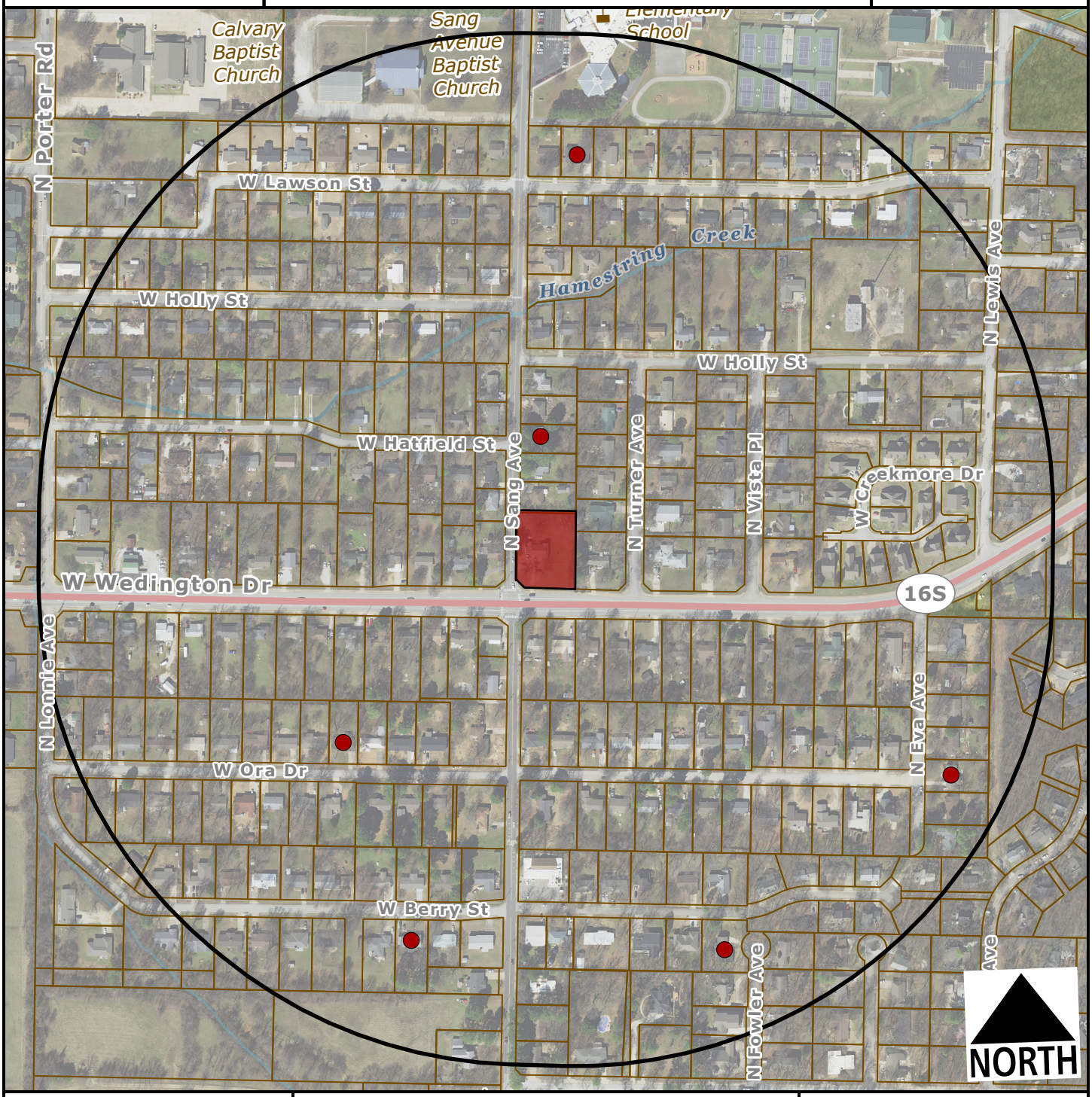
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0025

STRs Within 1/4 Mile

2024 W. WEDINGTON DR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	6
NOT contributing to 2% density cap	0
Total	**6**

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: March 13, 2023

SUBJECT: **CUP-2023-0026: Conditional Use Permit (3381 W. FAIRFAX ST/WILLIAMS, 362):** Submitted by NAMA WILLIAMS, for property located at 3381 W. FAIRFAX ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0026** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0026**, determining:*

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

BACKGROUND:
The property is in west Fayetteville, in the Walnut View subdivision on the south side of W. Fairfax Street roughly 200 feet west of its intersection with N. Salem Road. The property totals 0.20 acres and is currently developed with a 1,360 square-foot, three-bedroom single-family dwelling which was built in 1994, according to Washington County records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0026,** 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**	**YES**	
Date: March 13, 2023	❒ **Tabled**	❒ **Approved**	❒ **Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: **The request is to operate a Type 2 short-term rental in RSF-4 zoning, which requires a conditional use permit.**

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

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

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

Finding: **Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family homes are required to provide parking at a rate of two per dwelling and limited to a maximum of four vehicles parked outdoors. In the request letter the applicant says visitors will have access to four off-street parking spots in the existing driveway and two-stall garage. The driveway appears to be 18 feet wide and 22 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 3381 W. Fairfax. 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 312 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RSF-4 zoning, so this short-term rental would contribute to the city-wide density cap.**

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

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

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

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

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental. Four off-street spaces are available in the existing driveway and two-stall garage. On-street parking is available along W. Fairfax Street. Within ¼ mile of the property city business license records indicate there are three Type 2 rental business licenses. In 2011 a health and sanitation case identified tree limbs on the property. The code case was resolved later that year and ownership has since changed hands. No active zoning code violations apply to the subject address.**

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

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

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

Finding: **The subject property has frontage along W. Fairfax Street which is classified as a Residential Link Street. Staff finds that the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with use of the property for residential purposes. Sidewalks are present at the back of curb along both streets.**

(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 space for four 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-4, Residential Single-Family, 4 Units per Acre
- Applicant Request Letter
- 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)

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

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

Conditional Use Permit

Attach the following items to this application:

(1) Payment in full of applicable fees for processing the application: CUP $200.00 Public Notification Sign Fee (per sign) $5.00

(2) Legal description of property (may be found on deed or current survey of property). A survey may be required if the deed cannot be platted accurately.

3381 W Fairfax Street, Fayetteville AR.

3 bedrooms, 2.5 bath, 2 story house with new vinyl floors It also has 2 storage sheds in the back and a matching dog house in the back

(3) Complete description of this request (what is proposed by the applicant) to include all applicable items below (indicate N/A if it does not apply to your project):

(a) Building size in square feet; existing and proposed-**1360sq ft**

(b) Color elevations of all exterior sides of the structure- **N/A**

(c) Number of off-street parking spaces to be provided / number required **- Property has 2 car garage for parking and 2 off street parking if needed**

(d) When request applies to a business or non-residential use: -Hours of operation -Number of employees -Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour)-**N/A**

(e) Outdoor lighting-**There is street light and outside lights on the porch and the garage**

(f) Noise -**N/A**

(g) Screening or buffering from adjacent properties- **N/A All the neighboring homes have fences.**

(h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties) – **Trash bins are provided and serviced by the city of Fayetteville on Tuesdays. Trash bin is located on the side of the house.**

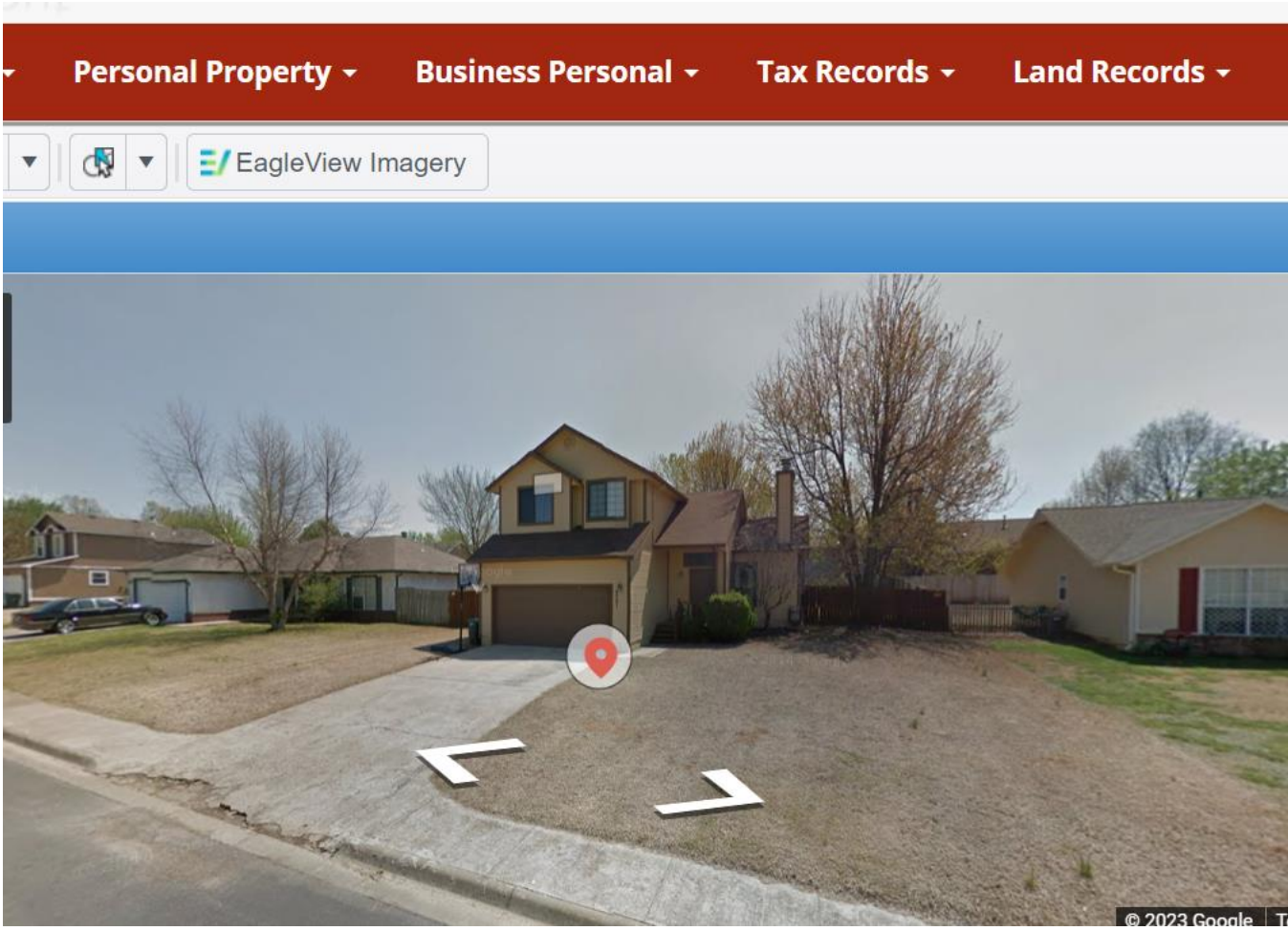
(i) Ingress and egress to the property; traffic impacts – **Easy access to the property driveway from both sides of the Fairfax Street. Guests have the right of way to enter and exit the property from the property drive to the street. There is no shared driveway access through ingress**

(j) A response discussing the general

(4) Site plan drawn to scale (if applicable), based on the deed or survey, showing all proposed structures dimensioned from the overhang to the property line, parking, driveways, Master Street Plan right-of-way, required setbacks. -**N/A**

(5) Preliminary floor plans drawn to scale (if applicable) showing: (a) Location of walls, doors, windows (b) Identification of activity areas - **N/A**

(6) A copy of the county parcel map from the Washington County Assessor's office website (www.co.washington.ar.us) or the Fayetteville Address Point File (website instructions). The subject property and all parcels within 200 feet should be identified on this parcel map. (Applications for special conditional uses that require notification within 500 feet should show all properties within 500 feet of the project site. See the notification requirements section of this application.) -**N/A**



Calculated GIS Area
0.1898 *acres*
8,267.9127 *sq feet*
0.0003 *sq miles*

768.115 *sq meters*
0.0008 *sq kilometers*

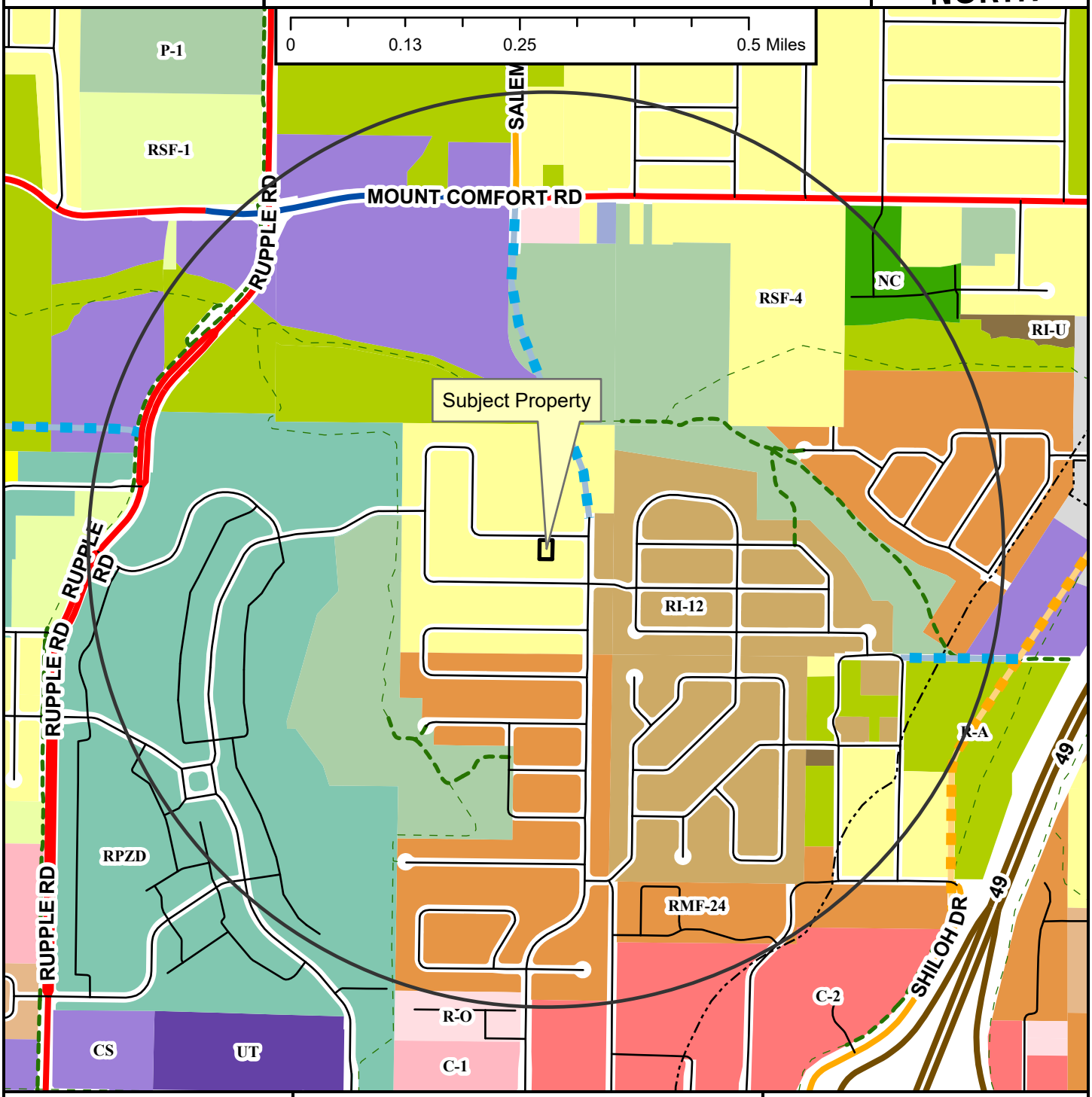
(7) Signature by current property owner of record on consent of owner form or written verification signed by such owner designating a project representative- **N/A**

CUP-2023-0026

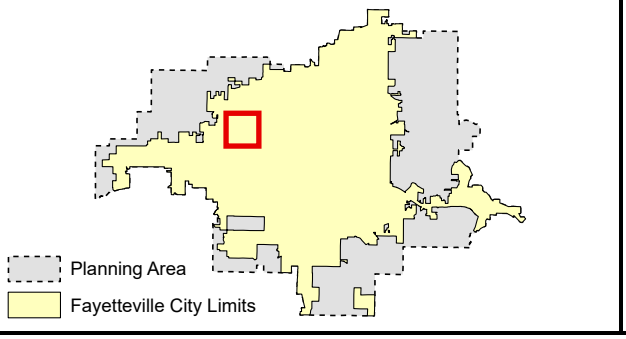
One Mile View

3381 W. FAIRFAX ST

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

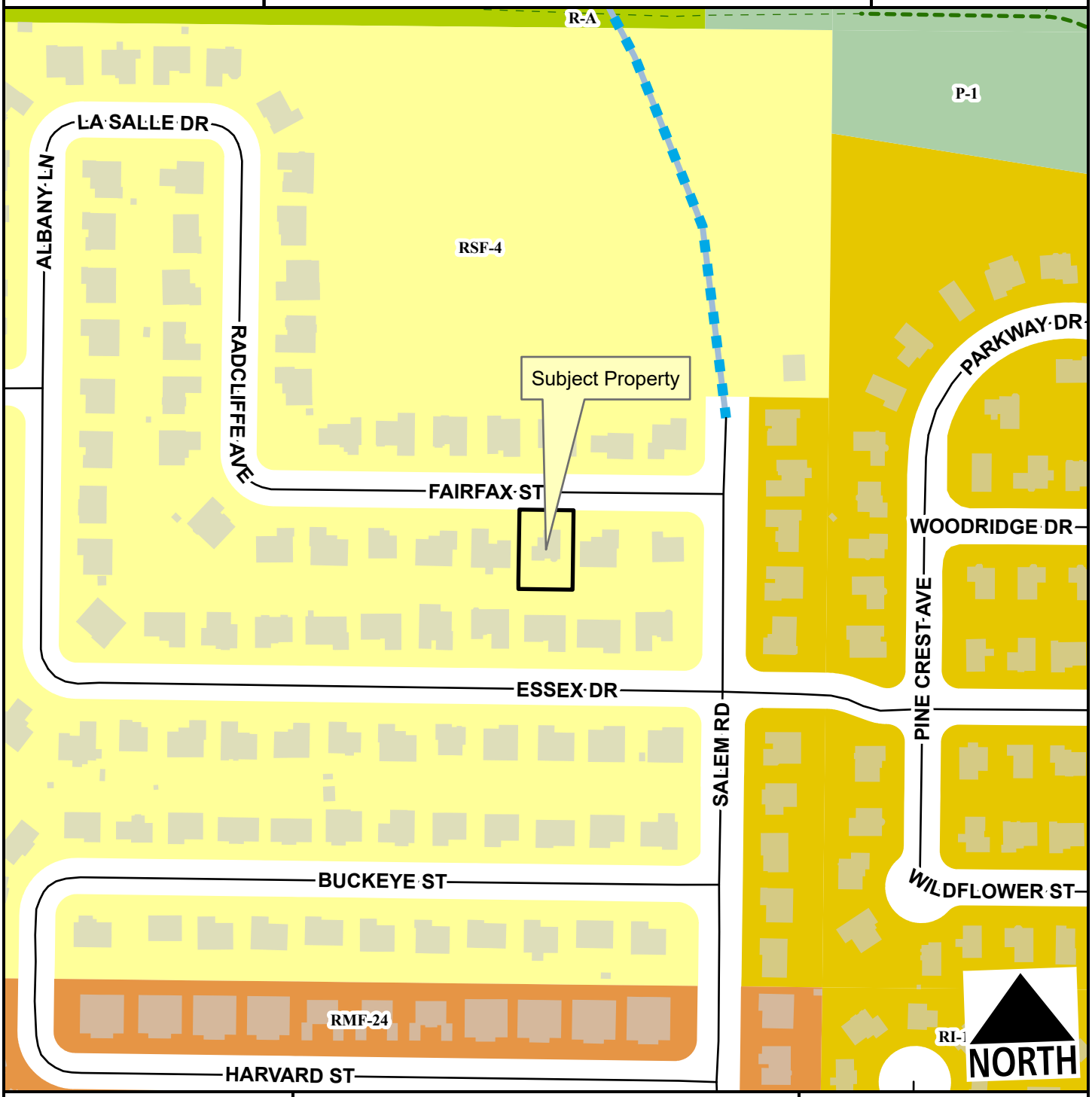
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0026

Close Up View

3381 W. FAIRFAX ST



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

Feet
0 75 150 300 450 600
1:2,400

Residential-Agricultural
RSF-4
RI-12
RMF-24
P-1

CUP-2023-0026

Current Land Use

3381 W. FAIRFAX ST

NORTH

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

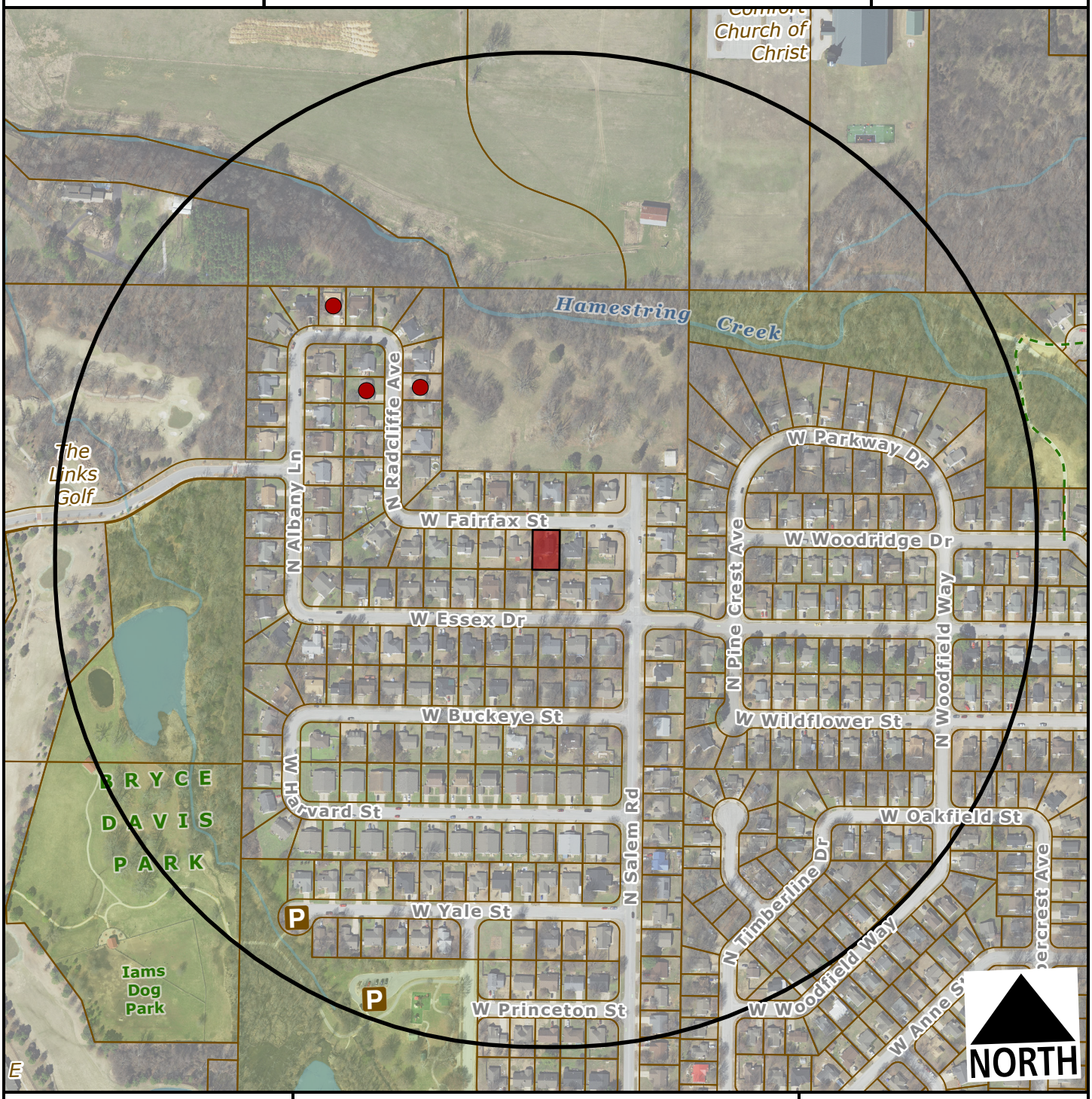
100-Year Floodplain

Floodway

CUP-2023-0026

STRs Within 1/4 Mile

3381 W. FAIRFAX ST



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Contributing to 2% density cap	3
NOT contributing to 2% density cap	0
Total	**3**