

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Final Agenda

Monday, April 10, 2023

5:30 PM

City Hall Room 219

Planning Commission Members

Sarah Sparkman, Chair

Andrew Brink, Vice Chair

Mary McGetrick, Secretary

Jimm Garlock

Fred Gulley

Joseph Holcomb

Mary Madden

Brad Payne

Porter Winston

Assistant City Attorney Blake Pennington

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

Approval of the minutes from the March 27th, 2023 Planning Commission -
Mirinda Hopkins, Development Coordinator

2. ADM-2023-0009: Administrative Item (2705 N. DRAKE ST/FAYETTEVILLE GARAGE DOOR CO., 290):

Submitted by BLEW & ASSOCIATES for property located at 2705 N. DRAKE ST. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.06 acres. The request is to extend a previously approved conditional use permit. - Gretchen Harrison, Planner

3. ADM-2023-0010: Administrative Item (3220 W. OLD FARMINGTON RD/SOUTHERNWOODS CLUSTER DEVELOPMENTS, 557):

Submitted by COMMUNITY BY DESIGN for property located at 3220 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is for an extension of CUP-2021-000056. - Ryan Umberger, Senior Planner

4. VAR-2023-0011: Planning Commission Variance (4492 N. TOM PERRY RD/SHERRILL, 104):

Submitted by BLEW & ASSOCIATES for property located at 4492 N. TOM PERRY RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 12.99 acres. The request is for a variance to the street frontage requirements due to a proposed concurrent plat. - Jessica Masters, Development Review Manager

5. VAR-2023-0014: Planning Commission Variance (2600 S. SCHOOL AVE/TFI LLC, 639):

Submitted by BLEW & ASSOCIATES for property located at 2600 S. SCHOOL AVE. The property is zoned C-2 THOROUGHFARE COMMERCIAL and contains approximately 0.50 acres. The request is for a variance to curb cut separation distance requirements under the access management standards. - Jessica Masters, Development Review Manager

Unfinished Business

New Business**6. ADM-2023-0007: Administrative Item (SE. OF N. CROSSOVER RD AND ZION RD/CHANDLER CROSSING SUBDIVISION, 138):**

Submitted by ESI for property located SE of N. CROSSOVER AND E. ZION ROAD. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 82.09 acres. The request is to extend a previously approved preliminary plat. - Jessica Masters, Development Review Manager

7. LSD-2023-0004: Large Scale Development (SOUTH OF N. SHILOH DR/THE JUNCTION AT SHILOH, 363):

Submitted by CRAFTON TULL for property located SOUTH OF N. SHILOH DR. The property is split zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR UNITS PER ACRE and CS, COMMUNITY SERVICES and contains approximately 11.73 acres. The request is for a multi-family development with 177 units and associated parking. - Ryan Umberger, Senior Planner

8. VAR-2023-0013: Planning Commission Variance (NORTH END OF REGENCY DR/BROWN, 530):

Submitted by Bio X Design for property located on the north side of S REGENCY DRIVE AND NORTH OF E LAWNSDALE DR. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 52.5 acres. The request is a variance from floodplain development requirements. - Alan Pugh, Staff Engineer

9. VAR-2023-0012: Planning Commission Variance (6328 W. CINDY HOLLOW LN/BOEHM, 357):

Submitted by RMP LLP for property located at 6328 W. CINDY HOLLOW LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 20.24 acres. The request is for a variance to road frontage requirements. - Ryan Umberger, Senior Planner

10. VAR-2023-0015: Planning Commission Variance (1615 E. HUNTSVILLE RD/HUNTSVILLE RD MULTI-FAMILY EAST, 565):

Submitted by DCI for property located at 1615 E. HUNTSVILLE RD. The property is zoned CS, COMMUNITY SERVICES and contains approximately 1.79 acres. The request is for a variance to the Urban Residential Design Standards for pedestrian connectivity. - Gretchen Harrison, Planner

11. RZN-2023-0008: Rezoning (WEST OF W. GEYSER ST/HENDERSON, 437):

Submitted by CRAFTON TULL for property located WEST OF W. GEYSER ST. The property is zoned R-A, RESIDENTIAL AGRICULTURAL, and contains

approximately 5.14 acres. The request is to rezone 4.01 acres of the site to RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE. - Ryan Umberger, Senior Planner

12. CUP-2023-0038: Conditional Use Permit (3191 W. OAKFIELD ST/HAUGHEY, 401):

Submitted by KOMP LLC for property located at 3191 W. OAKFIELD ST. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

13. CUP-2023-0037: Conditional Use Permit (616 N. WALNUT AVE/CORLEY, 446):

Submitted by REBECCA CORLEY for property located at 616 N. WALNUT AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.17 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

Items Administratively Approved by Staff

14. LSP-2022-0065: Lot Split (E. TURKS LN/HUARK, 218):

Submitted by ALLEN REID & ASSOCIATES for property located at E. TURKS LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 2.63 acres. The request is to divide the property into two lots containing 1.19 acres, and 1.44 acres. - Jessica Masters, Development Review Manager

15. LSP-2023-0001: Lot Split (2130 N. BOX AVE/COLLIER, 372):

Submitted by BATES AND ASSOCIATES for properties located S OF 2130 N. BOX AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – 4 UNITS PER ACRE and contains approximately 1.64 acres. The request is to split two properties into four lots with approximately 0.41 acres each. - Ryan Umberger, Senior Planner

16. LSP-2023-0010: Lot Split (336 S. COLLEGE AVE/BORN, 524):

Submitted by ALAN REID AND ASSOCIATES for property located at 336 S. COLLEGE AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.67 acres. The request is to split two lots into four lots with approximately 0.25, 0.14, 0.14, and 0.14 acres. - Gretchen Harrison, Planner

Agenda Session Items

Announcements

17. Welcome New Planning Commissioners:

Fred Gulley

Brad Payne

Adjournment**NOTICE TO MEMBERS OF THE AUDIENCE**

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

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

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

(pg. 1) Planning Commission						3/27/2023			
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 03-13-2023	2) VAR-2023-0007 (SOWELL)	3) VAR-2023-0008 (INGRAM)	4) LSD-2022-0041 (112 ARONSON)	5) LSD-2023-0001 (JRG HOLDINGS LLC)			
McGetrick	1	1	1	1	1		1	1	1
Winston	1	1	1	1	0		1	1	1
Canada	1	1	1	1	1		1	0	1
Sparkman	1	1	1	1	1		1	0	1
Johnson	1	1	1	1	1		Recused	Recused	Recused
Garlock	1	1	1	1	1		1	0	1
Madden	1	1	1	1	1		1	0	1
Holcomb	1	1	1	1	1		1	0	1
Brink	1	1	1	1	0		1	1	1
Agenda		Consent	Consent	Consent	Old	Old			
Motion By		Canada	Canada	Canada	Canada	Winston	Sparkman	Winston	Winston
Motion 2nd		Johnson	Johnson	Johnson	Garlock	Mcgetrick	Brink	McGetrick	McGetrick
Vote		9-0-0	9-0-0	9-0-0	7-2-0		8-0-1	3-5-1	8-0-1
Action		Approve	Approve	Approve	Approve	#1 Approval in favor of requested	#2 Divide the question	#3 Approve variance to UDC 168.10(U)	#4 Approve all other conditions
Time		5:34pm	5:34pm	5:34pm	6:20pm			6:50pm	
Motion Detail		Passed	Passed	Passed	Passed in favor of all variances and recommendations by staff. 1 Public Comment	Suspended by motion to divide the question	Passed motion to divide.	Denied motion for a variance.	Passed in favor of all variances and other conditions recommended by staff. No Public Comment

(pg. 2) Planning Commission		Monday, 3/27/2023			
	6) CUP-2023-0023 (BOTTLE ROCKET LLC)	7) ADM-2023-0001 (AMEND UDC DEFINITIONS, ZONING REGULATIONS &	8) VAR-2022-0064 (JIFFY TRIP)	9) VAR-2023-0001 (SPRING STREET COTTAGES)	10) VAR-2023-0006 (CANTABERRY)
McGetrick	1	1	1	1	1
Winston	1	1	1	1	1
Canada	1	1	1	1	1
Sparkman	1	1	1	1	1
Johnson	1	1	1	1	1
Garlock	1	1	1	0	1
Madden	1	1	1	1	1
Holcomb	1	1	1	1	1
Brink	1	1	1	1	1
Agenda	Old	New	New	New	New
Motion By	Winston	Johnson	Canada	Canada	Garlock
Motion 2nd	Madden	Garlock	Johnson	Johnson	Madden
Vote	9-0-0	9-0-0	9-0-0	8-1-0	9-0-0
Action	Approve	Forward	Approve	Approve	Approve
Time	7:28pm	7:38pm	8:07pm	8:24pm	8:28pm
Motion Detail	Approved - Striking conditions #4 and #5, and maintaining the hours of operation until 10pm. 1 Public Comment	Approved No Public Comment	Approved - with all conditions as recommended by staff. 5 Public Comment	Approved - with all conditions as recommended by staff. No Public Comment	Approved - with all conditions as recommended by staff. No Public Comment

(pg. 3) Planning Cc		Monday, 3/27/2023			
	11) VAR-2023-0009 (STRICKLIN)	12) VAR-2023-0010 (SLIM CHICKENS)	13) CUP-2023-0021 (GARDEN DAY GETAWAY)	14) CUP-2023-0032 (MOHLER)	15) CUP-2023-0027 (WERNER)
McGetrick	1	1	1	1	1
Winston	1	1	1	1	1
Canada	1	1	1	1	
Sparkman	1	1	1	1	1
Johnson	1	1	1	1	1
Garlock	1	1	0	1	1
Madden	1	1	1	1	1
Holcomb	1	1	1	1	1
Brink	1	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Canada	Canada	Johnson	Sparkman	Brink
Motion 2nd	Brink	Brink	Canada	Johnson	Madden
Vote	9-0-0	9-0-0	8-1-0	9-0-0	8-0-0
Action	Approve	Deny	Approve	Approve	Approve
Time	9:00pm	9:10pm	9:31pm	9:38pm	9:43pm
Motion Detail	Approved - In favor of all conditions as recommended by staff. 3 Public Comment	Denied No Public Comment	Approved - with all conditions as recommended by staff. 3 Public Comment	Approved - with all conditions as recommended by staff. No Public Comment	Approved - with all conditions as recommended by staff. No Public Comment

(pg. 4) Planning Commission		Monday, 3/27/2023			
	16) CUP-2023-0028 (GINGER)	17) CUP-2023-0029 (GINGER)	18) CUP-2023-0030 (CROSBY)	19) CUP-2023-0031 (THE DVB GROUP)	20) CUP-2023-0033 (TONYMON)
McGetrick	1	1	1	1	1
Winston	1	1	1	1	1
Canada		1	1	1	1
Sparkman	1	1	1	1	1
Johnson	1	1	1	1	1
Garlock	1	1	1	1	1
Madden	1	1	1	1	1
Holcomb	1	1	1	1	1
Brink	1	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Brink	Brink	Brink	Garlock	Brink
Motion 2nd	Garlock	Garlock	Johnson	Madden	Canada
Vote	8-0-0	9-0-0	9-0-0	9-0-0	9-0-0
Action	Approve	Approve	Approve	Approve	Approve
Time	9:47pm	9:52pm	9:58pm	10:03pm	10:08pm
Motion Detail	Approved - with all conditions as recommended by staff. No Public Comment	Approved - with all conditions as recommended by staff. No Public Comment	Approved - with all conditions as recommended by staff. No Public Comment	Approved - with all conditions as recommended by staff. No Public Comment	Approved - with all conditions as recommended by staff. No Public Comment

	21) CUP-2023-0004 (TILLMAN)	22) CUP-2023-0035 (HILL)	23) CUP-2023-0036 (RAPKE)		
Brink		1	1		
McGetrick		1	1		
Winston		1	1		
Canada		1	1		
Sparkman		1	1		
Johnson		1	1		
Garlock		1	1		
Madden		1	1		
Holcomb		1	1		
Agenda	New	New	New		
Motion By		Madden	Johnson		
Motion 2nd		Garlock	Canada		
Vote		9-0-0	9-0-0		
Action		Approve	Approve		
Time		10:13pm	10:17pm		
Motion Detail	Withdrawn by staff for lack of public notification.	Approved - with all conditions as recommended by staff. No Public Comment	Approved - with all conditions as recommended by staff. No Public Comment		



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: April 10, 2023

SUBJECT: **ADM-2023-0009: Administrative Item (2705 N. DRAKE ST./FAYETTEVILLE GARAGE DOOR COMPANY, 290):** Submitted by BLEW & ASSOCIATES for property located at 2705 N. DRAKE ST. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.06 acres. The request is to extend a previously approved conditional use permit.

RECOMMENDATION:

Staff recommends approval of **ADM-2023-0009**.

RECOMMENDED MOTION:

*"I move to approve **ADM-2023-0009** with conditions as recommended by staff."*

BACKGROUND:

The subject property is in north Fayetteville near the intersection of Drake Street and College Avenue just west of Potter's House Thrift Store. The property contains approximately 1.06 acres and is currently undeveloped with mature tree canopy covering most of the site. On January 24, 2022, a conditional use permit was approved to develop a warehouse on the property for use by the Fayetteville Garage Door Company (CUP-2021-000055) which expired after a period of one year. A large scale development (LSD-2022-0032) was subsequently applied for on August 30, 2022, prior to the expiration of the conditional use permit, which is still under review. The large scale development is currently scheduled to be heard at Subdivision Committee on April 13, 2023. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Warehousing	C-2, Thoroughfare Commercial
South	Mini-Storage	C-2, Thoroughfare Commercial
East	Thrift Store	C-2, Thoroughfare Commercial
West	Single-Family Residential	RPZD, Residential Planned Zoning District

Request: The applicant is requesting a one-year extension to their conditional use permit which recently expired on January 24, 2023. The applicant submitted a letter requesting the extension on March 13, 2023. Staff received notification from the applicant to extend their conditional use permit approval within the 18-month time limit that they are allotted per UDC §166.20.

Public Comment: To date, staff has received no public comment regarding this request.

DISCUSSION:

Staff supports the applicant's request for a one-year extension to their conditional use permit. The request was received before July 24, 2023, which is the deadline for the applicant to request that the Planning Commission extend their approval for up to one additional year from the original date of approval. While the applicant's request letter does not provide details about the cause for delays, staff finds that the need for a jurisdictional determination from the U.S. Army Corps of Engineers, ongoing coordination for on-site stormwater improvements, and revisions required for the associated large scale development presumably led to a project that is more complicated than usual. Staff is thus supportive of the applicant's request and finds that it meets all other requirements set forth in UDC §166.20.

RECOMMENDATION: Staff recommends approval of **ADM-2023-0009** with the following conditions:

Conditions of Approval:

1. A one-year extension for CUP-2021-000055 will expire on January 24, 2024.
2. All other conditions of the associated conditional use permit (CUP-2021-000055) not affected by this extension shall remain in effect.
3. Approval of this conditional use permit extension does not grant development entitlement for the proposed structure; separate development entitlement and permitting shall be required as outlined in the Unified Development Code.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>April 10, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §166.20 Expiration of Approved Plans and Permits
- CUP-2021-000055 Conditions of Approval
- Applicant Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.20 Expiration Of Approved Plans And Permits

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

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

(B) Time Limit.

- (1) Tasks to Be Completed. All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:
 - (a) For any renovation or new construction, receive all building permits for the project; and/or,
 - (b) For a Planned Zoning District, comply with the approved phasing plan; and/or
 - (c) For a lot split, record a deed or survey at the Washington County Circuit Clerk's Office, stamped for recordation by the City Planning Division; and/or,
 - (d) Receive a business license; and/or,
 - (e) Receive all permits and approvals required by city, county, state, and federal regulations to complete construction of the development or project.
- (2) Administrative Extension Within One (1) Year. Prior to the expiration of the one (1) year time limit, an applicant may request the Zoning and Development Administrator to extend the period to accomplish the tasks by up to one (1) additional year. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit. Extensions that are not permitted administratively may be requested of the Planning Commission within ten (10) days of the final administrative decision.
- (3) Planning Commission Extension Within Eighteen (18) Months. Should an applicant miss the deadline to request an administrative extension, within eighteen (18) months of the date of approval the applicant may request the Planning Commission to extend the period up to one (1) additional year from the original date of approval, subject to the burden of showing good cause as described in this section.
- (4) Planning Commission Extension. Prior to the expiration of any allowed extension period (maximum of two (2) years from the date of original approval), an applicant may request the Planning Commission to extend the period to accomplish the tasks by up to one (1) additional year, if the plans and permits are substantially the same as those originally approved. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit and the permitted extension period. Extensions beyond three (3) years from the original date of approval shall not be permitted.
- (5) Ordinance Amendments. To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval. Projects that must be substantially modified to meet new code requirements are subject to Ch. 166.05(F) Modifications.
- (6) Variances. Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
- (7) Expiration. If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(C) Three (3) Year Time Limit.

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

(Ord. No. 5155, 7-15-08); Ord. No. 5425, 8-2-11)

CUP-2021-000055 Conditions of Approval:

1. **Planning Commission determination of compatibility with adjacent properties;**
Staff recommends that the proposed use is compatible with surrounding properties, given the findings in the report below;
2. Outdoor storage of material and equipment shall be screened if visible from the street right-of-way or from residential property as set forth in UDC §166.25, Commercial, Office and Mixed Use Design and Development Standards;
3. A vegetative buffer and fencing shall be maintained along the west side of the property to screen the facility from the neighboring residential area;
4. Approval of this conditional use permit does not grant development entitlement for the proposed structure; separate development entitlement and permitting shall be required as outlined in the Unified Development Code;
5. Any future expansion or change in the use shall require Planning Commission approval; and
6. Conditional Use Permit approval shall be valid for one year.

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

March 15, 2023

City of Fayetteville
113 W Mountain Street
Fayetteville, Arkansas

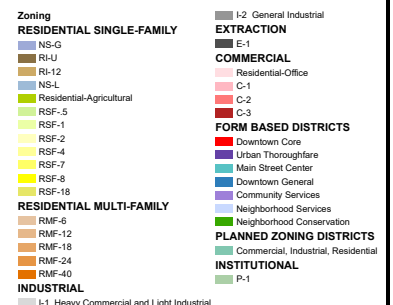
SUBJECT: CUP-2021-000055 Extension

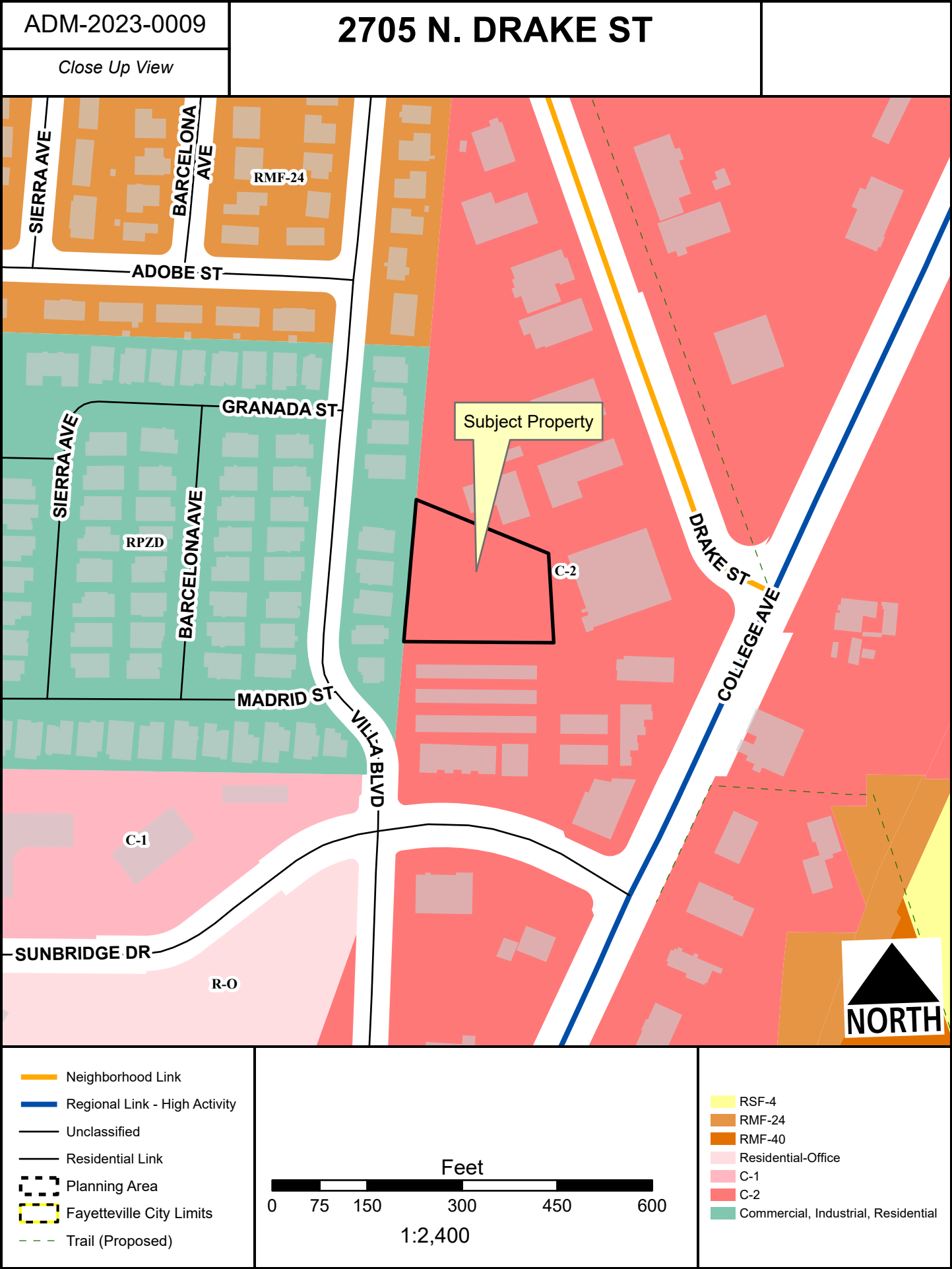
To Whom It May Concern:

Fayetteville Garage Door Co, would like to extend the Conditional Use Permit CUP-2021-000055 which allowed them warehouse use within the C-2 zoning. The original request letter has been included with this letter for your reference.

Sincerely,

Jorge Du Quesne
Blew & Associates, PA





ADM-2023-0009

2705 N. DRAKE ST

Current Land Use



- Neighborhood 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



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: April 10, 2023

SUBJECT: **ADM-2023-0010 Administrative Item (3220 W. OLD FARMINGTON RD/SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):** Submitted by COMMUNITY BY DESIGN for property located at 3220 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is for an extension of CUP-2021-000056.

RECOMMENDATION:

Staff recommends approval of **ADM-2023-0010**.

RECOMMENDED MOTION:

*"I move to approve **ADM-2023-0010**, with conditions as recommended by staff."*

BACKGROUND:

The subject property is located in southwest Fayetteville on the south slope of Millsap Mountain and north side of W. Old Farmington Road. The property totals 20.40 acres and is zoned NC, Neighborhood Conservation. Two rezoning requests (RZN-2021-000072; RZN-2022-000011) and a conditional use permit for a cluster housing development (CUP-2021-000056) have been approved on the property in the last year. At the June 13, 2022 Planning Commission meeting, a large scale development (LSD-2022-0014) was approved to develop a portion of the subject property with three cluster housing developments composed of 28 residential units. The property has substantial topography, including roughly six to seven acres within the Hillside-Hilltop Overlay District near the northern extents of the property. Other site characteristics include a protected, unnamed tributary of the Farmington Branch which runs parallel to the western property line. Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential; Centennial Park	R-A, Residential-Agricultural; RSF-4, Residential Single-family, 4 Units per Acre
South	Single-family Residential	R-A, Residential-Agricultural; R-PZD, Residential Planned Zoning District; RSF-4, Residential Single-family, 4 Units per Acre
West	Undeveloped	R-A, Residential-Agricultural; RSF-2, Residential Single-family, 2 Units per Acre
East	Single-family Residential	NC, Neighborhood Conservation

Request: The applicant requests an extension to CUP-2021-000056. The conditional use permit

development originally received approval on January 24, 2022 and expired after a period of one year. The applicant submitted a letter requesting the extension on March 22, 2023. Staff received notification from the applicant to extend the large scale development within the 18-month timeline they are allotted per UDC §166.20 and finds that the applicant meets the requirements set forth.

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

DISCUSSION:

Staff supports the applicant's extension to the large scale development. The request was received before July 24, 2023, the deadline which such request must be made. The request letter speaks to the variety of entitlements required by the applicant, suggesting all approvals were not able to be pulled within one year due to the large scope of the development. A large scale development for the remaining phases of the conditional use permit was submitted to the staff and tabled at Tech Plat in December of 2022 and 13 building permits in association with the first three phases have been submitted but not yet approved signifying an intent to complete the work in a timely manner. Staff finds that the applicant has demonstrated a good faith effort to complete the work and therefore recommends approval.

RECOMMENDATION: Staff recommends approval of ADM-2023-0010, with the following conditions.

Conditions of Approval:

1. A one-year extension for CUP-2021-000056 will expire on January 24, 2024.
2. All other conditions of the associated conditional use permit (CUP-2021-000056) not affected by this extension shall remain in effect.
3. Approval of this extension does not represent approval of other development issues that have not been fully reviewed at this stage, nor does it represent development entitlement or approval for any associated plan.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
------------------------------------	-----------------	-------------------

Date: <u>April 10, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
------------------------------------	---------------------------------	-----------------------------------	---------------------------------

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- CUP-2021-000056 Conditions of Approval
- CUP-2021-000056 Site Exhibit
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map

CUP-2021-000056 Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed cluster housing development to be compatible with the proposed neighborhood based on the findings in this report;*
2. **Planning Commission determination of requested Master Street Plan determination and variance.** *Staff finds in favor of a variance to §166.04, Required Infrastructure Improvements for reasons stated above;*
3. **Planning Commission determination of street improvements.** *Staff recommends the following street improvements:*
 - a. *The internal streets shall be constructed as depicted on the applicant's street section exhibit, with sidewalk widths amended to 6½ feet. Improvements include right-of-way dedication of 34½ feet, 6½-foot sidewalk, a 7-foot on-street parking lane, and curb and gutter in the right-of-way and a 6½-foot sidewalk, 4-feet of greenspace, and street trees within the proposed 10-foot easement. Infrastructure outside of the right-of-way, including alleys, shall be owned and maintained by a property owner's association; and*
 - b. *A traffic study shall be provided at the time of the first development application. This traffic study should follow the Minimum Street Standards, Chapter 3, and evaluate possible needs for improvements to the following intersections: Old Farmington Road – Martin Luther King Jr. Blvd., Old Farmington Road – One Mile Road, and One Mile Road – Martin Luther King Jr. Blvd.*
4. *At the time of development submittal, the applicant shall include analysis of stormwater downstream, off-site capacity analysis of existing conditions along Old Farmington Road;*
5. *Prior to development submittal, the applicant shall coordinate with the City's Recycling and Trash Collection Commercial Representative, Drew Cook, to establish a collection plan. The current trash collection plan is inadequate;*
6. *Conditional use permit approval of the conditional use permit does not ensure approval of a development application. The conditional use grants the applicant rights to submit a development proposal based on the conceptual layout included herein. However, the applicant must still be able to comply with all other development requirements, including but not limited to, tree preservation, drainage, utility installation and Fire Department access. These details shall be reviewed with the development application.*
7. *The final project design shall follow the general layout and design of the conditional use concept plan. A development application (Preliminary Plat and/or Large Scale/Site Improvement Plan) is required to go through the review process prior to any building permits to ensure compliance with all Unified Development Code requirements;*
8. *Fence details shall be provided at the time of development review. Fences interior to the development or between a unit and a public street or trail shall be no higher than 48 inches;*
9. *A condominium association, homeowner's association, or similar mechanism to maintain the common amenities shall be established prior to issuance of construction permits. The City of Fayetteville does not enforce these private agreements, but will require that this agreement be in place prior to issuing building permits;*

10. Prior to receiving a certificate of occupancy for the first home all shared parking areas and bike racks shall be installed. All development requirements, such as detention facilities, utilities, required landscaping, etc. shall be installed prior to any building permits being issued. The exact phasing of improvements will be determined at development review;
 11. The maximum number of unrelated persons in any dwelling unit is three, pursuant to the underlying single-family zoning district;
 12. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year; and
 13. Exterior lighting package must be provided to the Planning Division prior to building permit approval. Common area lighting shall comply with UDC §176 Outdoor Lighting.
-

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 24, 2022</u>	☐ Tabled	☒ Approved	☐ Denied
Motion: Sharp			
Second: Belden			
Vote: 8-1-0	As recommended.		



- Master Plan Key
- Ⓐ Civic Green
 - Ⓑ Green Court / Lawn
 - Ⓒ Pedestrian Court
 - Ⓓ Private Courtyards
 - Ⓔ Parking Courts
 - Ⓕ Streamside Walk
 - Ⓖ Walk in the Woods
 - Ⓗ Hiking Trail
 - Ⓘ Tree Preservation

March 15, 2023

Via Email: jmasters@fayetteville-ar.gov

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

RE: **CUP 2021 000056 – Request to Extend Conditional Use Permit Approval**

Ms. Masters,

The above referenced conditional use permit was approved by the City of Fayetteville Planning Commission on the evening of January 24, 2022. On behalf of the owner of the property, please allow this letter to serve as a request to extend CUP 2021 000056 for another year.

A large scale development for the first 3 phases was approved by the City of Fayetteville Planning Commission in June of 2022, along with an amendment to CUP 2021 000056. An abbreviated grading permit for the first 3 phases was approved by the Engineering Department in September 2022, while the full grading permit for the first 3 phases was approved in November 2022. Full Arkansas Department of Health Approval for the first 3 phases was granted in December of 2022. A large scale development for the remaining phases of the conditional use permit was submitted to the Planning Department in December of 2022. An Easement Plat in association with the first 3 phases was approved in 2023. 13 building permits in association with the first 3 phases have been submitted but not yet approved.

The plan is to continue working with the City to obtain all permits for full build out of the conditional use permit.

Thank you. Please let me know if you have questions or need additional information.

Sincerely,

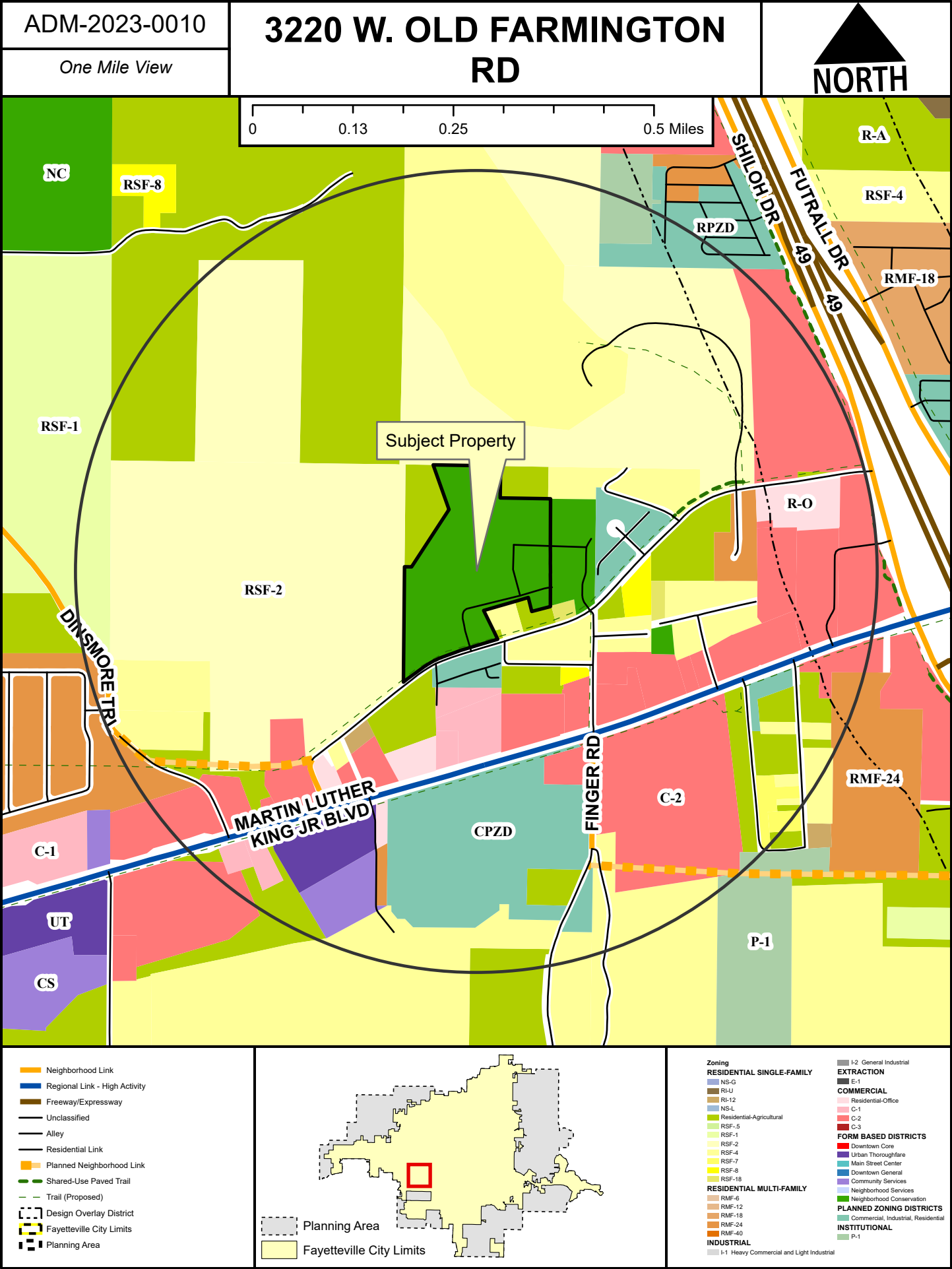


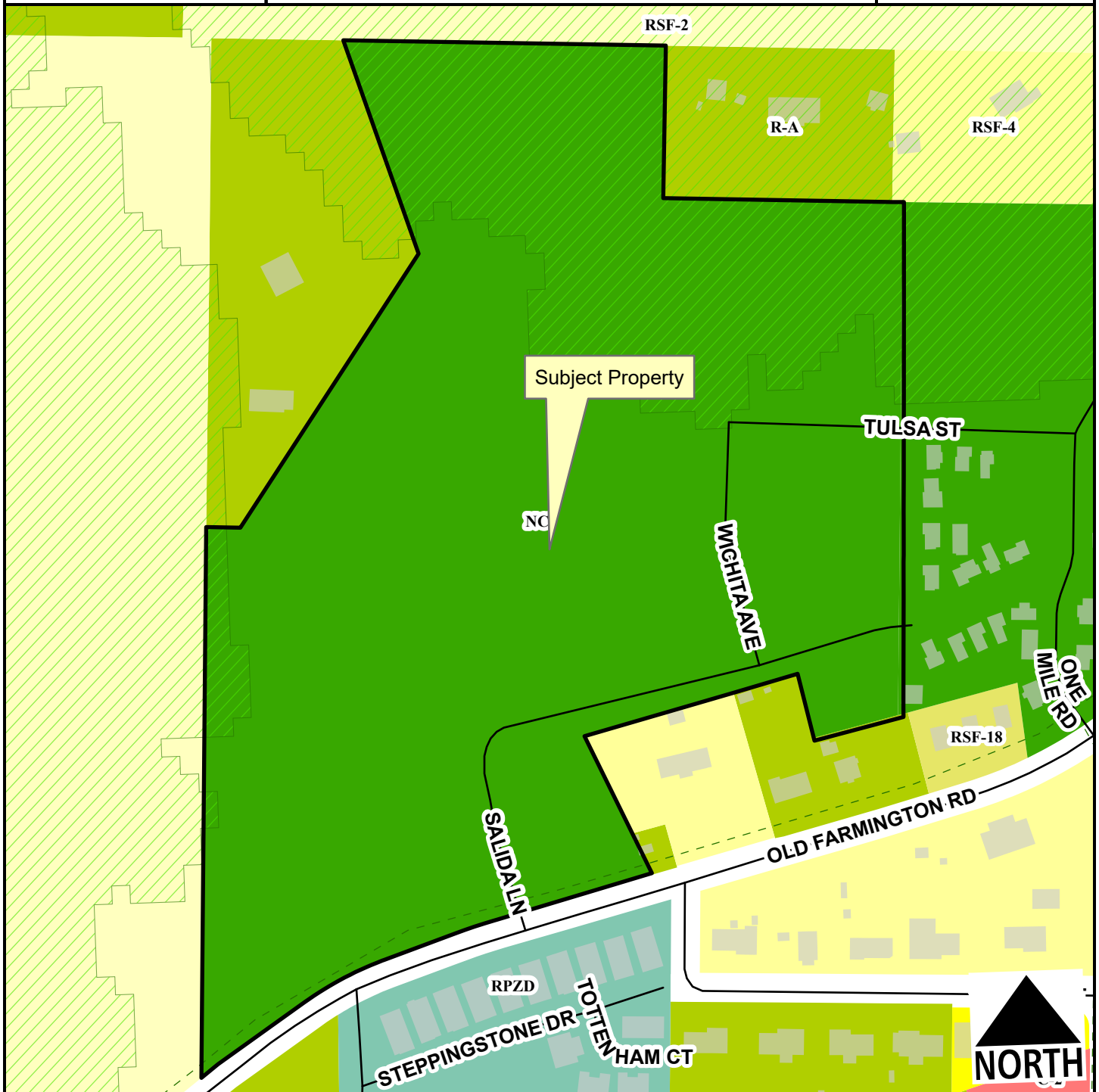
Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701

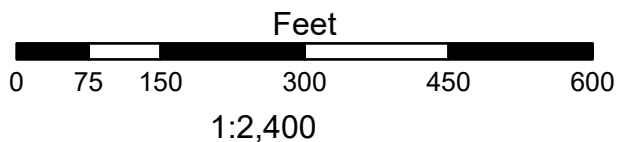
479.790.6775
Planning Commission

April 10, 2023

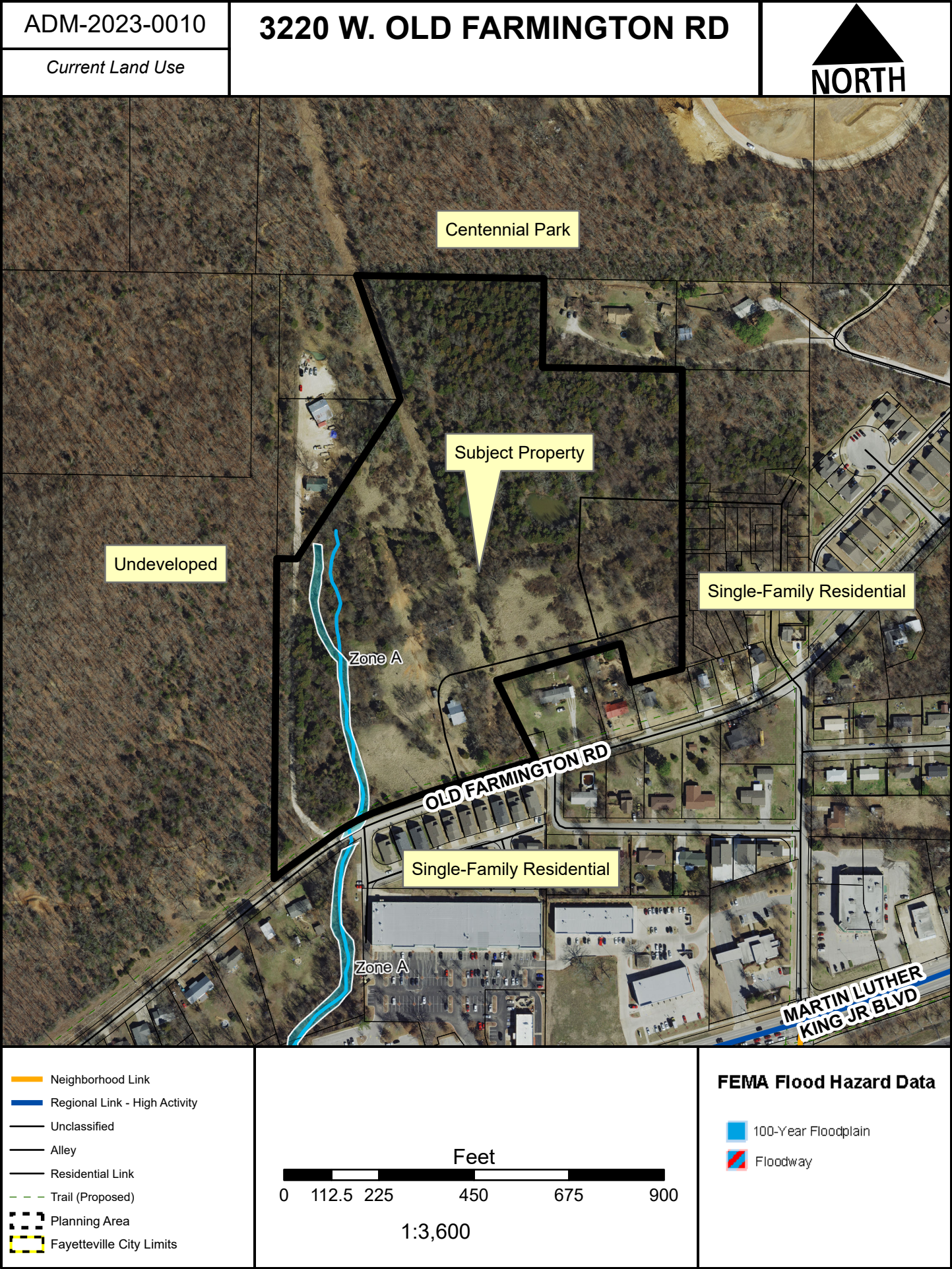




- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- - - Trail (Proposed)



- Residential-Agricultural
- RSF-2
- RSF-4
- RSF-8
- RSF-18
- C-2
- Neighborhood Conservation
- Commercial, Industrial, Residential





TO: City of Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: April 10, 2023

SUBJECT: **VAR-2023-0011: Planning Commission Variance (4493 N. TOM PERRY ROAD/SHERILL, 104):** Submitted by BLEW & ASSOCIATES for property located at 4492 N. TOM PERRY RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 12.99 acres. The request is for a variance to the street frontage requirements due to a proposed concurrent plat.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0011**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0011**, determining:*

- *In favor of the requested variance to 166.05(A)(3); and*
- *In favor of all other conditions recommended by staff."*

BACKGROUND:

The subject property is northeast of the City limits in Washington County and is at the boundary of the Fayetteville Planning Area. Containing approximately 12.99 acres, the property is developed agriculturally, with several turkey houses and associated agricultural outbuildings. A portion of the property is within the Hillside-Hilltop Overlay District. A concurrent plat is under review for the subject property. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

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

Request: The applicant is requesting a variance to 166.05(A)(3) which requires that any lot in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards (typically 75 feet). The property is currently without street frontage, and the applicant intends to create three lots where there are currently two.

DISCUSSION:

Staff recommends approval of the applicant's request. One intent of the ordinance is to maintain a consistent lot and block pattern in developments outside the City limits in the event they are ever annexed into the City. Another is to create lots that are developable in a manner consistent with City standards. There is not a consistent lot and block pattern in this area, and it has historically been used as a low-density agricultural use. The property is also within the furthest boundary of the Fayetteville Planning Area. Also, the closest public right-of-way is nearly 1600 feet, or 3/10 mile to the South, and to dedicate right-of-way in this distance would exceed the test of rough proportionality, and would require additional property owners to dedicate right-of-way as well to make a continuous connection. There is a pre-existing 60-foot access easement that provides access to all of the proposed lots from the private drive of Tom Perry Road, so staff does not recommend an added condition to maintain access.

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

RECOMMENDATION: Staff recommends approval of VAR-2023-0011, with the following conditions of approval;

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.05(A)(3), which states that any lot created in the Planning Area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards. Staff recommends approval of the request for the reasons stated above.**
2. Approval of this variance does not constitute approval for any associated lot split, concurrent plat, or constitute approval for any future development;
3. Approval from Washington County Planning must be received prior to recordation of any associated lot split or concurrent plat.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>April 10, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §166.05 Required Infrastructure Improvements and Subdivision Regulations -

Development In Planning Area

- Applicant Request letter
 - Site Plan
 - One Mile Map
 - Close-up Map
 - Current Land Use Map
-

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

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

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

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

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



Blew & Associates, P.A.

Civil Engineers

Professional Land Surveyors

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

March 1, 2023

To Whom It May Concern,

Variance

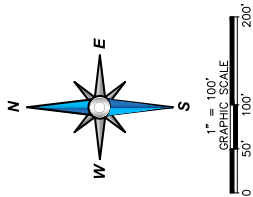
My client, Stephen Sherrill is requesting a variance for the property at 4492 Tom Perry Road, Fayetteville, AR 72703. We are attempting to split the property into three tracts, and there is no public road for these lots to access. Tom Perry Road is a private road and unfortunately, there is no way for our client to remedy this. The current property already exists with no public road frontage. The applicable code section for this is 166.05. We kindly ask for your approval on this variance. The variance affects parcels: 001-15259-008.

Sincerely,

Sydnee Tolbert
Blew & Associates, P.A.

CONCURRENT PLAT

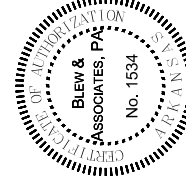
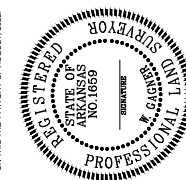
4492 TOM PERRY ROAD, FAYETTEVILLE, AR 72703
WASHINGTON COUNTY



LEGEND & SYMBOLS

- FOUND MONUMENT (AS NOTED)
- SET 5/8" REBAR PLS 1689
- COMPUTED POINT
- TELEPHONE PEDESTAL
- WATER METER
- ELECTRIC METER
- POWER POLE
- RIGHT-OF-WAY
- C/L CENTERLINE
- N.T.S. NOT TO SCALE
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- B.S.B. BUILDING SETBACK
- UTILITY EASEMENT
- PROPANE TANK
- PPT
- BOUNDARY LINE
- ACCESS EASEMENT LINE
- UTILITY EASEMENT LINE
- RIGHT-OF-WAY LINE (RW)
- CENTERLINE (CL)
- FENCE LINE
- X - X - X OVERHEAD POWER LINE
- SETBACK LINE

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS 11TH DAY OF AUGUST, 2022.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT IN FULL COMPLIANCE WITH THE REQUIREMENTS OF THE ARKANSAS SURVEYING ACT, THIS SEAL MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BE AN ORIGINAL SEAL AND SIGNATURE.

Blew & Associates, P.A.
3825 N. SHILOH DRIVE - FAYETTEVILLE, AR 72703
EMAIL: SURVEY@BLEWNC.COM
OFFICE: 479.443.4506 FAX: 479.582.1883
EMAIL: SURVEY@BLEWNC.COM WWW.BLEWNC.COM

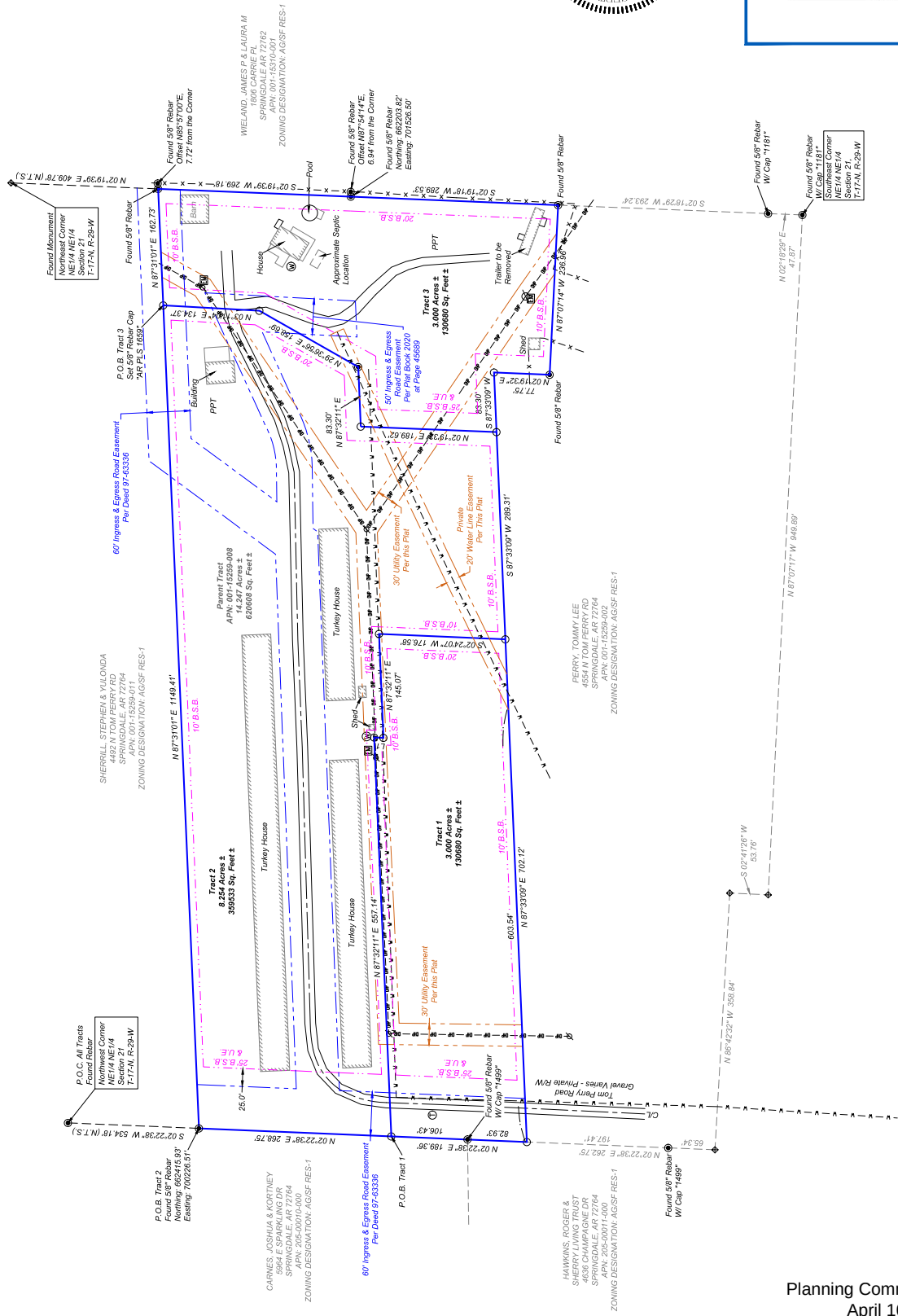
SURVEYOR JOB NUMBER:
22-6749

SURVEY DRAWN BY:
JDC - 8/11/2022

SURVEY REVIEWED BY:
JDC - 8/11/2022

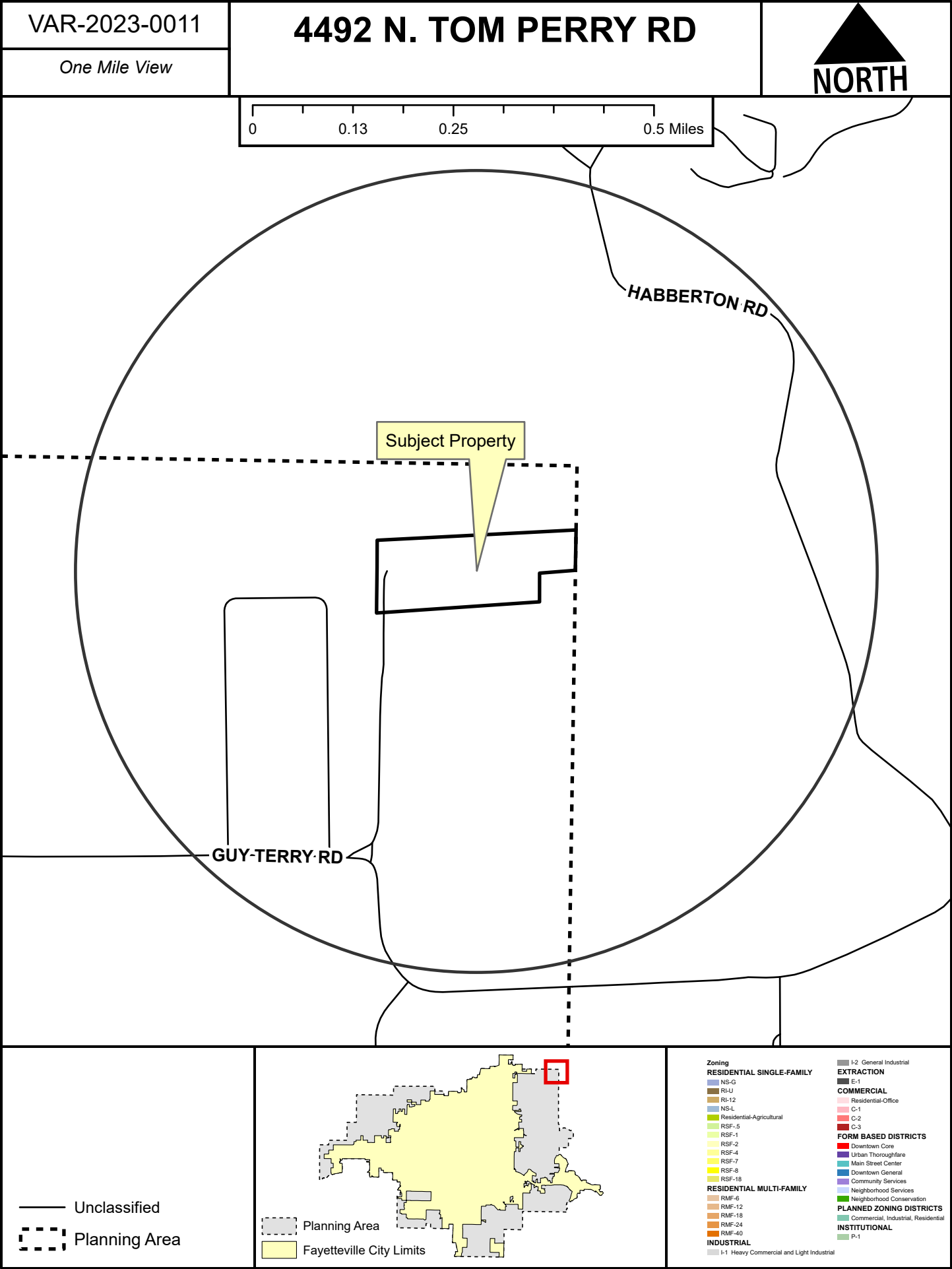
SCALE:
1" = 100'

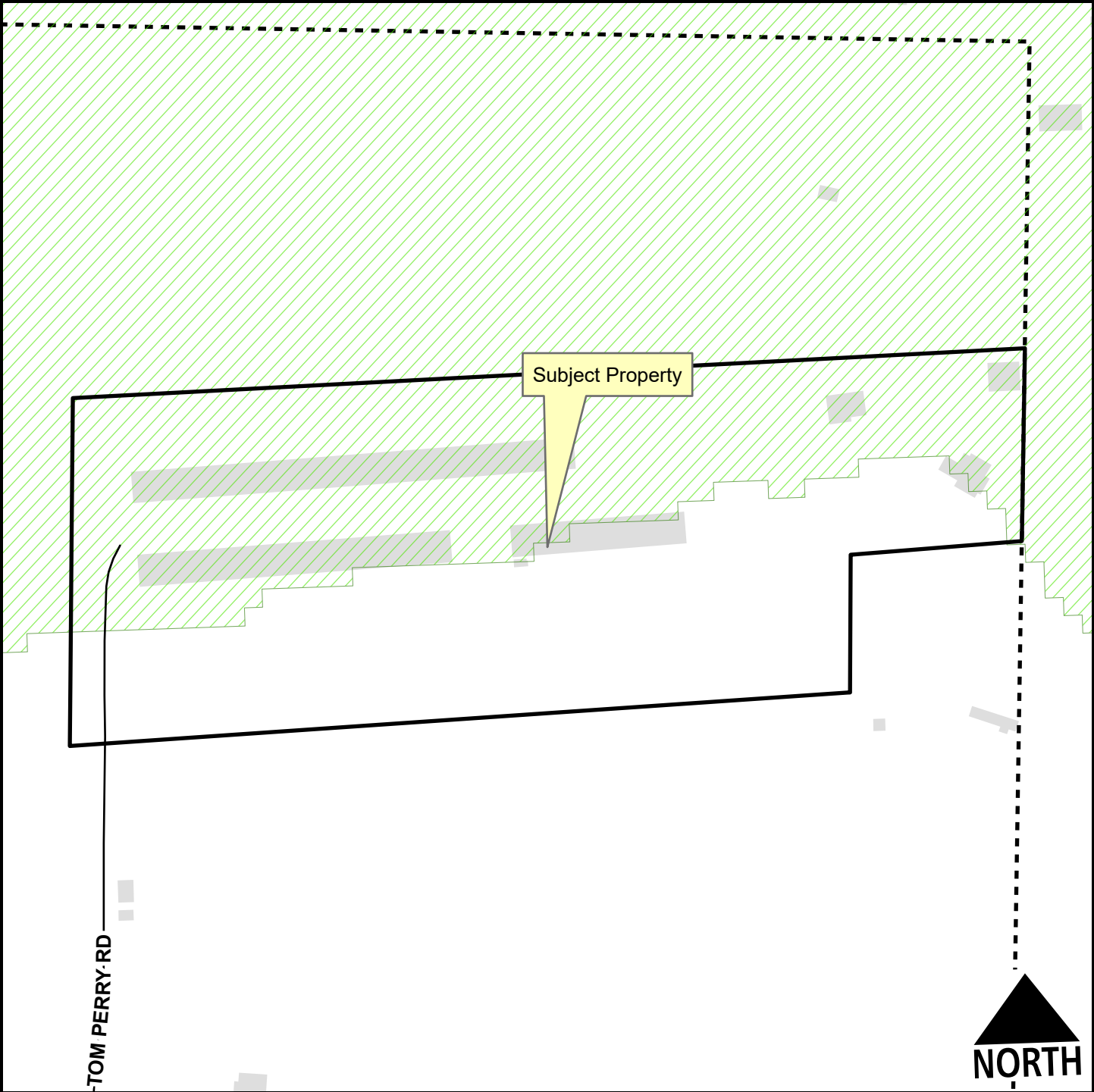
FOR THE USE AND BENEFIT OF:
STEPHEN SHERRILL



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 02°24'07" W	12.98'









TO: City of Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: April 10, 2023

SUBJECT: **VAR-2023-0014: Planning Commission Variance (2600 S. SCHOOL AVE/TFI LLC, 639):** Submitted by BLEW & ASSOCIATES for property located at 2600 S. SCHOOL AVE. The property is zoned C-2 THOROUGHFARE COMMERCIAL and contains approximately 0.50 acres. The request is for a variance to curb cut separation distance requirements under the access management standards.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0014**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0014**, determining:*

- *In favor of the requested variance to 166.08(F)(2)(c);*
- *In favor of all other conditions recommended by staff."*

BACKGROUND:

The subject property is in south Fayetteville at the southeast corner of S. School Avenue and W. 26th Street. Containing approximately 0.50 acres and zoned C-2, Thoroughfare Commercial, the property is developed with an automotive body shop and garage. County records indicate that the structure was built in 1957. No overlay districts currently govern the property and it is outside of the Hillside Hilltop Overlay District. The property received a BOA variance on April 3, 2023 to permit the existing non-conforming structure to continue to encroach in the front setback. Surrounding land uses and zoning are listed in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	C-2, Thoroughfare Commercial
South	Commercial	C-2, Thoroughfare Commercial
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Tyson Plant	I-2, General Industrial

Request: The applicant is requesting a variance to **\$166.08(F)(2)(c)**, which requires a 50-foot curb cut separation distance for non-residential uses along Residential Link Streets. The applicant is requesting an approximately 42-foot separation distance.

DISCUSSION:

Staff is supportive of the applicant's request. A renovation and addition of a structure on the property is under review, and the applicant intends to bring many non-confirming situations into

compliance that will improve pedestrian comfort at this location. First, the applicant is adding sidewalk to meet the master street plan standards along all three of the property's street frontages. Secondly, the applicant is proposing to close an existing driveway along S. School Avenue, to bring the non-confirming driveways into compliance, and provide access to the property from the lower classification street as is required by ordinance. And thirdly, the applicant is reducing the amount of impervious surface on the site by bringing an existing parking lot into compliance with typical standards. The placement of the driveway along W. 26th Street is in the most logical position for the site. Staff finds that the angle of the street as it intersects with the driveway is negatively contributing to the separation distance, and given the location of the existing structure and the requirement to accommodate a 15-foot curb radius are making the driveway functionally wider than typical. The existing structure was granted a Board of Adjustment variance to maintain its current location, so removing the structure is not necessary from a zoning perspective. Staff acknowledges that a narrower driveway could have been sought by the applicant, but it still would not likely have relieved them fully of the variance requirement; code allows for a minimum width of 12 feet for a two-way driveway for parking lots with 8 or fewer vehicles. However, given the auto use of the site, staff anticipates that the 24-foot width will be necessary to accommodate vehicles of all shapes and sizes, as well as potentially tow trucks and other larger vehicles for maneuvering. Staff finds also that the shorter separation distance is not likely to negatively affect safety for either vehicles or pedestrians at this location.

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

RECOMMENDATION: Staff recommends Planning Commission approve VAR-2023-0014, with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.08(F)(2)(c) which requires a 50-foot curb cut separation distance for non-residential uses along Residential Link Streets. Staff recommends approval of the request for the reasons stated above.**
2. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>April 10, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §166.08 Street Design And Access Management Standards

- Applicant Request letter
- Overall Site Plan
- Applicant Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map

166.08 Street Design And Access Management Standards

...

- (F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.
- (1) *Curb Cut Separation.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.
- (2) Separation for two (2) family, three (3) family, multi-family and nonresidential development.
- (a) *Regional and Regional High Activity Links.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway.
- (b) *Neighborhood Links.* Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along neighborhood links shall be shared between two (2) or more lots.
- (c) *Residential Links.* Curb cuts shall be located a minimum of 50 feet from an intersection or driveway. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection.

...

(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)

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

March 13, 2023

City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas

SUBJECT: 2600 S. School Avenue
Driveway Separation Variance

To Whom It May Concern:

The Property Owner / Developer is requesting a variance to the driveway separation distance of 42 feet versus the 50 ft distance required by ordinance.

The variance is being requested due to the proximity of the existing structure to S. School Avenue. In order to provide some separation of the parking lot from the building, a 5' sidewalk against the building is being proposed. Additionally, the City's commercial driveway standard requires a 15' curb radius when connecting to City Streets. The radius in combination with the angle W. 26th Street have created a situation where the curb line is closer than the 50 feet required by ordinance. The only way to achieve the required 50 ft separation is to demolish a portion of the building to create the required separation. This would be an undue hardship to the developer. As such we are asking for a reduction of 8 feet to 42 feet from the required 50 feet as stated in Unified Development Code 166.08(F)(2)(c):

Residential Links. Curb cuts shall be located a minimum of 50 feet from an intersection or driveway. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection.

Sincerely,

Jorge Du Quesne
Blew & Associates

[illegible]

NOT FOR
CONSTRUCTION
FOR REVIEW
ONLY!!!

GRAPHIC SCALE

(IN FEET)

1 inch = 20 ft

0 10 20 30 40 50 60 70 80

Color	Symbol	Description	Size	Font Type
Red		Prohibited	12" x 18"	U-Chart
Blue		Prohibited	12" x 18"	U-Chart
Green		Prohibited	12" x 18"	U-Chart
Yellow		Prohibited	12" x 18"	U-Chart
Orange		Prohibited	12" x 18"	U-Chart
Purple		Prohibited	12" x 18"	U-Chart
Pink		Prohibited	12" x 18"	U-Chart
White		Prohibited	12" x 18"	U-Chart
Black		Prohibited	12" x 18"	U-Chart
Grey		Prohibited	12" x 18"	U-Chart
Light Blue		Prohibited	12" x 18"	U-Chart
Light Green		Prohibited	12" x 18"	U-Chart
Light Yellow		Prohibited	12" x 18"	U-Chart
Light Orange		Prohibited	12" x 18"	U-Chart
Light Purple		Prohibited	12" x 18"	U-Chart
Light Pink		Prohibited	12" x 18"	U-Chart
Light White		Prohibited	12" x 18"	U-Chart
Light Black		Prohibited	12" x 18"	U-Chart
Light Grey		Prohibited	12" x 18"	U-Chart

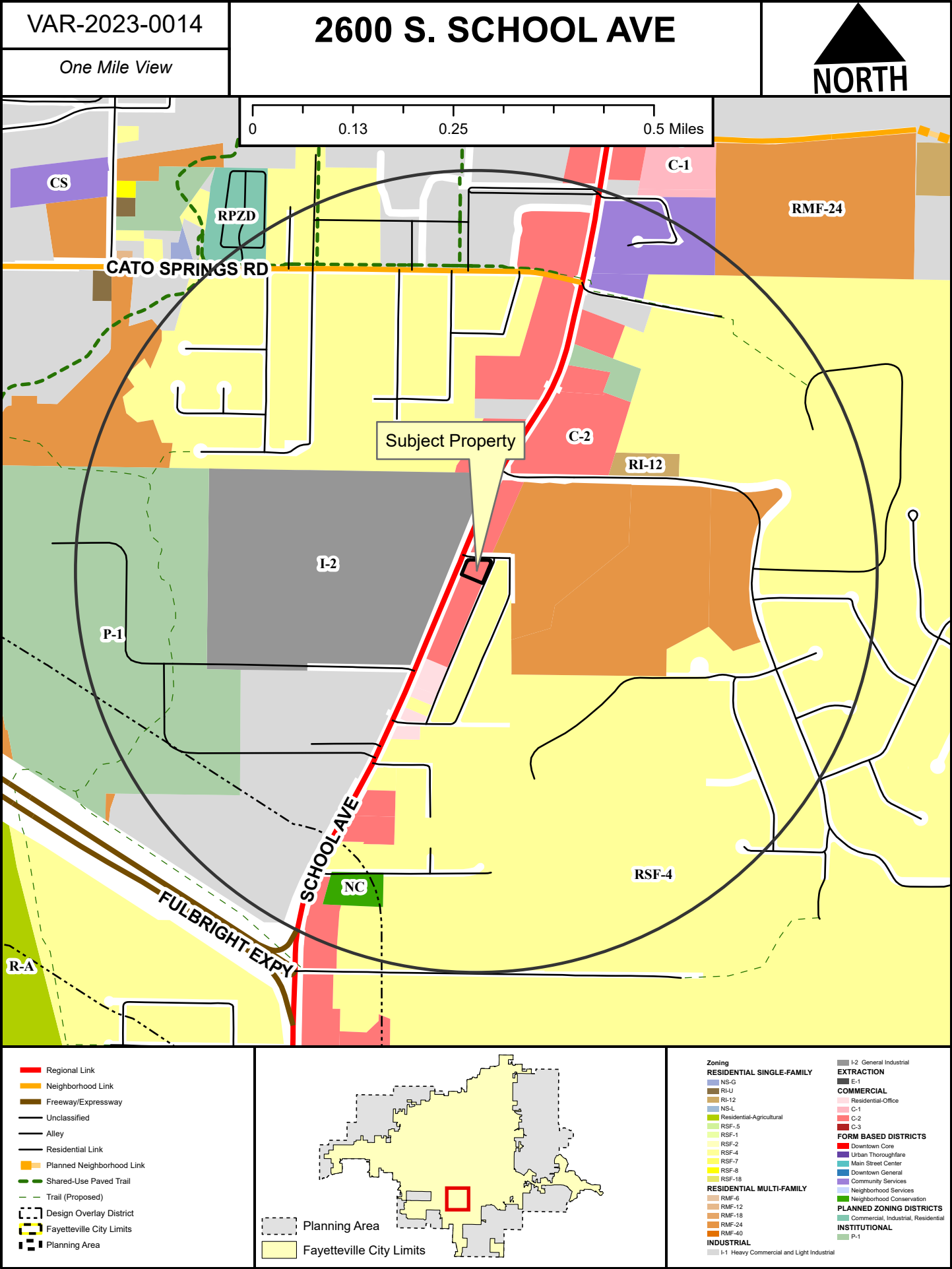
Site General Notes:

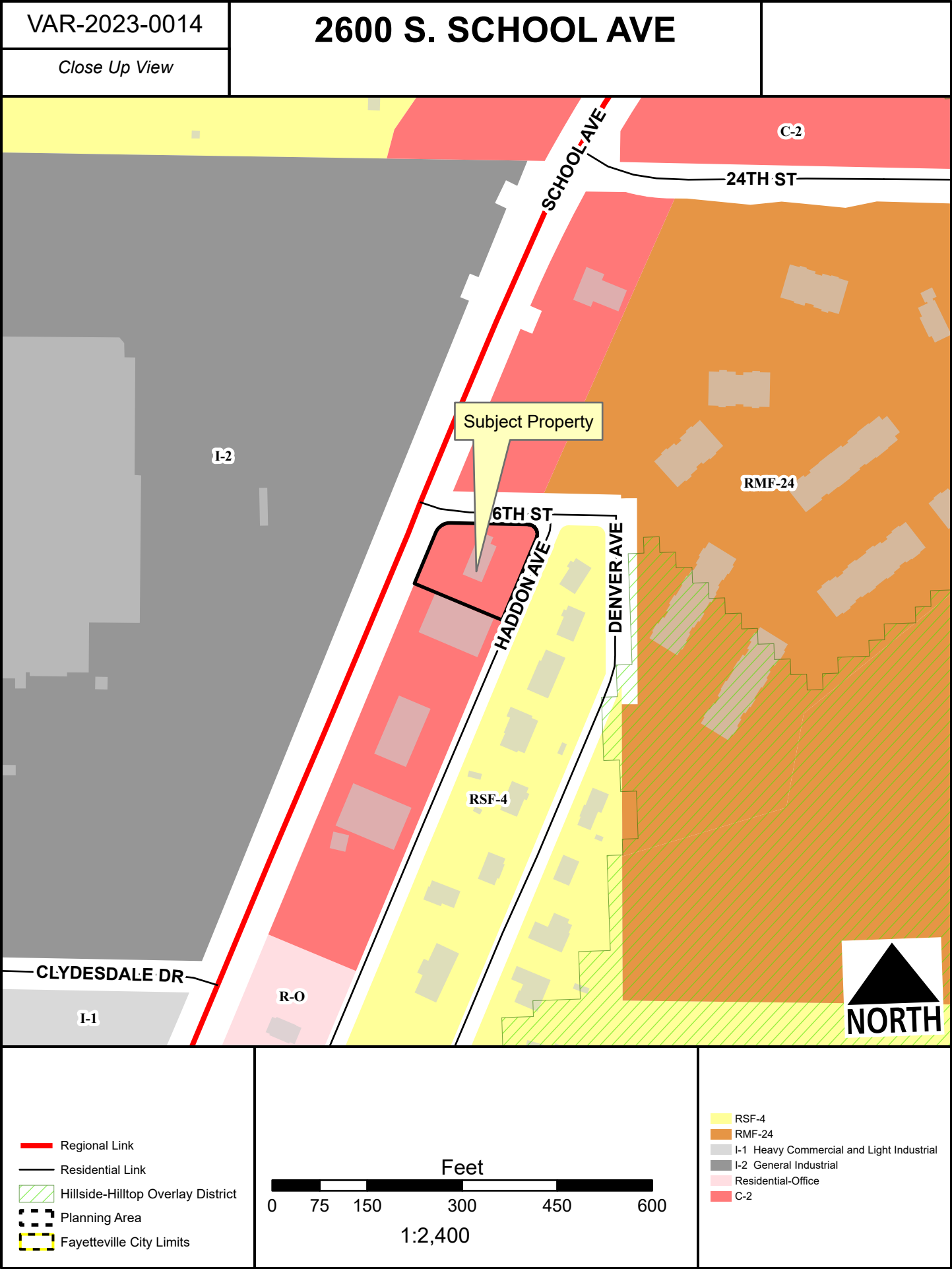
- All dimensions are measured from the Face of Curb, the Edge of Pavement or the Centerline of Right-of-Way, as indicated by the dimension line.
- All radii shall be at least 6' unless otherwise specified.
- All curves shall be circular.
- All C&G's and all 20' x 20' wide pipe details shall conform to AASHTO M-294.
- All Pavements Shown Shall Be Applied in accordance with the City of Dallas Standard Specifications for Roadway Construction, Uniform Traffic Control Devices (MUTCD).
- All Intersecting Streets Shall Conform to the guidelines of the MUTCD.
- The Contractor shall refer to the Architectural Drawings & Building Department Ordinance No. 17800 regarding the City of Dallas Utility Entrance Ports etc.. The Contractor shall immediately notify the Architect and Engineer in the event that the City Staff has approved a different standard than what is shown on these plans.
- All underground utilities shall be identified / marked in accordance with the City of Dallas Standard Specifications for Roadway Construction, Uniform Traffic Control Devices (MUTCD).
- All underground utilities shall be staked / marked upstream pavement.
- Unless otherwise noted on plan, the placement shall be constructed in accordance with the City of Dallas Standard Specifications for Roadway Construction, Uniform Traffic Control Devices (MUTCD).
- It is the Contractor's responsibility to determine construction staging, coordination according to the dimensions shown on those plans, and notify the Engineer of any requirement before construction starts.
- City standards and the default sheet.

[illegible]

PROPERTY INFORMATION		
Grant Size	0.45 acres	
Proposed Parcel	3,027.54 sq. ft.	
Proposed District/R.O.W.	16,276.5 sq. ft.	
Net Site Area	16,276.5 sq. ft.	
Zoning	C-2, Transportation Commercial	
ZONING REGULATIONS		
Front Setback	15 ft.	
Side Setback (on lot) / (adjacent)	15 ft.	
Side Setback (from a road, driveway)	15 ft.	
Rear Setback	20 ft.	
Min. Building Height	6 mtr.	
SITE INFORMATION		
Total Paved Area:	4,682.42 sq. ft.	0.10 acres
- Existing	2,905.2 sq. ft.	0.07 acres
- Proposed	1,777.2 sq. ft.	0.04 acres
Total Concrete Area:	862.12 sq. ft.	0.02 acres
- Existing	173.32 sq. ft.	0.004 acres
- Proposed	688.8 sq. ft.	0.016 acres
Total Gravel Area:	79,519 sq. ft.	0.18 acres
- Existing	1,986.42 sq. ft.	0.05 acres
- Proposed	77,532.58 sq. ft.	0.18 acres
Total Building Area:	6,952.32 sq. ft.	0.16 acres
- Existing	277.93 sq. ft.	0.007 acres
- Proposed	2,887.57 sq. ft.	0.066 acres
Total Building Footprint Area:	720.00 sq. ft.	0.016 acres
- Existing	112.58 sq. ft.	0.003 acres
- Proposed	607.42 sq. ft.	0.014 acres
Total Impervious Area (Pav):	2,690.34 sq. ft.	0.061 acres
Total Impervious Area (Bldg):	6,952.32 sq. ft.	0.16 acres

[illegible][illegible]





VAR-2023-0014

2600 S. SCHOOL AVE

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: April 10, 2023

SUBJECT: **ADM-2023-0007: Administrative Item (SE OF N. CROSSOVER ROAD AND ZION ROAD/CHANDLER CROSSING SUBDIVISION, 138):** Submitted by ESI for property located SE of N. CROSSOVER AND E. ZION ROAD. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 82.09 acres. The request is to extend a previously-approved preliminary plat.

RECOMMENDATION:

Staff recommends approval of **ADM-2023-0007**, with conditions.

RECOMMENDED MOTION:

"I move to approve **ADM-2023-0007**, with conditions as recommended by staff."

BACKGROUND:

The subject property is in northeast Fayetteville, east of N. Crossover Road and south of E. Zion Road. The property encompasses two parcels, 765-13219-000, and the majority of parcel 765-13219-100, which was annexed into City limits in early 2021 (ANX-2020-000001) and rezoned to a Planned Zoning District (Ordinance 6421). The property currently has a single-family dwelling, which county records indicate was built in 1947, and associated outbuildings for what has long been an agricultural use. Hilton Creek runs east and west through the site, and the area surrounding the creek is designated as a flood plain. The property received approval for a preliminary plat in 2021 (PPL-2021-000010) for 313 mixed-use lots; that approval expired on October 17, 2022. Surrounding land use and zoning is depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	R-A, Residential-Agricultural; RSF-4, Residential Single-Family, 4 Units per Acre; Washington County, Ag/Single-Family Residential
South	Single-Family Residential; Arkansas Electric Cooperative; Recreational Facility	R-A, Residential-Agricultural; Washington County, Ag/Single-Family Residential
East	Agricultural	Washington County, Ag/Single-Family Residential
West	Commercial; Fayetteville Athletic Club; Single-Family Residential	C-1, Neighborhood Commercial; R-O, Residential-Office; Washington County, Agricultural Single-Family Residential

Proposal: Under 166.20, the applicant requests an extension from the Planning Commission for PPL-2021-000010, a preliminary plat for Chandler Crossing, a 313-lot mixed use development. The applicant submitted a request letter to the Planning Division on March 3, 2023, after the

project's initial expiration, but prior to the elapse of the 18-month window of eligibility for Planning Commission approval.

DISCUSSION:

Staff recommends approval of the applicant's extension request. Unified Development Code section 166.20(B)(3) indicates that a one-year extension can be granted by the Planning Commission subject to the applicant providing good cause. No requested modifications have been made by the applicant in association with this request. The applicant submitted for grading permit in April of 2022, but has been unable to secure a permit after 5 rounds of review and comments from City staff. Staff finds that the applicant is close to completing all necessary comments, and finds that the extension will allow the project to keep moving forward.

Public Comment: Staff has received inquiries from the public regarding the request, but no opposition or support.

RECOMMENDATION: Staff recommends approval of ADM-2023-0007, with the following conditions.

1. A one-year extension for PPL-2021-000010 will expire on October 17, 2023;
2. All conditions of approval of PPL-2021-000010 not affected by this extension shall remain in effect;
3. Approval of this extension does not constitute approval of associated permits or entitlements not fully reviewed at this time.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
------------------------------------	-----------------	-------------------

Date: <u>April 10, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
------------------------------------	--	--	--

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- 166.20 Expiration Of Approved Plans And Permits
 - PPL-2021-000010 Conditions of Approval
 - Applicant Request Letter
 - One Mile Map
-

166.20 Expiration Of Approved Plans And Permits

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

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

(B) *Time Limit.*

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

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

(C) Three (3) Year Time Limit.

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

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

February 16, 2023

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

RE: Extension Request
Chandler Crossing
Subdivision Fayetteville, AR

To whom it may concern,

Please let this letter serve as an extension request to the preliminary plat approval for Chandler Crossing Subdivision PPL-2021-000010. We have had many set backs in addressing construction plan comments from city engineering staff as well as in the CLOMR process to address the proposed changes to Hilton Creek.

Sincerely,



Preston Locher
Project Engineer

March 3, 2023

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

RE: Overall Narrative
Chandler Crossing
Subdivision Fayetteville, AR

To whom it may concern,

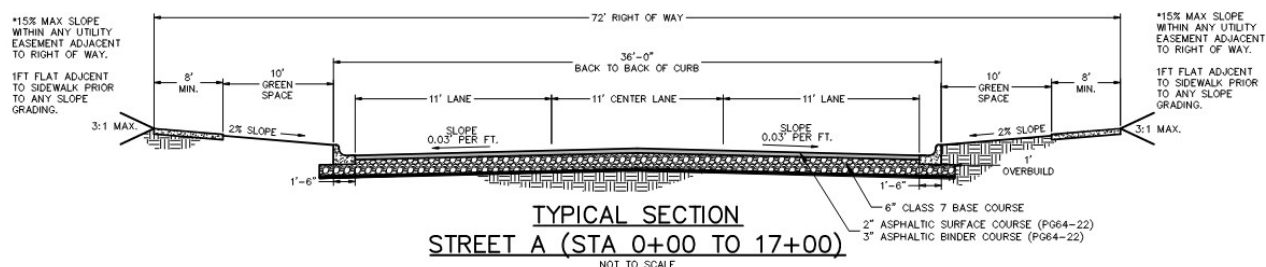
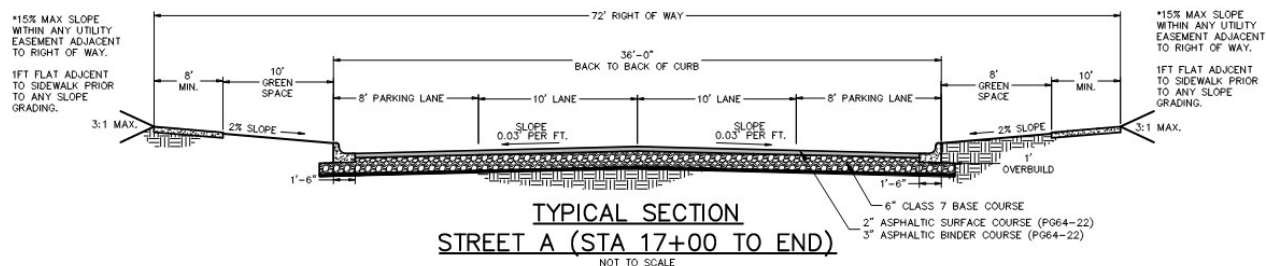
Please let this letter serve as a narrative to accompany the complete submittal for Chandler Crossing Subdivision. The proposed subdivision is located at the intersection of Highway 265 and E Zion Road. It is Washington County parcel numbers 765-13219-000 and 765-13219-100, which is currently owned by ECT Farmland LLLP and Robert Eugene Burge Irrevocable Trust, respectively. The property was recently annexed into the city, and zoned as a planned zoning district, allowing commercial, residential, and undevelopable areas. The proposed development will consist of a mixed-use development, with mixed residential building styles, commercial outlots, and interior office lots.

This project was previously approved by planning commission in 2021, but due to the complexity of the project we have been unable to get engineering approval for a grading permit to start construction.

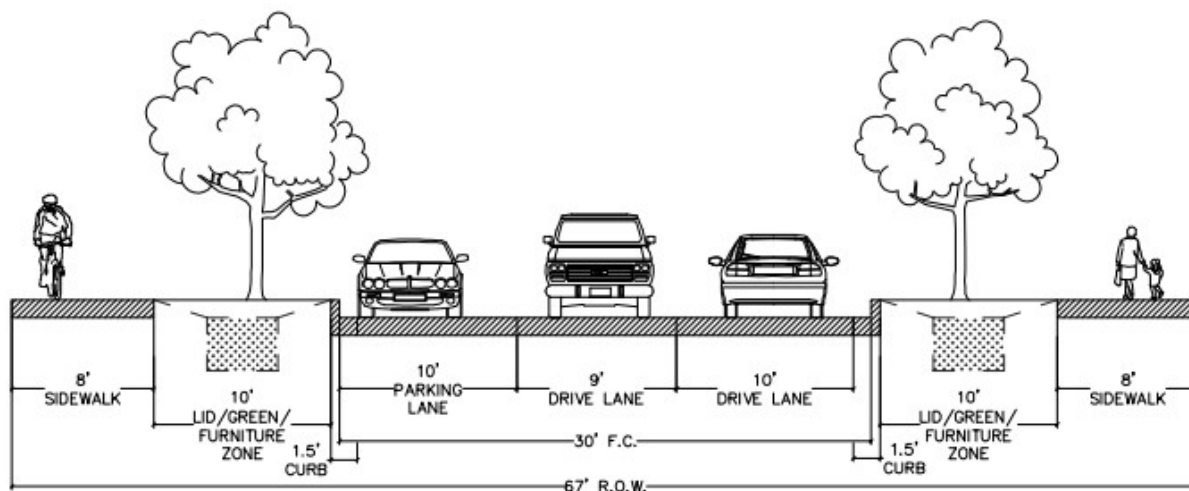
Variances Requested

1. A variance to the master street plan's typical sections are requested for Street A and for the Boulevard. For Street A, two different street sections are being utilized. On the west side, a three lane configuration is proposed, with the middle lane being a turning lane. This is requested for turning movements associated with the future commercial lots, but also to queue vehicles which desire to turn left onto Highway 265, in accordance with the submitted traffic study. As this street progresses east, it is converted to a standard street section, but which has parking on both sides of the street. This is also not a standard street section, and a variance is requested for this as well, to provide as much on-street parking as possible on this street.

Desired Street Section (Requiring Variance)

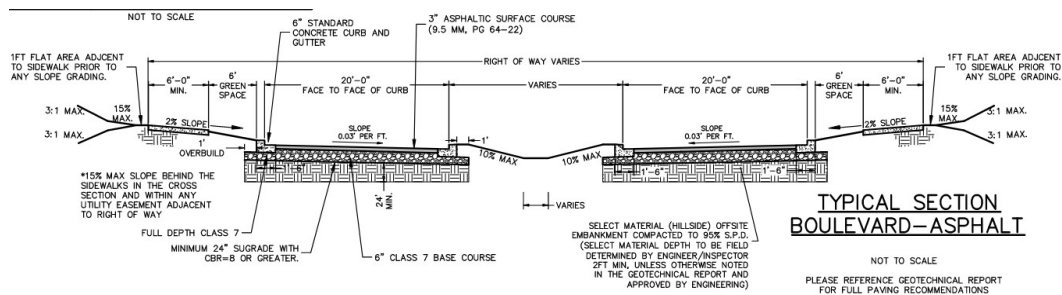


2040 Neighborhood Link Street Section

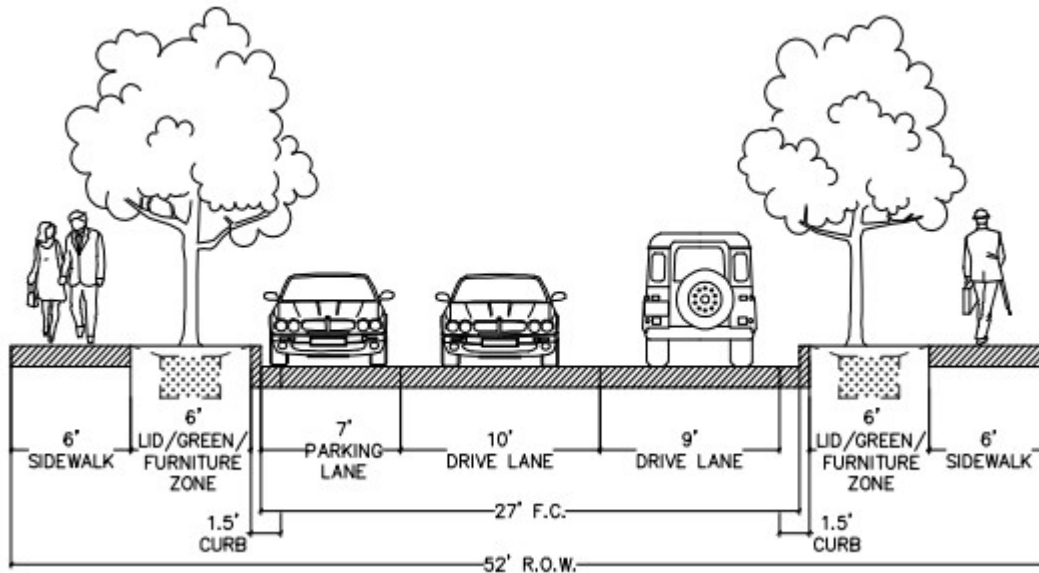


Additionally, the Boulevard section does not conform to the master street plan. As proposed, there is a large linear drainage park area proposed between the two-one-way lanes of the boulevard. This street section was shown on the approved Planned Zoning district, but because it does not conform to the master street plan, a variance is requested for the desired street section.

Desired Street Section (Requiring Variance)



2040 Residential Link Street Section



2. A variance to the block length (166.08e) is requested for any streets which exceed 660 linear feet on this project. The project has many street intersections, curved streets, and on-street parking, which will greatly reduce the ability for any vehicle to speed in the subdivision. Additionally, chicanes have been added on stretches which exceed 660 linear feet, in order to further slow traffic speeds throughout the subdivision.
 - The west side of Street E exceeds 660 linear feet, at approximately 750 linear feet. Multiple chicanes have been added as well as a mid-block pedestrian crossing, adjacent to the linear park on lot 276, which will greatly reduce vehicular traveling speeds through this area.
 - The west side of Street G exceeds 660 linear feet on both the west and east side. This street has multiple alley intersections which break up this block length on the west side (total block length is 685 on west side). On the east side, multiple chicanes were added to break up the block length. There is also a larger drainage basin that drains through this area, with a large existing pond where any potential additional stub-out would occur. Because of this, it is requested that a variance be allowed to exceed 660 linear feet on this stretch (totaling approximately 900). The street configuration has

changed on the south side at Staff's request to better conform with the master street plan future street connections.

- The north side of Street M exceeds 660 linear feet, at approximately 900 linear feet. Stubbing out a street to the north is not ideal, due to Hilton Creek, proposed lift station, and the proposed detention pond. Because of this, a variance is requested for the block length.
 - Both the east and west side of the Boulevard street exceed 660 linear feet. It is requested that a variance be granted for this without additional street connectivity. The main reason in requesting this is that the drainage swale in the middle of the boulevard will be utilized to treat the phosphorus of this drainage basin, so it is desired to not reduce this area. We have also added a mid-block crossing for pedestrian connectivity to this street, which will reduce traveling speeds in this area. None of these block lengths exceed 700 linear feet.
3. A variance is requested for the Streamside Protection Ordinance. The intent is to add a wetland shelf on both the north and south side of the creek, and to plant this shelf with vegetation conducting to removing phosphorus from Hilton Creek. A variance is requested to modify the creek to be improved per City of Fayetteville Engineering recommendations. The proposed wetland shelf would be 1' above the bottom of the creek. This variance is not needed for the development, but to try and improve Hilton Creek.

Parks and Recreation Advisory Board Meeting

This project has been to the Parks and Recreation Advisory Board Meeting, where the board requested a fee-in-lieu of parkland dedication. The developer has requested parkland dedication instead of this fee-in-lieu due to this being suitable land.

166.04(1)(ii)(d) states that "If the developer proposes to dedicate land for a public park after consultation with the Parks and Recreation Advisory Board which the Planning Commission determines is suitable for park purposes, the proposed dedication shall be accepted."

Additionally, from a memo from Mr. Kit Williams, "If an Owner/developer wishes to dedicate parkland pursuant to 166.04(B)(3)(1) Parkland Dedication of the UDC, the only real issue would be whether the proposed dedicated parkland 'is suitable for park purposes'. Unless the proposed parkland is not 'suitable for park purposes, the proposed dedication shall be accepted.' The proposed parkland need not be suitable for baseball or soccer fields nor any development. Many of the City's public parks are primarily nature parks such as Finger Park, Mountain Sequoyah Woods, The Brooks-Hummel Nature Reserve, Lake Sequoyah, and Lake Wilson."

“What has and can be rejected as unsuitable for park purposes is land encumbered with large overhead electrical transmission poles and lines. In some cases, an area of proposed dedication might be too small for even a usable neighborhood park and thus, unsuitable for park purposes. Any area with hazardous materials or other unreasonable unsafe characteristics could also be rejected. However, being near or far from another park does not necessarily render good parkland unsuitable for park purposes.”

The proposed parkland dedication is suitable land. This land is not encumbered by large easements or hazardous conditions. A portion of the park is within the FEMA flood zone, however there is more than enough acreage proposed to be dedicated (9.04 acres) to what is required (7.46 acres).

There are no topographical constraints, meaning the land is not exceedingly steep. It is a gentle slope from one side to the other, with no areas where water should pond. The parkland dedication does extend all the way to Hilton Creek, giving the city an avenue to make improvements to the creek, should they desire in the future. Lastly, for connectivity, a pedestrian bridge is proposed, connecting Chandler Crossing to the future park. Also an access easement is proposed from David Lashly Park to the proposed park so that the surrounding community can utilize this park in the future.

External Studies

Multiple studies are included with this submittal, as outlined below.

1. Delineation of Potential Section 404 Issues – FTN : This has been filed with the Corps of Engineers with a Jurisdictional Determination agreeing with FTN’s report.
2. Hilton Branch Drainage Analysis – FTN – An existing model and proposed model has been completed for Hilton Creek. Floodplain maps have been redone for the proposed condition, and a recommendation for how to improve Hilton Creek has been included with the resubmittal.
3. Traffic Study – Peters & Associates – Report has been updated with this resubmittal, and “DRAFT” has been removed. Peters & Associates will be at the meeting to field any questions that the commission has.

Utilities

This site currently has access to existing Fayetteville water and sewer infrastructure. There is an existing 12" water main located at the northwest corner of the property, which the development will connect into for water service. There is a second water access point along E Zion Road, which will also be utilized for service. For sewer, this site will gravity drain to a proposed lift station, near Hilton Creek, which will then be pumped back west to an existing 10" sewer main along the east side of Highway 265. There are no known capacity issues with these existing lines.

Please let me know if I can answer any questions.



Preston Locher

Project Engineer

Mitigation required: 211 2" caliper trees

Parks: A PRAB meeting was held on this proposal in January 4, 2021. PRAB recommended fees-in-lieu for this development in the amount of \$324,083 based on the number of proposed single-family and multi-family lots proposed. PRAB indicated fees-in-lieu are preferred given the subject area's proximity to Lake Fayetteville and to David Lashley Park. The applicant is alternatively requesting to dedicate land; Parks has issued a memo indicating that the amount of land required to meet the ordinance would be 6.841 acres. The applicant is currently showing a proposed area of 9.04 acres.

Public Comment: Staff has received public comment on this proposal, and it is attached to this report. The comment was centered around a request for additional landscape buffering between an existing adjacent residential structure and the proposed development. Further public comment has been issued regarding concerns with the Engineering firm who provided the flood study and drainage report.

RECOMMENDATION: Staff recommends approval of PPL-2021-000010, subject to the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements:

Intersection of N. Crossover and E. Zion Roads: As a result of the traffic study provided, staff recommends the following improvements:

- 1. Restriping E. Zion Road to accommodate an eastbound left-turn lane, an eastbound thru / right-turn lane and a westbound receiving lane*
- 2. The new east leg (Chandler Crossing) be constructed to align with Zion Road and to accommodate a westbound left-turn lane, a westbound thru / right-turn lane and an eastbound receiving lane.*
- 3. There is an existing southbound left-turn lane on the north leg of N Crossover Road and Zion that currently serves southbound u-turns without a protected left-turn signal head. This lane shall be converted to accommodate southbound to eastbound left-turns, and new signal head installed with protective-permissive signal phasing. In addition, the "U-Turn" swing out lane shall be removed on northbound side of Crossover Rd.(Subject to review and approval by ARDOT)*
- 4. Eastbound and westbound left turn movements at the traffic signal be protective-permissive with flashing yellow arrow 4-section signal heads.*
- 5. Developer shall be responsible for all necessary upgrades to the existing traffic signal resulting from the addition of the new extension of Zion Rd East into Chandler Crossing.*
- 6. The development shall construct a west bound right turn lane on Chandler Crossing approach to N. Crossover Road. This turn lane shall be 100ft long minimum. This was listed as a possible solution in the Traffic Study as an accommodation for reduction in overall intersection level of service from B to C. Engineering staff finds that the addition of a right turn lane will give drivers additional options in the event traffic congestion occurs during peak hours.*

Street A: From N. Crossover Road to the intersection with Street B, Street A shall be constructed with 72 feet of right-of-way width to accommodate 8-foot sidewalk,

10-foot greenspace, and a left turn lane at the intersection with N. Crossover. From Street B until the easternmost boundary of the development, the applicant is requesting to construct 8-foot sidewalks, 10-foot greenspace, and 36-feet of paved road, with parking on both sides of the street.

Streets B through N: These streets shall be constructed as indicated on the plan as Residential Link Streets, with 52-foot right-of-way width, 26 feet from centerline, 6-foot sidewalk, 6-foot greenspace, and space for a 7-foot parking lane on one side of the street. The applicant also proposes to neck down the Residential Link Streets at intersections to minimize pedestrian crossing width. The Fire Department will require 20-foot width at the neck down points.

Alleys AA through II, Alleys O through V, Alleys Y and Z: Two-way Residential Rear Alleys are proposed throughout the development for these alleys, indicating 20-foot right-of-way width, 2-foot greenspace, 1-foot ribbon curb, and 7-foot drive lanes, per the Master Street Plan.

Alleys W and X: Two-way Commercial Rear Alleys are proposed for these alleys, indicating 24-foot right-of-way width, 2-foot greenspace, 1-foot ribbon curb, and 9-foot drive lanes, per the Master Street Plan.

Boulevard Street Section: The applicant proposes a non-standard street section for a Boulevard which surrounds two linear drainage parks; those parks are called out as Planning Area 3. The Boulevard shall be constructed with 6-foot sidewalks, 6-foot greenspace, 1-foot curbs, and 20-foot one-way drive aisles, with proposed pedestrian crossings as indicated.

Subdivision Committee recommended in favor of these street improvements.

2. Planning Commission determination of requested variances:

- a. §166.04(3)(c) – Streets. Widening the street adjacent to the project frontage and construction of all interior streets to meet Master Street Plan standards. *Staff recommends in favor of this request, as outlined in comments above;*
- b. §166.08(E)(1) – Block Length. Residential Link Streets are required to provide an intersection at a minimum of 1 per 660 feet. *Staff recommends in favor of this request, as outlined in comments above;*

Subdivision Committee recommended in favor of requested variances.

3. Parkland dedication in the minimum amount of 6.818 acres is required prior to final plat, per attached Parks Memo. Alternatively, if Parkland Dedication is not approved by Planning Commission, Parkland fees-in-lieu in the amount of \$324,083 shall be paid prior to final plat approval. Final unit and lot count will be determined by final Planning Commission approval.

Subdivision Committee was divided on a recommendation for parkland dedication versus accepting a fee-in-lieu, with a vote of 2-1-0.

4. Right-of-way width dedication in the following amounts will be required:
 - a. Street A – 72 feet
 - b. Streets B through N – 52 feet

- c. Alleys AA through II, Alleys O through V, Alleys Y and Z – 20 feet
 - d. Alleys W and X – 24 feet
 - e. Boulevard Street Section – Varying, provided 6-foot greenspace, 6-foot sidewalk, (2) 20-foot drive aisles, and linear park are adequately supplied.
5. All plat comments shall be addressed as indicated and distributed through Energov portal prior to permit submissions.
 6. Streetlights shall be installed in accordance with code at all street intersections and spaced every 300 feet;
 7. Conditions of approval from Engineering, Urban Forestry, and Parks Department are included in the official conditions of approval;

Standard conditions of approval:

8. All existing overhead utility lines 12kV and under shall be relocated underground. All proposed utilities shall be located underground;
9. Sidewalk along all commonly owned lots (detention ponds, etc.) shall be constructed prior to final plat. All other sidewalks shall be constructed or guaranteed prior to final plat;
10. All street names shall be approved by the 911 Coordinator and indicated on the final plat. All streets require naming for final addresses. Contact the addressing office at (479) 575-8380 for more details;
11. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat;
12. A floodplain development permit is required prior to construction for any grading or structures in the flood zone;
13. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his/her representative, and all comments from utility representative: Black Hills Energy, SWBT, Ozarks, SWEPCO, Cox Communication);
14. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements; and
15. Preliminary Plat approval shall be valid for one calendar year.

PLANNING COMMISSION ACTION: Required <u>YES</u>	
Date: <u>October 11, 2021</u>	☐ Tabled ☒ Approved ☐ Denied
Motion: Sparkman	As recommended by staff for the proposed street improvements, variances, and accepting parkland dedication. Adding a condition that the fencing at the rear of lots 151-161 meets the front of lot standards for properties in the DDOD (48"). Exhibit attached before Ord. 6421
Second: Garlock	
Vote: 9-0-0	

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - 166.08 Street Design And Access Management Standards
 - 166.04 Required Infrastructure Improvements — Development In City Limits
- Ordinance 6421 (PZD Booklet Requirements)
- City Engineering comments
- Urban Forestry comments
- Parks and Recreation Advisory Board comments
- City Attorney Comment
- Request Letter
- Site Plan
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map

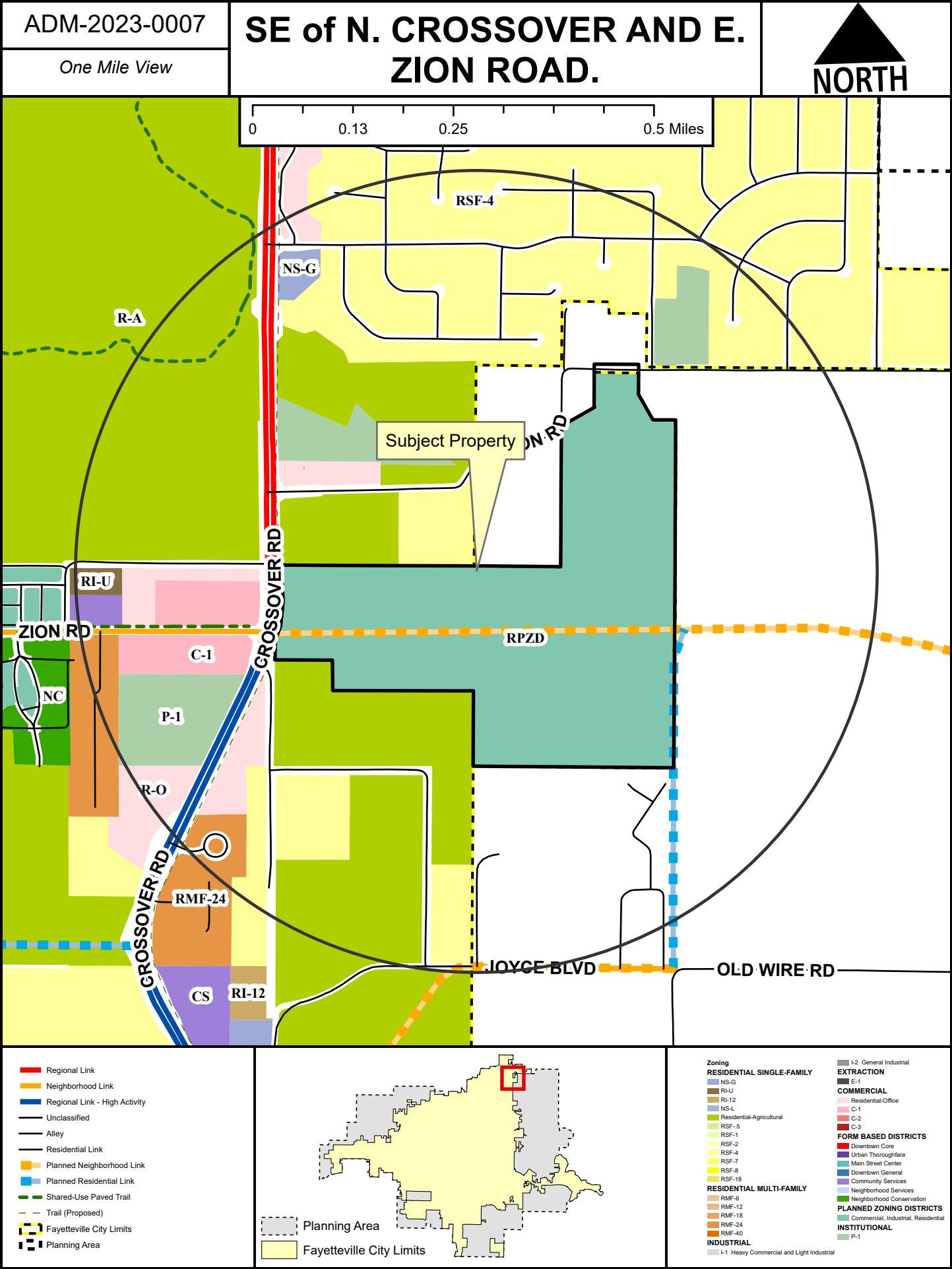
166.08 Street Design And Access Management Standards

(A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.

...

(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.





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

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

MEETING: April 10, 2023

SUBJECT: **LSD-2023-0004: Large Scale Development (SOUTH OF N. SHILOH DR/THE JUNCTION AT SHILOH, 363):** Submitted by CRAFTON TULL for property located SOUTH OF N. SHILOH DR. The property is split zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and CS, COMMUNITY SERVICES and contains approximately 11.73 acres. The request is for a multi-family development with 177 units and associated parking.

RECOMMENDATION:

Staff recommends approval of **LSD-2023-0004** with conditions.

RECOMMENDED MOTION: *"I move to approve **LSD-2023-0004**, determining:*

- *In favor of recommended right-of-way dedication;*
- *In favor of recommended street improvements;*
- *In favor of a variance to §166.08(E)(b): Block Layout/Connectivity;*
- *Denial of a variance to §166.23(C): Site Development Standards;*
- *In favor of a variance to §168.10(U): Provisions For Flood Hazard Reduction; and*
- *All other conditions as recommended by staff."*

BACKGROUND:

The subject property is located south of W. Mount Comfort Road and west of I-49, where N. Shiloh Drive dead-ends. The property is split zoned RMF-24, Residential Multi-Family, Twenty-Four Units Per Acre and CS, Community Services. A portion of the site totaling 9.11 acres was rezoned from I-1, Heavy Commercial and Light Industrial to CS by City Council on February 15, 2022. The undeveloped site totals approximately 11.73 acres and is covered by vegetation throughout. A branch of the Hamestring Creek runs through the center of the property and roughly 22% of the site lies within a floodplain. Surrounding land uses and zoning are depicted in *Table 1*.

**Table 1:
Surrounding Land Use and Zoning**

Direction	Land Use	Zoning
North	Two-Family Dwellings/Offices	I-1, Heavy Commercial and Light Industrial; RMF-24, Residential Multi-Family – 24 Units per Acre
South	Natural Area	R-A, Residential-Agricultural
East	I-49	N/A
West	Duplexes/Natural Area	RMF-24, Residential Multi-Family – 24 Units per Acre

Proposal: The applicant requests Large Scale Development approval to develop the subject property with a 177-unit multi-family development. The proposed development is composed of four structures with studio, one-, two-, and three-bedroom units and associated parking. Three variances to the Unified Development Code were requested with the application as described below:

- **§166.08(E)(b): Block Layout/Connectivity.** The applicant has requested a variance from a requirement for street intersections every 1,320 feet along a Neighborhood Link Street.
 - *Staff recommendation: Staff is supportive of this variance, finding that topographical challenges and the presence of a tributary of the Hamestring Creek present a hardship inhibiting a feasible intersection to the east or west. The applicant proposes to extend N. Shiloh Drive roughly 950 feet to the south which would create an approximately 1,290-foot block length on the west side of the extension and over 3,000 feet on the east. A street connection would require an expansive crossing and realignment of the creek since the creek centerline does not cross perpendicular to the proposed street extension. The applicant also evaluated the site for pedestrian connectivity to demonstrate an intent to meet the spirit and intent of the ordinance and had similar findings. Staff finds the existing site condition constitutes a hardship justifying approval of the variance.*
- **§166.23(C)(4): Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. The entry shall connect unobstructed to the public sidewalk where it exists. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet before connecting directly to the public sidewalk.** The applicant has requested a variance from this requirement for proposed buildings 1, 2, and 4. The comment response letter suggests the variance request will keep the structures from encroaching into an existing utility easement and avoid locating pedestrian crossings across a 36-inch water main where grading and fill is generally not allowed.
 - *Staff recommendation: Staff recommends denial of the variance. In considering the request staff finds only the requirement for an entry on the principal façade will apply since a public sidewalk is not proposed along the west side of N. Shiloh Drive. Ground floor entrances along streets promote a welcoming and inviting atmosphere. When supplemented with pedestrian connections and prominent architectural features, entries create aesthetically pleasing street scenes which enhance public appearances and support economic vitality. Entries and public connections to the sidewalk also activate the use of the front yard area and put eyes on the street, creating better interaction between private and public spaces. Staff finds the absence of a doorway negates stated purposes of the ordinance to create appealing streetscapes and compose attractive residential facades. Staff acknowledges, though, the benefit of an entry is lessened given that no sidewalk is recommended or proposed along the west side of N. Shiloh Drive. The applicant*

instead proposes landscaping along the principal façades. On the balance of considerations, staff recommends denial of the variance.

- **§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 in certain locations resulting from the construction of a planned extension to N. Shiloh Drive.
 - *Staff recommendation: Staff supports the variance. This request aligns with the provisions of UDC §168.12 which allows for stream crossings, including roadways, when the City Engineer determines there is no practical and feasible alternative. Increases to stormwater velocities are contained entirely on the subject property and the highest proposed velocity will remain below what is considered erosive. The City Engineer determined no feasible alternative has been requested to cross the Middle Fork of Hamestring Creek for the extension of N. Shiloh Drive, which is indicated as a planned Neighborhood Link Street on the 2040 Master Street Plan.*

Right-of-Way to be Dedicated: The subject property has frontage along a planned extension of N. Shiloh Drive which is classified as a Neighborhood Link Street. Neighborhood Link streets typically require 67 feet of right-of-way from the centerline of the road. Staff recommends right-of-way dedication in the amount of 58 feet from-centerline. The less than typical dedication of right-of-way is intended to accommodate recommended street improvements including a planned trail connection along the east side of the street while allowing for reduced grading and impervious footprint on the west. No right-of-way dedication is recommended along the W. Sycamore Street paper right-of-way near the south boundary.

Street Improvements: Staff recommends N. Shiloh Drive is constructed with a two-foot frontage zone, 12-foot trail and 10-foot greenspace on the east side of the street, two drive lanes totaling 19-feet in width, 1.5-foot curb and gutter, and a 12-foot greenspace along the west side of the street. The 12-foot greenspace is intended to accommodate space for a six-foot greenspace and six-foot sidewalk should it be built in the future.

Access Management/Connectivity: Staff determined that the project meets access and connectivity requirements, except for the requested variance for block length. Four driveways are proposed along N. Shiloh Drive. N. Shiloh Drive is classified as a Neighborhood Link Street which requires a separation distance of 100 feet. All driveways meet access management standards.

Design Standards: As a multi-family residential development, this proposal is subject to Unified Development Code §166.23, Urban Residential Design Standards. Staff determined that the project is in partial compliance with the regulations. The proposed development includes architectural features on the principal façade of structures, vehicular circulation, and screening. The applicant submitted a variance to relieve a requirement for ground floor entries facing the public street to have a primary pedestrian entry.

Water and Sewer System: Public water and sanitary sewer extensions are proposed throughout. Approximately 1,541 linear feet of eight-inch water mains, 247 linear feet of six-inch fire lines, and 614 linear feet of eight-inch sanitary sewer mains are proposed to serve the development. Included in the attachments is a memo from the Utilities Engineer regarding a 36-inch water main traversing the west side of the proposed extension to N. Shiloh Drive. Engineering Staff supports only the minimum necessary fill to connect two driveways over the associated easement.

Parkland dedication or fee in-lieu: This proposal was discussed by the Parks and Recreation Advisory Board (PRAB) at their September 7, 2022 meeting. PRAB recommended a combination of parkland dedication and fee in-lieu for this development. Dedication of 1.72 acres and fees in the amount of \$86,632 based on a total of 177 multi-family residential units is recommended. The final amount of dedication and fee in-lieu needed to satisfy parkland dedication requirements will be determined, and all fees must be paid, prior to the issuance of any building permits.

Tree Preservation:

Canopy minimum requirement: 20%

Existing canopy: 81.4%

Preserved canopy: 20.1%

Mitigation required: zero two-inch caliper trees

Public Comment: Staff has received public comment opposing the development. A neighbor spoke at the Subdivision Committee meeting on March 30th suggesting the development would exacerbate flooding and identified issues with proposed building heights, the singular access to the site, and removal of wildlife habitat. They also requested a vegetative buffer be maintained with the residential properties to the west. Another member of the public commented in opposition to the requested variance to the Provisions for Flood Hazard Reduction. They opposed allowing increases to flood flows, heights, and/or channel velocities on adjacent properties because it would increase flood risk. The individual also complained that they had not received notification specific to the proposed changes to the base flood elevation.

RECOMMENDATION: Staff recommends approval of **LSD-2023-0004** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of right-of-way dedication. *Staff recommends right-of-way dedication in the amount of 58 feet from the centerline of the proposed extension of N. Shiloh Drive.*

Subdivision Committee recommended in favor of a previous recommendation of 65 feet from the centerline of the proposed extension of N. Shiloh Dr.

2. Planning Commission determination of street improvements. *Staff recommends N. Shiloh Drive is constructed with a 12-foot trail and 10-foot greenspace on the east side of the street, two drive lanes totaling 19-feet in width, 1.5-foot curb and gutter, and a 12-foot greenspace along the west side of the street;*

Subdivision Committee recommended in favor of a previous recommendation including 12-foot trail and 10-foot greenspace on the east side of the street, a 30-foot paved width, curb and gutter, and six-foot greenspace and sidewalk along the west side of the street.

3. **Subdivision Committee recommendation of a variance to UDC §166.08(E)(b): Block Layout/Connectivity.** *Staff recommends approval of the variance for the reasons stated above;*

Subdivision Committee recommended in favor.

4. **Subdivision Committee recommendation of a variance to UDC §166.23(C): Site Development Standards.** *Staff recommends denial of the variance for the reasons stated above;*

Subdivision Committee did not make a recommendation.

5. **Subdivision Committee recommendation of a variance to UDC §168.10(U): Provisions For Flood Hazard Reduction.** *Staff recommends approval of the variance for the reasons stated above;*

Subdivision Committee recommended in favor.

6. All comments from Planning staff must be addressed including:
- Vacation of easements where structures and the pool are proposed is subject to separate approval. No portion of any building or pool shall be built within a public utility easement.
 - Parking table shall be revised to include 12 studio apartments into the overall bedroom calculation.
 - Please show the bay windows on the building footprints where they are proposed.
 - If the amenity area on the floor plan for Building 1 is intended to be used for commercial leasing purposes, it will be subject to UDC 166.24 & 166.25.
 - Revise the sidewalk parallel to southernmost driveway on the west side to be as close to the driveway as possible so that the amount of fill in the easement and over the 36" waterline is kept to the minimum necessary to achieve this crossing.
7. Vacation of an existing 25-foot utility easement is subject to separate application and approval. The easement shall be vacated prior to building permit approval.
8. Parkland dedication of 1.72 acres and fees in the amount of \$86,632 based on a total of 177 multi-family residential units;
9. Streetlights must be installed at intersections and at a linear spacing distance of no more than 300 feet;
10. 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 CS zoning district; alternatively, a Board of Adjustment variance shall be granted;
11. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

12. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
13. 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);

14. 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;
15. 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;
16. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
17. 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;
18. 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;
19. 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;
20. Large scale development shall be valid for one calendar year;
21. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
22. 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
23. Prior to the issuance of a building permit the following is required:
 - f. Grading and drainage permits;
 - g. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - h. Exterior lighting package must be provided to the Planning Division;
 - i. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - j. Project Disk with all final revisions; and
 - k. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 10, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Engineering Comments
- Water/Sewer/Meter Comments
- Urban Forestry Comments
- Request Letter
- Variance Request Letter
- Site Plan
- Elevations
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Ryan Umberger, Senior Planner

FROM: Melissa Boyd, Staff Engineer

DATE: April 5, 2023

SUBJECT: Planning Commission Engineering Comments for
LSD-2023-0004 JUNCTION AT SHILOH

Water: Approximately 1,541 LF of 8" water main and 247 LF of 6" fire line extensions are proposed with this development.

Sewer: Approximately 614 LF of 8" sanitary sewer main extension is proposed with this development.

Natural Features: The Middle Fork of Hamestring Creek, a protected stream, runs east west through the site. This area, as well as the southwest corner of the site lies within a FEMA Zone AE floodplain.

A variance is being requested to UDC §168.10(U)(1) to allow for increases in stream velocities. Engineering staff supports this variance pending a revised flood study as long as the velocity increases will still be contained entirely on the subject property and the proposed velocities remain below what is considered erosive (6 fps).

A City Engineer no feasible alternative determination has been requested to cross the Middle Fork of Hamestring Creek for the extension of N. Shiloh Drive, which is indicated as a planned Neighborhood Link street on the current Master Street Plan. This request is in line with the provisions of UDC §168.12, allowing for stream crossings, including roadways, when the City Engineer determines there is no practical and feasible alternative.

GIS indicates the presence of hydric soils on this site. The applicant has provided a wetland delineation study outlining areas on site that are likely regulatory and jurisdictional to the U.S. Army Corps of Engineers. Two potential wetland areas were identified but were concluded in the report's findings to not meet hydric soil indicators and are likely not jurisdictional. 1,707 LF of tributaries were found and determined to be jurisdictional under Section 404 of the Clean Water Act. Any required permits for all work within jurisdictional areas are required to be obtained from the U.S. Army Corps of Engineers prior to the grading permit being issued.

Drainage: This development is required to meet the four Minimum Standards of the Drainage Criteria Manual. Water quality requirements are proposed to be met using permeable paver systems in the three parking lots on site. Channel protection requirements do not apply as the flows leaving all ponds are less than 2.0 cfs. Overbank flood protection and extreme flood protection requirements will be met by decreasing peak flows post-development below the existing peak flows.

Plan Comments:

1. Update pipe table to reflect linear footages that are currently proposed for water, fire, and sewer lines.
2. Revise sidewalk parallel to southernmost driveway on the east side to be as close to the driveway as possible so that the amount of fill in the easement and over the 36" waterline is kept to the minimum necessary to achieve this crossing.

Standard Comments:

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



TO: Melissa Boyd, Staff Engineer

FROM: Corey Granderson, Utilities Engineer

DATE: April 4, 2023

SUBJECT: Junction at Shiloh Proposed Development, Impacts to 36-inch Diameter Water Transmission Main

Melissa,

Thank you for including me in the review of this development. As you know one of our largest diameter critical water mains traverses through this site, namely a 36-inch diameter pre-stressed concrete cylinder pipe constructed in the mid-1990's.

When these lines have leaks or catastrophic failures, our crews must respond quickly in order to isolate and shut off water to the line, then excavate and dewater the area to replace a section of this line. We have performed this repair in several locations over the years and have learned from experience that the deeper the line is, the more difficult, time-consuming, and unsafe the repair becomes.

Addition of fill over utility easements is prohibited by the City's Unified Development Code, as outlined in Section 169.06. However, the City routinely approves cut and fill over both water and sewer lines throughout Fayetteville to accommodate growth and development. With every project, detailed reviews are performed to ensure the cut or fill is appropriate regarding integrity of the utility as well as future maintenance implications.

As line diameter increases, the impacts of fill over a line also increase greatly. For this reason, the Utility Department does not support any fill over the easement of this 36-inch waterline except for the minimum necessary to connect two driveways as shown in the most recent plans. This will allow the property to be developed while having the least possible impact on our ability to maintain this critical waterline.

Corey W. Granderson, P.E.
Utilities Engineer
City of Fayetteville, Arkansas
cgranderson@fayetteville-ar.gov
479.444.3452



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Elizabeth Topping, E.I., Crafton Tull

From: Melissa M. Evans, Urban Forestry

CC: Ryan Umberger, Senior Planner

Meeting Date: April 10, 2023

Subject: LSD-2023-0004: The Junction at Shiloh: South of N. Shiloh Dr., 363

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

2. Tree Preservation Calculations

Tree Preservation Calculations Square Feet		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	331,607	100%
Zoning Designation * Select Below with drop down arrow		
CS, Community Services	66,321	20%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	66,321	20.0%
Existing Tree Canopy * Minus Right of Way and Easements	269,982	81.4%
Tree Canopy Preserved	66,552	20.1%
Tree Canopy Removed *On Site	203,430	61.3%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	203,430	61.3%
Removed Below Minimum	0	
Mitigation Requirements	0	

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

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

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes
d. Existing Topography and Proposed Grading	Yes	Yes	Yes
e. Soil Types	Yes	Yes	Yes
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	Yes	Yes	Yes
i. All Existing and Proposed Utilities	Yes	Yes	Yes
j. All Existing and Proposed Utility Easements and ROW's	Yes	Yes	Yes
k. All Streams (with approximate center line)	No	Yes	Yes
l. Floodplains and floodways	No	Yes	Yes
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan (if required)	N/A	N/A	N/A
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes

Tree Protection Methods

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

6. Site Analysis Report (if required)		Yes	No	N/A
UDC Chapter 167.04H4				
a.	Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b.	Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.			X
7. Review Status		Tech Plat	Subdivision Committee	Planning Commission
	Conditionally Approved	03-13-23	3-30-23	04-04-23
	Approved			
	Tabled	02-28-23		
	Denied			

Appeal Process: A final administrative determination by the Urban Forester may be appealed in accordance with Chapter 155 of the Unified Development Code.

Comments	
1.	Address items above marked “No” and all Redlines provided.
2.	Can you change the building wall to a stem wall at the SW corner of the site to preserve Tree #825 which is a large Oak tree?
3.	Please remove all the Pear trees possible. They will have to be mitigated, but at the low priority.
4.	Thank you for providing Tree Preservation Easement/s for the preserved tree areas per Ch. 167.



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Elizabeth Topping, E.I., Crafton Tull

From: Melissa M. Evans, Urban Forestry

CC: Ryan Umberger, Senior Planner

Meeting Date: April 10, 2023

Subject: LSD-2023-0004: The Junction at Shiloh: South of N. Shiloh Dr., 363

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

c.	Tree Island (8' min. width, 18.7' min length OR 150 square feet) <i>UDC Chapter 177.04C</i>		X	
d.	Placement of Trees (either side at entrances and exits) <i>UDC Chapter 177.04C2</i>		X	
3. Perimeter Landscaping Requirements		Yes	No	N/A
a.	Front Property Line (15' wide landscape) and five on sides. <i>UDC Chapter 177.04D2a</i>	X		
b.	Side and Rear Property Lines (5' Wide Landscape Area) <i>UDC Chapter 177D1</i>	Yes		
c.	Shade trees planted on south and west sides of parking lots <i>UDC Chapter 177.04D2e</i>	X		
d.	Screening of parking lot from adjacent residential properties and the street.	X		
4. Street Tree Planting Requirements		Yes	No	N/A
a.	Residential Subdivisions 1 Large Shade Species Tree per Lot <i>UDC Chapter 177.05B1a</i>			X
b.	Non-Residential Subdivisions 1 Large Species Shade Tree every 30' (planted in greenspace) <i>UDC Chapter 177.05B2a</i>			X
c.	Urban Tree Well – Urban Streetscapes Trees every 30' (8' sidewalk) <i>UDC Chapter 177.05B3a-f</i>			X
d.	Structured Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan <i>UDC Chapter 177.05B3a-f</i>			X
e.	Residential Subdivisions Timing of planting indicated on plans <i>UDC Chapter 177.05A4</i>			X
f.	Residential Subdivisions Written description for method of tracking planting <i>UDC Chapter 177.05A4e</i>			X

5. Landscape Requirement Totals	Amount
Mitigation Trees	0 required
Parking Lot Trees	20
Street Trees	30
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	03-13-23	03-30-23	04-04-23
Approved			
Tabled	02-28-23		
Denied			

Appeal Process: A final administrative determination by the Urban Forester may be appealed in accordance with Chapter 155 of the Unified Development Code.

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.



March 3, 2023

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

RE: The Junction at Shiloh – Large Scale Development Plan
CTA Project #22101501

Planning Staff,

Please find attached our application for a Large Scale Development Plan for a new multi-family development located along N. Shiloh Drive and Sycamore Street.

Our proposal is the development of 4 apartment buildings with a total of 177 units on an 11.7 acre site. The current zoning of this tract is C-S, Community Services and RMF-24, Residential Multi-Family (24 units/acre). Within our proposed development we have various parking options provided with a total stall count of 233 vehicular spaces, 9 motorcycle/scooter spaces, and 8 bike racks. The Parks and Recreation Advisory Board approved the dedication of 1.7 acres of parkland in combination of a fee-in-lieu for the remaining required land on September 7, 2022.

Within the package you will find our application, the plan set, drainage report, architectural elevations, fire review sheets, and the application fee. Please let us know if you need any additional information. We look forward to the review and response from the City of Fayetteville.

Sincerely,

Elizabeth Topping, E.I.
Project Engineer



March 21, 2023

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

RE: The Junction at Shiloh
CTA Job No. 22101501

To whom it may concern,

We are submitting a large-scale development plan south of N. Shiloh Drive for your consideration. The Junction at Shiloh is a multi-family development with four buildings with associated parking and other infrastructure. N. Shiloh Drive will be extended over the Middle Fork of Hamestring Creek with this project. We are requesting three variances from the City of Fayetteville's Unified Development Code.

1. Variance from Section 166.08 that requires an intersection on both sides of a neighborhood link every 1,320 feet.

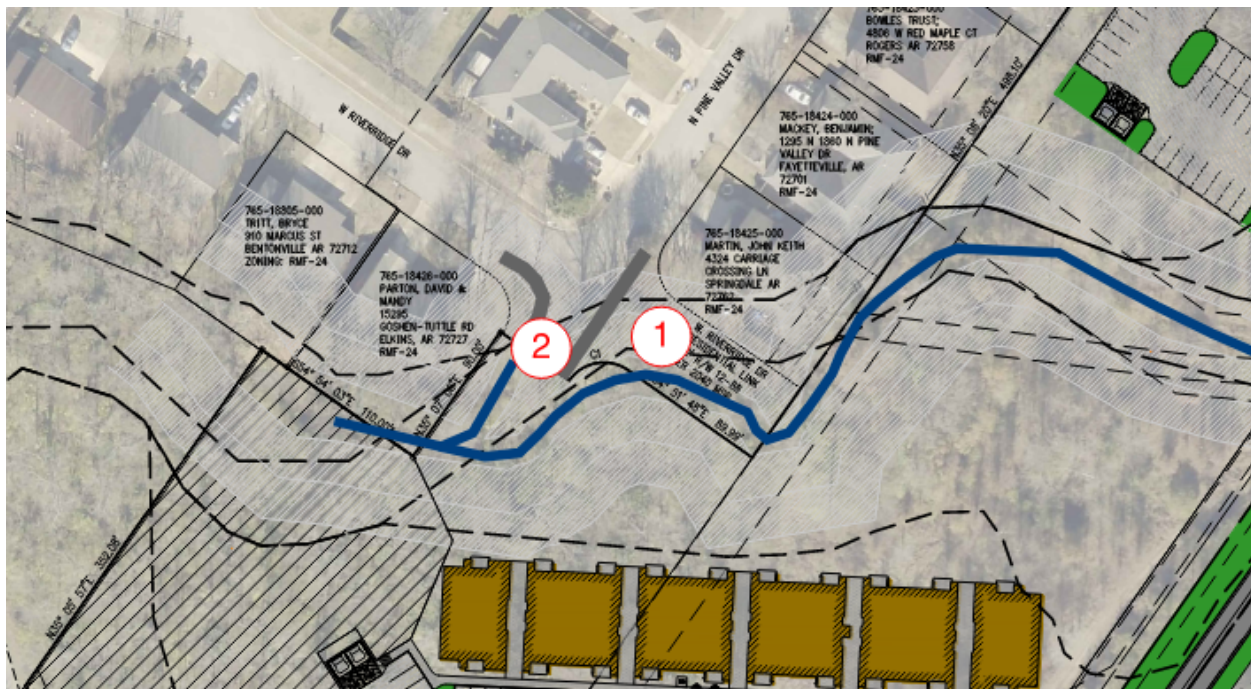
Our project is proposing to build N. Shiloh Drive south 950' from the existing stubout to the edge of the subject property. The Hamestring Trail is at the south end of the property and currently dead ends at the R/W for I-49. The extension of N. Shiloh Drive will include a 12' trail section that will allow for pedestrian connectivity from the existing trail through the property and north to adjacent developments. This connection and continuation of the trail aligns with the spirit of the connectivity requirements. Right of way has been dedicated for Sycamore Street to be built in the future to connect to N. Shiloh Drive in this area. Further street intersections are not feasible within the subject property due to being bordered by an interstate and the expansive floodplain/streamside protection zones. We are asking for a variance from having a street intersection to the east due to the neighboring roadway being I-49. A single street cannot connect to I-49 without a larger interchange. The Porter Rd interchange is just under 1000' to the north and a second interchange would not be permitted with another that close. This makes a street connection to the east of our property unachievable.

The west side of Shiloh Drive intersects with Point West Drive 1,290 feet north of the property line, so we are meeting this requirement for the west side of the street. At the Tech Plat Meeting on March 1, 2023, we received comments from staff that requested a pedestrian or roadway connection to W. Riverridge Drive adjacent to our site. Unfortunately, any kind of infrastructure connection to the west is not feasible due to the geometry of Middle Fork of Hamestring Creek and its resulting hydraulic nature and streamside protection zones. The existing subdivision to the west has two stub streets for possible connections (#1 and #2 in the image below). A street or pedestrian



connection here would require not only an expansive crossing but a realignment of the creek since the creek centerline does not cross perpendicular to the street but rather runs parallel with the alignment of the future street (see the blue line in the image below). This would be very costly, require a Nationwide Corps Permit and would impact the existing streamside protection zones.

Apart from the hardships previously outlined, there are existing residences directly adjacent to these street stubouts. A connection would cause an increase in base flood elevations and adversely impact flooding concerns. A street intersection west of N. Shiloh Drive is unfeasible due to the winding nature of the Middle Fork of Hamestring Creek and its proximity to adjacent residences.



2. Variance from Section 166.23 that requires ground floor units adjacent to a public street to have primary pedestrian entry that is visible from the street. The entry shall connect unobstructed to the public sidewalk where it exists. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet before connecting directly to the public sidewalk.

There are a couple factors that contribute to the need for a variance for the buildings on the west side of Shiloh Drive. First, there is an existing 36" water transmission line within an easement along the west side of Shiloh Drive. The Utility Director has confirmed that fill cannot be placed over the waterline or even within the easement to protect the utility and any future maintenance efforts. Any sidewalk connections to these sides of the building per the ordinance would place fill in the easement/over the waterline. Second, the typical street section recommended by staff does not show a sidewalk on the west



side of Shiloh Drive. The recommended typical section was designed to eliminate fill over the waterline/easement as previously discussed. Therefore, any pedestrian entry directly adjacent to the street would not have a public sidewalk to connect to. A primary pedestrian entry without connection to sidewalk is not functional and does not promote a pedestrian friendly corridor. In lieu of providing the pedestrian entries, we have shown additional architectural features and additional landscaping on the street sides of Buildings 1, 2, and 4. We believe these added items, both on the building and adjacent to the entrances of the development, enhance the view from the street and activate the pedestrian friendly routes from the right-of-way meeting the intent of the code.



3. Variance from Section 168.10(U) that states any development in a flood hazard area should “not increase flood flows, flood heights, or flood channel velocities on the subject property or any property upstream or downstream”.

The City of Fayetteville’s Master Street Plan shows an extension of N. Shiloh Drive south from the existing stubout over Middle Fork of Hamestring Creek. The HECRAS model of N. Shiloh Drive shows an increase in velocities. The velocities are increased by 0.04 fps, 0.16 fps, 0.62 fps, 0.01 fps, and 0.02 fps at cross sections within the development. The highest velocity onsite is 3.88 fps, which is not considered erosive (6 fps). The slight increases in velocity will not cause adverse impacts to the streambanks or floodplain. The bottomless culvert and overflow culvert crossing has been designed to reduce impacts to the existing channel and adjacent streamside protection zones. The entire area is low lying with little slope and dense vegetation. This vegetation will remain throughout and after construction and will aid in keeping the same flow conditions along the banks and floodplain regardless of the slight increase in velocity.



Crafton Tull

901 N 47th Street, Suite 400
Rogers, AR 72756

479.636.4838 (ph)
479.631.6224 (fax)

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

Sincerely,

Ali Karr, P.E.
Project Manager



NOTE:
THIS CHARACTER ELEVATION IMAGE IS
PROVIDED FOR DESIGN INSPIRATION
REFERENCE ONLY, AND SERVES AS A
GENERAL EXAMPLE OF MATERIAL PALETTE
DESIGN INTENT.

MATERIAL LEGEND			
	ARCHITECTURAL SHINGLE ROOF		SIDING 4 ENGINEERED LAP SIDING
	SIDING 1 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		SIDING 5 ENGINEERED VERTICAL BOARD AND BATTEN SIDING
	SIDING 2 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		BRICK VENEER MASONRY
	SIDING 3 ENGINEERED LAP SIDING		ENGINEERED TRIM 11-1/4" AT BANDING 9-1/2" VERTICAL OUTSIDE/INSIDE TRIM



2 36 UNIT BUILDING - NORTH EXTERIOR ELEVATION AT BUILDING #2
332' ± 1'-0"



1 36 UNIT BUILDING - SOUTH EXTERIOR ELEVATION AT BUILDING #2
332' ± 1'-0"

MATERIAL LEGEND			
	ARCHITECTURAL SHINGLE ROOF		SIDING 4 ENGINEERED LAP SIDING
	SIDING 1 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		SIDING 5 ENGINEERED VERTICAL BOARD AND BATTEN SIDING
	SIDING 2 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		BRICK VENEER MASONRY
	SIDING 3 ENGINEERED LAP SIDING		ENGINEERED TRIM 1 1/4" AT BANDING 3/4" VERTICAL OUTSIDE/INSIDE TRIM



2 EAST EXTERIOR ELEVATION AT BUILDING #2 (36 UNIT)
1/8" = 1'-0"



1 WEST EXTERIOR ELEVATION AT BUILDING #2 (36 UNIT)
1/8" = 1'-0"

MATERIAL LEGEND			
	ARCHITECTURAL SHINGLE ROOF		SIDING 4 ENGINEERED LAP SIDING
	SIDING 1 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		SIDING 5 ENGINEERED VERTICAL BOARD AND BATTEN SIDING
	SIDING 2 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		BRICK VENEER MASONRY
	SIDING 3 ENGINEERED LAP SIDING		ENGINEERED TRIM 1 1/4" AT BANDING 3 1/2" VERTICAL OUTSIDE TRIM

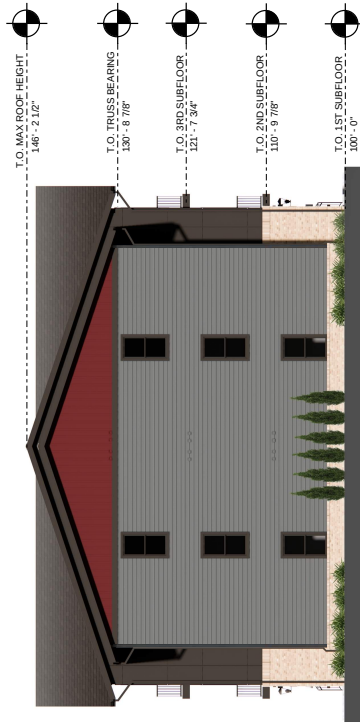
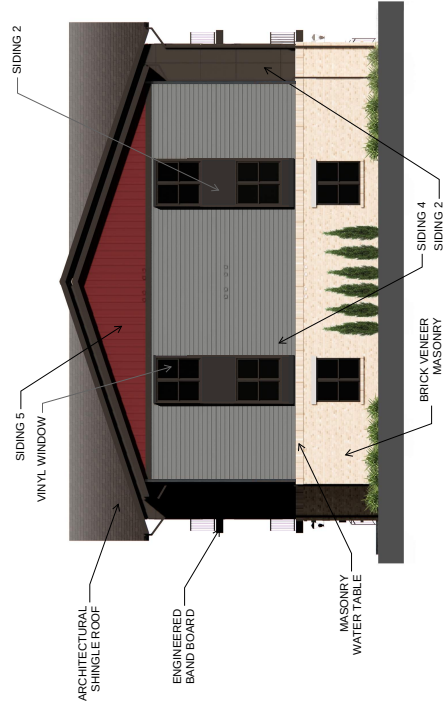


2 36 UNIT BUILDING - SOUTHWEST EXTERIOR ELEVATION AT BUILDING #4
332' ± 1'-0"



1 36 UNIT BUILDING - NORTHEAST EXTERIOR ELEVATION AT BUILDING #4
332' ± 1'-0"

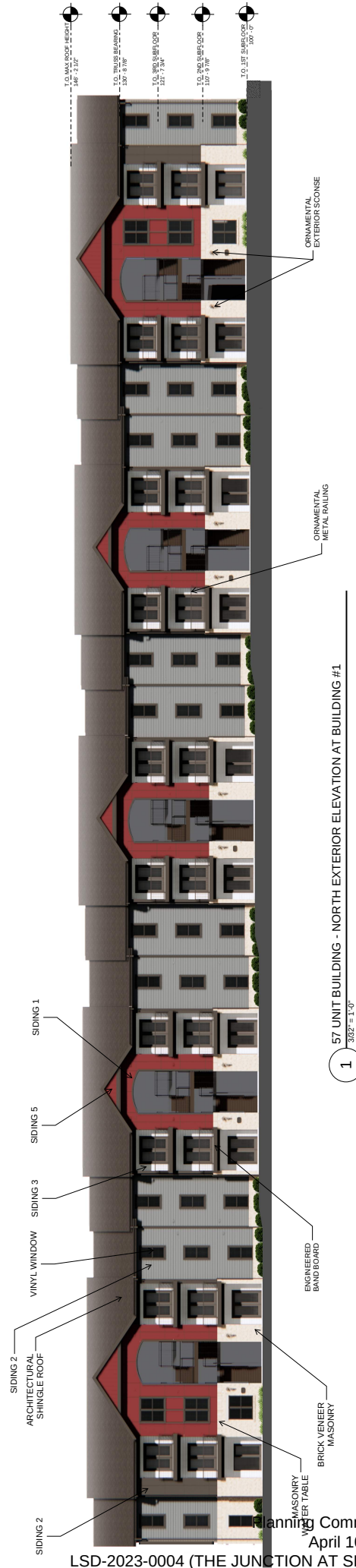
MATERIAL LEGEND			
	ARCHITECTURAL SHINGLE ROOF		SIDING 4 ENGINEERED LAP SIDING
	SIDING 1 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		SIDING 5 ENGINEERED VERTICAL BOARD AND BATTEN SIDING
	SIDING 2 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		BRICK VENEER MASONRY
	SIDING 3 ENGINEERED LAP SIDING		ENGINEERED TRIM 11-1/4" AT BANDING 9-1/2" VERTICAL OUTSIDE/INSIDE TRIM



MATERIAL LEGEND			
	ARCHITECTURAL SHINGLE ROOF		SIDING 4
	SIDING 1		ENGINEERED LAP SIDING
	SIDING 2		ENGINEERED PANEL SIDING W/ REVEAL JOINTS
	SIDING 3		BRICK VENEER MASONRY
	ENGINEERED LAP SIDING		ENGINEERED TRIM
			11-1/4\"/>
			9-1/2\"/>



2 57 UNIT BUILDING - SOUTH EXTERIOR ELEVATION AT BUILDING #1
3/32" = 1'-0"



1 57 UNIT BUILDING - NORTH EXTERIOR ELEVATION AT BUILDING #1
3/32" = 1'-0"



ARCHITECTURAL SHINGLE ROOF

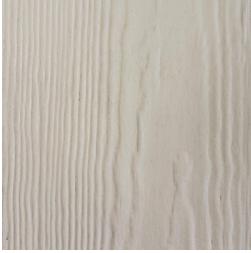


ORNAMENTAL RAILING

MATERIAL LEGEND			
	ARCHITECTURAL SHINGLE ROOF		SIDING 2 ENGINEERED LAP SIDING
	SIDING 1 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		SIDING 5 ENGINEERED VERTICAL BOARD AND BATTEN SIDING
	SIDING 2 ENGINEERED PANEL SIDING W/ REVEAL JOINTS		BRICK VENEER MASONRY
	SIDING 3 ENGINEERED LAP SIDING		ENGINEERED TRIM 1 1/4" AT BANDING 3/4" VERTICAL OUTSIDE/INSIDE TRIM



GUTTERS & METAL COIL



SIDING 3



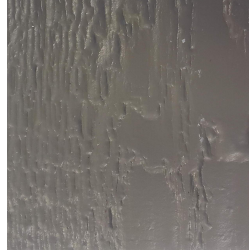
MASONRY



BAND BOARD & TRIM



SIDING 2



SIDING 4



SIDING 1 & 5

Umberger, Ryan

From: Bryce Tritt <brycetritt@gmail.com>
Sent: Monday, April 3, 2023 9:39 AM
To: Planning Shared
Cc: Umberger, Ryan
Subject: Re: DDB Investments 1911 N Shiloh Development
Attachments: IMG_4153.jpg

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

Thank, Mirinda,

Dear Planning Commission Members,

I am writing to express my deep concerns regarding the request for variance from Section 168.10(U) for the proposed development in the flood hazard area. As an adjacent property owner, I have not been notified or consulted about the potential increase in flood risk that this development could bring to my property.

In particular, I am alarmed by the possibility of the proposed development increasing flood flows, flood heights, or flood channel velocities on my property or any property upstream or downstream, as prohibited by Section 168.10(U). In the 8 years that I have owned 2843/2845 W Riverridge Drive, Hamestring Creek has reached the 100-year flood mark twice. Please see the attached picture for reference from the April 2017 event. I fear that narrowing the creek, removing the low-lying area and dense vegetation, and increasing the velocity will further exacerbate the flood risk and potentially beach my duplex in the next flood event.

I urge the Planning Commission to carefully consider the potential impact of this development on the surrounding area, including the increased flood risk that could harm adjacent property owners like me. I also request that I be notified of any upcoming meetings or public hearings related to this proposal.

Thank you for your attention to this matter.

Best,

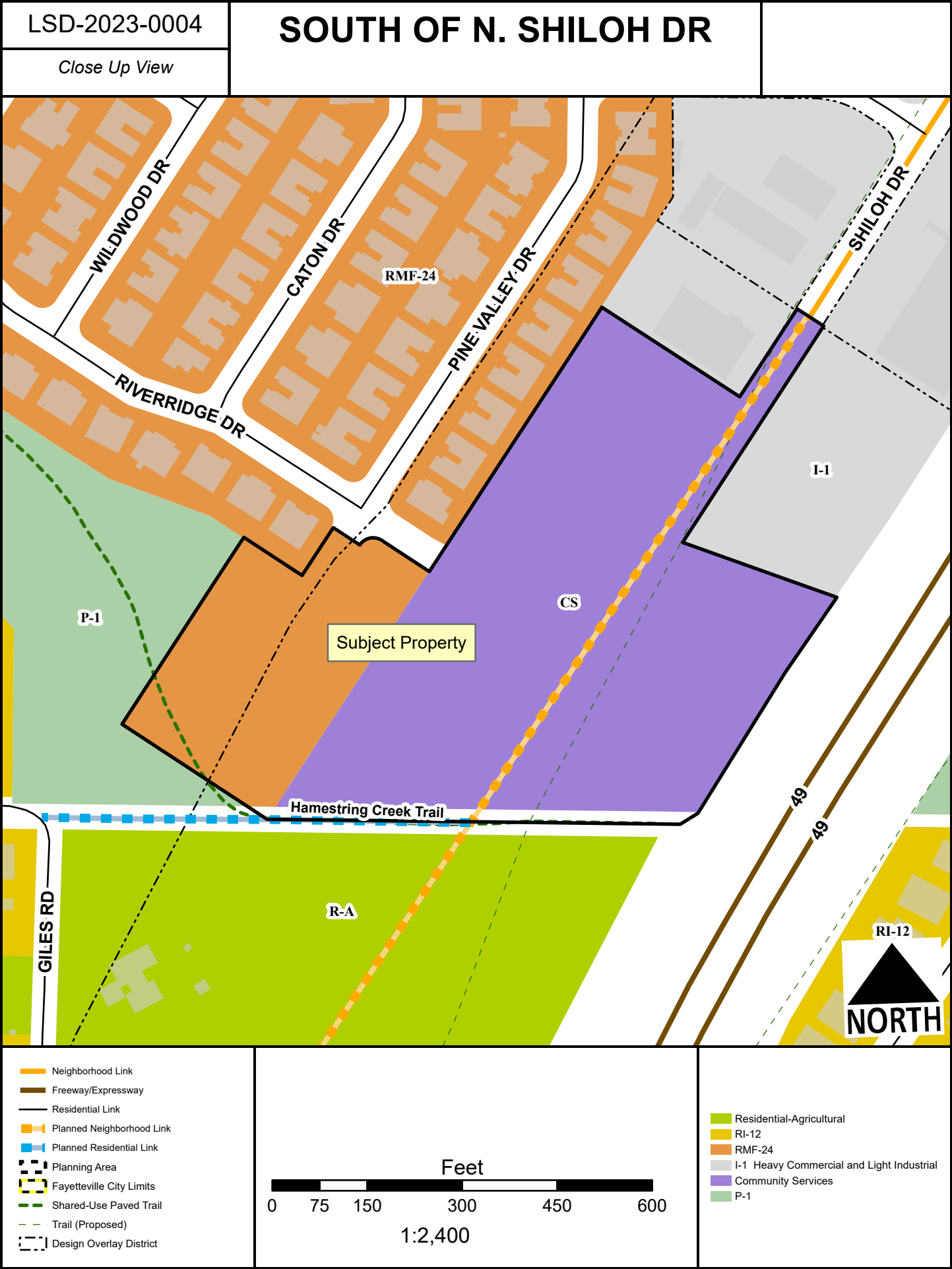
Bryce Tritt

2843/2845 W Riverridge Drive

On Mon, Apr 3, 2023 at 8:45 AM Planning Shared <planning@fayetteville-ar.gov> wrote:

Attached is the letter of intent. Let me know if you have any questions or need anything else.

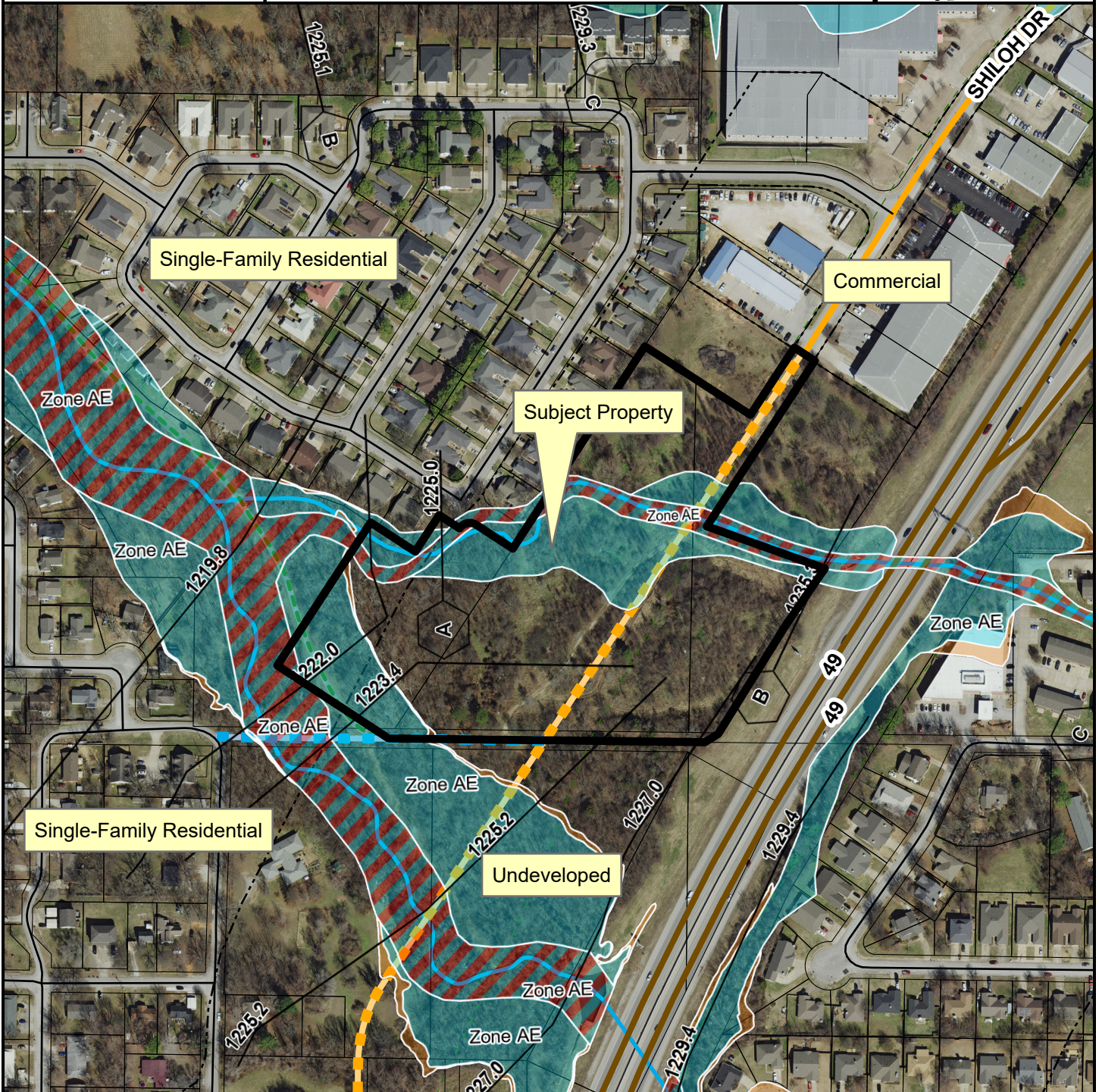
Thank you



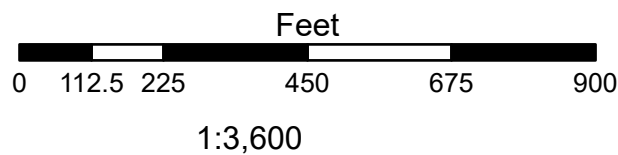
LSD-2023-0004

SOUTH OF N. SHILOH DR

Current Land Use

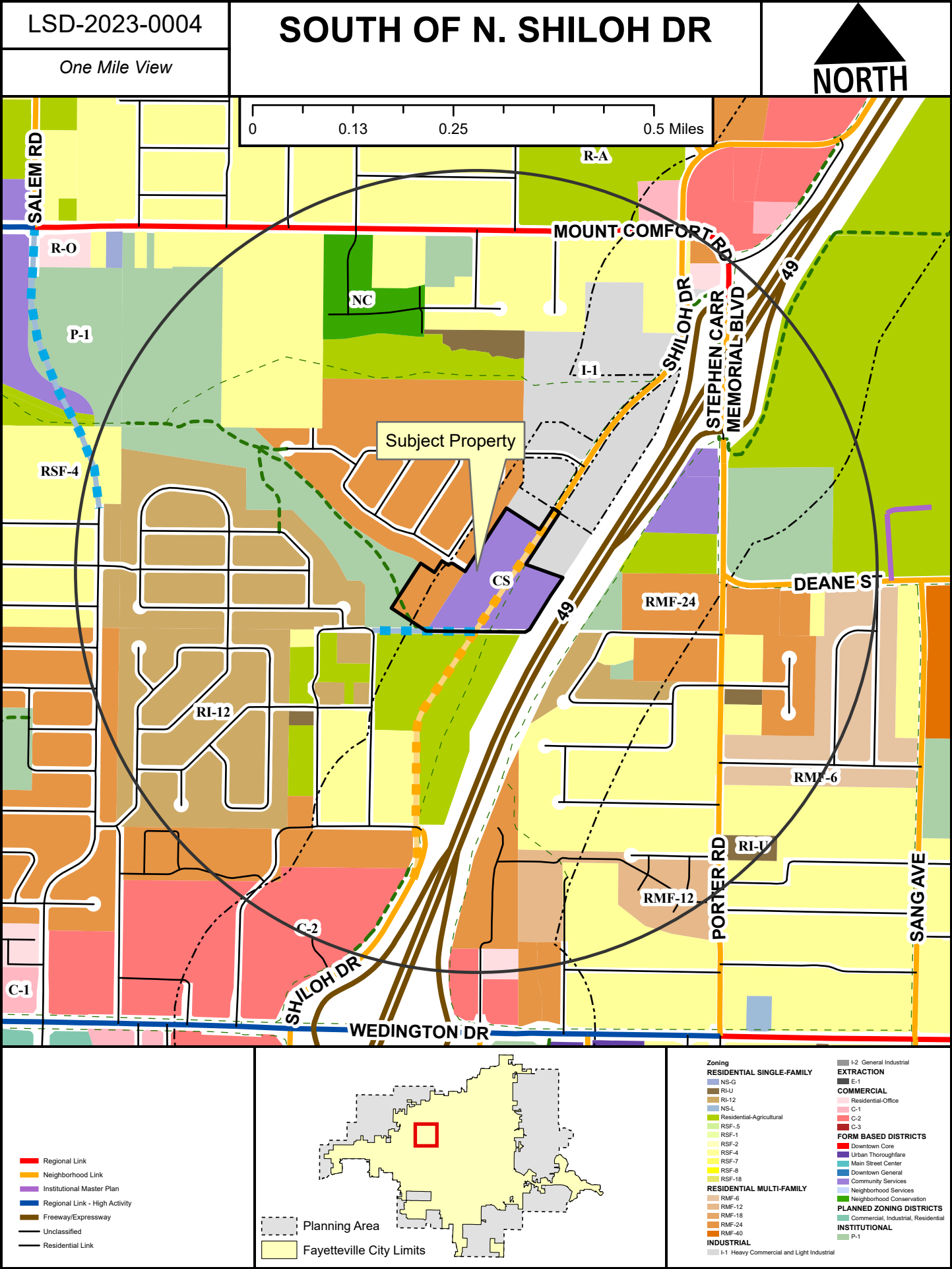


- Neighborhood Link
- Freeway/Expressway
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



Mirinda Hopkins

Development Coordinator

Planning Division

City of Fayetteville

479-575-8267

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



From: Bryce Tritt <brycetrutt@gmail.com>
Sent: Saturday, April 1, 2023 10:49 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: DDB Investments 1911 N Shiloh Development

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

Hi,

I received a notification in the mail about a proposed zoning change near a property I own, 2845 W Riverridge Dr. Can you direct me to the proposal materials?

Thanks,

Bryce

--

Bryce T. Tritt
479.970.7100 c

--

Bryce T. Tritt
479.970.7100 c



TO: City of Fayetteville Planning Commission

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

FROM: Alan Pugh, Staff Engineer

MEETING DATE: April 10, 2023

SUBJECT: **VAR-2023-0013: Variance (North End S Regency Drive; Brown; 530):**
Submitted by Bio X Design for property located on the north side of S Regency Drive and north of E Lawndale Dr, parcel 765-13117-510. The property is zoned R-A, Residential Agricultural and contains approximately 52.5 acres. The request is a variance from floodplain development requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0013**, based on the findings contained in this report.

RECOMMENDED MOTION:

"I move to approve **VAR-2023-0013** with conditions, determining:

- The proposed improvements are located outside of the defined floodway, and;
- The entire property is within a conservation easement, and;
- The extent of the cut/fill on the site is minor in nature given the size of the floodplain on the property and are being proposed to improve water quality from urban stormwater runoff.

BACKGROUND:

The subject property is located on the north end of S Regency Drive, directly north of the David Lyle Village Subdivision. The parcel in question is almost entirely encumbered by Zone AE floodplain and is within a conservation easement. The owner of the property has previously been approved to perform shore bird habitat restoration which is currently underway in another portion of the property.

Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Residential	R-A, P-1 and RSF-7, see attached project maps
South	Residential	
East	Residential, Agricultural	
West	Residential, Institutional	

Request: The applicant is requesting a variance from the requirement to provide a flood study as defined in Chapter 168.10 of the Unified Development Code (UDC) for the proposed prairie mounds and depressions.

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

DISCUSSION:

As stated, the subject property is almost entirely located within Zone AE as defined by FEMA Flood Insurance Rate Map Panel 01543C0240F dated May 16, 2008. As such, Chapter 168 of the UDC applies to the property. This chapter requires that obstructions, including fill, within the floodplain provide a full flood study showing the extent of the potential impacts to surrounding properties. This project proposes several small mounds and depressions that will mimic historic prairie mounds and natural features commonly found in flood prone areas. The mounds are proposed to be no more than one foot in height at the highest point and any fill in the floodplain offset by equal or larger size depressed areas. The intent is to provide slowing and treatment of urban stormwater runoff from the subdivision to the south of this property. Several large culverts have a direct discharge onto this property creating both erosion and trash issues for the owner. The proposed improvements are to help offset these impacts.

The intent of this portion of Chapter 168 of the UDC is to ensure that improvements do not negatively impact surrounding properties or increase stream velocities to the point they become erosive. Given the nature of the proposed improvements, the anticipated impact would be very minimal to either the base flood elevation or the stream velocities and no known flooding issues exist within this area. No known structure flooding occurs and therefore no additional danger to structures would be anticipated. There is no existing flood study available for the west Fork White River based on staff's inquiry to FEMA and any proposed flood study would have to be created without the benefit of an existing study to work from. The overall improvements are in keeping with the City's goals to improve water quality and conserve natural floodplain open space.

RECOMMENDATION: Staff recommends approval of **VAR-2023-0013** with the following conditions of approval:

Conditions of Approval:

1. *Applicant will obtain the appropriate grading permit with associated floodplain development review.*
2. *Extent of the improvements will be limited by the attached approved site/grading plan with the exception of the location of the mounds/depressions being able to be field modified as existing terrain allows. Any major modifications, as defined by staff, from the approved plan may be subject to additional reviews/variance requests.*
3. *No fill will be brought in from offsite to complete the project. It will be completed with onsite native material and any excess will be taken outside the floodplain.*

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 10, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

Section 156.03 Development Variances

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

(C) Consideration by the Planning Commission

(7) Floodplain variances shall only be issued if:

- (i) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property, which do not apply generally to other property in the same flood zone;

Staff feels that this property is unique in that it is within a conservation easement and the existing owner desires to reduce erosion and improve water quality with the proposed improvements. The improvements mimic natural features historically found in large floodplain areas within the City of Fayetteville.

- (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

The request is to meet FEMA's standard rather than the City of Fayetteville's higher standard for elevation of electrical outlets in the storage area in order to make the outlets accessible (approximately 5' from the ground rather than 7'). While this request seems reasonable to staff it is ultimately up to the planning commission to decide an undue hardship

- (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with the other provisions of the Code of Fayetteville.

While some BFE increase may be incurred, it is anticipated to be very minimal and is not anticipated to create a threat to public safety.

BUDGET/STAFF IMPACT:

None

Attachments:

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

Steven Patterson, Ph.D.
Bio x Design
PO Box 1293
Poteau, OK 74953

March 6, 2023

Sarah Sparkman, Chair
City of Fayetteville Planning Commission
113 W Mountain
Fayetteville, AR 72701

Subject: Variance Request for an Urban Stormwater BMP

Ms. Sparkman,

I write to request a variance from the requirements set forth in Chapter 168 of the City of Fayetteville Unified Development Code, specifically Section 168.10, Provisions for Flood Hazard Reduction.

The proposed project will construct an urban stormwater BMP that will improve water quality in the West Fork of the White River and hence in downstream waters including Beaver Lake. The proposed project will require a variance to allow construction.

Project Location

The project site is located east of and adjacent to Bayyari Park at the north end of Regency Drive, in Fayetteville, and adjacent to and north of the residential neighborhood there (Attachment 1).

Project Description

The project proposes to create a set of low mounds and swales, mimicking the topography of naturally occurring prairie mounds (Attachments 3 & 4). The recontoured landscape will be planted with native species of grass and wildflowers. The project will slow water running off from the residential neighborhood above it and remove nutrients, sediments, and other pollutants before the water reaches the West Fork.

The location and size of the mounds may vary depending on actual field conditions during construction but will be in the same pattern as shown in the conceptual plan with regard to the number of mounds, size, and height. Generally speaking, the mounds will raise the surface elevation where they are built approximately 1 foot. The mounds will be approximately 50 feet

in diameter, therefore appearing as gentle rises on the landscape. They will be constructed using the material excavated to create swales around them. There will be NO fill imported to the site and therefore no loss of flood capacity. We expect there will likely be some export of material from the site, in that case resulting in an increase in flood capacity.

Reasons for requesting variance:

1. Developing a flood model for the West Fork of the White River in the project area would be expensive, complex, and time-consuming, and therefore be an undue hardship to the project proponent if the variance is not granted.

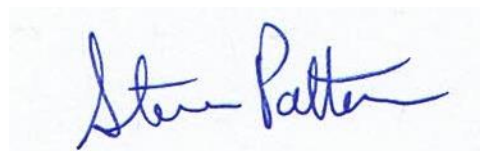
The scale of the low, gentle rises in surface elevation of the constructed mounds means that their effect on flood flows would be difficult to observe even in a detailed flood model. The low mounds of the project will not obstruct the flow of flood waters from the West Fork nor cause an increase flood heights.

2. There will be NO loss of flood storage capacity from the project and likely an increase through export of material from the site. The mounds will be constructed using material excavated from adjacent areas. It is anticipated that excavated material may be in excess of what is required for the mounds and if so that excavated material will be removed from the site.
3. The project will have positive water quality and ecological benefits – that is its purpose. It will improve the quality of water running off the residential neighborhood above it before that water enters the West Fork, and it will enhance the site as habitat for native species, including amphibians, butterflies, and other pollinators. The site is currently mostly hay meadow composed of non-native species.

The site is protected by an existing conservation easement held by the Ozark Land Trust. There will be no future development on the site. The Trust supports the construction of the proposed project.

We request a variance to permit construction of the proposed project.

Sincerely,



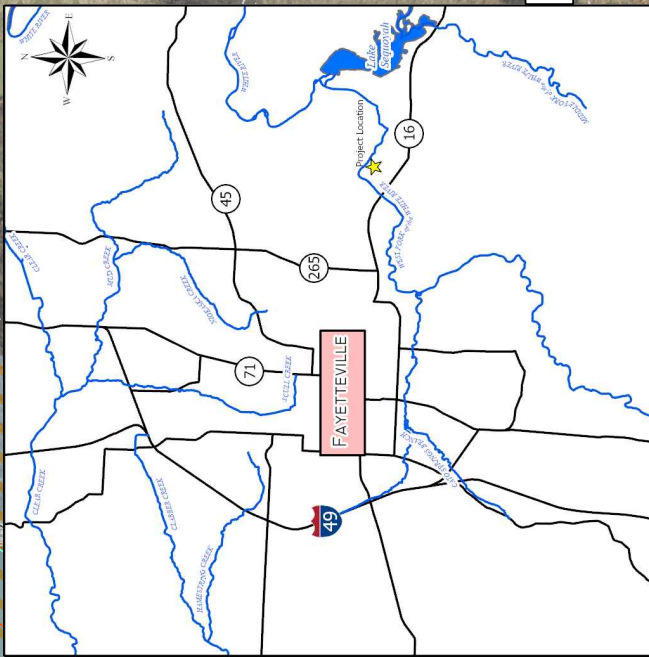
Steven Patterson
Restoration Ecologist

Attachments:

1. Consent of Owner Form
2. Legal description of property
3. Conceptual Site Plan
4. Photos

Construction Plan - Josh Brown Floodplain Restoration

Owner - Josh Brown
Developer - WCRC
40,000 square feet of disturbance, 0.9 ac
Footprint surrounding activity - 4.5 acres
Property owner acreage - ~ 63 acres
Zone - R-A



Establish mounds as shown, generally slope 10H:1V to maximum height 1.5' and the location, size, number, and height will vary and depend on actual field conditions. Revegetate with native grass and wildflowers appropriate for prairie mounds

Utilize existing contour flowlines to route water through depressions

Establish floodplain depressions as shown, generally slope 4H:1V to 2' depth with the location, size, number and height varying depending on the field conditions. Plant native species such as roughleaf dogwood, false indigo, hawthorn.

Mimic plant species and 2 ft depth for other depressions

Leave path for utility and property access by vehicle

Maintain Buffer to reduce runoff

Create Retention if needed and remove Johnson Grass

Establish mound to arrest flow moving east

Limit disturbance to any existing native vegetation, replant disturbed areas to enhance overall biodiversity and habitat quality

Thin out Box Elder
Establish buttonbush, wild plums, disperse wetland seeds

Add Grade Control structures downstream of overflow channels to limit head cut and reduce incision

Create eastern flowpath to field and retention, utilize gamma grass and excess material from depressions

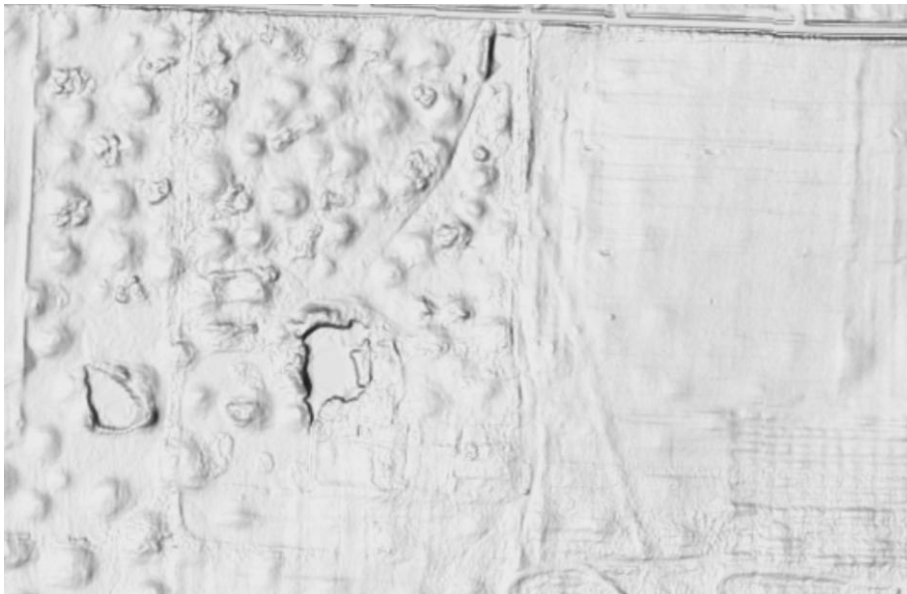
Stabilized Construction Entrance



Attachment 2 – Photos



Stormwater outfall



LIDAR image of prairie mounds on left, removed by farming on right



Prairie mounds and swales after a rain

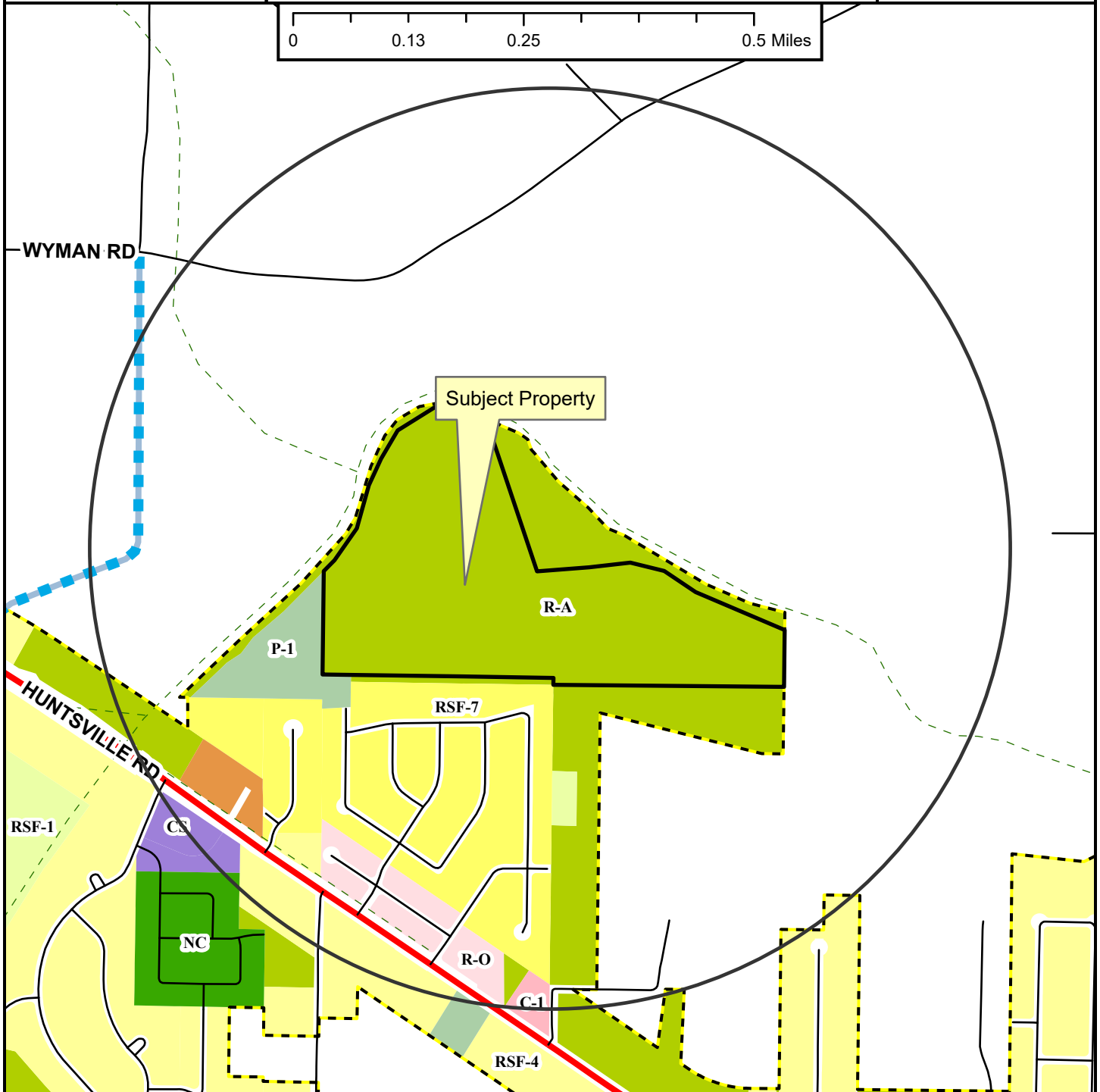
VAR-2023-0013

One Mile View

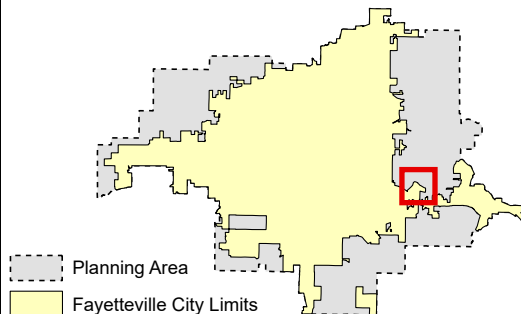
NORTH END OF REGENCY DR



0 0.13 0.25 0.5 Miles



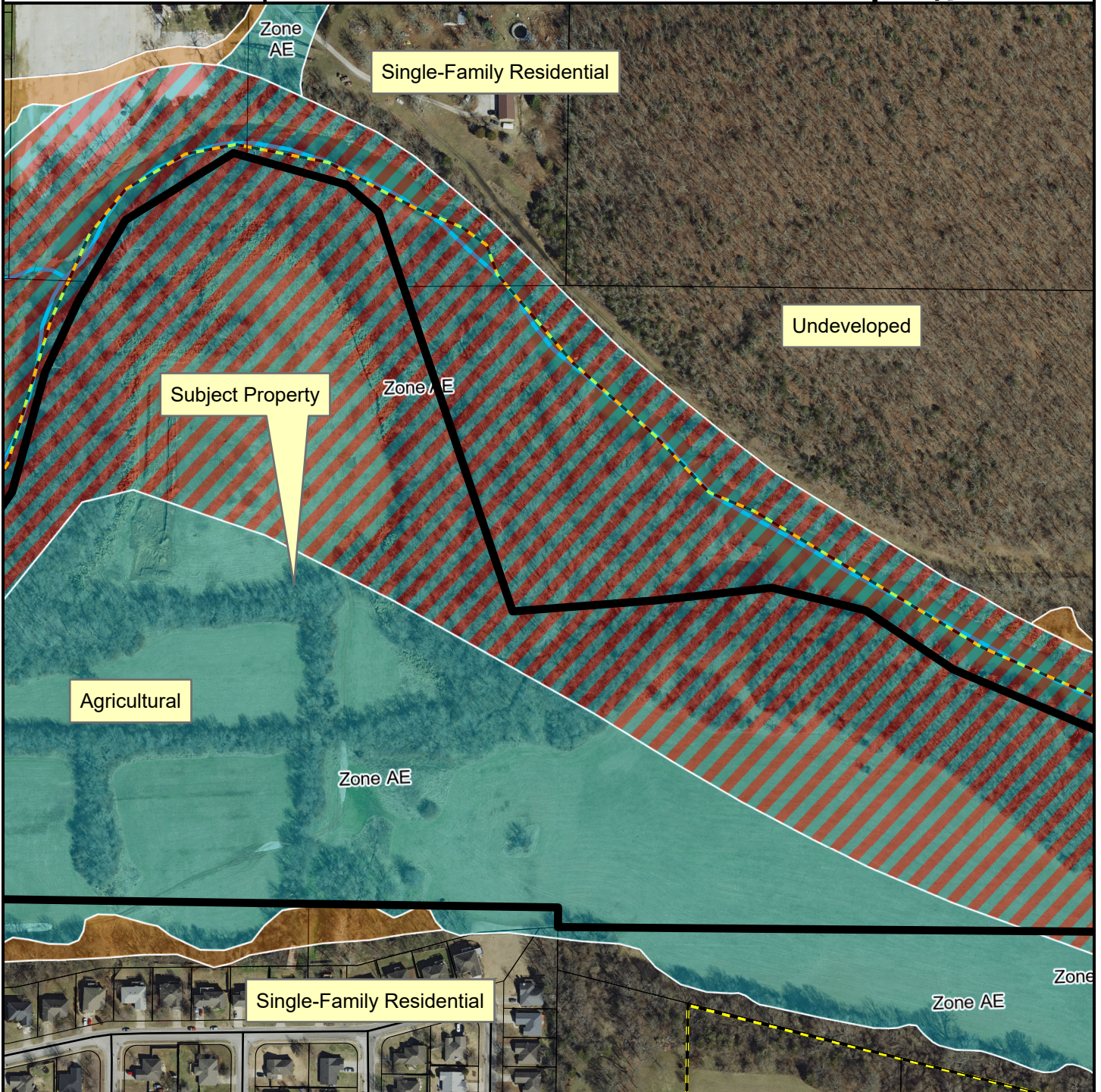
- Regional Link
- Unclassified
- Residential Link
- Planned Residential Link
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - EXTRACTION**
 - E-1
 - COMMERCIAL**
 - Residential-Office
 - C-1
 - C-2
 - C-3
 - FORM BASED DISTRICTS**
 - Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
 - PLANNED ZONING DISTRICTS**
 - Commercial, Industrial, Residential
 - INSTITUTIONAL**
 - P-1



Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: April 10, 2023

SUBJECT: **VAR-2023-0012: Planning Commission Variance (6328 W CINDY HOLLOW LN/BOEHM, 357):** Submitted by RMP LLP for property located at 6328 W. CINDY HOLLOW LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approx. 20.24 acres. The request is for a variance to road frontage requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0012** with conditions based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0012** with conditions, determining:*

- In favor of the requested variance; and*
- All other conditions as recommended by staff."*

BACKGROUND:

The subject property is located just outside of city limits near west Fayetteville. The subject property is roughly ½ mile due north of the intersection between W. Wedington Dr. and N. Double Springs Road. A single-family dwelling built in 1978 and associated outbuildings currently occupy the site. Approximately eight acres of the east half of the property fall within the Hillside Hilltop Overlay District. An unnamed tributary of the Hamestring Creek bisects the property and creates a natural valley which divides the property vertically. The property is designated as Rural Residential and Natural Area by the City Plan 2040 Future Land Use Map. The property has frontage on N. Starnes Road and W. Cindy Hollow Lane; both of which are unimproved private roads.

A similar lot split (LSP-2022-0025) and associated variance (VAR-2022-0047) were requested last year. The previous application was to create four lots of record with insufficient frontage on a public street. On August 17, 2022 the variance was denied by the Planning Commission by a vote of 4-3-0. Planning Commissioners who voted in opposition of the variance found that the quality of N. Starnes Road and W. Cindy Hollow Lane could not support additional residential density, particularly in instances of inclement weather or for emergency access. On August 26, 2022 the lot split was denied because the applicant did not satisfy the minimum required infrastructure requirements for a property in the Planning Area. The denial of the project was appealed (ADM-2022-0051) to Planning Commission on October 10, 2022 and failed by a vote of 8-0-0. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

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

Request: The applicant proposes to split the subject property into three lots. The proposed lot split would result in each of the three lots having frontage along W. Cindy Hollow Lane, a private street. All lots in the Fayetteville Planning Area are required to have at least 75 feet of direct frontage onto a public street. Consequently, the proposed lot split necessitates a variance to UDC §166.05(A)(3). In their submittal materials the applicant includes a memo from the Wedington Fire Department, who protects the site.

Public Comment: Staff received public comment in opposition to the request. Neighbors opposed adding residential units in a location with poor quality street access; they also suggested further development would exacerbated drainage issues for the existing residents. Public comment also noted the narrow width of N. Starnes Road and W. Cindy Hollow Lane which does not allow easy passage of two-way vehicle traffic, infrequent maintenance by Washington County, lack of speed enforcement, and anticipated issues with emergency access among their concerns.

DISCUSSION:

Staff is supportive of the requested variance. The street frontage requirement is applied to lot splits because the creation of new residential properties carries an associated potential to increase density and, therefore, impact existing City services. Requiring residential properties to have public street access in the Planning Area also facilitates the orderly integration of properties into city limits, should they be annexed. W. Cindy Hollow Lane and, to a slightly lesser degree, N. Starnes Road are narrow, gravel streets with steep topography in places. Based on the attached memo from Wedington Fire, staff's concerns about the provision of safe and adequate access are lessened. Further, the proposed lot split would create three lots containing 4.12, 4.12, and 12.00 acres, each without frontage on a public street. The subject property is currently a single lot surrounded by rural residential properties varying in both size and arrangement. Surrounding properties vary between roughly one and 18 acres and several nearby also do not have direct frontage to a public street. The three proposed resultant lots are not appreciably different in size or configuration when compared to the low-density development pattern exhibited by the neighboring properties. There is not a straightforward path for the applicant to remedy the lack of public street frontage since dedication of right-of-way is not supported by Washington County and W. Cindy Hollow Lane is discontinuous to other rights-of-way. The subject property is separated from the nearest public street, N. Pershing Street to the east, by over 300 feet and an intervening lot and along N. Double Springs Road, roughly ¼ mile to the south. A 60-foot access easement was dedicated in January of 2000 spans the width of the subject property and overlays W. Cindy Hollow Lane, so staff is not recommending additional conditions to ensure access.

RECOMMENDATION: Staff recommends approval of VAR-2023-0012 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a variance of UDC 166.05(A)(3), requiring all lots in the Fayetteville Planning Area to have direct street frontage pursuant to residential lot and block standards set by Washington County. *Staff is supportive of this request based on the findings herein;*
2. Approval of this variance does not constitute approval of the associated lot split application. Review and approval of the lot split shall be required in accordance with City code;
3. Future driveways extending from W. Cindy Hollow Lane shall be a 20-foot-wide minimum to accommodate emergency services; and
4. The applicant shall receive approval from Washington County prior to recordation.

Planning Commission Action:	☐ Approved	☐ Tabled	☐ Denied
------------------------------------	--	--	--

Meeting Date: <u>April 10, 2023</u>
--

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

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

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

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

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

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

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



LARRY McCREDY | Attorney
lmccredy@rmp.law

PO Box 1788 | Fayetteville AR 72702
5519 Hackett St. Suite 300 | Springdale AR 72762
T 479 443 2705 | F 479 443 2718

February 16, 2023

Planning Commission
City of Fayetteville

Re: Andrew & Cindy Boehm Lot Split and Variance Request

Dear Sir/Ma'am:

I represent Andrew Boehm and Cindy Boehm. They would like to request a tract split on their property located at 6328 Cindy Hollow Lane. The subject parcel is #001-11483-000 and is located in the City of Fayetteville's Planning Area.

Their property contains 20.24 acres. They would like to split their property into three tracts. Tract 1 would have 12 acres, Tract 2 would have 4.12 acres and Tract 3 would have 4.12 acres. A copy of the proposed lot split is attached hereto.

In addition, because the new lots would access Cindy Hollow Lane, which is a private drive, the Boehms would also request a variance to UDC Code 166.05(3), the minimum road frontage requirement as it relates to a proposed lot split. The owners feel that this variance is appropriate given the amount of road frontage provided by Cindy Hollow Lane and the existing 2" water line that appears to only serve 2 houses (6280 and 6328 Cindy Hollow Lane). There is already a 60' private road easement and a 30' general utility easement in place.

The Planning Commission may recall that this property was subject to a previous lot split (ADM-2022-0025) and variance request (VAR-2022-0047). The prior variance request was denied by the Planning Commission on August 17, 2022, which led to the lot split request being denied on August 26, 2022. Rather than appealing those decisions, the Boehms instead made a change to the proposal, eliminating one of the proposed lots (only 3 lots in this request, rather than 4). They believe this request will reduce the proposed impact on the infrastructure and surrounding properties.

In addition, the Boehms conferred with the Wedington Fire Department about the size and condition of Cindy Hollow Lane. During consideration of their prior requests, there were some concerns about whether the construction Cindy Hollow Lane was sufficient to support

emergency vehicles and their access to future residences. Chief Ingram indicated that he did not have any reservations about Cindy Hollow Lane providing adequate access. In fact, he indicated that his department had already responded to emergencies on Cindy Hollow Lane. A copy of this letter is attached.

The Boehms respectfully request approval of their lot split and variance request.

Sincerely,

/s/ Larry McCredy

Larry McCredy

LMc/ii



Wedington Fire Department

13496 W AR Highway 16
Fayetteville, AR 72704



November 22, 2022

Dear Fayetteville Planning Commission:

I was recently contacted by Andrew and Cindy Boehm to evaluate Cindy Hollow Lane and make recommendations regarding future driveways along that roadway. After walking Cindy Hollow Lane with the landowners, and observing the current road conditions, I have no reservations about this roadway providing adequate clearance for emergency vehicles to access any future residences. In fact, we have responded to emergencies and had to travel Cindy Hollow Lane in our apparatus in the past. We regularly travel roadways of similar widths and are able to perform our functions without issue.

I have recommended that any future driveways that come off Cindy Hollow Lane be at least 20 feet wide to allow for two-way vehicular traffic and for one fire apparatus vehicle to pass while another is stopped and performing firefighting operations. This width will also ensure that the large emergency vehicles have plenty radius for turning in case of emergencies at the residence. I would consider Cindy Hollow Lane the appropriate size for emergency vehicles.

If you have any questions, or need anything further, please don't hesitate to contact me.

Best regards,

Daniel L. Ingram
Fire Chief
Wedington Fire Department
13496 W. Hwy. 16
Fayetteville, AR 72704
(479) 443-7802 – Station 1
(479) 445-9135 – Cell
firechief@wedington.org

Umberger, Ryan

From: Kirby Kerr <rotokirby@gmail.com>
Sent: Tuesday, April 4, 2023 4:48 PM
To: Planning Shared
Cc: Umberger, Ryan
Subject: 6328 Cindy Hollow Lane

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

Hi Folks,

I'm the owner and resident at 1651 N. Starnes Rd., the closest home to the proposed variance at 6328 Cindy Hollow Lane.

I would like to raise my objection to allowing the variance.

My main concern is that the infrastructure for vehicular traffic on the small private road leading to the property is already at capacity. Additional traffic on this gravel road that is already only one lane wide in many places will, undoubtedly, increase the chances of an accident or worse.

Further, I understand that the road is maintained by some of my neighbors, and not the city or county. Not only would the variance apply undue burden on them, I fear it would possibly lead to Starnes Rd having to be annexed (excuse me if I don't know the right terminology) and taken over by the county and widened — if that should happen it would significantly impact my property in that my home already sits pretty close to the road, and any additional width on the road would just bring vehicle traffic and noise even closer and give me even less of a front yard.

I have further safety concerns regarding the Cindy Hollow Lane stretch of road. Again, it is my understanding that that is a private drive, and is maintained by the Nottenkampers that live near the end of Cindy Hollow Lane. I have personally observed Bill Nottenkamper block off that drive in the winter when it is unsafe for anyone that is not already experienced driving on it as it has several places that are either steep or prone to washing out, and is shaded such that snow doesn't melt quickly.

Thank you for taking the time to hear my concerns. I can be reached at this email address or the phone number in my signature below if you have any questions.

Best,
Kirby

Kirby Kerr (she/her)
1651 N. Starnes Rd.
Fayetteville, AR 72701

mobile: 312-203-7876
[email: rotokirby@gmail.com](mailto:rotokirby@gmail.com)

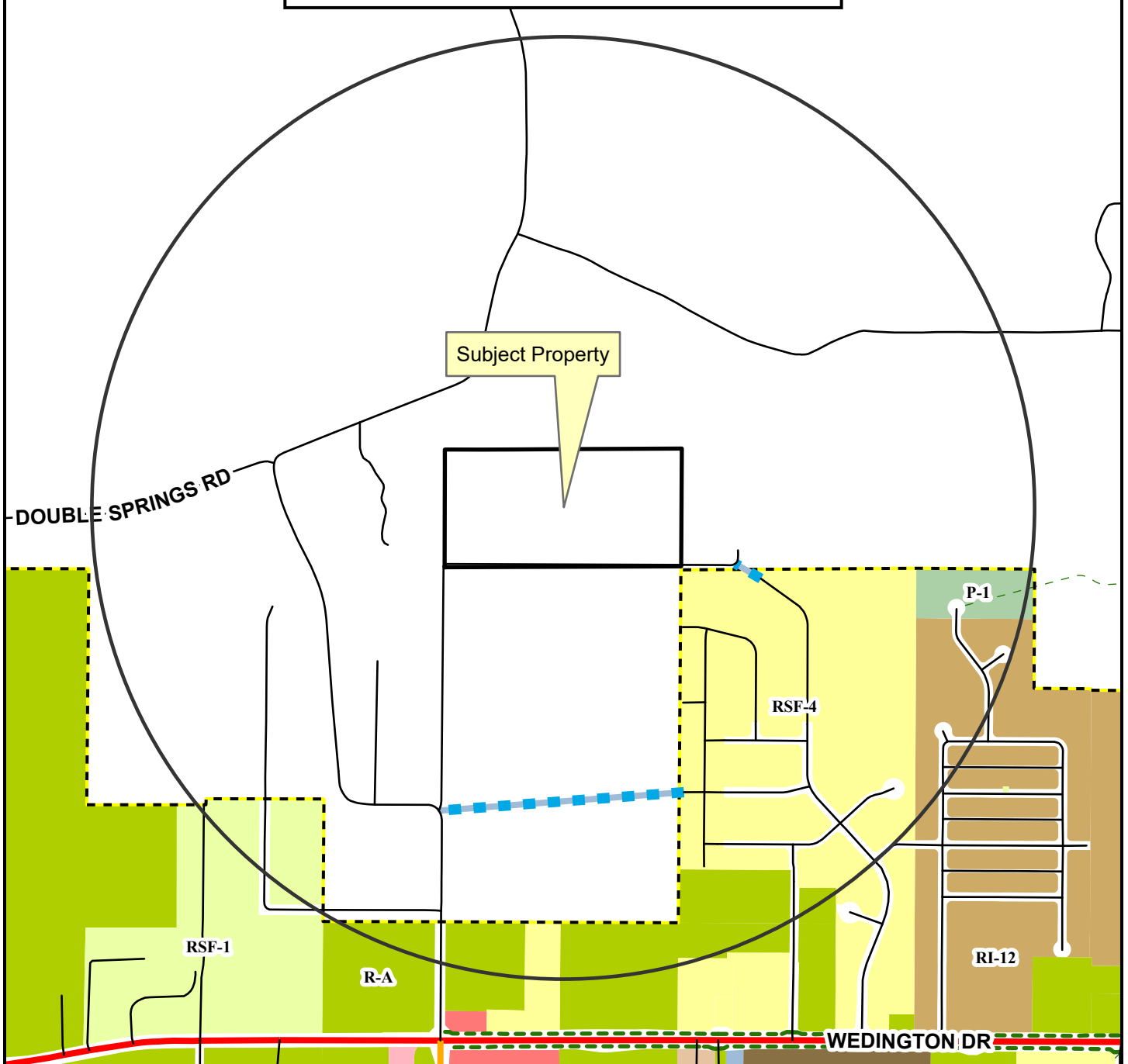
VAR-2023-0012

6328 W CINDY HOLLOW LN

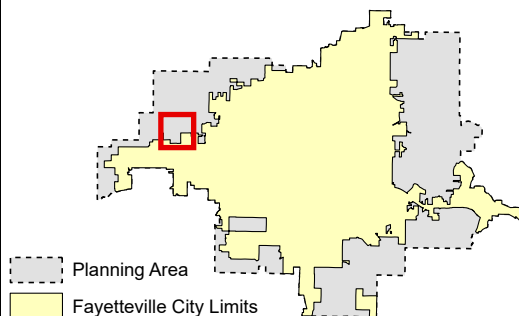
One Mile View



0 0.13 0.25 0.5 Miles



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



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
 - EXTRACTION**
 - E-1
 - COMMERCIAL**
 - Residential-Office
 - C-1
 - C-2
 - C-3
 - FORM BASED DISTRICTS**
 - Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
 - PLANNED ZONING DISTRICTS**
 - Commercial, Industrial, Residential
 - INSTITUTIONAL**
 - P-1

VAR-2023-0012

6328 W CINDY HOLLOW LN

Close Up View

DOUBLE
SPRINGS RD

Subject Property

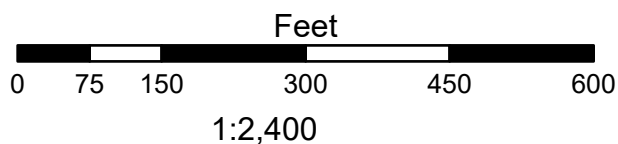
CINDY HOLLOW LN

STARNES RD

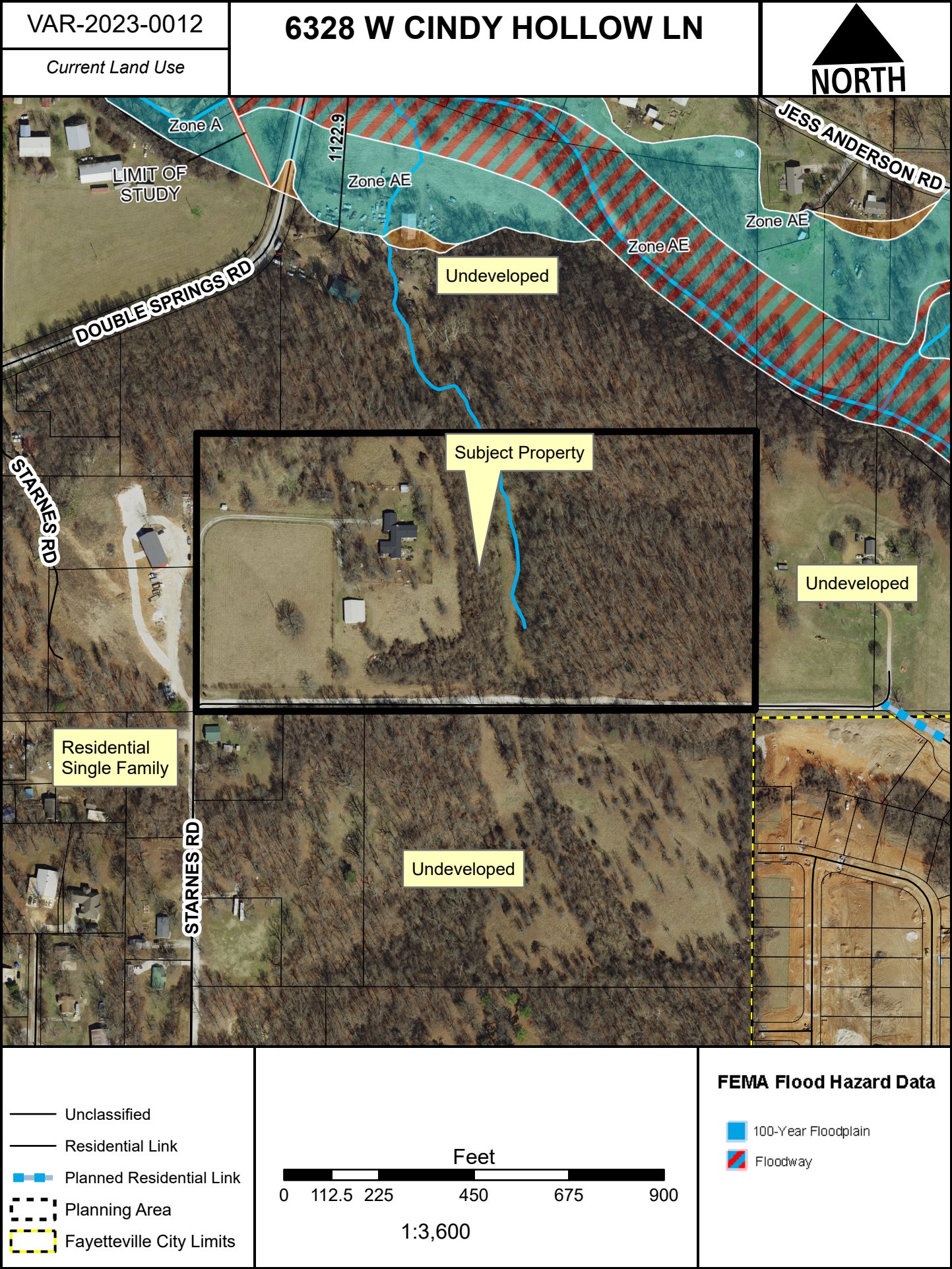
RSF-4

NORTH

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



RSF-4





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: April 10, 2023

SUBJECT: **VAR-2023-0015: Variance (1615 E. HUNTSVILLE RD./HUNTSVILLE ROAD MULTI-FAMILY EAST, 565):** Submitted by DCI for property located at 1615 E. HUNTSVILLE RD. The property is zoned CS, COMMUNITY SERVICES and contains approximately 1.79 acres. The request is for a variance to the Urban Residential Design Standards for pedestrian connectivity.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0015** based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0015**, determining:*

- In favor of a variance to UDC §166.23(C)(4)(a), and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in southeast Fayetteville on the south side of Huntsville Road, about a quarter of a mile west of the street's intersection with Happy Hollow Road. The property contains one lot totaling 1.79 acres and is currently undeveloped and zoned CS, Community Services. A multi-family residential development referred to as Huntsville Multi-Family West (LSD-2022-0039) was recently denied by the Planning Commission and subsequently appealed to and approved by City Council. A request to develop the subject property with a second multi-family development referred to as Huntsville Multi-Family East (LSIP-2022-0009) was submitted in November of 2022 and is still under administrative review. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Mixed-Density Residential	RSF-4, Residential Single-Family – 4 Units per Acre; CS, Community Services
South	Doc Mashburn Park	P-1, Institutional
East	Single-Family Residential; Professional Offices	RSF-4, Residential Single-Family – 4 Units per Acre; C-1, Neighborhood Commercial
West	Multi-Family Residential	RMF-24, Residential Multi-Family – 24 Units per Acre

Request: The applicant is requesting a variance to UDC §166.23(C)(4)(a) which requires that a direct pedestrian connection be provided between primary pedestrian entries and public sidewalks. Per code, the pedestrian connection may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to

the public sidewalk. The applicant is requesting a variance to allow for indirect pedestrian connections between primary entries and the public sidewalk on Huntsville Road, which jog approximately 20.5 feet from each entry door.

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

DISCUSSION:

Staff is supportive of the applicant's request. While UDC §166.23(C)(4)(a) requires that a direct pedestrian connection be provided between primary entries and public sidewalks, staff finds that there are site-specific hardships that prohibit the applicant from meeting this requirement. Two ground floor dwelling units are proposed adjacent to Huntsville Road; one is located on the west side of the property (Unit 1) while the other is located to the east on the opposite side of a proposed access driveway (Unit 11). Unit 1 is located approximately 108 feet south of the sidewalk on Huntsville Road and the area between its entry and the street is proposed to be reserved for future commercial development. If a direct pedestrian connection were installed between the entrance to Unit 1 and the public sidewalk, it would bisect the commercial lot and potentially impede future development. To the east, Unit 11 is located approximately 65 feet south of the sidewalk on Huntsville Road. Two existing trees, a 30-inch black maple and a 26-inch elm, are currently located between the entrance to Unit 11 and the public sidewalk. Both trees are mature and in good condition, so the applicant intends to preserve them and place them in a tree preservation easement. If a direct pedestrian connection were installed between the entrance to Unit 11 and the public sidewalk, it would likely impact the applicant's ability to protect and preserve one or both of the trees. As proposed, the pedestrian connections between each unit and the public sidewalk would be rerouted so that they run along each side of the proposed access driveway. Staff is supportive of rerouting those connections as proposed, since installing sidewalks along the edge of the driveway would minimize conflicts between areas reserved for future development and tree preservation. Further, staff finds that the proposed private sidewalks promote continuous circulation for pedestrians on site, which is consistent with the site development standards that are outlined in ordinance.

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

Conditions of Approval:

1. **Planning Commission determination of a variance to UDC §166.23(C)(4)(a), which states that a direct pedestrian connection shall be provided between primary dwelling units and public sidewalk. Staff is supportive of this variance based on the findings herein; and**
 2. Approval of this variance does not constitute approval of the associate development application. Review and approval of the development shall be required in accordance with city code.
-

PLANNING COMMISSION ACTION: Required YES

Date: April 10, 2023 ☐ Tabled ☐ Approved ☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §166.23 Urban Residential Design Standards
- Applicant Request Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.23 Urban Residential Design Standards

(A) *Purposes.*

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To create appealing street scenes so that development enhances the image of the city and provides safe, pedestrian-friendly neighborhood environments.
- (3) To minimize service and parking impacts in order to preserve surrounding property values and scenic resources that contribute to the city's economic development.
- (4) To compose attractive residential facades that enhance the economic viability of and provide compatibility with surrounding property.

(B) *Applicability.* All references to urban residential design standards shall include the following uses as permitted by right or conditional use in all zoning districts:

- (1) 2-F, Two (2) family dwellings
- (2) 3-F, Three (3) family dwellings
- (3) MF, Multi-family dwellings

(C) *Site Development Standards.* The following site development standards shall apply for all urban residential development.

- (1) *Intent.* The intent of these site development standards is to create a pedestrian-friendly streetscape.
- (2) *Vehicular Access/Circulation/Parking.*
 - (a) Site access and internal circulation should promote pedestrian safety, efficiency, and convenience and minimize conflicts between vehicles and pedestrians. Continuous circulation shall be provided throughout the site to the greatest extent possible creating a complete, compact, and connected transportation network both within the development and to the surrounding neighborhood. The visual impact of parking areas should be minimized by locating parking behind buildings and internal to the site.
 - (i) Garage entries and carports shall not protrude forward from the principal facade. Driveways shall extend at least 18 feet into the property from the Master Street Plan right-of-way to allow parking to occur without encroaching into the right-of-way.
 - (ii) Parking areas should be accessed by mid-block alleys whenever possible. Developments should minimize multiple driveways and should utilize a shared access to reduce the number of vehicle conflicts at the street.
 - (iii) On-street parallel parking may be provided on at least one (1) side of the street in front of all multi-family buildings where feasible. Each on-street parking space provided along the project frontage shall count toward the total required spaces for the development.
- (3) *[Reserved.]*
- (4) *Pedestrian Circulation.*
 - (a) Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The connection shall match the sidewalk in material type and shall be at least 3 feet in width unless otherwise approved by the Zoning and Development Administrator in writing. The entry may be gated and shared but must occur at a spacing of no fewer than one (1) entrance for every two (2) street level dwellings. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk.
 - (b) Urban residential projects shall incorporate pedestrian connections to adjacent residential and commercial properties where sidewalks exist unless this requirement is otherwise waived by the Planning Commission.
- (5) *Screening Requirements if Visible from the Highway/Street Right-of-Way.*
 - (a) *Mechanical and Utility Equipment.* All mechanical and utility equipment located on the wall and/or on the ground shall be screened, except for air conditioning window units. All roof mounted utilities and

mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks, unless located in a utility easement.

- (b) *Recycling and Trash Containers.* Adequate space and screening shall be provided for the placement of recycling and trash containers in urban residential developments.
 - (i) Urban residential developments are required to provide adequate space to provide both recycling and trash services for residents. The Recycling and Trash Collection Division Director may exercise discretion in approving the dimensional size of the required enclosure or dedicated space for servicing recycling and trash containers. Large multi-family urban residential developments typically will be required to provide adequate space for the placement of two (2) front-end load dumpsters that are easily accessible with a minimum enclosure dimension of 24 feet wide and 12 feet deep.
 - (ii) Recycling and trash containers shall be screened by enclosures with materials that are complementary to the principal structure, with access to the refuse containers not visible from the public right-of-way.
- (c) *Screening.* Screening shall mean a view obscuring fence, berm, vegetation, architectural treatment consistent with the residential architecture, or a combination of the four of sufficient height to prevent the view of the screened items from the public right-of-way. Vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting.
- (6) *Fencing.* The following types, height, and location of fences shall be prohibited:
 - (a) *Razor and/or Barbed Wire.* Razor and/or barbed wire fences are prohibited, unless and except barbed wire fences are used for agricultural purposes.
 - (b) *Chain Link.* Chain link fence is prohibited if closer to the street than the front of the building.
 - (c) *Height of Fences in Front of Buildings.* Fences in the front yard area shall have a maximum height of 42 inches subject to visibility requirements in Chapter 164.09 and 164.17.
- (D) *Architectural Design Standards.*
 - (1) *Intent.* The intent of these building design standards is:
 - (a) To ensure that urban residential buildings add to the character and quality of the community, offer a sense of security, and make a positive contribution to the life of the street.
 - (b) To maximize the quality, value and longevity of urban residential neighborhoods.
 - (c) To make housing appealing and comfortable for its inhabitants.
 - (2) *Construction and Appearance Design Standards for Urban Residential Development.*
 - (a) *Building Form and Design.*
 - (i) In order to provide a variety in form and design, one (1) building type may not be utilized more than three (3) times in a development. Each building type shall be differentiated by variations in materials, colors and roof forms.
 - (ii) Ancillary structures such as carports, garages, recreational buildings and storage structures shall be designed as an integral part of the project architecture.
 - (iii) The following architectural elements shall be required of all principal façades that are greater than 48 feet wide along the street frontage:
 - (a) Variations in materials;
 - (b) Insets or other relief in the wall plane;
 - (c) Incorporation of two or more of the following:
 - (1) Balconies;
 - (2) Bays or bay windows;
 - (3) Porches;
 - (4) Dormers;
 - (5) Porticoes;

- (6) Turrets; or
 - (7) Other architectural feature approved by the Zoning Development Administrator that meets the intent of the code.
 - (iv) One (1) or more of the following architectural elements shall be required of all principal façades that are 48 feet wide or less along the street frontage:
 - (a) Balconies;
 - (b) Bays or bay windows;
 - (c) Porches;
 - (d) Dormers;
 - (e) Porticos;
 - (f) Turrets; or
 - (g) Other architectural feature approved by the Development Review Manager that meets the intent of the Code.
 - (E) *Planning Commission Approval.* An applicant may request approval from the Planning Commission of a variance from the maximum requirements where unique circumstances exist and the effect will not adversely impact adjoining or neighboring property owners. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.
- (Ord. No. 5118, 3-18-08; Ord. No. 5262, 8-4-09; Ord. No. 5679, 4-15-14; Ord. No. 6170 , §1, 4-2-19; Ord. No. 6357 , §§1, 2, 9-15-20; Ord. No. 6508 , §1, 11-16-21)

15 March 2023

City of Fayetteville

Planning Commission
125 W. Mountain Street
Fayetteville, AR 72701
479.575.8267

DCI Job Number: 2022-128 East
LSIP Number: 2022-0009
Project Name: E. Huntsville Road Multi-Family East
Owner: CLM Homes LLC, PO Box 8201, Fayetteville, AR 72703

Project Narrative:

The E. Huntsville Road Multi-Family East development is located at 1615 E Huntsville Road, Parcel 765-15235-000, and is approximately 1.53 acres. This parcel is approximately 137.4' along E. Huntsville Road. The project is a multifamily development consisting of a duplex, triplexes and quadplexes for a total of 23 units.

Variance Request:

On behalf of the owner, DCI is requesting a variance to Section 166.23.C.4.a, Pedestrian Circulation, of the Unified Development Code.

1. Section 166.23.4.a, Pedestrian Circulation of ground floor dwelling units adjacent to a public street – this code requires an unobstructed pedestrian direct connection from the entry door of the dwelling unit to public sidewalk, and must not deviate more than 12' along the façade of the building parallel to the street. As designed, Units 1 and 11 do not meet this 12' deviation requirement and are seeking the variance.
2. Unit 1 is located 108' south of the City sidewalk/trail on E Huntsville Rd, south of a future lot that fronts E Huntsville Rd that is being reserved for future commercial development, and south of an existing mature 18" Cedar tree and an existing mature 14" Elm tree that are both being preserved. A direct pedestrian access route from the front façade of Unit 1 and within 12' of the front entry would run thru the Cedar tree being preserved and would also run thru the central portion of the future commercial development.
3. Unit 11 is located 65' south of the City sidewalk/trail on E Huntsville Rd, south of an existing mature 30" Black Maple tree and an existing mature 26" Elm tree that are both being preserved. A direct pedestrian access route from the front façade of Unit 11 and within 12' of the front entry would run thru one or both of the trees being preserved.
4. In the current design, both Units 1 and 11 have an entry door located 20.5' from the edge of sidewalk that runs directly to the City sidewalk/trail of E Huntsville Rd.
5. Since the sidewalks cannot be constructed in other locations besides along the access driveway to be able to preserve the mature trees, the designed layout follows the most logical paths for pedestrian access from the front entries of the buildings to the City sidewalk/trail on E Huntsville Rd by routing along the parking

Engineering • Planning • Land Surveying • Landscape Architecture

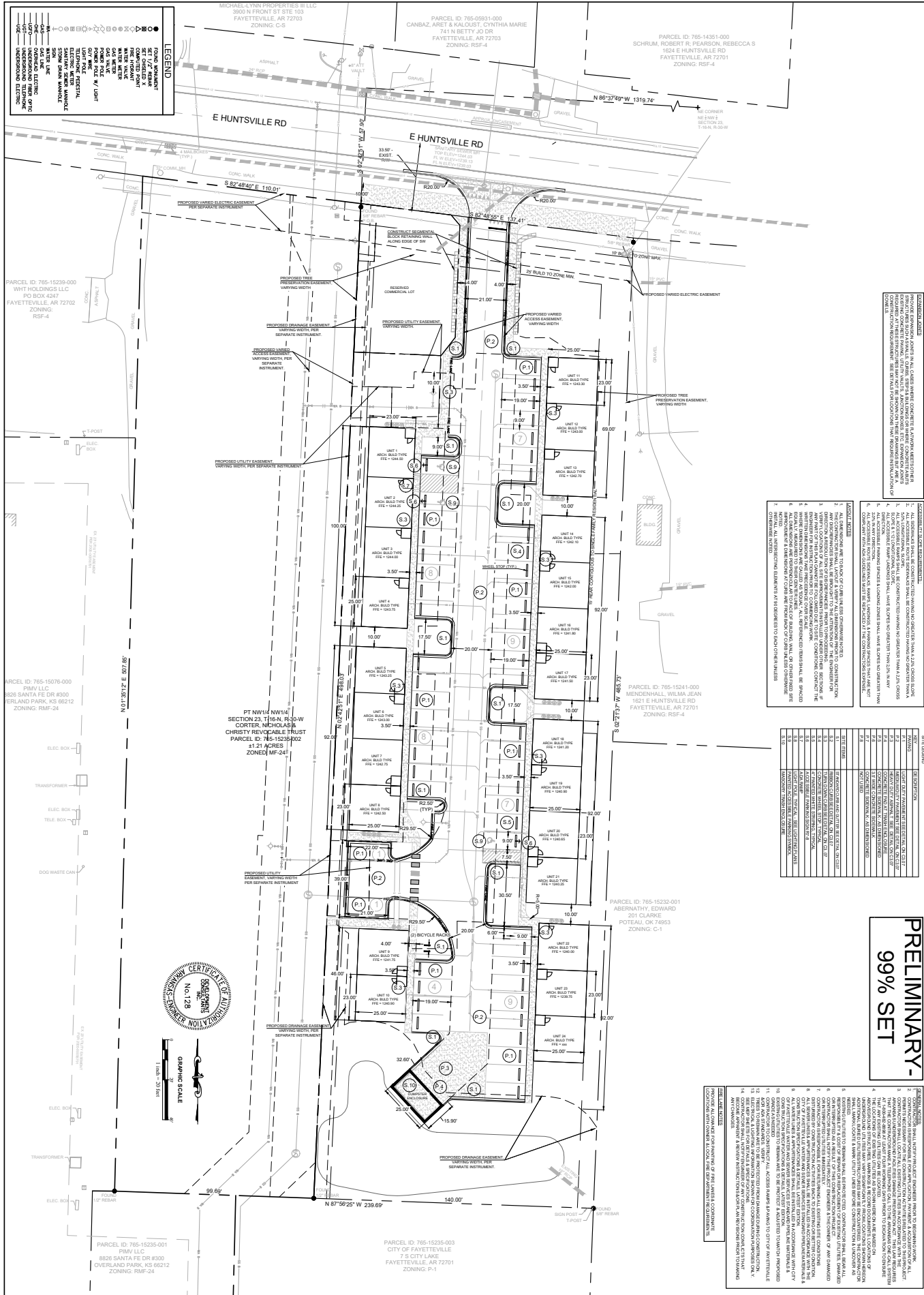
- spaces adjacent to the dwelling units and then turning north and routing along the driveway to E Huntsville Road.
6. DCI feels that the current design, while not meeting the letter of the code, is fulfilling the intent by providing the most direct access route to the public sidewalk/trail from the front entries of the dwelling units fronting a public street.

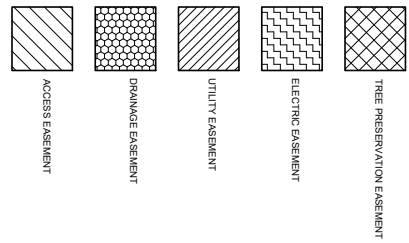
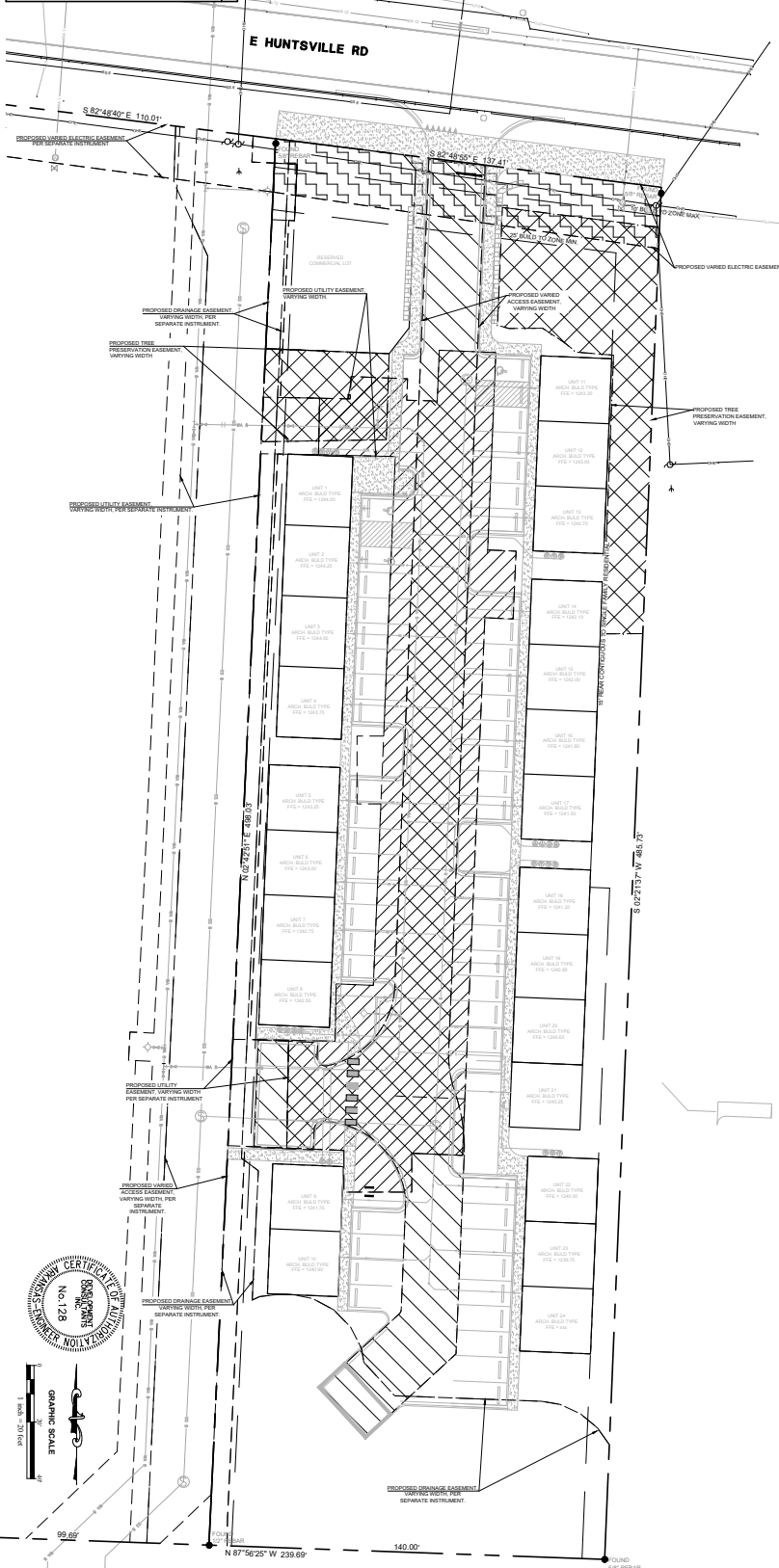
Thank you for your consideration of our request, and we look forward to working further with the City as we move forward to permitting and construction.

Sincerely,



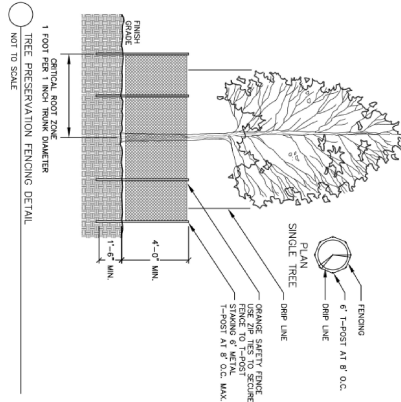
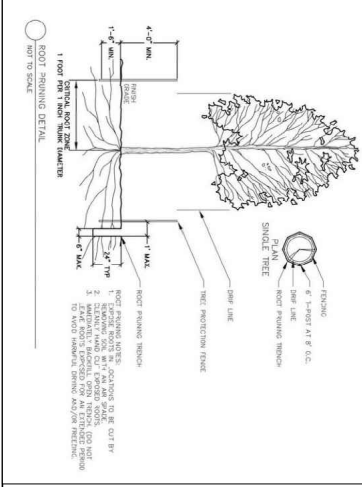
Chase Henrichs, P.E.
ChaseH@DCIUS.PRO
479.444.7880
Development Consultants





**PRELIMINARY-
99% SET**

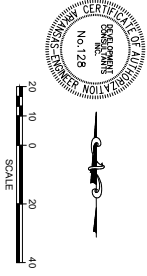
[illegible]



Legend	Tree Preservation Calculations Square Feet
Tree Group 1	Tree Group 1
Tree Group 2	Tree Group 2
Tree Group 3	Tree Group 3
Tree Group 4	Tree Group 4
Tree Group 5	Tree Group 5
Tree Group 6	Tree Group 6
Tree Group 7	Tree Group 7
Tree Group 8	Tree Group 8
Tree Group 9	Tree Group 9
Tree Group 10	Tree Group 10
Tree Group 11	Tree Group 11
Tree Group 12	Tree Group 12
Tree Group 13	Tree Group 13
Tree Group 14	Tree Group 14
Tree Group 15	Tree Group 15
Tree Group 16	Tree Group 16
Tree Group 17	Tree Group 17
Tree Group 18	Tree Group 18
Tree Group 19	Tree Group 19
Tree Group 20	Tree Group 20
Tree Group 21	Tree Group 21
Tree Group 22	Tree Group 22
Tree Group 23	Tree Group 23
Tree Group 24	Tree Group 24
Tree Group 25	Tree Group 25
Tree Group 26	Tree Group 26
Tree Group 27	Tree Group 27
Tree Group 28	Tree Group 28
Tree Group 29	Tree Group 29
Tree Group 30	Tree Group 30
Tree Group 31	Tree Group 31
Tree Group 32	Tree Group 32
Tree Group 33	Tree Group 33
Tree Group 34	Tree Group 34
Tree Group 35	Tree Group 35
Tree Group 36	Tree Group 36
Tree Group 37	Tree Group 37
Tree Group 38	Tree Group 38
Tree Group 39	Tree Group 39
Tree Group 40	Tree Group 40
Tree Group 41	Tree Group 41
Tree Group 42	Tree Group 42
Tree Group 43	Tree Group 43
Tree Group 44	Tree Group 44
Tree Group 45	Tree Group 45
Tree Group 46	Tree Group 46
Tree Group 47	Tree Group 47
Tree Group 48	Tree Group 48
Tree Group 49	Tree Group 49
Tree Group 50	Tree Group 50
Tree Group 51	Tree Group 51
Tree Group 52	Tree Group 52
Tree Group 53	Tree Group 53
Tree Group 54	Tree Group 54
Tree Group 55	Tree Group 55
Tree Group 56	Tree Group 56
Tree Group 57	Tree Group 57
Tree Group 58	Tree Group 58
Tree Group 59	Tree Group 59
Tree Group 60	Tree Group 60
Tree Group 61	Tree Group 61
Tree Group 62	Tree Group 62
Tree Group 63	Tree Group 63
Tree Group 64	Tree Group 64
Tree Group 65	Tree Group 65
Tree Group 66	Tree Group 66
Tree Group 67	Tree Group 67
Tree Group 68	Tree Group 68
Tree Group 69	Tree Group 69
Tree Group 70	Tree Group 70
Tree Group 71	Tree Group 71
Tree Group 72	Tree Group 72
Tree Group 73	Tree Group 73
Tree Group 74	Tree Group 74
Tree Group 75	Tree Group 75
Tree Group 76	Tree Group 76
Tree Group 77	Tree Group 77
Tree Group 78	Tree Group 78
Tree Group 79	Tree Group 79
Tree Group 80	Tree Group 80
Tree Group 81	Tree Group 81
Tree Group 82	Tree Group 82
Tree Group 83	Tree Group 83
Tree Group 84	Tree Group 84
Tree Group 85	Tree Group 85
Tree Group 86	Tree Group 86
Tree Group 87	Tree Group 87
Tree Group 88	Tree Group 88
Tree Group 89	Tree Group 89
Tree Group 90	Tree Group 90
Tree Group 91	Tree Group 91
Tree Group 92	Tree Group 92
Tree Group 93	Tree Group 93
Tree Group 94	Tree Group 94
Tree Group 95	Tree Group 95
Tree Group 96	Tree Group 96
Tree Group 97	Tree Group 97
Tree Group 98	Tree Group 98
Tree Group 99	Tree Group 99
Tree Group 100	Tree Group 100

Tree Preservation Calculations Square Feet	Square Feet	Percent of Site
Total Site Area - Minus Right of Way and Easements	68,113	100%
Tree Group 1	13,623	20%
Tree Group 2	0	0%
Tree Group 3	13,623	20%
Tree Group 4	20,175	29.6%
Tree Group 5	8,468	12.4%
Tree Group 6	11,707	17.2%
Tree Group 7	0	0%
Tree Group 8	11,707	17.2%
Tree Group 9	5,155	7.6%
Tree Group 10	5,155	7.6%
Tree Group 11	5,155	7.6%
Tree Group 12	5,155	7.6%
Tree Group 13	5,155	7.6%
Tree Group 14	5,155	7.6%
Tree Group 15	5,155	7.6%
Tree Group 16	5,155	7.6%
Tree Group 17	5,155	7.6%
Tree Group 18	5,155	7.6%
Tree Group 19	5,155	7.6%
Tree Group 20	5,155	7.6%
Tree Group 21	5,155	7.6%
Tree Group 22	5,155	7.6%
Tree Group 23	5,155	7.6%
Tree Group 24	5,155	7.6%
Tree Group 25	5,155	7.6%
Tree Group 26	5,155	7.6%
Tree Group 27	5,155	7.6%
Tree Group 28	5,155	7.6%
Tree Group 29	5,155	7.6%
Tree Group 30	5,155	7.6%
Tree Group 31	5,155	7.6%
Tree Group 32	5,155	7.6%
Tree Group 33	5,155	7.6%
Tree Group 34	5,155	7.6%
Tree Group 35	5,155	7.6%
Tree Group 36	5,155	7.6%
Tree Group 37	5,155	7.6%
Tree Group 38	5,155	7.6%
Tree Group 39	5,155	7.6%
Tree Group 40	5,155	7.6%
Tree Group 41	5,155	7.6%
Tree Group 42	5,155	7.6%
Tree Group 43	5,155	7.6%
Tree Group 44	5,155	7.6%
Tree Group 45	5,155	7.6%
Tree Group 46	5,155	7.6%
Tree Group 47	5,155	7.6%
Tree Group 48	5,155	7.6%
Tree Group 49	5,155	7.6%
Tree Group 50	5,155	7.6%
Tree Group 51	5,155	7.6%
Tree Group 52	5,155	7.6%
Tree Group 53	5,155	7.6%
Tree Group 54	5,155	7.6%
Tree Group 55	5,155	7.6%
Tree Group 56	5,155	7.6%
Tree Group 57	5,155	7.6%
Tree Group 58	5,155	7.6%
Tree Group 59	5,155	7.6%
Tree Group 60	5,155	7.6%
Tree Group 61	5,155	7.6%
Tree Group 62	5,155	7.6%
Tree Group 63	5,155	7.6%
Tree Group 64	5,155	7.6%
Tree Group 65	5,155	7.6%
Tree Group 66	5,155	7.6%
Tree Group 67	5,155	7.6%
Tree Group 68	5,155	7.6%
Tree Group 69	5,155	7.6%
Tree Group 70	5,155	7.6%
Tree Group 71	5,155	7.6%
Tree Group 72	5,155	7.6%
Tree Group 73	5,155	7.6%
Tree Group 74	5,155	7.6%
Tree Group 75	5,155	7.6%
Tree Group 76	5,155	7.6%
Tree Group 77	5,155	7.6%
Tree Group 78	5,155	7.6%
Tree Group 79	5,155	7.6%
Tree Group 80	5,155	7.6%
Tree Group 81	5,155	7.6%
Tree Group 82	5,155	7.6%
Tree Group 83	5,155	7.6%
Tree Group 84	5,155	7.6%
Tree Group 85	5,155	7.6%
Tree Group 86	5,155	7.6%
Tree Group 87	5,155	7.6%
Tree Group 88	5,155	7.6%
Tree Group 89	5,155	7.6%
Tree Group 90	5,155	7.6%
Tree Group 91	5,155	7.6%
Tree Group 92	5,155	7.6%
Tree Group 93	5,155	7.6%
Tree Group 94	5,155	7.6%
Tree Group 95	5,155	7.6%
Tree Group 96	5,155	7.6%
Tree Group 97	5,155	7.6%
Tree Group 98	5,155	7.6%
Tree Group 99	5,155	7.6%
Tree Group 100	5,155	7.6%

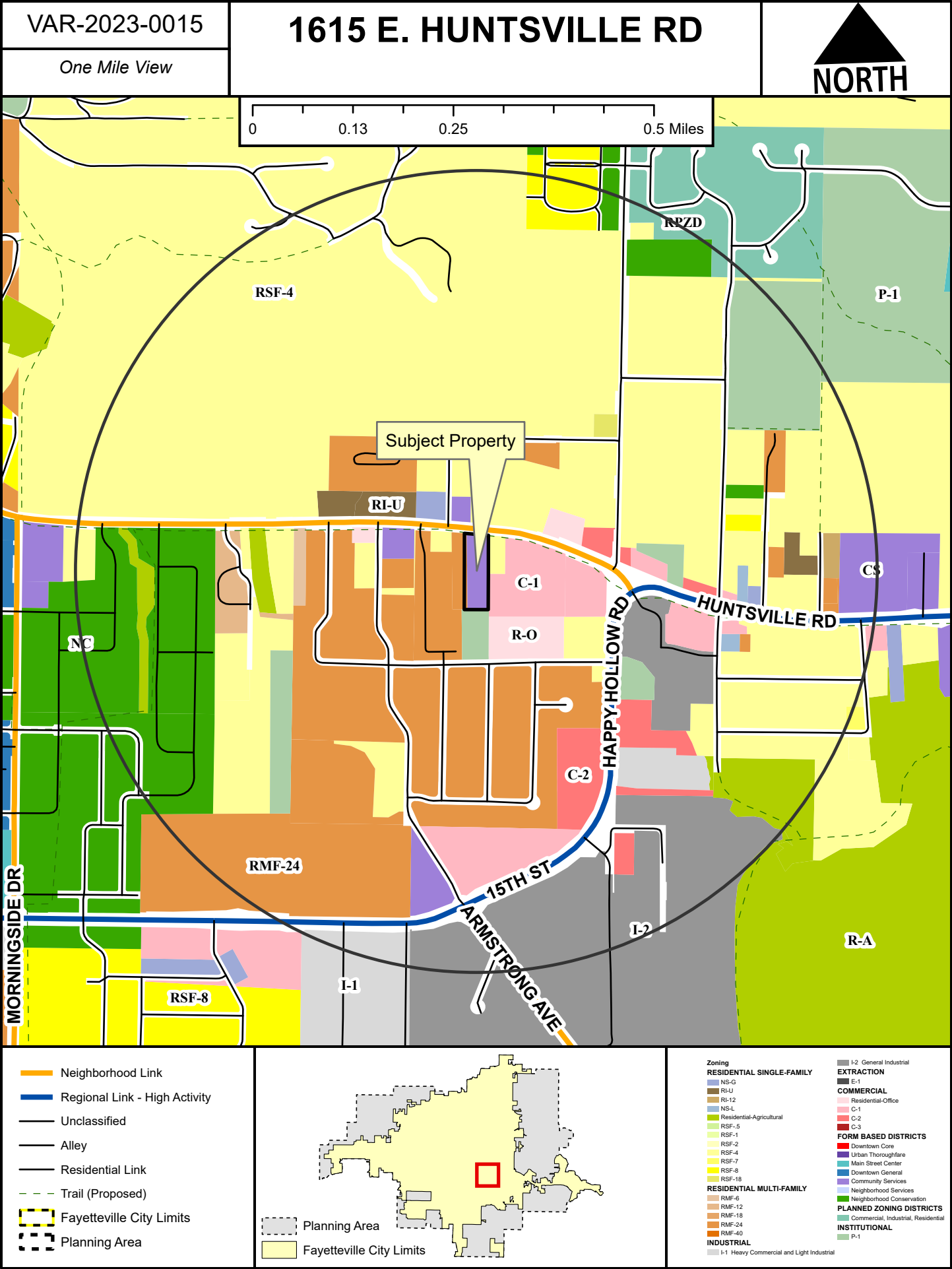
PRELIMINARY-
99% SET

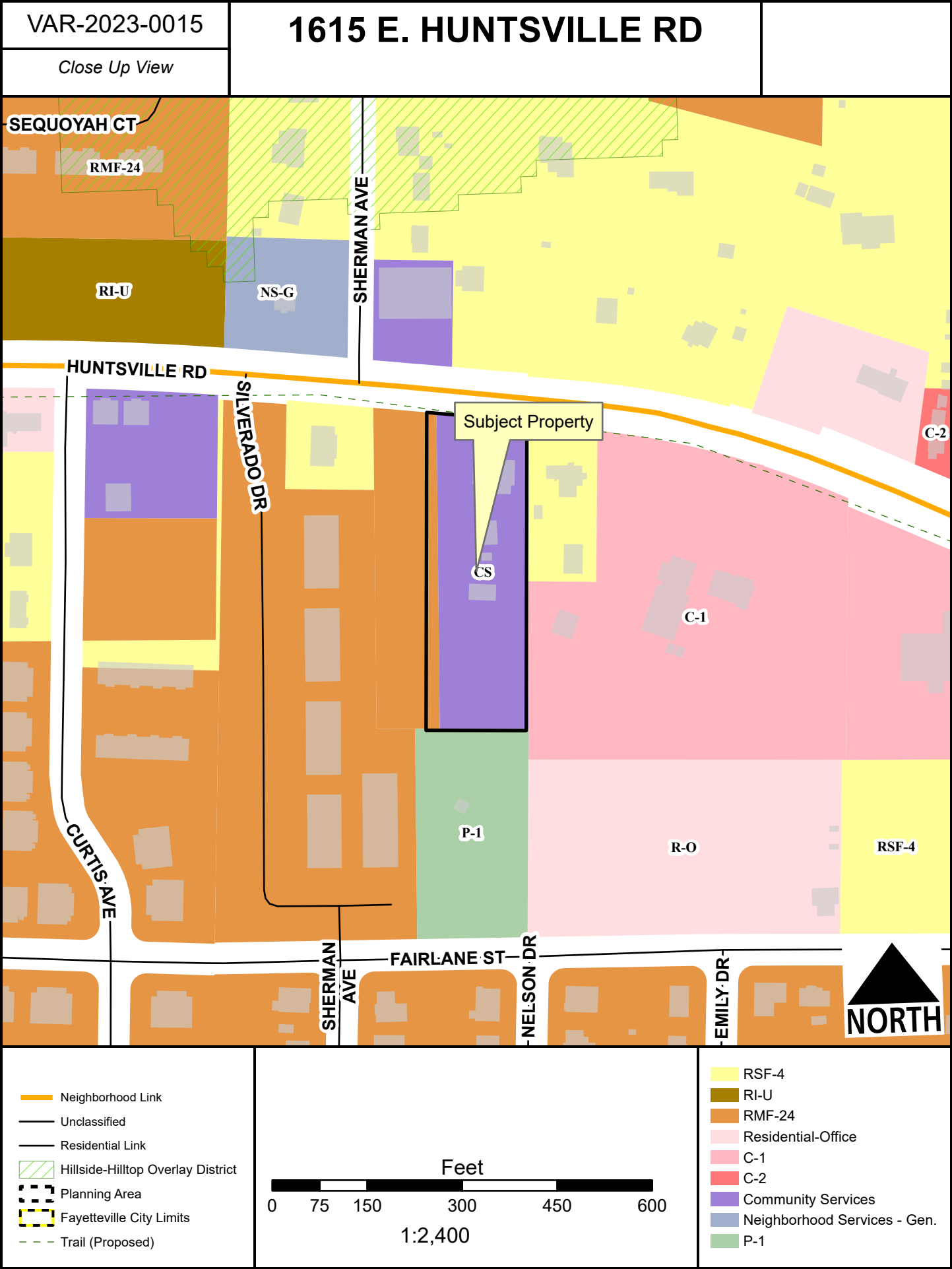


DEVELOPMENT
E. HUNSTVILLE ROAD MULTI-FAMILY EAST
LBP-2022-0009
TREE PRESERVATION PLAN

CONSULTANTS

INCORPORATED





VAR-2023-0015

1615 E. HUNTSVILLE RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: April 10, 2023

SUBJECT: **RZN-2023-0008: Rezoning (W OF W GEYSER ST/HENDERSON, 437):**
Submitted by CRAFTON TULL for property located W OF W. GEYSER ST. The property is zoned R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 5.14 acres. The request is to rezone 4.01 acres of the site to RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0008** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0008** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is south of W. Wedington Drive, between N. 54th and N. Broyles Avenues. The site contains approximately 5.14 acres and is zoned R-A Residential Agricultural. The surrounding area is mostly zoned R-A except for adjacent developments to the east and west which are occupied by two-family dwellings. To the west along W. Clevenger Drive are 10 existing two-family structures which were developed in the early 1970s; the Roczen Duplex project borders to the east is currently under development and were issued building permits in July of 2022. Owl Creek runs through the property near its southern property line. Its associated floodplain encumbers roughly $\frac{1}{4}$ of the site. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	R-A, Residential Agricultural
South	Undeveloped/Rural Residential	R-A, Residential Agricultural
East	Two-Family Residential	RI-U, Residential Intermediate-Urban
West	Rural Residential/Two-Family Residential	R-A, Residential Agricultural; RMF-6, Residential Multi-Family, 6 Units per Acre

Request: The request is to rezone 4.01 acres of the overall property from R-A, Residential Agricultural to RI-12, Residential Intermediate, 12 Units per Acre.

Public Comment: Staff has not received any public comment on this item.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along stub outs of W. Geyser Street and W. Clevenger Drive. W. Geyser Street is a fully-improved Residential Link Street with asphalt paving, curb and gutter, and six foot sidewalks along both sides of the street. W. Clevenger Drive is a private drive with asphalt paving and open ditches. Any street improvements required in these areas would be determined at the time of development proposal.

Water: Public water is not available to the subject area. An 8-inch water main is shown to be extended to the west property line in the W. Geyser Street right-of-way in the grading permit document documents for the Roczen Duplex project.

Sewer: Sanitary Sewer is available to the subject area. An existing 6-inch sanitary sewer main is present on the north side of the subject property and an existing 10-inch main is present on the south side of the subject property.

Fire: Station 7, located at 835 N. Ruppel Road protects this site. The property is located approximately 1.3 miles from the fire station with an anticipated drive time of approximately three minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Drainage: No portion of the property is within the Hillside-Hilltop Overlay District. A portion of the subject area lies within a FEMA floodplain, has hydric soils, and a protected stream is present in the area.

The portion of the subject area within the FEMA floodplain will necessitate a floodplain development review at the time of permit or plan submittal. This will restrict the type of development and impact allowed in flood zones and may require additional documentation such as flood studies or elevation certificates depending on the type of development. If a development impacts a floodplain, those impacts may require review and approval from FEMA. Floodplain is present through a slim depression that roughly follows the unnamed tributary of the Farmington Branch near the west property line.

Hydric soils are also present on the subject property. They are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric Soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It is important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence

of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal. Hydric soils are present throughout the entirety of the subject property.

A protected stream is present in the subject area. Streamside Protection Zones generally consist of a protected area on each side of a stream or creek. This protected area is meant to preserve woody vegetation and natural areas along stream corridors to improve/protect stream health. At a minimum, the protected area will be 50 feet wide as measured from the top of bank but, depending on the shape and extent of the floodway, it could be substantially more. Certain construction activities such as trails and some utilities are allowed in these zones, but in general, improvements such as parking lots or buildings are prohibited. The streamside protection area is present on the west side of the subject property. Any additional improvements or requirements for drainage will be determined at time of development.

Tree Preservation:

The proposed zoning district of RI-12, Residential Intermediate, 12 Units per Acre requires **20% minimum canopy preservation**. The current zoning district of R-A, Residential Agricultural requires **25% minimum canopy preservation**.

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

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

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

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **2-4** for this site, with a weighted score of **3.5** at the highest. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #7, 835 N. Rupple Road)
- Near Sewer Main (6" sewer main, N. of the site; 10" sewer main, S. of the site)
- Near Water Main (8" water main, W. Geyser Street)
- Near Paved Trail (W. Wedington Drive side path trail)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the request to be mostly compatible with the surrounding mix of uses. Properties in the vicinity are mostly large-lot, low-density residential dwellings however, two-family dwellings also border the subject property to the east and west. Access to the site is limited, with W. Geyser Street being the only public street extending to the site. There may be opportunity to tie into W. Clevenger Drive, a private street to the west, but that will require an access easement to be granted from the adjoining property owner and may require fill to be placed within the Owl Creek floodplain. Opportunities for cross-connectivity are limited to adjacent properties due to the presence of Owl Creek to the south and private residential properties elsewhere. Despite the limited access staff finds the increase in density could be supported otherwise. The site is near W. Wedington Drive and N. Broyles Avenue which are prominent thoroughfares that will not noticeably be impacted by additional density. Rezoning to RI-12 expands the variety of housing types, ranging from single- up to four-family dwellings by-right. Cluster housing developments are also permitted by-right in RI-12 zoning where they are a conditional use in R-A. Staff also finds that the bulk and area regulations are suitable and not out of context with the surrounding properties – particularly those developed under RI-U and RMF-6 to the east and west, respectively. Single family developments are permitted the smallest lot size with 50-foot minimum widths and 5,000 square foot minimum areas. Two-family dwellings have the same minimum lot width but require an additional 2,260 square feet in area, and three-family dwellings and above require 90-foot lot widths and 10,890 square foot lots. Structures are limited to three stories in RI-12 zoning which is less than the unlimited maximum height allowed in R-A zoning.

Land Use Plan Analysis: Staff finds the proposal to be mostly consistent with the goals in City Plan 2040 and the future land use designation for this location. Staff finds that the request is consistent with the Future Land Use Map designation and goals of City Plan 2040. The area is designated as a Residential Neighborhood Area, which calls for a mix of housing types in appropriate areas. Limited access to the site suggests certain incongruencies in terms of appropriateness but the applicant is also proposing for the portion of the site designated as a Natural Area to remain R-A which aligns with conservation principles set forth in the Future Land Use Plan. Staff finds two-, three-, and four-family dwellings as a permitted use is consistent with the future land use designation. Rezoning from R-A to RI-12 serves to contribute towards City Plan 2040 goals #2 – Discourage Suburban Sprawl and 6 – Create Opportunities for Attainable Housing. The

site scores low on the Infill Scoring Matrix but it could be characterized as an infill site given its access to basic infrastructure necessities such as water, sewer, and street access. The proposed rezoning would put additional residential density on a property close to high-capacity streets and trail along W. Wedington Drive. Rezoning to RI-12 also aligns with Goal #6 because it allows a range of single- to four-family dwellings which may provide opportunities for affordable options beyond what a strictly single-family development would allow.

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

Finding: Staff believes that there is sufficient justification for rezoning the property to RI-12; including diversifying the mix of residential uses, allowing varied lot sizes, and bringing residential density to the site that generally aligns with the Future Land Use designation.

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

Finding: Rezoning the property to RI-12 may increase traffic at this location above the potential of the current zoning district, though the impact is not expected to be detrimental to danger and congestion. Once routed through the newly built Residential Link Street in the adjacent subdivision to the east, vehicles will have close access to prominent north/south and east/west corridors. Staff finds the moderate size of the development will also limit the amount of additional traffic to a level that is safe and appropriate for a property that will likely have a single access point. Very few accidents were reported from 2017 to 2021 near where N. Crater Avenue now accesses Wedington but that data does not account for the Roczen duplexes development.

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-12 would increase the load on public services above the potential of the current zoning district, but the impact is not expected to be significant or undesirable.

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-2023-0008.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	
Date: <u>April 10, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.03 District R-A, Residential Agricultural
 - §161.11 District RI-12, Residential Intermediate – 12 Units per Acre
- Applicant Request Letter
- Applicant Site Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	One-half (½)
----------------	--------------

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

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

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

(G) *Building area.* None.

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

Editor's note(s)—Ord. No. 6625, §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§4, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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."



March 9, 2023

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

To whom it may concern,

Please let this letter serve as a narrative to accompany a rezoning request for Washington County Parcel ID 765-16191-001, which is located south of W Wedington Drive, between N Crater Avenue and N 54th Avenue. The parcel is located directly west of two recent rezoning requests (Wedington West and Roczen Duplexes) and also a multifamily project to the west of this subject property, along W Clevenger Dr. This property is currently owned by Troy Lee & Charlotte Henderson, and is under contract pending a successful rezone. The parcel is approximately 5.14 acres in size.

This property is currently zoned Residential-Agricultural (R-A) with a request to rezone to Residential Intermediate 12 units per acre (RI-12). To the east of this property are the two aforementioned recent zoning requests, which are predominately Residential Intermediate – Urban (RI-U). The property west of the subject property along W Clevenger Dr. is currently zoned Residential Multi-Family – 6 Units Per Acre (RMF-6). All of these properties contain duplexes and multifamily. The rezone request from R-A to RI-12 would serve as a good transitional zoning request from the higher density developments utilizing RI-U to the RMF-6 district.

Of the 5.14 acres of the subject property, 4.01 are requested to be rezoned to RI-12, while the remaining 1.13 acres would remain as R-A. This is ideal with the floodplain along the southern property line. No new development or grading is anticipated within the existing floodplain boundaries. With the proposed rezoning request, a maximum of 48 residential units could theoretically be built on the subject property, which is reasonable in scope when compared to the adjacent properties.

Please let me know if you have any questions.

Thanks,

Blake Murray, P.E., CFM
Project Manager



- | | |
|------------------------------|-------|
| — lot lines | RI-U |
| — Line | RMF-6 |
| — SFHA / Flood Zone Boundary | CS |
| R-A | NS-G |
| RSF-4 | |

Exhibit

Fayetteville, AR

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

Created: 2/24/2023
Credits: FEMA, City of Fayetteville, AR, 2022 Imagery | EagleView Technologies | Surdex Corporation

Planning Commission

April 10, 2023

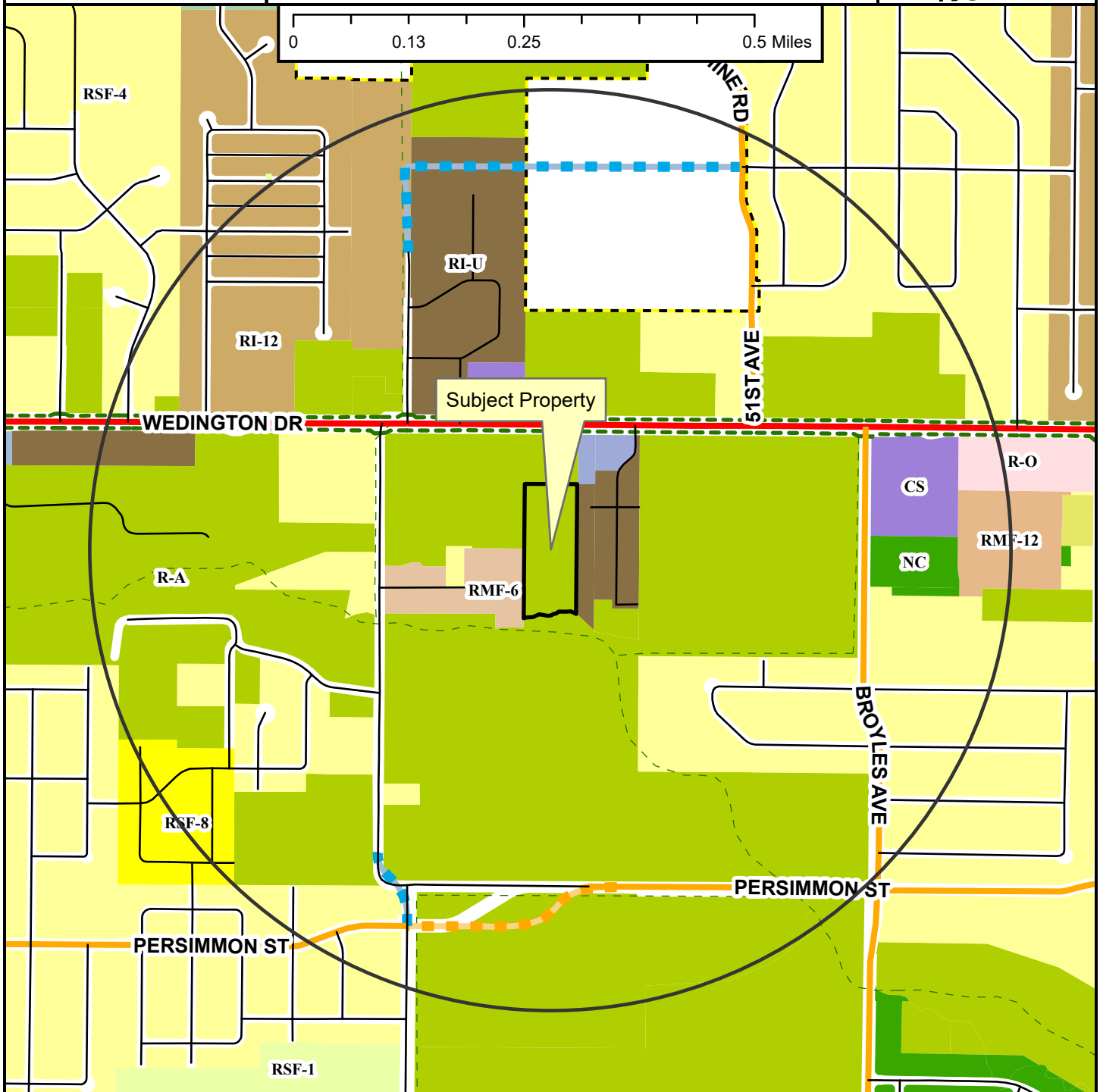
RZN-2023-0008 (HENDERSON)

Page 12 of 16

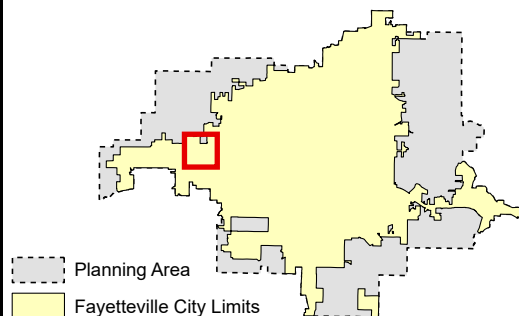
RZN-2023-0008

One Mile View

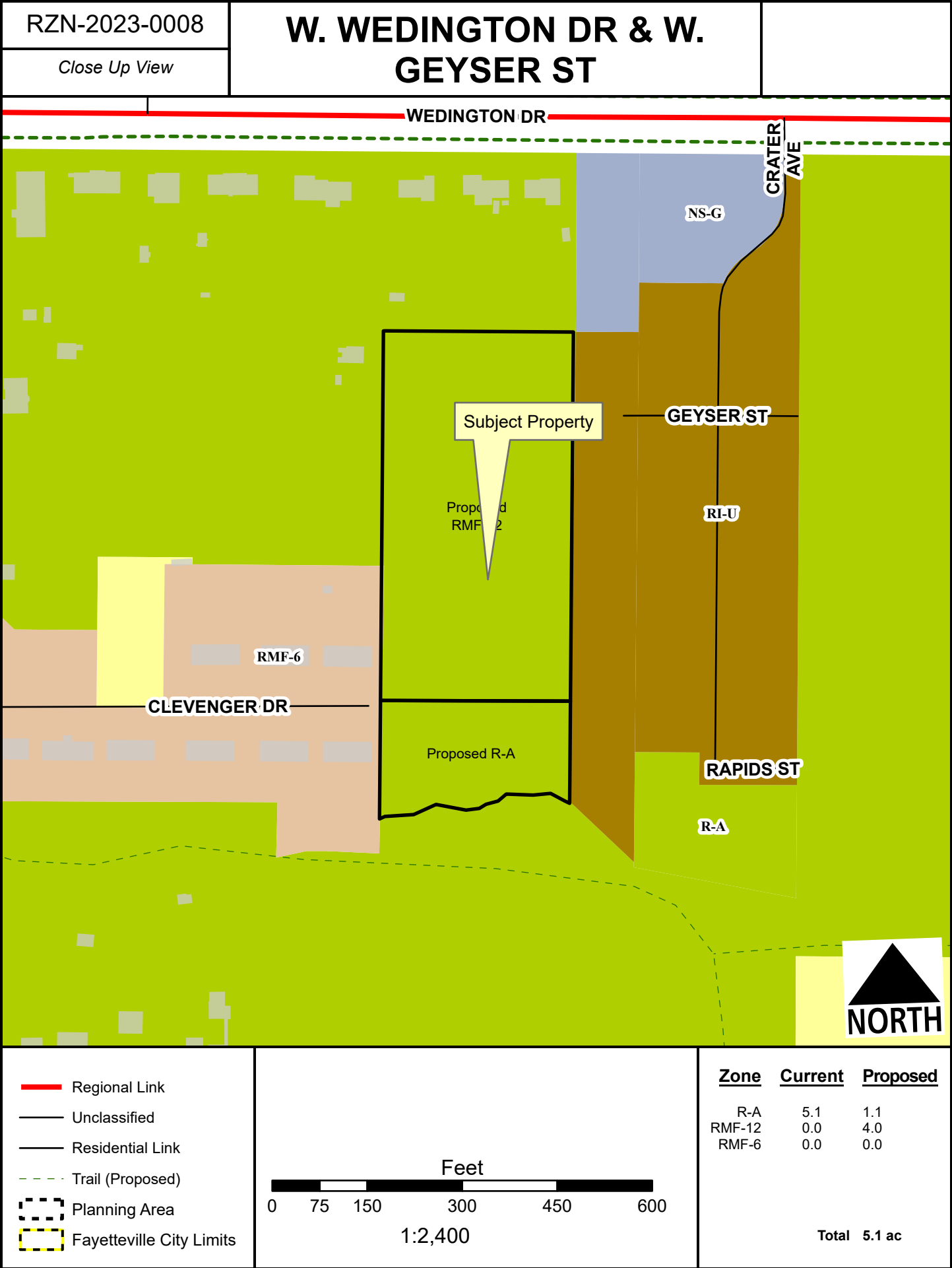
**W. WEDINGTON DR & W.
GEYSER ST**

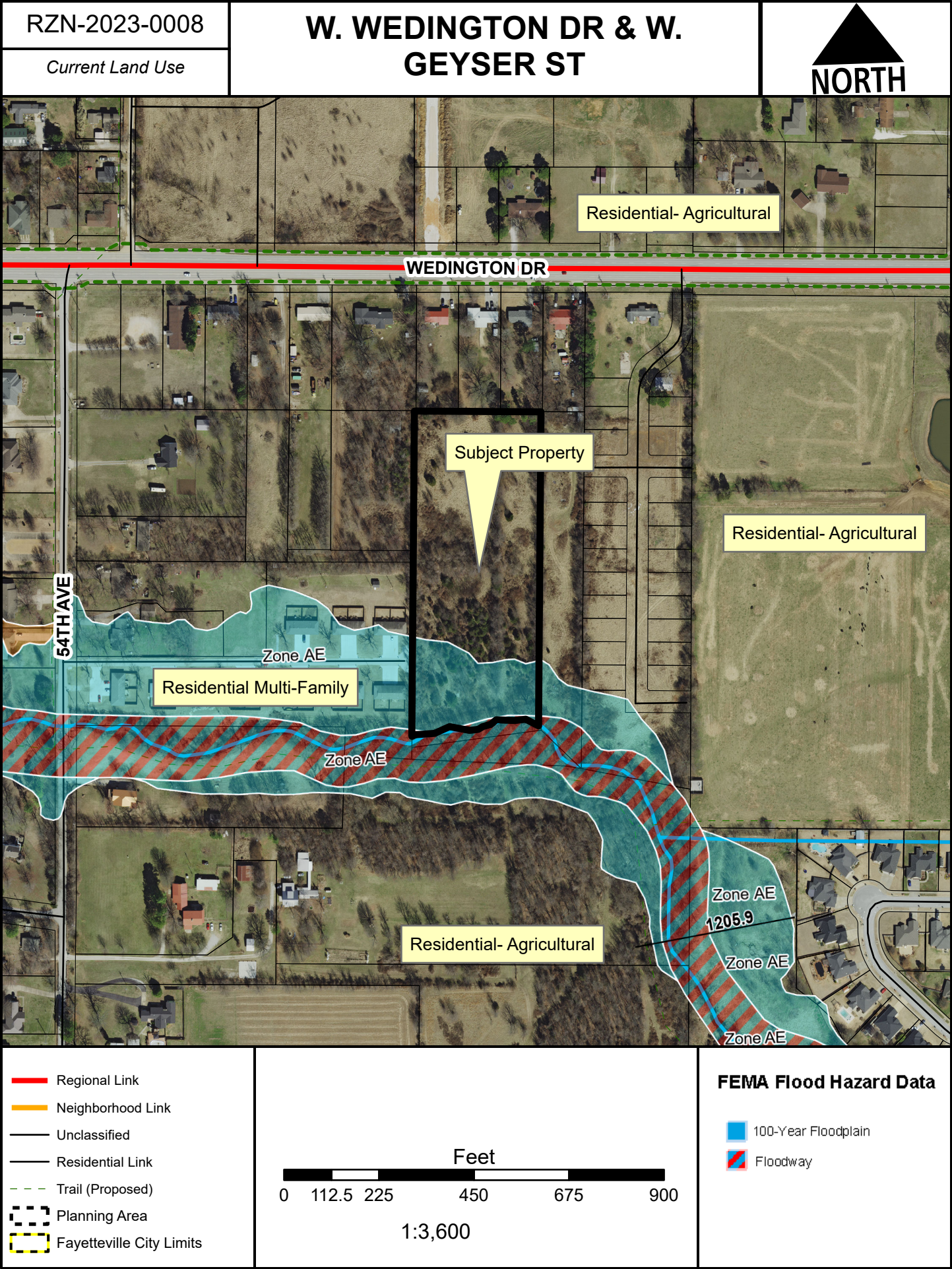


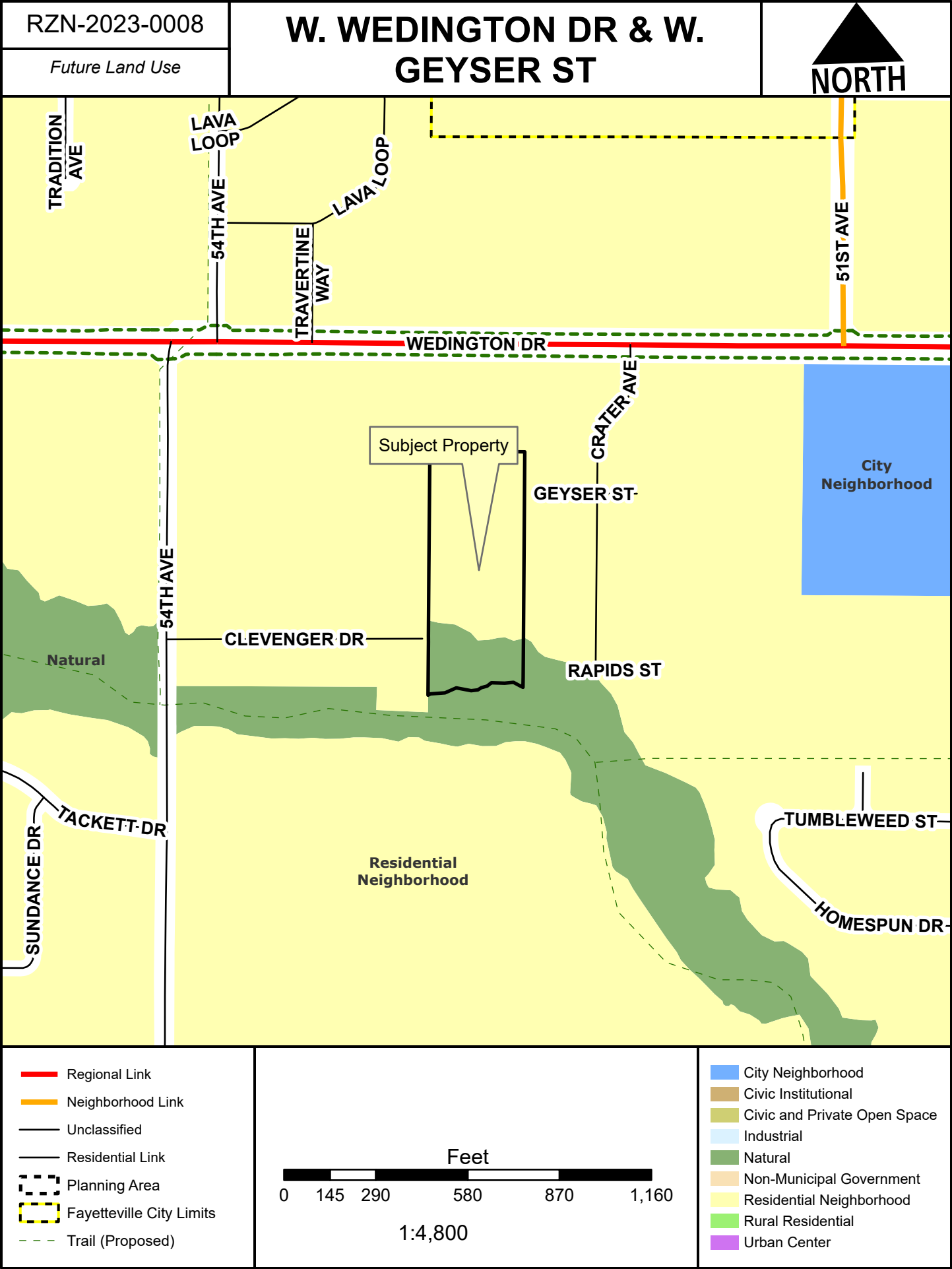
-  Regional Link
 Neighborhood Link
 Unclassified
 Alley
 Residential Link
 Planned Neighborhood Link
 Planned Residential Link
 Shared-Use Paved Trail
 Trail (Proposed)
 Fayetteville City Limits
 Planning Area



-
- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - 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
- EXTRACTION**
- I-2, General Industrial
 - 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









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: April 10, 2023

SUBJECT: **CUP-2023-0038: Conditional Use Permit (3191 W. OAKFIELD ST/ HAUGHEY, 401):** Submitted by KOMP, LLC for property located at 3191 W. OAKFIELD ST. The property is zoned RI-12 , RESIDENTIAL INTERMEDIATE, TWELVE 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-2023-0038** based on the findings in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0038 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 in west Fayetteville approximately ½ mile NW of the 1-49 Wedington exit and 1/3 of a mile east of Bryce Davis Park. It is zoned RI-12, Residential Intermediate, Twelve Units Per Acre and is not located within any overlay districts or natural areas. The parcel is currently developed with an 840 square foot single family-home constructed in 1993 according to the Washington County Assessor. 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	RI-12, Residential Intermediate, 12 Units per Acre
South	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
East	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
West	Single-family Residential	RI-12, Residential Intermediate, 12 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 on this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0038** 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	<u>YES</u>		
Date: <u>April 10, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RI-12 zoning. Type 2 STRs require a conditional use permit in the RI-12 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 structure contains two (2) bedrooms, occupancy will likely be limited to a maximum of six (6) 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). According to the applicant, the unit has a four (4) car driveway. The applicant has stated that although there is a one (1) car garage, they do not intend to allow guests to utilize the garage for parking. Limited on-street parking is also available along W. Oakfield St / N Timberline Dr as the parcel is located on a corner lot.

(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 3191 W. Oakfield 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 319 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the RI-12, Residential Intermediate, Twelve 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: **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 driveway maximum of six (6) guests are permitted. The property also has frontage along a portion of W. Oakfield St / N. Timberline Dr. 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 access from multiple directions. Staff finds 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 four (4) off-street parking spots available via a driveway located off W. Oakfield 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 RI-12 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
 - §161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre
- Applicant Request Letter, including:
 - Building Floor Plans
 - Site Plan
 - Building Elevations
 - Building Interior Photos
- 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)

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§4, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625, §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

1. **Request Letter**

We are applying for a conditional use permit from the city of Fayetteville in order to obtain a short-term rental Type 2 permit for a fully furnished single-family home. We will not be residing in the residence. The property will be used for a nightly rental.

- a. 840 Sqft house; no proposed changes to sqft
- b. **Please see Exhibit 1A** for color photos of all exterior sides of the single-story house.
- c. There is a private driveway in front of the house which can fit approximately 4 cars. We do not plan on allowing guests to utilize the single-car garage for parking. **Please see Exhibit 1A (previously referenced) photo #1 for a photo of the driveway.**
- d. **Outdoor lighting:** There is an exterior light at the front door and at the back door on the East (left) side of the house. **Please see Exhibit 1A photo #2 and Exhibit 4B photo #1.**
- e. The property will be used for short stays for 1-4 people (there are 2 bedrooms with 2 Queen beds) so the noise level should be minimal. There are three televisions in the unit (one in the living area and one in each bedroom) and guests will be allowed to bring a maximum of 2 dogs as there is a fully fenced in backyard with a warning that dogs should not be left alone outside if they will be a hindrance to neighbors.
- f. The house sits on a corner lot with the West side of the house being adjacent to the street (a yard approximately 40 feet wide with 5 trees is between the house and the street). On the East side of the house, the yard is fenced in for approximately 20 feet from the house. At the back of the house (South side), the yard is fenced in for approximately 25 feet from the house. All of these factors provide a high level of screening & privacy between guests and neighbors. **Please see Exhibit 1A** (previously referenced) for photos of the house showing the yard and fence.
- g. Trash is picked up by the city weekly. Trashcan will be kept at the fence to the backyard until trash pickup day at which time the trashcan will be moved to the end of the driveway for city pickup.
- h. The property is accessed primarily from the main roads of Weddington & Salem and then via residential side streets from there. The property does not add additional traffic on the road because this area is used for residential properties only.
- i. The use of the property as a nightly rental is attractive to those who want space and a comfortable environment to stay in while visiting the NWA area. There are other short term rentals in the general Fayetteville area which are well received by visitors and neighbors alike. The intent of this rental is to provide an easy, comfortable option to welcome visitors into the Fayetteville/NWA community while not disrupting neighboring residents.

2. **Legal description of property:**

- Address: 3191 W Oakfield St, Fayetteville, AR 72704
- Deed description: Lot 63, Woodfield Addition, Phase II
- Residential Single-family home
- Zoning Code: RI-12 – *Residential Intermediate -Twelve units per Acre*
- a. Parcel #765-17659-000

GIS Approved
tjorgensen 03/07/2023 2:22:37

3. **Site Plan**

Please see Exhibit 3A for the site plan drawn to scale of the property including structures dimensioned from the overhang to the property line, parking, and driveway. Also, the property's street is classed as a "Residential Link" according to the Master Street Plan, thus, the Minimum Right-of-Way is 45 feet and the Maximum Right-of-Way is 52 feet. **Please see Exhibits 3B and 3C.**

4. **Preliminary Floor Plan**

Please see Exhibit 4A for a drawn floor plan of the house showing walls, doors, and windows. **Please see Exhibit 4B** for photos of the interior of the house.

5. **County Parcel Map**

Please see Exhibit 5 below for a map identifying all parcels within the 200 feet notification range and a table from the Fayetteville Address Point File identifying the owners' contact information.

6. **Public Notification**

We are ready and willing to meet the public notification requirements for a conditional use permit; we understand this is required at a later date after initial submittal of request.

7. **Property Owner Authorization**

Please see the signed Consent of Owner form which is a separate document

EXHIBIT 1A

Below photos left to right:

1. Front of house facing North – See driveway with space for 4 cars and light next to front door
2. Side yard facing East (left of the house) – 20 foot wide fenced in yard with patio slab.
3. Back of house facing South with approximately 25 feet of fenced in yard
- 4 & 5. Side yard facing West (corner of block) – approximately 40 foot wide yard between house & street





#5

EXHIBIT 3A.

The following image from the general reference map shows a good overview of the property & adjoining properties (3191 W Oakfield has a blue box around the address). The gray area in front of the property is the driveway; the smaller gray area to the side of the property is a concrete patio slab within the fenced yard.

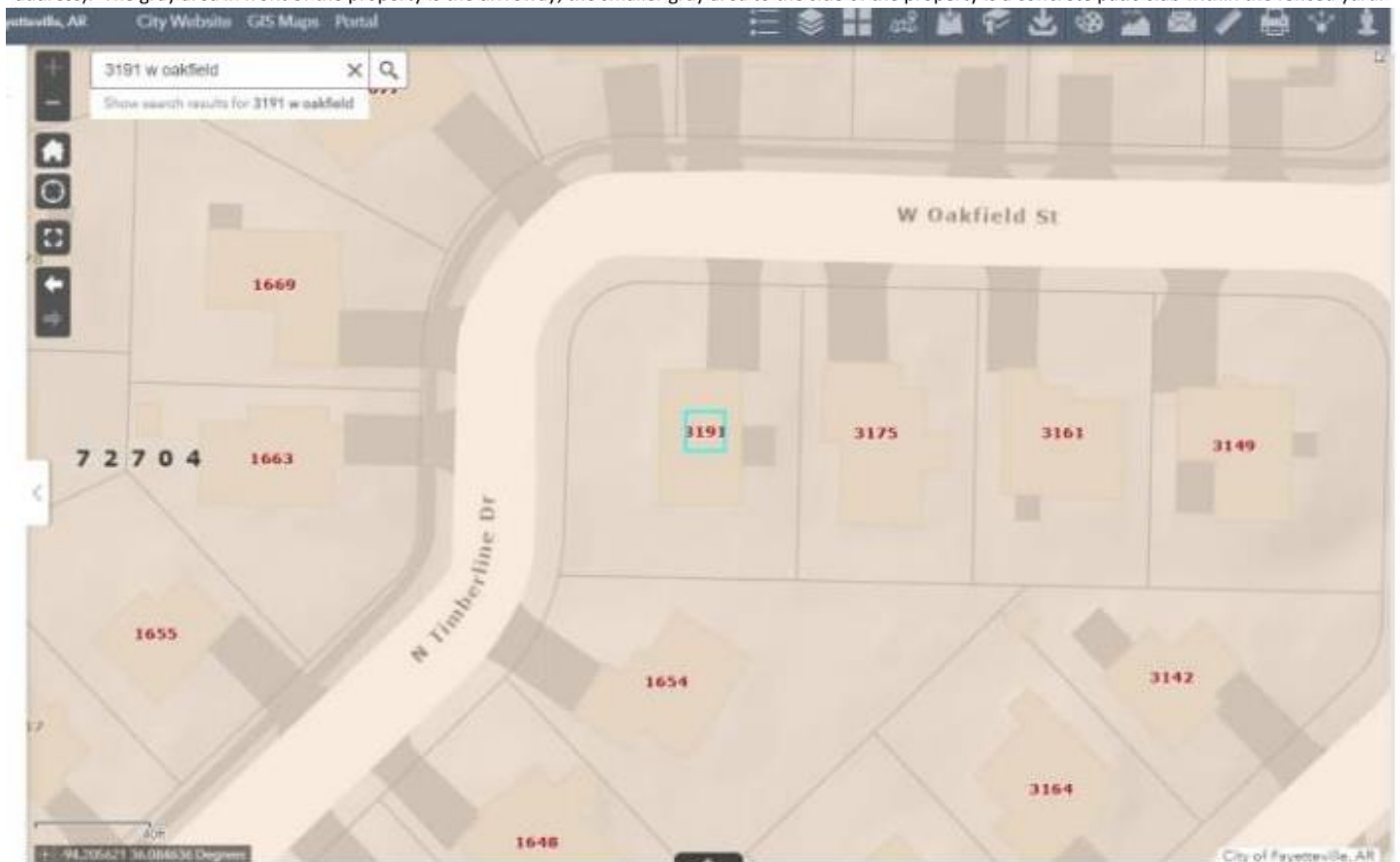


EXHIBIT 3B

The property's street is classed as a "Residential Link" according to the Master Street Plan; thus, the Minimum Right-of-Way is 45 feet and the Maximum Right-of-Way is 52 feet.

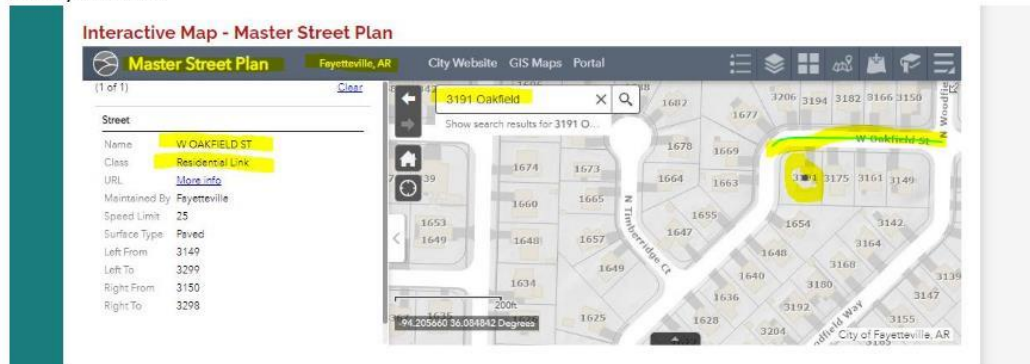


EXHIBIT 3C

Again, the property's street is classed as a "Residential Link" according to the Master Street Plan; thus, the Minimum Right-of-Way is 45 feet and the Maximum Right-of-Way is 52-feet.

Residential Link Street - Design Service Volume: <4,000 vpd - Desired Operating Speed: 15-20 mph

The residential link street section is intended to be the standard in neighborhoods and low-volume areas outside of the downtown. Generous greenspace and a comfortable sidewalk are coupled with on-street parking to create a safe environment for all modes and abilities. Most residential link streets will have a design service volume <1,500 vpd allowing bicycles to interact with traffic safely. On-street protected bike facilities should be considered where traffic volumes or speeds exceed thresholds for all ages and abilities. Residential links should be designed and proposed meeting block length, connectivity, and access management codes. Storm drainage infrastructure should have adequate depth or be offset to avoid conflicts with street tree plantings. Low-Impact Development (LID) features in green spaces are recommended best practices to incorporate alternative stormwater treatment techniques.

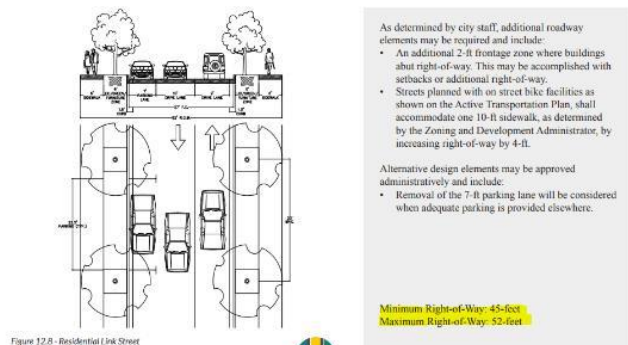


EXHIBIT 4A

Please see below for a floor plan of the house showing walls, doors, and windows; the outline was obtained from the Washington County Assessor's website.

Description of floor plan: The main living area is an open concept den + dining room with a galley kitchen which includes a washer and dryer. Down the hall is a hall bath, a guest bedroom with a window and a closet, and a master bedroom with windows, a walk-in closet and a private bathroom. Off the kitchen is a door to the backyard which includes a concrete patio slab.

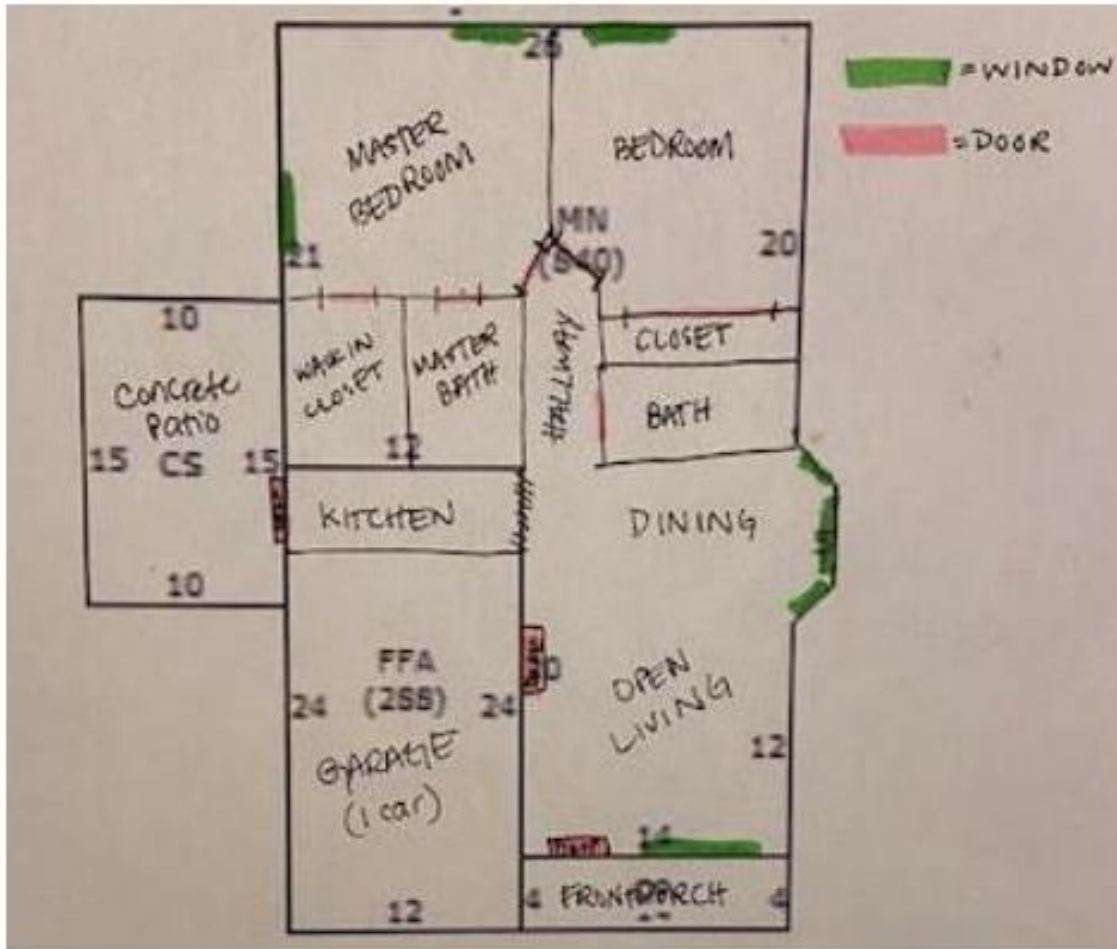


EXHIBIT 4B – Please see below for interior photos of the house to evidence the floor plan.

1. Front door with exterior light
2. Open Living area when walk in the front door
3. Dining room within the open living area; galley kitchen off the dining area
4. Hall bath
5. Guest bedroom at back of house
6. Master bedroom at back of house
7. Master bathroom at back of house



1.



2.



3.



4.



5.



6.



7.

Continued on next page...

Exhibit 5:

#	Parcel ID	First Owner Name	Owner Address	Owner City	Owner Zip	Site Address	Site City	Site Zip	Subdivision	Lot	S T R	Acres	Land Value	Homestead?
1	765-17651-000	SCOTT RENTALS LLC	PO BOX 1147	FAYETTEVILLE	72702	3192 W WOODFIELD WAY	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	55	7/16/1930	0.13757423	35,000.00	No
2	765-17652-000	WILKERSON, DOUG	3180 W Woodfield Way	Fayetteville	72704	3180 W WOODFIELD WAY	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	56	7/16/1930	0.13757629	35,000.00	Yes
3	765-17660-000	VINARDI, ALEJANDRO L	1640 TIMBERLINE DR	FAYETTEVILLE	72701	1640 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE I	26	7/16/1930	0.13773956	35,000.00	Yes
4	765-17653-000	SARGENTI, ANTHONY D & MICHELLE C	3168 W WOODFIELD WAY	FAYETTEVILLE	72704	3168 W WOODFIELD WAY	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	57	7/16/1930	0.13757456	35,000.00	Yes
5	765-17661-000	HILL, MARIANNE G & JOE	1648 N TIMBERLINE DR	FAYETTEVILLE	72704	1648 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	65	7/16/1930	0.13774553	35,000.00	Yes
6	765-17654-000	LAM CAPITAL TRUST	5886 E LAMAR PETTUS RD	FAYETTEVILLE	72703	3164 W WOODFIELD WAY	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	58	7/16/1930	0.13757213	35,000.00	No
7	765-17655-000	ADDERHOLT, HANNAH E	3142 W WOODFIELD WAY	FAYETTEVILLE	72704	3142 W WOODFIELD WAY	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	59	7/16/1930	0.13876162	35,000.00	Yes
8	765-17660-000	ECKHARDT, LEITHA A	1654 N TIMBERLINE DR	FAYETTEVILLE	72704	1654 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	64	7/16/1930	0.2353867	50,000.00	No
9	765-17465-000	DURANGO INVESTMENTS LLC	4299 W PERSIMMON ST	FAYETTEVILLE	72704	1655 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE I	25	7/16/1930	0.13781619	35,000.00	No
10	765-17662-000	CLARK, PAMELA Y (MCCARTER)	1663 N TIMBERLINE DR	FAYETTEVILLE	72704	1663 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	66	7/16/1930	0.1528172	40,000.00	Yes
11	765-17463-000	HAWLEY, HERBERT C JR	2921 MILLSTONE DR	FAYETTEVILLE	72704	1664 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	23	7/16/1930	0.16025377	40,000.00	No
12	765-17656-000	WHITMORE PROPERTIES LLC	PO BOX 15	ELM SPRINGS	72728	3149 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	60	7/16/1930	0.1815045	40,000.00	No
13	765-17657-000	DURANGO INVESTMENTS LLC	4299 W PERSIMMON ST	FAYETTEVILLE	72704	3161 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	61	7/16/1930	0.13774088	35,000.00	No
14	765-17658-000	ROSENBAUM, TERRY L & SMITH-NIX,	3175 W OAKFIELD ST	FAYETTEVILLE	72704	3175 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	62	7/16/1930	0.13773963	35,000.00	No
15	765-17659-000	HAUGHEY, PRISCILLA L	3018 W OLD FARMINGTON RD	FAYETTEVILLE	72704	3191 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	63	7/16/1930	0.17978266	40,000.00	No
16	765-17662-000	GREENE, TAMARA LIVING TRUST	3864 NATCHEZ TRCE	FAYETTEVILLE	72703	1678 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE I	22	7/16/1930	0.14336018	35,000.00	No
17	765-17663-000	MOORE, WILLIAM H & CHLOE M	1669 N TIMBERLINE DR	FAYETTEVILLE	72704	1669 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	67	7/16/1930	0.17688578	40,000.00	Yes
18	765-17669-000	BINZ, JAMES A JR	1635 N FIELDSTONE AVE	FAYETTEVILLE	72704	3150 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	73	7/16/1930	0.14691386	35,000.00	Yes
19	765-17668-000	CROWDER PROPERTIES LLC	8471 MADISON 2340	HUNTSVILLE	72740	3166 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	72	7/16/1930	0.13774142	35,000.00	Yes
20	765-17667-000	PAYNESMITH, JUDY W	3182 W OAKFIELD ST	FAYETTEVILLE	72704	3182 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	71	7/16/1930	0.13774257	35,000.00	Yes
21	765-17666-000	BIRD WATCH RENTAL PROPERTIES LLC	1279 W MT COMFORT RD APT 201	FAYETTEVILLE	72703	3194 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	70	7/16/1930	0.13774188	35,000.00	No
22	765-17665-000	BROWN, JOHN GREGORY	15327 FISHER RD	FAYETTEVILLE	72701	3206 W OAKFIELD ST	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	69	7/16/1930	0.18119448	40,000.00	No
23	765-17664-000	WARREN, CHARLES W & MELISSA	2905 S 58TH ST	FORT SMITH	72903	1677 N TIMBERLINE DR	FAYETTEVILLE	72704	WOODFIELD ADD PHASE II	68	7/16/1930	0.29368934	60,000.00	No
24	765-19345-000	WEDDLE, DEBROAH A	3191 W Wildflower St	Fayetteville	72704	3191 W WILDFLOWER ST	FAYETTEVILLE	72704	PINE CREST ADDITION PHASE I	11	6/16/1930	0.15840003	36,000.00	Yes

Search Parameters:

<https://maps.fayetteville-ar.gov/viewer/index.html?webmap=bc728d352f6409fba17488a5734653>

Addresses & Zip Codes

Fayetteville, AR

City Website

GIS Maps

Portal

(1 of 1)

Clear

Address

Location ID: 1013021

Class: SING

Street Address: 3149 W OAKFIELD ST

City: FAYETTEVILLE

ZIP Code: 72704

Zoom to

3191 w oakfield

Show search results for 3191 w oakfield

1253 3235 3219 3207 3191 3179 3167 3151

1696 1689 1688 1682 1677 3206 3194 3182 3166 3150

1684 1681 1678 1669 1674 1673 1664 1663 3181 3175 3161 3149

1660 1665 1647 1655 1654 1648 3164 3168 3142

1653 1649 1648 1657 1649 1634 1626 1625 1620 1636 3192 3155 3147

1635 1614 1611 1608 3210 3204 3163 3155 3122 3114 3106 1631

3350 1606 1607 1597 1622 3222 3240 3195 3187 3140 3111 3091

3201 3154 3123

Public Notification

Select or search for a feature in the map.

3191 W OAKFIELD ST

Apply a search distance

200 Feet

Address Layer

Property Owner

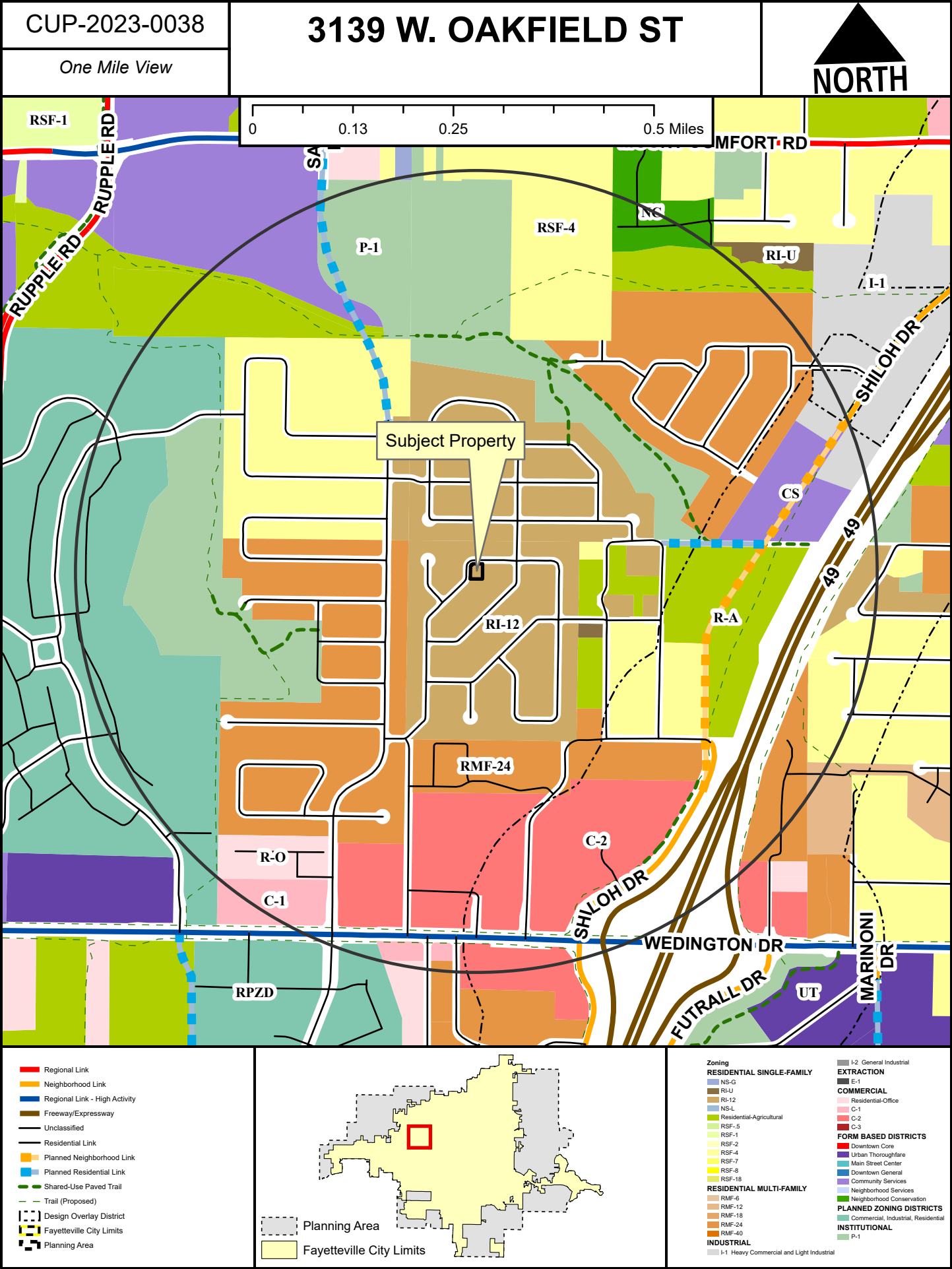
Format

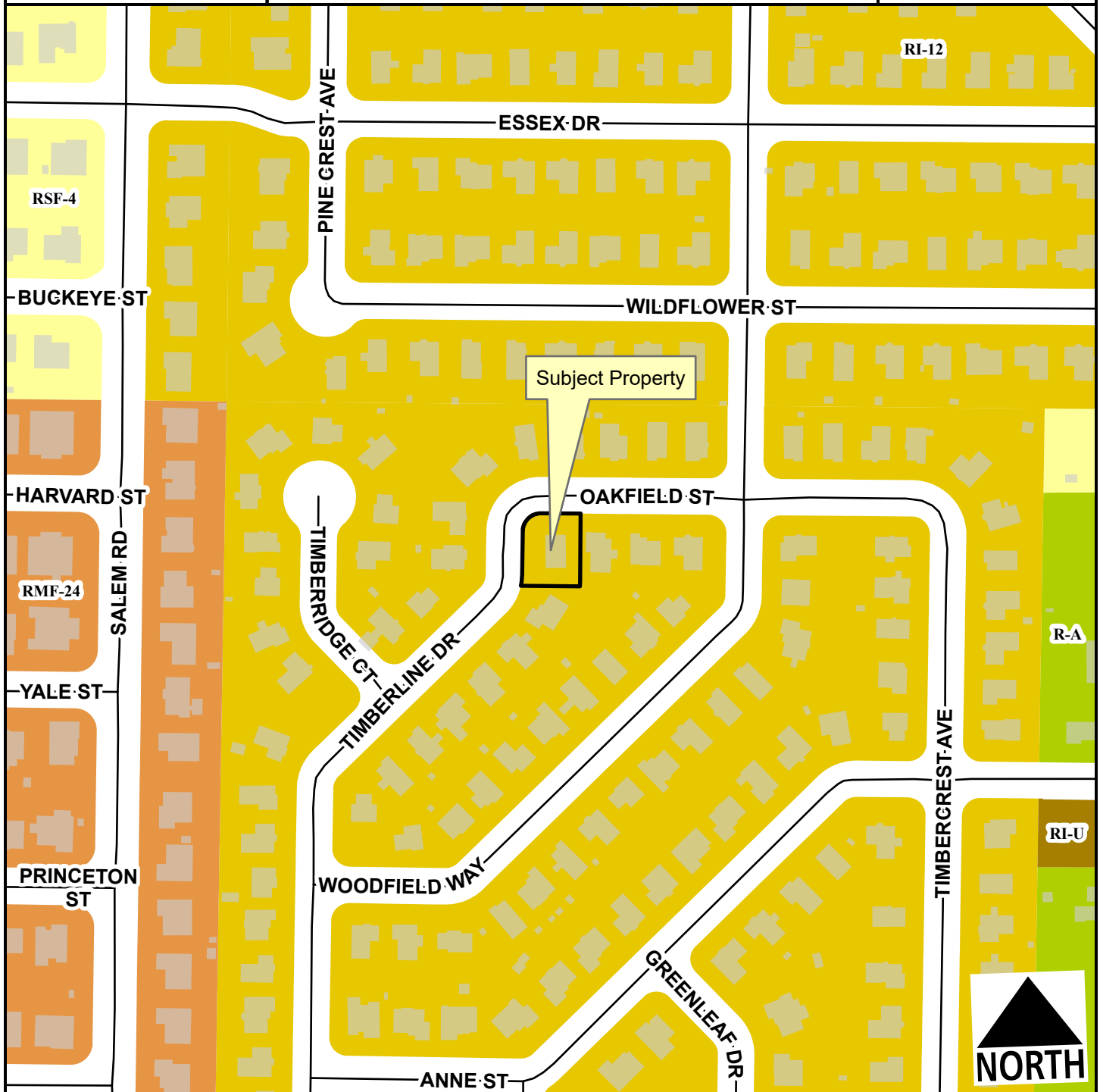
Comma-separated values (CSV)

24 addresses found. do you want to continue?

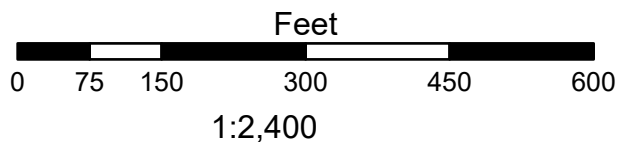
Review

Download





- Residential Link
- Planning Area
- Fayetteville City Limits

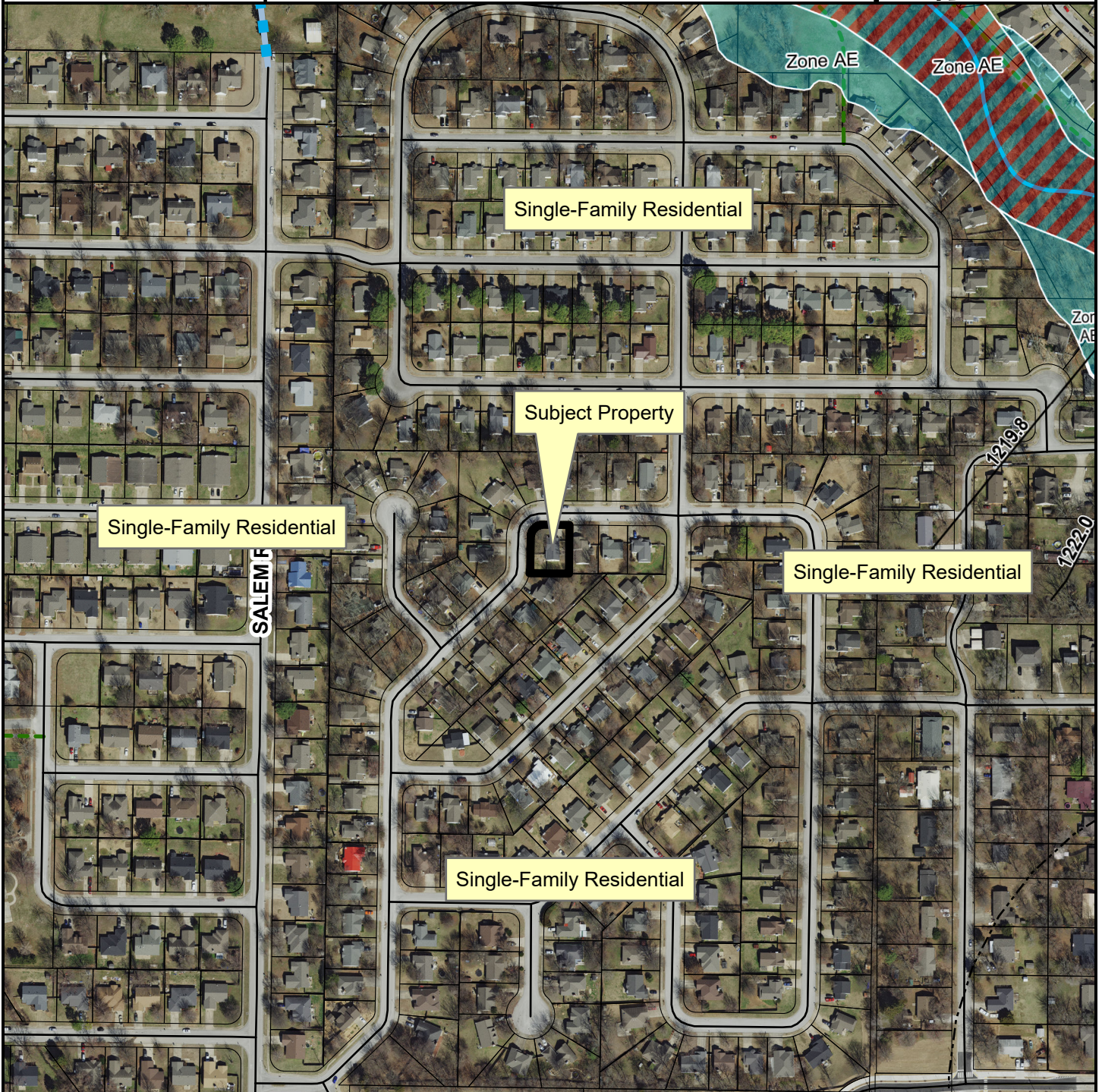


- Residential-Agricultural
- RSF-4
- RI-12
- RI-U
- RMF-24

CUP-2023-0038

3139 W. OAKFIELD ST

Current Land Use



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

Feet

0 112.5 225 450 675 900

1:3,600

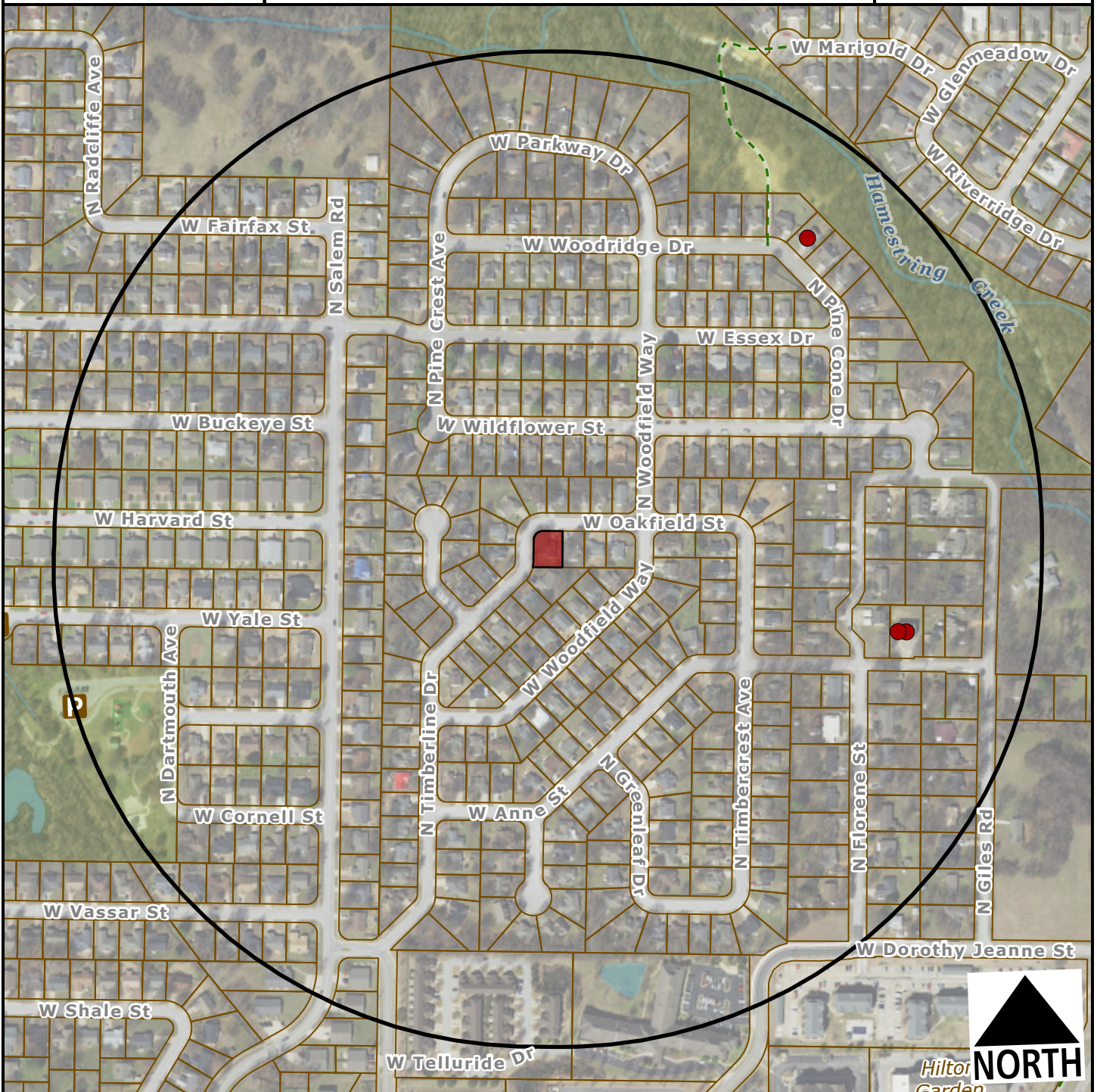
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

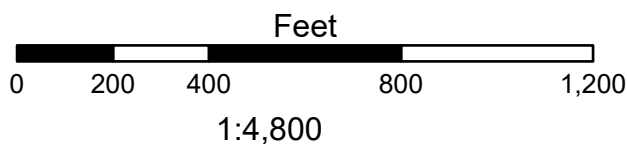
CUP-2023-0038

3139 W. OAKFIELD ST

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 3
2% density cap

NOT 0
contributing to
2% density cap

Total 3



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: April 10, 2023

SUBJECT: **CUP-2023-0037: Conditional Use Permit (616 N. WALNUT AVE/CORLEY, 446):** Submitted by REBECCA CORLEY, for property located at 616 N. WALNUT AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.17 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0037** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0037**, determining:*

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

BACKGROUND:

The subject property is located on the east side of N. Walnut Avenue, roughly ¼ mile east of the intersection of E. Rebecca Street and N. College Avenue. The property is approximately 0.17 acres and zoned RSF-4, Residential Single-family, 4 Units per Acre. It is currently developed with a 1,020 square foot single-family home that was built in 1915 according to Washington County records. No zoning overlays apply to the property, and the property is just outside of the Washington-Willow Historic District. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	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-2023-0037**, 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	<u>YES</u>
Date: <u>April 10, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

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

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

(a.) That it is empowered under the section of this chapter described in

the application to grant the conditional use; and

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 short-term rental in RSF-4 zoning, which requires a conditional use permit.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the dwelling has 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 two off-street parking spots in a driveway on the south side of the house.

The driveway has a concrete apron but transitions to gravel/grass as it enters the property. 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 616 N. Walnut Avenue. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 319 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 two off-street spaces are available in an existing driveway to serve a maximum of six guests. N. Walnut Drive is not wide enough to support on-street parking. Within ¼ mile of the property city business license records indicate there are 10 Type 2 rental business licenses. No other licenses have been issued to properties on the same block, nor those directly to the north, south, east, or west. 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. Walnut Avenue, which is classified as a Residential Link Street. Access is provided through an existing driveway along the south side of the house. The driveway is composed gravel and grass. 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 six guests, the parking demand would not be out of character with use of the property for residential purposes. Sidewalks are present along N. Walnut Avenue and throughout the surrounding neighborhood.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.08 District RSF-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."

Application for Conditional Use Permit for a Short Term Rental

1. Payment

2. Legal Description of Property: Lot Numbered Three (3) Block Numbered Twenty-five (25), Gunter Addition to the City of Fayetteville, Arkansas, as per plat of said addition on file in Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. 616 N. Walnut Avenue, Sec: 10 TWP: 16 Rng: 39 SubDiv: 05910

3. Proposal: To be permitted for a seasonal short term rental house

(a). Building size: 1,020 sq.ft., front porch 184 sq.ft., back deck 84 sq.ft.

(b.) Elevations of exterior: Photos

front

south side

north side

back



(c.) Number of off-street parking spaces to be provided: 2

(d.) Maximum occupancy per rental: 4

(e.) Outdoor lighting: front porch light and motion sensor lighting by front and back door

(f.) Noise: normal household level

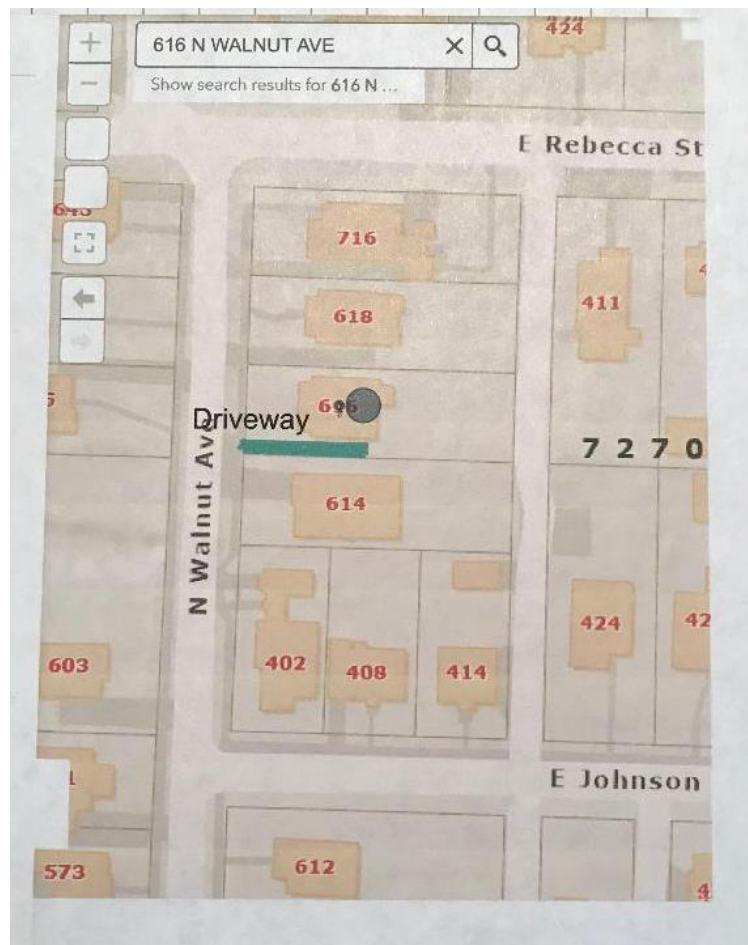
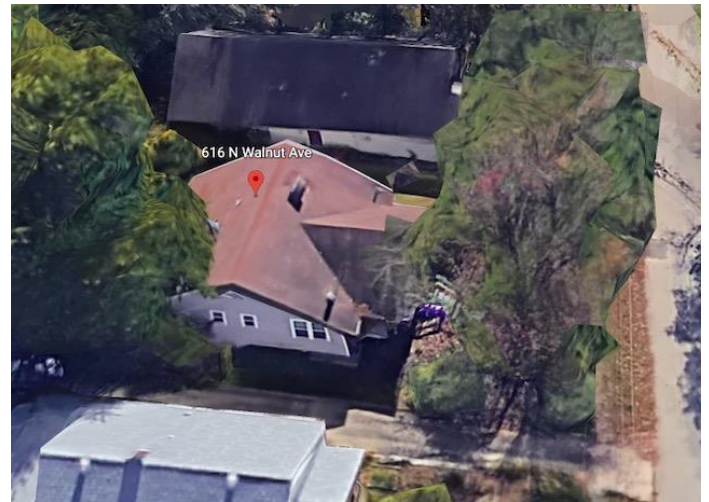
(g.) Screening or buffering from adjacent properties: bamboo landscaping in backyard, backyard fenced

(h.) Trash and refuse service: residential cart and recycle bin available on south side of house and will be placed curbside on pick-up days by housekeeper

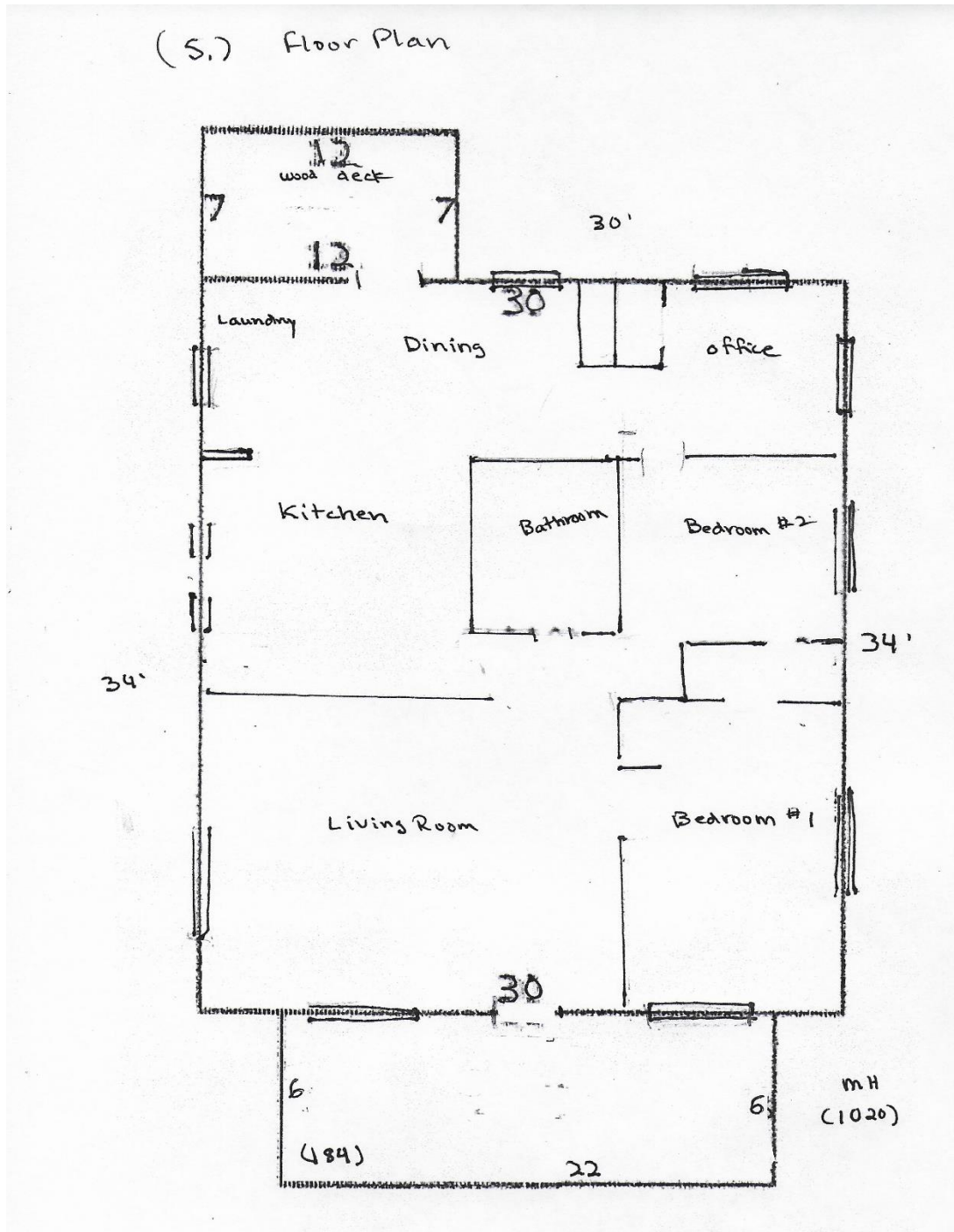
(i.) Ingress and egress to property; traffic impacts: gravel residential driveway on south side of house, access to Walnut Avenue

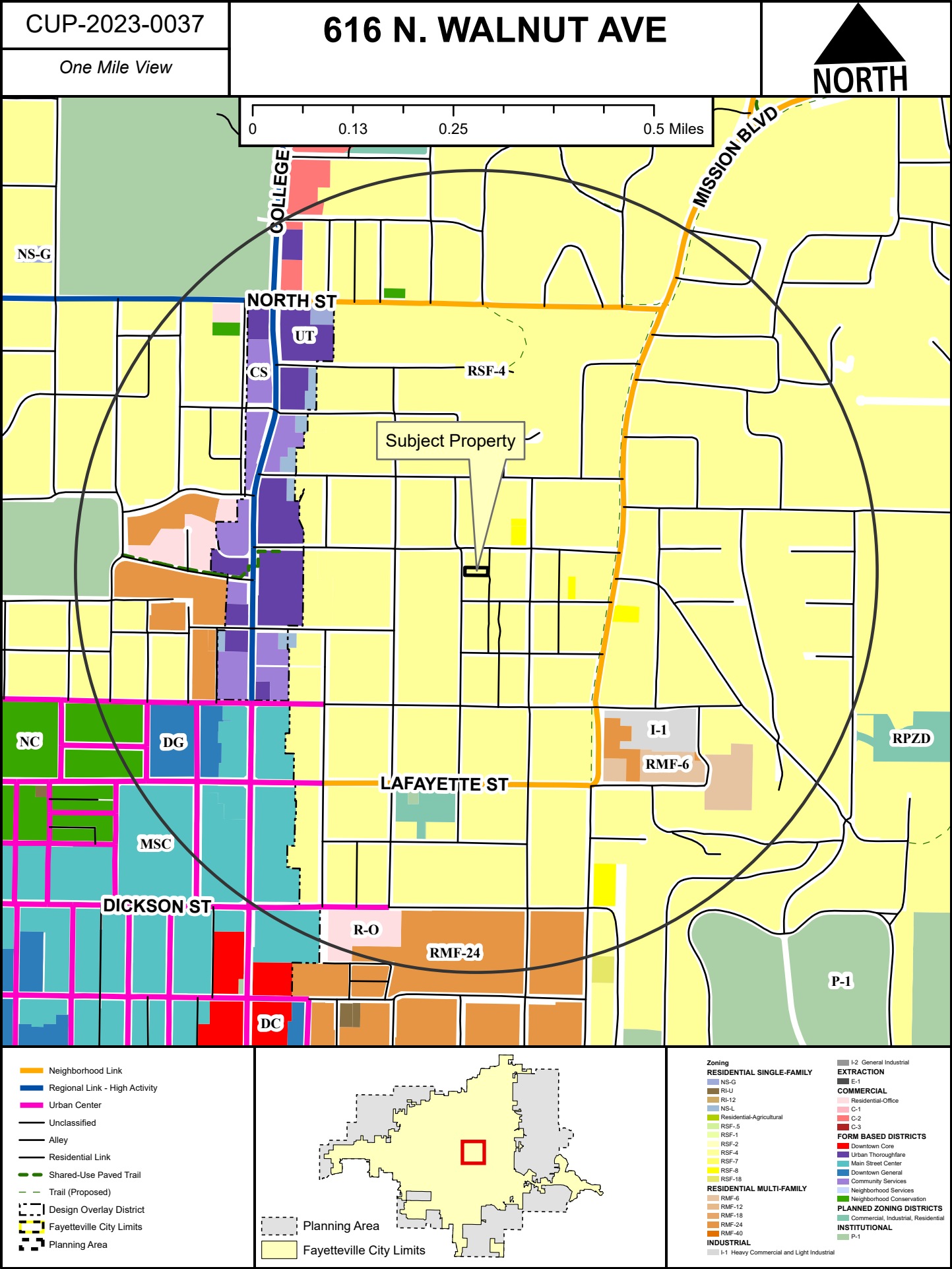
(j.) General compatibility of proposed use with adjacent properties and other properties in the neighborhood: As the house use will be similar to other residential properties in the neighborhood, no negative issues are anticipated

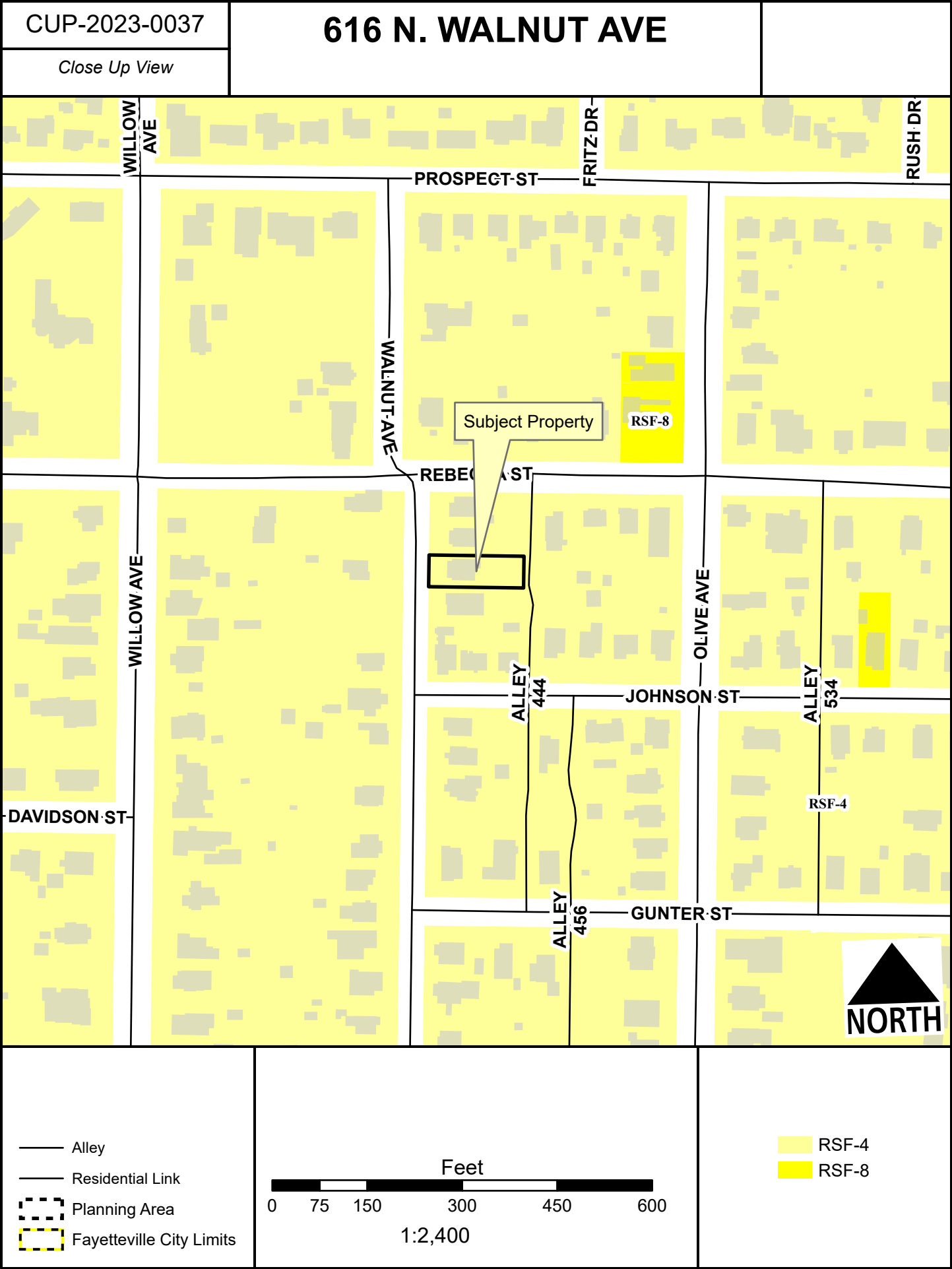
(4.) Site Plan:



(5) Floor plan



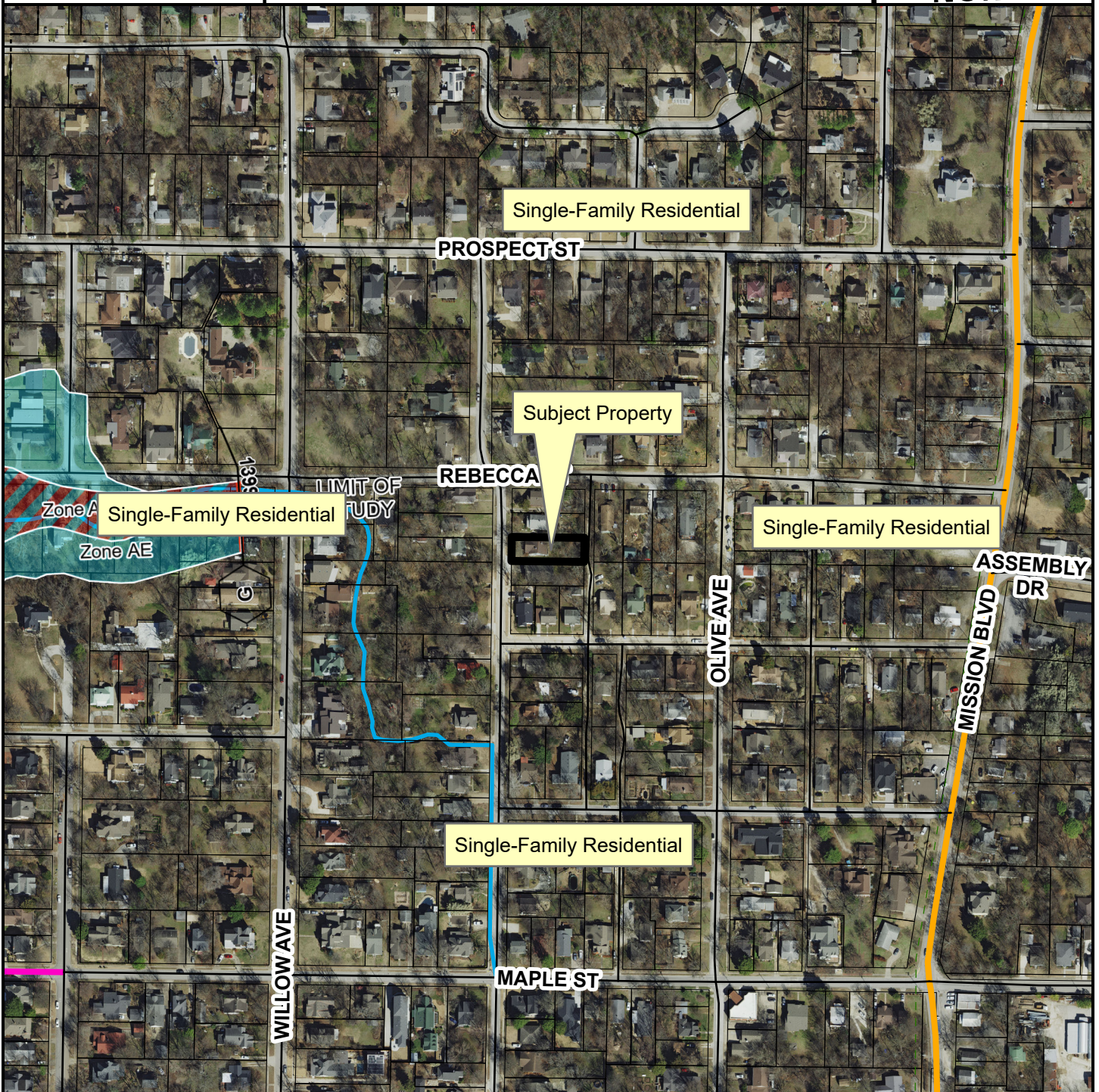




CUP-2023-0037

616 N. WALNUT AVE

Current Land Use



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



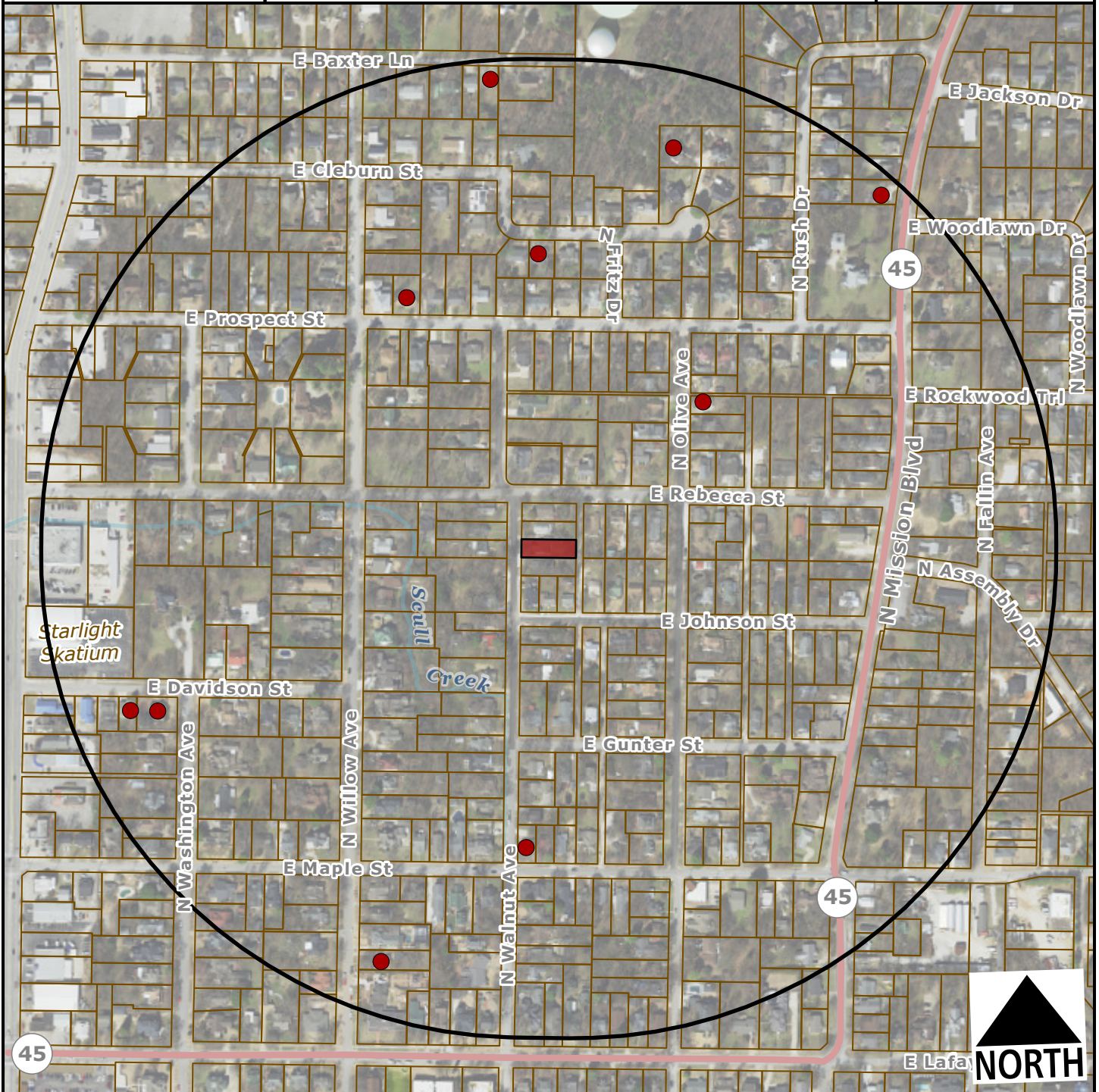
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

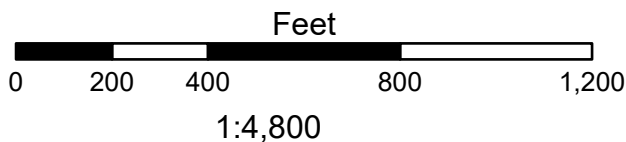
CUP-2023-0037

616 N. WALNUT AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 10
2% density cap

NOT 0
contributing to
2% density cap

Total 10