

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, April 20, 2023

4:30 PM

City Hall Room 111

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 April 10th, 2023 Planning Commission. - Mirinda Hopkins, Development Coordinator

Unfinished Business**2. CUP-2022-0122: Conditional Use Permit (521 N. SHADY AVE, UNIT 4/STRANGE, 445):**

Submitted by STATLER STRANGE for property located at 521 N. SHADY AVE, UNIT 4. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.24 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

New Business**3. PZD-2023-0002: Planned Zoning District (SOUTHEAST OF W. MARTIN LUTHER KING JR BLVD AND S. SMOKEHOUSE TRL/SWEET BAY AT KESSLER, 596):**

Submitted by GAVIN SMITH for property located SOUTHEAST OF W. MARTIN LUTHER KING JR BLVD AND S. SMOKEHOUSE TRL. The property is split zoned R-A, RESIDENTIAL AGRICULTURAL, and CS, COMMUNITY SERVICES, UT, URBAN THOROUGHFARE and contains approx. 5.59 acres. The request is to rezone 4.49 acres of the property to a PLANNED ZONING DISTRICT.

APPLICANT HAS REQUESTED TO TABLE TILL THE MAY 8TH, 2023 PLANNING COMMISSION MEETING. - Ryan Umberger, Senior Planner

4. ADM-2023-0011: Administrative Item (AMEND UDC CHAPTER 166 - DEVELOPMENT):

Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to UDC 166.25 – Commercial, Office and Mixed Use Design and Development Standards. The proposed code change would require cross access to adjacent properties. - Britin Bostick, Long Range Planning/Special Projects Manager

5. LSD-2022-0034: Large Scale Development (3066 E. JOYCE BLVD/THE

BERKSHIRE AT UPTOWN, 177):

Submitted by JORGENSEN AND ASSOCIATES for property located at 3066 E. JOYCE BLVD. The property is zoned CS, COMMUNITY SERVICES, NS-G, NEIGHBORHOOD SERVICES-GENERAL, and RI-12, RESIDENTIAL INTERMEDIATE – 12 UNITS PER ACRE and contains approximately 8.77 acres. The request is for a residential development with 112 units and associated parking.

APPLICANT HAS REQUESTED TO TABLE TILL MAY 8TH PLANNING COMMISSION MEETING. - Jessica Masters, Development Review Manager**6. CUP-2023-0040: Conditional Use Permit (1882 N. PLUTO DR, UNIT 3/NWA SMASH LAB, 336):**

Submitted by NWA SMASH LAB for property located at 1882 N. PLUTO DR, UNIT 3. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 0.94 acres. The request is to use the location as a Commercial Recreational Facility, Small Site. - Donna Wonsower, Planner

7. RZN-2023-0010: Rezoning (1746 N. OLD WIRE RD/PERRY, 369):

Submitted by BUFFINGTON HOMES for property located at 1746 N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE, and contains approximately 1.06 acres. The request is to rezone the property to NC, NEIGHBORHOOD CONSERVATION. - Donna Wonsower, Planner

8. RZN-2023-0011: Rezoning (239 & 245 N. FLETCHER AVE/HAMBRICE, 485):

Submitted by HAMBRICE HOMES for property located at 239 & 245 N. FLETCHER AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE, and contains approximately 0.20 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN. - Ryan Umberger, Senior Planner

9. CUP-2023-0043: Conditional Use Permit (435 N. OLIVER AVE/KING INVESTMENTS OF FAYETTEVILLE LLC, 482):

Submitted by KING INVESTMENTS OF FAYETTEVILLE LLC for property located at 435 N. OLIVER AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.31 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

10. CUP-2023-0044: Conditional Use Permit (2116 W. LOREN CIR/CASA LOREN LLC, 442):

Submitted by CASA LOREN LLC for property located at 2116 W. LOREN CIR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approx. 0.26 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

Items Administratively Approved by Staff

11. LSP-2022-0072: Lot Split (WEST OF 2751 S. CITY LAKE RD/HUARK, 641):

Submitted by CASTER & ASSOCIATES LAND SURVEYING for property located at WEST OF 2751 S. CITY LAKE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE, and contains approximately 11.94 acres. The request is to divide the property into two lots containing 5.97 acres each. - Ryan Umberger, Senior Planner

12. LSP-2023-0006: Lot Split (15005 ELKHORN SPRINGS RD/INGRAM, 430):

Submitted by BLEW & ASSOCIATES for property located on W. OF ELKHORN SPRINGS AND HWY 16. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 12.44 acres. The request is to split the property into two lots containing 8.44 and 4.00 acres. - Ryan Umberger, Senior Planner

13. LSP-2023-0012: Lot Split (SW OF S. LOCUST AND W. ROCK ST/HERLEVIC, 523):

Submitted by BATES & ASSOCIATES for property located at SW OF S. LOCUST AVE AND W. ROCK ST. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.30 acres. The request is to split the property into four lots with approximately 0.13, 0.05, 0.05, and 0.07 acres. - Ryan Umberger, Senior Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

(pg. 1) Planning Commission		4/10/2023				
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 ✕ Chris Brown ✕ Alan Pugh					
	Roll Call	1) Minutes 03-27-2023	2) ADM-2023-0009 (FAYETTEVILLE GARAGE DOOR CO.)	3) ADM-2023-0010 (SOUTHERNWOODS CLUSTER DEVELOPMENTS)	4) VAR-2023-0011 (SHERRILL)	5) VAR-2023-0014 (TFI LLC)
Gulley	1	1	1	1	1	1
Holcomb	1	1	1	1	1	1
Winston	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Sparkman	1	1	1	1	1	1
Brink	1	1	1	1	1	1
Garlock	0					
Madden	1	1	1	1	1	1
Payne	1	1	1	1	1	1
Agenda		Consent	Consent	Consent	Consent	Consent
Motion By		Brink	Brink	Brink	Brink	Brink
Motion 2nd		Madden	Madden	Madden	Madden	Madden
Vote		8-0-0	8-0-0	8-0-0	8-0-0	8-0-0
Action		Approve	Approve	Approve	Approve	Approve
Time		5:34pm	5:34pm	5:34pm	5:34pm	5:34pm
Motion Detail						

(pg. 2) Planning Commission		Monday, 4/10/2023			
	6) ADM-2023-0007 (CHANDLER CROSSING SUBDIVISION)	7) LSD-2023-0004 (THE JUNCTION AT SHILOH)	8) VAR-2023-0013 (BROWN)	9) VAR-2023-0012 (BOEHM)	10) VAR-2023-0015 (HUNTSVILLE RD MULTI- FAMILY EAST)
Gulley	1	0	1	1	1
Holcomb	1	1	1	1	1
Winston	1	1	1	1	1
McGetrick	1	1	1	0	1
Sparkman	1	1	1	0	1
Brink	1	1	1	0	1
Garlock	1	0	1	1	1
Madden	1	1	1	0	1
Payne	0	Recuse	1	1	1
Agenda	New	New	New	New	New
Motion By	Brink	Winston	Garlock	Garlock	Brink
Motion 2nd	McGetrick	Brink	Madden	Winston	Holcomb
Vote	8-1-0	6-2-1	9-0-0	5-4-0	9-0-0
Action	Approve	Approve	Approve	Deny	Approve
Time	5:53pm	6:46pm	6:56pm	7:34pm	7:39pm
Motion Detail	Approved 2 Public Comment	Approved In favor of all variances and conditions as recommended by staff. 3 Public Comment	Approved In favor of all conditions as recommended by staff. No Public Comment	Denied 4 Public Comment	Approved In favor of all conditions as recommended by staff. No Public Comment

(pg. 3) Planning Cc		Monday, 4/10/2023			
	11) RZN-2023-0008 (HENDERSON)	12) CUP-2023-0038 (HAUGHEY)	13) CUP-2023-0037 (CORLEY)		
Gulley	1	1	1		
Holcomb	1	1	1		
Winston	1	1	1		
McGetrick	1	1	1		
Sparkman	1	1	1		
Brink	1	1	1		
Garlock	0	1	1		
Madden	1	1	1		
Payne	1	1	1		
Agenda	New	New	New	New	New
Motion By	Holcomb	Brink	Garlock		
Motion 2nd	McGetrick	Madden	Payne		
Vote	8-1-0	9-0-0	9-0-0		
Action	Forward	Approve	Approve		
Time	8:05pm	8:18pm	8:25pm		
Motion Detail	Forwarded With a recommendation of approval. No Public Comment	Approved In favor of all conditions as recommended by staff. 1 Public Comment	Approved In favor of all conditions as recommended by staff. 1 Public Comment		



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: April 24, 2023

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

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0122** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0122**, determining:*

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

JANUARY 23, 2023 PLANNING COMMISSION MEETING:

At the January 23 Planning Commission meeting, the item was tabled indefinitely for an incomplete application. The applicant in the interim has supplied a site plan, floor plan, exterior photographs and letter of intent to support the application. The applicant has also performed public notification in accordance with the April 24 Planning Commission date.

BACKGROUND:

The subject property is located at the southwest corner of W. 11a Street and N. Shady Avenue, one block south of Wilson Park. The property is zoned NC, Neighborhood Conservation, and totals approximately 0.24 acres. The property is developed with an existing 4-unit apartment building that County records indicate was constructed in the early 1930s. 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	RMF-40, Residential Multi-Family, 40 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 received one comment in opposition to the request. The member of the public had concerns about an additional unit in this structure being used as a short-term rental and would prefer the unit be maintained for a long-term tenant.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0122**, 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 24, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the unit has 3 bedrooms, the short-term rental would be limited to 8 guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). 4-plex structures are required to provide parking at a rate of 1 per bedroom. In this instance, the structure as a 7-space parking lot in the rear, and the applicant has indicated that three spaces are set aside solely for this unit, which meets the parking requirements.

(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 521 N. Shady Avenue, Unit 4. 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 327 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in NC, so this short-term rental would contribute to the city-wide density cap. Further, multi-family structures are limited to 10% of units to be used as short-term rentals; this is the only unit permitted to be licensed as a short-term rental under the building density cap.

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

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

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

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

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on information provided in the applicant's submittal. In a parking lot that supplies 7 off-street parking spaces, the applicant has indicated that three are reserved for the use of this

unit. Further, the property sits within the Wilson Park South Parking Permit District, which requires residential parking permits for on-street parking. Staff finds that the provided parking lot can likely provide adequate parking for the use of Unit 4, and on-street parking would not likely need to be used. Within ¼ mile of the property city business license records indicate there are 19 Type 2 rental business licenses, 13 of which contribute to the overall density cap. There are no prior or active zoning code violations at the subject address, though a member of the public has indicated in public comment that another unit in the structure is being used as a short-term rental; no code case has been opened or under investigation for this claim currently, so it has not been corroborated by staff. The applicant has been made aware that only one unit in the structure is permitted to be licensed as a short-term rental, per ordinance.

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

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

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

Finding: The subject property has frontage along W. Ila Street and N. Shady Avenue, with shared driveway access along N. Shady Avenue that serves multiple properties in this location. Sidewalk exists along both W. Ila Street, and along N. Shady Avenue, and there are direct pedestrian connections from the building to the sidewalk along the western side of the property.

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

Finding: The applicant has indicated that there are 3 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 must be screened, and minimal disruptions are expected for neighbors. Given the proximity to downtown, the University, and the trail and other amenities, staff finds that the overall number of licensed Type 2 STRs in the area is not too concentrated to negatively contribute to the neighborhood. Further, staff finds that the building density cap prevents additional units from being converted into STRs.

(i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the use to be compatible with the City's adopted land-use, transportation and other strategic plans. The Citywide density cap limits the number of units that can be used as Type 2 STRs, to help maintain units for available long-term housing.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code

- §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.29 Neighborhood Conservation
- Wilson Park South Neighborhood Permit Parking District
 - §72.20
- Applicant Request Letter
- Site Plan
- Floor Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile Map

118.01 Applicability

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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

72.20 Wilson Park South Neighborhood Permit Parking District

- (A) *Applicability:* This neighborhood permit parking district shall be applicable as shown and described on Exhibit C attached to the enacting ordinance. This neighborhood permit parking district shall apply only to the residential properties that are situated between Louise Street, Park Avenue, Maple Street, and Wilson Avenue.

(B) *Definitions:*

Guest permit means the pass or authorization that allows a guest permit holder to park within the authorized on-street parking space within the neighborhood permit parking district pursuant to the terms of this section.

Registered vehicle means a motorized, validly state licensed and insured vehicle kept at the residence owned or leased by the resident within the neighborhood permit parking district. The Arkansas Vehicle Registration Certificate for the vehicle should list the residence within the neighborhood permit parking district. The Parking Division may accept other reliable documentation of ownership or occupancy of a residence within the neighborhood permit parking district to justify issuance of a residential parking permit for a resident's vehicle.

Residence means a legal residential address and shall exclude business addresses.

Resident means a natural person residing within a dwelling that the resident owns, leases or rents within the neighborhood permit parking district.

Residential parking permit means the currently valid permit issued by the Parking Division which allows the resident to park the permitted resident's vehicle in an authorized on-street parking space within the neighborhood permit parking district pursuant to the terms of this section.

- (C) *On-street Parking Restrictions for Most Vehicles in the Neighborhood Permit Parking District:* Where designated by signs and as shown on the exhibits, only residents of the neighborhood permit parking district shall be permitted to park their properly permitted vehicles in the designated on-street parking areas of the district.
- (D) *Special Regulations for Oversized Vehicles:* No vehicle that cannot fit within a standard on-street parking space may be parked on-street in the neighborhood permit parking district unless its owner or operator has obtained a special limited time and location permit. An operator or owner of a moving van or other oversized vehicle that needs to park on-street in a designated area for a limited time to serve a residence, business or office within the neighborhood permit parking district may be issued a special, limited time and location parking permit by the Parking Division.
- (E) *Mixed Use On-street Parking:* Where designated by signs and as shown on the exhibits, certain on-street parking spaces within the neighborhood permit parking district shall be available to the public for paid parking and to residents of the neighborhood permit parking district for properly permitted vehicles free of charge.
- (F) *Public Use of Paid On-street Parking:* For parking in the neighborhood permit parking district, the parking rates shall be established by the Parking Division within the following parameters:
- (1) The initial paid parking rates and hours for the district shall be \$1.00 per hour from 8:00 a.m. until 4:00 p.m. and \$1.50 per hour from 4:00 p.m. until 2:00 a.m. every day.
 - (2) Adjustments to the paid parking rates or hours shall be subject to the following limitations:
 - (a) The first adjustment to the paid parking rates and hours, if necessary, shall be made in the first two (2) weeks of August 2020. Thereafter, the paid parking rates and hours shall not be adjusted by the Parking Division for a period of one (1) year.
 - (b) The Parking Division shall conduct a utilization assessment based on peak hours and days prior to any adjustment.
 - (c) Rate and hour adjustments shall be based on deviation from ideal utilization rate of 75% of the paid parking spaces as determined by the Parking Division. The Parking Division shall increase or decrease paid parking rates by \$0.10 for every five (5) points away from the ideal utilization rate with the goal of reaching the ideal utilization rate.
 - (d) Rate adjustments shall be made in \$0.10 increments and shall not exceed \$0.50 per adjustment period.

-
- (e) Adjustments to the paid parking rates or times shall be communicated through signage in the district and the mobile parking application for fourteen (14) days prior to the implementation of the adjustment.
 - (f) Rates shall not be adjusted below the rates established within the Entertainment District Parking Zone.
- (G) *Issuance of Permits:* The Mayor or designee shall administer the neighborhood permit parking district program with a goal of accommodating the needs of residents within the neighborhood permit parking district. This program shall set forth procedures for the issuance, renewal, and allotments of residential parking permits and temporary guest permits. Use of a permit in a manner not authorized by the neighborhood permit parking district program shall be a violation of this section for the vehicle's owner.
- (1) Residential parking permits and guest permits shall be allocated based on single-family unit, multi-family unit, and fraternal unit designations.
 - (2) Properties designated as fraternal units located within the neighborhood permit parking district shall be eligible to participate in the Entertainment District Residential Parking Program pursuant to §72.18 and to receive permits as allowed by the neighborhood permit parking district program.
 - (3) The Parking Division may set fees for the purchase of additional residential parking permits or guest permits beyond any maximum allowed under the neighborhood permit parking district program. The request for additional permits shall be considered on a case by case basis. The annual fee for an additional residential parking permit or guest permit shall not exceed \$250.00.
 - (4) Businesses shall not be eligible to obtain a residential parking permit or guest permit within a neighborhood permit parking district.
- (H) *Residential Parking Permits May Not Be Loaned, Transferred, Sold or Used Except on the Designated Registered Vehicle:* Any resident who attempts to or does loan, transfer, sell or give a residential parking permit to another person or entity, or who facilitates the use of the permit obtained for his registered vehicle on a nonregistered vehicle shall, in addition to the general penalty provisions in this chapter, immediately forfeit all permits issued to the resident and the right to apply for any future permits for three (3) years.
- (I) *Penalty:* The owner of any vehicle parked in violation of any term or requirement of this section shall be guilty of a violation and shall be subject to the penalties set forth in §72.99.



WILSON PARK SOUTH NEIGHBORHOOD PERMIT PARKING DISTRICT

(Ord. No. 6259, §2(Exh. 1), 11-19-2019)

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(Supp. No. 27)

Page 3 of 3

Complete written description of this request (what is proposed by the applicant) to include:

- (a) Building size in square feet; existing and proposed - **3699 sq ft**
- (b) Color elevations of all exterior sides of the structure - **gray/tan**
- (c) Number of off-street parking spaces to be provided / number required - **TWO/TWO**
- (d) When request applies to a business or non-residential use:
 - Hours of operation - **N/A**
 - Number of employees - **N/A**
 - Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour)
- (e) Outdoor lighting - **YES**
- (f) Noise - **Quiet**
- (g) Screening or buffering from adjacent properties - **NO**
- (h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties) - **City of Fayetteville**
- (i) Ingress and egress to the property; traffic impacts
- (j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood

This property will be a short-term rental. No businesses will be operating out of this unit.

Back

Google Location Search

Google

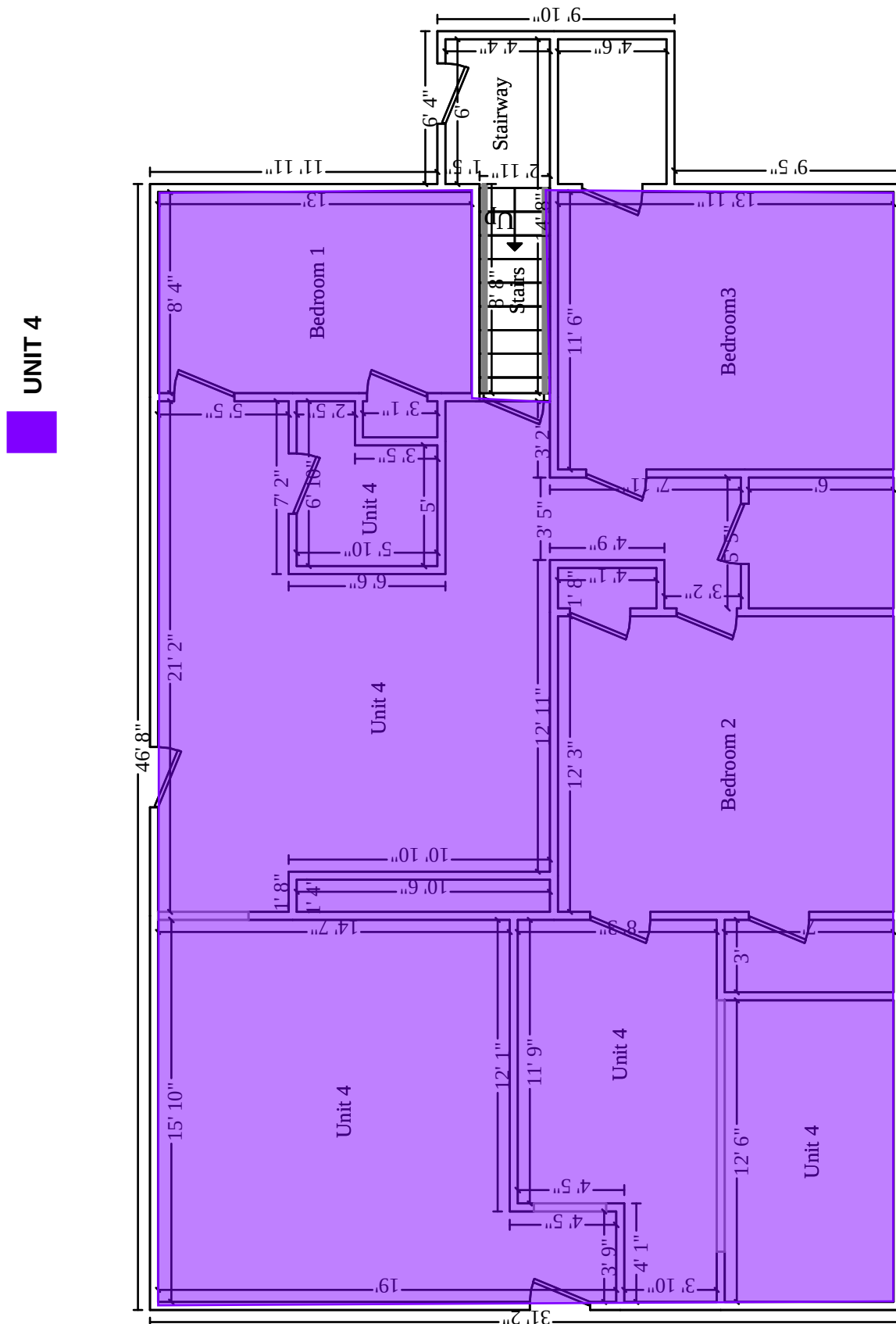
EagleView Imagery

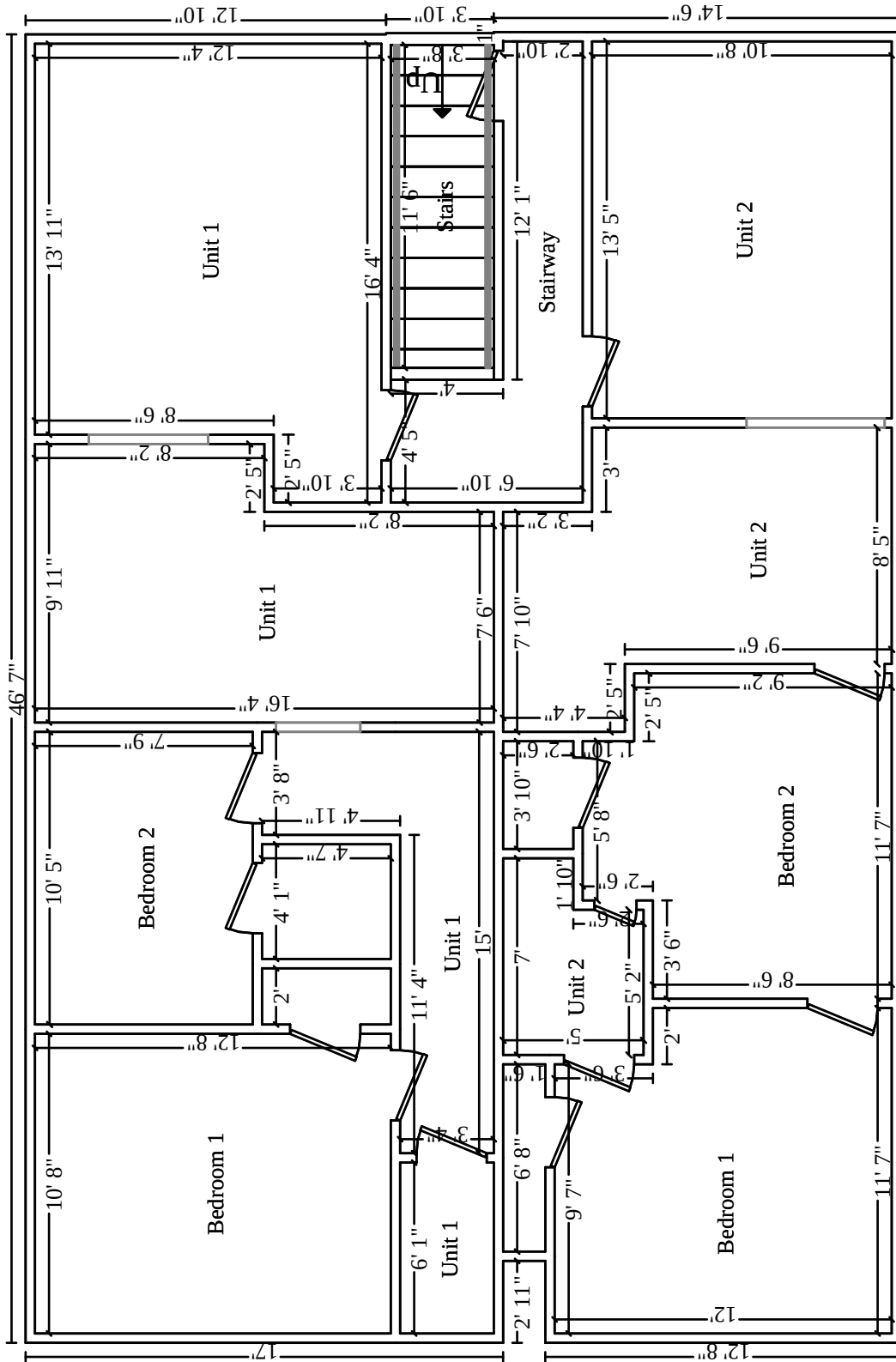
521N, Shady Ave



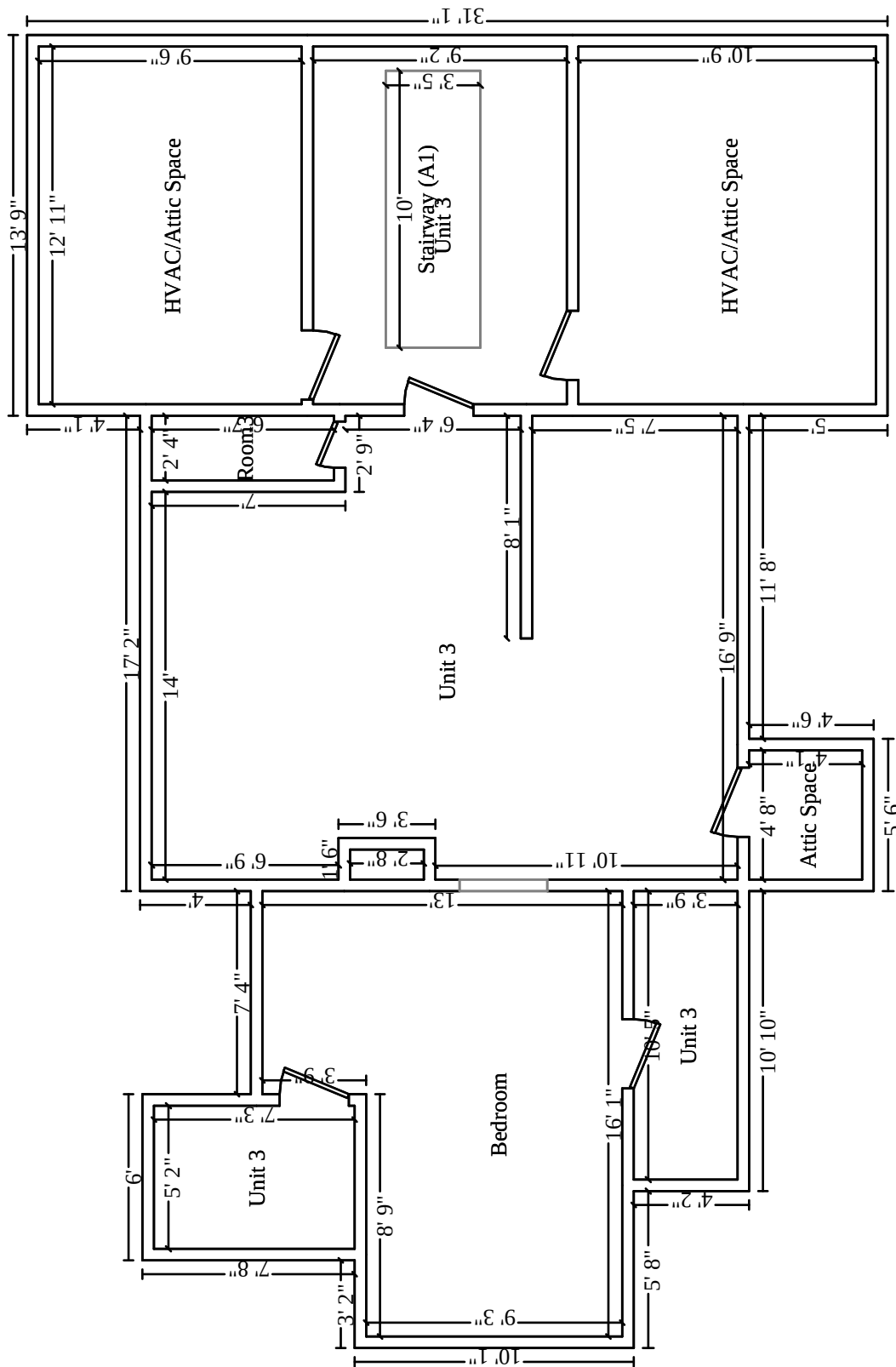
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Level 2



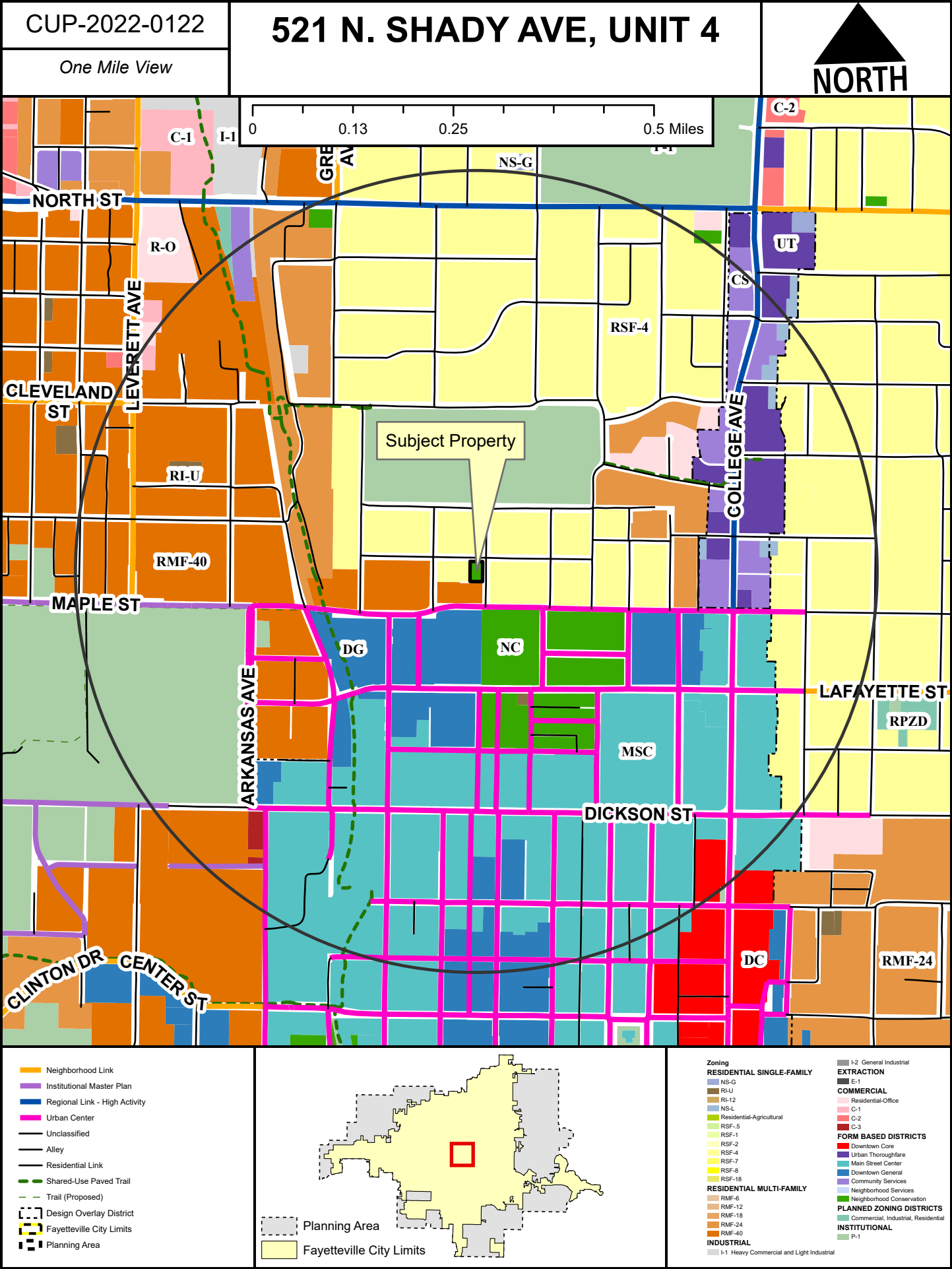








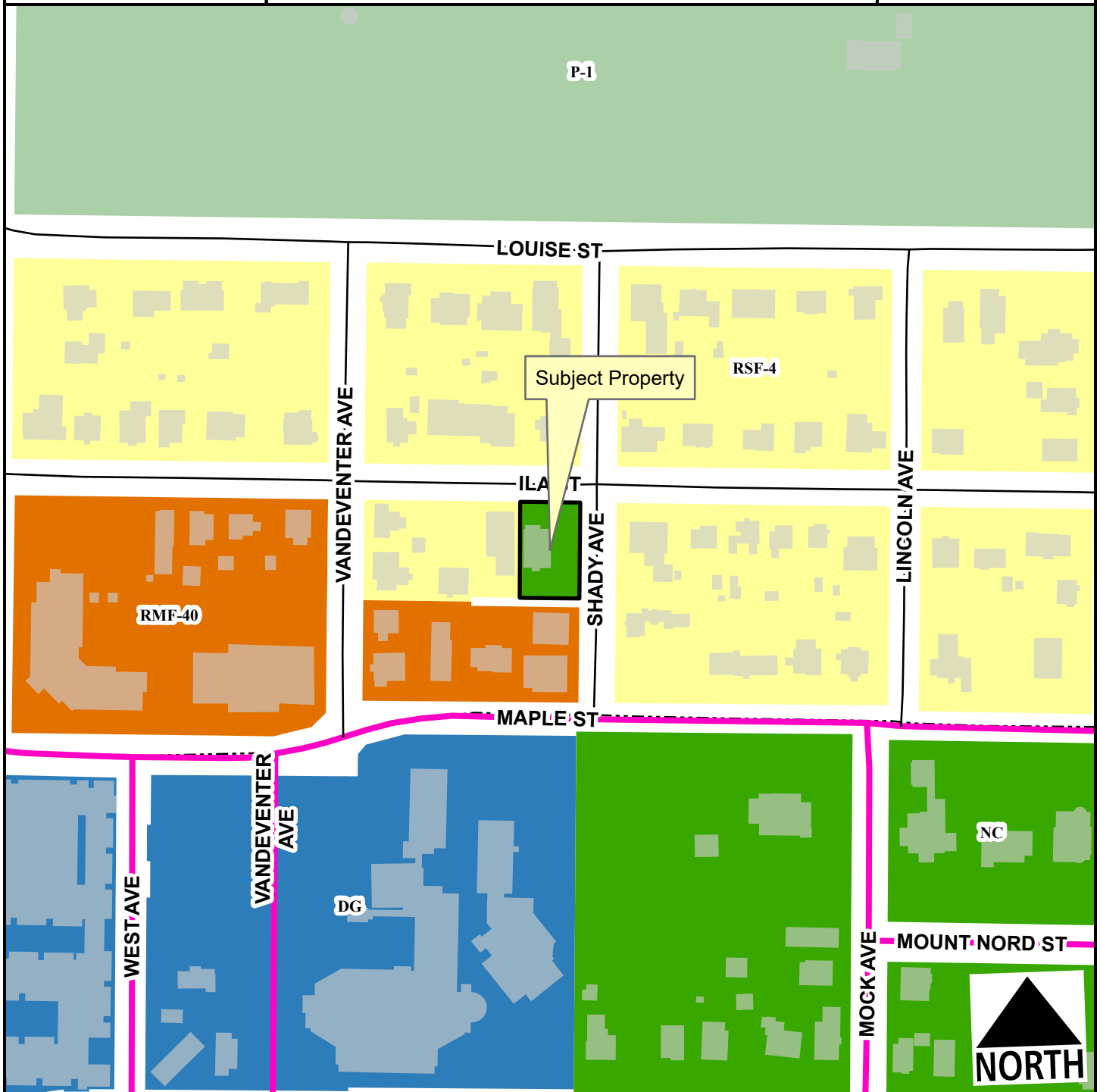




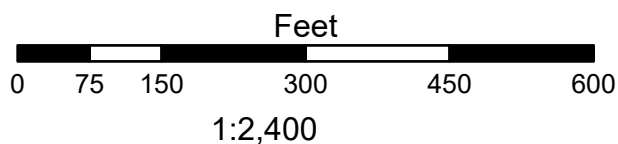
CUP-2022-0122

521 N. SHADY AVE, UNIT 4

Close Up View



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



- RSF-4
- RMF-40
- Downtown General
- Neighborhood Conservation
- P-1

CUP-2022-0122

521 N. SHADY AVE, UNIT 4

Current Land Use



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



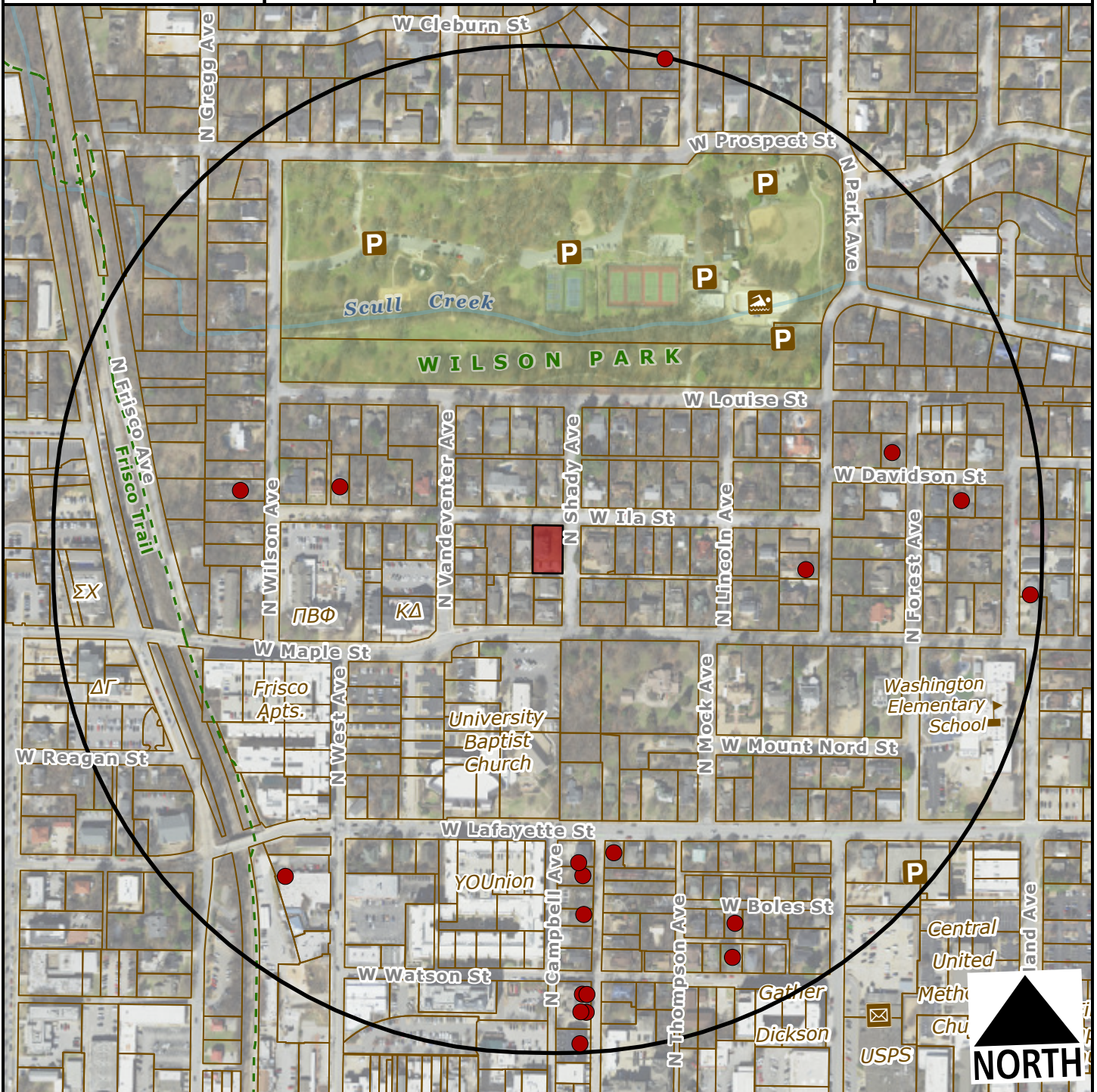
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

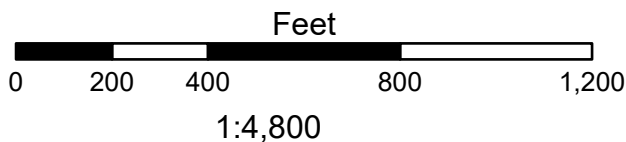
CUP-2022-0122

521 N. SHADY AVE, UNIT 4

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Number of STR Licenses

Contributing to 13
2% density cap

NOT 6
contributing to
2% density cap

Total 19



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: April 24, 2023

SUBJECT: **PZD-2023-0002: Planned Zoning District (SOUTHEAST OF W. MARTIN LUTHER KING JR BLVD AND S. SMOKEHOUSE TRL/SWEET BAY AT KESSLER. 596):** Submitted by GAVIN SMITH for property located SOUTHEAST OF W. MARTIN LUTHER KING JR BLVD AND S. SMOKEHOUSE TRL. The property is split-zoned R-A, RESIDENTIAL AGRICULTURAL, CS, COMMUNITY SERVICES, and UT, URBAN THOROUGHFARE and contains approximately 5.59 acres. The request is to rezone 4.49 acres of the property to a PLANNED ZONING DISTRICT.

RECOMMENDATION:

Staff recommends tabling **PZD-2023-0002** to the next scheduled Planning Commission meeting, at the applicant's request.

RECOMMENDED MOTION:

*"I move to table **PZD-2023-0002** to the May 8, 2023 Planning Commission meeting."*

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 24, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			



TO: Fayetteville Planning Commission

FROM: Britin Bostick, Long Range Planning/Special Projects Manager

MEETING DATE: April 24, 2023

SUBJECT: **ADM-2023-0011: Administrative Item (Amend UDC Chapter 166 - Development):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 166.25 – Commercial, Office and Mixed Use Design and Development Standards. The proposed code change would require cross access to adjacent properties.

RECOMMENDATION:

Staff recommends forwarding **ADM-2023-0011** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **ADM-2023-0011** to the City Council with a recommendation of approval."

BACKGROUND:

Section 166.25 of the Unified Development Code (UDC) addresses design and development standards for commercial, office, and mixed-use properties. Within that section is 166.25(D) Site Development and Design and more specifically language in 166.25(D)(2) that reads: "*Driveways. Shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties.*" While the staff interpretation of this section of the code for several years has been that the language "shall be encouraged" amounts to a requirement for the provision of cross access, and there has not been an appeal of that interpretation, the interpretation was recently scrutinized in the review of a proposed development and a variance application that was submitted for that development.

Per a memo issued by the Assistant City Attorney on March 14, 2023, "A plain reading of §166.25(D)(2) of the *Unified Development Code* provision reveals that cross access is not something that has been required by the City Council. That subsection says, 'shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties.' It does not say cross access "may be required" or "shall be required." The memo continued with observations related to the specific development and the variance being requested.

Planning staff reviewed and considered the memo as well as the current code language and the longstanding staff interpretation of the code. Planning staff considered several options for text amendments that would provide clarity and specificity for the requirement and considered the connection between shared drives and cross access in site design and development, as well as the city's ongoing corridor work and goals related to pedestrian and cyclist safety and reducing conflicts between those users and motorized vehicles.

DISCUSSION:

The purpose of this amendment is to address the regulatory deficiency identified by the Assistant City Attorney and to make clear in the UDC that cross access is required and not merely encouraged. There is additionally an opportunity to remove overlapping language in the code.

In reviewing the UDC text related to cross access and shared driveways with the Assistant City Attorney, Planning staff identified that shared driveways are already addressed in Section 166.08 – Street Design And Access Management Standards. Section 166.08(F)(2) reads:

“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.”

Section 166.08(F) continues with (3) and (4), which specify shared curb cut requirements, i.e. shared driveways, for single-family homes and when joint access driveways and cross access easements may be used in reducing separation distance. Planning staff identified that shared driveways are sufficiently covered with requirements in this section and propose to remove the language for driveways and shared drives from 166.25(D)(2), instead focusing that section on cross access and replacing “shall be encouraged” with “shall be required”.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: April 24, 2023	☐ Tabled	☐ Forwarded	☐ Denied		
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

Attachments:

- Memo on Cross-Connectivity from Blake Pennington dated March 14, 2023
- Proposed Ordinance, Clean
 - §166.25, Commercial, Office, And Mixed Use Design and Development Standards
- Proposed Ordinance, Strikethrough/Highlight
 - §166.25, Commercial, Office, And Mixed Use Design and Development Standards



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Planning Commission**

CC: **Jessie Masters**, Development Review Manager

FROM: **Blake Pennington**, Assistant City Attorney

DATE: **March 14, 2023**

RE: **Cross-Connectivity**

Often the Planning Commission considers large scale developments with a staff recommendation requiring cross-connectivity to other adjacent properties. Planning staff have long considered this a requirement rather than a goal of the Unified Development Code.

A plain reading of § 166.25(D)(2) of the *Unified Development Code* provision reveals that cross access is not something that has been required by the City Council. That subsection says, “shared drives and cross access between properties shall be **encouraged** to adjacent developed and undeveloped properties.” It does not say cross access “may be required” or “shall be required.”

Even though the developer of the Aronson 112 project has not appealed the staff interpretation of this provision, the Planning Commission can make its decision independently. I encourage you to not be overly strict in your application of this provision.

With respect to the parcel to the east of the Aronson development, the parcel’s landlocked status appears to be a self-imposed condition. This parcel, which has a tree preservation easement on the south end, as well as the car lot to the immediate south of that are owned by the same company. Both parcels were also owned by the same owner at the time the tree preservation easement was created in 2004, which cut off the landlocked parcel’s access to Highway 112 through the car lot parcel.

Arkansas law provides a landlocked property owner with options to gain access to a public street. Depending on prior ownership of the property, the current owner may be able to seek an access easement, whether by necessity or implied reservation. If those are not options, the property owner could seek the establishment of a road through the county court pursuant to Ark. Code Ann. § 27-66-401.

166.25 Commercial, Office and Mixed Use Design And Development Standards

(D) *Site Development and Design Standards.*

(2) Cross Access. Cross access shall be required to adjacent developed and undeveloped properties.

166.25 Commercial, Office and Mixed Use Design And Development Standards

(D) *Site Development and Design Standards.*

- (2) ~~Cross Access. Driveways. Shared drives and cross access between properties~~ Cross access shall be ~~encouraged~~ required to adjacent developed and undeveloped properties.



TO: Fayetteville Planning Commission

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

MEETING: April 24, 2023

SUBJECT: **LSD-2022-0034: Large Scale Development (3066 E. JOYCE BLVD/THE BERKSHIRE AT UPTOWN, 177):** Submitted by JORGENSEN AND ASSOCIATES for property located at 3066 E. JOYCE BLVD. The property is zoned CS, COMMUNITY SERVICES; NS-G, NEIGHBORHOOD SERVICES-GENERAL; and RI-12, RESIDENTIAL INTERMEDIATE – 12 UNITS PER ACRE and contains approximately 8.77 acres. The request is for a residential development with 112 units and associated parking.

RECOMMENDATION:

Staff recommends tabling **LSD-2022-0034** until the May 8, 2023 Planning Commission meeting, at the applicant's request.

RECOMMENDED MOTION: *"I move to table LSD-2022-0034 to the May 8, 2023 Planning Commission meeting."*

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
Date: <u>April 24, 2023</u> ☐ Tabled ☐ Forwarded ☐ Denied		
Motion:		
Second:		
Vote:		



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: April 24, 2023

SUBJECT: **CUP-2023-0040: Conditional Use Permit (1882 N. PLUTO DR, UNIT 3/ NWA SMASH LAB, 336):** Submitted by NWA SMASH LAB for property located at 1882 N. PLUTO DR, UNIT 3. The property is zoned I-1 HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 0.94 acres. The request is for Use Unit 19: Commercial Recreation, Small Sites in I-1 zoning.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0040** with conditions as outlined by staff.

RECOMMENDED MOTION:

"I move to approve **CUP-2023-0040** with conditions, determining:

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

BACKGROUND:

The subject property is in north Fayetteville within a developed industrial / commercial park edged by W. Poplar St., N. Birch Ave., and W. Ash St. The building is currently being utilized by NWA Smash Lab for their business operations. The existing building is located entirely within the FEMA "AE" Floodplain, and the parcel is split between the AE Floodplain and 0.2% Chance Annual Flood Hazard Area. The parcel is entirely enveloped by hydric soils. The site is not part of an overlay district.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Building Contractor	I-1, Heavy Commercial & Light Industrial
South	Petroleum Company	I-1, Heavy Commercial & Light Industrial
East	Retail (Sign Company)	I-1, Heavy Commercial & Light Industrial
West	Mixed Retail & Offices	I-1, Heavy Commercial & Light Industrial

City Plan 2040 Future Land Use Designation: City Neighborhood Area

Request: The applicant requests a conditional use permit to utilize 1882 N Pluto Dr Unit 3 as a "Smash Lab." The company describes the facility as allowing participants to "break and smash items like bottles, glasses, plates, and other breakable objects." The website lists bats, golf clubs, sledgehammers, bb guns, "battle bowling," and other tools available for users of the smash lab.

A smash lab is classified as Use Unit 19, "Commercial Recreation, Small Sites," which is a conditional use in the I-1, Heavy Commercial and Light Industrial zoning district. The following specifications were included with the request:

- Size of the business: Approximately 1,200 square feet
- Hours of operation: 1:00 PM – 12:30 AM Daily
- Parking: 5 of 42 Spaces within complex
- Number of employees: Up to 4

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0040** based on the findings in this report, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed "smash lab" to be compatible with the neighborhood based on the findings in this report;*
2. **This conditional use permit is limited to the use for a commercial recreation center-small site ("smash lab") as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:**
 - Size of the business: Approximately 1,200 square feet
 - Hours of operation: 1:00 PM – 12:30 AM Daily
 - Parking: 5 of 42 Spaces within complex
 - Number of employees: Up to 4
3. **Violation of the City's Noise ordinance shall also be considered a violation of this conditional use permit subject to revocation by the Planning Commission. The project shall comply with the City's noise ordinance, as enforced by the Police Department.**
4. **Pedestrian access shall be provided from the building entry to adjacent trail connection and/or public right-of-way by way of designated pathway or sidewalk.**
5. **Approval of this conditional use permit does not ensure or grant approval of a building permit application. The conditional use permit grants the applicant rights to submit a building proposal. The applicant shall comply with all other building requirements, including but not limited to building and fire code compliance. These details shall be reviewed with the building permit application;**
6. **A business license shall be obtained for the proposed business at this location prior to operation of the business;**
7. **Any future expansion or change in the use shall require Planning Commission approval; and**
8. **Signs shall be limited to those permitted by UDC §174. Any proposed signage shall be reviewed for compliance with the underlying zoning district and shall be permitted by a separate sign permit prior to installation.**

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 24, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: **The applicant has submitted a written application requesting a conditional use permit for Use Unit 19 in the I-1 zoning district.**

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

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

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

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

the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §161.30 to grant the requested conditional use permit.

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

Finding: Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest. The I-1 zoning district allows UU4 Cultural and Recreational Facilities; UU13 Eating Places; UU16 Shopping Goods; and UU25 Offices, Studios, and Related Services by right. These uses are anticipated to have a similar impact as UU19 Commercial Recreation, Small Sites. While the proposed business is largely within an industrial complex, it is also adjacent to more recreational / commercial uses off Scull Creek Trail, including Nomad's Trailside, Stigma Tattoo and the former Moonlight Café. Staff recommends a condition be added that the noise ordinance be followed in order to ensure compatibility with adjacent residential properties.

(c.) The Planning Commission shall certify:

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

Finding: Under Municipal Code 161.02(A) "It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a business license has been issued by the Zoning and Development Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter." The applicant was informed on January 10, 2023 and February 15, 2023 of a conditional use requirement in order to receive business license approval. On February 28, 2023, the applicant requested an extension of operation while a conditional use was in process and was informed by the business license clerk that the business could operate until March 3, 2023 (60 days after business license application) but would have to cease operations after this time. As of March 10, and April 6, 2023, both phone and online reservations were still being taken.

While the business may be currently operating without a business license, the remedy for the violation is to receive approval for a conditional use permit, and ultimately a business license. The applicant has shown a good faith effort to apply, and from a land use perspective, staff finds that the use is compatible with surroundings.

A commercial building permit was submitted on April 10, 2023. The applicant shall comply with all other building requirements, including but not limited to building and fire code compliance. These details shall be reviewed with the building permit application.

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

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

Finding: Per the submitted site plan, access to the building is from the existing N. Pluto Dr. The Razorback Greenway is approximately 200 feet west of N Pluto Dr. and staff recommends a clear pedestrian pathway be designated from the entrance of the building to either the public right of way or to the existing sidewalk network within the complex in order to provide pedestrian connectivity to the Greenway trail system.

(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 total number of parking available in the development is 43. Parking is unassigned. The site plans the applicant provided indicate four parking spaces for the commercial users, with an additional two spaces indicated for the owner. Two of these parking spaces are ADA accessible.

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

Finding: A dumpster and recycling area is located SW of the building directly south of the existing building. NWA Smash Lab utilizes a single dumpster within this area which is dedicated solely for their use. This dumpster is the largest size available from the city, and the applicant has stated it is sufficient to handle all debris generated by the business.

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

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

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

Finding: The subject property is in the approximate center within an I-1 commercial / industrial development. The refuse area has existing metal screening around the dumpsters which screen the view of the containers from the public right-of-way. No additional screening is proposed.

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

Finding: Any proposed signage will be subject to UDC §174 and all the regulations therein. Two signs currently exist on the structure. A sign permit was applied for on April 6, 2023.

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

Finding: Based on the applicant's submittal, the development is meeting the setback requirements of the I-1, Heavy Commercial and Light Industrial zoning district.

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

Finding: Staff finds that the proposed smash lab facility is compatible with adjacent properties. The project is located within a complex currently utilized multiple businesses of varying intensities, and staff finds that improvements to pedestrian access may mitigate increased traffic hazards. Further, the use may provide convenient access to a new amenity for persons living in the surrounding residential areas.

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds that the proposal is compatible with adjacent properties. All adjacent properties are developed and zoned commercially.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §161.30 – Heavy Commercial and Light Industrial
- Applicant Request Letter, including Site Plan and Floor Plan
- Site Photographs
- Website / Use Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.30 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 13	Eating places
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Offices, studios and related services
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 42	Clean technologies
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front, when adjoining A or R districts	50 feet
Front, when adjoining C, I, or P districts	25 feet
Side, when adjoining A or R districts	50 feet
Side, when adjoining C, I, or P districts	10 feet
Rear	25 feet

(F) *Height Regulations.* There shall be no maximum height limits in I-1 District, provided, however, that if a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5472, 12-20-11; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 5982, §1, 6-20-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6521, §6, 1-18-22)

Application for Conditional Use Permit for NWA Smash Lab

Zoning:

I1

Use:

Unit 19 – Commercial Recreational Facility

Legal Description of Property:

LOT 8 (PARCEL #765-09499--000):

LOT 8, BLOCK 8. PARKER'S PLAT OF VALLEY VIEW ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS. SUBJECT TO THAT PORTION IN WEST ASH STREET MASTER STREET PLAN RIGHT-OF-WAY ON THE SOUTH SIDE OF HEREIN DESCRIBED TRACT AND SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD

Statement of Compatibility:

All activities of NWA smash lab will take place inside of our unit and will not interfere with any of the surrounding businesses or their operations. The amount of customers will be low enough on a daily basis as to not interrupt the flow of traffic or impact the parking in the area. All noise will be quiet enough not to disturb any surrounding businesses or residents. We feel that we will also compliment and be compatible with the business of Nomad's Trailside which is located within our complex.

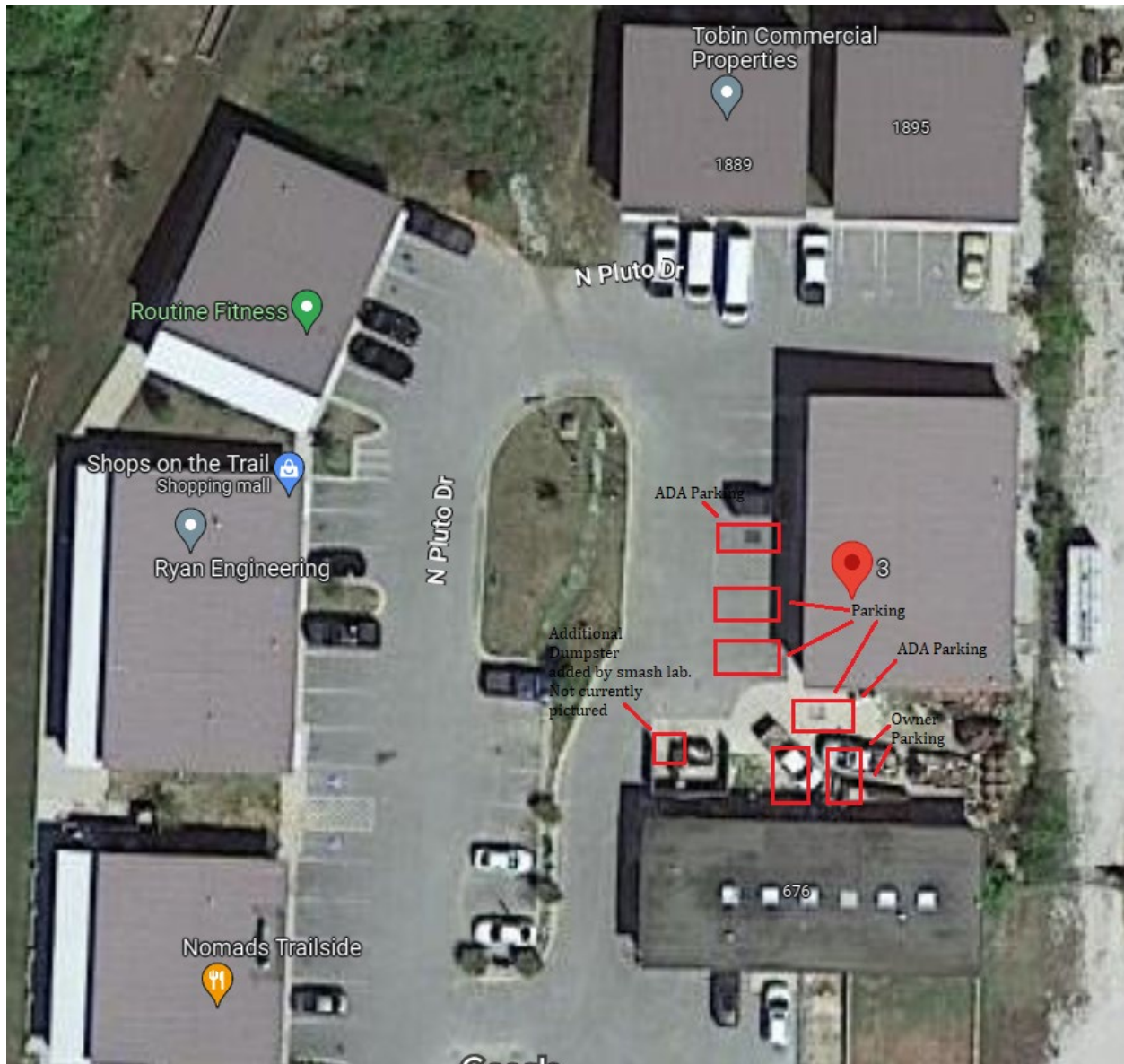
Details of Business:

NWA Smash Lab is located at 1882 N Pluto Dr. # 3. We're open from 1:00 PM to 12:30 AM, Wednesday through Sunday of every week. The two owners of the business are currently the only employees but we plan on hiring up to 3 people in the future to help run daily operations.

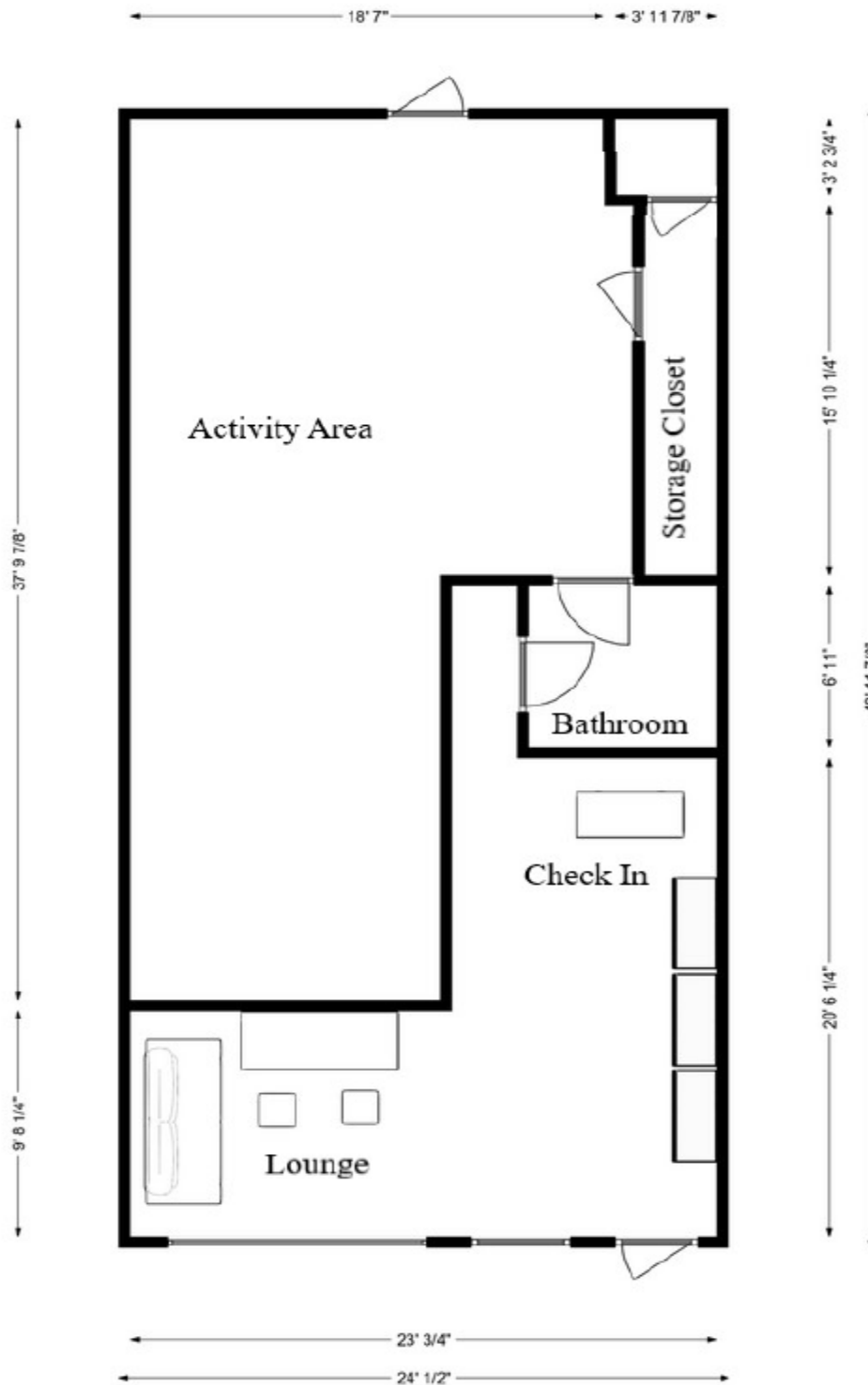
We anticipate having an average of 10 customers per day. The total square footage of our building is 1104 square feet. We will not be making enough noise to escape the interior or our unit. Outdoor lighting is provided by the property owner as street lights. The complex that our business is in has a total of 42 parking spaces shared amongst the businesses located there. Parking is not assigned within the development as per our lease. We anticipate needing 3 to 4 spots on average.

We will not be making any changes to the finish floor elevation. In order to handle debris We have obtained our own dumpster from The City of Fayetteville that is lockable and solely dedicated to our business. It is sufficient to handle all debris from the business.

Site Plan:



Interior Floor Plan:



Commercial Building Permit:

We have added three additional interior walls in order to section off the customer activity area. We have now applied for a building permit and are currently working with the building department to determine what will be necessary.

Public Notice Documents:

All required public notice documents have been sent out / submitted.

Wonsower, Donna

From: Cody Weeden <nwasmashlab@gmail.com>
Sent: Monday, April 10, 2023 1:02 PM
To: Wonsower, Donna
Subject: Re: CUP-2023-0040 NWA Smash Lab Requirements

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.

Hey Donna,

You're welcome. Please see below for answers to your questions.

- Your narrative states that you would like the business hours to be from 1pm to 11pm Wednesday through Sunday; however based on your website it appears that there are options that will end around midnight. Please clarify your requested business hours.
 - Sorry about that. I was thinking in terms of when our available bookings would be. Based on when the last booking would end our hours would be 1:00 PM to 12:30 AM
- How many employees do you anticipate?
 - We anticipate hiring up to 2 employees in the near term. Depending on how things go with the business we would potentially expand and hire 1 to 2 more in the long term.

On Mon, Apr 10, 2023 at 9:06 AM Wonsower, Donna <dwonsower@fayetteville-ar.gov> wrote:

Cody,

Thank you. I do have a couple additional questions.



NWA Smash Lab



Solo Smash

This package includes a tote full of items to smash with a maximum of 20 minutes of time in our smash room. You will have full access to our Weapon Wall and Smash-O Target along with barrels to stand your smashables on and chains to hang them from. SOLO PREMIUM SMASH Includes all of the above plus access to BB Gun Shooting, Bottle Bowling, and extra time.

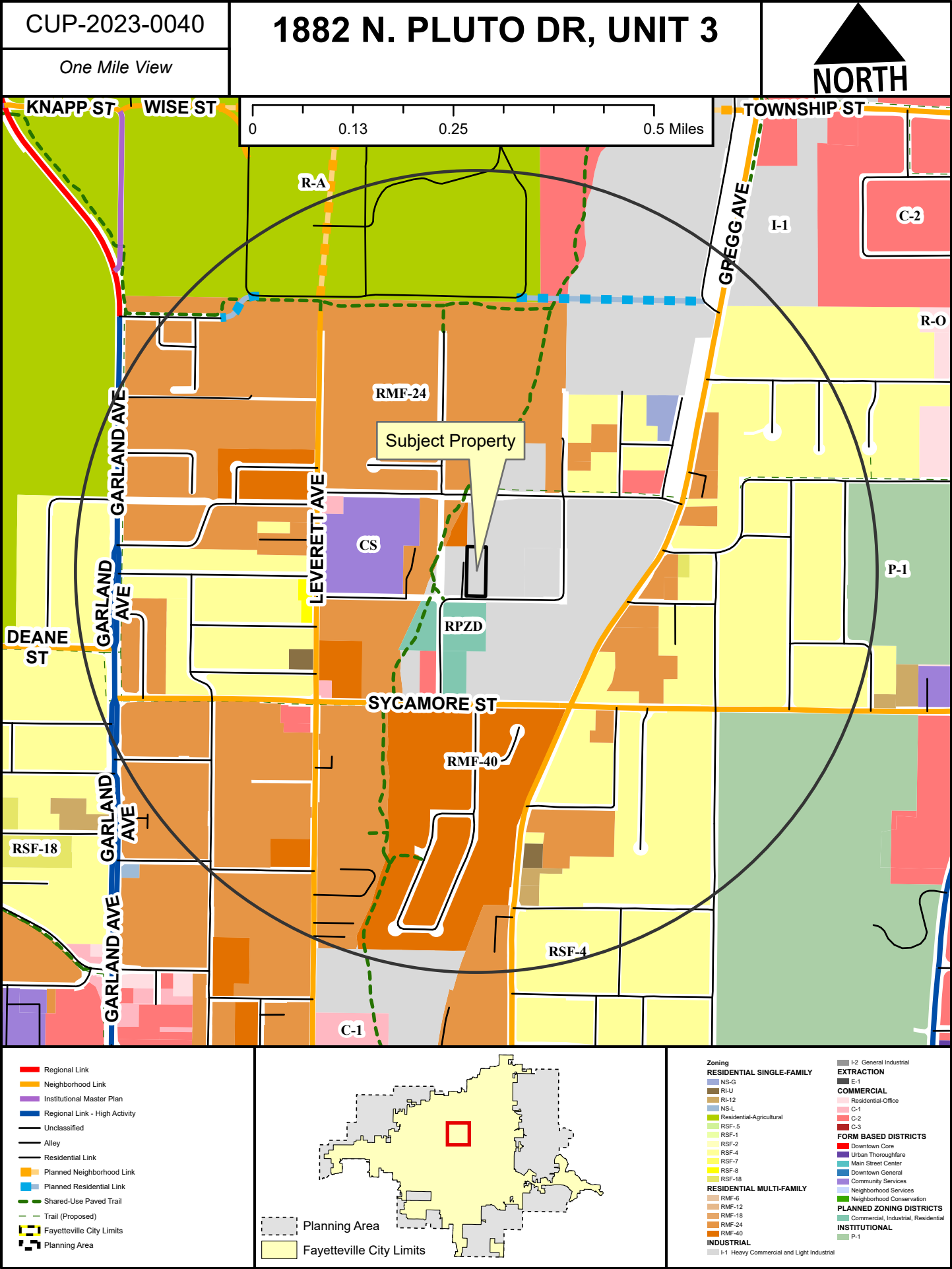
[Book Now](#)

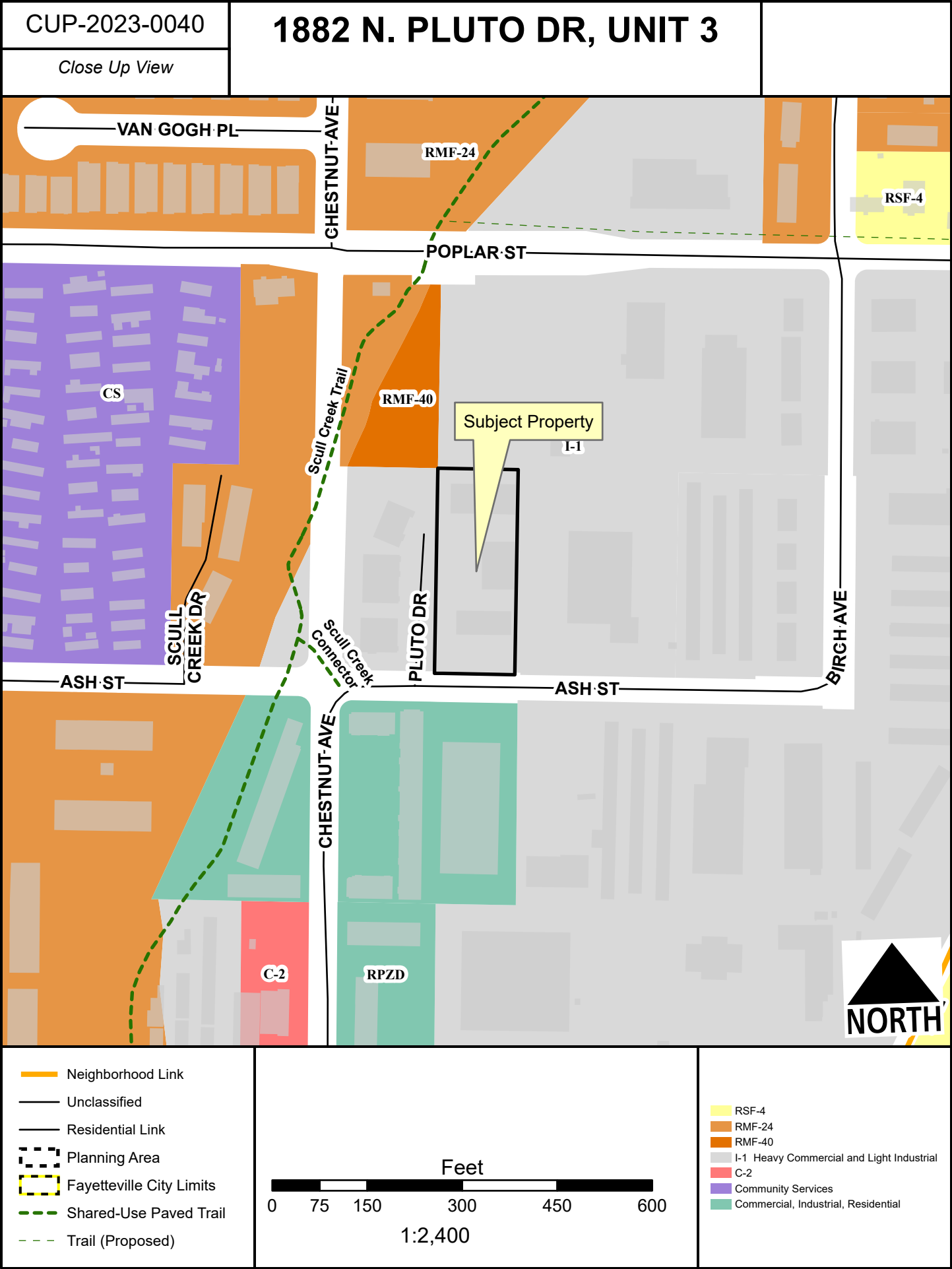
Group Smash

This package can accommodate up to 8 people and includes plenty of items to smash. Extended time in our smash room and full access to our Weapon Wall, Smash-O Target along with barrels to stand your smashables on and chains to hang them from. GROUP PREMIUM SMASH Includes all of the above with the addition of BB Guns and Bottle Bowling, and extra time. Grab some friends and book your smash session today. Great for team building activities. For larger groups, please contact us through email.

[Book Now](#)



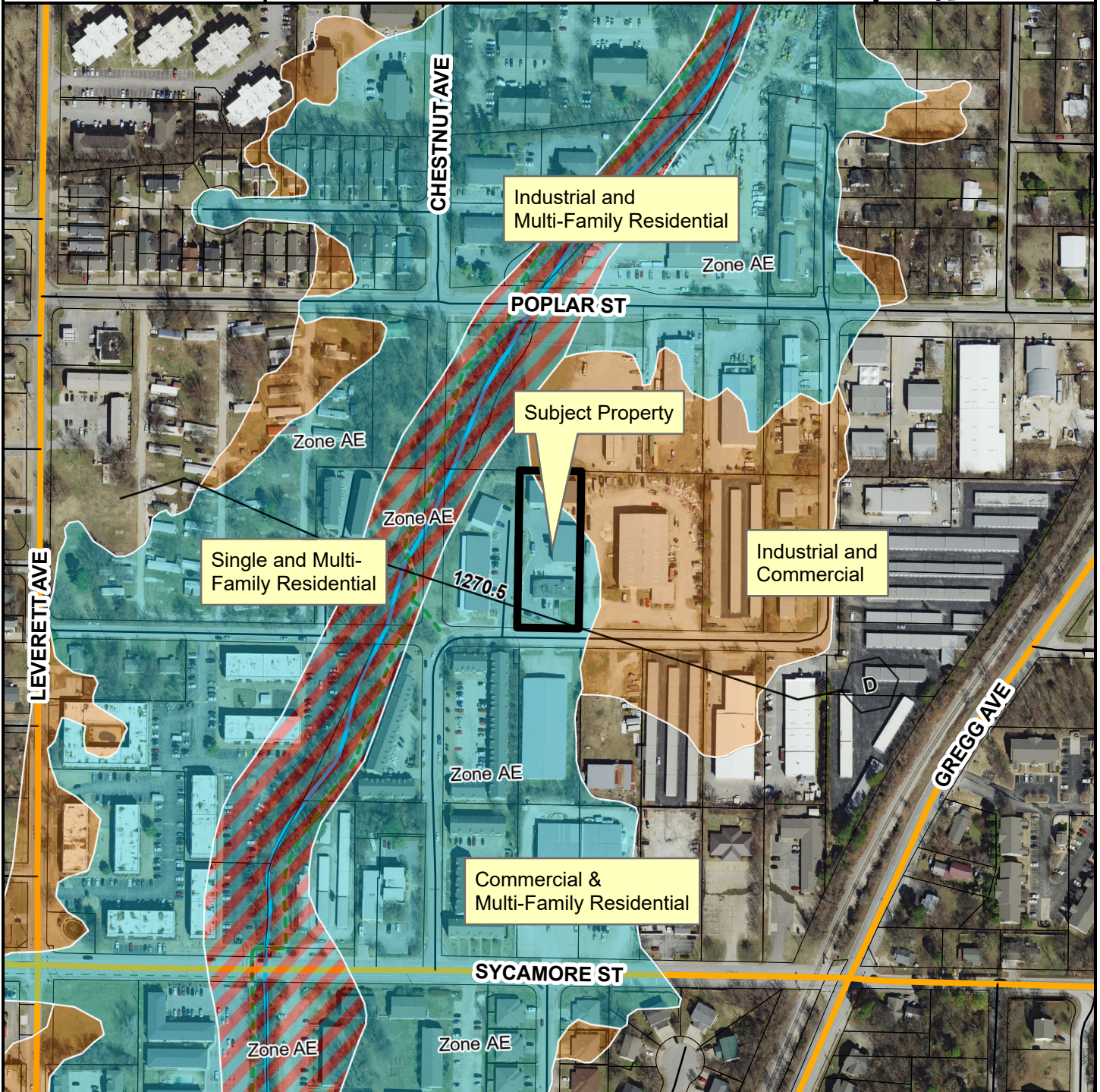




CUP-2023-0040

1882 N. PLUTO DR, UNIT 3

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: April 24, 2023

SUBJECT: **RZN-2023-0010: Rezoning (1746 N. OLD WIRE RD. / PERRY, 369):**
Submitted by BUFFINGTON HOMES for property located at 1746 N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.06 acres. The request is to rezone the property to NC, NEIGHBORHOOD CONSERVATION.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0010** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0010** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is in east Fayetteville, approximately 1/3 of a mile northwest of the intersection of N. Old Wire Rd. and N. Mission Blvd. The parcel is currently developed with a 1,703 square foot single family residence constructed in 1979 per the Washington County Assessor. FEMA floodplain/floodway covers roughly the western half of the parcel, including portions of the existing home. The Niokaska Creek streamside protection zone covers a portion of the northwest corner adjacent to the existing driveway. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential / Park	NC, Neighborhood Conservation / P-1, Institutional
East	Single-Family Residential	NC, Neighborhood Conservation
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

Request: The request is to rezone the parcel from RSF-4, Residential Single-Family, 4 Units per Acre zoning district to NC, Neighborhood Conservation.

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

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

- Streets:** The subject area has frontage along N. Old Wire Rd. N. Old Wire Rd. is a fully improved neighborhood link street with asphalt paving, sidewalk, curb and gutter. Any street improvements required in these areas would be determined at the time of development proposal. Any additional improvements or requirements for drainage will be determined at time of development.
- Water:** Public water is available to the subject area. An existing 8-inch water main is present on the west side of N. Old Wire Rd.
- Sewer:** Sanitary Sewer is available to the subject area. An existing 15-inch sewer main is present on the east side of N. Old Wire Rd.
- Fire:** Station 5, located at 2979 N. Crossover Rd., protects this site. The property is located approximately 2.1 miles from the fire station with an anticipated drive time of approximately 4 minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.
- Police:** The Police Department expressed no concerns with this request.
- Drainage:** No portion of the property lies within the Hillside-Hilltop Overlay District.

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

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

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

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

Tree Preservation:

The proposed zoning district of NC, Neighborhood Conservation requires **20% minimum canopy preservation**. The current zoning district of RSF-4, Residential Single-Family, Four Units Per Acre requires **25% minimum canopy preservation**.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as split between **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 **5-6** for this site, with a weighted score of **6** at the highest. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #5, 2979 N Old Wire Rd.)
- Near Sewer Main (15" sewer main, N Old Wire Rd.)
- Near Water Main (8" water main, N. Old Wire Rd.)
- Near Public School (Root Elementary School)
- Near City Park (Clarence Craft Park)
- Near Paved Trail (N. Old Wire Rd. Side Path)

FINDINGS OF THE STAFF

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

Finding: **Land Use Compatibility:** Staff finds the request to be compatible with the surrounding context. Neighboring properties are of a variety of sizes but

generally follow a cul-de-sac development pattern, except for the adjacent NC neighborhood to the east and south which follows a more traditional block pattern. The RSF-4 and NC districts have similar allowed uses. NC includes urban form build-to-lines rather than traditional setbacks. When compared to RSF-4, rezoning to NC will decrease the buildable area of the lot for single and two-family uses from 8,000 sf and 12,000 sf respectively to 4,000 sf. In addition, NC would have a build-to zone of 25' rather than a front setback of 15', and a rear setback of 5' rather than 15'.

The subject property contains roughly 1.1 acres. Under current entitlements RSF-4 would allow a maximum of four (4) units, while NC would increase the allowable density to eleven (11) units. That said, staff notes that almost 0.5 acres is subject to FEMA regulations, substantially limiting the developable area of the parcel and that any future development would be further limited by minimum parking requirements, tree preservation, drainage, and access management standards. NC requires a 40-foot lot width minimum while RSF-4 requires a 70-ft lot width minimum for single-family dwellings and 80-ft lot width minimum for two-family dwellings. Conversely, both NC and RSF-4 include up to a three-story height limit.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from RSF-4 to NC serves to contribute towards the following City Plan 2040 Goals:

- #1 “We will make appropriate infill and revitalization our highest priority,”
- #2 “We will discourage suburban sprawl,”
- #3 “We will make compact, complete, and connected development the standard,” and
- #6 “We will create opportunities for attainable housing.”

The Future Land Use Map designates the site as split between “Residential Neighborhood Area” – a designation which supports support a wide variety of housing types of appropriate scale and context including single-family, duplexes, rowhouses, multifamily and accessory dwelling units, and Natural Area- a designation which promotes conservation of open space and areas of significant riparian benefit. Staff finds that promotion of infill and density as designated by the “Residential Neighborhood” designation is likely best facilitated by the flexible regulations in NC zoning and is justified given the property’s proximity to city services and existing NC residential development. The site scores moderately on the Infill Scoring Matrix due to water/sewer access, public parks and trails, and the proximity of the nearby fire station.

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

Finding: Staff finds that a rezoning to NC is justified. Rezoning may be less restrictive in allowing the property to develop under proportional regulations. Because rezoning will better support infill redevelopment on the property, staff finds

the proposed zoning to be consistent with the City's future land use goals and therefore needed at this time.

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

Finding: Rezoning to NC has an associated potential to increase traffic at this location. NC permits development at 10 units per acre where it is currently limited to 4 units per acre. Staff finds potential to increase the number of residential units above what is currently allowed by right subject to constraints such as Floodway/Floodplain, tree preservation requirements, and other design requirements. Staff finds the increase in density is unlikely to result in increased traffic danger or congestion. The subject property has access to N. Old Wire Rd., an improved neighborhood link, and E. Adelaide Ln., an improved residential link. Future development would be required to meet the City's applicable access management and parking standards.

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

Finding: Rezoning the property to NC may increase the load on public services, but the impact is not expected to be detrimental. The size of the property and access to existing water and sewer infrastructure means future development will likely avoid the need for costly extensions to services, and the extensive Floodway/Floodplain will likely limit development capacity of the site. Fayetteville Public Schools did not comment on this request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommends approval of RZN-2023-0010.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 24, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum*.

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

(E) *Setback Regulations*.

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

(F) *Building Height Regulations*.

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

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

**LETTER OF INTENT
APPLICATION FOR REZONING**

Buffington Homes (the “Applicant”) on behalf of the Perry's (the “Owners”) requests a Rezoning of the approximately 1.1 acres located at 1746 N Old Wire Road (Parcel Identification Number 765-13429-000) (the Property) from the RS-4 to NC to modify the conditions of zoning pertaining to the property to allow for construction of two homes on the property.

The adjacent neighborhood, Cottages at Old Wire has long been developed as a Neighborhood Conservation subdivision. The subject property was an outlying parcel not included in the original development of the adjacent subdivision. The property owner is ready to sell his property and it incorporates well into the adjacent neighborhood as it is on the same street. Our request is to simply bring this parcel into the existing neighborhood and assign it the same zoning as the surrounding parcel. Given the shortage of housing in the City of Fayetteville we feel the highest and best use of the property is to create additional housing that will fit seamlessly into the surrounding neighborhood and be constructed in the same style and of a similar size.

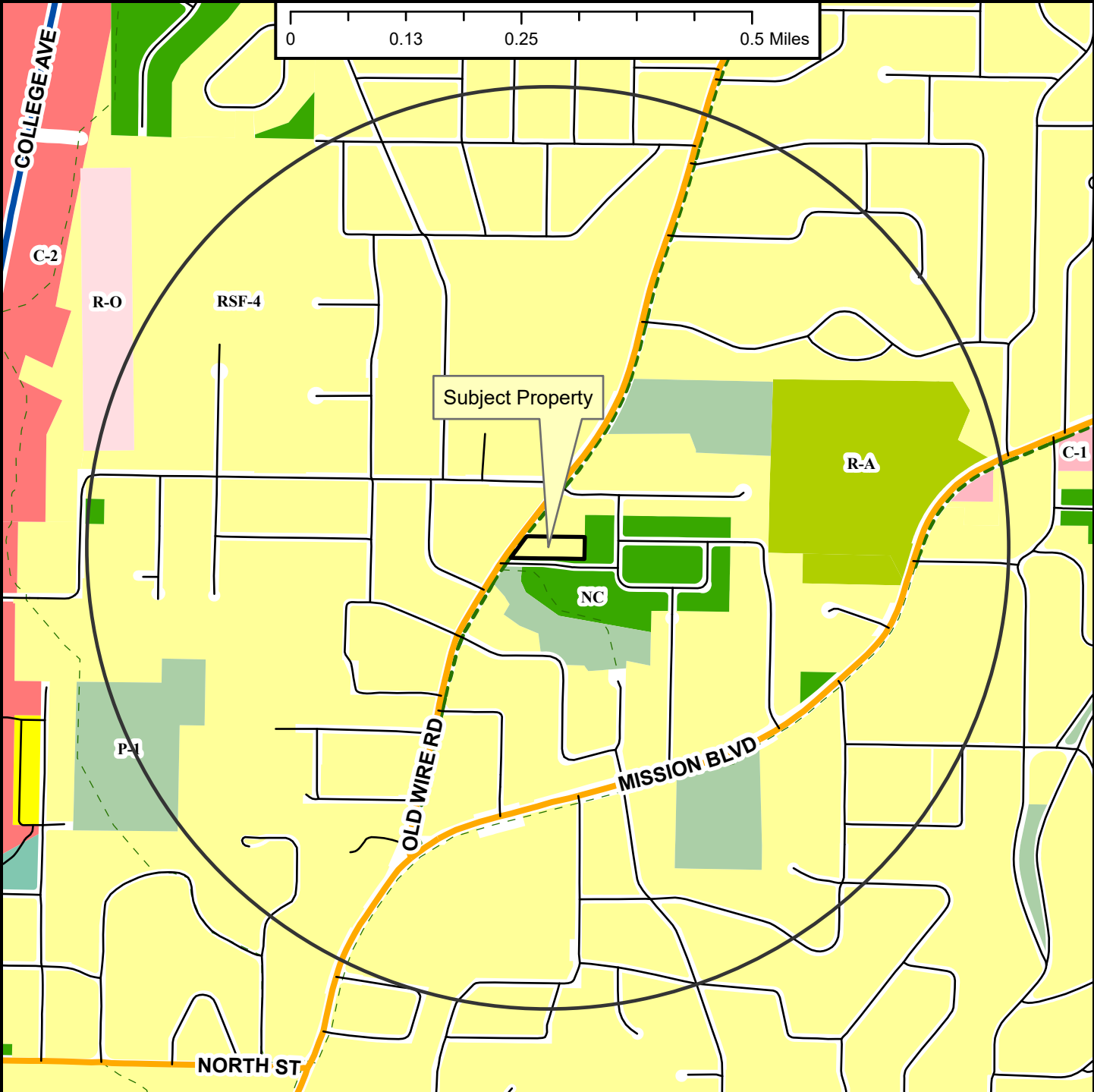
For these reasons and because the requested Rezoning is consistent with the surrounding land uses the Applicant respectfully asks Planning Commission to approve the Rezoning as requested.

Mary McGetrick

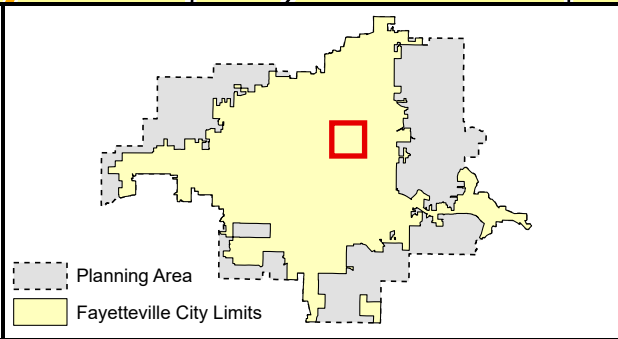
Mary McGetrick, Director of Land Development, Buffington Homes

RZN-2023-0010
<i>One Mile View</i>

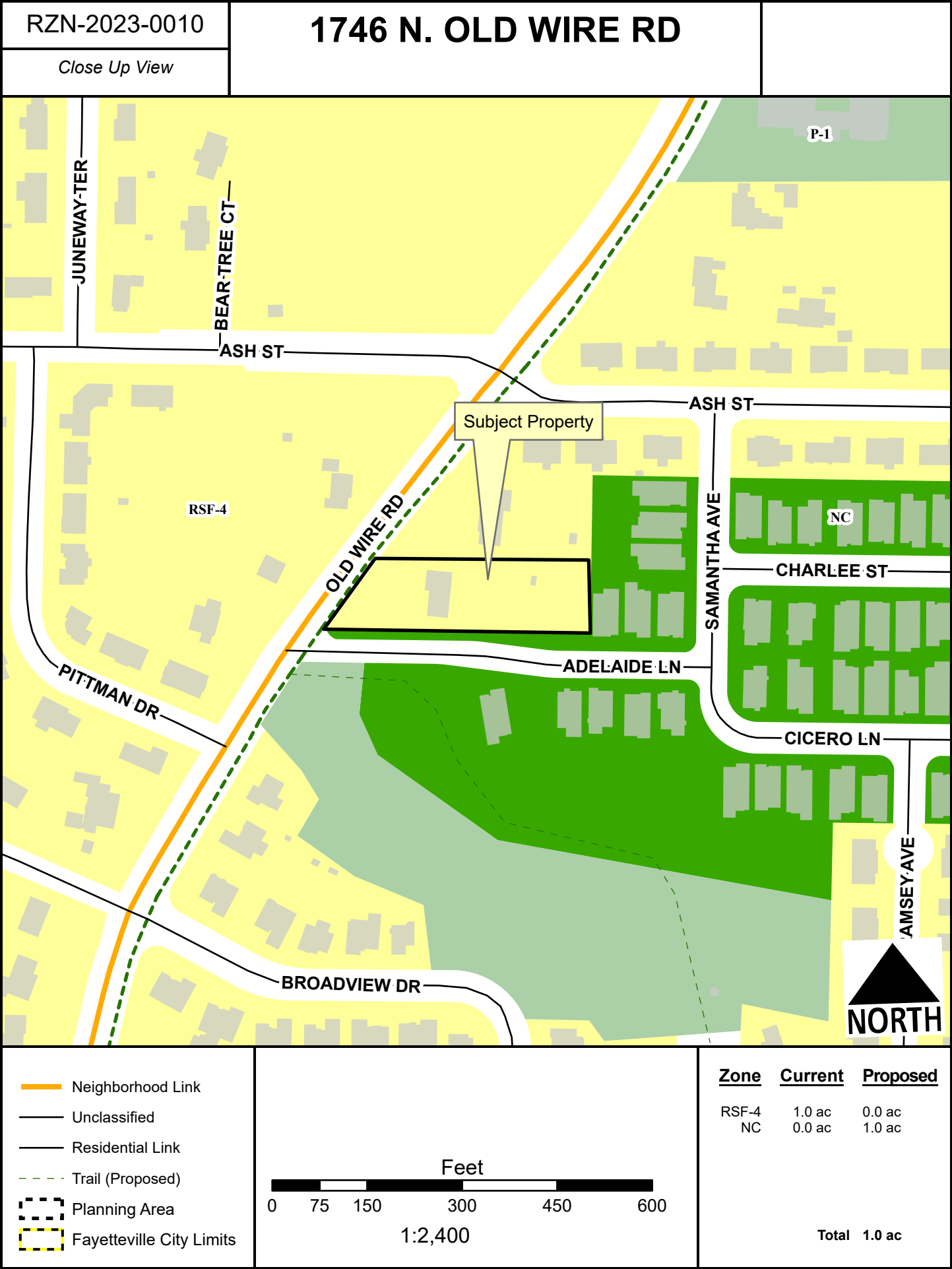
1746 N. OLD WIRE RD

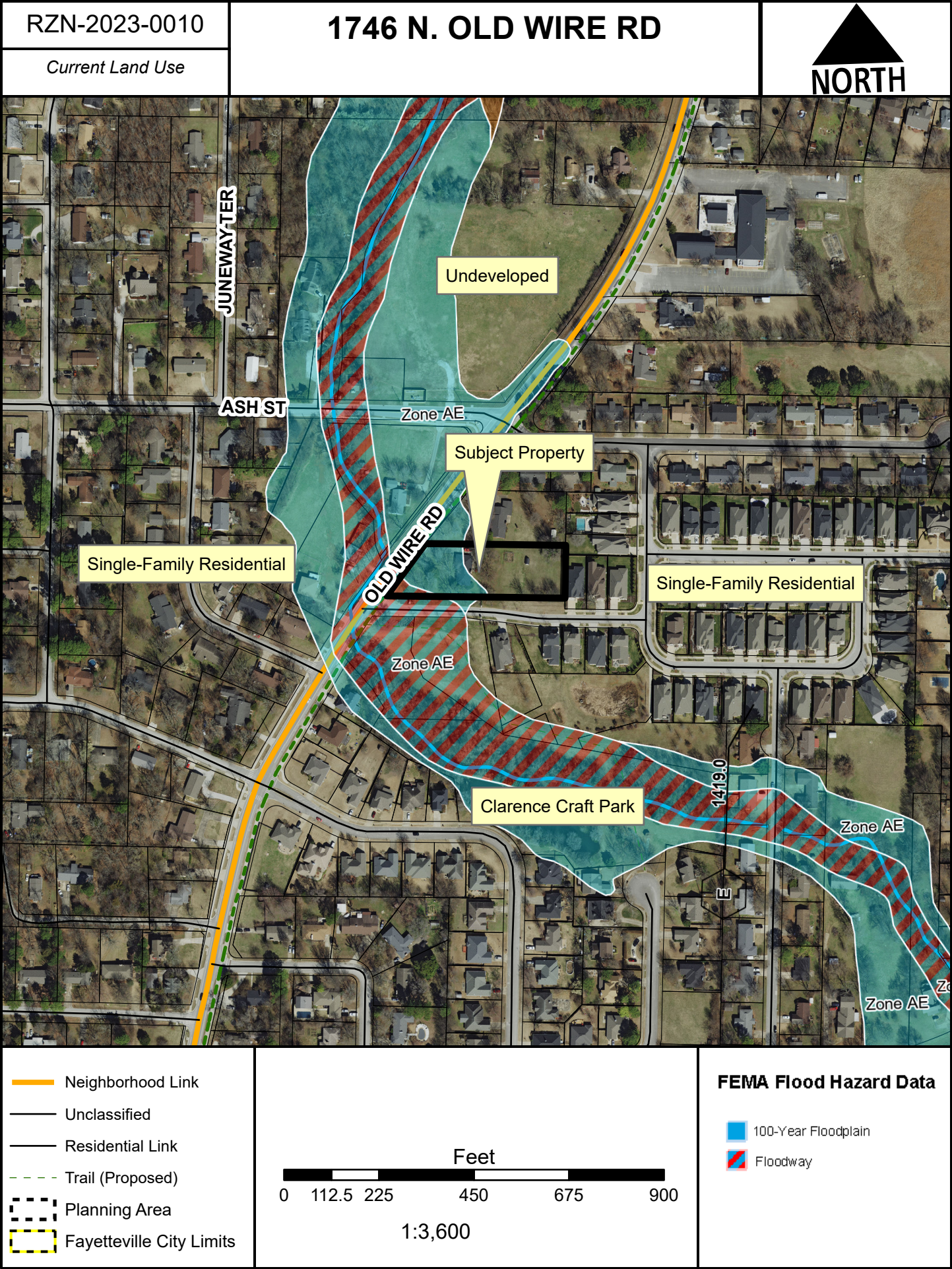


-  Neighborhood Link
-  Regional Link - High Activity
-  Unclassified
-  Residential Link
-  Shared-Use Paved Trail
-  Trail (Proposed)
-  Fayetteville City Limits
-  Planning Area



-
- 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: Ryan Umberger, Senior Planner

MEETING DATE: April 24, 2023

SUBJECT: **RZN-2023-0011: Rezoning (239 & 245 N. FLETCHER AVE/HAMBRICE, 485):** Submitted by HAMBRICE HOMES for property located at 239 & 245 N. FLETCHER AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE, and contains approximately 0.20 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0011** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0011** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is on the west slope of Mt. Sequoyah, east of downtown, and on the west side of N. Fletcher Avenue. It's on the mid-block between E. Dickson Street to the north and E. Spring Street to the south. The property contains roughly 0.20 acres and zoned RMF-24, Residential Multi-Family, 24 Units per Acre. Two single-family homes occupy the site; both were built in 2020. The entirety of the site falls within the Hillside Hilltop Overlay District. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre; RSF-18, Residential Single-Family, 18 Units per Acre
West	Mixed-Density Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

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

Public Comment: Staff have received inquiries from members of the public on the item but no specific comments in opposition or in favor.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along N. Fletcher Avenue. N. Fletcher Avenue is a partially improved Residential Link Street with asphalt paving and open ditches. Any street improvements required in these areas would be determined at the time of a development proposal.

Water: Public water is available to the subject area. An existing 10-inch water main is present on the east side of the N. Fletcher Avenue right-of-way. A second 2.25-inch water main is present on the east side of N. Fletcher Avenue.

Sewer: Sanitary Sewer is available to the subject area. An existing 8-inch sanitary sewer main is present in the center of N. Fletcher Avenue. Another 8-inch sanitary sewer main is present on the west side of the subject property.

Fire: Station 1, located at 303 W. Center Street protects this site. The property is located approximately 0.9 miles from the fire station with an anticipated drive time of approximately four minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck. 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 a FEMA floodplain, has hydric soils, nor is a protected stream present in the area.

The site is entirely within the Hillside-Hilltop Overlay District. Additional restrictions will apply at the time of development. Engineered footing designs will be required at the time of building permit submittal, as well as grading, erosion control and abbreviated tree preservation plans.

Tree Preservation:

The proposed zoning district of RI-U, Residential Intermediate-Urban requires **15% minimum canopy preservation**. The current zoning district of RMF-24, Residential Multi-Family, 24 Units per Acre requires **20% minimum canopy preservation**.

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

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

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

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of 8 for this site, with a weighted score of 11.5. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (N. Fletcher Avenue)
- Near Water Main (N. Fletcher Avenue)
- Near Grocery Store (Ozark Natural Foods, 380 N. College Ave.)
- Near City Park (Mt. Sequoyah Gardens)
- Near ORT Bus Stop (Route 10)
- Near Razorback Bus Stop (Route 13 Detour Peak; Route 17 Detour Peak)
- Sufficient Intersection Density (Greater than 140 intersections/square mile)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the request to be compatible with the surrounding context. Neighboring properties are residential in nature and contain a variety of structure types and sizes. Both the existing and proposed zoning designations are high-density residential districts with urban form setbacks that are congruent with the existing pattern in the neighborhood. When compared to RMF-24, RI-U would increase the permitted buildable area from 50% to 60% of the lot's overall area. Since the subject property contains roughly 0.20 acres, a maximum of four units are permitted under current entitlements; rezoning to RI-U would remove the density limitation. Any future development would be subject to, and limited by, minimum parking requirements, tree preservation, drainage, and access management standards. RMF-24 zoning allows multi-family dwellings by-right where multi-family is only allowed as a conditional use in RI-U. Rezoning to RI-U would reduce side and rear setbacks for three- and four-family dwellings, increasing the buildable area on site. RMF-24 also prescribes bulk and area regulations for lot width and area based on the specific use of the property where RI-U merely requires an 18-foot lot width minimum and no lot area minimum for residential uses. Conversely, RMF-24 includes a five-story height limit, compared with the smaller single-, 2-, 3-, and 4-family buildings allowed under RI-U with a maximum three-story height limit.

Land Use Plan Analysis: Staff finds that the request is consistent with adopted land use policies, the Future Land Use Map designation, and goals of City Plan 2040. The property has an infill score of 8. A high infill score indicates that the area can likely support additional density if it is feasible under the proposed zoning entitlements. The request meets Goals 1 and 6 of City Plan 2040, by providing infill development, as well as by providing a

potential for a variety of housing types, which could help fulfill a goal towards the provision of more attainable housing.

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

Finding: Staff finds that a rezoning to RI-U is justified. The RMF-24 zoning regulations are oftentimes most suitable for development on larger sites. Rezoning is less restrictive in terms of the bulk and area regulations that govern the size of properties which may better support infill, redevelopment, or subdivision of the property in a manner that fits with the rest of the neighborhood. Rezoning removes multi-family from a use which is allowed by-right and allows structures to have a maximum of four attached units. Staff finds the scale of development permitted under RI-U is more compatible with the surrounding mix of residential densities and therefore appropriate.

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

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

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

Finding: Rezoning the property from RMF-24 to RI-U may increase population density and therefore the load on public services; however, the impact is not expected to be detrimental. Adequate water and sewer connections are available to the site, suggesting the area can support the increase and avoid costly extensions to services. Fayetteville Public Schools did not comment on this request.

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

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommend forwarding RZN-2023-0011 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 24, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

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

161.12 District RI-U, Residential Intermediate - Urban

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
-------------------------	--------------------------------

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

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

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

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

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

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

Ronny Hambrice
239 N. Fletcher Ave.
Fayetteville, AR 72701

City of Fayetteville
Planning Commission
125 W. Mountain St.
Fayetteville, AR 72701

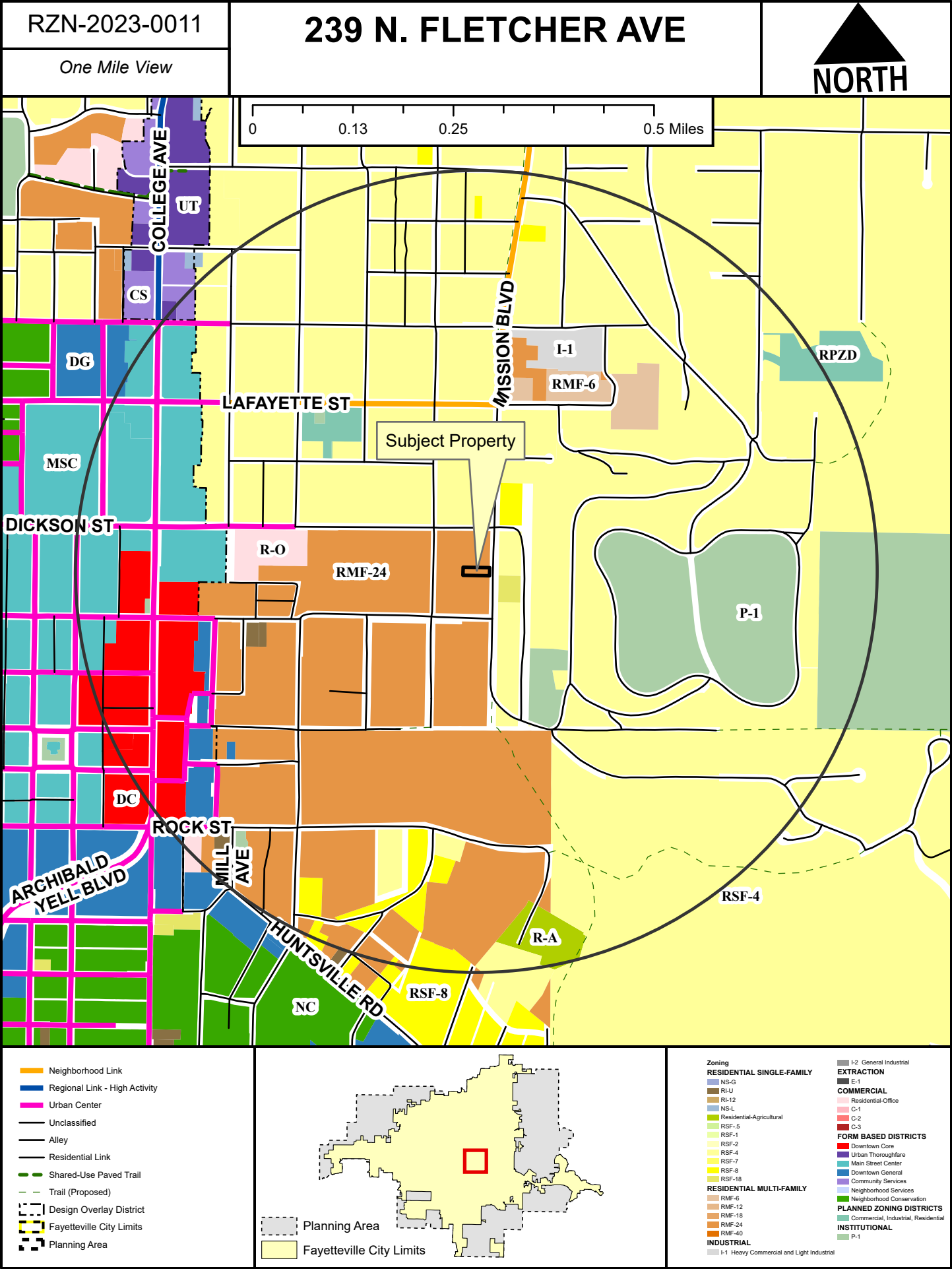
Dear Planning Commission,

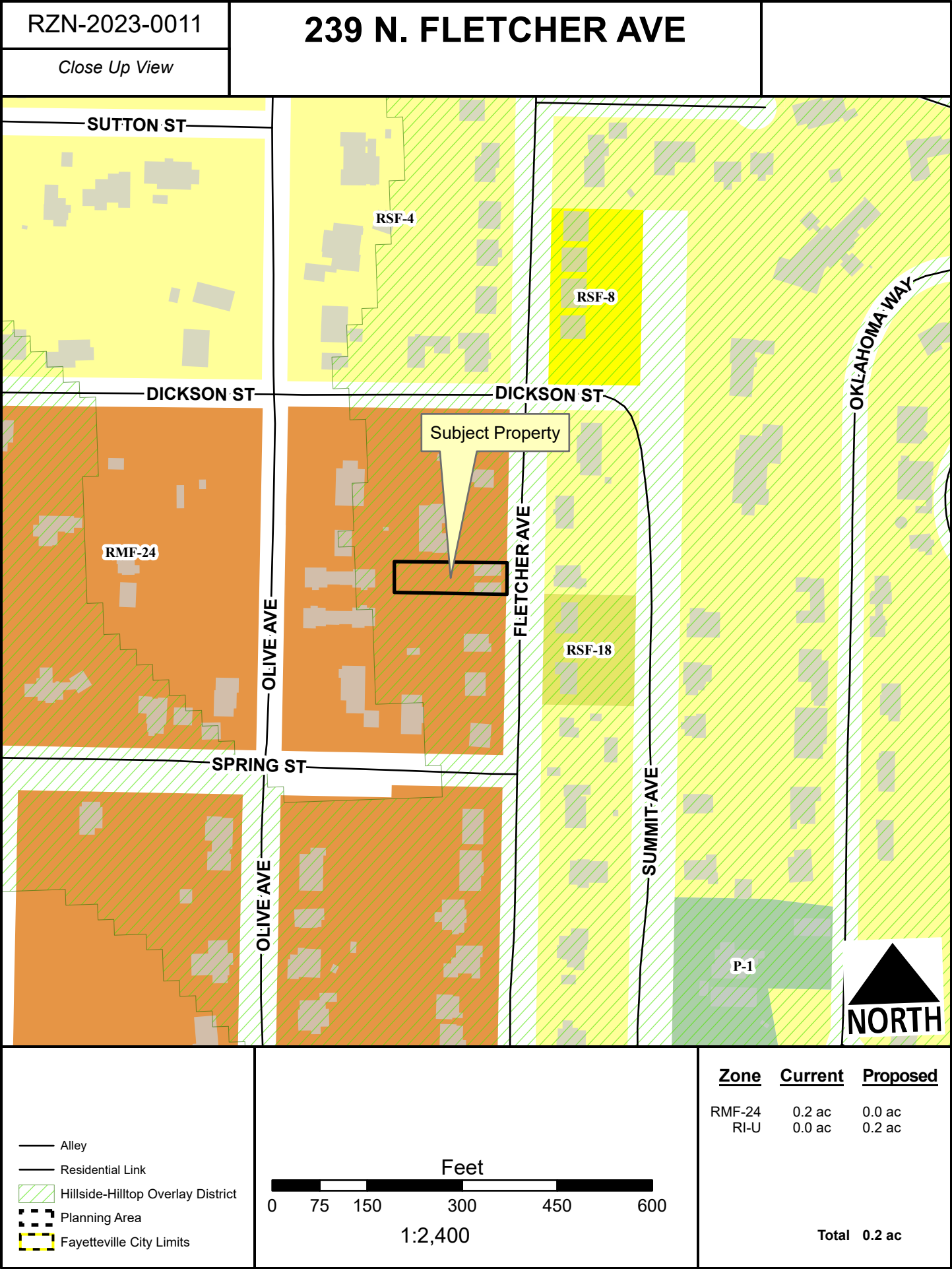
I would like to rezone my property at 239 N. Fletcher Ave. to RIU from its current zoning of RMF-24. I believe this will be compatible with neighboring property, because the lot directly to the north has an eight-unit apartment. I built two single-family houses on this property with an eleven ft. driveway between them. The driveway is shared with a two-space parking area behind each house. I built these houses in 2021. I am asking for the rezoning of this property with the intention of applying for a lot split. My wife and I live in one of the houses. The reason I want to split the property is so I can sell one of the houses. Each property will have a 26' x 65' green space at the back and also green space in the front.

I believe this proposed rezoning will not affect or conflict with surrounding land uses. Fletcher Ave. is a mixture of residential uses. I would not be making any other changes to the property.

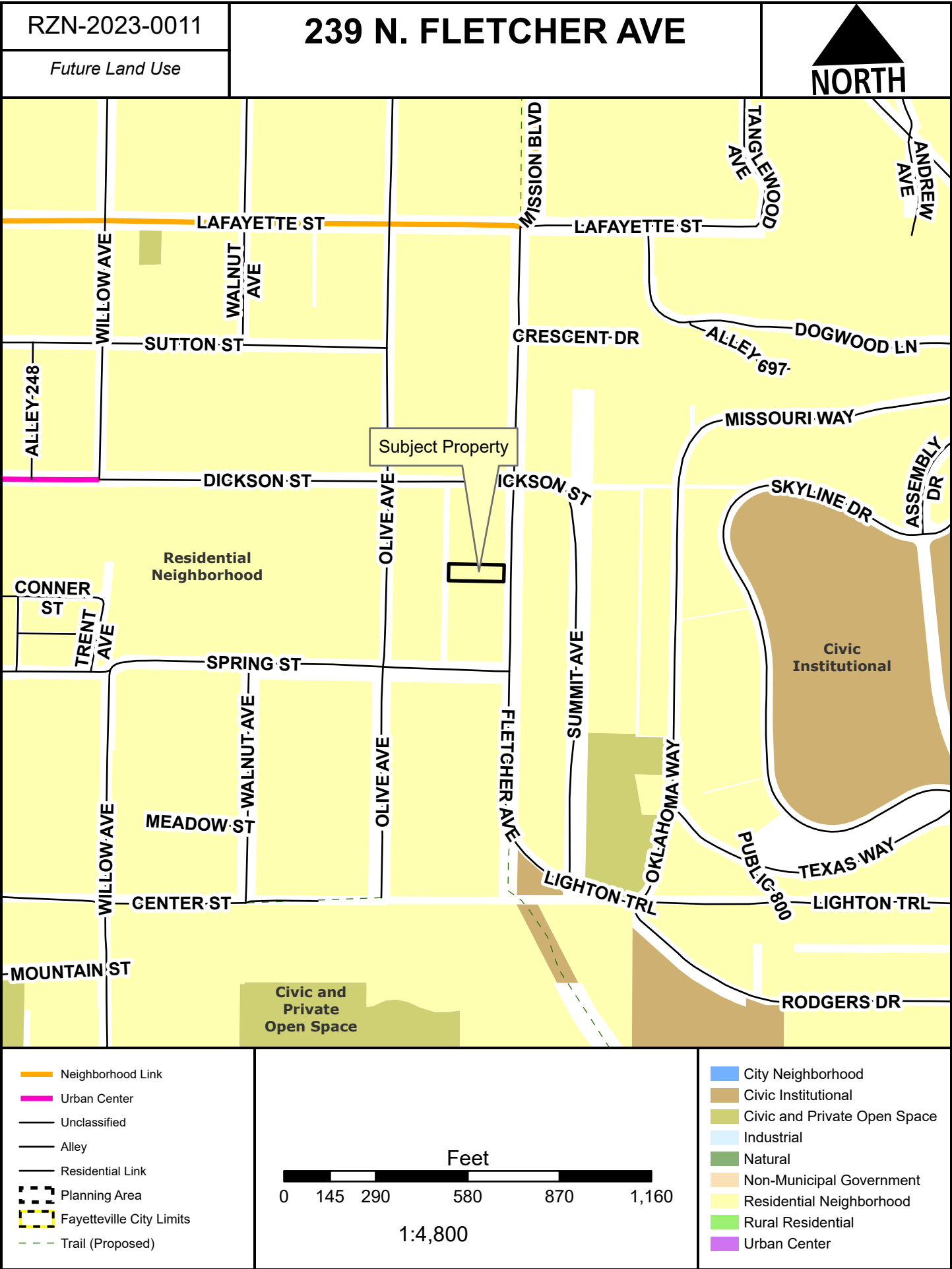
Regards,

Ronny Hambrice











TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: April 24, 2023

SUBJECT: **CUP-2023-0043: Conditional Use Permit (435 N. OLIVER AVE/ KING INVESTMENTS OF FAYETTEVILLE LLC, 482):** Submitted by KING INVESTMENTS OF FAYETTEVILLE LLC for property located at 435 N. OLIVER AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.31 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0043** based on the findings in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0043 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 central Fayetteville approximately 500 feet northwest of Razorback Stadium. The parcel is zoned RSF-4, Residential Single-Family, Four (4) Units Per Acre. It is currently constructed with a 2,450 square foot single-family structure originally built in 1908 according to the Washington County Assessor. Portions of the parcel's edges have slopes above 15% but no other overlay districts or natural features apply. 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/ Type 1 STR	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0043** 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. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>April 24, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

- (c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RSF-4 zoning. Type 2 STRs require a conditional use permit in the RSF-4 zoning district.

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

Finding: Occupancy is limited as described in UDC §163.18(B). Occupancy limitations are confirmed by the applicant during licensing. Since this residence contains four (4) bedrooms, occupancy will likely be limited to a maximum of ten (10) 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 three (3) off-street parking spaces available in the driveway. N. Oliver Ave. does not appear to have sufficient width to support on-street parking.

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

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

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

Finding: The application is for use of the property at 435 N. Oliver Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year data from the 2021 list total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, there are 327 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in the RSF-4, Residential Single-Family, Four (4) 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. The unit has three (3) off-street parking spaces available in the driveway. N. Oliver Ave. does not appear to have sufficient width to support on-street parking. City business license records indicate one (1) other unit within a quarter-mile radius of the property has an 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 parking and proximity of amenities such as Razorback Stadium within a walkable distance of the residence. 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 three (3) off-street parking spots available via the driveway accessing off N. Oliver Ave. 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 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. The property is surrounded by residential uses, and short-term rentals are permitted by right in the RSF-4 zoning district. There appears to be adequate parking to accommodate the number of permitted guests, and staff does not anticipate any adverse traffic impacts with this request. The RSF-4 zoning district does not allow hotel/motel uses by right, so this short-term rental would contribute to the city-wide density cap.

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the use to be compatible with the surrounding properties. While the residences along N. Oliver Ave. are all detached single-family dwellings, the property is less than 500 feet away from Razorback Stadium, a heavy tourism and hotel use driver. Staff finds the proposal to be a request for appropriate location for a short-term rental unit.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.07 District RSF-4, Residential Single-Family, Four (4) Units Per Acre
- Applicant Request Letter
- Site Plan
- Floor Plans
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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."

Request Letter – March 8, 2023

To Whom It May Concern:

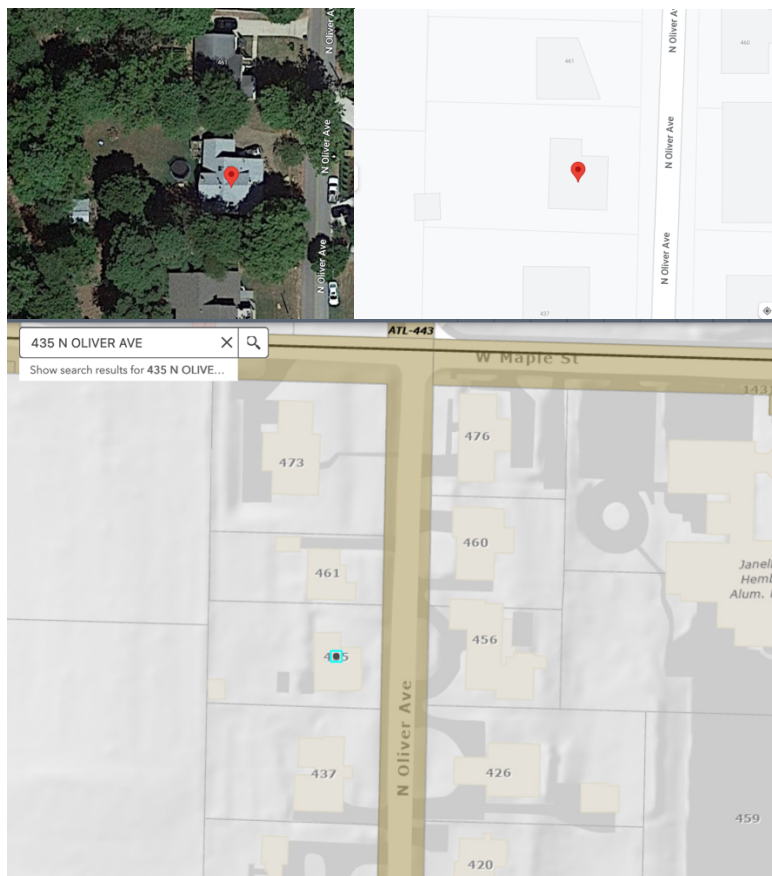
We are requesting a Conditional Use Permit – General for the purpose of applying for a license to operate a Short Term Rental Type 2 in Fayetteville, Arkansas.

- The home address is 435 North Oliver Ave, Fayetteville, Arkansas 72701
- It is a 4 bedroom 2 ½ bath home that is approximately 2,450 square feet
- There are 3 off-street parking spaces provided

Pictures that follow of elevations of the home as well as parking reflected:



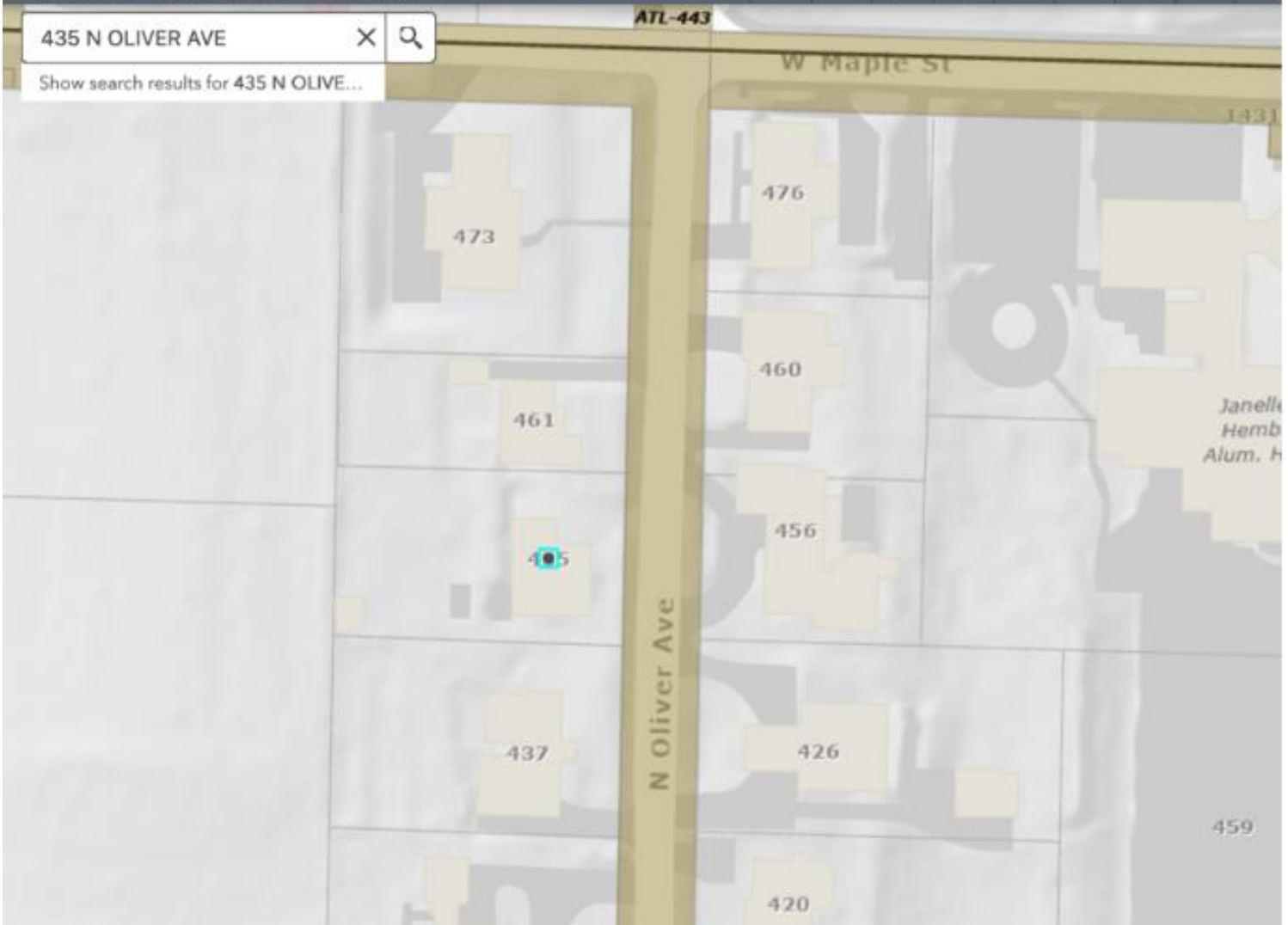
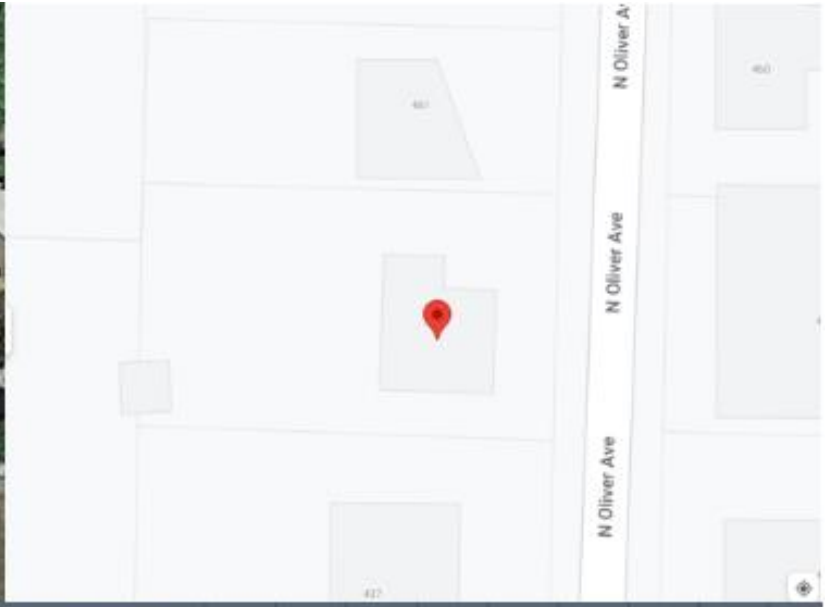
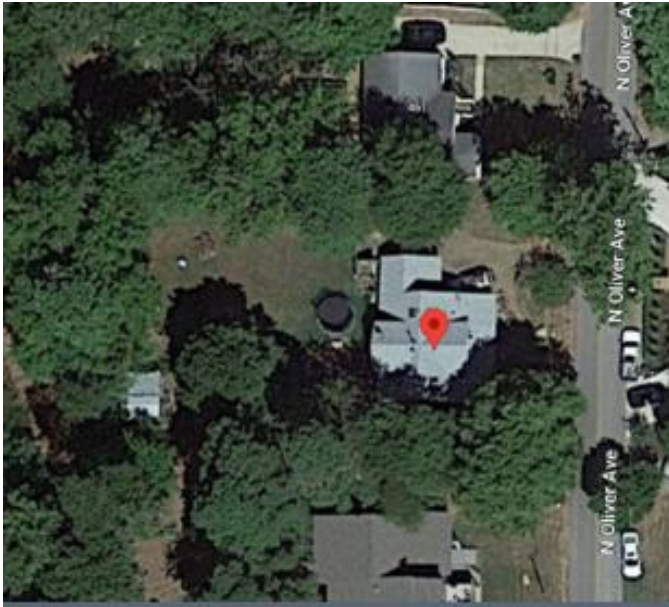
Pictures follow of aerial as well as lot lines:



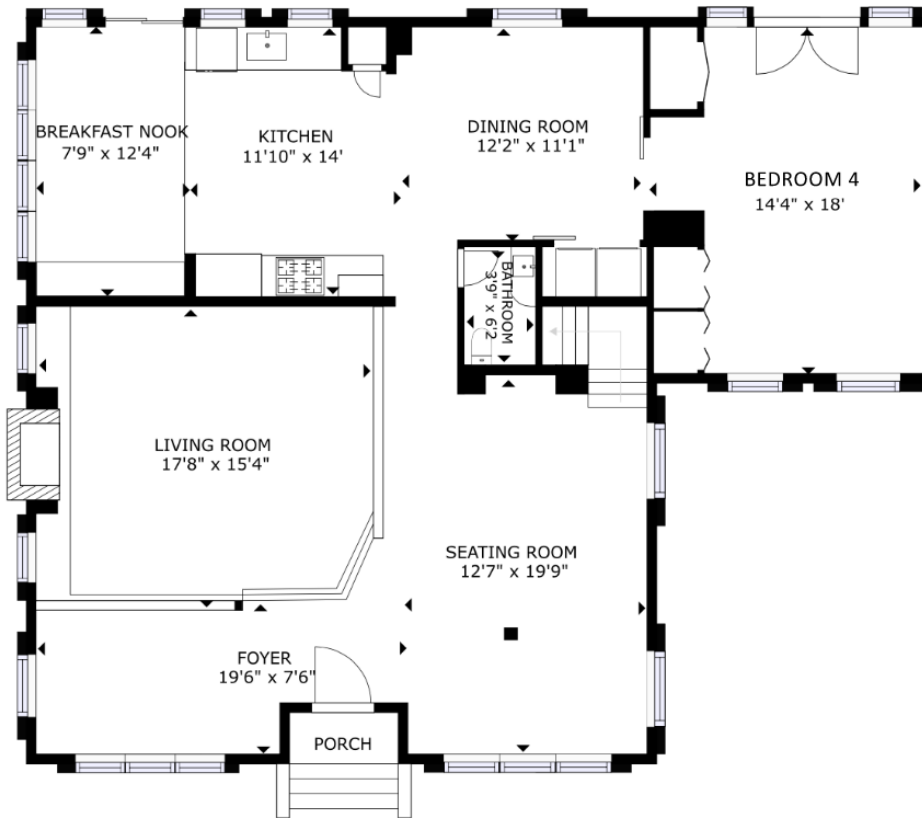
Regards,

Pam King
King Investments of Fayetteville, LLC

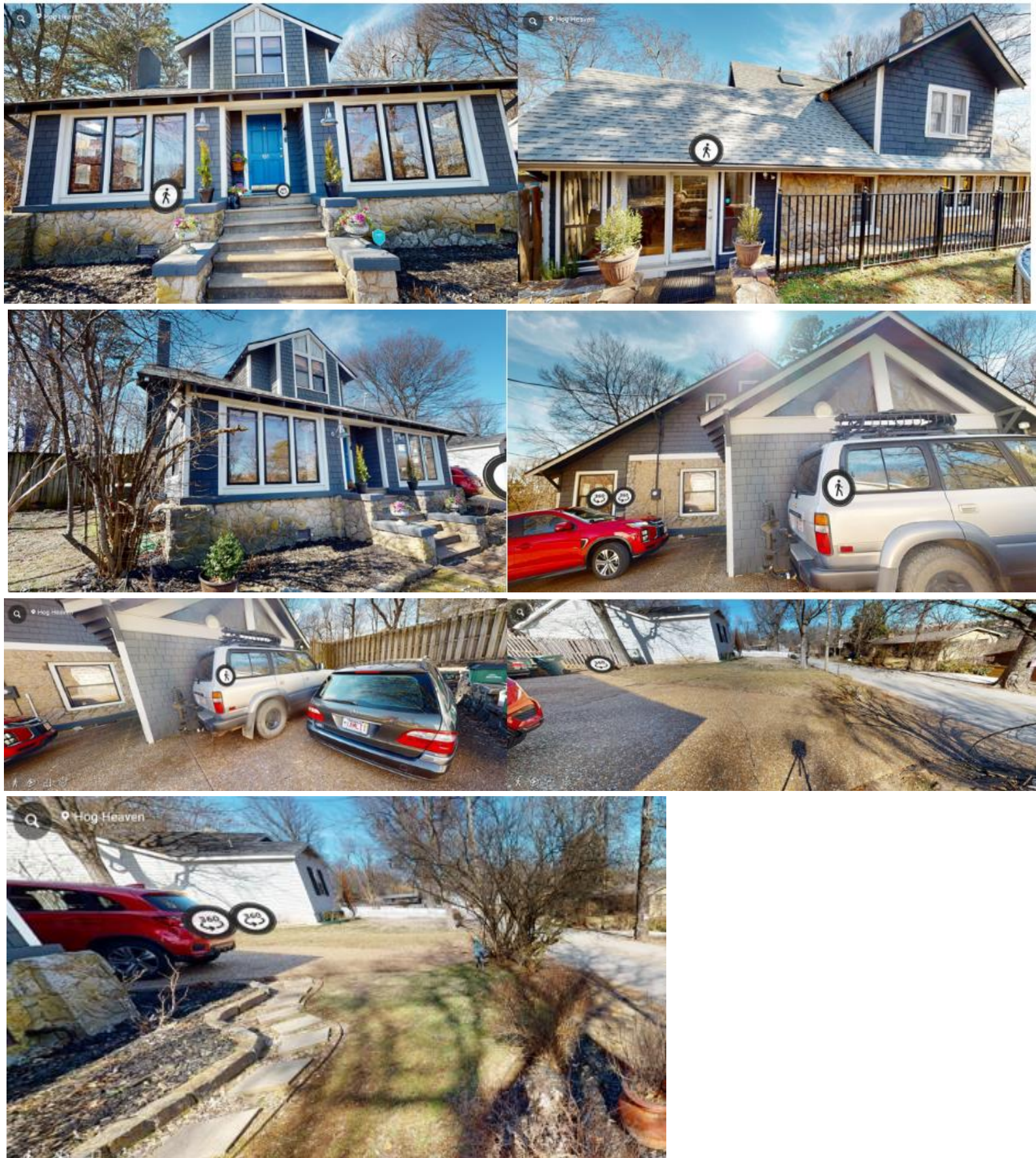
APPLICANT EXHIBIT: SITE PLAN

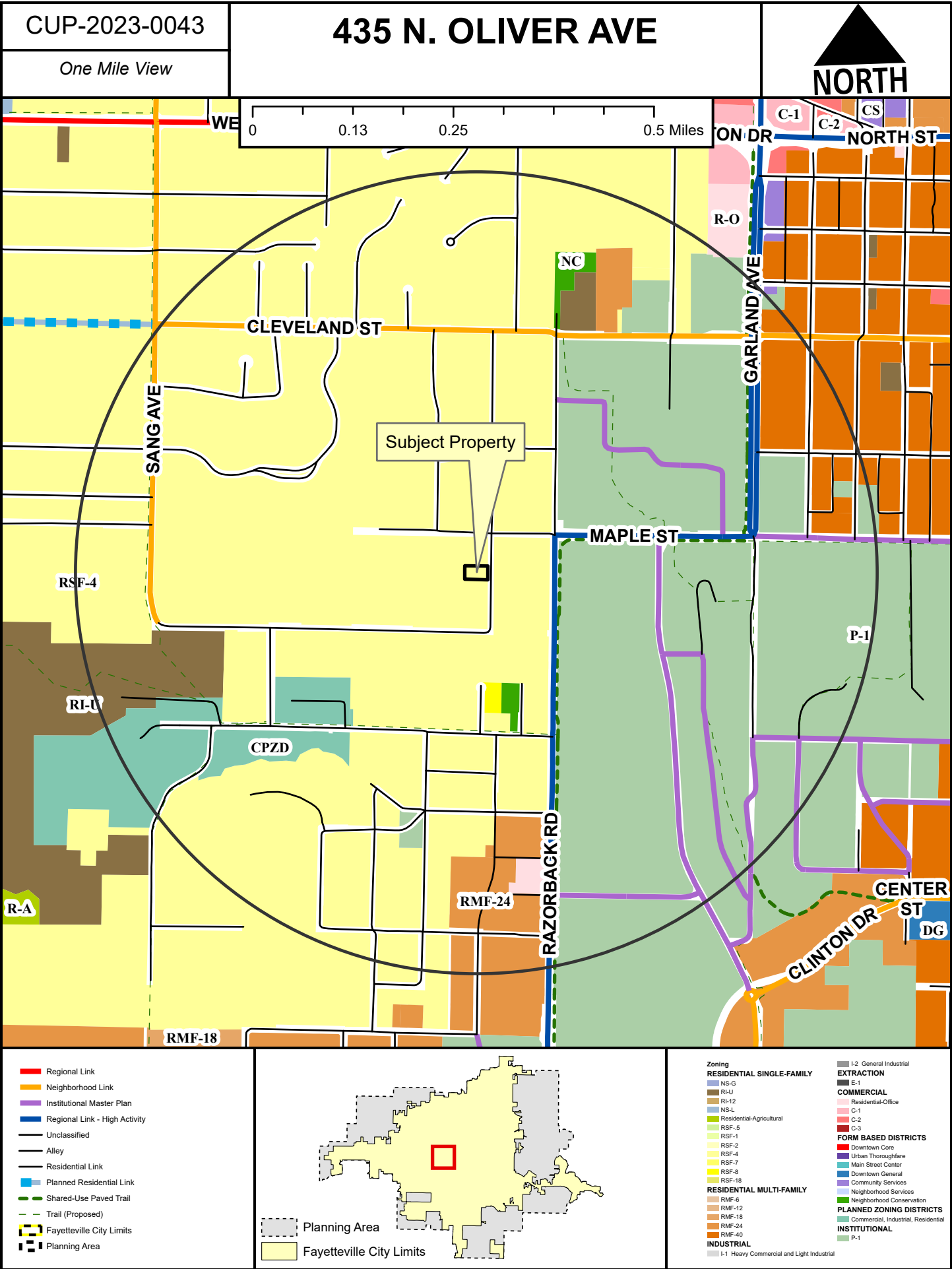


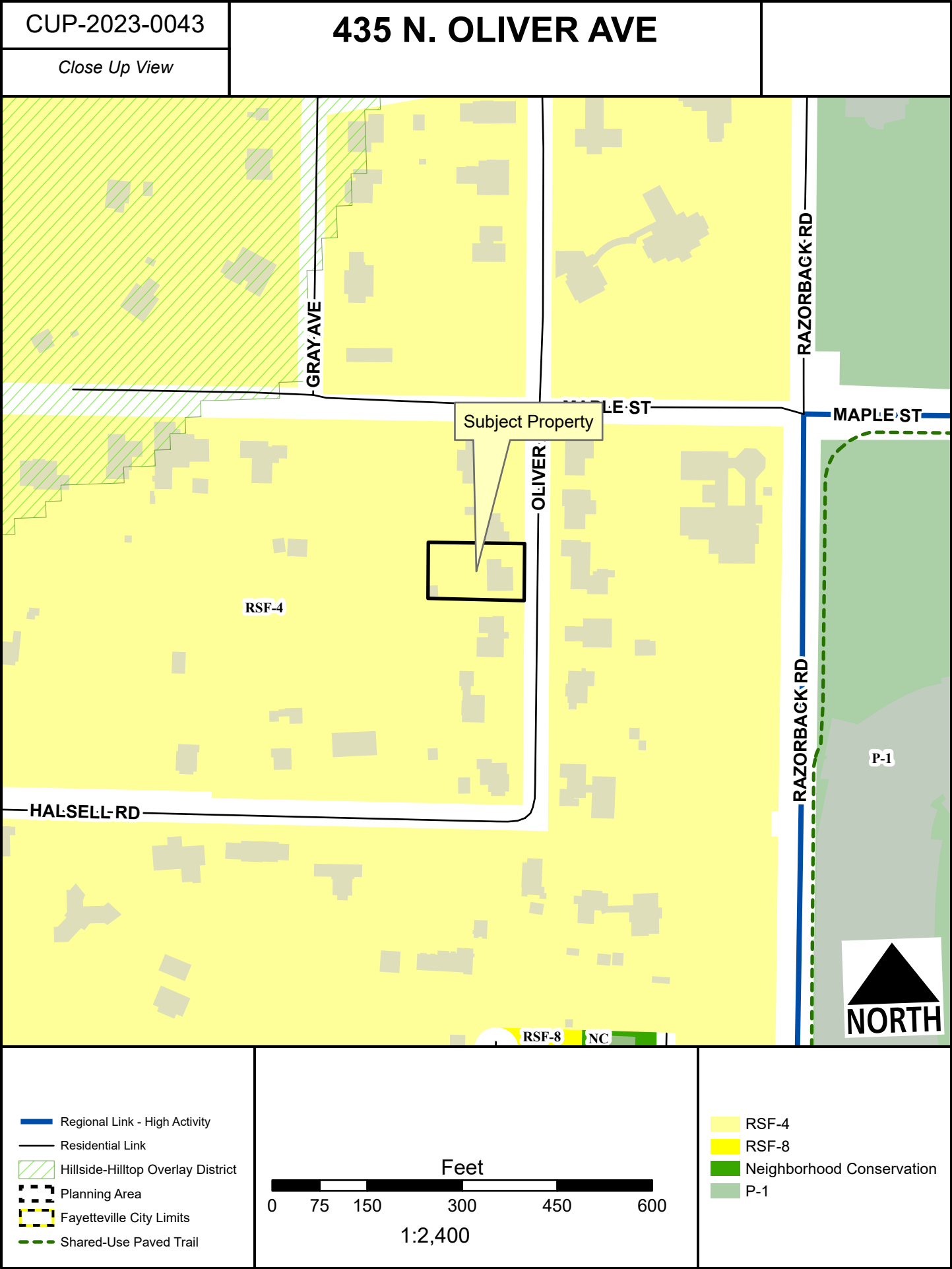
APPLICANT EXHIBIT: FLOOR PLAN



APPLICANT EXHIBIT: EXTERIOR PHOTOS



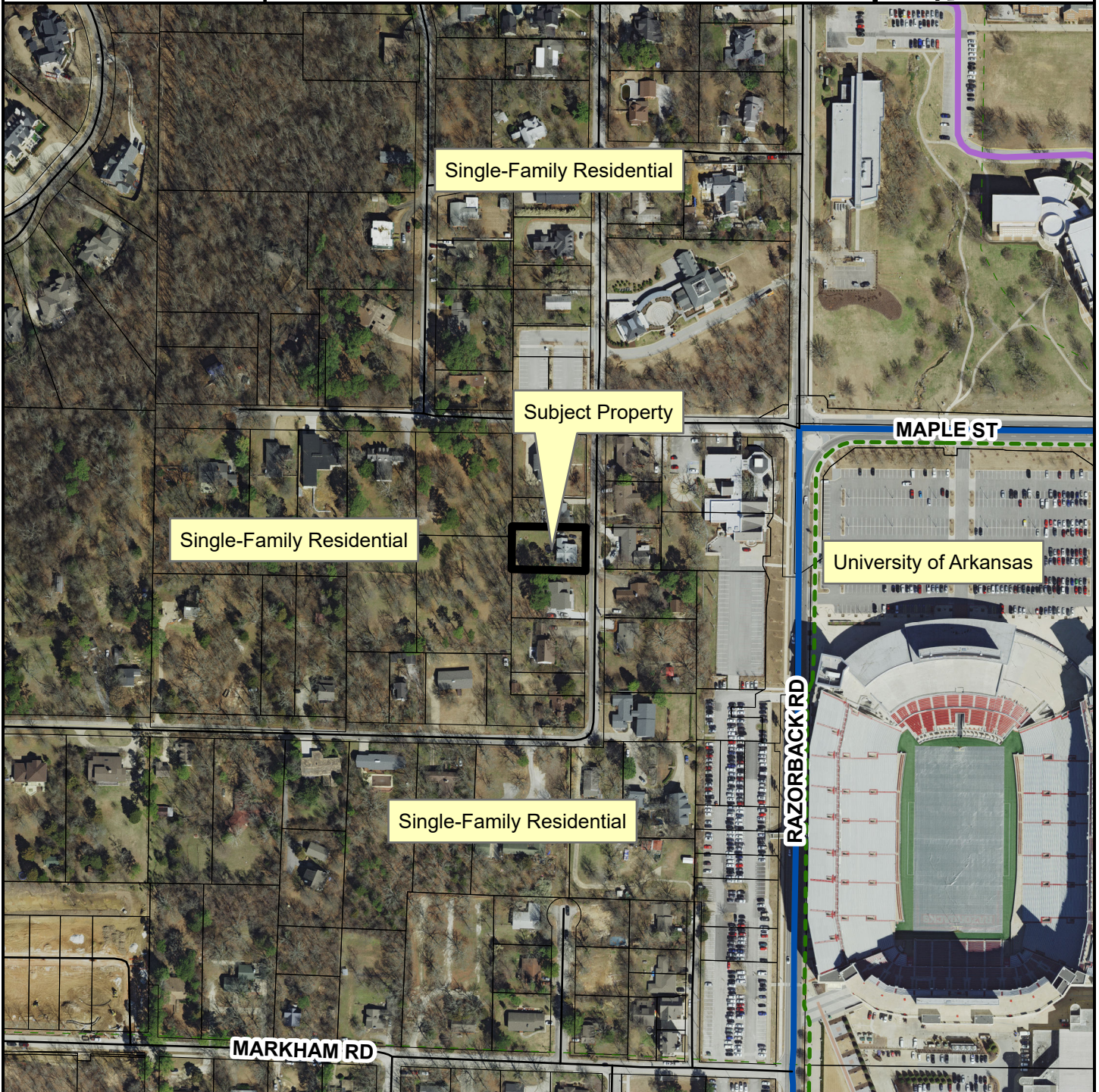




CUP-2023-0043

435 N. OLIVER AVE

Current Land Use



- Institutional Master Plan
- Regional Link - High Activity
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

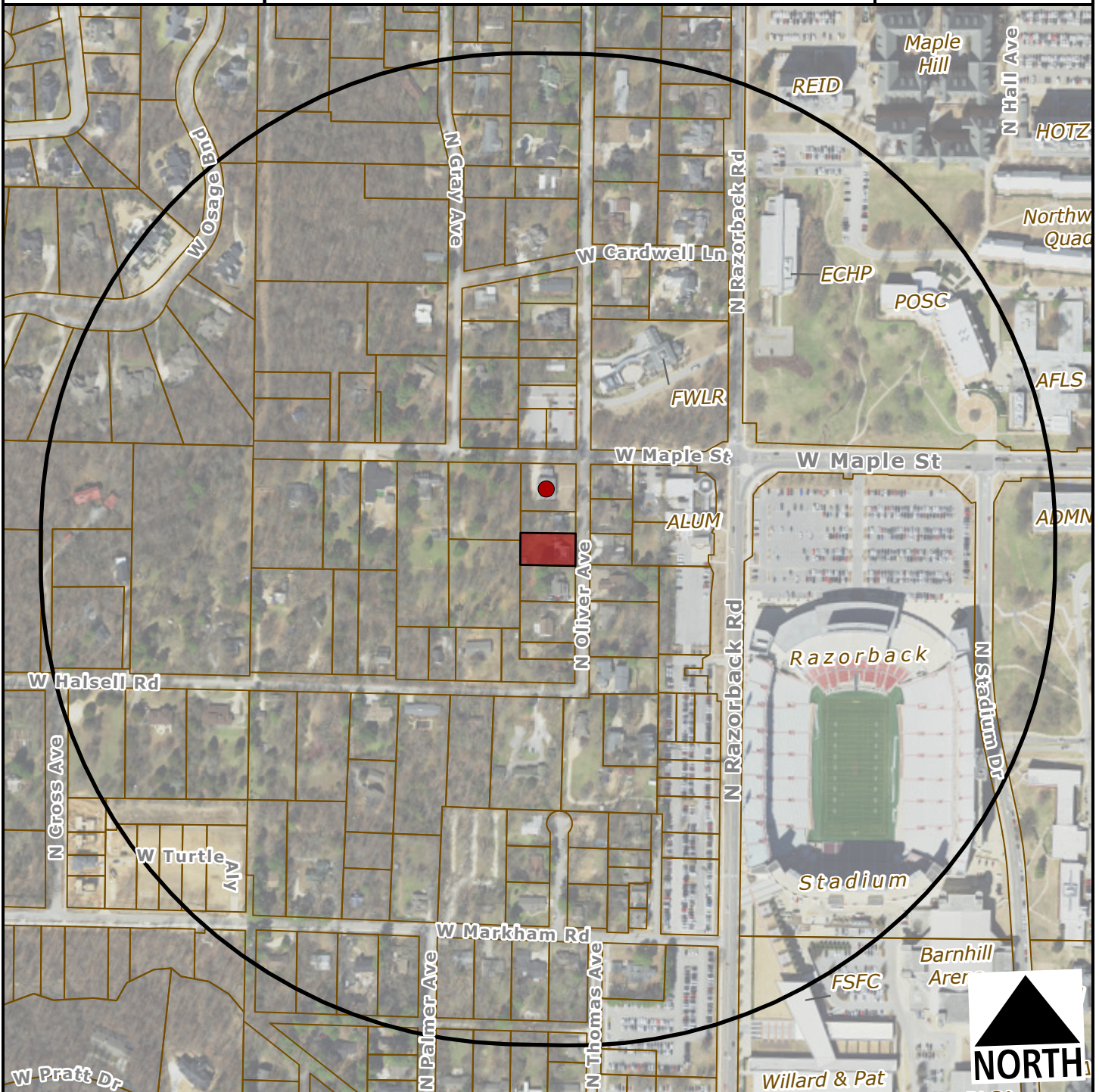
Planning Commission

April 24, 2023

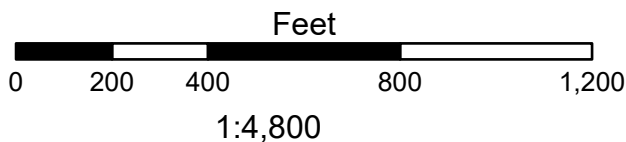
CUP-2023-0043

435 N. OLIVER AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 1
2% density cap

NOT 0
contributing to
2% density cap

Total 1

Planning Commission

April 24, 2023



TO: Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: April 24, 2023

SUBJECT: **CUP-2023-0044: Conditional Use Permit (2116 W. LOREN CIR./CASA LOREN LLC, 442):** Submitted by CASA LOREN LLC for property located at 2116 W. LOREN CIR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY - FOUR UNITS PER ACRE and contains approximately 0.26 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0044** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0044**, determining:*

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

BACKGROUND:

The subject property is located in the Westwoods subdivision about 700 feet west of the intersection of Sang Avenue and the south end of Loren Circle. The property totals 0.26 acres and is currently developed with a 2,190-square-foot, three-bedroom, single-family dwelling which was built in 1985. 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 uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family - Four Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family - Four Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family - Four Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family - Four Units per Acre

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0044** with the following conditions:

Conditions of Approval:

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

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>April 24, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in RSF-4 zoning. Since RSF-4 is a residential zoning district, a conditional use permit is required.

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

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

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

Finding: Parking is limited as described in UDC §163.18(C). Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, two vehicle parking spaces will be available for guests in an existing driveway. Two additional spaces are available in an attached garage, though the applicant has indicated that the garage will be locked and inaccessible to guests.

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

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

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

Finding: The application is for use of the property at 2116 W. Loren Cir. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released five-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 327 Type 2 short-term rental licenses that are subject to this cap. Hotel/motel uses are not permitted by right in RSF-4 zoning, so this short-term rental would contribute to the city-wide density cap. No exceptions to the short-term rental standards are being requested with this conditional use permit.

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

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

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

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

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two off-street parking spaces will be available for guests in an existing driveway. On-street parking is also available along Loren Circle. City records indicate that one other unit in the Westwoods subdivision has an active Type 2 short-term rental business license and another recently received conditional use permit approval. Right now, 3.6% of all units in the subdivision have permission to operate as a Type 2 short-term rental. If this conditional use permit were approved, 5.5% all units would be able to operate as a Type 2 short-term rental. No prior zoning or code violations have been reported on this property.

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

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

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

Finding: An existing driveway is available to accommodate vehicular ingress and egress to the subject property. The property also has frontage along Loren Circle which is fully-improved with a five-foot-wide sidewalk at the back of curb to accommodate pedestrian access. Staff finds that the proposal to use the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.

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

Finding: A total of two off-street parking spaces are available in an existing driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

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

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a 2% city-wide density cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.16 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations
- (Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

CUP Request Letter

Casa Loren LLC
2116 W Loren Cir
Fayetteville, AR 72701

(a) Building size in square feet; existing and proposed: *2190 sqft existing; no proposed changes*

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



(c) Number of off-street parking spaces to be provided / number required: *2 parking spaces; Parking will NOT be permitted in the garage, only the driveway. (Garage will be locked and inaccessible)*

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

(e) Outdoor lighting: *In Front, back and side of house*

(f) Noise: N/A

(g) Screening or buffering from adjacent properties: *Backyard completely fenced*

(h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties): *Normal city trash service; bins will be placed out of view on the side of the house*

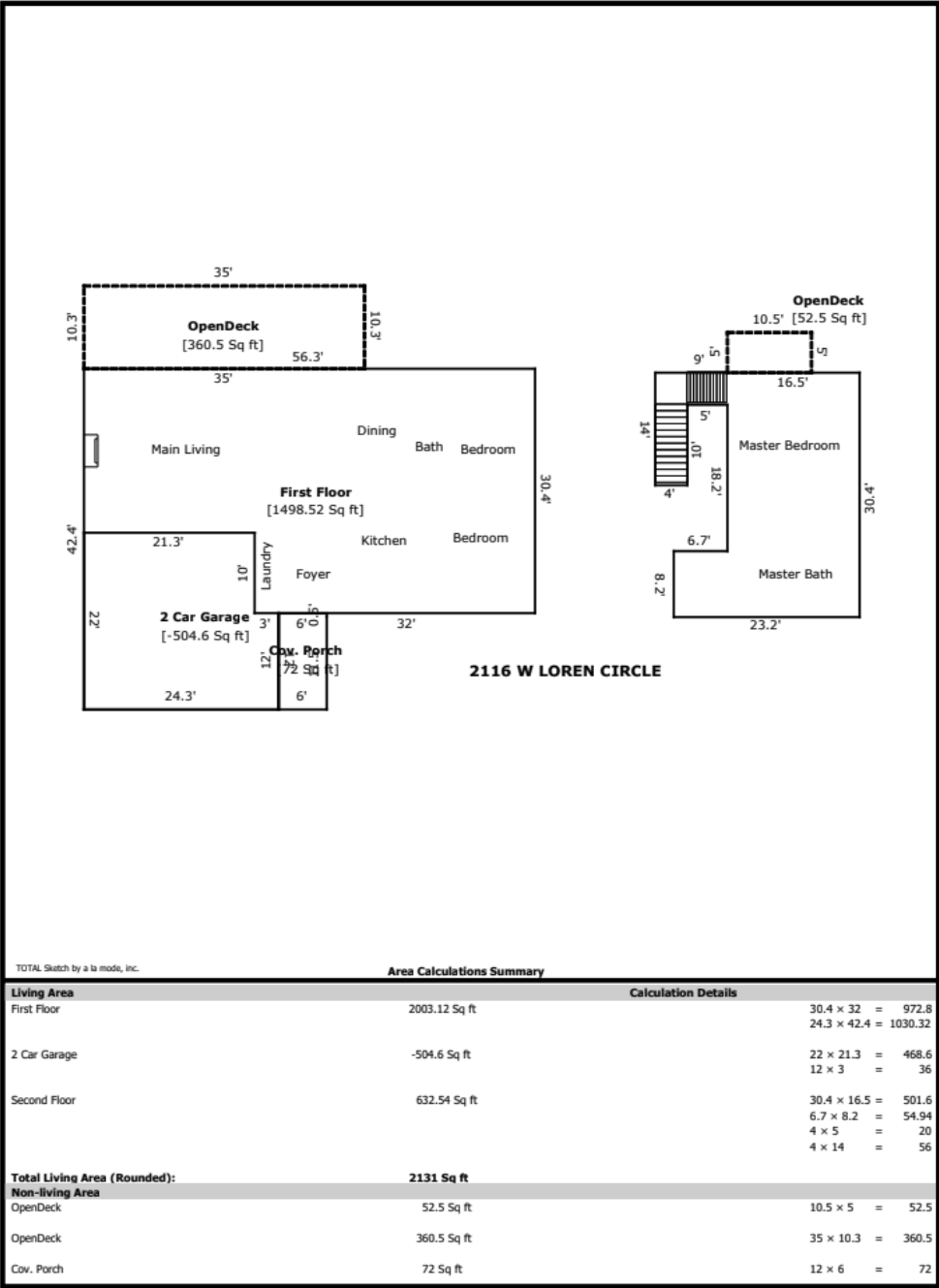
(i) Ingress and egress to the property; traffic impacts: N/A

(j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood: *This short-term rental will not disturb the adjacent or other properties in the neighborhood.*

Floor Plan

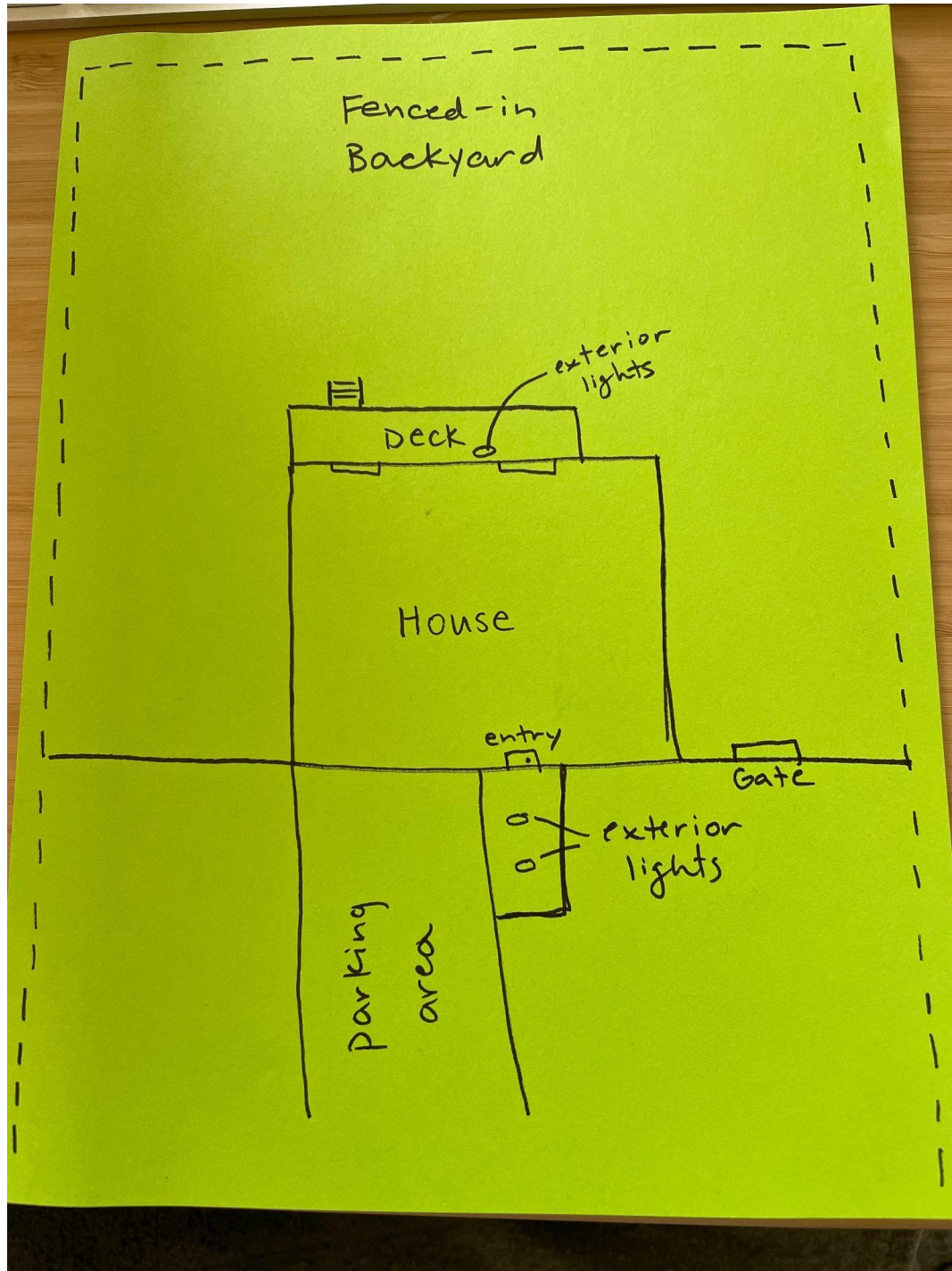
Casa Loren LLC
2116 W Loren Cir
Fayetteville, AR 72701

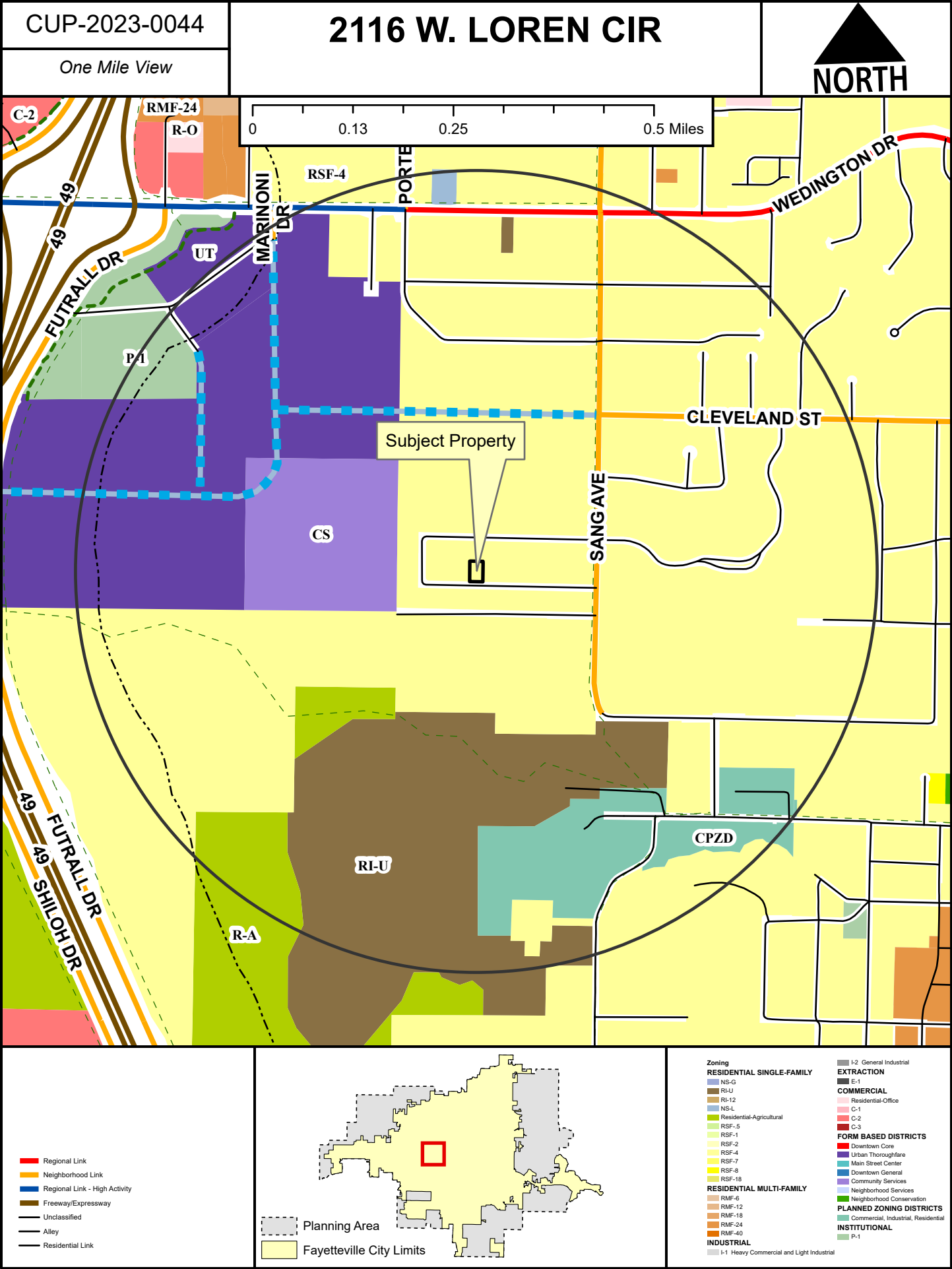
***No Changes to the existing floor plan

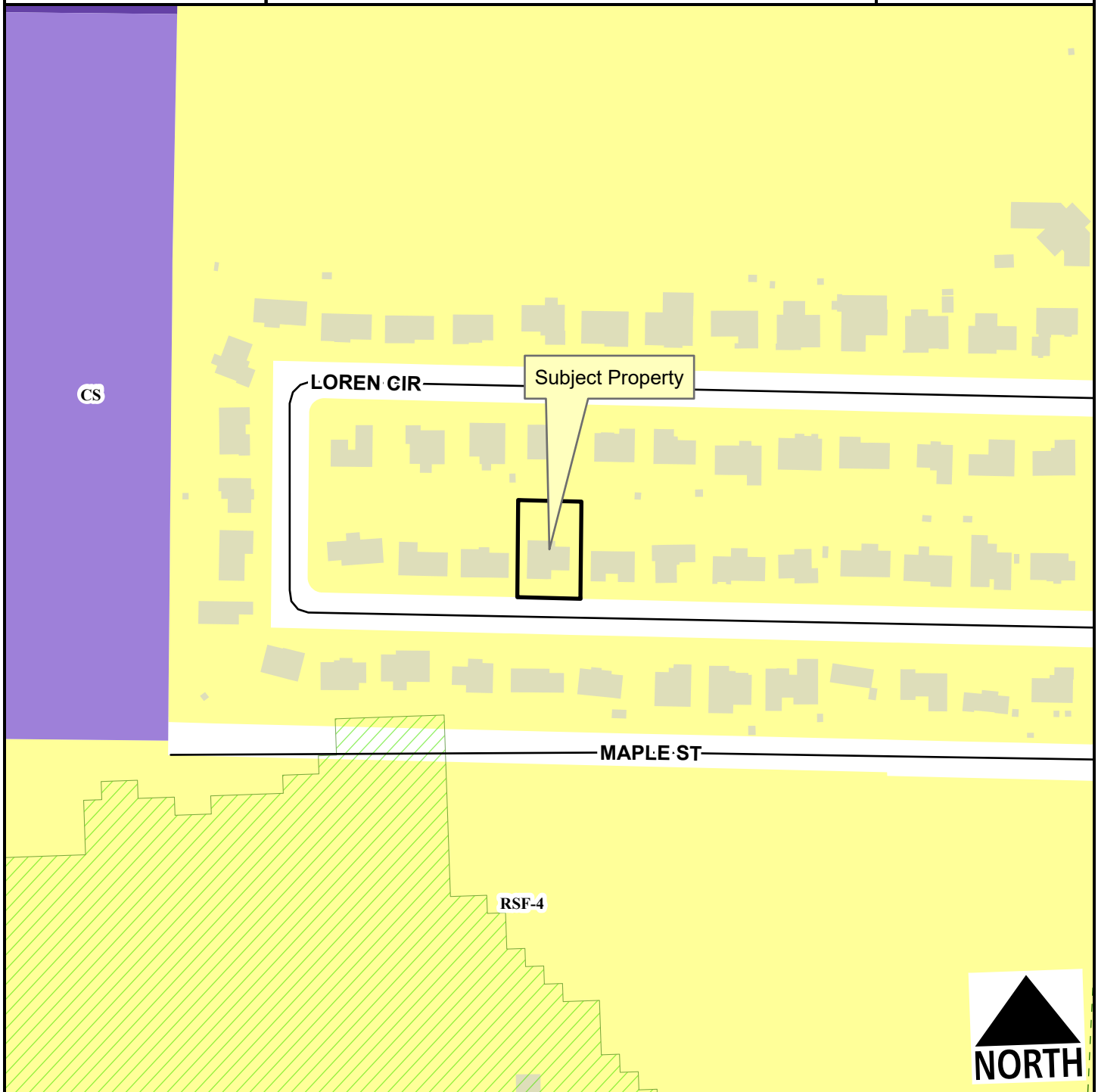


Casa Loren LLC
2116 W Loren Cir
Fayetteville, AR 72701

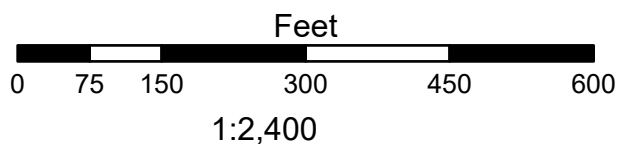
Site plan drawn to scale, based on the deed or survey, showing all proposed structures dimensioned from the overhang to the property line, parking, driveways, Master Street Plan right-of-way, required setbacks.







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



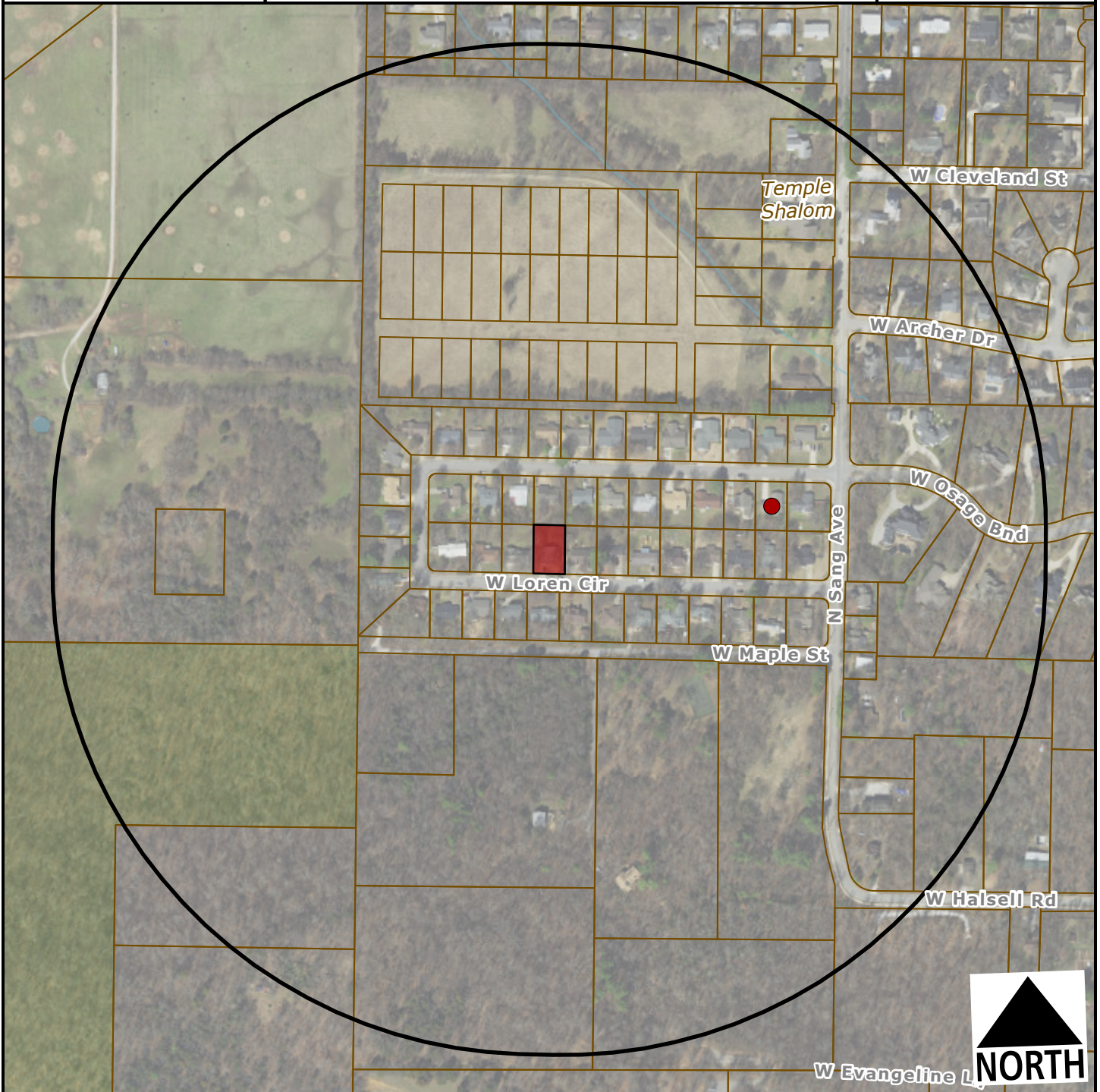
- RSF-4
- Urban Thoroughfare
- Community Services



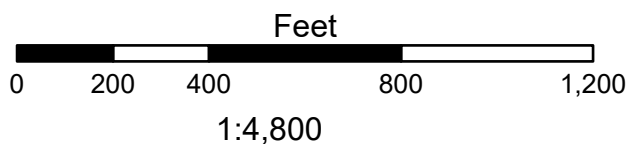
CUP-2023-0044

2116 W. LOREN CIR

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Contributing to 1
2% density cap

NOT 0
contributing to
2% density cap

Total 1