

# **City of Fayetteville, Arkansas**

*113 West Mountain Street*

*Fayetteville, AR 72701*

*(479) 575-8267*



## **Planning Commission Tentative Agenda**

**Thursday, September 18, 2025**

**4:30 PM**

**100 W. Rock Street**

### **Planning Commission Members**

*Andrew Brink, Chair*

*Brad Payne, Vice Chair*

*Jimm Garlock, Secretary*

*Matthew Cabe*

*Nick Castin*

*Fred Gulley*

*Mary Madden*

*Mary McGetrick*

*Nick Werner*

*Senior Assistant City Attorney Blake Pennington*

## Zoom Information

**Webinar ID:** 885 6450 0412

**Registration Link:** [https://fayetteville-ar.zoom.us/webinar/register/WN\\_zLDqLTcMSTipQSmFFPEvzQ](https://fayetteville-ar.zoom.us/webinar/register/WN_zLDqLTcMSTipQSmFFPEvzQ)

## Call to Order

## Roll Call

## Consent

### 1. MINUTES:

Approval of the minutes from the September 8, 2025 Planning Commission. -  
Mirinda Hopkins, Development Coordinator

## Unfinished Business

### 2. RZN-2025-0029: Rezoning (5911 W. TACKETT DR/VICK ENTERPRISES, LLC, 436):

Submitted by VICTOR BARRIOS for property located at 5911 W. TACKETT DR. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 5.33 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

*THIS ITEM WAS TABLED AT THE AUGUST 11, 2025, AUGUST 25, 2025, AND THE SEPTEMBER 8, 2025 PLANNING COMMISSION MEETINGS.*

*THIS ITEM HAS BEEN WITHDRAWN BY THE APPLICANT.* - Wesley Frank, Planner

### 3. RZN-2025-0035: Rezoning (BETWEEN S. CITY LAKE RD AND S. BLACK OAK RD/CITY OF FAYETTEVILLE, 642):

Submitted by CITY OF FAYETTEVILLE for property located BETWEEN S. CITY LAKE RD AND S. BLACK OAK RD. The property is zoned I-2 GENERAL INDUSTRIAL and contains approximately 13.01 acres. The request is to rezone the property to CCR, CONSERVATION, CULTURAL, AND RECREATION.

*THIS ITEM WAS TABLED AT THE SEPTEMBER 8, 2025 PLANNING COMMISSION MEETING.*



*THIS ITEM HAS BEEN WITHDRAWN BY THE APPLICANT.* - Jessica Masters, Planning Director

### **New Business**

**4. ADM-2025-0037: Administrative Item (91 W. 15<sup>TH</sup> ST/AMERICAN TOWER, 601):**

Submitted by SMJ INTERNATIONAL for property located at 91 W. 15<sup>TH</sup> ST. The property is zoned I-1, HEAVY COMMERCIAL & LIGHT INDUSTRIAL and contains approximately 12.68 acres. The request is to modify an existing cell tower. - Jessica Masters, Planning Director

**5. ADM-2025-0039: Administrative Item (E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE/CINQUEFOIL LLC, 523):**

Submitted by 3V DEVELOPMENT for property located on E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.60 acres. The request is for a lesser dedication of right-of-way. - Jessica Masters, Planning Director

**6. VAR-2025-0040: Planning Commission Variance (E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE/CINQUEFOIL LLC, 523):**

Submitted by 3V DEVELOPMENT for property located on E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.60 acres. The request is for a variance to access management standards. - Jessica Masters, Planning Director

**7. VAC-2025-0019: Vacation (W. HUGHES ST & N. STORER AVE/MARKS, 444):**

Submitted by BATES & ASSOCIATES for property located on W. HUGHES ST & N. STORER AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and contains approximately 0.14 acres. The request is to vacate 0.01 acres of right-of-way. - Donna Wonsower, Senior Planner

**8. CUP-2025-0043: Conditional Use Permit (3600 S. TOWER CIR/LAUREN GLOW CO, 284):**

Submitted by LAUREN GLENN for property located at 3600 S. TOWER CIR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.21 acres. The request is for a home occupation. - Wesley Frank, Planner

**9. CUP-2025-0044: Conditional Use Permit (1923 E. JOYCE BLVD/BUTTERFIELD TRAIL VILLAGE, 175):**

Submitted by 4IE ENGINEERING INC for property located at 1923 E. JOYCE

BLVD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and R-A, RESIDENTIAL-AGRICULTURAL, and contains approximately 4.86 acres. The request is for a 38-unit assisted living facility in the RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and R-A, RESIDENTIAL-AGRICULTURAL zoning. - Donna Wonsower, Senior Planner

**10. LSD-2025-0013: Large Scale Development (1923 E. JOYCE BLVD/BUTTERFIELD TRAIL VILLAGE, 175):**

Submitted by 4IE ENGINEERING INC for property located at 1923 E. JOYCE BLVD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and R-A, RESIDENTIAL-AGRICULTURAL, and contains approximately 4.86 acres. The request is for a 38-unit addition to an existing assisted living facility with associated parking. - Donna Wonsower, Senior Planner

**11. RZN-2025-0040: Rezoning (1414 S. WEST AVE/OSAGE CREEK CATTLE CO, 562):**

Submitted by ANDREW BRINK for property located at 1414 S. WEST AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.23 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN. - Wesley Frank, Planner

**12. RZN-2025-0042: Rezoning (2201 W. DEANE ST/ATKINS, 364):**

Submitted by ARKANSAS REAL ESTATE GROUP for property located at 2201 W. DEANE ST. The property is zoned RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE and contains approximately 2.20 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN. - Wesley Frank, Planner

**13. RZN-2025-0041: Rezoning (1124 W CLEVELAND ST/LEVERETT ELEMENTARY SCHOOL, 443):**

Submitted by ECOLOGICAL DESIGN GROUP for property located at 1124 W. CLEVELAND ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE, and P-1, INSTITUTIONAL, and contains approximately 2.18 acres. The request is to rezone all the property to P-1, INSTITUTIONAL. - Jessica Masters, Planning Director

**Items Administratively Approved by Staff**

**14. LSP-2025-0006: Lot Split (1780 E. HAMMOND ST/JARRATT, 409):**

Submitted by BLEW & ASSOCIATES for property located at 1780 E. HAMMOND ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.95 acres. The request is to split

a parcel into two lots containing 0.47 and 0.47 acres. - Jessica Masters, Planning Director

**15. LSP-2025-0038: Lot Split (457 E. 7<sup>TH</sup> ST/BATES & SIEMEK, 563):**

Submitted by SATTERFIELD LAND SURVEYORS for property located at 457 E. 7<sup>TH</sup> ST. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains 0.26 acres. The request is to split the property into two lots containing approximately 0.08, and 0.15 acres. - Wesley Frank, Planner

**Agenda Session Items**

**Announcements**

**16. PLANNING COMMISSION SECRETARY VOTE**

SLATE OF CANDIDATES:

Matthew Cabe

Nick Castin

Fred Gulley

Mary Madden

Mary McGetrick

Nick Werner

**Adjournment**

**NOTICE TO MEMBERS OF THE AUDIENCE**

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

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

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

| (pg. 1) Planning Commission |                  | Monday, 09/08/2025                                                                                                                                                                                                          |                                             |                                                          |                                                          |                                                                  |                                                          |
|-----------------------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|----------------------------------------------------------|----------------------------------------------------------|------------------------------------------------------------------|----------------------------------------------------------|
| <b>Time:</b>                |                  | 5:30 PM                                                                                                                                                                                                                     |                                             |                                                          |                                                          |                                                                  |                                                          |
| <b>Staff :</b>              |                  | ✕ Jonathan Curth ✕ Jessie Masters ✕ Donna Wonsower ✕ Wesley Frank □ Willa Thomason □ Bethany Douglas<br>✕ Britin Bostick ✕ Kylee Cole ✕ Chris Brown □ Justin Bland □ Melissa Boyd □ Dayten Moses □ Alan Pugh □ Fire Marshal |                                             |                                                          |                                                          |                                                                  |                                                          |
|                             | <b>Roll Call</b> | <b>1) Minutes<br/>(08/25/2025)</b>                                                                                                                                                                                          | <b>2) VAR-2025-0037<br/>(ICE HOUSE LLC)</b> | <b>3) VAR-2025-0039<br/>(DRAKE ST TRAIL<br/>PROJECT)</b> | <b>4) ADM-2025-0036<br/>(WATERSHED<br/>CONSERVATION)</b> | <b>5) RZN-2025-0029<br/>(THOMAS)</b>                             | <b>6) CUP-2025-0039<br/>(BIG PAWS OF THE<br/>OZARKS)</b> |
| Gulley                      | 1                | 1                                                                                                                                                                                                                           | 1                                           | 1                                                        | 1                                                        | 1                                                                | 1                                                        |
| Madden                      | 1                | 1                                                                                                                                                                                                                           | 1                                           | 1                                                        | 1                                                        | 1                                                                | 1                                                        |
| Cabe                        | 0                |                                                                                                                                                                                                                             |                                             |                                                          |                                                          |                                                                  |                                                          |
| Payne                       | 1                | 1                                                                                                                                                                                                                           | 1                                           | 1                                                        | 1                                                        | 1                                                                | 1                                                        |
| Brink                       | 1                | 1                                                                                                                                                                                                                           | 1                                           | 1                                                        | 1                                                        | 1                                                                | 1                                                        |
| Garlock                     | 1                | 1                                                                                                                                                                                                                           | 1                                           | 1                                                        | 1                                                        | 1                                                                | 1                                                        |
| McGetrick                   | 1                | 1                                                                                                                                                                                                                           | 1                                           | 1                                                        | 1                                                        | 1                                                                | 1                                                        |
| Castin                      | 1                | 1                                                                                                                                                                                                                           | 1                                           | 1                                                        | 1                                                        | 1                                                                | 1                                                        |
| Werner                      | 1                | 1                                                                                                                                                                                                                           | 1                                           | 1                                                        | 1                                                        | 1                                                                | 1                                                        |
|                             |                  |                                                                                                                                                                                                                             |                                             |                                                          |                                                          |                                                                  |                                                          |
| <b>Agenda</b>               |                  | <b>Consent</b>                                                                                                                                                                                                              | <b>Consent</b>                              | <b>Consent</b>                                           | <b>Old</b>                                               | <b>Old</b>                                                       | <b>New</b>                                               |
| <b>Action</b>               |                  | Approve                                                                                                                                                                                                                     | Approve                                     | Approve                                                  | Forward                                                  | Table                                                            | Approve                                                  |
| <b>Motion By</b>            |                  | Werner                                                                                                                                                                                                                      | Werner                                      | Werner                                                   | Payne                                                    | Werner                                                           | Garlock                                                  |
| <b>Motion 2nd</b>           |                  | Payne                                                                                                                                                                                                                       | Payne                                       | Payne                                                    | Garlock                                                  | Gulley                                                           | Madden                                                   |
| <b>Vote</b>                 |                  | 8-0-0                                                                                                                                                                                                                       | 8-0-0                                       | 8-0-0                                                    | 8-0-0                                                    | 8-0-0                                                            | 8-0-0                                                    |
| <b>Time</b>                 |                  | 5:33 PM                                                                                                                                                                                                                     | 5:33 PM                                     | 5:33 PM                                                  | 5:51 PM                                                  | 6:18 PM                                                          | 6:27 PM                                                  |
| <b>Motion Detail</b>        |                  |                                                                                                                                                                                                                             |                                             |                                                          |                                                          | Untill the September 22, 2025<br>Planning Commission<br>meeting. | With all conditions as<br>recommended by staff.          |
| <b>Public Comment</b>       |                  | 0                                                                                                                                                                                                                           | 0                                           | 0                                                        | 2                                                        | 1                                                                | 0                                                        |

| (pg. 2) Planning Commission |                                                                                      |                                   | Monday, 09/08/2025           |                                              |                                              |
|-----------------------------|--------------------------------------------------------------------------------------|-----------------------------------|------------------------------|----------------------------------------------|----------------------------------------------|
|                             |                                                                                      |                                   |                              |                                              |                                              |
|                             |                                                                                      |                                   |                              |                                              |                                              |
|                             |                                                                                      |                                   |                              |                                              |                                              |
|                             | 7) CUP-2025-0040<br>(PHILLIPS-SHANNON)                                               | 8) CUP-2025-0042<br>(BERRY PLACE) | 9) RZN-2025-0033<br>(CAHOON) | 10) RZN-2025-0037<br>(MARKS)                 | 11) RZN-2025-0036 (12TH<br>STREET HEIGHTS)   |
| Gulley                      | 1                                                                                    |                                   | 1                            | 1                                            | 1                                            |
| Madden                      | 1                                                                                    |                                   | 1                            | 1                                            | 1                                            |
| Cabe                        |                                                                                      |                                   |                              |                                              |                                              |
| Payne                       | 1                                                                                    |                                   | 1                            | 1                                            | 0                                            |
| Brink                       | 1                                                                                    |                                   | 0                            | 1                                            | 1                                            |
| Garlock                     | 1                                                                                    |                                   | 1                            | 1                                            | 0                                            |
| McGetrick                   | 1                                                                                    |                                   | 0                            | 1                                            | 1                                            |
| Castin                      | 1                                                                                    |                                   | 0                            | 1                                            | 1                                            |
| Werner                      | 1                                                                                    |                                   | 1                            | 1                                            | 1                                            |
|                             |                                                                                      |                                   |                              |                                              |                                              |
| Agenda                      | New                                                                                  | New                               | New                          | New                                          | New                                          |
| Action                      | Approve                                                                              | Withdrawn                         | Deny                         | Forward                                      | Forward                                      |
| Motion By                   | Payne                                                                                |                                   | Payne                        | Garlock                                      | Werner                                       |
| Motion 2nd                  | McGetrick                                                                            |                                   | Garlock                      | Maddon                                       | McGetrick                                    |
| Vote                        | 8-0-0                                                                                |                                   | 5-3-0                        | 8-0-0                                        | 6-2-0                                        |
| Time                        | 6:38 PM                                                                              |                                   | 6:52 PM                      | 6:55 PM                                      | 7:49 PM                                      |
|                             | 2400sqft, striking #2 & #3.<br>With all other conditions as<br>recommended by staff. |                                   | Denied                       | With recommendation of<br>approval by staff. | With recommendation of<br>approval by staff. |
| Public Comment              | 0                                                                                    |                                   | 2                            | 0                                            | 10                                           |

| (pg. 3) Planning Commission |                                           |                                           |                                            |                                                            |                                    |
|-----------------------------|-------------------------------------------|-------------------------------------------|--------------------------------------------|------------------------------------------------------------|------------------------------------|
| Monday, 09/08/2025          |                                           |                                           |                                            |                                                            |                                    |
|                             |                                           |                                           |                                            |                                                            |                                    |
|                             |                                           |                                           |                                            |                                                            |                                    |
|                             | 12) RZN-2025-0038<br>(BROOKS)             | 13) RZN-2025-0039<br>(CASETIM PROPERTIES) | 14) RZN-2025-0034<br>(BERKSHIRE AT UPTOWN) | 15) RZN-2025-0035 (CITY<br>OF FAYETTEVILLE)                | 16) VAR-2025-0038<br>(DRAKE FARMS) |
| Gulley                      | 1                                         | 0                                         | 1                                          | 1                                                          |                                    |
| Madden                      | 1                                         | 0                                         | 1                                          | 1                                                          |                                    |
| Cabe                        |                                           |                                           |                                            |                                                            |                                    |
| Payne                       | 1                                         | 1                                         | 1                                          | 1                                                          |                                    |
| Brink                       | 1                                         | 1                                         | 1                                          | 1                                                          |                                    |
| Garlock                     | 1                                         | 0                                         | 1                                          | 1                                                          |                                    |
| McGetrick                   | 1                                         | 0                                         | 1                                          | 1                                                          |                                    |
| Castin                      | 1                                         | 1                                         | 1                                          | 1                                                          |                                    |
| Werner                      | 1                                         | 0                                         | 1                                          | 1                                                          |                                    |
| Agenda                      | New                                       | New                                       | New                                        | New                                                        | New                                |
| Action                      | Forward                                   | Forward                                   | Forward                                    | Table                                                      | Withdrawn                          |
| Motion By                   | Werner                                    | Gulley                                    | Payne                                      | Werner                                                     |                                    |
| Motion 2nd                  | Payne                                     | Werner                                    | Madden                                     | Garlock                                                    |                                    |
| Vote                        | 8-0-0                                     | 3-5-0                                     | 8-0-0                                      | 8-0-0                                                      |                                    |
| Time                        | 7:57 PM                                   | 8:18 PM                                   | 8:23 PM                                    | 8:24 PM                                                    |                                    |
| Motion Detail               | With recommendation of approval by staff. | Denied                                    | With recommendation of approval by staff.  | Untill the September 22, 2025 Planning Commission meeting. |                                    |
| Public Comment              | 1                                         | 2                                         | 0                                          | 0                                                          |                                    |



**TO:** Fayetteville Planning Commission

**FROM:** Jessie Masters, Planning Director

**MEETING DATE:** September 22, 2025

**SUBJECT:** **ADM-2025-0037: Administrative Item (91 W 15<sup>th</sup> STREET./T-MOBILE CELL TOWER, 601):** Submitted by SMJ INTERNATIONAL for property located at 91 W. 15TH ST. The property is zoned I-1, HEAVY COMMERCIAL & LIGHT INDUSTRIAL and contains approximately 12.68 acres. The request is to modify an existing cell tower.

---

**RECOMMENDATION:**

Staff recommends approval of **ADM-2025-0037** with conditions.

**RECOMMENDED MOTION:**

*"I move to approve **ADM-2025-0037** with conditions as recommended by staff."*

**BACKGROUND:**

The subject property is the site of an existing self-storage facility. Zoned I-1, Heavy Commercial and Light Industrial, and containing approximately 12.68 acres, there is an existing cell tower that has been on the property since 2007. Surrounding land use and zoning is depicted on *Table 1*.

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

| Direction | Land Use                        | Zoning                                     |
|-----------|---------------------------------|--------------------------------------------|
| North     | Walker Park                     | P-1, Institutional                         |
| South     | Undeveloped                     | I-1, Heavy Commercial and Light Industrial |
| East      | Industrial                      | I-1, Heavy Commercial and Light Industrial |
| West      | Frisco Trail/Razorback Greenway | P-1, Institutional                         |

*Request:* The applicant requests to modify an existing cell tower that was approved with a conditional use permit in 2007.

*Public Comment:* To date, staff has not received any public comment.

**DISCUSSION:**

Staff support the applicants' modification with conditions. Ensuring that technology in existing cell towers remains up to date is critical for wireless communication transmission. The applicant is swapping out existing antennas for new ones. However, with that swap, the applicant will be replacing those antennas with slightly larger equipment and intends to remove the existing shroud to accommodate that. To maintain consistency and compatibility with the surrounding area, staff recommend that the tower remains shrouded and painted in the existing paint scheme, even if the canister will be slightly larger in some places than before.

**RECOMMENDATION:** Staff recommend approval of **ADM-2025-0037** with the following conditions.

**Conditions of Approval:**

1. The new antennas shall be shrouded and placed within a canister to be painted to match the existing tower color scheme.
2. All other conditions of the associated conditional use permit (CUP 07-2688) not affected by this modification shall remain in effect, as attached.

|                                    |                                 |                                   |                                 |
|------------------------------------|---------------------------------|-----------------------------------|---------------------------------|
| <b>PLANNING COMMISSION ACTION:</b> |                                 |                                   |                                 |
| <b>Required</b>                    | <b><u>YES</u></b>               |                                   |                                 |
| Date: <u>September 22, 2025</u>    | <input type="checkbox"/> Tabled | <input type="checkbox"/> Approved | <input type="checkbox"/> Denied |
| Motion:                            |                                 |                                   |                                 |
| Second:                            |                                 |                                   |                                 |
| Vote:                              |                                 |                                   |                                 |

**BUDGET/STAFF IMPACT:**

None

**ATTACHMENTS:**

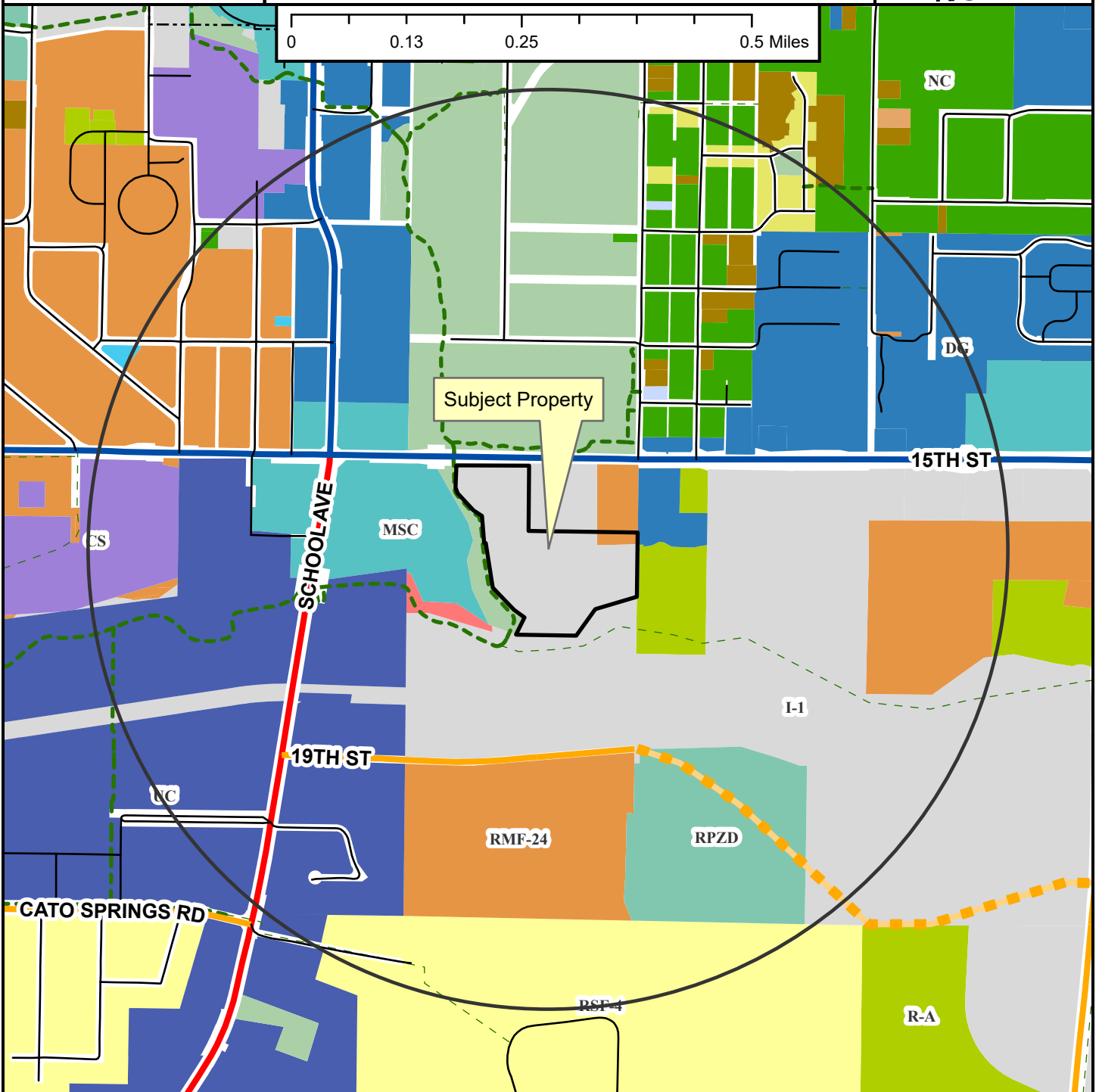
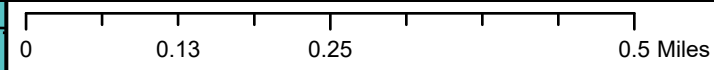
- Project Maps
  - One Mile Map
  - Close-up Map
  - Current Land Use Map
- CUP 07-2688 Conditions of Approval
- Original Tower Elevations
- Applicant Request Letter
- Site Plan and Elevations



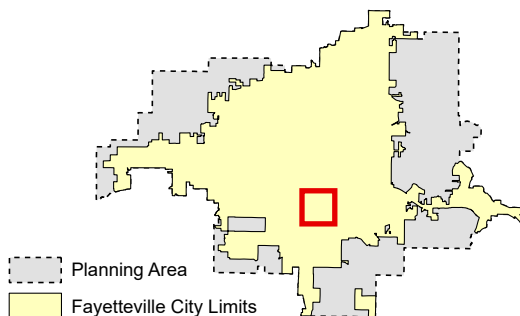
ADM-2025-0037

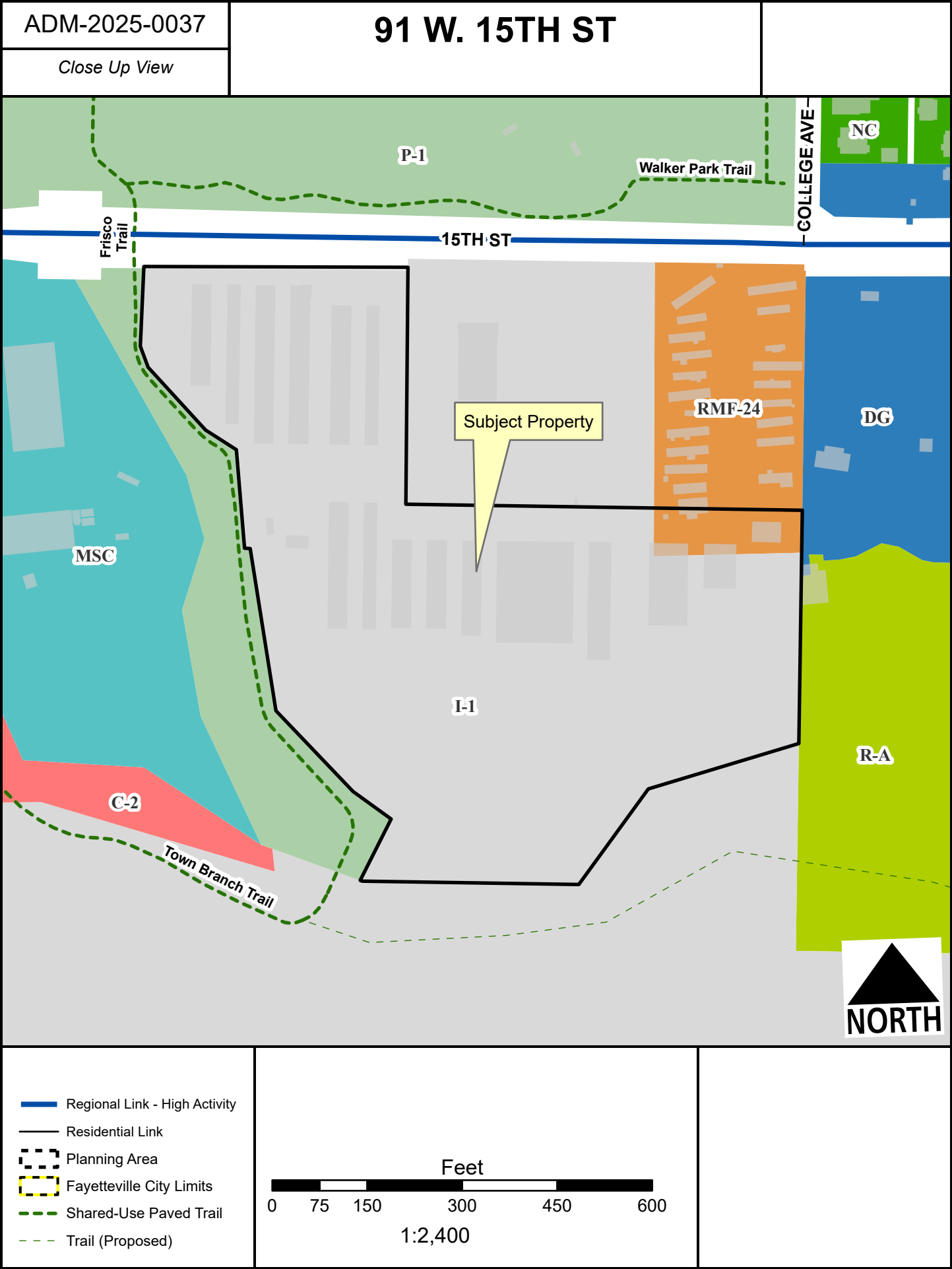
# 91 W. 15TH ST

One Mile View



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



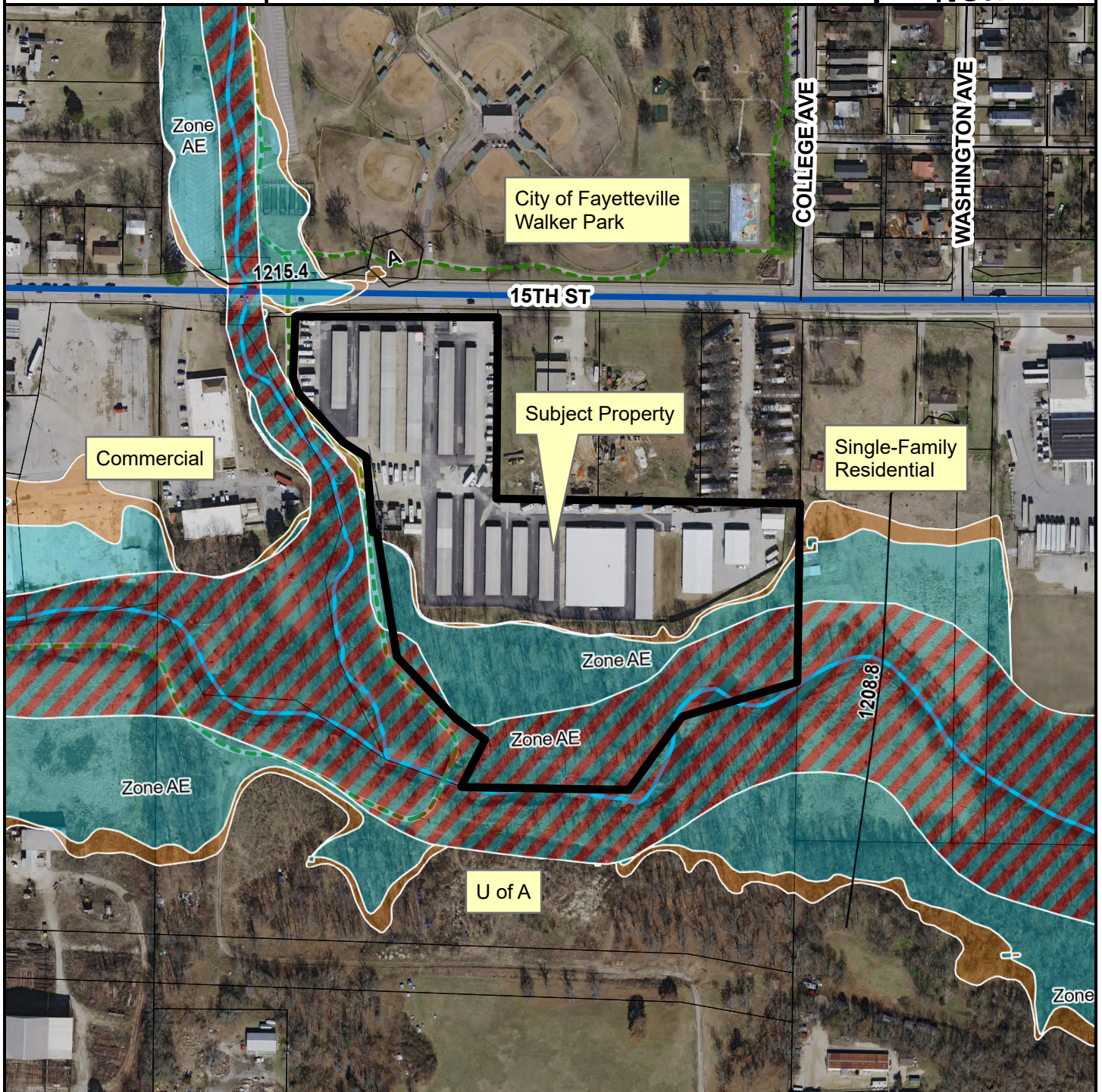




ADM-2025-0037

91 W. 15TH ST

Current Land Use



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



**FEMA Flood Hazard Data**

- 100-Year Floodplain
- Floodway

**RECOMMENDATION:** Staff recommends approval of the requested conditional use application for a 130' cell tower based on the required findings included with this request, subject to the following conditions:

1. The pole shall be constructed as a stealth flagpole as indicated in the applicants application and shall be painted off-white, or a color as determined by the Planning Commission which blends in with the background.
2. The applicant shall comply with all applicable federal regulations.
3. Equipment used in conjunction with the tower shall not generate noise which can be heard beyond the site per Chapter 163.14 (A)(1).
4. Lighting on the tower shall only be installed if mandated by the FAA. Security lighting or motion-activated lighting may be used around the base of the tower provided that the lighting is compliant with Chapter 176 Outdoor Lighting of the Unified Development Code.
5. The tower shall be no taller than 130' (including all antennas, arrays, or other appurtenances).
6. The utility equipment at the base of the tower shall be surrounded by an 8' wooden security fence to prevent the view of the premises from vehicular and pedestrian traffic on adjacent streets.
7. Landscaping shall be added to the site as needed to provide a "buffer of dense tree growth and under story vegetation in all directions to create an effective year round visual buffer" as required by UDC Chapter 163.14 (B)(11). Species and location of the required plantings shall be subject to the approval of the Urban Forester. A combination of evergreen and deciduous species shall be provided.
8. Some method of irrigation shall be required in landscaped areas. An automated irrigation system is encouraged to ensure adequate moisture to plant material. In landscaped areas without an automated irrigation system the installation of hose bibs (water spigots), installed one for every 100 foot radius, will be required.

*K:\Reports\2007\PC Reports\08-13-07\CUP 07-2668 (Verizon Cell Tower Allied Storage).doc*



9. Landscaping that dies or is damaged shall be removed and replaced by the current owner of the property. The owner shall have 60 days from the receipt of written notice issued by the city to remove and replace any required landscaping that dies or is damaged.
10. Access to the cell tower facility shall be by way of the existing driveway through the development. No additional curb-cuts shall be permitted.
11. Any connection to existing utilities to provide power to this site shall be located underground.
12. The minimum distance from the base of the tower to any residential dwelling unit shall be the tower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in writing to the construction of the tower, pursuant to UDC Section 163.14(B)(3).
13. Only warning, site identification and FCC signs shall be permitted on the screening fence as provided by Chapter 163.14 (A)(3) and in no case shall any sign exceed 4 square feet.
14. Co-location shall be permitted on the subject tower by multiple carriers in compliance with Chapter 163.14 (C). All future carriers shall comply with the standards established in this conditional use application, including the type of antenna utilized, to maintain the "flagpole" appearance.
15. In the future, if it is determined that the technology exists that does not require the use of the tower, or the current height of the tower, then the tower shall be lowered to the lowest possible height, or removed if no longer necessary.
16. The tower and supporting equipment shelter shall be located outside of the required building setbacks for the I-1 zoning district.

# ORIGINAL/ EXISTING TOWER

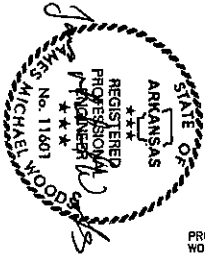
PROPOSED  
ANTENNAS

FUTURE  
ANTENNAS

FUTURE  
ANTENNAS

PROPOSED 130'  
STEALTH FLAGPOLE

130'-0" TO TOP OF TOWER



6/28/07

PROPOSED 8' TALL  
WOOD PRIVACY FENCE

NOTE:  
TOWER HAS NO CLIMB LADDER OR  
STEPS. ALL ACCESS TO ANTENNAS MUST  
BE BY BUCKET TRUCK OR CRANE

TOWER ELEVATION

DETAIL 1  
NTS

|                                                                                                                                                                                              |  |                                                                            |  |                                                                     |  |                                                                                                                                                                                                                               |  |                                                                                                                                                                                              |  |                                                                        |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------|--|---------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------|--|
| <b>VERIZON WIRELESS</b><br><b>TECHSSEE PARTNERSHIP</b><br>500 WEST DOVE ROAD<br>SCOTTSMOORE, TX 75068<br>APPROVALS<br>CARRIER _____<br>LANDLORD _____<br>LEASING _____<br>CONSTRUCTION _____ |  | PROJECT NO.: _____<br>DRAWN BY: JAL<br>CHECKED BY: JOH<br>APPROVED BY: MJB |  | REF. DATE DESCRIPTION<br>0 06/28/07 ISSUED FOR ZONING<br>1 06/28/07 |  | <b>NOT FOR<br/>CONSTRUCTION</b><br>PROFESSIONAL ENGINEER<br>PROJECT VARIOUS WITHOUT DRAWING & SEAL<br>EXCEL COMMUNICATIONS, INC.<br>6227 WABER WILKS ROAD<br>BIRMINGHAM, AL 35217<br>PHONE: 205.566.6118<br>FAX: 205.566.6332 |  | <b>WALKER PARK AR</b><br>165006A<br>SPRINGDALE-ROGERS<br>BTA<br>20% COMPLETE CONSTRUCTION<br>55 WEST 15TH ST UNIT 2<br>FAYETTEVILLE AR 72701<br>LON: 36.70248 105.71<br>LON: 36.70248 105.71 |  | SHEET TITLE<br><b>TOWER<br/>ELEVATION</b><br>SHEET NUMBER<br><b>05</b> |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------|--|---------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------|--|



**SMJ** INTERNATIONAL

49030 Pontiac Trail, Suite 100  
Wixom, MI 48393  
[www.smj-llc.com](http://www.smj-llc.com)

September 15, 2025

**Jessie Masters, AICP**  
**Planning Director**  
**Development Services**  
**City of Fayetteville, Arkansas**  
**(479) 575-8239**  
[www.fayetteville-ar.gov](http://www.fayetteville-ar.gov)

RE: Request to Modify Existing CUP 07-266 – 91 W 15TH ST FAYETTEVILLE, AR 72701

Jessie,

Per request, this is a cover letter request to modify an existing conditional use permit (CUP 07-266) for a cell tower located, 91 W 15TH ST, FAYETTEVILLE, AR 72701 with a proposed Scope of Work below:

**TOWER WORK:**

REMOVE (1) CANISTER, (3) ANTENNA(S), (6) TMA(S), AND (12) 7/8" COAX CABLE(S)

INSTALL (1) FLUSH MOUNT, (3) ANTENNA(S), (6) RRU(S), AND (1) 2.00" HYBRID TRUNK 6/24 4AWG 50M CABLE

**GROUND WORK:**

REMOVE (9) RRU(S), (3) DIPLEXER(S), (3) TRIPLEXER(S), (1) AMOB, AND (1) PURCELL SITEFLEX 3031 CABINET

INSTALL (1) DELTA HPL3.05 600A DC CABINET AND (1) DELTA LB3 BATTERY CABINET

None of the proposed equipment changes and modifications will alter compliance of the existing tower per the requirements of 163.13 Wireless Communications Facilities. The tower structure itself is not being modified, only the existing carrier equipment for T-Mobile is being modified.

Thanks for your assistance with this process.

**Mark Knapek**

**SMJ** INTERNATIONAL

**m (502) 592-8432**  
**[mknapek@smj-llc.com](mailto:mknapek@smj-llc.com)**

AMERICAN TOWER

ATC TOWER SERVICES LLC

1 FENTON MAIN

SUITE 300

CARY, NC 27511

PHONE: (919) 468-0112

882

THE USE AND PUBLICATION OF THESE DRAWINGS SHALL BE RESTRICTED TO THE ORIGINAL SITE FOR WHICH THEY ARE PREPARED. ANY USE OR PUBLICATION OF THESE DRAWINGS FOR OTHER THAN THE PROJECT OR THE SPECIFIED CARRIER TO AMERICAN TOWER OR THE SPECIFIED CARRIER IS STRICTLY PROHIBITED. NEITHER THE ARCHITECT NOR THE ENGINEER SHALL BE RESPONSIBLE FOR THE CONSTRUCTION OF THE TOWER OR THE CARRIER. CONTRACTOR(S) MUST VERIFY ALL DIMENSIONS AND ADVISE AMERICAN TOWER OR THE SPECIFIED CARRIER OF ANY DISCREPANCIES PRIOR TO THE START OF CONSTRUCTION. THIS DRAWING IS THE PROPERTY OF AMERICAN TOWER AND ITS USE FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN PERMISSION OF AMERICAN TOWER IS PROHIBITED.

| REV. | DESCRIPTION      | BY  | DATE     |
|------|------------------|-----|----------|
| A    | FOR CONSTRUCTION | MNC | 07/22/25 |
|      |                  |     |          |
|      |                  |     |          |
|      |                  |     |          |
|      |                  |     |          |

ATC SITE NUMBER:  
**415410**

ATC SITE NAME:  
**WALKER\_PARK\_AR\_AR**

T-MOBILE SITE NAME:  
**AR02115A**

SITE ADDRESS:  
91 W 15TH ST  
FAYETTEVILLE, AR 72701



SEAL:

Digitally Signed: 2025-07-22

**T-Mobile**

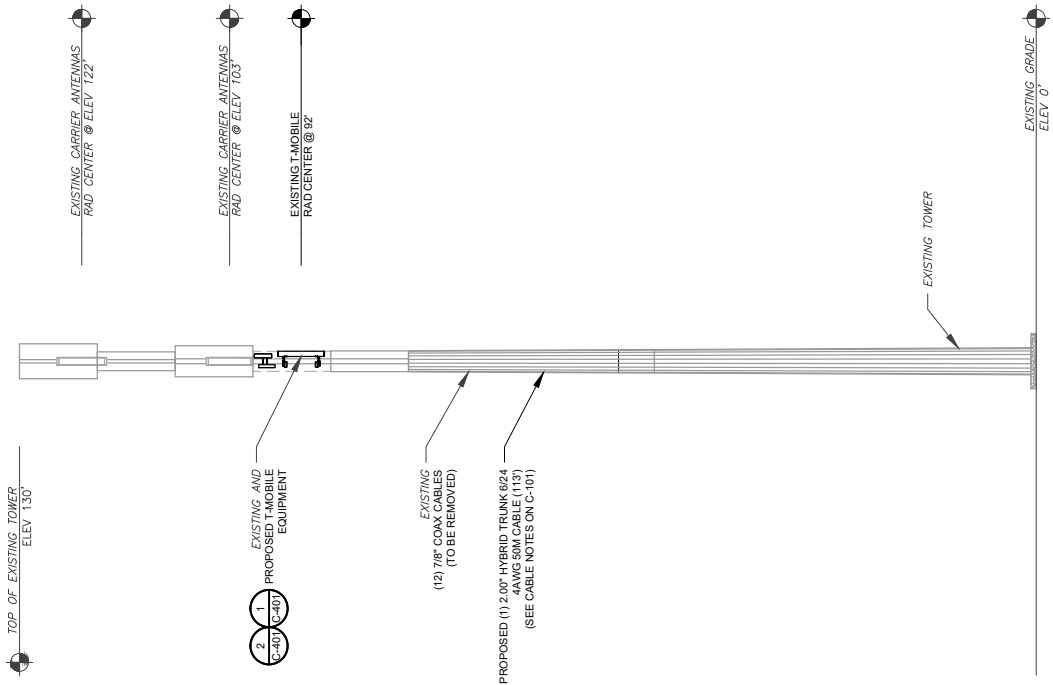
|             |             |
|-------------|-------------|
| ATC PROJ. # | 14684141_G0 |
| CUST. ID:   | AR02115A    |
| CUST. #:    | AR02115A    |

TOWER ELEVATION

|               |       |
|---------------|-------|
| SHEET NUMBER: | C-201 |
| REVISION:     | 0     |

1. GC TO PERMANENTLY REMOVED T-MOBILES SHROUD/CANISTER.
2. EQUIPMENTS TO BE PAINTED TO MATCH THE EXISTING TOWER COLOR SCHEME.

# APPLICANT'S REQUEST TO MODIFY



- ALL ELEVATIONS REFLECT ABOVE GROUND LEVEL (A.G.L.)
- TOWER NOTE:  
1. THE CONTRACTOR'S RESPONSIBILITY TO CONFIRM WITH THE PROJECT MANAGER THAT THEY HAVE THE MOST RECENT VERSION OF THE STRUCTURAL ANALYSIS BEFORE COMMENCING WORK. EXISTING AND PROPOSED TOWER EQUIPMENTS AND ANTENNAS ARE SHOWN BASED ON THE STRUCTURAL ANALYSIS.
1. WHERE APPLICABLE, ALL NEW ANTENNAS, EQUIPMENT, MOUNTS, CABLING, ETC. SHALL BE PAINTED/SOCCOED TO MATCH EXISTING EQUIPMENT AND COORDINATE WITH THE JURISDICTION, AND/OR OTHER LOCAL REQUIREMENTS.
  2. ROUTE PROPOSED CABLES ALONG SAME PATH AS EXISTING CABLES AND IN ACCORDANCE WITH STRUCTURAL ANALYSIS.
  3. ALL COAX LINES MUST BE TERMINATED AT 2' FROM THE BOTTOM OF THE TOWER WITH 3/4\"/>

1 TOWER ELEVATION  
SCALE N.T.S.



AMERICAN TOWER

ATC TOWER SERVICES LLC

1 FENTON MAIN

SUITE 300

CARY, NC 27511

PHONE: (919) 468-0112

THE USE AND PUBLICATION OF THESE DRAWINGS SHALL BE RESTRICTED TO THE ORIGINAL SITE FOR WHICH THEY ARE PREPARED. ANY USE OR DISSEMINATION OF THESE DRAWINGS TO ANY OTHER PARTY WITHOUT THE WRITTEN CONSENT OF AMERICAN TOWER OR THE SPECIFIED CARRIER IS STRICTLY PROHIBITED. NEITHER THE ARCHITECT NOR THE ENGINEER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE CONTRACTOR(S). CONTRACTOR(S) MUST VERIFY ALL DIMENSIONS AND ADVISE AMERICAN TOWER OR THE SPECIFIED CARRIER OF ANY DISCREPANCIES AND/OR ISSUANCE OF THIS DRAWING IS SUPERSEDED BY THE LATEST VERSION.

REV.

DESCRIPTION

BY

DATE

1

FOR CONSTRUCTION

MNC

07/22/25

2

3

4

ATC SITE NUMBER:

415410

ATC SITE NAME:

WALKER\_PARK\_AR\_AR

T-MOBILE SITE NAME:

AR02115A

SITE ADDRESS:

91 W 15TH ST

FAYETTEVILLE, AR 72701

SEAL:

STATE OF

ARKANSAS

LICENSED PROFESSIONAL

ENGINEER

PATRICK P. BERRY

No. 16359

Digitally Signed: 2025-07-22

T-Mobile

ATC PROJ. #

14684141\_C00

CUST. ID:

AR02115A

CUST. #:

AR02115A

DETAILED SITE PLAN

SHEET NUMBER:

C-101

REVISION:

0

PP/TRN

HH

W/D

ATS

LC

6' X 8' GEN. PAD FOR BACKUP POWER

EXISTING T-MOBILE METER AND SERVICE MAIN DISCONNECT

GRAVEL SURFACE

11'-8" X 26'-0" SHELTER

AV

D

IB

MONOPOLE

PROPOSED (1) 2.00' HYBRID TRUNK 624 4AWG 50M CABLE (SEE PROPOSED CABLE LENGTH AND ROUTING GUIDELINES)

EXISTING 12" TRIP COAX CABLES (TO BE REMOVED)

EXISTING T-MOBILE 8' X 8' PLATFORM 10' X 15' GROUND SPACE (MODIFIED AS REQUIRED FOR UPGRADE FROM EXISTING 6790BH\_SR\_T\_6X24 CONFIGURATION)

IB

IB

IB

T-MOBILE GEN. PAD

CHAIN LINK FENCE W/ WOOD PRIVACY WRAP

1

DETAILED SITE PLAN

GRAPHIC SCALE

0 5 10

(IN FEET)

1 UNIT = 10 FEET

1. THIS SITE PLAN REPRESENTS THE BEST PRESENT KNOWLEDGE AVAILABLE TO THE ENGINEER. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE PRIOR TO THE CONSTRUCTION AND VERIFY ALL EXISTING CONDITIONS RELATED TO THE SCOPE OF WORK FOR THIS PROJECT.

2. ICE BRIDGE, CABLE LADDER, COAX PORT, AND COAX CABLE ARE SHOWN FOR REFERENCE ONLY. CONTRACTOR SHALL CONFIRM THE EXACT LOCATION OF ALL PROPOSED AND EXISTING EQUIPMENT AND STRUCTURES DURING CONSTRUCTION. CONTRACTOR SHALL INSTALLING NEW PORTS, COAX PORTS, EQUIPMENT, CONTRACTOR SHALL VERIFY ALL ASPECTS OF THE COMPONENTS MEET THE ATC SPECIFICATIONS.

3. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO COORDINATE WITH THE T-MOBILE REPRESENTATIVE AND LOCAL UTILITY COMPANY FOR THE INSTALLATION OF CONDUITS, CABLES, AND OTHER INFRASTRUCTURE, OR ANY OTHER EQUIPMENT REQUIRED FOR ELECTRICAL SERVICE. ALL ELECTRICAL WORK SHALL BE PERFORMED IN ACCORDANCE WITH LATEST EDITION OF THE STATE AND NATIONAL ELECTRICAL CODES AND REGULATIONS APPLICABLE TO THIS PROJECT.

4. ALL CONDUITS SHALL BE INSTALLED UNDERGROUND AND PER APPLICABLE NEC AND LOCAL ELECTRICAL CODES. ALL CONDUITS SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITION OF THE STATE AND NATIONAL ELECTRICAL CODES AND REGULATIONS APPLICABLE TO THIS PROJECT.

LEGEND

⊗

GROUNDING TEST WELL

ATS

AUTOMATIC TRANSFER SWITCH

B

BOLLARD

CSC

CELL SITE CABINET

D

DISCONNECT

E

ELECTRICAL

F

FIBER

GEN

GENERATOR

G

GENERATOR RECEPTACLE

HH, V

IB

ICE BRIDGE

K

LC

LIGHTING CONTROL

M

PB

PULL BOX

PP

T

TELCO

TRN

CHAINLINK FENCE

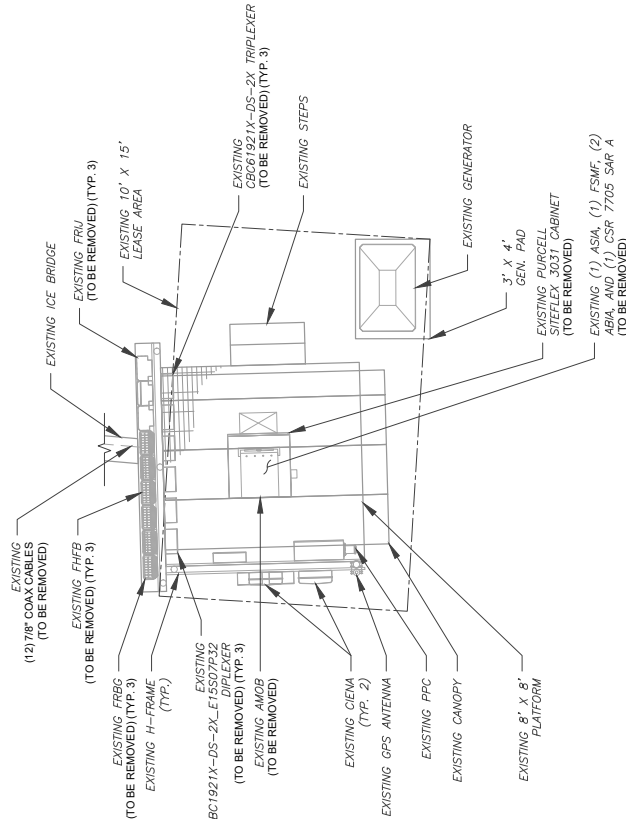
PROPOSED CABLE NOTES:

ESTIMATED LENGTH OF PROPOSED CABLE IS 113'. ESTIMATED LENGTH OF CABLE WAS PROVIDED BY CUSTOMER OR CALCULATED BY ADDING THE RAD CENTER AND THE DISTANCE FROM THE SHELTER CENTER TO THE T-MOBILE GEN. PAD. (SEE NOTES FOR THE TWO PREVIOUS VALUES). CDS DEFER TO THE GREATEST CABLE LENGTH.

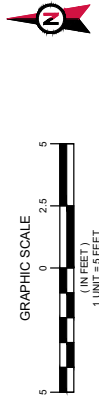
ROUTE PROPOSED CABLES ALONG SAME PATH AS EXISTING CABLES AND IN ACCORDANCE WITH STRUCTURAL ANALYSIS. IF ADEQUATE SPACE IS NOT AVAILABLE, CABLES SHALL BE ROUTED UP INSIDE OF MONOPOLE, AND THROUGH EXIT HOLES. IF ROUTING OUTSIDE THE MONOPOLE, A MINIMUM 18" CLEARANCE SHALL BE MAINTAINED TO TOWER USING STAINLESS STEEL BRACKETS. CABLES SHALL BE SECURED WITH APPROPRIATELY SIZED STAINLESS STEEL BRACKETS AND MOUNTING HARDWARE AND BRACKETS AS SPECIFIED BY CABLE MANUFACTURER.

SITE PLAN NOTES:

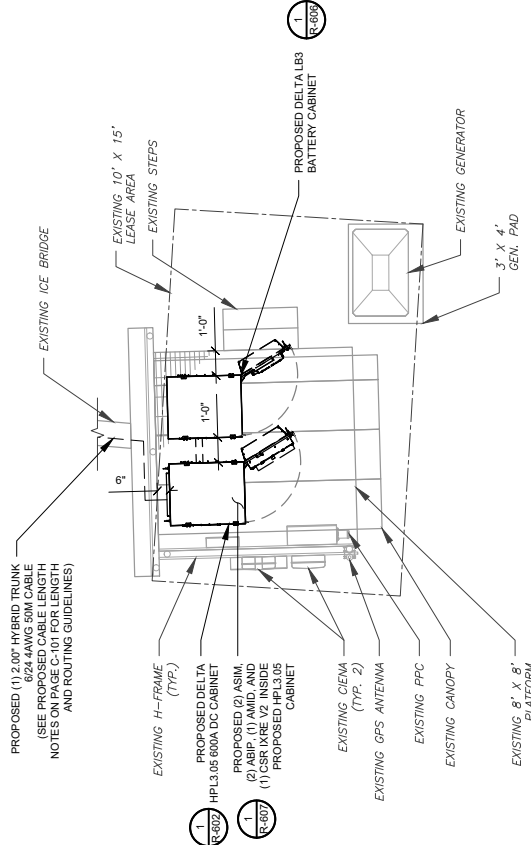
1. CONTRACTOR TO VERIFY THERE IS NO LIVE ANY FIBER RUNNING THROUGH EXISTING DEAD EQUIPMENT. IF SO, THIS WILL NEED TO BE RERUN THROUGH CONDUIT PRIOR TO REMOVING DEAD 25 (6201 CABS) EQUIPMENT.
2. ALL OPEN PORTS NEED TO BE SEALED / WEATHERPROOFED PROPERLY
3. ALL UNNEEDED / EXCESS EQUIPMENT AND GARBAGE TO BE REMOVED FROM EQUIPMENT AREA, DISPOSE OF MATERIALS PROPERLY OFF SITE.



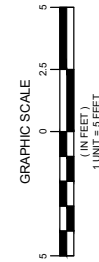
1 EXISTING GROUND EQUIPMENT LAYOUT



T-MOBILE CM APPROVAL REQUIRED BEFORE INSTALLING CABINETS.



2 PROPOSED GROUND EQUIPMENT LAYOUT





**AMERICAN TOWER**  
ATC TOWER SERVICES LLC  
1 FENTON MAIN  
SUITE 300  
CARY, NC 27511  
PHONE: (919) 466-0112

THE USE AND PUBLICATION OF THESE DRAWINGS SHALL BE RESTRICTED TO THE ORIGINAL SITE FOR WHICH THEY ARE PREPARED. ANY USE OF THESE DRAWINGS FOR ANY OTHER PROJECT, TO ANY OTHER TOWER OR TO ANY OTHER CARRIER IS STRICTLY PROHIBITED. NEITHER THE ARCHITECT NOR THE ENGINEER SHALL BE RESPONSIBLE FOR THE CONTRACTOR'S FAILURE TO VERIFY THE DIMENSIONS AND ADVISE AMERICAN TOWER OR THE SPECIFIED CARRIER OF ANY DISCREPANCIES AND FOR ISSUANCE OF THIS DRAWING IS SUBJECTED BY THE LATEST VERSION.

| REV. | DESCRIPTION      | BY  | DATE     |
|------|------------------|-----|----------|
| A    | FOR CONSTRUCTION | MNC | 07/22/25 |
|      |                  |     |          |
|      |                  |     |          |
|      |                  |     |          |

ATC SITE NUMBER:  
**415410**  
ATC SITE NAME:  
**WALKER\_PARK\_AR\_AR**  
T-MOBILE SITE NAME:  
**AR02115A**  
SITE ADDRESS:  
91 W 15TH ST  
FAYETTEVILLE, AR 72701

SEAL:



Digitally Signed: 2025-07-22



ATC PROJ. #: 14684141\_G0  
CUST. ID: AR02115A  
CUST. #: AR02115A

DETAILED EQUIPMENT PLAN

|               |       |
|---------------|-------|
| SHEET NUMBER: | C-102 |
| REVISION:     | 0     |



**TO:** Fayetteville Planning Commission

**FROM:** Jessie Masters, Planning Director  
Justin Bland, Engineering Development Review Manager

**MEETING DATE:** September 22, 2025

**SUBJECT:** **ADM-2025-0039: Administrative Item (E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE/CINQUEFOIL LLC, 523):** Submitted by 3V DEVELOPMENT for property located on E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.60 acres. The request is for a lesser dedication of right-of-way.

---

**RECOMMENDATION:**  
Staff recommends denial of **ADM-2025-0039**.

**RECOMMENDED MOTION:**  
*"I move to forward **ADM-2025-0039** to City Council with a recommendation of approval."*

**BACKGROUND:**  
The subject property is at the northwest corner of E. Martin Luther King Jr. Blvd. and S. College Avenue. Zoned DG, Downtown General, the property is currently undeveloped, though was previously developed with two small structures. A site improvement plan for the development of a small commercial structure, townhomes, and associated parking was submitted for review by City staff (SIP-2025-0001). Further, a variance for the consideration of a driveway entry onto E. Martin Luther King Jr. Blvd. has also been submitted, and will also be heard at the September 22, 2025 Planning Commission meeting. 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 | NC, Neighborhood Conservation |
| South     | Church                    | DG, Downtown General          |
| West      | Single-family Residential | NC, Neighborhood Conservation |
| East      | Single-family Residential | DG, Downtown General          |

*Request:* The request is for a lesser dedication of right-of-way than is typically required by the master street plan for a neighborhood link street. Where 67 feet of right-of-way would typically be required (or 33.5 feet from street centerline), the applicant is requesting to dedicate only 55 feet, or 27.5 feet from street centerline.

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

**DISCUSSION:**  
Staff recommends denial of the applicant's request to dedicate less right-of-way than is typically required by the Master Street Plan. The typical master street plan requirements for a

Neighborhood Link Street call for two lanes of traffic, and a third lane for on-street parking. That said, there are certain considerations that are called out in the master street plan requirements to allow for flexibility in the design where warranted. This includes flexibility for the allowance of a dedicated turn-lane. City Engineering staff have identified that left turn lane improvements will be needed at this location in the future to maintain safety and capacity at this location. High traffic counts and over 20 crashes within a 5-year time-frame from 2017-2021 at this location have indicated to Public Works that intersection improvements are needed, especially as development continues to occur in the area. It is standard under the requirements in §166.04 that an applicant dedicate right-of-way in alignment with the master street plan requirements with an associated development. While staff can make necessary administrative reductions, staff finds that it is not warranted in this instance to reduce the master street plan requirement beyond the typical requirement for 33.5 feet.

**RECOMMENDATION:** Staff recommends denial of **ADM-2025-0039**.

|                                                        |                                 |                                   |                                 |
|--------------------------------------------------------|---------------------------------|-----------------------------------|---------------------------------|
| <b>PLANNING COMMISSION ACTION:</b> Required <u>YES</u> |                                 |                                   |                                 |
| Date: <u>September 22, 2025</u>                        | <input type="checkbox"/> Tabled | <input type="checkbox"/> Approved | <input type="checkbox"/> Denied |
| Motion:                                                |                                 |                                   |                                 |
| Second:                                                |                                 |                                   |                                 |
| Vote:                                                  |                                 |                                   |                                 |

**BUDGET/STAFF IMPACT:**

None

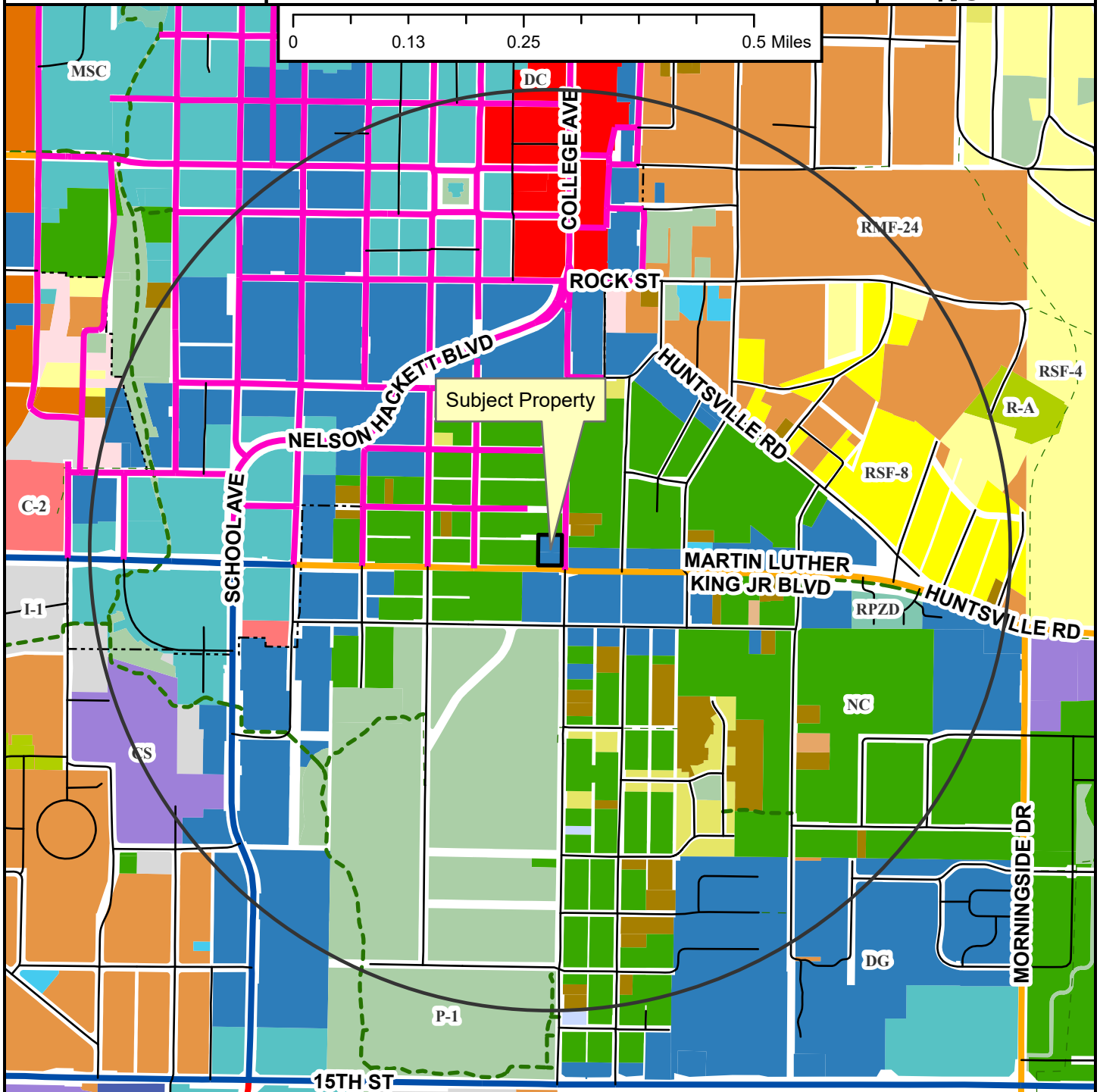
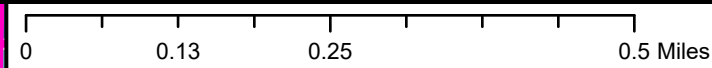
**ATTACHMENTS:**

- One Mile Map
- Close-up Map
- Current Land Use Map
- City Engineering Memo
- Applicant Request Letter and Exhibits

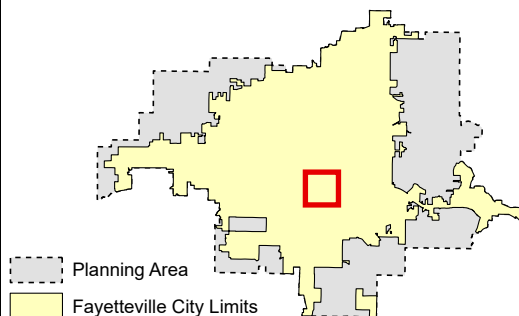
ADM-2025-0039

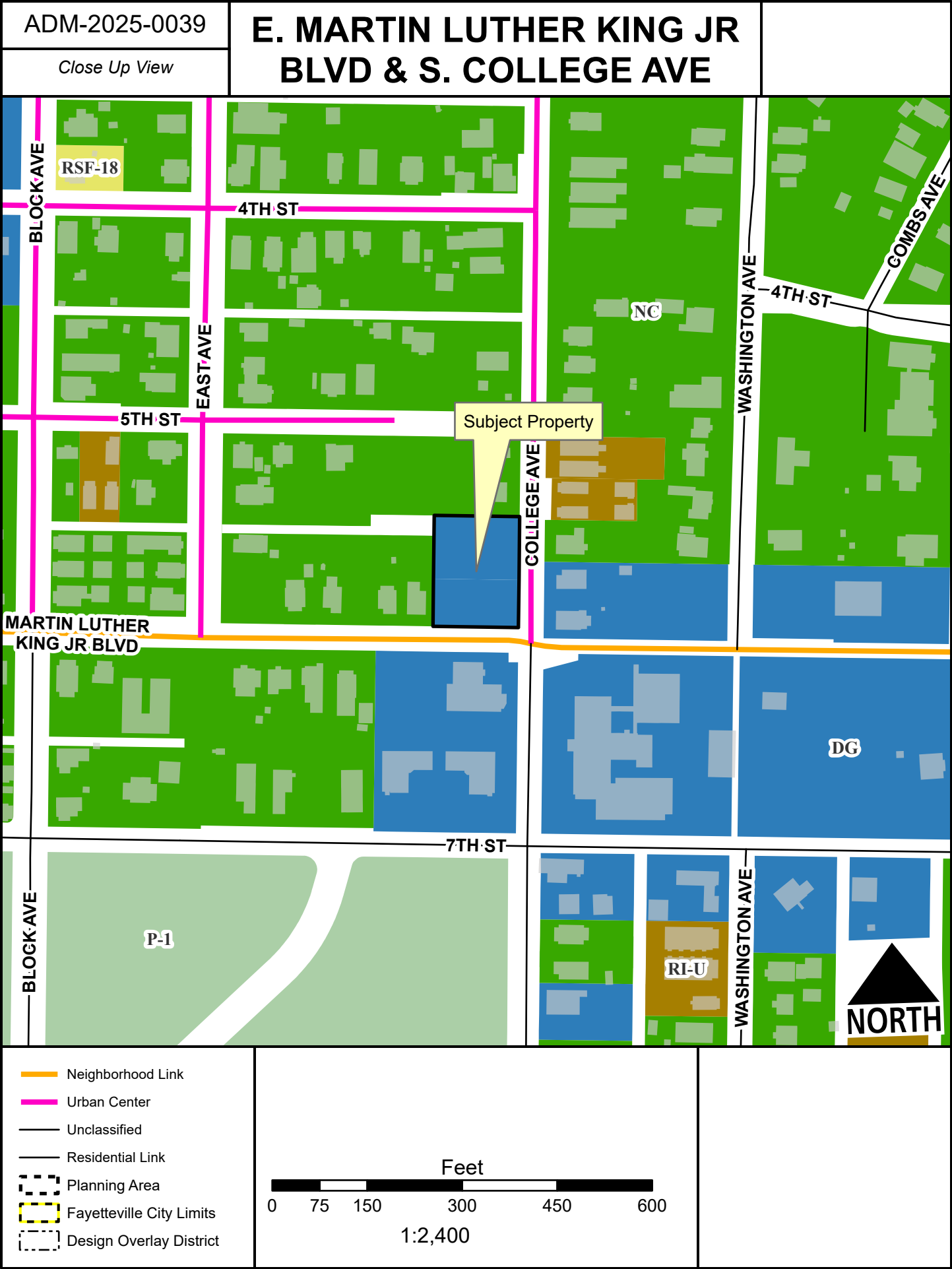
One Mile View

# E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE



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



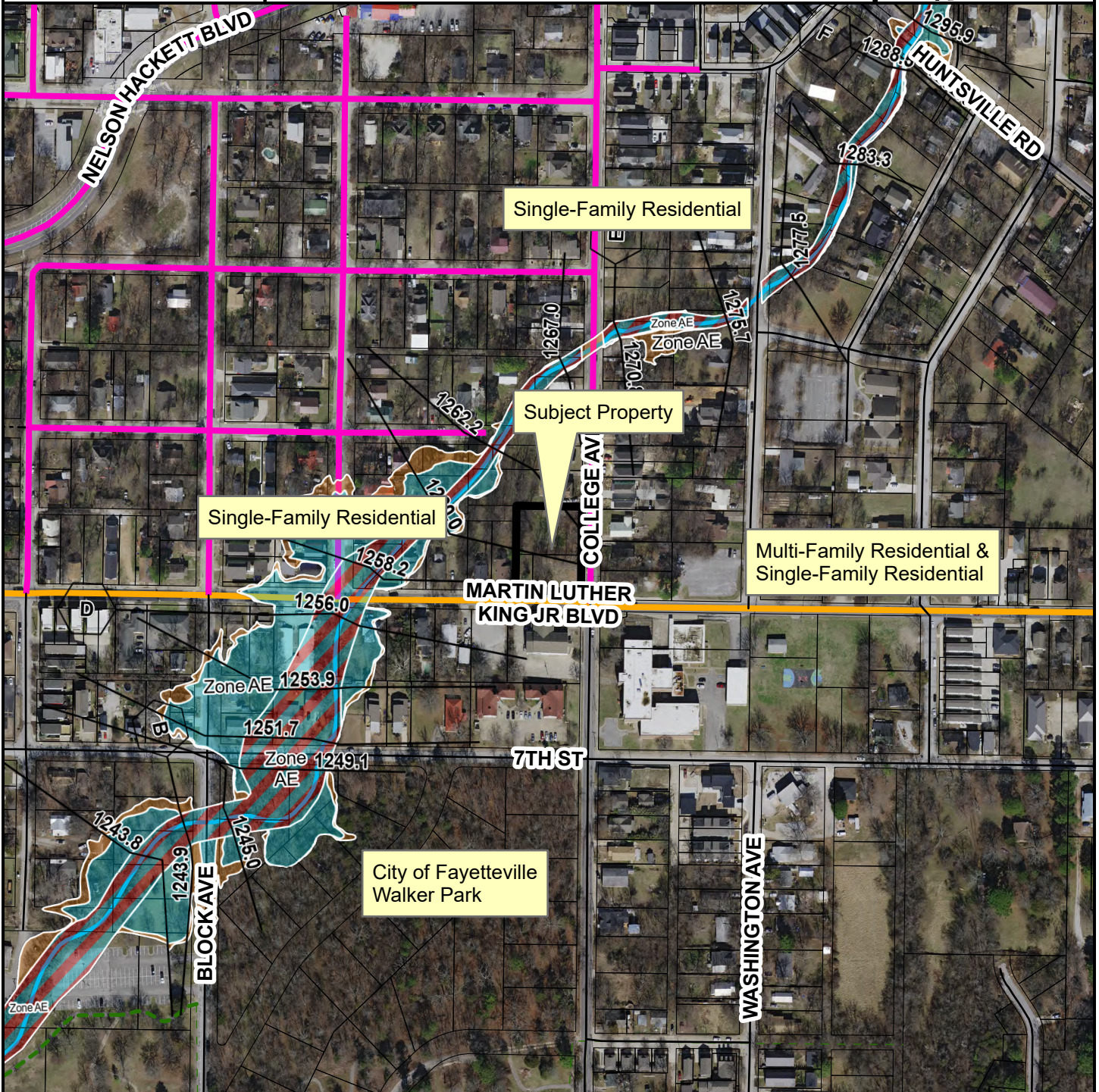




ADM-2025-0039

Current Land Use

# E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE



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



## FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





**TO:** Jessie Masters, Planning Director

**FROM:** Justin Bland, Engineering Development Review Manager

**DATE:** September 16, 2025

**SUBJECT: Planning Commission Engineering Comments for  
ADM-2025-0039**

---

Engineering Staff does not support the variance request to reduce the required right-of-way dedication along MLK Blvd. from 67' to 55'. This dedication is essential for plans to add a left-turn lane at the intersection of MLK Blvd. and S. College Ave.

The intersection of MLK Blvd. and S. College Ave. is a relatively high-volume intersection (13,000 and 4,200 vehicles per day, respectively) where traffic volumes are expected to increase with future development in the area. A left-turn lane will eventually be warranted to improve both safety and capacity.

- **Safety:** A 2002 Federal Highway Administration study on urban arterials found that adding left-turn lanes to signalized intersections can reduce crashes by 10-20%. City GIS data shows approximately 20 crashes at this location from 2017-2021. As traffic volumes rise, the number of accidents is also expected to increase. Having the right-of-way is key for having the ability to make safety improvements when needed.
- **Capacity:** Left-turn lanes prevent a single turning vehicle from blocking through-traffic, which can quickly lead to intersection backup and reduced service levels. While some traffic signal configurations can help (i.e. split phasing, etc.), they typically result in a reduction of efficiency. Typically, the most efficient traffic signal configuration has protected left turn lanes and free-flowing through-traffic.

Staff recognizes the challenges of adding turn lanes due to the offset intersection and nearby structures. However, acquiring the right-of-way now, before the land is developed, is critical. This is considered a best practice for transportation planning. If this dedication is not provided at this time, the northwest corner of the intersection will be built out, creating significant obstacles to the future construction of the turn lanes. Unfortunately, the other corners of the intersection are already built out to some degree and will require future right-of-way dedication as part of a future redevelopment project, or an acquisition of the property by the city.

Based on these factors, Engineering Staff recommends denying the variance request to give the city the most options for future safety and capacity improvements at this intersection.



Zara Niederman  
3V Development LLC  
620 Bella Vista Rd  
Bentonville, AR 72712

**APPLICANT  
REQUEST  
LETTER**

8/12/25

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

RE: Variance Request – Lesser Dedication of Master Street Plan ROW  
Property: 519 S College Avenue / MLK Boulevard

Dear Chair and Commissioners,

I am requesting a variance from the Master Street Plan ROW dedication requirement for MLK Blvd. The Master Street Plan seeks to widen the street and install a turning lane at this corner. We believe this is inadvisable for two reasons.

First, we believe that the City should focus on increasing the connectivity of the street grid in this neighborhood, rather than widening individual streets. This includes extending 5th Street to connect from East to S College, which is just one block to the north. Years ago, the City re-routed traffic coming west on Highway 16 to re-route from Huntsville Road (which turns into MLK) to S Happy Hollow Rd. In addition, Archibald Yell (Now Nelson Hackett Blvd) was built to allow traffic coming east on MLK to go North onto College Ave. Widening the road here to add room for more ease of flow for cars would be a detriment to the neighborhood.

Secondly, functionally it does not make sense to widen the MLK Blvd, adding a turning lane on the north side of the street. The street is already misaligned, such that the eastbound lane on the west side of S College is in direct alignment with the westbound lane on the east side of S College. Adding an additional lane to the north of the existing eastbound lane on the west side would only exacerbate this alignment, and cause more traffic problems.

Attached are pictures of this existing alignment issue.

Therefore we request that the ROW remain at the minimum of 55' for a Neighborhood Link per the Master Street Plan adopted as part of City Plan 2040.

Regards

**ZARA NIEDERMAN**

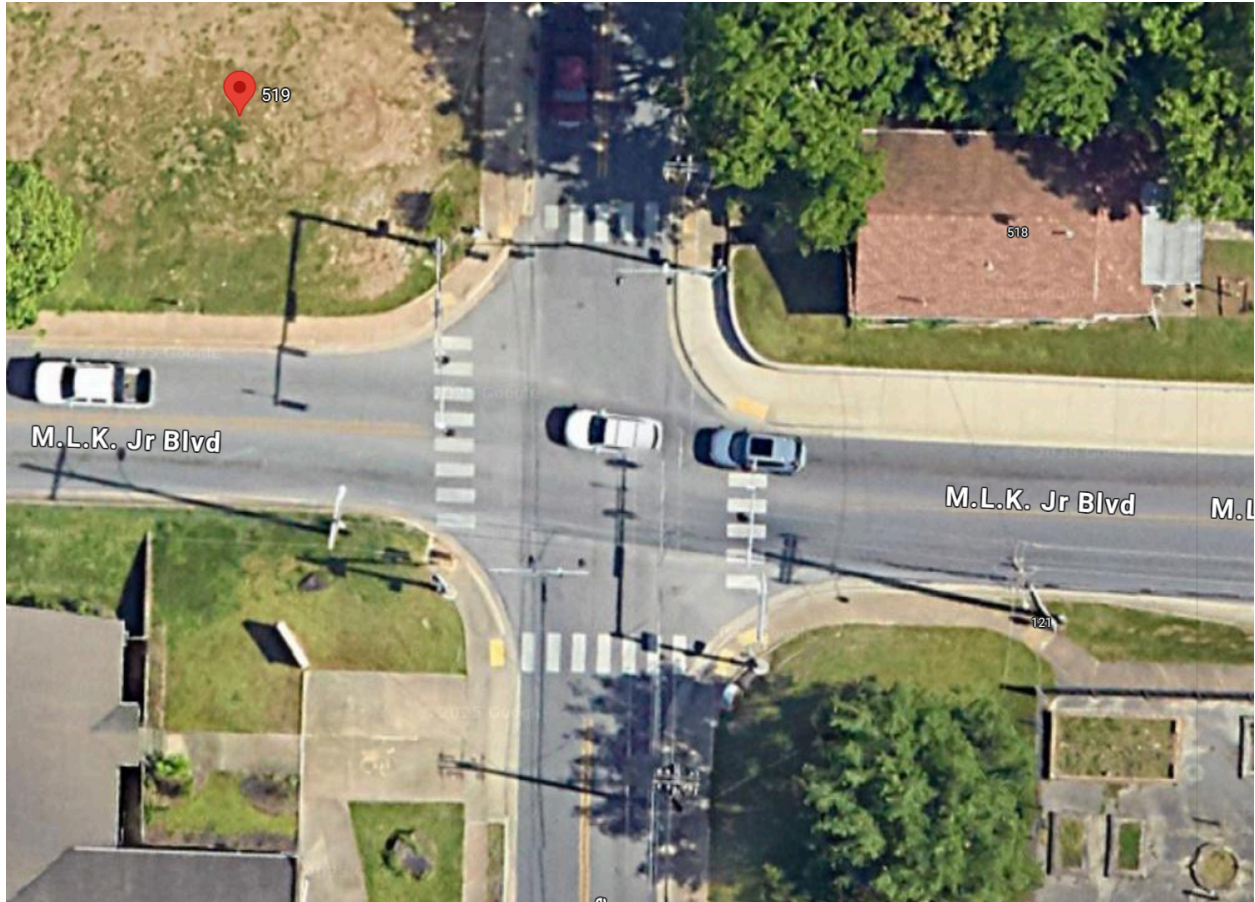
Zara Niederman











**Neighborhood Link Street (Collector)**

Design Service Volume: <6,000 vpd - Desired Operating Speed: 25-30 mph

Neighborhood link streets are intended to bridge between local, low-volume streets and larger regional arterial streets. Larger greenspaces are provided for pedestrian comfort and cyclists are intended to be outside the roadway in a separated facility due to vehicular speeds and volumes. Special design consideration for cyclists at intersections is necessary to ensure intuitive safety for both drivers and riders of all skill levels. These streets may have on-street parking, center turn lanes, or wider lanes accommodating truck or transit vehicles where appropriate. Low-Impact Development (LID) features in green spaces are recommended best practices to incorporate alternative stormwater treatment techniques.

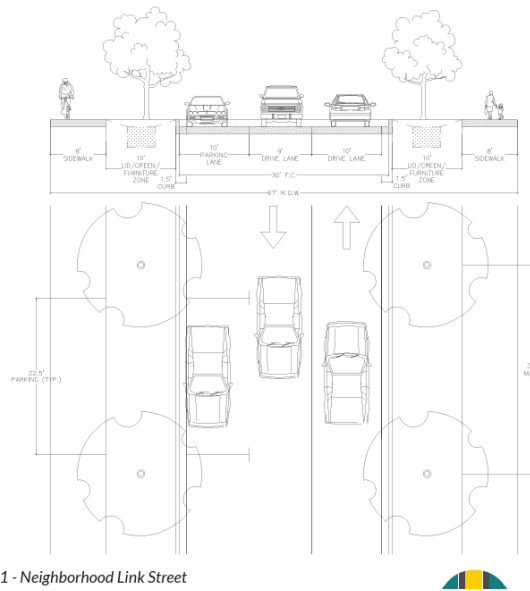


Figure 12.11 - Neighborhood Link Street

As determined by city staff, additional roadway elements may be required and include:

- An additional 2-ft frontage zone where buildings abut right-of-way. This may be accomplished with setbacks or additional right-of-way.
- Streets planned with on street bike facilities as shown on the Active Transportation Plan, shall accommodate one 10-ft sidewalk, as determined by the Zoning and Development Administrator, by reducing greenspaces.
- Where a dedicated turn-lane is warranted, 3-ft additional pavement may be necessary based on intersection design.

Alternative design elements may be approved administratively and include:

- Removal of the 10-ft parking lane will be considered when adequate parking is provided elsewhere.
- Sidewalk widths may be reduced to a minimum of 6-ft.
- Greenspace or parking may be modified intermittently to provide parking/delivery/loading lane or to provide an aerial fire apparatus access area.

Minimum Right-of-Way: 55-feet

Maximum Right-of-Way: 67-feet





**TO:** Fayetteville Planning Commission

**FROM:** Jessie Masters, Planning Director  
Justin Bland, Engineering Development Review Manager

**MEETING DATE:** September 22, 2025

**SUBJECT:** **VAR-2025-0040: Planning Commission Variance (E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE/CINQUEFOIL LLC, 523):** Submitted by 3V DEVELOPMENT for property located on E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.60 acres. The request is for a variance to access management standards.

---

**RECOMMENDATION:**

Staff recommends partial approval of **VAR-2025-0040, with conditions.**

**RECOMMENDED MOTION:**

*"I move to approve **VAR-2025-0040**, determining:*

- In favor of a variance to UDC §166.08(F) Access Management;*
- In denial of a variance to UDC §166.08(F)(2)(b) Curb Separation Requirements;*
- In favor of all other conditions as recommended by staff."*

**BACKGROUND:**

The subject property is at the northwest corner of E. Martin Luther King Jr. Blvd. and S. College Avenue. Zoned DG, Downtown General, the property is currently undeveloped, though was previously developed with two small structures. A site improvement plan for the development of a small commercial structure, townhomes, and associated parking was submitted for review by City staff (SIP-2025-0001). Further, a consideration for the reduction of the master street plan right-of-way has been submitted to be heard at the September 22, 2025 Planning Commission meeting. 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 | NC, Neighborhood Conservation |
| South     | Church                    | DG, Downtown General          |
| West      | Single-family Residential | NC, Neighborhood Conservation |
| East      | Single-family Residential | DG, Downtown General          |

**Request:** The applicant is requesting two variances from the Unified Development Code. The first requires that properties fronting more than one public street prioritize access from the street with the lowest functional classification (§166.08(F)). The second requires a minimum separation of 100 feet from intersections or driveways (§166.08(F)(2)(b)).

The applicant proposes construction of a full-access driveway on E. Martin Luther King Jr. Blvd., in addition to a driveway on S. College, and the proposed driveway also fails to meet the required 100-foot separation distance from the intersection and an adjacent driveway.

#### **DISCUSSION:**

**Variance #1: §166.08(F) Access management: Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.** The applicant's proposed site plan shows two driveway entrances, one located along S. College Avenue, and the other located along E. Martin Luther King Jr. Blvd. Typically, one driveway would be permitted along S. College Avenue, since the urban street classification is the lower classification street.

- *Staff recommendation: Staff recommend approval of this request. The intent of the ordinance is to prevent an overabundance of curb cuts to promote walkability and safer traffic interactions; staff understand the applicant's right to access E. Martin Luther King Jr. Blvd, given the precedent set by the Arkansas Supreme Court. It is worth noting that under the definition of "site" in chapter 151, it is required that this development is considered in its entirety, rather than separately, since all three parcels are under the same ownership, and grading will be performed. Staff acknowledge that granting a single driveway per parcel would not be a desirable outcome should these parcels be developed separately, but that appears to be outside of the City's control, and outside of what the applicant is requesting. So, staff finds that granting a variance to allow one driveway along E. Martin Luther King Jr. Blvd is a good legal alternative that protects the applicant's right to access and also protects the overall public interest and safety in the area. Staff find, however, that allowing a full-access driveway to serve a commercial use would likely contribute to a traffic and safety issue in this location, given the circumstances with traffic counts and visibility. Staff recommend that if access onto Martin Luther King Jr. Blvd is granted, that a right-in, right-out scenario be constructed to protect the public interest and safety in the area.*

**Variance #2: §166.08(F)(2)(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.** The applicant's proposed site plan shows a full-access driveway along E. Martin Luther King Jr. Blvd. that is under the separation distance requirements for an existing driveway to the west, as well as to the existing intersection to the east.

- *Staff recommendation: Staff recommends denial of this request, finding that the applicant has failed to provide enough concrete information to provide the basis for hardship. Acknowledging that there is still an existing driveway to the west that serves a residential structure, the location of the proposed driveway and its distance from the S. College Avenue intersection appears to be derived from design- and development-related decisions, rather than site-specific constraints. The overall site has 135 feet of street frontage along E. Martin Luther King Jr. Blvd, which indicates that compliance is possible. The applicant has not provided enough information to indicate whether there are conflicting ordinances, design constraints, or site-specific hardships that have informed the overall design. Further, the driveway in its current location as shown would likely create conflict if a left turn lane were to be installed at this intersection, or any other necessary improvements are made in the future. The City Engineer also did not find enough evidence*

*to grant the separation distance variance administratively, which they are empowered to do under 166.08(F)(4). Should the applicant make modifications to the site, the City Engineer could potentially still approve a reduction administratively, if there were not an associated safety concern.*

**RECOMMENDATION:** Staff recommends approval of VAR-2025-0040 with the following conditions:

**Conditions of Approval:**

1. **Planning Commission determination of a variance to UDC §166.08(F) Access management.** Staff recommend approval of this variance for the reasons stated above, with the following condition:
  - a. Any driveway installed along E. Martin Luther King Jr. Blvd. shall be constructed with a right-in, right-out only configuration.
2. **Planning Commission determination of a variance to UDC §166.08(F)(2)(b) Curb cut location.** Staff recommend denial of this variance for the reasons stated above.
3. Approval of this item does not constitute approval of the associated development entitlement or any necessary permits. Approval of this item also does not constitute approval of any variances not yet reviewed or received yet. Review and approval of separate applications shall be required in accordance with city code.

---

**Planning Commission Action:**

☐ Approved

☐ Tabled

☐ Denied

**Meeting Date:** September 22, 2025

**Motion:**

**Second:**

**Vote:**

**BUDGET/STAFF IMPACT:**

None

**ATTACHMENTS:**

- Unified Development Code:
  - §166.08 Street Design And Access Management Standards
- One Mile Map
- Close-Up Map
- Current Land Use Map
- City Engineering Memo
- Applicant Request Letter
- Applicant Exhibit

## 166.08 Street Design And Access Management Standards

...

(F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.

(1) *Curb Cut Separation.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.

(2) Separation for two (2) family, three (3) and four (4) 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.

(3) *Separation for Single-Family Homes.*

(a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. Driveways serving corner lots shall be located as far from the street intersection as possible while still meeting a 5-foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.

(b) *Regional and Neighborhood Links.* Individual curb cuts along regional and neighborhood links streets shall be discouraged. When necessary, curb cuts along regional and neighborhood link streets shall be shared between two (2) or more lots.

(4) *Reduction in Separation Distance.* In order to protect the ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.

(5) *Speed.* All streets should be designed to discourage excessive speeds.

(G) *Non-Conforming Access Features.*

- (1) *Existing.* Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:
- (a) When new access connection permits are requested;
  - (b) Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor; or
  - (c) As roadway improvements allow.
  - (d) With development of a new primary structure on the property.
- (H) *Easements.* Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.
- (Code 1965, App. C., Art. IV, §§C, D, F—H; Ord. No. 1750, 7-6-70; Ord. No. 1801, 6-21-71; Ord. No. 2196, 2-17-76; Ord. No. 2353, 7-5-77; Code 1991, §§159.45, 159.58, 159.51—159.53; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4757, 9-6-05; Ord. No. 4919, 9-05-06; Ord. No. 5156, 8-5-08; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12; Ord. No. 5642, 12-03-13; Ord. No. 6179, §1, 4-16-19; Ord. No. 6207, §§1—4, 7-16-19; Ord. No. 6244, §1, 10-1-19;





**TO:** Jessie Masters, Planning Director

**FROM:** Justin Bland, Engineering Development Review Manager

**DATE:** September 16, 2025

**SUBJECT: Planning Commission Engineering Comments for  
VAR-2025-0040**

---

Engineering staff does not support the variance request to the curb cut separation at the proposed site. The applicant's site plan provides 83' of separation, which fails to meet the 100' requirement specified in the code (§166.08(F)) for Neighborhood Links. It is staff's opinion that granting this variance could reduce public safety at a relatively high-volume intersection. Staff's review of this matter included consideration of the following:

- Traffic Volume: The intersection of MLK Blvd. and S. College Ave. is a relatively high-volume intersection (13,000 and 4,200 vehicles per day, respectively) and these volumes will likely increase in the future as more development occurs in the southeast part of town.
- Turn Lanes: To accommodate traffic growth, the city has long-term plans to install left turn lanes at this intersection, which would be impacted by a non-compliant curb cut.
- Intersection Offset: The 12' north/south horizontal shift of MLK Blvd. as it crosses S. College Ave. requires drivers to adjust their lane position. Maximizing the distance between the driveway and the intersection would provide additional reaction time for drivers, enhancing safety.

Based on these items, Engineering Staff recommends that providing the drive separation required by the code at this location is in the best interest of public safety.

There is a nuance to this discussion due to the applicant owning three separate parcels at this location, that creates two separate scenarios with different recommendations:

- Scenario 1: Development all three parcels - Since the combined frontage of all three parcels exceeds 135', meeting the 100' separation requirement is feasible. In this scenario, staff recommends denying the variance to ensure compliance with the code.
- Scenario 2: Development of only the corner parcel. If the applicant were to develop only the corner parcel with 100' of frontage, meeting the 100' separation requirement would be impossible and staff would request to maximize the separation distance within the lot's constraints (approximately 80'). This would have been administratively approved.

It is Staff's opinion that these are two different scenarios with different considerations. The fact that staff would approve a reduced separation in Scenario 2, where it is not feasible to meet the code, does not inform the decision for Scenario 1, where compliance is feasible.

Finally, if the Planning Commission decides to grant the variance for the full development, staff recommends requiring the driveway to be right-in/right-out only. The applicant has previously offered this as an option, and staff agrees it would help mitigate the safety risks associated with a non-compliant separation distance.

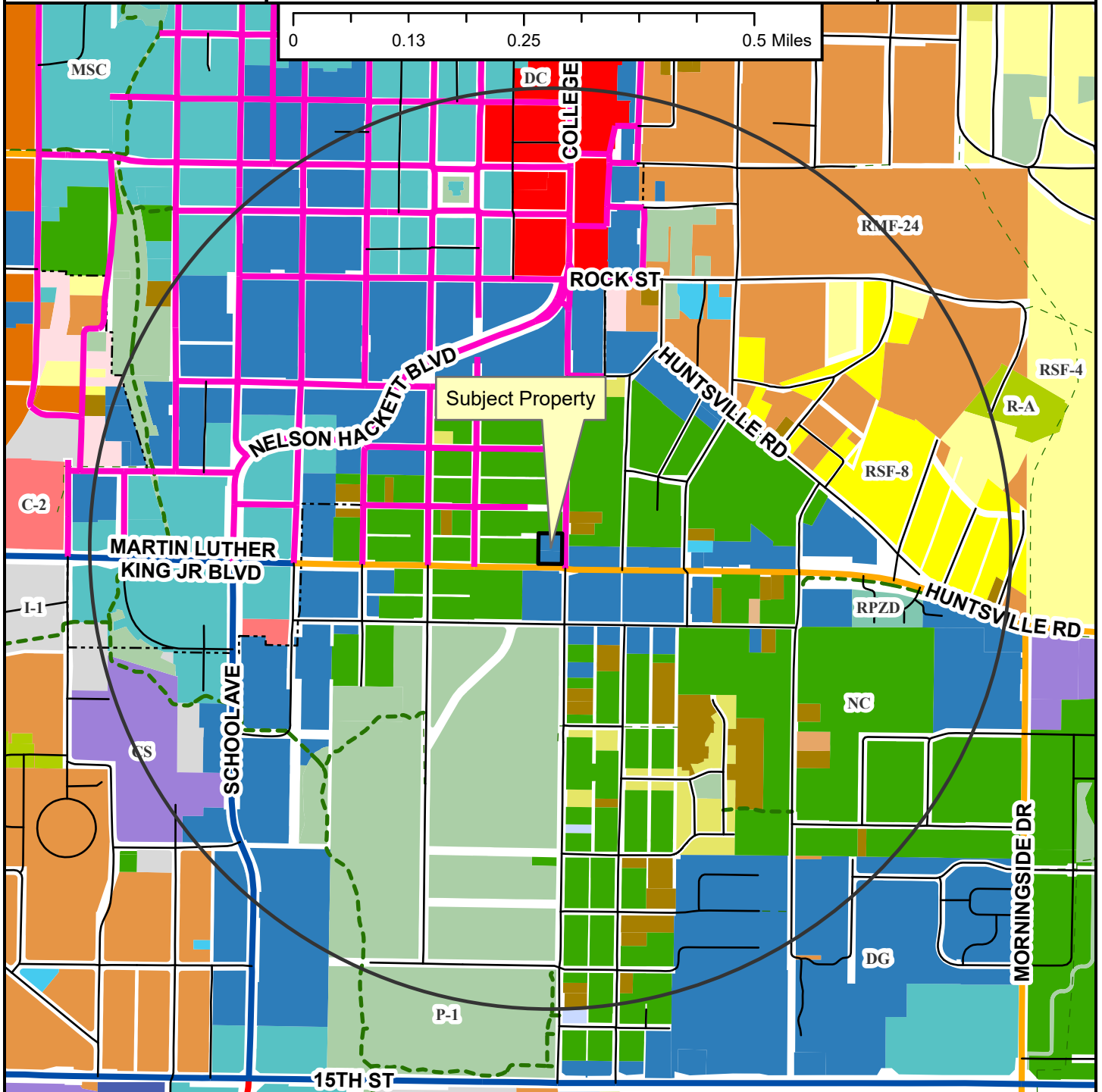
VAR-2025-0040

One Mile View

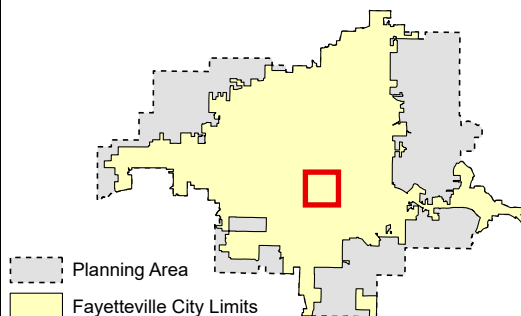
# E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE

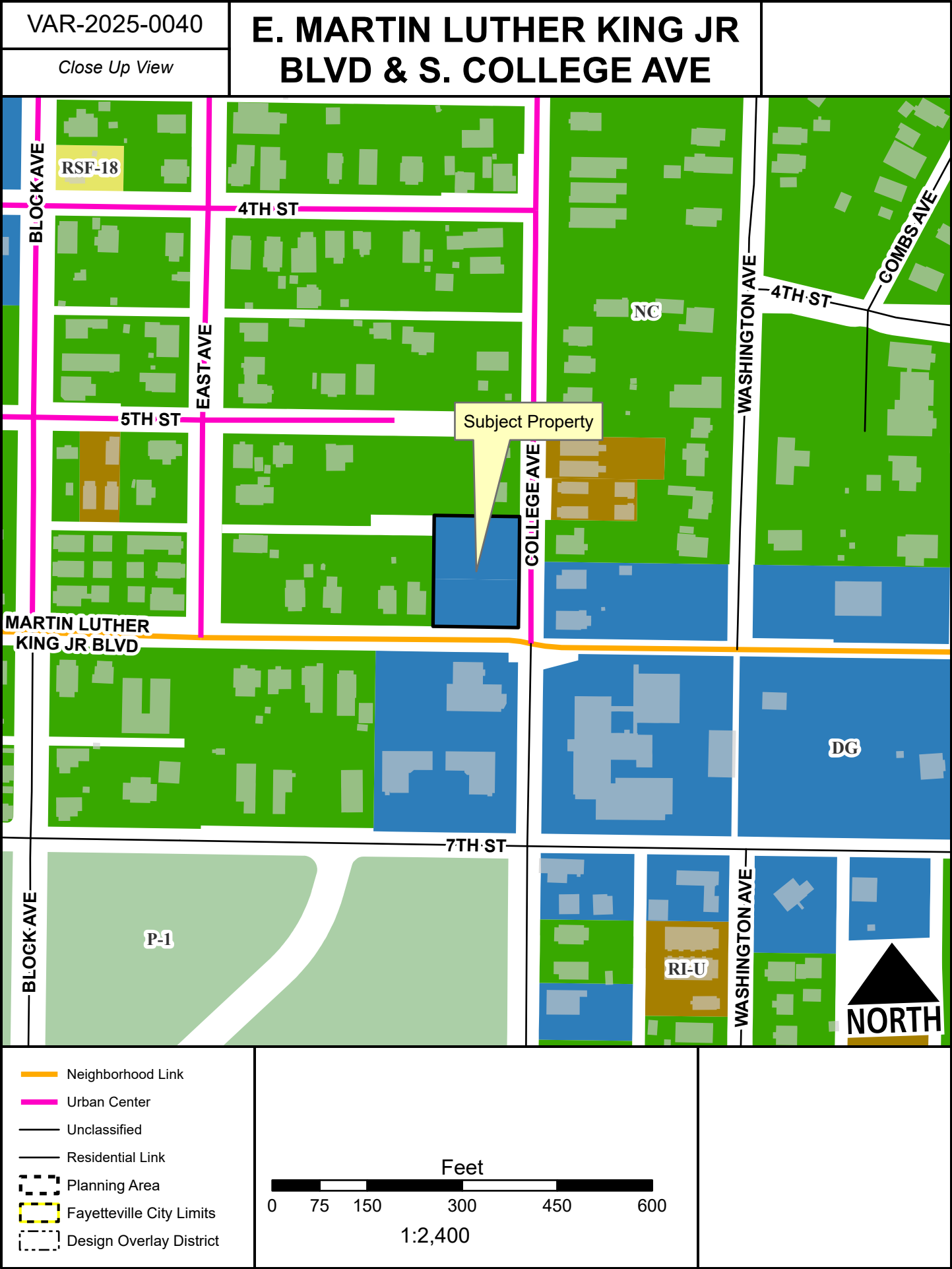


0 0.13 0.25 0.5 Miles



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



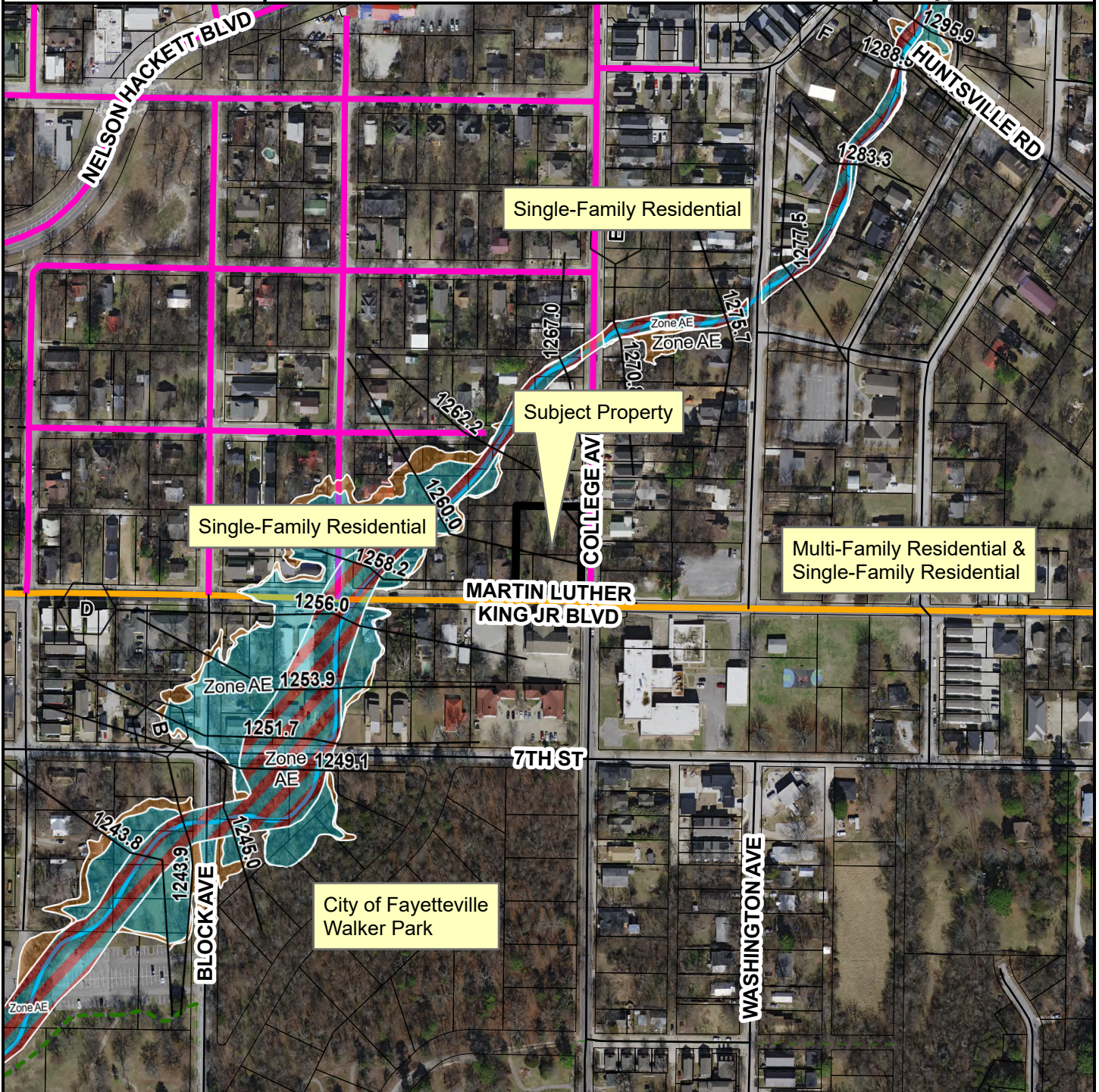




VAR-2025-0040

Current Land Use

# E. MARTIN LUTHER KING JR BLVD & S. COLLEGE AVE



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



## FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Zara Niederman  
3V Development LLC  
620 Bella Vista Rd  
Bentonville, AR 72712

**APPLICANT  
REQUEST  
LETTER**

8/12/25

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

RE: Variance Request – Driveway Separation Distance  
Property: 519 S College Avenue / MLK Boulevard

Dear Chair and Commissioners,

I am requesting a variance from the driveway access separation requirement in UDC §166.08(F) to allow the proposed driveway on the southeast corner parcel of 519 S College Avenue to remain in its current proposed location, which is within 100 feet of the MLK/College intersection. This driveway location is at the farthest western point on this parcel, maximizing the distance from the intersection and thus the most functionally safe location. This proposed driveway would be replacing the curb cuts on the property that currently exist at the corner on both MLK and S College Ave, as you can see from the photos below.

Project Background

This project is at the corner of MLK and S. College at the heart of the Walker Park Neighborhood and a central part of the Walker Park Neighborhood Master Plan, adopted in 2008. This corner lot had been the location of the Johnson Corner Store for many years prior to being closed up at about the time of the closure of Jefferson School diagonally across the street. One of the guiding principles of that Master Plan was to create Jefferson Square as the core of the neighborhood. Another guiding principle was to retain a balance of uses and housing, to allow for small scale neighborhood commercial activity. As such, the plan rezoned this lot from RSF-4 to Downtown General, allowing for commercial activity on this corner.

I have controlled this property for over 10 years, waiting for the right time to build, such that we could build a small commercial building to serve the neighborhood in a way that would reflect the character of the original building. I chose this rather than building student housing, which would be the easiest, and likely most lucrative option. I believe that now the time is right to build a small commercial building here, given all of the residential infill. I engaged with a local civil engineer, Brian Teague of Community by Design, who has designed numerous innovative



designs in Fayetteville, and in this neighborhood in particular. In addition I have engaged with a local Fayetteville architect, Rob Sharp, who has designed numerous iconic buildings in Fayetteville, and has served on numerous City boards and task forces involving housing, including the Fayetteville Planning Commission. In addition, before bringing them on, I previously sought out advice from other qualified architects to get their opinions on the site. Their sketches are included below, and show similar site designs with the driveway placed approximately where we have it in this plan. I write this to express that we have spent countless hours, and tens of thousands of dollars, designing something that would work well here. We have been working in earnest on this specific design since last November.

This corner lot development is a part of a three parcel development. We intend to have townhomes on the north lot. We will have 3 1-bedroom apartments on the S West lot. The commercial building in discussion here is on the SE lot. We had the option to put these all on separate permits. We chose to put this all on one permit, with an SIP so that all the staff could weigh in at one time and provide more coordination. The properties will remain on separate lots to optimize financing, while maintaining leasing and sales flexibility to separate rentals units from townhouse units from commercial buildings.

### Code Analysis

Prior to November of 2019, the City Development code stated that the Planning Commission **shall** grant a variance to the curb cut minimums at the safest functional location:

- (4) Variance. In order to protect the ingress and egress access rights to a street of an abutting property owner, a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property. Such a curb cut may be required to be shared with an adjoining parcel if feasible. If a parcel on the corner of an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.

In June of 2019 (Ordinance 6207), the the City Staff and Development Services director requested, and the City Council approved changes to the above code, giving the City Engineer the right to administratively approve these variances, given that:

*“The code is written such that existing curb cuts that cannot be brought into compliance must go through a Planning Commission variance process. This results in unnecessary delays in many cases because there is no feasible alternative to the existing curb cuts, and the variance must be approved because of a legal right of a property to access adjacent streets. In the last year, the Planning Commission has started putting most of the access management variances on their consent agenda.”*

This ordinance passed with unanimous consent of the City Council and was signed into law by Mayor Jordan.



The code was changed to:

- (4) *Reduction in Separation Distance.* In order to protect the ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.

After the Engineering department denied the location of the driveway after our permit submission, per Senior Assistant City Attorney Pennington, we requested an administrative variance from the City Engineer via 166.08(F)(4).

We have shown that:

- 1) strict compliance with this distance proves impractical for this corner lot;
- 2) we are providing joint access and cross access for the adjacent parcels; and
- 3) the ingress/egress curb cut is placed at the safest functional location along the property.

In addition, we offered a right-in/right-out only option. We were still rejected by the City Engineer yet denial here undermines the purpose of that amendment. We then notified the Engineering Department that should the City deny access here, that would be a regulatory taking (see below). Nevertheless we were still denied.

The Engineering staff acknowledges that had we submitted a permit for only one property at a time, they would have approved it. However, because we are providing the City with the opportunity to have cross collaboration, the Engineering Department is choosing to deny this request.

*"If you were to just develop the corner lot, this conversation changes. In that case we would recommend to push the drive as far west as is possible on the corner lot or provide a shared drive (even though this would be less than the 100' of separation mentioned in the code). However, the full development you submitted provides the opportunity for the driveway on the site to meet the minimum code requirement, which is all that we are requesting."*

The Engineering Department is not claiming that the driveway at this location is prohibitively unsafe. They are instead stating that they want us to move the driveway off of this property. What this is functionally doing is giving us incentive to break up all of our future projects into smaller bites to minimize any oversight and requirements by Engineering.

### Legal Precedents

This issue of driveway access rights has come up multiple times previously before the Planning Commission. In fact this issue has come up twice on West MLK Blvd. In 2017 the developer sought to have access directly onto the 5-lane Principal Arterial for Panera Bread despite having access on both sides of the property to lower class streets. In addition, there was a similar issue before the Planning Commission in 2012 for the Kum & Go on MLK by Hill St. Both of those access points were approved by the City Council on much wider and busier sections of MLK with the traffic moving much faster, and the future volume of cars on-site much greater. In both of these cases, the applicant had access on side streets as well. In both cases, the City Attorney's Office notified the Staff and Council of the developer's access rights based on State Law with precedents from the Arkansas Supreme Court. The full memo for the 2017 Panera Bread application is attached, but here are comments from Assistant City Attorney Pennington:

On Friday April 21, the Assistant City Attorney provided Planning staff with a memo (attached) citing case law and arriving at the following conclusion:

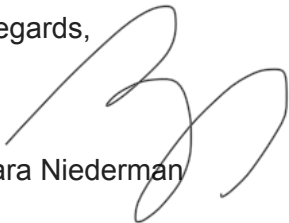
*"A blanket denial of Panera Bread's request for access to or from Martin Luther King, Jr. Blvd., even for important traffic safety issues and even though it has access by way of Eastern Avenue and South Arbuckle Lane, might be deemed a taking by a Court for which the City of Fayetteville would have to pay just compensation. "*

*As a result of this memo, City Planning Division staff modified their initial recommendation and advised the Planning Commission to approve a variance.*

Given that Arkansas State Law protects a property owner's ingress and egress rights, and in addition we have addressed all three issues of 166.08(F)(4), we request a variance to this access management standards.

Regards,

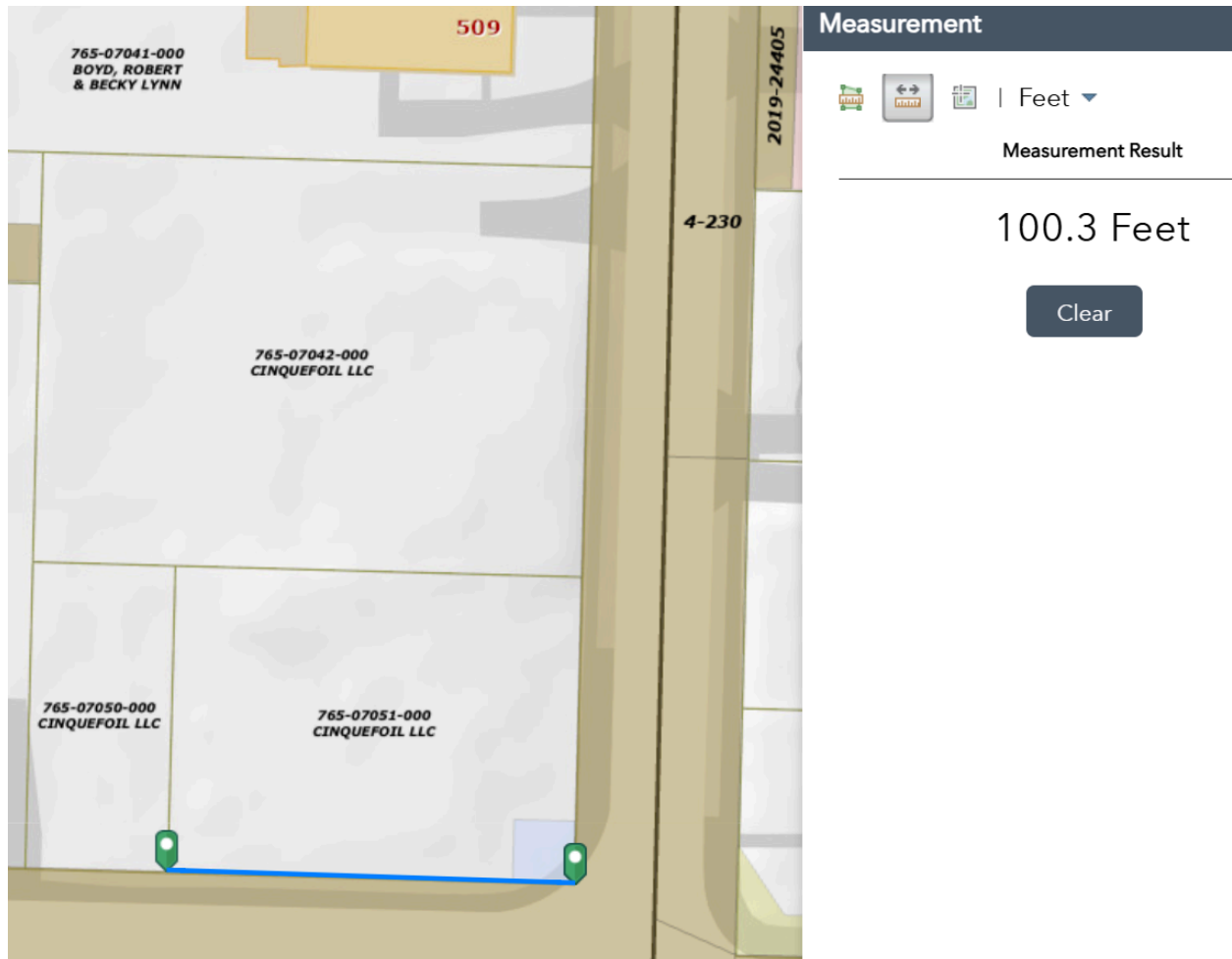
Zara Niederman





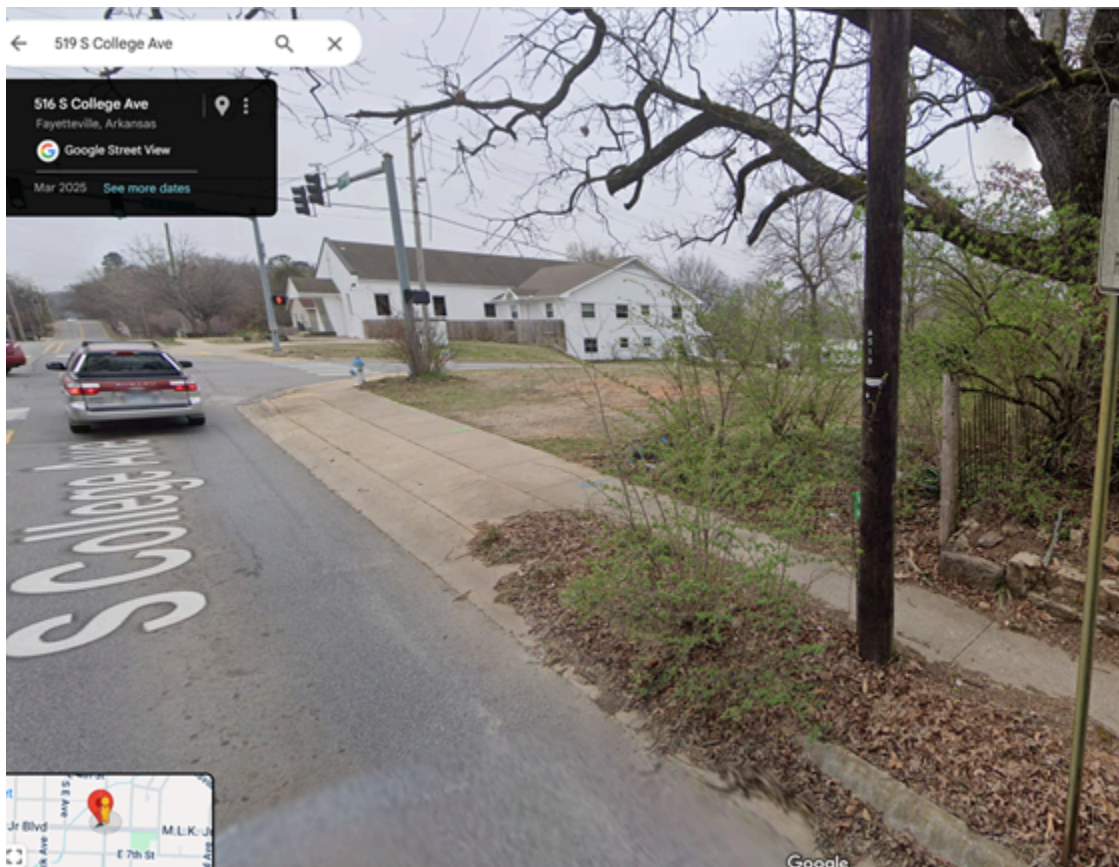
## Appendix 2: Property Lines

### Property Lines:



### **Appendix 3: Existing Curb Cuts**

**Current Curb Cuts:**







## Historic Curb Cuts: 2018



## Historic Curb Cuts: 2007





## Appendix 4: Conceptual Site Designs

### Final Conceptual Design: November 2024

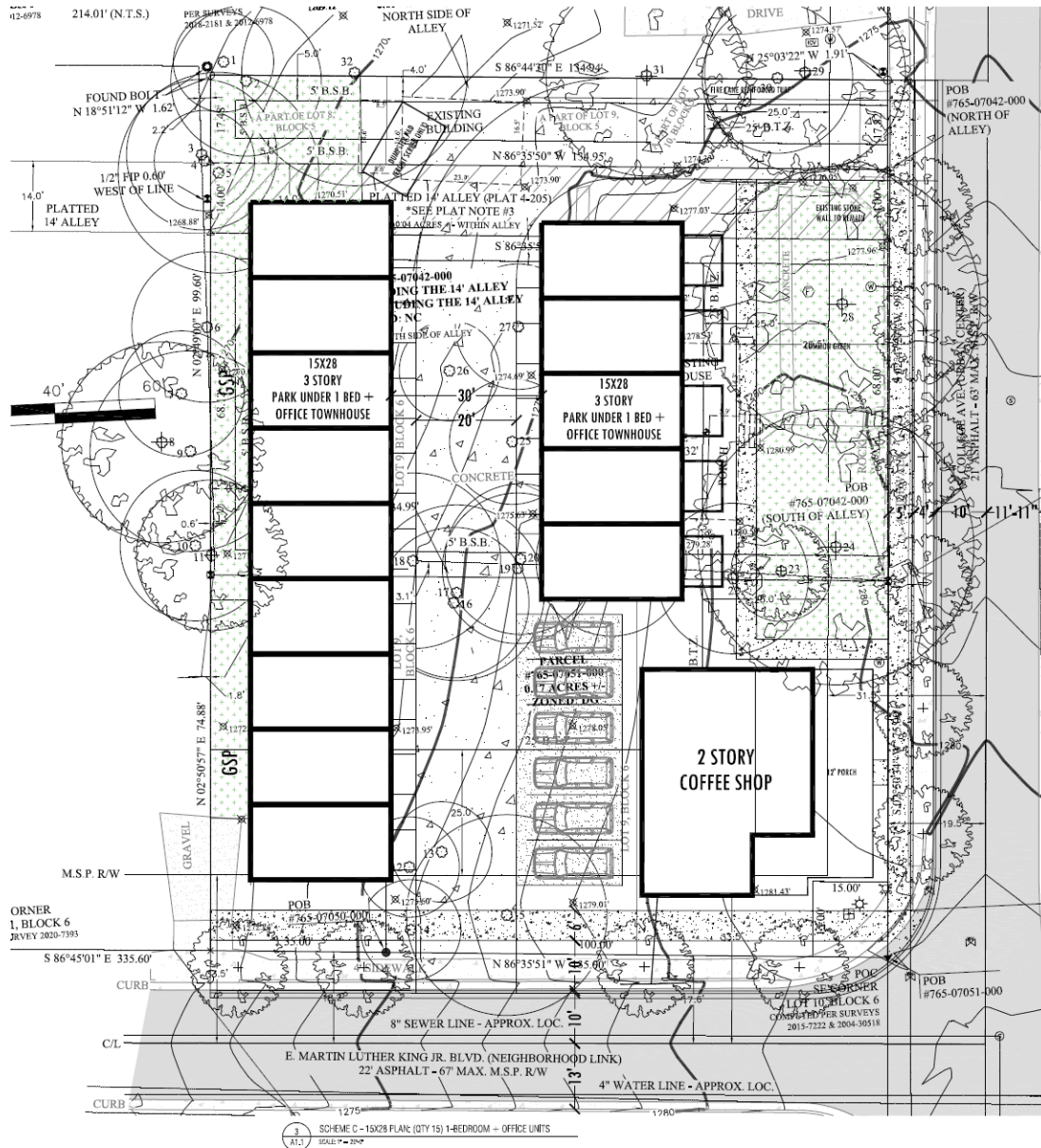


SITE CONCEPT DRAWING, JOHNSON STORE  
18 November, 2024 Scale: 1" = 20'



COURTYARD BUILDING & BLOCK LLC

# Conceptual Site Designs: August 2023



flintlock

529 N College Ave  
Fayetteville  
AR 72701  
T 479.305.4807  
www.flintlock.com

NO. Date Issues/Revised

NOT FOR CONSTRUCTION

515 + 519 S  
COLLEGE AV  
Fayetteville,  
Arkansas

INITIAL DEVELOPMENT CON

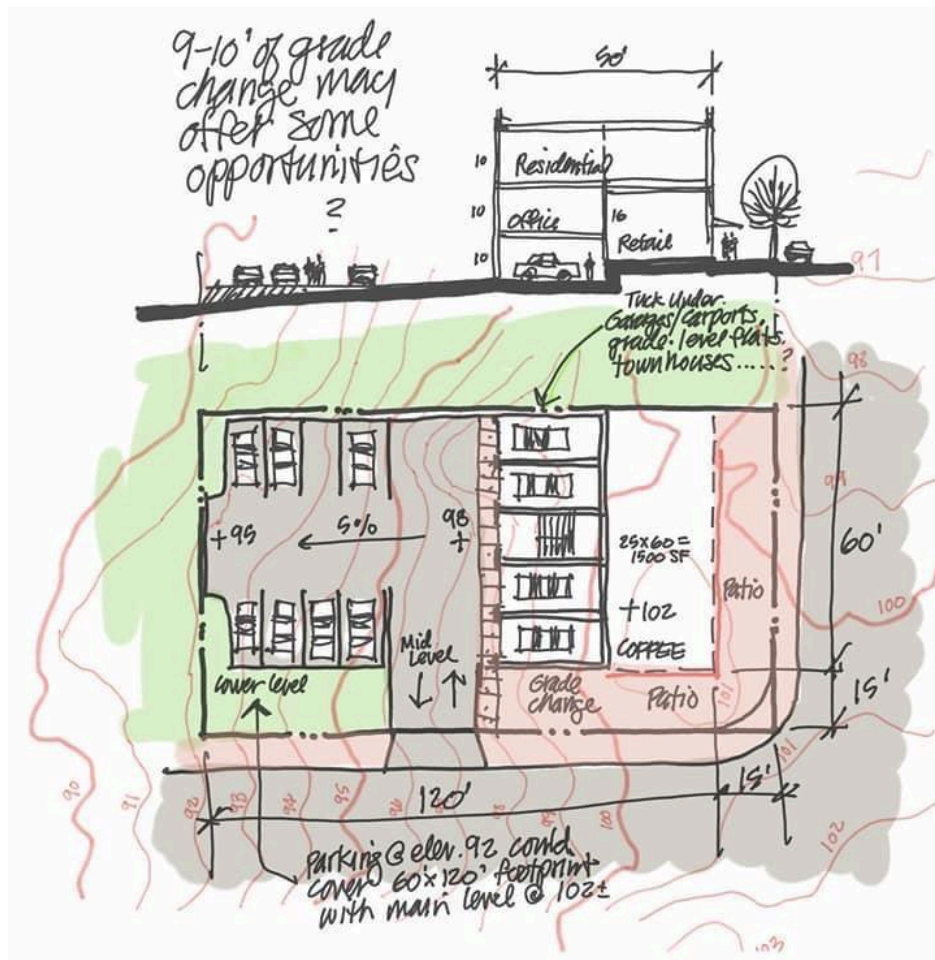
DRAWN BY:  
CHECKED BY:

FEASIBILITY  
STUDY

DATE: AUGUST 28, 2023  
SCALE:

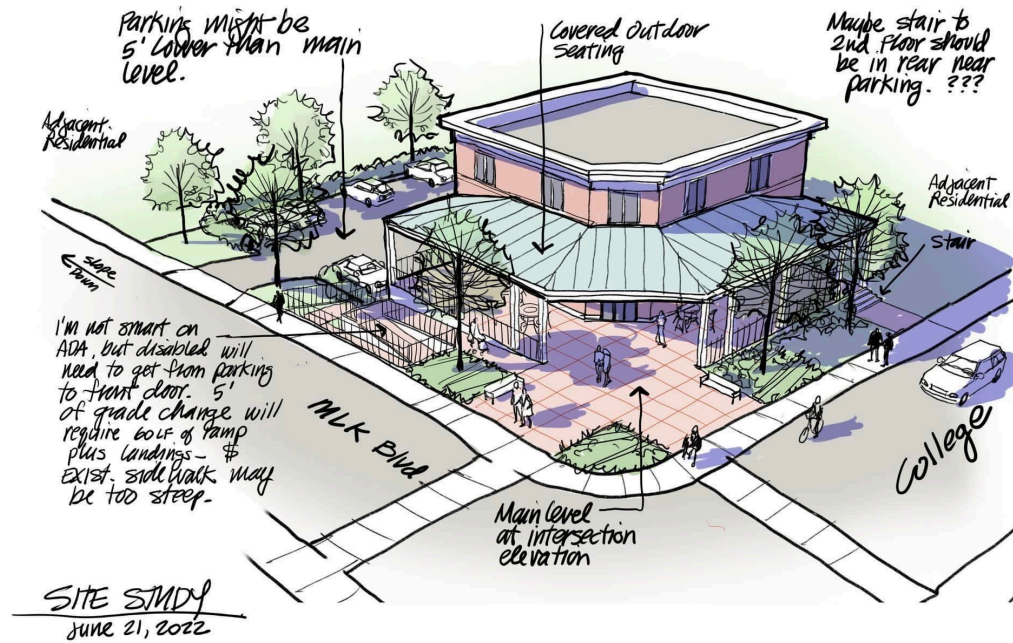
A1.10

## Conceptual Site Designs: August 2022

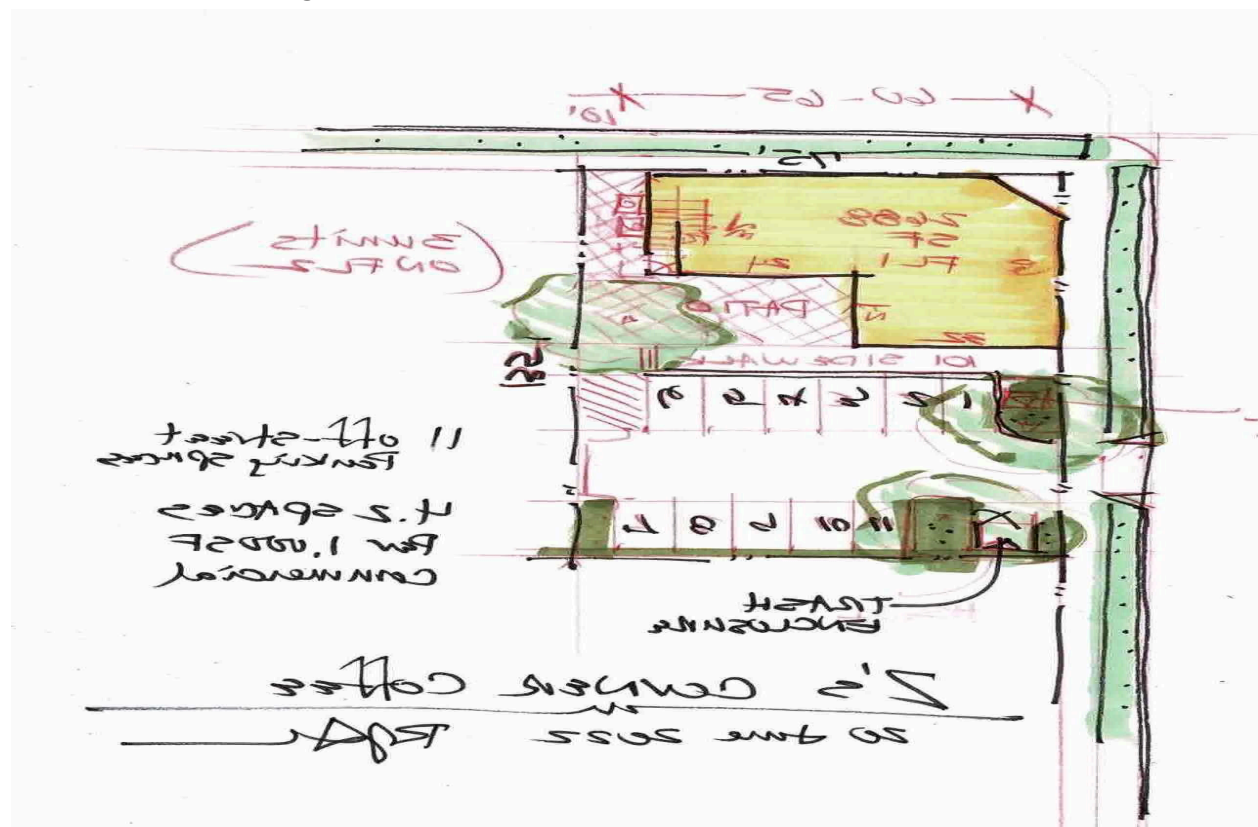




## Conceptual Site Design: June 2022



**Conceptual Site Design: June 2022 (was drawn in reverse)**





REVISION 0

|      |  |
|------|--|
| DATE |  |
| DATE |  |
| DATE |  |
| DATE |  |
| DATE |  |
| DATE |  |

JOHNSON STORE  
515 / 519  
S. COLLEGE AVE.

FAYETTEVILLE,  
WASHINGTON COUNTY,  
ARKANSAS

CITY PLAT PAGE 523

ISSUED FOR REVIEW

ENGINEER: BT  
DRAWN BY: AH  
DATE: 4/7/2025

SCALE: 1"=10'



SITE PLAN

SHEET 3

PROPERTY LOCATION / ADDRESS:

WASHINGTON COUNTY PARCELS: 765-0704-000  
765-0705-000, AND 765-0706-000  
515 S. COLLEGE AVE.  
FAYETTEVILLE, AR 72701  
CITY PLAT PAGE 523

DEVELOPER INFORMATION:

91020, LLC  
4600 JAWA WISDOM WAY  
BIRMINGHAM, AL 35242

REPRESENTATIVE INFORMATION:

MR. BRUNTEAGLE  
1000 CENTER STREET, SUITE 300  
FAYETTEVILLE, ARKANSAS 72701  
PHONE: 479-337-9172

FLOOD CERTIFICATION:

THIS PROJECT IS LOCATED IN AN UNDESIGNATED FLOOD HAZARD AREA AND HAS BEEN DETERMINED TO BE IN A FLOOD HAZARD AREA.

ON-SITE SOIL TYPES

THE SOIL IN THE PROJECTED FLOOD HAZARD AREA IS UNDESIGNATED FLOOD HAZARD AREA. SOILS ARE: UNDESIGNATED FLOOD HAZARD AREA.

ZONING AND SETBACKS

THIS PROPERTY IS ZONED DOWNTOWN GREEN, D03.

SETBACKS:  
FRONT: 0-25 FEET TO ZONE  
REAR: 5 OR 10 FEET FROM CENTERLINE OF AN ALLEY  
MINIMUM ALLEY STREET FRONTAGE REQUIRED: 50 PERCENT OF LOT FRONTAGE  
MINIMUM ALLEY STREET FRONTAGE PROVIDED: 50 PERCENT OF FRONTAGE  
FAYETTEVILLE, ARKANSAS: MASTER STREET (BLACK) SEPARATION  
E. MARTIN LUTHER KING JR. BLVD. (HIGHWAY 40) LINK

BOUNDARY DESCRIPTION

WASHINGTON COUNTY PARCELS: 765-0704-000, 765-0705-000, AND 765-0706-000, US 101 & 102A, 102B, 102C, 102D, 102E, 102F, 102G, 102H, 102I, 102J, 102K, 102L, 102M, 102N, 102O, 102P, 102Q, 102R, 102S, 102T, 102U, 102V, 102W, 102X, 102Y, 102Z, 103A, 103B, 103C, 103D, 103E, 103F, 103G, 103H, 103I, 103J, 103K, 103L, 103M, 103N, 103O, 103P, 103Q, 103R, 103S, 103T, 103U, 103V, 103W, 103X, 103Y, 103Z, 104A, 104B, 104C, 104D, 104E, 104F, 104G, 104H, 104I, 104J, 104K, 104L, 104M, 104N, 104O, 104P, 104Q, 104R, 104S, 104T, 104U, 104V, 104W, 104X, 104Y, 104Z, 105A, 105B, 105C, 105D, 105E, 105F, 105G, 105H, 105I, 105J, 105K, 105L, 105M, 105N, 105O, 105P, 105Q, 105R, 105S, 105T, 105U, 105V, 105W, 105X, 105Y, 105Z, 106A, 106B, 106C, 106D, 106E, 106F, 106G, 106H, 106I, 106J, 106K, 106L, 106M, 106N, 106O, 106P, 106Q, 106R, 106S, 106T, 106U, 106V, 106W, 106X, 106Y, 106Z, 107A, 107B, 107C, 107D, 107E, 107F, 107G, 107H, 107I, 107J, 107K, 107L, 107M, 107N, 107O, 107P, 107Q, 107R, 107S, 107T, 107U, 107V, 107W, 107X, 107Y, 107Z, 108A, 108B, 108C, 108D, 108E, 108F, 108G, 108H, 108I, 108J, 108K, 108L, 108M, 108N, 108O, 108P, 108Q, 108R, 108S, 108T, 108U, 108V, 108W, 108X, 108Y, 108Z, 109A, 109B, 109C, 109D, 109E, 109F, 109G, 109H, 109I, 109J, 109K, 109L, 109M, 109N, 109O, 109P, 109Q, 109R, 109S, 109T, 109U, 109V, 109W, 109X, 109Y, 109Z, 110A, 110B, 110C, 110D, 110E, 110F, 110G, 110H, 110I, 110J, 110K, 110L, 110M, 110N, 110O, 110P, 110Q, 110R, 110S, 110T, 110U, 110V, 110W, 110X, 110Y, 110Z, 111A, 111B, 111C, 111D, 111E, 111F, 111G, 111H, 111I, 111J, 111K, 111L, 111M, 111N, 111O, 111P, 111Q, 111R, 111S, 111T, 111U, 111V, 111W, 111X, 111Y, 111Z, 112A, 112B, 112C, 112D, 112E, 112F, 112G, 112H, 112I, 112J, 112K, 112L, 112M, 112N, 112O, 112P, 112Q, 112R, 112S, 112T, 112U, 112V, 112W, 112X, 112Y, 112Z, 113A, 113B, 113C, 113D, 113E, 113F, 113G, 113H, 113I, 113J, 113K, 113L, 113M, 113N, 113O, 113P, 113Q, 113R, 113S, 113T, 113U, 113V, 113W, 113X, 113Y, 113Z, 114A, 114B, 114C, 114D, 114E, 114F, 114G, 114H, 114I, 114J, 114K, 114L, 114M, 114N, 114O, 114P, 114Q, 114R, 114S, 114T, 114U, 114V, 114W, 114X, 114Y, 114Z, 115A, 115B, 115C, 115D, 115E, 115F, 115G, 115H, 115I, 115J, 115K, 115L, 115M, 115N, 115O, 115P, 115Q, 115R, 115S, 115T, 115U, 115V, 115W, 115X, 115Y, 115Z, 116A, 116B, 116C, 116D, 116E, 116F, 116G, 116H, 116I, 116J, 116K, 116L, 116M, 116N, 116O, 116P, 116Q, 116R, 116S, 116T, 116U, 116V, 116W, 116X, 116Y, 116Z, 117A, 117B, 117C, 117D, 117E, 117F, 117G, 117H, 117I, 117J, 117K, 117L, 117M, 117N, 117O, 117P, 117Q, 117R, 117S, 117T, 117U, 117V, 117W, 117X, 117Y, 117Z, 118A, 118B, 118C, 118D, 118E, 118F, 118G, 118H, 118I, 118J, 118K, 118L, 118M, 118N, 118O, 118P, 118Q, 118R, 118S, 118T, 118U, 118V, 118W, 118X, 118Y, 118Z, 119A, 119B, 119C, 119D, 119E, 119F, 119G, 119H, 119I, 119J, 119K, 119L, 119M, 119N, 119O, 119P, 119Q, 119R, 119S, 119T, 119U, 119V, 119W, 119X, 119Y, 119Z, 120A, 120B, 120C, 120D, 120E, 120F, 120G, 120H, 120I, 120J, 120K, 120L, 120M, 120N, 120O, 120P, 120Q, 120R, 120S, 120T, 120U, 120V, 120W, 120X, 120Y, 120Z, 121A, 121B, 121C, 121D, 121E, 121F, 121G, 121H, 121I, 121J, 121K, 121L, 121M, 121N, 121O, 121P, 121Q, 121R, 121S, 121T, 121U, 121V, 121W, 121X, 121Y, 121Z, 122A, 122B, 122C, 122D, 122E, 122F, 122G, 122H, 122I, 122J, 122K, 122L, 122M, 122N, 122O, 122P, 122Q, 122R, 122S, 122T, 122U, 122V, 122W, 122X, 122Y, 122Z, 123A, 123B, 123C, 123D, 123E, 123F, 123G, 123H, 123I, 123J, 123K, 123L, 123M, 123N, 123O, 123P, 123Q, 123R, 123S, 123T, 123U, 123V, 123W, 123X, 123Y, 123Z, 124A, 124B, 124C, 124D, 124E, 124F, 124G, 124H, 124I, 124J, 124K, 124L, 124M, 124N, 124O, 124P, 124Q, 124R, 124S, 124T, 124U, 124V, 124W, 124X, 124Y, 124Z, 125A, 125B, 125C, 125D, 125E, 125F, 125G, 125H, 125I, 125J, 125K, 125L, 125M, 125N, 125O, 125P, 125Q, 125R, 125S, 125T, 125U, 125V, 125W, 125X, 125Y, 125Z, 126A, 126B, 126C, 126D, 126E, 126F, 126G, 126H, 126I, 126J, 126K, 126L, 126M, 126N, 126O, 126P, 126Q, 126R, 126S, 126T, 126U, 126V, 126W, 126X, 126Y, 126Z, 127A, 127B, 127C, 127D, 127E, 127F, 127G, 127H, 127I, 127J, 127K, 127L, 127M, 127N, 127O, 127P, 127Q, 127R, 127S, 127T, 127U, 127V, 127W, 127X, 127Y, 127Z, 128A, 128B, 128C, 128D, 128E, 128F, 128G, 128H, 128I, 128J, 128K, 128L, 128M, 128N, 128O, 128P, 128Q, 128R, 128S, 128T, 128U, 128V, 128W, 128X, 128Y, 128Z, 129A, 129B, 129C, 129D, 129E, 129F, 129G, 129H, 129I, 129J, 129K, 129L, 129M, 129N, 129O, 129P, 129Q, 129R, 129S, 129T, 129U, 129V, 129W, 129X, 129Y, 129Z, 130A, 130B, 130C, 130D, 130E, 130F, 130G, 130H, 130I, 130J, 130K, 130L, 130M, 130N, 130O, 130P, 130Q, 130R, 130S, 130T, 130U, 130V, 130W, 130X, 130Y, 130Z, 131A, 131B, 131C, 131D, 131E, 131F, 131G, 131H, 131I, 131J, 131K, 131L, 131M, 131N, 131O, 131P, 131Q, 131R, 131S, 131T, 131U, 131V, 131W, 131X, 131Y, 131Z, 132A, 132B, 132C, 132D, 132E, 132F, 132G, 132H, 132I, 132J, 132K, 132L, 132M, 132N, 132O, 132P, 132Q, 132R, 132S, 132T, 132U, 132V, 132W, 132X, 132Y, 132Z, 133A, 133B, 133C, 133D, 133E, 133F, 133G, 133H, 133I, 133J, 133K, 133L, 133M, 133N, 133O, 133P, 133Q, 133R, 133S, 133T, 133U, 133V, 133W, 133X, 133Y, 133Z, 134A, 134B, 134C, 134D, 134E, 134F, 134G, 134H, 134I, 134J, 134K, 134L, 134M, 134N, 134O, 134P, 134Q, 134R, 134S, 134T, 134U, 134V, 134W, 134X, 134Y, 134Z, 135A, 135B, 135C, 135D, 135E, 135F, 135G, 135H, 135I, 135J, 135K, 135L, 135M, 135N, 135O, 135P, 135Q, 135R, 135S, 135T, 135U, 135V, 135W, 135X, 135Y, 135Z, 136A, 136B, 136C, 136D, 136E, 136F, 136G, 136H, 136I, 136J, 136K, 136L, 136M, 136N, 136O, 136P, 136Q, 136R, 136S, 136T, 136U, 136V, 136W, 136X, 136Y, 136Z, 137A, 137B, 137C, 137D, 137E, 137F, 137G, 137H, 137I, 137J, 137K, 137L, 137M, 137N, 137O, 137P, 137Q, 137R, 137S, 137T, 137U, 137V, 137W, 137X, 137Y, 137Z, 138A, 138B, 138C, 138D, 138E, 138F, 138G, 138H, 138I, 138J, 138K, 138L, 138M, 138N, 138O, 138P, 138Q, 138R, 138S, 138T, 138U, 138V, 138W, 138X, 138Y, 138Z, 139A, 139B, 139C, 139D, 139E, 139F, 139G, 139H, 139I, 139J, 139K, 139L, 139M, 139N, 139O, 139P, 139Q, 139R, 139S, 139T, 139U, 139V, 139W, 139X, 139Y, 139Z, 140A, 140B, 140C, 140D, 140E, 140F, 140G, 140H, 140I, 140J, 140K, 140L, 140M, 140N, 140O, 140P, 140Q, 140R, 140S, 140T, 140U, 140V, 140W, 140X, 140Y, 140Z, 141A, 141B, 141C, 141D, 141E, 141F, 141G, 141H, 141I, 141J, 141K, 141L, 141M, 141N, 141O, 141P, 141Q, 141R, 141S, 141T, 141U, 141V, 141W, 141X, 141Y, 141Z, 142A, 142B, 142C, 142D, 142E, 142F, 142G, 142H, 142I, 142J, 142K, 142L, 142M, 142N, 142O, 142P, 142Q, 142R, 142S, 142T, 142U, 142V, 142W, 142X, 142Y, 142Z, 143A, 143B, 143C, 143D, 143E, 143F, 143G, 143H, 143I, 143J, 143K, 143L, 143M, 143N, 143O, 143P, 143Q, 143R, 143S, 143T, 143U, 143V, 143W, 143X, 143Y, 143Z, 144A, 144B, 144C, 144D, 144E, 144F, 144G, 144H, 144I, 144J, 144K, 144L, 144M, 144N, 144O, 144P, 144Q, 144R, 144S, 144T, 144U, 144V, 144W, 144X, 144Y, 144Z, 145A, 145B, 145C, 145D, 145E, 145F, 145G, 145H, 145I, 145J, 145K, 145L, 145M, 145N, 145O, 145P, 145Q, 145R, 145S, 145T, 145U, 145V, 145W, 145X, 145Y, 145Z, 146A, 146B, 146C, 146D, 146E, 146F, 146G, 146H, 146I, 146J, 146K, 146L, 146M, 146N, 146O, 146P, 146Q, 146R, 146S, 146T, 146U, 146V, 146W, 146X, 146Y, 146Z, 147A, 147B, 147C, 147D, 147E, 147F, 147G, 147H, 147I, 147J, 147K, 147L, 147M, 147N, 147O, 147P, 147Q, 147R, 147S, 147T, 147U, 147V, 147W, 147X, 147Y, 147Z, 148A, 148B, 148C, 148D, 148E, 148F, 148G, 148H, 148I, 148J, 148K, 148L, 148M, 148N, 148O, 148P, 148Q, 148R, 148S, 148T, 148U, 148V, 148W, 148X, 148Y, 148Z, 149A, 149B, 149C, 149D, 149E, 149F, 149G, 149H, 149I, 149J, 149K, 149L, 149M, 149N, 149O, 149P, 149Q, 149R, 149S, 149T, 149U, 149V, 149W, 149X, 149Y, 149Z, 150A, 150B, 150C, 150D, 150E, 150F, 150G, 150H, 150I, 150J, 150K, 150L, 150M, 150N, 150O, 150P, 150Q, 150R, 150S, 150T, 150U, 150V, 150W, 150X, 150Y, 150Z, 151A, 151B, 151C, 151D, 151E, 151F, 151G, 151H, 151I, 151J, 151K, 151L, 151M, 151N, 151O, 151P, 151Q, 151R, 151S, 151T, 151U, 151V, 151W, 151X, 151Y, 151Z, 152A, 152B, 152C, 152D, 152E, 152F, 152G, 152H, 152I, 152J, 152K, 152L, 152M, 152N, 152O, 152P, 152Q, 152R, 152S, 152T, 152U, 152V, 152W, 152X, 152Y, 152Z, 153A, 153B, 153C, 153D, 153E, 153F, 153G, 153H, 153I, 153J, 153K, 153L, 153M, 153N, 153O, 153P, 153Q, 153R, 153S, 153T, 153U, 153V, 153W, 153X, 153Y, 153Z, 154A, 154B, 154C, 154D, 154E, 154F, 154G, 154H, 154I, 154J, 154K, 154L, 154M, 154N, 154O, 154P, 154Q, 154R, 154S, 154T, 154U, 154V, 154W, 154X, 154Y, 154Z, 155A, 155B, 155C, 155D, 155E, 155F, 155G, 155H, 155I, 155J, 155K, 155L, 155M, 155N, 155O, 155P, 155Q, 155R, 155S, 155T, 155U, 155V, 155W, 155X, 155Y, 155Z, 156A, 156B, 156C, 156D, 156E, 156F, 156G, 156H, 156I, 156J, 156K, 156L, 156M, 156N, 156O, 156P, 156Q, 156R, 156S, 156T, 156U, 156V, 156W, 156X, 156Y, 156Z, 157A, 157B, 157C, 157D, 157E, 157F, 157G, 157H, 157I, 157J, 157K, 157L, 157M, 157N, 157O, 157P, 157Q, 157R, 157S, 157T, 157U, 157V, 157W, 157X, 157Y, 157Z, 158A, 158B, 158C, 158D, 158E, 158F, 158G, 158H, 158I, 158J, 158K, 158L, 158M, 158N, 158O, 158P, 158Q, 158R, 158S, 158T, 158U, 158V, 158W, 158X, 158Y, 158Z, 159A, 159B, 159C, 159D, 159E, 159F, 159G, 159H, 159I, 159J, 159K, 159L, 159M, 159N, 159O, 159P, 159Q, 159R, 159S, 159T, 159U, 159V, 159W, 159X, 159Y, 159Z, 160A, 160B, 160C, 160D, 160E, 160F, 160G, 160H, 160I, 160J, 160K, 160L, 160M, 160N, 160O, 160P, 160Q, 160R, 160S, 160T, 160U, 160V, 160W, 160X, 160Y, 160Z, 161A, 161B, 161C, 161D, 161E, 161F, 161G, 161H, 161I, 161J, 161K, 161L, 161M, 161N, 161O, 161P, 161Q, 161R, 161S, 161T, 161U, 161V, 161W, 161X, 161Y, 161Z, 162A, 162B, 162C, 162D, 162E, 162F, 162G, 162H, 162I, 162J, 162K, 162L, 162M, 162N, 162O, 162P, 162Q, 162R, 162S, 162T, 162U, 162V, 162W, 162X, 162Y, 162Z, 163A, 163B, 163C, 163D, 163E, 163F, 163G, 163H, 163I, 163J, 163K, 163L, 163M, 163N, 163O, 163P, 163Q, 163R, 163S, 163T, 163U, 163V, 163W, 163X, 163Y, 163Z, 164A, 164B, 164C, 164D, 164E, 164F, 164G, 164H, 164I, 164J, 164K, 164L, 164M, 164N, 164O, 164P, 164Q, 164R, 164S, 164T, 164U, 164V, 164W, 164X, 164Y, 164Z, 165A, 165B, 165C, 165D, 165E, 165F, 165G, 165H, 165I, 165J, 165K, 165L, 165M, 165N, 165O, 165P, 165Q, 165R, 165S, 165T, 165U, 165V, 165W, 165X, 165Y, 165Z, 166A, 166B, 166C, 166D, 166E, 166F, 166G, 166H, 166I, 166J, 166K, 166L, 166M, 166N, 166O, 166P, 166Q, 166R, 166S, 166T, 166U, 166V, 166W, 166X, 166Y, 166Z, 167A, 167B, 167C, 167D, 167E, 167F, 167G, 167H, 167I, 167J, 167K, 167L, 167M, 167N, 167O, 167P, 167Q, 167R, 167S, 167T, 167U, 167V, 167W, 167X, 167Y, 167Z, 168A, 168B, 168C, 168D, 168E, 168F, 168G, 168H, 168I, 168J, 168K, 168L, 168M, 168N, 168O, 168P, 168Q, 168R, 168S, 168T, 168U, 168V, 168W, 168X, 168Y, 168Z, 169A, 169B, 169C, 169D, 169E, 169F, 169G, 169H, 169I, 169J, 169K, 169L, 169M, 169N, 169O, 169P, 169Q, 169R, 169S, 169T, 169U, 169V, 169W, 169X, 169Y, 169Z, 170A, 170B, 170C, 170D, 170E, 170F, 170G, 170H, 170I, 170J, 170K, 170L, 170M, 170N, 170O, 170P, 170Q, 170R, 170S, 170T, 170U, 17

**APPLICANT  
EXHIBIT****City of Fayetteville Staff Review Form****2019-0359****Legistar File ID****7/16/2019****City Council Meeting Date - Agenda Item Only**  
N/A for Non-Agenda Item

Garner Stoll

4/9/2019

DEVELOPMENT SERVICES (620)

**Submitted By****Submitted Date****Division / Department****Action Recommendation:**

19-6724 Administrative Item (Amend UDC chapter 166.08: Access Management): Submitted by the Development Services Department for revisions to UDC Chapter 166. The proposed code changes would modify the applicability, access management, and nonconforming access features subsections.

**Budget Impact:**

Account Number

Fund

Project Number

Project Title

**Budgeted Item?** NA

Current Budget

\$ -

Funds Obligated

\$ -

Current Balance

\$ -

**Does item have a cost?** No

Item Cost

**Budget Adjustment Attached?** NA

Budget Adjustment

Remaining Budget

\$ -

V20180321

**Purchase Order Number:** \_\_\_\_\_**Previous Ordinance or Resolution #** \_\_\_\_\_**Change Order Number:** \_\_\_\_\_**Approval Date:** \_\_\_\_\_**Original Contract Number:** \_\_\_\_\_**Comments:**



## CITY COUNCIL AGENDA MEMO

### MEETING OF JULY 16, 2019

**TO:** Mayor and City Council

**THRU:** Don Marr, Chief of Staff

**FROM:** Garner Stoll, Development Services Director  
Andrew Garner, City Planning Director

**DATE:** June 10, 2018

**SUBJECT:** **19-6724 Administrative Item (Amend UDC chapter 166.08: Access Management):** Submitted by the Development Services Department for revisions to UDC Chapter 166. The proposed code changes would modify the applicability, access management, and nonconforming access features subsections.

---

### RECOMMENDATION:

Staff recommends approval of a text amendment to 166.08 (Access Management) of the Unified Development Code to modify the applicability, access management, and nonconforming access features subsections.

### BACKGROUND:

Over the last several years, the City has heard from property owners, developers, staff, Planning Commission, and City Council, that the access management portion of the Unified Development Code is too strict and discourages renovation and improvements to existing structures. The code is written such that existing curb cuts that cannot be brought into compliance must go through a Planning Commission variance process. This results in unnecessary delays in many cases because there is no feasible alternative to the existing curb cuts, and the variance must be approved because of a legal right of a property to access adjacent streets. In the last year, the Planning Commission has started putting most of the access management variances on their consent agenda.

### DISCUSSION:

The City Planning Division has drafted code changes to clarify that the access management code applies to new primary structures and expansions to existing structures; it does not apply to renovations. The proposed code changes also allow the City Engineer to approve a curb cut separation of less than the minimum, provided that joint access driveways and cross access easements are provided wherever feasible, and that the curb cut is at the safest functional location. This technical determination is most appropriately made by the City Engineer and avoids the delay of a Planning Commission variance that must be approved to allow a property owner access rights to an adjacent public street. This proposed code change has not been presented to the Planning Commission or other appointed body.

*Request:* Staff requests that the City Council amend Fayetteville Unified Development Code Chapter 166.08 Access Management. The code changes are generally described above and shown in the attached strikeout-highlight and clean versions of the code.

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Proposed code changes shown in strikeout and clean version



## 166.08 - Street Design And Access Management Standards

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- (B) *Fitness for Development.* Based on topographic maps, soil surveys prepared by the Department of Agriculture and drainage information from the Future Land Use Plan and the Hillside/Hilltop Overlay District, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property.
- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed with new primary structures or redeveloped and all other development where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).
- (D) *Street Design Principles.*
- (1) Extensions. All street extensions shall be constructed to minimum street standards. Street extension stub-outs to adjacent properties are required to meet block layout/connectivity standards unless existing development or physical barriers prohibit such.
  - (2) Substandard Widths. Developments that adjoin existing streets shall dedicate additional right-of-way to meet the Master Street Plan.
  - (3) Street Names. Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names shall not duplicate or be similar to existing street names. Developers shall coordinate the naming of new streets through the GIS Office during the plat review process.
  - (4) Pedestrian. Pedestrian-vehicular conflict points should be controlled through signalized intersections and

proven traffic calming design principles.

- (5) Street Standards. All street requirements shall be met as set forth in the City of Fayetteville Master Street Plan and adopted minimum street standards.

(E) *Block Layout/Connectivity.*

- (1) Block Length. Block lengths and street intersections are directly tied to the functional hierarchy of the street pattern that exists or is proposed.
  - (a) Principal and Minor Arterial Streets. Signalized intersections should be located at a minimum of one every 2,640 feet (half a mile) along principal and minor arterials and should be based on traffic warrants.
  - (b) Collectors. Intersections should be located at a minimum of one every 1,320 feet (quarter of a mile) along collector streets.
  - (c) Local and Residential. Intersections shall occur at a minimum of one every 660 feet.
  - (d) Variances. Block length standards may be varied by the Planning Commission when terrain, topographical features, existing barriers or streets, size or shape of the lot, or other unusual conditions justify a departure.
- (2) With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted or discouraged roadways such as expressways or arterials. Alleys are not considered as frontage. Double frontage lots may also be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots.
- (3) Connectivity. Wherever a proposed development abuts undeveloped land,

street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.

- (4) Topography. Local streets should be designed to relate to the existing topography and minimize the disturbance zone.
  - (5) Dead-End Streets. Dead end streets are discouraged and should only be used in situations where they are needed for design and development efficiency, reduction of necessary street paving, or where proximity to floodplains, creeks, difficult topography or existing barriers warrant their use. All dead end streets shall end in a cul-de-sac with a radius of 50 feet, or an alternative design approved by the city and the Fire Department. The maximum length of a dead end street (without a street stub-out) shall be 500 feet.
- (F) *Access Management*. Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one public street shall place a higher priority on accessing the street with the lowest functional classification, ex. local and collector. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.
- (1) Curb Cut Separation. For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be

a minimum of 5 feet from the adjoining property line, unless shared.

- (2) Separation for two (2) family, three (3) family, multi-family and nonresidential development.
  - (a) Principal and Minor Arterial Streets. 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 arterial streets shall be shared between two (2) or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection or driveway.
  - (b) Collector Streets. Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along collector streets shall be shared between two or more lots.
  - (c) Local and Residential Streets. 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.
- (3) Separation for Single-Family Homes.
  - (a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. Driveways serving corner lots shall be located as far from the street intersection as possible while still meeting a 5-foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.
  - (b) Arterial and Collector Streets. Individual curb cuts for along arterial and collector streets shall be discouraged. When necessary, curb cuts along arterial and collector streets shall be shared between two (2) or more lots.
- (4) ~~Variance~~ Reduction in separation distance. In order to protect the

ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property. ~~a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property. Such a curb cut may be required to be shared with an adjoining parcel if feasible. If a parcel on the corner of an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.~~

to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

- (5) Speed. All streets should be designed to discourage excessive speeds.

(G) Non-Conforming Access Features.

- (1) Existing. Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:

- (a) When new access connection permits are requested;
- (b) Upon expansion or improvements greater than 50% of the property's appraised or market value as established by the Washington County Assessor.
- (c) As roadway improvements allow;
- (d) With development of a new primary structure on the property.

- (H) Easements. Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary

**166.08 - Street Design And Access  
Management Standards**

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- (B) *Fitness for Development.* Based on topographic maps, soil surveys prepared by the Department of Agriculture and drainage information from the Future Land Use Plan and the Hillside/Hilltop Overlay District, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property.
- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed with new primary structures and all other development where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).
- (D) *Street Design Principles.*
  - (1) Extensions. All street extensions shall be constructed to minimum street standards. Street extension stub-outs to adjacent properties are required to meet block layout/connectivity standards unless existing development or physical barriers prohibit such.
  - (2) Substandard Widths. Developments that adjoin existing streets shall dedicate additional right-of-way to meet the Master Street Plan.
  - (3) Street Names. Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names shall not duplicate or be similar to existing street names. Developers shall coordinate the naming of new streets through the GIS Office during the plat review process.
  - (4) Pedestrian. Pedestrian-vehicular conflict points should be controlled through signalized intersections and

proven traffic calming design principles.

- (5) Street Standards. All street requirements shall be met as set forth in the City of Fayetteville Master Street Plan and adopted minimum street standards.
- (E) *Block Layout/Connectivity.*
  - (1) Block Length. Block lengths and street intersections are directly tied to the functional hierarchy of the street pattern that exists or is proposed.
    - (a) Principal and Minor Arterial Streets. Signalized intersections should be located at a minimum of one every 2,640 feet (half a mile) along principal and minor arterials and should be based on traffic warrants.
    - (b) Collectors. Intersections should be located at a minimum of one every 1,320 feet (quarter of a mile) along collector streets.
    - (c) Local and Residential. Intersections shall occur at a minimum of one every 660 feet.
    - (d) Variances. Block length standards may be varied by the Planning Commission when terrain, topographical features, existing barriers or streets, size or shape of the lot, or other unusual conditions justify a departure.
  - (2) With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted or discouraged roadways such as expressways or arterials. Alleys are not considered as frontage. Double frontage lots may also be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots.
  - (3) Connectivity. Wherever a proposed development abuts undeveloped land,

street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.

- (4) Topography. Local streets should be designed to relate to the existing topography and minimize the disturbance zone.
  - (5) Dead-End Streets. Dead end streets are discouraged and should only be used in situations where they are needed for design and development efficiency, reduction of necessary street paving, or where proximity to floodplains, creeks, difficult topography or existing barriers warrant their use. All dead end streets shall end in a cul-de-sac with a radius of 50 feet, or an alternative design approved by the city and the Fire Department. The maximum length of a dead end street (without a street stub-out) shall be 500 feet.
- (F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one public street shall place a higher priority on accessing the street with the lowest functional classification, ex. local and collector. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.
- (1) Curb Cut Separation. For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be

a minimum of 5 feet from the adjoining property line, unless shared.

- (2) Separation for two (2) family, three (3) family, multi-family and nonresidential development.
  - (a) Principal and Minor Arterial Streets. 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 arterial streets shall be shared between two (2) or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection or driveway.
  - (b) Collector Streets. Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along collector streets shall be shared between two or more lots.
  - (c) Local and Residential Streets. 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.
- (3) Separation for Single-Family Homes.
  - (a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. Driveways serving corner lots shall be located as far from the street intersection as possible while still meeting a 5-foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.
  - (b) Arterial and Collector Streets. Individual curb cuts for along arterial and collector streets shall be discouraged. When necessary, curb cuts along arterial and collector streets shall be shared between two (2) or more lots.
- (4) Reduction in separation distance. In order to protect the ingress and egress



access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.

- (5) Speed. All streets should be designed to discourage excessive speeds.

(G) Non-Conforming Access Features.

- (1) Existing. Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:

- (a) When new access connection permits are requested;
- (b) Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor.
- (c) As roadway improvements allow;
- (d) With development of a new primary structure on the property.

- (H) *Easements.* Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

5/1/2017

APPLICANT  
EXHIBIT

RECEIVED  
MAY 01 2017

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE

John H Davidson  
Monroe Eaton LLC  
PO Box 10647  
Fayetteville AR 72703

Fayetteville City Council  
Attn: City Clerk  
113 W Mountain St - Suite 302  
Fayetteville AR

**To whom it may concern:**

Please accept this letter requesting an appeal to the City Council of Fayetteville from the April 27<sup>th</sup> Planning Commission meeting. Monroe Eaton LLC, as applicant, requested a variance from the Access Management Ordinance for a curb cut on MLK Blvd.

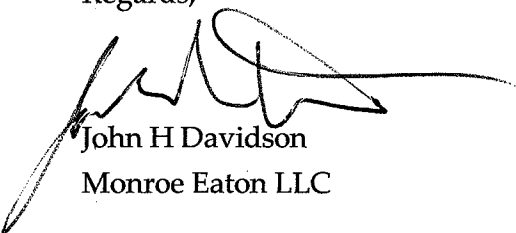
The property currently has four curb cuts long MLK. The new development would reduce that number to one. Due to the fact that we have streets on both the East and West of the property, there is not a location along MLK that would meet the spacing requirements of the Access Management Code; therefore, we need a variance for the single curb cut.

In the design phase of the project, the former director of development services explained that we would need the variance for the single curb cut, but that with almost 300 feet of frontage along MLK and the fact we currently had four curb cuts, he could support the variance. Additionally, the City Attorney's office assured the applicant that Arkansas law constitutionally protected access to MLK.

The denial of the requested variance would result in our anchor tenant canceling its lease. The tenant made clear when signing the lease that full access to MLK was a must. I spoke with the tenant after the planning commission meeting and was assured the same.

I can be reached at 479-841-4296.

Regards,



John H Davidson  
Monroe Eaton LLC

**MEETING OF JUNE 6, 2017**

**TO:** Mayor, Fayetteville City Council

**THRU:** Andrew Garner, City Planning Director

**FROM:** Quin Thompson, Current Planner

**DATE:** April 28, 2017

**SUBJECT:** **VAR 17-5782: Variance Item (1541 W. MLK BLVD./PANERA BREAD, 521):** Submitted by BATES & ASSOCIATES, INC. for properties located at 1541 W. MLK BLVD. The properties are zoned CS, COMMUNITY SERVICES and contain approximately 1.80 acres. The request is for a variance to the Access Management Ordinance for a new driveway on an arterial.

---

**RECOMMENDATION:**

The Planning Commission approved a limited access driveway (right in, right out only) on Martin Luther King Boulevard, where a full access drive was proposed. The decision has been appealed by the developer. City Planning Division staff recommends in favor of a variance to allow access to Martin Luther King Boulevard, consistent with the advice of the City Attorney.

**BACKGROUND:**

The property is located on Martin Luther King Boulevard between Eastern Avenue and Arbuckle Lane. The property is currently zoned as CS, Community Services, and contains approximately 1.8 acres. Existing buildings on this site have been removed recently in preparation for redevelopment. The site currently contains four full access driveways from the previous development, in addition to access from both Eastern Avenue and Arbuckle Street, a condition which does not conform to current code requirements.

On Friday April 21, the Assistant City Attorney provided Planning staff with a memo (attached) citing case law and arriving at the following conclusion:

*"A blanket denial of Panera Bread's request for access to or from Martin Luther King, Jr. Blvd., even for important traffic safety issues and even though it has access by way of Eastern Avenue and South Arbuckle Lane, might be deemed a taking by a Court for which the City of Fayetteville would have to pay just compensation. "*

*As a result of this memo, City Planning Division staff modified their initial recommendation and advised the Planning Commission to approve a variance.*

*Request:* The proposal is for a full access driveway on Martin Luther King Drive.

*Public Comments:* No public comment has been presented.

**DISCUSSION:**

At the April 24, 2017 Planning Commission, discussion was centered on traffic safety and the constitutionality of limiting access to City streets. After a considerable amount of discussion the variance was granted approval of a limited access curb cut by a vote of 6-2-0. Commissioners Hoffman and Autry voted 'No'.

**BUDGET/STAFF IMPACT:**

N/A

**Attachments:**

- City Attorney Memo
- Planning Commission Staff Report
- VAR 17-5782 Application
- April 24, 2017 Planning Commission minutes



## DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE  
CITY ATTORNEY

Kit Williams  
City Attorney

Blake Pennington  
Assistant City Attorney

Rhonda Lynch  
Paralegal

TO: **Planning Commission**

CC: **Andrew Garner**, City Planning Director  
**Quin Thompson**, Current Planner

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

DATE: **April 21, 2017**

RE: **Potential financial liability for denying Panera Bread access to MLK, Jr. Blvd.**

I have some concerns about the recommendation to deny a variance for Panera Bread to directly access Martin Luther King, Jr. Blvd. from its property. In short, cutting off a landowner's access to a street, even for reasons of traffic safety, could very well lead to a damage award against the City because the landowner has a property interest in that access. I am attaching two previous memos from City Attorney Kit Williams on this subject.

The last time this issue arose was during the large scale development review of Casey's General Store on Wedington in 2013, though it had arisen at least twice within two years before that. On an appeal of the Planning Commission's 5-3 denial of Casey's LSD, the City Council voted 7-0 to allow a right turn in only.

In 2012, the City Council considered an appeal by the applicant for the Kum & Go on Martin Luther King, Jr. Blvd at the Hill Avenue intersection. The Planning Commission had voted to deny a full access driveway onto MLK but approved a right in-right out only driveway along with a connection to the street just west of the development. After considering the advice of City Attorney Kit Williams, the City Council unanimously voted to approve a compromise with the applicant to allow the right in-right out with some additional improvements and removal of the connection west.

Arkansas law has remained unchanged since the City Attorney's 2011, 2012 and 2013 memos on this issue. When the City Council considered the Casey's General Store issue in 2013, Kit included in his memo portions of his memo dated December 6, 2011, about Liberty Bank on Joyce Avenue. Relevant portions of that 2011 memo follow:



“(There is) very well established law that an abutting property owner has a legally protected access easement onto a city street. Eighty years ago, the Arkansas Supreme Court explicitly recognized an access easement as a property right.

‘Under our decisions, the owner of property abutting upon a street or highway has an easement in such street or highway for the purpose of ingress and egress which attaches to his property and in which he has a right of property as fully as in the lot itself; and any subsequent act, by which that easement is substantially impaired for the benefit of the public, is a damage to the lot itself within the meaning of the constitutional provision for which the owner is entitled to compensation.’ *Campbell v. Arkansas State Highway Commission*, 183 Ark. 780, 38 S.W. 2d 753, 753-754 (1931).

“Four decades later, the Arkansas Supreme Court reaffirmed this access easement right as a property right for a lot abutting a street.

‘The owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress which attaches to his property and in which he has a right of property as fully as in the lot itself.’ *Flake v. Thompson*, 249 Ark. 713, 460 S.W. 2d 789, 795 (1970).

“In that case, the City of Little Rock had passed an ordinance that would have denied access to University Avenue to the property owner and argued that it could do so because the property owner had access to another (lower level) city street. The Arkansas Supreme Court held “that the ordinance constituted an unwarranted invasion of private rights and was discriminatory and oppressive, and thus it is unreasonable and arbitrary.” *Id.* at 796

‘The property right of ingress and egress of appellants in the easement was one that could not be taken from them by the city, at least without the payment of just compensation.’ *Id.*

“Ten years ago, the Arkansas Supreme Court yet again affirmed the property owner’s right to access a city street and found that interference with that right by the city would require compensation to be paid to the property owner.

‘We have held that the owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress which attaches to his property and in which he has a right of property as fully as in the lot itself. *Flake v. Thompson, Inc.*, 249 Ark. 713, 460 S.W. 2d 789 (1970). **We have also noted that this property right is not diminished merely because the property owner has alternative means of ingress and egress.**’ *Wright v. City of Monticello*, 345 Ark. 420, 47 S.W. 3d 851, 857 (2001).”

## **CONCLUSION**

A blanket denial of Panera Bread's request for access to or from Martin Luther King, Jr. Blvd., even for important traffic safety issues and even though it has access by way of Eastern Avenue and South Arbuckle Lane, might be deemed a taking by a Court for which the City of Fayetteville would have to pay just compensation.



Kit Williams  
City Attorney

Jason B. Kelley  
Assistant City Attorney

TO: **Mayor Jordan**  
**City Council**

CC: **Don Marr**, Chief of Staff  
**Jeremy Pate**, Development Services Director

FROM: **Kit Williams**, City Attorney

DATE: **March 27, 2013**

RE: **Casey's General Store's Appeal**  
**of its Large Scale Development denied**

I believe the three newly elected Aldermen may not have faced this street access issue before and have not received my memos explaining that a property owner has legally protected access easement rights to an abutting street. I hope that the Mayor and the five other Aldermen forgive me for repeating my concerns expressed in previous memos when a Large Scale Development is proposed for denial or otherwise denied access easement rights. This is especially concerning when Casey's seeks a very limited right-in only access along an abutting street.

The City Council adopted standards for streets and access management a few years ago to enhance traffic safety and discourage too frequent curb cuts. Prior to passage of the Access Management ordinance, I cautioned that the City should provide a variance to ensure we would not violate established property rights of a landowner abutting a street to access this street. Accordingly, the following specific variance was enacted along with the rest of the Access Management requirements. During an appeal from the Planning Commission's 5-3 denial of Casey's LSD, you sit with the same (but no greater) powers than the Planning Commission. Therefore, you are required to follow all the regulations of the Unified Development Code including this variance:

"(e) Variance. In order to protect the ingress and egress access rights to a street of an abutting property owner, a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property. Such a curb cut may be required to be shared with an adjoining parcel of feasible. If a parcel on the corner of

an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.” §116.08 (F)(1)(e) of the UDC.

Please note that the mandatory “**shall**” is used to **require** a variance be allowed with the only exception being when the parcel “provides such short frontage along a major street that there is no safe ingress/egress functional location on that street ....” I believe our Planning and Engineering divisions have stated that they believe even the very restrictive right-in only access from Wedington is too dangerous to allow. As the finders of fact on this issue, you should carefully consider the City Staff’s opinions, but also consider well reasoned opinions and arguments of the applicant for Casey’s General Stores, Inc. and citizen input.

Both in 2011 and 2012, the City Council faced street access variance issues for which I provided the results of my legal research. In the Liberty Bank on Joyce Street issue, I presented that research in a memo dated December 6, 2011, from which I will quote some relevant parts:

“(There is) very well established law that an abutting property owner has a legally protected access easement onto a city street. Eighty years ago, the Arkansas Supreme Court explicitly recognized an access easement as a property right.

‘Under our decisions, the owner of property abutting upon a street or highway has an easement in such street or highway for the purpose of ingress and egress which attaches to his property and in which he has a right of property as fully as in the lot itself; and any subsequent act, by which that easement is substantially impaired for the benefit of the public, is a damage to the lot itself within the meaning of the constitutional provision for which the owner is entitled to compensation.’ *Campbell v. Arkansas State Highway Commission*, 183 Ark. 780, 38 S.W. 2d 753, 753-754 (1931).

“Four decades later, the Arkansas Supreme Court reaffirmed this access easement right as a property right for a lot abutting a street.

‘The owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress which attaches to his property and in which he has a right of property as fully as in the lot itself.’ *Flake v. Thompson*, 249 Ark. 713, 460 S.W. 2d 789, 795 (1970).

“In that case, the City of Little Rock had passed an ordinance that would have denied access to University Avenue to the property owner and argued that it could do so because the property owner had access to another (lower level) city street. The Arkansas Supreme Court held “that the ordinance constituted an unwarranted invasion of private rights and was discriminatory and oppressive, and thus it is unreasonable and arbitrary.” *Id.* at 796

‘The property right of ingress and egress of appellants in the easement was one that could not be taken from them by the city, at least without the payment of just compensation.’ *Id.*

“Ten years ago, the Arkansas Supreme Court yet again affirmed the property owner’s right to access a city street and found that interference with that right by the city would require compensation to be paid to the property owner.

‘We have held that the owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress which attaches to his property and in which he has a right of property as fully as in the lot itself. *Flake v. Thompson, Inc.*, 249 Ark. 713, 460 S.W. 2d 789 (1970). We have also noted that this property right is not diminished merely because the property owner has alternative means of ingress and egress.’ *Wright v. City of Monticello*, 345 Ark. 420, 47 S.W. 3d 851, 857 (2001).’

### CONCLUSION

There is at least a possibility that denial of Casey’s General Stores, Inc.’s request for its right-in only access from Wedington even for important traffic safety issues might be deemed a takings by a Court for which the City of Fayetteville would have to pay fair compensation.





TO: Mayor Jordan  
City Council

Kit Williams  
City Attorney

Jason B. Kelley  
Assistant City Attorney

CC: Don Marr, Chief of Staff  
Jeremy Pate, Development Services Director  
Andrew Garner, Senior Planner – Current Planning

FROM: Kit Williams, City Attorney

DATE: January 12, 2012

RE: Potential financial liability for denying Kum & Go's curb cut appeal

## DANGEROUS TRAFFIC CONDITIONS HAVE BEEN A CONSIDERATION FOR 37 YEARS

When the Access Management Ordinance was passed by the City Council on August 5, 2008, it did not fundamentally change the Unified Development's Code's regulations concerning "dangerous" street access from proposed developments. Since at least September 17, 1974, a proposed large scale development could be denied if "(t)he proposed development would create or compound a dangerous traffic condition." Ordinance No. 2044, September 17, 1974 (attached). That ordinance regulating developments has remained within the Fayetteville City Code and/or the Unified Development Code for the last 37 years. It defines "dangerous traffic condition" as follows:

"For the purpose of this section, a "dangerous" traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern."

I believe that virtually all of the commercial developments along Martin Luther King Boulevard have been constructed or redeveloped since 1974 (which

predates I-540 and the five laning of MLK and Razorback Road). Many of these would have been large scale developments with full access easements to MLK (and some with full access to Razorback Road, the frontage road, Hollywood or other cross streets) and were evidently permitted to be developed by the City as not presenting the “dangerous traffic condition” that could have caused a development’s rejection.

The 2008 adoption of the Access Management Ordinance included a clear variance section which **requires** that the Planning Commission grant a variance to a property owner for access to a street unless “there is no safe ingress/egress functional location on that street ....” This is a higher standard of “dangerousness” for the City to meet than the old “create or compound a dangerous traffic condition” under which the existing development was approved along MLK. And yet much of that development along Martin Luther King Boulevard, North College Avenue and other arterial streets in Fayetteville have much closer to the intersection (and thus less safe) full access easements than the three quarters access easement requested by Kum & Go,

In 2008, the City of Fayetteville rebuilt sidewalks and curbs along North College from Rock Street to Maple and constructed numerous full access easements on this arterial street for a gas station/convenience store, auto parts store, grocery store, etc. much closer to major street intersections than Kum & Go’s proposal. This is true even though these businesses also had full curb cuts on a collector street. It could certainly hurt us in Court if these inconsistencies are pointed out to a jury. Most concerning to me as City Attorney (if the City Council does not grant Kum & Go’s request for the three-quarters access curb cut) is the apparently unequal treatment of Kum & Go versus its business competitors who have not been denied full access curb cuts closer to intersections between higher volume streets. This could inflate any damage award our taxpayers would have to pay.

The law that an abutting property owner has a property right to a curb cut which cannot be deprived without the state or city paying just compensation to the property owner has been consistently applied by the Arkansas Supreme Court for at least 80 years. The City of Fayetteville cannot change or ignore this law which is embedded in constitutional provisions by passing an Access Management Ordinance, nor its earlier “dangerous traffic situation” regulation. We can and should work with developers to try to find the safest and best access possible for an abutting property owner. Kum & Go has agreed to voluntarily give up 25% of its

access rights to MLK by removing its request for a left turn out. The City Council should think very hard before rejecting this compromise proposal.

I should note that during my decade as City Attorney, access or curb cut issues have all been worked out between developers and the Planning Department (except for Liberty Bank). I am not aware of any suit in which the city of Fayetteville has had to pay a damage award for denying a curb cut. I obviously hope this will not be the first, especially since potential damages would be higher here than for other smaller projects on smaller parcels.

### **COMPENSATION HAS BEEN ASSESSED FOR DAMAGING ACCESS EASEMENT RIGHTS IN THE PAST**

I was requested to do more research by the Administration about whether Fayetteville could actually be liable and have to pay for a restrictive curb cut in this case. Further research has only supported my earlier conclusion that the property owner has a property interest to access an abutting street and the requirement of compensation if the government deprives or damages such access.

“However, we think the commission, in making this argument, overlooks a basic right of an abutting property owner, **for the right of access to a street or highway is one of the incidents of the ownership or occupancy of land abutting thereon.** In Volume 25, *Am. Jur.*, Section 154, Page 448, it is said:

“Such right is appurtenant to the land .... **It is a property right of which the owner cannot be deprived without just compensation.**” *Arkansas State Highway Commission v. Kesner*, 239 Ark. 270, 388 S.W. 2d 905, 909 (1965) (emphasis added).

I should note that I believe constructing a **median in the street** is not a taking of an abutting owner’s property interest and falls within the power of the state or city to control its streets. I believe that a median affects **all** drivers and should be controlled by the rule of circuitry because abutting owners have no greater rights than the driving public and do not suffer the particular and unique harm that a restrictive curb cut inflicts upon the landowner. Thus, I do not believe

that construction of a median for a boulevard endangers our taxpayers like denying or restricting an abutting property owner's access rights to a street.

The Arkansas Court of Appeals rejected the State Highway Commission's contention that it could restrict or deny a property owner's access easement rights without compensation. It discussed the *Kesner* decision (quoted above) and the rule of circuitry. The rule of circuitry holds that a state or city can move a road or highway causing a longer drive for a property owner without any liability for such inconvenience.

"In *Kesner*, the Supreme Court noted the general rule that circuitry of travel is not compensable. Unlike the situation here, the landowners in *Kesner* suffered no actual taking of their land. Even so, the court held the evidence established the landowners suffered damages peculiar to themselves and therefore it **awarded compensation.**" *Arkansas State Highway Commission v. Cottrell*, 9 Ark. App. 359, 660 S.W. 2d 179, 182 (1983) (emphasis added)

## CONCLUSION

I do not like to intrude upon the City Council's policy prerogatives, but felt your responsibilities required the knowledge of this area of law before your decision because the applicant stated the access easement issue was the "deal breaker" or deciding factor. That elevated this decision and its potential ramifications on Fayetteville's taxpayers. Therefore, my duty as Fayetteville City Attorney is to advise you, as the protectors and conservators of taxpayer revenues, that denying Kum & Go's appeal and its compromise three quarters access easement to Martin Luther King, Jr. Boulevard could result in a substantial judgment against Fayetteville's taxpayers.

1974

FILED  
FOR RECORD

'74 SEP 27 AM 8:03

WASHINGTON COUNTY  
ARKANSAS  
ALMA KOLLMEYER  
CIRCUIT CLERK

ORDINANCE NO. 2044

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 1998; TO CLARIFY THE REQUIREMENTS FOR APPROVAL OF A LARGE-SCALE DEVELOPMENT; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Section 4 of Ordinance No. 1998 is hereby amended by adding Subsection e to read as follows:

e) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a "dangerous" traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.

Section 2. That all ordinances and resolutions, or parts thereof, in conflict herewith, be, and are hereby, repealed.

Section 3. It is hereby found and determined by the Board of Directors that the requirements for the development of a lot or parcel larger than one acre required by Ordinance No. 1998 are in need of clarification in order to avoid unnecessary loss of time to property owners and to the Planning Commission; and that the immediate passage of this ordinance is necessary to clarify the requirements for the development of a lot or parcel larger than one acre. Therefore, an emergency is hereby declared to exist, and this ordinance being necessary for the immediate preservation of the public health, safety, and welfare, shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 17th DAY OF September, 1974.

APPROVED:

Russell J. Purdy  
MAYOR

ATTEST:

Arlemer Westbrook  
CITY CLERK

DEED 874 PAGE 887

MICROFILMED

DATE OCT 16 1978

REEL 174

Planning Commission  
September 22, 2025  
VAR-2025-0040 (CINQUEFOIL LLC)  
Page 46 of 74

## Fayetteville Code of Ordinances

Plat Review Committee: Lot Split, Small Site Improvement Plans, Large Site Improvement Plans, Large Scale Development, Planned Zoning District, Preliminary Plat, Final Plat, and Concurrent Plat. After the Technical Plat Review Committee meeting staff may administratively approve Lot Splits, Final Plats, Small Site Improvement Plans, and Large Site Improvement Plans after review for compliance with all applicable codes subject to UDC 166.02(C).

(2) *Subdivision Committee.* The following development applications are required to be reviewed by the Subdivision Committee: Large Scale Development, Planned Zoning District with Development, Preliminary Plat, and Concurrent Plat. From these applications, the Subdivision Committee may approve only Large Scale Developments.

(3) *Planning Commission.* The following development applications are required to be reviewed by the Planning Commission: Preliminary Plat, Concurrent Plat, and Planned Zoning District with Development. The Planning Commission may approve, deny, table, or approve development applications with conditions. A Planned Zoning District cannot be approved by the Planning Commission, but may be forwarded to City Council.

### (C) Approval and Denial Criteria

(1) *Administrative Approval.* The following applications shall be approved administratively by the Planning Division as long as the proposal meets all requirements of the Unified Development Code: Property Line Adjustment, Lot Split, Final Plat, Small Site Improvement Plan, and Large Site Improvement Plan. Approval by the Planning Commission for these applications is not required unless an appeal is filed in accordance with Ch. 156 of the UDC.

(a) *Reasons for denial.* The Planning Division may refuse administrative approval based on the following criteria:

- (i) *Property Line Adjustment; Lot Split.* The application does not comply with zoning and development requirements including, but not limited to: lot width, lot area, setback requirements, buildable area, required parking, impervious surface, dedication of required right-of-way or easements, etc., or the requested action would make

an existing non-conforming property or structure more non-conforming.

(ii) *Final Plat.* The conditions of approval of the preliminary plat have not been met, the proposed plat does not meet the zoning and development requirements of the UDC, and/or the required improvements have not been completed or guaranteed in accordance with Fayetteville Unified Development Code Chapter 158.

(iii) *Small or Large Site Improvement Plans.* The Planning Division may refuse to approve a Small or Large Site Improvement Plan for any of the following reasons:

- a. The development plan is not submitted in accordance with the requirements of this chapter.
- b. The proposed development would violate a city ordinance, a state statute, or a federal statute.
- c. The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.
- d. The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factor such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
- e. City water and sewer is not readily available to the property within the site improvement plat area and the developer has made no provision for extending such service to the development.
- f. The developer refused to comply with ordinance requirements or condition of



## PLANNING COMMISSION MEMO

**TO:** Fayetteville Planning Commission

**THRU:** Andrew Garner, City Planning Director

**FROM:** Quin Thompson, Planner

**MEETING DATE:** ~~April 24, 2017~~ **UPDATED 4/26/2017**

**SUBJECT:** **VAR 17-5782: Variance Item (1541 W. MLK BLVD./PANERA BREAD, 521):** Submitted by BATES & ASSOCIATES, INC. for properties located at 1541 W. MLK BLVD. The properties are zoned CS, COMMUNITY SERVICES and contain approximately 1.80 acres. The request is for a variance to the Access Management Ordinance for a new driveway on an arterial.

### RECOMMENDATION:

Staff recommends denial of **VAR 17-5782** based on the findings discussed herein.

### BACKGROUND:

The property is located on Martin Luther King Boulevard between Eastern Avenue and Arbuckle Lane. The property is currently zoned as CS, Community Services, and contains approximately 1.8 acres. Existing buildings on this site have been removed recently in preparation for redevelopment. The site currently contains four full access driveways from the previous development, in addition to access from both Eastern Avenue and Arbuckle Street, a condition which does not conform to current code requirements. The surrounding zoning and land uses are depicted in *Table 1*.

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

| Direction from Site | Land Use                     | Zoning                                 |
|---------------------|------------------------------|----------------------------------------|
| North               | Commercial Retail/Restaurant | C2, Thoroughfare Commercial            |
| South               | Undeveloped/Railroad ROW     | UT, Urban Thoroughfare                 |
| East                | Commercial Retail/Restaurant | C2, Thoroughfare Commercial            |
| West                | Industrial                   | I-1, Heavy Commercial/Light Industrial |

### DISCUSSION:

*Request:* The applicant proposes to entirely redevelop the site with a new multi-tenant commercial project with approximately 9,000 square feet. The proposed curb cut on Martin Luther King, a 'principal Arterial' street, requires a variance of the City's Access Management Ordinance (Fayetteville Unified Development Code 166.08.F) which requires that if a property has access to two streets, access should only be taken from the lower classification street; in this case Eastern Avenue and Arbuckle Street rather than Martin Luther King Boulevard.

The Access Management Ordinance also requires minimum separation for 250 feet from a driveway or intersection. In this case, the proposed driveway on Martin Luther King Boulevard is located approximately 67 feet from Eastern Avenue and 138 feet from Arbuckle Lane. The minimum separation distance is not met by this proposal. The minimum separation distance is intended to provide safe access to properties by reducing the number of vehicle turning movements and vehicle interactions, and is dependent on traffic speed and volume. The 250 foot separation distance is applied to those streets with highest speeds and traffic volumes.

This site is not appropriate for a curb cut on Martin Luther King for several reasons. The proposed curb cut would create and exacerbate a dangerous traffic condition. A new development for a restaurant and drive-thru will generate much more traffic and turning movements than the previous small church/non-profit use and car wash. This section of MLK contains high volumes of regional traffic and is the major east-west connector directly into the University of Arkansas and the greater downtown area. MLK will at times be very congested with bumper-to-bumper vehicles on eastbound lanes from the major intersection of Razorback Road further to the east, while vehicles travel at higher speeds on westbound lanes. This situation creates a dangerous situation for vehicles turning on and off of the thoroughfare. To minimize traffic danger and protect the public interest, access to this site should be limited to the adjacent local streets. These local streets are spaced approximately 260 apart providing very convenient and acceptable access for the applicant's proposed development while mitigating the potential for traffic and pedestrian accidents.

#### **Recommended Motion:**

Staff recommends denial of **ADM 17-5782**, finding that the site is adjacent to local streets on two sides which provide opportunity for safe and functional access to the property.

#### Condition of Approval:

1. Planning Commission determination of a variance of UDC Section 166.08(F) for the proposed driveway on Martin Luther King Boulevard. *Staff denial of the variance based on the findings discussed in this staff report.*

#### **PLANNING COMMISSION ACTION: Required**

Date: April 24, 2017 ☒ Approved ☐ Forwarded ☐ Denied

Motion: - **QUINLAN, MOTION TO APPROVE VARIANCE WITH A LIMITED RIGHT IN / RIGHT OUT ACCESS.**

Second: **HOFFMAN**

Vote: — **6-2-0, with Commissioners Hoffman and Autry voting 'No'**

#### **BUDGET/STAFF IMPACT:**

None

**Attachments:**

- UDC Section 166.08 (Access Management)
- Applicant's letter
- Site plan
- Existing conditions exhibit
- Close up map
- One mile map



## Fayetteville Unified Development Code

### 166.08 Street Design and Access Management Standards

(F) Access Management. Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one public street shall place a higher priority on accessing the street with the lowest functional classification, ex. Local and Collector. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.

(2) Separation for two-family, three-family, multi-family and nonresidential development.

(a) Principal and Minor Arterial Streets. 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 arterial streets shall be shared between two or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection or driveway.

(b) Collector Streets. Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along collector streets shall be shared between two or more lots.

(c) Local and Residential Streets. 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.

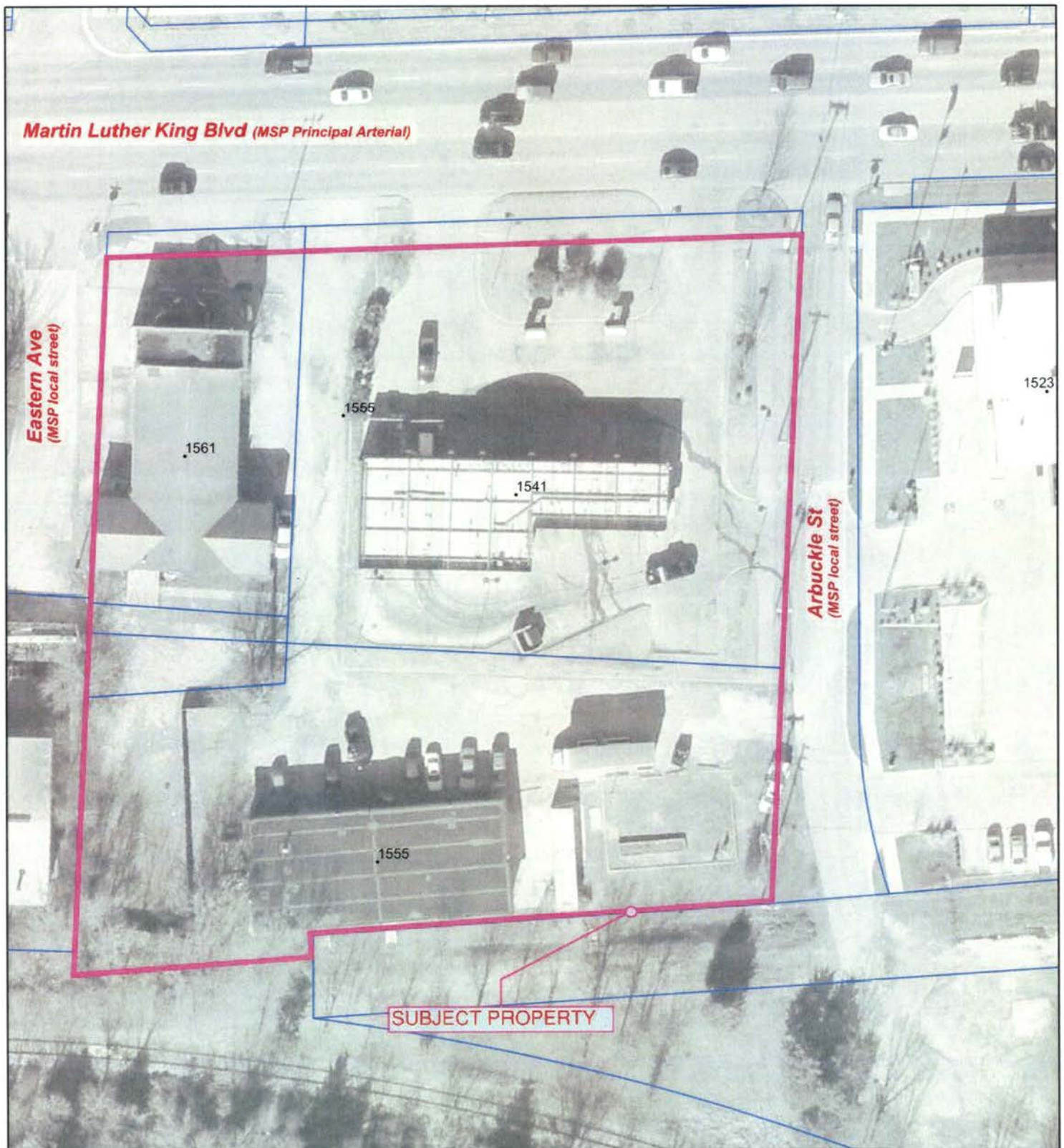
(3) Separation for single-family homes.

(a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. Driveways serving corner lots shall be located as far from the street intersection as possible while still meeting a 5 foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.

(b) Arterial and Collector Streets. Individual curb cuts for along arterial and collector streets shall be discouraged. When necessary, curb cuts along arterial and collector streets shall be shared between two or more lots.

(4) Variance. In order to protect the ingress and egress access rights to a street of an abutting property owner, a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property. Such a curb cut may be required to be shared with an adjoining parcel if feasible. If a parcel on the corner of an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.





**EXISTING ACCESS CONDITIONS**

50 25 0 50 Feet



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

March 31, 2017

Planning Commission  
City of Fayetteville  
113 West Mountain St.  
Fayetteville, AR 72701

**RE: Access Management Ordinance Variance Request – LSIP 17-5740 / Panera Bread Co**

Dear Commissioners,

Bates & Associates, Inc, on behalf of John Davidson, requests a variance from The City of Fayetteville Unified Development Code XV.166.08.F.2.a, regarding minimum separation of curb cuts in Nonresidential developments, for the proposed Large Site Improvement Plan at 1541 W Martin Luther King Blvd.

Per the ordinance, minimum separation of curb cuts is required to be 250' for Nonresidential developments accessing Principal and Minor Arterial Street.

The proposed development has one proposed entrance on the north side of the property's street frontage.

The property in question lies between Eastern Avenue to the West, and South Arbuckle lane to the East, both designated as Local Streets per the Fayetteville Master Street Plan.-The proposed curb cut for access to Martin Luther King Blvd is 67.49' from the curb line of Eastern Avenue, and 138.47' from the proposed curb line of South Arbuckle Land after street improvements.

The Applicant feels that the variance is justified, considering the existing configuration of 4 access points to Martin Luther King Blvd will be reduced to only 1 access point after development.

Please contact Bates & Associates with any questions or concerns regarding this variance request.

Sincerely,

Jason Young  
Bates & Associates, Inc

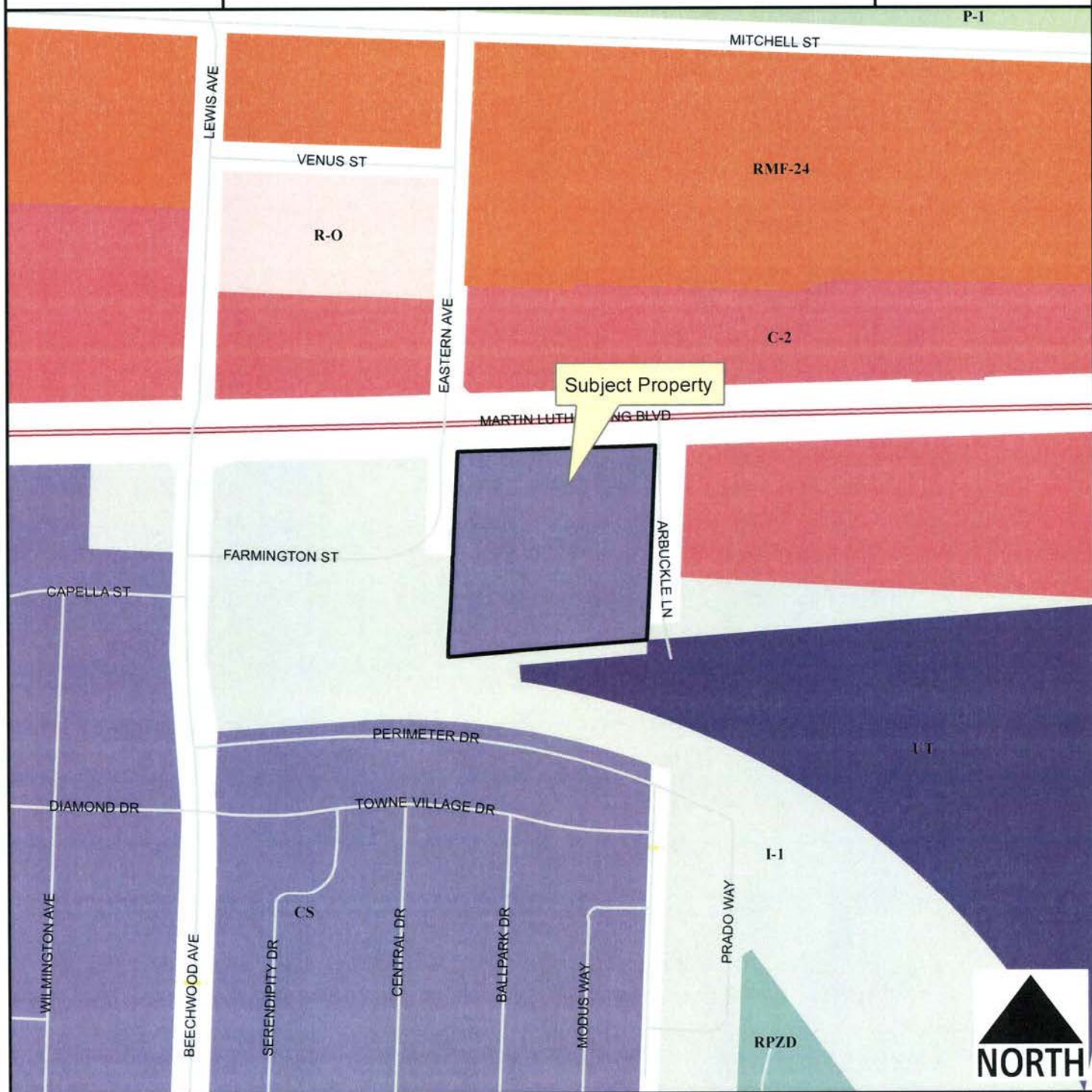




VAR 17-5782

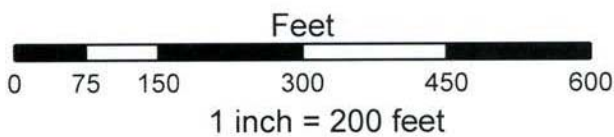
# PANERA DRIVEWAY

Close Up View



## Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Residential-Office
- C-2
- Urban Thoroughfare
- Community Services
- Commercial, Industrial, Residential
- P-1

Planning Commission

April 24, 2017

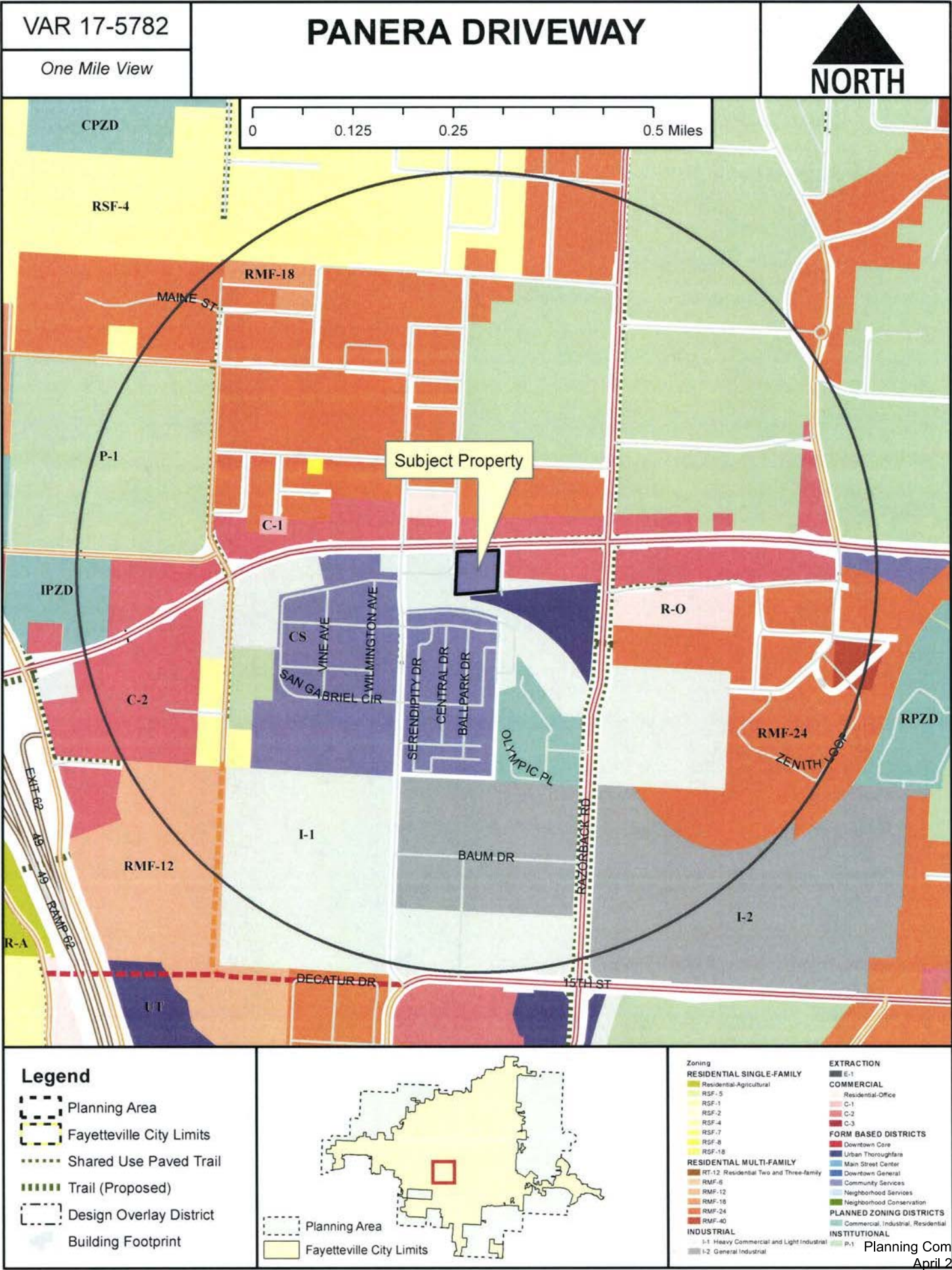
Planning Commission Agenda Item 5

September 22, 2015 Panera Bread Drive)

VAR-2025-0040 (CINQUEFOIL LLC) Page 8 of 10

Page 55 of 74







VAR 17-5782

Current Land Use

# PANERA DRIVEWAY



2015 Imagery

- VAR17-5782
- Street
- PRINCIPAL ARTERIAL
- Shared Use Paved Trail
- Trail (Proposed)
- County Parcels
- Planning Area
- Fayetteville City Limits

Feet  
0 75 150 300 450 600  
1 inch = 200 feet

## FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



**Excerpted from :**  
**Planning Commission Meeting**  
April 24, 2017  
5:30 PM  
113 W. Mountain, Room 219

**6. VAR 17-5782: Variance Item (1541 W. MLK BLVD./PANERA BREAD, 521):** Submitted by BATES & ASSOCIATES, INC. for properties located at 1541 W. MLK BLVD. The properties are zoned CS, COMMUNITY SERVICES and contain approximately 1.80 acres. The request is for a variance to the Access Management Ordinance for a new driveway on an arterial.

**Quin Thompson, Planner:** Gave the staff report.

**John Davidson, Applicant:** Said that the discussion should be centered on the access and form-based zoning concerns should not be considered. He said that the design team has met with staff on multiple occasions, and that the former Director of Development services has suggested that a property with 300' of frontage probably could not be prevented. He said that two projects would certainly abandon the contract if the variance is denied.

**Public Comment:**

**No public comment was presented.**

**Blake Pennington, Asst. City Attorney:** Said that it is clear upon review of the case law, that a property owner has a right to access from an adjacent road. He said that the discussion tonight should be about what kind of access the applicant should have.

**Leslie Belden, Commissioner:** Said that she was in complete agreement with the applicant, and that she appreciates the attempt to improve the area. She noted that the development does not meet the intent of the code, and she regrets the proposed layout. She acknowledged that the proposed access was in the safest location in her opinion.

**Matthew Hoffman, Commissioner:** Said that he is concerned with pedestrian safety, and thinks that saying that one curb cut is better than four and so this access should be approved is a dangerous road to go down. He spoke about form-based zoning and its beneficial effects on pedestrian traffic and safety. He said he would be in favor of a condition of approval if the building is paced within the build-to-zone.

**Matt Johnson, Commissioner:** Cited traffic accident records at this location, and noted that at typical MLK traffic speeds it takes approximately 250 feet to stop.

**Alison Quinlan, Commissioner:** Asked staff to show the similar access arrangement at MLK and Hill. She said that the conditions are different enough based on separation and traffic signal, that this condition should not be used as an example.



**Tom Brown, Commissioner:** Asked staff to the overall distance of street frontage for the site.

**Thompson:** Said that it was between 250 and 300 feet.

**Brown:** Discussed traffic safety studies that he has researched in relation to the City Access Management Code. He said that in terms of accident levels, MLK falls somewhere between Crossover Road and Highway 71b. He said we must not reinforce bad precedent, and yet must provide access that meets the requirements of the law. He said that the site has adequate access from Eastern and Arbuckle. He said that the access management code should be applied in a disciplined way to provide citizen safety. He said that the City Attorney should support the ordinance if we are to provide safe traffic conditions in future.

**Pennington:** Said that according to case law, removing access to MLK is unconstitutional, and that doing so would open the City to being liable to significant damages.

**Zara Niedermann, Commissioner:** Said that in looking at access to this road, we are vacating land with considerable value, and that this is a high demand area. He said that he was confused by a project which gives up developable land with a great deal of value along MLK.

**Hoffman:** Asked Pennington if a 200 foot curb cut would be allowed along this property.

**Pennington:** Said that providing access to the property is required, but that that does not mean that the entire property does not need to provide access.

**Hoffman:** Said that the variance should be denied for the reasons outlined by Mr. Brown.

**Quinlan:** Said that she supports the variance, but that she has concerns about the pedestrian access which does not go anywhere. She said that an adverse impact to pedestrians on MLK exists and should be improved.

**Pennington:** Said that no conditions may be placed on a variance of 166.08.

**Quinlan:** Said that improved pedestrian access should be provided. She said she would support the variance. She recommended approval of the variance if access be limited to right in and right out only.

**Davidson:** Said that he has met with Planning Staff and the Development Services Director for months in order to make sure that he was in compliance with development codes. He said that he was aware that a variance would be required, but understood that the variance would be supported by staff.

**Ron Autry, Chair:** Said that constitutional law requires this approval, and that that could not be escaped.

**Quinlan:** Asked Pennington if in his opinion, a limited access could be required.

**Pennington:** Said he could not give a definitive answer, but that certainly a limited access would remove value from the property. How much value is difficult to determine.

**Davidson:** Said that he would be potentially willing to accept a three-quarter access in this case, but that if it was limited to right in and right out then his client will cancel the project.

**Garner:** Discussed the history of the project, including the many conversations between the applicant and staff that had led to this development proposal. He said that in early meetings the applicant understood that staff would support the variance, but that he did not recall that particular conversation.

**Brown:** Said that he is opposed to the variance, but that he respects the opinion of the Attorneys office and will vote to approve.

**Motion:**

**Commissioner Quinlan** made a motion to **approve VAR 17-5782** as a right-in right-out curb cut only. **Commissioner Belden** seconded the motion. **Upon roll call the motion passed with a vote of 6-2-0. Commissioners Hoffman and Autry voted 'no'.**

**APPLICANT  
EXHIBIT**



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

**Ordinance: 6207**

---

**File Number: 2019-0359**

**AMEND CHAPTER 166.08, STREET DESIGN AND ACCESS MANAGEMENT  
STANDARDS:**

AN ORDINANCE TO AMEND CHAPTER 166.08, **STREET DESIGN AND ACCESS MANAGEMENT STANDARDS** OF THE FAYETTEVILLE UNIFIED DEVELOPMENT CODE TO MODIFY THE APPLICABILITY, ACCESS MANAGEMENT, AND NONCONFORMING ACCESS FEATURES REGULATIONS TO REMOVE BARRIERS THAT DISCOURAGE RENOVATION AND IMPROVEMENT OF EXISTING STRUCTURES

**WHEREAS**, certain access management regulations in the Unified Development Code are too strict and discourage renovations and improvements of existing structures.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §166.08(C) and enacts a replacement §166.08(C) as follows:

*“Applicability.* The standards set forth herein shall apply to land which is proposed to be developed with new primary structures and all other developments where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §166.08(F)(4) and enacts a replacement §166.08(F)(4) as follows:

---

“Reduction in separation distance. In order to protect the ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.”

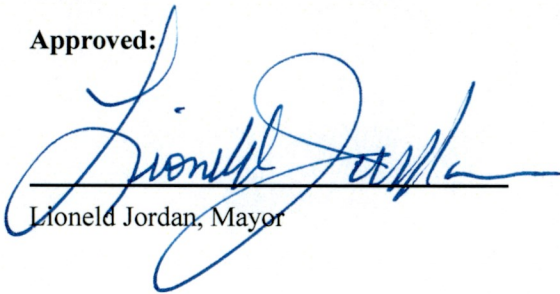
Section 3: That the City Council of the City of Fayetteville, Arkansas hereby strikes “or improvements” from §166.08(G)(1)(b).

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby enacts a new §166.08(G)(1)(d), which will add a condition requiring an existing nonconforming access feature to be brought into compliance, as follows:

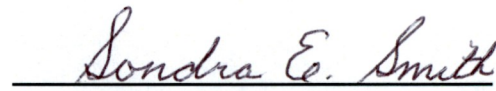
“(d) With development of a new primary structure on the property.”

PASSED and APPROVED on 7/16/2019

Approved:

  
Lioneld Jordan, Mayor

Attest:

  
Sondra E. Smith, City Clerk Treasurer







# City of Fayetteville, Arkansas

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

## Text File

File Number: 2019-0359

Agenda Date: 7/16/2019

Version: 1

Status: Passed

In Control: City Council Meeting

File Type: Ordinance

Agenda Number: C. 3

### AMEND CHAPTER 166.08, STREET DESIGN AND ACCESS MANAGEMENT STANDARDS:

AN ORDINANCE TO AMEND CHAPTER 166.08, STREET DESIGN AND ACCESS MANAGEMENT STANDARDS OF THE FAYETTEVILLE UNIFIED DEVELOPMENT CODE TO MODIFY THE APPLICABILITY, ACCESS MANAGEMENT, AND NONCONFORMING ACCESS FEATURES REGULATIONS TO REMOVE BARRIERS THAT DISCOURAGE RENOVATION AND IMPROVEMENT OF EXISTING STRUCTURES

**WHEREAS**, certain access management regulations in the Unified Development Code are too strict and discourage renovations and improvements of existing structures.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §166.08(C) and enacts a replacement §166.08(C) as follows:

*“Applicability. The standards set forth herein shall apply to land which is proposed to be developed with new primary structures and all other developments where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).”*

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §166.08(F)(4) and enacts a replacement §166.08(F)(4) as follows:

*“Reduction in separation distance. In order to protect the ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.”*

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby strikes “or improvements” from §166.08(G)(1)(b).



Section 4: That the City Council of the City of Fayetteville, Arkansas hereby enacts a new §166.08(G)(1)(d), which will add a condition requiring an existing nonconforming access feature to be brought into compliance, as follows:

“(d) With development of a new primary structure on the property.”

City of Fayetteville Staff Review Form

2019-0359

Legistar File ID

7/16/2019

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Garner Stoll

4/9/2019

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

**Action Recommendation:**

19-6724 Administrative Item (Amend UDC chapter 166.08: Access Management): Submitted by the Development Services Department for revisions to UDC Chapter 166. The proposed code changes would modify the applicability, access management, and nonconforming access features subsections.

**Budget Impact:**

|                             |    |                   |      |
|-----------------------------|----|-------------------|------|
| Account Number              |    | Fund              |      |
| Project Number              |    | Project Title     |      |
| Budgeted Item?              | NA | Current Budget    | \$ - |
|                             |    | Funds Obligated   | \$ - |
|                             |    | Current Balance   | \$ - |
| Does item have a cost?      | No | Item Cost         |      |
| Budget Adjustment Attached? | NA | Budget Adjustment |      |
|                             |    | Remaining Budget  | \$ - |

V20180321

Purchase Order Number: \_\_\_\_\_

Previous Ordinance or Resolution # \_\_\_\_\_

Change Order Number: \_\_\_\_\_

Approval Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Comments:





## CITY COUNCIL AGENDA MEMO

### MEETING OF JULY 16, 2019

**TO:** Mayor and City Council

**THRU:** Don Marr, Chief of Staff

**FROM:** Garner Stoll, Development Services Director  
Andrew Garner, City Planning Director

**DATE:** June 10, 2018

**SUBJECT:** **19-6724 Administrative Item (Amend UDC chapter 166.08: Access Management):** Submitted by the Development Services Department for revisions to UDC Chapter 166. The proposed code changes would modify the applicability, access management, and nonconforming access features subsections.

---

### RECOMMENDATION:

Staff recommends approval of a text amendment to 166.08 (Access Management) of the Unified Development Code to modify the applicability, access management, and nonconforming access features subsections.

### BACKGROUND:

Over the last several years, the City has heard from property owners, developers, staff, Planning Commission, and City Council, that the access management portion of the Unified Development Code is too strict and discourages renovation and improvements to existing structures. The code is written such that existing curb cuts that cannot be brought into compliance must go through a Planning Commission variance process. This results in unnecessary delays in many cases because there is no feasible alternative to the existing curb cuts, and the variance must be approved because of a legal right of a property to access adjacent streets. In the last year, the Planning Commission has started putting most of the access management variances on their consent agenda.

### DISCUSSION:

The City Planning Division has drafted code changes to clarify that the access management code applies to new primary structures and expansions to existing structures; it does not apply to renovations. The proposed code changes also allow the City Engineer to approve a curb cut separation of less than the minimum, provided that joint access driveways and cross access easements are provided wherever feasible, and that the curb cut is at the safest functional location. This technical determination is most appropriately made by the City Engineer and avoids the delay of a Planning Commission variance that must be approved to allow a property owner access rights to an adjacent public street. This proposed code change has not been presented to the Planning Commission or other appointed body.

*Request:* Staff requests that the City Council amend Fayetteville Unified Development Code Chapter 166.08 Access Management. The code changes are generally described above and shown in the attached strikeout-highlight and clean versions of the code.

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Proposed code changes shown in strikeout and clean version



## 166.08 - Street Design And Access Management Standards

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- (B) *Fitness for Development.* Based on topographic maps, soil surveys prepared by the Department of Agriculture and drainage information from the Future Land Use Plan and the Hillside/Hilltop Overlay District, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property.
- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed with new primary structures or redeveloped and all other development where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).
- (D) *Street Design Principles.*
- (1) Extensions. All street extensions shall be constructed to minimum street standards. Street extension stub-outs to adjacent properties are required to meet block layout/connectivity standards unless existing development or physical barriers prohibit such.
  - (2) Substandard Widths. Developments that adjoin existing streets shall dedicate additional right-of-way to meet the Master Street Plan.
  - (3) Street Names. Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names shall not duplicate or be similar to existing street names. Developers shall coordinate the naming of new streets through the GIS Office during the plat review process.
  - (4) Pedestrian. Pedestrian-vehicular conflict points should be controlled through signalized intersections and

proven traffic calming design principles.

- (5) Street Standards. All street requirements shall be met as set forth in the City of Fayetteville Master Street Plan and adopted minimum street standards.
- (E) *Block Layout/Connectivity.*
- (1) Block Length. Block lengths and street intersections are directly tied to the functional hierarchy of the street pattern that exists or is proposed.
    - (a) Principal and Minor Arterial Streets. Signalized intersections should be located at a minimum of one every 2,640 feet (half a mile) along principal and minor arterials and should be based on traffic warrants.
    - (b) Collectors. Intersections should be located at a minimum of one every 1,320 feet (quarter of a mile) along collector streets.
    - (c) Local and Residential. Intersections shall occur at a minimum of one every 660 feet.
    - (d) Variances. Block length standards may be varied by the Planning Commission when terrain, topographical features, existing barriers or streets, size or shape of the lot, or other unusual conditions justify a departure.
  - (2) With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted or discouraged roadways such as expressways or arterials. Alleys are not considered as frontage. Double frontage lots may also be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots.
  - (3) Connectivity. Wherever a proposed development abuts undeveloped land,



street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.

- (4) Topography. Local streets should be designed to relate to the existing topography and minimize the disturbance zone.
- (5) Dead-End Streets. Dead end streets are discouraged and should only be used in situations where they are needed for design and development efficiency, reduction of necessary street paving, or where proximity to floodplains, creeks, difficult topography or existing barriers warrant their use. All dead end streets shall end in a cul-de-sac with a radius of 50 feet, or an alternative design approved by the city and the Fire Department. The maximum length of a dead end street (without a street stub-out) shall be 500 feet.
- (F) *Access Management*. Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one public street shall place a higher priority on accessing the street with the lowest functional classification, ex. local and collector. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.
- (1) Curb Cut Separation. For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be

a minimum of 5 feet from the adjoining property line, unless shared.

- (2) Separation for two (2) family, three (3) family, multi-family and nonresidential development.
  - (a) Principal and Minor Arterial Streets. 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 arterial streets shall be shared between two (2) or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection or driveway.
  - (b) Collector Streets. Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along collector streets shall be shared between two or more lots.
  - (c) Local and Residential Streets. 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.
- (3) Separation for Single-Family Homes.
  - (a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. Driveways serving corner lots shall be located as far from the street intersection as possible while still meeting a 5-foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.
  - (b) Arterial and Collector Streets. Individual curb cuts for along arterial and collector streets shall be discouraged. When necessary, curb cuts along arterial and collector streets shall be shared between two (2) or more lots.
- (4) Variance Reduction in separation distance. In order to protect the

ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property. ~~a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property.~~ Such a curb cut may be required to be shared with an adjoining parcel if feasible. If a parcel on the corner of an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.

to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

- (5) Speed. All streets should be designed to discourage excessive speeds.
- (G) Non-Conforming Access Features.
  - (1) Existing. Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:
    - (a) When new access connection permits are requested;
    - (b) Upon expansion or improvements greater than 50% of the property's appraised or market value as established by the Washington County Assessor.
    - (c) As roadway improvements allow;
    - (d) With development of a new primary structure on the property.
- (H) Easements. Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary



**166.08 - Street Design And Access  
Management Standards**

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- (B) *Fitness for Development.* Based on topographic maps, soil surveys prepared by the Department of Agriculture and drainage information from the Future Land Use Plan and the Hillside/Hilltop Overlay District, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property.
- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed with new primary structures and all other development where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).
- (D) *Street Design Principles.*
  - (1) *Extensions.* All street extensions shall be constructed to minimum street standards. Street extension stub-outs to adjacent properties are required to meet block layout/connectivity standards unless existing development or physical barriers prohibit such.
  - (2) *Substandard Widths.* Developments that adjoin existing streets shall dedicate additional right-of-way to meet the Master Street Plan.
  - (3) *Street Names.* Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names shall not duplicate or be similar to existing street names. Developers shall coordinate the naming of new streets through the GIS Office during the plat review process.
  - (4) *Pedestrian.* Pedestrian-vehicular conflict points should be controlled through signalized intersections and

proven traffic calming design principles.

- (5) *Street Standards.* All street requirements shall be met as set forth in the City of Fayetteville Master Street Plan and adopted minimum street standards.
- (E) *Block Layout/Connectivity.*
  - (1) *Block Length.* Block lengths and street intersections are directly tied to the functional hierarchy of the street pattern that exists or is proposed.
    - (a) *Principal and Minor Arterial Streets.* Signalized intersections should be located at a minimum of one every 2,640 feet (half a mile) along principal and minor arterials and should be based on traffic warrants.
    - (b) *Collectors.* Intersections should be located at a minimum of one every 1,320 feet (quarter of a mile) along collector streets.
    - (c) *Local and Residential.* Intersections shall occur at a minimum of one every 660 feet.
    - (d) *Variances.* Block length standards may be varied by the Planning Commission when terrain, topographical features, existing barriers or streets, size or shape of the lot, or other unusual conditions justify a departure.
  - (2) With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted or discouraged roadways such as expressways or arterials. Alleys are not considered as frontage. Double frontage lots may also be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots.
  - (3) *Connectivity.* Wherever a proposed development abuts undeveloped land,

street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.

- (4) Topography. Local streets should be designed to relate to the existing topography and minimize the disturbance zone.
  - (5) Dead-End Streets. Dead end streets are discouraged and should only be used in situations where they are needed for design and development efficiency, reduction of necessary street paving, or where proximity to floodplains, creeks, difficult topography or existing barriers warrant their use. All dead end streets shall end in a cul-de-sac with a radius of 50 feet, or an alternative design approved by the city and the Fire Department. The maximum length of a dead end street (without a street stub-out) shall be 500 feet.
- (F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one public street shall place a higher priority on accessing the street with the lowest functional classification, ex. local and collector. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.
- (1) Curb Cut Separation. For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be

a minimum of 5 feet from the adjoining property line, unless shared.

- (2) Separation for two (2) family, three (3) family, multi-family and nonresidential development.
  - (a) Principal and Minor Arterial Streets. 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 arterial streets shall be shared between two (2) or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection or driveway.
  - (b) Collector Streets. Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along collector streets shall be shared between two or more lots.
  - (c) Local and Residential Streets. 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.
- (3) Separation for Single-Family Homes.
  - (a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. Driveways serving corner lots shall be located as far from the street intersection as possible while still meeting a 5-foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.
  - (b) Arterial and Collector Streets. Individual curb cuts for along arterial and collector streets shall be discouraged. When necessary, curb cuts along arterial and collector streets shall be shared between two (2) or more lots.
- (4) Reduction in separation distance. In order to protect the ingress and egress



access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.

- (5) Speed. All streets should be designed to discourage excessive speeds.

(G) Non-Conforming Access Features.

- (1) Existing. Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:

- (a) When new access connection permits are requested;
- (b) Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor.
- (c) As roadway improvements allow;
- (d) With development of a new primary structure on the property.

- (H) *Easements.* Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.



RECEIVED

AUG 01 2019

NORTHWEST ARKANSAS  
Democrat & Gazette

P.O. BOX 1607, FAYETTEVILLE, AR, 72702 • 479-442-1700 • FAX: 479-695-1118 • WWW.NWADG.COM

AFFIDAVIT OF PUBLICATION

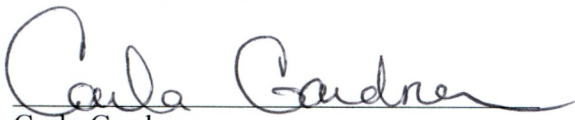
I Carla Gardner, do solemnly swear that I am the Finance Director of the Northwest Arkansas Democrat-Gazette, printed and published in Washington County and Benton County, Arkansas, and of bona fide circulation, that from my own personal knowledge and reference to the files of said publication, the advertisement of:

CITY OF FAYETTEVILLE  
Ord. 6207

Was inserted in the Regular Edition on:

July 25, 2019

Publication Charges: 150.80

  
Carla Gardner

Subscribed and sworn to before me

This 26 day of July, 2019.

  
Notary Public  
My Commission Expires: 2/20/2024

CATHY WILES  
Arkansas - Benton County  
Notary Public - Comm# 12397118  
My Commission Expires Feb 20, 2024

\*\*NOTE\*\*

Please do not pay from Affidavit.  
Invoice will be sent.

Ordinance: 6207  
File Number: 2019-0359  
AMEND CHAPTER 166.08, STREET DESIGN AND ACCESS MANAGEMENT STANDARDS:  
AN ORDINANCE TO AMEND CHAPTER 166.08, STREET DESIGN AND ACCESS MANAGEMENT STANDARDS OF THE FAYETTEVILLE UNIFIED DEVELOPMENT CODE TO MODIFY THE APPLICABILITY, ACCESS MANAGEMENT, AND NONCONFORMING ACCESS FEATURES REGULATIONS TO REMOVE BARRIERS THAT DISCOURAGE RENOVATION AND IMPROVEMENT OF EXISTING STRUCTURES  
WHEREAS, certain access management regulations in the Unified Development Code are too strict and discourage renovations and improvements of existing structures.  
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:  
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §166.08(C) and enacts a replacement §166.08(C) as follows:  
"Applicability. The standards set forth herein shall apply to land which is proposed to be developed with new primary structures and all other developments where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G)."  
Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §166.08(F)(4) and enacts a replacement §166.08(F)(4) as follows:  
"Reduction in separation distance. In order to protect the ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property."  
Section 3: That the City Council of the City of Fayetteville, Arkansas hereby strikes "or improvements" from §166.08(G)(1)(b).  
Section 4: That the City Council of the City of Fayetteville, Arkansas hereby enacts a new §166.08(G)(1)(d), which will add a condition requiring an existing nonconforming access feature to be brought into compliance, as follows:  
"(d) With development of a new primary structure on the property."  
PASSED AND APPROVED on 7/16/2019  
Approved:  
Lionel Jordan, Mayor  
Attest:  
Sondra E. Smith, City Clerk Treasurer  
75020703 July 25, 2019



**TO:** Fayetteville Planning Commission

**THRU:** Jessie Masters, Planning Director

**FROM:** Donna Wonsower, Senior Planner

**MEETING DATE:** September 22, 2025

**SUBJECT:** **VAC-2025-0019: Vacation 902 & 908 W HUGHES ST/MARKS REVOCABLE TRUST, 444):** Submitted by BATES AND ASSOCIATES for property located at 902 & 908 W. HUGHES ST. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and contains approximately 0.29 acres. The request is to vacate 0.01 acres of street right-of-way.

---

**RECOMMENDATION:**

Staff recommends forwarding **VAC-2025-0019** to the City Council with a recommendation of approval.

**RECOMMENDED MOTION:**

*"I move to forward **VAC-2025-0019** to City Council with a recommendation of approval and with conditions as recommended by staff."*

**BACKGROUND:**

The subject property is comprised of two parcels (0.29 acres) located about 800 feet southeast of the intersection of N. Garland Ave. and W. North St. directly on the northwest corner of N. Storer Ave. and W. Hughes Ave. The property is zoned RMF-40, Residential Multi-Family, 40 Units per Acre. The parcels was previously developed with a single-family home which was demolished in 2024. No zoning overlay districts or master planning areas apply to the parcel. Surrounding land uses and zoning are further depicted in *Table 1*.

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

| Direction | Land Use                                     | Zoning                                              |
|-----------|----------------------------------------------|-----------------------------------------------------|
| North     | Multifamily Residential (Under Construction) | RMF-40, Residential Multi-Family, 40 Units per Acre |
| South     | Multifamily Residential                      | RMF-40, Residential Multi-Family, 40 Units per Acre |
| East      | Two-Family Residential                       | RMF-40, Residential Multi-Family, 40 Units per Acre |
| West      | Two-Family Residential                       | RMF-40, Residential Multi-Family, 40 Units per Acre |

*Proposal:* The applicant proposes to vacate a portion of undeveloped street right-of-way totaling 0.01 acres.

**DISCUSSION:**

Staff supports the applicant's request to vacate the subject right-of-way, with conditions. The existing right-of-way is wider than what is required by the Master Street Plan. Vacating it would align the width of the right-of-way to 26 feet from the centerline of W. Hughes Street in accordance with the Master Street Plan standard for a Residential Link Street.

*Vacation Approval:* The applicant has submitted the required vacation approval forms to relevant city departments and franchise utility companies with the following responses. The applicant also submitted the required adjacent property approval form with no objections.

| <u>Utility</u>     | <u>Response</u>                                                                                                                                                                    |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cox Communications | No objections, provided any damage or relocation of any Cox facilities will be at the applicant's expense.                                                                         |
| AEP/SWEPCO         | No objections and no comments.                                                                                                                                                     |
| Black Hills Energy | No objections and no comments.                                                                                                                                                     |
| AT&T               | No objections, provided any possible incursion from existing AT&T facilities incorrectly marked – located will (if need be) relocated at the property owner's request and expense. |
| Ozarks Electric    | No objections and no comments.                                                                                                                                                     |
| Ozarks Go          | A 10' U.E. shall be dedicated centered along the OzarksGo fiber line.                                                                                                              |

| <u>City of Fayetteville</u> | <u>Response</u>                |
|-----------------------------|--------------------------------|
| Water/Sewer                 | No objections and no comments. |
| Solid Waste & Recycling     | No objections and no comments. |
| Transportation              | No objections and no comments. |

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

**RECOMMENDATION:** Staff recommends forwarding **VAC-2025-0019** to the City Council with a recommendation of approval, with the following conditions:

**Conditions of Approval:**

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense, and
2. A 10-foot-wide utility easement shall be dedicated adjacent to OzarksGo's underground fiber line on the north side of W. Hughes St. as requested by OzarksGo.



**PLANNING COMMISSION ACTION:**    Required    YES

**Date:** September 22, 2025

☐ Tabled

☐ Forwarded

☐ Denied

**Motion:**

**Second:**

**Vote:**

---

**BUDGET/STAFF IMPACT:**

None

**ATTACHMENTS:**

- Project Maps
  - One Mile Map
  - Close-Up Map
  - Current Land Use Map
- Applicant Exhibits
  - Request Letter
  - Petition to Vacate
  - Survey – Right-of-way to be Vacated

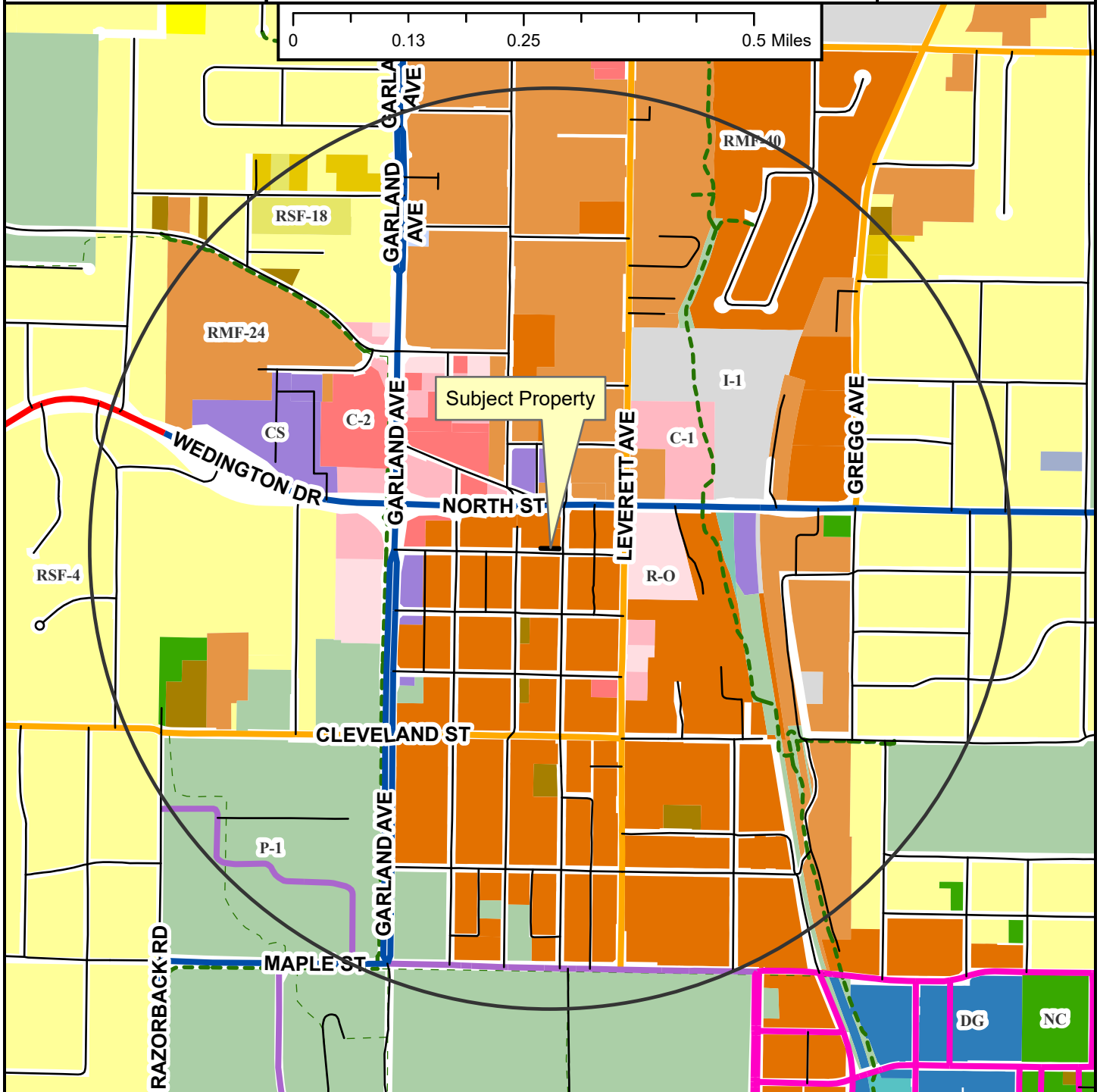
VAC-2025-0019

One Mile View

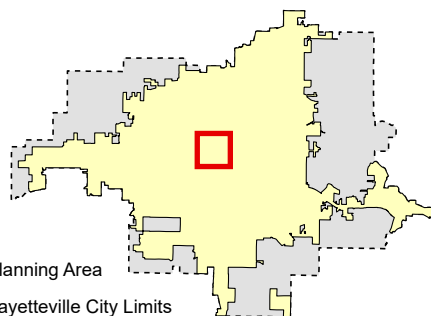
# W. HUGHES ST & N. STORER AVE

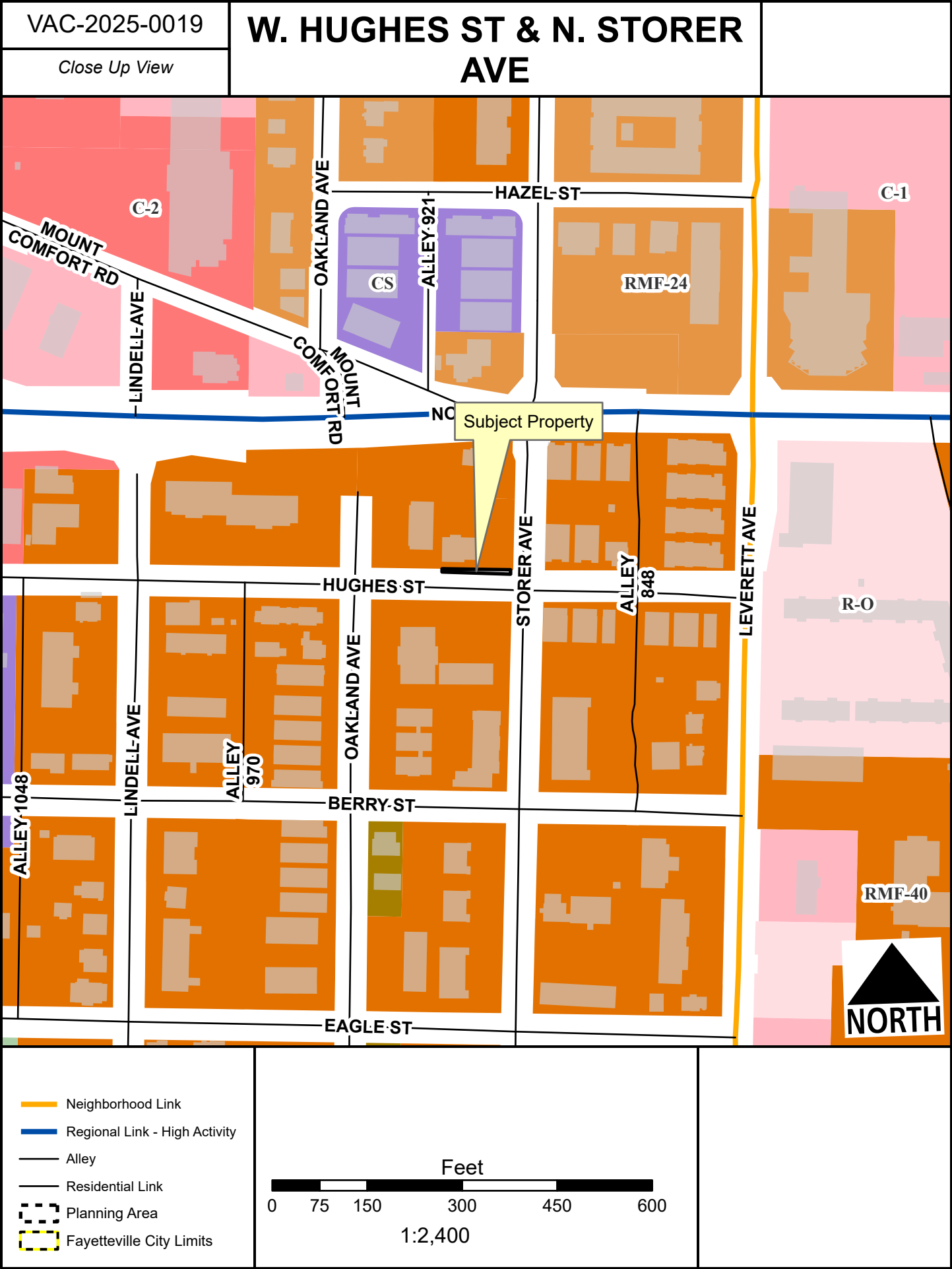


0 0.13 0.25 0.5 Miles



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



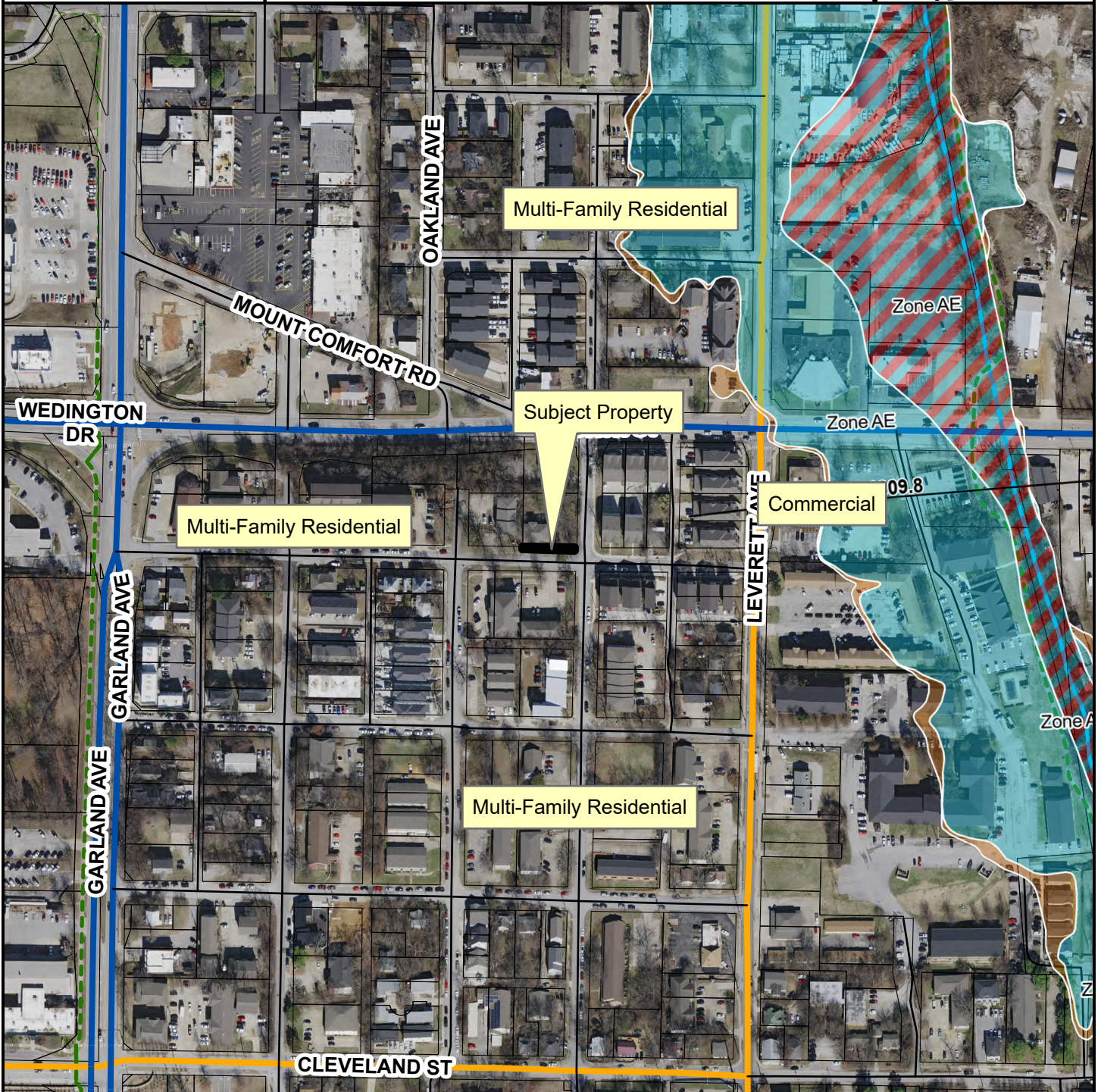




VAC-2025-0019

Current Land Use

# W. HUGHES ST & N. STORER AVE



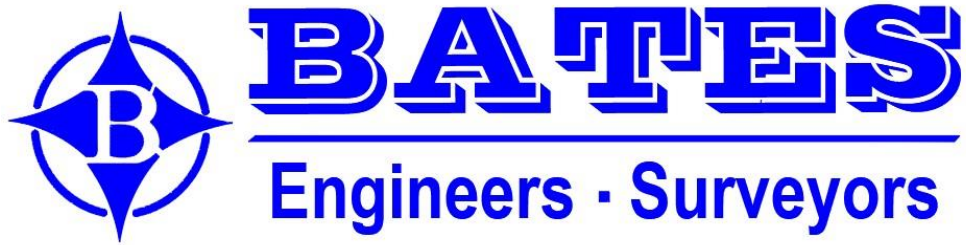
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



## FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





7230 S. Pleasant Ridge Dr. Fayetteville, AR 72704  
PH: 479-442-9350 \* FAX: 479-521-9350  
[www.batesnwa.com](http://www.batesnwa.com)

August 1, 2025

To the City of Fayetteville Planning Staff and Fayetteville City Council,

Our client, Martin Building Group, is requesting a vacation of right-of-way of a portion of West Hughes Street adjacent to lots 7 & 8, Block 2 of Rose Hill Addition to the City of Fayetteville, Washington County, Arkansas. The addresses of the affected parcels are 902 & 908 West Hughes Street and the parcel numbers are 765-10325-000 & 765-10325-001, respectively. The vacation location is adjacent to the southern property line of both parcels and is due to an excess of land between the platted right-of-way and West Hughes Street Master Street Plan right-of-way. The area total area of the vacation is 0.02 acres or 655.78 square feet.

Please feel free to reach out with any questions or concerns.

Sincerely,

Justin Reid – Project Manager  
Bates & Associates  
[justin@batesnwa.com](mailto:justin@batesnwa.com)  
479-442-9350



**PETITION TO VACATE A RIGHT-OF-WAY LOCATED IN LOTS 7 & 8, BLOCK 2 OF ROSE HILL ADDITION, CITY OF FAYETTEVILLE, ARKANSAS**

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

We, the undersigned, being all the owners of the real estate abutting the **RIGHT-OF-WAY** hereinafter sought to be abandoned and vacated, lying in **ADJACENT TO LOTS 7 & 8, BLOCK 2 OF ROSE HILL ADDITION**, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a **RIGHT-OF-WAY** which is described as follows:

A PART OF THE EXISTING PLATTED RIGHT-OF-WAY OF WEST HUGHES STREET, ADJACENT AND PARALLEL TO THE SOUTH LINE OF LOTS 7 AND 8 IN BLOCK 2 OF ROSE HILL ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON THE FINAL PLAT FILED IN BOOK 5 AT PAGE 78, SAID RIGHT-OF-WAY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID BLOCK 2 WHICH IS N87°05'52"W 4.16' FROM THE SOUTHEAST CORNER THEREOF AND RUNNING THENCE S03°09'52"W 6.91' TO THE NORTH MASTER STREET PLAN RIGHT-OF-WAY OF WEST HUGHES STREET, THENCE ALONG SAID RIGHT-OF-WAY N86°11'35"W 108.24', THENCE LEAVING SAID RIGHT-OF-WAY N03°04'07"E 5.20' TO THE SOUTH LINE OF SAID BLOCK 2, THENCE ALONG SAID SOUTH BLOCK LINE S87°05'52"E 108.25' TO THE POINT OF BEGINNING, CONTAINING 655.78 SQUARE FEET.

That the abutting real estate affected by said abandonment of the alley are **LOTS 7 & 8, BLOCK 2 OF ROSE HILL ADDITION**, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described **RIGHT-OF-WAY**.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

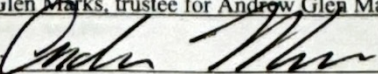
The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 4 day of Aug, 2025.

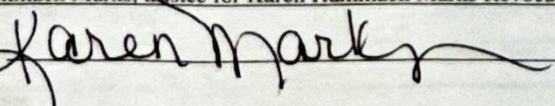
Printed Name:

Andrew Glen Marks, trustee for Andrew Glen Marks Revocable Trust

Signature: 

Printed Name:

Karen Hammack Marks, trustee for Karen Hammack Marks Revocable Trust

Signature: 





Page 9 of 9

|                                                                                     |                    |                                                                                     |                   |
|-------------------------------------------------------------------------------------|--------------------|-------------------------------------------------------------------------------------|-------------------|
|  | STORM SEWER MH     |  | FIBER OPTIC VAULT |
|  | TELEPHONE PEDESTAL |  | YARD HYDRANT      |
|  | CABLE VAULT        |  | WATER METER       |
|  | CABLE PEDESTAL     |  | FIRE HYDRANT      |
|  | ELECTRIC PEDESTAL  |  | WATER VALVE       |
|  | AC CONDENSER UNIT  |                                                                                     |                   |
|  | ELECTRICAL METER   |                                                                                     |                   |
|  | POWER POLE         |                                                                                     |                   |
|  | GUY ANCHOR         |                                                                                     |                   |
|  | GAS METER          |                                                                                     |                   |
|  | CLEANOUT           |                                                                                     |                   |



**BATES**  
Engineers • Surveyors  
7230 S. Pleasant Ridge Dr. • Fayetteville, Arkansas 72704 • 479.442.9311



7230 S. Pleasant Rd.

FOR USE AND BENEFIT OF:  
MARTIN BUILDING GROUP

ADDRESS:  
906 & 908 WEST HUGHES STREET  
FAYETTEVILLE, ARKANSAS 72702

|                                                         |                                                                                       |
|---------------------------------------------------------|---------------------------------------------------------------------------------------|
| DATE: 08/01/25                                          | SCALE: 1"=20'                                                                         |
| LOCATION:<br>LOT 7 & 8<br>BLOCK 2<br>ROSE HILL ADDITION | SURVEYED: DRAFTED<br>JCRH ML & A<br>DRAFT DATE: 07/03/24<br>REVIEWED: DT<br>COA #1335 |

PROPERTY OWNERS:  
D.KAREN HAMACK, MARKS REVOCABLE TRUST  
PO BOX 533  
4734-42-5331 E. AR 72702  
4734-42-5350  
PARKET #766-10153-000  
2) ANDREW GLENN MARKS REVOCABLE TRUST  
FAVETVILLE, AR 72702  
4734-42-5030  
PARKET #766-10153-001

[illegible]



**TO:** Fayetteville Planning Commission

**THRU:** Jessie Masters, Planning Director

**FROM:** Wesley Frank, Planner

**MEETING DATE:** September 22, 2025

**SUBJECT:** **CUP-2025-0043: Conditional Use Permit (3600 S. TOWER CIRCLE/ GLENN, 284):** Submitted by LAUREN GLENN for property located at 3600 S. TOWER CIR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.21 acres. The request is for a home occupation.

---

**RECOMMENDATION:**

Staff recommends approval of **CUP-2025-0043** with conditions as outlined by staff.

**RECOMMENDED MOTION:**

*"I move to approve **CUP-2025-0043**, finding:*

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

**BACKGROUND:**

The subject property is located in north west Fayetteville roughly 450 feet east from the intersection of N. Ruppel Road and W. Thames Drive. The property is developed with a single-family residence constructed in 2004, per Washington County records. The subject property is located in the Salem Village Planned Unit Development (PUD) in 1997 and was later rezoned to RSF-4, Residential Single-Family, 4 Units per Acre. Surrounding land uses and zoning are provided in *Table 1*.

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

| <b>Direction</b> | <b>Land Use</b>           | <b>Zoning</b>                                      |
|------------------|---------------------------|----------------------------------------------------|
| North            | Single-Family Residential | RSF-4, Residential Single-Family, 4 Units per Acre |
| South            | Single-Family Residential | RSF-4, Residential Single-Family, 4 Units per Acre |
| East             | Single-Family Residential | RSF-4, Residential Single-Family, 4 Units per Acre |
| West             | Single-Family Residential | RSF-4, Residential Single-Family, 4 Units per Acre |

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

*Request:* The applicant requests a conditional use permit to conduct a spray tanning business. This use is classified as Use Unit 24: Home Occupation, which is permitted conditionally in RSF-4 zoning.



The applicant has described the business as follows:

- Business size: Approximately 1,954 square feet in the home – 110 square feet in the garage where the business is located.
- Hours of operation: Monday – Sunday 8:00 am- 10:00 pm (appointment only)
- Number of Employees: One full-time employee who lives at the subject property
- Patrons: 1-2 average per day; 5 per week

*Public Comment:* Staff has received a public comment in opposition of the request citing the neighborhood's POA covenants does not allow for home businesses.

**RECOMMENDATION:** Staff recommend approval of **CUP-2025-0043** with the following conditions:

**Conditions of Approval:**

1. **Planning Commission determination of compatibility.** *Staff finds the home occupation (spray tanning business) to be compatible with the surrounding neighborhood and the City's long-range plans for the area;*
2. **This conditional use permit is limited to the use of a home occupation at the property, as described in the applicant's request letter. The following specifications apply:**
  - Business size: Approximately 1,954 square feet in the home, including garage – 110 square feet in the garage where the business is located.
  - Hours of operation: 7 days a week, 7:30 am – 5:30 pm (appointment only)
  - Number of Employees: One full-time employee who lives on the property
3. **Home occupations are subject to 163.08, Home Occupations standards;**
4. **The applicant shall reapply with the Zoning and the Development Administrator for a conditional use permit for Use Unit 24 one year after Planning Commission approval (set to expire September 22, 2026)**
5. **The applicant shall meet Arkansas Fire and Building code requirements prior to obtaining a business license.**
6. **The applicant shall meet the parking standards as outlines in 172.11 that only allows a maximum of four vehicles on a property in single family zoning district.**
7. **Approval of this conditional use permit does not ensure approval of a development application. The conditional use permit grants the applicant rights to submit a development proposal based on the conceptual layout included herein. The applicant shall comply with all other development requirements, including but not limited to, tree preservation, drainage, exterior lighting, utility installation, and Fire Department access standards. These details shall be reviewed with the development application;**
8. **Any future expansion or change in the use shall require Planning Commission approval; and**

9. Signs shall be limited to those permitted by UDC §174. Any proposed signage shall be reviewed for compliance with the underlying zoning district.
- 

|                                                        |                                 |                                   |                                 |
|--------------------------------------------------------|---------------------------------|-----------------------------------|---------------------------------|
| <b>PLANNING COMMISSION ACTION:</b> Required <u>YES</u> |                                 |                                   |                                 |
| Date: <u>September 22, 2025</u>                        | <input type="checkbox"/> Tabled | <input type="checkbox"/> Approved | <input type="checkbox"/> 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 24 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 §161.07 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, with the necessary conditions of approval, that granting the requested conditional use will not adversely affect the public interest. Home occupations are a conditional use in this residential zoning district due to the traffic and noise generating nature. With the applicant confining the business to the garage and with the appropriate conditions of approval in place that limit nuisance effect spillover, staff finds that the surrounding residents are unlikely to experience disruptions or impact. The home is located on W. Clabber Creek Boulevard, a collector street for the development, which is likely to support minor traffic generation. Further, the anticipated customer count is minimal with an estimated 5 a week. Any future expansion of the home occupation that would increase impact would be subject to additional review.**

(c.) The Planning Commission shall certify:

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

**Finding: There are specific rules governing home occupations Unified Development Code §163.08, Home Occupations.**

**A. Exterior Alterations.**

a. No exterior alterations of the structure may be made which are of a nonresidential nature.

**Finding: The applicant has not stated that they intend to make alterations to the home.**

**B. Sign/Evidence of Business.**

a. No advertising, display, storage or other external evidence of business shall be permitted, except that for each dwelling unit with a permitted home occupation, one (1) unanimated, non-illuminated home occupation sign which identifies the home occupation shall be permitted, if such sign is erected flat against a wall or door or is displayed in a window, and does not exceed three (3) square feet in area. No freestanding signs shall be permitted for home occupations in any zone.

**Finding: The applicant has stated that no signs would be present on the property. If the applicant intends to place a sign on the property, it will be subject to the limitations as listed above.**

**C. Employees.**

a. No person may be employed other than a member of the immediate family residing

on the premises.

**Finding: The applicant has stated that the only employee would be himself.**

**D. Mechanical Equipment.**

- a. No mechanical equipment may be used which creates a disturbance such as noise, dust, odor, or electrical disturbance.

**Finding: The operation of the business would be enclosed via the garage that would contain the minor mechanical noise that would emanate from the mechanical equipment.**

**E. Parking.**

- a. No parking spaces other than normal residential parking spaces shall be permitted.

**Finding: The applicant has stated that they intend to use off-site parking via the property's driveway and would use the on-street parking of S. Tower Circle and W. Clabber Creek Boulevard. However, a condition of approval required by the Fire Department is that the applicant shall not use these streets to provide parking and must use the driveway. The subject property has a driveway that is 17 feet wide, which would be able to adequately handle the owner's and a customer's vehicle. Staff finds that the driveway would be able to sufficiently meet the standards outlined in 172.11.**

**F. Additional Regulations. Home occupations in an RSF District shall be subject to the following additional regulations:**

- a. **Term.** No conditional use permit for a home occupation in any RSF District shall be issued for a period exceeding one year, but such a permit may be for a period shorter than one year. Upon expiration of a conditional use permit, the Zoning and Development Administrator shall have the authority to renew a conditional use permit for the same period as originally authorized, if the Zoning and Development Administrator has received no complaints or opposition from residents of the neighborhood in which the home occupation is located. The Zoning and Development Administrator may refer any proposed renewal of a conditional use permit to the Planning Commission for final decision.
- b. **Hours.** No home occupation shall be open to the public earlier than 7:30 a.m. or later than 5:30 p.m.; provided, the Planning Commission may vary the restrictions imposed hereby upon a determination that such a variance will not adversely affect the health, safety, peace, tranquility, or welfare of the neighborhood in which the home occupation is located.
- c. **Traffic.** No home occupation shall be allowed in an RSF District if the Planning Commission determines that the home occupation would generate such excessive traffic as would adversely affect the safety, peace, tranquility or welfare of the neighborhood.

**Finding: Staff has reviewed the application and subject property to ensure that the added conditions of approval would adequately meet the standard's term, hours, and traffic requirements.**

- (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:** Access to the property occurs through an existing driveway to the rear of the property via an alley. No change to the existing access features is being proposed or recommended by staff, given that no major improvements are being made to the site. There is currently existing sidewalk along the property's frontage, which extends both west and east along S. Tower Circle and W. Clabber Boulevard.

- (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 stated that they intend to use the property's driveway for customer parking with one reserved for the property owner and another for a customer.

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

**Finding:** Trash will be provided with residential trash carts. Staff recommends that these remain screened and out of view of the public right-of-way when not in use.

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

**Finding:** The property has access to City water and sewer. Any required extensions will be provided at the time of permitting.

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

**Finding:** Staff does not recommend any additional screening at this time.

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

**Finding:** Any proposed signage will be subject to UDC §174 and all the regulations therein.

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

**Finding:** The existing appears to comply with setback regulations of the underlying RSF-4 zoning district.

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

**Finding:** Use unit 24 is a conditional use as home occupations create nuisances through traffic, parking, noise, and other factors. With the appropriate conditions in place that prevent these impacts, Staff finds that the proposed use could be compatible with the surrounding properties. The proposed home occupation may in fact be positively contributing to the neighborhood environment by activating the neighborhood for local services.

(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 compatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans. This helps contribute to City Plan 2040 goal number 3, which calls for opportunities to allow for a mix of uses that can allow for residents to live, work, and play in their area.

---

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Unified Development Code
  - §161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre
- Project Maps
  - One Mile Map
  - Close-Up Map
  - Current Land Use Map
- Applicant Exhibits
  - Request Letter
  - Site Plan
  - Floor Plans and Elevations

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

|         |        |         |
|---------|--------|---------|
| Front   | Side   | Rear    |
| 15 feet | 5 feet | 15 feet |

(F) *Building Height Regulations.*

|                         |           |
|-------------------------|-----------|
| Building Height Maximum | 3 stories |
|-------------------------|-----------|

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

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

Editor's note(s)—Ord. No. 6820, §1, adopted December 4, 2024, determines that Ordinance 6427 (Sunset Clause), Ordinance 6625 (extending Sunset Clause) and Ordinance 6710 (extending the 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 July 1, 2025 at 7:00 p.m. unless prior to that time and date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.



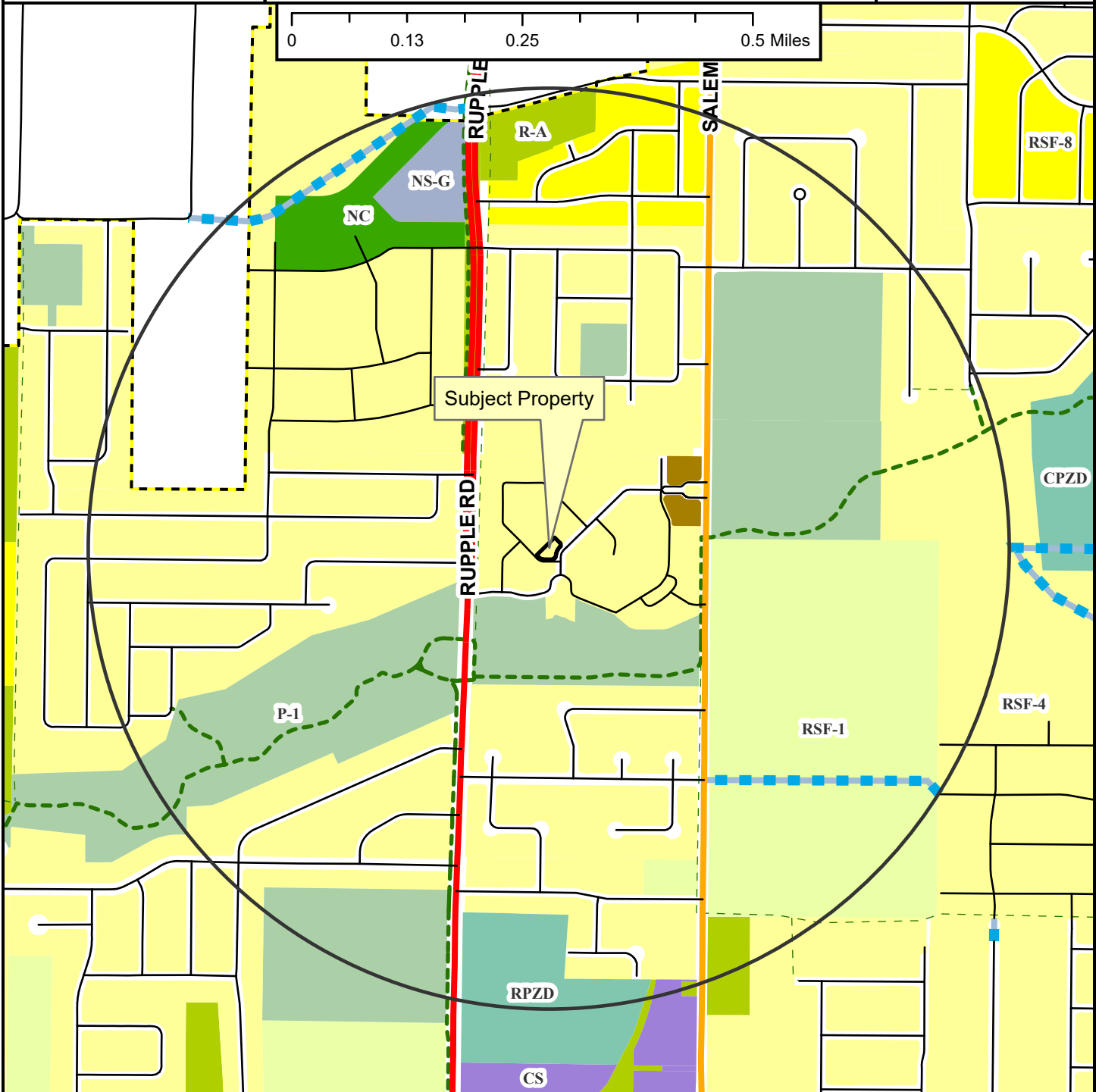
CUP-2025-0043

# 3600 S TOWER CIR

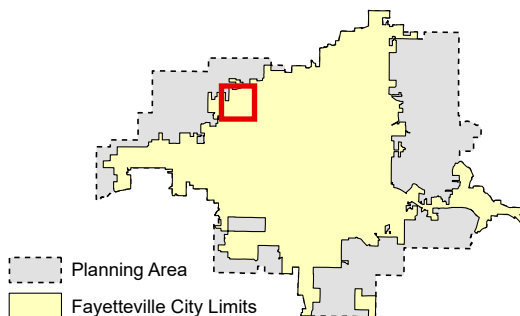
One Mile View



0 0.13 0.25 0.5 Miles

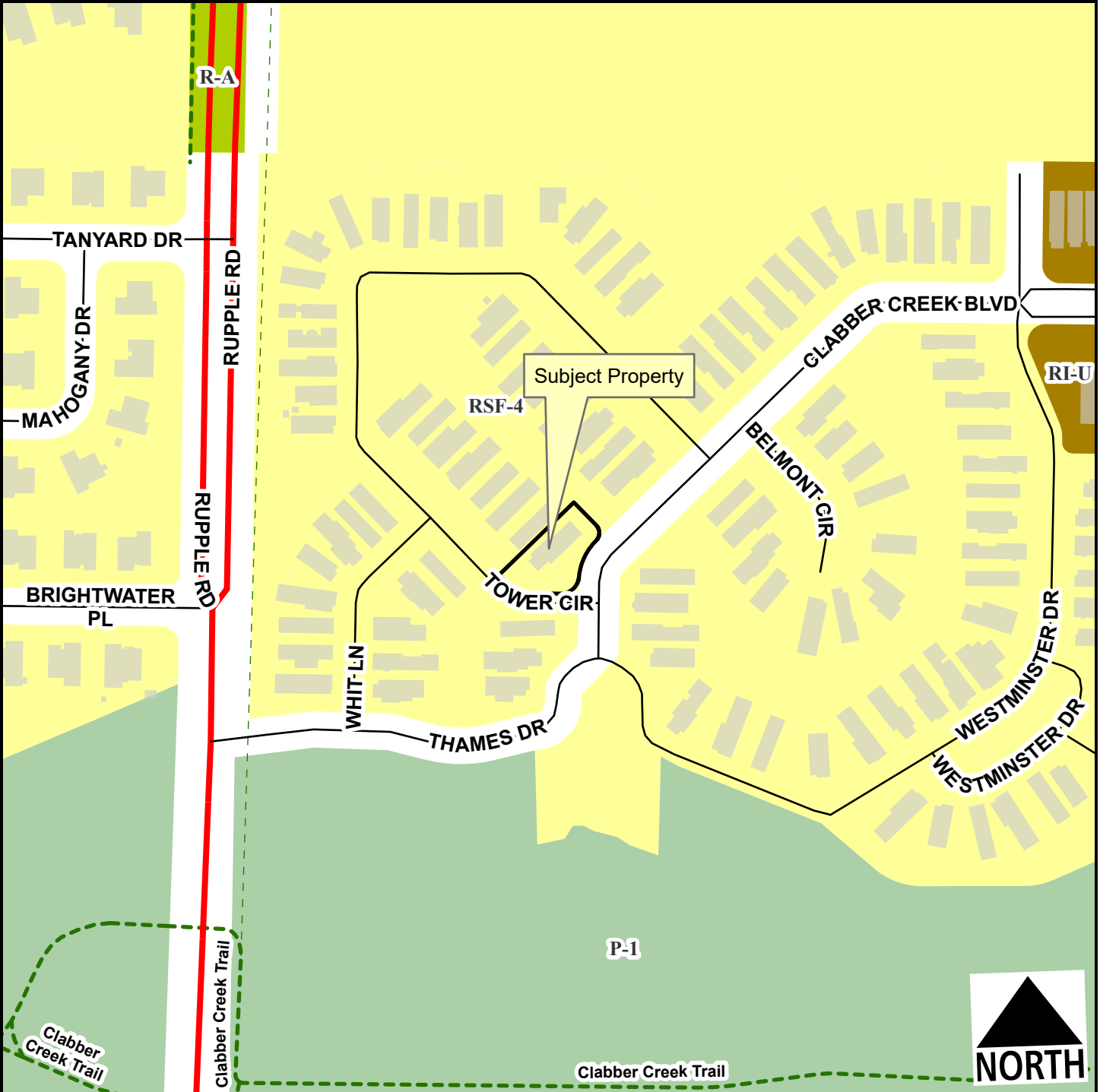


- Regional Link
- Neighborhood Link
- Unclassified
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



|                      |
|----------------------|
| CUP-2025-0043        |
| <i>Close Up View</i> |

### 3600 S TOWER CIR



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

Feet

0 75 150 300 450 600

1:2,400

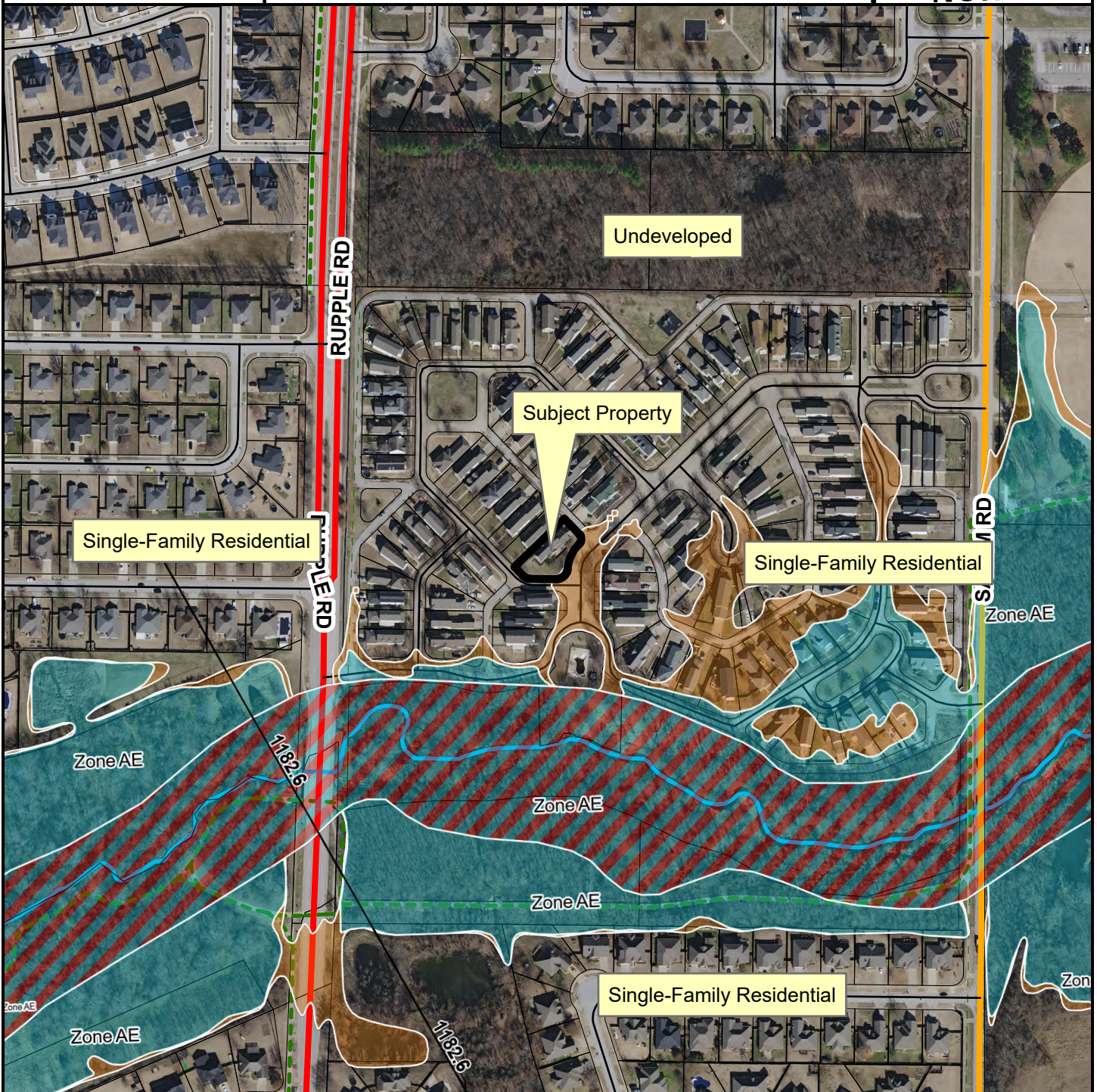




CUP-2025-0043

# 3600 S TOWER CIR

Current Land Use



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



## FEMA Flood Hazard Data

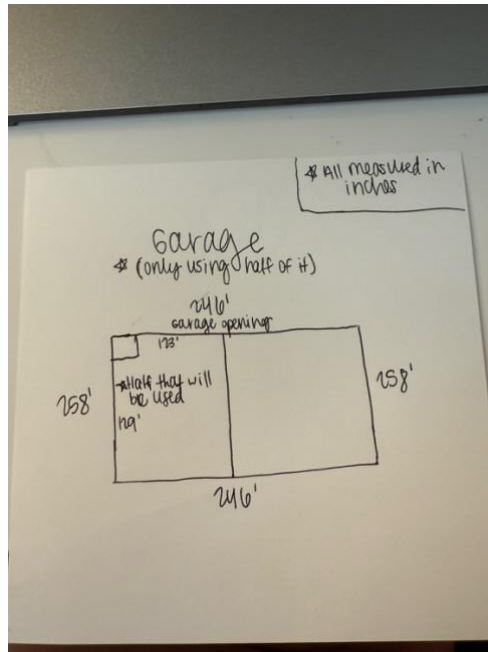
- 100-Year Floodplain
- Floodway



1.

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

- Whole house: 1,954 square feet
- Garage (where the business will be used): 123w x 129l
  - o I converted it to feet and found the square footage and it should be 110.19 square feet.



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









- Color: tan all the way around
- Siding all the way around

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

- One in driveway, if that is full- one on the side of the lot or by the front of the house

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

-Hours of operation: Monday-Sunday, 8:00am-10:00pm. By appointment only. There won't be any signs as I will instruct them beforehand where to park when they get there.

-Number of employees: 1 (myself)

-Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour): 5 per week, 15 min appointments

(e) Outdoor lighting: garage lighting, outdoor lights by door; no add ons

(f) Noise: minimal, sounds like a vacuum. Equipment is a spray tan gun with a hose attached, and there is solution connected to the bottom of the gun to give the spray tan.

(g) Screening or buffering from adjacent properties: none

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

- a Will just use regular trash bin that is picked up weekly by the city. Minimal trash used in this job.

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

- a Appointments are one person/one car at a time and take 15 minutes. They will come to my house and park in the driveway and leave right after their appointment. They will access my property by driving to it.

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

- a You will not notice it as it's in my garage and it is always closed when appointments come in and out. It does not harm the area in any way as there is a tent provided in my garage.





**TO:** Fayetteville Planning Commission

**THRU:** Jessie Masters, Planning Director

**FROM:** Donna Wonsower, Senior Planner

**MEETING DATE:** September 22, 2025

**SUBJECT:** **CUP-2025-0044: Conditional Use Permit (1923 E. JOYCE BLVD./ BUTTERFIELD TRAIL VILLAGE, 175):** Submitted by 4IE ENGINEERING INC for property located at 1923 E. JOYCE BLVD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and R-A, RESIDENTIAL-AGRICULTURAL, and contains approximately 4.86 acres. The request is for an assisted living facility and a commercial parking lot within a residential zoning district.

---

**RECOMMENDATION:**

Staff recommends approval of **CUP-2025-0044** with conditions as outlined by staff.

**RECOMMENDED MOTION:**

*"I move to approve **CUP-2025-0044**, finding:*

- *In favor of compatibility with adjacent properties for a Cultural and Recreational Facility,*
- *In favor of compatibility with adjacent properties for a parking lot located within a residential zone but serving uses in a nonresidential zone, and*
- *In favor of all other conditions as recommended by staff."*

**BACKGROUND:**

The subject property is located in north Fayetteville approximately 900 feet southwest of the intersection of E. Joyce Blvd. and N. Old Missouri Rd. The subject area is split zoned between RMF-24, Residential Multifamily, 24 Units per Acre and R-A, Residential Agricultural and is partially encumbered by streamside protection zones, floodplain and hydric soils. Mud Creek Trail runs through the southernmost portion of the campus.

The first phase of the Butterfield Trail Village campus was completed in the late 1980's and the facility has continued to expand in the decades since. There are approximately 350 residential units and many amenities, including an Alzheimer's care unit, general store, pool, gardens, art studio, dining hall and lodge, fitness studio, and convocation center. Previous expansions have received conditional use approvals. The existing 9,355 square-foot 12-unit assisted living building within the overall Butterfield Trail Village campus was constructed and placed into operation in 2014 along with the associated parking lot, which is located within a portion of the property which is still zoned R-A, Residential Agricultural. No conditional use permit was found within city records for this facility. A concurrent large-scale development application has been submitted for the proposed expansion (LSD-2025-0013). Surrounding land uses and zoning are provided in *Table 1*.

**Table 1  
Surrounding Land Use and Zoning**

| <b>Direction</b> | <b>Land Use</b>                                                 | <b>Zoning</b>                                                                                               |
|------------------|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| North            | Medical and Other Offices                                       | R-O, Residential Office<br>C-1, Neighborhood Commercial                                                     |
| South            | Single-Family Residential                                       | P-1, Institutional<br>RSF-4, Residential Single-Family, Four Units per Acre                                 |
| East             | Athletic Club / Golf Course                                     | R-A, Residential Agricultural                                                                               |
| West             | Offices and Financial Institutions<br>Single-Family Residential | C-1, Neighborhood Commercial<br>P-1, Institutional<br>RSF-4, Residential Single-Family, Four Units per Acre |

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

*Request:* The applicant requests a conditional use permit to expand an existing assisted living facility in the eastern portion of the Butterfield Trail Village campus. The structure and its associated programming are classified as Use Unit 4 in the Unified Development Code, which is permitted conditionally in the RMF-24 zoning district. Under the requirements of 164.12(B)(1)(a), a non-conforming use may not be “enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the land or structure to a use permitted in the district in which it is located or as required by other ordinances.” Given that the request is for an addition and that a conditional use permit was not granted previously for this use, the Planning Commission may bring this use into compliance by granting a conditional use permit.

- Business size: Approximately 51,540 sq. ft. (9,355 square-foot existing building and 42,185 square foot expansion)
- Number of Units: 50 (12 existing units, 38 proposed units)
- Hours of operation: 24/7

The applicant is also requesting approval to modify an existing parking lot. Fayetteville’s Unified Development Code, under §172.06 – Parking Lot Location Standards, notes that parking lots located within residential zones which serve uses in nonresidential zones may be allowed as a conditional use by the Planning Commission. This request is necessary since 1) the existing parking lot is located within the R-A, Residential Agricultural zoning district while the proposed nonresidential use is located within the RMF-24, Residential Multi-Family, 24 Units per Acre district and, 2) the parking lot is proposed to be modified as part of the associated expansion.

*Public Comment:* Staff has received no comments at this time.

**RECOMMENDATION:** Staff recommend approval of **CUP-2025-0044**. Should the Planning Commission choose to approve the permit, staff recommends the following conditions:

**Conditions of Approval:**

- 1. Planning Commission determination of compatibility for a Cultural and Recreational Facility.** *Staff finds the assisted living facility to be compatible with the surrounding neighborhood and the City’s long-range plans for the area;*
- 2. Planning Commission determination of compatibility for a parking lot located within a residential zone but serving uses in nonresidential zones.** *Staff finds the proposed parking lot to be compatible for the reasons outlined in this report;*
- 3. This conditional use permit is limited to the use for Butterfield Trail Village, as described in the applicant’s request letter. The following specifications apply:**
  - a. Business size: Approximately 51,540 sq. ft. (9,355 square-foot existing building

- and 42,185 square foot expansion)
- b. Number of Units: 50 (12 existing units, 38 proposed units)
  - c. Hours of operation: 24/7
4. **Approval of this conditional use permit does not ensure approval of a development application. The conditional use permit grants the applicant rights to submit a development proposal based on the conceptual layout included herein. The applicant shall comply with all other development requirements, including but not limited to, tree preservation, drainage, exterior lighting, utility installation, and Fire Department access standards. These details shall be reviewed with the development application;**
  5. **Any future expansion or change in the use shall require Planning Commission approval; and**
  6. **Signs shall be limited to those permitted by UDC §174. Any proposed signage shall be reviewed for compliance with the underlying zoning district.**
- 

|                                                        |                                 |                                   |                                 |
|--------------------------------------------------------|---------------------------------|-----------------------------------|---------------------------------|
| <b>PLANNING COMMISSION ACTION:</b> Required <u>YES</u> |                                 |                                   |                                 |
| Date: <u>September 22, 2025</u>                        | <input type="checkbox"/> Tabled | <input type="checkbox"/> Approved | <input type="checkbox"/> 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 4 in the RMF-24 and R-A zoning districts, and for a parking lot located within a residential zone but serving uses in a nonresidential zone.

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 Codes §161.03, §161.16, and §172.06 to grant the requested conditional use permit.

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

**Finding:** Staff finds that granting the requested conditional use will not adversely affect the public interest. The property has been utilized as a retirement community for over 30 years and all previous expansions have been found to be compatible. In an evaluation of the surrounding land uses, scale, and context, staff finds that surrounding residents are unlikely to experience disruption or nuisance. Offices and other commercial uses are present in large numbers to the north, east, and the single-family residential neighborhood to the south is separated from the campus by a wide, heavily wooded floodplain that includes the Mud Creek trail corridor as well as substantial grade change.

(c.) The Planning Commission shall certify:

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

**Finding:** There are no specific rules that govern either Use Unit 4 or a parking lot located within a different zoning district than the use it is serving.

- (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:** Existing access from Joyce Blvd. and Old. Missouri Rd. are not proposed to be modified with the proposed expansion; therefore, ingress and egress is not anticipated to be affected. There is an existing sidewalk system that provides pedestrian access to adjacent streets as well as Mud Creek Trail. Any required improvements shall be determined with the associated development application.

(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 provided overall parking counts for the entire campus which indicate sufficient parking for all uses. The existing parking lot contains 120 standards spaces and 3 motorcycle/scooter spaces. Thirty-two spaces are proposed to be removed with this development, with portions of the remaining parking lot redesigned to accommodate accessible parking spaces and a vehicle drop-off lane adjacent to the proposed expansion. A concurrent request under CPL-2025-0012 is proposed to replace 28 of the lost spaces, resulting in a cumulative loss of only four spaces. The existing parking lot is currently screened from the public right-of-way. Staff finds that the parking lot, while located within a residential zoning district serving a nonresidential use, is still within the same retirement community campus and is unlikely to negatively affect the surroundings. Staff recommends no additional conditions.

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

**Finding:** Refuse and service areas are being reviewed with the concurrent large-scale development application.

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

**Finding:** The property has access to City water and sewer. Any required improvements will be provided at the time of permitting.

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

**Finding:** Staff does not recommend any additional screening at this time.

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

**Finding:** Any proposed signage will be subject to UDC §174 and all the regulations therein.

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

**Finding:** The proposed development shall meet open space and required building setbacks for the RMF-24 zoning district.

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

**Finding:** Staff finds that the proposed use is compatible with the surroundings; there are no apparent nuisance or adverse impacts and may in fact be positively contributing to the neighborhood environment by providing necessary services and allowing a tiered approach for residents to age in place within the retirement community.

(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 compatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans. The future land use map identifies this area as a City Neighborhood Area, which encourages a wide mix of residential and nonresidential uses. City Plan 2040 also acknowledges a growing senior population and encourages the development of senior living in close proximity to retail and medical facilities. Staff finds the expansion of these facilities, including the redevelopment of its existing parking, align with these goals and should not result in any adverse impacts to traffic, public services, or aesthetic impacts that would be incompatible with the surrounding properties.

---

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Unified Development Code
  - §161.03 District R-A, Residential-Agricultural
  - §161.17 District RMF-24, Residential Multi-Family - 24 Units Per Acre
- Project Maps
  - One Mile Map
  - Close-Up Map
  - Current Land Use Map
- Applicant Request Exhibits
  - Request Letter
  - Site Plan
  - Building Plans

### 161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

|         |         |         |
|---------|---------|---------|
| Front   | Side    | Rear    |
| 35 feet | 20 feet | 35 feet |

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

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5195, 11-6-08; Ord. No. 5238, 5-5-

09; Ord. No. 5479, 2-7-12; Ord. No. 5945, §3, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6820, §1, adopted December 4, 2024, determines that Ordinance 6427 (Sunset Clause), Ordinance 6625 (extending Sunset Clause) and Ordinance 6710 (extending the 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 July 1, 2025 at 7:00 p.m. unless prior to that time and date the City Council amends this ordinance to repeal or further amend 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 (2) family dwellings                |
| Unit 10 | Three (3) and four (4) family dwellings |
| Unit 26 | Multi-family dwellings                  |
| Unit 41 | Accessory dwellings                     |
| Unit 44 | Cluster Housing Development             |
| Unit 46 | Short-term rentals                      |

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

|                                     |          |
|-------------------------------------|----------|
| Manufactured home park              | 100 feet |
| Lot within a Manufactured home park | 50 feet  |
| Single-family                       | 35 feet  |
| Two (2) family                      | 35 feet  |
| Three (3) family 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) family or more      | 7,000 square feet |
| Fraternity or Sorority        | 2 acres           |
| Professional offices          | 1 acres           |

(3) *Land Area Per Dwelling Unit.*

|                   |                   |
|-------------------|-------------------|
| Manufactured Home | 3,000 square feet |
|-------------------|-------------------|

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

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

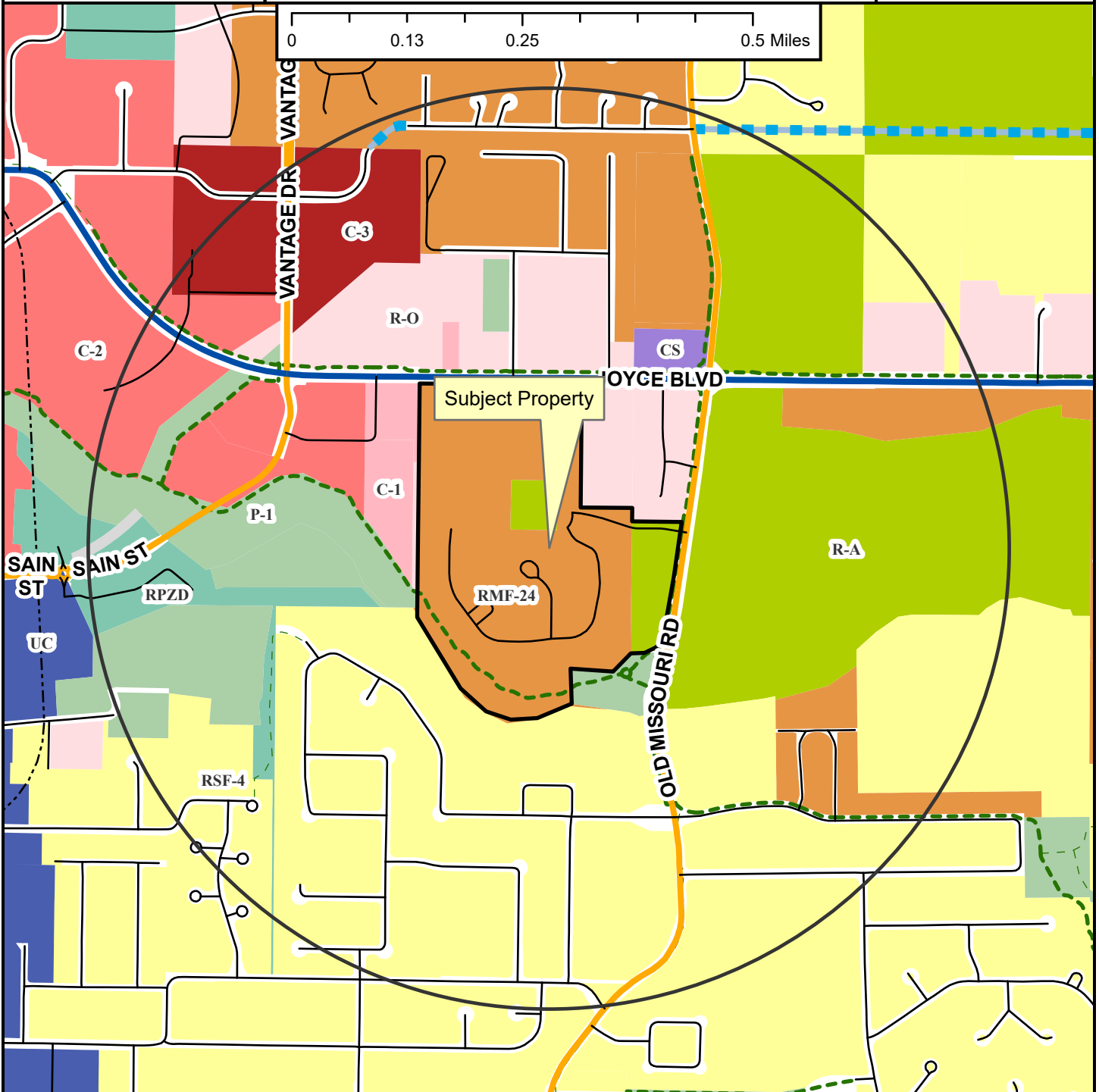
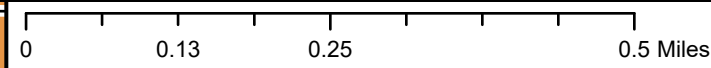
(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5079, 11-20-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5495, 4-17-12; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21; Ord. No. 6658, §6(Exh. E), 5-2-23)

Editor's note(s)—Ord. No. 6820, §1, adopted December 4, 2024, determines that Ordinance 6427 (Sunset Clause), Ordinance 6625 (extending Sunset Clause) and Ordinance 6710 (extending the 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 July 1, 2025 at 7:00 p.m. unless prior to that time and date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.

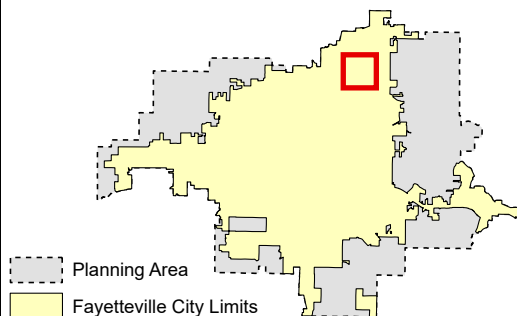
CUP-2025-0044

# 1923 E. JOYCE BLVD

One Mile View



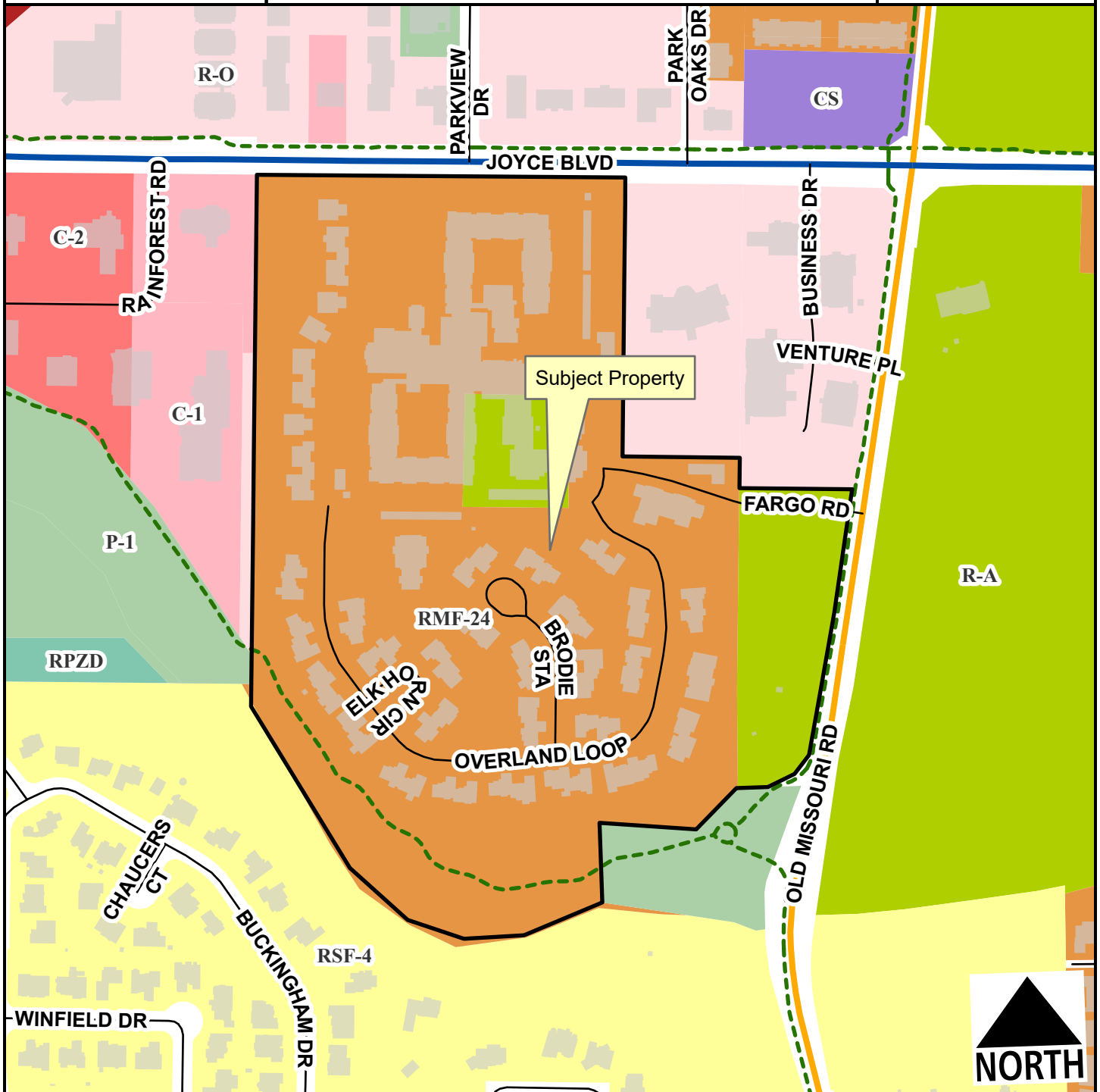
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



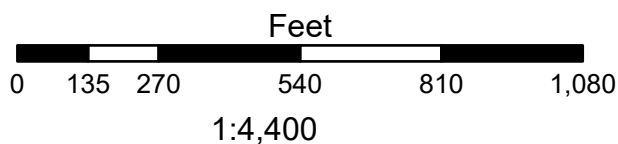
CUP-2025-0044

# 1923 E. JOYCE BLVD

Close Up View



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

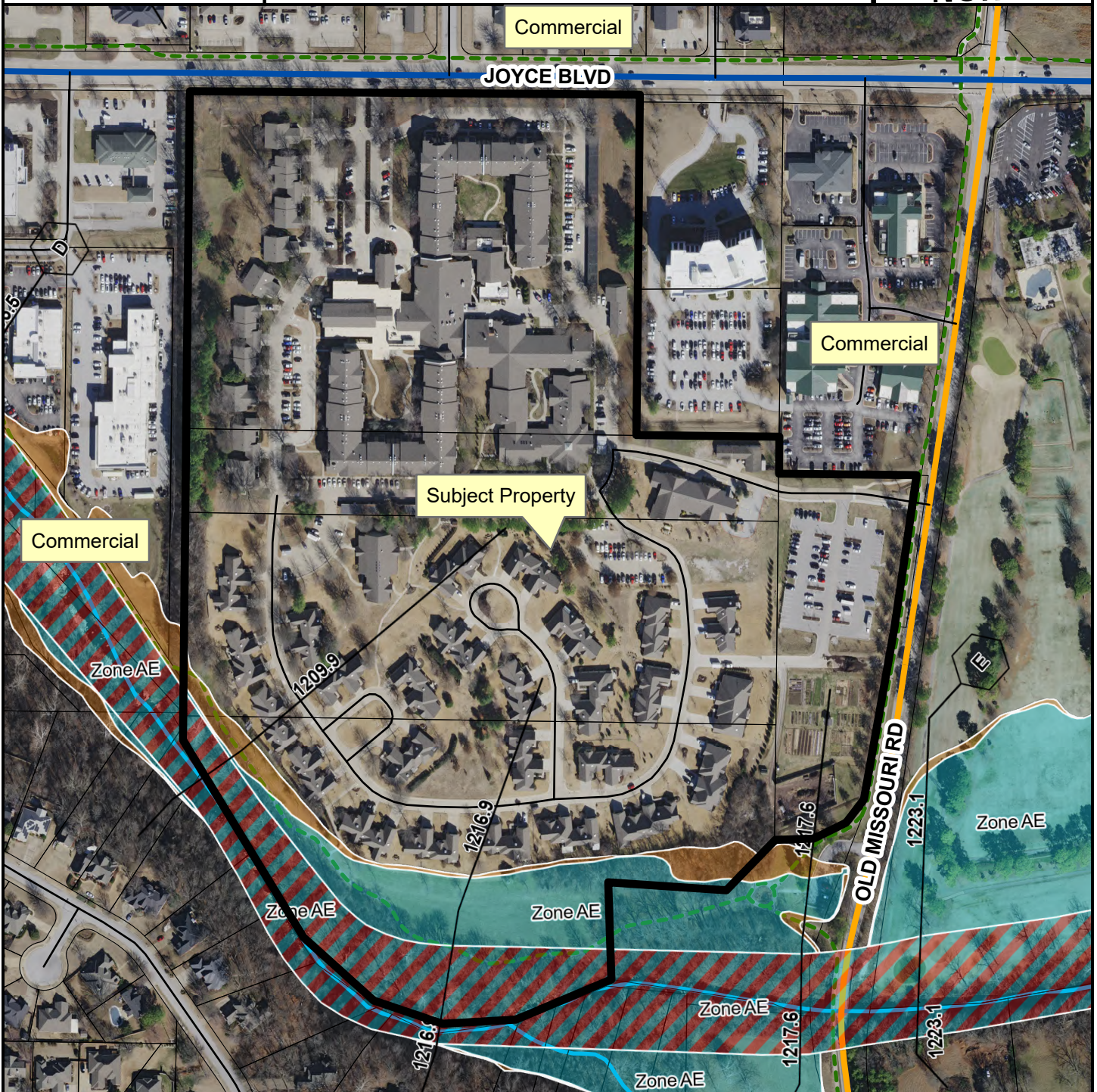




CUP-2025-0044

# 1923 E. JOYCE BLVD

Current Land Use



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



## FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





## 4iE Engineering, Inc.

---

P.O. Box 56, Cave Springs, AR 72718

Phone: (479)381-1066

Email: [ffourie@civilde.com](mailto:ffourie@civilde.com)

September 3, 2025  
Jessie Masters  
Planning Director  
Development Services  
125 W. Mountain Street  
Fayetteville, AR 72701  
Phone: 479.575.82637

Ferdinand Fourie, P.E.  
P.O. Box 56  
Cave Springs, Arkansas 72718  
479.381.1066  
[ffourie@4iE.Engineering](mailto:ffourie@4iE.Engineering)

Re: Conditional Use Application  
Assisted Living Facility Expansion  
Butterfield Trail Village  
Fayetteville, Arkansas

This request is to allow for the construction and use of the expansion to the existing Assisted Living Facility (ALF) on the Butterfield Trail Village campus along E. Fargo Road, west of Old Missouri Road. The expansion to the existing facility will meet a growing need for quality assisted living care. The existing facility has been operating within the Butterfield Village campus to the benefit and service of the residents.

The existing facility is a 9,355 square-foot building that provides twelve units and has been in operation for over ten years since 2014. There is no other assisted living facility on the Butterfield Trail campus.

The proposed expansion will add thirty-eight (38) units with forty (40) total beds in a two-story and 42,185 (gross) square-foot addition. The addition will be to the east side of the existing building and encroach on a portion of the existing parking lot area that has been recently added.

The entire campus is zoned RMF-24 (Residential Multi-Family) and R-A (Residential Agricultural) as shown on the attached exhibit. These districts do not appear to include an Assisted Living Facility as a Permitted Use, however, it may be allowed as a Conditional Use classified as Use Unit 4 (Eldercare).

As part of this project the existing parking area to the east will be reconfigured to accommodate this building expansion. This parking facility to the east is located within the R-A (Residential Agricultural) district, however it provides parking space capacity for the existing and proposed Assisted Living Facilities, in addition to employee parking for the overall Butterfield Village campus.

Therefore, this Conditional Use includes a request for the parking lot use within differing zoning districts within the Butterfield Village campus.

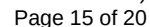
This facility provides services to permanent residents and does not create any significant customer traffic, noise, or other adverse impacts on the surrounding neighbors. It is located within the retirement campus with commercial office use to the north. No public amenities are provided as part of this assisted living facility. Amenities as shown within the outside courtyard will be for the use of the assisted living facility residents and family members.

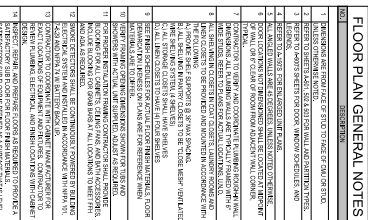
Please let me know if you have any questions.

Sincerely,

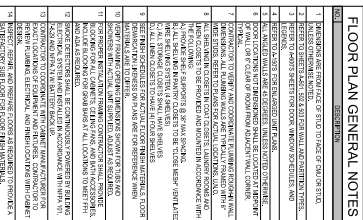


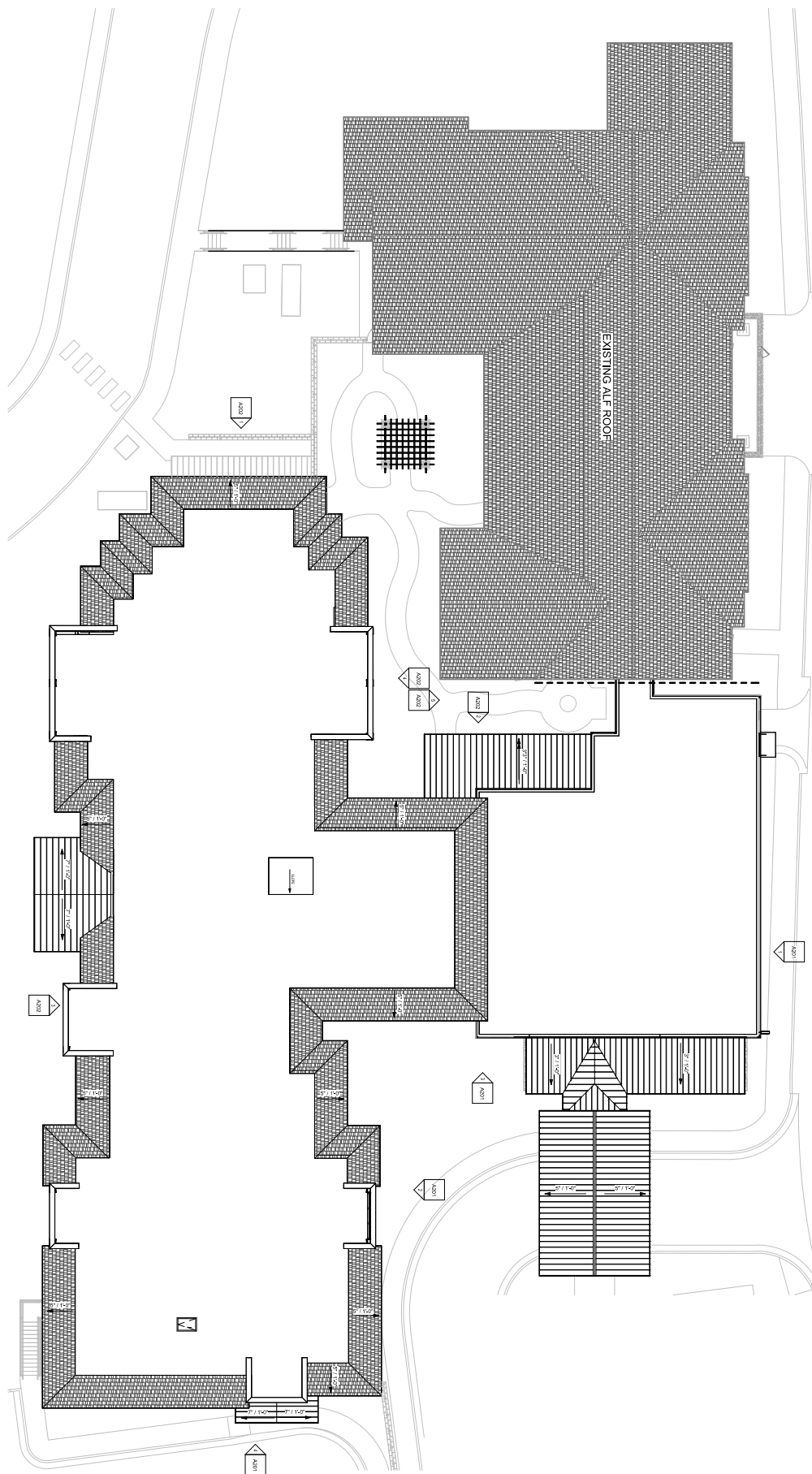
Ferdi Fourie, P.E.  
FF/FF



[illegible]



[illegible]

[illegible]

**Tampa**  
1228 East 7th Avenue, Suite 400, Tampa, FL 33602  
Tel. 813 248 0359 Fax 813 247 3507



FLORIDA  
DEPARTMENT OF  
TRANSPORTATION  
NOT FOR CONSTRUCTION

Planning Commission  
September 22, 2025  
FIELD TRAIL VILLAGE

Ch...

AM...

Tampa  
1226 East 7th Ave  
Tampa, FL 33604  
Seagrave  
5340 N. ...  
Seagrave  
1400 ...

Page 18 of 20

CUP-2025-0044 (BUT)



**Butterfield**  
TRAIL VILLAGE  
LIVING YOUR *Best* RETIREMENT

BUTTERFIELD  
TRAIL VILLAGE -  
ALF ADDITION

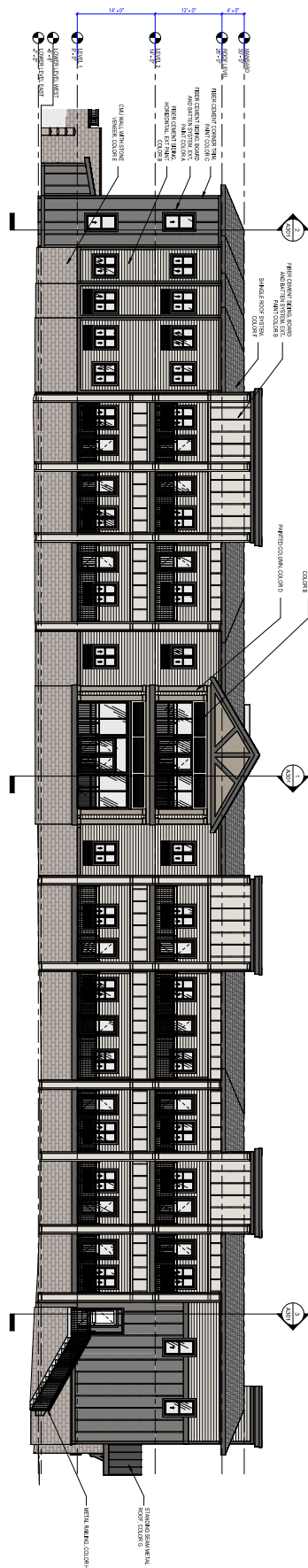
1023 E. JOYCE BLVD. FAYETTEVILLE, AR 72701

**CLIENT / CONSULTANT**

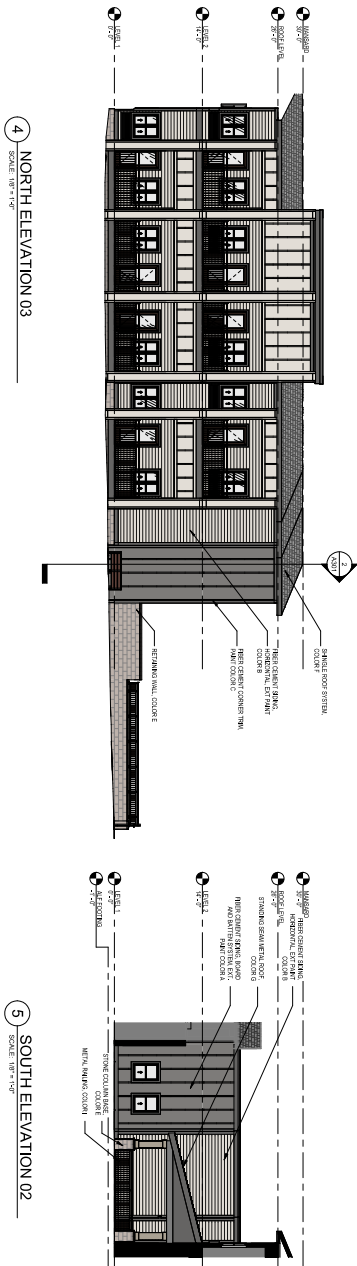
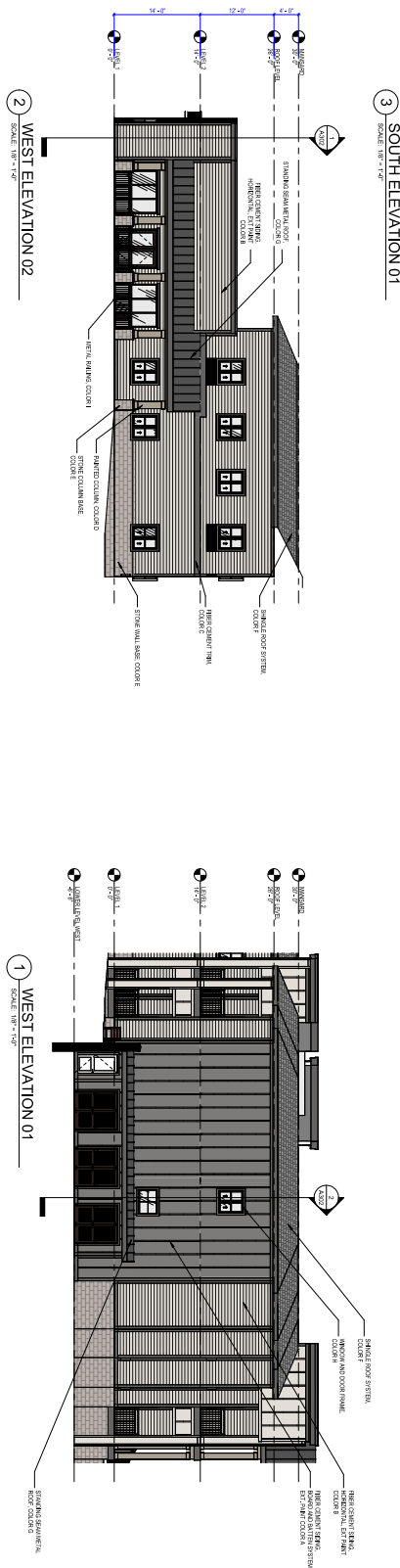
[illegible]

**SHEET TITLE** A105





| COLOR LEGEND |                         |
|--------------|-------------------------|
| COLOR        | DESCRIPTION             |
|              | COLOM A                 |
|              | COLOM B - WHITE FIBER   |
|              | COLOM C                 |
|              | COLOM D                 |
|              | COLOM E - YELLOW        |
|              | COLOM F - PINKISH GREY  |
|              | COLOM G - CHEMICAL GREY |
|              | COLOM H - BROWN         |
|              | COLOM I - MIDWAY BLACK  |







**TO:** Fayetteville Planning Commission

**THRU:** Jessie Masters, Planning Director

**FROM:** Donna Wonsower, Senior Planner  
Justin Bland, Staff Engineer  
Willia Thomason, Urban Forester

**MEETING:** September 22, 2025

**SUBJECT:** **LSD-2025-0013: Large Scale Development (1923 E. JOYCE BLVD./ BUTTERFIELD TRAIL VILLAGE, 175):** Submitted by 4IE ENGINEERING INC for property located at 1923 E. JOYCE BLVD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and R-A, RESIDENTIAL-AGRICULTURAL, and contains approximately 4.86 acres. The request is for a 38-unit addition to an existing assisted living facility with associated parking.

---

**RECOMMENDATION:**

Staff recommends approval **LSD-2025-0013**, with conditions.

**RECOMMENDED MOTION:**

*"I move to approve **LSD-2025-0013**, recommending:*

- 1. In favor of variance to §166.24(D)(7)(b)(ii), Glazing;*
- 2. In favor of the recommended street improvements;*
- 3. In favor of the recommended right-of-way dedication, and*
- 4. All other conditions as recommended by staff."*

**BACKGROUND:**

The subject property is located in north Fayetteville approximately 900 feet southwest of the intersection of E. Joyce Blvd. and N. Old Missouri Rd. The subject area is split zoned between RMF-24, Residential Multifamily, 24 Units per Acre and R-A, Residential Agricultural and is partially encumbered by streamside protection zones, floodplain and hydric soils. Mud Creek Trail runs through the southernmost portion of the campus.

The first phase of the Butterfield Trail Village campus was completed in the late 1980's and the facility has continued to expand in the decades since. There are approximately 350 residential units and many amenities, including an Alzheimer's care unit, general store, pool, gardens, art studio, dining hall and lodge, fitness studio, and convocation center. Previous expansions have received conditional use approvals. The existing 9,355 square-foot 12-unit assisted living building within the overall Butterfield Trail Village campus was constructed and placed into operation in 2014 along with the associated parking lot, which is located within a portion of the property which is still zoned R-A, Residential Agricultural. No conditional use permit was found within city records for this facility. A concurrent conditional use permit application has been submitted for the proposed expansion (CUP-2025-0044) as well as the existing units. Surrounding land uses and zoning are provided in *Table 1*.

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

| Direction | Land Use                                                        | Zoning                                                                                                      |
|-----------|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| North     | Medical and Other Offices                                       | R-O, Residential Office<br>C-1, Neighborhood Commercial                                                     |
| South     | Single-Family Residential                                       | P-1, Institutional<br>RSF-4, Residential Single-Family, Four Units per Acre                                 |
| East      | Athletic Club / Golf Course                                     | R-A, Residential Agricultural                                                                               |
| West      | Offices and Financial Institutions<br>Single-Family Residential | C-1, Neighborhood Commercial<br>P-1, Institutional<br>RSF-4, Residential Single-Family, Four Units per Acre |

*Proposal:* The applicant requests Large Scale Development approval for a 42,185 square-foot, 38-unit expansion of an existed living facility, as well as site improvements including the renovation of the existing parking lot. The proposed conditional use request also included the existing facility (9,355 square feet, 12 units). One variance has been requested.

**UDC §166.24(D)(7)(b)(ii), Glazing. A building façade located outside of a build-to zone shall be glazed no less than 30% of the first or ground floor at the pedestrian level between 2 and 12 feet above the Finished Floor Elevation (FFE).** The applicant is requesting permission to provide 8% glazing on the northern and 18% glazing on the southern facade of the proposed addition.

- a. *Staff recommendation: Staff recommends approval of this request. While the space is considered a commercial structure per city regulations, it still includes inherently residential functions as part of its use, which naturally limit some portions of the building. The north elevation, which proposes only 9% glazing, hosts a large industrial kitchen meant to serve residents of the property. The kitchen includes multiple features such as refrigerators, freezers, storage areas, and other spaces not conducive to providing glazing. Staff recommends the exterior of the north façade shall include material, texture, and / or color changes at a maximum separation of 20 feet in order to provide visual interest and minimize the appearance of a large, blank façade.*

*The south façade proposes 21 % glazing. This façade includes balcony access from nine assisted living units, a common living area space with balcony, and an office space. Staff finds that the first floor is approximately 7' above grade along this façade and that this raised floor substantially impacts the proposed calculations. Windows and doors with glazing are proposed for each unit. Staff recommends that shrubs, trees, or other plantings with vertical elements shall be planted in adjacent to the south façade in order to minimize the appearance of a large CMU wall and to provide visual interest.*

*Right-of-Way to be Dedicated:* Butterfield Trail Village has property along N. Joyce Blvd., a regional high activity link, and N. Old Missouri Rd., a neighborhood link. The proposed addition is approximately 300 feet from N. Old Missouri Rd. and nearly 900 feet from E. Joyce Blvd. Given the relatively minor scope of the improvements and its location internal to the property, no additional right-of-way dedication is recommended.

*Street Improvements:* The project is internal to the existing site and does not have any project specific street frontage. Due to this, Staff's recommendation for sidewalk improvements address

existing issues with sidewalk along the E. Joyce Blvd. frontage. Staff recommends the applicant make necessary improvements to this sidewalk to make it ADA compliant or pay a fee-in-lieu.

*Access Management/Connectivity:* Existing access from Joyce Blvd. and Old. Missouri Rd. are not proposed to be modified with the proposed expansion; therefore, ingress and egress is not anticipated to be affected. There is an existing sidewalk system that provides pedestrian access to adjacent streets as well as Mud Creek Trail.

*Design Standards:* The development is subject to §166.24 Nonresidential Design Standards, §166.25 Commercial, Office and Mixed-Use Design Standards, and §172.04 Parking Lot Design Standards; the project is substantially compliant with these standards except for the variance requested above.

Commercial uses within Fayetteville include parking maximums rather than minimums. The applicant has provided overall parking counts for the entire campus which indicate sufficient parking for all residential and commercial uses. The existing parking lot contains 120 standards spaces and 3 motorcycle/scooter spaces. Thirty-two spaces are proposed to be removed with this development, with portions of the remaining parking lot redesigned to accommodate accessible parking spaces and a vehicle drop-off lane adjacent to the proposed expansion. A concurrent request under CPL-2025-0012 is proposed to replace 28 of the lost spaces, resulting in a cumulative loss of only four spaces.

*Water and Sewer System:* There is an existing 8" water along the north side of the site along E. Joyce Blvd. and the site has an internal 8" water main loop that connects to the 8" water main along E. Joyce Blvd. in two spots. The applicant is proposing to tie to this internal water main loop for domestic water and fire hydrants. Additionally, the site has several internal 8" sewer mains serving the site that connect to a 27" sewer main that runs across the south side of the site. The applicant is proposing to tie to this internal sewer main for sewer service.

*Parkland dedication or fee in-lieu:* Commercial developments are not subject to parkland dedication.

*Tree Preservation:*

Canopy minimum requirement: 20%

Existing canopy: 21.0%

Preserved canopy: 20.9%

Mitigation required: 0 2-inch caliper trees

*Public Comment:* Staff has not received any public comment at this time.

**RECOMMENDATION:** Staff recommends approval of **LSD-2025-0013**, with the following conditions:

**Conditions of Approval:**

1. **Planning Commission determination of variance to UDC §166.24(D)(7)(b)(ii), Glazing.** Staff recommends approval of the requested variance with added conditions.
  - a. The exterior of the north façade shall include material, texture, and / or color changes at a maximum separation of 20 feet.
  - b. Shrubs, trees, or other plantings with vertical elements shall be planted adjacent to the south façade.

2. **Planning Commission determination of right-of-way dedication.** *Staff recommends no additional right-of-way dedication.*
3. **Planning Commission determination of street improvements.** *Staff recommends necessary improvements to E. Joyce Blvd. sidewalk along E. Butterfield Trail Village frontage to make it ADA compliant or a fee-in-lieu.*
4. All comments from Planning staff must be addressed prior to grading permit including:
  - a. Utility easement vacation shall be required prior to building permit approval.
  - b. A property line adjustment shall be required prior to building permit approval.
  - c. Bike racks shall be required per UDC 172.10
5. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto:

**Standard conditions of approval:**

6. Development review comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks Electric, SWEPCO, and Cox Communications);
7. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, and tree preservation. The information submitted for the development review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements;
8. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
9. Prior to the issuance of a building permit the following is required:
  - a. Grading and drainage permits;
  - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
  - c. Exterior lighting package must be provided to the Planning Division;
  - d. A cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy;
  - e. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
  - f. Project Disk with all final revisions; and
  - g. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



Planning Commission Action: ☐ Approved ☐ Tabled ☐ Denied

Meeting Date: September 22, 2025

Motion:

Second:

Vote:

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- UDC Code Sections
- Project Maps
  - One Mile Map
  - Close Up Map
  - Current Land Use Map
- Staff Exhibits
  - Engineering Memo
  - Urban Forestry Memo
- Applicant Exhibits
  - Request Letter
  - Variance Request Letters
  - Site Plans
  - Elevations

---

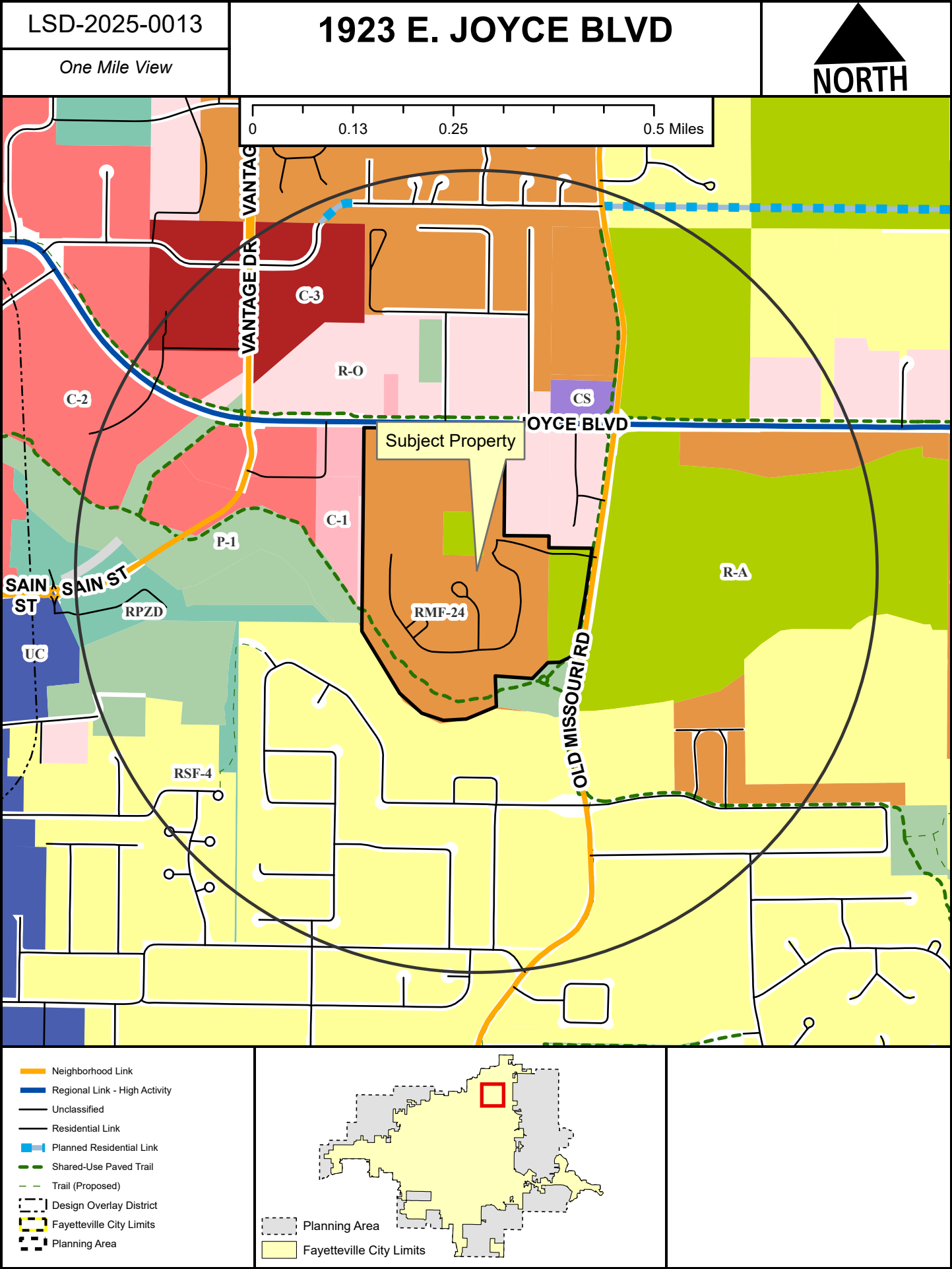
**166.24 Nonresidential Design Standards**

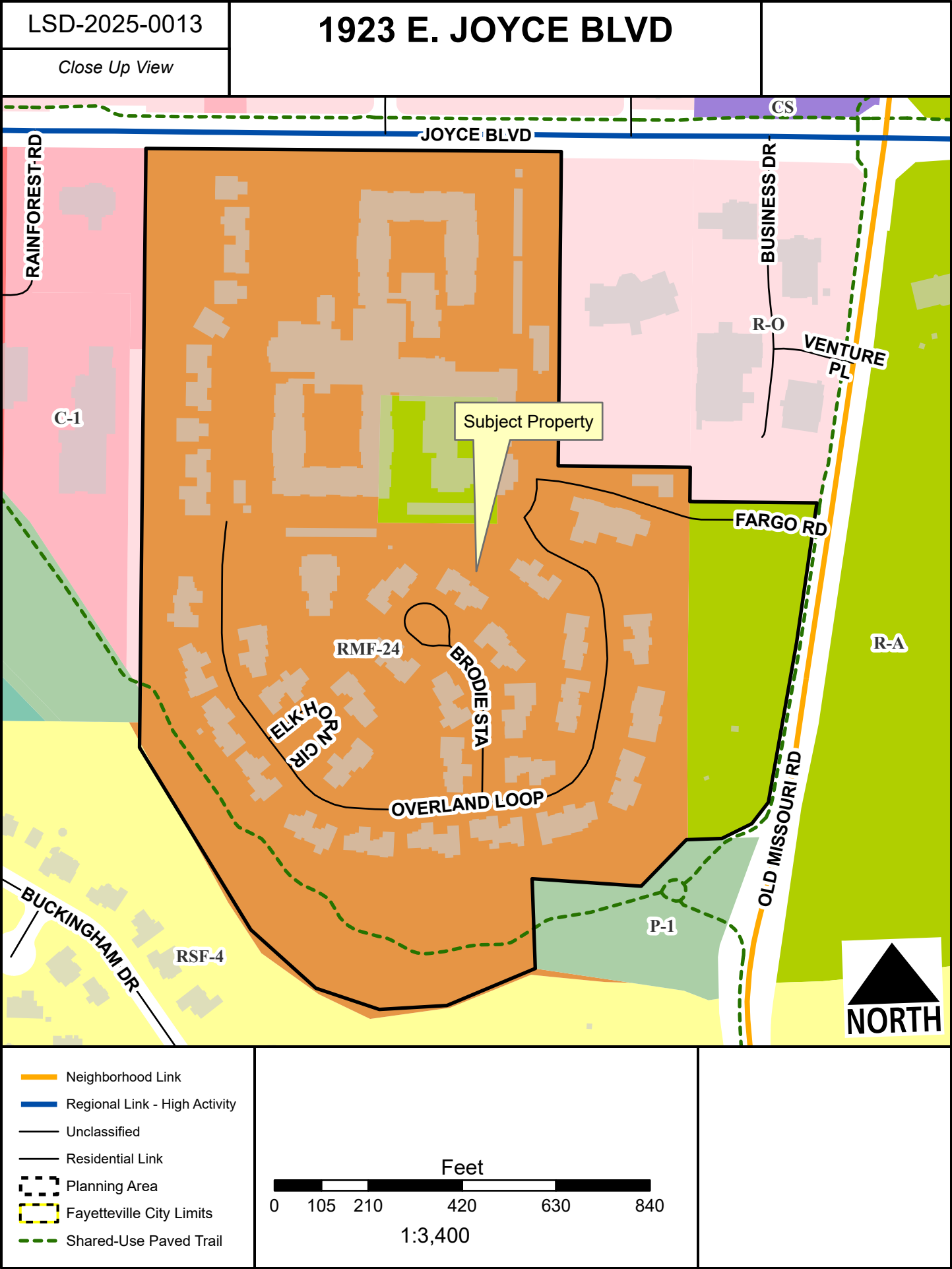
(D) *Building Mass, Scale, and Articulation.* The following regulations shall apply to break down the mass of large structures:

...

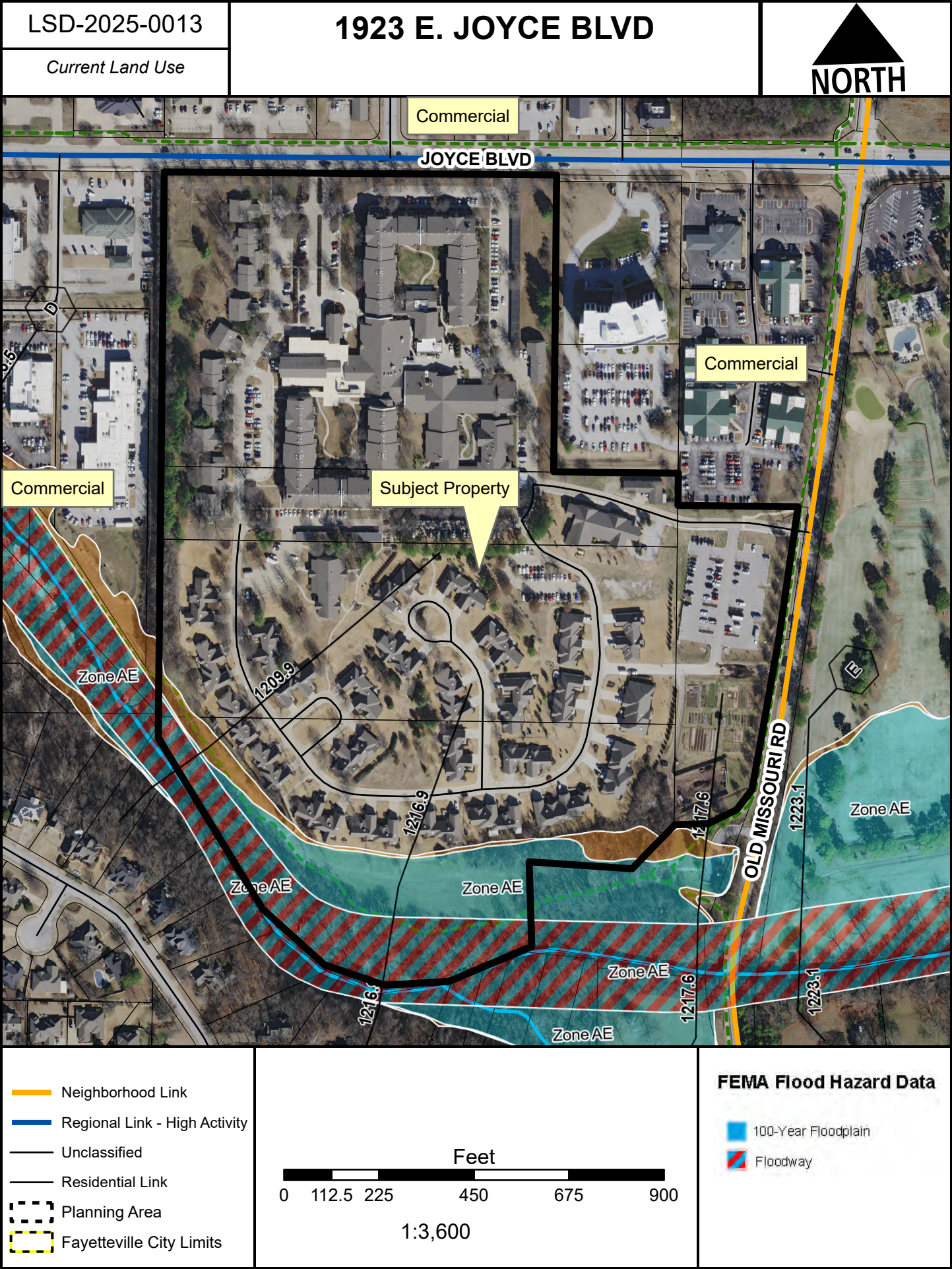
- (b) Glazing. In order to create a proportion of solids to voids and pedestrian interest the following standards shall apply:
  - (i) A building façade located within the build-to zone shall be glazed no less than 50% of the first or ground floor at the pedestrian level between 2 and 12 feet above the sidewalk.
  - (ii) A building façade located outside of a build-to zone shall be glazed no less than 30% of the first or ground floor at the pedestrian level between 2 and 12 feet above the Finished Floor Elevation (FFE).
  - (iii) Glazing above the first story shall not exceed 80% of the total building wall area.

(Ord. No. 5312, 4-20-10; Ord. No. 5519, 8-21-12; Ord. No. 5859, §1(Exh. A), 3-15-16; Ord. No. 6164, §10, 4-2-19)













**TO:** Donna Wonsower, Senior Planner

**FROM:** Justin Bland, Engineering Development Review Manager

**DATE:** September 16, 2025

**SUBJECT: Planning Commission Engineering Comments for  
LSD-2025-0013**

---

**Water:** There is an existing 8" water along the north side of the site along E. Joyce Blvd. The site has an internal 8" water main loop that connects to the 8" water main along E. Joyce Blvd. in two spots. The applicant is proposing to tie to this internal water main loop for domestic water and fire hydrants.

**Sewer:** The site has several internal 8" sewer mains serving the site that connect to a 27" sewer main that runs across the south side of the site. The applicant is proposing to tie to this internal sewer main for sewer service.

**Streets:** The project is internal to the existing site and does not have any project specific street frontage. Due to this, Staff's recommendation for sidewalk improvements address existing issues with sidewalk along the E. Joyce Blvd. frontage. Staff recommends to make necessary improvements to this sidewalk to make it ADA compliant or pay a fee-in-lieu.

**Drainage:** The parking lot adjacent to the east of the proposed building was constructed approximately 5 years ago. At the time, the drainage system for the parking lot anticipated a future building in the area and provided additional water quality and detention volume for it. However, the proposed project exceeds the amount of impervious area that was previously planned for. Therefore, the applicant is proposing to expand the existing enhanced dry swale system to accommodate the difference in impervious area. This expansion to the dry swale system would address all four drainage criteria typically required by the Drainage Manual. At the time this memo was prepared the applicant had yet to provide all the calculations supporting the proposed design, however, the concept appears to work in concept and staff believes the details can be worked out during the grading permit process.

**Plan Comments:**

1. Please provide additional calculations showing that the proposed drainage design meets all four criterium from the Drainage Criterium Manual.

**Standard Comments:**

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense

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



# URBAN FORESTRY LANDSCAPE PLAN COMMENTS

**To:** 4IE Engineering

**From:** Bethany Douglas, Urban Forester

**CC:** Donna Wonsower, Planner

**Meeting Date:** September 22 , 2025

**Subject:** LSD-2025-0013: 1923 E Joyce Blvd. (Butterfield Trail Village)

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

|                                                                                                                                              |               |           |            |
|----------------------------------------------------------------------------------------------------------------------------------------------|---------------|-----------|------------|
| c. Tree Island (8' min. width, 18.7' min length OR 150 square feet)<br><i>UDC Chapter 177.04C</i>                                            | X             |           |            |
| d. Placement of Trees (either side at entrances and exits)<br><i>UDC Chapter 177.04C2</i>                                                    | X             |           |            |
| <b>3. Perimeter Landscaping Requirements</b>                                                                                                 | <b>Yes</b>    | <b>No</b> | <b>N/A</b> |
| a. Front Property Line (15' wide landscape) and five on sides.<br><i>UDC Chapter 177.04D2a</i>                                               | X             |           |            |
| b. Side and Rear Property Lines (5' Wide Landscape Area)<br><i>UDC Chapter 177D1</i>                                                         | X             |           |            |
| c. Shade trees planted on south and west sides of parking lots<br><i>UDC Chapter 177.04D2e</i>                                               | X             |           |            |
| d. Screening of parking lot from adjacent residential properties and the street.                                                             |               |           | X          |
| <b>4. Street Tree Planting Requirements</b>                                                                                                  | <b>Yes</b>    | <b>No</b> | <b>N/A</b> |
| a. Residential Subdivisions<br>1 Large Shade Species Tree per Lot<br><i>UDC Chapter 177.05B1a</i>                                            |               |           | X          |
| b. Non-Residential Subdivisions<br>1 Large Species Shade Tree every 30' (planted in greenspace)<br><i>UDC Chapter 177.05B2a</i>              | X             |           |            |
| c. Urban Tree Well – Urban Streetscapes<br>Trees every 30' (8' sidewalk)<br><i>UDC Chapter 177.05B3a-f</i>                                   |               |           | X          |
| d. Structural Soil – Urban Tree Wells<br>Include a note and/or detail of structural soil on Landscape Plan<br><i>UDC Chapter 177.05B3a-f</i> |               |           | X          |
| e. Residential Subdivisions<br>Timing of planting indicated on plans<br><i>UDC Chapter 177.05A4</i>                                          |               |           | X          |
| f. Residential Subdivisions<br>Written description for method of tracking planting<br><i>UDC Chapter 177.05A4e</i>                           |               |           | X          |
| <b>5. Landscape Requirement Totals</b>                                                                                                       | <b>Amount</b> |           |            |
| Mitigation Trees                                                                                                                             |               | 0         |            |
| Parking Lot Trees                                                                                                                            |               | 8         |            |
| Street Trees                                                                                                                                 |               | 20        |            |
| Detention Pond – Large Trees<br>(1 Tree/3,000 square feet)                                                                                   |               | 1         |            |



|                                                                                                   |   |
|---------------------------------------------------------------------------------------------------|---|
| Detention Pond – Small Tree/Large Shrub<br>(4 small trees or large shrubs/3,000 square feet)      | 5 |
| Detention Pond – Small Shrubs/Large Grasses<br>(6 shrubs or grasses (1 gallon)/3,000 square feet) | 7 |

| 6. Review Status (See Comments) | Tech Plat | Planning Commission |
|---------------------------------|-----------|---------------------|
| Conditionally Approved          | 8-22-25   | 9-22-25             |
| Approved                        |           |                     |
| Tabled                          |           |                     |
| Denied                          |           |                     |

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

| Comments                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Address items above marked “No” and all Redlines provided.</li> <li>2. Please be aware that 3-year maintenance surety for all required landscaping (to be submitted prior to building permit) should include trees to be relocated.</li> </ol> |



# URBAN FORESTRY TREE PRESERVATION COMMENTS

**To:** 4IE Engineering

**From:** Bethany Douglas, Urban Forester

**CC:** Donna Wonsower, Senior Planner

**Meeting Date:** September 22, 2025

**Subject:** LSD-2025-0013: Butterfly Trail Village (1923 E Joyce Blvd)

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

## 2. Tree Preservation Calculations

| Tree Preservation Calculations                                |             |                 |
|---------------------------------------------------------------|-------------|-----------------|
|                                                               | Square Feet | Percent of site |
| Total Site Area *Minus Right of Way and Easements             | 2,087,956   | 100%            |
| <i>Zoning Designation * Select Below with drop down arrow</i> |             |                 |
| RMF-24 Multi-Family Residential-Twenty-Four Units Per Acre    | 417,591     | 20%             |
| <i>HHOD * Select Below with Drop Down Arrow</i>               |             |                 |
| No                                                            | 0           | 0%              |
| Total Canopy for Minimum Preservation Requirements            | 417,591     | 20.0%           |
| Existing Tree Canopy * Minus Right of Way and Easements       | 438,470     | 21.0%           |
| Tree Canopy Preserved                                         | 435,565     | 20.9%           |
| Tree Canopy Removed *On Site                                  | 2,905       | 0.1%            |
| Tree Canopy Removed *Off Site                                 | 0           |                 |
| Tree Canopy Removed Total                                     | 2,905       | 0.1%            |
| Removed Below Minimum                                         | 0           |                 |
| Mitigation Requirements                                       | 0           |                 |

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

**Total Mitigation Trees Required** N/A

| 4. Mitigation Type  | Yes | No | N/A |
|---------------------|-----|----|-----|
| On-Site Mitigation  |     |    | X   |
| Off-Site Mitigation |     |    | X   |

Tree Escrow (See Conditions of Approval)

X

| 5. Tree Preservation Plan Checklist<br><i>UDC Chapter 167.04H1and 167.04L1</i> |                                                                                                    | Tech<br>Plat | Planning<br>Commission |     |
|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|--------------|------------------------|-----|
| a.                                                                             | 5 year Aerial Check on Existing Trees                                                              | Yes          | Yes                    |     |
| b.                                                                             | Property Boundary                                                                                  | Yes          | Yes                    |     |
| c.                                                                             | Natural Features (100ft beyond limits of disturbance)                                              | Yes          | Yes                    |     |
| d.                                                                             | Existing Topography and Proposed Grading                                                           | No           | Yes                    |     |
| e.                                                                             | Soil Types                                                                                         | Yes          | Yes                    |     |
| f.                                                                             | Significant Trees                                                                                  | Yes          | Yes                    |     |
| g.                                                                             | Groupings of Trees                                                                                 | Yes          | Yes                    |     |
| h.                                                                             | Table Inventory List (species, size, health, priority)                                             | Yes          | Yes                    |     |
| i.                                                                             | All Existing and Proposed Utilities                                                                | Yes          | Yes                    |     |
| j.                                                                             | All Existing and Proposed Utility Easements and ROW's                                              | No           | Yes                    |     |
| k.                                                                             | All Streams (with approximate center line)                                                         | N/A          | N/A                    |     |
| l.                                                                             | Floodplains and floodways                                                                          | N/A          | N/A                    |     |
| m.                                                                             | Existing Street, Sidewalk or Bike Path ROW                                                         | N/A          | N/A                    |     |
| n.                                                                             | Submitted Site Analysis Plan (if required)                                                         | Yes          | N/A                    |     |
| o.                                                                             | Shows ALL Proposed Site Improvements                                                               | No           | No                     |     |
| p.                                                                             | Delineates trees/canopy to be preserved and removed                                                | Yes          | Yes                    |     |
| q.                                                                             | Tree Preservation Easement/s shown for LSD, LSIP and<br>Commercial PPL projects                    | No           | No                     |     |
| Tree Protection Methods                                                        |                                                                                                    |              |                        |     |
| a.                                                                             | Tree Protection Fencing                                                                            | Yes          | Yes                    |     |
| b.                                                                             | Limits of Root Pruning                                                                             | Yes          | Yes                    |     |
| c.                                                                             | Traffic flow on work site                                                                          | Yes          | Yes                    |     |
| d.                                                                             | Location of material storage                                                                       | Yes          | Yes                    |     |
| e.                                                                             | Location of concrete wash out                                                                      | Yes          | Yes                    |     |
| f.                                                                             | Location of construction entrance/exit                                                             | Yes          | Yes                    |     |
| 6.                                                                             | Site Analysis Report (if required)<br><i>UDC Chapter 167.04H4</i>                                  | Yes          | No                     | N/A |
| a.                                                                             | Provide graphic examples of multiple options used to<br>minimize removal of existing canopy        |              |                        | X   |
| b.                                                                             | Submitted Analysis Statement – Note the process, iterations,<br>and approaches to preserve canopy. |              |                        | X   |
| 7.                                                                             | Review Status (See Comments)                                                                       | Tech<br>Plat | Planning<br>Commission |     |
|                                                                                | Conditionally Approved                                                                             | 8-26-25      | 9-22-25                |     |

Approved

Tabled

Denied

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

#### Comments

1. Address items above marked "No" and all Redlines provided.
2. Preserved trees must be dedicated in a tree preservation easement.





## 4iE Engineering, Inc.

P.O. Box 56, Cave Springs, AR 72718

Phone: (479)381-1066

Email: [ffourie@civilde.com](mailto:ffourie@civilde.com)

September 3, 2025  
Jessie Masters  
Planning Director  
Development Services  
125 W. Mountain Street  
Fayetteville, AR 72701  
Phone: 479.575.82637

Ferdinand Fourie, P.E.  
P.O. Box 56  
Cave Springs, Arkansas 72718  
479.381.1066  
[ffourie@4iE.Engineering](mailto:ffourie@4iE.Engineering)

Re: Assisted Living Expansion  
Butterfield Trail Village  
Fayetteville, Arkansas

Please find enclosed submittal items for the proposed building expansion to the existing assisted living facility on the Butterfield Trail Village campus along E. Fargo Road, from Old Missouri Road.

Under this project, thirty-eight (38) units with forty (40) total beds will be added in a two-story and 42,185 (gross) square-foot addition to the existing twelve-unit and 9,355 square-foot facility. The addition will be to the east of the existing building and encroach on a portion of the existing parking lot area that has been recently added. Therefore, as part of this project the existing parking lot will be reconfigured to accommodate the addition. A portion of E. Fargo Road will also be vertically realigned to allow ADA access to the sidewalk along the street.

Public water and sewer facilities are available at the project site, and service line extensions from the new addition to these public lines are proposed as part of this project.

The encroachment to the east will reduce the total number of parking spaces to the east of the facility by thirty-three (33). A total of ninety-two (92) standard spaces and two (2) accessible spaces will remain. A separate parking lot expansion to the north of this project has been proposed under a separate project (CPL-2025-0012) to provide additional parking. Under that project, a total of twenty-eight (28) spaces will be replaced. The intent is also for the parking expansion project to provide additional parking during the construction period of this development.

The proposed addition will encroach on a portion of an existing general utility easement. Vacationing of this portion of the easement will be required to allow this development to proceed. Therefore, a request is included with this submittal. It appears that this utility easement only contains electrical and cable service lines. As part of this project, these utility facilities will have to be rerouted, and this will be coordinated with the respective utility owners.

The existing assisted living facility, as well as this proposed addition, is currently within the RMF-24 (Residential Multi-Family) and R-A (Residential Agricultural) zoning districts. The assisted living facility does not appear to be a permitted use within these zoning districts. However, it may be allowed as a Conditional Use as it could be classified under Use Unit 4 – Cultural and Recreational Facilities (Eldercare). Therefore, a Conditional Use application is included along with this submittal as a request to allow this development within the current zoning districts. This will allow the project to move through permitting and state licensing amendment approvals at this point, but we will plan to rezone the area of this assisted living facility to P-1 as recommended by the City.

As part of the parking lot expansion that was constructed in 2021, drainage detention and enhanced drainage swales were constructed to meet stormwater quality requirements. It appears that provisions were made in the design of these facilities to accommodate this future expansion of the assisted living building.

Please let me know if you have any questions.

Sincerely,



Ferdi Fourie, P.E.  
FF/FF

September 17, 2025  
Jessie Masters  
Planning Director  
Development Services  
125 W. Mountain Street  
Fayetteville, AR 72701  
Phone: 479.575.82637

Re: Variance of Nonresidential Design Standards  
Assisted Living Facility Expansion  
Butterfield Trail Village  
Fayetteville, Arkansas

Please accept this letter as a request for relief of specific City of Fayetteville design requirements for the proposed expansion of the Assisted Living Facility on the Butterfield Trail Village campus along Old Missouri Road and E. Joyce Blvd.

1. Variance: Chapter 166.24-Nonresidential Design Standards (D)(7-b)(ii)

*"A building façade located outside of a build-to zone shall be glazed no less than 30% of the first or ground floor at the pedestrian level between 2 and 12 feet above the Finished Floor Elevation (FFE)."*

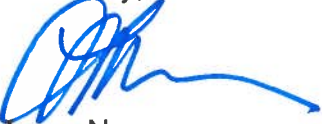
In incorporating fenestration design changes, we were able to increase the glazing percentages somewhat at each elevation. Along the east elevation, which faces Old Missouri Road, the proposed building expansion will exceed the requirement for 30% with glazing at 38%.

A portion of the north elevation forms the exterior wall of the commercial kitchen and, by design, does not include windows. This elevation faces a private drive (Fargo Road) and is largely screened from view along Old Missouri Road. The kitchen plays a vital role in supporting the residential units, and its placement and configuration are intentionally designed to optimize service efficiency. As such this elevation cannot reach the minimum glazing requirements.

The south elevation incorporates 21% glazing, providing natural light and visual connection for the residential units it serves. Located approximately 260 feet from the Old Missouri Road right-of-way, this area of the expansion is dedicated to residential use and reflects the scale and character appropriate for that context.

Please let me know if you have any questions.

Sincerely,



Larry Nuzum  
Managing Partner





1 PARTIAL SOUTH ELEVATION 01 - CUP

WALL AREA (ORANGE): 2242.40 sf  
GLAZING AREA (BLUE): 480.93 sf - 21%

SOUTH ELEVATION  
TOTAL WALL AREA (ORANGE): 2242.40 sf  
TOTAL GLAZING AREA (BLUE): 480.93 sf - 21%



Chancey  
ARCHITECTS, LLC

Tampa  
1229 East 7th Avenue, Suite 400, Tampa, FL 33605  
Phone: 813-247-3567 Fax: 813-247-3567  
St. Petersburg  
2000 1st Avenue, Suite 108, St. Petersburg, FL 33705  
Phone: 813-247-3567 Fax: 813-247-3567



Planning Commission  
September 22, 2025

LSD-2025-0013 (BUTTERFIELD TRAIL VILLAGE)

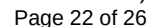


BUTTERFIELD  
TRAIL VILLAGE -  
ALF ADDITION

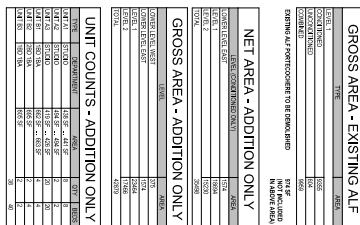
1023 E JOYCE BLVD, FAYETTEVILLE, AR 72703

| REVISIONS |      |             |
|-----------|------|-------------|
| NO.       | DATE | DESCRIPTION |
|           |      |             |
|           |      |             |
|           |      |             |
|           |      |             |
|           |      |             |
|           |      |             |
|           |      |             |

X212



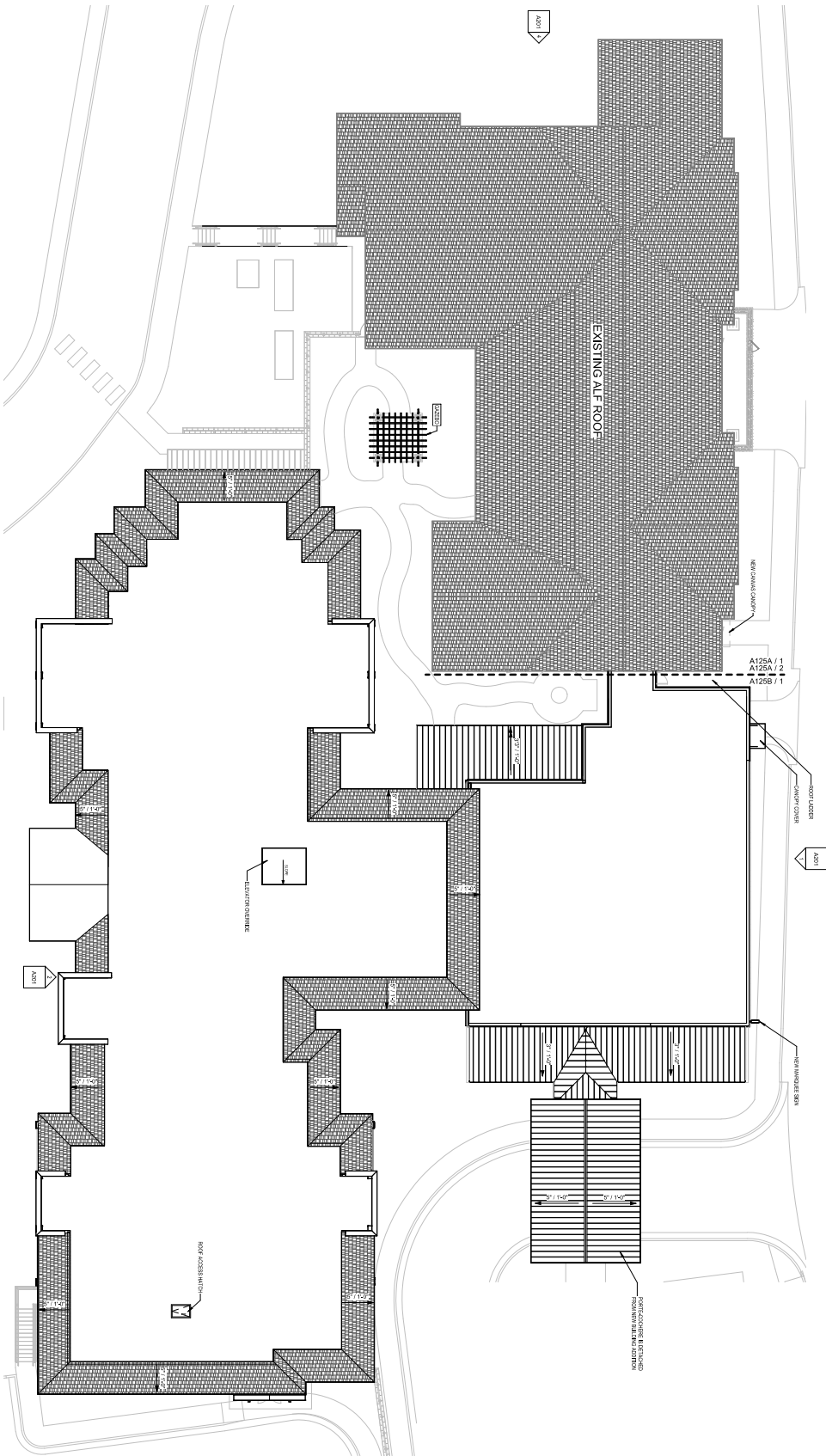


[illegible][illegible][illegible]



1 ROOF LEVEL - OVERALL FLOOR PLAN

SCALE: 3/32" = 1'-0"



| ROOF PLAN GENERAL NOTES |                                                   |
|-------------------------|---------------------------------------------------|
| 1                       | EXISTING ROOF LAYERS ARE SHOWN WITH DASHED LINES. |
| 2                       | NEW ROOF LAYERS ARE SHOWN WITH SOLID LINES.       |
| 3                       | ROOF ACCESS POINTS ARE SHOWN WITH DASHED LINES.   |
| 4                       | ROOF ACCESS POINTS ARE SHOWN WITH DASHED LINES.   |
| 5                       | ROOF ACCESS POINTS ARE SHOWN WITH DASHED LINES.   |
| 6                       | ROOF ACCESS POINTS ARE SHOWN WITH DASHED LINES.   |
| 7                       | ROOF ACCESS POINTS ARE SHOWN WITH DASHED LINES.   |
| 8                       | ROOF ACCESS POINTS ARE SHOWN WITH DASHED LINES.   |
| 9                       | ROOF ACCESS POINTS ARE SHOWN WITH DASHED LINES.   |
| 10                      | ROOF ACCESS POINTS ARE SHOWN WITH DASHED LINES.   |

PROJECT

CHANCEY

1503 E JOYCE BLVD, FAYETTEVILLE, AR 72703

CLIENT / CONSULTANTS

Butterfield TRAIL VILLAGE

LIVING YOUR BEST RETIREMENT

ARCHITECT

CHANCEY

1503 E JOYCE BLVD, FAYETTEVILLE, AR 72703

DATE

9/22/2025

DESCRIPTION

ROOF OVERALL PLAN

SHEET TITLE

A105

BUTTERFIELD TRAIL VILLAGE - ALF ADDITION

1503 E JOYCE BLVD, FAYETTEVILLE, AR 72703



CHANCEY

1503 E JOYCE BLVD, FAYETTEVILLE, AR 72703

855-221-3553

NOT FOR CONSTRUCTION

Planning Commission

September 22, 2025

STATEMENT

1503 E JOYCE BLVD, FAYETTEVILLE, AR 72703

855-221-3553

ARCHITECT

CHANCEY

1503 E JOYCE BLVD, FAYETTEVILLE, AR 72703

855-221-3553

DATE

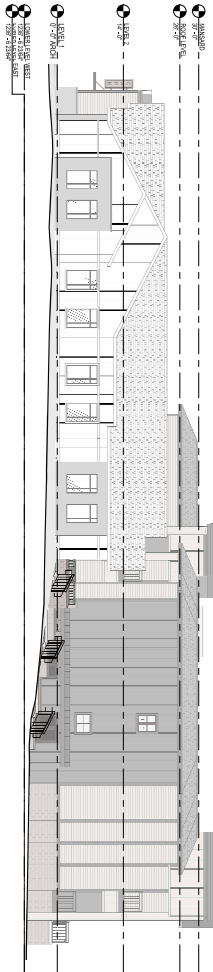
9/22/2025

DESCRIPTION

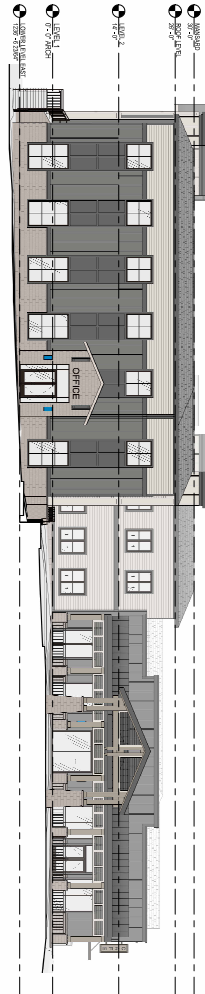
ROOF OVERALL PLAN

SHEET TITLE

A105



4 OVERALL WEST ELEVATION  
SCALE: 3/8" = 1'-0"



3 OVERALL EAST ELEVATION  
SCALE: 3/8" = 1'-0"



2 OVERALL SOUTH ELEVATION  
SCALE: 3/8" = 1'-0"



1 OVERALL NORTH ELEVATION  
SCALE: 3/8" = 1'-0"

**Chancey**  
ARCHITECTS, LLC

Tampa  
1229 East 7th Avenue, Suite 400, Tampa, FL 33605  
Phone: 813-247-3567 Fax: 813-247-3567  
St. Petersburg  
3200 Central Expressway, Suite 108  
St. Petersburg, FL 32455  
Phone: 813-247-3567 Fax: 813-247-3567

NOT FOR CONSTRUCTION  
Planning Commission  
September 22, 2025  
BUTTERFIELD TRAIL VILLAGE

Schematic Design

STATEMENT

KEY PLAN



**BUTTERFIELD TRAIL VILLAGE - ALF ADDITION**

1023 E JOYCE BLVD, FAYETTEVILLE, AR 72703

CLIENT / CONSULTANTS

PROJECT

PREPARED BY: J. J. JENSEN  
CHECKED BY: J. J. JENSEN  
DATE: 08/03/2025

| NO. | DATE | REVISIONS |
|-----|------|-----------|
|     |      |           |
|     |      |           |
|     |      |           |
|     |      |           |
|     |      |           |
|     |      |           |
|     |      |           |
|     |      |           |
|     |      |           |
|     |      |           |

EXTENSION ELEVATIONS - OVERALL

A201



**TO:** Fayetteville Planning Commission

**THRU:** Jessie Masters, Planning Director

**FROM:** Wesley Frank, Planner

**MEETING DATE:** September 22, 2025

**SUBJECT:** **RZN-2025-0040: Rezoning (1414 S WEST AVE./ BRINK, 562):** Submitted by ANDREW BRINK for property located at 1414 S. WEST AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.23 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

---

**RECOMMENDATION:**

Staff recommends forwarding **RZN-2025-0040** to City Council with a recommendation of approval.

**RECOMMENDED MOTION:**

*"I move to forward **RZN-2025-0040** to the City Council with a recommendation of approval."*

**BACKGROUND:**

The subject property is in south Fayetteville about 250 feet west of the S. School Avenue and W. 15<sup>th</sup> Street intersection. The property is zoned RMF-24, Residential Multi-Family, 24 Units per Acre and overall contains 0.23 of an acre. The property is developed with a single-family home that was built in 1962, per Washington County records. The property is in the 71-B Corridor Master Plan district. Surrounding land uses and zoning are depicted below in *Table 1*.

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

| Direction | Land Use                  | Zoning                                              |
|-----------|---------------------------|-----------------------------------------------------|
| North     | Single-Family Residential | RMF-24, Residential Multi-Family, 24 Units per Acre |
| South     | Single-Family Residential | RMF-24, Residential Multi-Family, 24 Units per Acre |
| East      | Undeveloped/Commercial    | MSC, Main Street Center                             |
| West      | Single-Family Residential | RMF-24, Residential Multi-Family, 24 Units per Acre |

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

*Public Comment:* Staff has not received any public comment at this time.

## INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

**Streets:** The property's frontage South West Avenue, a residential link, is partially improved with asphalt paving and sidewalk on the west side of the street. Any street improvements required in these areas would be determined at the time of development proposal

**Water:** Public water is available to the subject area. There is an existing 6-inch water main along the west frontage of the property along South West Avenue and an addition existing 6-inch water main along the east side of the property in the alley.

**Sewer:** Sanitary sewer is available to the subject area. There is a 6-inch sewer main in the alley on the east side of the property.

There are known wet weather sewer capacity issues identified in the City's 2021 Sewer Master Plan that appear in the system approximately 100 linear feet downstream of this property.

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

**Fire:** Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 1, located at 303 W. Center St., protects this site. The property is located approximately 1.1 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 did not comment on this request.

### **Tree Preservation:**

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

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

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **8** for this site with a weighted score of **9.5**. The following elements of the matrix contribute to the score:

- 4 Minute Fire Response (Station 1, 303 W. Center St.)
- Near Sewer Main (6-inch main along the property to the west)
- Near Water Main (6-inch main South West Avenue, 6-inch main along the property to the east)
- Near Public School (Fayetteville High School)
- Near City Park (Walker Park)
- Near Paved Trail (Fayetteville Traverse Trail and Razorback Greenway)
- Near ORT Bus Stop (School & 15<sup>th</sup>)
- 71-B Corridor

#### 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 that the requested rezoning is compatible with surrounding land uses as it continues to allow for residential development. The subject property is located within a residential area, highlighting the compatibility RI-U as its by-right residential allowances are similar to the existing zoning. The by-right and conditional uses for both RI-U and RMF-24 are similar, maintaining the fabric of neighborhood. RI-U requires smaller lot bulk and area requirements with less intensive setbacks will still maintaining an urban form, which is in keeping with the integrity of the area. The bulk and area requirements of for RMF-24 are intended for different types of residential development, which require more space for that development than what would be required of RI-U. A significant difference between the two are the density allowances with RI-U at no maximums and RMF-24 with 24 units per acre. RI-U would also remove Use Unit 26 from the by-right permission while also reducing building height allowances. Given that the proposed zoning district is less demanding than the current zoning and would not result in significant impact to neighboring properties, staff is in support of this rezoning request.

***Land Use Plan Analysis:*** The proposed zoning is consistent with the property's City Plan 2040 Future Land Use Map designation as a Residential Neighborhood Area, which is primarily residential in nature and supports a wide variety of housing types of appropriate scale and context. The RI-U

zoning district would support this designation as it would allow for more residential opportunities. The property has a moderately high infill score of 8, which indicates that it is a suitable location for infill due to its close proximity to the City's prioritization points. The property is located within a Tier 2 city node located at the S. School Avenue and W. 15<sup>th</sup> Street intersection. The proposed rezoning would allow a slight increase in development within an area while adhering to City Goals #1 (appropriate infill), #3 (compact development), and #6 (attainable housing opportunities). Staff finds that a rezoning to RI-U would allow for development opportunities that would be in character with surrounding residential properties

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

**Finding:** Staff finds that there is sufficient justification for rezoning the subject property from RMF-24 to RI-U. Staff finds that the proposed rezoning is compatible with surrounding properties and consistent with the City's future land use plans.

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

**Finding:** A rezoning from RMF-24 to RI-U could increase traffic in the area, but only minimally as the size of the property is small, capping density.

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:** The proposed rezoning has the potential to slightly alter the population density since it would allow for more intense residential development. However, the property currently has access to public streets, water, and sewers, and any necessary improvements would be determined at the time of development. Fayetteville Public Schools did not comment on this request.

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

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

**Finding:** N/A

**RECOMMENDATION:** Planning staff recommends forwarding RZN-2025-0040 to City Council with a recommendation of approval.

|                                        |                                        |                                           |                                        |
|----------------------------------------|----------------------------------------|-------------------------------------------|----------------------------------------|
| <b>PLANNING COMMISSION ACTION:</b>     |                                        | <b>Required</b>                           | <b><u>YES</u></b>                      |
| <b>Date:</b> <u>September 22, 2025</u> | <input type="checkbox"/> <b>Tabled</b> | <input type="checkbox"/> <b>Forwarded</b> | <input type="checkbox"/> <b>Denied</b> |
| <b>Motion:</b>                         |                                        |                                           |                                        |
| <b>Second:</b>                         |                                        |                                           |                                        |
| <b>Vote:</b>                           |                                        |                                           |                                        |

---

**BUDGET/STAFF IMPACT:**

None

**ATTACHMENTS:**

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

### 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 (2) family dwellings                |
| Unit 10 | Three (3) and four (4) family dwellings |
| Unit 26 | Multi-family dwellings                  |
| Unit 41 | Accessory dwellings                     |
| Unit 44 | Cluster Housing Development             |
| Unit 46 | Short-term rentals                      |

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

|                                     |          |
|-------------------------------------|----------|
| Manufactured home park              | 100 feet |
| Lot within a Manufactured home park | 50 feet  |
| Single-family                       | 35 feet  |
| Two (2) family                      | 35 feet  |
| Three (3) family 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) family or more      | 7,000 square feet |
| Fraternity or Sorority        | 2 acres           |
| Professional offices          | 1 acres           |

(3) *Land Area Per Dwelling Unit.*

|                   |                   |
|-------------------|-------------------|
| Manufactured Home | 3,000 square feet |
|-------------------|-------------------|

(E) *Setback Requirements.*

| Front                                                                                                            | Side<br>Other<br>Uses | Side<br>Single &<br>Two (2)<br>Family | Rear<br>Other<br>Uses | Rear<br>Single<br>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. 6658, §6(Exh. E), 5-2-23)

Editor's note(s)—Ord. No. 6820, §1, adopted December 4, 2024, determines that Ordinance 6427 (Sunset Clause), Ordinance 6625 (extending Sunset Clause) and Ordinance 6710 (extending the 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 July 1, 2025 at 7:00 p.m. unless prior to that time and date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.

## 161.12 District RI-U, Residential Intermediate - Urban

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

|                   |                         |
|-------------------|-------------------------|
|                   | Dwelling<br>(all types) |
| Lot width minimum | 18 feet                 |
| Lot area minimum  | None                    |

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

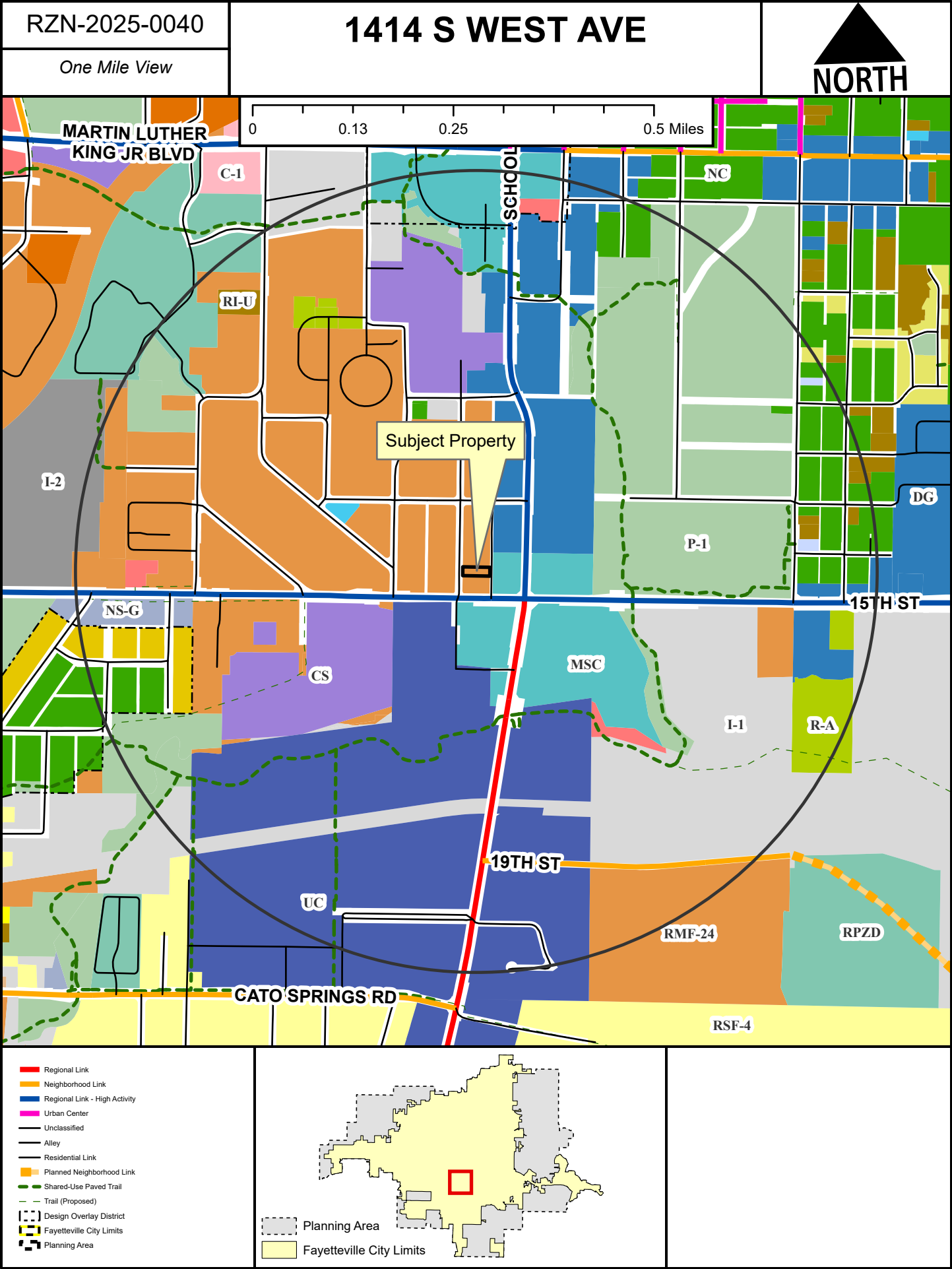
(G) *Building Area.* The area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

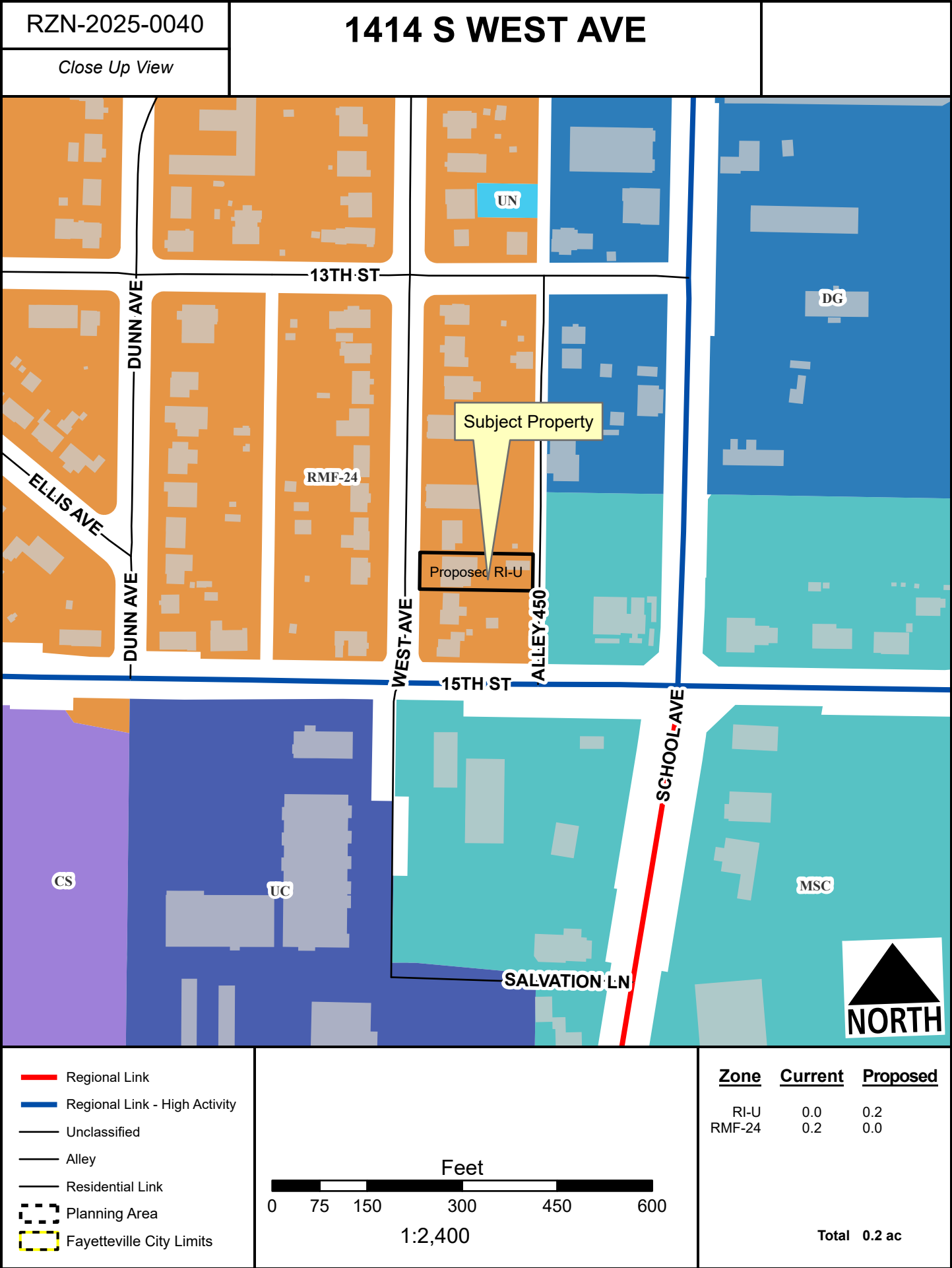
(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

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

Editor's note(s)—Ord. No. 6820, §1, adopted December 4, 2024, determines that Ordinance 6427 (Sunset Clause), Ordinance 6625 (extending Sunset Clause) and Ordinance 6710 (extending the 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 July 1, 2025 at 7:00 p.m. unless prior to that time and date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.









RZN-2025-0040

1414 S WEST AVE

Current Land Use



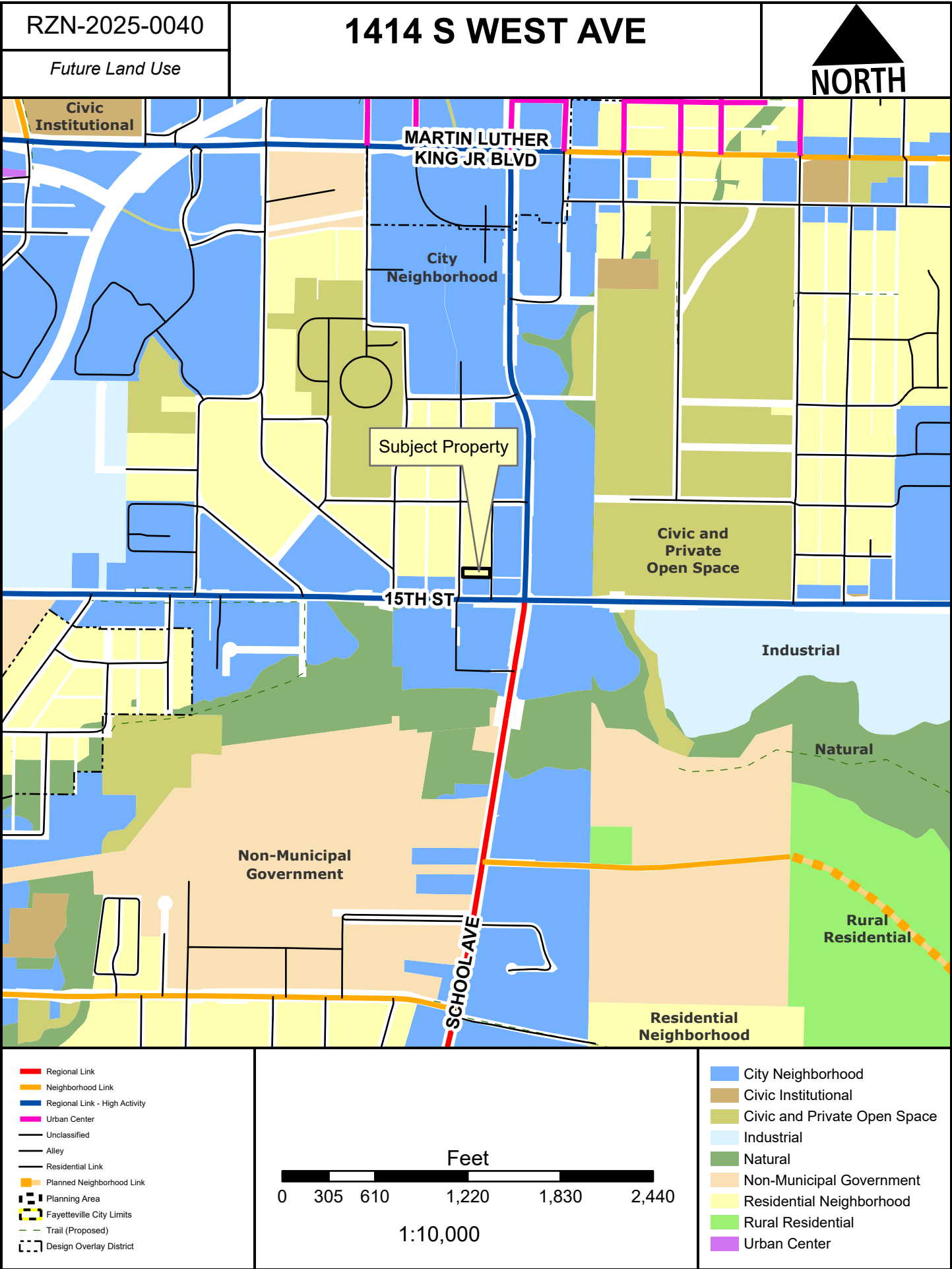
- Regional Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



**FEMA Flood Hazard Data**

- 100-Year Floodplain
- Floodway





# OSAGE CREEK CATTLE CO.

August 6, 2025

RE: Request for Rezone from RMF-24 to RI-U

Dear Planning Commission and City Council,

On behalf of Osage Creek Cattle Company, I am requesting to rezone the property at 1414 S. West Avenue from RMF-24 to RI-U. A rezone to RI-U presents the opportunity to provide additional housing in Fayetteville through the production of missing middle housing. RI-U will help facilitate the splitting of the lot to create two lots; one that faces West Avenue and one that faces the alley. My intention is NOT to demolish the existing house, but rather complete necessary repairs and maintenance.

RI-U is compatible with surrounding land uses due to the residential only by-right uses. Furthermore, RI-U removes the by-right use for multifamily. As such, I do not believe that RI-U will adversely impact or conflict with the existing surrounding land uses. A comparison of the permitted uses are below:

| EXISTING<br>RMF-24 |                                       | PROPOSED<br>RI-U |                                       |
|--------------------|---------------------------------------|------------------|---------------------------------------|
| <i>Unit</i>        | <i>Allowed</i>                        | <i>Unit</i>      | <i>Allowed</i>                        |
| <b>1</b>           | <b><i>City-wide uses by right</i></b> | <b>1</b>         | <b><i>City-wide uses by right</i></b> |
| <b>8</b>           | <b><i>Single Family</i></b>           | <b>8</b>         | <b><i>Single Family</i></b>           |
| <b>9</b>           | <b><i>Two Family</i></b>              | <b>9</b>         | <b><i>Two Family</i></b>              |
| <b>10</b>          | <b><i>Three and Four Family</i></b>   | <b>10</b>        | <b><i>Three and Four Family</i></b>   |
| <b>26</b>          | <b><i>Multifamily</i></b>             |                  |                                       |
| <b>41</b>          | <b><i>Accessory Dwellings</i></b>     | <b>41</b>        | <b><i>Accessory Dwellings</i></b>     |
| <b>44</b>          | <b><i>Cluster Housing</i></b>         | <b>44</b>        | <b><i>Cluster Housing</i></b>         |
| <b>46</b>          | <b><i>STR</i></b>                     | <b>46</b>        | <b><i>STR</i></b>                     |

Sincerely,



Andrew C. Brink





**TO:** Fayetteville Planning Commission

**THRU:** Jessie Masters, Planning Director

**FROM:** Wesley Frank, Planner

**MEETING DATE:** September 22, 2025

**SUBJECT:** **RZN-2025-0042: Rezoning (2201 W. DEANE ST./ ATKINS, 364):** Submitted by ARKANSAS REAL ESTATE GROUP for property located at 2201 W. DEANE ST. The property is zoned RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE and contains approximately 0.36 acres. The request is to rezone the property to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

---

**RECOMMENDATION:**

Staff recommends forwarding **RZN-2025-0042** to City Council with a recommendation of approval.

**RECOMMENDED MOTION:**

*"I move to forward **RZN-2025-0042** to the City Council with a recommendation of approval."*

**BACKGROUND:**

The subject property is in west Fayetteville about 200 feet east of the City's Public Safety Campus. The property is zoned RMF-6, Residential Multi-Family, 6 Units per Acre and overall contains 0.36 of an acre. The property is developed with a single-family home that was built in 1947, per Washington County records. The property does not lie in an overlay district. Surrounding land uses and zoning are depicted below in *Table 1*.

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

| Direction | Land Use                                                          | Zoning                                            |
|-----------|-------------------------------------------------------------------|---------------------------------------------------|
| North     | University of Arkansas – Agricultural Research & Extension Center | R-A, Residential-Agricultural                     |
| South     | Two-Family Residential                                            | RMF-6, Residential Multi-Family, 6 Units per Acre |
| East      | Two-Family Residential                                            | RMF-6, Residential Multi-Family, 6 Units per Acre |
| West      | Four-Family Residential                                           | RMF-6, Residential Multi-Family, 6 Units per Acre |

*Request:* The request is to rezone the property from RMF-6, 6 Residential Multi-Family, to RI-U, Residential Intermediate-Urban.

*Public Comment:* Staff has not received any public comment at this time.

## INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

**Streets:** The subject area has a road frontage along W. Deane Street. W. Deane Street is a fully improved Neighborhood Link Street with asphalt paving, sidewalk, curb and gutter. The subject area has a road frontage along N. Evening Shade Drive. N. Evening Shade Drive is a fully improved Residential Link Street with asphalt paving sidewalk, curb and gutter. Any street improvements required in these areas would be determined at the time of the development proposal.

**Water:** Public water is available to the subject area. Existing 12-inch water main is present along W. Deane Street. Existing 2-inch water main is present along W. Deane Street. Existing 8-inch water main is present along N. Evening Shade Drive.

**Sewer:** Sanitary Sewer is available to the subject area. Existing 8-inch sewer main is present along N. Evening Shade Drive. Existing 8-inch sewer main is present on the subject property.

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

**Fire:** Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 8, located at 2266 W Deane St., protects this site. The property is located approximately 269 ft from the fire station with an anticipated drive time of approximately 1 minutes using existing streets. The anticipated response time would be approximately 3.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

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

### **Tree Preservation:**

The proposed zoning district, RI-U, Residential Intermediate-Urban, requires **15% minimum canopy preservation**. The current zoning district, RMF-6, Residential Multi-Family, 6 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**.

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

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

- Adequate Fire Response (Station 8, 2266 W Deane St.)
- Near Sewer Main (8-inch N. Evening Shade Drive, 8-inch on the subject property)
- Near Water Main (12-inch W. Deane Street. Existing, 2-inch W. Deane Street, 8-inch N. Evening Shade Drive.)
- Near Public School (Asbell Elementary School)
- Near City Park (Lewis Soccer Complex)
- Near Paved Trail (Midtown Trail)
- Near ORT Bus Stop (Deane & Evening Shade)

#### 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 that the requested rezoning is compatible with surrounding land uses and zoning patterns. The surrounding neighborhood to the east, south, and west consists of single-, two-, and four-family dwellings in close proximity to the site. The majority of nearby dwellings are in zoning district that are comparable to RI-U (RMF-6, RMF-24, RI-U, and RMF-40) that have similar by-right and conditional allowances with required urban form setback standard, so the introduction of RI-U would not potentially introduce completely foreign zoning district requirements and allowances. RI-U requires smaller comparative bulk and area requirements, which is in keeping with the neighborhood character. The bulk and area requirements of for RMF-6 are intended for different types of residential development, which require more space for that development than what would be required of RI-U. A significant difference between the two are the density allowances with RI-U with no maximums and RMF-6 with 6 units per acre. This can be a concern because of the potential increase in development; however, RI-U would decrease in the scale of what could be developed compared to the impact of RMF-6. Given that the proposed zoning district would not result in significant impact to neighboring properties due to its similar requirements and allowances, staff is in support of this rezoning request.

***Land Use Plan Analysis:*** The proposed zoning is consistent with the property's City Plan 2040 Future Land Use Map designation as a Residential Neighborhood Area, which is primarily residential in nature and supports a wide variety of housing types of appropriate scale and context. The RI-U zoning district would support this designation as it would allow for more residential opportunities. The property has a moderate infill score of 7, which indicates that it is a suitable location for infill because of the local infrastructure and development. The property is located within a Tier 3 city node located 2,700 feet to the northwest at the W. Mount Comfort Road and N. Shiloh Drive intersection across Highway 71. The proposed rezoning would allow a slight increase in development within an area while adhering to City Goals #1 (appropriate infill), #3 (compact development), and #6 (attainable housing opportunities). Staff finds that a rezoning to RI-U would

**allow for development opportunities that would be in character with surrounding residential properties**

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

**Finding:** Staff finds that there is sufficient justification for rezoning the subject property from RMF-6 to RI-U. Staff finds that the proposed rezoning is compatible with surrounding properties and consistent with the City's future land use plans.

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

**Finding:** A rezoning from RMF-6 to RI-U could increase traffic in the area, but only minimally as the size of the property is small, capping density.

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:** The proposed rezoning has the potential to slightly alter the population density since it would allow for additional residential development. However, the property currently has access to public streets, water, and sewers, and any necessary improvements would be determined at the time of development. Fayetteville Public Schools did not comment on this request.

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

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

**Finding:** N/A

**RECOMMENDATION:** Planning staff recommends forwarding RZN-2025-0042 to City Council with a recommendation of approval.

|                                        |                                 |                                    |                                 |
|----------------------------------------|---------------------------------|------------------------------------|---------------------------------|
| <b>PLANNING COMMISSION ACTION:</b>     |                                 | <b>Required</b>                    | <b><u>YES</u></b>               |
| <b>Date:</b> <u>September 22, 2025</u> | <input type="checkbox"/> Tabled | <input type="checkbox"/> Forwarded | <input type="checkbox"/> Denied |
| <b>Motion:</b>                         |                                 |                                    |                                 |
| <b>Second:</b>                         |                                 |                                    |                                 |

|              |
|--------------|
| <b>Vote:</b> |
|--------------|

---

**BUDGET/STAFF IMPACT:**

None

**ATTACHMENTS:**

- Unified Development Code
  - 161.13 District RMF-6, Residential Multi-Family—Six (6) Units Per Acre
  - 161.12 District RI-U, Residential Intermediate – Urban
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map
- Request Letter

**161.13 District RMF-6, Residential Multi-Family—Six (6) Units Per Acre**

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(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 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 | 6 or less |
|----------------|-----------|

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

|                                     |          |
|-------------------------------------|----------|
| Manufactured home park              | 100 feet |
| Lot within a manufactured home park | 50 feet  |
| Single-family                       | 50 feet  |
| Two (2) family                      | 50 feet  |
| Three (3) family or more            | 90 feet  |
| Professional offices                | 100 feet |

(2) *Lot Area Minimum.*

|                                     |                   |
|-------------------------------------|-------------------|
| Manufactured home park              | 3 acres           |
| Lot within a Manufactured home park | 4,200 square feet |
| Townhouse: Individual lot           | 2,500 square feet |
| Single-family                       | 6,000 square feet |
| Two (2) family                      | 7,000 square feet |
| Three (3) family or more            | 9,000 square feet |
| Fraternity or Sorority              | 2 acres           |
| Professional offices                | 1 acre            |

(E) *Setback Requirements.*

| Front                                                                                                            | Side<br>Other<br>Uses | Side<br>Single &<br>Two (2)<br>Family | Rear<br>Other<br>Uses | Rear<br>Single<br>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                                | 25 feet               | 5 feet                   |

(F) *Building Height Regulations.*

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

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

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

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

## 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<br>(all types) |
| Lot width minimum | 18 feet                 |
| Lot area minimum  | None                    |

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

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

Editor's note(s)—Ord. No. 6820, §1, adopted December 4, 2024, determines that Ordinance 6427 (Sunset Clause), Ordinance 6625 (extending Sunset Clause) and Ordinance 6710 (extending the 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 July 1, 2025 at 7:00 p.m. unless prior to that time and date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.

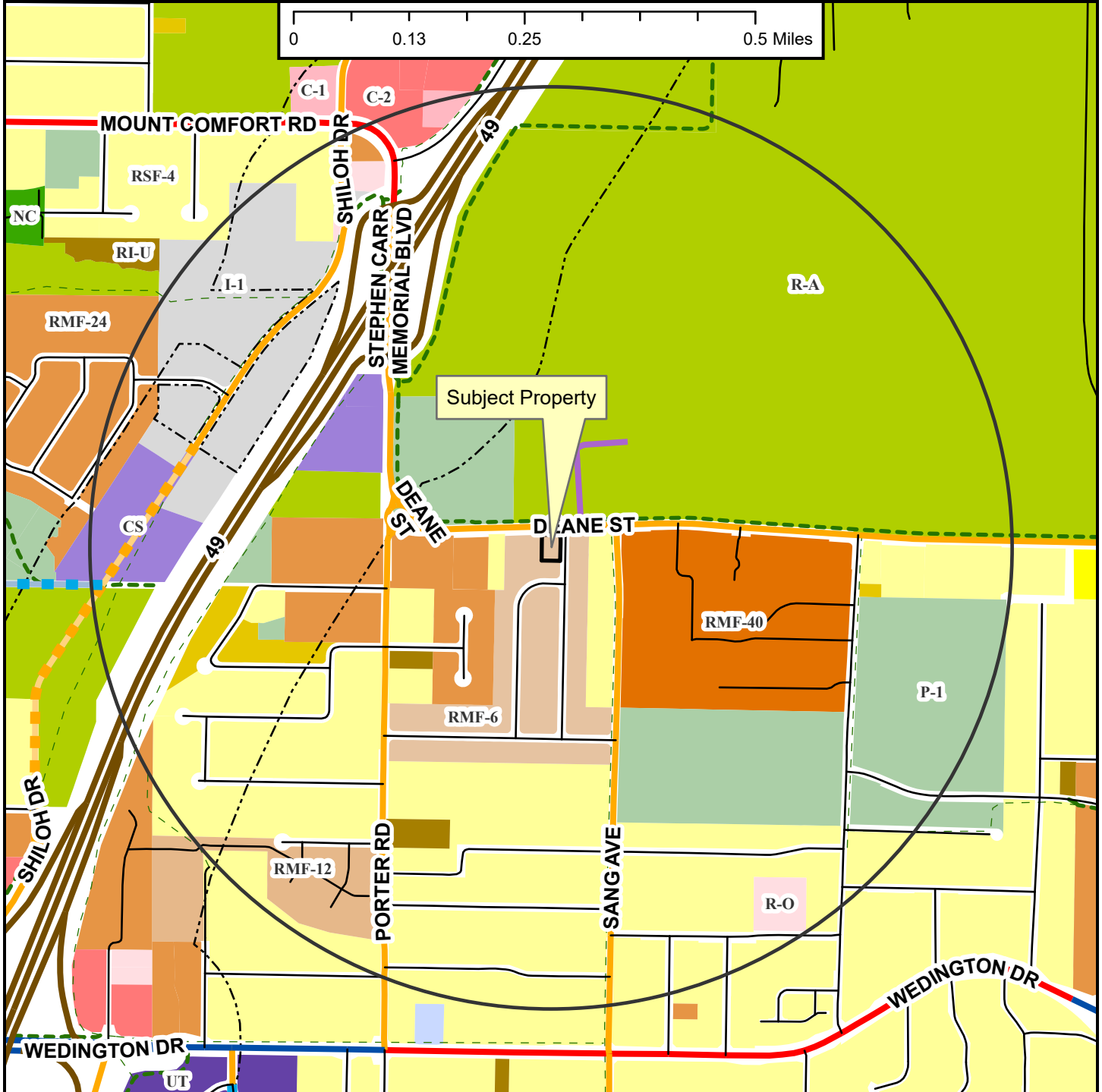
RZN-2025-0042

# 2201 W. DEANE ST

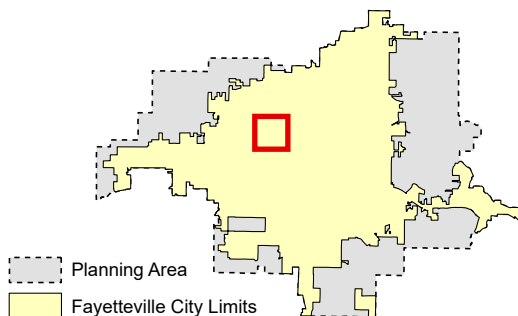
One Mile View



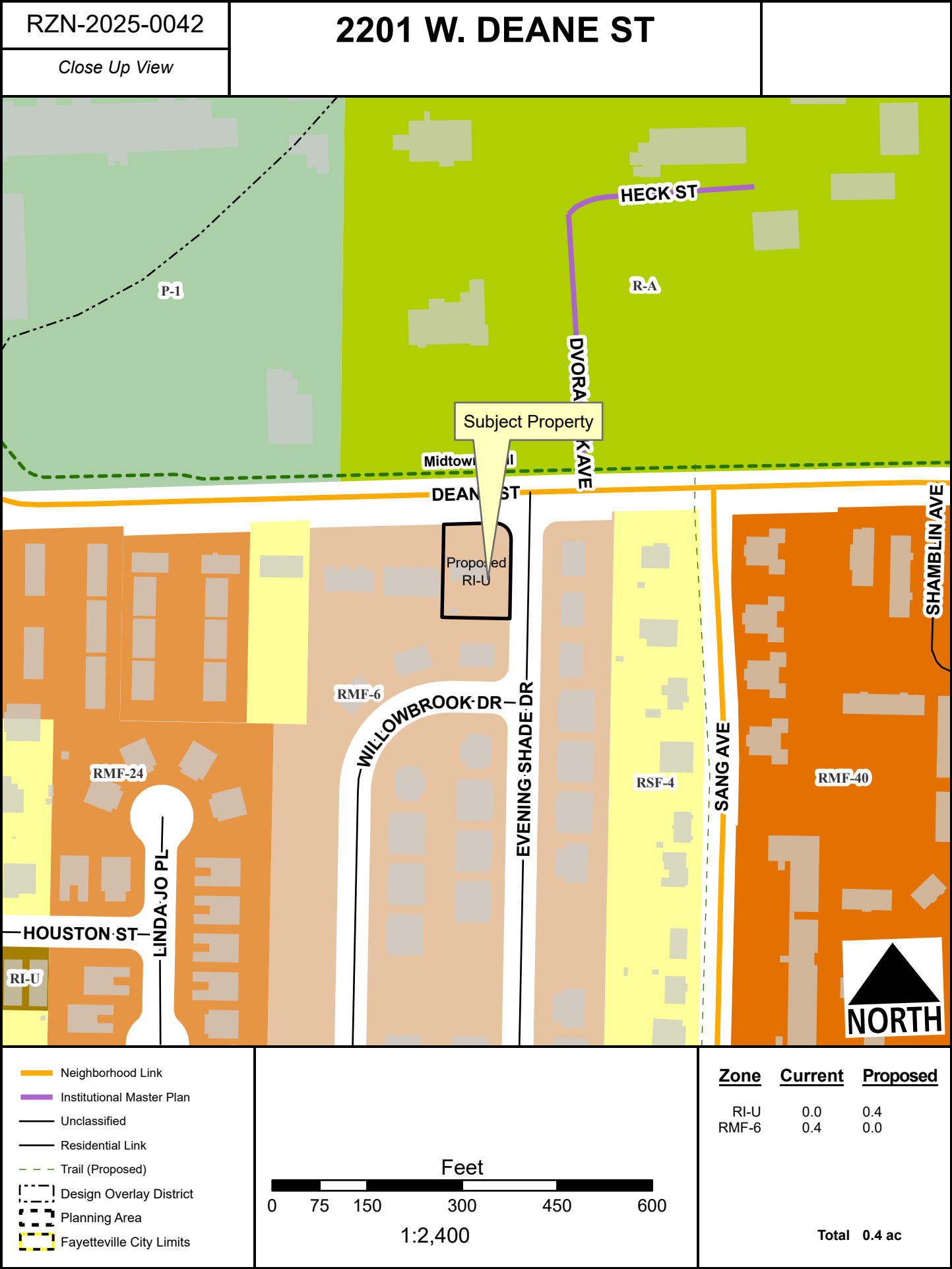
0 0.13 0.25 0.5 Miles



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







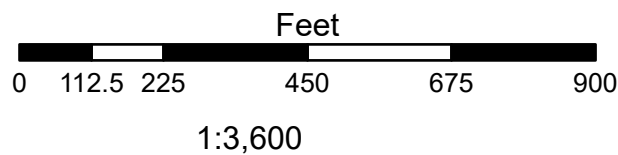
RZN-2025-0042

2201 W. DEANE ST

Current Land Use



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



**FEMA Flood Hazard Data**

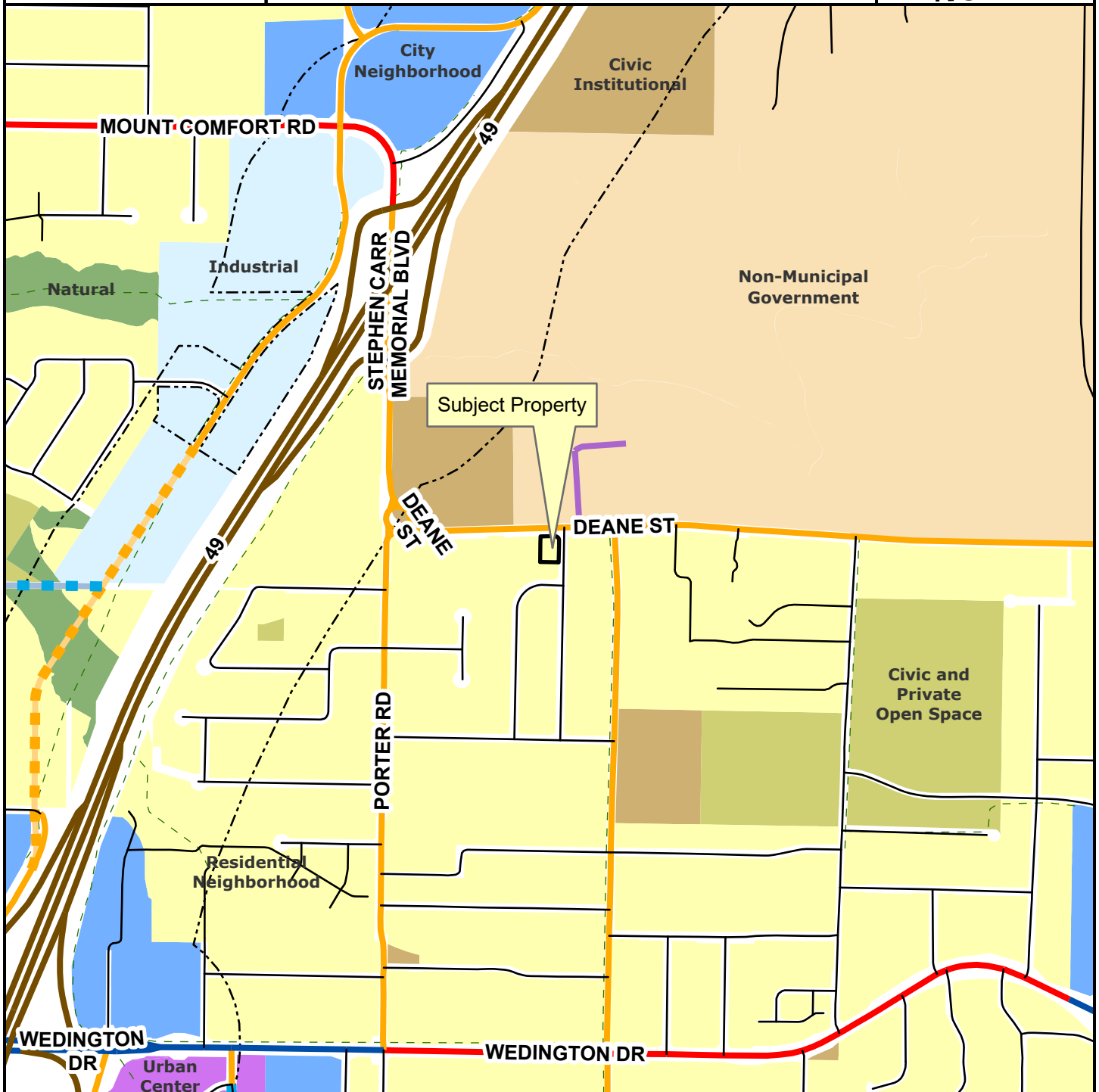
- 100-Year Floodplain
- Floodway



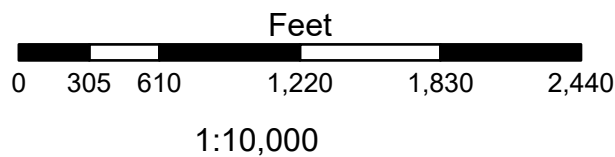
RZN-2025-0042

# 2201 W. DEANE ST

Future Land Use



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



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

August 11, 2025

**City of Fayetteville**

Attn: Planning Division  
113 W. Mountain Street  
Fayetteville, AR 72701

RE: 2201 W Deane St, Fayetteville, AR  
Rezone Request

**Staff and Commissioners,**

This is a formal request for rezoning of the property located at 2201 W Deane St (Parcel 765-23359-000) from RMF-6 to RI-U.

The subject property contains approximately 0.36 acres on the southwest corner of W Deane St and N Evening Shade Dr. The property is currently zoned RMF-6, Residential Multi-Family - Six (6) Units Per Acre, and is developed with one single family residence. **I am requesting to rezone the property to RI-U, Residential Intermediate - Urban.**

The property is located with a variety of housing developments and residential zoning in the immediate vicinity, including direct adjacency to RMF-6 zoning, RMF-24 zoning approximately 300 feet to the west and RMF-40 zoning approximately 350 feet to the east. The property is also located directly adjacent to a quadplex and triplex to the west, as well as a variety of single- and multi-family developments nearby. The subject property has frontage along two streets, W Deane St and N Evening Shade Dr, as well as direct access to both water and sewer on the property. In addition, multiple City projects have occurred in the area, including street improvements to W Deane St and the new Police Headquarters and Fire Station #8 just 200 feet away. The future land use map designates this area as a Residential Neighborhood, and the property has an infill score of 7. For these reasons, the proposed zoning of RI-U is compatible with the neighboring properties, can be supported by nearby facilities and infrastructure, coincides with the city's designated future use of the area, and will not unreasonably adversely affect or conflict with the surrounding land uses.

In summary, and considering the information above, I am requesting a minor increase in residential density with the rezoning of the property at 2201 W Deane St from RMF-6 to RI-U. Should you have any questions or require any additional information, please do not hesitate to reach out at [kdatkins21@gmail.com](mailto:kdatkins21@gmail.com) or 870.584.8986.

Sincerely,

Kyle Atkins



**TO:** Fayetteville Planning Commission

**FROM:** Jessie Masters, Planning Director

**MEETING DATE:** September 22, 2025

**SUBJECT:** **RZN-2025-0041: Rezoning (1124 W CLEVELAND ST/LEVERETT ELEMENTARY SCHOOL, 443):** Submitted by ECOLOGICAL DESIGN GROUP for property located at 1124 W. CLEVELAND ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE, and P-1, INSTITUTIONAL, and contains approximately 2.18 acres. The request is to rezone all the property to P-1, INSTITUTIONAL.

---

**RECOMMENDATION:**

Staff recommends forwarding **RZN-2025-0041** to City Council with a recommendation of approval.

**RECOMMENDED MOTION:**

*"I move to forward **RZN-2025-0041** to City Council with a recommendation of approval."*

**BACKGROUND:**

The subject property is located at the northwest corner of W. Cleveland Street and N. Garland Avenue. While the property is currently developed with a public elementary school and primarily zoned P-1, Institutional, a portion of the property along the intersection of N. Hall Avenue and W. Cleveland Street are zoned RSF-4, Residential Single-Family, 4 Units per Acre. The property overall contains five parcels which total 4.8 acres. The two parcels in question, 765-02579-000 and 765-02585-000, were purchased in 1988 and 2000, respectively, by the Fayetteville Public School district. Surrounding land uses and zoning are depicted in *Table 1*.

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

| Direction | Land Use                                                    | Zoning                                                                                                |
|-----------|-------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| North     | Single-Family<br>Residential/Undeveloped                    | RSF-4, Residential Single-Family, 4 Units per<br>Acre; R-O, Residential-Office                        |
| South     | University of Arkansas                                      | P-1, Institutional                                                                                    |
| East      | Mixed-Density Residential/City of<br>Fayetteville           | CS, Community Services; P-1, Institutional;<br>RMF-40, Residential Multi-Family, 40 Units per<br>Acre |
| West      | Residential Single-Family/University<br>of Arkansas Parking | P-1, Institutional                                                                                    |

**Request:** The request is to rezone the subject property from RSF-4, Residential Single-Family, 4 Units per Acre, to P-1, Institutional. The applicant has indicated that they are requesting the rezoning to bring the existing school facility into zoning compliance.

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



## INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

**Streets:** The subject area has street frontage along West Cleveland Street, which is a fully improved Neighborhood Link Street with asphalt paving, sidewalk, curb and gutter. The subject area has street frontage along North Garland Avenue, which is a fully improved Regional Link High Activity Street with asphalt paving, sidewalk, and curb and gutter. Any street improvements required in these areas would be determined at the time of the 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 12-inch water main is present along North Garland Avenue and an existing 12-inch water main is present along West Cleveland Street.

**Sewer:** Sanitary sewer is available to the subject area. An existing 6-inch sewer main is present along West Cleveland Street and an existing 8-inch sewer main is present on the subject property.

**Drainage:** No portion of the property lies within a FEMA floodplain, protected stream, or within the Hillside-Hilltop overlay district. No hydric soils are present on site. Any requirements for drainage improvements will be determined at time of development.

**Fire:** Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 2, located at 138 W North St, protects this site. The property is located approximately 1.2 miles from the fire station with an anticipated drive time of approximately 5 minutes using existing streets. The anticipated response time would be approximately 7.2 minutes. The 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 did not comment on this request.

### **Tree Preservation:**

The proposed zoning district, P-1, Institutional, and the existing zoning district, RSF-4, Residential Single-Family, 4 Units per Acre, both require **25% minimum canopy preservation**.

**CITY PLAN 2040 FUTURE LAND USE PLAN:** The City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Civic Institutional**.

**Civic Institutional Areas** are dedicated for buildings generally operated by not-for-profit organizations dedicated to culture, government, education or transit and municipal parking.

**CITY PLAN 2040 INFILL MATRIX:** City Plan 2040's Infill Matrix indicates a score of **10** for this site with a weighted score of **13**. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #2)
- Near Sewer Main (W. Cleveland Street and subject property)
- Near Water Main (N. Garland and W. Cleveland Street)
- Near Grocery Store (Harps)
- Near Public School (Leverett Elementary)
- Near U of A Campus (Immediately south)
- Near City Park (Frisco Trail)
- Near Paved Trail (Frisco Trail)
- Near ORT Bus Stop (Stadium Gate 10)
- Near Razorback Bus Stop (Hotz Hall)

## 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 requested rezoning to be compatible with the surrounding area and current land uses. RSF-4 zoning allows for single-family residential uses and P-1 would allow for institutional uses such as schools, parks, and government facilities. The specific property in question is currently operating as Leverett Elementary School, and has been owned by the school district and operating in this capacity since at least the year 2000. Further, Leverett Elementary has operated on this site since the 1950s. Given the property's proximity to the University and residential uses to the north, staff finds that rezoning to P-1 provides for good compatibility to the area. The lot widths, areas, and building height requirements in P-1 are compatible as well; P-1 is a strictly institutional zoning district, which, after new regulations were approved by City Council earlier in 2024, now also allows for a form-based option. While RSF-4 has a maximum building height of 3 stories, P-1 allows for a maximum building height of 6 stories. Staff finds that even if a 6-story facility were to be built on this property, given its proximity to the large institutional uses at the U of A, this building height could be appropriate.

***Land Use Plan Analysis:*** Staff finds the proposed rezoning to be consistent with the goals in City Plan 2040 and the property's future land use designation as a Civic Institutional area. A rezoning from RSF-4 to P-1 contributes to City Plan 2040 goal #3, in that it helps promote a compact, complete, and connected development throughout the area by affording the ability to develop additional amenities and services to this area, rather than the existing designation. This site is highly walkable, and there is available transit. The continued use of this property as a school is justified and necessary to contribute to the City's future land use goals, and this rezoning will clarify a long-outdated boundary.

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

**Finding:** Staff finds there is sufficient justification to rezone the property from RSF-4 to P-1. This request will allow for the development of institutional uses in the

area, one that is already identified as being a Civic Institutional area in the City's future land use map. Schools and other cultural and recreational facilities are a vital service and while not strictly residential, are a necessary neighborhood amenity.

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

**Finding:** A rezoning from RSF-4 to P-1 has the potential to increase traffic to this location, though not necessarily in a way that is considerably different than how the site has been used for decades. Staff does not find that this request will appreciably increase traffic or congestion.

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

**Finding:** The P-1 zoning district does not permit by-right residential uses and is therefore unlikely to increase the population density in this area. The overall property has access to existing water and sanitary sewer as well as fully-improved streets. Any development on this site will be responsible for increasing sewer capacity as needed. As for the project's impact on school capacity, the proposal is a response to increasing attendance in the Fayetteville Public School District and will clarify an existing non-conforming situation.

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

**Finding:** N/A

**RECOMMENDATION:** Planning staff recommends forwarding RZN-2024-0041 to City Council with a recommendation of approval.

|                                        |                                 |                                    |                                 |                 |                   |
|----------------------------------------|---------------------------------|------------------------------------|---------------------------------|-----------------|-------------------|
| <b>PLANNING COMMISSION ACTION:</b>     |                                 |                                    |                                 | <b>Required</b> | <b><u>YES</u></b> |
| <b>Date:</b> <u>September 22, 2025</u> | <input type="checkbox"/> Tabled | <input type="checkbox"/> Forwarded | <input type="checkbox"/> Denied |                 |                   |
| <b>Motion:</b>                         |                                 |                                    |                                 |                 |                   |
| <b>Second:</b>                         |                                 |                                    |                                 |                 |                   |
| <b>Vote:</b>                           |                                 |                                    |                                 |                 |                   |

---

**BUDGET/STAFF IMPACT:**

None

**ATTACHMENTS:**

- One Mile Map
  - Close-Up Map
  - Current Land Use Map
  - Future Land Use Map
  - Unified Development Code
    - §161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre
    - §161.32 District P-1, Institutional
  - Request Letter
- 

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

|  |                         |                          |
|--|-------------------------|--------------------------|
|  | Single-family dwellings | Two (2) family dwellings |
|--|-------------------------|--------------------------|

|                                             |                   |                    |
|---------------------------------------------|-------------------|--------------------|
| Lot minimum width                           | 70 feet           | 80 feet            |
| Lot area minimum                            | 8,000 square feet | 12,000 square feet |
| Land area per dwelling unit                 | 8,000 square feet | 6,000 square feet  |
| Hillside Overlay District Lot minimum width | 60 feet           | 70 feet            |
| Hillside Overlay District Lot area minimum  | 8,000 square feet | 12,000 square feet |
| Land area per dwelling unit                 | 8,000 square feet | 6,000 square feet  |

(E) *Setback Requirements.*

|         |        |         |
|---------|--------|---------|
| Front   | Side   | Rear    |
| 15 feet | 5 feet | 15 feet |

(F) *Building Height Regulations.*

|                         |           |
|-------------------------|-----------|
| Building Height Maximum | 3 stories |
|-------------------------|-----------|

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

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

Editor's note(s)—Ord. No. 6820, §1, adopted December 4, 2024, determines that Ordinance 6427 (Sunset Clause), Ordinance 6625 (extending Sunset Clause) and Ordinance 6710 (extending the 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 July 1, 2025 at 7:00 p.m. unless prior to that time and date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.

### 161.32 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

(B) *Uses.*

(1) *Permitted Uses.*

|         |                                      |
|---------|--------------------------------------|
| Unit 1  | City-wide uses by right              |
| Unit 4  | Cultural and recreational facilities |
| Unit 5  | Government facilities                |
| 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 26 | Multi-family dwellings                   |
| Unit 36 | Wireless communications facilities       |



|         |                    |
|---------|--------------------|
| Unit 42 | Clean technologies |
|---------|--------------------|

(C) *Density*. None.

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

(E) *Setback Regulations*.

|                                                                        |         |
|------------------------------------------------------------------------|---------|
| Front                                                                  | 30 feet |
| Front, if parking is allowed between the right-of-way and the building | 50 feet |
| Side                                                                   | 20 feet |
| Side, when contiguous to a residential district                        | 25 feet |
| Rear                                                                   | 25 feet |
| Rear, from center line of public alley                                 | 10 feet |

(F) *Height Regulations*. There shall be no maximum height limits in P-1 Districts, provided, however, 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.

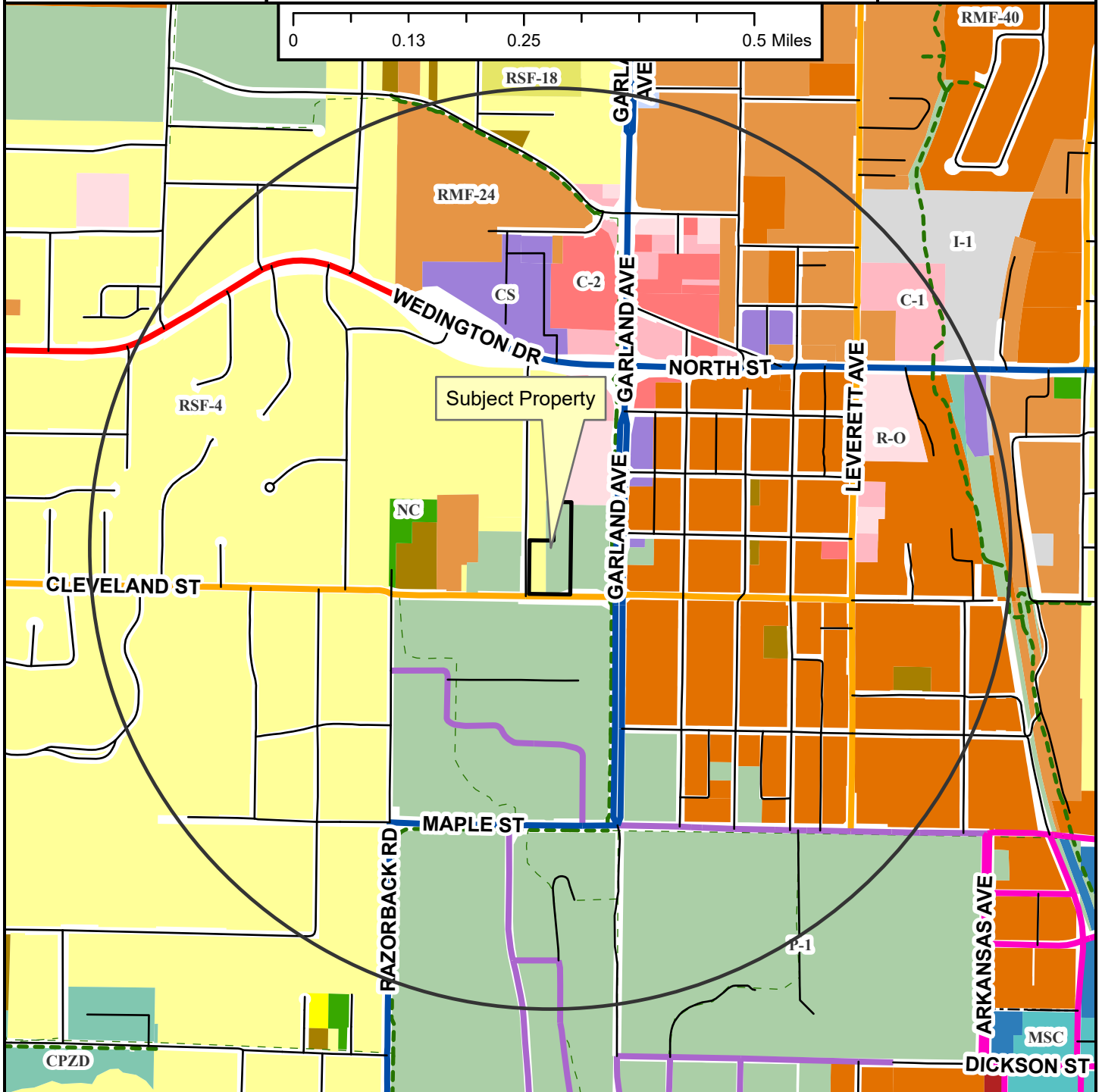
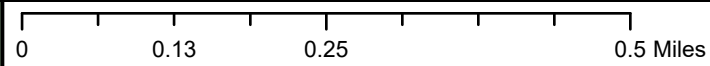
(G) *Building Area*. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §8, 1-18-22)

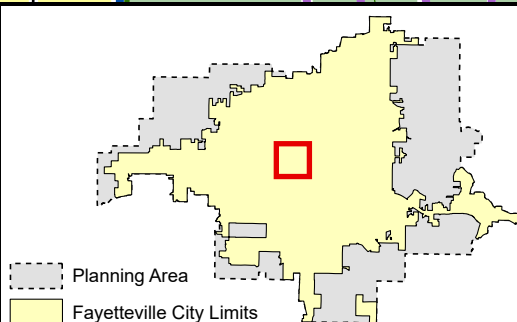
RZN-2025-0041

# 1124 W CLEVELAND ST

One Mile View



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

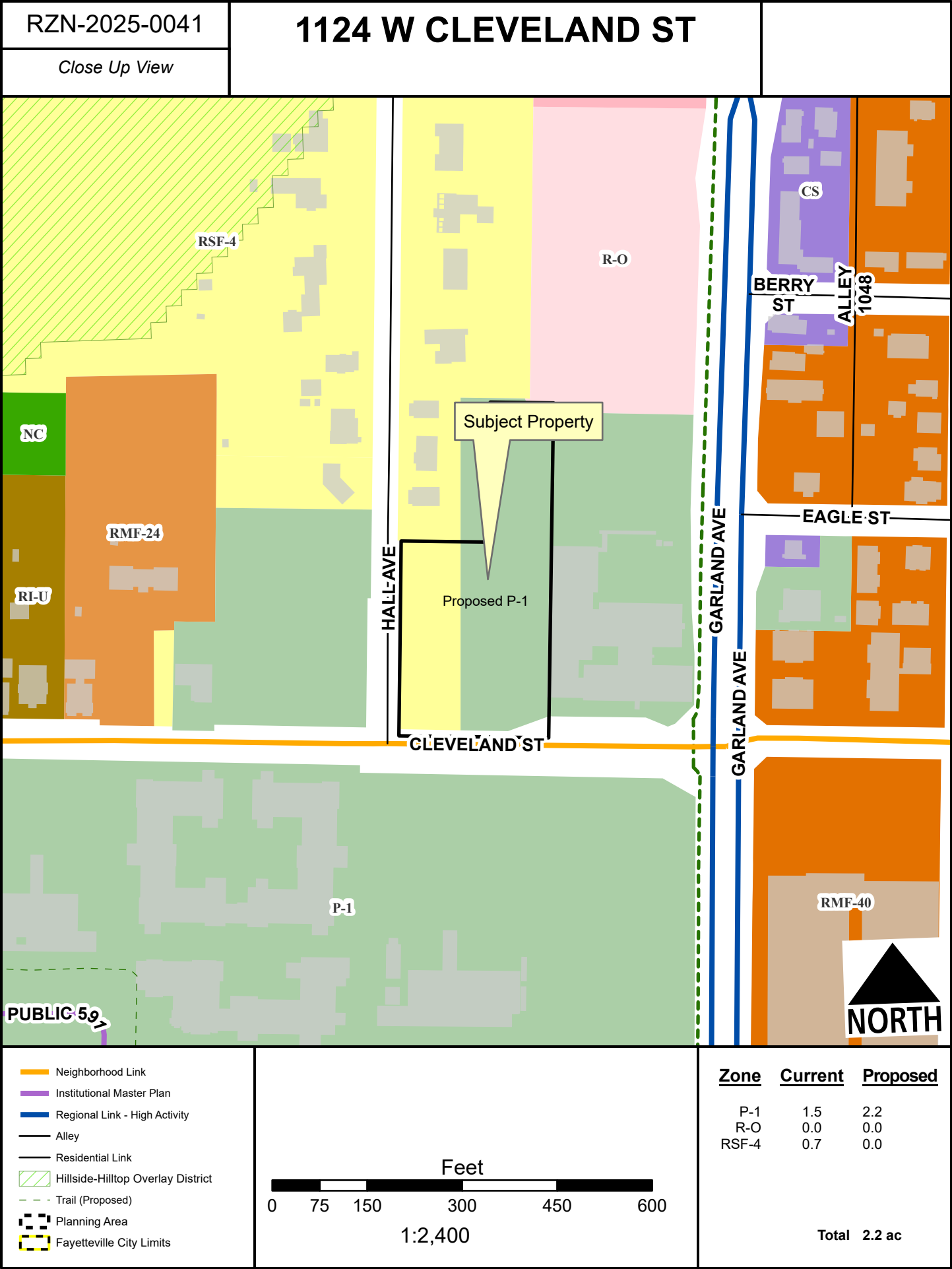


Planning Commission

September 22, 2025

RZN-2025-0041 (LEVERETT ELEMENTARY SCHOOL)

Page 8 of 12





RZN-2025-0041

# 1124 W CLEVELAND ST

Current Land Use



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



## FEMA Flood Hazard Data

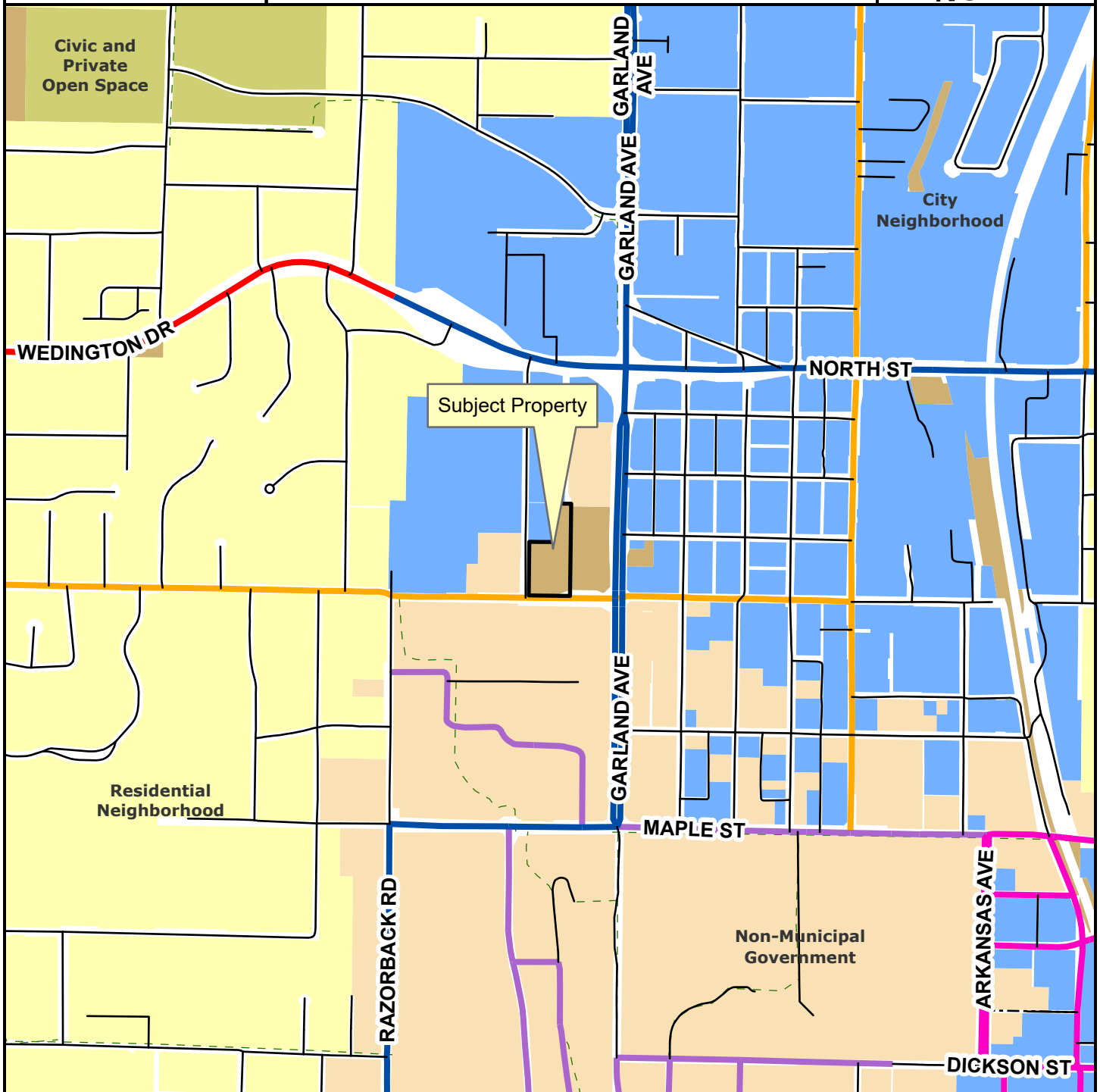
- 100-Year Floodplain
- Floodway



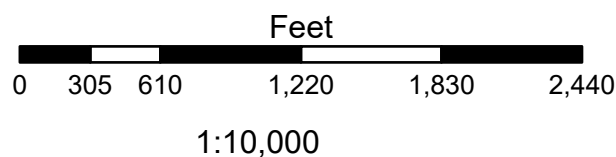
RZN-2025-0041

# 1124 W CLEVELAND ST

Future Land Use



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



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





Ecological Design Group  
216 West Birch St,  
Rogers, AR 72756

**Date:** 8/6/2025

**Project:** Leverett Elementary Playground- Rezoning

**Location:** 1124 Cleveland St, Fayetteville, AR 72701

**EDG Project No:** #24-075

**RE:** Rezoning Request

To whom it may concern:

Ecological Design Group, on behalf of Fayetteville Public Schools, request the rezoning of parcels #765-02579-000 and #765-02585-000, located at 1124 W. Cleveland Street, from RSF-4 (Residential Single Family, four units per acre) to P-1 (Institutional).

In the existing conditions, the playground use on these parcels does not conform to the current zoning. There are no proposed changes to the use or function of the property—this rezoning is being pursued solely to bring the zoning into alignment with its long-established public and institutional use.

The proposed P-1 zoning is consistent with adjacent properties to the east, south, and west, which are also zoned P-1. Therefore, the requested rezoning is not expected to negatively impact surrounding properties and will support the continued operation of the playground as an amenity for the public school system.

Sincerely,

Molly Pace  
(501) 378-0200