

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, August 24, 2023

4:30 PM

City Hall Room 111

Planning Commission Members

Sarah Sparkman, Chair

Andrew Brink, Vice Chair

Mary McGetrick, Secretary

Jimm Garlock

Fred Gulley

Joseph Holcomb

Mary Madden

Brad Payne

Porter Winston

Senior Assistant City Attorney Blake Pennington

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

Approval of the minutes from the August 14, 2023 Planning Commission. -
Mirinda Hopkins, Development Coordinator

2. VAR-2023-0037: Planning Commission Variance (653 W. 15TH ST/UNIVERSITY LOFTS AT THE SANCTUARY, 600):

Submitted by DEVELOPMENT CONSULTANTS INC for property located at 653 W. 15TH ST. The property is zoned CS, COMMUNITY SERVICES and contains approximately 10.22 acres. The request is for a variance from block layout/connectivity requirements. - Gretchen Harrison, Senior Planner

Unfinished Business**3. VAR-2023-0022: Planning Commission Variance (216 N. LOCUST AVE/DICKSON SQUARE LLC, 556):**

Submitted by ECOLOGICAL DESIGN GROUP INC for property located at 216 N. LOCUST AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.60 acres. The request is for variances to residential design standards and to typical sidewalk width requirements. - Jessica Masters, Development Review Manager

New Business**4. VAR-2023-0036: Planning Commission Variance (653 W. 15TH ST/UNIVERSITY LOFTS AT THE SANCTUARY, 600):**

Submitted by DEVELOPMENT CONSULTANTS INC for property located at 653 W. 15TH ST. The property is zoned CS, COMMUNITY SERVICES and contains approximately 10.22 acres. The request is for variances from master street plan and urban residential design standards. - Gretchen Harrison, Senior Planner

5. PPL-2023-0004: Preliminary Plat (SOUTH OF 226 S. HAPPY HOLLOW RD/PINE HOLLOW SUBDIVISION, 526):

Submitted by CRAFTON TULL for property located SOUTH OF 226 S. HAPPY HOLLOW RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 3.08 acres. The request is for the preliminary plat of 20 residential lots and one detention pond. - Donna Wonsower, Planner

6. PPL-2023-0005: Preliminary Plat (E. ASH ST AND N. OLD WIRE RD/BORN'S BEND, 369):

Submitted by BATES & ASSOCIATES for property located at E. ASH ST AND N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 6.82 acres. The request is for the preliminary plat of 16 residential lots and one detention pond. - Donna Wonsower, Planner

7. LSD-2023-0013: Large Scale Development (1860 S. MORNINGSIDE DR./STEEL TOWN MARKET, 603):

Submitted by BATES & ASSOCIATES for property located at 1860 S. MORNINGSIDE DR. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 10.07 acres. The request is for a two-building commercial development with associated parking. - Gretchen Harrison, Senior Planner

8. RZN-2023-0020: Rezoning (741 E. HUNTSVILLE RD/JONES, 564):

Submitted by BERT JONES for property located at 741 E. HUNTSVILLE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.30 acres. The request is to rezone the property to CS, COMMUNITY SERVICES. - Jessica Masters, Development Review Manager

9. CUP-2023-0085: Conditional Use Permit (865 S. ONE MILE RD/SANTIAGO, 557):

Submitted by ALBERTO SANTIAGO JR for property located at 865 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.12 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

10. CUP-2023-0091: Conditional Use Permit (804 S. LIBERTY DR/GRAHAM, 569):

Submitted by TY GRAHAM for property located at 804 S. LIBERTY DR. The property is zoned RSF-7, RESIDENTIAL SINGLE-FAMILY, SEVEN UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

11. CUP-2023-0092: Conditional Use Permit (1049 S. WASHINGTON AVE/WINGARD, 563):

Submitted by STEVEN WINGARD for property located at 1049 S. WASHINGTON AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

12. CUP-2023-0087: Conditional Use Permit (1318 S. WEST AVE/GINGER, 562):

Submitted by NAN GINGER for property located at 1318 S. WEST AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.23 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

13. CUP-2023-0090: Conditional Use Permit (1016 N. LAKESIDE DR/TEEGARDEN, 447):

Submitted by EMILY TEEGARDEN for property located at 1016 N. LAKESIDE DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

14. CUP-2023-0075: Conditional Use Permit (2646 N. MIRANDA AVE/MITCHELL, 290):

Submitted by MARTINDALE INVESTMENTS LLC for property located at 2646 N. MIRANDA AVE. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

15. CUP-2023-0079: Conditional Use Permit (1771 N. OAKLAND AVE/MARQUEZ, 366):

Submitted by ASHER CONSTRUCTION INC for property located at 1771 N. OAKLAND AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.24 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

16. CUP-2023-0093: Conditional Use Permit (356 E. DICKSON ST/BUNCH, 485):

Submitted by SARAH BUNCH for property located at 356 E. DICKSON ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

Items Administratively Approved by Staff**17. FPL-2023-0002: Final Plat (255 W. LAWSON ST/HEARTFIELD ESTATES, 406):**

Submitted by JORGENSEN & ASSOCIATES for property located at 255 W. LAWSON ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.50 acres. The request is

for the final plat of 6 residential lots. - Gretchen Harrison, Senior Planner

18. FPL-2023-0004: Final Plat (E OF N. HUGHMOUNT RD./AIDEN'S PLACE, 282):

Submitted by JORGENSEN & ASSOCIATES for property located E OF N. HUGHMOUNT RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 14.50 acres. The request is for the final plat of 100 residential lots and two unbuildable lots. - Jessica Masters, Development Review Manager

19. LSP-2023-0042: Lot Split (1805 W. HOLLY ST/JB GROUP LLC, 403):

Submitted by CRAFTON TULL for property located at 1805 W. HOLLY ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains three lots totaling 1.19 acres. The request is to subdivide the property into four lots containing 0.31, 0.28, 0.29, and 0.31 acres. - Gretchen Harrison, Senior Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

(pg. 1) Planning Commission				Monday, 8/14/2023			
Time:	5:30 PM						
Staff :	☐ Melissa Evans ☐ John Scott ☐ Jessie Masters ☐ Gretchen Harrison ☐ Donna Wonsower						
	☐ Britin Bostick ☐ Sherry Smith ☐ Josh Boccaccio ☐ Melissa Boyd ☐ Fire Marshall ☐ Chris Brown ☐ Alan Pugh						
	Roll Call	1) Minutes 07-24-2023	2) ADM-2023-0030 (ELLIS ESTATES SD)	3) VAR-2023-0031 (LITTLE)	4) VAR-2023-0032 (KNIGHT)	5) LSD-2022-0042 (SOUTHERN WOODS CLUSTER DEVELOPMENT)	6) ADM-2023-0029 (SOUTHERN WOODS CLUSTER DEVELOPMENT)
Gulley	1	1	1	1	1	1	1
Holcomb	1	1	1	1	1	1	1
Winston	1	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1	1
Sparkman	1	1	1	1	1	1	1
Brink	1	1	1	1	1	1	1
Garlock	0						
Madden	0						
Payne	1						
Agenda		Consent	Removed from Consent	Consent	Consent	Old	WITHDRAWN
Motion By		Brink	Brink	Brink	Brink	Brink	Brink
Motion 2nd		Winston	Winston	Winston	Winston	Winston	Winston
Vote		7-0-0	7-0-0	7-0-0	7-0-0	7-0-0	7-0-0
Action		Approve	Approve	Approve	Approve	Approve	Approve
Time		5:35 PM	6:05 PM	5:35 PM	5:35 PM	6:25 PM	6:26 PM
Motion Detail		Passed	Passed with all conditions as recommended by staff. 4 Public Comment	Passed	Passed	Passed in favor of a variance to UDC 172.11(G) with condition to install no parking signs. No Public Comment	Passed in favor of all other conditions as recommended by staff. No Public Comment

(pg. 2) Planning Commission		Monday, 8/14/2023			
	7) ADM-2023-0029 (SOUTHERN WOODS CLUSTER DEVELOPMENT)	8) ADM-2023-0032 (PLANNING COMMISSION RULES OF ORDER &	9) CUP-2023-0079 (MARQUEZ)	10) CUP-2023-0085 (SANTIAGO)	11) ADM-2023-0026 (JJ'S SPORTS PARK)
Gulley		1			1
Holcomb		1			1
Winston		1			1
McGetrick		1			1
Sparkman		1			1
Brink		1			1
Garlock					
Madden					
Payne		1			1
Agenda	WITHDRAWN	New	WITHDRAWN	WITHDRAWN	New
Motion By		Winston			Brink
Motion 2nd		Payne			Gulley
Vote		7-0-0			7-0-0
Action		Approve			Approve
Time		6:29 PM			6:34 PM
Motion Detail		Passed No Public Comment			Passed with all conditions as recommended by staff. No Public Comment

(pg. 3) Planning Cc		Monday, 8/14/2023			
	12) VAR-2023-0022 (DICKSON SQUARE LLC)	13) VAR-2023-0033 (CAJAKAJO INVESTMENTS)	14) VAR-2023-0035 (OSMENT)	15) LSD-2023-0007 (CRYE LEIKE NEW FACILITY)	16) CUP-2023-0081 (SAINT THOMAS AQUINAS)
Gulley	1	1	1	1	1
Holcomb	1	1	1	1	1
Winston	1	1	1	1	1
McGetrick	1	1	1	1	1
Sparkman	1	0	1	1	1
Brink	1	1	1	1	1
Garlock					
Madden					
Payne	1	1	0	1	1
Agenda	New	New	New	New	New
Motion By	Winston	Winston	Brink	Winston	Winston
Motion 2nd	Sparkman	Brink	Winston	Brink	Payne
Vote	7-0-0	6-1-0	6-1-0	7-0-0	7-0-0
Action	Table	Approve	Approve	Approve	Approve
Time	6:37 PM	6:53 PM	7:02 PM	7:18 PM	7:36 PM
Motion Detail	Passed till August 28th PC Meeting No Public Comment	Passed No Public Comment	Passed with all conditions as recommended by staff. 1 Public Comment	Passed with a denial of the variance of curb cut seperations, and in favor of all other conditions as recommended by staff. No Public Comment	Passed with all conditions as recommended by staff. 2 Public Comment

(pg. 4) Planning Commission			Monday, 8/14/2023		
	17) RZN-2023-0019 (THOMPSON)	18) CUP-2023-0084 (DUNHAM)	19) CUP-2023-0086 (CARTER)	20) CUP-2023-0041 (SCHMITS)	21) CUP-2023-0080 (BRICKEY)
Gulley	1	0	1	1	1
Holcomb	1	1	1	1	1
Winston	1	0	1	1	1
McGetrick	1	0	1	1	1
Sparkman	1	0	1	1	1
Brink	1	0	1	1	1
Garlock					
Madden					
Payne	1	0	1	1	1
Agenda	New	New	New	New	New
Motion By	Winston	Payne	Brink	Payne	Brink
Motion 2nd	Sparkman	Winston	Winston	Gulley	Payne
Vote	7-0-0	1-6-0	7-0-0	7-0-0	7-0-0
Action	Forward	Approve	Approve	Approve	Approve
Time	7:40 PM	8:11 PM	8:37 PM	8:41 PM	8:46 PM
Motion Detail	Passed with a recommendation of approval No Public Comment	Failed 3 Public Comment	Passed with added condition that applicant petition public works for a mirrored safety device, including the heat map, and all conditions as recommended by staff No Public Comment	Passed with all conditions as recommended by staff No Public Comment	Passed with all conditions as recommended by staff No Public Comment

	22) CUP-2023-0082 (KING)	23) CUP-2023-0083 (DAVIS-BARTON)	24) CUP-2023-0076 (DUNCAN)	25) CUP-2023-0077 (DUNCAN)	26) CUP-2023-0078 (MARTIN)
Gulley	1	0	1	1	0
Holcomb	1	1	1	1	0
Winston	1	1	1	1	0
McGetrick	1	1	1	1	0
Sparkman	1	0	1	1	0
Brink	1	1	1	0	0
Garlock					
Madden					
Payne	1	0	0	0	0
Agenda	New	New	New	New	New
Motion By	Gulley	Winston	Winston	Winston	Winston
Motion 2nd	Payne	Brink	Brink	Gulley	Payne
Vote	7-0-0	4-3-0	6-1-0	5-2-0	0-7-0
Action	Approve	Approve	Approve	Approve	Approve
Time	8:52 PM	9:01 PM	9:12 PM	9:13 PM	9:30 PM
Motion Detail	Passed with all conditions as recommended by staff No Public Comment	Failed No Public Comment	Passed with a condition of number of occupants limited to 6 individuals in the unit, and all other conditions as recommended by staff. No Public Comment	Passed with a condition of number of occupants limited to 6 individuals in the unit, and all other conditions as recommended by staff. No Public Comment	Failed 3 Public Comment



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 28, 2023

SUBJECT: **VAR-2023-0037: Variance (653 W. 15TH ST./UNIVERSITY LOFTS AT THE SANCTUARY, 600):** Submitted by DEVELOPMENT CONSULTANTS INC for property located at 653 W. 15TH ST. The property is zoned CS, COMMUNITY SERVICES and contains approximately 10.22 acres. The request is for a variance from block layout/connectivity requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0037** based on the findings herein.

RECOMMENDED MOTION:

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

- In favor of a variance to UDC §166.08(E)(2) and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located on the south side of 15th Street about a quarter mile west of the street's intersection with School Avenue. The property totals approximately 10.22 acres and is currently undeveloped. College Branch flows generally north to south across the eastern side of the property and Town Branch flows west to east across the southern side of the property. Both creeks are currently indicated as Zone A, base flood elevation undetermined, according to the 2008 Flood Insurance Study (FIS). The creeks are also on the list of protected streams as identified in the streamside protection map which was adopted in 2011 along with the streamside protection ordinance. 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	RMF-24, Residential Multi-Family – 24 Units per Acre
South	Arkansas Research & Technology Park	RMF-24, Residential Multi-Family – 24 Units per Acre; I-1, Heavy Commercial and Light Industrial
East	Commercial and Industrial	I-1, Heavy Commercial and Light Industrial
West	Single-Family Residential	RMF-24, Residential Multi-Family – 24 Units per Acre; CS, Community Services

Request: The applicant is requesting a variance from Unified Development Code §166.08(E)(2) which prohibits the creation of double-street frontage lots, or through lots, except when such lots front onto access restricted roadways or if first permitted by the Planning Commission. The request is to create a double-street frontage lot with frontage on 15th Street, which is classified as a Regional High-Activity Link, and Van Buren Avenue, which is classified as a Residential Link.

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

DISCUSSION:

The subject property contains one parcel totaling 10.22 acres which is a corner lot just southeast of the intersection of 15th Street and Van Buren Avenue. The applicant is proposing to subdivide the property into two lots, one of which would remain a corner lot with frontage along the two streets at their intersection, while the other would become a through lot with frontage along both streets but not at their intersection. Staff is supportive of the applicant's request to subdivide the property and create a through lot as proposed. The through lot's frontage along 15th Street is encumbered by the presence of overhead powerlines and College Branch, which is a protected stream within a FEMA-designated floodplain. Given those constraints, staff recommends conditions of approval limiting access and orienting all primary structures toward Van Buren Avenue, which is the lower functional classification street.

RECOMMENDATION: Staff recommends approval of VAR-2023-0037 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to UDC §166.08(E)(2) which prohibits the creation of double-street frontage lots except when such lots front onto access restricted roadways or if first permitted by the Planning Commission.**
Staff is supportive of this variance based on the findings herein;
2. Access to the through lot shall be limited, and all primary structures shall be oriented towards, the property's Van Buren Avenue frontage. A note regarding this condition shall be added to the final lot split survey; and
3. Approval of this variance does not constitute approval of the associated lot split application. Review and approval of the lot split shall be required in accordance with city code.

Planning Commission Action: ☐ Approved ☐ Tabled ☐ Denied

Meeting Date: August 28, 2023

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- UDC §166.08 – Street Design and Access Management Standards
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.08 Street Design and Access Management Standards

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- (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 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).
- (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) *Regional and Regional High Activity Links.* Signalized intersections should be located at a minimum of one (1) every 2,640 feet (half a mile) along regional links and should be based on traffic warrants.
 - (b) *Neighborhood Links.* Intersections should be located at a minimum of one (1) every 1,320 feet (quarter of a mile) along neighborhood links.
 - (c) *Residential Link and Downtown/Urban Street.* Intersections shall occur at a minimum of one (1) every 660 feet.
 - (d) *Variances.* Block length standards may be varied by the Planning Commission when terrain, topographical features, existing barriers or streets, size or shape of the lot, or other unusual conditions justify a departure.
 - (2) With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted roadways such as expressways. Alleys are not considered as frontage. Double frontage lots may be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots. Unless otherwise approved by the Planning Commission, all primary structures shall be oriented toward the higher functional classification street.
 - (3) *Connectivity.* Wherever a proposed development abuts undeveloped land, street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.
 - (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. 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.

31 July 2023

City of Fayetteville

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

City Job Number: LSP-2023-0038
DCI Job Number: 2023-134
Project Name: The Sanctuary Addition – Lots 1 & 2
Owner: Andy Davis, Sanctuary at Sofay, LLC
1855 N Candleshoe, Fayetteville, AR 72701
870.723.2400

Project Narrative:

The Sanctuary Addition – Lots 1 & 2: LSP-2023-0038 is a request to split Parcel 765-15032-000 into two tracts, Lot 1 with approximately 3.10 acres and Lot 2 with approximately 7.04 acres, and to dedicate additional Right-of-Way per the Master Street Plan. The parent tract fronts both W. 15th Street and Van Buren Avenue. The eastern and southern boundaries of the parent tract are along the College Branch and Town Branch floodway and floodplains. Lot 1 is in the northwest corner of the parent tract, and Lot 2 is the remaining south and east portions of the parent tract. The Lot Split creates two tracts, each with two frontages, one each on W. 15th Street and Van Buren Avenue.

Variance Request:

On behalf of the owner, DCI is requesting variances to the following section of the Unified Development Code.

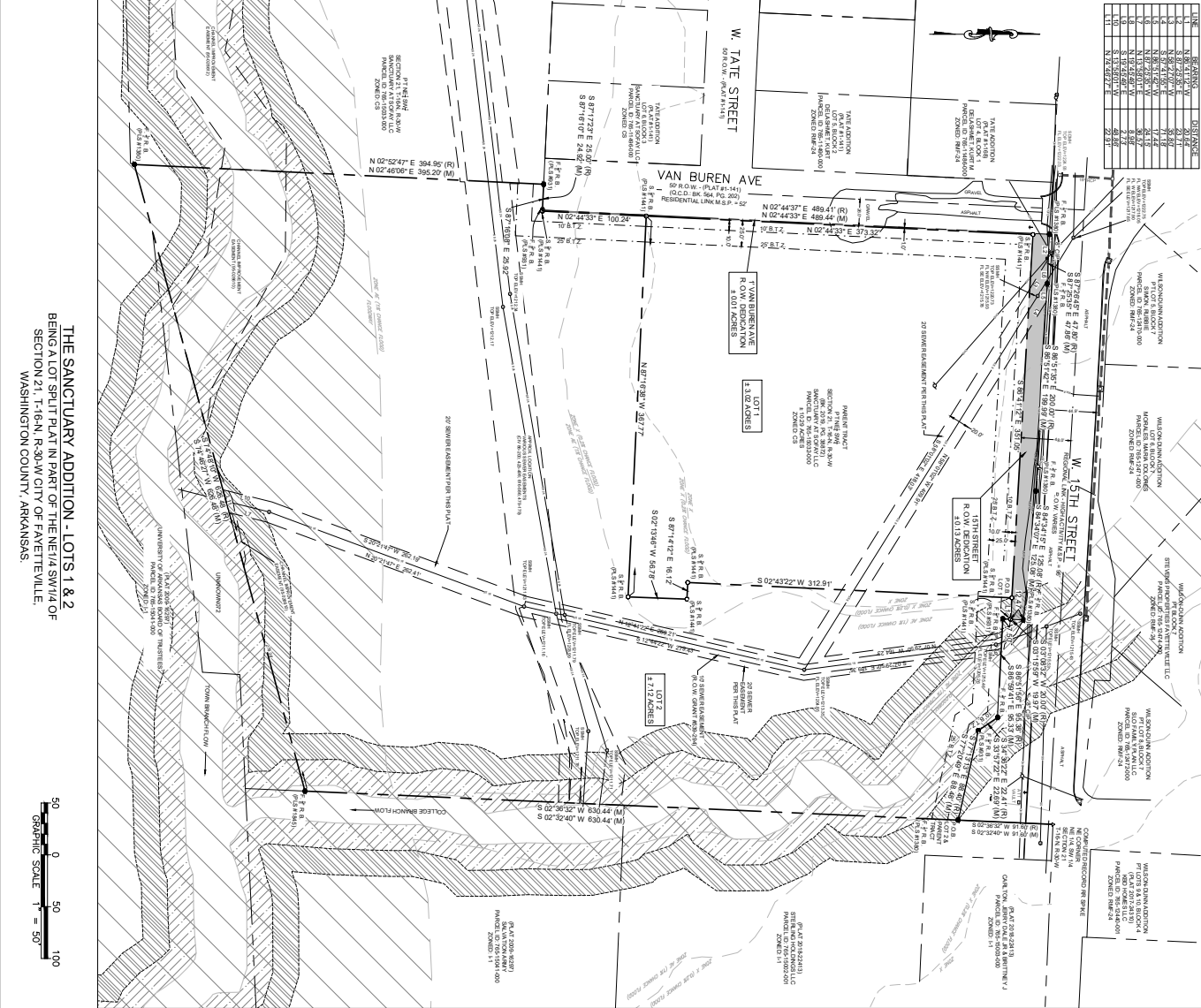
1. Variance to UDC Section 166.08.E.2, Block layout/Connectivity, for Lot 2. Code only allows corner lots to have dual frontages by right, but does allow for Planning Commission to permit other lots to have double frontages for topographical problems, feasibility issues, or other good cause. In this case, the frontage that proposed Lot 2 would have on 15th Street is entirely within the Floodplain, and almost entirely within the Floodway, restricting the ability for future development along this frontage and this portion of the lot. Future development of Lot 2 will almost certainly need to be accessed from and primarily fronting on Van Buren Avenue.

Thank you for your consideration and we look forward to working with the City moving forward.

Sincerely,



Jay Young, PLS
JayY@dcius.pro
479.444.7880
Development Consultants



THE SANCTUARY ADDITION - LOTS 1 & 2
BEING A LOT SPLIT PLAT IN PART OF THE NE 1/4 SW 1/4 OF
SECTION 21, T-16-N, R-33-W, CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS.



Legend

- FOUND MONUMENT
- SET MONUMENT
- CALCULATED POINT
- POWER POLE
- TELEPHONE PRESENT
- SANITARY SEWER
- MANHOLE
- SON
- WATER LINE
- OVERHEAD ELECTRIC
- SANITARY SEWER
- UNDERGROUND
- FRONT OPTIC
- FRONT STREET PLANT
- SET (500) REBAR
- SET (500) REBAR
- FOUND (SIZE) REBAR
- R.O.W. DESIGNATION
- FLOODWAY
- STREAMBED PROTECTION ZONE
- MANAGEMENT
- WATERSHED

NOTES

The location of utilities is shown herein as per documents provided to the surveyor. Additional utilities may be encountered. No excavations were made during the progress of the survey to locate buried utilities or structures.

CITY OF FAYETTEVILLE ZONING

USE	MINIMUM	MAXIMUM
Residential Single-Family	10'	15'
Residential Medium-Density	10'	15'
Residential High-Density	10'	15'
Commercial	10'	15'
Industrial	10'	15'
Public Use	10'	15'
Other	10'	15'

DEVELOPMENT

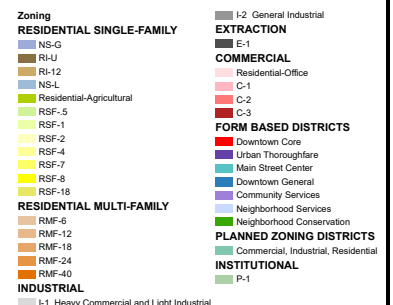
THE SANCTUARY ADDITION - LOTS 1 & 2
FAYETTEVILLE, ARKANSAS

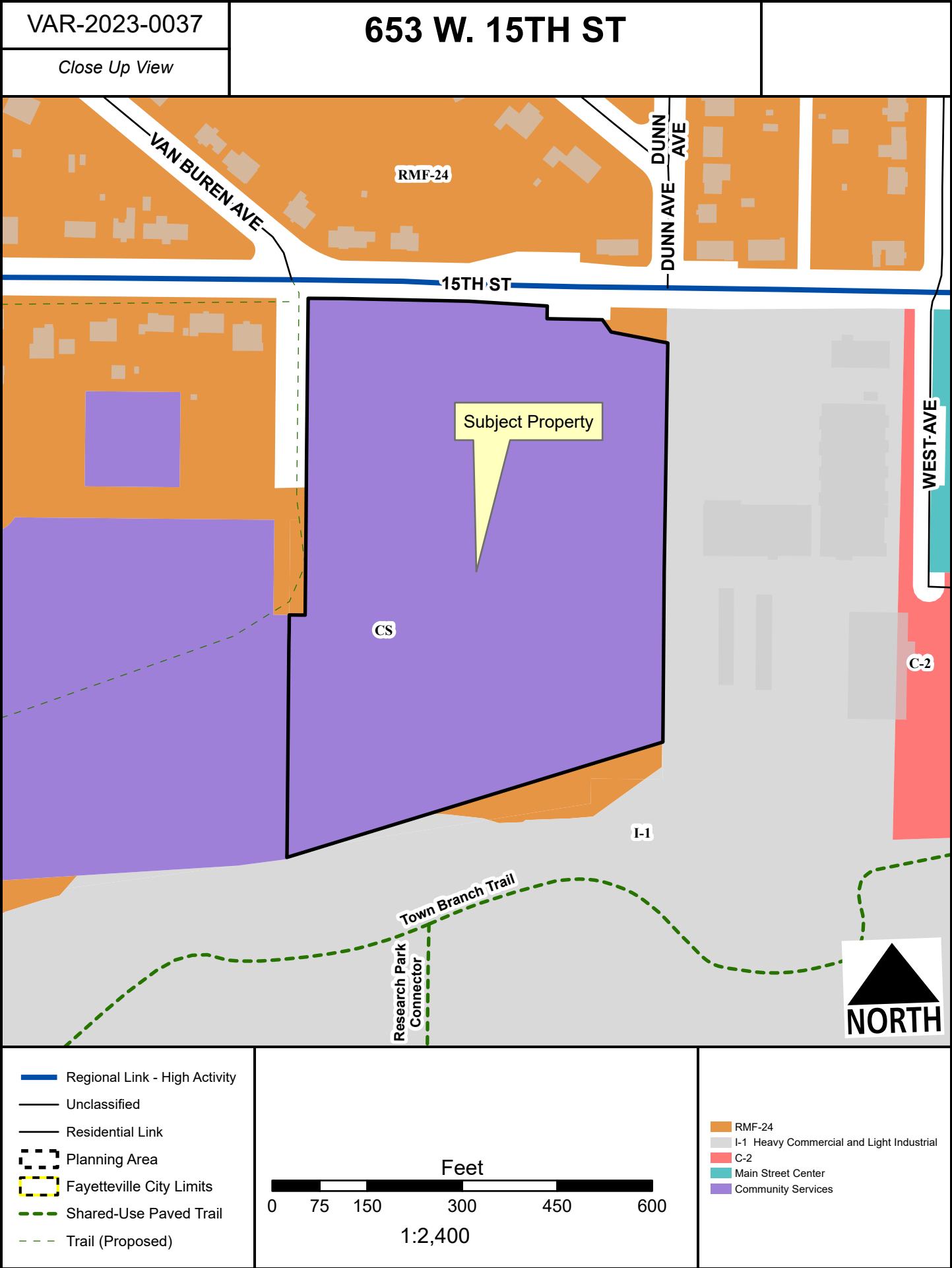
CONSULTANTS

LOT SPLIT PLAT

INCORPORATED

Planning Commission
August 28, 2023

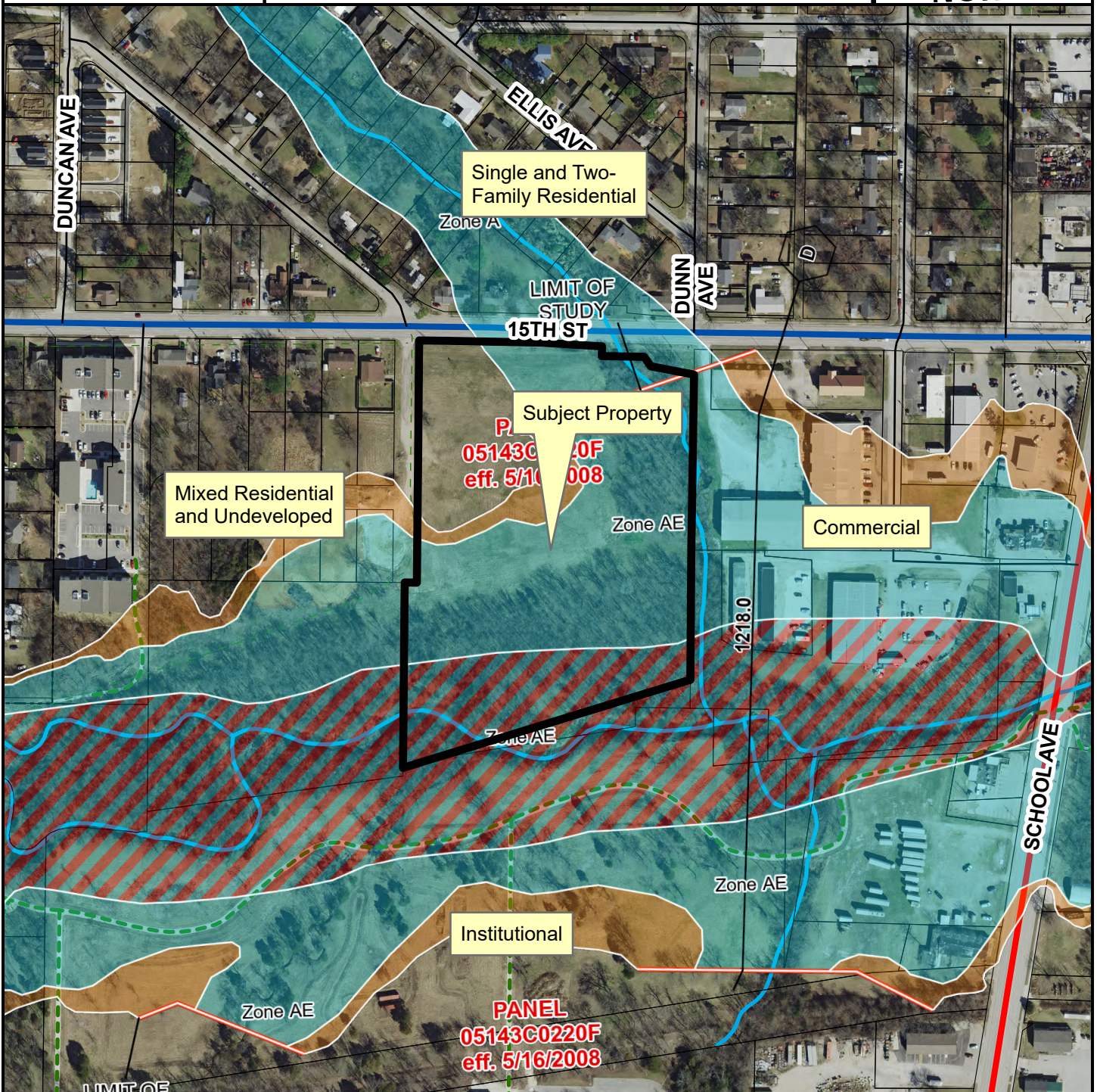




VAR-2023-0037

653 W 15TH ST

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission

August 28, 2023



TO: City of Fayetteville Planning Commission

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

MEETING DATE: August 28, 2023

SUBJECT: **VAR-2023-0022: Planning Commission Variance (216 N. LOCUST AVE/DICKSON SQUARE LLC, 556):** Submitted by ECOLOGICAL DESIGN GROUP INC for property located at 216 N. LOCUST AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.60 acres. The request is for variances to residential design standards, typical sidewalk width requirement, and master street plan requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0022**.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0022** determining:*

- In favor of the requested variance to §171.13(A), Property Owner to Construct Sidewalk in accordance with Master Street Plan*
- In favor of the requested variance to §166.23(C)(4)(a), Urban Residential Design Standards*
- In favor of the requested variance to §166.04(A)(2). Off-Site Improvements to be built to City Standards;*
- In favor of all other conditions recommended by staff."*

AUGUST 14, 2023 PLANNING COMMISSION MEETING:

At the August 14 Planning Commission meeting, the applicant requested to table themselves until the next available meeting. Staff was recommending denial of the variances that were being requested, and the applicant sought more time to address staff's concerns. In the interim, the applicant met with staff and has indicated an intent to modify the site plans, and has also submitted an updated request letter for consideration.

BACKGROUND:

The subject property is in downtown Fayetteville on Locust Avenue, approximately halfway between Dickson and Spring Streets. Containing three separate parcels for a total of 0.60 acres, the property in question is zoned DG, Downtown General, and is currently developed with three single-family dwellings. Under permitting review currently, the applicant is proposing to construct a multi-family structure and associated parking and amenities. Surrounding land uses and zoning are listed in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	DG, Downtown General
South	Single-Family Residential	DG, Downtown General
East	Mixed-Density Residential	MSC, Main Street Center
West	Mixed-Density Residential	DG, Downtown General

Request: The applicant is requesting three variances to the unified development code in conjunction with the development of a multi-family structure with associated parking and other amenities.

DISCUSSION:

Variance #1: §171.13(A). The owners of any property abutting a public street or highway for which a sidewalk is required by the City's Master Street Plan shall construct a sidewalk in accordance with this chapter, along said street or highway upon the receipt of notice issued at the time a building permit is issued. The applicant is requesting to construct an 8.5' sidewalk along N. Locust Avenue, removing an existing on-street parking lane on the east side, and reducing the width of an existing parking lane on the west side from 8 feet to 7 feet to allow for aerial apparatus access, as well as to preserve an existing retaining wall.

Staff recommendation: On the balance of considerations, staff recommends in favor of the request. The intent of the ordinance above is to ensure that additional pedestrian impact of a proposed development is absorbed by the developer, and in this instance, the site is being redeveloped from 3 single-family homes to 9 multi-family units. Due to an existing, historic retaining wall that the applicant intends to maintain, the applicant is extending the width of the sidewalk into the existing parking spaces along N. Locust Avenue to meet relevant shy distance requirements. Further, per Arkansas Fire Code, all buildings greater than 30 feet in height are required to have aerial access within 15 to 30 feet of the building on a fire access route with a minimum unobstructed width of 26 feet. In order to meet this requirement, the applicant intends to narrow the on-street parking lane on the west side of N. Locust from 8 feet to 7 feet, and install a mountable curb along the sidewalk for the creation of a fire access route that meets those minimum requirements. Since installing the sidewalk as proposed would allow the applicant to meet Arkansas Fire Code requirements while still complying with the City's standards for minimum sidewalk widths, staff is supportive of the applicant's request to vary from the typical requirements that are outlined in the City's Master Street Plan. It is worth noting that the removal of on-street parking in order to provide for fire access on N. Locust will have perhaps an unintended effect of creating a single drive lane that is approximately 17 feet wide. Urban Forestry also recommends in favor of the preservation of the wall, as this will help ensure the preservation of existing trees on the site. While the property is zoned DG, Downtown General, the applicant is typically required to preserve 10% of existing tree canopy; that number is currently at 3%, and the applicant intends to mitigate for the remaining portion.

Variance #2: §166.23(C)(4)(a), Ground floor dwelling units adjacent to the public street shall have a primary pedestrian entry that is visible from the street, and the entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the City sidewalk. The applicant is requesting two pedestrian connections to provide access to the site, rather than a direct connection for each unit.

Staff recommendation: Staff recommends in favor of the request, if Planning Commission chooses to approve the variance to typical street improvements as outlined above. A preference to minimize pedestrian connections is reasonable if retaining walls on the site are to be maintained in their existing position. Architecturally, staff finds the spirit and intent of the ordinance is still being met by providing active space in the property's front façade, as well as multiple doors and openings which will positively contribute to the pedestrian realm.

Variance #3: §166.04(A)(2), Any required on or off-site improvements in the city and within one (1) mile of the city limits shall be installed according to the city's standards; The applicant is requesting to improve a public alley with a non-standard cross-section.

Staff recommendation: After a modification from the first iteration, staff recommends in favor of the request. A residential two-way alley per the Master Street Plan typically requires two 7-foot drive lanes, as well as additional 1-foot concrete and 2-foot greenspace on each side to allow for vehicles to maneuver around each other safely. The applicant is requesting to dedicate additional right-of-way to the existing alley from 12 feet wide to 14 feet wide for two-way directional access. Staff finds that while this is still shy of the typical requirement for 20 feet of width, the implication of 14 feet would allow for two 7-foot drive lanes, a safer condition for a two-way scenario than the previously-requested 12 feet. The applicant also does not intend for the alley to be used as fire access, which is where the 20-foot width stems from. Aerial apparatus access is intended to occur on-street, as reported on in Variance #1.

Public Comment: Staff has received comments in opposition to this request, with concerns about the property's eventual intended use as short-term rentals, as well as the proposed removal of on-street parking on N. Locust Avenue. Written comment is attached to this report.

RECOMMENDATION: Staff recommends Planning Commission approve VAR-2023-0022, with the following conditions

Conditions of Approval:

1. **Planning Commission determination of a variance to §171.13(A), which requires sidewalk to be constructed according to typical master street plan standards.** *Staff recommends approval of the request for the reasons stated above.*
2. **Planning Commission determination of a variance to §166.23(C)(4)(a), Ground floor dwelling units adjacent to the public street shall have a primary pedestrian entry that is visible from the street, and the entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the City sidewalk.** *Staff recommends approval of this request for the reasons stated above.*
3. **Planning Commission determination of a variance to §166.04(A)(2), Any required on or off-site improvements in the city and within one (1) mile of the city limits shall be installed according to the city's standards.** *Staff recommends denial of this request for the reasons stated above.*
4. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.
5. Approval of this variance request is only for the requests as stated above, and does not extend approval to any variances not yet reviewed for at this stage.

PLANNING COMMISSION ACTION: Required YES

Date: August 28, 2023

☐ Tabled

☐ Approved

☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §166.04 Required Infrastructure Improvements — Development In City Limits
 - §166.23 Urban Residential Design Standards
 - §171.13 Property Owner To Construct Sidewalk Or Contribute Cost Of Sidewalk
- Downtown/Urban Street Master Street Plan Section
- Urban Forestry Memo
- Engineering Memo
- Applicant Request letter
- Applicant Exhibits
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map

166.04 Required Infrastructure Improvements — Development In City Limits

(A) *Generally.* Required of developer.

- (1) *On and Off-Site Improvements.* On-site improvements are adjacent to or within a project site; such as widening the street along the project street frontage, constructing interior streets and utilities, etc. Off-site improvements are not adjacent to a project; such as the extension of an off-site sewer line to the property boundary, off-site storm drainage improvements, or an off-site intersection improvement, etc.
- (2) *Standards Applicable.* Any required on or off-site improvements in the city and within one (1) mile of the city limits shall be installed according to the city's standards; provided on or off-site improvements to roads located outside one mile of the city limits shall be installed to the county's standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the development.
- (3) *Required Infrastructure Improvements.* On and off-site improvements that are roughly proportional and bear a rational nexus to the impact of the development are required for all development within the City of Fayetteville. The developer shall be required to install on and off-site improvements where the need for such improvements is created in whole or in part by the proposed development.
- (4) *Planning Commission and Planning Division.* At the time the Planning Commission or Planning Division (where applicable for administrative approval) grants development approval, the Planning Commission or Planning Division shall determine whether the proposed development creates a need for off-site improvements and the portion of the cost of any needed off-site improvements which the developer shall be required to bear; provided, that portion of the cost of off-site improvements to roads located outside the city's corporate limits but within the city's planning area shall be determined by the county. In determining that portion of the cost of off-site improvements which the developer shall be required to bear, the Planning Commission or Planning Division (where applicable for administrative approval) shall consider the acreage within the proposed development as a percentage of all the acreage which, when

fully developed, will benefit from the off-site improvements; provided, the Planning Commission or Planning Division may use a different method of measurement if it determines that use of the acreage standard will not result in the developer bearing that portion of the cost which bears a rational nexus to the needs created by the development.

...

(Code 1965, App. C., Art. III, §A(2), (3); Ord. No. 1979, 2-5-74; Ord. No. 2353, 7-5-77; Ord. No. 2755, 9-1-81; Code 1991, §§159.31, 159.32; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4263, 8-1-00; Ord. No. 4660, 12-21-04; Ord. No. 5152, 7-15-08; Ord. No. 5271, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5374, 12-21-10; Ord. No. 5523, 9-4-12; Ord. No. 5570, 03-05-13; Ord. No. 6116, §1, 11-20-18; Ord. No. 6166, §§1, 2, 4-2-19; Ord. No. 6195, §1, 6-4-19; Ord. No. 6350, §3(Exh. B), 8-18-20; Ord. No. 6426, §1, 4-6-21; Ord. No. 6446, §8(Exh. C), 6-15-21)

166.23 Urban Residential Design Standards

(A) *Purposes.*

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

...

(4) *Pedestrian Circulation.*

- (a) Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The connection shall match the sidewalk in material type and shall be at least 3 feet in width unless otherwise approved by the Zoning and Development Administrator in writing. The entry may be gated and shared but must occur at a spacing of no fewer than one (1) entrance for every two (2) street level dwellings. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk.
- (b) Urban residential projects shall incorporate pedestrian connections to adjacent residential and commercial properties where sidewalks exist unless this requirement is otherwise waived by the Planning Commission.

171.13 Property Owner To Construct Sidewalk Or Contribute Cost Of Sidewalk

- (A) *Requirement.* The owner of any property abutting a public street or highway for which a sidewalk is required by the city's Master Street Plan shall construct a sidewalk in accordance with this chapter, along said street or highway upon the receipt of notice issued at the time a building permit is issued.

...

(Code 1965, §18-31; Ord. No. 2653, 8-5-80; Ord. No. 2780, 11-17-81; Ord. No. 2917, 5-3-83; Ord. No. 3113, 9-3-85; Code 1991, §98.66; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4311, 5-1-01; Ord. No. 4387, 4-16-02; Ord. No. 5789, Repealed & Replaced Chp. 171, 8-4-15; Ord. No. 6350, §7(Exh. F), 8-18-20)

Downtown/Urban Street

Design Service Volume: Varies - Desired Operating Speed: 20-25 mph

The downtown (or urban) street section is intended to be used in Fayetteville's downtown core. Wide sidewalks, with separated furnishing/tree zones will be the standard. On-street parking is desirable and low-speed design should be encouraged to allow for maximum pedestrian comfort and utilization. Sight-lines at intersections should be protected from obstructions. Ideally, bicycles should be able to intermix with traffic safely and on-street protected bike facilities considered where traffic volumes or speeds exceed thresholds for all ages and abilities. Storm drainage infrastructure should have adequate depth or be offset to avoid conflicts with street tree plantings. Low-Impact Development (LID) features in green spaces are recommended best practices to incorporate alternative stormwater treatment techniques.

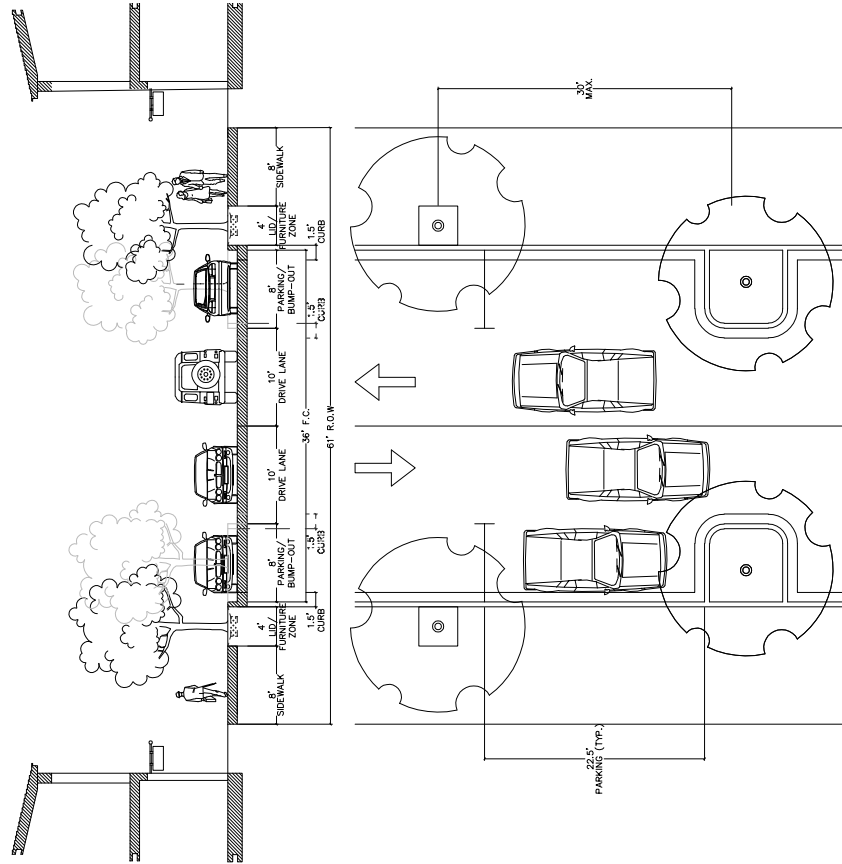


Figure 12.10 - Downtown/Urban Street

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.
- If known or planned transit route, increase lane widths to 11-ft.

Alternative design elements may be approved administratively and include:

- Removal of the 8-ft parking lane or lanes to reduce the right-of-way by 16-ft will be considered when adequate parking is provided elsewhere.
- Sidewalk widths may be reduced to a minimum of 6-ft.
- Furniture zone may be reduced to 3-ft when determined appropriate by the Zoning and Development Administrator.
- Where bump-outs are used, the 4-ft furniture zone may be removed. Street trees may be planted behind sidewalk to meet requirements.
- Angled parking may be used with an additional amount of right-of-way as determined by the Zoning and Development Administrator. (79-ft Right-of-Way)

Example section (left) with parking on both sides.

Minimum Right-of-Way: 39-feet

Maximum Right-of-Way: 63-feet



From: Evans, Melissa <mevans@fayetteville-ar.gov>

Sent: Tuesday, August 22, 2023 5:11 PM

To: Kiara Gilmore <kiara@modusstudio.com>; Brown, Chris <cbrown@fayetteville-ar.gov>; Price, Clint <cprice@fayetteville-ar.gov>; Boccaccio, Joshua <jboccaccio@fayetteville-ar.gov>; Clay, Justin <jclay@fayetteville-ar.gov>; Curth, Jonathan <jcurth@fayetteville-ar.gov>; Boyd, Melissa <mboyd@fayetteville-ar.gov>; Masters, Jessica <jmasters@fayetteville-ar.gov>

Cc: Mary Nell Miskin <mmiskin@ecologicaldg.com>; Chris Baribeau <chris@modusstudio.com>; Brahm Driver <bdriver@ecologicaldg.com>; Katelynn Morgan <kmorgan@ecologicaldg.com>

Subject: RE: 216 locust - variance exhibit

Hi Kiara –

Urban Forestry is fine with the proposed plan and recommends preservation of the existing trees as shown on the plan. What is critical with the trees is minimizing disturbance to the root zone and canopy. The root zone is the area that is calculated by projecting the edges of the tree canopy down to the ground, and then projecting another 18” down in the ground. So minimizing disturbance to that area and minimizing limb pruning for construction is crucial, especially when it comes to hardscape and utilities.

Thanks-

Melissa

**City Council has updated our Tree Preservation and Landscape Codes. To learn more, click [Tree Preservation and Landscape Code Changes Synopsis](#). Click here for an updated [Tree Preservation and Landscape Calculator](#)*

Melissa Evans, PLA, ASLA
ISA Certified Arborist
Urban Forester
Development Services
City of Fayetteville, Arkansas
Phone 479.444.3486
www.fayetteville-ar.gov





TO: Jessie Masters, Development Review Manager

FROM: Melissa Boyd, Staff Engineer

DATE: August 23, 2023

SUBJECT: **Planning Commission Engineering Comments for
VAR-2023-0022 216 N. LOCUST AVE**

The applicant has revised their request and has proposed to reduce the street width and include an 8.5 feet wide sidewalk with mountable curb to meet shy distance and aerial apparatus requirements. Engineering supports this section for the project frontage on Locust Avenue. Adequate tapers will need to be provided and will be reviewed with the grading permit.

August 24, 2023

City of Fayetteville
Planning Commission
125 W. Mountain Street
Fayetteville, AR 72701
479.535.8233

EDG #: 22-066
PROJECT NAME: 216 N Locust Ave., Fayetteville, AR 72701
DEVELOPER: Dickson Square, LLC, 1410 East Rockwood Trail, Fayetteville, Arkansas

Project Narrative

The 216 N Locust Ave. project is located at 216, 212, and 210 N. Locust Ave. and consists of 3 parcels, 765-01694-000, 765-01697-000, 765-01698-000, totaling approximately 0.592 acres. The site design includes one building with units for short term leasing, site amenities, parking, underground detention, bocce ball courts and bike infrastructure.

EDG is requesting variances to Section 133.23.C, 166.08.G, and 171.13(A) of the Unified Development Code. The main goal of these requests is to preserve and maintain as much of the existing historic wall that is located along the project frontage on N. Locust Ave and to provide adequate access to this development via an existing platted alleyway.

Variance Request

EDG is requesting the following variances:

- I. Variance to Unified Development Code Chapter 166, Section 166.23, Item C for the 216 N Locust Ave. project to not require ground floor dwelling units adjacent to a public street to have a primary pedestrian entry that is visible from the street.
 - a. Justification: The dwelling units along the western side of the proposed building are at least 7ft above the public sidewalk grade. The project is providing pedestrian connections via stairs at the north and south end of the property. Due to the significant grade differential between the proposed sidewalk and the finished floor of the proposed buildings, providing a direct connection would require multiple sets of stairs that would result in the demolition of the existing historic wall and potential damage to existing trees. Preservation of the existing wall and trees are a high priority for the project. The two stair connections at either end of the project from the public right-of-way meet the general intent of the ordinance to provide pedestrian connection to the property. In addition to the stair connections, visitors to the property will have the option of parking in the parking lot located on the uphill side of the property.
2. Variance to Unified Development Code Chapter 133, Section 08, Item G for the 216 N Locust project to not be required to widen the entire length of the existing alleyway on the east side of the property.
 - a. Justification: Currently, there is an alley easement wide enough to accommodate a 12' alley. The owner of this property is prepared to widen the alley to 14' along the properties that they own to the east. There will be a section of alley that will not be able to be widened to accommodate a 14' section because this section is adjacent to other property owners. The adjacent property owners have built walls, fences, and buildings immediately adjacent to or in the existing easement.

In an effort to maintain the neighboring structures, fences, and walls, this development is proposing a 14' alley width throughout the portion of property controlled by the property owner of this proposed development.

3. Variance to Unified Development Code Chapter 171, Section 13, Item A for the 216 Locust project to vary from the Master Street Plan for Urban Center Streets.
 - a. Justification: N. Locust Ave. is currently a one-way road along this proposed development with on-street parking on both sides. EDG is proposing to remove the on-street parallel parking on the east side of N Locust Ave, widening the sidewalk to 8'-6" wide, and narrowing the roadway to accommodate this wider sidewalk section. The sidewalk is required to be 8'-6" as it will be adjacent to an existing retaining wall and proposed mountable curb along the street edge. Additionally, as there is not a one-way master street plan section, EDG is requesting to reduce the Master Street Plan right-of-way from 30' from the centerline of the street to 19'-7³/₄". This reduction will account for the removal of the on-street parking and the addition of the 8'-6" sidewalk. Please see the street dimensions included with the attached exhibit.

Code Sections:

I) 166.23.C Urban Residential Design Standards

4. Pedestrian Circulation.

- a) Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The connection shall match the sidewalk in material type and shall be at least 3 feet in width unless otherwise approved by the Zoning and Development Administrator in writing. The entry may be gated and shared but must occur at a spacing of no fewer than one (1) entrance for every two (2) street level dwellings. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk.

I) 133.08.G Street Design and Access Management Standards

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 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.

I) 171.13 Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk

A) Requirement. The owner of any property abutting a public street or highway for which a sidewalk is required by the city's Master Street Plan shall construct a sidewalk on accordance with this chapter, along said street or highway upon the receipt of notice issued at the time a building permit is issued.

- 1) The property owner shall construct the sidewalk in accordance with the specifications provided in the Minimum Street Standards.

Sincerely,



Brahm Driver, PE

Ecological Design Group, Inc. | 501.944.3090 | bdriver@ecologicaldg.com

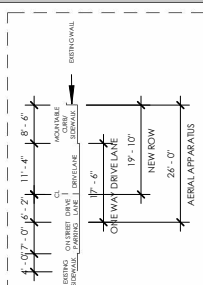
EXPAND ALLEY INTO APPLICANT OWNED PROPERTIES FROM 12' TO 14' WIDE TO ALLOW FOR TWO 7' LANES, LIKELY PINCH POINT WHERE MEETING ADJACENT PROPERTIES

EXISTING
BUILDING
IN ALLEY

SPRING ST

MOVE SIX UNITS EAST ~6.5' TO
ACCOMMODATE THE 15'
AERIAL APPARATUS

EXISTING MSP ROW IS 30',
PROPOSING A 19' 10" ROW.
REMOVING ON STREET
PARKING AND FURNITURE
ZONE, LEAVING A 8.5'
SIDEWALK + 11' 4" DRIVING
LANE TO CL OF STREET



LOCUST AVE

CENTERLINE

AERIAL APPARATUS SET UP ZONE

EXISTING TREES TO REMAIN

EXISTING WALL TO REMAIN

MOUNTABLE CURB,
SIDEWALK WIDENED TO
8.5' WIDE

26' AERIAL APPARATUS SET UP ZONE
FROM EDGE OF PARKING TO EXISTING
WALL OVER MOUNTABLE CURB

REDUCE ON STREET PARKING STRIPING
FROM 8' TO 7' OFF OF CURB

-----Original Message-----

From: Mary Ann Willis <maw65@live.com>

Sent: Tuesday, August 22, 2023 1:21 PM

To: Masters, Jessica <jmasters@fayetteville-ar.gov>

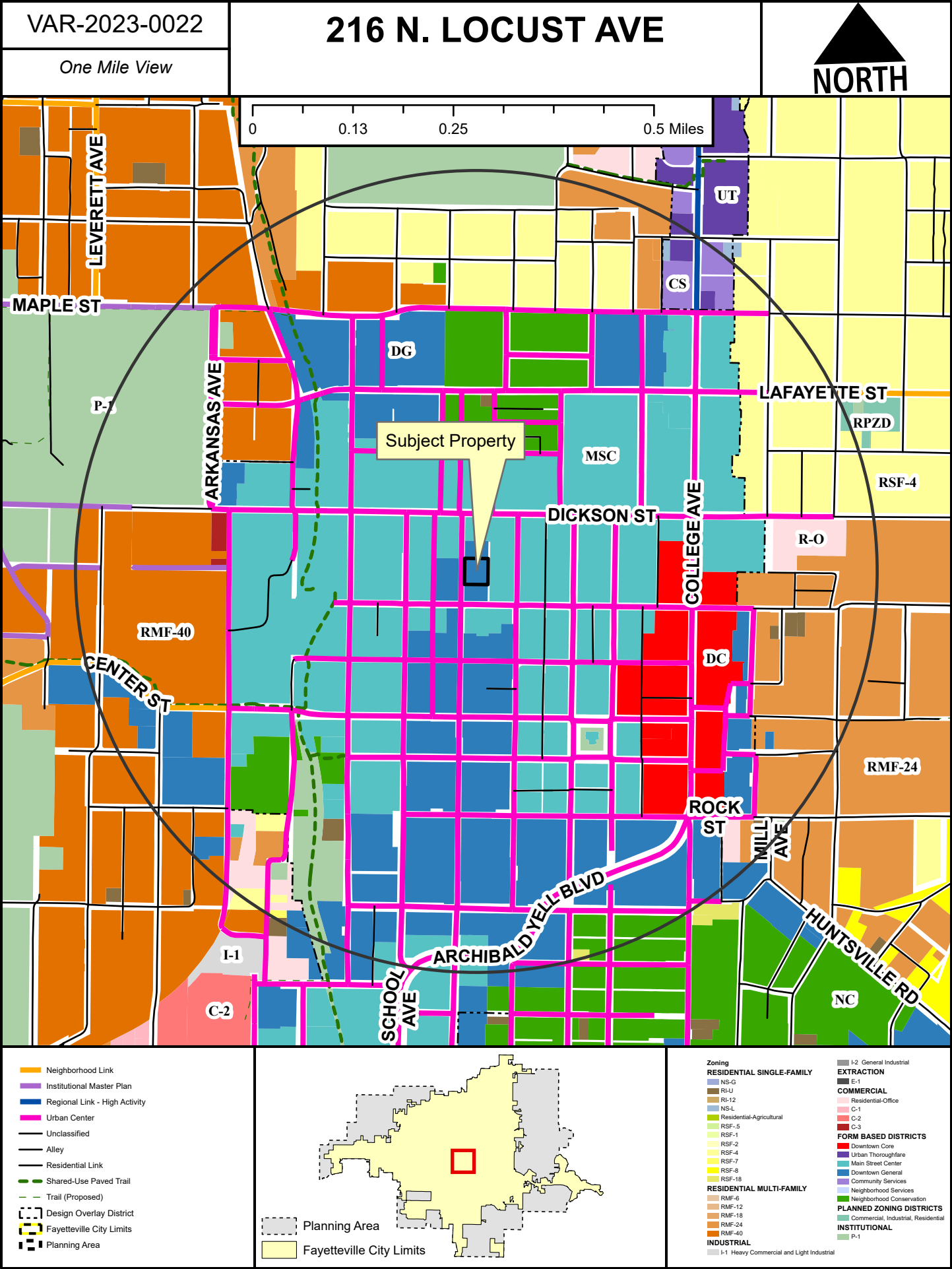
Subject: 216 N Locust development

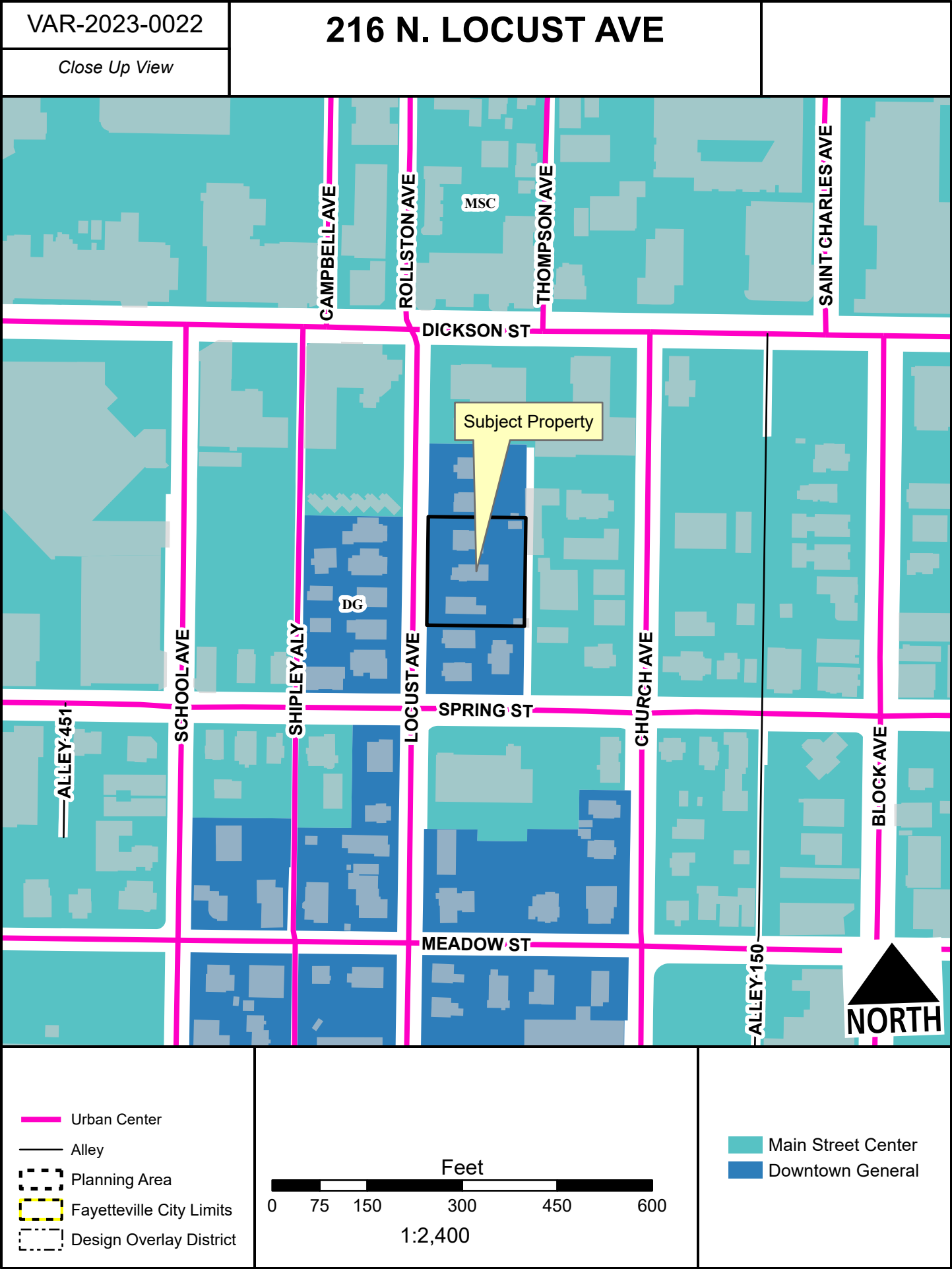
CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I own a home at 206 N Locust Ave which is directly beside this development. I just want to say that I absolutely oppose the removal of any parking spots on Locust. Parking is bad enough on that street/area as it is. I do not feel like it is fair to not allow homeowners or renters to park on the street in front of their homes. I am 100% against this.

Mary Ann Willis

Sent from my iPhone

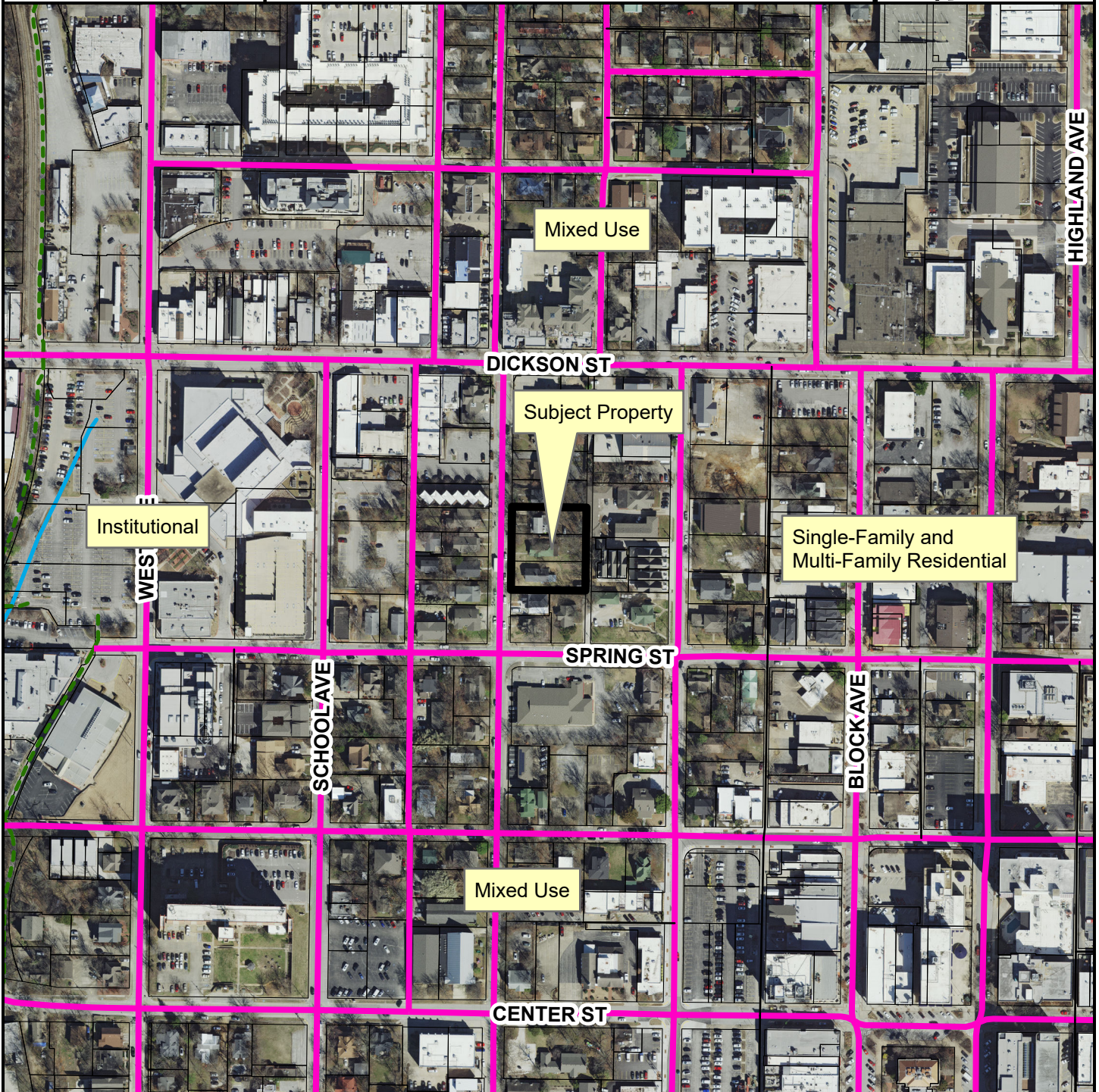




VAR-2023-0022

216 N. LOCUST AVE

Current Land Use



- Urban Center
- Alley
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 28, 2023

SUBJECT: **VAR-2023-0036: Variance (653 W. 15TH ST./UNIVERSITY LOFTS AT THE SANCTUARY, 600):** Submitted by DEVELOPMENT CONSULTANTS INC for property located at 653 W. 15TH ST. The property is zoned CS, COMMUNITY SERVICES and contains approximately 10.22 acres. The request is for a variance from master street plan and urban residential design standards.

RECOMMENDATION:

Staff recommends partial approval of **VAR-2023-0036** based on the findings herein.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0036**, determining:*

- In favor of a variance to UDC §166.11(A),*
- In denial of a variance to UDC §166.23(C)(4)(a), and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located on the south side of 15th Street about a quarter mile west of the street's intersection with School Avenue. The property totals approximately 10.22 acres and is currently undeveloped. College Branch flows generally north to south across the eastern side of the property and Town Branch flows west to east across the southern side of the property. Both creeks are currently indicated as Zone A, base flood elevation undetermined, according to the 2008 Flood Insurance Study (FIS). The creeks are also on the list of protected streams as identified in the streamside protection map which was adopted in 2011 along with the streamside protection ordinance. A large site improvement plan for a 152-unit multi-family development on the subject property is currently under review by city staff (LSIP-2023-0003). 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	RMF-24, Residential Multi-Family – 24 Units per Acre
South	Arkansas Research & Technology Park	RMF-24, Residential Multi-Family – 24 Units per Acre; I-1, Heavy Commercial and Light Industrial
East	Commercial and Industrial	I-1, Heavy Commercial and Light Industrial
West	Single-Family Residential	RMF-24, Residential Multi-Family – 24 Units per Acre; CS, Community Services

Request: The applicant is requesting two variances from the Unified Development Code that are associated with a planned multi-family residential development which is currently under

administrative review as a large site improvement plan (LSIP-2023-0003). Each variance is described further below alongside staff's recommendations.

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

DISCUSSION:

Variance #1: UDC §166.11(A), Conformance to Plans and Regulations. All projects shall conform to the official plans and regulations that make up the City's Master Street Plan.

The applicant is requesting to vary from the standard regulations for a Residential Link street, which include six-foot sidewalk and six-foot greenspace, to install a 6.5-foot sidewalk at the back of curb along the property's Van Buren Avenue frontage.

Staff recommendation: Staff is supportive of the applicant's request to improve the subject property's Van Buren Avenue frontage in a way that varies from the typical requirements for a Residential Link street. The City's Fire Marshal has requested that sidewalk be installed as proposed at the back of a mountable curb to support aerial apparatus access to the proposed development. Per Arkansas Fire Code, all buildings greater than 30 feet in height are required to have aerial access within 15 to 30 feet of the building on a fire access route with a minimum unobstructed width of 26 feet. Installing sidewalk at the back of a mountable curb would allow for the creation of a fire access route that meets those minimum requirements. Since installing the sidewalk as proposed would allow the applicant to meet Arkansas Fire Code requirements while still complying with the City's standards for minimum sidewalk widths, staff is supportive of the applicant's request to vary from the typical requirements that are outlined in the City's Master Street Plan.

Variance #2: UDC §166.23(C)(4)(a), Urban Residential Design Standards – Pedestrian Circulation. Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The applicant is requesting to vary from this standard so that ground floor dwelling units along 15th Street do not have individual pedestrian entrances or connections to the public sidewalk. As proposed, there would be one shared entrance facing 15th Street at the east end of the building.

Staff recommendation: Staff is not supportive of the applicant's request to vary from this standard. The applicant has stated that installing direct pedestrian connections with an ADA route between each unit and the public sidewalk along 15th Street would require the placement of fill that would adversely impact the floodplain. However, staff finds that the pedestrian connections between each unit and the sidewalk do not need to be ADA routes, so there may be alternatives available that would not adversely impact the floodplain or require a variance from this standard. Staff finds that granting this variance, as requested, would allow for the north façade of the building to be designed in a way that does not meet the intent of the City's Urban Residential Design Standards, which is to create a pedestrian-friendly streetscape, without clear evidence of a hardship.

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

RECOMMENDATION: Staff recommends partial approval of VAR-2023-0036 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to UDC §166.11, Conformance to Plans and Regulations.** *Staff recommends approval of this request for the reasons stated above.*
2. **Planning Commission determination of a variance to UDC §166.23(C)(4)(a), Urban Residential Design Standards – Pedestrian Circulation.** *Staff recommends denial of this request for the reasons stated above.*
3. Approval of this item does not constitute approval of the associated large site improvement plan. Review and approval of the large site improvement plan shall be required in accordance with city code.

Planning Commission Action: ☐ Approved ☐ Tabled ☐ Denied
Meeting Date: <u>August 28, 2023</u>
Motion:
Second:
Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §166.11 Conformance to Plans and Regulations
 - §166.23 Urban Residential Design Standards
- Applicant Request Letter
- Applicant Exhibits
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.11 Conformance To Plans And Regulations

(A) *Conform to Plans and Regulations.* The subdivision shall conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Future Land Use Plan, the Master Street Plan, access control, setback ordinances, the Community Facilities Plan and Zoning, Chapters 160 through 164.

(B) *Reserve Sites for Public Use.*

- (1) For a period of six (6) months after submitting application for approval of a preliminary plat with the Planning Commission, the Planning Commission may require the subdivider to reserve sites for public use that are indicated within the boundaries of the proposed subdivision which are indicated on an officially adopted plan, to permit the public board, commission, or body having jurisdiction, or financial responsibility, the opportunity to acquire said sites.
- (2) The subdivider at his or her option may provide such areas or may be required to make them available for acquisition by the city under statutory procedure. All such areas shall be maintained at the expense of the city or other body which may be involved.

(C) *Future Acquisition.* The Planning Commission may require the subdivider to establish building lines to allow for future acquisition of right-of-way for streets on the Master Street Plan.

(Code 1965, App. A., Art. 8(10.1); Ord. No. 1747, 6-29-70; Ord. No. 3073, 3-19-86; Code 1991, §160.119; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4919, 9-05-06; Ord. No. 6350, §5(Exh. D), 8-18-20)

166.23 Urban Residential Design Standards

- (A) *Purposes.*
- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
 - (2) To create appealing street scenes so that development enhances the image of the city and provides safe, pedestrian-friendly neighborhood environments.
 - (3) To minimize service and parking impacts in order to preserve surrounding property values and scenic resources that contribute to the city's economic development.
 - (4) To compose attractive residential facades that enhance the economic viability of and provide compatibility with surrounding property.
- (B) *Applicability.* All references to urban residential design standards shall include the following uses as permitted by right or conditional use in all zoning districts:
- (1) Two (2) family dwellings
 - (2) Three (3) and four (4) family dwellings
 - (3) Multi-family dwellings
- (C) *Site Development Standards.* The following site development standards shall apply for all urban residential development.
- (1) *Intent.* The intent of these site development standards is to create a pedestrian-friendly streetscape.
 - (2) *Vehicular Access/Circulation/Parking.*
 - (a) Site access and internal circulation should promote pedestrian safety, efficiency, and convenience and minimize conflicts between vehicles and pedestrians. Continuous circulation shall be provided throughout the site to the greatest extent possible creating a complete, compact, and connected transportation network both within the development and to the surrounding neighborhood. The visual impact of parking areas should be minimized by locating parking behind buildings and internal to the site.
 - (i) Garage entries and carports shall not protrude forward from the principal facade. Driveways shall extend at least 18 feet into the property from the Master Street Plan right-of-way to allow parking to occur without encroaching into the right-of-way.
 - (ii) Parking areas should be accessed by mid-block alleys whenever possible. Developments should minimize multiple driveways and should utilize a shared access to reduce the number of vehicle conflicts at the street.
 - (iii) On-street parallel parking may be provided on at least one (1) side of the street in front of all multi-family buildings where feasible. Each on-street parking space provided along the project frontage shall count toward the total required spaces for the development.
 - (3) *[Reserved.]*
 - (4) *Pedestrian Circulation.*
 - (a) Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The connection shall match the sidewalk in material type and shall be at least 3 feet in width unless otherwise approved by the Zoning and Development Administrator in writing. The entry may be gated and shared but must occur at a spacing of no fewer than one (1) entrance for every two (2) street level dwellings. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk.
 - (b) Urban residential projects shall incorporate pedestrian connections to adjacent residential and commercial properties where sidewalks exist unless this requirement is otherwise waived by the Planning Commission.
 - (5) *Screening Requirements if Visible from the Highway/Street Right-of-Way.*
 - (a) *Mechanical and Utility Equipment.* All mechanical and utility equipment located on the wall and/or on the ground shall be screened, except for air conditioning window units. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks, unless located in a utility easement.
 - (b) *Recycling and Trash Containers.* Adequate space and screening shall be provided for the placement of recycling and trash containers in urban residential developments.

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

- (E) *Planning Commission Approval.* An applicant may request approval from the Planning Commission of a variance from the maximum requirements where unique circumstances exist and the effect will not adversely impact adjoining or neighboring property owners. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.

(Ord. No. 5118, 3-18-08; Ord. No. 5262, 8-4-09; Ord. No. 5679, 4-15-14; Ord. No. 6170 , §1, 4-2-19; Ord. No. 6357 , §§1, 2, 9-15-20; Ord. No. 6508 , §1, 11-16-21; Ord. No. 6658 , §10, 5-2-23)

31 July 2023

City of Fayetteville

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

City Job Number: LSIP-2023-0003
DCI Job Number: 2023-134
Project Name: University Lofts at the Sanctuary
Owner: Andy Davis, Sanctuary at Sofay, LLC
1855 N Candleshoe, Fayetteville, AR 72701
870.723.2400

Project Narrative:

The University Lofts at the Sanctuary Multi-Family development is located at 653 W 15th Street, Parcel 765-15032-000, and consists of approximately 3.10 acres in the northwest corner of the 10.25 acres parent tract. This parcel fronts approximately 360' along W 15th Street and 370' along Van Buren Avenue. The project is a multifamily development consisting of 152 micro-loft units contained in a single four-story structure. As part of this development, Van Buren Avenue will be built from the 15th Street intersection south to the limits of the developed property. The parent parcel is bordered by the College Branch to the east and the Town Branch to the south, which have recently had a flood study completed that has been preliminarily accepted by FEMA.

Additionally, this development will work to limit the impact to the floodplain of the surrounding waters. However, some cuts and fill will be required in the floodplain to be able to build the required 10' wide city trail along the northerly portion of the development and within a portion of the floodplain along 15th Street, and the said fill will be compensated on site per UDC Section 168.10.U.3. It is anticipated that the amount of compensatory storage would not exceed 200 cubic yards, more or less. By altering the location and elevation of the city trail from the typical master street plan cross section, we are able to reduce the amount of fill placed into the floodplain and reduce the amount of compensatory storage required resulting in a net cut which creates additional flood storage capacity.

Variance Request:

On behalf of the owner, DCI is requesting variances to the following sections of the Unified Development Code.

1. Variance to UDC Section 166.11, Conformance to Plans and Regulations, for Van Buren Ave. Code requires the development to conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Master Street Plan. Per Arkansas Fire Code, all buildings greater than 30' high must have aerial access within 15'-30' on a fire access route with a minimum unobstructed width of 26'. Upon initial review, the parallel parking per City Master Street Plan will not qualify for the unobstructed 26' width, requiring a change in the street section. The Fire Marshall requested the sidewalk be placed at the back of a mountable curb and installed to support aerial apparatus vehicles

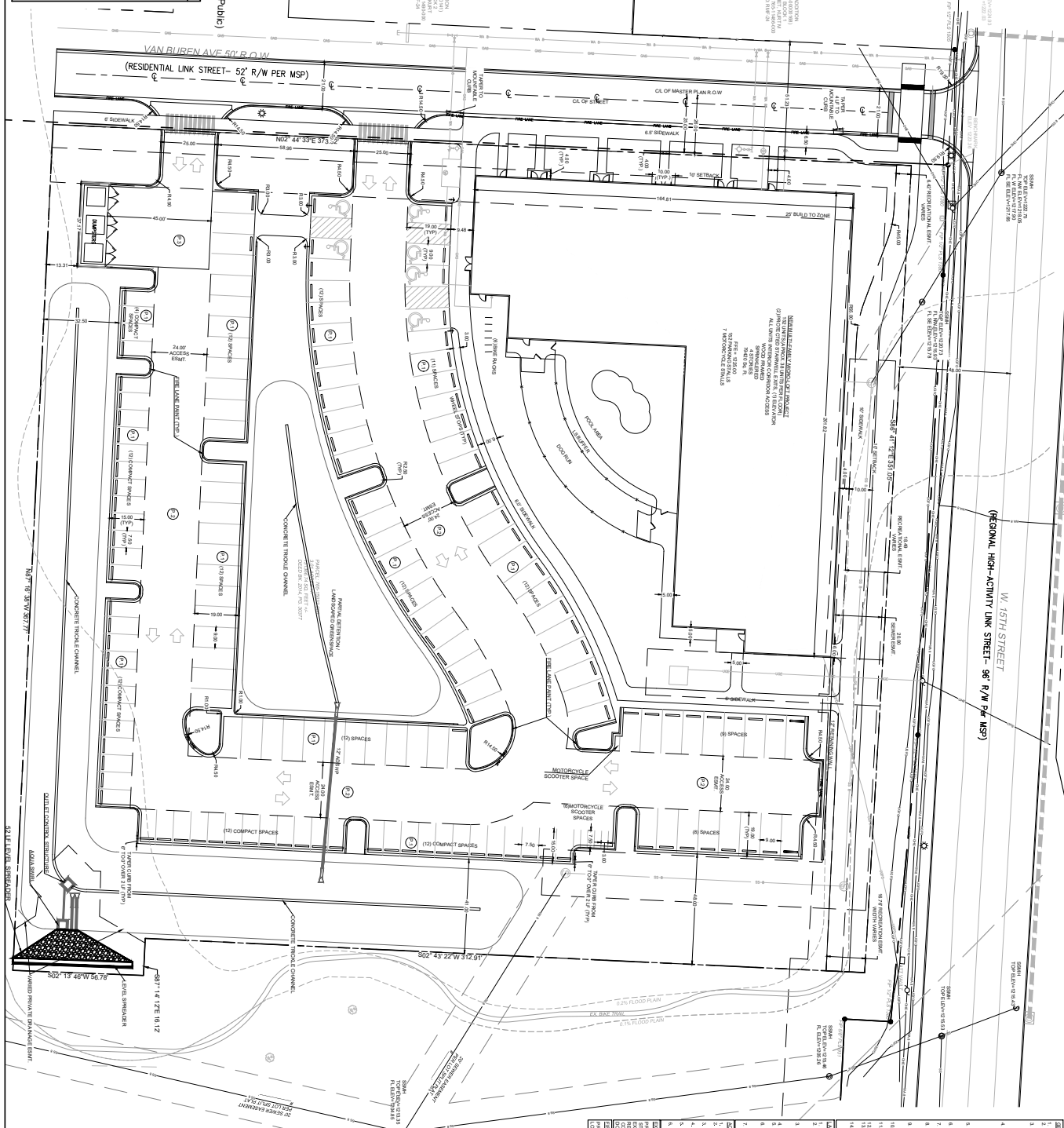
- to allow for the 26' of unobstructed access to the building, requiring a variance from the Master Street Plan, UDC Section 166.11.
2. Variance to UDC Section 166.23.4, Pedestrian Circulation, for the north façade of the development. Code requires ground floor dwelling units adjacent to a public street to have a primary pedestrian entry that is visible from the street, that is unobstructed to the public sidewalk where one exists or is designed, may not have more than two dwelling units per connection, and may not run along the façade of the building for more than 12' before turning to connect to the public sidewalk. The north façade of the development fronts W. 15th Street and has a finished floor elevation approximately 2.5'-3' above the highest adjacent grade on W. 15th Street. The finished floor elevation was designed to provide adequate clearance from the 1% Flood Elevation on College Branch, enable proper drainage of stormwater, and utilize existing grades. The designed City sidewalk is located 4' north of the façade of the development and at a design elevation in order to limit adverse effects to the floodplain that exists along W. 15th Street. In order to provide an ADA route from the City sidewalk to the unit entries along this north façade, the City sidewalk would need to be raised significantly for the majority of the building, negatively impacting the adjacent floodplain by requiring the placement of fill within the floodplain. DCI has worked with City engineering staff to adjust the sidewalk elevation to create a net cut of material within the floodplain. By requiring a direct connection from every unit along the north façade of the building to the City sidewalk, the floodplain would be negatively impacted by the placement of fill and negating the careful design of the sidewalk elevation that has City engineering support. For these reasons, DCI is requesting a variance for the north façade to UDC Section 166.23.4.

Thank you for your consideration and we look forward to working with the City moving forward.

Sincerely,

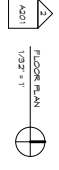


Chase Henrichs, P.E.
ChaseH@DCIUS.PRO
479.444.7880
Development Consultants



KEY	DESCRIPTION	REMARKS
	PAVEMENT - CONCRETE	
P.1	LIGHT-DUTY PAVEMENT	
P.2	MEDIUM-DUTY PAVEMENT	
P.3	HEAVY-DUTY CONCRETE	

GENERAL INFORMATION 1. NAME OF THE COMPANY: _____ 2. ADDRESS: _____ 3. CITY: _____ 4. STATE: _____ 5. ZIP: _____ 6. PHONE: _____ 7. FAX: _____ 8. E-MAIL: _____ 9. WEBSITE: _____ 10. OTHER: _____	1. PROJECT INFORMATION 1.1 PROJECT NAME: _____ 1.2 PROJECT NUMBER: _____ 1.3 PROJECT LOCATION: _____ 1.4 PROJECT START DATE: _____ 1.5 PROJECT END DATE: _____ 1.6 PROJECT STATUS: _____ 1.7 PROJECT DESCRIPTION: _____ 1.8 PROJECT OBJECTIVES: _____ 1.9 PROJECT SCOPE: _____ 1.10 PROJECT BUDGET: _____ 1.11 PROJECT RISK: _____ 1.12 PROJECT CHALLENGES: _____ 1.13 PROJECT SUCCESS FACTORS: _____ 1.14 PROJECT LESSONS LEARNED: _____ 1.15 PROJECT RECOMMENDATIONS: _____ 1.16 PROJECT CONCLUSIONS: _____ 1.17 PROJECT EVALUATION: _____ 1.18 PROJECT IMPACT: _____ 1.19 PROJECT BENEFITS: _____ 1.20 PROJECT COSTS: _____ 1.21 PROJECT RISKS: _____ 1.22 PROJECT OPPORTUNITIES: _____ 1.23 PROJECT THREATS: _____ 1.24 PROJECT STRENGTHS: _____ 1.25 PROJECT WEAKNESSES: _____ 1.26 PROJECT ADVANTAGES: _____ 1.27 PROJECT DISADVANTAGES: _____ 1.28 PROJECT PROS: _____ 1.29 PROJECT CONS: _____ 1.30 PROJECT SUMMARY: _____ 1.31 PROJECT OVERVIEW: _____ 1.32 PROJECT INTRODUCTION: _____ 1.33 PROJECT BACKGROUND: _____ 1.34 PROJECT PURPOSE: _____ 1.35 PROJECT GOALS: _____ 1.36 PROJECT OBJECTIVES: _____ 1.37 PROJECT RESULTS: _____ 1.38 PROJECT FINDINGS: _____ 1.39 PROJECT CONCLUSIONS: _____ 1.40 PROJECT RECOMMENDATIONS: _____ 1.41 PROJECT LESSONS LEARNED: _____ 1.42 PROJECT IMPACT: _____ 1.43 PROJECT BENEFITS: _____ 1.44 PROJECT COSTS: _____ 1.45 PROJECT RISKS: _____ 1.46 PROJECT OPPORTUNITIES: _____ 1.47 PROJECT THREATS: _____ 1.48 PROJECT STRENGTHS: _____ 1.49 PROJECT WEAKNESSES: _____ 1.50 PROJECT ADVANTAGES: _____ 1.51 PROJECT DISADVANTAGES: _____ 1.52 PROJECT PROS: _____ 1.53 PROJECT CONS: _____ 1.54 PROJECT SUMMARY: _____ 1.55 PROJECT OVERVIEW: _____ 1.56 PROJECT INTRODUCTION: _____ 1.57 PROJECT BACKGROUND: _____ 1.58 PROJECT PURPOSE: _____ 1.59 PROJECT GOALS: _____ 1.60 PROJECT OBJECTIVES: _____ 1.61 PROJECT RESULTS: _____ 1.62 PROJECT FINDINGS: _____ 1.63 PROJECT CONCLUSIONS: _____ 1.64 PROJECT RECOMMENDATIONS: _____ 1.65 PROJECT LESSONS LEARNED: _____ 1.66 PROJECT IMPACT: _____ 1.67 PROJECT BENEFITS: _____ 1.68 PROJECT COSTS: _____ 1.69 PROJECT RISKS: _____ 1.70 PROJECT OPPORTUNITIES: _____ 1.71 PROJECT THREATS: _____ 1.72 PROJECT STRENGTHS: _____ 1.73 PROJECT WEAKNESSES: _____ 1.74 PROJECT ADVANTAGES: _____ 1.75 PROJECT DISADVANTAGES: _____ 1.76 PROJECT PROS: _____ 1.77 PROJECT CONS: _____ 1.78 PROJECT SUMMARY: _____ 1.79 PROJECT OVERVIEW: _____ 1.80 PROJECT INTRODUCTION: _____ 1.81 PROJECT BACKGROUND: _____ 1.82 PROJECT PURPOSE: _____ 1.83 PROJECT GOALS: _____ 1.84 PROJECT OBJECTIVES: _____ 1.85 PROJECT RESULTS: _____ 1.86 PROJECT FINDINGS: _____ 1.87 PROJECT CONCLUSIONS: _____ 1.88 PROJECT RECOMMENDATIONS: _____ 1.89 PROJECT LESSONS LEARNED: _____ 1.90 PROJECT IMPACT: _____ 1.91 PROJECT BENEFITS: _____ 1.92 PROJECT COSTS: _____ 1.93 PROJECT RISKS: _____ 1.94 PROJECT OPPORTUNITIES: _____ 1.95 PROJECT THREATS: _____ 1.96 PROJECT STRENGTHS: _____ 1.97 PROJECT WEAKNESSES: _____ 1.98 PROJECT ADVANTAGES: _____ 1.99 PROJECT DISADVANTAGES: _____ 2.00 PROJECT SUMMARY: _____	2. COMPANY INFORMATION 2.1 COMPANY NAME: _____ 2.2 COMPANY ADDRESS: _____ 2.3 COMPANY CITY: _____ 2.4 COMPANY STATE: _____ 2.5 COMPANY ZIP: _____ 2.6 COMPANY PHONE: _____ 2.7 COMPANY FAX: _____ 2.8 COMPANY E-MAIL: _____ 2.9 COMPANY WEBSITE: _____ 2.10 COMPANY OTHER: _____ 2.11 COMPANY DESCRIPTION: _____ 2.12 COMPANY OBJECTIVES: _____ 2.13 COMPANY SCOPE: _____ 2.14 COMPANY BUDGET: _____ 2.15 COMPANY RISK: _____ 2.16 COMPANY CHALLENGES: _____ 2.17 COMPANY SUCCESS FACTORS: _____ 2.18 COMPANY LESSONS LEARNED: _____ 2.19 COMPANY IMPACT: _____ 2.20 COMPANY BENEFITS: _____ 2.21 COMPANY COSTS: _____ 2.22 COMPANY RISKS: _____ 2.23 COMPANY OPPORTUNITIES: _____ 2.24 COMPANY THREATS: _____ 2.25 COMPANY STRENGTHS: _____ 2.26 COMPANY WEAKNESSES: _____ 2.27 COMPANY ADVANTAGES: _____ 2.28 COMPANY DISADVANTAGES: _____ 2.29 COMPANY PROS: _____ 2.30 COMPANY CONS: _____ 2.31 COMPANY SUMMARY: _____ 2.32 COMPANY OVERVIEW: _____ 2.33 COMPANY INTRODUCTION: _____ 2.34 COMPANY BACKGROUND: _____ 2.35 COMPANY PURPOSE: _____ 2.36 COMPANY GOALS: _____ 2.37 COMPANY OBJECTIVES: _____ 2.38 COMPANY RESULTS: _____ 2.39 COMPANY FINDINGS: _____ 2.40 COMPANY CONCLUSIONS: _____ 2.41 COMPANY RECOMMENDATIONS: _____ 2.42 COMPANY LESSONS LEARNED: _____ 2.43 COMPANY IMPACT: _____ 2.44 COMPANY BENEFITS: _____ 2.45 COMPANY COSTS: _____ 2.46 COMPANY RISKS: _____ 2.47 COMPANY OPPORTUNITIES: _____ 2.48 COMPANY THREATS: _____ 2.49 COMPANY STRENGTHS: _____ 2.50 COMPANY WEAKNESSES: _____ 2.51 COMPANY ADVANTAGES: _____ 2.52 COMPANY DISADVANTAGES: _____ 2.53 COMPANY PROS: _____ 2.54 COMPANY CONS: _____ 2.55 COMPANY SUMMARY: _____ 2.56 COMPANY OVERVIEW: _____ 2.57 COMPANY INTRODUCTION: _____ 2.58 COMPANY BACKGROUND: _____ 2.59 COMPANY PURPOSE: _____ 2.60 COMPANY GOALS: _____ 2.61 COMPANY OBJECTIVES: _____ 2.62 COMPANY RESULTS: _____ 2.63 COMPANY FINDINGS: _____ 2.64 COMPANY CONCLUSIONS: _____ 2.65 COMPANY RECOMMENDATIONS: _____ 2.66 COMPANY LESSONS LEARNED: _____ 2.67 COMPANY IMPACT: _____ 2.68 COMPANY BENEFITS: _____ 2.69 COMPANY COSTS: _____ 2.70 COMPANY RISKS: _____ 2.71 COMPANY OPPORTUNITIES: _____ 2.72 COMPANY THREATS: _____ 2.73 COMPANY STRENGTHS: _____ 2.74 COMPANY WEAKNESSES: _____ 2.75 COMPANY ADVANTAGES: _____ 2.76 COMPANY DISADVANTAGES: _____ 2.77 COMPANY PROS: _____ 2.78 COMPANY CONS: _____ 2.79 COMPANY SUMMARY: _____ 2.80 COMPANY OVERVIEW: _____ 2.81 COMPANY INTRODUCTION: _____ 2.82 COMPANY BACKGROUND: _____ 2.83 COMPANY PURPOSE: _____ 2.84 COMPANY GOALS: _____ 2.85 COMPANY OBJECTIVES: _____ 2.86 COMPANY RESULTS: _____ 2.87 COMPANY FINDINGS: _____ 2.88 COMPANY CONCLUSIONS: _____ 2.89 COMPANY RECOMMENDATIONS: _____ 2.90 COMPANY LESSONS LEARNED: _____ 2.91 COMPANY IMPACT: _____ 2.92 COMPANY BENEFITS: _____ 2.93 COMPANY COSTS: _____ 2.94 COMPANY RISKS: _____ 2.95 COMPANY OPPORTUNITIES: _____ 2.96 COMPANY THREATS: _____ 2.97 COMPANY STRENGTHS: _____ 2.98 COMPANY WEAKNESSES: _____ 2.99 COMPANY ADVANTAGES: _____ 3.00 COMPANY SUMMARY: _____
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MATERIALS LEGEND	
FCB1	1\"/>



① NORTH ELEVATION
1/8" = 1'-0"



② SOUTH ELEVATION
1/8" = 1'-0"

UNIVERSITY LOFTS
MICRO LOFT APARTMENTS
15th & VAN BUREN, FAYETTEVILLE, AR
VAR-2025-0058 (UNIVERSITY LOFTS AT THE SANCTUARY)

Planning Commission
August 28, 2023

FOR REVIEW
RECEIVED

GENESA ARCHITECTURE 01
353 N. MONROE
DRESDEN, MO 64501
(417) 240-1400



ELEVATIONS
CONC. NO. 19023
DATE 07/09/2023

A201

MATERIALS LEGEND	
FCB1	12" VERTICAL FIBER CONCRETE BOARD
FCB2	8" HORIZONTAL FIBER CONCRETE BOARD LAY SIDING
FCB3	FLAT PANEL FIBER CONCRETE BOARD
CBR	COMMON BOND BRICK
CBR4	COMMON BOND BRICK - SOLIDER CORNER
PMH	PERFORATED METAL



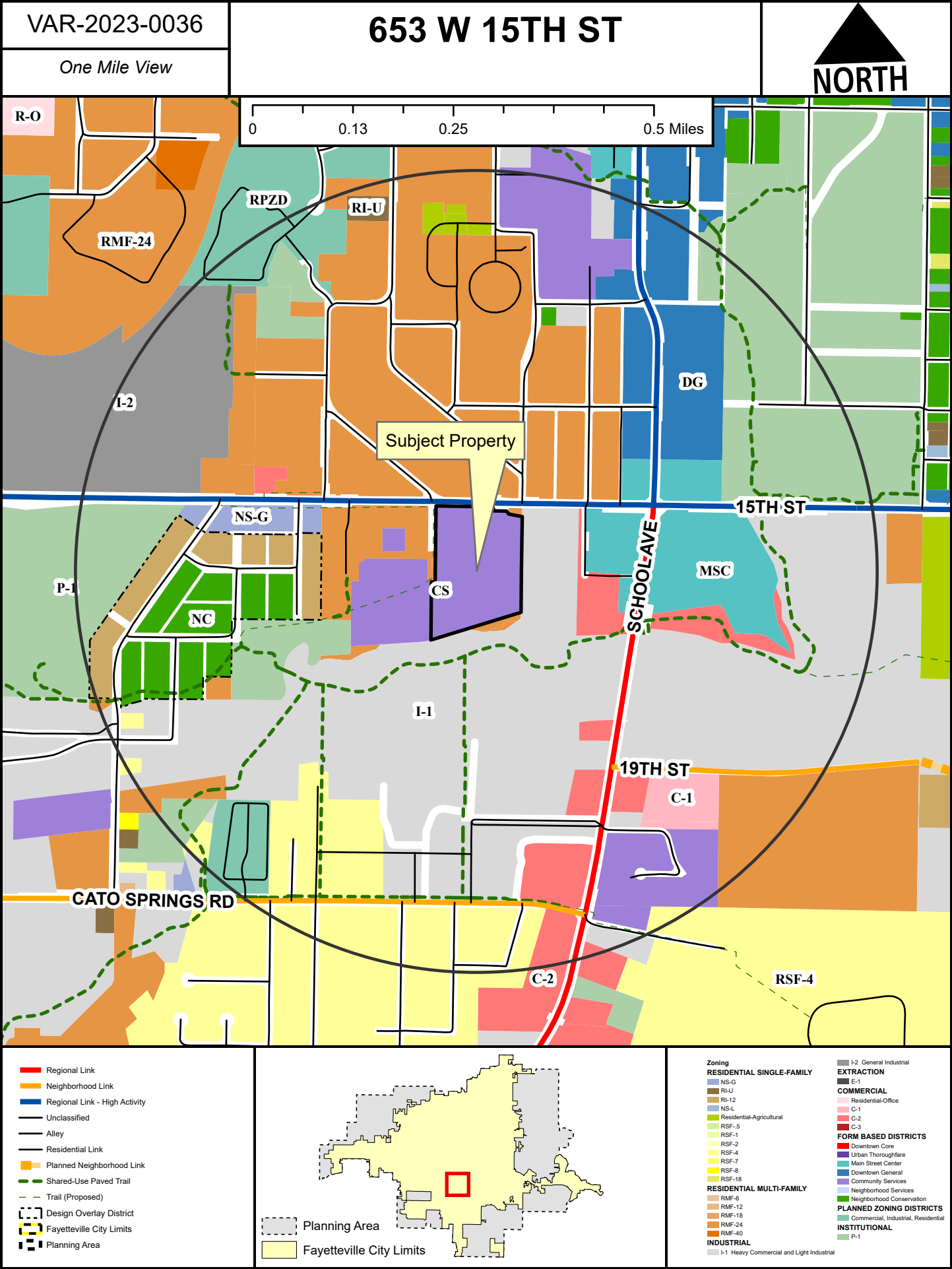
FOR REVIEW
 Planning Commission
 August 28, 2023
 VAR-2023-0058 (UNIVERSITY LOFTS AT THE SANCTUARY)
 Page 12 of 15

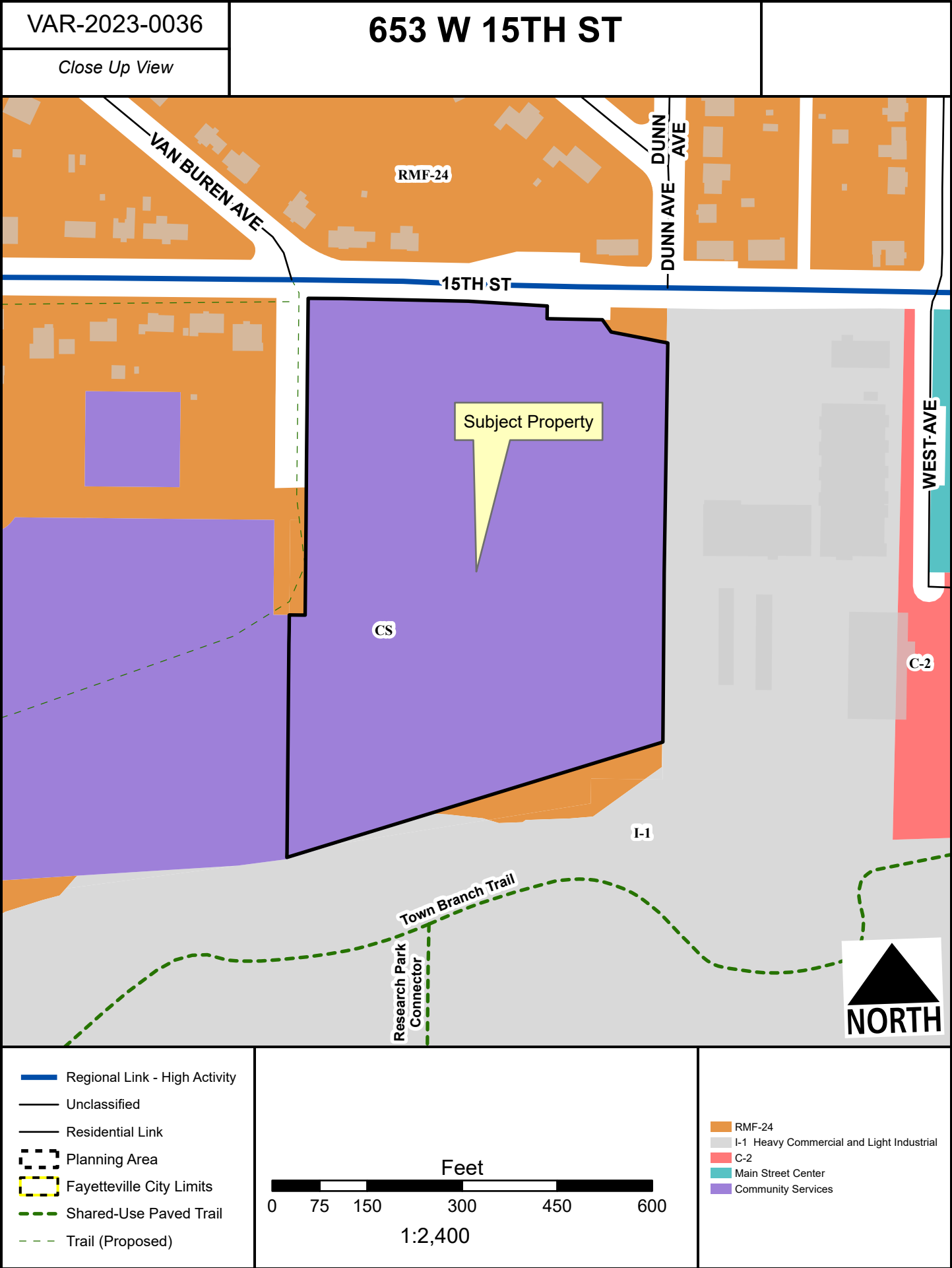
UNIVERSITY LOFTS
 MICRO LOFT APARTMENTS
 15th & VAN BUREN, FAYETTEVILLE, AR
 VAR-2023-0058 (UNIVERSITY LOFTS AT THE SANCTUARY)



GENESA ARCHITECTURE 01
 DESIGN STUDIO
 433 N. MONROE
 DRESDEN, AR 72401

ELEVATIONS
 CORR. NO. 1923
 DATE 07/09/2023
A202

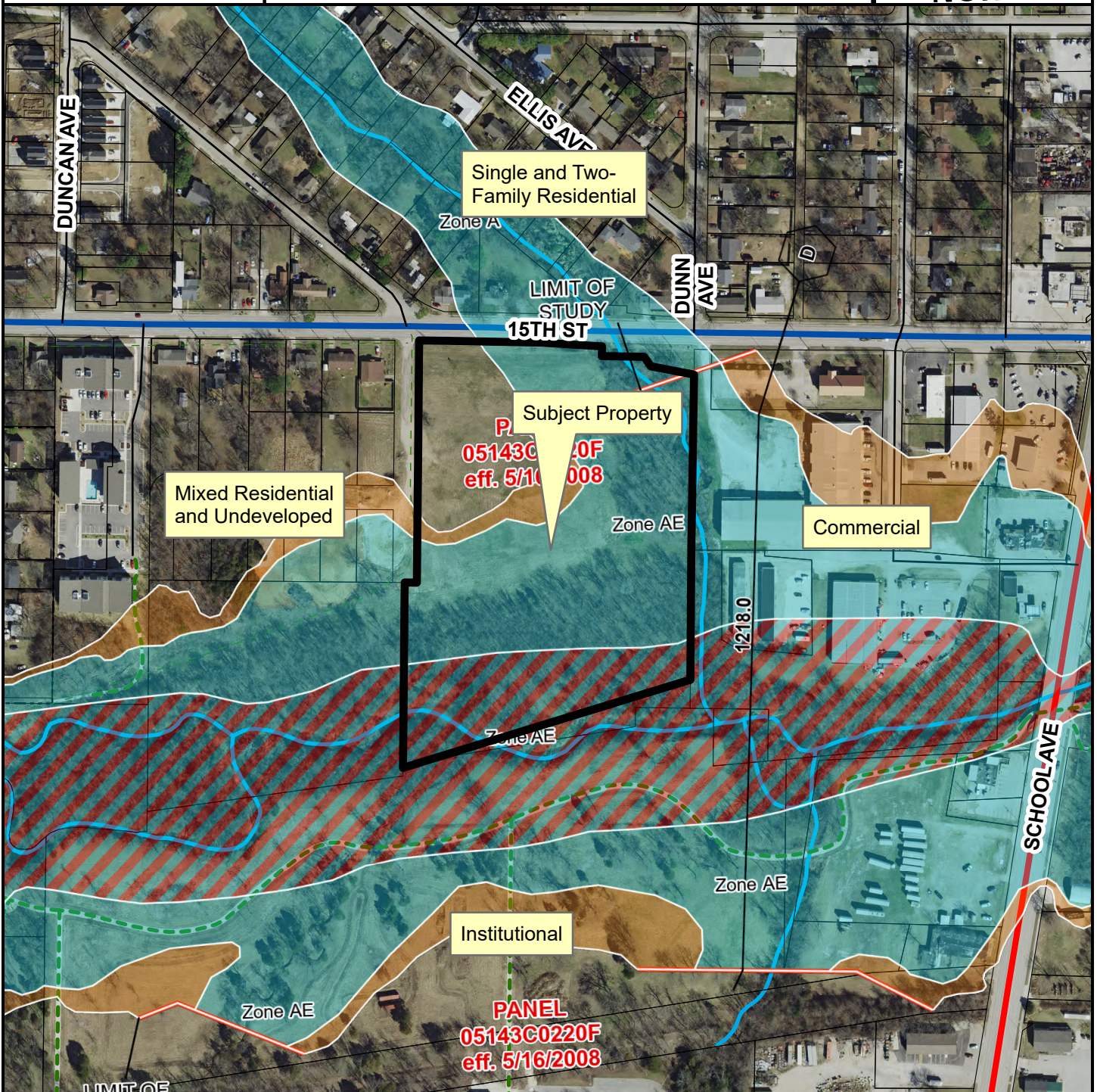




VAR-2023-0036

653 W 15TH ST

Current Land Use



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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission

August 28, 2023



TO: Fayetteville Subdivision Committee

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forester

MEETING: August 28, 2023

SUBJECT: **PPL-2023-0004: Preliminary Plat (SOUTH OF 226 S. HAPPY HOLLOW RD./PINE HOLLOW, 526):** Submitted by CRAFTON TULL for property located SOUTH OF 226 S. HAPPY HOLLOW RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 3.08 acres. The request is for the preliminary plat of 20 residential lots and one detention lot.

RECOMMENDATION:

Staff recommends approval of **PPL-2023-0004**, with conditions as outlined by staff.

RECOMMENDED MOTION:

"I move to approve PPL-2023-0004, finding:

- In favor of requested variance to §166.08(E)(1)(C): Block Length and Connectivity;*
- In favor of recommended right-of-way dedication;*
- In favor of recommended street improvements; and*
- All other conditions as outlined by staff."*

BACKGROUND:

The subject property is in east Fayetteville, roughly 700 feet south of the Mount Sequoyah Woods along S. Happy Hollow Rd. The property is zoned NC, Neighborhood Conservation and is designated as part of the Enduring Green Network. The parcel is undeveloped and covered extensively with tree canopy. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential / Tree Preservation Easement	Residential Planned Zoning District
South	Single-Family Residential / Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential and Tree Preservation Easement	Residential Planned Zoning District
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

Proposal: The applicant proposes a single-family residential subdivision with 20 residential lots and one detention lot on 3.08 acres. One variance was submitted with the request:

- **Variance: §166.08(E)(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. The applicant has requested a variance from this requirement given barriers to development on the adjacent properties.
 - *Staff recommendation: Staff recommends approval of the proposed variance request. The abutting property to both the north and east is fully encumbered by existing homes and tree preservation easements, creating substantial barriers to a future connection to adjacent streets.*

Right-of-Way to be Dedicated: For S. Happy Hollow Road, the applicant proposes right-of-way dedication of 26 feet from centerline in line with typical Residential Link Streets. The applicant proposes to dedicate 40 feet of right-of-way for the internal streets in alignment with the Alternative Residential Link Street section for what is currently identified as E. Fiji Street and N. Gala Avenue. Staff's full recommendation is under the Street Improvements section.

Street Improvements:

S Happy Hollow Road: The applicant is proposing typical master street plan standards for a Residential Link Street, including 6-foot sidewalks and 6-foot greenspace. Additionally, curb and gutter are proposed per the Master Street Plan section. Stormwater improvements are proposed within the development but not along S. Happy Hollow Rd.

E. Fiji Street and N. Gala Avenue: The applicant is requesting to develop the streets under the Alternative Residential Link Street standards, with 6-foot sidewalk (on one side of the street), 6-foot greenspace, and a parking lane, two travel lanes, and stormwater facilities.

Staff recommendation: The applicant is proposing to use Alternate Residential Link Streets. Staff recommends approval of the Alternate Residential Link Street section pending Fire approval, noting that the development meets or is anticipated to meet the considerations for 1) streets with less than 250 vehicles per day, and 2) block lengths less than or equal to 400 feet. Additionally, the development is unlikely to connect to either the north or east due to existing development and tree preservation easements on adjacent properties.

Block Length/Connectivity: The applicant is meeting the typical minimum block length standards of 660 feet for Residential Link Streets. A variance request has been received for connectivity requirements (see staff recommendations above). A dead-end street is proposed to the north, which meets Fire Department requirements as outlined under §166.08(E)(5).

Water and Sewer System: The applicant is proposing to extend approximately 1,014 linear feet of 8" water main to provide domestic water and fire protection to the development and approximately 881 linear feet of 8" sanitary sewer to serve the development.

Tree Preservation:

Canopy minimum requirement (NC): 20%
Existing canopy: 54.3%
Preserved canopy: 6.7%
Mitigation required: 63 two-inch caliper trees

An updated tree preservation plan has not been provided since the August 3 subdivision committee meeting. Only 6.7% of the existing 54.3% canopy has been preserved with a minimum requirement of 20%. Urban forestry recommends a condition be added that a full site analysis

plan shall be provided by the applicant detailing why the minimum tree preservation percentage requirement of 20% cannot be achieved prior to grading permit approval. Portions of a report have been submitted; however, these portions should be compiled into a single concise report.

Parks: The Parks and Recreation Advisory Board (PRAB) reviewed this proposal at a meeting held on May 30, 2023. The Parks and Recreation Advisory Board recommended fee-in-lieu of parkland dedication in the amount of \$21,780 based on the number of proposed single-family lots. Park fees are due prior to building permit issuance.

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

RECOMMENDATION: Staff recommends forwarding PPL-2023-0004 to the full Planning Commission.

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication as follows:*

S Happy Hollow Road: *Staff recommends right-of-way dedication in the amount of 26 feet from center line, in line with the Residential Link Street standards.*

E. Fiji Street and N. Gala Avenue: *Staff recommends 40 foot right-of way dedication, in line with the Alternative Residential Link standards.*

Subdivision Committee recommended in favor.

2. **Planning Commission determination of street improvements.** *Staff recommends street improvements as follows:*

S Happy Hollow Road: *Staff recommends a 6-foot sidewalk be constructed with 6-foot greenspace, with curb and gutter as shown.*

E. Fiji Street and N. Gala Avenue: *Staff recommends in favor of the Alternative Residential Link Street section, with six foot sidewalk and six foot green space on one side, 27 feet of asphalt (one 10 foot drive lane, one 9 foot drive lane, and one 7 foot parking lane), and stormwater facilities as indicated on the plans.*

Subdivision Committee recommended in favor.

3. **Planning Commission determination of variance to §166.08(E)(3): Connectivity.** *Staff recommends in favor of the requested variance.*

Subdivision Committee recommended in favor.

4. Parkland fees-in-lieu of dedication are required in the amount of \$21,780 based on the number of proposed single-family lots;
5. Streetlights shall be installed in accordance with code at all street intersections and spaced every 300 feet;

6. Conditions of approval from Engineering, Urban Forestry, and Parks are included in the official conditions of approval, including;
 - a. A full site analysis plan shall be provided by the applicant detailing why the minimum tree preservation percentage requirement of 20% cannot be achieved prior to grading permit.

Subdivision Committee had no recommendations.

Standard conditions of approval:

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

Planning Commission Action:

☐ Tabled

☐ Approved

☐ Denied

Meeting Date: August 28, 2023

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None.

ATTACHMENTS:

- City Engineering Comments
- Urban Forestry Comments
 - Tree Preservation Site Analysis
- Request Letter
- Site Plans
- Proposed Street Sections
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Donna Wonsower, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: August 22, 2023

SUBJECT: **Planning Commission Engineering Comments for
PPL-2023-0004 PINE HOLLOW SUBDIVISION**

Water: The applicant is proposing to extend approximately 1,014 LF of 8" water main to provide domestic water and fire protection to the development.

Sewer: The applicant is proposing to extend approximately 881 LF of 8" sanitary sewer to serve the development.

Drainage: This development is required to meet the four Minimum Standards of the Drainage Criteria Manual. Water quality is proposed to be met by use of an Aqua-Swirl Hydrodynamic Separator. The 1-year, 24-hour discharge from the pond is shown to be less than 2.0 cfs, so channel protection requirements do not apply. Overbank flood protection and extreme flood protection requirements will be met by reducing the peak flows from pre- to post-development. Detailed review of the proposed design will be conducted with the grading permit.

Plan Comments:

1. Sidewalk needs to remain in right-of-way. Adjust driveway location for Lot 11 to allow ADA ramps to line up.
2. Additional review of the drainage design will be conducted with the grading permit to make sure DCM requirements are being met.
3. Any retaining walls over 4' in height require design, inspection, and certification by a Professional Engineer licensed in the State of Arkansas.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense
3. All public sidewalks, curb ramps, curb & gutter, and driveway aprons along this project frontage must meet ADA guidelines and be free of damage. Any 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: Conlee Hale, EI, Crafton Tull

From: Melissa Evans, Urban Forester & John Scott, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: August 28, 2023

Subject: PPL-2023-0004: Pine Hollow Subdivision: South of 226 S. Happy Hollow Rd.

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

2. Parking Lot Requirements	1 Tree : 12 Parking Spaces	Yes	No	N/A
a. Side and Rear Property Lines (5' Wide Landscape Area) <i>UDC Chapter 177D1</i>				X

- | | | |
|---|-----|---|
| b. Wheel Stops/Curbs
<i>UDC Chapter 177.04B1</i> | N/A | |
| c. Narrow Tree Lawn (8' min. width, 37.5' length)
<i>UDC Chapter 177.04C</i> | | X |
| d. Tree Island (8' min. width, 18.7' min length, 150 square feet)
<i>UDC Chapter 177.04C</i> | | X |
| e. Placement of Trees (either side at entrances and exits)
<i>UDC Chapter 177.04C2</i> | | X |

3. Perimeter Landscaping Requirements	Yes	No	N/A
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- | | | | |
|---|--|--|---|
| a. Front Property Line (15' wide landscape) and 5' on sides and rear.
<i>UDC Chapter 177.04D2a</i> | | | X |
| b. Shade trees planted on south and west sides of parking lots
<i>UDC Chapter 177.04D2e</i> | | | X |
| c. Screening of parking lot from adjacent residential properties. | | | X |

4. Street Tree Planting Requirements	Yes	No	N/A
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- | | | | |
|--|---|---|---|
| a. Residential Subdivisions
1 Large Shade Species Tree per Lot
<i>UDC Chapter 177.05B1a</i> | X | | |
| b. Non-Residential Subdivisions
1 Large Species Shade Tree every 30' (planted in greenspace)
<i>UDC Chapter 177.05B2a</i> | | | X |
| c. Urban Tree Well – Urban Streetscapes
Trees every 30' (8' sidewalk)
<i>UDC Chapter 177.05B3a-f</i> | | | X |
| d. Structural Soil – Urban Tree Wells
Include a note and/or detail of structural soil on Landscape Plan
<i>UDC Chapter 177.05B3a-f</i> | | | X |
| e. Residential Subdivisions
Timing of planting indicated on plans
<i>UDC Chapter 177.05A4</i> | | X | |
| f. Residential Subdivisions
Written description for method of tracking planting
<i>UDC Chapter 177.05A4e</i> | | X | |

5. Landscape Requirement Totals		Amount		
Mitigation Trees		79		
Parking Lot Trees		0		
Street Trees		20 lots (2 trees per corner lot required = 22 trees) + 1/30 LF along Happy Hollow (7 trees)		
Detention Pond – Large Trees (1 Tree/3,000 square feet)		2		
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		8		
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		11		
6. Review Status (See Comments)		Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved		05-27-23	08-15-23	08-23-23
Approved				
Tabled		06-14-2023	07-31-23	
Denied				

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

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



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Conlee Hale, EI, Crafton Tull

From: Melissa Evans, Urban Forester & John Scott, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: August 28, 2023

Subject: PPL-2023-0004: Pine Hollow Subdivision: South of 226 S. Happy Hollow Rd.

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

2. Tree Preservation Calculations

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	130,669	100%
Zoning Designation * Select Below with drop down arrow		
NC-Neighborhood Conservation	26,134	20%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	26,134	20.0%
Existing Tree Canopy * Minus Right of Way and Easements	70,962	54.3%
Tree Canopy Preserved	8,719	6.7%
Tree Canopy Removed *On Site	62,243	47.6%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	62,243	47.6%
Removed Below Minimum	17,415	
Mitigation Requirements	17,415	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	17,065	78
Low Priority	350	1
Total Mitigation Trees Required	17,415	79

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

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1 and 167.04L1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes
d. Existing Topography and Proposed Grading	Yes	Yes	Yes
e. Soil Types	Yes	Yes	Yes
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	Yes	Yes	Yes
i. All Existing and Proposed Utilities	Yes	Yes	Yes
j. All Existing and Proposed Utility Easements and ROW's	Yes	Yes	Yes
k. All Streams (with approximate center line)	N/A	N/A	N/A
l. Floodplains and floodways	N/A	N/A	N/A
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan Report (if required)	No	Yes	No
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	N/A	N/A	N/A

Tree Protection Methods			
a. Tree Protection Fencing	Yes	Yes	Yes
b. Limits of Root Pruning	Yes	Yes	Yes
c. Traffic flow on work site	N/A	N/A	N/A
d. Location of material storage	No	No	No
e. Location of concrete wash out	No	Yes	Yes

f. Location of construction entrance/exit	No	Yes	Yes
6. Site Analysis Report (if required) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy	X		
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.		X	
7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	05-27-23	08-15-23	08-23-23
Approved			
Tabled	06-14-2023	07-31-23	
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided.
2. Urban Forestry recommends this project move forward as it is technically meeting Code. Urban Forestry Staff is concerned about the low 6.7% tree preservation number. The site has over 54% tree canopy with a minimum 20% preservation requirement. Urban Forestry would like to see 10% or more tree preservation.
3. A Condition of Approval for Urban Forestry is a site analysis report from the applicant detailing why the minimum tree preservation percentage requirement (20%) cannot be achieved (portions of it have been submitted via email, it needs to be compiled into one concise report).

EXHIBIT: TREE PRESERVATION ANALYSIS

Wonsower, Donna

From: Evans, Melissa
Sent: Monday, August 7, 2023 2:51 PM
To: Wonsower, Donna
Subject: FW: [External] RE: Pine Hollow (f/k/a Happy Hollow)
Attachments: Pine Hollow Preferred Option.pdf; Option 2.pdf; Option 3.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

FYI Donna.
Thanks-
Melissa

From: Blake Murray <Blake.Murray@craftontull.com>
Sent: Tuesday, April 25, 2023 1:53 PM
To: Evans, Melissa <mevans@fayetteville-ar.gov>
Cc: Conlee Hale <Conlee.Hale@craftontull.com>; Jenna Graves <Jenna.Graves@craftontull.com>; Dakota Riggins <dakota@blkpnhomes.com>; Robyn Lane <Robyn.Lane@craftontull.com>
Subject: RE: [External] RE: Pine Hollow (f/k/a Happy Hollow)

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

Hi Melissa,

Please see attached, and below, for the three options for Pine Hollow. These options only take into account the streets, so that we are comparing apples to apples. I do not have a floorplan yet to accurately show what is being proposed on the lots, but I think this gives a good enough idea to determine which option is preferable.

Preferred Option is basically the original layout, with a couple of modifications.

- I was able to pull back the street to the north by making that northernmost lot a pond lot.
- That saves those two big trees that were being removed before.
- Removes approximately 13,037 SF Canopy in the streets

Option 2 has a slight curve and a street stub-out to our neighbor. I think the fire department may give us grief with this one as we do not have a turnaround for them, unless they are willing to count the knuckle/bulb.

- Remove approximately 16,870 SF of canopy.

Option 3 is the hammerhead option. This one would be preferable, but will likely require a variance based on Jessie's email for lack of street stubouts to undeveloped parcels. I'm honestly not sure whether I will get enough support at PC to get the variance approved as our only hardship is really topography.

- Remove approximately 22,421 SF of canopy

I believe we would prefer Option 1, but you can see that all three of these are relatively close to each other. Hopefully this satisfies the requirements in code with the multiple options and we are happy to meet and discuss if you have any questions.

Thanks!

EXHIBIT: TREE PRESERVATION ANALYSIS

Blake Murray, P.E., CFM
Civil Project Manager | Infrastructure



Crafton Tull



Office: 479-636-4838 | Direct: 479-878-5872
300 North College, Suite 317
Fayetteville, AR 72701
www.craftontull.com

Disclaimer

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. Thank you, we appreciate your cooperation.

From: Blake Murray
Sent: Thursday, April 13, 2023 1:16 PM
To: 'Evans, Melissa' <mevans@fayetteville-ar.gov>
Cc: Conlee Hale <Conlee.Hale@craftontull.com>; Jenna Graves <Jenna.Graves@craftontull.com>; Fallon Henry <Fallon.Henry@craftontull.com>; Dakota Riggins <dakota@blkpnhomes.com>
Subject: RE: [External] RE: Pine Hollow (f/k/a Happy Hollow)

Hi Melissa,

Please see attached for all three options that we have looked into.

I will work with Fallon to try and get you some tree preservation numbers as soon as possible. We have a certain number of lots (18 residential) we are trying to hit to make it profitable, and cannot lose any more. I think concept 1 and concept 3 are our best options for preserving canopy.

Thanks,

From: Evans, Melissa <mevans@fayetteville-ar.gov>
Sent: Wednesday, April 12, 2023 12:06 PM
To: Blake Murray <Blake.Murray@craftontull.com>; Masters, Jessica <jmasters@fayetteville-ar.gov>; Boccaccio, Joshua <jboccaccio@fayetteville-ar.gov>
Cc: Dakota Riggins <dakota@blkpnhomes.com>; Conlee Hale <Conlee.Hale@craftontull.com>; Jenna Graves <Jenna.Graves@craftontull.com>
Subject: [External] RE: Pine Hollow (f/k/a Happy Hollow)

Blake –

Thank you for your email and design process information. It is good that you may be able to preserve more trees as preservation is the first priority per Chapter 167. If you are not able to preserve the minimum required canopy percentage, then different site design options along with a site analysis report will be required. You stated that there are not many options for the design of this site, though you have already made changes from previous iterations and those are certainly other options that were explored. Also, the removal of some lots for tree preservation is always an option, and the site analysis report is a tool to describe the site constraints or other reasons why more trees cannot be preserved, if needed.

Thanks-

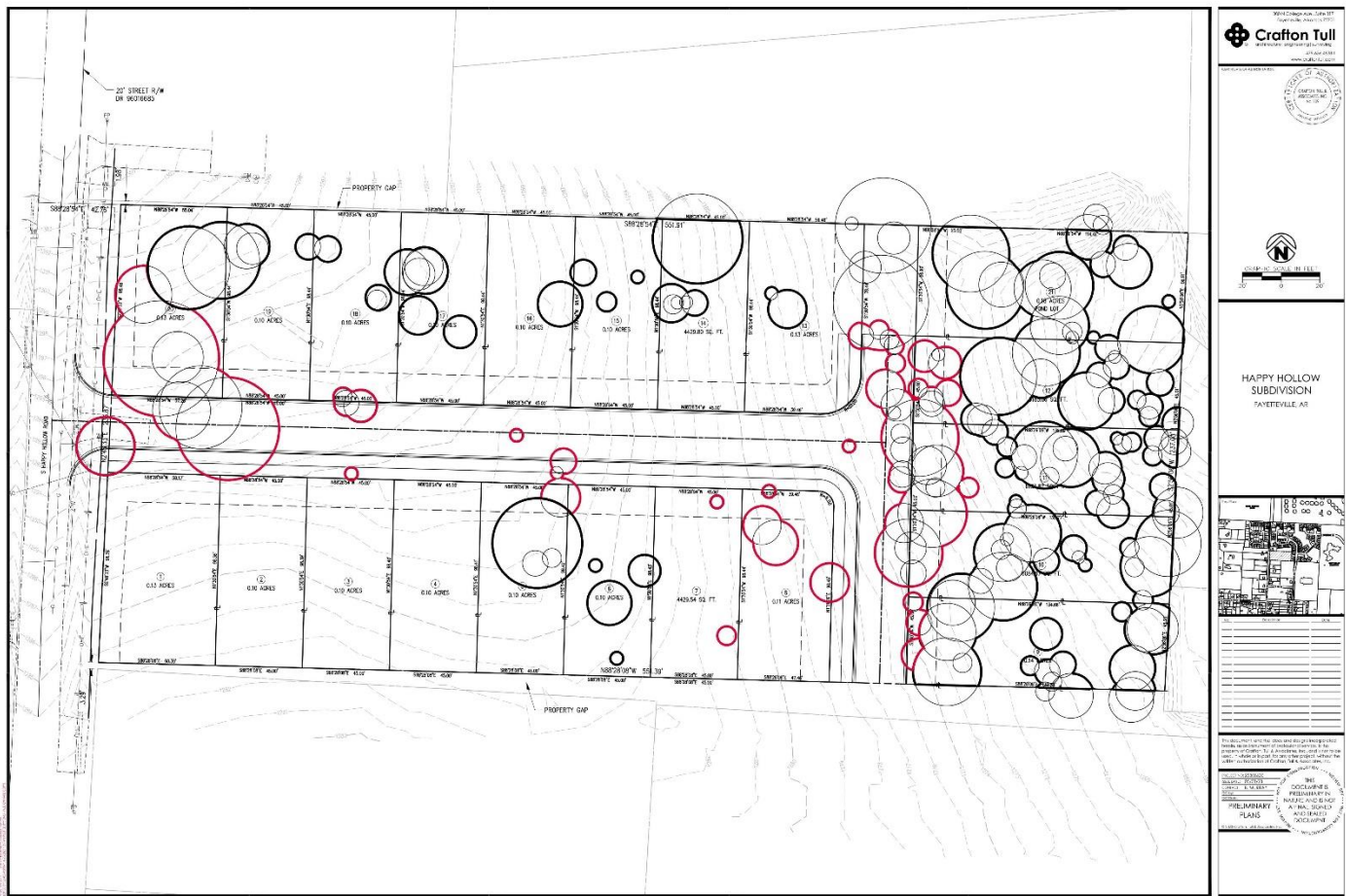


Figure 5: Preferred Tree Preservation Option

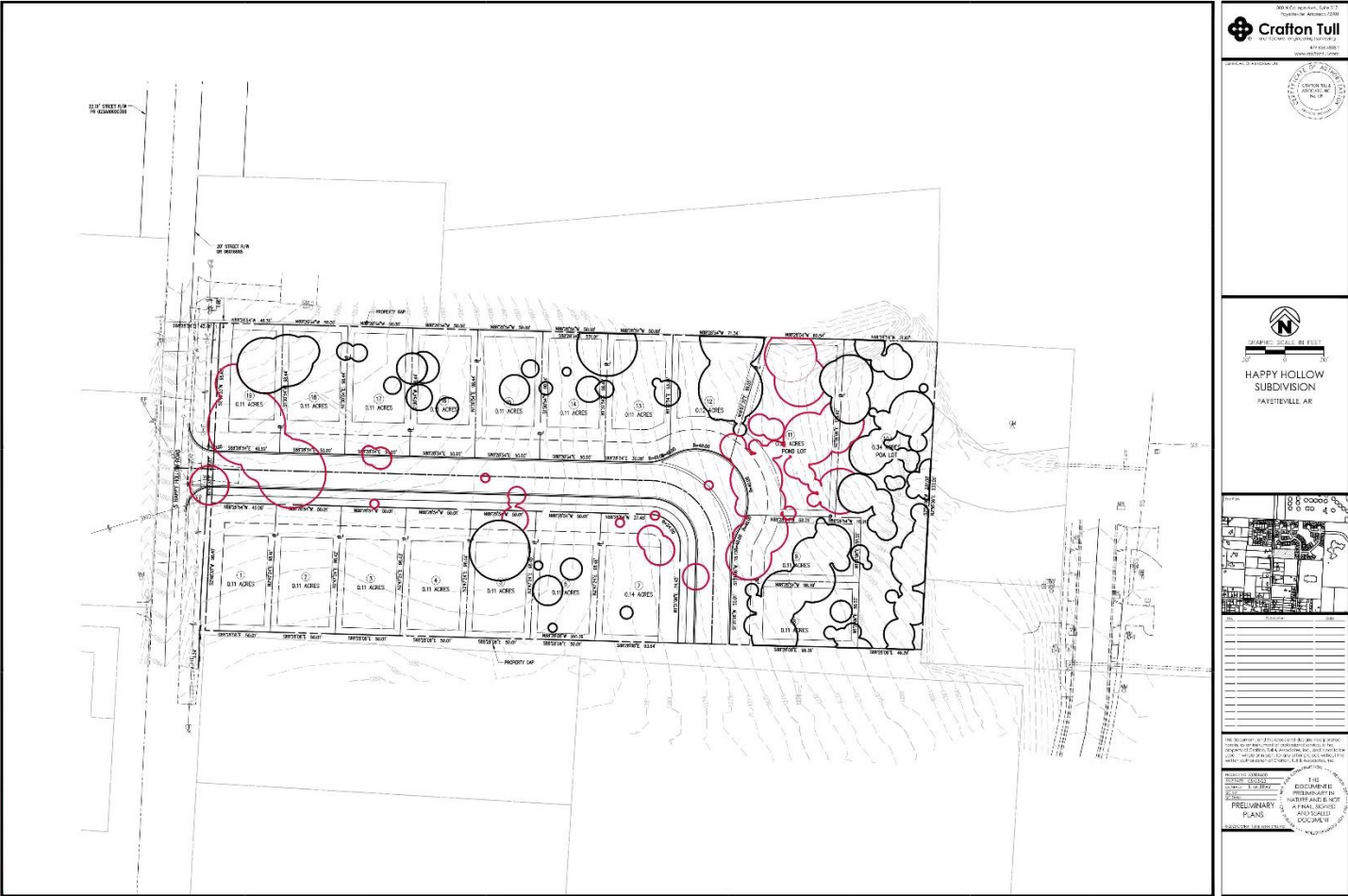


Figure 6: Tree Preservation Option 2



Figure 7: Tree Preservation Option 3



March 17th, 2023

City of Fayetteville
City Planning Division
125 W Mountain St
Fayetteville, AR 72701

RE: Pine Hollow Subdivision
Crafton Tull Job No. 23301600

To Whom It May Concern,

This preliminary plat submittal is for a new 3.0-acre, 20 buildable-lot subdivision located off of S Happy Hollow Rd in southeast Fayetteville. This project has undergone City review, and during a previous preliminary plat submittal, concerns were raised regarding water quality and tree preservation. We have collaborated with City Staff to develop a new layout that addresses these concerns. The proposed design includes directing all new impervious areas to the proposed detention pond and establishing a tree preservation easement at the eastern end of the property.

To provide water and sewer service to this development, we are proposing installing infrastructure offsite. This involves extending a new 8" water main south along S Happy Hollow Rd. However, due to incomplete records for existing right-of-way (R/W) or easements for the property to the north, the new water main has been located within the road. An offsite utility easement has been obtained from the property owner to the south, which will be used for sewer connection to an existing 8" main on the east side of S Ray Ave.

With this development, South Happy Hollow Road will be improved to meet Master Street Plan Standards. The improvements include widening the pavement, installing curb and gutter, constructing sidewalks, and dedicating right-of-way. For the streets within the development, we propose utilizing the alternative residential link street section. We believe this section is best suited for this development due to the steep onsite grades (>10% for most of the eastern half of the site), the anticipated limited traffic (<250 vehicles per day), and the short block lengths. Furthermore, there are restrictions on connecting to the proposed interior streets; the parcel to the north is dedicated to tree preservation, and the parcel to the south has significant topographic relief.

There are no waivers or variances requested at this time. We are excited to collaborate with planning staff to create a valuable asset for the community.

Sincerely,

Conlee Hale, El
Crafton Till



June 2nd, 2023

City of Fayetteville
City Planning Division
125 W Mountain St
Fayetteville, AR 72701

RE: Pine Hollow Subdivision
Crafton Tull Job No. 23301600

To Whom It May Concern,

Regarding the referenced development, we hereby request the following variance:

A variance from the typical section outlined in the 2040 Master Street Plan for a Residential Link Street. This variance is specifically for the construction of two new streets within the proposed subdivision. The proposed section we wish to utilize is the "Alternative Residential Link Street," which involves eliminating the greenspace and sidewalk on one side of the street. As a result, there will be a 12-foot reduction in right-of-way (ROW), totaling 40 feet of ROW. The driving lanes and parking lane will remain unchanged from the standard Residential Link Street Section.

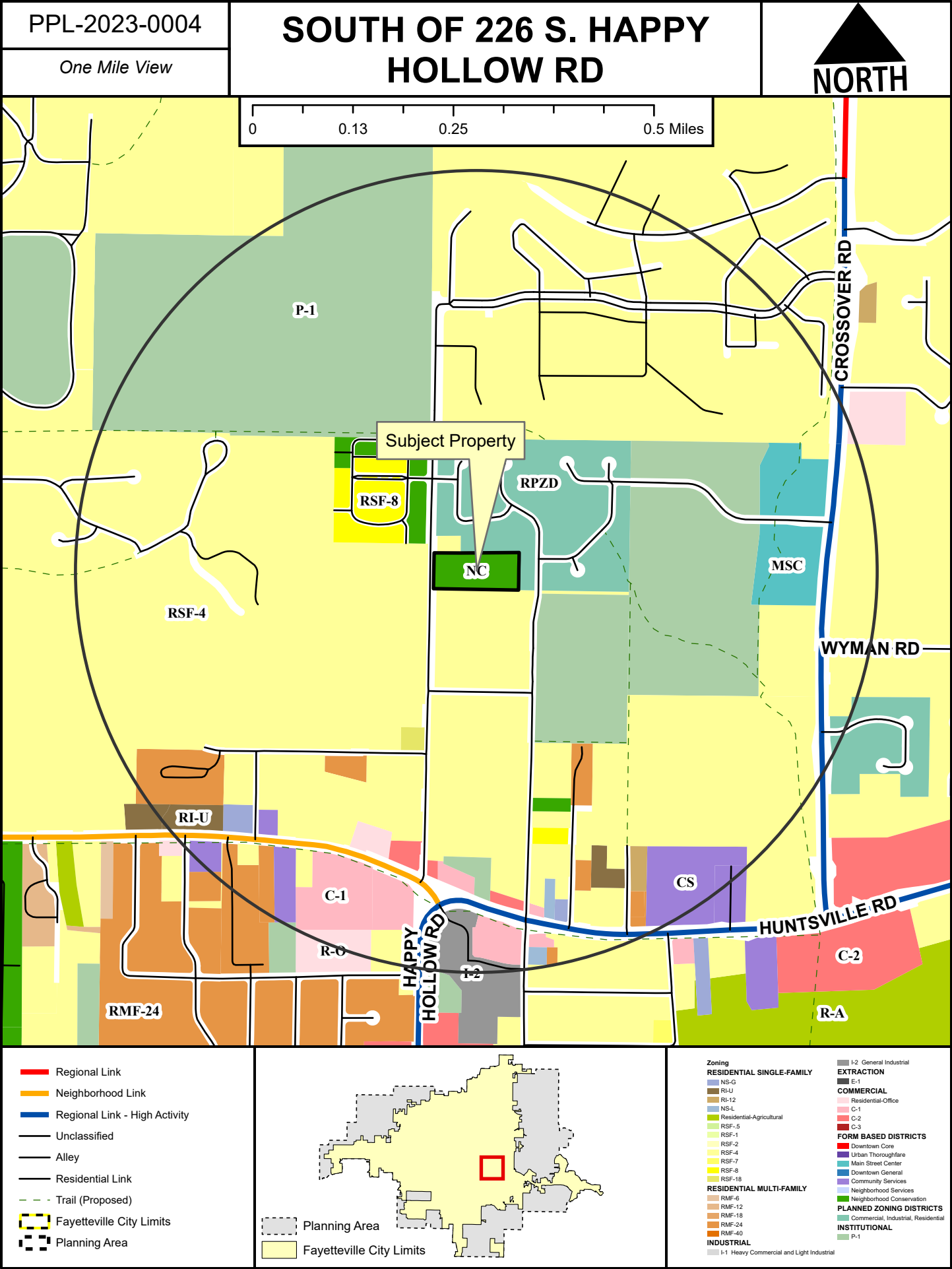
We believe that this typical section is most suitable for the development due to the steep onsite grades, which exceed 10% for most of the eastern half of the site. Additionally, we anticipate limited traffic, with fewer than 250 vehicles per day, and the block lengths are relatively short, measuring 416 feet for the east-west street and 173 feet for the north-south street. Moreover, there are constraints on future connections to the proposed interior streets. The parcel to the north is dedicated to tree preservation, while the parcel to the south exhibits significant topographic relief.

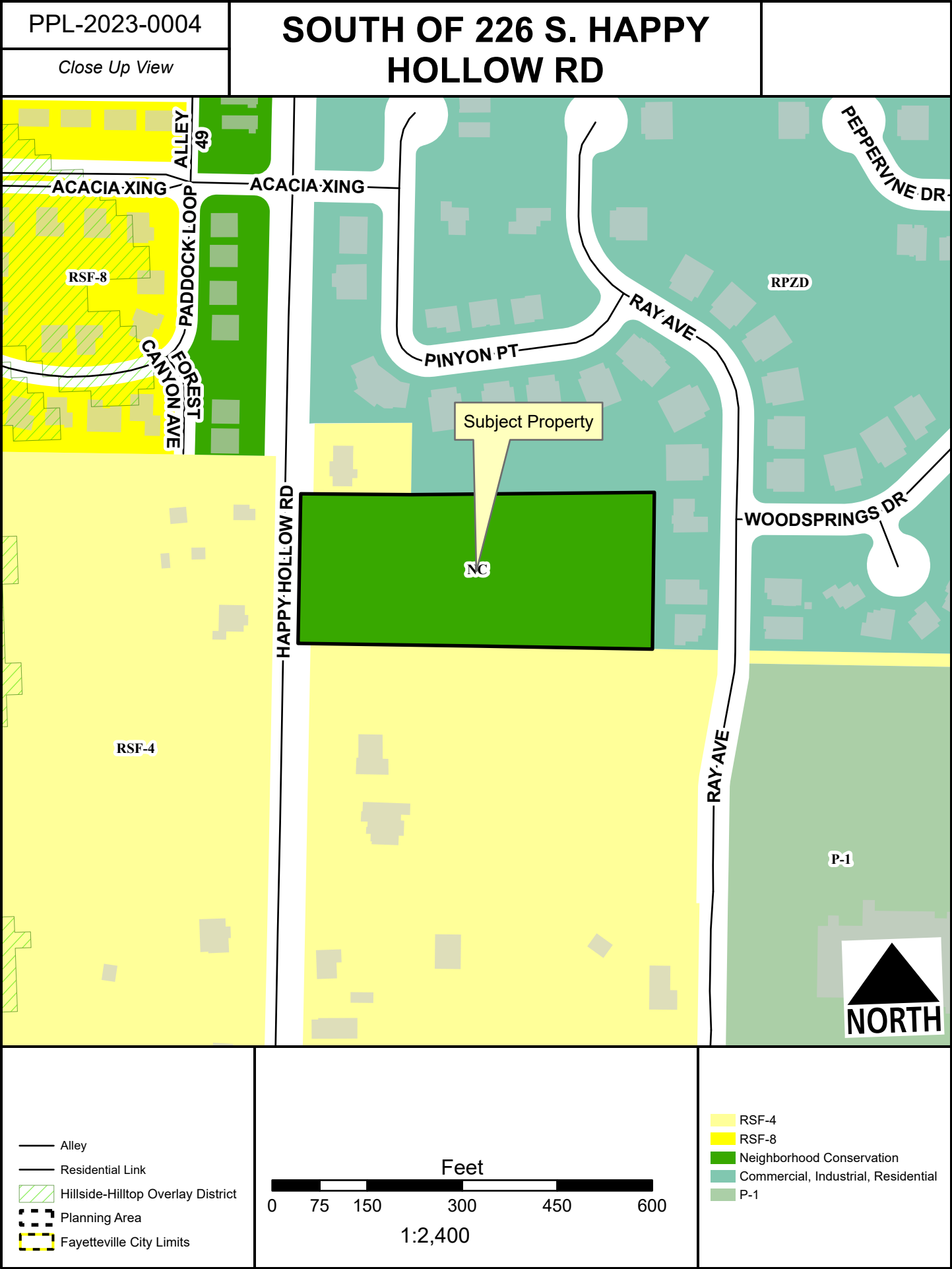
Thank you for your consideration. Should you have any questions, please feel free to contact us at your earliest convenience.

Sincerely,

Conlee Hale, EI
Crafton Tull

Figure 3: Landscape Plan









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forestry

MEETING: August 28, 2023

SUBJECT: **PPL-2023-0005: Preliminary Plat (E. ASH ST. AND N. OLD WIRE RD./BORN'S BEND, 369):** Submitted by BATES & ASSOCIATES for property located at E. ASH ST. AND N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 6.82 acres. The request is for the preliminary plat of 16 residential lots and one detention lot.

RECOMMENDATION:
Staff recommends tabling of **PPL-2023-0005**.

RECOMMENDED MOTION:
"I move to table PPL-2023-0005 to the September 11, 2023 Planning Commission meeting."

BACKGROUND:
The subject property is in east Fayetteville at the northwest corner of E. Ash Street and N. Old Wire Road. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is designated as part of the Enduring Green Network. The parcel is currently developed with two barns. Roughly half of the property lies within a FEMA Zone AE floodplain. Niokaska Creek, a protected stream, is present along the western property boundary and is within the floodway. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Pump Station / Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential / Religious Facility	RSF-4, Residential Single-Family, 4 Units per Acre / P-1, Institutional
West	Single-Family Residential / Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre

Proposal: The applicant proposes a single-family residential subdivision with 16 residential lots and one detention lot on 6.82 acres. Three variances were submitted with the request:

- **Variance #1 §166.08(E)(1)(C): Block Length and Connectivity. Residential Link and Downtown/Urban Street. Intersections shall occur at a minimum of one (1) every 660 feet.** The applicant has requested a variance from this requirement due to the

presence of FEMA regulated floodplain / floodway and city-regulated streamside protection zones.

- *Staff recommendation: Staff recommends approval of the proposed variance request. The presence of FEMA floodplain and floodway on the western half of the lot limits potential connectivity in that direction. A proposed detention pond encompasses the remainder of the northern property line not bound by floodplain. The applicant notes that the detention pond is “most logically located at the northern portion of the property to avoid excessive disturbance.” No additional conditions are recommended by staff.*
- **Variance #2 §166.08(E)(2): Double Frontage Lots.** With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted roadways such as expressways. Double frontage lots may be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots. Unless otherwise approved by the Planning Commission, all primary structures shall be oriented toward the higher functional classification street. The applicant has requested a variance from this requirement for lots 9-11 which have frontage on N. Old Wire Rd. and Borns Bend Avenue Lot 8, a corner lot, has frontage on three streets. Additionally, the applicant requests that the double-frontage lots not be oriented to N. Old Wire Rd., the higher classification street.
 - *Staff recommendation: Staff recommends approval of the proposed variance request with conditions. The location of the floodplain and streamside protection zones substantially limit how far west a street could be constructed while meeting the minimum buildable area requirement for lots within a floodplain, and a FEMA determination is required for the western lots as proposed. Staff recommends two trees shall be planted along Borns Bend Avenue for each double-frontage lot and that double frontage lots shall be oriented to N. Old Wire Rd. The intent of the ordinance is “to ensure that development is designed to be inherently safe, walkable, and efficient...” Orienting the double-frontage lots towards the interior of the development will orient the rear yards to the higher classification street, which could create a solid block of privacy fencing adjacent to the trail. If the applicant’s request to orient lots internally is approved, staff recommends that any fencing adjacent to N. Old Wire Rd. on the double frontage lots should be composed of wrought iron, picket fencing, or similar material which shall not obstruct the view of the building façades from the right-of-way.*
- **Variance #3 §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. The applicant has requested a variance from this requirement, citing the desire to avoid a dead-end street, the low anticipated traffic count, and similar developments as precedent.
 - *Staff recommendation: Staff recommends approval of the proposed variance request. Dead-end streets are discouraged per Chapter 166.08(E)(5), and the proposed driveway onto E. Ash Street would replace an existing driveway in the same location. Traffic counts for the development are expected to be low and placing one driveway onto E. Ash could reduce some traffic on N. Old Wire Road by providing a direct route west.*

Right-of-Way to be Dedicated: The applicant proposes right-of-way dedication of 33.5 feet from centerline in line with typical Neighborhood Link Streets for N. Old Wire Road. The applicant also proposes 52 feet of right-of-way dedication for Borns Bend Avenue in line with a residential link street. No additional right-of-way dedication is proposed or recommended for E. Ash Street as the existing right-of-way exceeds the requirements for a Residential Link street.

Street Improvements:

N. Old Wire Road: The applicant is proposing typical master street plan standards for a Neighborhood Link Street, including 8-foot sidewalks and variable width greenspace based on the existing curb (about 4.5 feet to 10 feet).

E. Ash Street: The applicant is proposing typical master street plan standards for a Residential Link Street, including 6-foot sidewalks and 6-foot greenspace. Curb and gutter are existing along this portion of E. Ash Street. Additionally, a pedestrian crossing will be added across E. Ash Street to connect to the existing sidewalk system south of the intersection.

Born's Bend Avenue: The applicant is requesting to develop the streets under the Residential Link Street standards, with a 6-foot sidewalk on each side, 6-foot greenspace, two travel lanes, and one parking lane.

Block Length/Connectivity: The applicant is meeting the typical minimum block length standards of 660 feet for Residential Link Streets. A variance has been requested for connectivity requirements (see above).

Water and Sewer System: The applicant is proposing to extend approximately 756 linear feet of 8" water main and approximately 784 linear feet of 8" sanitary sewer main to serve the development. A connection to an existing sanitary sewer manhole near the northwest corner of the property is proposed within the streamside zone which requires a request for a City Engineer determination of no feasible alternative.

Tree Preservation:

Canopy minimum requirement (RSF-4): 25%

Existing canopy: 25.6%

Preserved canopy: 13.8%

Mitigation required: 128 two-inch caliper trees

Parks: The Parks and Recreation Advisory Board (PRAB) reviewed this proposal at a meeting held on June 5, 2023. The Parks and Recreation Advisory Board recommended fee-in-lieu of parkland dedication in the amount of \$17,424 based on the number of proposed single-family lots. Park fees are due prior to building permit issuance.

Public Comment: Staff has received one comment from a member of the public concerned with utility capacity, impact on floodplain and drainage, and the conversion of green space to housing.

Natural Features: The developer has contracted FTN Associates to perform a flood study for this property to establish an obstruction boundary. This flood study was provided prior to subdivision committee; however, revisions addressing staff comments have not yet been received. At this time, staff cannot determine if the development will meet the no adverse impact clause of §168.10(U) and is recommending this project be tabled due to potential for knock-on effects to the development. If approved, staff recommends a condition that development plans and

associated flood study shall be required to meet all city ordinances, including §168.10(U), prior to the issuance of a grading permit.

RECOMMENDATION: Staff recommends tabling PPL-2023-0005. If approved, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication as follows:*

N. Old Wire Road: *Staff recommends right-of-way dedication in the amount of 33.5 feet from center line, in line with the Neighborhood Link Street standards.*

E. Ash Street: *Staff recommends no additional right-of-way dedication.*

Born's Bend Avenue: *Staff recommends right-of-way dedication on the amount of 52 feet, in line with the Residential Link Street section.*

Subdivision Committee recommended in favor.

2. **Planning Commission determination of street improvements.** *Staff recommends street improvements as follows:*

N. Old Wire Road: *Staff recommends an 8-foot sidewalk be constructed with variable width greenspace as indicated on the plans.*

E. Ash Street: *Staff recommends a 6-foot sidewalk be constructed with variable width greenspace as indicated on the plans, and a pedestrian crossing across E. Ash Street to connect to the existing sidewalk system south of the intersection.*

Born's Bend Avenue: *Staff recommends 6-foot sidewalks, 6-foot greenspace, two travel lanes, one parking lane, curb, gutter, and storm drain improvements.*

Subdivision Committee recommended in favor.

3. **Planning Commission determination of Variance to §166.08(E)(1)(C): Block Length and Connectivity. Residential Link and Downtown/Urban Street.** *Staff recommends in favor of the requested variance.*

Subdivision Committee recommended in favor.

4. **Planning Commission determination of Variance to §166.08(E)(2): Double Frontage Lots.** **With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted roadways such as expressways.** *Staff recommends in partial favor of the requested variance with the following conditions:*

- a. *Two trees shall be planted along Borns Bend Ave. for each double-frontage lot.*
- b. *Double frontage lots shall be oriented to N. Old Wire Rd.*
- c. *If the orientation request is approved, staff recommends that any fencing adjacent to N. Old Wire Rd. on the double frontage lots should be composed of wrought iron, picket fencing, or similar material which shall not obstruct the view of the building façades from the right-of-way.*

Subdivision Committee recommended in favor of the double frontage variance, but had no recommendation on orientation of the lots.

5. **Planning Commission determination of Variance to §166.08(E)(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. *Staff recommends in favor of the requested variance with the following condition:*
- a. *A pedestrian connection shall be provided to the northern property line.*

Subdivision Committee recommended in favor.

- 6. Parkland fees-in-lieu of dedication are required in the amount of \$17,424 based on the number of proposed single-family lots to be paid prior to the issuance of building permits;
- 7. Streetlights shall be installed in accordance with code at all street intersections and spaced every 300 feet;
- 8. All development plans and associated flood study shall be required to meet all city ordinances, including §168.10(U), prior to the issuance of a grading permit.
- 9. Conditions of approval from Engineering, Urban Forestry, and Parks are included in the official conditions of approval;

Standard conditions of approval:

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

17. Preliminary plat approval shall be valid for one calendar year.

Planning Commission Action:	☐ Tabled	☐ Approved	☐ Denied
Meeting Date: <u>August 28, 2023</u>			
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None.

ATTACHMENTS:

- City Engineering Comments
- Urban Forestry Comments
- Request Letter
- Site Plans
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Donna Wonsower, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: August 23, 2023

SUBJECT: **Planning Commission Engineering Comments for
PPL-2023-0005 BORN'S BEND SUBDIVISION**

*****Engineering recommends this project be tabled*****

Water: Approximately 756 LF of 8" water main extension is proposed to provide domestic service and fire protection to the development.

Sewer: Approximately 784 LF of 8" sanitary sewer main extension is proposed to serve the development.

Natural Features: Roughly half of the of the subject property lies within a FEMA Zone AE floodplain. Niokaska Creek, a protected stream, is present along the western property boundary and is within the floodway. The only work proposed within the streamside zones is a connection to an existing sanitary sewer manhole near the northwest corner of the property, which a request for a City Engineer determination of no feasible alternative needs to be provided.

The developer has contracted FTN Associates to perform a flood study for this property to establish an obstruction boundary. Staff cannot determine with the information provided if the development will meet the no adverse impact clause of UDC §168.10(U). The applicant's engineer sent an email on 8/22/2023 stating that FTN has not had a chance to respond to staff's concerns with the flood study. As a result, staff is recommending this project be tabled by the Planning Commission due to the potential for knock-on effects to the development. Compensatory storage calculations have been updated since Subdivision Committee. Grading for this will need to be included in the revised flood study to ensure the no adverse impact clause requirement is still being met. No variances have been requested at this time.

Hydric soils are present on portions of the site, and a wetland delineation study must be provided with the grading permit application.

Drainage: This development is required to meet the four Minimum Standards of the Drainage Criteria Manual. A dry detention pond is proposed. An AquaSwirl will be used to meet water quality requirements. Peak discharges from the pond for the 1-year, 24-hour storm are indicated to be less than 2.0 cfs, therefore channel protection requirements do not apply. Overbank flood protection and extreme flood protection requirements are shown to be met by sizing the pond outlet structure to decrease the peak flows from pre-development to post-development. Detailed review of the design will be conducted at time of grading permit application.

Plan Comments:

1. Delineate the streamside protection zones on the utility plan, showing the extent of encroachment for the sewer extension.
2. Provide vehicle tracking exhibits to confirm that curb radii shown for connections to Ash and Old Wire meet Minimum Street Standards 5.2.7.
3. Additional review of grading for sidewalk along Ash will be done with grading permit.
4. Address any engineering comments on plans and drainage report.

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: Conlee Hale, EI, Crafton Tull

From: Melissa Evans, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: August 17, 2023

Subject: PPL-2023-0005: Ash and Old Wire : Born SD

1. General Landscape Plan Checklist		Yes	No	N/A
a.	Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03C7g, 177.04B3a</i>	X		
b.	Species of plant material identified <i>UDC Chapter 177.03C7d,e</i>	X		
c.	Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03C7b,c</i>	X		
d.	Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e.	Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f.	LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>	X		
g.	Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h.	Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>	X		
i.	Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2g</i>	X		
2. Parking Lot Requirements		Yes	No	N/A
1 Tree : 12 Parking Spaces				
a.	Side and Rear Property Lines (5' Wide Landscape Area) <i>UDC Chapter 177D1</i>			X

- | | | |
|---|-----|---|
| b. Wheel Stops/Curbs
<i>UDC Chapter 177.04B1</i> | N/A | |
| c. Narrow Tree Lawn (8' min. width, 37.5' length)
<i>UDC Chapter 177.04C</i> | | X |
| d. Tree Island (8' min. width, 18.7' min length, 150 square feet)
<i>UDC Chapter 177.04C</i> | | X |
| e. Placement of Trees (either side at entrances and exits)
<i>UDC Chapter 177.04C2</i> | | X |

3. Perimeter Landscaping Requirements

Yes No N/A

- | | | |
|---|--|---|
| a. Front Property Line (15' wide landscape) and 5' on sides and rear.
<i>UDC Chapter 177.04D2a</i> | | X |
| b. Shade trees planted on south and west sides of parking lots
<i>UDC Chapter 177.04D2e</i> | | X |
| c. Screening of parking lot from adjacent residential properties. | | X |

4. Street Tree Planting Requirements

Yes No N/A

- | | | |
|--|---|---|
| a. Residential Subdivisions
1 Large Shade Species Tree per Lot
<i>UDC Chapter 177.05B1a</i> | X | |
| b. Non-Residential Subdivisions
1 Large Species Shade Tree every 30' (planted in greenspace)
<i>UDC Chapter 177.05B2a</i> | | X |
| c. Urban Tree Well – Urban Streetscapes
Trees every 30' (8' sidewalk)
<i>UDC Chapter 177.05B3a-f</i> | | X |
| d. Structural Soil – Urban Tree Wells
Include a note and/or detail of structural soil on Landscape Plan
<i>UDC Chapter 177.05B3a-f</i> | | X |
| e. Residential Subdivisions
Timing of planting indicated on plans
<i>UDC Chapter 177.05A4</i> | | X |
| f. Residential Subdivisions
Written description for method of tracking planting
<i>UDC Chapter 177.05A4e</i> | | X |

5. Landscape Requirement Totals		Amount
Mitigation Trees		120
Parking Lot Trees		0
Street Trees		16 lots + 667ft at 30 LF= 22 street trees Total 38 street trees.
Detention Pond – Large Trees (1 Tree/3,000 square feet)		3
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		10
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		16

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	07-18-23	08-16-23	
Approved			
Tabled	06-14-23		
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided.
2. Please add the tree species legend to the page L-102 and L-103.
3. Double check your tree counts.
4. Please specify another kind of tree besides a Maple as they are not doing well in our area.



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Geoff Bates, Bates and Associates

From: Melissa Evans, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: August 17, 2023

Subject: PPL-2023-0005: Ash and Old Wire : Born SD

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

2. Tree Preservation Calculations

Tree Preservation Calculations Square Feet		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	245,199	100%
Zoning Designation * Select Below with drop down arrow		
RSF-4 Single-Family Residential, Four Units Per Acre	61,300	25%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	61,300	25.0%
Existing Tree Canopy * Minus Right of Way and Easements	62,840	25.6%
Tree Canopy Preserved	33,889	13.8%
Tree Canopy Removed *On Site	28,951	11.8%
Tree Canopy Removed *Off Site	516	
Tree Canopy Removed Total	29,467	12.0%
Removed Below Minimum	27,411	
Mitigation Requirements	27,927	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	27927	128
Low Priority		
Total Mitigation Trees Required	27927	128

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

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1 and 167.04L1</i>	Tech Plat	Subdivision Committee	Planning 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	Yes	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	No	
i. All Existing and Proposed Utilities	Yes	Yes	
j. All Existing and Proposed Utility Easements and ROW's	Yes	Yes	
k. All Streams (with approximate center line)	Yes	Yes	
l. Floodplains and floodways	Yes	Yes	
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	
n. Submitted Site Analysis Plan Report (if required)	No	?	
o. Shows ALL Proposed Site Improvements	Yes	Yes	
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	N/A	N/A	

Tree Protection Methods		
a. Tree Protection Fencing	Yes	Yes
b. Limits of Root Pruning	Yes	Yes
c. Traffic flow on work site	N/A	N/A
d. Location of material storage	no	?
e. Location of concrete wash out	No	?

f. Location of construction entrance/exit

No

?

6. Site Analysis Report (if required)

Yes

No

N/A

UDC Chapter 167.04H4

a. Provide graphic examples of multiple options used to minimize removal of existing canopy

X

b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.

X

7. Review Status (See Comments)

Tech Plat

Subdivision
Committee

Planning
Commission

Conditionally Approved

07-18-23

08-16-23

Approved

Tabled

06-14-2023

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. A Tree Preservation Plan was not submitted with this revision set. Please submit it next time or you will risk being tabled by Urban Forestry. The plans submitted are labeled Tree Preservation but they are actually Landscape Plans.
3. Please include the health of the existing trees on the Existing Tree List.



Bates & Associates, Inc.

Civil Engineering - Land Surveying

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

June 28, 2023

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

Re: Born's Bend Preliminary Plat

Dear Planning Staff,

Bates & Associates, Inc. (Applicant), on behalf of Jacob and Mark Born (Developer), has applied for a Preliminary Plat in the City of Fayetteville. The location of the proposed subdivision is on Washington County Parcel 765-13419-000, Northwest of the intersection of North Old Wire Road and East Ash Street. The total acreage of the development is 6.76 acres. The current zoning district is RSF-4 – Single-Family Residential, and the subdivision will be developed per the requirements and restrictions of said zoning district. There are currently several structures on the parcel, all of which will be removed or demolished upon development. A sewer lateral line running through the norther portion of the subject parcel will also be abandoned and rerouted to a proposed manhole to meet the City of Fayetteville's requirement that services do not cross property lines. The lateral line serves 1923 and 1921 North Old Wire Road, which are not a part of the proposed subdivision.

The Developer wishes to develop the property into 16 single-family lots (Use Unit 8), with one remaining 0.29-acre lot designated for a stormwater facility.

Approximately 0.84 acres are proposed to be dedicated as Right-of-Way per Master Street Plan Requirements. This area includes a proposed through-street serving the subdivision and a portion of the west right-of-way of North Old Wire Road to meet Master Street Plan Right-of-Way width requirements. The resulting net area of the subdivision will be 5.92 acres, with a density of 0.67 units per acre. The north Right-of-Way of East Ash Street exceeds Master Street Plan width requirements.

According to City GIS records, there are existing water mains of varying sizes and materials along North Old Wire and East Ash Street. A proposed water main will tap into an 8" PVC portion of the existing water main along North Old Wire, located at the southwest corner of the property. Sewer mains of various sizes and materials exist on the western portion of the property, and a proposed 8" main will tie into an existing manhole on a 16" Polyethylene line near the northwestern portion of the property.

The existing grade of the subject property is relatively flat, sloping at an average of 2.5-5% towards Niokaksa Creek which runs along the west property line. Significant grading will need to occur along both street rights-of-way to accommodate City of Fayetteville sidewalk grade requirements. A stormwater facility will be provided at the northern portion of the property.

Approximately 2.95 acres of the subject property lies within Flood Zone AE, with .72 acres of this area within a Regulatory Floodway, all along the western portion of the property. The Developer contracted

FTN Associates to establish a Floodway Obstruction boundary, within which there will be no grading or proposed structures besides the previously-mentioned sewer extension. This property is also subject to the City's Streamside Protection Ordinance. The boundaries of the streamside protection areas are exceeded by the established Floodway Obstruction boundary.

Existing tree canopy on the subject property totals 25.6% of the site after subtracting the area from several easements that run throughout the property. There is a significant portion of canopy within said easements which will not be disturbed but have not been counted towards preservation. After street and utility construction, grading, and construction of the stormwater facility, the preserved canopy totals 13.8% of the site, requiring a total of 128 2" caliper trees to be planted to meet minimum canopy requirements. The required mitigation trees will be planted within the unbuildable Flood Plain areas of the site. The Applicant and Developer look forward to working with Urban Forestry to meet any concerns about canopy removal on this site.

At the time of submittal, there are three variances required from the Unified Development Code.

- **166.08(E)(1)(c)** – *Street Design and Access Management Standards – Block Length and Connectivity - Residential Link and Downtown/Urban Street*

The proposed through-street for this subdivision totals 711.66 linear feet at centerline, which exceeds the above-referenced code section requiring one intersection at a minimum of one (1) every 660 feet. Because this property is bound to the West by Streamside Protection areas, and the fact that the stormwater facility is most logically located at the northern portion of the property to avoid excessive disturbance, there is no practical portion of this property to extend a street to the adjacent properties.

- **166.08(E)(2)** - *Street Design and Access Management Standards – Block Length and Connectivity – Double-Frontage Lots*

The platting of this subdivision per the proposed layout creates three lots with double-street frontage along both the proposed street (Residential Link) and North Old Wire (Neighborhood Link). The above-referenced ordinance requires that all primary structures are oriented towards the higher functional classification street. However, proposed grades along Old Wire due to Master Street Plan improvement requirements will create slopes along the street frontage that prevent the practical construction of driveways accessing Old Wire. Also, the Developer asserts that meeting the ordinance's requirements will disturb the neighborhood "feel" of the development. The Applicant and Developer look forward to discussing any measures that can be taken to gain Staff support for this variance.

- **166.08(F)** - *Access Management*

Per the above-reference section of the UDC, "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 proposed public street through this development will access both North Old Wire Road (Neighborhood Link) and East Ash Street (Residential Link). This proposed configuration is in part to avoid the construction of a cul-de-sac, which is discouraged per *166.08(E)(5)-Dead-End Streets*. Because this development will consist of a total of only 16 single-family homes, the traffic impact onto both existing public streets will be minimal. A subdivision configuration where a proposed street access streets with two differing Master Street Plan designations is not uncommon or without precedence. The Cottages at Old Wire, immediately southeast of this proposed development, has access to both North Old Wire and North Ramsey Ave, which is designated as a Residential Link.

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

Sincerely,



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



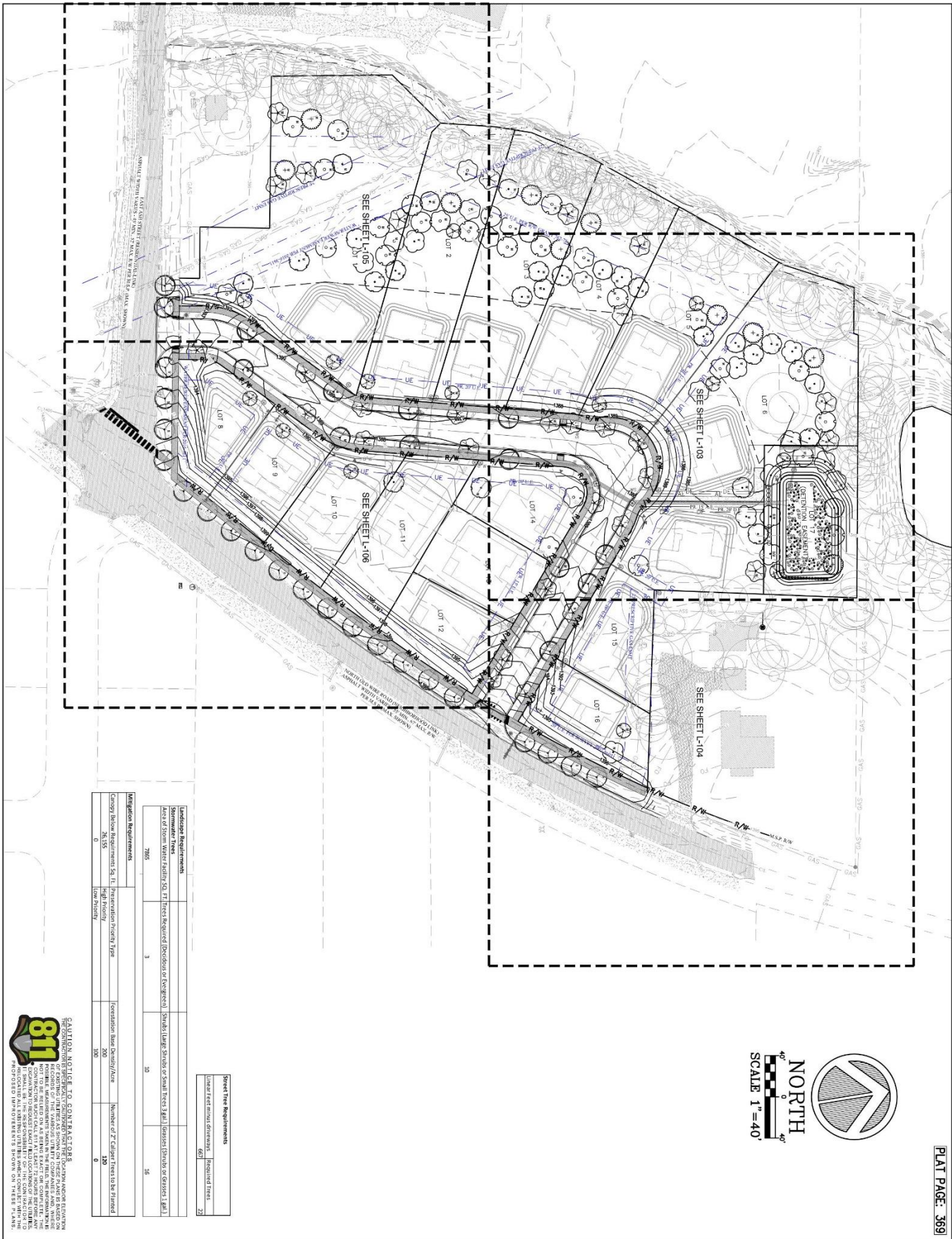
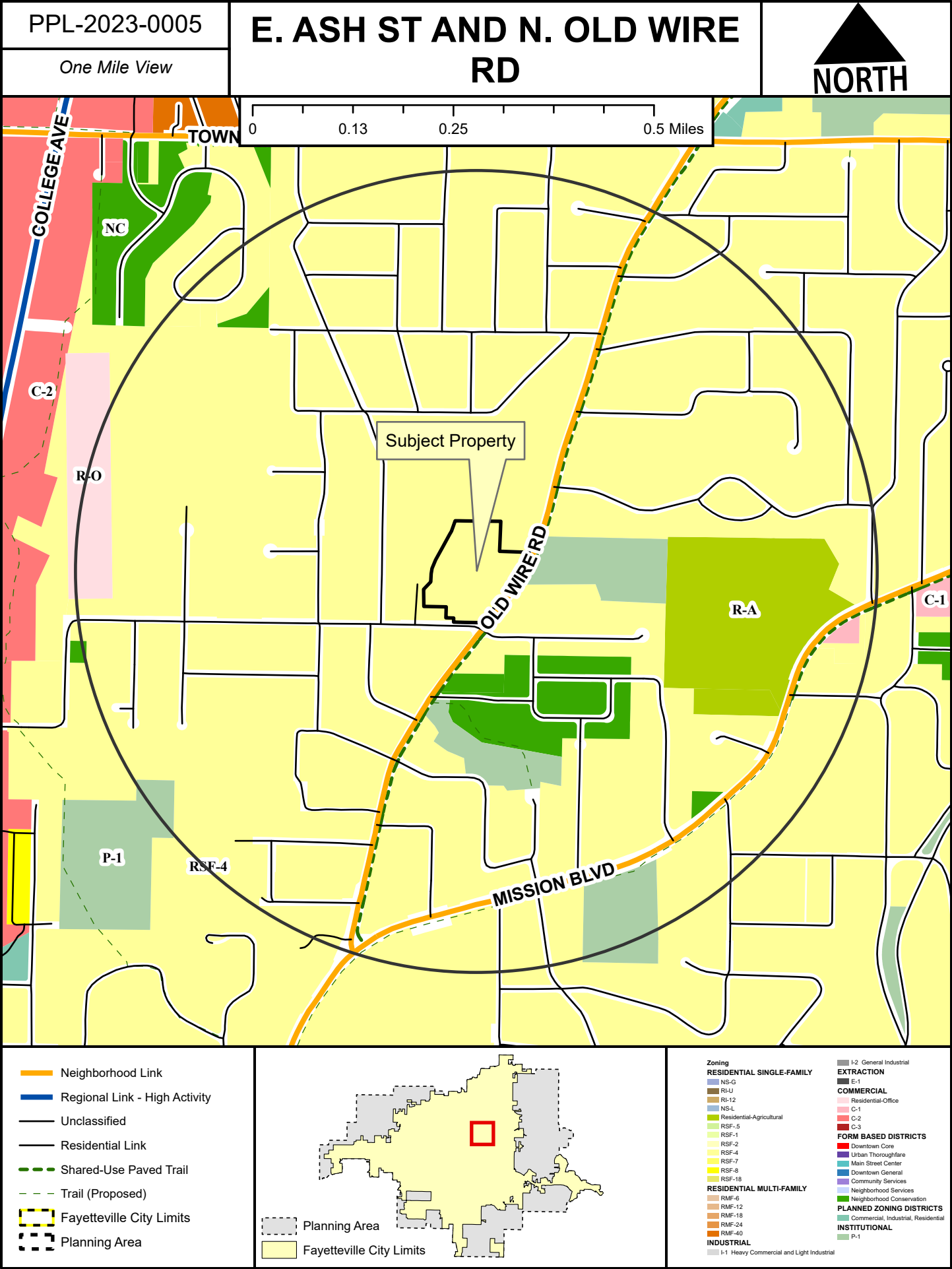
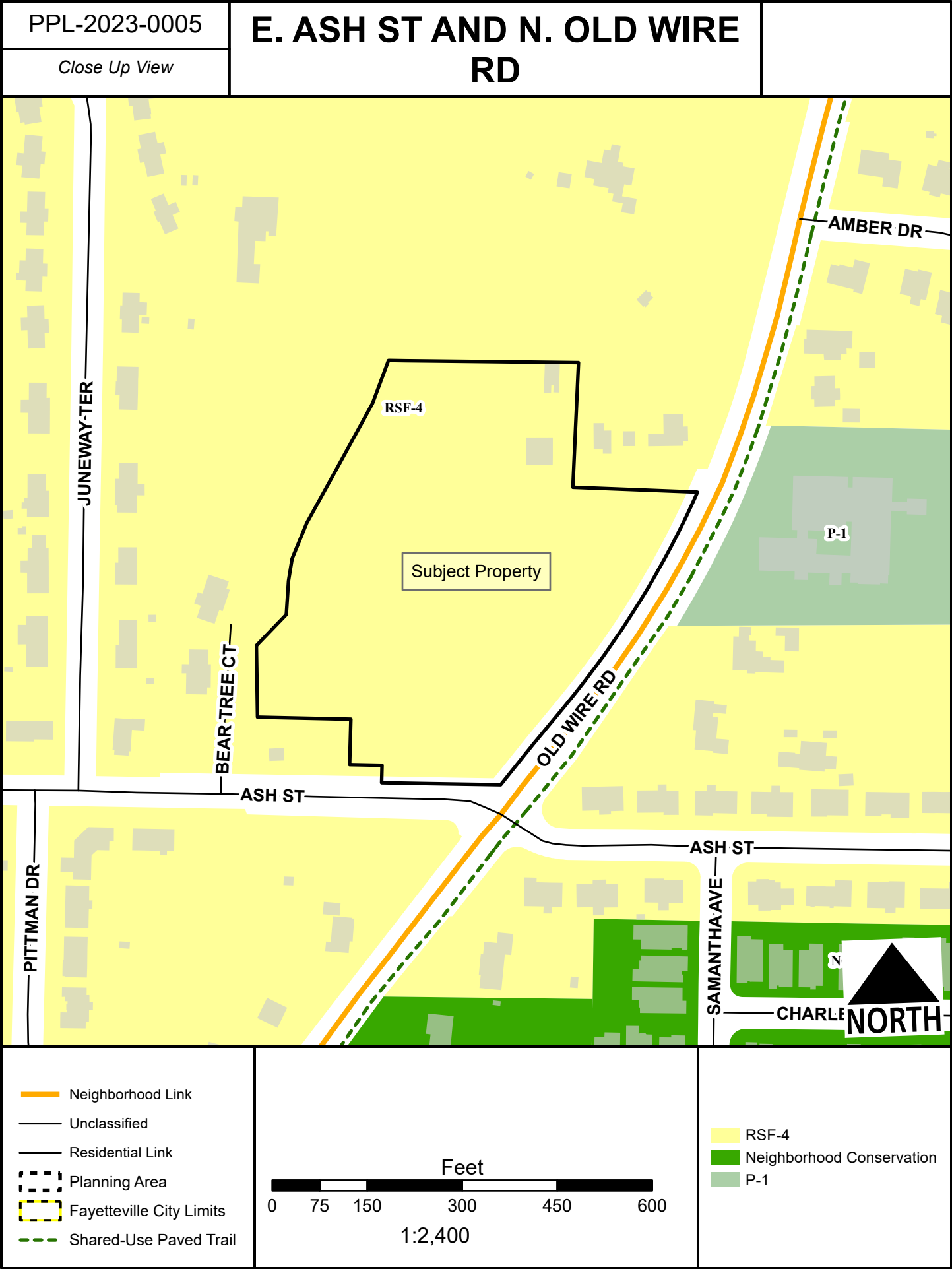


Figure 3: Overall Landscape Plan

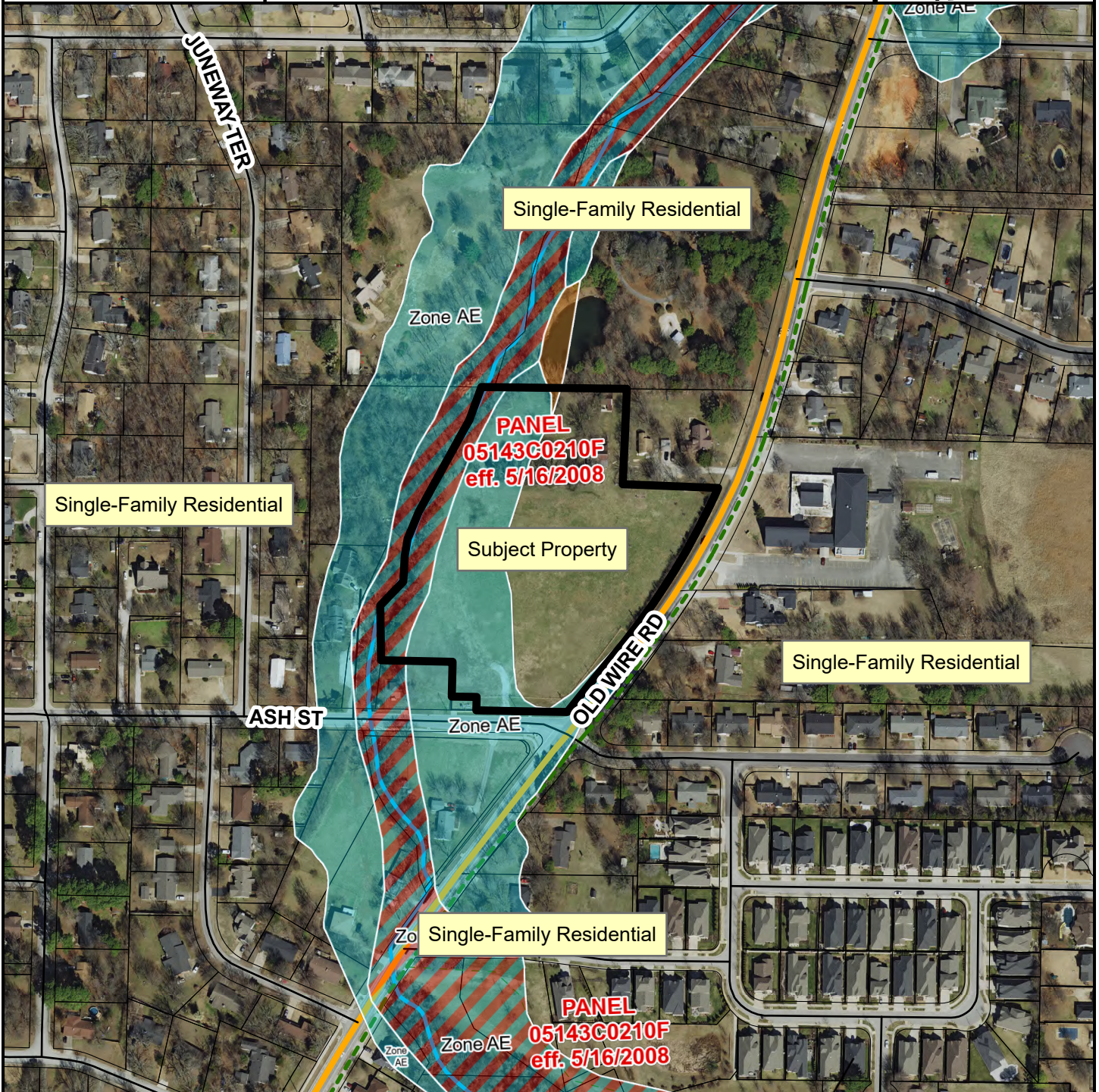




PPL-2023-0005

E. ASH ST AND N. OLD WIRE RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forester

MEETING: August 28, 2023

SUBJECT: **LSD-2023-0013: Large Scale Development (1860 S. MORNINGSIDE DR./STEEL TOWN MARKET, 603):** Submitted by BATES & ASSOCIATES for property located at 1860 S. MORNINGSIDE DR. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 10.07 acres. The request is for a two-building commercial development with associated parking.

RECOMMENDATION:

Staff recommends approval of **LSD-2023-0013** with conditions.

RECOMMENDED MOTION:

*"I move to approve **LSD-2023-0013**, recommending:*

- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements,*
- In favor of a variance to UDC §172.04(E), and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in south Fayetteville just northeast of the intersection of Morningside Drive and Pump Station Road. The property contains roughly 10.07 acres and is currently undeveloped. Town Branch borders the property to the north and a large portion of the site is encumbered by the floodplain associated with that creek. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Natural Area	RSF-8, Residential Single-Family – Eight Units per Acre
South	Undeveloped	I-1, Heavy Commercial and Light Industrial; I-2, General Industrial
East	Auto Salvage/Junk Yard	I-2, General Industrial
West	Warehousing/Wholesale	I-1, Heavy Commercial and Light Industrial

Proposal: The applicant requests large scale development approval to develop the subject property with two commercial structures, containing 9,600 and 10,800 square feet, and associated parking. One variance from the Unified Development Code has been requested in conjunction with this request as described below alongside staff's recommendation:

- **§172.04(E): Parking Lot Design Standards – Dimensional Requirements.** To reduce excessive paving and ensure the safe and efficient movement of both vehicles and pedestrians through a parking lot, the City's parking lot design standards mandate drive aisle widths of 24 feet. The applicant proposes to exceed this width along the east side of one of the proposed commercial structures, noting that this is needed for the maneuvering of large trucks servicing the development.
 - *Staff recommendation: Staff is supportive of this variance request. The applicant has stated that a wider drive aisle is needed as proposed along the east side of the southern building since a 24-foot-wide drive aisle is not sufficient for large trucks to safely and easily pass through the development. Staff finds that allowing for an increased drive aisle width of 30 feet would ensure the safe and efficient movement of vehicles through the parking lot, which would be in line with the spirit and intent of the City's parking ordinance.*

Right-of-Way to be Dedicated: The subject property has frontage along Morningside Drive and Pump Station Road, both of which are classified as Neighborhood Links in the 2040 Master Street Plan. Staff recommends that right-of-way be dedicated in the amount of 33.5 feet from the centerline of the road along each street to align with the typical street section for a Neighborhood Link.

Street Improvements: Staff recommends that the property's Morningside Drive frontage be improved to align with the typical requirements for a Neighborhood Link street with 10-foot-wide sidewalk and eight-foot-wide greenspace. Staff also recommends that the property's Pump Station Road frontage be improved with six-foot-wide sidewalk and 10-foot-wide greenspace as currently proposed on the provided civil plans.

Access Management/Connectivity: Staff has determined that the proposed development is compliant with the City's access management and connectivity standards. Access to the site is proposed through two two-way driveways along Morningside Drive which meet curb cut separation requirements as outlined in UDC §166.08(F). Stub outs are also proposed to the north, east, and south to provide opportunities for cross access in the future.

Design Standards: This project is subject to compliance with the City's Commercial, Office, and Mixed-Use Design and Development Standards which are outlined in UDC §166.25. In reviewing the provided site plan and elevations, staff has determined that this development is compliant with those standards.

Water and Sewer System: There is an existing 24-inch water main that runs along the property's Morningside Drive frontage. The applicant is proposing two new hydrant taps along that main which will then be connected to for domestic water service. Grading in the easement for that water line shall be limited and approved by the utility division. A profile of the water line was not provided for review at this stage and engineering was not able to determine the impact of the proposed grading. Additionally, the contractor who will be working on the 24-inch main must be approved by the utility division; work resume and past experience with large diameter mains is required for review. With regard to sewer, an off-site, approximately 500-foot sewer extension is required to provide gravity sewer to this property. The developer shall be responsible for this extension and it will be reviewed during the grading permit process. The structures on site are proposed with individual grinder pumps; this review will be a part of the building permit process.

Parkland dedication or fee in-lieu: N/A; commercial developments are not subject to parkland dedication.

Tree Preservation:

Canopy minimum requirement: 15%

Existing canopy: 25%

Preserved canopy: 17.9%

Mitigation required: None

Public Comment: Staff received public comment from a neighbor in the vicinity who expressed concerns about removing existing tree canopy and potentially damaging trees that are proposed to be preserved on site as part of this development.

RECOMMENDATION: Staff recommends approving **LSD-2023-0013** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication in the amount of 33.5 feet from centerline along Morningside Drive and Pump Station Road;*

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

2. **Planning Commission determination of street improvements.** *Staff recommends that the property's Morningside Drive frontage be improved with 10-foot sidewalk and 8-foot greenspace. Staff also recommends that the property's Pump Station Road frontage be improved with 6-foot sidewalk and 10-foot greenspace;*

Subdivision Committee recommended in favor of street improvements.

3. **Planning Commission determination of a variance to UDC §172.04(E): Parking Lot Design Standards – Dimensional Requirements.** *Staff recommends approval of this variance for the reasons stated above;*

This variance was requested after Subdivision Committee.

4. Remaining comments from the Planning Division shall be addressed, including:
 - a. Dimension width of R/W from the centerline of the road along Morningside.
 - b. Clarify where R/W line is along the southern portion of Morningside.
 - c. Make sure that the legend is complete and accurate. There are some line types shown on the plan that aren't included in the legend and vice versa.
5. Streetlights must be installed at intersections and at intervals not to exceed 300 feet along all streets;
6. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

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

8. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or their representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);
9. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
10. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
11. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
12. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements;
13. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
14. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;
15. Large scale development approval shall be valid for one year;
16. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
17. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and
18. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - e. Project Disk with all final revisions; and

- f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: Required YES

Date: August 28, 2023 ☐ Tabled ☐ Forwarded ☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

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



TO: Gretchen Harrison, Senior Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: August 15, 2023

SUBJECT: Subdivision Committee Engineering Comments for
LSD-2023-0013 Steel Town Market

Water: There is an existing 24", large diameter water main that runs along this property's frontage on S Morningside Dr. The applicant is proposing 2 new hydrant taps on the 24" main which will then be connected to for domestic water service. Grading in the easement for this water line shall be limited and approved by the utility division. A profile of the water line was not provided for review at this stage and engineering was not able to determine the impact of the proposed grading. Additionally, the contractor who will be working on the 24" main must be approved by the utility division; work resume and past experience with large diameter mains is required for review.

Sewer: An off-site, approximately 500-ft sewer extension is required to provide gravity sewer to this property. The developer shall be responsible for this extension. It will be reviewed during the grading permit process. The structures onsite are proposed with individual grinder pumps; this review will be a part of the building permit process.

Natural Features: Hydric soils appear to be present on site. The presence of hydric soils may indicate potential wetlands which may be jurisdictional. A wetland delineation must be provided, and a jurisdictional determination may be required. There is also regulatory flood plain and floodway as well as stream side protection zone. The applicant appears to not encroach into these areas.

Drainage: The proposed development will add more than 10,000 square feet of impervious area and therefore must meet the 4 Minimum Standards outlined in the Drainage Criteria Manual. Water quality is proposed to be met via the use of a proprietary device and bioretention pond. Channel Protection is proposed to be met by decreasing the post development, 1-year storm peak flow below 2 cfs at the outlet of the ponds. Overbank and Extreme Flood Protection are proposed to be met with two detention ponds. Additional review of the drainage and storm network will occur during grading permit.

Plan Comments:

1. It appears Morningside is proposed to be widened along a portion of this project's frontage. Widening must meet City of Fayetteville Minimum Street Standards. Existing asphalt must be saw cut perpendicular to travel lane for widening.
2. Water line must be potholed where crossings are proposed.
3. Please provide information on if buildings must be sprinklered.

4. There appears to be a potential conflict with the proposed ADA ramp and existing stormwater manhole.
5. Additional information must be provided for the proposed bioretention pond.

Standard Comments:

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



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Jason Young, Bates & Associates

From: Melissa Evans, Urban Forester

CC: Gretchen Harrison, Senior Planner

Meeting Date: August 17, 2023

Subject: LSD-2023-0013: Steel Town Market: 1860 S. Morningside

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

2. Tree Preservation Calculations

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	438,455	100%
<i>Zoning Designation * Select Below with drop down arrow</i>		
I-1, Heavy Commercial and Light Industrial	65,768	15%
<i>HHOD * Select Below with Drop Down Arrow</i>		
No	0	0%
Total Canopy for Minimum Preservation Requirements	65,768	15.0%
Existing Tree Canopy * Minus Right of Way and Easements	109,734	25.0%
Tree Canopy Preserved	78,357	17.9%
Tree Canopy Removed *On Site	31,377	7.2%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	31,377	7.2%
Removed Below Minimum	0	
Mitigation Requirements	0	

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

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

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1 and 167.04L1</i>	Tech Plat	Subdivision Committee	Planning 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	Yes	Yes	
e. Soil Types	No	No	
f. Significant Trees	Yes	Yes	
g. Groupings of Trees	Yes	Yes	
h. Table Inventory List (species, size, health, priority)	No	Yes	
i. All Existing and Proposed Utilities	Yes	Yes	
j. All Existing and Proposed Utility Easements and ROW's	Yes	Yes	
k. All Streams (with approximate center line)	Yes	Yes	
l. Floodplains and floodways	Yes	Yes	
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	
n. Submitted Site Analysis Plan (if required)	N/A	N/A	
o. Shows ALL Proposed Site Improvements	Yes	Yes	
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	Yes	Yes	

Tree Protection Methods		
a. Tree Protection Fencing	Yes	Yes
b. Limits of Root Pruning	No	No
c. Traffic flow on work site	N/A	N/A
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) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.			X
7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	07-27-23	08-16-23	
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.



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Jason Young, Bates & Associates

From: Melissa Evans, Urban Forester

CC: Gretchen Harrison, Senior Planner

Meeting Date: August 17, 2023

Subject: LSD-2023-0013: Steel Town Market: 1860 S. Morningside

1. General Landscape Plan Checklist		Yes	No	N/A
a.	Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03C7g, 177.04B3a</i>	X		
b.	Species of plant material identified <i>UDC Chapter 177.03C7d,e</i>	X		
c.	Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03C7b,c</i>	X		
d.	Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e.	Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f.	LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>	X		
g.	Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h.	Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>	X		
i.	Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2g</i>	X		
2. Parking Lot Requirements		Yes	No	N/A
1 Tree : 12 Parking Spaces				
a.	Side and Rear Property Lines (5' Wide Landscape Area) <i>UDC Chapter 177D1</i>	X		

b. Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>	Yes
c. Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>	N/A
d. Tree Island (8' min. width, 18.7' min length, 150 square feet) <i>UDC Chapter 177.04C</i>	Yes
e. Placement of Trees (either side at entrances and exits) <i>UDC Chapter 177.04C2</i>	Yes

3. Perimeter Landscaping Requirements	Yes	No	N/A
a. Front Property Line (15' wide landscape) and 5' on sides and rear. <i>UDC Chapter 177.04D2a</i>	X		
b. Shade trees planted on south and west sides of parking lots <i>UDC Chapter 177.04D2e</i>	X		
c. Screening of parking lot from adjacent residential properties.			X

4. Street Tree Planting Requirements	Yes	No	N/A
a. Residential Subdivisions 1 Large Shade Species Tree per Lot <i>UDC Chapter 177.05B1a</i>			X
b. Non-Residential Subdivisions 1 Large Species Shade Tree every 30' (planted in greenspace) <i>UDC Chapter 177.05B2a</i>			X
c. Urban Tree Well – Urban Streetscapes Trees every 30' (8' sidewalk) <i>UDC Chapter 177.05B3a-f</i>			X
d. Structural Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan <i>UDC Chapter 177.05B3a-f</i>			X
e. Residential Subdivisions Timing of planting indicated on plans <i>UDC Chapter 177.05A4</i>			X
f. Residential Subdivisions Written description for method of tracking planting <i>UDC Chapter 177.05A4e</i>			X

5. Landscape Requirement Totals	Amount
Mitigation Trees	0
Parking Lot Trees	4
Street Trees	46 required (43 new trees, 3 existing)
Detention Pond – Large Trees (1 Tree/3,000 square feet)	7
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	25
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	37

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	07-27-23	08-16-23	
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.



**Bates &
Associates, Inc.**

Civil Engineering & Surveying

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

July 19, 2022

City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

RE: Steel Town Market Large Scale Development

Dear City Staff,

Cory Rogers and Bates & Associates, Inc are proposing a development on an undeveloped parcel (#765-15152-000) at 2030 Morningside Drive. The subject property is zoned I-1 (Industrial).

This proposal is for a 2-building development, which will also include associated paving, drainage, public sidewalk, and landscaping improvements. The north building will be 9600 sf and the south building will be 10800 sf. The northern building will house Fastenal, a distributor of industrial and construction products. The southern building will house 4 units of lease space. While the ultimate uses of the lease spaces are unknown, the Owner states that they will generally be leased for office and retail.

Off-Street parking for Fastenal will consist of 13 parking spaces, which is 25 spaces short of the 38 spaces allowed per UDC 172.05. Off-street parking for the leased building will be 36 spaces. This is the maximum allowed per UDC 172.05 for Professional Office, which is the most restrictive of the two proposed uses.

Two detention ponds will be provided to handle the increase in runoff created by the proposed development.

The site is approximately 10 acres and is mostly grass with 25% of the site consisting of tree canopy coverage. Per the Tree Preservation Plan, 17.9% of on-site canopy will be preserved, which is above the requirement for I-1 Zoning.

A 24" water main runs along the west side of the site. Sewer will be provided via force main to an existing Sanitary Sewer Manhole southeast of the site. Plans for an off-site sewer extension will be submitted at the construction level review.

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

Sincerely,

Jason Young
Project Manager
Bates & Associates, Inc

Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Dr., Suite 3 / Fayetteville, AR 72703
PH: 479-442-9350 * FAX: 479-521-9350

August 21, 2023

Engineering Department
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Steel Town Market variance request letter

Dear Ms. Harrison,

Our Client is requesting a variance from Unified Development Code 172.04 (E) "Drive isle Widths." The code stated that drive isles shall not be wider than 24'. Due to the nature of our proposed development, Industrial retail, our client believed that 24' drives will not be sufficient for large trucks to safely and easily pass through the development. We ask that the planning commission grant this development 30' drive isle widths.

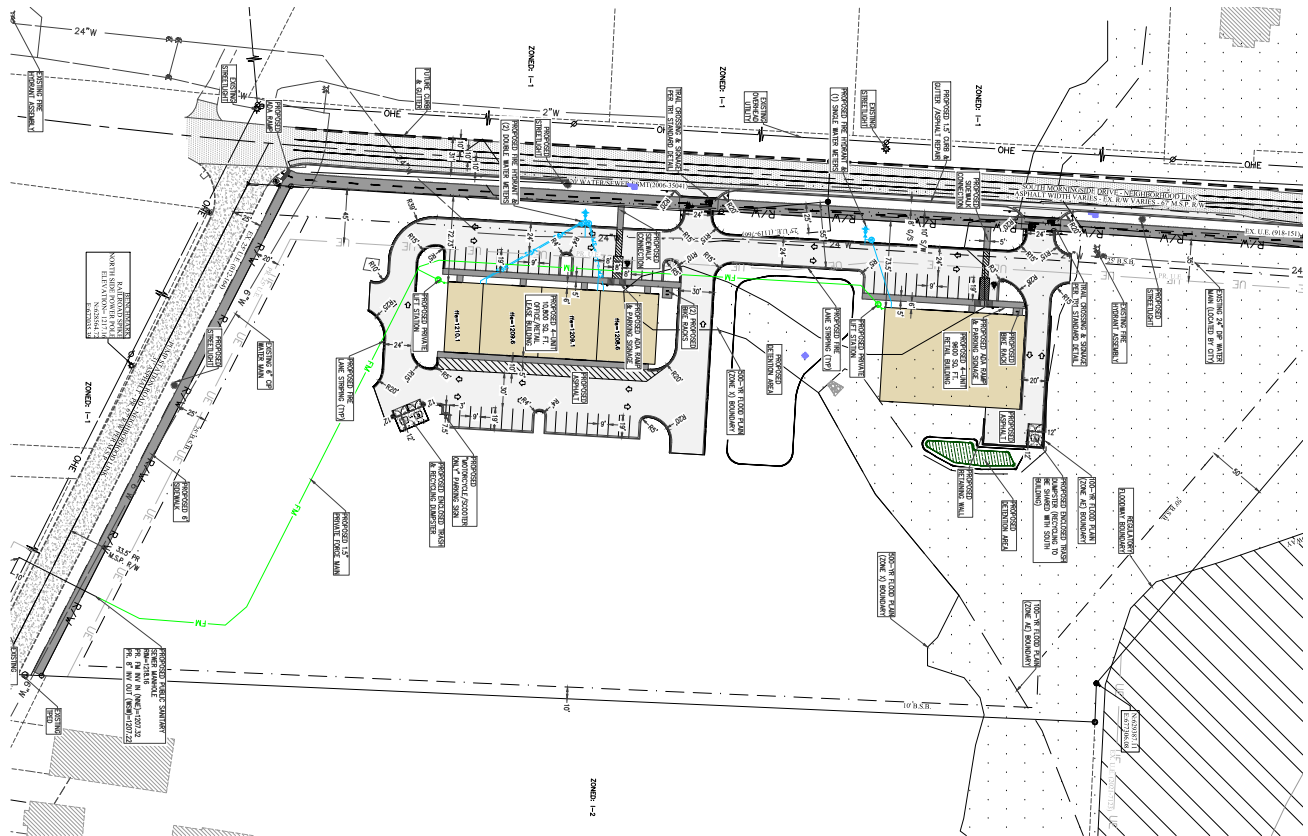
If you have any questions or require additional information, please feel free to call.

Sincerely

Bates & Associates, Inc.



Jake Chavis

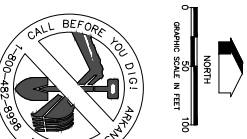
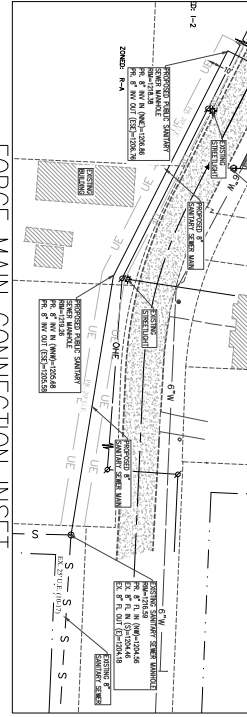


BUILDING INFORMATION	
NUMBER OF BUILDINGS	2
NUMBER OF UNITS IN RETAIL BUILDING	1
NUMBER OF UNITS IN OFFICE/RETAIL LEASE BUILDING	4
TOTAL ACRES	9.03 ACRES (AFTER R/W REDUCTION)
DENSITY	1.81 UNITS PER ACRE

PARKING REQUIREMENTS	
RETAIL (1 SPACE REQUIRED PER 250 SQ. FT. OF GSA)	3,600 SQ. FT.
OFFICE/RETAIL LEASE BUILDING (1 SPACE PER 250 SQ. FT. OF GSA)	1,200 SQ. FT.
OFFICE/RETAIL LEASE BUILDING (1 SPACE PER 250 SQ. FT. OF GSA)	1,200 SQ. FT.
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OFFICE/RETAIL LEASE BUILDING (1 SPACE PER 250 SQ. FT. OF GSA)	1,200 SQ. FT.

AREA INFORMATION	
TOTAL SITE AREA	4,945 SQ. FT. (107 AC +/-)
PROPOSED PAVED PARKING AREA	3,600 SQ. FT. (82 AC +/-)
PROPOSED BUILDING/PAVED AREA	4,945 SQ. FT. (113 AC +/-)
TOTAL PROPOSED IMPROVEMENTS	8,545 SQ. FT. (197 AC +/-)

- NOTES:**
1. THE NEW POLICY OF THE CITY OF FAYETTEVILLE, ARKANSAS, THAT STREET REPAIRS DUE TO WATER/SEWER TIES WILL BE MADE BY THE CONTRACTOR. THE REPAIR SHALL BE IN ACCORDANCE WITH THE CITY'S STANDARD PAVING PLAN AND SHALL COMPLY WITH A CUSTOMER LANE OF THE WATER/SEWER DEPARTMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REPAIR OF THE WATER/SEWER DEPARTMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REPAIR OF THE WATER/SEWER DEPARTMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REPAIR OF THE WATER/SEWER DEPARTMENT.
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PROJECT NO: 20-191

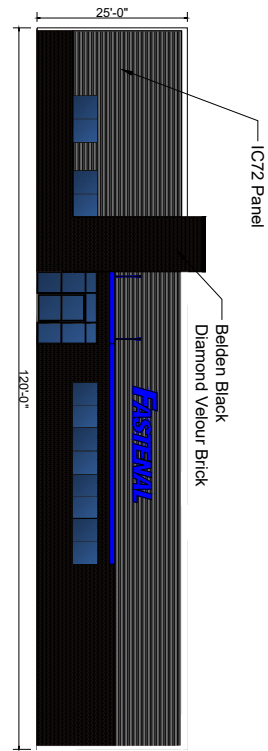
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Bates & Associates, Inc.
 Civil Engineering & Surveying
 7230 S. Pleasant Ridge Drive • Fayetteville, Arkansas 72704 • 479.442.9390

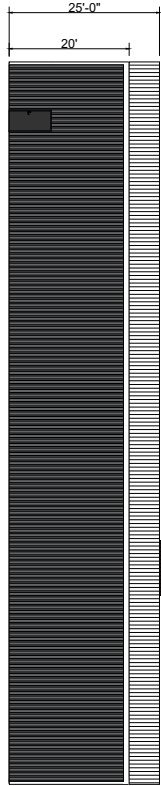
STEEL TOWN MARKET
 LARGE SCALE DEVELOPMENT PLAN
 SITE & UTILITY PLAN
 FAYETTEVILLE, ARKANSAS

REVISIONS	DATE
FIRST SUBMITTAL	7/19/23
REVISIONS PER 6/2/23 TECHNICAL REVIEW	6/9/23

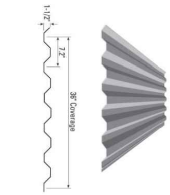
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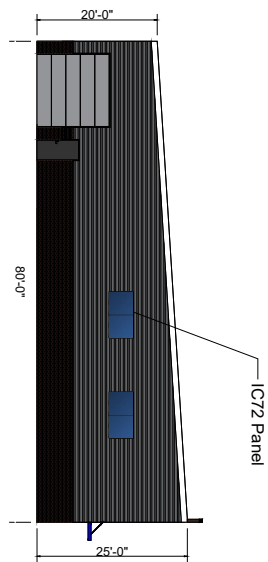
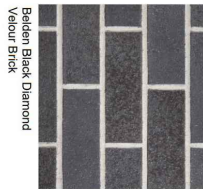
① WEST ELEVATION



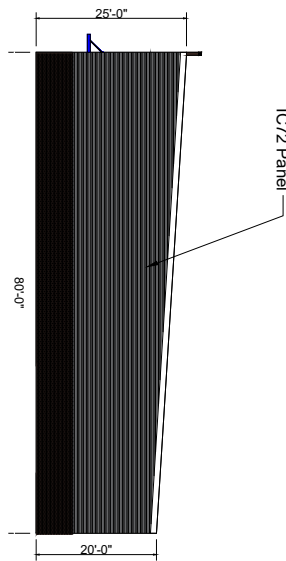
① EAST ELEVATION



IC72 PANEL - WALL
 Equipment Screens, Lintel Wall
 Panel Coverage: 50'
 Rib Height: 1'-0"
 Rib Features: 7/2" centers
 Standard Gauge: 24 GA.
 Optional Gauge: 22 GA., 20 GA.
 IC72 Panels are all about performance and a huge variety of colors. Panels have a long life span and are designed to last.

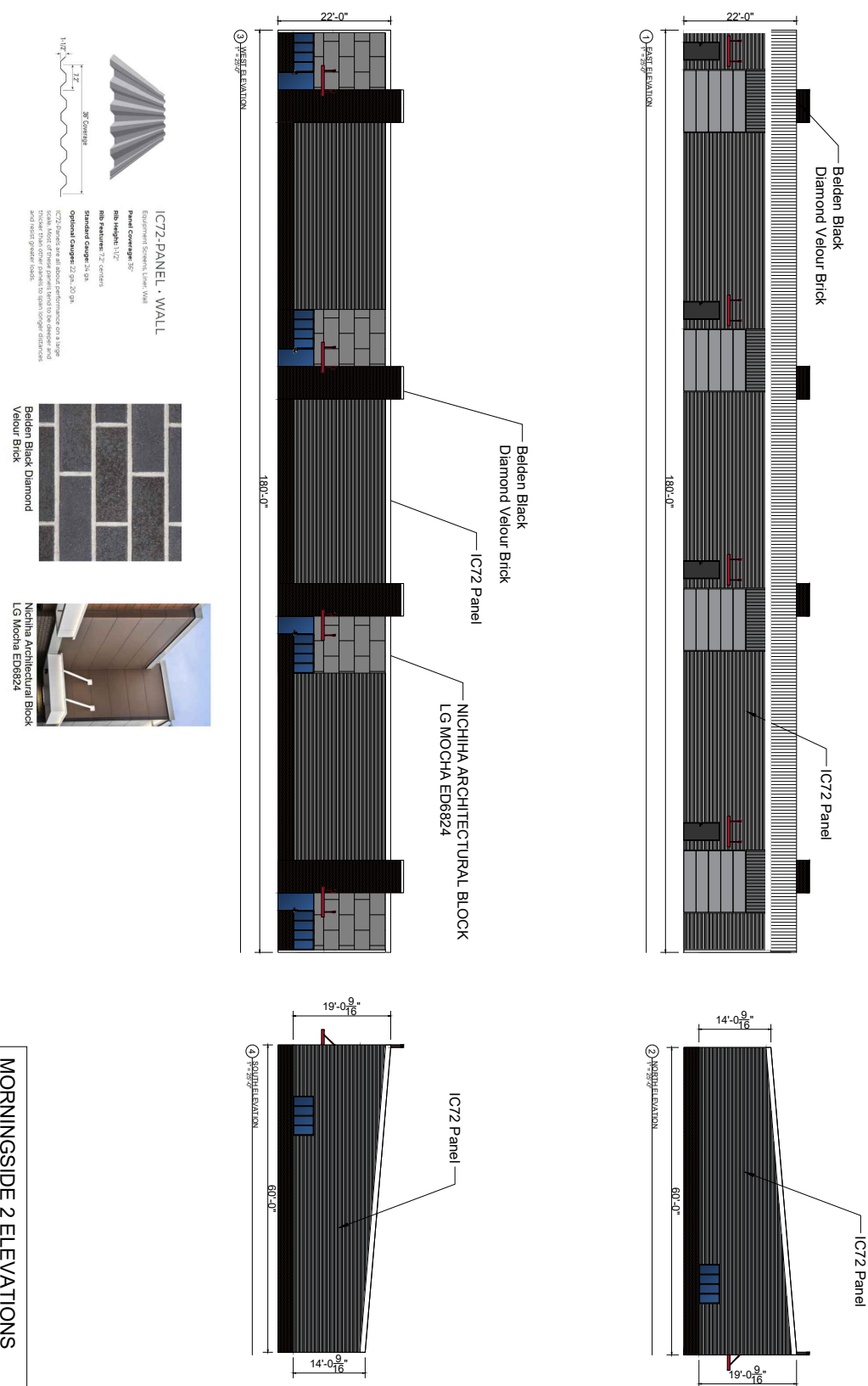


② NORTH ELEVATION

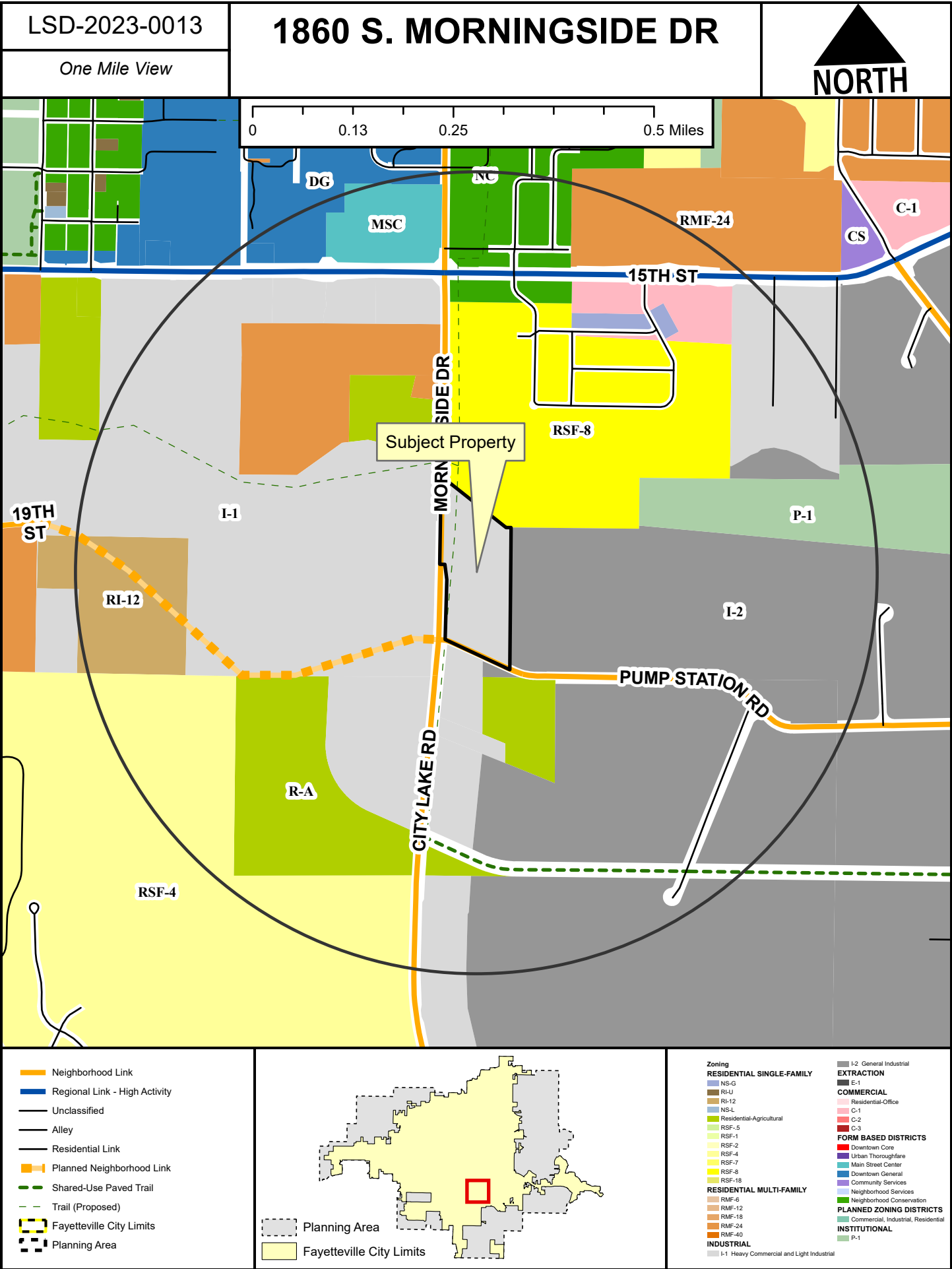


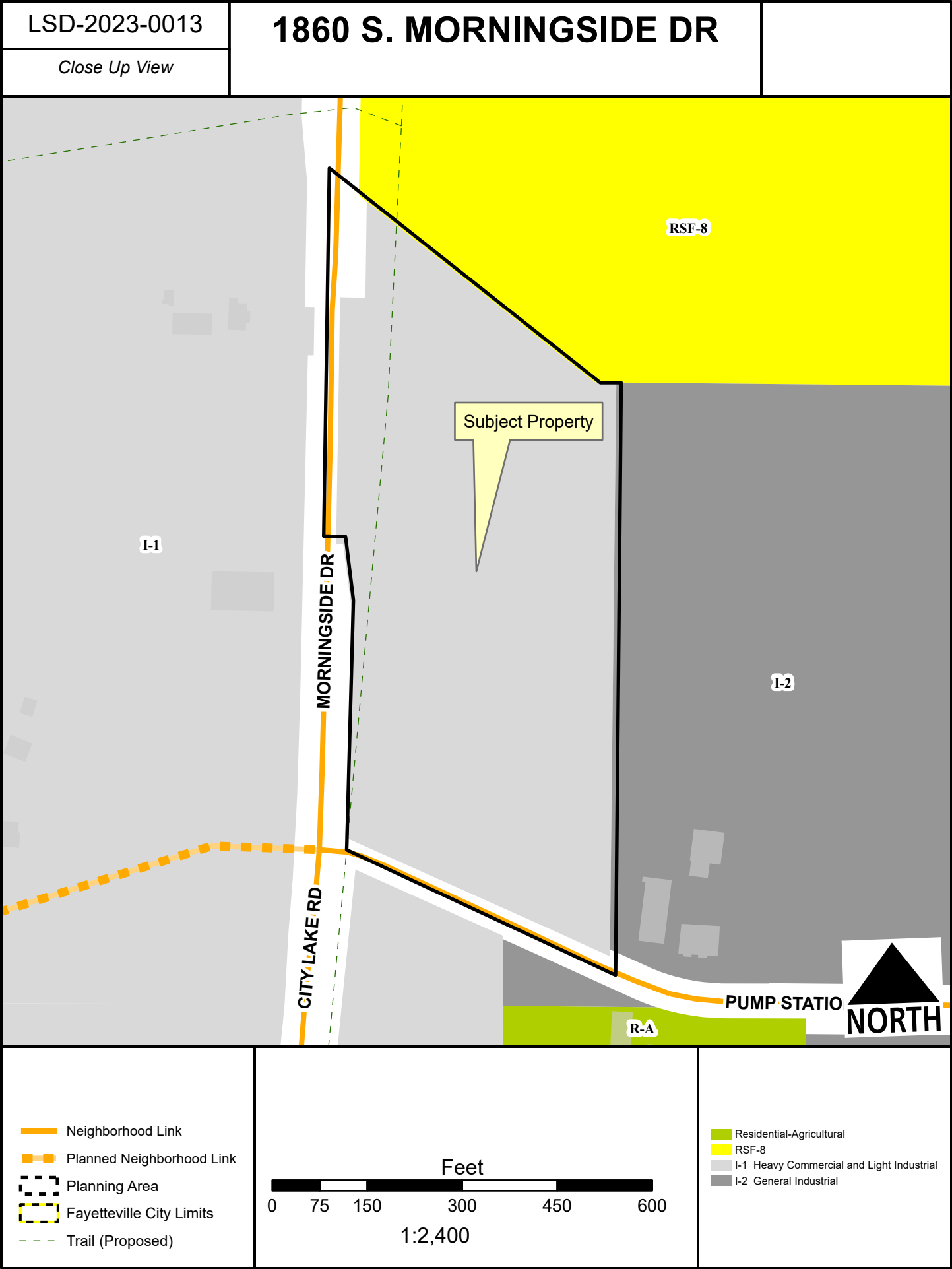
② SOUTH ELEVATION

MORNINGSIDE 2 ELEVATIONS



MORNINGSIDE 2 ELEVATIONS







TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: August 28, 2023

SUBJECT: **RZN-2023-0020: Rezoning (741 E. HUNTSVILLE RD/JONES, 564): Submitted by BERT JONES for property located at 741 E. HUNTSVILLE RD.** The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.34 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

RECOMMENDATION:

Staff recommend forwarding **RZN-2023-0020** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0020** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in south Fayetteville along E. Huntsville Road, approximately 300 feet east of the intersection with S. Morningside Drive. The property contains roughly 1.34 acres and is zoned RSF-4, Residential Single-Family, 4 Units per Acre. The southern portion of the property is currently developed with a 2,168 sq. ft. single-family home, constructed in 1946. On the north side of the property is a 1,450 sq. ft. accessory structure containing an apartment and carport/workshop. No portion of the property currently falls within an overlay district. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	NC, Neighborhood Conservation
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre; NC, Neighborhood Conservation
West	Undeveloped (Multi-Family Residential Approved)	CS, Community Services

Request: The request is to rezone the property from RSF-4, Residential Single-Family, 4 Units per Acre to CS, Community Services

Public Comment: Staff have received inquiries from the public about the proposal, but no statements in direct opposition to or support of the request.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

- Streets:** The subject area has frontage along E. Huntsville Road, which is a fully improved neighborhood link street with asphalt paving, curb and gutter, and sidewalk. Any street improvements required in these areas would be determined at the time of development proposal. Any additional improvements or requirements for drainage will be determined at time of development.
- Water:** Public water is available to the subject area. An existing 6-inch water main is present on the north side of E. Huntsville Road.
- Sewer:** Sanitary sewer is available to the subject area. An existing 6-inch sewer main is present in the South side of E. Huntsville Road.
- 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 3, located at 1050 S. Happy Hollow Rd., protects this site. The property is located approximately 0.8 miles from the fire station with an anticipated drive time of approximately 2 minutes using existing streets. The anticipated response time would be approximately 4.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.
- Police:** The Police Department expressed no concerns with this request.
- Drainage:** No portion of the property is within a FEMA floodplain, has hydric soils, nor is a protected stream present in the area. No portion of the site is within the Hillside-Hilltop Overlay District.

Tree Preservation:

The proposed zoning district of CS, Community Services requires **20% minimum canopy preservation**. The current zoning district of RSF-4, Residential Single-Family, 4 Units per Acre requires **25% minimum canopy preservation**.

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

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a mix of non-residential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single-family to multi-family. Non-residential and commercial uses are primarily located at street intersections and along major corridors. Ideally, commercial uses would have a residential component and vary in size, variety and intensity. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Building setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a ranging score of 5-7 for this site, with a weighted score of 8. The following elements of the matrix contribute to the score:

- 4 Minute Fire Response (Station #3, 1050 S. Happy Hollow)
- Near Sewer Main (6-inch main, E. Huntsville Road)
- Near Water Main (6-inch main, E. Huntsville Road)
- Near City Park (Doc Mashburn Park)
- Near Paved Trail (E. Huntsville Road On-Street Bike Lane)
- Near ORT Bus Stop (Route 20)
- Appropriate Future Land Use (City Neighborhood Area)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the request to be compatible with the surrounding context. While the property currently is only developed with a single-family home and associated outbuildings, the property under its current zoning entitlement could be developed with single-family homes at a density of up to 4 units per acre, which is a lower density allowance than would be permitted in the immediately surrounding properties; to the east and south the property is zoned NC, Neighborhood Conservation, which allows up to 10 units per acre, and is currently under development with the Park Meadows subdivision. To the west is zoned CS, Community Services, and a large site improvement plan was approved on this property in 2022 for 5 multi-family structures. While building permits have not yet been issued on the property, the applicant has an active grading permit on the site for this associated development. Given the development surroundings, staff finds that the request is appropriate. CS allows for a height requirement of up to 5 stories, with an associated front 10-foot setback and build-to-zone between 10-25 feet from the property line. Approving this rezoning would allow for compatible transition from the property to the west as far as scale, height, and setbacks. As far as use is considered, staff also finds this request to be appropriate. CS allows for anything from single-family to neighborhood amenities such as offices and small scale retail. With the associated development in the surrounding area, staff finds this request is compatible.

Land Use Plan Analysis: Staff finds that the request is consistent with adopted land use policies, the Future Land Use Map designation, and goals of City Plan 2040. The property has a weighted infill score of 8, and the appropriate Future Land Use designation as a City Neighborhood Area contributes to this score. A high infill score indicates that the area can likely support additional density if it is feasible under the proposed zoning entitlements. The request meets Goals 1 and 6 of City Plan 2040, by potentially providing infill development and the possibility for a variety of housing types, which could help fulfill a goal towards the provision of more attainable housing. The request also aligns with Goal 3, since the mixed-use

potential in the CS zoning district and its adjacency to residential uses allows for the development of a complete neighborhood that is connected and compact. The property is located approximately halfway between two identified Tier 3 centers as outlined in City Plan 2040. While this is not located strictly within a Tier center, staff finds that the proposal still offers the potential for neighborhood-scale and micro-retail locations in a convenient location for surrounding residents.

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

Finding: Staff finds that a rezoning to CS, Community Services is justified. While the applicant has not submitted any specific development plans for the area, the uses, allowances, and restrictions that accompany the CS zoning district are compatible with existing land uses as well as with future land use goals.

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

Finding: Rezoning to CS has an associated potential to increase traffic at this location. CS permits development at an unlimited density where it is currently limited to 4 units per acre. Staff finds that the potential to increase the number of residential units is marginal given the size of the lot and available access, and unlikely to result in increased traffic danger or congestion. Considerations for any necessary improvements to access or street infrastructure would be evaluated at the time of development.

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

Finding: Rezoning the property from RSF-4 to CS could increase population density and therefore the load on public services; however, the impact is not expected to be detrimental. Adequate water and sewer connections are available to the site, suggesting the area can support the increase and avoid costly extensions to services. Fayetteville Public Schools did not comment on this request.

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

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0020 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre
 - §161.22 Community Services
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

161.22 Community Services

- (A) *Purpose.* The Community Services District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

- (B) *Uses.*

- (1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

- (2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services

Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Dwelling	18 feet
All others	None

(2) *Lot Area Minimum.* None.

(E) *Setback regulations.*

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a single-family residential district:	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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(G) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6409 §1, 2-2-21; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21; Ord. No. 6497 , §1, 10-19-21)

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

July 13, 2023

City of Fayetteville
Planning Commission
125 W Mountain Street
Fayetteville, AR 72701

Dear Commissioners,

We are requesting a change in zoning for our property at 741 E Huntsville Road. The property is currently zoned RSF-4 and we are requesting to rezone to CS (Community Services). We don't have any current plans to redevelop the property, but would like to market it to potential developers.

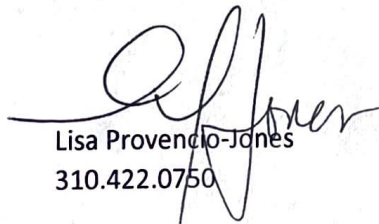
We have spoken to a member of the Planning Department and feel that rezoning this property to CS would not adversely affect the surrounding neighborhood. As you know, the property to our immediate west, owned by Rausch-Coleman, is zoned CS. There is a lot of very exciting development being done to our east, as well.

Please consider our request to rezone our property. Feel free to contact us with any questions.

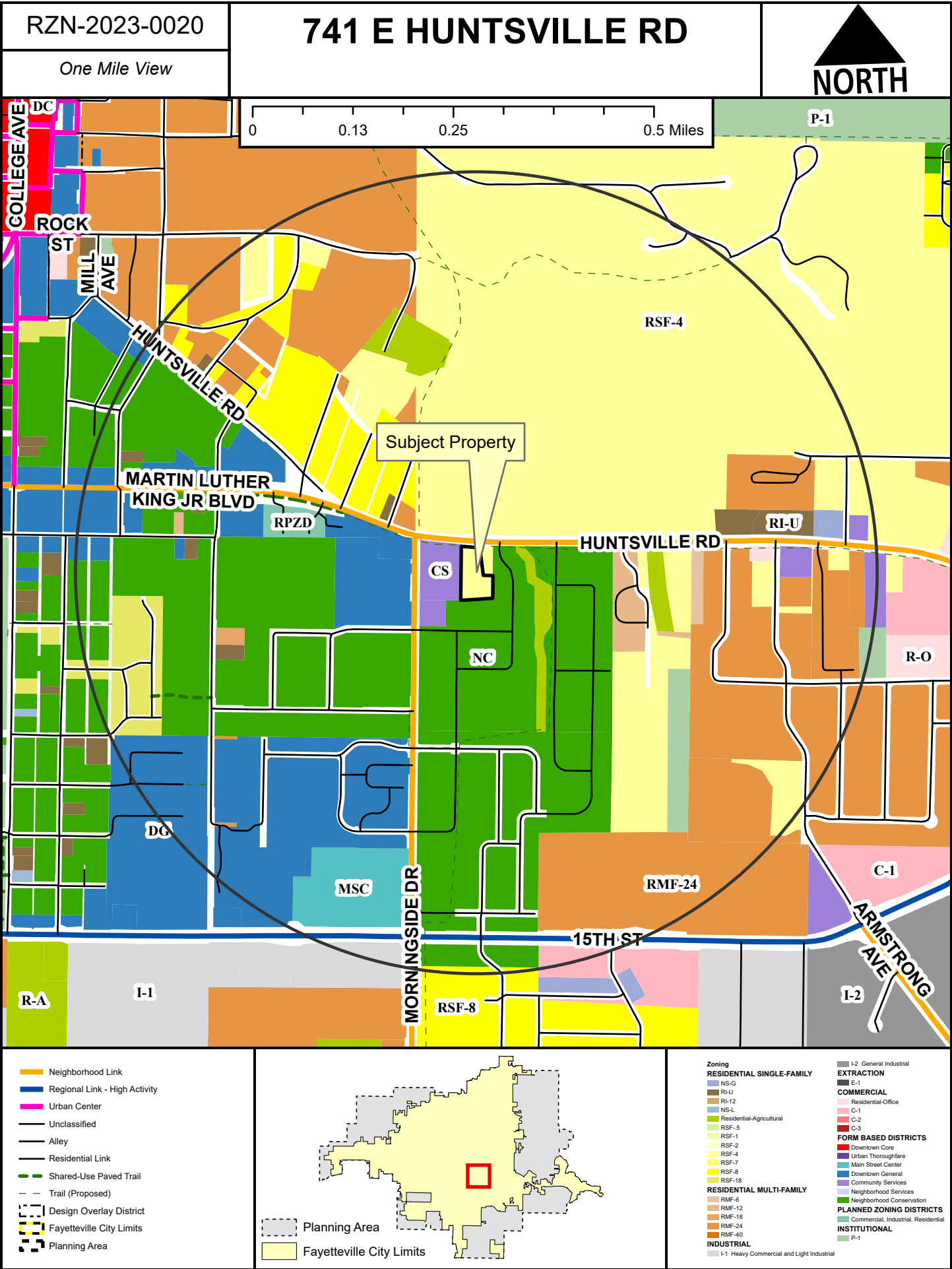
Warmest regards,

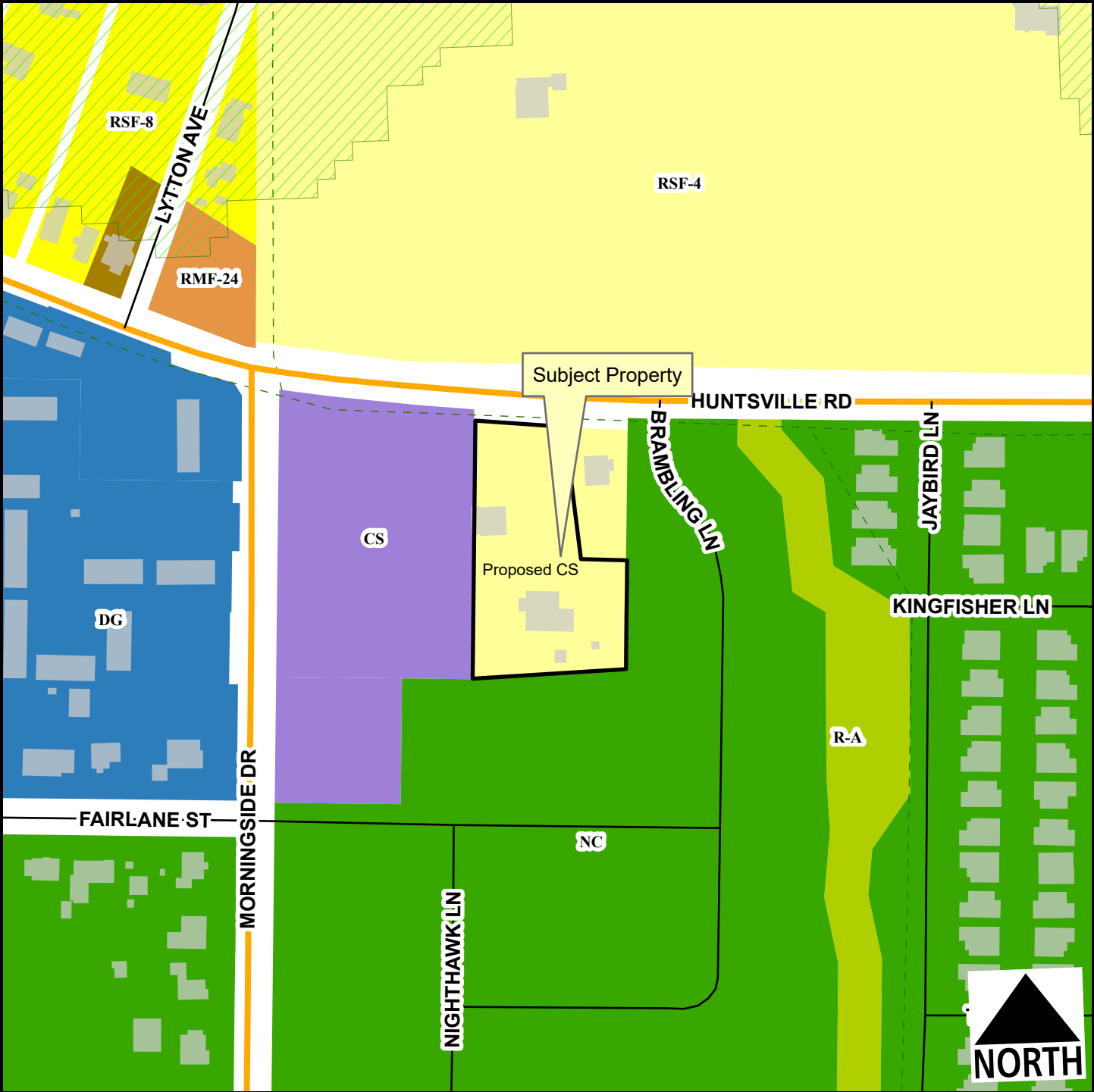


Robert 'Bert' Jones
479.721.3314



Lisa Provencio-Jones
310.422.0750





Neighborhood Link

Residential Link

Hillside-Hilltop Overlay District

Trail (Proposed)

Planning Area

Fayetteville City Limits

Feet

0

75

150

300

450

600

1:2,400

Zone	Current	Proposed
CS	0.0	1.3
NC	0.0	0.0
RSF-4	1.3	0.0
Total 1.3 ac		

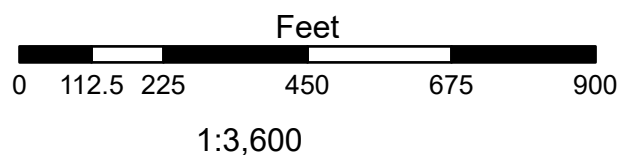
RZN-2023-0020

741 E HUNTSVILLE RD

Current Land Use

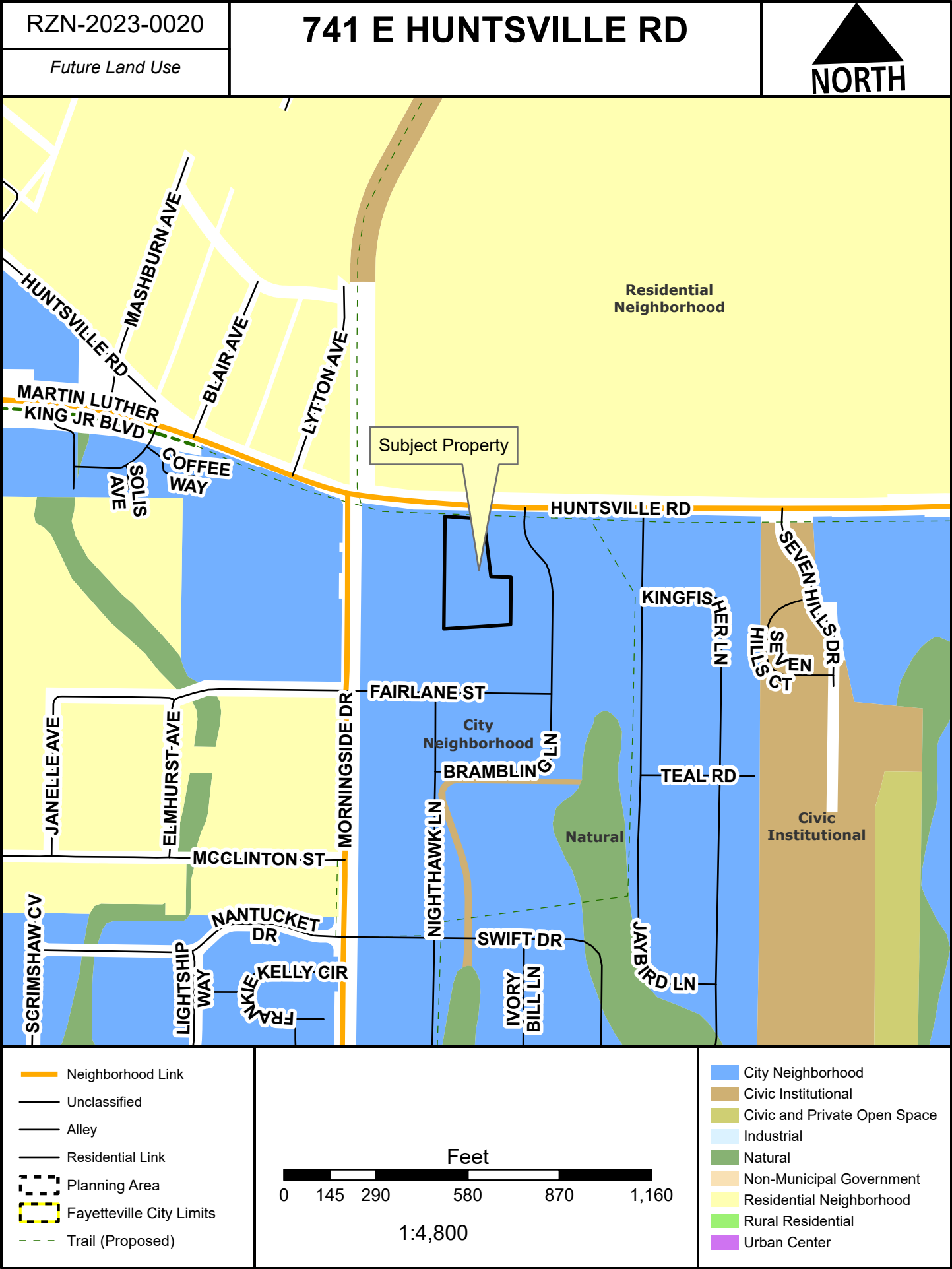


- Neighborhood Link
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 28, 2023

SUBJECT: **CUP-2023-0085: Conditional Use Permit (865 S. ONE MILE RD./SANTIAGO, 557):** Submitted by ALBERTO SANTIAGO, JR. for property located at 865 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.12 acres. The request is to use the dwelling as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0085**.

RECOMMENDED MOTION:
"I move to deny CUP-2023-0085."

BACKGROUND:
The subject property is located west of Hwy 49 south of Centennial Park within the Southern Woods Cluster Housing development. The property is zoned NC, Neighborhood Conservation, and falls within the Enduing Green Network, totaling approximately 0.12 acres. A 572 square foot single family structure was constructed on the property in 2021. The dwelling received a business license for a Type 1 short term rental in July 2022 and has been operating as a Type 1 since then. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	NC, Neighborhood Conservation
South	Single-family Residential	R-A, Residential Agriculture, RSF-18, Residential Single-Family, 18 Units / Acre
East	Single-family Residential	NC, Neighborhood Conservation
West	Single-family Residential (Under Construction)	NC, Neighborhood Conservation

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends denial of **CUP-2023-0085**. If approved, staff recommends the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be incompatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per 120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.
11. Parking shall be prohibited on the alley as shown on attached exhibit.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in NC zoning. which requires a conditional use permit.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains one bedroom, occupancy will be limited to a maximum of four guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has one bedroom and two parking spaces within an attached garage. The applicant's letter notes one parking space within the driveway in front of the

garage; however, this driveway is not long enough to park a vehicle without intruding into the alley.

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

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

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

Finding: The application is for use of the property at 865 S. One Mile Rd. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 22, 2023, the City had issued 395 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.

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

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

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

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

Finding: The proposed short-term rental is within an existing cluster housing development that already hosts four (4) other type 2 short term rental facilities in direct proximity to the shared parking within the cluster housing development, with a total of ten (10) within ¼ mile. Previous short-term rental

requests at 823, 825, 827, 829, and 833 have been denied by the Planning Commission.

If 865 S One Mile Rd is approved as a Type 2 short term rental, the total number of Type 2 short-term rental facilities within the cluster housing development would be 5 of 27 available units (or 18.5% of the dwelling units). Staff acknowledges that if approved, the use of this dwelling as a type 2 short-term rental is likely to be less impactful to neighbors than the approval of other dwellings in the cluster given the unit's small size, available on-site parking, and previous use as a type 1 short-term rental with no reported violations.

The cluster housing development is currently accessible only via S One Mile Rd off of W Old Farmington Rd, which does not have the capacity for on-street parking. In addition, LSD20-7116 received a variance for alternative residential link street section of less than the 33-ft permitted by the Master Street Plan as well as a variance for Street Design Principles for a dead-end street. Salida Lane is near completion but is not yet accepted a public ROW.

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

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

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

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

Finding: The property is located off of a 20-foot-wide alley off S. One Mile Rd. The alley is not public right-of-way but is within an access easement. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 4 guests, which would not be out of character with use of the property for residential purposes. If approved, staff recommends a condition that no parking shall be allowed on the alley.

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

Finding: Parking is located off-street within an attached garage, with no additional parking within a driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district which is typically two per single family dwelling unit. See attached parking exhibit for further information on locations of parking as defined by ADM-2021-000039. Note that while the parking spots

are designated for each unit on the exhibit, staff is not aware of any enforcement of assigned parking within the cluster housing development.

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

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

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

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be somewhat compatible with the surrounding properties. Staff has concerns regarding the density of short-term rentals within the Southern Woods development; however, the property has been functioning as a Type 1 short term rental since 2021 without any reported violations. Staff finds that allowing the transition from a Type 1 to a Type 2 short term rental is not likely to significantly increase the impact on surrounding properties given the small number of allowed guests.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

Attachments:

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

118.01 Applicability

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

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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

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

Request letter

I am applying for a conditional use permit form from the city of Fayetteville, AR. For property address 865 s. One mile rd.

A) unit is 576 sq. Ft.

B) charcoal exterior

C) 2 parking spaces inside garage and 1 parking spot in driveway in front of garage entry

D) unit will not have operating hours or employees, it will be used whenever it is being rented

E) there is an exterior light at front door entry and in front of garage

F) The unit will be used for short term stays of 1-4 people so the noise levels should be minimal. There is one television in the unit and that will be the extent of the noise.

G) there is a home behind my unit and is screened by a 6 foot privacy fence.

H) there is a trash can for bagged trash that is located on side of house near AC unit. Trash gets picked up every Wednesday.

I) the unit does not add additional traffic on the road because this area is already used for short term rentals and residential properties.

J) the use of the property of a nightly rental is very common in this area, many neighboring units are also used as short term rentals.

OBSERVATION POINT /
CLEANOUT (TYP.)

OWNED BY S

HOUSE
372.00 SQ. FT.
PRV. O.S.
1479.50 SQ. FT.

LOT 10
0.12 ACRES +/-
3764.06 SQ. FT.

UNDERDRAIN
N 57°33'12" W

S B.S.D. 5.0'
86.87

VARIA
&

LAST SITE VISIT
JANUARY 14, 2023

BASIS OF BEARING:
GPS OBSERVATION - AR NORTH ZONE

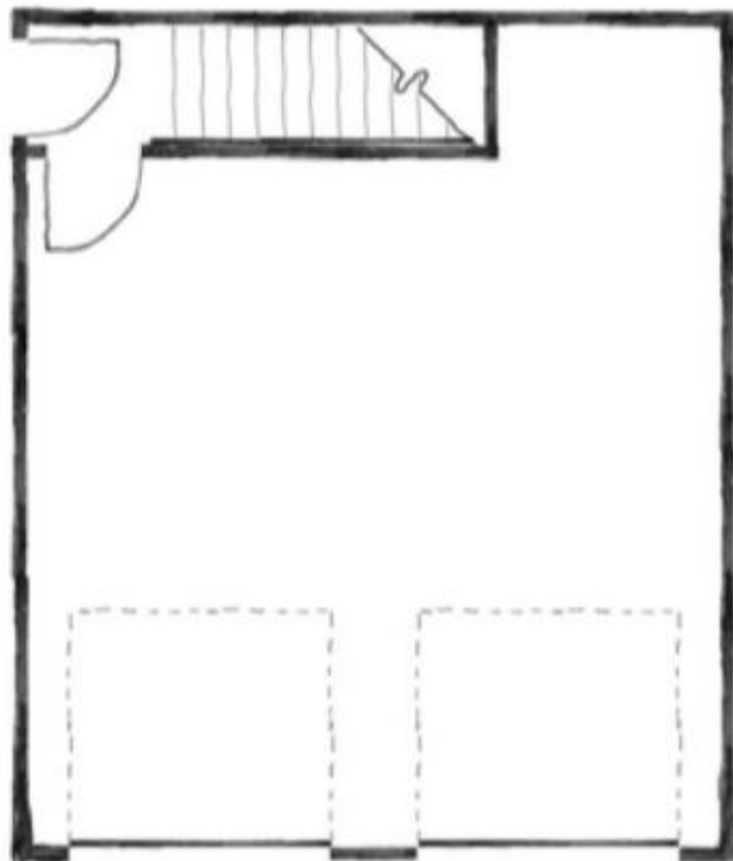
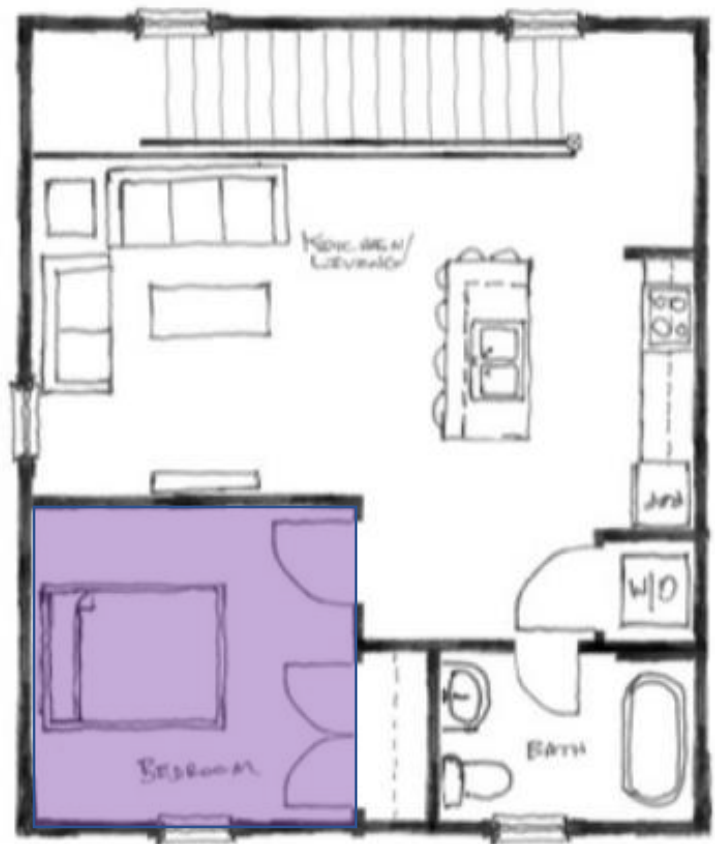
REFERENCE DOCUMENTS:

- 1) PLAT OF SURVEY FILED IN
BOOK 2004 AT PAGE 35390
- 2) PLAT OF SURVEY FILED IN
BOOK 2018 AT PAGE 21006
- 3) PLAT OF SURVEY FILED IN
BOOK 2004 AT PAGE 12210
- 4) PLAT OF SURVEY FILED IN
BOOK 97 AT PAGE 12169
- 5) PLAT OF SURVEY FILED IN
BOOK 2020 AT PAGE 4)314
- 6) WARRANTY DEED FILED IN
BOOK 2021 AT PAGE 13343
- 7) PLAT OF SURVEY FILED IN
BOOK 24 AT PAGE 354

PROPERTY ZONED:

NC - NEIGHBORHOOD CONSERVATION





PROPOSED FOR LOTS 1G

EMPIRE
GREEN 3
TAB
SHINGLES
BY TAMKO

3'X6' WINDSOR NEXT
DIMENSION DOUBLE
HUNG 2 1/2 7/8" SCL

SMOOTH 4" EXPOSURE
JAMES HARDIE
CONCRETE BOARD

CUSTOM TRIMMED
GARAGE DOOR

SMOOTH CEDAR FASCIA
WITH HARDIE BOARD
SOFFIT

SMOOTH 12" X 5/4" CEDAR
FRIEZE BOARD WITH COVE
MOULDING

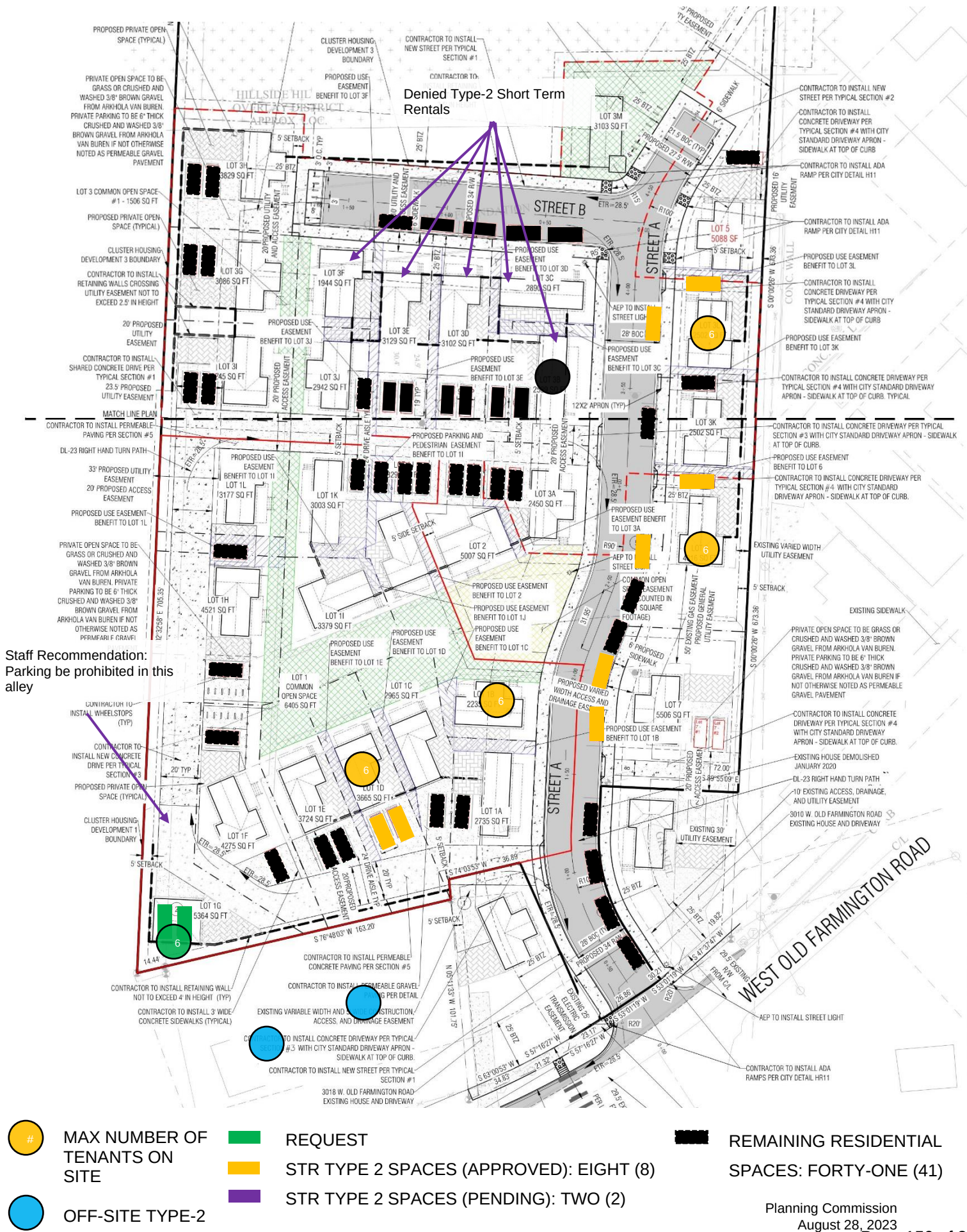
SMOOTH 6" X 5/4"
CEDAR CORNER BOARD
WITH QUARTER ROUND

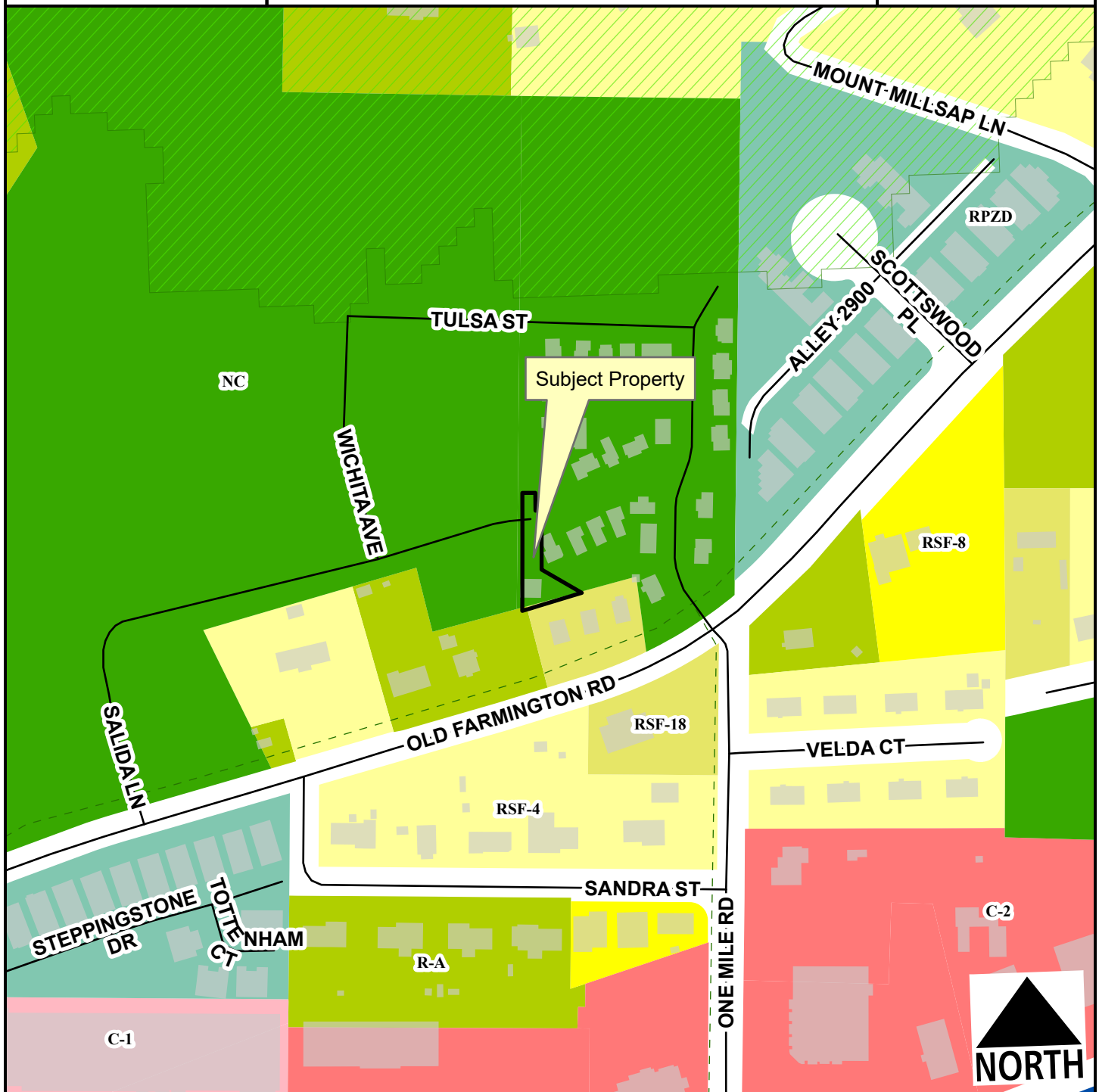
SMOOTH 6" X 5/4"
CEDAR WINDOW AND
DOOR TRIM WITH 2X
CEDAR SILL

FRONT ELEVATION

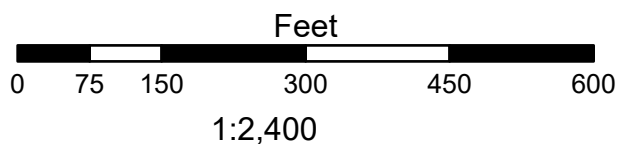
CARRIAGE HOUSE

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





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



- Residential-Agricultural
- RSF-4
- RSF-8
- RSF-18
- C-1
- C-2
- Neighborhood Conservation
- Commercial, Industrial, Residential

CUP-2023-0085

865 S. ONE MILE RD

Current Land Use



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



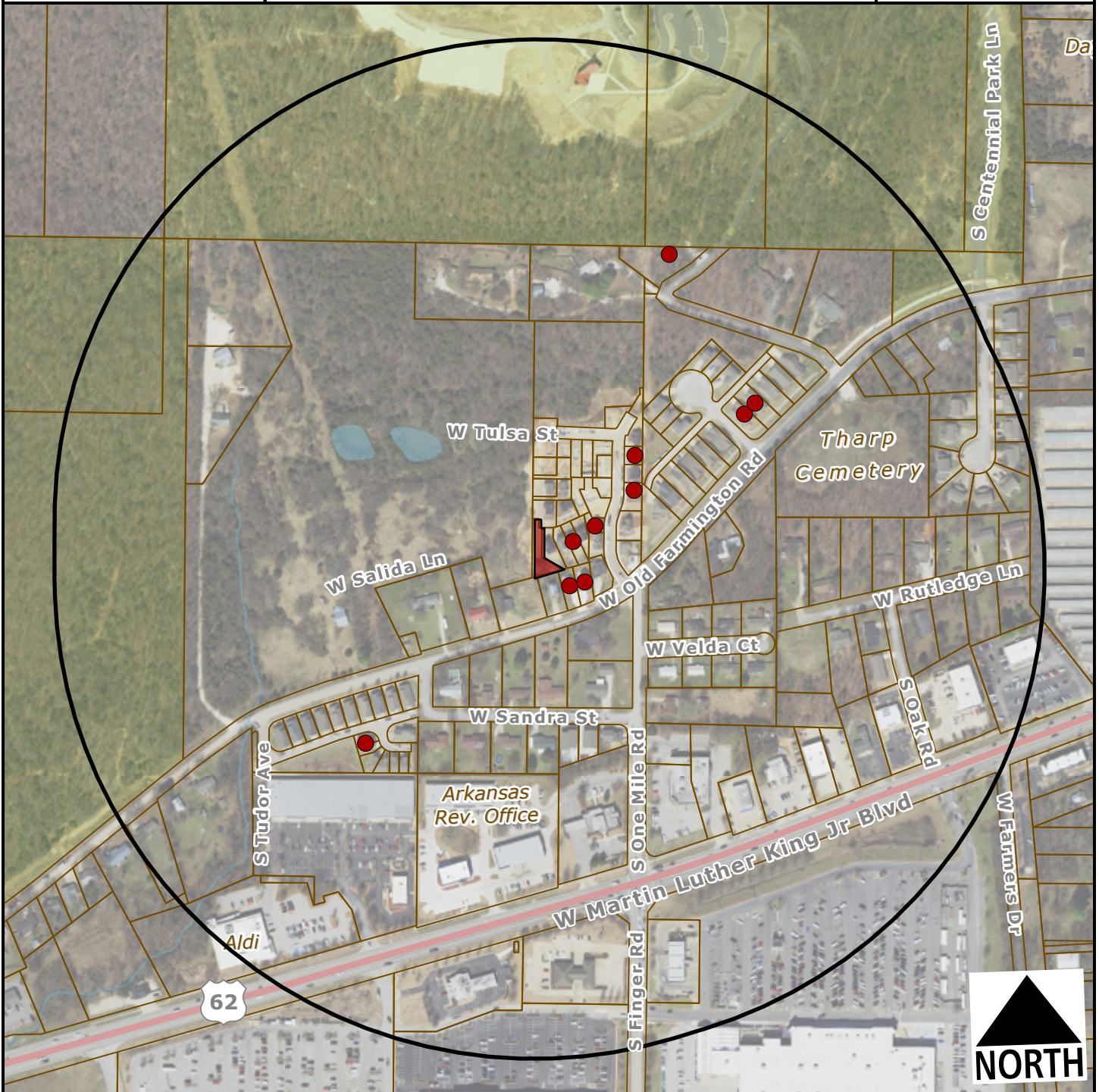
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0085

865 S. ONE MILE RD

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Number of STR Licenses

Total 10



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 28, 2023

SUBJECT: **CUP-2023-0091: Conditional Use Permit (804 S. LIBERTY DR./TY GRAHAM, 569):** Submitted by TY GRAHAM for property located at 804 S. LIBERTY DR. The property is zoned RSF-7, RESIDENTIAL SINGLE FAMILY, 7 UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the dwelling as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0091**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0091** with conditions, determining:*

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

BACKGROUND:

The subject property is located in far east Fayetteville about 1.5 miles west of Lake Sequoyah. The property is zoned RSF-7, Residential Single Family, Seven Units per Acre, and is not part of any overlay district. The site totals approximately 0.20 acres and is developed with a 1,331 square foot single family structure built in 1998 per the Washington County Assessor. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-7, Residential Single-family, 7 Units per Acre
South	Single-family Residential	RSF-7, Residential Single-family, 7 Units per Acre
East	Single-family Residential, and Undeveloped	R-A, Residential Agriculture
West	Single-family Residential	RSF-7, Residential Single-family, 7 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0091**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Occupancy shall be limited to six guests.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per 120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RSF-7 zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RSF-7 zoning, which requires a conditional use permit.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains three bedrooms, occupancy will be limited to a maximum of eight guests. Staff recommends a condition limiting occupancy to six guests given the applicant's intent to prohibit garage parking.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures, parking is required to be provided at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has three bedrooms and two parking spaces within the driveway. The applicant does not intend to allow garage parking at this time.

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

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

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

Finding: The application is for use of the property at 804 S. Liberty Dr. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 22, 2023, the City had issued 395 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.

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

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

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

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

Finding: As the applicant does not intend to allow garage parking at this time, staff recommends a condition that occupancy be limited to six guests. Two parking spaces are indicated in the driveway, and on-street parking is available on S. Liberty Ave. City records indicate one other unit within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license. No zoning or code violations were found for this address.

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

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

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

Finding: The property has frontage along S. Liberty Avenue, an improved Alternative Residential Link Street. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes.

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

Finding: Two parking spaces are indicated in the driveway. The applicant does not intend to allow garage parking at this time. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be compatible with the surrounding properties. The property is surrounded by residential uses and short-term rentals are permitted by right in the underlying RSF-7 zoning district. There appears to be adequate parking to accommodate a reduced number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.08 District RSF-7, Residential Single-Family – Seven (7) Units Per Acre
- Applicant Request Letter
- Building Floor Plan
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

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

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

161.08 District RSF-7, Residential Single-Family - Seven (7) Units Per Acre

(A) *Purpose* The RSF-7 Residential District is designed to permit and encourage the development of detached dwellings in suitable environments.

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

Single-family dwelling units per acre	7 or less
---------------------------------------	-----------

(D) *Bulk and Area Regulations.*

(E) *Lot Width Minimum.*

Single-family	60 feet
Two-family	60 feet
Townhouse, no more than two (2) attached	30 feet

(F) *Lot Area Minimum.*

Single-family	6,000 square feet
Two-family	6,000 square feet
Townhouse, no more than two (2) attached	3,000 square feet

(G) *Land Area Per Dwelling Unit.*

Single-family	6,000 square feet
Two-family	3,000 square feet
Townhouse, no more than two (2) attached	3,000 square feet

(H) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(I) *Building Height Regulations.*

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

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

(Code 1991, §160.046; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

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

To whom it may concern,

I am writing to request a conditional use permit for my property at 804 Liberty Drive (Lot 73 David Lyle subdivision phase 1) to use as a type 2 short term rental. My wife and I have a child in school in Fayetteville, but we do not live here full time. We would like to use our property as a short-term rental when we are not here in town.

We plan to use a management company called Evolve to handle the rental. They take care of the bookings, cleanings, etc.. The driveway will accommodate 2 vehicle parking. We do not necessarily plan on using on-street parking but there are two spaces available in front of the property if they ever were needed. We will continue to use our city of Fayetteville trash bin for any waste. We plan for the house to accommodate up to 7 guests.

In addition to the rental management services provided by Evolve, we have friends and family in town to ensure the exterior of the property stays clean and tidy while we are out of town.

Thanks for your consideration,

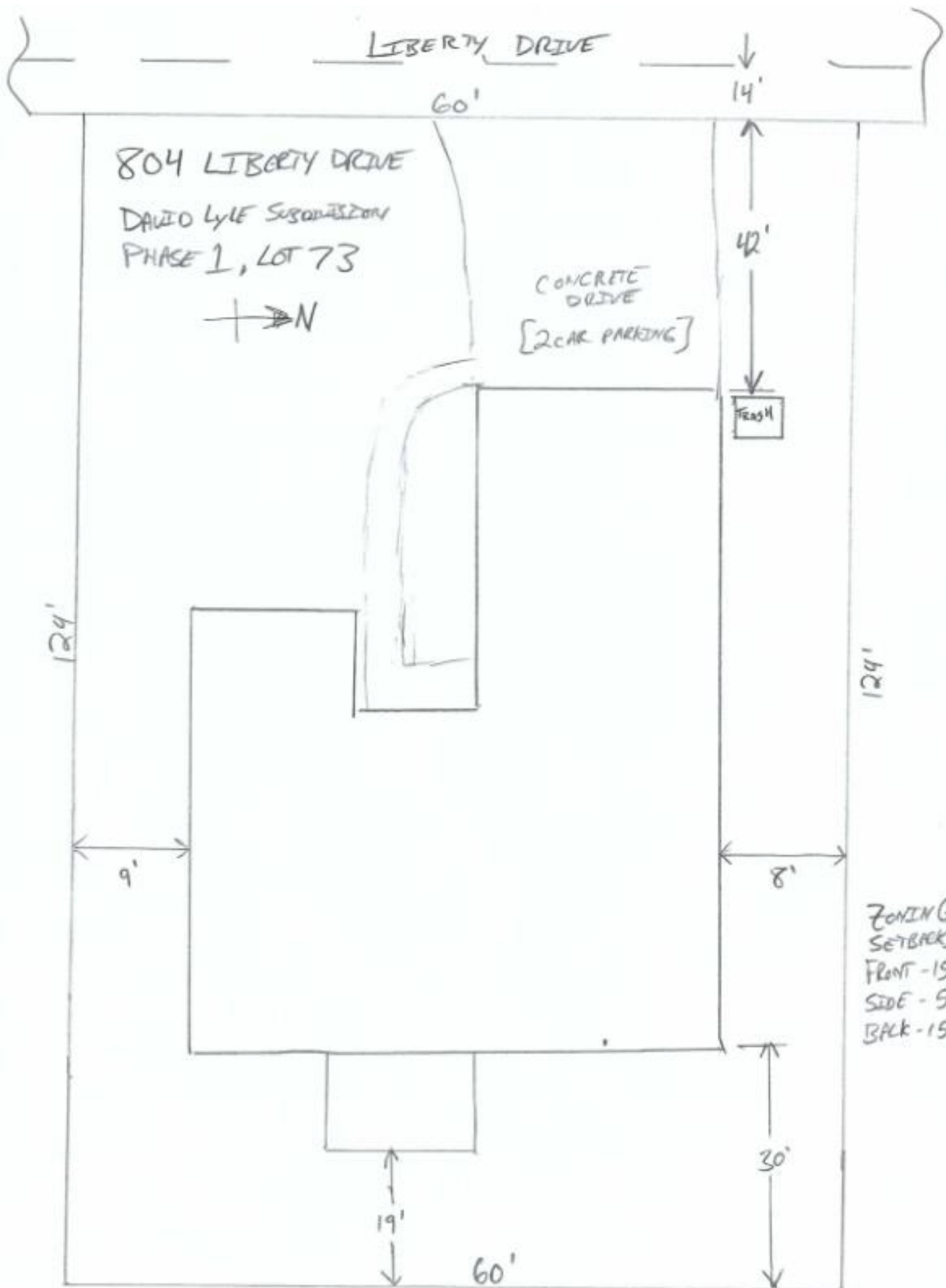
A handwritten signature in black ink, appearing to read "Ty G. Graham".

Ty Henry G Graham IV
501-380-5757
Ty.graham01@gmail.com









CUP-2023-0091

804 S. LIBERTY DR

One Mile View



0 0.13 0.25 0.5 Miles

WYMAN RD

Subject Property

P-1

RSF-7

RSF-1

RSF-4

CS

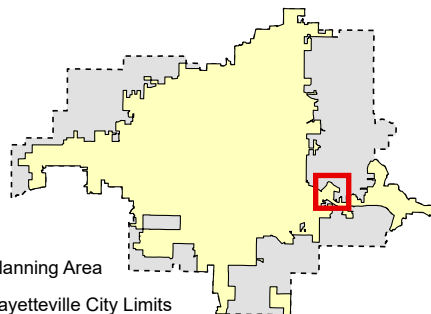
NC

R-O

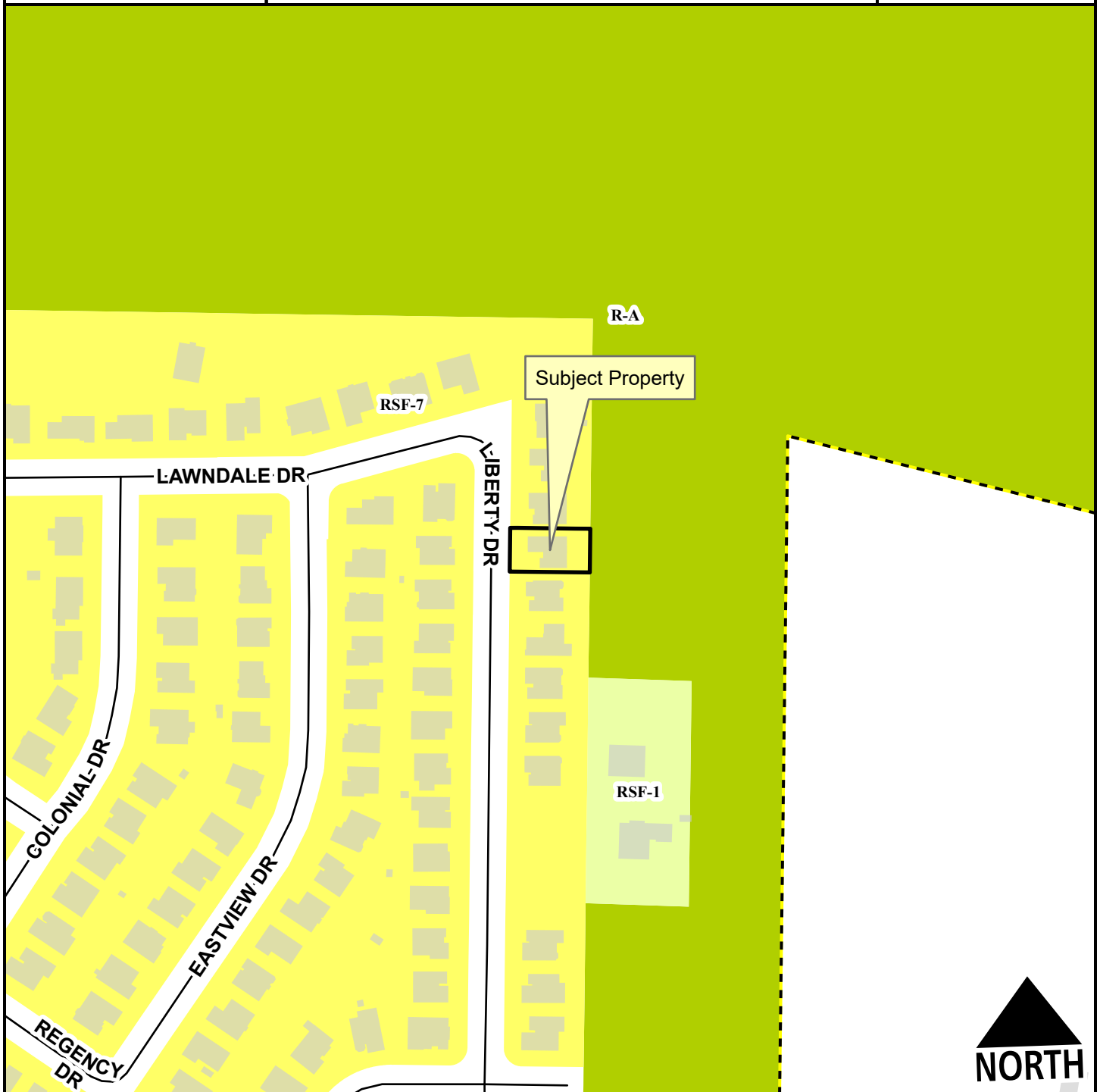
C-1

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

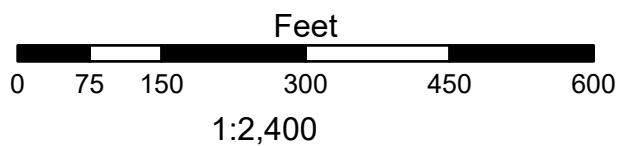
Planning Area
Fayetteville City Limits



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



- Residential Link
- Planning Area
- Fayetteville City Limits



- Residential-Agricultural
- RSF-1
- RSF-7

CUP-2023-0091

804 S. LIBERTY DR

Current Land Use



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



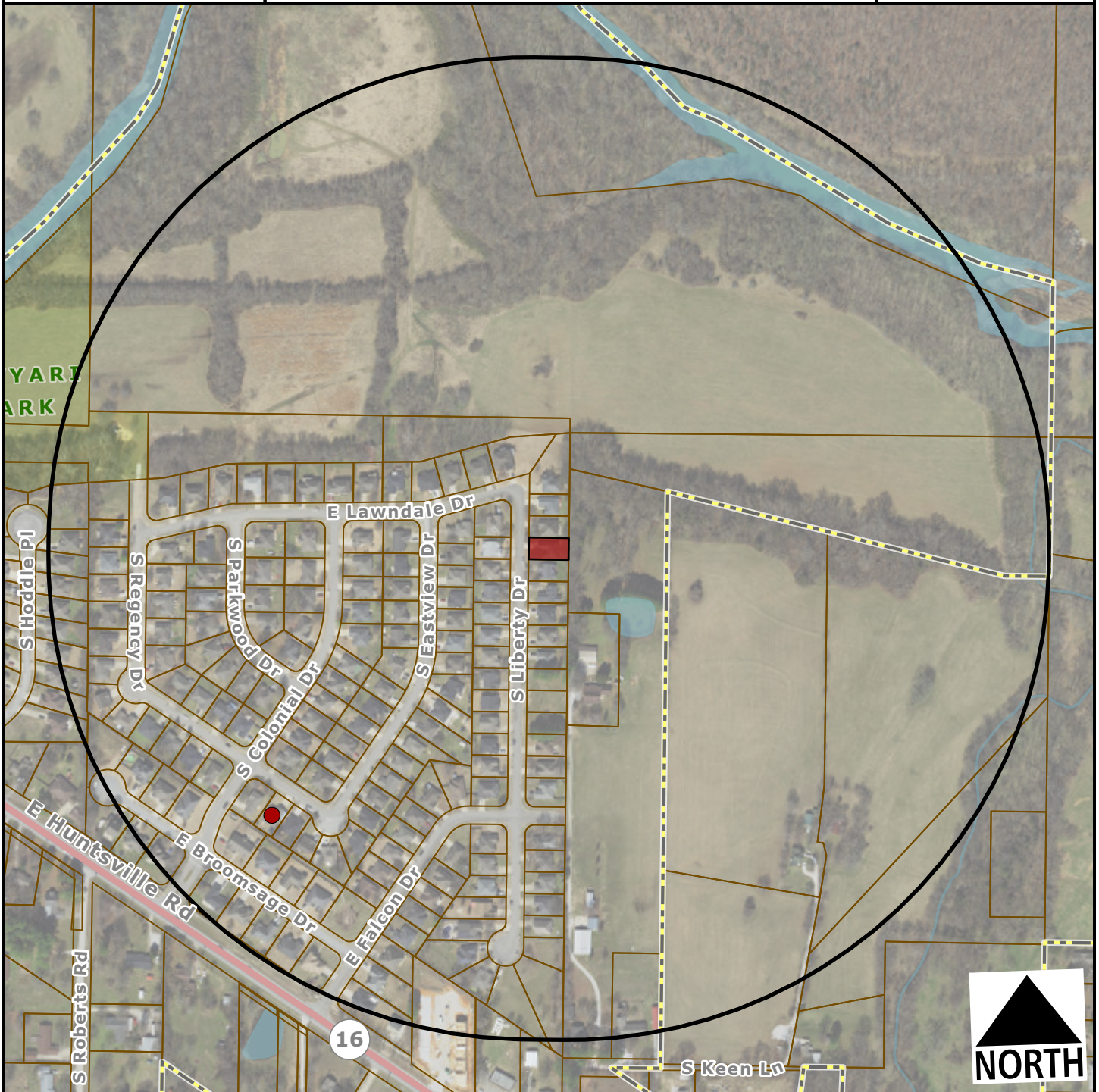
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0091

804 S. LIBERTY DR

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 1



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 28, 2023

SUBJECT: **CUP-2023-0092: Conditional Use Permit (1049 S. WASHINGTON AVE./STEVEN WINGARD, 563):** Submitted by STEVEN WINGARD for property located at 1049 S. WASHINGTON AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.20 acres. The request is to use the dwelling as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0092**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0092** with conditions, determining:*

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

BACKGROUND:

The subject property is in South Fayetteville approximately 220 feet east of Walker Park. The 0.20-acre property is zoned NC, Neighborhood Conservation and is part of the Walker Park Master Plan area. It is developed with a 1,259 square foot single-family home and attached 638 square foot garage studio bedroom. Both the main dwelling and garage studio are included in the request for a short-term rental as the garage studio is not a full accessory dwelling unit. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	NC, Neighborhood Commercial
South	Single-family Residential	NC, Neighborhood Commercial
East	Single-family Residential	NC, Neighborhood Commercial
West	Single-family Residential, Live Performance Theatre	NC, Neighborhood Commercial, and NS-L, Neighborhood Services Limited

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0092**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per 120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

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

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

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

the application to grant the conditional use; and

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in NC zoning, which requires a conditional use permit.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains three bedrooms, occupancy will be limited to a maximum of eight guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure

has three bedrooms and up to six parking spaces; two spaces in an attached garage and up to four additional spaces in the driveway.

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

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

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

Finding: The application is for use of the property at 1049 S. Washington Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 22, 2023, the City had issued 395 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.

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

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

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

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

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. Two garage spaces are available, and up to four vehicles may be parked outside in the driveway. This portion of S. Washington Ave is signed for "No Parking." City records indicate five other units within a quarter-mile radius

of the subject property have an active Type 2 short-term rental business license. The property had four health and sanitation cases under the previous owners (2010, 2011, 2012, and 2020). The code case in 2011 and 2020 related to “junk and debris” in front of the home. The code case in 2012 related to tall grass, and the code case in 2011 did not further specify the type of violation.

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

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

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

Finding: The property has frontage along S. Washington Ave, a Residential Link Street. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 8 guests, which would not be out of character with use of the property for residential purposes.

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

Finding: Two garage spaces are available, and up to four vehicles may be parked outside in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant proposes to store trash carts behind the garage when not at the curb.

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

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

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

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

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

Finding: Staff finds the use to be compatible with the surrounding properties. While the residences along S. Washington Ave. are all detached single-family dwellings, many properties within 0.25 miles are developed with a range of residential densities. An apartment complex is located less than 0.1 acres to the southeast. Further, a significant amount of the adjoining area north and south of the property are zoned to allow multi-family dwellings by-right.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter
- Site Plan
- Interior and Exterior Photos
- Building Floor Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within $\frac{1}{4}$ Mile Map

118.01 Applicability

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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

APPLICANT REQUEST LETTER

1. payment made in full

2. Lots numbered thirty-five (35) and thirty-six (36) and the north twelve feet (12) of lot numbered thirty-four (34), all in block numbered two (2), Glenwood Park Addition, to the city of Fayetteville, Arkansas, as shown in plat record book 5 at page 51, on file in the office of the circuit clerk and ex-officio recorder of Washington County, Arkansas.

3. We are applying for a conditional use permit from the city of Fayetteville for a property that we purchased for eventual use by our daughter who is a student at the University of Arkansas. We will not be residing in the property for the foreseeable future and thus want to obtain a short term rental type 2 permit.

a. the home is 1,259 square feet with a 638 square foot garage studio apartment.

b. The main house area consists of two bedrooms, two bathrooms, a kitchen, a living/dining area plus laundry/store room. The garage studio is attached by a covered porch and consists of a studio area, full bathroom, a closet and two storage areas. Attached pictures of the property will be at the end of the document.

c. for the house and garage studio, there is a fully enclosed two-car garage as well as driveway parking for 4 additional vehicles; pictures of garage and driveway parking will also be attached at the end.

d. the house and studio apartment will not have operating hours or employees. It will be in use whenever it is being rented. Pinewood Management LLC will manage the property on a day-to-day basis. We anticipate the house and studio apartment to allow eight guests. The house and studio will be cleaned after each guest/party checks out.

e. there is exterior lighting at the front door, at the garage door, at the back door entrance to the house and at the entrance to the garage studio located on the porch/breezeway between the house and garage.

f. the property will be used for short stays for 1-8 guests. There will be 4 tvs on the property. The primary bedroom in the main house is aimed at handicapped/elderly guests with an attached bathroom with grab bars and roll in shower and toilet access. We plan to market the property to more mature guests.

g. there are neighbors (single family homes) on both sides of the property; lot 34 (address is 1067 s Washington Ave) is a single family home with a detached apartment; lot 34 is separated by a wood fence and a large gravel driveway; lot 37 (1035 s Washington ave) is currently separated by a chain link fence and shrubbery but a wood fence will be added to match the existing fence dividing lot 34 and our lot 35.

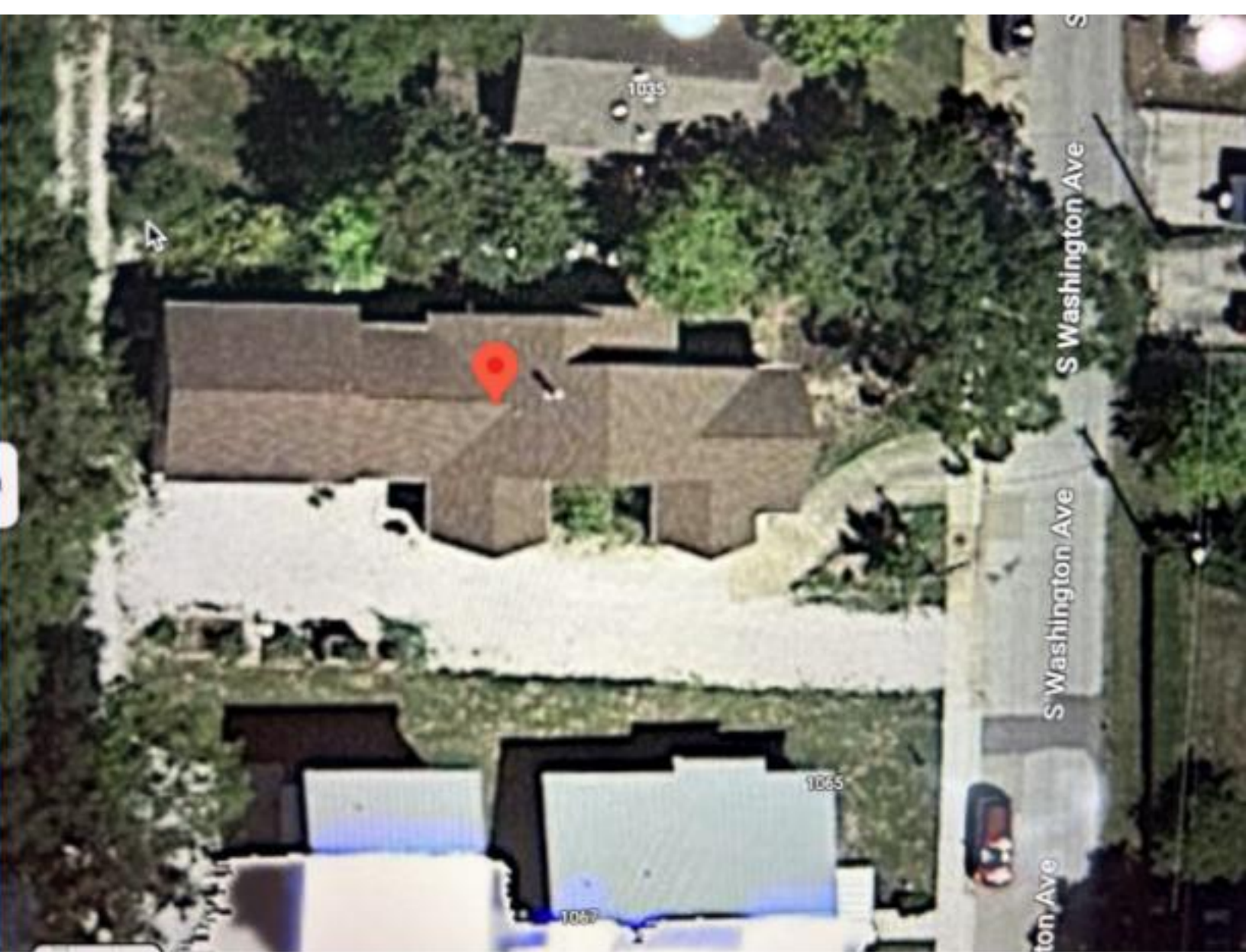
h. trash is collected at the curb weekly; a trash can and recycling bin are located behind the garage for renters use; cleaning people or Pinewood Management will ensure that garbage cans are placed at and removed from curb on the designated collection days

i. the house and studio apartment do not add additional traffic to the road; no cars will be parked on the street at any time as the property allows for more than ample parking off road. Currently neighbors routinely park in front of the home which we expect will continue

APPLICANT REQUEST LETTER

j. the use of property in this area for short term rentals is not uncommon though this does not appear to be a part of Fayetteville that is saturated with short term rentals.

SITE PLAN





EXTERIOR PHOTOS



INTERIOR PHOTOS

GARAGE STUDIO

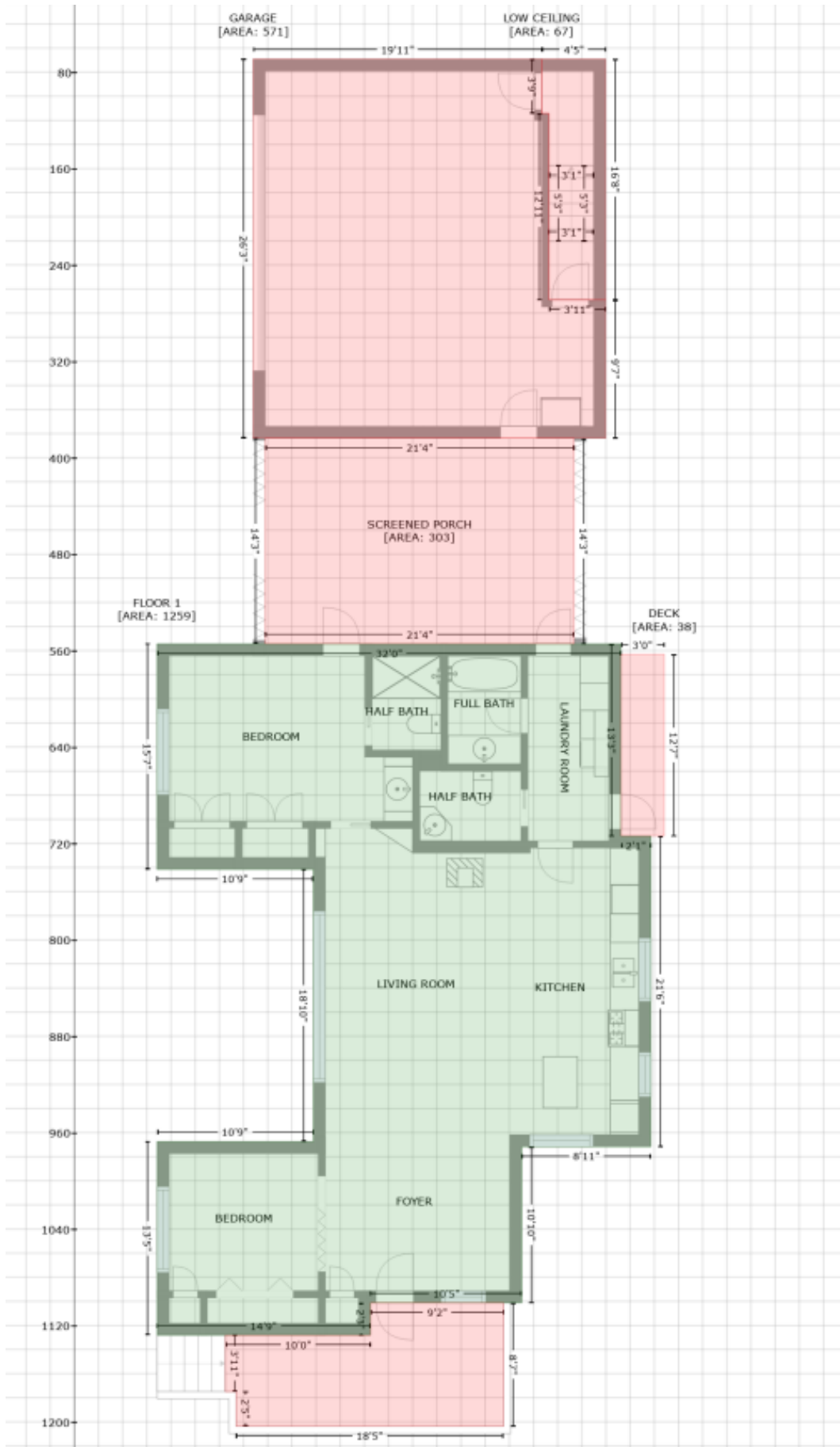


INTERIOR PHOTOS

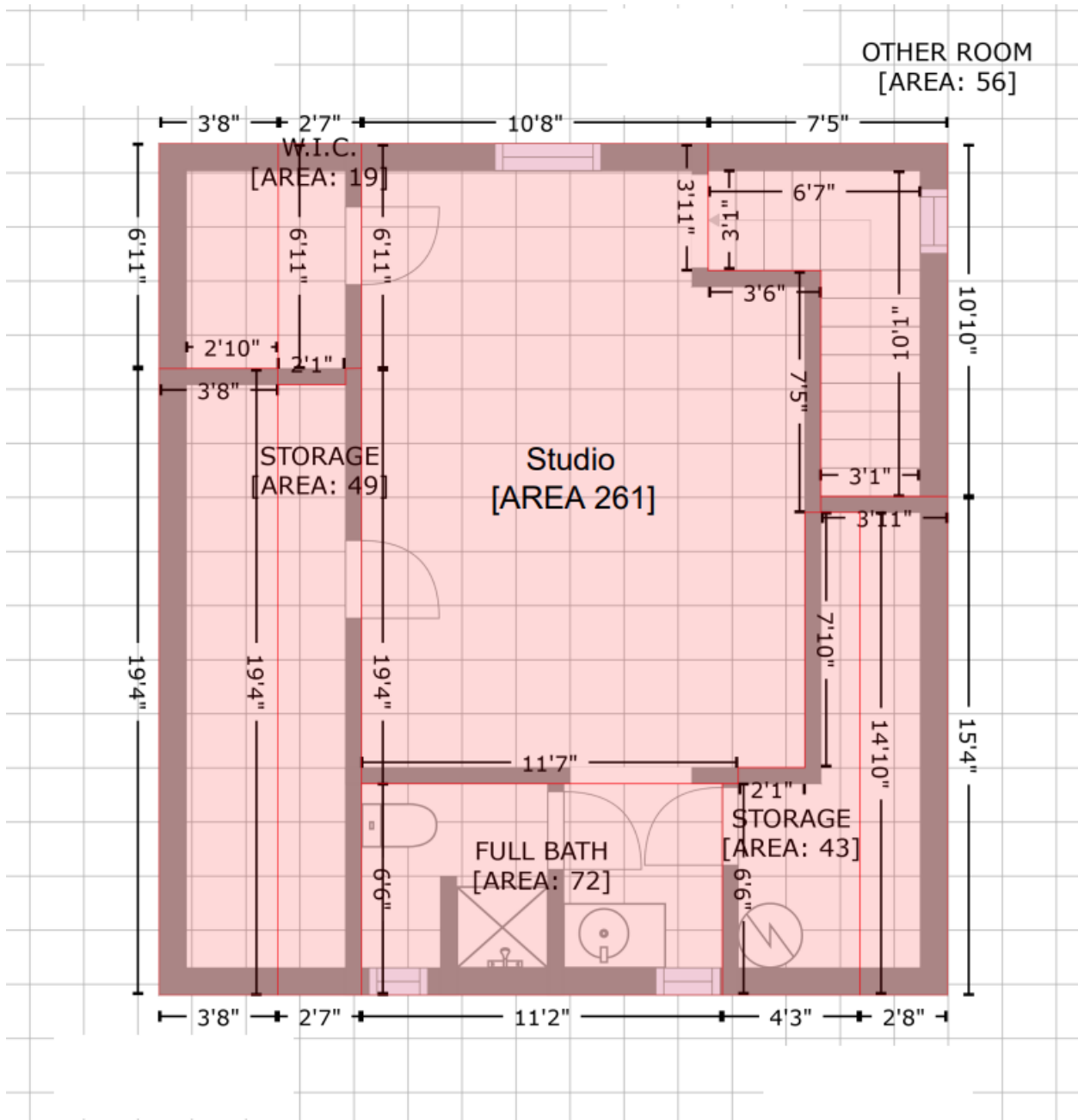
MAIN HOUSE



FLOOR PLAN



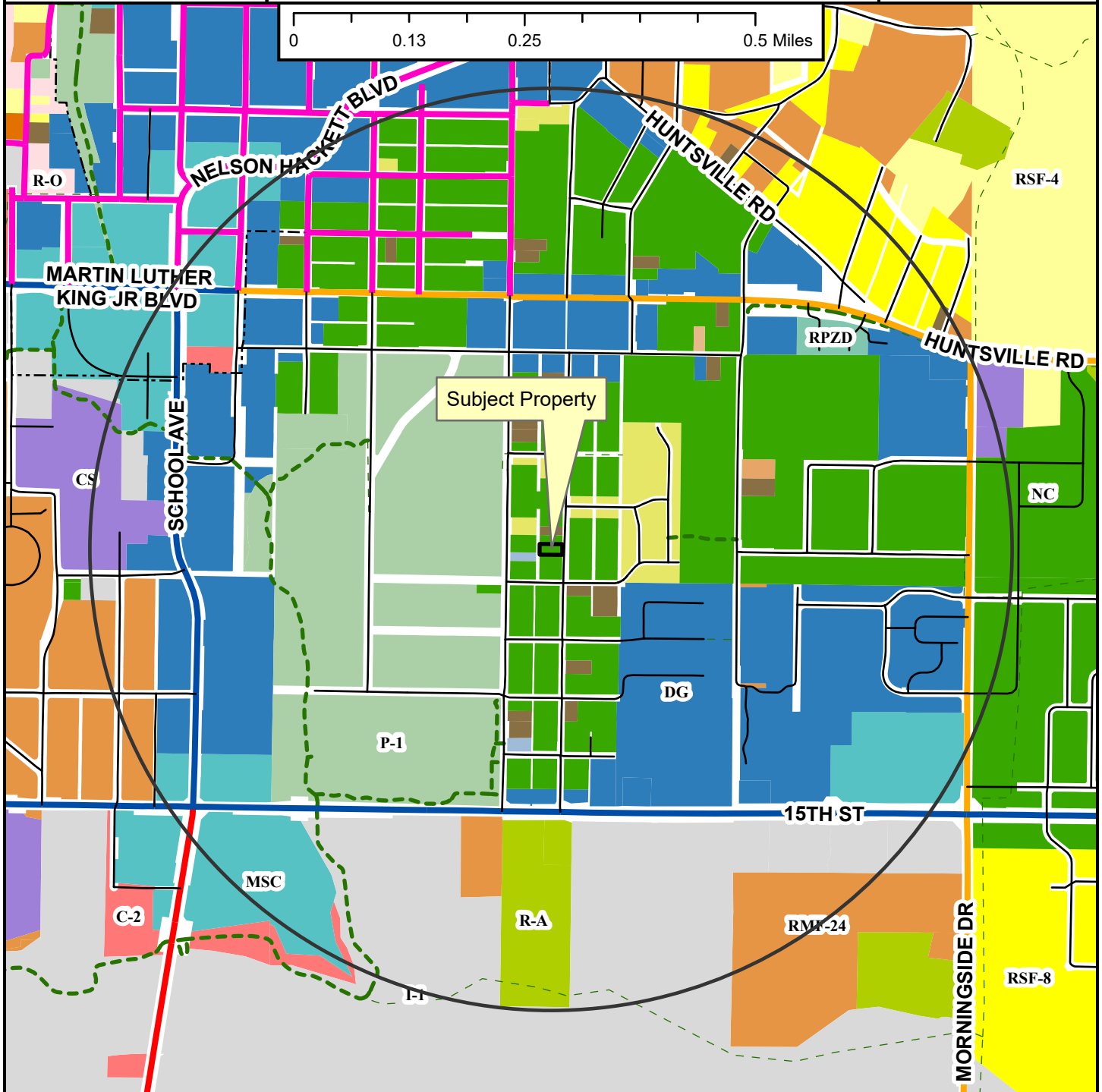
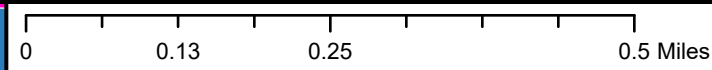
FLOOR PLAN



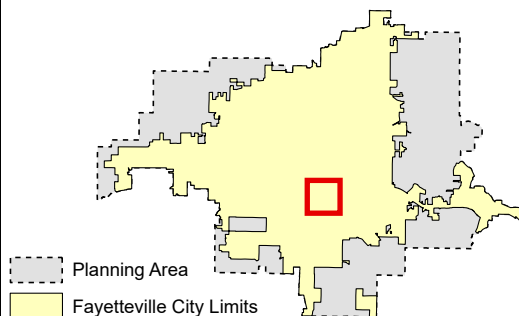
CUP-2023-0092

1049 S WASHINGTON AVE

One Mile View



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

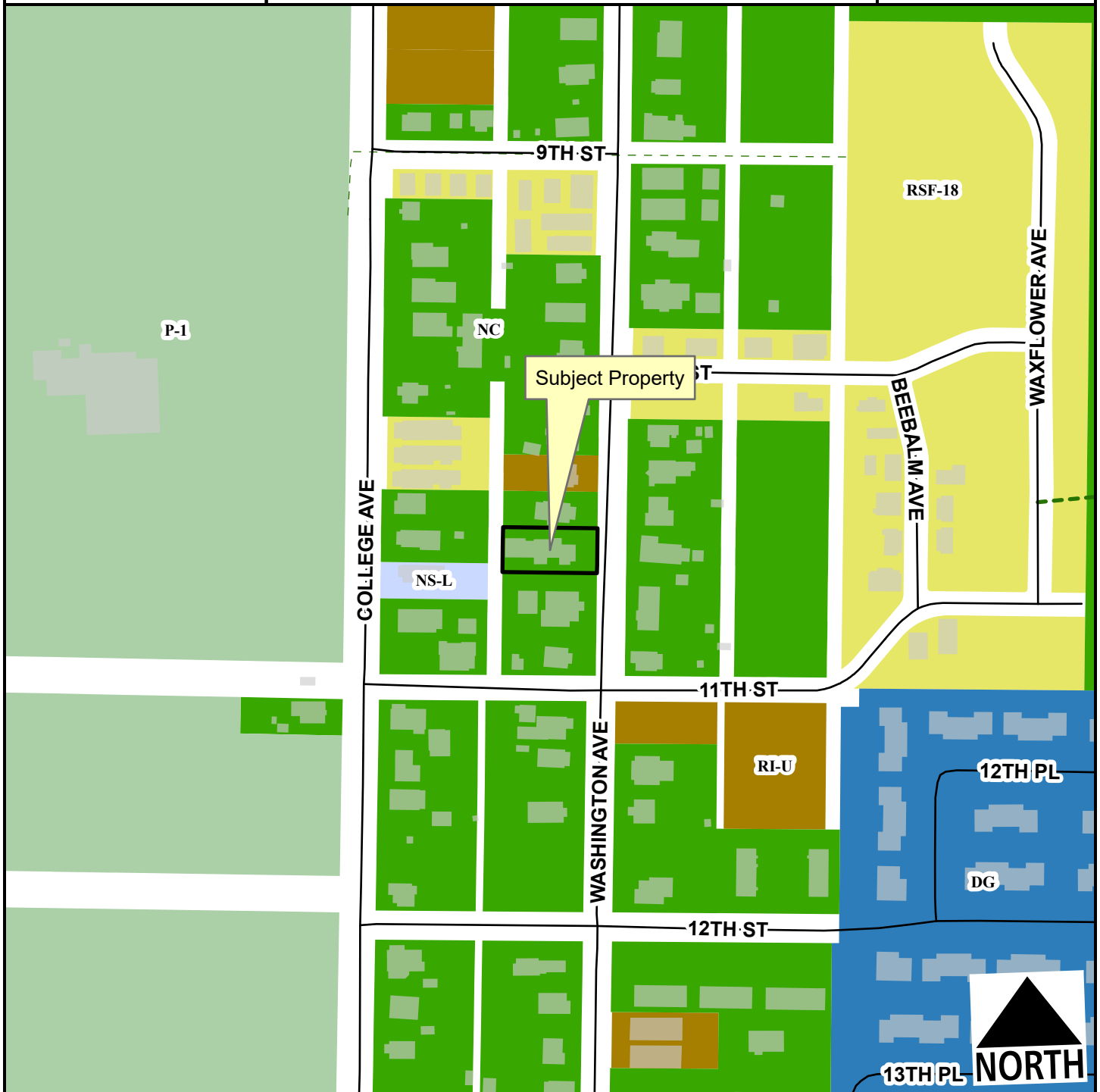


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial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

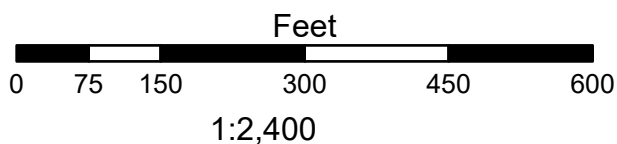
CUP-2023-0092

1049 S WASHINGTON AVE

Close Up View



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



- RSF-18
- RI-U
- Downtown General
- Neighborhood Services - Ltd.
- Neighborhood Conservation
- P-1

CUP-2023-0092

1049 S WASHINGTON AVE

Current Land Use



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



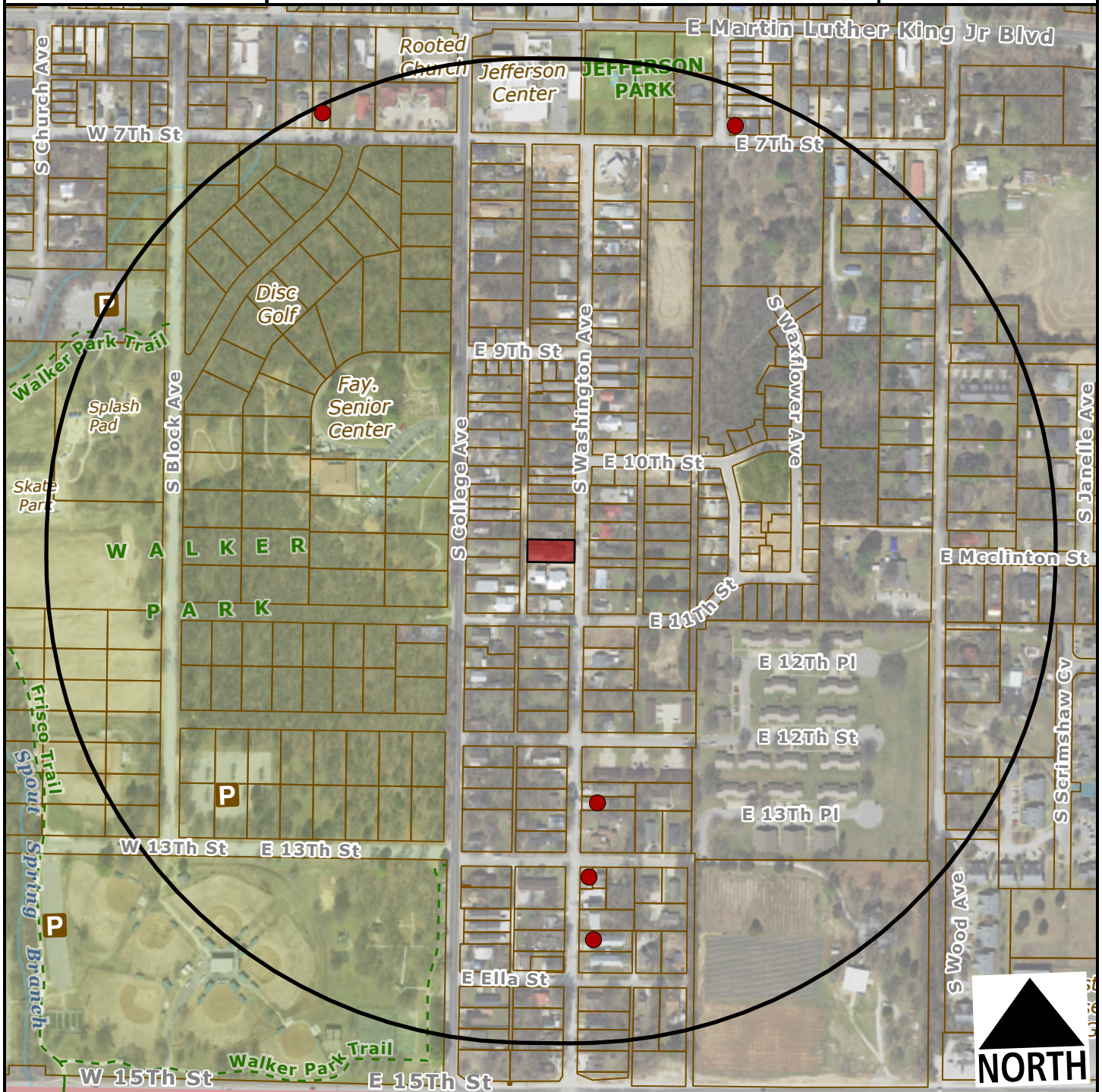
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0092

1049 S WASHINGTON AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 5



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 28, 2023

SUBJECT: **CUP-2023-0087: Conditional Use Permit (1318 S. WEST AVE./GINGER, 562):** Submitted by NAN GINGER for property located at 1318 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 use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0087** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0087**, determining:*

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

BACKGROUND:

The subject property is located in south Fayetteville on the east side of West Avenue about 400 feet north of the street's intersection with 15th Street. The property contains 0.23 acres and is developed with a 1,356-square-foot, three-bedroom, single-family dwelling which was built in 1951. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Transportation Trades and Services	DG, Downtown General
West	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a city-wide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0087** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;
6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;
7. All trash receptacles shall be screened from view of the right-of-way;
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RMF-24 zoning.**

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

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

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

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

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

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

- (c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in RMF-24 zoning. Since RMF-24 is a residential zoning district, a conditional use permit is required.

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

Finding: The dwelling has three bedrooms which would limit occupancy to a maximum of eight guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

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

Finding: Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, two on-site vehicle parking spaces will be available to guests in an unpaved driveway which is located next to the house.

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

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

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

Finding: The application is for use of the property at 1318 S. West Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of August 22, 2023, the City had issued 395 Type 2 short-term rental business licenses. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.

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

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

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

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

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two off-street parking spaces will be available for guests in an existing driveway, and on-street parking is available nearby along West Avenue and 13th Street. City records indicate that five other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. One code case violation for storing an inoperable vehicle on site was reported in 2009 when the property was under different ownership.

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

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

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

Finding: An unpaved driveway is available to accommodate vehicular ingress and egress to the subject property. The property also has frontage along a portion of West Avenue which is partially improved with sidewalk at the back

of curb on the west side of the street. Staff finds that the proposal to use the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.

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

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

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

Finding: The applicant proposes to utilize existing residential trash cart service with containers stored behind the house when not placed at the curb for pick up. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view.

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

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

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

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant states that residential trash carts will be stored behind the house and not visible from the street.

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

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

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

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

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

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses and short-term rentals are permitted by right in the underlying RMF-24 zoning district. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans since it does not clearly support any of the stated goals in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a city-wide density cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

- by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

1318 S West Ave. Request Letter

- (a) Building size in square feet; existing and proposed: **1356 SQFT**
- (b) Color elevations of all exterior sides of the structure: **White**
- (c) Number of off-street parking spaces to be provided / number required: **None**
- (d) When request applies to a business or non-residential use: **N/A**
- Hours of operation
 - Number of employees
 - Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour)
- (e) Outdoor lighting: **Front Porch**
- (f) Noise: **N/A**
- (g) Screening or buffering from adjacent properties: **N/A**
- (h) Trash and refuse service: **City of Fayetteville Trash Can. To be stored in the back of the house with no visibility to neighbors.**
- (i) Ingress and egress to the property; traffic impacts: **Two Car Driveway that they pull into from West Ave.**
- (j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood. **Property next door to the South is a 16-unit rental development. The rest of the neighborhood is comprised of single family rentals and homes.**





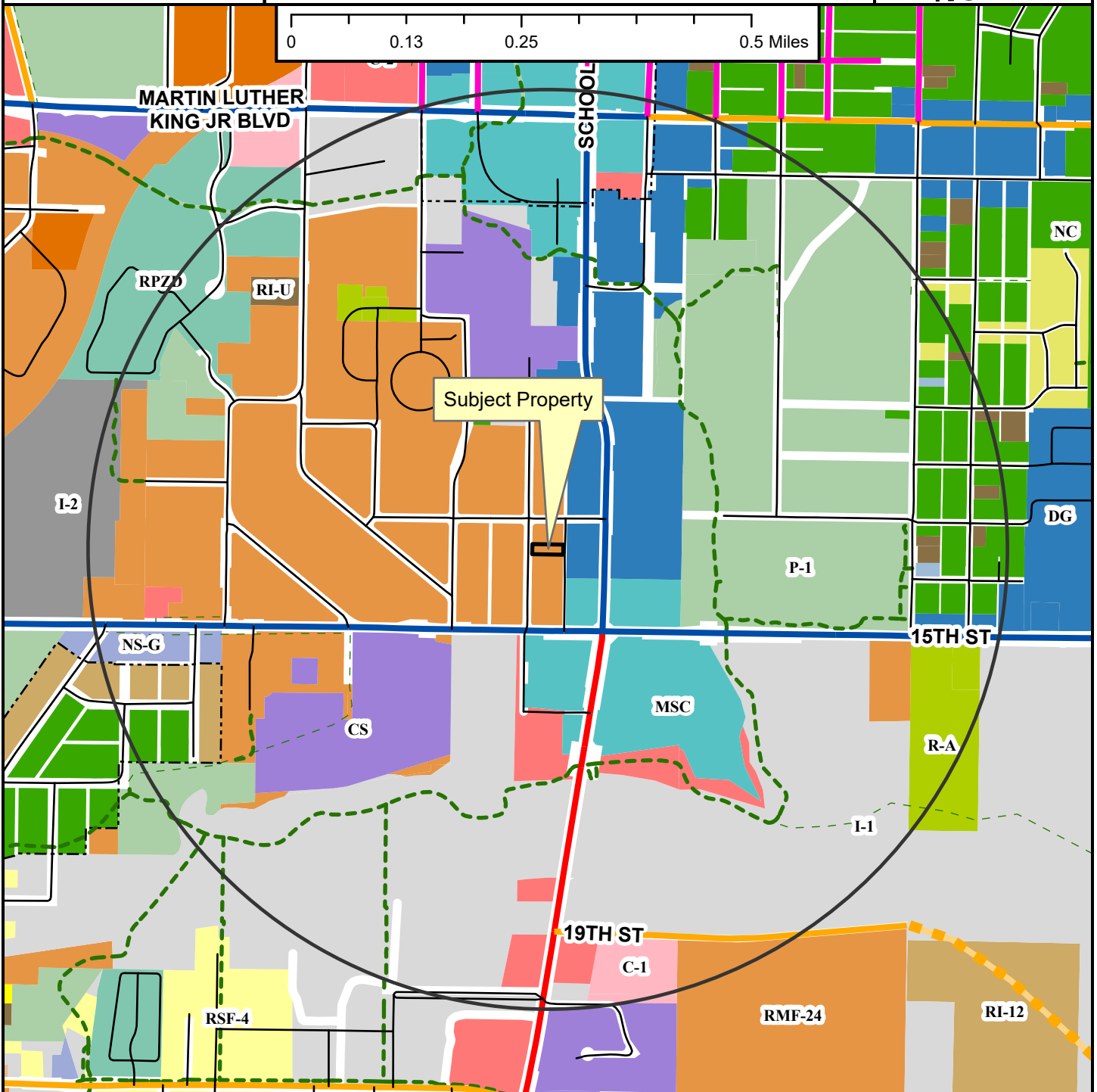
CUP-2023-0087

1318 S. WEST AVE

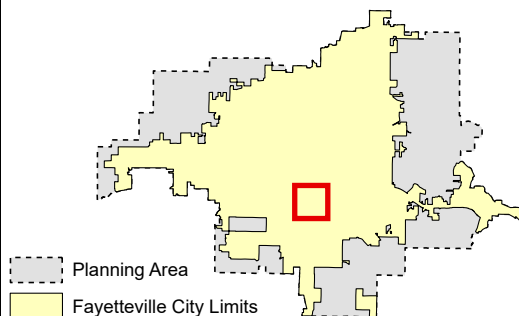
One Mile View



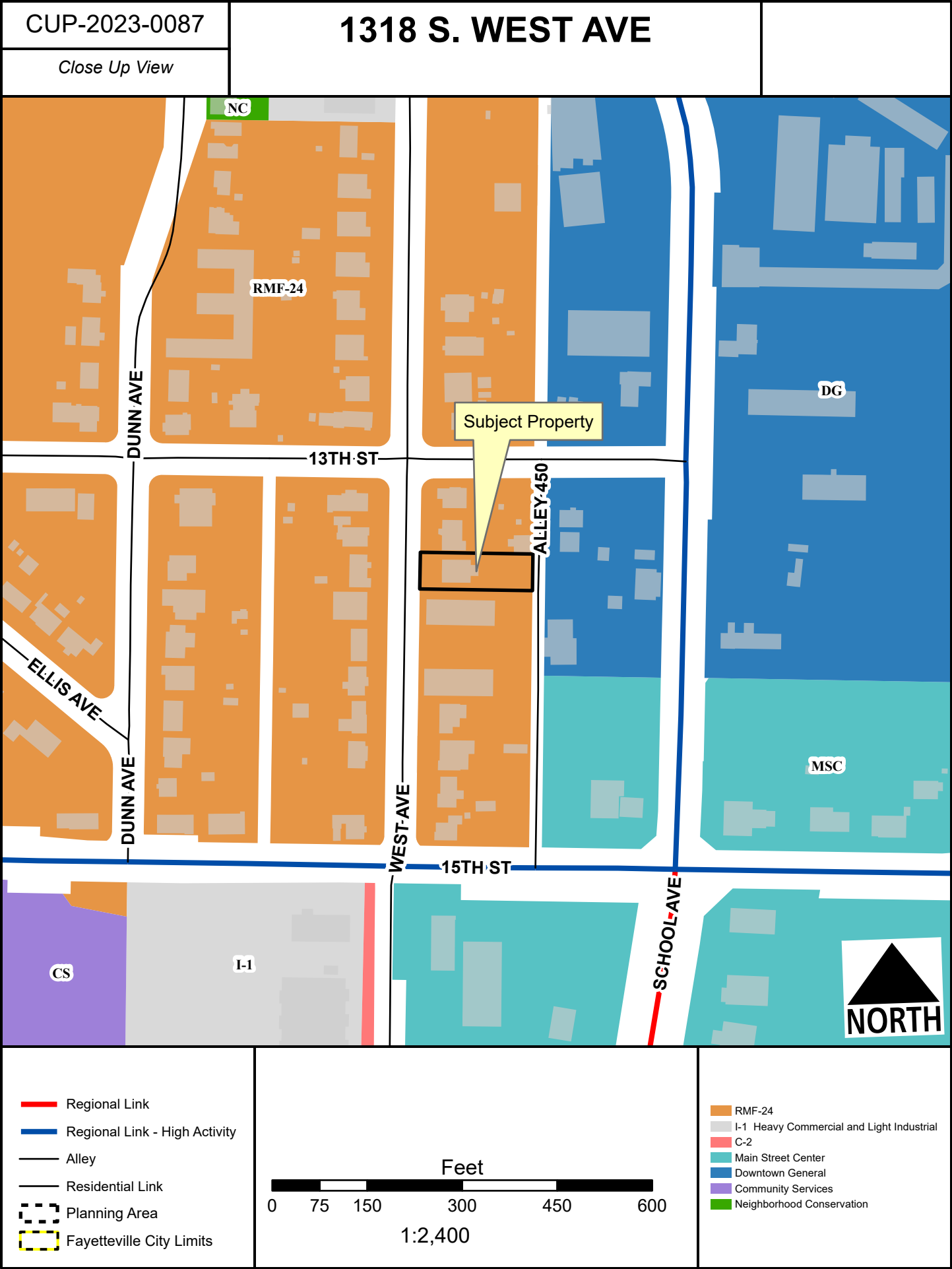
0 0.13 0.25 0.5 Miles



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



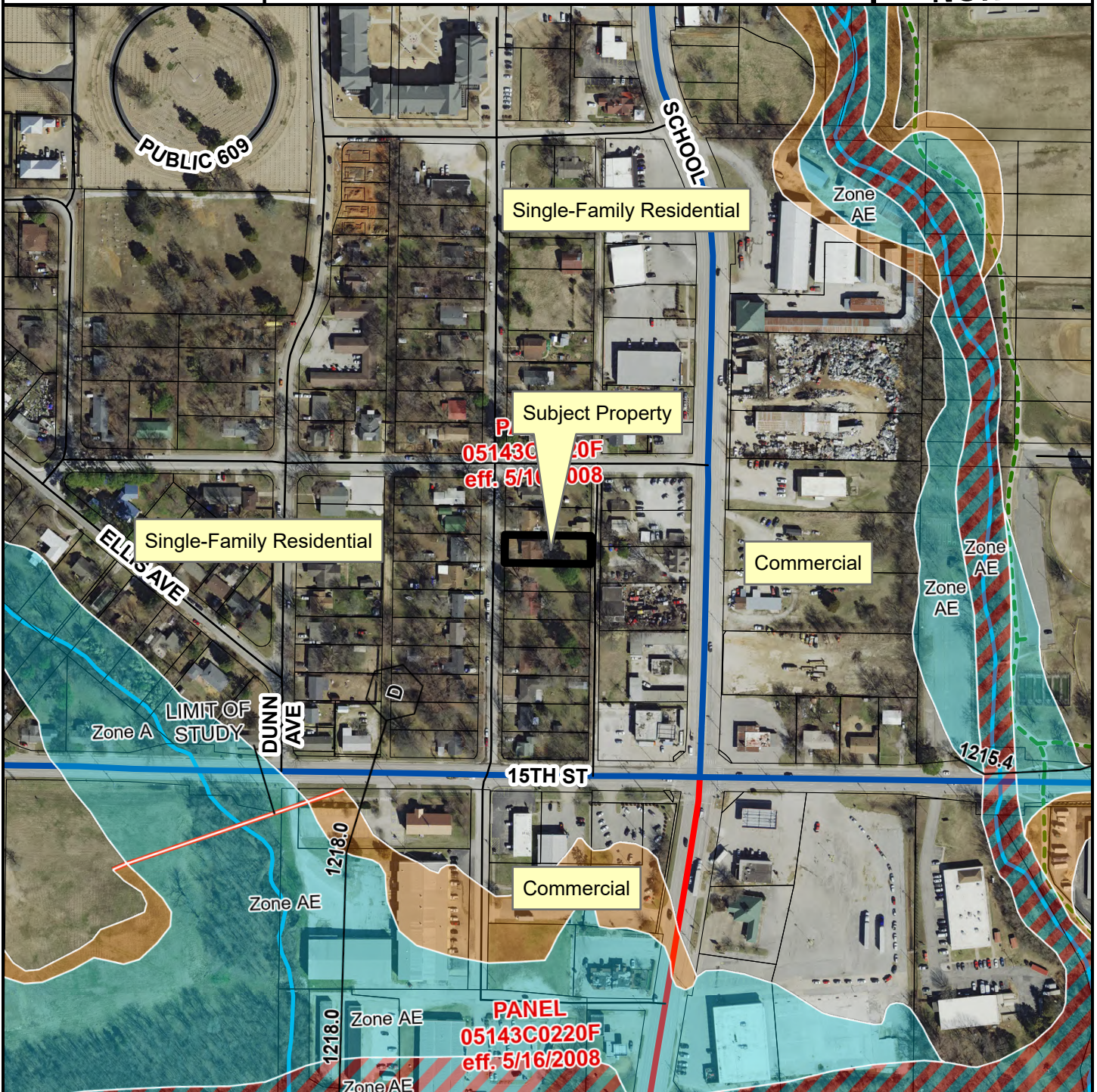
- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial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



CUP-2023-0087

1318 S. WEST AVE

Current Land Use



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



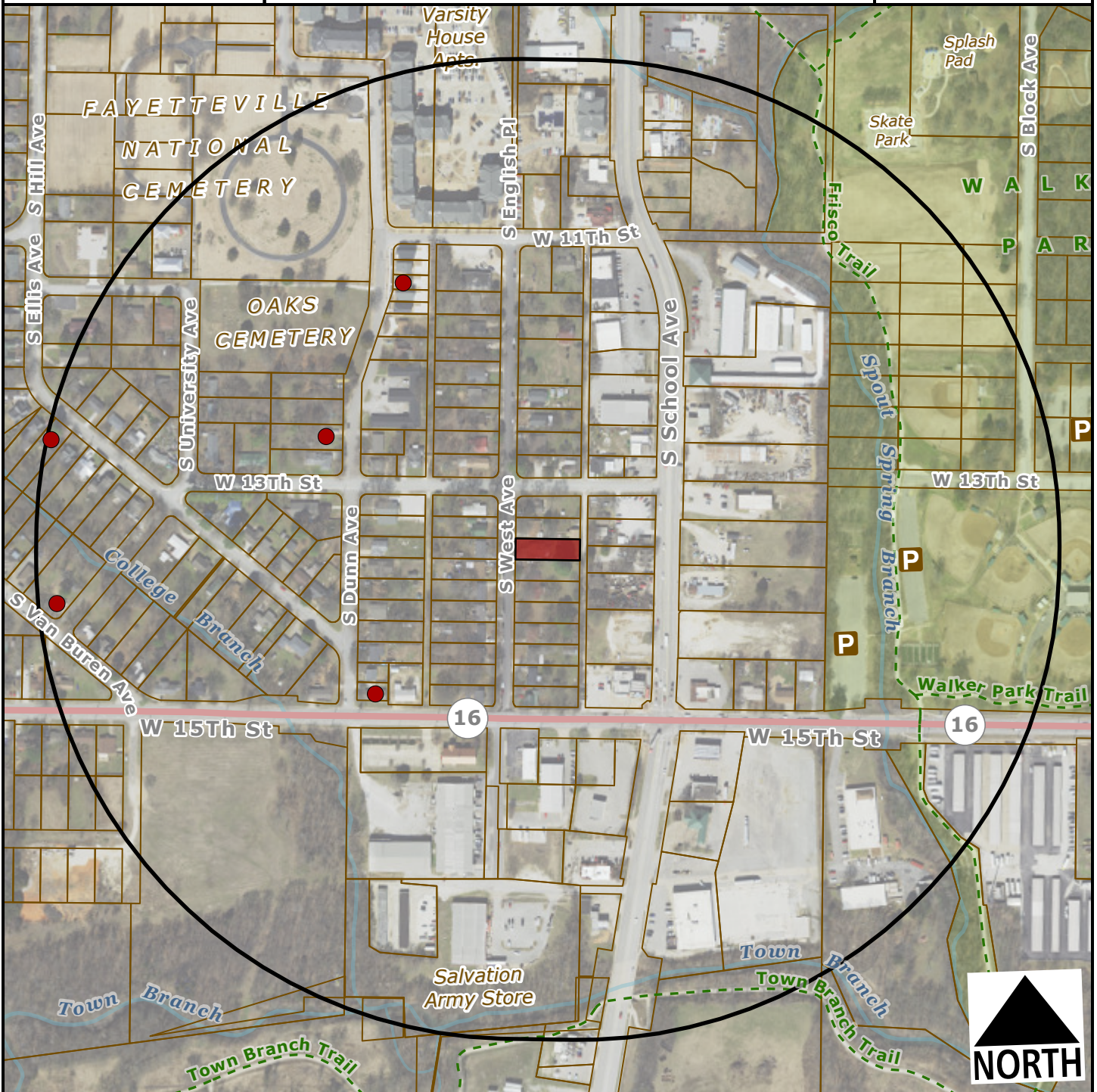
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0087

1318 S. WEST AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 5



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 28, 2023

SUBJECT: **CUP-2023-0090: Conditional Use Permit (1016 N. LAKESIDE DR./TEEGARDEN, 447):** Submitted by EMILY TEEGARDEN for property located at 1016 N. LAKESIDE DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0090** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0090**, determining:*

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

BACKGROUND:

The subject property is located just north of Mount Sequoyah on the east side of Lakeside Drive about a tenth of a mile east of Mission Boulevard. The property contains 0.20 acres and is developed with a 3,000-square-foot, three-bedroom, single-family dwelling which was built last year. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

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

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a city-wide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0090** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;
6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;
7. All trash receptacles shall be screened from view of the right-of-way;
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

- B. Authority; Conditions.** The Planning Commission shall:
1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;
 2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
 3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
 4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.
- C. Procedures.** A conditional use shall not be granted by the Planning Commission unless and until:
1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

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

§163.18. SHORT-TERM RENTALS.

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

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

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

Finding: The applicant has stated that there are three bedrooms in the house which would limit occupancy to a maximum of eight guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

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

Finding: Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, there is room to park up to six vehicles on site with two spaces in an attached garage and four additional spaces in an existing driveway.

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

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

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

Finding: The application is for use of the property at 1016 N. Lakeside Dr. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of August 22, 2023, the City had issued 395 Type 2 short-term rental business licenses. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.

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

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

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

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

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of six off-street parking spaces will be available for guests in an existing driveway and attached garage. On-street parking does not appear to be available nearby. City records indicate that three other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. No zoning or code violations have been reported at this property since it was redeveloped. Four violations for overgrown grass and one violation for the storage of an inoperable vehicle were reported at this property prior to it being redeveloped.

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

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

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

Finding: A paved driveway is available to accommodate vehicular ingress and egress to the subject property. Staff finds that the proposal to use the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of ten guests, which would not be out of character with the use of the property for residential purposes.

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

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

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

Finding: The applicant proposes to utilize existing residential trash cart service. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view when not placed at the curb for pick up.

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

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

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

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant states that residential trash carts will be screened when not placed at the curb for pick up.

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

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

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

Finding: Based on the applicant's submittal and city records, the house appears to be meeting relevant setbacks.

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

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

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

Finding: Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans since it does not clearly support any of the stated goals in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a city-wide density cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

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

118.01 Applicability

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

- by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

July 10, 2023

City of Fayetteville,

I am writing today to request a permit to operate our home at 1016 N Lakeside Dr as a short term rental when my family is out of town (at least six months out of the year).

DIMENSIONS

The building itself is completely finished and three stories, totaling 3000 square feet. At its tallest it sits approximately 40ft high, and slopes down northward until it's 24ft in height. Full elevation diagrams are included in the application.

PARKING

The garage is a two car garage and we plan to allow an additional two parked vehicles in the driveway, which has space for six.

OUTDOOR LIGHTING

The property has lights on the front and the rear, including a motion activated spotlight for the front driveway. Additionally the decks have overhead lights and wall sconces.

NOISE

Guests will be asked to keep noise down after city noise ordinances would take effect. Additionally noise sensors will be installed on the decks, with a notification being sent to me when noises exceed reasonable levels.

SCREENING/BUFFERING

Only the property at 1038 N Lakeside Dr has an uninhibited view of the house. Trees are installed at the property line but have not yet grown sufficiently large.

TRASH/REFUSE

Trash and recycling are available via city-provided large bins that will be left out every Wednesday night and returned Thursday. Additional waste/recycling will be sent to the dump/recycling center.

INGRESS/EGRESS

Since this is a single family home with no more than four parking spots made available, traffic impact should be kept to a minimum. Guests will be reminded this is a residential area and traffic laws are to be obeyed.

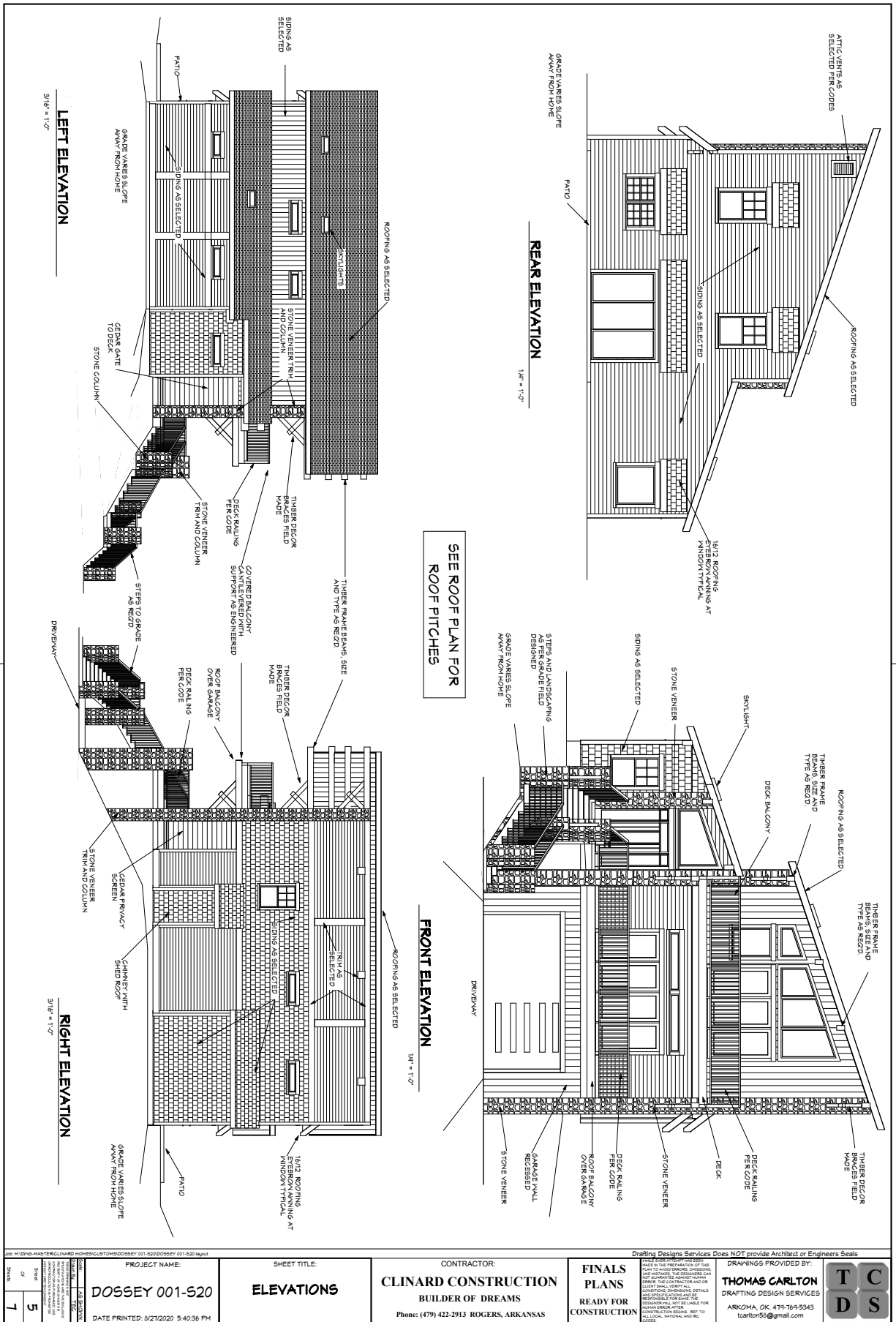
Our goal for this short term rental is not get as many guests in and out as possible. We would like to have some supplemental income when we are out of town, that is all. In order to make this property less appealing to disruptive guests we plan to charge a premium for a nicer home with more luxurious amenities / furnishings.

Sincerely yours,

Tyten Teegarden

A handwritten signature in black ink, appearing to read 'Tyten Teegarden', with a long horizontal flourish extending to the right.

1016 N LAKESIDE DR, FAYETTEVILLE ARKANSAS 72701 573-999-2375 TYTEN@ME.COM



SHEET TITLE: ELEVATIONS		CONTRACTOR: CLINARD CONSTRUCTION BUILDER OF DREAMS Phone: (479) 422-2913 ROGERS, ARKANSAS		DRAWINGS PROVIDED BY: THOMAS CARLTON DRAWING DESIGN SERVICES ARKOMA, OK. 479-764-5343 tcarlton5@gmail.com	
PROJECT NAME: DOSSEY 001-520		DATE PRINTED: 8/27/2020 5:40:36 PM		SHEET OF 5	
DATE PRINTED: 8/27/2020 5:40:36 PM		SHEET OF 7		T C D S	

SCALE: 1/4"=1'-0"

Label	Qty	Box	Sortcode	Height	Type
1465	1	16	57	47	Hybrid
1466	1	2	57	47	Hybrid
1467	1	3	57	47	Hybrid
2045	1	32	57	57	Triple Sliver
2046	1	0	57	57	Hybrid
2047	1	0	57	57	Hybrid
2048	1	3	57	57	Hybrid
2049	1	3	57	57	Hybrid
2050	2	23	57	57	Hybrid
5003	1	47	57	57	Pocket Hybrid
5004	1	36	57	57	Hybrid
5005	1	36	57	57	Hybrid
5006	1	48	57	57	Hybrid
5007	1	48	57	57	Pocket Hybrid
5008	1	48	57	57	Pocket Hybrid
5009	1	48	57	57	Pocket Hybrid
5010	1	48	57	57	Pocket Hybrid
5011	1	48	57	57	Pocket Hybrid
5012	1	48	57	57	Pocket Hybrid
5013	1	48	57	57	Pocket Hybrid
5014	1	48	57	57	Pocket Hybrid
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5099	1	48	57	57	Pocket Hybrid
5100	1	48	57	57	Pocket Hybrid

INSULATE UNDER TUBS AND SPOKER UNITS AND COVER CRACK SPACES	INSULATE AROUND EXTERIOR OUTLETS AND VENTS	FILL ALL VOIDS AS POSSIBLE	USE BATTLES IN ATTIC FOR VENTILATION	ALL SLAB ON GRADE IF USED	ALL RAISED FLOORS OVER CRACK SPACE	6" EXTERIOR WALLS	4" EXTERIOR WALLS	FLAT CEILING IN ATTIC SPACE ABOVE	TYPICAL CEILING
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GENERAL INFORMATION

Actual dimensions are given outside of framing. All interior dimensions are from edge of framing to edge of framing.

Dimensions are indicated by 3/16" increments.

Dimensions shown are rounded up to .05" which translates to 1/2" or .8".

OWNER, CONTRACTOR TO VERIFY ALL WINDOWS, DOORS AND SIZES

QUANTITIES AND LOCATIONS FROM TO AND FROM DOORS PER CODES.

Unless otherwise shown:

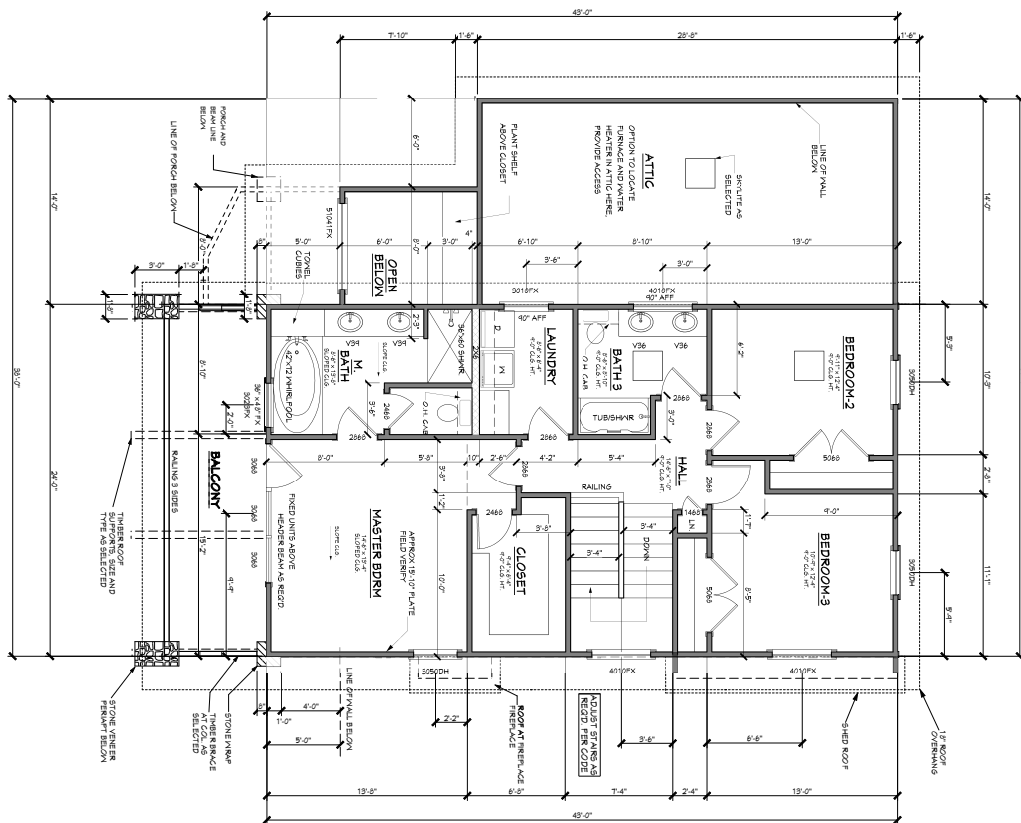
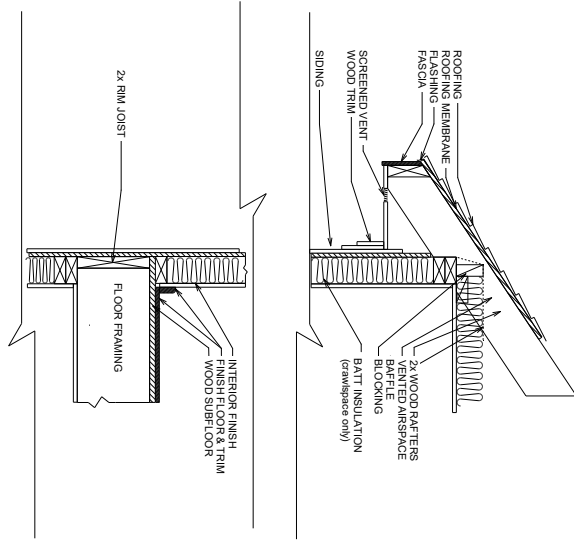
- 1" O.C. means 1" on center
- 2" O.C. means 2" on center
- 4" O.C. means 4" on center
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[illegible]

TC
SD

Labels in the diagram include:

- Siding
- Sheathing
- Treated Sill Plate
- Cast-in-place concrete
- Sill seal
- Anchor bolt
- Termitite flashing (optional)
- Cast-in-place concrete
- Vapor barrier
- Reinforcing steel (as required)
- Concrete slab
- Gravel
- Vapor barrier
- Reinforcing steel (as required)
- Concrete footing
- Drainage system



Job: M:\DWG-MASTER\CLINARD HOMES\CUSTOMS\DOSSEY 001-920\DOSSEY 001-920 layout

PROJECT NAME: DOSSEY 001-S20		DATE PRINTED: 8/27/2020 5:40:32 PM
SCALE: DRAWN BY: CHECKED BY: DATE:	AS SHOWN T.E.C.	
SHEET: OF 7	4	

PROJECT NAME:
DOSSEY 001-S20
DATE PRINTED: 8/27/2020 5:40:32 PM

SHEET TITLE:
**SECOND
FLOOR PLAN**

CONTRACTOR:
CLINARD CONSTRUCTION
BUILDER OF DREAMS
Phone: (479) 422-2913 ROGERS, ARKANSAS

**FINALS
PLANS**
READY FOR
CONSTRUCTION

Drafting Designs Services Does NOT provide Architect or Engineers Seals

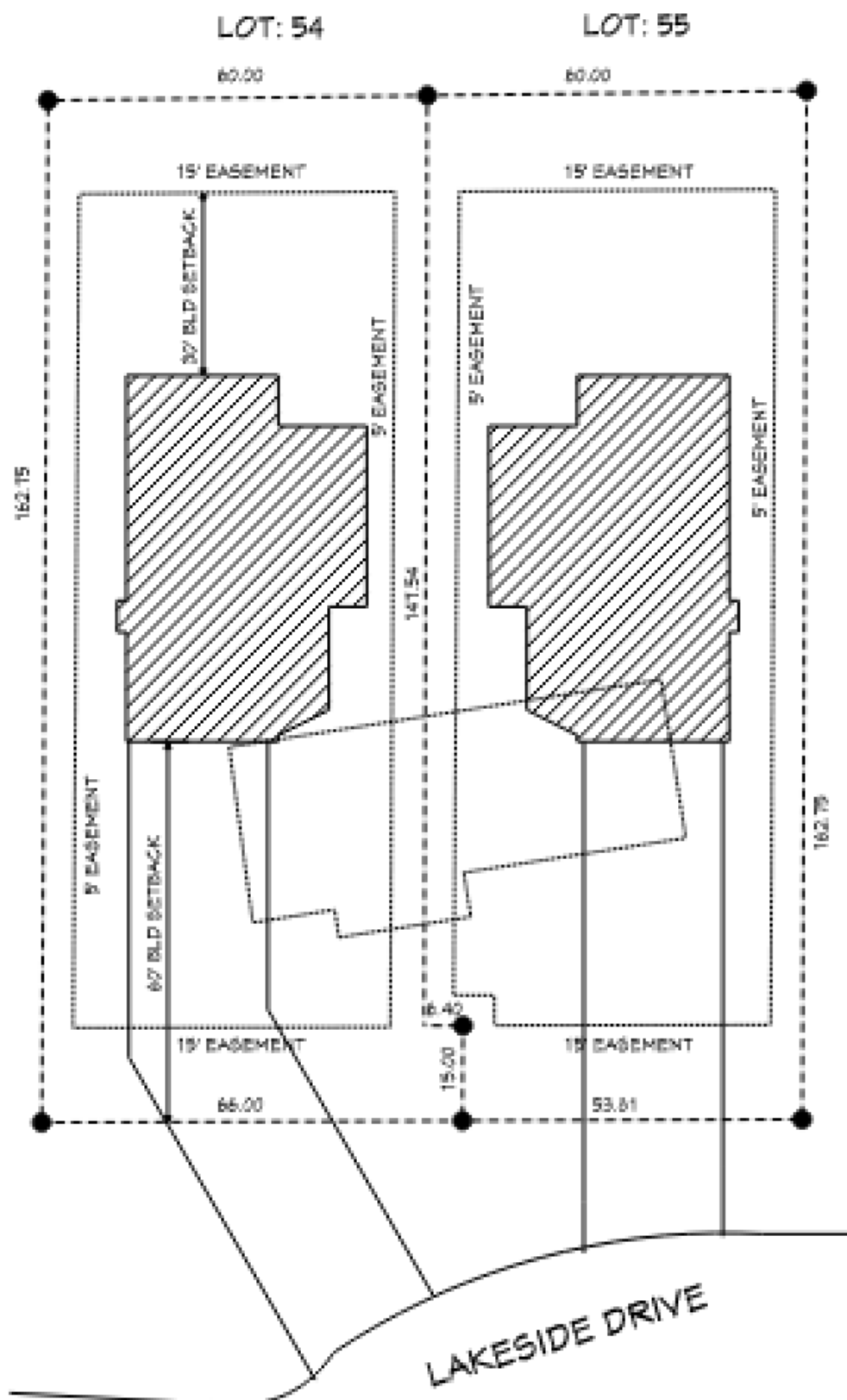
WHILE EVERY ATTEMPT HAS BEEN MADE IN THE PREPARATION OF THIS PLAN TO AVOID ERRORS, OMISSIONS AND MISTAKES, THE DESIGNERS CAN NOT GUARANTEE AGAINST HUMAN ERROR. THE CONTRACTOR AND/OR CLIENT SHALL VERIFY ALL CONDITIONS, DIMENSIONS, DETAILS AND SPECIFICATIONS AND BE RESPONSIBLE FOR SAME. THE DESIGNER WILL NOT BE LIABLE FOR HUMAN ERROR AFTER CONSTRUCTION BEGINS. REF. TO ALL LOCAL, NATIONAL, AND INDUSTRY CODES.

DRAWINGS PROVIDED BY:
THOMAS CARLTON
Planning Comb
DRAFTING DESIGN SERVICE
August 28
ARKOMA OK 74401-5545
tcarlton58@gmail.com

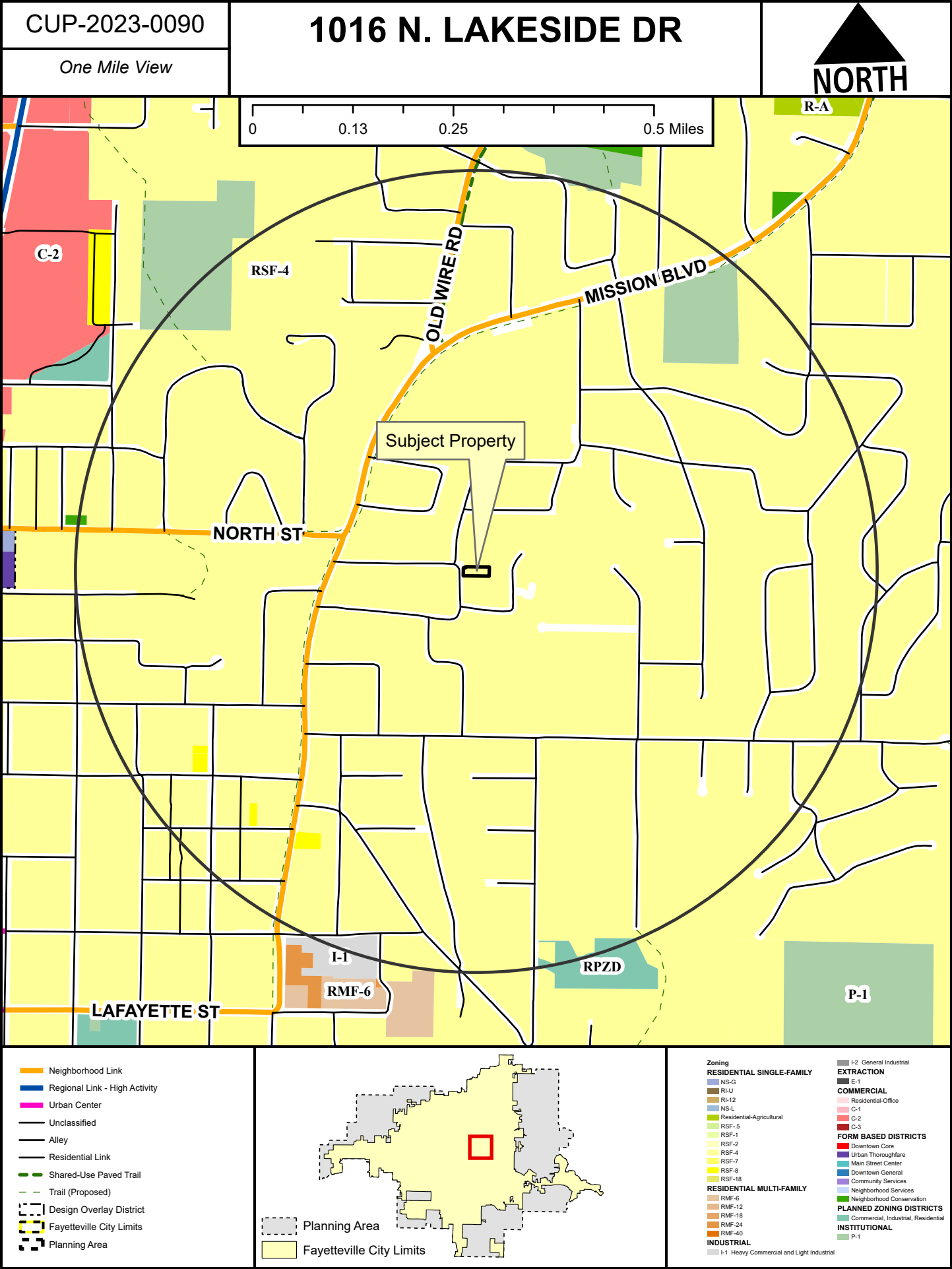
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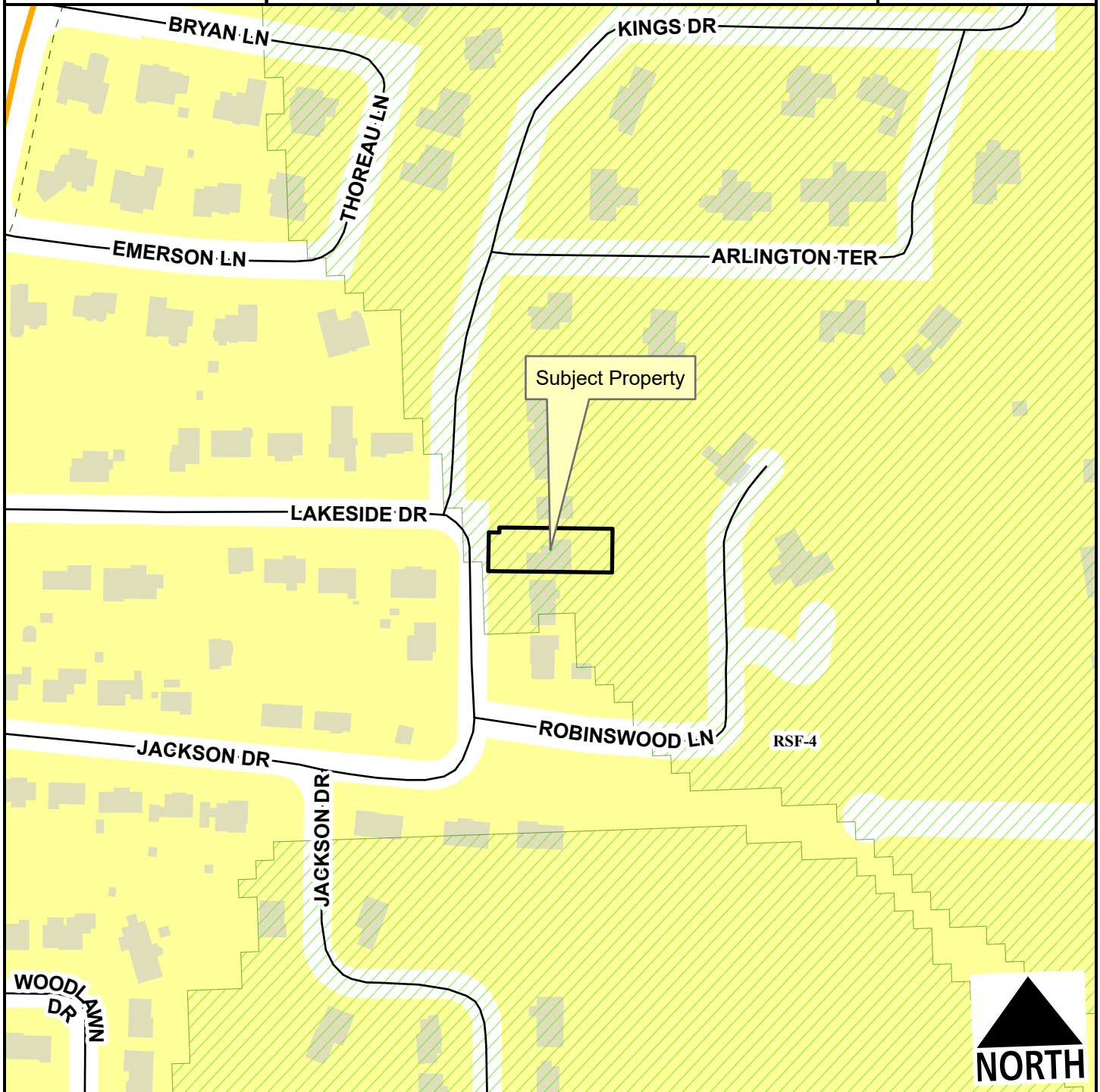
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INSTRUCTION BEGINS. REF. TO
LOCAL, NATIONAL AND REG
CUP-2023-0090 (TEEGARDEN) Page 237 of 333

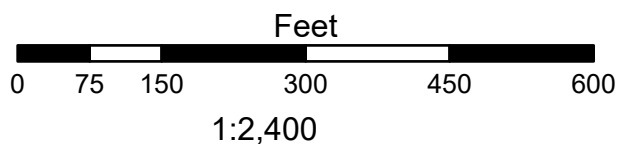


SITE PLAN





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

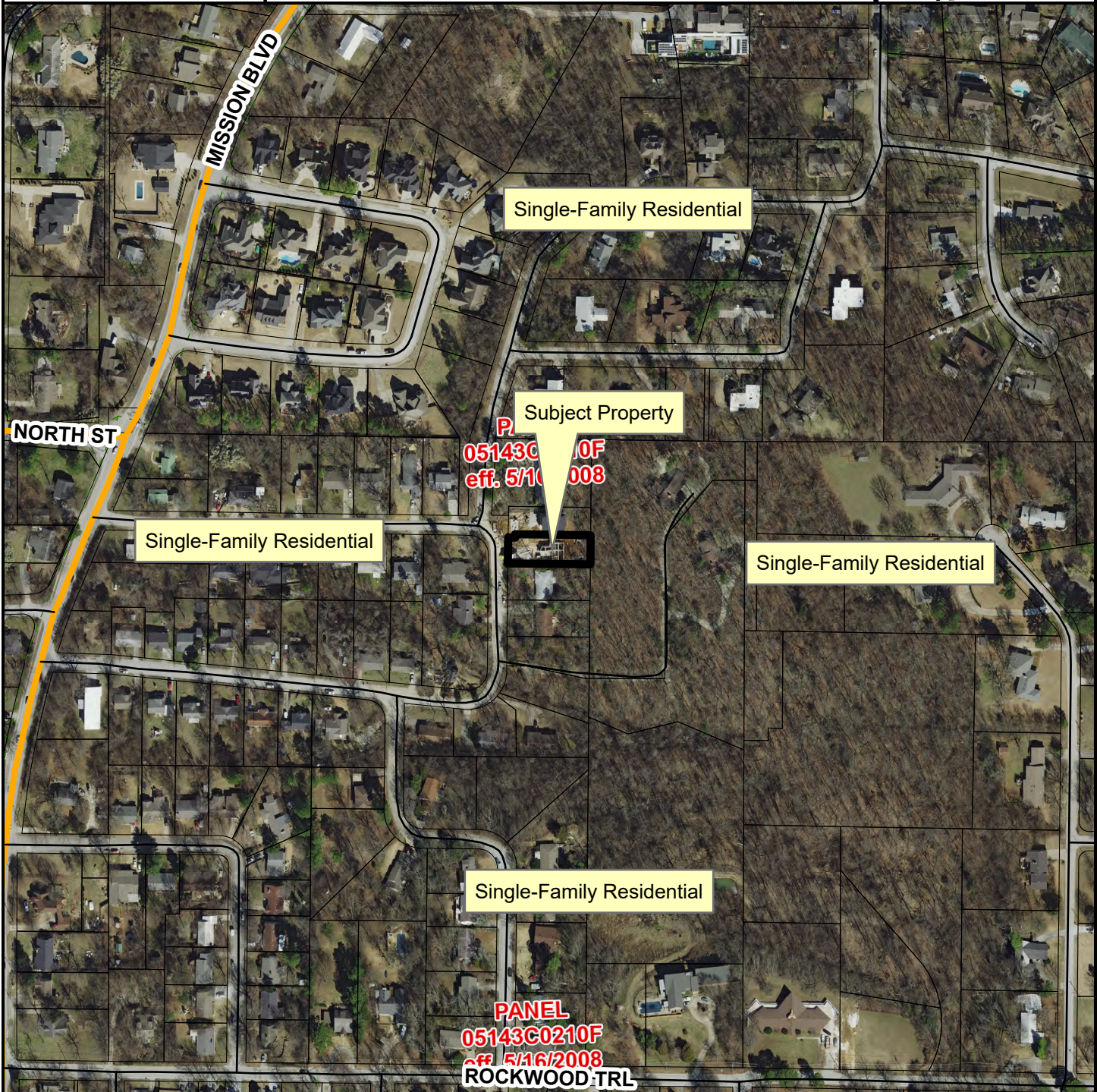


RSF-4

CUP-2023-0090

1016 N. LAKESIDE DR

Current Land Use



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



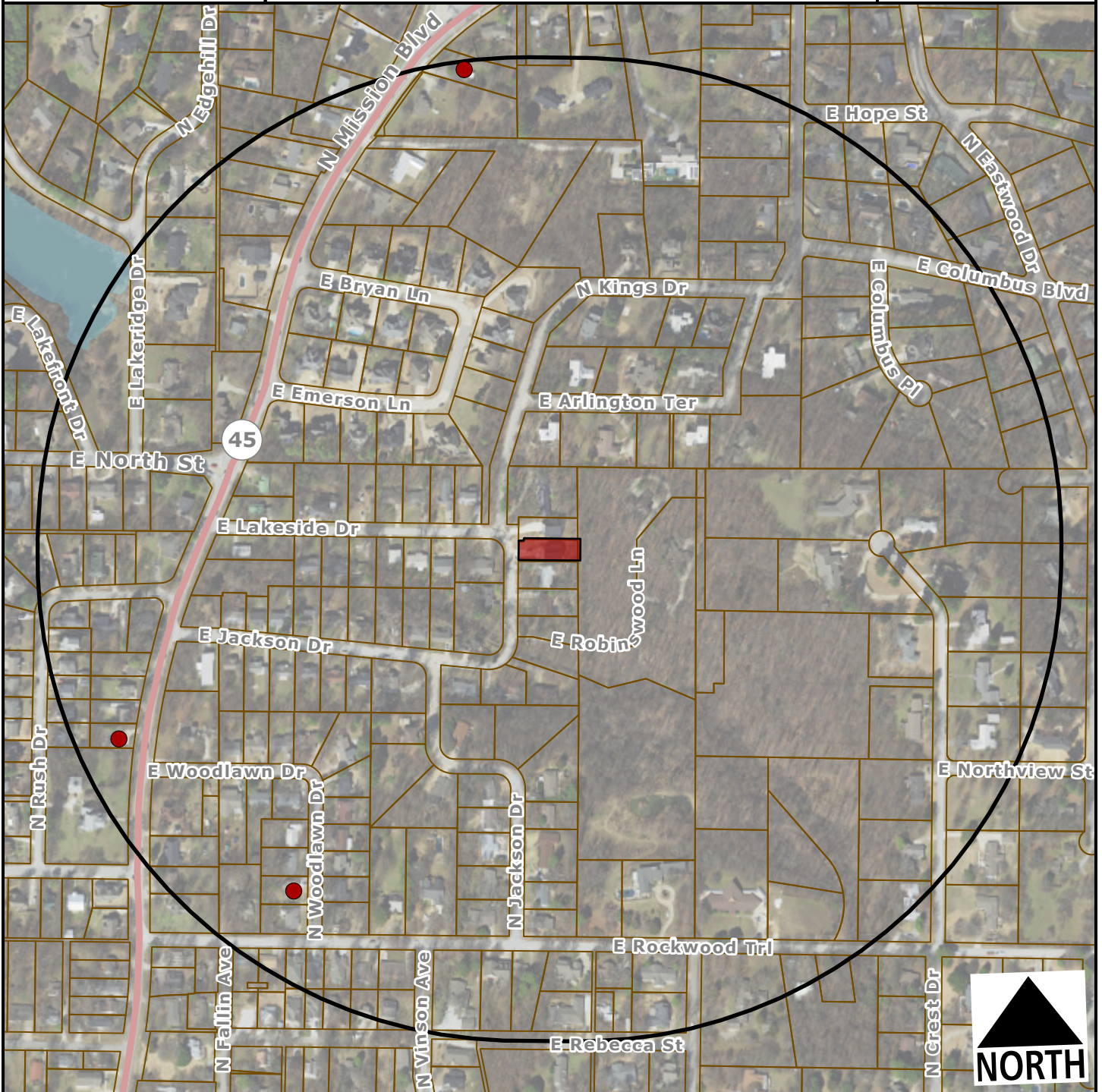
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0090

1016 N. LAKESIDE DR

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2

Feet
0 200 400 800 1,200
1:4,800

Number of STR Licenses

Total 3



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: August 28, 2023

SUBJECT: **CUP-2023-0075: Conditional Use Permit (2646 N. MIRANDA AVE/MITCHELL, 290):** Submitted by MARTINDALE INVESTMENTS LLC for property located at 2646 N. MIRANDA AVE. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0075**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0075** with conditions, determining:*

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

BACKGROUND:

The subject property is located in north Fayetteville at 2646 N. Miranda Avenue in the Sunbridge Villas subdivision, northwest of the intersection of N. College Avenue with Sunbridge Drive. Sunbridge Villas was developed under a Planned Zoning District, and there are no other overlay districts that apply to this property. The parcel totals approximately 0.32 acres. A 2,099 square foot single-family dwelling was constructed on the parcel in 1997 per the Washington County Assessor. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RPZD, Sunbridge Villas PZD
South	Single-family Residential	RPZD, Sunbridge Villas PZD
East	Single-family Residential	RPZD, Sunbridge Villas PZD
West	Single-family Residential	RPZD, Sunbridge Villas PZD

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment to date.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0075**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per §120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in this Residential Planned Zoning District.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

Finding: The request is to operate a Type 2 short-term rental in this residential planned zoning district; since the PZD is strictly for residential uses, it requires a conditional use permit.

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

Finding: The dwelling has three bedrooms, which would limit occupancy to eight (8) guests as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing.

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

Finding: Parking is limited as described in UDC §163.18(C). Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. According to the applicant the structure has three bedrooms and up to 4 off-street parking spaces; two spaces in an attached garage and another 2 in the driveway.

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

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

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer,

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

Finding: **The application is for use of the property at 2646 N. Miranda Avenue. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 22, 2023, the City had issued 395 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license but does not guarantee its approval. The applicant is not requesting any exceptions.**

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

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

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

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

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four off-street parking spaces will be available for guests in an existing driveway and garage. On-street parking does not appear to be readily available on N. Miranda Avenue, given the narrowness of the street at approximately 22 feet wide; however, there do not appear to be any "No Parking" signs along the street currently. City records indicate four other units within a quarter-mile radius that have active Type 2 short-term rental business licenses. No prior zoning or code violations have been reported on this property.**

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

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

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience,

traffic flow and control and access in case of fire or catastrophe;

Finding: The parcel has frontage along N. Miranda Avenue, a partially improved residential link with sidewalk along the eastern side, which is the side of the street the applicant's property is on. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight (8) guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The dwelling has a two-car garage with two additional parking spaces available in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant states that the residential trash carts are to be kept in the garage when not at the curb.

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

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

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

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

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

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses and short-term rentals are permitted by right in the underlying RSF-4 zoning district. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request. Staff finds that with the intermittent use of the property as a short-term rental, and that a concentration of short-term rentals in the area has not yet reached a saturation point, the request is compatible with the surrounding neighborhood.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes. The property has a moderately high infill score (8) and is relatively densely developed.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - Ordinance 4956 – Excerpt – Sunbridge Villas
- Applicant Request Letter
- Site Plan
- Building Floor Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Type-2 STRs within ¼ Mile Map

118.01 Applicability

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

agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

Michael Martindale
Martindale Investments LLC
3049 Emerald Park Trail
Bauxite AR, 72011]
martindaleinvestments@gmail.com
501-613-4461
7/20/2023

Subject: Letter of Intent for Conditional Use Permit for Short-Term Rental at 2646 N Miranda Ave

Dear Planning Commision,

I am writing to formally express my intent to apply for a Conditional Use Permit (CUP) for a Type 2 short-term rental at the property located at 2646 N Miranda Ave, under the name of Martindale Investments LLC. As the tenant of this property, I have obtained permission from the property owner, Debbie Mitchell, to operate her residence as a short-term rental.

I understand the significance of adhering to local regulations and ensuring the well-being of the neighborhood. My intention with this short-term rental is to provide responsible and considerate accommodations for visitors to the area while maintaining the peace and tranquility of the community.

Below are some key points about the proposed short-term rental:

Property Address: 2646 N Miranda Ave,

Property Owner: Debbie Mitchell

Type of Rental: Type 2 Short-Term Rental

Proposed Rental Period: Up to 30 days per guest stay

Responsible Management: Myself and a property manager that lives in Fayetteville will personally oversee all aspects of the short-term rental to ensure guests' adherence to local regulations and property guidelines.

I assure you that I am committed to being an exemplary short-term rental host, prioritizing the comfort and safety of guests, and fostering a respectful relationship with neighbors. Moreover, I am willing to address any concerns and collaborate with the local community to maintain the integrity of the neighborhood.

I am aware of the necessary steps involved in obtaining a Conditional Use Permit and have initiated the process of gathering all required documentation, including zoning compliance, safety measures, and occupancy limits. I am more than willing to participate in any interviews or meetings to discuss my plans for the short-term rental and demonstrate my commitment to being a responsible host.

I kindly request the opportunity to discuss my application with you in person to address any questions or concerns you may have.

Thank you for considering my request. I look forward to the chance to contribute positively to the community and provide visitors with a memorable and enjoyable stay while adhering to all local regulations and requirements.

Sincerely,

Michael Martindale
Martindale Investments LLC



12:52

89



2646 N Miranda St



2646 N Miranda Ave



Restaurants



Shopping



Coffee



Apparel

2664



N Miranda St

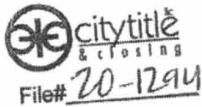
2652

2646

2638

Type: REAL ESTATE
Kind: WARRANTY DEED
Recorded: 4/3/2020 3:09:40 PM
Fee Amt: \$25.00 Page 1 of 3
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2020-00010587



Prepared under the supervision of:
Blake Hanby, Attorney
1450 E. Zion Road, Suite 7
Fayetteville, AR 72703

WARRANTY DEED
(Limited Liability Company)

File # 20-1294

KNOW ALL MEN BY THESE PRESENTS:

That **Copia Properties, LLC** an Arkansas limited liability company, hereinafter called Grantor, for and in consideration of the sum of One and No/100----Dollars---(\$1.00) Dollars and other good and valuable consideration in hand paid by **Mitchell Property Investments, LLC**, an Oklahoma limited liability company hereinafter called Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto said Grantee and unto its successors and assigns, forever, the following described land, situated and being in the County of Washington, State of Arkansas, to-wit:

Lot 96, Sunbridge Villas Subdivision, to the City of Fayetteville, Arkansas, as shown plat of record in Plat Book 23A at page 289, plat records of Washington County, Arkansas.

Subject to easements, right-of-ways, and protective covenants of record, if any.
Subject to all prior mineral reservations and oil and gas leases, if any.

TO HAVE AND TO HOLD the same unto said Grantee and unto its successors and assigns, forever with all appurtenances thereunto belonging. And the Grantor hereby covenants with said Grantee it will forever warrant and defend the title to the said lands against all claims whatsoever.

WITNESS our hands and seals as such Grantor this 2nd day of April, 2020.

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this document.

GRANTEE AGENT: Mitchell Property Investments, LLC
GRANTEE ADDRESS: 730 W. Southlake Dr
Tahlequah, OK 74464-6488

Copia Properties, LLC, an Arkansas limited liability company

By: Courtney Gwaltney
Courtney Gwaltney, formerly known as
Courtney M. Smith, Manager/Sole Member

Parcel: 765-16000-000
 Prev. Parcel: 765-16000-000
 As of: 6/22/2023

Washington County Report

ID: 107840

Property Owner

Name: MITCHELL PROPERTY INVESTMENTS LLC

Mailing Address: 730 W SOUTHLAKE DR
TAHLEQUAH, OK 74464

Type: (RI) Res. Improv.

Tax Dist: (011) FAYETTEVILLE SCH, FAY

Millage Rate: 57.95

Property Information

Physical Address: 2646 N MIRANDA AVE

Subdivision: SUNBRIDGE VILLAS S/D

Block / Lot: N/A / 096

S-T-R: 35-17-30

Size (Acres):

Market and Assessed Values

Taxes

	Estimated Market Value	Full Assessed (20% Mkt Value)	Taxable Value	Estimated Taxes:	\$2,288
Land:	\$35,000	\$7,000	\$7,000	Homestead Credit:	\$0
Building:	162450	32490	32490	Note: Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.	
Total:	\$197,450	\$39,490	\$39,490		

Land

Land Use	Size	Units
	1.000	House Lot
Total	1.000	

Deed Transfers

Deed Date	File Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
4/2/2020	4/3/2020	2020	10587	Warr. Deed	676.50	\$204,900	MITCHELL PROPERTY INVESTMENT S LLC	Unval.	Improve d
8/24/2010		2010	24710	SpecWarr	8774.70	\$2,659,000	COPIA PROPERTIES LLC	Additional Propertie s	Improve d
8/4/2010		2010	22263	CommDeed			FIRST STATE BANK	Additional Propertie s	N/A
9/4/2008		2008	39589	SpecWarr			SUNBRIDGE PATIO VILLAS LLC	N/A	N/A
5/25/2007		2007	20049	Warr. Deed			SUNBRIDGE VILLAS DEVELOPME NT 1 LLC	Additional Propertie s	Improve d
1/29/2007		2007	3604	Warr. Deed			SUNBRIDGE VILLAS HOLDINGS LLC	N/A	N/A

Not a Legal Document.
 Subject to terms and conditions.

Reappraisal Value History

Tax Year	Total Value	Total Assessed
2015	\$155,250.00	\$31,050.00
2016	\$155,250.00	\$31,050.00
2017	\$155,250.00	\$31,050.00
2018	\$155,250.00	\$31,050.00
2019	\$155,250.00	\$31,050.00
2020	\$197,450.00	\$34,155.00
2021	\$197,450.00	\$39,490.00
2022	\$197,450.00	\$39,490.00

Details for Residential Card 1

Occupancy	Story	Construction	Total Liv	Grade	Year Built	Age	Condition	Beds
Single Family	ONE	Frame Siding Std.	1,696	3	2007	16	Average	

Exterior Wall: STANDARD

Foundation: Slab

Floor Struct: ElevSlab

Floor Cover: Carpet & Tile

Insulation: Ceilings Walls

Roof Cover: Fiberglass Shingle

Roof Type: HipGable

Plumbing: Full: 2

Fireplace: Type: 1s Sgl. Qty: 1

Heat / Cool: Central

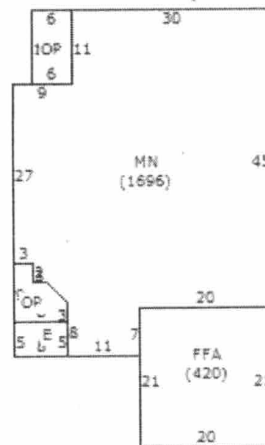
Basement: N/A

Basement Area:

Year Remodeled:

Style:

DataScout, LLC



Not a Legal Document.
 Subject to terms and conditions.

Parcel: 765-16000-000
Prev. Parcel: 765-16000-000
As of: 6/22/2023

Washington County Report

ID: 107040

Base Structure

Item	Label	Description	Area
A	MN	Main Living Area	1696
B	OP	Porch, open	52
C	OP	Porch, open	66
D	FFA	Garage - frame finished, attac	420
E	OP2	Porch, half open	40

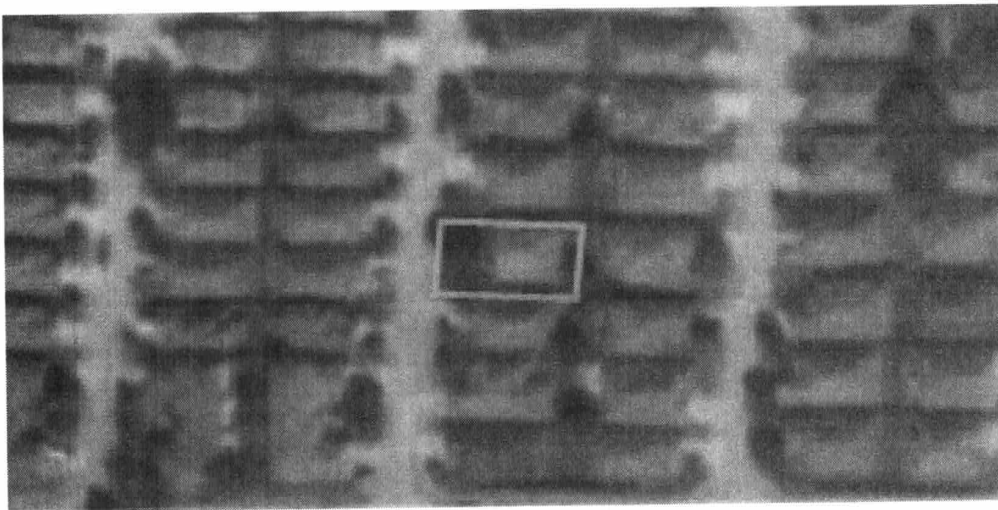
Outbuildings and Yard Improvements

Item	Type	Size/Dim	Unit Multi.	Quality	Age
Driveway, concrete		18x21			
Fence, wood 6'		165			

Other Adjustments

Code	Type	Quantity
FLOORC	H	509
FLOORC	T	339
WC		322

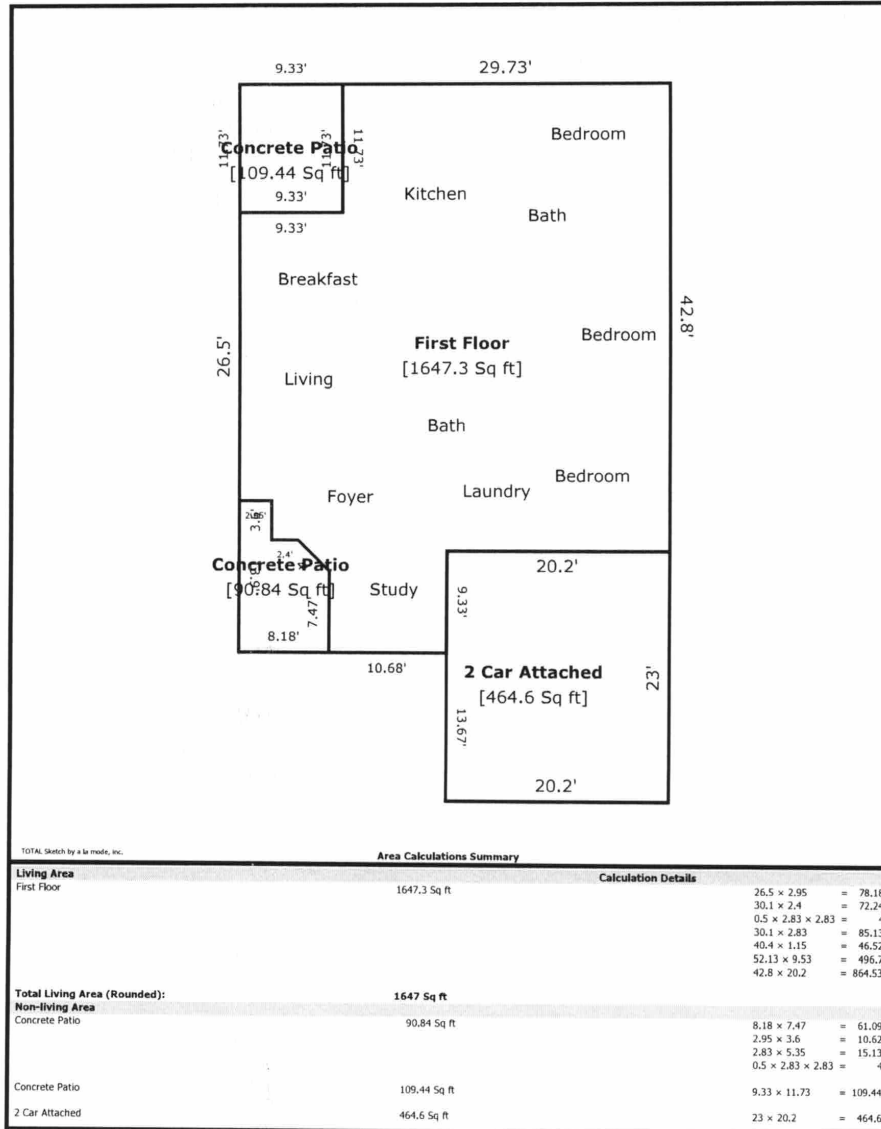
Map



Not a Legal Document.
Subject to terms and conditions.

Building Sketch

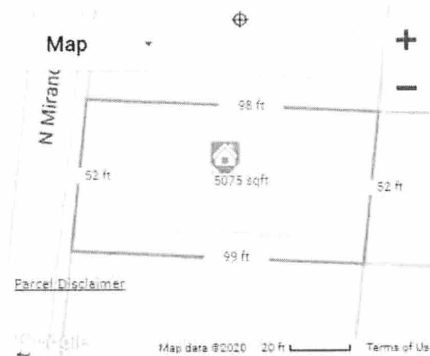
Borrower	Mitchell Property Investments					
Property Address	2646 N Miranda Ave					
City	Fayetteville	County	Washington	State	AR	Zip Code 72703
Lender/Client	BancFirst					



Form SKT.BLDSKI - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Parcel Map

2646 N Miranda Avenue, Fayetteville, AR 72703

[Listing](#) [Tax](#) [Photos](#) [History](#) [Parcel Map](#) [Flood Map](#) [Foreclosure](#)

Form SCNLGL - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE











F. Proposed Zoning and Development Standards For:

PLANNING AREA 1 (PA-1) SINGLE FAMILY DWELLING

(A) *PURPOSE*: AREA 1 IS DESIGNED TO ENCOURAGE SINGLE FAMILY HOMES AT A MODERATE DENSITY.

(B) *USES*:

Permitted Uses

UNIT 1	CITY WIDE USES BY RIGHT
UNIT 8	SINGLE FAMILY DWELLING

Conditional Uses

UNIT 2	CITY WIDE USES BY CONDITIONAL USE PERMIT
UNIT 24	HOME OCCUPATIONS

(C) *DENSITY*: 129 units/ 16.60 ac

UNITS/ACRE	7.77
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(D) *BULK AND AREA REGULATIONS*:

LOT AREA MINIMUM	3,303 sq ft
MIN. LOT WIDTH	38 ft
LAND AREA PER DWELLING	3,303 sq ft

(E) *SETBACK REQUIREMENTS*

FRONT	SIDE	REAR
*15 ft	**5 ft	***15 ft

*Front setbacks may be more where existing utility easements are located

Lots: 95, 101, 102, 108, 109, 124 shall have 11 ft front setback along Madrid and Granada Streets

**12.5 ft, 10 ft, & 7.5 ft side setbacks where existing utility easements are located

***10 ft & 20 ft rear setbacks where existing utility easements are located

(F) *HEIGHT REGULATIONS*: 30 feet measured from the lowest point of the structure at the historic grade.

(G) *BUILDING AREA*: THE AREA OCCUPIED BY ALL BUILDINGS SHALL NOT EXCEED 60% OF THE TOTAL LOT AREA

(H) *SITE PLANNING*

(1) Landscaping – In accordance with City of Fayetteville Landscape Manual.

(2) Parking – In accordance with Section 172 of the UDC.

(3) Architectural Design Standards – See building elevations included on Appendix D of the project booklet. Materials shall be Brick, Driv-it(Stucco), Hardy Panel, Hardy Board, Cedar shake siding and Asphalt shingle roofs.

(4) Signage – In accordance with Section 174 of the UDC.

F. Proposed Zoning and Development Standards for:

PLANNING AREA 2 (PA-2) TWO-FAMILY DWELLING

(A) *PURPOSE*: AREA 2 IS DESIGNED TO ENCOURAGE TWO-FAMILY HOMES AT A MEDIUM DENSITY.

(B) *USES*:

Permitted Uses

UNIT 1	CITY WIDE USES BY RIGHT
UNIT 9	TWO-FAMILY DWELLING

Conditional Uses

UNIT 2	CITY WIDE USES BY CONDITIONAL USE PERMIT
UNIT 24	HOME OCCUPATIONS

(C) *DENSITY*: 4 units/0.88 ac

UNITS/ACRE	4.54
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(D) *BULK AND AREA REGULATIONS*:

LOT AREA MINIMUM	16,601 sq ft
MIN. LOT WIDTH	67 ft
LAND AREA PER DWELLING	8,301 sq ft

(E) *SETBACK REQUIREMENTS*

FRONT	SIDE	REAR
15 ft	*5 ft	**15 ft

*10 ft side setback where existing or proposed utilities are located

** Rear setback varies due to existing utility easement

(F) *HEIGHT REGULATIONS*: 30 feet measured from the lowest point of the structure at the historic grade.

(G) *BUILDING AREA*: THE AREA OCCUPIED BY ALL BUILDINGS SHALL NOT EXCEED 65% OF THE TOTAL LOT AREA

(H) *SITE PLANNING*

- (1) Landscaping – In accordance with City of Fayetteville Landscape Manual.
- (2) Parking – In accordance with Section 172 of the UDC.
- (3) Architectural Design Standards – See building elevations included on Appendix D of the project booklet. Materials shall be Brick, Driv-it(Stucco), Hardy Panel, Hardy Board, Cedar shake siding and Asphalt shingle roofs.
- (4) Signage – In accordance with Section 174 of the UDC.

F. Proposed Zoning and Development Standards for:

PLANNING AREA 3 (PA-3) MULTI-FAMILY DWELLING

(A) *PURPOSE*: AREA 3 IS DESIGNED TO ENCOURAGE MULTI-FAMILY HOMES AT A MODERATE DENSITY.

(B) *USES*:

Permitted Uses

UNIT 1	CITY WIDE USES BY RIGHT
UNIT 26	MULTI-FAMILY DWELLING

Conditional Uses

UNIT 2	CITY WIDE USES BY CONDITIONAL USE PERMIT
UNIT 24	HOME OCCUPATIONS

(C) *DENSITY*: 36 units/2.48 ac

UNITS/ACRE	14.52
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(D) *BULK AND AREA REGULATIONS*:

LOT AREA MINIMUM	8,131 sq ft
MIN. LOT WIDTH	96 ft
LAND AREA PER DWELLING	2,033 sq ft

(E) *SETBACK REQUIREMENTS*

FRONT	SIDE	REAR
*15 ft	**5 ft	***15 ft

*11 ft front setback along Madrid and Granada Streets on Lots: 63, 70, 71, 78, 79, 86, 87, 94

**10 ft side setback for Lot 10 due to existing utilities

***20 ft rear setback for Lots 10 due to existing utilities

(F) *HEIGHT REGULATIONS*: 30 feet measured from the lowest point of the structure at the historic grade.

(G) *BUILDING AREA*: THE AREA OCCUPIED BY ALL BUILDINGS SHALL NOT EXCEED 65% OF THE TOTAL LOT AREA

(H) *SITE PLANNING*

- (1) Landscaping – In accordance with City of Fayetteville Landscape Manual.
- (2) Parking – In accordance with Section 172 of the UDC.
- (3) Architectural Design Standards – See building elevations included on Appendix D of the project booklet. Materials shall be Brick, Driv-it(Stucco), Hardy Panel, Hardy Board, Cedar shake siding and Asphalt shingle roofs.
- (4) Signage – In accordance with Section 174 of the UDC.

F. Proposed Zoning and Development Standards for:

PLANNING AREA 4 (PA-4) COMMUNITY GREEN SPACE/COMMON AREA

(A) *PURPOSE*: AREA 4 IS DESIGNED FOR COMMUNITY GREEN SPACE AREA AND TO ENCOURAGE THE SENSE OF COMMUNITY THROUGH THE USE OF THESE NATURAL AREAS ALLOWING SPACE FOR OUTDOOR RECREATION.

(B) *USES*:

Permitted Uses

UNIT 1	CITY WIDE USES BY RIGHT
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Conditional Uses

UNIT 4	CULTURAL AND RECREATIONAL PURPOSES
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(C) *INTENSITY*: 1 unit / 0.96 ac

UNITS/ACRE	Existing Clubhouse
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(D) *BULK AND AREA REGULATIONS*:

LOT AREA MINIMUM	18,941 sq. ft.
MIN. LOT WIDTH	77 ft.
LAND AREA PER DWELLING	18,941 sq. ft.

(E) *SETBACK REQUIREMENTS*

FRONT	SIDE	REAR
65	*5	20

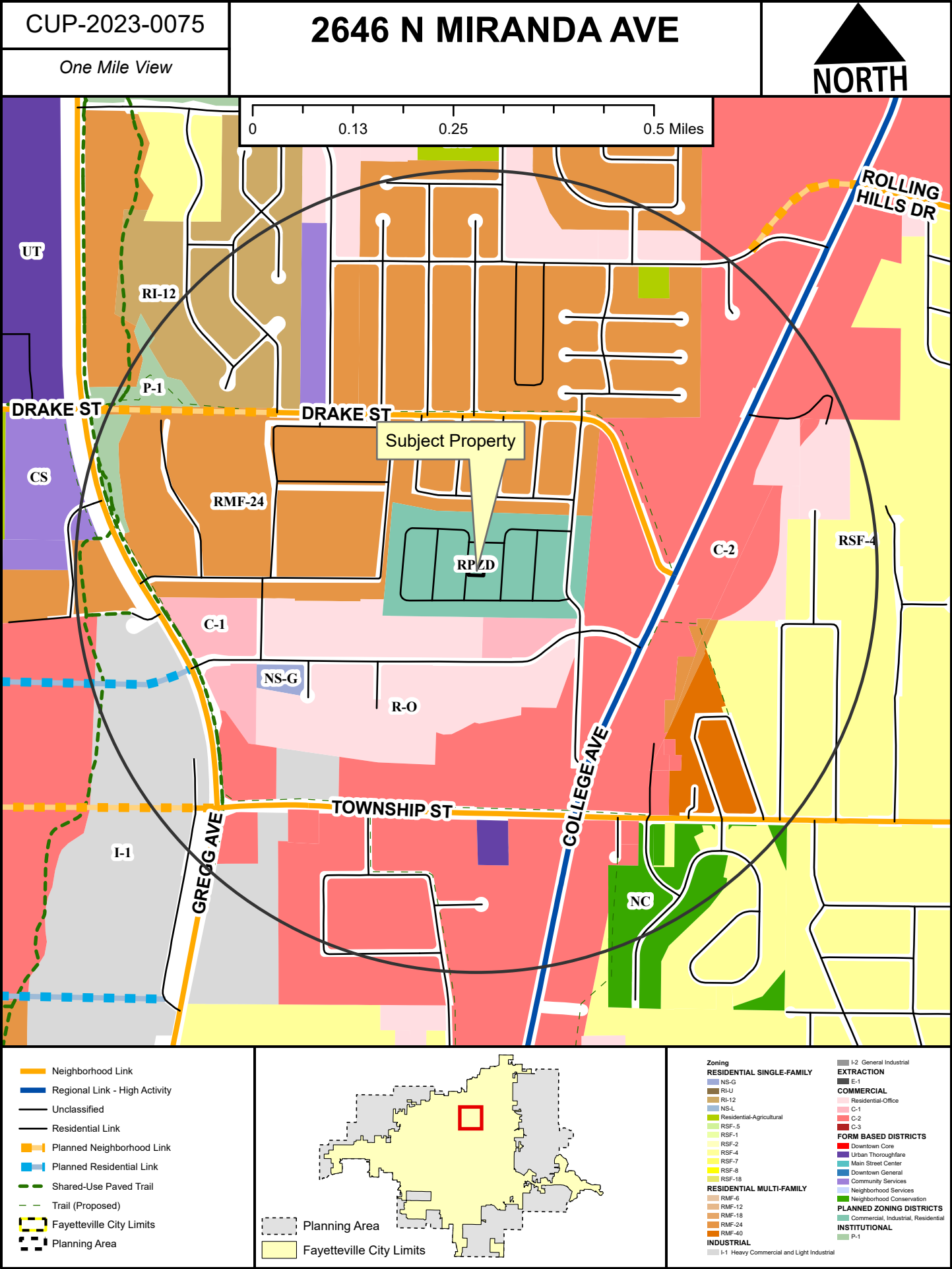
*15 ft side setback where existing utility easement is located

(F) *HEIGHT REGULATIONS*: 20 feet. The existing club house is to be remodeled and a pool constructed.

(G) *BUILDING AREA*: THE AREA OCCUPIED BY ALL BUILDINGS SHALL NOT EXCEED 50% OF THE TOTAL LOT AREA

(H) *SITE PLANNING*

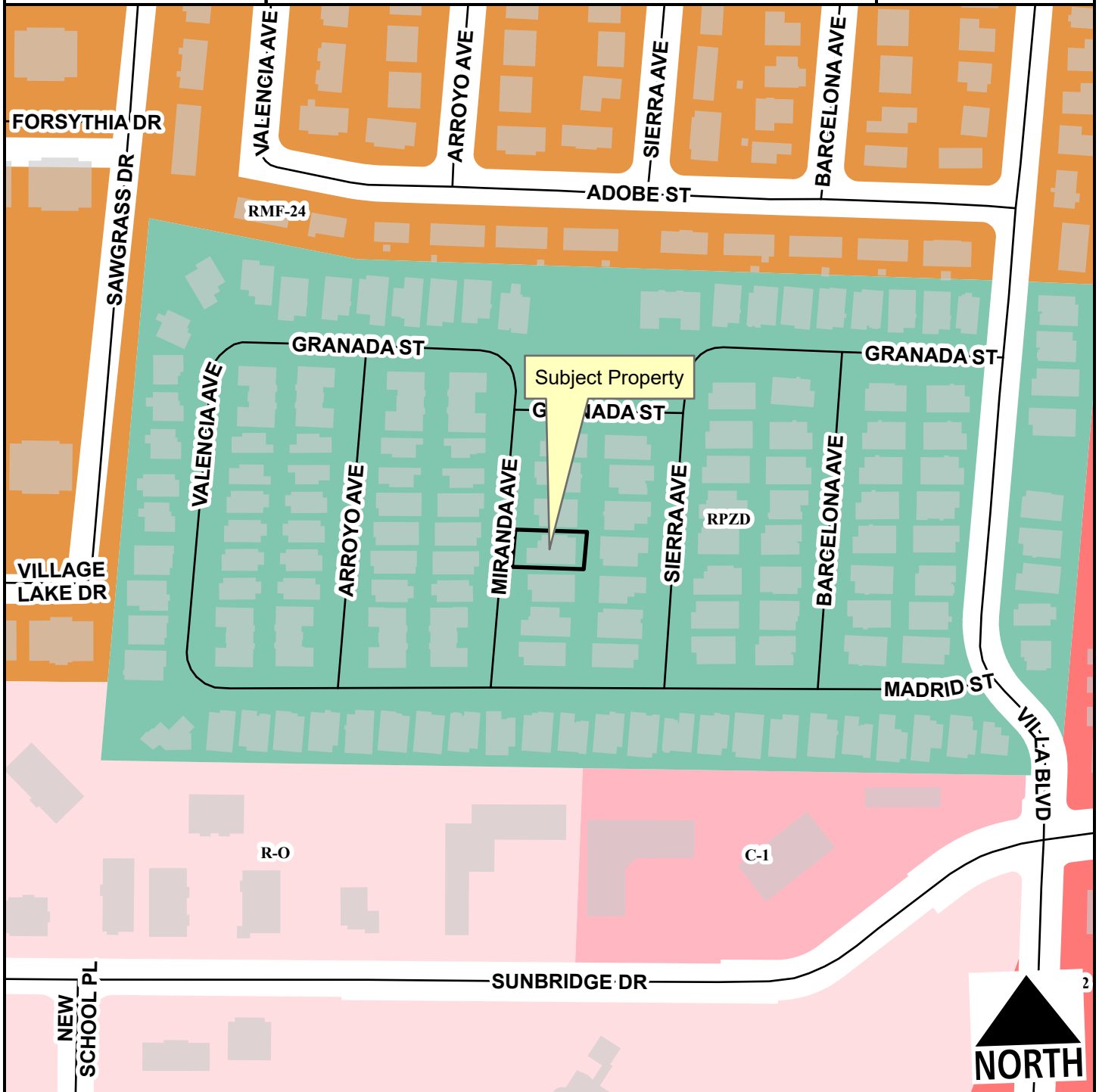
- (1) Landscaping – In accordance with City of Fayetteville Landscape Manual.
- (2) Parking – In accordance with Section 172 of the UDC. No Parking allowed.
- (3) Architectural Design Standards – See building elevations included on Appendix D of the project booklet. Materials shall be Brick, Driv-it(Stucco), Hardy Panel, Hardy Board, Cedar shake siding and Asphalt shingle roofs.
- (4) Signage – Per RSF-4 signage requirements.



CUP-2023-0075

2646 N MIRANDA AVE

Close Up View



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

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

- RMF-24
- Residential-Office
- C-1
- C-2
- Commercial, Industrial, Residential

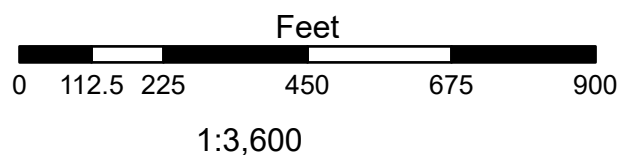
CUP-2023-0075

2646 N MIRANDA AVE

Current Land Use



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



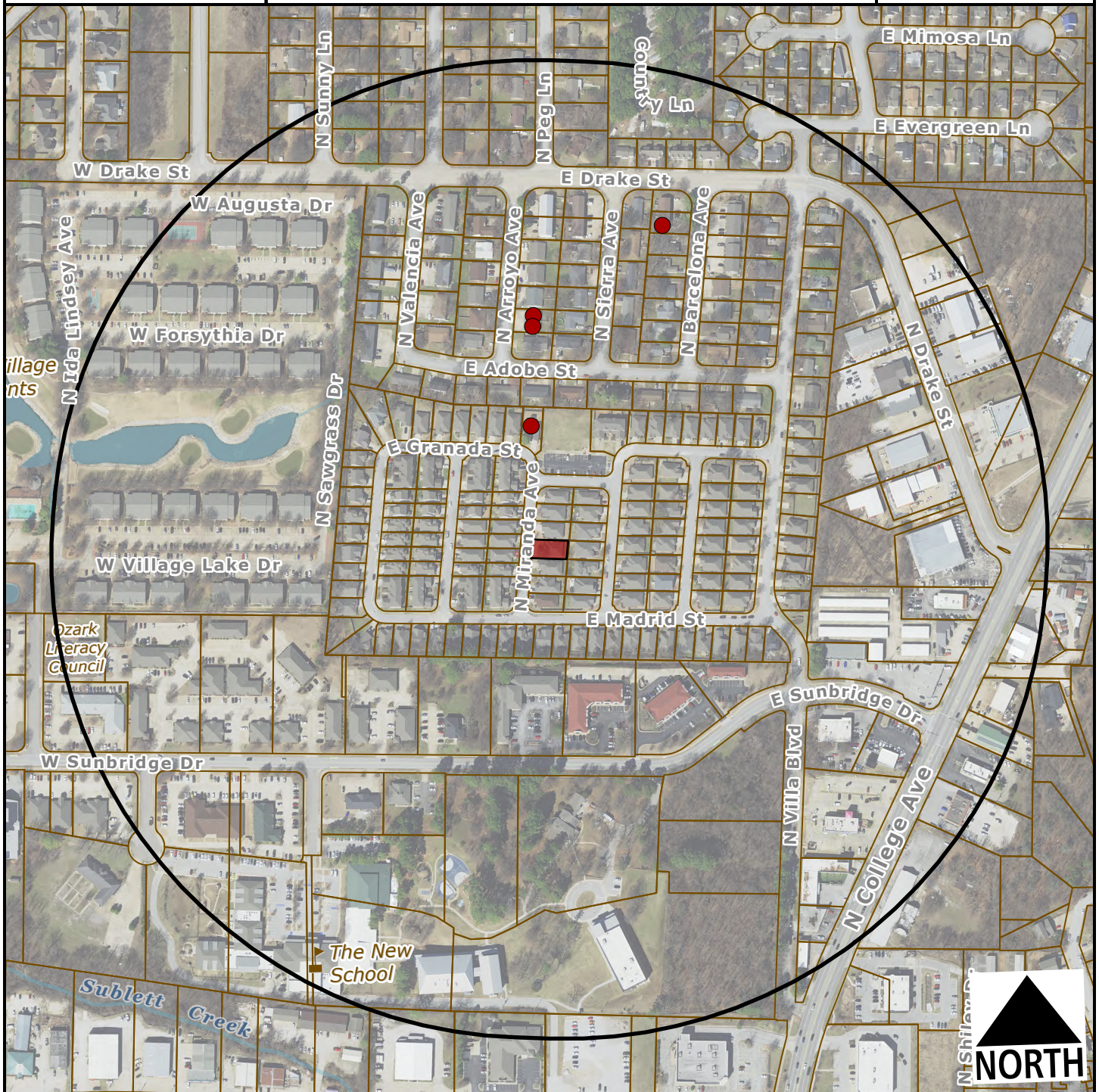
FEMA Flood Hazard Data

- 100-Year Floodplains
- Floodway

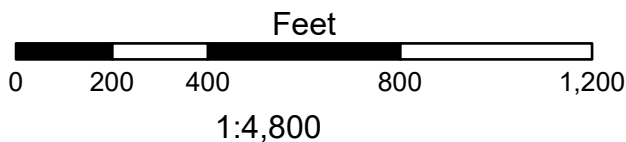
CUP-2023-0075

2646 N MIRANDA AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 4



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: August 28, 2023

SUBJECT: **CUP-2023-0079: Conditional Use Permit (1771 N. OAKLAND AVE/MARQUEZ, 366):** Submitted by ASHER CONSTRUCTION INC for property located at 1771 N. OAKLAND AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.24 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0079**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0079** with conditions, determining:*

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

BACKGROUND:

The subject property is located in north Fayetteville at 1771 N. Oakland Avenue, just east of N. Garland Avenue, and approximately 400 feet north of W. Sycamore Street. The property is zoned RSF-4, Residential Single-Family, Four Units Per Acre, with no overlay districts and totals approximately 0.24 acres. A 1350 square foot single-family dwelling was constructed on the parcel in 1964 per the Washington County Assessor. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
South	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Two-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment to date.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0079**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. The number of occupants shall be limited to a maximum of 8.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per §120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

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

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

Finding: The dwelling has four bedrooms, which would limit occupancy to 10 guests as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Staff recommends given the existing parking availability that occupancy be limited to a maximum of 8 guests.

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

Finding: Parking is limited as described in UDC §163.18(C). Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. The structure has two off-street parking spaces in the existing driveway.

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

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

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

Finding: The application is for use of the property at 1771 N. Oakland Avenue. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 22, 2023, the City had issued 395 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license but does not guarantee its approval. The applicant is not requesting any exceptions.

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

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

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

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

Finding: While there appears to be adequate parking available to support the property for use as a short-term rental, staff finds that limiting occupancy may help guarantee that parking does not become an issue. The applicant has indicated that there are 4 bedrooms on the application, which could allow for up to ten guests on the property. However, an associated building inspection on the property with a business license application verified that there are only 3 bedrooms that meet typical building code requirements. Deference would be made to building code. Staff would recommend that a condition be added limiting the number of guests to 8 to align with the requirements for a three-bedroom structure. On-street parking does appear to be available along N. Oakland Avenue, with an approximate street width of 28 feet. City records indicate 3 other units within a quarter-mile radius have active Type 2 short-term rental business licenses. No prior zoning or code violations have been reported on this property.

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

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

(a.) Ingress and egress to property and proposed structures thereon with particular reference to

automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The parcel has frontage along N. Oakland Avenue a partially improved residential link with no sidewalk. The street appears to have sufficient width to support on-street parking. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight (8) guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The dwelling has two available parking spaces in an existing driveway. There also appears to be a garage on the property, but the application indicates that the garage will not be used for parking. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. In single-family districts, the property could have up to 4 vehicles parked outside.

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

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

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

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

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

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant states that the residential trash carts are to be kept in the garage when not at the curb.

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

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

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

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

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

Finding: Staff finds the use to be compatible with the surrounding properties, especially with an added limitation on the number of overnight guests. The majority of the surrounding properties are residential in nature, and staff finds that with adequate parking availability and the number of guests that could ultimately be approved at this location, minimal disruption to the surrounding neighborhood can be expected.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes. The property has a moderate infill score (8) which indicates that it may be appropriate to consider a higher intensity use on this site.

BUDGET/STAFF IMPACT:

None

Attachments:

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

118.01 Applicability

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

agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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. 6625, §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

Request Letter

This request is for the using our home as a vacation rental, we have purchased our house to be able to visit family and friends in Fayetteville when we come to town. We live in California currently and so that leaves a lot of time the house sits empty. So we would like to offer it to others who are looking to stay in the area on vacation when we are not using it.

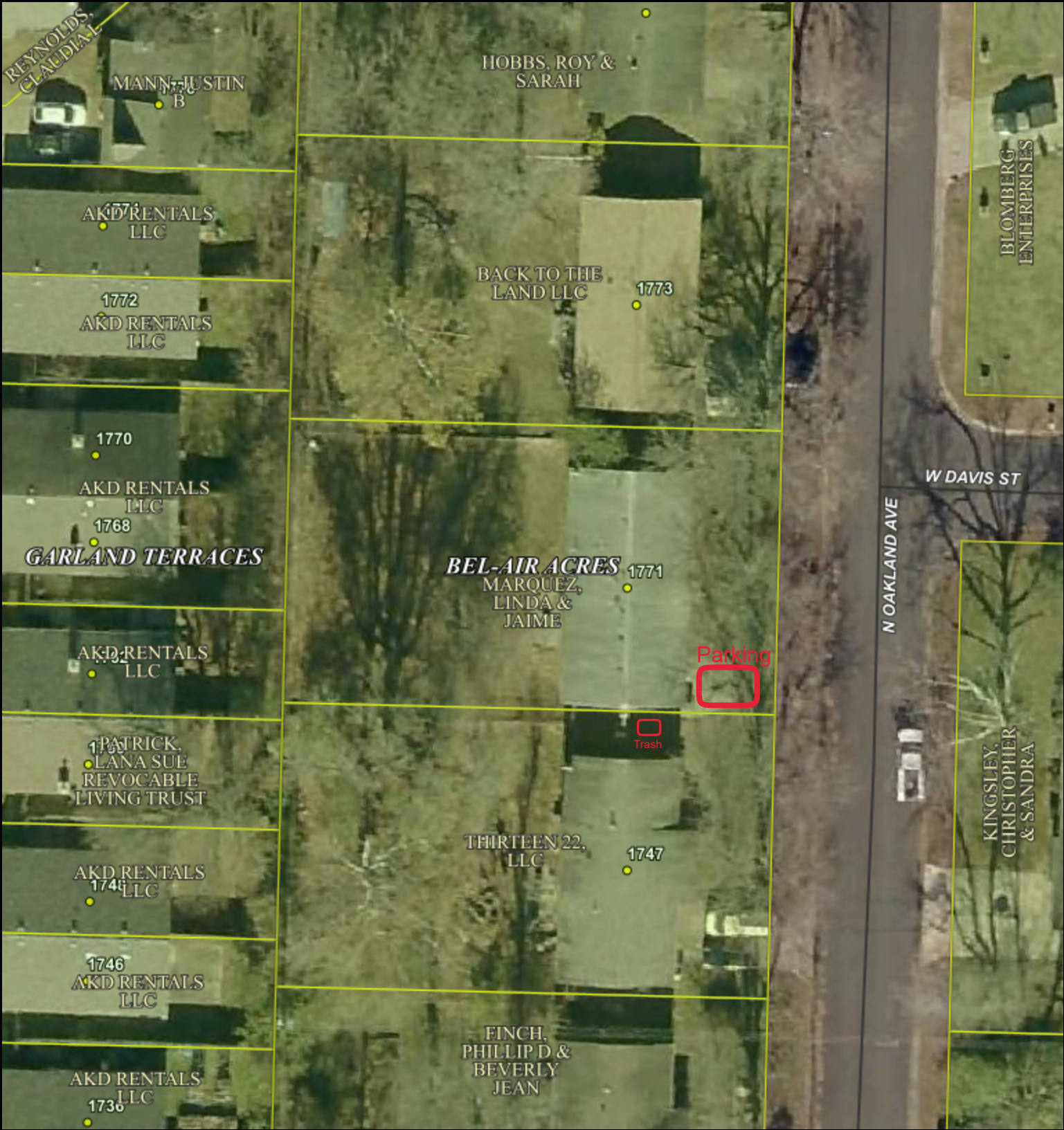
1771 N. Oakland Ave, Fayetteville, AR. 72703

- (a) 4 bedroom, 2-bathroom home of 1,384 square feet on a 8,276 square foot lot.
- (b) pictures attached of elevations
- (c) 2 off street parking spots in the driveway.
- (d) Hours of operation are 24/7,
 - 1 cleaning lady once a week and a gardener once a month,
 - 1 gardener once a month
- (e) Porch Light in front and back
- (f) Normal noise (laughing , playing, music from personal radio, TV)
- (g) Fences
- (h) Trash will be set on the side of the garage (shown in red on attached picture)
- (i) no traffic ingress or egress
- (j) need to schedule a discussion.

Washington County

Assessor's Office

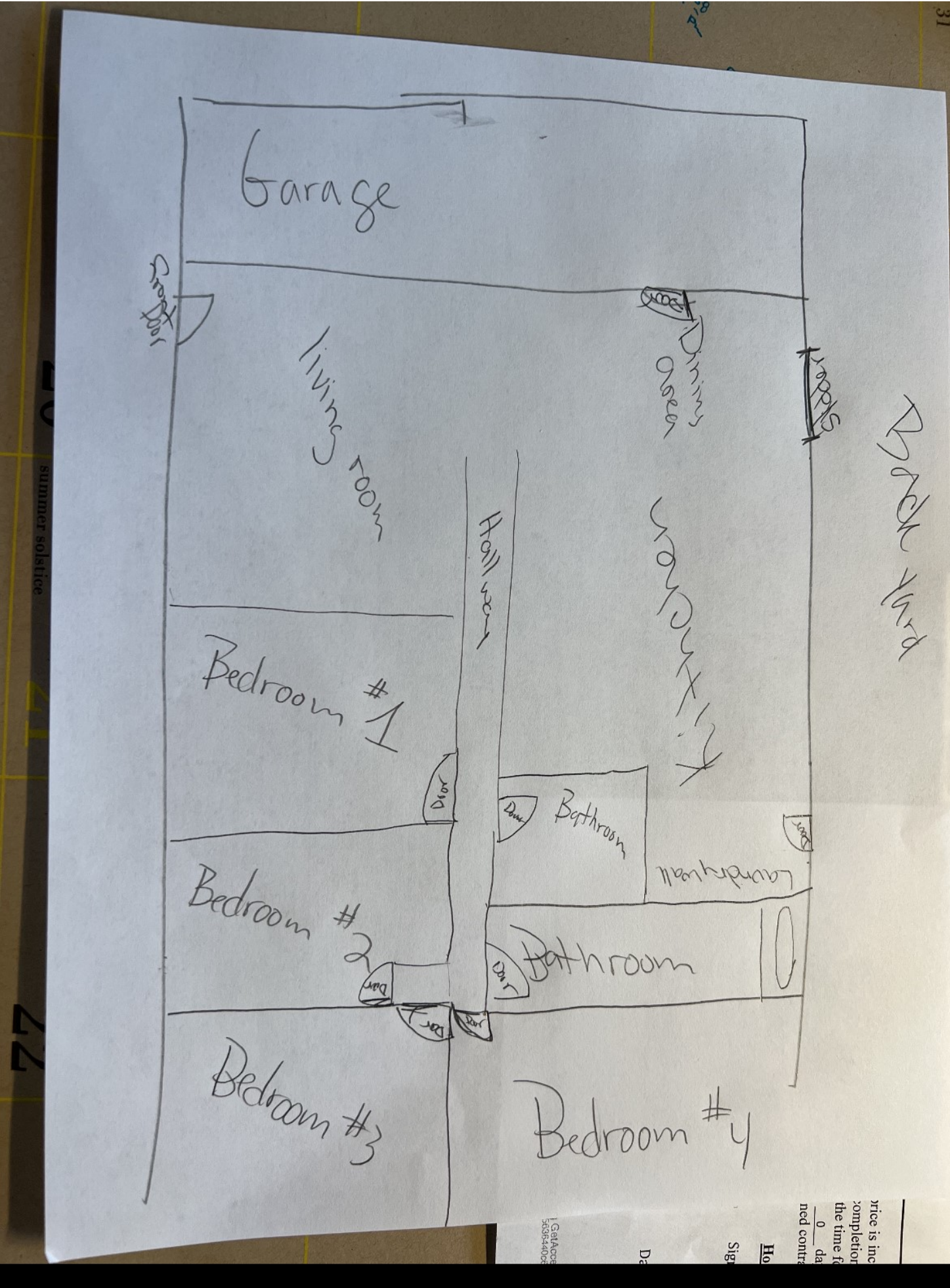
Russell Hill, Assessor



Date Created: 6/14/2023
Created By: actDataScout

1 inch = 36 feet

This map should be used for reference purposes only and should not be considered a legal document. While every effort has been made to ensure the accuracy of this product, the publisher accepts no responsibility for any errors or omissions nor for any loss or damage alleged to be suffered by anyone as a result of the publication of this map and the notations on it, or as a result of the use or misuse of the information provided herein.









Planning Commission

August 28, 2023



Planning Commission

August 28, 2023







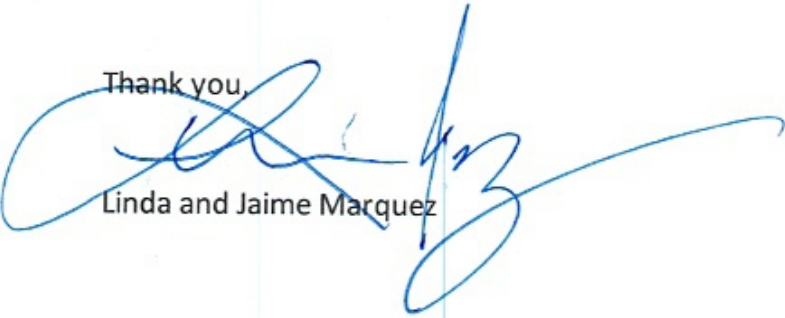


Page
June 20, 2023

To Whom it May Concern:

We are authorizing the use of the Razor Retreat LLC. At 1771 N. Oakland Ave,
Fayetteville, AR. 72703 as a vacation rental for others to enjoy the beautiful
experience of Northwest Arkansas.

Thank you,


Linda and Jaime Marquez

Property Owner

Name: MARQUEZ, LINDA & JAIME

Property Information

Physical Address: 1771 N OAKLAND AVE

Mailing Address: 1771 N OAKLAND AVE
FAYETTEVILLE, AR 72703

Subdivision: BEL-AIR ACRES

Block / Lot: 002 / 008

Type: (RI) Res. Improv.

S-T-R: 04-16-30

Tax Dist: (011) FAYETTEVILLE SCH, FAY

Size (Acres): 0.000

Millage Rate: 57.95

Market and Assessed Values

	Estimated Market Value	Full Assessed (20% Mkt Value)	Taxable Value
Land:	\$50,000	\$10,000	\$10,000
Building:	64900	12980	12980
Total:	\$114,900	\$22,980	\$22,980

Taxes

Estimated Taxes:	\$1,332
Homestead Credit:	\$0

Note: Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Land

Land Use	Size	Units
	1.000	House Lot
Total	1.000	

Deed Transfers

Deed Date	File Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
9/20/2021	9/23/2021	2021	36707	Warr. Deed	759.00	\$230,000	MARQUEZ, LINDA & JAIME	Unval.	Improved
5/4/2017		2017	13639	Warr. Deed	462.00	\$139,995	HOG HILL LLC	Unval.	Improved
2/28/2017				DeathCer			VANDERLIP, KODA M	N/A	N/A
7/29/2010		2010	21679	Beneficiar			VANDERLIP, CHARLES M & KODA M	N/A	N/A
7/22/2010		2010	20856	Beneficiar			VANDERLIP, CHARLES M & KODA M	N/A	N/A
10/15/2008		2008	34198	Warr. Deed	297.00	\$90,000	VANDERLIP, CHARLES M & KODA M	Valid	Improved
1/10/2006		2006	2552	Quit Claim			MULLINS, DATHA W LIVING TRUST	N/A	Improved
1/6/1986		1165	938	Warr. Deed	47.30	\$43,000	MULLINS, DATHA W	Insufficient Amount	Improved
8/6/1963		599	284	Warr. Deed	0.00	\$0	MAYES, RALPH LLOYD; ETUX	N/A	N/A

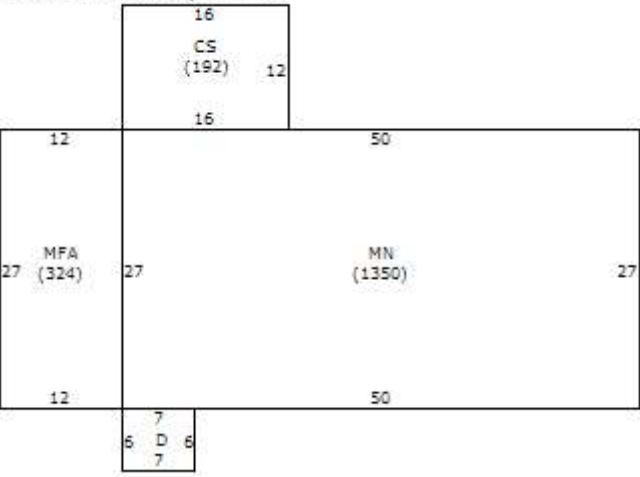
Reappraisal Value History

Tax Year	Total Value	Total Assessed
2015	\$105,400.00	\$13,190.00
2016	\$105,400.00	\$13,190.00
2017	\$105,400.00	\$13,190.00
2018	\$105,400.00	\$21,080.00
2019	\$105,400.00	\$21,080.00
2020	\$114,900.00	\$22,980.00
2021	\$114,900.00	\$22,980.00
2022	\$114,900.00	\$22,980.00

Details for Residential Card 1

Occupancy	Story	Construction	Total Liv	Grade	Year Built	Age	Condition	Beds
Single Family	ONE	Masonry Veneer	1,350	4	1964	59	Average	4
Exterior Wall: BRICK			Plumbing: Full: 1 Half: 1					
Foundation: Slab			Fireplace: N/A					
Floor Struct: ElevSlab			Heat / Cool: Central					
Floor Cover: Carpet & Tile			Basement: N/A					
Insulation: Ceilings Walls			Basement Area:					
Roof Cover: Fiberglass Shingle			Year Remodeled:					
Roof Type: Gable			Style:					

DataScout, LLC



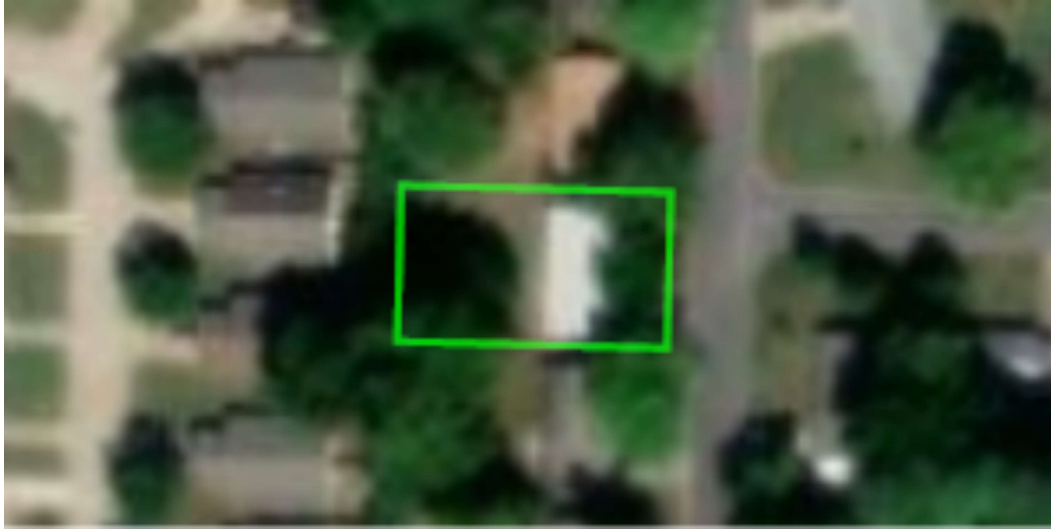
Base Structure

Item	Label	Description	Area
A	MN	Main Living Area	1350
B	MFA	Garage - masonry finished, att	324
C	CS	Concrete slab, reinforced	192
D	PS	Patio slab	42

Outbuildings and Yard Improvements

Item	Type	Size/Dim	Unit Multi.	Quality	Age
Driveway, concrete		17x42	1		
Fence, chain link 4'		258	1		

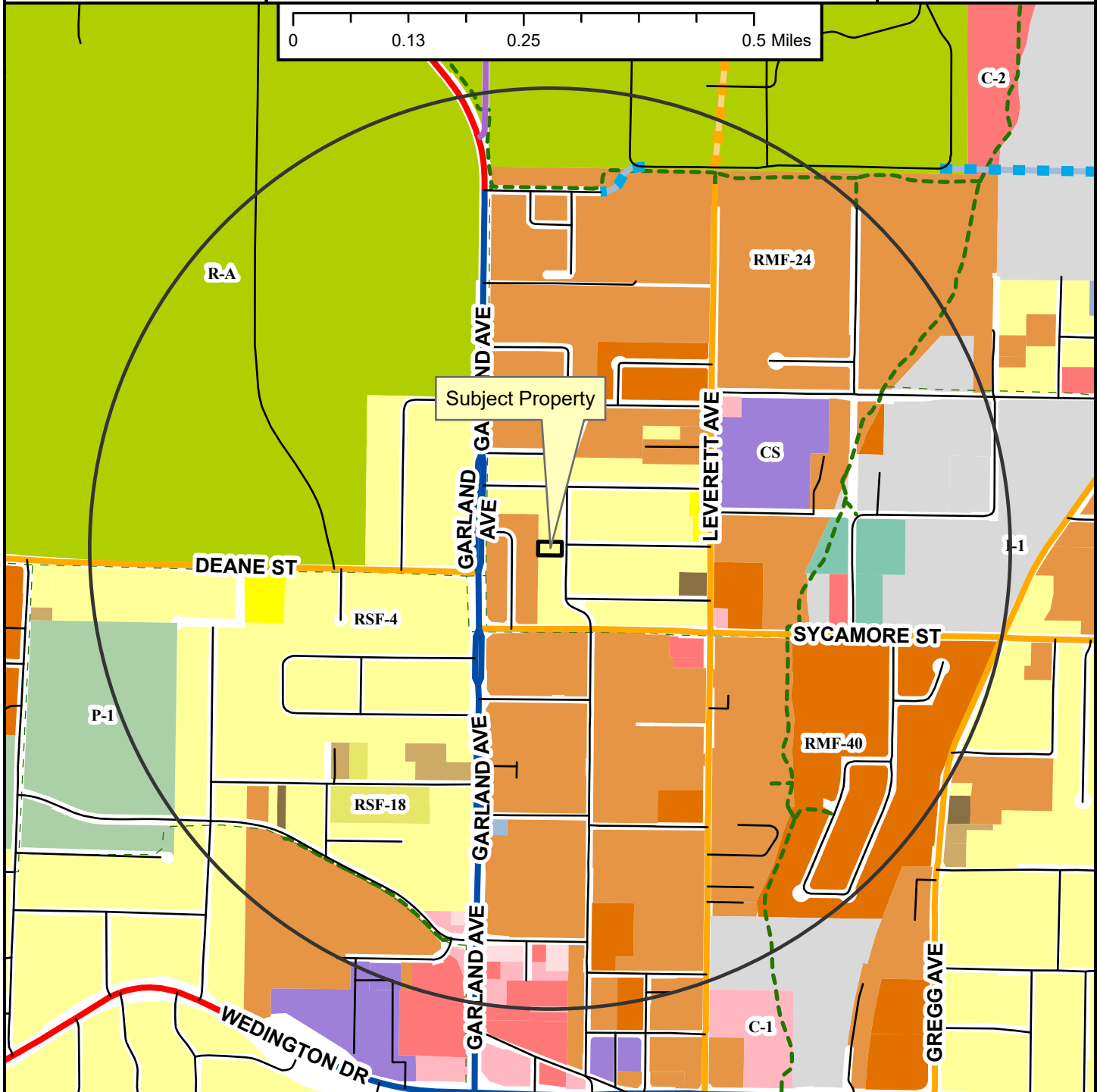
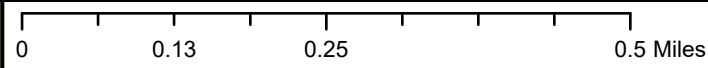
Map



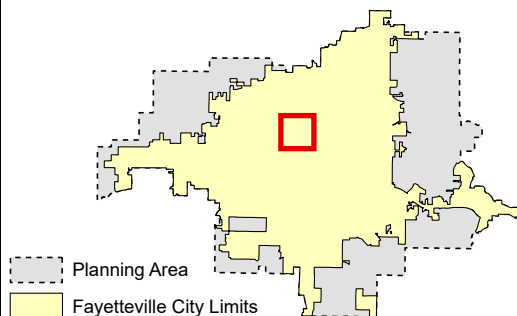
CUP-2023-0079

1771 N OAKLAND AVE

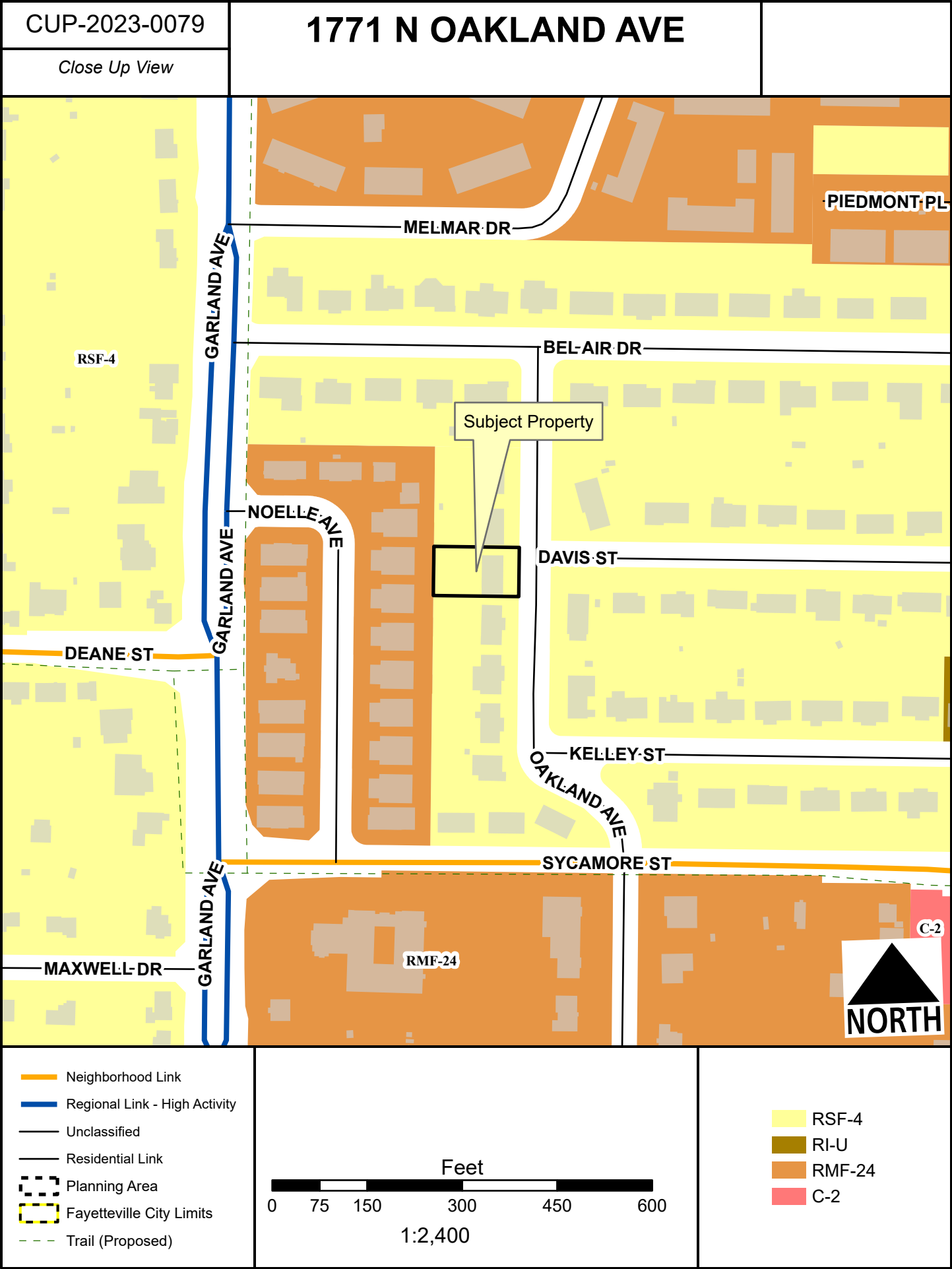
One Mile View



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



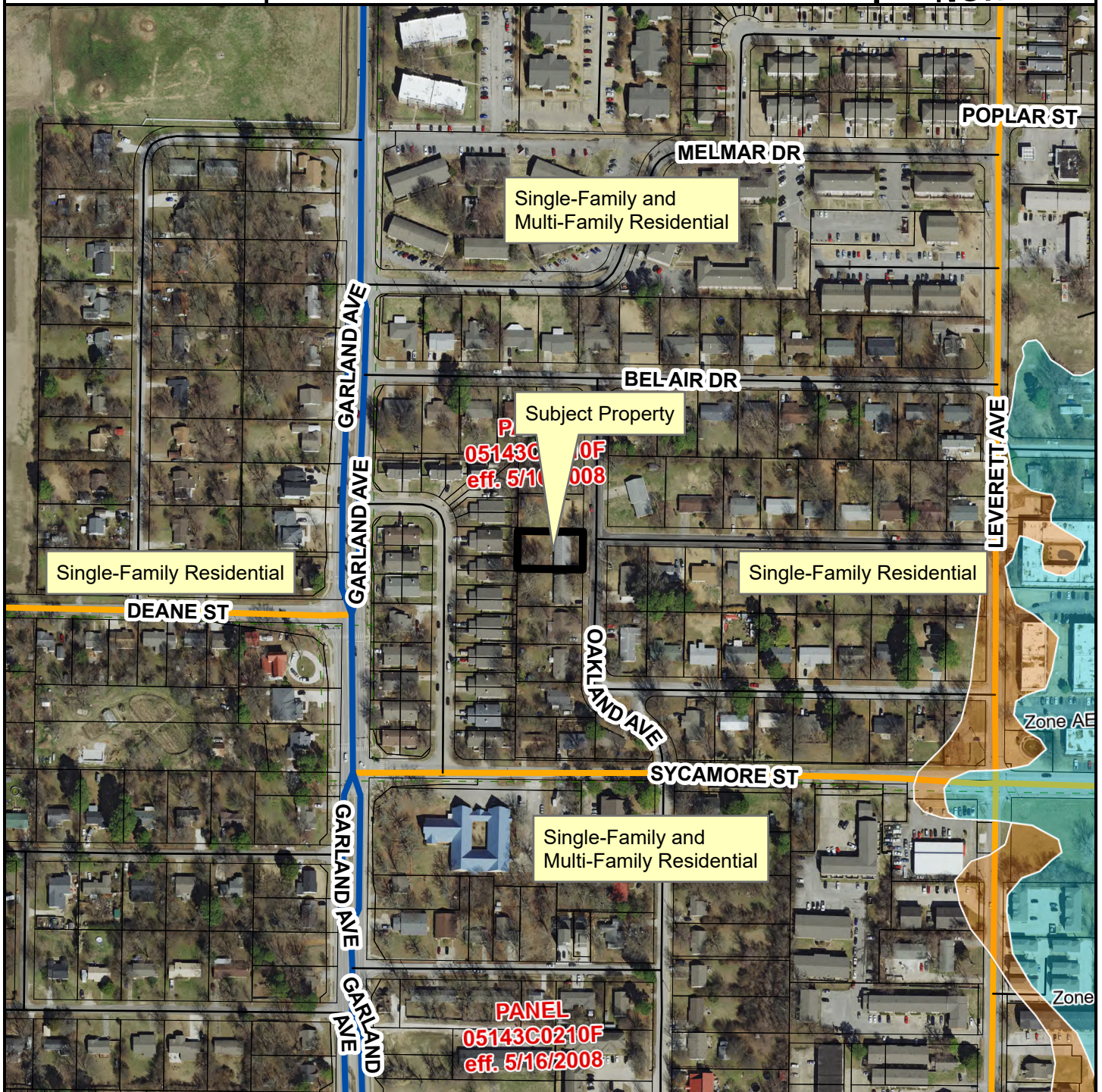
- | | |
|---|--------------------|
| Zoning | EXTRACTION |
| RESIDENTIAL SINGLE-FAMILY | E-1 |
| NS-G | Residential-Office |
| RI-U | C-1 |
| RI-12 | C-2 |
| NS-L | C-3 |
| Residential-Agricultural | |
| RSF-5 | |
| RSF-1 | |
| RSF-2 | |
| RSF-4 | |
| RSF-7 | |
| RSF-8 | |
| RSF-18 | |
| RESIDENTIAL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



CUP-2023-0079

1771 N OAKLAND AVE

Current Land Use



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

Feet
0 112.5 225 450 675 900
1:3,600

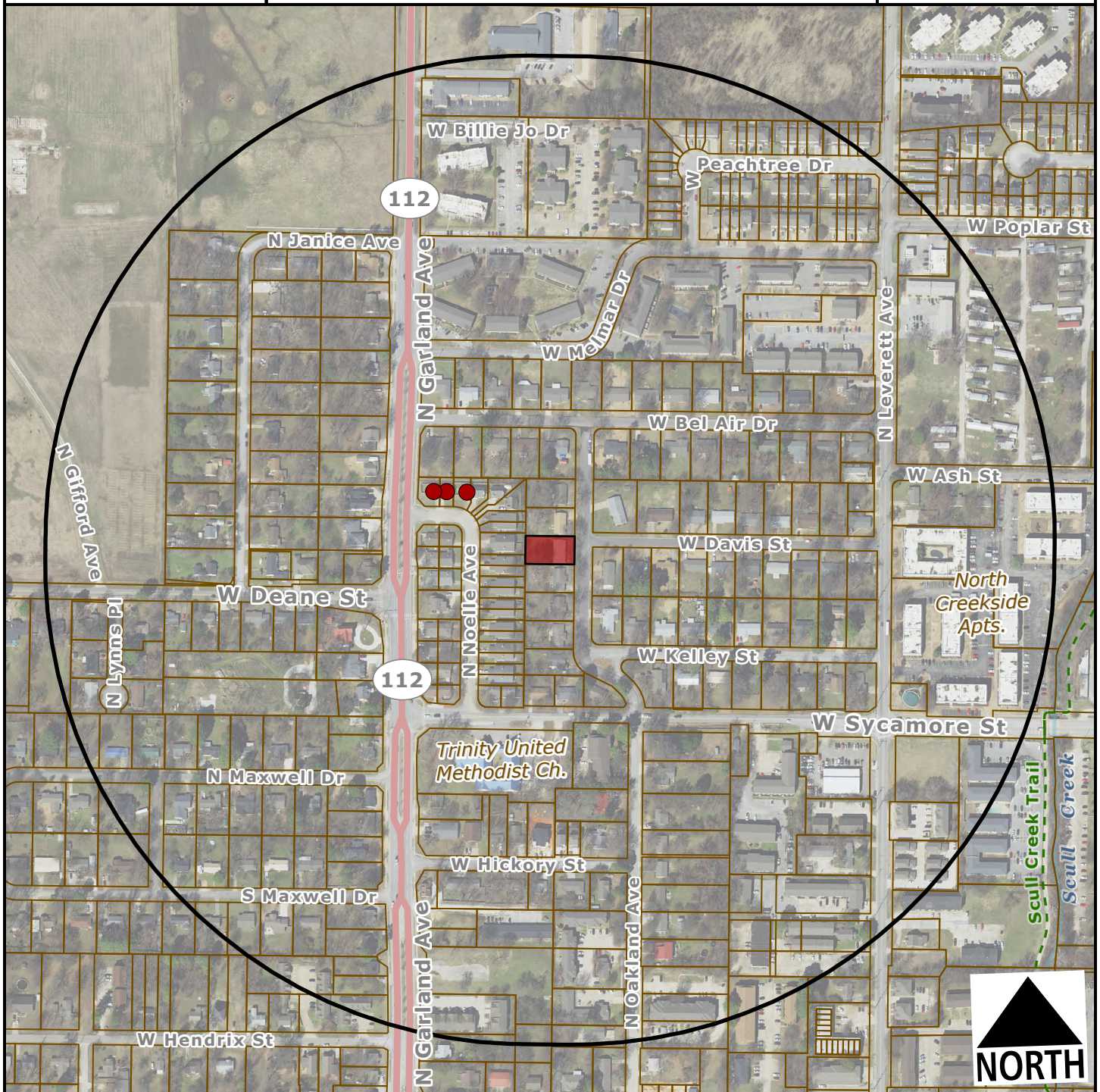
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

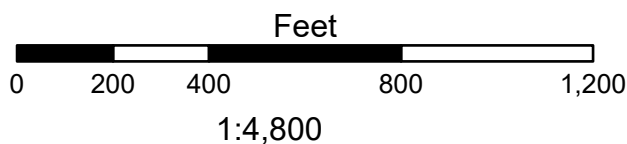
CUP-2023-0079

1771 N OAKLAND AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 3



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: August 28, 2023

SUBJECT: **CUP-2023-0093: Conditional Use Permit (356 E. DICKSON ST/BUNCH, 485):** Submitted by SARAH BUNCH for property located at 356 E. DICKSON ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0093**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0093** with conditions, determining:*

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

BACKGROUND:

The subject property is located at 356 E. Dickson Street, approximately 0.25 miles east of N. College Avenue. The property is zoned RSF-4, Residential Single-Family, 4 Units per Acre, and totals approximately 0.3 acres. Developed with a 1,072 sq. ft. single-family home, and despite being located close to the Washington Willow Historic District, the structure was built around 1961. The property is almost wholly encompassed by the Hillside-Hilltop Overlay District. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

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

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0093**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per §120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 28, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. The applicant has indicated that the structure has two bedrooms, which would allow for a maximum occupancy of 6 guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Parking for single-family dwellings is typically required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. According to the applicant the structure has enough space in the driveway to park three cars; based on the dimensions of the existing driveway (approximately 67 feet in length), this is likely accurate. Dickson Street appears to be about 19 feet wide at this location; on-street parking is likely not an option.

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

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

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

Finding: The application is for use of the property at 356 E. Dickson Street. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 22, 2023, the City had issued 395 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license but does not guarantee its approval. The applicant is not requesting any exceptions.

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

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

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

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

Finding: Based on the information provided by the applicant, there appears to be adequate parking infrastructure to meet the needs of the property as a short-term rental. While there does not appear to be on-street parking available at this location, staff finds that given the size and square footage of the property, parking to serve the use can likely be contained within the site. There are currently 14 active Type 2 short-term rental licenses within ¼ mile of the site. Given the proximity to downtown, staff finds this is not a surprising number, and further, that the area is primarily residential, staff finds that the neighborhood is not yet at a saturation point.

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

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

(a.) Ingress and egress to property and proposed structures thereon with particular reference to

automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: E. Dickson Street is a residential link street, but at this location there is no sidewalk. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 6 guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The applicant has indicated that there is space in an existing driveway to park three cars. Given the driveway's length, staff finds it could likely accommodate that number. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. In single-family districts, the property could have up to 4 vehicles parked outside.

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

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

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be compatible with the surrounding properties. The majority of the surrounding properties are residential in nature, and staff finds that with adequate parking availability and the number of guests that could ultimately be approved at this location, minimal disruption to the surrounding neighborhood can be expected.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes. The property has a high infill score (10) which indicates that it may be appropriate to consider a higher intensity use on this site.

BUDGET/STAFF IMPACT:

None

Attachments:

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

118.01 Applicability

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

Development Services
And Planning Commission
125 W Mountain St.
Fayetteville, AR 72701

July 14, 2023

Dear Planners and Commissioners,

I am requesting a CUP to operate a Short-Term Rental at 356 E. Dickson St. This is a small single family home within close proximity to our Entertainment District, The Square, as well as The University of Arkansas. I have owned the home since 1998, and I lived in the home several years before converting it to a rental. I currently have it available as a furnished monthly rental, but I would like the opportunity to occasionally rent it for less than a month. What I envision, if my request is approved, is sporadic Short-Term Rentals such as a ballgame weekend, graduation weekend, or several days around holidays like Thanksgiving or Christmas, that would fill in around my longer term rentals.

I believe this request is compatible with the neighborhood and proposes only a slight change in the way the property is currently being used. There are a few other STR units in the area as well as several long term rentals that have been in operation for many years. I will not allow parties, and my policy is to have no more than 4 guests at a time. There is room in the driveway to park 3 cars, and this should not pose any additional traffic or parking concerns. There is trash and recycling pick up weekly, and this change will not cause any issues with that as well.

I manage the property myself and exercise a very hands on approach. I live nearby, and am available to handle any concerns if they arise on very short notice. I pride myself on being a responsible landlord, and think I have done a good job at this because in the 25 years I have owned this home I have never received one complaint from any of my neighbors.

Thank you for your consideration in this matter.

Sincerely,

Sarah Bunch

Addresses & Zip Codes

Fayetteville, AR

City Website

6551

(1 of 1)

Clear

Water Meter Location

Facility ID	WML-11412
Box Count	1
Yoke Count	1
Meter Location ID	112066
GPS Date	9/7/2012

Zoom to

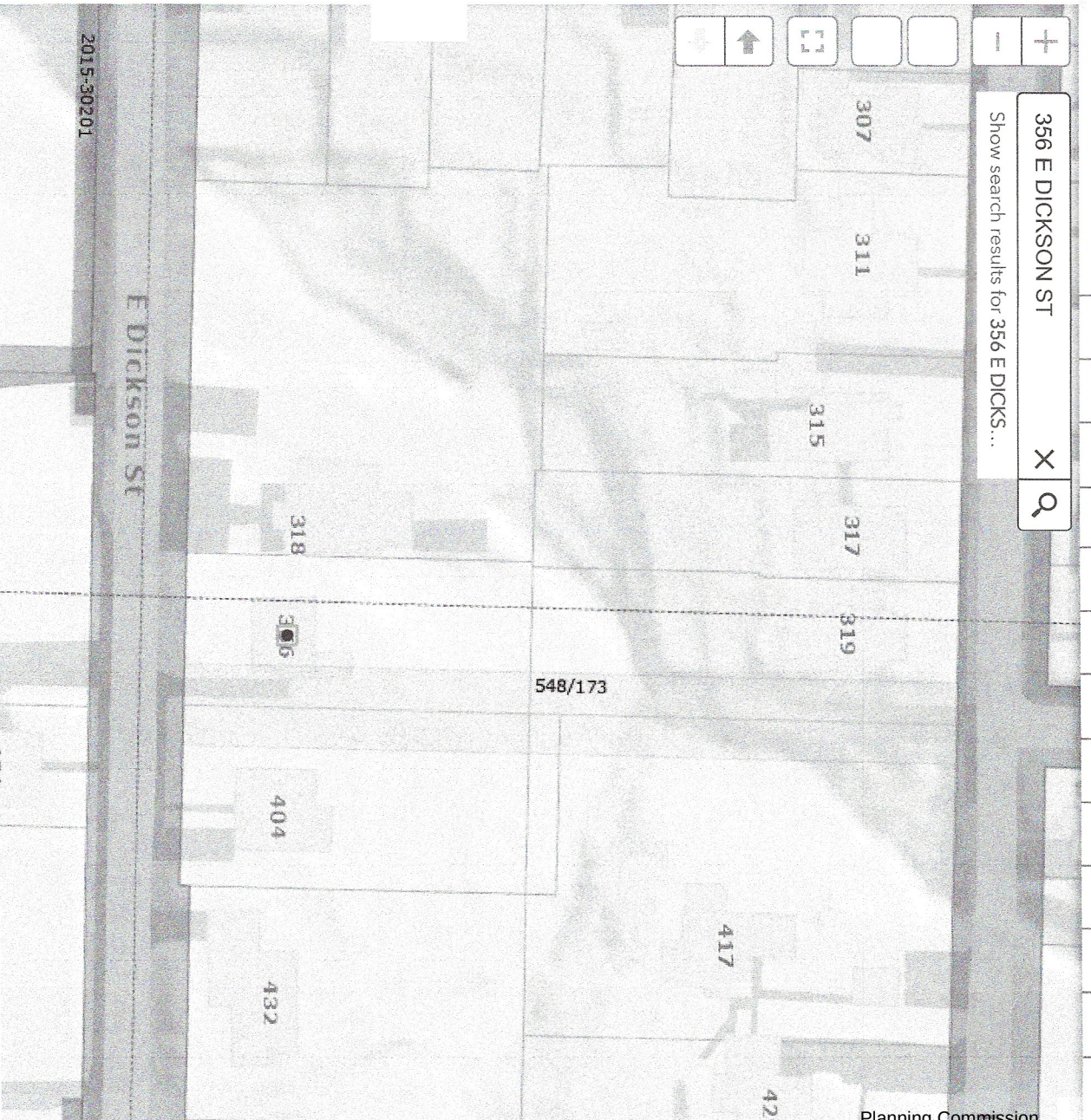


(1 of 1)

Clear

356 E DICKSON ST

Zoom to



Occupancy	Story	Construction	Total Liv	Grade	Age	Year Built	Condition	Beds
Single Family	ONE	Masonry Veneer	1072	4+5	62	1961	Average	N/A

Exterior Wall: BV

Foundation: Closed Piers

Floor Struct: Wood with subfloor

Floor Cover: Carpet & Tile

Insulation: Ceilings Walls

Roof Cover: Fiberglass Shingle

Roof type: Gable

Plumbing: Full: 1 Half: N/A

Fireplace: Type: 1s Sgl. Qty: 1

Heat/Cool: Central

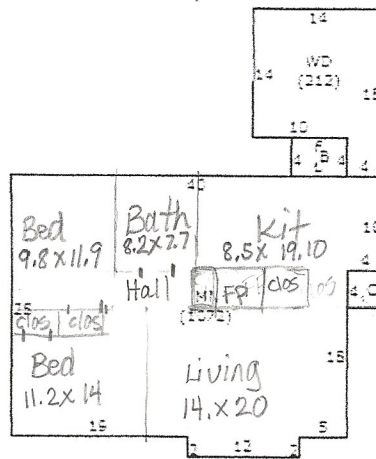
Basement: Unfin

Basement Area: 144

Year Remodeled: N/A

Style: N/A

DataScout, LLC



Interior

Livingroom	14 x 20 + 26
Kitchen	8.5 x 19.10
Bath	8.2 x 7.7
Bed 1	11.2 x 14
Bed 2	9.8 x 11.9
Hall	4.3 x 7.8
clos	4.8 x 2.5
clos	4.8 x 2.5
linen clos	3 x 1.4
coat clos	3.10 x 2.10
Entry	3.10 x 4.3

Base Structure

Item	Label	Description	Area
A	MN	Main Living Area	1072
B	OP2	Porch, half open	24
C	OP	Porch, open	16
D	WD	Wood deck	212

Outbuildings and Yard Improvements

Item	Type	Size / Dim	Unit Multi.	Quality	Age
Driveway, concrete	N/A	60 x 10	1	N/A	N/A

Reappraisal Value History





Parcel: 765-08059-000

Previous Parcel: 141577-000-00

As of: 7/14/2023 9:39:34 PM

ID: 42654

Washington County Report

Property Owner

Name: BUNCH, SARAH L REVOCABLE TRUST**Mailing Address:** 1301 N VIEWPOINT DR
FAYETTEVILLE, AR 72701-2541**Type:** (RI) Res. Improv.**Tax District:** (011) FAYETTEVILLE SCH, FAY**Millage Rate:** 57.95

Property Information

Physical Address: 356 E DICKSON ST**Subdivision:** MASONIC ADD**Block/Lot:** 016 / N/A**S-T-R:** 15-16-30**Size (Acres):** N/A**Legal:** PART LOT 4 BLOCK 16 & PT W/2 VACATED ROW

Market and Assessed Values

	Estimated Market Value	Full Assessed (20% Market Value)	Taxable Value
Land	157,500	31,500	23,387
Building	154,500	30,900	26,906
Totals	312,000	62,400	50,293

Taxes

Estimated Taxes:	2,914
Homestead Credit:	0

Note: Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

Land

Land Use	Size	Units
N/A	1.000	House Lot
Total	1.00	

Deed Transfers

Document Images brought to you by your County Circuit Clerk, Kyle Sylvester

View Image	Deed Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
	4/29/1998	98	38660	Quit Claim	0.00	\$0	BUNCH, SARAH L REVOCABLE TRUST	N/A	Improved
	1/30/1997	97	6169	Warr. Deed	250.80	\$76,000	BUNCH, SARAH L	Valid	Improved
	4/17/1996	96	23749	Warr. Deed	181.50	\$55,000	HARDGRAVE, ROBERT D	Insufficient Amount	Improved
	5/8/1995	95	22632	Warr. Deed	174.90	\$53,000	LARIMER, SHANE R & YVONNE E	Insufficient Amount	Improved
	5/21/1986	1179	436	Warr. Deed	51.70	\$47,000	CRIDER, MARLA F	Unval.	N/A
	9/10/1956	490	220	Warr. Deed	1.65	\$1,500	GLASS, LOIS C	Unval.	Improved

Details for Residential Card 1

Tax Year	Total Value	Total Assessed
2022	277,300.00	45,721.00
2021	277,300.00	42,204.00
2020	277,300.00	38,687.00
2019	175,850.00	35,170.00
2018	175,850.00	35,170.00
2017	175,850.00	35,170.00
2016	175,850.00	33,240.00
2015	175,850.00	30,470.00

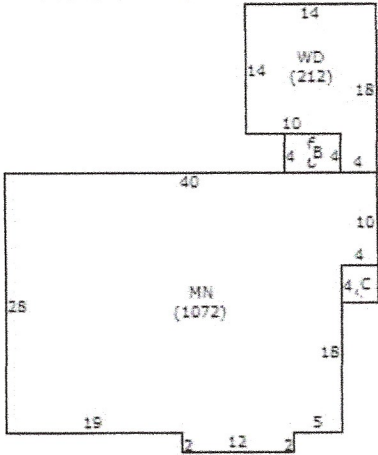
Not a Legal Document

Subject to terms and conditions
www.actDataScout.com

Occupancy	Story	Construction	Total Liv	Grade	Age	Year Built	Condition	Beds
Single Family	ONE	Masonry Veneer	1072	4+5	62	1961	Average	N/A

Exterior Wall:	BV	Plumbing:	Full: 1 Half: N/A
Foundation:	Closed Piers	Fireplace:	Type: 1s Sgl. Qty: 1
Floor Struct:	Wood with subfloor	Heat/Cool:	Central
Floor Cover:	Carpet & Tile	Basement:	Unfin
Insulation:	Ceilings Walls	Basement Area:	144
Roof Cover:	Fiberglass Shingle	Year Remodeled:	N/A
Roof type:	Gable	Style:	N/A

DataScout, LLC



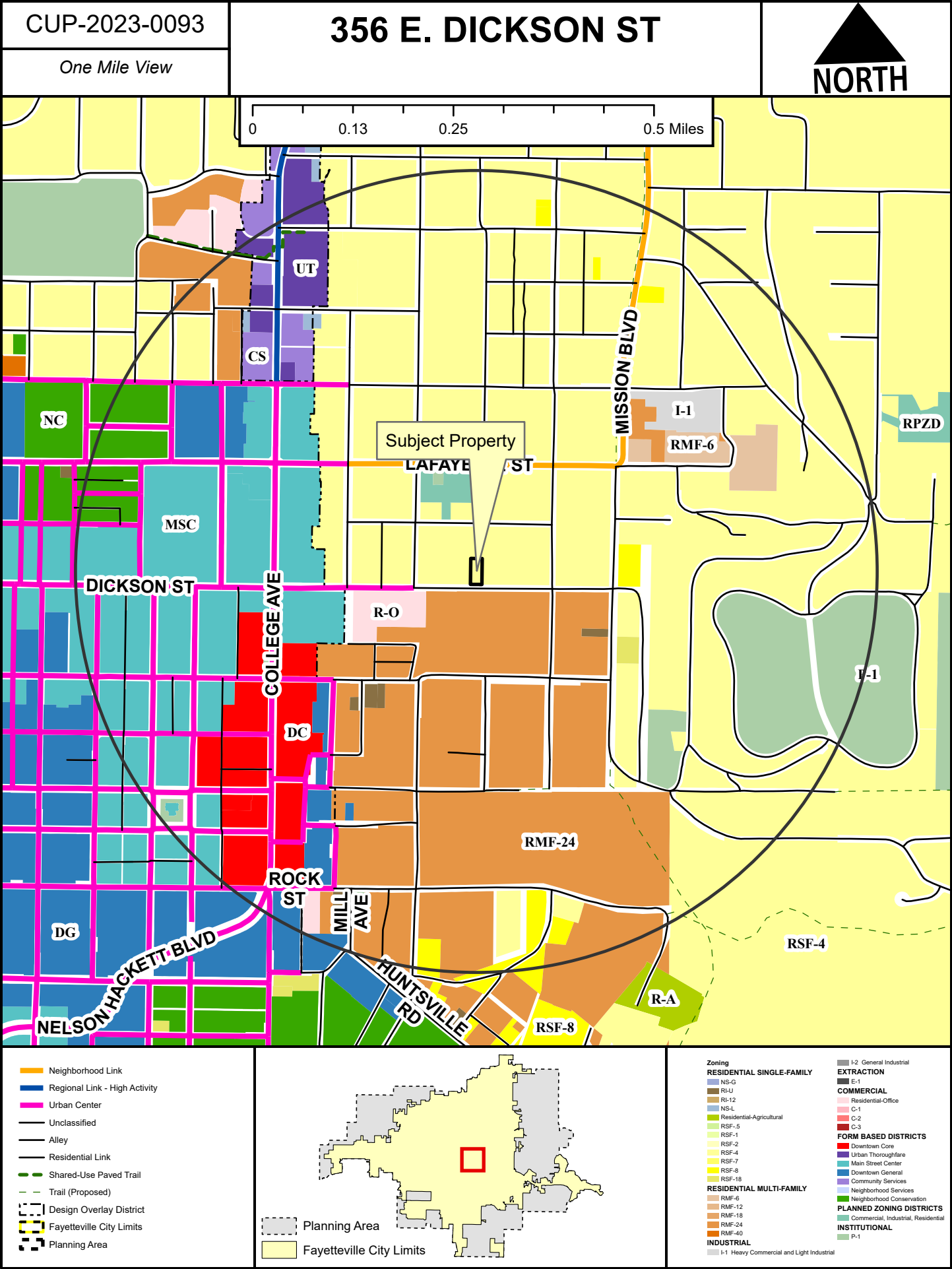
Base Structure

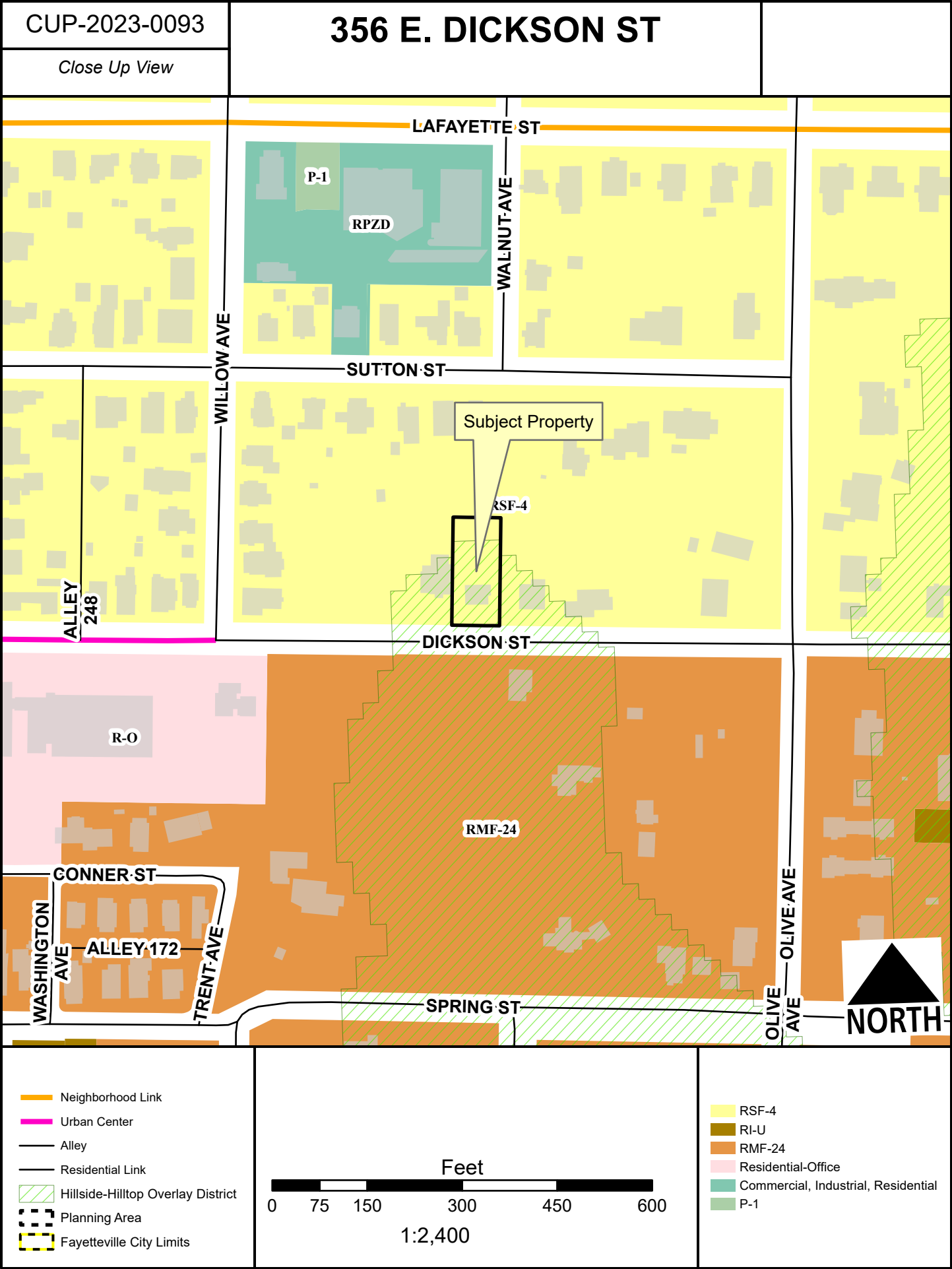
Item	Label	Description	Area
A	MN	Main Living Area	1072
B	OP2	Porch, half open	24
C	OP	Porch, open	16
D	WD	Wood deck	212

Outbuildings and Yard Improvements

Item	Type	Size / Dim	Unit Multi.	Quality	Age
Driveway, concrete	N/A	60 x 10	1	N/A	N/A

Reappraisal Value History





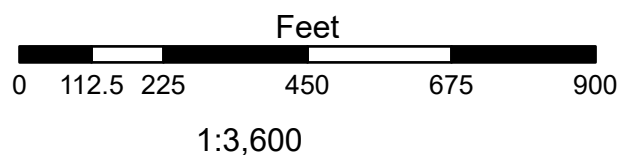
CUP-2023-0093

356 E. DICKSON ST

Current Land Use



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



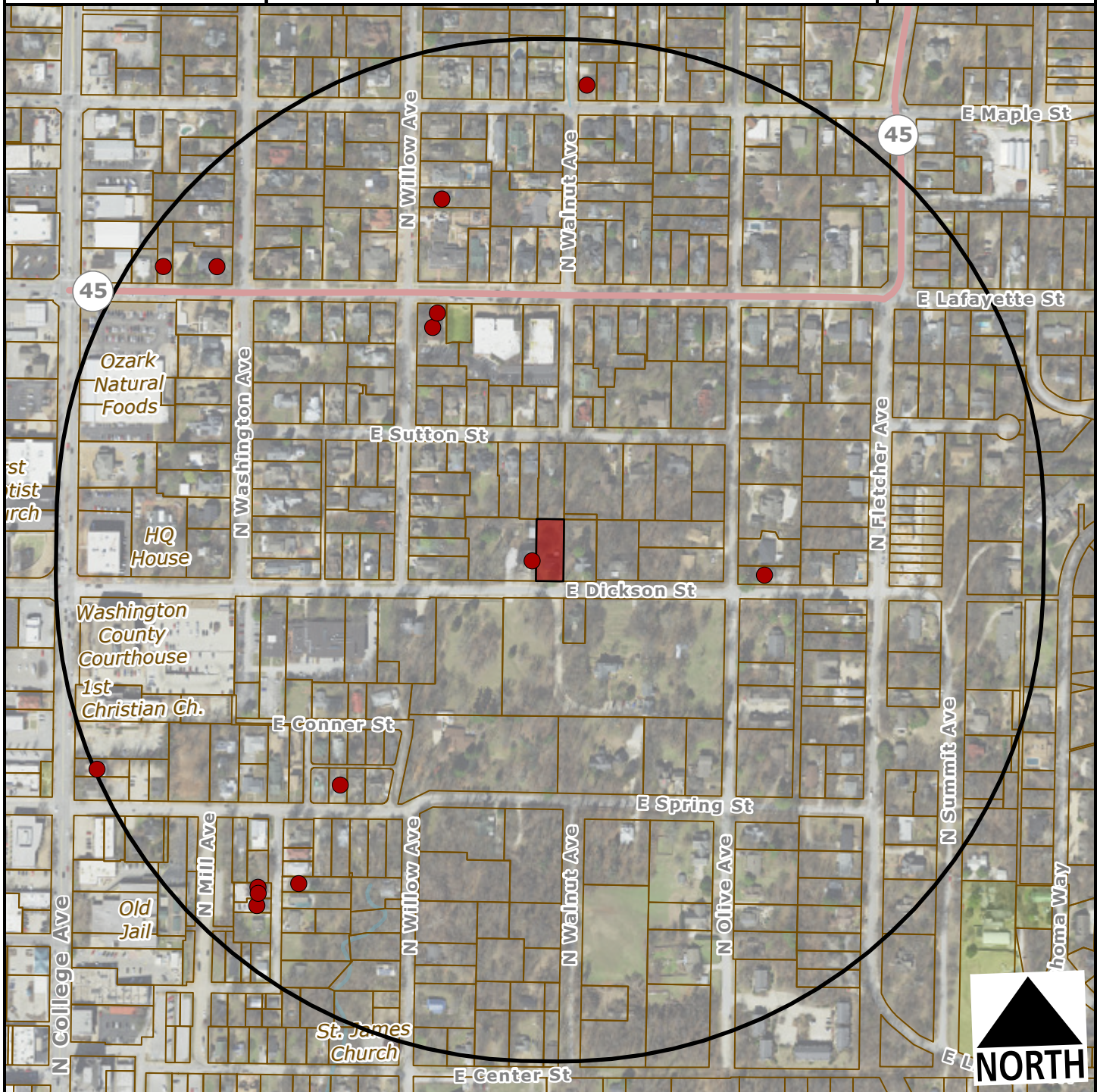
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0093

356 E. DICKSON ST

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 14