

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, September 7, 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 28, 2023 Planning Commission. -
Mirinda Hopkins, Development Coordinator

2. ADM-2023-0035: Administrative Item (SOUTH OF 2936 S. BLACK OAK RD/RIVERSIDE VILLAGE PHASE 1, 682 & 683):

Submitted by CRAFTON TULL for a property located SOUTH of 2936 S. BLACK OAK RD. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approx. 94 acres. The request is to extend a previously approved Large Scale Development. - Gretchen Harrison, Senior Planner

Unfinished Business**3. PPL-2023-0005: Preliminary Plat (E. ASH ST AND N. OLD WIRE RD/BORN'S BEND, 369):**

Submitted by BATES & ASSOCIATES for property located 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.

ITEM WAS TABLED AT AUGUST 28TH PLANNING COMMISSION MEETING. -
Donna Wonsower, Planner

New Business**4. ADM-2023-0033: Administrative Item (E. STEARNS ST/CITY OF FAYETTEVILLE, 136):**

ADM-2023-0003: Administrative Item (E. STEARNS STREET/CITY OF FAYETTEVILLE, 136): Submitted by CITY STAFF for property NORTH OF VANTAGE OFFICE PARK AND WEST OF BROOKHOLLOW SUBDIVISION. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is for confirmation of the Master Street Plan connection for Stearns Street. - Chris Brown, Public Works Director

5. ADM-2023-0028: Administrative Item (Amend UDC Chapters 151, 163, And 164):

Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 151.01, 163.05, and 164.24. The proposed code changes would update childcare family home requirements to align with state law. - Jessica Masters, Development Review Manager

6. VAR-2023-0038: Planning Commission Variance (5623 W. JESS ANDERSON RD/SHADRACH, 358):

Submitted by BLEW & ASSOCIATES for property located at 5623 W. JESS ANDERSON RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 8.68 acres. The request is for a variance from road frontage requirements.

ITEM HAS BEEN WITHDRAWN BY APPLICANT. - Gretchen Harrison, Senior Planner

7. VAR-2023-0039: Planning Commission Variance (2699 W. MARTIN LUTHER KING JR BLVD/CANVIS COFFEE LLC, 558):

Submitted by ISAIAH OJEDA for property located at 2699 W. MARTIN LUTHER KING JR BLVD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and R-A, RESIDENTIAL AGRICULTURAL and contains approximately 0.43 acres. The request is for a variance to the flood damage protection ordinance. - Alan Pugh, Staff Engineer

8. LSD-2023-0009: Large Scale Development (N. BOB YOUNKIN DR. & W. DRAKE ST/MIDTOWN LANDING, 251):

Submitted by COMMUNITY BY DESIGN for property located at N. BOB YOUNKIN DR. & W. DRAKE ST. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 3.59 acres. The request is for 64 residential units. - Donna Wonsower, Planner

9. LSD-2023-0015: Large Scale Development (1175 E. PUMP STATION RD./GIVINGTON, 642):

Submitted by JORGENSEN & ASSOCIATES for property located at 1175 E. PUMP STATION RD. The property is zoned I-2, GENERAL INDUSTRIAL and contains approximately 6.71 acres. The request is for a 60,000-square-foot office and warehouse structure with associated parking. - Jessica Masters, Development Review Manager

10. VAC-2023-0004: Vacation (817 E. DOGWOOD LN/BUXTON, 486):

Submitted by BLEW & ASSOCIATES for property located at 817 E. DOGWOOD LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.52 acres. The request is to vacate a 0.16-acre portion of alley right-of-way. - Gretchen Harrison, Senior

Planner

11. VAC-2023-0005: Vacation (612 W. CENTER ST/TRINITAS VENTURES, 483):

Submitted by CLARK LAW FIRM PLLC for property located at 612 W. CENTER ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.70 acres. The request is to vacate a 0.15 acre portion of alley right-of-way. - Jessica Masters, Development Review Manager

12. CUP-2023-0095: Conditional Use Permit (3800 W. RIVER BEND DR/SUNSHINE SPRAY TANS LLC, 283):

Submitted by ANNA GROMER for property located at 3800 W. RIVER BEND DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.21 acres. The request is to use the property for a home-occupation in RSF-4 zoning. - Donna Wonsower, Planner

13. RZN-2023-0021: Rezoning (659 N. GENEVIEVE AVE/TROUT, 436):

Submitted by DOUGLAS TROUT for property located at 659 N. GENEVIEVE AVE. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 1.50 acres. The request is to rezone the property to RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE. - Donna Wonsower, Planner

14. RZN-2023-0022: Rezoning (5672 W. TACKETT DR/HOGREFE, 436):

Submitted by ALAN HOGREFE for property located at 5672 W. TACKETT DR. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 2.10 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE. - Donna Wonsower, Planner

15. RZN-2023-0023: Rezoning (WEST OF 4451 N. WATERSIDE CT/UNIVERSITY CLUB LAND CO, LLC, 096):

Submitted by ENGINEERING SERVICES INC for property located at WEST OF 4451 N. WATERSIDE CT. The property is zoned R-O, RESIDENTIAL-OFFICE and contains approximately 3.50 acres. The request is to rezone the property to CS, COMMUNITY SERVICES. - Gretchen Harrison, Senior Planner

16. RZN-2023-0024: Rezoning (EAST OF N. COLLEGE AVE/MOLES, 096):

Submitted by ENGINEERING SERVICES INC for property located EAST OF N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 6.80 acres. The request is to rezone the property to CS, COMMUNITY SERVICES. - Gretchen Harrison, Senior Planner

17. CUP-2023-0096: Conditional Use Permit (426 N. OLIVER

AVE/HOGTAILGATING HOLDINGS LLC, 482):

Submitted by SEAN VOLLENDORF for property located at 426 N. OLIVER AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.40 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

18. CUP-2023-0097: Conditional Use Permit (1700 N. WOOLSEY AVE/AMOS PROPERTIES, 367):

Submitted by ASHA WILSON for property located at 1700 N. WOOLSEY AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.48 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

19. CUP-2023-0098: Conditional Use Permit (668 N. LONGFELLOW LN/HERMAN, 439):

Submitted by SUNNY HERMAN for property located at 668 N. LONGFELLOW LN. 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. - Gretchen Harrison, Senior Planner

20. CUP-2023-0099: Conditional Use Permit (1074 E. STARLING ST/GADDIS, 603):

Submitted by TAMI GADDIS for property located at 1074 E. STARLING ST. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT 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

21. CUP-2023-0100: Conditional Use Permit (1251 N. SICILY LN/WALLACE, 400):

Submitted by MOOSEARK LLC for property located at 1251 N. SICILY LN. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

22. CUP-2023-0101: Conditional Use Permit (1158 N. SUNSET DR/MEYERS, 404):

Submitted by KIMBERLY ZIMMERMAN for property located at 1158 N. SUNSET DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

23. CUP-2023-0102: Conditional Use Permit (1633 W. HALSELL RD/SPARKS, 482):

Submitted by LIGHTHOUSE REAL ESTATE for property located at 1633 W. HALSELL RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.60 acres. The request is to use the residence as a short-term rental.

ITEM WITHDRAWN FOR INCOMPLETE PUBLIC NOTIFICATION - Jessica Masters, Development Review Manager

Items Administratively Approved by Staff**24. LSIP-2022-0010: Large Site Improvement Plan (WEST OF 2455 W. WEDINGTON DR/MARINONI INC & PAM ANGUS LTD., 441):**

Submitted by CRAFTON TULL for properties located WEST OF 2455 W. WEDINGTON DR. The property is zoned UT, URBAN THOROUGHFARE and CS, COMMUNITY SERVICES and contains approx. 112.85 acres. The request is for extensions of Neighborhood Link Streets and Residential Link Streets. - Jessica Masters, Development Review Manager

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, 8/28/2023			
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 08-14-2023	2) VAR-2023-0037 (UNIVERSITY LOFTS AT THE SANCTUARY)	3) VAR-2023-0022 (DICKSON SQUARE LLC)	4) VAR-2023-0036 (UNIVERSITY LOFTS AT THE SANCTUARY)	5) PPL-2023-0004 (PINE HOLLOW SUBDIVISION)	6) PPL-2023-0005 (BORN'S BEND)
Holcomb	1	1	1	1	0	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	Recuse	1
Garlock	1	1	1	0	1	1	1
Madden	1	1	1	0	1	1	1
Payne	1	1	1	0	1	1	1
Gulley	1	1	1	1	1	1	1
Agenda		Consent	Consent	Old	New	New	Table till 9/11 PC
Motion By		Winston	Winston	Brink	Winston	Winston	Brink
Motion 2nd		Garlock	Garlock	McGetrick	Garlock	Madden	Madden
Vote		9-0-0	9-0-0	6-3-0	8-1-0	8-0-1	9-0-0
Action		Approve	Approve	Approve	Approve	Approve	Table
Time		5:35 PM	5:35 PM	6:01 PM	6:18 PM	6:30 PM	6:32 PM
Motion Detail				Passed in favor of all conditions as recommended by staff. 1 Public Comment	Passed with denial of the variance to 166.23. 0 Public Comment	Passed in favor of all conditions as recommended by staff. 0 Public Comment	Passed to table till Sept. 11th PC Meeting. 0 Public Comment

(pg. 2) Planning Commission		Monday, 8/28/2023			
	7) LSD-2023-0013 (STEEL TOWN MARKET)	8) RZN-2023-0020 (JONES)	9) CUP-2023-0085 (SANTIAGO)	10) CUP-2023-0091 (GRAHAM)	11) CUP-2023-0092 WINGARD)
Holcomb	1	1	1	1	1
Winston	1	1	1	1	1
McGetrick	1	1	1	1	1
Sparkman	1	1	1	1	1
Brink	1	1	1	1	1
Garlock	1	1	1	1	1
Madden	1	1	1	1	1
Payne	1	1	1	1	1
Gulley	1	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Payne	Brink	Payne	Garlock	Payne
Motion 2nd	Brink	Payne	Sparkman	Winston	Brink
Vote	9-0-0	9-0-0	4-5-0	9-0-0	9-0-0
Action	Approve	Forward	Approve	Approve	Approve
Time	6:57 PM	7:03 PM	7:21 PM	7:25 PM	7:30 PM
Motion Detail	Passed in favor of all conditions as recommended by staff. 2 Public Comment	Passed with a recommendation of approval. Public Comment	Failed 1 Public Comment	Passed in favor of all conditions as recommended by staff. Limited to 6 guests 0 Public Comment	Passed in favor of all conditions as recommended by staff. 0 Public Comment

(pg. 3) Planning Commission		Monday, 8/28/2023			
	12) CUP-2023-0087 (GINGER)	13) CUP-2023-0090 (TEEGARDEN)	14) CUP-2023-0075 (MITCHELL)	15) CUP-2023-0079 (MARQUEZ)	16) CUP-2023-0093 (BUNCH)
Holcomb	1	1	1	1	1
Winston	1	1	1	1	1
McGetrick	1	1	1	1	1
Sparkman	1	1	1	1	1
Brink	1	1	1	1	1
Garlock	1	1	1	1	1
Madden	1	1	1	1	1
Payne	1	1	1	1	1
Gulley	1	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Garlock	Brink	Payne	Garlock	Payne
Motion 2nd	Madden	Winston	Winston	Madden	Brink
Vote	9-0-0	9-0-0	9-0-0	9-0-0	9-0-0
Action	Approve	Approve	Approve	Approve	Approve
Time	7:35 PM	7:45 PM	7:50 PM	7:55 PM	8:02 PM
Motion Detail	Passed in favor of all conditions as recommended by staff. 0 Public Comment	Passed in favor of all conditions as recommended by staff. Limited to 6 Guest 0 Public Comment	Passed in favor of all conditions as recommended by staff. No on-street parking. 0 Public Comment	Passed in favor of all conditions as recommended by staff. 0 Public Comment	Passed in favor of all conditions as recommended by staff. Limited to 4 guests. 0 Public Comment



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 11, 2023

SUBJECT: **ADM-2023-0035: Administrative Item (SOUTH OF 2936 S. BLACK OAK RD./RIVERSIDE VILLAGE PHASE 1, 682 683):** Submitted by CRAFTON TULL for property located SOUTH OF 2936 S. BLACK OAK RD. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 94 acres. The request is to extend a previously approved large scale development.

RECOMMENDATION:
Staff recommends approval of **ADM-2023-0035**.

RECOMMENDED MOTION:
*"I move to approve **ADM-2023-0035** with conditions as recommended by staff."*

BACKGROUND:

The subject property is in south Fayetteville on the east side of Black Oak Road. The property encompasses approximately 94.00 acres that were recently annexed into Fayetteville city limits in late 2021. In association with that annexation request, the property was rezoned as a Planned Zoning District. In terms of the natural features of the site, most tree canopy is present near the West Fork White River which generally forms the eastern boundary of the subject property. The eastern extent of property is encumbered by the floodway and floodplain associated with the river. An unnamed protected tributary of the West Fork White River is present in the northeast quadrant of the property. A large scale development for the first phase of this project, which contains 106 residential units, was approved by the Planning Commission in April of 2022 (LSD-2022-0008). The large scale development for the second phase of this project, which contains 128 residential units, was approved by the Planning Commission in July of 2023 (LSD-2023-0008). Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Industrial; Combs Park	I-2, General Industrial; P-1, Institutional
South	Natural Area	AG/SF-1, Agricultural/Single-Family Residential, One Unit per Acre (Washington County)
East	Natural Area	AG/SF-1, Agricultural/Single-Family Residential, One Unit per Acre (Washington County)
West	Natural Area	AG/SF-1, Agricultural/Single-Family Residential, One Unit per Acre (Washington County)

Request: The applicant is requesting a one-year extension to their large scale development which expired on April 25, 2023. The applicant submitted a letter requesting the extension on August

10, 2023, within the 18-month time limit that they are allotted to request a one-year extension from the Planning Commission per UDC §166.20, Expiration of Approved Plans and Permits.

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

DISCUSSION:

Staff recommends approval of the applicant's extension request. The request was received before October 25, 2023, which is the deadline for the applicant to request that the Planning Commission extend their approval for up to one additional year. A grading permit for the project was issued in October of last year and on-site improvements are currently being installed. Staff finds that the applicant is still actively working to complete construction of this development and is supportive of the request for a one-year extension since it would allow the project to continue moving forward. An extension would give the applicant time to finish installing improvements and apply for all necessary building permits associated with this project.

RECOMMENDATION: Staff recommends approval of **ADM-2023-0035** with the following conditions:

Conditions of Approval:

1. A one-year extension for LSD-2022-0008 will expire on April 25, 2024;
2. All other conditions of approval associated with LSD-2022-0008 not affected by this extension shall remain in effect; and
3. Approval of this large scale development extension does not constitute approval of associated permits or entitlements not fully reviewed at this time.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §166.20 Expiration of Approved Plans and Permits
- LSD-2022-0008 Conditions of Approval
- LSD-2022-0008 Exhibit
- Applicant Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.20 Expiration of Approved Plans and Permits

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

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

(B) Time Limit.

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

(C) Three (3) Year Time Limit.

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

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

LSD-2022-0008 Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends 33.5 feet from street centerline for S. Black Oak Road, 52 feet for internal streets, and 20 feet for proposed alleys, as outlined above.*

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

2. **Planning Commission determination of street improvements.** *Staff recommends Master Street Plan Standards with a recommendation of approval for proposed 90-degree parking variance as outlined above.*

Subdivision Committee recommended in favor of proposed street improvements.

3. **Planning Commission determination of block length variance request for 166.08(E)(1)(c).** *Staff recommends in support as outlined above.*

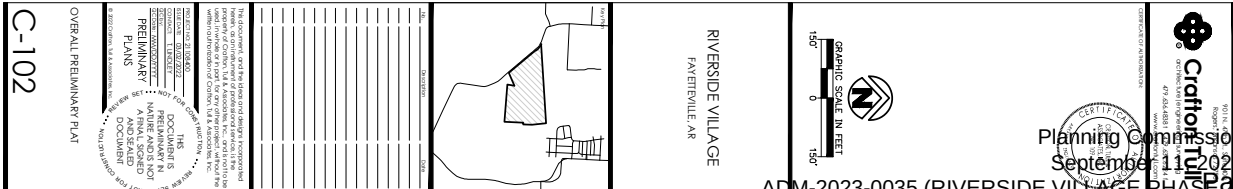
Subdivision Committee recommended in favor of the block length variance, with two added conditions that a traffic-calming component be added mid-block between lots 62 and 63 in conjunction with the proposed pedestrian path, and that the proposed pedestrian path be paved and constructed to an accessible width.

4. Plat comments from the Planning Division shall be addressed, including the following:
 - a. Provide information about vehicular access to lots 73-81. Garages are proposed in the rear based on the elevations provided, but there is not currently a visible drive.
5. A separate Conditional Use Permit will need to be applied for and approved for proposed off-site parking lots prior to subdivision of land under 172.06(C);
6. Parkland dedication in the minimum amount of 2.44 acres for 106 single-family dwellings must be received prior to building permits;
7. Streetlights must be installed at intersections and at a linear spacing distance of no more than 300 feet;
8. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard conditions of approval:

1. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
2. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks Electric, SWEPCO, and Cox Communications);
3. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
4. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
5. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
6. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, 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 the City's current requirements;
7. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;

8. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation;
9. Large scale development shall be valid for one calendar year;
10. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit. The coordinator has noted that a separate street name is required;
11. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and
12. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - e. Project Disk with all final revisions; and
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.





August 10, 2023

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

RE: Riverside Village Phase 1
CTA Job No. 21108400

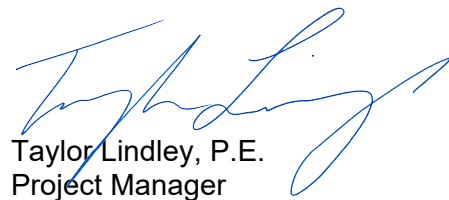
To whom it may concern,

This submittal is for an extension of the Large Scale Development Plan for Riverside Village Phase 1. The development is a single family residential subdivision with an open lot for future development and dedicated park land to the east. The site is located off of S. Black Oak Road south of Borick Drive. The site area is approximately 94 acres in total with 106 residential lots proposed in Phase 1. The current zoning is RPZD and the proposed development adheres to the zoning requirements. There are two entrances proposed off of S. Black Oak Drive where we are proposing half street improvements as required.

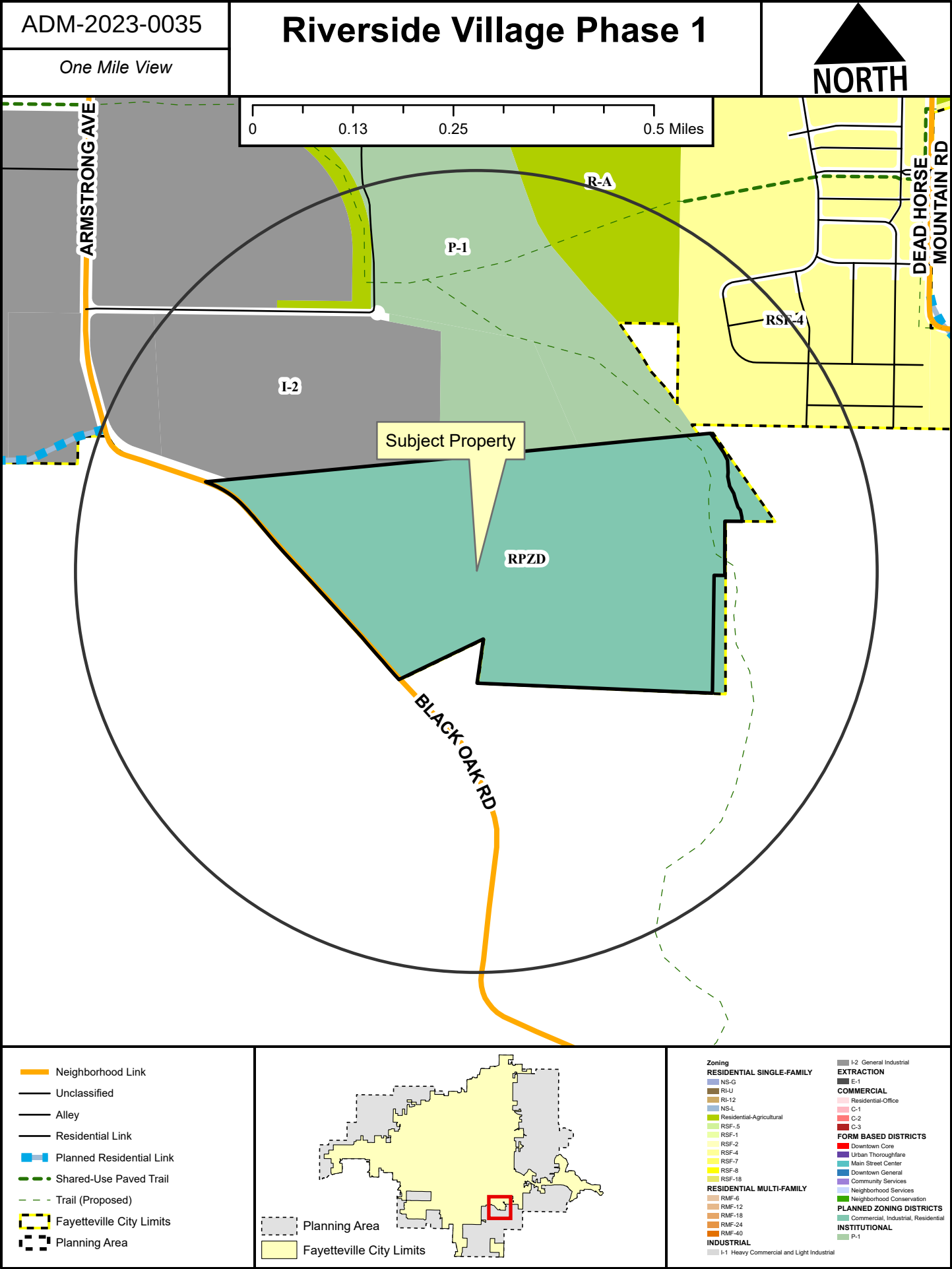
The Large Scale Development plan was approved at the City of Fayetteville Planning Commission on April 25, 2022. We are requesting a one-year extension on this approval.

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

Sincerely,



Taylor Lindley, P.E.
Project Manager

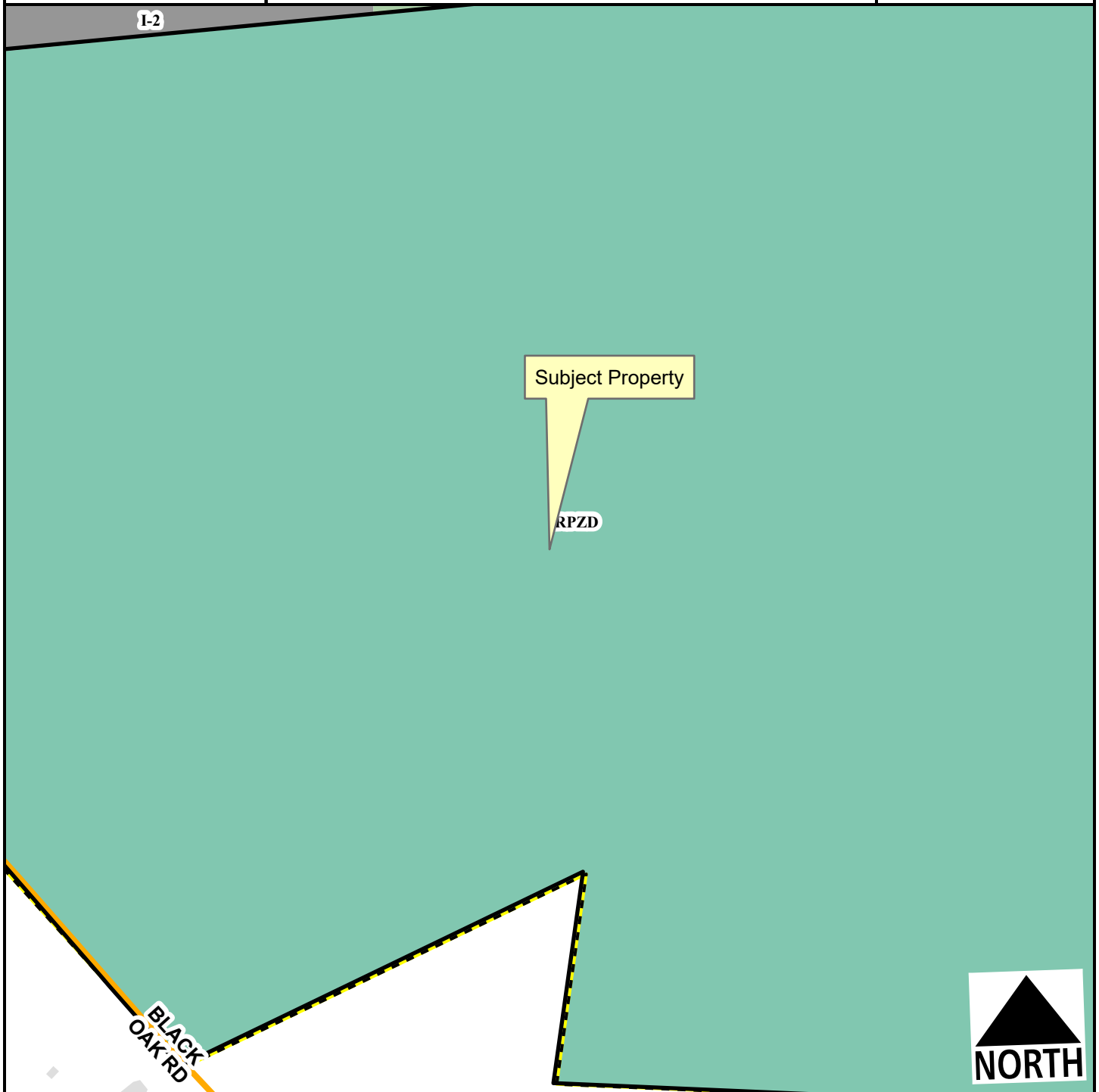


Planning Commission

September 11, 2023

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- Neighborhood Link
- Planning Area
- Fayetteville City Limits



- I-2 General Industrial
- Commercial, Industrial, Residential
- P-1





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forestry

MEETING: September 11, 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 approval of **PPL-2023-0005** with conditions.

RECOMMENDED MOTION:

*"I move to approve **PPL-2023-0005**, recommending:*

- In favor of requested variance to §166.08(E)(1)(C): Block Length and Connectivity,*
- In favor of requested variance to §166.08(E)(2): Double Frontage Lots,*
- In favor of requested variance to §166.08(F): Access Management,*
- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements, and*
- In favor of all other conditions as recommended by staff."*

AUGUST 28, 2023 PLANNING COMMISSION MEETING:

The applicant requested to table themselves until the September 11, 2023 Planning Commission to allow time for comments to be addressed on the No Adverse Impact (NAI) analysis. Since then, FTN has worked with staff to address those concerns, and the revised NAI indicates that the development will not increase flood flows, flood heights, or flood channel velocities, and it also reflects the most recent grading plan showing the compensatory storage required for any measurable loss of flood storage capacity.

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.

RECOMMENDATION: Staff recommends approval of PPL-2023-0005 with 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 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. *Principle façade of all double frontage lots shall face N. Old Wire Rd.*

- c. *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 from Borns Bend Ave to the northern property line of the detention lot.*

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 including:
 - a. Wetland delineation study must be provided with the grading permit application.
 - b. Provide a request for a City Engineer determination of no feasible alternative for sanitary sewer connection within streamside zone.
 - c. Submit a Site Analysis Report stating why the minimum Tree Preservation Canopy requirements cannot be met.

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: September 11, 2023

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None.

ATTACHMENTS:

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



TO: Donna Wonsower, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: September 6, 2023

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

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 the proposed subdivision. Staff previously recommended this item be tabled at the August 28th Planning Commission meeting to allow time for comments to be addressed that had previously been issued on the No Adverse Impact (NAI) analysis. Since then, FTN has worked with staff to address those concerns, and the revised NAI indicates that the development will not increase flood flows, flood heights, or flood channel velocities, and it also reflects the most recent grading plan showing the compensatory storage required for any measurable loss of flood storage capacity.

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 28, 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		128 required, 120 provided
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	08-23-23
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 28, 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	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	No	NO
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)	Yes	Yes	Yes
l. Floodplains and floodways	Yes	Yes	Yes
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan Report (if required)	No	?	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	?	?
e. Location of concrete wash out	No	?	?

f. Location of construction entrance/exit	No	?	?
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	07-18-23	08-16-23	08-23-23
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. The Landscape 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. This is a repeat comment.
4. Please check the Mitigation Requirements chart on the landscape plan and make sure the number matches the Mitigation Requirements line of the Tree Preservation Calculations chart.
5. Please submit a Site Analysis Report stating why the minimum Tree Preservation Canopy Requirement cannot be met (site constraints, etc.).
6. Tree Preservation Fence must be placed along the north and east portions of the detention pond, and along the eastern property line of Lot 7.



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: June 28, 2023

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: June 5, 2023

Project Title: Born's Bend (AKA Old Wire & Ash Subdivision)

Project Number: PPL-2023-0005

Project Location: E Ash St and N Old Wire Rd

Plat Page: 369

Park Quadrant: NE

Billing Name & Address: Mark Born, 1921 N Old Wire Rd, Fayetteville, AR 72703

☐ Land Dedication

☒ Fee-in-Lieu

☐ Combination

LAND DEDICATION

Single Family: _____ units x 0.023 acres per unit = 0.00 acres

Multi Family: _____ units x 0.020 acres per unit = 0.00 acres

**TOTAL
Acres**

0.0

FEE-IN-LIEU

Single Family: 16 units x \$1,089 per unit = \$17,424

Multi Family: _____ units x \$952 per unit = \$ 0

**TOTAL
Fees**

\$17,424

SUMMARY:

- Project proposes 9 SF units and 0 MF units.
- The final amount of fee-in-lieu and/or land dedication needed to satisfy Parkland Dedication requirements will be determined after Planning Commission's approval of the Final Plat.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- Prior to final receipt by the city, all fees must be paid and any deeds for parkland dedication property must be:
 - Approved by the City's Land Agent in the Engineering Division.
 - Recorded at the Washington County Courthouse.

- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.



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 1: Site Plan



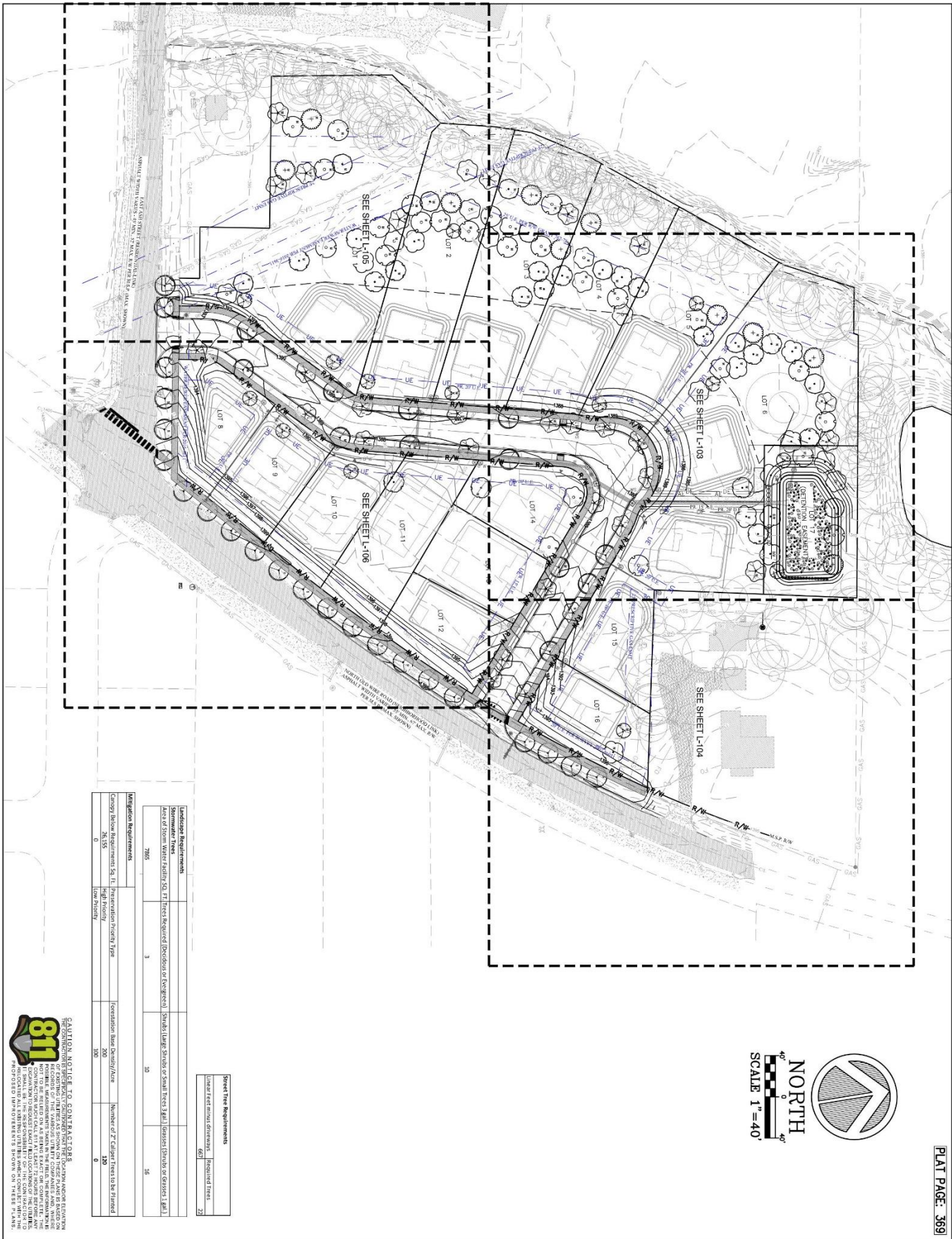
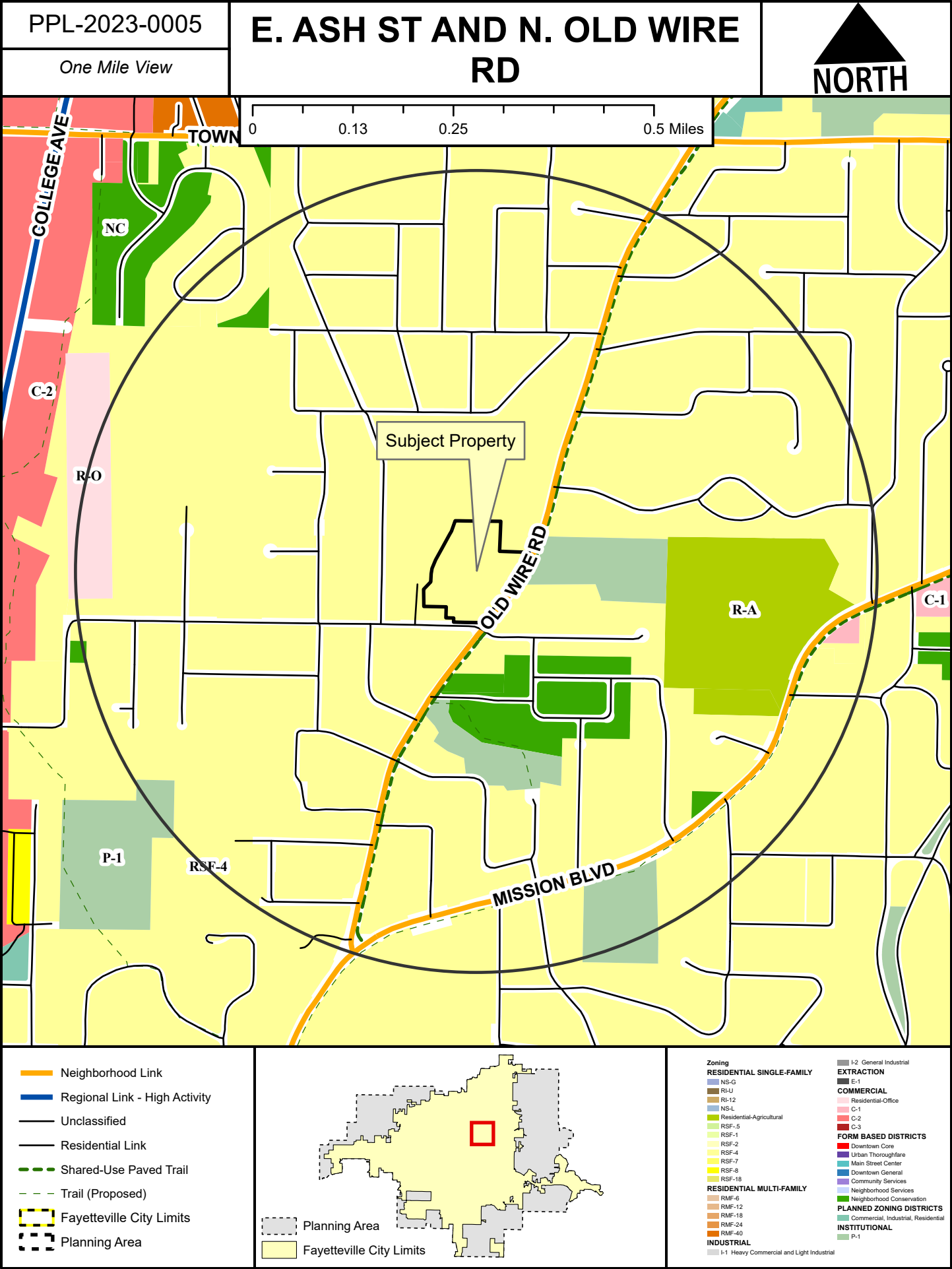
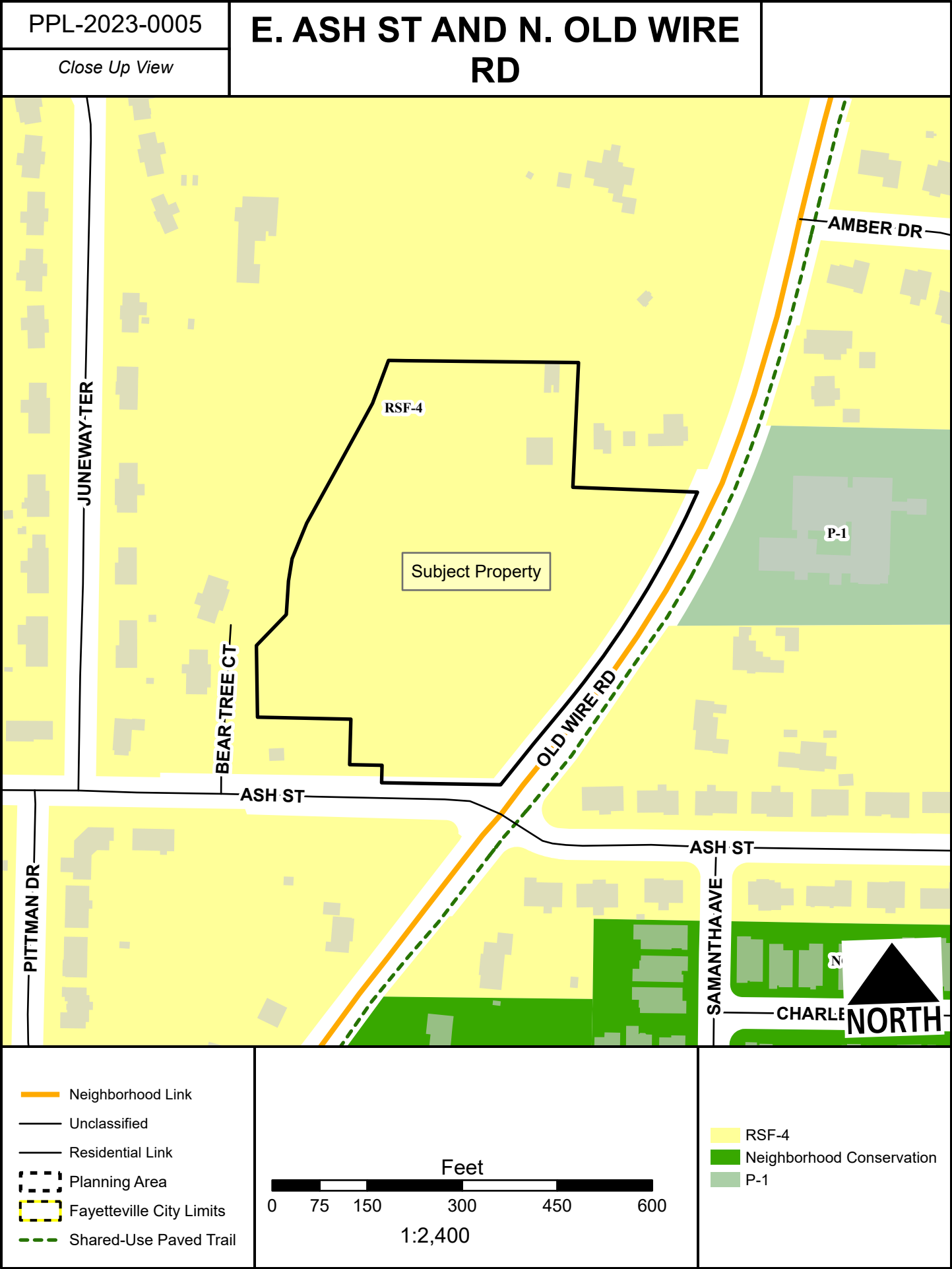
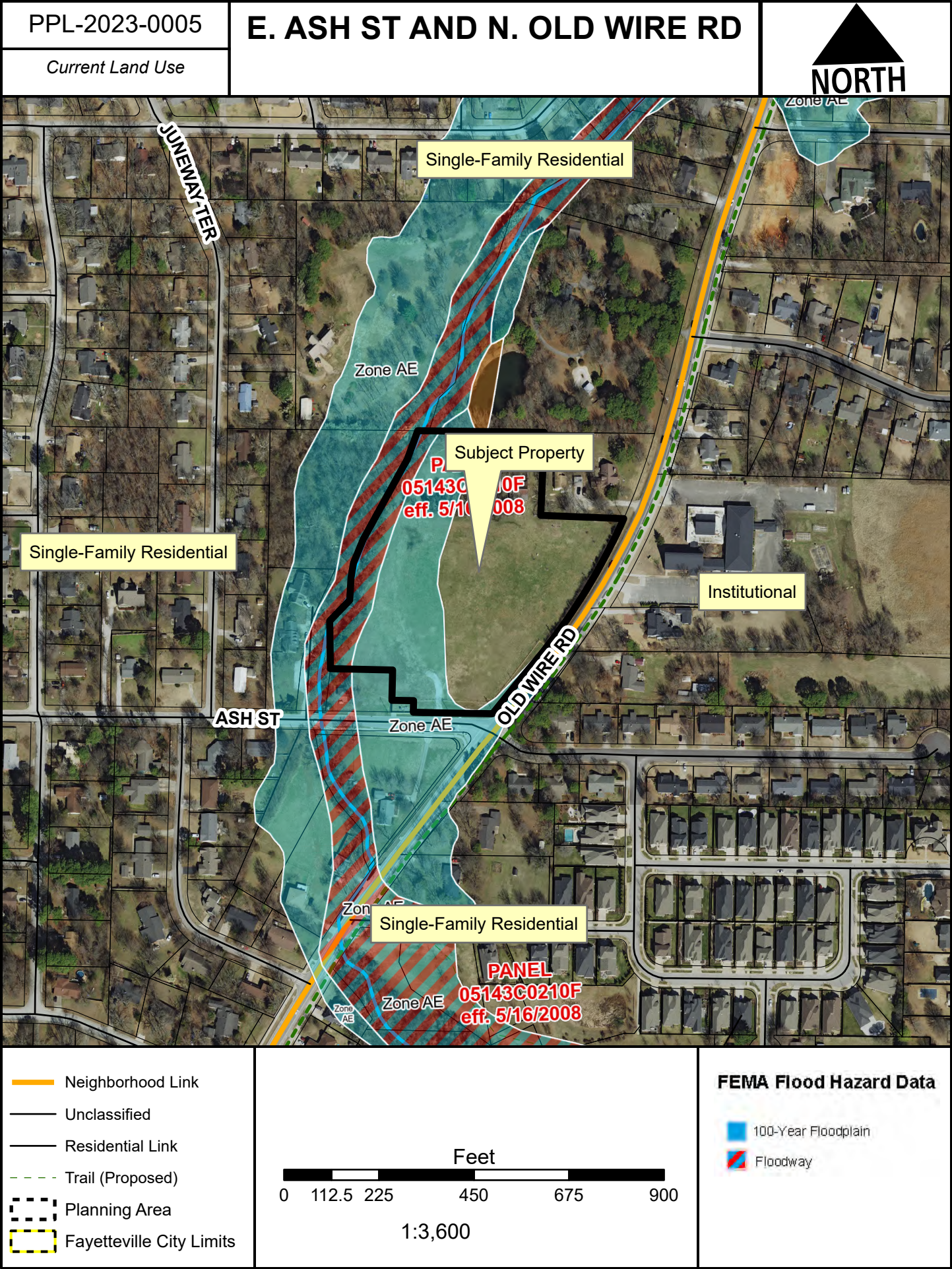


Figure 3: Overall Landscape Plan









TO: Fayetteville Planning Commission

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

MEETING DATE: September 11, 2023

SUBJECT: **ADM-2023-0033: Administrative Item (E. STEARNS STREET/CITY OF FAYETTEVILLE, 136):** Submitted by CITY STAFF for property NORTH OF VANTAGE OFFICE PARK AND WEST OF BROOKHOLLOW SUBDIVISION. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is for confirmation of the Master Street Plan connection for Stearns Street.

RECOMMENDATION:

Staff recommends forwarding **ADM-2023-0033** to the Transportation Committee with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **ADM-2023-0033** to the Transportation Committee with a recommendation of approval."*

BACKGROUND:

Stearns Street, between Old Missouri Road and Vantage Drive, has been on the Master Street Plan for many years. The eastern segment, connecting to Old Missouri Road, was constructed in the late 1980's as part of a residential development (Brookhollow Subdivision). The western section, connecting to Vantage Drive, was constructed in 2018 as part of a commercial subdivision (Vantage Office Park), leaving a gap of approximately 260 feet between the two constructed segments. Right-of-way for the unconstructed segment was dedicated in the late 1990's as part of the Bellafont Gardens development. Since that time, the Bellafont Gardens Property Owners' Association has used the right-of-way for maintenance purposes, and has constructed a maintenance shed within the right-of-way.

During the development of the commercial subdivision, an assessment for construction of the connection was charged to each individual development in the subdivision; the amount of the assessment was based the traffic generated by the development as a percentage of the street capacity. The total of these assessments is \$20,853.43. A summary of the amounts and dates of assessments are as follows:

LSD 19-6580 Lot 4	3/25/2019 (PC)	\$3,289.92
LSD 19-6720 Lot 1	7/8/2019 (PC)	\$2,735.27
LSD 20-7106 Lot 2	5/28/2020 (SC)	\$6,564.65
LSD 20-7141 Lot 5	7/2/2020 (SC)	\$0.00
LSD-2023-0003 Lot 3	5/22/2023 (PC)	\$8,263.59
Total Assessed:		\$20,853.43

It should be noted that the assessment for Lot 2 was approved as either a street or sidewalk connection; the remaining assessments did not speak to this detail.

These funds are time limited and must be spent within 7 years of the date they were collected. Therefore, staff needs to proceed with design and construction of the connection in a timely manner, or the collections will need to be refunded to the lot developers.

Proposal: Staff requests a recommendation from the Planning Commission to the Transportation Committee affirming the planned Stearns Street connection on the Master Street Plan.

DISCUSSION:

Implementation of the Stearns Street connection would include final design to develop construction level plans, and procurement of a construction contractor for construction. Due to the history of discussions about this connection during lot development of Vantage Office Park, staff initiated a public feedback process that included an online survey and a public meeting near the connection site on July 31 of this year.

Public Comment summary: Attached is a summary of online survey data collected between July 5 and August 4, 2023, and a summary of the results. In the online survey, participants were asked to vote on support for a full street connection, or a pedestrian/bike only section. The questions were designed to provide an indication of sentiment for these options, as well as for no connection at all. The responses were quite polarized, with most responses being either “highly supportive” or “highly opposed” to the connection. The survey included questions regarding respondents’ proximity to and usage of Stearns Street, along with demographic data. As would be expected, those living within a ½ mile of the street were generally supportive than those living further away, indicating concerns regarding traffic impacts to residents along and near the street.

The public meeting held on Stearns Street was mostly attended by those opposed to the street (a poll or survey was not taken; rather, the residents who attended were directed to the online survey). Approximately half of the attendees were residents of Bellafont Gardens, the remaining half resided on Stearns or adjacent streets in the Brookhollow Subdivision. It should be noted that Bellafont Gardens streets will not connect to Stearns; therefore, this neighborhood will not be impacted by additional traffic, nor will it have any additional street access. The only impact will be due to the use of the City right-of-way that is currently being used for neighborhood maintenance services.

Finally, there was general neighborhood support for sidewalk improvements, and to a lesser extent traffic calming, if the street connection is made.

RECOMMENDATION: Staff recommends forwarding ADM-2023-0033 to the Transportation Committee with a recommendation of approval.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Approved ☐ Denied
Motion:		
Second:		
Vote:		

BUDGET/STAFF IMPACT:

None

Attachments:

- Engineering Memo – Public Feedback Summary
- Survey Responses Report
- 2040 Master Street Plan Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map



TO: Chris Brown, Public Works Director

THRU: Matt Mihalevich, Active Transportation Manager
Mellissa Boyd, Staff Engineer

FROM: Dane Eifling, Mobility Coordinator

DATE: 4 August 2023

SUBJECT: **Stearns Street Extension Public Feedback Summary**

RECOMMENDATION:

Present public feedback to Transportation Committee.

BACKGROUND:

At the direction of the City Council's Transportation Committee City staff has worked to engage with residents and collect feedback on the proposed connection of East Stearns Street between Old Missouri Road and Vantage Drive.

Public outreach has consisted of an online survey, a media release, social media posts, mailers and an in-person neighborhood meeting. The Speak Up Fayetteville survey opened on July 5th and as of August 4th has received 168 responses. Mailers were sent out to approximately 80 addresses of adjacent residents and property owners which included a QR code for the online survey and time/date information for the in-person input session. The in-person inputs session was held the evening of July 31st and was hosted by 3 staff members and was attended by approximately 50 residents and was covered by KNEW news.

DISCUSSION:

General take-aways from the online survey results:

1. Polarized results with most responses either "highly supportive" or "highly opposed" to the project.
2. Respondents that identified as living within ½ mile of the project were much less supportive of the street connection and much more supportive of the pedestrian/bike only connection.
3. Respondents identifying as being under the age of 40 were significantly more supportive of all project options compared to respondents identifying as being 40 years old or older.

Question #1 "What option describes your level of support for the following:"

Option	% supportive	% opposed	Net Support
Connection of Stearns Street with standard design including sidewalks and driving lanes	60%	36%	+24%
Pedestrian ONLY connection, such as	48%	36%	+12%
Improvements to the sidewalks if/when the street is connected	63%	21%	+39%
Addition of traffic calming (speed humps, et.) on Stearns if/when street is connected	47%	38%	+9%

Question # 1 when filtered for those self-identifying as living within ½ mile of the project:

Option	% supportive	% opposed	Net Support
Connection of Stearns Street with standard design including sidewalks and driving lanes	35%	62%	-27%
Pedestrian ONLY connection, such as	57%	36%	+21%
Improvements to the sidewalks if/when the street is connected	46%	36%	+10%
Addition of traffic calming (speed humps, et.) on Stearns if/when street is connected	49%	46%	+3%

Question # 1 when filtered for those self-identifying as under the age of 40:

Option	% supportive	% opposed	Net Support
Connection of Stearns Street with standard design including sidewalks and driving lanes	70%	21%	+49%
Pedestrian ONLY connection, such as	52%	22%	+30%
Improvements to the sidewalks if/when the street is connected	81%	11%	+70%
Addition of traffic calming (speed humps, et.) on Stearns if/when street is connected	54%	32%	+19%

Question # 1 when filtered for those self-identifying as over the age of 40:

Option	% supportive	% opposed	Net Support
Connection of Stearns Street with standard design including sidewalks and driving lanes	53%	44%	+9%
Pedestrian ONLY connection, such as	46%	40%	+6%
Improvements to the sidewalks if/when the street is connected	51%	27%	+24%
Addition of traffic calming (speed humps, et.) on Stearns if/when street is connected	42%	41%	+1%

General Noted from the in-person meeting:

1. Residents who attended expressed a general opposition to the street connection
2. Approximately half of those in attendance were residents of the Bellafont Gardens neighborhood and half residents of Stearns and adjoining streets
3. Residents expressed concerns about potential cut-through traffic and speeding
4. Residents expressed desire for a traffic study or projections that would consider new apartment developments on Old Missouri Rd and the new office park on Vantage Dr
5. Residents expresses interest in sidewalk/trail connection for improved pedestrian and bicycle connection.
6. Residents expressed general desire for a final resolution of the issue/question of whether the street will be extended or not.

Opposition to the street extension has come primarily from residents of Stearns and adjoining streets as well as residents of Bellafont Gardens neighborhood to the north west of the project. It is important to note that neither the proposed street connection nor trail/sidewalk would connect to Bellafont Gardens streets and would have no impact on existing traffic patterns or access for this neighborhood. However, Bellafont Gardens neighborhood residents have constructed privacy fences and Property Owners Association maintenance shed within city right of way. These structures would be removed if the street were extended. A trail or sidewalk connection could be made without full removal of the existing structures.

Attachments:

Speak Up Fayetteville survey response summary

Stearns Street Extension - Public Input Survey

SURVEY RESPONSE REPORT

08 August 2018 - 03 August 2023

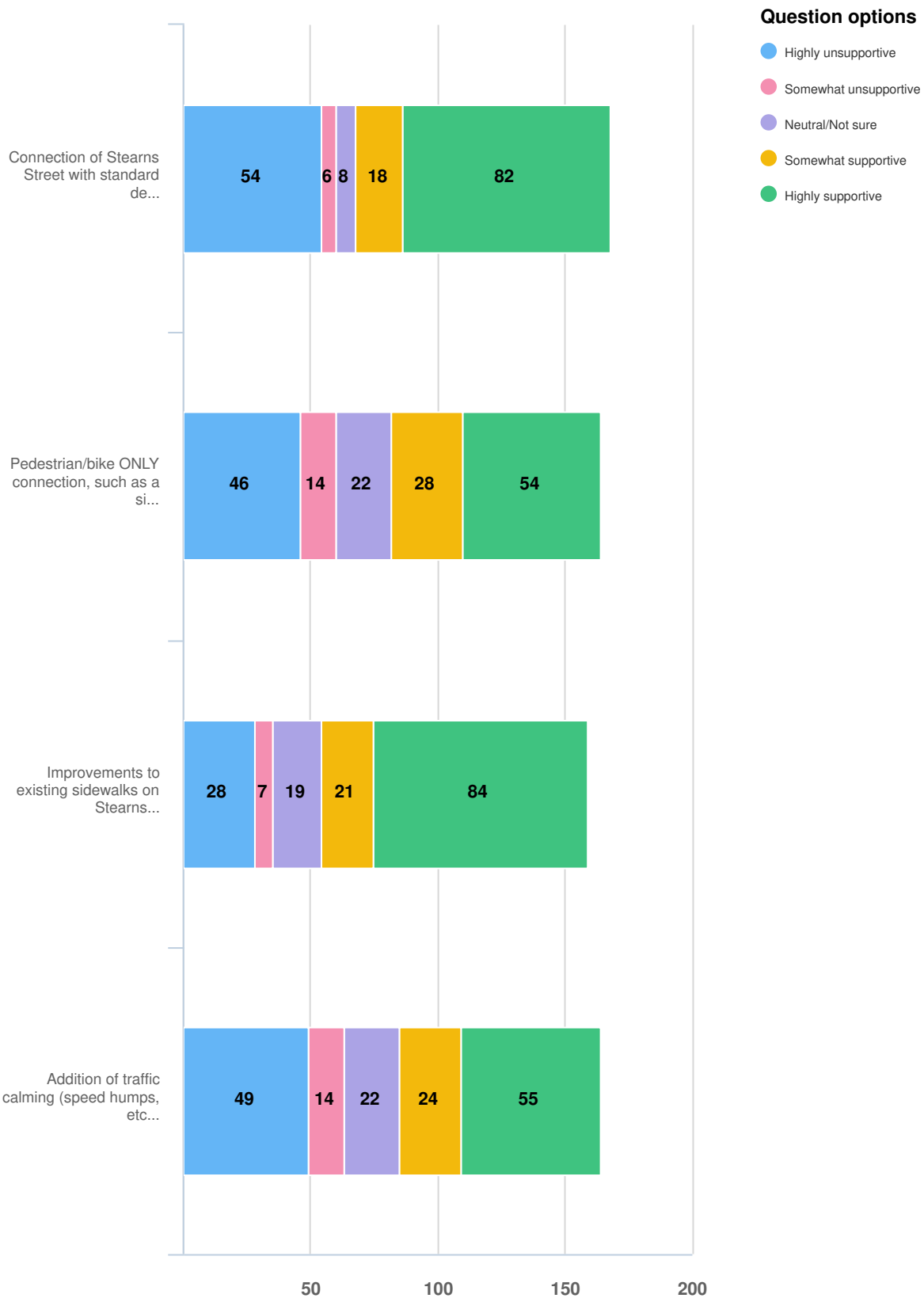
PROJECT NAME:

Stearns Street Extension



SURVEY QUESTIONS

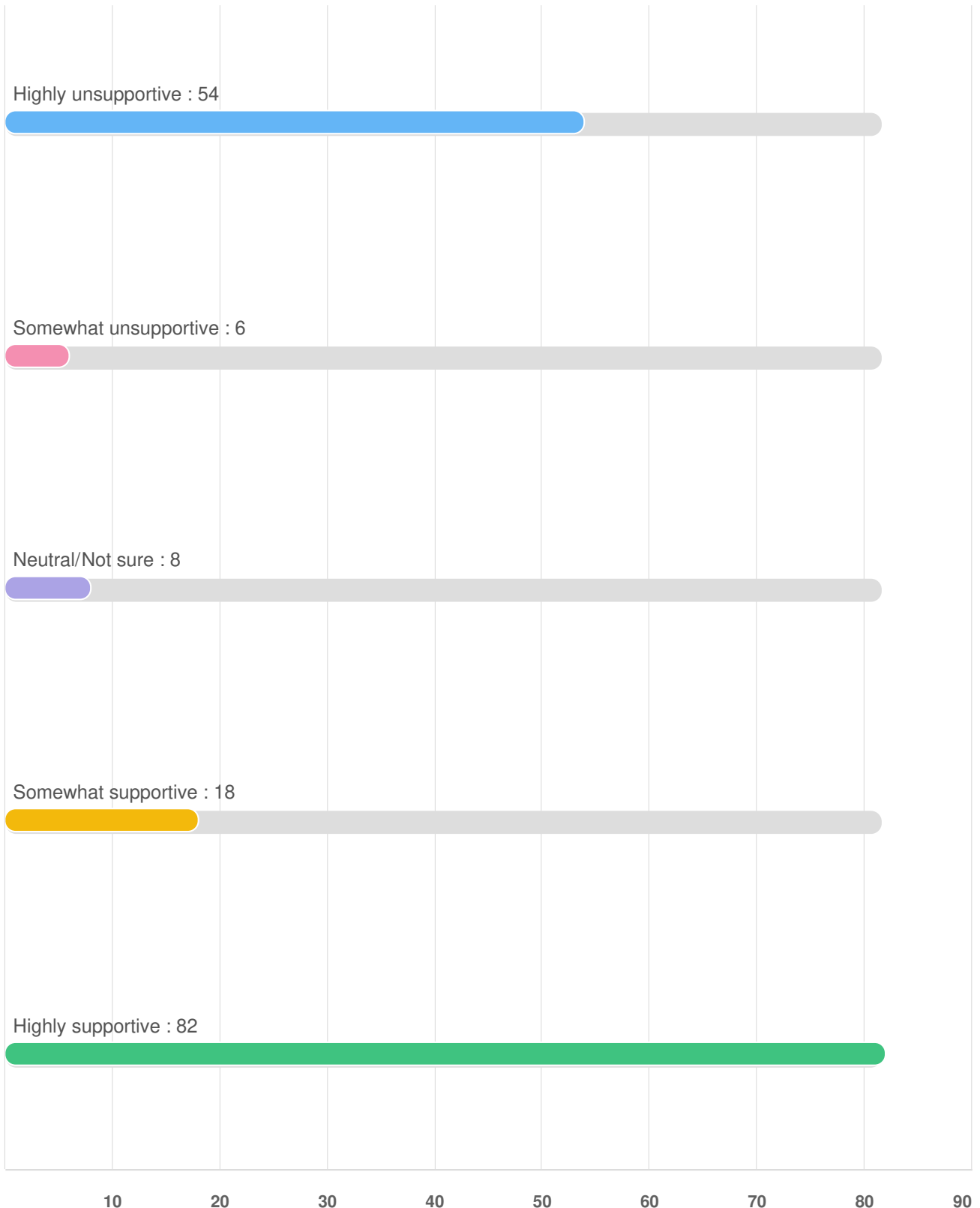
Q1 What option describes your level of support for the following statements:



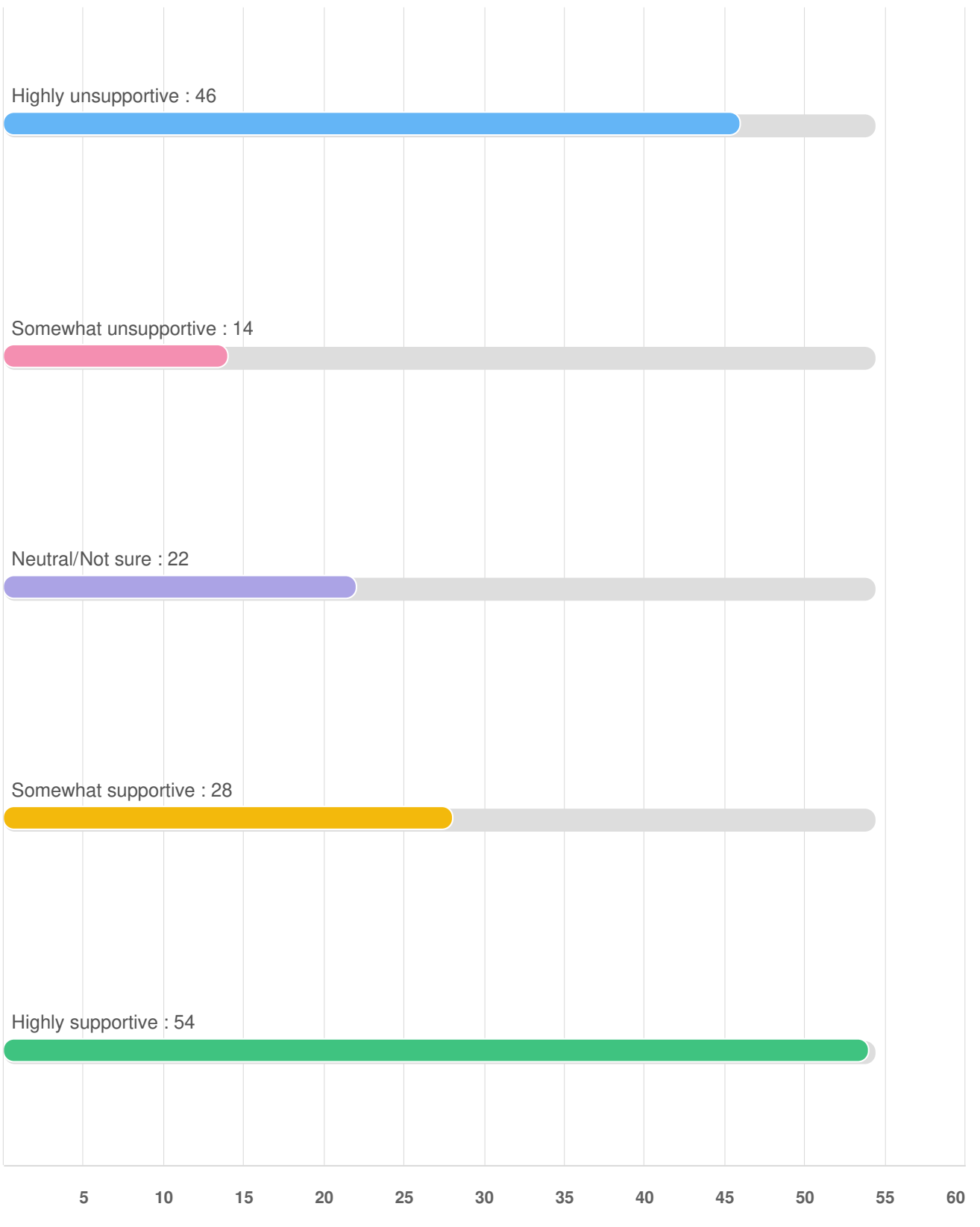
Optional question (168 response(s), 0 skipped)
Question type: Likert Question

Q1 | What option describes your level of support for the following statements:

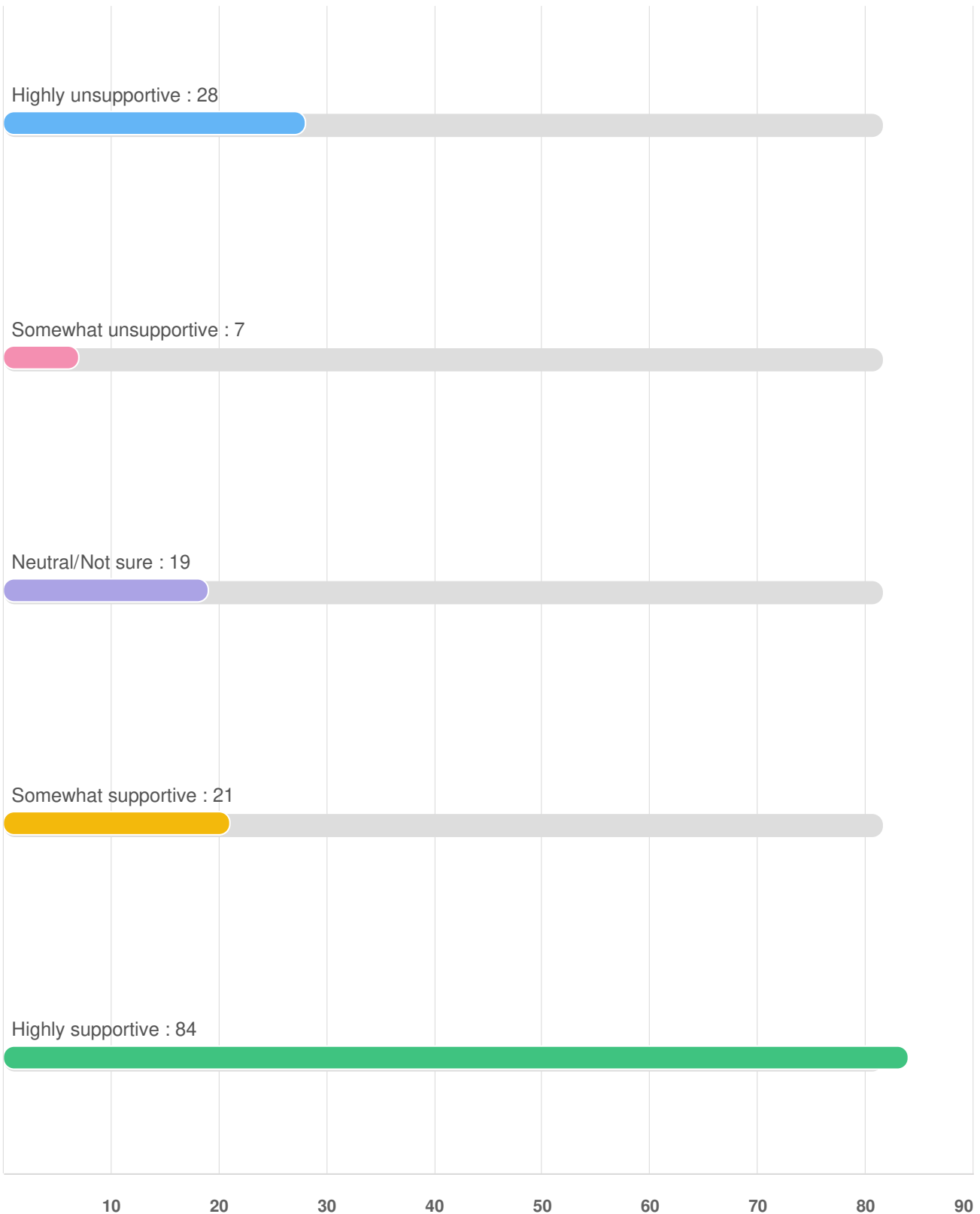
Connection of Stearns Street with standard design, including sidewalks and driving lanes.



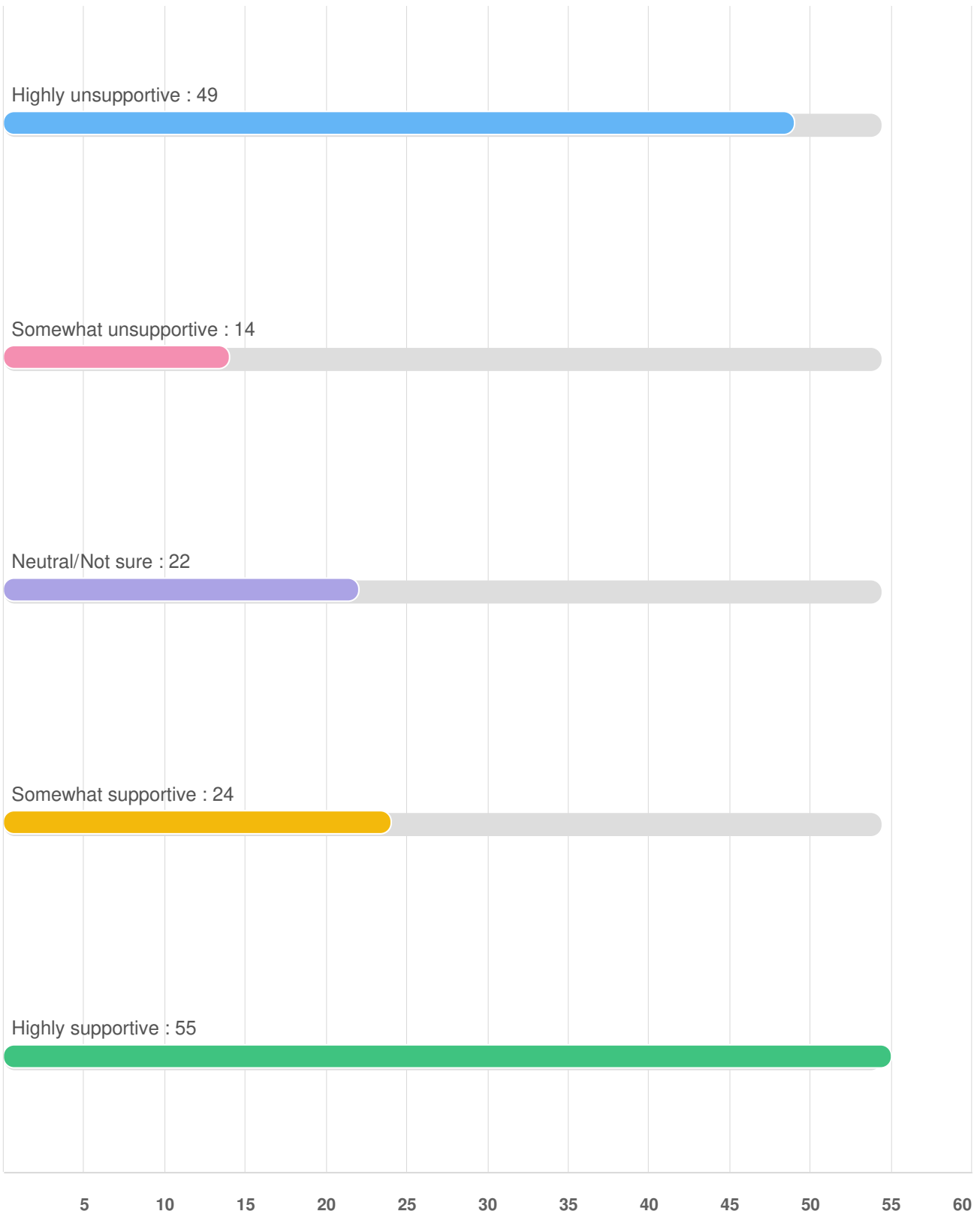
Pedestrian/bike ONLY connection, such as a sidewalk or trail.



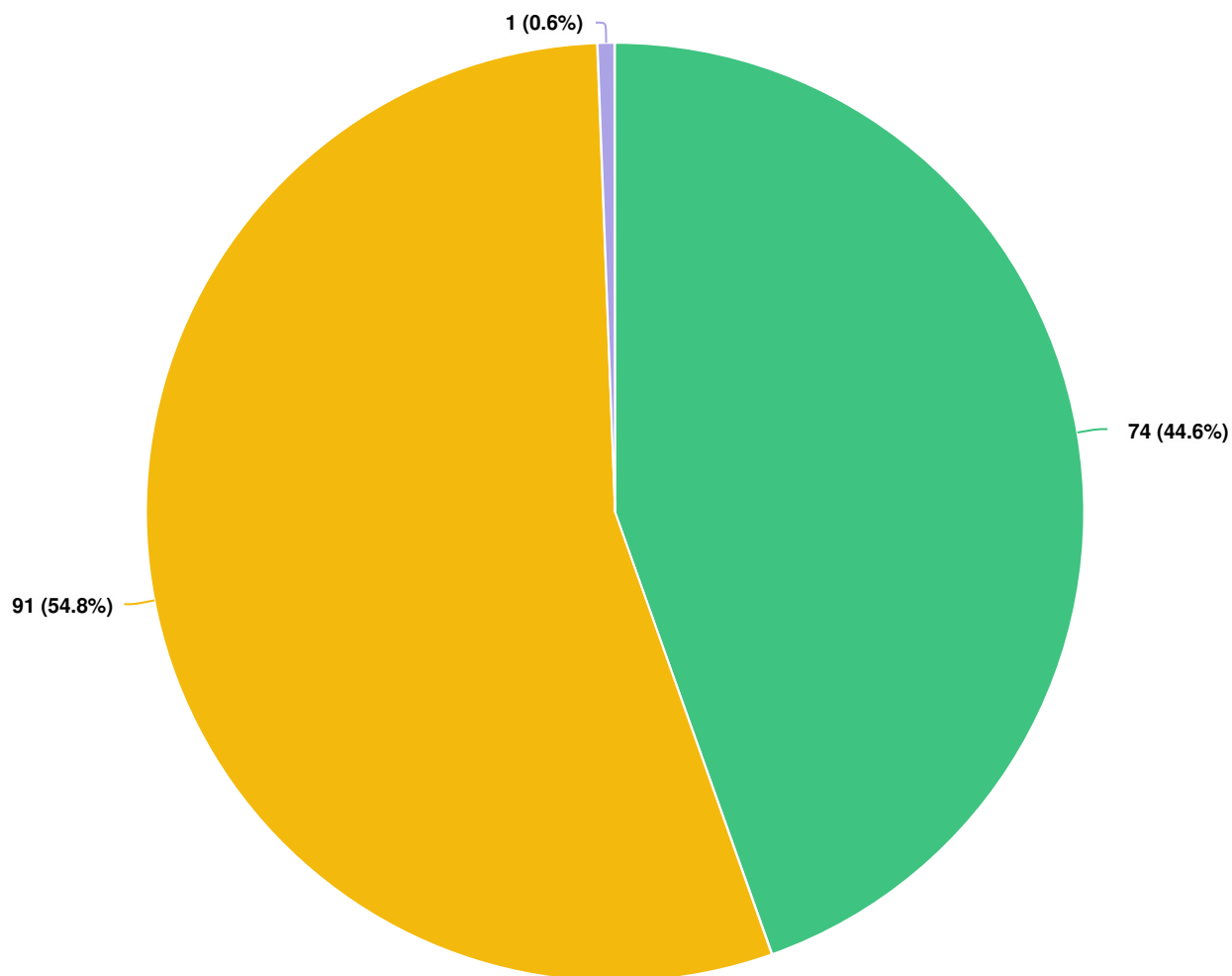
Improvements to existing sidewalks on Stearns Street if/when the street is connected.



Addition of traffic calming (speed humps, etc.) on Stearns Street if/when the street is connected.



Q2 Do you live within 1/2 mile of Stearns Street?

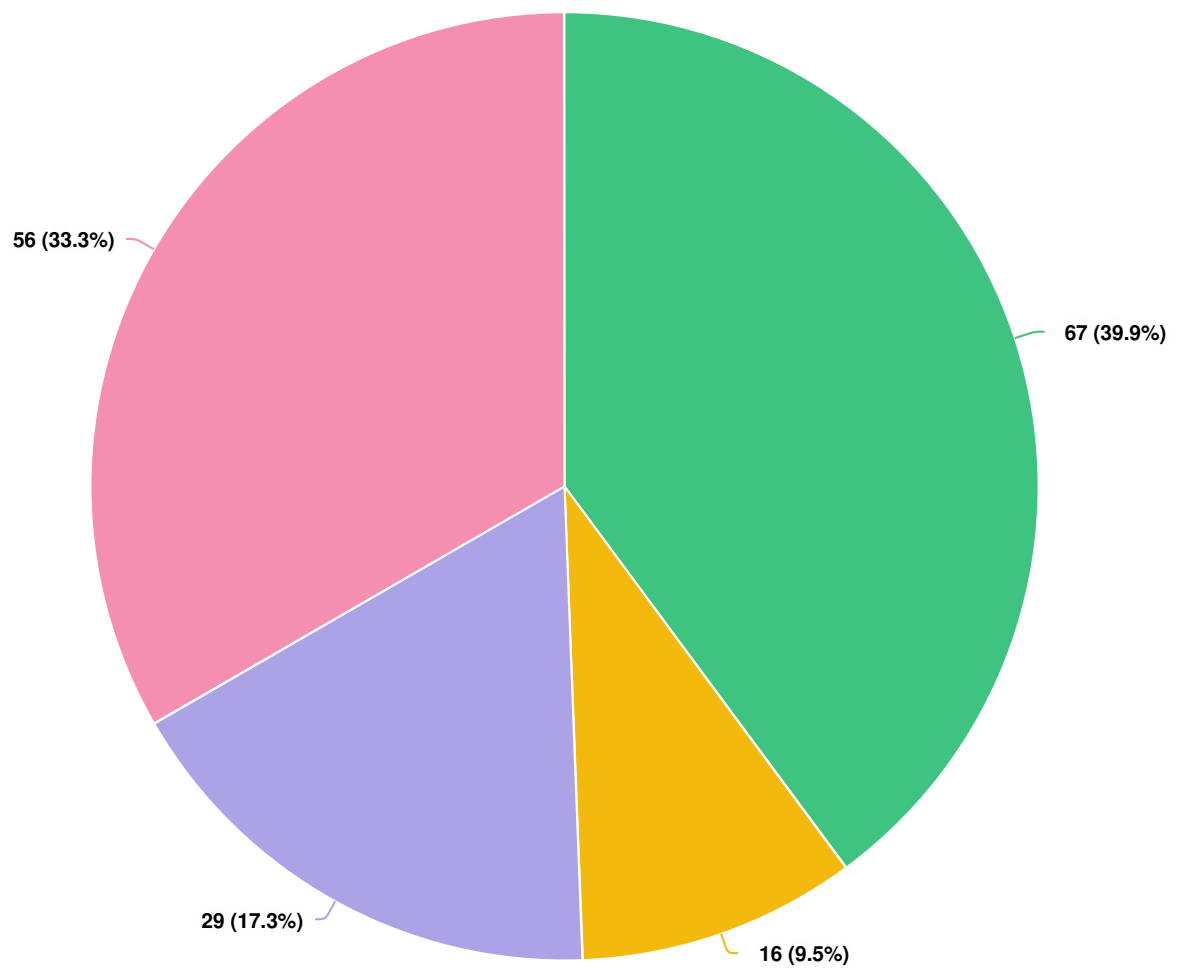


Question options

☐ Not sure ☐ No ☐ Yes

Optional question (166 response(s), 2 skipped)
Question type: Radio Button Question

Q3 How often do you travel along Stearns Street?

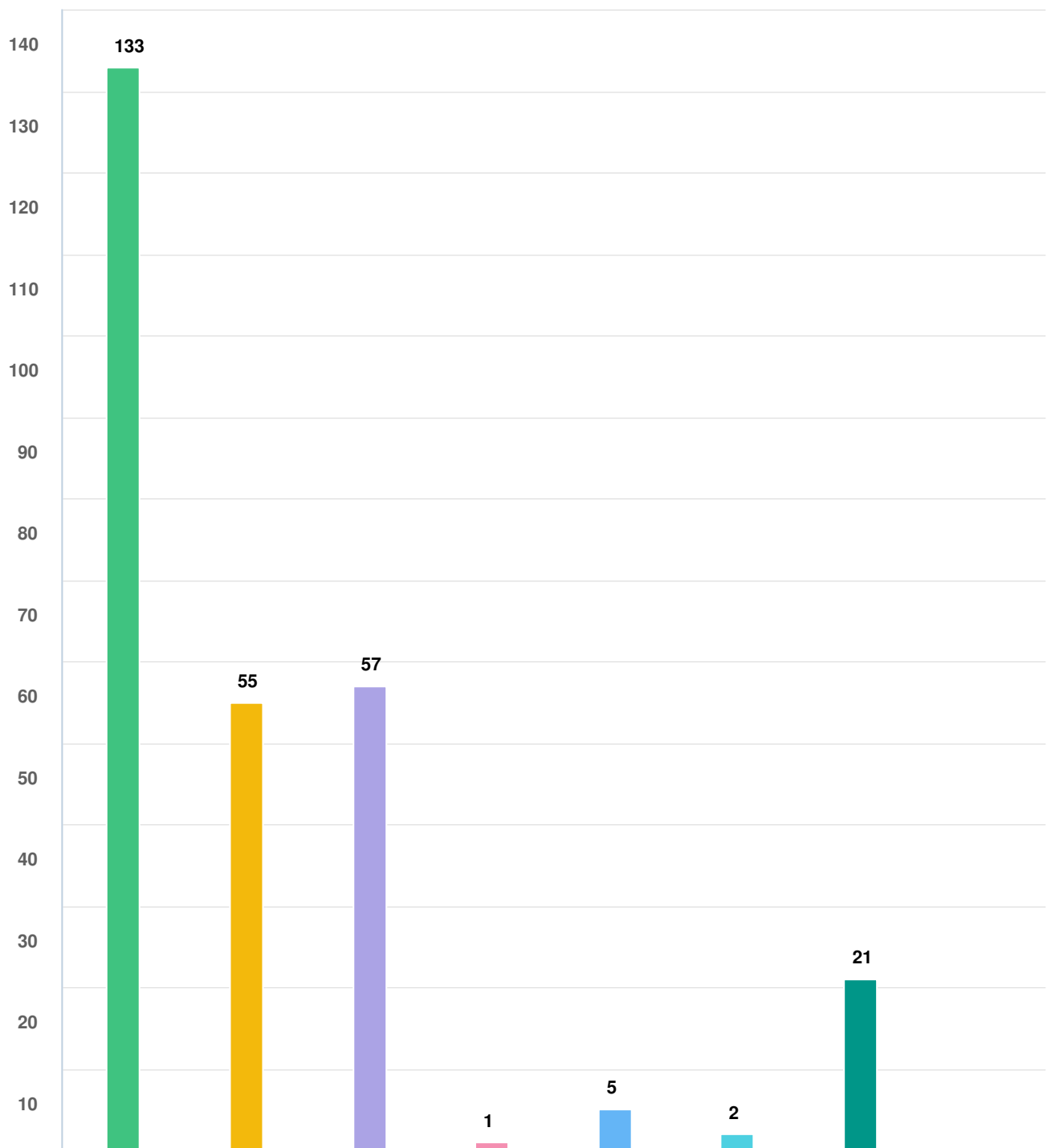


Question options

● Less than monthly or not at all ● Monthly ● Weekly ● Daily

Optional question (168 response(s), 0 skipped)
Question type: Radio Button Question

Q4 How have you traveled along Stearns Street? Choose all that apply:

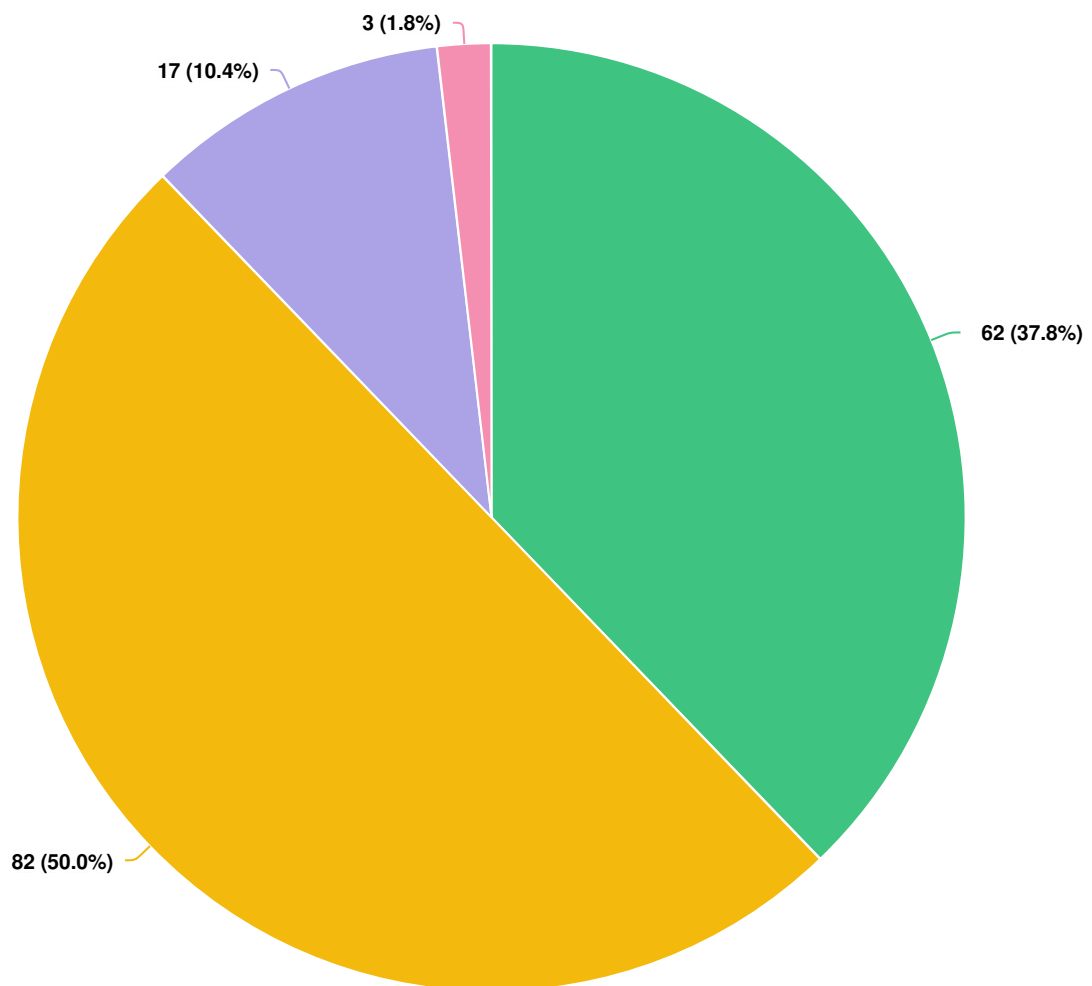


Question options

- Other (please describe) N/A Transit or taxi E-Scooter or other mobility device Wheelchair Walk
- Bicycle Drive

Optional question (166 response(s), 2 skipped)
Question type: Checkbox Question

Q5 What is your gender?

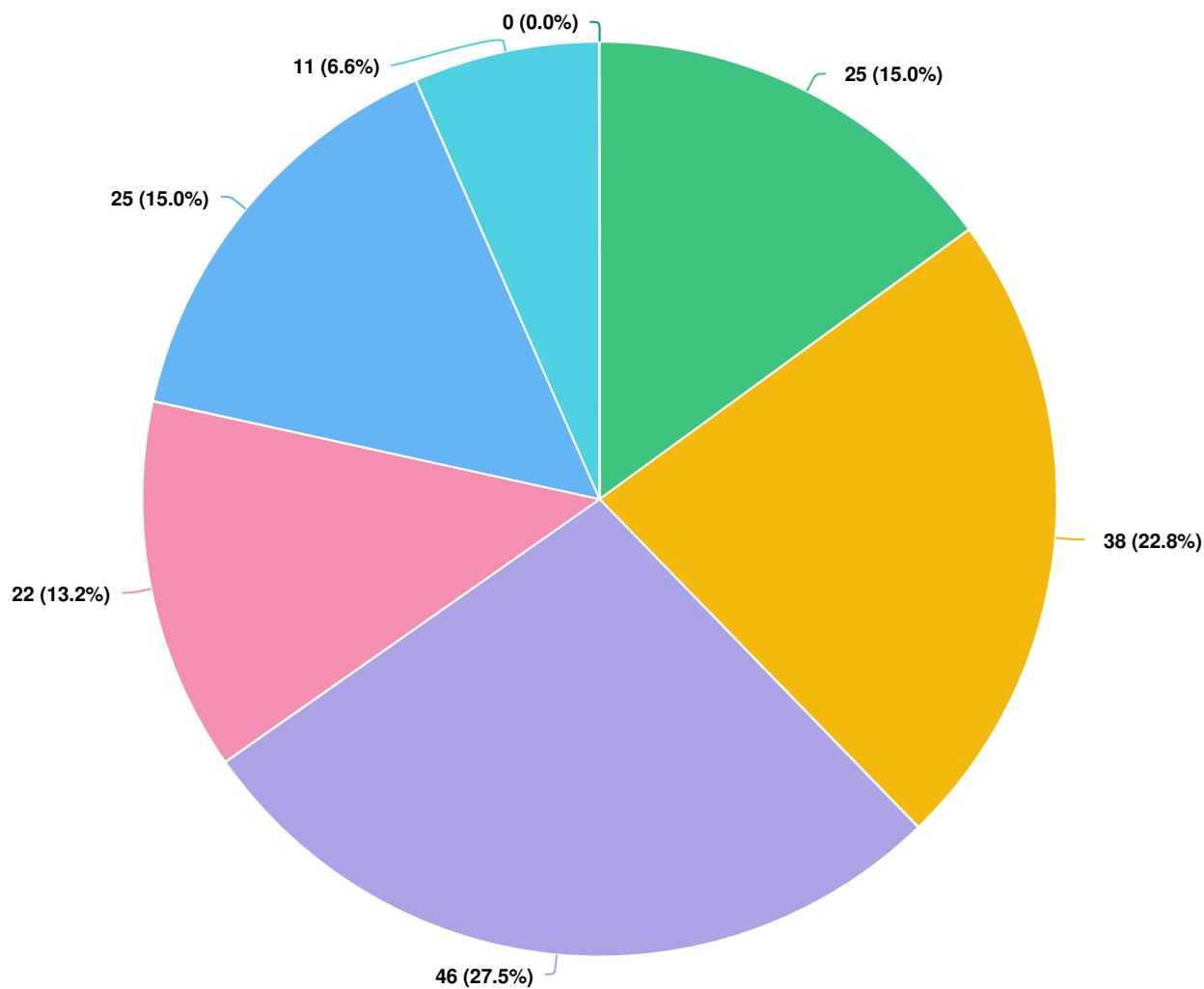


Question options

Non-binary Prefer not to say Male Female

Optional question (164 response(s), 4 skipped)
Question type: Radio Button Question

Q6 What is your age?

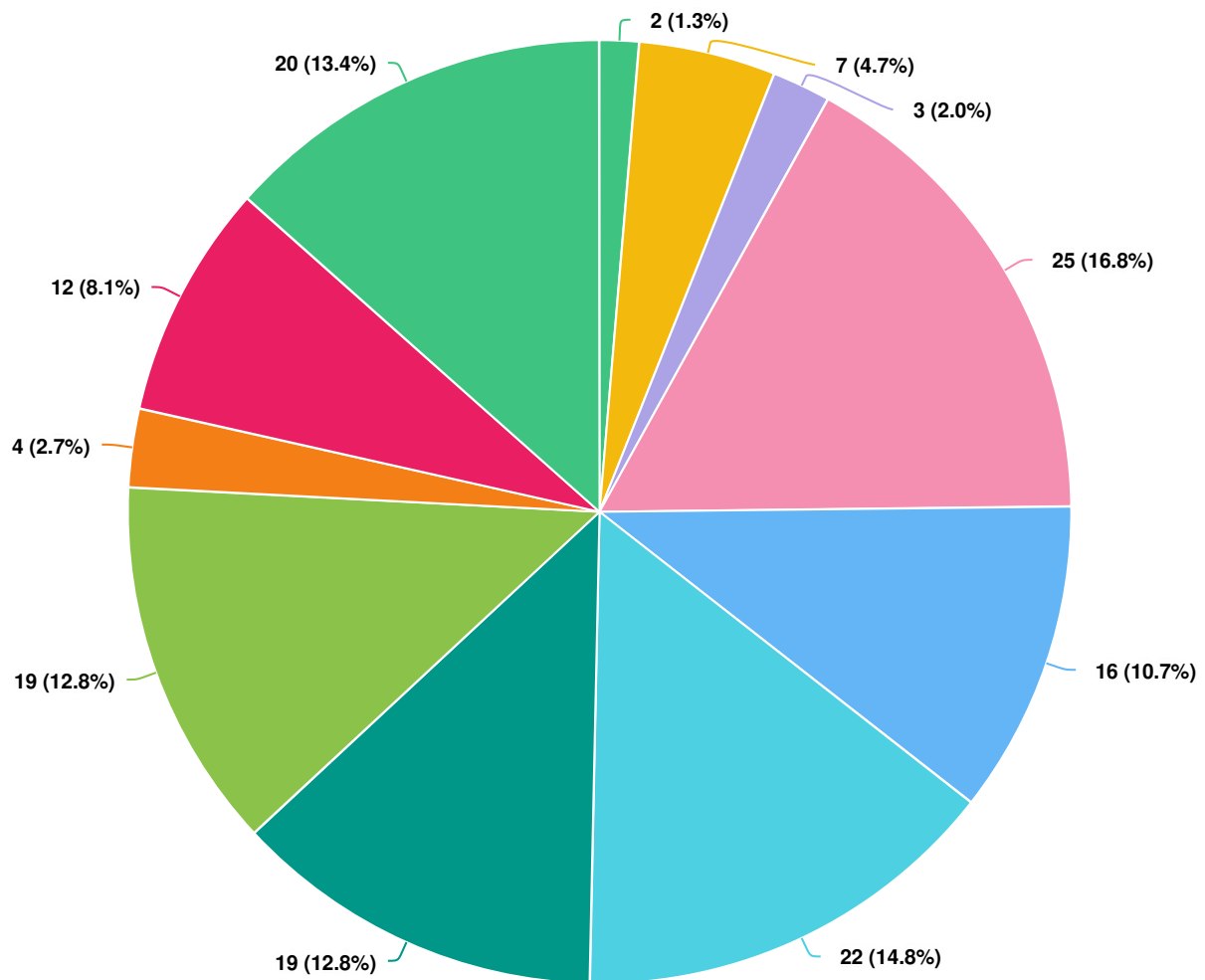


Question options

● Under 18
 ● 70 or greater
 ● 60-69
 ● 50-59
 ● 40-49
 ● 30-39
 ● 18-29

Optional question (167 response(s), 1 skipped)
Question type: Radio Button Question

Q7 What is your annual household income?

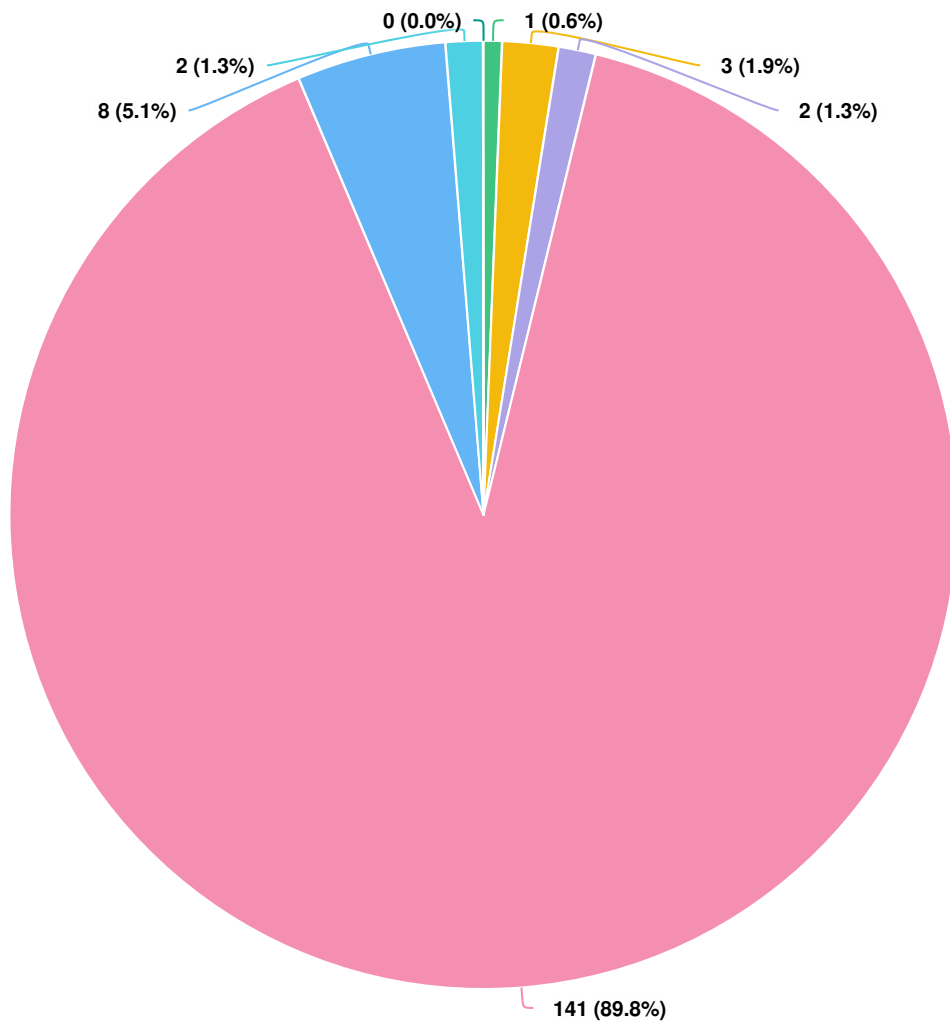


Question options

- \$200,000 or greater
 ● \$155,000 to \$199,999
 ● \$135,000 to \$154,999
 ● \$115,000 to \$134,999
- \$95,000 to \$114,999
 ● \$75,000 to \$94,999
 ● \$55,000 to \$74,999
 ● \$35,000 to \$54,999
 ● \$25,000 to \$34,999
- \$11,880 to \$24,999
 ● Less than \$11,880

Optional question (149 response(s), 19 skipped)
Question type: Radio Button Question

Q8 What is your race/ethnicity?

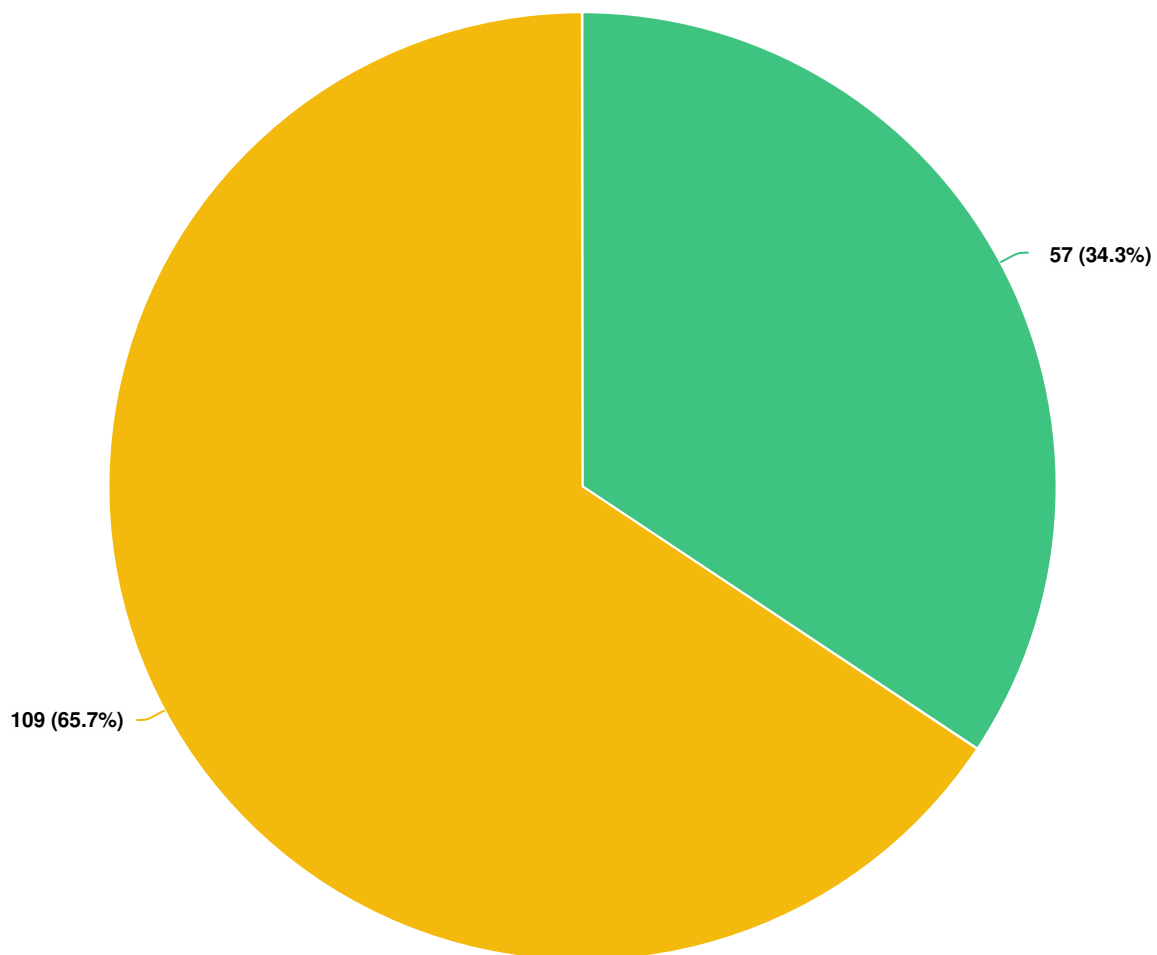


Question options

- Asian or Pacific Islander
 ● Other (please specify)
 ● Two or more races
 ● White
- Native American or Alaska Native
 ● Hispanic or Latino
 ● Black or African-American

Optional question (157 response(s), 11 skipped)
Question type: Radio Button Question

Q9 Would you like to be contacted with future updates on this project?



Question options

☐ No ☐ Yes

Optional question (166 response(s), 2 skipped)
Question type: Radio Button Question

Q10 What is your name?

Anonymous

7/05/2023 06:24 PM

Connectivity is important within this area.

Anonymous

7/12/2023 12:04 PM

Randy

Anonymous

7/14/2023 06:50 AM

David Criswell

Anonymous

7/14/2023 07:26 AM

Michal Richter

Anonymous

7/14/2023 08:47 AM

Meredith Castin

Anonymous

7/14/2023 02:18 PM

Justin Hundley

Anonymous

7/14/2023 05:35 PM

Caty

Anonymous

7/14/2023 05:42 PM

Bobbie Kennedy

Anonymous

7/15/2023 09:33 PM

Amy Merck. I used to live immediately west of Kitty Creek at 1861 Stearns Street. It is a quiet residential area that would become a busy shortcut. People can get to Vantage easily on Joyce or Zion.

Anonymous

7/24/2023 12:53 PM

Diana Stackhouse

Anonymous

7/24/2023 03:31 PM

Marca Cain

Anonymous

7/24/2023 03:49 PM

Mary

Anonymous

7/24/2023 04:39 PM

Jacob Martin

Anonymous

7/24/2023 05:15 PM

Gina Hardin

Anonymous

7/24/2023 05:18 PM

Marshall Hardin

Anonymous

7/24/2023 05:59 PM

Corbin Martin

Anonymous

7/24/2023 06:35 PM

Tracey House

Anonymous

7/24/2023 07:37 PM

I am strongly opposed to this plan. there are already too many vehicles parked on this roadway at all hours of day and it is not a wide road to support through way traffic . Takes funds and widen Old Missouri Rd and add curbs and gutters .

Anonymous

7/25/2023 06:09 AM

Karen Percival

Anonymous

7/25/2023 07:43 AM

Jennifer Thompson

Anonymous

7/25/2023 08:10 AM

Douglas Shambarger

Anonymous

7/25/2023 08:18 AM

Janet Braden

Anonymous

7/25/2023 08:26 AM

Karen Woodward

Anonymous

7/25/2023 08:41 AM

Hannah Porter

Anonymous

7/25/2023 08:46 AM

Monica Barnett-Wakefield

Anonymous

7/25/2023 08:58 AM

Margaret J Little

Anonymous

7/25/2023 09:20 AM

Christa Kelly

Anonymous

7/25/2023 11:05 AM

Crystal Terry

Anonymous

7/25/2023 11:43 AM

carla crawley

Anonymous

7/25/2023 12:15 PM

Jack Parker

Anonymous

7/25/2023 12:17 PM

Emily Cook

Anonymous

7/25/2023 12:50 PM

Orlando Alvarez

Anonymous

7/25/2023 01:03 PM

Bea Becerra

Anonymous

7/25/2023 01:35 PM

L.M. Bennett

Anonymous

7/25/2023 04:08 PM

Charles Swearingen

Anonymous

7/25/2023 04:14 PM

Don Kennedy

Anonymous

7/25/2023 04:16 PM

Sandra Seago

Anonymous

7/25/2023 06:07 PM

Marsha Daniel

Anonymous

7/25/2023 07:32 PM

Alan Hill

Anonymous

7/26/2023 05:38 AM

Reed Evans

Anonymous

7/26/2023 07:44 AM

Jeff Cooperstein

Anonymous

7/26/2023 05:48 PM

Jonathan Wood

Anonymous

7/27/2023 07:41 AM

David Williams

Anonymous

7/27/2023 10:38 AM

Amy Weaver

Anonymous

7/27/2023 10:54 AM

Scott Simmons

Anonymous

7/27/2023 03:17 PM

Lindsey Teague

Anonymous

7/27/2023 06:52 PM

Brian Squire

Anonymous

7/28/2023 03:23 AM

Elizabeth Rosen

Anonymous

7/28/2023 06:40 AM

Christy Watson

Anonymous

7/28/2023 08:38 AM

Amanda Wherry

Anonymous

7/28/2023 12:49 PM

Florence Johnson

Anonymous

7/28/2023 03:02 PM

Amanda Ray

Anonymous

7/29/2023 04:13 PM

Ruth Parcels

Anonymous

7/29/2023 06:36 PM

Elinor Mullin

Anonymous

7/31/2023 06:58 AM

Scott Hehl

Anonymous

7/31/2023 09:00 AM

Israel Ayala

Anonymous

7/31/2023 03:57 PM

Keith Woodward

Optional question (57 response(s), 111 skipped)

Question type: Single Line Question

Q11 | What is your email?

Anonymous

7/05/2023 06:24 PM

dog13gregg@aol.com

Anonymous

7/12/2023 12:04 PM

Randy822@aol.com

Anonymous

7/14/2023 06:50 AM

david.t.criswell@gmail.com

Anonymous

7/14/2023 07:26 AM

michalri@duck.com

Anonymous

7/14/2023 08:47 AM

meredith@thenonclinicalpt.com

Anonymous

7/14/2023 02:18 PM

justinhundley5254@gmail.com

Anonymous

7/14/2023 05:35 PM

cutzbycaty@yahoo.com

Anonymous

bobbiekennedy36@yahoo.com

7/14/2023 05:42 PM

Anonymous

amy.merck@gmail.com

7/15/2023 09:33 PM

Anonymous

dianalynn_72701@yahoo.com

7/24/2023 12:53 PM

Anonymous

marcacain@yahoo.com

7/24/2023 03:31 PM

Anonymous

martin.maryabigail@gmail.com

7/24/2023 03:49 PM

Anonymous

martin.jacobw@gmail.com

7/24/2023 04:39 PM

Anonymous

ginahardin7482@gmail.com

7/24/2023 05:15 PM

Anonymous

hardin.marshall82@yahoo.com

7/24/2023 05:18 PM

Anonymous

corbin@fastmail.com

7/24/2023 05:59 PM

Anonymous

tmhouse44@gmail.com

7/24/2023 06:35 PM

Anonymous

mebrenzel@gmail.com

7/24/2023 07:37 PM

Anonymous

karen.percival@gmail.com

7/25/2023 06:09 AM

Anonymous

jthompson4678@gmail.com

7/25/2023 07:43 AM

Anonymous

treeman11@gmail.com

7/25/2023 08:10 AM

Anonymous

7/25/2023 08:18 AM

jbraden29@gmail.com

Anonymous

7/25/2023 08:26 AM

krwoodward1@gmail.com

Anonymous

7/25/2023 08:41 AM

hnporter16@yahoo.com

Anonymous

7/25/2023 08:46 AM

monicabarnettwakefield@gmail.com

Anonymous

7/25/2023 08:58 AM

mjlittle19@aol.com

Anonymous

7/25/2023 09:20 AM

christakelly13@gmail.com

Anonymous

7/25/2023 11:05 AM

Crystal.m.terry@gmail.com

Anonymous

7/25/2023 11:43 AM

ccrawleyd@gmail.com

Anonymous

7/25/2023 12:15 PM

jparker3015@gmail.com

Anonymous

7/25/2023 12:17 PM

ebcook1997@gmail.com

Anonymous

7/25/2023 12:50 PM

amaiaytute@gmail.com

Anonymous

7/25/2023 01:03 PM

bbecerra@mce.us.com

Anonymous

7/25/2023 01:35 PM

marieandbrent49@gmail.com

Anonymous

7/25/2023 04:08 PM

arkyguy13@gmail.com

Anonymous

7/25/2023 04:14 PM

kdon73345@gmail.com

Anonymous

7/25/2023 04:16 PM

slseago@yahoo.com

Anonymous

7/25/2023 06:07 PM

ooooedaniel@gmail.com

Anonymous

7/25/2023 07:32 PM

n.alanhill@gmail.com

Anonymous

7/26/2023 05:38 AM

evanscf1979@yahoo.com

Anonymous

7/26/2023 07:44 AM

jcooperstein@walton.uark.edu

Anonymous

7/26/2023 05:48 PM

jonathandavidwood96@gmail.com

Anonymous

7/27/2023 07:41 AM

dkwark@cox.net

Anonymous

7/27/2023 10:38 AM

amy.weaver23@yahoo.com

Anonymous

7/27/2023 10:54 AM

sbsimmons88@gmail.com

Anonymous

7/27/2023 03:17 PM

lewri@hotmail.com

Anonymous

7/27/2023 06:52 PM

letsbike@hotmail.com

Anonymous

7/28/2023 03:23 AM

rosentennis@gamil.com

Anonymous

7/28/2023 06:40 AM

naples.kyle@gmail.com

Anonymous

7/28/2023 08:38 AM

amanda.wherry@gmail.com

Anonymous

7/28/2023 12:49 PM

fjohnso@uark.edu

Anonymous

7/28/2023 03:02 PM

amandahigginbotham@gmail.com

Anonymous

7/29/2023 04:13 PM

rp918grl@gmail.com

Anonymous

7/29/2023 06:36 PM

elliemullin@yahoo.com

Anonymous

7/31/2023 06:58 AM

scotthehl@hotmail.com

Anonymous

7/31/2023 09:00 AM

sanchez_raey@att.net

Anonymous

7/31/2023 03:57 PM

keithwoodward1990@gmail.com

Optional question (57 response(s), 111 skipped)

Question type: Email Question

Q12 | What is your phone number?

Anonymous

7/05/2023 06:24 PM

4793878557

Anonymous

7/14/2023 07:26 AM

3306393574

Anonymous

7/14/2023 02:18 PM

4795308187

Anonymous

4795952508

7/14/2023 05:42 PM

Anonymous 4796406896
7/15/2023 09:33 PM

Anonymous 4792369627
7/24/2023 12:53 PM

Anonymous 4794141751
7/24/2023 03:31 PM

Anonymous 3146804818
7/24/2023 03:49 PM

Anonymous 2548552883
7/24/2023 04:39 PM

Anonymous 4794222221
7/24/2023 05:15 PM

Anonymous 4797130814
7/24/2023 05:59 PM

Anonymous 4796501163
7/24/2023 06:35 PM

Anonymous 4792006385
7/24/2023 07:37 PM

Anonymous 4798414490
7/25/2023 06:09 AM

Anonymous 8703357927
7/25/2023 07:43 AM

Anonymous 5014540442
7/25/2023 08:10 AM

Anonymous 4798415608
7/25/2023 08:18 AM

Anonymous 7/25/2023 08:26 AM	9018705075
Anonymous 7/25/2023 08:41 AM	5019086653
Anonymous 7/25/2023 08:46 AM	+11479957432
Anonymous 7/25/2023 08:58 AM	4796841922
Anonymous 7/25/2023 09:20 AM	16785954270
Anonymous 7/25/2023 11:05 AM	4794457768
Anonymous 7/25/2023 12:15 PM	4792638083
Anonymous 7/25/2023 12:17 PM	8706884420
Anonymous 7/25/2023 12:50 PM	4796847869
Anonymous 7/25/2023 04:08 PM	5014048307
Anonymous 7/25/2023 04:14 PM	4799665566
Anonymous 7/25/2023 04:16 PM	4797905522
Anonymous 7/25/2023 06:07 PM	8708144147
Anonymous 7/25/2023 07:32 PM	4798712363

Anonymous 4794350060
7/26/2023 05:38 AM

Anonymous 4795755269
7/26/2023 07:44 AM

Anonymous 3158258078
7/26/2023 05:48 PM

Anonymous 4798414635
7/27/2023 07:41 AM

Anonymous 4795304149
7/27/2023 10:38 AM

Anonymous 4794099750
7/27/2023 10:54 AM

Anonymous 4792383164
7/27/2023 03:17 PM

Anonymous 9708170248
7/27/2023 06:52 PM

Anonymous 4794663742
7/28/2023 03:23 AM

Anonymous 4799570345
7/28/2023 06:40 AM

Anonymous 4795952158
7/28/2023 08:38 AM

Anonymous 8706130908
7/28/2023 03:02 PM

Anonymous 5408363197
7/29/2023 04:13 PM

Anonymous 4796334795
7/31/2023 06:58 AM

Anonymous

4799666912

7/31/2023 09:00 AM

Optional question (46 response(s), 122 skipped)

Question type: Number Question

Q13 | What is your mailing address?

Anonymous

339 N Gregg Ave.

7/05/2023 06:24 PM

Anonymous

1033 S Beebalm Ave

7/14/2023 07:26 AM

Anonymous

2083 E Stearns St

7/14/2023 02:18 PM

Anonymous

2045 E Stearns St

7/14/2023 05:35 PM

Anonymous

4031 Brookhollow ct

7/14/2023 05:42 PM

Anonymous

3899 E. Caston Drive

7/15/2023 09:33 PM

Anonymous

3274 N. Martin Avenue; Fayetteville, AR 72703

7/24/2023 12:53 PM

Anonymous

1799 E Stearns

7/24/2023 03:31 PM

Anonymous

4059 n eastborough ct. fayetteville, ar 72703

7/24/2023 03:49 PM

Anonymous

4059 N Eastborough Ct

7/24/2023 04:39 PM

Anonymous

4039 N. Cambray Drive

7/24/2023 05:15 PM

Anonymous

4039 N. Cambray Drive

7/24/2023 05:18 PM

Anonymous

4037 N Foxborow Dr

7/24/2023 05:59 PM

Anonymous

4029 N Abington Ct, Fayetteville, AR 72703

7/24/2023 06:35 PM

Anonymous

4049 N Brookhollow Ct in Fayetteville Would prefer you leave out neighborhood a residential community and not link us to Vantage Rd just add sidewalks and bike path access and improve connecting roads! Make improvement s to Old Missouri like Zion Rd!

7/24/2023 07:37 PM

Anonymous

4137 N Zion Valley Dr

7/25/2023 06:09 AM

Anonymous

1975 E. Stearns Street

7/25/2023 07:43 AM

Anonymous

4070 N Cambray Dr

7/25/2023 08:18 AM

Anonymous

426 N Zion Valley Dr Fayetteville, AR 72703

7/25/2023 08:26 AM

Anonymous

4112 N Zion Valley Dr

7/25/2023 08:41 AM

Anonymous

4051 n foxborow

7/25/2023 08:46 AM

Anonymous

4007 N ZION VALLEY DRIVE

7/25/2023 08:58 AM

Anonymous

2078 East Stearns Street Fayetteville, AR 72703

7/25/2023 09:20 AM

Anonymous

2173 E Stearns St Fayetteville, AR 72703

7/25/2023 12:17 PM

Anonymous

1998 e. stearns st fayetteville ar 72703

7/25/2023 12:50 PM

Anonymous

4063 N. Meadow View Dr., Fayetteville, AR. 72703

7/25/2023 01:35 PM

Anonymous

4031 Brookhollow Ct

7/25/2023 04:14 PM

Anonymous

4021 N Cadillac,

7/25/2023 04:16 PM

Anonymous

4085 N Zion Valley Drive

7/25/2023 06:07 PM

Anonymous

3065 North Quail Creek Drive

7/25/2023 07:32 PM

Anonymous

2310 E Frontier Elm Dr, Fayetteville AR 72703

7/26/2023 05:38 AM

Anonymous

JBHT 406

7/26/2023 07:44 AM

Anonymous

4150 N Frontage Rd 5304, Fayetteville, Arkansas, 72703

7/26/2023 05:48 PM

Anonymous

4213 N Meadow View Dr

7/27/2023 07:41 AM

Anonymous

2027 E Stearns St, Fayetteville,AR 72703

7/27/2023 10:38 AM

Anonymous

4055 Abington Court Fayetteville, AR 72703

7/27/2023 10:54 AM

Anonymous

4223 N Zion Valley Dr, Fayetteville, AR 72703

7/27/2023 03:17 PM

Anonymous

7/27/2023 06:52 PM

4189 N. Zion Valley Dr

Anonymous

7/28/2023 03:23 AM

4101 N Meadow View Dr Fayetteville Ar 72703

Anonymous

7/28/2023 06:40 AM

Bb

Anonymous

7/28/2023 08:38 AM

4058 N Foxborow Dr

Anonymous

7/28/2023 12:49 PM

4033 N Meadow View Drive

Anonymous

7/28/2023 03:02 PM

4184 N Zion Valley Dr

Anonymous

7/29/2023 04:13 PM

4273 n Meadow View Dr. Fayetteville 72703

Anonymous

7/31/2023 06:58 AM

Po 23 Greenland ar 72738

Anonymous

7/31/2023 09:00 AM

3034 Avener St. Springdale, AR 72764

Anonymous

7/31/2023 03:57 PM

4026 N Zion Valley Dr

Optional question (47 response(s), 121 skipped)

Question type: Single Line Question



Aug. 2023



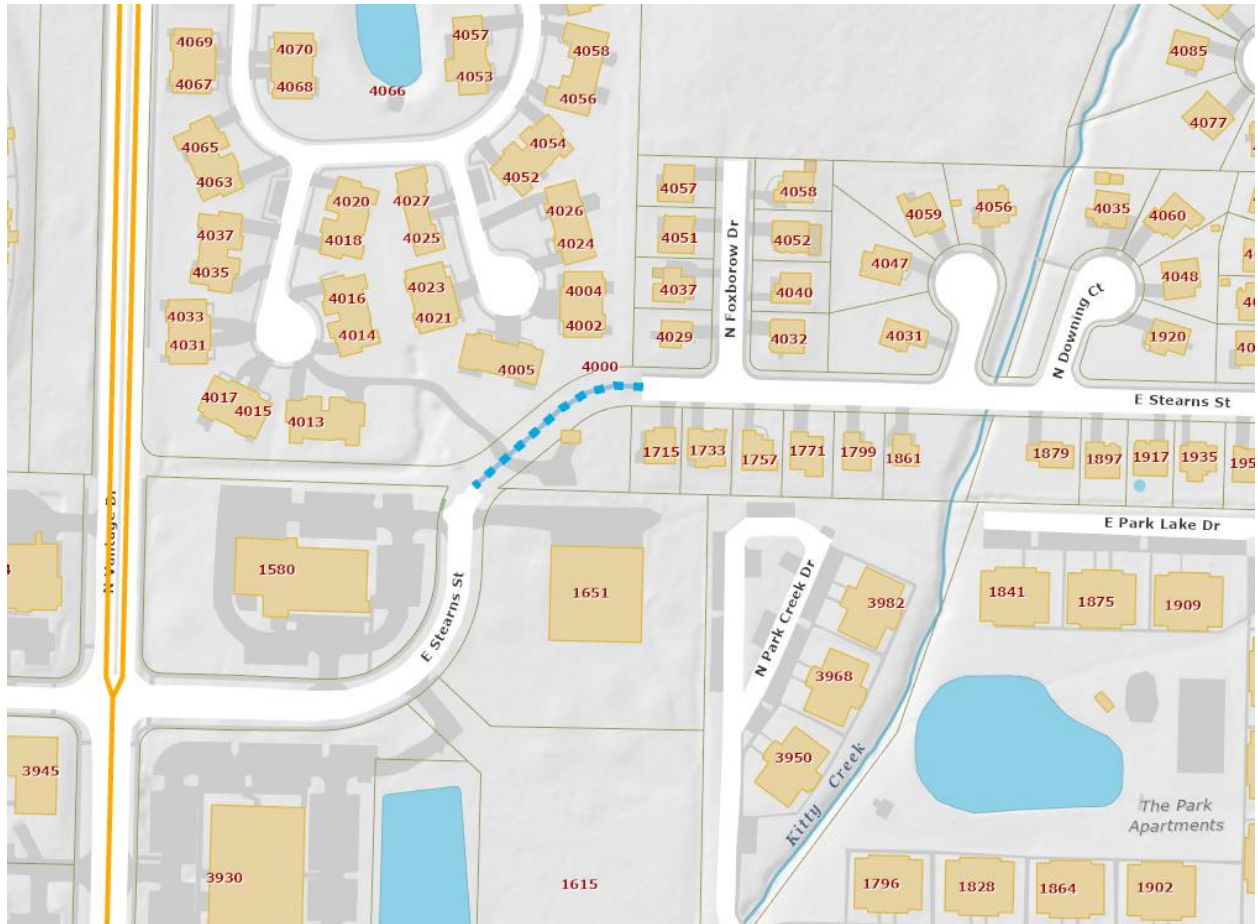
Stearns Street Connection

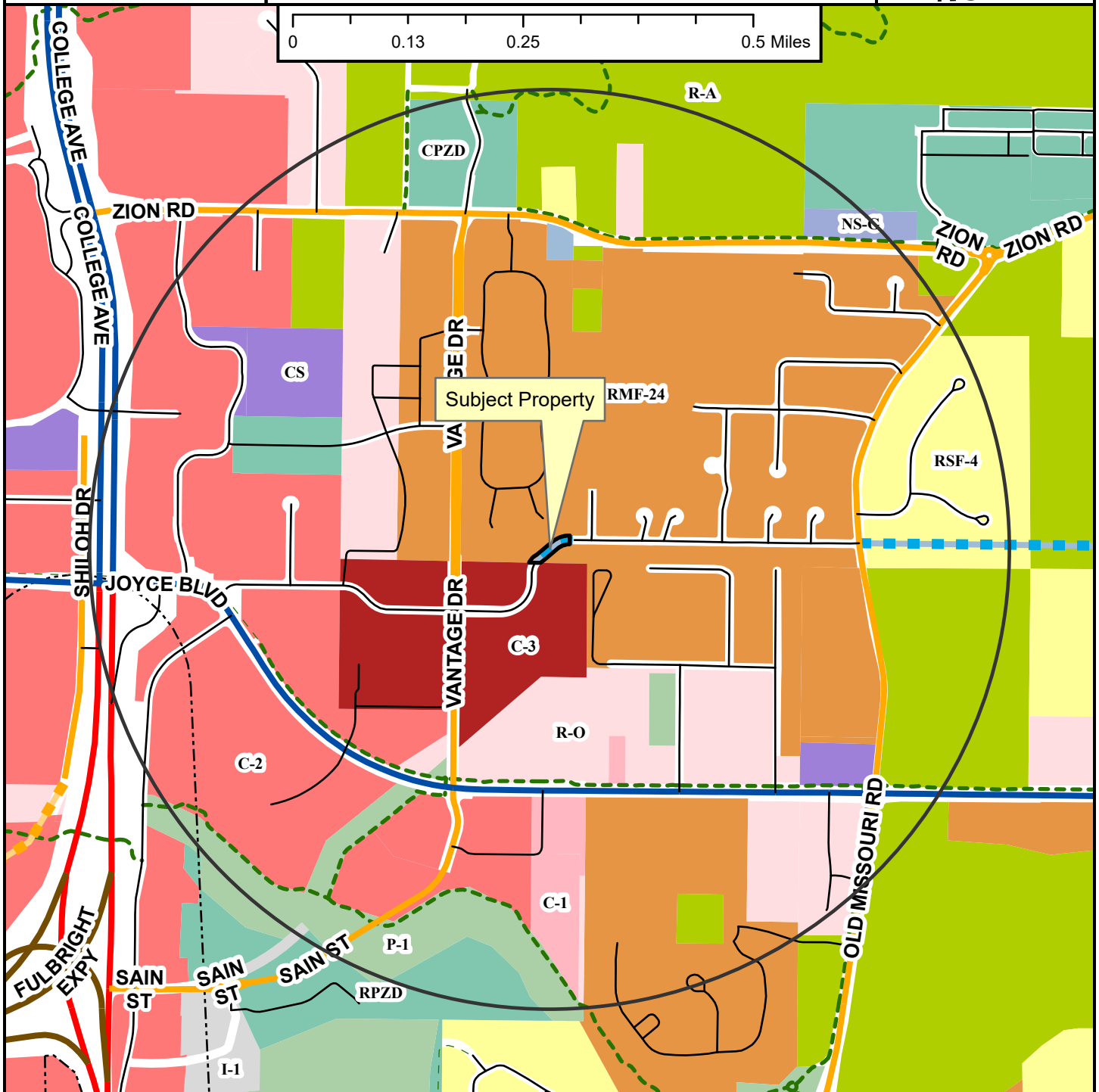
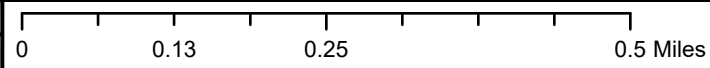
305 Linear Feet of 6' Concrete Sidewalk



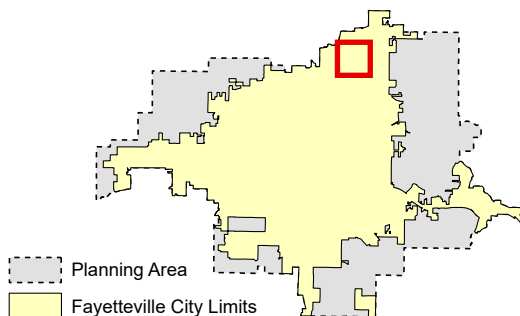
Planning Commission
September 11, 2023

2040 Master Street Plan Exhibit

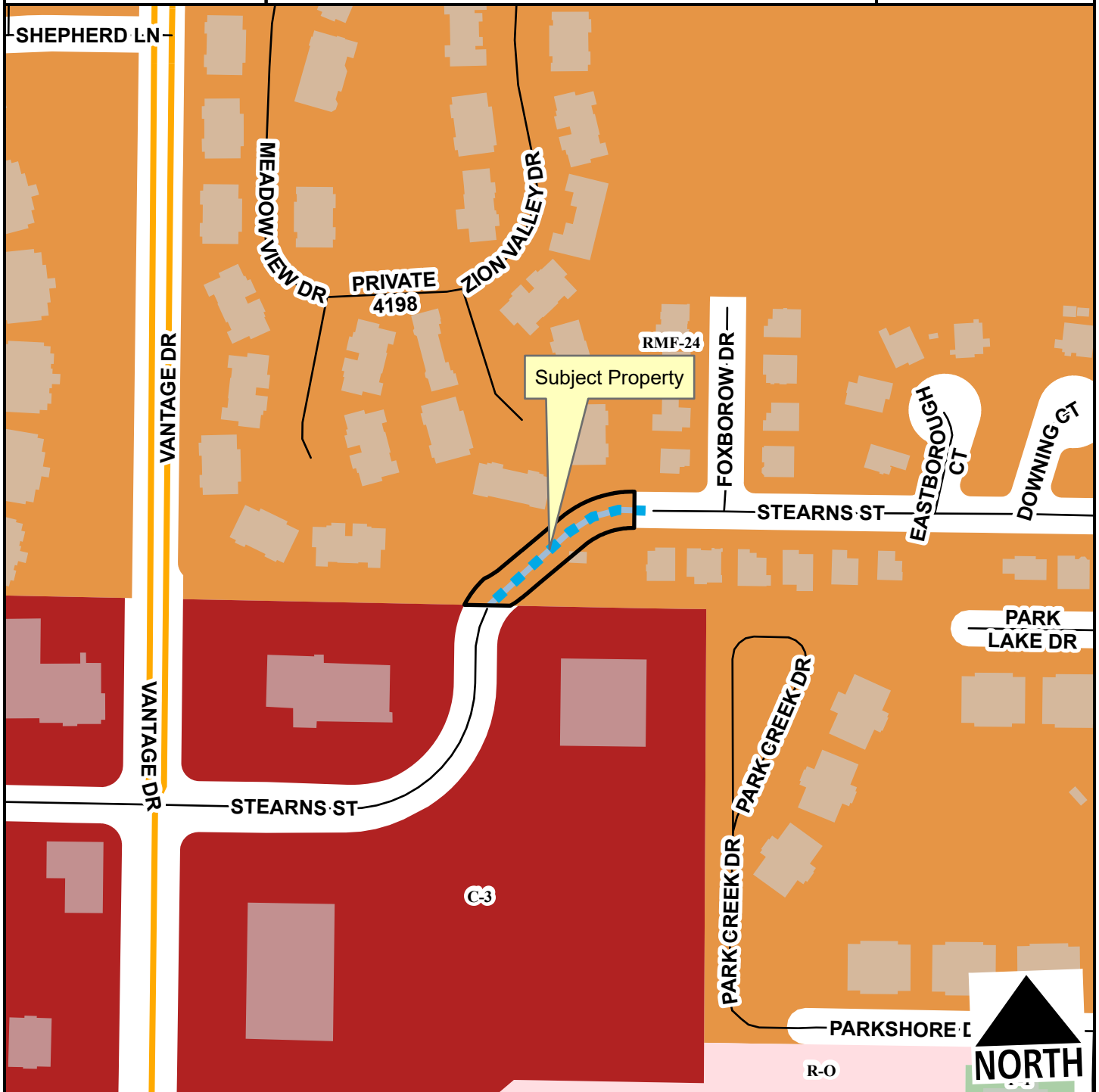




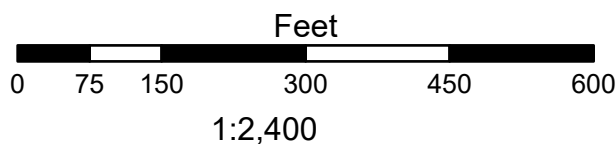
- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



- | | |
|--|---|
| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> NS-G RH-U RI-12 NS-L Residential-Agricultural RSF-5 RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RMF-6 RMF-12 RMF-13 RMF-24 RMF-40 <p>INDUSTRIAL</p> <ul style="list-style-type: none"> I-1 Heavy Commercial and Light Industrial | <p>I-2 General Industrial</p> <p>EXTRACTION</p> <ul style="list-style-type: none"> E-1 <p>COMMERCIAL</p> <ul style="list-style-type: none"> Residential-Office C-1 C-2 C-3 <p>FORM BASED DISTRICTS</p> <ul style="list-style-type: none"> Downtown Core Urban Thoroughfare Main Street Center Downtown General Community Services Neighborhood Services Neighborhood Conservation <p>PLANNED ZONING DISTRICTS</p> <ul style="list-style-type: none"> Commercial, Industrial, Residential INSTITUTIONAL P-1 |
|--|---|



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



- RMF-24
- Residential-Office
- C-3
- P-1

ADM-2023-0033

Current Land Use

E. STEARNS ST



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 11, 2023

SUBJECT: **ADM-2023-0028: Administrative Item (Amend UDC Chapters 151, 163, and 164):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 151.01, 163.05, and 164.24. The proposed code changes would update childcare family home requirements to align with state law.

RECOMMENDATION:

Staff recommends forwarding **ADM-2023-0028** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **ADM-2023-0028** to the City Council with a recommendation of approval."*

BACKGROUND:

The Arkansas State Legislature passed a law during the 2023 Regular Session "concerning the compliance of childcare facilities with local regulations when seeking licensure under the Childcare Facility Licensing Act." In reviewing the requirements as set forth by Act 60, staff identified areas in the Unified Development Code that require updating to align with the new law.

DISCUSSION:

The purpose of this amendment is to address the regulatory changes needed to align with new requirements. In summary, the changes now permit in-home childcare facilities to be regulated as strictly residential uses, rather than with any heightened requirements beyond those typically required by the Arkansas Fire Prevention Code. A license will still be required by the State for these facilities. Staff identified changes necessary in UDC sections 151.01, Definitions, 163.05 – Child Care; Nursery School, and 164.24 – Registered Child Care Family Homes. Proposed Unified Development Code changes are attached as clean text, and as strikethrough.

RECOMMENDATION: Staff recommends forwarding **ADM-2023-0028** to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required YES

Date: September 11, 2023

☐ Tabled

☐ Forwarded

☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Act 60, House Bill 1155
- Proposed Ordinance, Clean
 - §151.01 – Definitions
 - §163.05 - Child Care; Nursery School
 - §164.24 – Registered Child Care Family Homes
- Proposed Ordinance, Strike-through
 - §151.01 – Definitions
 - §163.05 - Child Care; Nursery School
 - §164.24 – Registered Child Care Family Homes

State of Arkansas

As Engrossed: H2/1/23

94th General Assembly

A Bill

Regular Session, 2023

HOUSE BILL 1155

By: Representatives Bentley, K. Brown, Crawford, Haak, Ladyman, Long, Lundstrum, McAlindon, R.
Scott Richardson, *J. Mayberry*

By: Senator Irvin

For An Act To Be Entitled

AN ACT CONCERNING THE COMPLIANCE OF CHILDCARE
FACILITIES WITH LOCAL REGULATIONS WHEN SEEKING
LICENSURE UNDER THE CHILDCARE FACILITY LICENSING ACT;
AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE COMPLIANCE OF CHILDCARE
FACILITIES WITH LOCAL REGULATIONS WHEN
SEEKING LICENSURE UNDER THE CHILDCARE
FACILITY LICENSING ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 78, Subchapter 2, is
amended to add an additional section to read as follows:

20-78-229. Compliance with local regulations – Childcare family
homes – Exceptions.

(a) As used in this section:

(1) "Childcare family home" means a childcare setting in which
the caregiver provides child care in a family residence or a residence with a
homelike environment; and

(2) "Local governing authority" means the governing body of the
municipality or county where a childcare facility is located.

(b)(1) The Division of Child Care and Early Childhood Education shall
require any childcare facility seeking licensure under this subchapter to



1 comply with applicable zoning and land use development regulations of the
2 municipality and county where the childcare facility is located.

3 (2) Failure to comply with applicable zoning and land use
4 regulations is grounds for the denial of a license of a childcare facility.

5 (c)(1) A local governing authority shall treat a childcare family home
6 as residential property use in the application of local regulations,
7 including without limitation:

8 (A) Zoning;

9 (B) Land use development;

10 (C) Fire and life safety;

11 (D) Sanitation; and

12 (E) Building codes.

13 (2) Residential property use for zoning purposes includes
14 without limitation single-family residential zoning.

15 (d)(1) For a childcare family home, a local governing authority shall
16 not impose:

17 (A) Any additional regulations that do not also apply to
18 other residential properties; or

19 (B) Stricter requirements than those in the Arkansas Fire
20 Prevention Code.

21 (2) However, this section does not restrict a local governing
22 authority from, on a case-by-case basis, managing the flow of traffic and
23 parking related to adjacent childcare family homes.

24 (e)(1) The Division of Child Care and Early Childhood Education may
25 promulgate rules related to adequate fire protection and prevention in a
26 childcare family home.

27 (2) As part of developing any proposed rules in accordance with
28 subdivision (e)(1) of this section, the Division of Child Care and Early
29 Childhood Education shall seek the advice and assistance of:

30 (A) The Department of Health;

31 (B) The Boiler Inspection Division; and

32 (C) Councils and associations representing:

33 (i) Fire marshals; and

34 (ii) Building code officials.

35
36 **APPROVED: 2/13/23**

151.01 – Definitions

Registered Child Care Family Home (zoning) – A childcare setting in which the caregiver provides child care in a family residence or a residence with a homelike environment and is registered or licensed by the State of Arkansas pursuant to Ark. Code Ann. § 20-78-201, *et seq.*

163.05 - Child Care; Nursery School

All such establishments, other than Registered Child Care Family Homes authorized pursuant to §164.24 of the Unified Development Code, shall be located on lots which:

(A) Minimum Lot Area. Contain a minimum lot area of 250 square feet per child.

(B) Minimum Outdoor Play Space. Provide a minimum outdoor play space of 75 square feet per child, calculated on the basis of the number of children occupying the outdoor play space at one time.

(C) Number of Children. In an RSF zone, a child care facility may be approved as a conditional use of no more than ten (10) children, or the number of children approved by the state's licensing board, whichever is fewer.

164.24 – Registered Child Care Family Homes

Registered Child Care Family Homes shall be allowed by-right in any zoning district in which residential uses are permitted. Operators of registered child care family homes shall ensure a current copy of his or her license issued by the State of Arkansas is on file with the City of Fayetteville.

151.01 – Definitions

Registered Child Care Family Home (zoning) – ~~A child care facility licensed by the Arkansas Department of Human Services in which five (5) or fewer children are cared for in the caregiver's own residence.~~ A childcare setting in which the caregiver provides child care in a family residence or a residence with a homelike environment and is registered or licensed by the State of Arkansas pursuant to Ark. Code Ann. § 20-78-201, et seq.

163.05 - Child Care; Nursery School

All such establishments, other than Registered Child Care Family Homes authorized pursuant to ~~§164.24~~ §164.24 of the Unified Development Code, shall be located on lots which:

(A) Minimum Lot Area. Contain a minimum lot area of 250 square feet per child.

(B) Minimum Outdoor Play Space. Provide a minimum outdoor play space of ~~80~~ 75 square feet per child, calculated on the basis of the number of children occupying the outdoor play space at one time.

(C) Number of Children. In an RSF zone, a child care facility may be approved as a conditional use of no more than ten (10) children, or the number of children approved by the state's licensing board, whichever is fewer.

164.24 – Registered Child Care Family Homes

Registered Child Care Family Homes shall be allowed by-right in any zoning district in which residential uses are permitted. Operators of registered child care family homes shall ensure a current copy of his or her license issued by the State of Arkansas is on file with the City of Fayetteville. ~~the following conditions are met:~~

~~Minimum Lot Area. A Registered Child Care Family Home shall have a minimum lot area of 250 square feet per child.~~

~~Minimum Outdoor Play Space. A Registered Child Care Family Home shall provide a minimum outdoor play space of 75 square feet per child, calculated on the basis of the number of children occupying the outdoor play space at one time. Outdoor play space shall be fenced and secured.~~

~~Number of Children. A Registered Child Care Family Home is permitted for no more than five (5) children.~~

~~Registration with the State of Arkansas. A caregiver operating a Registered Child Care Family Home shall ensure a current copy of his or her license issued by the Arkansas Department of Human Services is on file with the City of Fayetteville.~~



TO: City of Fayetteville Planning Commission

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

FROM: Alan Pugh, Staff Engineer

MEETING DATE: September 11, 2023

SUBJECT: **VAR-2023-0039: Planning Commission Variance (2699 W Martin Luther King Jr Blvd; University Lofts at the Sanctuary, 558):** Submitted by ISIAAH OJEDA for property located at 2699 W. MARTIN LUTHER KING JR BLVD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and R-A, RESIDENTIAL AGRICULTURAL and contains approximately 0.43 acres. The request is for a variance to the flood damage protection ordinance.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0039**, based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0039** with conditions, determining:*

- The applicant has proposed to construct the lowered area from flood resistant materials; and*
- The applicant has taken steps to reduce flood risk by limiting the improvements in the lowered area to countertops and appliances; and*
- A building permit has been previously issued for the improvements."*

BACKGROUND:

The subject property is located just east of the intersection of W Martin Luther King Jr Blvd and E Farmers Dr. on the south side of road. The property totals approximately 0.4 acres and is currently has a structure under renovation along with a small parking area. Town Branch flows generally west to east across the southern side of the property. The creek is currently indicated as Zone AE, base flood elevation determined, according to the 2008 Flood Insurance Study (FIS). The creek is on the list of protected streams as identified in the streamside protection map adopted in 2011 along with the streamside protection ordinance. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Commercial	CPZD, C-2, R-A see attached project maps
South	Residential	
East	Commercial	
West	Commercial	

Request: The applicant is requesting a variance from 168.10, which states that any improvement

to an existing structure that is less than a substantial improvement requires the improvement to be in full compliance with the provisions of Chapter 168. This provision would not allow a development to increase the non-compliance of an existing structure.

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

DISCUSSION:

The existing structure located at 2699 W MLK is currently under renovation to be utilized as a coffee shop. The approved plans show the floor elevation of a portion of the structure to be lowered to facilitate the conversion of a carport to a covered drive through on the east side of the building. The applicant proposes to place countertops, limited plumbing and some appliances to facilitate the operation of the drive through. Unfortunately, while this was shown in the submitted plans the proposed lowering of the finished floor was discovered after the permit had already been approved. After approval of the permit, the applicant started the renovation and the issue was discovered when a slab inspection was requested.

The original finished floor of the structure appears to be approximately 1 foot below the base flood elevation based on estimates utilizing the City of Fayetteville GIS tools. Given that fact, it is subject to the substantial improvement/damage clause in Chapter 168 of the Unified Development Code. While the amount of improvements does not exceed the substantial damage provisions, the code would not allow for the non-compliance to be increased by lowering the finished floor further below the base flood elevation. Given the circumstances with the approved permit and limited additional flood risk to the structure as proposed by the applicant, staff recommends approval of VAR-2023-0039.

RECOMMENDATION: Staff recommends approval of **VAR-2023-0039** with the following conditions of approval:

Conditions of Approval:

1. Applicant shall not increase the non-compliance/flood risk more than what is included within the variance application. Lowered area will only include interior countertops, appliances and plumbing improvements as shown on the approved plans and the variance application.
2. Applicant will use flood resistant materials within the lowered area including pressure treated lumber, spray foam or rigid insulation and wall materials that resist moisture such as hardibacker or durock rather than drywall.
3. No electrical outlets shall be placed below the original floor elevation of the structure.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

Section 156.03 Development Variances: Certain variances of the development regulations may be applied for as follows:

(7) Flood Damage Prevention Code. The Planning Commission shall hear and decide requests for variances from the requirement of this ordinance.

(a) In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this ordinance.

(b) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places, without regard to the procedures identified in the remainder of this ordinance. Variances may only be issued for such repair, or rehabilitation if strict enforcement of the ordinance would preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items listed in [§168.05\(B\)\(4\)](#) have been fully considered. As the lot size increases beyond half acre, the technical justification required for issuing the variance increases.

(d) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(f) Floodplain variances shall only be issued if:

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

Staff does feel that the property and use are unique in this situation. A drive through window would be required lower than a standard window given the structure is currently

on a crawl space. The majority of floor of the structure would remain at the same elevation as before the renovation and the renovated area will take steps to minimize flood losses.

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

Given the fact a building permit has been issued and the applicant has begun the renovation, staff feels it would create a hardship to the applicant if they are unable to use the structure as originally planned.

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

No additional flooding would be anticipated with the proposed improvements.

(g) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of [§168.05\(B\)\(4\)](#) are considered and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Not applicable to this project

(h) Upon consideration of the factors in this section, and the purpose of this ordinance, the Planning Commission may impose conditions to the granting of floodplain variances as it deems necessary to further the purpose of this ordinance.

See staff recommended conditions listed above

(i) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation surcharge and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the floodplain administrator in the office of the Washington County Clerk and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

Not applicable to this project

Attachments:

- Applicant Request Letter
- Proposed variance request exhibit
- Elevation Certificate
- One Mile Map
- Close Up Map
- Current Land Use Map

2699 W MLK BLVD

City of Fayetteville PC Variance

Contact

ISAIAH OJEDA
5641 W Jess Anderson Rd
Fayetteville, AR 72704
509.591.2900
Isaiahojeda3@gmail.com

8/9/2023

To whom it may concern,

Attached is the request to add an interior slab at the following address: 2699 W MLK BLVD FAYETTEVILLE, AR 72701.

The slab will be in accordance with FEMA regulations and City of Fayetteville requirements per code Chapter 168: Flood Damage Prevention Code specifically 168.10(H):

Any improvement to an existing structure that is less than a substantial improvement requires the improvement, but not the existing structure, to be in full compliance with the provisions of this Code.

This variance is submitted on behalf of CANVIS Coffee LLC of which I am an owner.

Thank you for your time,

Isaiah Ojeda

BASIS OF BEARING:
BEARINGS SHOWN ARE BASED ON
GRID NORTH FOR ARKANSAS
COORDINATE SYSTEM, NORTH ZONE, NA
LATITUDE = 36°03'09.90381"
LONGITUDE = -94°11'54.09070"
CONVERGENCE ANGLE = -01°16'45.2048"
DISTANCES SHOWN ON PLAT ARE GROUND

STATE RECORDING NUMBER:
500-16N-30W-0-19-100-72-1826
COMPLETED FIELD WORK:

1. WARRANTY DEED FILED IN DEED BOOK 2021 AT PAGE 20050.
2. SURVEY PLAT FILED WITH THE DIVISION OF LAND
SURVEYOR'S PLAT #20192056977.

SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY

BY GRAPHIC PLOTTING ONLY. THIS PROPERTY LIES WITHIN THE "A" AND "AL" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 0514/02/15F, WHICH BEARS AN EFFECTIVE DATE OF 05/16/2000. IT IS ENTIRELY IN A SPECIAL FLOOD HAZARD AREA, AS WHERE INDICATED.

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS
 PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT
 OF ANY OF THE FOLLOWING WHICH MAY BE
 APPLICABLE TO THE SUBJECT PROPERTY: EASEMENTS,
 OTHER THAN POSSIBLE EASEMENTS WHICH WERE
 VISIBLE AT THE TIME OF SURVEY; RESTRICTIVE
 COVENANTS, SUBDIVISION RESTRICTIONS OR OTHER
 LAND USE REGULATIONS; AND ANY OTHER FACTS
 WHICH AN ACCURATE/TITLE SEARCH MAY DISCLOSE.

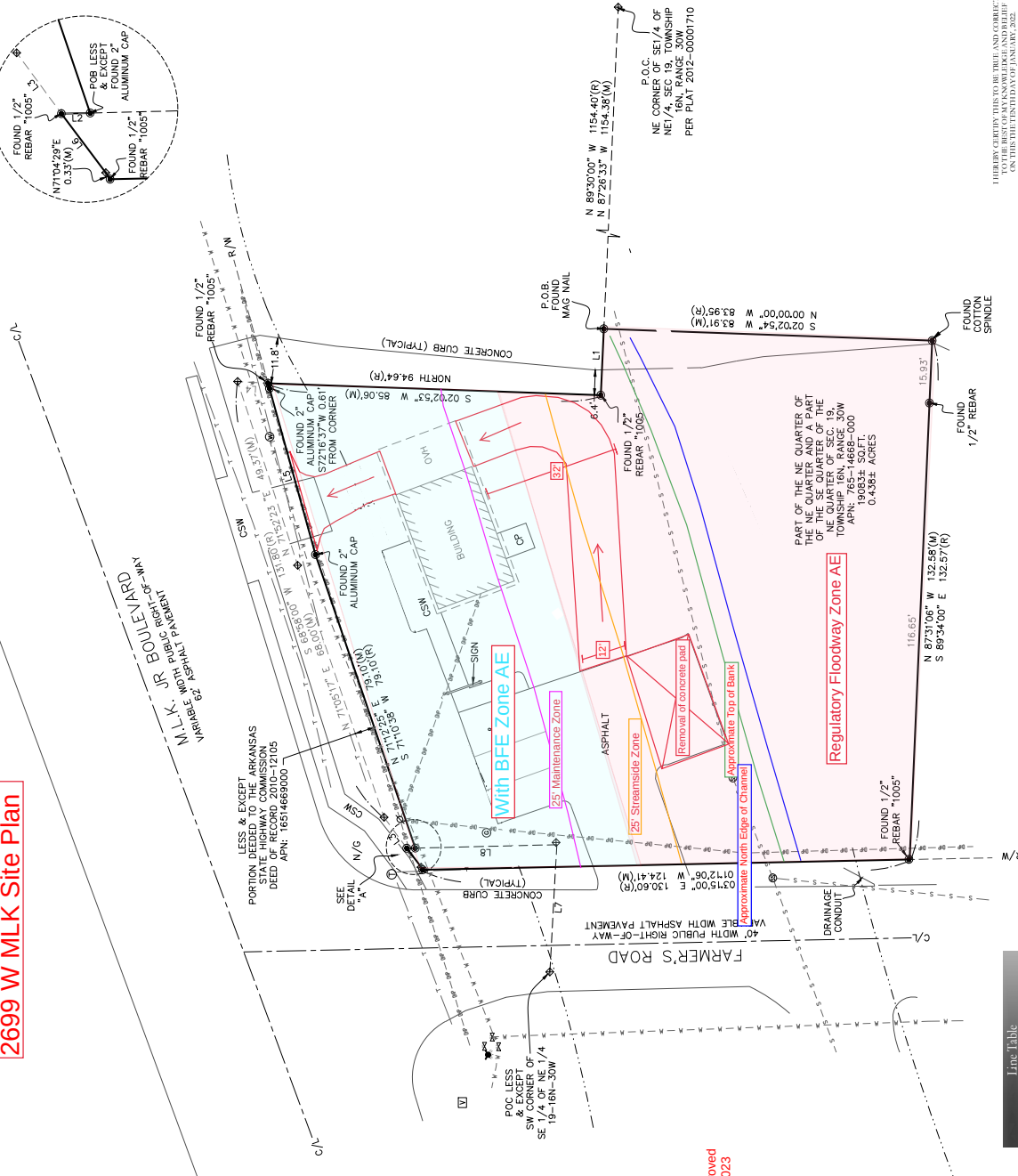
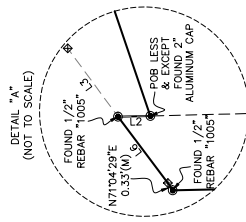
PART OF THE NORTHEAST QUARTER (NE
NORTHEAST QUARTER (NE 1/4) AND A PART
SOUTHEAST QUARTER (SE 1/4) OF THE NO

[illegible]

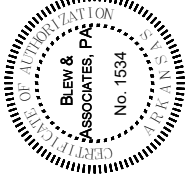
Page 6 of 22

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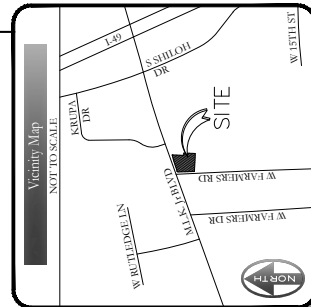
2699 W MLK Site Plan



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



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.



Utility Notes

THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPLIANCES ONLY. THE SURVEY WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

BEFORE DIGGING IN THIS AREA, CALL "ONE CALL" 811 FOR FIELD LOCATIONS (REQUEST FOR GROUND MARKINGS) OF UNDERGROUND UTILITY LINES



Call before you dig

Legend of Symbols & Abbreviations

	FOUND MONUMENT (AS NOTED)
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
N.T.S.	NORTH LOCATION NOT TO SCALE
O.V.H.	OVERHANG
R	RECORD
R.W.	RIGHT-OF-WAY
C.S.W.	CURB SIDE WALK
C.P.	CONCRETE SIDEWALK
	UTILITY VAULT
	WATER VALVE
	FIRE HYDRANT
	OVERHEAD POWER POLE
	STORM WATER MANHOLE
	TELEPHONE PEDISTAL
	WATER METER
	SANITARY SEWER MANHOLE

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

3925 N. SHILOH DRIVE
FAYETTEVILLE, ARKANSAS 72705
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com

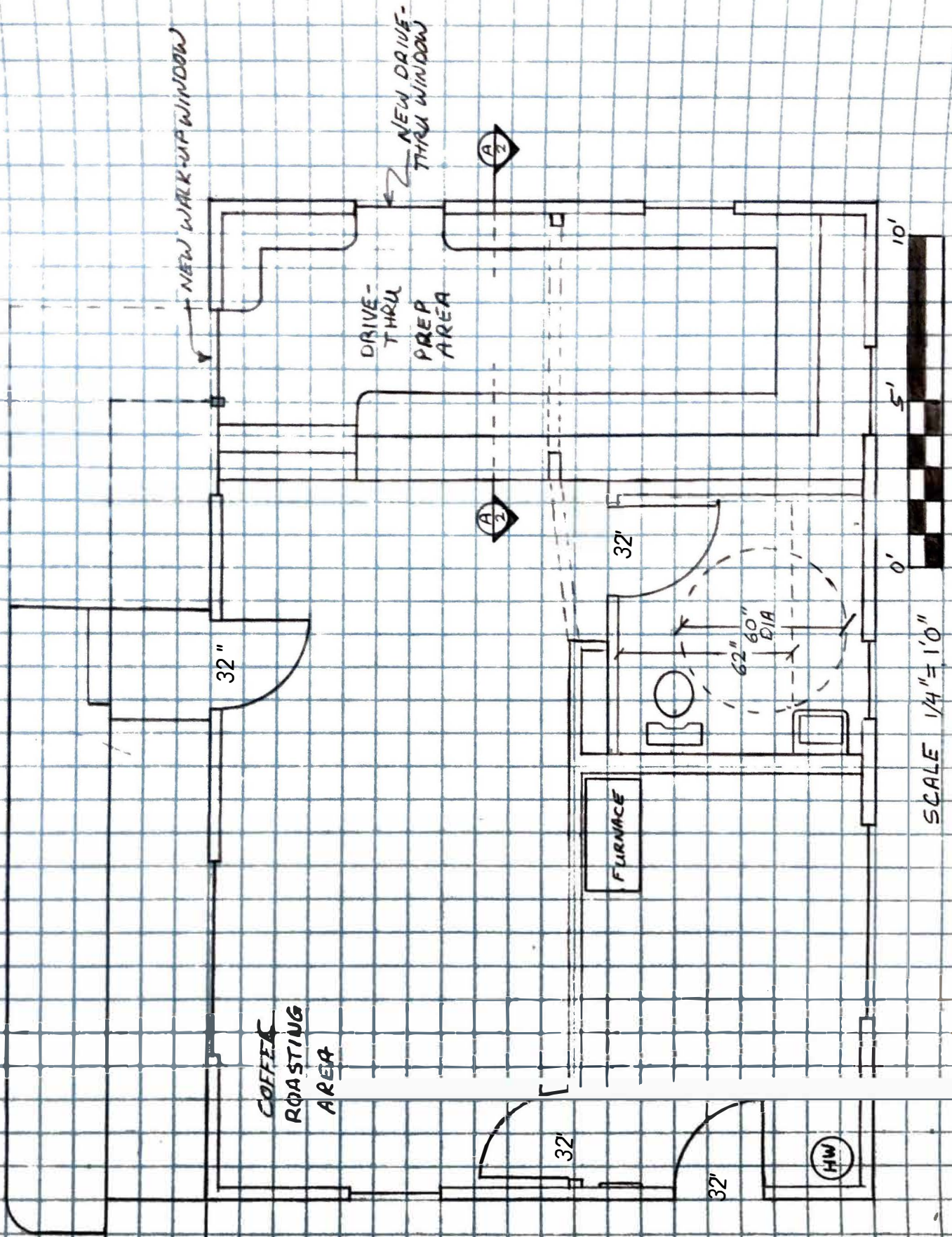
Certificate of Authorization № 1534

CB, 01/10/2022 COUNTY & STATE Washington County, Arkansas	REVIEWED BY HIM	SUBMITTED BY BA
		21-10695

2699 M.L.K. Jr Blvd, Fayetteville, Arkansas 72704

FOR THE USE AND BENEFIT OF:

Jellian Aponte



2-2"x12" HEADER
FOR ADDED SUPPORT

2-2"x12"
EXISTING
HEADER

2x4 STUDS

2x4 STUDS

ALL WOOD UNDER EXISTING
SURFACE TO BE TREATED LUMBER

2x6 PONY WALL
POSITION 2-2x6 FILLERS DIRECTLY
UNDER HEADER SUPPORT STUDS
1x2 FIRING STRIPS (TYP 3 SIDES)
PRESSURE TREATED

2x4 PONY WALL
POSITION 2-2x4 STUDS
UNDER HEADER SUPPORT STUDS
PRESSURE TREATED IN
CONTACT W/ CONCRETE

FILL W/ 1/2" RIGID FOAM
INSULATION AND FACE
W/ POLY VAPOR BARRIER
PRIOR TO DRYWALL

FILL W/ 1/2" RIGID FOAM INSULATION
FACE W/ POLY VAPOR BARRIER PRIOR TO DRYWALL

NEW CONCRETE FLOOR

CONCRETE
BLOCK

CONCRETE
FOOTING

CONCRETE
BLOCK

CONCRETE
FOOTING

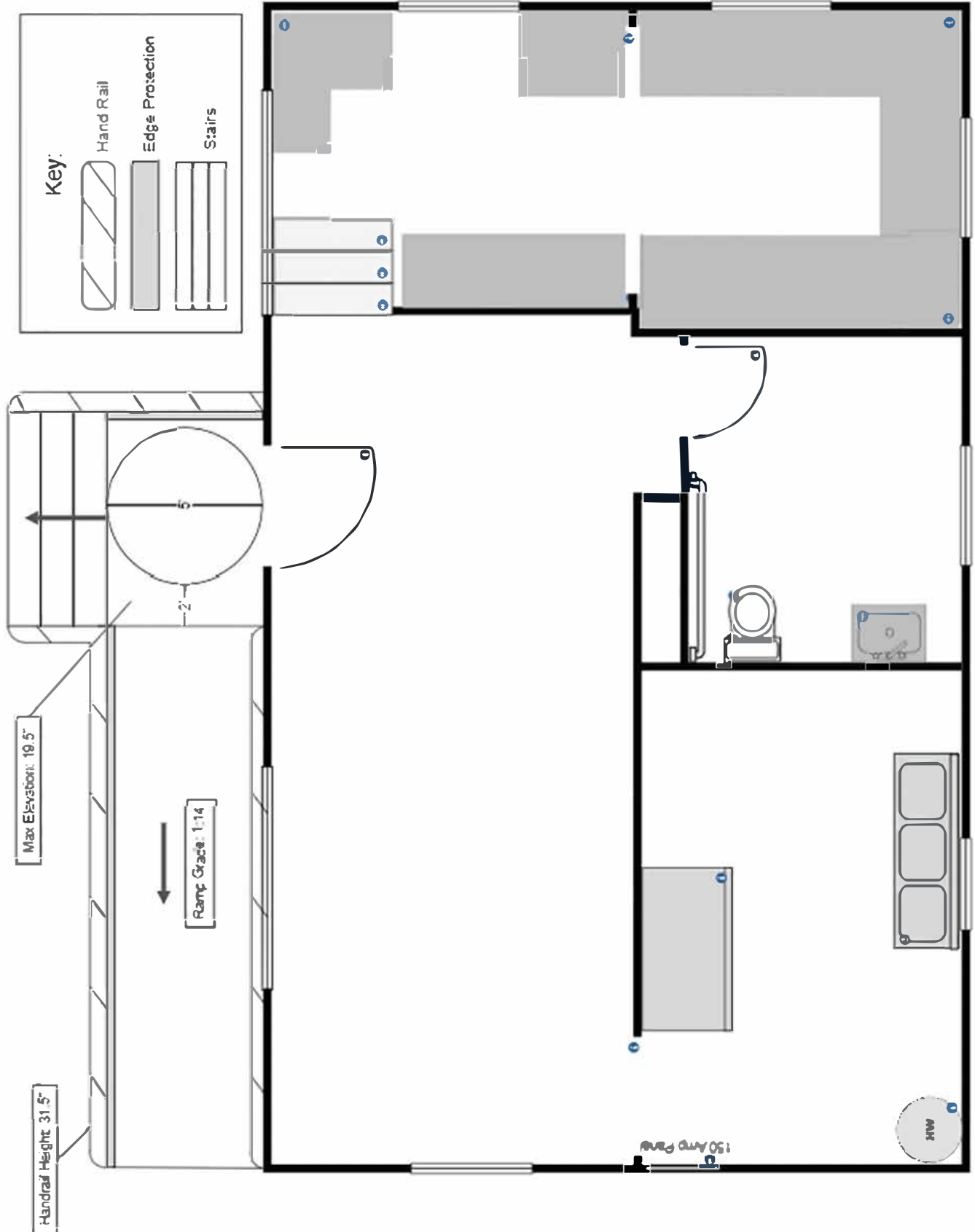
MOISTURE BARRIER BENEATH CONCRETE

SECTION A

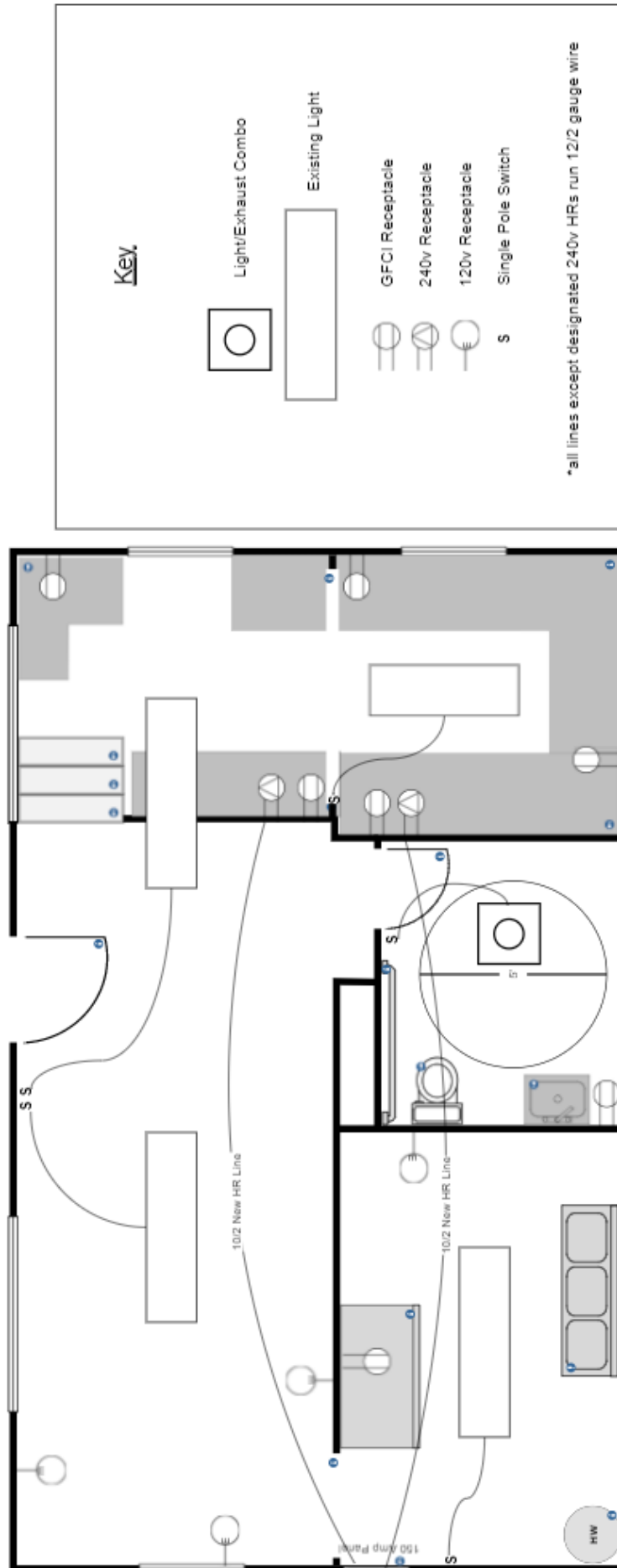
SCALE 1"=1'



2699 W MLK BLVD: Exterior Ramp



2699 W MLK BLVD Electrical Plan



U.S. DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency
National Flood Insurance Program

OMB Control No. 1660-0008
Expiration Date: 06/30/2026

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON PAGES 9-19

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A – PROPERTY INFORMATION	FOR INSURANCE COMPANY USE
A1. Building Owner's Name: <u>CANVIS COFFEE LLC</u>	Policy Number: _____
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.: <u>2699 W MARTIN LUTHER KING BOULEVARD</u>	Company NAIC Number: _____
City: <u>FAYETTEVILLE</u> State: <u>AR</u> ZIP Code: <u>72704</u>	
A3. Property Description (e.g., Lot and Block Numbers or Legal Description) and/or Tax Parcel Number: <u>PARCEL: 765-14668-000</u>	
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.): <u>NON-RESIDENTIAL</u>	
A5. Latitude/Longitude: Lat. <u>36°03'10.0699"</u> Long. <u>-94°11'52.9620"</u> Horizontal Datum: ☐ NAD 1927 ☒ NAD 1983 ☐ WGS 84	
A6. Attach at least two and when possible four clear photographs (one for each side) of the building (see Form pages 7 and 8).	
A7. Building Diagram Number: <u>8</u>	
A8. For a building with a crawlspace or enclosure(s): a) Square footage of crawlspace or enclosure(s): <u>648.00</u> sq. ft. b) Is there at least one permanent flood opening on two different sides of each enclosed area? ☐ Yes ☒ No ☐ N/A c) Enter number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade: Non-engineered flood openings: <u>2</u> Engineered flood openings: <u>N/A</u> d) Total net open area of non-engineered flood openings in A8.c: <u>126.72</u> sq. in. e) Total rated area of engineered flood openings in A8.c (attach documentation – see Instructions): <u>N/A</u> sq. ft. f) Sum of A8.d and A8.e rated area (if applicable – see Instructions): <u>N/A</u> sq. ft.	
A9. For a building with an attached garage: a) Square footage of attached garage: <u>N/A</u> sq. ft. b) Is there at least one permanent flood opening on two different sides of the attached garage? ☐ Yes ☐ No ☒ N/A c) Enter number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade: Non-engineered flood openings: <u>N/A</u> Engineered flood openings: <u>N/A</u> d) Total net open area of non-engineered flood openings in A9.c: <u>N/A</u> sq. in. e) Total rated area of engineered flood openings in A9.c (attach documentation – see Instructions): <u>N/A</u> sq. ft. f) Sum of A9.d and A9.e rated area (if applicable – see Instructions): <u>N/A</u> sq. ft.	
SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION	
B1.a. NFIP Community Name: <u>FAYETTEVILLE, CITY OF</u>	B1.b. NFIP Community Identification Number: <u>050216</u>
B2. County Name: <u>WASHINGTON COUNTY</u>	B3. State: <u>AR</u> B4. Map/Panel No.: <u>0215</u> B5. Suffix: <u>F</u>
B6. FIRM Index Date: <u>09/18/1991</u>	B7. FIRM Panel Effective/Revised Date: <u>05/16/2008</u>
B8. Flood Zone(s): <u>"AE"</u>	B9. Base Flood Elevation(s) (BFE) (Zone AO, use Base Flood Depth): <u>1269.13'</u>
B10. Indicate the source of the BFE data or Base Flood Depth entered in Item B9: ☐ FIS ☒ FIRM ☐ Community Determined ☐ Other: _____	
B11. Indicate elevation datum used for BFE in Item B9: ☐ NGVD 1929 ☒ NAVD 1988 ☐ Other/Source: _____	
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? ☐ Yes ☒ No Designation Date: _____ ☐ CBRS ☐ OPA	
B13. Is the building located seaward of the Limit of Moderate Wave Action (LiMWA)? ☐ Yes ☒ No	

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON PAGES 9-19

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:

2699 W MARTIN LUTHER KING BOULEVARD

City: FAYETTEVILLE

State: AR

ZIP Code: 72704

FOR INSURANCE COMPANY USE

Policy Number: _____

Company NAIC Number: _____

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☐ Construction Drawings* ☐ Building Under Construction* ☒ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, AO, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO, A99. Complete Items C2.a–h below according to the Building Diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: BM-1 (SEE NOTE) Vertical Datum: NAVD 1988

Indicate elevation datum used for the elevations in items a) through h) below.

☐ NGVD 1929 ☒ NAVD 1988 ☐ Other: _____

Datum used for building elevations must be the same as that used for the BFE. Conversion factor used?

☐ Yes ☒ No

If Yes, describe the source of the conversion factor in the Section D Comments area.

Check the measurement used:

a) Top of bottom floor (including basement, crawlspace, or enclosure floor): 1,266.50

☒ feet ☐ meters

b) Top of the next higher floor (see Instructions): 1,268.90

☒ feet ☐ meters

c) Bottom of the lowest horizontal structural member (see Instructions):

☐ feet ☐ meters

d) Attached garage (top of slab):

☐ feet ☐ meters

e) Lowest elevation of Machinery and Equipment (M&E) servicing the building (describe type of M&E and location in Section D Comments area):

1,267.70

☒ feet ☐ meters

f) Lowest Adjacent Grade (LAG) next to building: ☒ Natural ☐ Finished

1,266.20

☒ feet ☐ meters

g) Highest Adjacent Grade (HAG) next to building: ☒ Natural ☐ Finished

1,267.80

☒ feet ☐ meters

h) Finished LAG at lowest elevation of attached deck or stairs, including structural support:

1,267.30

☒ feet ☐ meters

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by state law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? ☒ Yes ☐ No

☒ Check here if attachments and describe in the Comments area.

Certifier's Name: WILLIAM G. GAGNER

License Number: 1659

Title: REGISTERED PROFESSIONAL LAND SURVEYOR

Company Name: BLEW & ASSOCIATES, P.A.

Address: 3825 NORTH SHILOH DRIVE

City: FAYETTEVILLE

State: AR

ZIP Code: 72703

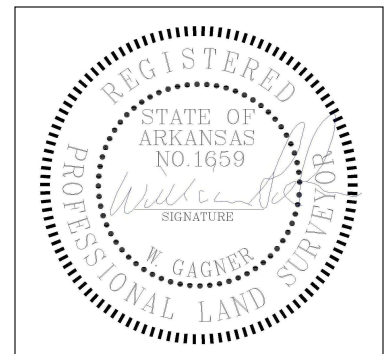
Signature: _____

Date: 08/23/2023

Telephone: (479) 433-4506

Ext.: _____

Email: SURVEY@BLEWINC.COM



Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including source of conversion factor in C2; type of equipment and location per C2.e; and description of any attachments):
C2. BENCHMARK WAS ESTABLISHED WITH GPS STATIC OBSERVATION UTILIZING THE CONTINUOUSLY OPERATING REFERENCE STATION (CORS) SITES USED FOR AN ONLINE POSITIONING USER SERVICE (OPUS) SOLUTION FOR POST PROCESSING.

C2(e). AIR CONDITIONER LOCATED AT THE SOUTHWEST SIDE OF BUILDING.

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON PAGES 9-19

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:

2699 W MARTIN LUTHER KING BOULEVARD

City: FAYETTEVILLE

State: AR

ZIP Code: 72704

FOR INSURANCE COMPANY USE

Policy Number: _____

Company NAIC Number: _____

SECTION E – BUILDING MEASUREMENT INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO, ZONE AR/AO, AND ZONE A (WITHOUT BFE)

For Zones AO, AR/AO, and A (without BFE), complete Items E1–E5. For Items E1–E4, use natural grade, if available. If the Certificate is intended to support a Letter of Map Change request, complete Sections A, B, and C. Check the measurement used. In Puerto Rico only, enter meters.

Building measurements are based on: ☐ Construction Drawings* ☐ Building Under Construction* ☐ Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

E1. Provide measurements (C.2.a in applicable Building Diagram) for the following and check the appropriate boxes to show whether the measurement is above or below the natural HAG and the LAG.

a) Top of bottom floor (including basement, crawlspace, or enclosure) is: _____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

b) Top of bottom floor (including basement, crawlspace, or enclosure) is: _____ ☐ feet ☐ meters ☐ above or ☐ below the LAG.

E2. For Building Diagrams 6–9 with permanent flood openings provided in Section A Items 8 and/or 9 (see pages 1–2 of Instructions), the next higher floor (C2.b in applicable Building Diagram) of the building is: _____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E3. Attached garage (top of slab) is: _____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E4. Top of platform of machinery and/or equipment servicing the building is: _____ ☐ feet ☐ meters ☐ above or ☐ below the HAG.

E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance? ☐ Yes ☐ No ☐ Unknown The local official must certify this information in Section G.

SECTION F – PROPERTY OWNER (OR OWNER'S AUTHORIZED REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without BFE) or Zone AO must sign here. *The statements in Sections A, B, and E are correct to the best of my knowledge*

☐ Check here if attachments and describe in the Comments area.

Property Owner or Owner's Authorized Representative Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Signature: _____ Date: _____

Telephone: _____ Ext.: _____ Email: _____

Comments:

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON PAGES 9-19

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:

2699 W MARTIN LUTHER KING BOULEVARD

City: FAYETTEVILLE

State: AR

ZIP Code: 72704

FOR INSURANCE COMPANY USE

Policy Number: _____

Company NAIC Number: _____

SECTION G – COMMUNITY INFORMATION (RECOMMENDED FOR COMMUNITY OFFICIAL COMPLETION)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Section A, B, C, E, G, or H of this Elevation Certificate. Complete the applicable item(s) and sign below when:

- G1. ☐ The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by state law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2.a. ☐ A local official completed Section E for a building located in Zone A (without a BFE), Zone AO, or Zone AR/AO, or when item E5 is completed for a building located in Zone AO.
- G2.b. ☐ A local official completed Section H for insurance purposes.
- G3. ☐ In the Comments area of Section G, the local official describes specific corrections to the information in Sections A, B, E and H.
- G4. ☐ The following information (Items G5–G11) is provided for community floodplain management purposes.
- G5. Permit Number: _____ G6. Date Permit Issued: _____
- G7. Date Certificate of Compliance/Occupancy Issued: _____
- G8. This permit has been issued for: ☐ New Construction ☐ Substantial Improvement
- G9.a. Elevation of as-built lowest floor (including basement) of the building: _____ ☐ feet ☐ meters Datum: _____
- G9.b. Elevation of bottom of as-built lowest horizontal structural member: _____ ☐ feet ☐ meters Datum: _____
- G10.a. BFE (or depth in Zone AO) of flooding at the building site: _____ ☐ feet ☐ meters Datum: _____
- G10.b. Community's minimum elevation (or depth in Zone AO) requirement for the lowest floor or lowest horizontal structural member: _____ ☐ feet ☐ meters Datum: _____
- G11. Variance issued? ☐ Yes ☐ No If yes, attach documentation and describe in the Comments area.

The local official who provides information in Section G must sign here. *I have completed the information in Section G and certify that it is correct to the best of my knowledge. If applicable, I have also provided specific corrections in the Comments area of this section.*

Local Official's Name: _____ Title: _____

NFIP Community Name: _____

Telephone: _____ Ext.: _____ Email: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Signature: _____ Date: _____

Comments (including type of equipment and location, per C2.e; description of any attachments; and corrections to specific information in Sections A, B, D, E, or H):

ELEVATION CERTIFICATE

IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON PAGES 9-19

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:

2699 W MARTIN LUTHER KING BOULEVARD

City: FAYETTEVILLE

State: AR

ZIP Code: 72704

FOR INSURANCE COMPANY USE

Policy Number: _____

Company NAIC Number: _____

SECTION H – BUILDING'S FIRST FLOOR HEIGHT INFORMATION FOR ALL ZONES (SURVEY NOT REQUIRED) (FOR INSURANCE PURPOSES ONLY)

The property owner, owner's authorized representative, or local floodplain management official may complete Section H for all flood zones to determine the building's first floor height for insurance purposes. Sections A, B, and I must also be completed. Enter heights to the nearest tenth of a foot (nearest tenth of a meter in Puerto Rico). **Reference the Foundation Type Diagrams (at the end of Section H Instructions) and the appropriate Building Diagrams (at the end of Section I Instructions) to complete this section.**

H1. Provide the height of the top of the floor (as indicated in Foundation Type Diagrams) above the Lowest Adjacent Grade (LAG):

a) **For Building Diagrams 1A, 1B, 3, and 5–9.** Top of bottom floor (include above-grade floors only for buildings with subgrade crawlspaces or enclosure floors) is: _____ 0.30 ☒ feet ☐ meters ☒ above the LAG

b) **For Building Diagrams 2A, 2B, 4, and 6–9.** Top of next higher floor (i.e., the floor above basement, crawlspace, or enclosure floor) is: _____ N/A ☐ feet ☐ meters ☐ above the LAG

H2. Is **all** Machinery and Equipment servicing the building (as listed in Item H2 instructions) elevated to or above the floor indicated by the H2 arrow (shown in the Foundation Type Diagrams at end of Section H instructions) for the appropriate Building Diagram?

☒ Yes ☐ No

SECTION I – PROPERTY OWNER (OR OWNER'S AUTHORIZED REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and H must sign here. *The statements in Sections A, B, and H are correct to the best of my knowledge.* **Note:** If the local floodplain management official completed Section H, they should indicate in Item G2.b and sign Section G.

☐ Check here if attachments are provided (including required photos) and describe each attachment in the Comments area.

Property Owner or Owner's Authorized Representative Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Signature: _____ Date: _____

Telephone: _____ Ext.: _____ Email: _____

Comments: _____

ELEVATION CERTIFICATE
IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON PAGES 9-19
BUILDING PHOTOGRAPHS

See Instructions for Item A6.

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:
2699 W MARTIN LUTHER KING BOULEVARD

City: **FAYETTEVILLE** State: **AR** ZIP Code: **72704**

FOR INSURANCE COMPANY USE

Policy Number: _____

Company NAIC Number: _____

Instructions: Insert below at least two and when possible four photographs showing each side of the building (for example, may only be able to take front and back pictures of townhouses/rowhouses). Identify all photographs with the date taken and "Front View," "Rear View," "Right Side View," or "Left Side View." Photographs must show the foundation. When flood openings are present, include at least one close-up photograph of representative flood openings or vents, as indicated in Sections A8 and A9.



Photo One

Photo One Caption: **NORTHEAST SIDE 08-14-2023**

Clear Photo One



Photo Two

Photo Two Caption: **SOUTHEAST SIDE 08-14-2023**

Clear Photo Two

ELEVATION CERTIFICATE
IMPORTANT: MUST FOLLOW THE INSTRUCTIONS ON PAGES 9-19
BUILDING PHOTOGRAPHS

Continuation Page

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.:
2699 W MARTIN LUTHER KING BOULEVARD

City: **FAYETTEVILLE** State: **AR** ZIP Code: **72704**

FOR INSURANCE COMPANY USE

Policy Number: _____

Company NAIC Number: _____

Insert the third and fourth photographs below. Identify all photographs with the date taken and "Front View," "Rear View," "Right Side View," or "Left Side View." When flood openings are present, include at least one close-up photograph of representative flood openings or vents, as indicated in Sections A8 and A9.



Photo Three

Photo Three Caption: **SOUTHWEST SIDE 08-14-2023**

Clear Photo Three



Photo Four

Photo Four Caption: **NORTHWEST SIDE 08-14-2023**

Clear Photo Four

FILE: 23_5455_AR_LP_8_.23o OP1692042969580

2005 NOTE: The IGS precise and IGS rapid orbits were not available
2005 at processing time. The IGS ultra-rapid orbit was/will be used to
2005 process the data.
2005

NGS OPUS SOLUTION REPORT

=====

All computed coordinate accuracies are listed as peak-to-peak values.

For additional information: <https://www.ngs.noaa.gov/OPUS/about.jsp#accuracy>

USER: bill@blewinc.com DATE: August 14, 2023
RINEX FILE: 23_5226q.23o TIME: 19:57:45 UTC

SOFTWARE: page5 2008.25 master272.pl 160321 START: 2023/08/14 16:18:00
EPHEMERIS: igu22751.eph [ultra-rapid] STOP: 2023/08/14 18:33:00
NAV FILE: brdc2260.23n OBS USED: 4511 / 5224 : 86%
ANT NAME: HEMS631 NONE # FIXED AMB: 34 / 37 : 92%
ARP HEIGHT: 1.673 OVERALL RMS: 0.018(m)

REF FRAME: NAD_83(2011)(EPOCH:2010.0000) ITRF2014 (EPOCH:2023.6184)

X: -377967.146(m) 0.004(m) -377968.078(m) 0.004(m)
Y: -5148991.764(m) 0.049(m) -5148990.356(m) 0.049(m)
Z: 3733136.410(m) 0.035(m) 3733136.260(m) 0.035(m)

LAT: 36 3 9.90925 0.016(m) 36 3 9.93085 0.016(m)
 E LON: 265 48 6.02341 0.007(m) 265 48 5.98216 0.007(m)
 W LON: 94 11 53.97659 0.007(m) 94 11 54.01784 0.007(m)
 EL HGT: 358.214(m) 0.060(m) 357.046(m) 0.060(m)
 ORTHO HGT: 386.310(m) 0.094(m) [NAVD88 (Computed using GEOID18)]

UTM COORDINATES STATE PLANE COORDINATES

UTM (Zone 15) SPC (0301 AR N)
 Northing (Y) [meters] 3990463.837 192969.790
 Easting (X) [meters] 392067.187 201945.375
 Convergence [degrees] -0.70531944 -1.27920556
 Point Scale 0.99974354 0.99996929
 Combined Factor 0.99968734 0.99991307

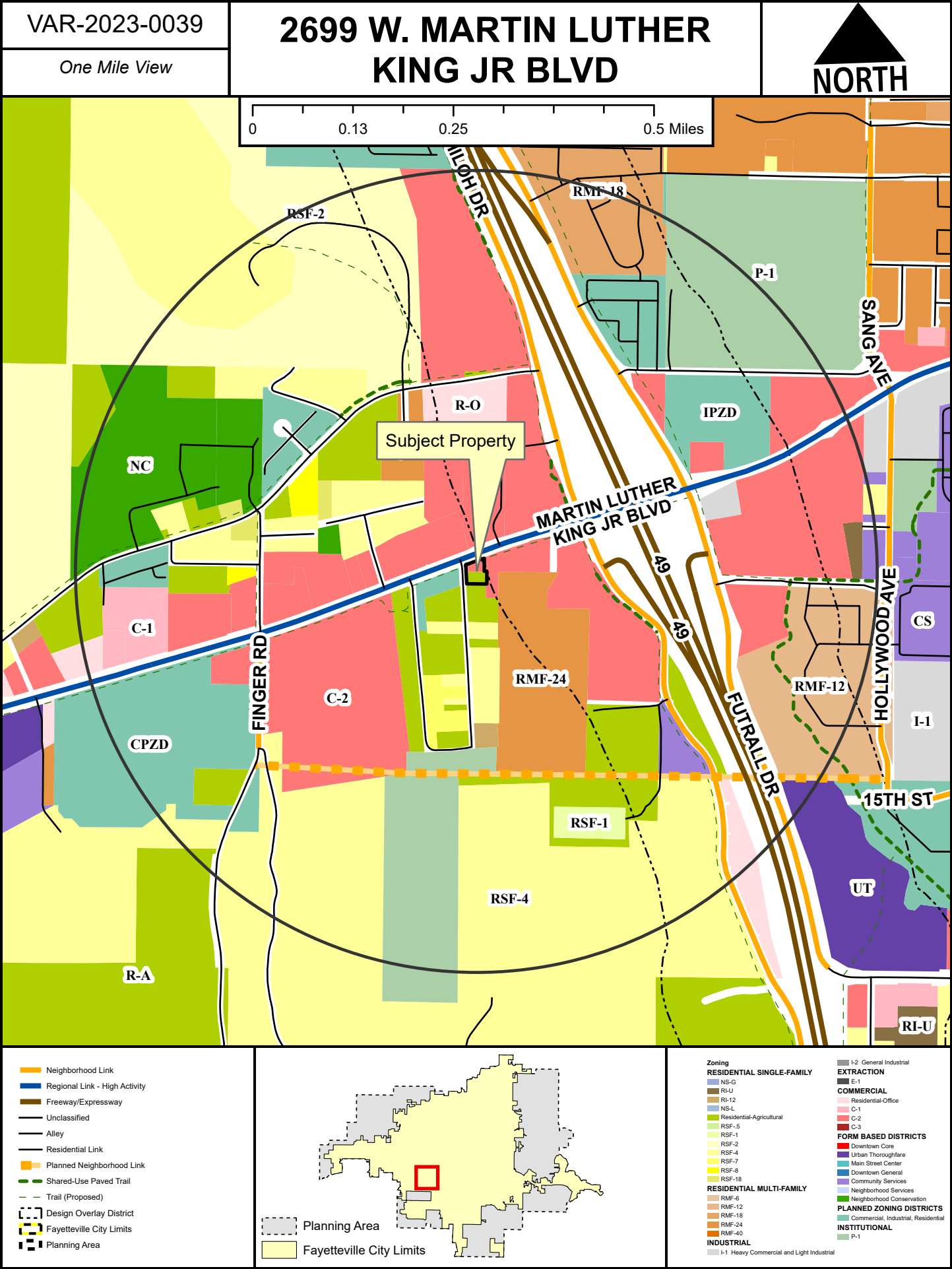
US NATIONAL GRID DESIGNATOR: 15SUV9206790464(NAD 83)

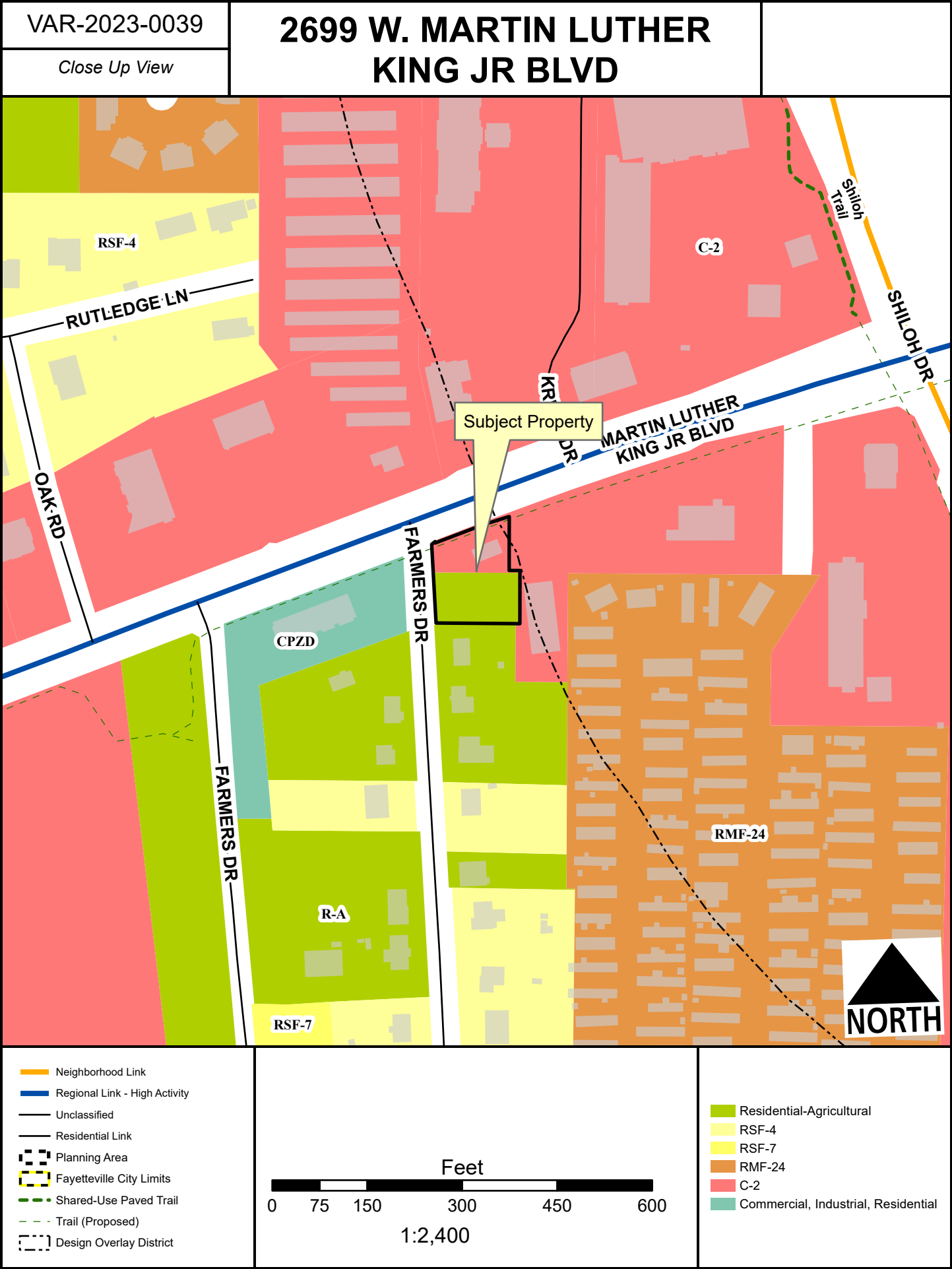
BASE STATIONS USED

PID	DESIGNATION	LATITUDE	LONGITUDE	DISTANCE(m)
DL6012	MOBR MODOT BRANSON CORS ARP	N364235.201	W0931323.592	113892.1
DL6014	MOCA MODOT CARTHAGE CORS ARP	N371039.166	W0942127.243	125633.3
DM3513	MOCS MODOT CASSVILLE CORS ARP	N363848.210	W0935420.355	70957.0

NEAREST NGS PUBLISHED CONTROL POINT

GG0139	S 50	N360302.000	W0941227.000	861.7
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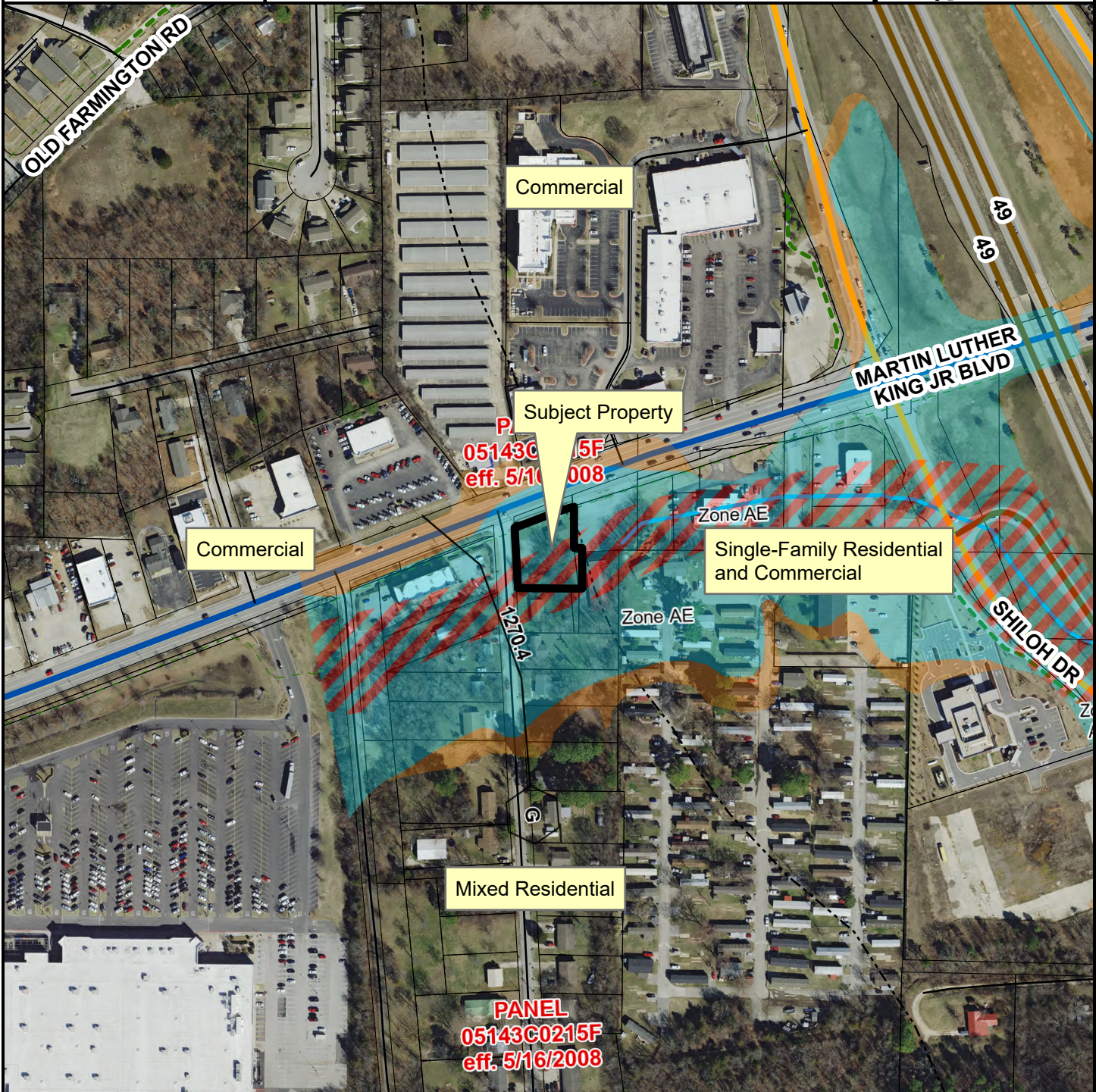




VAR-2023-0039

Current Land Use

2699 W. MARTIN LUTHER KING JR BLVD



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Planning Commission

THRU: Jessie Masters, Development Review Manager

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

MEETING: September 11, 2023

SUBJECT: **LSD-2023-0009: Large Scale Development (N. BOB YOUNKIN DR. & W. DRAKE ST/MIDTOWN LANDING, 251):** Submitted by COMMUNITY BY DESIGN for property located on N. BOB YOUNKIN DR. & W. DRAKE ST. The property is zoned RMF-4, RESIDENTIAL MULTI-FAMILY – 24 UNITS PER ACRE and contains approximately 3.59 acres. The request is for 16 single-family residential units and 48 multifamily residential units.

RECOMMENDATION:

Staff recommends approval of **LSD-2023-0009** with conditions.

RECOMMENDED MOTION:

*"I move to approve **LSD-2023-0009**, recommending:*

- In favor of requested variance to §166.11(A), Conformance to Plans and Regulations,*
- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in north Fayetteville and contains approximately 3.59 acres in the Appleby Landing Subdivision. The property is currently undeveloped, though it is surrounded by established single- and two-family neighborhoods to the east and west, a multi-family development to the south, and medical offices to the north. No environmentally sensitive areas are present on site and the property is not located within any zoning overlays. The property was successfully rezoned from R-O, Residential Offices to RMF-24, Residential Multi-Family, 24 units per Acre in early 2023. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Medical Offices	R-O, Residential Office
South	Multi-family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Single-family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Undeveloped (Future Phase of Midtown Landing)	CS, Community Services

Proposal: The applicant requests large scale development approval to develop the subject property with thirty-two residential structures totaling sixty-four dwelling units. One variance has been requested with the proposal.

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.

N. Bob Younkin Dr. is a partially improved residential link street, which typically includes one seven-foot parking lane, one nine-foot drive lane and one ten-foot parking lane. The existing width of the street is 36 feet, which is nine feet wider than the typical residential link section. The applicant proposes to stripe the asphalt with two seven-foot parking lanes and two approximately 10-foot drive lanes.

- a. *Staff recommendation: Staff recommends approval of the applicant's request. Staff agrees with the applicant's assertion that on-street parking on both sides of the street may act as a traffic calming measure, potentially reducing speeds and improving overall safety. Particularly given the location of the Razorback Greenway within Gordon Long Park approximately 0.25 miles to the west, staff finds the addition of on-street parking and potential for reduced speeds could be a public benefit; however no hardship is provided in the applicant's letter, and subdivision committee expressed concerns regarding the lack of provided hardship at the meeting. Additionally, the Subdivision Committee discussed whether the addition of a second parking lane would be the most appropriate use for the existing additional paved surface given the existing medical offices to the north and lack of development plans for the property to the west.*

Right-of-Way to be Dedicated: The subject property will have frontage along W. Drake St. to the south, W. Bishop Dr. to the north, and N. Bob Younkin Dr. to the west. N. Bob Younkin Dr. and W. Bishop Dr. are both existing improved Residential Links. The applicant proposes to dedicate 27.5 feet of right-of-way from the centerline along W. Bishop Dr. to include the addition of a 6-foot proposed green space and 6-foot sidewalk. No additional right-of-way dedication is proposed for W. Drake St. as existing right-of-way exceeds the requirement for a Neighborhood Link Street.

In March 2023, the applicant vacated a total of 18 feet of right-of-way for Bob-Younkin, reducing the total right-of-way from 70 feet to 52 feet to be in-line with the typical requirements for a Residential Link street. Staff has requested that right-of-way be re-dedicated so that the proposed six-foot public sidewalks are fully within right-of-way. The applicant currently proposes to dedicate 30 feet of right-of-way from the centerline along N. Bob Younkin Dr.

Additionally, the applicant proposes to vacate approximately 150 feet of right of way outside of public sidewalks at the southeast corner of the N. Bob Younkin Dr. and W. Bishop Dr. intersection. This vacation request must be completed through a separate vacation application.

Street Improvements: Six-foot-wide greenspace and sidewalks will be installed along N. Bob Younkin Dr. and W. Bishop Dr. with a proposed narrowing of the street intersection. Staff has requested the applicant re-align the proposed greenspace along N. Bob Younkin Dr. to provide a consistent 6-foot green space as it is currently a variable 6.2 foot to 6 foot. An existing 6-foot sidewalk is installed along W. Drake Street, and staff recommends that any damaged portions of this sidewalk shall be repaired as part of this development. Staff has requested clarification on proposed streetlight locations as the existing street streetlights do not meet the requirements for placement at all street intersections and at intervals of no more than 300 feet. A variance has been requested to street improvements for N. Bob Younkin Dr.

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 multiple driveways onto N. Bob Younkin Dr. which are at least 50 feet apart.

Design Standards: This project is subject to the design standards outlined in UDC §166.23, Urban Residential Design Standards. In reviewing the provided site plan and elevations, staff has determined that this development is compliant with these site design standards. A variance for architectural design standards was requested at subdivision committee but is no longer required. Staff is unable to fully determine at this time if the development meets §172.04, Parking Lot Design Standards as several motorcycle/scooter spaces and bicycle parking racks are indicated on the plans but are not clearly defined as part of the parking lot. As shown, both the motorcycle / scooter spaces and the bicycle parking is located off the parking courts within grass, which would not be permitted by code. These will be reviewed further at grading permit to determine full compliance with ordinance.

Water and Sewer System: There are existing 8" sewer and water mains along N. Bob Younkin Dr. which the applicant is proposing to use for sanitary sewer service, domestic water and fire protection.

Parkland dedication or fee in-lieu: The Parks and Recreation Advisory Board (PRAB) reviewed this proposal at a meeting held on July 3, 2023. The Parks and Recreation Advisory Board recommended fee-in-lieu of parkland dedication in the amount of \$60,928 for 64 residential units. Park fees are due prior to building permit issuance.

Tree Preservation:

Canopy minimum requirement: 20.0%

Existing Canopy: 52.5%

Preserved canopy: 0.0%

Mitigation required: 67 two-inch caliper trees

An existing 20-foot tree preservation easement located along the eastern property line was dedicated in 2006 with the Appleby Landing final plat. No trees outside of this existing easement are indicated as preserved, and the trees within the existing easement may not be counted as preserved for the purposes of the calculations shown above. Urban Forestry has concerns regarding the proximity of several structures within 1 foot of the edge of the existing tree preservation easement. An agreement letter has been provided to the city clarifying additional protective measures to be taken to ensure the existing tree preservation easement is not impacted.

Landscaping:

The development is subject to landscaping requirements within §177 Landscape Regulations. At this time, a letter has been provided to staff indicating that improvements to the detention pond, including landscaping to meet the intent of §177.06(C) Detention Ponds. However, a landscape plan indicating how these requirements will be met has not been provided to staff for review, and the plans as indicated do not currently meet ordinance.

Public Comment: Staff received two phone/email inquiries from members of the public who wanted additional information about the project. Three neighbors from N. Sunny Lane spoke at the subdivision committee and expressed concerns relating to increased traffic, worsening drainage, loss of privacy, and rental style management.

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

Conditions of Approval:

1. **Planning Commission determination of variance to UDC §166.11(A), Conformance to Plans and Regulations.** *Staff recommends approval of the requested variance with no added conditions.*

Subdivision Committee had no recommendation.

2. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication in the following amounts:*
 - a. Right-of-way dedication of 30 feet from centerline (at back of sidewalk) along N. Bob Younkin Dr.
 - b. Right-of-way dedication of 27.5 feet from centerline (at back of sidewalk) along W. Bishop Dr.
 - c. No additional right-of-way along W. Drake St.

Subdivision Committee had no recommendation.

3. **Planning Commission determination of street improvements.** *Staff recommends street improvements as described below:*
 - a. 6-foot sidewalk and greenspace along N. Bob Younkin Dr, with the street to be restriped to include two parking lanes and two drive lanes
 - b. 6-foot sidewalk and greenspace along W. Bishop Dr., with the street to be restriped to include one on-street parking lane
 - c. Replace any damaged existing sidewalk along W. Drake St.
 - d. Narrowing of street at intersection of N. Bob Younkin Dr. and W. Bishop Dr. with street radii requiring Engineering approval.
 - e. Streetlights to meet ordinance distance and spacing requirements.

Subdivision Committee had no recommendation.

4. A property line adjustment or a concurrent plat must be approved prior to the issuance of a grading permits to ensure that no structures are built along the current property lines of lots 7, 8, and 9 of Appleby Landing.
5. Any proposed easement or right-of-way vacations must be approved prior to the issuance of a grading permit to ensure that no structures are built within prohibited areas.
6. Remaining comments from Planning shall be addressed, including:
 - a. Add motorcycle / scooter parking per the requirements of Chapter 172.05(A)(6). Spaces must be fully drafted with construction methods and materials detailed on the plans.
 - b. Bike rack parking must be fully drafted and detailed per the requirements of Chapter 172.10(C).
 - c. Ensure streetlights meet 300-foot maximum distance requirements.
 - d. Add ADA routes per engineering comment.

7. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;
 - a. Include the required detention planting per Chapter 177. Grading permit shall not be issued until compliance with all mitigation and detention landscaping requirements is confirmed.
 - b. Diversify plant species. No more than 20% of one plant should be specified. It is acceptable to vary the type of Elm trees.
 - c. A chain link fence with posts in the ground will be required to protect the tree preservation easement per Chapter 167.05(B).
 - d. The agreement letter needs to also state that it is understood that a Stop Work Order may be issued, and remedial measures prescribed per Chapter 167.05(B) if construction encroaches on the tree preservation easement.

Standard Conditions of Approval:

8. Impact fees for fire, police, water, and sewer shall be paid in accordance with city ordinance;
9. Technical Plat Review and Subdivision Committee 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 Electric, SWEPCO, and Cox Communications);
10. All mechanical and 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;
11. Trash enclosures shall be screened on three sides with materials that are 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 Recycling & Trash Collection divisions for review prior to building permit;
12. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
13. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements;
14. All exterior lighting shall comply with city ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
15. 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;
16. Large scale development approval shall be valid for one year;

17. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
18. 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
19. 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 any tree preservation areas 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:	☐ Denied	☐ Tabled	☐ Approved
Meeting Date: <u>September 11, 2023</u>			
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Staff Memos
 - Engineering Memo
 - Urban Forestry Comments
 - Landscape Memo
 - Tree Preservation Memo
 - Tree preservation Agreement
 - Parks Memo
- Applicant Request Letter
- Variance Request Letter
- Master Street Plan Exhibit
- Turning Radii Exhibit
- Site Plans
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Donna Wonsower, Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: August 25, 2023

SUBJECT: Subdivision Committee Engineering Comments for
LSD-2023-0009 Midtown Landing

Water: There is an existing 8" water main along Bob Younkin Dr which the applicant is proposing to use for domestic water and fire protection.

Sewer: There is an existing 8" sewer main along Bob Younkin Dr which the applicant is proposing to connect to for sanitary sewer service. Private trunk lines going into proposed manholes shall be a minimum of 6" in diameter.

Drainage: The applicant is proposing to meet the assumptions made in the drainage report when the subdivision was built. The applicant is also proposing to modify the existing detention facility to provide bioretention. Calculations will be reviewed during grading permit.

Plan Comments:

1. Additional taps for fire hydrants shall not be permitted unless there is a hardship preventing the hydrant from being shifted to the greenspace. Parking shall be restricted in front of the hydrants and hydrant location must meet fire code.
2. Proposed manholes shall be located entirely in the sidewalk or entirely out of the sidewalk.
3. Additional review of the proposed curb radii shall be completed during grading permit. Radii shall be approved by the City Engineer.
4. An ADA accessible route shall be provided from the right-of-way to ADA spaces and any building to which a pedestrian route is required.
5. Abandonment of existing water and sewer services shall be coordinated with the water and sewer division.
 - a. However, if existing water service lines can support meter arrays, they shall be utilized.
6. Profiles of storm and bioretention will be provided at grading permit based on comment response.
7. Additional topographic information near the structures and a swale at the east property line will be provided based on comment response.
8. Storm may have to be installed across Bishop to drain bioretention as stated in comment response.
9. Manholes shall not cause the sidewalk to shift or be out of compliance with ADA requirements.

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: Brian Teague- Community by Design, Tim Brisiel, Legacy Ventures NWA, Inc

From: Melissa Evans, Urban Forestry

CC: Donna Wonsower, Planner

Meeting Date: September 11, 2023

Subject: LSD-2023-0009: Midtown Landing, Bob Younkin Drive and Drake,

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

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

5. Landscape Requirement Totals	Amount
Mitigation Trees	63
Parking Lot Trees	8
Street Trees	1 tree/30 LF of street frontage =40
Detention Pond – Large Trees (1 Tree/3,000 square feet)	?
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	?
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	?

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	06-15-2023	08-14-2023 08-30-2023	09-05-23
Approved			
Tabled	07-18-2023		
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. Please include required detention plantings per Ch. 177. A letter has been provided by the applicant stating they will be included on the grading permit plans. 3. Please diversify the plant species. No more than 20% of one plant should be specified. It is acceptable to vary the type of Elm trees (please do not specify Lacebark Elm or Siberian Elm as they may be invasive). A disease that wipes out one variety may not wipe out another. 4. Most parking islands are too narrow to be sufficient for healthy tree growth without structural soil. Since these seem to be extra trees (drive trees), they do not have to meet City minimum requirements. It is recommended that more room be provided for them or structural soil if you want successful tree growth and longevity.

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	06-14-2023	08-14-2023 08-30-2023	
Approved			
Tabled	07-18-2023		09-05-23
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. Highlighted yellow items below must be addressed with the next submittal or this project may risk being tabled at Planning Commission.
2. Please clarify where the preserved canopy is on site that is reflected in the Tree Preservation Calculations Chart.
3. Mitigation can be done at low priority for this project, most of the trees are invasive, and this was a remnant orchard.
4. There is no preservation on this site other than an existing tree preservation easement.
5. A chain link fence with posts in the ground will be required to protect the tree preservation easement per Ch. 167.05(B). Thank you for showing this on the tree preservation plans.
6. The applicant has provided an agreement letter stating that the contractor, Legacy Ventures NWA, Inc., acknowledges the existence of the 20’ Tree Preservation Easement along the east property line and that the building foundations are close to the easement, and that they will use means and methods to not disturb the easement. In some areas, there is only 1 foot between a building footprint and the Tree Preservation Easement. Urban Forestry Staff prefers at least five feet of space between the building and the Tree Preservation Easement. The agreement letter needs to also state that it is understood that a Stop Work Order may be issued and remedial measures prescribed per Chapter 167.05(B) if construction encroaches on the Tree Preservation Easement.
7. What does the blue indicate on the trees at the south side of the property? Were they counted in the tree preservation calculations?



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Brian Teague, Community By Design and Tim Brisiel, Legacy Ventures NWA

From: Melissa Evans, Urban Forestry

CC: Donna Wonsower, Planner

Meeting Date: September 11, 2023

Subject: LSD-2023-0009: Midtown Landing, Bob Younkin Drive and Drake, 251

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

The Tree Preservation Calculations have been updated by the applicant and sent to the Urban Forester after the plan submittal. They are reflected here:

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	120,980	100%
Zoning Designation * Select Below with drop down arrow		
RMF-24 Multi-Family Residential-Twenty-Four Units Per Acre	24,196	20%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	24,196	20.0%
Existing Tree Canopy * Minus Right of Way and Easements	63,496	52.5%
Tree Canopy Preserved	0	0%
Tree Canopy Removed *On Site	63,496	52.5%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	63,496	52.5%
Removed Below Minimum	24,196	
Mitigation Requirements	24,196	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	5,081	23
Low Priority	19,115	44
Total Mitigation Trees Required	24,196	67

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

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes
d. Existing Topography and Proposed Grading	Yes	Yes	Yes
e. Soil Types	Yes	Yes	No
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	Yes	Yes	No
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 (if required)	N/A	N/A	N/A
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes

Tree Protection Methods

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

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	06-14-2023	08-14-2023 08-30-2023	09-05-23
Approved			
Tabled	07-18-2023		
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. Mitigation can be done at low priority for this project, most of the trees are invasive, and this was a remnant orchard.
3. There is no preservation on this site other than an existing tree preservation easement.
4. A chain link fence with posts in the ground will be required to protect the tree preservation easement per Ch. 167.05(B). Thank you for showing this on the tree preservation plans.
5. The applicant has provided an agreement letter stating that the contractor, Legacy Ventures NWA, Inc., acknowledges the existence of the 20’ Tree Preservation Easement along the east property line and that the building foundations are close to the easement, and that they will use means and methods to not disturb the easement. In some areas, there is only 1 foot between a building footprint and the Tree Preservation Easement. Urban Forestry Staff prefers at least five feet of space between the building and the Tree Preservation Easement. The agreement letter also states that it is understood that a Stop Work Order may be issued and remedial measures prescribed per Chapter 167.05(B) if construction encroaches on the Tree Preservation Easement.
6. What does the blue indicate on the trees at the south side of the property? Were they counted in the tree preservation calculations? Please label or include in a legend so it is clear to the contractor as to whether those trees are to be removed or remain.



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: July 18, 2023

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: July 3, 2023

Project Title: Midtown Landing

Project Number: LSD-2023-0009

Project Location: NW Corner of W Drake St and N Bob Younkin Dr

Parcel ID Number: 765-24864-000, 765-24865-000, 765-24866-000

Plat Page: 251

Park Quadrant: NW

Billing Name & Address: Sterling Holdings, LLC, PO Box 8216, Fayetteville, AR 72703

☐ Land Dedication

☒ Fee-in-Lieu

☐ Combination

LAND DEDICATION

Single Family: _____ units x 0.023 acres per unit = 0.00 acres

Multi Family: _____ units x 0.020 acres per unit = 0.00 acres

**TOTAL
Acres**

0.0

FEE-IN-LIEU

Single Family: _____ units x \$1,089 per unit = \$ 0

Multi Family: 64 units x \$952 per unit = \$60,928

**TOTAL
Fees**

\$60,928

SUMMARY:

- Project proposes 0 SF units and 64 MF units.
- The final amount of fee-in-lieu and/or land dedication needed to satisfy Parkland Dedication requirements will be determined after Planning Commission's approval of this project.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- Prior to final receipt by the city, all fees must be paid and any deeds for parkland dedication property must be:
 - Approved by the City's Land Agent in the Engineering Division.

- Recorded at the Washington County Courthouse.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.

September 5, 2023

Via Email: mevans@fayetteville-ar.gov

Ms. Donna Wonsower
Planner
City of Fayetteville – Planning Department
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **Midtown Landing LSD 2023 0009 – Storm water Facility Landscaping Agreement**

Ms. Evans,

I am writing to formalize our conversation from earlier today regarding the existing detention pond at the northeast corner of Drake Street and Bob Younkin Drive. There will be significant improvement made to the pond as a part of LSD 2023 0009. We agree to landscape the pond as a part of those improvements per City of Fayetteville Unified Development Code 177.06 Stormwater Facilities. Plans for the landscaping improvements per UDC 177.06 will be provided for your review at the time of grading permit submittal.

Sincerely,



Brian Teague
Community By Design

AGREEMENT BETWEEN
CONTRACTOR AND CITY OF FAYETTEVILLE URBAN FORESTRY

This Agreement is made by and entered into on this 23th day of July 2023 by and between the following parties:

CONTRACTOR:

Legacy Ventures NWA, Inc.
PO Box 8216
Fayetteville, AR 72703
tim@legacyventuresnwa.com

And:

MUNICIPALITY:

City of Fayetteville Urban Forestry Department
1455 S Happy Hollow Road
Fayetteville, AR 72701
urbanforestry@fayetteville-ar.gov

PROJECT:

Midtown Landing – Phase 1
Bob Younkin Drive
Fayetteville, AR 72703

CONTRACTOR AND MUNICIPALITY HEREBY AGREE AS FOLLOWS:

CONTRACTOR hereby acknowledges the existence of a 20' tree preservation easement along the east property line. Contractor further acknowledges the close proximity of the tree preservation easement to the foundations of some of the structures. Contractor will use construction means and methods that ensure the tree preservation easement is not disturbed during construction activities on site. Contractor further warrants tree preservation fencing will be installed, maintained and in place at all times during construction activities and until such time the Urban Forester instructs Contractor in writing to remove such fencing.

This Agreement will remain in full force until such time as the City of Fayetteville provides Contractor with a Certificate of Occupancy or the Urban Forester advises Contractor in writing that it is safe to remove the fencing, whichever happens first.

If at any time this Agreement is not being followed or the Urban Forester has any concerns, please direct all correspondence to Tim Brisiel at 479-790-3315 or at the address above. Failure to comply with the above or repeated warnings by the Urban Forester may result in a Stop Work Order may be issued and remedial measures prescribed per Chapter 167.05(B) if construction encroaches on the Tree Preservation Easement.

Legacy Ventures NWA, Inc.

BY: Tim Brisiel

(Signature must be by company owner or officer authorized to sign contracts and change orders.)

PRINT NAME: Tim Brisiel

August 23, 2023

Via Email: dwonsower@fayetteville-ar.gov

Ms. Donna Wonsower
Planner
City of Fayetteville – Planning Department
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **Midtown Landing LSD 2023 0009 – Master Street Plan Variance Request for Bob Younkin Drive**

Ms. Wonsower,

On behalf of the owners and the developers of the proposed Midtown Landing Large Scale Development, please allow this letter to serve as a variance request from the Master Street Plan (MSP) Residential Link Cross Section for Bob Younkin Drive. The variance is requested in order to allow parallel parking on both sides of a Residential Link Street or Bob Younkin Drive. Currently the section contains 2 drive lanes and 1 continuous center turn lane. The proposal is to maintain the existing pavement width and to re-stripe to allow for 2 drive lanes and 2 parallel parking lanes. The proposed cross section is in accordance with the MSP Residential Link Cross Section except that parallel parking is proposed for both sides of the street not just one. The proposed cross section is shown on the attached Exhibit #1.

The inclusion of parallel parking on both sides of the street will significantly calm traffic and reduce the speeds of vehicular traffic passing through, making the street safer for both vehicles and pedestrians.

Thank you for your consideration of these alternatives. Please let me know if you have any questions or concerns.

Sincerely,



Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701

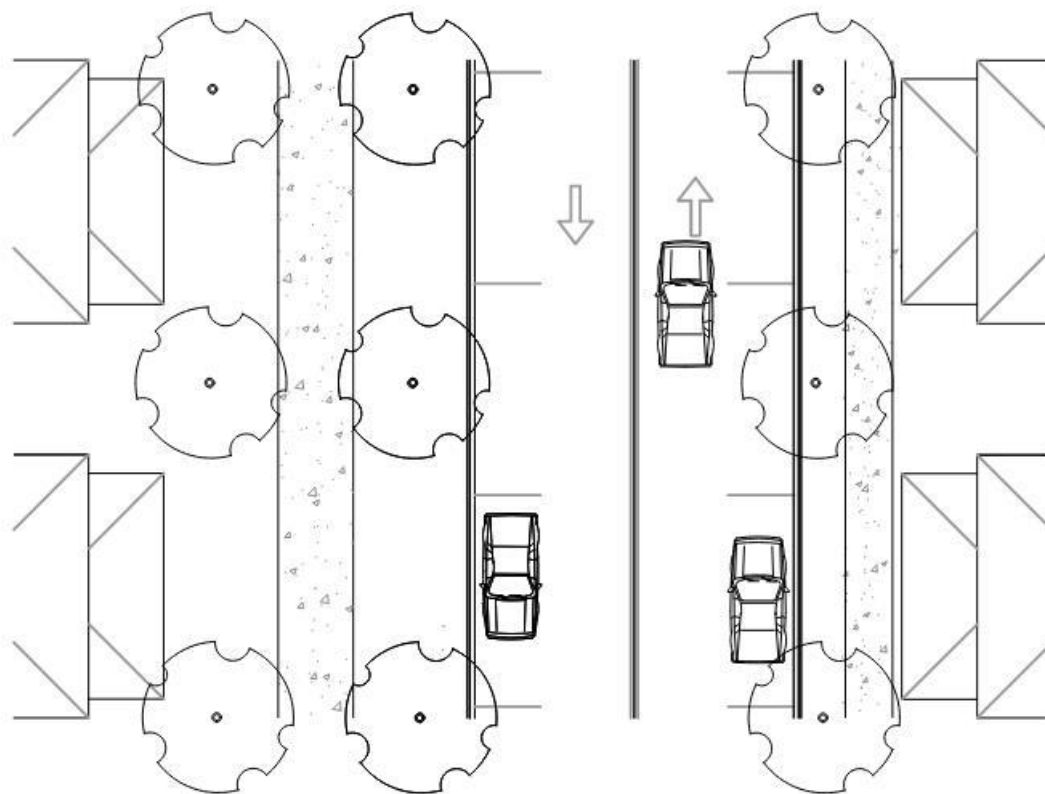
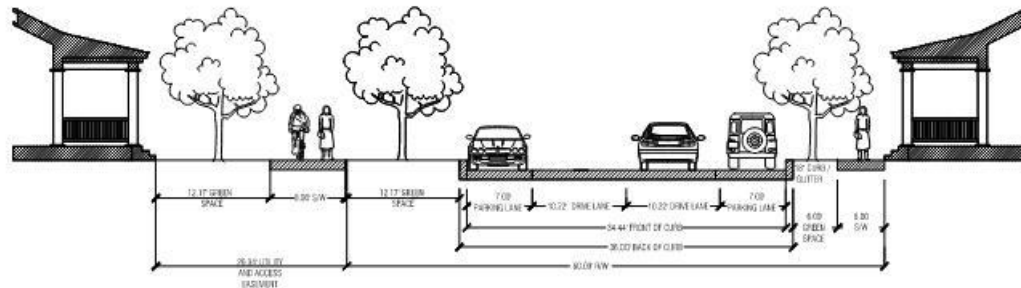
479.790.6775
Planning Commission

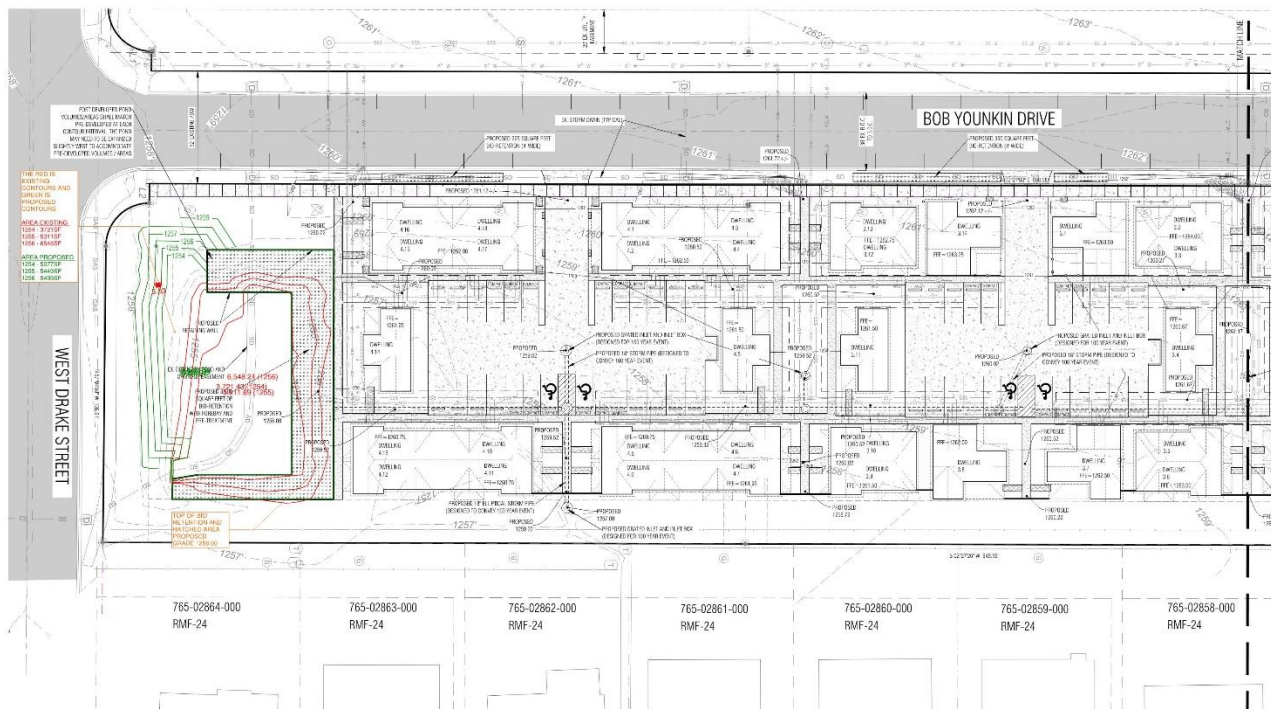
September 11, 2023

LSD-2023-0009 (MIDTOWN LANDING) Page 137 of 433

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EXHIBIT #1 - PROPOSED STREET CROSS SECTION BOB YOUNKIN DRIVE LOOKING NORTH





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TOWN PLANNING & DESIGN

STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 12345
J. L. SMITH, P.E.

UNIVERSITY OF ARKANSAS
COMMUNITY BY DESIGN, LLC
FAYETTEVILLE, ARKANSAS

REVISION 0

MIDTOWN LANDING
LARGE SCALE
DEVELOPMENT

FAYETTEVILLE,
WASHINGTON COUNTY,
ARKANSAS

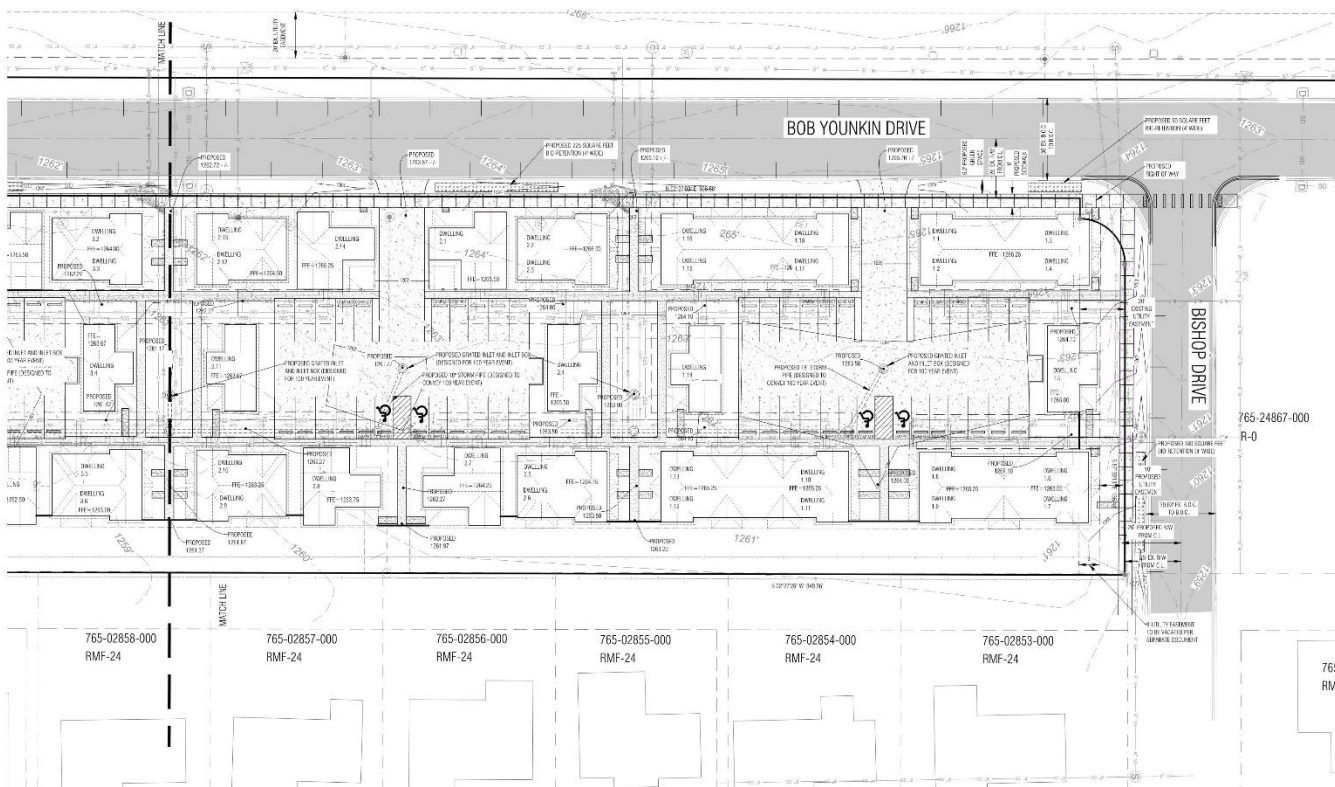
CITY PLAT PAGE 251
ISSUED FOR REVIEW

OWNER: JT
EPOCH, INC.
DATE: 12/22/2023

SCALE
1"=10'

GRADING PLAN 2

SHEET 8



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TOWN PLANNING & DESIGN

STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 12345
J. L. SMITH, P.E.

UNIVERSITY OF ARKANSAS
COMMUNITY BY DESIGN, LLC
FAYETTEVILLE, ARKANSAS

REVISION 0

MIDTOWN LANDING
LARGE SCALE
DEVELOPMENT

FAYETTEVILLE,
WASHINGTON COUNTY,
ARKANSAS

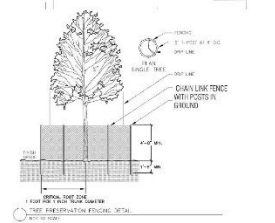
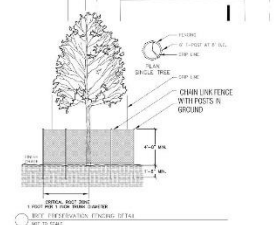
CITY PLAT PAGE 251
ISSUED FOR REVIEW

OWNER: JT
EPOCH, INC.
DATE: 12/22/2023

SCALE
1"=10'

GRADING PLAN 1

SHEET 7





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- **AND** STATEMENTS: KNOWLEDGE OF THE TRUTH OF EACH STATEMENT IS NECESSARY FOR THE TRUTH OF THE STATEMENT.
 - **AND** STATEMENTS ARE TRUE ONLY IF ALL STATEMENTS IN THE STATEMENT ARE TRUE.
 - **AND** STATEMENTS ARE FALSE IF ANY STATEMENT IN THE STATEMENT IS FALSE.
- **OR** STATEMENTS: KNOWLEDGE OF THE TRUTH OF AT LEAST ONE STATEMENT IS NECESSARY FOR THE TRUTH OF THE STATEMENT.
 - **OR** STATEMENTS ARE TRUE IF AT LEAST ONE STATEMENT IN THE STATEMENT IS TRUE.
 - **OR** STATEMENTS ARE FALSE ONLY IF ALL STATEMENTS IN THE STATEMENT ARE FALSE.
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 - **IF AND ONLY IF** STATEMENTS ARE FALSE IF THE STATEMENT IN THE STATEMENT IS FALSE.

1. Crown
2. Branches
3. Bark
4. Cambium
5. Xylem
6. Pith
7. Root
8. Taproot
9. Lateral root
10. Root cap

Legend:
 ○ Tree trunk cross-section
 ○ Tree trunk cross-section



LANDSCAPE SCHEDULE	
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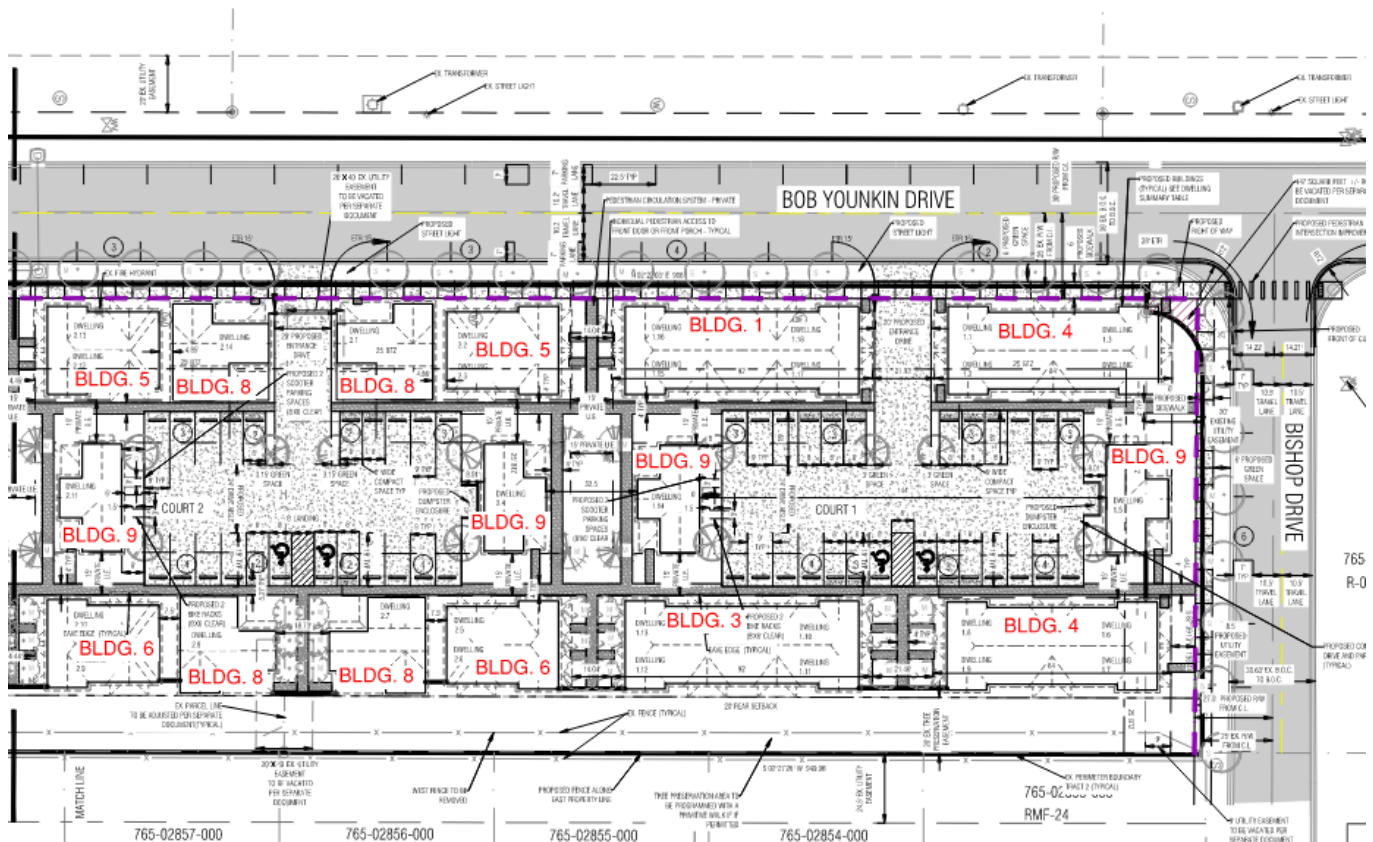
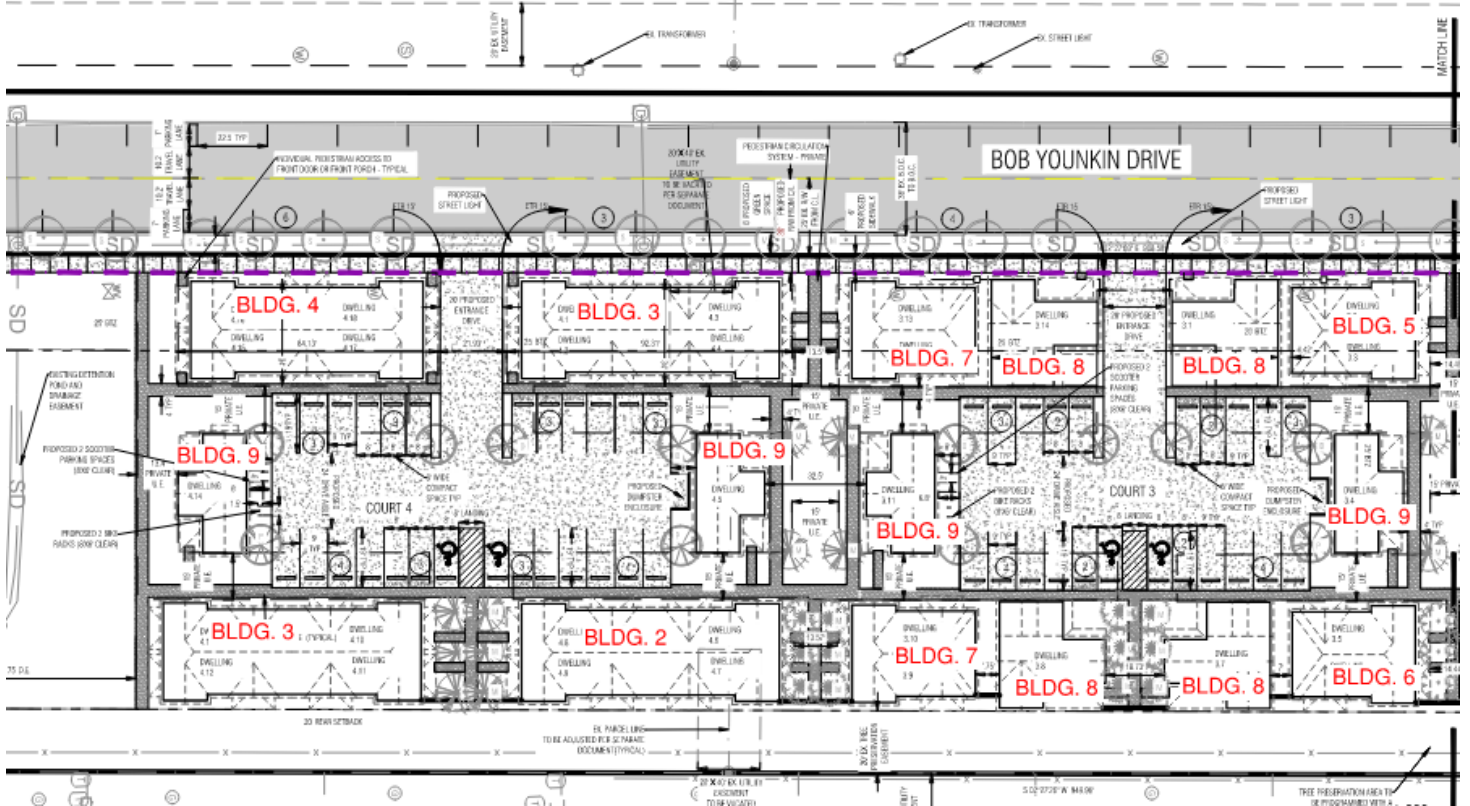
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	SEPARATE DOCUMENT	700 023
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Architectural Floor Plans and Elevations



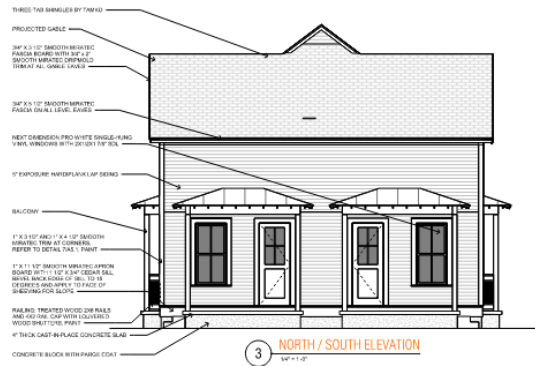


Figure 1: Building 1 (Used Once)

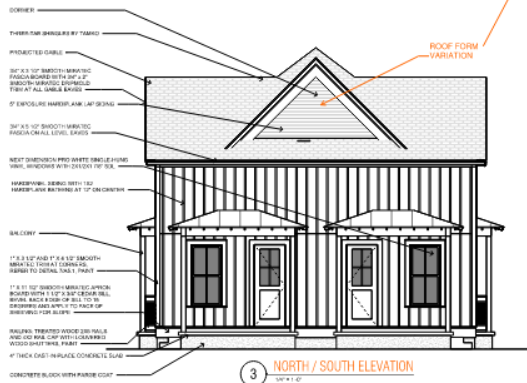


Figure 2: Building 2 (Used Once)



Figure 3: Building 3 (Used Twice)

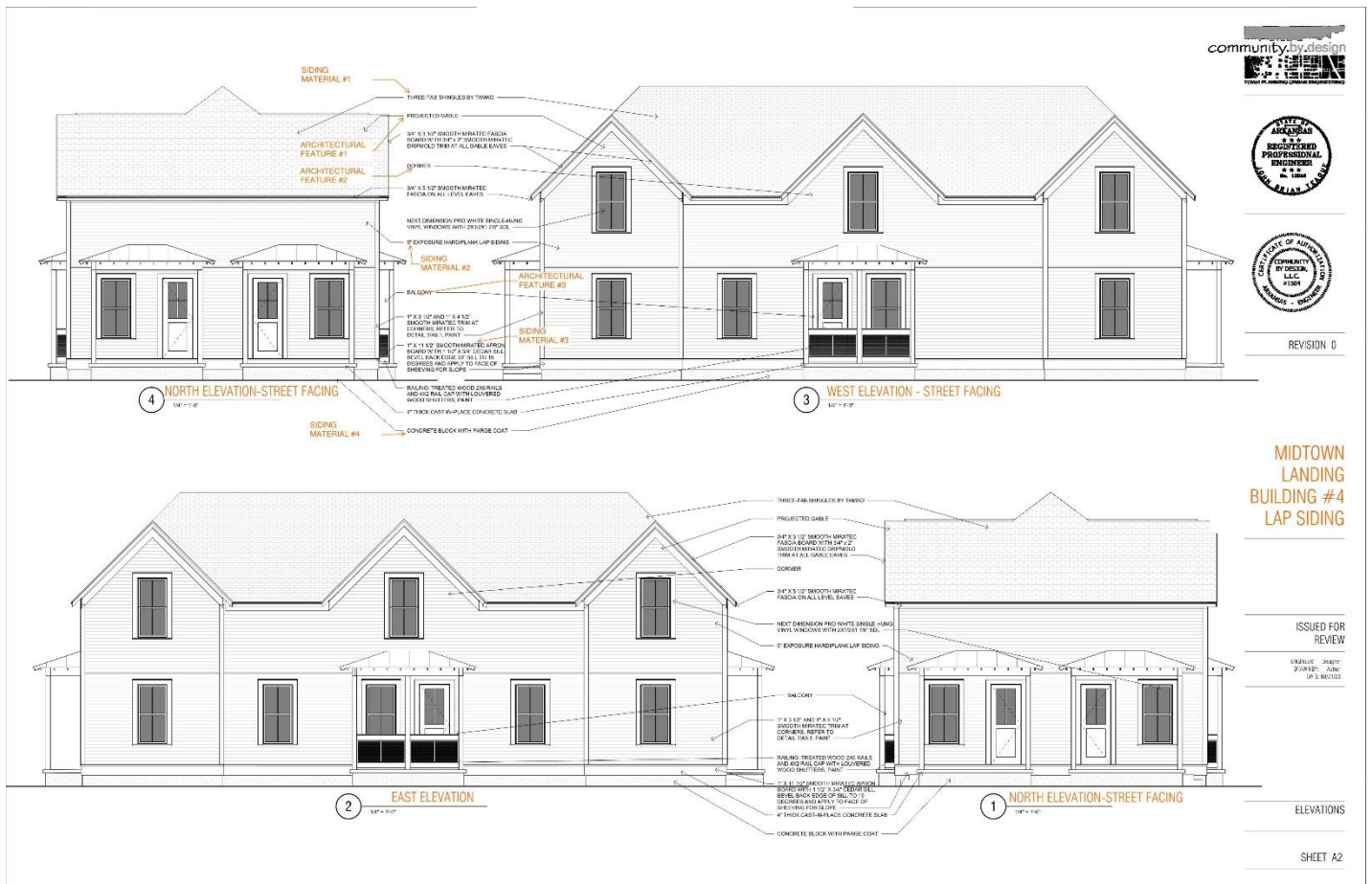


Figure 4: Building Four (Used Three Times)4



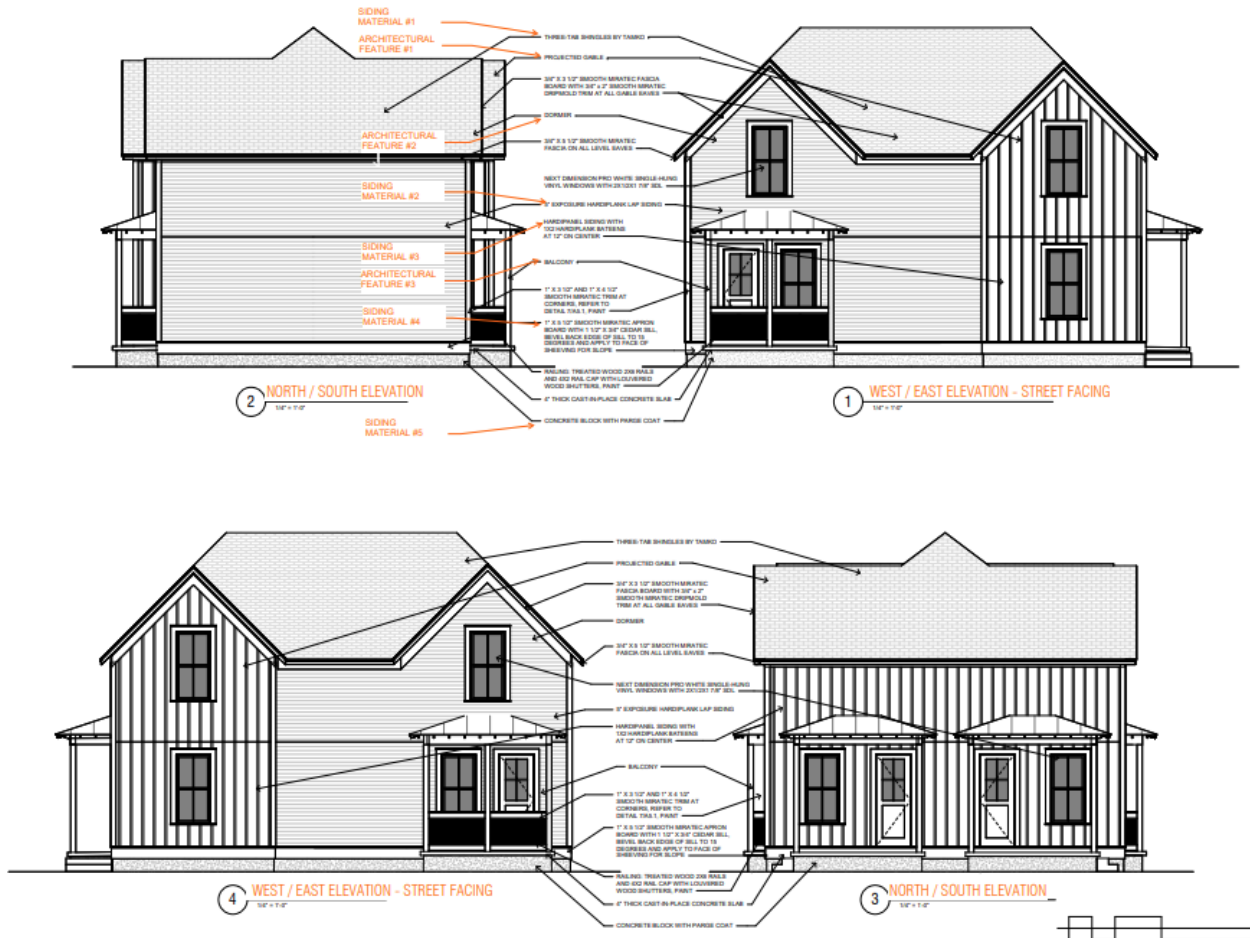
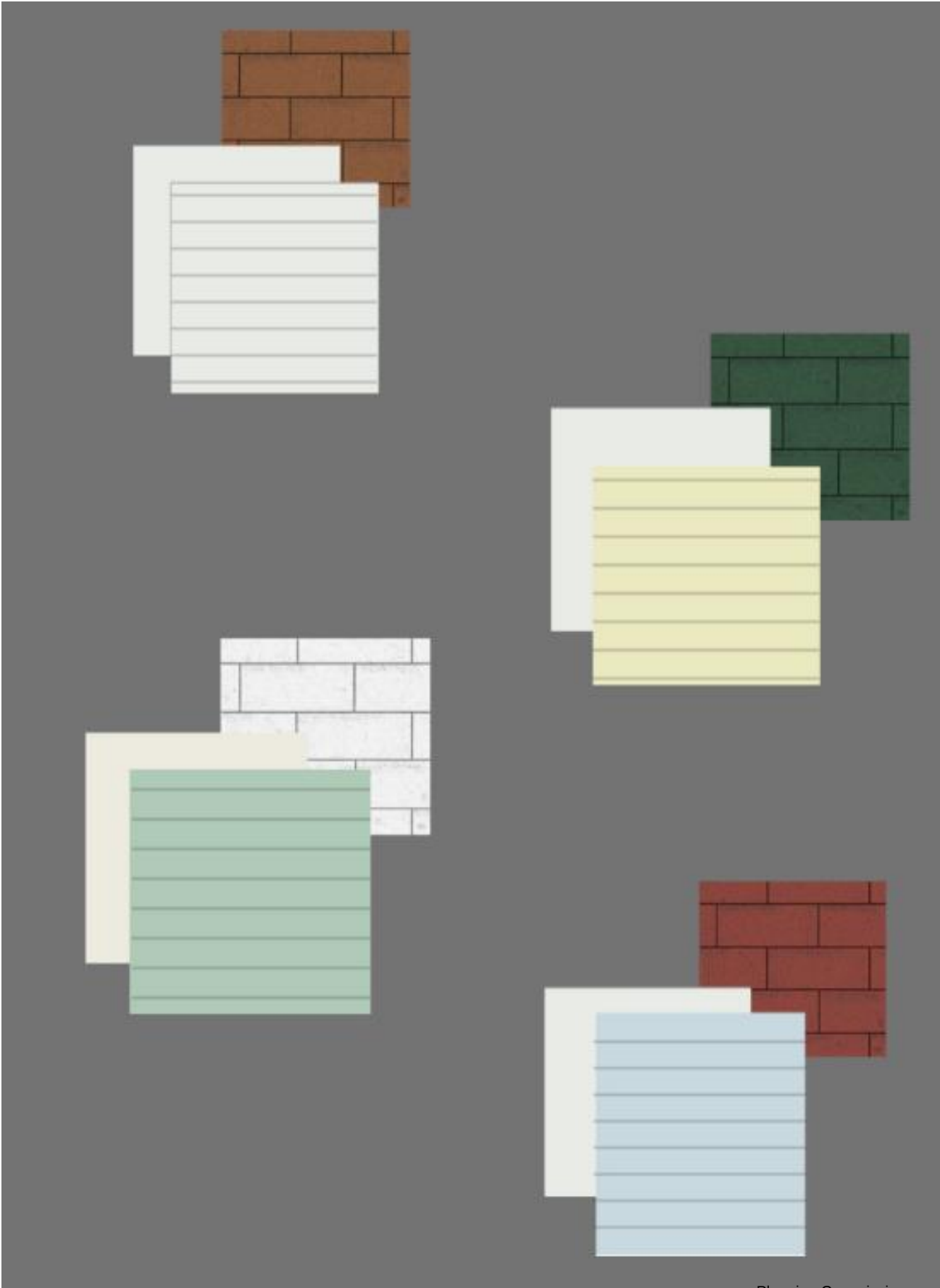
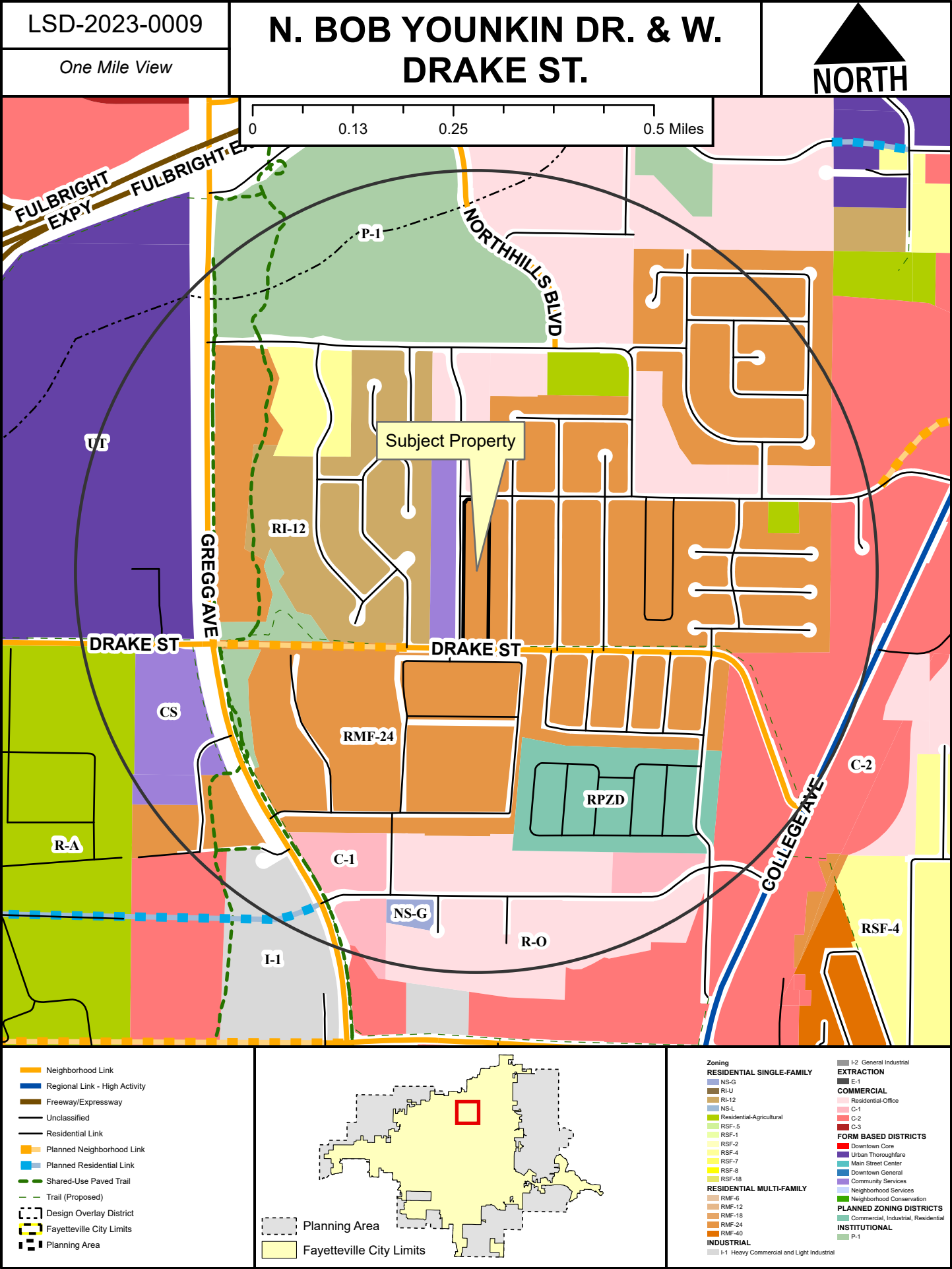
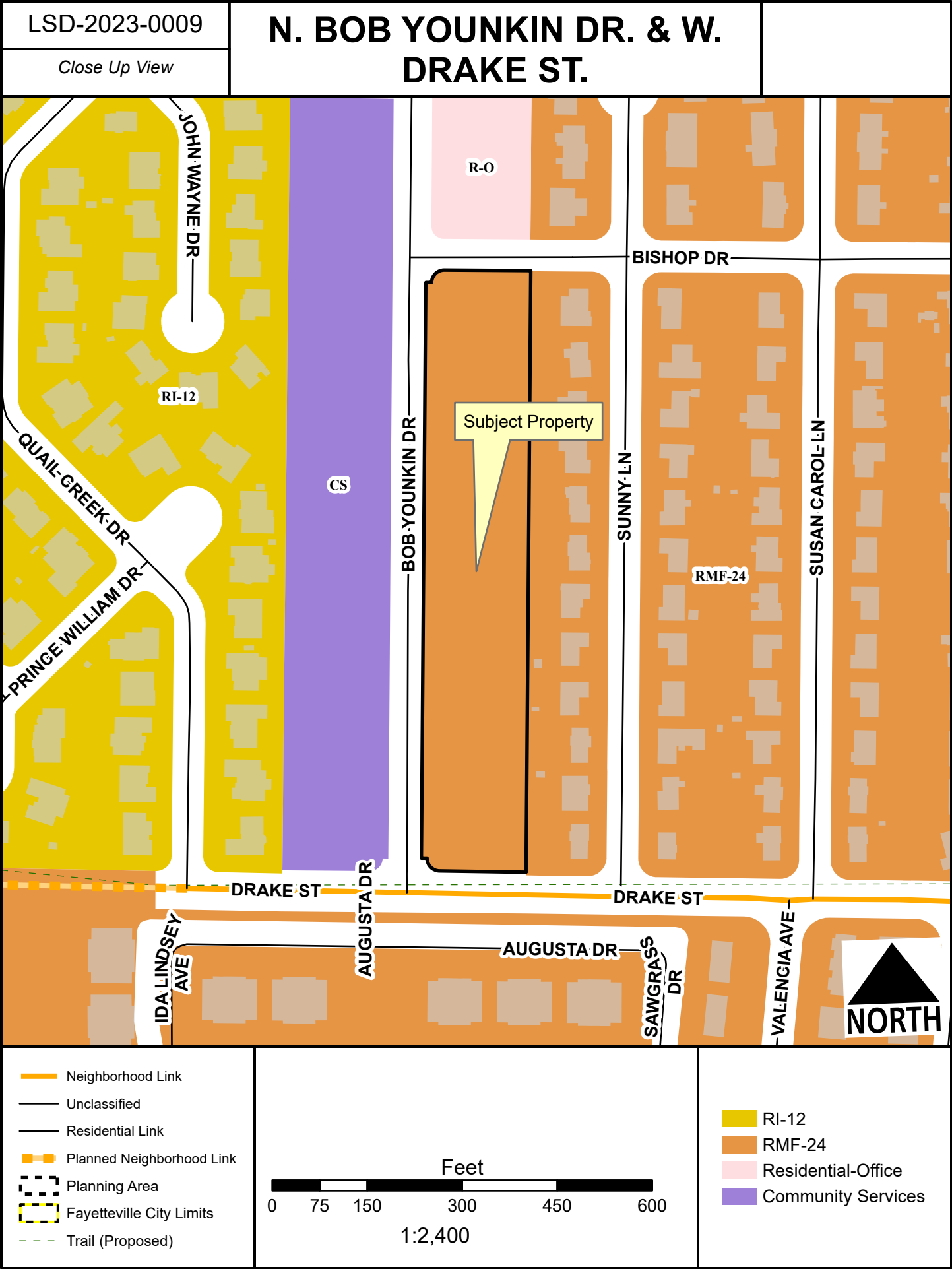


Figure 7: Building 7 (Used Twice)

Color Board









Planning Commission
September 11, 2023

LSD-2023-0009 (MIDTOWN LAND USE)

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TO: Fayetteville Planning Commission

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

MEETING: September 11, 2023

SUBJECT: **LSD-2023-0015: Large Scale Development (1175 E. PUMP STATION RD./GIVINGTON, 642):** Submitted by JORGENSEN & ASSOCIATES for property located at 1175 E. PUMP STATION RD. The property is zoned I-2, GENERAL INDUSTRIAL and contains approximately 6.71 acres. The request is for a 60,000-square-foot office and warehouse structure with associated parking.

RECOMMENDATION:

Staff recommends approval of **LSD-2023-0015** with conditions.

RECOMMENDED MOTION:

*"I move to approve **LSD-2023-0015**, recommending:*

- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements,*
- In favor of a variance to UDC §166.08(F) Access Management;*
- In favor of a variance to UDC §168.10(U)(1) Provisions for Flood Hazard Reduction; and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in south Fayetteville in the City's industrial park at the southwest corner of E. Pump Station Road and S. Industrial Drive. The property contains approximately 6.71 acres and is currently undeveloped and zoned I-2, General Industrial. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Industrial	I-2, General Industrial
South	Undeveloped	I-2, General Industrial
East	Industrial	I-2, General Industrial
West	Undeveloped	I-2, General Industrial

Proposal: The applicant requests large-scale development approval to develop the subject property with a 60,000-square-foot warehouse and office for use by Givington's, a fulfillment service. The applicant has requested two variances to the Unified Development Code, as follows:

- §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 is requesting to have full driveway access along both E. Pump Station Road, and S. Industrial Drive.

- *Staff recommendation: Staff is supportive of this variance request. The use of the property as a fulfillment service is likely to attract larger vehicles such as tractor trailers and delivery vehicles. Having two separate points of entry for parking as well as for deliveries will likely improve traffic conflict on the site. Staff does not anticipate that having two driveways at this location will negatively affect the public interest.*
- **§168.10(U)(1) Provisions for Flood Hazard Reduction. The applicant has provided a detailed hydrologic and hydraulic study performed by a professional engineer licensed in the state of Arkansas.** The applicant is requesting to not perform the required flood study, and instead adhering to a flood study that was recently completed by FEMA.
 - *Staff recommendation: Staff is supportive of this variance request. Staff recommends approval given that the encroachment will be outside of the floodplain once the revised FEMA maps are adopted, which is likely to occur in January 2024.*

Right-of-Way to be Dedicated: The property currently has existing right-of-way along both the E. Pump Station Road frontage (40 feet from street centerline) and the Industrial Drive frontage (40 feet from street centerline). In both instances, the existing right-of-way exceeds the master street plan classification requirement, so staff does not recommend any additional right-of-way dedication.

Street Improvements: The property has frontage along E. Pump Station Road, a Neighborhood Link Street, and S. Industrial Drive, a Residential Link Street.

- E. Pump Street: Staff recommends the frontage be improved with an 8-foot wide sidewalk and 10-foot greenspace and street trees.
- S. Industrial Drive: Staff recommends the frontage be improved with a 6-foot side sidewalk and 6-foot greenspace and street trees.

Access Management/Connectivity: Staff has determined that the proposed development requires a variance to the typical access management standards. 166.08(F) requires property that fronts onto more than one (1) public street to place a higher priority on accessing the street with the lowest functional classification. The applicant proposes a driveway on both street frontages and staff recommends in favor of that request.

Design Standards: Industrial uses outside of the I-540 Overlay District are not subject to any design standards; however, the proposed structure has approximately 6000 sq. ft. of office space in a mezzanine, so a proportional amount of the structure still needs to meet 166.25 Mixed Use, Office, Design and Development Design Standards. Staff finds the applicant is meeting this requirement.

Water and Sewer System: A 12-inch water main exists along Industrial Drive to which this development may connect for domestic water service and fire protection. These connections must be coordinated with City of Fayetteville Water/Sewer if desired.

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

Tree Preservation:

Canopy minimum requirement: 15%

Existing canopy: 76.4%

Preserved canopy: 19.5%

Mitigation required: (0) two-inch caliper trees

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

RECOMMENDATION: Staff recommends approving **LSD-2023-0015** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff does not recommend any additional right-of-way dedication at this time;*

Subdivision Committee did not make a recommendation on this item.

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

Subdivision Committee did not make a recommendation on this item.

3. **Planning Commission determination of requested variance to UDC §166.08(F) Access Management, which typically requires access to have a higher priority on the lower classification street.** *Staff recommends in favor of the requested variance.*

Subdivision Committee did not make a recommendation on this item.

4. **Planning Commission determination of requested variance to UDC §168.10(U)(1) Provisions for Flood Hazard Reduction, which typically requires a detailed hydrologic and hydraulic study performed by a professional engineer licensed in the state of Arkansas.** *Staff recommends in favor of the requested variance.*

Subdivision Committee did not make a recommendation on this item.

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

Standard Conditions of Approval:

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

8. 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;
9. 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;
10. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
11. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements;
12. 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;
13. 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;
14. Large scale development approval shall be valid for one year;
15. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
16. 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
17. 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;
 - a. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - b. Project Disk with all final revisions; and
 - c. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

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



TO: Jessie Masters, Development Review Manager

FROM: Melissa Boyd, Staff Engineer

DATE: September 6, 2023

SUBJECT: **Planning Commission Engineering Comments for
LSD-2023-0015 GIVINGTON'S**

Water: There is an existing 12" water main along Industrial Drive that this development is showing to connect to for domestic water service. The applicant is proposing to extend approximately 260 LF of 6" water line to add a hydrant and install a fire line to provide fire protection.

Sewer: There is an existing 8" sanitary sewer main present on the northwest corner of the property that this development is showing to connect to with a private sewer service.

Natural Features: An unnamed tributary of Town Branch is present along the west side of the property and lies within a FEMA Zone A floodplain with associated Streamside Protection Zones. A request of no feasible alternative to UDC §168.12(E)(1)(a)(vi) to construct a portion of the 6' sidewalk in existing right-of-way along Pump Station Road to the western property line where Streamside Zones are present has been made to the City Engineer, and has been approved.

A portion of the parking lot and grading are shown to encroach into the floodplain. The applicant is requesting a variance to UDC §168.10(U)(1) to not perform a flood study, citing a request to recognize the recent FEMA study performed in the area. Staff recommends approval given that the encroachment will be outside of the floodplain once the revised FEMA maps are adopted.

Hydric soils appear to be present on this site, which are potential indicators of wetlands that may be jurisdictional. A wetland delineation must be provided with the grading permit application, and a jurisdictional determination may be required.

Drainage: This project is required to meet the four Minimum Standards of the Drainage Criteria Manual. A dry detention pond and proprietary device are being proposed. Water quality is shown to be met using an AquaSwirl device. Channel protection is shown to be met by sizing the pond outlet structure to release the runoff volume from 1-year, 24-hour storm over a period of 40 hours. Overbank flood protection and extreme flood protection requirements will also be met by sizing the outlet structure so that post-development peak flows do not exceed pre-development peak flows. Detailed review of the drainage design will be conducted with the grading permit.

Plan Comments:

1. Calculations from fire line designer ensuring velocities in public water distribution system do not exceed 10 feet per second under fire flow conditions for the proposed fire line must be provided with the grading permit application.

2. Spot elevations for sidewalk along Pump Station Road appear to be offset from correct location.

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: Justin Jorgensen, PE, Jorgensen + Associates

From: Melissa Evans, Urban Forester

CC: Jessie Masters, Development Review Manager

Meeting Date: September 11, 2023

Subject: LSD-2023-0015: Givington's: 1175 E. Pump Station 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> | X | | |
| 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		0	
Parking Lot Trees		5	
Street Trees		23	
Detention Pond – Large Trees (1 Tree/3,000 square feet)		8	
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		32	
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		48	
6. Review Status (See Comments)		Tech Plat	Subdivision Committee
Conditionally Approved		07-28-23	08-31-23
		08-15-23	09-05-23
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.
2.	Shrubs are not required between the parking lot and S. Industrial Drive because existing trees are being preserved in that area. Shrubs are not required between the parking lot and E. Pump Station Road due to the close proximity of the detention shrubs and the existing trees to be preserved.



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Justin Jorgensen, PE, Jorgensen + Associates

From: Melissa Evans, Urban Forester

CC: Jessie Masters, Development Review Manager

Meeting Date: September 11, 2023

Subject: LSD-2023-0015: Givington's: 1175 E. Pump Station 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 Wavier Submitted (only use if no trees onsite or near P/L)			X

2. Tree Preservation Calculations

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	246,644	100%
<i>Zoning Designation * Select Below with drop down arrow</i>		
I-2, General Industrial	36,997	15%
<i>HHOD * Select Below with Drop Down Arrow</i>		
No	0	0%
Total Canopy for Minimum Preservation Requirements	36,997	15.0%
Existing Tree Canopy * Minus Right of Way and Easements	188,416	76.4%
Tree Canopy Preserved	48,042	19.5%
Tree Canopy Removed *On Site	140,374	56.9%
Tree Canopy Removed *Off Site		
Tree Canopy Removed Total	140,374	56.9%
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	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes
d. Existing Topography and Proposed Grading	No	No	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	No	No	Yes
j. All Existing and Proposed Utility Easements and ROW's	No	No	Yes
k. All Streams (with approximate center line)	No	No	N/A
l. Floodplains and floodways	Yes	Yes	Yes
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan (if required)	N/A	N/A	N/A
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	No	No	Yes

Tree Protection Methods			
a. Tree Protection Fencing	Yes	Yes	Yes
b. Limits of Root Pruning	No	No	Yes
c. Traffic flow on work site	No	No	Yes
d. Location of material storage	Yes	Yes	Yes
e. Location of concrete wash out	Yes	Yes	Yes
f. Location of construction entrance/exit	Yes	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	07-28-23 08-15-23	08-31-23	09-05-23
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. 2. Please show root pruning limits on the plan next to areas of cut adjacent trees to be preserved. It looks like there are areas labeled with root pruning that do not need root pruning. 3. Please clarify the proposed Tree Preservation Easements on the plan since the linework labels are very close to the tree preservation fence labels.

July 19, 2023

City of Fayetteville, Development Services
123 W. Mountain St.
Fayetteville, AR 72701

Attn : Development Services
Re: Fayetteville Distribution Center LSD

Site Improvements

There are no existing improvements on the property.

Proposed improvements include 1 building with split occupancy. The total square footage will be 60,000 sq. ft. with 15,284 sq. ft. of office space and 44,716 sq. ft. of warehouse. There are 73 parking spaces, 3 being handicapped and 3 motorcycle/scooter.

Dumpster service is proposed in the SW corner of the semi-truck drop-off.

Fire will service from an additional hydrant on the NW corner of the building. There is also an existing hydrant just south of the southern entrance off of Industrial Drive. The new facility will be provided with a 26' aerial apparatus set down area on the east and north. The FDC and a fire line are on the east with associated automatic shut-off valves.

Utilities

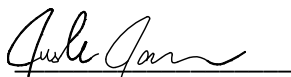
Water is connected to a 12" main on the west side of Industrial Drive. Sewer will connect to an existing manhole in the north west corner of the property.

Drainage

Water quality will be satisfied by means of a wet pond on the north side of the property. Detention will be provided in the approximately 3' of storage above the permanent water surface elevation.

Please contact us with any questions or comments. We look forward to your assistance.

Sincerely;



Justin L. Jorgensen, PE

August 22, 2023

City of Fayetteville
123 W. Mountain St.
Fayetteville, AR 72701

Attn: Development Services

Re: Givington's Fayetteville Distribution LSD - Variance Requests

Please accept the below variance requests associated with the above-mentioned project.

Access Management – 2 Drive Entrances

Per §166.08 (F) of the Unified Development Code, *"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."*

We would like to formally request two drive entrances with one being on a larger classification street. Givington's is a company that essentially helps authors and organizations engage their audiences and make it easier for customers to obtain their goods, mostly books. Primarily, this location will be used for shipping and receiving books. A circular flow pattern is proposed to keep traffic conflicts to a minimum. Life-safety will also be enhanced by providing a second entrance to this facility. With the nature and location of this industrial area and the size of the lot we do not feel it will cause any harm to the neighborhood, the surrounding properties, or adjacent businesses. It will likely create less traffic conflicts and in turn traffic will flow better.

Provisions for Flood Hazard Reduction – Adhere to Future FEMA Floodplain Map

Per §168.10 (U)(1) of the Unified Development Code, *"The applicant has provided a detailed hydrologic and hydraulic study performed by a professional engineer licensed in the state of Arkansas which delineates the floodway, 1% annual chance (100-year) floodplain boundary, and base flood elevations and demonstrates through a hydrologic and hydraulic analysis, that the development will not increase flood flows (0.0 cubic feet per second), flood heights (0.00 feet) or flood channel velocities (0.0 feet per second) on the subject property or any property upstream or downstream"*

We would like to formally request to not perform a Flood Study for this property as one has been recently completed by FEMA and will be available in January 2024. We would like to recognize this future map as the regulatory map for this property. Per this map, the floodplain in this area has been reduced. This development will provide a detention structure and will not adversely impact off-site properties.

Sincerely;


Jared S. Inman, PE



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

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

August 22, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Melissa Boyd, PE

Re: Givington's Fayetteville Distribution LSD – Request for No Feasible Alternative Determination

Please accept this request for a No Feasible Alternative Determination, per §168.12(E)(1)(a)(vi) of the Unified Development Code, to allow a 6' sidewalk (per the Master Street Plan) to extend into, or cross, the Streamside Protection Zone (SPZ) that intersects Pump Station Road. The sidewalk is being requested to be extended to the property line and will further extend pedestrian access in this area. This request, along with the location of the SPZ in relation to the northwest corner of the property, creates no feasible alternative to providing pedestrian access across this area.

We thank you for your consideration of this request. Please call with any questions or concerns.

Sincerely,


Jared S. Inman, PE

C1.2

DWG NO.

23027

TITLE

2018-053

LARGE SCALE DEVELOPMENT PLAN

FAYETTEVILLE DISTRIBUTION FACILITY

2018-053



Planning Commission
September 11, 2023

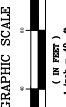
PRELIMINARY - DO NOT USE FOR CONSTRUCTION

REV.	DATE	BY	REMARKS
1	2/22/2022	XXX	ISSUED FOR BLANK

J.M. Design Group
1102 S. HARRY HOLLOW RD.
FAYETTEVILLE, AR 72701
TEL: (479) 251-1161
FAX: (479) 251-1162
CHECKED BY: J.M.
APPROVED BY: J.M.

JORGENSEN
+ ASSOCIATES
Civil Engineering & Surveying
2024 W. Southaven Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Email: jorgensen@jorgensen.com
Established 1985

GIVINGTON'S
FAYETTEVILLE, AR



CONNECTIONS TO EXISTING UTILITIES
a. All connections to existing utilities shall be made in accordance with the applicable codes and standards.
b. All connections to existing utilities shall be made in a manner that does not interfere with the operation of the existing utilities.
c. All connections to existing utilities shall be made in a manner that does not create a safety hazard.

PROPOSED DRIVEWAY AND SIDEWALKS
a. All proposed driveways and sidewalks shall be constructed in accordance with the applicable codes and standards.
b. All proposed driveways and sidewalks shall be constructed in a manner that does not interfere with the operation of the existing utilities.
c. All proposed driveways and sidewalks shall be constructed in a manner that does not create a safety hazard.

ITEM	DESCRIPTION	QUANTITY	UNIT
1	ASPHALT DRIVEWAY	2,000	sq. ft.
2	CONCRETE SIDEWALK	1,000	sq. ft.
3	LANDSCAPE LIGHTS	10	ft.
4	LANDSCAPE TREES	10	ft.
5	LANDSCAPE SHRUBS	10	ft.
6	LANDSCAPE MULCH	10	ft.

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- FOOTING MARKER ALIGNED
- SET BACK FROM CURB
- WATER VALVE
- WATER VALVE
- STORM DRAIN MANHOLE
- LEFT POLE
- PROPERTY LINE
- FOOTING MARKER ALIGNED
- WATER VALVE
- WATER VALVE
- STORM DRAIN MANHOLE
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- LEFT POLE
- PROPERTY LINE

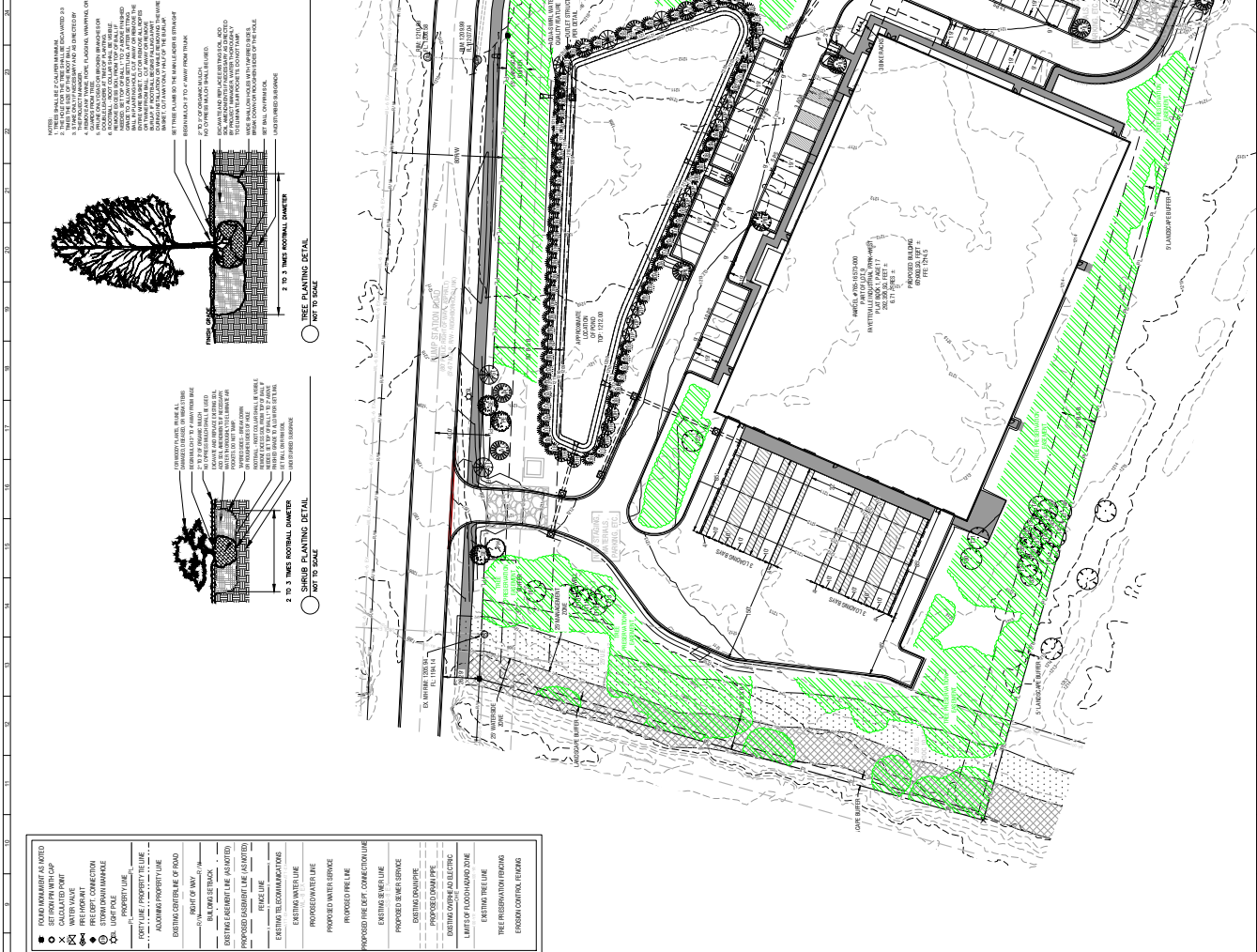
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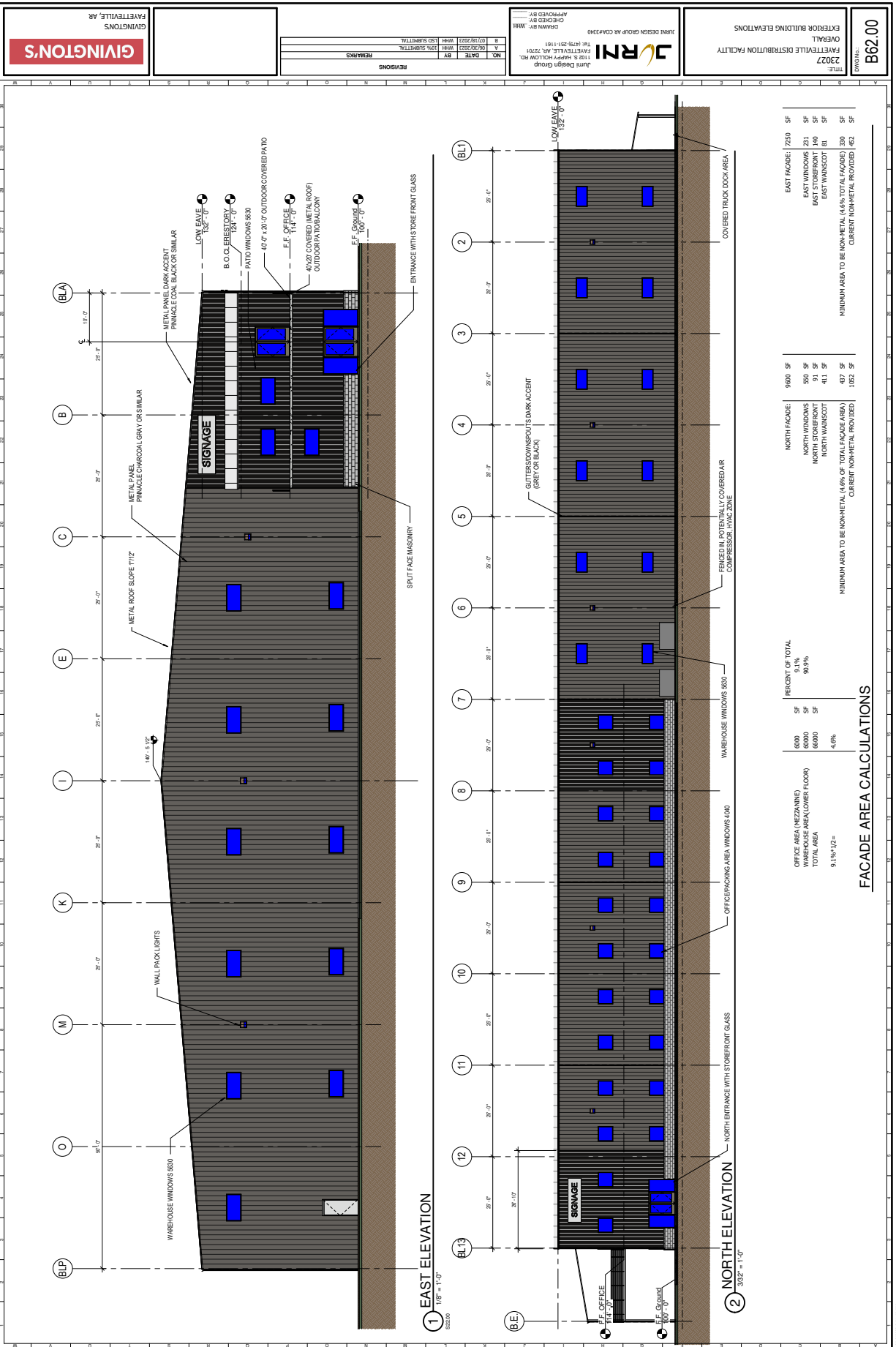
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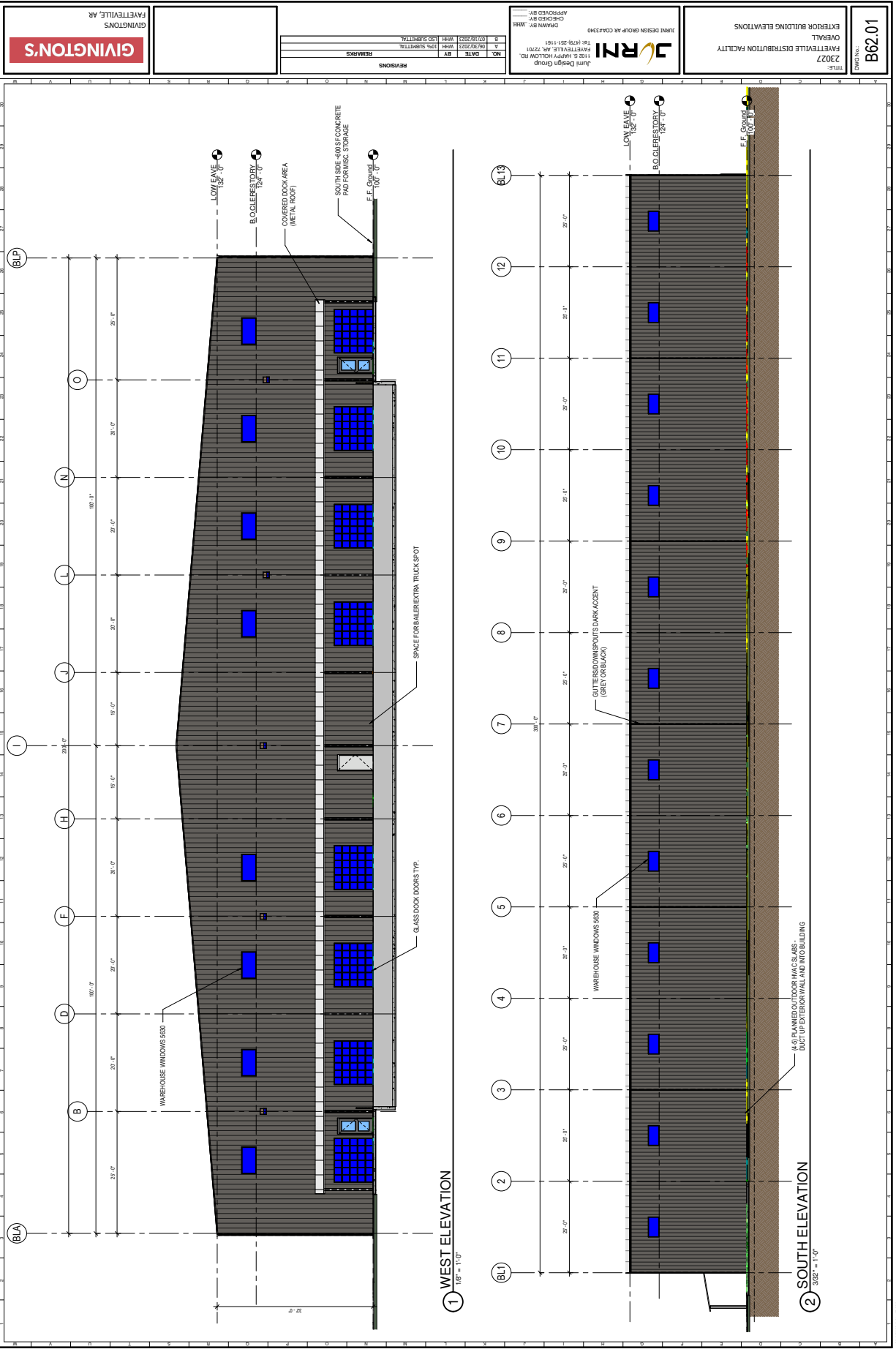
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Planning Commission
September 11, 2023





DATE: 07/18/2023
BY: JSD/SB/MTL
CHECKED BY: JSD/SB/MTL
APPROVED BY: JSD/SB/MTL

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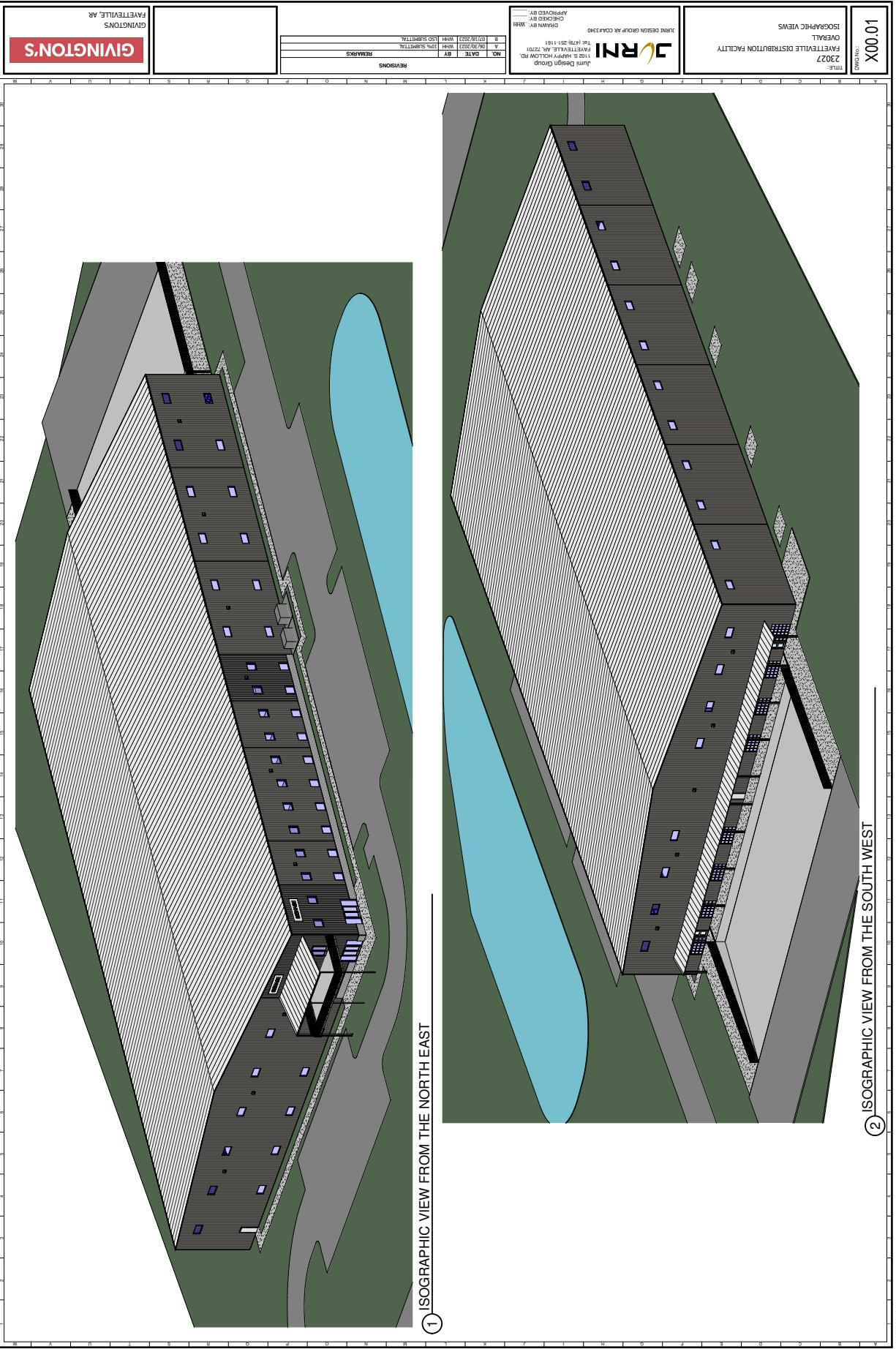
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REVISIONS



① ISOGRAPHIC VIEW FROM THE NORTH EAST

② ISOGRAPHIC VIEW FROM THE SOUTH WEST

GIVINGTON'S

FAYETTEVILLE, AR

REVISIONS	
NO.	DATE
1	02/18/2023
2	02/18/2023

JCRN

June Design Group

1102 S. WAREY HOLLOW RD.

FAYETTEVILLE, AR 72701

TEL: (479) 251-1191

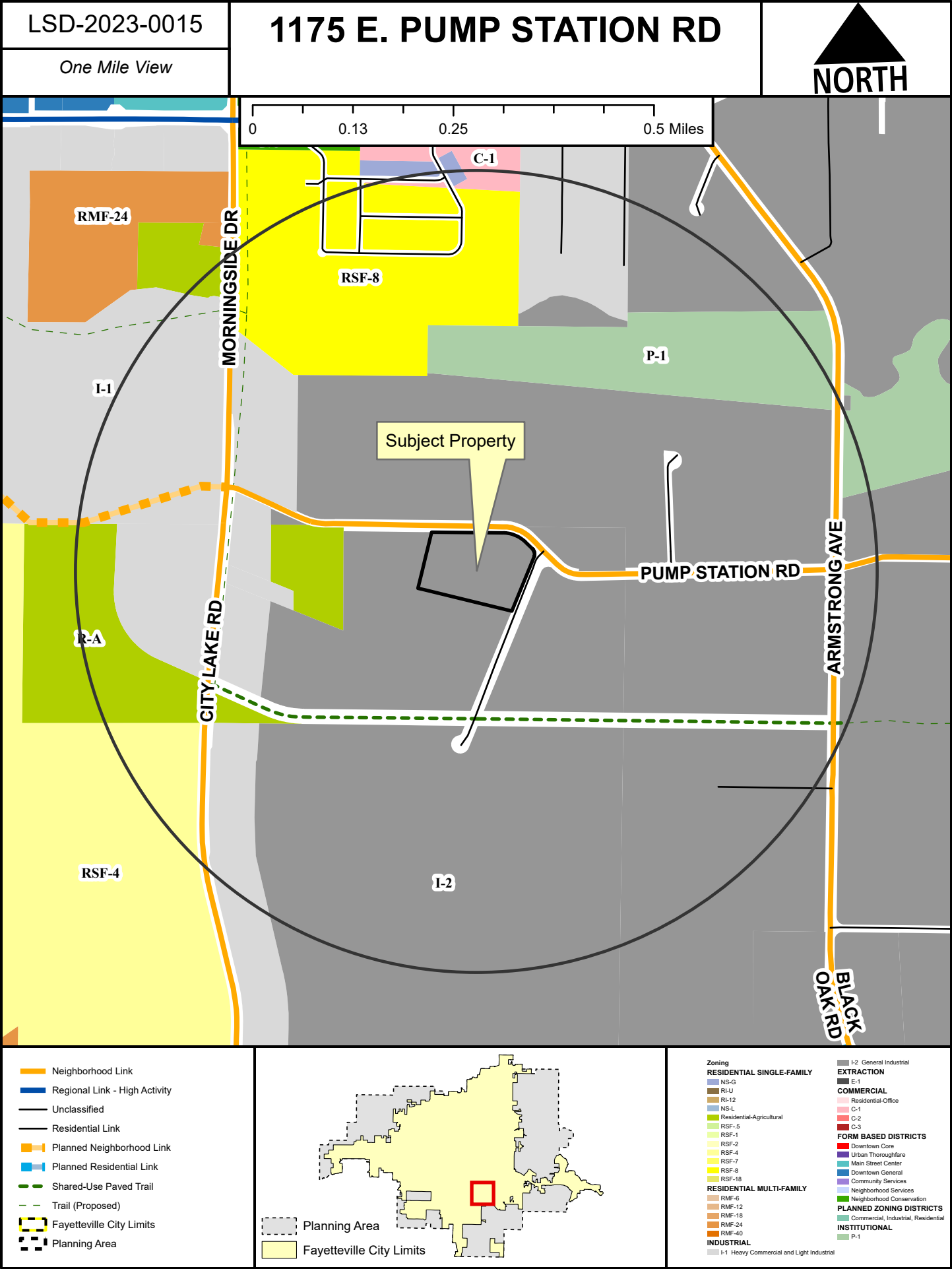
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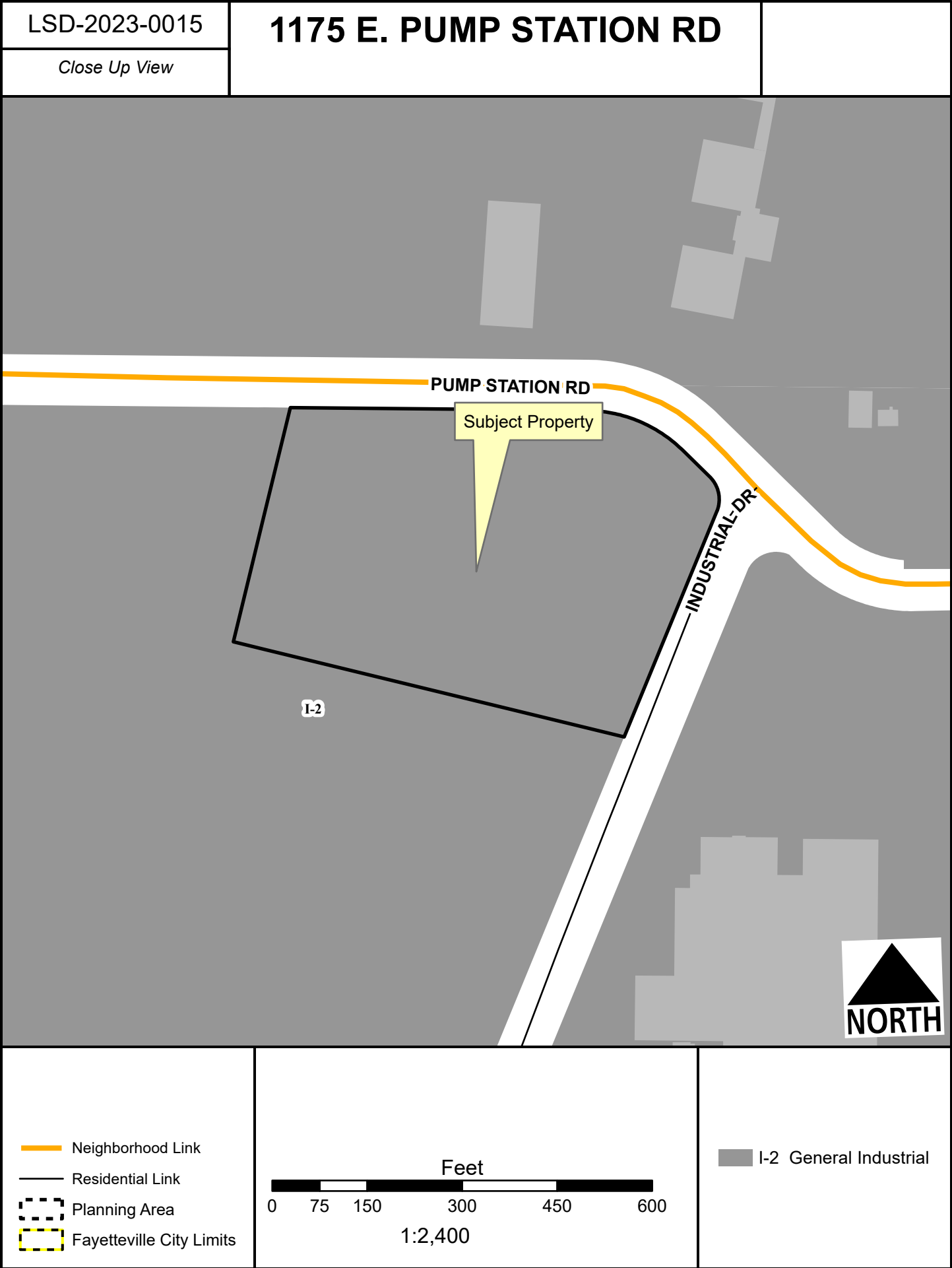
FAYETTEVILLE DISTRIBUTION FACILITY

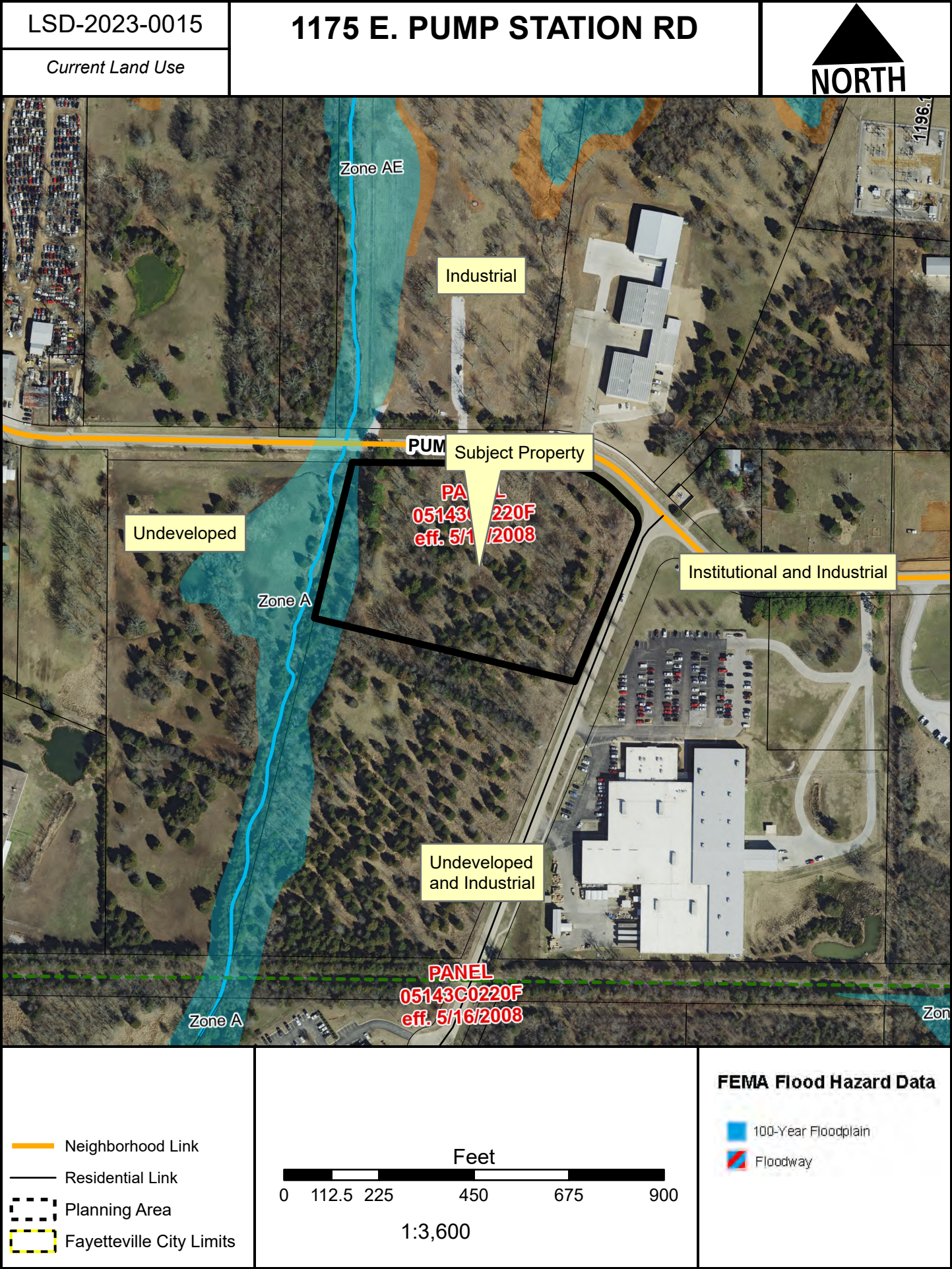
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PRELIMINARY - DO NOT USE FOR CONSTRUCTION









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 11, 2023

SUBJECT: **VAC-2023-0004: Vacation (817 E. DOGWOOD LN./BUXTON, 486):**
Submitted by BLEW & ASSOCIATES for property located at 817 E. DOGWOOD LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.52 acres. The request is to vacate a 0.16-acre portion of alley right-of-way.

RECOMMENDATION:

Staff recommends forwarding **VAC-2023-0004** to City Council with a recommendation of approval and with conditions.

RECOMMENDED MOTION:

*"I move to forward **VAC-2023-0004** to City Council with a recommendation of approval and with conditions as recommended by staff."*

BACKGROUND:

The subject property contains one parcel totaling 0.52 acres which is located on the north side of Mount Sequoyah about 300 feet south of the intersection of Dogwood Lane and Lafayette Street. The property is developed with a single-family dwelling which was built in 1967 and is accessed through a public alley. While the alley used to extend farther south to Missouri Way, a portion of the alley was vacated and abandoned in 1972 (Ord. 1878), and the alley now terminates at the east end of the subject property. 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

Proposal: The applicant proposes to vacate a portion of the alley right-of-way adjacent to the subject property which totals approximately 0.16 acres.

DISCUSSION:

Staff is supportive of the applicant's request to vacate a portion of the alley right-of-way. The right-of-way no longer contributes towards the creation of a complete, compact, and connected neighborhood as it is disconnected from other street rights-of-way and only extends about 300 feet in length.

Vacation Approval: The applicant has submitted the required vacation approval forms to relevant city departments and franchise utility companies with the following responses. The applicant has also obtained approval from the other property owner adjacent to the right-of-way proposed to be vacated with no objections.

<u>Utility</u>	<u>Response</u>
Cox Communications	No objections, provided that any damage or relocation of existing Cox facilities will be at the applicant's expense.
AEP/SWEPCO	No objections, provided that a new 15-foot utility easement is dedicated along the north side of the property.

Black Hills Energy	No objections and no comments.
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AT&T	No objections and no comments.
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Ozarks Electric	No objections and no comments.
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<u>City of Fayetteville</u>	<u>Response</u>
-----------------------------	-----------------

Water/Sewer	No objections and no comments.
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Solid Waste & Recycling	No objections and no comments.
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Transportation	No objections and no comments.
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Public Comment: Staff received one inquiry about this request, though no support or opposition to the vacation was offered.

RECOMMENDATION: Staff recommends forwarding **VAC-2023-0004** with the following conditions:

Conditions of Approval:

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense; and
2. A new 15-foot utility easement shall be dedicated along the north side of the subject property as requested by AEP/SWEPCO.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>September 11, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied	
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Applicant Request Letter
- Applicant Petition to Vacate
- Site Exhibit – ROW to be Vacated
- One Mile Map
- Close-Up Map
- Current Land Use Map



Blew & Associates, P.A.

Civil Engineers

Professional Land Surveyors

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

July 18th, 2023

To Whom It May Concern,

Right-of-Way Vacation

My client, Christina Buxton is requesting a right-of-way vacation for the property at 817 East Dogwood Lane in Fayetteville. We are requesting this in order to give our client more usable property. She does currently have access off of Dogwood Lane and the right-of-way we are proposing to vacate is not used. The adjacent property owner is in favor of this as well. We kindly ask for your approval of this right-of-way vacation. The vacation affects parcel 765-05732-000.

Sincerely,

Nikki Littrell
Senior Project Coordinator
Blew & Associates, P.A.

PETITION TO VACATE

PETITION TO VACATE A RIGHT-OF-WAY LOCATED IN LOT 3 & WEST 11.20' OF LOT 4 BLOCK 2 OF THE GOFF ADDITION, CITY OF FAYETTEVILLE, ARKANSAS.

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

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 3 & West 11.20' of Lot 4 Block 2 of the Goff Addition, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a right-of-way which is described as follows:

A PORTION OF A 20' PUBLIC ALLEY, IN GOFF ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A SET 5/8" REBAR WITH CAP "AR 1659", BEING THE SOUTHEAST CORNER OF LOT 2 OF SAID GOFF ADDITION; THENCE N04°07'16"E 35.36 FEET TO A FOUND 1/2" REBAR WITH CAP "PLS 1005", BEING THE TRUE POINT OF BEGINNING; THENCE N83°36'05"W 12.62 FEET TO A SET 5/8" REBAR WITH CAP "AR 1659"; THENCE ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 67.69 FEET, WITH A CHORD BEARING OF N29°44'39"W, AND A CHORD LENGTH OF 72.49 FEET TO A SET 5/8" REBAR WITH CAP "AR 1659"; THENCE N59°11'49"W 72.91 FEET TO A SET 5/8" REBAR WITH CAP "AR 1659"; THENCE N69°50'54"W 77.71 FEET TO A FOUND 1/2" REBAR WITH CAP "PLS 1005"; THENCE N19°02'12"E 20.06 FEET TO A SET 5/8" REBAR WITH CAP "AR 1659"; THENCE S69°50'54"E 79.24 FEET TO A POINT; THENCE S59°11'49"E 74.30 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, WITH A RADIUS OF 87.69 FEET, WITH A CHORD BEARING OF S33°45'59"E, AND A CHORD LENGTH OF 74.83 FEET TO A FOUND 1/2" REBAR WITH CAP "PLS 1005"; THENCE S83°47'16"E 68.77 FEET TO A SET 5/8" REBAR WITH CAP "AR 1659"; THENCE S73°59'12"E 43.87 FEET TO A FOUND 1/2" REBAR WITH CAP "PLS 1005"; THENCE S04°11'06"W 20.94 FEET TO A FOUND 1/2" REBAR WITH CAP "PLS 1005"; THENCE N73°44'22"W 46.40 FEET TO A SET 5/8" REBAR WITH CAP "AR 1659"; THENCE N83°31'09"W 67.15 FEET TO THE POINT OF BEGINNING, CONTAINING 0.156 ACRES OR 6,812 SQUARE FEET, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

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

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

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

Dated this 21 day of July, 2023.

Christina M. Buxton

Printed Name

Christina M. Buxton

Signature

Printed Name

Signature

LOT 3, BLOCK 2, AND THE WESTERMOST 11.2 FEET (ELEVEN AND 2/10 FEET) OF LOT 4, BLOCK 2, AND A PORTION OF VACATED RIGHT-OF-WAY, IN GOFF, IN ADDITION, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

[illegible]

A PORTION OF A 20' PUBLIC ALLEY, IN GOFF ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

[illegible]

AN EASEMENT 20 FEET IN WIDTH, FOR THE PURPOSE OF ACCESS AND UTILITIES, BEING A PART OF GOFF ADDITION, TO THE CITY OF FAYETTEVILLE ARKANSAS, AS PER PLATON OF THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCEMENT OF A SET 28' BEAR WITH CAP 4R 1697' THENCE
SOUTHEASTLY CORNER OF L. 2, 20' BEARS ADDITION, THENCE 76' 13.9
FEET, BEARING N 87° 02' 30" E, 10.0' BEYOND THE POLE POINT
BEGINNING, THENCE N 84° 43' 00" E, 13.0' BEYOND THE POLE POINT
N 87° 50' 11.62" E, 16.2" FEET TO A SET 58' BEAR WITH CAP 4R 1697' THENCE
N 87° 50' 11.62" E, 16.2" FEET TO A SET 58' BEAR WITH CAP 4R 1697' THENCE
WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 74.50', WITH A
RADIUS OF 67.00', WITH A CHORD BEARING OF 102° 44.94', WITH A CHORD
LENGTH OF 72.91 FEET TO A SET 87° BEAR WITH CAP 4R 1697' THENCE
N 89° 35' 47.71" E, 11.71 FEET TO A FOUND 177° BEAR, THENCE 30.00' TO THE
FEET TO A SET 58' BEAR WITH CAP 4R 1697' THENCE 30.00' TO THE
FEET TO A SET 58' BEAR WITH CAP 4R 1697' THENCE 30.00' TO THE
FEET TO A SET 58' BEAR WITH CAP 4R 1697' THENCE 30.00' TO THE
FEET TO A FOUND 177° BEAR, THENCE 30.00' TO THE
FEET TO A HORN BEARING OF 333° 43' 29" E, WITH A RADIUS OF 87.69
FEET, WITH A CHORD BEARING OF 333° 43' 29" E, WITH A CHORD LENGTH OF
87.69 FEET, WITH A CHORD BEARING OF 333° 43' 29" E, WITH A CHORD
LENGTH OF 87.69 FEET, WITH A CHORD BEARING OF 333° 43' 29" E, WITH A
CHORD LENGTH OF 20.21 FEET TO A FOUND 177° BEAR, THENCE 31° 09' 54"
DISTANCE OF 2.36 FEET TO THE POINT OF BEGINNING, 0.105 ACRES MORE

COMPLETED FIELD WORK:
APRIL 19, 2023

APRIL 19, 2023

1. WARRANTY DEED FILED IN DEED BOOK 2020 AT PAGE 38324

3 SURVEY PLAT FILED IN PLAT BOOK 2005 AT PAGE 45566

1000

THE BASIS OF BEARING OF THIS SURVEY IS GRID NORTH, BASED ON THE ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE NAD83

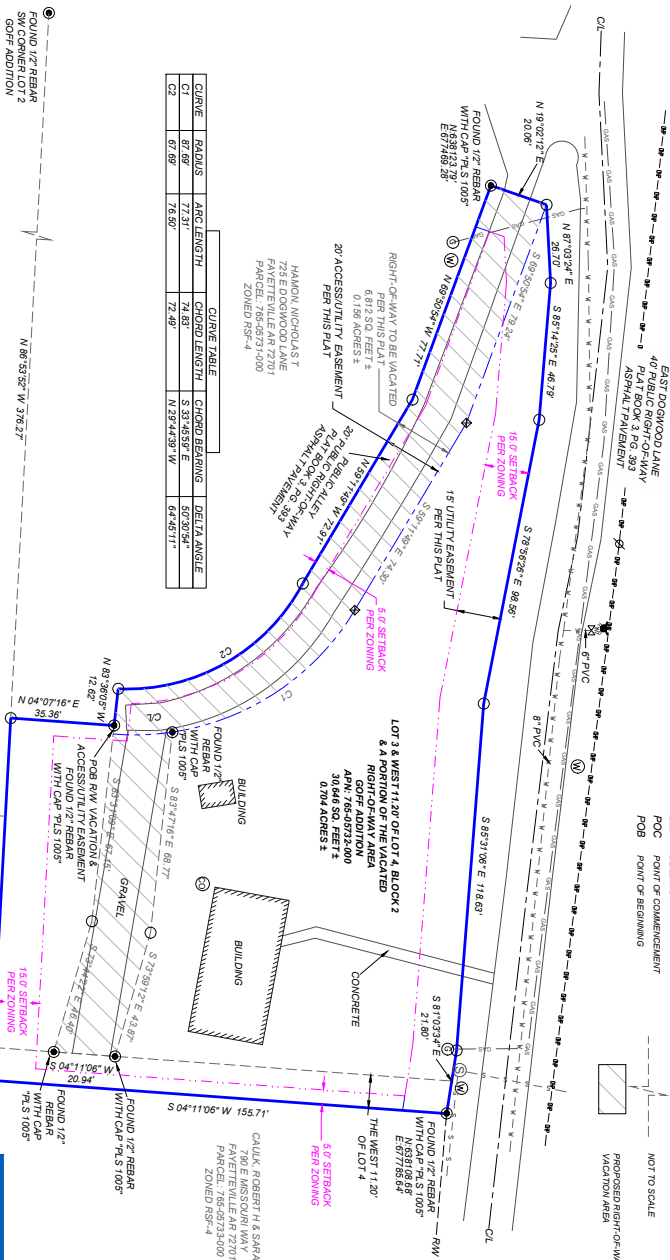
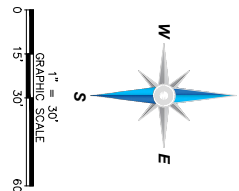
SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY

DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS

HEREOF UNLESS OTHERWISE INDICATED

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAN, THIS SURVEY DOES NOT PURPORT TO REFLECT OR BE ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT PROPERTY: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF SURVEY, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS, AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

817 EAST DOGWOOD LANE
WASHINGTON COUNTY, FAYETTEVILLE, AR 72701



CURVE TABLE				
CURVE	RADIUS	ARC LENGTH	CHORD BEARING	DELTA ANGLE
C1	67.69'	77.31'	S 33°45'59" E	50°30'54"
C2	67.69'	76.50'	N 29°44'39" W	64°45'11"

SINGLE-FAMILY

SIDE - 5'
REAR - 15'

LOT 3 & WEST 11.20' LOT 4, BLOCK 2
& PORTION OF PUBLIC ALLEY
30,646 ± SQUARE FEET
0.704 ± ACRES

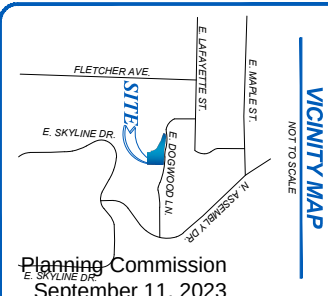
BY GRAPHIC PLOTTING ONLY. NO PORTION OF THIS PROPERTY IS IN ZONE "A" OR "AE"
OF THE FLOOD INSURANCE RATE MAP. COMMUNITY PANEL NO. 05143C0210F, WHICH
BEARS AN EFFECTIVE DATE OF 04/02/2008, REVISED 05/16/2008 AND IS NOT IN A
SPECIAL FLOOD HAZARD AREA.

SPECIAL FLOOD HAZARD AREA.

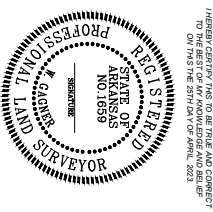
THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPEARANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN USES.

LEGEND & SYMBOLS

- | SYMBOL | DESCRIPTION |
|--------|-------------------------------|
| ① | FOOT (MOUNTING IS NOTED) |
| ② | SET-AP REBAR WITH CAP OR WELD |
| ③ | COMPUTED POINT |
| ④ | WATER METER |
| ⑤ | CLEANOUT |
| ⑥ | GAS METER |
| ⑦ | SHOWER/SEWER MANHOLE |
| ⑧ | POWER POLE |
| ⑨ | FIRE HYDRANT |
| ⑩ | WATER VALVE |
| ⑪ | BUILDING |
| ⑫ | POINT OF COMMENCEMENT |
| ⑬ | POINT OF BEGINNING |
-
- | SYMBOL | DESCRIPTION |
|---|------------------------|
|  | BOUNDARY LINE |
|  | EASEMENT LINE |
|  | RIGHT-OF-WAY LINE (RM) |
|  | CENTERLINE (CL) |
|  | FENCE LINE |
|  | OVERHEAD POWER LINE |
|  | SETBACK LINE |
|  | GAS LINE |
|  | WATER LINE |
|  | SWIMMING SWIMLINE |
|  | NOT TO SCALE |
-
- | SYMBOL | DESCRIPTION |
|---|--------------------------------------|
|  | PROPOSED RIGHT-OF-WAY VARIATION AREA |



VAC-2023-0004 (BUXTOM) Page 186 of 433



I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT
TO THE BEST OF MY KNOWLEDGE AND BELIEF
ON THIS THE 25TH DAY OF APRIL, 2023.

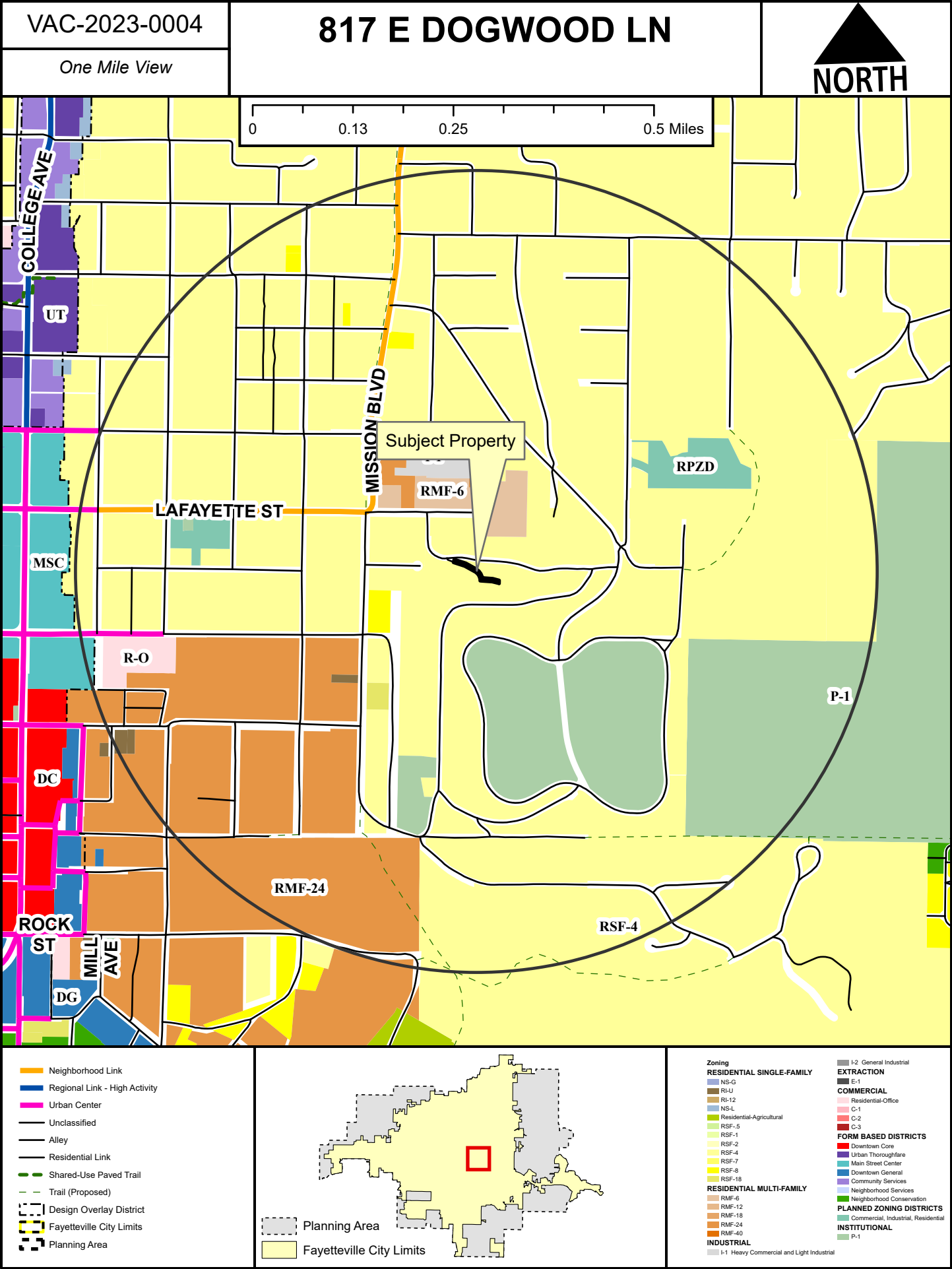


BLEWM
& ASSOCIATES, P.A.

3825 N. STITCH DRIVE - FAIRFAXVILLE, TN 37703
EMAIL: SERVICE@BLEWM.COM
OFFICE: 479/346 4586 FAX: 479/582 1983
WWW.BLEWM.COM

Surveying
Engineering
Mapping

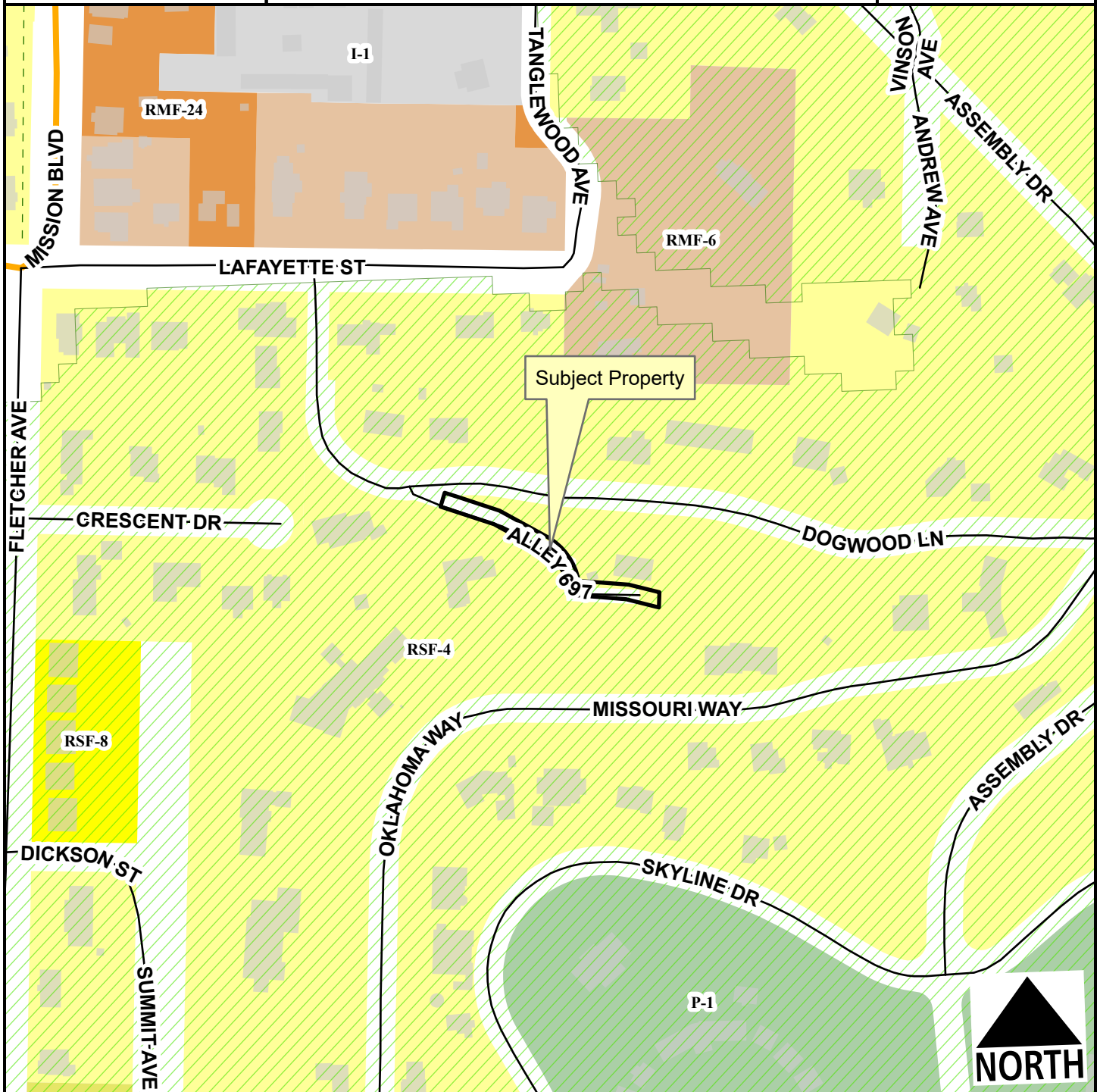
SURVEYOR JOB NUMBER: 23-2388.01	SURVEY DRAWN BY: DLS - 04/25/2023
SURVEY REVIEWED BY: TTP & JV	SCALE: 1" = 30'
FOR THE USE AND BENEFIT OF: CHRISTINA BUXTON	



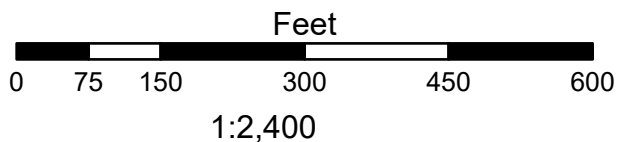
VAC-2023-0004

817 E DOGWOOD LN

Close Up View



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



- RSF-4
- RSF-8
- RSF-18
- RMF-6
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- P-1





TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 11, 2023

SUBJECT: **VAC-2023-0005: Vacation (612 W. CENTER ST/TRINITAS VENTURES, 483):** Submitted by CLARK LAW FIRM for property located at 612 W. CENTER ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.70 acres. The request is to vacate a 0.15-acre portion of alley right-of-way.

RECOMMENDATION:

Staff recommends tabling **VAC-2023-0005** to the next scheduled Planning Commission meeting.

RECOMMENDED MOTION:

*"I move to table **VAC-2023-0005** to the September 25, 2023 Planning Commission meeting."*

BACKGROUND:

The overall subject property is located in downtown Fayetteville and contains two separate parcels that straddle W. Gregg Alley (765-12934-000 and 765-01886-000). The site is developed with commercial structures that were developed from the early 1920s through the mid-1960s. In total, the property makes up approximately 1.70 acres, and is zoned MSC, Main Street Center. The Downtown Design Overlay District also governs this site. Rather than being classified as an Urban/Downtown Street in the Master Street Plan, the alley received its designation in 2004 (Ordinance 4629). Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	MSC, Main Street Center
South	Multi-Family Residential	MSC, Main Street Center
East	Frisco Trail/Mixed-Density Residential	MSC, Main Street Center
West	Arkansas Missouri Railroad/University of Arkansas	MSC, Main Street Center

Proposal: The applicant proposes to vacate 0.15 acres of right-of-way that currently makes up S. Gregg Alley which connects W. Center Street to the south to W. Meadow Street to the north. The alley is currently paved with asphalt.

DISCUSSION:

City of Fayetteville staff does not yet have a firm recommendation on the requested right-of-way vacation, since final sign-offs have not yet been received from all required entities. From a land-use planning perspective, Planning staff finds that maintaining the right-of-way serves the public interest as far as maintaining a compact, complete, and connected downtown (Goal #3). On the other hand, the intended use of the property should the alley be vacated is for a multi-family

housing development in an area with an infill score of 13. The associated development proposal would positively contribute to two other stated goals of City Plan 2040, which are to make appropriate infill the highest priority (Goal #1), as well as creating opportunities for attainable housing (Goal #6). The vacation will also unlikely negatively affect pedestrian and bicycle transportation, as the site is adjacent to the Razorback Greenway. On the balance of considerations, Planning staff supports the request, though recommends tabling at this time so that all relevant parties can supply the necessary approvals and conditions.

Vacation Approval: The applicant has submitted the required vacation forms to the relevant City departments and franchise utility companies with the following responses, though has not yet received a sign-off from the City of Fayetteville Water and Sewer division. The applicant has been informed by Water and Sewer that additional information is needed regarding sewer capacity in the area and the feasibility of relocation in the area.

<u>Utility</u>	<u>Response</u>
Cox Communications	Any damage or relocation of existing facilities will be at the property owner/developer's expense.
AEP/SWEPCO	No objections, provided all SWEPCO utilities affected by the ROW vacation are relocated as required by SWEPCO.
Black Hills Energy AR	No objections, provided all Black Hills Energy facilities located within said vacation are relocated by Black Hills Energy at owner/developers expense.
AT&T	No objections, provided all AT&T utilities affected by the ROW vacation are relocated as required by AT&T.
Ozarks Electric	No objections and no comment.
<u>City of Fayetteville</u>	<u>Response</u>
Water/Sewer	No signed response was received yet from this division.
Solid Waste & Recycling	No objections and no comment.
Transportation	No objections and no comment.

Public Comment: Staff received verbal opposition to the request from a nearby property owner who would like to see connectivity through the alleyway maintained. Staff has also received written comment potentially in support of the request, though the individual indicated that they would like to see the overall site plan.

RECOMMENDATION: Staff recommends tabling **VAC-2023-0005** to the next scheduled Planning Commission meeting. Should Planning Commission wish to forward to City Council, staff recommends the following conditions of approval:

Conditions of Approval:

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense;

2. All SWEPCO, AT&T, and Black Hills Energy facilities located within said right-of-way must be relocated as required by those entities;
-

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Ordinance 4629
- Applicant Request Letter
- Applicant Petition to Vacate
- Site Exhibit – ROW to be vacated
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map

ORDINANCE NO. 4629

AN ORDINANCE APPROVING VAC 04-1178 TO VACATE A PORTION OF THE RIGHT OF WAY FOR GREGG STREET LOCATED BETWEEN CENTER STREET AND MEADOW STREET AND RECLASSIFYING THIS SUBJECT RIGHT OF WAY AS AN ALLEY AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted right of way is no longer required for corporate purposes.

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

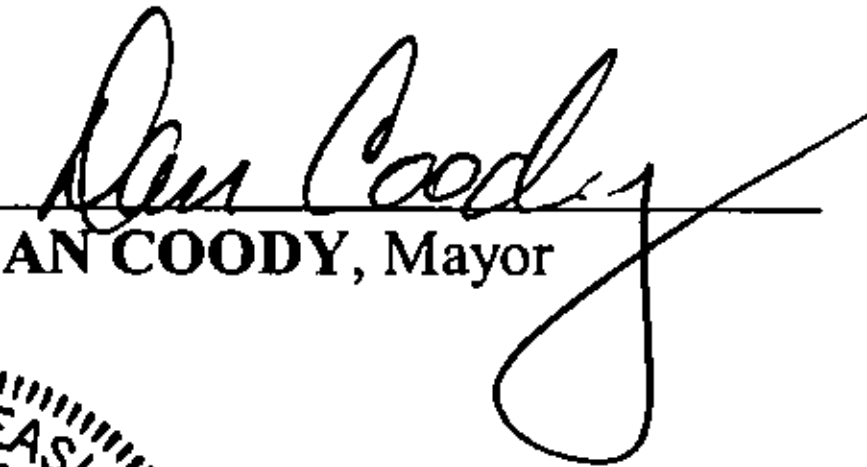
Section 1: That the City of Fayetteville, Arkansas hereby vacates and abandons the following described right of way, retaining the use as a public alley:

See Exhibit "A" attached hereto and made a part hereof.

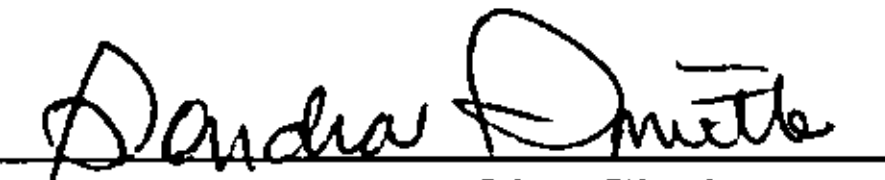
Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED and APPROVED this 19th day of October, 2004.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk




Doc ID: 007827850003 Type: REL
Recorded: 11/02/2004 at 08:53:31 AM
Fee Amt: \$11.00 Page 1 of 3
Washington County, AR
Bette Stamps Circuit Clerk

File **2004-00045127**



EXHIBIT "A"
VAC 04-1178

A PART OF THE WEST HALF (W1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND A PORTION OF GREGG AVENUE, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21), SAID POINT BEING AN EXISTING IRON; THENCE N87°21'50"W 221.96 FEET ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) TO AN EXISTING RAILROAD RAIL WITH A CHISELED "X" ON THE EAST BOUNDARY OF A ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET, THE CHORD FOR WHICH BEING S06°10'55"W 310.45 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET; THENCE N78°38'34"W 87.38 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET TO AN EXISTING CHISELED "X" IN CONCRETE FOR THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET, N78°38'34"W 10.86 FEET TO A SET ½" IRON REBAR ON THE WEST BOUNDARY OF SAID ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY; THENCE LEAVING THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET AND RUNNING ALONG SAID WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 28.49 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 5.44 FEET ALONG PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE; THENCE CONTINUING ALONG THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, N86°53'31"E 1.56 FEET; THENCE N02°42'36"E 239.14 FEET; THENCE N48°37'39"E 16.73 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE AND RUNNING ALONG THE OLD EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, S02°42'48"W 286.38 FEET TO POINT OF BEGINNING, CONTAINING 3363 SQUARE FEET, MORE OR LESS.

Washington County, AR
I certify this instrument was filed on
11/02/2004 08:53:31 AM
and recorded in Real Estate
File Number 2004-00045127
Bette Stamps - Circuit Clerk

by 

NAME OF FILE:

Ordinance No. 4629
w/Ex. A & B

CROSS REFERENCE:

Item #	Date	Document	
1	09/28/04	memo to mayor & City Council	
2		draft ordinance	
3		memo to Planning Commission	
4		copy of map	
5		copy of map	
6		copy of Close Up View	
7		copy of One Mile View	
8		Staff Review Form	
9		memo to Dawn Warrick	
10		Affidavit of Publication	
11			
12			
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25			

NOTES:

1/2/04		filed at Wash. Co. Circuit Clerk office	

ORD
10/19/04
4629

VAC 04-1178/
Center &
Meadow
Streets

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator *DW*

Date: September 28, 2004

Subject: Easement Vacation for Gregg Avenue/Rivendell (VAC 04-1178)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of Gregg Avenue right-of-way, as described and depicted herein.

BACKGROUND

The applicant currently has an associated Planned Zoning District request in process, unanimously recommended by the Planning Commission for approval to the City Council for the construction of a mixed-use development in the downtown area. The project plan has been developed around and is contingent upon the vacation of a particular portion of street right-of-way along Gregg Avenue between Meadow Street and Center Street.

Gregg Avenue is a Local Street on the Master Street Plan, requiring a right-of-way dedication of 25 feet from centerline (50 feet total). Currently a total of 34 feet of right-of-way exists in this location, with the existing structures located near or at the right-of-way line. Along with the vacation request, and as part of the Planned Zoning District proposal, the applicant is also requesting the Master Street Plan be amended for this portion of Gregg Avenue, down-grading its classification from a Local Street to an alley. The developer's proposal is to overlay the existing street and have the parking directly off of the new surface underneath the proposed buildings, a situation that is not allowed with Gregg Street's current classification and right-of-way requirements.

Request: The applicant requests to vacate approximately 12 feet of the eastern portion of the existing Gregg Street right-of-way along the subject property's frontage, and to dedicate the remaining area as a public alley as described and depicted in the attached documents.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were submitted.

The Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation for approval of the vacation request at the regular meeting of September 27, 2004.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-1178 TO VACATE A PORTION OF THE RIGHT OF WAY FOR GREGG STREET LOCATED BETWEEN CENTER STREET AND MEADOW STREET AND RECLASSIFYING THIS SUBJECT RIGHT OF WAY AS AN ALLEY AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted right of way is no longer required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described right of way, retaining the use as a public alley:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By _____
Dan Coody, Mayor

ATTEST:

By _____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 04-1178

A PART OF THE WEST HALF (W1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND A PORTION OF GREGG AVENUE, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21), SAID POINT BEING AN EXISTING IRON; THENCE N87°21'50"W 221.96 FEET ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) TO AN EXISTING RAILROAD RAIL WITH A CHISELED "X" ON THE EAST BOUNDARY OF A ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET, THE CHORD FOR WHICH BEING S06°10'55"W 310.45 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET; THENCE N78°38'34"W 87.38 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET TO AN EXISTING CHISELED "X" IN CONCRETE FOR THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET, N78°38'34"W 10.86 FEET TO A SET ½" IRON REBAR ON THE WEST BOUNDARY OF SAID ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY; THENCE LEAVING THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET AND RUNNING ALONG SAID WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 28.49 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 5.44 FEET ALONG PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE; THENCE CONTINUING ALONG THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, N86°53'31"E 1.56 FEET; THENCE N02°42'36"E 239.14 FEET; THENCE N48°37'39"E 16.73 FEET TO A SET ½" IRON REBAR; THENCE LEAVING THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE AND RUNNING ALONG THE OLD EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, S02°42'48"W 286.38 FEET TO POINT OF BEGINNING, CONTAINING 3363 SQUARE FEET, MORE OR LESS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of September 27, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
FROM: Jeremy Pate, Senior Planner
Matt Casey P.E. Staff Engineer
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: September 16, 2004

VAC 04-1178: Vacation (RIVENDELL, 483): Submitted by STEVE CLARK for property located at THE FORMER 100 FT. RAILROAD R/W ON THE WEST SIDE OF BLOCK 21 ORIGINAL TOWN PLAT. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUST and contains approximately 0.67 acres. The request is to vacate a portion of the Right-of-Way on Gregg Street.

Property Owner: DENELE CAMPBELL

Planner: JEREMY PATE

Findings: See the attached maps and legal descriptions for the exact locations of the requested utility easement vacation.

Background: The applicant currently has a PZD under review in the Planning Commission process for the construction of a commercial and multi-family development. The project plan has been developed around and is contingent upon the vacation of this portion of street right-of-way along Gregg Avenue, based on conversations with city staff and utility representatives.

Gregg Avenue is a Local Street on the Master Street Plan, requiring a right-of-way dedication of 25 feet from centerline. Along with the vacation request, and as part of the Planned Zoning District proposal, the applicant is also requesting the Master Street Plan be amended for this portion of Gregg Avenue, down-grading its classification from a Local Street to an alley. The developer's proposal is to overlay the existing street and have the parking directly off of the new surface underneath the proposed buildings, a situation that is not allowed with Gregg Street's current classification and right-of-way requirements.

Request: The applicant requests to vacate a portion of the existing Gregg Street right-of-way and to dedicate this area as a public alley as described and depicted in the attached documents.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES

Ozarks Electric

Cox Communications

RESPONSE

No Objections

No Objections

No Objections

No Objections

No Objections

RESPONSE

No Objections

No Objections

No Objections

No Objections

Conditions of Approval:

1. A 20' wide water and sewer easement shall be dedicated that runs north and south on the east side of the proposed buildings running generally with the proposed trail. It will need to connect from Meadow Street right-of-way to the Center Street right-of-way.

Date: September 27, 2004

Comments: _____

By

Title

Date _____

CITY COUNCIL ACTION: yes Required . **Date:** October 19, 2004

Description

We are requesting that a portion of Gregg Street between Center Street and Meadow Street be vacated and that the remainder of the street be changed to an alley. Gregg Street has always functioned more as an alley than as a street. There is very little traffic that uses the street on a regular basis.

The property that was acquired by Ms. Denele Campbell from the railroad was previously a railroad spur that had not been actively used in many years. The legal description of the railroad property overlapped the Gregg Street Right-of-Way along the east side of the ROW. In fact Ms. Campbell's West property line is as much as 18 feet into the Gregg Street ROW.

The development that is being proposed will require that most of the parking be located under the proposed buildings. In order for this to function it will be necessary to back out of the garage structure on to Gregg Street. In order for this to be legal the Street Row will need to be converted to an alley.

Rivardell P2D.

GRI

CITY PARKING LOT

1328

1327

VACATED

146.43

40'

50'

X 1328.0

VACATED
ORD 1070
APP. 09/20/54

100' N

8
Block

X 1323.0

WEST

SPRING

CITY PROPERTY

155.00'

151.50

4

3

5

6

161.76

418

416

414

108

9
Block
2

121

115
1

8
109

GREGG

546

1000' N

21
Block

512

510

5

9

11

21

500' W

55'

40'

X 1323.0

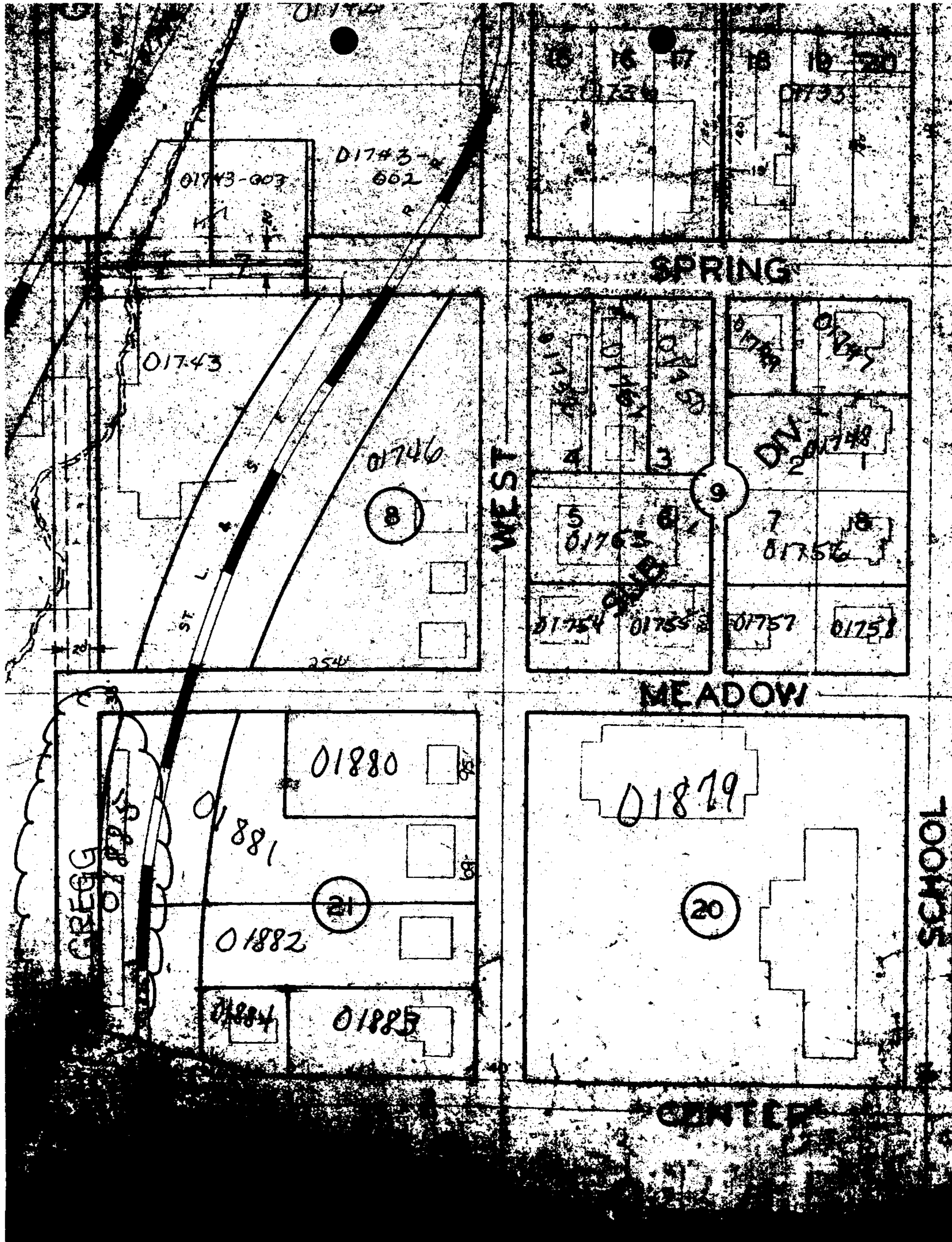
MEADOW

20
Block

CENTER

400' W

400'



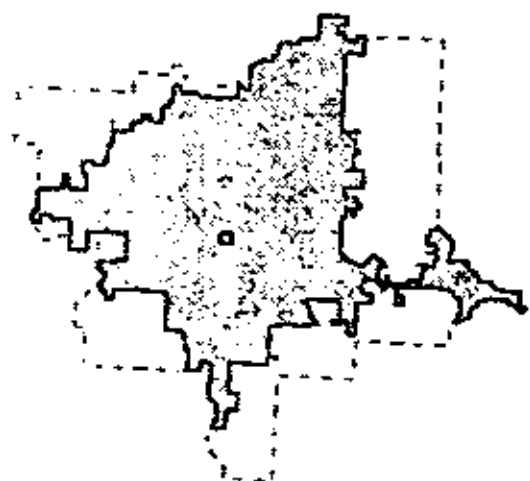
VAC04-1178

Close Up View

RIVENDELL



Overview



Legend

- | | | |
|--|---|--|
| <ul style="list-style-type: none"> ○○○○○ Overlay District Master Street Plan Master Street Plan Freeway/Expressway | <ul style="list-style-type: none"> Principal Arterial Minor Arterial Collector Historic Collector | <ul style="list-style-type: none"> FLOODWAY 100 YEAR 500 YEAR LIMIT OF STUDY BaseLine Profile VAC04-1178 Fayetteville Outside City |
|--|---|--|



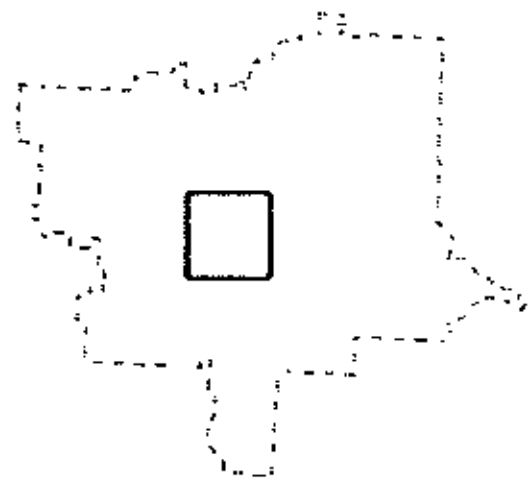
VAC04-1178

One Mile View

RIVENDELL



Overview



Legend

Subject Property

VAC04-1178

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

October 19, 2004

FROM:

Dawn T. WarrickPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-1178 was submitted by Steve Clark on behalf of Denele Campbell for property located north of Center Street and south of Meadow Street. The request is to vacate a portion of the Gregg Street right of way, rededicating this area as a public alley.

STAFF RECOMMENDATION: Approval

Dawn T. Warrick 10/1/04
Division Head Date

[Signature] 10/1/04
City Attorney Date

[Signature] 10-5-04
Department Director Date

[Signature] 10-5-04
Finance & Internal Services Dir. Date

[Signature] 10-5-04
Chief Administrative Officer Date

[Signature] 10/5/04
Mayor Date

Received in Mayor's Office

10/4/04
Date PH

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
City Clerk Division

113 West Mountain
Fayetteville, AR 72701
Telephone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

DEPARTMENTAL CORRESPONDENCE

To: Dawn Warrick
Planning Division

From: Clarice Buffalohead-Pearman 
City Clerk Division

Date: October 25, 2004

Re: Ordinance No. 4629

The City Council passed the above ordinance, October 19, 2004, vacating a portion of right of way reclassifying an area as an alley on Gregg Avenue. I have attached a copy of the ordinance.

This ordinance will be recorded in the city clerk's office and microfilmed. If anything else is needed please let the clerk's office know.

Attachment(s)

cc: LaDawnya Cossey, Planning
John Goddard, IT
Scott Caldwell, IT
Clyde Randall, IT
Ed Connell, Engineering

NORTHWEST ARKANSAS EDITION Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Diane Williams, do solemnly swear that I am
Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas
Times newspaper, printed and published in Lowell, Arkansas, and that
from my own personal knowledge and reference to the files of said
publication, that advertisement of:

Ordinance 4629 was inserted in the regular editions on
04.25.2004.

PO# 04-0003089-001

** Publication Charge: \$ 164.57

Subscribed and sworn to before me this

25th day of October, 2004.

Catherine Sell

Notary Public

~~~~~  
Catherine Sell  
Notary Public, State of Arkansas  
Washington County  
My Commission Expires 02/27/05  
~~~~~

My Commission Expires: _____

** Please do not pay from Affidavit.
An invoice will be sent.

RECEIVED

OCT 27 2004

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

ORDINANCE NO. 4629

AN ORDINANCE APPROVING VAC 04-1178 TO VACATE A PORTION OF THE RIGHT OF WAY FOR GREGG STREET LOCATED BETWEEN CENTER STREET AND MEADOW STREET AND RECLASSIFYING THIS SUBJECT RIGHT OF WAY AS AN ALLEY AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION

Fayetteville
ARKANSAS

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted right of way is no longer required for corporate purposes.

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

Section 1: That the City of Fayetteville, Arkansas hereby vacates and abandons the following described right of way, retaining the use as a public alley:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED and APPROVED this 19th day of October, 2004.

APPROVED:

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

EXHIBIT "A"
VAC 04-1178

A PART OF THE WEST HALF (W1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND A PORTION OF GREGG AVENUE, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK TWENTY-ONE (21), SAID POINT BEING AN EXISTING IRON; THENCE N87°21'50"W 221.96 FEET ALONG THE NORTH LINE OF SAID BLOCK TWENTY-ONE (21) TO AN EXISTING RAILROAD RAIL WITH A CHISELED "X" ON THE EAST BOUNDARY OF A ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY, SAID POINT BEING ON A 714.49 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE SOUTHERLY ALONG SAID CURVE 312.95 FEET, THE CHORD FOR WHICH BEING S06°10'55"W 310.45 FEET, TO THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET; THENCE N78°38'34"W 87.38 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET TO AN EXISTING CHISELED "X" IN CONCRETE FOR THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET, N78°38'34"W 10.86 FEET TO A SET 1/2" IRON REBAR ON THE WEST BOUNDARY OF SAID ONE HUNDRED (100) FOOT WIDE RAILROAD RIGHT-OF-WAY; THENCE LEAVING THE NORTH RIGHT-OF-WAY LINE OF CENTER STREET AND RUNNING ALONG SAID WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 28.49 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING THE WEST RAILROAD RIGHT-OF-WAY LINE, N02°02'45"W 5.44 FEET ALONG PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE; THENCE CONTINUING ALONG THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, N86°53'31"E 1.56 FEET; THENCE N02°42'36"E 239.14 FEET; THENCE N48°37'39"E 16.73 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING THE PROPOSED EAST RIGHT-OF-WAY LINE OF GREGG AVENUE AND RUNNING ALONG THE OLD EAST RIGHT-OF-WAY LINE OF GREGG AVENUE, S02°42'48"W 286.38 FEET TO POINT OF BEGINNING, CONTAINING 3363 SQUARE FEET, MORE OR LESS.

RECEIVED

OCT 27 2004

**CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE**



121 West South Street
PO Box 4248
Fayetteville, Arkansas 72702-4248

Tel: (479) 856-6380
Fax: (479) 856-6381

Suzanne G. Clark
sclark@clark-firm.com

AUGUST 2, 2023

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Attn: Planning Commission and City Council

Re: Right-of-Way Vacation Application– N. Gregg Avenue Alley

Clark Law Firm represents Trinitas Ventures (“Trinitas”) regarding their application to vacate the N. Gregg Avenue Alley, shown in the included Survey Exhibit, located between 546 Center Street and 600-612 Center Street, Fayetteville, AR 72701. This vacation request is a part of Trinitas’ plan to develop the two properties including and adjacent to the N. Gregg Avenue Alley.

The N. Gregg Avenue Alley is not an arterial or collector street. The Master Street Plan adopted by the Planning Commission and City Council does not identify N. Gregg Avenue Alley for future use as an arterial or collector street. The N. Gregg Avenue Alley is not a neighborhood, regional, or residential link.

Currently, the N. Gregg Avenue Alley is used as an alternative option to provide rear access to the Metro District. Vacating the N. Gregg Avenue Alley will not result in a lack of access to the rear of the Metro District as it will still be accessible from W. Meadow Street and from N. West Avenue, both of which are designated as Urban Center streets on the Master Street Plan. Vacating the N. Gregg Avenue Alley will not result in a disruption to pedestrian or bicycle traffic because the Alley is parallel and proximate to the Razorback Greenway. All utility companies have provided their approval of the vacation. Therefore, the public interest and welfare would not be adversely affected by the abandonment of the Alley.

I request the Petition to Vacate the N. Gregg Avenue Alley be passed with a recommendation for approval by the City Council. We are happy to provide any additional information that is needed or that may be helpful upon your review of the petition. Additionally, Trinitas understands that, because the right-of-way vacation is necessary to move forward with their development plans for the property, the approval, of the vacation may be contingent on commencement of the development, with reversion back to the City if, for any reason, the

development of the property does not proceed. Thank you for your consideration and please let me know you have any questions.

Sincerely,

/s/ Suzanne G. Clark

Suzanne G. Clark

PETITION

PETITION TO VACATE THE N.GREGG AVE ALLEY LOCATED BETWEEN 546 CENTER STREET AND 600-612 CENTER STREET IN 16-16-30, CITY OF-FAYETTEVILLE, ARKANSAS

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

We, the undersigned, having an interest in the property herein described, and with the consent of the owners of the real estate described and abutting the N.Gregg Ave Alley hereinafter sought to be abandoned and vacated, lying between 546 Center Street and 600-612 Center Street in 16-16-30, City of Fayetteville, Arkansas, a municipal corporation, petition the City of Fayetteville to vacate the N.Gregg Ave Alley, which is described as follows:

(Legal Description of area to be vacated is attached)

That the abutting real estate affected by said abandonment of the alley are 546 Center Street and 600-612 Center Street, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the described Alley.

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

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

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

Dated this __day of __August 1__, 2023.

Trinitas Ventures

Brad Bennett

Authorized Representative

Printed Name and Title

Brad Bennett

1A2BFFD881BE41A...

Signature

EXHIBIT

612 W. CENTER ST., FAYETTEVILLE, AR 72701
WASHINGTON COUNTY

GIS Approved
08/08/2023

DESCRIPTION OF ALLEY VACATION

BEING A VARIABLE WIDTH EASEMENT FOR THE VACATION OF A PORTION OF GREGG AVENUE (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) AND LOCATED WITHIN A PART OF THE WEST HALF (W 1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN MAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 21, THENCE ALONG THE NORTH LINE THEREOF THE FOLLOWING THREE (3) CALLS:

1. N87°22'39"W A DISTANCE OF 221.96 FEET TO A FOUND CHISELED "X" IN A RAILROAD RAIL,
2. N87°22'39"W A DISTANCE OF 38.09 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659",
3. N87°22'39"W A DISTANCE OF 67.02 FEET TO A SET MAG-NAIL, BEING LOCATED ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID GREGG AVENUE AND BEING THE POINT OF BEGINNING;

THENCE ALONG THE EASTERLY LINE THEREOF S02°49'55"W A DISTANCE OF 10.22 FEET TO A TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S48°44'51"W A DISTANCE OF 16.72 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118";

THENCE S02°42'45"W A DISTANCE OF 239.14 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S84°27'36"W A DISTANCE OF 1.56 FEET TO A SET 5/8" REBAR WITH CAP MARKED "GAGNER AR 1659";

THENCE S02°06'07"E A DISTANCE OF 5.44 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118";

THENCE S02°06'07"E A DISTANCE OF 28.50 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118" LOCATED AT THE INTERSECTION OF SAID EASTERLY LINE AND THE NORTHERLY LINE OF WEST CENTER STREET (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY);

THENCE ALONG THE NORTHERLY LINE THEREOF N79°55'08"W A DISTANCE OF 23.13 FEET TO A FOUND CHISELED "X" IN CONCRETE LOCATED AT THE INTERSECTION OF SAID NORTHERLY LINE WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID GREGG AVENUE;

THENCE ALONG THE WESTERLY LINE THEREOF N02°43'19"E A DISTANCE OF 291.99 FEET TO A SET MAG-NAIL;

THENCE DEPARTING SAID WESTERLY LINE S87°22'39"E A DISTANCE OF 33.64 FEET TO A THE POINT OF BEGINNING, CONTAINING 6,528 SQUARE FEET OR 0.150 ACRES, MORE OR LESS.

DESCRIPTION OF UTILITY EASEMENT

BEING A VARIABLE WIDTH UTILITY EASEMENT TO BE ABANDONED, LOCATED WITHIN A PART OF THE WEST HALF (W 1/2) BLOCK NUMBERED TWENTY-ONE (21) OF THE ORIGINAL TOWN MAT OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID BLOCK 21, THENCE ALONG THE NORTH LINE THEREOF N87°22'39"W A DISTANCE OF 221.96 FEET TO A FOUND CHISELED "X" IN A RAILROAD RAIL;

THENCE DEPARTING SAID NORTH LINE ON A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 313.07 FEET, WITH A RADIUS OF 714.49 FEET, WITH A CHORD BEARING OF S06°09'48"W, WITH A CHORD LENGTH OF 310.57 FEET TO A FOUND 5/8" REBAR LOCATED ON THE NORTHERLY LINE OF WEST CENTER STREET (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY);

THENCE ALONG THE NORTHERLY LINE THEREOF N78°36'20"W A DISTANCE OF 49.62 FEET TO A FOUND CHISELED "X" IN CONCRETE AND BEING THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTHERLY LINE N78°36'20"W A DISTANCE OF 48.68 FEET TO A FOUND 5/8" REBAR WITH CAP MARKED "1118" LOCATED AT THE INTERSECTION OF SAID NORTHERLY LINE WITH THE THE EASTERLY LINE OF GREGG AVENUE (A PUBLIC VARIABLE WIDTH RIGHT-OF-WAY);

THENCE ALONG THE EASTERLY LINE THEREOF N02°06'07"W A DISTANCE OF 25.71 FEET;

THENCE DEPARTING SAID EASTERLY LINE S78°36'20"E A DISTANCE OF 73.66 FEET;

THENCE S00°52'44"E A DISTANCE OF 10.37 FEET TO A SET CHISELED "X" IN CONCRETE;

THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 10.78 FEET, WITH A RADIUS OF 9.29 FEET, WITH A CHORD BEARING OF S32°09'37"W, WITH A CHORD LENGTH OF 10.18 FEET TO A FOUND CHISELED "X" IN CONCRETE;

THENCE S84°28'36"W A DISTANCE OF 18.37 FEET TO THE POINT OF BEGINNING, CONTAINING 1,738 SQUARE FEET OR 0.040 ACRES, MORE OR LESS.

GENERAL NOTES

1. SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY.
2. DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED. MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.

SURVEY JOB NO. 23-2941.01
DATE: 07/31/2023
PAGE 1 OF 3

BASIS OF BEARING

THE BASIS OF BEARING OF THIS SURVEY IS GRID NORTH BASED ON THE EAST LINE OF THE WESTERN PARCEL OF THE SUBJECT PROPERTY, ALSO BEING THE WEST RIGHT-OF-WAY LINE OF SOUTH GREGG STREET. THE BEARING IS DENOTED AS N02°43'19"E PER GPS COORDINATE OBSERVATIONS ARKANSAS STATE PLANE, NORTH ZONE NAD83.

SURVEYOR INFORMATION:

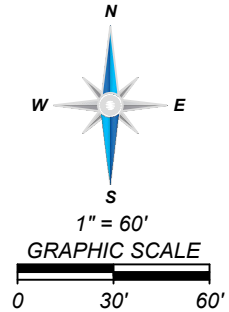
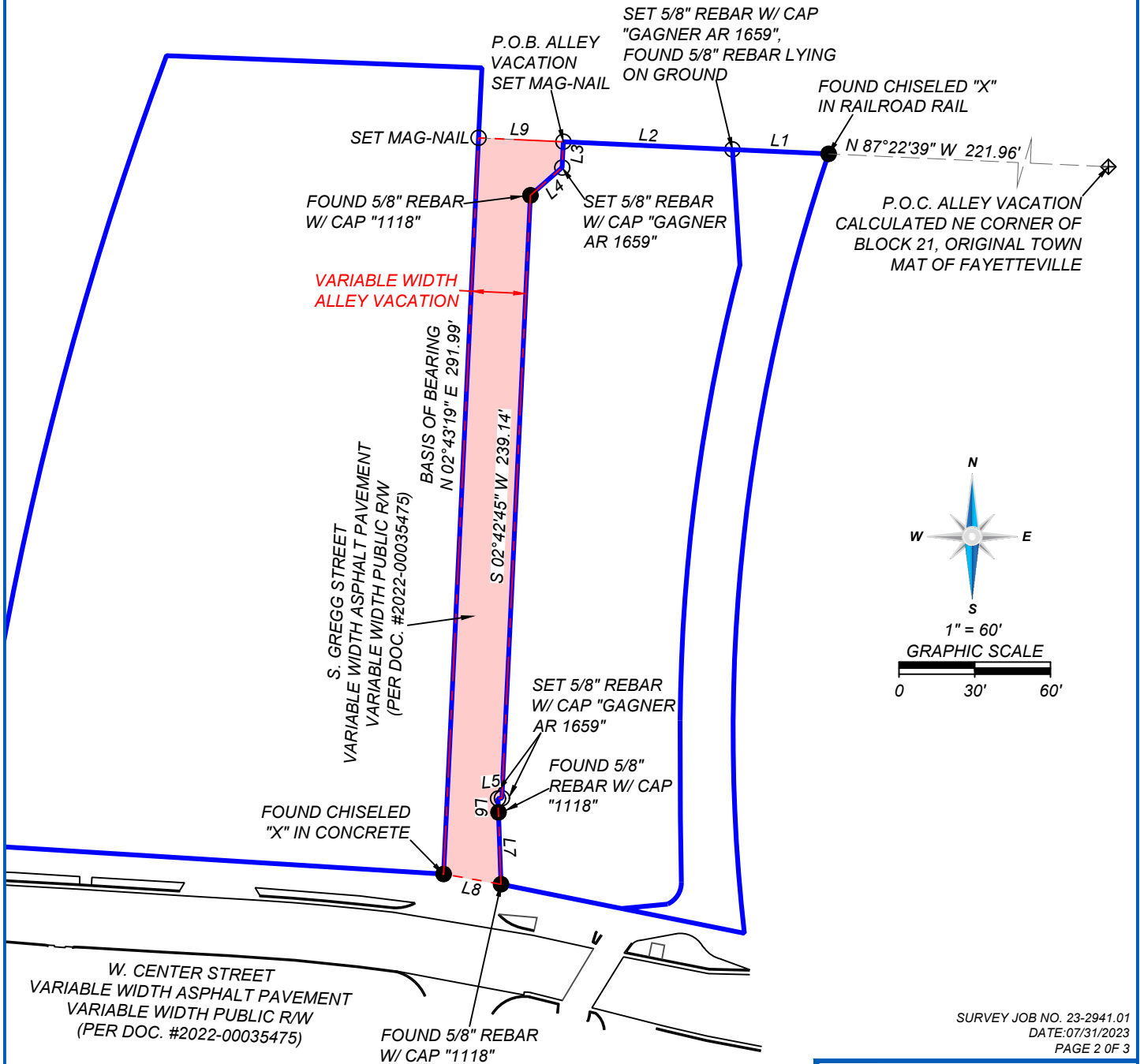
Surveying
Engineering
Mapping

BLEW & ASSOCIATES, PA
1050 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

Planning Commission
September 11, 2023

EXHIBIT

612 W. CENTER ST., FAYETTEVILLE, AR 72701
WASHINGTON COUNTY



LINE	BEARING	DISTANCE
L1	N 87°22'39" W	38.09'
L2	N 87°22'39" W	67.02'
L3	S 02°49'55" W	10.22'
L4	S 48°44'51" W	16.72'
L5	S 84°27'36" W	1.56'
L6	S 02°06'07" E	5.44'
L7	S 02°06'07" E	28.50'
L8	N 79°55'08" W	23.13'
L9	S 87°22'39" E	33.64'

LEGEND & SYMBOLS

- FOUND MONUMENT AS NOTED
- SET MONUMENT AS NOTED
- ⊕ COMPUTED POINT
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- BOUNDARY LINE
- - - EASEMENT LINE

SURVEY JOB NO. 23-2941.01
DATE: 07/31/2023
PAGE 2 OF 3

SURVEYOR INFORMATION:

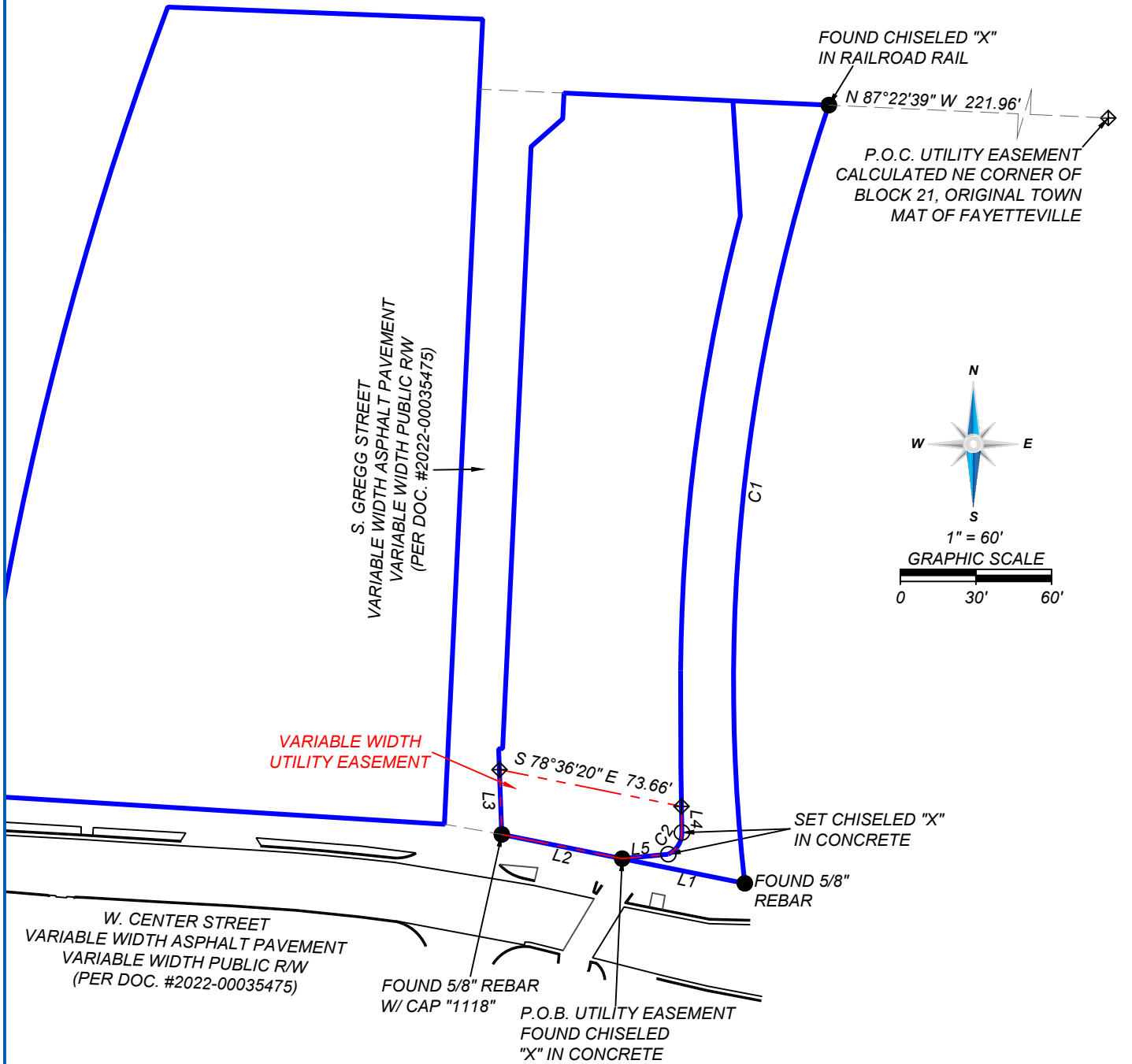
BLEW & ASSOCIATES, P.A.

Surveying
Engineering
Mapping

BLEW & ASSOCIATES, P.A.
1050 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

EXHIBIT

612 W. CENTER ST., FAYETTEVILLE, AR 72701
WASHINGTON COUNTY



LEGEND & SYMBOLS

LINE	BEARING	DISTANCE
L1	S 78°36'20" E	49.62'
L2	S 78°36'20" E	48.68'
L3	S 02°06'07" E	25.71'
L4	S 00°52'44" E	10.37'
L5	N 84°28'36" E	18.37'

●	FOUND MONUMENT AS NOTED
○	SET MONUMENT AS NOTED
⬢	COMPUTED POINT
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
—	BOUNDARY LINE
- - -	EASEMENT LINE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	714.49'	313.07'	310.57'	N 06°09'48" E	25°06'20"
C2	9.29'	10.78'	10.18'	N 32°09'37" E	66°27'51"

SURVEY JOB NO. 23-2941.01
DATE: 07/31/2023
PAGE 3 OF 3

SURVEYOR INFORMATION:

BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping

BLEW & ASSOCIATES, PA
1050 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

Planning Commission
September 11, 2023

Public Comment
VAC-2023-0005

From: Mitch Weigel <mitch@dpreg.com>
Sent: Thursday, September 7, 2023 1:59 PM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Cc: Grace Ames <games@trinitas.ventures>; Suzanne Clark <sclark@clark-firm.com>; Payton C. Bentley <pbentley@clark-firm.com>
Subject: Re: Fayetteville Center St Project - Alley Vacation

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 would actually like to see the site plan for the development before completely committing to support of the vacation request.

Mitch Weigel, GRI, CRS
Principal Broker/Owner



The Pryor Center
1 E Center St, Ste 320B | Fayetteville, AR 72701
Office: 479.443.1313
Cell: 479.466.2369

On Sep 7, 2023, at 1:01 PM, Masters, Jessica <jmasters@fayetteville-ar.gov> wrote:

Comment received, thank you.

Jessie Masters, AICP
Development Review Manager
City of Fayetteville, Arkansas
(479) 575-8239
www.fayetteville-ar.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)
<image001.png>

From: Grace Ames <games@trinitas.ventures>
Sent: Friday, September 1, 2023 9:51 AM
To: Mitch Weigel <mitch@dpreg.com>; Suzanne Clark <sclark@clark-firm.com>
Cc: Payton C. Bentley <pbentley@clark-firm.com>; Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: RE: Fayetteville Center St Project - Alley Vacation

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.

Mitch, that is great! You are welcome to reach out to Jessie Masters, she is our planning department contact. You are also just welcome to respond to this email. Our land-use Attorney, Suzanne Clark, is on the email and is collecting and submitting feedback to the planning committee. If you prefer to go through Jessie, feel free. Her email is below. We will be at the 9.11 planning commission meeting.

jmasters@fayetteville-ar.gov

GRACE AMES

Manager, Development Operations

TRINITAS | Creating Exceptional Real Estate
www.trinitas.ventures | P. 765.787.1946
201 Main Street, Suite 1000, Lafayette, IN 47901

From: Mitch Weigel <mitch@dpreg.com>
Sent: Friday, September 1, 2023 9:08 AM
To: Grace Ames <games@trinitas.ventures>
Subject: Re: Fayetteville Center St Project - Alley Vacation

I am in support. Who is the planner and I will reach out. When is the hearing?

Mitch Weigel, GRI, CRS
Principal Broker/Owner
Downtown Properties Real Estate Group, Inc.
www.DPREG.com
479-466-2369

Sent from my iPhone

On Sep 1, 2023, at 8:27 AM, Grace Ames <games@trinitas.ventures> wrote:

Mitch, I wanted to check back in on the below. Would you provide an email response confirming your support for the alley vacation? I have updated drawings I can walk you through if you're interested in the building design progress. Please let me know if you have any comments, questions and can provide a note of support.

GRACE AMES

Manager, Development Operations

TRINITAS | Creating Exceptional Real Estate
www.trinitas.ventures | P. 765.787.1946
201 Main Street, Suite 1000, Lafayette, IN 47901

Public Comment
VAC-2023-0005

From: Grace Ames

Sent: Wednesday, August 23, 2023 10:01 AM

To: mitch@dpreg.com

Cc: Suzanne Clark <sclark@clark-firm.com>; Payton C. Bentley <pbentley@clark-firm.com>; Anna Langner <alangner@clark-firm.com>; Todd Wendell <twendell@trinitas.ventures>; apaddock@amplifydevco.com

Subject: Fayetteville Center St Project - Alley Vacation

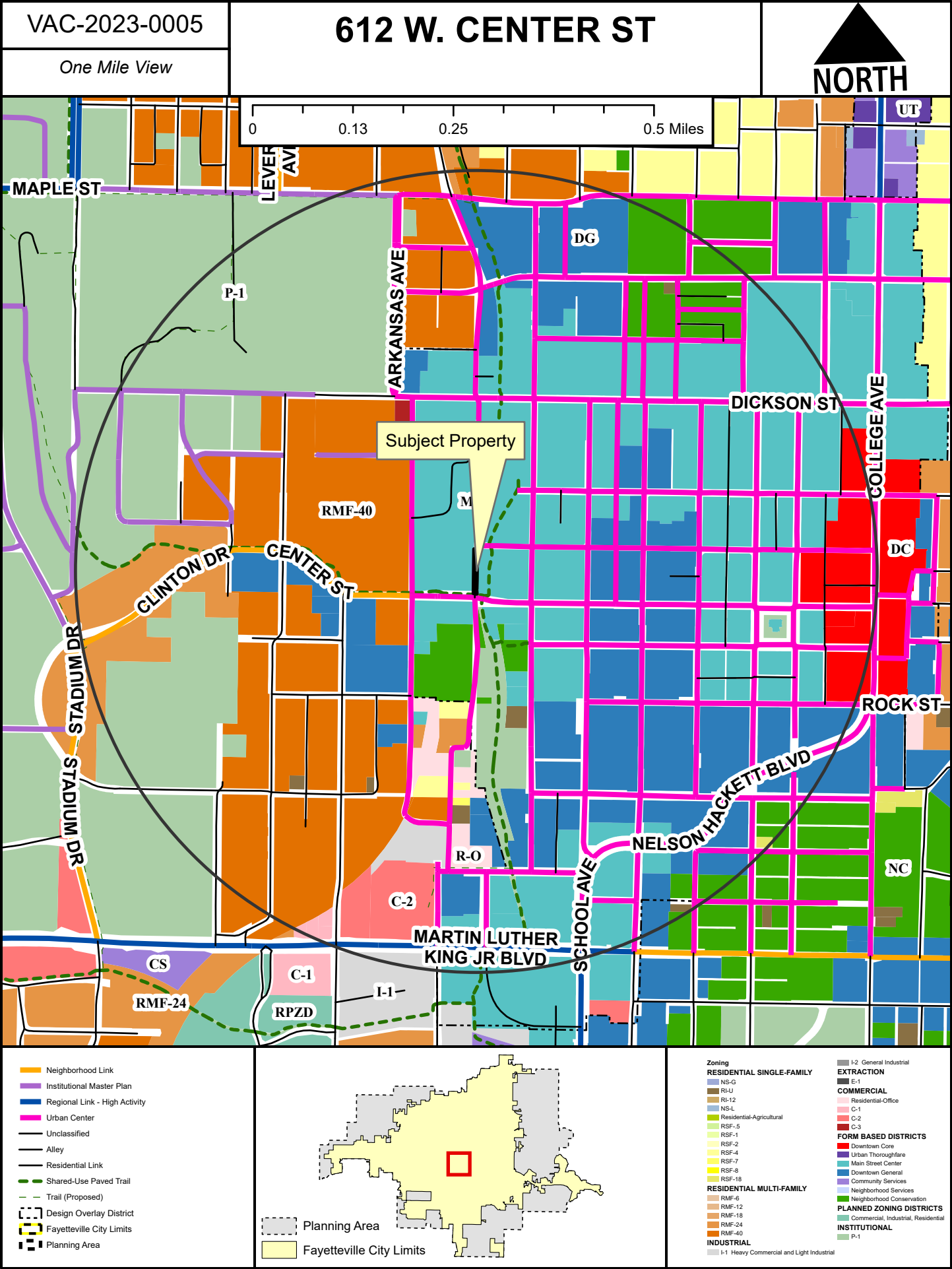
Mitch, I'm reaching out to let you know that we submitted a vacation request to the Fayetteville Planning Commission for Greg Alley and it is now public. A sign is posted on site and neighbors are being notified via certified mail. When we spoke about utilities, you were in favor of the closure. Are you willing to respond to the email with a note in favor of closing Greg Ally?

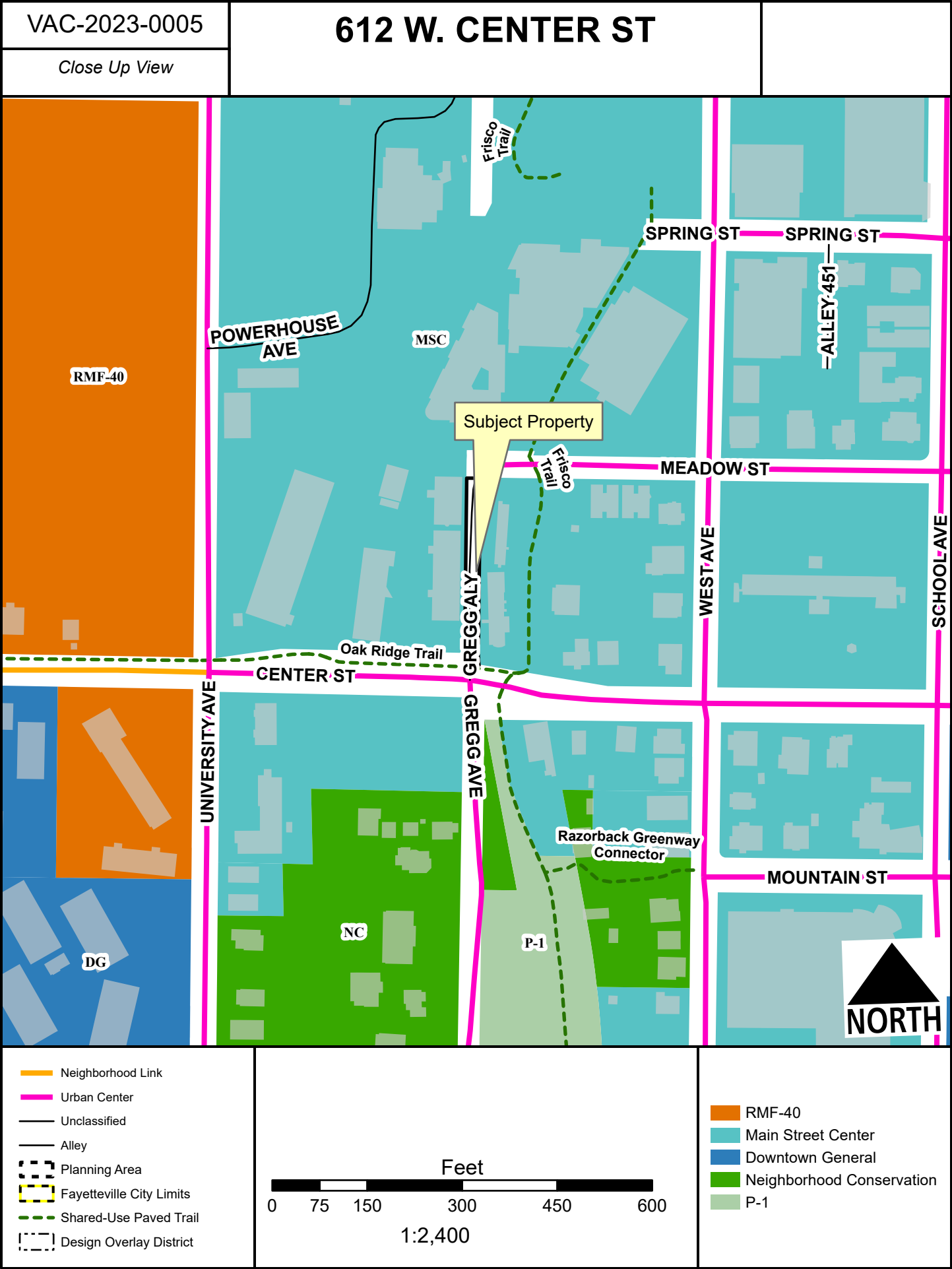
If you'd like, I'm available to run through the project progress with you. I can show what we've developed and issued to the city for a conceptual plat submission. Please let me know if you'd like a meeting to discuss the alley vacation and the project progress.

GRACE AMES

Manager, Development Operations

TRINITAS | Creating Exceptional Real Estate
www.trinitas.ventures | P. 765.787.1946
201 Main Street, Suite 1000, Lafayette, IN 47901

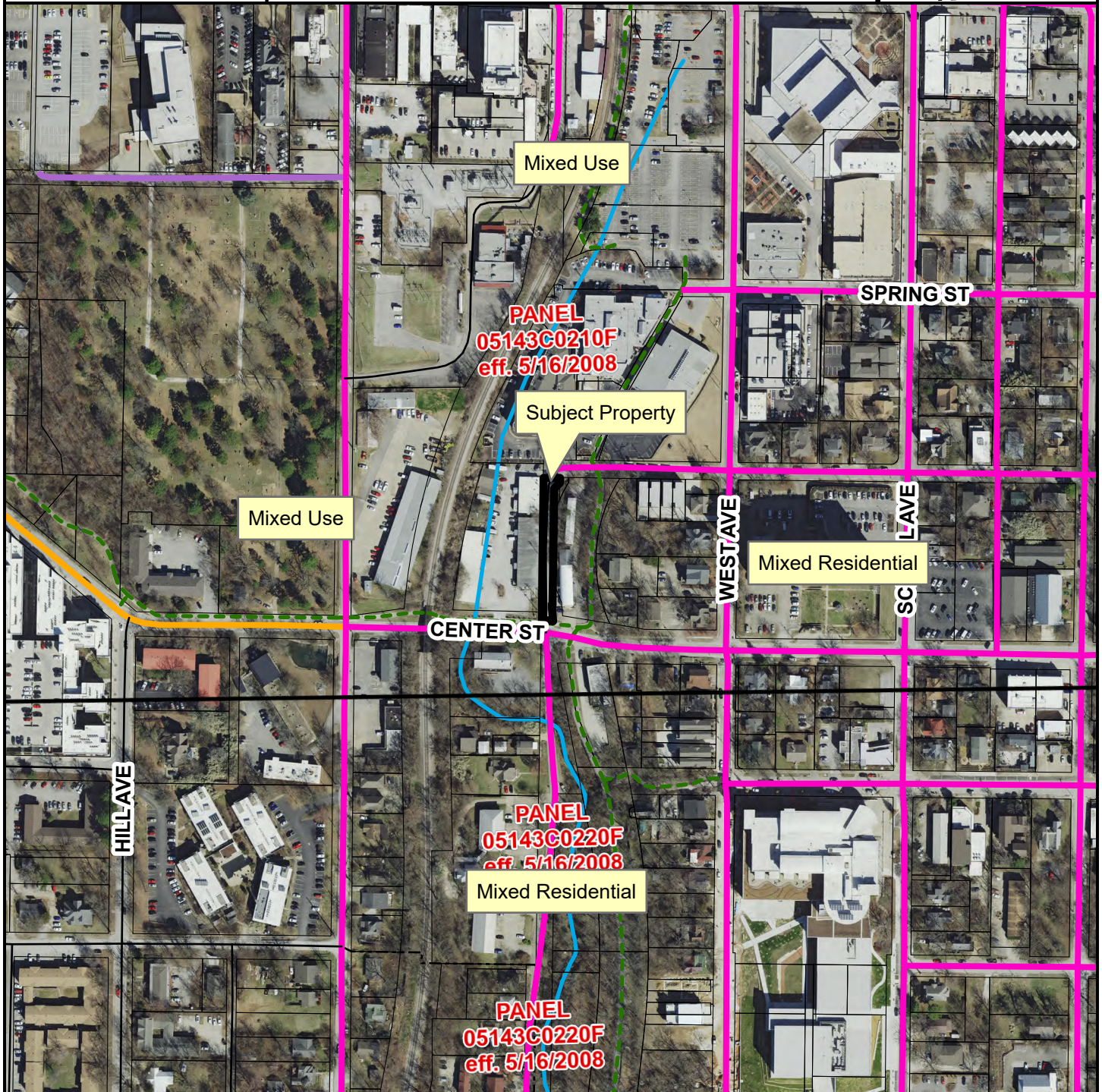




VAC-2023-0005

612 W. CENTER ST

Current Land Use



- Neighborhood Link
- Institutional Master Plan
- Urban Center
- Unclassified
- Alley
- Residential Link
- 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: Donna Wonsower, Planner

MEETING: September 11, 2023

SUBJECT: **CUP-2023-0095: Conditional Use (3800 W. RIVER BEND DR/SUNSHINE SPRAY TANS LLC, 283):** Submitted by ANNA GROMER for property located at 3800 W. RIVER BEND DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.21 acres. The request is to use the property for a home-occupation in RSF-4 zoning.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0095** with conditions, based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0095** with conditions, determining:*

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

BACKGROUND:

The subject property is located in north Fayetteville approximately 400 feet north of Holt Middle School. The property totals approximately 0.21 acres and has been developed with a 1,936 square foot single-family structure built in 2004. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is not part of any overlay districts. 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	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

FUTURE LAND USE DESIGNATION: Residential Neighborhood

Request: The applicant requests approval of a conditional use permit to use a room within their dwelling a spray tanning salon. Home-based businesses are classified as Use Unit 24, Home Occupations which is considered a conditional use in the RSF-4 zoning district. The applicant has described the business as follows:

- *Business will occur in approx. 200-square-foot space within a 1,936-square-foot residential building*
- *Parking: 1 vehicle spaces within existing driveway*
- *Number of employees: One full-time employee*
- *Number of customers: One client at a time with a maximum of 16 clients per day (all at separate times)*
- *Hours of operation:*
 - *8:00am – 5:00pm, Monday through Friday*
- *Outdoor lighting: No change from existing.*
- *Noise: No change from existing. Will not be heard outside the home.*
- *Screening: Conducting business inside home, fence around the side of the house where business is conducted.*
- *Trash: City of Fayetteville residential trash pickup*
- *Ingress/Egress: No change from existing. One client at a time, parking in the driveway.*

Public Comment: Staff has received one comment from a nearby resident concerned with the addition of a business within the neighborhood and potential for increased traffic.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0095**, subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility with adjacent properties.**
Staff finds the proposed home occupation to be compatible with the other uses present in the area;
2. **This conditional use permit is limited to use by the applicant as described herein. This conditional use permit is non-transferrable to a different business or property owner;**
3. **The conditional use permit is limited to the business as outlined in the applicant's request letter. The following specifications apply:**
 - **Size of the business:** Approximately 200 square feet
 - **Hours of operation:** Monday – Friday, 7:30 AM to 5:30 PM
 - **Parking:** 1 space in existing driveway
 - **Number of employees:** 1
 - **Customers:** Up to 16 per day
4. **Per §163.08(F)(1), Home Occupations, conditional use approval shall be for one year. Extension of this request may be authorized by the Zoning and Development Administrator for an additional year.**
5. **To retain the residential appearance of the property, exterior modifications shall not be permitted in association with the business, except as provided under the signage allowances under §163.08, Home Occupations, and Chapter 174, Signs;**
6. **Trash collection shall be by residential cart and recycling containers;**

7. A city business license must be obtained within one year of conditional use permit approval;
8. A Fire Marshal inspection shall be required as part of the associated city business license review; and
9. Any new lighting shall meet the requirements of §176, Outdoor Lighting, as a commercial building.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

Section 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 conditional use approval of a home-based spray tanning salon. Home-based businesses are classified as Use Unit 24, Home Occupation, which is a conditional use in the RSF-4 zoning district.**

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

Finding: The applicant has paid the required filing fee.

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

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

Finding: The Planning Commission is empowered under Unified Development Code §161.07 to grant the requested conditional use permit.

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

Finding: Staff finds that granting the requested conditional use permit will not adversely affect the public interest. All business operations will occur in an existing room within the existing residential dwelling and no exterior modifications to the building are proposed. Given the scope of the proposed business activities, staff finds that the proposed home occupation will have a negligible impact on neighboring properties despite being located within a residential area.

(c.) The Planning Commission shall certify:

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

Finding: There are specific rules governing Home Occupations, as follows:

§163.08. HOME OCCUPATIONS.

In any zoning district where home occupations are permitted by right or conditional use, said home occupations shall not occupy more than 30% of the gross floor area of one floor of the primary dwelling unit, nor more than 300 square feet of the gross floor area, whichever is greater.

Finding: The applicant's primary dwelling contains approximately 1,936 square feet per the Washington County assessor. A room with roughly 200 square feet is proposed to be used for the home occupation. 30% of the floor area would be 581 square feet. Since the loft area only contains 200 square feet, staff finds that the proposed home-based spray tanning business would be compliant with the size limitations for home occupations.

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

Finding: No exterior alterations are proposed.

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

Finding: **No exterior modifications are proposed. Any exterior lighting or signage would be subject to UDC Chapter 174, Signs and UDC Chapter 176, Outdoor Lighting.**

- C. Employees.** No person may be employed other than a member of the immediate family residing on the premises.

Finding: **One employee is associated with this business who resides on the subject property.**

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

Finding: **No noise, dust, odor, or electrical disturbances will be made by the operation of the business.**

- E. Parking.** No parking spaces other than normal residential parking spaces shall be permitted.

Finding: **Single-family dwellings are required to have two parking spaces and are permitted to have up to four cars parked outside. Off-street parking is available on this property in a two-car garage and paved driveway that can likely accommodate four additional vehicles. The applicant is proposing to utilize the driveway as customer parking.**

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

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

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

Finding: **An existing paved driveway provides vehicular ingress and egress to the property. There is sidewalk present along the southern portion of W. River Bend Dr.**

- 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: Staff finds that the driveway can adequately accommodate a low-customer volume and serve the residents of the property without negatively impacting other properties in the neighborhood.

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

Finding: The applicant has indicated that existing residential solid waste and recycling services will be used, which staff finds to be generally adequate for the proposed business.

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

Finding: An eight-inch water main on the east side of W. River Bend Dr. and an eight-inch sewer main on the west side of W. River Bend Dr. No new public main connections or extensions are proposed.

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

Finding: Staff is not recommending additional screening with the proposed conditional use permit.

- 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: No signage is proposed. Any proposed signage will be subject to UDC Chapter 174, Signs, and all regulations therein. Signage shall be submitted for permit through the City's Planning Division.

- g) Required yards and other open space; and

Finding: No new structures are proposed with this conditional use permit.

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

Finding: Staff finds the proposal to be compatible with adjacent properties. The business as described by the applicant is intended to serve clients by appointment only with no more than 16 clients visiting the site per day with only a single client at a time. In the interest of providing added flexibility, staff recommends allowing extended hours of operation from 7:30 AM to 5:30 PM, per UDC §163.08. Considering the scale of the use, adverse effects on surrounding residences are not anticipated.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §163.08 Home Occupations
- Request Letter with Interior Photos
- Floor Plan
- Site plan
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map

163.08 Home Occupations

In any zoning district where home occupations are permitted by right or conditional use, said home occupations shall not occupy more than 30% of the gross floor area of one floor of the primary dwelling unit, nor more than 300 square feet of the gross floor area, whichever is greater. For Building Regulations purposes, any non-residential use that exceeds 30% of the gross floor area of one floor of the primary dwelling unit or more than 300 square feet of the gross floor area of the structure shall meet all applicable building and Unified Development Code regulations and shall not be considered a home occupation. These limitations shall not apply to foster family care, or the providing of room or board as an accessory use only. Home occupations that require a conditional use permit shall be subject to the following regulations:

- (A) *Exterior Alterations.* No exterior alterations of the structure may be made which are of a nonresidential nature.
- (B) *Sign/Evidence of Business.* No advertising, display, storage or other external evidence of business shall be permitted, except that for each dwelling unit with a permitted home occupation, one (1) unanimated, non-illuminated home occupation sign which identifies the home occupation shall be permitted, if such sign is erected flat against a wall or door or is displayed in a window, and does not exceed three (3) square feet in area. No freestanding signs shall be permitted for home occupations in any zone.
- (C) *Employees.* No person may be employed other than a member of the immediate family residing on the premises.
- (D) *Mechanical Equipment.* No mechanical equipment may be used which creates a disturbance such as noise, dust, odor, or electrical disturbance.
- (E) *Parking.* No parking spaces other than normal residential parking spaces shall be permitted.
- (F) *Additional Regulations.* Home occupations in an RSF District shall be subject to the following additional regulations:
 - (1) *Term.* No conditional use permit for a home occupation in any RSF District shall be issued for a period exceeding one year, but such a permit may be for a period shorter than one year. Upon expiration of a conditional use permit, the Zoning and Development Administrator shall have the authority to renew a conditional use permit for the same period as originally authorized, if the Zoning and Development Administrator has received no complaints or opposition from residents of the neighborhood in which the home occupation is located. The Zoning and Development Administrator may refer any proposed renewal of a conditional use permit to the Planning Commission for final decision.
 - (2) *Hours.* No home occupation shall be open to the public earlier than 7:30 a.m. or later than 5:30 p.m.; provided, the Planning Commission may vary the restrictions imposed hereby upon a determination that such a variance will not adversely affect the health, safety, peace, tranquility, or welfare of the neighborhood in which the home occupation is located.
 - (3) *Traffic.* No home occupation shall be allowed in an RSF District if the Planning Commission determines that the home occupation would generate such excessive traffic as would adversely affect the safety, peace, tranquility or welfare of the neighborhood.

(Code 1965, App. A., Art. 7 (10); Ord. No. 1747, 6-29-70; Ord. No. 2486, 11-21-78; Ord. No. 2605, 2-19-80; Code 1991, §160.085; Ord. No. 3716, §3, 6-15-93; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5029, 6-19-07; Ord. 5103, 1-15-08; Ord. No. 5668, 3-18-14)

1. Request Letter- Sunshine Spray Tans LLC

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

(a) Building size in square feet; existing and proposed: **2,036 square feet (total square footage of house) Tanning Space: 200 square feet**

(b) Color elevations of all exterior sides of the structure: **Brick, no change being made**

(c) Number of off-street parking spaces to be provided / number required: **0**

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

-Hours of operation: **8 am- 5 pm Monday-Friday**

-Number of employees: **1**

-Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour) **1 client at a time, 30 minutes per client, max: 16 clients per day all at separate times.**

(e) Outdoor lighting: **N/A**

(f) Noise: **Will not be heard outside the home**

(g) Screening or buffering from adjacent properties: **Conducting business inside home, fence around the side of the house where business is conducted.**

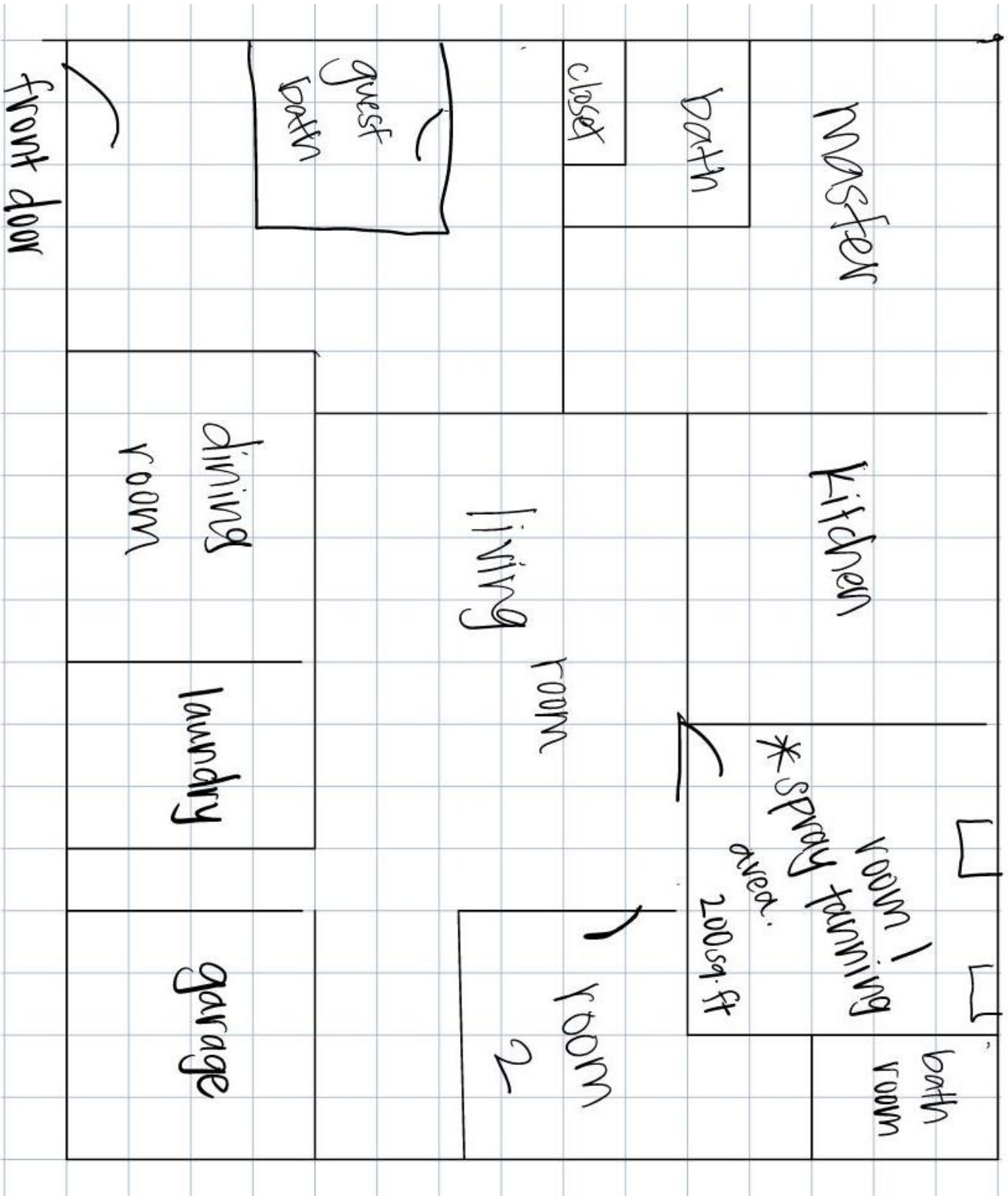
(h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties): **City of Fayetteville residential trash pickup**

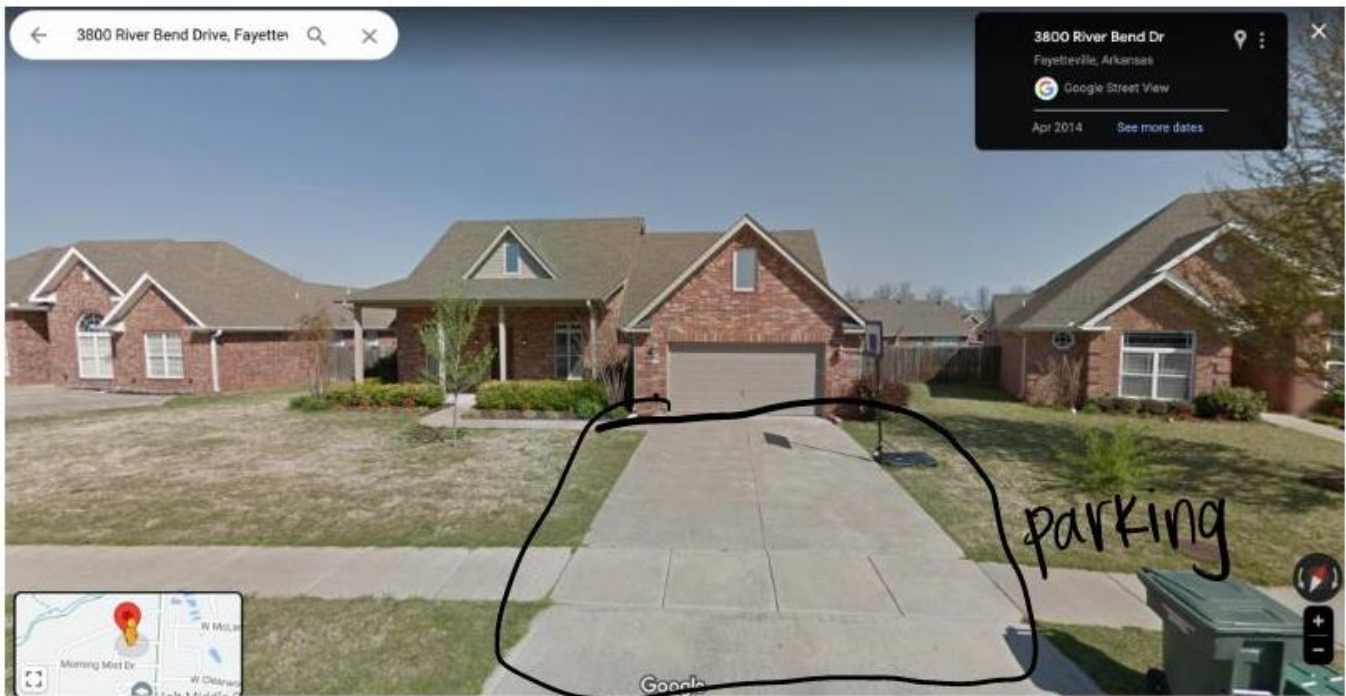
(i) Ingress and egress to the property; traffic impacts: **N/A; one client at a time, parking in the driveway.**

(j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood: **There will be no impact to adjacent properties due to only one client being served at a time and parking in the driveway. We will be operating during normal business hours and not disturbing the neighborhood or any other property.**

Pictures of the space below:



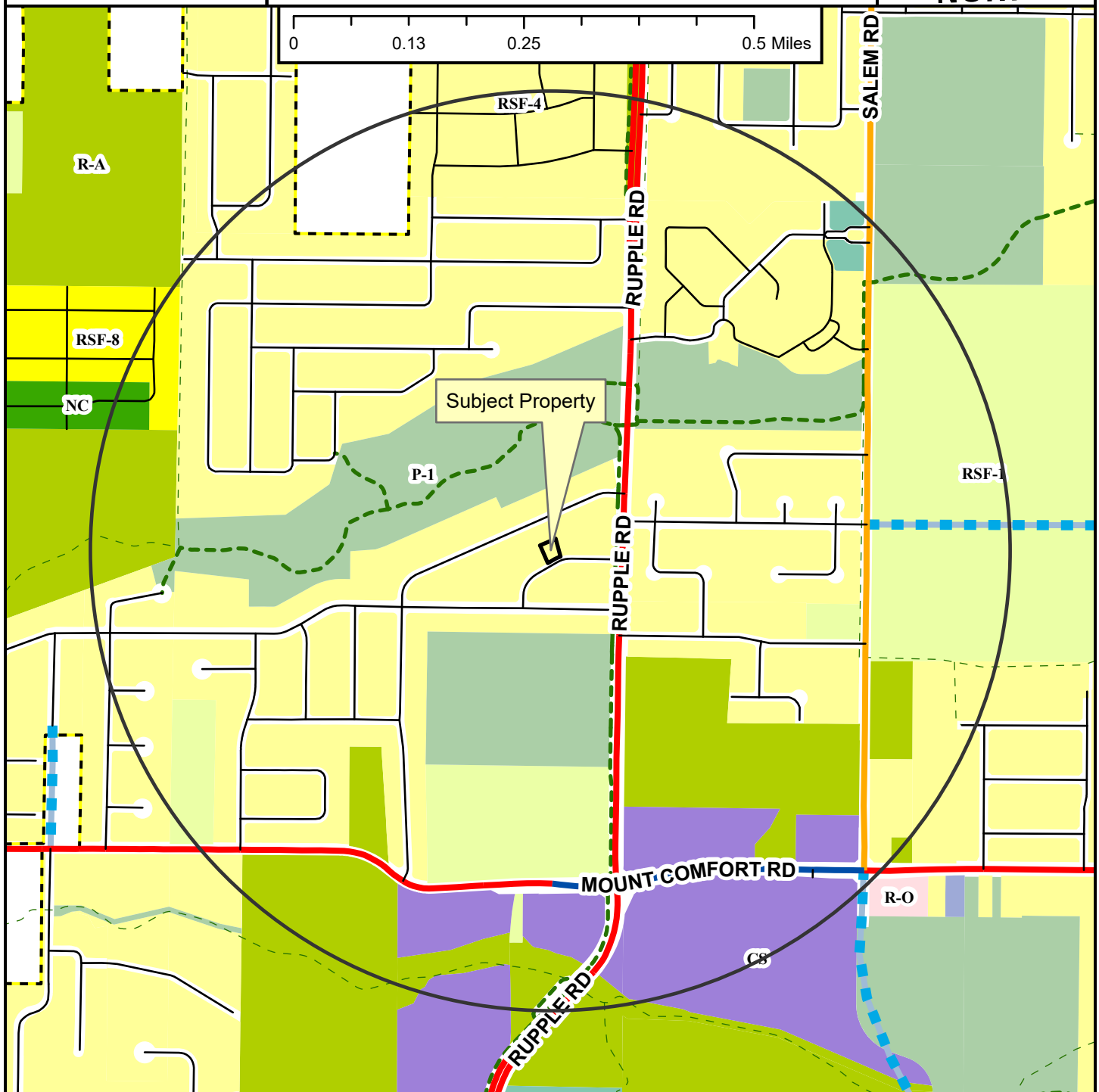




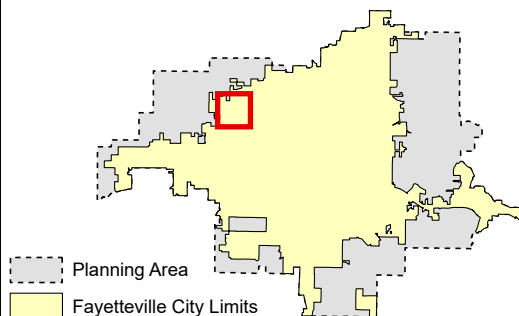
CUP-2023-0095

3800 W. RIVER BEND DR

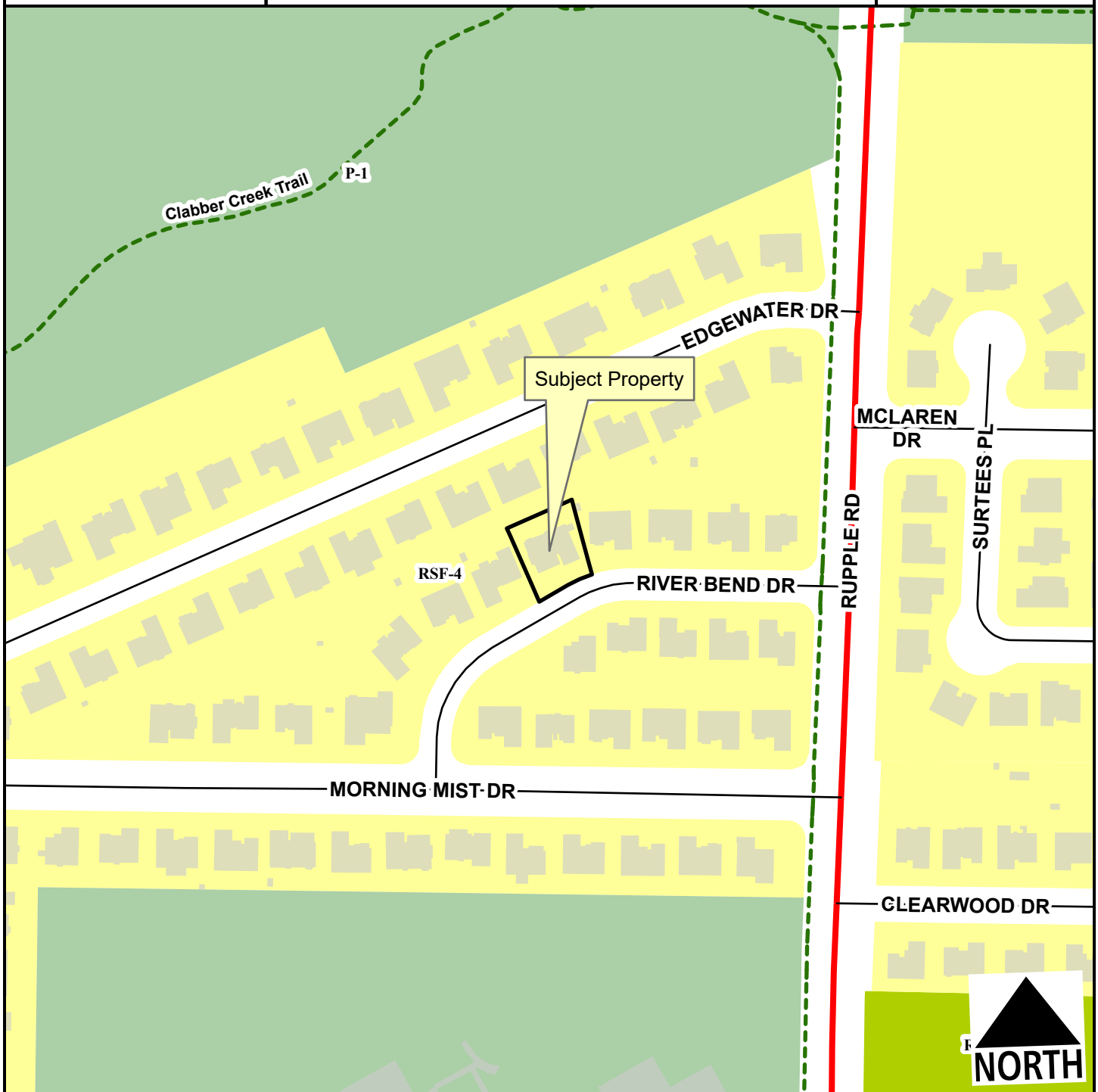
One Mile View



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



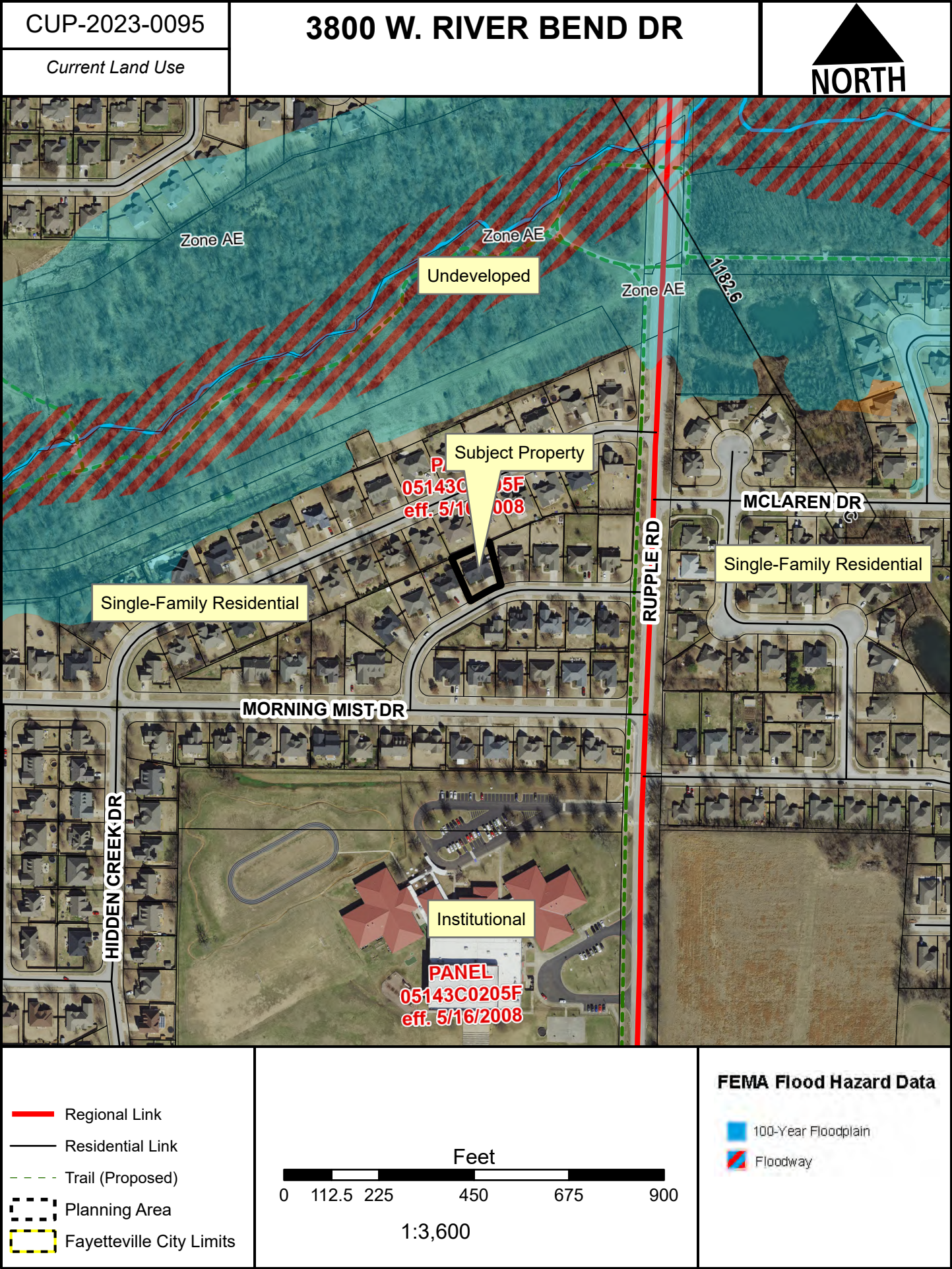
-
- Zoning**
- I-2 General Industrial
 - I-1 Heavy Commercial and Light Industrial
 - I-3 Medium Density Industrial
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
- EXTRACTION**
- 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



- Regional Link
- Residential Link
- Planning Area
- Fayetteville City Limits
- - - Shared-Use Paved Trail



- Residential-Agricultural
- RSF-4
- P-1





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 11, 2023

SUBJECT: **RZN-2023-0021: Rezoning (659 N. GENEVIEVE AVE/DOUGLAS, 436):**
Submitted by DOUGLAS TROUT for property located at 659 N. GENEVIEVE AVE. The property is zoned R-A, RESIDENTIAL AGRICULTURE and contains approximately 1.50 acres. The request is to rezone the property to RMF-6, RESIDENTIAL MULTI-FAMILY, SIX UNITS PER ACRE.

RECOMMENDATION:
Staff recommend denial of **RZN-2023-0021**.

RECOMMENDED MOTION:
"I move to deny RZN-2023-0021."

BACKGROUND:
The subject property is in west Fayetteville south of W. Wedington Dr. approximately ¼ mile southwest of the intersection with N. 54th Ave. The property contains roughly 1.50 acres and is zoned R-A, Residential Agriculture. The northern portion of the property is currently developed with a 1,872 square foot duplex constructed in 1976. 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	R-A, Residential Agriculture
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	R-A, Residential Agriculture RSF-4, Residential Single-Family, 4 Units per Acre
West	Undeveloped	R-A, Residential Agriculture

Request: The request is to rezone the property from R-A, Residential Agriculture to RMF-6, Residential Multi-Family, Six Units per Acre.

Public Comment: Staff received one phone call from a neighbor concerned about the increased density and potential traffic impacts.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

- Streets:** The subject area has frontage along N. Genevieve Rd., a partially improved Residential Link with asphalt paving and open ditches. The subject area also has frontage along W. Tackett Dr., a partially improved Residential Link with asphalt paving and open ditches. 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. Existing 2- inch water main is present on the west side of N. Genevieve Rd. and the south side of W. Tackett Dr.
- Sewer:** Sanitary Sewer is available to the subject area. Existing 6-inch sewer main is present on the east side of N. Genevieve Rd. and the south side of W. Tackett Dr.
- 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 7, located at 835 N. Ruppel Rd., protects this site. The property is located approximately 1.9 miles from the fire station with an anticipated drive time of approximately 4 minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.
- Police:** The Police Department expressed no concerns with this request.
- Drainage:** No portion of the property 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 RMF-6, Residential Multi-Family, Six Units per Acre requires **20% minimum canopy preservation**. The current zoning district of R-A, Residential Agriculture 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 **Residential Neighborhood**.

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

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a ranging score of 5 for this site, with a weighted score of 4.5. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #7, 835 N. Ruppel Rd.)
- Near Sewer Main (2-inch main, N. Genevieve Rd. and W. Tackett Dr.)
- Near Water Main (6-inch main, N. Genevieve Rd. and W. Tackett Dr.)
- Near City Park (Harmony Pointe Park)
- Near Paved Trail (W. Wedington Dr. Side Path Trail)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the request to be incompatible with the surrounding context, largely due to minimal city infrastructure. Based on the allowed density of RMF-6, up to 9 units could be allowed on the proposed parcel. While there are adjacent residential subdivisions in the proximity, most lots within the immediate proximity are R-A, Residential Agriculture with lot sizes of at least one acre and minimal development. Minimum lot size would decrease from two acres with a required lot width of 200 feet to variable bulk and area regulations. For two-family dwellings, RMF-6 requires a minimum lot size of 7,000 square feet with a required lot width of 50 feet. Front setbacks will decrease from 35 feet to a built to zone between the property line and 25 feet. Side setbacks will decrease from 20 feet to 5 feet. Rear setbacks will decrease from 35 feet to 25 feet. Staff finds that the proposal for RMF-6 in this area is likely too much too soon and that city infrastructure may not be able to keep up with the requested density.

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 low weighted infill score of 4.5. A low infill score indicates that the area may be able to support additional density if it is feasible under the proposed zoning entitlements. The request may meet Goals 3 and 6 by creating opportunities for a variety of housing types that could be developed near services thus encouraging "compact, complete, and connected development." The proposed rezoning is approximately 0.6 miles from a Tier 3 center at the intersection of W. Wedington Dr. and N. Double Springs Rd. The parcel is not currently within a 15-minute walk of this tier center, though staff finds that potential development of the Owl Creek Trail as indicated on the Master Trail Plan could allow a pedestrian connection to services in the area.

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 RMF-6 is not justified. While the applicant has not submitted any specific development plans for the area, the uses, allowances, and restrictions that accompany the RMF-6 zoning district are

not likely to be 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 RMF-6 has an associated potential to increase traffic at this location. RMF-6 permits development up to six units per acre where it is currently limited to 0.5 units per acre. Staff finds that the potential to increase the number of residential units could result in increased traffic danger given the condition of the existing roads, particularly the unusual intersection and narrow widths.

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 R-A to RMF-6 could increase population density and therefore the load on public services. Adequate water and sewer connections are not available to the site at this time, suggesting the area may not be able to support the increase. 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 denial of RZN-2023-0021.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.03 R-A, Residential Agriculture
 - §161.13 RMF-6, Residential Multi-Family—Six (6) Units Per Acre
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

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

(G) *Building area.* None.

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

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

161.13 District RMF-6, Residential Multi-Family—Six (6) Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	6 or less
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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	50 feet
Two (2) family	50 feet
Three (3) family or more	90 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a Manufactured home park	4,200 square feet
Townhouse: Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	7,000 square feet
Three (3) family or more	9,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acre

(E) *Setback Requirements.*

Front	Side 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	25 feet	5 feet

(F) *Building Height Regulations.*

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

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

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

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

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

(Ord. No. 4325, 7-3-01; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 8, 9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21; Ord. No. 6658 , §3(Exh. B), 5-2-23)

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 FOR REZONING LETTER

July 10th, 2023

TO: Planning Department City of Fayetteville Arkansas

RE: Letter Requesting Rezoning

We are requesting rezoning of 11-16-31 Fayetteville Outlots

PT NE SW & PT SW 1.5 AC FURTHER DESCRIBED FROM 2013-38293

AS: Part of the Northeast Quarter (NE-1/4) of the Southwest Quarter (SW-1/4)

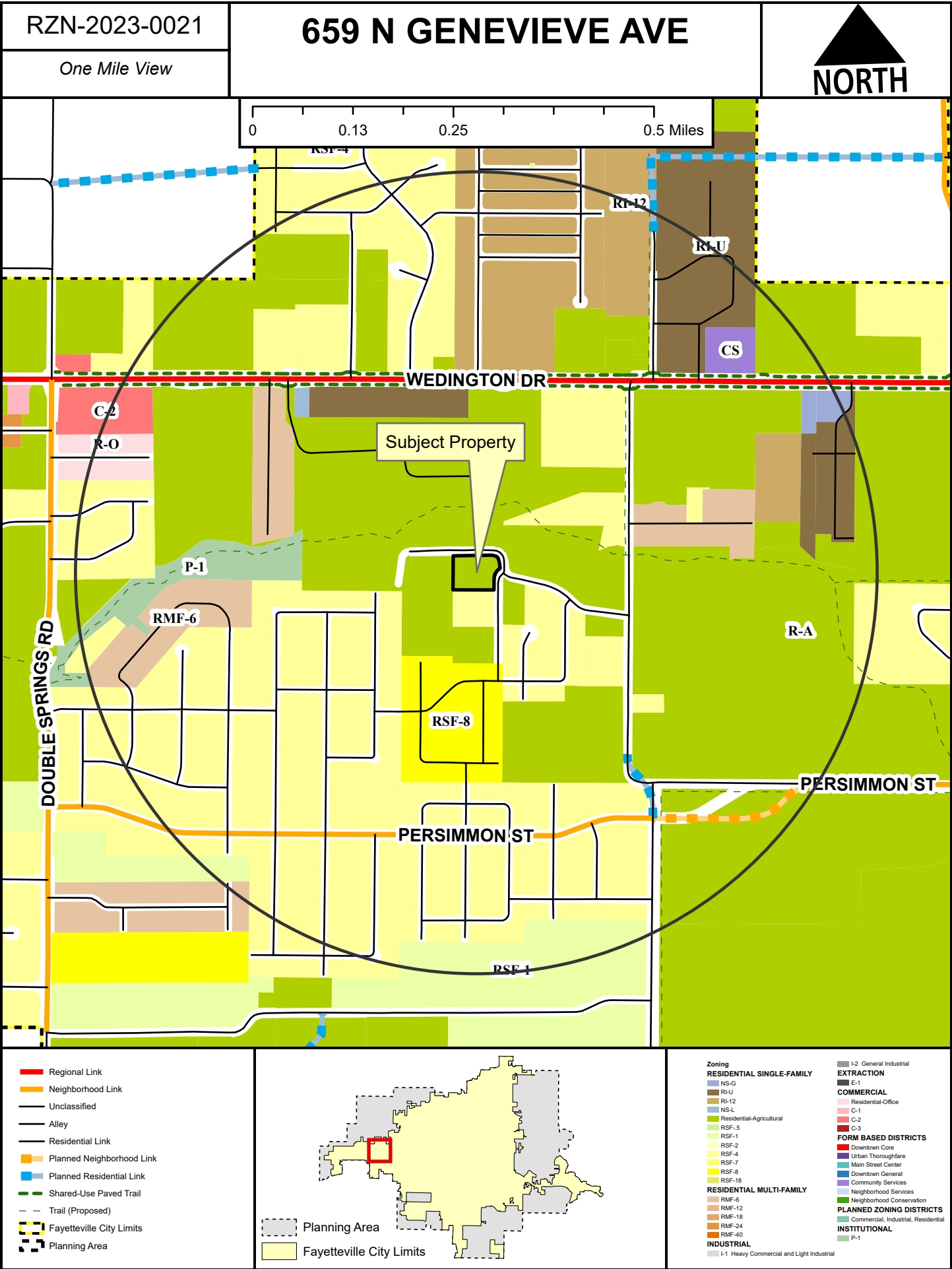
Property to rezoned 659 and 661 N Genevieve Avenue Fayetteville Arkansas. 1.5 acres from R-A Residential Agricultural to RMF-6

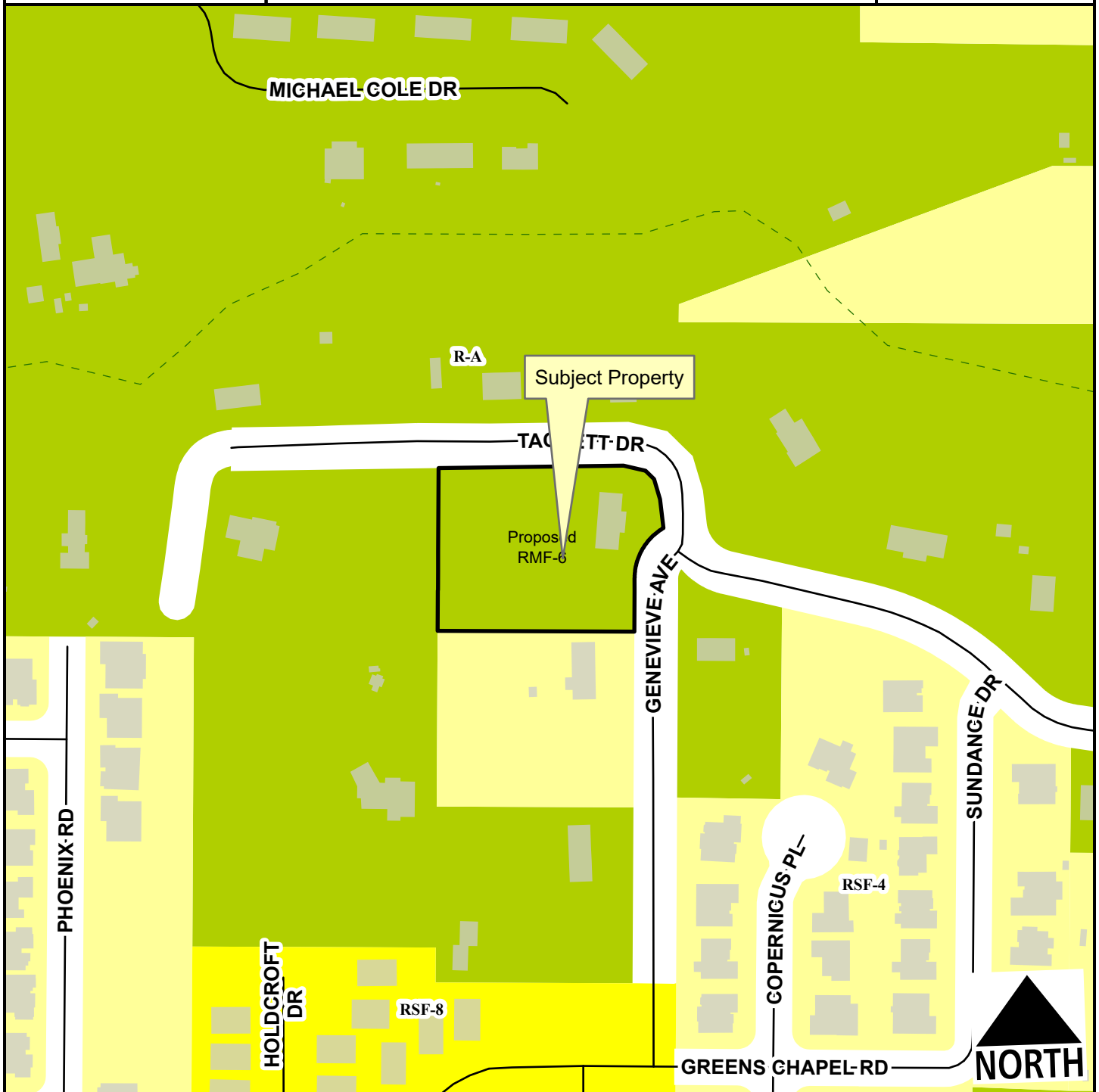
There are currently residential and multi-family properties in this area and rezoning from Residential – agricultural to RMF-6 does not conflict with the current neighborhood or surrounding areas. Allowing for more housing to be built will help provide residence and students of Fayetteville Arkansas more housing options and fit into the Fayetteville city plan 2040.

Thanks,

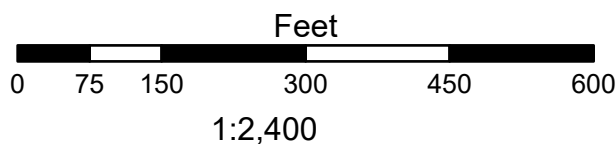


Douglas Trout and Michael Perez





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

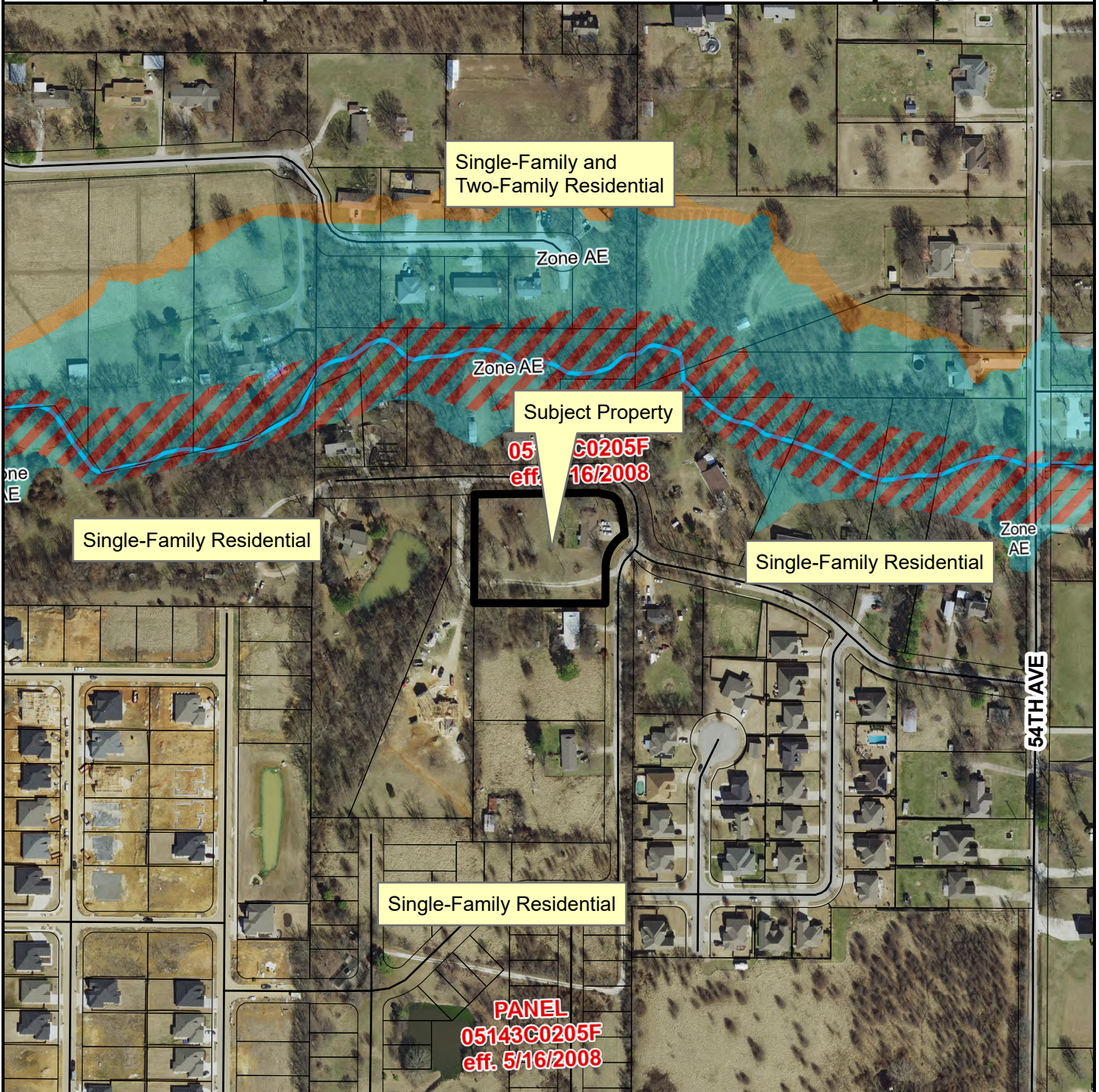


Zone	Current	Proposed
R-A	1.5	0.0
RMF-6	0.0	1.5
		Total 1.5 ac

RZN-2023-0021

659 N GENEVIEVE AVE

Current Land Use

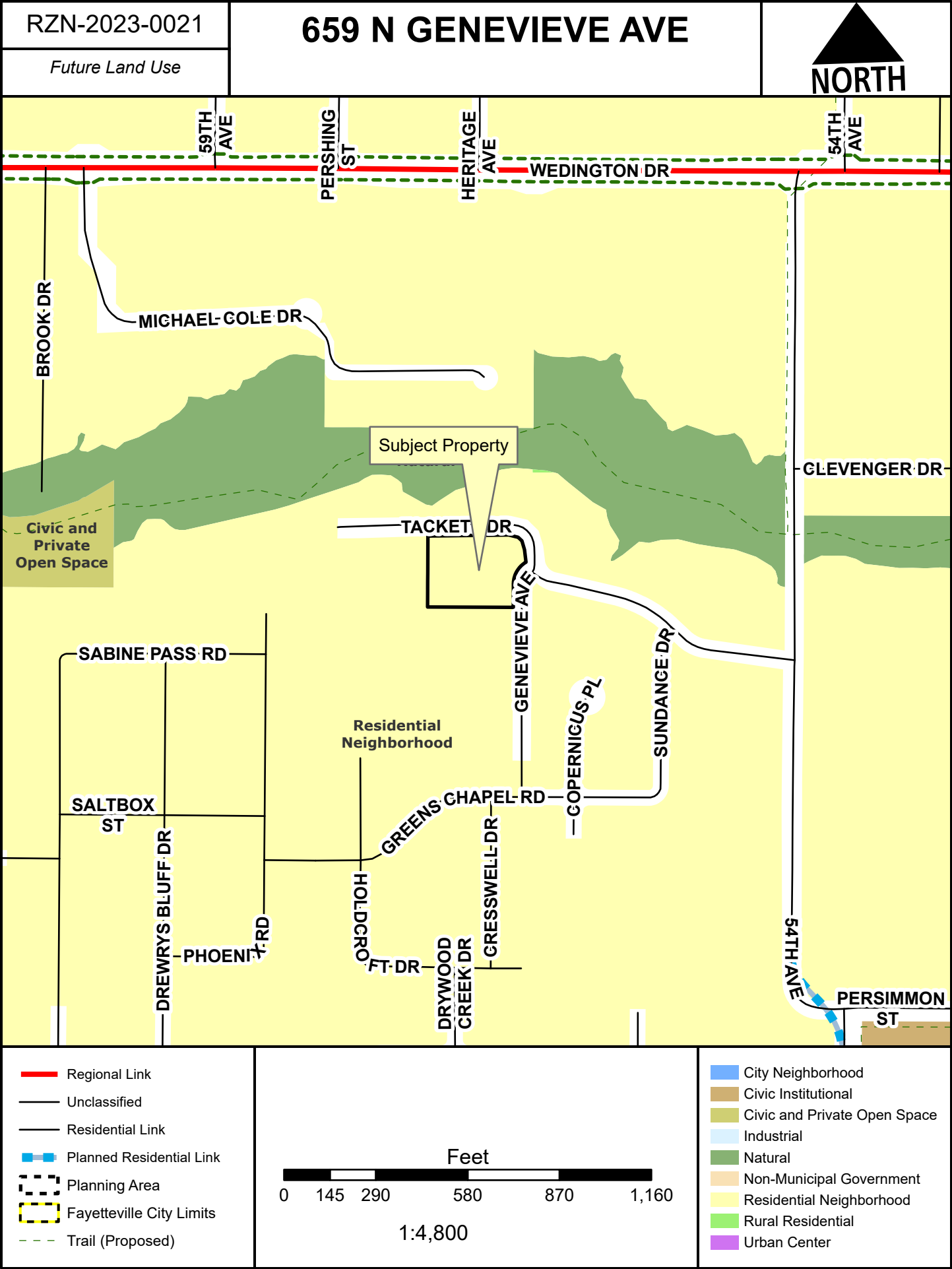


- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 11, 2023

SUBJECT: **RZN-2023-0022: Rezoning (5672 W. TACKETT DR/HOGREFE, 436):**
Submitted by ALAN HOGREFE for property located at 5672 W. TACKETT DR. The property is zoned R-A, RESIDENTIAL AGRICULTURE and contains approximately 2.10 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

RECOMMENDATION:

Staff recommend forward of **RZN-2023-0022** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0022** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in west Fayetteville south of W. Wedington Dr. approximately ¼ mile southwest of the intersection with N. 54th Ave. The property contains roughly 2.1 acres and is zoned R-A, Residential Agriculture. The property is currently developed with a 2,258 square foot single-family structure constructed in 1991 and associated outbuildings. Approximately 1/3 of the northern portion of the parcel is constrained by streamside protection zones and FEMA Floodway/Floodplain. 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	R-A, Residential Agriculture RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	R-A, Residential Agriculture
West	Undeveloped	R-A, Residential Agriculture

Request: The request is to rezone the property from R-A, Residential Agriculture to RSF-4, Residential Single-Family, Four Units per Acre. The applicant has indicated in their request letter that they intend to replace an existing non-conforming shed with a new structure approximately 5 feet from the property line.

Public Comment: Staff have not received any public comment about the request.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

- Streets:** The subject area has frontage along W. Tackett Dr., a partially improved Residential Link with asphalt paving and open ditches. 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. Existing 6- inch water main is present on the north side of W. Tackett Dr and existing 2-inch water main is present on the south side of W. Tackett Dr.
- Sewer:** Sanitary Sewer is available to the subject area. Existing 6-inch sewer main is present on the south side of W. Tackett Dr.
- 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 7, located at 835 N. Ruppel Rd., protects this site. The property is located approximately 1.9 miles from the fire station with an anticipated drive time of approximately 5 minutes using existing streets. The anticipated response time would be approximately 7.2 minutes. 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 site is within the Hillside-Hilltop Overlay District. Portions of the property lie within a FEMA floodplain, streamside protection zone, and have hydric soils. A floodplain development review will be required at the time of permit or plan submittal. This will restrict the type of development and impact in flood zones; and may require additional documentation such as flood studies or elevation certificates depending on the type of development. If a development impacts a floodplain, those impacts may require review and approval from FEMA.

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

Hydric soils are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric Soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during

development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal.

Tree Preservation:

The proposed zoning district of RSF-4, Residential Single-Family, Four Units per Acre requires **25% minimum canopy preservation**. The current zoning district of R-A, Residential Agriculture 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 **Residential Neighborhood** and **Parks and Natural Area**.

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

Parks and Natural Areas include lands that are prioritized to remain largely undeveloped, both inside and outside the urban growth areas. These include large undeveloped areas of open space, tree preservation, hillsides and steep slopes, parks, greenway linkages, stream and trail corridors, and floodplains. These areas are intended for human interaction and enjoyment, active and passive recreation, and environmental conservation. Examples of Parks and Natural Areas include Kessler Mountain Regional Park, Razorback Greenway, West Fork of the White River, Centennial Park, Lake Sequoyah and Lake Fayetteville.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a ranging score of **3-5** for this site, with a weighted score of **4.5**. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #7, 835 n. Ruppel Rd.)
- Near Sewer Main (6-inch main, W. Tackett Dr.)
- Near Water Main (6-inch main, W. Tackett Dr.)
- Near City Park (Harmony Pointe Park)
- Near Paved Trail (W. Wedington Dr. Side Path Trail)

FINDINGS OF THE STAFF

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

Finding: **Land Use Compatibility:** Staff finds the request to be compatible with the surrounding context. While the applicant has stated no intent to build additional dwellings, the proposed rezoning to RSF-4 would potentially allow

up to eight dwelling based on the size of the lot. Staff finds that RSF-4 would be consistent with surrounding development in the area. Adjacent lots are generally split between R-A, Residential Agriculture with lot sizes of at least one acre and minimal development and RSF-4 subdivision developments. Rezoning from R-A to RSF-4 would decrease minimum from two acres with a required lot width of 200 feet to a minimum lot size of 8,000 square feet with a required lot width of 70 feet. Front and rear setbacks will decrease from 35 feet to 15 feet. Side setbacks will decrease from 20 feet to 5 feet. These zoning requirements are consistent with the adjacent residential neighborhoods.

Land Use Plan Analysis: Staff finds that the request is consistent with adopted land use policies, the Future Land Use Map designation, and one goal of City Plan 2040. The property has a low weighted infill score of 4.5. A low infill score indicates that the area may be able to support additional density if it is feasible under the proposed zoning entitlements. The request may meet Goal 6 by creating opportunities for additional housing near services thus encouraging “compact, complete, and connected development.” The proposed rezoning is approximately 0.6 miles from a Tier 3 center at the intersection of W. Wedington Dr. and N. Double Springs Rd. The parcel is not currently within a 15-minute walk of this tier center, though staff finds that potential development of the Owl Creek Trail as indicated on the Master Trail Plan could allow a pedestrian connection to services in the area.

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 RSF-4 is justified. While the applicant has not submitted any specific development plans for the area, the uses, allowances, and restrictions that accompany the RMF-6 zoning district are likely to be 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 RSF-4 has an associated potential to increase traffic at this location. RSF-4 permits development up to four units per acre where it is currently limited to 0.5 units per acre. Staff finds that the potential to increase the number of residential units is unlikely to result in increased traffic danger due to the small number of increased units.

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 R-A to RSF-4 could increase population density and therefore the load on public services. Adequate water and sewer connections are available to the site at this time. 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 of RZN-2023-0022 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.03 R-A, Residential Agriculture
 - §161.07 RSF-4, Residential Single-Family—Four (4) Units Per Acre
- Applicant Request Letter
- Site Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	One-half (½)
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(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

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

(G) *Building area.* None.

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

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

161.07 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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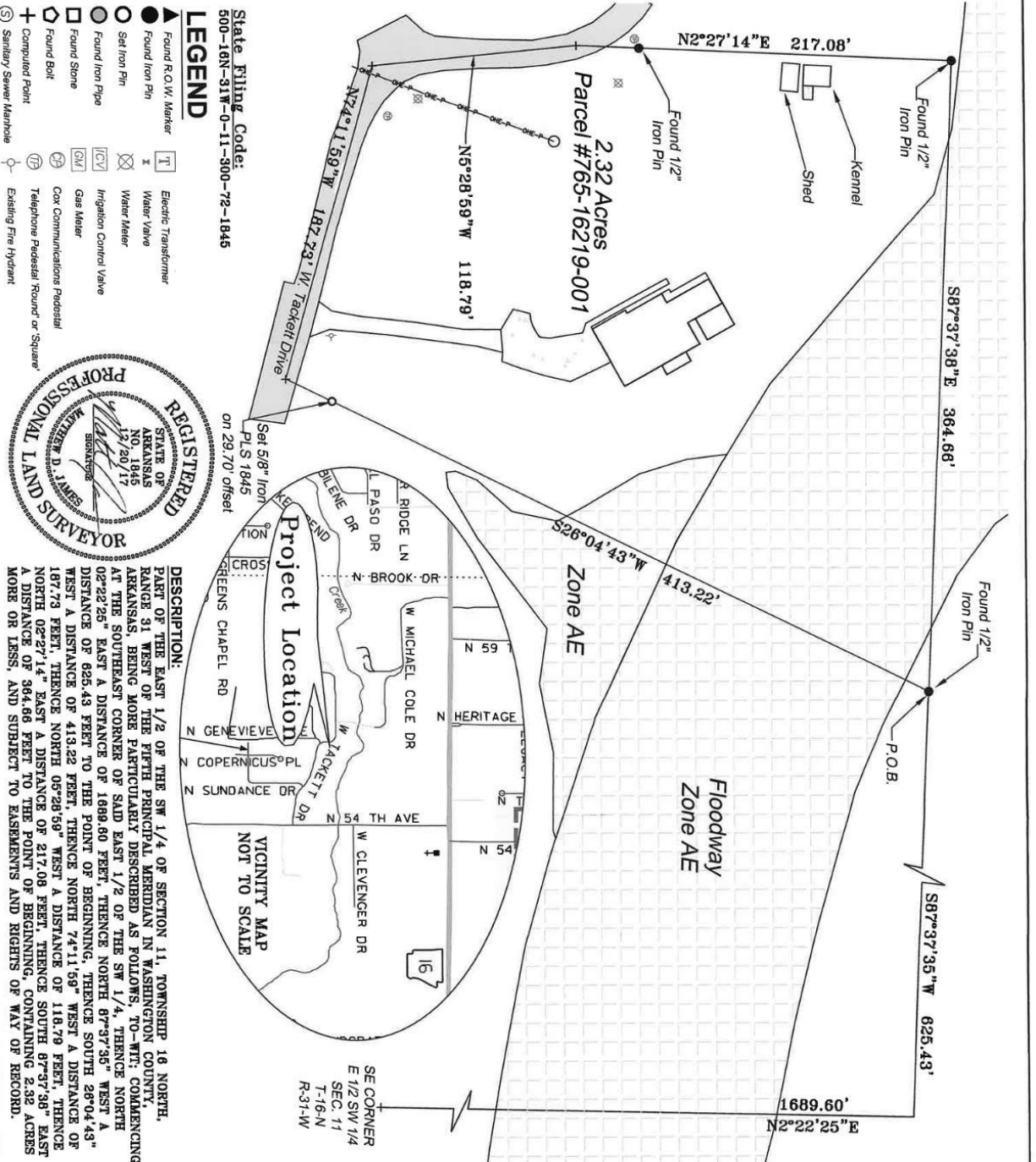
(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(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)

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APPLICANT REQUEST LETTER

5672 W. Tackett Dr at this time is zoned RA, I would like to change the zoning to SF2. The reason for the change is to replace an existing shed which is 5 ft from the property line, RA would require 20 ft set back for new shed and SF2 would require only a 5 ft set back. Also the 20 ft set back would require the removal of more and larger trees to replace the shed.



Notes:

- Except as specifically stated or shown on this plat, the survey does not purport to reflect any of the following which may be applicable to the subject real estate:
Easements, other than possible easements which were visible at the time of making of this survey, building setback lines, restrictive covenants, subdivision restrictions, zoning or other land-use regulations, or any other facts which an accurate and current title search may disclose.
- Basis of Bearings: Arkansas State Plane North Zone.
- Basis of Survey: Special Warranty Deed Filed at Book 2008, Page 00007653 at the Washington County Circuit Clerk & Ex-Officio Recorder's Office.
- This survey is valid only if the drawing includes the seal and signature of the surveyor.
- This survey meets current "Arkansas Minimum Standards for Property Boundary Surveys and Plats."
- Subsurface and environmental conditions were not examined nor considered a part of this survey.
- No attempt has been made as a part of this boundary survey to obtain or show data concerning existence, size, depth, condition, capacity, or location of any utility or facilities.
- (BY GRAPHICAL PLOTTING ONLY)
A portion of this property is located within a presently established 100-year flood plain as determined by the National Flood Insurance Program, Flood Insurance rate map for Washington County, Arkansas. Map Number 05143C0205F. Revised date 9/28/2007.
- Grid convergence at Northwest property corner: -01'18.19"

Boundary Survey for:
Alan & Cassie Hogrefe
5672 W. Tackett Drive
Fayetteville, Arkansas

Project Data

Drawing Name:	17-283mod
Date:	12/19/17
System:	AR SCS North Zone
Field By:	A.S.
Drawn By:	M.L.

Scale 1"=60'
Sheet 1 of 1
Revision 0

James Layout Services, LLC
P.O. Box 6111
Farmingington, Arkansas 72730
Telephone: (479) 439-9929
surv@jlsnva.com

RECORDING INFO

Planning Commission
September 11, 2013
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RZN-2023-0022 (HOGREFE)
Page 10 of 14

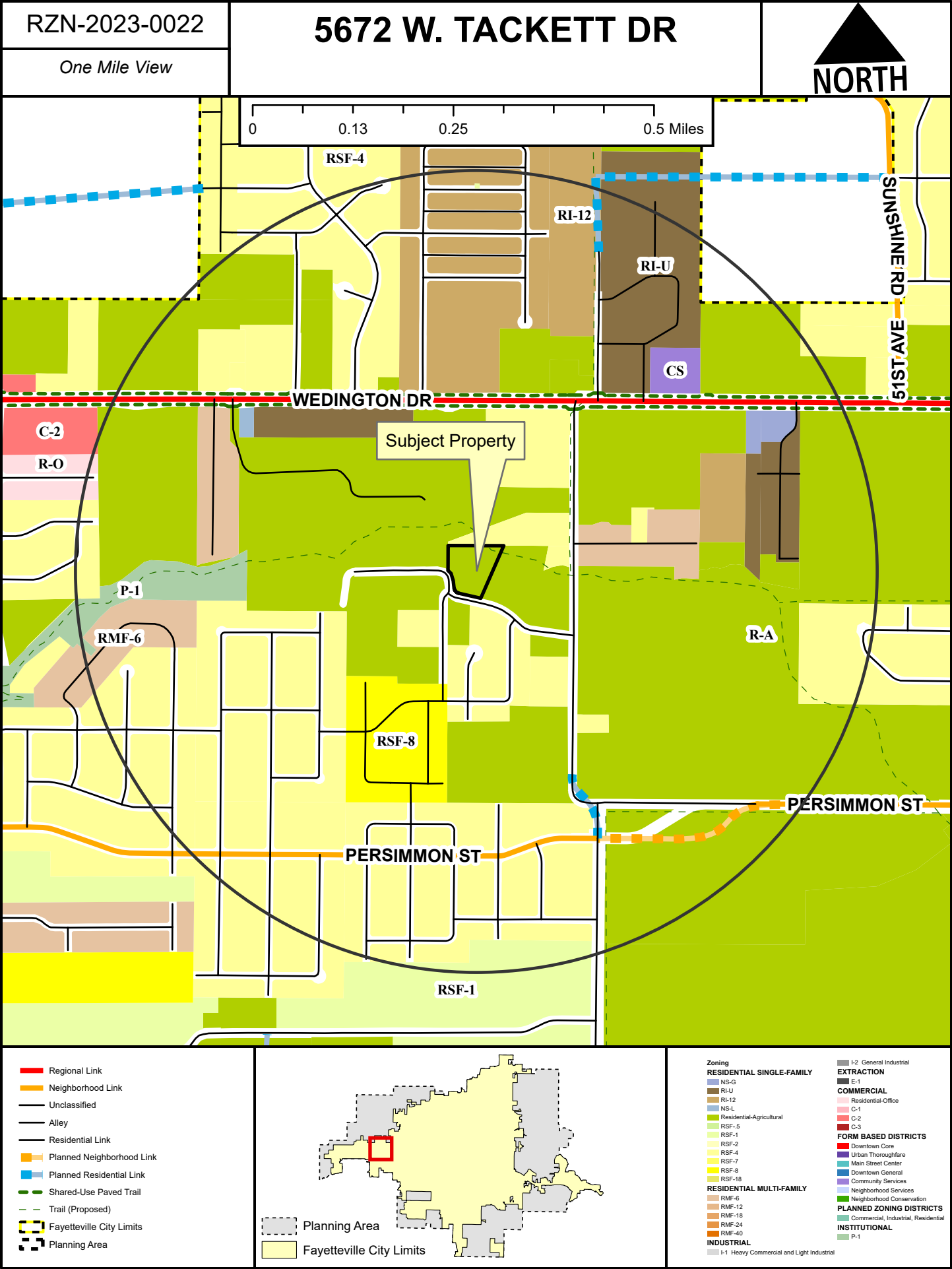
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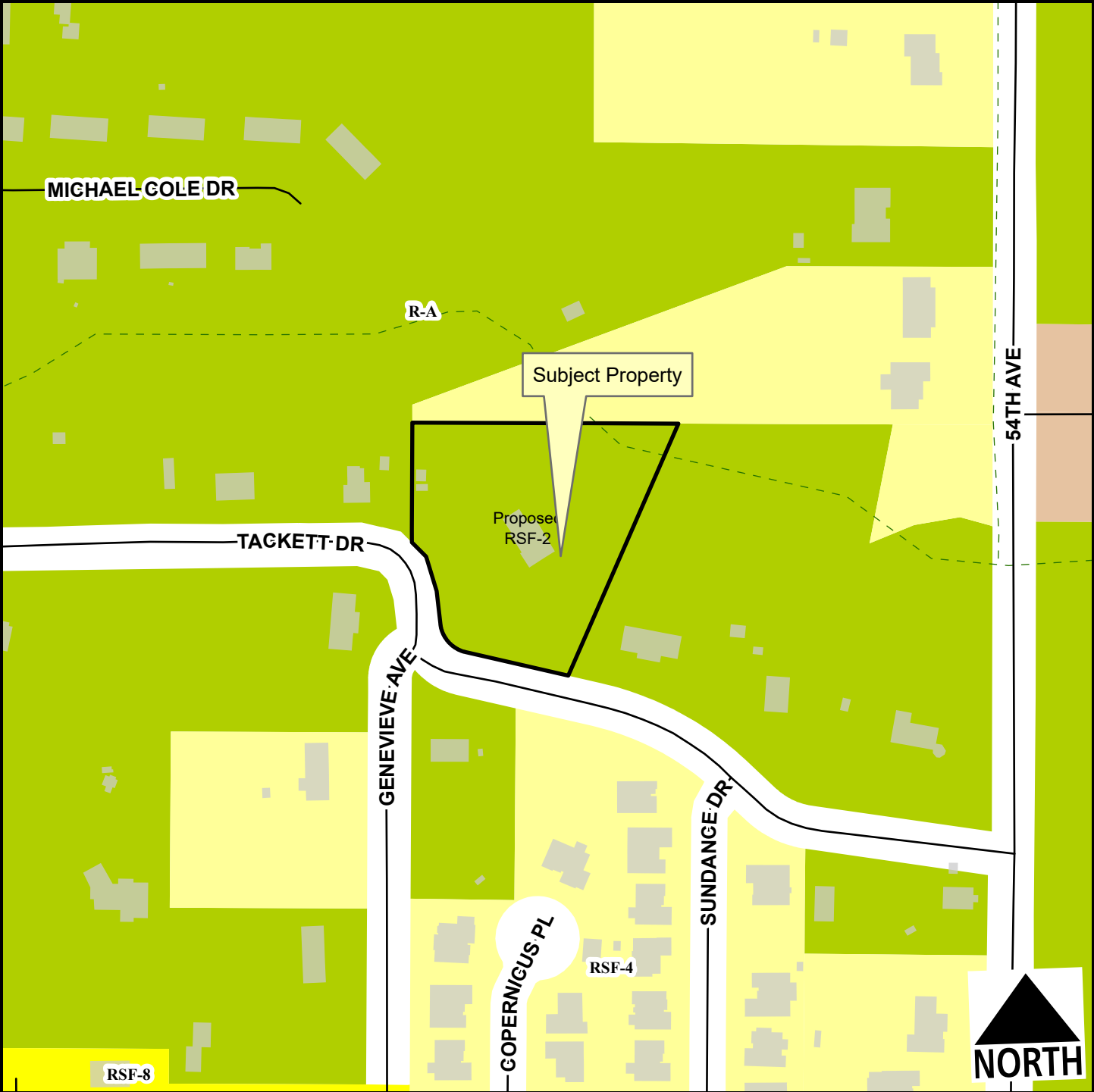
LEGEND

- Found R.O.W. Marker
- Found Iron Pin
- Set Iron Pin
- Found Iron Pipe
- Found Stone
- Found Bolt
- Computed Point
- Sanitary Sewer Manhole
- Electric Transformer
- Water Valve
- Water Meter
- Irrigation Control Valve
- Gas Meter
- Gas Valve
- Coal Communications Pedestal
- Telephone Pedestal Round or Square
- Existing Fire Hydrant



DESCRIPTION:
PART OF THE EAST 1/2 OF THE SW 1/4 OF SECTION 11, TOWNSHIP 16 NORTH, RANGE 31 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHEAST CORNER OF SAID EAST 1/2 OF THE SW 1/4, THENCE NORTH 02°22'25" EAST A DISTANCE OF 1689.60 FEET, THENCE NORTH 87°37'35" WEST A DISTANCE OF 625.43 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 28°04'43" WEST A DISTANCE OF 413.22 FEET, THENCE NORTH 74°11'59" WEST A DISTANCE OF 167.73 FEET, THENCE NORTH 05°26'56" WEST A DISTANCE OF 118.79 FEET, THENCE NORTH 02°27'14" EAST A DISTANCE OF 217.08 FEET, THENCE SOUTH 87°37'38" EAST A DISTANCE OF 364.66 FEET TO THE POINT OF BEGINNING, CONTAINING 2.32 ACRES MORE OR LESS, AND SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.





Unclassified

Residential Link

Trail (Proposed)

Planning Area

Fayetteville City Limits

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
R-A	2.1	0.0
RSF-2	0.0	2.1
RSF-4	0.0	0.0
Total		2.1 ac

RZN-2023-0022

5672 W. TACKETT DR

Current Land Use

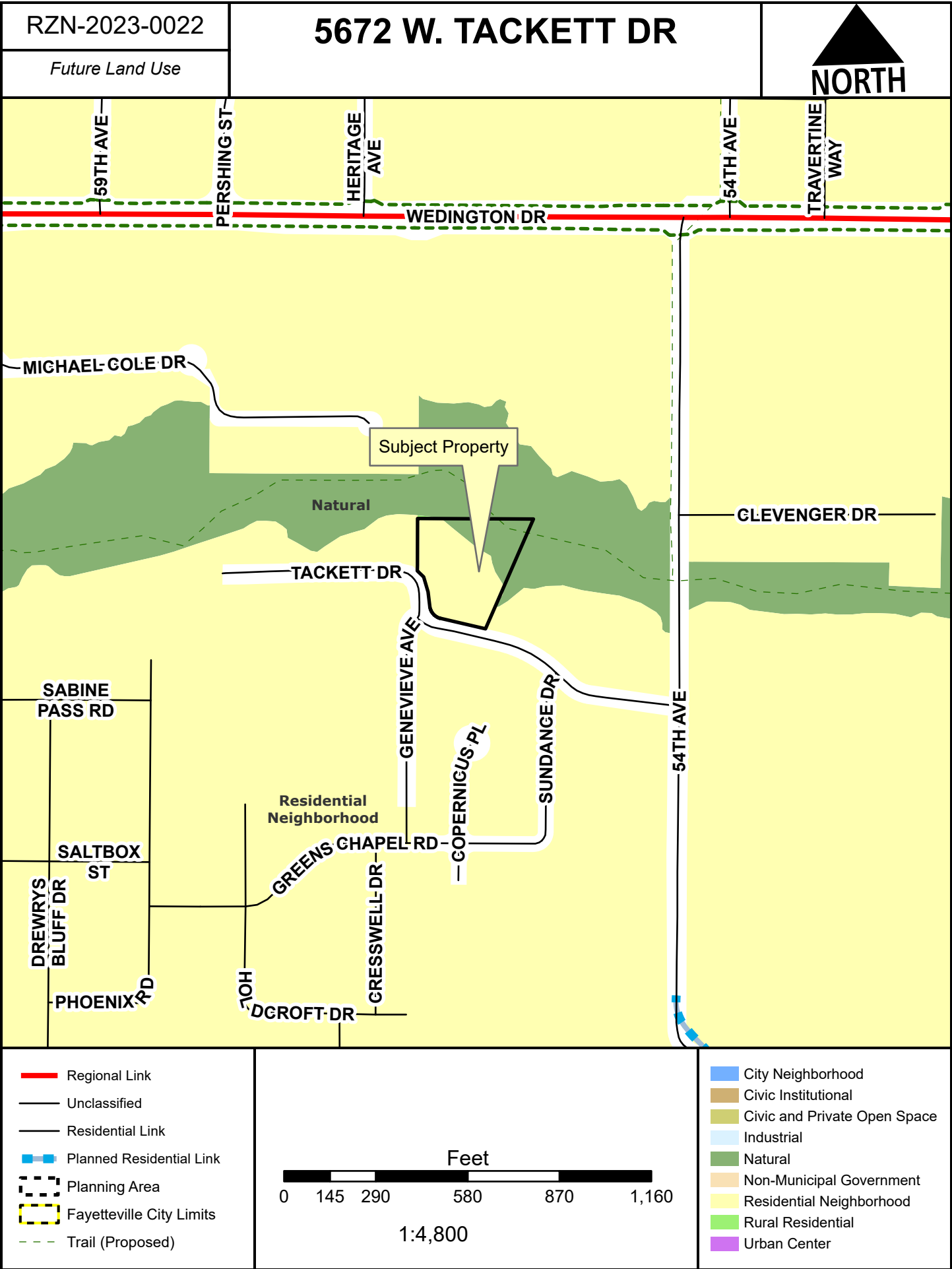


- Regional Link
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 11, 2023

SUBJECT: **RZN-2023-0023: Rezoning (WEST OF 4451 N. WATERSIDE CT./UNIVERSITY CLUB LAND CO LLC, 096):** Submitted by ENGINEERING SERVICES INC. for property located WEST OF 4451 N. WATERSIDE CT. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 3.50 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0023** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0023** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in north Fayetteville on the west side of Waterside Court just north of Lowe's. The property contains approximately 3.50 acres and is undeveloped with mature tree canopy covering most of the site. An ordinance establishing an RPZD for an 80-unit, 13-story residential development on this property was previously passed by City Council in 2006 (Ord. 4954). However, development never occurred, the PZD expired, and the property was rezoned to R-O, Residential Office in 2015. The property was platted as part of the Timberlake Office Park in 2007 and labeled as an unbuildable lot reserved for detention. The majority of the property contains a slope in excess of 15 percent though it is not located within the City's Hillside/Hilltop Overlay District. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Natural Area	R-O, Residential Office
South	Lowe's	C-2, Thoroughfare Commercial
East	Undeveloped	R-O, Residential Office
West	Natural Area	C-2, Thoroughfare Commercial

Request: The request is to rezone the subject property from R-O, Residential Office, to CS, Community Services.

Public Comment: Staff has received one inquiry about this request though no opposition or support has been offered.

INFRASTRUCTURE:

Streets: The subject property has frontage along Waterside Court, a partially improved Residential Link street with asphalt paving, curb, and gutter. Any street improvements required in this area would be determined at the time of development proposal.

Water: Public water is available to the subject property. An existing eight-inch water main is present in the center of Waterside Court.

Sewer: Sanitary sewer is available to the subject property. An existing eight-inch sewer main is present along the northeast side of Waterside Court.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District or a FEMA-designated floodplain and no protected streams or hydric soils are present. Any improvements or requirements for drainage would be determined at the time of development submittal.

Fire: Station 4, located at 3385 N. Plainview Ave., protects this site. The property is located approximately 1.5 miles from the fire station with an anticipated drive time of approximately six minutes using existing streets. The anticipated response time would be approximately 8.2 minutes. Fire Department response time is calculated based on the drive time plus one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Tree Preservation:

The proposed zoning district of CS, Community Services requires **20% minimum canopy preservation**. The current zoning district of R-O, Residential Office requires **20% minimum canopy preservation**.

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

City Neighborhood areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. City Neighborhood Areas encourage complete, compact and connected neighborhoods and non-residential uses are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **8-10** for this site with a weighted score of **11.5** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 4, 3385 N. Plainview Ave.)
- Near Sewer Main (eight-inch main, Waterside Court)
- Near Water Main (eight-inch main, Waterside Court)
- Near Grocery Store (Natural Grocers)
- Near City Park (Lake Fayetteville and Veterans Park)
- Near Paved Trail (Clear Creek Trail)
- Near Ozark Transit Stop (Routes 10, 61, and 490)
- Near Razorback Transit Stop (Route 26)
- Appropriate Future Land Use (City Neighborhood)
- Near 71-B Corridor

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the requested rezoning from R-O to CS to be compatible with surrounding land uses. The property is located at the end of a platted commercial subdivision and is largely surrounded by commercial and nonresidential uses. The existing zoning district of R-O, Residential Office allows for a mixture of commercial and residential uses though it is primarily designed to provide area for offices without limitation to their nature or size. The proposed zoning district of CS, Community Services would allow for a wider range of commercial and residential uses that are primarily designed to provide convenience goods and personal services for persons living in surrounding residential areas while supporting the development of adaptable mixed use centers along commercial corridors.

The existing zoning district of R-O gives developers the option to utilize conventional or urban form setbacks while the proposed zoning district of CS requires urban form setbacks. Staff finds that urban form setbacks may not be desirable on the subject property since it has limited street frontage and is located on the turning circle of a cul-de-sac, making it a challenging location for street-oriented development. With regard to residential density, R-O currently allows a maximum of 24 units per acre while a rezoning to CS would allow for unlimited density. With regard to bulk and area regulations, the proposed rezoning would also reduce lot width and area minimums. When considering that R-O is intended to allow for commercial development without limitation to size and both R-O and CS limit building heights to five stories, staff does not find issue with the more permissive density and lot size regulations associated with the proposed CS zoning district since the rezoning would primarily allow for a greater mixture of commercial and residential uses.

Land Use Plan Analysis: Staff finds the proposed rezoning to be generally consistent with the City's adopted land use policies and plans. The area is designated as City Neighborhood by the City Plan 2040 Future Land Use Map, which indicates an intent for moderate-density mixed-use development. The infill score for the subject property is high with nearby

access to existing transit routes for both Ozark Regional Transit and Razorback Transit and close proximity to other services and amenities such as grocery stores, parks, and trails. Staff finds that the proposed rezoning from R-O to CS is generally aligned with the goals outlined in City Plan 2040 since it would allow for a greater mixture of commercial and residential uses along a major transit corridor and in close proximity to goods and services, potentially encouraging infill and the creation of complete, compact, and connected development.

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 from R-O to CS is justified. While both R-O and CS are considered mixed-use zoning districts, CS allows multi-family residences and non-residential uses intended to serve nearby residents, such as shopping goods and eating places, by right which appears to be better aligned with the property's future land use designation as City Neighborhood area.

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

Finding: Staff finds that any new development on this property, whether under the current or proposed zoning, would likely increase traffic at this location. However, staff finds that the applicant's requested rezoning would allow for the addition of more residential uses in close proximity to public transit and trail networks which could potentially reduce vehicle trip generation. Further, since no traffic crashes have been reported at the intersection of Waterside Court and Zion Road since 2017, staff finds that any new development on the property is not likely to adversely impact traffic safety. New street or traffic improvements and the adequacy of access for vehicles, pedestrians, and emergency services would be determined at the time of development review.

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

Finding: The proposed rezoning has the potential to alter the population density since R-O limits the maximum number of residential units to 24 per acre and does not allow multi-family dwellings by right while CS has no stated density maximum and does allow multi-family dwellings by right. That said, the property has direct access to public water, sewer, and streets and staff finds that any new development is not likely to undesirably increase the load on public services. Fayetteville Public Schools did not comment on this request.

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

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0023 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied		
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §161.20 District R-O, Residential Office
 - §161.22 Community Services
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.20 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 25	Offices, studios, and related services
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 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies
Unit 45	Small scale production

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.* (Per dwelling unit for residential structures)

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	60 feet
Two (2) family	60 feet
Three (3) or more	90 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouses:	
Development	10,000 square feet
Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	6,500 square feet
Three (3) or more	8,000 square feet

Fraternity or Sorority	1 acre
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(3) *Land Area Per Dwelling Unit.*

Manufactured home	3,000 square feet
Townhouses & apartments:	
No bedroom	1,000 square feet
One bedroom	1,000 square feet
Two (2) or more bedrooms	1,200 square feet
Fraternity or Sorority	500 square feet per resident

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Front, in the Hillside Overlay District	15 feet
Side	10 feet
Side, when contiguous to a residential district	15 feet
Side, in the Hillside Overlay District	8 feet
Rear, without easement or alley	25 feet
Rear, from center line of public alley	10 feet
Rear, in the Hillside Overlay District	15 feet

Urban Form 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
Side-zero lot line*	A setback of less than 5 feet (zero lot line) is permitted on one (1) interior side, provided a maintenance agreement is filed.** The remaining side setback(s) shall be 10 feet
Rear	None
Rear when contiguous to a single family residential district	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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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.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) **Urban form minimum buildable street frontage: 50% of the lot width.**

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.

August 18, 2023

Gretchen Harrison, Senior Planner
Development Services
City of Fayetteville, Arkansas
125 West Mountain Street
Fayetteville, AR 72701

Submitted via email to
gharrison@fayetteville-ar.gov

RE: Rezoning Petition Amendment
RZN-2023-0023

Ms. Harrison,

We previously submitted application materials to rezone parcel 765-27684-000 from R-O to U-T. This item has been designated RZN-2023-0023.

Based on feedback we received for this project, we would like to amend the application to change the requested zoning district. Instead of rezoning the property to U-T, we would like to rezone the property to C-S (Community Services).

The property is approximately 3.5 acres in size. It is located along the west side of Waterside Court, and was platted as Lot 11 of the Timberlake Office Park subdivision. It is owned by University Club Land Co, LLC.

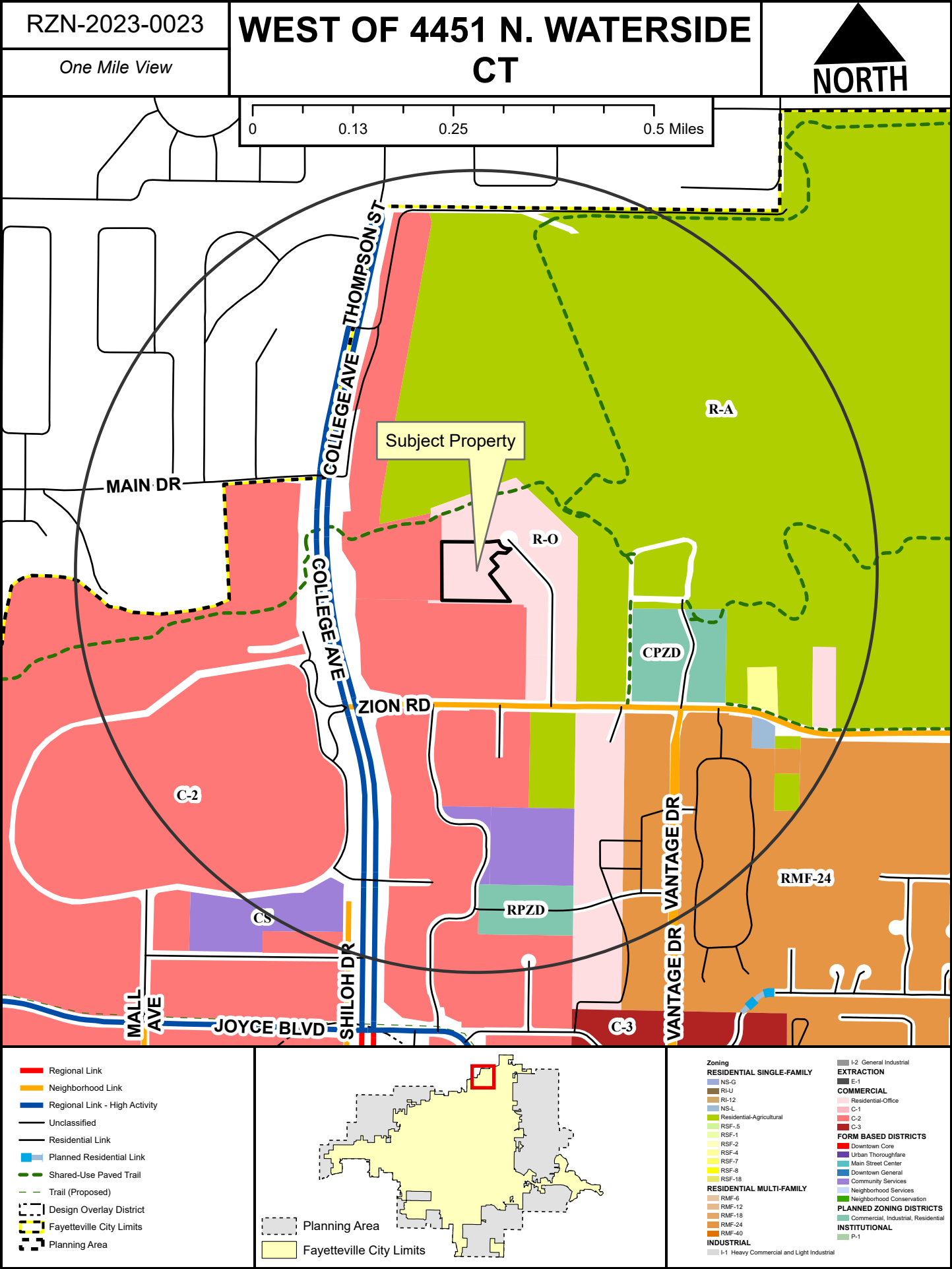
The future land use plan designates this area as City Neighborhood. The zoning and/or use of the surrounding properties is commercial, and no adverse impacts to neighborhood are anticipated to result from the requested change in zoning.

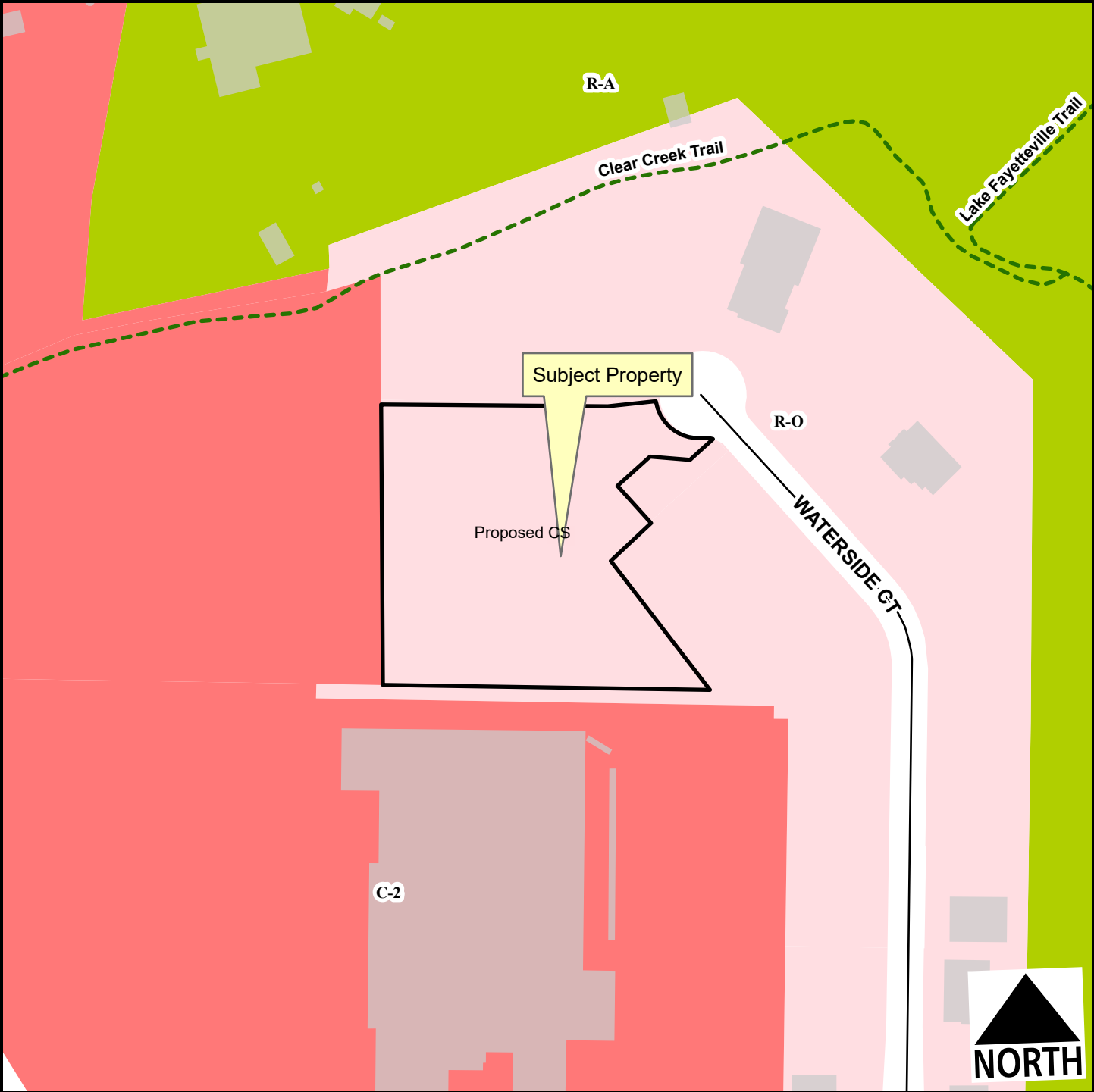
Please let me know if you need any additional information regarding this request.

Sincerely,



Daniel Lazenby





 Residential Link Planning Area Fayetteville City Limits	Feet 075150300450600 1:2,400	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Zone</th> <th style="text-align: left; border-bottom: 1px solid black;">Current</th> <th style="text-align: left; border-bottom: 1px solid black;">Proposed</th> </tr> </thead> <tbody> <tr> <td>R-O</td> <td>3.3</td> <td>0.0</td> </tr> <tr> <td>CS</td> <td>0.0</td> <td>3.3</td> </tr> <tr> <td colspan="2" style="text-align: right; padding-top: 10px;">Total</td> <td>3.3 ac</td> </tr> </tbody> </table>	Zone	Current	Proposed	R-O	3.3	0.0	CS	0.0	3.3	Total		3.3 ac
Zone	Current	Proposed												
R-O	3.3	0.0												
CS	0.0	3.3												
Total		3.3 ac												

RZN-2023-0023

Current Land Use

WEST OF 4451 N. WATERSIDE CT



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

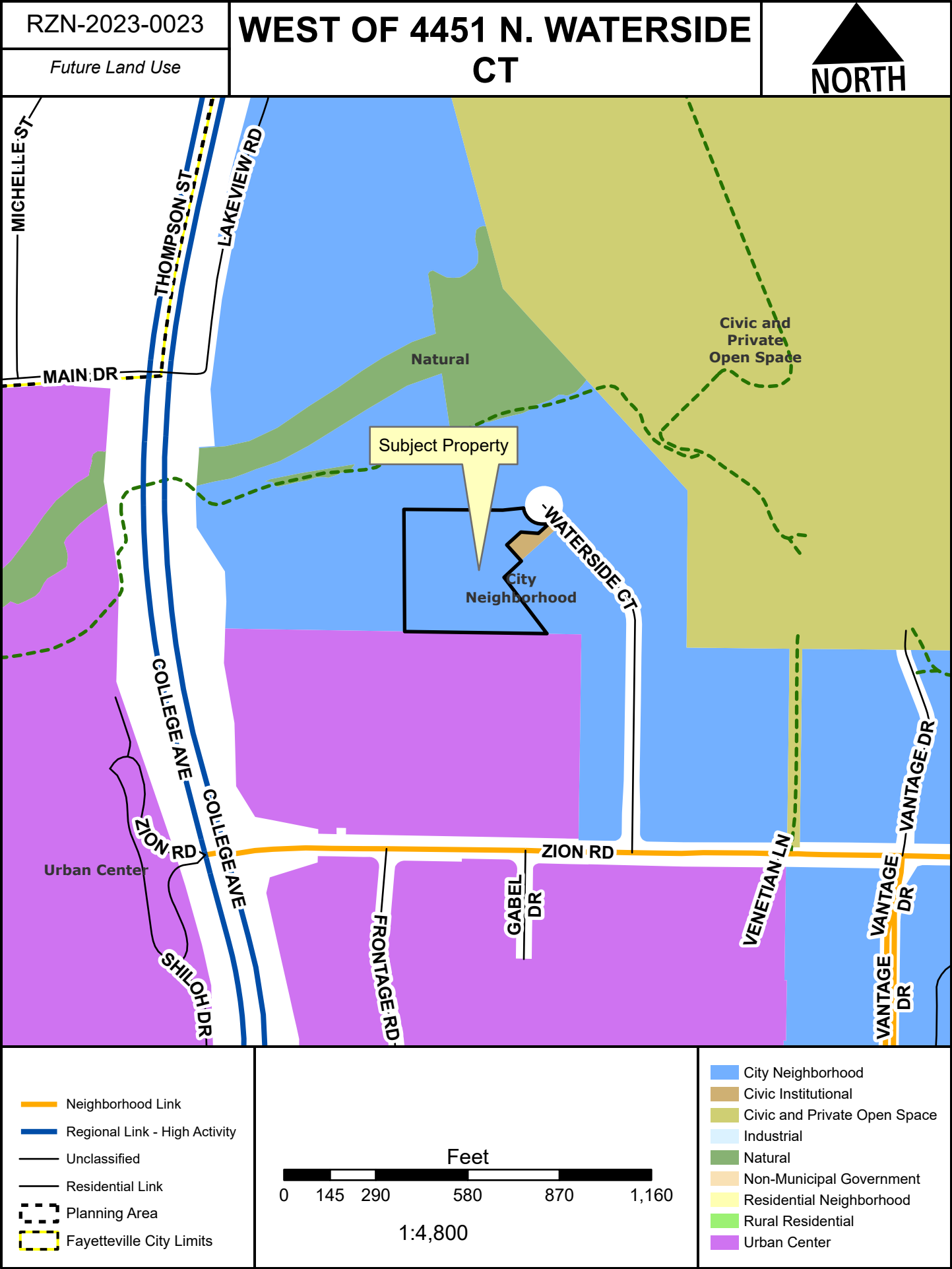
Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 11, 2023

SUBJECT: **RZN-2023-0024: Rezoning (EAST OF N. COLLEGE AVE./MOLES, 096):**
Submitted by ENGINEERING SERVICES INC for property located EAST OF N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 6.80 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0024** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0024** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is located in north Fayetteville just east of College Avenue/71B and north of Lowe's. The property contains approximately 6.80 acres and is undeveloped with mature tree canopy covering most of the site. An ordinance establishing an RPZD for an 80-unit, 13-story residential development on this property was previously passed by City Council in 2006 (Ord. 4954). However, development never occurred, the PZD expired, and the property was rezoned to C-2, Thoroughfare Commercial in 2015. The northernmost portion of the property contains hydric soils, FEMA-designated floodplain, and slopes in excess of 15 percent. A portion of the Clear Creek Trail also runs along the north side of the subject property. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Locomotion Family Fun Center	C-2, Thoroughfare Commercial; R-A, Residential-Agricultural; R-O, Residential Office
South	Lowe's	C-2, Thoroughfare Commercial
East	Undeveloped	R-O, Residential Office
West	Undeveloped	C-2, Thoroughfare Commercial

Request: The request is to rezone the subject property from C-2, Thoroughfare Commercial, to CS, Community Services.

Public Comment: Staff has received one inquiry about this request, though no opposition or support has been offered.

INFRASTRUCTURE:

Streets: The subject property has frontage along College Avenue, a partially improved Regional High-Activity Link street with asphalt paving and open ditches. The portion of College Avenue adjacent to this property is within Arkansas Department of Transportation (ARDOT) right-of-way. Any street improvements in this area would be determined at the time of development proposal.

Water: Public water is available to the subject property. An existing eight-inch water main is present along the west side of the property.

Sewer: Sanitary sewer is available to the subject property. An existing eight-inch sewer main is present near the south side of the property.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District and no protected streams are present. The northernmost side of the property is located within a FEMA-designated floodplain. A floodplain development review will be required at the time of permit or plan submittal which will restrict the type of development and impact in flood zones and may require additional documentation, such as flood studies or elevation certificates, depending on the type of development. If a development impacts a floodplain, those impacts may require review and approval from FEMA. Hydric soils are also present along the north side of the property. Hydric soils are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal. Any improvements or requirements for drainage would be determined at the time of development submittal.

Fire: Station 4, located at 3385 N. Plainview Ave., protects this site. The property is located approximately 1.5 miles from the fire station with an anticipated drive time of approximately six minutes using existing streets. The anticipated response time would be approximately 8.2 minutes. Fire Department response time is calculated based on the drive time plus one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Tree Preservation:

The proposed zoning district of CS, Community Services requires **20% minimum canopy preservation**. The current zoning district of C-2, Thoroughfare Commercial, requires **15% 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**.

City Neighborhood areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. City Neighborhood Areas encourage complete, compact and connected neighborhoods and non-residential uses are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **8-10** for this site with a weighted score of **11.5** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 4, 3385 N. Plainview Ave.)
- Near Sewer Main (eight-inch main, Waterside Court)
- Near Water Main (eight-inch main, Waterside Court)
- Near Grocery Store (Natural Grocers)
- Near City Park (Lake Fayetteville and Veterans Park)
- Near Paved Trail (Clear Creek Trail)
- Near Ozark Transit Stop (Routes 10, 61, and 490)
- Near Razorback Transit Stop (Route 26)
- Appropriate Future Land Use (City Neighborhood)
- Near 71-B Corridor

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the requested rezoning from C-2 to CS to be compatible with surrounding land uses. The property is located along a major thoroughfare and is largely surrounded by commercial and nonresidential uses. The existing zoning district of C-2, Thoroughfare Commercial is designed to encourage the functional grouping of commercial enterprises that cater to highway travelers while the proposed zoning district of CS, Community Services is intended to provide convenience goods and services for persons living in surrounding areas while supporting the development of adaptable mixed use centers along commercial corridors.

While the existing zoning district of C-2 gives developers the option to utilize urban form setbacks that allow buildings to be placed closer to the street, the zoning district typically follows a more conventional setback requirement which results in auto-oriented development with large parking

areas between streets and buildings. The proposed zoning district of CS requires developers to utilize a build-to zone with buildings placed between 10 and 25 feet from front property lines. In this instance, a rezoning from C-2 to CS would likely result in development with buildings oriented towards College Avenue. While staff typically finds CS to be a more favorable zoning designation than C-2 since it allows for a mixture of residential and nonresidential uses and it requires urban form setbacks, this site may not be well-suited for pedestrian-oriented development. The property has frontage along a major thoroughfare which is located within 300-foot-wide ARDOT right-of-way, and there is a significantly deep open ditch and elevation change between this property and the street. Regardless, staff does not find issue with the proposed rezoning since the current zoning is already fairly permissive and CS would allow for a mixture of commercial and residential uses.

Land Use Plan Analysis: Staff finds the proposed rezoning to be generally consistent with the City's adopted land use policies and plans. The area is designated as City Neighborhood by the City Plan 2040 Future Land Use Map, which indicates an intent for moderate-density mixed-use development. The infill score for the subject property is high with nearby access to existing transit routes for both Ozark Regional Transit and Razorback Transit and close proximity to other services and amenities such as grocery stores, parks, and trails. Staff finds that the proposed rezoning from C-2 to CS is generally aligned with the goals outlined in City Plan 2040 since it would allow for a greater mixture of commercial and residential uses along a major transit corridor and in close proximity to goods and services, potentially encouraging infill and the creation of complete, compact, and connected development.

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 from C-2 to CS is justified and aligned with the property's future land use designation as City Neighborhood area. C-2 is considered a commercial zoning district intended to serve regional customers, while CS is a mixed-use zoning district intended to serve nearby residents. Since City Neighborhood areas are intended to provide a varying mix of nonresidential and residential uses to serve the local residents, staff finds the proposed zoning designation to be better aligned with the City's future land use plans.

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

Finding: Staff finds that any new development on this property, whether under the current or proposed zoning, would likely increase traffic at this location. However, staff finds that the applicant's requested rezoning would allow for the addition of more residential uses in close proximity to public transit and trail networks which could potentially reduce vehicle trip generation. New street or traffic improvements and the adequacy of access for vehicles,

pedestrians, and emergency services would be determined at the time of development review.

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

Finding: The proposed rezoning has the potential to alter the population density since CS allows residential development by right and has no stated density maximum. That said, the property has direct access to public water, sewer, streets, and trails and staff finds that any new development is not likely to undesirably increase the load on public services. Fayetteville Public Schools did not comment on this request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0024 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>September 11, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §161.22 Community Services
 - §161.23 District C-2, Thoroughfare Commercial
- Request Letter
- One Mile Map
- Close-Up Map

- Current Land Use Map
- Future Land Use Map

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.

161.23 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
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 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
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 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

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

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None
Side, when contiguous to a residential district	15 feet
Rear	20 feet

Urban Form 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	6 stories*
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* 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 side boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

- (G) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.
- (H) Urban form minimum buildable street frontage: 50% of the lot width.

August 18, 2023

Gretchen Harrison, Senior Planner
Development Services
City of Fayetteville, Arkansas
125 West Mountain Street
Fayetteville, AR 72701

Submitted via email to
gharrison@fayetteville-ar.gov

RE: Rezoning Petition Amendment
RZN-2023-0024

Ms. Harrison,

We previously submitted application materials to rezone parcel 765-15568-001 from C-2 to U-T. This item has been designated RZN-2023-0024.

Based on feedback we received for this project, we would like to amend the application to change the requested zoning district. Instead of rezoning the property to U-T, we would like to rezone the property to C-S (Community Services).

The property is approximately 6.8 acres in size, and is located north of Lowes along the east side of North College Avenue. It is owned by the Marvin E. Moles Revocable Trust, the Sharon A. Moles Revocable Trust, and the University Club Land Co, LLC.

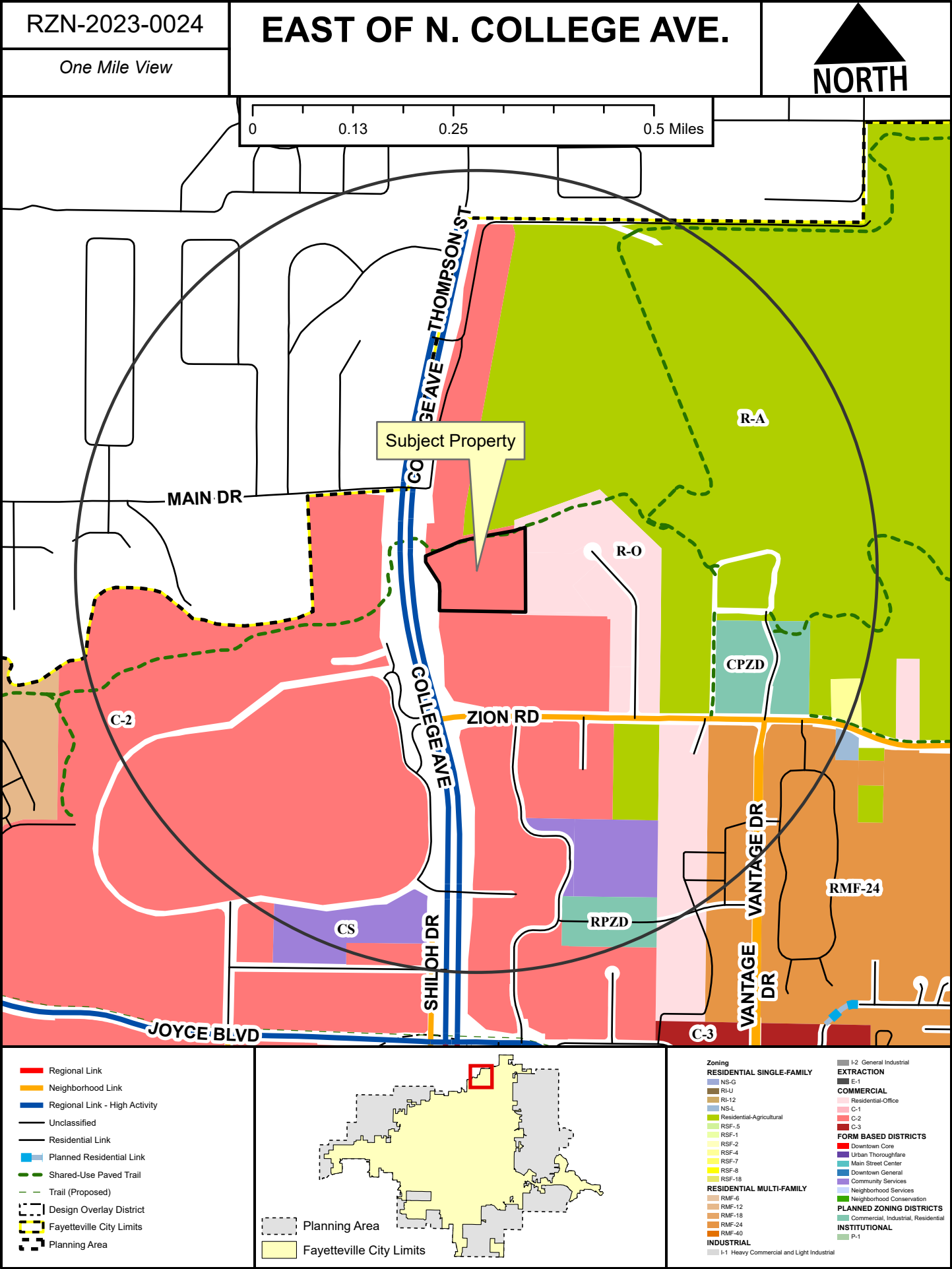
The future land use plan designates this area as City Neighborhood. The zoning and/or use of the surrounding properties is commercial, and no adverse impacts to neighborhood are anticipated to result from the requested change in zoning.

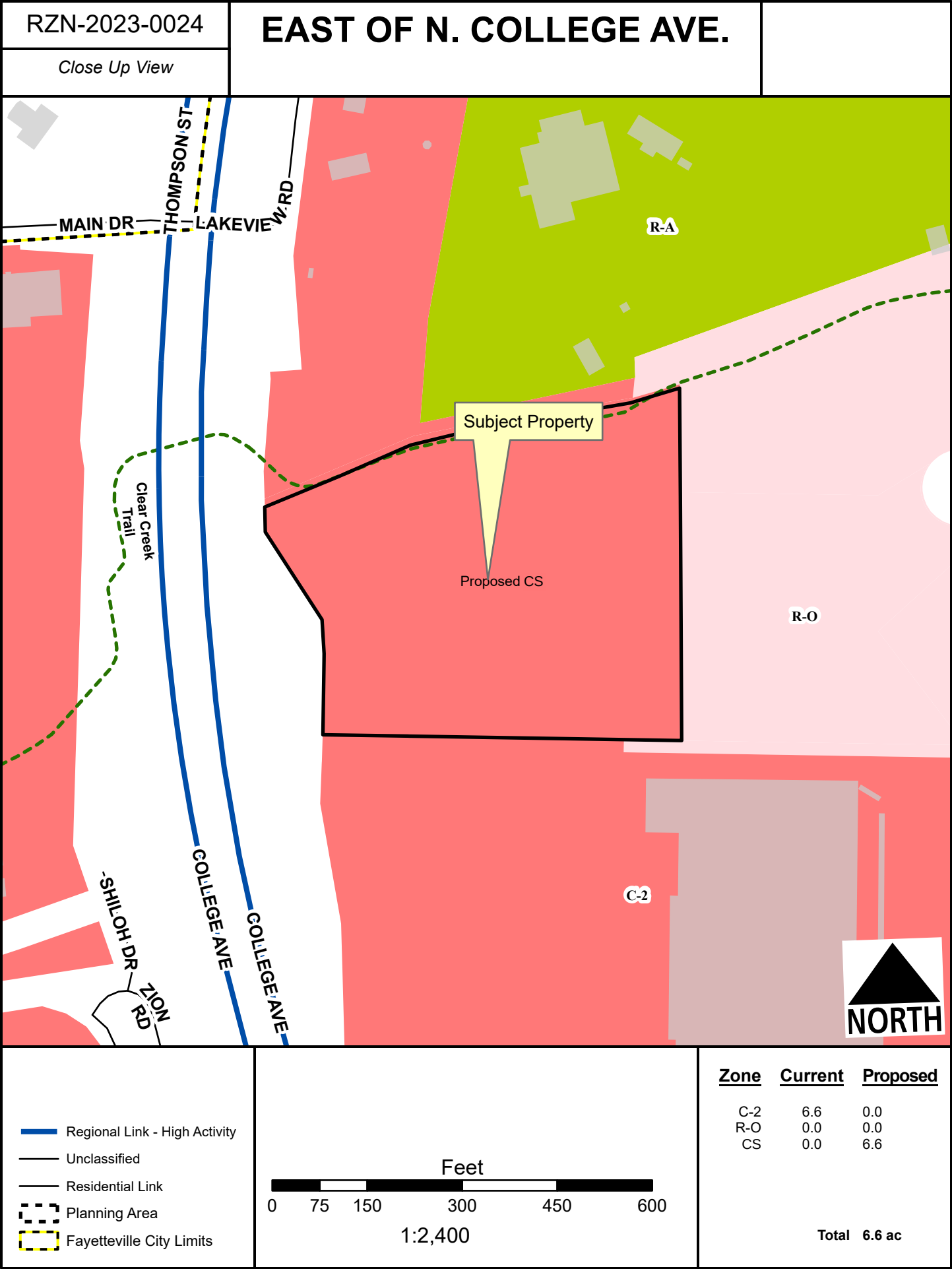
Please let me know if you need any additional information regarding this request.

Sincerely,



Daniel Lazenby

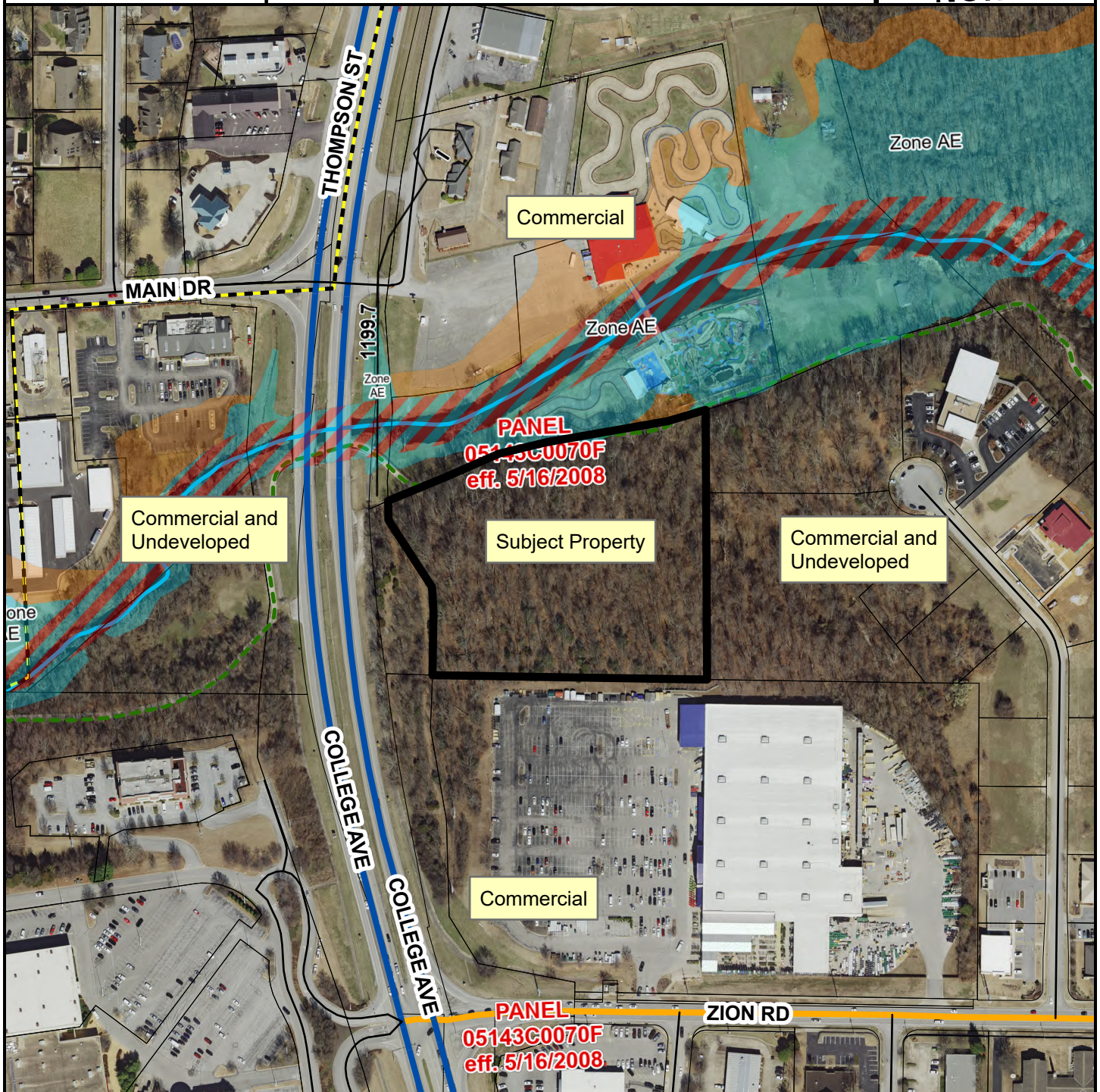




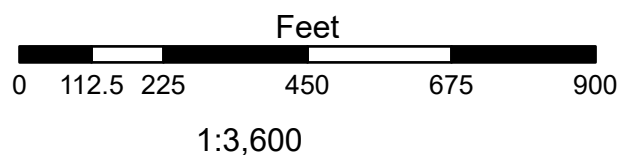
RZN-2023-0024

Current Land Use

EAST OF N. COLLEGE AVE.

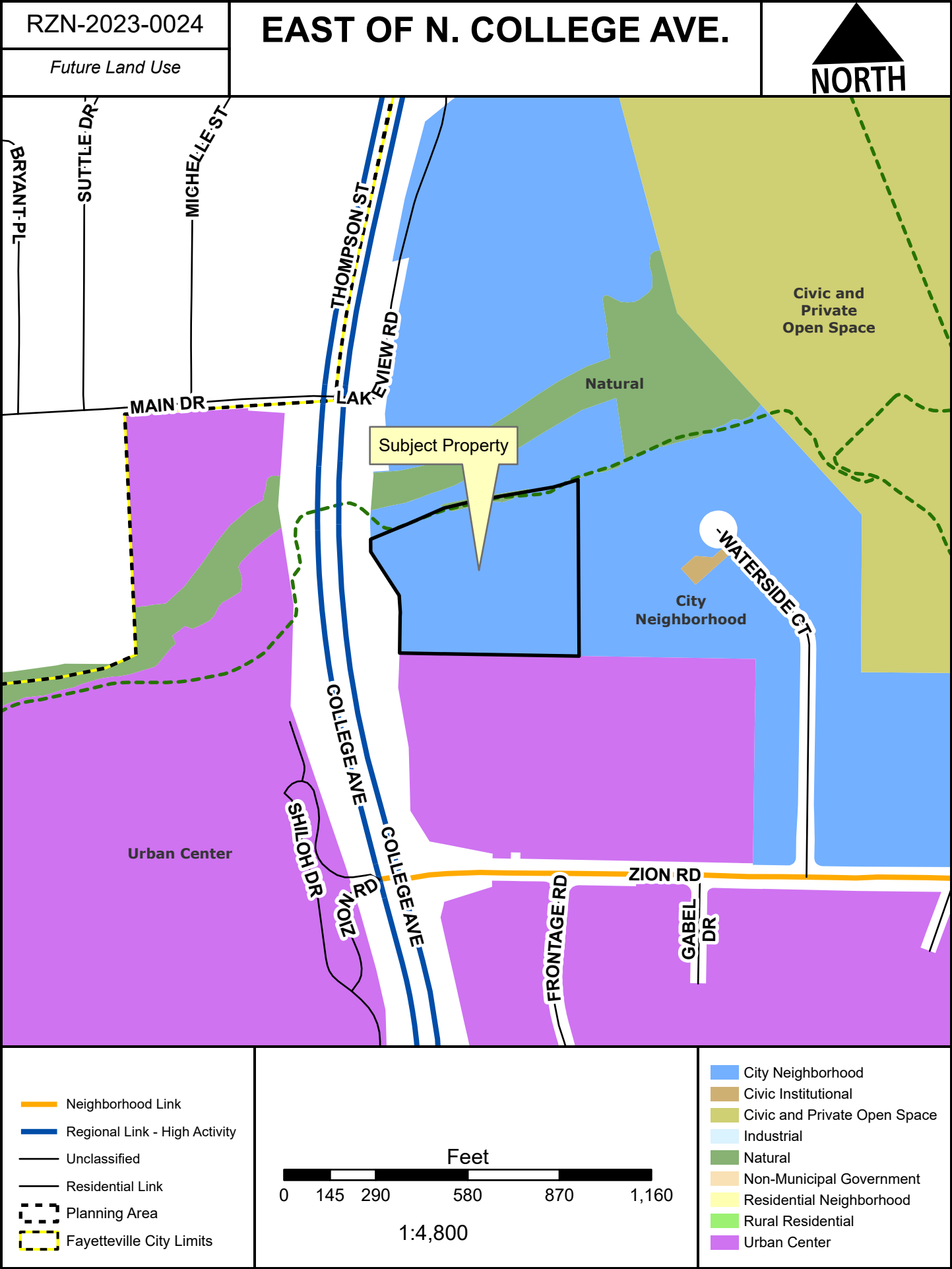


- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 11, 2023

SUBJECT: **CUP-2023-0096: Conditional Use Permit (426 N. OLIVER AVE/HOGTAILING HOLDINGS LLC, 482):** Submitted by SEAN VOLLENDORF for property located at 426 N. OLIVER AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contain approximately 0.40 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0096**.

RECOMMENDED MOTION:
"I move to deny CUP-2023-0096."

BACKGROUND:
The subject property is located in central Fayetteville approximately 200 feet west of Razorback Stadium. The property is zoned RSF-4 and is not part of any zoning overlays. It totals approximately 0.40 acres and has been developed with a 2,502 square foot, four-bedroom single-family structure and a 688 square foot, three-bedroom accessory dwelling unit, both constructed in 1969.

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	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0096**. 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 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.
11. The main dwelling may not be rented simultaneously as the accessory dwelling unit.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 11, 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 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. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RSF-4 zoning, which requires 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.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. The ADU may host up to 8 guests per ordinance (three bedrooms) and the main dwelling may host up to an additional ten guests (four bedrooms), for up to 18 allowed guests. The ADU is currently being permitted separately as a Type 1, with only the main dwelling unit under consideration with this application.

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: 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. Accessory dwelling units of less than 800 square feet are not required to provide on-site parking. According to the

applicant the main dwelling unit has four bedrooms, with up to four parking spaces permitted outside by ordinance.

- 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 426 N. Oliver Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

- 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 citywide density cap at 475 business licenses. As of September 6, 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.**

- 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: **Staff finds there is inadequate parking infrastructure to support the use of the property for both the main dwelling and the ADU as short-term rentals.**

Neither structure has garage parking and a property may only park up to four vehicles outside per ordinance. The ADU may host up to 8 guests per ordinance (three bedrooms) and the main dwelling may host up to an additional ten guests (four bedrooms), for up to 18 allowed guests. No additional parking is permitted on N. Oliver Ave. as the street is signed for no parking. City business license records indicate one (1) other unit within a quarter-mile radius of the property has an active Type 2 short-term rental business licenses.

A type-2 short term-rental application was requested by the current property owner on July 30, 2021. Multiple stages of the process were completed, including a life safety inspection and planning review; however, a business license was denied due to incomplete information. The short-term rental was opened in violation of ordinance and has been operation continuously since 2021. Initial zoning violations were opened on April 27 and May 1, 2023 for operating the main structure and ADU without a business license and a notice of violation was sent to the applicant with instructions to cease operations until a business license was received. A duplicate zoning violation was issued on August 7, 2023 for continuing to operate the short-term rentals in violation of the ordinance.

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

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

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

Finding: Access to property is from N. Oliver Ave., a narrow street signed for no on-street parking. Staff finds the proposal will likely adversely affect traffic flows considering the use of the property would be limited to a maximum of 10 guests for the main dwelling and 8 guests for the ADU if both are approved, which would 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: No garage parking is available. The applicant proposes parking within the circle driveway, which would be limited to a maximum of four vehicles per ordinance.

- (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 incompatible with the surrounding properties. The proposed intensity of both the ADU and main dwelling as a short-term rental is likely to be a major impact to the surrounding neighborhood, particularly given the lack of on-site parking and narrow surrounding streets.

(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
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter
- Site Plans
- Building Floor Plan
- Elevations
- Zoning Violation Reports
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile Map

118.01 Applicability

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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."

APPLICANT REQUEST LETTER

Please see attached Site Plan with detailed images of parking. The Main House has a very large circle driveway that can easily fit multiple cars. The far right side of the driveway when looking at the house from the street has a long drive leading down to the cottage. For any overlapping stays we would ask that the main house guests keep the far right side clear for the cottage guests. The cottage would allow 1 parking spot down the straight part of the driveway, and the main house up to 3 parking spots around the circle driveway. The total occupancy for the main house would be 10 people and the cottage allows 2-4 people. So the most occupants on the property combined would be 14 people.

A) Roughly 3,190 Sq Ft

B) The Exterior of the House is a Light Brown color

C) Zero Off-Street Parking spaces would be utilized. Our circle driveway on the property can comfortably hold around 6 cars.

D) There is outdoor lighting at the entry way, and on the back patio/decks

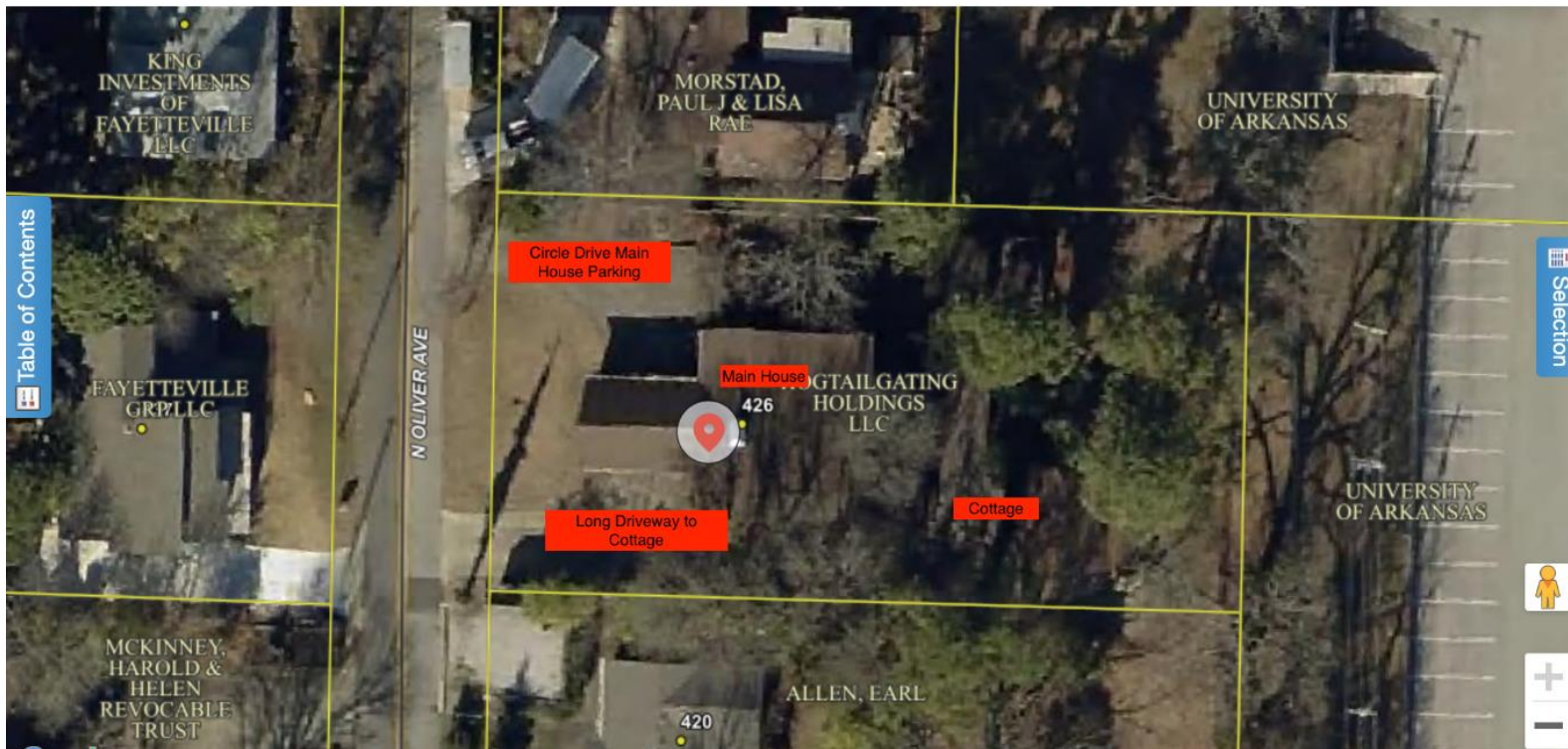
E) We do not allow parties at our property. The only noise would come from tailgating on game days (which would be hard to avoid short term rental or not on game day with a property right behind the stadium!)

F) We have a tall fence on each side that separates our property from the adjacent properties.

G) We have Trash service with the city that comes once a week. We have 3 Large trash bins to have ample room for trash so that it is not unsightly to any passerby. Our trash cans are on the side of our house by a fence off the circle drive out of the way. A few large plants/trees block the view of the trash from the street.

H) The property is easily accessibly by the circle drive on the property. There would be no traffic impacts as the only parking provided would be in the circle driveway on the property.

I) We have loved being able to host out of town guests through out the year on our property that lies within walking distance to the University of Arkansas campus. It has been a prime location for New Student Orientations, Parent Visits, Sporting Events, etc.



PARKING - 424 N Oliver Ave

* can fit 5-6
vehicles comfortably
in driveway

Front
Door

open
carport

Circle Driveway

Front
Lawn

Street (Oliver Ave)

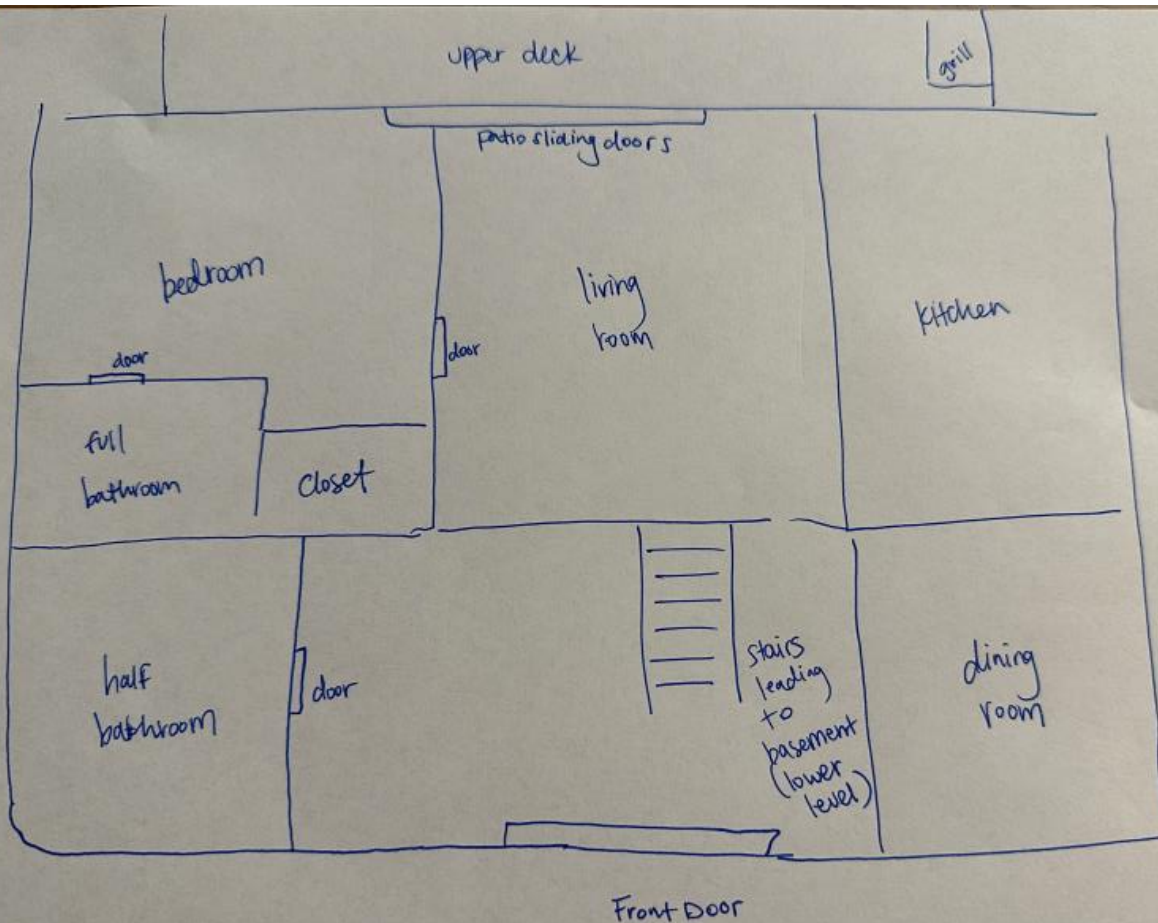
trash cans/
recycling







Basement/Lower Level (2nd Floor) 426 N Oliver Ave



MAIN LEVEL (1st Floor)

426 N Oliver Ave



CODE CASE DETAILED REPORT CVZD-2023-0320
FOR CITY OF FAYETTEVILLE

Case Type:	Zoning/Development	Project:		Opened Date:	05/01/2023
Status:	In Progress	District:	Default	Closed Date:	NOT CLOSED
Assigned To:	Bliss Hyke	Description:	PZ200 PZ320 PZ340 PZ300 The address of 426 N Oliver has two dwellings on the property (The main house- "The Stadium House" and the ADU unit "The Stadium Cottage") with active AirBnB's ran out of both. They had applied for one STR (STR-000817-2021) which was denied due to lack of documents to Katie Moore. So they would need to apply for two STR's and a CUP for the main house. FYI: The CUP in the message below was approved on Monday for the neighbor's house.		

Parcel:	765-14494-000	Main	Address:	426 N Oliver Ave Fayetteville, AR 72701	Main	Zone:	RSF-4 (RSF-4)
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Owner	Owner
Sean Vollendorf	Sean Vollendorf
9 E Caroline Ln	9 East Caroline Lane E Caroline Ln
Tempe, AZ 85284	Tempe, AZ 85284
Business: 4792839694	Business: 4792839694
Mobile: (479) 283-9694	Mobile: (479) 283-9694

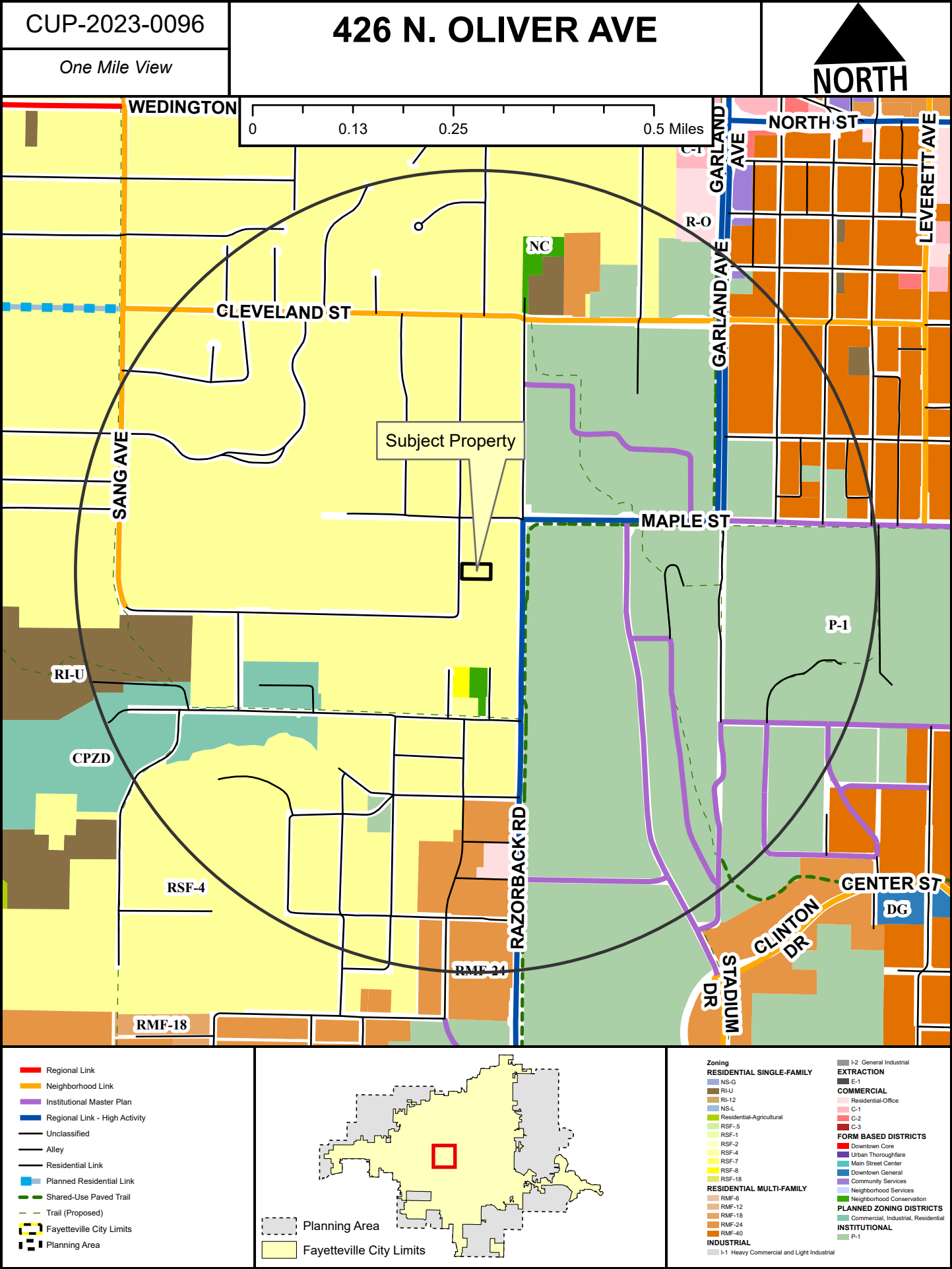
CODE CASE DETAILED REPORT (CVZD-2023-0320)

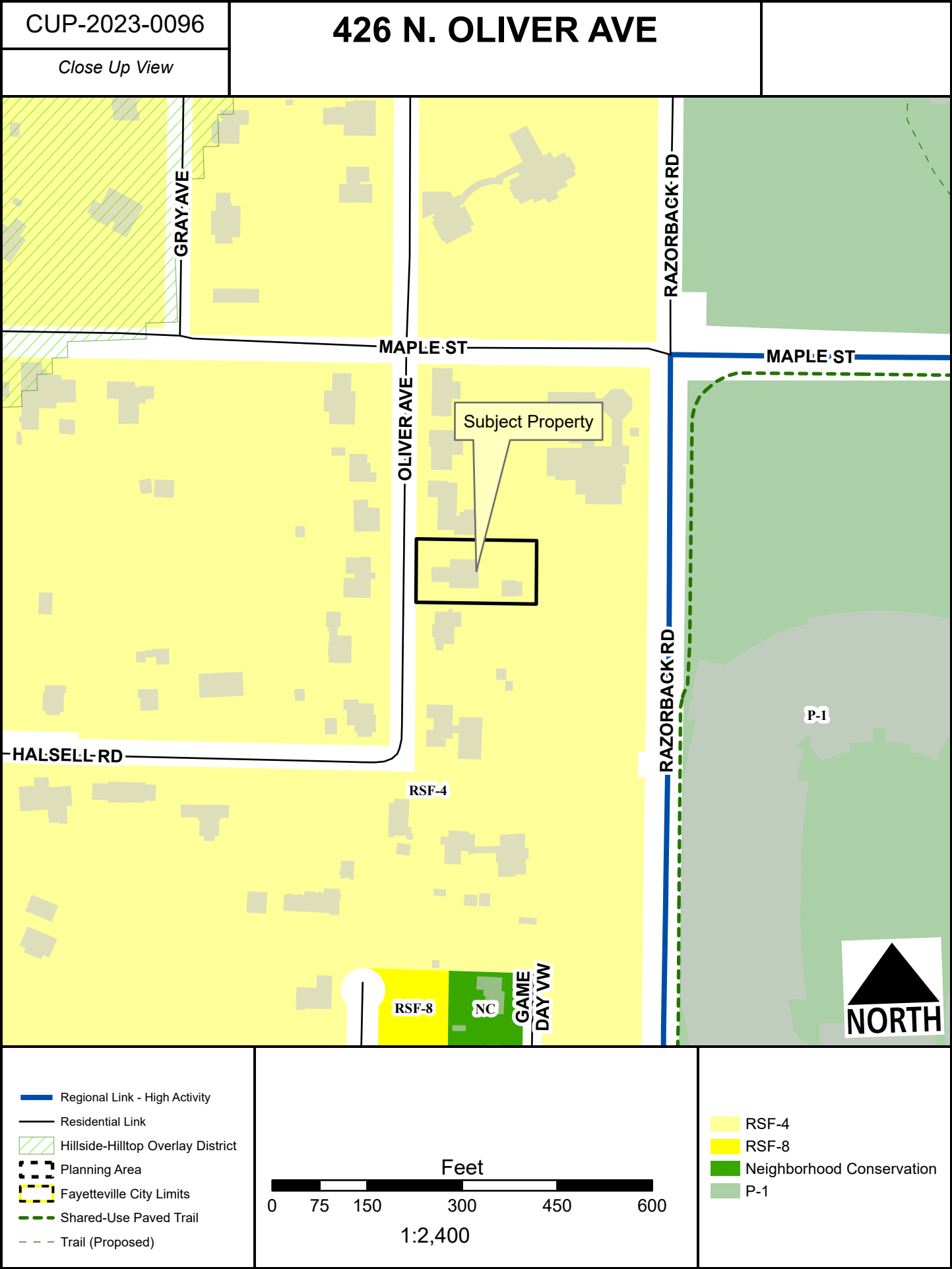
Note	Created By	Date and Time Created		
1. designated agent contacted office. i emailed application instructions and noted that main house would need type 2 application, cottage would need type 1. CUP also needs to be applied for this kind of license.	Kimberly McGuire	5/1/2023 3:42 pm		
2. still have not received an application for this property. do not see it listed on any rental websites. sending email to get status on if owner still wants to pursue STR.	Kimberly McGuire	6/30/2023 11:54 am		
3. Hi Kimberly, We have been working on gathering what is needed for the CPU permit first after getting more direction from their office. Once we have that we will start the application process over. Thanks, Renee	Kimberly McGuire	6/30/2023 1:28 pm		
4. STR-0785-2023 & STR-0786-2023	Kimberly McGuire	7/26/2023 10:49 am		
5. Property Advertised on AirBNB	Donna Wonsower	8/7/2023 10:27 am		
6. sent email to property owner and designated agent, see files	Kimberly McGuire	8/7/2023 1:54 pm		
7. Property owner email dated 8/8/23 states that Airbnb listings for both main house and ADU were taken down. Confirmed.	Kimberly McGuire	8/8/2023 3:54 pm		
8. Initial application for STR type 2 was submitted 7/27/21 and denied 7/21/22. Internal notes state that there was not enough information provided by applicant to continue processing application for issuance despite attempts to contact owner.	Kimberly McGuire	8/8/2023 3:55 pm		
9. CVZD-2023-0312 PZ320 Request Category: Permitting. This is an unlicensed short term rental. It is not on the city's development economic and development services page as being a licensed STR. But it is on Air Bnb listed as two different properties. \"The Stadium House\" and \"The Stadium Cottage\". \\n\\nhttps://www.airbnb.com/rooms/10948395?source_impression_id=p3_1682609075_PJ8GfXGsEz0SBgRL\\u0026modal=PHOTO_TOUR_SCROLLABLE\\n\\nhttps://www.airbnb.com/rooms/720928942702662378?adults=2\\u0026children=0\\u0026enable_m3_private_room=false\\u0026infants=0\\u0026location=Fayetteville%2C%20AR\\u0026pets=0\\u0026check_in=2023-05-12\\u0026check_out=2023-05-19\\u0026federated_search_id=5f9d3ce0-5f3b-4b67-bff8-ee0dbecffe97\\u0026source_impression_id=p3_1682608938_0hzNJ96LRxTShYE\\u0026modal=PHOTO_TOUR_SCROLLABLE\\n\\nPlease review and check out this information.	Bliss Hyke	8/23/2023 2:49 pm		
10. CVZD-2023-0490 pz320 - Complaint states that they continue to operate and advertise without a CUP/STR. (case is redundant to CVZD-2023-0320)	Bliss Hyke	8/23/2023 2:49 pm		
11. CUP-2023-0096 FOR THE MAIN HOUSE.	Bliss Hyke	8/23/2023 3:44 pm		
Activity Type	Activity Number	Activity Name	User	Created On
Notice of Violation Tracking	PRE-0397-2023		Kimberly McGuire	05/02/2023
Other Activity	ACT-1123-2023		Bliss Hyke	08/23/2023
Violation Code: 161.02 - Operating without a Business License				
Violation Status: In Violation				
Citation Issue Date: 05/02/2023				
Code Description: Operating without a Business License				
Compliance Date:				
Resolved Date:				
Corrective Action: Cease non-compliant activity or receive business license approval.				



CODE CASE DETAILED REPORT CVZD-2023-0490 FOR CITY OF FAYETTEVILLE

Case Type:	Zoning/Development	Project:		Opened Date:	08/07/2023		
Status:	Escalated - Planning	District:	Default	Closed Date:	NOT CLOSED		
Assigned To:	Bliss Hyke	Description:	pz320 - Complaint states that they continue to operate and advertise without a CUP/STR. (case is redundant to CVZD-2023-0320)				
Parcel:	765-14494-000	Main	Address:	426 N Oliver Ave Fayetteville, AR 72701	Main	Zone:	RSF-4 (RSF-4)





CUP-2023-0096

426 N. OLIVER AVE

Current Land Use



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



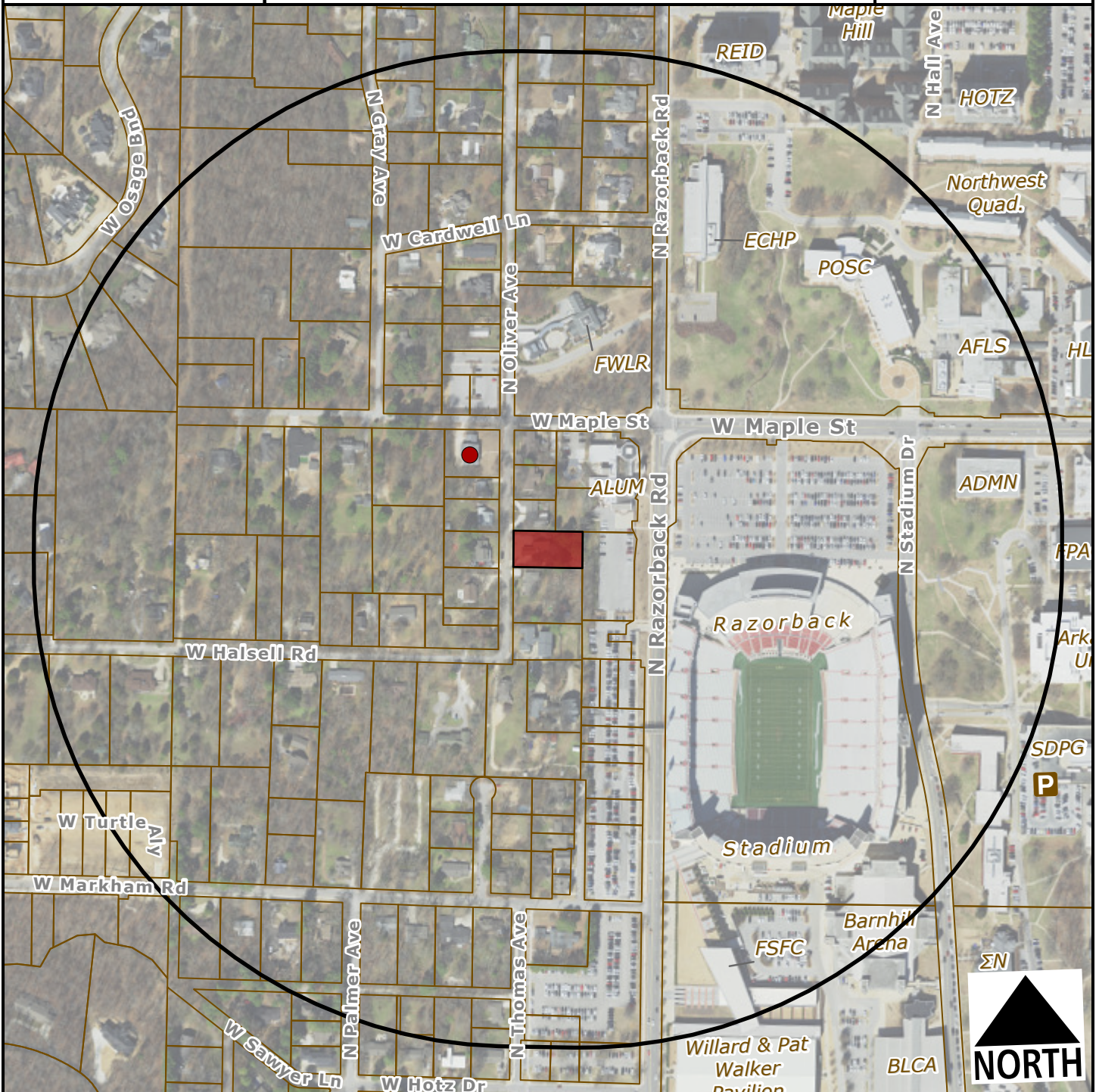
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0096

426 N. OLIVER AVE

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: September 11, 2023

SUBJECT: **CUP-2023-0097: Conditional Use Permit (1700 N. WOOLSEY AVE/AMOS PROPERTIES, 367):** Submitted by ASHA WILSON for property located at 1700 N. WOOLSEY AVE The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE and contains approximately 0.48 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0097**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0097** 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 north Fayetteville directly north of Gregory Park and the Veteran's Healthcare System of the Ozarks. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is entirely within the Hillside Hilltop Overlay District. It totals approximately 0.48 acres and is developed with a 2,183 square foot single-family structure constructed in 1962. 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	Park	P-1, Institutional
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**

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-2023-0097**, 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>September 11, 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 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. Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RSF-4 zoning, which requires 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.

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 four bedrooms, occupancy will be limited to a maximum of ten guests.

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

Finding: 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 four bedroom and four parking spaces within a carport and driveway. Staff finds the driveway is of sufficient size to support four vehicles.

- 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 1700 N. Woolsey 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 citywide density cap at 475 business licenses. As of July 17, 2023, the City had issued 388 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.

- 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: Staff finds that there is adequate parking to support the use as a short-term rental. Up to four spaces could be parked in the driveway and carport. On-street parking is not available on N. Woolsey Ave or S. Sycamore St. City records indicate seven other units 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 is located at the NE corner of N. Woolsey Ave. and W. Sycamore St. Neither street supports on-street parking and W. Sycamore St. has an on-street bike lane along the northern side of the road. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 10 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: Four off-street parking spaces are available for guests within the carport and 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 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. While the residences along S. Blair Avenue are primarily detached single-family dwellings, multi-family and commercial properties have been developed adjacent to N. Gregg Ave. Further, the presence of the Veteran's Healthcare System directly to the south could warrant the need for additional short-term stays in close proximity to the area.

- (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
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter
- Site Plan
- Building Elevations
- Building Floor Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile Map

118.01 Applicability

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

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

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

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."

July 21, 2023

Asha Wilson
5418 Eagle Valley Drive
Joplin, MO 64804

Good Afternoon,

My husband and I recently purchased a home in Fayetteville which we plan to vacation in as a family (it is a short 1.25 hour drive from our home here in Joplin, MO) as well as use as a short-term rental when we are not using at our home. We have loved the area since living in Joplin and have visited the area many times as a family. Please see below for information requested:

- (a) Building size in square feet: 2183 sqft existing
- (b) Color elevations of all exterior sides of the structure: Exterior color is a dark grey painted brick and siding. The fence along the sides is a natural wood/cedar, the fence to the back of the property is metal.
- (c) Number of off-street parking spaces to be provided / number required: The car port and driveway can hold 4 cars. Less than this number would be needed while being used as a rental
- (d) Outdoor lighting: Porch/Patio Lights
- (e) Noise: Limited noise, no external speakers, radio etc. present
- (f) Screening or buffering from adjacent properties: 6' Privacy Fence
- (g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties): Would utilize the current city trash service which is picked up at the end of the driveway every Tuesday morning. Trash would be contained in bins
- (h) Ingress and egress to the property; traffic impacts: Guests would access the property through either the front door or door leading from the carport. There should be no traffic impacts as all guests would be required to park under the carport or on the property's driveway. There are no shared accesses to the property
- (i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood: I believe the use of the home as a short-term rental would be very compatible with the neighborhood because of the large lot sizes which causes the homes to be spaced out. There is also a lot of natural vegetation, landscaping and trees which creates natural privacy. The Privacy fence will contain the backyard so that privacy for guests as well as neighbors is ensured. Also, the lot to the North of the property is an empty lot which creates even more barrier and privacy. The intent of the home is to be a family friendly home where guests can relax and enjoy the natural beauty of the area and surrounding events.

Please reach out to me with any additional questions or needed information.

Thank you,

Asha Wilson

972-689-1626

asha.wilson727@gmail.com

Trash (Under Carport)

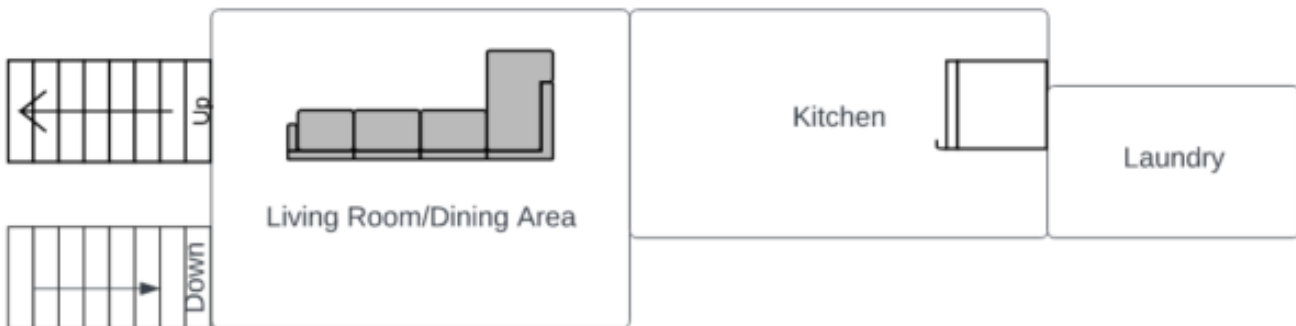
Parking (Under Carport
and in driveway)



Driveway



Main Floor (Split Level Home)



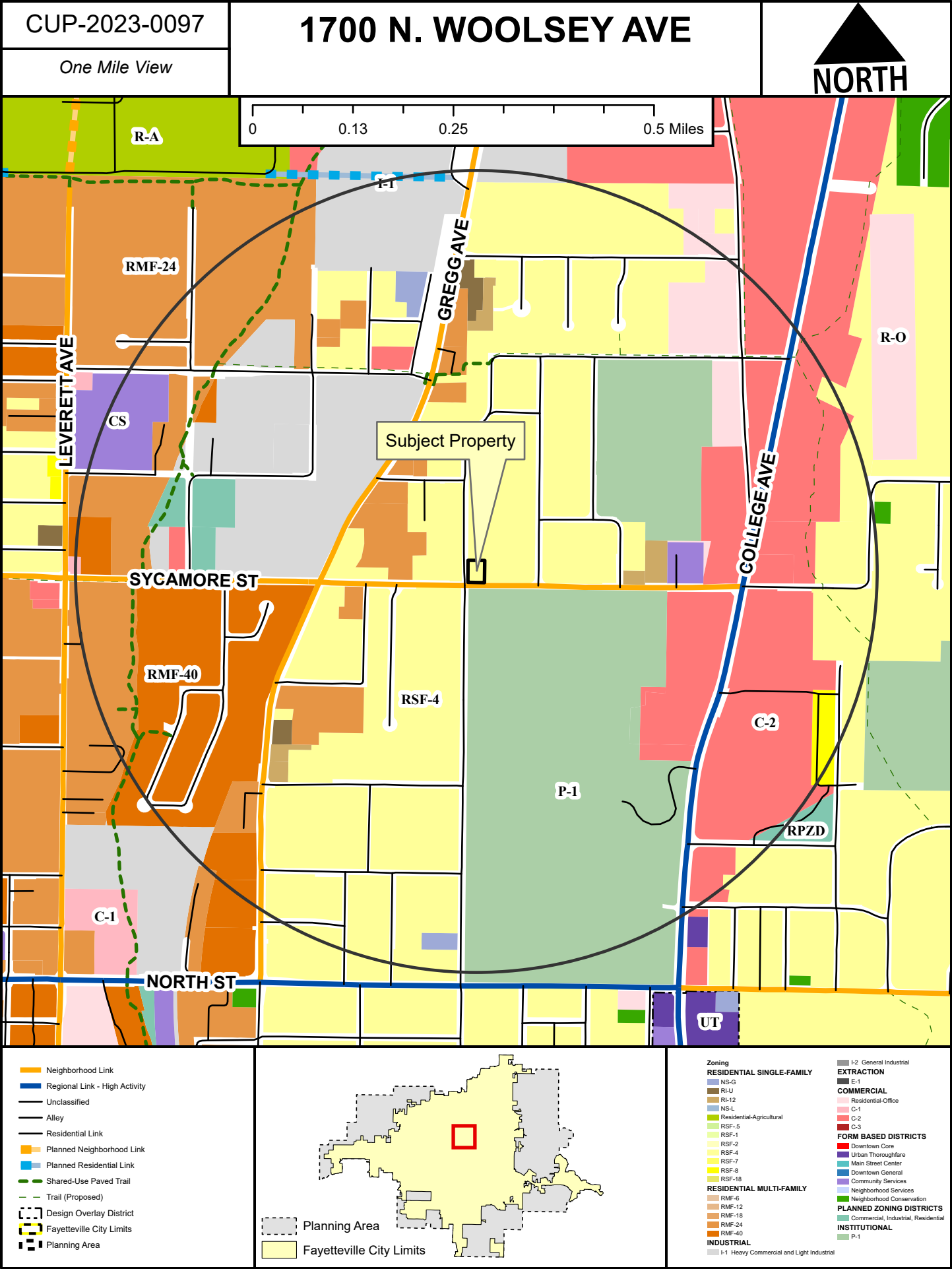
Text

Upper Floor



Lower Floor

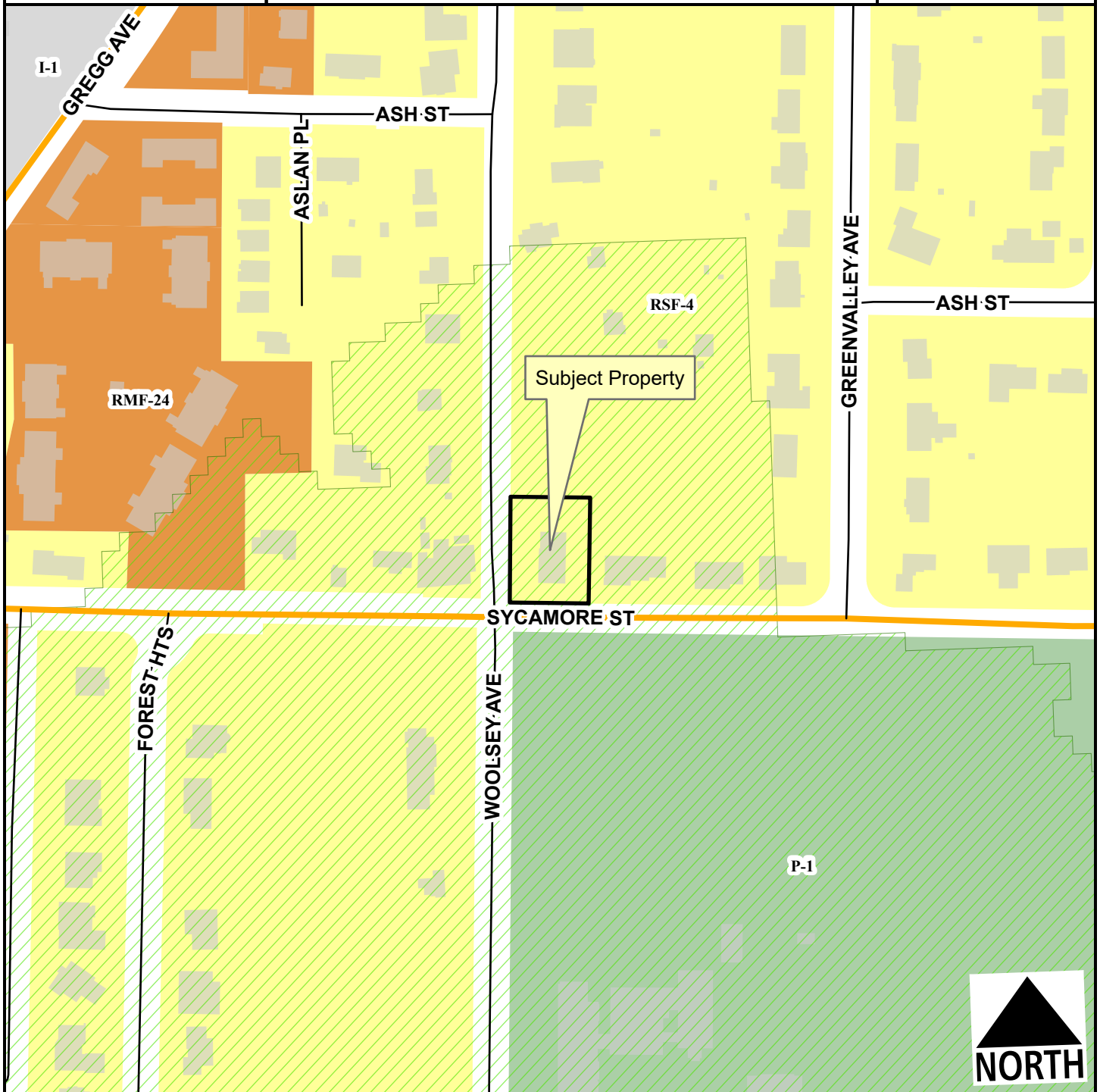




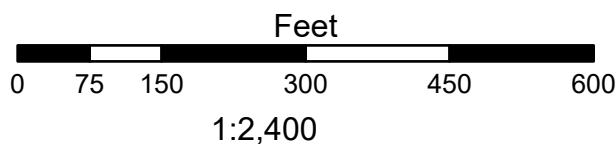
CUP-2023-0097

1700 N. WOOLSEY AVE

Close Up View



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



- RSF-4
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- P-1

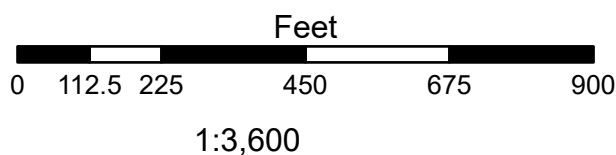
CUP-2023-0097

1700 N. WOOLSEY AVE

Current Land Use



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



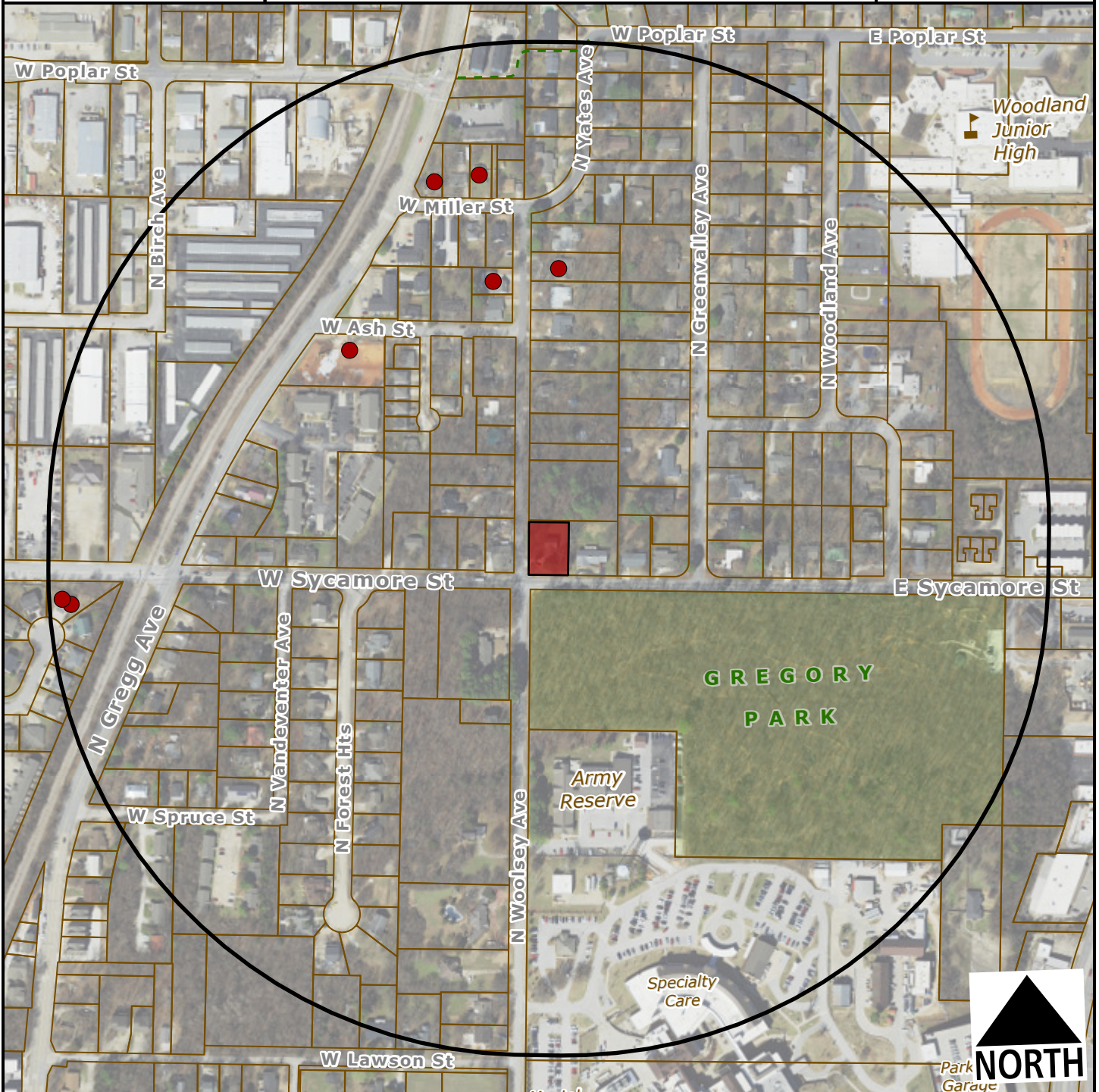
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0097

1700 N. WOOLSEY AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 7



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 11, 2023

SUBJECT: **CUP-2023-0098: Conditional Use Permit (668 N. LONGFELLOW LN./HERMAN, 439):** Submitted by SUNNY HERMAN for property located at 668 N. LONGFELLOW LN. 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-2023-0098** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0098**, 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 west Fayetteville just southwest of the intersection of Bradstreet Lane and Daffodil Drive in the Ruppel Row Subdivision. The property contains 0.10 acres and is developed with a 1,974-square-foot, four-bedroom, single-family dwelling which was built in 2017. 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	RPZD, Residential Planned Zoning District
South	Single-Family Residential	RPZD, Residential Planned Zoning District
East	Single-Family Residential	RPZD, Residential Planned Zoning District
West	Single-Family Residential	RPZD, Residential Planned Zoning District

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0098** 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>September 11, 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 the Rupple Row RPZD.**

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

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

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

Finding: **The Planning Commission is empowered under 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 the Ruppel Row RPZD. Since the RPZD 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 four bedrooms which would limit occupancy to a maximum of ten 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, four on-site vehicle parking spaces will be available to guests in an existing driveway and attached garage that are accessed through a public alley. On-street parking also appears to be available along all nearby streets.

- 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 668 N. Longfellow Ln. 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 September 7, 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 four off-street parking spaces will be available for guests on site and on-street parking is available nearby. 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. No prior zoning or code violations have been reported on the 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: A paved driveway is available to accommodate vehicular ingress and egress to the subject property. The property also has frontage along two streets that are fully improved with sidewalk at the back of the right of way to accommodate pedestrian access. Staff finds that the proposal to use the

property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 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 four 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 services. 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.

- (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 there are only five other licensed Type 2 short-term rentals within a quarter-mile radius. 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
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Ruppel Row RPZD Zoning Regulations
- 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.

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

ORDINANCE NO. 4580

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-06.00 LOCATED ON RUPPLE ROAD, SOUTH OF WEDINGTON DRIVE CONTAINING APPROXIMATELY 41.70 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RT-12, Residential Two and Three Family and RSF-4, Residential Single Family, four units per acre to R-PZD 04-06.00 as shown in Exhibit "A" attached hereto and made a part hereof.

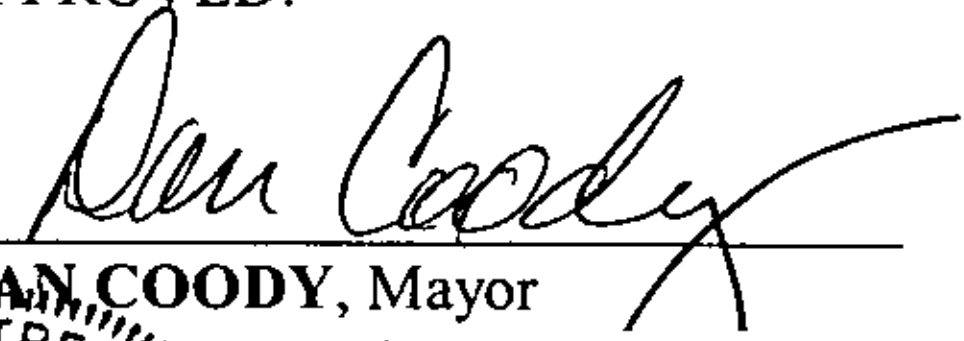
Section 2: That the change in zoning classification is based upon the approved development plan and development standards as shown on the plat and approved by the Planning Commission on May 10, 2004.

Section 3: That this ordinance shall take affect and be in full force at such time as all of the requirements of the development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this 15th day of June, 2004.

APPROVED:

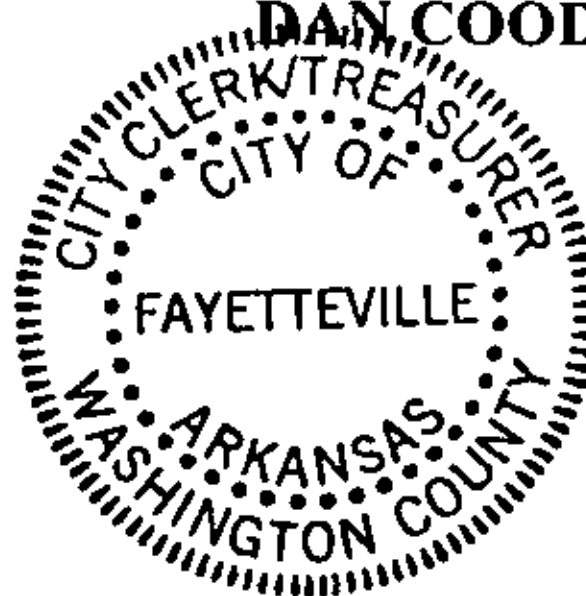
By: 

DAN COODY, Mayor

ATTEST:

By: 

SONDRA SMITH, City Clerk



Doc ID: 007396590002 Type: REL
Recorded: 06/25/2004 at 11:16:09 AM
Fee Amt: \$11.00 Page 1 of 2
Washington County, AR
Bette Stamps Circuit Clerk

File **2004-00025130**



Planning Commission approval of the proposed preliminary plat in association with R-PZD 04-056.00 subject to the following conditions:

Conditions of Approval:

1. Planning Commission determination of the appropriateness of the proposed parallel parking spaces along Ruppel Road, a Minor Arterial street. *Staff finds the parking spaces to be adequately located, however their position should be carefully evaluated to ensure the continued safety of traveling and parking motorists. Ruppel Road is a north-south Minor Arterial street, planned to continue south to Hwy 62 on the Master Street Plan.*
2. Allowed uses in this R-PZD shall be restricted to the following Use Units:
 - Use Unit 1, City-wide uses by right
 - Use Unit 2, City-wide uses by conditional use permit
 - Use Unit 8, Single family dwellings
 - Use Unit 9, Two-family dwellings
 - Use Unit 10, Three-family dwellings
 - Use Unit 24, Home occupations
3. The applicant shall submit a letter from WHM Investments or the current owners of record of the subdivision acknowledging that all parkland banked with FPL 01-07.00 (WHM Investments) for future parkland dedication use in the Southwest quadrant is being utilized with the current proposal. All future residential development within said subdivision will require park land dedication and/or money-in-lieu, based on park land dedication ordinances in place at the time of development.
4. Payment for Ruppel Road impact fees in the amount of **\$30,443.30** and a letter of credit in the amount of **\$20,295.70**, based on the number of dwelling units proposed, shall be submitted to the City of Fayetteville prior to Final Plat approval.
5. Parks fees in the amount of **\$7,482.75** are due prior to Final Plat approval. Fees in lieu of park land dedication shall be reviewed and approved by City Council, to comply with City ordinances.
6. Individual lot access shall be prohibited from Persimmon Street and Ruppel Road.
7. A note shall be included on the plat stating that the Common Area lots, maintained by the POA, are non-buildable lots.
8. A street tree planting plan shall be submitted before final plat as part of the requirements to meet tree mitigation and landscaping goals for the PZD.
9. No less than 33 trees shall be planted on-site to meet tree mitigation requirements.

Standard Conditions of Approval:

10. Plat Review and Subdivision comments (to include written staff comments provided to

K:\Reports\2004\PC Reports\05-10-04\R-PZD 04-06.00 (Ruppel Row) REVISED.doc

Page
July 25, 2023

To whom it may concern,

This is a formal request letter for a conditional use permit to acquire a business license for a STR at 668 N Longfellow Ln. Fayetteville, AR 72704. The house is 4 bedrooms, 3 ½ Baths right at 1,974 square feet (a) on a corner lot in Ruppel Row subdivision.

The house is fully built and furnished presently with the outside being a light tan color with an upstairs balcony made of wood. (b) There is a garage with driveway to fit up to 4 cars with open street parking throughout the neighborhood. (c)

Outdoor lighting is prevalent on the front patio, back garage area, side yard patio, and upstairs balcony. There is also a large street light beside the house as well. (d) The neighborhood noise on our corner is very limited. It is at the back of the neighborhood and seems like it has a little less traffic than the front part. (e)

The adjacent properties are visible but there is a fence on the side yard. (f) We have trash and recycling pick up weekly at the property along with the rest of the neighborhood. (g) Ingress and egress to the property is very accessible. The front door entry is on Longfellow Ln, there is a side sliding door entry and exit on the side of the house/yard, and the garage entry and exit are at the back of the house on a small shared street with the surrounding houses. (h)

I have talked with another owner in the neighborhood who also uses their property for STR and is also in the real estate business. He stated that once getting through the proper process of being approved it will be a great way to use the property. He stated that while most of the houses are long term rentals that the STR option has worked out well for him. (i)

The legal description of the property

Lot 34, Ruppel Row Subdivision to the City of Fayetteville, Arkansas, as shown on Plat of Record in Plat Book 23A at Page 196, and subsequent ratification of Plat filed as Land Document No. 2006-3025 among Land Records of Washington County, Arkansas.

Sunny Herman

Mitchell and Sunny Herman Living Trust



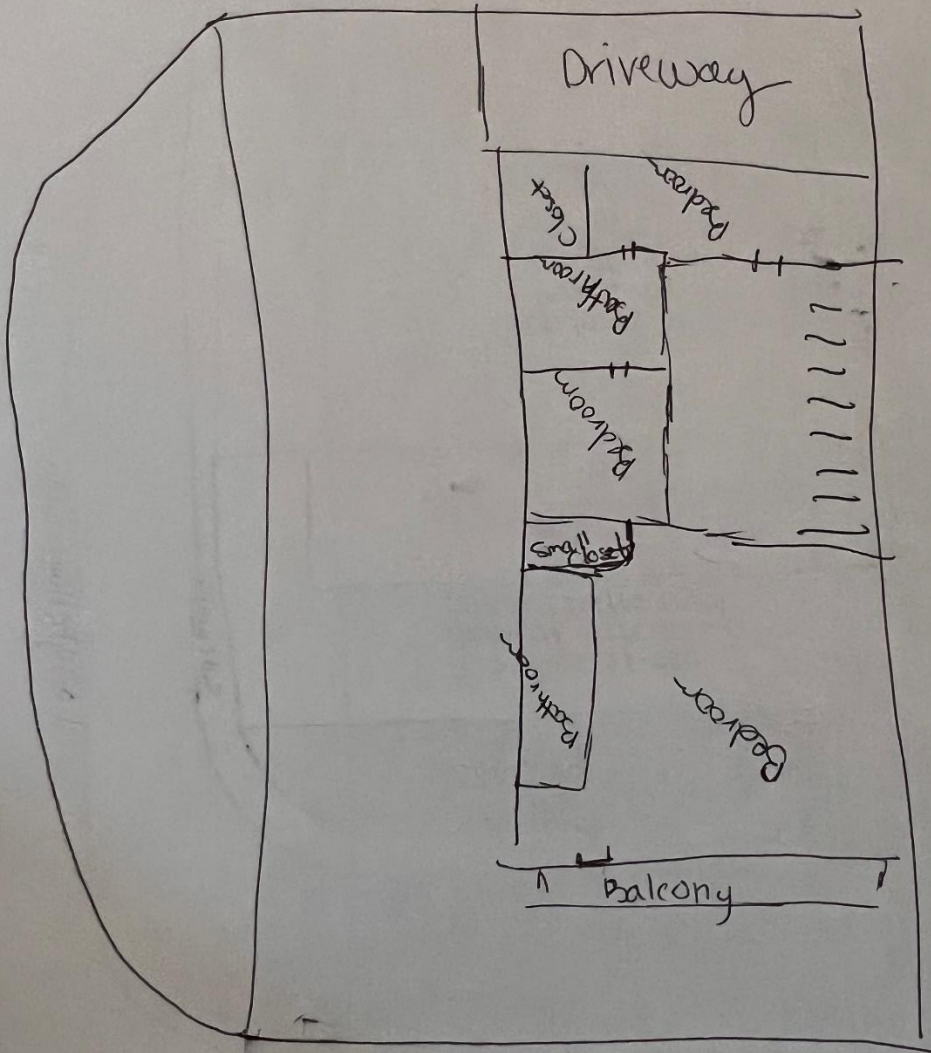






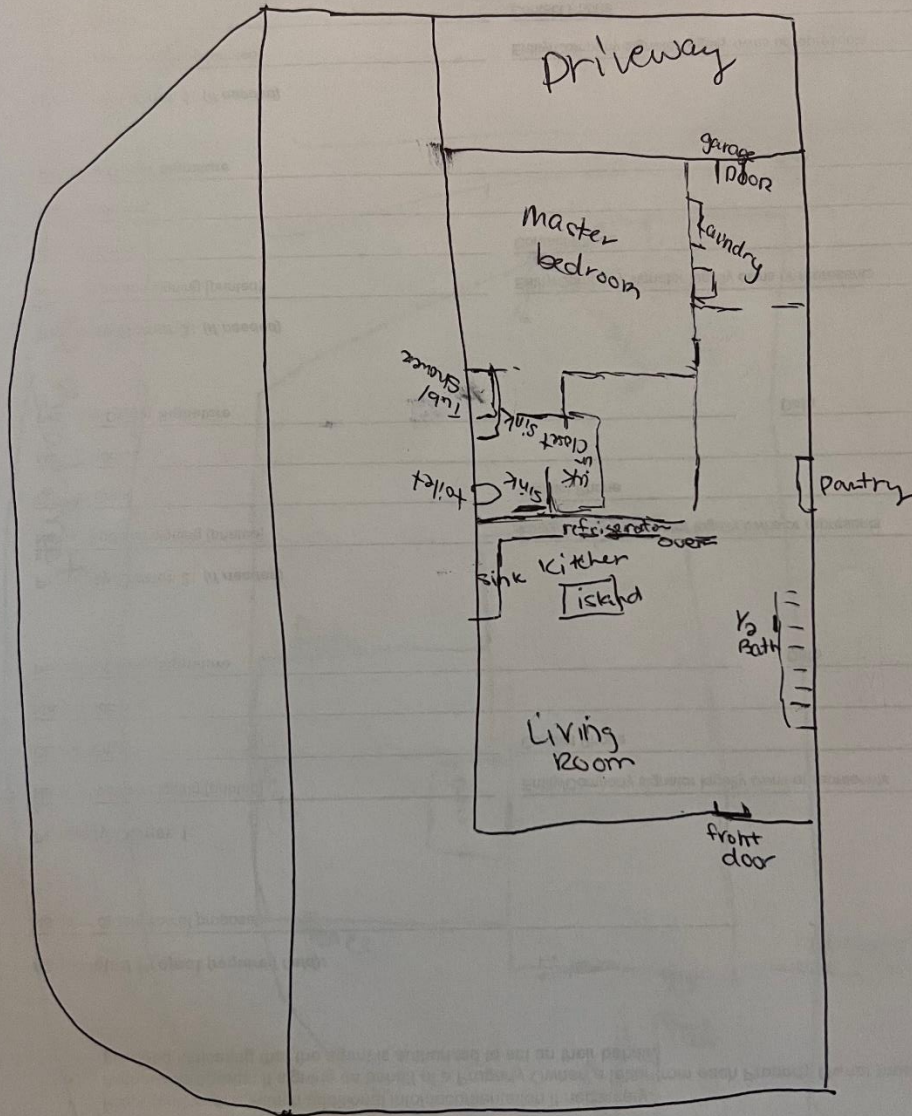
Site
plan

upstairs



Site
plan

Downstairs

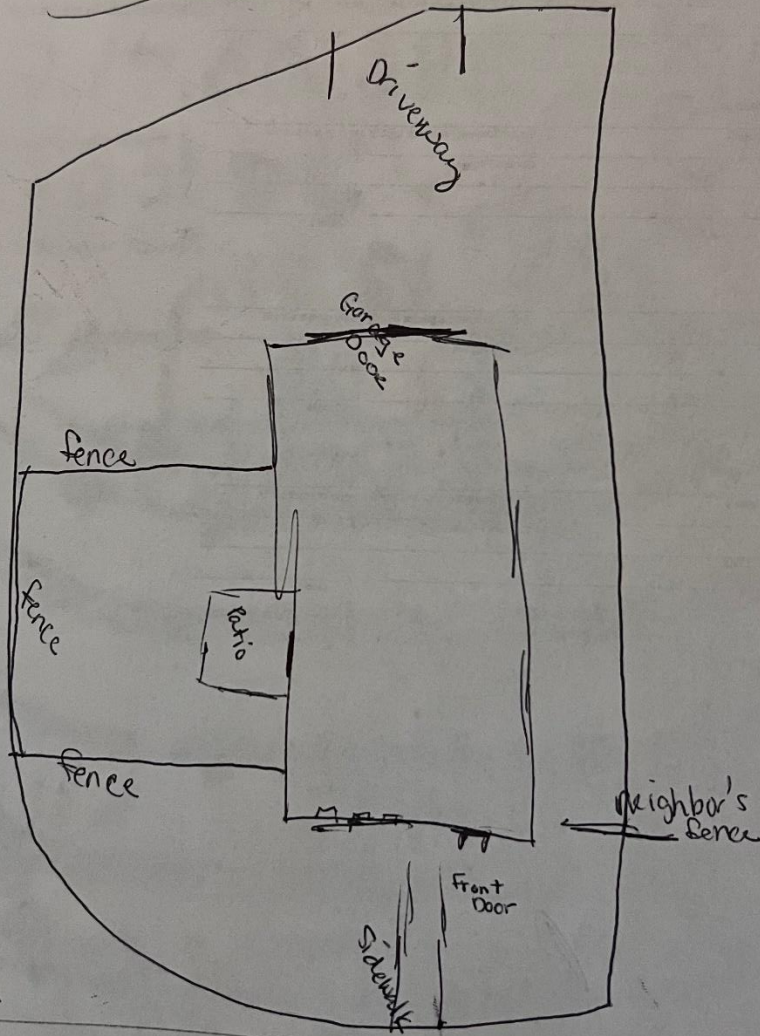


Consent of Owner Form

plan

fences & sidewalks

W Grand Street

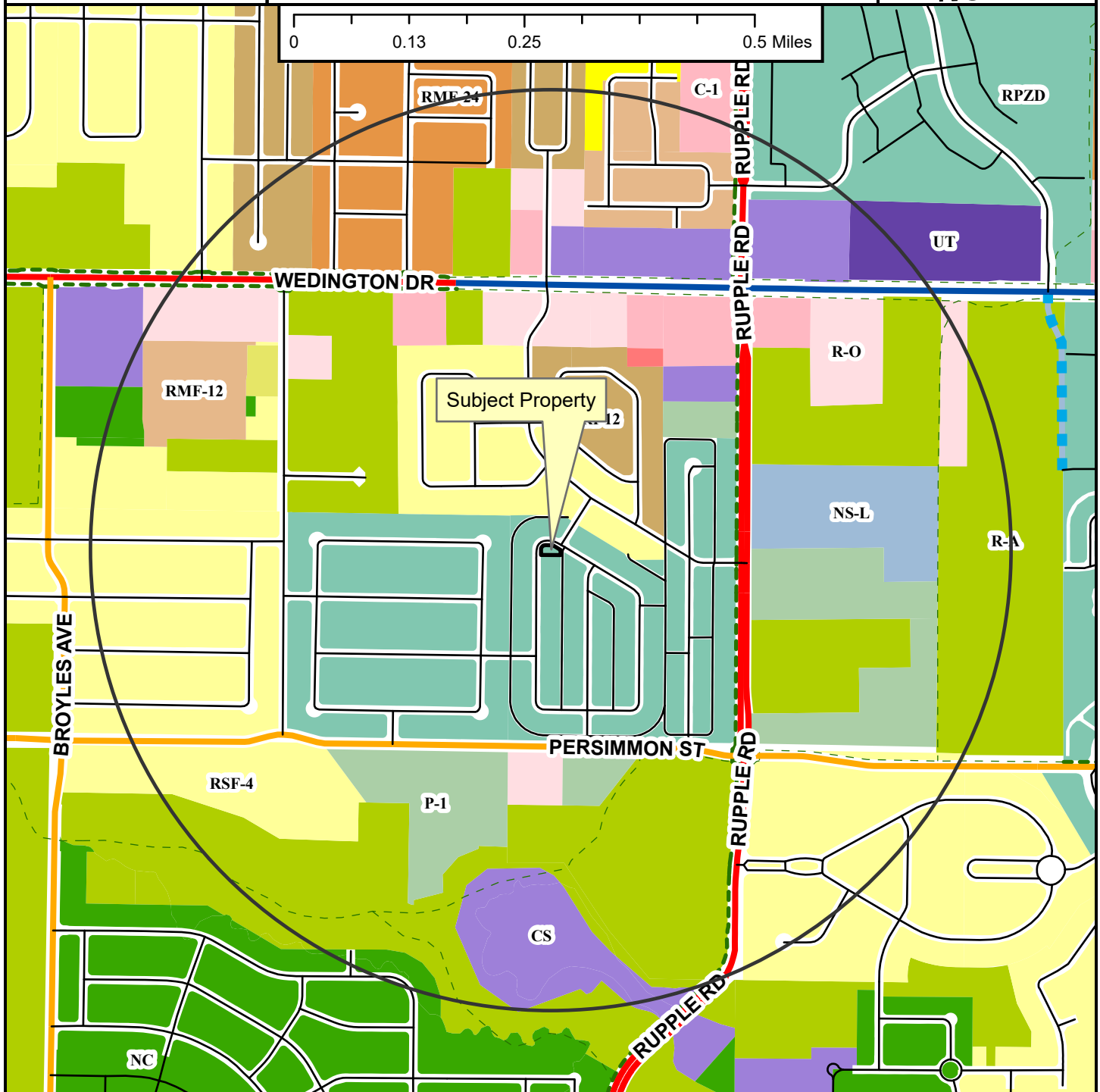


Longfellow LN

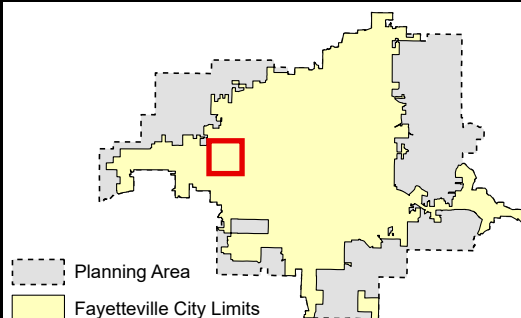
CUP-2023-0098

One Mile View

668 N. LONGFELLOW LN

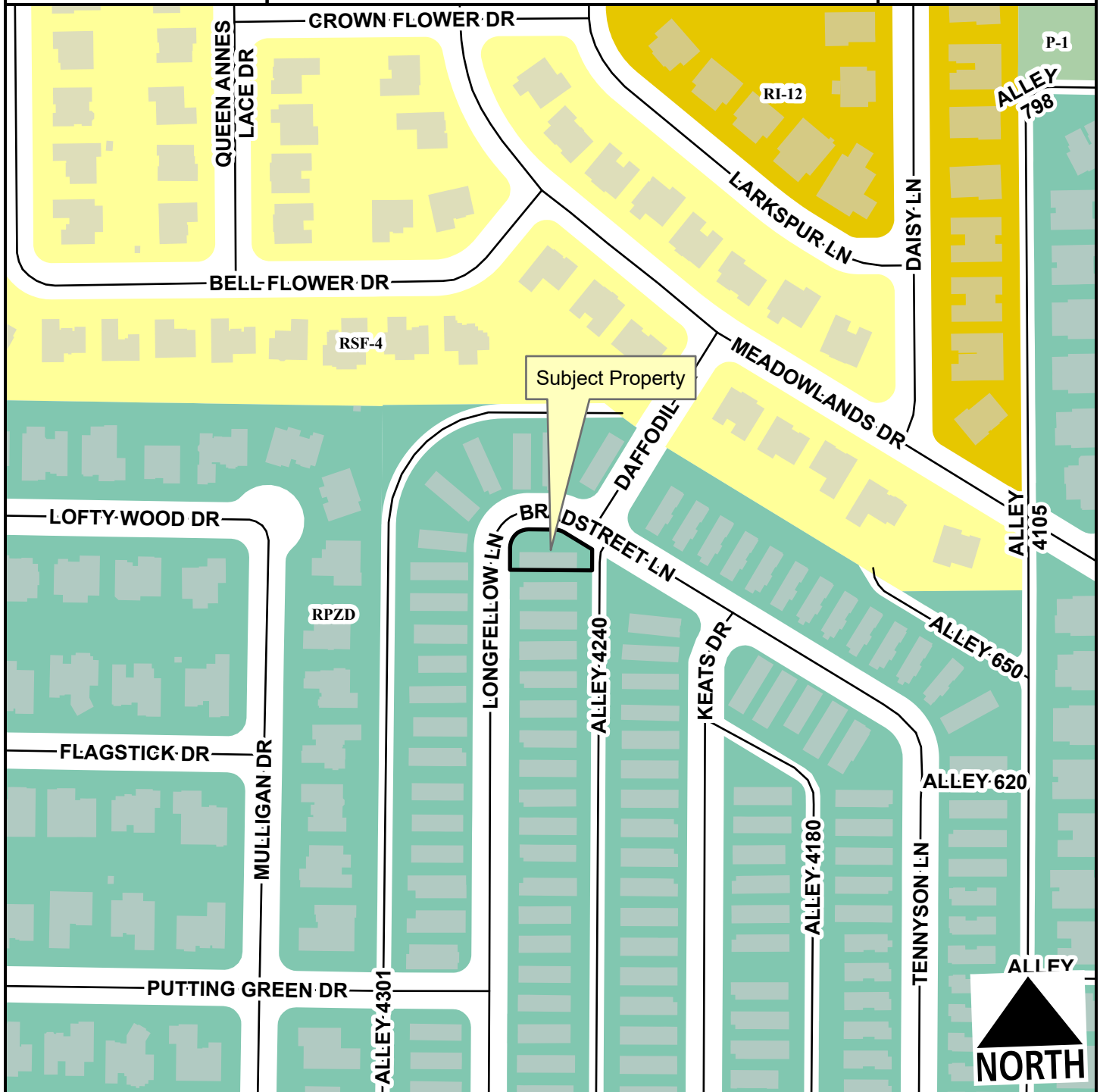


-  Regional Link
 Neighborhood Link
 Regional Link - High Activity
 Unclassified
 Alley
 Residential Link
 Planned Residential Link
 Shared-Use Paved Trail
 Trail (Proposed)
 Fayetteville City Limits
 Planning Area



-
- Zoning**
- 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 SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial

Close Up View



- Alley
- Residential Link
- ⋯ Planning Area
- ⋯ Fayetteville City Limits



- RSF-4
- RI-12
- Commercial, Industrial, Residential
- P-1

CUP-2023-0098

668 N. LONGFELLOW LN

Current Land Use



- Regional Link
- Neighborhood Link
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits



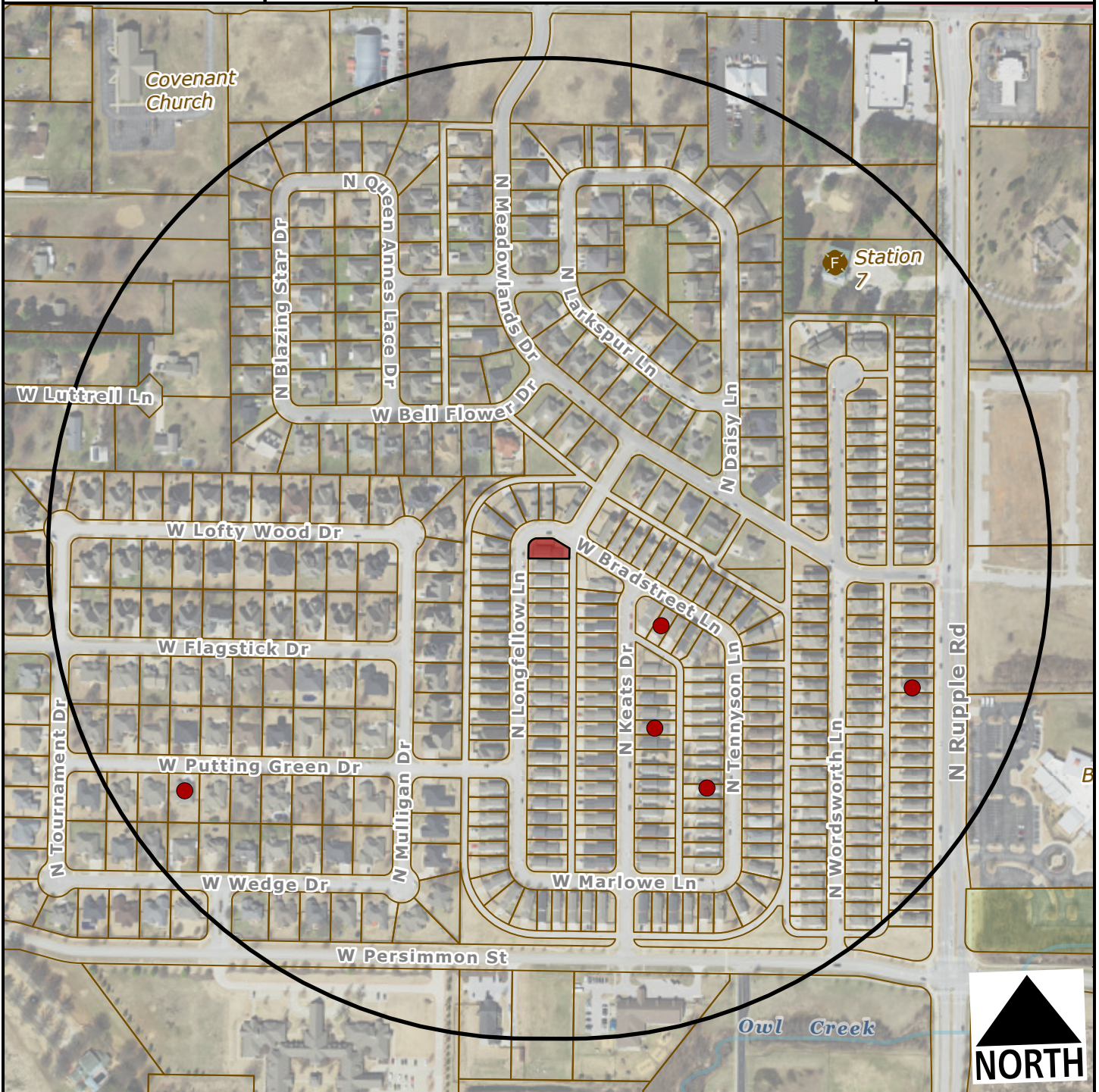
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0098

668 N. LONGFELLOW LN

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: September 11, 2023

SUBJECT: **CUP-2023-0099: Conditional Use Permit (1074 E. STARLING ST./GADDIS, 603):** Submitted by TAMI GADDIS for property located at 1074 E. STARLING ST. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT 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-2023-0099** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0099**, determining:*

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

BACKGROUND:

The subject property is in the Creekside Meadows Subdivision at the northwest corner of Starling Street and Sparrow Circle. The property contains 0.20 acres and is developed with a 1,330-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-8, Residential Single-Family, Eight Units per Acre
South	Single-Family Residential	RSF-8, Residential Single-Family, Eight Units per Acre
East	Single-Family Residential	RSF-8, Residential Single-Family, Eight Units per Acre
West	Single-Family Residential	RSF-8, Residential Single-Family, Eight 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 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-2023-0099** 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>September 11, 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-8 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-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-8 zoning. Since RSF-8 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, four on-site vehicle parking spaces will be available to guests in an existing driveway and attached garage.

- 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 1074 E. Starling St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

- 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 September 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 four off-street parking spaces will be available for guests in an existing driveway and garage. On-street parking does not appear to be available along adjoining or nearby streets. City records indicate that four other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license, including three other units in the Creekside Meadows Subdivision. No prior zoning or code violations have been reported on the 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: **A paved driveway is available to accommodate vehicular ingress and egress to the subject property. The property also has frontage along two streets that**

are fully improved with sidewalk at the back of the right of way to accommodate pedestrian access. Staff finds that the proposal to use the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.

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

Finding: A total of four 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 services. 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. The applicant has stated that bins will be stored in the garage.

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

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

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

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

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

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

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

Finding: Based on the applicant's submittal, the 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 there are only four other licensed Type 2 short-term rentals within a quarter-mile radius. 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
 - §161.09 District RSF-8, Residential Single-Family – Eight (8) 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.

161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit.*

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

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

Short Term Rental Type 2 Request Letter

1074 E Starling Street, Fayetteville, AR 72701

Legal Description: Lot 68 of the Final Plat of Creekside Meadows, Fayetteville, Washington County, Arkansas, as per Plat Record 24-373.

To Whom It May Concern:

I'm writing to request the use of our property at 1074 E Starling Street, Fayetteville, AR 72701, as a Short Term Rental Type 2.

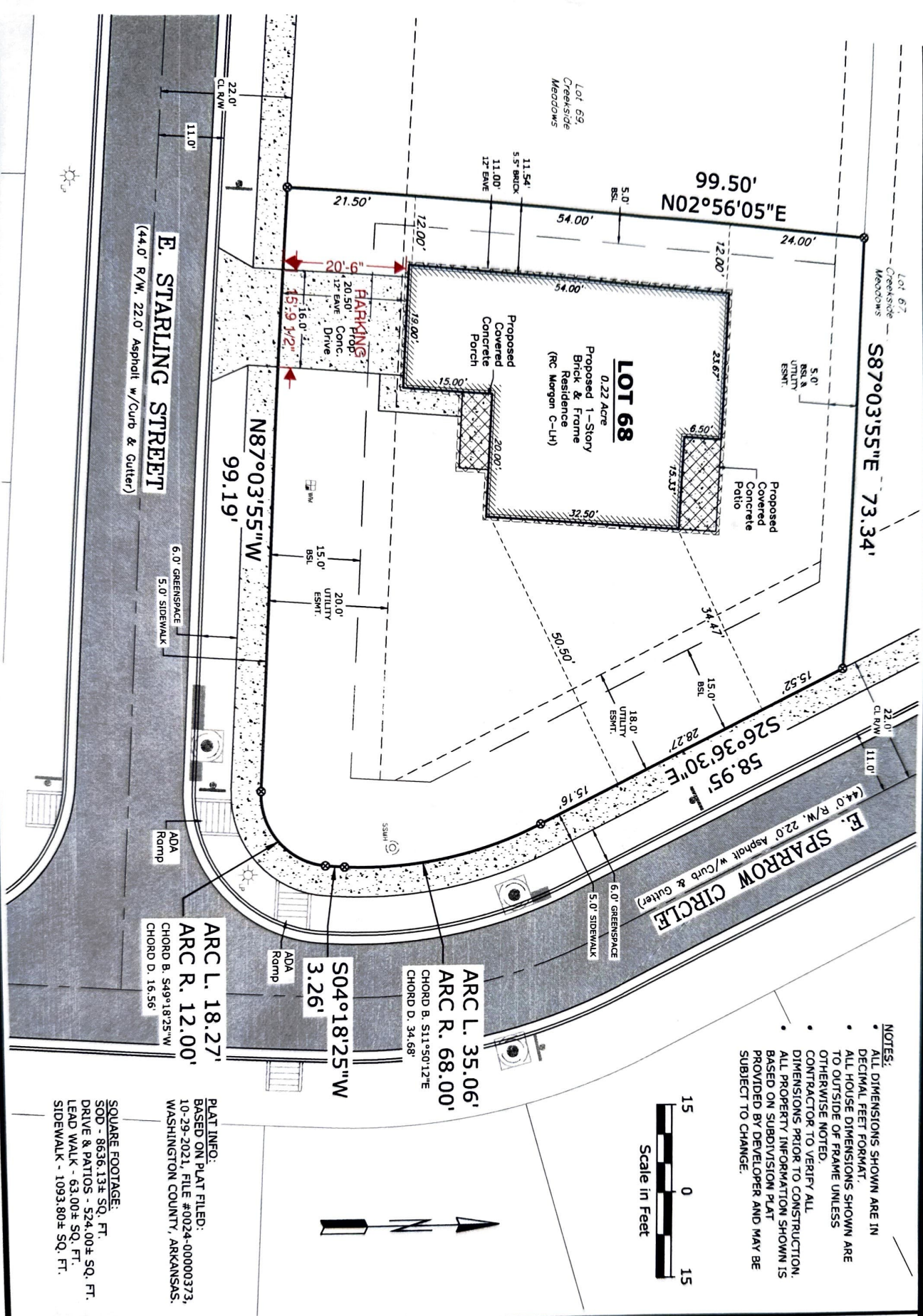
- (a) Building size in square feet; existing and proposed: **1330 sqf.**
- (b) Color elevations of all exterior sides of the structure: **Front: light blue vinyl siding with light multi-colored brick. Sides and back – light blue vinyl siding.**
- (c) Number of off-street parking spaces to be provided / number required: **4 (2 garage, 2 driveway)**
- (d) Outdoor lighting: **Coach lights on right and left side of garage (2 total), porch light on front porch, porch light on back porch. Solar lights attached at top/inside of fence (7 total)**
- (e) Noise: **All activities within guidelines of POA (quiet neighborhood)**
- (f) Screening or buffering from adjacent properties: **6' privacy fence all sides.**
- (g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties): **City trash service. Trash cans and recycle bins stored in garage.**
- (h) Ingress and egress to the property; traffic impacts: **(2) Entrance/Exit roads. All two-way traffic in community.**
- (i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood: **There are several rental properties in the area. Traffic is currently consistent with any traffic generated from this property.**

Justin Gaddis (Owner)

Tamatha Stanley/Tami Gaddis (Owner)







- NOTES:**
- ALL DIMENSIONS SHOWN ARE IN DECIMAL FEET FORMAT.
 - ALL HOUSE DIMENSIONS SHOWN ARE TO OUTSIDE OF FRAME UNLESS OTHERWISE NOTED.
 - CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
 - ALL PROPERTY INFORMATION SHOWN IS BASED ON SUBDIVISION PLAT PROVIDED BY DEVELOPER AND MAY BE SUBJECT TO CHANGE.



FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
PLOT PLAN OF
LOT 68,
CREEKSIDE MEADOWS

DATE: 12-28-2021

JOB NO: 21-08-01

SCALE: 1"=15'

FOR USE BY:
Rausch Coleman Homes
PROPERTY ADDRESS:
1074 East Starling Street
Fayetteville, AR 72701

JAKE WORTHINGTON

Residential Plot Plans

P.O. Box 2021

Alma, AR 72921

(479)-226-6400

e-mail: zjakew@gmail.com

Planning Commission
September 11, 2023

CUP-2023-0099 (GAD 09)

Page 15 of 19

LEGEND

- SUBJECT PROPERTY LINE
- ADJOINER PROPERTY LINE
- ROAD CENTERLINE
- BUILDING SETBACK LINE
- EASEMENT LINE
- CALCULATED POINT

ABBREVIATIONS

- R/W = RIGHT-OF-WAY
- ESMT. = EASEMENT
- BSL = BUILDING SETBACK LINE
- PROP. = PROPOSED
- ARC L. = ARC LENGTH
- ARC R. = ARC RADIUS
- CHORD B. = CHORD BEARING
- CHORD D. = CHORD DISTANCE

PLAT INFO:

BASED ON PLAT FILED:
10-29-2021, FILE #0024-00000373,
WASHINGTON COUNTY, ARKANSAS.

SQUARE FOOTAGE:

SOD - 8636.13± SQ. FT.
DRIVE & PATIOS - 524.00± SQ. FT.
LEAD WALK - 63.00± SQ. FT.
SIDEWALK - 1093.80± SQ. FT.

ARC L. 18.27'
ARC R. 12.00'
CHORD B. S49°18'25"W
CHORD D. 16.56'

ARC L. 35.06'
ARC R. 68.00'
CHORD B. S11°50'12"E
CHORD D. 34.68'

S04°18'25"W
3.26'

ADA Ramp

ADA Ramp

E. STARLING STREET
(44.0' R/W, 22.0' Asphalt w/Curb & Gutter)

E. SPARROW CIRCLE
(44.0' R/W, 22.0' Asphalt w/Curb & Gutter)

S87°03'55"E 73.34'

S26°36'30"E 58.95'

99.50' N02°56'05"E

N87°03'55"W 99.19'

Lot 69
Creekside
Meadows

Lot 67
Creekside
Meadows

LOT 68
0.22 Acre
Proposed 1-Story
Brick & Frame
Residence
(RC Morgan C-LH)

Proposed
Covered
Concrete
Patio

Proposed
Covered
Concrete
Porch

PARKING
20.50' Conc.
12' Eave Drive

15.0' BSL

20.0' UTILITY
ESMT.

15.0' BSL

6.0' GREENSPACE

5.0' SIDEWALK

5.0' SIDEWALK

5.0' SIDEWALK

5.0' SIDEWALK

5.0' SIDEWALK

5.0' SIDEWALK

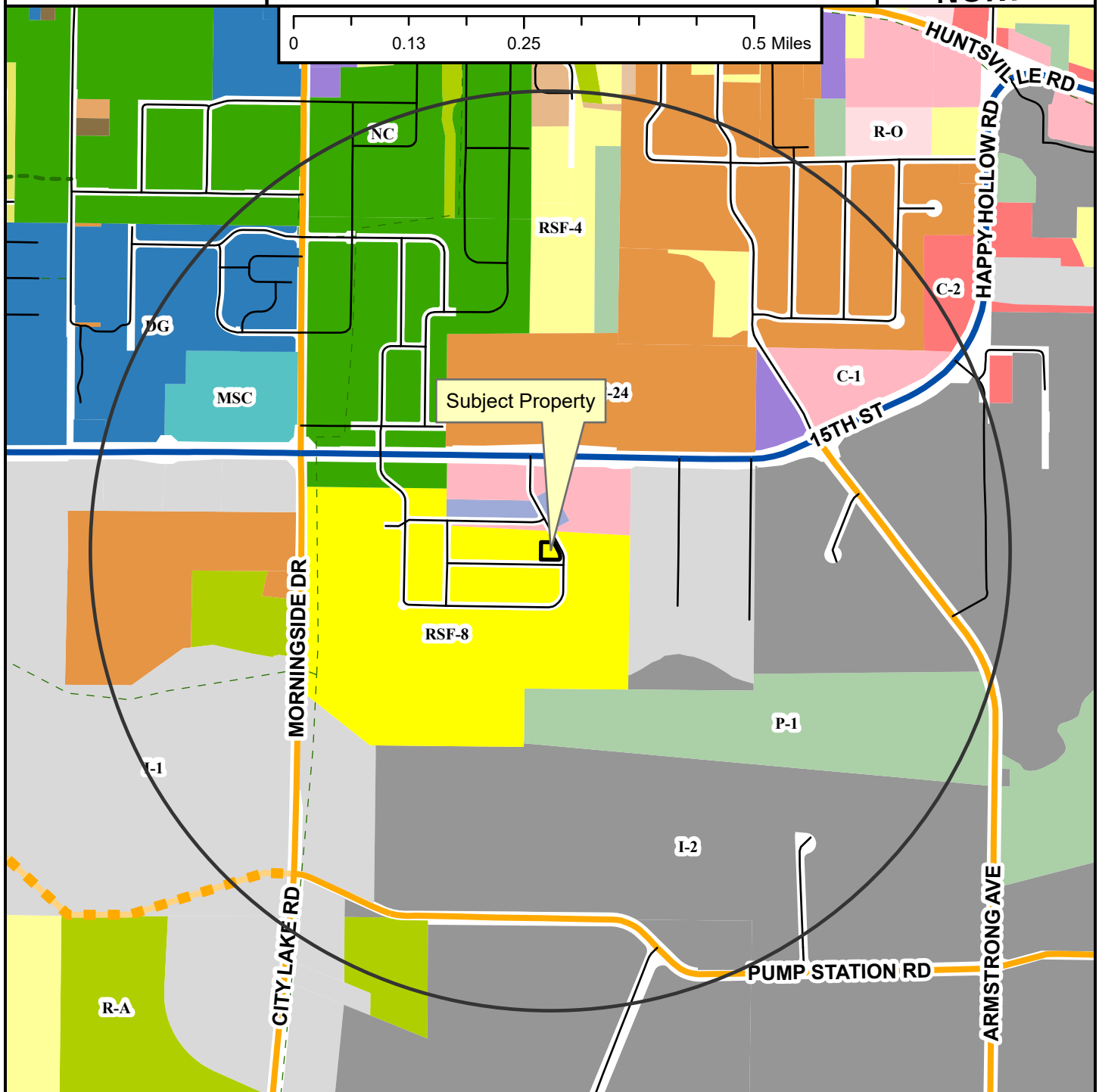
5.0' SIDEWALK

CUP-2023-0099

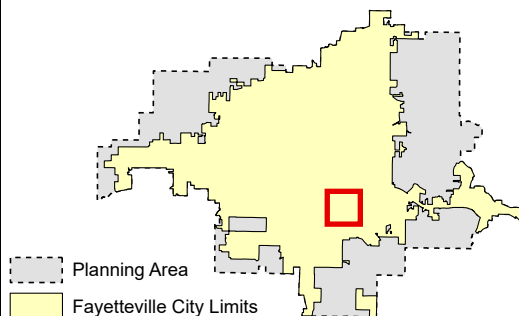
1074 E STARLING ST

One Mile View

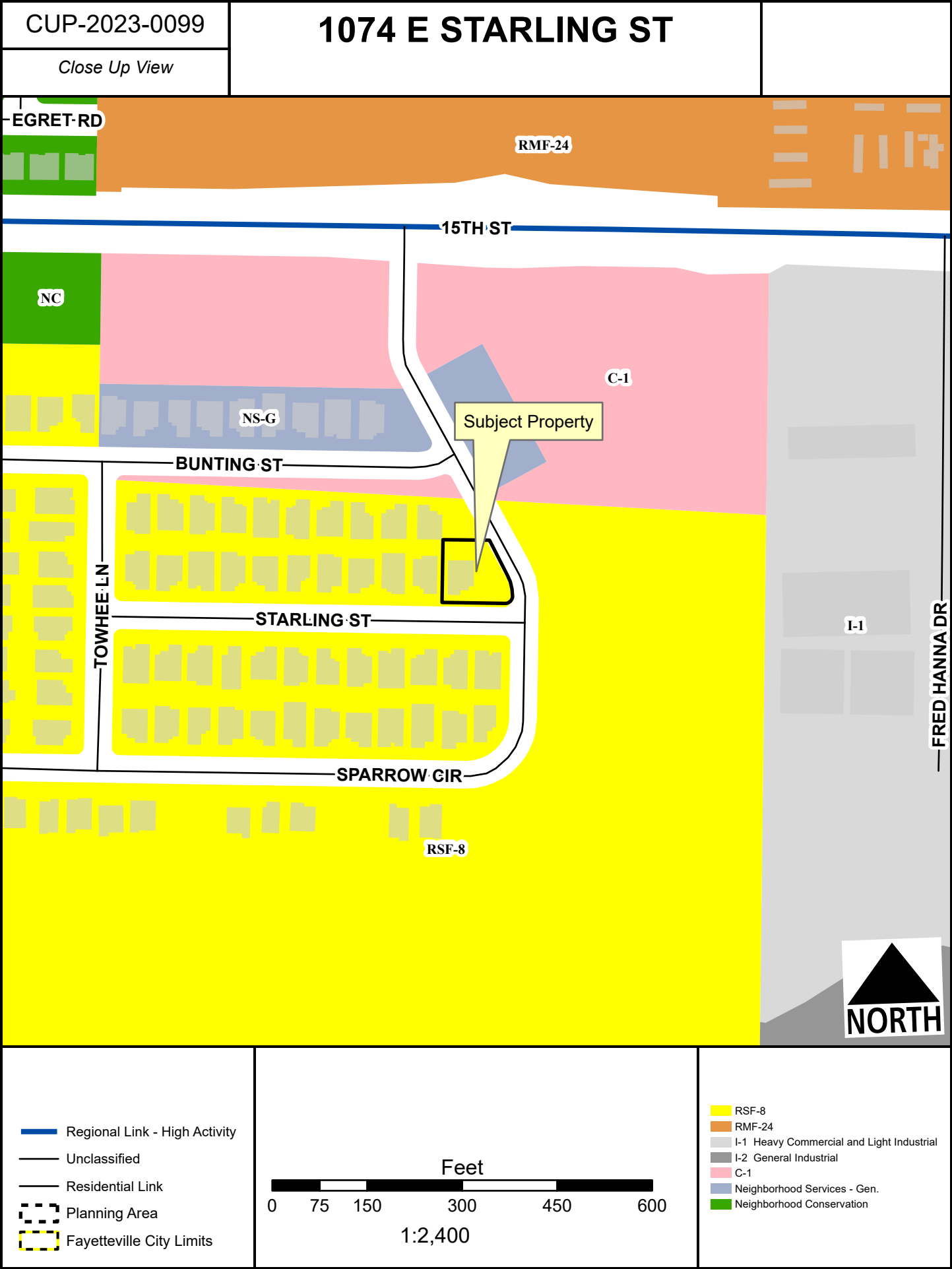
NORTH



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



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

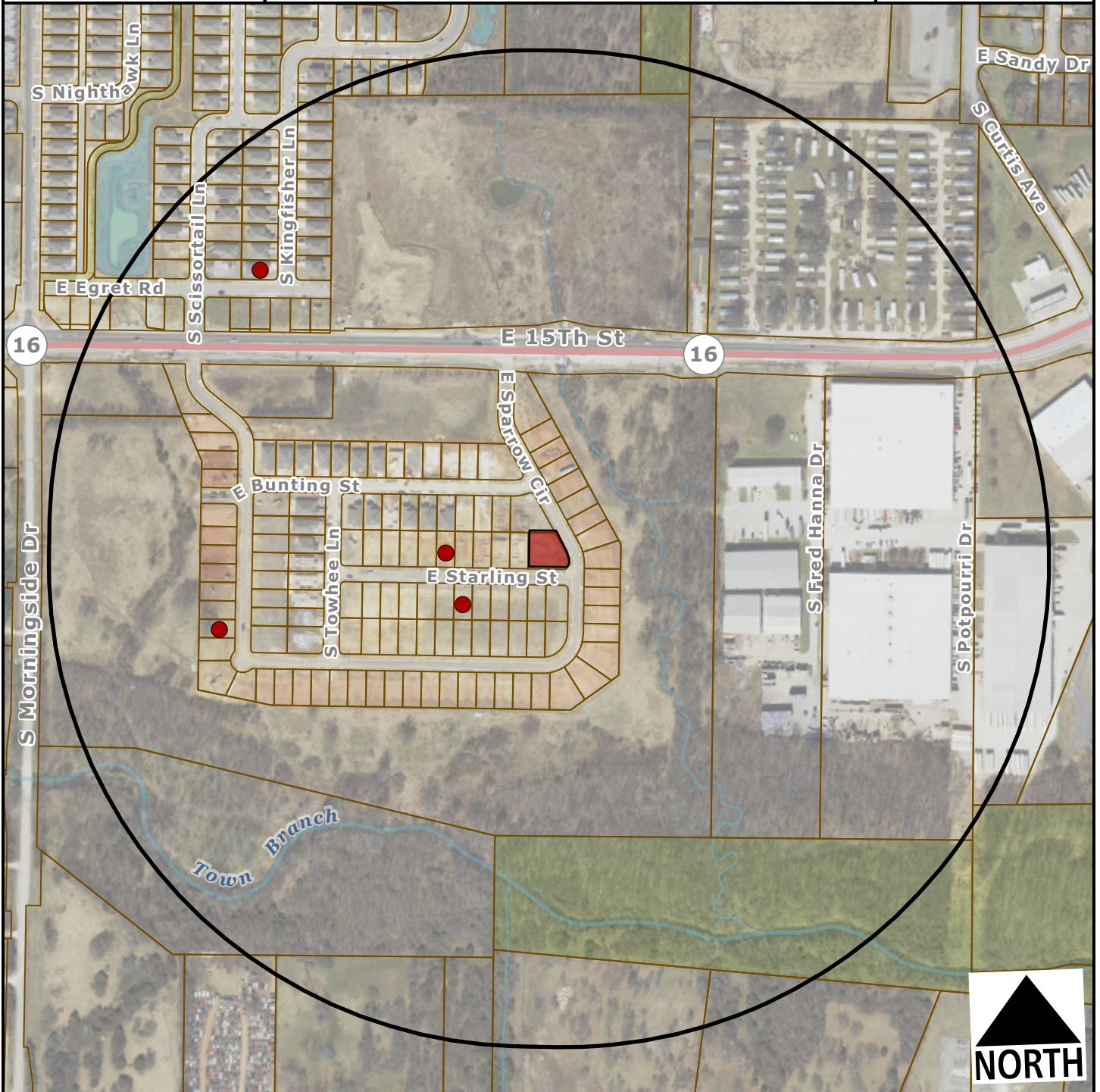




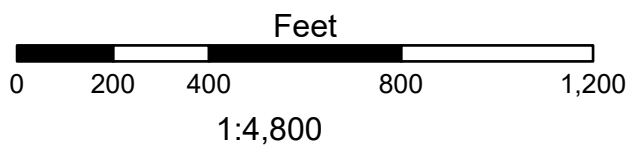
CUP-2023-0099

1074 E STARLING ST

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 4



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 11, 2023

SUBJECT: **CUP-2023-0100: Conditional Use Permit (1251 N. SICILY LN/WALLACE, 400):** Submitted by MOOSEARK LLC for property located at 1251 N SICILY LN. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0100**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0100** 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 west Fayetteville about 0.25 miles northwest of the W. Wedington Dr. and N. Ruppel Rd. intersection. The property is zoned RSF-8, Residential Single-Family, 8 Units per Acre, and totals approximately 0.10 acres and is developed with an 1,800 square foot single-family home built in 2019. The property is part of the Wedington Corridor Master Plan. This property received a short-term rental business license and a conditional use permit was administratively approved during the short-term rental start-up period. This permit was active until the property changed ownership in October 2022 and a new business license was applied for in September 2023. Because the business ceased operation for a period of greater than six months, a new conditional use permit is required. 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-8, Residential Single-Family, 8 Units per Acre
South	Two-family Residential	RMF-12, Residential Multi-Family, 12 Units per Acre
East	Two-family Residential	RMF-12, Residential Multi-Family, 12 Units per Acre
West	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0100**, 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.
11. Any vehicles parked in the driveway may not overhang onto public sidewalk as outlined in §72.03(A) Parking Prohibited in Certain Places.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 11, 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-8 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-8 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 three bedrooms, which would allow for a maximum occupancy 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: 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 to park two vehicles in a garage and an additional two vehicles in the driveway; based on the dimensions of the existing driveway (approximately 15 feet in length), staff finds that while a compact car could likely park without encroaching onto the public sidewalk, a standard size vehicle parking in the driveway is likely to encroach. N. Sicily Ln appears to be about 26 feet wide at this location; on-street parking is likely an option. Staff recommends a condition be added that any vehicles parked in the driveway may not overhang onto public sidewalk as outlined in §72.03(A) Parking Prohibited in Certain Places.

(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 1251 N. Sicily Ln. 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 September 6, 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. Additionally, there does appear to be on-street parking available at this location. There are currently 2 active Type 2 short-term rental licenses within $\frac{1}{4}$ mile of the site. Given the low number, staff finds that the neighborhood is not yet at a saturation point. There were no zoning or code violations 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: N. Sicily Ln. is a residential link street with sidewalk on both sides. 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: The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. According to the applicant, the structure has three bedrooms and four parking spaces (two in an attached garage and two in an existing driveway). Given the length of the driveway, staff recommends a condition be added that any vehicles parked in the driveway may not overhang onto public sidewalk as outlined in §72.03(A) Parking Prohibited in Certain Places.

(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. Properties adjacent to the proposed short-term rental are developed with a range of residential densities and the parcel is about 1/8 of a mile north of W. Wedington Dr., which includes multiple commercial developments. Further, a significant amount of the adjoining area east and west 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
 - §161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre
- Applicant Request Letter and Exhibits
- 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)

161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit.*

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories
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- (G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

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

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."

CUP Checklist Items:

GIS Approved
08/08/2023

1. N/A
2. Legal description of property: Lot 15, Ruppel Meadows Subdivision, to the City of Fayetteville, Washington County, Arkansas, as shown on Plat Record 24, at Page 161.
3. Description of request: We are applying for a conditional use permit from the city of Fayetteville for a property that we purchased in order to obtain a short-term rental Type 2 permit. We will not be residing in the residence. The property will be used for a nightly rental.
 - a. Square footage: 1,800 sq. ft.
 - b. Color Elevations: The residence is 2 floors. On the bottom floor is the kitchen, dining, and living area, as well as a half-bath. On the 2nd floor are all three bedrooms – each with their own full bath and walk-in closet. There is also a laundry room on the 2nd.
 - c. Off-street parking spaces: 4 – two in the garage and two in the driveway.
 - d. The residence will not have operating hours or employees. It will be in use whenever it is being rented. The maximum number of guests at any given moment is six (based on a king-sized bed in all three bedrooms). We will be self-managing and cleaning the property between each stay, which will serve as our regular site inspections.
 - e. Outdoor Lighting: Front and back porch + in front of the garage
 - f. Noise: The property will be used for short stays of 1-6 people so the noise level should be minimal. There will be two televisions in the unit and that will be the extent of the noise.
 - g. Screening from adjacent properties: 6ft. backyard fencing separates adjacent properties on both sides.
 - h. Trash and refuse service: normal City of Fayetteville residential trash and recycle service.
 - i. Ingress and egress to the property: driveway to and from the garage. Front door. Back door (to covered porch). The unit does not add additional traffic on the road because this area is already used for short-term rentals and residential properties.
 - j. We intend to list this property as a short-term rental. This property was already a short-term rental being managed under previous ownership, with a Conditional Use Permit in 2022, so it seems that the transition should be very smooth; perhaps even unnoticed by the neighborhood.

IMAGE ATTACHMENTS:

3B.) Elevations of all exterior sides of the structure:



3C.) Parking description

Off-street parking spaces: 4 – two in the garage and two in the driveway.



3G.) Screening or buffering from adjacent properties



3I.) Ingress and egress to the property



4. Site plan drawn to scale

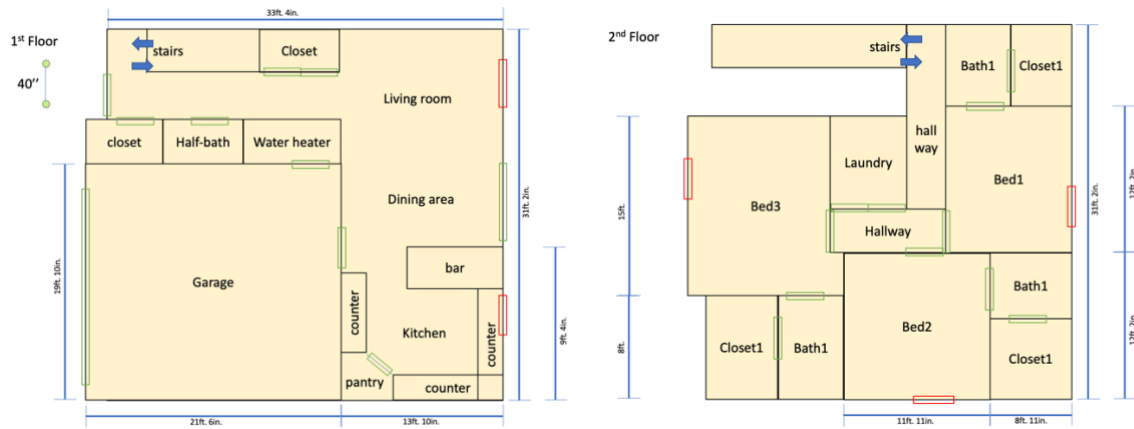


5. Pictures of floor plan (scroll for drawn floor plan)

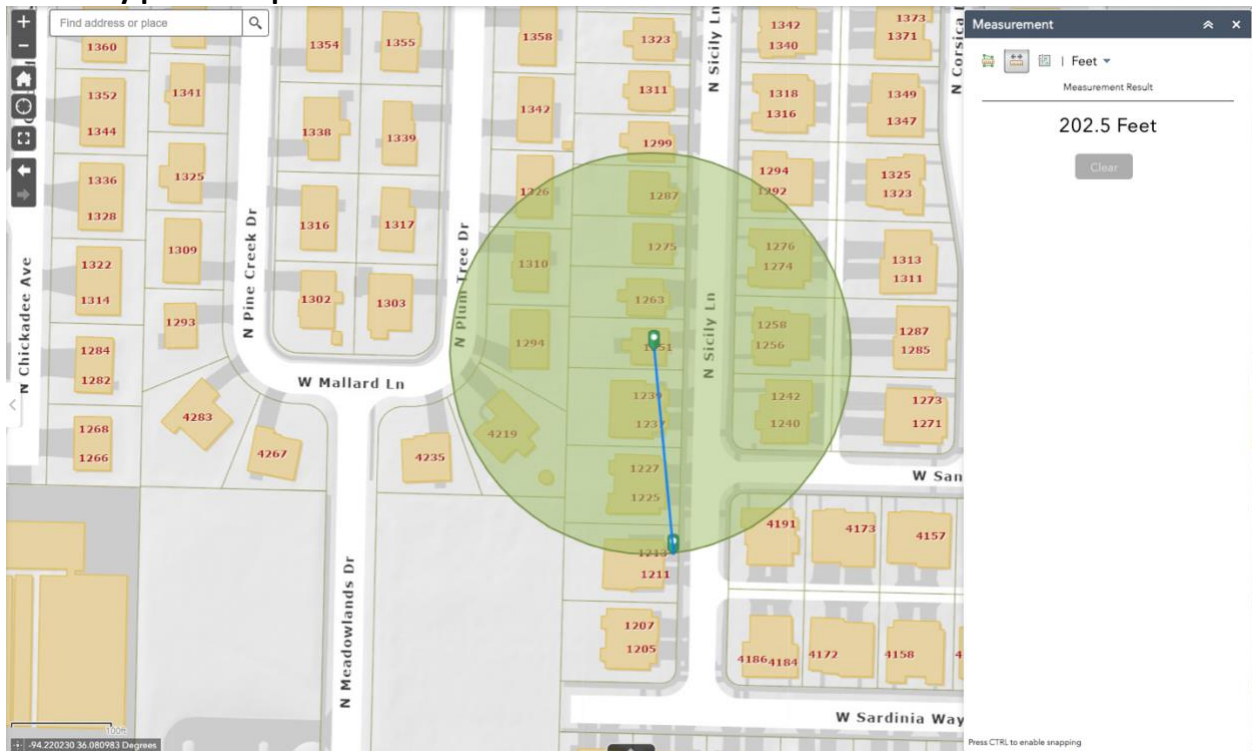




5. Floor plan drawn to scale



6. County parcel map – Parcels within 200 ft.





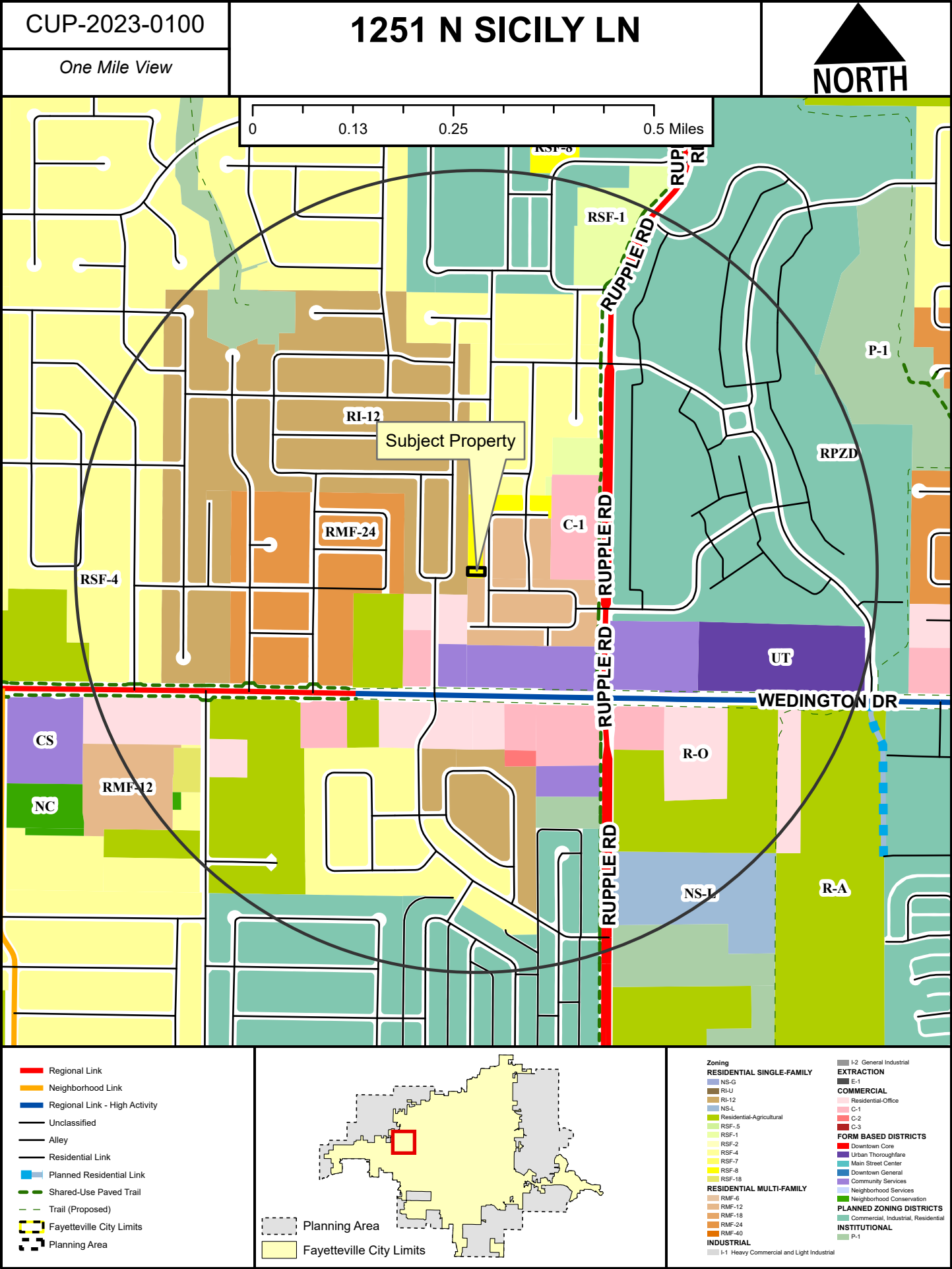
7. Property Owner Authorization

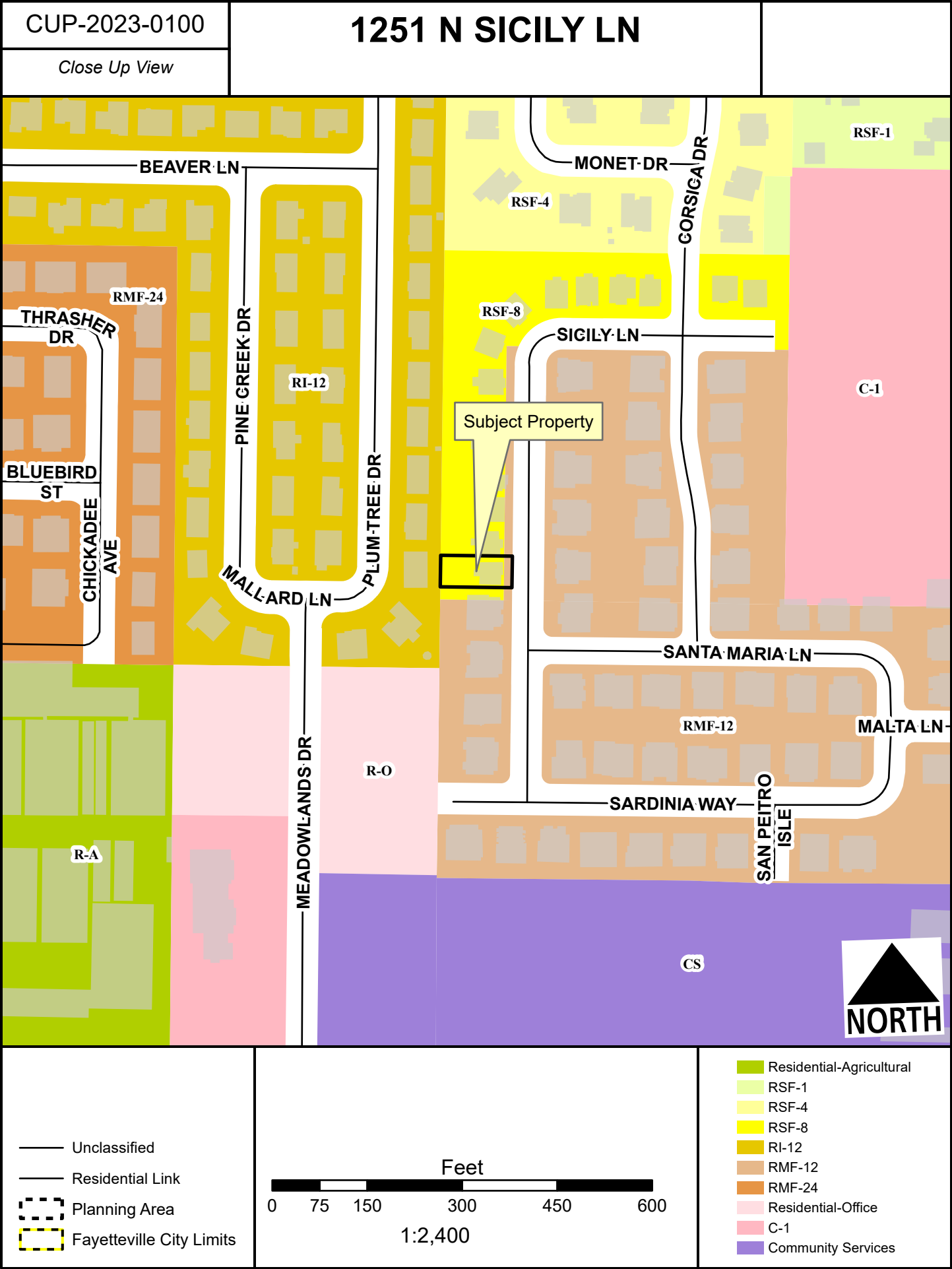
I, David T. Wallace, current property owner of record of 1251 N Sicily Ln, Fayetteville, AR 72704 (as of 7/16/2023), have designated Connor Luther and Brianna Luther as Project Representatives for the Business Licensing and Conditional Use Permit process for a Short-Term Rental Type 2.

David T. Wallace
(printed name)


(signature)

07/16/2023
(date)





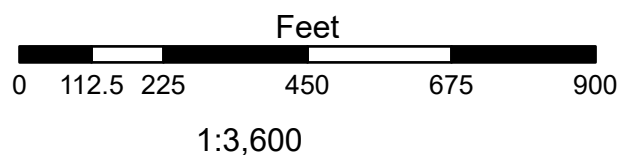
CUP-2023-0100

1251 N SICILY LN

Current Land Use



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



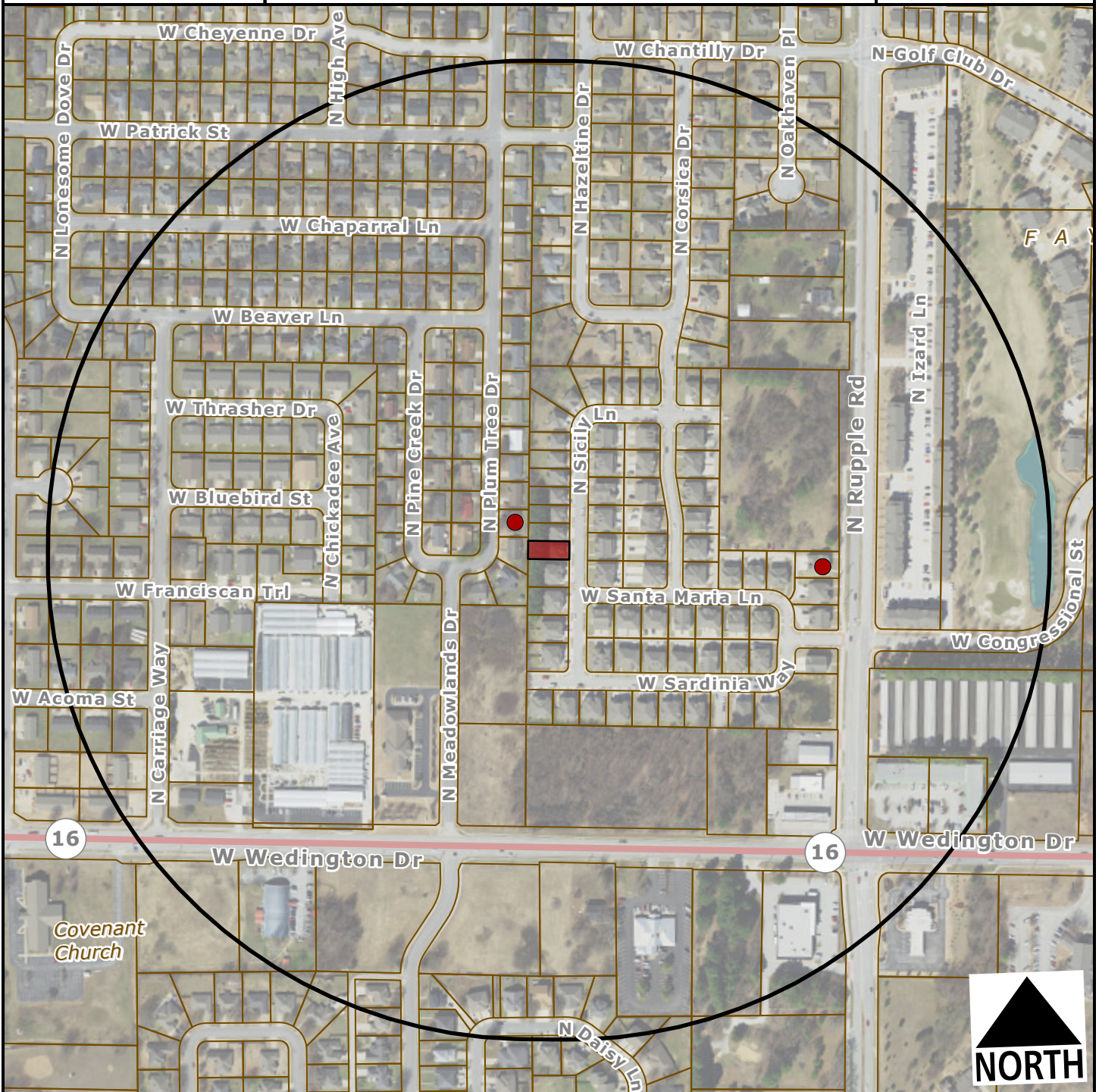
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0100

1251 N SICILY LN

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 2



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 11, 2023

SUBJECT: **CUP-2023-0101: Conditional Use Permit (1158 N. SUNSET DR/MEYERS, 404):** Submitted by KIMBERLY ZIMMERMAN for property located at 1158 N. SUNSET DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0101**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0101** with conditions, determining:*

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

BACKGROUND:

The subject property is located in central Fayetteville on the southeast side of the W. Wedington Dr. and N. Sunset Dr. intersection. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre, and is almost wholly encompassed by the Hillside-Hilltop Overlay District. The 0.30 acre parcel has been developed with a 2,688 square foot single-family structure built in 1970 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	Single-family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0101**, 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>September 11, 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 four bedrooms, which would allow for a maximum occupancy of ten 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. Based on the dimensions of the garage, it could likely hold two cars and an additional two cars could likely park in the

driveway. N. Sunset Dr. appears to be about 26 feet wide at this location; on-street parking is likely 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 1158 N. Sunset 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 September 6, 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. Additionally, on-street parking appears to be available at this location. There are currently 7 active Type 2 short-term rental licenses within ¼ mile of the site. As the area is primarily residential with a mixed density,

staff finds that the neighborhood is not yet at a saturation point. No prior zoning or code violations were found for this address.

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

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

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

Finding: N. Sunset Dr. 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 10 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 short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. Based on the dimensions of the garage, it could likely hold two cars and an additional two cars could likely park in the driveway without encroaching into the street.

(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.

- (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 N. Sunset Dr. are all detached single-family dwellings in this area, across W. Wedington Dr., properties are developed with a range of residential densities as well as commercial uses.

- (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
 - §161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre
- Applicant Request Letter
- Site Plan
- Elevations
- 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)

161.07 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."

APPLICANT REQUEST LETTER

To Whom It May Concern,

07/31/2023

This is a request to apply for a short-term rental permit from the city of Fayetteville on the property @ 1158 North Sunset Dr.

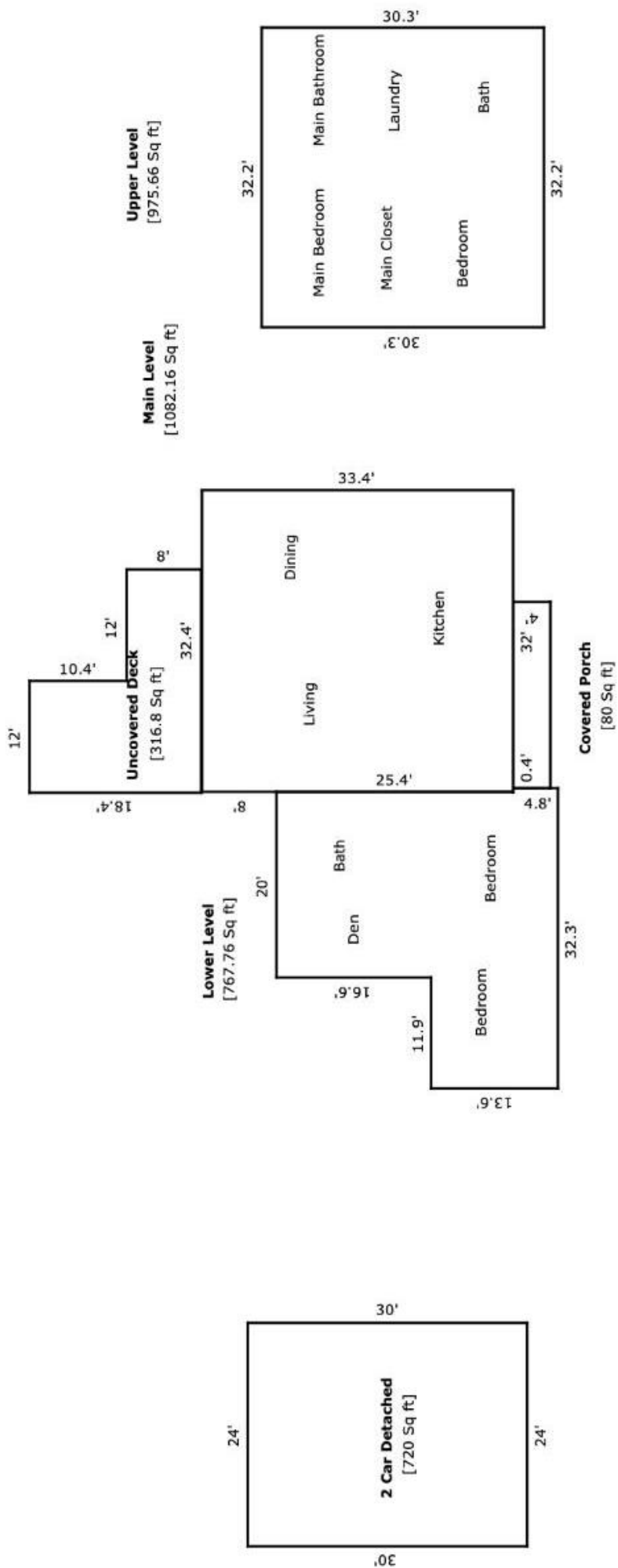
- (a) 2828 sft
- (b) Brown Tri-Level single family home
- (c) 4 bedrooms
- (d) N/A
- (e) Low
- (f) Private setting completely fenced property on 0.32 acres
- (g) Garbage pick up provided by City of Fayetteville
- (h) Property entrance and exit via North Sunset Dr to West Wedington Dr. or West Cleveland Dr. No traffic issues.
- (i) This property is a very private single family home on 0.32 acres with two large side yards. The house itself is not in close proximity to the adjoining property dwelling. Giving both properties exclusive privacy. Walking distance to the U of A. 1158 N Sunset sits at the end of the block on a corner lot that intersects with N Wellington Dr. This property has a detached two car garage as well as two car off street parking spots.

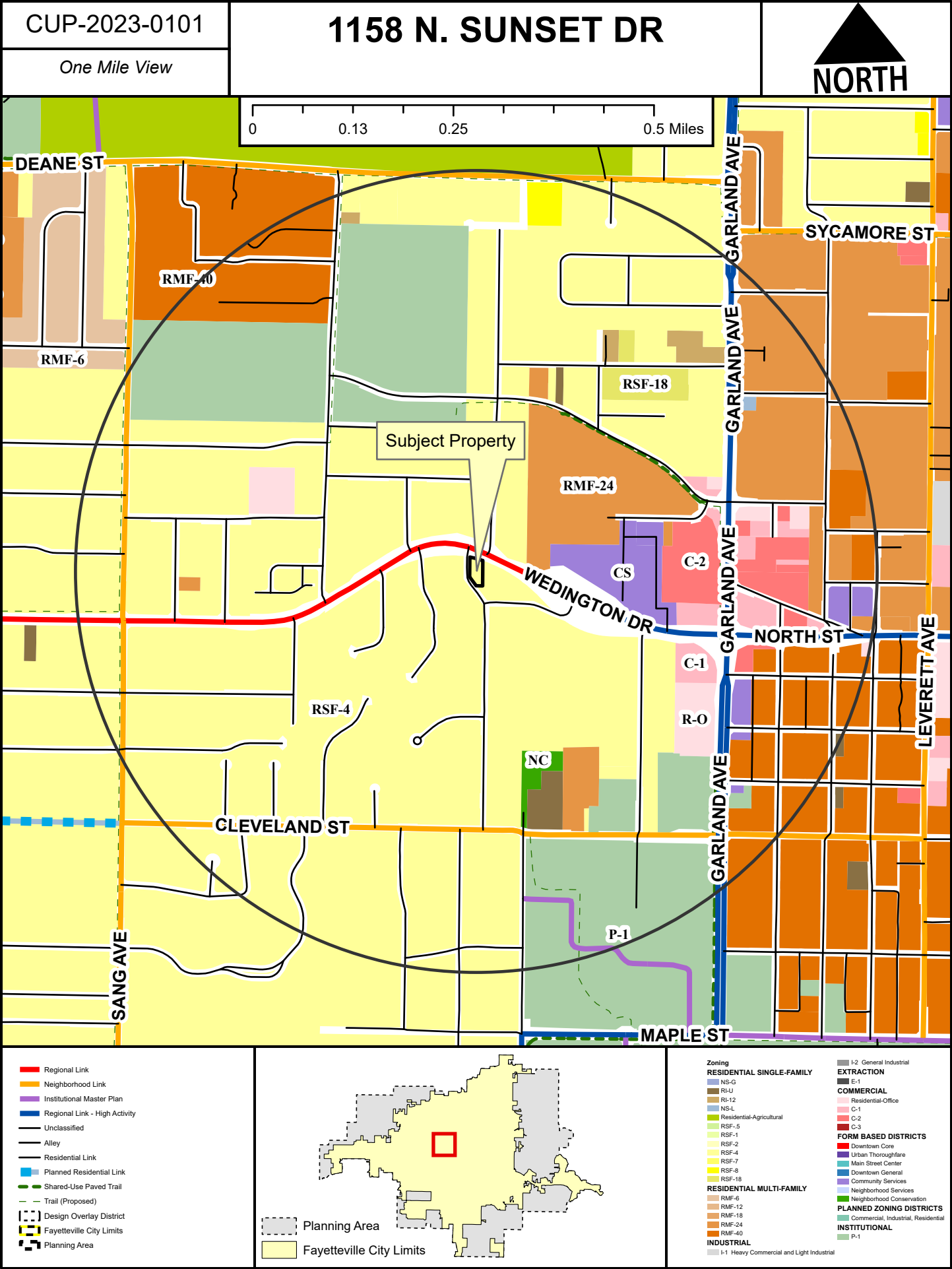


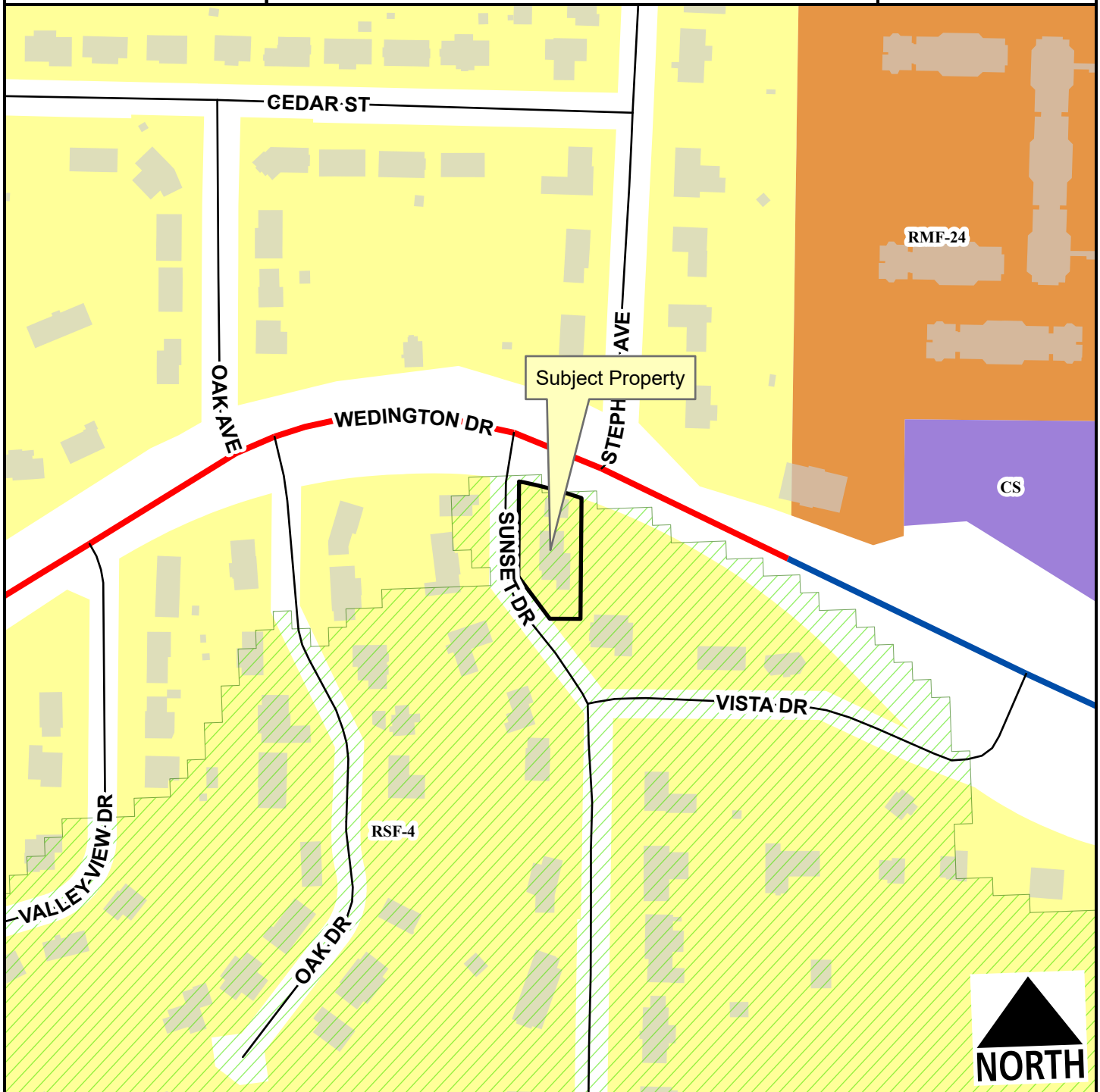




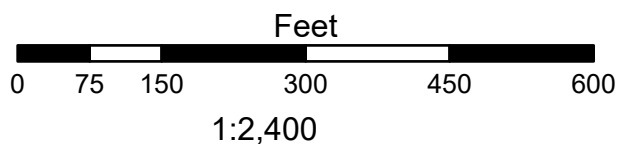








- Regional Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



- RSF-4
- RMF-24
- Community Services

CUP-2023-0101
<i>Current Land Use</i>

1158 N. SUNSET DR



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

Feet

0 112.5 225 450 675 900

1:3,600

1:3,600

FEMA Flood Hazard Data

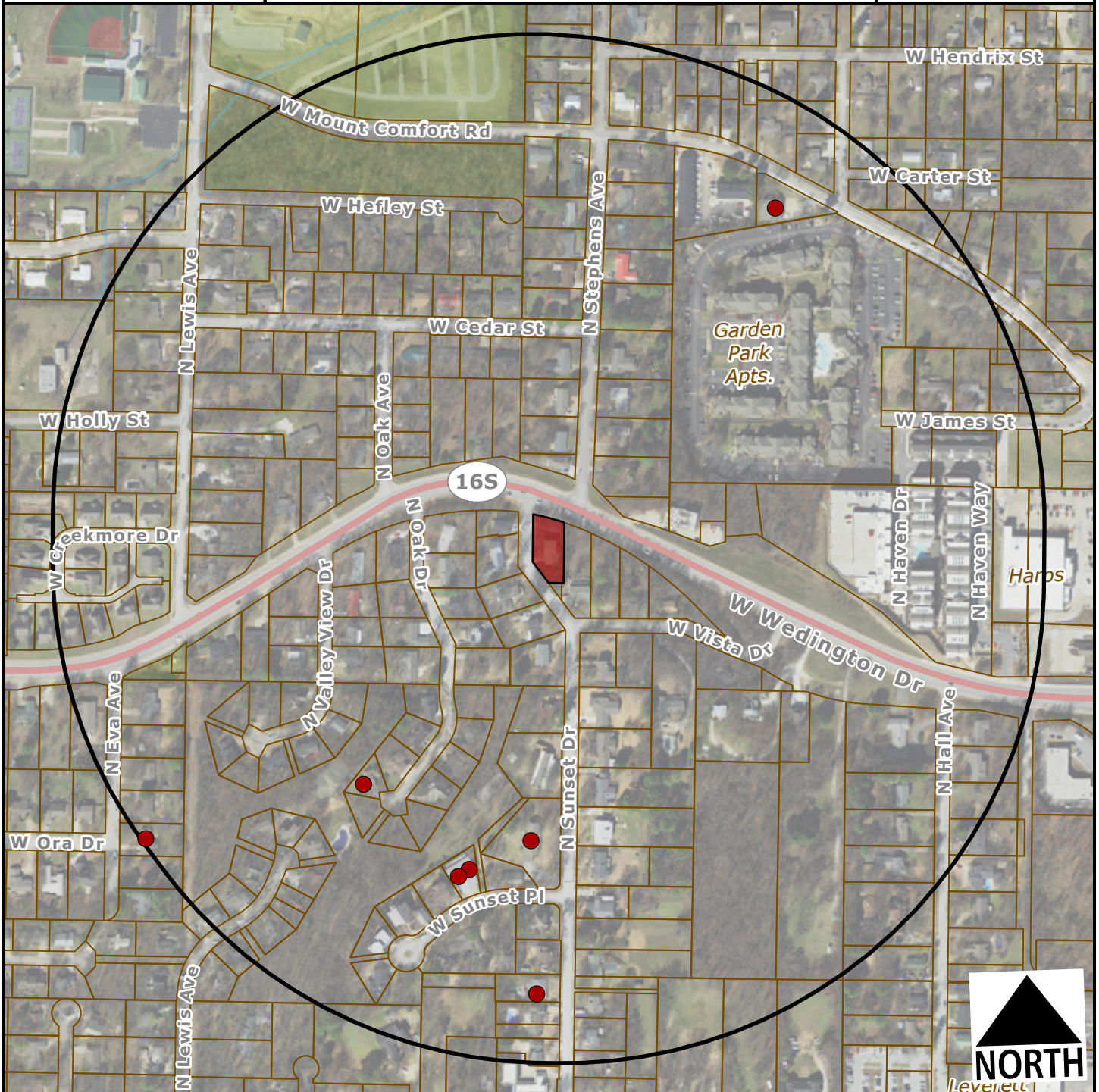
- 100-Year Floodplain
- Floodway

- 100-Year Floodplain
- Floodway

CUP-2023-0101

1158 N. SUNSET DR

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Number of STR Licenses

Total 7