City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8267

Planning Commission Tentative Agenda

Thursday, September 21, 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 September 11, 2023 Planning Commission. - Mirinda Hopkins, Development Coordinator

2. ADM-2023-0037: Administrative Item (3220 W. OLD FARMINGTON RD/SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):

Submitted by COMMUNITY BY DESIGN for a property located at 3220 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.04 acres. The request is to extend a previously approved Large Scale Development. - Gretchen Harrison, Senior Planner

3. VAR-2023-0041: Planning Commission Variance (8899 W. ATHENS LN/ATHERTON, 470):

Submitted by BLEW & ASSOCIATES for property located at 8899 W. ATHENS LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 10.83 acre. The request is for a variance from road frontage requirements. - Donna Wonsower, Planner

Unfinished Business

4. 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 1.11 acres. The request is for a right-of-way vacation.

THIS ITEM WAS TABLED AT THE SEPTEMBER 11, 2023 PLANNING COMMISSION MEETING. - Jessica Masters, Development Review Manager

New Business

5. ADM-2023-0036: Administrative Item (1236 S. SCHOOL AVE/VAUGHN RECYCLING, LLC, 562):

Submitted by HALBERT LAW OFFICE for a property located at 1236 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 2.33 acres. The request is to extend a previously

approved Conditional Use Permit. - Gretchen Harrison, Senior Planner

6. VAR-2023-0040: Planning Commission Variance (612 W. CENTER ST/TRINITAS DEVELOPMENT, 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 1.11 acres. The request is for a variance from parking requirements. - Jessica Masters, Development Review Manager

7. VAC-2023-0009: Vacation (280 E. 12TH ST/FHA DEVELOPMENT, INC, 563):

Submitted by FHA DEVELOPMENT, INC for property located at 280 E. 12TH ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.40 acres. The request is to vacate a portion of street right-of-way containing approximately 0.05jess acres. - Jessica Masters, Development Review Manager

8. CUP-2023-0109: Conditional Use Permit 5877 W. SELLERS RD/SMALLING, 514):

Submitted by TYLER SMALLING for property located at 5877 W. SELLERS RD. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY, ONE UNIT PER ACRE and contains approximately 5.28 acres. The request is for an accessory structure on a lot without a primary structure. - Donna Wonsower, Planner

9. RZN-2023-0025: Rezoning (524 S. WILLOW AVE/BRINK, 524):

Submitted by ANDREW BRINK for property located at 524 S. WILLOW AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.20 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL. - Gretchen Harrison, Senior Planner

10. CUP-2023-0104: Conditional Use Permit (854 E. SPARROW CIR/VAN WINKLE, 603):

Submitted by GVW INVESTMENTS for property located at 854 E. SPARROW CIR. 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. - Donna Wonsower, Planner

11. CUP-2023-0105: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603):

Submitted by Gregory Van Winkle for property located at 1006 E. SPARROW CIR. 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. - Donna Wonsower, Planner

12. CUP-2023-0106: Conditional Use Permit (737 E. EGRET RD/VAN WINKLE, 564):

Submitted by GVW INVESTMENTS for property located at 737 E. EGRET RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.02 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

13. CUP-2023-0110: Conditional Use Permit (1147 N. SUNSET DR/JURGENS, 404):

Submitted by HEIDI KILE for property located at 1147 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. - Gretchen Harrison, Senior Planner

14. CUP-2023-0112: Conditional Use Permit (2714 N. WESTMINSTER DR/CALESPRINGS LLC, 284):

Submitted by JAIME STEED for property located at 2714 N. WESTMINSTER DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

15. CUP-2023-0113: Conditional Use Permit (3509 W. VASSAR ST/RISK, 401):

Submitted by BOBETTE RISK for property located at 3509 W. VASSAR ST. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

16. CUP-2023-0116: Conditional Use Permit (1759 E. ACACIA XING/VAN BRUWAENE, 526):

Submitted by ASHLEY VAN BRUWAENE for property located at 1759 E. ACACIA XING. 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

17. CUP-2023-0117: Conditional Use Permit (7 E. MARTIN LUTHER KING JR BLVD/WOODRUFF, 523):

Submitted by CLAYTON WOODRUFF for property located at 7 E. MARTIN LUTHER KING JR BLVD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

18. CUP-2023-0118: Conditional Use Permit (1611 E. 5TH ST/EARLY, 526):

Submitted by ZEBUEL EARLY for property located at 1611 E. 5TH ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

19. CUP-2023-0119: Conditional Use Permit (3210 W. ESSEX DR/TANNER, 362):

Submitted by TANNER PROPERTY GROUP SLLC for property located at 3210 W. ESSEX DR. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, TWELVE 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

Items Administratively Approved by Staff

20. LSP-2023-0028: Lot Split (7010 W. JOHN GARRISON RD/KNIGHT, 239):

Submitted by ALAN REID & ASSOCIATES for property located at 7010 W. JOHN GARRISON RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 36.81 acres. The request is to split the property into two lots containing 27.32 acres, and 9.49 acres. - Donna Wonsower, Planner

21. LSP-2023-0038: Lot Split (653 W. 15TH ST/THE SANCTUARY, 600):

Submitted by DEVELOPMENT CONSULTANTS INC for property located at 653 W. 15TH ST. The property is zoned CS, COMMUNITY SERVICES and contains approximately 10.22 acres. The request is to split the property into two lots containing 3.02, and 7.12 acres. - Gretchen Harrison, Senior Planner

22. LSP-2023-0045: Lot Split (S. INDUSTRIAL DR/J2NE LLC, 642):

Submitted by BLEW & ASSOCIATES for property located on S. INDUSTRIAL DR. The property is zoned I-2, GENERAL INDUSTRIAL and contains approximately 10.01 acres. The request is to subdivide the property into two lots containing 7.06 and 2.95 acres. - Gretchen Harrison, Senior Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard at the public hearings. If you wish to address the Planning Commission on an agenda item, please queue behind the podium when the Chair asks for public comment. Once the Chair recognizes you, go to the podium and give your name

and address. Address you 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, Telecomminications 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, 9/11/2023			
Time:	**5:30 PM**					
Staff :	☐ Melissa Evans ☐ John Scott ☒ Jessie Masters ☒ Gretchen Harrison ☒ Donna Wonsower ☒ Kylee Hevrdejs					
	☐ Britin Bostick ☐ Sherry Smith ☒ Josh Boccaccio ☒ Melissa Boyd ☒ Fire Marshall ☒ Chris Brown ☒ Alan Pugh					
	Roll Call	**1) Minutes 08-28-2023**	**2) ADM-2023-0028 (AMEND UDC CHAPTERS 151,163, AND 164)**	**3) ADM-2023-0035 (RIVERSIDE VILLAGE PHASE 1)**	**4) PPL-2023-0005 (BORN'S BEND)**	**5) ADM-2023-0033 (CITY OF FAYETTEVILLE)**
Winston	**1**	**1**	**1**	**1**	**1**	**1**
McGetrick	**1**	**1**	**1**	**1**	**1**	**1**
Sparkman	**1**	**1**	**1**	**1**	**1**	**1**
Brink	**1**	**1**	**1**	**1**	**1**	**1**
Garlock	**1**	**1**	**1**	**1**	**1**	**1**
Madden	**1**	**1**	**1**	**1**	**1**	**1**
Payne	**1**	**1**	**1**	**1**	**1**	**0**
Gulley	**1**	**1**	**1**	**1**	**1**	**1**
Holcomb	**1**	**1**	**1**	**1**	**1**	**1**
Agenda		**Consent**	**Consent**	**Consent**	**Old**	**New**
Motion By		Sparkman	Sparkman	Sparkman	Sparkman	Sparkman
Motion 2nd		Garlock	Garlock	Garlock	Winston	Brink
Vote		9-0-0	9-0-0	9-0-0	9-0-0	8-1-0
Action		Approve	Approve	Approve	Approve	Forward
Time		5:34 PM	5:34 PM	5:34 PM	5:52 PM	6:40 PM
Motion Detail					Passed in favor of variances and all other conditions as recommended by staff. With conditions on fencing.	Passed with a recommendation of approval to Transportation Committee.
Public Comment					1	7

(pg. 2) Planning Commission	Monday, 9/11/2023				
	6) VAR-2023-0038 (SHADRACH)	7) VAR-2023-0039 (CANVIS COFFEE LLC)	8) LSD-2023-0009 (MIDTOWN LANDING)	9) LSD-2023-0015 (GIVINGTON)	10) VAC-2023-0004 (BUXTON)
Winston	[redacted]	1	1	1	1
McGetrick		1	1	1	1
Sparkman		1	1	1	1
Brink		1	1	1	1
Garlock		1	1	1	1
Madden		1	1	1	1
Payne		1	1	1	1
Gulley		1	1	1	1
Holcomb		1	1	1	1
Agenda	**New**	**New**	**New**	**New**	**New**
Motion By		Sparkman	Winston	Sparkman	Payne
Motion 2nd		Payne	McGetrick	Garlock	Brink
Vote		9-0-0	9-0-0	9-0-0	9-0-0
Action	**WITHDRAWN**	Approve	Approve	Approve	Forward
Time		6:45 PM	7:16 PM	7:24 PM	7:26 PM
Motion Detail	Applicant withdrew the request	Passed with all conditions as recommended by staff.	Passed with all conditions as recommended by staff.	Passed in favor of all conditions as recommended by staff.	Passed with a recommendation of approval.
Public Comment		0	2	1	0

(pg. 3) Planning Co	Monday, 9/11/2023				
	11) VAC-2023-0005 (TRINITAS VENTURES)	12) CUP-2023-0095 (SUNSHINE SPRAY TANS)	13) RZN-2023-0021 (TROUT)	14) RZN-2023-0022 (HOGREFE)	15) RAN-2023-0023 (UNIVERSITY CLUB LAND CO)
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	0	1
Madden	1				
Payne	0	0	1	0	1
Gulley	1	1	1	1	1
Holcomb	0	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Garlock	Brink	Payne	Sparkman	Sparkman
Motion 2nd	McGetrick	Garlock	Garlock	Brink	Holcomb
Vote	7-2-0	7-1-0	8-0-0	6-2-0	8-0-0
Action	Table	Approve	Deny	Forward	Forward
Time	8:04 PM	8:08 PM	8:26 PM	8:43 PM	8:56 PM
Motion Detail	Passed, tabled till the September 25th PC Meeting.	Passed with all conditions as recommended by staff.	Passed	Passed with a recommendation of approval.	Passed with a recommendation of approval.
Public Comment	1	0	5	1	0

(pg. 4) Planning Commission					Monday, 9/11/2023		
	16) RZN-2023-0024 (MOLES)	17) CUP-2023-0096 (HOGTAILGATING HOLDINGS LLC)			18) CUP-2023-0097 (AMOS PROPERTIES)	19) CUP-2023-0098 (HERMAN)	20) CUP-2023-0099 (GADDIS)
Winston	1		1	1	1	1	1
McGetrick	1		0	0	1	1	1
Sparkman	1		0	0	1	1	1
Brink	1		0	1	1	1	1
Garlock	1		0	0	1	1	1
Madden							
Payne	1		0	1	1	1	1
Gulley	1		0	0	1	1	1
Holcomb	1		0	1	1	1	1
Agenda	**New**	**New**			**New**	**New**	**New**
Motion By	Winston	Garlock	Winston	Winston	Payne	Payne	Garlock
Motion 2nd	Garlock	No 2nd	Garlock	Payne	Brink	Garlock	Brink
Vote	8-0-0	0-0-0	1-7-0	4-4-0	8-0-0	8-0-0	8-0-0
Action	Forward	Approve	Table	Approve	Approve	Approve	Approve
Time	8:57 PM	9:40 PM	9:40 PM	9:40 PM	9:45 PM	9:49 PM	9:52 PM
Motion Detail	Passed with a recommendation of approval by staff.		Failed	Failed	Passed with all conditions as recommended by staff.	Passed with all conditions as recommended by staff.	Passed with all conditions as recommended by staff.
Public Comment	0	0			0	0	0

(pg. 5) Planning Commission				Monday,	9/11/2023
	21) CUP-2023-0100 (WALLACE)	22) CUP-2023-0101 (MEYERS)	23) CUP-2023-0102 (SPARKS)		
Winston	1	1			
McGetrick	1	1			
Sparkman	1	1			
Brink	1	1			
Garlock	1	1			
Madden					
Payne	1	1			
Gulley	1	1			
Holcomb	1	1			
Agenda	New	New	New		
Motion By	Garlock	Payne			
Motion 2nd	Payne	Brink			
Vote	8-0-0	8-0-0			
Action	Approve	Approve	WITHDRAWN		
Time	9:57 PM	10:06 PM			
Motion Detail	Passed with all conditions as recommended by staff.	Passed with all conditions as recommended by staff.	Item was withdrawn for lack of public notification.		
Public Comment	0	1			

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 25, 2023

SUBJECT: **ADM-2023-0037: Administrative Item (3220 W. OLD FARMINGTON RD./SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):** Submitted by COMMUNITY BY DESIGN for property located at 3220 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is to extend a previously approved large scale development.

RECOMMENDATION:
Staff recommends approval of **ADM-2023-0037**.

RECOMMENDED MOTION:
*"I move to approve **ADM-2023-0037** with conditions as recommended by staff."*

BACKGROUND:
The subject property is located in southwest Fayetteville just south of Centennial Park and north of Old Farmington Road. The property totals 20.40 acres and is zoned NC, Neighborhood Conservation. Two rezoning requests (RZN-2021-000072 and RZN-2022-000011) and a conditional use permit for a cluster housing development (CUP-2021-000056) have been approved on the property within the last few years. Most recently, the property was rezoned from RSF-8, Residential Single-Family, Eight Units per Acre to its current NC, Neighborhood Conservation designation. The property has substantial topography, sloping down rapidly from the northern boundary to two small ponds located roughly halfway to Old Farmington Road to the south. Approximately six to seven acres of the property's northern extent is located within the Hillside/Hilltop Overlay District due to steep terrain and significant tree canopy present. Other site characteristics include a protected, unnamed tributary of the Farmington Branch and associated floodplain which runs parallel to the western property line. A large scale development containing three cluster housing developments composed of 28 residential units was approved by the Planning Commission on June 13, 2022 (LSD-2022-0014). A second large scale development for 12 additional cluster housing developments on the subject property was approved by the Planning Commission on August 14, 2023 (LSD-2022-0042). 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; Centennial Park	R-A, Residential-Agricultural; RSF-2, Residential Single-Family, Two Units per Acre; RSF-4, Residential Single-Family, Four Units per Acre
South	Single-Family Residential	R-A, Residential-Agricultural;

		RSF-4, Residential Single-Family, Four Units per Acre; RPZD, Residential Planned Zoning District
East	Single-Family Residential	R-A, Residential-Agricultural; NC, Neighborhood Conservation
West	Centennial Park	R-A, Residential-Agricultural; RSF-2, Residential Single-Family, Two Units per Acre

Request: The applicant is requesting a one-year extension to their first large scale development approval which expired on June 13, 2023. The applicant submitted a letter requesting the extension on August 28, 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 December 13, 2024, 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 approved in November of last year and full approval from the Arkansas Department of Health was subsequently granted in December. Grading work on site is now substantially complete and several building permits have been issued. The remaining building permits required for this development have been applied for and are currently in review. Staff is supportive of the applicant's extension request since it would allow a project, which is nearly complete, to continue moving forward.

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

Conditions of Approval:

1. A one-year extension for LSD-2022-0014 will expire on June 13, 2024;

2. All other conditions of approval associated with LSD-2022-0014 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 YES

Date: September 25, 2023 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
    - §166.20 Expiration of Approved Plans and Permits
- LSD-2022-0014 Conditions of Approval
- 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)

open ditches along W. Old Farmington Road improved to adequately handle stormwater runoff. A neighbor spoke during the Subdivision Committee meeting on June 2nd. The neighbor suggested stormwater runoff has been aggravated in recent years because of development in the area. The neighbor also spoke to the inadequate street infrastructure along W. Old Farmington Road, in support of improvements to the intersection of S. One Mile Road and W. Old Farmington Road and mentioned that conversations with the applicant assuaged concerns about screening.

RECOMMENDATION: Staff recommends tabling **LSD-2022-0014.** Should the Planning Commission choose to approved the item, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends 26 feet from street centerline for W. Old Farmington Road and 34½ feet for internal streets, as outlined above;*

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

2. **Planning Commission determination of street improvements.** *Staff recommends the following street improvements:*
    a. *External streets: staff recommends the applicant is assessed $15,831.58 fee in-lieu for improvements to the intersection of W. Martin Luther King Jr. Boulevard and S. One Mile Road.*
    b. *Internal streets: staff recommends internal streets are constructed as conditioned by CUP-2021-000056. Improvements include right-of-way dedication of 34½ feet, 6½-foot sidewalk, a 7-foot on-street parking lane, and curb and gutter in the right-of-way and a 6½-foot sidewalk, 4-feet of greenspace, and street trees within the proposed 10-foot easement. Infrastructure outside of the right-of-way, including alleys, shall be owned and maintained by a property owner's association; and*
    c. *Approval of a separate request (ADM-2022-0033) to amend the associated conditional use permit (CUP-2021-000056) must be approved to allow the street improvements as proposed.*

Subdivision Committee recommended in favor of the recommended street improvements.

3. **Subdivision Committee recommendation of block length variance request to UDC §172.04(F)(4)(a)(iv) for curb radii dimensions.** *Staff recommends in favor of the requested variance for the reasons outlined above.*

Subdivision Committee recommended in favor of the variance.

4. Plat comments from the Planning Division shall be addressed, including the following:

    d. Parking areas will require some separation or barrier to inhibit parking in areas where a wheel stop is not present. Can be defined by a change in materials, edging, or other means;
    e. Please provide bike storage specifications. Bike storage that deviates from the standards established in UDC 172.10 will require a PC variance; and

f. Please provide a table or schedule identifying lot area and structure types to correspond with each proposed lot and the provided elevations.

5. A modification request to LSD 20-7116 is required to relocate a previously-approved structure indicated on Sheet 2 of the provided site plan;

6. The location and spacing of residential containers shall be coordinated and approved by the Solid Waste division prior to building permit approval;

7. Fee in-lieu of parkland dedication in the amount of $30,492 for 28 single-family residential units shall be paid prior to building permit approval;

8. Bicycle parking shall be compliant with the standards set in UDC §172.10;

9. Streetlights shall be installed in accordance with code at intervals of no more than 300 feet. Streetlights must be purchased and/or installed at the time of building permit;

10. 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.

PLANNING COMMISSION ACTION: **Required** **YES**

Date: **June 13, 2022** ❒ **Tabled** ☒ **Approved** ❒ **Denied**

Motion: Winston

Second: Brink

As recommended by staff

Vote: 7-0-0

August 28, 2023
Via Email: gharrison@fayetteville-ar.gov

Ms. Gretchen Harrison, Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **LSD 2022 0014 – Request to Extend Large Scale Development Permit Approval**

Ms. Harrison,

The above referenced large scale development was approved by the City of Fayetteville Planning Commission on the evening of June 13, 2022. On behalf of the owner of the property, please allow this letter to serve as a request to extend LSD 2022 0014 for another year.

The grading permit for LSD 2022 0014 was approved in November 2022. Full Arkansas Department of Health approval for the LSD 2022 0014 was granted in December of 2022. The grading permit construction is substantially complete. Multiple building permits per LSD 2022 0014 have been applied for an approved with some of the houses being already completed with temporary occupancy permit issued. Multiple other building permits have been applied for with there approval awaiting the extension.

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

Sincerely,

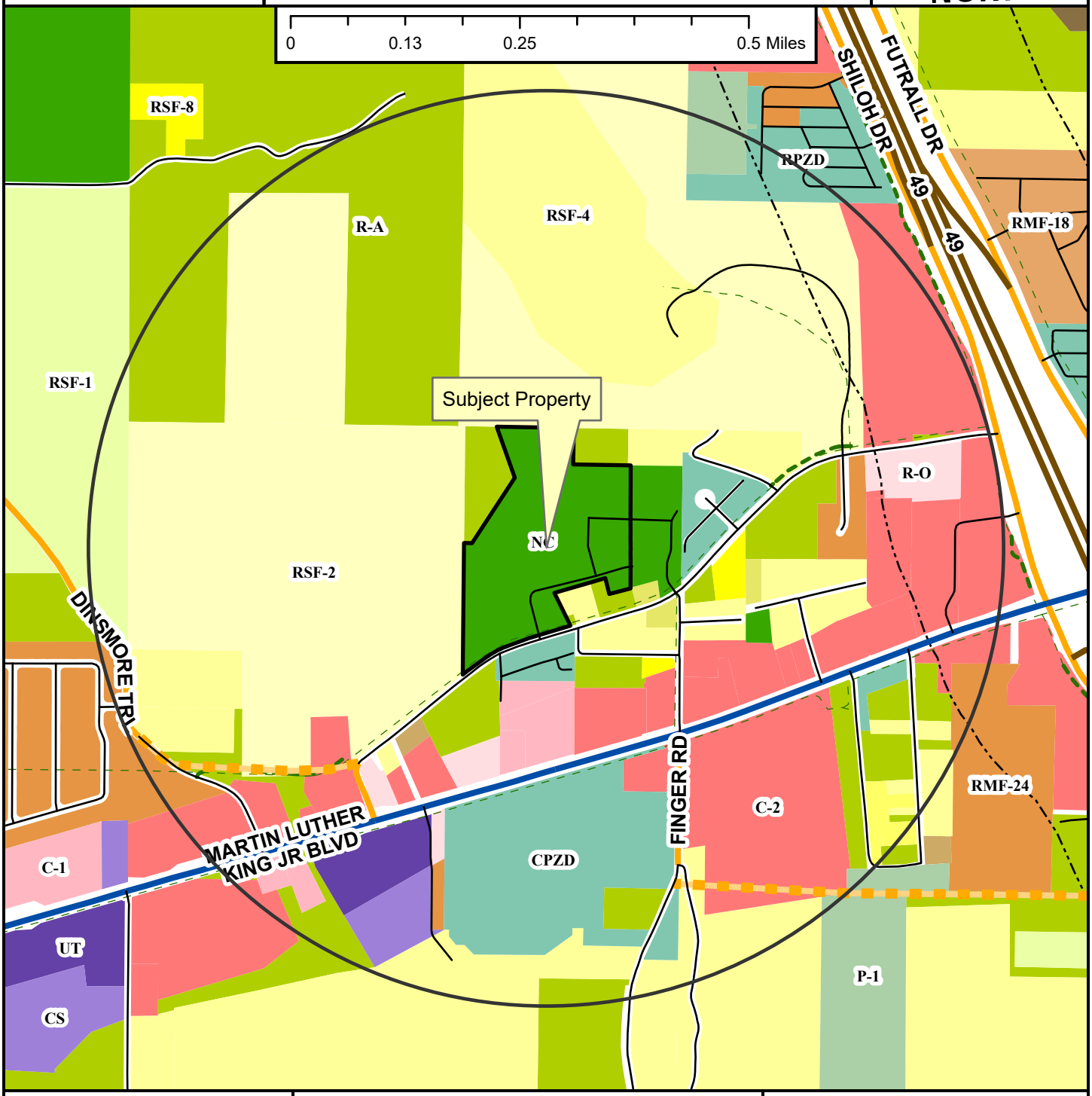
Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701
479.790.6775

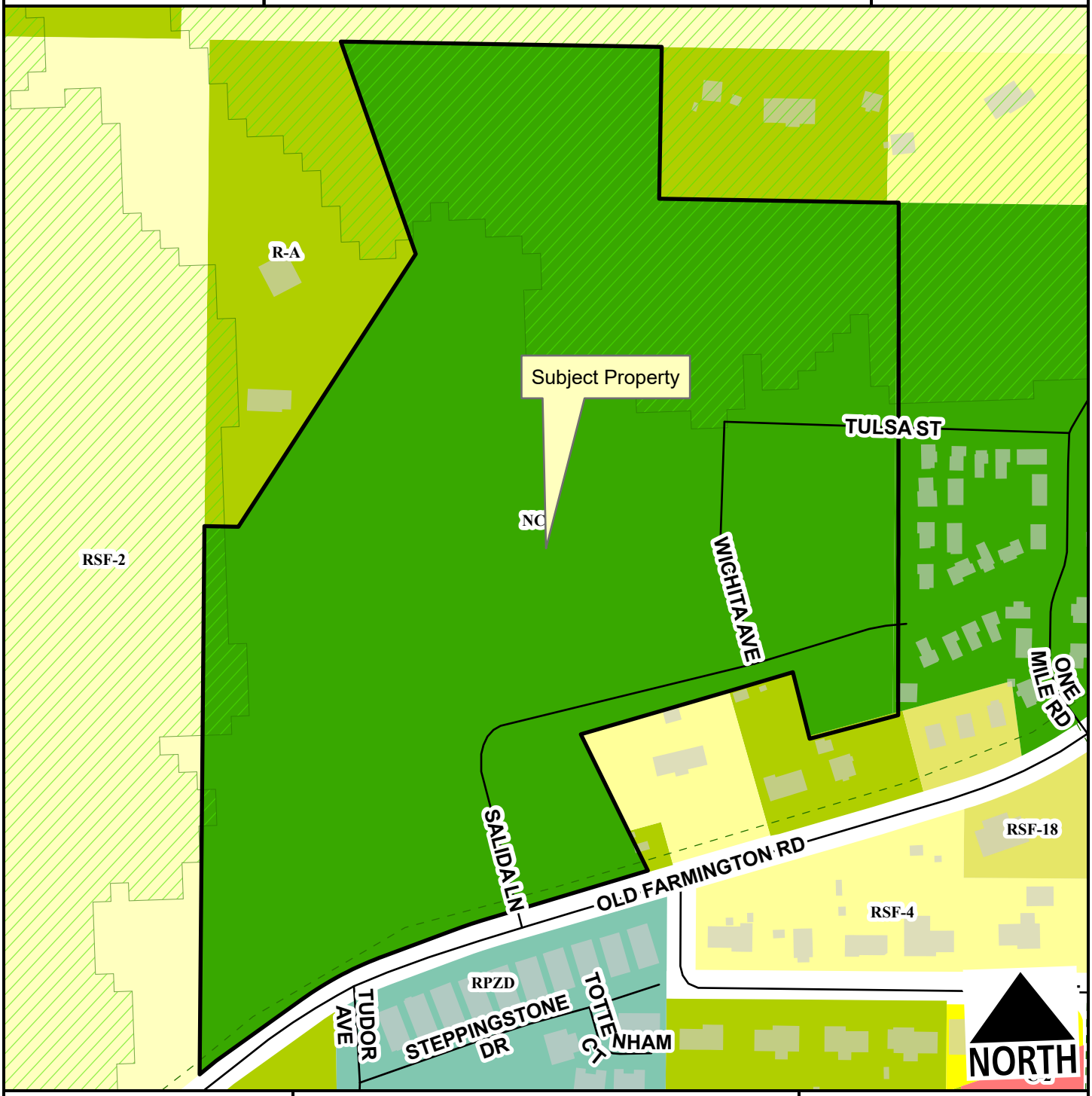
ADM-2023-0037

One Mile View

3220 W. OLD FARMINGTON RD.



ADM-2023-0037	3220 W. OLD FARMINGTON RD.	
Close Up View		



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

Feet
0 75 150 300 450 600
1:2,400

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

ADM-2023-0037

Current Land Use

3220 W. OLD FARMINGTON RD.

NORTH



- Neighborhood 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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 25, 2023

SUBJECT: **VAR-2023-0041: Planning Commission Variance (8899 W. ATHENS LN/ATHERTON, 470):** Submitted by BLEW & ASSOCIATES for property located at 8899 W. ATHENS LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 10.63. The request is for a variance to street frontage requirements.

RECOMMENDATION:
Staff recommends approving **VAR-2023-0041**, with conditions.

RECOMMENDED MOTION:
*"I move to approve **VAR-2023-0041**, with conditions, determining:*

- *In favor of the requested variance to UDC §166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development in Planning Area*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located west of Fayetteville city limits within the Planning Area along W. Athens Ln. approximately ½ mile south of W. Wedington Dr. The property currently consists of one parcel, developed with a 3,890 square foot single-family residence constructed in 2021. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped / Single-Family Residential	Fayetteville Planning Area RSF-1, Residential Single-Family, One Unit per Acre
South	Single-Family Residential	Fayetteville Planning Area
West	Undeveloped / Single-Family Residential	Fayetteville Planning Area
East	Single-Family Residential	RA, Residential Agriculture

Request: The applicant proposes to split the subject property into two lots. The proposed lot split would result in Lot 1 retaining frontage along W. Athens Ln, an unclassified private street, and Lot 2 retaining no frontage onto either a private or public street. All lots in the Fayetteville Planning Area are required to have at least 75 feet of direct frontage onto a public street. Consequently, the proposed lot split necessitates a variance to UDC §166.05(A)(3).

DISCUSSION

Staff is supportive of the requested variance. The street frontage requirement is applied to lot splits because the creation of new residential properties carries an associated potential to increase density and, therefore, impact existing City services. Requiring residential properties to have public street access in the Planning Area also facilitates the orderly integration of properties into city limits, should they be annexed. W. Athens Ln. is a private, unclassified street serving only 11 parcels. Further, the proposed lot split would create two lots containing 9.62 and 1.01 acres. As the parent parcel does not have access to a public street, neither lot created by the split would have public street frontage. The subject property is currently a single lot surrounded by rural residential properties varying in both size and arrangement. Surrounding properties vary between roughly 2.25 and 47.00 acres and several nearby also do not have direct frontage to a public street. The two proposed resultant lots are not appreciably different in configuration when compared to the low-density development pattern exhibited by the neighboring properties, though Lot 2 is smaller than nearly all surrounding parcels. The parent parcel is separated from the nearest public street, W. John Garrison Rd to the east, by almost 2,000 feet (0.37 miles). A 30-foot access easement is proposed to be dedicated with the lot split centered on the existing driveway.

Public Comment: Staff received one phone call inquiring about the request, but no comments either for or against the proposed variance.

RECOMMENDATION: Staff recommends approval of VAR-2023-0041, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of a variance of UDC 166.05(A)(3), requiring all lots in the Fayetteville Planning Area to have direct street frontage pursuant to residential lot and block standards set by Washington County.** *Staff is supportive of this request based on the findings herein;*

2. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.

3. The applicant shall receive approval from Washington County prior to recordation of the associated lot split.

PLANNING COMMISSION ACTION: Required YES
Date: September 25, 2023 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Developed Code:
    - UDC §166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area
- Request Letter
- Site Plan
- One Mile Map
- Close-up Map
- Current Land Use Map

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

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

(1) *Within 1 Mile of City Limits.* On and off-site improvements and subdivision regulations for development outside the city limits and within one mile of the city are the same as for those developments within the city limits, with the exception of park land dedication requirement which is not required.

(2) *Beyond 1 Mile of City Limits.* On- and off-site improvements and subdivision regulations for development outside 1 mile of the city limits shall meet Washington County standards.

(3) All lots in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards.

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

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

Blew & Associates, P.A.
Civil Engineers Professional Land Surveyors

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

August, 15th 2023

To Whom It May Concern,

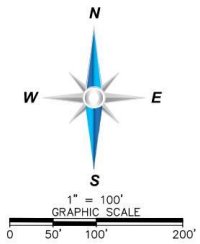
Variance
My client, David Atherton is requesting a variance at 8899 W Athens Ln, Fayetteville, AR. He is having to apply for this variance due to lack of road frontage on both tracts. He is also currently applying for a lot split. We kindly ask for your approval on this variance. The variance affects parcel: 001-11885-000
Sincerely,

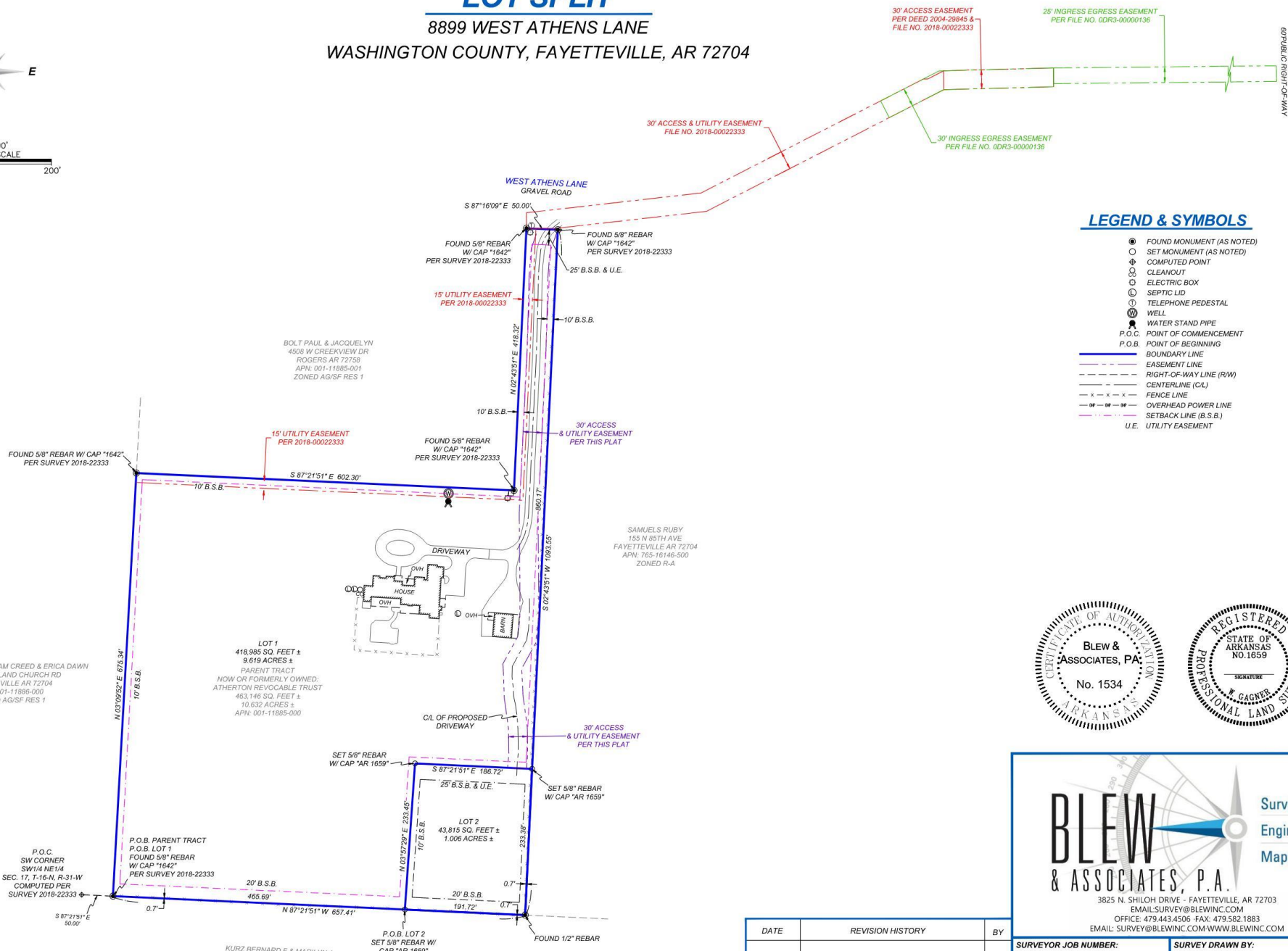
Sydnee Shockley
Project Cordinator
Blew & Associates, P.A.

LOT SPLIT

8899 WEST ATHENS LANE

WASHINGTON COUNTY, FAYETTEVILLE, AR 72704





LEGEND & SYMBOLS

- FOUND MONUMENT (AS NOTED)
- SET MONUMENT (AS NOTED)
- COMPUTED POINT
- CLEANOUT
- ELECTRIC BOX
- SEPTIC LID
- TELEPHONE PEDESTAL
- WELL
- WATER STAND PIPE
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- BOUNDARY LINE
- EASEMENT LINE
- RIGHT-OF-WAY LINE (R/W)
- CENTERLINE (C/L)
- FENCE LINE
- OVERHEAD POWER LINE
- SETBACK LINE (B.S.B.)
- U.E. UTILITY EASEMENT

CERTIFICATE OF AUTHORIZATION
BLEW & ASSOCIATES, PA
No. 1534
ARKANSAS

REGISTERED
STATE OF ARKANSAS
NO.1659
SIGNATURE
W. GAGNER
PROFESSIONAL LAND SURVEYOR

DATE	REVISION HISTORY	BY

BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping
3825 N. SHILOH DRIVE · FAYETTEVILLE, AR 72703
EMAIL:SURVEY@BLEWINC.COM
OFFICE: 479.443.4506 ·FAX: 479.582.1883
EMAIL: SURVEY@BLEWINC.COM·WWW.BLEWINC.COM

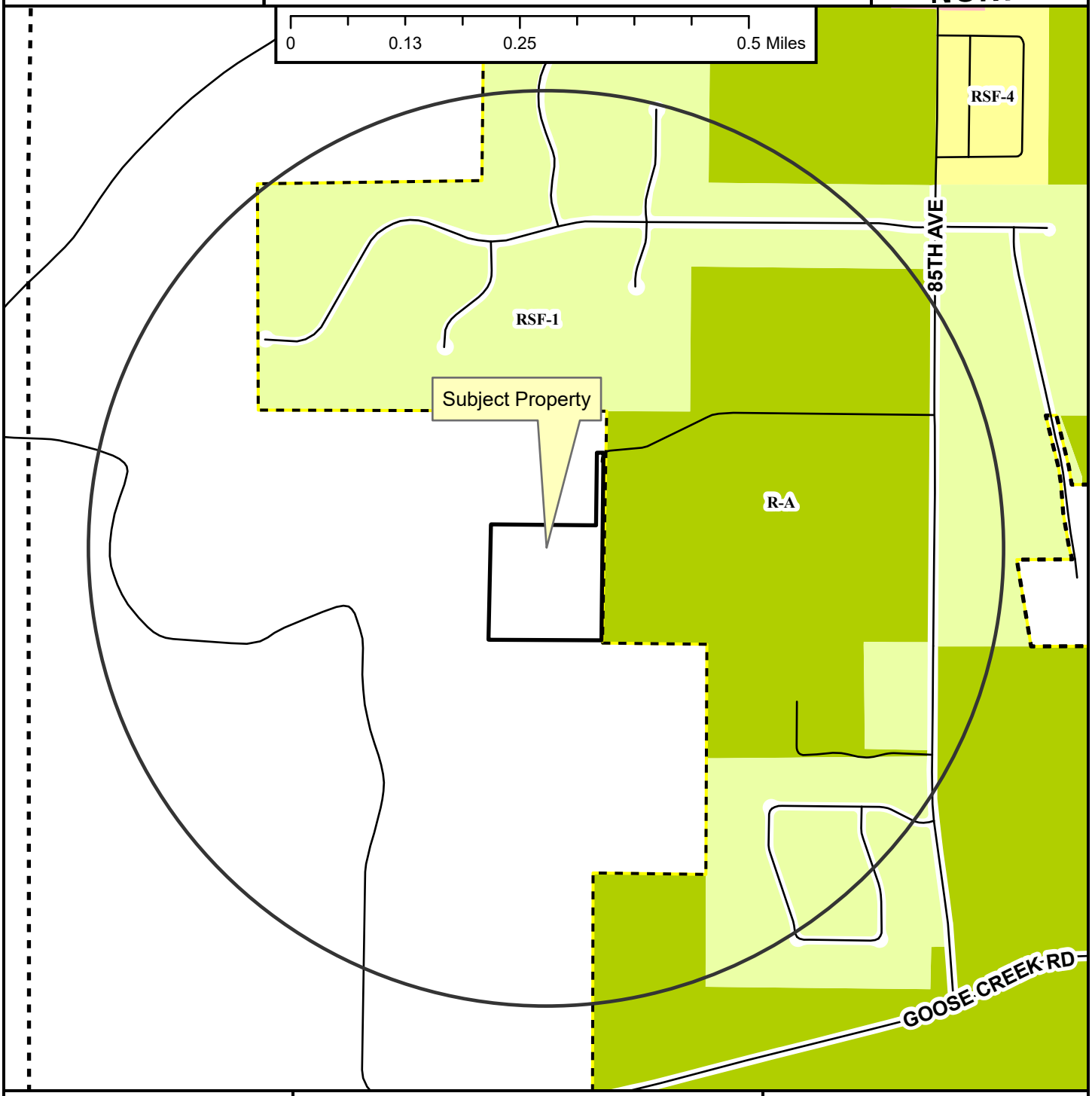
SURVEYOR JOB NUMBER: 23-4151	**SURVEY DRAWN BY:** BDM - 06/30/2023
SURVEY REVIEWED BY: TPN	**SCALE:** 1" = 100'
FOR THE USE AND BENEFIT OF: DAVID ATHERTON	

VAR-2023-0041

One Mile View

8899 W. ATHENS LN

NORTH

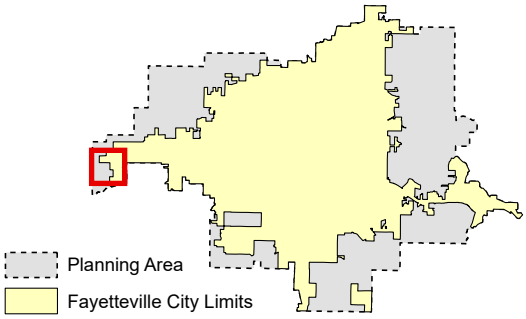


Unclassified

Residential Link

Fayetteville City Limits

Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

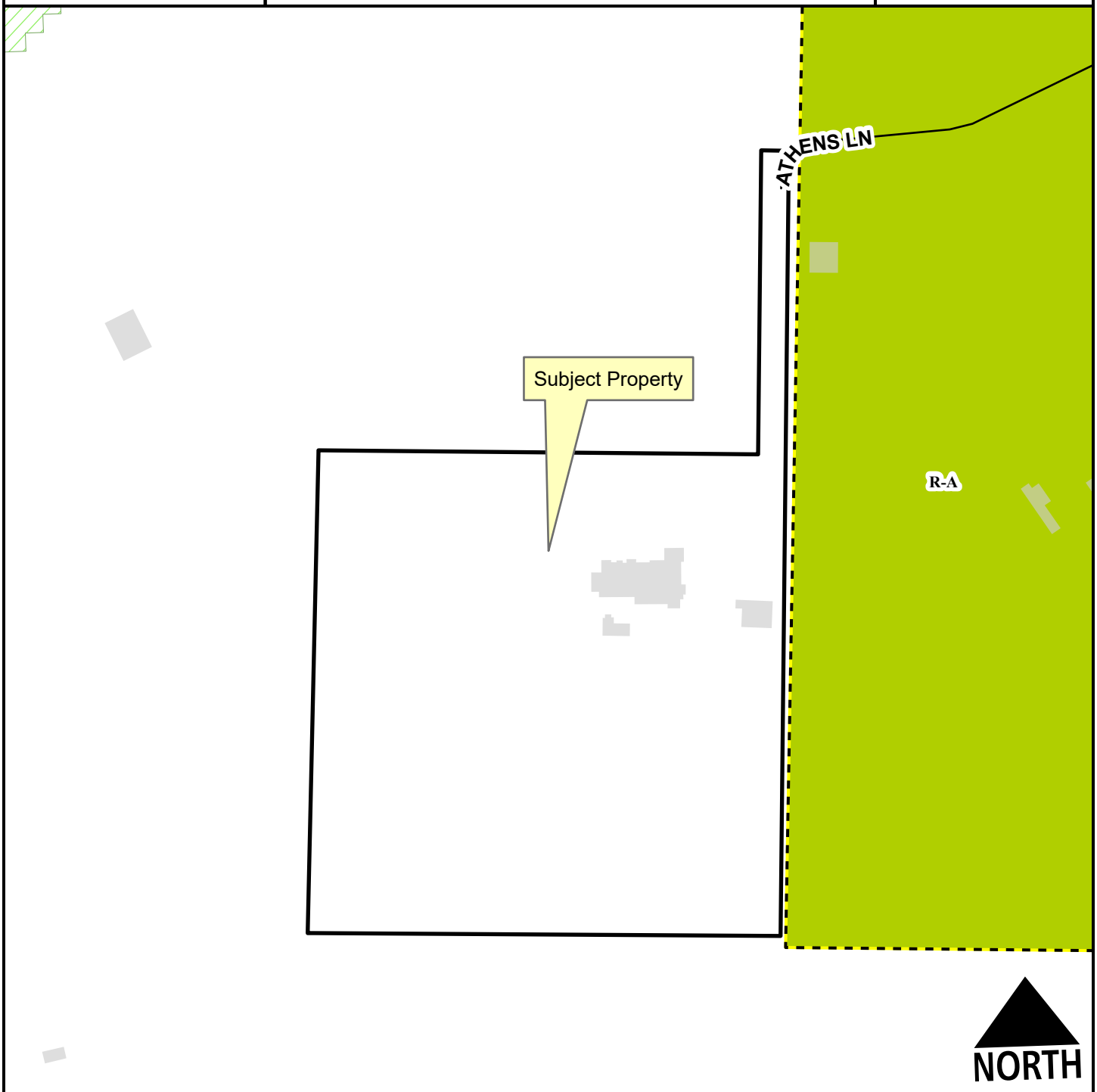
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAR-2023-0041

Close Up View

8899 W. ATHENS LN



Unclassified
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits

Feet
0 75 150 300 450 600
1:2,400

Residential-Agricultural

VAR-2023-0041

Current Land Use

8899 W. ATHENS LN

NORTH



Unclassified

Planning Area

Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

100-Year Floodplain

Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 25, 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 October 9, 2023 Planning Commission meeting."*

SEPTEMBER 11, 2023 PLANNING COMMISSION MEETING:
Commissioners voted to table the item until all requisite documents were received, specifically from the Water and Sewer division regarding the potential relocation of a significant amount of sewer infrastructure in the existing right-of-way. In the interim, the Water and Sewer Division had received an initial memo regarding the sewer relocation study, though further analysis on the results is still pending.

BACKGROUND:
The overall subject property is 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 additional housing, which supports and contributes (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. A memo was received by City staff which is currently under review.

Utility	Response
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.
City of Fayetteville	**Response**
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. Water and Sewer Division sign-off with any necessary conditions of approval must be obtained prior to City Council hearing;

2. Right-of-way vacation is subject to approval and issuance of a grading permit in association with a multi-family development that occupies both 765-12934-000 and 765-01886-000.

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

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

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ 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

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

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.

Reindl Properties, Inc.
580 W. Meadow
Fayetteville, AR 72701
C-3

Reindl Properties, Inc.
W. Meadow
ville, AR 72701
C-3

Board of Trustees of the
University of Arkansas
C/O U of
Fayette

MEADOW STREET
(ASPHALT)

SET
NE COR.
BLOCK 21

NE COR.
BLOCK 21

NE COR.
BLOCK 21

Miller, Bill W.; Miller, Betty
Jane; Holcomb, Jurene M.
1530 Crescent Dr.
Sherman, TX 75092
I-1

0.67± ACRES
30,487.4± SQ. FT.

Besom, Robert D. & Pat McCrary
15 N. West
Fayetteville, AR 72701
R-0

L = 312.95'
R = 714.49'
CLEN = 310.45'
BRG = S06°10'55"W

GREGG AVENUE
(ASPHALT)

Longer Investments, Inc.
P.O. Box 1269
Fayetteville, AR 72702
R-0

R/W TO BE
VACATED

Basset, Mary H. ET AL
3263 N. College
Fayetteville, AR 72701
R-0

CENTER STREET
(ASPHALT)

Myers Family Properties LLC
3129 Skillern
Fayetteville, AR 72703
RMF-40+

Town Creek Properties, Inc.
P.O. Box 3494
Fayetteville, AR 72702
C-3

Lazenby Properties
1031 N. College
Fayetteville, AR 72701
R-0

W Dickson St
Site
W. Spring St
W. Center St
Fayetteville
Duncan Ave
Hill Ave
71
180

Clark Consulting
CIVIL / ENVIRONMENTAL ENGINEERING
3715 Business Drive, Suite 202 Fayetteville, AR 72703 (479)444-8171

SCALE: 1" = 40'	DATE REVISED:	CHECKED BY:	DRAWN BY:
DATE: 7/30/04		JSC	BWS

Rivendell

Right- of- Way Vacation

1 / 1

Exhibit "B"

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			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
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 Meeting of October 19, 2004
Agenda Item Number

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

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	**RESPONSE**
Ozarks Electric	No Objections
Cox Communications	No Objections

AEP/SWEPCO	No Objections
Arkansas Western Gas	No Objections
SW Bell	No Objections
CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Recommendation: Staff recommends approval of the proposed R-O-W vacation **04-1178** with the following conditions:

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.

PLANNING COMMISSION ACTION: **__yes__Required**
__✓__Approved **_____Denied**

Date: **September 27, 2004**

Comments:_____

_____

The "CONDITIONS OF APPROVAL", beginning on page two of this report, are accepted in total without exception by the entity requesting approval of this development item.

_____
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.

Riverdell PZD.

CITY PARKING LOT

GRI

N 637500

1323.1

1327.

VACATED

146.43

40'

50'

X1323.0

VACATED
ORD 1070
APP. 09/20/54

100 N

8
Block

WEST

X1323.0

N 637000

14

13

15 16 17 18 19 20

180'

Variance
11-18-91

204

10'

SPRING

155.00'

CITY PROPERTY

121

151.50

244.38

9
Block

115

4 3 2 1

5 6 7 8

92.13

161.76

109

418 416 414 108

X1398.

MEADOW

40'

541

GREGG

546

21
Block

11

9

5½ 5½0 5

20
Block

N 637000

34

50'

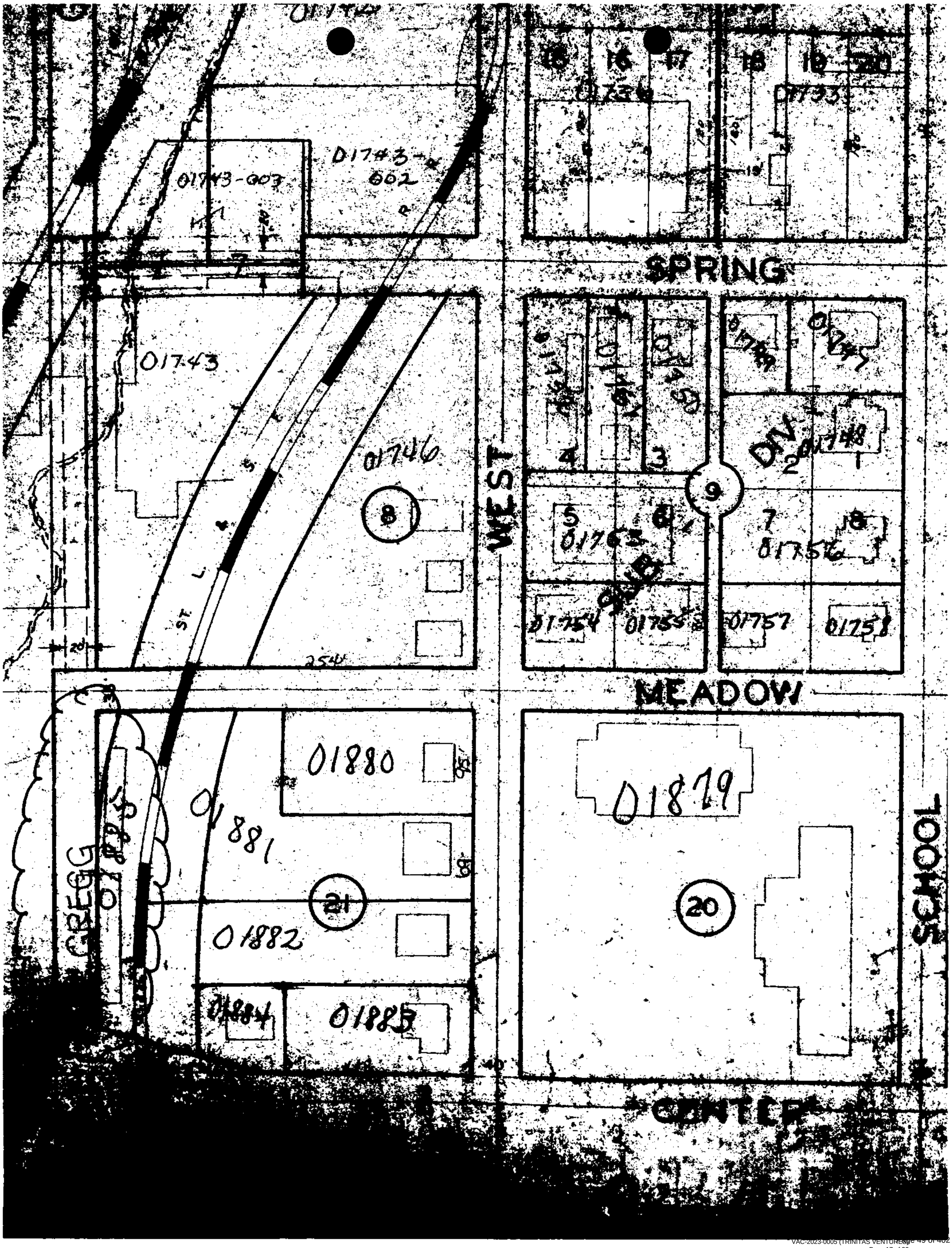
E 672000

500 W

55'

400 W

CENTER


01743-003
01743-002
01743
01746
8
WEST
SPRING
MEADOW
01880
01881
01882
01884
01885
21
01879
20
9
01753
01754
01755
01756
01757
01758
01748
CENTER

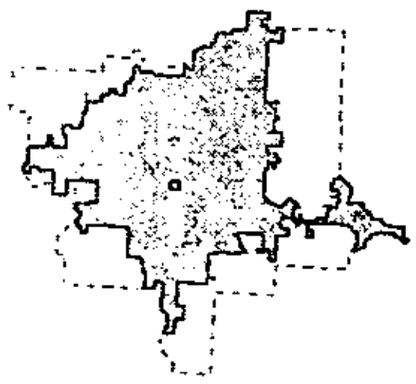
VAC04-1178

Close Up View

RIVENDELL



Overview



Legend

Overlay District	Principal Arterial	FLOODWAY
Master Street Plan	Minor Arterial	100 YEAR
Master Street Plan	Collector	500 YEAR
Freeway/Expressway	Historic Collector	LIMIT OF STUDY
		BaseLine Profile
		VAC04-1178
		Fayetteville
		Outside City

0 75 150 300 450 600 Feet

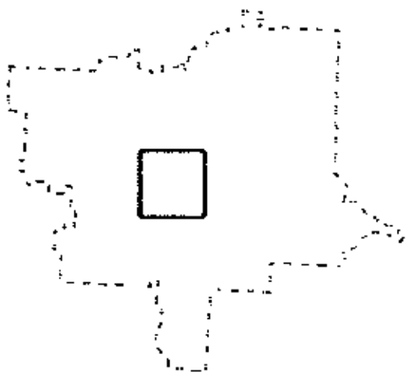
VAC04-1178

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. Warrick	Planning	CP&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 — Division Head — 10/1/04 Date

Received in Mayor's Office — 10/4/04 Date

— City Attorney — 10/1/04 Date

— Department Director — 10-5-04 Date

Cross Reference:

Previous Ord/Res#: _____

— Finance & Internal Services Dir. — 10-5-04 Date

Orig. Contract Date: _____

— Chief Administrative Officer — 10-5-04 Date

Orig. Contract Number: _____

— Mayor — 10/5/04 Date

New Item: Yes No

ENTERED CKD 10/4/04

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 Nelson, 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: $ 164.37

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 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 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

CLARK LAW FIRM
PLLC

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

DocuSign Envelope ID: 73276991-7807-401D-8D5B-1E9B26A147D5

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.Greeg 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

DocuSigned by:
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 0F 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:

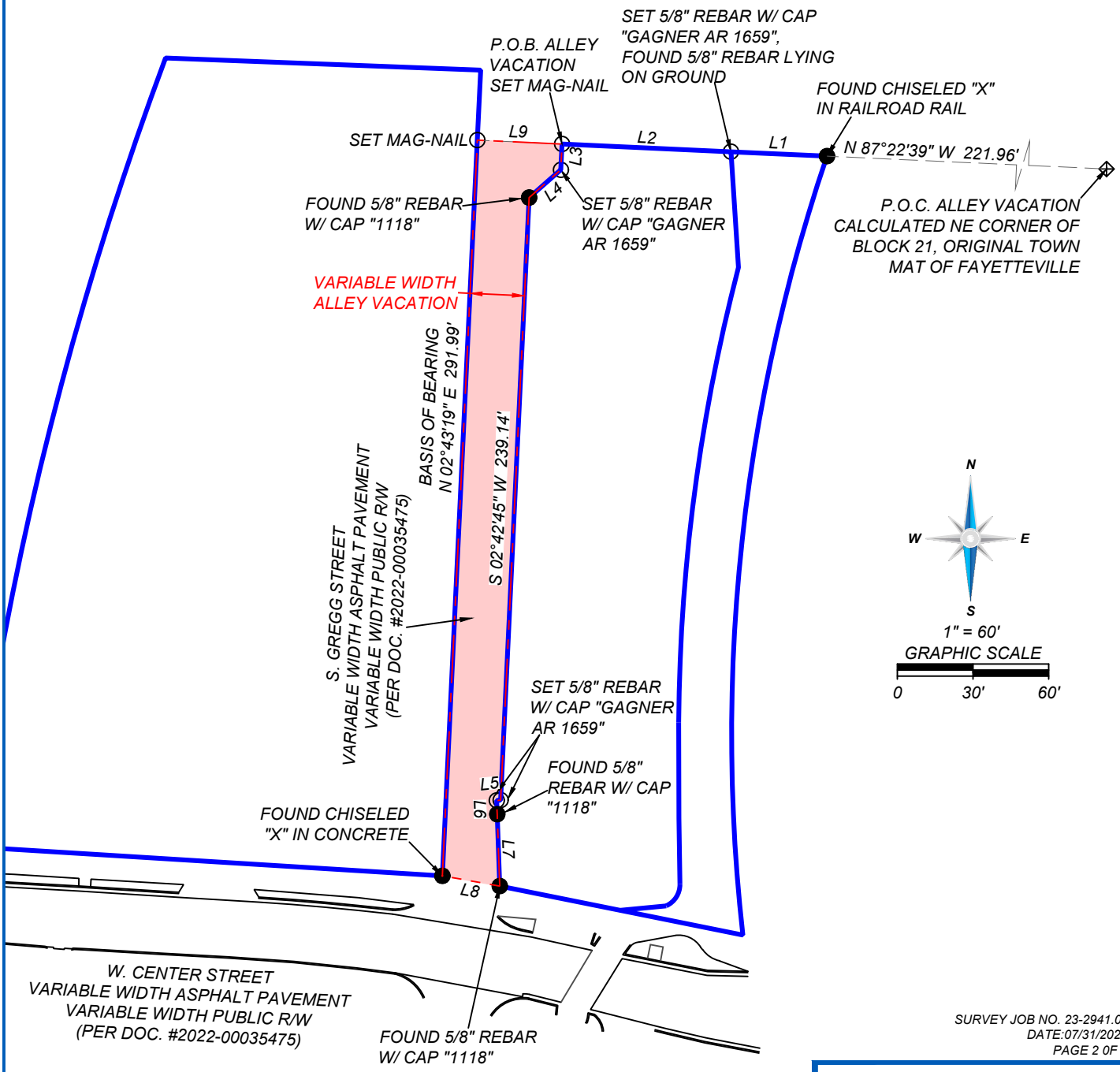
BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping

BLEW & ASSOCIATES, PA
1030 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

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 0F 3

SURVEYOR INFORMATION:

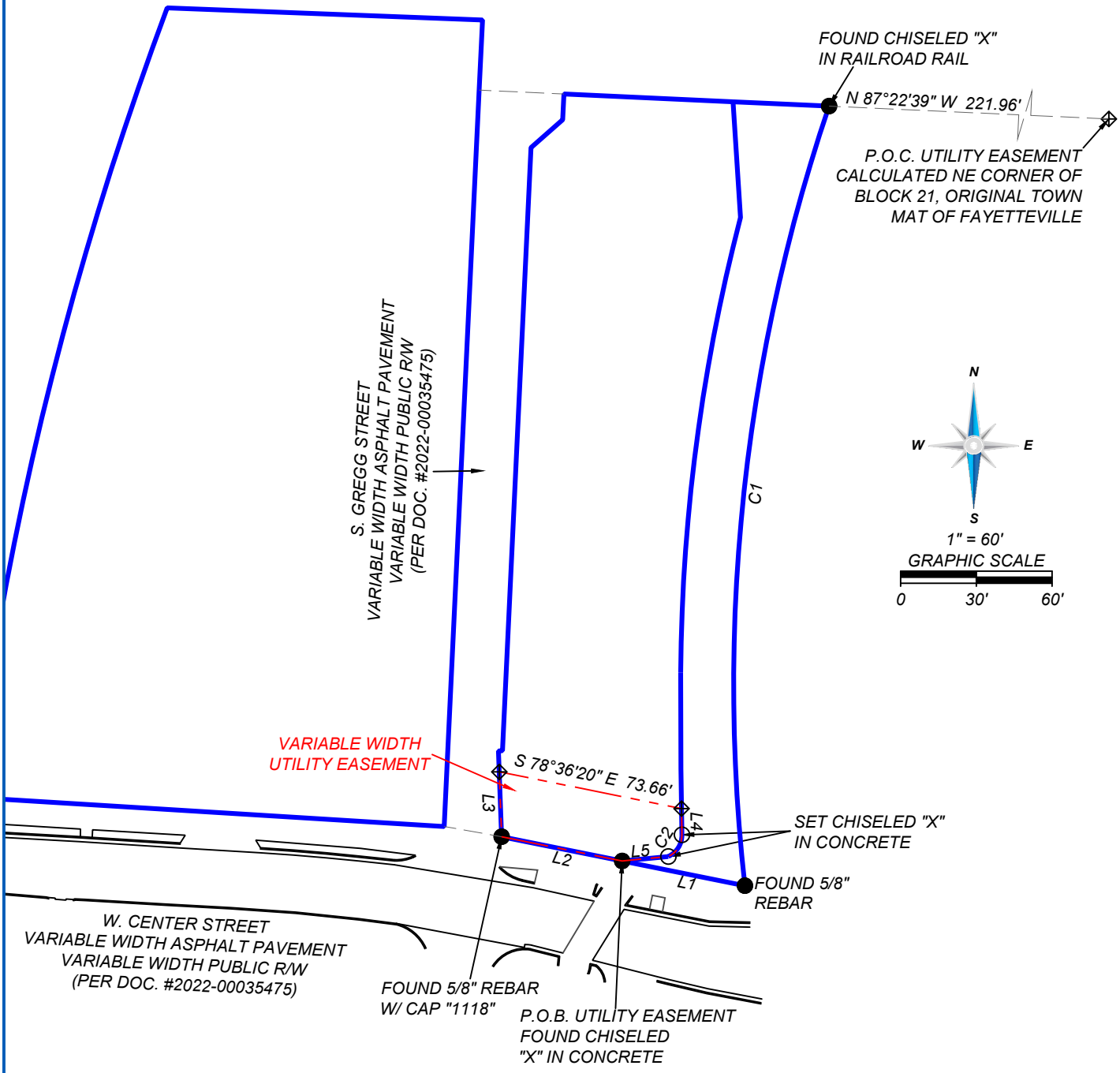
BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping

BLEW & ASSOCIATES, PA
1030 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

EXHIBIT

612 W. CENTER ST., FAYETTEVILLE, AR 72701

WASHINGTON COUNTY



SURVEY JOB NO. 23-2941.01
DATE:07/31/2023
PAGE 3 0F 3

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

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'

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"

SURVEYOR INFORMATION:

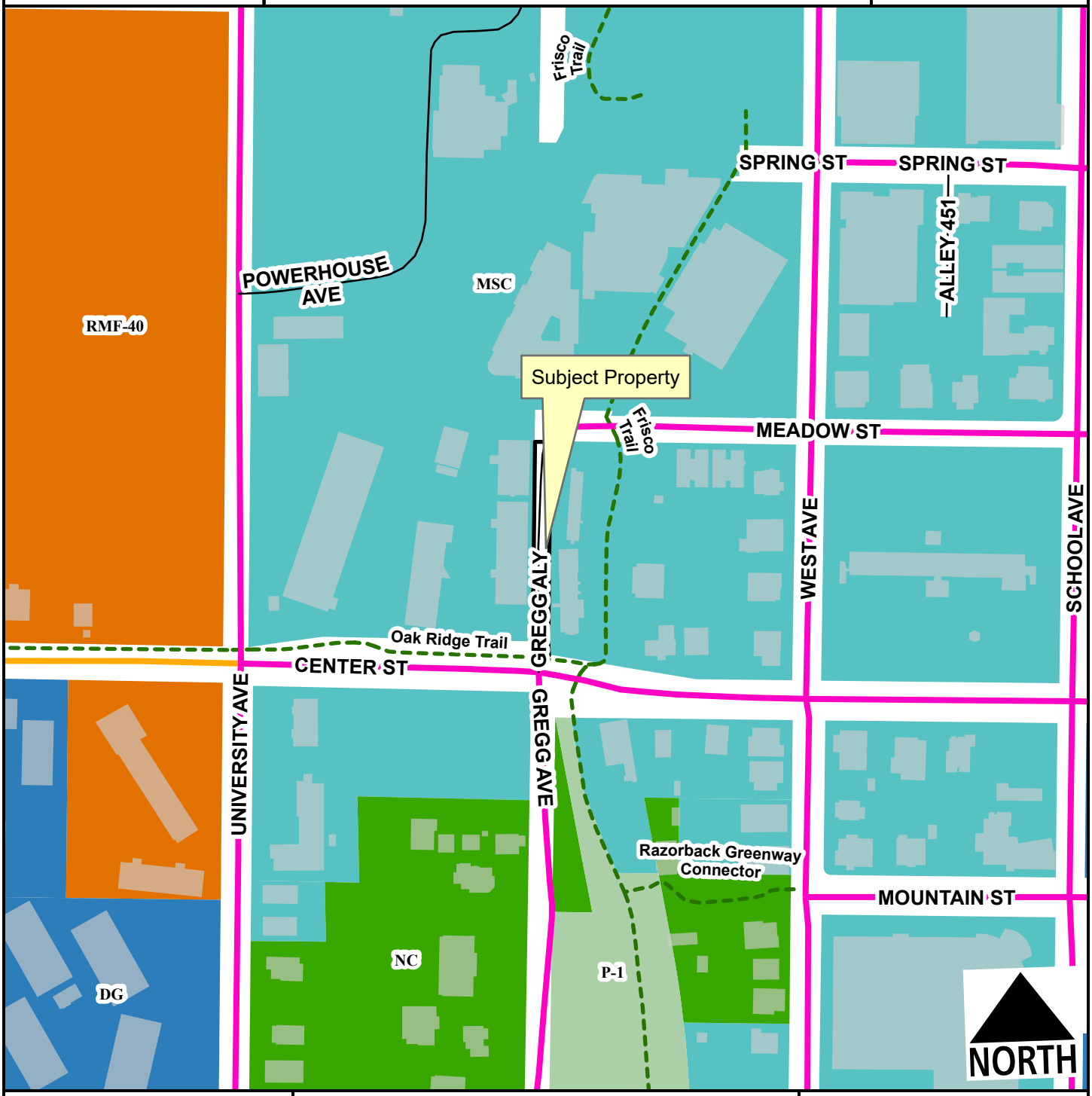
BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping

BLEW & ASSOCIATES, PA
1030 TEXAN TRAIL
GRAPEVINE, TX 76051
SURVEY@BLEWINC.COM

VAC-2023-0005

Close Up View

612 W. CENTER ST



Neighborhood Link
Urban Center
Unclassified
Alley
Planning Area
Fayetteville City Limits
Shared-Use Paved Trail
Design Overlay District

Feet
0 75 150 300 450 600
1:2,400

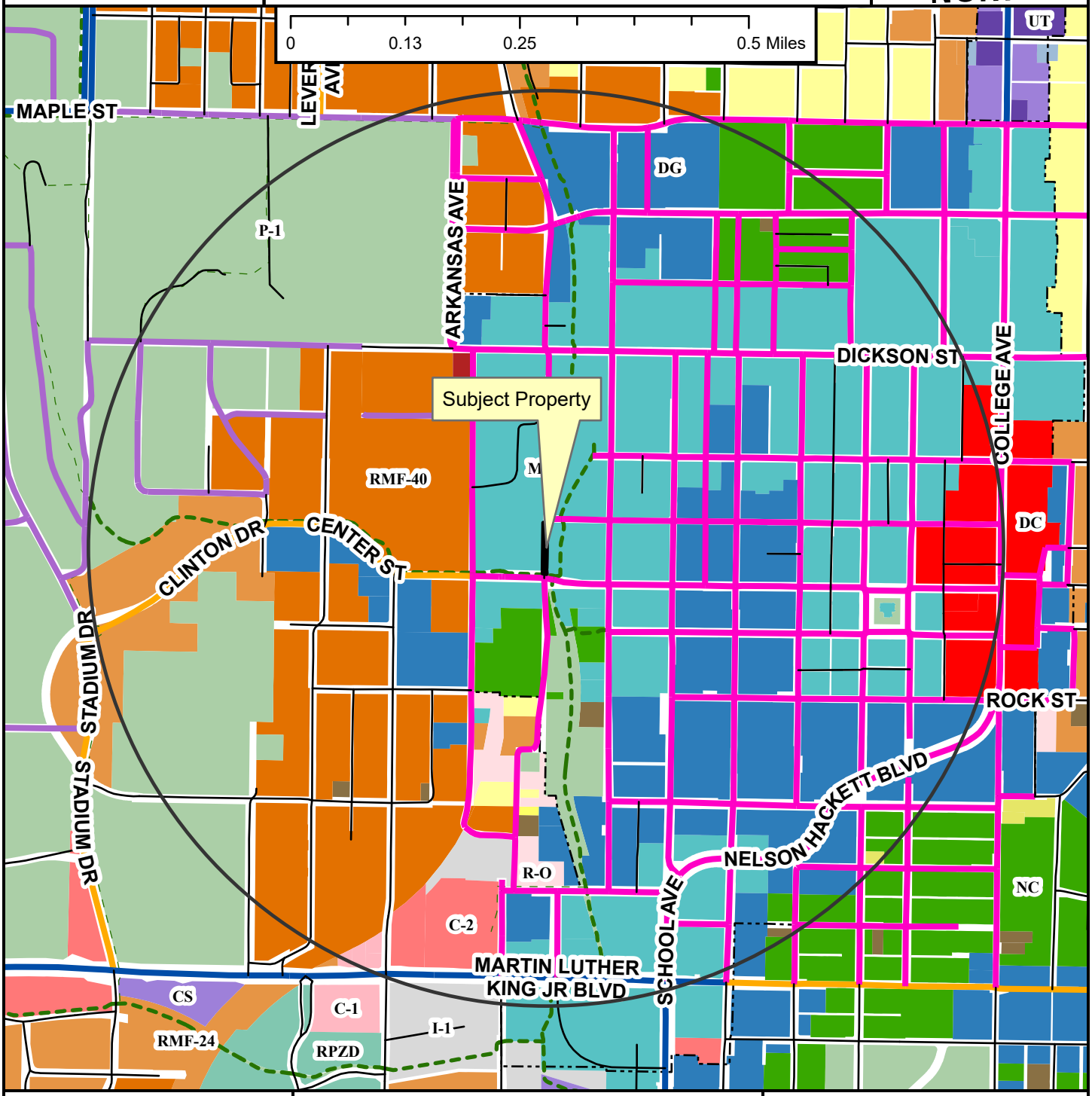
RMF-40
Main Street Center
Downtown General
Neighborhood Conservation
P-1

VAC-2023-0005

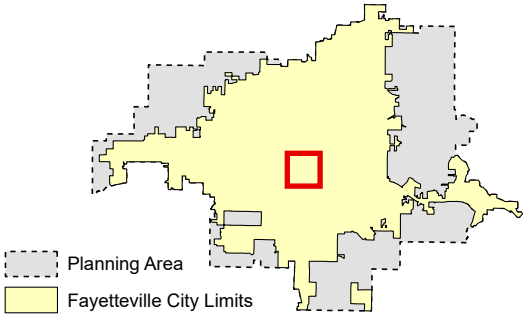
One Mile View

612 W. CENTER ST

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
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

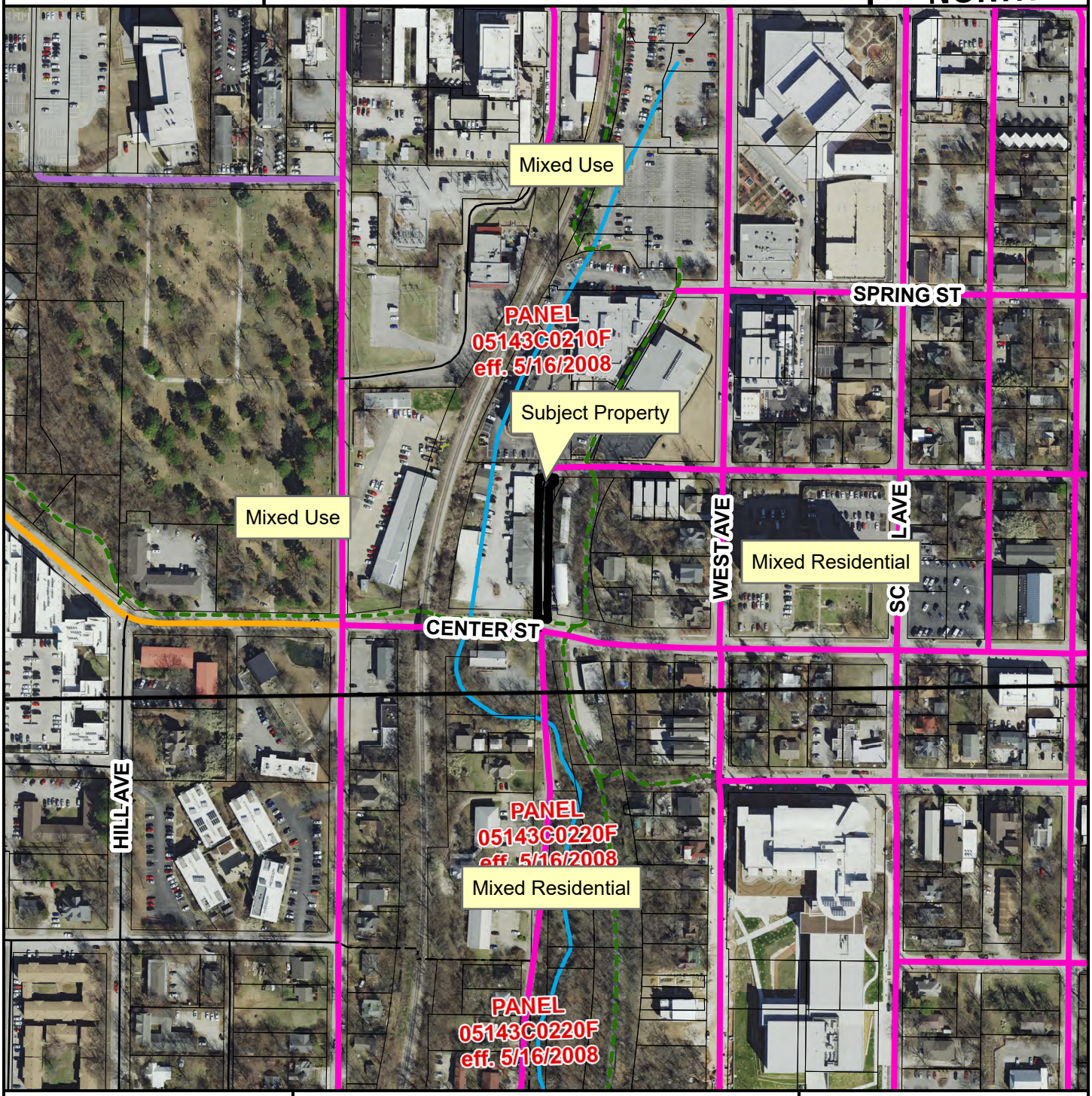
INSTITUTIONAL
P-1

VAC-2023-0005

Current Land Use

612 W. CENTER ST

NORTH



- Neighborhood Link
- Institutional Master Plan
- Urban Center
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 25, 2023

SUBJECT: **ADM-2023-0036: Administrative Item (1236 S. SCHOOL AVE./VAUGHN RECYCLING, 562):** Submitted by HALBERT LAW OFFICE for property located at 1236 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 2.33 acres. The request is to extend a previously approved conditional use permit.

RECOMMENDATION:
Staff recommends approval of **ADM-2023-0036**.

RECOMMENDED MOTION:
*"I move to approve **ADM-2023-0036** with conditions as recommended by staff."*

BACKGROUND:
The subject property is the current site of Vaughn Recycling which is located on the east side of School Avenue about a tenth of a mile north of the street's intersection with 15th Street. The property contains two parcels totaling about 2.33 acres which are developed with a 6,000-square-foot warehouse facility and a 1,488-square-foot service garage which previously operated as C & C Auto Detail. The southern lot has a paved parking area and backyard which previously served as vehicle storage for Bud's Import Auto Parts.

In March of 2008, a conditional use permit (CUP 08-2908) was issued to allow for the operation of a center for the collection of recyclable materials in C-2 zoning. Later that year, the property was rezoned to DG and the conditions of approval for CUP 08-2908 were amended (ADM 08-3128). Specifically, a condition requiring all materials to be sorted, processed, packed, and stored inside the building was revised to read "storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/processing for shipping shall be permitted outside provided that a wood board fence is extended, as shown on the site plan. Materials shall not be visible above the wood board fence and/or from the public right of way."

In February of 2021, staff received a complaint that the recycling business was storing multiple trailers in front of the property and that the operation had expanded to the northern lot without a permit (CVZD-2021-000262). A separate complaint was submitted to the City's Transportation Division due to dirt and mud being tracked onto School Avenue. Multiple inspections confirmed the presence of trailers, debris, and an expanded footprint of the business. A violation letter was issued on April 28, 2021, which notified the property owner that the recycling business was in violation of its conditional use permit. Staff advised the applicant that amending their conditional use permit was an option to remedy the violation. The property owner applied but their

amendment request was subsequently denied by the Planning Commission. The applicant appealed their decision to City Council where the expansion and a one-year extension was granted on October 5, 2021 (Res. 247-21).

In September of 2022, the property owner submitted another request to amend and extend the recycling center's conditional use permit approval. Specifically, the applicant requested permission to expand the loading/processing area to the northern lot, add time for trailers to be parked, remove a requirement for a six-foot privacy fence along the northern property line, and extend the permit's approval in perpetuity provided the business remain in compliance. Their request was approved by the Planning Commission with an added condition that the property not be used as Use Unit 31, Facilities emitting odors and facilities handling explosives (ADM-2022-0048). Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Commercial	DG, Downtown General
South	Commercial	DG, Downtown General
East	Walker Park	P-1, Institutional
West	Commercial	DG, Downtown General

Request: The applicant is requesting approval of a one-year extension to Vaughn Recycling's previously approved conditional use permit (CUP 08-2908) and associated modifications. The conditional use permit is currently set to expire on September 26, 2023 since all conditions of its approval have not yet been met.

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

DISCUSSION:
Staff is supportive of the applicant's request to extend their conditional use permit approval. The request was received before September 26, 2023, which is the deadline for the applicant to request that the Planning Commission extend their approval. The applicant has stated that Vaughn Recycling is working with Blew and Associates to prepare a large scale development submittal for the business's expansion. Extending their conditional use permit approval, per the applicant, would give them additional time to adequately address any necessary modifications, updates, or changes required to comply with development plans and the City's requirements. No additional modifications are being requested at this time.

RECOMMENDATION: Staff recommends approval of **ADM-2023-0036** with the following conditions:

Conditions of Approval:

1. A one-year extension for CUP 08-2908 and ADM-2023-0048 will expire on September 26, 2024;

2. All other conditions associated with the conditional use permit and approved modifications not affected by this extension shall remain in effect; and

3. Approval of this conditional use permit extension does not constitute approval of associated permits or development entitlements not fully reviewed at this time.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- CUP 08-2908 Approved Conditions
- ADM 08-3128 Amended Conditions
- Res. 247-21 Amended Conditions
- ADM-2022-0048 Amended Conditions
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map

maneuvering of large semi-trucks. As the site does not currently meet City site development regulations, the applicant proposes to improve portions of the subject property to include landscaping, green space, screening, and an updated parking lot.

Several revisions have been made to the proposed site plan since the conditional use request was discussed at the Planning Commission meeting on February 28, 2008. The revised proposal includes a decrease in paved area resulting in an increase in greenspace, an increase in the proposed landscaping, significant screening and buffering between the proposed use and the adjacent child care facility, and a proposed drive aisle that meets the requirements of Chapter 177.

Request: The applicant requests approval of a conditional use permit to operate a center for the collection of recyclable materials (Use Unit 28) in the C-2 zoning district, at 1246 S. School Avenue.

Public Comment: Staff has received public comment from the adjacent property owner to the south, which contains a child care facility. She has expressed safety concern with the proposed use that would be directly adjacent to the designated play area for the facility, between the proposed drive aisle for the recycling center and the existing child care building. She has stated that she does not oppose the use if adequate screening and buffering between the two properties is provided for safety purposes and to obscure the view of the proposed use. The applicant proposes to screen and buffer the use at the south property line with a wood board fence and vegetation to provide screening.

RECOMMENDED MOTION:

Staff recommends approval of CUP 08-2908 with the following conditions:

1. All materials shall be sorted, processed, packed, and stored inside the building. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited.

2. Large trailers shall be utilized only for loading and removal of materials from the site, and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the building, as indicated on the site plan, and shall not be visible from the public right-of-way, until the time of shipping of materials. Any one trailer may be parked at the site for a maximum of five (5) days.

3. The paved maneuvering area shall be extended 12 feet to the east to ensure maneuverability. The applicant shall include a bioswale, east of the paved maneuvering area, for drainage purposes, to be approved by the Engineering Division.

   PLANNINGING COMMISSION CONDITION OF APPROVAL

4. Hours of operation shall be limited to Monday through Friday, 7:30 AM - 5:30 PM, and Saturday, 8:00 AM – 2:00 PM.

5. Staff recommends that a wood board fence, no less than six feet in height, be constructed along a portion of the south property line, as indicated on the site plan, to screen the use from the property to the south. Additionally, staff recommends that the applicant plant a continuous row of evergreen vegetation along the south property line, west of the recommended wood board fence. Staff also recommends that the applicant screen the east side of the proposed maneuvering area located at the eastern portion of the subject property with evergreen trees.

6. As part of the building permit, the applicant shall submit a Site Improvement Plan, Landscape and Tree Preservation Plan for approval pursuant to City Ordinance and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.

7. Parking in areas identified on the proposed site plan as "loading" or "unloading" areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Should the proposed use require more than the maximum allowable parking on the subject property (8 parking spaces), the applicant shall submit a conditional use request for additional parking.

8. Curb stops or curbing shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.

9. Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a building permit. All new signs shall be permitted according to City codes.

10. 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.

11. Vehicles that access the site must enter and exit in a forward manner, in accordance with city regulations.

12. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.

13. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a Site Improvement Plan or a Large Scale Development request.

PLANNING COMMISSION ACTION: Required YES

Planning Commission Action: x Approved ☐ Denied ☐ Tabled
Motion: Ostner
Second: Cabe
Vote: 6-0-0

Meeting Date: **March 10, 2008**
City Plan 2025 designation: City Neighborhood Area
Guiding policies include protecting adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with proper mitigation measures.

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 a conditional use for a recycling center (Use Unit 28) within the C-2 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

condition of approval #5) approximately 30 feet to the west then north to connect with the existing structure, with a wood board gate to provide access to the eastern portion of the site.

With a better understanding of the demand for the recycling and the way the site works in relation to the operation of sorting, packing, and storing recyclable materials, the applicant has stated his intent to expand the business to the adjacent lot to the north, 1236 South School Avenue, and construct a building large enough to accommodate the operation. This expansion is not being reviewed at this time and will be require additional approvals.

DISCUSSION

Staff finds in favor of the applicant's request. The City of Fayetteville places a high priority on recycling, and Vaughn Recycling provides a recycling service that the City is not able to provide – recycling of aluminum, brass, copper, radiators, stainless and short steel, computers, and cell phones. Staff finds that the importance of vehiclar safety, specifically prevention of stacking on South School Avenue, preceeds immediate transfer or materials inside for sorting. The nature of sorting the above referenced materials outdoors is not dangerous or detrimental to adjacent properties, considering that a woodboard fence, no less than six feet in height, will contain the operation and obscure visibility from the public right-of-way and adjacent properties.

Condition of approval #13 states that "future expansion of the proposed use or redeveopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a Site Improvement Plan or a Large Scale Development request". Should the applicant utilize the property to the north as stated in the attached letter, staff will likely recommend a condition of approval that all materials shall be sorted, processed, packed, and stored inside the building.

RECOMMENDATION

As a result of a site visit and analysis of the operation, staff finds that the applicant's request is justified and will not be detrimental to the surrounding area. Therefore, staff recommends approval of **ADM 08-3128** with the following conditions:

1. Condition of Approval #1 of CUP 08-2908 shall be revised to the following: Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/processing for shipping shall be permitted outside provided that a wood board fence is extended, as shown on the site plan. Materials shall not be visible above the woodboard fence and/or from the public right-of-way.

2. All other conditions of approval from conditional use application (CUP 08-2908) shall remain in force.

Planning Commission Action: ☑ **Approved** ☐ **Tabled** ☐ **Denied**
Motion: Lack
Second: Graves
Vote: 6-0-1 (Trumbo)
Meeting Date: **October 13, 2008**

K:\Reports\2008\PC Reports\19-October 13\ADM 08-3128 (Vaughn Recycling).doc

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

Resolution: 247-21

File Number: 2021-0659

APPEAL ADM-2021-045 (1236 S. SCHOOL AVE./VAUGHN RECYCLING):

A RESOLUTION TO GRANT THE APPEAL OF COUNCIL MEMBERS SARAH BUNCH, HOLLY HERTZBERG, AND D'ANDRE JONES AND APPROVE AN AMENDMENT TO CONDITIONAL USE PERMIT CUP 08-2908 TO AUTHORIZE VAUGHN RECYCLING TO LEGALLY EXPAND ITS RECYCLING ACTIVITIES TO 1236 SOUTH SCHOOL AVENUE

WHEREAS, on July 26, 2021, the Planning Commission denied Administrative Item ADM-2021-045, which would have expanded Conditional Use Permit CUP 08-2908, to allow Vaughn Recycling to legally expand its recycling activities to 1236 South School Avenue; and

WHEREAS, Council Members Sarah Bunch, Holly Hertzberg, and D'Andre Jones have properly appealed the decision of the Planning Commission pursuant to §155.05(A)(3) of the Unified Development Code.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby grants the appeal of Council Members Sarah Bunch, Holly Hertzberg, and D'Andre Jones and approves ADM-2021-045, an amendment to Conditional Use Permit CUP 08-2908, to authorize Vaughn Recycling to legally expand its recycling activities to 1236 South School Avenue with the following conditions:

1. City Council determination of compatibility with adjacent properties.

2. All conditions of approval of the associated conditional use permit will remain in effect. The requested area shall be subject to the same conditions of approval including master street plan

dedication and approval of a site improvement plan or large scale development.

3. All materials shall be sorted, processed, packed, and stored inside the existing building or an expanded facility. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited.

4. Large trailers shall be utilized for loading and removal of materials from the site and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the building, as indicated on the site plan, and shall not be visible from the public right-of-way, until the time of shipping materials. Any one trailer may be parked at the site for a maximum of five (5) days.

5. The applicant shall include a bioswale, east of the paved maneuvering area, for drainage purposes, to be approved by the Engineering Division.

6. Hours of operation shall be limited to Monday through Friday, 7:30 AM - 5:30 PM, and Saturday, 8:00 AM - 2:00 PM.

7. A wood board fence, no less than six (6) feet in height, shall be constructed along the length of the north property line to screen the use from the adjoining properties. The applicant should plant a continuous row of evergreen vegetation along the north property line, south of the recommended wood board fence and screen any newly proposed maneuvering areas with evergreen trees.

8. As part of the development entitlements, the applicant shall submit a site improvement plan or large scale development, landscape and tree preservation plan for approval pursuant to City ordinances and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.

9. Parking in areas identified in the original site plan as "loading" or "unloading" areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Should the proposed use require more than the maximum allowable parking on the subject property (8 parking spaces), the applicant shall submit an additional conditional use request for supplementary parking.

10. Curb stops or curbing shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.

11. Any existing non-conforming signage shall be removed, together with its supporting structure

prior to issuance of a building permit. All new signs shall be permitted according to City codes.

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. Vehicles that access the site must enter and exit in a forward manner, in accordance with City regulations.

14. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.

15. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a site improvement plan or a large scale development request.

16. The applicant shall allow city staff to inspect the premises monthly with unannounced visits during normal business hours and shall promptly correct any violations of these conditions discovered by city staff.

17. This approval expires after one year (October 5, 2022), but may be extended by the Planning Commission if applicant has consistently complied with these conditions including preventing or promptly cleaning up any mud or debris tracked onto the public right-of-way from this property. The applicant is responsible for applying for and obtaining the Planning Commission's approval to extend this Conditional Use Permit prior to its automatic expiration.

PASSED and APPROVED on 10/5/2021

Approved:

Lioneld Jordan, Mayor

Attest:

Kara Paxton, City Clerk Treasurer

CITY CLERK / TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

KNIGHT HALBERT, LLP

ATTORNEYS AT LAW

PO BOX 1272

FAYETTEVILLE, AR 72702

PHONE (479) 571-0014

FAX (877) 450-0781

tripp@knightlaw.net

August 26, 2022

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

NOTICE OF ADMENDMENT REQUEST

Re: Proposed Request to CUP-08-2908 (Vaughn Recycling, LLC)

Commissioners,

I hope this letter finds you all well. I am writing this on behalf of my client, Vaughn Recycling, LLC, ("**Vaughn Recycling**") regarding their Conditional Use Permit #08-2908 ("**CUP**") and its approved Amendment 2022-000 ("**Amendment**") in the matter listed above. For everyone's convenience, I have included the proposed version of the amendment for the commission's review. (See attached *Exhibit A*). Any additional, information that the City Planning Commission needs or clarity on an issue please do not hesitate to reach out.

Vaughn Recycling has served the City of Fayetteville at 1245 and 1236 S. School Ave. ("**Property**") for more than 13 years. Vaughn Recycling has complied with all of the requirements provided by the City Council in their Amendment which was approved on or around October 5th, 2021. Since that time Vaughn Recycling has not received a single complaint or citation on how it has conducted its business at Property. Furthermore, these provisions made conducting business on the Property near impossible given the volume of metals that come through Vaughn Recycling's doors.

Vaughn Recycling prays that this Commission allow Vaughn Recycling to amend the following conditions:

1. Allow Vaughn Recycling to expand its loading area/process to outside on the Property. This constraint will prohibit Vaughn Recycling from servicing clients and severely place a limitation on its recycling capacity in the future. Vaughn Recycling will continue to uphold its other obligations such as preventing visibility from the public right-of-way. Once approved, Vaughn Recycling will be able to improve how it loads and processes inventory as it is received.

2. Vaughn Recycling requests that they be permitted to extent the time period in which trailers may be allowed to be parked on the premise. With many factors outside the control of Vaughn Recycling, the availability of truck drivers to haul loaded trailers was one of the violations back in March of 2020. With this extension Vaughn Recycling will be able to find alternative drivers if there is a delay in the pickup. Vaughn Recycling can guarantee that these trailers will never be parked on the road frontage again per its obligations. Furthermore, Vaughn Recycling would be agreeing to keep all trailers and large truck in the rear of the property.

3. Vaughn Recycling agrees that the hours of operation shall be limited to Monday through Friday, 7:30 AM – 5:30 PM, and Saturday, 8:00 AM – 2:00 PM fits the needs of the business.

3. Vaughn Recycling requests that portions of provision #7 be removed from the conditions on the Property. There is a 20ft wall on the North end of the property that appropriately screens the adjoining properties. Vaughn Recycling will agree to keep the vegetation requirement provided under #7.

4. Vaughn Recycling requests that these conditions do not automatically expire every year. This is cumbersome and an expensive process to request that every year Vaughn Recycling come before this Commission to extend its operations for another year. Furthermore, the Staff has provided numerous hours monitoring the Property over the last year. Vaughn Recycling has received no complaints and has worked with the Staff diligently throughout this process. Vaughn Recycling will continue to strive to work with the City's requests. It is our position that the approval of ADM-22-000000 is vital to the success and future of Vaughn Recycling.

Best,

Knight Halbert, LLP

Tripp Halbert

Charles E. Halbert III

CEH/hdc
cc : Vaughn Recycling, LLC

Section 1. That the City Planning Commission of the City of Fayetteville, Arkansas approves ADM-2022-000, an amendment to Conditional Use Permit CUP 08-2908, to authorize Vaughn Recycling to expand its recycling activities to 1236 & 1240 South School Avenue with the following conditions:

1. City Council determination of compatibility with adjacent properties.

2. All conditions of approval of the associated conditional use permit will remain in effect. The requested area shall be subject to the same conditions of approval including master street plan dedication and approval of a site improvement plan or large-scale development.

3. Storage or processing of potentially explosive or combustible materials and/ or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/ processing for shipping shall be permitted outside provided that a wood board fence is extended, as shown on the site plan. Materials shall not be visible above the woodboard fence and/ or from the public right- of-way.

4. Large trailers shall be utilized for loading and removal of materials from the site and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the building, as indicated on the site plan, and shall not be visible from the public right-of-way, until the time of shipping materials. Any one trailer may be parked at the site for a maximum of seven (7) business days.

5. The applicant shall include a bioswale, east of the paved maneuvering area, for drainage purposes, to be approved by the Engineering Division.

6. Hours of operation shall be limited to Monday through Friday, 7:30 AM – 5:30 PM, and Saturday, 8:00 AM – 2:00 PM.

7. ~~A wood board fence, no less than six (6) feet in height, shall be constructed along the length of the north property line to screen the use from the adjoining properties.~~ The applicant should plant a continuous row of evergreen vegetation along the north property line, south of the recommended wood board fence and screen any newly proposed maneuvering areas with evergreen trees.

8. As part of the development entitlements, the applicant shall submit a site improvement plan or large-scale development, landscape and tree preservation plan for approval pursuant to City ordinances and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.

9. Parking in areas identified in the original site plan as “loading” or “unloading” areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Should the proposed use require more than the maximum allowable parking on the subject property (8 parking spaces), the applicant shall submit an additional conditional use request for

supplementary parking.

10. Curb stops or curbing shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.

11. Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a building permit. All new signs shall be permitted according to City codes.

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. Vehicles that access the site must enter and exit in a forward manner, in accordance with City regulations.

14. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.

15. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a site improvement plan or a large scale development request.

16. The applicant shall allow city staff to inspect the premises annual with announced visits during normal business hours and shall promptly correct any violations of these conditions discovered by city staff.

17. This approval shall run indefinitely given the recent compliance of the applicant.

PASSED and **APPROVED** this _____ day of September, 2022.

the amount of space on the property, which was among staff's original concerns. In light of the continued effort to bring the property into compliance with the conditions in their permit, staff recommends the amendment is approved.

RECOMMENDATION: Staff recommends approval of ADM-2022-0048, subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility with adjacent properties.**

2. **Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/processing for shipping shall be permitted outside provided that materials are not visible above the woodboard fence and/or from the public right of way.**

3. **Large trailers shall be utilized for loading and removal of materials from the site and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the property and shall be screened from the public right-of-way, until the time of shipping materials. Any one trailer may be parked at the site for a maximum of seven (7) days.**

4. **The applicant shall construct a bioswale along the entire east boundary of the site for drainage purposes, to be approved by the Engineering Division.**

5. **Hours of operation shall be limited to Monday through Friday, 7:30 AM – 5:30 PM, and Saturday, 8:00 AM – 2:00 PM.**

6. **The applicant shall plant a continuous row of evergreen vegetation, no less than six (6) feet in height, along the north and east property lines to screen the use from the adjoining property.**

7. **As part of the development entitlements, the applicant shall submit the appropriate development review application pursuant to City ordinances and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.**

8. **Parking in areas identified in the original site plan as "loading" or "unloading" areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Parking, including the current maximum allowed on the subject property (eight parking spaces), shall be evaluated with a site improvement plan or large scale development proposal.**

9. **Curbing or curb stops shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.**

10. **Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a grading permit. All new signs shall be permitted according to City codes.**

11. **All exterior lights shall comply with the City lighting ordinance.**

12. **Vehicles that access the site must enter and exit in a forward manner, in accordance with City regulations.**

13. **In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.**

14. **Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate amendment request and applicable development review, pursuant to ordinance.**

PLANNING COMMISSION ACTION: **Required** **YES**

Date: **September 26, 2022** ❒ **Tabled** ☒ **Approved** ❒ **Denied**

Motion: Canada

Second: Johnson

With an added condition that the property is not permitted to be used at Use Unit 31.

Vote: 7-1-0

BUDGET/STAFF IMPACT:
None

Attachments:

- Previously-approved Conditions (CUP 08-2908)
- Amended Conditions (ADM 08-3128)
- Amended Conditions (Res. 247-21)
- Request Letter
- Violation Letter
- Site Photos
- One Mile Map
- Close-up Map
- Current Land Use Map

HALBERT LAW OFFICES

ATTORNEYS AT LAW

PO BOX 1272

FAYETTEVILLE, AR 72702

PHONE (479) 571-0014

FAX (877) 450-0781

tripp@halbertlaw.net

August 21, 2023

Jessi Masters
113 West Mountain
Fayetteville, AR 72701
jmasters@fayetteville-ar.gov
(479) 575-8239

REQUEST LETTER

RE: Request for Extension of ADM-2022-0048 and Amendment of CUP 08-2908 Conditions for Property at 1236 & 1246 S. School Ave.

Dear Commissioners,

I hope this letter finds you in good health. I am writing on behalf of Vaughn Recycling, LLC to formally request an extension for ADM-2022-0048 and associated conditions of Conditional Use Permit (CUP) 08-2908. The subject property, situated at 1236 & 1246 S. School Ave., is currently zoned as DG (Downtown General) and spans approximately 2.33 acres.

Vaughn Recycling greatly appreciates the previous approvals granted for CUP 08-2908 and the ongoing support from the City of Fayetteville in promoting responsible and sustainable development within the community. Vaughn Recycling is currently working with Blew and Associates to comply with large scale development requirements, we find it necessary to seek an extension of the current approval to ensure the successful implementation of our project.

The extension of ADM-2022-0048 will provide us with the additional time needed to adequately address any modifications, updates, or changes required to comply with both the development plans and the City's regulatory standards. We are committed to engaging with all planners and authorities to ensure that the project aligns with the community's goals while maintaining the highest standards of environmental stewardship.

We understand the importance of transparent communication and community involvement in such matters. As part of our commitment to responsible development, we are open to scheduling meetings or participating in public forums to discuss the extension in greater detail with both the Planning Commission and the local residents.

We kindly request a formal review of our request for an extension to ADM-2022-0048 and CUP 08-2908. We remain dedicated to contributing to the growth and progress of the City of Fayetteville and its residents. For your convenience, I have attached the following items:

1. A legal description of the subject property
2. County Parcel Map
3. Request for public notification
4. Property Owner Authorization

A site plan will be provided prior to the public hearing . Thank you for considering our request. We look forward to the opportunity to collaborate further and contribute positively to the community. Please feel free to contact me at tripp@halbertlaw.net or (479) 571-0014 if you require any additional information or wish to schedule a meeting.

Sincerely,

Halbert Law Offices

Tripp Halbert

Charles E. Halbert III

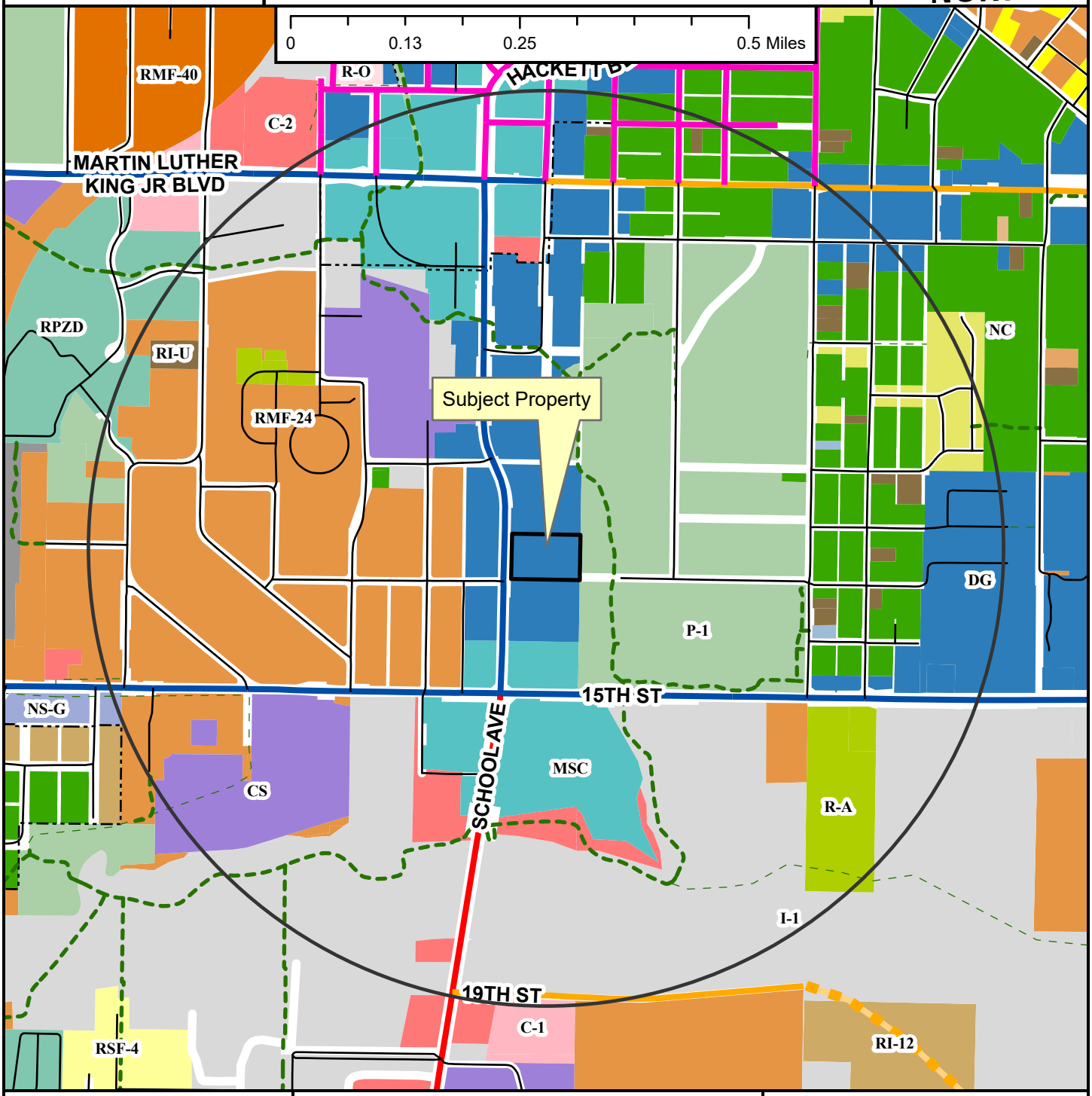
CEH/hdc
cc : Vaughn Recycling, LLC
Jorge Du Quesne

ADM-2023-0036

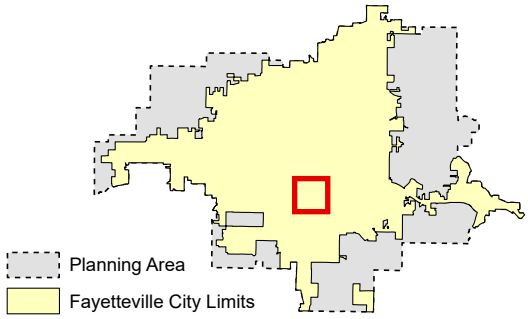
One Mile View

1236 S. SCHOOL AVE

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

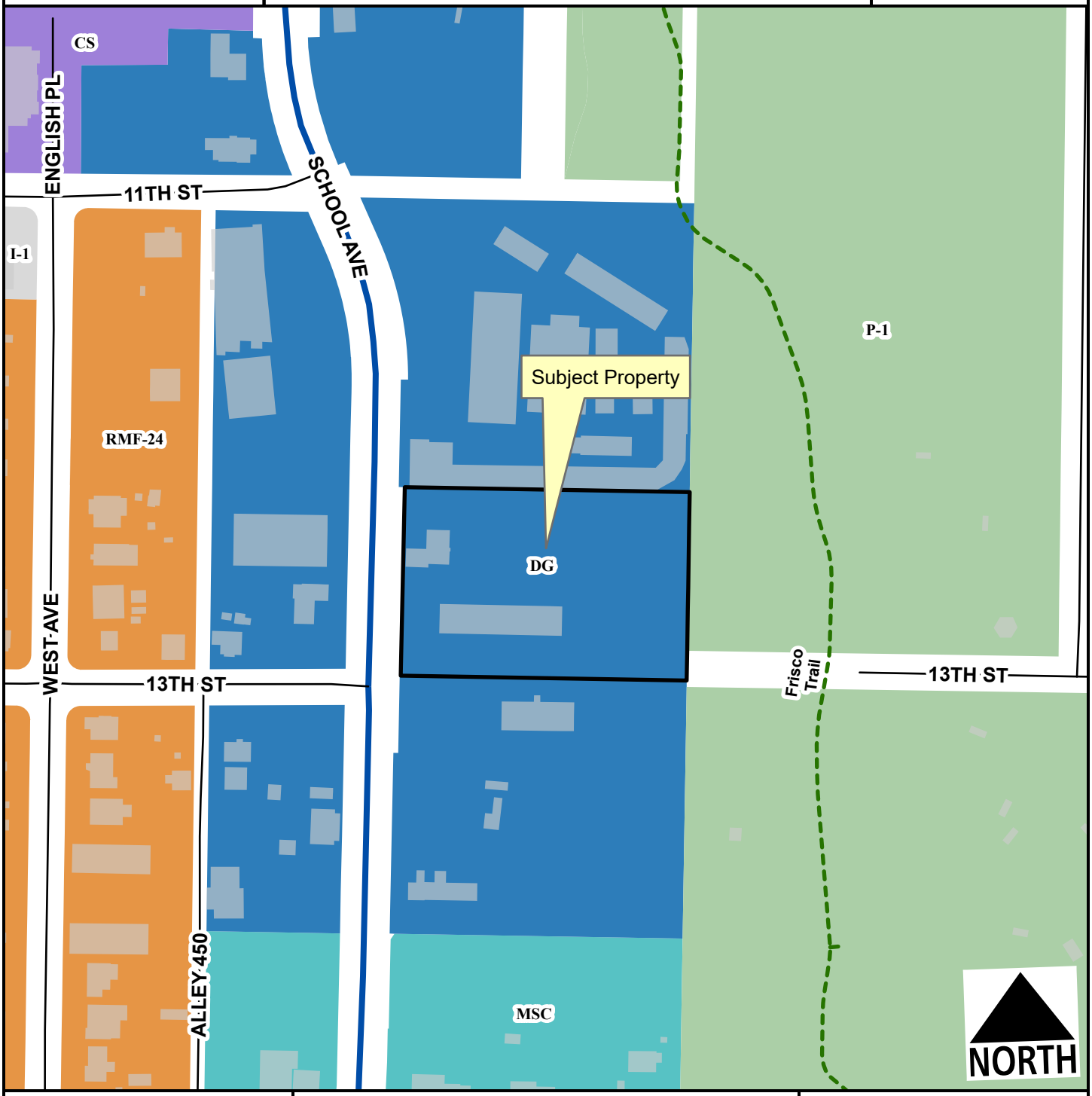
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

ADM-2023-0036

Close Up View

1236 S. SCHOOL AVE



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

Feet

0 75 150 300 450 600

1:2,400

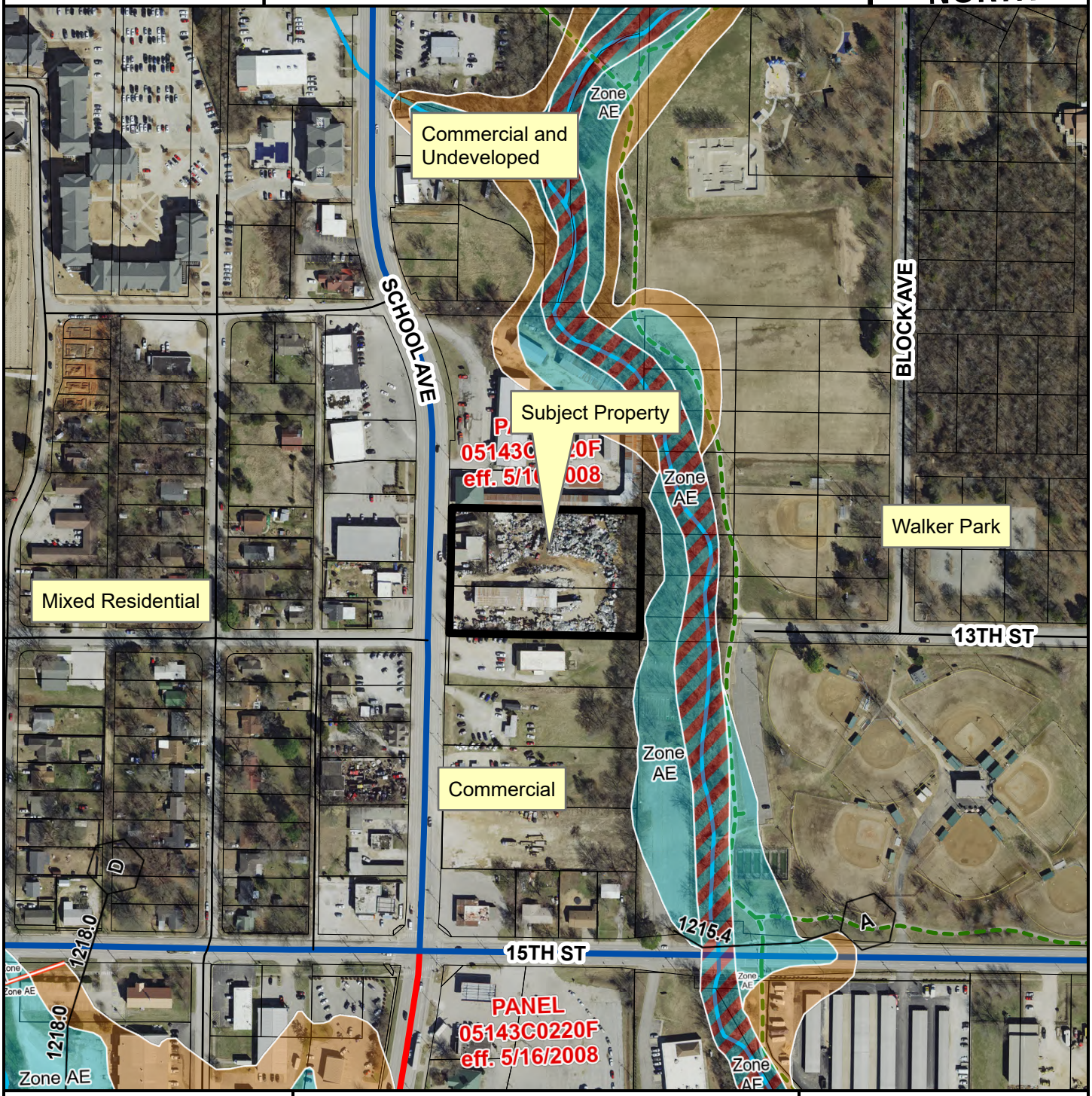
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Main Street Center
- Downtown General
- Community Services
- P-1

ADM-2023-0036

Current Land Use

1236 S. SCHOOL AVE

NORTH



- 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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 25, 2023

SUBJECT: **VAR-2023-0040: Planning Commission Variance (612 W. CENTER ST/TRINITAS DEVELOPMENT, 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 for a variance from parking requirements.

RECOMMENDATION:
Staff recommends denial of **VAR-2023-0040.**

RECOMMENDED MOTION:
*"I move to deny **VAR-2023-0040**."*

BACKGROUND:
The subject property is 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). An associated right-of-way vacation for Gregg Alley is also currently under consideration (VAC-2023-0005). 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

Request: The applicant is requesting a variance to **Unified Development Code §172.05(2), which requires that the minimum and maximum number of spaces required for residential use shall conform to the ratios listed in Table 3. For multi-family structures, the ratio is one space per bedroom.** The applicant requests to construct 228 parking stalls where 370 would be required by-right after allowable reductions outlined in chapter 172.05.

DISCUSSION:
City staff is recommending denial of the request. Parking, and how to manage it effectively, is a significant challenge facing City planners. Fayetteville is a unique community in that for non-residential uses, Fayetteville enforces parking *maximums*, as opposed to typically-required

parking minimums that are more commonly seen in cities throughout the country. The evidence that supports the elimination of parking minimums more broadly is written about and researched widely in planning literature, probably most famously in Donald Shoup's *"The High Cost of Free Parking,"* which was originally published in 2005. Reducing parking minimums (and charging appropriate fees for the use of land for vehicle storage) nudges communities into better walkability, promotes transit growth, and encourages infill development by allowing for a more efficient and productive use of land.

Overall, the applicant is requesting a reduction to the parking requirements that apply to multi-family residential developments, outlined below in Table 2.

Table 2

Parking Requirements	**Number of Bedrooms**	**Number of Required Spaces**
1 space per bedroom	572 bedrooms	572 spaces
By-Right Allowable Reductions		
-15% reduction for transit stop		-86 spaces
-10% reduction for additional bike racks		-58 spaces
-10% reduction for additional motorcycle spaces		-58 spaces
	Total:	**370 Required Spaces**
	Requested Number:	**228 Spaces**
	Variance Needed:	**142**

While Fayetteville has taken progressive steps to reduce parking requirements and ultimately create a community that relieves its citizens of the burdens of car ownership, including the prioritization of car storage as a land-consumptive need, the day-to-day reality of parking management continues to be an ongoing issue. Emergency service providers are faced with an enforcement problem, consistently running into issues of illegal parking, overparking on public streets, blockage of fire lanes, and interference with aerial apparatus access requirements. The Fire Department has provided a memo discussing these day-to-day difficulties attached to this report, and has included specific information related to this request.

Further, a major concern on this specific site is a lack of available public parking surrounding the proposed development. In many cases in Downtown Fayetteville, there is available on-street or public parking to help absorb requested parking variances, alleviating concerns around minimizing parking requirements. In this case, there is no feasible alternative for parking in this area. No on-street parking is available on W. Center Street, nor S. Gregg Avenue, nor S. University Avenue. Under 156.03, Planning Commission is tasked with evaluating whether the typical parking requirements would cause an undue hardship to the developer, and whether the situation is unique to the property in question. The existing challenges facing the site regarding utility provision and existing right-of-way that limit the site's developability are an unrelated issue, and the applicant is separately working to resolve those through an associated vacation request.

The applicant has provided information regarding their parking management plan, and additional information indicating an intent to work with the University of Arkansas to provide students with an off-site option for longer term vehicle storage; no official agreement has been entered, but staff would support a further conversation and exploration by the applicant to enter into shared parking agreements more formally. A shared parking agreement may help alleviate concerns about negative off-site impacts. In the meantime, without further, solidified information, staff finds that the applicant's request to reduce the amount of on-site parking below what is administratively approvable is likely to negatively affect neighboring residents and create a burden on the provision of emergency services. Therefore, staff does not find itself being able to support the request.

RECOMMENDATION: Staff recommends Planning Commission deny VAR-2023-0040; though recommends the following conditions should Planning Commission choose to approve the request:

Conditions of Approval:

1. **Planning Commission determination of a variance to §172.05(2), which requires one parking space per bedroom to be constructed with multi-family residential development.** *Staff recommends denial of the request for the reasons stated above.*

2. An in lieu fee of $1,200.00 for 142 on-site parking spaces shall be paid to the city, for a total of $170,400. This money shall be held in an interest-bearing account and shall be expended for public parking facilities within the district it is collected within ten (10) years from the date it is collected. If said money has not been so expended within ten (10) years of the date collected, said money, together with the interest thereon, shall be refunded to the person or entity who made the contribution;

3. Applicant must provide documentation of an approved shared parking agreement to be approved by the Planning Commission; this parking agreement can include the University of Arkansas to mitigate for those students who require long-term vehicle storage;

4. Approval of this variance request is only for the requests as stated above, and does not extend approval to any variances not yet reviewed for at this stage.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Development Code:
  - §172.05 Standards For The Number Of Spaces By Use
- Fire Marshal Memo
- Applicant Request letter
- Applicant Exhibits
- One Mile Map
- Close-up Map
- Current Land Use Map

172.05 Standards For The Number Of Spaces By Use

(A) *Required Parking.*

(1) *Non-Residential Use.* There shall be no minimum number of spaces required for non-residential use. The maximum number of spaces shall be limited based on the ratios in Table 3 and the allowable increases over the baseline ratio as described in subsection 172.05. The applicant shall provide a statement or parking analysis indicating how they will provide adequate parking for the proposed non-residential use to succeed without negatively impacting adjacent properties or creating or compounding a dangerous traffic condition.

(2) *Residential.* The minimum and maximum number of spaces required for residential use shall conform to the parking ratios listed in Table 3. The minimum and maximum number of spaces required for a use not specifically included in this section shall be as required for the most similar use listed or as otherwise determined by the Planning Division utilizing reference standards.

(a) *Reductions for Residential Use.* Residential uses may utilize the following reductions to the minimum number required off-street parking ratios listed in Table 3 when the following standards are met:

(i) *Transit Stops.* Properties located within a ¼ mile radius of a transit stop may further reduce the minimum off-street parking requirements by up to 15%.

(ii) *Motorcycle and Scooter Spaces.* Up to 10% of the required automobile parking spaces may be substituted with motorcycle/scooter parking at a rate of one (1) motorcycle/scooter space for one (1) automobile space.

(iii) *Bike Racks.* Up to 10% of required automobile parking may be substituted with bicycle parking at a rate of one (1) additional bicycle rack for one (1) automobile space. This reduction shall be allowed in addition to other variances, reductions and shared parking agreements.

(iv) *Shared Parking.* Parking requirements may be shared where it can be determined that the peak parking demand of the existing or proposed occupancy occur at different times (either daily or seasonally). Such arrangements are subject to the approval of the Planning Commission.

(1) *Shared Parking Between Developments.* Formal arrangements that share parking between intermittent uses with non-conflicting parking demands (e.g. a church and a bank) are encouraged as a means to reduce the amount of parking required.
(2) *Shared Parking Agreements.* If a privately owned parking facility is to serve two (2) or more separate properties, then a "Shared Parking Agreement" is to be filed with the city for consideration by the Planning Commission.
(3) *Shared Spaces.* Individual spaces identified on a site plan for shared users shall not be shared by more than one (1) user at the same time.

(3) *Maximum Number Allowed for Residential and Non-Residential Uses.* Residential and non-residential developments may utilize the following increases to the required spaces listed in Table 3 when the following standards are met:

(a) Developments may increase the number of off-street parking spaces by 15% above the parking ratios listed in Table 3.

(b) Developments may increase the number of off-street parking spaces by an additional 10% when alternative stormwater treatment techniques are utilized, such as:

(i) Bioswales

(ii) Constructed wetlands

(iii) Pervious pavement

(iv) Other such techniques that aid in improving water quality and quantity as approved by the City Engineer

(c) Developments may increase the number of off-street parking spaces by an additional 5% when one (1), 2-inch caliper tree for every ten (10) additional parking spaces is planted on-site in addition to all other landscaping requirements.

(4) *Parking Ratio Calculation.* The number of spaces required for a use not specifically included in Table 3 shall be as required for the most similar use listed or as otherwise determined by the City Planning

Division utilizing industry standards. For all parking space requirements resulting in a fraction, the fraction shall be:

(a) Rounded to the next higher whole number when the fraction is 0.5 or higher.

(b) Rounded to the next lower whole number when the fraction is less than 0.5.

(5) *On-Street Parking.* Each permitted on-street parking space adjacent to a project frontage may count toward the parking requirements for all development. The approval of on-street parking is subject to approval by the Zoning and Development Administrator.

(6) *Motorcycle and Scooter Parking.* One (1) Motorcycle and scooter parking. In parking lots containing twenty-five (25) parking spaces or more, one (1) space for every twenty-five (25) parking spaces of the required number of parking spaces for a use or combination of uses shall be striped as a motorcycle and scooter parking space.

(7) Increases or reductions in excess of those identified herein shall be allowed only by the Planning Commission as a variance and shall be granted in accordance with Chapter 156.03

TABLE 3
PARKING RATIOS
(Use/Required Spaces)

Residential

Single-family, duplex, triplex	2 per dwelling unit
Multi-family or townhouse	1 per bedroom

…

(Ord. No. 4567, 05-04-04; Ord. No. 4930, 10-03-06; Ord. No. 5118, 3-18-08; Ord. No. 5297, 12-15-09; Ord. No. 5435, 8-16-11; Ord. No. 5801 , §1(Exh. A), 10-6-15)

CITY OF
FAYETTEVILLE
ARKANSAS

FAYETTEVILLE FIRE DEPT
F F D ARK

Date: September 20, 2023

To: Jessie Masters, Development Review Manager

From: Fire Chief Brad Hardin, Fire Marshal Jeremy Ashley

RE: VAR-2023-0040 / 612 W Center St.

The variance submitted by Trinitas is for a seven story, 572-bedroom, R-2 Residential Occupancy located at 612 W. Center St. They are seeking a variance of Section 172.05.A.7 Table 3 requesting a parking ratio of 0.452 spaces per bedroom instead of the 1 parking space per bed listed in the zoning code. The Fayetteville Fire Department is unable to support such a small parking ratio for college student-based housing and recommends denial of VAR-2023-0040.

One of the Fire Departments' main concerns is the lack of parking will push residents to park in areas located in adjacent neighborhoods and on side streets that are not equipped to handle parking. This creates situations that directly influence the response of emergency vehicles causing a distinct hazard to life and property.

Trinitas has submitted a parking plan that explains how they will police parking by their residents both on-property and off-site; the following are some of the concerns we have.

- Trinitas could sell the property and the new owner has no obligation to continue with parking restrictions. Example: Trinitas built a 628 bedroom / 524 parking space complex located approximately 1200 feet away from this proposed project which they sold. Atmosphere Fayetteville has a parking ratio greater than .75 and we have parking violations in and around the area every single day.
- Trinitas would require either an on-site lease for parking or proof that the resident has leased parking from another entity (i.e. a parking permit from the University of Arkansas). Most of the citations issued to student-based population have parking permits, having a permit does not guarantee that the student will park legally.
- The University of Arkansas (UA) has a student to parking ratio of 0.553. This ratio does not consider the university employees or graduate students. The UA issues 38,849 citations annually. In comparison the University of Nebraska in Lincoln has a parking ratio of 0.734 and issues 11,799 citations annually.
- The parking issues created by this request will cause additional stress on the Fire Marshals Office and Fayetteville Police responding to complaints and enforcing parking.

Trinitas submitted examples of other developments with decreased parking ratios that are compared with Fayetteville; the following are some of the concerns we have.

- The examples provided are new or newer, so it's hard to say the long-term impact of the low parking ratios.
- The Current at Latimer Square in Bloomington is 3.5 miles from campus and has a huge mall adjacent to the property with a large number of parking spaces.
- The Atmosphere in Lincoln has 8 parking lots and 15 garages within walking distance. The building is L-shaped with two sides bordering one of the public parking garages.
- There are no stats available for the parking in Tempe, but it is completely different than Fayetteville. Tempe is a suburb of the Phoenix Metro area which has a population of 4.6 million people. Tempe has a robust public transit system that carriers 5.5 million riders annually.
- Austin, like Tempe, is not comparable. A population of 1 million and a metro population of 2.2 million.
- Ann Arbor is similar sized, but it is a suburb of Detroit. It also has more parking available in its downtown area, 6,807 spaces as compared to 2,796 in Fayetteville.

CLARK LAW FIRM
PLLC

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 15, 2023

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Attn: Planning Commission

Re: Concept Plan and Request for Parking Variance

Clark Law Firm represents Trinitas Ventures ("Trinitas") regarding their proposed Concept Plan and request for parking variance. As more fully described in the attached:

- Concept Plat letter;
- Trinitas Parking Variance Memo; and
- Antunovich Associates Parking Variance Request

Trinitas makes its variance request pursuant to Unified Development Code 156.03 and seeks permission to vary from the requirements of Code Section 172.05. Thank you for your consideration and please let me know you have any questions.

Sincerely,

/s/ Suzanne G. Clark

Suzanne G. Clark

ANTUNOVICH ASSOCIATES
ARCHITECTURE · PLANNING · INTERIOR DESIGN
Chicago • Washington DC • Los Angeles • Austin • Buffalo

Memorandum

Date:	August 15, 2023
To:	Planning Commission City of Fayetteville, AR
From:	Clark C. Christensen, Associate AIA
Project:	**Center Street Residential Development** 612 Main Street
Subject:	Parking Variance Request

Trinitas Ventures along with Amplify Development are proposing a residential development at 546 - 612 Center Street. The 2-acre site is located within the Main Street/Center zoning district along West Center Street, south of the Dickson Street corridor and due east of the University of Arkansas campus. The Frisco Trail (Razorback Greenway), which provides convenient pedestrian and bicycle access, runs along the east portion of the site, while the Oak Ridge Trail runs along the south edge of the project. According to the Fayetteville GIS infill map, the site infill grade is 13 out of 14, meaning the location is a high priority site for dense residential development. The proposed building is 7 stories tall with 5 stories of residential units over 2 levels of parking, amenities, and liner units. The building, at 239,906 square feet (gross enclosed), is designed as student housing project with 191 units and 572 bedrooms. Though designed as a student housing, any persons, friend group or family will be welcome as residents. To meet the housing needs of the community, the project will provide a creative mix of studio, 1-, 2-, 3-, and 4-bedroom units. Parking for 228 cars, 104 bikes, and 84 scooters are provided on the first 2 floors of the building. The proposed amenities open to tenants include a fitness center, study rooms and business center, shared lounge space, and a roof-top pool terrace. There are also two (2) internal courtyards for shared outdoor space.

The project is requesting a parking variance per 156.03 C 5 to provide a 0.4 space per bedroom ratio in lieu of the required 1.0 space per bedroom ratio.

PARKING VARIANCE METRICS

Section 172.05.A.7 Table 3 of the zoning code requires 1 parking space per bed and allows an increase in scooter and bike parking to reduce the requirement to 0.65 parking space per bedroom per Section 172.05.A.2.a. The project, with 572 bedrooms, requires 372 parking spaces via the 35% reduction. The project is providing 0.4 parking spaces per bedroom with 228 parking stalls, per the following Table:

Requirements per Section 172.05.A.7 & 172.10.	**Provided in Project**
1 space per bedroom • 572 bedrooms = 572 spaces	372 spaces required via 35% reduction • **228 parking spaces provided** • **144 parking space deficit**
One (1) motorcycle/scooter space per 25 spaces for lots containing > 25 spaces • 23 spaces	81 motorcycle/scooter spaces required • 23 sp. + 58 sp. [35% reduction] = 81 sp. ○ **84 spaces provided**
One (1) bike rack per 30 dwelling units • 7 bike racks	65 bike racks required • 7 sp. + 58 sp. [35% reduction] = 65 sp. ○ **104 stalls provided**

Parking Reductions (per Section 172.05.A.2.a)

- Max 15% reduction when within ¼ mile of transit stop = 86 spaces
  - 572 bedrooms x 15% = 86 spaces
- Max 10% reduction when motorcycle/scooter space is substituted (1:1) = 58 spaces
  - 572 bedrooms x 10% = 85 spaces
- Max 10% reduction when Bike Rack is substituted (1:1) = 58 spaces
  - 572 bedrooms x 10% = 85 spaces
- Compact spaces allowed up to 35% of required total.
- Permitted on-street spaces may count towards project requirements.

Parking Metrics	
Requirements (per Section 172.05.E.Table 1 & 172.10)	**Provided in Project**
Standard Stall: 9 ft. wide x 19 ft deep.	9 ft. wide x 19 ft deep.
Compact Stall: 7.5 ft. wide x 15 ft deep.	7.5 ft. wide x 15 ft deep.
One Way Aisle: • Standard: 24 ft; Compact: 22 ft.	Standard: 24 ft min.; Compact: 22 ft. min.
Two Way Aisle: Standard: 24 ft; Compact: 24 ft.	Standard: 24 ft min.; Compact: 24 ft. min.
Motorcycle / Scooter Space: Width: 3 ft; Depth: 7 - 9 ft.	Width: 3 ft min.; Depth: 7 ft. min.
Bicycle Space: Width: 3 ft; Depth: 8 ft; 3 ft. O.C. serves 2 bikes.	Width: 3 ft; min. Depth: 8 ft. min.

See attached Conceptual Site plans for location of parking spaces within the structured parking levels of the proposed building at 612 W. Center Street

Strict enforcement of the zoning ordinance to provide a 1 space per bedroom ration would cause undue hardship due to existing site and community circumstances. This two-acre site rises significantly from west to east (R.R. viaduct over to the Razorback Greenway). These topographical challenges, in combination with the location of required vehicle site access points and Fire Department equipment aerial access parameters all limit the developable portion of the site. Furthermore, the site accommodates city utilities requiring individual easements for electricity, stormwater, sewer, and gas, additionally limiting the buildable site area. The building height and stories are limited per the prevailing building code. The project height is also held to a height commensurate with the underlying zoning and in character with the planning goals for the Fayetteville urban center. Lastly, the team is maximizing resident access to the existing adjacent public trails, thus enhancing the pedestrian and bikers' experiences of the existing greenways.

The design team has laid out the building footprint and program to maximize the community connection points while accounting for site constraints, as seen in the attached Conceptual Plan exhibit. The granting of the parking variance will be in keeping with the spirit and intent of the zoning ordinance as the variance requested is the minimum variance necessary to make possible the reasonable use of the project site. The project takes advantage of the 35% parking reduction achieved via the following means (per Section 172.05.A.2.a):

- Reduction due to Adjacency to a Transit Stop (Razorback Transit & Ozark Regional Transit)
- Reduction due to providing substitute motorcycle / scooter spaces; (Spaces provided within structured parking)
- Reduction due to providing substitute bicycle rack spaces (Spaces provided within structured parking)

The project is then requesting a 0.25 space per bedroom reduction on top of the 0.35 space per bedroom reduction noted above. In this case, the proposed project provides 0.4 parking spaces per bedroom. The project provision is consistent with the overall goal of dense residential infill and reducing care usage in the Main Street / Center district. Further, the requested parking reduction is fully accommodated by professional building management of the project's residents and parking allocation. Per meetings held prior to the parking variance submission, the project operators will comply with the fire marshal's request of signage and striping. Additionally, the building management will enforce keeping all fire lanes clear of vehicles. The project will also comply with section 156.03 C 5 which requires a $1,200 in lieu fee per parking space not provided for the City to build funds for a future parking garage.

Fully combined, the student housing project provides an overall parking ratio of 0.72 to 1, with the total of bike, scooter/moped, and vehicular parking being 416 and the bedroom count being 572 bedrooms.

Parking Variance Memo

The student housing project, being developed by Trinitas Development and Amplify Development Co at 612 W Center St in Fayetteville, AR, is requesting a variance for parking space allocation in order to serve the community with much needed student housing. Obtaining the requested parking variance is critical to the viability of the project and ensuring its long-term operational success.

Trinitas and Amplify specialize in the development and ownership of student oriented housing throughout the United States. Trinitas is one of the largest long-term operators and in-house property managers of student housing in the US. Every project within the companies' development portfolio is designed with the end-user, the community, and the long-term operational functionality in mind. Understanding every community has a specific set of unique requirements with respect to pedestrian and vehicular coordination, Trinitas and Amplify have expended a significant amount of time and effort ensuring the right program is planned for the project at 612 W Center Street. The proposed uses and space allocations are based on the specific market dynamics and supply/demand implications of the Fayetteville, University of Arkansas, and the direct location of this project.

Based on the collective experience of Trinitas and Amplify, this specific project requires limited parking due to its close proximity to the university, urban and entertainment center, and its access to public services including mass transit and trails. Additionally, the project is developed as student housing and is specifically designed and managed to meet the needs and livelihood of university students which have limited needs for personal vehicular access. The undue hardship to providing parking stalls per the zoning requirement is that the building height and area are limited by site constraints, utilities easements, and building code. The building area enclosed is at a maximum for the site and providing additional parking reduces other uses in the building, in this case: residential units. As the infill score, location, and 2030/ 2040 Fayetteville plans call for an increase in residential density in this location, replacing housing with parking is a hardship to the project and the city.

Location & Walk/Bike-ability

The project location is between W Center St and W Meadow St; 2 blocks south of Dickson St and 4 blocks west of the municipal Downtown Core. Reducing the need for cars, the site is walkable within a half mile to restaurants, bars, shopping, groceries, and Fayetteville Municipal Buildings. Additionally, the site is a half-mile to the University of Arkansas, which is linked through biking and walking trails. The construction of the student housing project allows continuity of the Oak Ridge Trail 10' path along the southern boundary line of the site leading west to the school. Additionally, the Razorback Greenway's Frisco Trail, which meanders along the site's eastern boundary, provides a pedestrian and bike friendly path to both Dickson St and to the University of Arkansas campus.

Alternative Transportation

Reducing the need for a personal vehicle to meet daily needs and to attend classes, the site is located along the city of Fayetteville and The University of Arkansas Razorback bus lines providing access to greater Fayetteville and the far reaches of the university. The city of Fayetteville also has rideshare programs: Uber and Lyft, that provide personal and shared rides for daily needs. Additionally, scooters,

bikes, and e-bikes have pathways and dedicated spaces throughout Fayetteville for personal use and share programs of Veo and Spin.

Benefits of Reduced Allocation of Parking

By reducing the allocation of parking, there is a reduction in the dependency on personal vehicles to meet daily needs. It encourages the use of publicly provided services: transit and trails, and of healthy activities: biking and walking; activities that are environmentally and socially equitable. Furthermore, providing residences within walking distance to Fayetteville's entertainment district with restaurants and bars encourages people to walk and use ride shares and discourages driving while under the influence of alcohol and drugs.

Finally, and most importantly, the parking ratio provided matches the standards of student housing projects that Trinitas Development and Amplify Development Co have developed and manages throughout university towns in the United States where schools are integrated into the urban center just as The University of Arkansas is integrated into Fayetteville. Across the country, the parking ratio for student housing developments in urban centers developed by the two companies is .25-.42 parking stalls per bedroom. Additionally, at 612 W Center St, we're providing liner units on the second level of the garage and amenities on levels 1 and 2 so neighbors and trail-users see an active, vibrant building. Last, we believe the safety and health benefits of the residents, the community, and the environment are worth the trade of parking. To make the best use out of the site and to benefit Fayetteville, maximizing the area used for housing and providing parking that is appropriate for the location of student housing in an urban center is the highest and best use of the 612 W Center St site in Fayetteville, AR. This development, in which Trinitas and Amplify are investing great resources, shows confidence that the building proposed will provide the city with much-needed housing, while also meeting the parking needs of the urban student.

Parking Variance Research Memo

National Review of Parking Codes

In developing the request for a parking variance, Trinitas and Amplify looked at how other cities with urban universities are handling parking at a zoning level and locally at the housing challenges facing Fayetteville . We also looked internally at current projects that are being developed and managed with minimized parking provisions.

In reviewing the national basis for parking standards for housing in urban and university towns, we went to the Urban Land Institute (ULI) who is on the forefront of policy research for city development. ULI is the largest cross-disciplinary network of experts in real estate and land use in the US. In its goal to research and educate, ULI has created a database of zoning requirements based on progressive parking standards. The article and research tool on their website "Parking Policy Innovations in the United States" provides references to municipal ordinances throughout the United States that is a backdrop for other municipalities to make progressive changes in their parking policies. The link below is to their search engine.

https://knowledge.uli.org/en/reports/research-reports/innovations-in-parking-policy?q&sortBy=relevance&sortOrder=asc&page=2

The ULI parking policy resource highlighted the parking ordinance of Ann Arbor, Michigan (population 123,851 at 2020 U.S. Census). Ann Arbor, similar to Fayetteville, AR, is home to a division 1 university and welcomes students from well beyond the state line to The University of Michigan. The City of Ann Arbor's off-street parking requirement for student group housing is 1 per 5 beds according to ordinance number: ORD-20-35 5.19-1 Off-Street Parking Spaces. Per ULI's research report: "Parking Policy Innovations in the United States", the reason cities are reforming their parking minimum standards is: "to manage the existing parking supply, reduce traffic, cut pollution, and bolster city finances. Reforms include eliminating minimum parking requirements for development projects, enabling developments and businesses to share parking facilities, and using technology solutions to efficiently manage the supply of on-street parking."

Also similar to Fayetteville, the city of Austin, TX, (population 961,855 at the 2020 U.S. Census) who houses Division 1 school University of Texas at Austin, has sought to manage traffic and parking demands by removing their parking minimum completely for the University Overlay District. Per zoning ordinance 25-6-601, there are no minimum off-street parking requirements in the University Neighborhood Overlay District.

Strong Towns is a non-profit organization that seeks to analyze and educate about development in post-war United States. According to the Strong Town website, their goal is to: "advocate for cities of all sizes to be safe, livable, and inviting… to elevate local government to be the highest level of collaboration for people working together in a place." Strong Town provided a report: "5 Cities That Repealed Parking Minimums in 2022." In the article, Strong Town notes that "ceding so much space to cars reinforces car dependency." Per the 2020 U.S. Census, the population for the city of Fayetteville is 93,949. For reference of the article, the cities studied are: Culver City California, population 39,970; Olympia, WA, population 52,882; Raleigh, NC, population 467,655; Nashville, TN, population 692,587; and Anchorage,

AK, population 288,000. The removal of parking minimums in a city's downtown is researched and implemented across the U.S. in cities of all sizes whether it's state capitols, university towns, or in entertainment districts.

The other side of minimizing parking provided to reduce dependency of vehicles is the increase in space allotted to housing. Per a study completed by The University of Arkansas Sam M Walton College of Business of Northwest Arkansas: "Measuring the Vitality of Downtowns in Bentonville, Fayetteville, Rogers, Siloam Springs, and Springdale" downtown Fayetteville has a low vacancy of multifamily housing. The executive summary notes: "the low vacancy rates for multifamily units showed the strong consumer demand for downtown living." Similarly, The Walton Family Foundation funded research and reports entitled: "Northwest Arkansas Housing Policy Landscape Assessment Phase One and Phase Two Reports." Phase one of the report informs: "On the supply side, almost half (46 percent) of the housing stock is detached, single-family homes with most of the remainder of the stock in small- and medium-scale multifamily buildings. In 2019, there was an insufficient number of available rental units for households at all low and moderate-income levels, with the exception of moderate-income households (80-120 percent of AMI), for which there were barely enough units to meet the need." Going further, the report states: "The university does not have sufficient housing on campus to accommodate the student population, creating significant pressure on the private rental market in the downtown and university area." The minimal amount of multifamily housing pushes the oversized student population to take the single-family housing stock away from the affordable housing options. By providing multi-family housing options near the university and downtown Dickson St, where students can walk to school and entertainment helps reduce dependency on cars and frees up single-family homes for the low- and moderate-income residents of Fayetteville.

Trinitas Managed Properties

Last, Trinitas owns and manages properties with parking ratios below 50% per bed. The management team coordinates parking, schedules move-ins and keeps drop-offs clear of loitering vehicles. Furthermore, on high-traffic days like move-in and move-out, management uses traffic cones, friendly traffic directors, and parking education to help students and parents understand the move-in process and to keep the follow of vehicular and pedestrian traffic moving.

In order to protect street clearances and adjacent neighborhoods, Trinitas, who will be managing the building, includes a clause in the tenant lease that states: "In order to avoid off-site vehicle parking by residents of the Property negatively impacting the Property's neighbors, Resident shall (a) lease parking from Landlord, (b) provide Landlord evidence satisfactory to Landlord, in Landlord's sole discretion, that Resident has obtained, and in fact uses, a lease or other permission to park Resident's vehicle(s) from a party other than Landlord, or (c) not bring any vehicles to the county in which the Property is located. Further, Resident shall not park Resident's vehicle(s) in any public or private parking space or other property within five hundred (500) yards of the Property unless Resident has a written lease or written permission from the parking space owner to use such space. Resident shall pay Landlord the Parking Violation Fee in which such violations occur for one or more violations of this Section 14, which amounts shall be considered additional Rent. If Resident uses parking from Landlord and loses any parking pass, Resident shall be subject to the Parking Pass Replacement Fee. "

Included below are 3 current projects developed, leased, and managed by Trinitas. Each of the buildings has below .5 parking stalls per bedroom. All the projects are student housing and integrated into the university town. The lease for tenants includes the language noted above as will be implemented in the leases in Fayetteville. While the 612 Center St site provides parking, it is also on city and Razorback bus lines that lead to UARK remote parking lots. This ensures ample options for legal and easily accessible parking spaces for tenants. Per the lease, students with a vehicle must show proof of off-site leased parking. The true benefit of having multi-family student housing options with on-site building management is that there are staff who oversee and enforce rules and expectations. The management team is the first line of defense with tenants which releases pressure from the city staff and services.



Atmosphere Tempe, located in Tempe Arizona, is an urban, pedestrian friendly student housing building. The project opened in 2021 with 530 beds. The parking ratio is .35 parking stalls per bed.



Current at Latimer Square is located in Bloomington, IN and is a student housing development opened in 2023. The building is rented and managed with .48 parking stalls for the 906 beds.





Atmosphere Lincoln, located in Lincoln, NE, houses students with 779 beds. The building partially opened in 2023 with .12 parking spaces per bed.

Cited Materials

Ann Arbor Ordinance Draft February 14, 2021

https://www.a2gov.org/departments/planning/Documents/Planning/Discussion%20Draft%20-%20Parking%20Standards%20August%202021.pdf

Austin, TX Municipal Code Chapter 26, July 25,2023

https://library.municode.com/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-6TR_ART7OREPALO_DIV7SPPRTRORDEDI_S25-6-611PARETRORDEDI

Strong Towns

https://www.strongtowns.org/journal/2023/1/12/5-cities-that-repealed-parking-minimums-in-2022

ULI Research Report May 12,2021 “Parking Policy Innovations in the United States”

https://knowledge.uli.org/en/reports/research-reports/innovations-in-parking-policy?q&sortBy=relevance&sortOrder=asc&page=2

University of Arkansas Sam W Walton School of Business, October 2017, “Measuring the Vitality of Downtowns in Bentonville, Fayetteville, Rogers, Siloam Springs, and Springdale”

https://8ce82b94a8c4fdc3ea6d-b1d233e3bc3cb10858bea65ff05e18f2.ssl.cf2.rackcdn.com/38/96/9c4db4bf4ea49aeceaced3cd8345/2018-downtown-vitality-report.pdf

The Walton Family Foundation, October 2020, “Northwest Arkansas Housing Policy Landscape Assessment Phase One Report.”

https://8ce82b94a8c4fdc3ea6d-b1d233e3bc3cb10858bea65ff05e18f2.ssl.cf2.rackcdn.com/51/c7/f0cb1a7347c587aa3620fb4c4f7c/nwa-housing-policy-landscape-assessment-phase-1-final.pdf

Research Reference Materials

Strong Towns

https://www.strongtowns.org/journal/2021/11/23/a-new-way-to-look-at-minimum-parking-requirements

ULI

https://knowledge.uli.org/-/media/files/research-reports/2021/parking-policy-resources/impact-of-changing-mobility-preferences.pdf?rev=cdd40252b838436083fbf1abae78fb26&hash=DC26E53750223B1B2C1C39A5B4A88DBD

The Walton Family Foundation, December 2020, "Northwest Arkansas Housing Policy Landscape Assessment Phase Two Report."

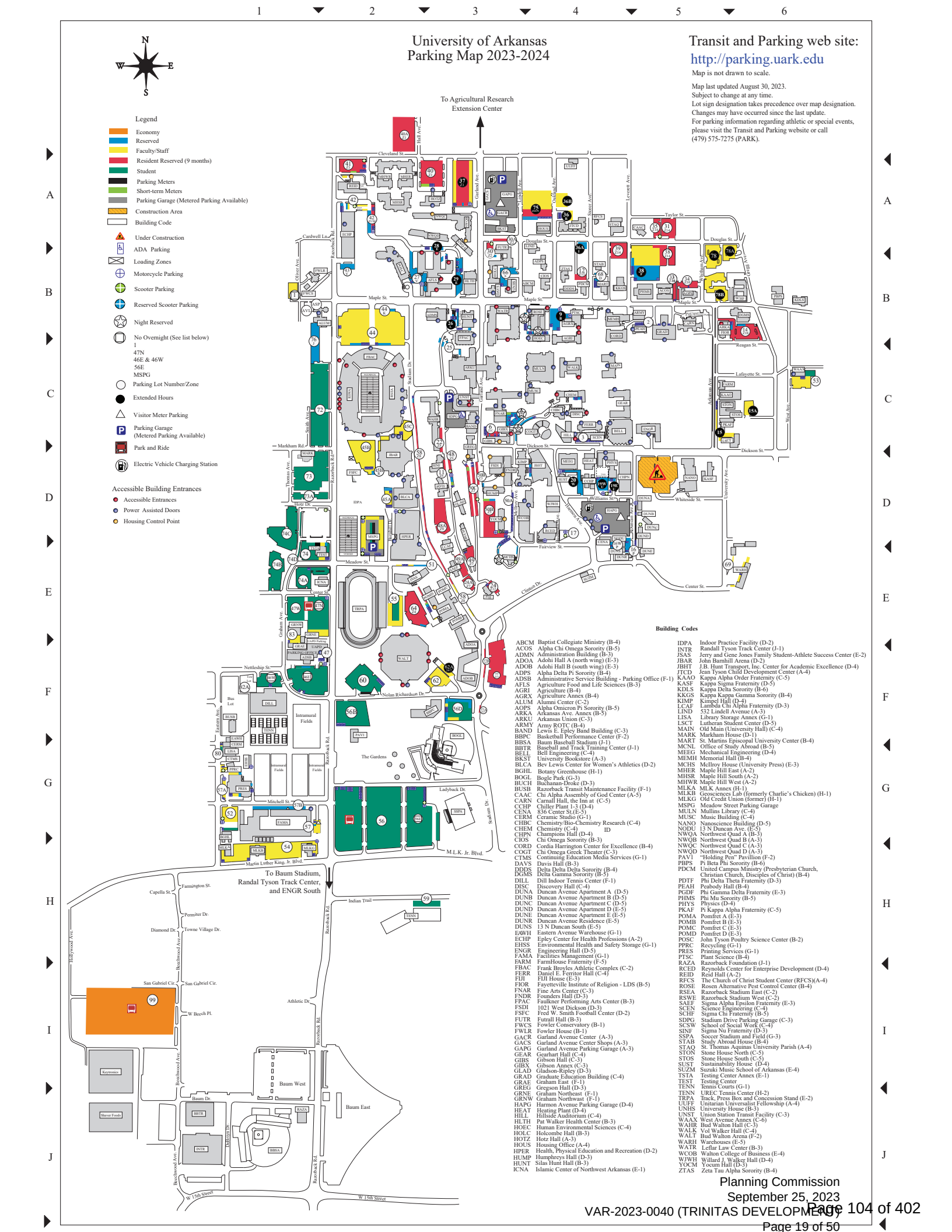
https://8ce82b94a8c4fdc3ea6d-b1d233e3bc3cb10858bea65ff05e18f2.ssl.cf2.rackcdn.com/b7/74/143a3abe41a490b4688ffc366053/nwa-housing-policy-landscape-assessment-phase-2-final.pdf

University of Arkansas
Parking Map 2023-2024

Transit and Parking web site:
http://parking.uark.edu

Map is not drawn to scale.

Map last updated August 30, 2023.
Subject to change at any time.
Lot sign designation takes precedence over map designation.
Changes may have occurred since the last update.
For parking information regarding athletic or special events, please visit the Transit and Parking website or call (479) 575-7275 (PARK).



Building Codes

ABCM Baptist Collegiate Ministry (B-4)
ACOS Alpha Chi Omega Sorority (B-5)
ADMN Administration Building (B-3)
ADOA Adohi Hall A (north wing) (E-3)
ADOB Adohi Hall B (south wing) (E-3)
ADPS Alpha Delta Pi Sorority (B-4)
ADSB Administrative Service Building - Parking Office (F-1)
AFLS Agriculture Food and Life Sciences (B-3)
AGRI Agriculture (B-4)
AGRX Agriculture Annex (B-4)
ALUM Alumni Center (C-2)
AOPS Alpha Omicron Pi Sorority (B-5)
ARKA Arkansas Ave. Annex (B-5)
ARKU Arkansas Union (C-3)
ARMY Army ROTC (B-4)
BAND Lewis E. Epley Band Building (C-3)
BBPC Basketball Performance Center (F-2)
BBSA Baum Baseball Stadium (J-1)
BBTR Baseball and Track Training Center (J-1)
BELL Bell Engineering (C-4)
BKST University Bookstore (A-3)
BLCA Bev Lewis Center for Women's Athletics (D-2)
BGHL Botany Greenhouse (H-1)
BOGL Bogle Park (G-3)
BUCH Buchanan-Droke (D-3)
BUSB Razorback Transit Maintenance Facility (F-1)
CAAC Chi Alpha Assembly of God Center (A-5)
CARN Carnall Hall, the Inn at (C-5)
CCHP Chiller Plant 1-3 (D-4)
CENA 836 Center St.(E-5)
CERM Ceramic Studio (G-1)
CHBC Chemistry/Bio-Chemistry Research (C-4)
CHEM Chemistry (C-4) ID
CHPN Champions Hall (D-4)
CIOS Chi Omega Sorority (B-3)
CORD Cordia Harrington Center for Excellence (B-4)
COGT Chi Omega Greek Theater (C-3)
CTMS Continuing Education Media Services (G-1)
DAVS Davis Hall (B-3)
DDDS Delta Delta Delta Sorority (B-4)
DGMS Delta Gamma Sorority (B-5)
DILL Dill Indoor Tennis Center (F-1)
DISC Discovery Hall (C-4)
DUNA Duncan Avenue Apartment A (D-5)
DUNB Duncan Avenue Apartment B (D-5)
DUNC Duncan Avenue Apartment C (D-5)
DUND Duncan Avenue Apartment D (E-5)
DUNE Duncan Avenue Apartment E (E-5)
DUNR Duncan Avenue Residence (E-5)
DUNS 13 N Duncan South (E-5)
EAWH Eastern Avenue Warehouse (G-1)
ECHP Epley Center for Health Professions (A-2)
EHSS Environmental Health and Safety Storage (G-1)
ENGR Engineering Hall (D-5)
FAMA Facilities Management (G-1)
FARM FarmHouse Fraternity (F-5)
FBAC Frank Broyles Athletic Complex (C-2)
FERR Daniel E. Ferritor Hall (C-4)
FIJI FIJI House (E-3)
FIOR Fayetteville Institute of Religion - LDS (B-5)
FNAR Fine Arts Center (C-3)
FNDR Founders Hall (D-3)
FPAC Faulkner Performing Arts Center (B-3)
FSDI 1021 West Dickson (D-3)
FSFC Fred W. Smith Football Center (D-2)
FUTR Futrall Hall (B-3)
FWCS Fowler Conservatory (B-1)
FWLR Fowler House (B-1)
GACR Garland Avenue Center (A-3)
GACS Garland Avenue Center Shops (A-3)
GAPG Garland Avenue Parking Garage (A-3)
GEAR Gearhart Hall (C-4)
GIBS Gibson Hall (C-3)
GIBX Gibson Annex (C-3)
GLAD Gladson-Ripley (D-3)
GRAD Graduate Education Building (C-4)
GRAE Graham East (F-1)
GREG Gregson Hall (D-3)
GRNE Graham Northeast (F-1)
GRNW Graham Northwest (F-1)
HAPG Harmon Avenue Parking Garage (D-4)
HEAT Heating Plant (D-4)
HILL Hillside Auditorium (C-4)
HLTH Pat Walker Health Center (B-3)
HOEC Human Environmental Sciences (C-4)
HOLC Holcombe Hall (B-3)
HOTZ Hotz Hall (A-3)
HOUS Housing Office (A-4)
HPER Health, Physical Education and Recreation (D-2)
HUMP Humphreys Hall (D-3)
HUNT Silas Hunt Hall (B-3)
ICNA Islamic Center of Northwest Arkansas (E-1)

IDPA Indoor Practice Facility (D-2)
INTR Randall Tyson Track Center (J-1)
JSAS Jerry and Gene Jones Family Student-Athlete Success Center (E-2)
JBAR John Barnhill Arena (D-2)
JBHT J.B. Hunt Transport, Inc. Center for Academic Excellence (D-4)
JTCD Jean Tyson Child Development Center (A-4)
KAAO Kappa Alpha Order Fraternity (C-5)
KASF Kappa Sigma Fraternity (D-5)
KDLS Kappa Delta Sorority (B-6)
KKGS Kappa Kappa Gamma Sorority (B-4)
KIMP Kimpel Hall (D-4)
LCAF Lambda Chi Alpha Fraternity (D-3)
LIND 532 Lindell Avenue (A-3)
LISA Library Storage Annex (G-1)
LSCT Lutheran Student Center (D-5)
MAIN Old Main (University Hall) (C-4)
MARK Markham House (D-1)
MART St. Martins Episcopal University Center (B-4)
MCNL Office of Study Abroad (B-5)
MEEG Mechanical Engineering (D-4)
MEMH Memorial Hall (B-4)
MCHS McIlroy House (University Press) (E-3)
MHER Maple Hill East (A-2)
MHSR Maple Hill South (A-2)
MHWR Maple Hill West (A-2)
MLKA MLK Annex (H-1)
MLKB Geosciences Lab (formerly Charlie's Chicken) (H-1)
MLKG Old Credit Union (former) (H-1)
MSPG Meadow Street Parking Garage
MULN Mullins Library (C-4)
MUSC Music Building (C-4)
NANO Nanoscience Building (D-5)
NDDU 13 N Duncan Ave. (E-5)
NWQA Northwest Quad A (B-3)
NWQB Northwest Quad B (A-3)
NWQC Northwest Quad C (A-3)
NWQD Northwest Quad D (A-3)
PAV1 "Holding Pen" Pavillion (F-2)
PBPS Pi Beta Phi Sorority (B-6)
PDCM United Campus Ministry (Presbyterian Church, Christian Church, Disciples of Christ) (B-4)
PDTF Phi Delta Theta Fraternity (D-3)
PEAH Peabody Hall (B-4)
PGDF Phi Gamma Delta Fraternity (E-3)
PHMS Phi Mu Sorority (B-5)
PHYS Physics (D-4)
PKAF Pi Kappa Alpha Fraternity (C-5)
POMA Pomfret A (E-3)
POMB Pomfret B (E-3)
POMC Pomfret C (E-3)
POMD Pomfret D (E-3)
POSC John Tyson Poultry Science Center (B-2)
PPRC Recycling (G-1)
PRES Printing Services (G-1)
PTSC Plant Science (B-4)
RAZA Razorback Foundation (J-1)
RCED Reynolds Center for Enterprise Development (D-4)
REID Reid Hall (A-2)
RFCS The Church of Christ Student Center (RFCS)(A-4)
ROSE Rosen Alternative Pest Control Center (B-4)
RSEA Razorback Stadium East (C-2)
RSWE Razorback Stadium West (C-2)
SAEF Sigma Alpha Epsilon Fraternity (E-3)
SCEN Science Engineering (C-4)
SCHF Sigma Chi Fraternity (B-5)
SDPG Stadium Drive Parking Garage (C-3)
SCSW School of Social Work (C-4)
SINF Sigma Nu Fraternity (D-3)
SSPA Soccer Stadium and Field (G-3)
STAB Study Abroad House (B-4)
STAQ St. Thomas Aquinas University Parish (A-4)
STON Stone House North (C-5)
STOS Stone House South (C-5)
SUST Sustainability House (D-4)
SUZM Suzuki Music School of Arkansas (E-4)
TSTA Testing Center Annex (E-1)
TEST Testing Center
TENN Tennis Courts (G-1)
TENN UREC Tennis Center (H-2)
TRPA Track, Press Box and Concession Stand (E-2)
UUFF Unitarian Universalist Fellowship (A-4)
UNHS University House (B-3)
UNST Union Station Transit Facility (C-3)
WAAX West Avenue Annex (C-6)
WAHR Bud Walton Hall (C-3)
WALK Vol Walker Hall (C-4)
WALT Bud Walton Arena (F-2)
WARH Warehouses (E-5)
WATR Leflar Law Center (B-3)
WCOB Walton College of Business (E-4)
WJWH Willard J. Walker Hall (D-4)
YOCM Yocum Hall (D-3)
ZTAS Zeta Tau Alpha Sorority (B-4)

Reference Information for Access to Non-Resident Student University Parking

UNIVERSITY OF ARKANSAS | Business Affairs
Transit and Parking

QUICKLINKS | Search this site

Maps | Account | Permits | Citations | Visitors | Transit

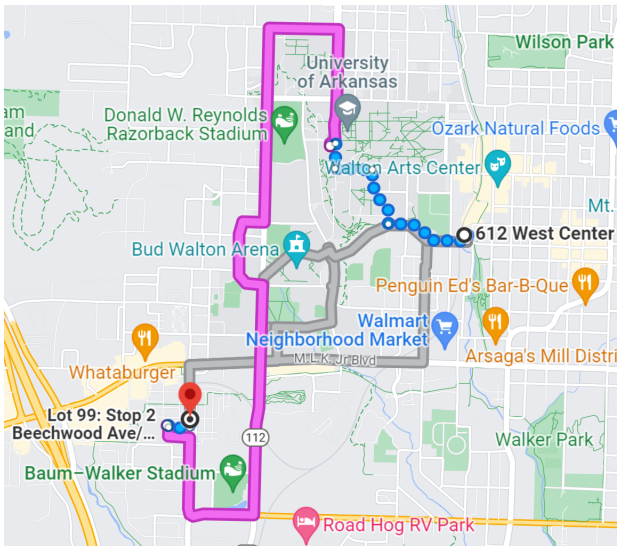
Permit Fees Fall 2023-Spring 2024

Resident Reserved	745.00
Reserved Disabled Student	205.00
Student	115.00
Economy	25.00
Motorcycle	77.00
Parking Garage Reserved (full year)	1,020.00
Scooter	77.00
Scooter Reserved	230.00

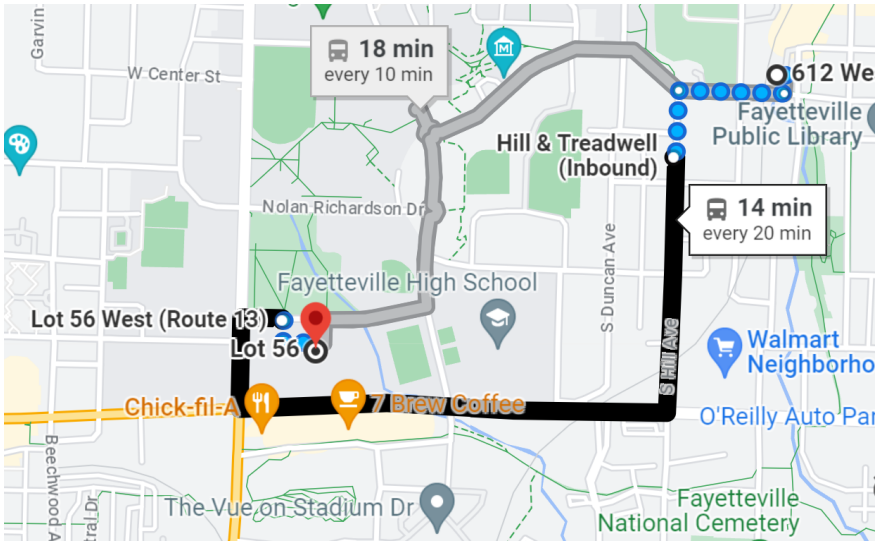
Lot 99 is Economy Parking - Always Open

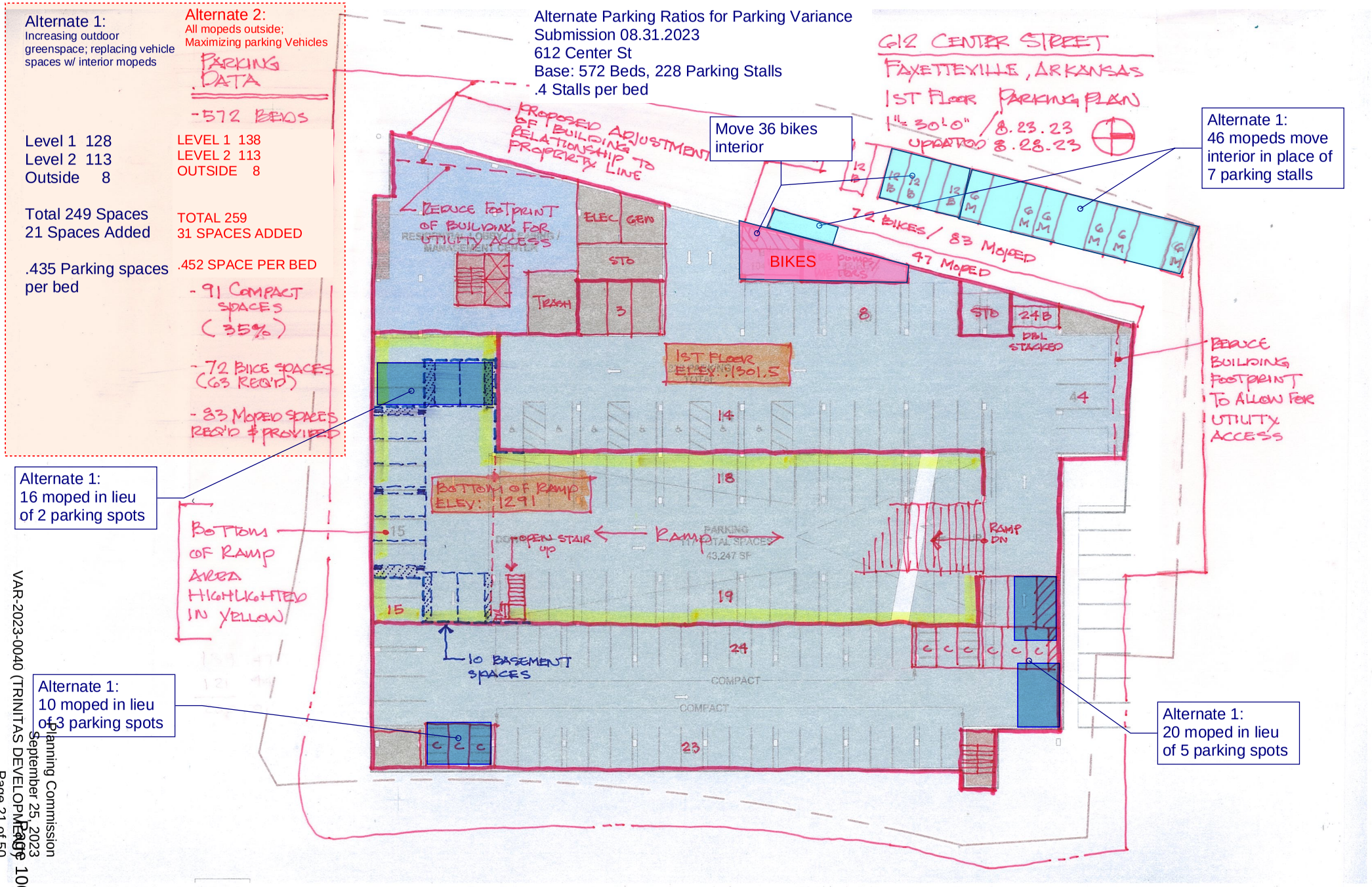
17-20 Green Lots
-No space count; No limit on parking permits sold
-Green lot parking closes for football and Men's basketball games

Orange Lot 99

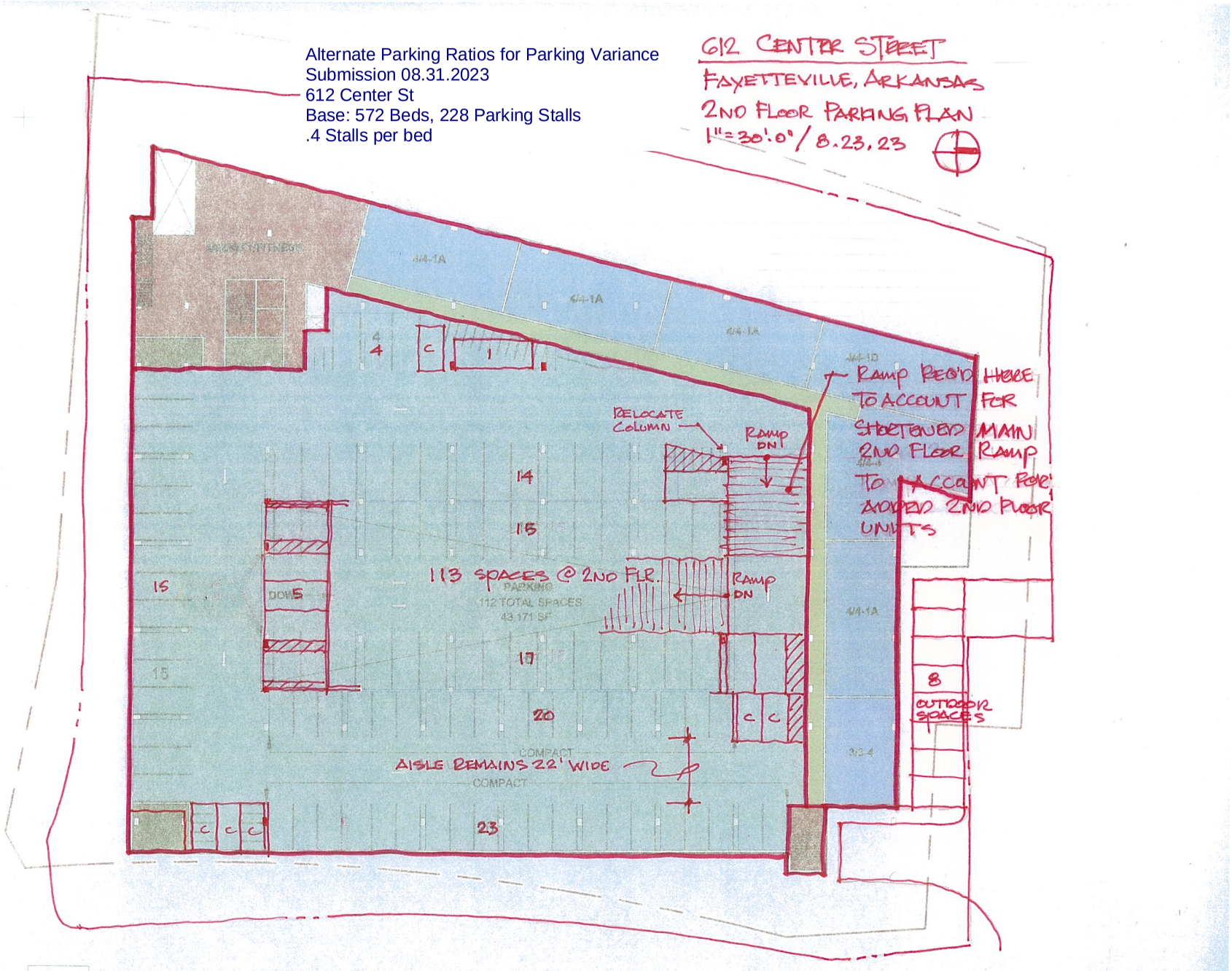


Green Lot 56




Alternate 1:
Increasing outdoor greenspace; replacing vehicle spaces w/ interior mopeds
Alternate 2:
All mopeds outside; Maximizing parking Vehicles
PARKING DATA
-572 BEDS
Level 1 128
Level 2 113
Outside 8
LEVEL 1 138
LEVEL 2 113
OUTSIDE 8
Total 249 Spaces
21 Spaces Added
TOTAL 259
31 SPACES ADDED
.435 Parking spaces per bed
.452 SPACE PER BED
- 91 COMPACT SPACES (35%)
- 72 BIKE SPACES (63 REQ'D)
- 83 MOPED SPACES REQ'D & PROVIDED
Alternate Parking Ratios for Parking Variance
Submission 08.31.2023
612 Center St
Base: 572 Beds, 228 Parking Stalls
.4 Stalls per bed
612 CENTER STREET
FAYETTEVILLE, ARKANSAS
1ST FLOOR PARKING PLAN
1"=30'-0" 8.23.23
UPDATED 8.28.23
PROPOSED ADJUSTMENT OF BUILDING TO RELATIONSHIP PROPERTY LINE
REDUCE FOOTPRINT OF BUILDING FOR UTILITY ACCESS
ELEC
GEN
STO
TRASH
3
BIKES
72 BIKES / 83 MOPED
47 MOPED
8
STO
24 B
DBL STACKED
1ST FLOOR ELEV.: 1301.5
14
18
BOTTOM OF RAMP ELEV: 1291
OPEN STAIR UP
RAMP
RAMP DN
PARKING TOTAL SPACES 43,247 SF
19
24
10 BASEMENT SPACES
COMPACT
COMPACT
23
Move 36 bikes interior
Alternate 1:
46 mopeds move interior in place of 7 parking stalls
REDUCE BUILDING FOOTPRINT TO ALLOW FOR UTILITY ACCESS
Alternate 1:
16 moped in lieu of 2 parking spots
BOTTOM OF RAMP AREA HIGHLIGHTED IN YELLOW
Alternate 1:
10 moped in lieu of 3 parking spots
Alternate 1:
20 moped in lieu of 5 parking spots

Alternate Parking Ratios for Parking Variance
Submission 08.31.2023
612 Center St
Base: 572 Beds, 228 Parking Stalls
.4 Stalls per bed

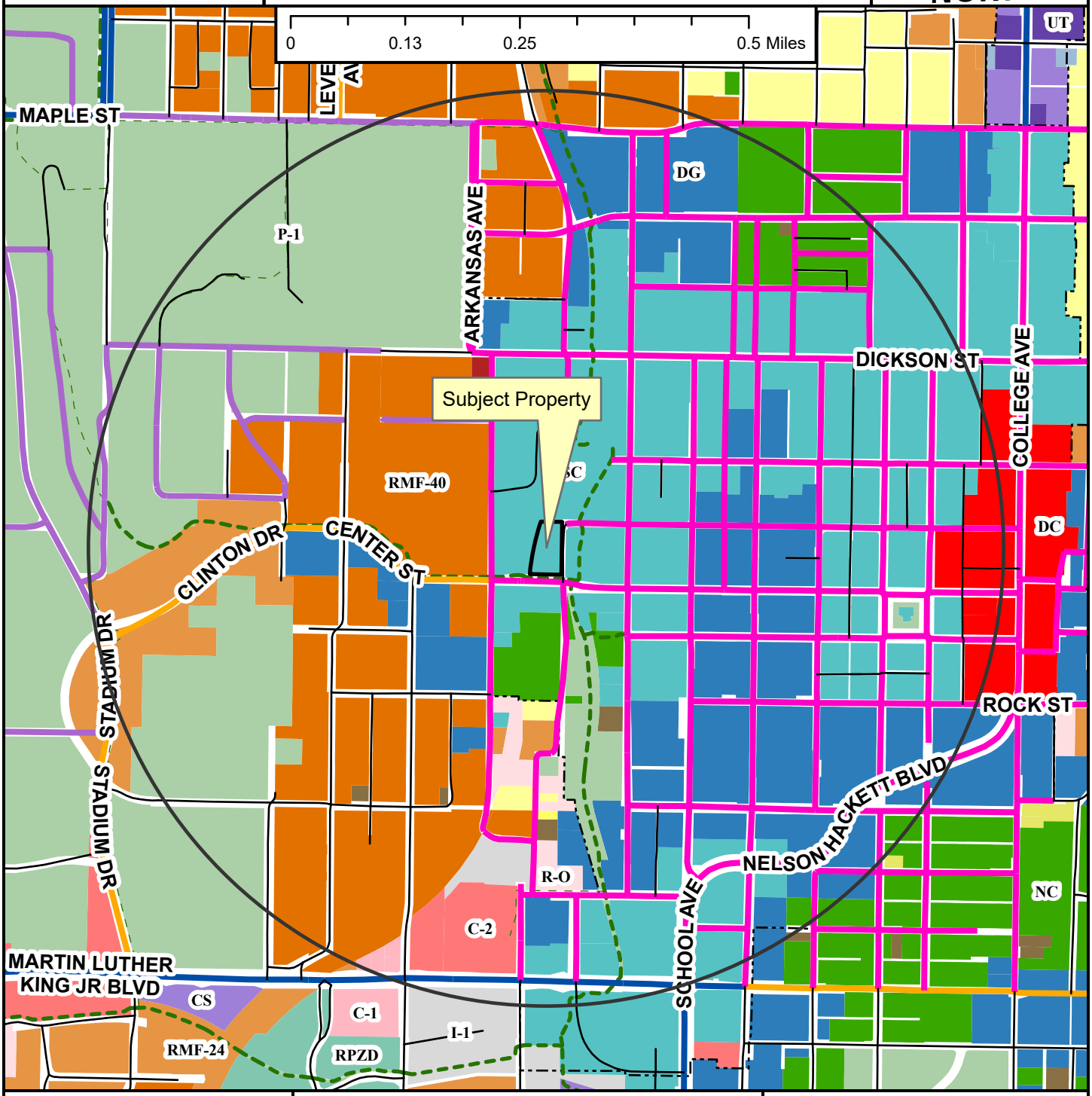


VAR-2023-0040

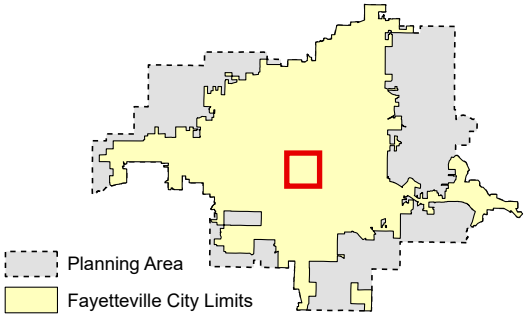
One Mile View

612 W. CENTER ST

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

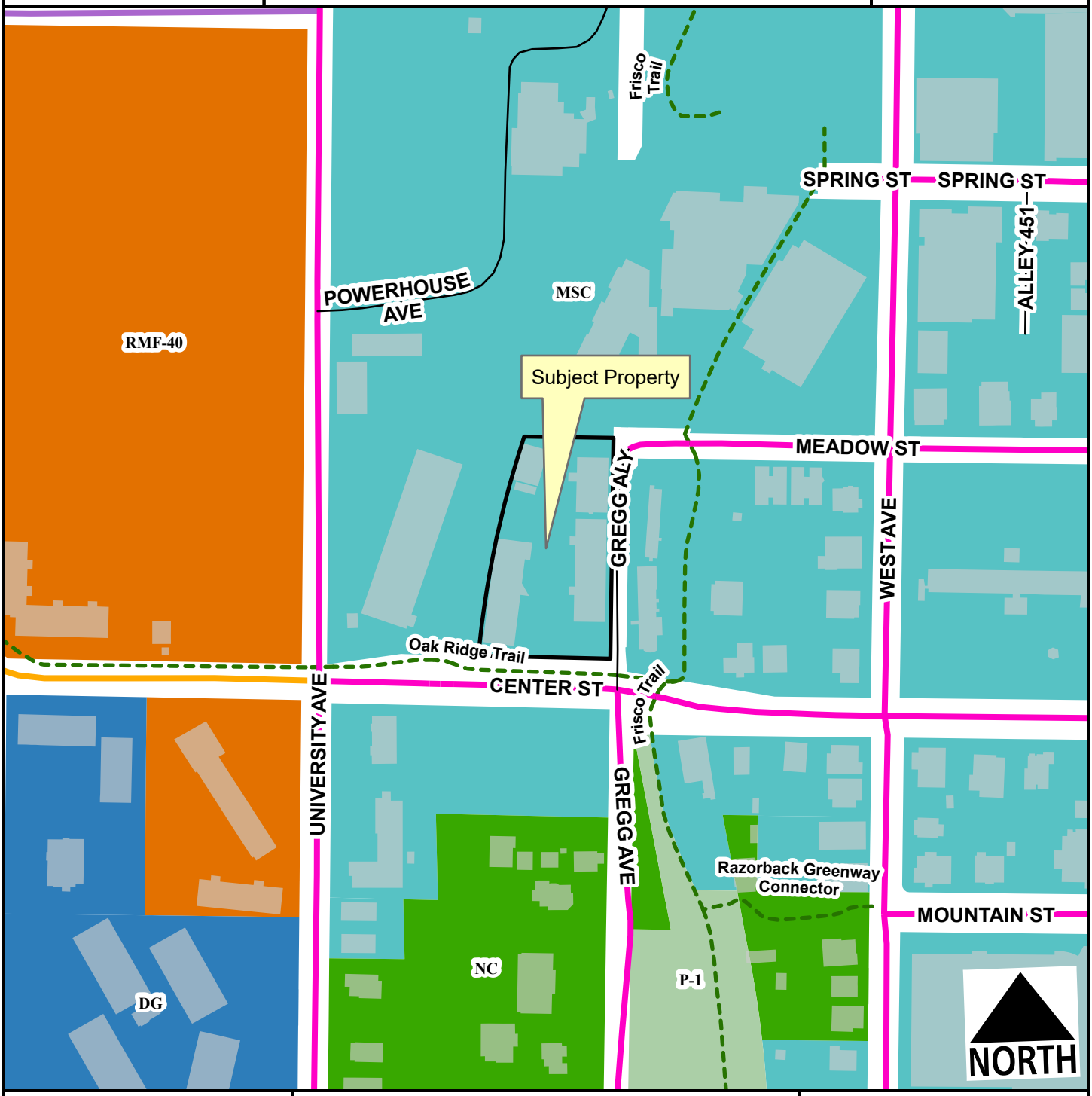
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAR-2023-0040

Close Up View

612 W. CENTER ST



- Neighborhood Link
- Institutional Master Plan
- Urban Center
- Unclassified
- Alley
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

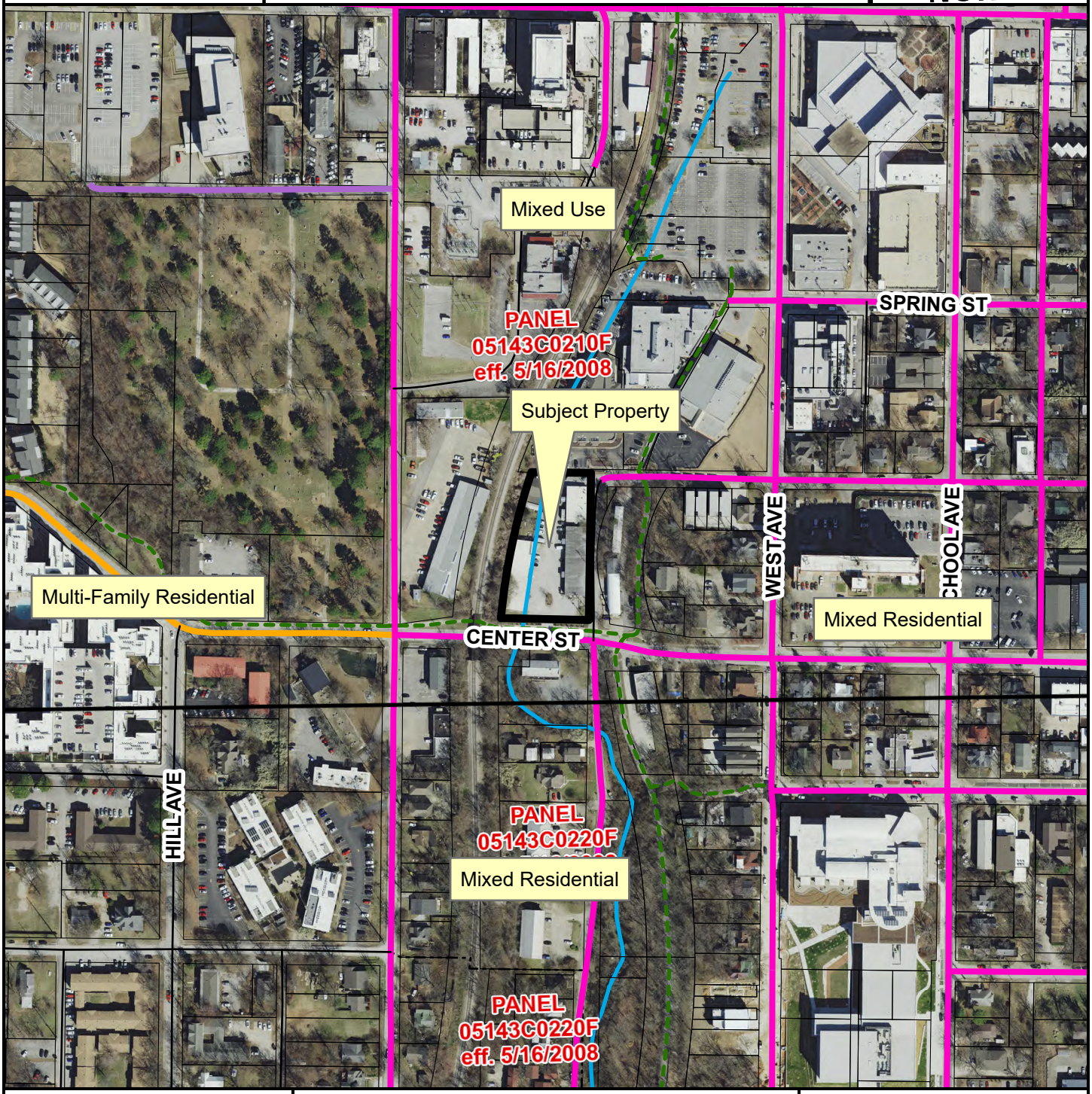
- RMF-40
- C-3
- Main Street Center
- Downtown General
- Neighborhood Conservation
- P-1

VAR-2023-0040

Current Land Use

612 W. CENTER ST

NORTH



- Neighborhood Link
- Institutional Master Plan
- Urban Center
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 25, 2023

SUBJECT: **VAR-2023-0040: Planning Commission Variance (612 W. CENTER ST/TRINITAS DEVELOPMENT, 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 for a variance from parking requirements.

RECOMMENDATION:
Staff recommends denial of **VAR-2023-0040.**

RECOMMENDED MOTION:
*"I move to deny **VAR-2023-0040**."*

BACKGROUND:
The subject property is 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). An associated right-of-way vacation for Gregg Alley is also currently under consideration (VAC-2023-0005). 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

Request: The applicant is requesting a variance to **Unified Development Code §172.05(2), which requires that the minimum and maximum number of spaces required for residential use shall conform to the ratios listed in Table 3. For multi-family structures, the ratio is one space per bedroom.** The applicant requests to construct 228 parking stalls where 370 would be required by-right after allowable reductions outlined in chapter 172.05.

DISCUSSION:
City staff is recommending denial of the request. Parking, and how to manage it effectively, has arguably been one of the biggest challenges facing City planners since usage of the automobile became widespread. Fayetteville is a unique community in that for non-residential uses,

Fayetteville enforces parking *maximums*, as opposed to typically-required parking minimums that are more commonly seen in cities throughout the country. The evidence that supports the elimination of parking minimums more broadly is written about and researched widely in planning literature, probably most famously in Donald Shoup's *"The High Cost of Free Parking,"* which was originally published in 2005. Reducing parking minimums (and charging appropriate fees for the use of land for vehicle storage) nudges communities into better walkability, promotes transit growth, and encourages infill development by allowing for a more efficient and productive use of land.

Overall, the applicant is requesting a reduction to the parking requirements that apply to multi-family residential developments, outlined below in Table 2.

Table 2

Parking Requirements	**Number of Bedrooms**	**Number of Required Spaces**
1 space per bedroom	572 bedrooms	572 spaces
By-Right Allowable Reductions		
-15% reduction for transit stop		-86 spaces
-10% reduction for additional bike racks		-58 spaces
-10% reduction for additional motorcycle spaces		-58 spaces
	Total:	**370 Required Spaces**
	Requested Number:	**228 Spaces**
	Variance Needed:	**142**

While Fayetteville has taken progressive steps to reduce parking requirements to ultimately create a community that relieves its citizens of the burdens of car ownership, the day-to-day reality of parking management continues to be an ongoing issue. Emergency service providers are faced with an enforcement problem, consistently running into issues of illegal parking, overparking on public streets, blockage of fire lanes, and interference with aerial apparatus access requirements. The Fire Department has provided a memo discussing these day-to-day difficulties attached to this report, and has included specific information related to this request.

Further, a major concern on this specific site is a lack of available public parking surrounding the proposed development. In many cases in Downtown Fayetteville, there is available on-street or public parking to help absorb requested parking variances, alleviating concerns around minimizing parking requirements. In this case, there is no feasible alternative for parking in this area. No on-street parking is available on W. Center Street, nor S. Gregg Avenue, nor S. University Avenue. Under 156.03, Planning Commission is tasked with evaluating whether the typical parking requirements would cause an undue hardship to the developer, and whether the situation is unique to the property in question. The existing challenges facing the site regarding utility provision and existing right-of-way that limit the site's developability are an unrelated issue, and the applicant is separately working to resolve those through an associated vacation request.

The applicant has provided information regarding their parking management plan, and additional information indicating an intent to work with the University of Arkansas to provide students with an off-site option for longer term vehicle storage; no official agreement has been entered, but staff would support a further conversation and exploration by the applicant to enter into shared parking agreements more formally. A shared parking agreement may help alleviate concerns about negative off-site impacts. In the meantime, without further, solidified information, staff finds that the applicant's request to reduce the amount of parking on the site beyond what is administratively approvable is likely to negatively affect neighboring residents and create a burden on the provision of emergency services. Therefore, staff does not find itself being able to support the request.

RECOMMENDATION: Staff recommends Planning Commission deny VAR-2023-0040; though recommends the following conditions should Planning Commission choose to approve the request:

Conditions of Approval:

1. **Planning Commission determination of a variance to §172.05(2), which requires one parking space per bedroom to be constructed with multi-family residential development.** *Staff recommends denial of the request for the reasons stated above.*

2. An in lieu fee of $1,200.00 for 142 on-site parking spaces shall be paid to the city, for a total of $170,400. This money shall be held in an interest-bearing account and shall be expended for public parking facilities within the district it is collected within ten (10) years from the date it is collected. If said money has not been so expended within ten (10) years of the date collected, said money, together with the interest thereon, shall be refunded to the person or entity who made the contribution;

3. Applicant must provide documentation of an approved shared parking agreement to be approved by the Planning Commission; this parking agreement can include the University of Arkansas to mitigate for those students who require long-term vehicle storage;

4. Approval of this variance request is only for the requests as stated above, and does not extend approval to any variances not yet reviewed for at this stage.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Development Code:
  - §172.05 Standards For The Number Of Spaces By Use
- Fire Marshal Memo
- Applicant Request letter
- Applicant Exhibits
- One Mile Map
- Close-up Map
- Current Land Use Map

172.05 Standards For The Number Of Spaces By Use

(A) *Required Parking.*

(1) *Non-Residential Use.* There shall be no minimum number of spaces required for non-residential use. The maximum number of spaces shall be limited based on the ratios in Table 3 and the allowable increases over the baseline ratio as described in subsection 172.05. The applicant shall provide a statement or parking analysis indicating how they will provide adequate parking for the proposed non-residential use to succeed without negatively impacting adjacent properties or creating or compounding a dangerous traffic condition.

(2) *Residential.* The minimum and maximum number of spaces required for residential use shall conform to the parking ratios listed in Table 3. The minimum and maximum number of spaces required for a use not specifically included in this section shall be as required for the most similar use listed or as otherwise determined by the Planning Division utilizing reference standards.

(a) *Reductions for Residential Use.* Residential uses may utilize the following reductions to the minimum number required off-street parking ratios listed in Table 3 when the following standards are met:

(i) *Transit Stops.* Properties located within a ¼ mile radius of a transit stop may further reduce the minimum off-street parking requirements by up to 15%.

(ii) *Motorcycle and Scooter Spaces.* Up to 10% of the required automobile parking spaces may be substituted with motorcycle/scooter parking at a rate of one (1) motorcycle/scooter space for one (1) automobile space.

(iii) *Bike Racks.* Up to 10% of required automobile parking may be substituted with bicycle parking at a rate of one (1) additional bicycle rack for one (1) automobile space. This reduction shall be allowed in addition to other variances, reductions and shared parking agreements.

(iv) *Shared Parking.* Parking requirements may be shared where it can be determined that the peak parking demand of the existing or proposed occupancy occur at different times (either daily or seasonally). Such arrangements are subject to the approval of the Planning Commission.

(1) *Shared Parking Between Developments.* Formal arrangements that share parking between intermittent uses with non-conflicting parking demands (e.g. a church and a bank) are encouraged as a means to reduce the amount of parking required.
(2) *Shared Parking Agreements.* If a privately owned parking facility is to serve two (2) or more separate properties, then a "Shared Parking Agreement" is to be filed with the city for consideration by the Planning Commission.
(3) *Shared Spaces.* Individual spaces identified on a site plan for shared users shall not be shared by more than one (1) user at the same time.

(3) *Maximum Number Allowed for Residential and Non-Residential Uses.* Residential and non-residential developments may utilize the following increases to the required spaces listed in Table 3 when the following standards are met:

(a) Developments may increase the number of off-street parking spaces by 15% above the parking ratios listed in Table 3.

(b) Developments may increase the number of off-street parking spaces by an additional 10% when alternative stormwater treatment techniques are utilized, such as:

(i) Bioswales

(ii) Constructed wetlands

(iii) Pervious pavement

(iv) Other such techniques that aid in improving water quality and quantity as approved by the City Engineer

(c) Developments may increase the number of off-street parking spaces by an additional 5% when one (1), 2-inch caliper tree for every ten (10) additional parking spaces is planted on-site in addition to all other landscaping requirements.

(4) *Parking Ratio Calculation.* The number of spaces required for a use not specifically included in Table 3 shall be as required for the most similar use listed or as otherwise determined by the City Planning

Division utilizing industry standards. For all parking space requirements resulting in a fraction, the fraction shall be:

(a) Rounded to the next higher whole number when the fraction is 0.5 or higher.

(b) Rounded to the next lower whole number when the fraction is less than 0.5.

(5) *On-Street Parking.* Each permitted on-street parking space adjacent to a project frontage may count toward the parking requirements for all development. The approval of on-street parking is subject to approval by the Zoning and Development Administrator.

(6) *Motorcycle and Scooter Parking.* One (1) Motorcycle and scooter parking. In parking lots containing twenty-five (25) parking spaces or more, one (1) space for every twenty-five (25) parking spaces of the required number of parking spaces for a use or combination of uses shall be striped as a motorcycle and scooter parking space.

(7) Increases or reductions in excess of those identified herein shall be allowed only by the Planning Commission as a variance and shall be granted in accordance with Chapter 156.03

TABLE 3
PARKING RATIOS
(Use/Required Spaces)

Residential

Single-family, duplex, triplex	2 per dwelling unit
Multi-family or townhouse	1 per bedroom

…

(Ord. No. 4567, 05-04-04; Ord. No. 4930, 10-03-06; Ord. No. 5118, 3-18-08; Ord. No. 5297, 12-15-09; Ord. No. 5435, 8-16-11; Ord. No. 5801 , §1(Exh. A), 10-6-15)

CITY OF
FAYETTEVILLE
ARKANSAS

Date: September 20, 2023

To: Jessie Masters, Development Review Manager

From: Fire Chief Brad Hardin, Fire Marshal Jeremy Ashley

RE: VAR-2023-0040 / 612 W Center St.

The variance submitted by Trinitas is for a seven story, 572-bedroom, R-2 Residential Occupancy located at 612 W. Center St. They are seeking a variance of Section 172.05.A.7 Table 3 requesting a parking ratio of 0.452 spaces per bedroom instead of the 1 parking space per bed listed in the zoning code. The Fayetteville Fire Department is unable to support such a small parking ratio for college student-based housing and recommends denial of VAR-2023-0040.

One of the Fire Departments' main concerns is the lack of parking will push residents to park in areas located in adjacent neighborhoods and on side streets that are not equipped to handle parking. This creates situations that directly influence the response of emergency vehicles causing a distinct hazard to life and property.

Trinitas has submitted a parking plan that explains how they will police parking by their residents both on-property and off-site; the following are some of the concerns we have.

- Trinitas could sell the property and the new owner has no obligation to continue with parking restrictions. Example: Trinitas built a 628 bedroom / 524 parking space complex located approximately 1200 feet away from this proposed project which they sold. Atmosphere Fayetteville has a parking ratio greater than .75 and we have parking violations in and around the area every single day.
- Trinitas would require either an on-site lease for parking or proof that the resident has leased parking from another entity (i.e. a parking permit from the University of Arkansas). Most of the citations issued to student-based population have parking permits, having a permit does not guarantee that the student will park legally.
- The University of Arkansas (UA) has a student to parking ratio of 0.553. This ratio does not consider the university employees or graduate students. The UA issues 38,849 citations annually. In comparison the University of Nebraska in Lincoln has a parking ratio of 0.734 and issues 11,799 citations annually.
- The parking issues created by this request will cause additional stress on the Fire Marshals Office and Fayetteville Police responding to complaints and enforcing parking.

Trinitas submitted examples of other developments with decreased parking ratios that are compared with Fayetteville; the following are some of the concerns we have.

- The examples provided are new or newer, so it's hard to say the long-term impact of the low parking ratios.
- The Current at Latimer Square in Bloomington is 3.5 miles from campus and has a huge mall adjacent to the property with a large number of parking spaces.
- The Atmosphere in Lincoln has 8 parking lots and 15 garages within walking distance. The building is L-shaped with two sides bordering one of the public parking garages.
- There are no stats available for the parking in Tempe, but it is completely different than Fayetteville. Tempe is a suburb of the Phoenix Metro area which has a population of 4.6 million people. Tempe has a robust public transit system that carriers 5.5 million riders annually.
- Austin, like Tempe, is not comparable. A population of 1 million and a metro population of 2.2 million.
- Ann Arbor is similar sized, but it is a suburb of Detroit. It also has more parking available in its downtown area, 6,807 spaces as compared to 2,796 in Fayetteville.

CLARK LAW FIRM
PLLC

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 15, 2023

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Attn: Planning Commission

Re: Concept Plan and Request for Parking Variance

Clark Law Firm represents Trinitas Ventures ("Trinitas") regarding their proposed Concept Plan and request for parking variance. As more fully described in the attached:

- Concept Plat letter;
- Trinitas Parking Variance Memo; and
- Antunovich Associates Parking Variance Request

Trinitas makes its variance request pursuant to Unified Development Code 156.03 and seeks permission to vary from the requirements of Code Section 172.05. Thank you for your consideration and please let me know you have any questions.

Sincerely,

/s/ Suzanne G. Clark

Suzanne G. Clark

ANTUNOVICH ASSOCIATES
ARCHITECTURE · PLANNING · INTERIOR DESIGN
Chicago • Washington DC • Los Angeles • Austin • Buffalo

Memorandum

Date:	August 15, 2023
To:	Planning Commission City of Fayetteville, AR
From:	Clark C. Christensen, Associate AIA
Project:	**Center Street Residential Development** 612 Main Street
Subject:	Parking Variance Request

Trinitas Ventures along with Amplify Development are proposing a residential development at 546 - 612 Center Street. The 2-acre site is located within the Main Street/Center zoning district along West Center Street, south of the Dickson Street corridor and due east of the University of Arkansas campus. The Frisco Trail (Razorback Greenway), which provides convenient pedestrian and bicycle access, runs along the east portion of the site, while the Oak Ridge Trail runs along the south edge of the project. According to the Fayetteville GIS infill map, the site infill grade is 13 out of 14, meaning the location is a high priority site for dense residential development. The proposed building is 7 stories tall with 5 stories of residential units over 2 levels of parking, amenities, and liner units. The building, at 239,906 square feet (gross enclosed), is designed as student housing project with 191 units and 572 bedrooms. Though designed as a student housing, any persons, friend group or family will be welcome as residents. To meet the housing needs of the community, the project will provide a creative mix of studio, 1-, 2-, 3-, and 4-bedroom units. Parking for 228 cars, 104 bikes, and 84 scooters are provided on the first 2 floors of the building. The proposed amenities open to tenants include a fitness center, study rooms and business center, shared lounge space, and a roof-top pool terrace. There are also two (2) internal courtyards for shared outdoor space.

The project is requesting a parking variance per 156.03 C 5 to provide a 0.4 space per bedroom ratio in lieu of the required 1.0 space per bedroom ratio.

PARKING VARIANCE METRICS

Section 172.05.A.7 Table 3 of the zoning code requires 1 parking space per bed and allows an increase in scooter and bike parking to reduce the requirement to 0.65 parking space per bedroom per Section 172.05.A.2.a. The project, with 572 bedrooms, requires 372 parking spaces via the 35% reduction. The project is providing 0.4 parking spaces per bedroom with 228 parking stalls, per the following Table:

Requirements per Section 172.05.A.7 & 172.10.	**Provided in Project**
1 space per bedroom • 572 bedrooms = 572 spaces	372 spaces required via 35% reduction • **228 parking spaces provided** • **144 parking space deficit**
One (1) motorcycle/scooter space per 25 spaces for lots containing > 25 spaces • 23 spaces	81 motorcycle/scooter spaces required • 23 sp. + 58 sp. [35% reduction] = 81 sp. ○ **84 spaces provided**
One (1) bike rack per 30 dwelling units • 7 bike racks	65 bike racks required • 7 sp. + 58 sp. [35% reduction] = 65 sp. ○ **104 stalls provided**

Parking Reductions (per Section 172.05.A.2.a)

- Max 15% reduction when within ¼ mile of transit stop = 86 spaces
  - 572 bedrooms x 15% = 86 spaces
- Max 10% reduction when motorcycle/scooter space is substituted (1:1) = 58 spaces
  - 572 bedrooms x 10% = 85 spaces
- Max 10% reduction when Bike Rack is substituted (1:1) = 58 spaces
  - 572 bedrooms x 10% = 85 spaces
- Compact spaces allowed up to 35% of required total.
- Permitted on-street spaces may count towards project requirements.

Parking Metrics	
Requirements (per Section 172.05.E.Table 1 & 172.10)	**Provided in Project**
Standard Stall: 9 ft. wide x 19 ft deep.	9 ft. wide x 19 ft deep.
Compact Stall: 7.5 ft. wide x 15 ft deep.	7.5 ft. wide x 15 ft deep.
One Way Aisle: • Standard: 24 ft; Compact: 22 ft.	Standard: 24 ft min.; Compact: 22 ft. min.
Two Way Aisle: Standard: 24 ft; Compact: 24 ft.	Standard: 24 ft min.; Compact: 24 ft. min.
Motorcycle / Scooter Space: Width: 3 ft; Depth: 7 - 9 ft.	Width: 3 ft min.; Depth: 7 ft. min.
Bicycle Space: Width: 3 ft; Depth: 8 ft; 3 ft. O.C. serves 2 bikes.	Width: 3 ft; min. Depth: 8 ft. min.

See attached Conceptual Site plans for location of parking spaces within the structured parking levels of the proposed building at 612 W. Center Street

Strict enforcement of the zoning ordinance to provide a 1 space per bedroom ration would cause undue hardship due to existing site and community circumstances. This two-acre site rises significantly from west to east (R.R. viaduct over to the Razorback Greenway). These topographical challenges, in combination with the location of required vehicle site access points and Fire Department equipment aerial access parameters all limit the developable portion of the site. Furthermore, the site accommodates city utilities requiring individual easements for electricity, stormwater, sewer, and gas, additionally limiting the buildable site area. The building height and stories are limited per the prevailing building code. The project height is also held to a height commensurate with the underlying zoning and in character with the planning goals for the Fayetteville urban center. Lastly, the team is maximizing resident access to the existing adjacent public trails, thus enhancing the pedestrian and bikers' experiences of the existing greenways.

The design team has laid out the building footprint and program to maximize the community connection points while accounting for site constraints, as seen in the attached Conceptual Plan exhibit. The granting of the parking variance will be in keeping with the spirit and intent of the zoning ordinance as the variance requested is the minimum variance necessary to make possible the reasonable use of the project site. The project takes advantage of the 35% parking reduction achieved via the following means (per Section 172.05.A.2.a):

- Reduction due to Adjacency to a Transit Stop (Razorback Transit & Ozark Regional Transit)
- Reduction due to providing substitute motorcycle / scooter spaces; (Spaces provided within structured parking)
- Reduction due to providing substitute bicycle rack spaces (Spaces provided within structured parking)

The project is then requesting a 0.25 space per bedroom reduction on top of the 0.35 space per bedroom reduction noted above. In this case, the proposed project provides 0.4 parking spaces per bedroom. The project provision is consistent with the overall goal of dense residential infill and reducing care usage in the Main Street / Center district. Further, the requested parking reduction is fully accommodated by professional building management of the project's residents and parking allocation. Per meetings held prior to the parking variance submission, the project operators will comply with the fire marshal's request of signage and striping. Additionally, the building management will enforce keeping all fire lanes clear of vehicles. The project will also comply with section 156.03 C 5 which requires a $1,200 in lieu fee per parking space not provided for the City to build funds for a future parking garage.

Fully combined, the student housing project provides an overall parking ratio of 0.72 to 1, with the total of bike, scooter/moped, and vehicular parking being 416 and the bedroom count being 572 bedrooms.

Parking Variance Memo

The student housing project, being developed by Trinitas Development and Amplify Development Co at 612 W Center St in Fayetteville, AR, is requesting a variance for parking space allocation in order to serve the community with much needed student housing. Obtaining the requested parking variance is critical to the viability of the project and ensuring its long-term operational success.

Trinitas and Amplify specialize in the development and ownership of student oriented housing throughout the United States. Trinitas is one of the largest long-term operators and in-house property managers of student housing in the US. Every project within the companies' development portfolio is designed with the end-user, the community, and the long-term operational functionality in mind. Understanding every community has a specific set of unique requirements with respect to pedestrian and vehicular coordination, Trinitas and Amplify have expended a significant amount of time and effort ensuring the right program is planned for the project at 612 W Center Street. The proposed uses and space allocations are based on the specific market dynamics and supply/demand implications of the Fayetteville, University of Arkansas, and the direct location of this project.

Based on the collective experience of Trinitas and Amplify, this specific project requires limited parking due to its close proximity to the university, urban and entertainment center, and its access to public services including mass transit and trails. Additionally, the project is developed as student housing and is specifically designed and managed to meet the needs and livelihood of university students which have limited needs for personal vehicular access. The undue hardship to providing parking stalls per the zoning requirement is that the building height and area are limited by site constraints, utilities easements, and building code. The building area enclosed is at a maximum for the site and providing additional parking reduces other uses in the building, in this case: residential units. As the infill score, location, and 2030/ 2040 Fayetteville plans call for an increase in residential density in this location, replacing housing with parking is a hardship to the project and the city.

Location & Walk/Bike-ability

The project location is between W Center St and W Meadow St; 2 blocks south of Dickson St and 4 blocks west of the municipal Downtown Core. Reducing the need for cars, the site is walkable within a half mile to restaurants, bars, shopping, groceries, and Fayetteville Municipal Buildings. Additionally, the site is a half-mile to the University of Arkansas, which is linked through biking and walking trails. The construction of the student housing project allows continuity of the Oak Ridge Trail 10' path along the southern boundary line of the site leading west to the school. Additionally, the Razorback Greenway's Frisco Trail, which meanders along the site's eastern boundary, provides a pedestrian and bike friendly path to both Dickson St and to the University of Arkansas campus.

Alternative Transportation

Reducing the need for a personal vehicle to meet daily needs and to attend classes, the site is located along the city of Fayetteville and The University of Arkansas Razorback bus lines providing access to greater Fayetteville and the far reaches of the university. The city of Fayetteville also has rideshare programs: Uber and Lyft, that provide personal and shared rides for daily needs. Additionally, scooters,

bikes, and e-bikes have pathways and dedicated spaces throughout Fayetteville for personal use and share programs of Veo and Spin.

Benefits of Reduced Allocation of Parking

By reducing the allocation of parking, there is a reduction in the dependency on personal vehicles to meet daily needs. It encourages the use of publicly provided services: transit and trails, and of healthy activities: biking and walking; activities that are environmentally and socially equitable. Furthermore, providing residences within walking distance to Fayetteville's entertainment district with restaurants and bars encourages people to walk and use ride shares and discourages driving while under the influence of alcohol and drugs.

Finally, and most importantly, the parking ratio provided matches the standards of student housing projects that Trinitas Development and Amplify Development Co have developed and manages throughout university towns in the United States where schools are integrated into the urban center just as The University of Arkansas is integrated into Fayetteville. Across the country, the parking ratio for student housing developments in urban centers developed by the two companies is .25-.42 parking stalls per bedroom. Additionally, at 612 W Center St, we're providing liner units on the second level of the garage and amenities on levels 1 and 2 so neighbors and trail-users see an active, vibrant building. Last, we believe the safety and health benefits of the residents, the community, and the environment are worth the trade of parking. To make the best use out of the site and to benefit Fayetteville, maximizing the area used for housing and providing parking that is appropriate for the location of student housing in an urban center is the highest and best use of the 612 W Center St site in Fayetteville, AR. This development, in which Trinitas and Amplify are investing great resources, shows confidence that the building proposed will provide the city with much-needed housing, while also meeting the parking needs of the urban student.

Parking Variance Research Memo

National Review of Parking Codes

In developing the request for a parking variance, Trinitas and Amplify looked at how other cities with urban universities are handling parking at a zoning level and locally at the housing challenges facing Fayetteville . We also looked internally at current projects that are being developed and managed with minimized parking provisions.

In reviewing the national basis for parking standards for housing in urban and university towns, we went to the Urban Land Institute (ULI) who is on the forefront of policy research for city development. ULI is the largest cross-disciplinary network of experts in real estate and land use in the US. In its goal to research and educate, ULI has created a database of zoning requirements based on progressive parking standards. The article and research tool on their website "Parking Policy Innovations in the United States" provides references to municipal ordinances throughout the United States that is a backdrop for other municipalities to make progressive changes in their parking policies. The link below is to their search engine.

https://knowledge.uli.org/en/reports/research-reports/innovations-in-parking-policy?q&sortBy=relevance&sortOrder=asc&page=2

The ULI parking policy resource highlighted the parking ordinance of Ann Arbor, Michigan (population 123,851 at 2020 U.S. Census). Ann Arbor, similar to Fayetteville, AR, is home to a division 1 university and welcomes students from well beyond the state line to The University of Michigan. The City of Ann Arbor's off-street parking requirement for student group housing is 1 per 5 beds according to ordinance number: ORD-20-35 5.19-1 Off-Street Parking Spaces. Per ULI's research report: "Parking Policy Innovations in the United States", the reason cities are reforming their parking minimum standards is: "to manage the existing parking supply, reduce traffic, cut pollution, and bolster city finances. Reforms include eliminating minimum parking requirements for development projects, enabling developments and businesses to share parking facilities, and using technology solutions to efficiently manage the supply of on-street parking."

Also similar to Fayetteville, the city of Austin, TX, (population 961,855 at the 2020 U.S. Census) who houses Division 1 school University of Texas at Austin, has sought to manage traffic and parking demands by removing their parking minimum completely for the University Overlay District. Per zoning ordinance 25-6-601, there are no minimum off-street parking requirements in the University Neighborhood Overlay District.

Strong Towns is a non-profit organization that seeks to analyze and educate about development in post-war United States. According to the Strong Town website, their goal is to: "advocate for cities of all sizes to be safe, livable, and inviting… to elevate local government to be the highest level of collaboration for people working together in a place." Strong Town provided a report: "5 Cities That Repealed Parking Minimums in 2022." In the article, Strong Town notes that "ceding so much space to cars reinforces car dependency." Per the 2020 U.S. Census, the population for the city of Fayetteville is 93,949. For reference of the article, the cities studied are: Culver City California, population 39,970; Olympia, WA, population 52,882; Raleigh, NC, population 467,655; Nashville, TN, population 692,587; and Anchorage,

AK, population 288,000. The removal of parking minimums in a city's downtown is researched and implemented across the U.S. in cities of all sizes whether it's state capitols, university towns, or in entertainment districts.

The other side of minimizing parking provided to reduce dependency of vehicles is the increase in space allotted to housing. Per a study completed by The University of Arkansas Sam M Walton College of Business of Northwest Arkansas: "Measuring the Vitality of Downtowns in Bentonville, Fayetteville, Rogers, Siloam Springs, and Springdale" downtown Fayetteville has a low vacancy of multifamily housing. The executive summary notes: "the low vacancy rates for multifamily units showed the strong consumer demand for downtown living." Similarly, The Walton Family Foundation funded research and reports entitled: "Northwest Arkansas Housing Policy Landscape Assessment Phase One and Phase Two Reports." Phase one of the report informs: "On the supply side, almost half (46 percent) of the housing stock is detached, single-family homes with most of the remainder of the stock in small- and medium-scale multifamily buildings. In 2019, there was an insufficient number of available rental units for households at all low and moderate-income levels, with the exception of moderate-income households (80-120 percent of AMI), for which there were barely enough units to meet the need." Going further, the report states: "The university does not have sufficient housing on campus to accommodate the student population, creating significant pressure on the private rental market in the downtown and university area." The minimal amount of multifamily housing pushes the oversized student population to take the single-family housing stock away from the affordable housing options. By providing multi-family housing options near the university and downtown Dickson St, where students can walk to school and entertainment helps reduce dependency on cars and frees up single-family homes for the low- and moderate-income residents of Fayetteville.

Trinitas Managed Properties

Last, Trinitas owns and manages properties with parking ratios below 50% per bed. The management team coordinates parking, schedules move-ins and keeps drop-offs clear of loitering vehicles. Furthermore, on high-traffic days like move-in and move-out, management uses traffic cones, friendly traffic directors, and parking education to help students and parents understand the move-in process and to keep the follow of vehicular and pedestrian traffic moving.

In order to protect street clearances and adjacent neighborhoods, Trinitas, who will be managing the building, includes a clause in the tenant lease that states: "In order to avoid off-site vehicle parking by residents of the Property negatively impacting the Property's neighbors, Resident shall (a) lease parking from Landlord, (b) provide Landlord evidence satisfactory to Landlord, in Landlord's sole discretion, that Resident has obtained, and in fact uses, a lease or other permission to park Resident's vehicle(s) from a party other than Landlord, or (c) not bring any vehicles to the county in which the Property is located. Further, Resident shall not park Resident's vehicle(s) in any public or private parking space or other property within five hundred (500) yards of the Property unless Resident has a written lease or written permission from the parking space owner to use such space. Resident shall pay Landlord the Parking Violation Fee in which such violations occur for one or more violations of this Section 14, which amounts shall be considered additional Rent. If Resident uses parking from Landlord and loses any parking pass, Resident shall be subject to the Parking Pass Replacement Fee. "

Included below are 3 current projects developed, leased, and managed by Trinitas. Each of the buildings has below .5 parking stalls per bedroom. All the projects are student housing and integrated into the university town. The lease for tenants includes the language noted above as will be implemented in the leases in Fayetteville. While the 612 Center St site provides parking, it is also on city and Razorback bus lines that lead to UARK remote parking lots. This ensures ample options for legal and easily accessible parking spaces for tenants. Per the lease, students with a vehicle must show proof of off-site leased parking. The true benefit of having multi-family student housing options with on-site building management is that there are staff who oversee and enforce rules and expectations. The management team is the first line of defense with tenants which releases pressure from the city staff and services.



Atmosphere Tempe, located in Tempe Arizona, is an urban, pedestrian friendly student housing building. The project opened in 2021 with 530 beds. The parking ratio is .35 parking stalls per bed.



Current at Latimer Square is located in Bloomington, IN and is a student housing development opened in 2023. The building is rented and managed with .48 parking stalls for the 906 beds.





Atmosphere Lincoln, located in Lincoln, NE, houses students with 779 beds. The building partially opened in 2023 with .12 parking spaces per bed.

Cited Materials

Ann Arbor Ordinance Draft February 14, 2021

https://www.a2gov.org/departments/planning/Documents/Planning/Discussion%20Draft%20-%20Parking%20Standards%20August%202021.pdf

Austin, TX Municipal Code Chapter 26, July 25,2023

https://library.municode.com/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-6TR_ART7OREPALO_DIV7SPPRTRORDEDI_S25-6-611PARETRORDEDI

Strong Towns

https://www.strongtowns.org/journal/2023/1/12/5-cities-that-repealed-parking-minimums-in-2022

ULI Research Report May 12,2021 “Parking Policy Innovations in the United States”

https://knowledge.uli.org/en/reports/research-reports/innovations-in-parking-policy?q&sortBy=relevance&sortOrder=asc&page=2

University of Arkansas Sam W Walton School of Business, October 2017, “Measuring the Vitality of Downtowns in Bentonville, Fayetteville, Rogers, Siloam Springs, and Springdale”

https://8ce82b94a8c4fdc3ea6d-b1d233e3bc3cb10858bea65ff05e18f2.ssl.cf2.rackcdn.com/38/96/9c4db4bf4ea49aeceaced3cd8345/2018-downtown-vitality-report.pdf

The Walton Family Foundation, October 2020, “Northwest Arkansas Housing Policy Landscape Assessment Phase One Report.”

https://8ce82b94a8c4fdc3ea6d-b1d233e3bc3cb10858bea65ff05e18f2.ssl.cf2.rackcdn.com/51/c7/f0cb1a7347c587aa3620fb4c4f7c/nwa-housing-policy-landscape-assessment-phase-1-final.pdf

Research Reference Materials

Strong Towns

https://www.strongtowns.org/journal/2021/11/23/a-new-way-to-look-at-minimum-parking-requirements

ULI

https://knowledge.uli.org/-/media/files/research-reports/2021/parking-policy-resources/impact-of-changing-mobility-preferences.pdf?rev=cdd40252b838436083fbf1abae78fb26&hash=DC26E53750223B1B2C1C39A5B4A88DBD

The Walton Family Foundation, December 2020, "Northwest Arkansas Housing Policy Landscape Assessment Phase Two Report."

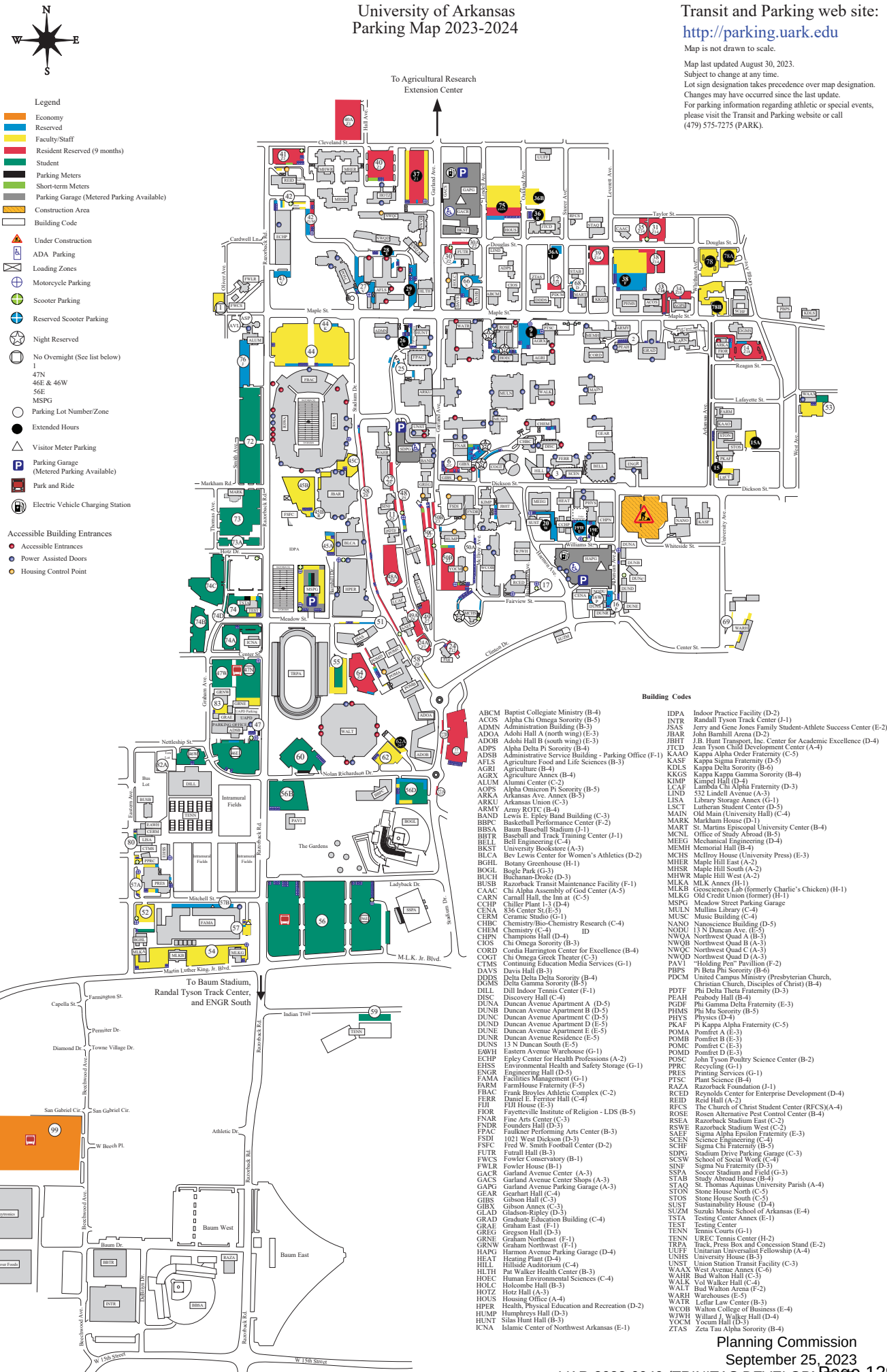
https://8ce82b94a8c4fdc3ea6d-b1d233e3bc3cb10858bea65ff05e18f2.ssl.cf2.rackcdn.com/b7/74/143a3abe41a490b4688ffc366053/nwa-housing-policy-landscape-assessment-phase-2-final.pdf

University of Arkansas
Parking Map 2023-2024

Transit and Parking web site:
http://parking.uark.edu

Map is not drawn to scale.

Map last updated August 30, 2023.
Subject to change at any time.
Lot sign designation takes precedence over map designation.
Changes may have occurred since the last update.
For parking information regarding athletic or special events, please visit the Transit and Parking website or call (479) 575-7275 (PARK).



Building Codes

ABCM Baptist Collegiate Ministry (B-4)
ACOS Alpha Chi Omega Sorority (B-5)
ADMN Administration Building (B-3)
ADOA Adohi Hall A (north wing) (E-3)
ADOB Adohi Hall B (south wing) (E-3)
ADPS Alpha Delta Pi Sorority (B-4)
ADSB Administrative Service Building - Parking Office (F-1)
AFLS Agriculture Food and Life Sciences (B-3)
AGRI Agriculture (B-4)
AGRX Agriculture Annex (B-4)
ALUM Alumni Center (C-2)
AOPS Alpha Omicron Pi Sorority (B-5)
ARKA Arkansas Ave. Annex (B-5)
ARKU Arkansas Union (C-3)
ARMY Army ROTC (B-4)
BAND Lewis E. Epley Band Building (C-3)
BBPC Basketball Performance Center (F-2)
BBSA Baum Baseball Stadium (J-1)
BBTR Baseball and Track Training Center (J-1)
BELL Bell Engineering (C-4)
BKST University Bookstore (A-3)
BLCA Bev Lewis Center for Women's Athletics (D-2)
BGHL Botany Greenhouse (H-1)
BOGL Bogle Park (G-3)
BUCH Buchanan-Droke (D-3)
BUSB Razorback Transit Maintenance Facility (F-1)
CAAC Chi Alpha Assembly of God Center (A-5)
CARN Carnall Hall, the Inn at (C-5)
CCHP Chiller Plant 1-3 (D-4)
CENA 836 Center St.(E-5)
CERM Ceramic Studio (G-1)
CHBC Chemistry/Bio-Chemistry Research (C-4)
CHEM Chemistry (C-4) ID
CHPN Champions Hall (D-4)
CIOS Chi Omega Sorority (B-3)
CORD Cordia Harrington Center for Excellence (B-4)
COGT Chi Omega Greek Theater (C-3)
CTMS Continuing Education Media Services (G-1)
DAVS Davis Hall (B-3)
DDDS Delta Delta Delta Sorority (B-4)
DGMS Delta Gamma Sorority (B-5)
DILL Dill Indoor Tennis Center (F-1)
DISC Discovery Hall (C-4)
DUNA Duncan Avenue Apartment A (D-5)
DUNB Duncan Avenue Apartment B (D-5)
DUNC Duncan Avenue Apartment C (D-5)
DUND Duncan Avenue Apartment D (E-5)
DUNE Duncan Avenue Apartment E (E-5)
DUNR Duncan Avenue Residence (E-5)
DUNS 13 N Duncan South (E-5)
EAWH Eastern Avenue Warehouse (G-1)
ECHP Epley Center for Health Professions (A-2)
EHSS Environmental Health and Safety Storage (G-1)
ENGR Engineering Hall (D-5)
FAMA Facilities Management (G-1)
FARM FarmHouse Fraternity (F-5)
FBAC Frank Broyles Athletic Complex (C-2)
FERR Daniel E. Ferritor Hall (C-4)
FIJI FIJI House (E-3)
FIOR Fayetteville Institute of Religion - LDS (B-5)
FNAR Fine Arts Center (C-3)
FNDR Founders Hall (D-3)
FPAC Faulkner Performing Arts Center (B-3)
FSDI 1021 West Dickson (D-3)
FSFC Fred W. Smith Football Center (D-2)
FUTR Futrall Hall (B-3)
FWCS Fowler Conservatory (B-1)
FWLR Fowler House (B-1)
GACR Garland Avenue Center (A-3)
GACS Garland Avenue Center Shops (A-3)
GAPG Garland Avenue Parking Garage (A-3)
GEAR Gearhart Hall (C-4)
GIBS Gibson Hall (C-3)
GIBX Gibson Annex (C-3)
GLAD Gladson-Ripley (D-3)
GRAD Graduate Education Building (C-4)
GRAE Graham East (F-1)
GREG Gregson Hall (D-3)
GRNE Graham Northeast (F-1)
GRNW Graham Northwest (F-1)
HAPG Harmon Avenue Parking Garage (D-4)
HEAT Heating Plant (D-4)
HILL Hillside Auditorium (C-4)
HLTH Pat Walker Health Center (B-3)
HOEC Human Environmental Sciences (C-4)
HOLC Holcombe Hall (B-3)
HOTZ Hotz Hall (A-3)
HOUS Housing Office (A-4)
HPER Health, Physical Education and Recreation (D-2)
HUMP Humphreys Hall (D-3)
HUNT Silas Hunt Hall (B-3)
ICNA Islamic Center of Northwest Arkansas (E-1)
IDPA Indoor Practice Facility (D-2)
INTR Randall Tyson Track Center (J-1)
JSAS Jerry and Gene Jones Family Student-Athlete Success Center (E-2)
JBAR John Barnhill Arena (D-2)
JBHT J.B. Hunt Transport, Inc. Center for Academic Excellence (D-4)
JTCD Jean Tyson Child Development Center (A-4)
KAAO Kappa Alpha Order Fraternity (C-5)
KASF Kappa Sigma Fraternity (D-5)
KDLS Kappa Delta Sorority (B-6)
KKGS Kappa Kappa Gamma Sorority (B-4)
KIMP Kimpel Hall (D-4)
LCAF Lambda Chi Alpha Fraternity (D-3)
LIND 532 Lindell Avenue (A-3)
LISA Library Storage Annex (G-1)
LSCT Lutheran Student Center (D-5)
MAIN Old Main (University Hall) (C-4)
MARK Markham House (D-1)
MART St. Martins Episcopal University Center (B-4)
MCNL Office of Study Abroad (B-5)
MEEG Mechanical Engineering (D-4)
MEMH Memorial Hall (B-4)
MCHS McIlroy House (University Press) (E-3)
MHER Maple Hill East (A-2)
MHSR Maple Hill South (A-2)
MHWR Maple Hill West (A-2)
MLKA MLK Annex (H-1)
MLKB Geosciences Lab (formerly Charlie's Chicken) (H-1)
MLKG Old Credit Union (former) (H-1)
MSPG Meadow Street Parking Garage
MULN Mullins Library (C-4)
MUSC Music Building (C-4)
NANO Nanoscience Building (D-5)
NDDU 13 N Duncan Ave. (E-5)
NWQA Northwest Quad A (B-3)
NWQB Northwest Quad B (A-3)
NWQC Northwest Quad C (A-3)
NWQD Northwest Quad D (A-3)
PAV1 "Holding Pen" Pavillion (F-2)
PBPS Pi Beta Phi Sorority (B-6)
PDCM United Campus Ministry (Presbyterian Church, Christian Church, Disciples of Christ) (B-4)
PDTF Phi Delta Theta Fraternity (D-3)
PEAH Peabody Hall (B-4)
PGDF Phi Gamma Delta Fraternity (E-3)
PHMS Phi Mu Sorority (B-5)
PHYS Physics (D-4)
PKAF Pi Kappa Alpha Fraternity (C-5)
POMA Pomfret A (E-3)
POMB Pomfret B (E-3)
POMC Pomfret C (E-3)
POMD Pomfret D (E-3)
POSC John Tyson Poultry Science Center (B-2)
PPRC Recycling (G-1)
PRES Printing Services (G-1)
PTSC Plant Science (B-4)
RAZA Razorback Foundation (J-1)
RCED Reynolds Center for Enterprise Development (D-4)
REID Reid Hall (A-2)
RFCS The Church of Christ Student Center (RFCS)(A-4)
ROSE Rosen Alternative Pest Control Center (B-4)
RSEA Razorback Stadium East (C-2)
RSWE Razorback Stadium West (C-2)
SAEF Sigma Alpha Epsilon Fraternity (E-3)
SCEN Science Engineering (C-4)
SCHF Sigma Chi Fraternity (B-5)
SDPG Stadium Drive Parking Garage (C-3)
SCSW School of Social Work (C-4)
SINF Sigma Nu Fraternity (D-3)
SSPA Soccer Stadium and Field (G-3)
STAB Study Abroad House (B-4)
STAQ St. Thomas Aquinas University Parish (A-4)
STON Stone House North (C-5)
STOS Stone House South (C-5)
SUST Sustainability House (D-4)
SUZM Suzuki Music School of Arkansas (E-4)
TSTA Testing Center Annex (E-1)
TEST Testing Center
TENN Tennis Courts (G-1)
TENN UREC Tennis Center (H-2)
TRPA Track, Press Box and Concession Stand (E-2)
UUFF Unitarian Universalist Fellowship (A-4)
UNHS University House (B-3)
UNST Union Station Transit Facility (C-3)
WAAX West Avenue Annex (C-6)
WAHR Bud Walton Hall (C-3)
WALK Vol Walker Hall (C-4)
WALT Bud Walton Arena (F-2)
WARH Warehouses (E-5)
WATR Leflar Law Center (B-3)
WCOB Walton College of Business (E-4)
WJWH Willard J. Walker Hall (D-4)
YOCM Yocum Hall (D-3)
ZTAS Zeta Tau Alpha Sorority (B-4)

Reference Information for Access to Non-Resident Student University Parking

UNIVERSITY OF ARKANSAS | Business Affairs
Transit and Parking

QUICKLINKS | Search this site

Maps | Account | Permits | Citations | Visitors | Transit

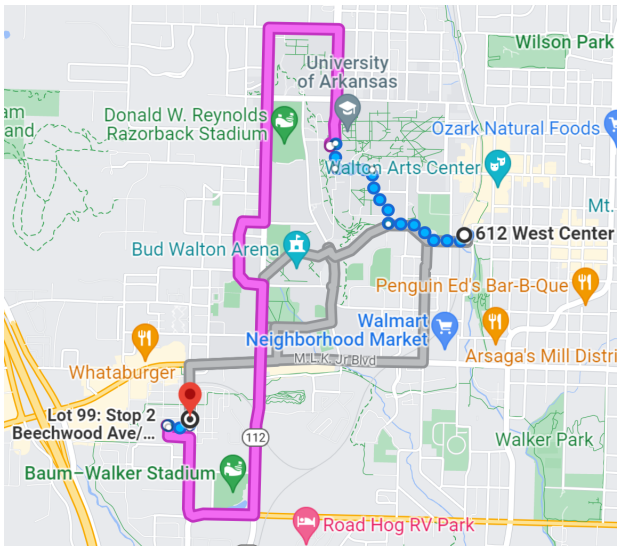
Permit Fees Fall 2023-Spring 2024

Resident Reserved	745.00
Reserved Disabled Student	205.00
Student	115.00
Economy	25.00
Motorcycle	77.00
Parking Garage Reserved (full year)	1,020.00
Scooter	77.00
Scooter Reserved	230.00

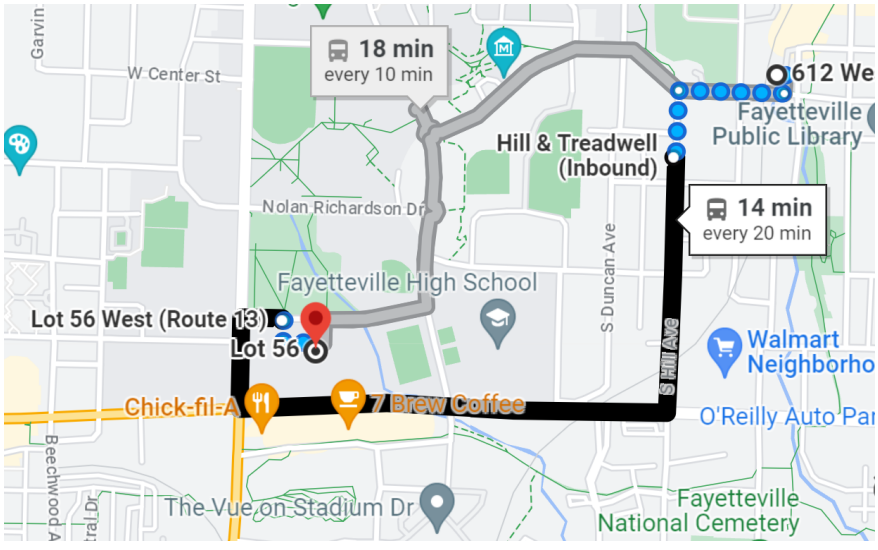
Lot 99 is Economy Parking - Always Open

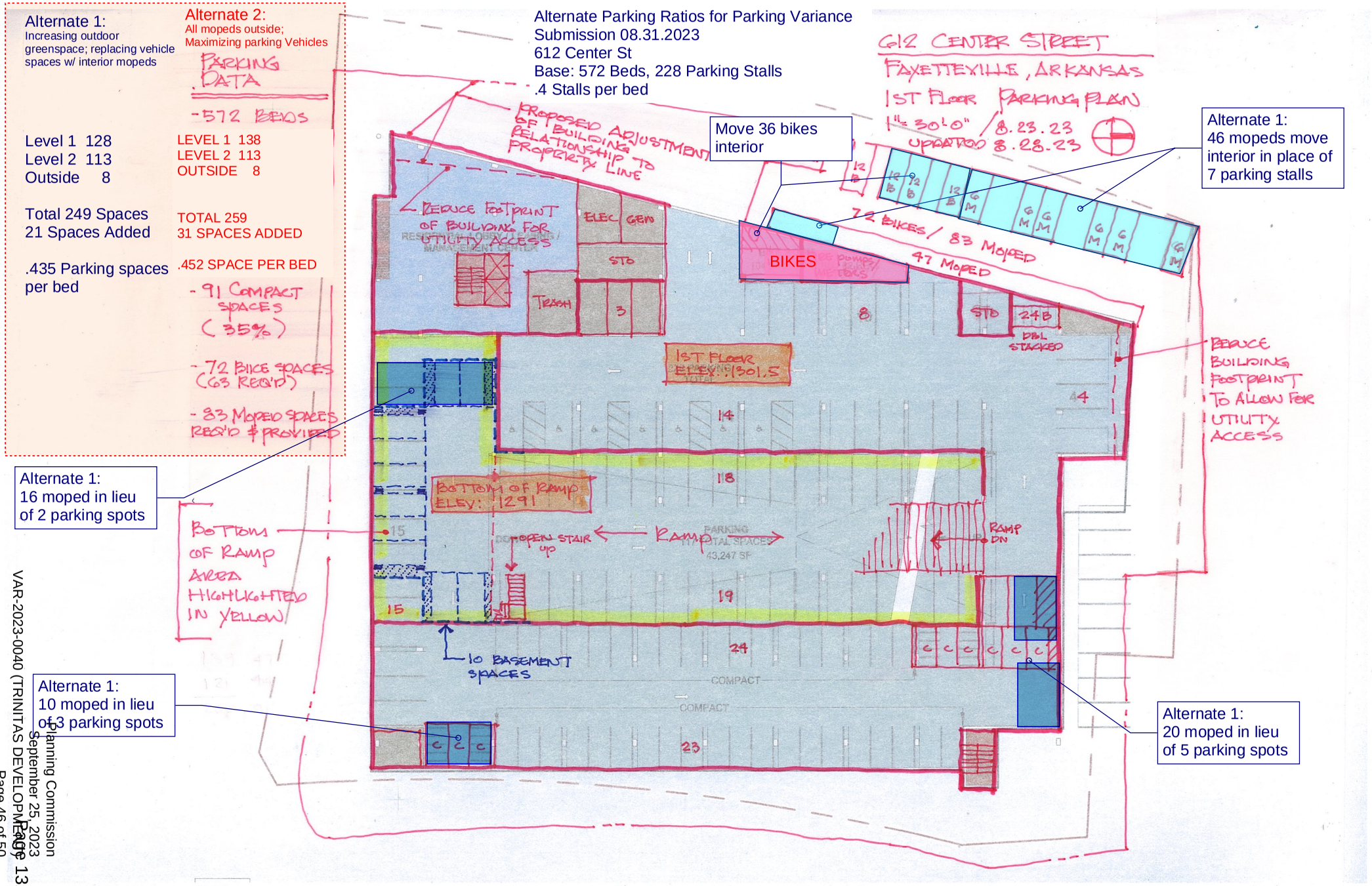
17-20 Green Lots
-No space count; No limit on parking permits sold
-Green lot parking closes for football and Men's basketball games

Orange Lot 99

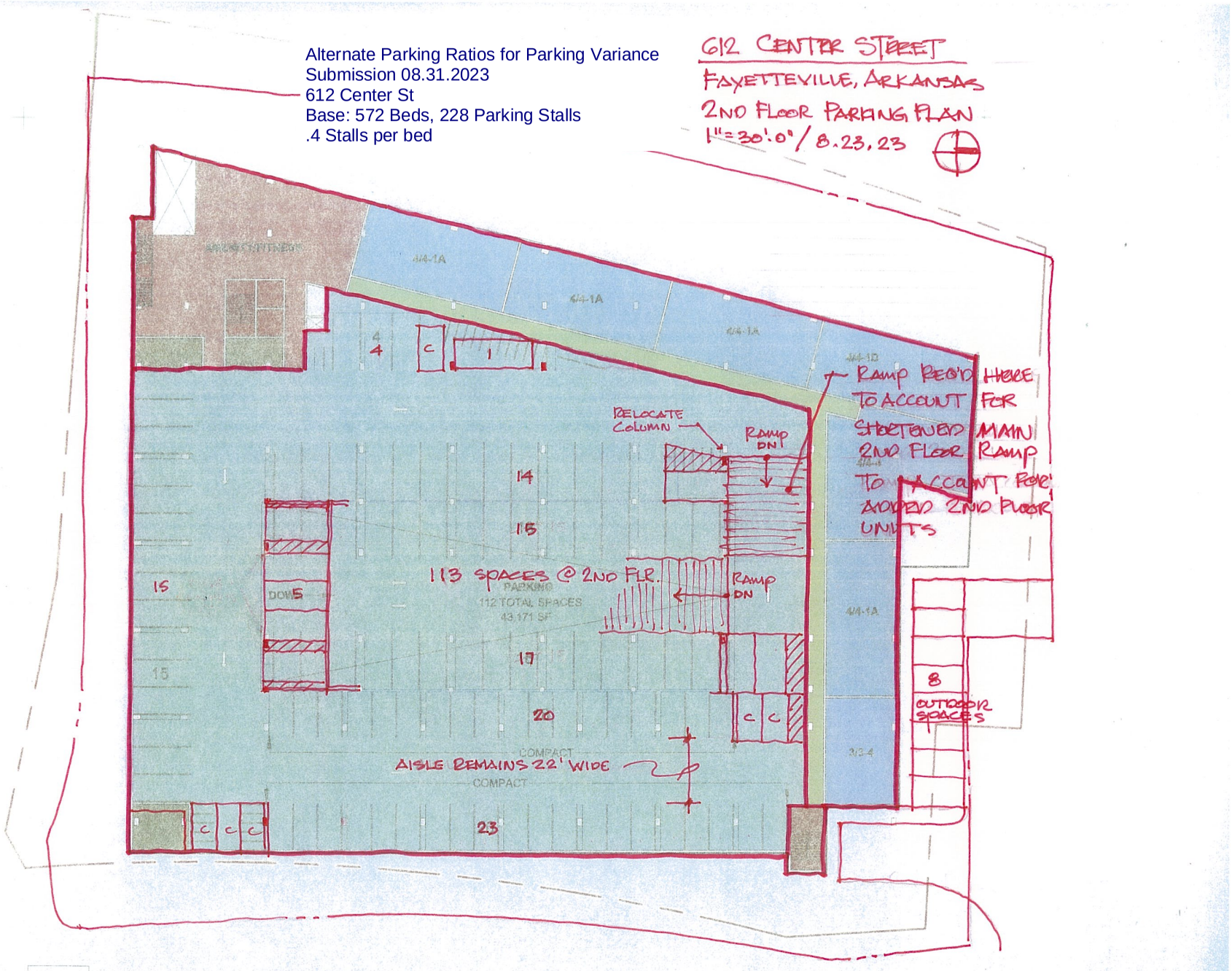


Green Lot 56




Alternate 1:
Increasing outdoor greenspace; replacing vehicle spaces w/ interior mopeds
Alternate 2:
All mopeds outside; Maximizing parking Vehicles
PARKING DATA
-572 BEDS
Level 1 128
Level 2 113
Outside 8
LEVEL 1 138
LEVEL 2 113
OUTSIDE 8
Total 249 Spaces
21 Spaces Added
TOTAL 259
31 SPACES ADDED
.435 Parking spaces per bed
.452 SPACE PER BED
- 91 COMPACT SPACES (35%)
- 72 BIKE SPACES (63 REQ'D)
- 83 MOPED SPACES REQ'D & PROVIDED
Alternate Parking Ratios for Parking Variance
Submission 08.31.2023
612 Center St
Base: 572 Beds, 228 Parking Stalls
.4 Stalls per bed
612 CENTER STREET
FAYETTEVILLE, ARKANSAS
1ST FLOOR PARKING PLAN
1"=30'-0" 8.23.23
UPDATED 8.28.23
PROPOSED ADJUSTMENT OF BUILDING TO RELATIONSHIP PROPERTY LINE
REDUCE FOOTPRINT OF BUILDING FOR UTILITY ACCESS
ELEC
GEN
STO
TRASH
3
BIKES
72 BIKES / 83 MOPED
47 MOPED
8
STO
24 B
DBL STACKED
1ST FLOOR ELEV.: 1301.5
14
18
BOTTOM OF RAMP ELEV: 1291
OPEN STAIR UP
RAMP
RAMP DN
PARKING TOTAL SPACES 43,247 SF
19
15
24
10 BASEMENT SPACES
COMPACT
COMPACT
23
Move 36 bikes interior
Alternate 1:
46 mopeds move interior in place of 7 parking stalls
REDUCE BUILDING FOOTPRINT TO ALLOW FOR UTILITY ACCESS
Alternate 1:
16 moped in lieu of 2 parking spots
BOTTOM OF RAMP AREA HIGHLIGHTED IN YELLOW
Alternate 1:
10 moped in lieu of 3 parking spots
Alternate 1:
20 moped in lieu of 5 parking spots

Alternate Parking Ratios for Parking Variance
Submission 08.31.2023
612 Center St
Base: 572 Beds, 228 Parking Stalls
.4 Stalls per bed

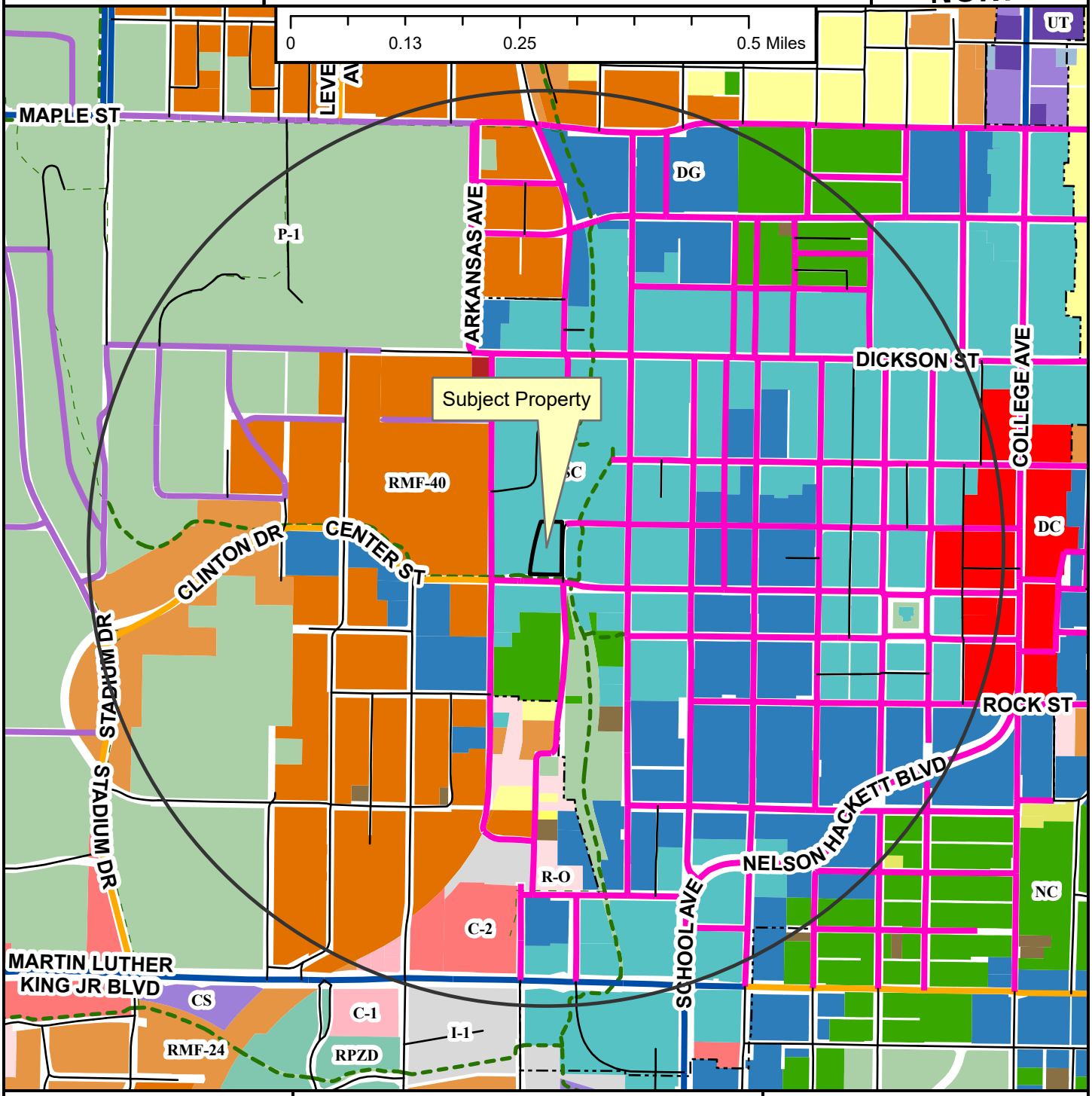


VAR-2023-0040

One Mile View

612 W. CENTER ST

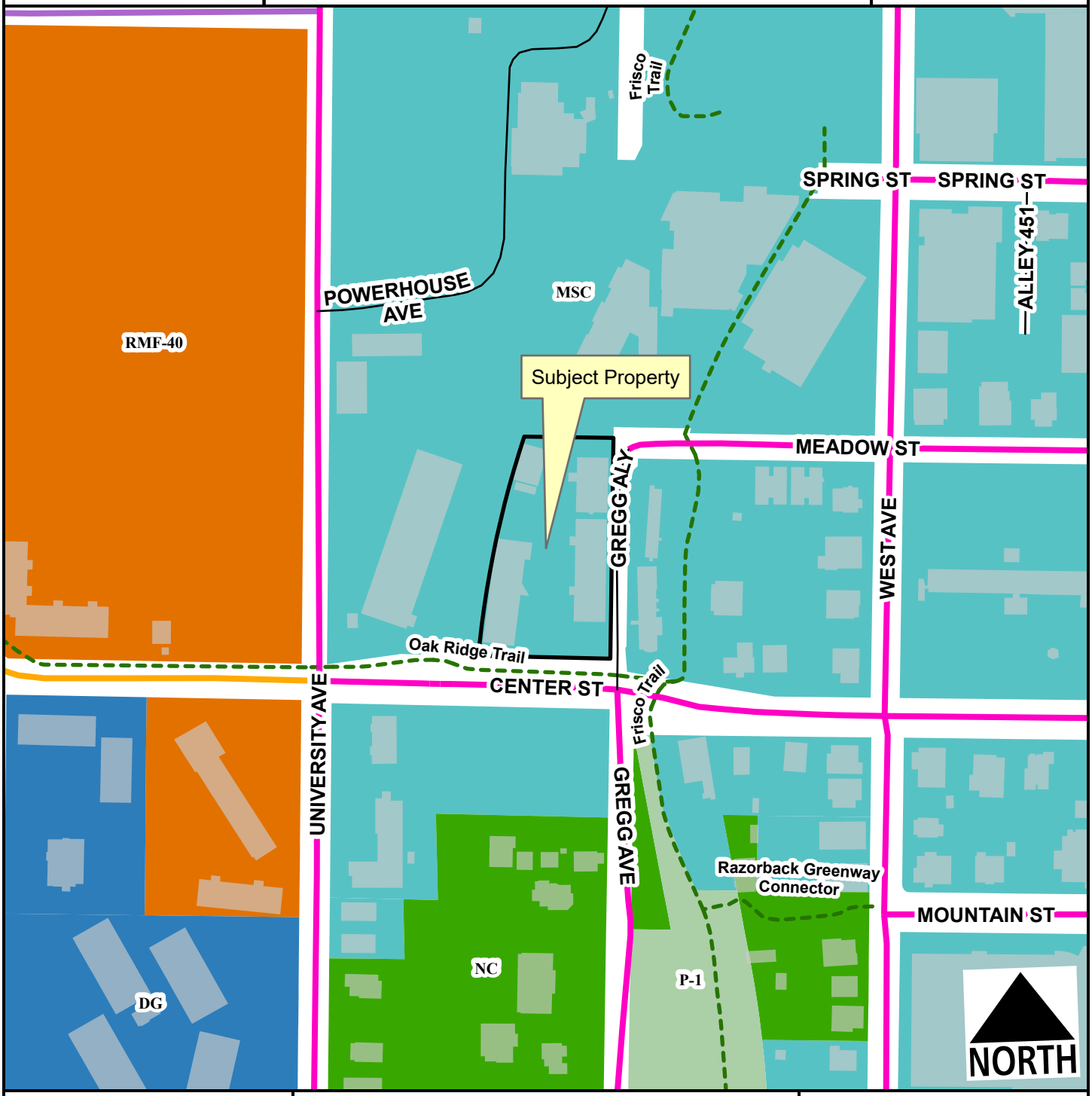
NORTH



VAR-2023-0040

Close Up View

612 W. CENTER ST



Neighborhood Link
Institutional Master Plan
Urban Center
Unclassified
Alley
Planning Area
Fayetteville City Limits
Shared-Use Paved Trail
Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

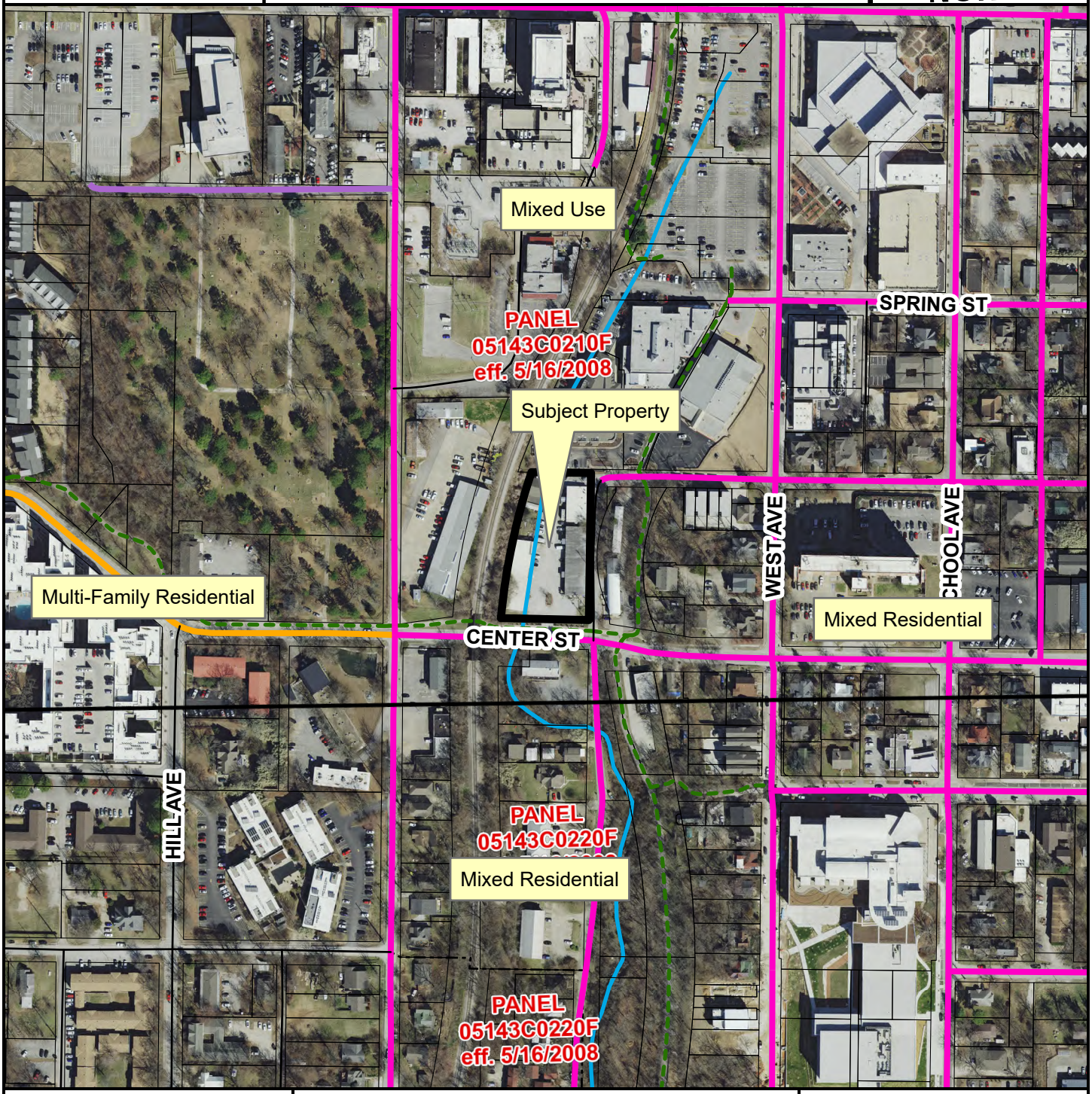
RMF-40
C-3
Main Street Center
Downtown General
Neighborhood Conservation
P-1

VAR-2023-0040

Current Land Use

612 W. CENTER ST

NORTH



- Neighborhood Link
- Institutional Master Plan
- Urban Center
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 25, 2023

SUBJECT: **VAC-2023-0009: Vacation (280 E 12TH STREET/FHA DEVELOPMENT, 563):** Submitted by FHA DEVELOPMENT, INC for property located at 280 E. 12TH ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.40 acres. The request is to vacate a portion of an alley containing approximately 0.054 acres.

RECOMMENDATION:
Staff recommends forwarding **VAC-2023-0009** to City Council with a recommendation of approval, with conditions.

RECOMMENDED MOTION:
*"I move to forward **VAC-2023-0009** to the City Council with a recommendation of approval."*

BACKGROUND:
The subject property is in south Fayetteville and contains two separate parcels that are owned by the Fayetteville Housing Authority and total approximately 0.40 acres (765-03340-000 and765-03340-002). The site is developed with two three-family structures that were built around 1996. Those structures are existing non-conforming structures since the property is zoned NC, Neighborhood Conservation, a single-family residential district. A quit claim deed was filed in 1995 to close an existing 10-foot alley through the center of the property, and a 20-foot street right-of-way along the eastern property line, but the alley and right-of-way were never fully vacated by the City Council. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential/Undeveloped	NC, Neighborhood Conservation; RI-U, Residential Intermediate, Urban
South	4-family Residential	NC. Neighborhood Conservation
East	Mulit-Family Residential	DG, Downtown General
West	Single-Family Residential/Undeveloped	NC, Neighborhood Conservation

Proposal: The applicant proposes to vacate 0.054 acres of right-of-way that currently makes up a 20-foot wide alley right-of-way along the eastern property line.

DISCUSSION:
City of Fayetteville staff recommends in partial favor of the request. From a land-use planning perspective, staff finds that maintaining the right-of-way serves the public interest by contributing to a compact, complete, and connected neighborhood (Goal #3). There is a cluster-housing

development to the north that is using a portion of the alley right-of-way to provide vehicular access to their property, and maintaining the full 20-foot alley would allow for a full connection from E. 11th Street to E. 12th Street. Further, the Walker Park Neighborhood Master Plan which was adopted in 2008 shows the alley being used to provide connection through the neighborhood. However, some function of the right-of-way may have been lost in 1996 when building permits were approved following the filing of a quit claim deed to abandon the right-of-way. The property owners acted in good faith that the right-of-way had been abandoned, and have historically received a clean title with every transaction. Also, according to the applicant, to rededicate right-of-way to the east represents an administrative hurdle due to the nature of the property's operation as a Section 8 project that would require additional approval from the Office of Recap with HUD. Granting this, and recognizing the current barrier that the existing right-of-way puts on the property, staff recommends in favor of a partial vacation. A portion of the alley should be vacated to relieve the existing structure of the burden of the right-of-way, but enable the possibility of a future connection to align with larger City goals.

Vacation Approval: The applicant has submitted the required vacation forms to the relevant City departments and franchise utility companies with the following responses.

Utility	Response
Cox Communications	Any damage or relocation of existing facilities will be at the property owner/developer's expense.
AEP/SWEPCO	No objections, provided an easement in retained in the northeast corner of the site, approximately 20 feet wide by 15 feet deep, as shown in provided exhibit.
Black Hills Energy AR	No objections and no comment.
AT&T	No objections and no comment.
Ozarks Electric	No objections and no comment.
City of Fayetteville	Response
Water/Sewer	No objections and no comment.
Solid Waste & Recycling	No objections and no comment.
Transportation	No objections and no comment.

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

RECOMMENDATION: Staff recommends forwarding **VAC-2023-0009** to City Council with a recommendation of approval.

Conditions of Approval:

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

2. A partial vacation shall be approved to remove the existing structure from the platted right-of-way, and to enable a future connection to still be made from E. 11th Street to E. 12th Street.

3. An easement for SWEPCO must be retained in the northeast corner of the site, approximately 20 feet wide by 15-feet deep as shown in the provided exhibit.

PLANNING COMMISSION ACTION: Required YES			
Date: September 25, 2023	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

Attachments:

- Applicant Request Letter
- Applicant Petition to Vacate
- Site Exhibit – ROW to be vacated
- Additional Applicant Exhibit – Adjacent Right-of-Way
- Staff Exhibit
    - Walker Park Neighborhood Illustrative Plan
    - 11th Street Cluster Housing Development – Approved Plan
    - Quit Claim Deed - 1995
- One Mile Map
- Close-up Map
- Current Land Use Map

Dear Fayetteville Planning Commission,

I am asking for a formal vacation of a closed street located on a portion of 276, 278, and 280 E 12th St Fayetteville, AR 72701. Currently several feet of an apartment building lies on a portion of Willow Ave. The Street (Willow Ave) was properly vacated on the south side of 12th Street which also a part of the 18-unit complex, but it seems there was error somewhere in filing and the north portion of the street did not get added. It has been this way since 1997. This portion of the street has been conveyed with the whole of the property, through several different owners over the years with clear title. The FHAD INC is choosing to correct this administrative mistake from the past for the next owner. We ask that the city officially vacates this closed street in order to rectify any errors.

Respectfully,

Tania Mahoney-Vazquez

Executive Broker

Collier & Associates

PETITION TO VACATE A (street right-of-way) LOCATED IN (lots 6 & 7, block 2, subdivision Burl Dodd 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 street right-of-way (Willow Ave) hereinafter sought to be abandoned and vacated, lying in (lot 6 & 7, block 2, subdivision Burl Dodd Addition, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a street right-of-way which is described as follows:
(Twenty (20) foot closed street, known as Willow Ave, which lies East of lots 6 & 7, all in Block 2, Burl Dodd Addition to the City of Fayetteville.

That the abutting real estate affected by said abandonment of the street right-of-way (Twenty (20) foot closed street, known as Willow Ave, which lies East of lots 6 & 7, all in Block 2, Burl Dodd Addition to the City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described street right-of-way.

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

Dated this 24th day of August, 2023. Printed Name

Signature

Derrek Sherburne

Printed Name Signature

CERTIFICATE OF SURVEY AND ACCURACY:

I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY AND THAT THE MONUMENTS HAVE BEEN PLACED AS STATED HEREON AS REQUIRED BY THE SUBDIVISION REGULATIONS OF THE CITY OF FAYETTEVILLE, ARKANSAS.

9/12/2023
DATE

REGISTERED LAND SURVEYOR/
PROFESSIONAL LAND SURVEYOR

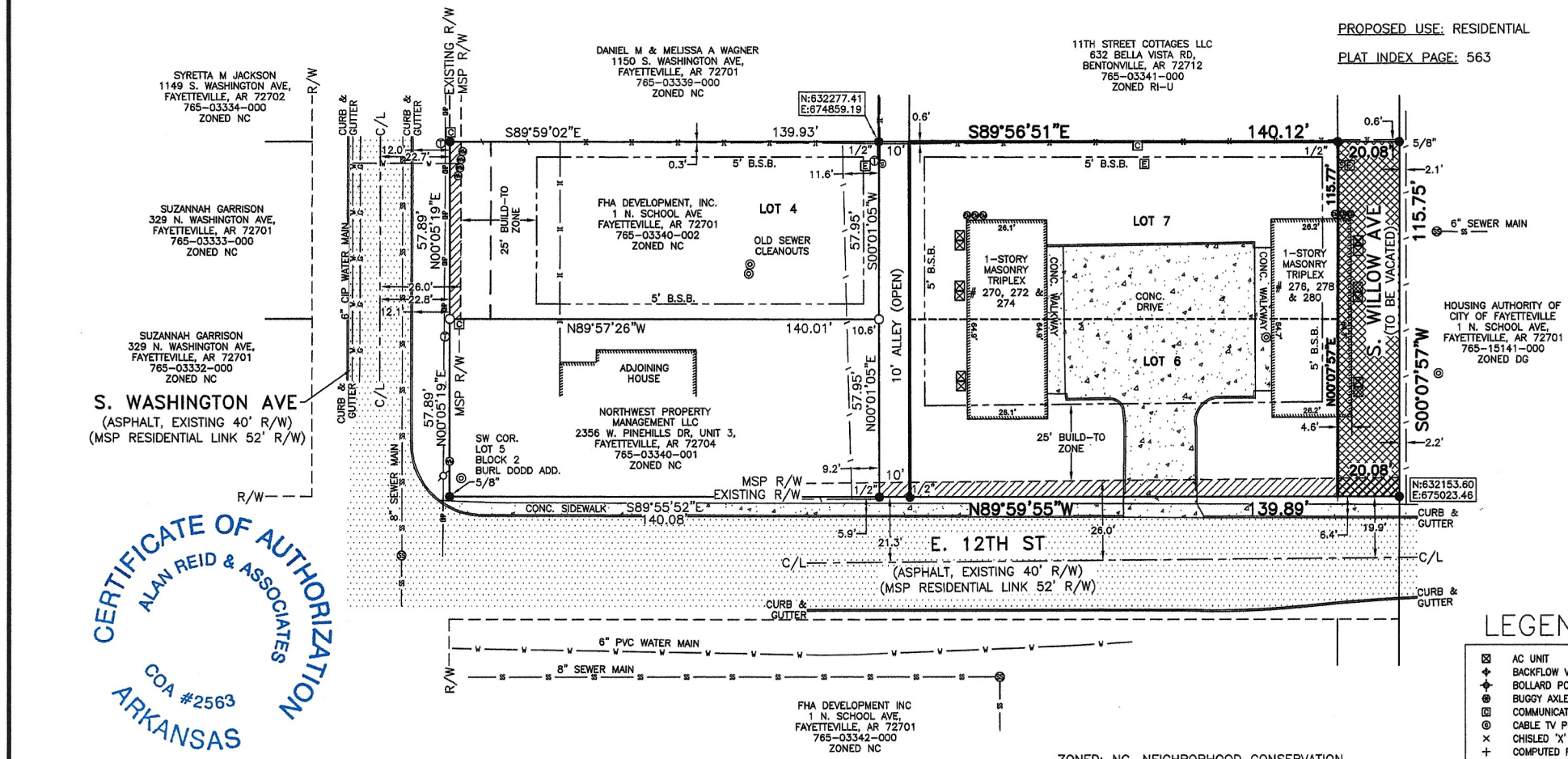
FLOOD DESIGNATION:

THIS PROPERTY DOES NOT LIE IN ZONE 'A/AE' (SPECIAL FLOOD HAZARD AREAS INUNDATED BY 100-YEAR FLOOD) AS DETERMINED FROM THE F.I.R.M. MAP OF WASHINGTON COUNTY, ARKANSAS, AND INCORPORATED AREAS, MAP NUMBER 05143C0220F, EFFECTIVE DATE MAY 16, 2008.

LOTS 6 & 7
BLOCK 2
BURL DODD ADD.
765-03340-000

PROPOSED USE: RESIDENTIAL

PLAT INDEX PAGE: 563





VICINITY MAP

0 30 60 90
1" = 30'

LEGEND

AC UNIT	FIBER OPTICS SIGN	SANITARY SEWER MANHOLE
BACKFLOW VALVE	FIRE HYDRANT	SATELLITE DISH
BOLLARD POST	FIRE SPRINKLER	SEPTIC TANK LID
BUGGY AXLE	FLAG POLE	SET ALUMINUM MONUMENT
COMMUNICATIONS VAULT	GAS LINE SIGN	SET COTTON SPINDLE
CABLE TV PEDESTAL	GAS METER	SET STAKE ON LINE
CHISLED 'X'	GAS STUB	SET 1/2" IRON REBAR
COMPUTED POINT	GAS REGULATOR	STATE MONUMENT
CONC. MONUMENT	GENERATOR	STONE MONUMENT
C.O.E. MONUMENT	GROUND LIGHT	STORM DRAIN MANHOLE
DOWN GUY	IRRIG. CONTROL VALVE	STREET SIGN
DRAIN GRATE	JUNCTION BOX	T-POST
ELECTRIC BOX	LAMP POST	TELEPHONE BOX
ELECTRIC METER	MAIL BOX	TELEPHONE PEDESTAL
ELECTRIC PEDESTAL	PARKING SIGN	TEMPORARY BENCHMARK
EXIST. ALUM. CAPPED MON.	PAY PHONE	TRAFFIC SIGNAL BOX
EXIST. COTTON SPINDLE	POWER POLE	TRANSFORMER BOX
EXISTING IRON PIPE	PROPANE TANK	TREE
EXISTING IRON REBAR	RAILROAD SPIKE	WATER LINE SIGN
EXISTING NAIL	READING	WATER METER
FENCE POST	RIGHT OF WAY MONUMENT	WATER SPIGOT
EXIST. IRON IN CONCRETE	SANITARY SEWER CLEANOUT	WATER VALVE

CENTERLINE ROAD		EASEMENT LINE	
RIGHT-OF-WAY LINE		BUILDING SETBACK LINE	
BARBED-WIRE FENCE	-x-	OVERHEAD ELECTRIC LINE	-OE-
CHAIN-LINKED FENCE	-\-	UNDERGROUND ELECTRIC LINE	-E-
PRIVACY FENCE	-#-	GAS LINE	-G-
WIRE FENCE	-o-	SANITARY SEWER LINE	-S-
MAJOR CONTOUR INTERVAL		STORM SEWER LINE	-S-
MINOR CONTOUR INTERVAL		TELEPHONE LINE	-T-
BUILDING LINE		WATER LINE	-W-
FIBER-OPTICS LINE	-FO-	PROPERTY LINE	
DITCH/WATER LINE			

CERTIFICATE OF AUTHORIZATION
ALAN REID & ASSOCIATES
COA #2563
ARKANSAS

SURVEY DESCRIPTION
LOTS 6 & 7, BLOCK 2, BERL DODD ADDITION, TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD "4" AT PAGE 219.

PLAT NOTES:

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS 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; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDED THE SEAL AND SIGNATURE OF THE SURVEYOR.

THIS SURVEY MEETS OR EXCEEDS THE CURRENT "ARKANSAS MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AND PLATS".

DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.

PER ORDINANCE 72.19, PARKING BLOCKING A MAILBOX IS PROHIBITED. ENSURE THAT FUTURE MAILBOX PLACEMENT DOES NOT CONFLICT WITH ON-STREET PARKING.

ALL UTILITIES 12KV AND UNDER SHALL BE RELOCATED UNDERGROUND.

ANY AND ALL SIGNAGE REQUIRES ADDITIONAL SIGN PERMIT REVIEW AND APPROVAL.

SURVEY DESCRIPTION - AREA OF WILLOW STREET TO BE VACATED AND DEEDED TO PARCEL 765-03340-000

ALL THAT PART OF WILLOW AVENUE LYING EAST OF AND BEING IMMEDIATELY ADJACENT TO THE EAST LINE OF LOTS SIX (6) AND SEVEN (7) OF BLOCK TWO (2) OF BERL DODD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN IN PLAT BOOK 4 AT PAGE 219 OF THE LAND RECORDS OR WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT SEVEN (7), BLOCK TWO (2), SAID POINT BEING AN EXISTING IRON REBAR; THENCE S89°56'51"E 20.08 FEET TO AN EXISTING 1/2" IRON REBAR ON THE EAST RIGHT-OF-WAY LINE OF WILLOW AVENUE, SAID POINT ALSO BEING ON THE WEST BOUNDARY OF WASHINGTON COUNTY LAND PARCEL 765-15141-000; THENCE S00°07'57"W 115.75 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF WILLOW AVENUE TO AN EXISTING IRON REBAR AT THE NORTH RIGHT-OF-WAY LINE OF E. 12TH STREET; THENCE LEAVING THE EAST RIGHT-OF-WAY LINE OF SAID WILLOW AVENUE AND THE WEST BOUNDARY OF SAID LAND PARCEL 765-15141-000, N89°59'55"W 20.08 FEET TO THE SOUTHEAST CORNER OF SAID LOT SIX (6), BLOCK TWO (2); THENCE LEAVING THE NORTH RIGHT-OF-WAY LINE OF SAID E. 12TH STREET, N00°07'57"E 115.77 FEET ALONG THE EAST LINE OF SAID LOTS SIX (6) AND SEVEN (7), BLOCK TWO (2), TO THE POINT OF BEGINNING, CONTAINING 2324.2 SQUARE FEET, MORE OR LESS.

ZONED: NC, NEIGHBORHOOD CONSERVATION

SETBACKS:
FRONT...A BUILD-TO ZONE THAT IS LOCATED BETWEEN THE FRONT PROPERTY LINE AND A LINE 25 FEET FROM THE FRONT PROPERTY LINE.
SIDE...5 FEET
REAR...5 FEET
REAR, FROM CENTER LINE OF AN ALLEY...12 FEET

OWNER: FHA DEVELOPMENT INC
(479)521-3850

PHYSICAL ADDRESS: 270, 272, 274, 276, 278 & 280 E. 12TH ST, FAYETTEVILLE, AR 72701
PARCEL NO. 765-03340-000

MAILING ADDRESS: 1 N. SCHOOL AVE, FAYETTEVILLE, AR 72701

REGISTERED PROFESSIONAL SURVEYOR
STATE OF ARKANSAS
No. 1005
SIGNATURE
ALAN REID

SHEET 1 OF 1	JOB NO. 22162	REVISIONS		
		DATE	DESCRIPTION	BY
		09/11/2023	CITY COMMENTS	DF

ARA
118 S. COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS 72701
479-444-8795
1 888 849 8784
araconrey@sbcglobal.net

Alan Reid & ASSOCIATES
PROFESSIONAL LAND SURVEYORS
BOUNDARY
TOPO

DRAFTSMAN	DF
DATE	10/26/2022
CHECKED	–
SCALE	1" = 30'
SHEET SIZE	18"x 24"

FHA DEVELOPMENT INC
270, 272, 274, 276, 278 & 280 E. 12TH ST,
FAYETTEVILLE, AR 72701

STREET VACATION - FAYETTEVILLE, ARKANSAS

BOUNDARY SURVEY

Survey Description

PARCEL: 765-03342-000
ALL OF LOTS 1 AND 10 , AND THE PORTION OF SOUTH WILLOW AVENUE, LYING EAST OF SAID LOT 10. ALSO, THE ALLEYWAY AND THE NORTHERN 39.00' OF LOTS 2 AND 9, BLOCK 3, BURL DODD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AND THAT PORTION OF SOUTH WILLOW AVENUE AS SHOWN ON PLAT BOOK 4 AT PAGE 129, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS: BEGINNING AT A FOUND 5/8" REBAR LOCATED ON THE SOUTHERLY RIGHT-OF-WAY LINE OF EAST 12TH STREET, SAID REBAR ALSO MARKING THE NORTHWEST CORNER OF SAID LOT 1, THENCE ALONG SAID RIGHT-OF-WAY LINE S87°25'13"E, PASSING THROUGH A FOUND 1/2" REBAR AT A DISTANCE OF 139.98', AI SO PASSING THROUGH A FOUND 1/2" REBAR AT A DISTANCE OF 289.98' FOR A TOTAL DISTANCE OF 309.98' TO A SET 1/2" REBAR, THENCE LEAVING SAID RIGHT-OF-WAY LINE S02°39'47"W, 99.76' TO A SET 1/2" REBAR, THENCE N87°27'03"W, PASSING THROUGH A FOUND 1/2" REBAR AT A DISTANCE OF 20.00', FOR A TOTAL DISTANCE OF 310.00' TO A FOUND 1/2" REBAR LOCATED ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH WASHINGTON AVENUE, THENCE ALONG SAID RIGHT-OF-WAY LINE N02°40'16"E, 96.95' TO THE POINT OF BEGINNING, CONTAINING 0.689 ACRES MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

PARCEL: 765-03340-000
LOTS 4, 6 & 7, BLOCK 3, BURL DODD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 4 AT PAGE 219, ALSO, PART OF AN ALLEY WHICH LIES WEST OF LOTS 6 & 7, AND A 20' CLOSED STREET KNOWN AS WILLOW AVENUE, WHICH LIES EAST OF LOTS 6 & 7, ALL IN BLOCK 2, BURL DODD ADDITION TO THE CITY OF FAYETTEVILLE, AS SHOWN ON PLAT RECORD IN PLAT BOOK 4, PAGE 219, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS: BEGINNING AT A FOUND 5/8" REBAR LOCATED ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH WASHINGTON AVENUE, SAID REBAR ALSO MARKING THE NORTHWEST CORNER OF SAID LOT 4, THENCE S87°15'25"E, PASSING THROUGH A FOUND 1/2" REBAR AT A DISTANCE OF 144.90', ALSO PASSING THROUGH A FOUND 1/2" REBAR AT A DISTANCE OF 149.90', ALSO PASSING THROUGH A FOUND 1/2" REBAR AT A DISTANCE OF 290.05' FOR A TOTAL DISTANCE OF 310.05' TO A SET 1/2" REBAR, THENCE S02°39'47"W 115.70' TO A SET 1/2" REBAR LOCATED ON THE NORTHERLY RIGHT-OF-WAY LINE OF EAST 12TH STREET, THENCE ALONG SAID RIGHT-OF-WAY LINE N87°16'21"W, PASSING THROUGH A FOUND 1/2" REBAR AT A DISTANCE OF 20.00' FOR A TOTAL DISTANCE OF 165.22' TO A FOUND 1/2" REBAR, THENCE LEAVING SAID RIGHT-OF-WAY LINE N02°44'51"E 57.89' TO A FOUND 5/8" REBAR, THENCE N87°15'17"W 145.01' TO A FOUND 5/8" REBAR LOCATED ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH WASHINGTON AVENUE, THENCE ALONG SAID RIGHT-OF-WAY N02°40'07"E 57.85' TO THE POINT OF BEGINNING, CONTAINING 0.631 ACRES MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

Miscellaneous Notes

STATE RECORDING NUMBER:
500-16N-50W-0-22-450-72-1826

BASIS OF BEARING:
ARKANSAS STATE PLANE, NORTH ZONE, NAD 83
LATITUDE: 36°03'03.5315"
LONGITUDE: 94°09'22.6224"
CONVERGENCE ANGLE: 01°15'17.06323"
THE DISTANCES SHOWN ON THIS PLAT ARE OF COMBINE FACTOR (GRID TO GROUND) 1.00008087654986

REFERENCE DOCUMENTS:
1. SURVEY PLAT FILE NO.: 0004-0000219
2. DEED FILED IN DEED BOOK 2017 AT PAGE 12142.

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 THEREOF UNLESS OTHERWISE NOTED. MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.

BY GRAPHIC PLOTTING ONLY, NO PORTION OF THIS PROPERTY IS IN ZONE "X" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 05143C0285F, WHICH BEARS AN EFFECTIVE DATE OF 04/02/2008 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

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.

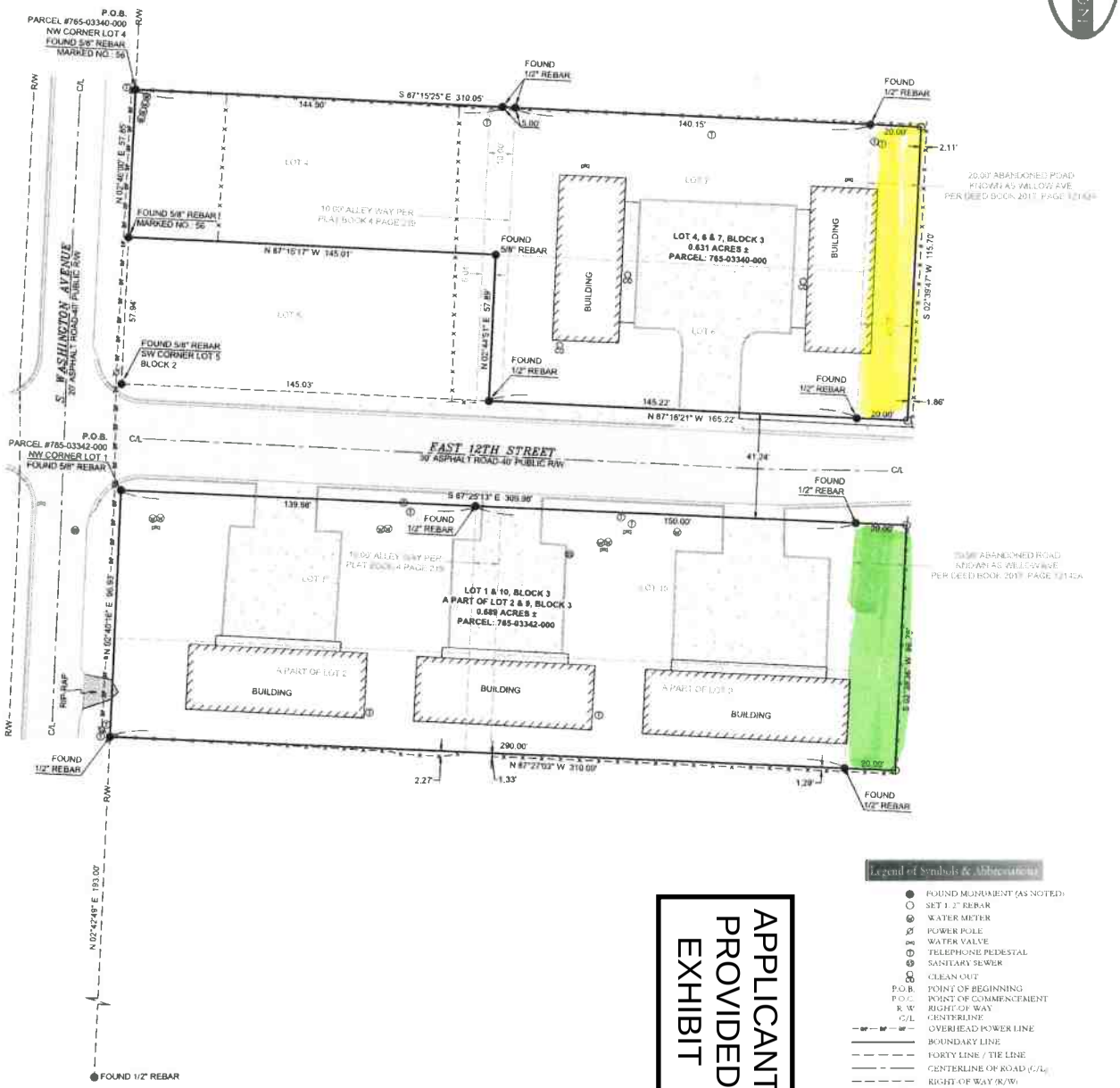
Owner/Developer

OWNER: STONE STREET RENTALS LLC
ADDRESS: 270 & 203 E. 12TH STREET, FAYETTEVILLE, ARKANSAS
APN: 765-03340-000
APN: 765-03342-000

Zoning & Setback Information

ZONING: NC (NEIGHBORHOOD CONSERVATION)

BUILDING SETBACKS:
FRONT: A BUILD-TO ZONE THAT IS LOCATED BETWEEN THE FRONT PROPERTY LINE AND A LINE 25 FEET FROM THE FRONT PROPERTY LINE
SIDE: 5 FEET
REAR: 5 FEET; 12 FEET FROM CENTERLINE OF AN ALLEY

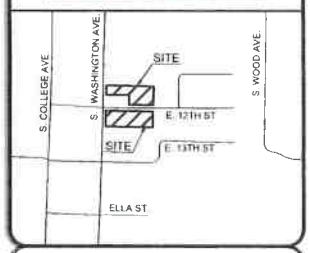


APPLICANT PROVIDED EXHIBIT

Legend of Symbols & Abbreviations

- FOUND MONUMENT (AS NOTED)
- SET 1/2" REBAR
- WATER METER
- POWER POLE
- WATER VALVE
- TELEPHONE PEDESTAL
- SANITARY SEWER
- CLEAN OUT
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- R/W RIGHT OF WAY
- C/L CENTERLINE
- OVERHEAD POWER LINE
- BOUNDARY LINE
- FORTY LINE / TIE LINE
- CENTERLINE OF ROAD (C/L)
- RIGHT-OF WAY (R/W)
- FENCE

Vicinity Map



Utility Notes

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

0 30 60 90
1 INCH = 30 FEET

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 24TH DAY OF MARCH, 2020

LICENSED PROFESSIONAL SURVEYOR
STATE OF ARKANSAS
No. 1826
SURVEYOR
HEATH A MYERS

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

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS
3825 N. SHILOH DRIVE
FAYETTEVILLE, ARKANSAS 72703
OFFICE: 479.443.4506
FAX: 479.582.1883
www.BLEWINC.com
Certificate of Authorization No. 1534

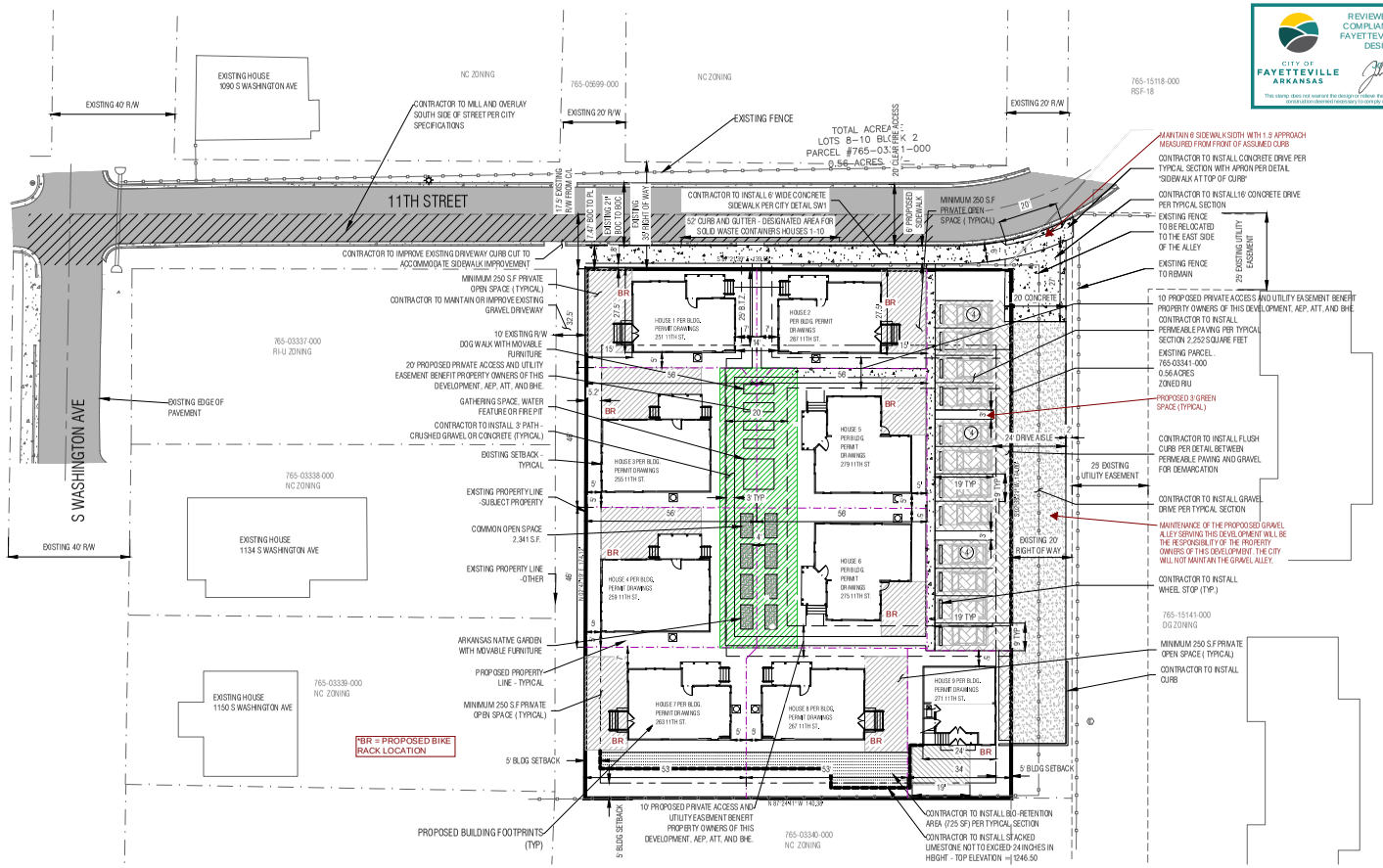
DRAWN BY & DATE	REVIEWED BY	SURVEYED BY
TPN/BDM 03/24/2020	TN & HM	RS
COUNTY & STATE: WASHINGTON COUNTY, ARKANSAS	JOB NUMBER: 20-1625	

LOCATION: 270 & 203 E. 12TH STREET, FAYETTEVILLE, ARKANSAS

FOR THE USE AND BENEFIT OF:
FAYETTEVILLE HOUSING AUTHORITY

VAC-2023-0009 (FHA DEVELOPMENT)
September 25, 2023
Planning Commission
Page 142 of 402
Page 7 of 14


Fayetteville
ARKANSAS
WALKER PARK NEIGHBORHOOD
ILLUSTRATIVE MASTER PLAN
FAYETTEVILLE, ARKANSAS
SEPTEMBER 2007
Existing Building
Proposed Building
Existing Civic Building
Study Area Boundary
N
S



REVIEWED FOR MINIMUM COMPLIANCE WITH CITY OF FAYETTEVILLE ENGINEERING DESIGN CRITERIA
CITY OF FAYETTEVILLE ARKANSAS
Josh Boscaccio, PE
11/18/2022
This stamp does not warrant the design to relieve the owner from any items discovered during construction deemed necessary to comply with city ordinances and criteria.

community.by.design

STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 12046
BRIAN TEAGUE
BRIAN TEAGUE 11/18/22

CERTIFICATE OF AUTHORIZATION
COMMUNITY BY DESIGN, L.L.C.
1504
ARKANSAS - ENGINEER

REVISION 0
Date
Date
Date
Date
Date
Date

11TH ST. CLUSTER HOUSING DEVELOPMENT GRADING PERMIT DRAWINGS

FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
CITY PLAT PAGE 563

ISSUED FOR CONSTRUCTION

ENGINEER: BT
DRAWN BY: AH
DATE: 10/12/22

SCALE: 1" = 20' (22"X34")

0 20 40
SCALE IN FEET

SITE PLAN

SHEET 2

PROPERTY LOCATION / ADDRESS

PARCEL #765-03341-000):
FAYETTEVILLE, ARKANSAS

OWNER INFORMATION

LAWRENCE FINN
11TH STREET COTTAGES LLC
170 E SOUTH STREET
FAYETTEVILLE, AR 72701

REPRESENTATIVE INFORMATION

BRIAN TEAGUE
COMMUNITY BY DESIGN LLC
1302 WEST CENTER STREET SUITE 300
FAYETTEVILLE, AR 72701
479-790-6775

BOUNDARY DESCRIPTIONS

SURVEY DESCRIPTION (PARCEL #765-03341-000):
LOTS 8, 9 & 10, BLOCK 2, BURL DODD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK A AT PAGE 219, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD

ZONING, SETBACKS, MASTER STREET PLAN

PROPERTY ZONED:
RESIDENTIAL INTERMEDIATE URBAN (RIU)
MINIMUM BUILDING STREET FRONTAGE REQUIRED = 50 %
PROVIDED BUILDING STREET FRONTAGE = 50%

BUILDING SETBACKS:
FRONT SETBACK: 0'-25' BUILD TO ZONE
SIDE SETBACK: 5' FOR SINGLE AND TWO-FAMILY
SIDE SETBACK: 0' FOR THREE OR MORE
REAR SETBACK: 5'

FLOOD CERTIFICATION

FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS. (FIRM PANEL #0514SC0220F. DATED 05/ 16/ 08)

ONSITE SOIL TYPES

LFC2, LINKER LOAM, 3 TO 8 PERCENT SLOPES, ERODED
SFB, SAVANNAH FINE SANDY LOAM, 1 TO 3 PERCENT SLOPES, ERODED

GENERAL NOTES

PROPOSED AREA WITH IMPERVIOUS SURFACE IS 8,960 SQUARE FEET OR 37% OF PROPERTY AREA

ALL GROUND AND WALL MOUNTED UTILITY EQUIPMENT IS TO BE SCREENED IF VISIBLE FROM PUBLIC STREET

COMMON AREA IN THE CENTER OF THE DEVELOPMENT SHALL REMAIN UNOBSTRUCTED FROM FENCING, TEMPORARY OR PERMANENT, TO ALLOW ACCESS TO THE RESIDENCES AT THE REAR OR SOUTH SIDE OF THE DEVELOPMENT.

ADJACENT PROPERTY OWNER

765-03337-000
MENDEZ, GUSTAVO JR
1902 S 17TH ST
ROGERS, AR 72758

765-03338-000
JAMES, MICHELE L
2688 E HYLAND PARK RD
FAYETTEVILLE, AR 72701

765-03339-000
WAGNER, DANIEL M & MELISSA A
1150 S WASHINGTON AVE
FAYETTEVILLE, AR 72701

765-05699-000
HORNBACK, JO ANNE REVOCABLE TRUST
1090 S WASHINGTON AVE
FAYETTEVILLE, AR 72701-6659
765-03340-000

STONE STREET RENTALS LLC
P.O. BOX 4662
FAYETTEVILLE, AR 72702

765-15141-000
HOUSING AUTHORITY OF CITY OF FAYETTEVILLE
1 N SCHOOL AVE
FAYETTEVILLE, AR 72701-5110

765-15118-000
HOMES AT WILLOW BEND LLC
245 NORTH CHURCH ST
FAYETTEVILLE, AR 7270

PARKING SUMMARY

	Number of Dwelling Units	Number of Bedrooms	Parking Requirement	Parking Required / Provided
HOUSE 1	1	2	1 per bedroom	2
HOUSE 2	1	2	1 per bedroom	2
HOUSE 3	1	1	1 per bedroom	1
HOUSE 4	1	1	1 per bedroom	1
HOUSE 5	1	2	1 per bedroom	2
HOUSE 6	1	2	1 per bedroom	2
HOUSE 7	1	2	1 per bedroom	2
HOUSE 8	1	2	1 per bedroom	2
HOUSE 9	1	1	1 per bedroom	1
Total Parking Required				15
10% REDUCTION / SUBSTITUTION OF BIKE RACKS FOR VEHICULAR PARKING				0.0
10% reduction/substitution of scooter parking for vehicular parking				0.0
15% reduction due to transit stop location within 1/4 mile				2.3
Total Parking Required After Reductions				**12.8**
Off-street parking provided				1
On-street parking 11TH				12
Total Parking Provided				**13**
Scooter Parking Required				0
Scooter Parking Provided				0
Bike Racks Required				9
Bike Racks Provided at Each House				9

COMMON OPEN SPACE SUMMARY

	Number of Dwelling Units	Square Footage Per House	Open Space Requirement (Square Feet)	Open Space Required / Provided (Square Feet)
HOUSES 1-9	9	less than 1,500 sf	250 Per House	
Total Open Space Required				2250
Total Open Space Provided				2341

LAND USE SUMMARY

	Use	Number of Bedrooms	Gross Floor Area (square feet)	Number of Residential Units	Site Area (acres)
HOUSE 1	Single-Family	2	LESS THAN 2500 SF	1	-
HOUSE 2	Single-Family	2	LESS THAN 2500 SF	1	-
HOUSE 3	Single-Family	1	LESS THAN 2500 SF	1	-
HOUSE 4	Single-Family	1	LESS THAN 2500 SF	1	-
HOUSE 5	Single-Family	2	LESS THAN 2500 SF	1	-
HOUSE 6	Single-Family	2	LESS THAN 2500 SF	1	-
HOUSE 7	Single-Family	2	LESS THAN 2500 SF	1	-
HOUSE 8	Single-Family	2	LESS THAN 2500 SF	1	-
HOUSE 9	Single-Family	1	LESS THAN 2500 SF	1	-
Totals	-	15	0	9	0.56
			Dwelling Units Per Acre =		16.07

STREET TABLE

	R/W	Street Width BOC-BOC	Sidewalk Width in R/W - Both Sides	Traffic Flow	On-Street Parking	Ownership
11th - Fire Access	35	21	6'	two - way	none	Public

VARIANCE 20-7072 WAS APPROVED BY PLANNING COMMISSION ON APRIL 27, 2020 FOR USE OF ALTERNATIVE STREET SECTION

VAC-2023-0009 (FHA DEVELOPMENT)
Planning Commission
September 25, 2023
Page 144 of 402
Page 9 of 14

FILED FOR RECORD

'95 FEB 8 AM 9 22

WASHINGTON CO AR

K. HARNESS

PIONEER Printed DEMOCRAT P & L CO LITTLE ROCK

FORM NO 826
CLASS 2
Rev 3/81

QUITCLAIM DEED

MARRIED PERSONS

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, Maximino Wages and Elizabeth Wages, ~~XXX~~ husband and wife, GRANTORS, for and in consideration of the sum of One & 00/100---------- DOLLARS, ($ 1.00) in hand paid by Christopher Adams, Dodie Adams, Larry G. Davis, and Peggy L. Davis, as joint tenants with right of survivorship GRANTEE, the receipt of which is hereby acknowledged, do hereby grant, convey, sell and quitclaim unto the said GRANTEES, and unto their heirs, and assigns forever, all our right, title, interest and claim in and to the following lands lying in Washington County, Arkansas

A ten (10) foot Alley which lies East of Lots Numbered 4 and 5, and West of Lots Numbered 6 and 7, and a Twenty (20.0) Foot Closed Street, know as Willow Avenue, which lies East of Lots Numbered 6 and 7, all in Block Two (2) in Berl Dodd 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.

RETURN TO:
HERITAGE TITLE & CLOSING CO.
1747 N. COLLEGE
FAYETTEVILLE, AR 72703

To have and to hold the same unto the said GRANTEES, and unto their heirs and assigns forever, with all appurtenances thereunto belonging

~~M2330070~~

And we, the GRANTORS,

for and in consideration of the said sum of money, do hereby release and relinquish unto the said GRANTEES, and unto their heirs and assigns, all our rights and possibility of dower, curtesy and homestead in and to the said lands.

WITNESS our hands and seal on this 3rd day of February 19 95

Maximino Wages

Elizabeth Wages

95006663

OR 2643

ACKNOWLEDGMENT

STATE OF ARKANSAS }
County of Washington } ss.

On this day, personally appeared before me Maximuno Wages
and Elizabeth Wages known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and official seal this 3rd day of February, 19 95.

My commission expires:

5/21/02

(SEAL)

Notary Public.

STATE OF ARKANSAS, }
County of ... } ss.

CERTIFICATE OF RECORD

I, ..., Circuit Clerk and Ex-Officio Recorder for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the ... day of ... A D 19 ..., at ... o'clock ... M., and the same is now duly recorded, with the acknowledgment and certificates thereon, in "Record Book ...," Page ...

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this ... day of ..., 19 ...

Circuit Clerk and Ex-Officio Recorder

By ..., D.C.

95006664

QUITCLAIM DEED

Married Persons

and

to

, his wife

Filed for record this ... day of ..., 19 ..., at ... o'clock ... M.

Clerk

By ..., D.C

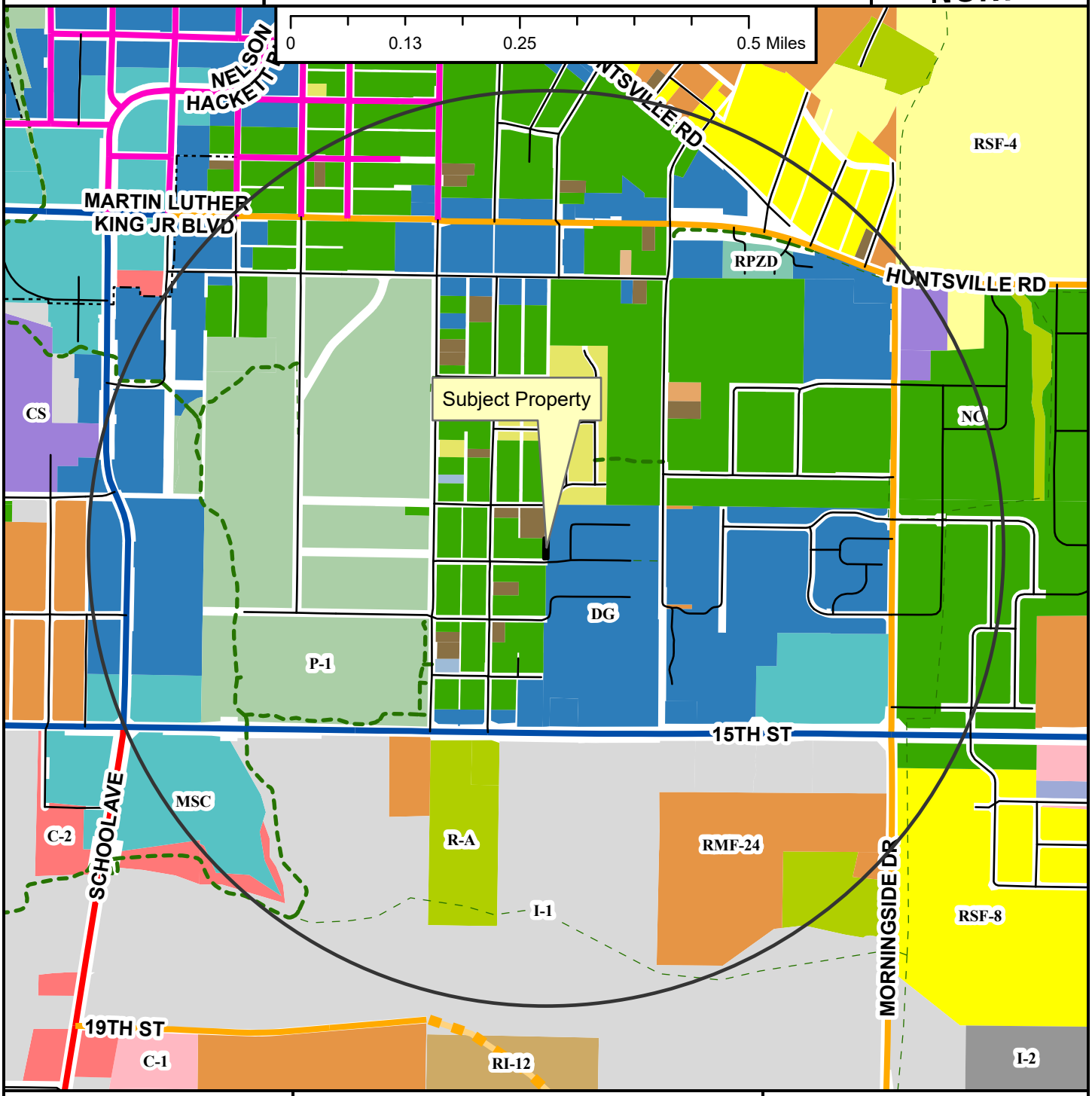
NOTE: A wise man will have his deed recorded

VAC-2023-0009

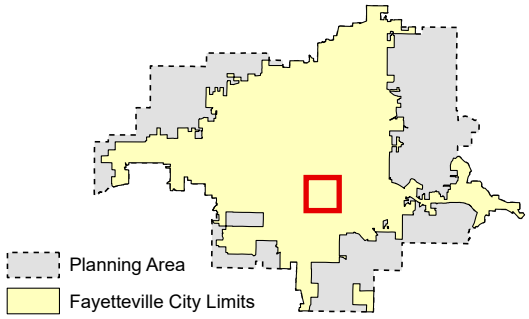
One Mile View

280 E 12TH ST

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

VAC-2023-0009

Close Up View

280 E 12TH ST



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

Feet
0 75 150 300 450 600
1:2,400

RSF-18
RI-U
RMF-24
Downtown General
Neighborhood Services - Ltd.
Neighborhood Conservation
P-1

VAC-2023-0009

Current Land Use

280 E 12TH ST

NORTH



- 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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0109: Conditional Use Permit (5877 W. SELLERS RD/SMALLING, 514):** Submitted by TYLER SMALLING for property located at 5877 W. SELLERS RD. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY, ONE UNIT PER ACRE and contains approximately 5.28 acres. The request is to place one accessory structures on a lot without a primary structure.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0109** with conditions, based on the findings contained in this report.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0109**, 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 southwest Fayetteville near the city border with Farmington. The property is approximately ¼ mile west of the intersection of W. Sellers Rd. and S. 54th St. The property contains approximately 5.28 acres; is currently zoned RSF-1, Residential Single-Family, One Unit per Acre; and is undeveloped. The parcel is primarily open field with limited tree cover. Surrounding land use and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-1, Residential Single-Family, One Units per Acre
South	Undeveloped	RSF-1, Residential Single-Family, One Units per Acre
East	Undeveloped Single-Family Residential	RSF-1, Residential Single-Family, One Units per Acre Farmington City Limits
West	Undeveloped	RSF-1, Residential Single-Family, One Units per Acre

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

Request: The applicant requests approval of a conditional use permit to allow placement of one accessory structure on a legal lot of record that does not contain a primary structure. Under Unified Development Code §164.02, no accessory structure is to be erected on a property prior to a principal structure. The applicant proposes a 1,200 square foot shop with a 400 square foot

lean-to that is approximately 12 feet in height to the bottom of the roof. The height of the roof has not yet been determined.

Public Comment: Staff has received no public comment on this item.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0109**, subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility for an accessory building without a primary structure with which it is associated.** *Staff finds the proposal to place two accessory structures on a separate legal lot of record from the house they serve to be compatible for the reasons outlined in this report;*

2. Conditional use permit approval shall not constitute building permit approval;

3. Structure shall be screened along the western property line with either an opaque fence or dense evergreen vegetation;

4. Any proposed outdoor lighting shall be subject to §176 Outdoor Lighting; and

5. Any changes or modifications to the accessory structures that increase their volume, footprint, or impact shall be subject to further approval from the Planning Commission as an amendment to this conditional use permit.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ 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 an accessory structure on a lot without a primary structure.

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 §164.02 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. While an accessory structure such as a shed, storage building, boathouse, or other large outbuilding can pose a negative impact on neighboring properties or generate traffic that is detrimental to the public interest, the proposed shop buildings are not likely to do so given the large lot size and largely undeveloped surroundings. The applicant has noted that the intent is to use of the building for storage.

(c.) The Planning Commission shall certify:

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

Finding: There are no specific rules governing the applicants request.

(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: **No current driveways exist on the subject property and the installation of a new driveway would be subject to §166.08 Street Design and Access Management Standards. One traffic crash has been reported on W. Sellers Road directly east of the subject property. Staff does not find that placing one accessory structures on the lot of record will adversely impact traffic safety.**

(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 accessory structure is proposed approximately 550 feet from W. Sellers Rd and 30 feet from the western property line. Staff recommends a condition that any proposed outdoor lighting shall be subject to §176 Outdoor Lighting. Any proposed driveways would be subject to §166.08 Street Design and Access Management Standards, and staff anticipates parking to be either within the proposed shop or on a driveway.**

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

Finding: **No refuse generation is anticipated with the use of the building. The property owner is responsible for maintaining a clean property.**

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

Finding: **Existing eight-inch sewer mains are present along N. Tacoma St. and a two-inch water main is available along W. Sellers Rd. Service needs may be evaluated as necessary during building permit review.**

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

Finding: **The accessory structure is proposed over 500 feet from the right-of-way and 30 feet from the adjacent property. Staff recommends that the structure be screened along the western property line with either an opaque fence or dense evergreen vegetation.**

(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 the City's sign ordinance and all regulations therein.**

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

Finding: **One new structure is proposed with this conditional use permit. Compliance with building setbacks will be confirmed at the time of building permit submittal.**

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

Finding: **Staff finds that the proposal is compatible with adjacent properties. Adjacent properties generally exceed five acres and are generally rural in nature. Multiple properties have large accessory structures and staff does not anticipate any negative impact with the associated proposal.**

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

Finding: **Staff finds the proposal to be generally compatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans. The intent of the RSF-1 zoning district is to permit and encourage the development of low-density detached dwellings in suitable environments, as well as to protect existing developments of those types. Staff finds that the request to place accessory structures on a lot without a primary structure would allow for greater flexibility in the use of the parcel.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
  - §164.02, Accessory Structures and Uses
- Request Letter
- Site Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

164.02 - Accessory Structures And Uses

Accessory Structures and Uses. Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 160 through 165, and to the following general conditions:

(A) *Accessory Structures*.

(1) *When Erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure, unless such accessory structure shall have been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.

(2) *Integral Part of Principal Structure.* An accessory structure erected as an integral part of the principal structure shall be made structurally a part thereof, shall have a common wall therewith, and shall comply in all respects with the requirements of the building code applicable to the principal structure.

(3) *Height and Setback Restrictions.* Accessory structures 10 feet or less in height shall maintain a minimum side setback of 3 feet and a minimum rear setback of 5 feet from the property lines. Accessory structures greater than 10 feet in height shall meet the setback requirements of the zoning district in which it is located. All accessory structures shall conform to the front setbacks of the zoning district in which is it located.

(4) *Build-to Zones.* Accessory structures shall be exempt from meeting the requirements of the build-to zone in any zoning district.

(5) *Size of Accessory Structure(s).* Any accessory structure(s) shall be 50% or less of the size of the principal structure, except for accessory roof mounted solar energy systems and accessory ground mounted solar energy systems. Any accessory structure(s) requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with §163, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties. Accessory structures that exceed 50% of the size of the principal structure shall meet the setback requirements of the zoning district in which it is located.

(6) *Shared Accessory Structures.* Shared accessory structures may be constructed across common property lines, subject to all building and fire codes. Building setbacks for shared accessory structures may be administratively varied to permit zero lot line development. Easements for driveway access and maintenance of the structure and driveway shall be provided prior to the issuance of a building permit. For purposes of calculating size of shared accessory structures, only that portion of the shared accessory structure on the lot with the principal structure shall count toward the maximum allowable size.

(7) *Accessory Ground Mounted Solar Energy Systems.* An accessory ground mounted solar energy system shall be considered an accessory structure and shall be subject to applicable accessory structure requirements.

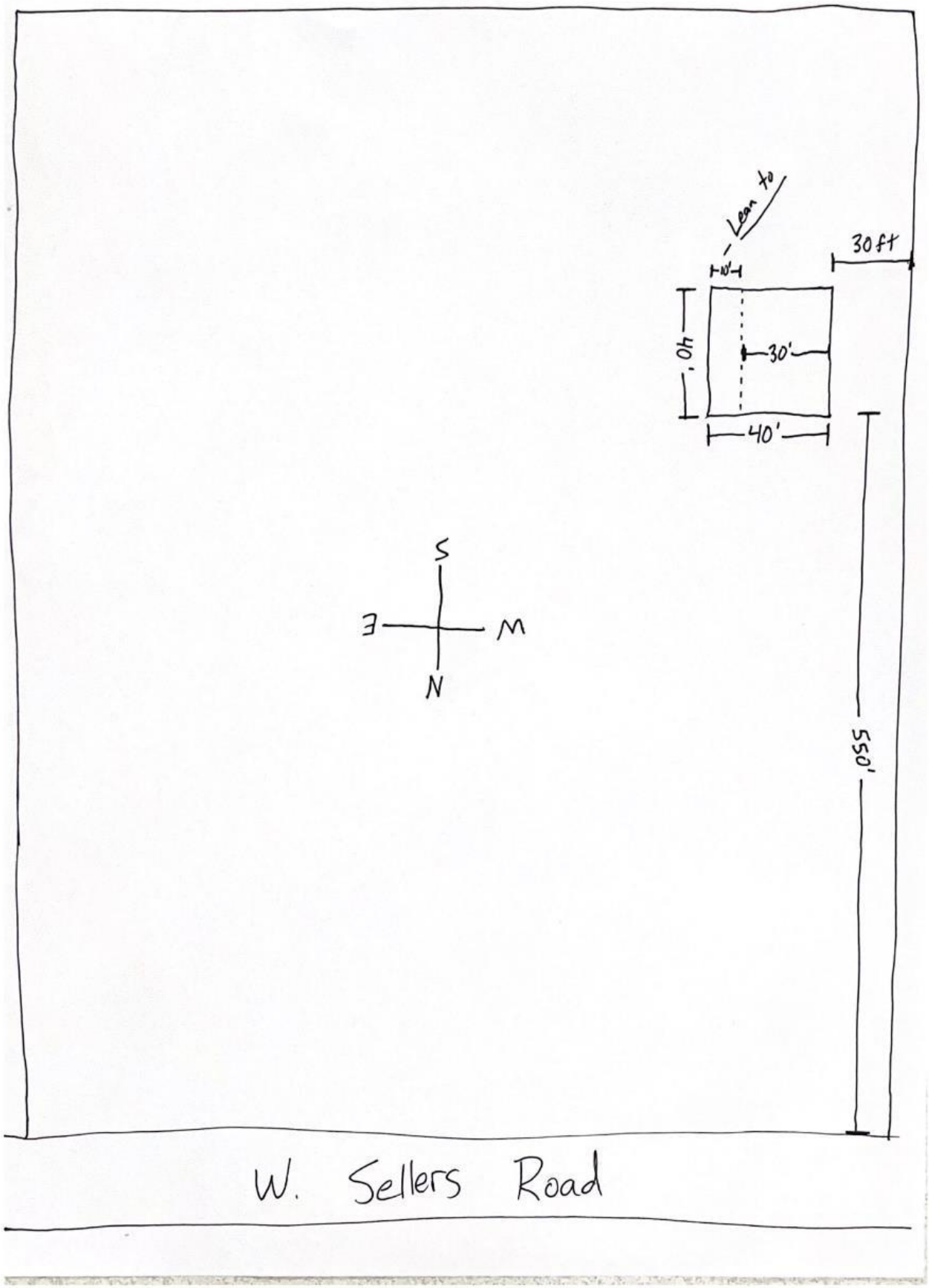
(8) *Electric Vehicle Charging Stations.* Electric vehicle charging stations that are publicly accessible shall be considered an accessory use in all commercial, mixed-use, industrial, and institutional zoning districts. Publicly accessible electric vehicle charging stations shall be reserved for the parking and charging of electric vehicles only and information shall be posted indicating that the space is reserved for electric vehicle charging purposes only. Electric vehicle charging equipment must be designed and located to not impede pedestrian, bicycle or wheelchair movement. Property owners may collect a service fee for the use of an electric vehicle charging station. Information shall be posted identifying voltage and amperage levels and any type of use, fee, or safety information related the electric vehicle charging station. Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment. A phone number, email address, or some other contact information must be provided on the charging equipment for reporting when it is not functioning, or for when other problems are encountered.

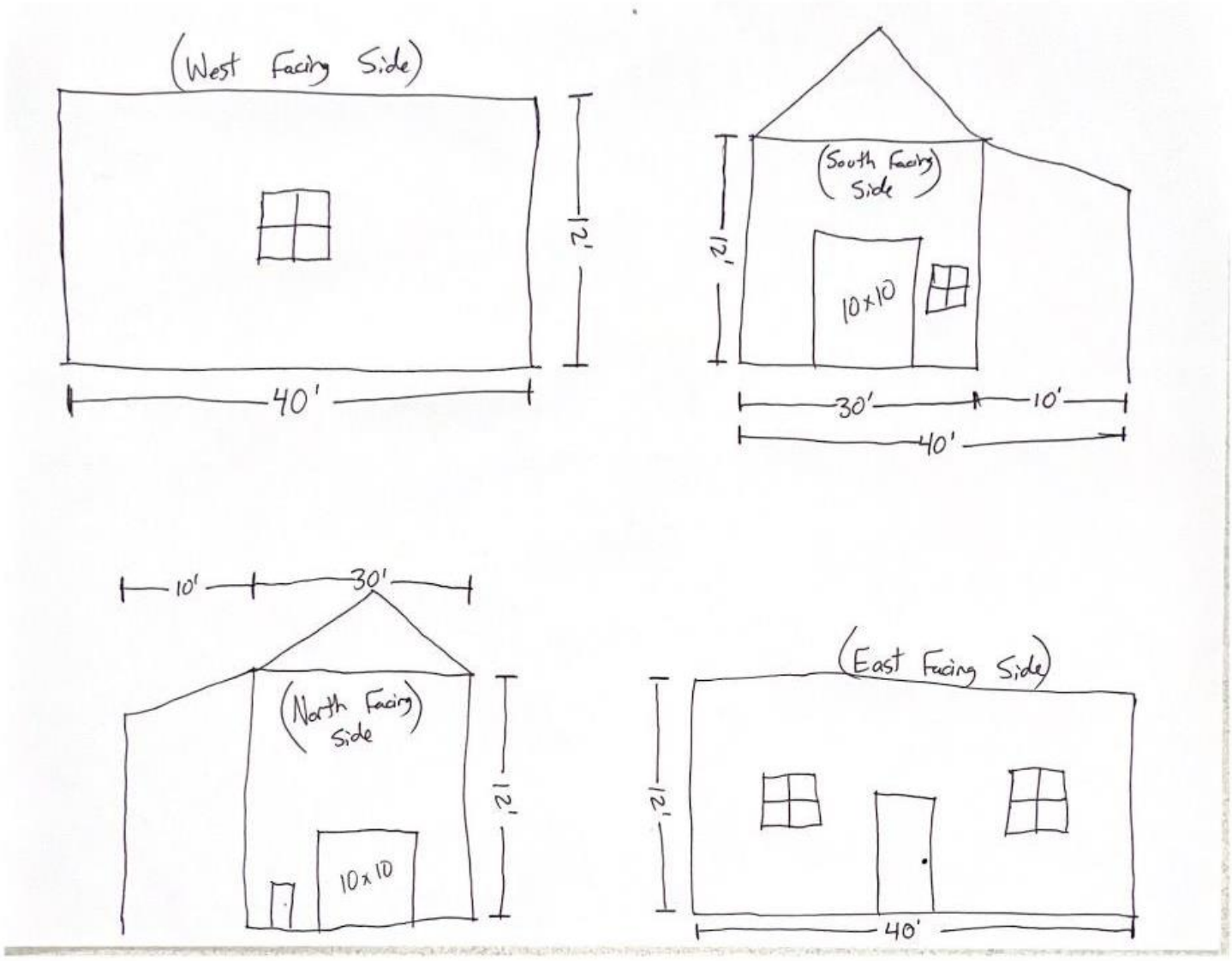
(B) *Swimming Pools.* Swimming pools shall not be located in any required front setback.

(Code 1965, App. A., Art. 7 (1); Ord. No. 1747, 6-29-70; Ord. No. 2177, 12-16-75; Ord. No. 3131, 10-1-85; Code 1991, §160.076; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4817, 1-3-06; Ord. No. 5239, 5-5-09; Ord. No. 5592, 06-18-13; Ord. No. 5950 , §1, 2-7-17; Ord. No. 6245 , §§4, 5, 10-15-19; Ord. No. 6407 §2, 1-19-21)

5877 W. Sellers Road

1. Request Letter
    a. The Shop will be 1200 square feet covered and have a 400 square foot covered lean to. This is a request to build an accessory structure on my lot without a primary structure.
    b. The outside of the shop will be Charcoal Gray, the trim and doors will be black.
    c. There will not be any additional off the street parking.
    d. This is not a business.
    e. Lights on the building to illuminate the immediate outside of the building may exist. There will be no light intrusion to surrounding residences as a result of the lights.
    f. As this is just a shop for storage no ongoing noise will be generated from this.
    g. The existing brush/vegetation separating properties will remain, limiting visibility and noise from some of the properties.
    h. No trash will be visible from the street or from surrounding properties.
    i. There will be no traffic impact as a result of this shop, there is only one way into and out of the property and that will remain the same.
    j. This lot has 4 sides. 3 of the sides of this property border existing pasture land that is still being cut for hay. The final side joins up against W. Sellers road and there are 2 houses across the street. This shop is compatible with the homes and residences around for the following reasons: security, cleanliness and lack of additional traffic impact. The security I was talking about applies to the addition of lights and possible security cameras that will be placed on the shop, this will help keep people from walking through the property and will also help with keeping people off surrounding properties. The cleanliness part is all about me keeping the property mowed at all times, no trash left around the property and shop will allow me to put all my belonging into it so I wont leave my things out on the property. Lastly like mentioned above this shop is only for storage and will not create any additional traffic to the road or surrounding areas.


Lean to
30 ft
10'
40'
30'
550'
S
E
W
N
W. Sellers Road

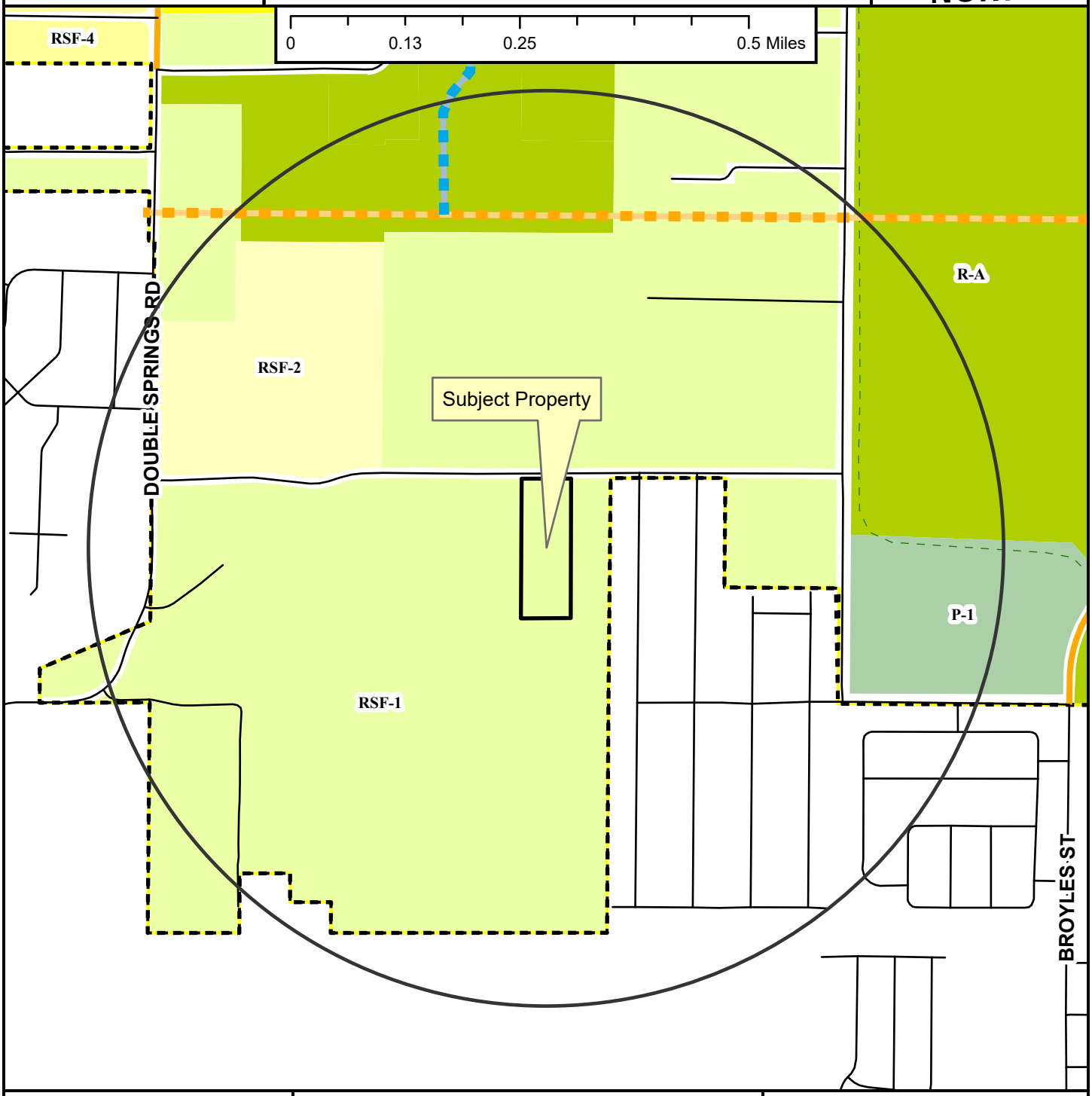

(West Facing Side)
12'
40'
(South Facing Side)
12'
10x10
30'
10'
40'
10'
30'
(North Facing Side)
12'
10x10
(East Facing Side)
12'
40'

CUP-2023-0109

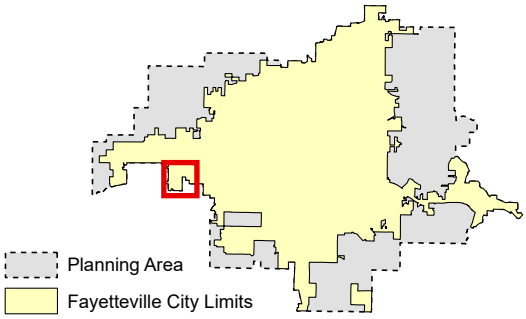
One Mile View

5877 W. SELLERS RD

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

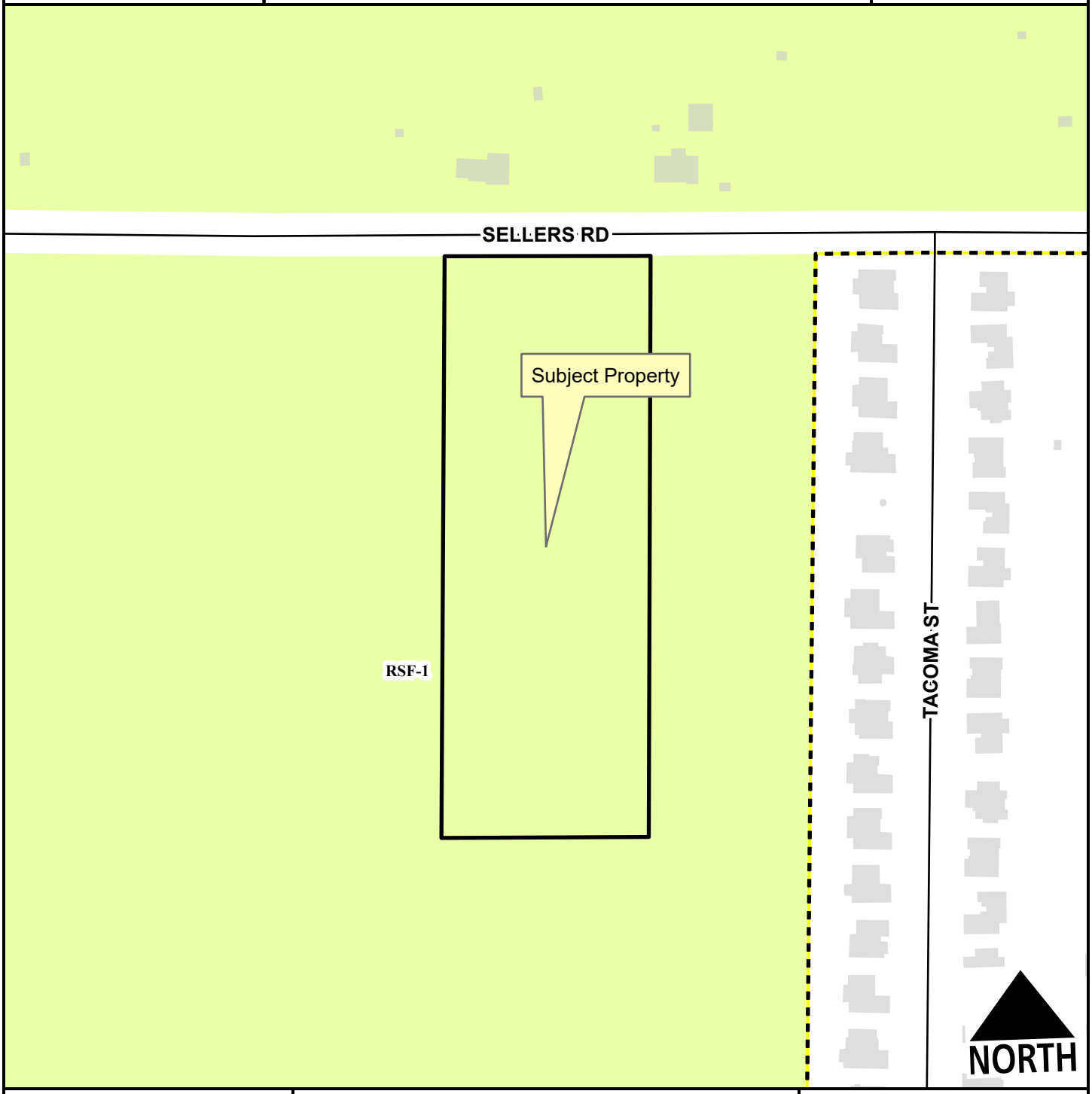
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0109

Close Up View

5877 W. SELLERS RD



Unclassified
Residential Link
Planning Area
Fayetteville City Limits

Feet
0 75 150 300 450 600
1:2,400

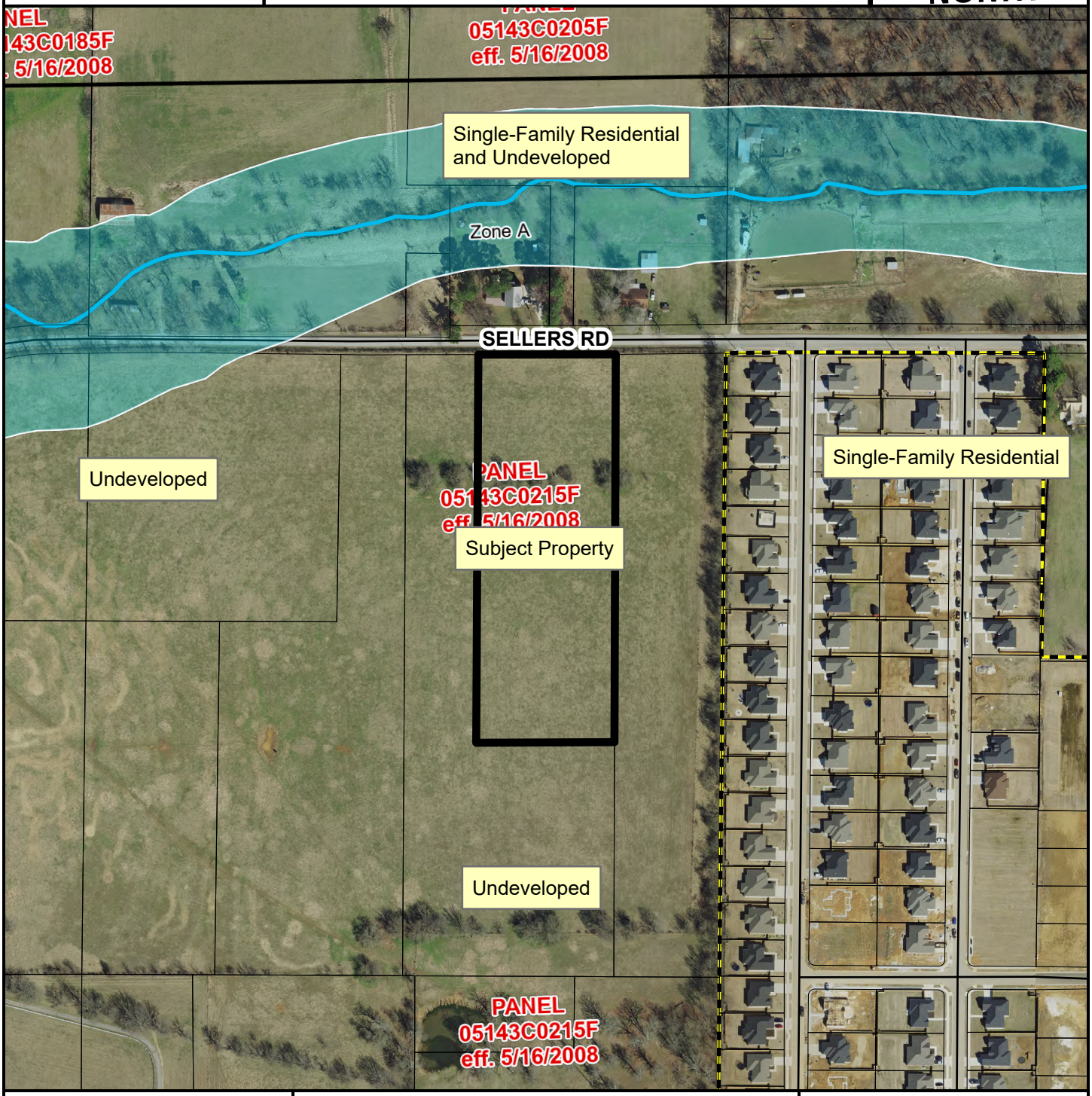
RSF-1

CUP-2023-0109

Current Land Use

5877 W. SELLERS RD

NORTH



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

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 25, 2023

SUBJECT: **RZN-2023-0025: Rezoning (524 S. WILLOW AVE./BWB WILLOW LLC, 524):** Submitted by ANDREW BRINK for property located at 524 S. WILLOW AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.22 acres. The request is to rezone the property to DG, DOWNTOWN GENERAL.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0025** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0025** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is located in south Fayetteville, one lot north of Martin Luther King Jr. Boulevard on the east side of Willow Avenue. The property contains approximately 0.22 acres and is currently developed with a 1,344-square-foot, single-family dwelling which Washington County records indicate was built in 1930. Prior to 2008, the subject property and most others in the immediate vicinity were zoned RMF-24, Residential Multi-Family, 24 Units per Acre. With the adoption of the Walker Park Neighborhood Master Plan that year, the property was rezoned to NC, Neighborhood Conservation. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RI-U, Residential Intermediate-Urban
South	Single-Family Residential; Two-Family Residential	DG, Downtown General
East	Single-Family Residential	DG, Downtown General
West	Single-Family Residential; Undeveloped	NC, Neighborhood Conservation; DG, Downtown General

Request: The request is to rezone the subject property from NC, Neighborhood Conservation to DG, Downtown General.

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

INFRASTRUCTURE:

Streets: The subject property has frontage along Willow Avenue, 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 six-inch water main is present on the west side of Willow Avenue.

Sewer: Sanitary sewer is available to the subject property. An existing six-inch sewer main is present in the center of Willow Avenue.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District or a FEMA-designated floodplain and no protected streams are present. The property does, however, contain hydric soils. 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 1, located at 303 W. Center St., protects this site. The property is located approximately 0.9 miles from the fire station with an anticipated drive time of approximately three minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus 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 DG, Downtown General requires **10% minimum canopy preservation.** The current zoning district of NC, Neighborhood Conservation requires **20% minimum canopy preservation.**

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

Residential Neighborhood areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. Residential Neighborhood encourages highly

connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods. This designation recognizes the existing conventional subdivision developments that may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **8-9** for this site with a weighted score of **11** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (six-inch main, Willow Avenue)
- Near Water Main (six-inch main, Willow Avenue)
- Near City Park (Jefferson Park, Walker Park)
- Near Paved Trail (Walker Park Trail, Razorback Greenway)
- Near ORT Bus Stop (Route 10, Route 20 East)
- Near Razorback Bus Stop (Route 13)
- Within Master Plan Area (Walker Park Neighborhood)
- Sufficient Intersection Density

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 proposed rezoning from NC to DG to be generally compatible with existing land use and zoning patterns in the surrounding area. Downtown General would allow for residential development and lot sizes that are commonly found nearby, as well as some nonresidential uses which may be suitable at this location given the property's proximity to Martin Luther King Jr. Boulevard and other nonresidential uses. Where NC zoning allows for by-right development of single-family dwellings at a density of 10 units per acre, a rezoning to DG would allow for the development of multi-family dwellings without limitation to density. With regard to bulk and area regulations, NC currently allows for the creation of lots with a width of 40 feet and an area of 4,000 square feet, while DG would allow for the creation of lots with a width of 18 feet without limitation to lot area. When taking the size of the property into consideration, which totals less than a quarter of an acre, staff finds that a rezoning to DG is not likely to result in development of a scale or type that is incompatible with the surrounding area.**

Land Use Plan Analysis: **Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. While a similar rezoning mid-block could be considered incompatible, staff finds the requested rezoning to be appropriate since it has the potential to result in increased housing or services near a dense residential area and existing nonresidential uses. Staff also finds the requested rezoning to be generally aligned with Goal 1 of City**

Plan 2040 since it would encourage infill in an area that has a moderate infill score ranging between 8 and 9.

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

Finding: **Staff finds that rezoning the subject property from NC to DG is justified since it would encourage the development of contextually-sensitive residential and nonresidential uses near downtown Fayetteville where services, amenities, and residential areas are at their greatest concentration.**

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

Finding: **A rezoning from NC to DG has the potential to increase traffic at this location when considering that DG would allow for development that is greater in density and intensity that the existing NC zoning. Nevertheless, staff finds that a rezoning is not likely to create or appreciably increase traffic danger or congestion given the small size of the lot and its limited access onto Willow Avenue.**

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 it would allow for increased residential development. However, the property currently has access to public streets, water, and sewer, and any necessary upgrades to existing infrastructure would be determined at the time of development review. 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-2023-0025 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code:
  - §161.28 Downtown General
  - §161.29 Neighborhood Conservation
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.28 Downtown General

(A) *Purpose.* Downtown General is a flexible zone, and it is not limited to the concentrated mix of uses found in the Downtown Core or Main Street/Center. Downtown General includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than Neighborhood Conservation. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone.

(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 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet

(2) *Lot Area Minimum.* None.

(E) *Setback Regulations*.

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

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

(G) *Building Height Regulations.*

Building Height Maximum	5 stories

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

All dwelling types	40 feet

(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations*.

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

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

Rezoning Request

August 16, 2023

Fayetteville Development Services
c/o Ms. Masters
125 W. Mountain St.
Fayetteville, AR 72701

RE: Request to Rezone to DG (Downtown General)

Ms. Masters,

On behalf of my client, BWB Willow LLC, I am requesting a rezone to the property located at **524 S. Willow Ave., Fayetteville AR 72701** from NC (Neighborhood Conservation) to DG (Downtown General). At this time, my clients do not have any development plans to accompany this request.

Compatibility: As shown the property is bordered to the East and South by properties currently zoned DG and does not appear to be incompatible with those properties.

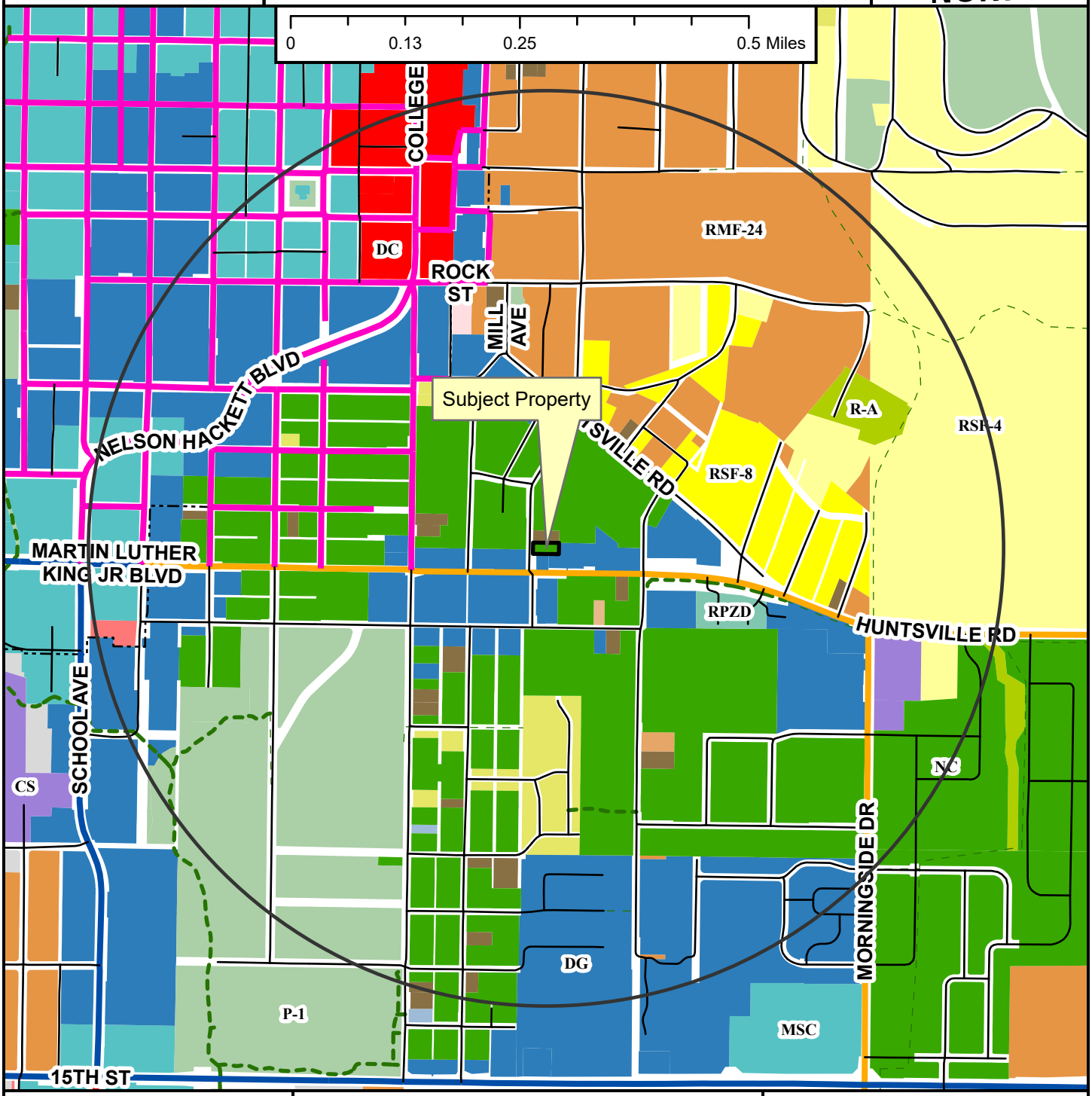
Legal Description: A part of the Southwest Quarter of the Southwest Quarter of Section 15 in Township 16 North of Range 30 West, described as follows: Beginning 473.5 feet West and 419.8 feet North of the Southeast corner of said forty acre tract, and running thence West 150 feet; thence North 65 feet; thence East 150 feet; thence South 65 feet to the place of beginning, situated in the City of Fayetteville, Washington County, Arkansas.

RZN-2023-0025

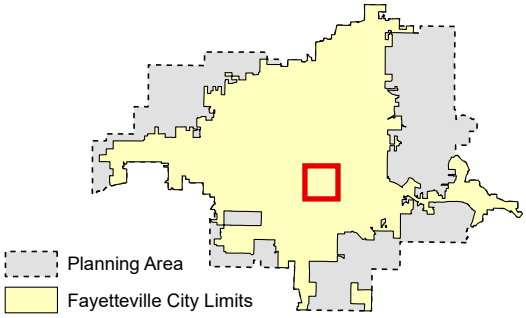
One Mile View

524 S. WILLOW AVE

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
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
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

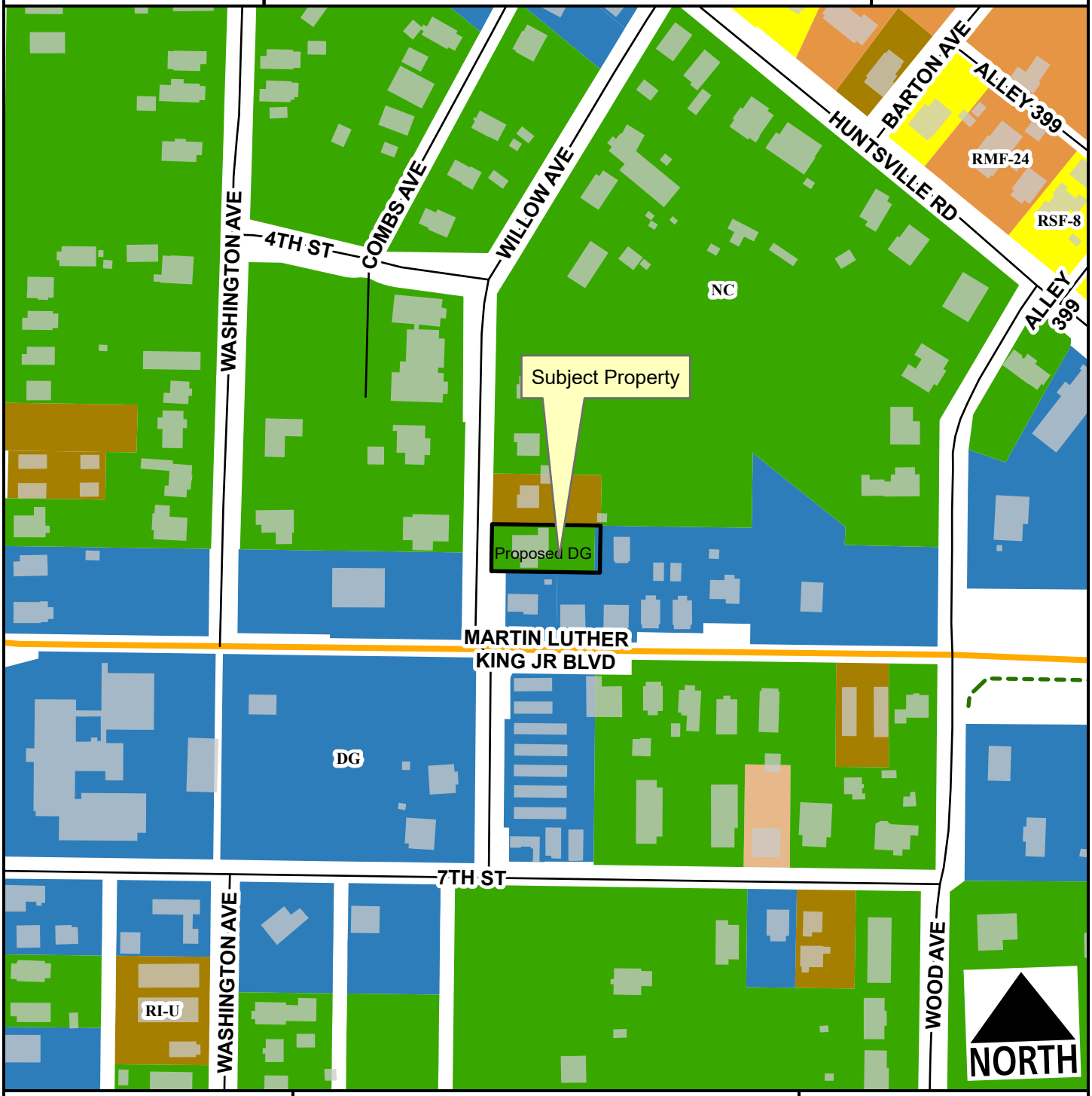
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

RZN-2023-0025

Close Up View

524 S. WILLOW AVE



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

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
DG	0.0	0.2
NC	0.2	0.0

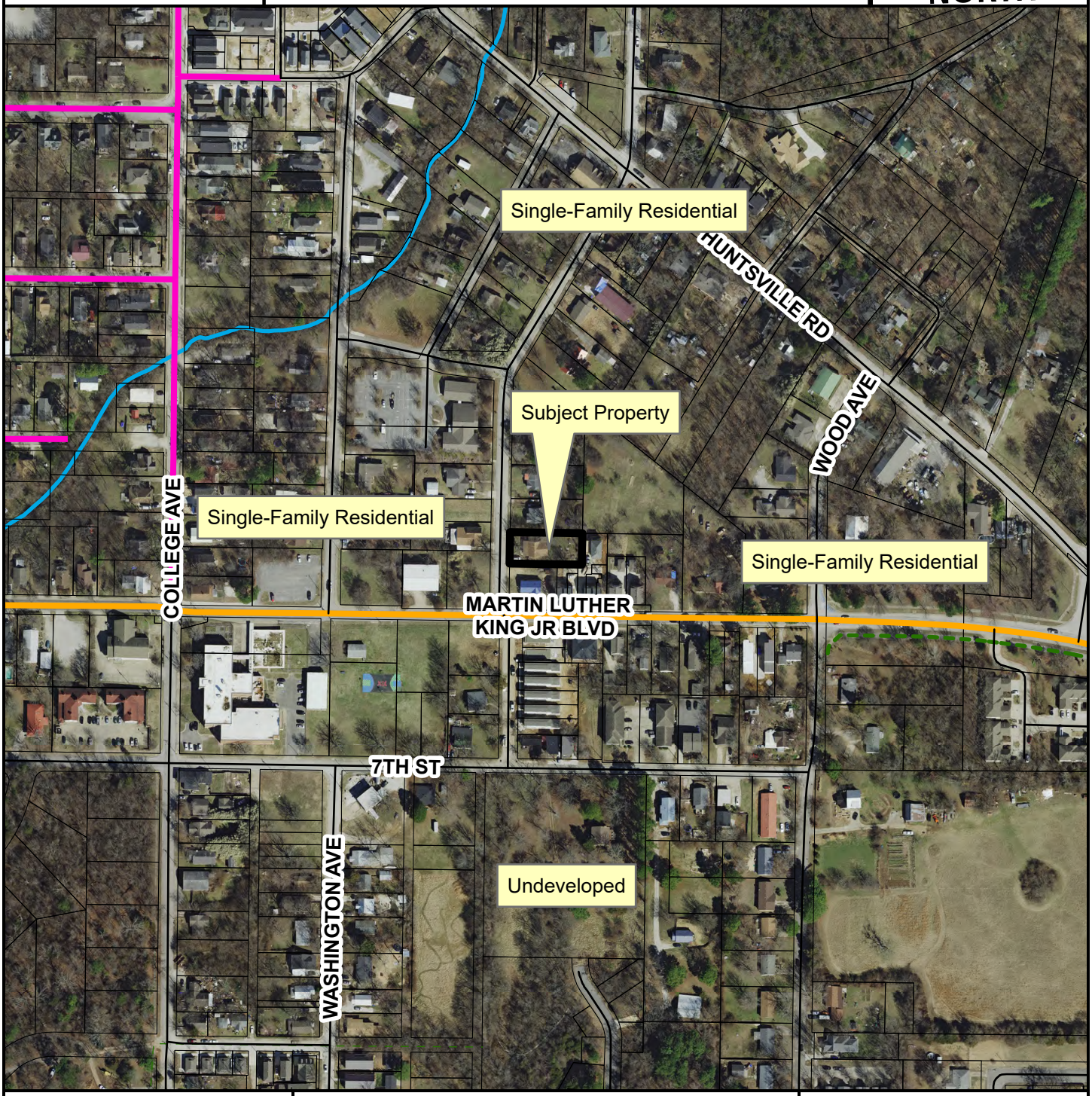
Total 0.2 ac

RZN-2023-0025

Current Land Use

524 S. WILLOW AVE

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

RZN-2023-0025

Future Land Use

524 S. WILLOW AVE

NORTH



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

Feet

0 145 290 580 870 1,160

1:4,800

City Neighborhood
Civic Institutional
Civic and Private Open Space
Industrial
Natural
Non-Municipal Government
Residential Neighborhood
Rural Residential
Urban Center

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0104: Conditional Use Permit (854 E. SPARROW CIR/VAN WINKLE, 603):** Submitted by GVM INVESTMENTS for property located at 854 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contain approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0104**, with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0104** with conditions, determining:*

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

BACKGROUND:
The subject property is in south Fayetteville southeast of the intersection of S. Morningside Dr. and E. 15th St. The property is zoned RSF-8, Residential Single-Family, Eight Units per Acre and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,990 square foot single-family structure that received certificate of occupancy in April 2023. 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	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
West	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0104,** with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. The number of occupants is limited to a maximum of eight 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. Any short-term rental guests shall park in either the garage or on-site driveway. No on-street parking shall be permitted.

PLANNING COMMISSION ACTION: Required YES

Date: September 25, 2023 ❒ **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-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. 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, Rl-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-8 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. As on street parking is not available adjacent to the property, staff recommends a condition be added limiting guests to eight.

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). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has four bedrooms, two parking spaces within an attached garage and two parking spaces within an associated driveway.

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

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

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

Finding: **The application is for use of the property at 854 E. Sparrow Cir. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of September 18, 2023, the City had issued 399 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 likely adequate parking infrastructure to support the use of the property as a short-term rental with a reduced guest count. The structure has four bedrooms and four parking spaces within an attached garage and driveway. Parking on E. Sparrow Circle is prohibited in order to maintain fire access. The street is wider in front of the subject parcel due a fire hydrant located on the west side of the street, and any vehicles parked in front of the property will likely be impeding access to the hydrant. Staff recommends conditions that guests be limited to eight and that no on-street parking shall be permitted. No zoning or code violations were found for this address.**

City records indicate five other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license; however, staff notes that this applicant has also requested conditional use approval for short-term rentals at 1006 E. Sparrow Cir. and 737 E. Egret Rd. If all three requests are approved, the total number of short-term rentals within ¼ mile would be eight. Within Creekside Meadows, if both 854 and 1006 E. Sparrow Circle are approved, the neighborhood would be

approximately 4% short-term rentals, which is double the previous city-wide cap of 2%. Staff finds that approving all three short-term rentals may be too high of a concentration for the area, but that approval of a lesser number may be compatible.

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

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

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

Finding: **The property has frontage along E. Sparrow Circle, an improved residential link street with sidewalk on both sides. The street widens in front of this property in order to provide adequate space around a fire hydrant on the west side of the street and is designated as a fire lane. With added conditions limiting guests count to eight and prohibiting parking within the fire lane, staff finds the proposal will not adversely affect traffic flows or fire access.**

(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 in an attached garage and associated 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, with the trash carts to be stored in the garage. 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 E. Sparrow Cir. are all detached single-family dwellings, Creekside Meadows has multiple commercial lots available along E. 15th St. Further, a significant amount of the adjoining area outside of the Creekside Meadows neighborhood is zoned to allow commercial/industrial uses or 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
- Building Floor Plan
- Building Elevations
- Site Plan
- Staff Exhibit: STRs Within ¼ Mile, Including Pending CUPs
- 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)

161.09 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

(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."

Conditional Use Permit

Request to apply for a conditional use permit, required to own and operate a single family residence for short term rental use.

(a) Building size in square feet; existing and proposed- 1699

(b) Color elevations of all exterior sides of the structure- Tan siding & red brick

(c) Number of off-street parking spaces to be provided / number required- 4

(d) Outdoor lighting- 2- Garage, 1 Front porch, 1 Back porch

(e) Noise- N/A

(f) Screening or buffering from adjacent properties- N/A

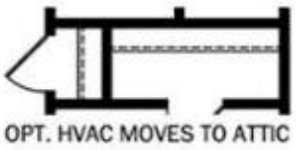
(g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)- Trash can kept inside garage

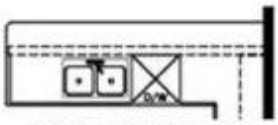
(h) Ingress and egress to the property; traffic impacts- Paved street

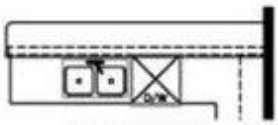
(i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood- Based on conversation with neighbors. Several are University students renting and have no concerns with short term rentals in the area



First Floor


OPT. HVAC MOVES TO ATTIC


OPT. FLUSH BAR TOP


OPT. BARTOP



OPT. DOUBLE BOWL SINK



OPT. SOAKER TUB & SHOWER



OPT. 60" SHOWER



OPT. SOAK TUB W/ SHWR HEAD




854



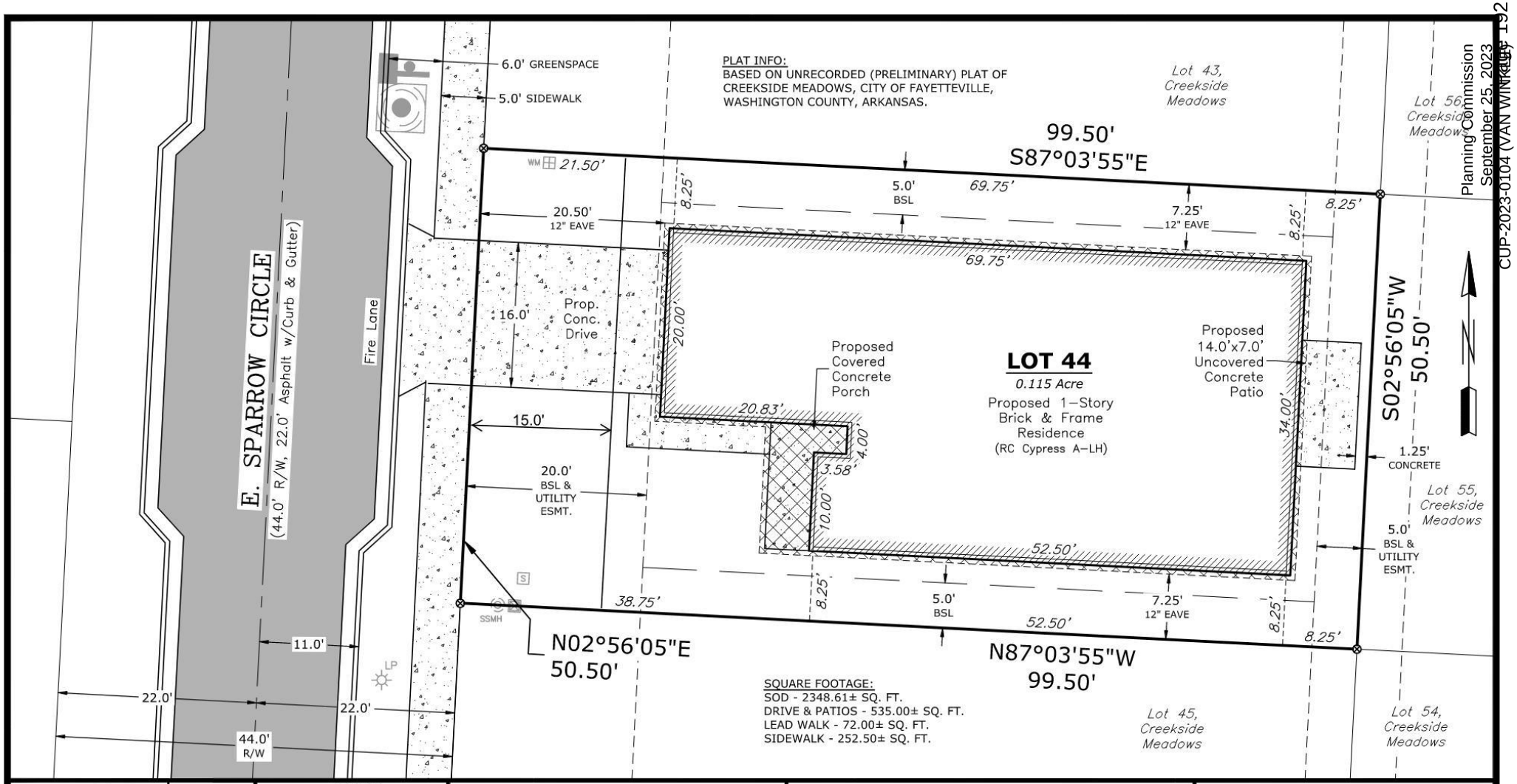




854 E Sparrow- County Parcel Map



01/04/2023



REVISIONS	DATE

10 0 10
Scale in Feet

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

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.

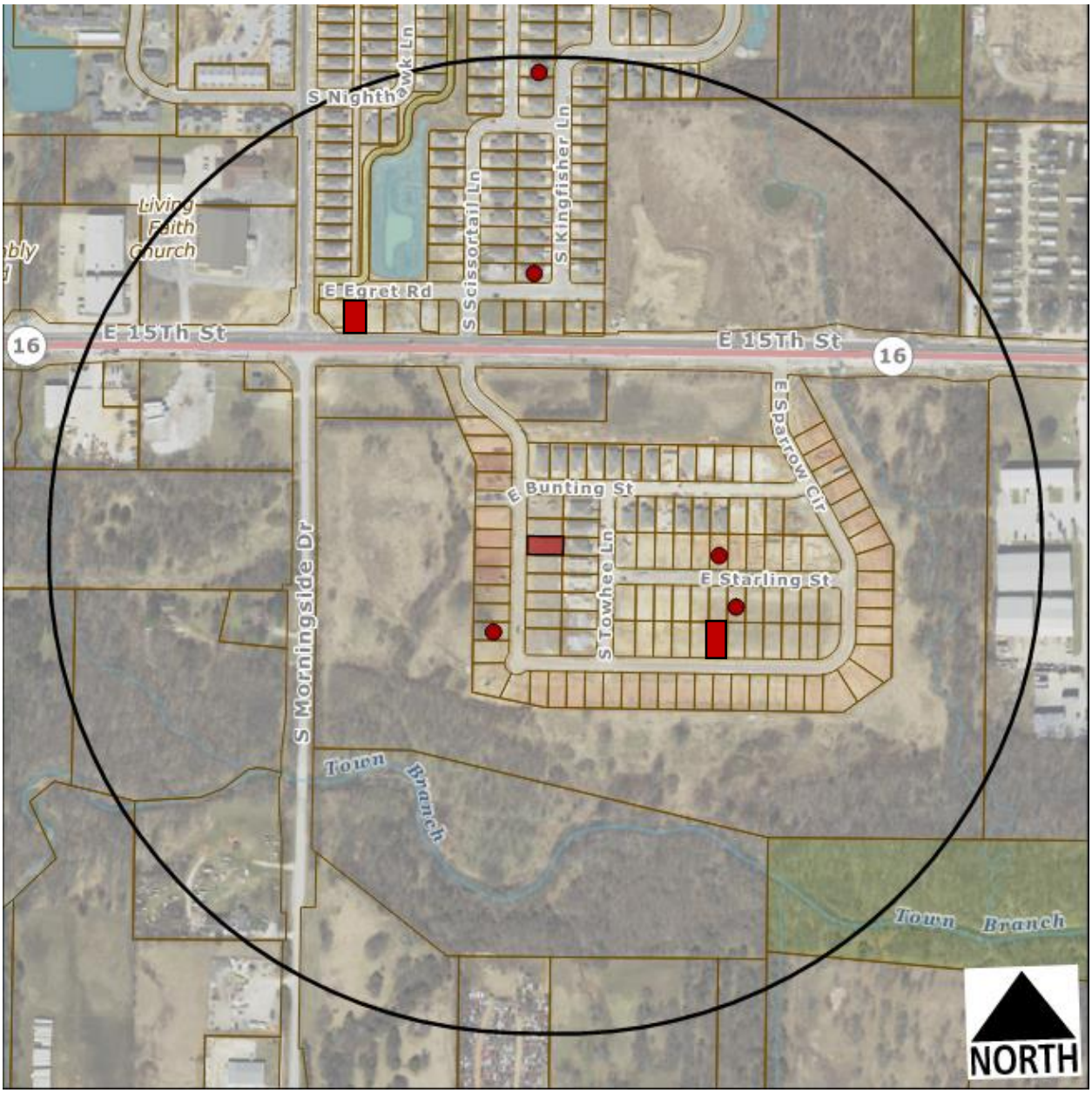
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
PLOT PLAN OF
LOT 44,
CREEKSIDE MEADOWS

DATE: 10-15-2021
JOB NO: 21-08-01
SCALE: 1"=10'

FOR USE BY:
Rausch Coleman Homes
PROPERTY ADDRESS:
854 East Sparrow Circle
Fayetteville, AR 72701

JAKE WORTHINGTON
Residential Plot Plans
P.O. Box 2021
Alma, AR 72921
(479)-226-6400
e-mail: zjakew@gmail.com

STAFF EXHIBIT: PENDING SHORT-TERM RENTAL REQUESTS



LEGEND

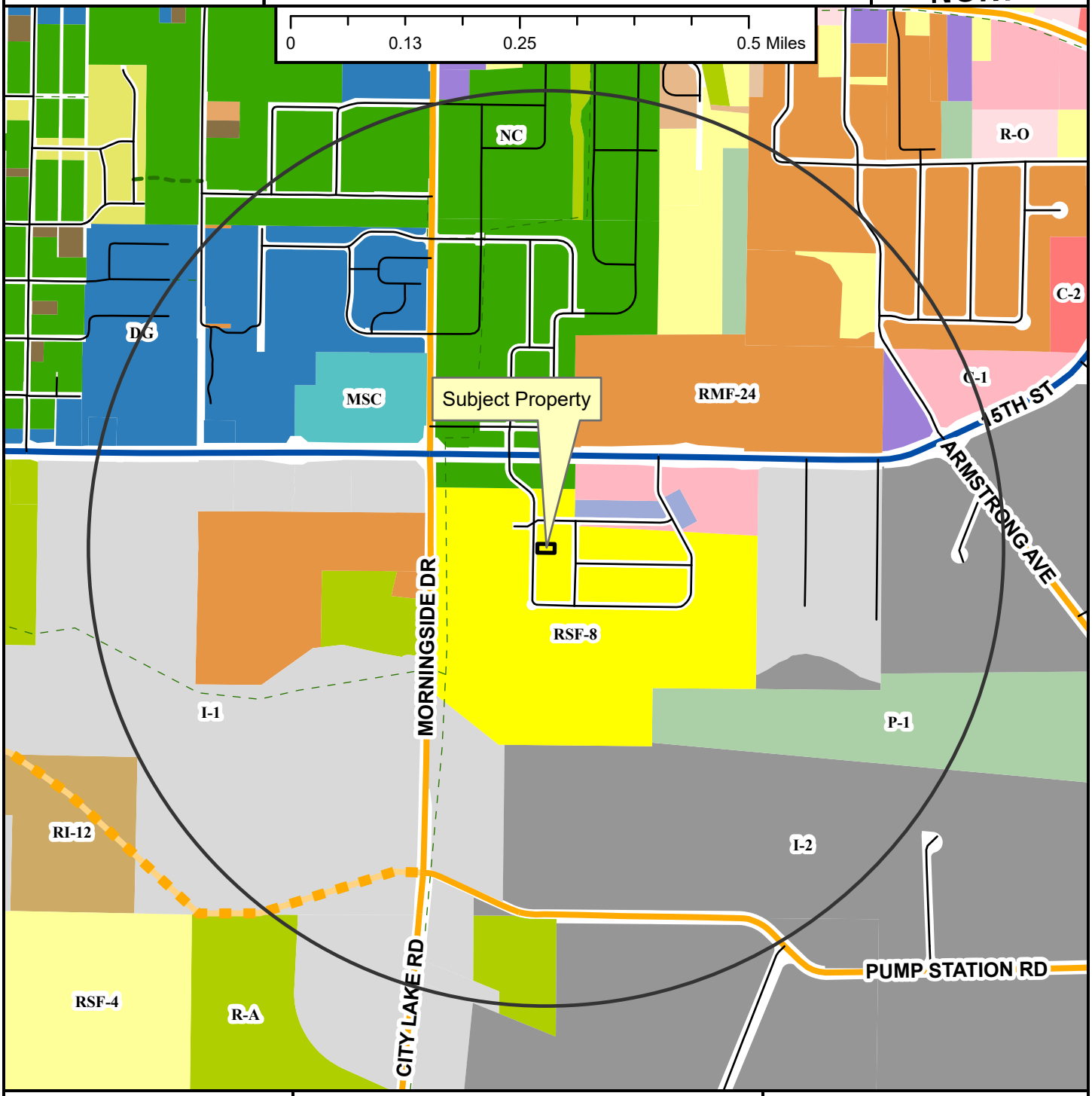
- STR Conditional Use Permits Requested 9/25 PC Meeting
- Approved Type 2 STRs

CUP-2023-0104

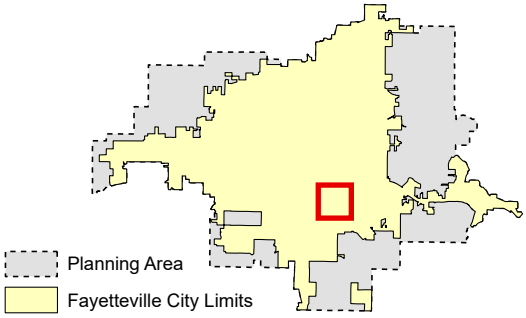
One Mile View

854 E. SPARROW CIR

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

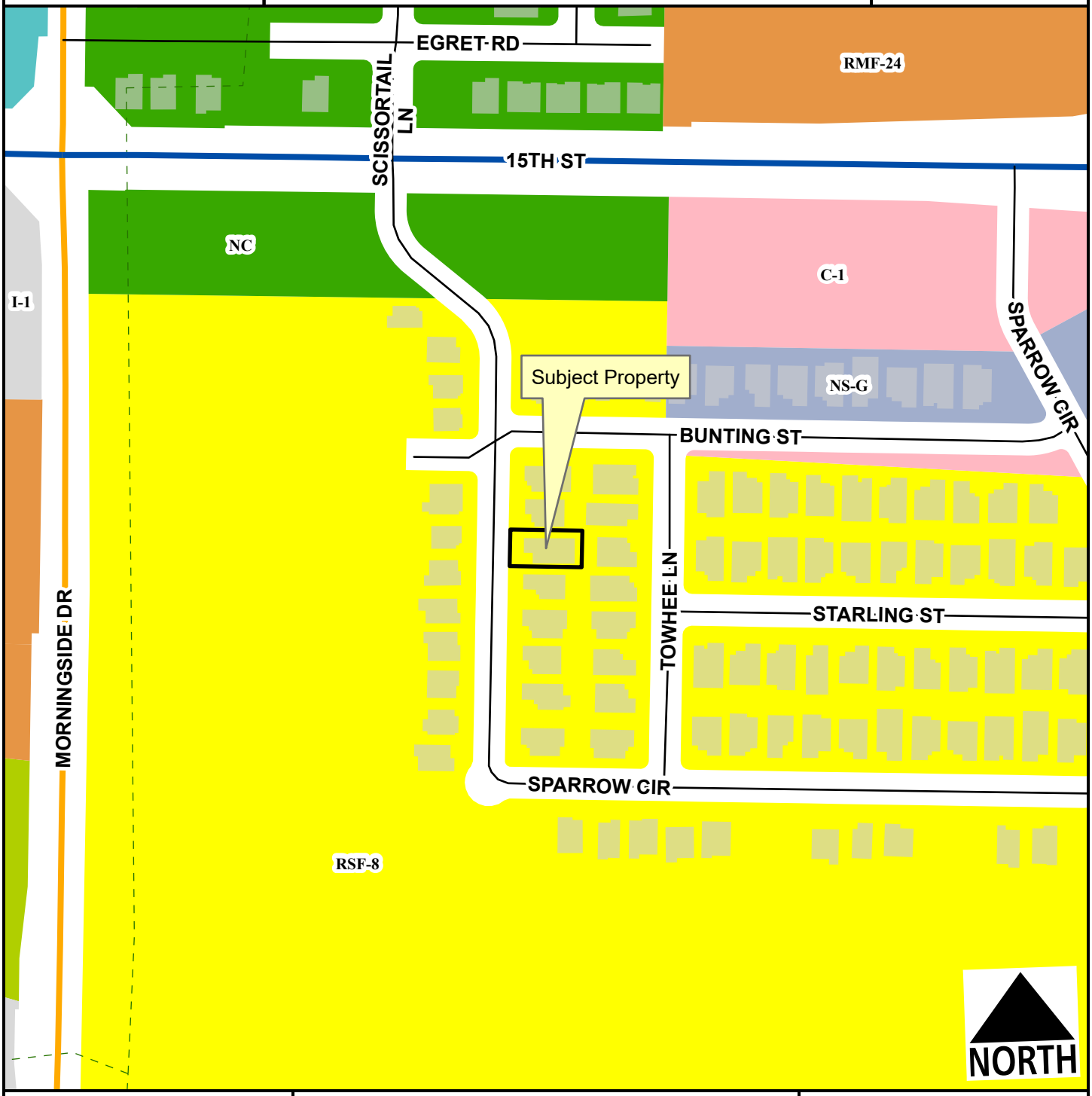
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0104

Close Up View

854 E. SPARROW CIR



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

Feet
0 75 150 300 450 600
1:2,400

Residential-Agricultural
RSF-8
RMF-24
I-1 Heavy Commercial and Light Industrial
C-1
Main Street Center
Neighborhood Services - Gen.
Neighborhood Conservation

CUP-2023-0104

Current Land Use

854 E. SPARROW CIR

NORTH



Neighborhood Link

Regional Link - High Activity

Residential Link

Trail (Proposed)

Planning Area

Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

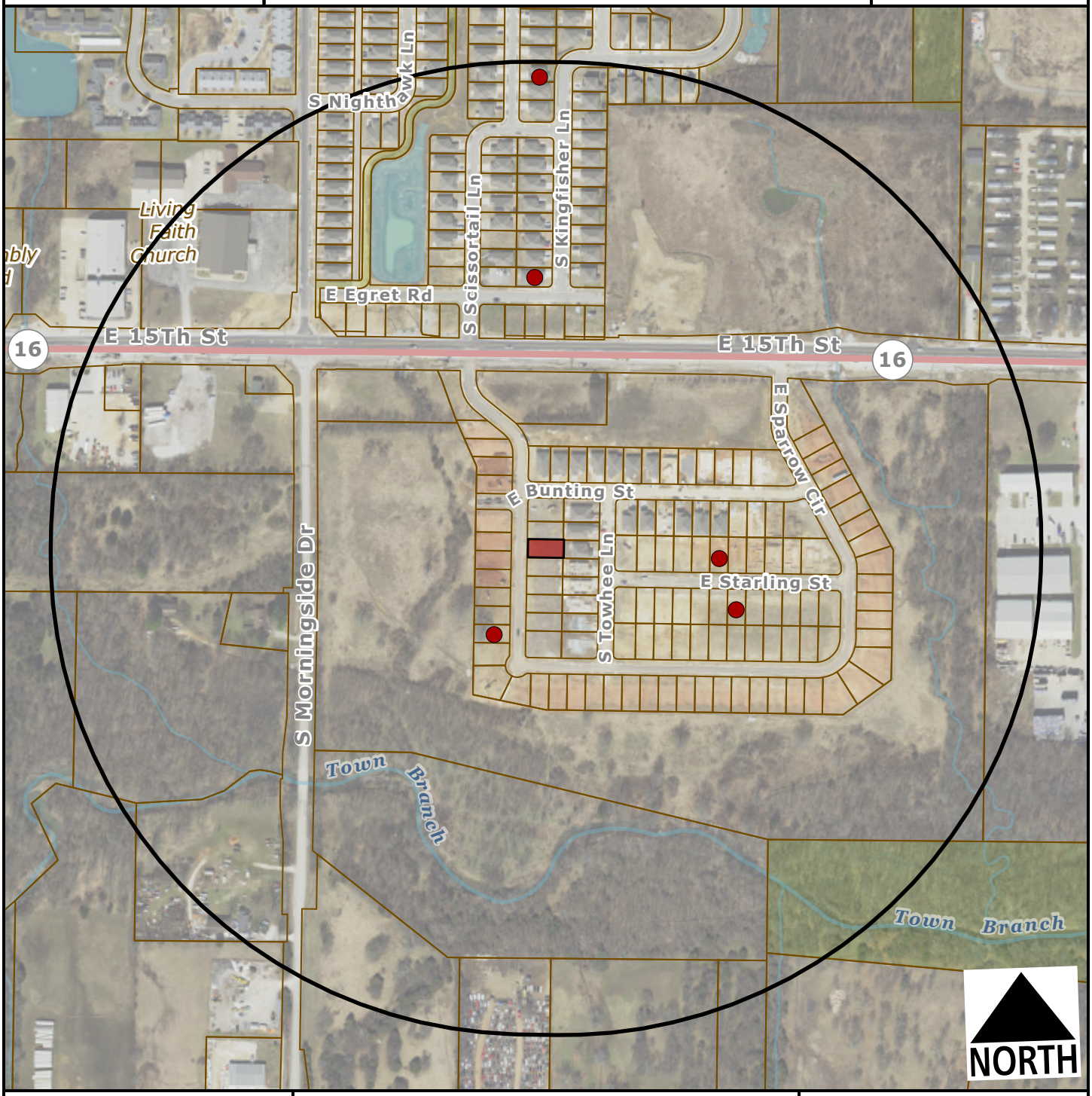
100-Year Floodplain

Floodway

CUP-2023-0104

STRs Within 1/4 Mile

854 E. SPARROW CIR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 5

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0105: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603):** Submitted by GREGORY VAN WINKLE for property located at 1006 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contain approximately 0.10 acres. The request is to use the residence as a short-tern rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0105**, with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0105** with conditions, determining:*

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

BACKGROUND:
The subject property is in south Fayetteville southeast of the intersection of S. Morningside Dr. and E. 15th St. The property is zoned RSF-8, Residential Single-Family, Eight Units per Acre and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,730 square foot single-family structure. 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	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
West	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0105,** with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. The number of occupants is limited to a maximum of eight 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. Any short-term rental guests shall park in either the garage or on-site driveway. No on-street parking shall be permitted.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ 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-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. 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 Short-Term Rental, Use Unit 46, in RSF-8 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. As on street parking is not available adjacent to the property, staff recommends a condition be added limiting guests to eight.

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). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has four bedrooms and four parking spaces within an attached garage and associated driveway.

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

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

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

Finding: **The application is for use of the property at 1006 E. Sparrow Cir. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of September 18, 2023, the City had issued 399 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 likely adequate parking infrastructure to support the use of the property as a short-term rental with a reduced guest count. The structure has four bedrooms and four parking spaces within an attached garage and driveway. Parking on E. Sparrow Circle is prohibited in order to maintain fire access. The street is wider in front of the subject parcel due a fire hydrant located on the west side of the street, and any vehicles parked in front of the property will likely be impeding access to the hydrant. Staff recommends conditions that guests be limited to eight and that no on-street parking shall be permitted. No zoning or code violations were found for this address.**

City records indicate four other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license; however, staff notes that this applicant has also requested conditional use approval for short-term rentals at 854 E. Sparrow Cir. and 737 E. Egret Rd. If all three requests are approved, the total number of short-term rentals within ¼ mile would be seven. Within Creekside Meadows, if both 854 and 1006 E.

Sparrow Circle are approved, the neighborhood would be approximately 4% short-term rentals, which is double the previous city-wide cap of 2%. Staff finds that approving all three short-term rentals may be too high of a concentration for the area, but that approval of a lesser number may be compatible.

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

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

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

Finding: **The property has frontage along E. Sparrow Circle, an improved residential link street with sidewalk on both sides. The street widens in front of this property in order to provide adequate space around a fire hydrant on the west side of the street and is designated as a fire lane. With added conditions limiting guests count to eight and prohibiting parking within the fire lane, staff finds the proposal will not adversely affect traffic flows or fire access.**

(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 in an attached garage and associated driveway (two each). 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, with the trash carts to be stored in the garage. 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 E. Sparrow Cir. are all detached single-family dwellings, Creekside Meadows has multiple commercial lots available along E. 15th St. Further, a significant amount of the adjoining area outside of the Creekside Meadows neighborhood is zoned to allow commercial/industrial uses or 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
- Building Floor Plan
- Staff Exhibit: STRs Within ¼ Mile, Including Pending CUPs
- 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)

161.09 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

(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)

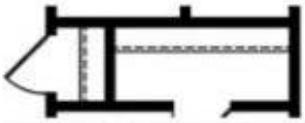
Editor's note(s)—Ord. No. 6625 , §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31,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

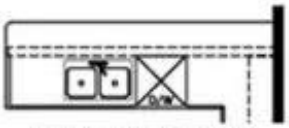
Conditional Use Permit

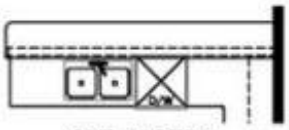
Request to apply for a conditional use permit, required to own and operate a single family residence for short term rental use.

(a) Building size in square feet; existing and proposed- 1699
(b) Color elevations of all exterior sides of the structure- Blue/gray siding & mixed brick
(c) Number of off-street parking spaces to be provided / number required- 4- 2 inside garage & 2 in driveway
(d) Outdoor lighting- 2- Garage, 1 Front porch, 1 Back porch
(e) Noise- N/A
(f) Screening or buffering from adjacent properties- N/A
(g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)- Trash can kept inside garage
(h) Ingress and egress to the property; traffic impacts- Paved street
(i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood- Based on conversation with neighbors. Several are University students renting and have no concerns with short term rentals in the area




OPT. HVAC MOVES TO ATTIC


OPT. FLUSH BAR TOP


OPT. BARTOP



OPT. DOUBLE BOWL SINK



OPT. SOAKER TUB & SHOWER



OPT. 60" SHOWER



OPT. SOAK TUB W/ SHWR HEAD

First Floor









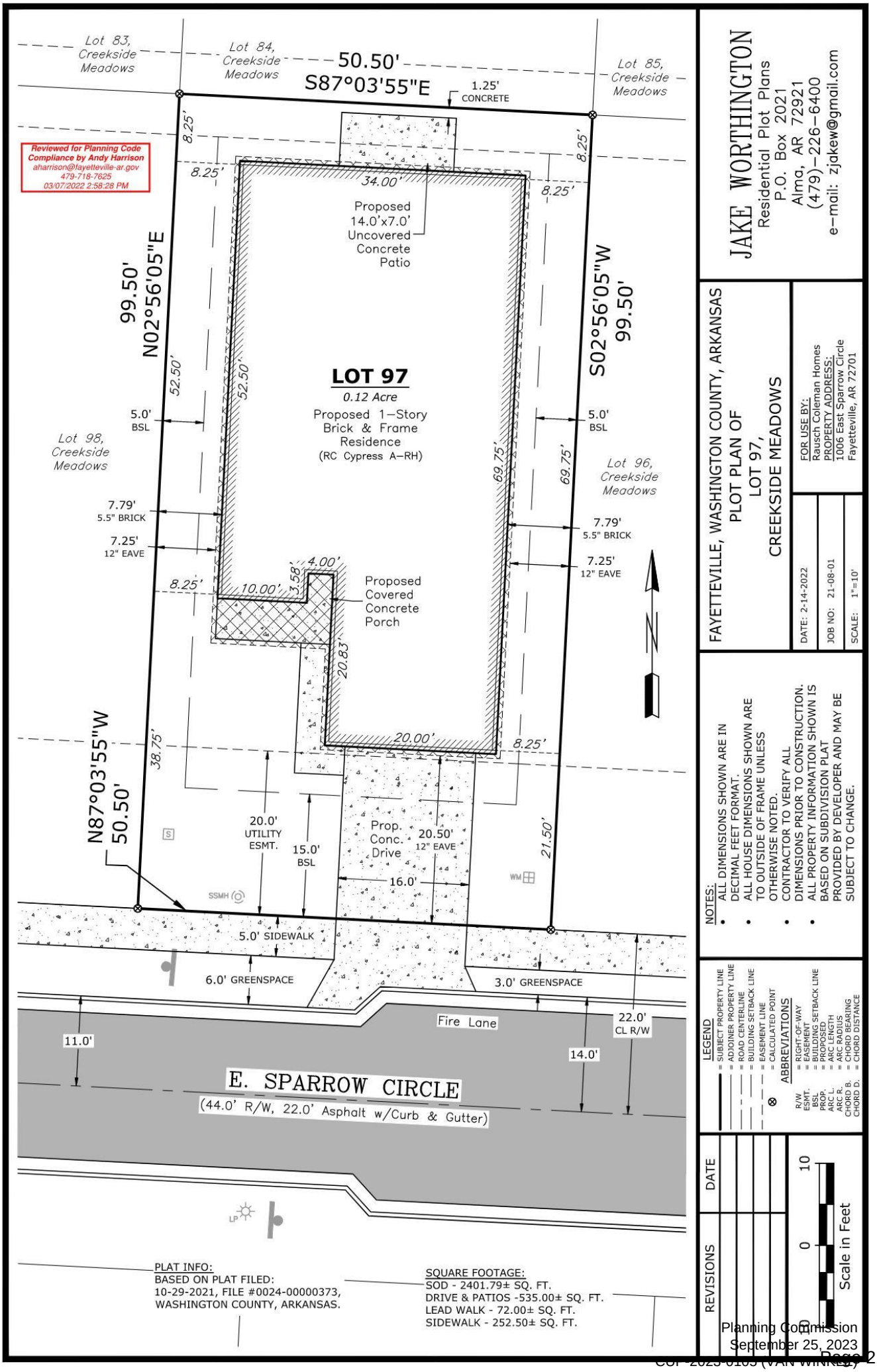






1006 E Sparrow- Ariel View





PLAT INFO:
BASED ON PLAT FILED:
10-29-2021, FILE #0024-00000373,
WASHINGTON COUNTY, ARKANSAS.

SQUARE FOOTAGE:
SOD - 2401.79± SQ. FT.
DRIVE & PATIOS -535.00± SQ. FT.
LEAD WALK - 72.00± SQ. FT.
SIDEWALK - 252.50± SQ. FT.

JAKE WORTHINGTON
Residential Plot Plans
P.O. Box 2021
Alma, AR 72921
(479)-226-6400
e-mail: zjakew@gmail.com

FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
PLOT PLAN OF
LOT 97,
CREEKSIDE MEADOWS

FOR USE BY:
Rausch Coleman Homes
PROPERTY ADDRESS:
1006 East Sparrow Circle
Fayetteville, AR 72701

DATE: 2-14-2022
JOB NO: 21-08-01
SCALE: 1"=10'

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.

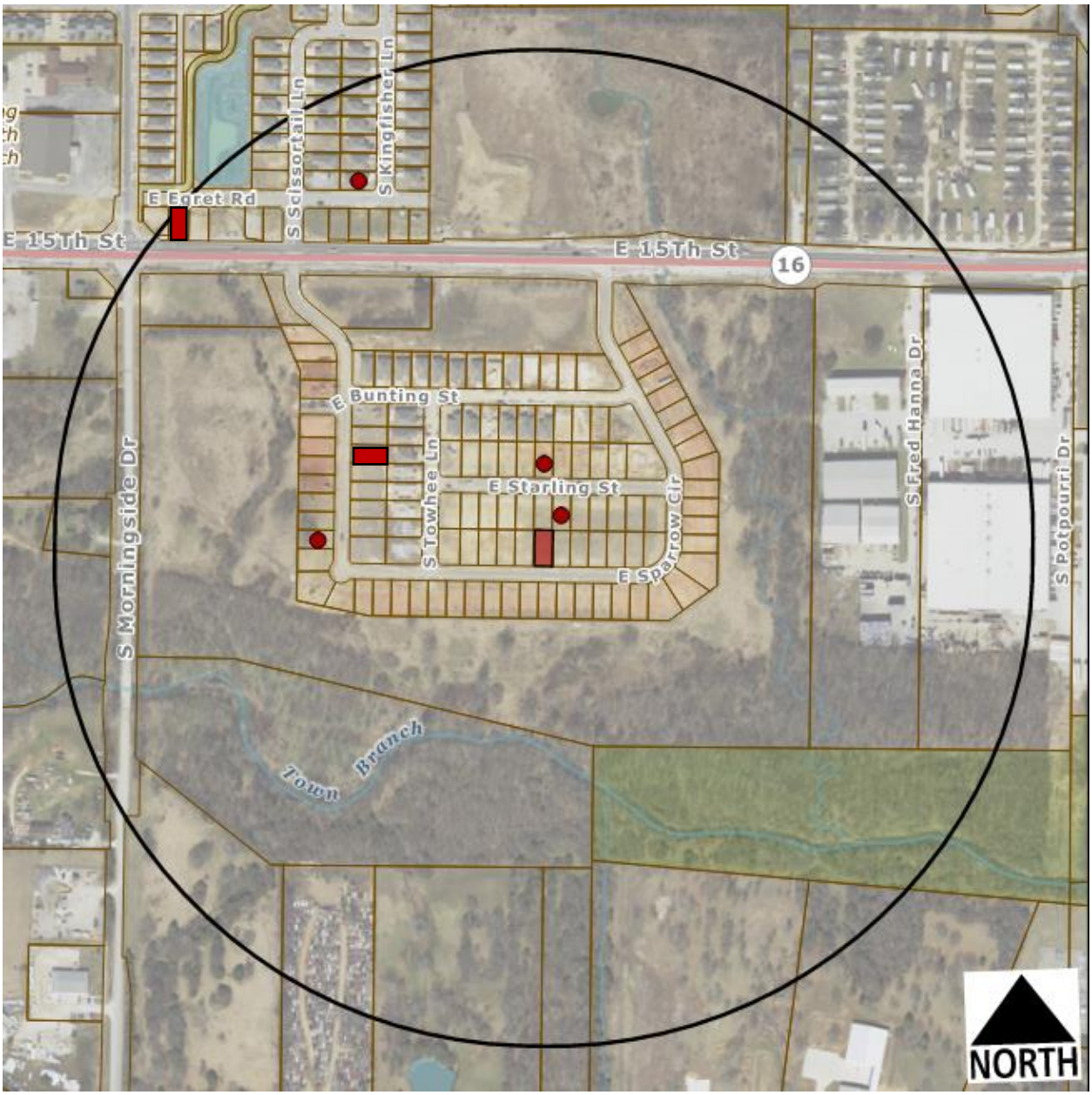
LEGEND
= SUBJECT PROPERTY LINE
= ADJOINER PROPERTY LINE
= ROAD CENTERLINE
= BUILDING SETBACK LINE
= EASEMENT LINE
= CALCULATED POINT

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

REVISIONS | DATE

Scale in Feet
10
0

STAFF EXHIBIT: PENDING SHORT-TERM RENTAL REQUESTS



LEGEND

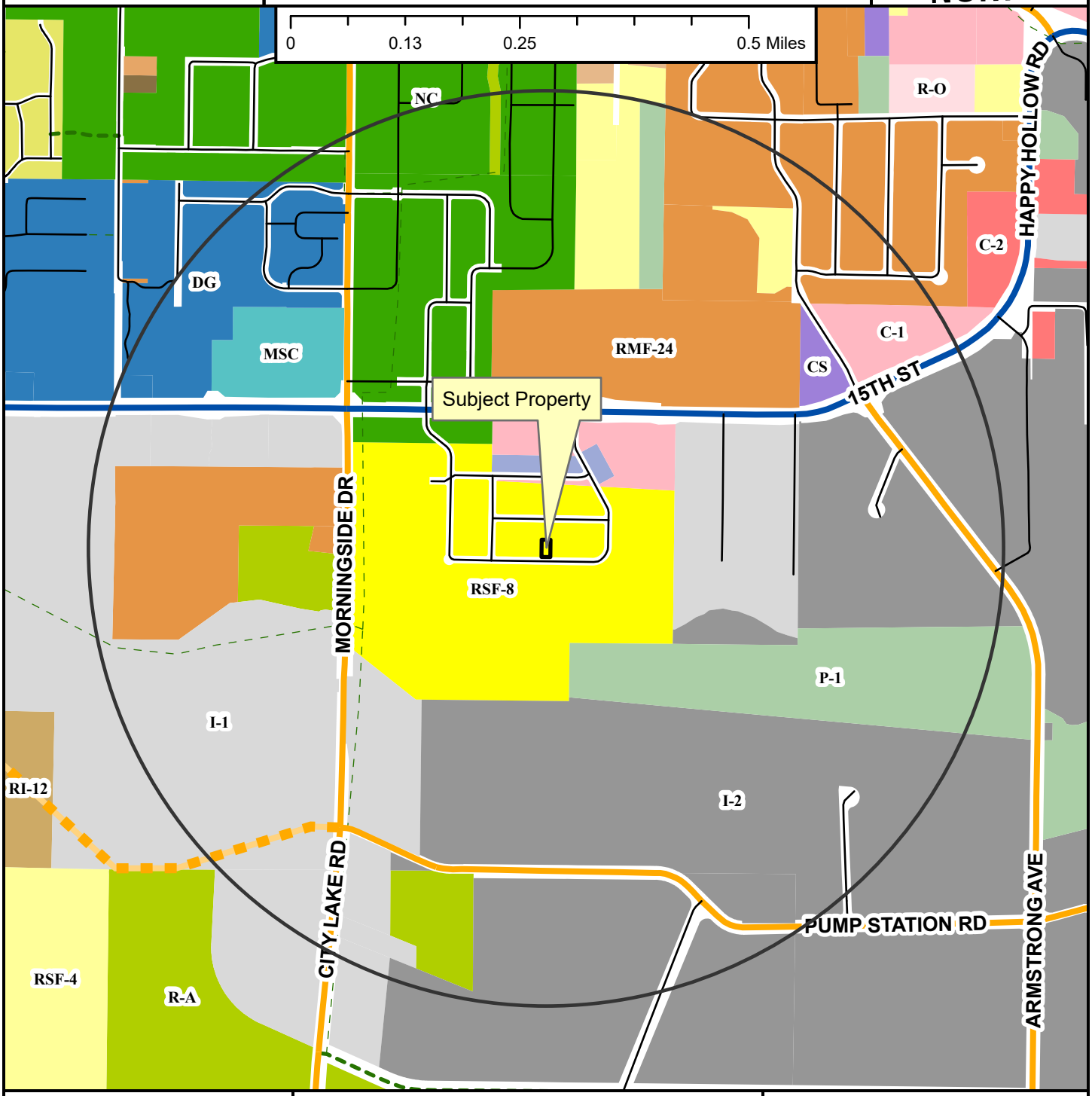
- STR Conditional Use Permits Requested 9/25 PC Meeting
- Approved Type 2 STRs

CUP-2023-0105

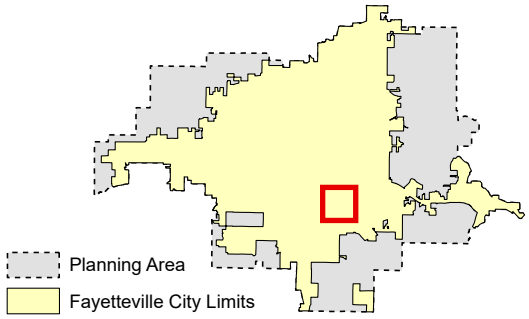
One Mile View

1006 E. SPARROW CIR

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

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
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

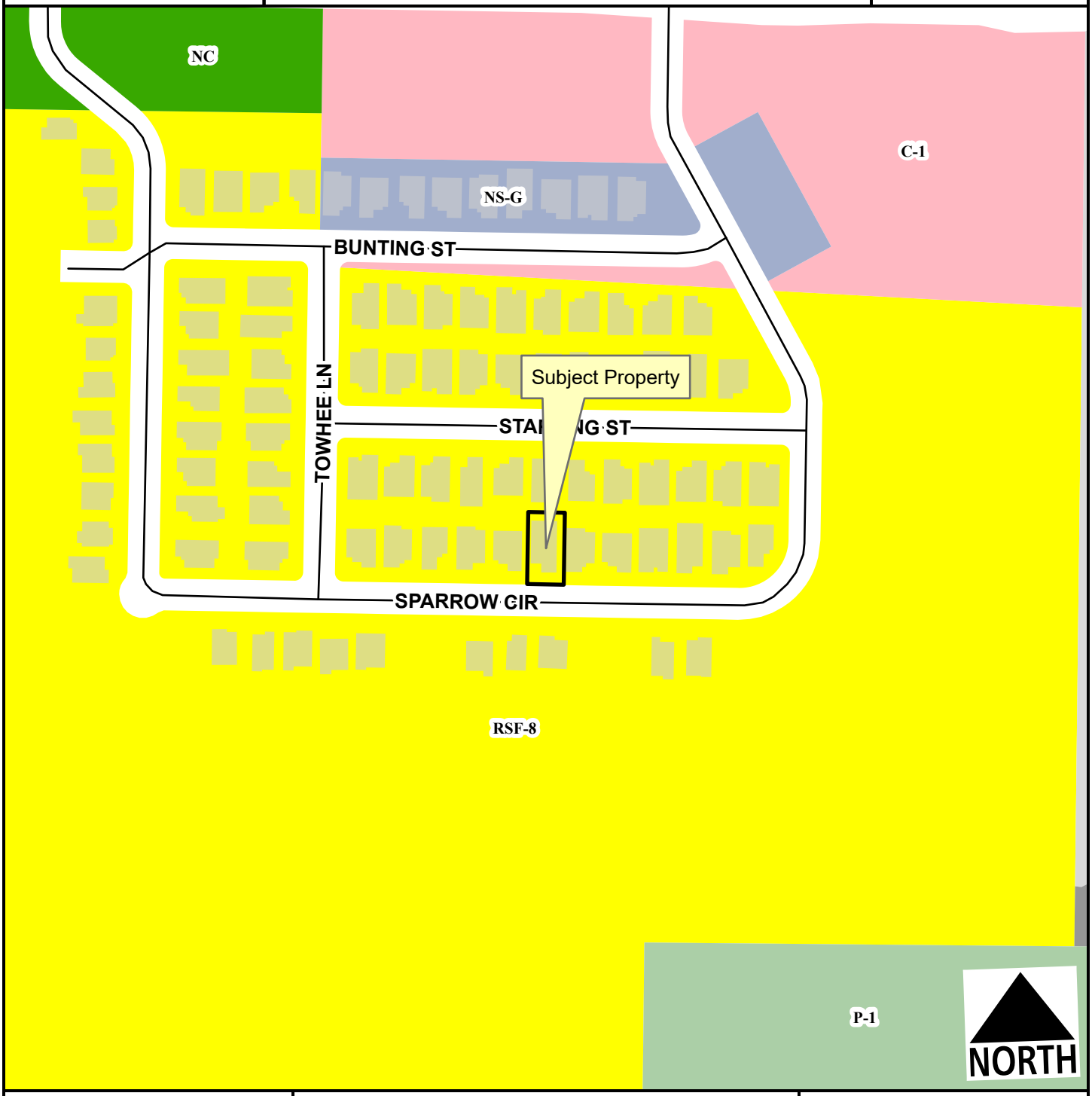
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0105

Close Up View

1006 E. SPARROW CIR



Residential Link
Planning Area
Fayetteville City Limits

Feet
0 75 150 300 450 600
1:2,400

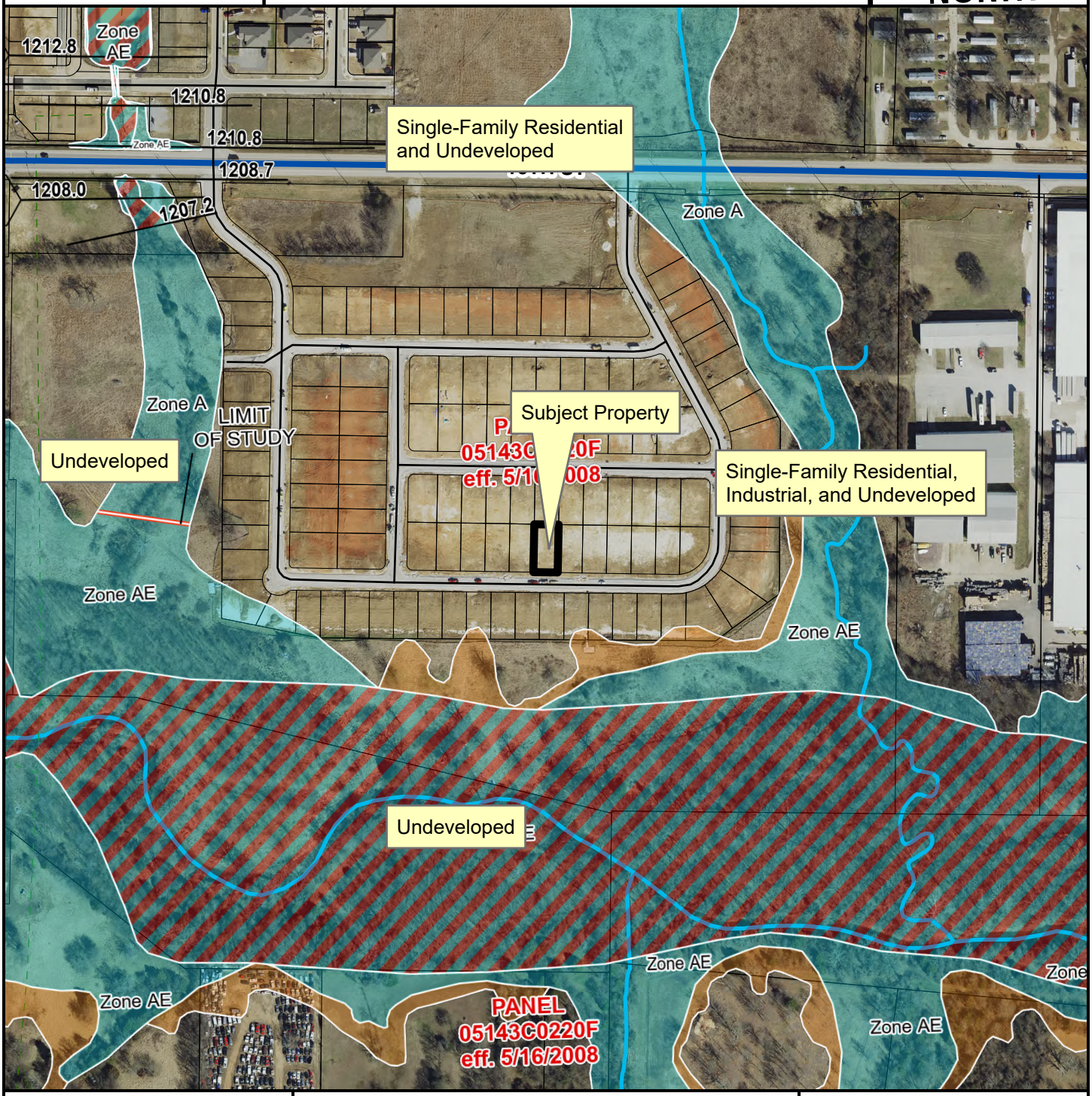
RSF-8
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial
C-1
Neighborhood Services - Gen.
Neighborhood Conservation
P-1

CUP-2023-0105

Current Land Use

1006 E. SPARROW CIR

NORTH



Regional Link - High Activity

Unclassified

Residential Link

Trail (Proposed)

Planning Area

Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

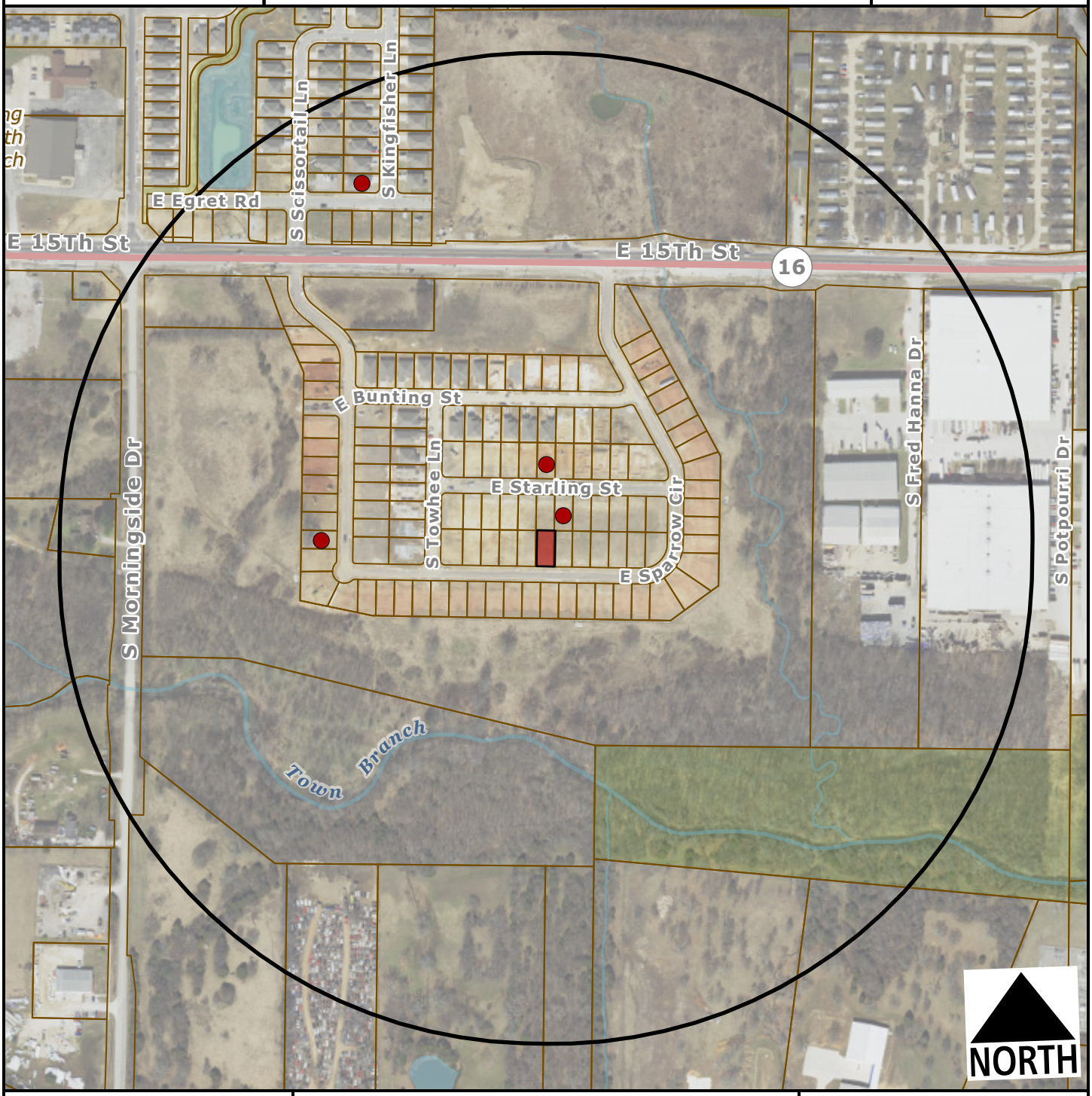
100-Year Floodplain

Floodway

CUP-2023-0105

STRs Within 1/4 Mile

1006 E. SPARROW CIR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 4

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0106: Conditional Use Permit (737 E. EGRET RD/VAN WINKLE, 603):** Submitted by GVW INVESTMENTS for property located at 737 E. EGRET RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.02 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0106**, with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0106** with conditions, determining:*

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

BACKGROUND:
The subject property is in south Fayetteville northeast of the intersection of S. Morningside Dr. and E. 15th St. The property is zoned NC, Neighborhood Conservation and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,783 square foot single-family structure. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	NC, Neighborhood Conservation
South	Undeveloped Driving Academy	NC, Neighborhood Conservation I-1, Heavy Commercial and Industrial
East	Single-family Residential	NC, Neighborhood Conservation
West	Single-family Residential Religious Facility	NC, Neighborhood Conservation MSC, Main Street Center

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0106,** with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.

3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ 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 NC zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. 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 Short-Term Rental, Use Unit 46, in NC 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 three bedrooms, occupancy will be limited to a maximum of eight guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has three bedrooms and four parking spaces; two spaces in an attached garage and two spaces in the driveway.

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

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

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

Finding: **The application is for use of the property at 737 E. Egret Rd. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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 18, 2023, the City had issued 399 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 likely adequate parking infrastructure to support the use of the property as a short-term rental. The structure has three bedrooms and four parking spaces within an attached garage and driveway. On-street parking is likely available on E. Egret Rd. No zoning or code violations were found for this address.**

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 with four being within the Park Meadows subdivision; however, staff notes that this applicant has also requested conditional use approval for short-term rentals at 854 and 1006 E. Sparrow Cir. If all three requests are approved, the total number of short-term rentals within ¼ mile would be ten. Staff finds that approving all three short-term rentals may be too high of a concentration for the area, but that approval of a lesser number may be compatible.

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

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

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

Finding: **The parcel is a double-frontage lot with access off of E. Egret Rd., an improved residential link street with sidewalk on both sides. The property is located at the intersection of E. Egret Rd. and a public alley. The property also fronts E. 15th St. Additionally, the eastern 11 feet of the parcel is designated as a trail easement, which would permit alternative forms of transportation once constructed. Staff finds the proposal will not likely 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 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 in an attached garage and associated 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, with the trash carts to be stored in the garage. 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 E. Egret Rd. are all detached single-family dwellings, a significant amount of the adjoining area outside of the Park Meadows neighborhood is zoned to allow commercial/industrial uses or multi-family dwellings by-right.**

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

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

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter
- Building Floor Plan
- Building Elevations
- Site Plan
- Staff Exhibit: STRs Within ¼ Mile, Including Pending CUPs
- 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)

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

All dwelling types	40 feet

(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations*.

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

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

Conditional Use Permit

Request to apply for a conditional use permit, required to own and operate a single family residence for short term rental use.

(a) Building size in square feet; existing and proposed- 1990

(b) Color elevations of all exterior sides of the structure- gray siding, shakes & brick

(c) Number of off-street parking spaces to be provided / number required- 4

(d) Outdoor lighting- 2- Garage, 1 Front porch, 1 Back porch

(e) Noise- N/A

(f) Screening or buffering from adjacent properties- N/A

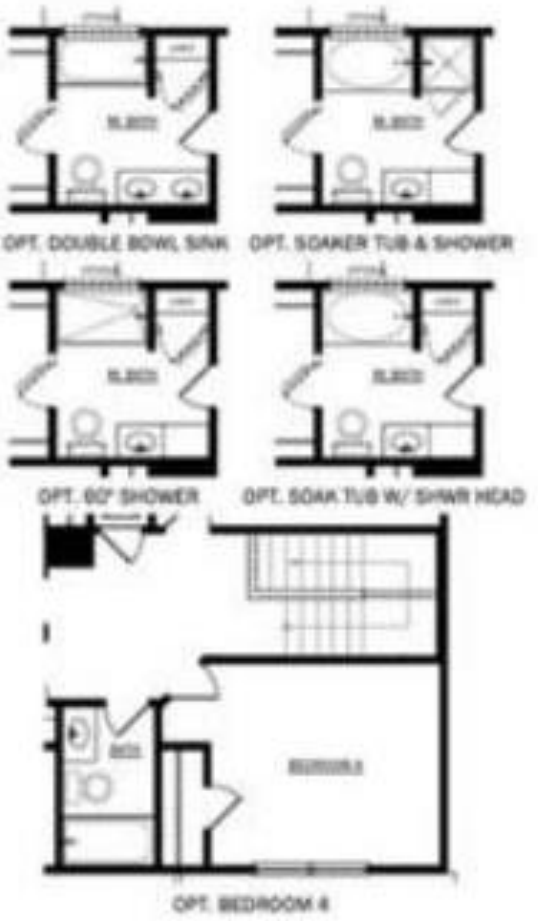
(g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)- Trash can kept inside garage

(h) Ingress and egress to the property; traffic impacts- Paved street

(i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood- Based on conversation with neighbors. Several are University students renting and have no concerns with short term rentals in the area

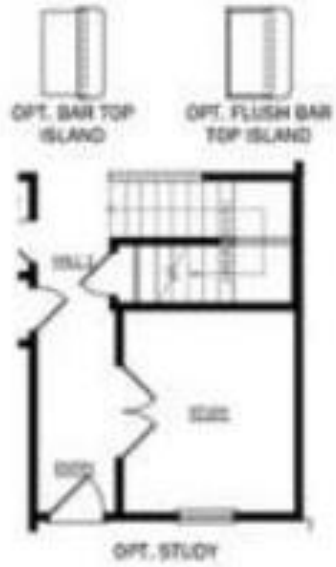


Second Floor





First Floor





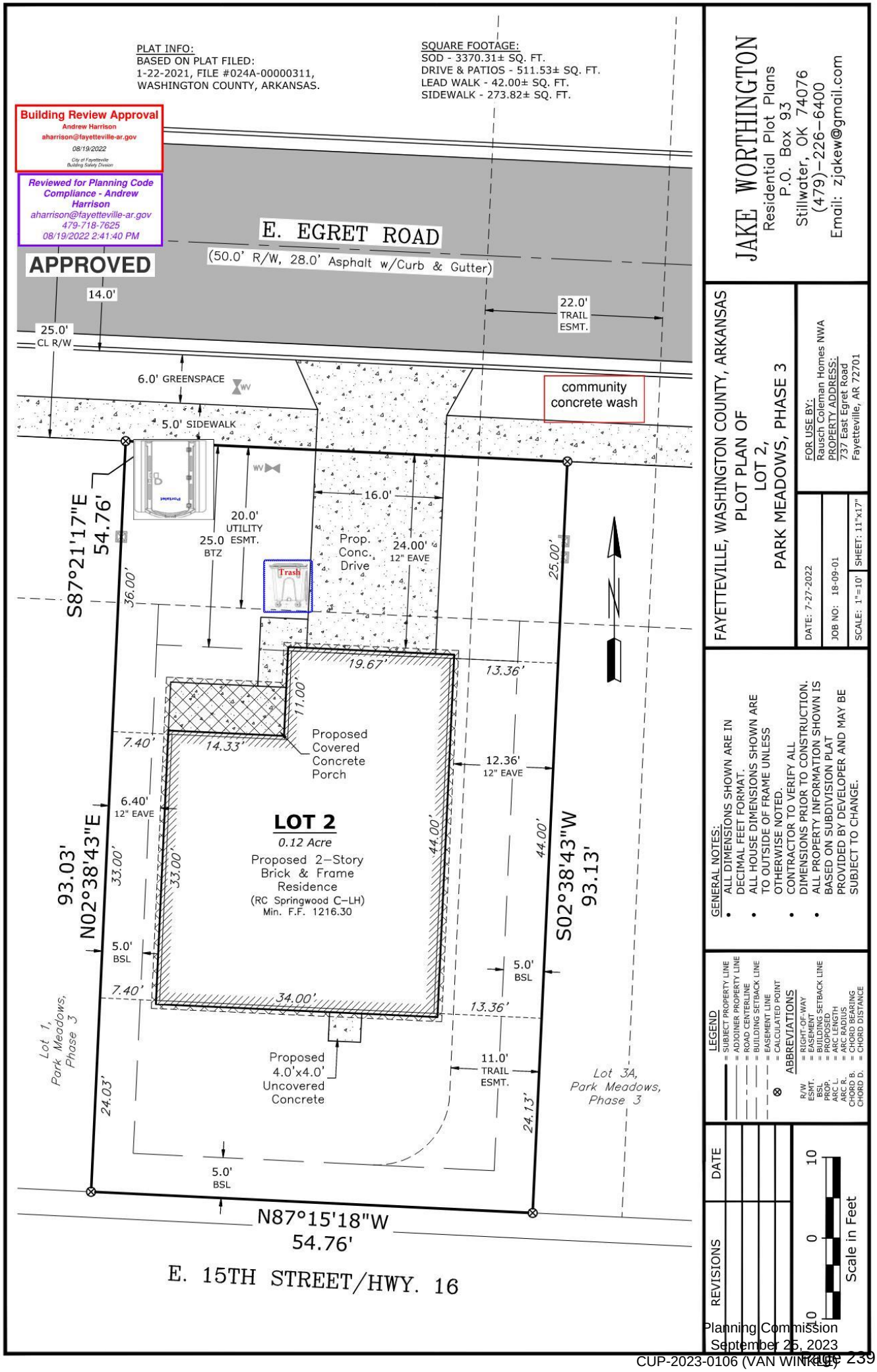




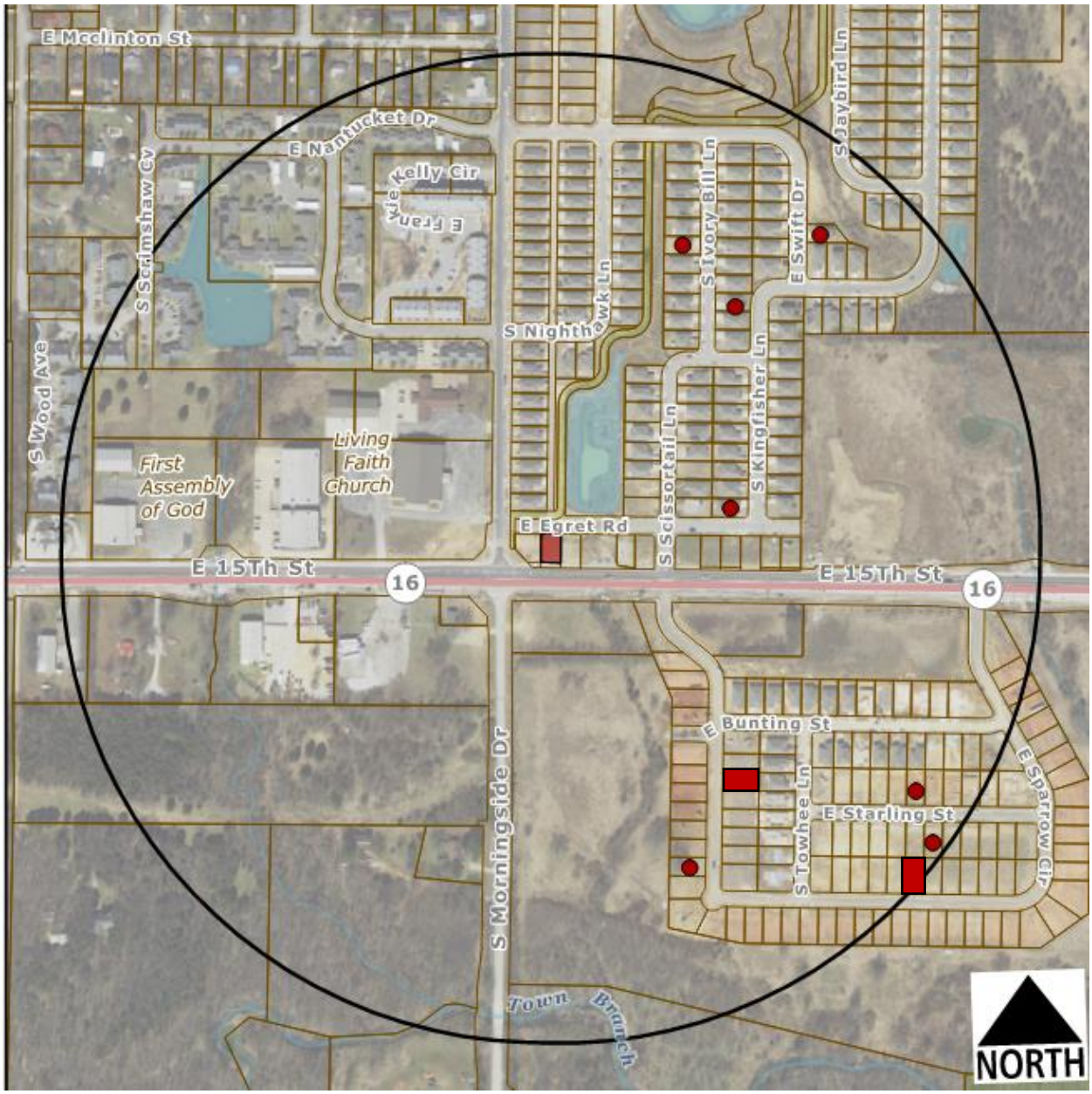



Driveway 32x17
Trash can kept
inside garage


715
759


PLAT INFO:
BASED ON PLAT FILED:
1-22-2021, FILE #024A-00000311,
WASHINGTON COUNTY, ARKANSAS.
SQUARE FOOTAGE:
SOD - 3370.31± SQ. FT.
DRIVE & PATIOS - 511.53± SQ. FT.
LEAD WALK - 42.00± SQ. FT.
SIDEWALK - 273.82± SQ. FT.
Building Review Approval
Andrew Harrison
aharrison@fayetteville-ar.gov
08/19/2022
City of Fayetteville
Building Safety Division
Reviewed for Planning Code Compliance - Andrew Harrison
aharrison@fayetteville-ar.gov
479-718-7625
08/19/2022 2:41:40 PM
APPROVED
E. EGRET ROAD
(50.0' R/W, 28.0' Asphalt w/Curb & Gutter)
14.0'
25.0'
CL R/W
22.0'
TRAIL
ESMT.
6.0' GREENSPACE
5.0' SIDEWALK
community
concrete wash
S87°21'17"E
54.76'
20.0'
UTILITY
ESMT.
25.0
BTZ
16.0'
Prop.
Conc.
Drive
24.00'
12" EAVE
Trash
36.00'
25.00'
19.67'
13.36'
11.00'
7.40'
14.33'
Proposed
Covered
Concrete
Porch
12.36'
12" EAVE
6.40'
12" EAVE
LOT 2
0.12 Acre
Proposed 2-Story
Brick & Frame
Residence
(RC Springwood C-LH)
Min. F.F. 1216.30
N02°38'43"E
93.03'
S02°38'43"W
93.13'
33.00'
33.00'
44.00'
44.00'
5.0'
BSL
5.0'
BSL
7.40'
34.00'
13.36'
Proposed
4.0'x4.0'
Uncovered
Concrete
11.0'
TRAIL
ESMT.
Lot 1,
Park Meadows,
Phase 3
Lot 3A,
Park Meadows,
Phase 3
24.03'
24.13'
5.0'
BSL
N87°15'18"W
54.76'
E. 15TH STREET/HWY. 16
JAKE WORTHINGTON
Residential Plot Plans
P.O. Box 93
Stillwater, OK 74076
(479)-226-6400
Email: zjakew@gmail.com
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
PLOT PLAN OF
LOT 2,
PARK MEADOWS, PHASE 3
FOR USE BY:
Rausch Coleman Homes NWA
PROPERTY ADDRESS:
737 East Egret Road
Fayetteville, AR 72701
DATE: 7-27-2022
JOB NO: 18-09-01
SCALE: 1"=10'
SHEET: 11"x17"
GENERAL 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.
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
REVISIONS
DATE
10
0
10
Scale in Feet

STAFF EXHIBIT: PENDING SHORT-TERM RENTAL REQUESTS



LEGEND

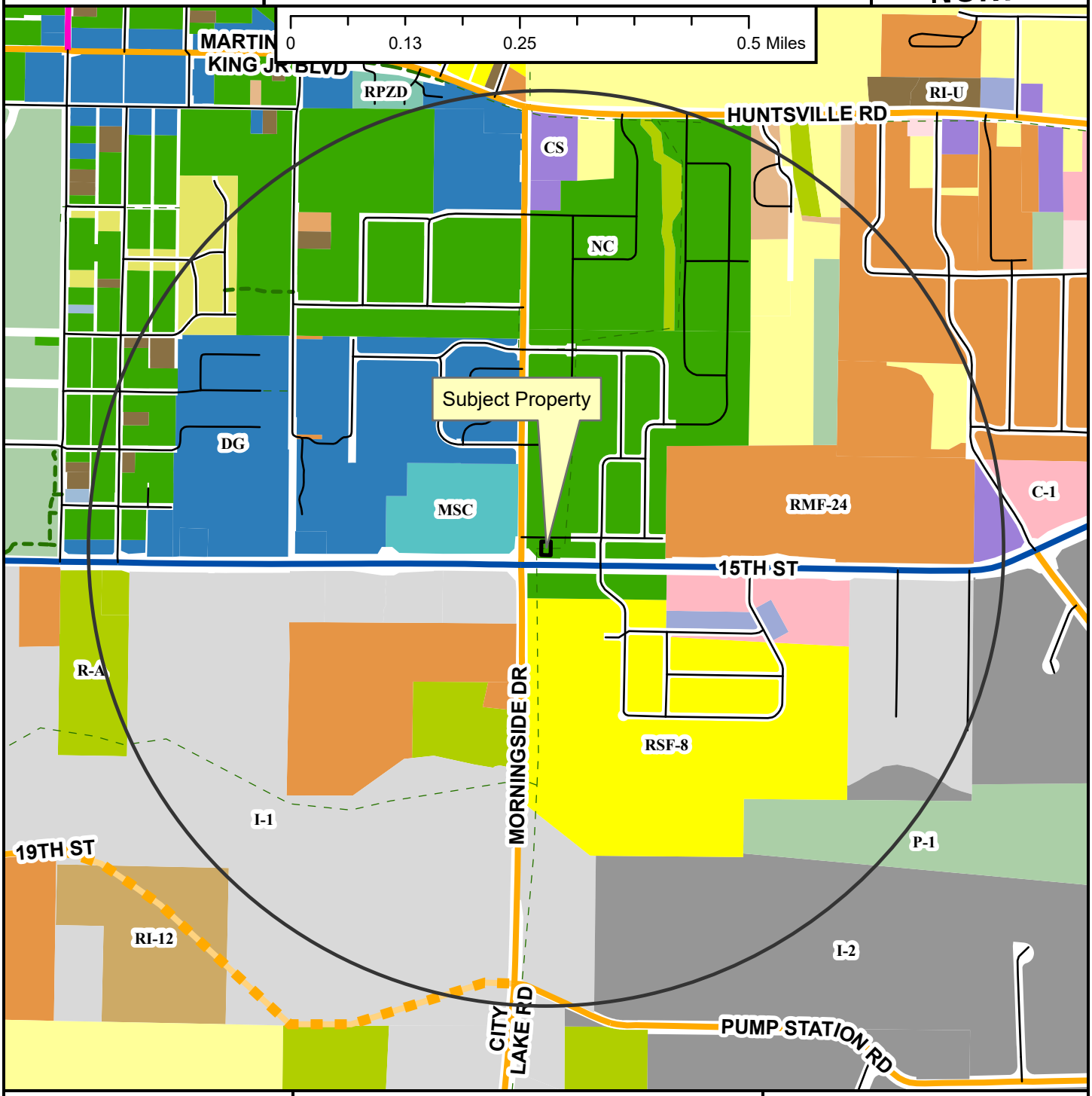
- STR Conditional Use Permits Requested 9/25 PC Meeting
- Approved Type 2 STRs

CUP-2023-0106

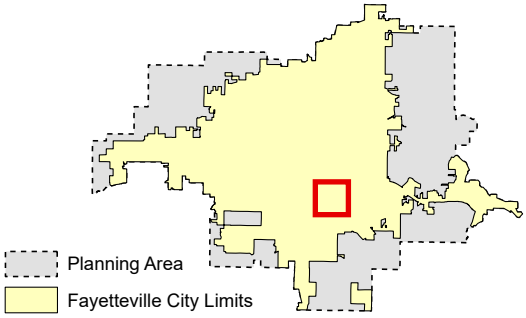
One Mile View

737 E. EGRET RD

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

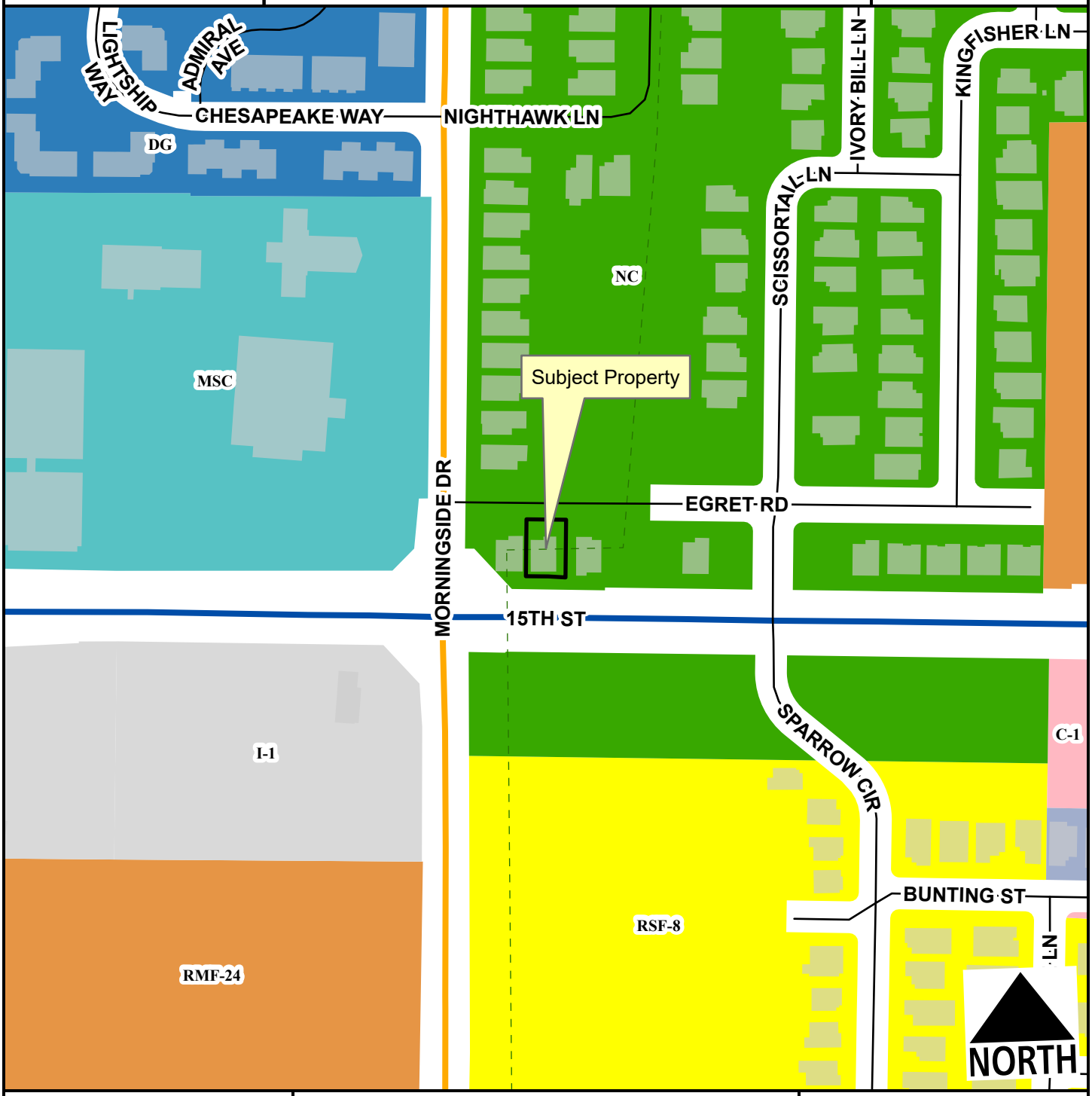
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0106

Close Up View

737 E. EGRET RD



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

Feet

0 75 150 300 450 600

1:2,400

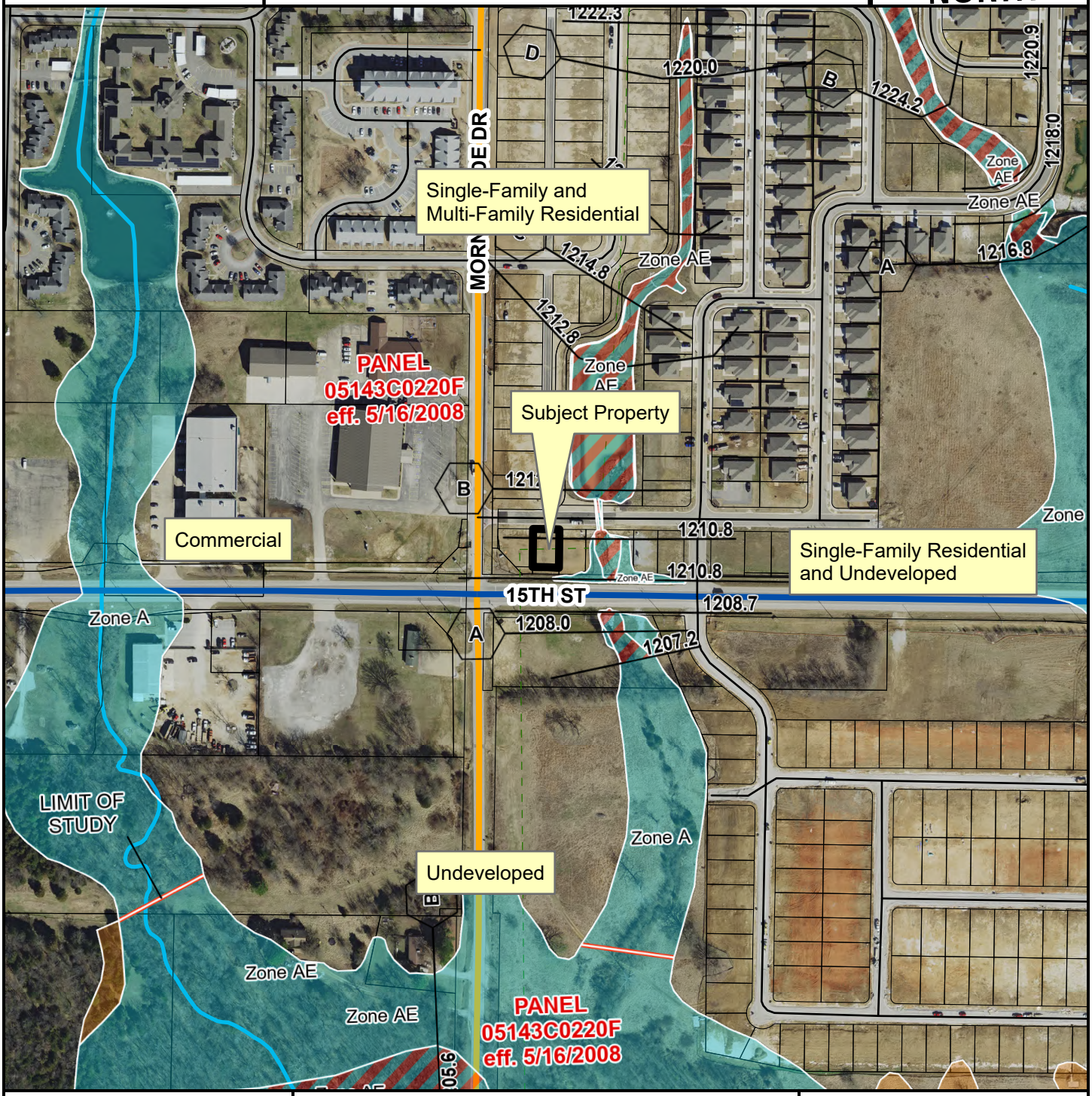
- RSF-8
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- C-1
- Main Street Center
- Downtown General
- Neighborhood Services - Gen.
- Neighborhood Conservation

CUP-2023-0106

Current Land Use

737 E. EGRET RD

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

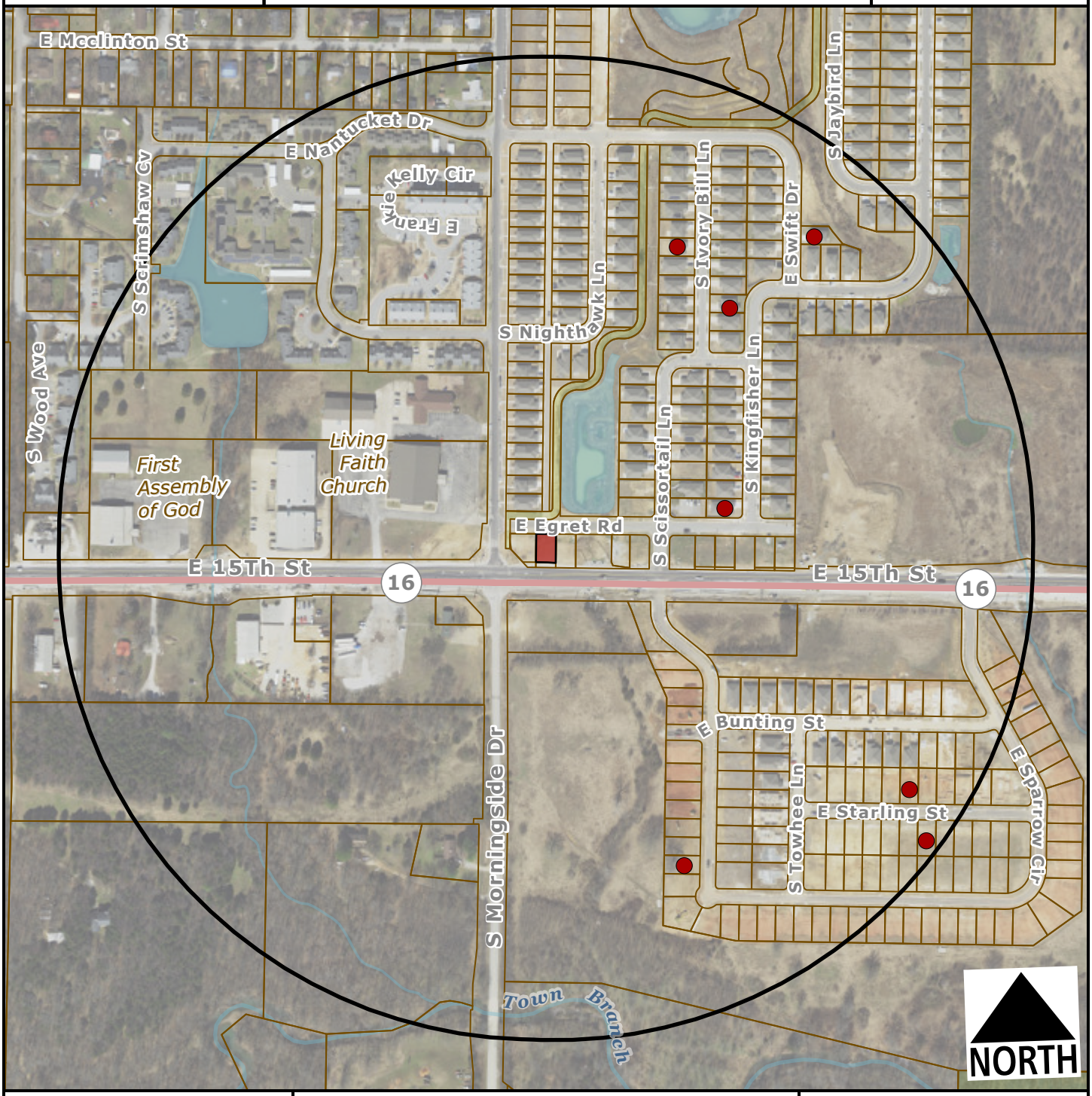
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0106

STRs Within 1/4 Mile

737 E. EGRET RD



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 7

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0110: Conditional Use Permit (1147 N. SUNSET DR./JURGENS, 404):** Submitted by HEIDI KILE for property located at 1147 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-2023-0110** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0110**, 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 central Fayetteville near the intersection of Wedington Drive and Sunset Drive. The property contains 0.30 acres and is developed with a 2,429-square-foot, four-bedroom, single-family dwelling which was built in 1961. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Uses and Zoning

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0110** 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**	**YES**	
Date: September 25, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

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

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

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

Finding: The 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. The applicant indicated in their submittal that there are two spaces available in an attached garage with additional room to accommodate parking in a driveway. Aerial imagery suggests that the driveway is large enough to accommodate parking for three to four additional vehicles. On-street parking appears to be available along Sunset Drive though there are posted signs prohibiting parking from 7:00 am until 5:00 pm.

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 applicant's request 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 1147 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.

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 18, 2023, the City had issued 399 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. Five to six off-street parking spaces will be available for guests on site and on-street parking is available, though limited, nearby. 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, and the Planning Commission recently approved a conditional use permit which would allow the unit across the street from this property to operate as one. One prior violation for construction debris in the front yard was reported and resolved in 2020, though no other zoning or code violations have been reported on the subject property since then.**

§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 Sunset Drive which is partially improved with sidewalk along the east side of the street 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: **Five to six off-street parking spaces are available in an existing driveway and attached garage. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

Finding: **The applicant proposes to utilize existing residential trash cart 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 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
  - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Building Floor Plans
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

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

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

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

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

CUP type 2 Request Letter

1) We are applying for a conditional use permit from the city of Fayetteville for a property we are renting 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 nightly rentals.
    a. The unit is 2429 square feet.
    b. The unit is a split level, so from the street, the left side of the house, including the garage and back unit are all one level, while the right half of the building as two floors.
    c. For the unit, there are two spaces in front of each garage door, and guest parking directly behind it
    d. The unit has 4 bedrooms and 3.5 baths, which we would expect to accommodate regularly up to 8 people per night. A cleaning service will be routinely brought in between stays and a lawn care company will be set up to upkeep with weekly maintenance.
    e. There are exterior lights by the front door, as well as for the deck in the back.
    f. The property should hopefully be able to hold single large families or small groups, but the noise level should still remain low. No pets will be allowed as part of the nightly rentals. There will be several televisions inside the rental for guest use.
    g. The back yard is fenced in so there will be no immediate access from the backyard to other properties.
    h. We have trash services set up at the location which will be coming weekly to remove refuse. We will be making sure trash is brought out weekly, while it will be up to the guests to bag all of their own trash and placed in the bins held outside.
    i. This unit at 1147 sunset drive will not add additional traffic, as the road is already utilized for residential and college traffic.
    j. The property appears to be compatible with the location. There is easy access to the highway via Wedington road which is only a few hundred feet away. There appears to be access to the razorback Greenway within half a mile as well as within walking distance to the Colleges many athletic stadiums.

Building Elevations

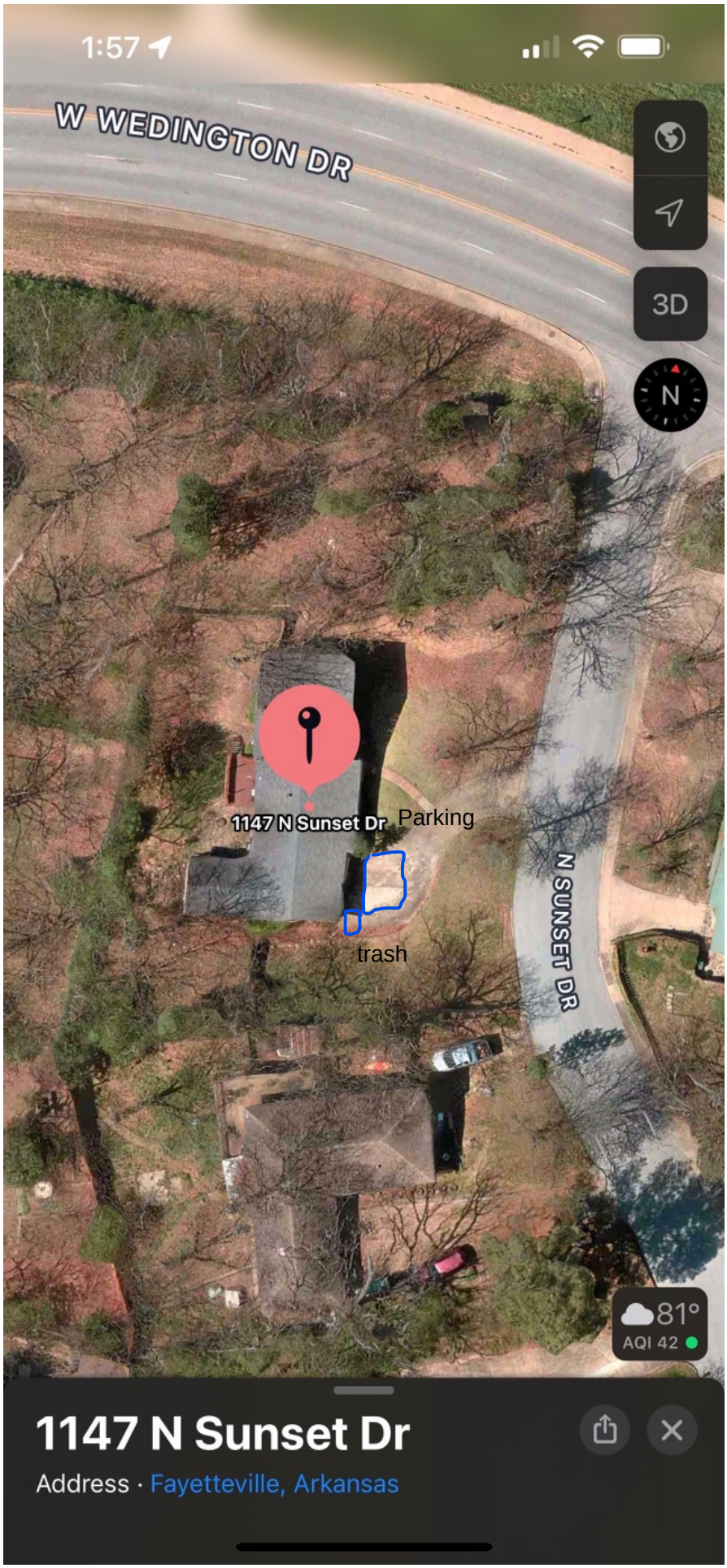




Building Elevations



down Stairs
Bath
Bedroom
Bedroom
2 car Garage
Left wing
Dining room
Living room
Kitchen
Front door
Closet
Up Stairs
Bath
Bed
Bed
M.I.L. Suite
Bath
Bed

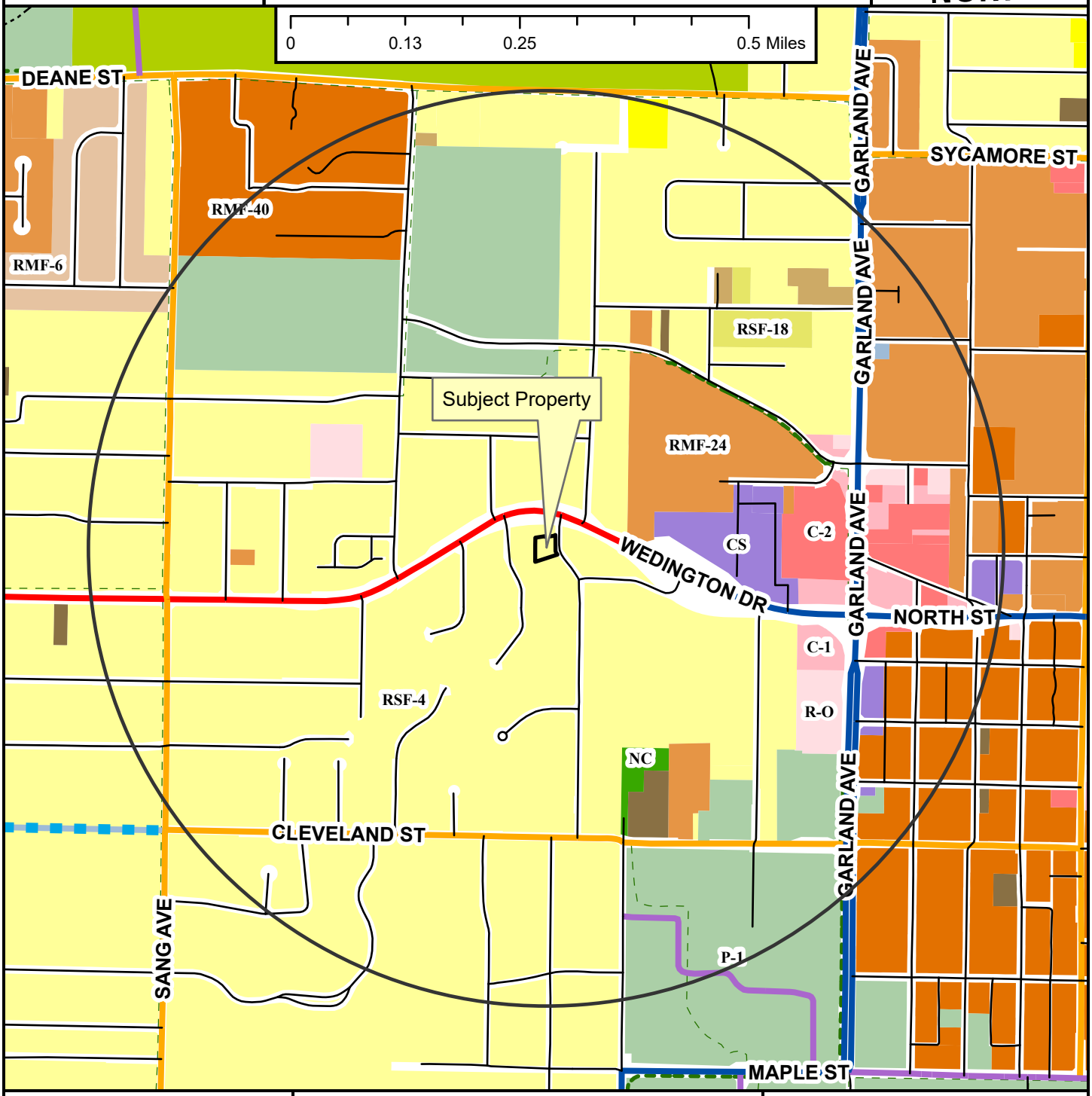

1:57
W WEDINGTON DR
3D
N
1147 N Sunset Dr
Parking
trash
N SUNSET DR
81°
AQI 42
1147 N Sunset Dr
Address · Fayetteville, Arkansas

CUP-2023-0110

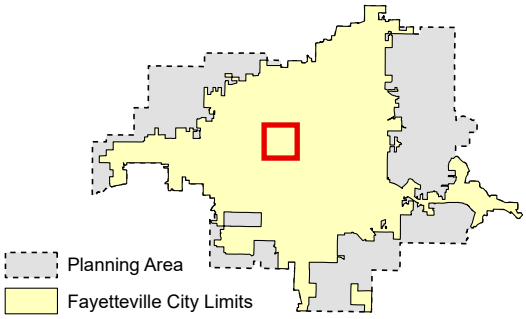
One Mile View

1147 N. SUNSET DR

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

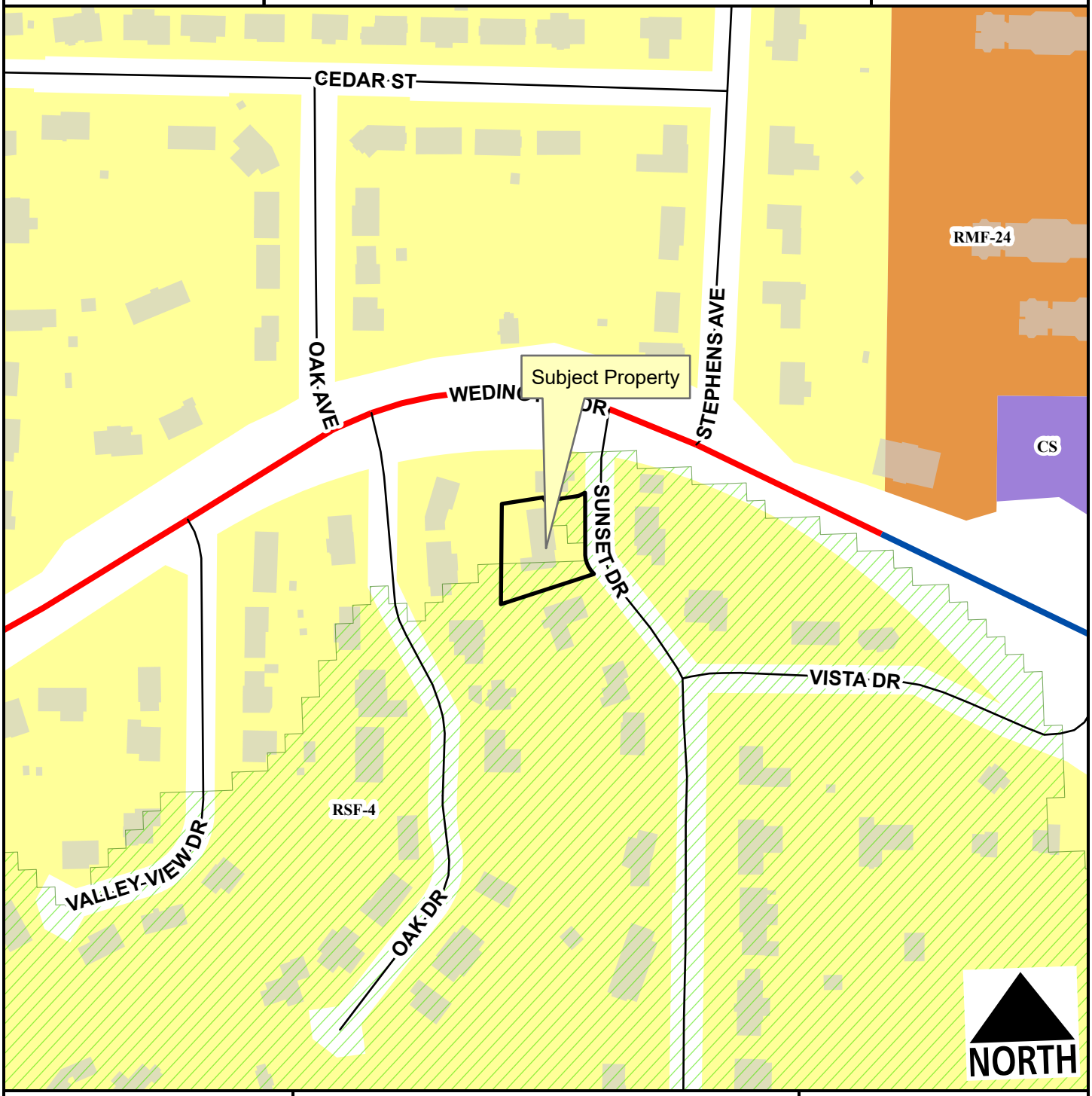
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0110

Close Up View

1147 N. SUNSET DR



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

Feet
0 75 150 300 450 600
1:2,400

RSF-4
RMF-24
Community Services

CUP-2023-0110

Current Land Use

1147 N. SUNSET DR

NORTH



- 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

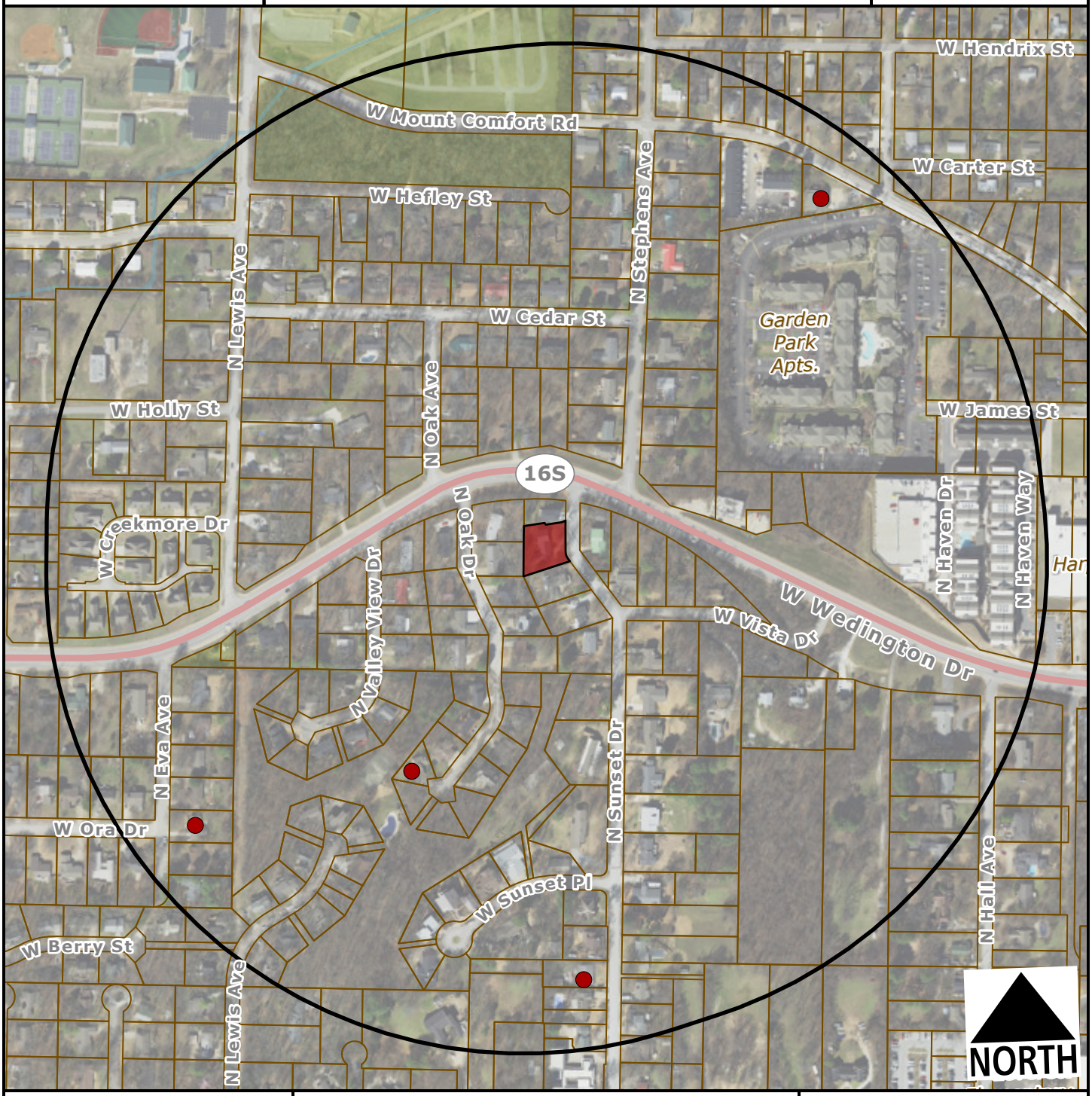
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0110

STRs Within 1/4 Mile

1147 N. SUNSET DR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 4

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0112: Conditional Use Permit (2714 N. WESTMINSTER DR./STEED, 284):** Submitted by JAIME STEED for property located at 2714 N. WESTMINSTER DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.13 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0112**, with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0112** 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 northwest Fayetteville west of N. Salem Rd. in the Salem Village S. The property is zoned RSF-4, Residential Single Family, Four Units per Acre, and totals approximately .13 acres with a 1,522 sq.ft. single-family home constructed in 2004. 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-1, Residential Single-Family, 1 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-2023-0112,** 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 Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative to the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES			
Date: September 25, 2023	**❒ 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 "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 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 Short-Term Rental, Use Unit 46, in RSF-4 zoning. Since RSF-4 is a residential zoning district, a conditional use permit is required.

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

Finding: The dwelling has three bedrooms which would limit the 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 can be parked outdoors on the property. According to the applicant's submittal, six on-site parking spaces will be available to guests, four in an existing driveway and two in an 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 2714 N. Westminster Dr. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of September 18, 2023, the City had issued 399 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.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of six off-street parking spaces will be available for guests in an existing driveway and an attached garage. On-street parking does not appear to be available along N. Westminster Dr. City records indicate that no 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 onto a rear alley is available to accommodate vehicular ingress and egress to the subject property. N. Westminster Dr. is also fully improved with sidewalks along the east and west sides to facilitate pedestrian access. Staff finds 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 use of the property for residential purposes.**

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

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

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

Finding: **The applicant proposes typical residential trash cart service rather than dumpster service. Staff recommends a condition confirming that the containers are stored in a location that is 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 chapter 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 proposed use to be compatible with the surrounding properties. The property is surrounded by residential uses and there are no 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 is 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. These include 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
  - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter
- Building Elevations
- Building Floor Plan
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

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

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

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

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

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

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

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

City of Fayetteville

Fayetteville, Arkansas

RE: 2714 N. Westminster Drive, Fayetteville, Arkansas

Dear Sir or Madam:

This is to request a Conditional Use Permit for Short Term Rental. The building is 1522 square feet and no improvements are planned at this time. The color elevations are beige, white and natural wood. There are six (6) off-street parking spaces. There is outdoor lighting on the front and back porches of the home. There is minimal noise as all renters are instructed to be considerate. There is no screening or buffering from adjacent properties. The trash is kept in the garage and put out on Tuesdays for pickup. The property is accessed from a public street. There are several rentals in the neighborhood and this rental is compatible with the neighboring homes.

The legal description is as follows:

Lots 3, Salem Village, a Planned Unit Development to the City of Fayetteville, Washington County, Arkansas as shown on plat of record in Plat Book 15 at Page 70.

Sincerley,

/s/Jaime and Patrick Steed

Jaime and Patrick Steed

Cale Spring LLC

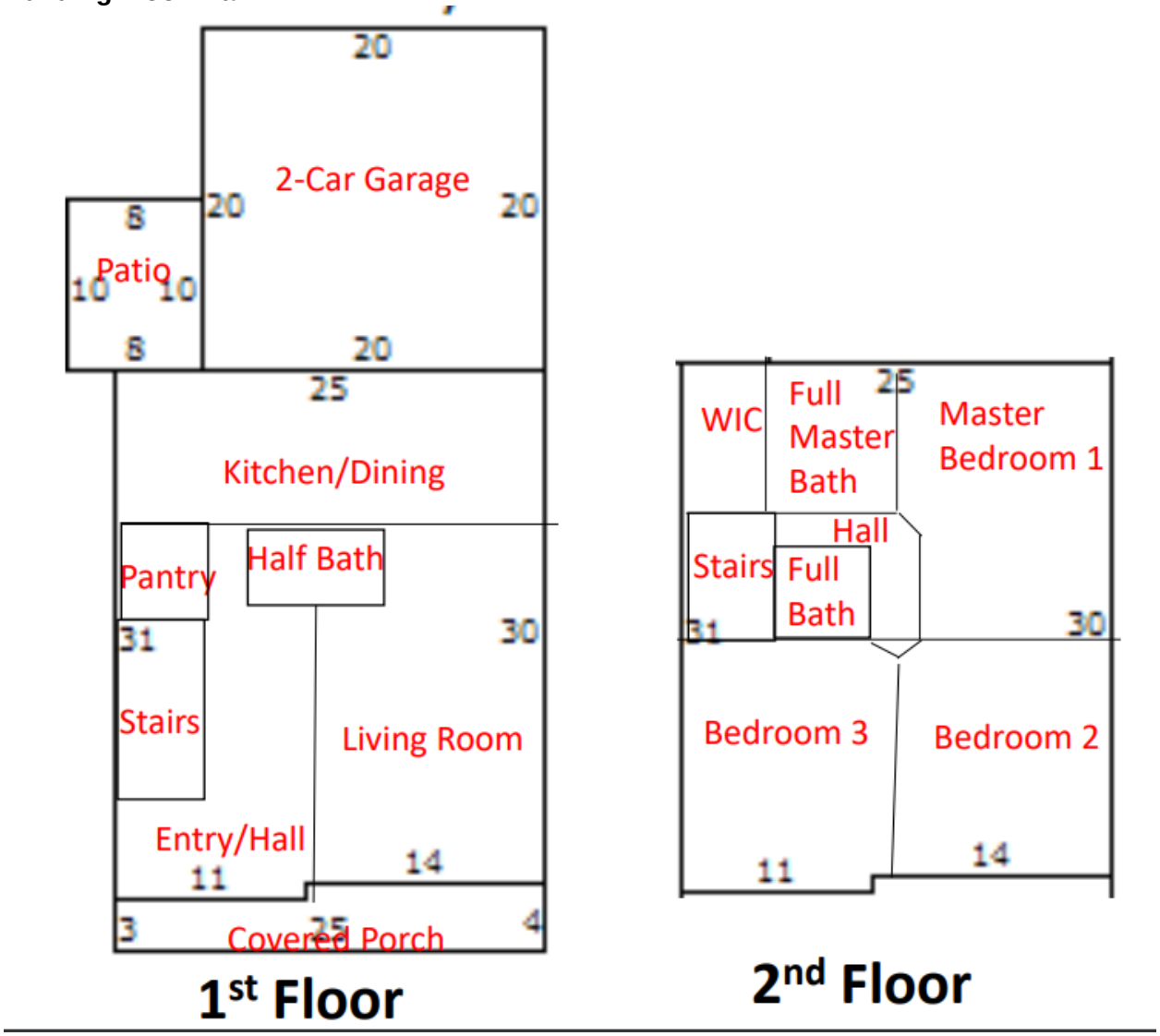
Building Elevations



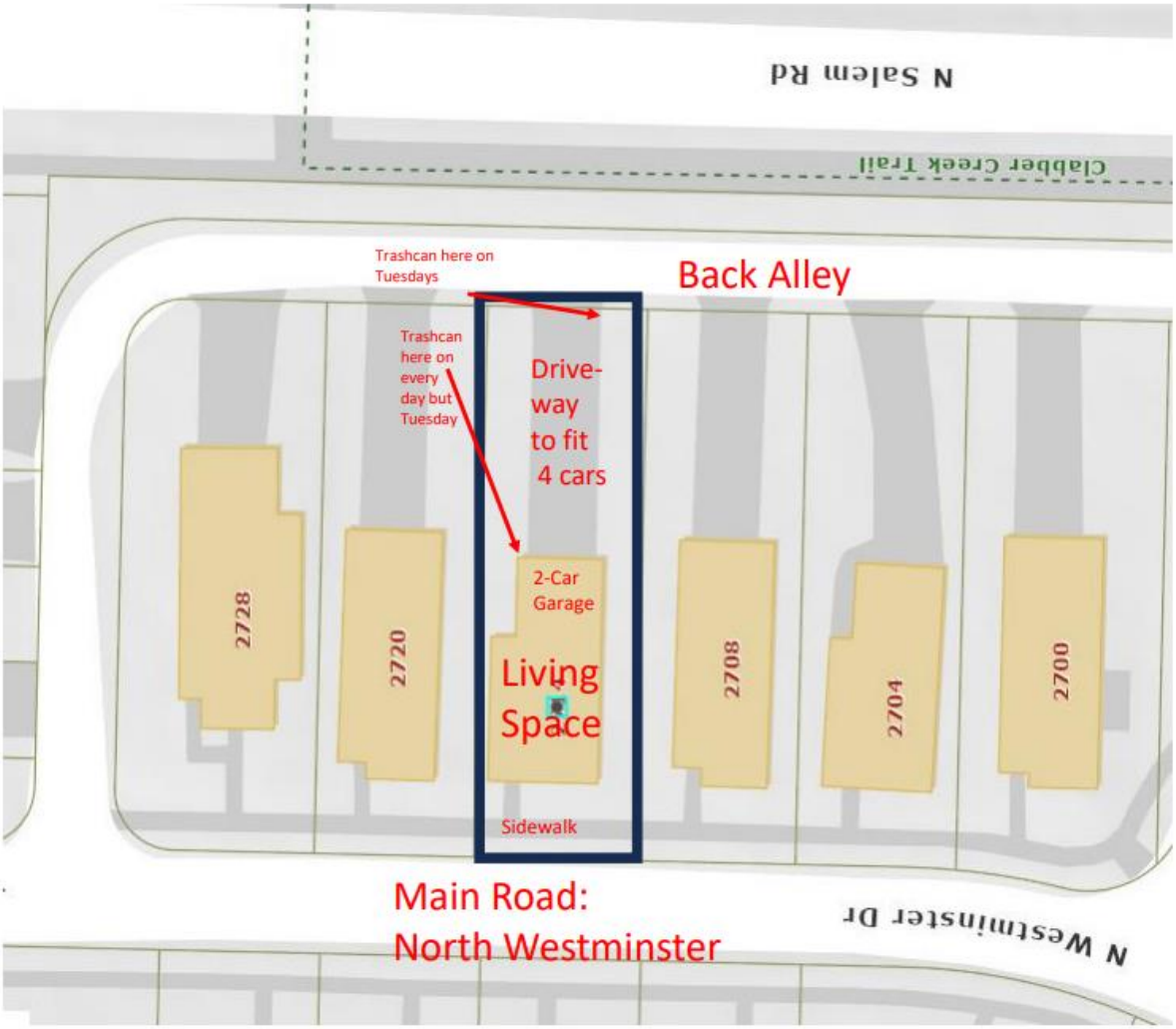




Building Floor Plan



Site Plan

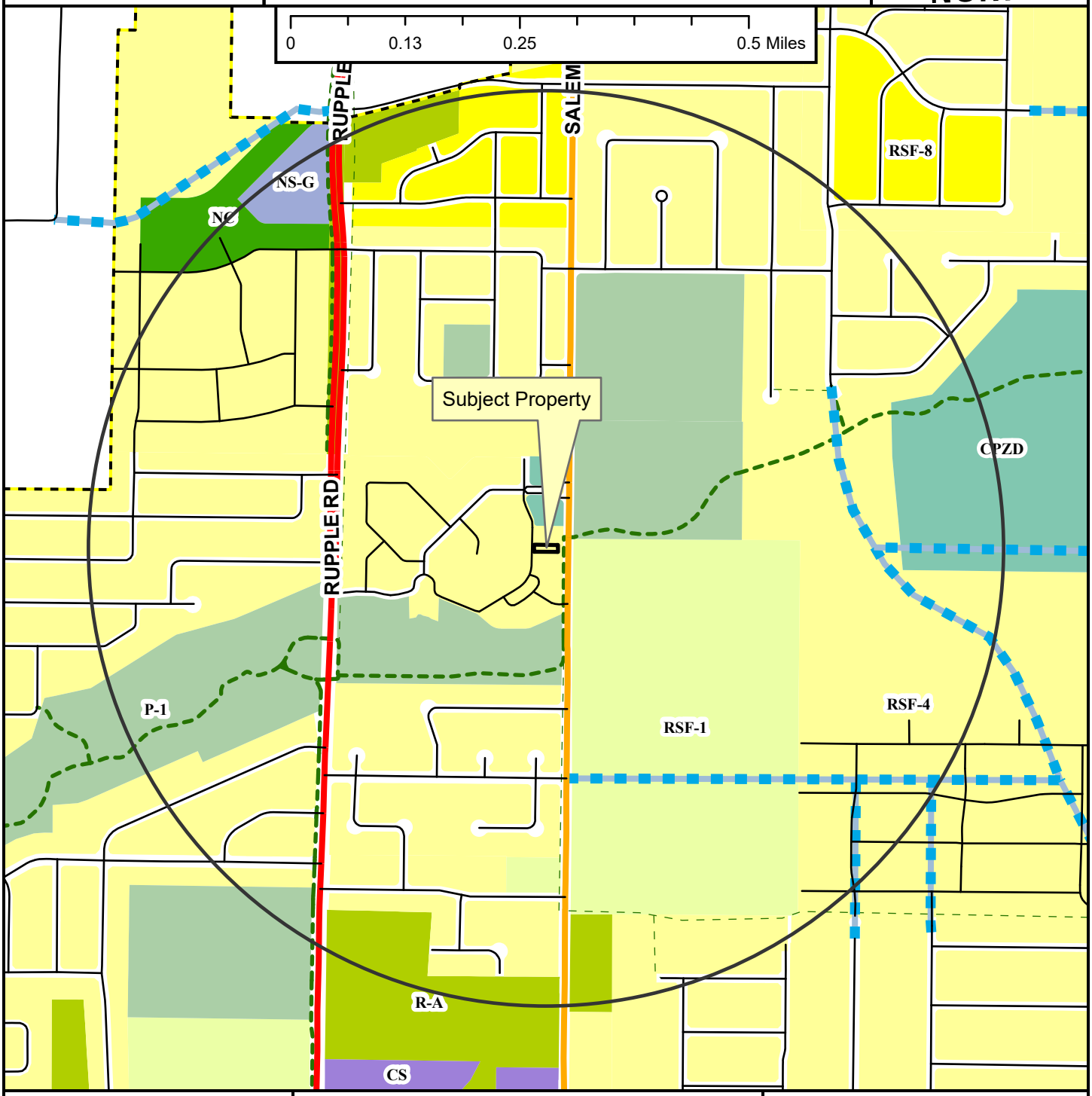

N Salem Rd
Clabber Creek Trail
Trashcan here on Tuesdays
Back Alley
Trashcan here on every day but Tuesday
Drive-way to fit 4 cars
2-Car Garage
Living Space
2728
2720
2708
2704
2700
Sidewalk
Main Road:
North Westminster
N Westminster Dr

CUP-2023-0112

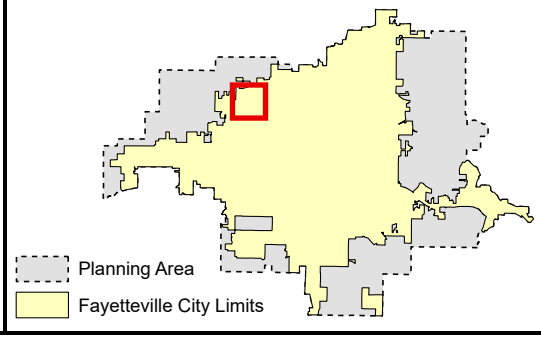
One Mile View

2714 N. WESTMINSTER

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

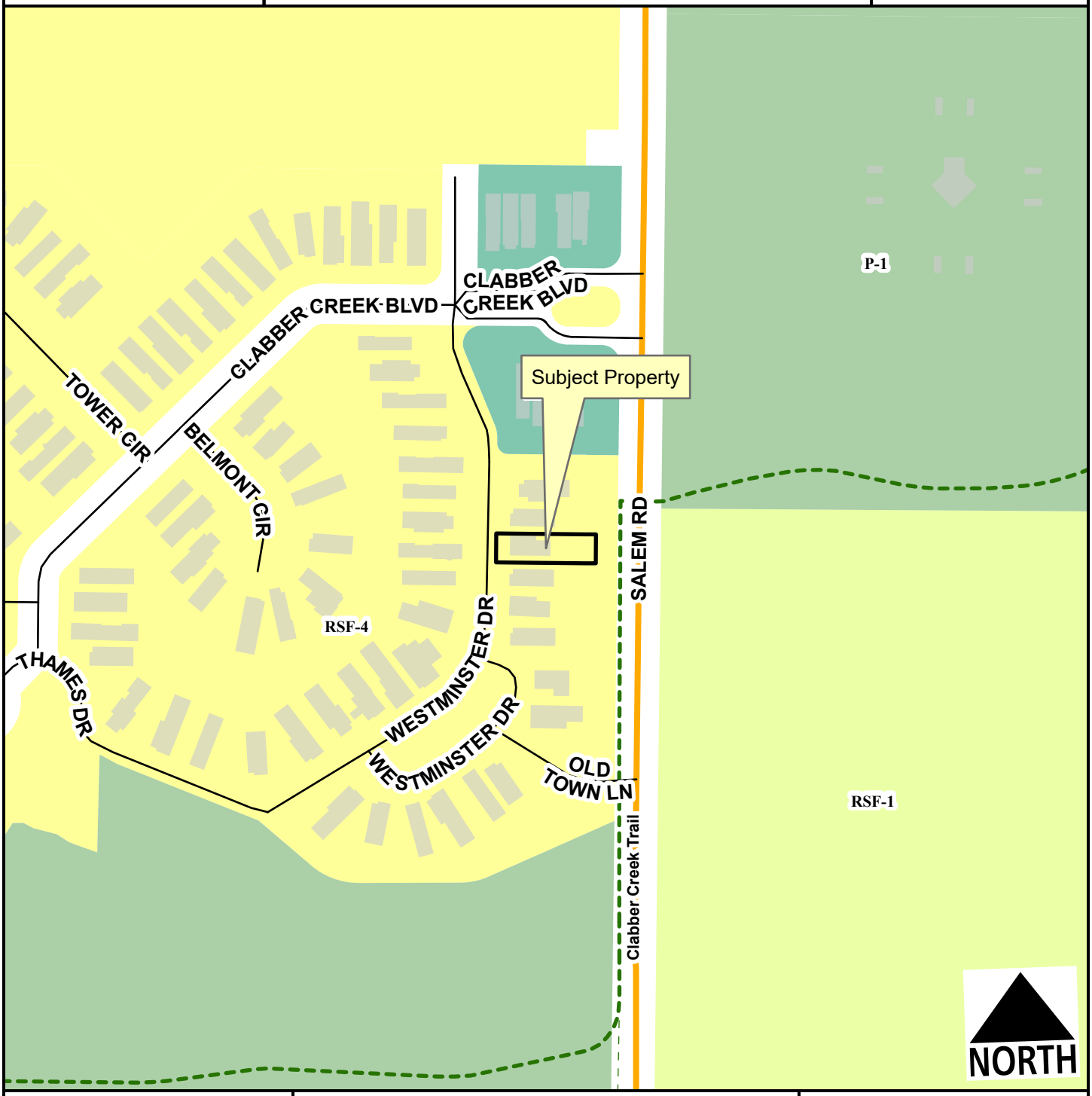
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0112

Close Up View

2714 N. WESTMINSTER



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

Feet
0 75 150 300 450 600
1:2,400

RSF-1
RSF-4
Commercial, Industrial, Residential
P-1

CUP-2023-0112

Current Land Use

2714 N. WESTMINSTER

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

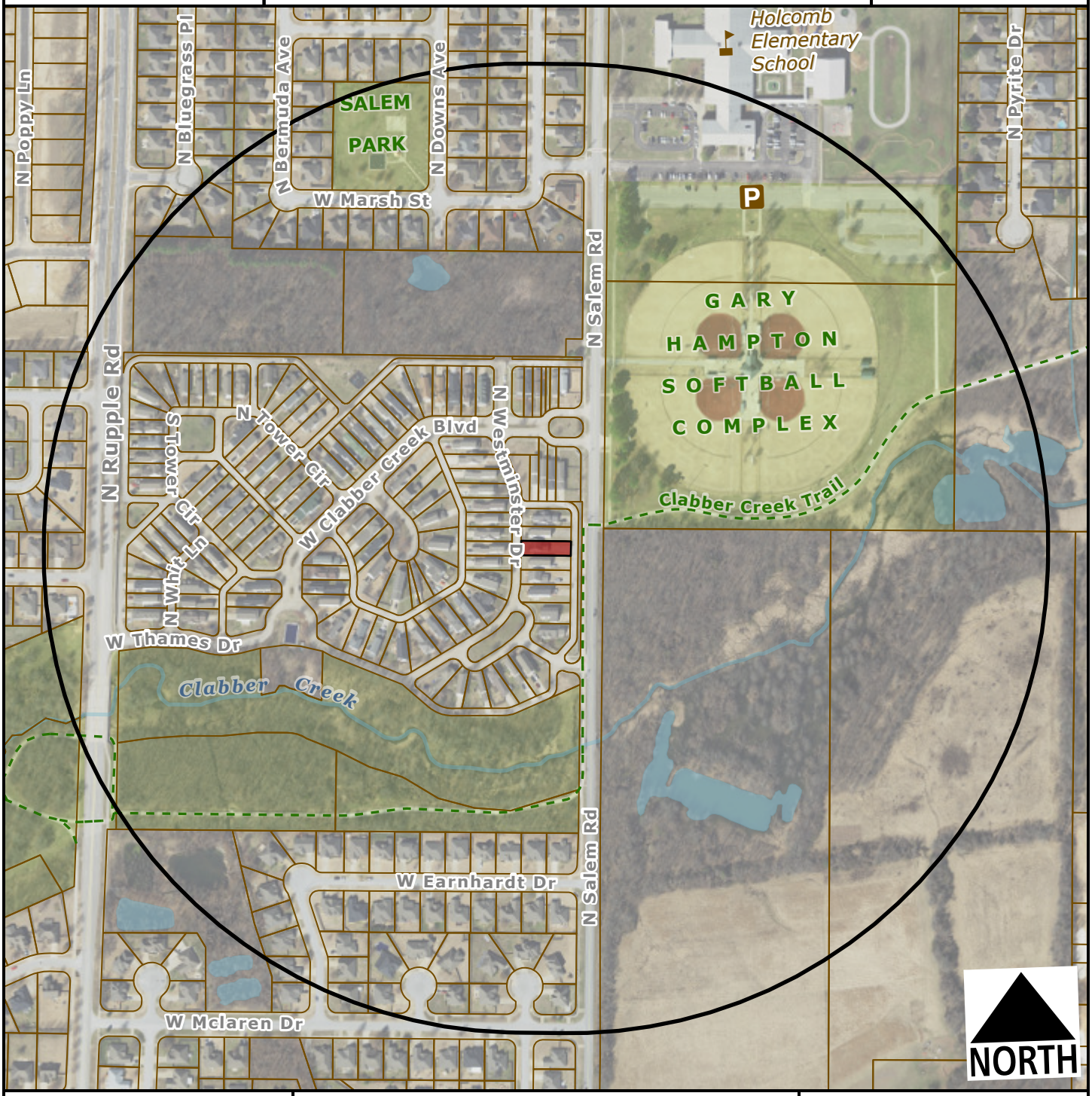
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0112

STRs Within 1/4 Mile

2714 N. WESTMINSTER



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 0

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0113: Conditional Use Permit (3509 W. VASSAR ST./RISK, 401):** Submitted by BOBETTE RISK for property located at 3509 W. VASSAR ST. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0113**, with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0113** 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 northwest Fayetteville west of N. Salem Rd. in the Walnut Park subdivision. The property is zoned RMF-24 Residential Multi-Family, 24 Units per Acre, and totals approximately 0.20 acres with a 1,332 sq.ft. single-family home constructed in 1994. 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	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Single-family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Single-family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Single-family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0113,** 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 Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative to the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	**❒ 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 RMF-24 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 "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 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 RMF-24 zoning. Since RMF-24 is a residential zoning district, a conditional use permit is required.

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

Finding: The dwelling has three bedrooms which would limit the 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 can be parked outdoors on the property. On-site parking is available in the attached garage (2 vehicles) and 2 vehicles may park in the paved driveway without overhanging into the right-of-way.

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 3509 W. Vassar 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 citywide density cap at 475 business licenses. As of September 18, 2023, the City had issued 399 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.**

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 an attached garage. Additional on-street parking is available along W. Vassar St. City records indicate that three other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. All are within the same neighborhood, including one directly across W. Vassar St. 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 from W. Vassar St. W. Vassar St. is also partially improved with a sidewalk along the north side of the street to facilitate pedestrian access. Staff finds 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 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 typical residential trash cart service rather than dumpster service. Staff recommends a condition confirming that the containers are stored in a location that is 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 chapter 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 proposed use to be compatible with the surrounding properties. The property is surrounded by residential uses and there are three other licenses Type 2 short-term rentals within a quarter-mile radius. All are located in the same neighborhood as the subject property. 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 is 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. These include 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
  - §161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre
- Applicant Request Letter
  - Building Elevations
  - Building Floor Plan
  - Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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)

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

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

(B) *Uses.*

(1) Permitted Uses.

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	24 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two (2) family	35 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit*.

Manufactured Home	3,000 square feet

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

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

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

Editor's note(s)—Ord. No. 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."

City of Fayetteville,

Please accept our intent of applying for a conditional use permit for an Air B&B type, “Short Term Rental” for

Proposed Existing Location;
3509 W Vassar Street
Fayetteville, AR 72704

Owner Information;
Roberta (Bobette) Rief; Risk
463 W Ila st
Fayetteville, AR 72701
phone 479-841-0689
bobrisk6@gmail.com

Assistant Information;
Barry Vassar
463 W Ila st
Fayetteville, AR 72701
phone 479-387-1325
Email; barryvassar@outlook.com

Secondary Assistant;
Logan Risk
1919 Radcliffe Ave
Fayetteville, AR 72704
Phone; 479-249-5508
Email; loganrisk@treinc.net

CUP Checklist:

Attach the following items to this application:

(2) Legal description of property (may be found on deed or current survey of property). A survey may be required if the deed cannot be platted accurately.

3509 W Vassar Street, Fayetteville AR 72704
Lot 17, Phase III, Walnut Park Addition, a Subdivision to the City of Fayetteville, as per plat now on file in the Office of the Circuit Clerk and Ex-Officio Recorder for Washington County, Arkansas,

(3) Complete description of this request (what is proposed by the applicant) to include all applicable items below

(indicate N/A if it does not apply to your project):

Our intent is to open an “AIR B&B” Short term rental. At
3509 W Vassar Street
Fayetteville, AR 72704

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

Building information
No intention of any additions
1332 square feet
One story
Frame Siding
3 bedroom
2 bathroom
Attached 2 car garage

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






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

6 parking spots (2 in garage and 4 in the driveway)

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

-Hours of operation

-Number of employees

-Anticipated number of patrons, clients, children, customers, etc. (average per

day / peak hour)

NA

(e) Outdoor lighting

2 exterior garage lights
1 front main entry light at the front door
1 rear entry ceiling light above the patio

(f) Noise

NA

(g) Screening or buffering from adjacent properties

Fully fence enclosed back yard with side entrance gate

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

properties)

City of Fayetteville refuse pickup, the container resides along the side of the garage

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

Full driveway access from residential Vassar Street.

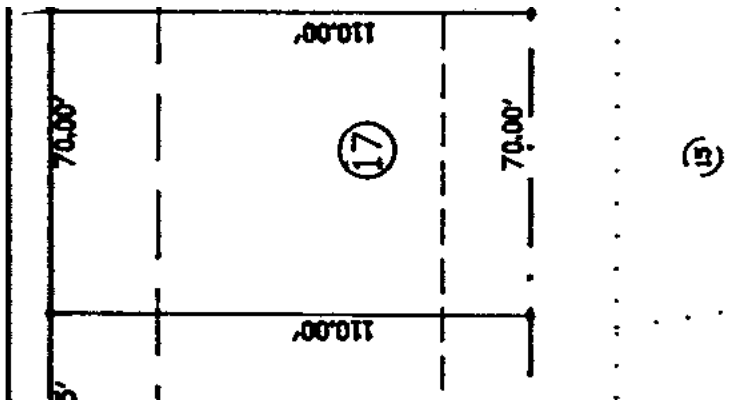
(j) A response discussing the general compatibility of the proposed use with adjacent properties and

other property in the neighborhood

Nothing changes as far as compatibility,

the residence is currently a long term rental property. The last tenants all but destroyed the house. After repairing walls, ceilings, doors, appliances and flooring we decided to turn this house into a short term rental with the thought that we could better monitor and manage destructive tenants. At least try, if we are not successful in short term rental, we can always go back to regular term rental. Ive put a lot of work into this house and don't want to see it wrecked like regular tenants sometimes do. Its nearly impossible to remove a bad tenant in time to save a house.

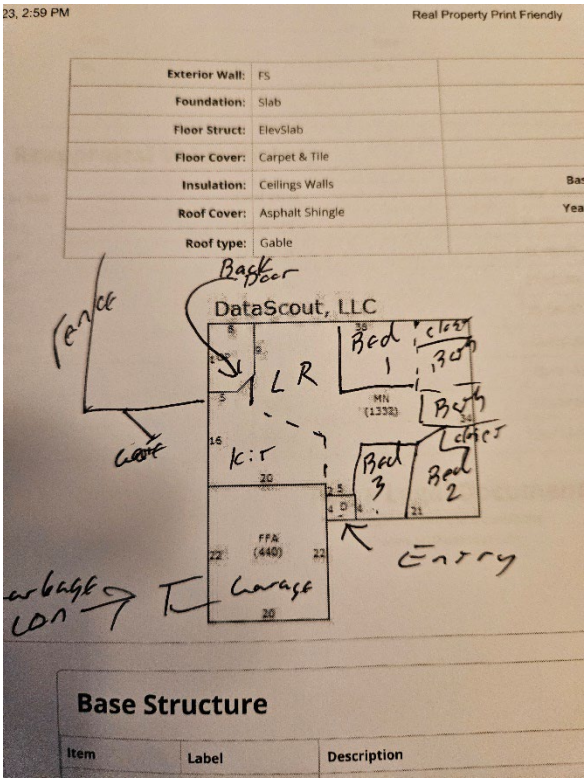
(4) Site plan drawn to scale (if applicable), based on the deed or survey, showing all proposed structures dimensioned from the overhang to the property line, parking, driveways, Master Street Plan right-of-way, required setbacks.



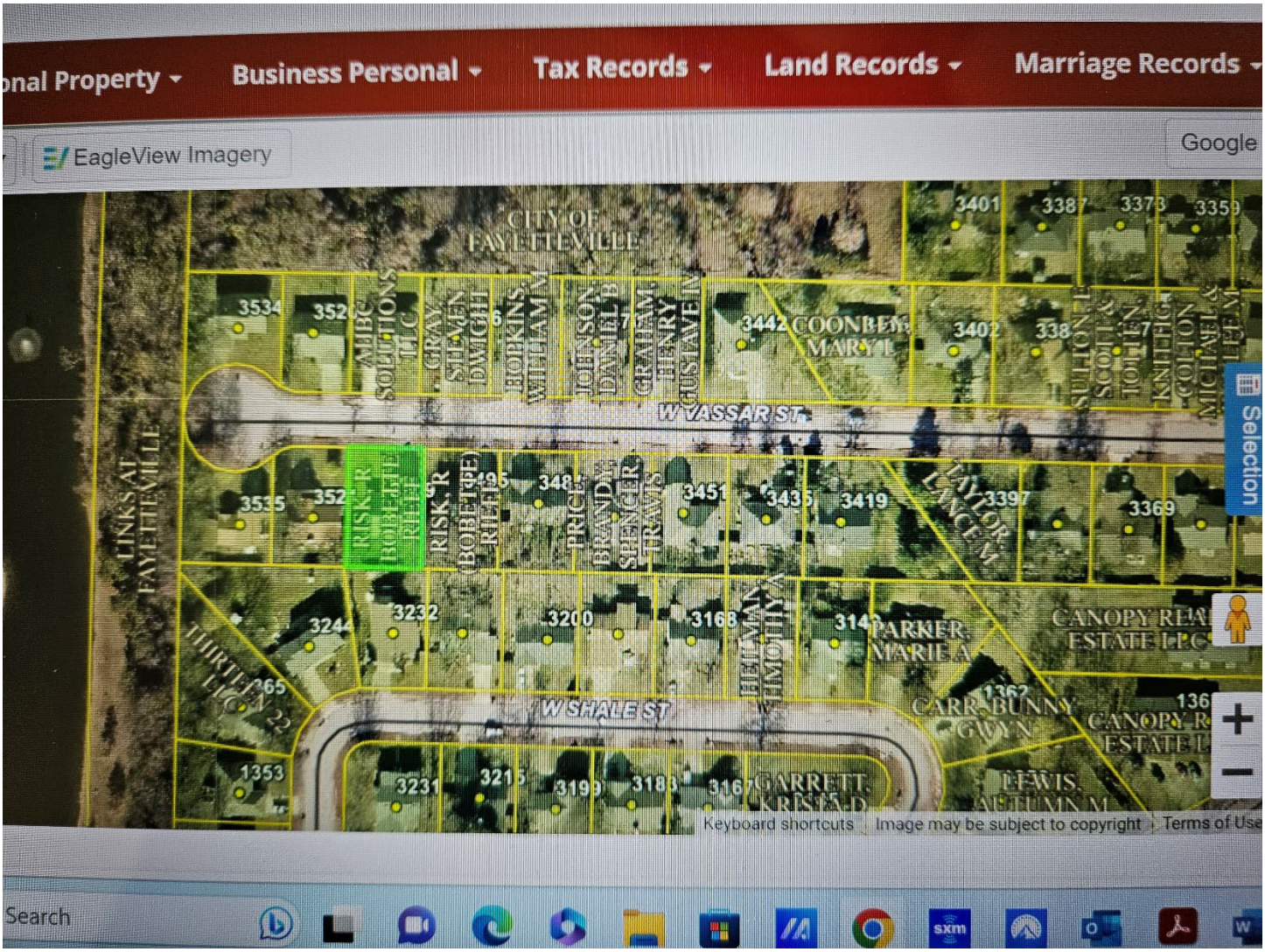
(5) Preliminary floor plans drawn to scale (if applicable) showing:

(a) Location of walls, doors, windows

(b) Identification of activity areas



(6) A copy of the county parcel map from the Washington County Assessor's office website (www.co.washington.ar.us) or the Fayetteville Address Point File (website instructions). The subject property and all parcels within 200 feet should be identified on this parcel map. (Applications for special conditional uses that require notification within 500 feet should show all properties within 500 feet of the project site. (See the notification requirements section of this application.)



7) Signature by current property owner of record on consent of owner form or written verification signed by such owner designating a project representative.

Consent of Owner Form

PROPERTY OWNER(S) / AUTHORIZED AGENT: By signing below, I/we certify under penalty of perjury that I am/we are the owner(s) of the property that is the subject of this application and that I/we have authorized this application and consent to its filing.

PLEASE NOTE:

- Property Owners: Attach additional info/documentation if necessary.
- Authorized Agents: If signing on behalf of a Property Owner, a letter from each Property Owner must be provided indicating that the agent is authorized to act on their behalf.

Associated Project ***(required field):***

3509 W Vassar st, short term rental applocation

Name or description of proposal

Property Owner 1:

x Risk, R. (Bobette) Rieff

Name of person signing [printed]

Entity/Company signator legally owns or represents

bobrisk6@gmail.com

Contact Email

479-841-0689

Contact Phone

463 w lla st, Fayetteville, AR 72701

Mailing Address

Bobette R. Risk

Property Owner Signature

8-10-2023

Date

Property Owner 2: ***(if needed)***

x

Name of person signing [printed]

Entity/Company signator legally owns or represents

Contact Email

Contact Phone

Mailing Address

Property Owner Signature

Date

Property Owner 3: ***(if needed)***

x

Name of person signing [printed]

Entity/Company signator legally owns or represents

Contact Email

Contact Phone

Mailing Address

Property Owner Signature

Date

Property Owner 4: ***(if needed)***

x

Name of person signing [printed]

Entity/Company signator legally owns or represents

Contact Email

Contact Phone

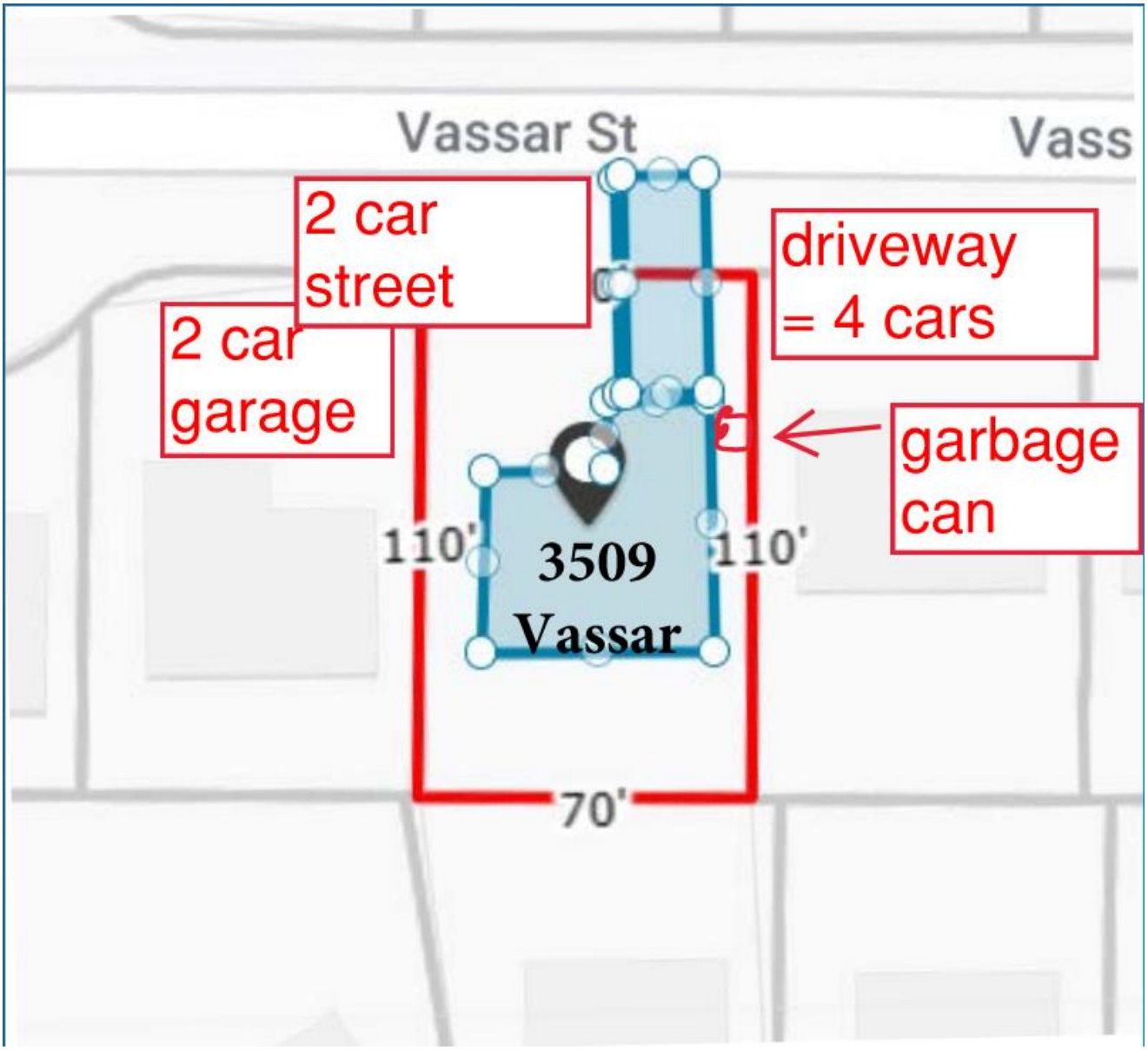
Mailing Address

Property Owner Signature

Date

(8) The applicant is responsible for meeting the public notification requirements for a conditional use permit listed on the Notification Requirements pages in this application. This is required at a later date after initial submittal of request.

Site Plan:

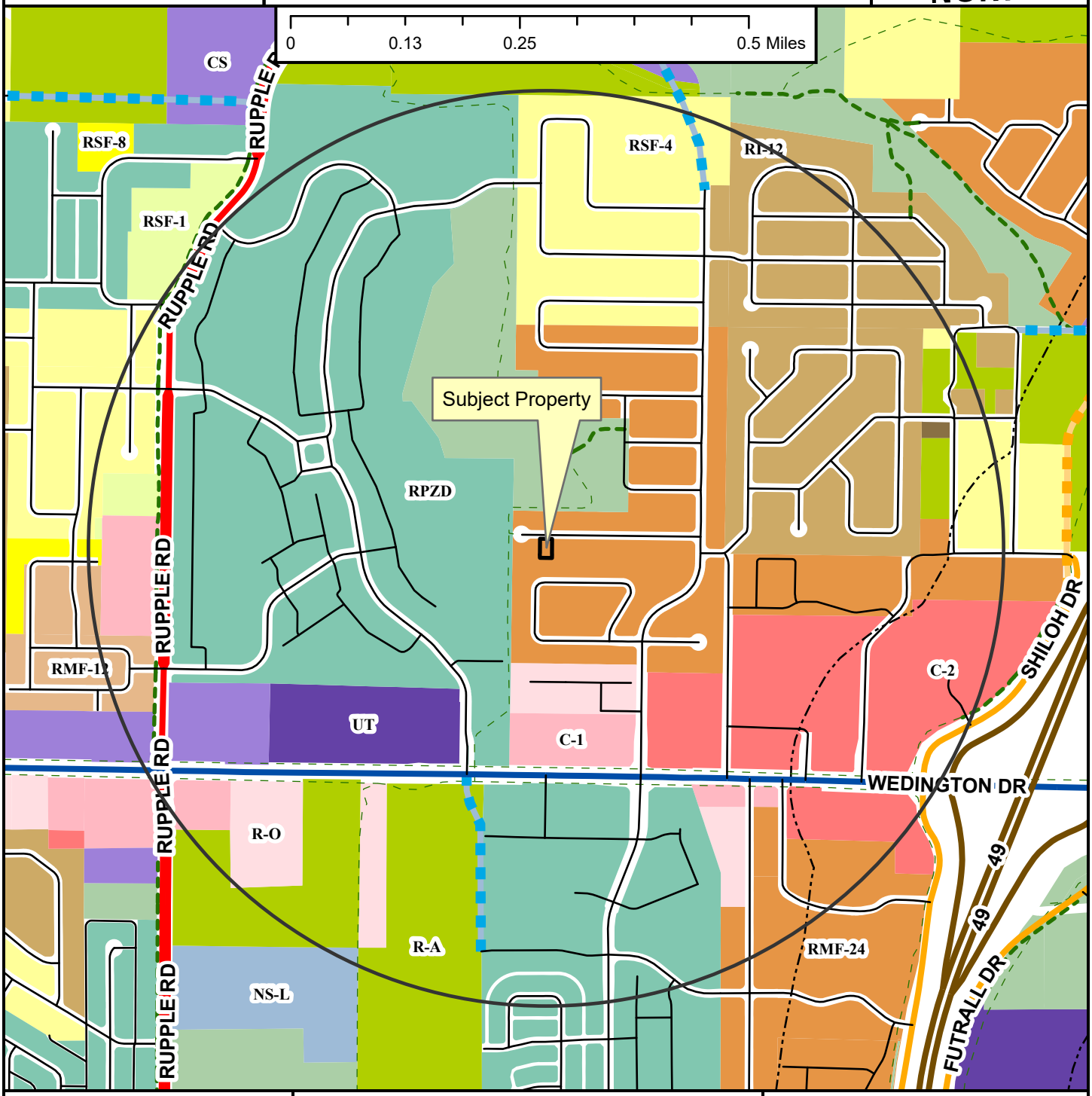

Vassar St
Vass
2 car
street
2 car
garage
driveway
= 4 cars
garbage
can
110'
3509
Vassar
110'
70'

CUP-2023-0113

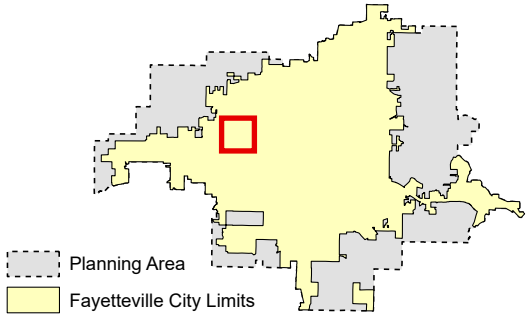
One Mile View

3509 W. Vassar St

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

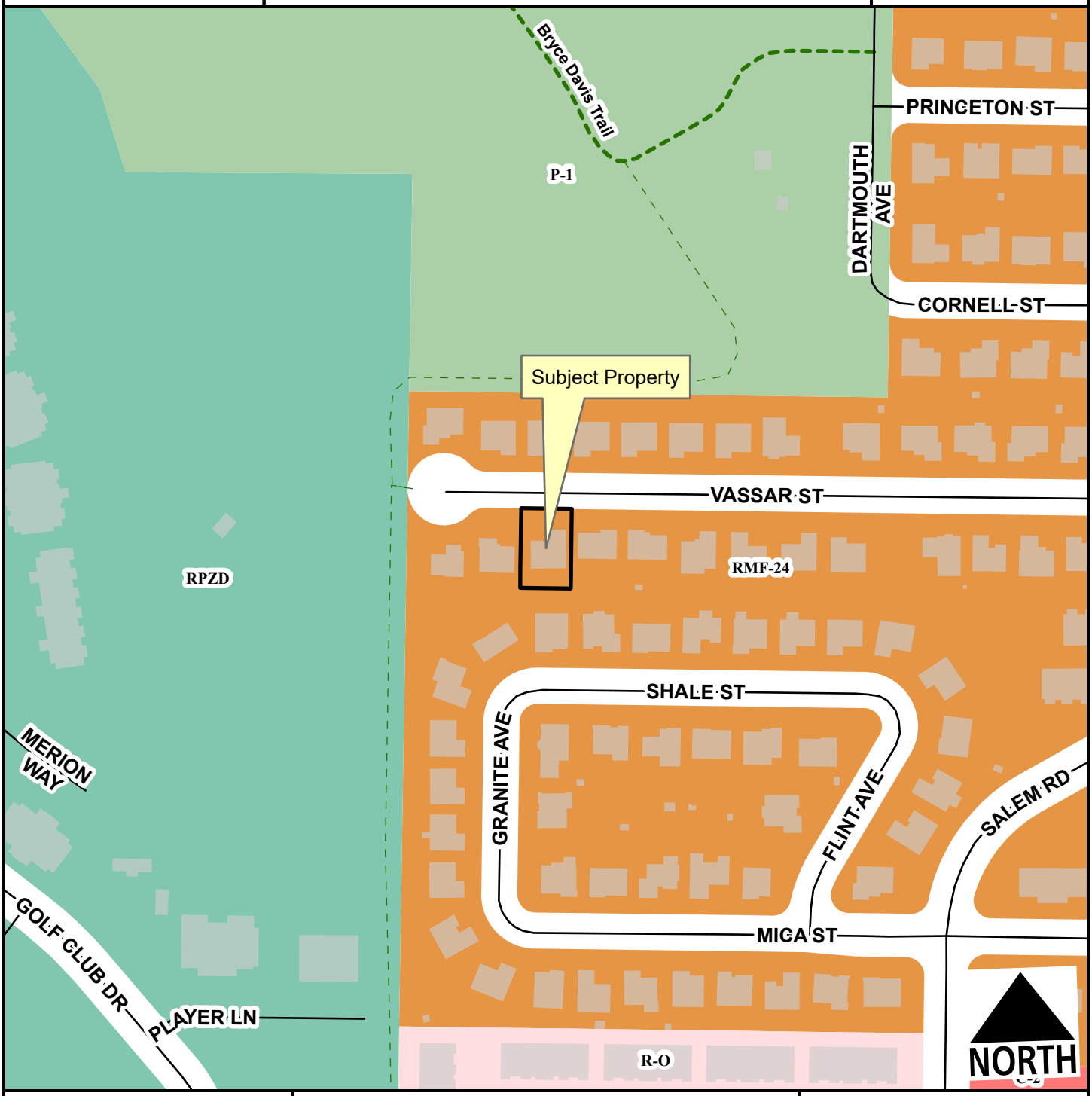
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0113

Close Up View

3509 W. Vassar St



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

Feet

0 75 150 300 450 600

1:2,400

RMF-24
Residential-Office
C-2
Commercial, Industrial, Residential
P-1

CUP-2023-0113

Current Land Use

3509 W. Vassar St

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

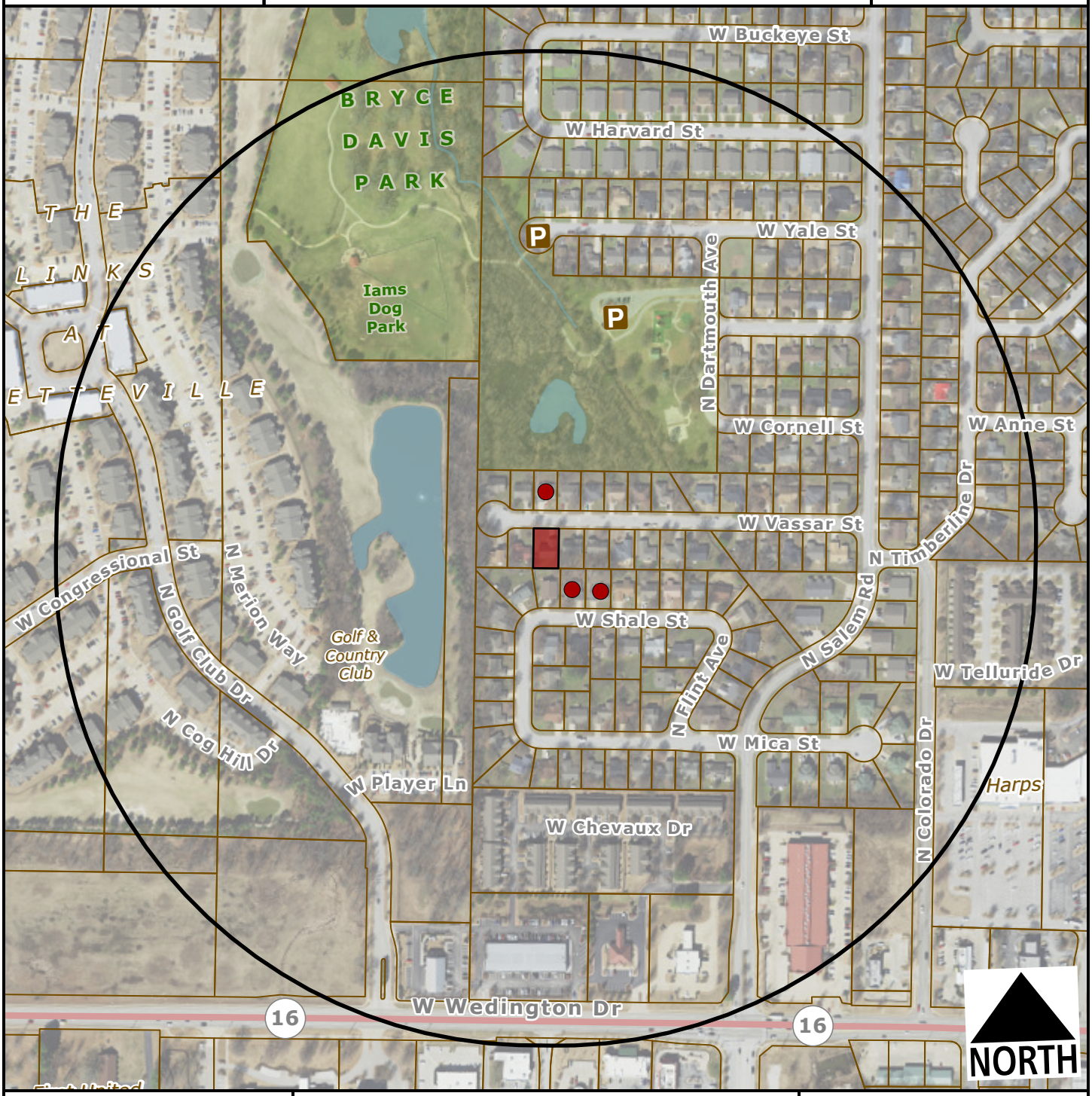
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0113

STRs Within 1/4 Mile

3509 W. Vassar St



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 3

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0116: Conditional Use Permit (1759 E. ACACIA XING./VAN BRUWAENE 526):** Submitted by ASHLEY VAN BRUWAENE for property located at 1759 E. ACACIA XING. 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-2023-0116**, with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0116** 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 southeast Fayetteville west of S. Happy Hollow Rd. in the Treetops subdivision. The property is zoned RSF-8 Residential Single-Family, 8 Units per Acre, and totals approximately 0.20 acres with a 2,186 sq.ft. single-family home constructed in 2019. 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	Single-family Residential	RSF-8, Residential Single-Family, 8 Units per Acre
East	Single-family Residential	NC – Neighborhood Conservation
West	Single-family Residential	RSF-8, Residential Single-Family, 8 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-2023-0116,** 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 Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative to the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES			
Date: September 25, 2023	**❒ 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-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. 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 Short-Term Rental, Use Unit 46, 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 the 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 can be parked outdoors on the property. According to the applicant submittal, four on-site parking spaces will be available to guests in an existing driveway and attached garage. Additional parking is available along E. Acacia Crossing and S. Paddock Loop.

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 1759 Acacia Xing. 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 18, 2023, the City had issued 399 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.**

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 an attached garage. City records indicate that one other unit within a quarter-mile radius of the property has 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 from E. Acacia Crossing. S. Paddock Loop and E. Acacia Crossing are both fully improved with sidewalks to facilitate pedestrian access. Staff finds 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 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 typical residential trash cart service rather than dumpster service. Staff recommends a condition confirming that the containers are stored in a location that is 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 proposed use to be compatible with the surrounding properties. The property is surrounded by residential uses and there is one other licensed Type 2 short-term rental 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 is 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. These include 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
  - §161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre
- Applicant Request Letter
  - Building Elevations
  - Building Floor Plan
  - Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

(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."

Ashley Van Bruwaene 1759 E Acacia Xing Fayetteville AR, 72701

September 18, 2023

Subject: Request for Conditional Use Permit-General Application

Dear City of Fayetteville,

I hope this letter finds you well. I am writing to formally request a Conditional Use Permit-General (CUP-General) for a proposed short term rental property to be located at 1759 E Acacia Xing, Fayetteville, Arkansas 72701.

I have reviewed the city's regulations and zoning guidelines, and I am aware that my intended use requires a Conditional Use Permit-General. I believe that the proposed activity aligns with the vision and objectives of the city's development plan and will contribute positively to the community.

In support of my request, I have prepared the requested information:

1. a) Building Size: 2,186 sqft
2. b) Color Elevations: (images below of the front, back, and both sides of the house)



Front



Back



Side



Side

3. c) Number of off-street parking spaces: 2 parking spaces in the driveway, garage attached to the house and additional parking on the front and side of the house
4. d) When request applies to business or non-residential use:
    1. Hours of Operation: N/A
    2. Number of Employees: N/A
    3. Number of Patrons: N/A
5. e) Outdoor Lighting: front, side, and patio outdoor lighting
6. f) Noise: noise to compliant with city regulations
7. g) Trash and refuse service: continued weekly trash service and off cycle trash, when necessary, Trash cans and recycling will be stored in the garage to comply with not being visible from the street.
8. h) Ingress and egress to the property: N/A
9. i) I am committed to complying with all applicable regulations and guidelines throughout the process and to ensuring that the proposed activity will have minimal impact on the surrounding environment and community.

I am dedicated to providing all required information promptly and accurately to facilitate the timely processing of my application.

If there are any additional steps, documents, or information that are necessary for a successful application, please let me know so that I can ensure everything is in order.

I appreciate your time and consideration of my request. I am excited about the opportunity to contribute to the city's growth and development and am open to any suggestions or recommendations that will help me meet the city's requirements.

Please feel free to contact me at 303-667-3959 or at ashley.vanbruwaene@gmail.com if you require any further information or if you would like to schedule a meeting to discuss this matter in detail.

Thank you for your attention to this request. I look forward to a positive response and the opportunity to collaborate with the city in creating a vibrant and thriving community.

Sincerely,
Ashley Van Bruwaene

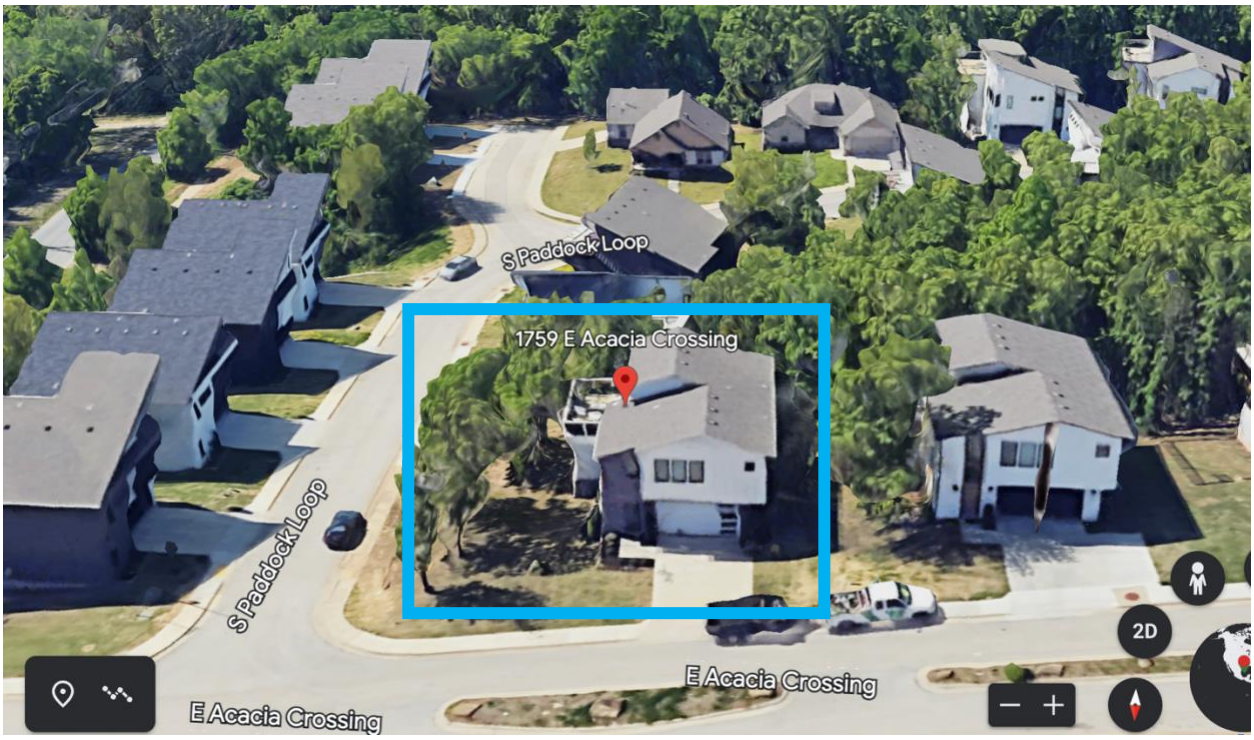
Floor Plan:

Building Sketch

Borrower	Ashley Van Bruwaene						
Property Address	1759 E Acacia Xing						
City	Fayetteville	County	Washington	State	AR	Zip Code	72701
Lender/Client	Eagle Bank and Trust						



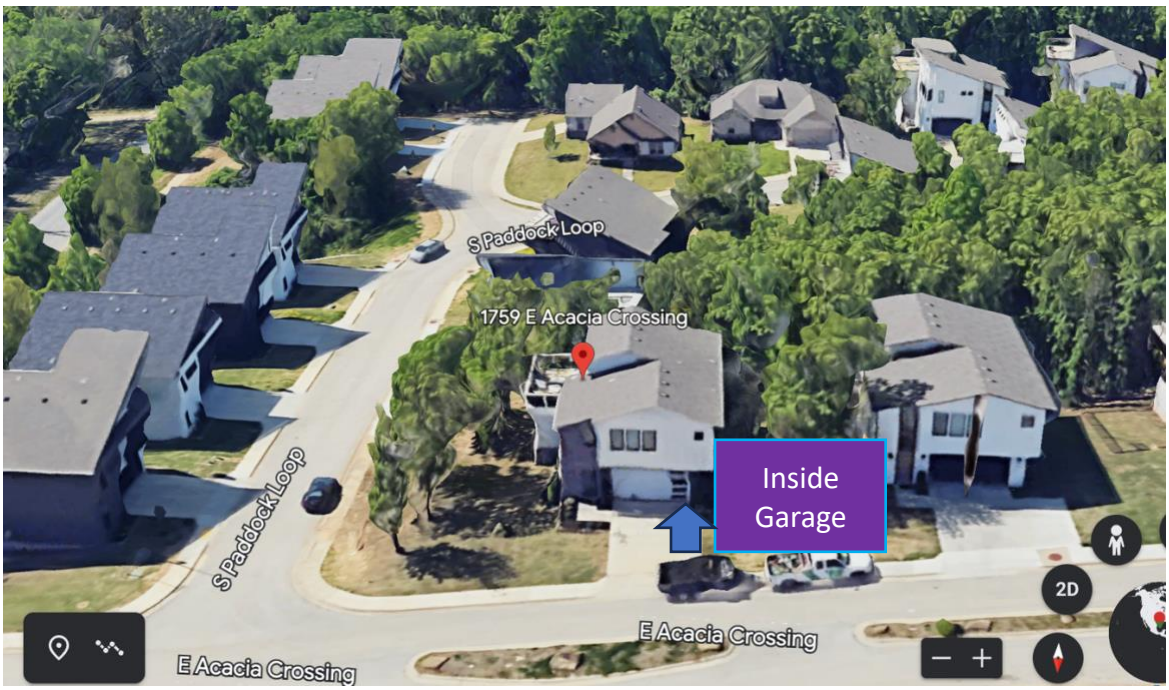
Property Line Layout



Parking



Trash & Recycling

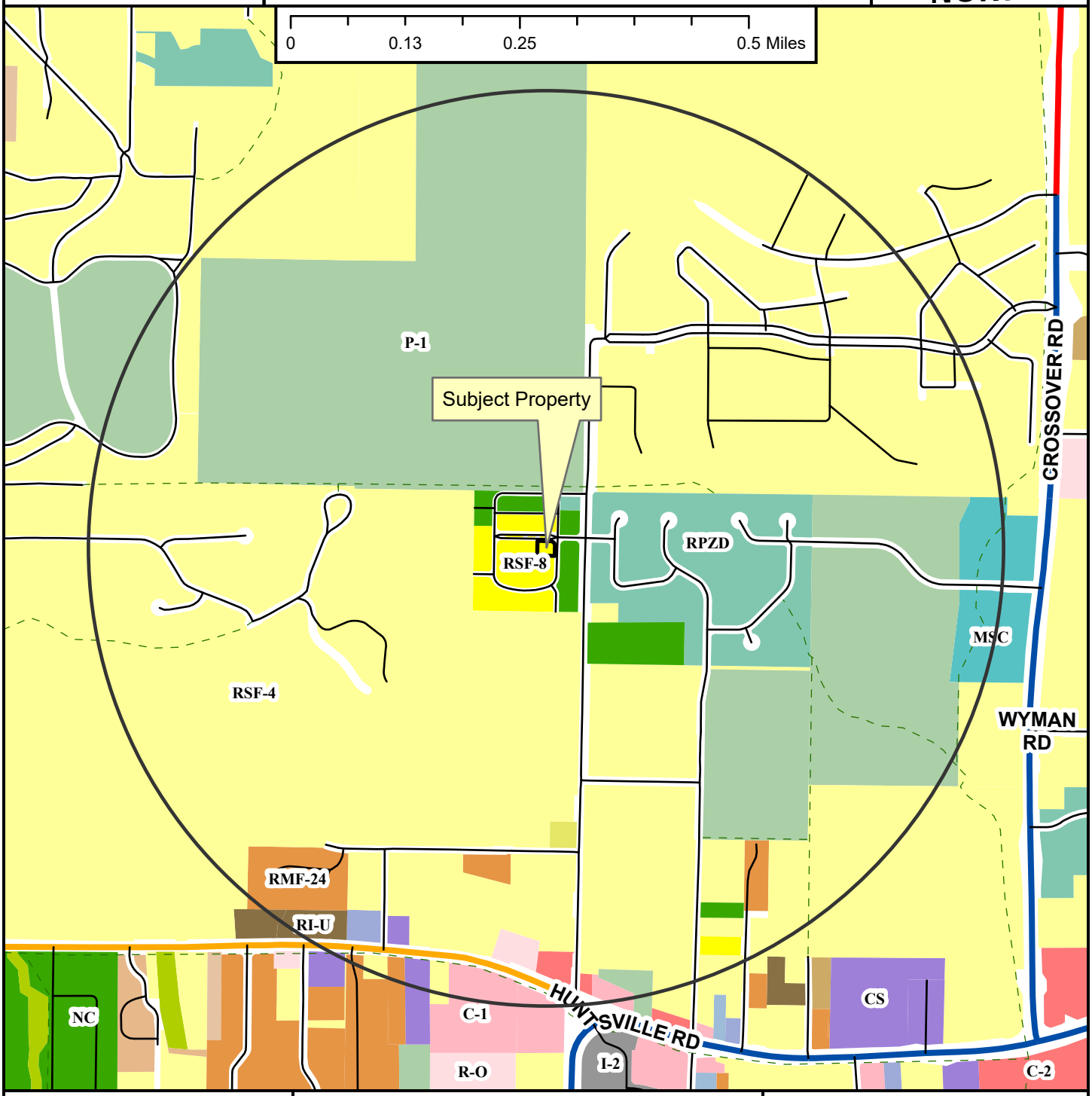


CUP-2023-0116

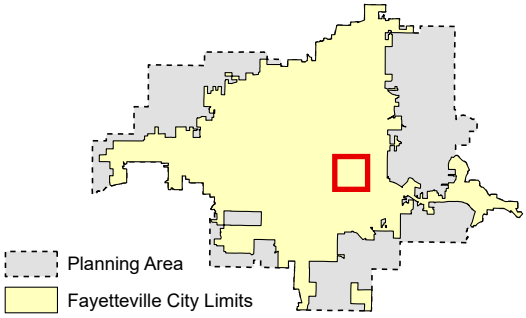
One Mile View

1759 E ACACIA XING

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

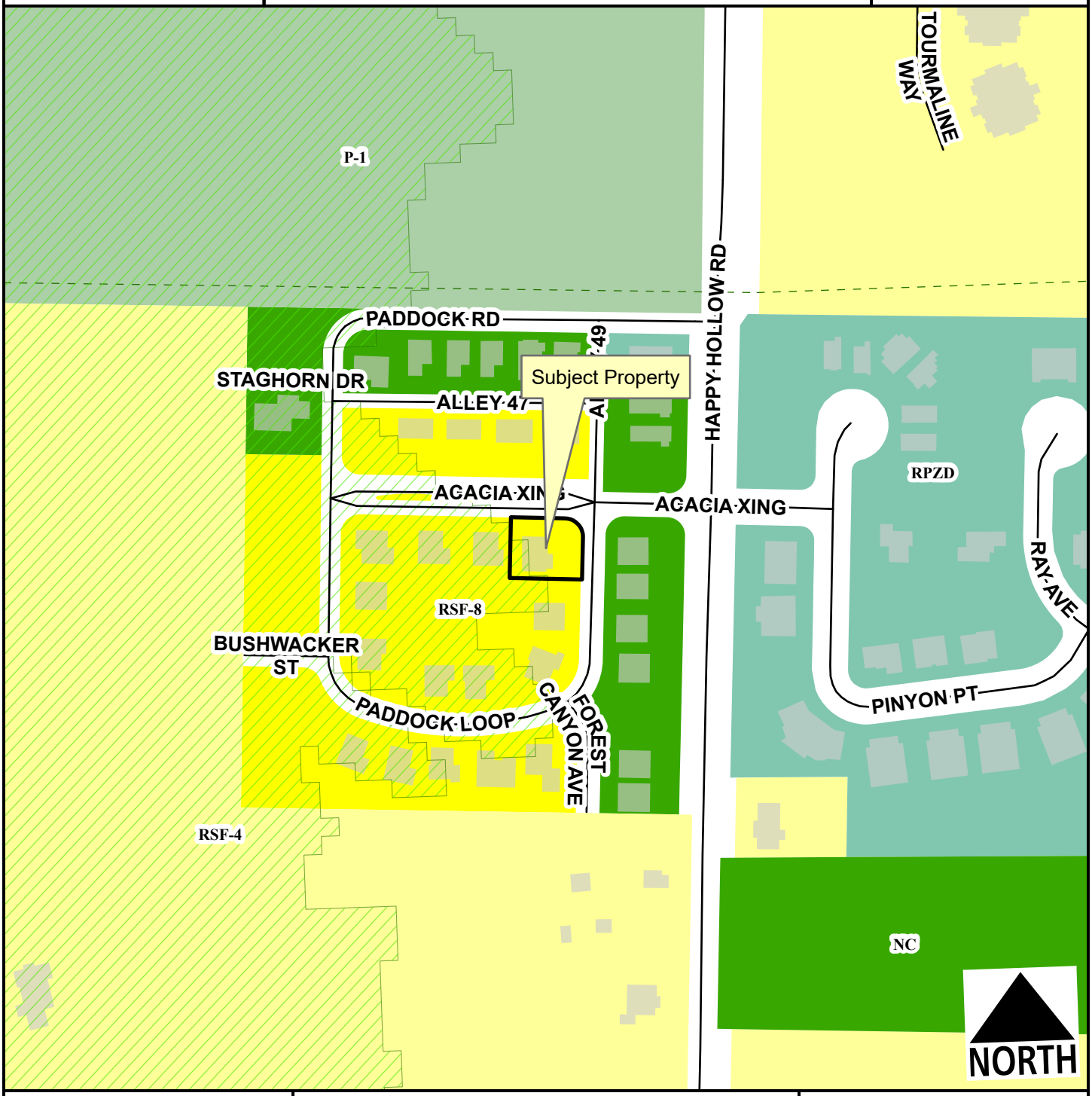
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0116

Close Up View

1759 E ACACIA XING



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

Feet

0 75 150 300 450 600

1:2,400

- RSF-4
- RSF-8
- Neighborhood Conservation
- Commercial, Industrial, Residential
- P-1

CUP-2023-0116

Current Land Use

1759 E ACACIA XING

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

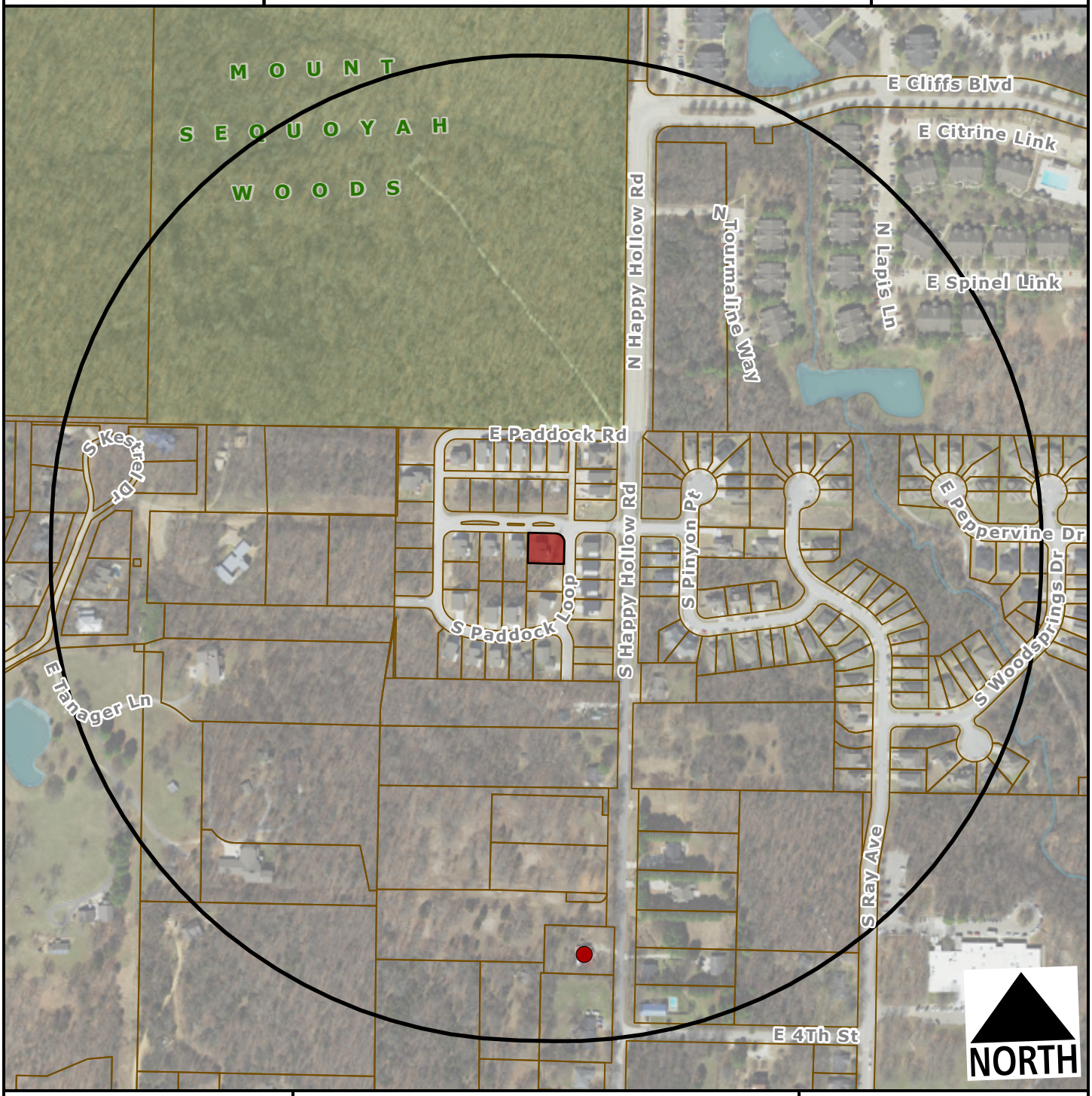
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0116

STRs Within 1/4 Mile

1759 E ACACIA XING



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 1

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0117: Conditional Use Permit (7 E. MARTIN LUTHER KING JR BLVD/WOODRUFF, 523):** Submitted by CLAYTON WOODRUFF for property located at 7 E. MARTIN LUTHER KING JR BLVD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.30 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0117** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0117**, 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 south Fayetteville on the south side of E. Martin Luther King Jr. Boulevard, about halfway between S. Block Avenue and S. College Avenue. The property contains approximately 0.30 acres and is developed with a 1232-square-foot, two-bedroom, single-family dwelling which was built in 1940. 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	Undeveloped	NC, Neighborhood Conservation
South	Single-Family Residential	NC, Neighborhood Conservation
East	Single-Family Residential	NC, Neighborhood Conservation
West	Multi-Family Residential	NC, Neighborhood Conservation

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0117** 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**	**YES**	
Date: September 25, 2023	**❒ 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 NC zoning.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: **The request is to operate a Type 2 short-term rental in NC zoning. Since NC 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 two bedrooms which would limit occupancy to a maximum of six guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.**

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

Finding: **Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, two on-site vehicle parking spaces will be available to guests in an unpaved driveway.**

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 7 E. Martin Luther King Jr. Boulevard. 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 18, 2023, the City had issued 399 Type 2 short-term rental business licenses. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two off-street parking spaces will be available for guests in an existing driveway, though there does not appear to be any available parking along E. MLK Boulevard. City records indicate that 21 other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. This may indicate that the neighborhood has reached a saturation point, since the property is located within a quarter mile of Walker Park, removing approximately 27 acres of property available for consideration. No previous code violations have been found at this property.**

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

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

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

Finding: **A paved driveway and an unpaved parking area is available to accommodate vehicular ingress and egress to the subject property. Staff finds that the proposal to use the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.**

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

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

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

Finding: **The applicant proposes to utilize existing residential trash cart service with containers stored behind the house when not placed at the curb for pick up. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view.**

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

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

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

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant states that residential trash carts will be stored behind the house and not visible from the street.**

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

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

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

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

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

Finding: **Staff finds the proposed use to be mostly compatible with surrounding properties, though it may benefit the neighborhood if the property were left to be strictly for long-term tenants or residents at this point, given the high number of licenses that have been issued within ¼ mile. The property is surrounded by residential uses and short-term rentals are permitted by right 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
  - §161.29 Neighborhood Conservation
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

All dwelling types	40 feet

(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations*.

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

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

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

7 E Martin Luther King Blvd.

I intend to use this property as a short term rental. I think it will be compatible with the surrounding properties which are a mix of short term and long term rentals already.

How much parking, where is it, how many bedrooms, floor plan hand drawn, screen shoot of parcel map and floor plan,

A) Building size in square feet; existing and proposed
   - 1,200 sqft

B) Color elevations of all exterior sides of the structure
   - See Drawing

C) Number of off-street parking spaces to be provided / number required
   - 2

D) Outdoor lighting
   - Yes, front lights and back of the building lights

E) Noise

F) Screening or buffering from adjacent properties
   - Chain link fence around entire property.

G) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)
   - See drawing

H) Ingress and egress to the property; traffic impacts
   - No traffic impacts

I) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood
   - N/A

Front



Back



Side 1



Side 2



Chain Link Fence

Kitchen

Full Bathroom

Bedroom 1 (12 x 11)

Covered Outdoor Patio

Dinning Room

Full Bathroom

Bedroom 2 (11 x 10)

Living Room

Trash Cans

Driveway

Outdoor Parking (24 ft x 20 ft)

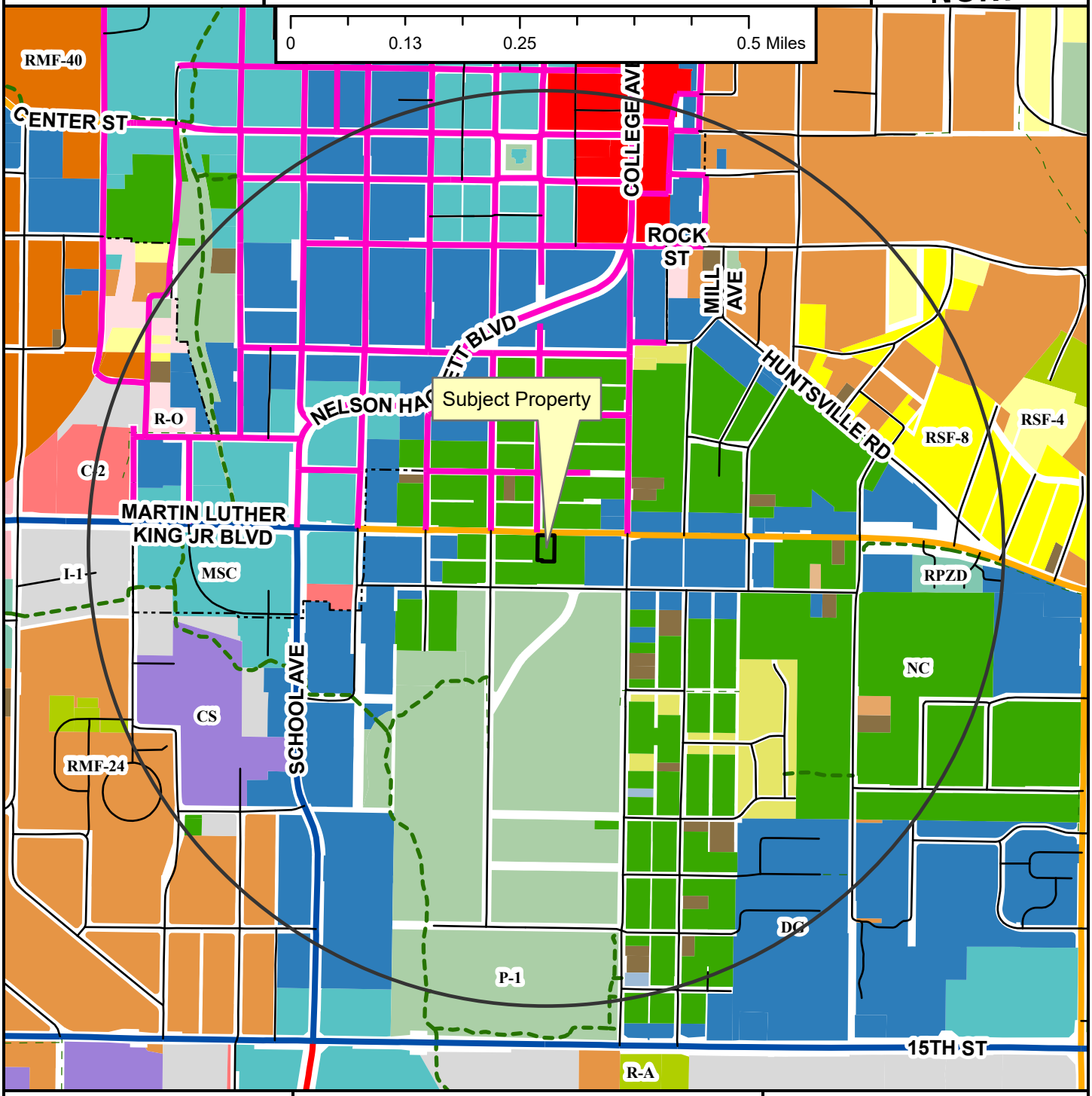
MLK BLVD

CUP-2023-0117

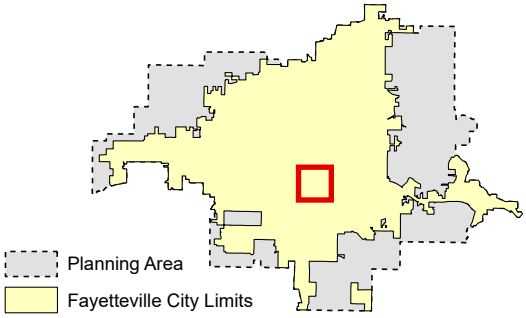
One Mile View

7 E. MARTIN LUTHER KING JR BLVD

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
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
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

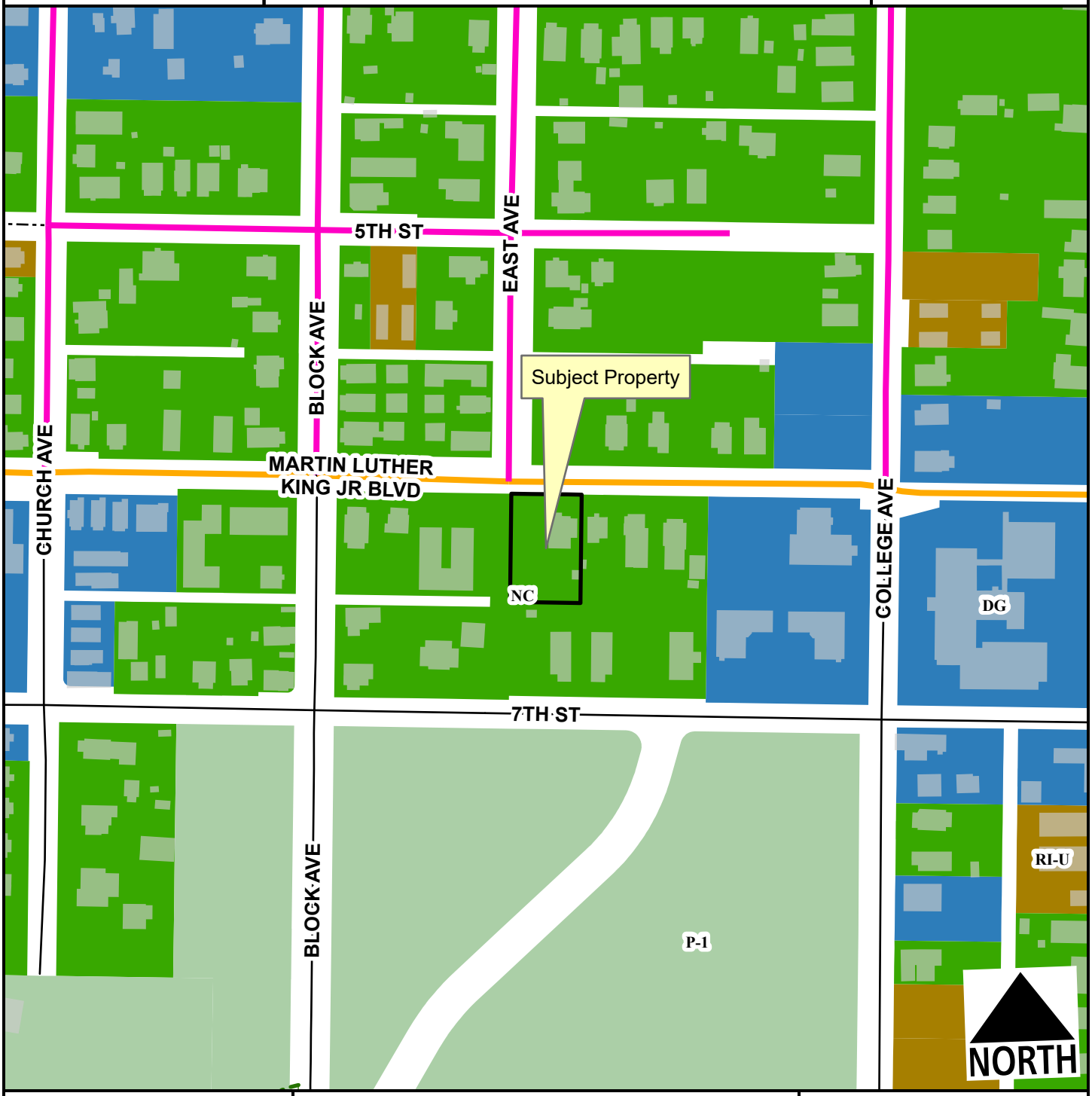
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0117

Close Up View

7 E. MARTIN LUTHER KING JR BLVD



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

Feet
0 75 150 300 450 600
1:2,400

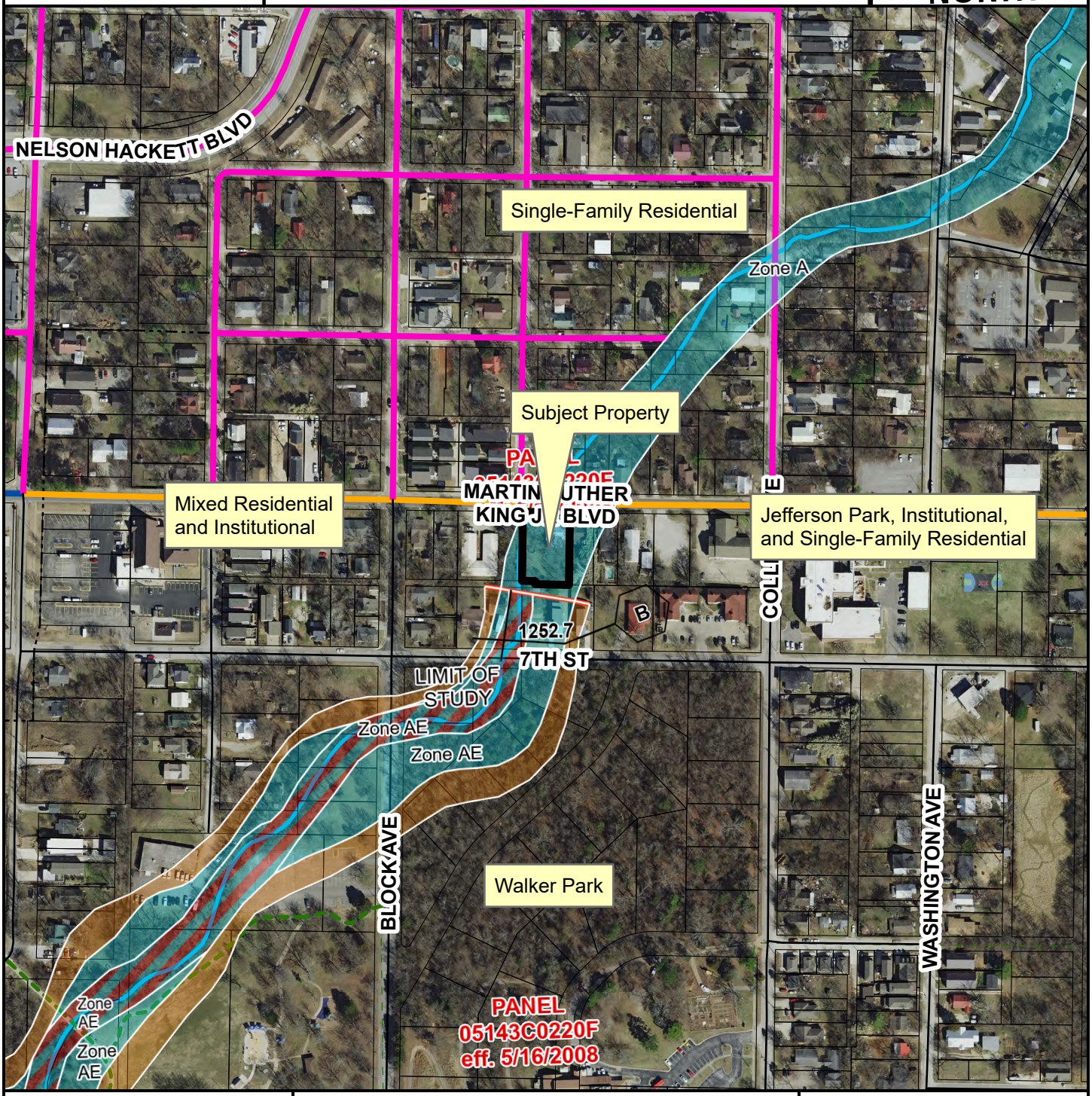
RI-U
Downtown General
Neighborhood Conservation
P-1

CUP-2023-0117

Current Land Use

7 E. MARTIN LUTHER KING JR BLVD

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

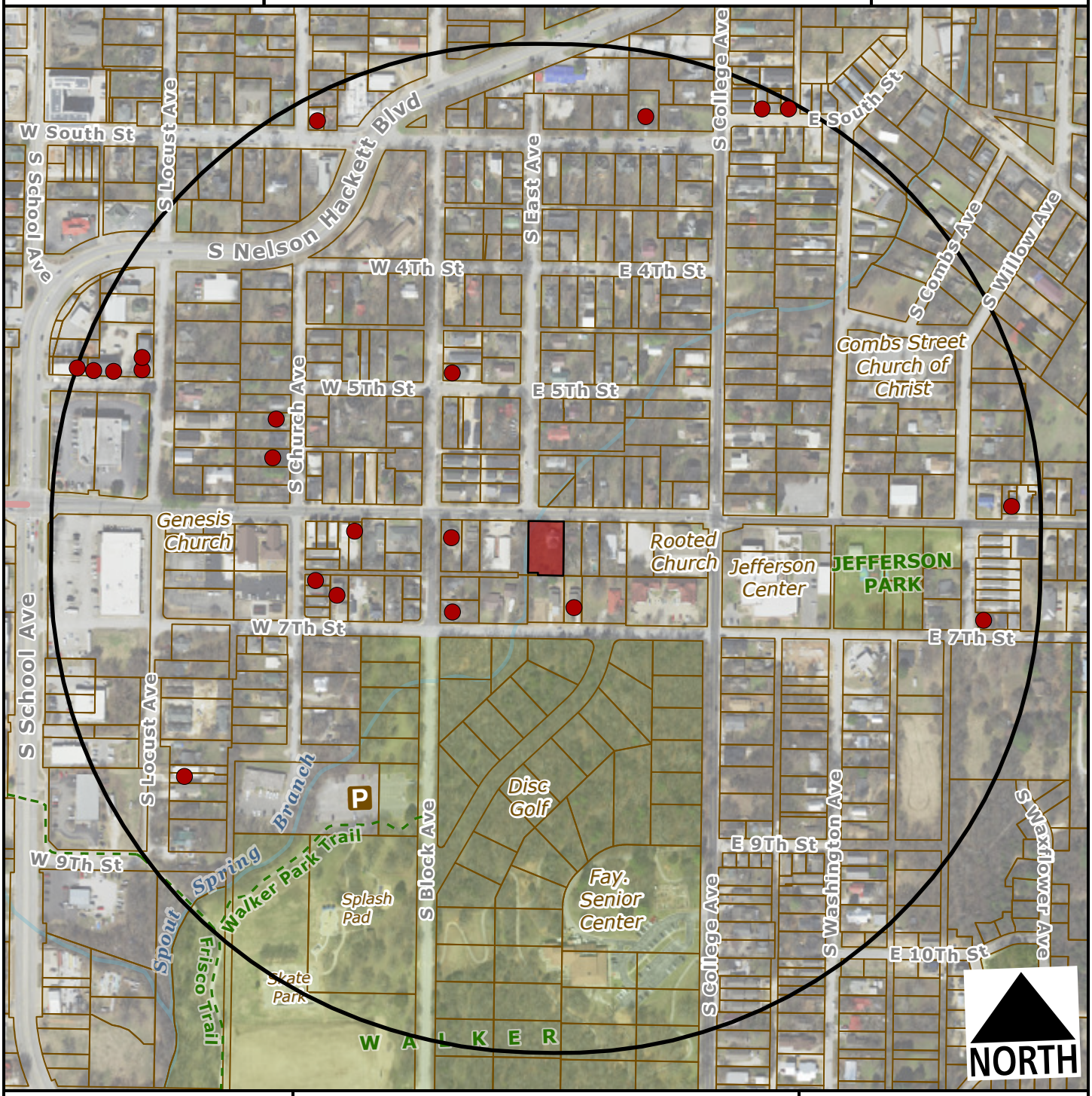
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0117

STRs Within 1/4 Mile

7 E. MARTIN LUTHER KING JR BLVD



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 21

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0118: Conditional Use Permit (1611 E. 5TH ST/EARLY, 526):** Submitted by ZEBUEL EARLY for property located at 1611 E. 5TH ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0118** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0118**, determining:*

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

BACKGROUND:
The subject property is located in south Fayetteville on E. 5th Street, in between the intersections with S. Sherman Avenue and S. Happy Hollow Road. The property contains 0.30 acres and is developed with a 1,152-square-foot, three-bedroom, single-family dwelling which was built in 1970. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Two-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 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-2023-0118** 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**	**YES**	
Date: September 25, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

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

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

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

Finding: **The 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 a paved driveway which is located next to the house.**

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

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

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

Finding: **The application is for use of the property at 1611 E. 5th Street. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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 18, 2023, the City had issued 399 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 E. 5th Street appears to be wide enough to accommodate on-street parking as well. City records indicate one other unit within a quarter-mile radius of the property has an active Type 2 short-term rental business license. No previous or active code violations were found on this property.**

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

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

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

Finding: **An existing paved driveway is available to accommodate vehicular ingress and egress to the subject property. The property has frontage along E. 5th Street, which portion of West Avenue which is partially improved with sidewalk at the back of curb on the south side of the street. Staff finds that**

the proposal to use the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.

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

Finding: **While the applicant states that the existing driveway could accommodate up to four vehicles, staff finds that 3 is likely more realistic, given the existing slope of the property. Staff finds that three spaces is still likely adequate to accommodate the use with the expected number of guests. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

Finding: **The applicant proposes to utilize existing residential trash cart service with containers stored behind the house when not placed at the curb for pick up. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view.**

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

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

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

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant states that residential trash carts will be stored behind the house and not visible from the street.**

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

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

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

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

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

Finding: **Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses. 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. Further, only one short-term rental license has been issued within a ¼ mile radius of this property.**

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

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

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:
- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Site Plan
- 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).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

(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."

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

My name is Zebuel Early and I am kindly requesting a Conditional Use Short Term Rental Permit for my property at 1611 E 5th Street in Fayetteville, AR. I grew up in Arkansas and my whole family lives there. I bought this property a year ago and have been drastically improving the space for the past year so that it is safer and more pleasant for my family and guests. Everything is up to code and we have replaced the stairs to make if safer along with installing smoke detectors and fire alarms throughout the house. I take great pride in improving the value of the home and neighborhood and have the utmost respect for my neighbors.

My wife and I plan to live in the house most of the year while taking care of aging parents. Our vision is for our family to have a comfortable space to live and a pleasant space for visiting family and guests. We also hope to be able to short term rent the property to help cover expenses as needed. My brother lives in Fayetteville near the property and will be managing it when we are out of town. My nephew does lawn maintenance and my niece and sister clean the space.

The property is 1652 sqft. Color of the exterior is is light blue. There are four parking spaces in the driveway and plenty of space on the side of the road if needed with plenty of room for cars to pass freely on the street. There is an empty lot to the west of the property and an empty lot directly across the street. We also plan to expand parking into the back yard in the months to come.

There is plenty of outdoor lighting in the front, side and backyard and we will instal additional cafe lights in the back yard to add brightness.

There is a fence and trees separating the property from the adjacent properties and neighbors to the south.

Trash and refuse service is already scheduled and provided and is easily visible from the street.

As mentioned before, The house sits next to an empty lot and across from another empty lot. Our friendly neighbor on the east side welcomes us to rent the house. There are tall trees to the rear of the property protecting our house from the neighboring units. There are other short term rentals in the neighborhood and a few larger apartment complexes nearby.

The place is perfect for a short term rental or medium term rental when not occupied by owners.

CUP-2023-0118
Elevations





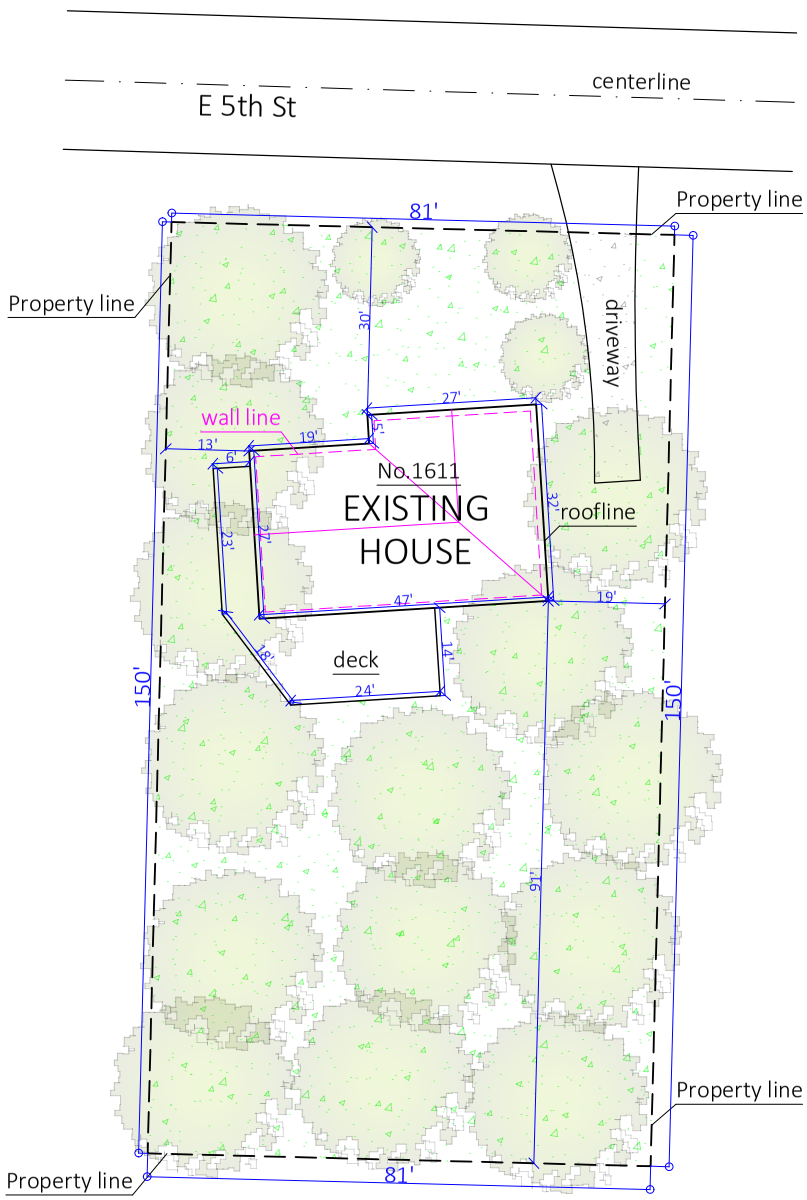






SITE PLAN

1611 E 5th St
Fayetteville, AR 72701
Parcel ID: 765-05925-000
Lot area: 0.28 Acres
Plot Size: 11"x17"

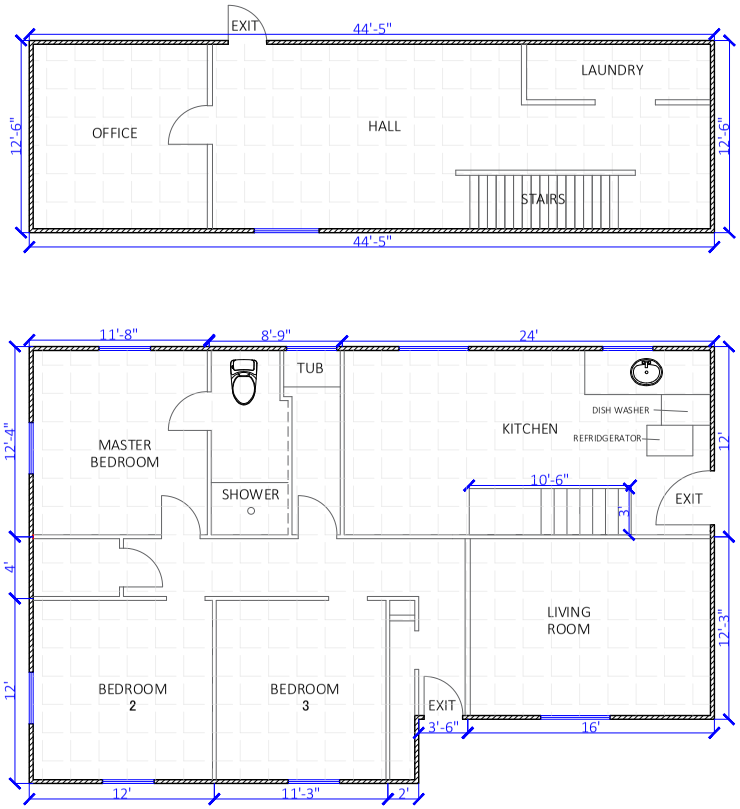




scale 1"=20'

1ST F L O O R P L A N

1611 E 5th St
Fayetteville, AR 72701
Parcel ID: 765-05925-000
Lot area: 0.28 Acres
Plot Size: 11"x17"





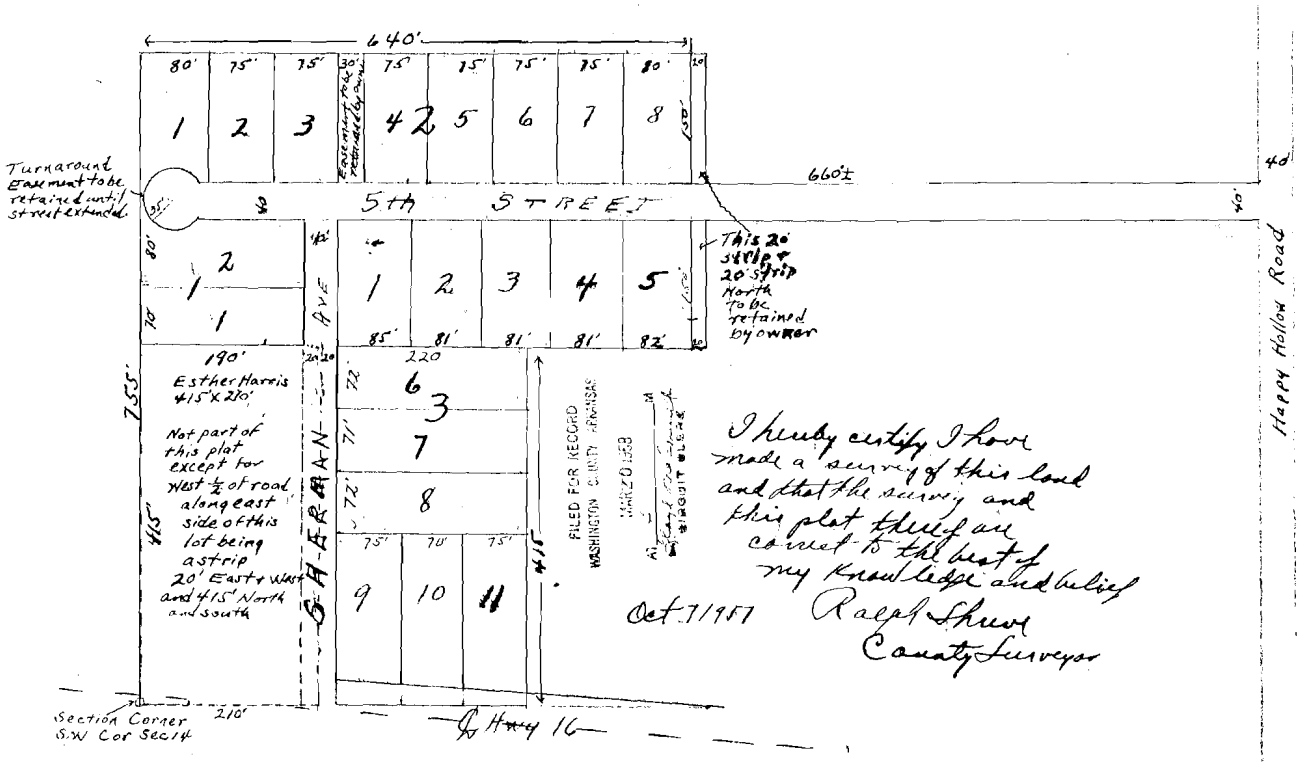
scale 1/8"=1'0"

Green Hills Subdivision of Pt. S.W.¼ S.W.¼ Sec. 14 Twp. 16 N R. 30 W. for O.W. Green & wife

334

Statement of ownership and dedication attached

BOOK 505 PAGE 222

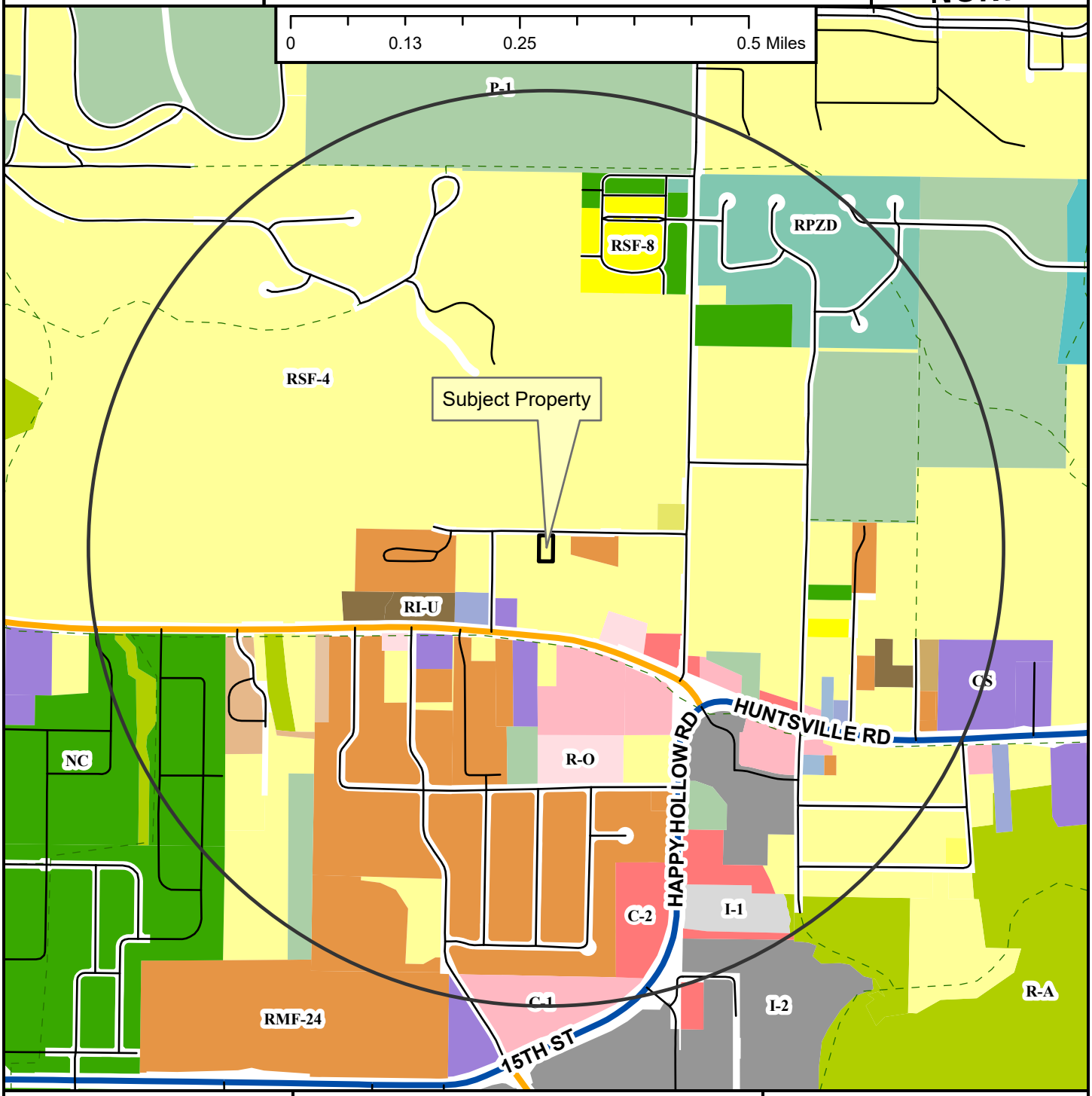


CUP-2023-0118

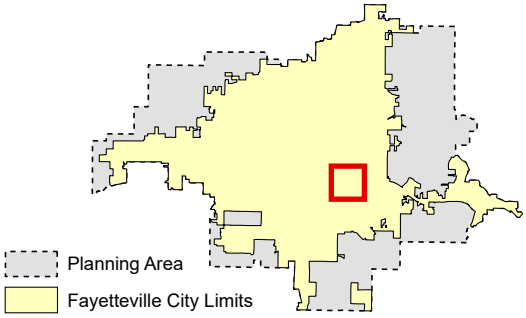
One Mile View

1611 E. 5TH ST

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

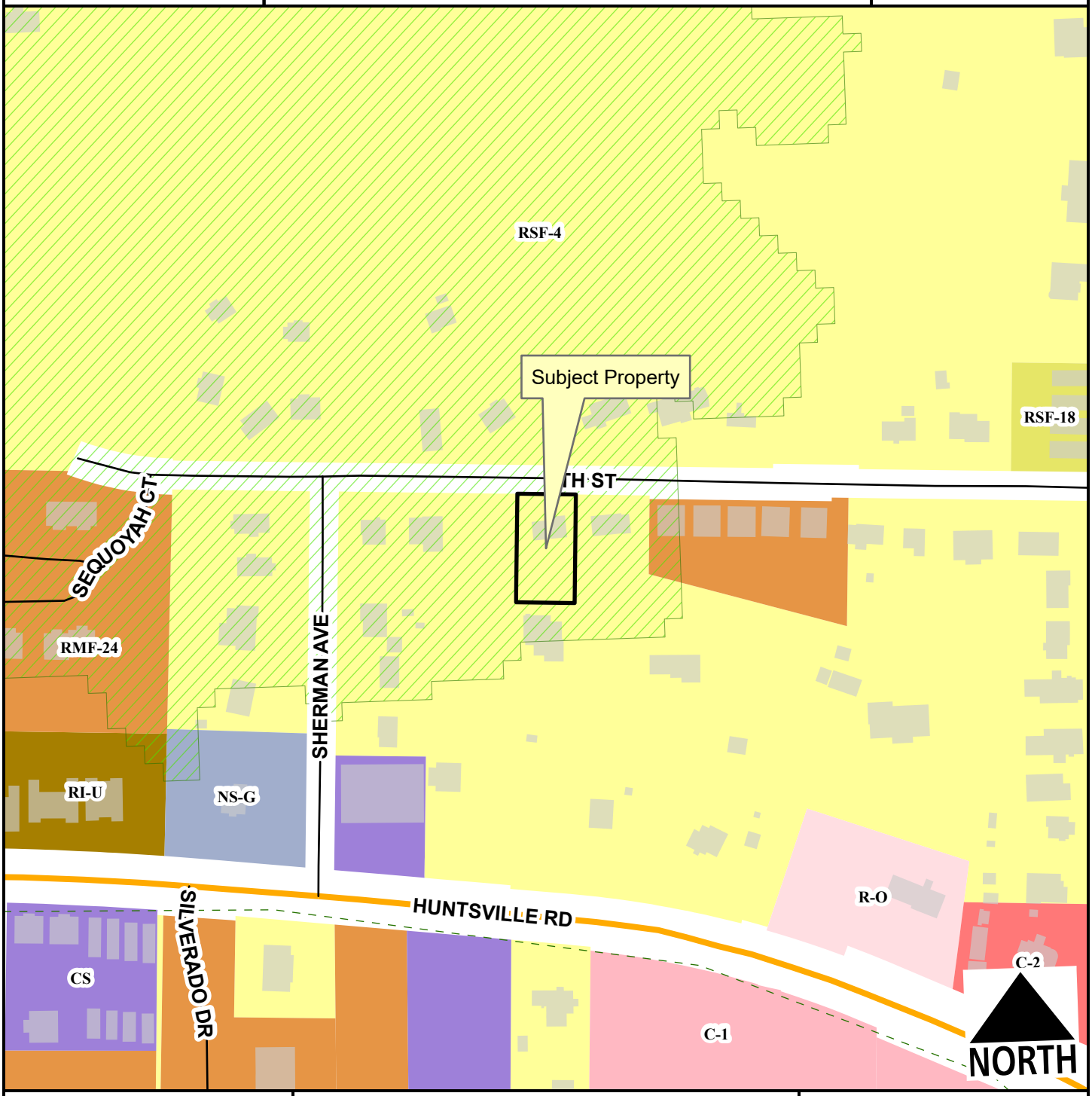
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0118

Close Up View

1611 E. 5TH ST



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

Feet
0 75 150 300 450 600
1:2,400

RSF-4
RSF-18
RI-U
RMF-24
Residential-Office
C-1
C-2
Community Services
Neighborhood Services - Gen.

CUP-2023-0118

Current Land Use

1611 E. 5TH ST

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0118

STRs Within 1/4 Mile

1611 E. 5TH ST



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 1

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: September 25, 2023

SUBJECT: **CUP-2023-0119: Conditional Use Permit (3210 W. ESSEX DR/TANNER, 362):** Submitted by TANNER PROPERTY GROUP SLLC for property located at 3210 W. ESSEX DR. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, TWELVE 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-2023-0119** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0119**, 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 west Fayetteville in the Pine Crest subdivision in between Hamestring Creek and Bryce Davis Park. The property contains 0.10 acres and is developed with a 942-square-foot, three-bedroom, single-family dwelling which was built in 1995. 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	RI-12, Residential Intermediate, 12 Units per Acre
South	Single-Family Residential	RI-12, Residential Intermediate, 12 Units per Acre
East	Single-Family Residential	RI-12, Residential Intermediate, 12 Units per Acre
West	Single-Family Residential	RI-12, Residential Intermediate, 12 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0119** 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**	**YES**	
Date: September 25, 2023	**❒ 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 RI-12 zoning.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: **The request is to operate a Type 2 short-term rental in RI-12 zoning. Since RI-12 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. While the applicant has indicated a two-car garage and driveway that could accommodate up to four vehicles, the driveway would likely only be able to park 2 vehicles without overhanging onto the sidewalk.**

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 3210 W. Essex Drive. 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 18, 2023, the City had issued 399 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 Essex Drive appears to be wide enough to accommodate on-street parking. 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 zoning violations were found on this property.**

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

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

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

Finding: **A paved driveway is available to accommodate vehicular ingress and egress to the subject property. The property has frontage along W. Essex Drive which is improved with sidewalk along the north side of the street. Staff finds that the proposal to use the property as a short-term rental will not adversely**

affect traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.

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

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

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

Finding: **The applicant proposes to utilize existing residential trash cart service. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view.**

(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 short-term rentals are permitted by right in the underlying RI-12 zoning district. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request. The number of short-term rentals in the neighborhood does not yet appear to have reached a saturation point.**

(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
  - §161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	12

(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) and four (4) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*

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

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

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

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§4, 8, 9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21; Ord. No. 6658 , §2(Exh. A), 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."

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 Request for 3210 W Essex Dr., Fayetteville, AR 72704

To whom it may concern:

I am writing to formally request a short-term rental of the property located at 3210 W Essex Dr., Fayetteville, AR 72704. I am hoping to list the house as soon as possible starting in September 2023.

Below you will find you the answers to your questions.

(a) Building size in square feet; existing and proposed: 942
(b) Color elevations of all exterior sides of the structure: White and grey
(c) Number of off-street parking spaces to be provided / number required: 2
(d) Outdoor lighting: Yes
(e) Noise: residential, there are no noise issues currently and I do not expect the renters to create issues for the neighbors
(f) Screening or buffering from adjacent properties: A fence will surround the property
(g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties): Waste management and the City of Fayetteville
(h) Ingress and egress to the property; traffic impacts: Essex Drive is a two-way road in and out, street parking will be not problem and will not impede traffic.
(i) General compatibility of the proposed use with adjacent properties and other property in the neighborhood: The property's usage aligns with similar homes in the area, which are often rented. This neighborhood is home to both renters and owners, with a number of short-term rentals in the vicinity.

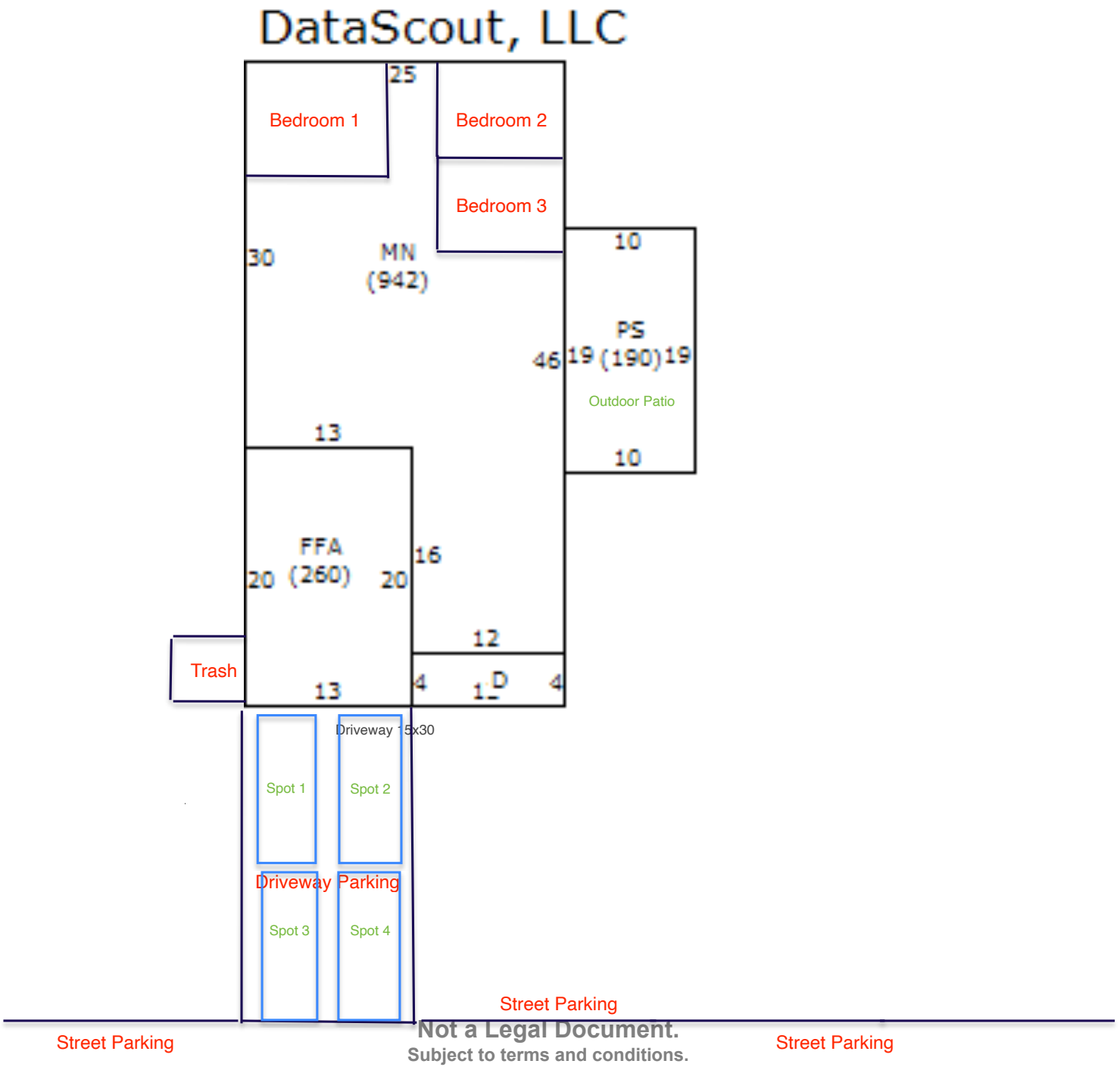
Please let me know if you need clarification or additional information.

Sincerely,

Evan Tanner
Owner, Tanner Property Group, SLLC


3210

Sketch for Residential Card 1








EVIAN LES BAINS











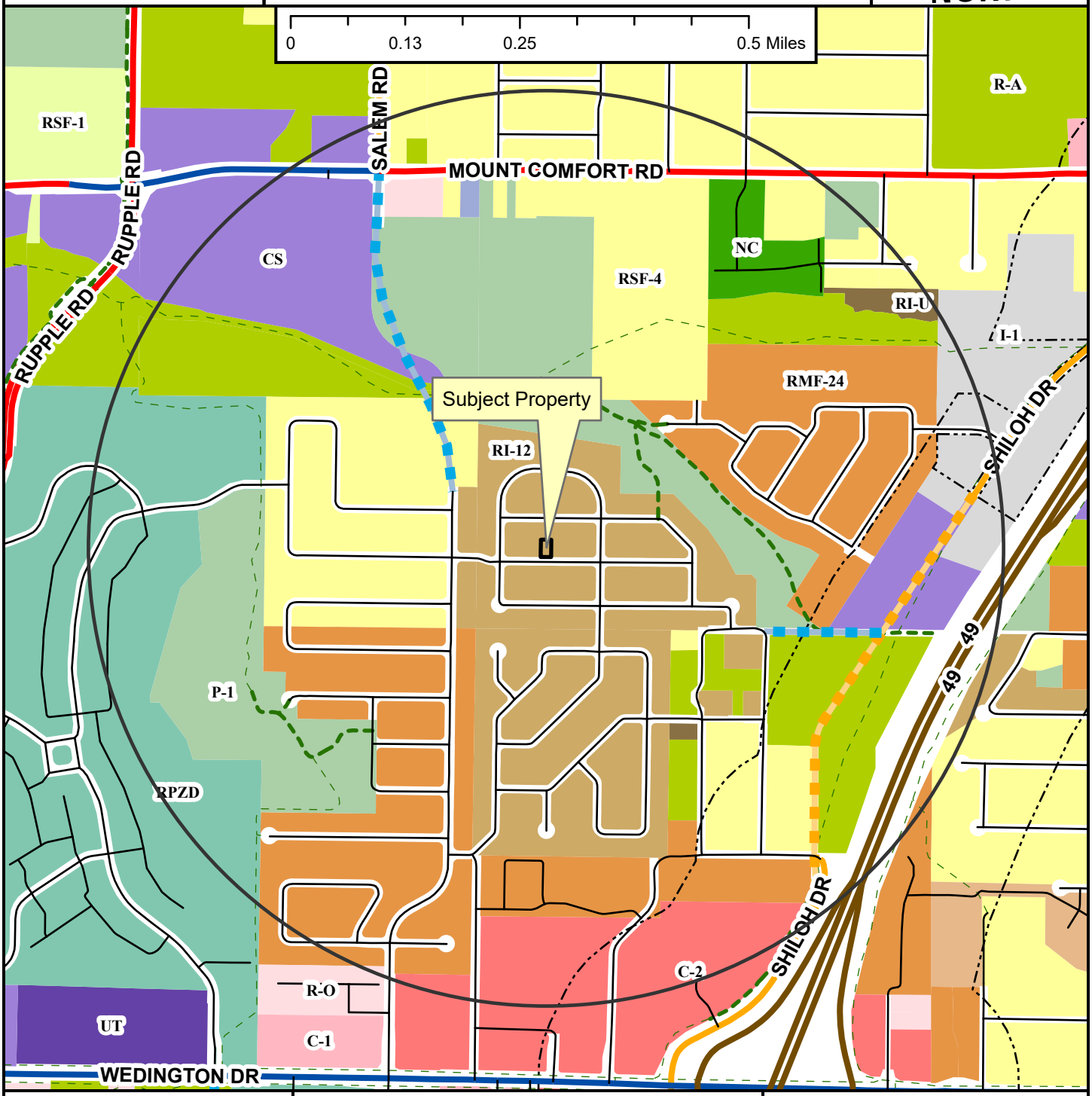


CUP-2023-0119

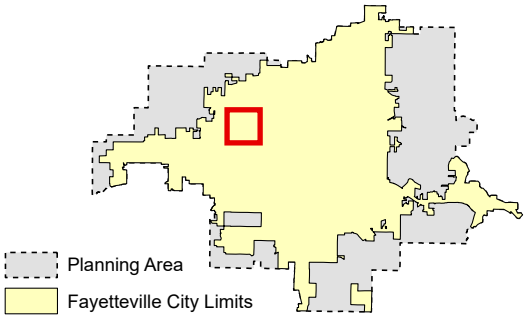
One Mile View

3210 W. ESSEX DR

NORTH



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



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G, RI-U, RI-12, NS-L, Residential-Agricultural, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6, RMF-12, RMF-18, RMF-24, RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial, I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office, C-1, C-2, C-3

FORM BASED DISTRICTS
Downtown Core, Urban Thoroughfare, Main Street Center, Downtown General, Community Services, Neighborhood Services, Neighborhood Conservation

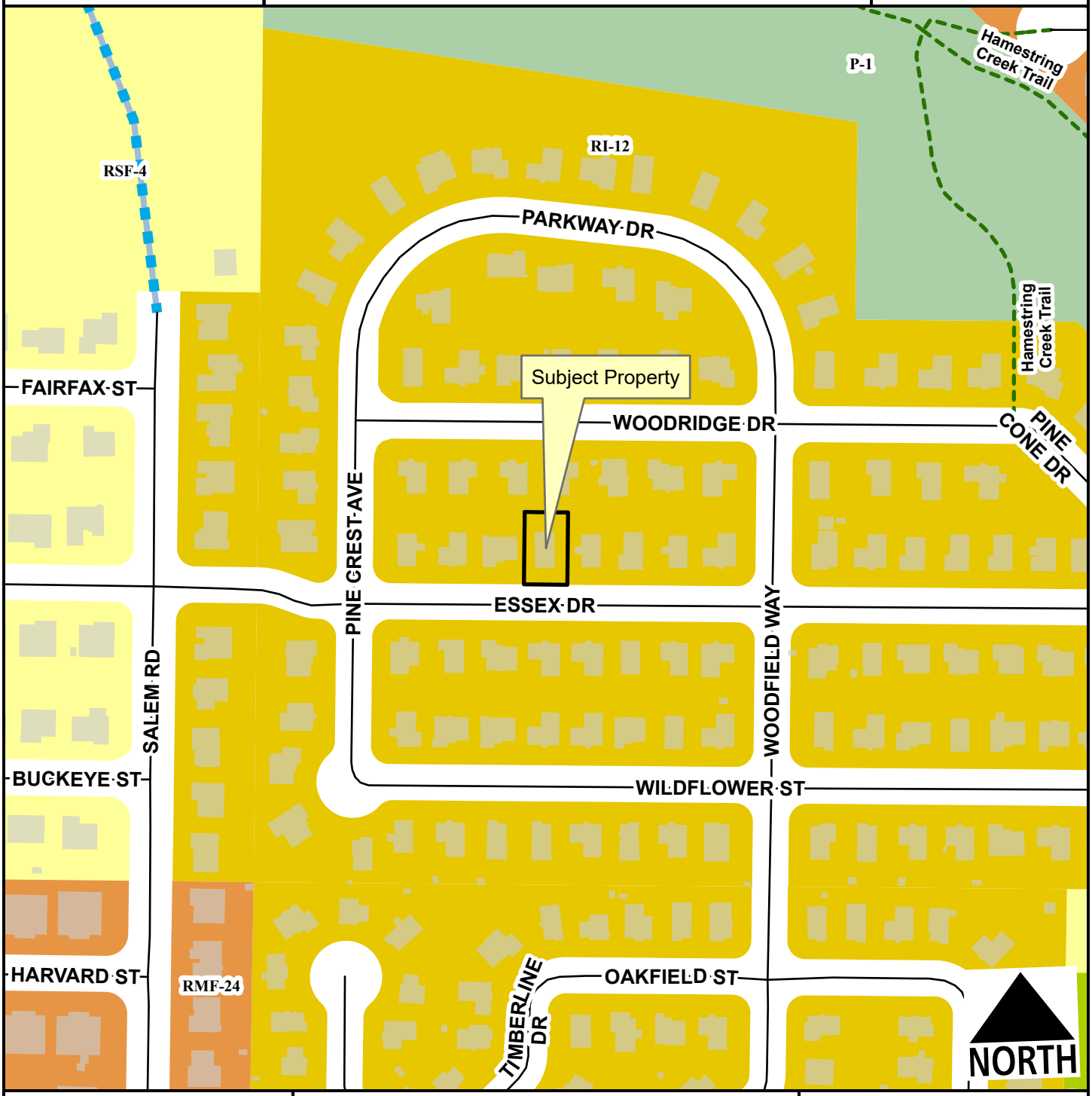
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0119

Close Up View

3210 W. ESSEX DR



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

Feet
0 75 150 300 450 600
1:2,400

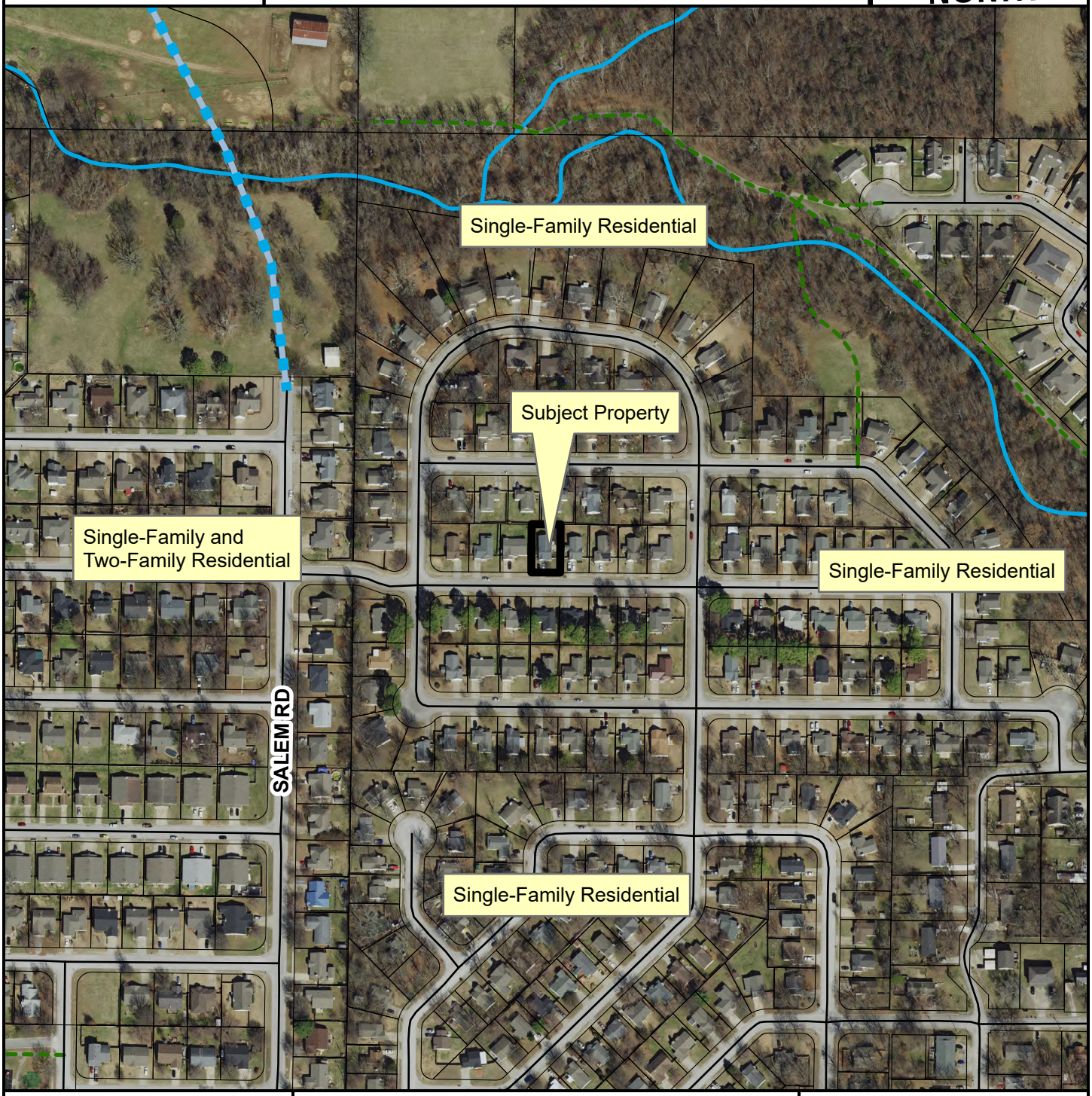
Residential-Agricultural
RSF-4
RI-12
RMF-24
P-1

CUP-2023-0119

Current Land Use

3210 W. ESSEX DR

NORTH



Residential Link

Planned Residential Link

Trail (Proposed)

Planning Area

Fayetteville City Limits

Feet

0 112.5 225 450 675 900

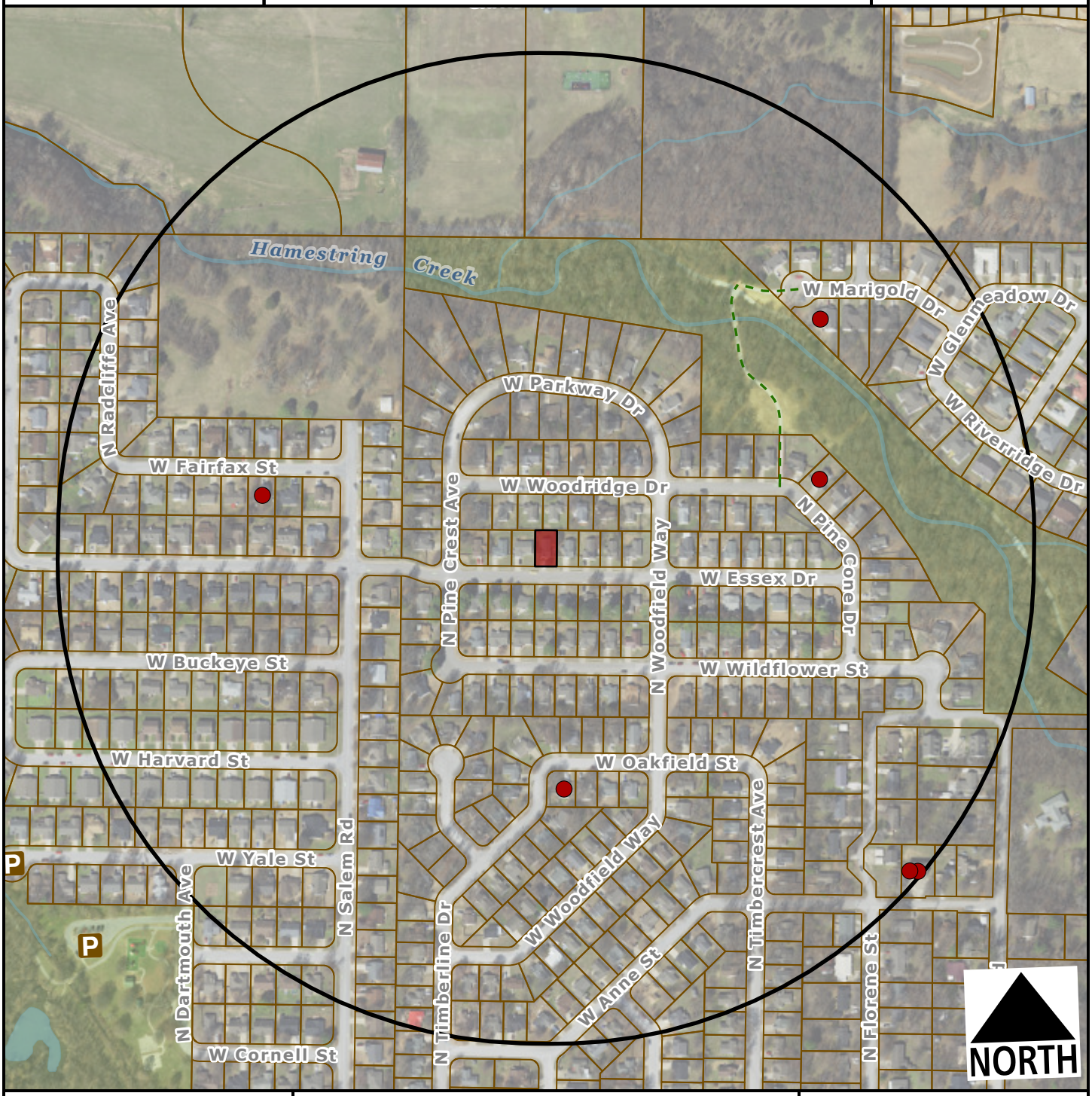
1:3,600

FEMA Flood Hazard Data

100-Year Floodplain

Floodway

CUP-2023-0119	3210 W. ESSEX DR	
STRs Within 1/4 Mile		



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 6