

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, October 19, 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 October 9, 2023 Planning Commission. -
Mirinda Hopkins, Development Coordinator

2. VAR-2023-0045: Planning Commission Variance (16050 HARP RD/PRICHARD, 317):

Submitted by BATES & ASSOCIATES for property located at 16050 HARP RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 5.40 acres. The request is for a variance from street frontage requirements. - Donna Wonsower, Planner

Unfinished Business**New Business****3. ADM-2023-0038: Administrative Item (2390 S. DEAD HORSE MOUNTAIN RD/THE PRESERVE AT STONEBRIDE, 645 & 646):**

Submitted by JORGENSEN & ASSOCIATES for property located at 2390 S. DEAD HORSE MOUNTAIN RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 51.32 acres. The request is to amend a previously approved preliminary plat. - Jessica Masters, Development Review Manager

4. PPL-2022-0012: Preliminary Plat (WEST OF N. HUGHMOUNT RD/HUGHMOUNT SOUTH, 285):

Submitted by JORGENSEN & ASSOCIATES for property located WEST OF N. HUGHMOUNT RD. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE, R-A, RESIDENTIAL AGRICULTURAL, AND NS-G, NEIGHBORHOOD SERVICES-GENERAL and contains approximately 19.43 acres. The request is for the preliminary plat of 48 residential lots, three unbuildable lots, and one lot reserved for future development. - Donna Wonsower, Planner

5. VAC-2023-0011: Vacation (2417 N. SHILOH DR/LEWIS BROTHERS LEASING CO., 286):

Submitted by CLARK LAW FIRM PLLC for property located at 2417 N. SHILOH

DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL & I-1, HEAVY COMMERCIAL & LIGHT INDUSTRIAL and contains approximately 22.76 acres. The request is to vacate portions of street right-of-way totaling 0.28 acres. - Gretchen Harrison, Senior Planner

6. CUP-2023-0133: Conditional Use Permit (1742 S. RAZORBACK RD/TITAN CONSTRUCTION LLC, 599):

Submitted by BATES & ASSOCIATES for property located at 1742 S. RAZORBACK RD. The property is zoned NS-G, NEIGHBORHOOD SERVICES - GENERAL and contains approximately 0.85 acres. The request is for Use Unit 26, Multi-Family Dwellings in NS-G zoning. - Kylee Hevrdejs, Planner

7. CUP-2023-0131: Conditional Use Permit (1493 N. LONESOME DOVE DR/LYNCH, 399):

Submitted by CDL CAPITAL LLC for property located at 1493 N. LONESOME DOVE DR. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE and contains approximately 0.14 acres. The request is to use the residence as a short-term rental.

THIS ITEM HAS BEEN WITHDRAWN FOR LACK OF PUBLIC NOTIFICATION. - Kylee Hevrdejs, Planner

8. CUP-2023-0132: Conditional Use Permit (856 E. WINDY HILL ST/KBRB LLC, 330):

Submitted by MICHELLE BROCKMAN for property located at 856 E. WINDY HILL 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. - Kylee Hevrdejs, Planner

9. CUP-2023-0134: Conditional Use Permit (1240 N. LEWIS AVE/R W WILLIAMS PROPERTIES LLC, 404):

Submitted by WILLIAMS BROTHERS INVESTMENTS LLC for property located at 1240 N. LEWIS AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.40 acres. The request is to use the residence as a short-term rental. - Kylee Hevrdejs, Planner

10. CUP-2023-0135: Conditional Use Permit (3093 W. SALIDA LN/HAUSE, 557):

Submitted by THE HAM LAW FIRM for property located at 3093 W. SALIDA LN. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

11. CUP-2023-0136: Conditional Use Permit (2522 W. ARTHUR HART ST/AVRAM, 402):

Submitted by ALEXANDRU AVRAM for property located at 2522 W. ARTHUR HART ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

12. CUP-2023-0137: Conditional Use Permit (931 N. LEWIS AVE/KHC INVESTMENTS LLC, 443):

Submitted by KEAT COHN for property located at 931 N. LEWIS AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

13. CUP-2023-0125: Conditional Use Permit (1748 E. ACACIA XING/NEXT ADVENTURE PROPERTIES LLC, 526):

Submitted by NEXT ADVENTURE PROPERTIES for property located at 1748 E. ACACIA XING. 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. - Gretchen Harrison, Senior Planner

14. CUP-2023-0140: Conditional Use Permit (820 N. GARLAND AVE/JARRATT, 444):

Submitted by JARRATT INDUSTRIES LLC for property located at 820 N. GARLAND AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY 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

Items Administratively Approved by Staff

15. LSP-2023-0050: Lot Split (3017 W. OLD FARMINGTON RD/ARNOLD, 557):

Submitted by JORGENSEN & ASSOCIATES for property located at 3017 W. OLD FARMINGTON RD. The property is zoned RSF-18, RESIDENTIAL SINGLE-FAMILY, EIGHTEEN UNITS PER ACRE and contains approximately 0.48 acres. The request is to divide the property into three lots containing 0.25, 0.13 and 0.10 acres. - Donna Wonsower, Planner

16. LSP-2023-0051: Lot Split (1095 S. RAY AVE/WERP LLC, 565):

Submitted by BATES & ASSOCIATES for property located at 1095 S. RAY AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.96 acres. The request is to divide the property into three lots containing 0.25, 0.27 and 0.44 acres. - Kylee Hevrdejs, Planner

Agenda Session Items

Announcements**Adjournment****NOTICE TO MEMBERS OF THE AUDIENCE**

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

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

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

(pg. 1) Planning Commission						Monday, 10/09/2023		
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 09-25-2023	2) VAC-2023-0005 (TRINITAS VENTURES)			3) VAR-2023-0040 (TRINITAS VENTURES)	4) ADM-2023-0039 (Amend PC Rules of Order)	5) VAR-2023-0027 (CHURCH & LOCUST TOWNHOMES)
Sparkman	1	1	0	1	1		0	0
Brink	1	1	0	1	1		1	0
Garlock	1	1	0	0	0		1	0
Madden	1	1	1	1	1		0	0
Payne	1	1	1	0	0		1	0
Gulley	V	1	0	1	1		0	0
Holcomb	V	1	1	0	1		0	0
Winston	V	1	1	1	1		0	0
McGetrick	1	1	1	1	1		0	0
Agenda		Consent	Old			Old	New	New
Motion By		Garlock	McGetrick	Payne	Brink		Brink	Brink
Motion 2nd		Brink	Winston	McGetrick	Sparkman		Garlock	Garlock
Vote		9-0-0	5-4-0	7-2-0	6-3-0		3-6-0	0-9-0
Action		Approve	Approve	Forward	Approve	Withdrawn	Approve	Approve
Time		5:33 PM	5:38 PM	6:25 PM	6:23 PM		6:41 PM	6:55 PM
Motion Detail			Failed motion to allow 10 additional minutes for representative to speak.	Passed with a recommendation of approval with all other conditions as recommended by staff.	Passed Add a conditions to dedicate 20' alley right-of-way along north & west property lines.		Failed	Failed
Public Comment			3				0	0

(pg. 2) Planning Commission			Monday, 10/09/2023		
	6) VAR-2023-0042 (VALVOLINE)	7) CUP-2023-0126 (TERMINELLA)	8) RZN-2023-0026 (MARTINEZ)	9) RZN-2023-0028 (MOUNT SEQUOYAH CENTER)	10) CUP-2023-0120 (STEWART)
Sparkman	1	1	1	1	1
Brink	1	1	1	1	1
Garlock	0	0	1	1	1
Madden	0	1	1	1	1
Payne	0	1	1	1	1
Gulley	0	1	1	1	1
Holcomb	1	1	1	1	1
Winston	1	1	1	1	1
McGetrick	1	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Winston	Brink	Garlock	Brink	Brink
Motion 2nd	Brink	Payne	McGetrick	Garlock	Madden
Vote	5-4-0	8-1-0	9-0-0	9-0-0	9-0-0
Action	Approve	Approve	Forward	Forward	Approve
Time	7:15 PM	7:22 PM	7:29 PM	7:38 PM	7:40 PM
Motion Detail	Passed in favor of variance #1, #2, and #3 with all other conditions as recommended by staff.	Passed with all conditions as recommended by staff.	Passed with a recommendation of approval.	Passed with a recommendation of approval.	Passed with all conditions as recommended by staff.
Public Comment	0	1	0	0	0

(pg. 3) Planning Commission		Monday, 10/09/2023			
	11) CUP-2023-0122 (RANUCCI)	12) CUP-2023-0123 (DWB PROPERTIES)	13) CUP-2023-0127 (COLLISHAW)	14) CUP-2023-0130 (GREENLAW)	15) CUP-2023-0124 (POMEROY)
Sparkman	1	1	1	0	1
Brink	1	1	1	0	1
Garlock	1	1	1	0	1
Madden	1	1	1	0	1
Payne	1	1	1	0	1
Gulley	1	1	1	0	1
Holcomb	1	1	1	0	1
Winston	1	1	1	0	1
McGetrick	1	1	1	0	1
Agenda	New	New	New	New	New
Motion By	Garlock	Madden	Payne	Payne	Brink
Motion 2nd	McGetrick	Payne	Madden	Madden	McGetrick
Vote	9-0-0	9-0-0	9-0-0	0-9-0	9-0-0
Action	Approve	Approve	Approve	Approve	Approve
Time	7:49 PM	7:56 PM	8:00 PM	8:18 PM	8:34 PM
Motion Detail	Passed with all conditions as recommended by staff.	Passed with all conditions as recommended by staff, with added condition that no on-street parking be allowed.	Passed with all conditions as recommended by staff.	Failed	Passed with all conditions as recommended by staff.
Public Comment	0	1	0	0	1

(pg. 4) Planning Commission		Monday, 10/09/2023			
	16) CUP-2023-0125 (NEXT ADVENTURE PROPERTIES)	17) CUP-2023-0102 (SPARKS)	18) CUP-2023-0128 (SPIKES)	19) CUP-2023-0129 (FAYETTEVILLE TOWNHOMES)	
Sparkman		1	1	1	
Brink		1	1	1	
Garlock		1	0	1	
Madden		1	1	1	
Payne		1	1	1	
Gulley		1	1	1	
Holcomb		1	1	1	
Winston		1	1	1	
McGetrick		1	1	1	
Agenda	New	New	New	New	
Motion By		Brink	Payne	Sparkman	
Motion 2nd		Gulley	Madden	Garlock	
Vote		9-0-0	8-1-0	9-0-0	
Action	Withdrawn	Approve	Approve	Approve	
Time		8:41 PM	8:45 PM	8:51 PM	
Motion Detail	Lack of Public Notification	Passed with all conditions as recommended by staff.	Passed with all conditions as recommended by staff.	Passed with all conditions as recommended by staff, amending condition #4 to limit occupancy to 6 guests.	
Public Comment		0	0	0	



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: October 23, 2023

SUBJECT: **VAR-2023-0045: Planning Commission Variance (16050 HARP RD/PRICHARD, 317):** Submitted by BATES & ASSOCIATES for property located at 16050 HARPS RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 5.40 acres. The request is for a variance to street frontage requirements.

RECOMMENDATION:

Staff recommends approving **VAR-2023-0045**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0045**, 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 northwest of Fayetteville city limits within the Planning Area approximately 1/3 of a mile northwest of the intersection of Harp Rd. and Hamestring Rd. The property currently consists of one parcel, developed with a 1,954 square foot single-family residence constructed in 1977 and a 762 square foot mobile home built in 1992. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	Washington County – Ag/SF-1 (Agricultural/Single-family Residential, One Unit per Acre)
South	Single-Family Residential	Washington County – Ag/SF-1 (Agricultural/Single-family Residential, One Unit per Acre)
West	Single-Family Residential	Washington County – Ag/SF-1 (Agricultural/Single-family Residential, One Unit per Acre)
East	Undeveloped	Washington County – Ag/SF-1 (Agricultural/Single-family Residential, One Unit per Acre)

Request: The applicant proposes to split the subject property into two lots. The proposed lot split would result in Tract 1 retaining frontage along Harps Rd., 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. Harp Rd. is a private, unclassified street serving only 16 parcels. Of these, several owners own multiple parcels. Further, the proposed lot split would create two lots containing 3.91 and 1.49 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 one and nearly forty acres and most 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. The parent parcel is separated from the nearest public street, Hamstring Rd, by about 1/3 of a mile. A 20-foot access easement is proposed to be dedicated with the lot split centered on the existing driveway.

Public Comment: Staff has not received any public comment.

RECOMMENDATION: Staff recommends approval of VAR-2023-0045, 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 <u>YES</u>			
Date: <u>October 23, 2023</u>	☐ 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)



BATES

Engineers - Surveyors

7230 S. Pleasant Ridge Dr. Fayetteville, AR 72704

PH: 479-442-9350 * FAX: 479-521-9350

www.nwabatesinc.com

9/14/23

To the City of Fayetteville Planning Commission:

Our clients, Donald & Barbara Prichard are requesting a variance for the lack of public road frontage on their property at 16050 Harp Rd, Fayetteville, AR. The reason for this request is that they are trying to split their property into two tracts. The subject property involved is parcel 001-11446-000 and contains 5.40 acres. Tract 1 to contain 3.92 acres and tract 2 to contain 1.49 acres. Tract 1 has plenty of road frontage along Harp Road, but tract 2 will require a variance in order for the tract split to be approved. There is a hardship with Harp Road (WC 3803) which is a private road that ends before the front property line of tract 2. We are proposing to access tract 2 via a 20ft access easement across Tract 1 along the existing driveway to give tract 2 access to Harp Rd. This split is between family members and the reason for the split is so the Prichards can split off the existing house located on tract 2 that belongs to their son for mortgage purposes.

If you have any questions, comments or concerns, feel free to contact us.

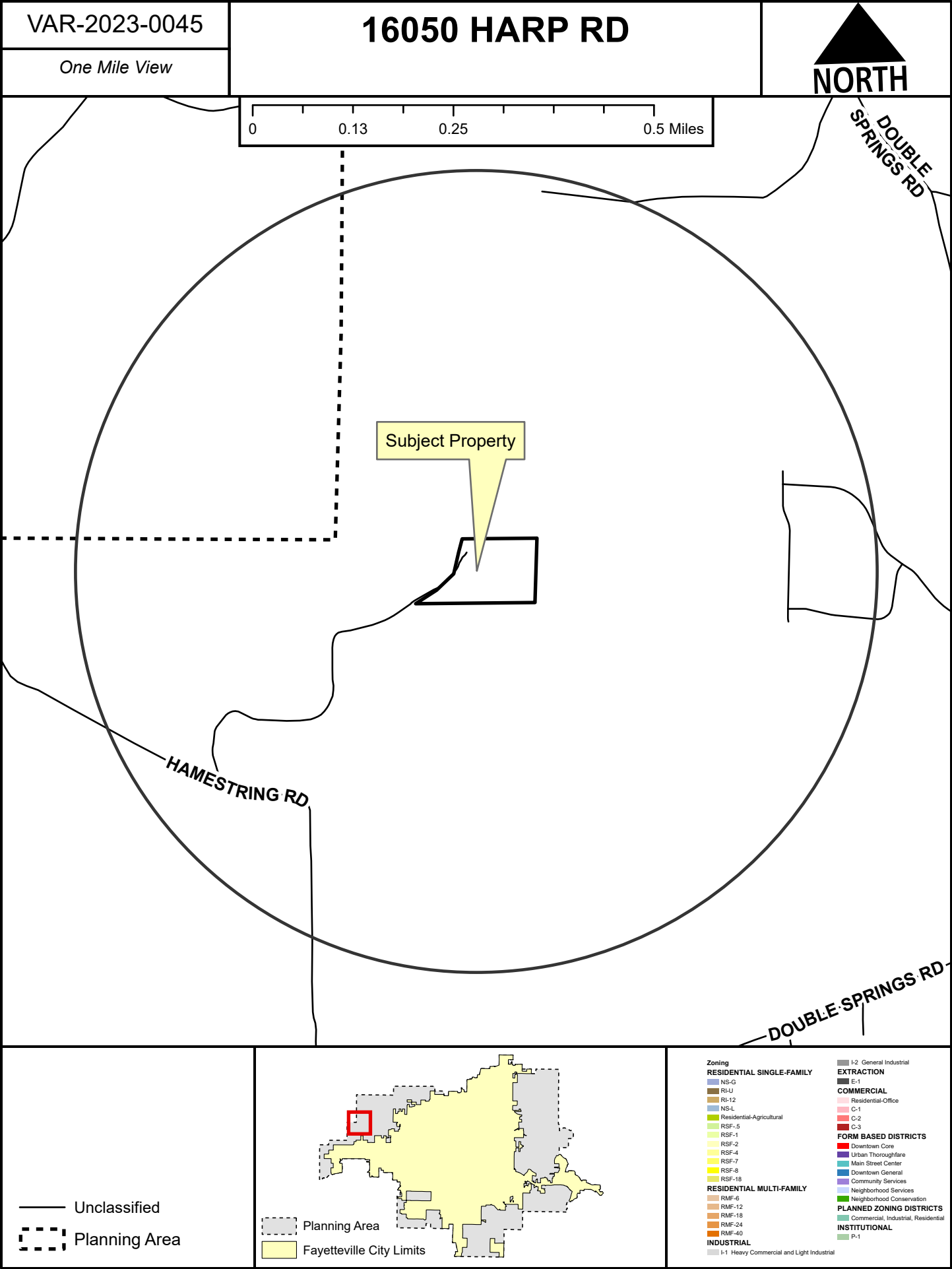
Sincerely,

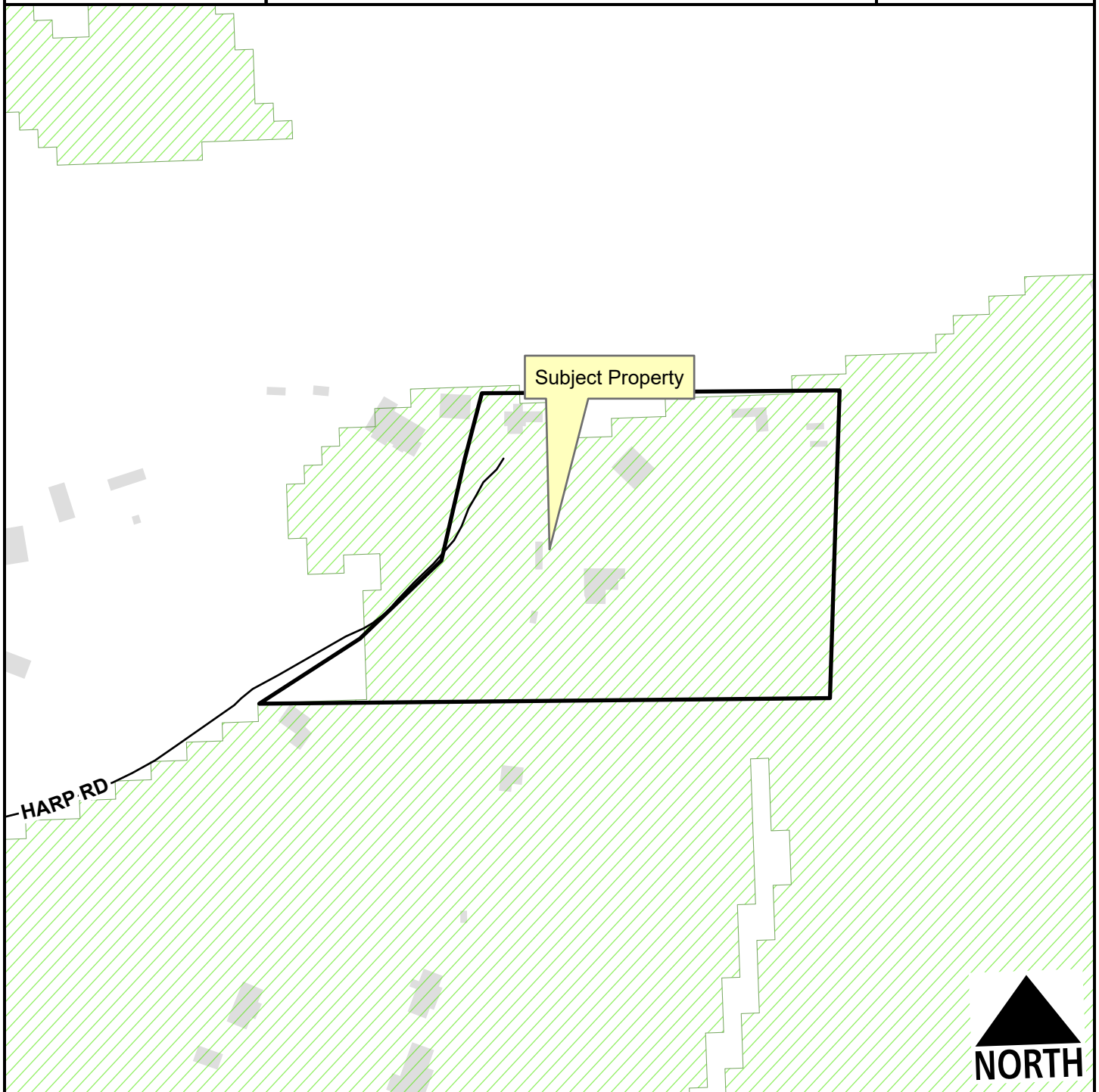
Blaine Atchley
Project Manager

Phone: 479-442-9350

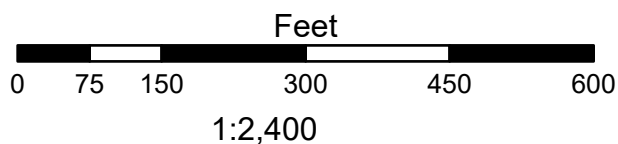
Email: blaine@batesnwa.com

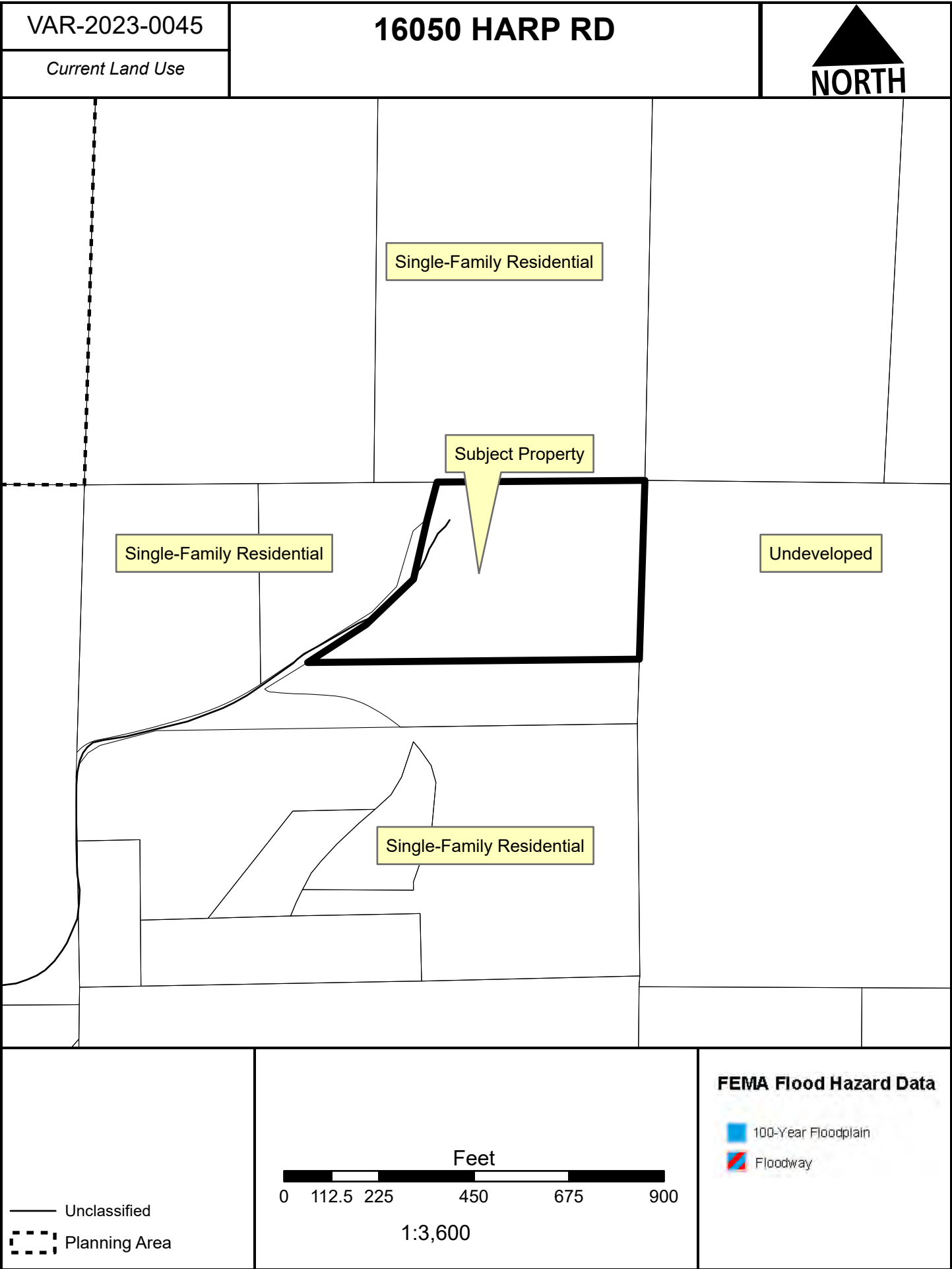
7230 S Pleasant Ridge Drive
Fayetteville, AR 72704





- Unclassified
-  Hillside-Hilltop Overlay District
-  Planning Area







TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forestry

MEETING DATE: October 23, 2023

SUBJECT: **ADM-2023-0038: Administrative Item (2390 S. DEAD HORSE MOUNTAIN RD/THE PRESERVE AT STONEBRIDGE, 645, 646):** Submitted by JORGENSEN AND ASSOCIATES for property located at 2390 S. DEAD HORSE MOUNTAIN RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 53.64 acres. The request is to amend a previously approved preliminary plat.

RECOMMENDATION:

Staff recommends approval of **ADM-2023-0038**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **ADM-2023-0038**, with conditions finding:*

- 1. In favor of the proposed variance request to 166.08(E)(d); and*
- 2. In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in south Fayetteville off S. Dead Horse Mountain Road, just west of Stonebridge Meadows Golf Club. The property has a long development history, though multiple plans have failed to come to fruition. It was previously part of the Villas at Stonebridge Planned Zoning District, which expired in 2015. Upon the project's expiration, staff recommended the property revert back to its original zoning of R-A, Residential-Agricultural. The property was eventually rezoned to its current RSF-4 designation with an associated Bill of Assurance limiting the density to 2.5 units per acre (RZN 15-5194, Ordinance 5842). In February 2018, a preliminary plat for Meadows at Stonebridge Subdivision was approved on this property (PPL18-6063), which was not built. After two additional failed rezoning attempts in 2021, one a Planned Zoning District that was denied by City Council in March, and the other a request to remove the Bill of Assurance which was denied by Council in December, another preliminary plat received approval on 51.32 acres of the site from Planning Commission in July 2022 (PPL-2022-0006). A third rezoning attempt in 2023 also failed to receive approval from City Council for a larger, 205.22 acre site. The applicant received an administrative project extension on PPL-2022-0006, which will expire on July 25, 2024. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1: Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped; Recreational (Golf Club)	R-A, Residential-Agricultural
South	Undeveloped; Single-Family Residential	R-A, Residential-Agricultural; Washington County
East	Recreational (Golf Club)	R-A, Residential-Agricultural
West	Single-Family Residential; Agricultural	RSF-4, Residential Single-Family, 4 Units Per Acre; R-A, Residential-Agricultural; Washington County

Request: The applicant proposes to modify a previously approved preliminary plat to alter the project site area, increase the number of units to 134, and modify the required street improvements. The development, previously referred to as the Meadows at Stonebridge, is now being referred to as The Preserve at Stonebridge.

DISCUSSION:

Staff recommends in favor of the applicant's modifications, finding that they are still generally in compliance with the Unified Development Code, for one exception, which is listed below.

Right-of-Way and Street Improvements:

Dead Horse Mountain Road: No changes are proposed to this by the applicant, though frontage along S. Dead Horse Mountain Road was added with the acquisition of additional property. S. Dead Horse Mountain Road is a partially improved Neighborhood Link. Staff is recommending that right-of-way be dedicated in the amount of at least 33.5 feet from centerline along that frontage pursuant to the typical requirement for a Neighborhood Link, and 8-foot sidewalk, 10-foot greenspace, street trees and streetlights be installed as required by ordinance.

Internal Streets: The applicant is requesting the standard Residential Link Street section for all internal streets, with 52 feet of right-of-way, 6-foot sidewalk, 6-foot greenspace, and all other typically required elements. The applicant has also removed a street connection to S. Dead Horse Mountain Road which had been approved for a modified street section; that street connection has been replaced with a trail connection. Staff supports this modification.

Block Length/Connectivity: As stated above, the applicant is requesting to update the previously-approved variance to the block length standards for Residential Link streets, which typically require an intersection at a maximum distance of 660 feet.

- **166.08(E)(d), Block length/connectivity. Residential Link Streets are required to have intersections at a minimum of 660 feet.** *The original preliminary plat was approved with a variance to 166.08(E)(d); since the orientation of the street network has been modified, including the distance between intersections, an updated variance request for block length along streets A and D is proposed. A block length of 1650 is requested for Street A; the applicant has indicated that amenities in the neighboring golf course make an additional connection infeasible. A block length of 1825 feet is requested for Street D; the applicant has indicated that an existing pond and existing residences also make a connection infeasible in this direction. Staff supports the request, finding that it is similar in scope to what was previously approved.*

Water and Sewer System: No changes have been submitted or proposed by the applicant to the water and sewer system. City Engineering indicated conditions of approval in the attached memo that the applicant will need to meet at the time of grading permit.

Tree Preservation:

The previous iteration of the plans required 817 two-inch caliper trees to be planted. Urban Forestry will complete a full review of the tree preservation plans with grading permit, but no major changes to tree preservation are anticipated. Forestry is not likely to support additional tree removal.

Parks: The Parks and Recreation Advisory Board (PRAB) reviewed this proposal at a meeting held on November 13, 2017. The Parks and Recreation Advisory Board originally recommended parkland dedication, but a fee-in-lieu was ultimately proposed and approved by the Planning Commission. The total number of lots with this modification has changed, so the parkland dedication fee will increase to \$145,926 for 134 single-family lots. Park fees are due prior to building permit issuance.

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

RECOMMENDATION: Staff recommends approval of ADM-2023-0038, with the following conditions:

Conditions of Approval:

- 1. Planning Commission determination of requested variance to 166.08(E)(d), Block length/connectivity.** Residential Link Streets are required to have intersections at a minimum of 660 feet. *Staff recommends in favor of this request.*
 - 2. Parks Fees in the amount of \$145,926 for 134 single-family lots shall be paid prior to building permit.**
 - 3. The applicant shall submit an updated boundary survey to reflect the new project area with the associated grading permit.**
 - 4. All comments issued by all City Divisions, including Parks, Fire, Urban Forestry and Engineering must be addressed at the time of grading permit.**
 - 5. All conditions of approval for PPL-2022-0006 not modified with this request shall remain in effect.**
 - 6. Approval of this variance does not represent approval of other development issues that have not been fully reviewed at this stage, nor does it represent needed development entitlement or approval for any associated plan or associated permits.**
-

PLANNING COMMISSION ACTION: Required YES

Date: October 23, 2023

☐ Tabled

☐ Approved

☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Engineering Memo
- Urban Forestry Memo
- Fire Memo
- Parks Exhibit
- PPL-2022-0006 Original Conditions of Approval
- PPL-2022-0006 Original Site Plan
- Applicant Request Letter
- Modified Site Plan
- One Mile Map
- Close-up Map
- Current Land Use Map



TO: Jessie Masters, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: October 15, 2023

SUBJECT: Subdivision Committee Engineering Comments for
ADM-2023-0038 The Preserve and Stonebridge

Drainage: The previous iteration of this subdivision appeared to meet the minimum standards; however, the drainage impacts of this revision have not been evaluated. An updated drainage report was not provided. All changes must be accounted for in the drainage report and the 4 minimum standards in the drainage manual must be met.

Natural Features: It appears a portion of this development is proposed to impact areas that have hydric soils. The presence of hydric soils may indicate potential wetlands. A wetland delineation is required for the portion of the property with hydric soils.

Plan Comments:

1. Any offsite easement must be dedicated prior to issuance of grading permit.
2. Other offsite permissions must be provided prior to issuance of grading permit.
3. Sidewalk for Lot 102 must connect to the proposed trail.
4. Centerline curves C12- C18 do not meet the Minimum Street Standards requirement for minimum 90 ft radii. The street alignment must be adjusted to meet minimum requirements.
5. A grading plan was not submitted for review. There will be additional comments during construction review.
6. Additional comments on utilities will be provided during construction review.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense
3. All public sidewalks, curb ramps, curb & gutter, and driveway aprons along this project frontage must meet ADA guidelines and be free of damage. Any existing infrastructure that does not conform to ADA guidelines or is otherwise damaged must be removed and replaced to correct the issue. Coordinate with the engineering department for inspection of existing facilities to determine compliance.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.

5. Note, the following portions of all projects will typically not be reviewed by the Engineering Division until time of construction-level review (unless specifically requested at plat review):
- Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
 - Sanitary Sewer pipe sizing, profiles, or utility conflicts
 - Waterline fittings, callouts, or utility conflicts
 - Street profiles
 - Fine grading/spot elevations



Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester

MEETING DATE: October 23, 2023

SUBJECT: **ADM-2023-0038: Administrative Item (2858 S. DEAD HORSE MOUNTAIN ROAD/THE PRESERVE @ STONEBRIDGE):** Submitted by JORGENSEN + ASSOCIATES for property located at DEAD HORSE MOUNTAIN ROAD. The property is currently zoned RSF-4 and contains approximately 52 acres. The request is for an amendment to the design layout of the property which includes a supplemental access point to the south.

RECOMMENDATION:

Urban Forestry Staff does not have information regarding Tree Preservation for the proposed amendment, therefore cannot make a recommendation for the approval of ADM-2023-0038. The Chapter 167 Tree Preservation & Protection and Chapter 177 Landscape Regulations requirements will need to be met. The last version of this site design layout required over 800 mitigation trees to be planted.

It is highly recommended that as many trees be preserved as possible to meet the requirement, and that utility and infrastructure be designed around the trees. The plat shows lots which may have existing trees that will be under the care of builders and future homeowners, including their decision to let the trees remain or remove them. While code does not provide a way for such trees to be preserved in an easement, it needs to be understood that the current lot design would allow future removal by builders or homeowners if trees are shown to be preserved on the house lots.

Chapter 177 Landscape Regulations must be met also, including one street tree per lot and detention pond plantings.



ADM-2023-0038

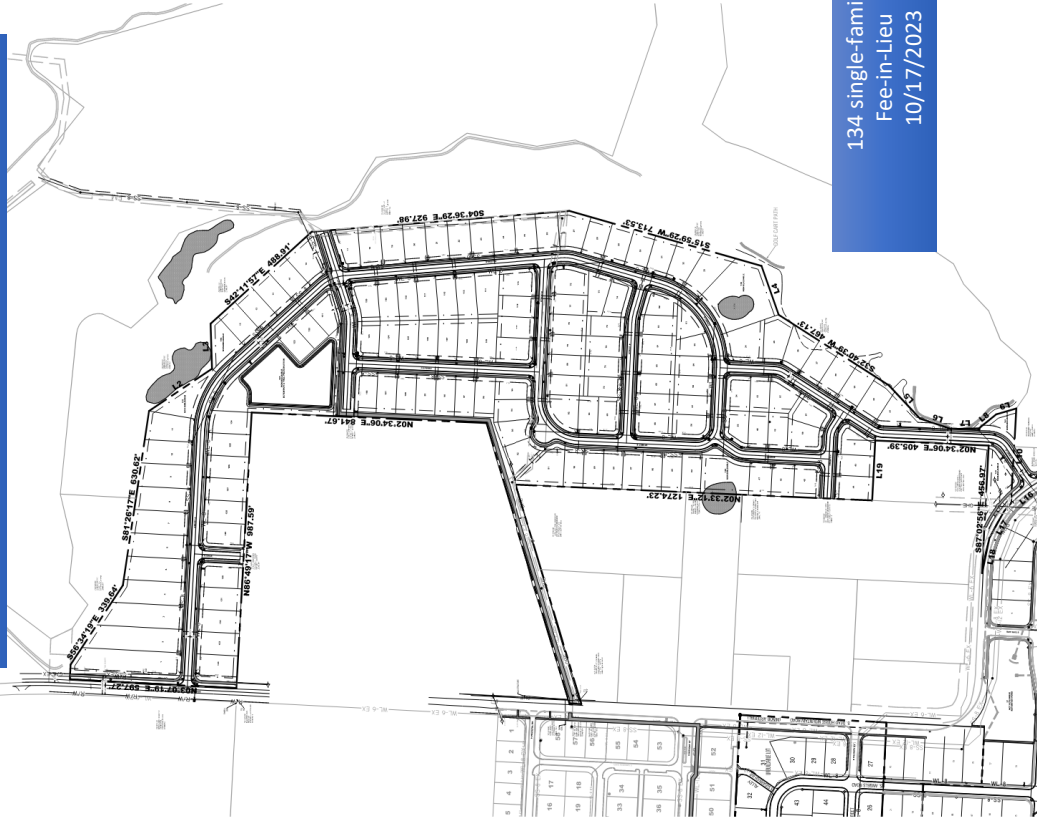
10-17-2023

The Fayetteville Fire Marshal office has reviewed this request with the 2021 Arkansas Fire Prevention Code. The streets will have to be marked No Parking Fire Lane per Appendix D 103.6-103.6.2. If it can be marked on the hydrant side it will be more efficient. Otherwise it will have to be marked by the hydrants also. Any further changes need to be called out and submitted for review and compliance.

Captain Levi Crandell
Deputy Fire Marshal
Fayetteville Fire Department

"The Preserve at Stonebridge"

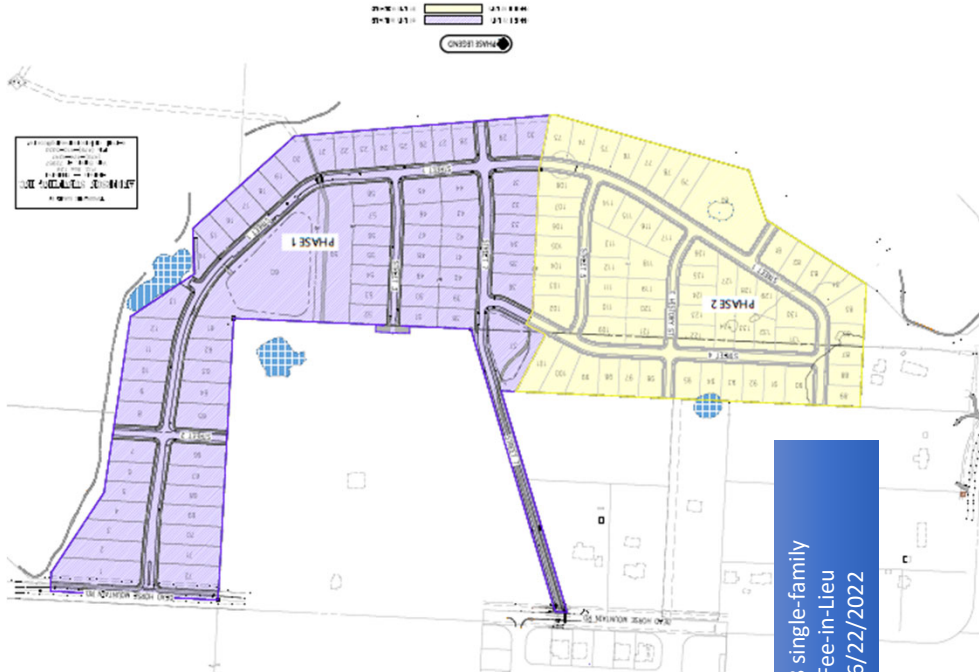
ADM-2023-0038



134 single-family
Fee-in-Lieu
10/17/2023

"Meadows at Stonebridge"

PPL-2022-0006



128 single-family
Fee-in-Lieu
6/22/2022

PPL-2022-0006 - ORIGINAL CONDITIONS OF APPROVAL
MARKED UP TO REFLECT CHANGES

RECOMMENDATION: Staff recommends approval of PPL-2022-0006, subject to the following conditions.

Conditions of Approval:

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

Dead Horse Mountain Road: Staff recommends right-of-way dedication in the amount of at least 33.5 feet from centerline along Dead Horse Mountain Road.

~~Street 7: Staff recommends right-of-way be dedicated in the amount of 40 feet, in line with the Alternative Residential Link Street standards.~~

All other internal streets: Staff recommends right-of-way to be dedicated in the amount of 52-feet, in line with the Residential Link Street standards.

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

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

Dead Horse Mountain Road: Staff recommends in favor of a variance to the typical Master Street Plan standards, for the 8-foot sidewalk to be constructed in between two 5-foot greenspaces, to avoid existing power poles. Staff recommends the

applicant identify these power poles on the site plan. Streetlights and street trees to be constructed in accordance with code.

~~Street 7: Staff recommends in favor of the applicant's proposal to construct 6-foot sidewalk, 6-foot greenspace, curb, gutter, and width for two drive lanes and removing the 7 foot on street parking lane, and supports the applicant's request to jog the 6 foot sidewalk. Streetlights and street trees to be constructed in accordance with code.~~

All other internal streets: Staff recommends construction to typical Master Street Plan standards for Residential Link Street. Streetlights and street trees to be constructed in accordance with code.

Assessment for temporary turn-around: \$13,631.75, to be paid prior to final plat of Phase I.

3. **Planning Commission determination of requested variance to 166.08(E)(d), Block length/connectivity.** Residential Link Streets are required to have intersections at a minimum of 660 feet. Staff recommends partially in favor of this request.

Subdivision Committee recommended in favor of this request

1. ~~Fee in lieu of parkland dedication is required in the amount of \$139,392 for 128 single-family lots for phases I and II. Parks Fees can be paid per Phase for the resultant number of lots prior to building permit issuance.~~

PPL-2022-0006 - ORIGINAL CONDITIONS OF APPROVAL
MARKED UP TO REFLECT CHANGES

2. Streetlights shall be installed in accordance with code at all street intersections and spaced every 300 feet;
3. The applicant shall be responsible for obtaining the necessary easements to provide sanitary sewer to their development without an additional lift station.
4. All remaining comments from the Planning Division shall be addressed prior to Planning Commission, including:
 - ~~a. Plat page numbers need to be provided on the plans (606, 645, 646)~~
5. Conditions of approval from Engineering, Urban Forestry, and Parks, and Fire are included in the official conditions of approval;

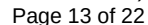
Standard conditions of approval:

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

PPL-2022-0006 - ORIGINAL CONDITIONS OF APPROVAL
MARKED UP TO REFLECT CHANGES

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>July 25, 2022</u>	☐ Tabled	☒ Approved	☐ Denied
Motion: Brink	With all conditions as recommended by staff		
Second: Canada			
Vote: 5-1-1 (Commissioner Winston voted no; Commissioner McGetrick recused)			

C-102





JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Established 1985

August 23, 2023

City of Fayetteville
Development Services
113 West Mountain Street
Fayetteville, AR 72703

CoF Job # PPL-2022-0006 2390 S Dead Horse Mountain Road
J+A Job #2022148

Attn: Planning
Re: The Preserve @ Stonebridge (formerly known as Meadows at Stonebridge)

To whom it may concern;

Please accept this amendment to the approved PPL-2022-0006. This property has been sold and the new owner has requested some changes to this plat. This owner has also worked with adjacent owners to make this project have a supplemental access point to the south on Dead Horse Mountain Road. This will aid in supplying an additional access point to meet fire code, as well as aiding in looping the waterline.

We hope this revised layout can be reviewed by city staff and the planning commission so that this amendment can be approved and construction plans can be developed.

We look forward to working with the city to make this a successful project.

Sincerely;



Blake Jorgensen, P.E.



October 18, 2023

City of Fayetteville
Development Services
113 West Mountain Street
Fayetteville, AR 72703

CoF Job # PPL-2022-0006 2390 S Dead Horse Mountain Road (ADM-2023-0038)
J+A Job #2022148

Attn: Planning
Re: The Preserve @ Stonebridge (formerly known as Meadows at Stonebridge)

To whom it may concern;

Please accept this variance request for block length for ADM-2023-0038. The revised layout does incorporate additional land and so the layout does vary from the previously approved project, however, like the previous project, we still need a variance for block length. In particular, Streets A & D. Street A has a block length of 1650 feet before it can stub out to the adjacent property on the north and east. The Stonebridge Golf Course has various amenities that make stubbing out at normal intervals not possible. We do have one stub out to the Golf Course and this stub-out is in a location that the golf course supports as it could potentially lead to development in the future if the property gets rezoned. Our firm has worked with the collective owners on a layout of this golf course and this stub out is supported. However, as street A heads further south, no other stub-outs are supported by ownership; therefore, the next block lengths along this section are ~1,567 feet, and finally 1233 feet where it ties into Dead Horse Mountain Road.

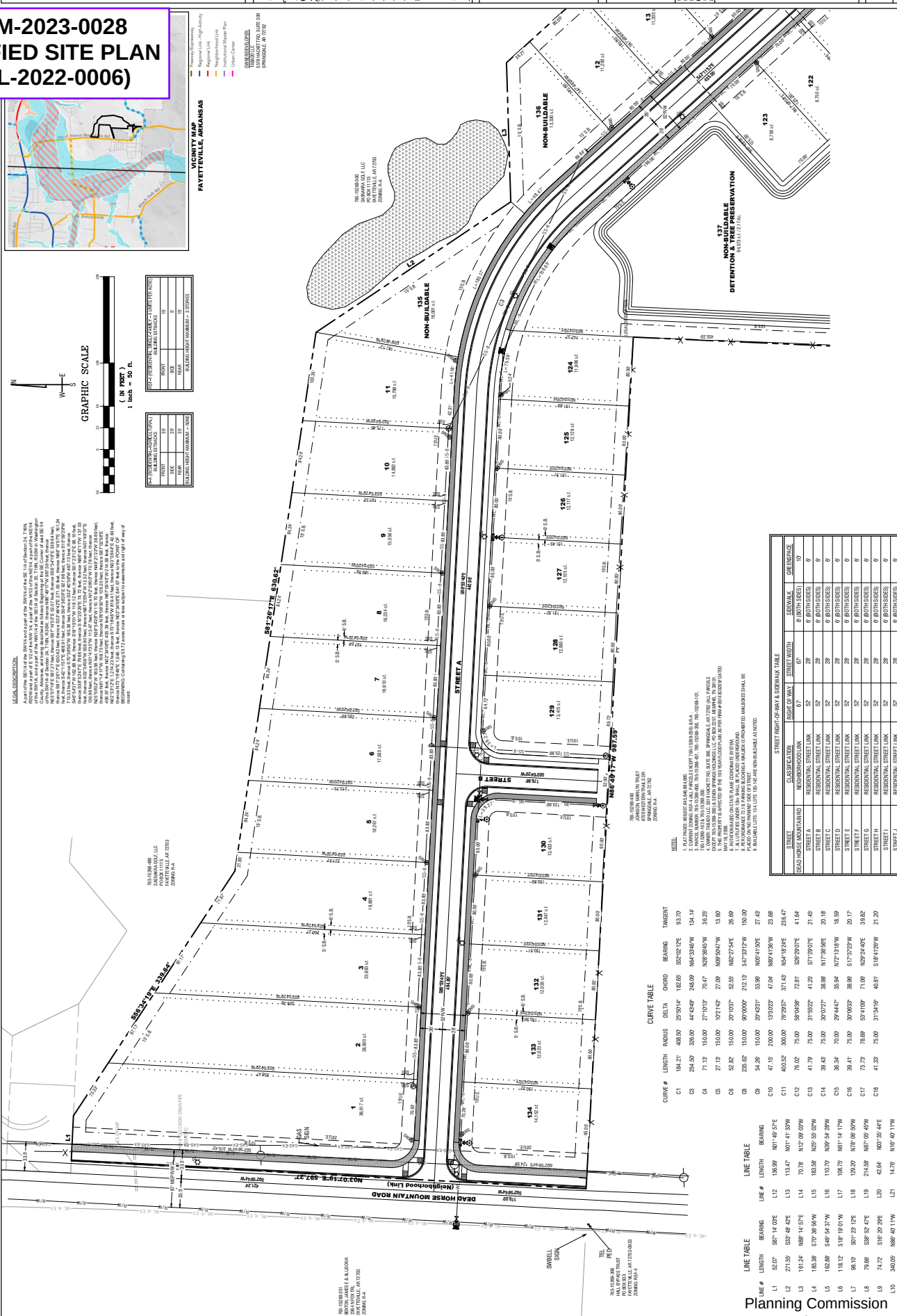
Street D is bound along the western edge by an empty field, which we do have a stub out to. The next block length is 1825 feet to the next stub out @ Street H. The western properties are estate lots in nature and there is also an existing pond. We placed stub outs in the most likely areas of future development, but a variance is needed for this street.

We look forward to working with the city to make this a successful project.

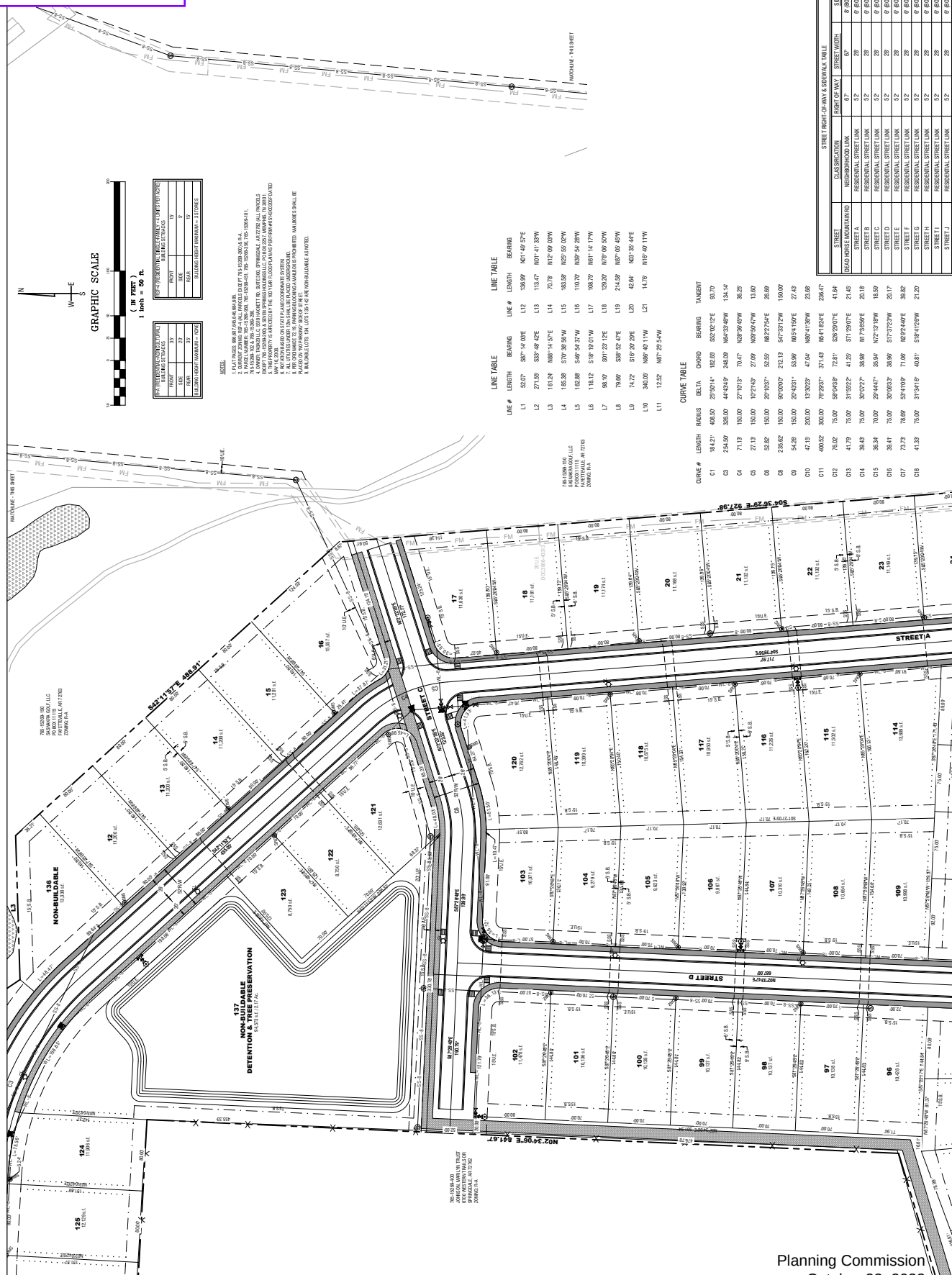
Sincerely;

Blake Jorgensen, P.E.

JORGENSEN & ASSOCIATES Civil Engineering + Surveying 124 W. Sunbridge Drive, Suite 5 Fayetteville, AR 72703 Office: 479-424-9270 www.jorgensenassoc.com Established 1985	LEGEND ● CALCULATED POINT ○ SOUND R/W PIN ○ SET DOWN PIN & CAP ○ SET DOWN PIN & W/STAKE ○ CENTERLINE MARKER ○ SET/RECOVER MONUMENT ○ SET/RECOVER MONUMENT ○ STREET LIGHT ○ CENTERLINE OF POWER LINE ○ PROPERTY OF SURFER LINE ○ EXISTING WATERLINE ○ PROPOSED WATERLINE ○ CENTERLINE STREET ○ BUILDING SETBACK ○ UTILITY CULVERT ○ NEW DRAINAGE ○ UTILITY CROSSING ○ EXISTING DRAINAGE ○ EXISTING DRAINAGE ○ FRESH WATER CONTROL	PROJECT DETAILS PROJECT TITLE: THE PRESERVE AT STONEBRIDGE PROJECT LOCATION: FAYETTEVILLE, AR	REVISIONS DATE: 6.15.2023 DRAWN BY: P. SAMP CHECKED BY: P. SAMP APPROVED BY: P. SAMP SCALE: 1"=40' (PLAN); 1"=20' (SECTION); 1"=40' (ELEVATION)	SEAL STATE OF ARKANSAS REGISTERED PROFESSIONAL SURVEYOR No. 1254 J. J. JORGENSEN FAYETTEVILLE, AR	PRELIMINARY PLAT SHEET NUMBER 1 OF 1
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**ADM-2023-0028
MODIFIED SITE PLAN
(PPL-2022-0006)**



STREET RIGHT-OF-WAY & DERIVAT. TABLE			
STREET	CLASSIFICATION	RIGHT OF WAY	STREET WIDTH
DEAD END/NO MAINTENANCE	NEIGHBORHOOD LINK	67'	67'
STREET A	RESIDENTIAL STREET LINK	52'	29'
STREET B	RESIDENTIAL STREET LINK	52'	29'
STREET C	RESIDENTIAL STREET LINK	52'	29'
STREET D	RESIDENTIAL STREET LINK	52'	29'
STREET E	RESIDENTIAL STREET LINK	52'	29'
STREET F	RESIDENTIAL STREET LINK	52'	29'
STREET G	RESIDENTIAL STREET LINK	52'	29'
STREET H	RESIDENTIAL STREET LINK	52'	29'
STREET I	RESIDENTIAL STREET LINK	52'	29'
STREET J	RESIDENTIAL STREET LINK	52'	29'

CURE	CURVE TABLE					BURNING	TANDEM
	CHINESE	LENGTH	RADIUS	DELTA	ORBITAL		
C1	184.21	400.50	25.9071	182.60	350270.72	18.10	13.10
C2	254.50	326.00	44.4949	248.00	604233.60	19.14	13.14
C4	71.13	150.00	27.0703	70.47	62836.80	36.29	36.29
C5	62.82	150.00	20.7027	62.99	40059.47	16.60	16.60
C8	235.62	150.00	20.7027	235.69	40059.47	16.60	16.60
C8	256.82	150.00	30.0007	252.13	547337.24	15.00	15.00
C10	47.19	50.00	20.4321	43.98	10314.90	27.43	27.43
C10	47.19	50.00	13.9252	47.42	18043.90	23.68	23.68
C11	400.52	300.00	70.7937	371.43	164187.94	28.17	28.17
C12	70.52	300.00	59.9043	71.81	52070.07	41.64	41.64
C13	47.19	75.00	31.9522	47.29	57739.07	21.45	21.45
C14	38.49	75.00	30.0727	38.94	51167.92	20.19	20.19
C15	38.34	75.00	29.4447	38.86	48705.19	18.59	18.59
C16	38.41	75.00	30.0053	38.96	51732.39	20.17	20.17
C17	73.73	75.00	59.9109	71.06	40274.46	39.82	39.82
C18	41.32	75.00	31.3410	40.81	53843.99	21.20	21.20

Technical drawing of a road layout, likely a bridge or overpass, showing two main lanes labeled 21 and 22. The drawing includes various dimensions, angles, and a north arrow pointing towards the top right. The text "STYDIA" is visible in the bottom right corner.

Key dimensions and labels:

- Top label: $94^{\circ}12'6''$ $3-67.95.105$
- Top right label: $20^{\circ}00'$
- Left side label: 18.795 (total width), 11.132 (lane width), 1.387 (offset)
- Right side label: 19.815 (total width), 11.132 (lane width), 1.387 (offset)
- Bottom left label: 19.815
- Bottom center label: $20^{\circ}00'$
- Bottom right label: $20^{\circ}00'$
- Bottom right corner label: $STYDIA$

[illegible]

Planning Commission
October 23, 2023
THE PRESERVE AT STONEBRIDGE
Page 18 of 22

X CALCULATED POINT ○ FOUND IRON PIN SET IRON PIN & CAP ○ POWER POLE △ CENTERLINE MARKER △ SEWER MANHOLE FIRE HYDRANT STREET LIGHT EXISTING & SEWER LINE PROPOSED & SEWER LINE EXISTING WATERLINE PROPOSED & WATERLINE CENTERLINE STREET BUILDING SETBACK UTILITY EASEMENT NEW # SIDEWALK UTILITY CROSSING

CT TITLE:	BRIDGE
GES WEST	
CT LOCATION:	TEVILLE, AR

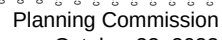
STANDARD

TSCA

DATE: 5.15.2023
DRAWN BY: PMM
PROJECT #2021018
FILE PATH: Z:\SUBD\SB-COTTAGES
SHEET SIZE: 22" x 34"
SCALE:HORIZ.1" = 50'VERT.1"=10'



STREET FILE
PRELIMINARY PLAT
SHEET NUMBER
04 OF

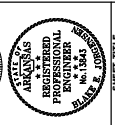


~~October 23, 2023~~

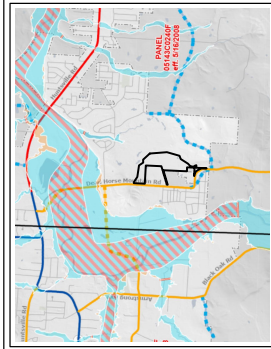
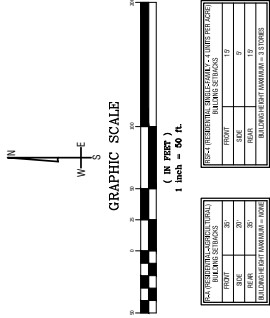
LEGEND	
X	CALCULATED POINT
●	FOUND IRON PIN
○	SET IRON PIN & CAP
□	POWERSPOLE
△	CENTERLINE MARKER
⊙	SEWER MANHOLE
⊕	FIRE HYDRANT
⊗	STREET LIGHT
⊘	EXISTING 8" SEWER LINE
—	PROPOSED 8" SEWER LINE
—	EXISTING WATERLINE
—	PROPOSED 8" WATERLINE
—	CENTERLINE 3 STREET
—	BUILDING SETBACK
—	UTILITY EASEMENT
—	NEW 8' SIDEWALK
—	UTILITY CROSSING

PROJECT TITLE:	COTTAGES WEST
PROJECT LOCATION:	FAYETTEVILLE, AR

DATE: 5.15.2023
DRAWN BY: PMM
PROJECT #2021018
FILE PATH: Z:\SUBD\ SB-COTTAGES
SHEET SIZE: 22" x 34"
SCALE: HORIZ. 1" = 50' VERT. 1" = 10'

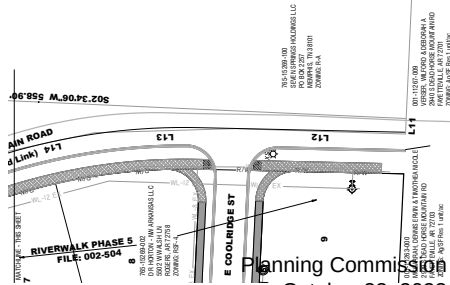


SHEET TITLE
PRELIMINARY PLAT
SHEET NUMBER
C1.06

[illegible]

LINE TABLE			LINE TABLE		
LINE #	BEARING	BEARING	LINE #	BEARING	BEARING
1	52.07°	8.87°-14.03°E	112	136.89°	10.7°E
2	27.15°S	5.33°-6.42°E	113	113.47°	16.7°E
3	10.24°	16.59°-14.57°E	114	70.78°	19.21°E
4	16.38°	16.07°-36°SEW	115	183.53°	16.3°E
5	102.88°	16.41°-37°W	116	110.70°	16.97°E
6	93.12°	5.18°-19.01°W	117	108.73°	16.1°E
7	118.20°	20.7°-23.12°E	118	132.82°	10.7°E
8	73.68°	5.35°-24.47°E	119	214.58°	16.7°E
9	74.02°	15.50°-20.29°E	120	42.84°	16.03°E
10	34.05°	16.61°-40.11°W	121	42.84°	16.03°E
11	34.05°	16.61°-40.11°W	122	42.84°	16.03°E

CURVE #	CURVE TABLE					TANGENT
	LENGTH	MODUL	CHORD	CHORD BEARING	ANGLES	
C1	18.21	68.50	2350.14	182.09	532.02° E	93.70
C2	25.50	326.00	4433.70	70.47	134.14	134.14
C3	24.10	150.00	2700.13	70.47	829.36° E	36.29
C4	51.29	150.00	1071.43	92.89	607.94° W	18.69
C5	52.82	150.00	2700.37	92.89	82.27° E	26.69
C6	206.62	150.00	609.000	121.13	547.31° W	150.00
C7	54.26	150.00	2043.31	53.90	807.41° E	23.68
C8	41.19	200.00	1339.22	41.19	854.16° E	28.47
C9	40.52	75.00	689.539	72.81	526.200° E	41.66
C10	78.62	75.00	3155.22	43.89	214.49	214.49
C11	41.79	75.00	3070.27	43.89	171.360° E	20.18
C12	35.34	75.00	2944.47	43.89	127.13° W	15.97
C13	36.34	75.00	2944.47	43.89	127.13° W	15.97
C14	36.34	75.00	3070.63	43.89	171.32° W	18.19
C15	36.34	75.00	3070.63	43.89	171.32° W	18.19
C16	36.34	75.00	3070.63	43.89	171.32° W	18.19
C17	73.72	75.00	528.100	11.06	825.24° E	38.82
C18	41.33	75.00	3144.00	40.31	538.12° W	21.20



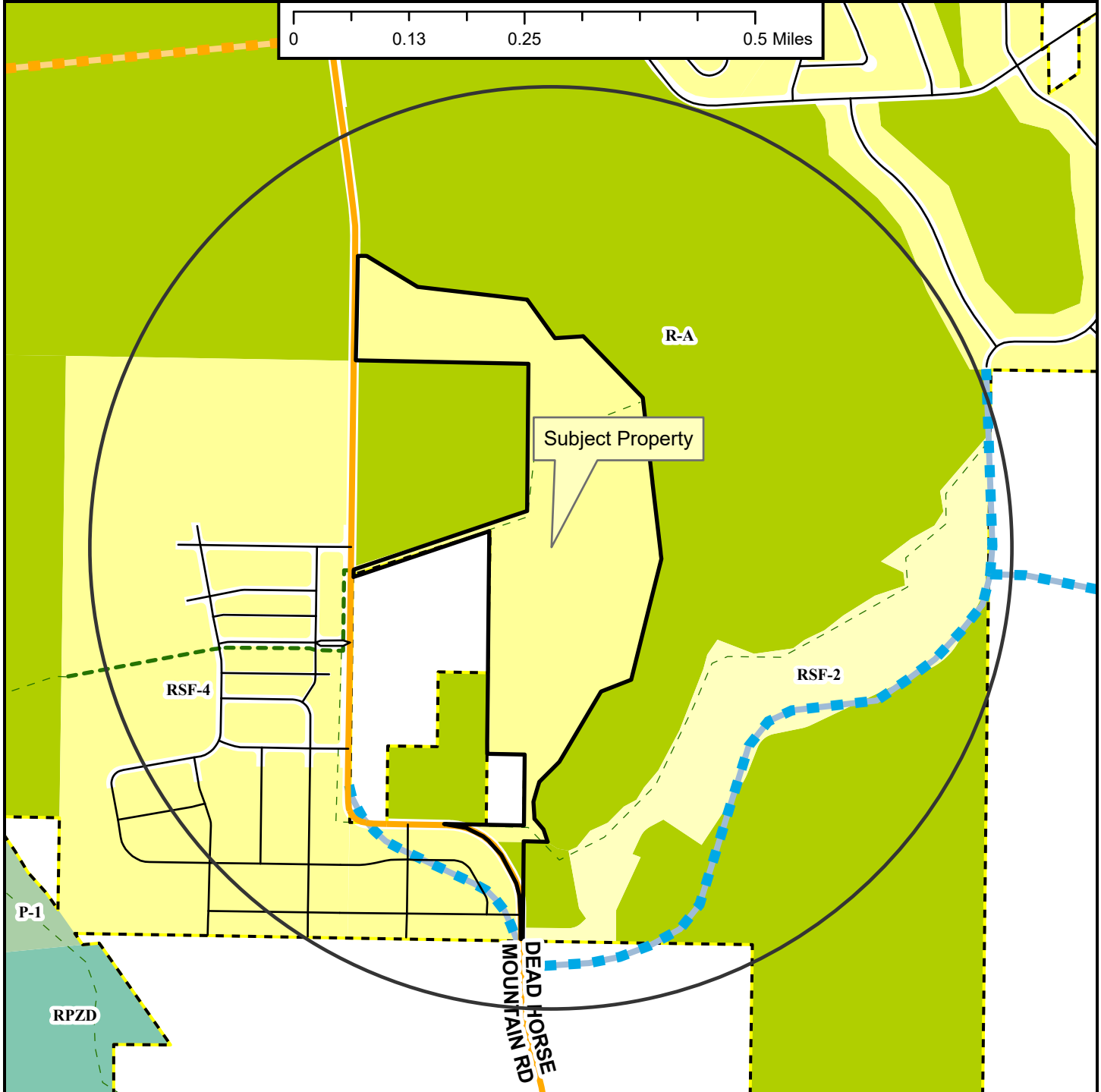
ADM-2023-0038

One Mile View

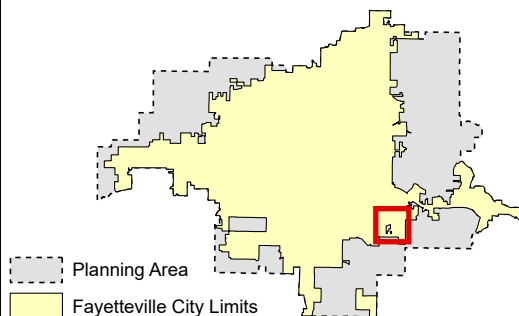
2858 S DEAD HORSE MOUNTAIN RD



0 0.13 0.25 0.5 Miles



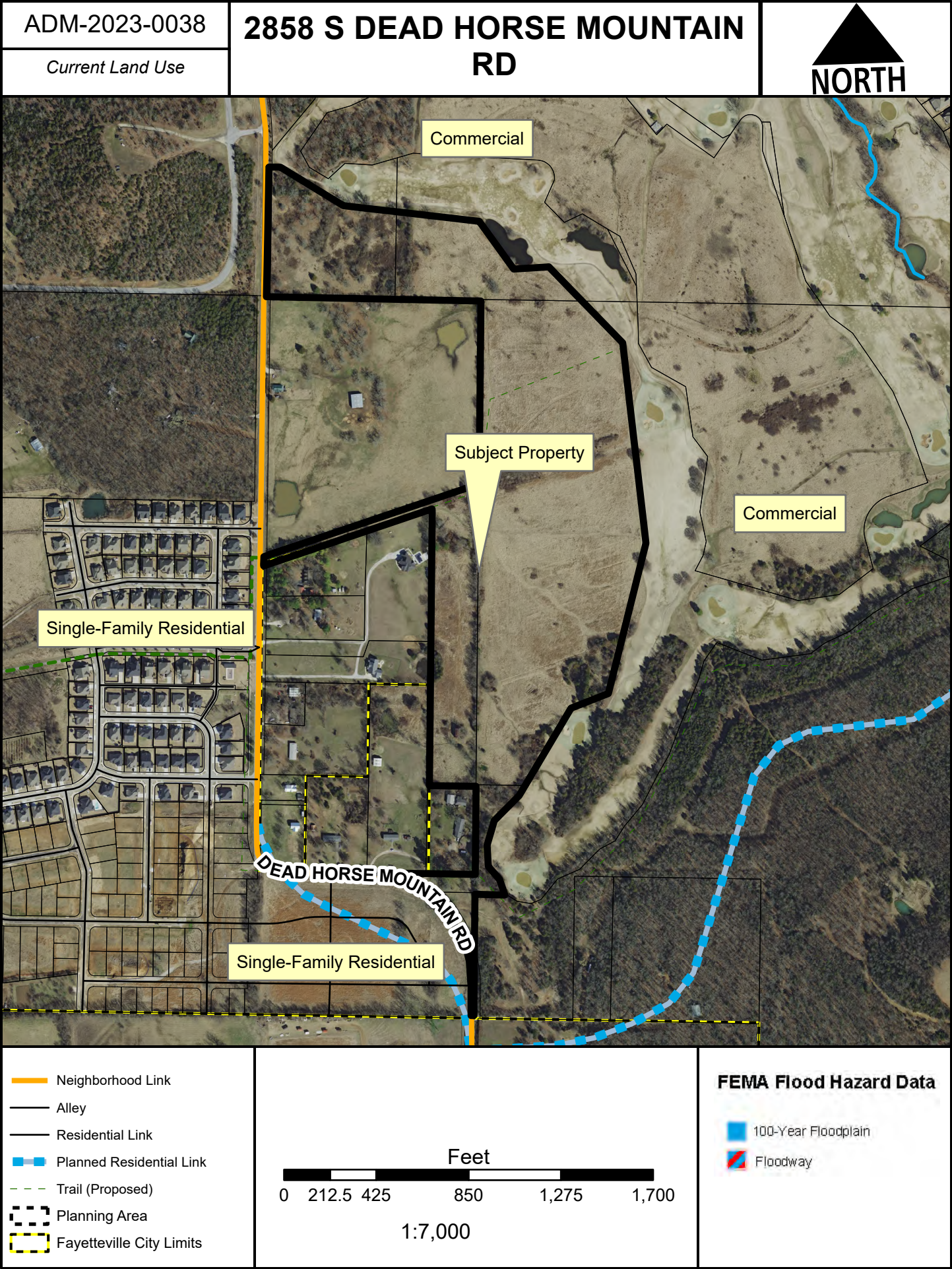
- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



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

Planning Commission

October 23, 2023





TO: Fayetteville Subdivision Committee

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner
Melissa Boyd, Staff Engineer
Alan Pugh, Staff Engineer
Melissa Evans, Urban Forester

MEETING: October 23, 2023

SUBJECT: **PPL-2022-0012: Preliminary Plat (WEST OF HUGHMOUNT RD/ HUGHMOUNT SOUTH, 285):** Submitted by JORGENSEN & ASSOCIATES for property located WEST OF HUGHMOUNT RD. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE, R-A, RESIDENTIAL AGRICULTURAL, AND NS-G, NEIGHBORHOOD SERVICES GENERAL and contains approximately 19.43 acres. The request is for the preliminary plat of 48 residential lots, three unbuildable lots, and one lot reserved for future development.

RECOMMENDATION:

Staff recommends approval of **PPL-2022-0012** with conditions.

RECOMMENDED MOTION:

*"I move to approve **PPL-2022-0012**, recommending:*

- In favor of requested variance to §166.08(E)(1)(C): Block Length;*
- In favor of requested variance to §166.12(E)(2) Streamside Protection Zones;*
- In favor of recommended right-of-way dedication;*
- In favor of recommended street improvements; and*
- All other conditions as outlined by staff."*

BACKGROUND:

The subject property is in northwest Fayetteville at the boundary of the city limits, approximately 1/8 of a mile north of the intersection of W. Wheeler Rd. and N. Hughmount Rd. The property is zoned RSF-8, Residential Single-Family, Eight Units Per Acre, R-A, Residential Agricultural, and NS-G, Neighborhood Services General. The property is partially overlaid by FEMA regulated Floodway/Floodplain and Fayetteville's Streamside Protection zones. A 2,100 square foot single-family dwelling constructed in 1994 is located in the southeast corner of the site, and is part of the lot designated for future development. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential / Detention Pond	RSF-8, Residential Single-Family. Eight Units per Acre R-A, Residential Agricultural
South	Single-Family Residential / Floodplain	Fayetteville Planning Area
East	Single-Family Residential	R-A, Residential Agricultural
West	Single-Family Residential / Floodplain	Fayetteville Planning Area

Proposal: The applicant proposes a single-family residential subdivision with 48 residential lots, three unbuildable lots, and one lot reserved for future development on 19.43 acres. Two variances were submitted with the request:

- **Variance: §166.08(E)(1)(c): Block Length. Intersections shall occur at a minimum of one (1) every 660 feet on Residential Link and Downtown/Urban Streets.** The applicant has requested a variance from this requirement given barriers to development on the adjacent properties due to existing subdivision developments.
 - *Staff recommendation: Staff recommends approval of the proposed variance request with added conditions. The abutting property to the north and east is fully encumbered by either existing homes or a detention pond, inhibiting a second connection to the north that would meet minimum block length requirements on the north side of W. Succulent Street. Staff recommends an added condition that an eight-foot wide trail connection shall be provided connecting the sidewalk on the north side of W. Succulent St. through the existing Hughmount Village access easement as shown on the attached Active Transportation memo. Construction of this trail connection shall be completed prior to approval of final plat. The addition of the trail connection will contribute to Goal 3 (“We Will Make compact, complete, and connected development the standard”) and Goal 4 (“We will grow a livable transportation network.”) of City Plan 2040 and will complete a portion of trail designated on the Active Transportation Master Plan.*

The west side of N. Glenmoor Drive also does not meet minimum block length standards; however staff notes that since 727 feet of the proposed 864 foot block length is located on an adjacent parcel, there are limited options on the applicant’s property to reduce the block length. Staff has no additional recommended conditions for N. Glenmoor Drive.

- **Variance: §168.12(E)(2)(a): Activities within Streamside Protection Zone. Grading, dredging, dumping, filling, or similar construction activities shall be prohibited in both streamside protection zones, except where necessary to allow an activity permitted by subsection (E)(1).** The proposed grading plan includes limited grading within the streamside protection zone. The applicant states in their letter that any grading will be revegetated “in a manner that will be in a floodplain like state.”
 - *Staff recommendation: Staff recommends approval of the proposed variance request with added conditions. The areas proposed to be graded, with the exception of the area directly above the culvert entrance, appear to be mostly fields today with little or no tree canopy. There is some tree canopy upstream of the culverts that is proposed to remain. Staff recommends an added condition that the area shall be revegetated with tree and shrub plantings rather than grass.*

Right-of-Way to be Dedicated: For W. Hughmount Road, the applicant proposes a total of 33.5 feet of right-of-way from the centerline of the street in line with typical Neighborhood Link Streets. As shown, this will require a variable dedication from 3.48 feet to 4.04 feet from edge of the existing right-of-way. The applicant proposes to dedicate 52 feet of right-of-way for the internal streets in alignment with the Residential Link Street section for what is currently identified as W. Succulent Street, W. Allum Street, N. Crocus Manor, and N. Glenmoor Drive. Staff’s full recommendation is under the Street Improvements section.

Street Improvements:

W. Hughmount Road: The applicant is proposing typical master street plan standards for a Neighborhood Link Street, including 8-foot sidewalks and 10-foot greenspace. Additionally, curb and gutter are proposed per the Master Street Plan section.

- Staff recommends in favor of improvements as proposed along W. Hughmount Rd, with an assessment for the bridge at Clabber Creek in the amount of \$126,840. Additional information on assessment calculations are included in the engineering memo. Engineering notes that previous assessment recommended amounts were calculated using an outdated ArDOT cost value, resulting in an increased recommendation when using current standards.

Internal Streets (W. Succulent Street, W. Allum Street, N. Crocus Manor, and N. Glenmoor Drive):

The applicant is requesting to develop the streets under the Residential Link Street standards, with 6-foot sidewalks on both sides of the street, 6-foot greenspace, a seven-foot parking lane and two travel lanes (nine and ten feet). Staff recommends in favor of improvements as proposed.

Block Length/Connectivity: The applicant is meeting typical connectivity requirements with street connections available to the north, south, east, and west. A variance has been requested for block length requirements for the north side of W. Succulent Street and the west side of N. Glenmoor Drive (see staff recommendations).

Water and Sewer System: The applicant is proposing to extend approximately 2,599 linear feet of 8" water main to provide domestic water and fire protection to the development and approximately 2,676 linear feet of 8" sanitary sewer to serve the development.

Tree Preservation:

Canopy minimum requirement (R-A): 25%

Canopy minimum requirement (RSF-8): 20%

Canopy minimum requirement (NS-G): 20%

Existing canopy: 13%

Preserved canopy: 9%

Mitigation required: 135 two-inch caliper trees

Parks: The Parks and Recreation Advisory Board (PRAB) reviewed this proposal at a meeting held on December 5, 2022. The Parks and Recreation Advisory Board recommended fee-in-lieu of parkland dedication in the amount of \$52,272 based on the number of proposed single-family lots. Park fees are due prior to building permit issuance.

Public Comment: Staff received a phone call from a neighbor concerns about the impact of the development on W. Hughmount Rd., specifically relating to the proximity of a blind corner to the south and whether the Clabber Creek bridge will be able to support additional traffic.

RECOMMENDATION: Staff recommends approval of PPL-2022-0012, subject to the following conditions.

Conditions of Approval:

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

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

Internal Streets (W. Succulent Street, W. Allum Street, N. Crocus Manor, and N. Glenmoor Drive): Staff recommends 52 foot right-of way dedication, in line with the Residential Link standards.

Subdivision Committee recommended in favor.

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

W. Hughmount Road: Staff recommends a 8-foot sidewalk be constructed with 10-foot greenspace, with curb, gutter, and storm drain improvements as shown. Additionally, an assessment of \$126,840 shall be paid towards the replacement of the bridge at Clabber Creek.

Internal Streets (W. Succulent Street, W. Allum Street, N. Crocus Manor, and N. Glenmoor Drive): Staff recommends in favor of the Residential Link Street section, with six foot sidewalks and six foot green space on both sides, and 27 feet of asphalt (one 10 foot drive lane, one 9 foot drive lane, and one 7 foot parking lane).

Subdivision Committee recommended in favor.

3. **§166.08(E)(1)(c): Block Length. Intersections shall occur at a minimum of one (1) every 660 feet on Residential Link and Downtown/Urban Streets.** Staff recommends in favor of the requested variance with the following conditions:

- a. An eight-foot wide trail connection shall be provided connecting the sidewalk on the north side of W. Succulent St. through the existing Hughmount Village access easement as shown on the attached Active Transportation memo. Construction of this trail connection shall be completed prior to approval of final plat.

Subdivision Committee recommended in favor.

4. **§168.12(E)(2)(a): Activities within Streamside Protection Zone. Grading, dredging, dumping, filling, or similar construction activities shall be prohibited in both streamside protection zones, except where necessary to allow an activity permitted by subsection (E)(1).** Staff recommends in favor of the requested variance with the following conditions:

- a. Grading within streamside protection zones shall be revegetated with tree and shrub plantings rather than grass.

Subdivision Committee did not consider this item.

5. Parkland fees-in-lieu of dedication are required in the amount of \$52,272 based on the number of proposed single-family lots;
6. Streetlights shall be installed in accordance with code at all street intersections and spaced every 300 feet;
7. All remaining comments from Planning Division shall be addressed prior to Grading Permit, as submitted through the Energov portal, including:
- a. Trail Comments
- i. Label and dimension existing easements along trail connection.

- ii. Show proposed grading for trail connection.
 - iii. Add trail connection to street signage plan.
 - b. Clearly label zoning boundaries by lot 48.
 - c. Add missing sidewalk hatch to legend.
8. Conditions of approval from Engineering, Urban Forestry, and Parks are included in the official conditions of approval, including;
- a. Address outstanding plan comments as noted in the online portal and attached staff memos.
 - b. A wetland delineation must be provided with the grading permit application, and a jurisdictional determination by the US Army Corp of Engineers may be required.

Standard conditions of approval:

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

Planning Commission Action:

☐ Tabled

☐ Approved

☐ Denied

Meeting Date: October 23, 2023

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None.

ATTACHMENTS:

- Staff Memos
 - City Engineering Memo
 - Streamside Protection Variance Email
 - Urban Forestry Memos
 - Parks Memo
 - Active Transportation Memo
- Cover Letter
- Variance Request Letter
- Site Plans
- Truck Turning Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Donna Wonsower, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: October 18, 2023

SUBJECT: Planning Commission Engineering Comments for
PPL-2022-0012 HUGHMOUNT SOUTH

Street Improvements: Staff is recommending an assessment for off-site improvements to replace the bridge at Clabber Creek on Hughmount Rd. in the amount outlined below:

Bridge Information:

- Bridge Length: 175 feet (to span floodway)
- Bridge Width: 40 feet (two 12-foot wide lanes, 8-foot sidewalks each side)
- Total Bridge Area: 7,000 square feet (SF)
- Bridge Cost: \$240 per SF (Ref. attached ArDOT Cost Per Mile, revised Dec. 2022)
- Estimated Bridge Construction Cost: 7,000 SF x \$240 per SF = \$1,680,000

Proportional Impact:

- Average Daily Trips: 48 single-family lots x 9.43 (avg. rate) = 453 vehicles per day (vpd)
- Hughmount Rd. (Neighborhood Link) Service Volume: 6,000 vpd
- Percentage from this Development: 453 vpd / 6,000 vpd = 7.55%

Proportional Amount for Assessment: 7.55% x \$1,680,000 = \$126,840

The amount corresponds with the recommendation made to the Subdivision Committee. As a note, the recommended assessment amount of \$78,410 provided throughout the Technical Plat reviews was calculated using an outdated ArDOT Cost Per Mile value of \$147 per SF, as well as an average trip generation rate of 9.52 from a previous Trip Generation Manual.

Water: The applicant is proposing to extend 2,599 linear feet of new 8" water main to provide domestic water and fire protection to the development.

Sewer: The applicant is proposing to extend 2,676 linear feet of new 8" sanitary sewer main to serve the development.

Natural Features: An unnamed tributary of Clabber Creek and FEMA Zone AE floodplain with associated Streamside Protection Zones is present along the eastern portion of the subject property near Hughmount Rd.

Per direction from FEMA, the culvert must span the entirety of the floodway. A modification to the floodway boundary would require a CLOMR prior to construction of the crossing. Where indicated

on the plans, grading is shown within the Streamside Protection Zones that is not allowed without a variance, unless it is for streambank restoration/stabilization or revegetation/reforestation.

A no feasible alternative determination request has been made to the City Engineer to install sewer across the Streamside Protection Zones on the southern portion of Lot 52 and has been approved. Further coordination of how the sewer crossing will be installed will be done with the grading permit.

GIS indicates hydric soils appear to be present on this site, which are potential indicators of wetlands that may be jurisdictional. A wetland delineation must be provided with the grading permit application, and a jurisdictional determination by the US Army Corps of Engineers may be required.

Drainage: This development is required to meet the four Minimum Standards of the Drainage Criteria Manual. Two detention ponds are shown on the plans. Minimum Standard 1 water quality requirements are proposed to be met by using AquaSwirl hydrodynamic separators. Minimum Standard 2 channel protection requirements are indicated to be met by sizing the outlet structure to detain and release the runoff from the 1-year, 24-hour storm over a period of 40 hours for both ponds. Similarly, Minimum Standards 3 and 4 requirements for overbank and extreme flood protection are shown to be met by sizing the outlet structure so that peak flows post-development do not exceed pre-development peak flows.

Plan Comments:

1. Provide confirmation from Urban Forestry that the outfall location for Pond 1 does not conflict with the Tree Preservation Area.
2. Address Floodplain Administrator comments on the No Adverse Impact analysis and plans.

Standard Comments:

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

ESTIMATED COSTS PER MILE

(REVISED DECEMBER 2022)

THIS SHEET IS INTENDED TO AID PLANNERS IN OBTAINING A ROUGH ESTIMATE FOR PROJECTS IN EARLY PLANNING PHASES. THE FIGURES ARE AVERAGES FOR THE PAST 3 YEARS AND SHOULD BE ADJUSTED IF YOUR JOB IS OUTSIDE THE ORDINARY SCHEME OF WORK. CHECK THE LABEL ON THE FIGURE YOU ARE USING, SOME ARE "PER LANE MILE." CALL NICK DAIL AT (479) 360-7140 FOR ASSISTANCE.				
NEW ROADS (TURNKEY PROJECTS ON NEW LOCATION WITH "AVERAGE" DRAINAGE WITHOUT BRIDGE QUANTITIES) PER MILE				
ROAD TYPE	URBAN	RURAL-MOUNTAINS	RURAL-OTHER	
4 LANE FREEWAY	\$ 13,000,000	\$ 15,400,000	\$ 10,300,000	
1 LANE RAMP	N/A	N/A	\$ 4,800,000	
5 LANE	\$ 9,800,000	\$ 8,900,000	\$ 7,700,000	
4 LANE	\$ 8,100,000	N/A	N/A	
4 LANE DIVIDED ARTERIAL	\$ 9,500,000	\$ 10,300,000	\$ 7,700,000	
4 LANE DIVIDED ARTERIAL *	N/A	N/A	\$ 16,000,000	
2 LANE ARTERIAL	\$ 4,600,000	\$ 4,400,000	\$ 4,000,000	
2 LANE COLLECTOR	\$ 3,400,000	\$ 3,400,000	\$ 3,200,000	
* IN A FLOODPLAIN WITH BORROW DITCHES				
APPROACHES FOR STRS. & APPRS. PROJECTS (WITHOUT BRIDGE QUANTITIES) PER MILE				
ROAD TYPE	URBAN	RURAL-MOUNTAINS	RURAL-OTHER	
NEW 2 LANE ARTERIAL	\$ 10,100,000	\$ 8,800,000	\$ 8,000,000	
NEW 2 LANE COLLECTOR	N/A	\$ 7,700,000	\$ 6,400,000	
	URBAN		RURAL	
2 LANES TO 4 LANES	\$11,500,000		N/A	
2 LANES TO 5 LANES	\$11,800,000		\$ 8,700,000	
3R WIDENING (2 LANES)	\$3,600,000		\$ 2,750,000	
DETOUR	N/A		\$ 775,000	
BRIDGES AND BOX CULVERTS (DOES NOT INCLUDE APPROACH ROADS. USE SQ. FT. OF FINAL STRUCTURE.)				
NEW BRIDGE (ON-NHS)	\$ 270 PER SQ. FT.	DECK AREA (CONTACT BRIDGE DIVISION IN SEISMIC AREAS)		
NEW BRIDGE (OFF-NHS)	\$ 240 PER SQ. FT.	DECK AREA (CONTACT BRIDGE DIVISION IN SEISMIC AREAS)		
WIDEN EXISTING BRIDGE	\$ 265 PER SQ. FT.	OF NEW DECK AREA (OLD DECK RETAINED)		
REPLACE EXISTING DECK	\$ 88 PER SQ. FT.	DECK AREA (NO NEW SUBSTRUCTURE)		
REMOVAL OF BRIDGE	\$ 24 PER SQ. FT.	DECK AREA		
BOX CULVERT	\$ 150 PER SQ. FT.	BOX TOP AREA		
DETOUR BRIDGES	\$ 180 PER SQ. FT.	(MORE IN SEISMIC AREAS)		
HYDRODEMOLITION	\$ 55 PER SQ. FT.	DECK AREA		
POLYMER OVERLAY	\$ 10 PER SQ. FT.	DECK AREA		
WIDENING EXISTING ROADWAY				
	URBAN		RURAL	
2 LANES TO 3 LANES	\$ 4,400,000 PER MILE		\$ 3,300,000 PER MILE	
2 LANES TO 4 LANES	\$ 6,600,000 PER MILE		\$ 5,275,000 PER MILE	
2 LANES TO 4 LANES DIVIDED *	\$ 6,900,000 PER MILE		\$ 6,275,000 PER MILE	
2 LANES TO 5 LANES	\$ 7,250,000 PER MILE		\$ 6,000,000 PER MILE	
2 LANES TO 5 LANES **	N/A		\$ 13,200,000 PER MILE	
3 LANES TO 5 LANES	\$ 6,900,000 PER MILE		\$ 5,250,000 PER MILE	
4 LANES TO 5 LANES	\$ 4,400,000 PER MILE		N/A	
3R WIDENING (2 LANES)	\$ 2,400,000 PER MILE		\$ 1,750,000 PER MILE	
1 ADD'L. INTERSTATE LANE IN EACH DIRECTION W/ MEDIAN WALL	\$ 7,700,000 PER MILE			
1 ADDITIONAL INTERSTATE AUXILIARY LANE (ONE DIRECTION ONLY)			\$ 2,600,000 PER MILE	
* 4 LANE DIVIDED HWY. USING EXISTING LANES AS TWO OF THE LANES ** IN A FLOODPLAIN WITH BORROW DITCHES EXISTING				
RECONSTRUCTION (NEW DRAINAGE, BASE, SURFACING, MINOR WIDENING)				
	URBAN		RURAL	
NON-FREEWAY	\$ 2,400,000 PER LANE MILE		\$ 2,100,000 PER LANE MILE	
FREEWAY (BOND ISSUE JOBS) (NO BRIDGES)	\$ 2,100,000 PER LANE MILE	(RUBBLIZE & OVERLAY)		
	\$ 3,200,000 PER LANE MILE	(FULL DEPTH RECONSTRUCTION)		
	\$ 350,000 PER LANE MILE	(2" OVERLAY - NO BRIDGES)		
	\$ 250,000 PER LANE MILE	(2" COLD MILLING & OVERLAY)		
	\$ 550,000 PER LANE MILE	(2" COLDING MILLING & OVERLAY WITH 2" OVERLAY (4" ACHM TOTAL))		
	\$ 1,600,000 PER LANE MILE	(CONCRETE OVERLAY)		
FREEWAY PATCHING & REHABILITATION (FULL DEPTH PATCHING, MINOR DRAINAGE & BASE REPAIRS, SHOULDER REPAIR, CLEAN & FILL JOINTS, ETC.)				
	\$ 285,000 PER LANE MILE			
PAVEMENT FRICTION PROJECTS				
	\$ 200,000 PER LANE MILE			
SLIDE REPAIRS				
ROCK BUTTRESS	\$ 9,500,000 PER MILE			
SOIL NAIL WALL	\$ 5,900,000 PER MILE			
DRILLED RAIL WALL	\$ 9,400,000 PER MILE			
OVERLAYS (11 - 12 FOOT LANES, AVERAGE ACHM DEPTH = 2")				
	PG 64-22	PG 70-22	PG 76-22	
ACHM OVERLAYS (PER LANE MILE)	\$156,000	\$162,000	\$168,000	
COLD MILLING (ADD TO OVERLAY) (PER LANE MILE)	\$65,000			
	SINGLE	DOUBLE		
ASPHALT SURFACE TREATMENT (PER LANE MILE)	\$22,000	\$35,000		
ULTRATHIN BONDED WEARING COURSE (5/8") (PER LANE MILE)	\$130,000			
HIGH FRICTION SURFACE TREATMENT (PER LANE MILE)	\$235,000			
FOG SEAL (PER LANE MILE)	\$20,000			
MICROSURFACING (PER LANE MILE)	\$95,000			
PHASE WORK BREAKOUTS				
(USE WHEN PROJECTS WILL BE DONE IN PHASES OR PARTS OF A PROJECT ARE COMPLETE AND ADDITIONAL WORK IS BEING PROGRAMMED: PAVE GRAVEL ROAD, PLACE BASE & SURFACING, ETC.)				
GRADING AND DRAINAGE (NO STRUCTURES, BASE OR SURFACING - NEW LOCATIONS)				
	MOUNTAINOUS AREAS	OTHER AREAS		
FREEWAY & PRIMARY	\$ 2,200,000 PER LANE MILE	\$ 1,600,000 PER LANE MILE		
OTHER ROADS	\$ 1,500,000 PER LANE MILE	\$ 1,250,000 PER LANE MILE		
SURFACING (INCLUDES BASE & SHOULDERS ON NEW LOCATION. INCLUDES BASE PREPARATION, DRAINAGE & MINOR WIDENING ON EXISTING GRAVEL ROADS)				
	PG 64-22	PG 70-22 & PG 76-22 & CONCRETE LANES		
FREEWAY & PRIMARY	\$ 1,000,000 PER LANE MILE	\$ 1,500,000 PER LANE MILE		
	PG 64-22	DOUBLE A.S.T.		
OTHER ROADS	\$ 900,000 PER LANE MILE	\$ 800,000 PER LANE MILE		
CABLE BARRIER PROJECTS		SIGNALS		
	\$ 335,000 PER MILE	\$ 315,000 PER INTERSECTION		
SHOULDER WIDENING (ADDING SHOULDERS IN BOTH DIRECTIONS)		SIGNALS WITH RADIUS IMPROVEMENTS		
2' SHOULDER	\$ 100,000 PER MILE	\$ 450,000 PER INTERSECTION		
4' SHOULDER	\$ 140,000 PER MILE			
WIDENING FOR GUARDRAIL (SAFETY IMPROVEMENTS ONLY)		SIGNALS WITH ADDED CAPACITY IMPROVEMENTS		
	\$ 110 PER LIN. FT.	\$ 1,700,000 PER INTERSECTION		
GUARDRAIL REPLACEMENT (SAFETY IMPROVEMENTS ONLY)		ROUNDBABOUTS		
LENGTH INCLUDES TERMINALS AND THRIE BEAMS	\$ 72 PER LIN. FT.	\$ 1,900,000 PER LANE ON MAJOR MOVEMENT		
SIDEPATH (6' BERM, 10' PATH)		INTERCHANGES (DIAMOND LAYOUT)		
	\$ 260,000 PER MILE	ADDED TO EXISTING \$ 13,000,000 EACH		
SHORING (AREA OF EXPOSED FACE)		NEW ROUTE \$ 8,000,000 EACH		
	\$ 85 PER SQ. FT.			



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Jorgensen + Associates

From: Melissa Evans, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: October 23, 2023

Subject: PPL-2022-0012: Hughmount South: N. Glenmoor Dr., 285

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

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

3. Perimeter Landscaping Requirements

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

4. Street Tree Planting Requirements

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

5. Landscape Requirement Totals	Amount
Mitigation Trees	135
Parking Lot Trees	0
Street Trees	33 Street Trees, 55 Lot Trees
Detention Pond – Large Trees (1 Tree/3,000 square feet)	10
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	40
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	60

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	12-13-22 07-31-23 09-11-23 09-26-23	10-11-23	10-18-23
Approved			
Tabled			
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided.
2. Please show detention trees and shrubs for the pond at the NE corner of the property if that is a detention pond.



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Jorgensen + Associates

From: Melissa Evans, Urban Forestry

CC: Donna Wonsower, Planner

Meeting Date: October 23, 2023

Subject: PPL-2022-0012: Hughmont South: N. Glenmoor Dr., 285

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

2. Tree Preservation Calculations

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	808,873	100%
Zoning Designation * Select Below with drop down arrow		
Combined Average (RSF-8, R-A, NS)	169,863	21%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	169,863	21%
Existing Tree Canopy * Minus Right of Way and Easements	102,296	13%
Tree Canopy Preserved	72,787	9%
Tree Canopy Removed *On Site	29,509	4%
Tree Canopy Removed *Off Site	0	0%
Tree Canopy Removed Total	29,509	4%
Removed Below Minimum	29,509	4%
Mitigation Requirements	29,509	4%

The preservation and removal numbers need to be revised since you are now showing canopy to be removed at the west side of Lot 16 and the numbers have not been changed to reflect that.

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	29,509	135
Mid Priority		
Low Priority		
Total Mitigation Trees Required	29,509	135

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

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

Tree Protection Methods

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

6. Site Analysis Report (if required) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.	X		
7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	12-13-22 07-31-23 09-11-23 09-26-23	10-11-23	10-18-23
Approved			
Tabled			
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided. 2. The preservation and removal numbers need to be revised since canopy is now shown to be removed at the west side of Lot 16 and the numbers were not updated to reflect that change. 3. Please show root pruning on the plan in areas of cut. 4. Please minimize grading adjacent the large Oak tree #136 to lessen root damage. 5. Please minimize grading at the northeast corner of the property at the Not Buildable lot as proposed grading is in the trees to be preserved.



**CITY OF
FAYETTEVILLE
ARKANSAS**

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: December 12, 2022

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: December 5, 2022

Project Title: Hughmount South

Project Number: PPL-2022-0012

Project Location: S of W Crossvine Dr and N Glenmoor Dr

Plat Page: 282

Park Quadrant: NW

Billing Name & Address: Riggins Commercial Development, 1204 E Joyce Blvd, STE 102
Fayetteville, AR 72703

☐ Land Dedication

☒ Fee-in-Lieu

☐ Combination

LAND DEDICATION

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

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

**TOTAL
Acres**

0.0

FEE-IN-LIEU

Single Family: 48 units x \$1,089 per unit = \$52,272

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

**TOTAL
Fees**

\$52,272

SUMMARY:

- Project proposes 48 SF units and 0 MF units.
- The final amount of fee-in-lieu and/or land dedication needed to satisfy Parkland Dedication requirements will be determined after Planning Commission's approval of the Final Plat.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- Prior to final receipt by the city, all fees must be paid and any deeds for parkland dedication property must be:
 - Approved by the City's Land Agent in the Engineering Division.

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

ASSOCIATED PROJECTS:

- PPL 13-4304
- ADM 13-4356
- FPL 14-4876
- PLA 14-4912
- RZN 20-6996
- PPL-2021-000006 (Expired)
- PPL-2022-0009



CITY OF
FAYETTEVILLE
ARKANSAS

ENGINEERING DIVISION – ACTIVE TRANSPORTATION CORRESPONDENCE

To: Planning Staff

From: Matt Mihalevich, Trails Coordinator

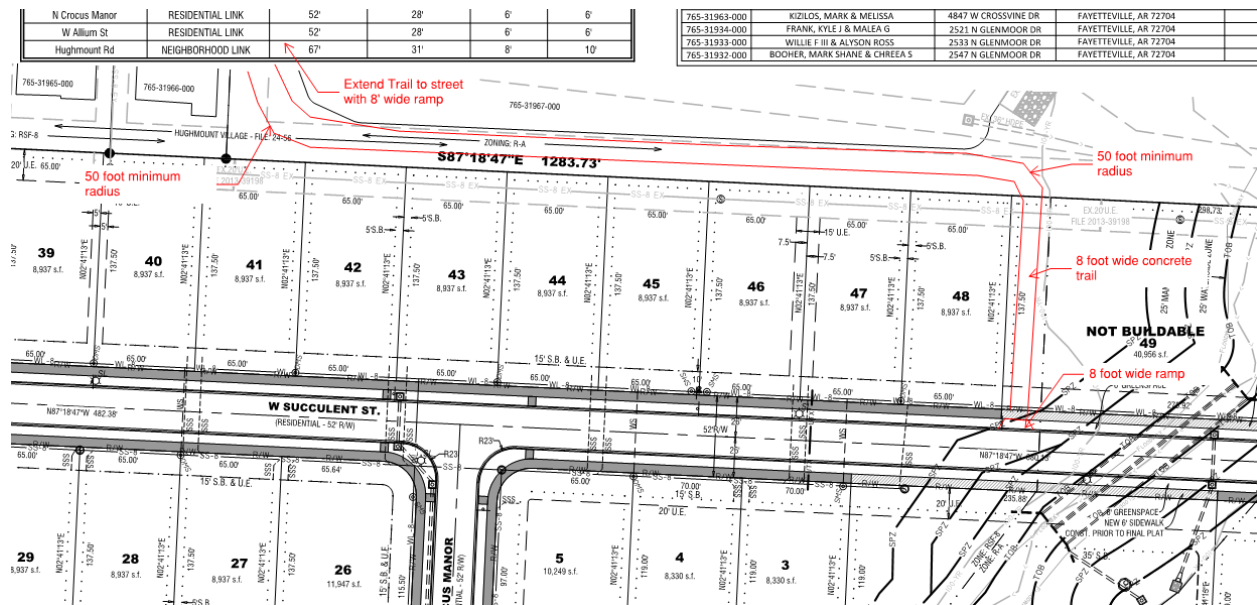
Date: October 11, 2023

Subject: Trail Comments

ITEM #: PPL-2022-0012 Hughmount South

TRAIL COMMENTS

The Active Transportation Plan shows a trail connection within this development. Please include construction of and an 8-foot concrete trail connection between Hughmount North and Hughmount South as shown below. Also, include a ramp out to the street to the north and to the south.





JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying
Landscape Architecture Services

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

Office: 479.442.9127
Fax: 479.582.4807
www.jorgensenassoc.com

November 30, 2022

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Preliminary Plat for Hughmount South

This letter is in regards to a proposed Preliminary Plat for The Hughmount South. This is located south of the existing Hughmount Subdivision on the west side of Hughmount Road. This proposed PPL has 52 total lots with 48 buildable lots. There are two ponds shown in order to meet the drainage requirements and both are proposed as wet ponds. Currently this site is a pasture with a few trees scattered throughout and slopes from north to south into a ravine with slopes that range from 8% to 0.50%. This property is zoned RSF-8, residential single family 8 units per acre, and the proposed lots range in size from 50' wide to 55' wide. This PPL goes to the Parks Department on December 5th and the developer will be proposing money lieu. Both water and sewer are to the site so additional infrastructure will be installed to accommodate the proposed lots.

We thank you for your consideration of this proposal and please call with any questions,

Thank you.

Sincerely;

Justin L. Jorgensen, PE



October 19, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Hughmount South Preliminary Plat - Variance Request

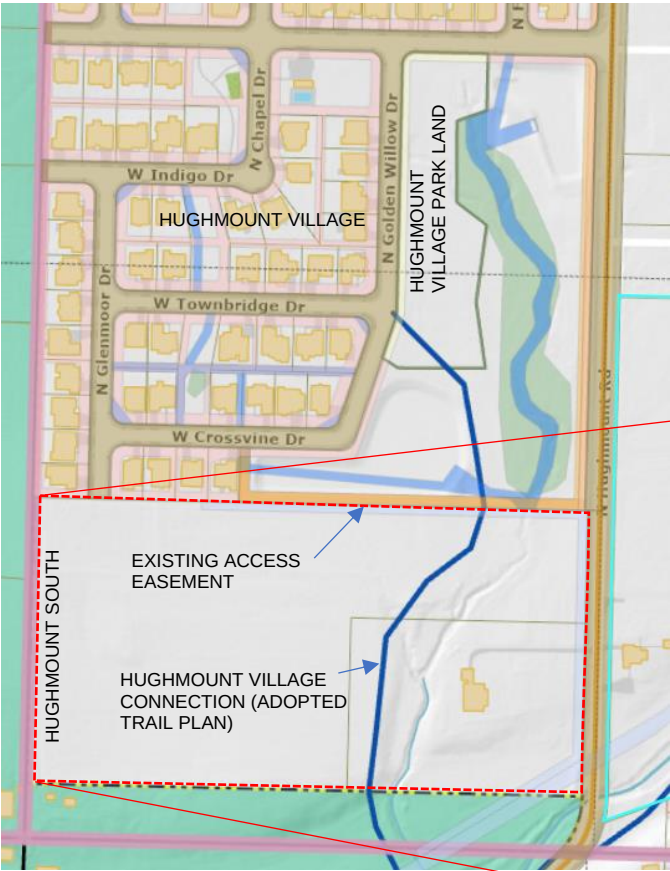
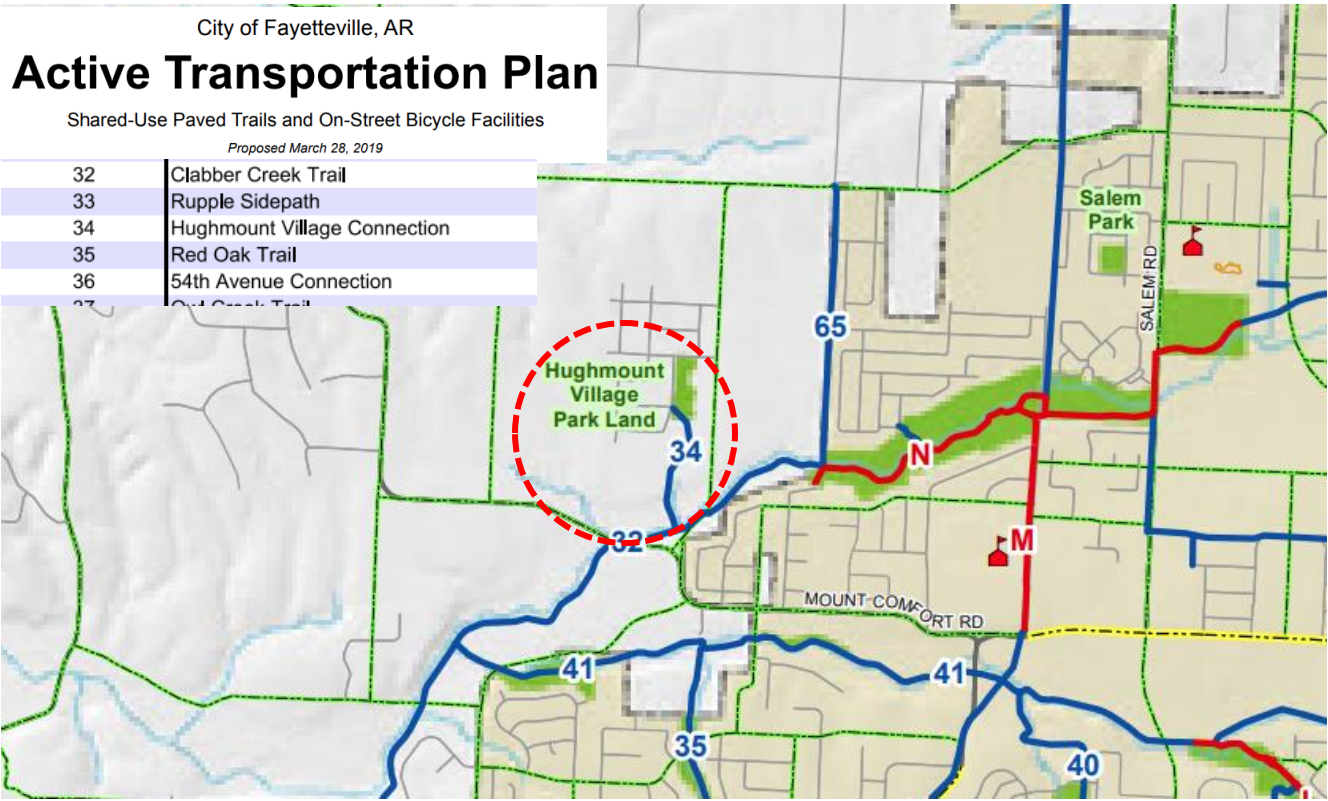
Please accept this request for a variance from the Unified Development Code section 166.08(E) Block Length, which states that intersections shall occur at a minimum of one every 660 feet for Residential Link Streets. The proposed Hughmount South Preliminary Plat contains 2 locations where the block length exceeds this minimum. The first location is the north side of W. Succulent Street which has a proposed block length of 1103 feet. This is due to the lack of a street connection location to the north where an existing detention pond, existing houses, and floodway are located. The second location is the west side of N. Glenmoor Drive which has a proposed block length of 864 feet, of which 727 feet is an existing block with single-family houses in the Hughmount Village subdivision. Therefore, we would like to request a variance to allow for the block length to exceed 660 feet in these two locations.

Furthermore, we also would like to request a variance from the Streamside Protection Zone for associated grading to create compensatory storage to meet the No Adverse Impact requirements. All associated grading will be revegetated in a manner that will be in a floodplain like state.

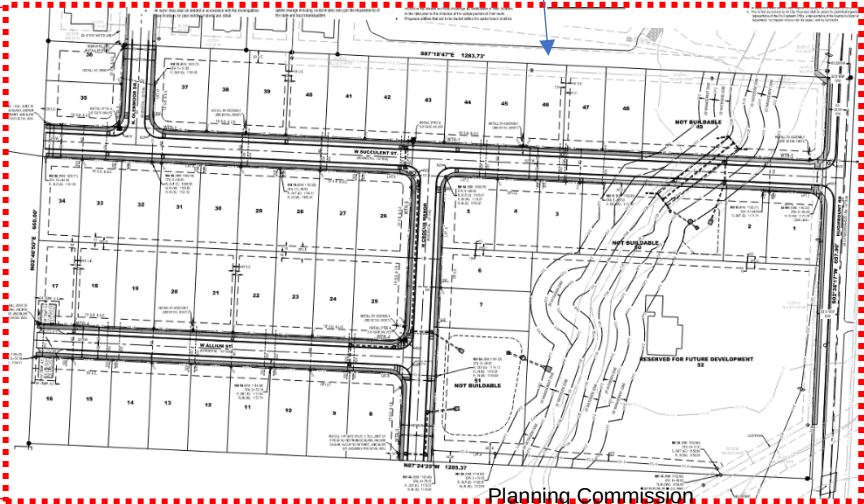
We thank you for your consideration of this proposal and please call with any questions,

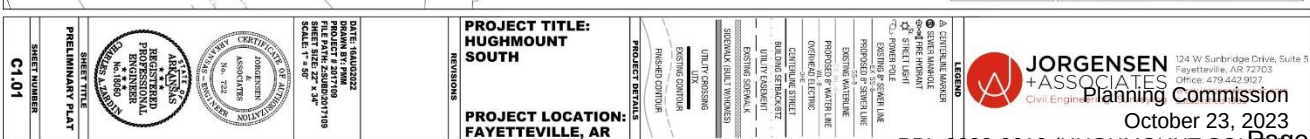
Thank you.

EXHIBIT: RECOMMENDED STAFF CONDITION (TRAIL CONNECTION)



STAFF RECOMMENDED CONDITION: EXTEND EIGHT-FOOT PAVED TRAIL FROM SIDEWALK TO NORTHERN PROPERTY LINE AS SHOWN ON ACTIVE TRANSPORTATION MEMO

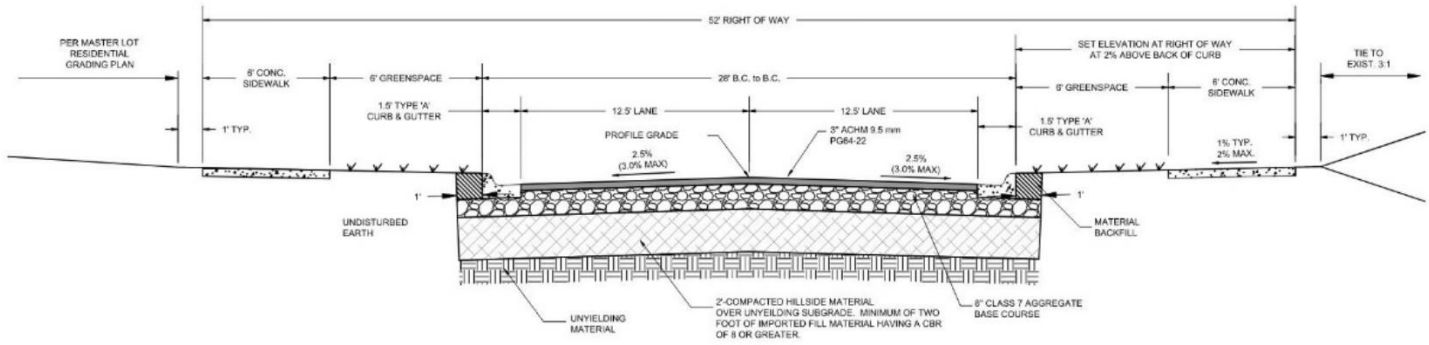




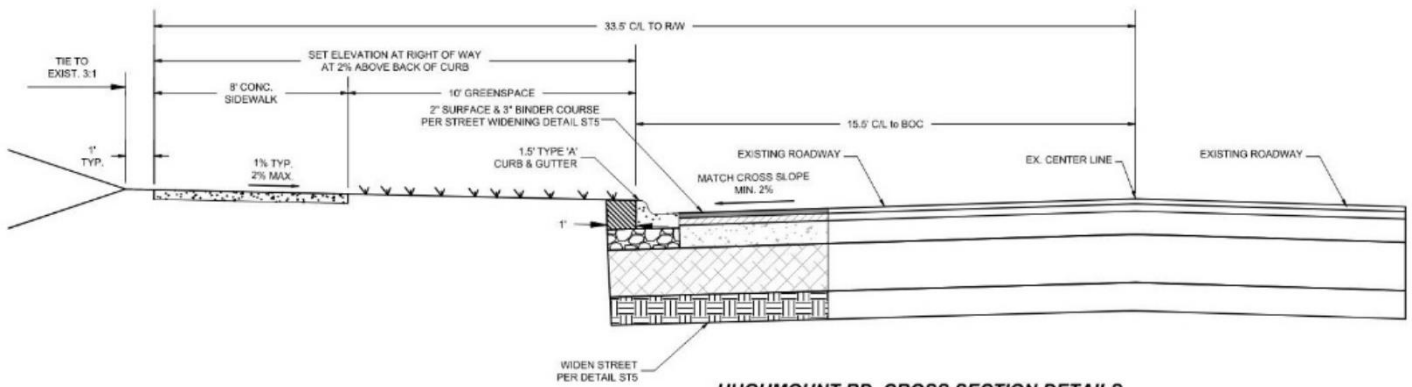


MASTER RESIDENTIAL LOT SUBDIVIDING PLAN C1.05	DATE: 10/20/2022 PROJECT: HUGHMOUNT SOUTH FILE PATH: 2580007199 SCALE: 1" = 40'	PROJECT TITLE: HUGHMOUNT SOUTH PROJECT LOCATION: FAYETTEVILLE, AR	REVISIONS 1. CORRECTING MISTAKES 2. STAFF NAME 3. CORRECTING MISTAKES 4. CORRECTING MISTAKES 5. CORRECTING MISTAKES 6. CORRECTING MISTAKES 7. CORRECTING MISTAKES 8. CORRECTING MISTAKES 9. CORRECTING MISTAKES 10. CORRECTING MISTAKES 11. CORRECTING MISTAKES 12. CORRECTING MISTAKES 13. CORRECTING MISTAKES 14. CORRECTING MISTAKES 15. CORRECTING MISTAKES 16. CORRECTING MISTAKES 17. CORRECTING MISTAKES 18. CORRECTING MISTAKES 19. CORRECTING MISTAKES 20. CORRECTING MISTAKES 21. CORRECTING MISTAKES 22. CORRECTING MISTAKES 23. CORRECTING MISTAKES 24. CORRECTING MISTAKES 25. CORRECTING MISTAKES 26. CORRECTING MISTAKES 27. CORRECTING MISTAKES 28. CORRECTING MISTAKES 29. CORRECTING MISTAKES 30. CORRECTING MISTAKES 31. CORRECTING MISTAKES 32. CORRECTING MISTAKES 33. CORRECTING MISTAKES 34. CORRECTING MISTAKES 35. CORRECTING MISTAKES 36. CORRECTING MISTAKES 37. CORRECTING MISTAKES 38. CORRECTING MISTAKES 39. CORRECTING MISTAKES 40. CORRECTING MISTAKES 41. CORRECTING MISTAKES 42. CORRECTING MISTAKES 43. CORRECTING MISTAKES 44. CORRECTING MISTAKES 45. CORRECTING MISTAKES 46. CORRECTING MISTAKES 47. CORRECTING MISTAKES 48. CORRECTING MISTAKES 49. CORRECTING MISTAKES 50. CORRECTING MISTAKES 51. CORRECTING MISTAKES 52. CORRECTING MISTAKES	JORGENSEN + ASSOCIATES Civil Engineering, Surveying 124 W. Sunbridge Drive, Suite 5 Fayetteville, AR 72703 Office: 479.442.9127 www.jorgensenassoc.com Fax: 479.442.9128	Planning Commission October 23, 2023
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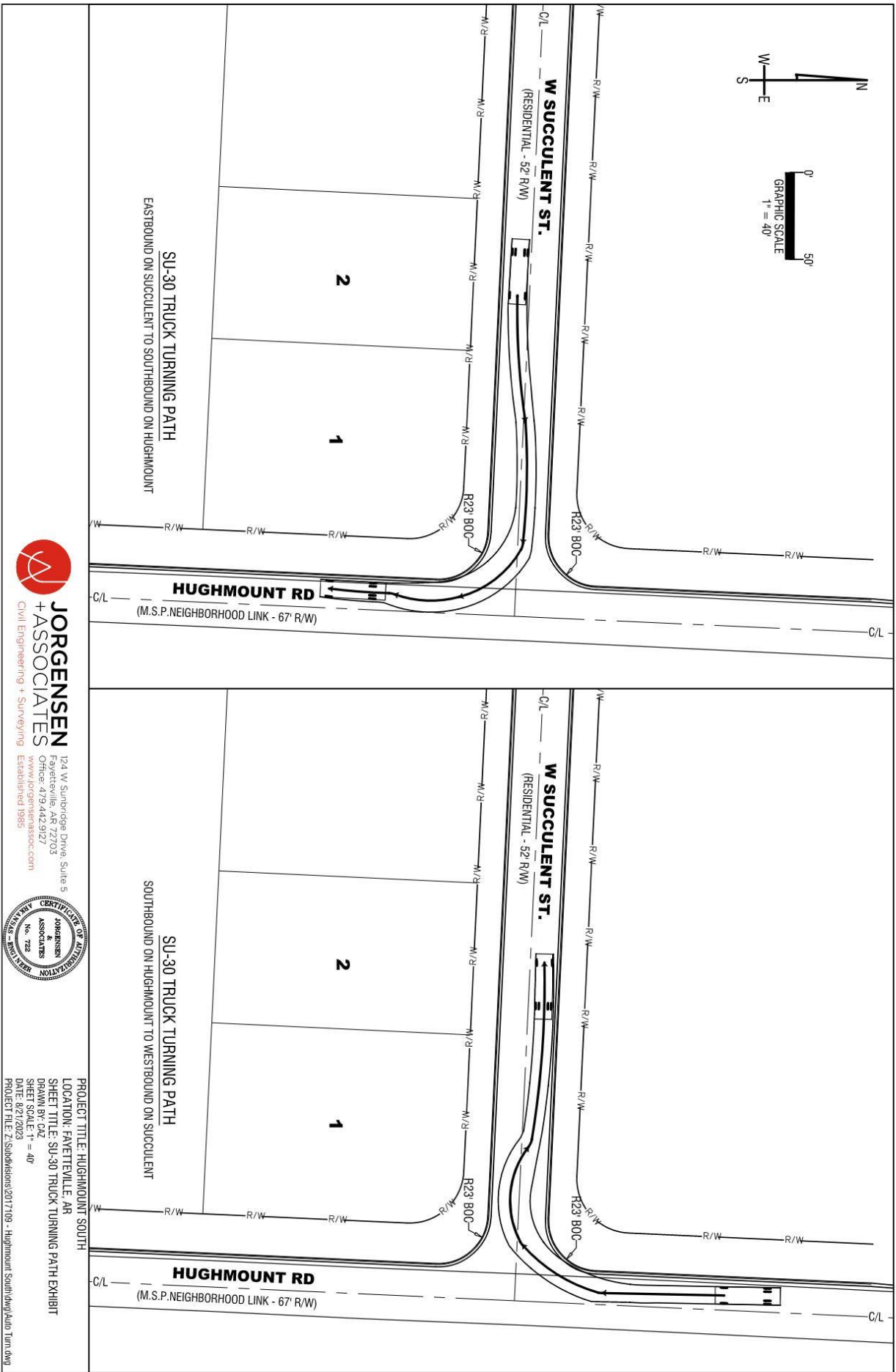
PROPOSED STREET SECTIONS



RESIDENTIAL LINK CROSS SECTION DETAILS (52' ROW)



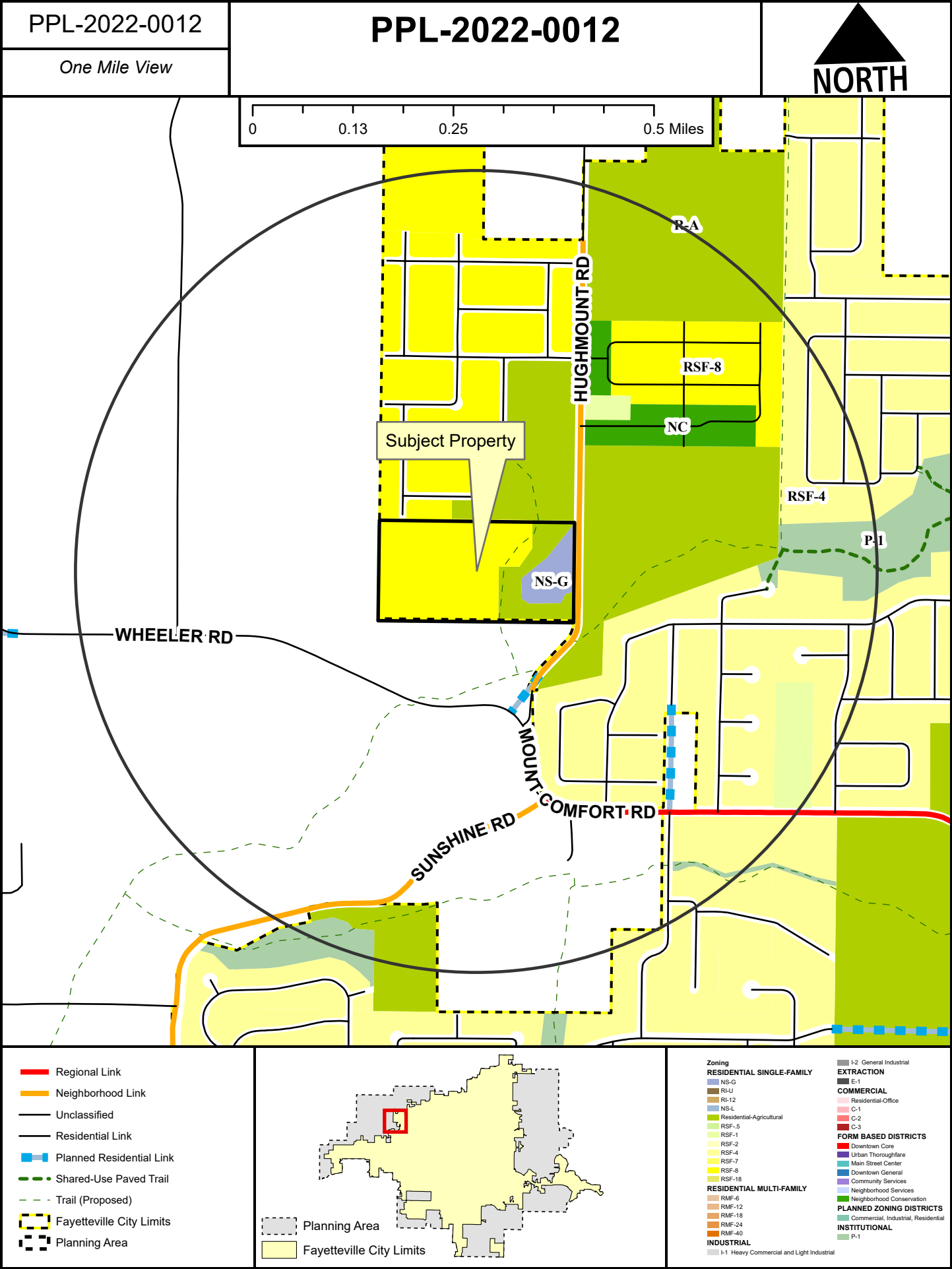
HUGHMOUNT RD. CROSS SECTION DETAILS

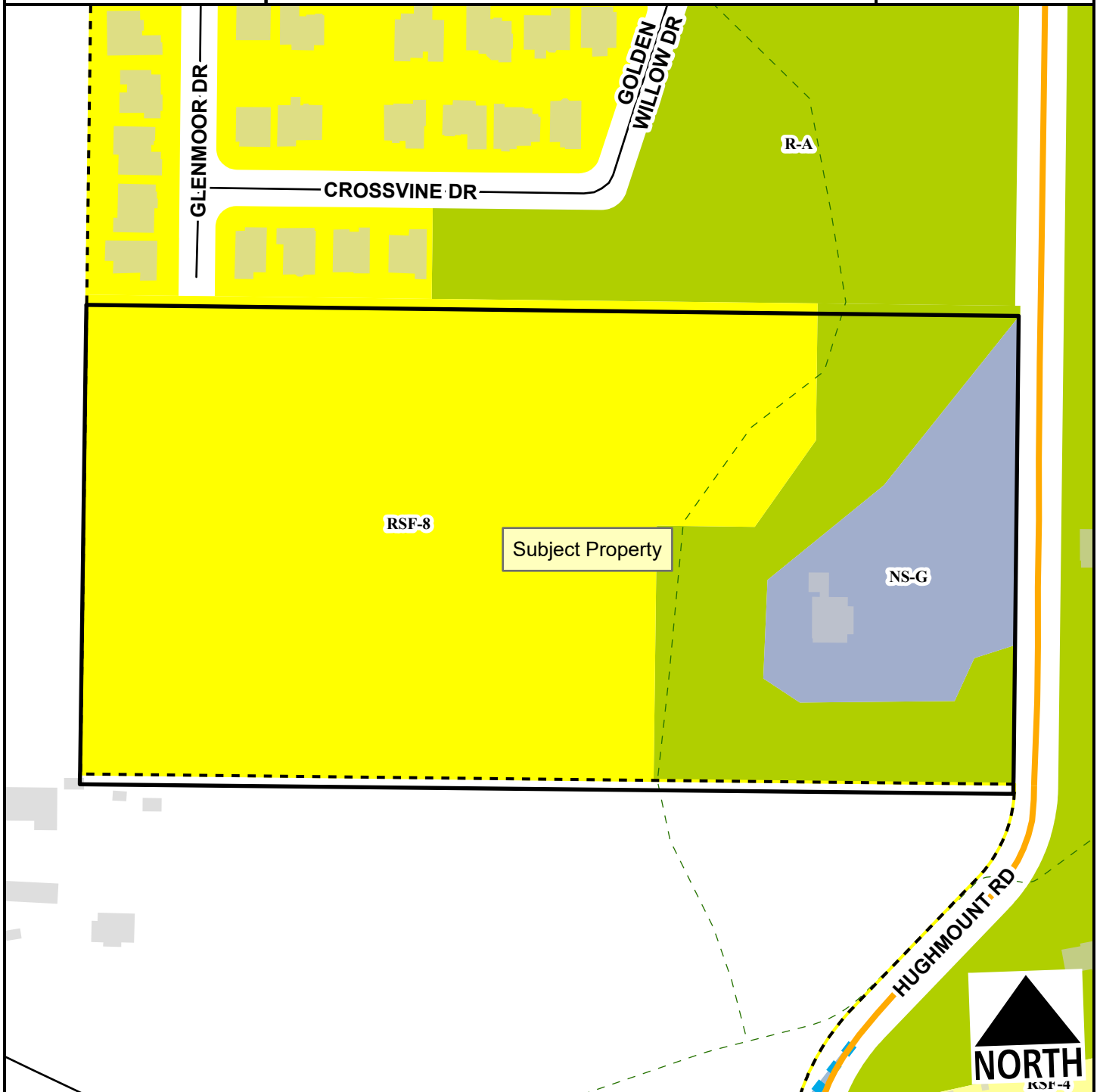


**JORGENSEN
& ASSOCIATES**
Civil Engineering • Surveying

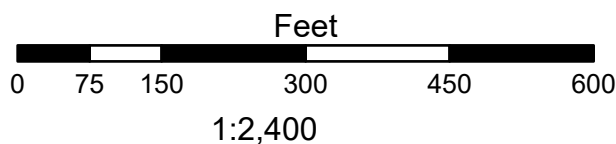
124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
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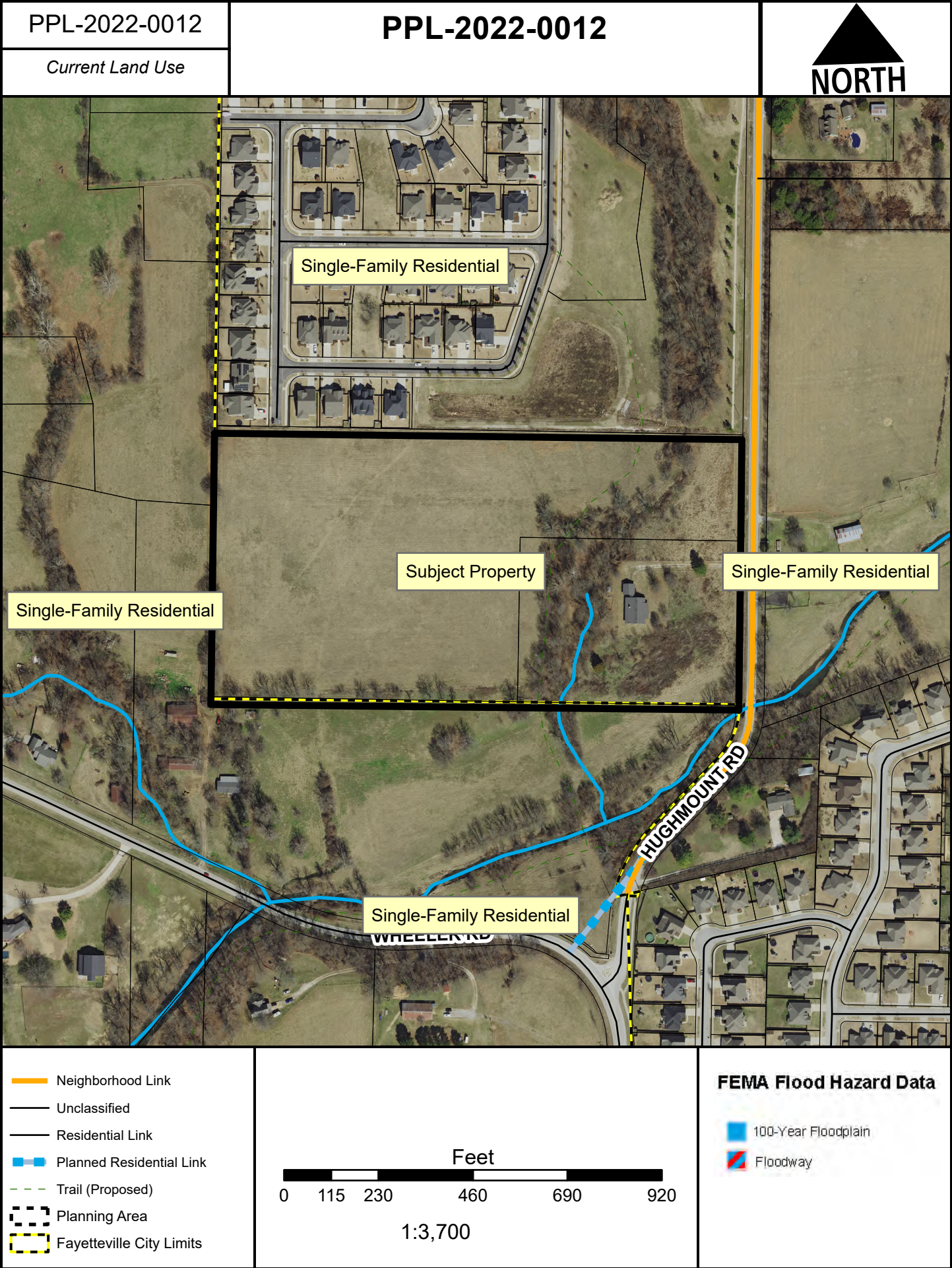




- Neighborhood Link
- Unclassified
- Residential Link
- Planned Residential Link
- Planning Area
- Fayetteville City Limits
- - - Trail (Proposed)



- Residential-Agricultural
- RSF-4
- RSF-8
- Neighborhood Services - Gen.





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: October 23, 2023

SUBJECT: **VAC-2023-0011: Vacation (2417 N. SHILOH DR./LEWIS BROTHERS LEASING CO., 286):** Submitted by CLARK LAW FIRM PLLC for property located at 2417 N. SHILOH DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL & I-1, HEAVY COMMERCIAL & LIGHT INDUSTRIAL and contains approximately 22.76 acres. The request is to vacate portions of street right-of-way totaling 0.28 acres.

RECOMMENDATION:

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

RECOMMENDED MOTION:

*"I move to forward **VAC-2023-0011** to City Council with a recommendation of approval and with conditions as outlined by staff."*

BACKGROUND:

The subject property is located in northwest Fayetteville just southwest of the intersection of Shiloh Drive and Moore Lane. The property encompasses multiple parcels totaling roughly 22.76 acres which are currently under development as the new Lewis Automotive Mall. A portion of the property at the westernmost extent was rezoned in 2021 to C-2, Thoroughfare Commercial, subject to a Bill of Assurance (Ordinance 6513) which increased the landscaping requirement along Deane Solomon Road and Moore Lane. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	CPZD, Commercial Planned Zoning District
South	Commercial	I-1, Heavy Commercial and Light Industrial
East	Commercial	C-2, Thoroughfare Commercial
West	Multi-Family Residential	CPZD, Commercial Planned Zoning District

Proposal: The applicant proposes to vacate portions of right-of-way along Moore Lane totaling 0.28 acres. The land within the right-of-way proposed to be vacated is currently undeveloped.

DISCUSSION:

Staff is supportive of the requested right-of-way vacation. Moore Lane was realigned in 2018 as part of the development of the Timber Ridge Estates Subdivision and, as a result, the segment of the street which previously bisected the subject right-of-way was shifted farther west. Staff finds that, from a land use planning perspective, maintaining the subject right-of-way no longer serves

to support Goal #3 of City Plan 2040, by helping to create a complete, compact, and connected street network, since the existing right-of-way along Moore Lane is wider than what is required by the Master Street Plan and since future street connections to the south and east are not likely at this time given the active redevelopment of the property to the southeast for Lewis Automotive.

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

<u>Utility</u>	<u>Response</u>
Cox Communications	No objections, provided that any damage or relocation of existing Cox facilities will be at the applicant's expense.
AEP/SWEPCO	No objections and no comments.
Black Hills Energy	No objections, provided that a 10-foot utility easement be maintained and centered along the existing gas line.
AT&T	No objections, provided that AT&T retain easement rights to an area including five feet on either side of all existing placed underground cables that are within the right-of-way proposed to be vacated.
Ozarks Electric	No objections and no comments.
<u>City of Fayetteville</u>	<u>Response</u>
Water/Sewer	No objections and no comments.
Solid Waste & Recycling	No objections and no comments.
Transportation	No objections and no comments.

Public Comment: Staff received one inquiry about this request, though no support or opposition to the vacation has been offered.

RECOMMENDATION: Staff recommends forwarding **VAC-2023-0011** with the following conditions:

Conditions of Approval:

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense, and
2. Easements shall be dedicated as requested by Black Hills Energy and AT&T to ensure that those entities maintain their right to access existing facilities.

PLANNING COMMISSION ACTION: Required YES

Date: October 23, 2023 ☐ Tabled ☐ Forwarded ☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

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



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

SEPTEMBER 12, 2023

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Attn: Planning Commission and City Council

Re: Right-of-Way Vacation Application– Old Moore Lane

Clark Law Firm represents Lewis Brothers Leasing Company, Inc. (“Lewis Bros.”) regarding its application to vacate Old Moore Lane, which is more fully described in the attached Survey Exhibits, and which include ROW 1000-280; ROW 23-277; ROW 886-567; ROW 886-569; and ROW 93-48298. This vacation request is a part of Lewis Bros.’ automotive dealership development.

The property to be vacated is not an arterial or collector street and is, in fact, no longer used by the public. With the development of W. Moore Lane, the rights-of-way to be vacated are not in use, nor are they necessary.

Vacating the described property will not result in a lack of access to the public and will not result in a disruption to pedestrians, bicycle traffic or vehicle traffic. 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 described property.

I request the Petition to Vacate Old Moore Lane, as more particularly described in the attached documents, 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. Thank you for your consideration and please let me know if you have any questions.

Sincerely,

/s/ Suzanne G. Clark

Suzanne G. Clark

PETITION

PETITION TO VACATE A SECTION OF OLD MOORE LANE LOCATED BETWEEN W. MOORE LANE AND SHILOH DRIVE IN THE CITY OF- FAYETTEVILLE, ARKANSAS AND INCLUDING PORTIONS OF ROW 1000-208; ROW 23-277; ROW 886-567; ROW 886-569; AND ROW 93-48296

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

I, the undersigned, as authorized Representative of Lewis Brothers Leasing Company, Inc. which has an interest in the property herein described, and with the consent of the owners of the real estate described and abutting property described herein as Old Moore Lane, hereinafter sought to be abandoned and vacated, lying between W. Moore Lane and Shiloh Drive in the City of Fayetteville, Arkansas, a municipal corporation, petition the City of Fayetteville to vacate the referenced property, which is described as follows:

RIGHT-OF-WAY DESCRIPTION PER 1000-280

BEGINNING AT THE NORTHEAST CORNER OF THE RIGHT-OF-WAY DEDICATION ALONG MOORE LANE, DESCRIBED IN DOCUMENT 1000-280 (POB);
THENCE ALONG THE EASTERLY LINE OF THE RIGHT-OF-WAY DEDICATION, S02°51'22"W, 10.95 FEET;
THENCE CONTINUING ALONG SAID EASTERLY LINE, N87°09'28"W, 2.74 FEET;
THENCE CONTINUING ALONG SAID EASTERLY LINE, S02°09'57"W, 16.70;
THENCE LEAVING SAID EASTERLY LINE, ALONG THE SOUTHERLY LINE OF THE RIGHT-OF-WAY DEDICATION, N87°19'51"W, 131.79 FEET TO THE MASTER STREET PLAN RIGHT-OF-WAY;
THENCE LEAVING SAID SOUTHERLY LINE, ALONG SAID MASTER STREET PLAN RIGHT-OF-WAY, ALONG A NONTANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 51.02 FEET, SAID CURVE HAVING A RADIUS OF 173.65 FEET, AND A CHORD BEARING AND DISTANCE OF N58°36'11"E, 50.84 FEET;
THENCE LEAVING SAID MASTER STREET PLAN RIGHT-OF-WAY, S86°48'25"E, 92.31 FEET TO THE POINT OF BEGINNING (POB). CONTAINING 3080 SQUARE FEET, 0.07 ACRES.
SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, OR COVENANTS OF RECORD.

RIGHT-OF-WAY DESCRIPTION PER 23-277

COMMENCING (POC) AT THE NORTHERLY PROPERTY CORNER OF PARCEL;
THENCE ALONG THE EASTERLY LINE OF PARCEL, S01°24'08"W, 122.10 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING ALONG SAID EASTERLY LINE, S01°24'08"W, 0.57 FEET;
THENCE CONTINUING ALONG SAID EASTERLY LINE, ALONG A TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 86.08 FEET, SAID CURVE HAVING A RADIUS OF 395.02 FEET, AND A CHORD BEARING AND DISTANCE OF S07°38'43"W, 85.91 FEET;
THENCE CONTINUING ALONG SAID EASTERLY LINE, ALONG A COMPOUND CURVE TO THE RIGHT, AN ARC DISTANCE OF 74.49 FEET, SAID CURVE HAVING A RADIUS OF 54.71 FEET, AND A CHORD BEARING AND DISTANCE OF S52°53'37"W, 68.87 FEET TO THE

MASTER STREET PLAN RIGHT-OF-WAY;
THENCE ALONG SAID MASTER STREET PLAN RIGHT-OF-WAY, ALONG A NONTANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 109.10 FEET, SAID CURVE HAVING A RADIUS OF 173.65 FEET, AND A CHORD BEARING AND DISTANCE OF N32°10'50"E, 107.31 FEET;
THENCE CONTINUING ALONG SAID MASTER STREET PLAN RIGHT-OF-WAY, N14°11'17"E, 37.59 FEET TO THE POINT OF BEGINNING (POB). CONTAINING 1593 SQUARE FEET, 0.04 ACRES. SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, OR COVENANTS OF RECORD.

RIGHT-OF-WAY DESCRIPTION PER 886-567

TWENTY-FIVE FEET OF EQUAL AND UNIFORM WIDTH ALONG THE WEST SIDE OF THE FOLLOWING DESCRIBED PROPERTY: A PART OF THE SE QUARTER OF THE SW QUARTER OF SECTION 33, T17N, R30W, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS
330.81 FEET EAST AND 677.20 FEET NORTH OF THE SW CORNER OF SAID 40 ACRE TRACT AND RUNNING THENCE NORTH 00 DEGREES 13' EAST 156.68 FEET; THENCE SOUTH 89 DEGREES 45' EAST 549.96 FEET; THENCE SOUTH 27 DEGREES 32' WEST 173.98 FEET; THENCE WEST 470.13 FEET TO THE POINT OF BEGINNING.

RIGHT-OF-WAY DESCRIPTION PER 886-569

TWENTY-FIVE FEET OF EQUAL AND UNIFORM WIDTH ALONG THE NORTH 40 FEET OF THE WEST SIDE OF THE FOLLOWING DESCRIBED PROPERTY: A PART OF THE SE QUARTER OF THE SW QUARTER OF SECTION 33, T17N, R30W, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS 330.81 FEET EAST OF THE SW CORNER OF SAID 40 ACRE TRACT AND RUNNING THENCE NORTH 89 DEGREES 24' EAST 81.60 FEET; THENCE NORTH 30 DEGREES 58' EAST 540.20 FEET; THENCE
NORTH 27 DEGREES 32' EAST 241.41 FEET; THENCE WEST 470.13 FEET; THENCE SOUTH 00 DEGREES 13' WEST 270.00 FEET; THENCE SOUTH 407.20 FEET TO THE POINT OF BEGINNING.

RIGHT-OF-WAY DESCRIPTION PER 93-48298

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION THIRTY-THREE (33), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS 330.81 FEET EAST AND 688.88 FEET NORTH OF THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT; THENCE N00°13'00" E
145.00 FEET; THENCE 589°45'00" E 17 FEET; THENCE 500°13'00" W 145.22 FEET TO AN EXISTING FENCE; THENCE N89°00'48" W ALONG SAID FENCE 17 FEET TO THE POINT OF BEGINNING, CONTAINING 0.057 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

That the abutting real estate affected by said abandonment of the Old Moore Lane described property in 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 portions of the described rights-of-way.

The petitioner prays 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.

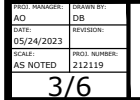
WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting 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.

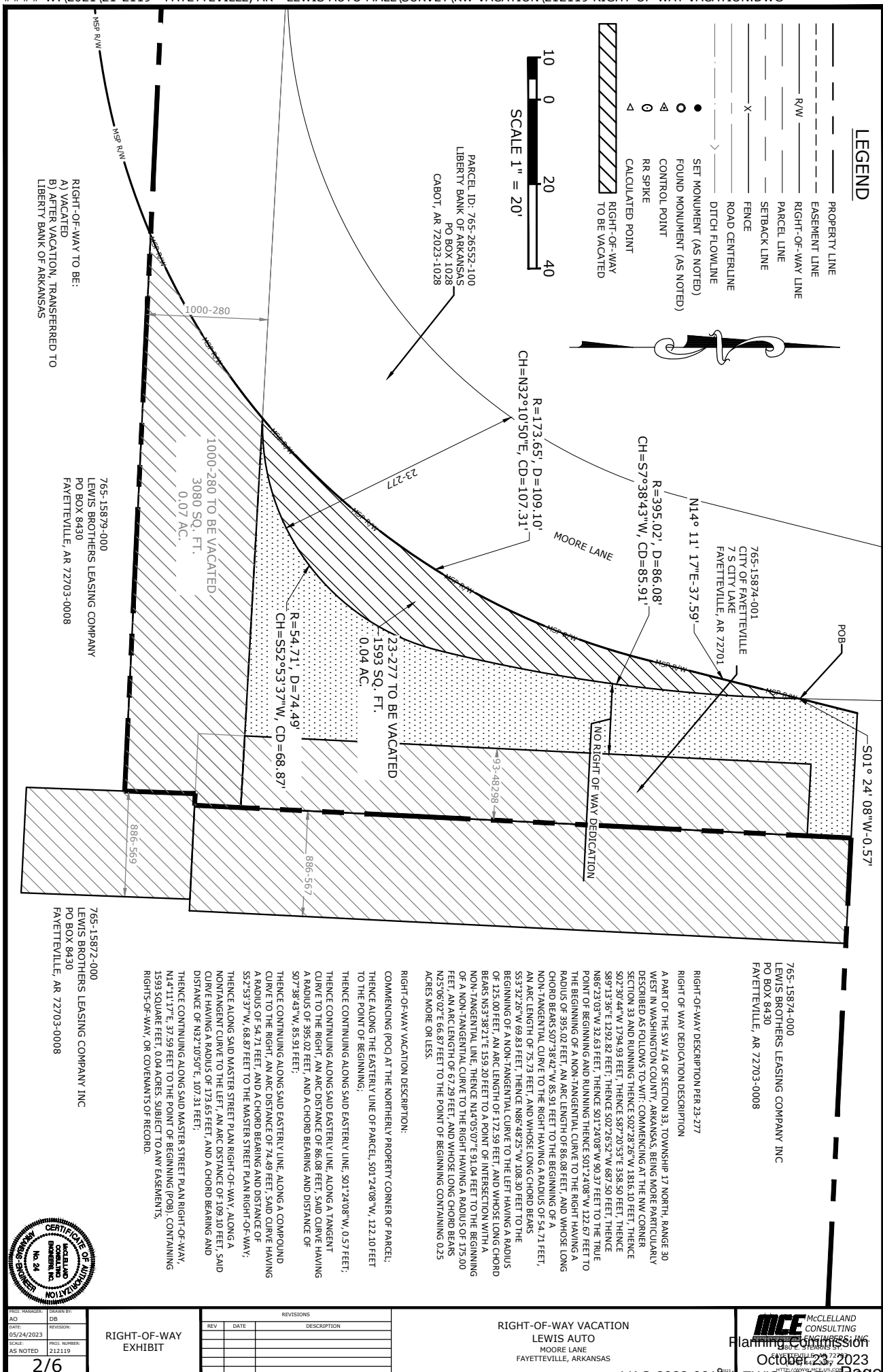
Dated this 12th day of September, 2023.

Clark Law Firm, Representative for Lewis Brothers Leasing Co., Inc.

Suzanne G. Clark, Attorney Representative

Signature





PROJ. MANAGER: AO	DRAWN BY: DB
DATE: 05/24/2023	REVISION:
SCALE: AS NOTED	PROJ. NUMBER: 212119

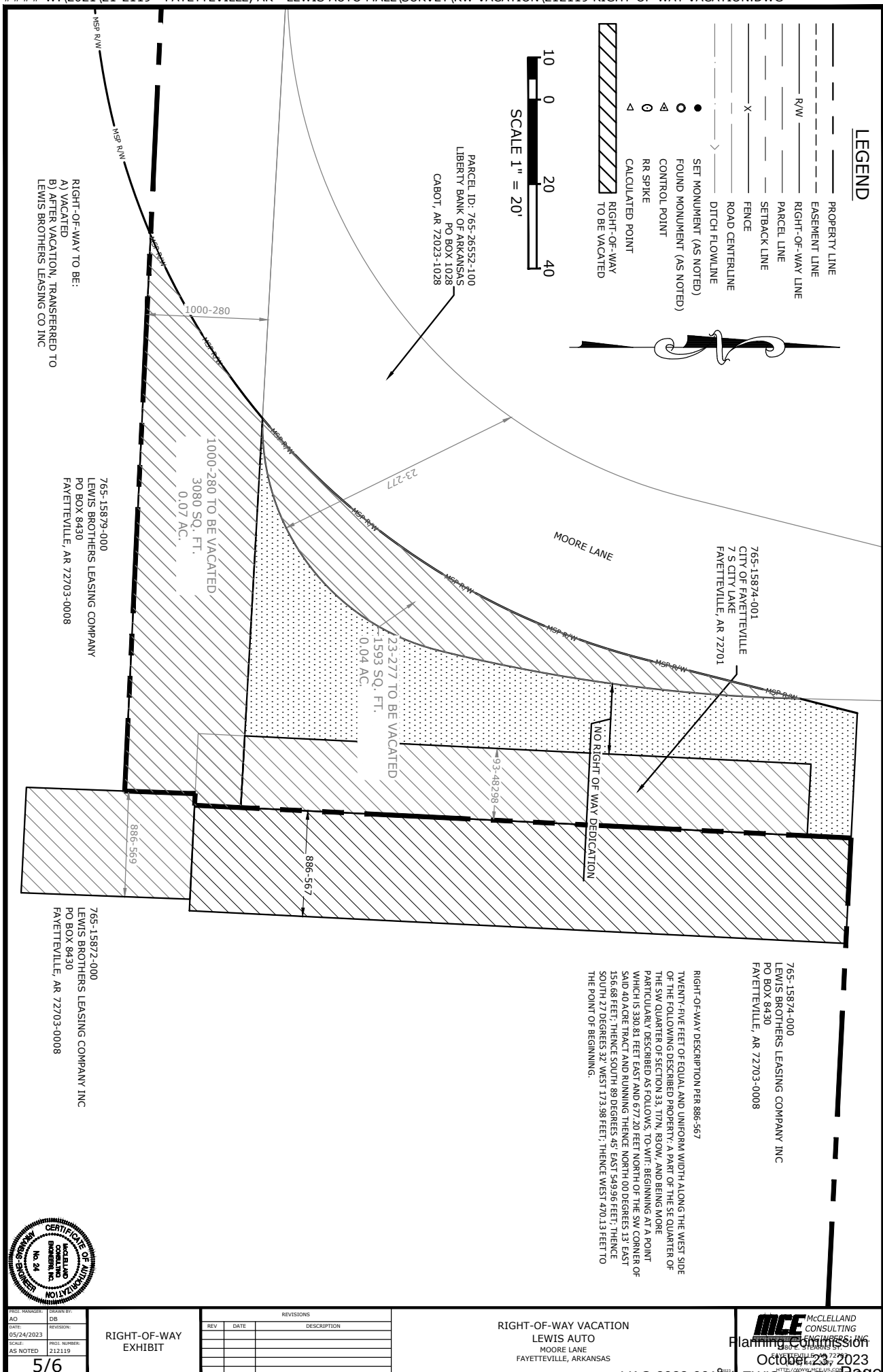
2/6

RIGHT-OF-WAY
EXHIBIT

REVISIONS		
REV	DATE	DESCRIPTION

RIGHT-OF-WAY VACATION
LEWIS AUTO
MOORE LANE
FAYETTEVILLE, ARKANSAS

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
180 E. STEARNS ST.
EATONVILLE, FL 32726
407-844-2077
[HTTP://WWW.MCE.US.COM](http://www.MCE.us.com)



RIGHT-OF-WAY TO BE:
A) VACATED
B) AFTER VACATION, TRANSFERRED TO LEWIS BROTHERS LEASING CO INC

765-15879-000
LEWIS BROTHERS LEASING COMPANY
PO BOX 8430
FAYETTEVILLE, AR 72703-0008

765-15872-000
LEWIS BROTHERS LEASING COMPANY INC
PO BOX 8430
FAYETTEVILLE, AR 72703-0008

765-15874-001
CITY OF FAYETTEVILLE
7 S CITY LAKE
FAYETTEVILLE, AR 72701

765-15874-000
LEWIS BROTHERS LEASING COMPANY INC
PO BOX 8430
FAYETTEVILLE, AR 72703-0008

RIGHT-OF-WAY DEEDS ALONG THE WEST SIDE OF THE SE QUARTER OF SECTION 33, T17N, R30W, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS 330.81 FEET EAST AND 677.20 FEET NORTH OF THE SW CORNER OF SAID CORNER TRACT AND RUNNING THENCE NORTH 00 DEGREES 13' EAST 55.60 FEET; THENCE SOUTH 89 DEGREES 45' EAST 549.96 FEET; THENCE SOUTH 89 DEGREES 45' WEST 137.38 FEET; THENCE WEST 420.13 FEET TO THE POINT OF BEGINNING.

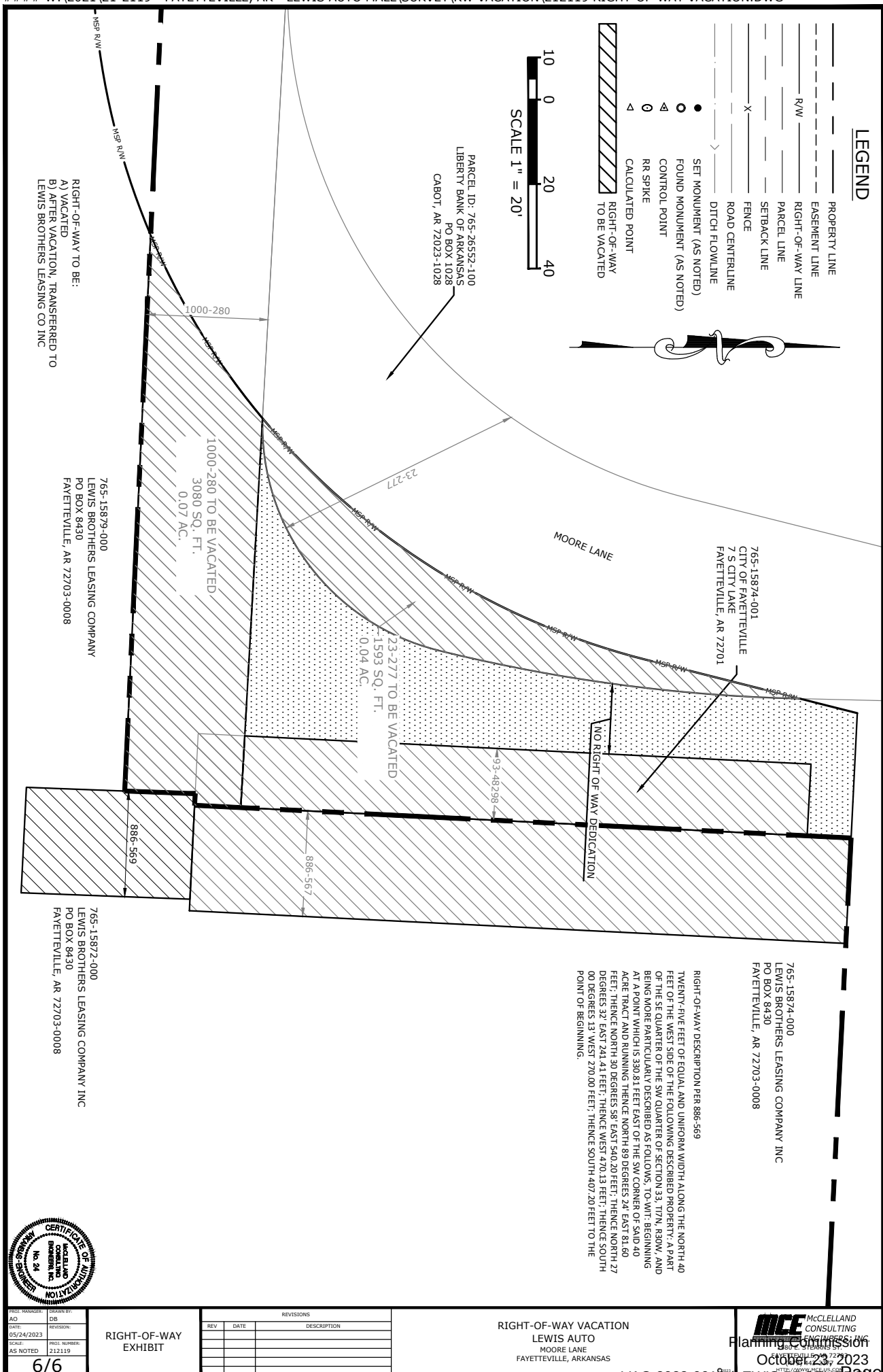
RIGHT-OF-WAY VACATION
LEWIS AUTO
MOORE LANE
FAYETTEVILLE, ARKANSAS

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
180 E. STEARNS ST.
FAYETTEVILLE, MS 38822
(662) 844-2309

PROJ. MANAGER: AO	DRAWN BY: DB
DATE: 05/24/2023	REVISION:
SCALE: AS NOTED	PROJ. NUMBER: 212119

RIGHT-OF-WAY
EXHIBIT

5/6



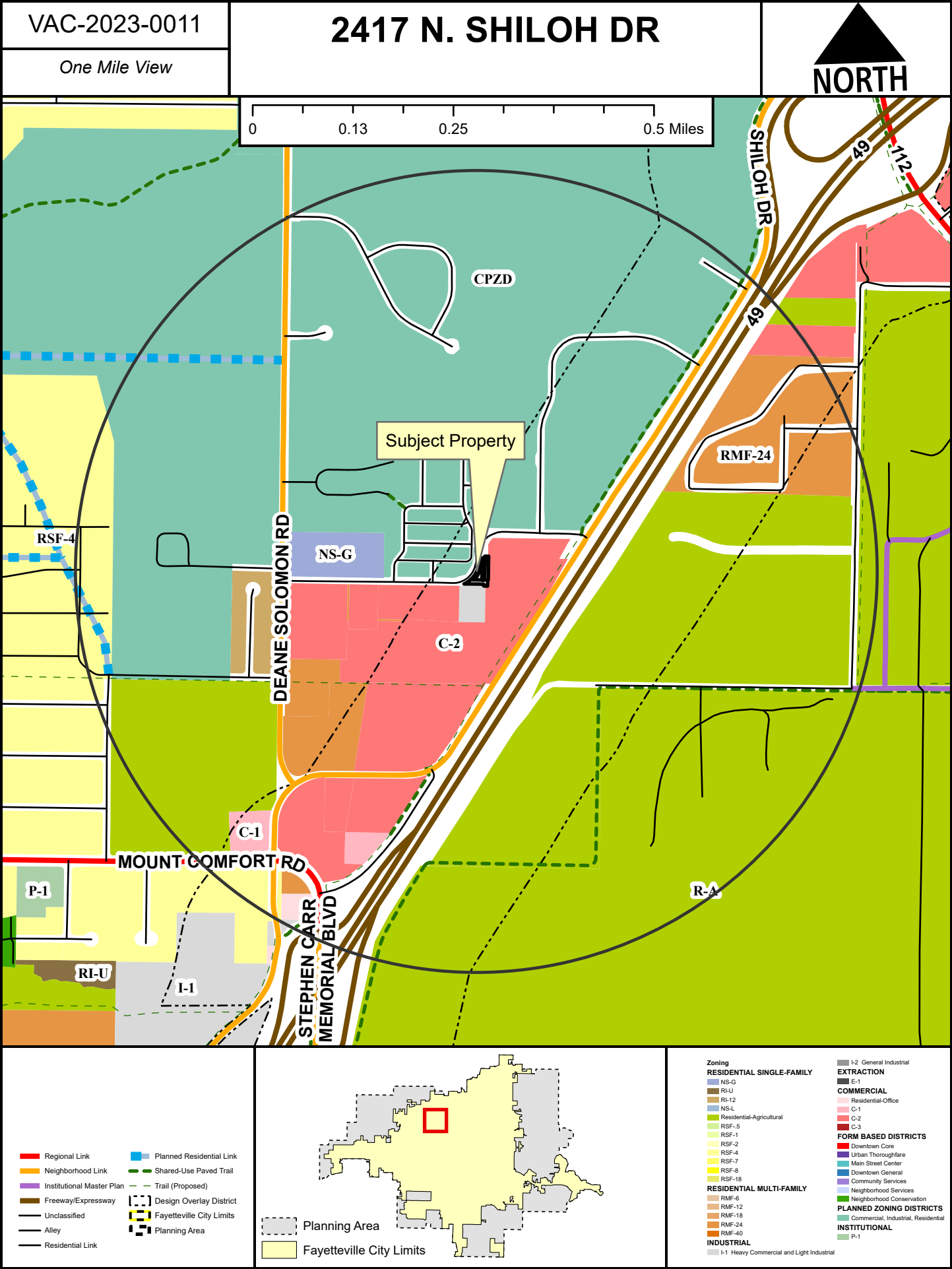
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DATE: 05/24/2023	REVISION:
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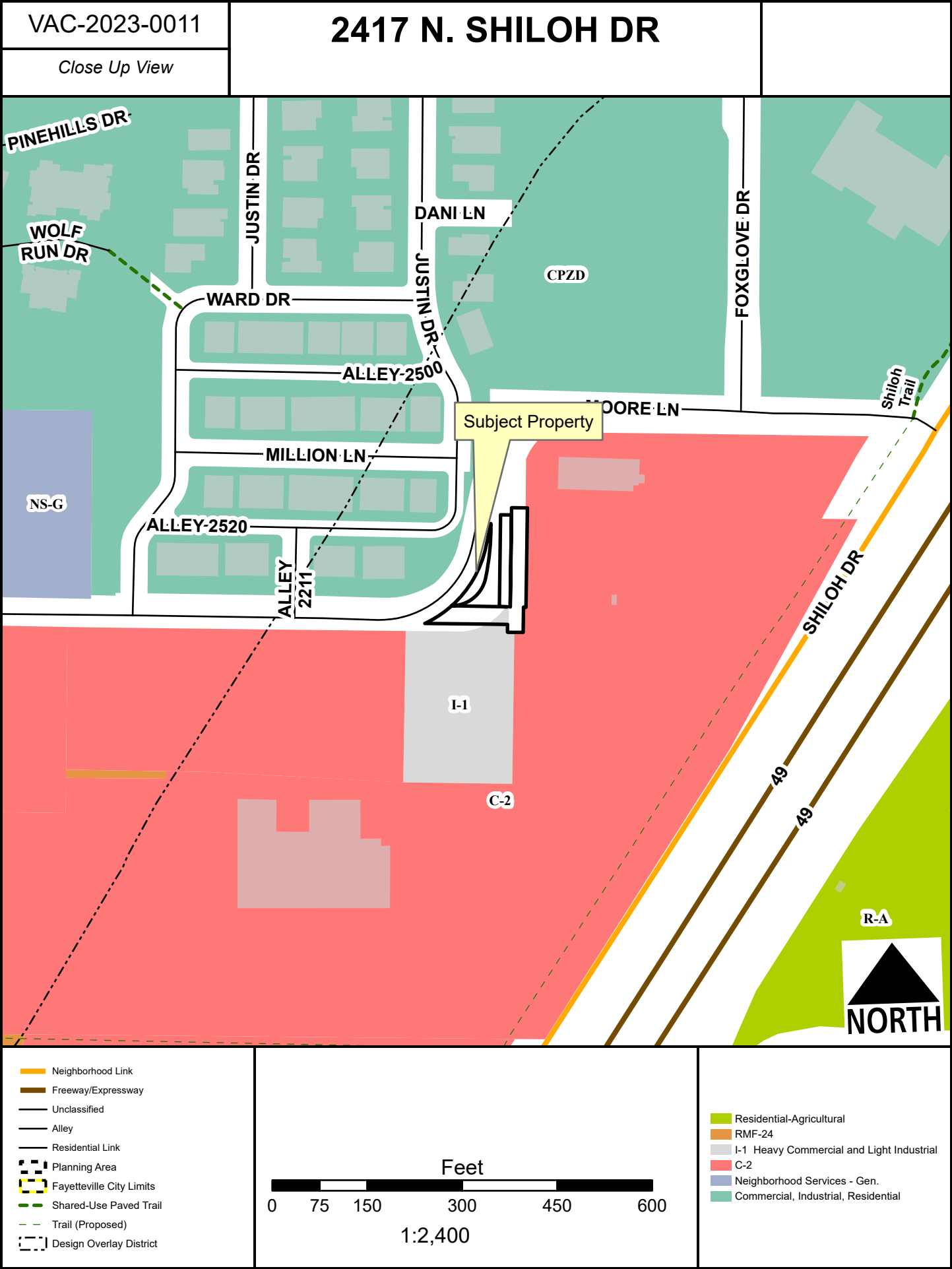
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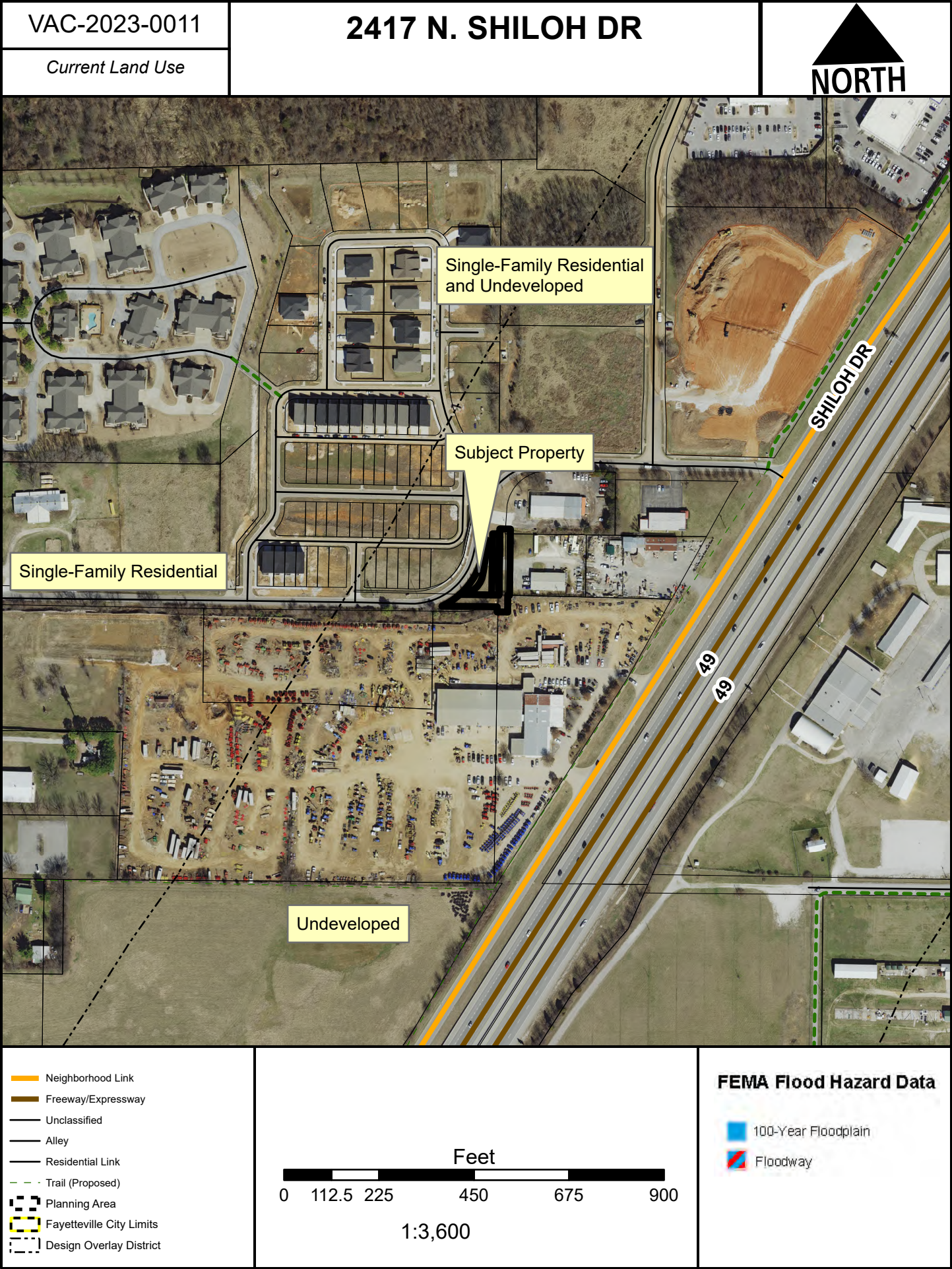
RIGHT-OF-WAY
EXHIBIT[illegible]

RIGHT-OF-WAY VACATION
LEWIS AUTO
MOORE LANE
FAYETTEVILLE, ARKANSAS

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
180 E. STEARNS ST.
FAYETTEVILLE, MS 37242
662.271.2372









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: October 23, 2023

SUBJECT: **CUP-2023-0133: Conditional Use Permit (1742 S. RAZORBACK RD/HARRIS, 599):** Submitted by BATES & ASSOCIATES for property located at 1742 S. RAZORBACK RD. The property is zoned NS-G, NEIGHBORHOOD SERVICES - GENERAL and contains approximately 0.85 acres. The request is for Use Unit 26, Multi-Family Residential in NS-G zoning.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0133**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0133** 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 on the southeast corner of Razorback Rd. and 15th St., both of which are classified in Fayetteville's Master Street Plan as Regional Links. The property is exceptionally narrow, ranging from approximately 45 feet to 161 feet in depth between Razorback Rd. and railroad right-of-way to the east. The Town Branch and Town Branch trail bisect the property from east to west which includes areas of floodway, floodplain, and streamside protection zone. In early 2020, the Planning Commission approved a Conditional Use Permit (CUP 20-7001) to allow multi-family dwellings in the NS-G zoning district on the property. That conditional use permit has expired, and the applicant is now seeking reapproval. A large-scale development (LSD 19-6969) was submitted and approved concurrently. Since the large-scale development approval also lapsed, the applicant has also submitted a new large-scale development (LSD-2023-0017) scheduled for review at the next Planning Commission meeting. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Surface Parking Lot	I-2, Heavy Commercial
South	Multi-family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	RV Park	P-1, Institutional
West	Multi-family Residential; City Park; Undeveloped	UT, Urban Thoroughfare; P-1, Institutional; NS-L, Neighborhood Services, Limited

City Plan 2040 Future Land Use Designation: City Neighborhood, Complete Neighborhood Plan, Fayette Junction Neighborhood Master Plan

Proposal: The applicant requests conditional use permit approval to develop the property with structures that include more than four attached residential units, which is classified under Fayetteville's Unified Development Code as Use Unit 26, Multi-family Dwellings. Use Unit 26 is a conditional use in the NS-G, Neighborhood Services, General, zoning district. Conformance with development requirements including drainage, tree preservation, and fire apparatus access was reviewed and approved under a large scale development (LSD 19-6969) submitted concurrently with the previously approved conditional use permit. LSD-2023-0017 has been submitted for review during the next round. As part of this proposal, the applicant has submitted a request for one variance outlined below with staff's recommendations:

- **§166.08(F), Access Management Standards. For a property that proposes to access a Regional Link/Principal Arterial, 250 feet of separation is required from a new curb cut and any adjacent curb cuts or intersections.** The applicant's site plan proposes two curb cuts to Razorback Road along the southern extent of the property. These curb cuts are approximately 176 feet apart. Additionally, there is further conflict with the off-site curb cut to the south of the subject property which is within 250 feet of the southernmost driveway of the proposed project.
 - *Staff recommendation: Staff recommends approval of the variance on the condition of one-way ingress and one-way egress for each of the respective driveways serving the property's southern half. This will minimize opportunities for vehicle conflict and allow for efficient site circulation.*

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0133**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed multi-family development to be compatible with the surrounding area and uses for the reasons described in this report;*
2. Planning Commission determination of a variance to §166.08(F), Access Management Standards. For a property that proposes to access a Regional Link/Principal Arterial, 250 feet of separation is required from a new curb cut and any adjacent curb cuts or intersections. Staff recommends in favor for the reasons outlined above;
3. Conditional use permit approval does not constitute development approval. The project as proposed shall also be submitted, reviewed, and approved for building permit;
4. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>October 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: **The applicant has submitted a written application requesting a conditional use permit for Use Unit 26 in the NS-G zoning district on parcel 765-14877-011.**

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

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

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

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

Finding: The Planning Commission is empowered under Unified Development Code §161.19 to grant the requested conditional use permit.

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

Finding: Staff finds that granting the requested conditional use will not negatively affect the public interest, particularly given the scope of the proposed development and the surrounding land uses. The proposed structures are of a scale that is comparable to the existing attached residential to the south and the existing development on the subject property. Further, the proposal's layout respects the streamside protection zone and floodplain associate with the Town Branch.

(c.) The Planning Commission shall certify:

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

Finding: There are not specific rules governing the proposed use.

(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: As part of development review in 2020, variances of the City's access management ordinance were granted for one-way driveways at the southern portion with less than 250 feet separation to meet fire code requirements. These variances are still needed for the two driveways on the property that are separated by less than the 250 feet required. Similarly, the southernmost of these two driveways is separated by less than 250 feet from the driveway serving the property to the south. Given fire code requirements, staff again recommends approval of these variances as part of the large scale development and conditioned on both drives being used for one-way ingress or egress. This will limit the potential for vehicle conflicts and allow for efficient site circulation.

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

Finding: **Parking is provided on-site at the required ratio of one space per bedroom. Building placement is such that vehicle headlights will not be cast off-site and adversely affect surrounding properties.**

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

Finding: **The multi-family dwellings and overall property are served from an on-site dumpster enclosure.**

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

Finding: **Adequate utilities are currently available on the site.**

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

Finding: **Given the amount of vegetation in the area, the similar uses to the south, and the limited potential for off-site impacts such as glare from vehicle headlights, staff does not recommend screening or buffering.**

(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: **All separation and setback requirements were reviewed with development of the property. As part of the large-scale development review in 2020, the Planning Commission granted a variance for reduced perimeter landscaping along Razorback Rd. near the northern two-way curb cut. This section of the site is already developed, and further consideration of this variance is not needed.**

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

Finding: **Staff finds the proposed use to be compatible with the surrounding uses. As noted above, the applicant's proposal for three-story, attached residential dwellings is complimentary to the surrounding properties. To the east and west, property is undeveloped. To the south, two-story attached residential is already developed. Lastly to the north, the Town Branch's riparian corridor is being respected while the Town Branch trail is benefitting from additional adjacent housing and potential users.**

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

Finding: Staff finds the proposed use to be compatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans. Specifically, the proposed use meets City Plan 2040 goal number two of discouraging urban sprawl through the creative use of a narrow parcel for high-density housing development; Goal number three, to create compact, complete and connected neighborhoods, with the development's orientation to Razorback Road and connectivity to existing trails; And goal number six to create opportunities for attainable housing through the increase in housing stock.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §161.19, NS-G, Neighborhood Services, General
- Applicant Request Letter
- Site Plan
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.19 NS-G, Neighborhood Services - General

(A) *Purpose.* The Neighborhood Services, General district is designed to serve as a mixed use area of medium intensity. Neighborhood Services, General promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control the Neighborhood Services district is a residential zone.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12b	General business
Unit 24	Home occupations
Unit 40	Sidewalk cafes
Unit 41	Accessory dwelling units
Unit 44	Cluster housing development
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 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities
Unit 45	Small scale production

(C) *Density*. Eighteen (18) or less per acre.

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum*.

All dwellings	35 feet
All other uses	None

(2) *Lot Area Minimum*.

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet per dwelling unit
All other uses	None

(E) *Setback regulations*.

Front	Side	Side-Zero Lot Line*	Rear	Rear when contiguous to a single-family residential district
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	5 feet	A setback of less than 5 feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed**. The remaining side setback(s) shall be 10 feet.	None	15 feet

(F) *Building Height Regulations*.

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

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

(Ord. No. 5945 , §7(Exh. A), 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)

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."



**Bates &
Associates, Inc.**

Civil Engineering & Surveying

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

September 29, 2023

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

RE: Razorback Multi-family Conditional Use

Dear Commissioners,

This letter is for the requested a conditional use permit for use unit 26: Multifamily dwellings in NS-G zoning. This permit was originally approved in 2020 under CUP20-7001 and has since expired since the project is still not received C of O. we are submitting a new LSD for the southern half (section zoned NS-G) to complete the project as the LSD has also expired.

The developer is proposing a 5-plex building instead of a 4-plex at this location.

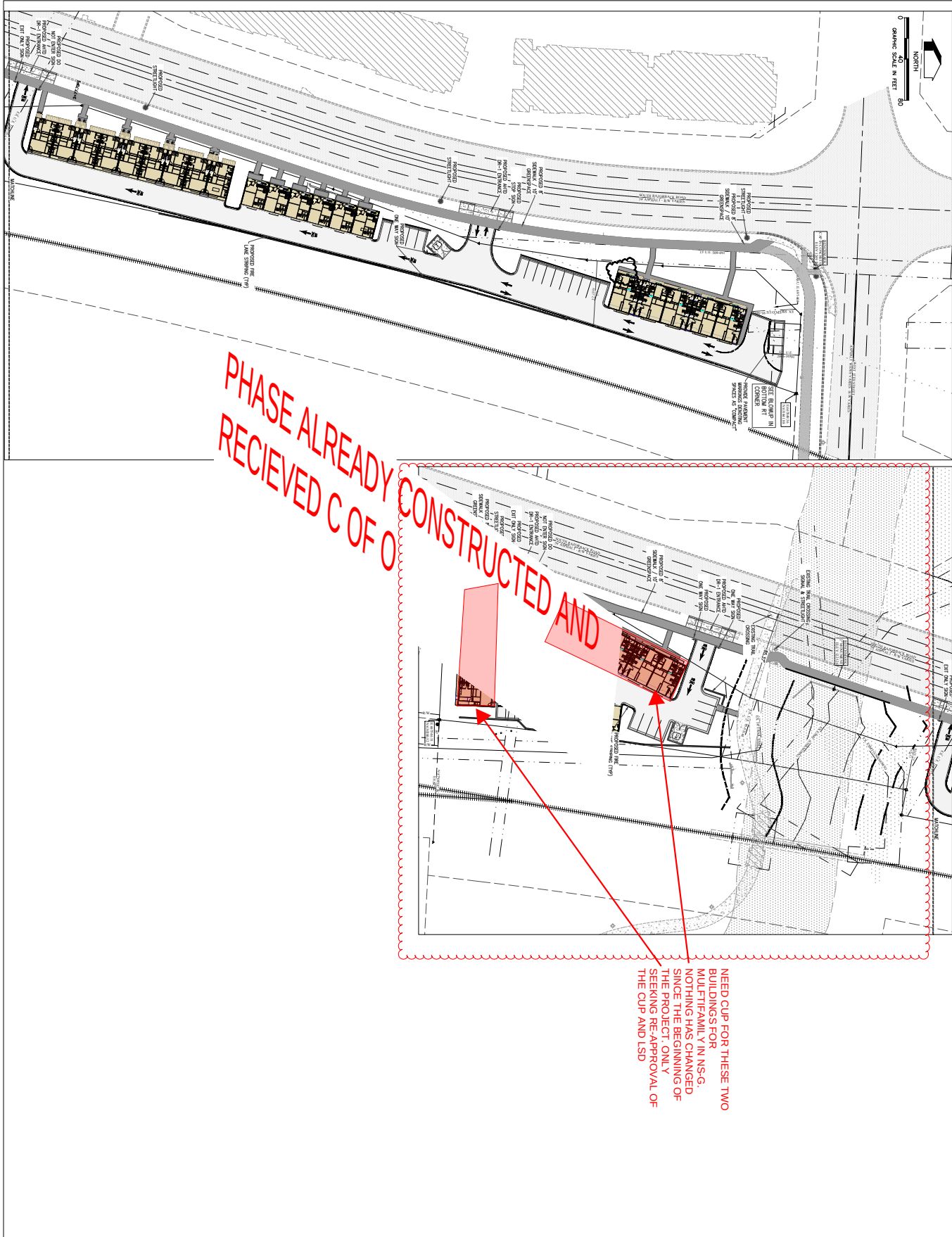
- a. Footprint is 28' x 132'
- b. Color elevations are attached
- c. 15 spaces provided / 16 spaces required (have motorcycle parking)
 - a. The southern half of the project that we are looking to get re-approved has a total of 13 units, each with 2-car garages. And additional 12 full size capces, and 3 compact spaces are being provided on site as well. We also are providing 4 motorcycle/scooter spaces.
- d. Not applicable
- e. Typical lights on garage and door
- f. Adding 2 additional units will not generate a noticeable difference. We are proposing to have two 5 plexs and one 4-plexe on site.
- g. Landscape screen is proposed.
 - a. Railroad to the east
 - b. Creek to the north
 - c. Apartments to the south
- h. Screen dumpster proposed
- i. Two entries proposed onto razorback
- j. Compatible to the apartments to the south and west of this project. Phase 1 of this project (located directly north of the stream) has already been completed and has received C of O.

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

Sincerely

Bates & Associates, Inc

Geoffrey H. Bates, P.E.
President of Engineering



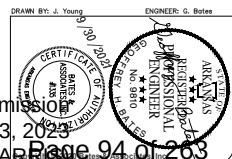
PROJECT NO 19-156
 DATE

03A



RAZORBACK ROAD MULTI-FAMILY
 LARGE SCALE DEVELOPMENT
 SITE SIGN PLAN
 FAYETTEVILLE, ARKANSAS

REVISIONS	DATE
REVISIONS PER 5/11/2020 ENGINEERING REVIEW	5/26/20
REVISIONS PER 6/22/2020 ENGINEERING REVIEW	6/24/20
REVISIONS PER 7/13/2020 ENGINEERING REVIEW	7/29/20
MOVED SOUTH BLD. 12 OFF PROP. LINE & ADJ. PARKING LOT	11/02/20
REVISIONS PER 8/21/2020 ADH REVIEW & ARDOT COMMENTS	11/02/20
RELOCATED 8" WATER MAIN 12' AWAY	11/02/20
WATER MAIN RELOCATION	11/02/20
REVISIONS PER C.O. #16 J.E. ON WATER MAIN RELOCATION	11/02/20
REVISIONS PER J.E. COMMENT ABOUT SEPARATION	11/02/20
REVISIONS PER J.E. COMMENT ABOUT SEPARATION	11/02/20
REVISIONS PER J.E. COMMENT ABOUT SEPARATION	11/02/20





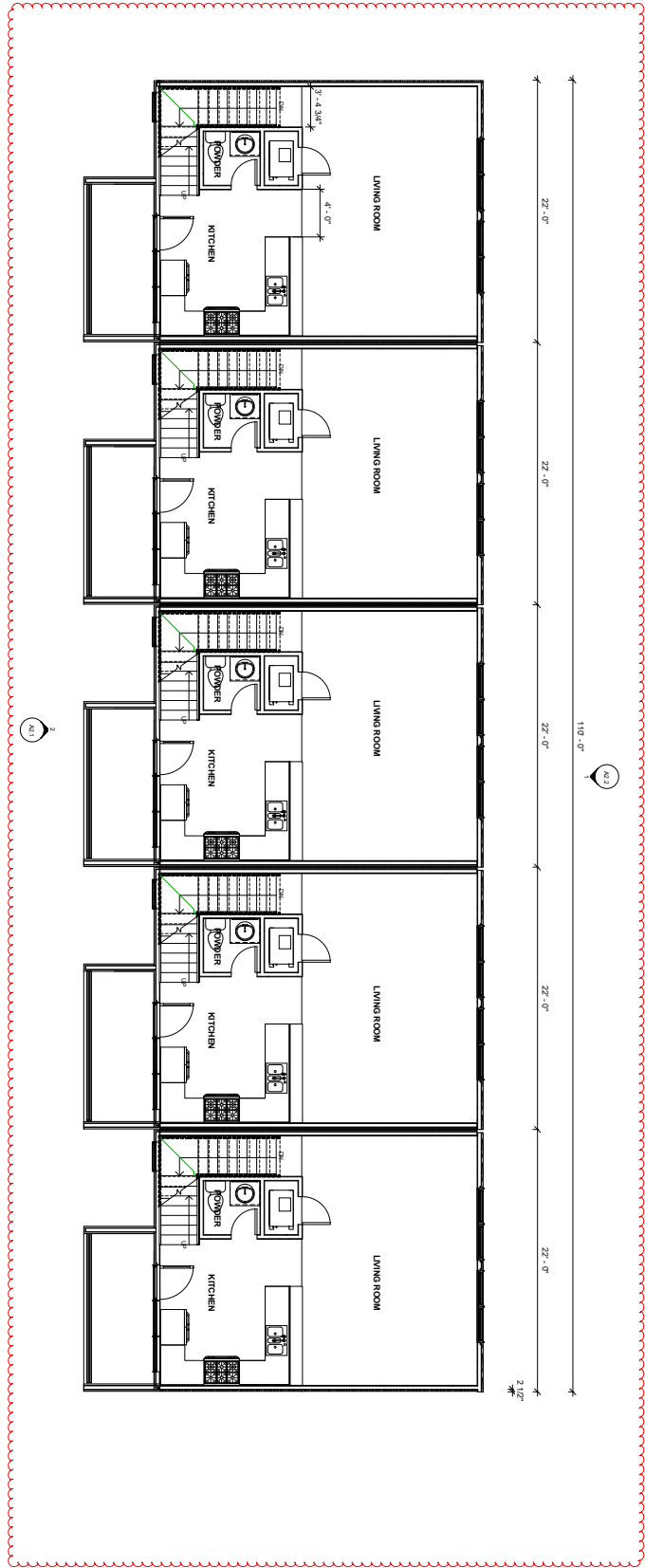
REGISTERED ARCHITECT
Twenty D. Daffy
Jan. 2009

PRELIMINARY
NOT FOR
CONSTRUCTION

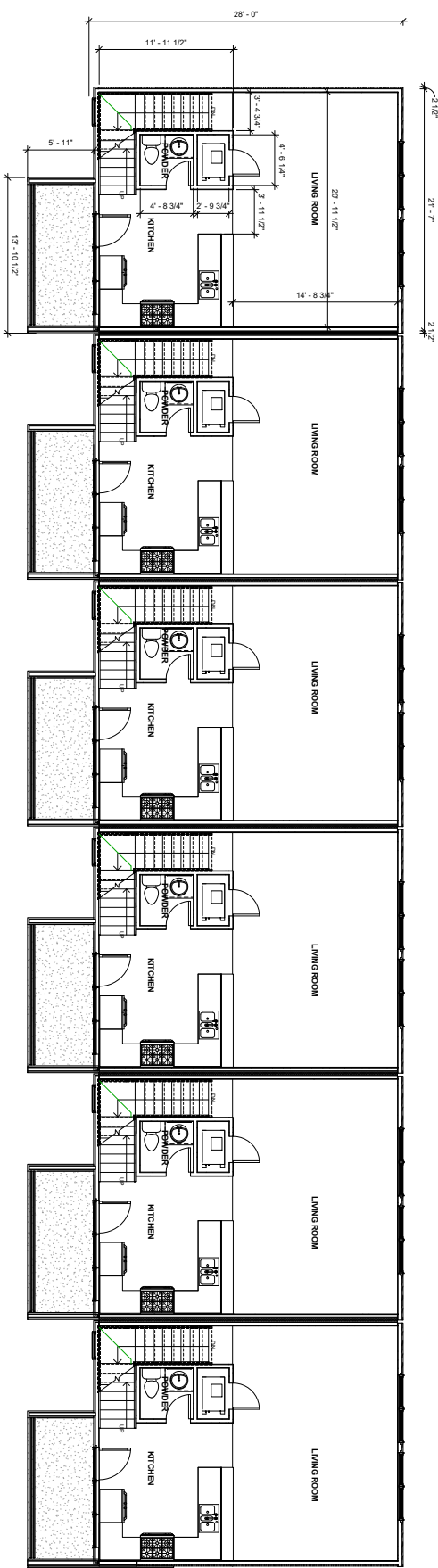
CUP-2023-0133 (HA

Page 95 of 263

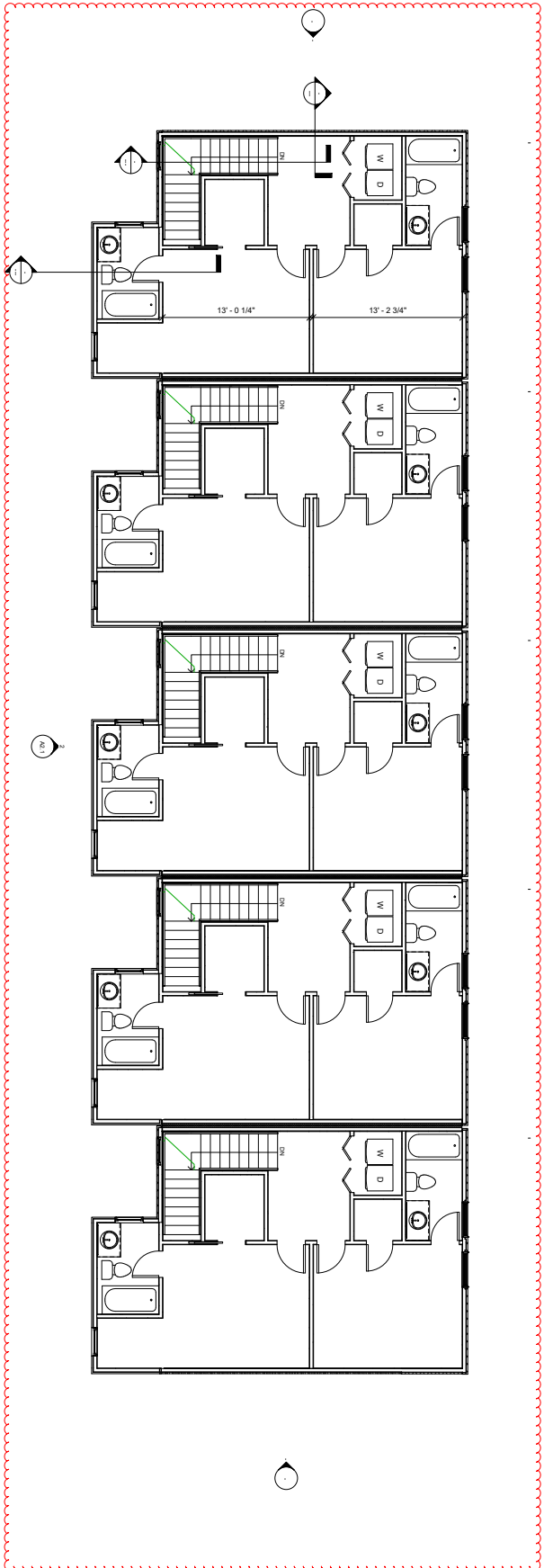
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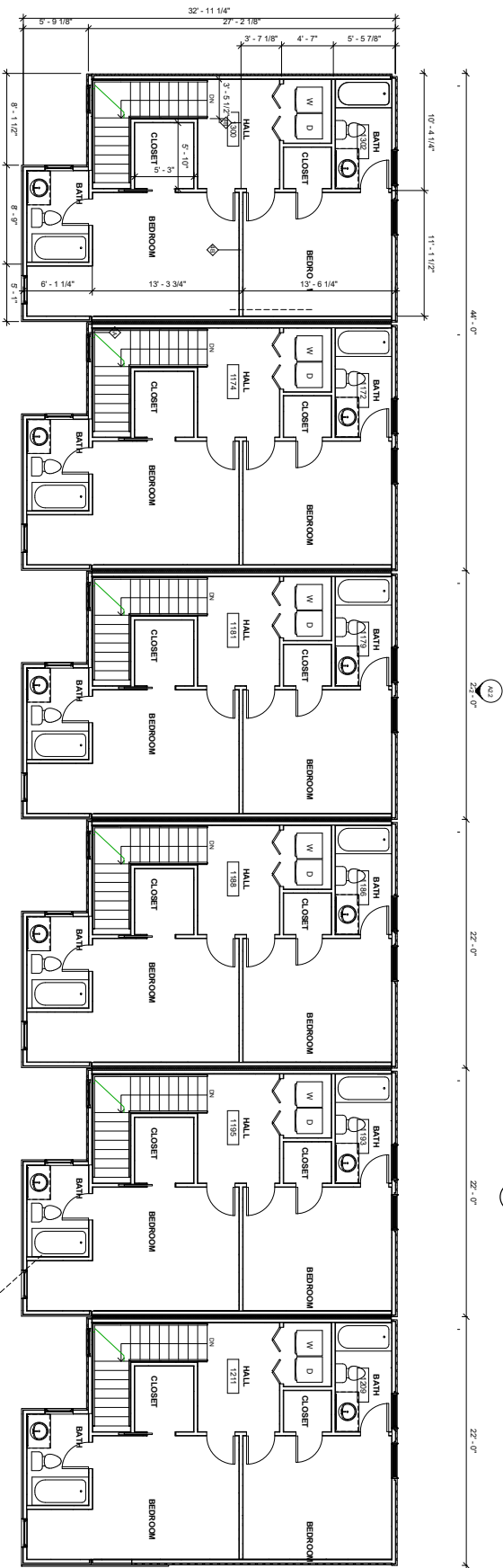
2 2ND FLOOR PLAN 5 PLEX



1 2ND FLOOR PLAN 6 PLEX



2 3RD FLOOR PLAN 5 PLEX



1 3RD FLOOR PLAN 6 PLEX

- W-1 BRICK VENEER 1/3 BOND. COLOR AND MATERIAL 1.B.D.
- W-2 VERTICAL RIB METAL PANEL. MANUFACTURE AND COLOR 1.B.D. OVER 7/16" ZP SYSTEM 3.B.
- W-3 CORRUGATED METAL SLIDING HORIZONTAL. MANUFACTURE AND COLOR 1.B.D. OVER 7/16" ZP SYSTEM 3.B.
- W-4 HARDY PANEL. OVER 7/16" ZP SYSTEM 3.B.
- W-5 HARDY WOOD PANELS. OVER 7/16" ZP SYSTEM 3.B.
- R-2 SINGLE PLV MEMBRAN OVER 3/4" ZP ROOF SYSTEM OVER TRUSSES. SELF-ADHERING. SELF SEALING. LEAK BARRIER AT DOWNS AND VALLEYS.



REGISTERED ARCHITECT
Twenty 2 City
No. 2026

PRELIMINARY
NOT FOR
CONSTRUCTION

CUP-2023-0133 (HARRIS) Page 98 of 263

Page 14 of 19

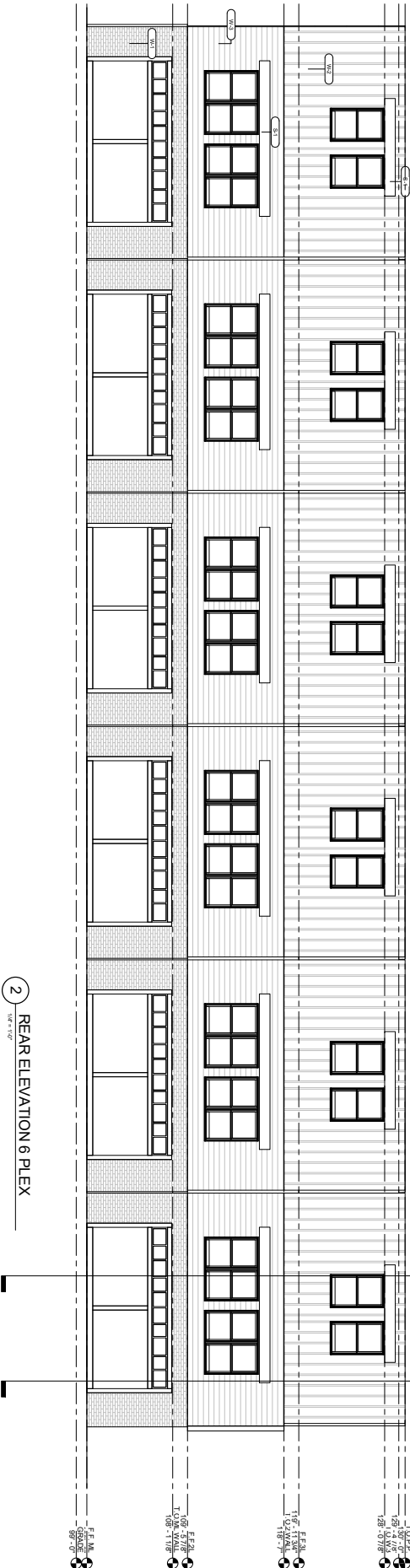
EXTERIOR MATERIAL AND COLOR SCHEDULE

- W-1 BRICK VENEER 1/2" BOND, COLOR AND MATERIAL T.B.D.
W-2 VERTICAL RIB METAL PANEL, MANUFACTURE AND COLOR T.B.D. OVER
7/16" ZIP SYSTEM (R-3.8)
W-3 CORRUGATED METAL PANEL, MANUFACTURE AND COLOR
OVER 7/16" ZIP SYSTEM (R-3.8)
W-4 HARDY PANE, OVER 7/16" ZIP SYSTEM (R-3.8)
W-5 HARDY WOOD PANELS, OVER 7/16" ZIP SYSTEM (R-3.8)
R-2 SINGLE PLY MEMBRAN OVER 1/4" ZIP SYSTEM OVER TRUSSES, SELF-
ADHERING, SELF SEALING, LEAK BARRIER AT EAVES AND VALLEYS.



1 REAR ELEVATION 5 PLEX

1/4" = 1'-0"



2 REAR ELEVATION 6 PLEX

1/4" = 1'-0"

Timothy D. Duffy Architect
23 Kenilworth Drive
Bella Vista, AR 72714
(479) 586-3238
tduffy@tduffyarchitect.com

DUFFY
Architect

Planning Commission
October 23, 2023
CUP-2023-0133 (HARRIS)

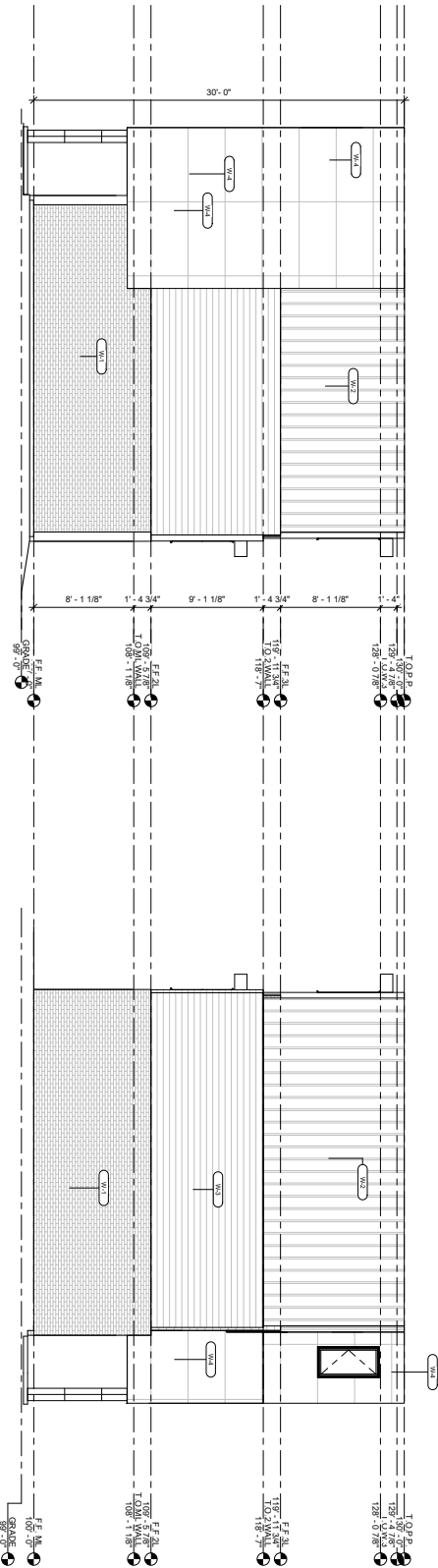
RECEIVED
OCT 23 2023
PLANNING COMMISSION
NOT FOR
CONSTRUCTION

No.	Description	Date

HARRIS TOWNHOMES
3 STORY 2 BEDROOM
FAYETTEVILLE,
ARKANSAS

EXTERIOR
ELEVATION

Project Number: 20190029
Date: 11/14/2019
Created by: DJP
Scale: AS SHOWN
A2.2



2 RIGHT ELEVATION
1/4" = 1'-0"

1 LEFT ELEVATION
1/4" = 1'-0"

EXTERIOR ELEVATIONS

HARRIS TOWNHOMES
3 STORY 2 BEDROOM
FAYETTEVILLE,
ARKANSAS

No.	Description	Date

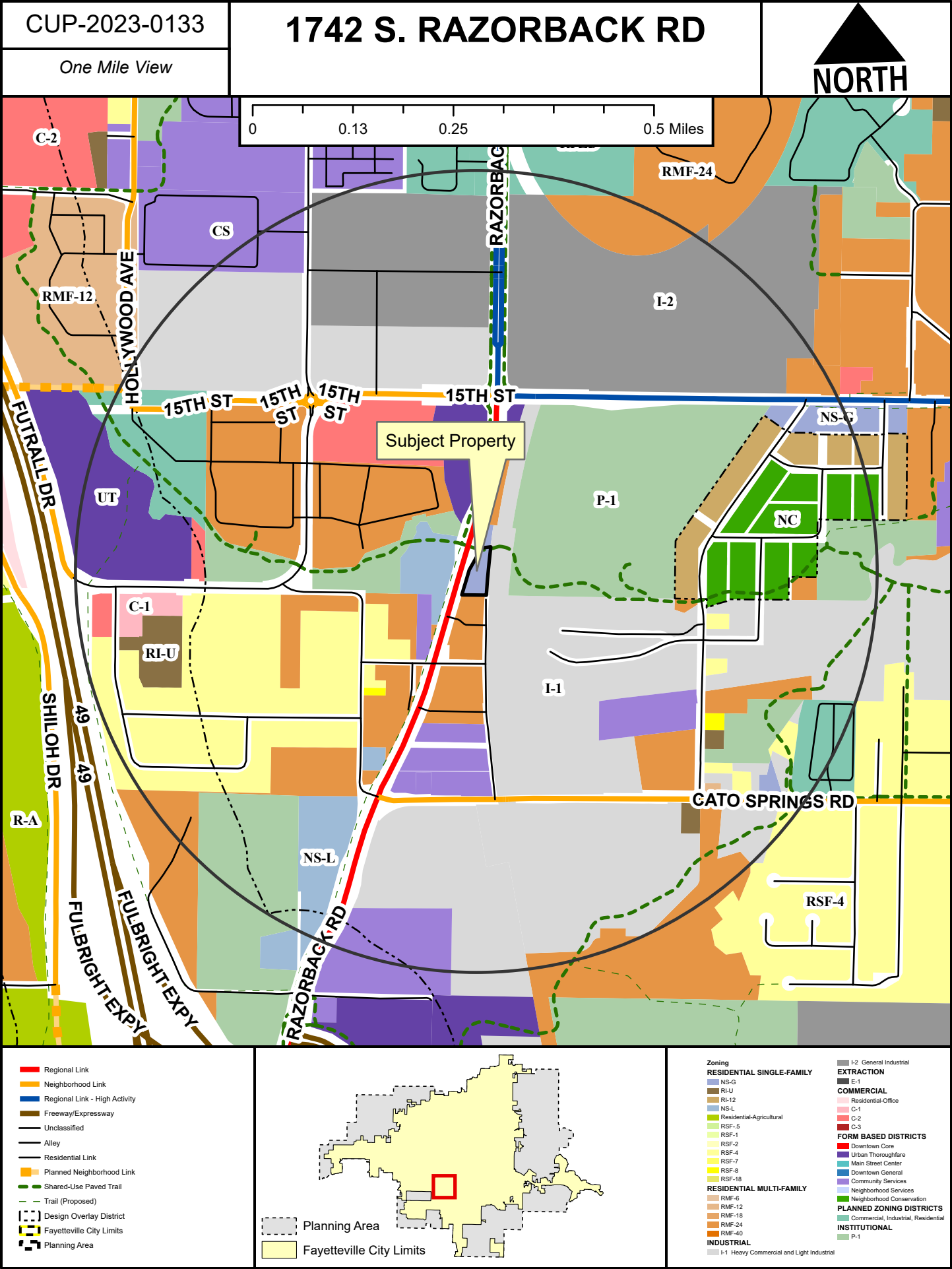
PRELIMINARY
NOT FOR
CONSTRUCTION

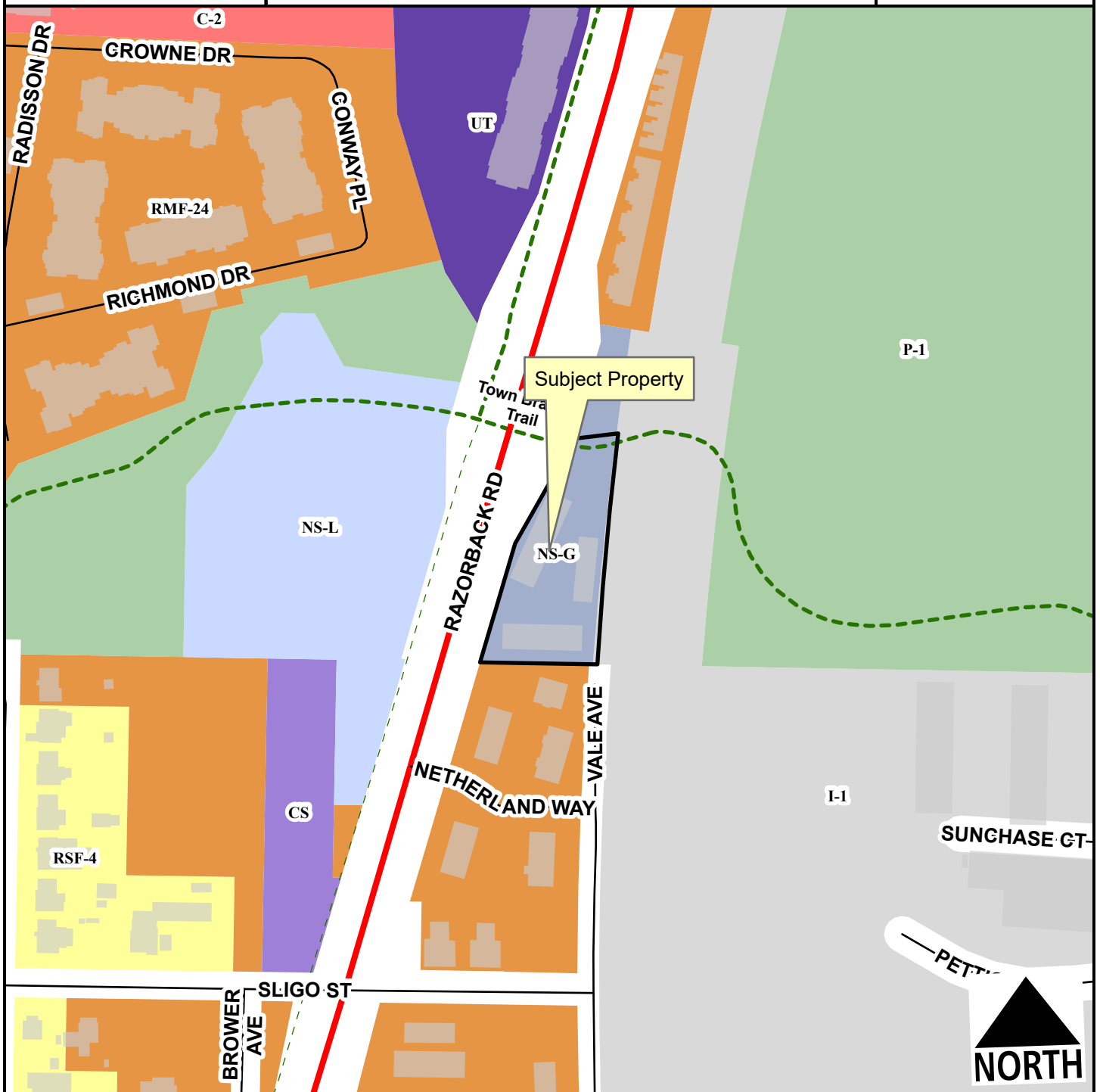


DUFFY
TIMOTHY D. DUFFY
Architect
October 23, 2023
CUP-2023-0133 (HARRIS)

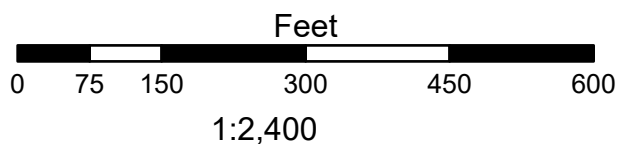
Timothy D. Duffy Architect
23 Kenilworth Drive
Bella Vista, AR 72714
(479) 586-3238
tim@tduffyarchi.com

Scale: 1/4" = 1'-0"
A2.3
Project Number: 20190029
Date: 11/16/2019
Created by: CDD/MLF





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



- RSF-4
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- C-2
- Urban Thoroughfare
- Community Services
- Neighborhood Services - Ltd.
- Neighborhood Services - Gen.
- P-1

CUP-2023-0133

1742 S. RAZORBACK RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: October 23, 2023

SUBJECT: **CUP-2023-0132: Conditional Use Permit (856 E. WINDY HILL ST./BROCKMAN, 330):** Submitted by THE RUSTIC DOG for property located at 856 E. WINDY HILL 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-2023-0132**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0132** 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 east Fayetteville south of E. Township St. in the North Ridge subdivision. The property is zoned RSF-4, Residential Single-Family, 4 Units per Acre, and totals approximately 0.30 acres with a 1,828 sq.ft. single-family home constructed in 1967. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

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

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0132**, 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. Due to limited off-street parking, occupancy shall be limited to eight guests.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per 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 <u>YES</u>			
Date: <u>October 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

Finding: The Planning Commission is empowered under “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 RSF-4 zoning, a residential zoning district, 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: The dwelling has four bedrooms which would limit the occupancy to a maximum of ten guests per ordinance. Due to the limited off-street parking, staff recommends limiting occupancy to eight guests. 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 for 2 cars in the paved driveway. The attached garage has been converted into a playroom and is unavailable for parking. Additional on-street parking is available along E. Windy Hill St. and N. Sheridan Ave.

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 856 E. Windy Hill 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 October 18, 2023, the City had issued 407 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. Occupancy should be limited to eight guests to reduce vehicle load on the property and streets. A total of two off-street parking spaces will be available for guests in an existing driveway. Additional on-street parking is available along E. Windy Hill St. and N. Sheridan Ave. 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. Due to the annual business license renewal period that ends October 31, staff recognizes that other short-term rentals could have active licenses in the area, but are in the process of renewal, so they may not be populating. 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 N. Sheridan Ave. The streets are not improved with a sidewalk 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 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 typical residential trash cart service. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view when not 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 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 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. 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
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(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

August 31, 2023

City of Fayetteville

RE: Application for Plan - Conditional Use Permit - Short Term Rental
For 856 E. Windy Hill Street

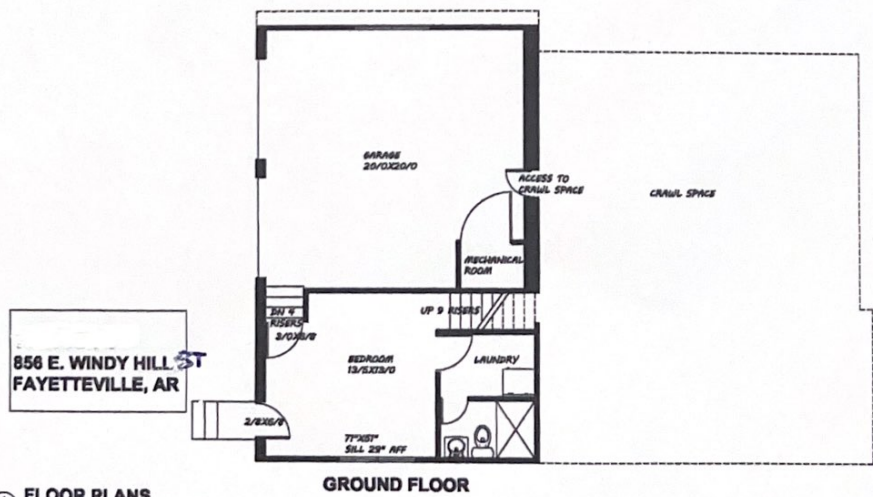
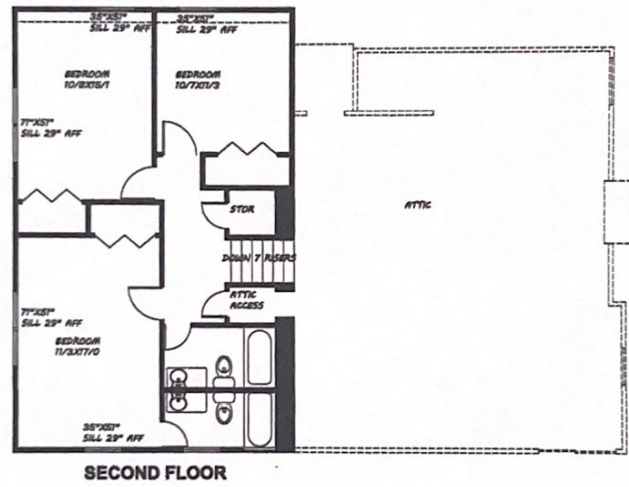
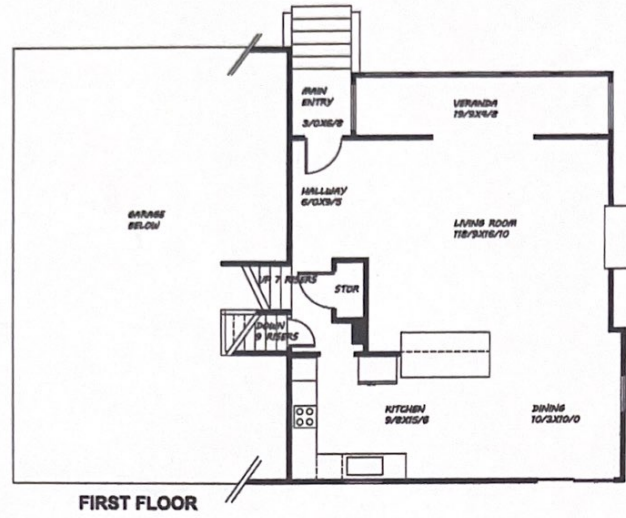
1. Requesting CUP for Type 2 Short-Term Rental
 - A. Building Size 1,828
 - B. Attached
 - C. 4 along curb, 2 in drive way, Garage transformed into playroom, so no parking.
 - D. Residential Street Light, porch, backyard and driveway light
 - E. Residential - no noise
 - F. Residential - trees
 - G. Residential pick up - trash will be stored behind the gate on left side of house
 - H. Residential - driveway on N Sheridan Avenue and will access property through front door facing E. Windy Hill Street.
 - I. Residential, so compatible with adjacent properties
2. Lot 13, Block "D", North Ridge Subdivision, to the City of Fayetteville, Washington Conty, Arkansas, as shown on plat 3 at page 341
3. Site plan attached - no other structures on property
4. Floor Plan attached
5. County Parcel Map attached
6. Public Notification - Instructions for CUP City of Fayetteville notes it's required at a later date after initial submittal of request
7. Authorization Letter Attached











1 FLOOR PLANS
1/4" = 1'-0"

Washington County
Assessor's Office
Russell Hill, Assessor



Date Created: 10/6/2022
Created By: actDataScout

1 inch = 54 feet

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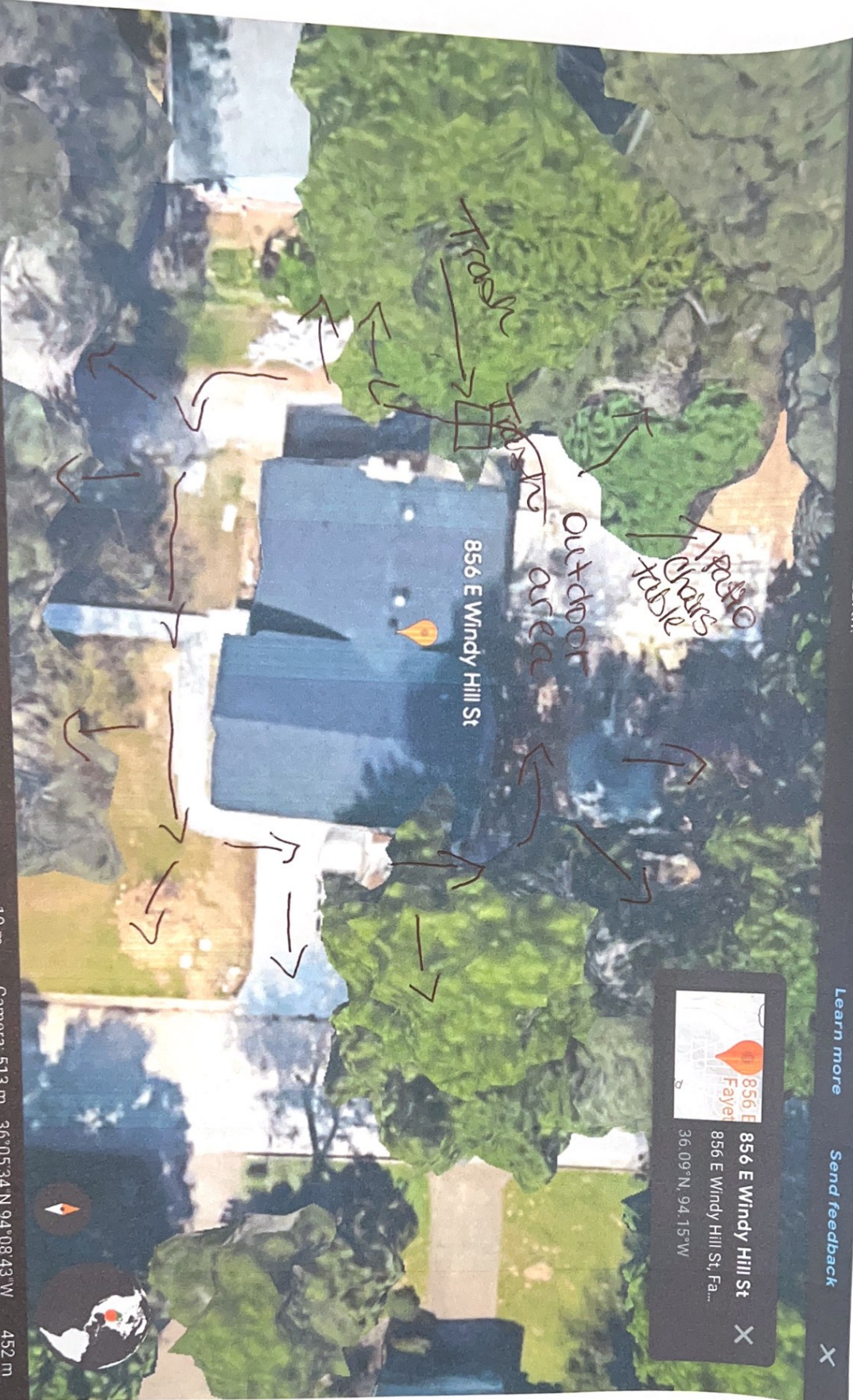
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856 E Fayer

856 E Windy Hill St, Fa...
36.09°N, 94.15°W



Google Earth

Imagery date: 5/2/23

10 m

Camera: 513 m 36°05'34"N 94°08'43"W 452 m



You are currently running an experimental version of Earth.



Google Earth Imagery date: 5/2/23

20 m | Camera: 559 m 36°05'33"N 94°08'43"W 452 m

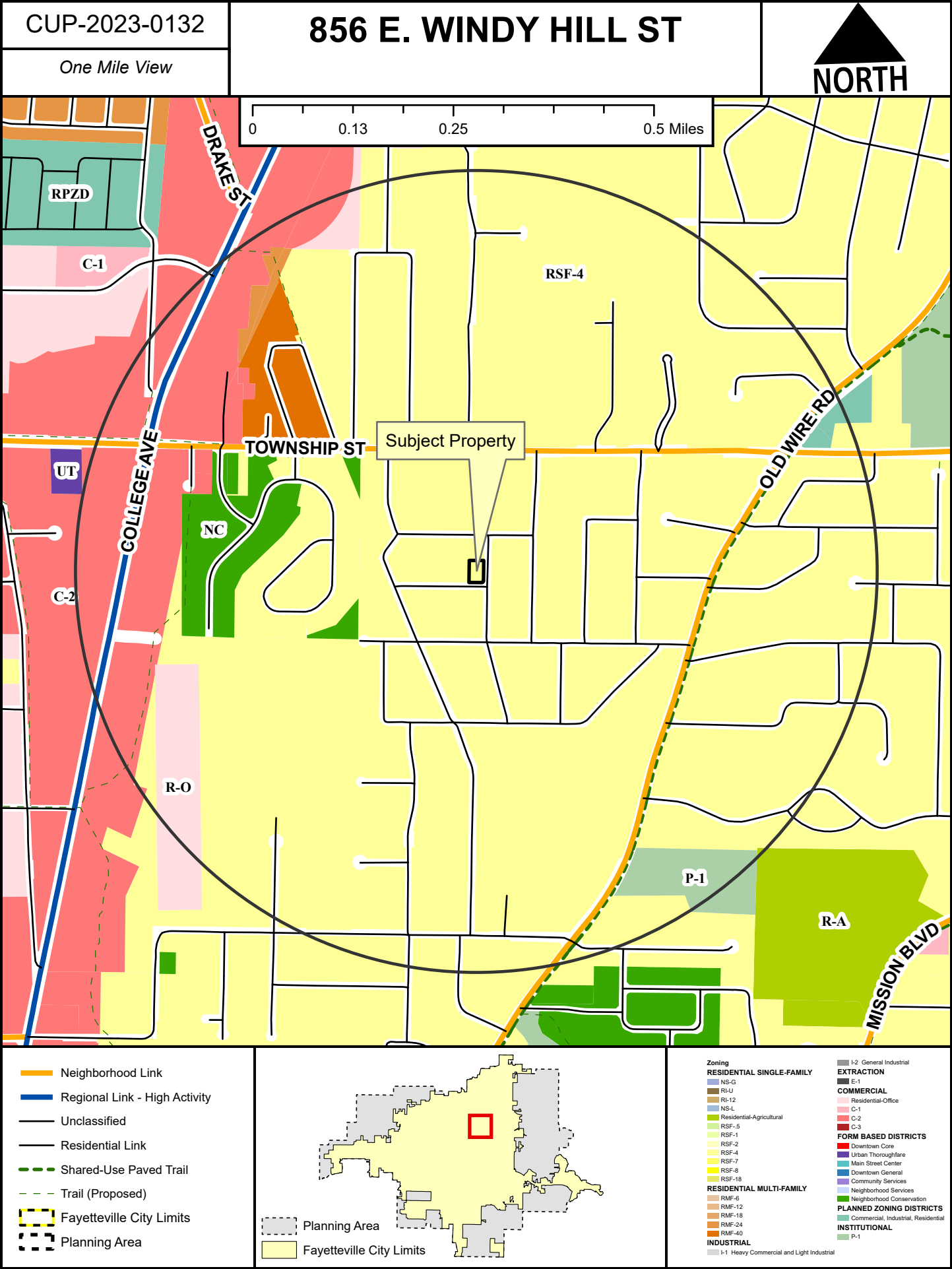
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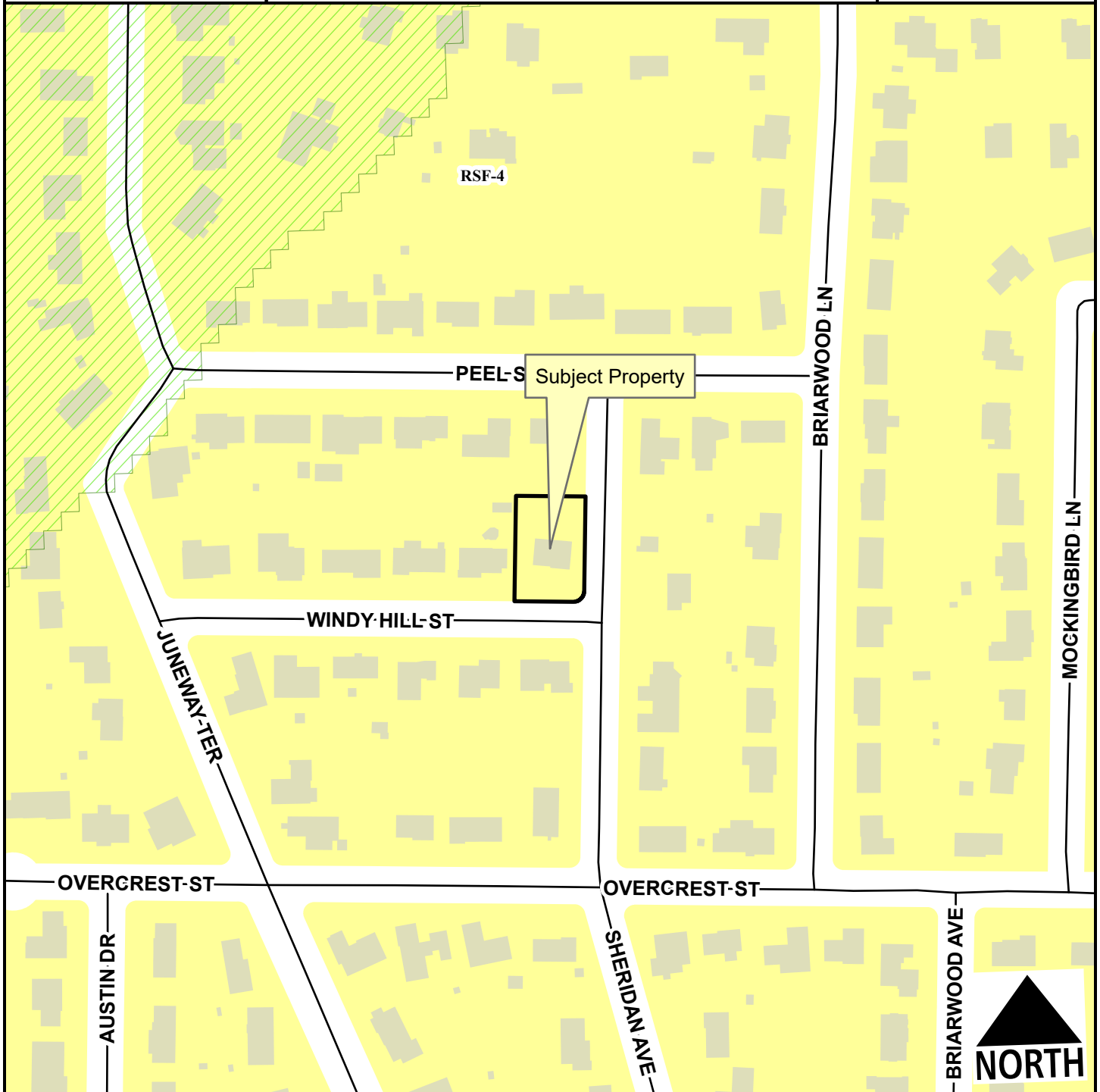
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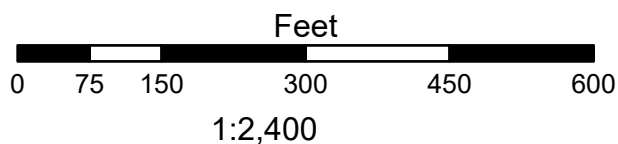
856 E Windy Hill St
856 E Windy Hill St, Fa...
36.09°N, 94.15°W







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



 RSF-4

CUP-2023-0132

856 E. WINDY HILL ST

Current Land Use



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



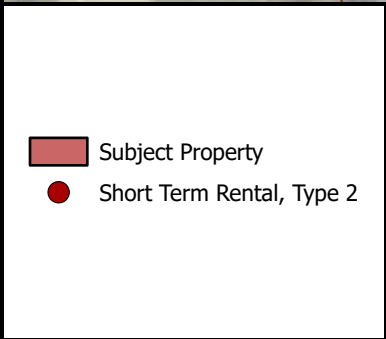
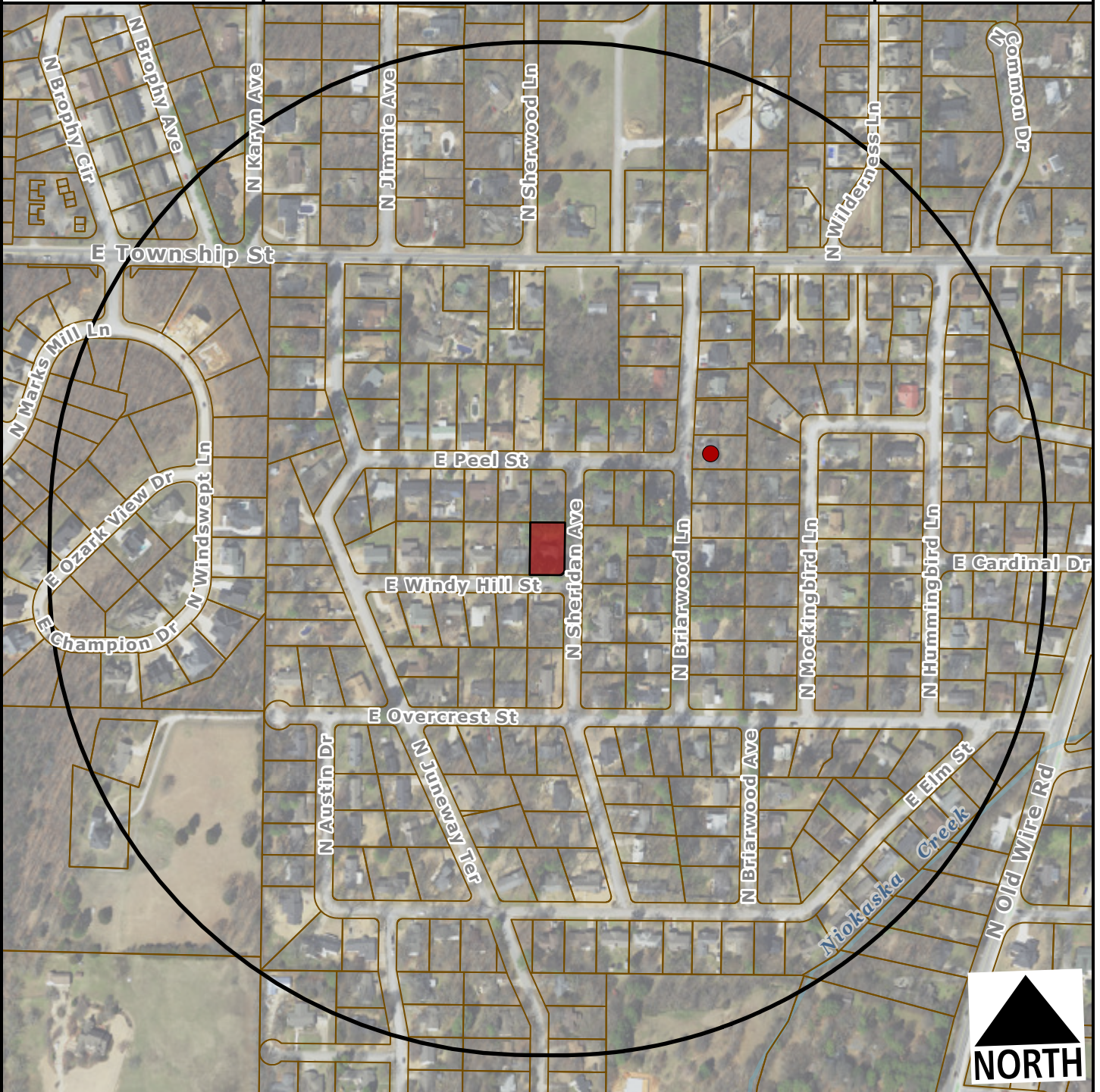
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0132
<i>STRs Within 1/4 Mile</i>

STRs Within 1/4 Mile

856 E. WINDY HILL ST



Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 1

**Occupiable
Residential
Addresses
(Estimated
Housing Units): 273**

Type 2 STRs: 1

**Occupiable
Residential
Addresses
(Estimated
Housing Units): 273**

**Occupiable
Residential
Addresses
(Estimated
Housing Units): 273**



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: October 23, 2023

SUBJECT: **CUP-2023-0134: Conditional Use Permit (1240 N. LEWIS AVE./WILLIAMS, 404):** Submitted by WILLIAMS BROTHERS INVESTMENTS LLC for property located at 1240 N. LEWIS AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.40 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0134**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0134** 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 west-central Fayetteville between W. Wedington Dr. and the Lewis Soccer Complex. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre, and totals approximately 0.40 acres with a 1,538 sq.ft. single-family home constructed in 1971. 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, 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 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-2023-0134**, 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. Per ordinance, parking on the property shall be limited to four cars maximum at any time.
6. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
7. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
8. All trash receptacles shall be screened from view of the right-of-way.
9. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
10. Any signage shall meet the requirements as outlined in §174, Signage.
11. 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	<u>YES</u>		
Date: <u>October 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

Finding: The Planning Commission is empowered under “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-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RSF-4, a residential zoning district, 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: 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 two parking areas with space for six cars total, but vehicles should be limited to a maximum of four per ordinance.

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

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

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

Finding: The application is for use of the property at 1240 N. Lewis Ave. Staff recommends a condition confirming that no recreational vehicle, trailer,

other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of October 18, 2023, the City had issued 407 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. 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. Due to the annual business license renewal period that ends October 31, staff recognizes that other short-term rentals could have active licenses in the area, but are in the process of renewal, so they may not be populating. 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 N. Lewis Ave. 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: 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 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 five other licenses 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. 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."

September 29, 2023

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

RE: Conditional Use Permit- Short Term Rental Type 2 STR

To Whom it May Concern:

Williams Brothers Investment, LLC is requesting a Conditional Use Permit Type 2 STR to use our residential single-family dwelling as a commercial use property for short term rental. This residence is 1,538 square feet with blue vinyl siding around the residence. We only are requesting to use this property to rent on a short-term basis. This should have no impact on traffic as it is only a single-family home that was previously on the property. This house has 4 parking spaces in the back and two along the north side of the home that are all accessible from the driveway. There is no garage at this home.

Sincerely,



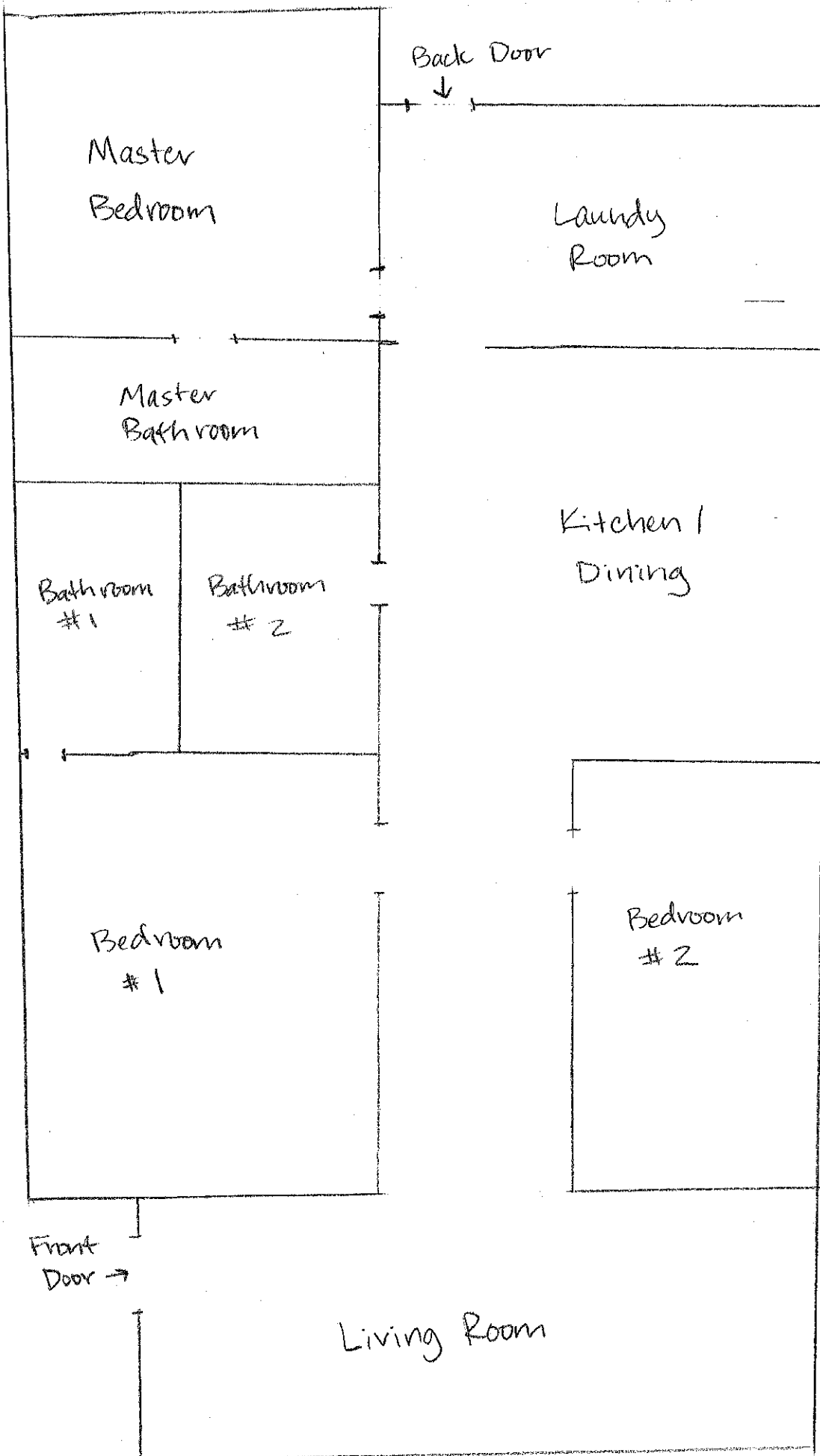
Wade Williams, Member
Williams Brothers Investments, LLC





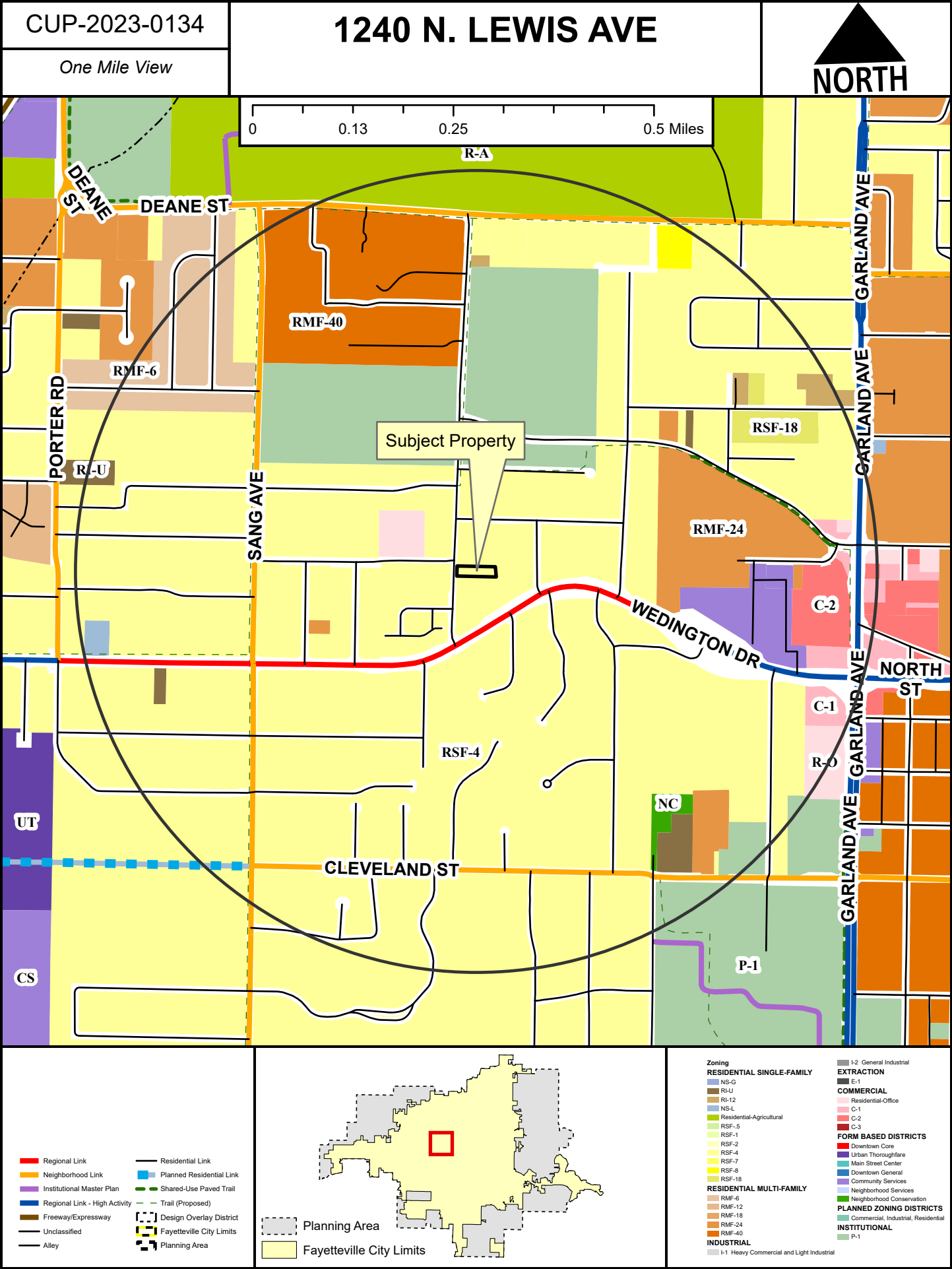


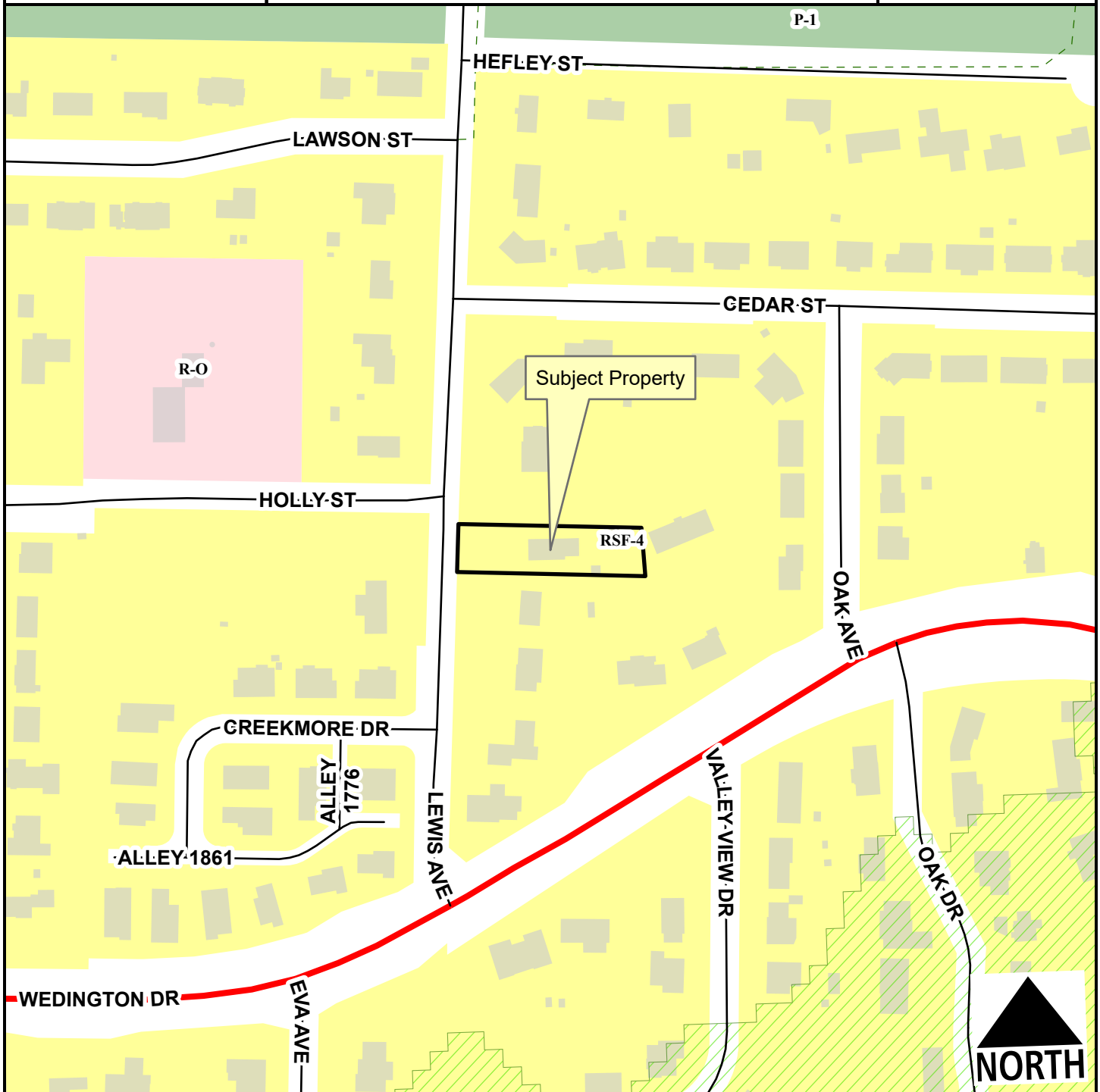




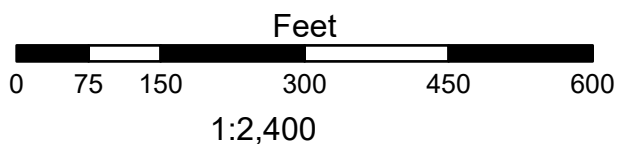
Trash storage







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



- RSF-4
- Residential-Office
- P-1

CUP-2023-0134

1240 N. LEWIS AVE

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

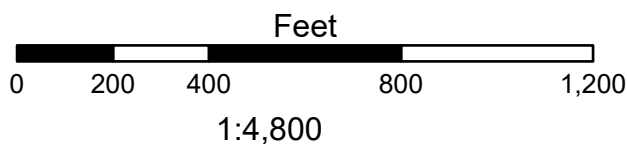
CUP-2023-0134

1240 N. LEWIS AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 5

Occupiable
Residential
Addresses
(Estimated
Housing Units): 329



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: October 23, 2023

SUBJECT: **CUP-2023-0135: Conditional Use Permit (3093 W. SALIDA LN/HAUSE, 557):** Submitted by THE HAM LAW FIRM for property located at 3093 W. SALIDA LN. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contain approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0135**.

RECOMMENDED MOTION:
"I move to deny CUP-2023-0135."

BACKGROUND:

The subject property is located west of Hwy 49 south of Centennial Park within Phase 2 of the Southern Woods Cluster Housing development. The property is zoned NC, Neighborhood Conservation, and falls within the Enduring Green Network, totaling approximately 0.10 acres. A 1,138 square foot single-family structure was constructed per city records with a certificate of occupancy granted on August 29, 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	NC, Neighborhood Conservation
South	Single-family Residential	NC, Neighborhood Conservation
East	Single-family Residential (Unbuilt Future Phases of Southern Woods)	NC, Neighborhood Conservation
West	Single-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 citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends denial of **CUP-2023-0135**. If approved, staff recommends the following conditions;

Conditions of Approval:

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

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>October 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the 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 Type 2 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. Structure appears to be a two-bedroom unit, which per ordinance would mean a maximum occupancy limit of six (6) tenants.

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). Per the approved cluster housing development plans, two parking spaces were provided for this unit. According to the applicant the structure has two bedrooms and two parking spaces within an adjacent parking court (1 per bedroom).

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 3093 W. Salida Ln. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of October 18, 2023, the City had issued 407 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: While only four type-2 short term rentals are shown on the adjacent property map, due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active licenses in the area, but are in the process of renewal, so they may not be populating. Staff is aware of at least three additional units with active business licenses in 2023, all within phase 1 of the cluster housing development. Six dwellings within Phase 1 have been denied Type 2 short term rental applications due to concerns about the density of STRs within the clusters as well as available parking.

If 3093 W. Salida Ln. is approved as a type 2 short term rental, the total number of type 2 short-term rental facilities would be 5 of 56 available units (8.9%) of Phase 1 and 2. If considering the entire Southern Woods Neighborhood, including future unbuilt phases, the approval of an additional unit would bring the total to 5 out of 190 units (2.6%).

The cluster housing development is currently accessible via S. One Mile Rd. from W. Old Farmington Rd., which does not have the capacity for on-street

parking. While additional street connections are potentially available to the west, these areas are under extensive construction and may not be reliably accessible due to the parking of construction vehicles or active construction activity.

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

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

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

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

Finding: The property fronts W. Salida Ln., a residential link street currently accessible through a rear alley with entries onto W. Tulsa St. and S. One Mile Rd. While the use of the property would be limited to a maximum of 6 guests, which would not be out of character with use of the property for residential purposes, staff finds that the extensive construction still occurring within Phase 2 and future adjacent phases could create difficulty accessing the property and that on-street parking will likely not be feasible until adjacent construction is complete.

(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 gravel parking court with two available off-street spaces is available south of the dwelling. The court is accessed off of a rear alley located off of S. One Mile Rd. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be incompatible with the surrounding properties. The Southern Woods Cluster Housing development is surrounded by residential uses with Centennial Park to the north. While phase 1 of the development has been completed, future phases are currently under construction. Additionally, construction is still occurring on multiple homes on the north side of W. Salida Ln, and W. Salida Ln is currently being used to park construction vehicles limiting its potential to park overflow traffic for the short-term rental until construction is complete.

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

Finding: Staff finds the use to be incompatible with the surrounding properties. The ordinance regulating type 2 short-term rentals specifically include frequency or concentration of nearby licensed Type 2 short-term rentals as a factor upon which the Planning Commission may evaluate or deny a conditional use permit. While phase 2 of Southern Woods does not yet have any approved type 2 short-term rental units, when considered as part of the overall Southern Woods Cluster Housing development, the existing type 2 short term rentals within Southern Woods exceed 2% of all approved units including future phases. Further, the approval of this short-term rental would cause type-2 short-term rentals to exceed 8% of residential units within Phases 1 and 2. Staff finds that the addition of more short-term rentals within Southern Woods will place an undue burden on the neighborhood and that it is inconsistent with the city's stated goal to create opportunities for attainable housing (Goal #6, 2040 Plan).

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 RNC, Neighborhood Conservation
- Applicant Request Letter
- Site Plan
- Building Elevations
- Building Floor Plan
- Staff Exhibits:
 - On-Street Parking
 - Southern Woods Phasing Plan
 - Southern Woods Short-Term Rental Composition
- 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
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(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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



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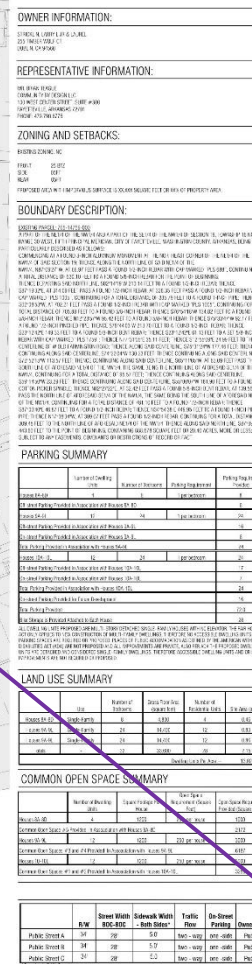
To the Fayetteville Planning Commission:

1. Payment made in full.
2. Neighborhood Conversion, 3093 West Salida Lane, Fayetteville, AR 72704
3. On behalf of the property owner, I am applying for a conditional use permit from the city of Fayetteville. We are seeking to obtain a short-term rental Type 2 permit. Neither I nor my clients will be residing in the residence. The property will be used for a nightly rental.
 - a. The home is 1,138 square feet.
 - b. The home is two floors. It contains a kitchen, two bedrooms, two full bathrooms, and one half bathroom. The property has two assigned parking spaces, where my clients anticipate guests parking. My clients do not plan to allow our guests to park on the street.
 - c. This home will not have operating hours or employees. It will be in use whenever it is being rented. In accordance with the property's size and Fayetteville city ordinances, my clients will limit the number of guests that can stay on the property to six.
 - d. Outdoor lighting: There is an exterior light near the front door, as well as exterior lighting in the rear of the home.
 - e. The property will be used for short stays of four to six people, so the noise level should be minimal. My clients also intend to install noise monitors on the property, so that they or their property manager can immediately respond should any guest become too noisy.
 - f. The city currently services the solid waste needs of the property. My clients plan to establish this service and do not anticipate this property needing any services beyond what is typical for other single-family homes in the area.
 - g. West Salida Lane provides ingress and egress to the property. The property does not add additional traffic on the road because guests will be limited to 6 with a maximum of 2 cars.
4. The site plan is attached as a separate document.
5. The floor plan is attached as a separate document.
6. A copy of the county parcel map is attached as a separate document.
7. The signed document authorizing me to act on behalf of the owner is attached as a separate document.

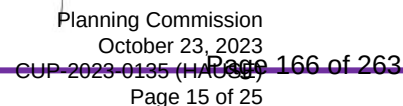
Very Respectfully,

Richard Garrett Ham

Richard "Garrett" Ham, Jr.
Attorney at Law



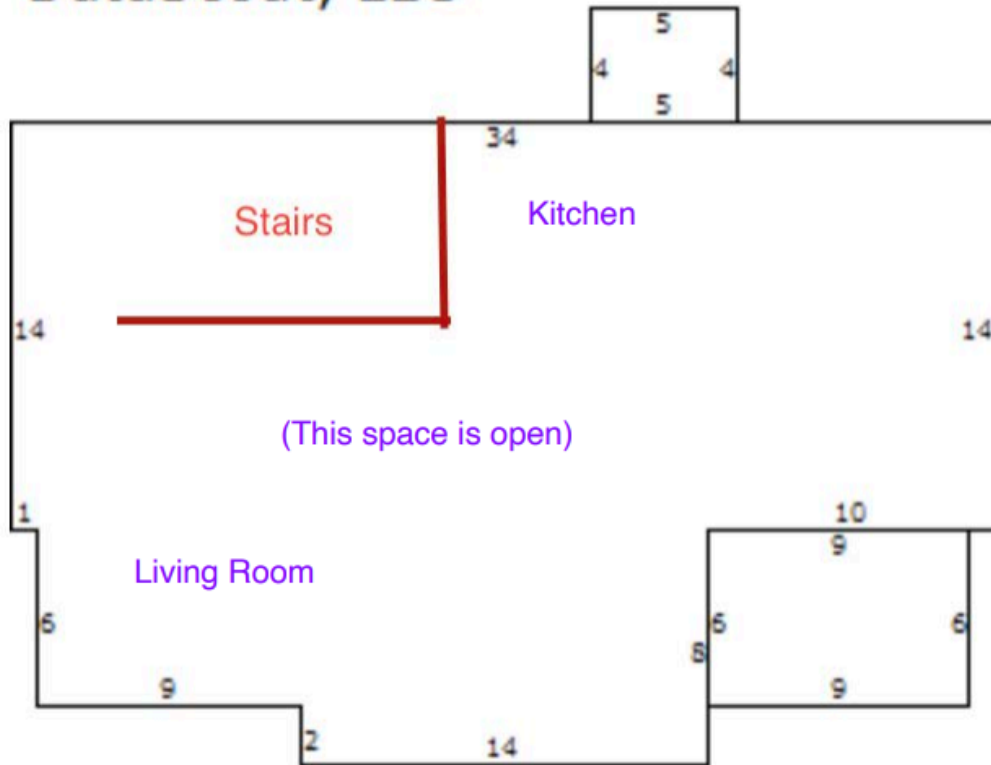
SHEET 4 OF 47





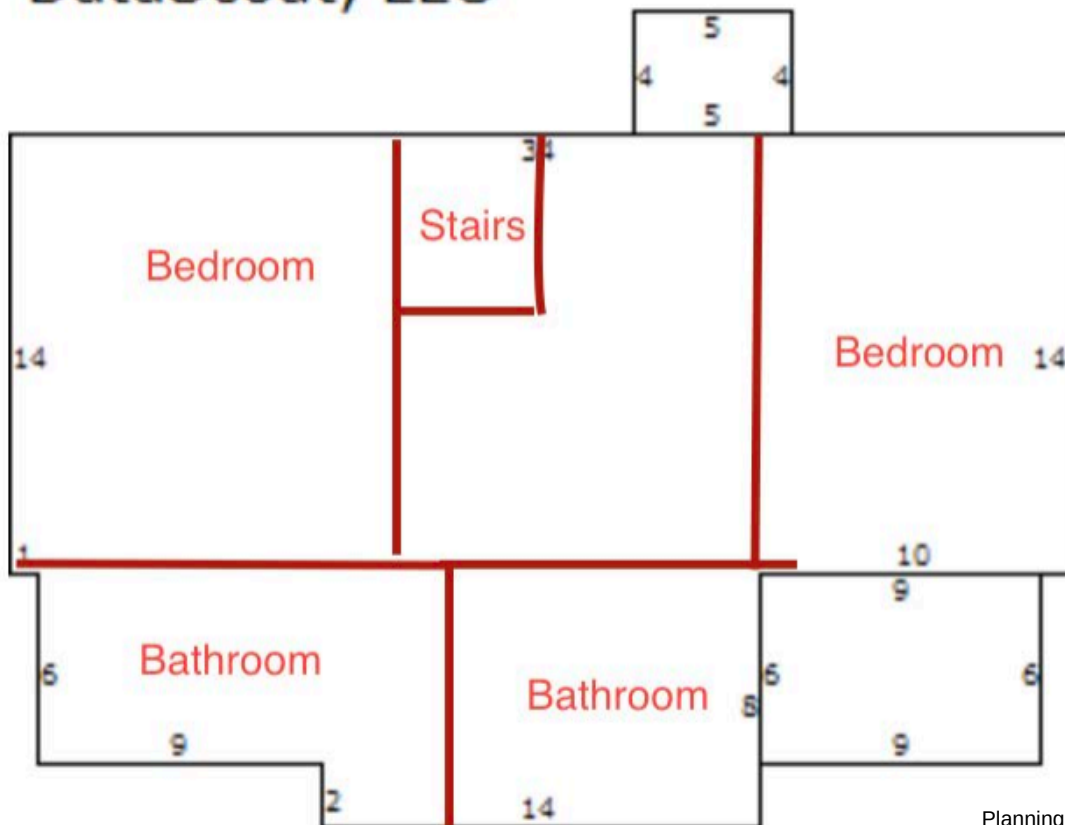


DataScout, LLC



Bottom
Floor

DataScout, LLC



ON-STREET PARKING BY CONSTRUCTION VEHICLES





SHORT TERM RENTALS PROXIMITY MAP & CALCULATIONS

OVERALL APPROVED DEVELOPMENT

190 TOTAL SINGLE-FAMILY DWELLING UNITS (100%)

2% TYPE-2 SHORT TERM RENTALS = 3.8 = 4 UNITS

4% TYPE-2 SHORT TERM RENTALS = 7.6 = 8 UNITS

6% TYPE-2 SHORT TERM RENTALS = 11.4 = 11 UNITS

8% TYPE-2 SHORT TERM RENTALS = 15.2 = 15 UNITS

10% TYPE-2 SHORT TERM RENTALS = 19 UNITS

PHASE 1:

28 TOTAL SINGLE-FAMILY DWELLING UNITS (100%)

4 APPROVED TYPE-2 STRs (14.3%)

5 DENIED TYPE 2 STRs (21.4%)

0 PENDING TYPE-2 STRs (0%)

TOTAL OF 9 TYPE 2 STRS REQUESTED (32.1%)

PHASE 2:

28 TOTAL SINGLE-FAMILY DWELLING UNITS (100%)

0 APPROVED TYPE-2 STRs (0%)

0 DENIED TYPE 2 STRs (0%)

4 PENDING TYPE-2 STRs (14.3%)

TOTAL OF 4 TYPE 2 STRS REQUESTED (14.3%)

COMBINED (PHASE 1 & 2):

56 TOTAL SINGLE-FAMILY DWELLING UNITS (100%)

4 APPROVED TYPE-2 STRs (7.1%)

5 DENIED TYPE 2 STRs (10.7%)

4 PENDING TYPE-2 STRs (7.1%)

TOTAL OF 13 TYPE 2 STRS REQUESTED (23.2%)

TOTAL OF 8 APPROVED OR PENDING TYPE-2 STRs (14.3%)

LEGEND



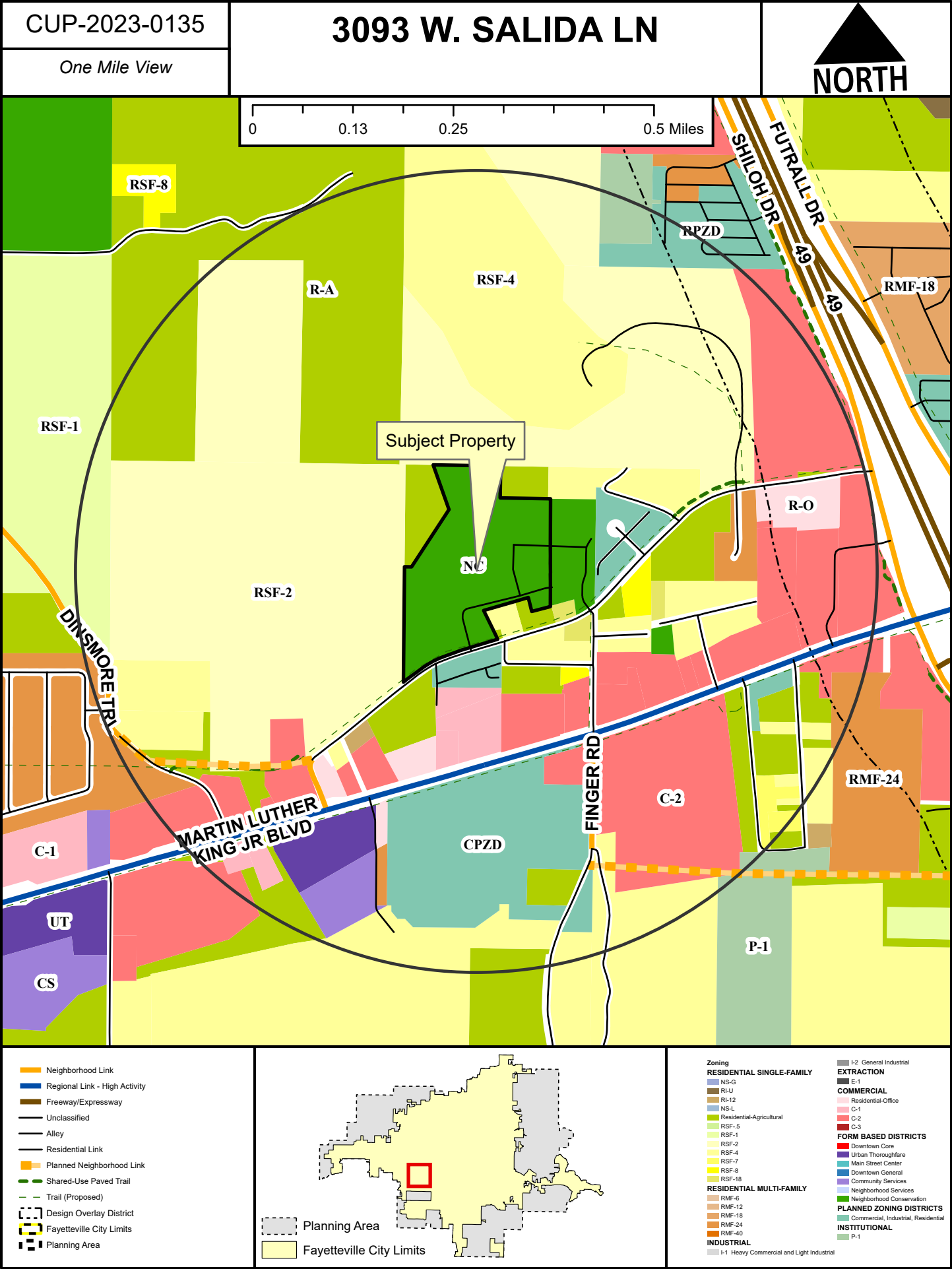
APPROVED TYPE-2 STRs

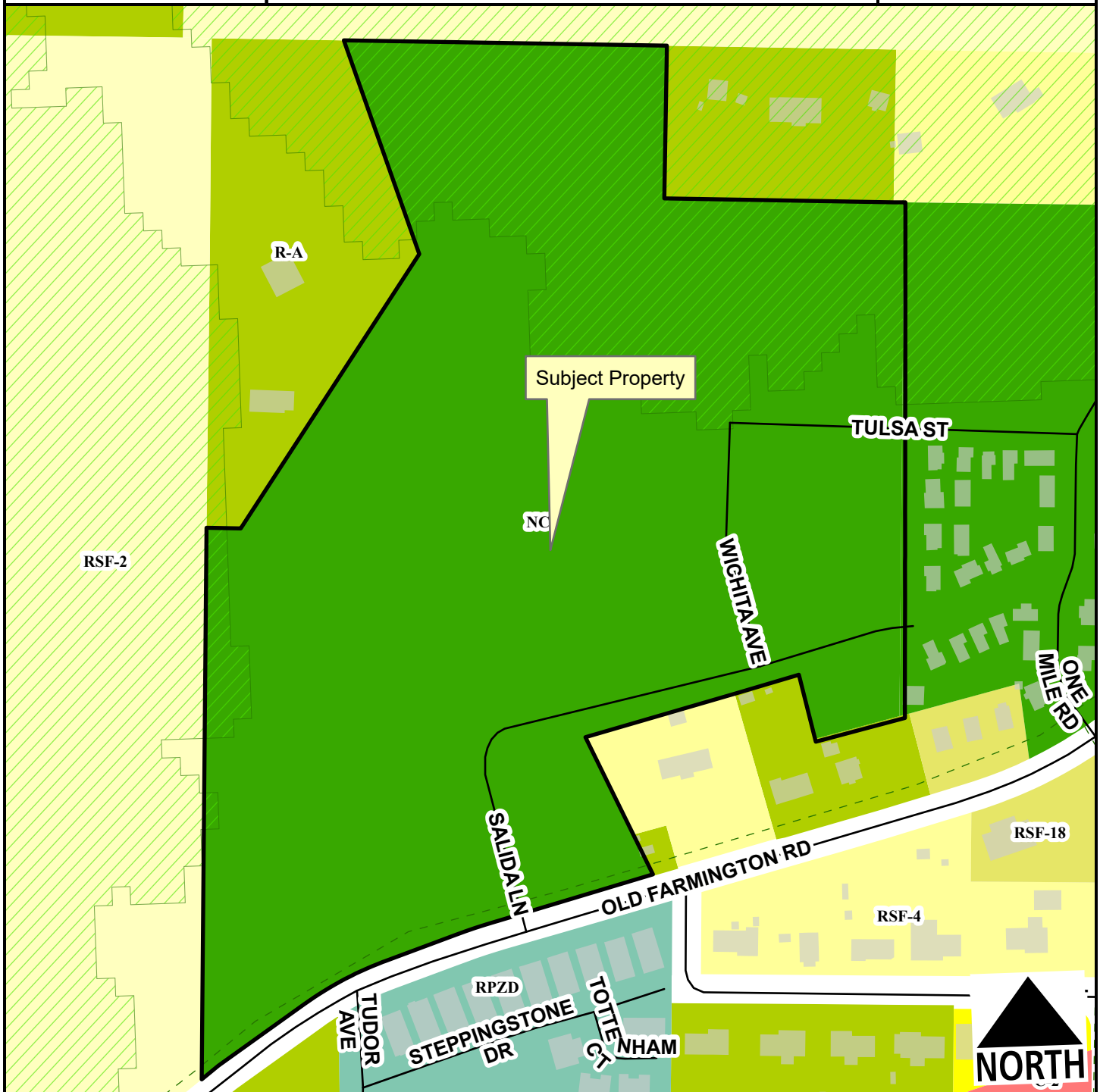


DENIED TYPE 2 STRs

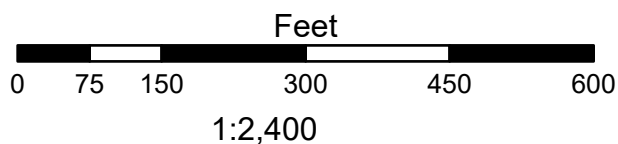


PENDING TYPE-2 STRs (CUP AND/OR
BUSINESS LICENSE APPLICATION
RECEIVED)

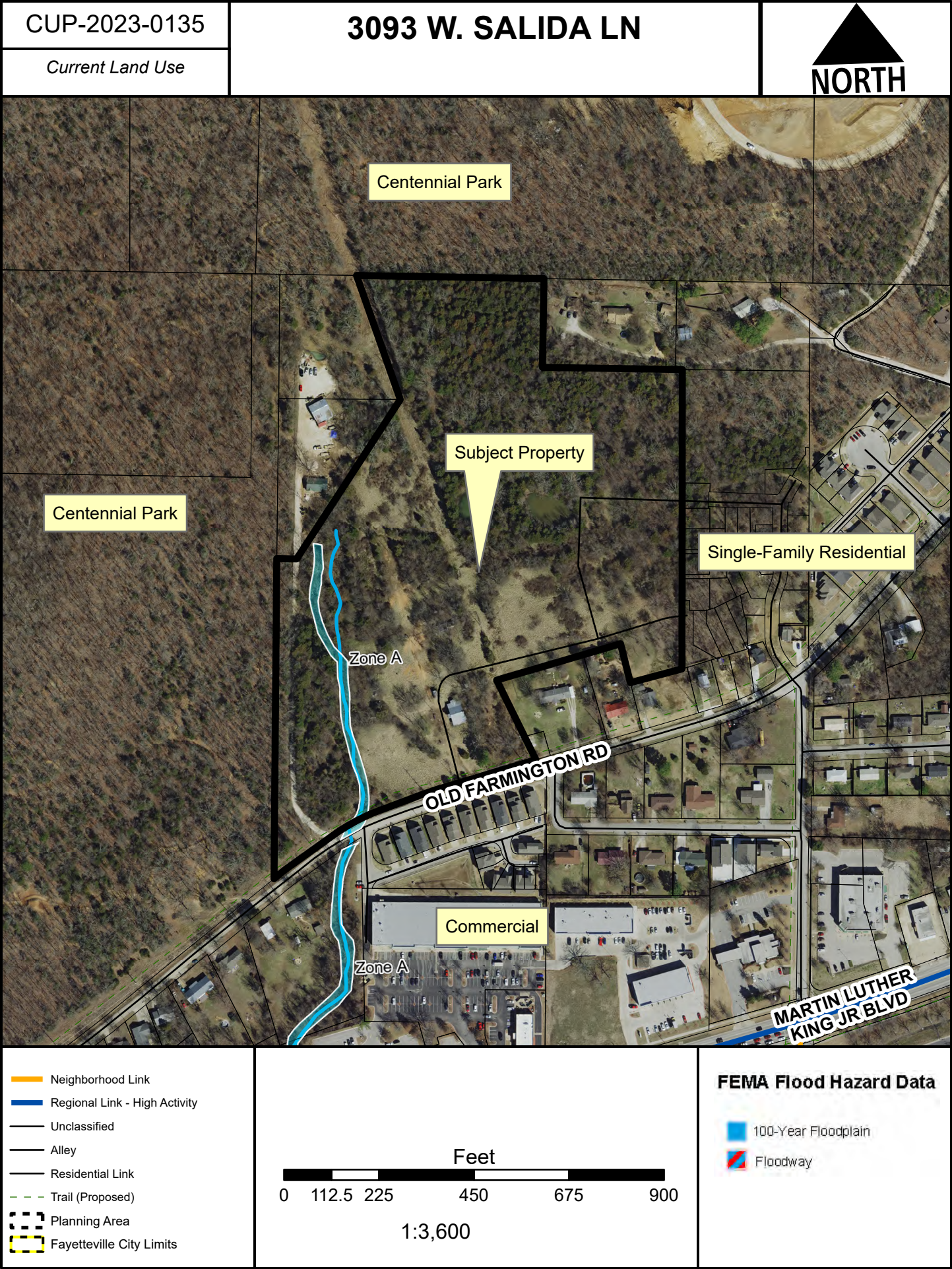




- Unclassified
- Residential Link
- ▨ Hillside-Hilltop Overlay District
- ▨ Planning Area
- ▨ Fayetteville City Limits
- - - Trail (Proposed)



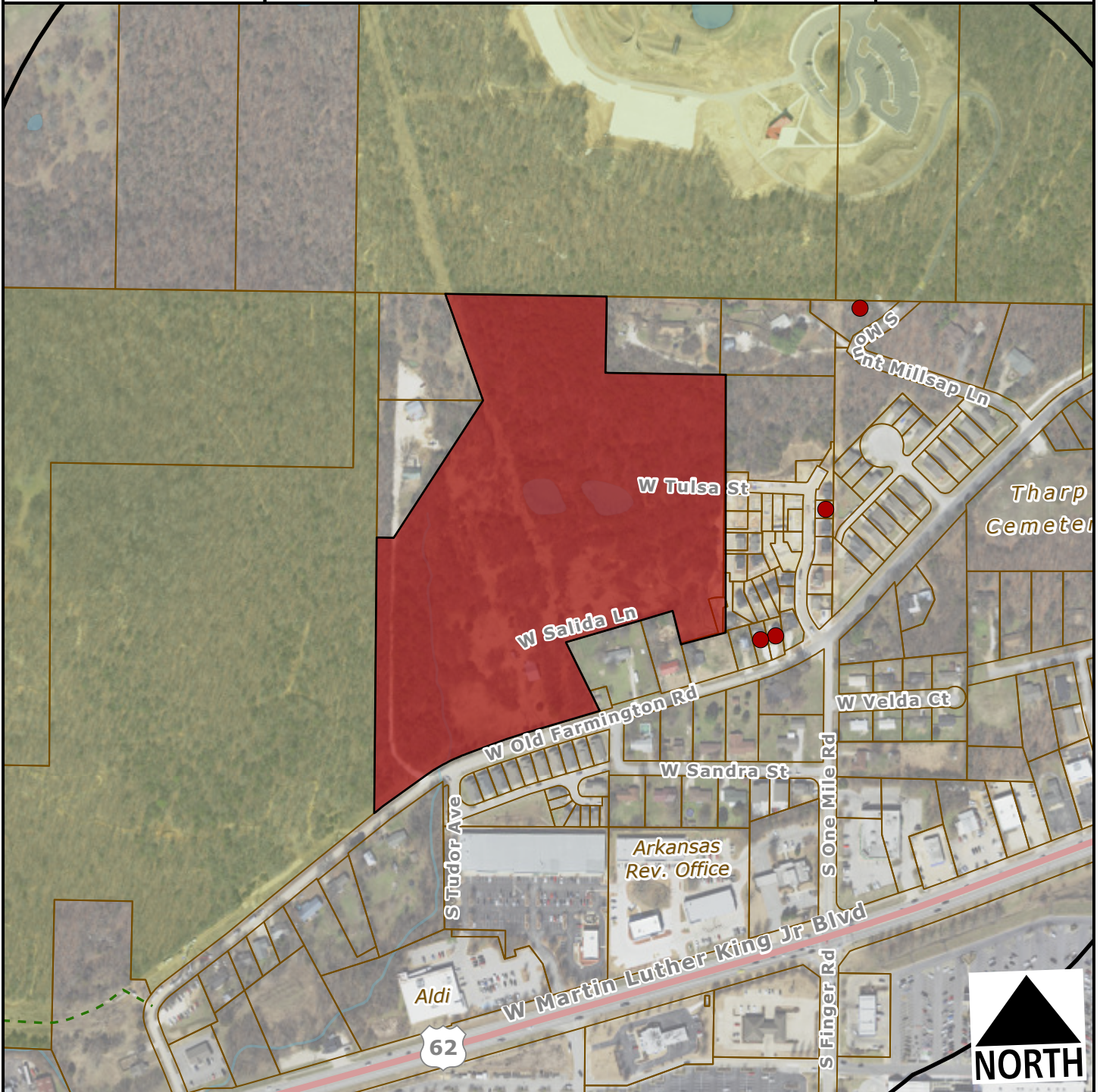
- Residential-Agricultural
- RSF-2
- RSF-4
- RSF-8
- RSF-18
- C-2
- Neighborhood Conservation
- Commercial, Industrial, Residential



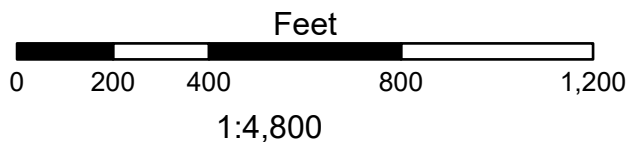
CUP-2023-0135

3093 W. SALIDA LN

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 4

Occupiable
Residential
Addresses
(Estimated
Housing Units): 152



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: October 23, 2023

SUBJECT: **CUP-2023-0136: Conditional Use Permit (2522 W. ARTHUR HART ST./AVRAM, 402):** Submitted by ALEXANDRU AVRAM for property located at 2522 W. ARTHUR HART ST. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0136**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0136** 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 west Fayetteville approximately ¼ mile southwest of the intersection of N. Stephen Carr Memorial Blvd, W. Deane St. and N. Porter Rd. The property is zoned RSF-4, Residential Single-Family 4 Units per Acre, is part of the sign overlay district along I-49, and totals approximately 0.20 acres. A 1,610 square foot single-family structure was built on the property in 1994 per Washington County Assessor records. 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 Multi-family Residential	RSF-4, Residential Single-family, 4 Units per Acre RI-12, Residential Intermediate, 12 Units per Acre
South	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Single-family Residential I-49 Highway	RSF-4, Residential Single-family, 4 Units per Acre NA

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-2023-0136**, 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 into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>October 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

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

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. 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). For single-family structures parking is required to be provided at a rate of two spaces per dwelling unit. According to the applicant the structure has three bedrooms and two off-street parking spaces; one space in an attached garage and another in the driveway. Staff notes that the driveway is approximately 38 feet long and could likely support a second standard length vehicle.

- 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 2522 W. Arthur Hart 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 October 18, 2023, the City had issued 407 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: 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. Staff finds a total of three off-street parking spaces will be available for up to eight guests in an existing driveway and garage. W. Arthur Hart St. has on-street

parking available. City records indicate one other unit within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license. Due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active licenses in the area, but are in the process of renewal, so they may not be populating. No previous zoning or code violations were reported for this property.

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

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

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

Finding: The property has frontage on W. Arthur Hart St., a partially improved Residential Link with sidewalk on the north side. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 8 guests, which would not be out of character with use of the property for residential purposes.

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

Finding: According to the applicant the structure has three bedrooms and two parking spaces; one space in an attached garage and one in the driveway. Staff notes that the driveway is approximately 38 feet long, and could likely support a second standard length vehicle, for a total of three off-street parking spaces. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the use to be compatible with the surrounding properties. While the residences on W. Arthur Hart St. are single-family in nature, several properties along N. Porter Rd. are zoned to allow both multi-family dwellings by-right. Staff finds that as the area has only one existing Type 2 short-term rental within ¼ mile, this portion of the city has likely not reached a saturation point. However, due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active licenses in the area, but are in the process of renewal, so they may not be populating.**

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

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

BUDGET/STAFF IMPACT:

None

Attachments:

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

118.01 Applicability

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

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

From : Alexandru Avram 2473 W Arthur Hart St, Fayetteville AR, 72703

To: Mirinda Hopkins, Development Coordinator, City of Fayetteville

To whom it may concern,

This is a letter to accompany the CUP (conditional use permit) application for the single family home on **2522 W Arthur Hart Street, Fayetteville, AR, 72703**. I own a total of two homes, and this home will become a short-term rental, while the other home is my own primary residence. I also declare that I am a private owner, and not a LLC or other type of company.

The following describe the information requested, as part of this application:

- (a) 1,610 SQ FT
- (b) Provided as image in the Appendix: curve side trash pickup location.
- (c) Three. These are not numbered, and they are also free parking: Garage / Driveway / Carport
- (d) Provided as image in the Appendix: the parking spaces.
- (e) There are no known sources of loud noise in this neighborhood.
- (f) There is fencing on 2 out of three adjacent properties.
- (g) Not sure what this means, but there is curbside trash services that operates every Tuesday of the week.
- (h) There are three bedrooms on property: one master and two guest.

Date

Sept/11/2023

Signature



APPENDIX

Front of house



Back of house

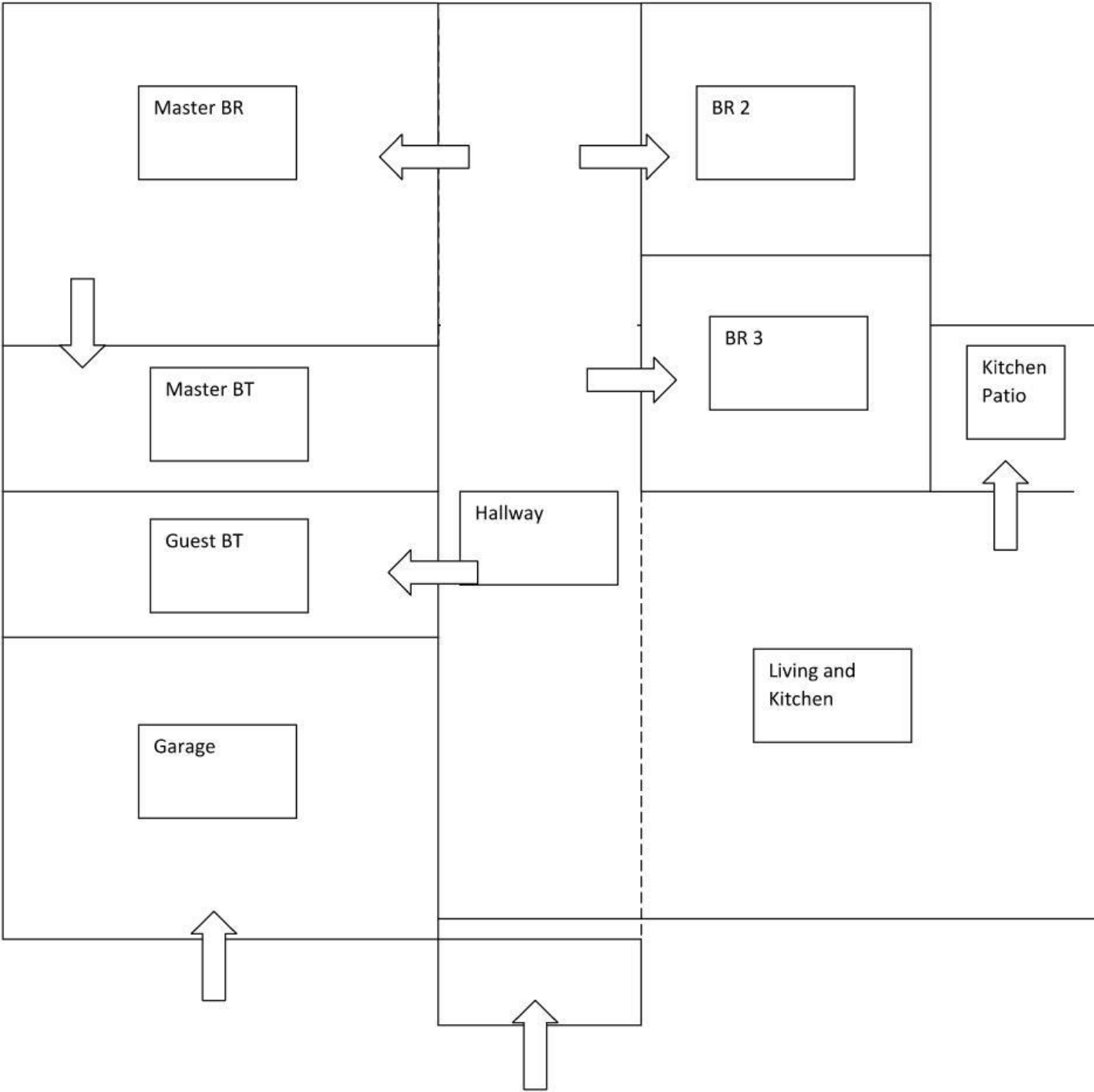




Ingress, egress, parking and street lighting



Oct//03: Updated floorplan.



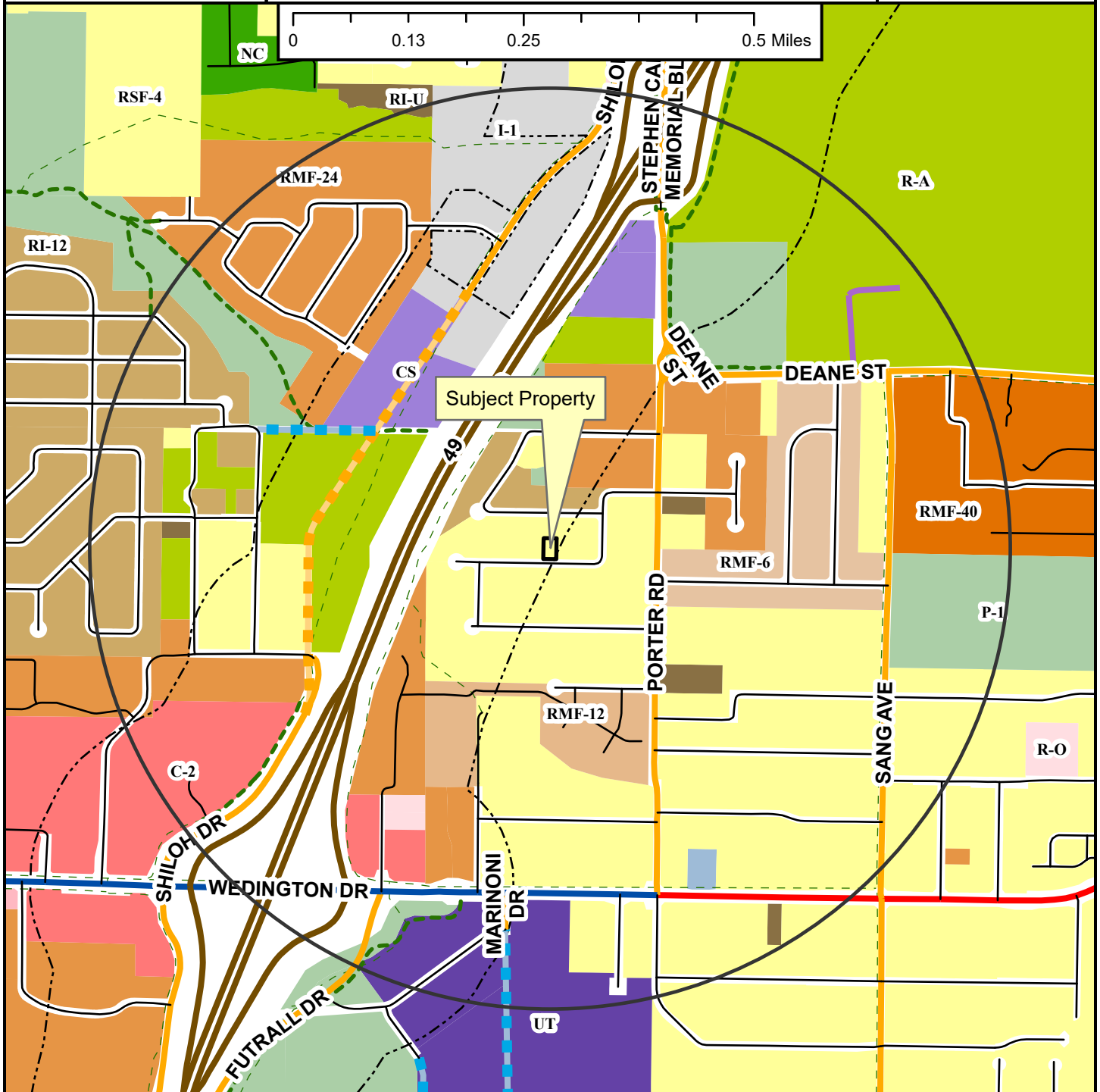
CUP-2023-0136

2522 W. ARTHUR HART ST

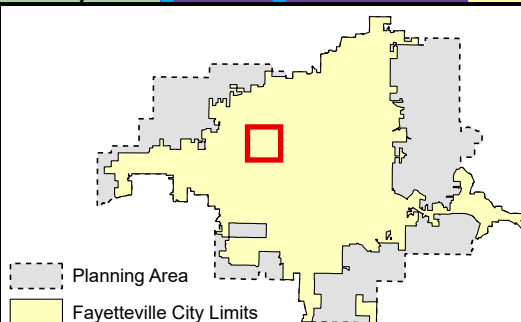
One Mile View



0 0.13 0.25 0.5 Miles



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

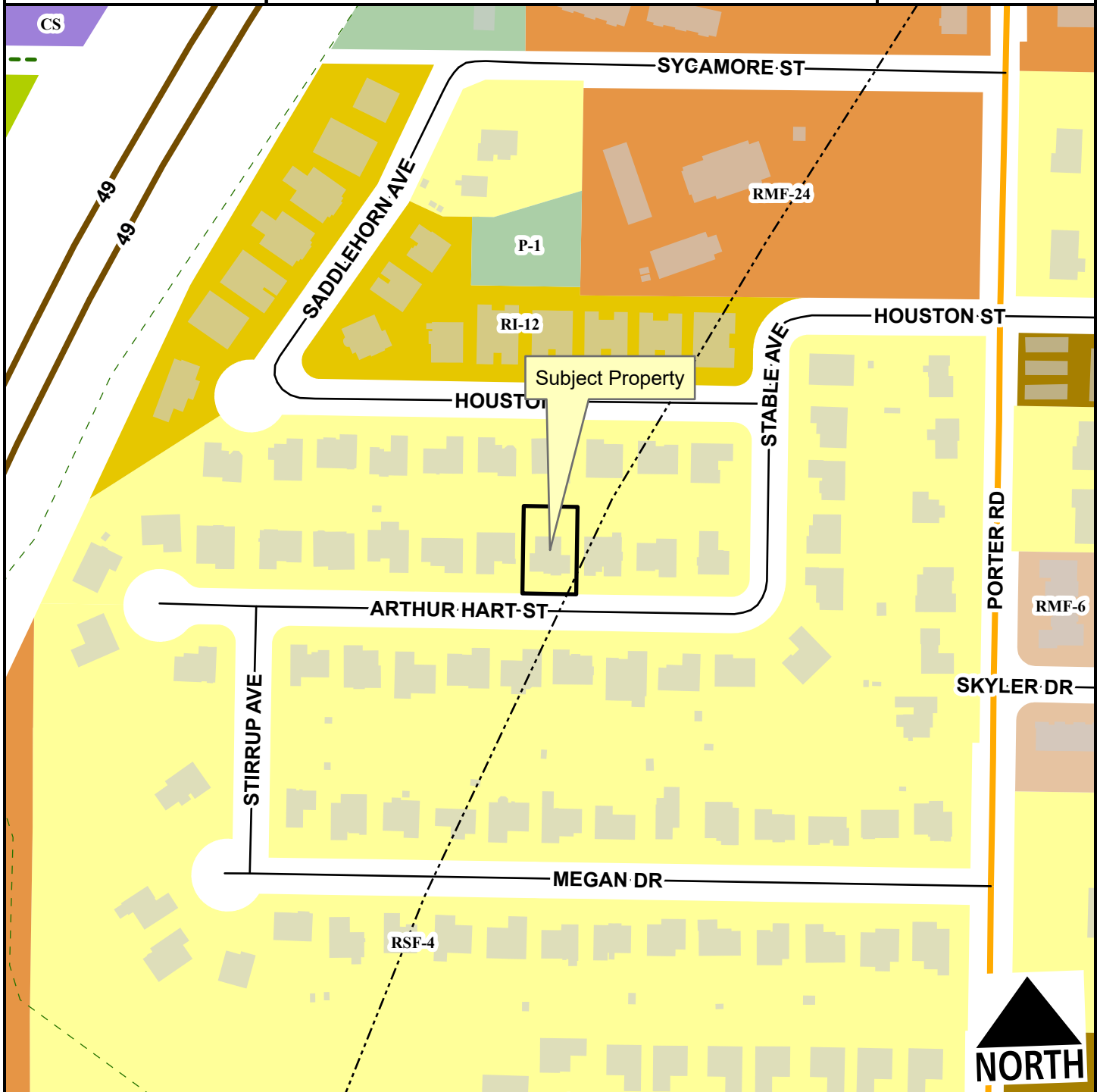


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - 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

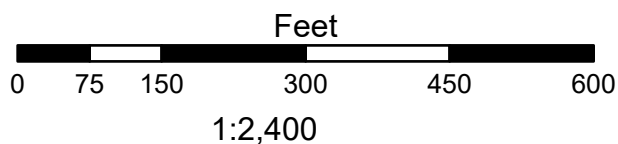
CUP-2023-0136

2522 W. ARTHUR HART ST

Close Up View



- Neighborhood Link
- Freeway/Expressway
- Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District

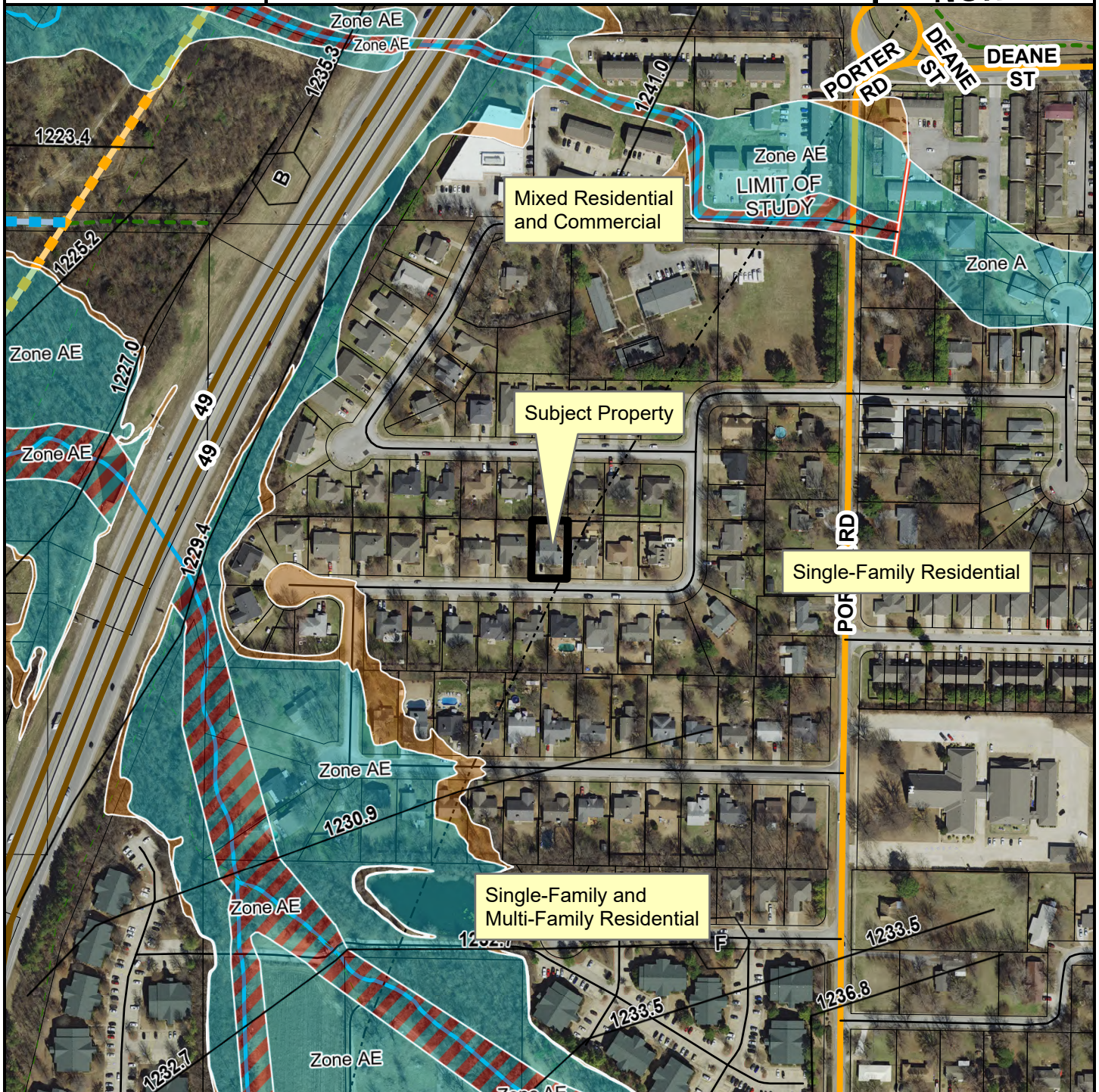


- Residential-Agricultural
- RSF-4
- RI-12
- RI-U
- RMF-6
- RMF-24
- Community Services
- P-1

CUP-2023-0136

2522 W. ARTHUR HART ST

Current Land Use



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



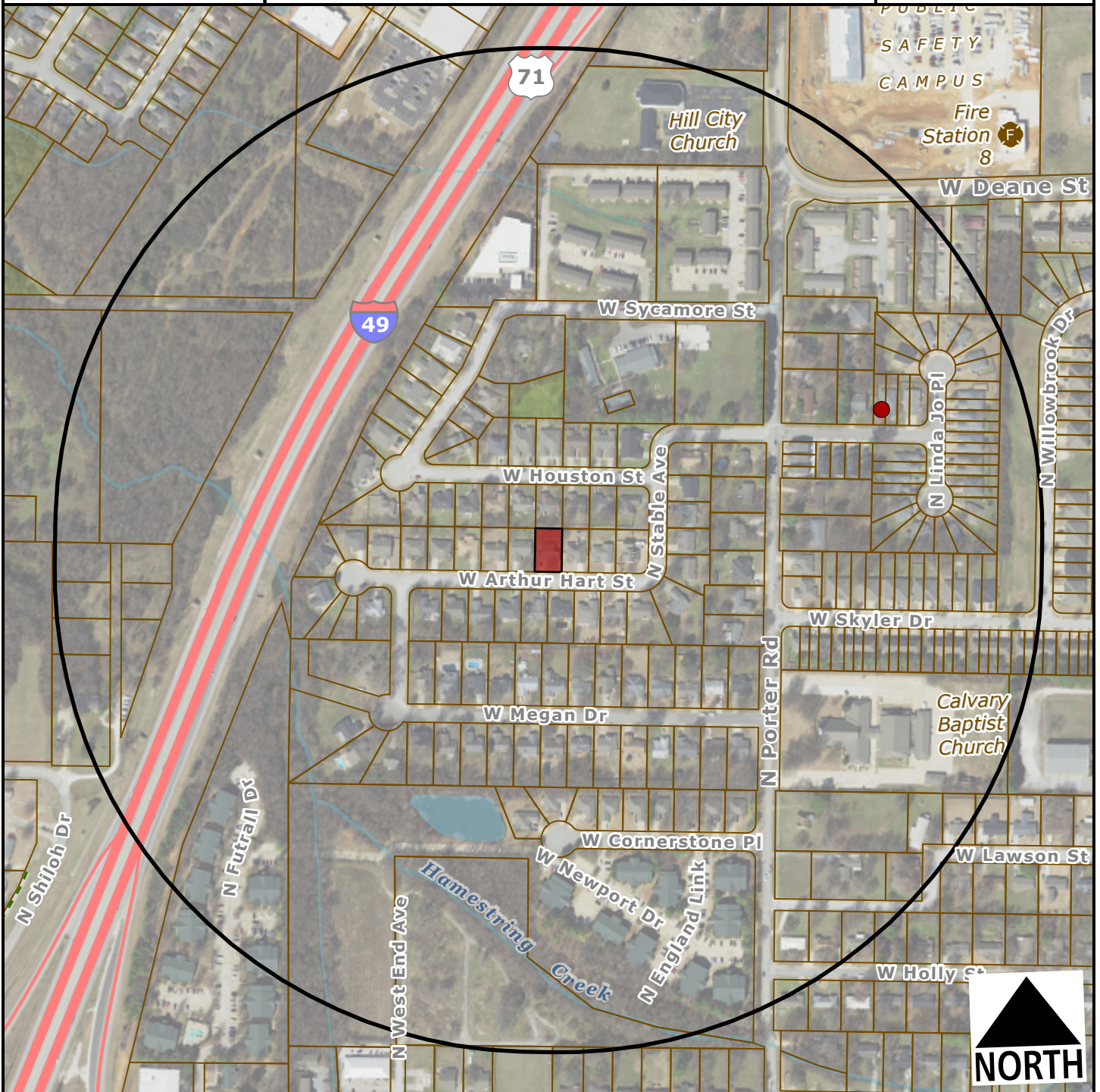
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

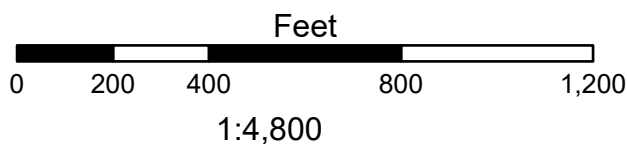
CUP-2023-0136

2522 W. ARTHUR HART ST

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 1

Occupiable
Residential
Addresses
(Estimated
Housing Units): 499



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: October 23, 2023

SUBJECT: **CUP-2023-0137: Conditional Use Permit (931 N. LEWIS AVE./ COHN, 443):** Submitted by KEAT COHN for property located at 931 N. LEWIS AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 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-2023-0137**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0137** with conditions, determining:*

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

BACKGROUND:

The subject property is located in west Fayetteville approximately ¼ mile southwest of the W. Wedington Dr. and N. Sunset Drive intersection. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is fully overlaid by the Hillside Hilltop Overlay District. The site totals approximately 0.20 acres. A 1,818 square foot single-family structure was built on the property in 1985 per the Washington County Assessor. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

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

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0137**, 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. On street parking shall be prohibited.
6. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
7. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
8. All trash receptacles shall be screened from view of the right-of-way.
9. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
10. Any signage shall meet the requirements as outlined in §174, Signage.
11. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>October 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

the application to grant the conditional use; and

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Structure appears to be a three-bedroom unit, which per ordinance would mean a maximum occupancy limit of eight (8) guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle space per dwelling unit. According to the applicant the structure has three bedrooms and up to six parking spaces (two in an attached garage and four in the driveway). However, staff notes that the driveway may not have sufficient width for four standard vehicles and finds that three vehicles will

likely be able to park within the driveway without encroaching into public ROW. As such, staff recommends a condition that on-street parking shall be prohibited.

- 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 931 N. Lewis Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of October 18, 2023, the City had issued 407 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: 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. Staff finds that a total of five off-street parking spaces (two garage and three driveway) will be available for up to eight guests. While the applicant states that four vehicle spaces are available in the driveway, staff finds that, due to the width of the driveway, only three vehicles are likely to be able to park here without encroaching into public ROW. North Lewis Ave. does not have on-street parking available; however, staff anticipates that the use could be fully parked off-street. City records indicate three other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license. Due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active licenses in the area, but are in the process of renewal, so they may not be populating. No previous zoning or code violations were reported for this property.

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

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

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

Finding: The property fronts N. Lewis Ave., a partially improved residential link street with no curb and gutter or sidewalks. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 8 guests, which would not be out of character with use of the property for residential purposes.

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

Finding: According to the applicant the structure has three bedrooms and six parking spaces; two spaces in an attached garage and four in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be compatible with the surrounding properties. While the residences along N. Lewis Ave. are all detached single-family dwellings, the property is approximately ¼ mile northwest of the University of Arkansas main campus, a large driver of tourism in the city. Staff finds that as the area has three existing Type 2 short-term rentals within ¼ mile, this portion of the city can likely support an additional short-term rental. However, due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active licenses in the area, but are in the process of renewal, so they may not be populating.

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

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter
- Site Plan
- Elevations
- Building Floor Plan
- Staff Exhibit: Driveway Parking
- 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."

Keat Cohn

931 North Lewis Ave.
Fayetteville, AR 72407

GIS Approved
09/19/2023

September 12, 2023

City of Fayetteville
Attn: Planning and Permits
Fayetteville, AR 72701

To whom it may concern,

I'm applying for a conditional use permit for a short-term rental property from the City of Fayetteville as well as a business license. The house is located in a neighborhood and is approximately 1900 square feet with 3 bedrooms and 2 baths. Elevation photographs have been uploaded on the application of all sides of the structure. The residence allows for adequate parking with a 2-car garage and there are 4-5 parking spaces in the driveway depending on the vehicle sizes. The residence is located on a city street with lighting from the streetlights as well as front and rear lighting on the house. The house has trees and vegetation between them allowing for privacy and noise barriers. The property is equipped with a trash container provided by the city and trash/recycle is picked up weekly. The house is located on a dead-end street, however each property has a private driveway and a cul-de-sac at the end of the street for vehicles to turn around and exit the neighborhood. According to the city records when I called, there are no other short-term rentals on our street, however there are several of the properties rented as long-term rental units. We have owned the house for several years and had two daughters live in the house while attending the University of Arkansas. We love the community and want to keep the house and we appreciate your consideration in this matter. Please let me know if you need any further information on this request.

Sincerely

Keat and Heidi Cohn



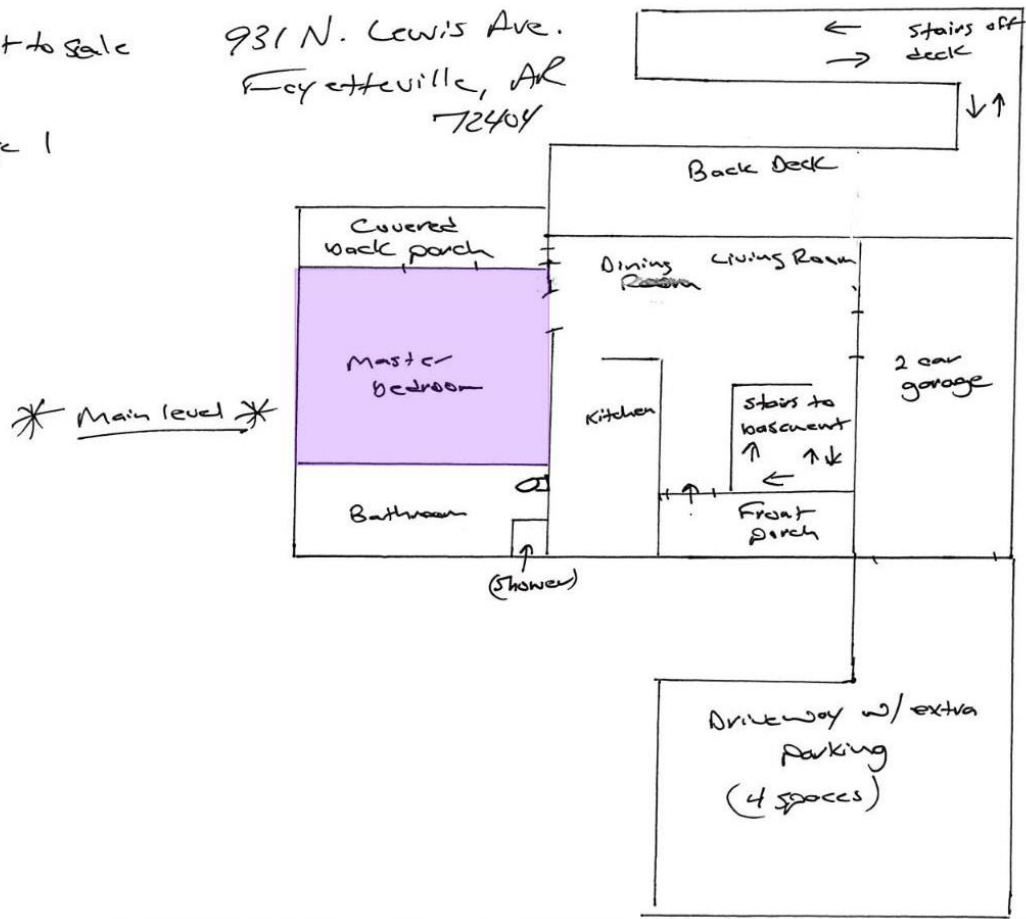
BUILDING ELEVATIONS



Not to scale

931 N. Lewis Ave.
Fayetteville, AR
72404

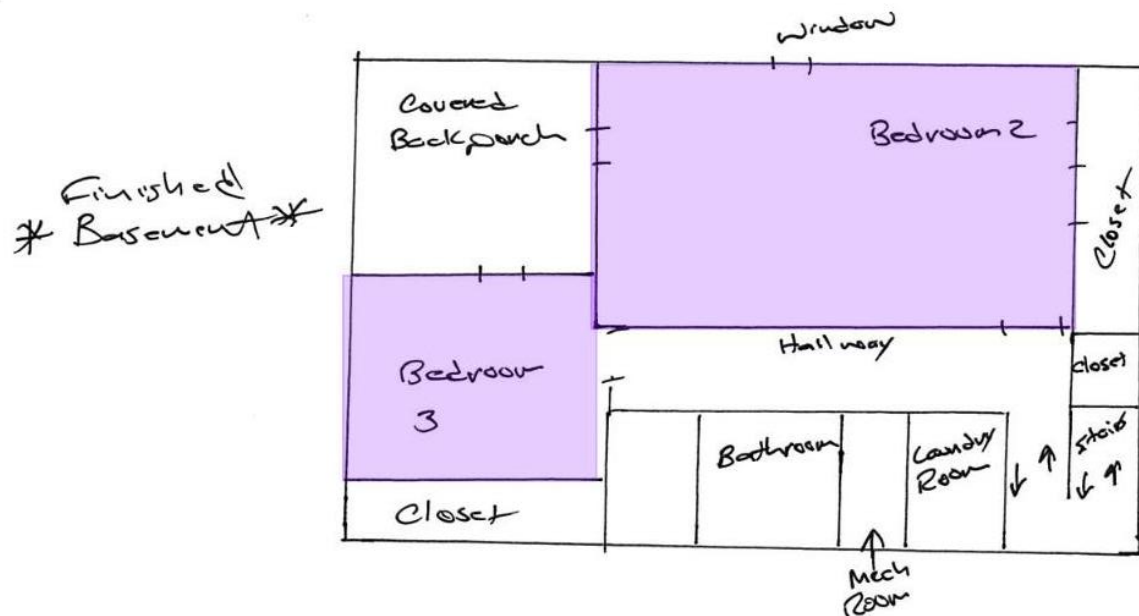
Page 1



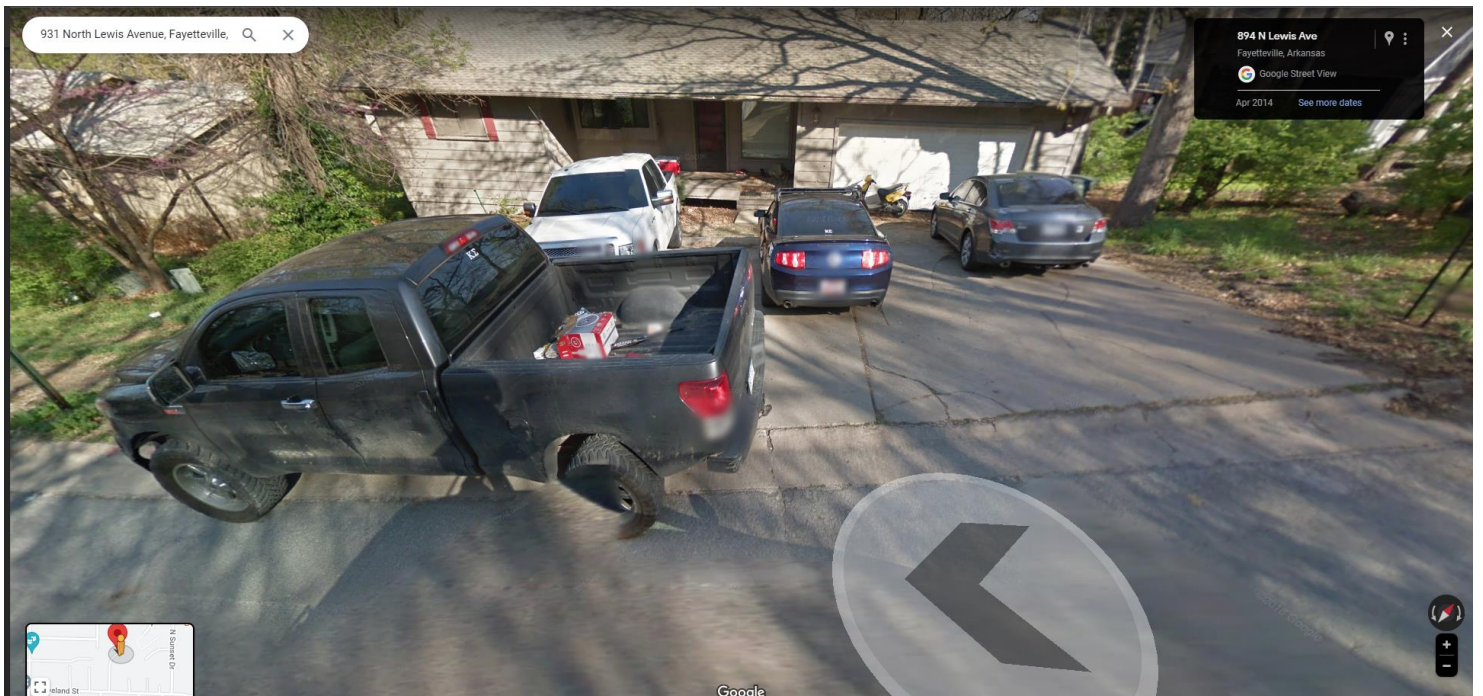
931 N. Lewis Ave
Fayetteville, AR

Back yard

Page 2



STAFF EXHIBIT: DRIVEWAY PARKING

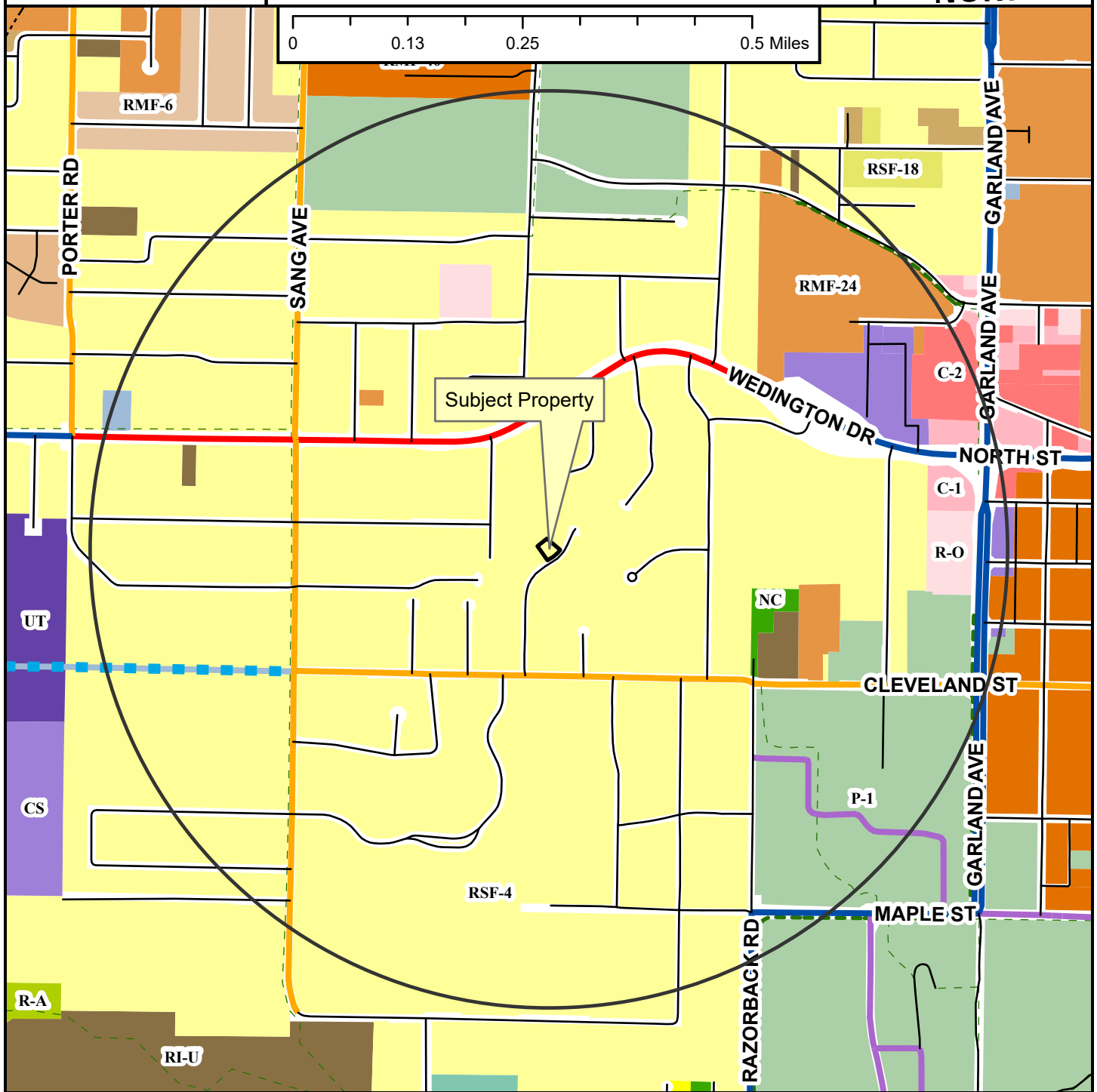
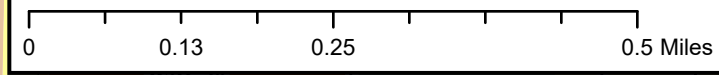


2023 Google Street View

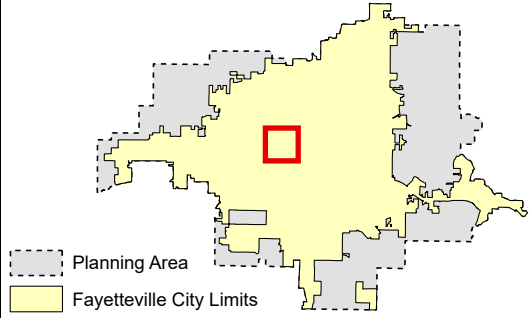
CUP-2023-0137

931 N. LEWIS AVE

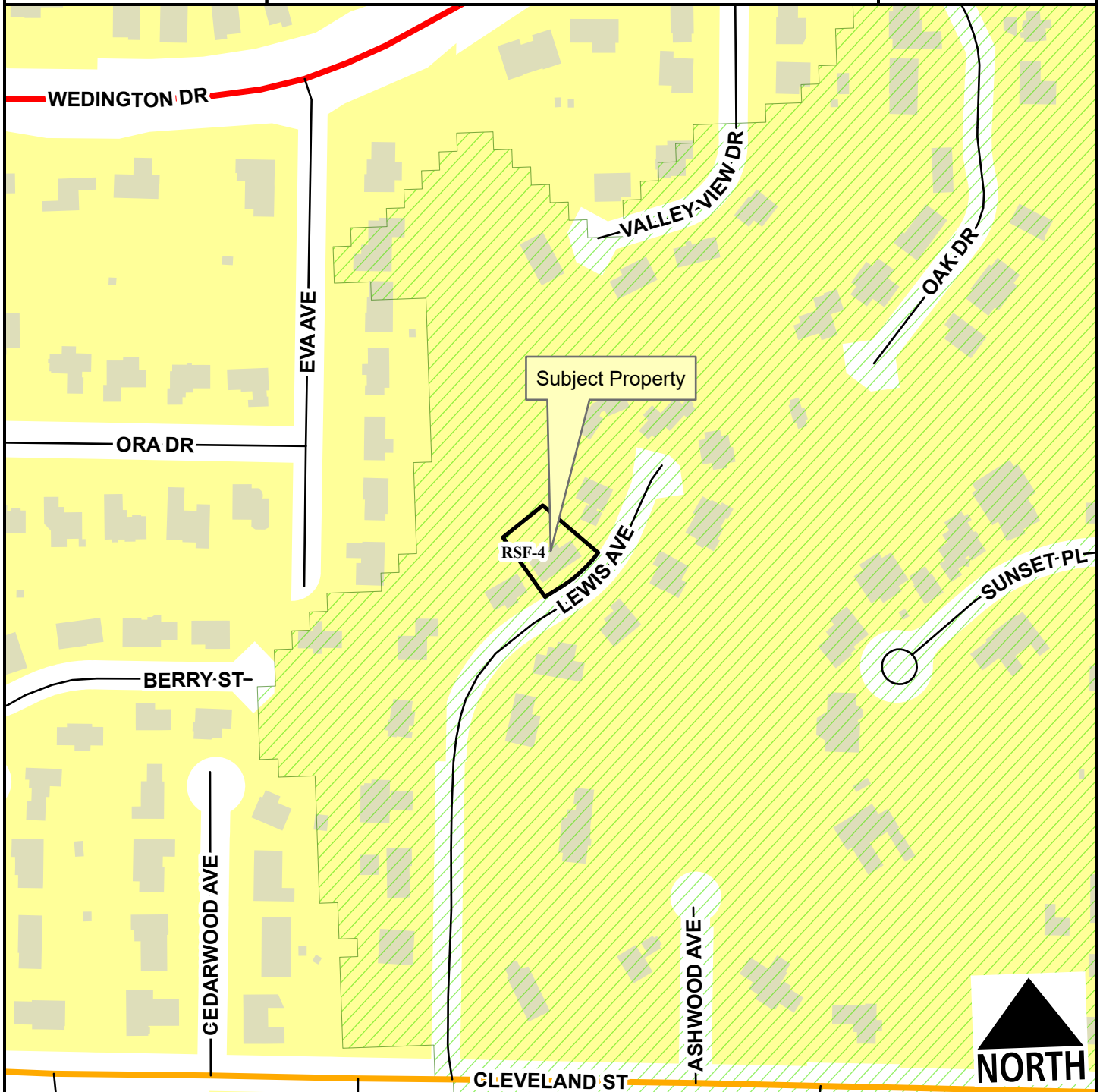
One Mile View



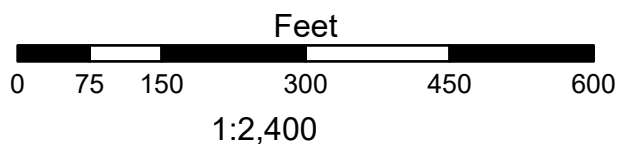
- Regional Link
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



- 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-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
 - INSTITUTIONAL
 - P-1



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



RSF-4

CUP-2023-0137

931 N. LEWIS AVE

Current Land Use



- Regional Link
- Neighborhood Link
- Unclassified
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits



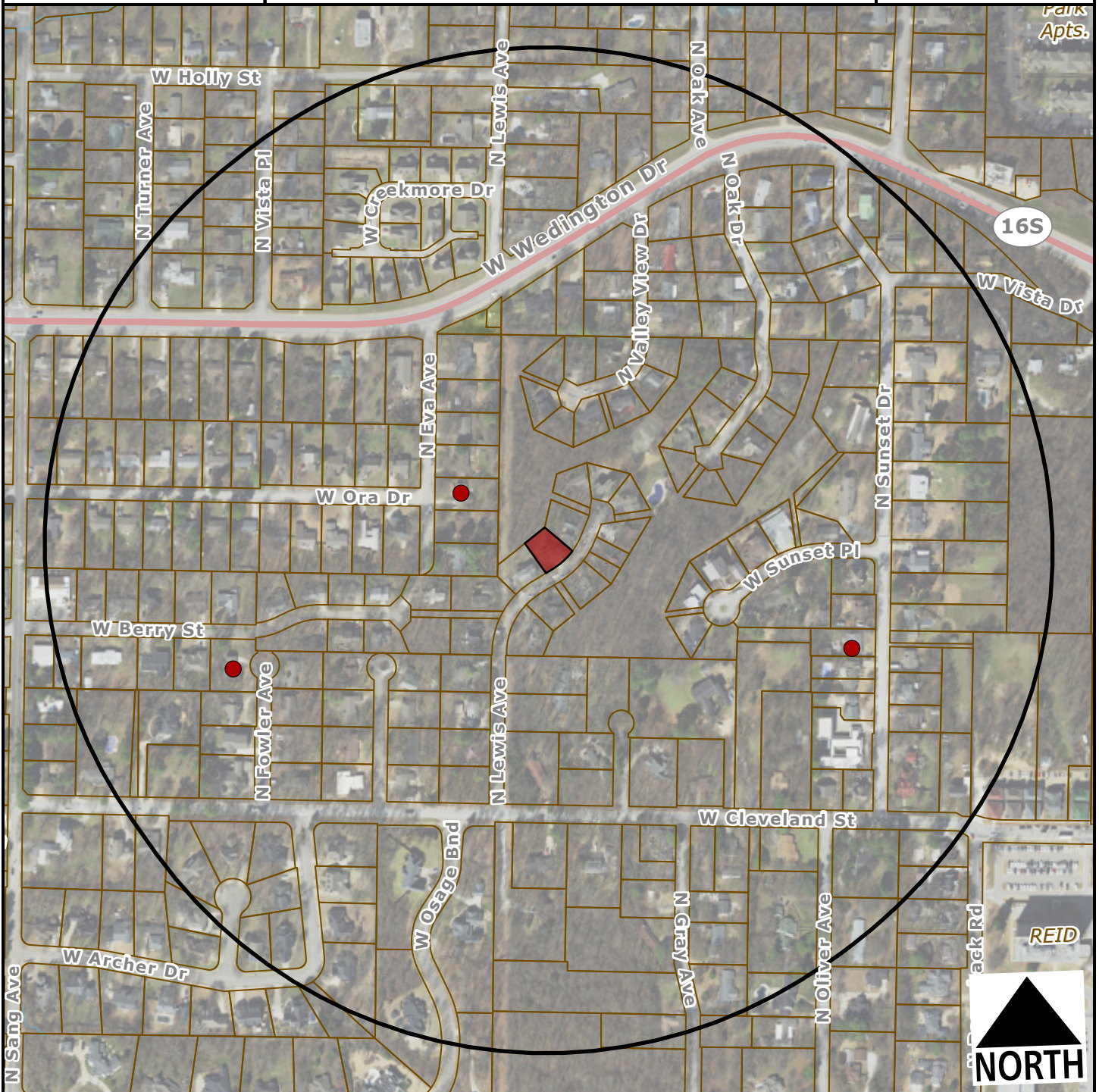
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

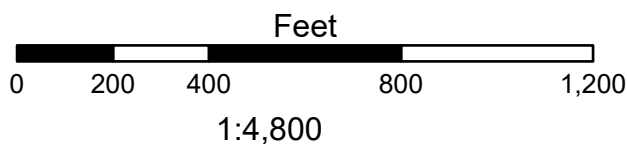
CUP-2023-0137

931 N. LEWIS AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 3

Occupiable
Residential
Addresses
(Estimated
Housing Units): 258



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: October 23, 2023

SUBJECT: **CUP-2023-0125: Conditional Use Permit (1748 E. ACACIA XING./NEXT ADVENTURE PROPERTIES LLC, 526):** Submitted by NEXT ADVENTURE PROPERTIES for property located at 1748 E. ACACIA XING. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0125** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0125**, 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 east Fayetteville just south of Mount Sequoyah Woods on the north side of Acacia Crossing in the Treetops Subdivision. The property contains approximately 0.10 acres and is developed with a 2,100-square-foot, three-bedroom, single-family dwelling which was built this year. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	NC, Neighborhood Conservation
South	Single-Family Residential	RSF-8, Residential Single-Family, Eight Units per Acre
East	Single-Family Residential	NC, Neighborhood Conservation
West	Single-Family Residential	RSF-8, Residential Single-Family, Eight 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-2023-0125** 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. Occupancy in this short-term rental shall be limited to a maximum of 6 guests;
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;
6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;
7. All trash receptacles shall be screened from view of the right-of-way;
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>October 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RSF-8 zoning.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in RSF-8 zoning. Since RSF-8 is a residential zoning district, a conditional use permit is required.

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

Finding: The dwelling has three bedrooms which would limit occupancy to a maximum of eight guests per ordinance. Staff recommends that occupancy be limited further to a maximum of six guests since on-street parking is not available nearby, and since the applicant stated in their request letter that they intend to allow no more than six guests at a time.

- 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 at any given time. The applicant indicated in their submittal that there are four spaces available on site with two in an attached garage and two in an adjacent driveway. The property is rear loaded with vehicular access to the site accommodated through a public alley to the north. On-street parking is not available anywhere nearby.

- 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 1748 E. 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 city-wide density cap at 475 units. As of October 18, 2023, the City had issued 407 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: Parking for this short-term rental is limited; on-street parking is not available nearby and there are only four spaces on site. Staff recommends limiting occupancy to a maximum of six guests since there does not appear to be adequate parking infrastructure available to support the number of guests permitted by ordinance. 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. A conditional use permit for a Type 2 short-term rental on the property to the southeast of this site was approved by the Planning Commission on September 25, 2023. However, staff has not yet received a business license application for that property. Also, due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active business licenses in the area, but are in the process of renewal, so they may not be populating. No zoning or code violations have been reported on the subject 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 through a public alley. The property also has frontage along Acacia Crossing which appears to be fully improved with sidewalk to accommodate pedestrian access. Staff finds that the proposal to use the property as a short-term rental will not adversely affect traffic flows, though staff recommends limiting occupancy to a maximum of six guests given the limited availability of parking.

- (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 a 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 no other licensed Type 2 short-term rentals within a quarter-mile radius. However, due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active licenses in the area, but are in the process of renewal, so they may not be populating. There appears to be adequate parking to accommodate the recommended number of guests and staff does not anticipate any adverse traffic impacts with this request.

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

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

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Building Floor Plans
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

- by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit.*

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

Next Adventure Properties, LLC

8/22/2023

Requested property: 1748 E. Acacia Xing, Fayette, AR 72701

I am requesting Conditional Use Permit for the purpose of getting a license for a Short Term Rental – Type 2.

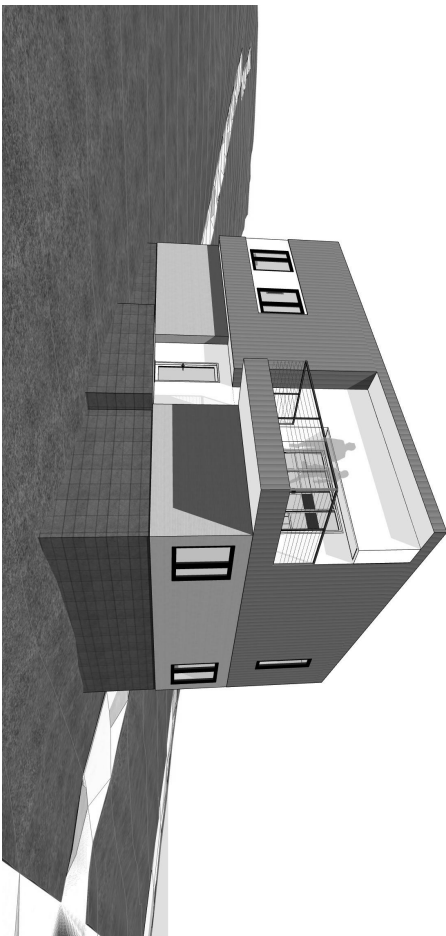
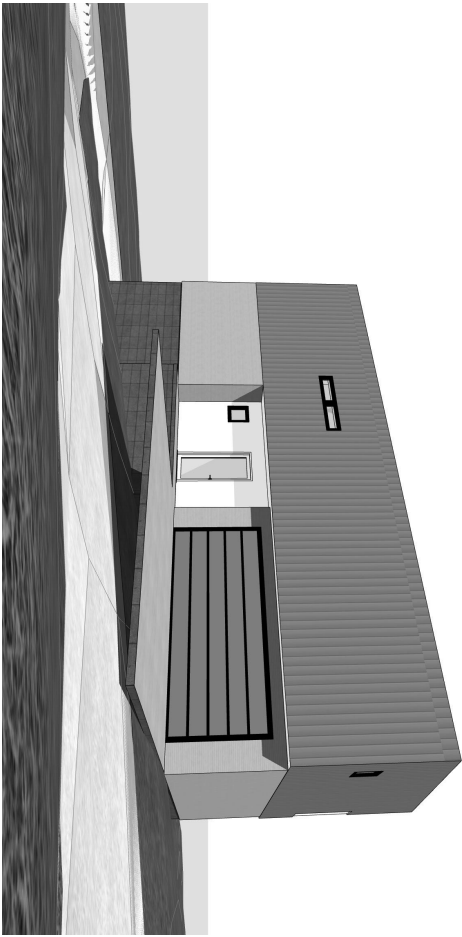
- A. Single Family Home is 2100 square feet
- B. Exterior Photo

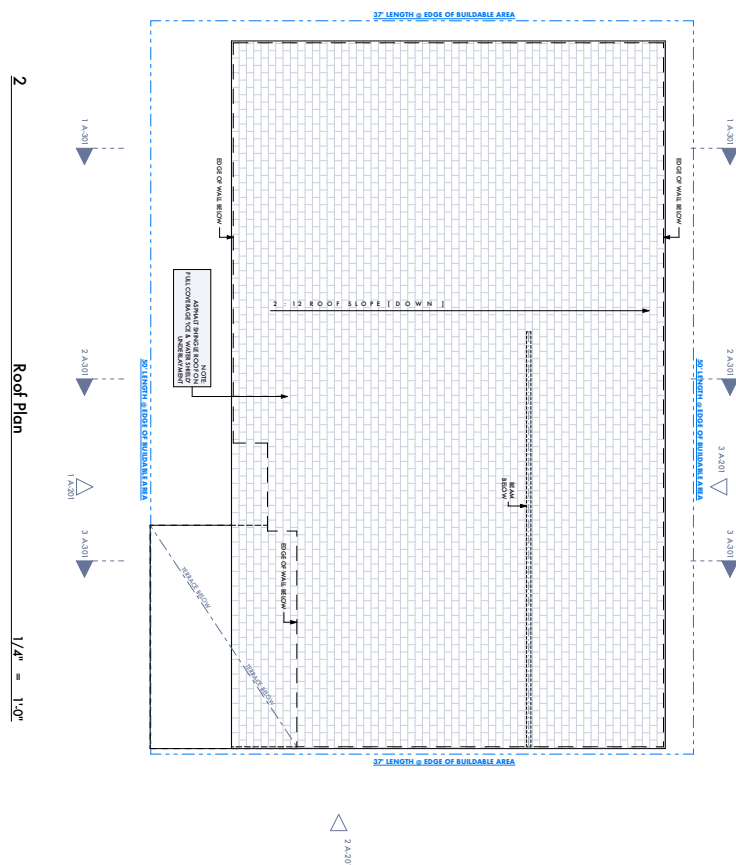
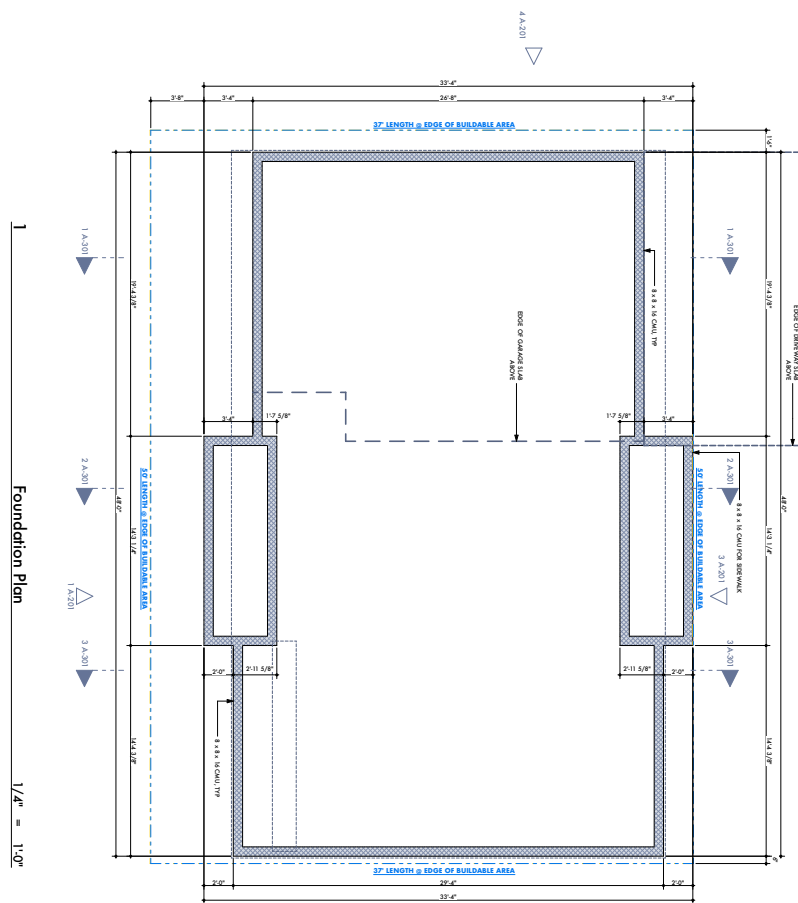


- C. 2 car garage and 2 driveway spots



- D. No set hours or employees. Up to 6 guests at a time (if permitted)
- E. Exterior lighting on both sides of garage and over back porch area (see picture above) and also on the front porch and second story porch balcony.
- F. Noise – Warnings issued to noise exceeding normal household noise levels, with no disturbance between 10 pm and 7 am.
- G. No connecting properties. All surrounding properties are single family homes with proper insulation.
- H. Private trash service through the City of Fayetteville
- I. N/A – no traffic impacts
- J. This home will provide a second home for the owners of Next Adventure Properties, LLC and will be rented out occasionally on a short term basis via VRBO/Airbnb if permitted.



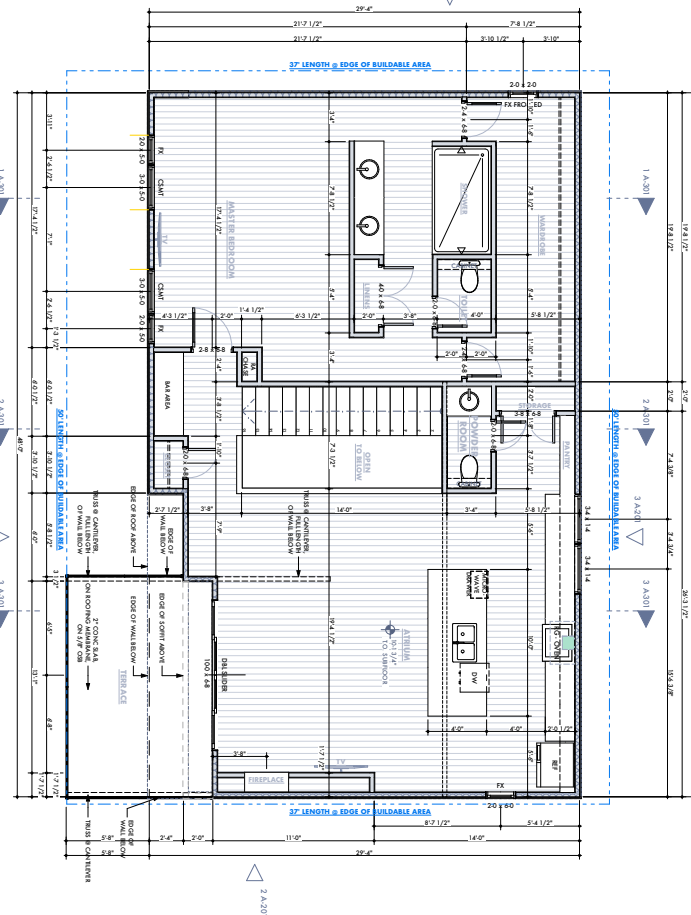
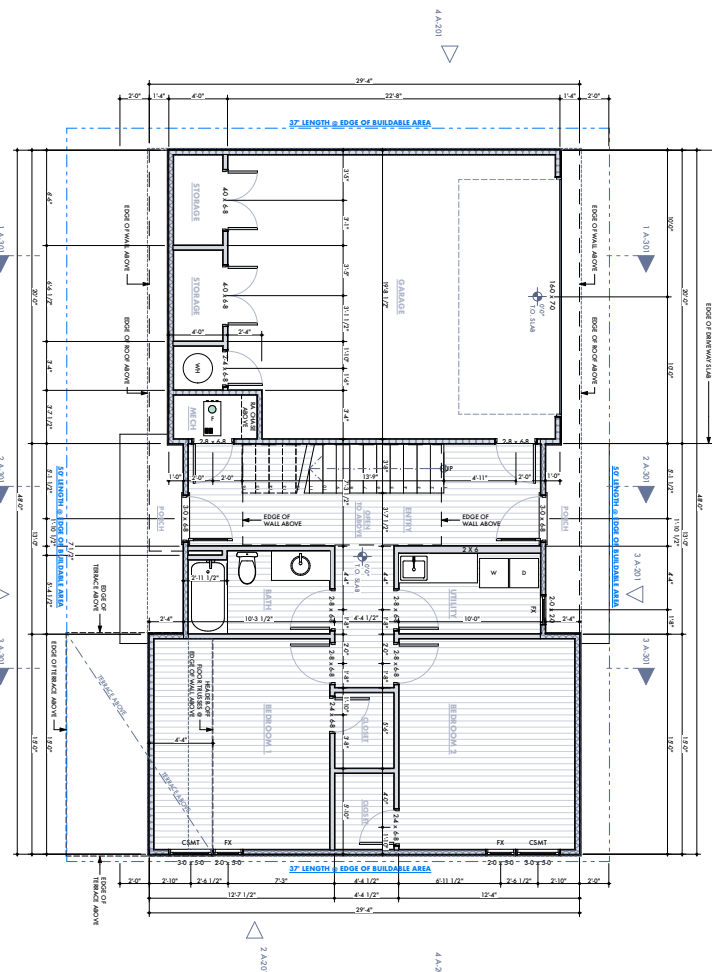


GENERAL NOTES:

1. ALL DIMENSIONS ARE TO FINISH, UNLESS OTHERWISE INDICATED.
2. ALL DIMENSIONS ARE TO FINISH, UNLESS OTHERWISE INDICATED.
3. TYPE OF FINISH WALLS AT FIRST FLOOR IS 8" TYPICAL.
4. TYPE OF FINISH WALLS AT SECOND FLOOR IS 8" TYPICAL.

AIR CONDITIONED SPACE:

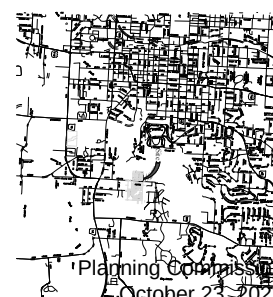
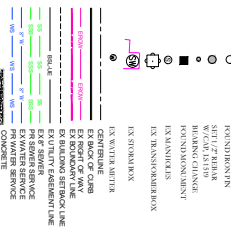
NET FLOOR AREA: 779 SF
GROSS FLOOR AREA: 1281 SF
TOTAL AREA: 2060 SF



Lot 29-33 Treetops Site Plan



Legend



OWNER/DEVELOPER
 765-3008-000 LOT 29 (70% E ACACIA DRIVE)
 765-3008-000 LOT 30 (100% E ACACIA DRIVE)
 765-3008-000 LOT 31 (173% E ACACIA DRIVE)
 765-3008-000 LOT 32 (169% E ACACIA DRIVE)
RWR NORTHWEST LLC
 9422 ROGERS AVE
 FORT SMITH, AR 72903
PROPERTY ADDRESS
 176 S PADDOCK LOOP

Basis of Bearing:
 ARKANSAS STATE PLANT COORDINATE
 SYSTEM (NAD83) NORTH ZONE.

Basis of Bearing:
 ARKANSAS STATE PLANT COORDINATE
 SYSTEM (NAD83) NORTH ZONE.

City of Fayetteville Notes:

1. Contractor shall verify the location of all utility lines existing on site. The contractor is responsible for obtaining Arkansas Public Service Commission (PSC) records and field verification of utility lines. The contractor shall be responsible for obtaining all necessary permits and approvals from the City of Fayetteville and the Arkansas Public Service Commission (PSC).
2. All proposed grading shall be in accordance with the City of Fayetteville Grading Ordinance and the Arkansas Public Service Commission (PSC) records.
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24. All proposed grading shall be in accordance with the City of Fayetteville Grading Ordinance and the Arkansas Public Service Commission (PSC) records.

SITE DISTURBANCE NOTE	6638 SQ FT 100%
TOTAL SITE LOT 29	3830 SQ FT 58%
TOTAL DISTURBED AREA	2808 SQ FT 42%
TOTAL UNDISTURBED AREA	
SITE DISTURBANCE NOTE	6199 SQ FT 100%
TOTAL SITE LOT 30	3909 SQ FT 61%
TOTAL DISTURBED AREA	2299 SQ FT 39%
TOTAL UNDISTURBED AREA	
SITE DISTURBANCE NOTE	6435 SQ FT 100%
TOTAL SITE LOT 31	3936 SQ FT 61%
TOTAL DISTURBED AREA	2409 SQ FT 39%
TOTAL UNDISTURBED AREA	
SITE DISTURBANCE NOTE	6119 SQ FT 100%
TOTAL SITE LOT 32	3846 SQ FT 62%
TOTAL DISTURBED AREA	2275 SQ FT 38%
TOTAL UNDISTURBED AREA	
SITE DISTURBANCE NOTE	6499 SQ FT 100%
TOTAL SITE LOT 33	3733 SQ FT 59%
TOTAL DISTURBED AREA	2766 SQ FT 41%
TOTAL UNDISTURBED AREA	

A Million Miracles
 Surveying, PLLC
 129 W Boles St., Ste A
 Fayetteville, AR 72701
 eric@amms-pllc.com
 PH (479) 387-4361

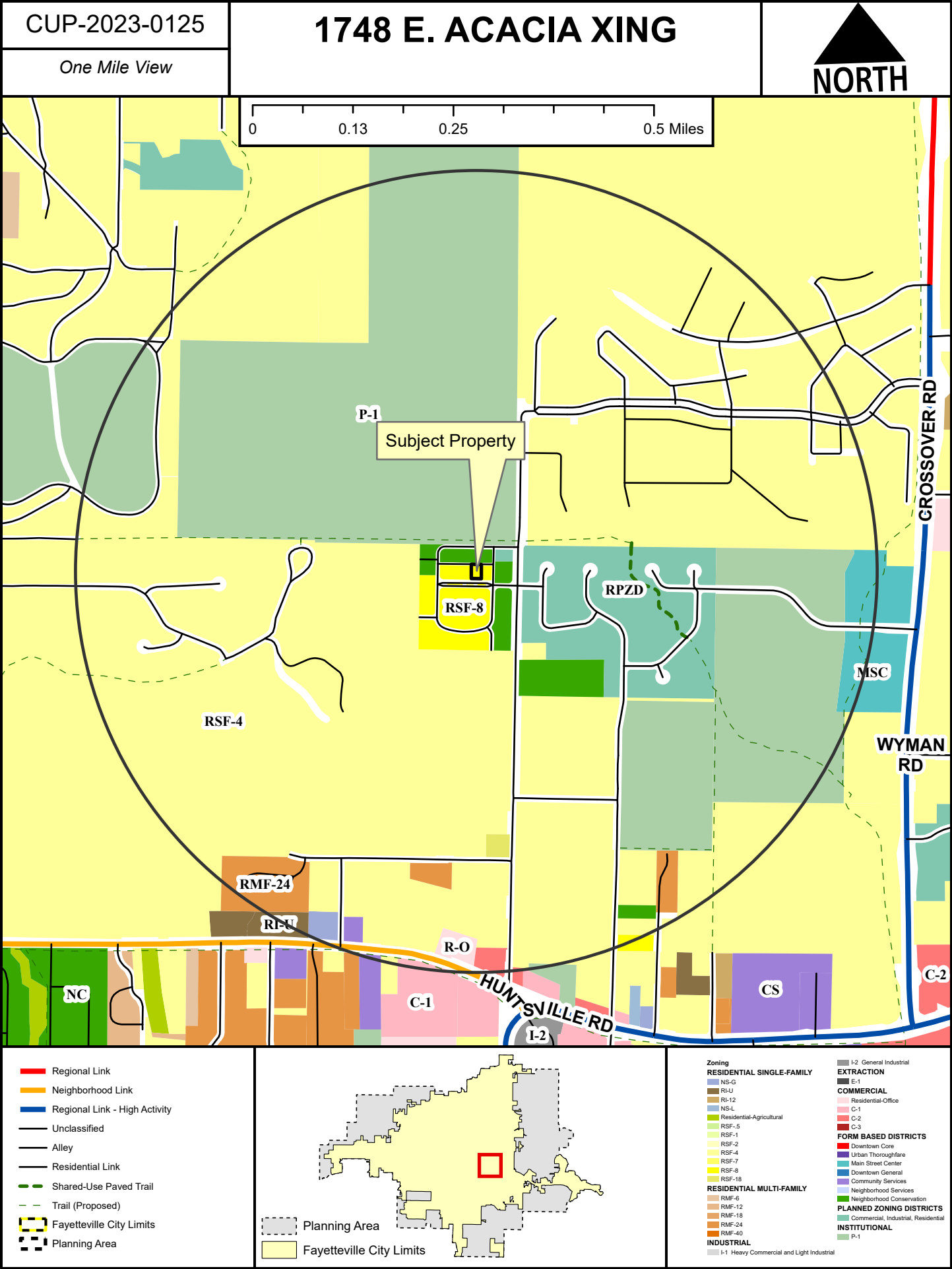
SITE/GRADING PLANS FOR:
LOT 29-33 TREETOPS
SUBDIVISION
 RWR NORTHWEST LLC
 9422 ROGERS AVE
 FORT SMITH, AR 72903

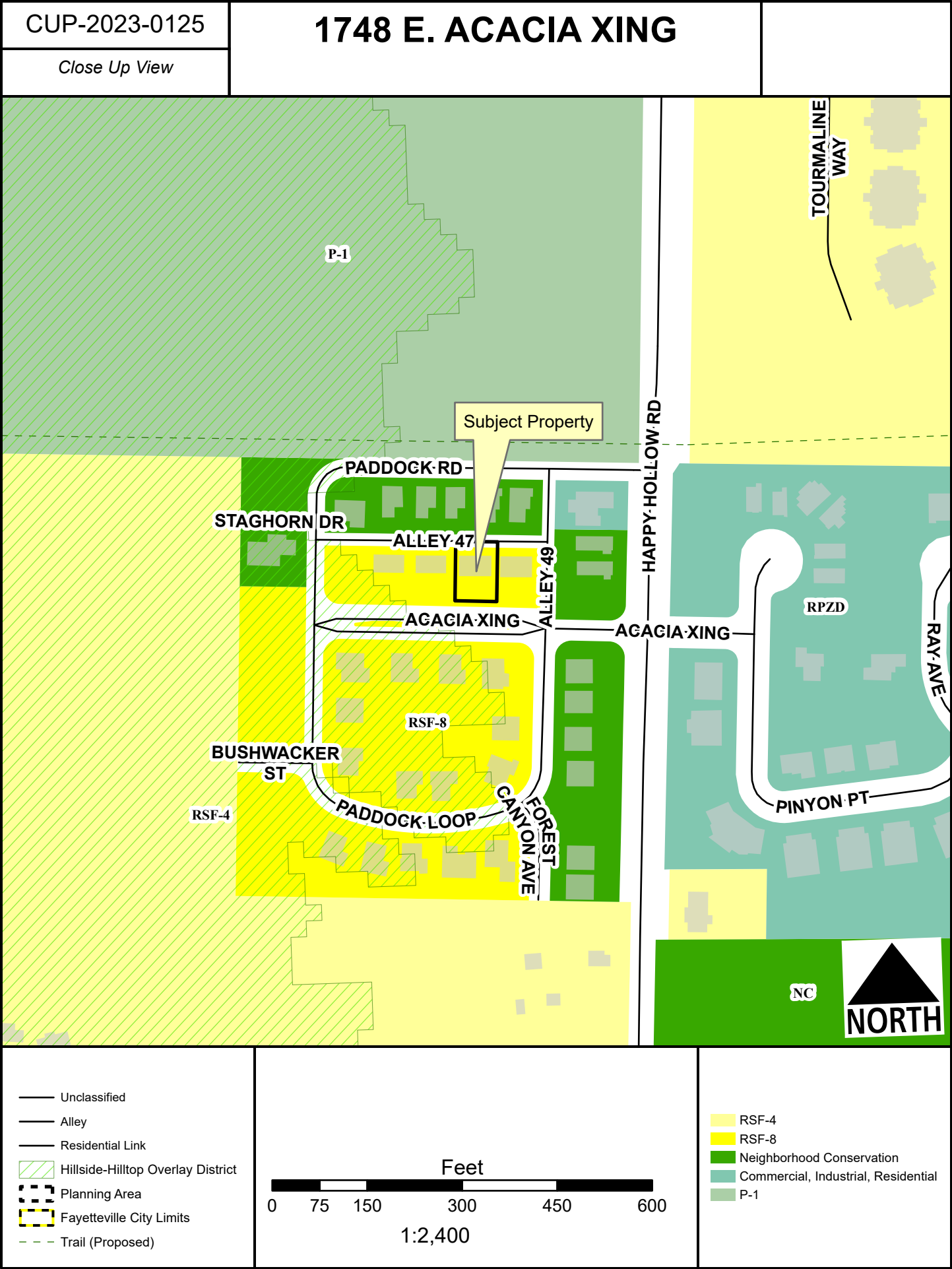
SITE PLAN

C3.0

PROFESSIONAL ENGINEER
 ARKANSAS
 No. 12174
 Eric Heller

CERTIFICATE OF INCORPORATION
 A MILLION MIRACLES SURVEYING, PLLC
 No. 333





CUP-2023-0125

1748 E. ACACIA XING

Current Land Use



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



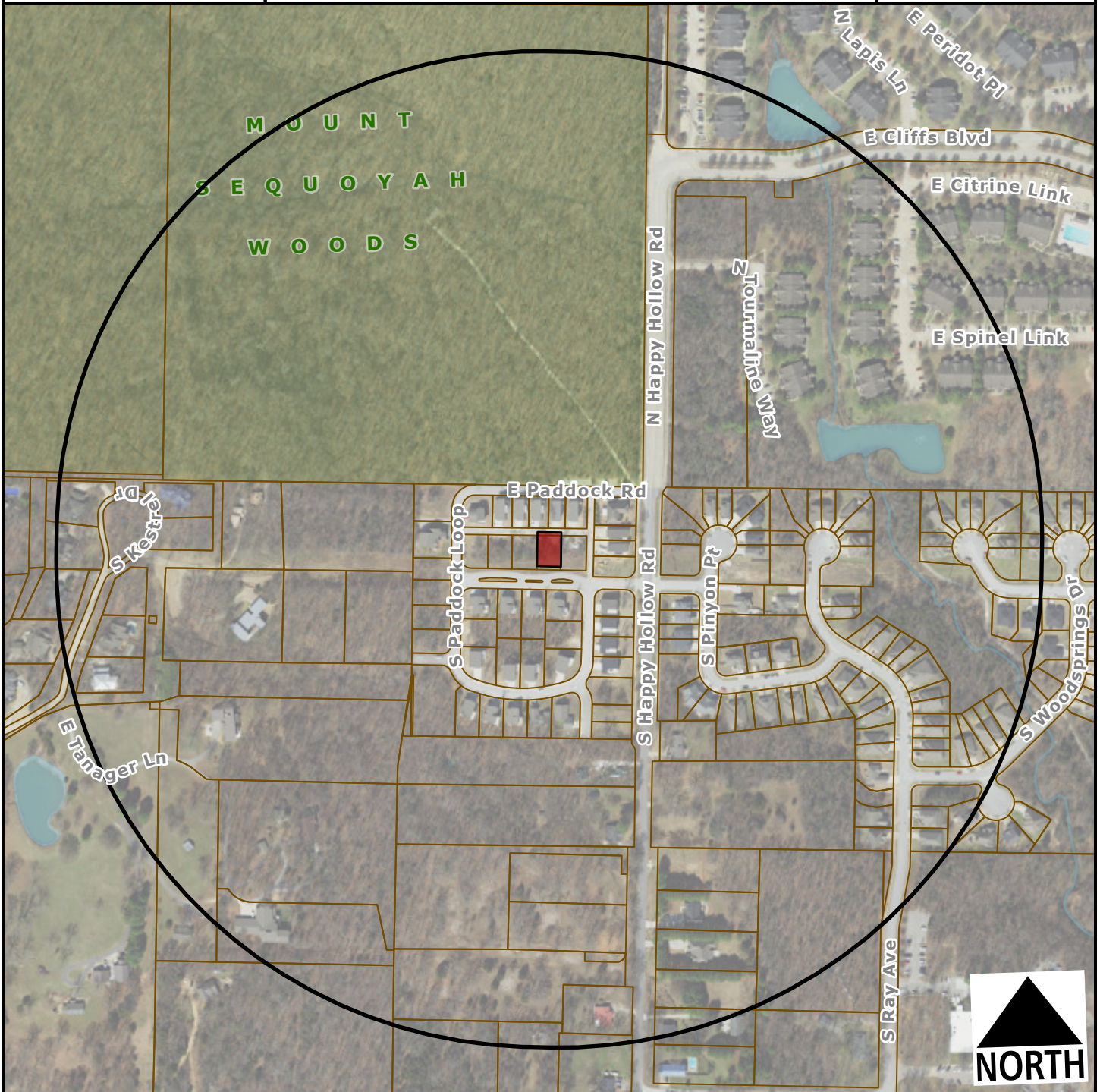
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

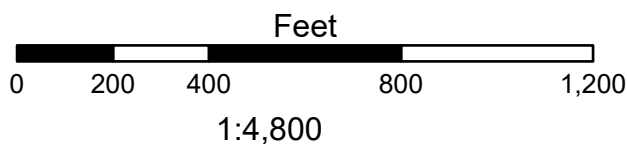
CUP-2023-0125

1748 E. ACACIA XING

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 0

Occupiable
Residential
Addresses
(Estimated
Housing Units): 278



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: October 23, 2023

SUBJECT: **CUP-2023-0140: Conditional Use Permit (820 N. GARLAND AVE./JARRATT, 444):** Submitted by JARRATT INDUSTRIES LLC for property located at 820 N. GARLAND AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY 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-2023-0140** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0140**, determining:*

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

BACKGROUND:

The subject property is located just north of the University of Arkansas's main campus on the east side of Garland Avenue. The property contains approximately 0.20 acres and is developed with a 1,350-square-foot single-family dwelling and a 375-square-foot accessory dwelling unit. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap 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- and Multi-Family Residential	CS, Community Services
South	Single- and Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
East	Single- and Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
West	Undeveloped	RMF-40, Residential Multi-Family, 40 Units per Acre

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0140** with the following conditions:

Conditions of Approval:

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

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>October 23, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RMF-40 zoning.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in RMF-40 zoning. Since RMF-40 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 property contains a total of four bedrooms which would limit occupancy to a maximum of 10 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 at any given time. The applicant indicated in their submittal that there is space to park four vehicles on site in a parking area on the east side of the property, which is accessed through a public alley, and in a driveway on the west side of the property along Garland Avenue. On-street parking also appears to be available along other nearby streets such as Berry and Eagle.

- 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 820 N. Garland Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of October 18, 2023, the City had issued 407 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. Four off-street parking spaces will be available for guests on site and on-street parking is available along several public streets 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. However, due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active licenses in the area, but are in the process of renewal, so they may not be populating. City records also indicate that one prior code violation for junk and debris was reported and resolved on this property in March of 2022 while the property was under previous ownership.

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

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:
 - (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience,

traffic flow and control and access in case of fire or catastrophe;

Finding: A paved driveway is available to accommodate vehicular ingress and egress to the subject property along Garland Avenue. Additional parking is also available along the rear of the property through a public alley which is accessed through Berry Street and Eagle Street. The property's Garland Avenue frontage is fully improved with sidewalk along both sides 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 10 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: Four off-street parking spaces are available in a paved driveway on the west side of the property and in a parking area on the east side of the property. 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. However, due to the annual business license renewal period that ends on October 31, staff recognizes that other STRs could have active licenses in the area, but are in the process of renewal, so they may not be populating. 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
 - §161.17 District RMF-40, Residential Multi-Family – Forty (40) 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.

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(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 CUP
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 occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	Forty (40) or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 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	2,500 square feet
Two (2) family	3,000 square feet
Three (3) family or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
Fraternity of Sorority	500 square feet per resident

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; 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, 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, §7(Exh. F), 5-2-23)

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

DESCRIPTION OF CONDITIONAL USE REQUEST

820 N. Garland

LOT 11 OF BLOCK 12, IN ROSE HILL ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. LESS AND EXCEPT A PART OF LOT 11, BLOCK 12, IN ROSE HILL ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: STARTING AT THE SOUTHEAST CORNER OF LOT 7, BLOCK 12, IN ROSE HILL ADDITION, SAID POINT ALSO BEING ON THE NORTHERLY EXISTING RIGHT OF WAY LINE OF EAGLE STREET, THENCE NORTH 86 DEGREES 43 MINUTES 22 SECONDS WEST ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 140.00 FEET TO A POINT ON THE EASTERLY EXISTING RIGHT OF WAY LINE OF STATE HIGHWAY 112, THENCE NORTH 02 DEGREES 18 MINUTES 30 SECONDS EAST, ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 200.24 FEET TO A POINT ON THE SOUTH LINE OF LOT 11, BLOCK 12, ROSE HILL ADDITION FOR THE POINT OF BEGINNING, THENCE CONTINUE NORTH 02 DEGREES 18 MINUTES 30 SECONDS EAST ALONG THE EASTERLY EXISTING RIGHT OF WAY LINE OF ARKANSAS STATE HIGHWAY 112 A DISTANCE OF 50.04 FEET TO A POINT ON THE NORTH LINE OF LOT 11, BLOCK 12, OF ROSE HILL ADDITION, THENCE SOUTH 86 DEGREES 46 MINUTES 38 SECONDS EAST ALONG SAID NORTH LINE A DISTANCE OF 8.05 FEET TO A POINT ON THE EASTERLY PROPOSED RIGHT OF WAY LINE OF ARKANSAS STATE HIGHWAY 112, THENCE SOUTH 05 DEGREES 21 MINUTES 54 SECONDS WEST ALONG SAID PROPOSED RIGHT OF WAY LINE A DISTANCE OF 50.07 FEET TO A POINT ON THE SOUTH LINE OF LOT 11, BLOCK 12, ROSE HILL ADDITION, THENCE NORTH 86 DEGREES 44 MINUTES 29 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 5.38 FEET TO THE POINT OF BEGINNING

(3) DESCRIPTION OF REQUEST

(a) This lot consists of a 1350 Square foot Main Home. The main home has 3 bedrooms and 2 bathrooms along with a kitchen and living area. In addition to the main home, the Lot contains a 1 bedroom 1 Bathroom Studio Accessory Structure that I have connected to the Main home via wooden deck. The entire Property functions as a 4 Bedroom 3 Bath Residence.

(b) See Attached Elevations

(c) There is enough parking for 7 vehicles to park on existing dedicated surface. No parking will be allowed in the grass.

(d) NOT APPLICABLE

(e) Outdoor Lighting consists of Security Lighting at the main entrances and low voltage Italian String Lights when desired.

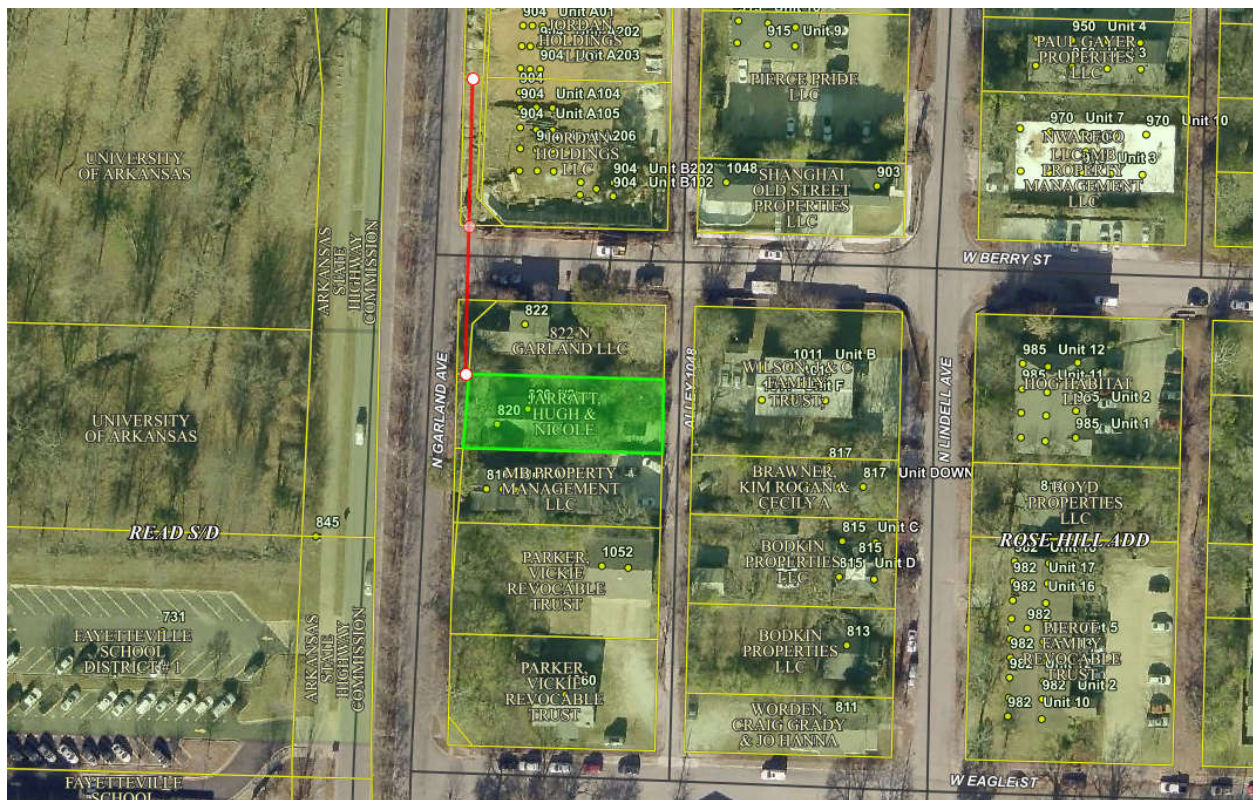
(f) This area is very active and this request will not add any increase in activity or noise.

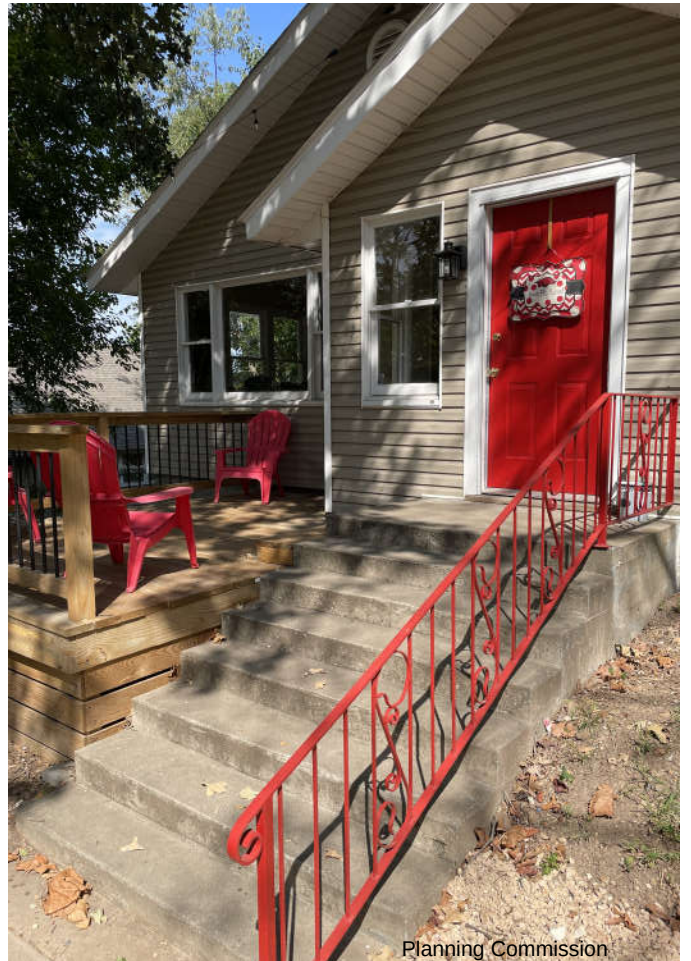
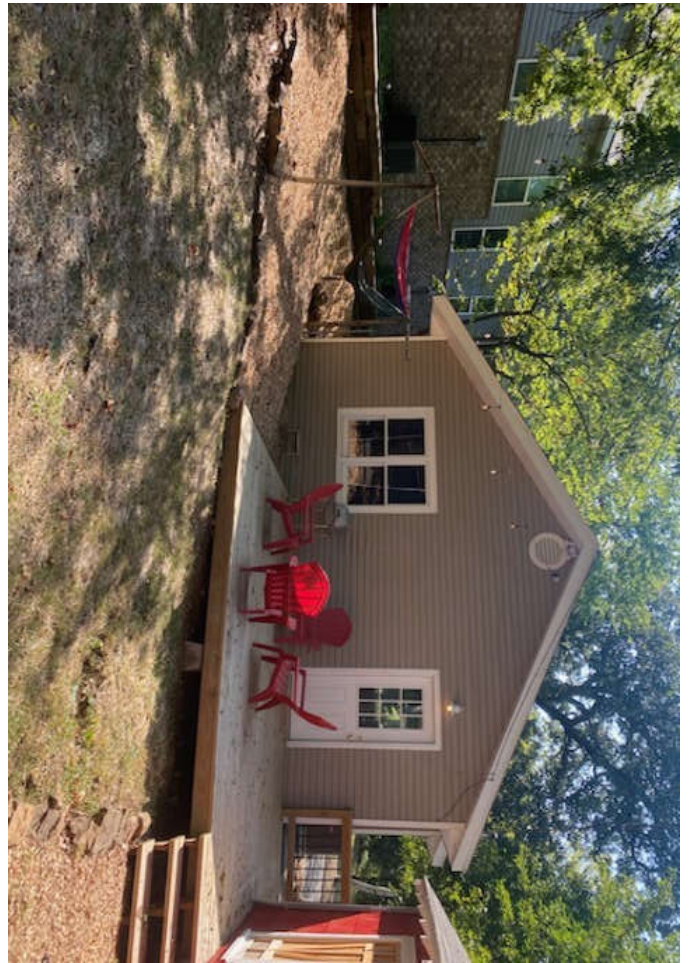
(g) The layout of the property provides privacy for neighboring homes. Both neighbors do not have much visibility to this property.

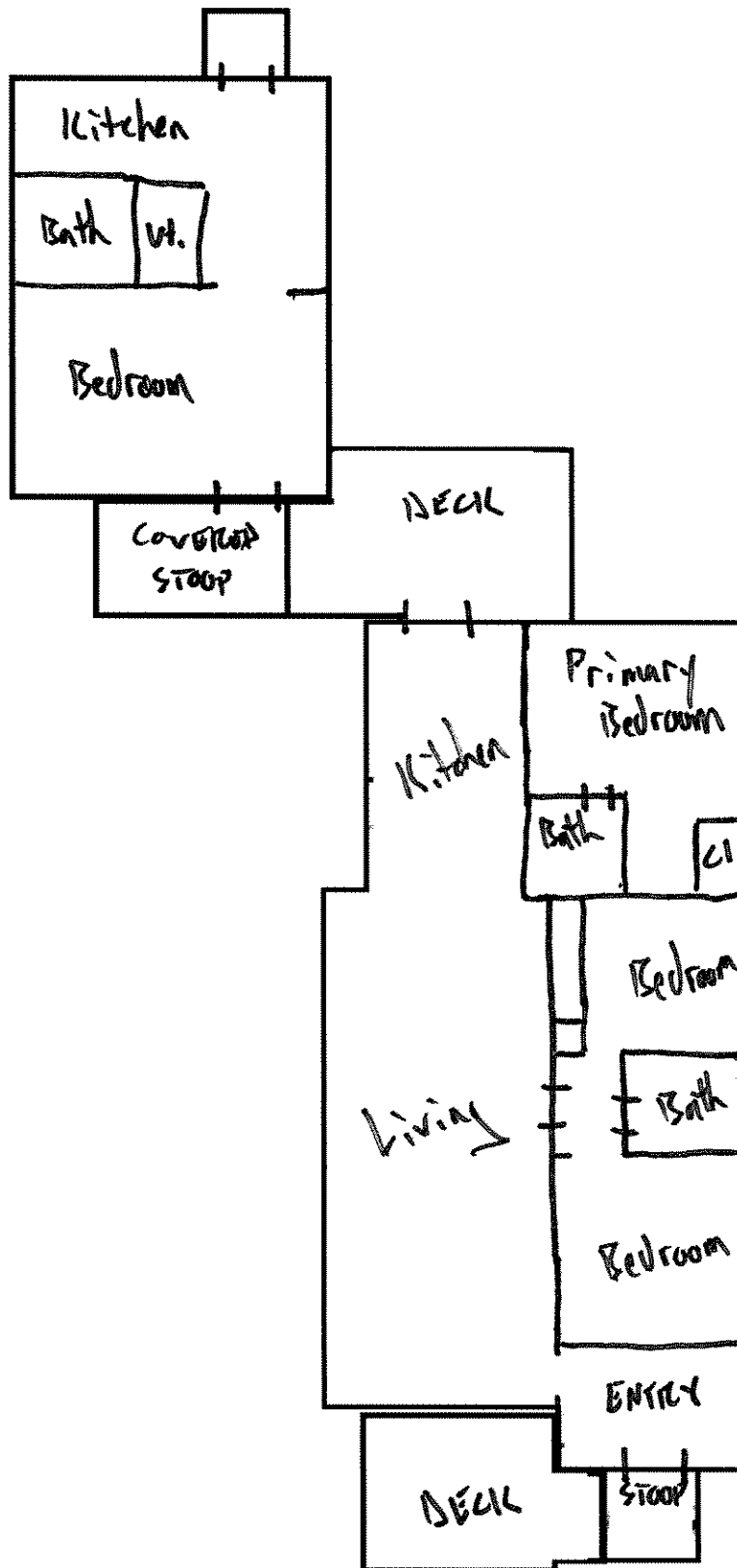
(h) City of Fayetteville Trash services this property.

(i) This property access Garland Avenue as well as an alley along the rear of the property. The quantity of existing dedicated parking and ease of circulation on Garland as well as surrounding access roads such as Berry and Eagle make ingress and egress easy.

(j) A Short Term Rental will be extremely compatible with existing uses in the area. All of the neighboring properties are rentals or short term rentals now. This use will fit the character of the neighborhood.









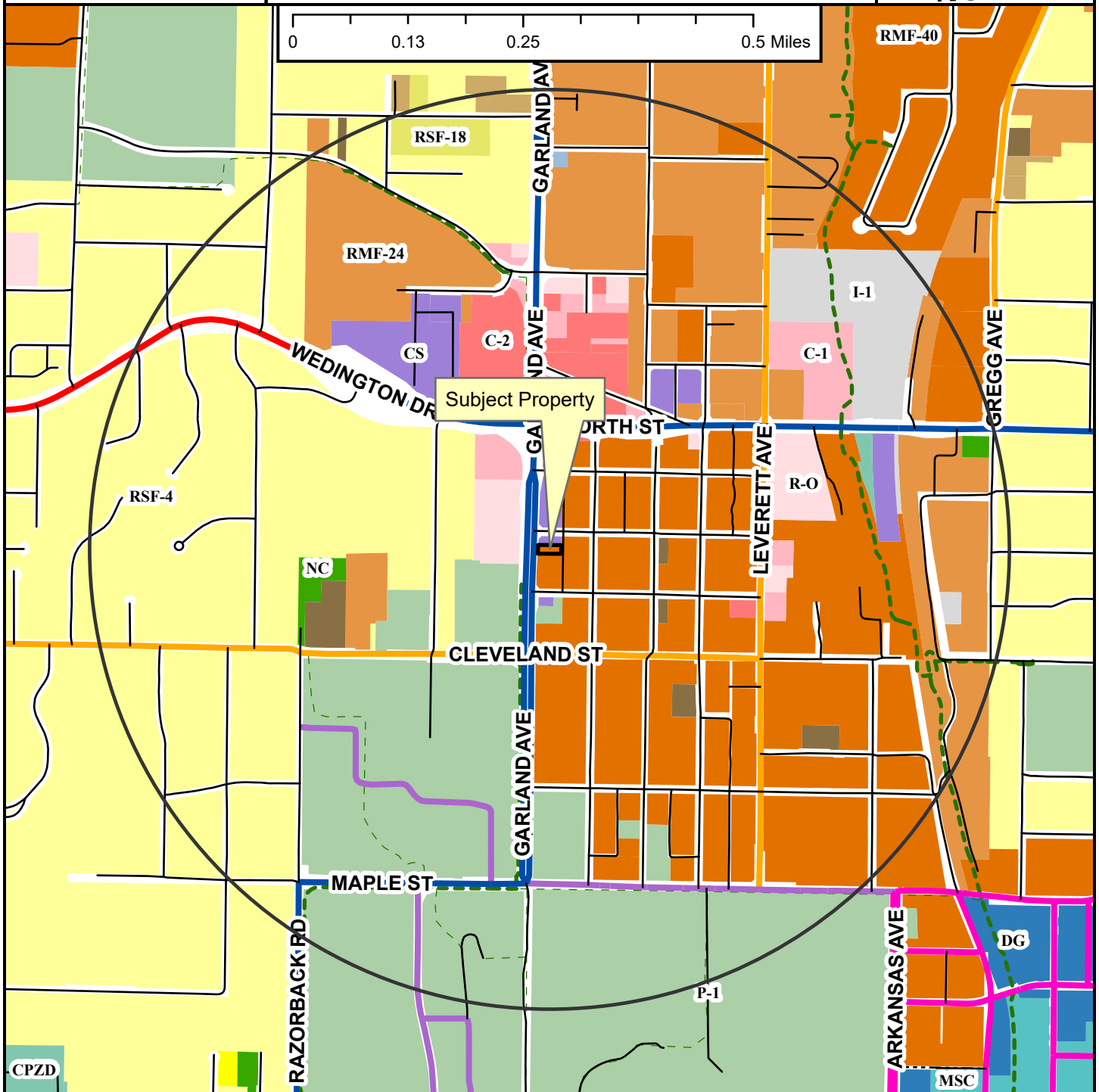
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820 N. GARLAND AVE.

One Mile View

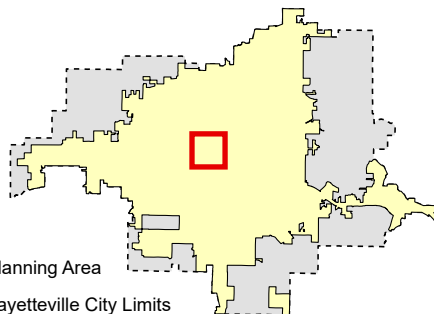


0 0.13 0.25 0.5 Miles



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

Planning Area
Fayetteville City Limits

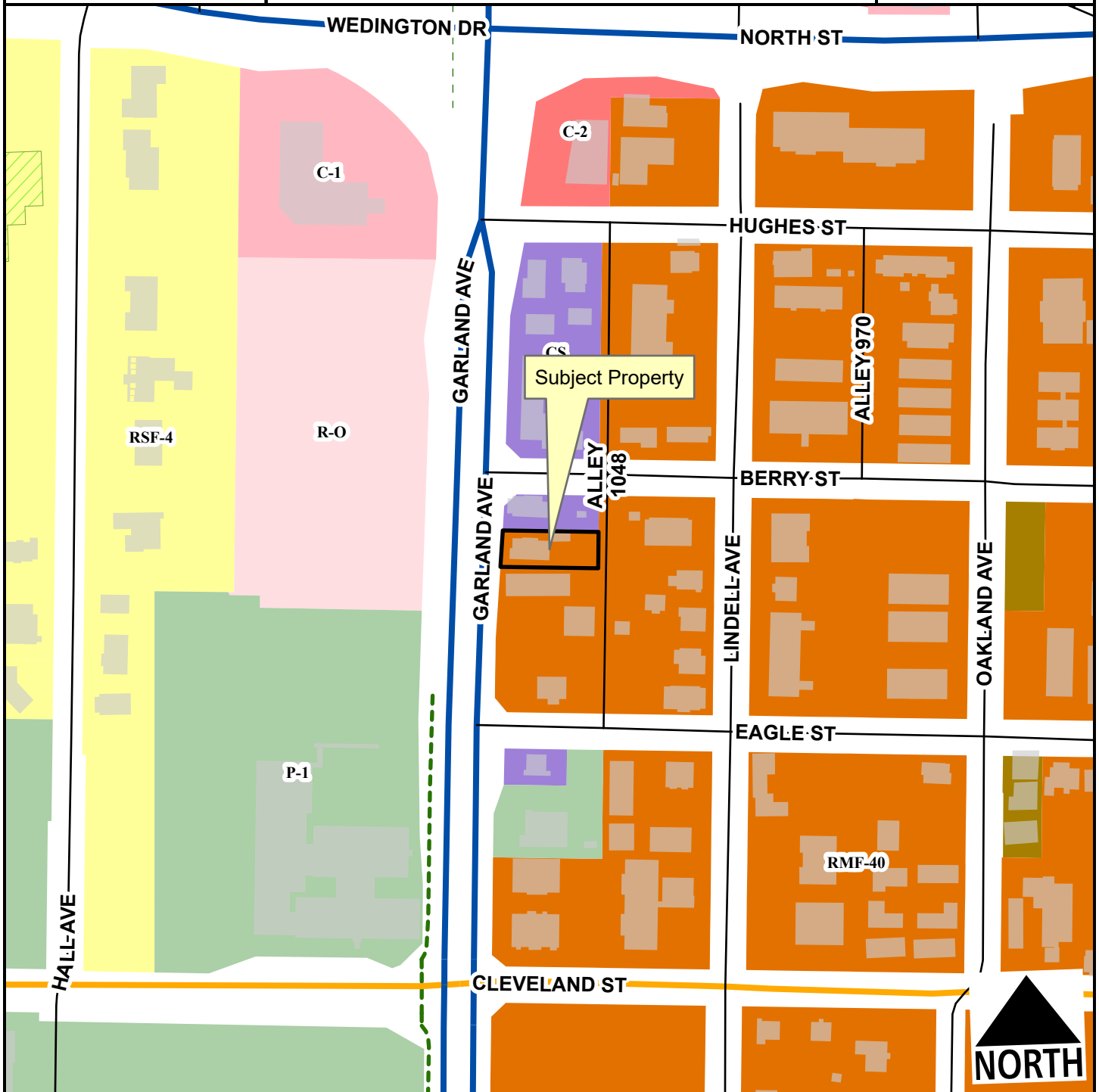


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RH-U
 - RH-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial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

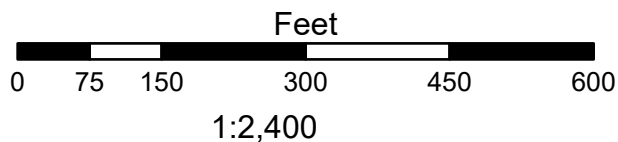
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820 N. GARLAND AVE.

Close Up View



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

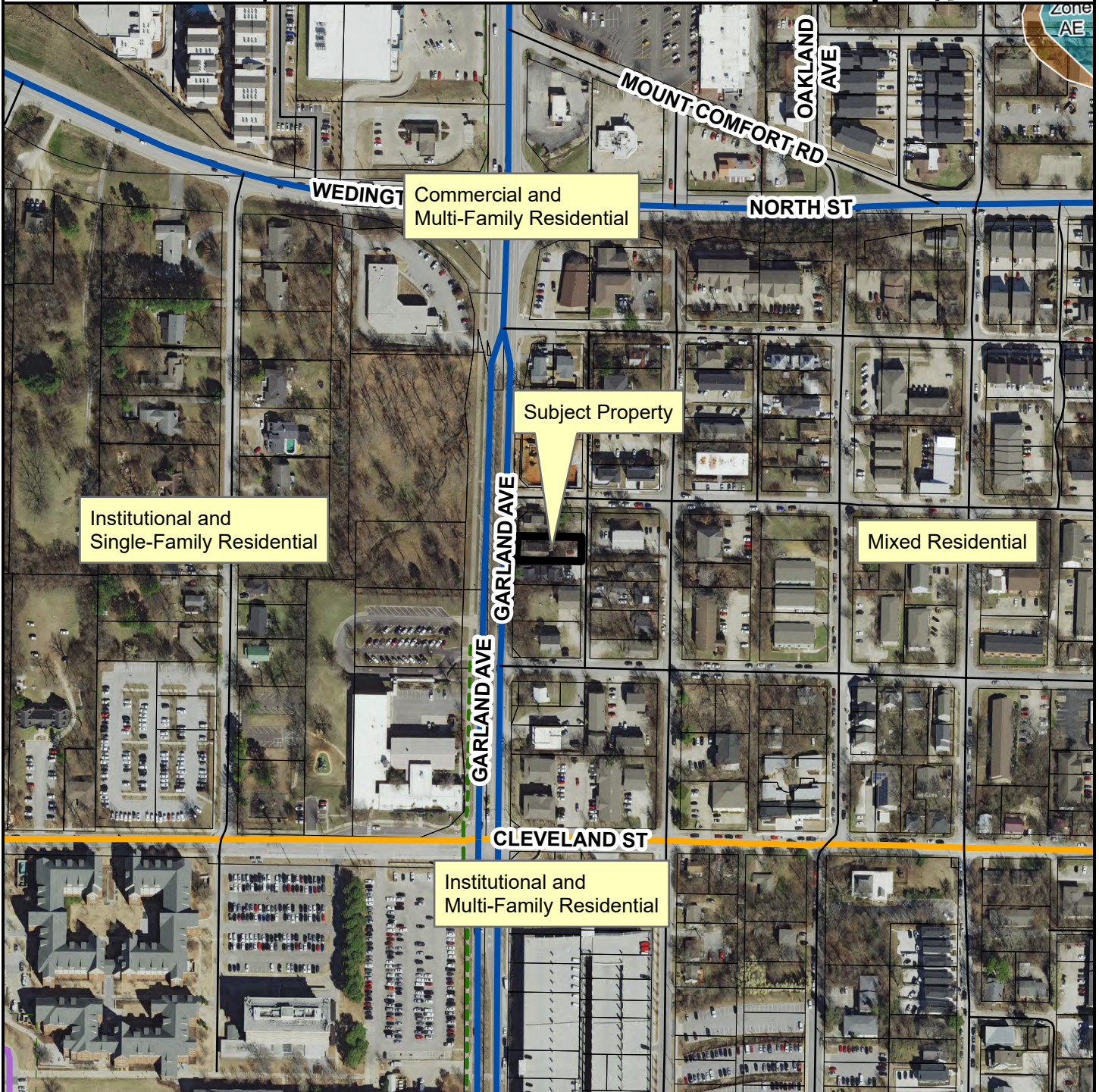


- RSF-4
- RI-U
- RMF-40
- Residential-Office
- C-1
- C-2
- Community Services
- P-1

CUP-2023-0140

820 N. GARLAND AVE.

Current Land Use



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



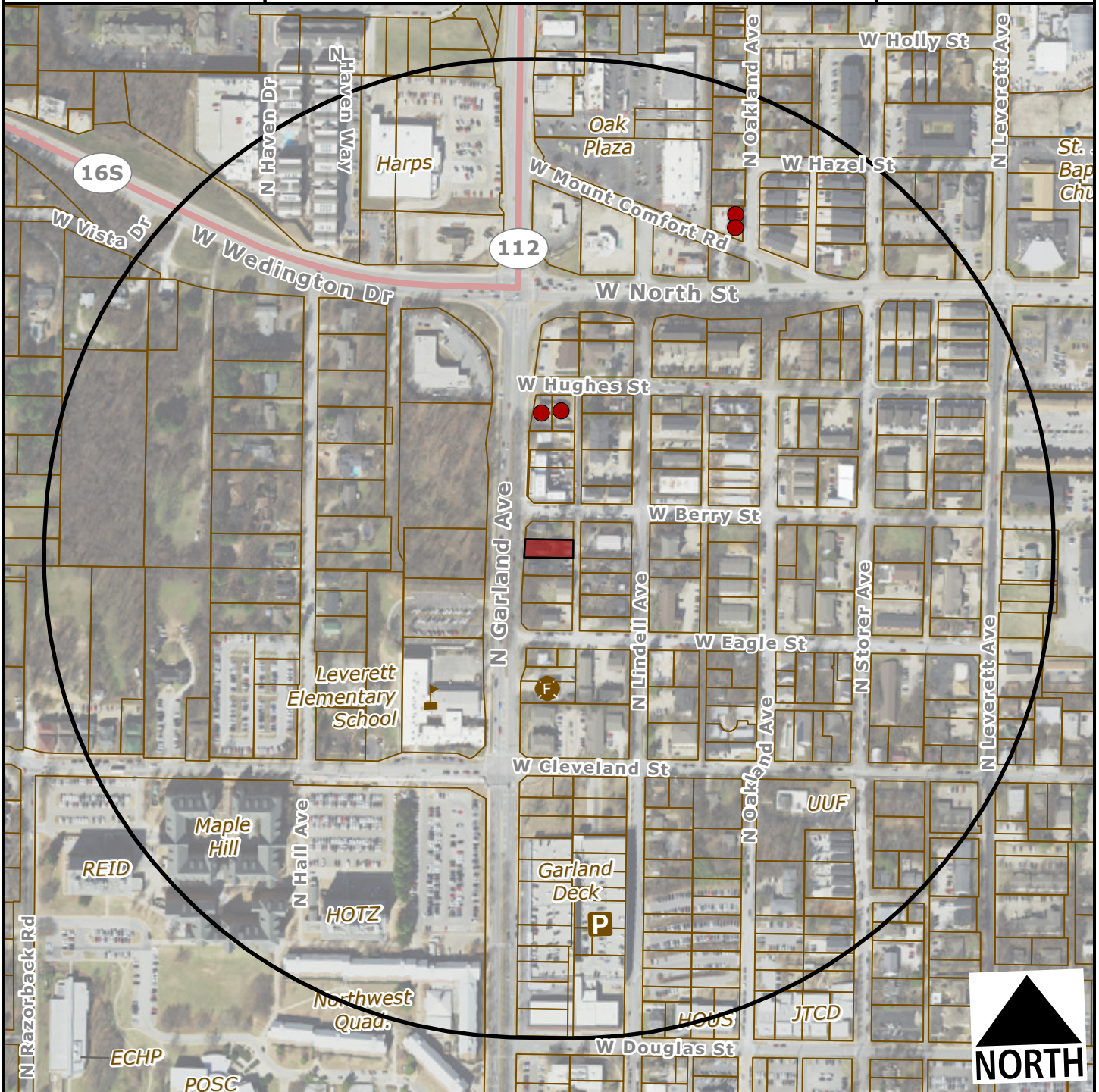
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

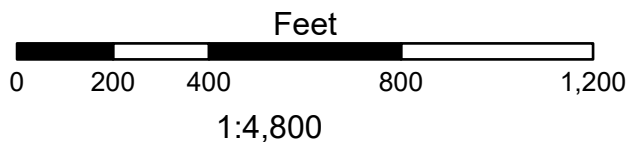
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820 N. GARLAND AVE.

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 4

Occupiable
Residential
Addresses
(Estimated
Housing Units): 608