

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Wednesday, November 22, 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 November 13, 2023 Planning Commission. - Mirinda Hopkins, Development Coordinator

2. ADM-2023-0045: Administrative Item (3855 W. WEIR RD/BUFFINGTON WEIR LLC, 244):

Submitted by BUFFINGTON HOMES for property located at 3855 W. WEIR RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and NC, NEIGHBORHOOD CONSERVATION and contains approximately 24.26 acres. The request is to extend a previously approved preliminary plat. - Kylee Hevrdejs, Planner

Unfinished Business**3. RZN-2023-0027: Rezoning (1272 N. 59TH AVE/DICKSON STREET CAPITAL LLC, 397):**

Submitted by REED LYNCH for property located at 1272 N. 59TH AVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80 acres. The request is to rezone the property to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE.

THIS ITEM WAS TABLED AT THE NOVEMBER 13, 2023 PLANNING COMMISSION MEETING. - Donna Wonsower, Planner

New Business**4. ADM-2023-0046: Administrative Item (507 S. CHURCH AVE/CHURCH & LOCUST TOWNHOMES, 523):**

Submitted by EARTHPLAN DESIGN ALTERNATIVES for property located at 507 S. CHURCH AVE. The property is zoned DG, DOWNTOWN GENERAL and RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 0.65 acres. The request is to amend the master street plan classification. - Gretchen Harrison, Senior Planner

5. VAR-2023-0049: Planning Commission Variance (507 S. CHURCH AVE/CHURCH & LOCUST TOWNHOMES, 523):

Submitted by EDA for property located at 507 S. CHURCH AVE. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 0.16 acres. The request for a variance to allow a 6.5-foot-wide sidewalk within alley right-of-way. - Gretchen Harrison, Senior Planner

6. VAR-2023-0050: Planning Commission Variance (1301 N. GREGG AVE/1301 N. GREGG, 405):

Submitted by ECOLOGICAL DESIGN GROUP for property located at 1301 N. GREGG AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY UNITS PER ACRE and contains approximately 4.47 acres. The request is for a variance to the urban residential design standards and parking lot design standards. - Donna Wonsower, Planner

7. LSD-2023-0018: Large Scale Development (W. MARTIN LUTHER KING JR BLVD & S. SMOKEHOUSE TRL/SWEET BAY AT KESSLER, 595):

Submitted by GAVIN SMITH for property located SOUTHEAST OF W. MARTIN LUTHER KING JR BLVD & S. SMOKEHOUSE TRL. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and UT, URBAN THOROUGHFARE and contains approximately 5.61 acres. The request is for a residential development containing 26 single-family dwellings and associated parking. - Jessica Masters, Development Review Manager

8. CUP-2023-0163: Conditional Use Permit (1811 S. FINGER RD/GEOPFERT, 596):

Submitted by KIMLEY-HORN for property located at 1811 S. FINGER RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 7.41 acres. The request is for a campground in R-A zoning. - Kylee Hevrdejs, Planner

9. CUP-2023-0154: Conditional Use Permit (665 N. GRAY AVE/MCKEE PROPERTIES LLC, 443):

Submitted by MCKEE PROPERTIES LLC for property located at 665 N. GRAY AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.10 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

10. CUP-2023-0157: Conditional Use Permit (725 N. LEWIS AVE/WATKINS, 442):

Submitted by GWEN WATKINS for property located at 725 N. LEWIS AVE. 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. - Donna Wonsower, Planner

11. CUP-2023-0155: Conditional Use Permit (772 S. STADIUM DR, UNIT 1/264 STADIUM DRIVE LLC, 561):

Submitted by KATY GARNER for property located at 772 S. STADIUM DR, UNIT 1. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR UNITS PER ACRE and contains approximately 0.60 acres. The request is to use the residence as a short-term rental. - Kylee Hevrdejs, Planner

12. CUP-2023-0160: Conditional Use Permit (1195 S. LYNDON XING/CHANEY, 555):

Submitted by KATHRYN TIPTON for property located at 1195 S. LYNDON XING. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.15 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

13. CUP-2023-0161: Conditional Use Permit (1910 W. LAWSON ST/SMITH, 403):

Submitted by DEIRDRE SMITH for property located at 1910 W. LAWSON 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. - Gretchen Harrison, Senior Planner

14. CUP-2023-0162: Conditional Use Permit (2679 N. OLD WIRE RD/HARRIS, 292):

Submitted by SHANNON HARRIS for property located at 2679 N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

Items Administratively Approved by Staff

15. LSP-2023-0049: Lot Split (WEST OF 3783 N. CRIS HOLLOW RD/JOHNSON, 169):

Submitted by BLEW & ASSOCIATES for property located WEST OF 3783 N. CRIS HOLLOW RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 2.30 acres. The request is to subdivide the property into two lots containing 1.01 and 1.29 acres. - Gretchen Harrison, Senior Planner

16. LSP-2023-0057: Lot Split (749 W. CATO SPRINGS RD/PAZ, 639):

Submitted by ALAN REID & ASSOCIATES for property located at 749 W. CATO SPRINGS RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 8.74 acres. The request is to subdivide the property into two lots containing 3.41 and 5.33 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, 11/13/2023				
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 Marshal/Andrew Horton ☐ Chris Brown ☒ Alan Pugh					
	Roll Call	1) Minutes 10-23-2023	2) VAR-2023-0047 (JOHNSON)	3) VAR-2023-0048 (WORTHINGTON)	4) CCP-2023-0003 (KNOX)	5) LSD-2023-0017 (FOREST HILLS RETAIL CENTER)
Garlock	1	1	1	1	1	1
Madden	1	1	1	1	1	1
Payne	1	1	1	1	1	1
Gulley	1	1	1	1	1	1
Holcomb	1	1	1	1	1	1
Winston	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Sparkman	1	1	1	1	1	1
Brink	1	1	1	1	1	1
Agenda		Consent	Consent	Consent	Consent	Consent
Motion By		Garlock	Garlock	Garlock	Garlock	Garlock
Motion 2nd		Gulley	Gulley	Gulley	Gulley	Gulley
Vote		Approve	Approve	Approve	Approve	Approve
Action		9-0-0	9-0-0	9-0-0	9-0-0	9-0-0
Time		5:34 PM	5:34 PM	5:34 PM	5:34 PM	5:34 PM
Motion Detail						
Public Comment						

(pg. 2) Planning Commission		Monday, 11/13/2023			
	6) ADM-2023-0041 (WANG)	7) ADM-2023-0043 (FLEMING)	8) CUP-2023-0141 (CITY OF FAYETTEVILLE)	9) CUP-2023-0145 (MEADOWVIEW SENIOR LIVING)	10) CUP-2023-0153 (KUBALD VENTURES LLC)
Garlock	1	1	1	1	1
Madden	1	1	1	1	1
Payne	1	1	0	1	0
Gulley	1	1	1	1	1
Holcomb	1	1	1	1	1
Winston	1	1	1	1	1
McGetrick	1	1	1	1	1
Sparkman	1	1	1	1	1
Brink	1	1	0	1	1
Agenda	New	New	New	New	New
Motion By	Garlock	Payne	Garlock	Garlock	Winston
Motion 2nd	Gulley	Winston	Gulley	McGetrick	Sparkman
Vote	9-0-0	9-0-0	7-2-0	9-0-0	8-1-0
Action	Table	Approve	Table	Approve	Approve
Time	5:48 PM	5:53 PM	6:47 PM	7:00 PM	7:15 PM
Motion Detail	Untill the January 8, 2024 PC meeting.	With all conditions as recommended by staff.	Untill the December 11, 2023 PC meeting.	With all conditions as recommended by staff.	With all conditions as recommended by staff.
Public Comment	3	0	1	0	0

(pg. 3) Planning Commission			Monday, 11/13/2023			
	11) CUP-2023-0138 (PROPERTY HOLDINGS LLC)	12) CCP-2023-0002 (MCDONALD BUILDING GROUP)	13) RZN-2023-0027 (DICKSON STREET CAPITAL LLC)		14) RZN-2023-0029 (BRICENO)	15) RZN-2023-0031 (MB PROPERTY MANAGEMENT)
Garlock	1	0		1	1	0
Madden	1	0		1	1	0
Payne	0	0		1	1	0
Gulley	1	0		1	1	0
Holcomb	1	0		1	1	1
Winston	1	0		1	1	1
McGetrick	1	0		1	1	1
Sparkman	1	1		1	1	0
Brink	1	1		1	1	1
Agenda	New	New	New		New	New
Motion By	Gulley	Sparkman	Sparkman	Winston	Winston	Sparkman
Motion 2nd	Winston	Gulley	Brink	Garlock	Brink	Winston
Vote	8-1-0	2-7-0	Superseded	8-0-0	9-0-0	4-5-0
Action	Approve	Approve	Forward	Table	Forward	Forward
Time	7:28 PM	7:48 PM		8:04 PM	8:21 PM	8:49 PM
Motion Detail	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With a recommendation of approval.	Until the November 27, 2023 PC meeting.	To City Council with a recommendation of approval.	With a recommendation of approval.
Public Comment	1	2	2		0	0

(pg. 4) Planning Commission			Monday, 11/13/2023		
	16) CUP-2023-0103 (BUCKLEY)	17) CUP-2023-0143 (PERFECT PEACE HOMES LLC)	18) CUP-2023-0144 (BOYKIN)	19) CUP-2023-0152 (HARRIMAN)	20) CUP-2023-0131 (LYNCH)
Garlock	1	1	1	1	1
Madden	1	1	1	1	1
Payne	1	1	0	1	1
Gulley	1	1	1	1	1
Holcomb	1	1	1	1	1
Winston	1	1	1	1	1
McGetrick					
Sparkman	1	1	1	1	1
Brink	1	1	0	1	1
Agenda	New	New	New	New	New
Motion By	Payne	Madden	Garlock	Payne	Sparkman
Motion 2nd	Madden	Sparkman	Gulley	Garlock	Winston
Vote	8-0-0	8-0-0	6-2-0	8-0-0	8-0-0
Action	Approve	Deny	Deny	Approve	Approve
Time	9:08 PM	9:21 PM	9:34 PM	9:39 PM	9:42 PM
Motion Detail	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.
Public Comment	1	1	1	1	1

(pg. 5) Planning Commission		Monday, 11/13/2023				
	21) CUP-2023-0146 (BROADAWAY)	22) CUP-2023-0148 (TRUMBO)		23) CUP-2023-0149 (TRUMBO)	24) CUP-2023-0139 (HANNAHS)	25) CUP-2023-0147 (MADMOR PROPERTIES LLC)
Garlock	1	0	1	1	1	1
Madden	1	1	1	1	1	1
Payne	1	0	1	1	1	1
Gulley	1	1	1	1	1	1
Holcomb	1	1	1	1	1	1
Winston	1	1	1	1	1	1
McGetrick						
Sparkman	1	0	1	1	1	1
Brink	1	0	1	1	1	1
Agenda	New	New		New	New	New
Motion By	Madden	Winston	Sparkman	Gulley	Sparkman	Payne
Motion 2nd	Payne	Holcomb	Garlock	Winston	Brink	Madden
Vote	8-0-0	4-4-0	8-0-0	8-0-0	8-0-0	8-0-0
Action	Approve	Amend	Approve	Approve	Approve	Approve
Time	9:48 PM	10:04 PM	10:05 PM	10:10 PM	10:12 PM	10:17 PM
Motion Detail	With all conditions as recommended by staff, with the exception of condition #4 which originally limited occupancy to 6. Occupancy shall be limited to a maximum of 8 people.	Motion to allow maximum occupancy of 8 guests. Failed for lack of majority.	With all conditions as recommended by staff, and a condition limiting occupancy to a maximum of 6 guests.	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.
Public Comment	0	1		1	0	0

(pg. 6) Planning Commission		Monday, 11/13/2023			
	26) CUP-2023-0150 (APPLE LILY MANAGEMENT)	27) CUP-2023-0151 (REINHARDT)			
Garlock	1	1			
Madden	1	1			
Payne	1	1			
Gulley	1	1			
Holcomb	1	1			
Winston	1	1			
McGetrick					
Sparkman	1	1			
Brink	1	1			
Agenda	New	New			
Motion By	Madden	Gulley			
Motion 2nd	Gulley	Winston			
Vote	8-0-0	8-0-0			
Action	Approve	Approve			
Time	10:21 PM	10:27 PM			
Motion Detail	With all conditions as recommended by staff.	With all conditions as recommended by staff.			
Public Comment	0	1			



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: November 27, 2023

SUBJECT: **ADM-2023-0045: Administrative Item (3855 W. WEIR RD./Magnolia Park Ph. 3 & 4, 244):** Submitted by BUFFINGTON HOMES for properties located at 3855 W. WEIR RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and NC, NEIGHBORHOOD CONSERVATION and contains approximately 24.26 acres. The request is to extend a previously approved preliminary plat.

RECOMMENDATION:

Staff recommends approval of **ADM-2023-0045**.

RECOMMENDED MOTION:

*"I move to approve **ADM-2023-0045** with conditions as recommended by staff."*

BACKGROUND:

The subject property is located at the north end of Ruppel Road in northwest Fayetteville and contains approximately 24.26 acres. In late 2018, the City Council approved ordinances to annex the property and rezone it to a mixture of RSF-4, Residential Single-family, 4 Units per Acre and NC, Neighborhood Conservation. A preliminary plat of Phases 1 through 4 of the Magnolia Park subdivision was previously approved by the Planning Commission in March of 2019. However, the entitlement expired prior to the developer receiving the requisite grading permits for Phases 3 and 4. Another preliminary plat for Phases 3 and 4 was approved by the Planning Commission in November of 2021 (PPL-2021-000018). In May of 2023, which was the deadline for the 18-month administrative extension deadline, the Planning Commission approved a one-year extension to the preliminary plat which expired on November 8, 2023 (ADM-2023-0013). Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Rural Residential	Washington County – Ag/SF Res 1 Unit/Acre
South	Single-Family Residential	RSF-4, Residential Single-family, 4 Units per Acre; NC, Neighborhood Conservation;
East	Single-Family Residential	Washington County – Ag/SF Res 1 Unit/Acre; NS-G, Neighborhood Services – General
West	Single-Family Residential	Washington County – Ag/SF Res 1 Unit/Acre

Request: The applicant is requesting a one-year extension to their preliminary plat which expired on November 8, 2023. The applicant submitted a letter requesting the extension on October 25,

2023. Staff received notification from the applicant to extend their preliminary plat approval within the two-year time limit that they are allotted per UDC §166.20.

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

DISCUSSION:

Staff recommends approval of the applicant's extension request. The request was received before November 8, 2023, which is the deadline for the applicant to request that the Planning Commission extend their approval for up to one additional year. The applicant submitted for grading permit in January of 2022 but has been unable to secure a permit after six rounds of review. The extreme topography on site has made development difficult, though the applicant has been working with the City Engineer to find solutions that meet city regulations. Staff finds that the applicant is close to addressing all remaining comments and finds that approval of the requested extension will allow the project to continue moving forward.

RECOMMENDATION: Staff recommends approval of **ADM-2023-0045** with the following conditions:

Conditions of Approval:

1. A one-year extension for PPL-2021-000018 will expire on November 8, 2024;
2. All other conditions of the associated preliminary plat (PPL-2021-000018) not affected by this extension shall remain in effect; and
3. Approval of this preliminary plat extension does not constitute approval of associated permits or entitlements not fully reviewed at this time.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>November 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §166.20 Expiration of Approved Plans and Permits
- PPL-2021-000018 Conditions of Approval
- Applicant Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.20 Expiration Of Approved Plans And Permits

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

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

(B) Time Limit.

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

(C) Three (3) Year Time Limit.

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

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

PPL-2021-000018 Conditions of Approval

1. Planning Commission determination of street improvements:
 - a. *Staff recommends that the internal streets be improved to the Master Street Plan standards for a Residential Link Street with a two-foot right-of-way reduction to allow for five-foot sidewalks. Staff also requests that the property's Weir Road frontage be improved in accordance with the Master Street Plan standards for a Residential Link street with 26 feet of right-of-way dedication from centerline. External and internal streets should be improved with 6-foot greenspace, streetlights, and street trees. If approved, the reduced right-of-way will proceed to City Council for consideration.*
2. Planning Commission determination of requested variances:
 - a. §166.08(D)(5) - All street requirements shall be met as set forth in the City of Fayetteville Master Street Plan and adopted minimum street standards. *Staff partially recommends in favor of this request. Staff is supportive of the variance to reduce the right-of-way dedication for the internal streets to allow for five-foot sidewalks. Staff is not supportive of the Subdivision Committee's request to utilize the Alternative Residential Link Street Section, as it poses concerns for pedestrian and vehicular connectivity and safety.*
3. Parks fees are required in the amount of \$55,539.00 in-lieu of parkland dedication for 51 single-family lots. The final amount needed to satisfy this requirement will be determined after the Planning Commission's approval of the final plat. Fee-in-lieu must be paid at the time of final plat approval.
4. Streetlights shall be installed in accordance with code at all street intersections and spaced no greater than 300 feet apart;
5. Conditions of approval from Engineering, Urban Forestry, and Parks Department are included in the official conditions of approval;
6. The following revision(s) shall be made:
 - a. Update the building setback dimension for lots 125-135. The setback should be aligned with the zoning district boundary.

Standard conditions of approval:

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



2826 E. Joyce Blvd Ste. 1, Fayetteville, AR 72703 Phone: 479-251-1106

From: Mary McGetrick <mary.mcgetrick@buffingtonhomesar.com>

Sent: October 25th, 2023

To: Jessie Masters

Cc: Mary McGetrick <mary.mcgetrick@buffingtonhomesar.com>

Subject: Prelim Plat Ext. Magnolia Park Ph 3 & 4

Jessie,

Please let this be a request to extend the preliminary plat approval for Ph 3 and 4 in the Magnolia Park subdivision issued by Planning Commission on 5/3/2022. The extension is requested due to the following reasons;

There is extreme topography on site which once construction plans were created made development extremely difficult. Buffington Homes has worked with the City engineer to find solutions to the topography issues while meeting the requirements of the City of Fayetteville subdivision Design regulations. This approval process has taken over a year with multiple plan revisions and submittals. The final construction plan set is approved. We intend to pull a grading permit on or before Jan 1st 2024.

Please let me know if you need any additional information.

Thank you,

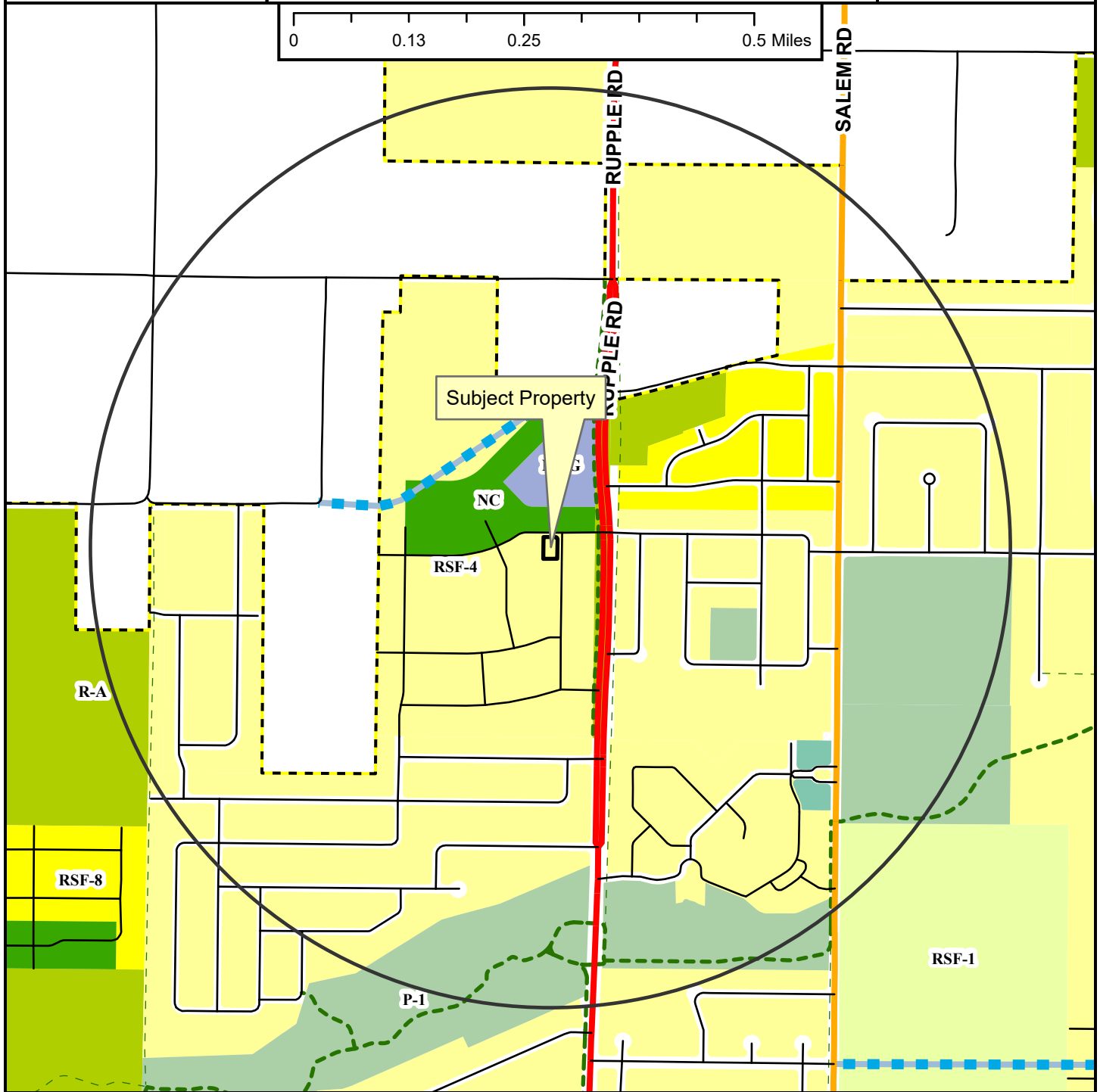
Mary McGetrick

Mary McGetrick

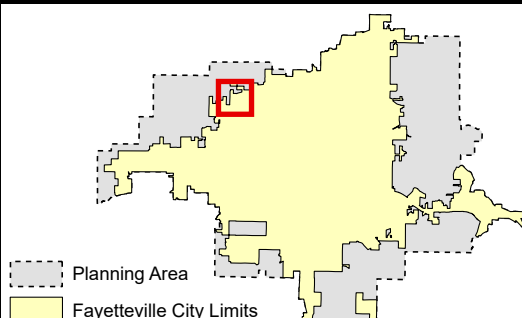




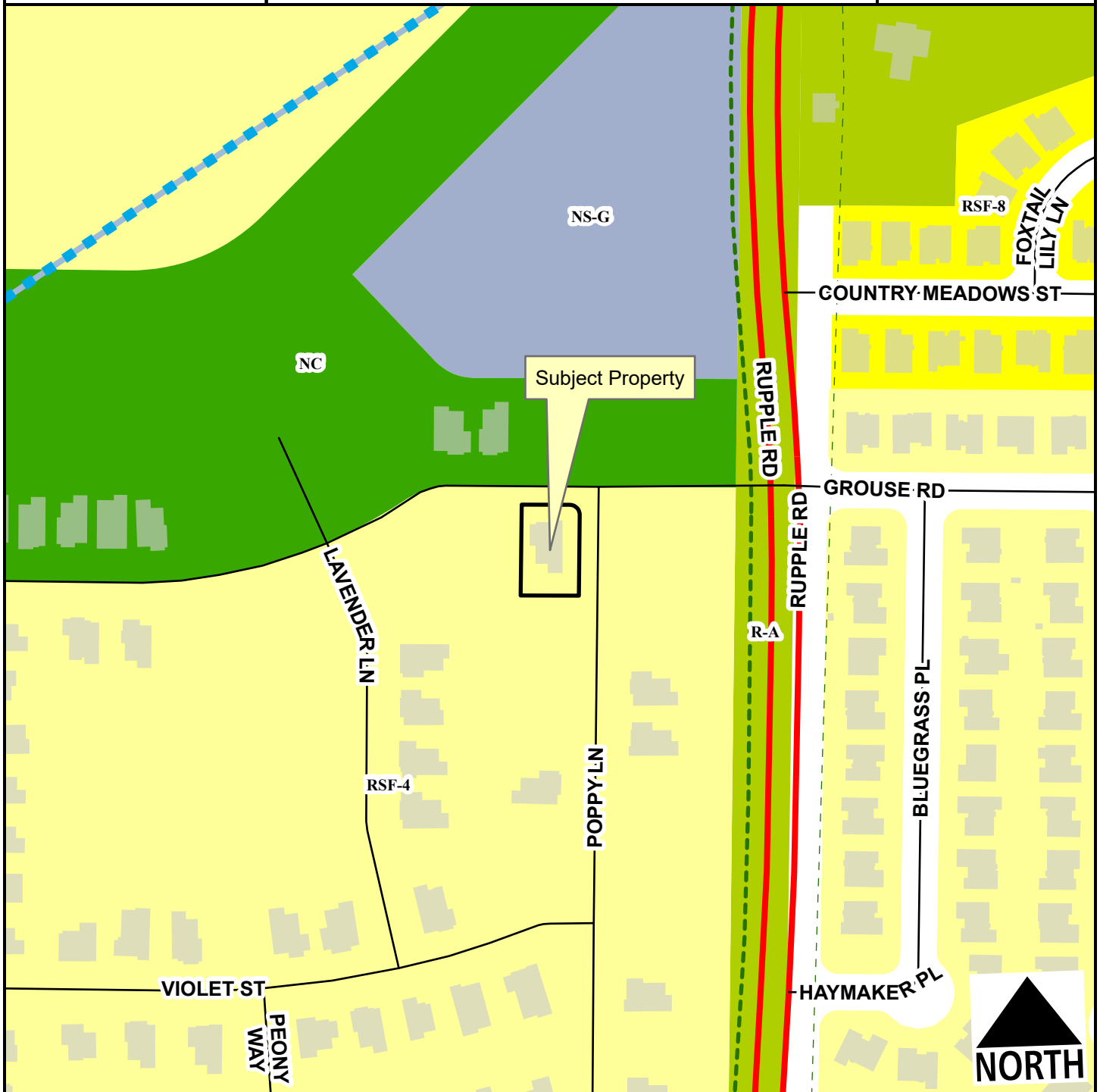
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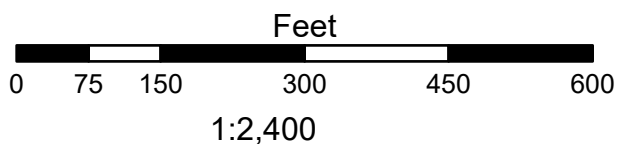
- Regional Link
- Neighborhood Link
- Unclassified
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- - - Trail (Proposed)
- Fayetteville City Limits
- Planning Area



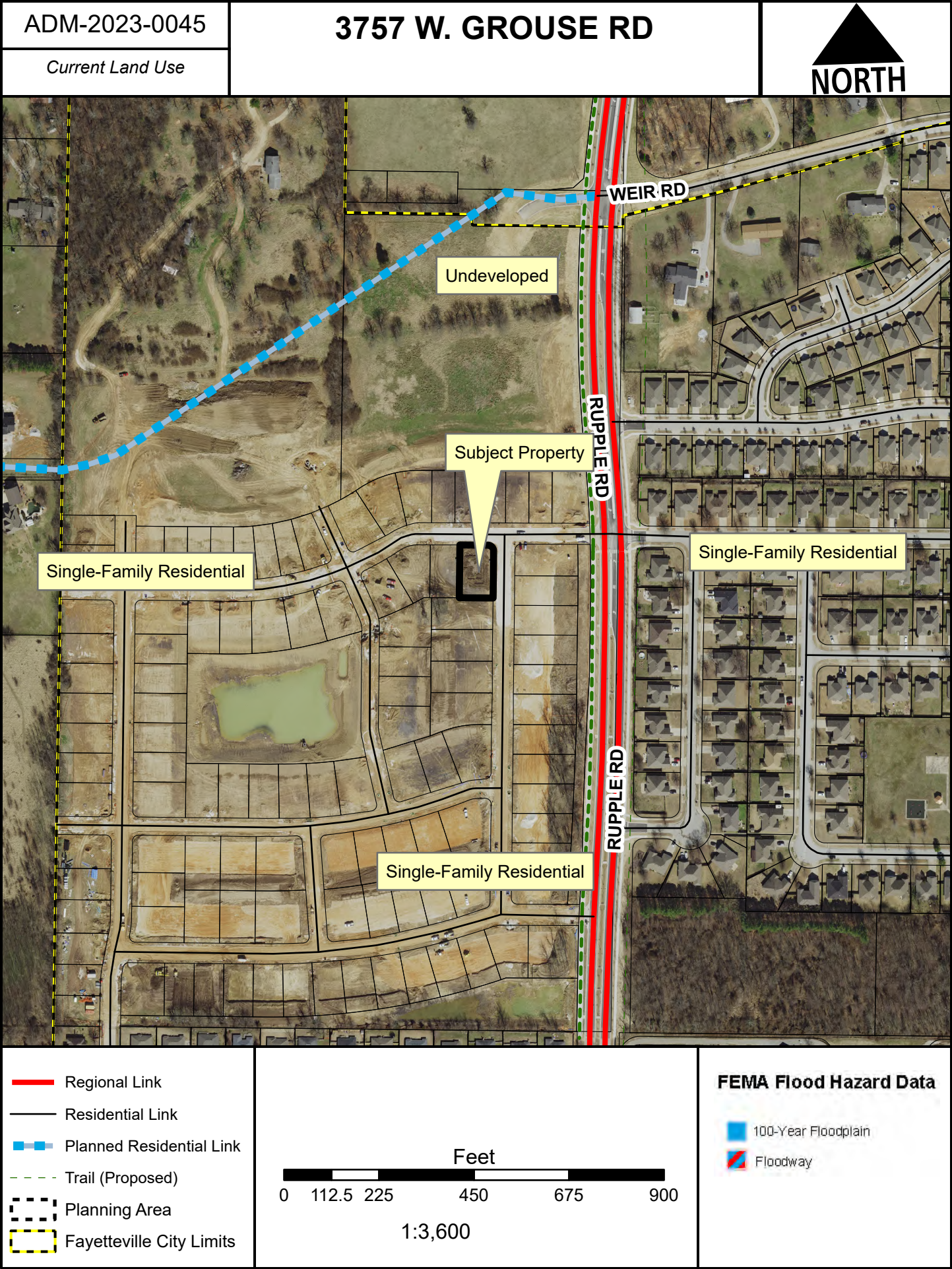
- | | |
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| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> NS-G RI-U RI-12 NS-L Residential-Agricultural RSF-5 RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> 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 |
|--|---|



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



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





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: November 27, 2023

SUBJECT: **RZN-2023-0027: Rezoning (1272 N. 59TH AVE./DICKSON STREET CAPITAL, LLC., 397):** Submitted by REED LYNCH for property located at 1272 N. 59TH AVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.80 acres. The request is to rezone the property to RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0027** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0027** to City Council with a recommendation of approval."*

NOVEMBER 13, 2023 PLANNING COMMISSION MEETING

This item was tabled at the November 13, 2023 Planning commission meeting on the applicant's request. No change has been made to the requested rezoning in the interim.

BACKGROUND:

The subject property is located in west Fayetteville on the east side of N. 59th Ave about an eighth of a mile north of the street's intersection with W. Wedington Dr. The property also has direct frontage onto W. Luna St. to the east and totals 0.80 acres. The parcel is developed with a 1,576 square foot single-family structure built in 1961 per Washington County records. The parcel is zoned R-A, Residential-Agricultural, which it received as a result of its annexation into the City of Fayetteville in 2006. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
South	Single-Family Residential	R-A, Residential-Agricultural
East	Single-Family Residential	Public Right-of-Way (W. Luna St.) RSF-4, Residential Single-Family, Four Units per Acre
West	Agricultural / Single-Family Residential	R-A, Residential-Agricultural

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RI-12, Residential Intermediate, Twelve Units per Acre.

Public Comment: Prior to the November 13 planning commission meeting, staff received one phone call from a neighbor inquiring about potential development but no comments specifically in support or opposition to the request. At the public hearing, two neighbors spoke in opposition to the project, citing concerns about compatibility with the rural nature of the neighborhood, narrow streets and increased traffic, parking, potential building heights, and impact on existing trees.

INFRASTRUCTURE:

Streets: The subject property has frontage along N. 59th Ave, a partially improved Residential Link street with asphalt paving and open ditches, and it has frontage along W. Luna St., a fully improved Residential Link street with asphalt paving, curb, gutter, and sidewalk. Any street improvements required in this area would be determined at the time of development proposal.

Water: Public water is available to the subject property. An existing eight-inch water main is present on the east side of the subject property.

Sewer: Public sanitary sewer is available to the subject property. An existing eight-inch sewer main is present on the east side of the subject property.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District or a FEMA-designated floodplain and no protected streams or hydric soils are present. Any improvements or requirements for drainage would be determined at the time of development submittal.

Fire: Station 7, located at 835 N. Ruppel Rd., protects this site. The property is located approximately 1.9 miles from the fire station with an anticipated drive time of approximately four minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

Police: The Police Department did not comment on this request.

Tree Preservation:

The proposed zoning district of RI-12, Residential Intermediate, Twelve Units per Acre requires **20% minimum canopy preservation**. The current zoning district of R-A, Residential-Agricultural requires **25% minimum canopy preservation**.

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

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

conventional subdivision developments that may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment.

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

- Adequate Fire Response
- Near Sewer Main (8-inch main, Luna St.)
- Near Water Main (8-inch main, Luna St.)
- Near City Park (Bundrick Park, Harmony Pointe Park)
- Near Paved Trail (Wedington Side Path Trail)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** On the balance of considerations, staff finds the proposed rezoning from R-A to RI-12 to be somewhat compatible with the surrounding area. The intent of the RI-12 zoning district is to provide development potential between low density and medium density with less impact than medium density development, and to encourage the development of areas with existing public facilities with a greater variety of housing values. The parcel in question currently has non-conforming lot width and area within the R-A zoning district, and is located between large, agricultural properties to the south and west, and smaller residential properties to the east and north. Single-, two-, three-, and four-family dwellings are permitted by right in the RI-12 zoning district. All lots are required to maintain a variable minimum width of 50 or 90 feet with variable lot area requirements ranging from 5,000 square feet to 10,890 square feet dependent on use. The R-A district requires lot widths of 200 feet with lot areas of 2 acres. While rezoning a single parcel to RI-12 seems like a significant upzoning inconsistent with the lot widths and areas of the immediately surrounding zoning districts, a large neighborhood of RI-12 has been developed less than 1/8 of a mile to the east and staff finds that rezoning to an urban form based district could allow for the development of additional housing while potentially providing increased connectivity given the parcel's street connectivity to both the east and west. Staff finds the requested rezoning to be compatible since the size and location of the subject parcel appear to be better aligned with the spirit and intent of the RI-12 zoning district, and since the rezoning would allow a nonconforming lot to be brought into conformity. Further, staff finds that the requested rezoning is not likely to result in development that is incompatible with the surrounding area since the subject property is small and unlikely to be able to be developed to the full density permitted by ordinance.

Land Use Plan Analysis: Staff finds the proposed rezoning to be somewhat consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RI-12 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and form-based requirements while encouraging increased connectivity by promoting sufficient density to allow for the connection of

W. Luna St. to N. 59th Ave. While a similar rezoning on a larger property could potentially allow development that is out of sync with the surrounding neighborhood, staff finds that the requested rezoning could allow for the creation of missing middle housing that meets City Goals 1: We Will Make Appropriate Infill and Revitalization our Highest Priority, 4: We Will Grow a Livable Transportation Network, and 6: We Will Create Opportunities for Attainable Housing. Though the property has a relatively low infill score of 5, staff finds the requested rezoning to be relatively appropriate since it would bring the parcel into conformity while not allowing for development that is out of scale with the surrounding neighborhood.

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

Finding: Staff finds that rezoning the subject property to RI-12 is somewhat justified since it contains one parcel that does not currently comply with the bulk and area regulations of the underlying R-A zoning district.

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

Finding: A rezoning from R-A to RI-12 has the potential to increase traffic at this location when considering that RI-12 would allow for residential development at a greater density than the existing R-A zoning. However, staff finds that a rezoning is not likely to create or appreciably increase traffic danger or congestion given the relatively small size of the lot and the potential connection to two streets.

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

Finding: The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, staff finds that the proposed rezoning would not undesirably increase the load on public services. Fayetteville Public Schools did not comment on this request.

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

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0027 to City

Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>November 27, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.03 District R-A, Residential-Agricultural
 - §161.11 District RI-12, Residential Intermediate – Twelve (12) Units Per Acre
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	One-half (½)
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(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

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

(G) *Building area.* None.

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

161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre

(A) *Purpose.* The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	12
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(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) and four (4) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
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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. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.

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

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§4, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21; Ord. No. 6658, §2(Exh. A), 5-2-23)

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

Scion Investments, LLC
522 Goose Creek Rd
Farmington, AR 72730

November 8, 2023

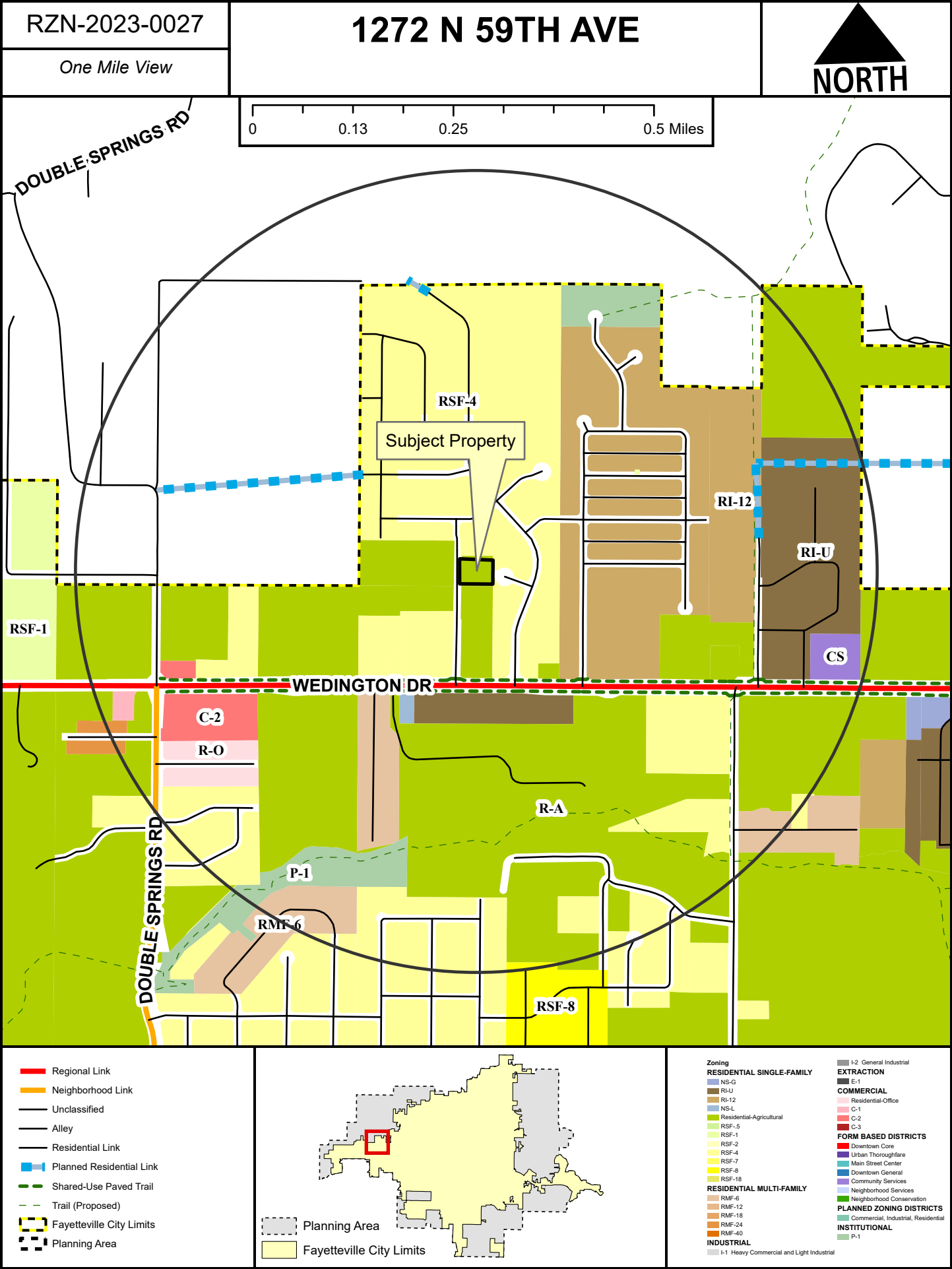
Dear Tenant,

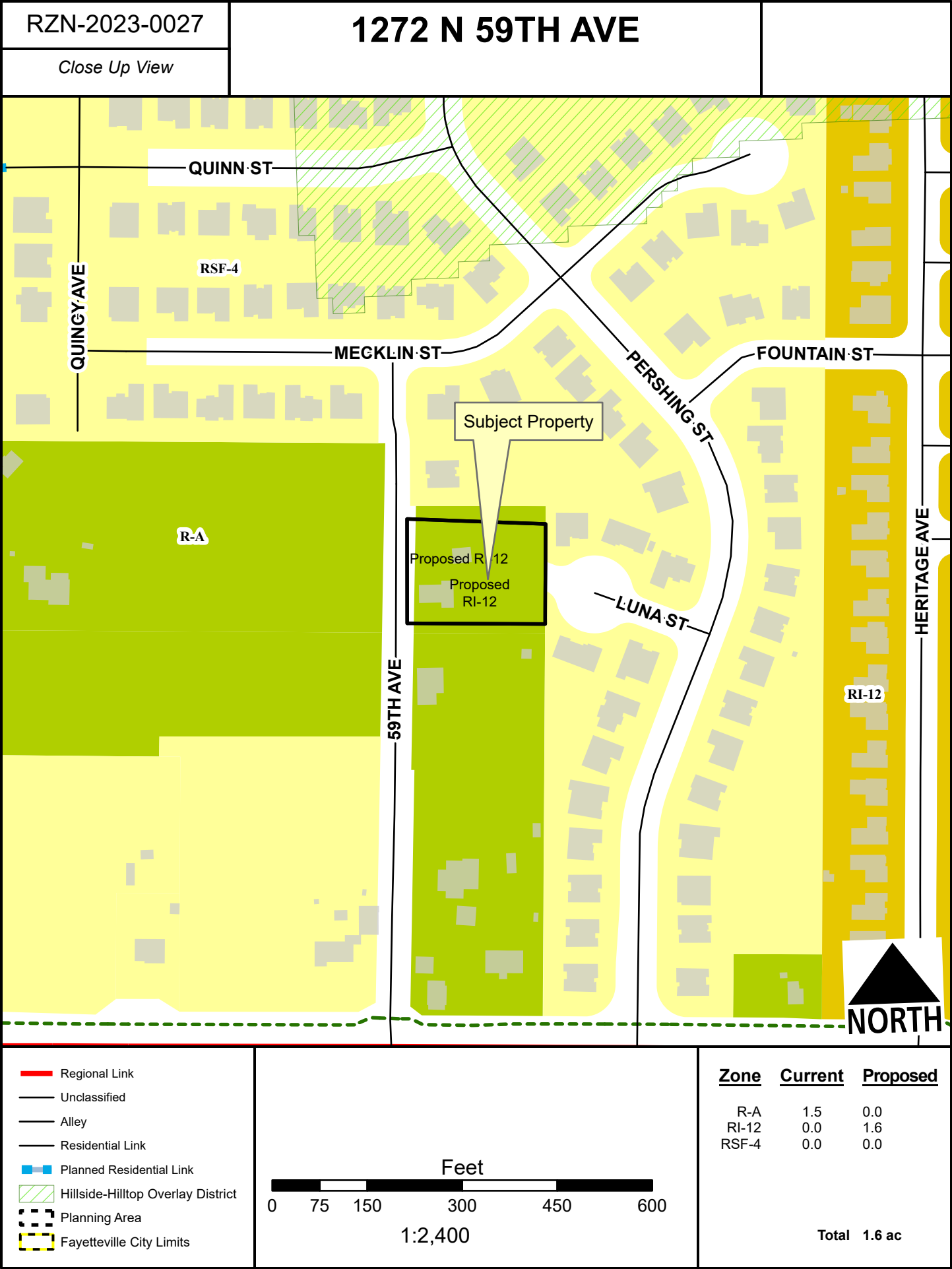
This letter is regarding the zoning change for 1272 59th Avenue. I plan on developing a couple of multifamily properties that will look very similar to the surrounding homes. I do not plan on developing properties that take away from the aesthetics of the neighborhood or that will negatively impact the value of the homes.

Sincerely,

Reed Lynch

870-584-7908





RZN-2023-0027

1272 N 59TH AVE

Current Land Use



PANEL
05143C0185F
eff. 5/16/2008

Single-Family Residential

Subject Property

P
05143C0185F
eff. 5/16/2008

Single-Family Residential

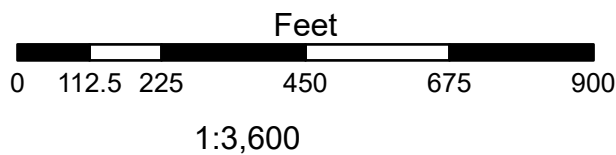
Single-Family Residential

Single-Family Residential

WEDINGTON DR

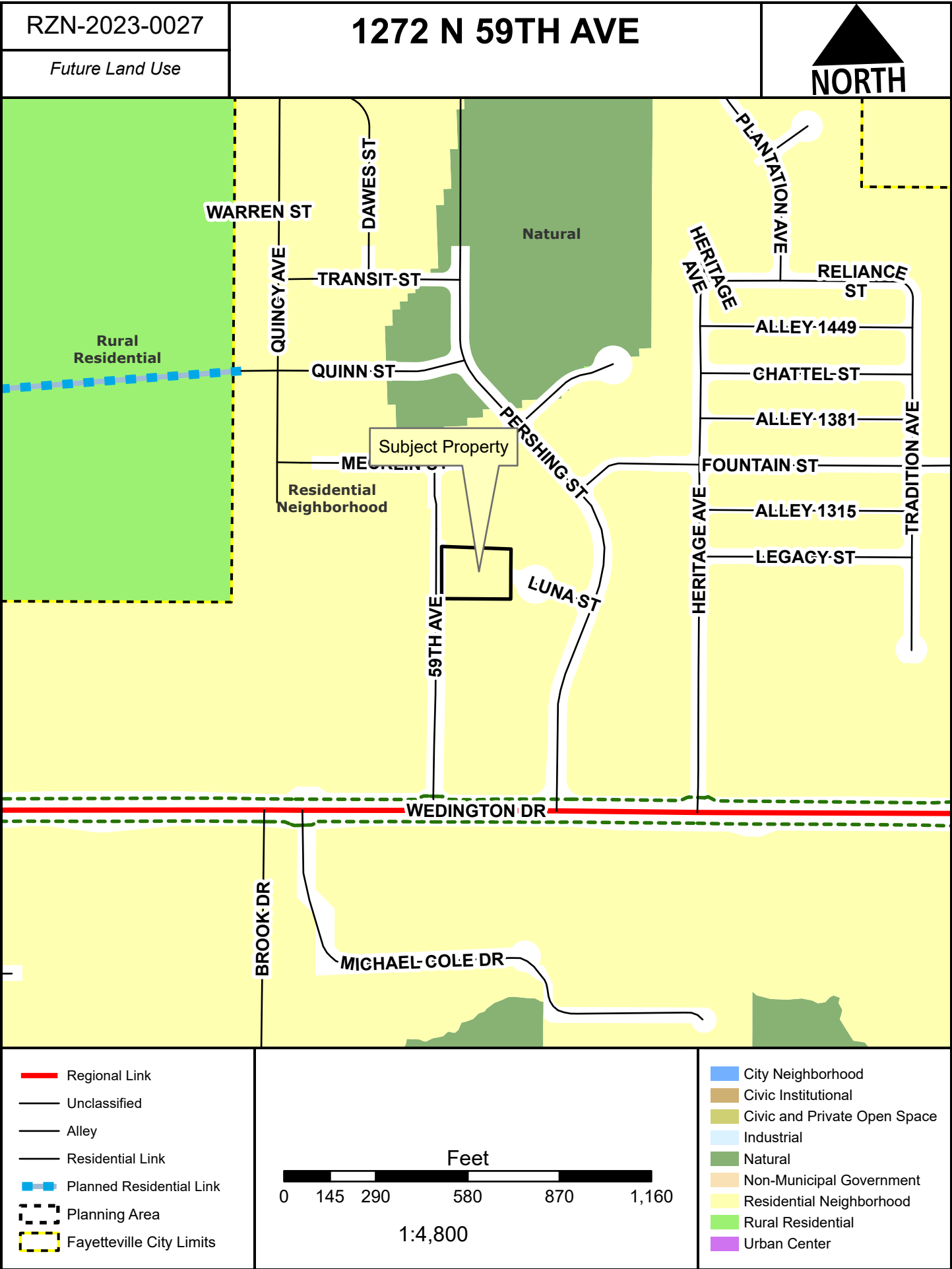
PANEL
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eff. 5/16/2008

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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: November 27, 2023

SUBJECT: **ADM-2023-0046: Administrative Item (507 S. CHURCH AVE./CHURCH & LOCUST TOWNHOMES, 523):** Submitted by EARTHPLAN DESIGN ALTERNATIVES for property located at 507 S. CHURCH AVE. The property is zoned DG, DOWNTOWN GENERAL and RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 0.65 acres. The request is to amend a master street plan classification.

RECOMMENDATION:
Staff recommends denial of **ADM-2023-0046**.

RECOMMENDED MOTION:
"I move to deny **ADM-2023-0046**."

BACKGROUND:
The subject property contains two parcels totaling 0.65 acres which are located one block south of Nelson Hackett Boulevard between Church and Locust Avenue. The western parcel is currently zoned DG, Downtown General, while the eastern parcel is zoned RI-U, Residential Intermediate-Urban. The property lies within the 71-B Corridor Plan and Walker Park Neighborhood Master Plan areas, and the western parcel received its current zoning designation of DG as a result of the Walker Park plan in 2008. The eastern parcel received its zoning designation of RI-U as a result of a rezoning that was approved last year (RZN-2022-0025). A small site improvement plan for a residential development containing four duplexes on this property is currently under review by city staff (SIP-2023-0002). A variance associated with that project, to allow for the addition of an on-street parking lane along a proposed two-way residential rear alley, was denied by the Planning Commission on October 9, 2023. 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; DG, Downtown General
South	Single-Family Residential; Multi-Family Residential	NC, Neighborhood Conservation; DG, Downtown General
West	Single-Family Residential	NC, Neighborhood Conservation
East	Multi-Family Residential; Commercial	MSC, Main Street Center

Proposal: The applicant's request is to classify a portion of undeveloped right-of-way adjacent to the subject property as an alley. The right-of-way does not have a formal classification in the 2040 Master Street Plan, though Washington County records show that it was platted as right-of-way

for 5th Street in 1890. The applicant has stated that they would like to classify this portion of the right-of-way as an alley in order to provide connectivity between Church and Locust Avenue, and to provide access to a planned development on the subject property.

DISCUSSION:

Staff is not supportive of the applicant's request. Any road built within the subject right-of-way would serve as a partial connection between two segments of 5th Street which are currently classified as Urban Center streets in the 2040 Master Street Plan. While classifying this portion of right-of-way as an alley would allow the applicant to develop the subject property as proposed and build a connection between Church and Locust Avenue, staff finds that the connection would effectively function as a street rather than an alley given the portions of street right-of-way that it would be connecting. Alleys are intended to be used in conjunction with streets to provide rear access to properties, garages, and off-street parking and they are not considered as frontage, while City Plan 2040's Urban Center street classification is intended to be used for streets in Fayetteville's downtown core to encourage improvements that promote pedestrian comfort and utilization. While staff finds that developing this portion of right-of-way is generally aligned with Goal 3 of City Plan 2040 since it would support the creation of a more interconnected road network, staff finds that classifying this portion of right-of-way as an alley has the potential to result in the creation of a new road segment that is functionally out of character with the remainder of 5th Street.

The applicant has cited the narrowness of the property to the south of the right-of-way as their rationale behind requesting this alley classification, however, staff finds that reclassifying the subject right-of-way is not justified or needed in order to develop that property. The property has 50 feet of frontage along Church Avenue and it is located within a zoning district, RI-U, Residential Intermediate – Urban, which allows for the creation of lots as narrow as 18 feet. Further, the subject right-of-way is currently 40 feet wide. While an alley classification would allow for right-of-way as narrow as 20 feet, the applicant has not shared an intent to vacate any portion of the right-of-way. Further, the Urban Center street classification allows for right-of-way as narrow as 39 feet, which means that the subject right-of-way could potentially be improved as a public street without having to dedicate any additional right-of-way on the adjacent property to the south.

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

RECOMMENDATION: Staff recommends denial of ADM-2023-0046. Should the Planning Commission vote to forward the item with a recommendation of approval, staff recommends the following condition:

1. Approval of this Master Street Plan classification does not constitute approval of any associated development plans; any planned development will be subject to further city review and approval.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	
Date: <u>November 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Applicant Request Letter
- 2040 Master Street Plan Exhibit
- Jennings Addition Plat
- One Mile Map
- Close-up Map
- Current Land Use Map



Earthplan Design Alternatives, PA
Civil Engineering / Landscape Architecture

October 30, 2023

City of Fayetteville
Planning Department
Attention: Jessica Masters and Gretchen Wilson
125 West Mountain Street
Fayetteville, AR 72701

RE: Church & Locust SIP submittal – Church and Locust Ave MSP Amendment Request

Dear Ms. Masters,

We are requesting an amendment to the old existing and currently unused right of way to the north of our subject parcel 765-07132-000. The City's 2040 Transportation Plan does not consider this right of way as being part of the City's street network but since ROW exists there, based on surrounding ROW classifications, Planning Staff is considering it as an Urban Link street classification. We are requesting use of this right of way as an alley due to the very narrow width (50') of the property to the south which our client is developing. Our client would like to utilize this stub out ROW as an amended alley and to provide connectivity to Locust through dedication of an access easement over the western property which he also owns.

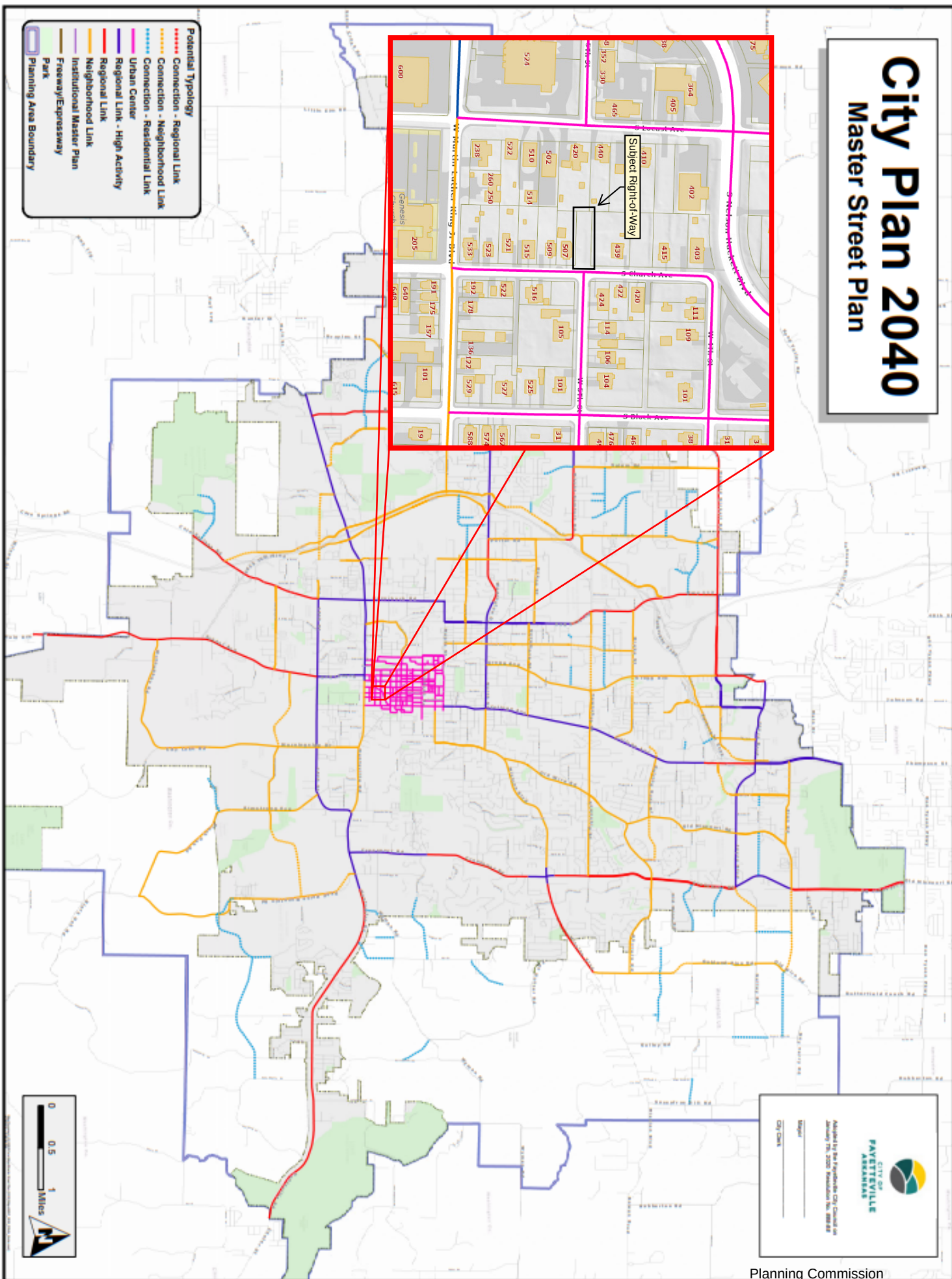
If you have any questions, please don't hesitate to call 479-756-1266.

Sincerely,

James Geurtz, PE
Principal / Civil Engineer

City Plan 2040

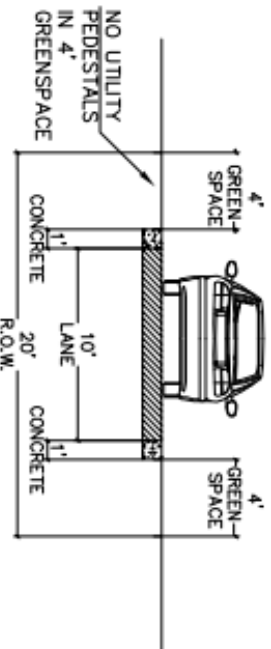
Master Street Plan



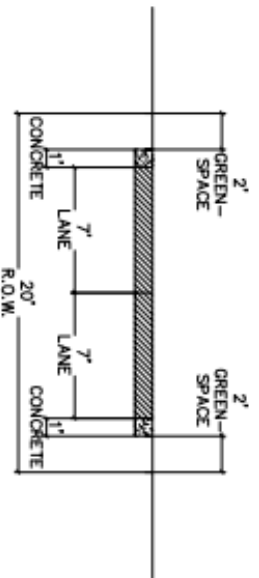
Alleys - Design Service Volume: <200

Alleys are used in conjunction with streets to provide rear access to properties, garages and off-street parking. Driveways connected to alleys should have sufficient depth to allow vehicles to park and not encroach into the alley right-of-way. When alleys intersect streets a commercial driveway shall be used.

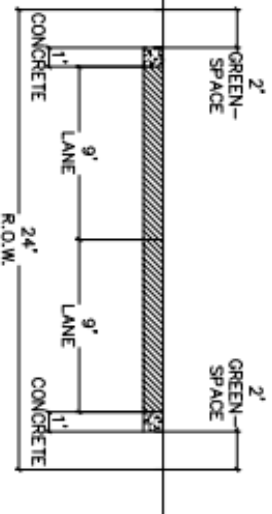
**RESIDENTIAL REAR ALLEY
(ONE WAY)**



**RESIDENTIAL REAR ALLEY
(TWO WAY)**



**COMMERCIAL REAR ALLEY
(TWO WAY)**



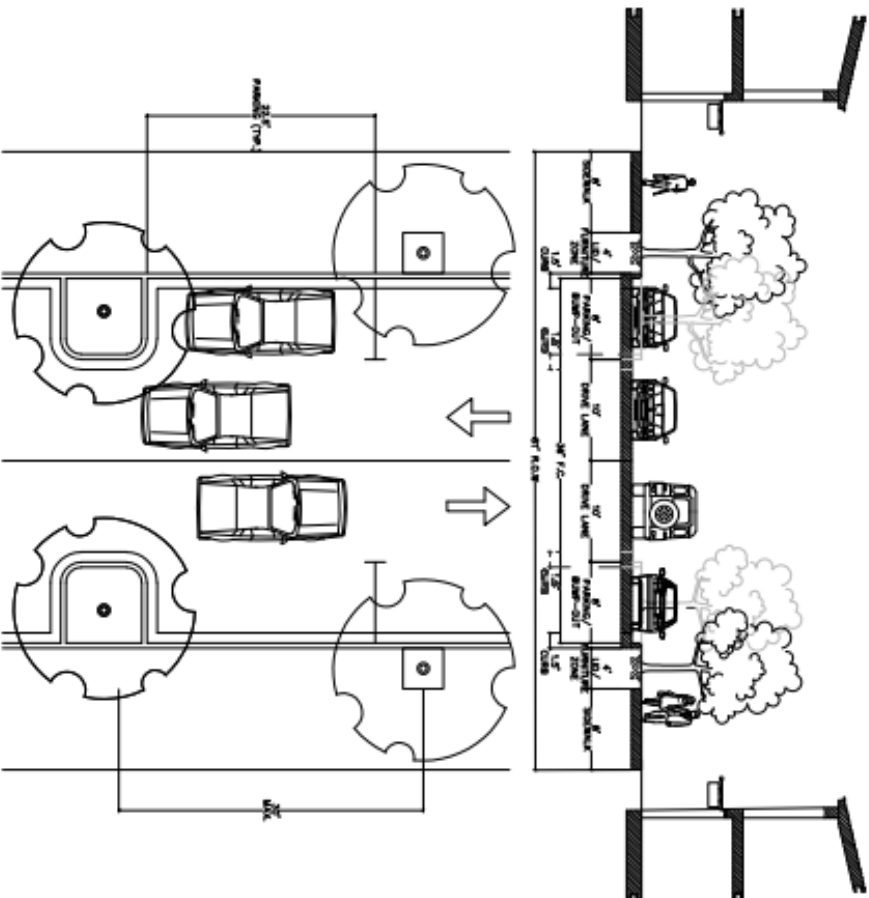
Fire Department:

Alleys used in conjunction with single- and two-family units are not intended to serve as fire access roads when structures also adjoin a private or public street that provides the required fire access. Fire access roads shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by and approved route around the exterior of the building or facility. When an alley serves as the sole access, or when more than one access is required per the Arkansas Fire code, alleys shall be designed in accordance with the Arkansas Fire Code to support apparatus access, with approval from the Fire Marshall.

Downtown/Urban Street

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

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



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

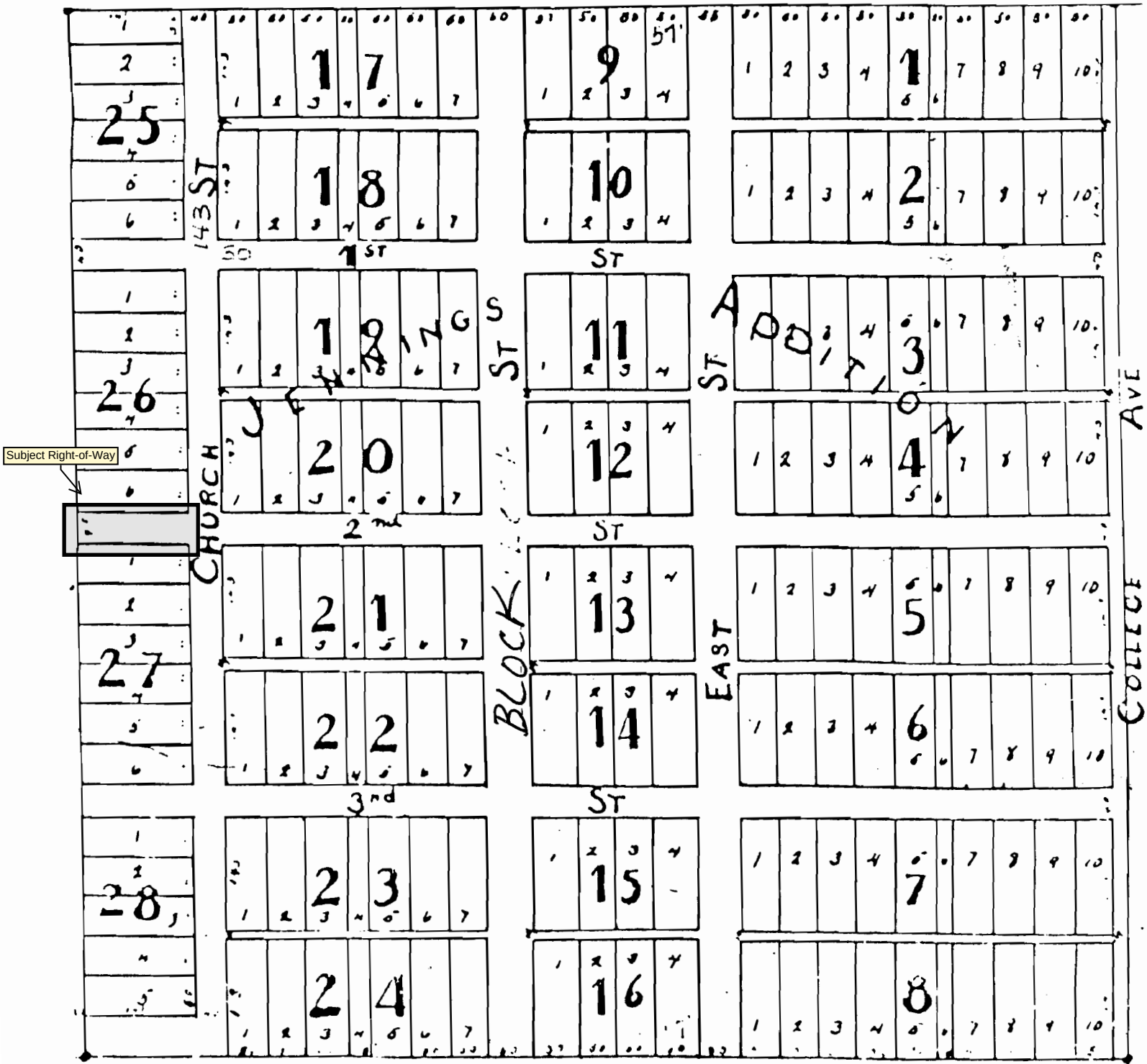
- An additional 2-ft frontage zone where buildings abut right-of-way. This may be accomplished with setbacks or additional right-of-way.
- If known or planned transit route, increase lane widths to 11-ft.

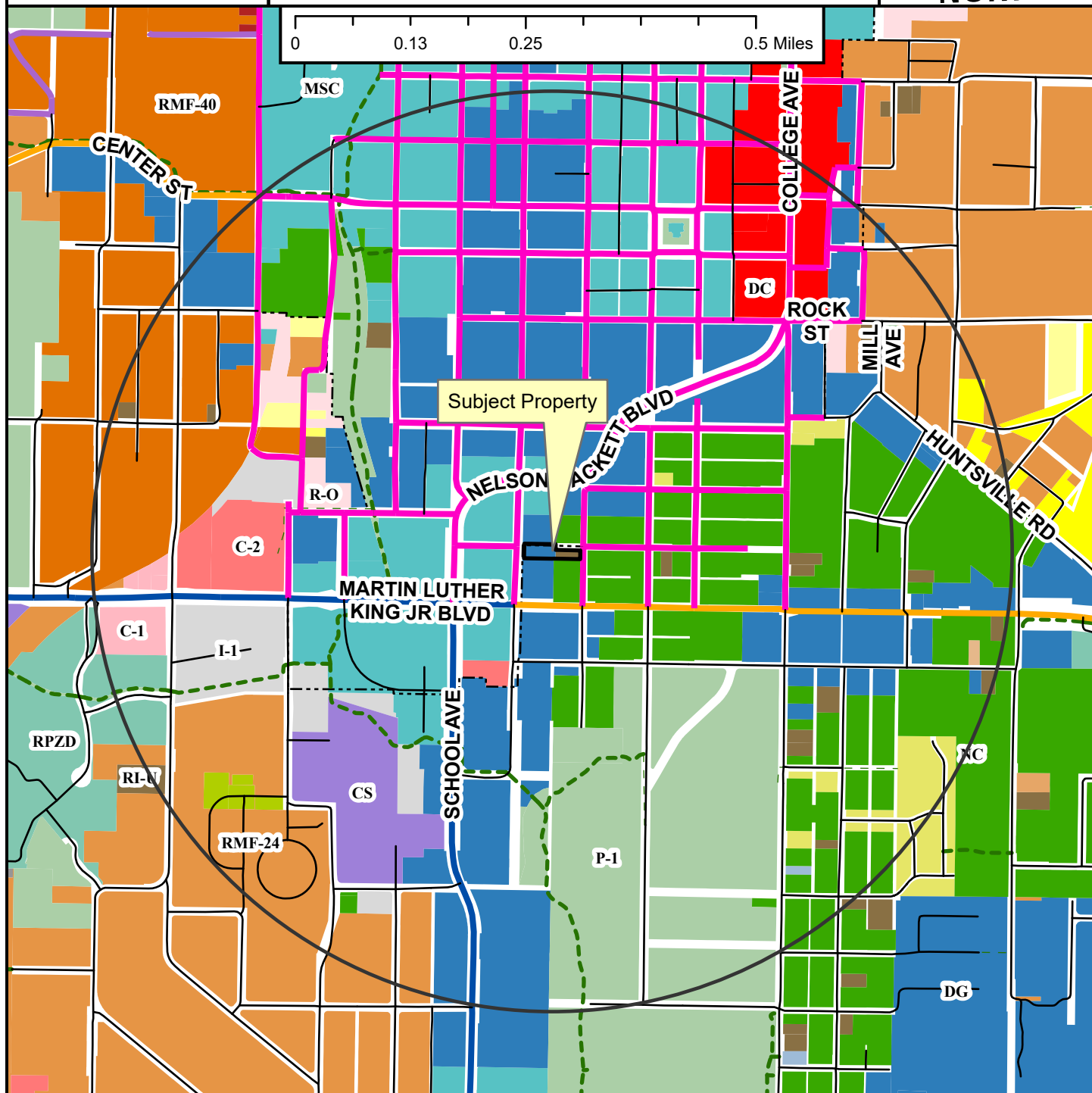
Alternative design elements may be approved administratively and include:

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

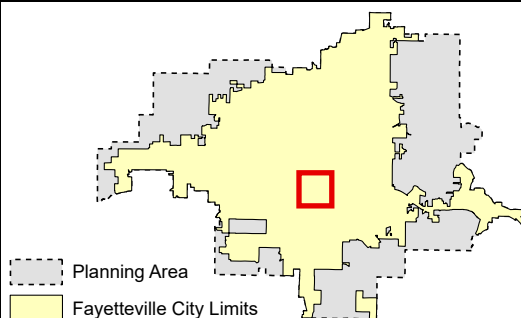
Example section (left) with parking on both sides.

Minimum Right-of-Way: 39-feet
Maximum Right-of-Way: 63-feet





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



- Zoning**

 - 12 General Industrial

RESIDENTIAL SINGLE-FAMILY

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

RESIDENTIAL MULTI-FAMILY

 - RM-F
 - RM-12
 - RM-16
 - RM-24
 - RM-F-40

INDUSTRIAL

 - I-1 Heavy Commercial and Light Industrial

EXTRACTION

 - E-1

COMMERCIAL

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

FORM BASED DISTRICTS

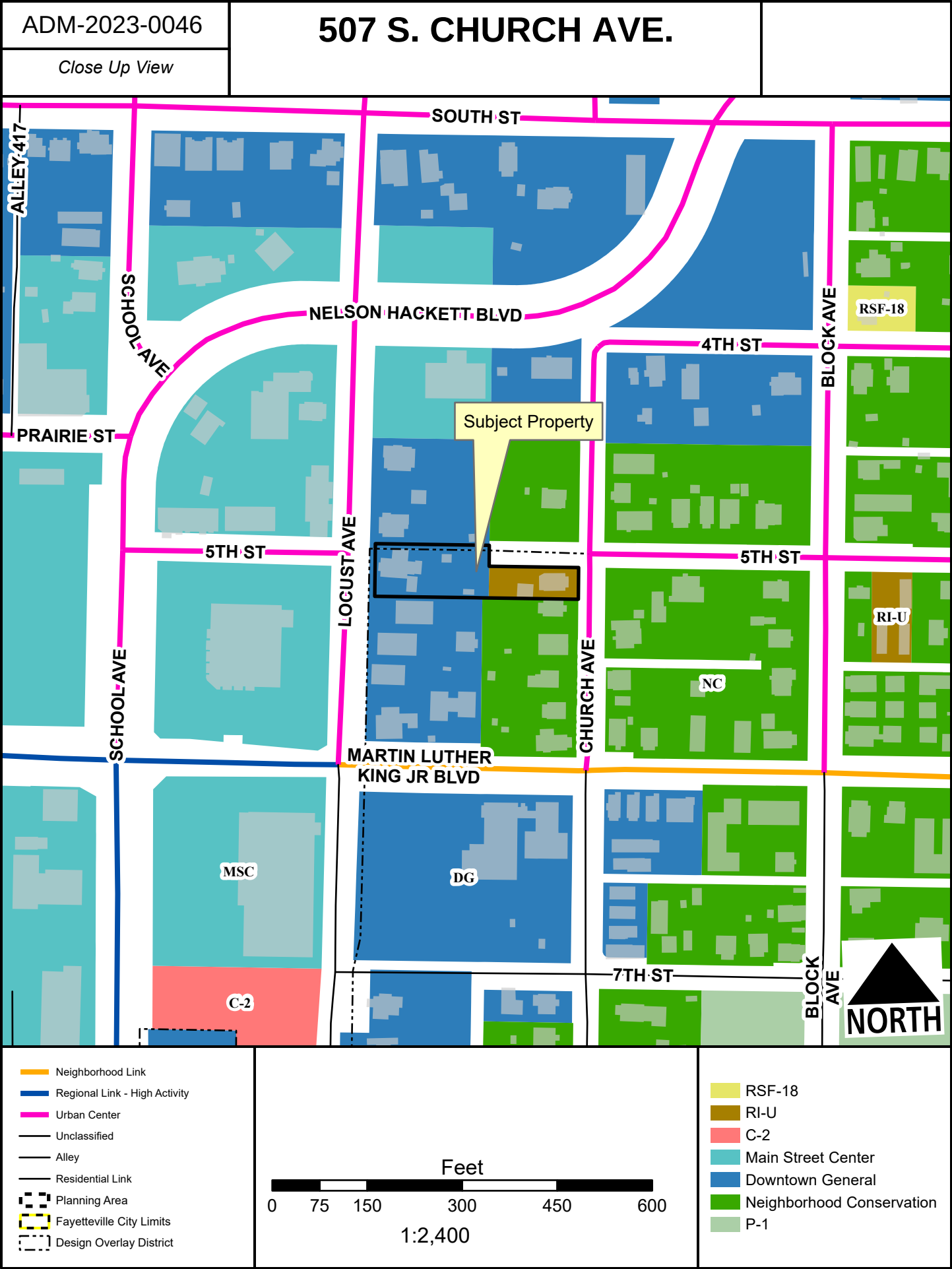
 - Reddown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation

PLANNED ZONING DISTRICTS

 - Commercial, Industrial, Residential

INSTITUTIONAL

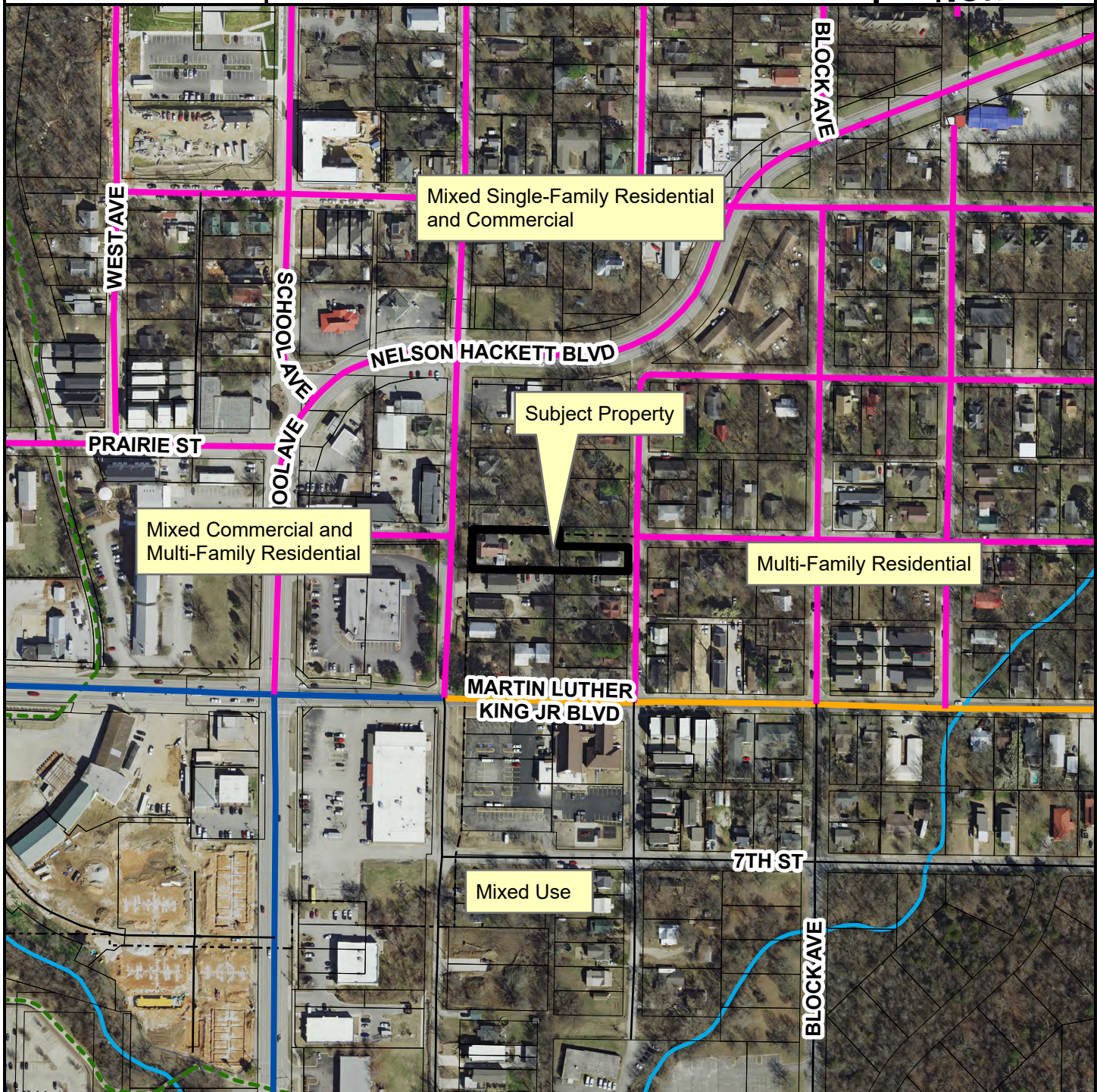
 - P-1



ADM-2023-0046

507 S. CHURCH AVE.

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: November 27, 2023

SUBJECT: **VAR-2023-0049: Planning Commission Variance (507 S. CHURCH AVE./CHURCH & LOCUST TOWNHOMES, 523):** Submitted by EARTHPLAN DESIGN ALTERNATIVES for property located at 507 S. CHURCH AVE. The property is zoned DG, DOWNTOWN GENERAL and RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 0.65 acres. The request is for a variance to allow 6.5-foot-wide sidewalk within alley right-of-way.

RECOMMENDATION:

Staff recommends denial of **VAR-2023-0049** based on the findings herein.

RECOMMENDED MOTION:

"I move to deny VAR-2023-0049."

BACKGROUND:

The subject property contains two parcels totaling 0.65 acres which are located one block south of Nelson Hackett Boulevard between Church and Locust Avenue. The western parcel is currently zoned DG, Downtown General, while the eastern parcel is zoned RI-U, Residential Intermediate-Urban. The property lies within the 71-B Corridor Plan and Walker Park Neighborhood Master Plan areas, and the western parcel received its current zoning designation of DG as a result of the Walker Park plan in 2008. The eastern parcel received its zoning designation of RI-U as a result of a rezoning that was approved last year (RZN-2022-0025). A small site improvement plan for a residential development containing four duplexes on this property is currently under review by city staff (SIP-2023-0002). A variance associated with that project, to allow for the addition of an on-street parking lane along a proposed two-way residential rear alley, was denied by the Planning Commission on October 9, 2023. Following the denial of that variance, staff advised the applicant that they would need to seek an amendment to the 2040 Master Street Plan in order to formally classify the undeveloped right-of-way as an alley. The applicant has submitted that request (ADM-2023-0046) concurrently with this variance request. 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; DG, Downtown General
South	Single-Family Residential; Multi-Family Residential	NC, Neighborhood Conservation; DG, Downtown General
East	Single-Family Residential	NC, Neighborhood Conservation
West	Multi-Family Residential; Commercial	MSC, Main Street Center

Request: The applicant is requesting a variance to **Unified Development Code §166.11(A), which requires that all projects conform to the official plans and regulations that make up the City's Master Street Plan.** The applicant previously requested a variance to this portion of code to allow for the addition of an on-street parking lane along a proposed two-way residential rear alley. Following the denial of that variance, staff determined that an additional variance from this portion of code would be needed in order to install a 6.5-foot-wide sidewalk along the south side of the alley. The Master Street Plan requires that two-way residential rear alleys have 20 feet of right-of-way to include two seven-foot drive lanes with a one-foot curb and two-foot greenspace on each side of the alley. The applicant is proposing to improve the existing 40-foot-wide right-of-way to include two 10-foot drive lanes with curb and gutter on the north side of the alley and a 6.5-foot sidewalk on the south side of the alley.

DISCUSSION:

City staff is not supportive of the applicant's request to improve the platted right-of-way as proposed. The applicant stated in their request letter that sidewalk is needed along the south side of the proposed alley due to a number of site-specific constraints, including a 12 foot change in elevation across their roughly 332-foot-wide site. The applicant also stated that installing the sidewalk at its proposed location would allow them to maintain five feet of greenspace along the south side of the property next to each unit's rear recessed private porch areas. While installing the sidewalk as proposed would allow the applicant to provide pedestrian circulation throughout the site, staff finds that the proposed location of the sidewalk could create conflicts between vehicles and pedestrians, particularly due to the sidewalk continuously intersecting with driveways and due to it being at grade with the proposed alley. The 2040 Master Street Plan states that alleys are intended to be used in conjunction with streets to provide rear access to properties, garages, and off-street parking. While the proposed alley may be functioning as an alley in the sense that it provides vehicular access to the site and off-street parking areas, staff finds that the proposed alley is primarily functioning as a street since it is also accommodating pedestrian access and most structures on the site are oriented towards it. Staff finds that allowing the road within the right-of-way to be classified as an alley with sidewalk along one side of it has the potential to result in the creation of a streetscape that is oriented towards vehicles rather than pedestrians, and it may run afoul with the goals and intent of many city plans and ordinances. Staff does, however, acknowledge that the proposed location of the sidewalk is most feasible for the applicant's current development plans and site design.

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

RECOMMENDATION: Staff recommends denial of VAR-2023-0049. Should the Planning Commission choose to approve this variance, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to UDC §166.11, Conformance to Plans and Regulations.** *Staff recommends denial of this variance for the reasons stated above;*
2. Approval of this item does not constitute approval of the associated small site improvement plan. Review and approval of the small site improvement plan shall be required in accordance with city code; and
3. This variance is contingent upon the approval of an amendment to the Master Street Plan to classify the subject right-of-way as an alley.

Planning Commission Action: ☐ Approved ☐ Tabled ☐ Denied

Meeting Date: November 27, 2023

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §166.11 Conformance to Plans and Regulations
- Applicant Request Letter
- Applicant Exhibit
- Master Street Plan Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.11 Conformance To Plans And Regulations

- (A) *Conform to Plans and Regulations.* The subdivision shall conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Future Land Use Plan, the Master Street Plan, access control, setback ordinances, the Community Facilities Plan and Zoning, Chapters 160 through 164.
- (B) *Reserve Sites for Public Use.*
- (1) For a period of six (6) months after submitting application for approval of a preliminary plat with the Planning Commission, the Planning Commission may require the subdivider to reserve sites for public use that are indicated within the boundaries of the proposed subdivision which are indicated on an officially adopted plan, to permit the public board, commission, or body having jurisdiction, or financial responsibility, the opportunity to acquire said sites.
 - (2) The subdivider at his or her option may provide such areas or may be required to make them available for acquisition by the city under statutory procedure. All such areas shall be maintained at the expense of the city or other body which may be involved.
- (C) *Future Acquisition.* The Planning Commission may require the subdivider to establish building lines to allow for future acquisition of right-of-way for streets on the Master Street Plan.
- (Code 1965, App. A., Art. 8(10.1); Ord. No. 1747, 6-29-70; Ord. No. 3073, 3-19-86; Code 1991, §160.119; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4919, 9-05-06; Ord. No. 6350, §5(Exh. D), 8-18-20)



October 30, 2023

City of Fayetteville
Planning Department
Attention: Jessica Masters and Gretchen Wilson
125 West Mountain Street
Fayetteville, AR 72701

RE: Church & Locust SIP submittal – Church and Locust Ave Variance Request

Dear Ms. Masters,

We recently brought a Variance request through Fayetteville to allow 5 parallel parking spaces off a proposed alley in southeast Fayetteville. That request was denied. The reason we are again requesting a variance regarding this same right of way is to accommodate a 6.5' wide sidewalk that the plans had shown. Staff has determined that it also requires Variance approval. This variance is to also track with a MSP right of way reclassification to allow an alley in this location.

We show the sidewalk at this location due to a number of site constraints of the property to the south (parcel 765-07132-000). This parcel is only 50' in width and it and the parcel to its west has 12 feet of elevation drop between the two which has made grading on this narrow site very difficult. Utilizing the flattened driveway portion of the site allows us to maintain 5' of private space for the occupants off their rear (southern) back recessed private porch areas. Also, development code requires that residential units have a sidewalk access to the public sidewalk system. We feel this design meets the intent of City development ordinances.

The narrowness of this parcel has made this an extremely difficult site to design at the density needed in this high infill area of town that also has a very high property cost, which results in higher density needed to make development of this area possible. Other locations were studied but deemed unsuited for this design.

If you have any questions, please don't hesitate to call 479-756-1266.

Sincerely,

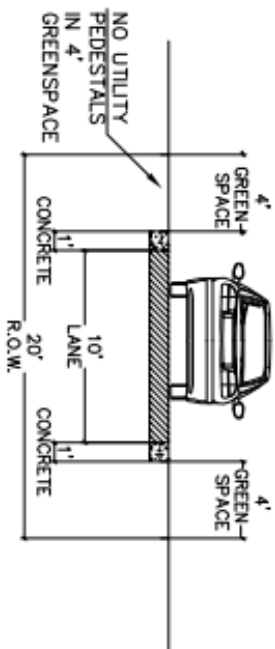
Sarah Geurtz, PLA
Principal / Landscape Architect

134 W. Emma Ave. Springdale, AR 72764 Phone: 479-756-1266
www.eda-pa.com

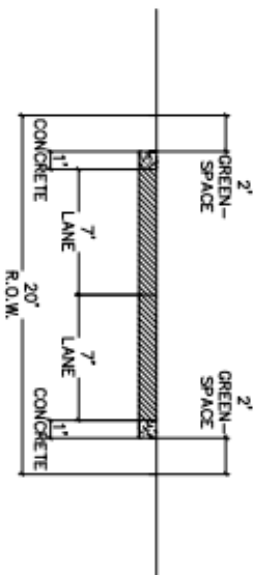
Alleys - Design Service Volume: <200

Alleys are used in conjunction with streets to provide rear access to properties, garages and off-street parking. Driveways connected to alleys should have sufficient depth to allow vehicles to park and not encroach into the alley right-of-way. When alleys intersect streets a commercial driveway shall be used.

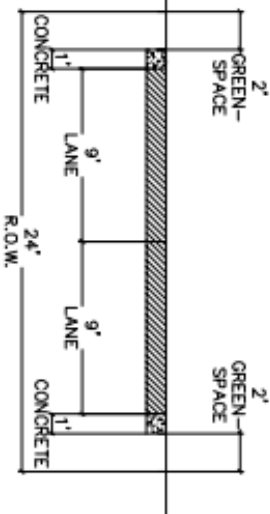
**RESIDENTIAL REAR ALLEY
(ONE WAY)**



**RESIDENTIAL REAR ALLEY
(TWO WAY)**



**COMMERCIAL REAR ALLEY
(TWO WAY)**



Fire Department:

Alleys used in conjunction with single- and two-family units are not intended to serve as fire access roads when structures also adjoin a private or public street that provides the required fire access. Fire access roads shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by and approved route around the exterior of the building or facility. When an alley serves as the sole access, or when more than one access is required per the Arkansas Fire code, alleys shall be designed in accordance with the Arkansas Fire Code to support apparatus access, with approval from the Fire Marshall.

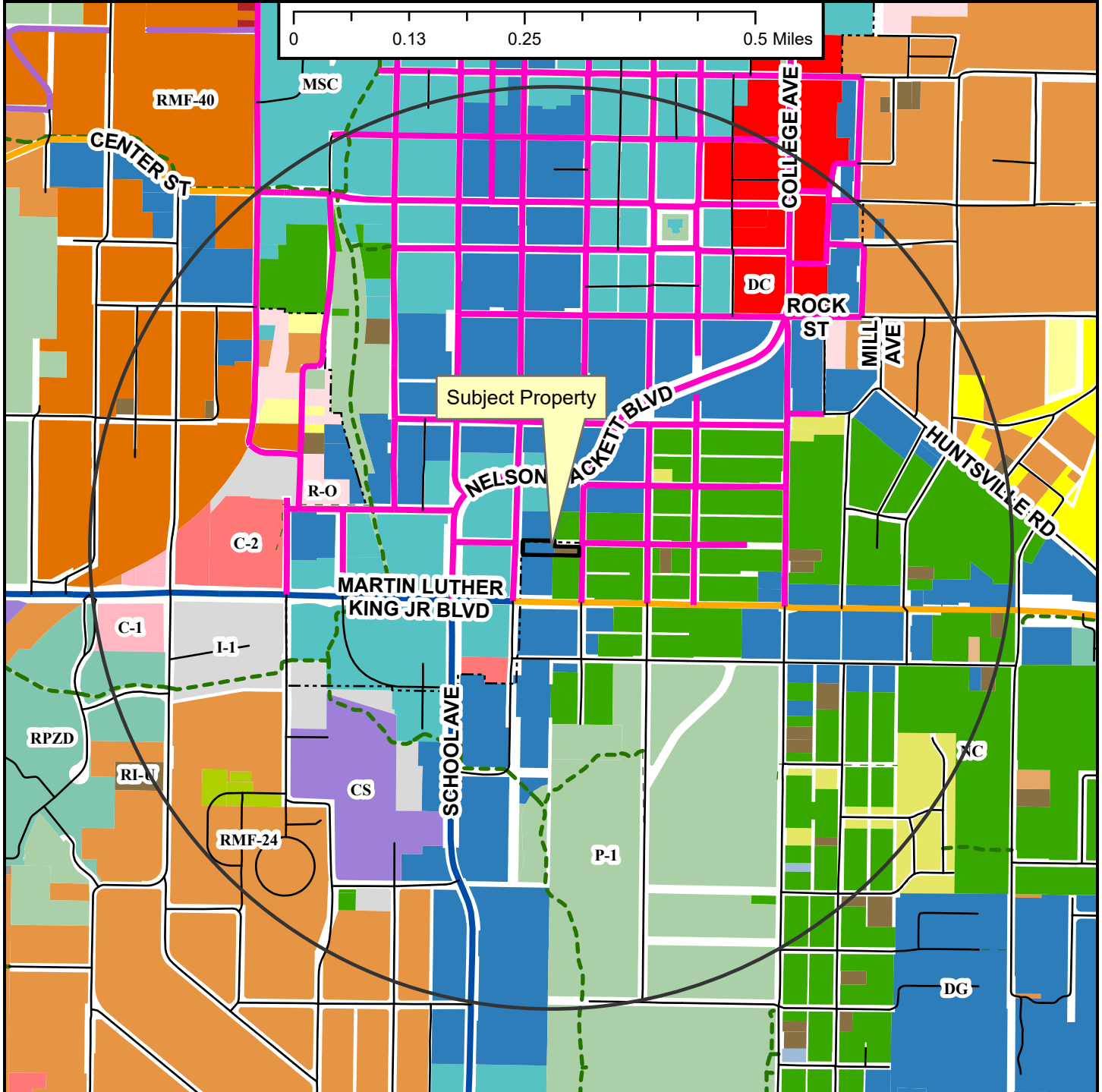
VAR-2023-0049

507 S. CHURCH AVE.

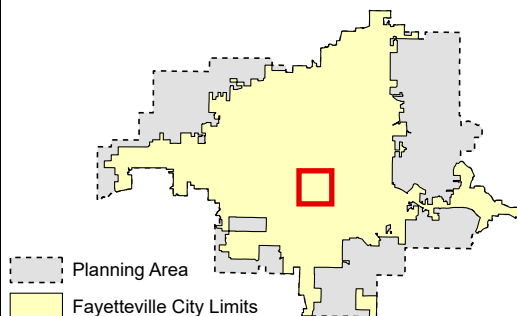
One Mile View



0 0.13 0.25 0.5 Miles



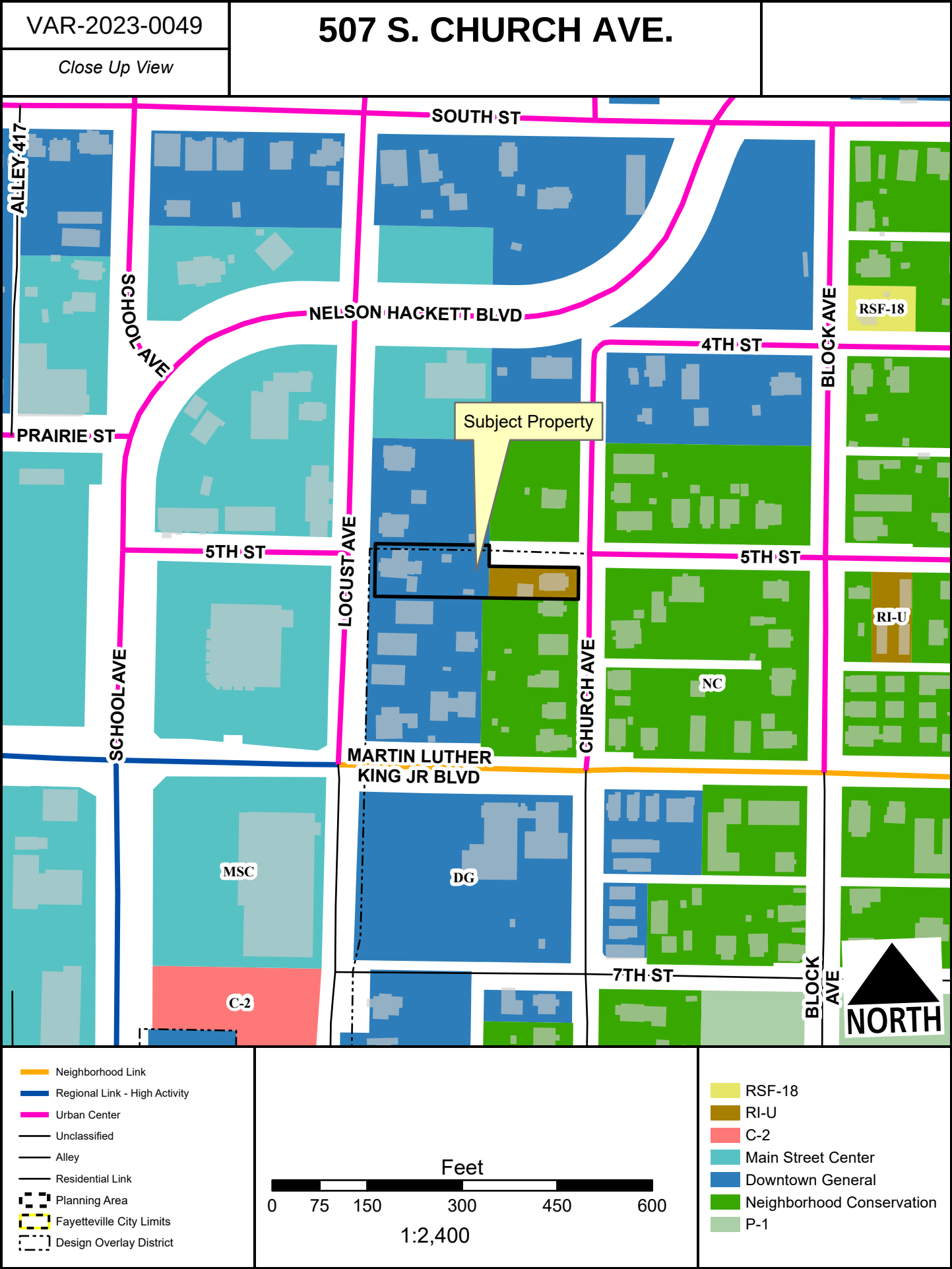
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area

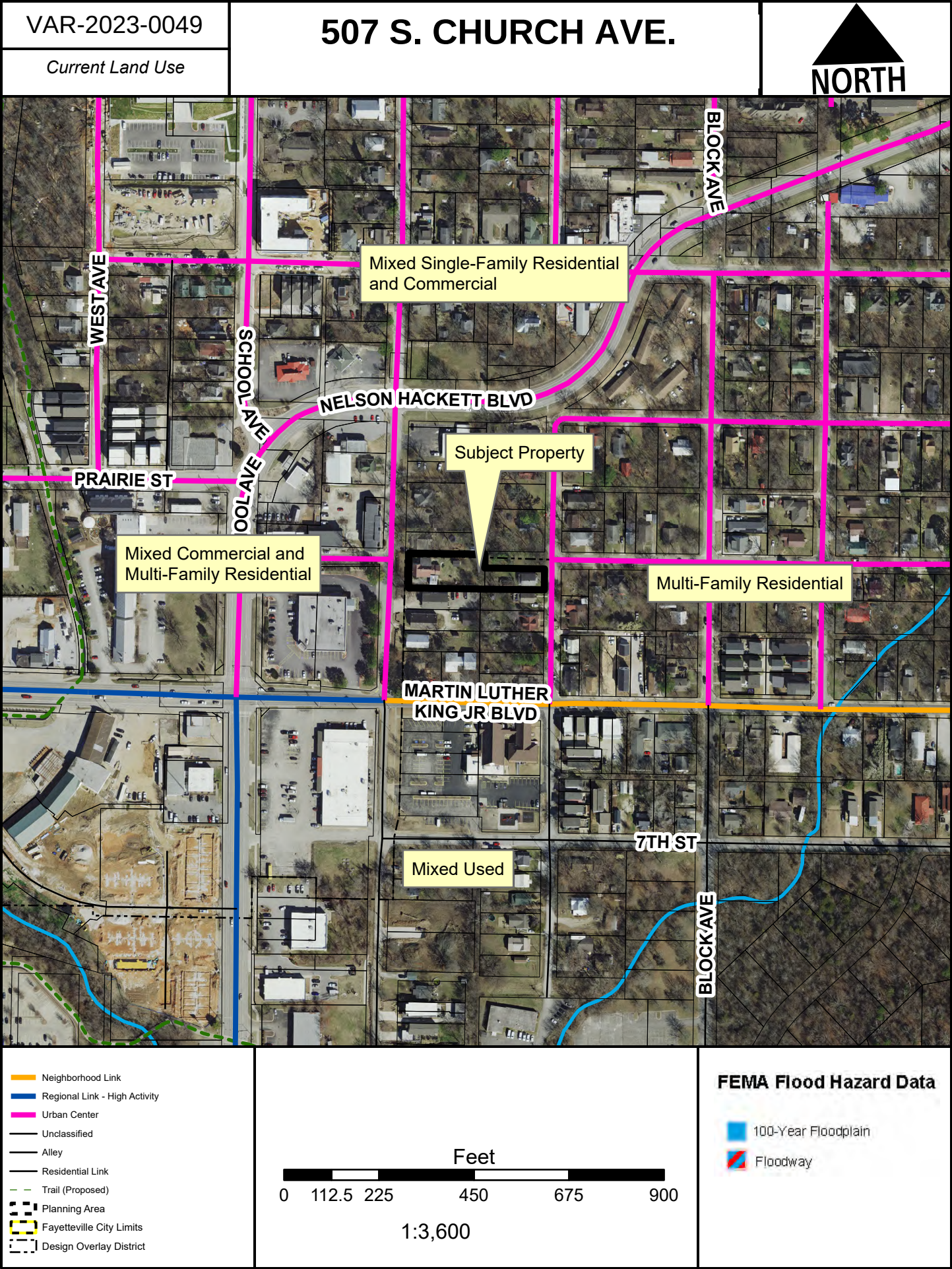


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - I-2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

Planning Commission

November 27, 2023







TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: November 27, 2023

SUBJECT: **VAR-2023-0050: Planning Commission Variance (1301 N. GREGG AVE./1301 N. GREGG, 405):** Submitted by ECOLOGICAL DESIGN GROUP for property located at 1301 N. GREGG AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY UNITS PER ACRE and contains approximately 4.47 acres. The request is for variances from residential design standards and parking lot design standards.

RECOMMENDATION:

Staff recommends tabling **VAR-2023-0050** to the December 11, 2023 Planning Commission meeting.

RECOMMENDED MOTION:

*"I move to table **VAR-2023-0050** to the December 11, 2023 Planning Commission meeting."*

BACKGROUND:

The subject property is located on the west side of Gregg Avenue, approximately 650 feet north of the street's intersection with North Street. The property contains one parcel totaling 4.47 acres which currently serves as the site of Central Baptist Church. The parcel was previously two separate parcels, which were separately rezoned from RMF-24, Residential Multi-Family, Twenty-Four Units per Acre to RMF-40, Residential Multi-Family, Forty Units per Acre on April 3, 2023 (Ord. 6652) and June 20, 2023 (Ord. 6671) prior to being combined. The property is partially located within the Hillside/Hilltop Overlay District. Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multifamily, 24 Units per Acre
South	Multifamily Residential	RMF-40, Residential Multifamily, 40 Units per Acre
East	Single Family Residential	RSF-4, Residential Single Family, 4 Units per Acre
West	Arkansas Missouri Railroad/ Multifamily Residential	RMF-24, Residential Multifamily, 24 Units per Acre I-1, Heavy Commercial and Light Industrial

Request: The applicant is requesting two variances. The first variance is to **\$166.23(C)(4)(a)**, which requires that ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk. The applicant proposes pedestrian connections that exceed the 12-foot maximum distance.

The second variance requested is to **§172.04(D)**, which requires that the maximum number of compact spaces may be 35% of total spaces. In the official request, the applicant requests construction of 543 total parking stalls where 650 would be required by-right after allowable reductions outlined in chapter 172.05. Of these 423 are automobile spaces, with 198 proposed to be compact (46.8%).

DISCUSSION:

Variance #1: §166.23(C)(4)(a), Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street... The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk. The applicant proposes shared pedestrian connections that exceed the 12-foot maximum distance.

Staff recommendation: City staff recommend tabling of the applicant's request to exceed the 12-foot maximum run for pedestrian connections. While the applicant cites a 10-foot grade change in their letter, the exhibit provided does not include grading information for staff evaluation and also does not appear to include all ground facing units that may be affected by the proposed request. Additionally, while the applicant cites the previous design as submitted in LSD-2023-0014 as an alternative design that did not meet ordinance, staff finds that because the pedestrian connections approached the public right-of-way in a direct line, this design was not subject to the 12 foot maximum run and was fully compliant with ordinance. Given that a previous design for pedestrian connections was provided in the large-scale development plans that complied with ordinance and that staff is unable to fully evaluate the proposal for the revised plans, staff recommends tabling of the variance request until additional information can be provided to staff including elevations showing the indicated grade change, site plans including topographic information, and other information as may be needed to evaluate the proposed design. If approved, staff recommends that the pedestrian access shall extend no more than 22'-6" as shown in the proposed exhibit. Access shall be reviewed for ADA compliance with large scale development plans.

Variance #2: §172.04(D), Compact Spaces. A maximum of 35% of the total spaces may be compact spaces. The applicant requests that up to 50% of total automobile spaces be permitted to be compact spaces.

Staff recommendation: City staff recommend tabling of the applicant's request to vary from the maximum percentage of compact spaces given incomplete information on the overall parking for the development. Overall, the applicant is requesting a reduction to the parking requirements that apply to multi-family residential developments, outlined below in Table 2.

Table 2
Parking Requirements (Multi-Family Residential)

Parking Requirements	Number of Bedrooms	Number of Required Spaces
1 space per bedroom	650 bedrooms	650 spaces
By-Right Allowable Reductions		
-15% reduction for proximity to a transit stop		-98 spaces
-10% reduction for additional bike racks		-65 spaces
-10% reduction for additional motorcycle spaces		-65 spaces
	Total:	423 Required Spaces
Compact Spaces (35% Permitted)	Requested Number of Compact Spaces:	198 (46.8%)

While Fayetteville has taken progressive steps to reduce parking requirements and create

a community that relieves its citizens of the burdens of car ownership, including the prioritization of car storage as a land-consumptive need, the day-to-day reality of parking management continues to be an ongoing issue. Emergency service providers are faced with an enforcement problem, consistently running into issues of illegal parking, overparking on public streets, blockage of fire lanes, and interference with aerial apparatus access requirements. Because the proposal indicates nearly all of the compact spaces along the edges of the building, staff finds this creates a particular vulnerability to vehicles overhanging into drive lanes and creating potentially hazardous driving conditions within the parking garage.

The applicant is requesting to take all permitted reductions to total parking counts, including transit proximity, bike, and motorcycle parking, which is allowable by code. However, there are multiple errors in the parking table, and it does not yet align with the provided plan. Additionally, the provided site plan does not include dimensions for drive aisles, parking stalls, driveways, or bicycle parking areas; therefore, staff is unable to fully evaluate the plans to determine if the proposed plan meets other dimensional requirements of §172.04 Parking Lot Design Standards and §172.10 Bicycle Parking Rack Requirements, and whether the request for additional compact spaces may have negative impacts on future users of the garage. Areas indicated as bicycle storage may not be of sufficient size to park the number of bicycles noted on the plans, and one of these areas may be inaccessible if adjacent parking spaces are utilized.

Variances are typically required to be granted for the minimum amount required; however due to outstanding questions relating to the plans, staff is unable to determine if the proposed 46.8% compact space plan meets the intent. The applicant's request letter also does not describe a site-specific hardship for the project that would warrant the need for additional parking allowances beyond those permitted by right.

In the meantime, without further, solidified information, staff finds that the applicant's request to increase the amount of compact parking above what is permitted is likely to negatively affect residents and visitors of the future apartment and create a burden on the provision of emergency services. Therefore, staff does not find itself being able to support the request based on the available information and recommends tabling the request pending additional information.

If approved, staff recommends conditions be added that compact spaces shall be limited to no more than 46.8% or 198 compact spaces, whichever is less, shall be permitted for the proposed development of a 650-bedroom apartment complex.

RECOMMENDATION: Staff recommends Planning Commission table VAR-2023-0050 to the December 11, 2023 Planning Commission meeting. If approved, staff recommends the following conditions.

Conditions of Approval:

- 1. Planning Commission determination of a variance to §166.23(C)(4)(a), which states pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk. Staff recommends tabling of the request for the reasons stated above. If approved, staff recommends the following conditions:**
 - a. The pedestrian access for ground units adjacent to N. Gregg Ave. shall extend parallel to the street no more than 22'-6" as shown in the proposed exhibit.**
 - b. Access shall be reviewed for ADA compliance with large scale development plans.**

2. **Planning Commission determination of a variance to §172.04(D), which requires that a maximum of 35% of the total spaces may be compact spaces. Staff recommends tabling of the request for the reasons stated above. If approved, staff recommends the following conditions:**
- No more than 46.8% or 198 compact spaces, whichever is less, shall be permitted for the proposed development of a 650-bedroom apartment complex.*
3. Approval of this variance request is only for the requests as stated above and does not extend approval to any variances not yet reviewed for at this stage or to overall development plans.
-

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>November 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §166.23 Urban Residential Design Standards
 - §172.04 Parking Lot Design Standards
 - §172.05 Standards For The Number Of Spaces By Use
 - Applicant Request Letter
 - Applicant Exhibits
 - Pedestrian Connections,
 - Original Design
 - Proposed
 - Parking Exhibit
 - One Mile Map
 - Close-up Map
 - Current Land Use Map
-

166.23 Urban Residential Design Standards

(A) *Purposes.*

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

(B) *Applicability.* All references to urban residential design standards shall include the following uses as permitted by right or conditional use in all zoning districts:

- (1) Two (2) family dwellings
- (2) Three (3) and four (4) family dwellings
- (3) Multi-family dwellings

(C) *Site Development Standards.* The following site development standards shall apply for all urban residential development.

- (1) *Intent.* The intent of these site development standards is to create a pedestrian-friendly streetscape.

.....

(4) *Pedestrian Circulation.*

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

.....

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

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

172.04 Parking Lot Design Standards

(See: Illustration: Parking Dimension Factors)

- (A) *Maneuvering.* Parking lots shall be designated, maintained, and regulated so that no parking or maneuvering incidental to parking will encroach into the areas designated for sidewalks, streets, or required landscaping. Parking lots shall be designed so that parking and un-parking can occur without moving other vehicles, unless a valet service has been approved as part of the development plans. Vehicles shall exit the parking lot in a forward motion.

.....

- (D) *Compact Spaces.* A maximum of 35% of the total spaces may be compact spaces. Compact spaces shall be marked either by marking on the pavement or by separate marker.

....

(Ord. No. 4725, 7-19-05; Ord. No. 4855, 4-18-06; Ord. No. 4917, 9-05-06; Ord. No. 5044, 8-07-07; Ord. No. 5079, 11-20-07; Ord. No. 5297, 12-15-09; Ord. No. 5592, 06-18-13; Ord. No. 5680, 4-15-14; Ord. No. 5841, §§1—3, 1-5-16; Ord. No. 5859, §2, 3-15-16; Ord. No. 6325, §1, 6-16-20; Ord. No. 6350, §9(Exh. G), 8-18-20)

172.05 Standards For The Number Of Spaces By Use

- (A) *Required Parking.*

- (1) *Non-Residential Use.* There shall be no minimum number of spaces required for non-residential use. The maximum number of spaces shall be limited based on the ratios in Table 3 and the allowable increases over the baseline ratio as described in subsection 172.05. The applicant shall provide a statement or parking analysis indicating how they will provide adequate parking for the proposed non-residential use to succeed without negatively impacting adjacent properties or creating or compounding a dangerous traffic condition.
- (2) *Residential.* The minimum and maximum number of spaces required for residential use shall conform to the parking ratios listed in Table 3. The minimum and maximum number of spaces required for a use not specifically included in this section shall be as required for the most similar use listed or as otherwise determined by the Planning Division utilizing reference standards.
 - (a) *Reductions for Residential Use.* Residential uses may utilize the following reductions to the minimum number required off-street parking ratios listed in Table 3 when the following standards are met:
 - (i) *Transit Stops.* Properties located within a ¼ mile radius of a transit stop may further reduce the minimum off-street parking requirements by up to 15%.
 - (ii) *Motorcycle and Scooter Spaces.* Up to 10% of the required automobile parking spaces may be substituted with motorcycle/scooter parking at a rate of one (1) motorcycle/scooter space for one (1) automobile space.
 - (iii) *Bike Racks.* Up to 10% of required automobile parking may be substituted with bicycle parking at a rate of one (1) additional bicycle rack for one (1) automobile space. This reduction shall be allowed in addition to other variances, reductions and shared parking agreements.

- (iv) *Shared Parking.* Parking requirements may be shared where it can be determined that the peak parking demand of the existing or proposed occupancy occur at different times (either daily or seasonally). Such arrangements are subject to the approval of the Planning Commission.
- (1) *Shared Parking Between Developments.* Formal arrangements that share parking between intermittent uses with non-conflicting parking demands (e.g. a church and a bank) are encouraged as a means to reduce the amount of parking required.
- (2) *Shared Parking Agreements.* If a privately owned parking facility is to serve two (2) or more separate properties, then a "Shared Parking Agreement" is to be filed with the city for consideration by the Planning Commission.
- (3) *Shared Spaces.* Individual spaces identified on a site plan for shared users shall not be shared by more than one (1) user at the same time.

....

TABLE 3
PARKING RATIOS
(Use/Required Spaces)

Residential

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

...

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

October 30, 2023

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

EDG #: 23-031
PROJECT NAME: 1301 N Gregg Ave., Fayetteville, AR 72701
DEVELOPER: XFD Real Estate Partners 2506 Galen Dr #106 Champaign IL 61821

Project Narrative

The 1301 N Gregg Ave. project is located at 1301 Gregg Ave and 1275 N Gregg Ave. and consists of parcel 765-14008-000, totaling approximately 4.35 acres. The site design includes one building with units for lease, site amenities, parking, underground detention and an elevated courtyard.

Variance Request

EDG is requesting the following variance:

1. Variance to Unified Development Code Chapter 166, Section 166.23, Item C (4) (a) **“The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk”**. EDG requests that the 12 foot minimum dimension be extended to 22'-6".
 - a. **Justification:** Because of the 10' grade change along Gregg Ave, a stair run of over 22' is required. Therefore, the run of the stairs alone exceeds the 12' maximum dimension. In the "Original LSD Submittal" sheet attached one can see that even when the stairs are oriented in the most direct angle possible, the access path along the face of the building still exceeds to the 12' minimum. The current design proposes that each stair is shared by two units that each have the same 22'-6" path of travel along the face of the building before they reach the stair. The current design follows the requirements that no more than two units share an entrance.
2. Variance to Unified Development Code Chapter 161, Section 161.17 and Chapter 172, Section 172.04
 - a. **Justification:** The design team is requesting a variance related to the parking space type ratio for a proposed multifamily project located at 1301 N Gregg Avenue. Per section (section 161.17) the total number of parking spaces required for this project before reductions is 650 spaces, 1:1 with the bed count. With the transit, motorcycle, and bicycle reductions, 65% of that 650 space total (423 spaces) is required for vehicles. 35% maximum of those vehicular parking spaces are allowed to be compact spaces per (section 172.04).

We are requesting a variance of the maximum percentage of the compact spots to be increased to 50% to accommodate the significant topological conditions of the site. See: calculations on the level 00 plan provided.

We note that the total required vehicular parking spaces will still be met if not exceeded with

Page 1 of 2

this increased compact parking ratio. This increased ratio also helps incentivize progress toward the use of more efficient vehicles and use of urban spaces at a time when the electric automobile market, ride sharing, and bike/scooter sharing are making such choices easier.

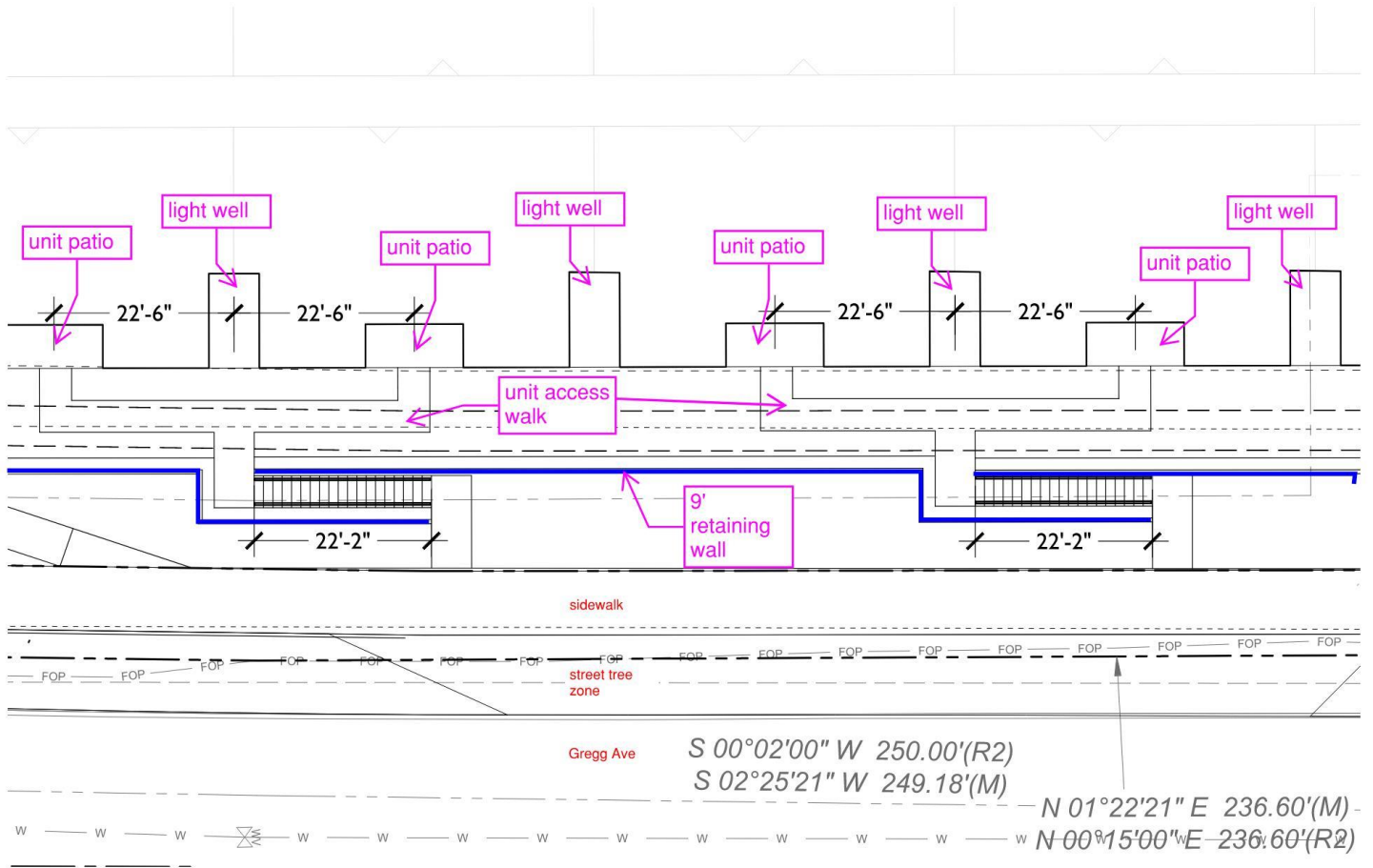
We kindly request that the City Planning Department consider this variance request and grant approval for an increased percentage of compact parking spaces within this project. We are prepared to work closely with the city to ensure that the proposed changes are implemented safely and efficiently

Sincerely,

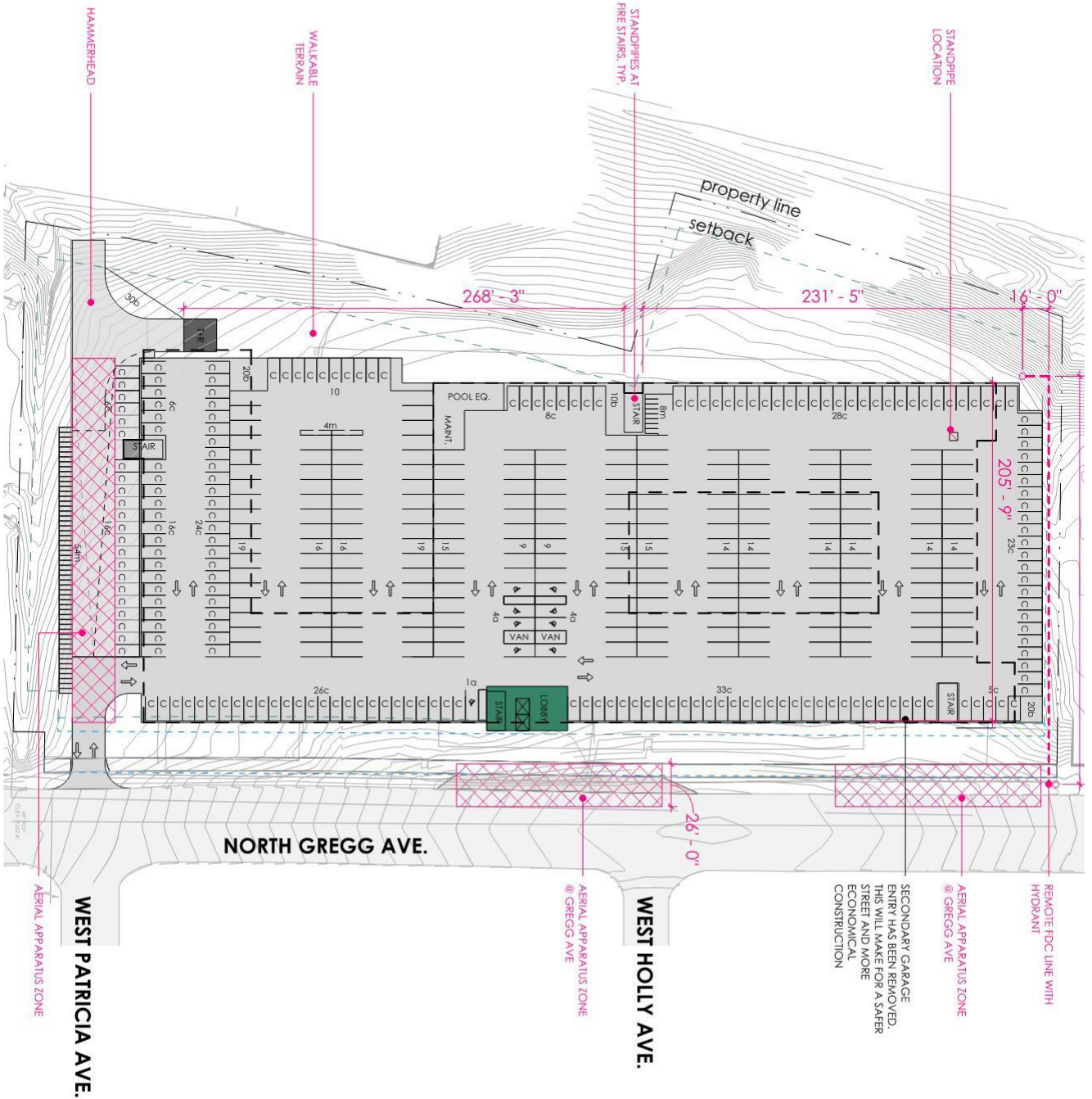


Brahm Driver, PE
Ecological Design Group, Inc. | 501.944.3090 | bdriver@ecologicaldg.com

PEDESTRIAN ENTRY- REVISED CONCEPTS

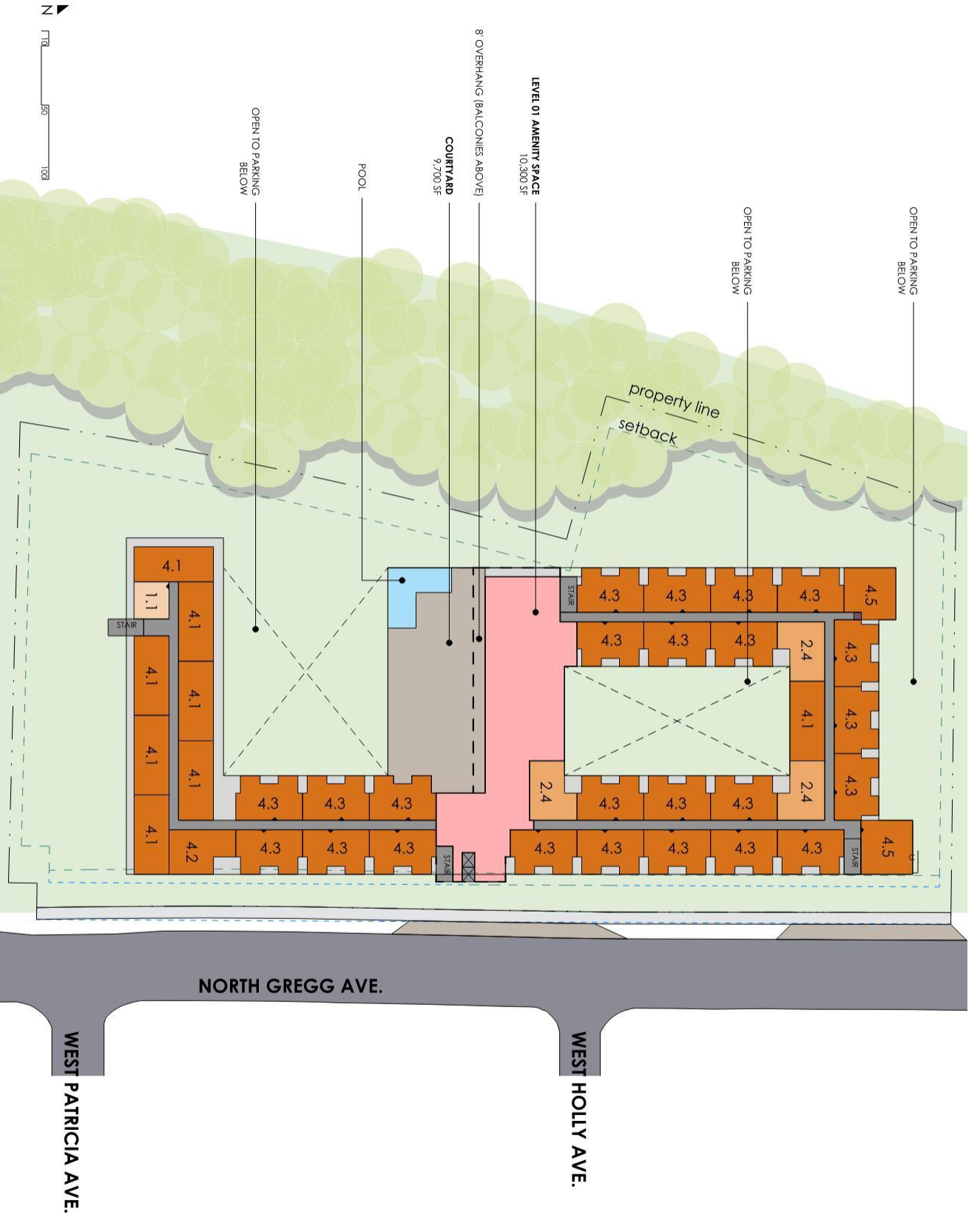


PARKING SUMMARY:	
TOTAL RED COUNT:	450
TOTAL AUTOMOBILE PARKING REQUIRED:	650
PER SECTION 172.05:	
REDUCTIONS TO AUTOMOBILE PARKING:	
WITHIN 1/4 MILE OF TRANSIT	13%
MOTORCYCLE/SCOOTER SPACES	10%
BICYCLE SPACES	10%
TOTAL REDUCTION OF SPACES	227
REVISED AUTOMOBILE PARKING REQUIRED: 650 - 227 = 423	
SPACES PROVIDED:	
AUTOMOBILE SPACES	414
MOTORCYCLE/SCOOTER SPACES	045
BICYCLE SPACES	045
TOTAL SPACES PROVIDED:	543
AUTOMOBILE SPACE BREAKDOWN:	
ADA	009
COMPACT	198
STANDARD	215
TOTAL AUTOMOBILE SPACES PROVIDED	422



mark	date	description
	2023.10.17	1301 Gregg Avenue
	2023.10.17	Fayetteville, Arkansas

DD - LEVEL 00
S0.0



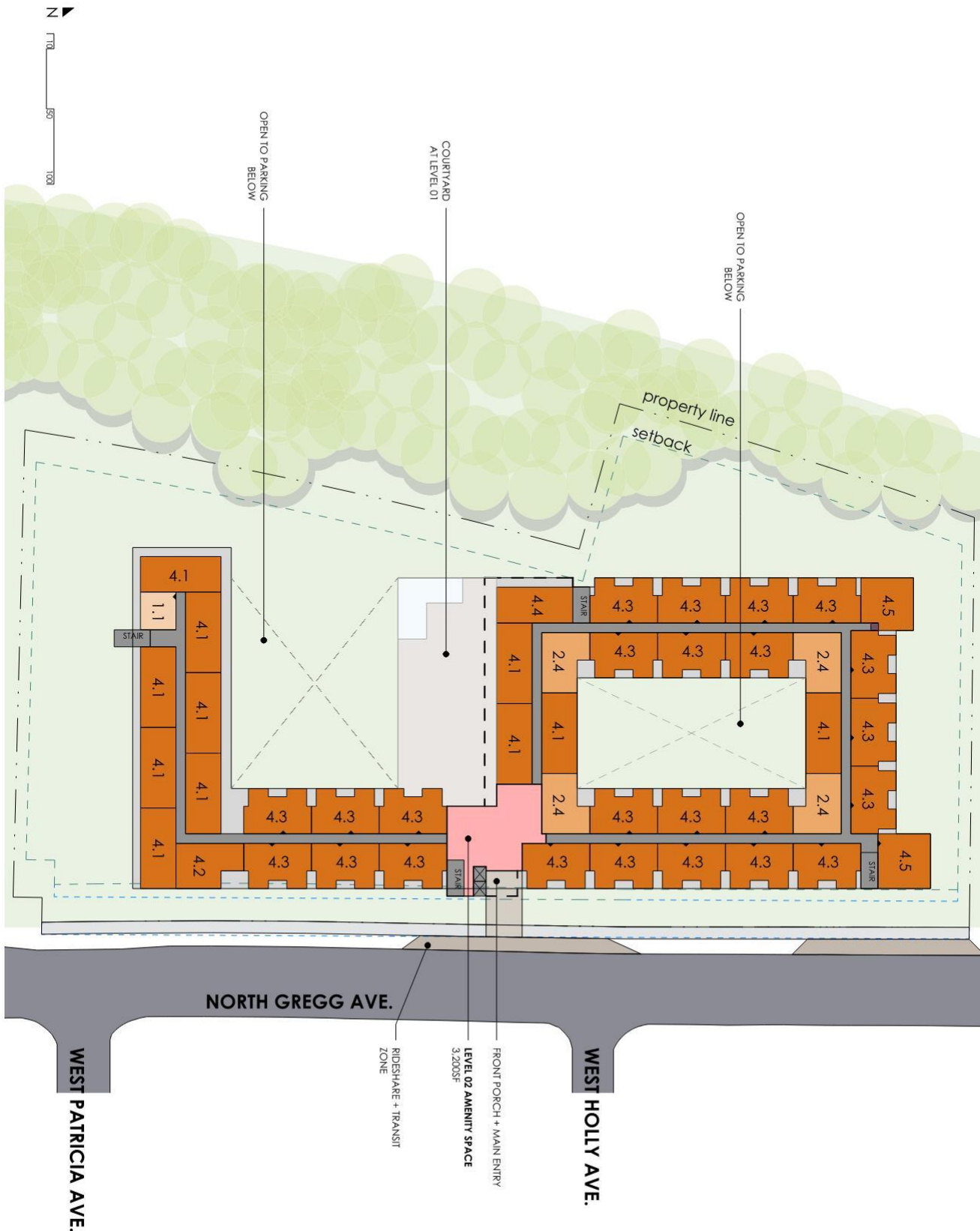
DD - LEVEL 01
SO.1

DATE: 2023.10.17
PROJ: 23.13

mark	date	description

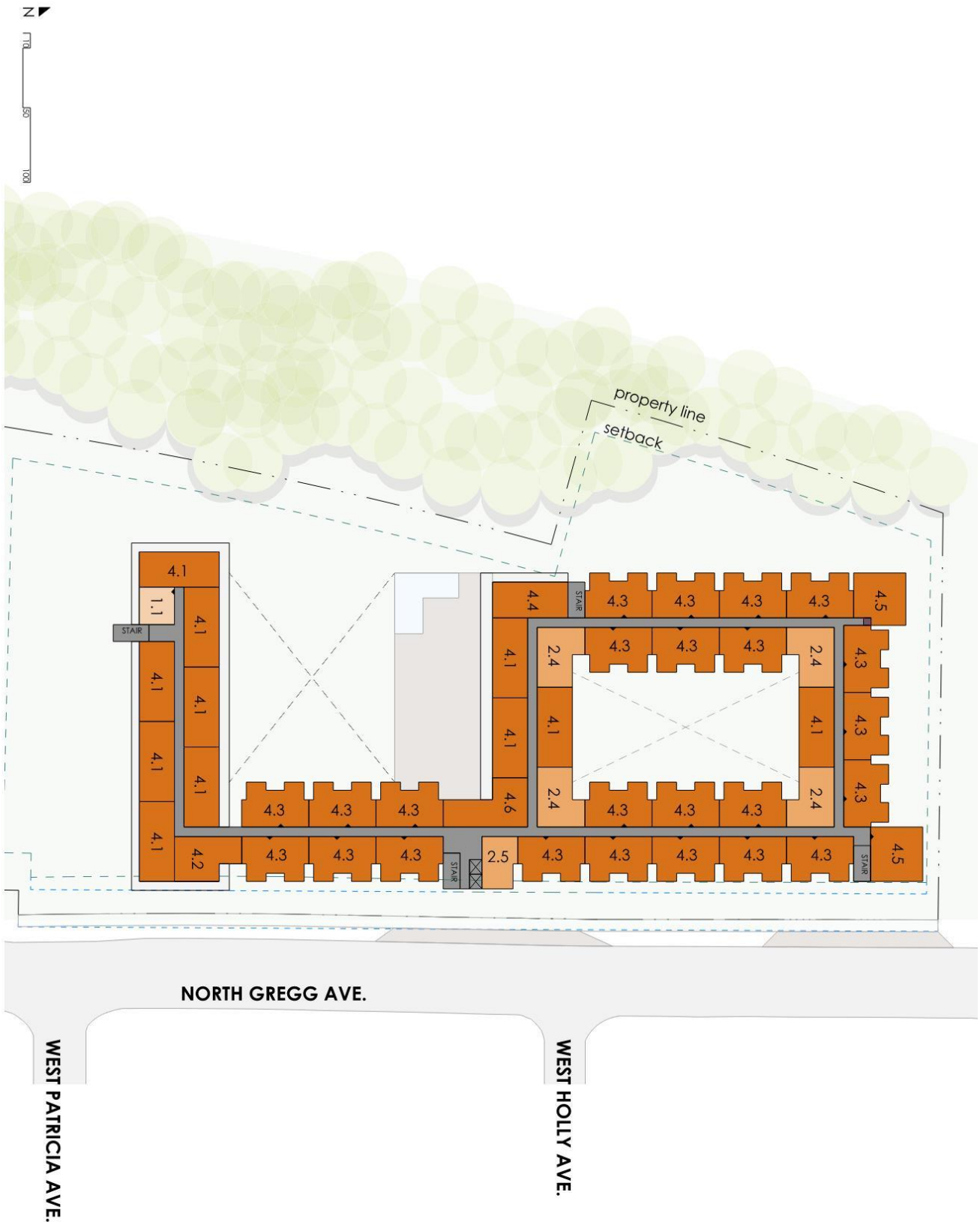
1301 Gregg Avenue
Fayetteville, Arkansas

modus
studio
architecture
interior design
landscape architecture
modustudio.com
info@modustudio.com



S0.2	DD - LEVEL 02 DATE: 2023.10.17 PROJ: 23.13	<table> <tr> <th>mark</th><th>date</th><th>description</th></tr> <tr> <td></td><td></td><td>1301 Gregg Avenue</td></tr> <tr> <td></td><td></td><td>Fayetteville, Arkansas</td></tr> </table>	mark	date	description			1301 Gregg Avenue			Fayetteville, Arkansas
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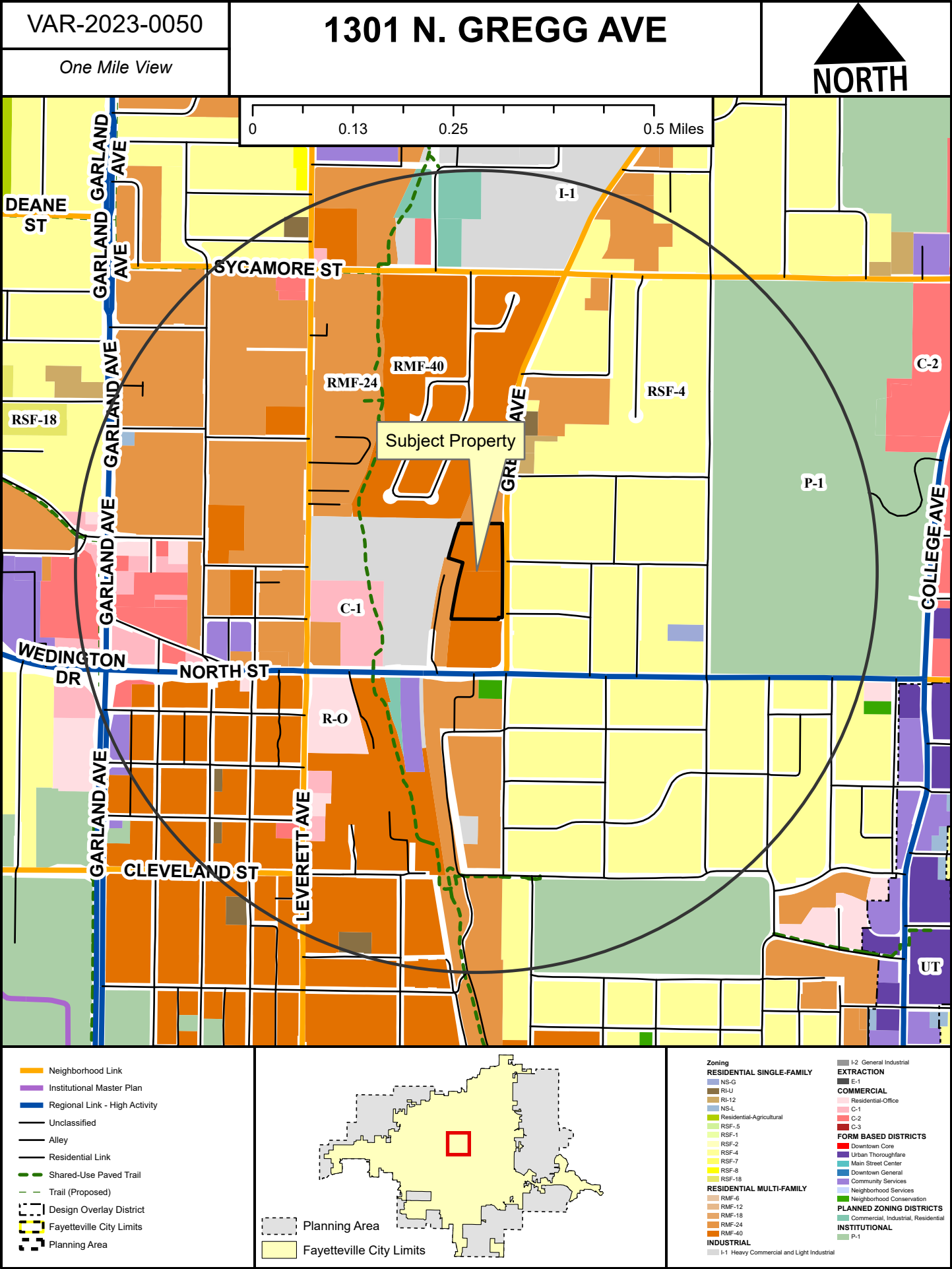
modus
 studio
 architecture
 + planning
 1301 Gregg Avenue
 Fayetteville, Arkansas 72701
 479.586.1111
 modusstudio.com

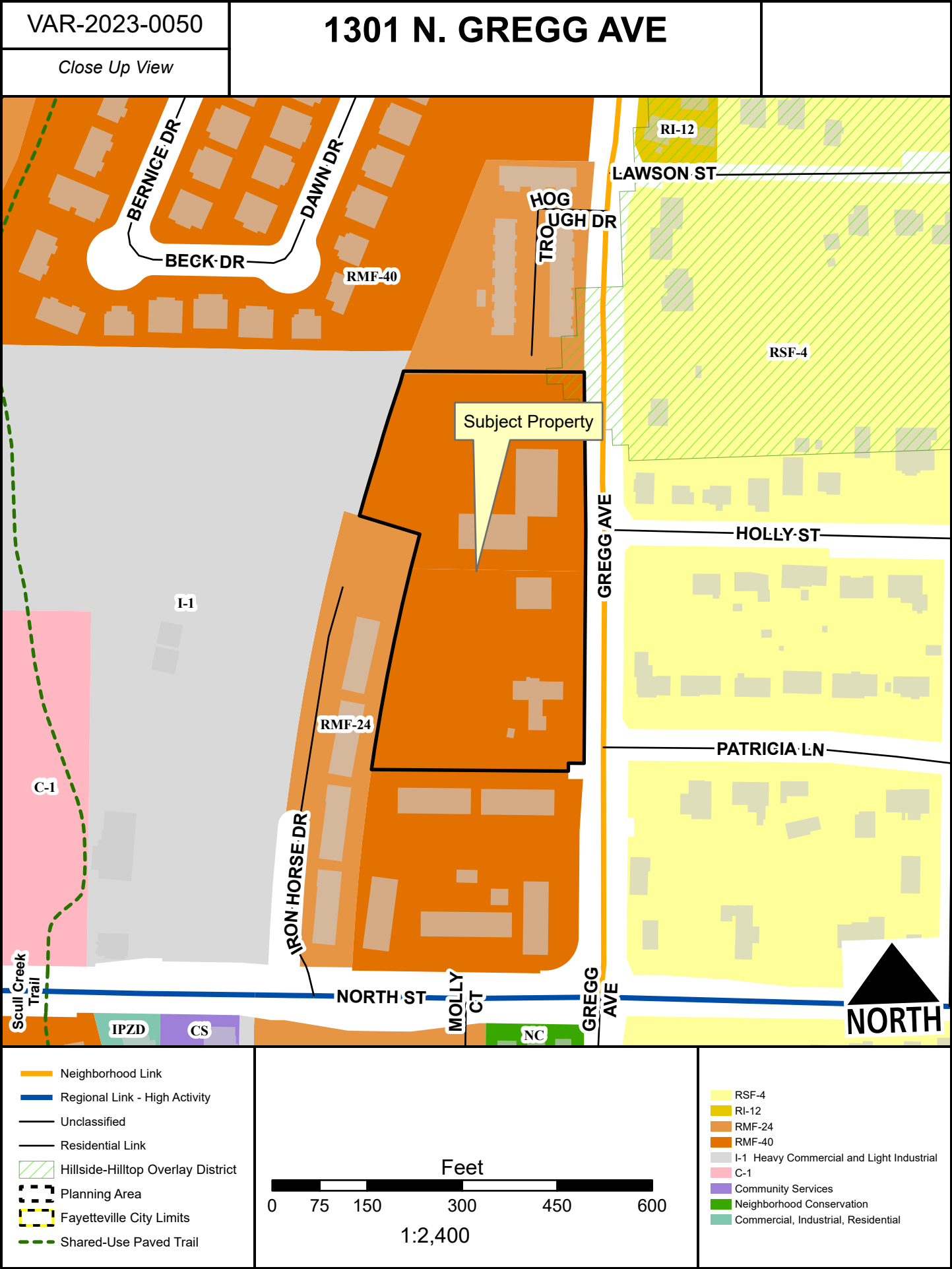


DD - LEVELS 03 - 04	DATE: 2023.10.17	mark	date	description
PROJ. 23.13				1301 Gregg Avenue
				Fayetteville, Arkansas

modus
studio
architecture
+ prototyping
479.481.5817
www.modusstudio.com
contact@modusstudio.com

PROJECT STATISTICS	DATE: 2023.10.17 PROJ.: 23.13	mark	date	description	1301 Gregg Avenue Fayetteville, Arkansas
\$0.5					





VAR-2023-0050

1301 N. GREGG AVE



Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

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

MEETING: November 27, 2023

SUBJECT: **LSD-2023-0018: Large Scale Development (W. MARTIN LUTHER KING JR BLVD & S. SMOKEHOUSE TRL/SWEET BAY AT KESSLER, 595):** Submitted by GAVIN SMITH for property located SOUTHEAST OF W. MARTIN LUTHER KING JR BLVD & S. SMOKEHOUSE TRL. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and UT, URBAN THOROUGHFARE and contains approximately 5.61 acres. The request is for a residential development containing 26 single-family dwellings and associated parking.

RECOMMENDATION:

Staff recommends tabling **LSD-2023-0018** until the December 11, 2023 Planning Commission meeting.

RECOMMENDED MOTION:

*"I move to table **LSD-2023-0018** until the December 11, 2023 Planning Commission meeting."*

BACKGROUND:

The subject property is located in west Fayetteville, southeast of the intersection of W. Martin Luther King Jr. Blvd and S. Ruppel Road. While a leg of the overall property has frontage along W. Martin Luther King Jr. Blvd, and is zoned UT, Urban Thoroughfare, the southern portion of the property received a Planned Zoning District designation in 2023 (Sweet Bay at Kessler). The development in question is about 300 feet south without direct frontage to a public street. Undeveloped and mostly covered in tree canopy, there is an approximately 7% slope upward as the portion of the property in question moves south. The entire property is outside of the Hillside Hilltop Overlay District. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1: Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	UT, Urban Thoroughfare
South	Undeveloped/Single-Family Residential	R-A, Residential-Agricultural
East	Undeveloped	CS, Community Services; R-A, Residential-Agricultural
West	Undeveloped	UT, Urban Thoroughfare; R-A, Residential Agricultural

Proposal: The applicant requests Large Scale Development approval to develop the subject property with 26 single-family dwellings and associated parking. The applicant has requested a variance to the following ordinance:

- **UDC 166.08(F)(2)(a):** Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway. The applicant is requesting to install a driveway approximately 72 feet from a proposed adjacent driveway to the west.
 - *Staff recommendation: Staff finds in favor of the request, but would recommend that the driveway be installed with a condition that it is constructed with right-in, right-out only access. While no driveway currently exists to the west, a driveway variance was approved for a three-quarter access to be installed approximately 12 feet from the adjacent property to the west, making future overall separation distance to be approximately 72 feet. Staff finds that one, full access, shared driveway would be the safest approach for access management for these two sites but recognizes that each property has the right to access W. Martin Luther King Jr. Blvd. Staff foresees a potential conflict with the build-to-zone requirement once the future UT section of the site is developed, and shifting the driveway to a shared condition would likely alleviate these concerns for future development. The applicant and the adjacent neighbor do indicate cross access to be provided between the two sites, which, provided the adjacent development begins construction, would allow for access through the gas station to Smokehouse Trail.*

Right-of-Way to be Dedicated: The overall property has frontage along W. Martin Luther King Jr. Blvd., a Regional High-Activity Link Street, and State Highway 62. There is a varying amount of right-of-way along the property's frontage. Staff recommends that right-of-way in the amount of 48 feet from the street centerline is dedicated to match the typical right-of-way requirement for the Regional High-Activity Link Street classification, as indicated on the site plan.

Street Improvements: Staff recommends that the W. Martin Luther King Jr. Blvd. frontage is improved with a 10-foot sidewalk and 10-foot greenspace to accommodate a trail at this location. In between Subdivision Committee and Planning Commission, the applicant clarified that given the location of existing curb within ARDOT right-of-way, the greenspace will be less than 10 feet if the trail is to be built at the back of the right-of-way. Staff recommends that sidewalk be installed in such a manner to provide the necessary 10 feet of greenspace, and that the 10-foot trail be dedicated in a multi-use trail easement if outside of the right-of-way. Otherwise, the applicant will be required to seek a variance from the Planning Commission; a formal request letter has not yet been provided by the applicant.

Access Management/Connectivity: As discussed above, staff has determined that the project does not currently meet access management standards, and a variance is being sought to the access management standards.

Design Standards: The development is subject to the design standards as indicated in the associated Planned Zoning District. Single-family homes are not typically subject to additional design requirements, and staff finds that the elevations submitted with the applicant's request are substantially compliant with the original PZD. Parking lot design standards also appear to be met with this request.

Water and Sewer System: The applicant is proposing to connect to an existing 18" water main along W. Martin Luther King Jr. Blvd., with an 8" waterline extension to provide fire hydrants and domestic water service. The site does not currently have access to sanitary sewer. The applicant is proposing to extend an 8" sewer main from the west to the intersection of Smokehouse Trail

and W. Martin Luther King, Jr. Blvd. From the applicant's plans, it is not currently clear whether there is sufficient easement and separation from the existing 18" water main. Engineering staff recommends that the applicant provide drawings indicating the location of the 18" water main, adequate separation between the water main and proposed sewer, and adequate required easement. Additional easement is the responsibility of the applicant to obtain. Engineering staff have reviewed the submittal from the applicant prior to the Planning Commission meeting, and have found that the applicant is not meeting the conditions that were required by the Subdivision Committee, so is recommending tabling the item until December 11, 2023, since it is not clear how the applicant will be accessing the sewer in a manner that is consistent with code.

Parkland dedication or fee in-lieu: Residential developments are subject to parkland dedication. The project was heard by the Parks and Recreation Advisory Board on October 2, 2023, where fee-in-lieu was recommended in the amount of \$28,314 for the construction of 26 single-family dwellings.

Tree Preservation:

Canopy minimum requirement: 27.1% (weighted average of 15% UT and 25% PZD zoning)

Existing canopy: 83.3%

Preserved canopy: 34.8%

Mitigation required: zero 2-inch caliper trees

Public Comment: Staff has not received any public comment on the item to date.

RECOMMENDATION: Staff recommends tabling LSD-2023-0018 to the December 11, 2023 Planning Commission meeting. If Planning Commission chooses to approve, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication in the amount of 48 feet from street centerline along W. Martin Luther King Jr. Blvd;*

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

2. **Planning Commission determination of street improvements.** *Staff recommends that W. Martin Luther King Jr. Blvd. is improved with a 10-foot sidewalk and 10-foot greenspace in alignment with the typical Master Street Plan standards for a Regional High Activity Link Street. In areas where the trail is outside of the Master Street Plan right-of-way, staff recommends that it be placed within a multi-use trail easement. Streetlights and street trees must also be installed in accordance with code.*

Subdivision Committee did not make a recommendation on this item, since the street improvements were clarified in the interim.

3. **Planning Commission determination of requested variance to UDC §166.08(F) Access Management, which typically requires access to have a higher priority on the lower classification street.** *Staff recommends in favor of the requested variance, with the added conditions that the driveway be limited to a right-in, right-out condition, and that an access easement be dedicated to the west.*

Subdivision Committee did not make a recommendation on this item, since a variance was not yet being requested.

4. The trash enclosure shall be constructed with material that is complimentary to and compatible with the proposed buildings;
5. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto, and including:
 - a. Prior to Planning Commission approval, the applicant must provide drawings showing the 18" water main field located (potholed), adequate separation between the 18" water main and proposed sewer and required additional easement. Additional easement is the developer's responsibility to obtain.

Standard Conditions of Approval:

6. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
7. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or their representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);
8. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
9. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
10. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
11. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements;
12. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
13. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;
14. Large scale development approval shall be valid for one year;

15. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
16. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and
17. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - a. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - b. Project Disk with all final revisions; and
 - c. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>November 27, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Driveway Separation Distance Exhibit
- Engineering Memo
- Urban Forestry Memo
- Parks Memo
- Request Letter
- Site Plan
- Elevations
- One Mile Map
- Close Up Map
- Current Land Use Map



TO: Jessie Masters, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: November 14, 2023

SUBJECT: Subdivision Committee Engineering Comments for
LSD-2023-0018 Sweet Bay @ Kessler

Water: The applicant is proposing to connect to an existing 18" water main along MLK and then extend an 8" waterline through the development to provide fire hydrants and domestic water service.

Sewer: The proposed development site does not currently have access to sanitary sewer. The applicant is proposing to extend an 8" sewer main from the west from near the intersection of Smokehouse Trl and Martin Luther King, Jr. Blvd. **It is not clear that there is adequate easement and separation from the existing 18" water main.**

Prior to engineering recommending this project for approval the applicant must provide drawings showing the 18" water main field located (potholed), adequate separation between the 18" water main and proposed sewer and required additional easement. Manholes adjacent to the water main must be 12.5' from the edge of the water main to the outer edge of the manhole. **Additional easement is the developer/applicant's responsibility to obtain.**

It also appears that the "Variable Width U.E." roughly 29', shown on the applicants utility plan is wider than the easement that was recorded, which is roughly 23' wide. **Additional easement is the developer/applicant's responsibility to obtain.**

The interior structures will be served via a 6" private trunk line. This trunk line must be installed per City of Fayetteville sewer specifications but may be closer than 10' to structures.

Natural Features: A small portion of this site is shown to have hydric soils as indicated on the City of Fayetteville's GIS web maps. Hydric soils are an indicator of potential wetlands. Prior to grading permit submittal, a wetland delineation must be provided outlining any potential wetlands and potential jurisdictional status.

Drainage: The proposed development is required to meet the 4 minimum standards outlined in the Drainage Criteria Manual. The applicant is proposing permeable pavement and bioretention features to meet all 4 minimum standards. The permeable pavers will meet portions of the WQv as well as flow attenuation. The bioretention features are proposed to meet water quality requirements. Sizing of the features is still under review and will be finalized during construction level reviews.

Variances: The applicant has proposed a fee-in-lieu of construction of street improvements to the property line. The street improvements will include sidewalk, green space, and an extension of a drainage box culvert. Engineering recommends denial of this variance finding there does not appear to be a hardship in constructing the sidewalk and associated drainage improvements proportional to this development's impact.

Plan Comments:

1. Work within ArDOT right-of-way must have ArDOT approval prior to commencing.
2. The 18" water line must be field located to determine adequate location for sewer main and associated easement.
3. Meter placement will be coordinated through the construction review process.

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



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Jason Young, Gavin Smith Civil Engineering

From: Melissa Evans, Urban Forester

CC: Jessie Masters, Development Review Manager

Meeting Date: November 16, 2023

Subject: LSD-2023-0018: Sweet Bay at Kessler: Southeast of W. Martin Luther King Jr. Blvd.

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	
a. Front Property Line (15' wide landscape) and 5' on sides and rear. <i>UDC Chapter 177.04D2a</i>	X			
b. Shade trees planted on south and west sides of parking lots <i>UDC Chapter 177.04D2e</i>	X			
c. Screening of parking lot from adjacent residential properties.	X			
4. Street Tree Planting Requirements	Yes	No	N/A	
a. Residential Subdivisions 1 Large Shade Species Tree per Lot <i>UDC Chapter 177.05B1a</i>				X
b. Non-Residential Subdivisions 1 Large Species Shade Tree every 30' (planted in greenspace) <i>UDC Chapter 177.05B2a</i>				X
c. Urban Tree Well – Urban Streetscapes Trees every 30' (8' sidewalk) <i>UDC Chapter 177.05B3a-f</i>				X
d. Structural Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan <i>UDC Chapter 177.05B3a-f</i>				X
e. Residential Subdivisions Timing of planting indicated on plans <i>UDC Chapter 177.05A4</i>				X
f. Residential Subdivisions Written description for method of tracking planting <i>UDC Chapter 177.05A4e</i>				X

5. Landscape Requirement Totals		Amount
Mitigation Trees		0
Parking Lot Trees		6 required, 12 provided
Street Trees		4
Detention Pond – Large Trees (1 Tree/3,000 square feet)		0
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		0
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		0

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	09-26-23 10-31-23	11-14-23	
Approved			
Tabled			
Denied			

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

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



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Jason Young, Gavin Smith Civil Engineering

From: Melissa Evans, Urban Forester

CC: Jessie Masters, Development Review Manager

Meeting Date: November 16, 2023

Subject: LSD-2023-0018: Sweet Bay at Kessler: Southeast of W. Martin Luther King Jr. Blvd.

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

Tree Preservation Calculations		
	Square Feet	Percent of site
UT Zone Total Site Area *Minus Right of Way and Easements	46,393	19%
PZD Zone Total Site Area *Minus Right of Way and Easements	195,605	81%
Overall Site Area *Minus Right of Way and Easements	241,998	100%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements (weighted average of 15% UT & 25% PZD = 27.1%)	65,640	27.1%
Existing Tree Canopy * Minus Right of Way and Easements	201,537	83.3%
Tree Canopy Preserved	84,254	34.8%
Tree Canopy Removed *On Site	117,283	48.5%
Tree Canopy Removed *Off Site	6,655	
Tree Canopy Removed Total	123,938	51.2%
Removed Below Minimum	0	
Mitigation Requirements	6,655	

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

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

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1 and 167.04L1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes		
b. Property Boundary	Yes		
c. Natural Features (100ft beyond limits of disturbance)	Yes		
d. Existing Topography and Proposed Grading	Yes		
e. Soil Types	Yes		
f. Significant Trees	Yes		
g. Groupings of Trees	Yes		
h. Table Inventory List (species, size, health, priority)	Yes		
i. All Existing and Proposed Utilities	Yes		
j. All Existing and Proposed Utility Easements and ROW's	Yes		
k. All Streams (with approximate center line)	N/A		
l. Floodplains and floodways	N/A		
m. Existing Street, Sidewalk or Bike Path ROW	Yes		
n. Submitted Site Analysis Plan (if required)	N/A		
o. Shows ALL Proposed Site Improvements	Yes		
p. Delineates trees/canopy to be preserved and removed	Yes		
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	Yes		

Tree Protection Methods			
a. Tree Protection Fencing	Yes		
b. Limits of Root Pruning	Yes		
c. Traffic flow on work site	N/A		
d. Location of material storage	Yes		
e. Location of concrete wash out	Yes		
f. Location of construction entrance/exit	Yes		

6. Site Analysis Report (if required)		Yes	No	N/A
UDC Chapter 167.04H4				
a.	Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b.	Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.			X
7. Review Status (See Comments)		Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved		09-26-23	11-14-23	
		10-31-23		
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 make sure adjacent landowners are ok with disturbance or removal of their trees (unless it is the same owner).
3.	Please show Tree Preservation Easements to be dedicated (as required for LSD Projects per Ch. 167 of the UDC) on the Tree Preservation Plan as well as the Landscape Plan.



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: October 24, 2023

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: October 2, 2023

Project Title: Sweet Bay at Kessler

Project Number: LSD-2023-0018

Project Location: SE of Smokehouse Trail and Martin Luther King Blvd

Plat Page: 595

Park Quadrant: SW

Billing Name & Address: Bleaux Barnes, PO Box 1146, Farmington, AR 72730

☐ 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: 26 units x \$1,089 per unit = \$28,314

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

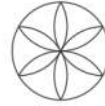
**TOTAL
Fees**

\$28,314

SUMMARY:

- Project proposes 26 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 this project.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- 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.

GAVIN SMITH CIVIL ENGINEERING



March 14, 2023

From Jason Young
Project Manager
Gavin Smith Civil Engineering, LLC
393 N Allen Street
Fayetteville, AR 72701

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

RE: Sweet Bay @ Kessler Large Scale Development

Dear Planning Staff,

Gavin Smith Civil Engineering (Applicant), of D&B of Northwest Arkansas (Owner/Developer), has applied for a Large Scale Development on a parcel within the City Limits of Fayetteville Arkansas.

The property subject to the requested development is 5.59 acres on West Martin Luther King Boulevard, approximately 300 feet East of the intersection of South Ruppel Road and South Smokehouse Trail, on the south side of West MLK Blvd. The subject property is assigned Washington County Parcel #765-16280-000, and is currently vacant/undeveloped. Directly adjacent to the South and Southwest lies a parcel owned by the City of Fayetteville with trails connecting to the larger park area approximately 1 mile to the South.

The property is divided into two separate zoning designations. The northern 1.10 acres is zoned Urban Thoroughfare, and there is a Residential Planned Zoning District in place on the southern 4.49 acres. The RPZD has a City Ordinance number of 6669 and was put into place on June 6, 2023. Excepting a private drive providing a connection from West MLK Blvd, as well as required utility extensions, the vast majority of this proposed development is confined to the area included in the RPZD. Development of the area zoned Urban Thoroughfare will be proposed at a later date.

The Owner/Applicant is proposing 26 Single-Family dwellings. There are two floor plans proposed with both one- and two-bedroom configurations. The one-bedroom homes will be single-story and will have 800 square feet of living area. The two-bedrooms homes will have two stories and 1200 square feet of livable area. Of the two configurations, 8 homes will be one-bedroom and 18 will be two-bedroom. With connections to the trail system immediately adjacent to the south of the subject property, as well as the proximity to Centennial Park, the location of the proposed development will provide residents with ample outdoor recreational opportunities.

The subject property has significant natural characteristics, and every effort will be made to preserve the existing stream areas as well as existing trees. This will be accomplished by constructing homes at a density that is well under the property's potential, as well as using proposed parking lots as underground detention facilities in lieu of detention ponds. The nature of the cottage-style homes will also allow for their construction as close to existing grade as possible. The Owner/Developer's overall goal for this property is to minimize disturbance and keep the natural character of the property intact.

52 parking spaces are proposed to be distributed throughout the site, meeting the UDC requirement of two spaces per bedroom. 6 bike racks are currently proposed to meet the anticipated need of residents in the area,

There is approximately 165 linear feet of street frontage along Martin Luther King boulevard. A 26' wide drive is proposed to access the developed area to meet Fire Department access requirements. W MLK is designated as a Regional High-Activity Link per the Master Street Plan, and street improvements will be provided in accordance with current MSP requirements.

Municipal Water and Sewer services will be provided by utility main extensions. An 8" water main will connect to an existing 18" main along the property's street frontage and extend into the developed portion of the property to provide domestic water service and hydrants for fire protection. An 8" sewer main will connect to an existing offsite manhole within South Smokehouse Trail to the west, run along the south street frontage to the site, and extend south to the residential area where it will terminate with a manhole. Sewer services will be provided by a 6" trunk line to the proposed manhole, with individual sewer services tying into the 6" line.

As previously mentioned, stormwater detention will be provided by gravel reservoirs under permeable pavers in the parking areas. Stormwater design will meet all requirements as set forth by the Drainage Criteria Manual.

Tree preservation has taken priority in the design of this development. Several significant on-site trees will be preserved. Low-impact wooden pedestrian bridges will be constructed across two stream crossings to provide for greater tree preservation opportunities. Tree preservation easements will be established to ensure that the preserved areas maintain their natural character in perpetuity.

The Applicant and Owner/Developer look forward to discussing this development with Staff throughout the review process. Please contact the Applicant if there are any immediate questions or concerns regarding this Large Scale Development Application.

Thank You,
Jason Young

GAVIN SMITH CIVIL ENGINEERING



November 20, 2023

From Gavin Smith, PE CFM
Gavin Smith Civil Engineering, LLC
393 N Allen Street
Fayetteville, AR 72701

To: Sarah Sparkman, Chair
Fayetteville Planning Commission

RE: Sweet Bay @ Kessler
Project #: LSD-2023-0018
Request for Variance – Drive Separation

Dear Ms. Sparkman,
I am writing to request a variance for the above referenced project.

Description of request: We request a variance to the requirement for 250' of drive separation for Regional High Activity Link streets because we received the following comment from Planning Staff:

"A variance will need to be sought for this driveway. Please submit a specific request letter to 166.08. Staff will not support a full access driveway at this location, but will recommend right-in, right-out given that there is cross-access available to the property to the west. One, full access shared driveway is still the preferred option by staff..".

Background Information as reported by planning staff on the November 16, 2023 Subdivision Committee agenda:

"Staff has determined that the project does not currently meet access management standards, and the variance will be needed for 166.08 (F)(1)(2) [sic][166.08(F)(2)(a)], which requires a 250-foot curb cut separation distance from an adjacent curb cut along Regional Link Streets. In this instance, a variance has been approved for a three-quarter access driveway to be installed approximately 12 feet from the adjacent property to the west, making future overall separation distance to be approximately 72 feet. Staff would recommend that one, full access, shared driveway be considered for these two sites, but recognizes that each property has the right to access W. Martin Luther King Jr. Blvd. Staff would likely only support a right-in, right-out driveway at this location due to overall public safety concerns. Further, staff foresees a potential conflict with the build-to-zone requirements once the future UT section of the site is developed. The applicant and the adjacent neighbor indicate cross access to be provided between the two sites."

Specific section of code: UDC Chapter 166.08(F)(2)(a)

"Regional and Regional High Activity Links. Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway."

Site Specific Undue Hardship #1:

We first and foremost object to the premise of this requirement. There is not an existing or approved drive on the neighboring property. A variance (VAR-2022-0064) as mentioned was passed, but that same variance also includes the following unambiguous statement in the conditions of approval:

“Approval of this item does not represent approval of any other zoning or development variances, nor does it represent development entitlement approval for the associated project.”

Based on the above statement we believe that there is no prior approval for this driveway. We therefore assert that because there is no approved driveway there is no need for a variance. Our proposal as shown in the design plans is UDC compliant. In addition, we have moved our driveway as far east as possible from the proposed Jiffy Trip's driveway. Requiring a variance for our project based on a variance for an unapproved project sets a precedent that projects may hinder and bind neighboring projects by introducing variances prior to approval.

Additionally, requiring a variance for a project under review without including conditional activation of the requirement puts our project in the difficult position of not having full access while/until the neighboring project is built. At the very least the requirements should be contingent on Jiffy Trip going to construction before our project. Projects often pause during approval and never move forward or are approved and never built. All requirements for drive separation should be based on existing approved drives so that development is not limited to full access to their property except through undeveloped properties. A reasonable requirement would be that we are limited to full access until a drive is built on the neighboring property and after the drive is built, we are limited to right-in, right-out, and left-in. In all cases we would agree that left turn out is better through smoke house than trying to cross traffic on MLK, but assert our right to do so without other options available.

Site Specific Undue Hardship #2:

The traffic count for the gas station makes shared drive impractical. Please see the below figure for the trip generation estimate supplied by the Jiffy Trip design team to city staff and presented at tech plat.

TABLE 1
PROJECTED SITE GENERATED TRAFFIC VOLUMES

Building Type (Land Use)	ITE Land Use Code	Approximate Gross Floor Area or Other	Avg. Weekday Vehicle Trip Ends			Average AM Peak Hour Directional Distribution		Average AM Peak Hour Directional Volume (vph)		Average PM Peak Hour Directional Distribution		Average PM Peak Hour Directional Volume (vph)		
			Per	Day	Per Peak Hour of Adjacent Street Traffic									
					One Hour Between 7am & 9am									One Hour Between 4pm & 6pm
			(vpd)	(vph)	(vph)	IN	OUT	IN	OUT	IN	OUT	IN	OUT	
Trip Rate*	960	(fueling positions)	230.52	28.08	22.96	0.50	0.50	197	196	0.50	0.50	161	160	
Super Convenience Market/Gas Station		14	3,227	393	321									
Trip Rate Reductions														
Reduction Type			Reduction Amount (%)		AM Peak Hour				PM Peak Hour					
					Reduction		Total Development		Reduction		Total Development			
					IN	OUT	Volume		IN	OUT	Volume			
Pass-By Trips**			75		148	147	IN	OUT	121	120	IN	OUT		
								49	49			40	40	

* Trip Rates from "TRIP GENERATION MANUAL", 10th Ed., Volume 2: Data, Institute of Transportation Engineers.

** Pass-By Trips reduction was based on the latest research data provided in the ITE Trip Generation Handbook, 3rd Edition.

Figure 1 - Trip generation Estimates Supplied By Jiffy Trip

They estimated 3,227 cars per day using the gas station on weekdays, assuming 15' per car, this is a bumper-to-bumper line of cars 9.17 miles long. That would reach well into Prairie Grove. They estimate a peak rate in the morning of 393 vehicles per hour and 321 cars in the evening. That equates to 1 car every 9 seconds in the morning, and 1 car every 11 seconds in the afternoon.

A similar ITE estimate for the Sweet Bay project would generate 0.99 trips per day for each of the 26 single family residences or 25.74 trips per day. The cross-access has been provided in the plans. We are not arguing against a

cross access, but against being required to enter and exit our site through their site. Jiffy Trip would only feel a 0.8% increase in traffic, while Sweet Bay would experience a 12,537% increase by combining drives.

The above assumes a low car length. Just imagine 3 landscaping trucks with 16' trailers.

Site Specific Undue Hardship #3:

The Jiffy Trip project is cutting into their site 6' and we are building at grade making the only location for vertical and horizontal cross connection possible due to their site cut, the very front of the site, which means that they can cue traffic that crosses our access and without a stop sign we would not be able to leave or enter except at the mercy of Jiffy Trip clients as they exit the site to MLK.

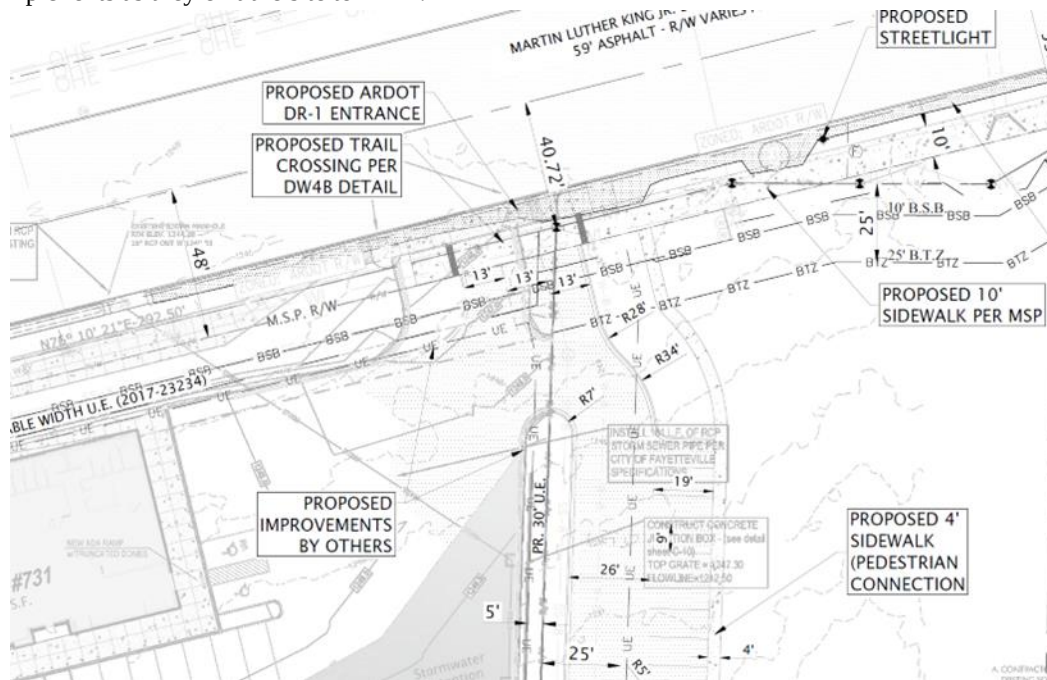


Figure 2 - The proposed shared drive

A shared drive was considered both graphically and conceptually from our point of view. It was designed to accommodate right-out, right-in, and left-in maneuvers per the previous planning commission variance discussion. We approached the neighboring property representative to propose our solution. Their response was that they would agree to a shared drive on the conditions that the shared drive must be fully accessible and include a left turn out option, and that they not be burdened to redesign any of their site as it was shown in their plans concerning their detention area or in any way except directly adjacent to MLK where they agreed we could slide it onto our property. They have since redesigned their detention but have at no time since reached out with any proposals of their own or changed the conditions by which they would agree. Our knowledge of their site is based on information shared by city staff. Staff were emailed, and it was queried whether a shared drive would be fully accessible or would be restricted. They confirmed via email that a shared drive would be full access and could include a left turn out option. We would support a shared drive if it was sufficiently striped or had traffic control signs adequate to allow equal access to both projects. But we cannot support a requirement to navigate from smoke house to Sweet Bay through Jiffy Trip strictly at the mercy of Jiffy Trip customers.

Site Specific Undue Hardship #4:

The requirement of a variance is a disproportionate application of enforcement in that the requirement is not being equally applied to Jiffy Trip. While we are being required to either form a private agreement with a neighboring property or suffer limited access, the following review comment was made to the neighboring property:

“The city recently received development plans for the property immediately to the east of the site which include a new driveway that's located only about 30 feet away from this driveway. Would it be possible to coordinate with the applicant for that project to see if there is a way to share access onto your properties? A screenshot of their site plan showing their proposed driveway location and their contact information is shown here.”

While it is very possible much more was said to the neighboring property owner this is the review comment we are privy to, which was shared via the tech plat review. Insisting that we must join our drives to us, while only suggesting it to Jiffy Trip is disproportionate. A disproportionate restriction is an arbitrary and capricious restriction.

Site Specific Undue Hardship #5:

The Jiffy Trip Variance as approved is needlessly dangerous and should be revised, and if revised it would remove the need to restrict our project.

The variance allowed that Jiffy Trip be allowed left-in access, which it already has inherently via smokehouse. To make a left turn in to the proposed entrance a vehicle heading west must block the left turn only lane to enter the site crossing 2 lanes of traffic coming from the west or turning onto MLK from Ruppel or Smokehouse. The same car can simply pull forward in the left turn lane, wait till the light allows left turn only and cross the 2 lanes of traffic at less risk. If the entrance was strictly right-in and right-out would a variance have been required here for a separate development that is maximizing the drive distance separation available already?



Figure 3 - both projects are adjacent to the west bound left turn lane

Site Specific Undue Hardship #6:

A shared drive routes a residential neighborhood through a busy gas station triggering a discussion from the fire access point of view. We currently have 26 single family residences. A future proposal considers 12 to 15 multifamily units. This fits within the requirements for fire access as outlined in the State Fire Code appendix D, when you consider that the front multifamily building also adjoins MLK. By requiring access through the gas station it becomes ambiguous whether there would be adequate fire access. While the form-based aspirations of the UT zoning seek to build a denser city scape they have to be balanced with fire access needs. In other locations there would be a neighborhood behind this property from which access could be pulled, but here the project is backed by Kessler and park lands. The park creates a site-specific hardship that requires access through the front. For Fire

access we need a drive onto MLK, we agree to right-in and right-out and left-in (not a big deal for 26 cars a day), we further agree that left-out should go through the gas station (if it is ever built), even though during peak times would it would be nearly impossible, but we have to have a dedicated fire access route.

Site Specific Undue Hardship #7:

We are using an existing curb cut (there are 2 on site). We have moved the drive from the west curb cut to the east curb cut to accommodate a possible Jiffy Trip entrance. (We also can't move further east because of the grading around the drainage channel that goes under the highway) Changing the curb cut adds regulatory burden.

UDC 156.03(A)(1) allows that a regulatory increase can also be considered a hardship. The Sweet Bay Project adjoins Arkansas HWY 62. The connection is subject to ARDOT review and as such would require submission and permitting through ARDOT to demolish and remove the existing curb cut and apply for a new curb cut. This is at times a lengthy and labyrinthine process and adds to the approval pathway of the project.

The proposed curb cut meets the ARDOT standard as shown in the revised ARDOT DR-1 detail for separation: 28' between adjacent drives.

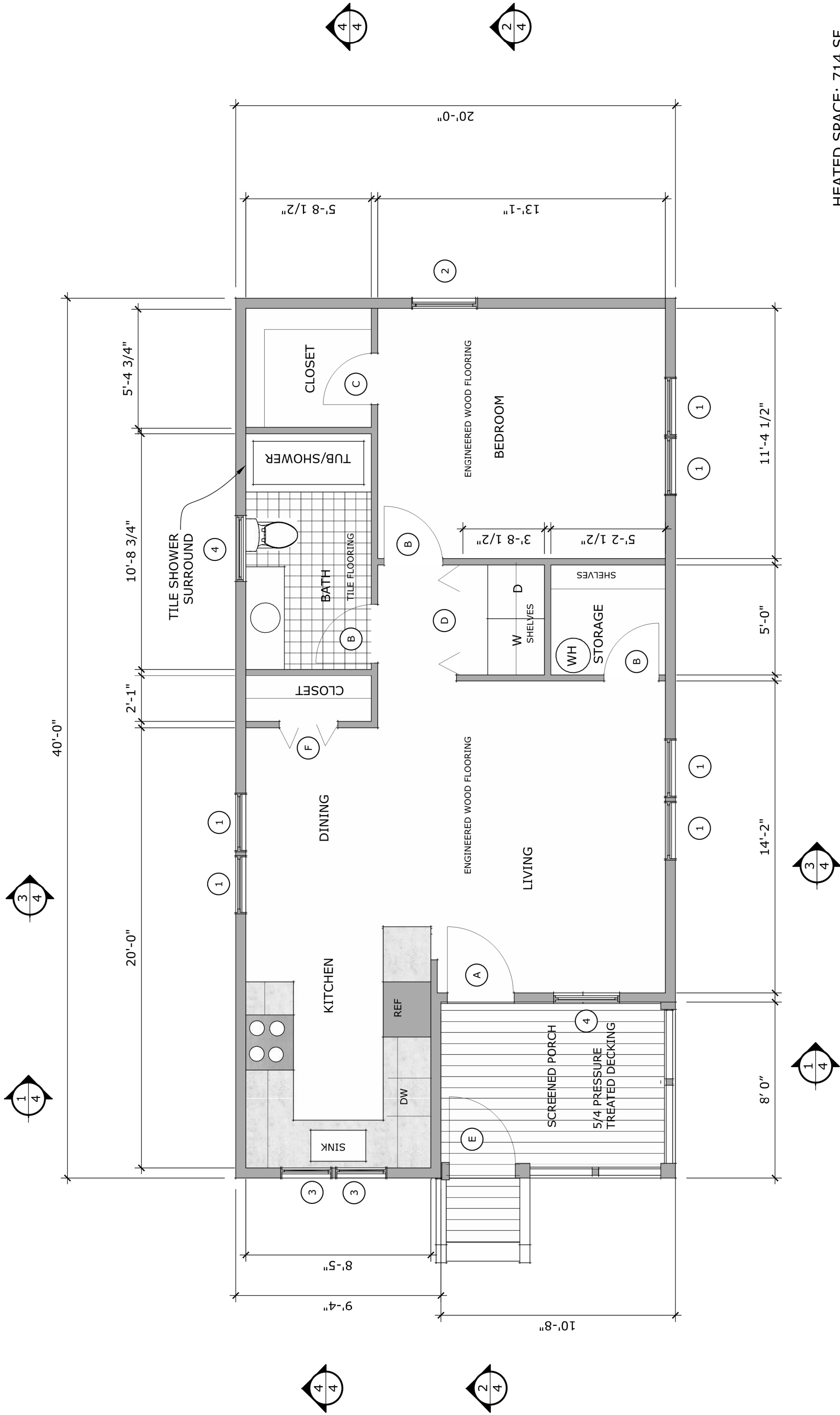
Conclusion:

For these reasons, a variance is warranted, and a hardship exists. The current proposal secures the public interest and departs from regulation only for site specific issues and does not nullify the intent and purpose of the development regulations but satisfies them alternatively.

Thank You Sincerely,
Gavin Smith PE CFM

SYMBOL	TYPE	WIDTH	HEIGHT	DOOR SCHEDULE	FINISH	NOTES
A	ENTRY	3'0"	6'8"	MANUFACTURER		CRAFTSMAN W/ UPPER LITE
B	INTERIOR	2'8"	6'8"		PAINTED	SINGLE RECESSED PANEL
C	INTERIOR	2'4"	6'8"		PAINTED	
D	INTERIOR BI-FOLD	5'0"	6'8"		PAINTED	
E	SCREENED DOOR	3'0"	6'8"		PAINTED	SOLID LOWER PANEL

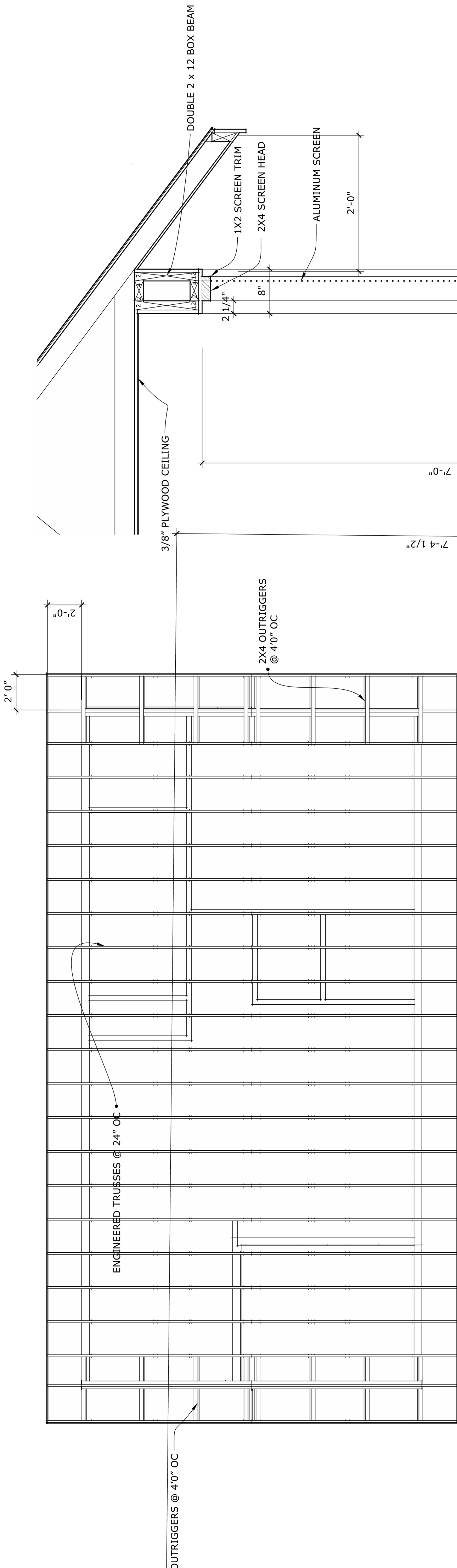
WINDOW SCHEDULE				WINDOW SCHEDULE		NOTES
SYMBOL	TYPE	WIDTH	HEIGHT	MANUFACTURER	SERIES	
1	2-DOUBLE HUNG	2'6"	4'6"			
2	DOUBLE HUNG	3'0"	5'0"			
3	2- DOUBLE HUNG	2'4"	3'4"			GANGED BY MANUFACTURER
4	AWNING OR SLIDER	3'0"	2'0"			GANGED BY MANUFACTURER



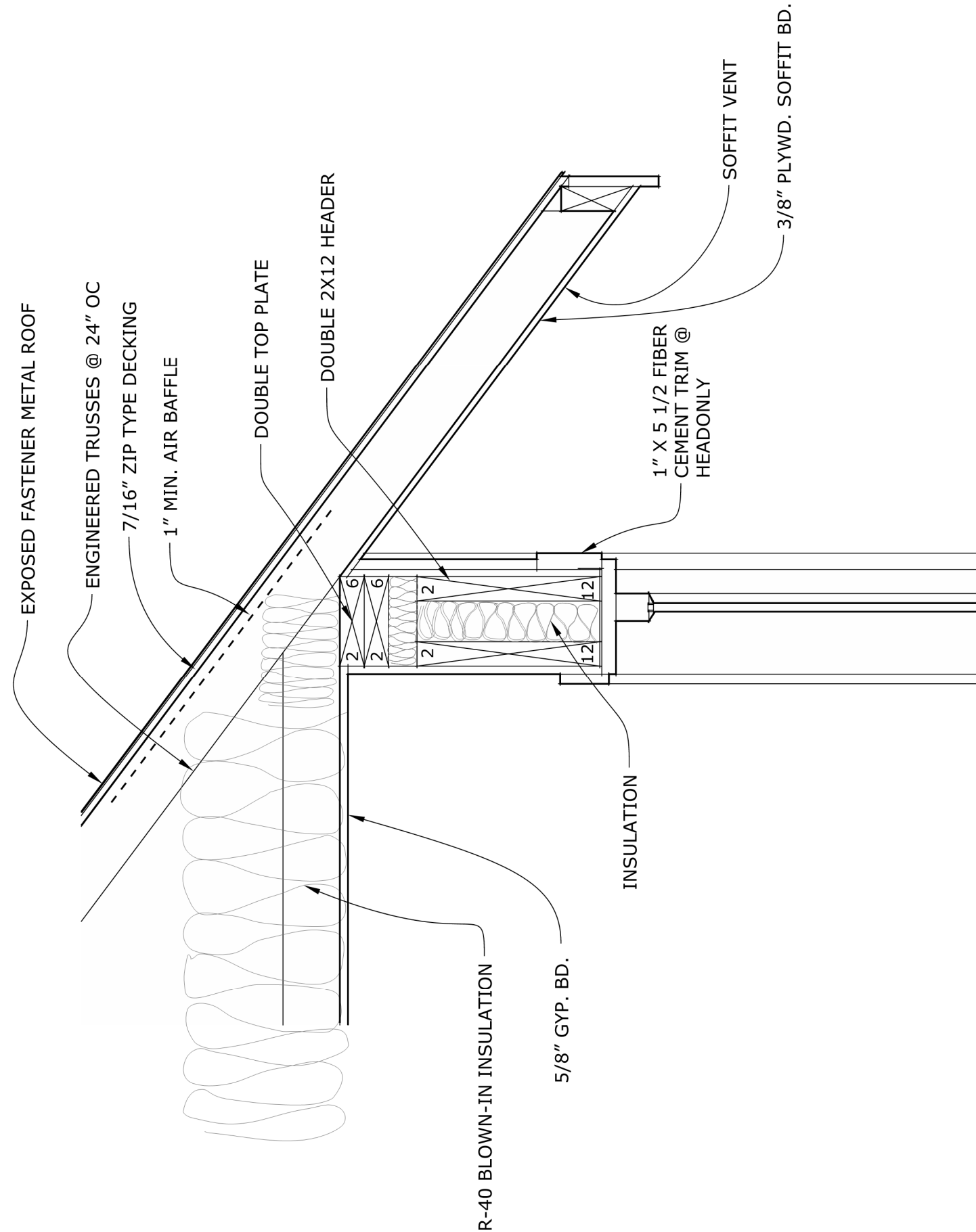
1 1 BEDROOM FLOOR PLAN

1 1 SCALE : 1/4" = 1' - 0"

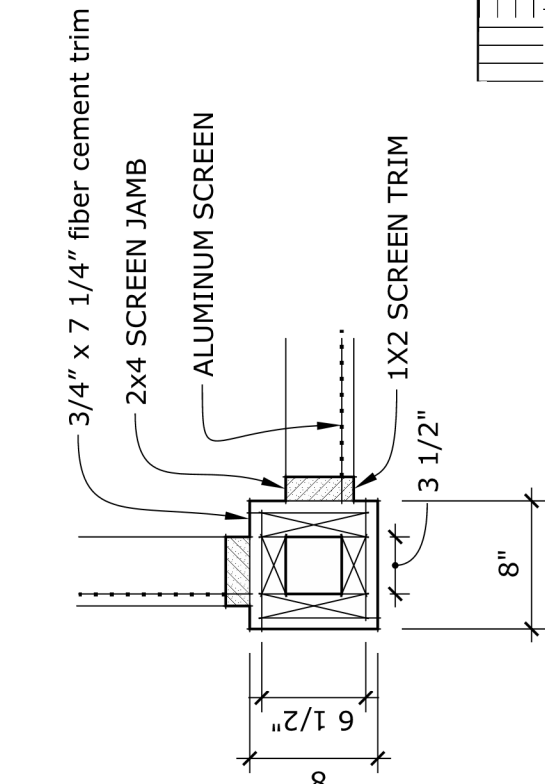
HEATED SPACE: 714 SF
PORCH : 86 SF



1 ROOF FRAMING
3 SCALE : 1/4" = 1' - 0"



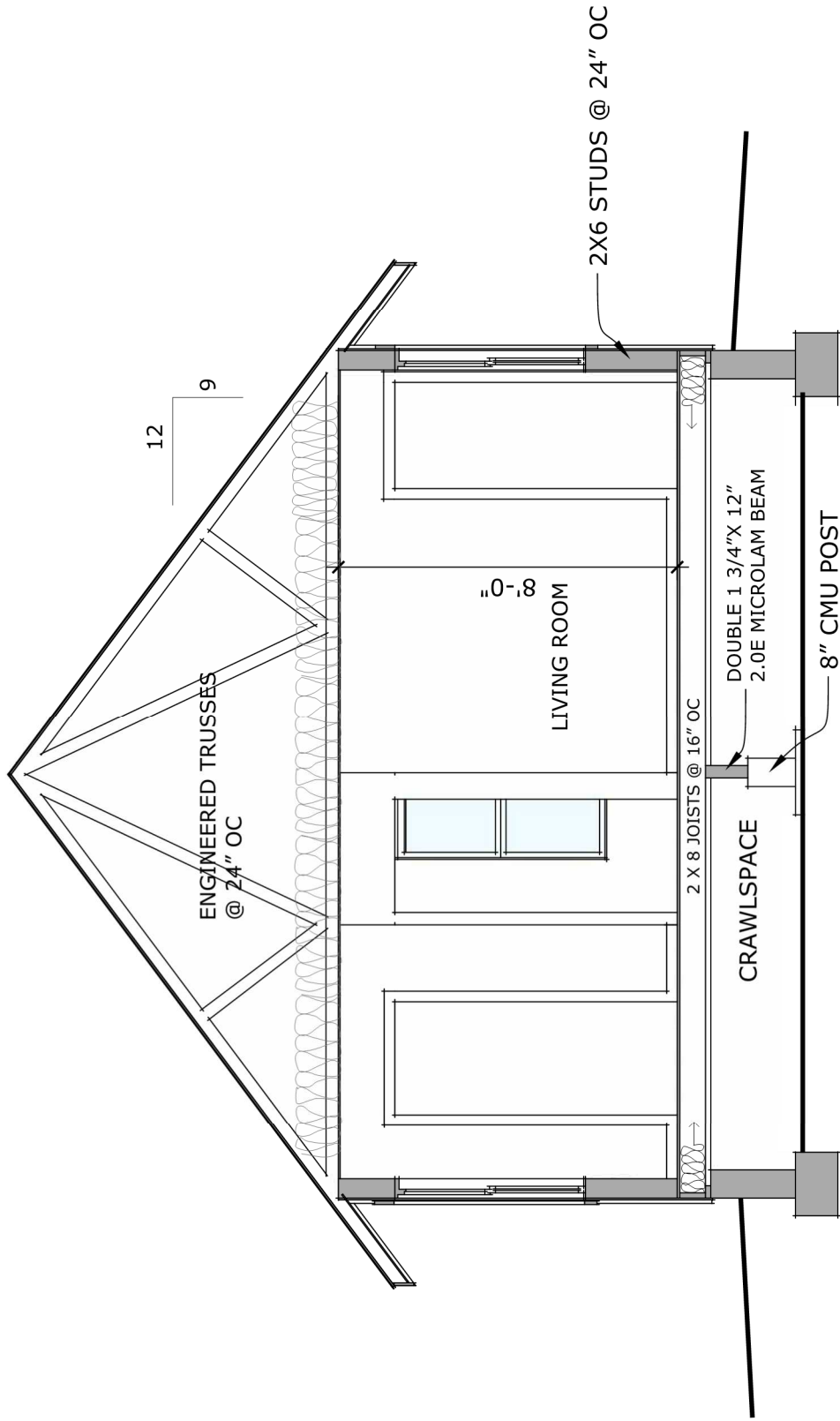
2 HEADER/EAVE DETAIL
3 SCALE : 1/2" = 1' - 0"



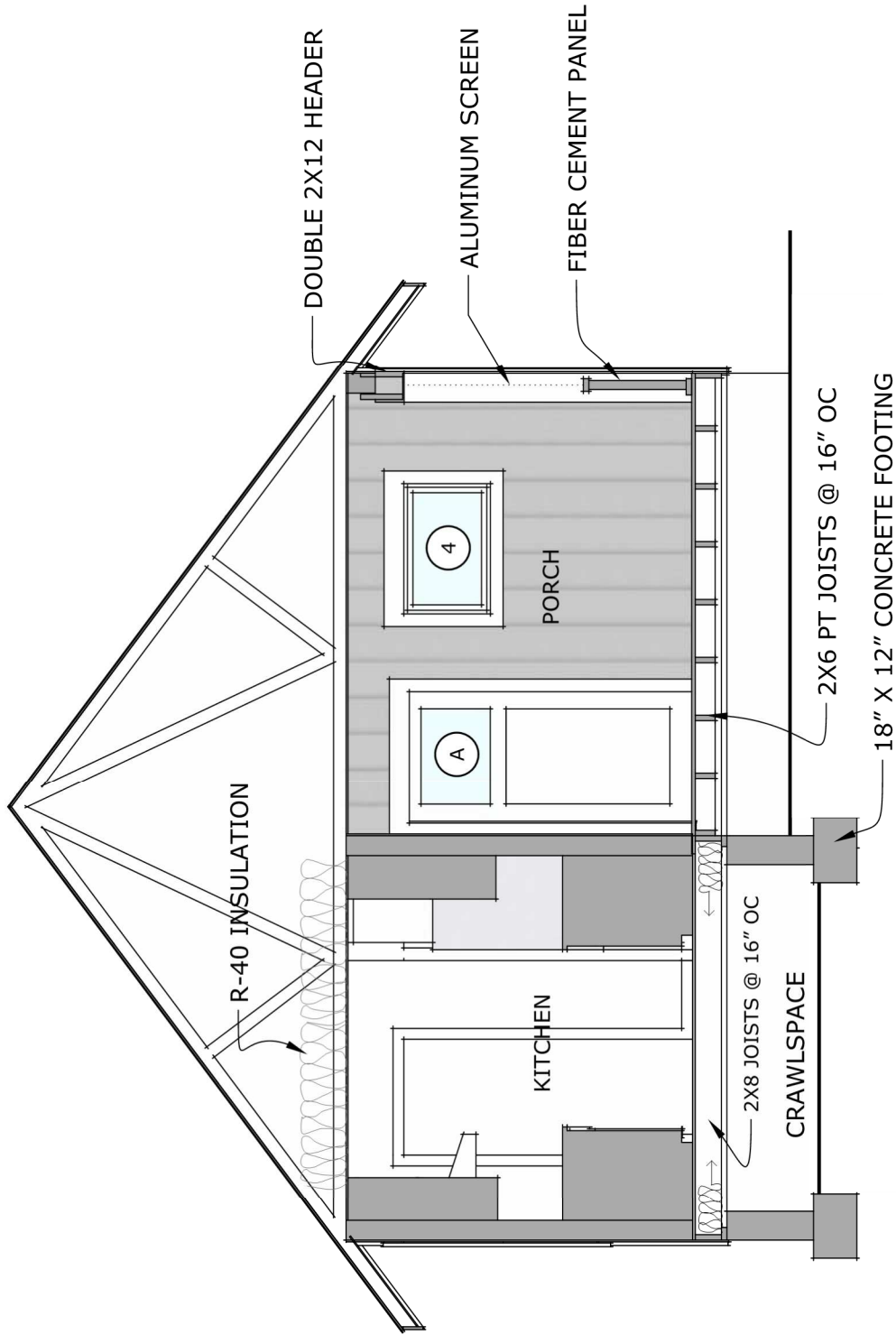
A PORCH POST PLAN DET.
1 SCALE : 1" = 1' - 0"

A SCREENED PORCH WALL SECTION
1 SCALE : 1" = 1' - 0"

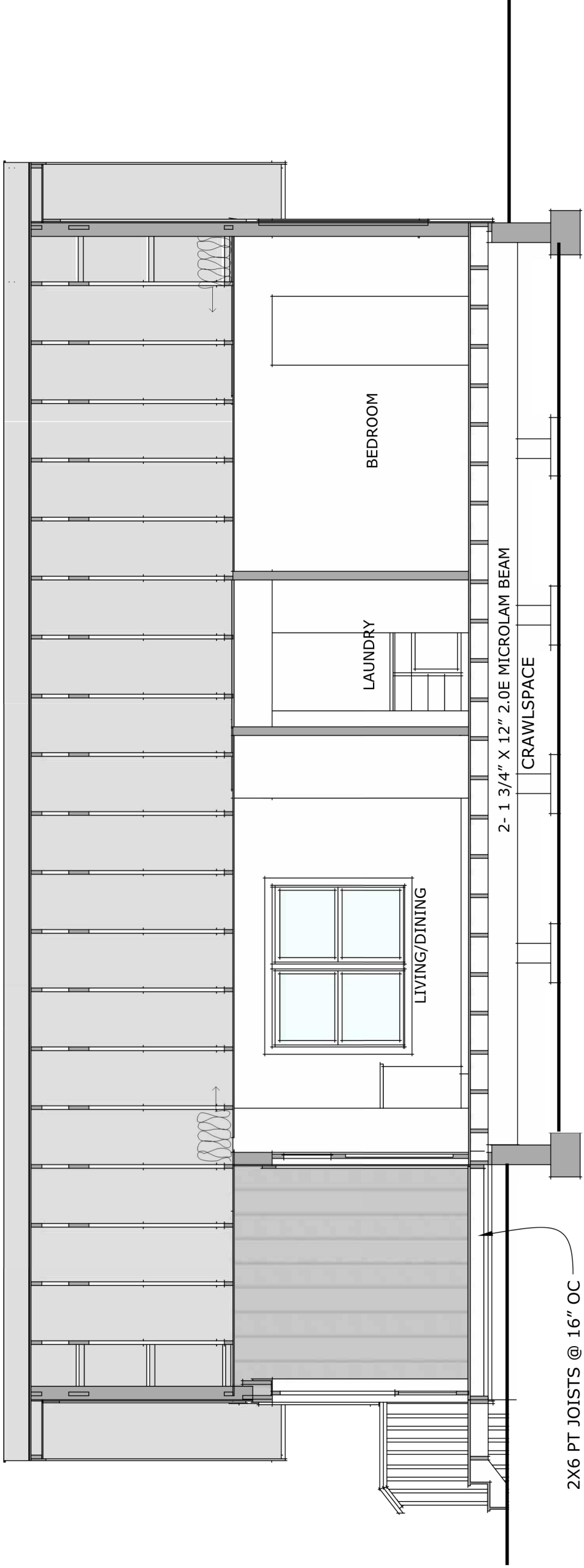
PRELIMINARY - NOT FOR CONSTRUCTION



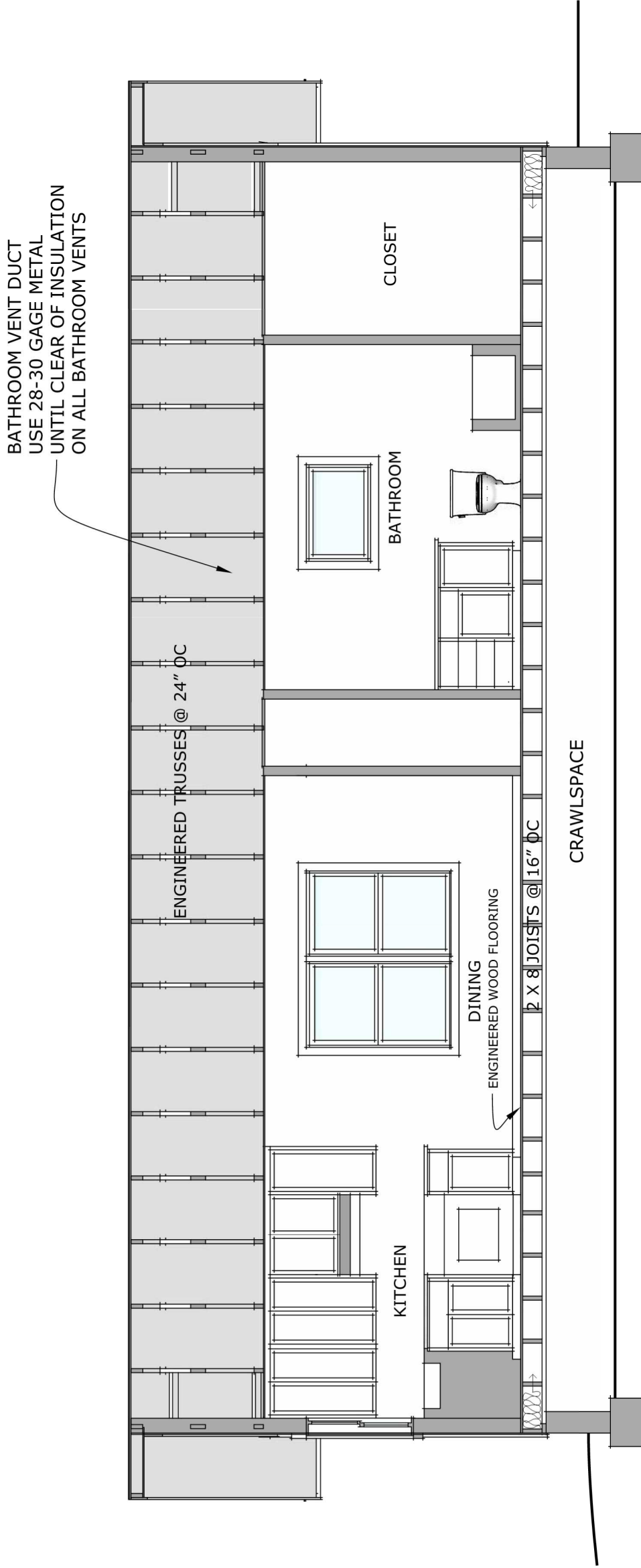
1 1 BEDROOM SECTION
4 SCALE : 1/4" = 1' - 0"



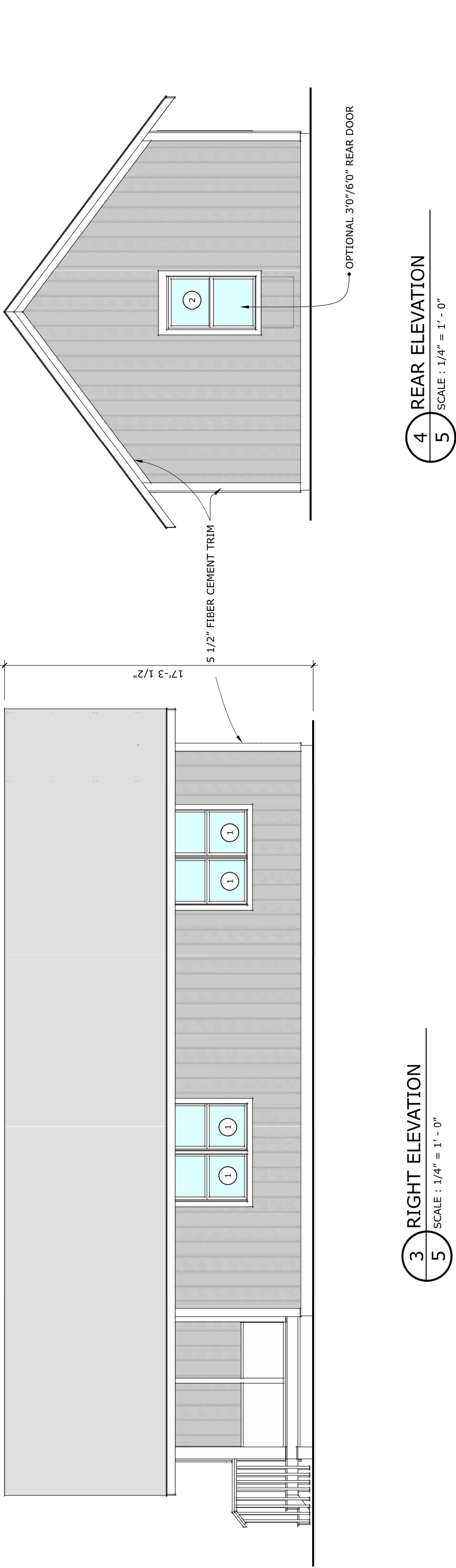
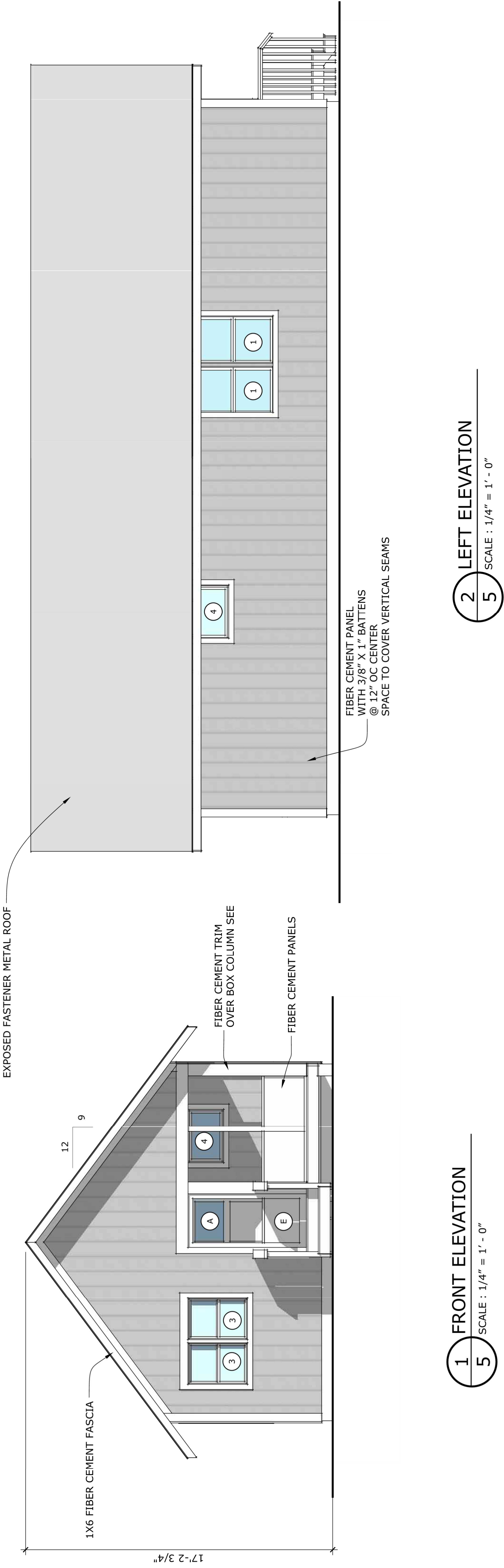
3 1 BEDROOM SECTION
4 SCALE : 1/4" = 1' - 0"

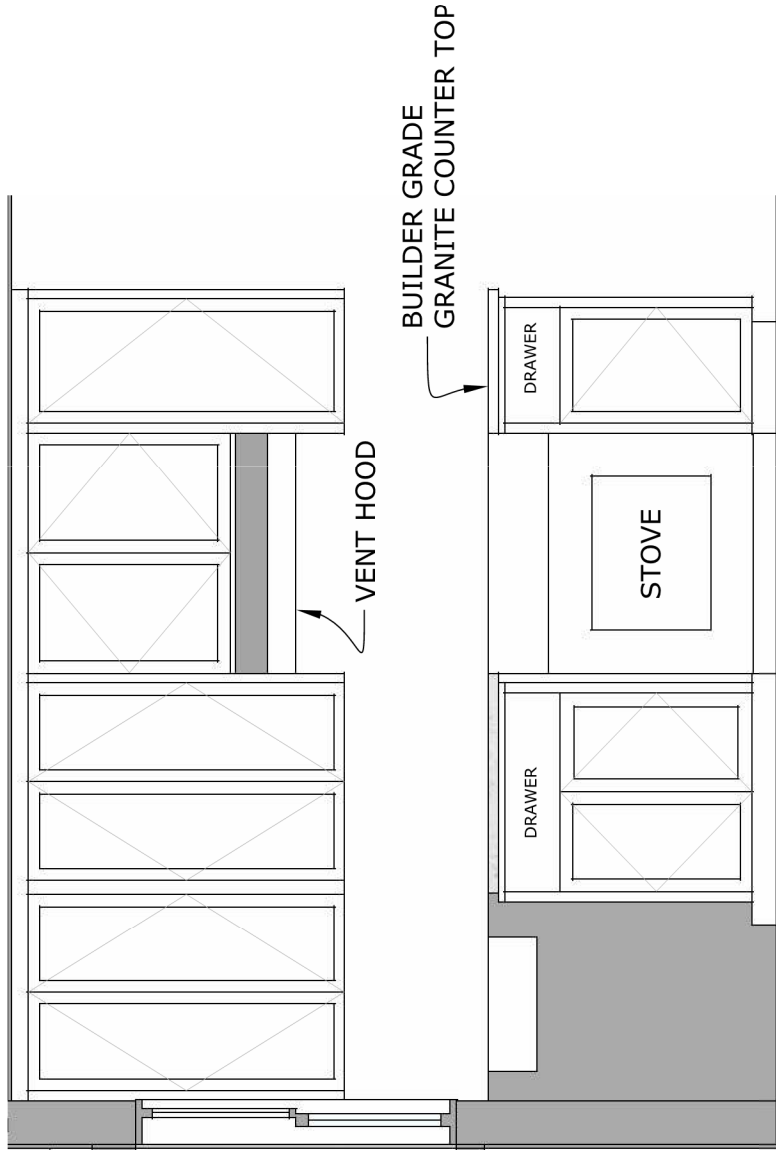


2 SECTION @ LIVING/BEDROOM
4 SCALE : 1/4" = 1' - 0"

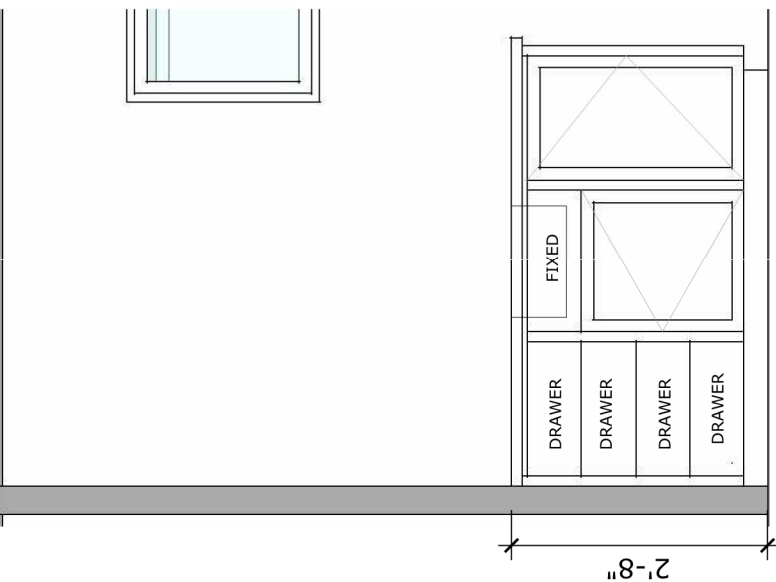


4 1 BEDROOM SECTION
4 SCALE : 1/4" = 1' - 0"

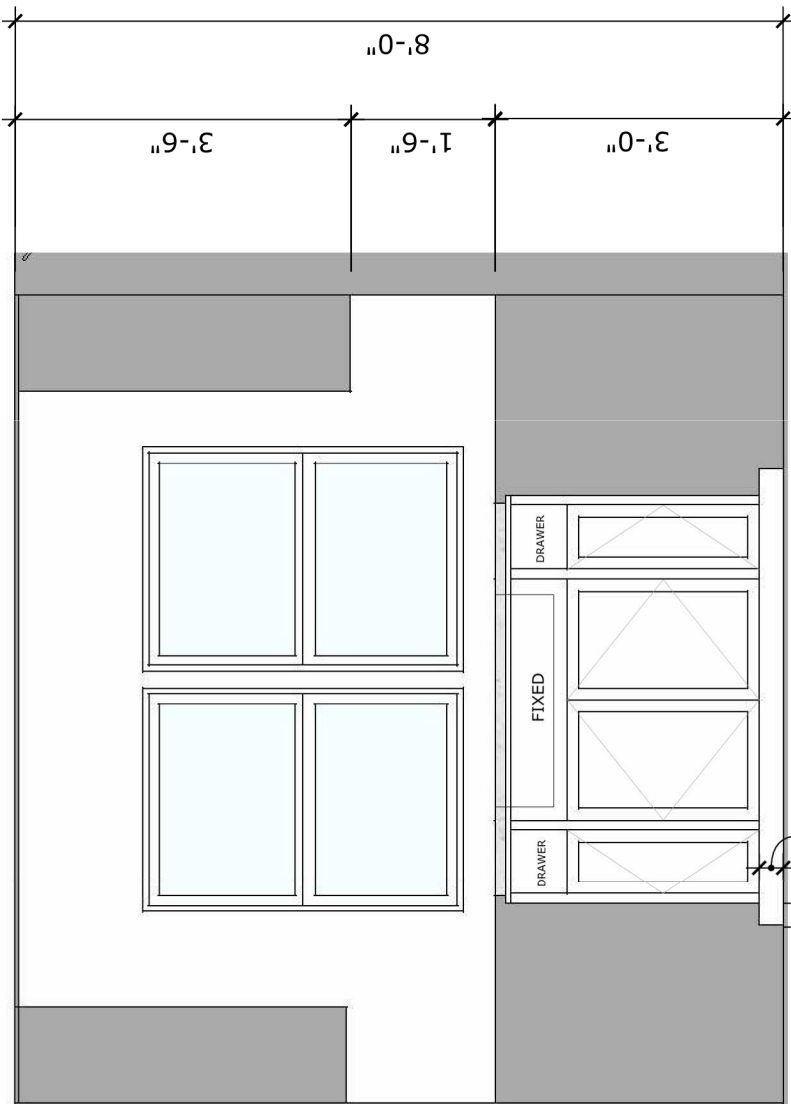




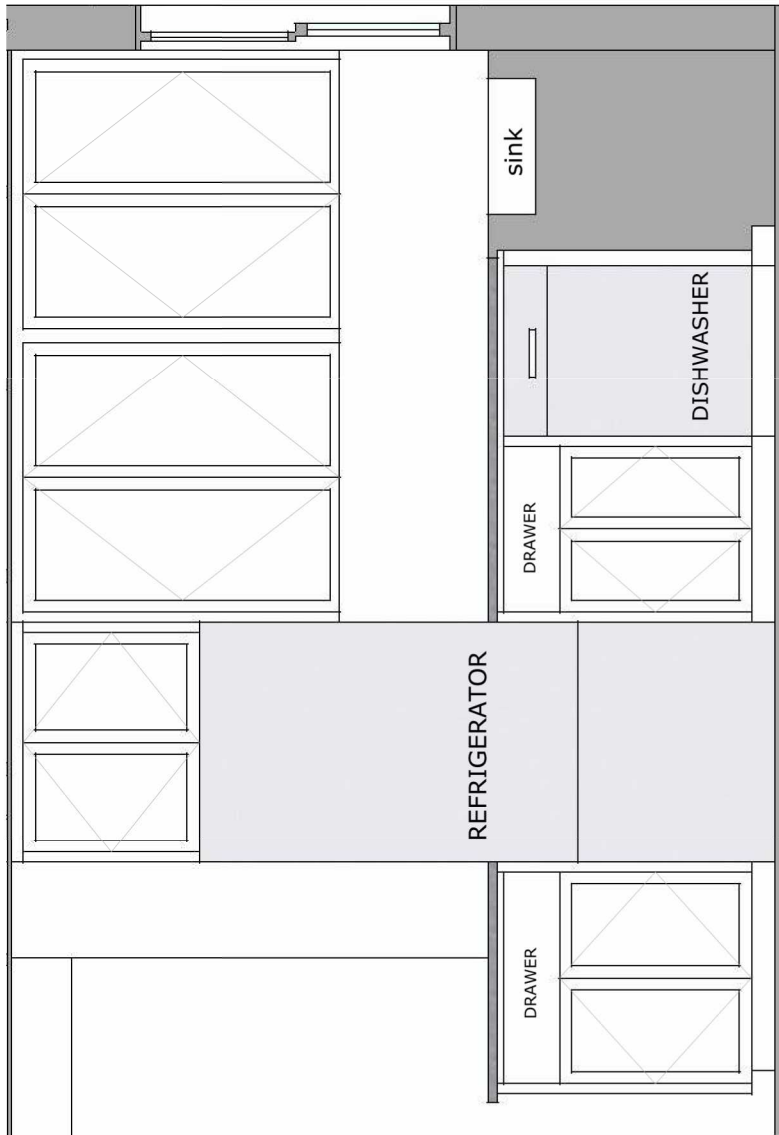
4 CABINET ELEVATION
SCALE : 1/2" = 1' - 0"



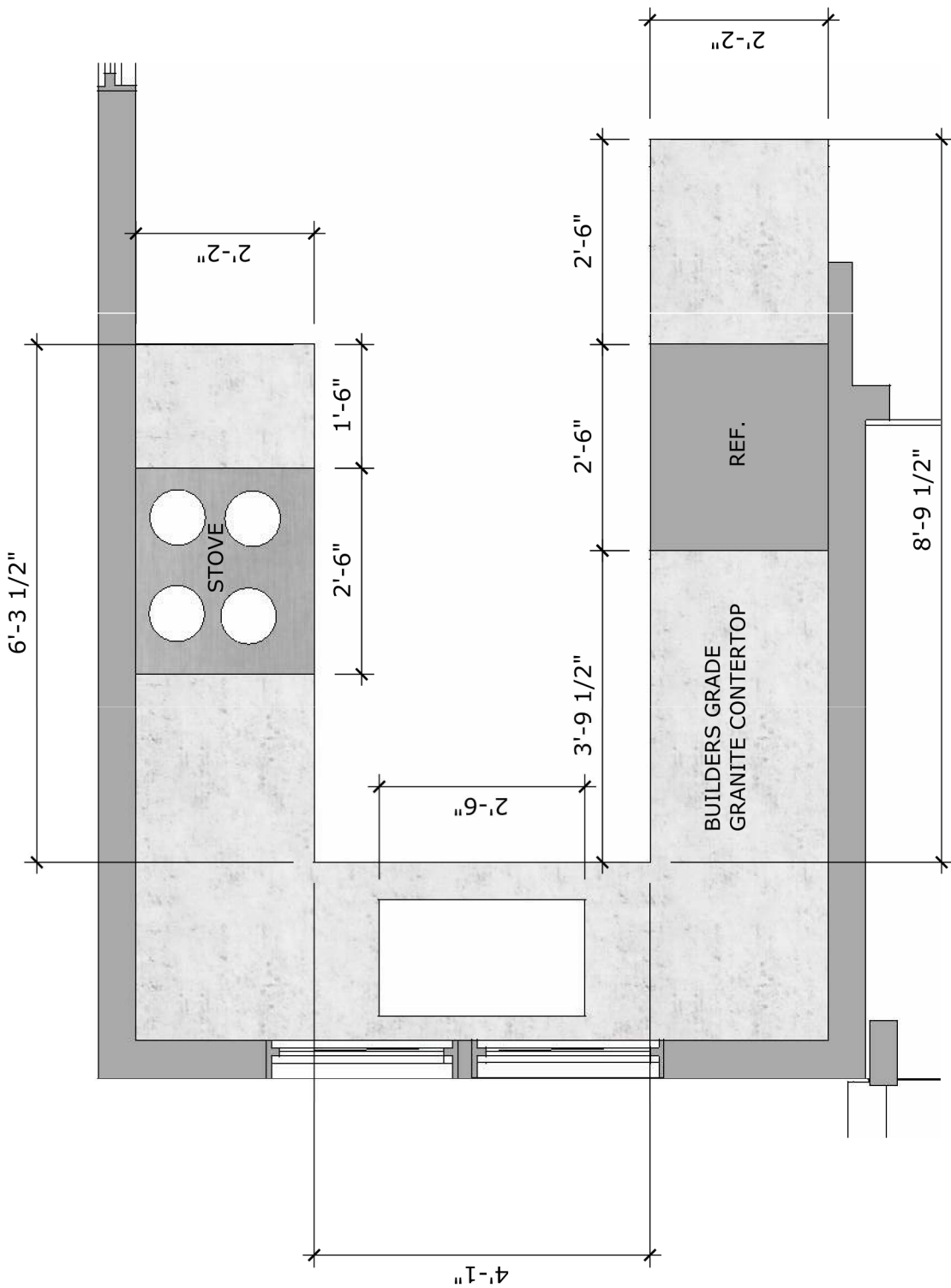
3 BATH VANITY ELEVATION
SCALE : 1/2" = 1' - 0"



5 CABINET ELEVATION
SCALE : 1/2" = 1' - 0"

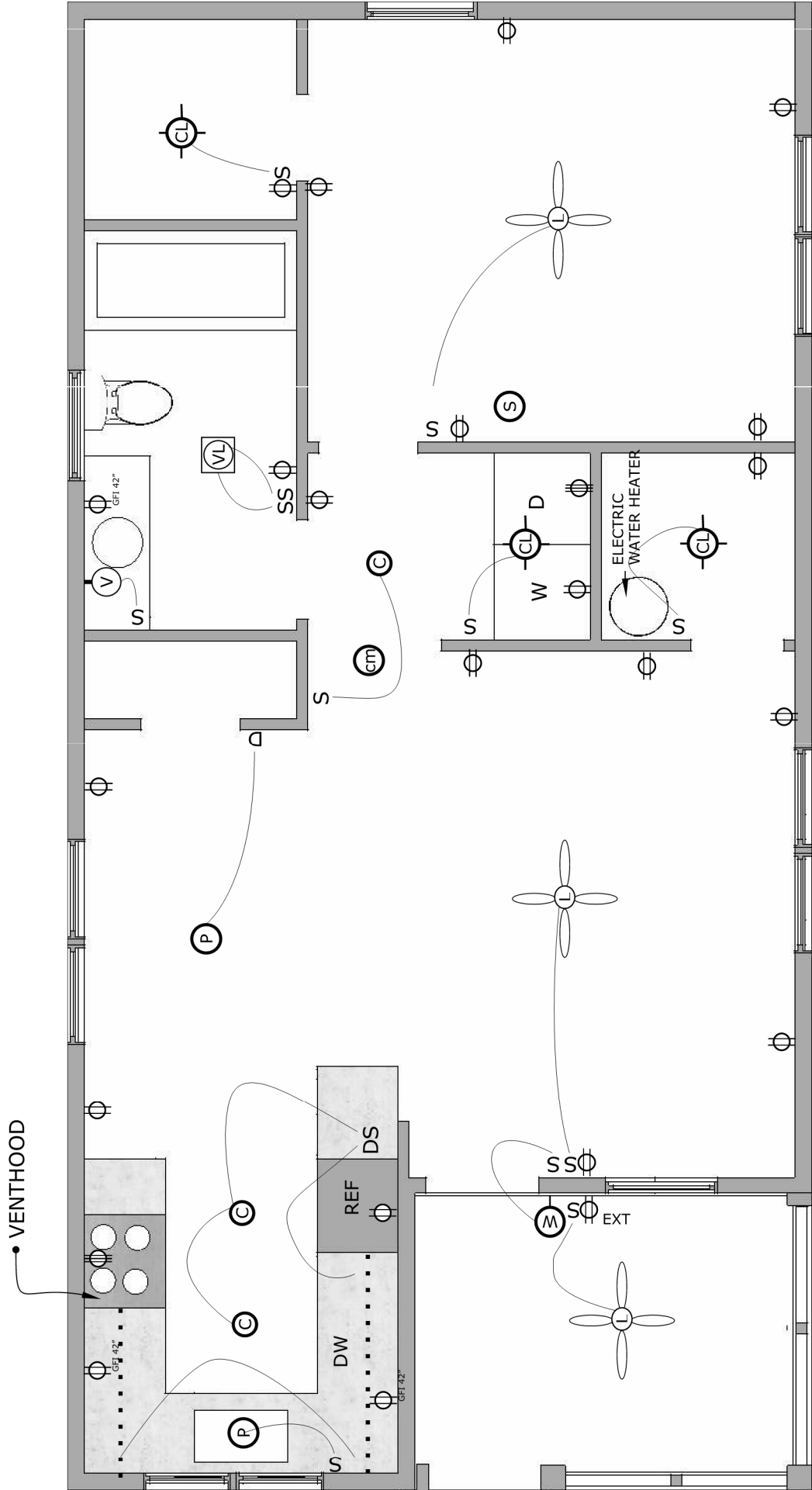


6 CABINET ELEVATION
SCALE : 1/2" = 1' - 0"



2 KITCHEN CABINET PLAN
SCALE : 1/2" = 1' - 0"

- ELECTRICAL KEY
- S SWITCH
 - S3 3 WAY SWITCH (two switches)
 - D DIMMER
 - ⌀ DUPLEX OUTLET
 - ⌀ EXT DUPLEX OUTDOOR OUTLET GFI
 - ⌀ 220 OUTLET
 - ⊙ CAN LIGHT
 - ⊙-⊙ CEILING LIGHT
 - ⊙ WALL LIGHT
 - ⊙ PENDANT LIGHT
 - ⊙-⊙ CEILING VENT LIGHT
 - ⊙-⊙ VANITY WALL LIGHT
 - ⊙-⊙ CEILING FAN W/ LIGHT
 - ⋯ LED UNDER CABINET LIGHTS
 - ⊙ SMOKE DETECTOR
 - ⊙ CARBON MONOXIDE DETECTOR

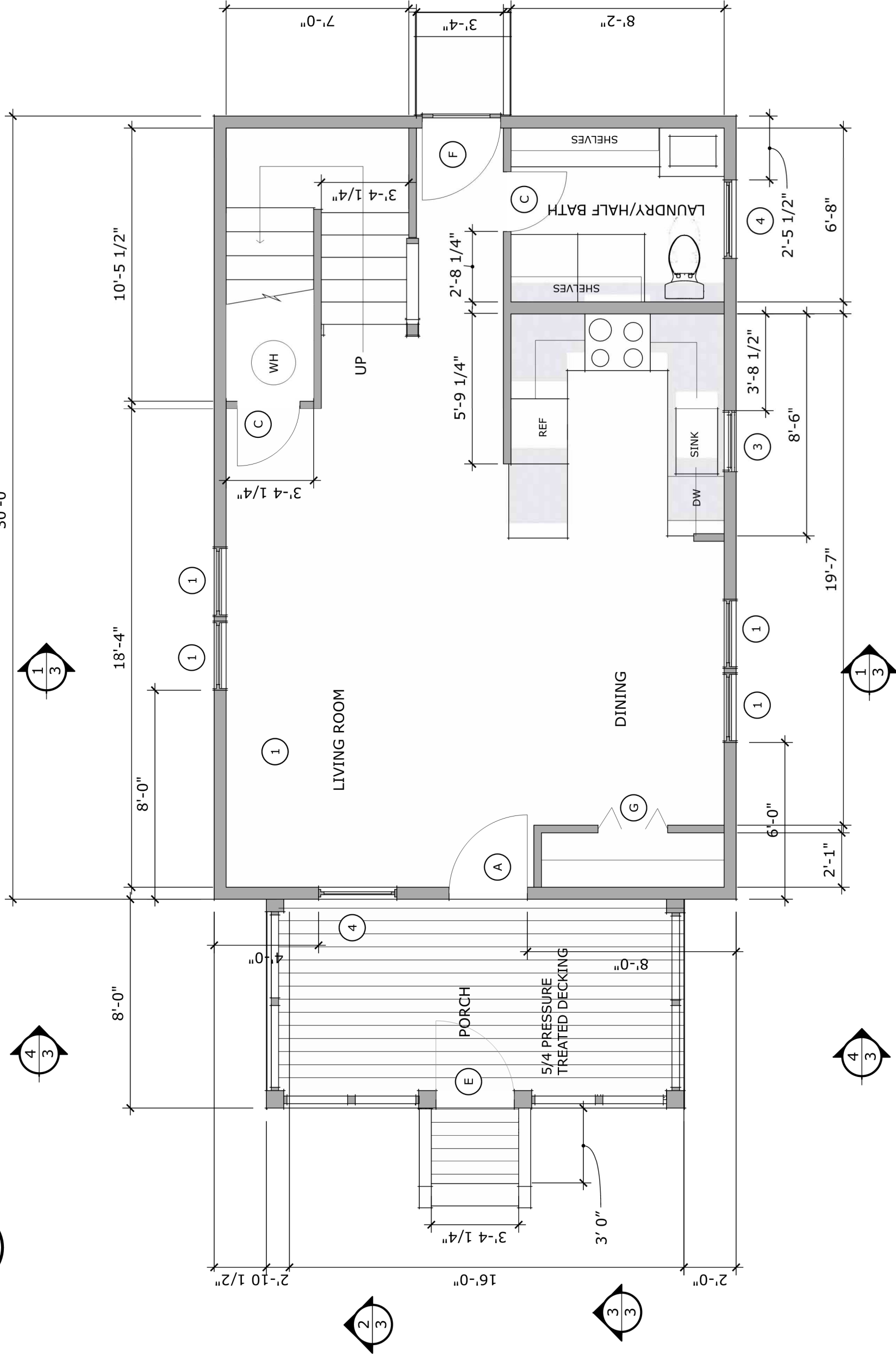
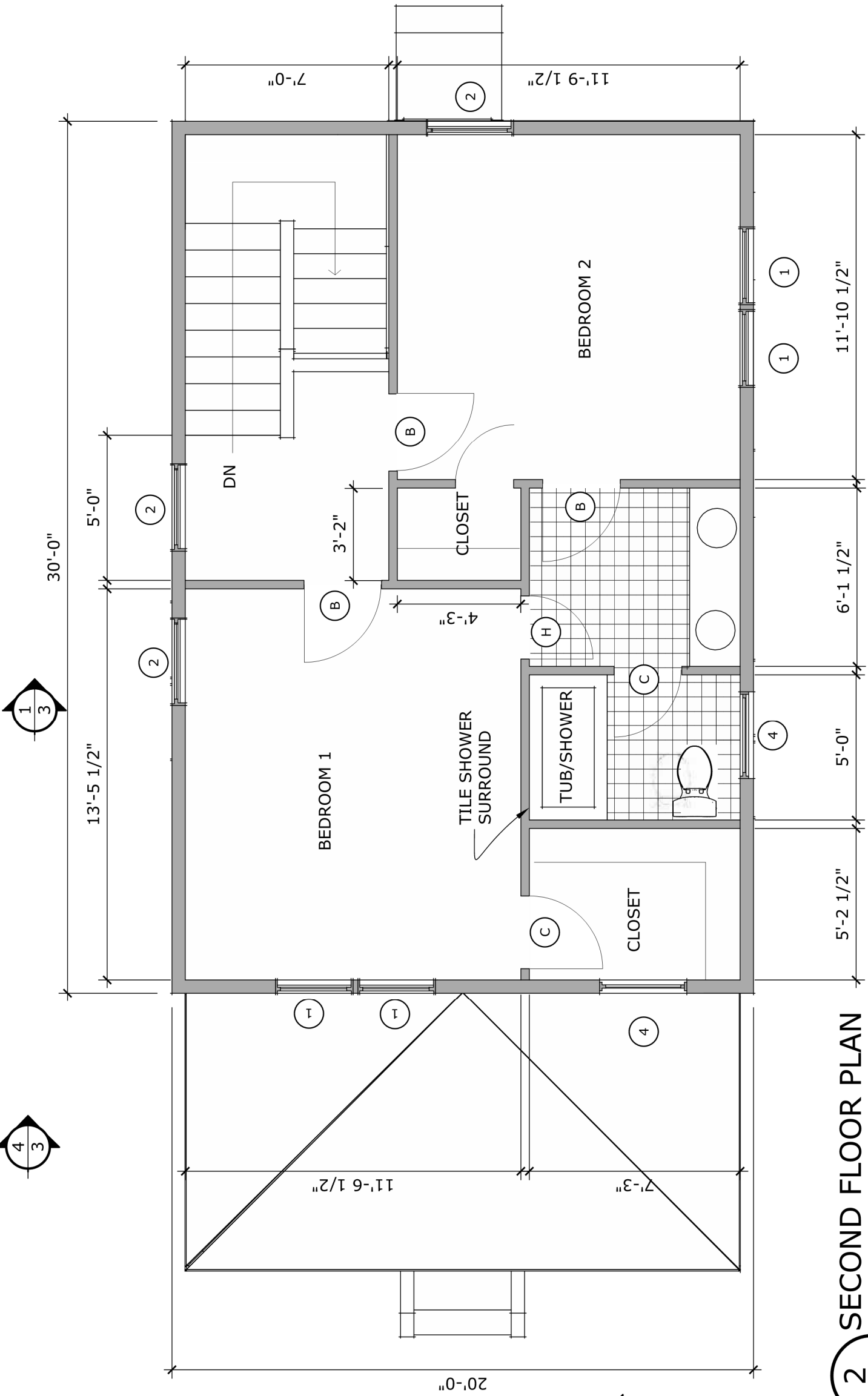


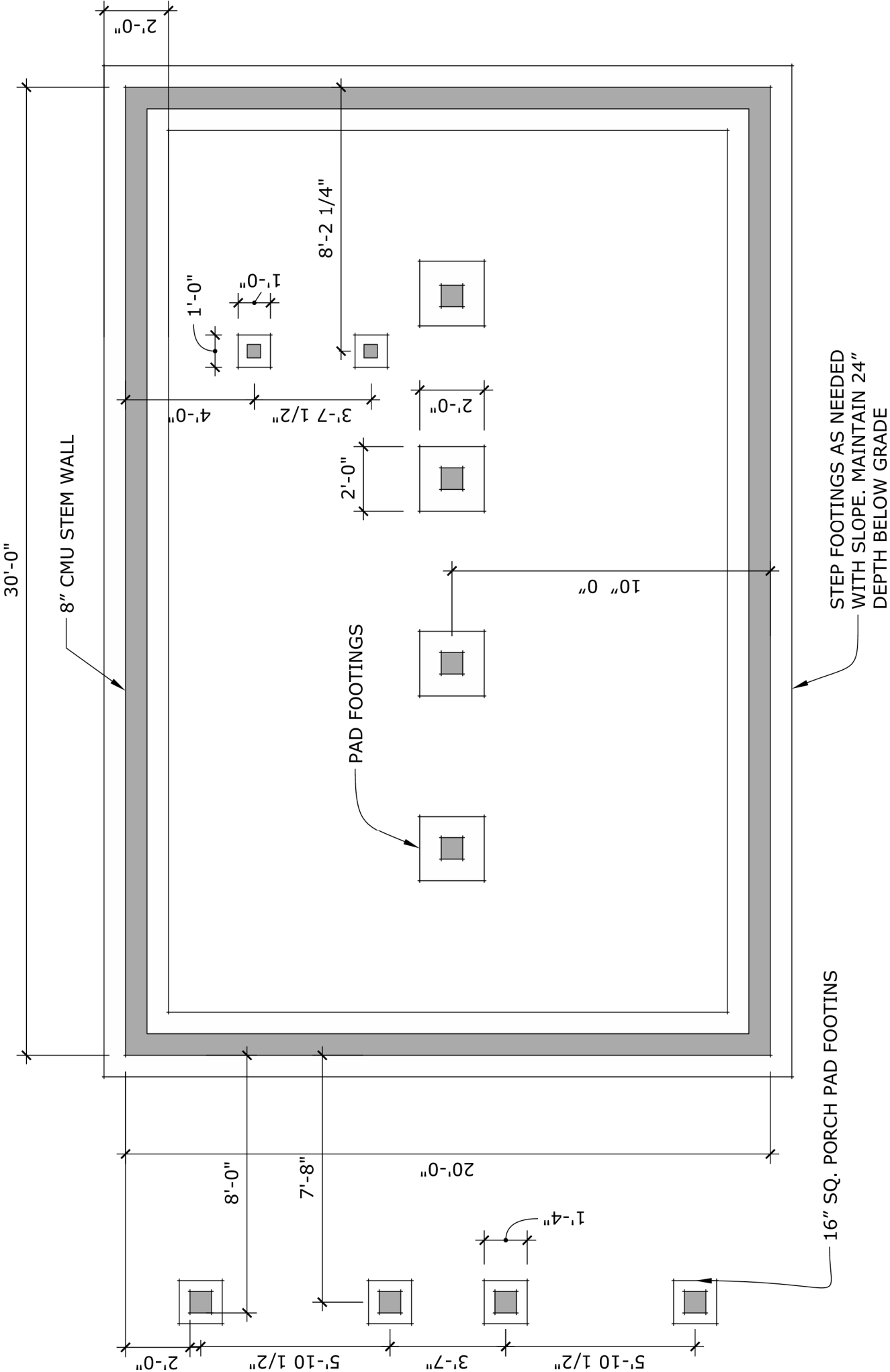
1 ELECTRICAL PLAN
SCALE : 1/4" = 1' - 0"

SYMBOL	TYPE	WIDTH	HEIGHT	DOOR SCHEDULE	FINISH	NOTES
A	ENTRY	3'0"	6'8"	MANUFACTURER	PAINTED	CRAFTSMAN W/ UPPER LITE
B	INTERIOR	2'8"	6'8"		PAINTED	SINGLE RECESSED PANEL
C	INTERIOR	2'4"	6'8"		PAINTED	SINGLE RECESSED PANEL
D	INTERIOR BI-FOLD	5'0"	6'8"		PAINTED	
E	SCREENED DOOR	3'0"	6'8"		PAINTED	SOLID LOWER PANEL
F	EXT.DOOR	3'0"	6'8"		PAINTED	HALF LITE
G	INTERIOR BI-FOLD	2'8"	6'8"		PAINTED	
H	INTERIOR	2'2"	6'8"		PAINTED	SINGLE RECESSED PANEL

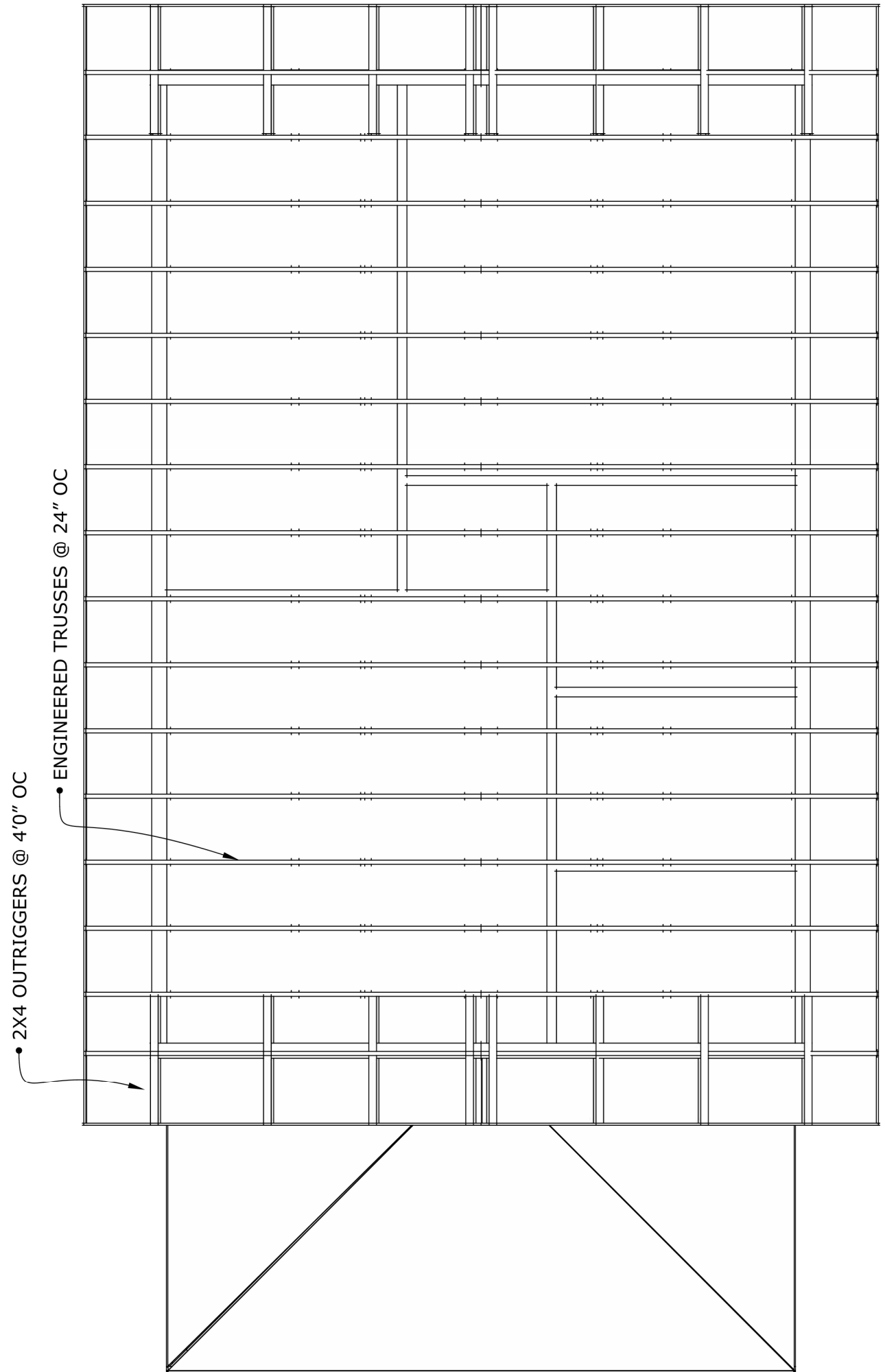
WINDOW SCHEDULE					
SYMBOL	TYPE	WIDTH	HEIGHT	MANUFACTURER	NOTES
1	2-DOUBLE HUNG	2'6"	4'6"		GANGED BY MANUFACTURER
2	DOUBLE HUNG	3'0"	5'0"		EGRESS
3	2- DOUBLE HUNG	2'4"	3'4"		GANGED BY MANUFACTURER
4	AWNING OR SLIDER	3'0"	2'0"		

HEATED SPACE: 1200 SF
PORCH : 128 SF

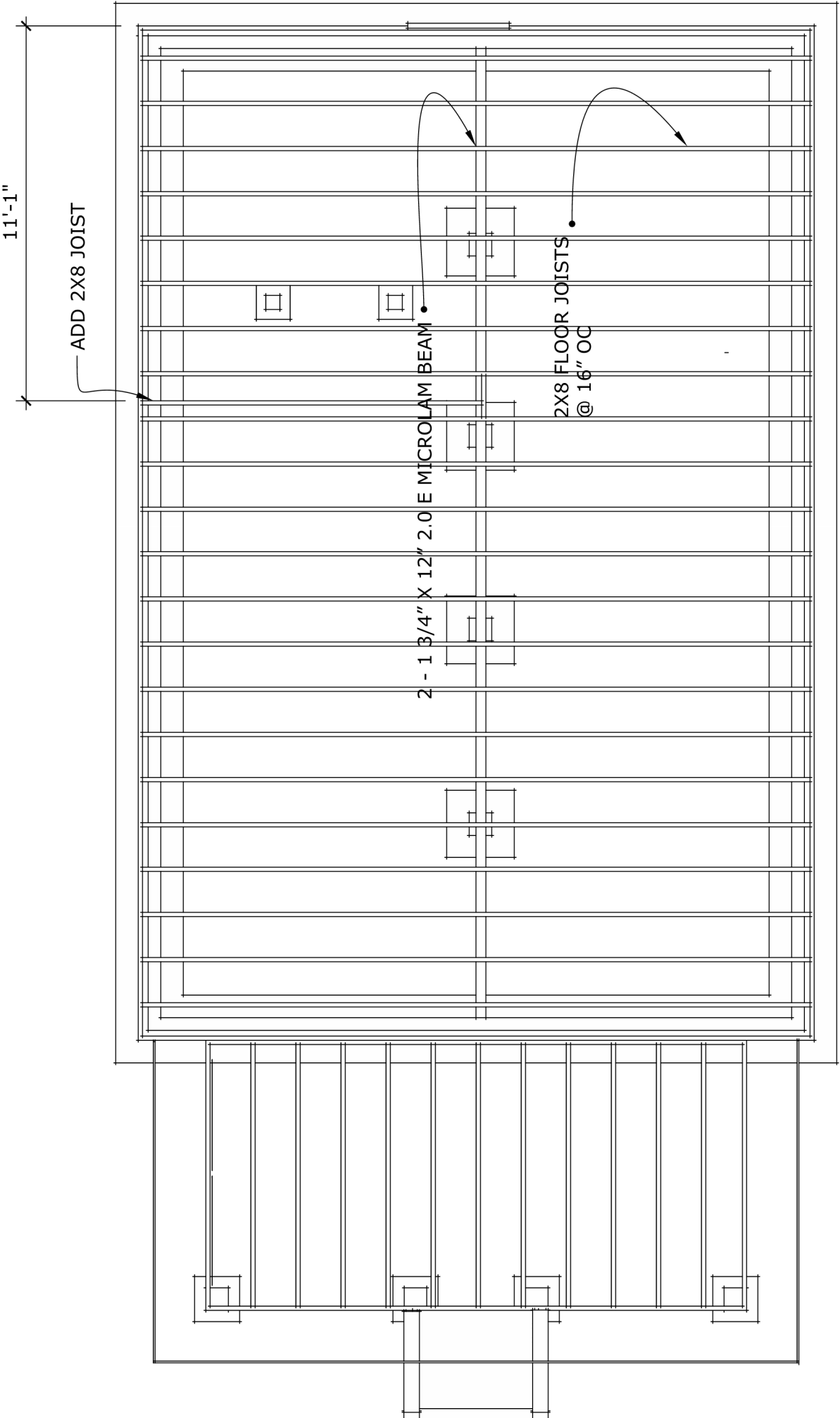




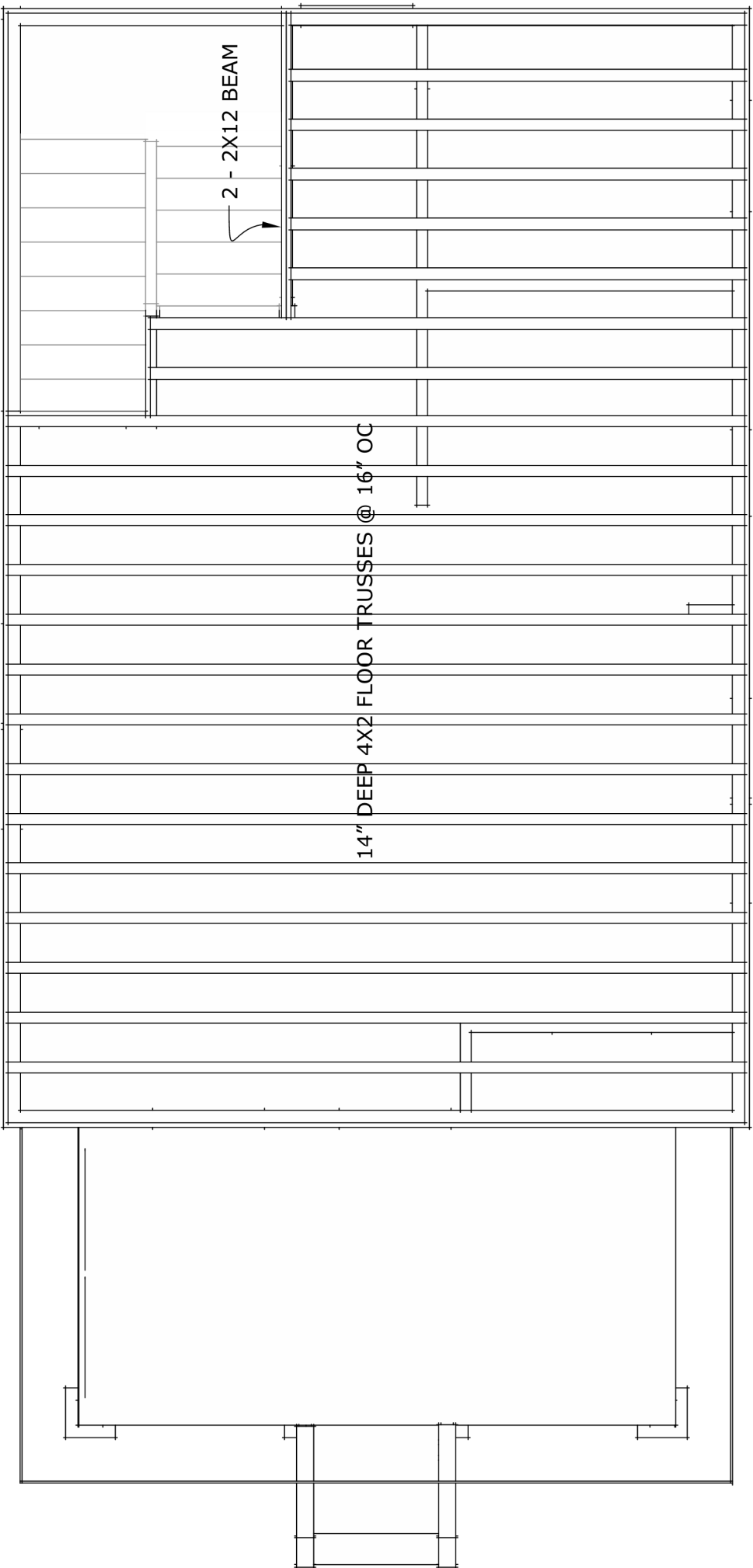
1 FOUNDATION PLAN
2 SCALE : 1/4" = 1' - 0"



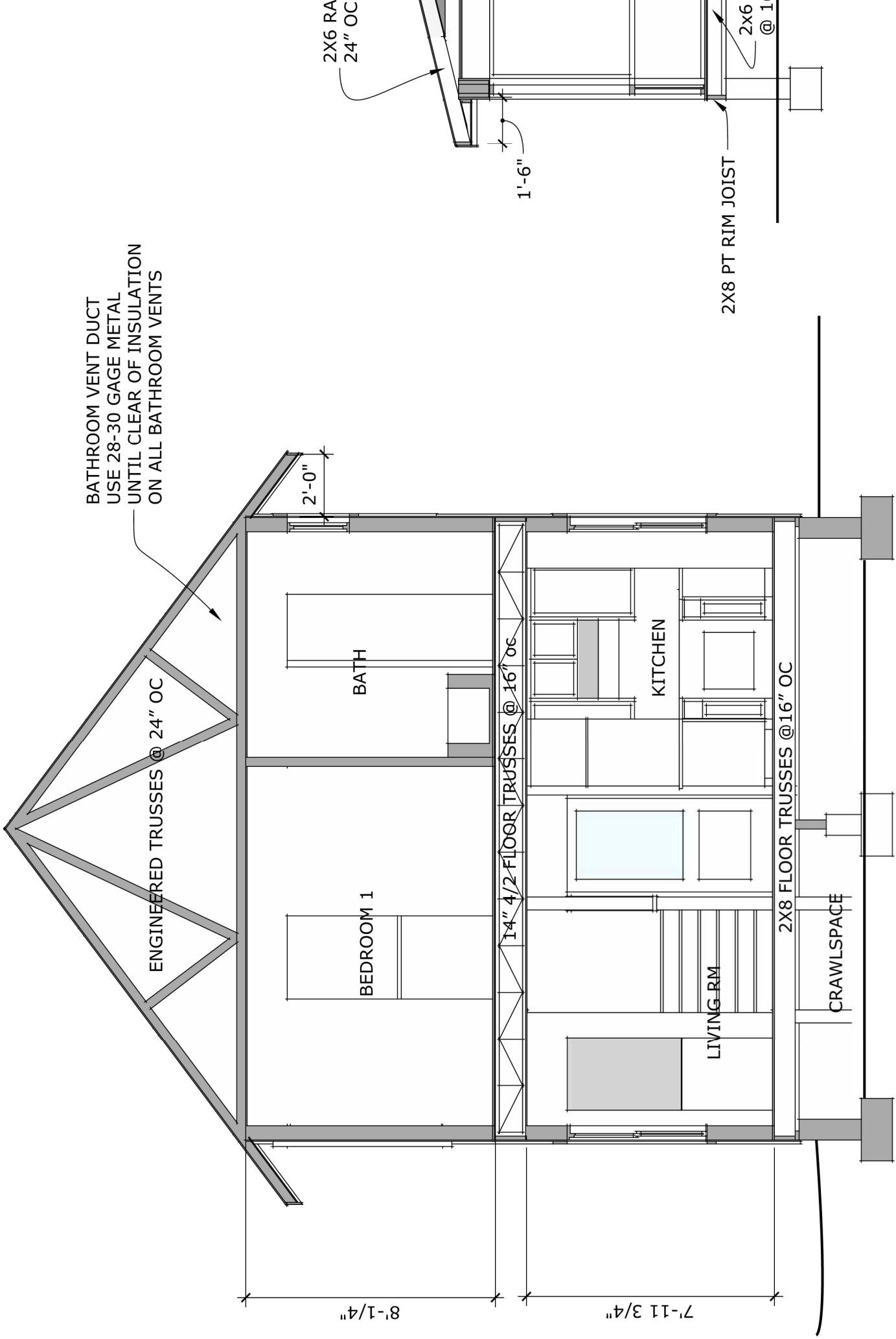
2 ROOF FRAMING
2 SCALE : 1/4" = 1' - 0"



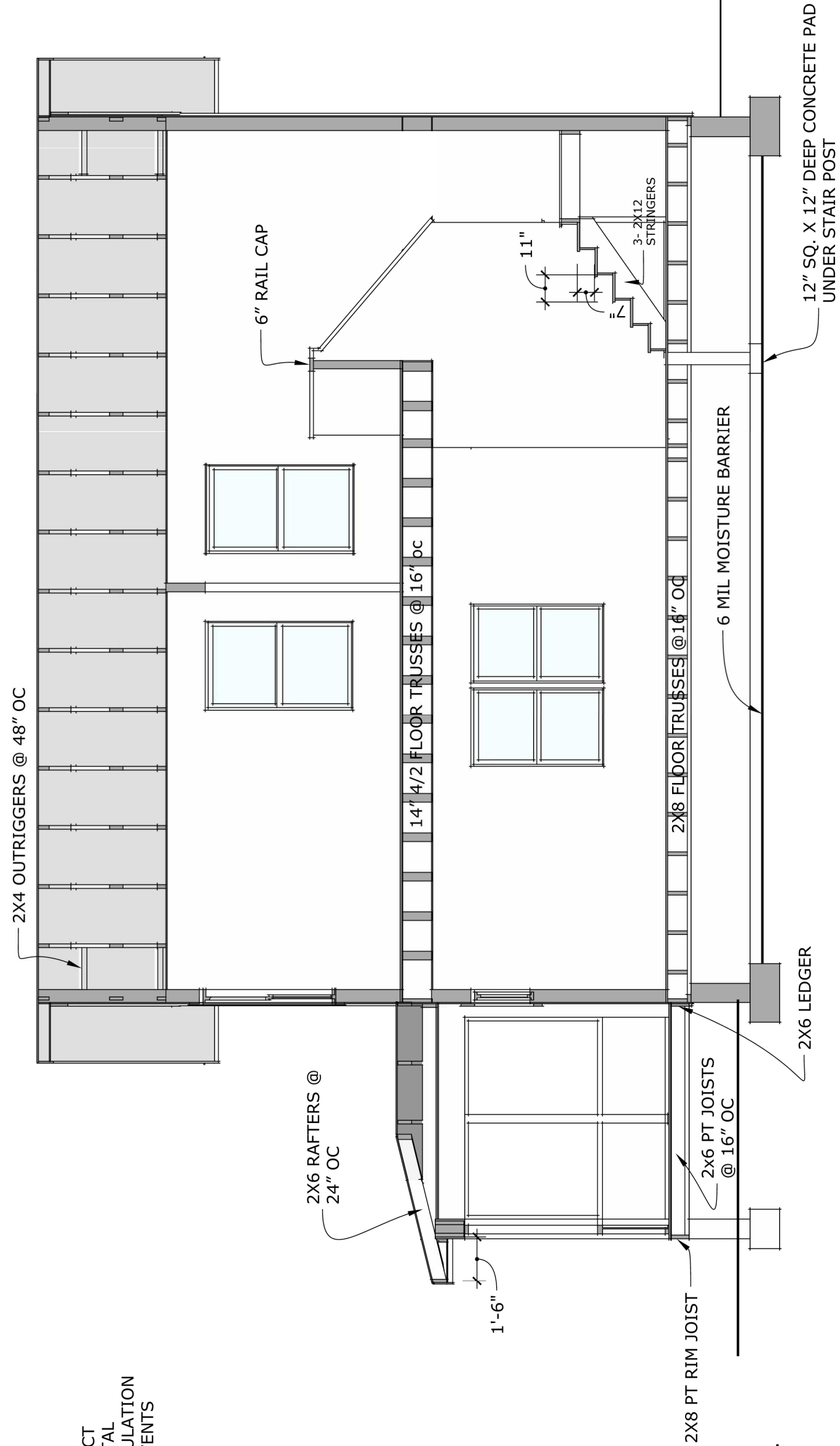
3 FIRST FLOOR FRAMING
2 SCALE : 1/4" = 1' - 0"



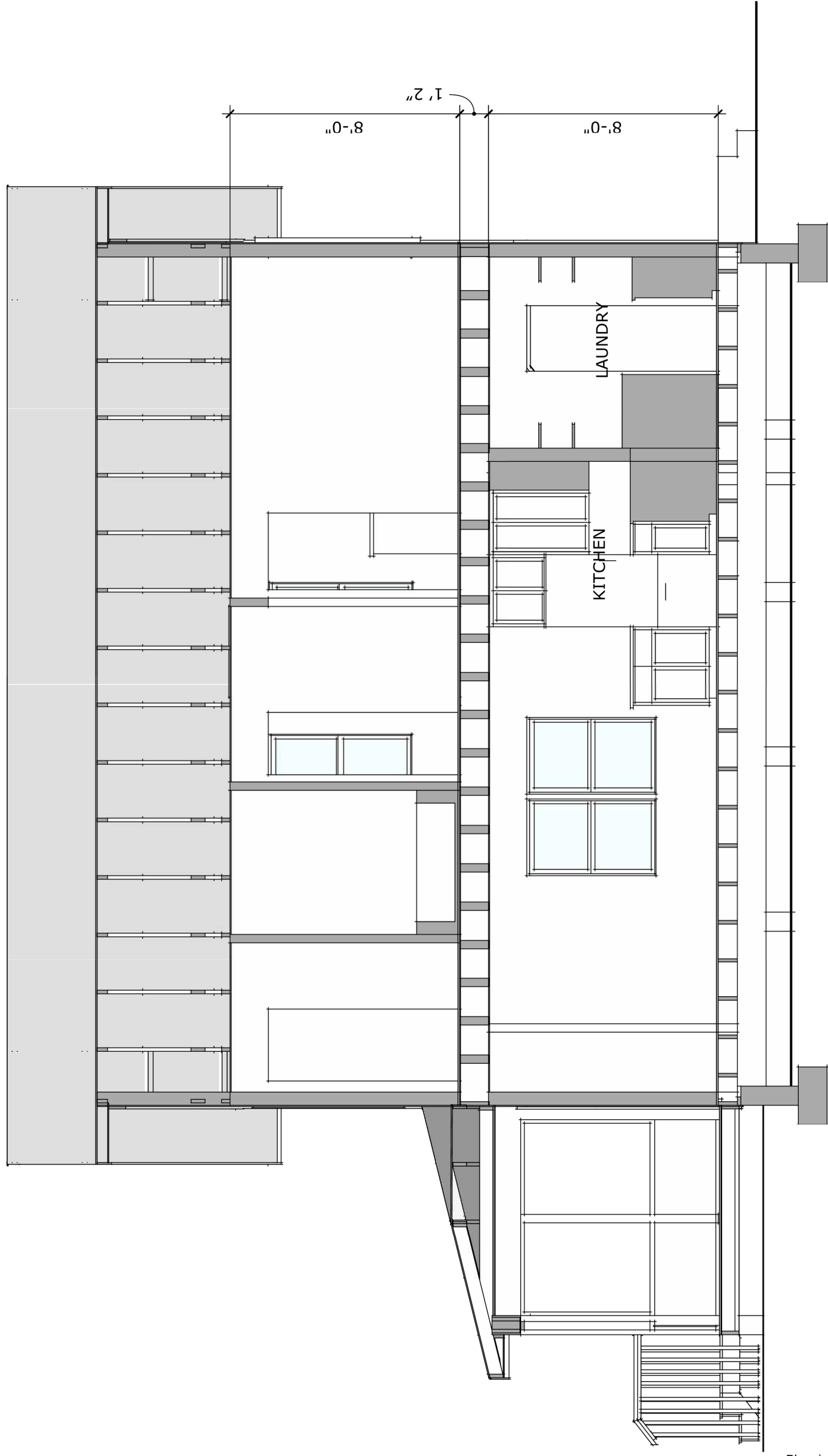
4 SECOND FLOOR FRAMING
2 SCALE : 1/4" = 1' - 0"



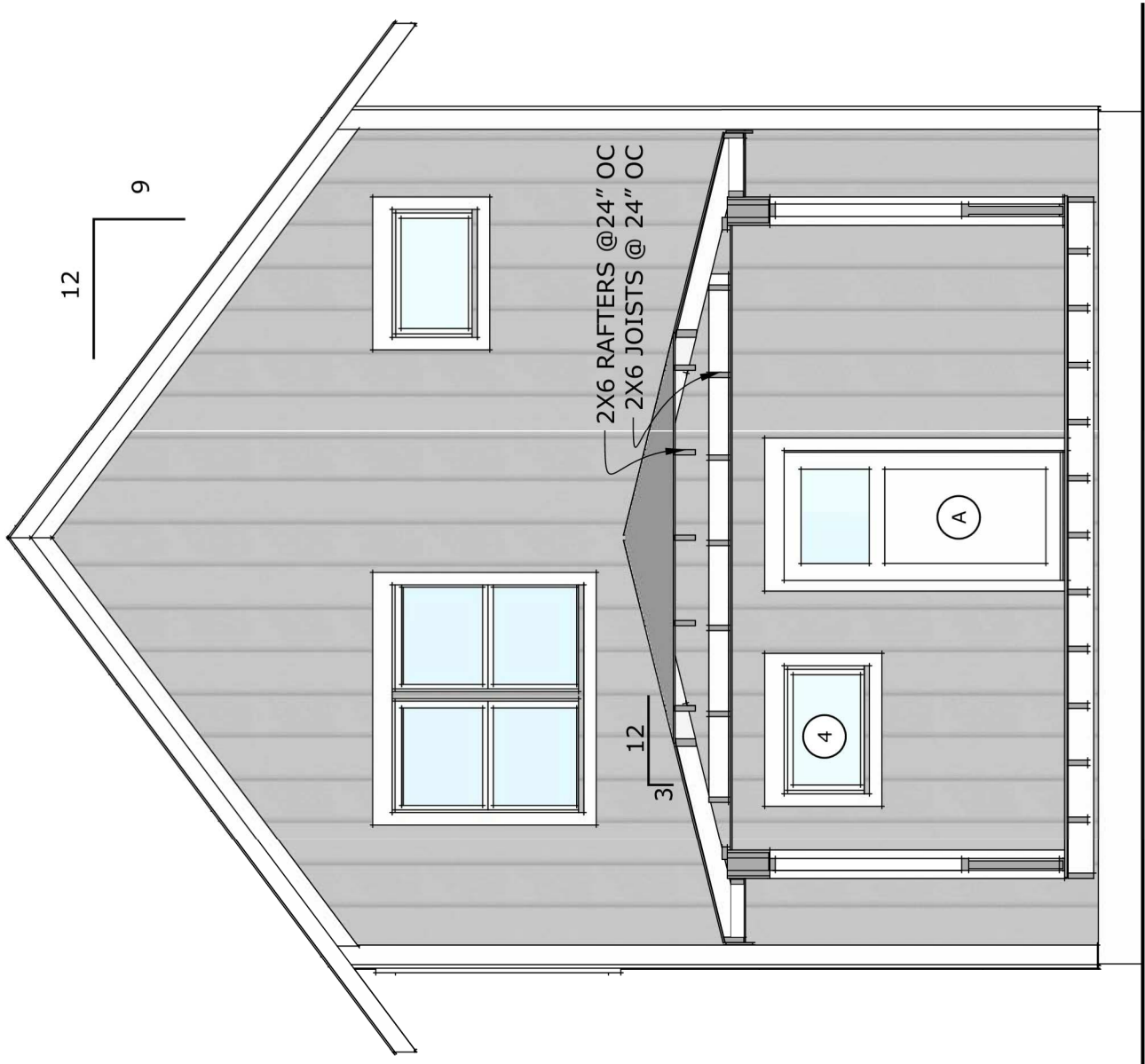
1 LIVING / BEDROOM SECTION
3 SCALE : 1/4" = 1' - 0"



2 LIVING / STAIR SECTION
3 SCALE : 1/4" = 1' - 0"

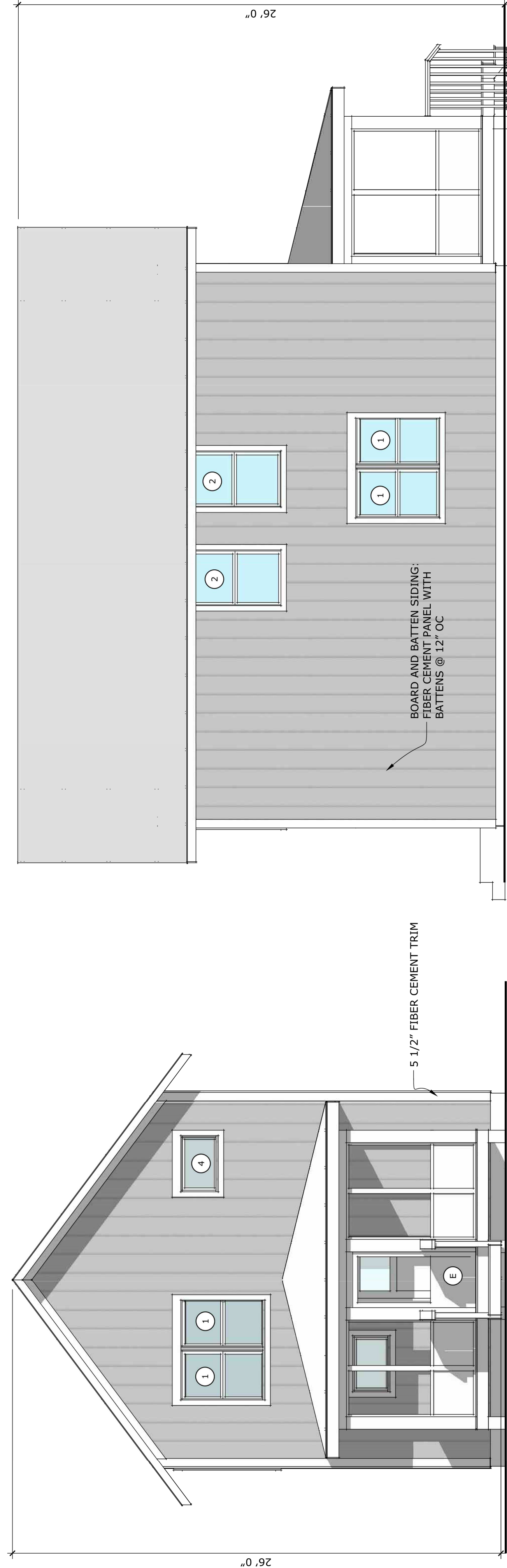


3 KITCHEN/LAUNDRY SECTION
3 SCALE : 1/4" = 1' - 0"



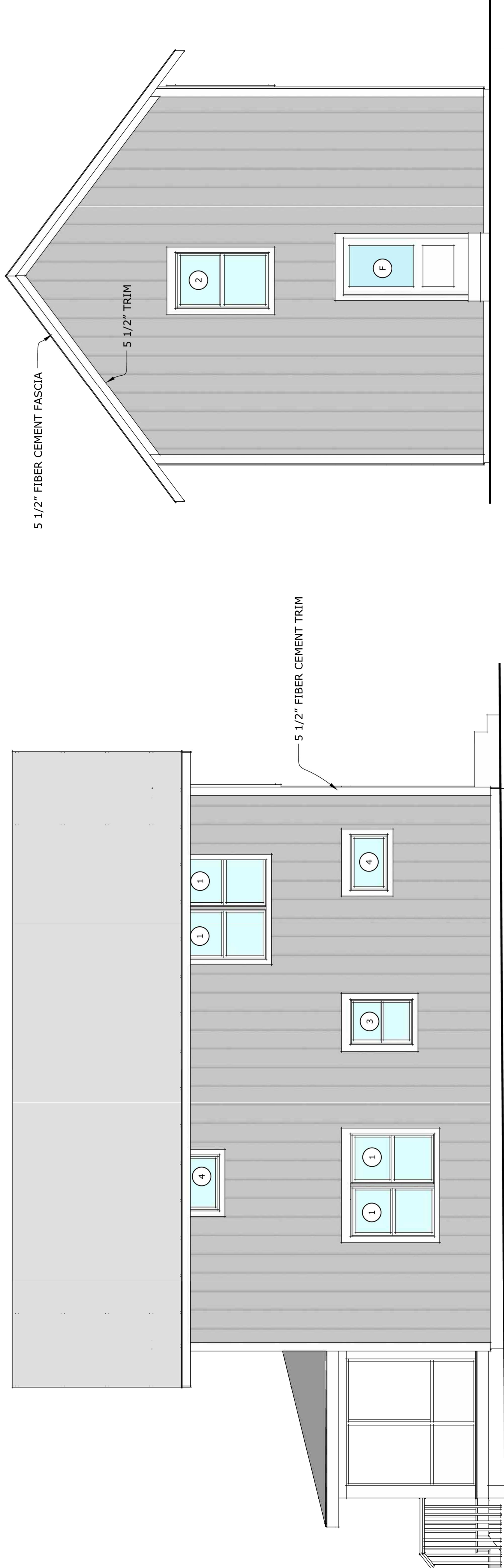
4 SECTION AT SCREENED PORCH
3 SCALE : 1/4" = 1' - 0"

PRELIMINARY - NOT FOR CONSTRUCTION



1 FRONT ELEVATION
4 SCALE : 1/4" = 1' - 0"

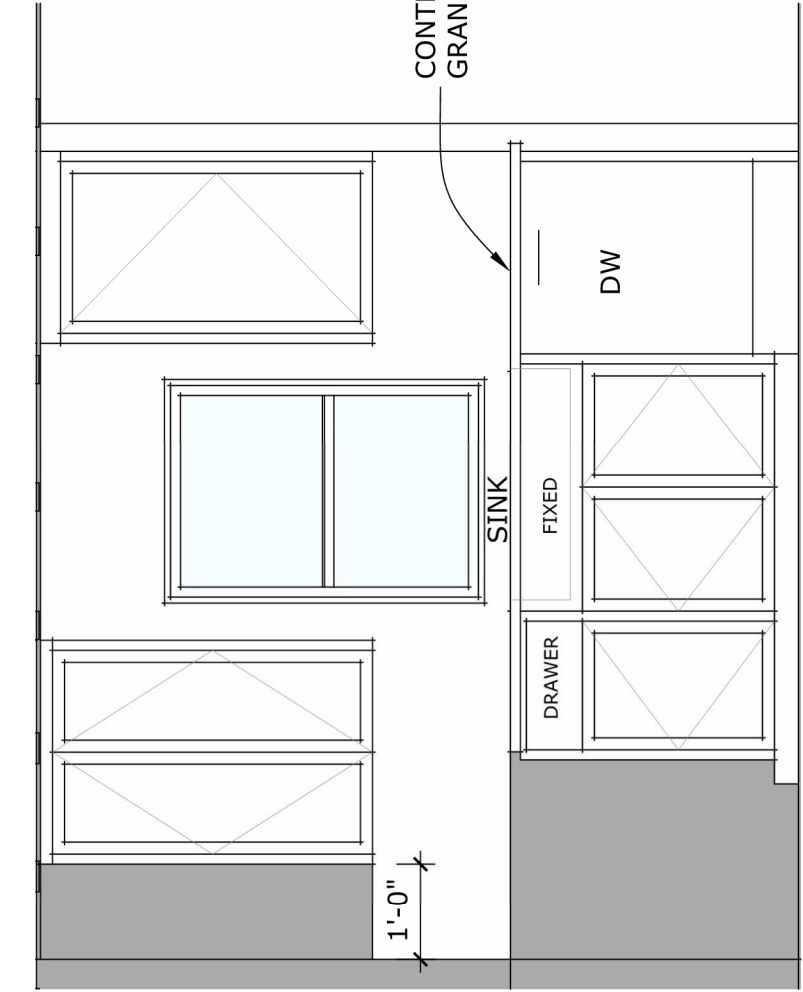
2 LEFT ELEVATION
4 SCALE : 1/4" = 1' - 0"



3 RIGHT ELEVATION
4 SCALE : 1/4" = 1' - 0"

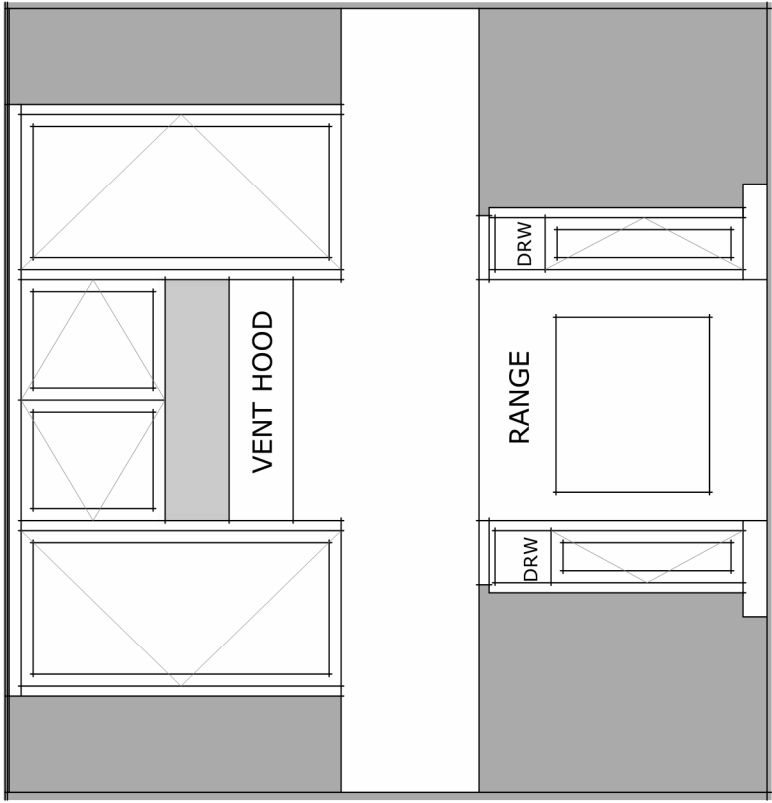
4 LEFT ELEVATION
4 SCALE : 1/4" = 1' - 0"

PRELIMINARY - NOT FOR CONSTRUCTION



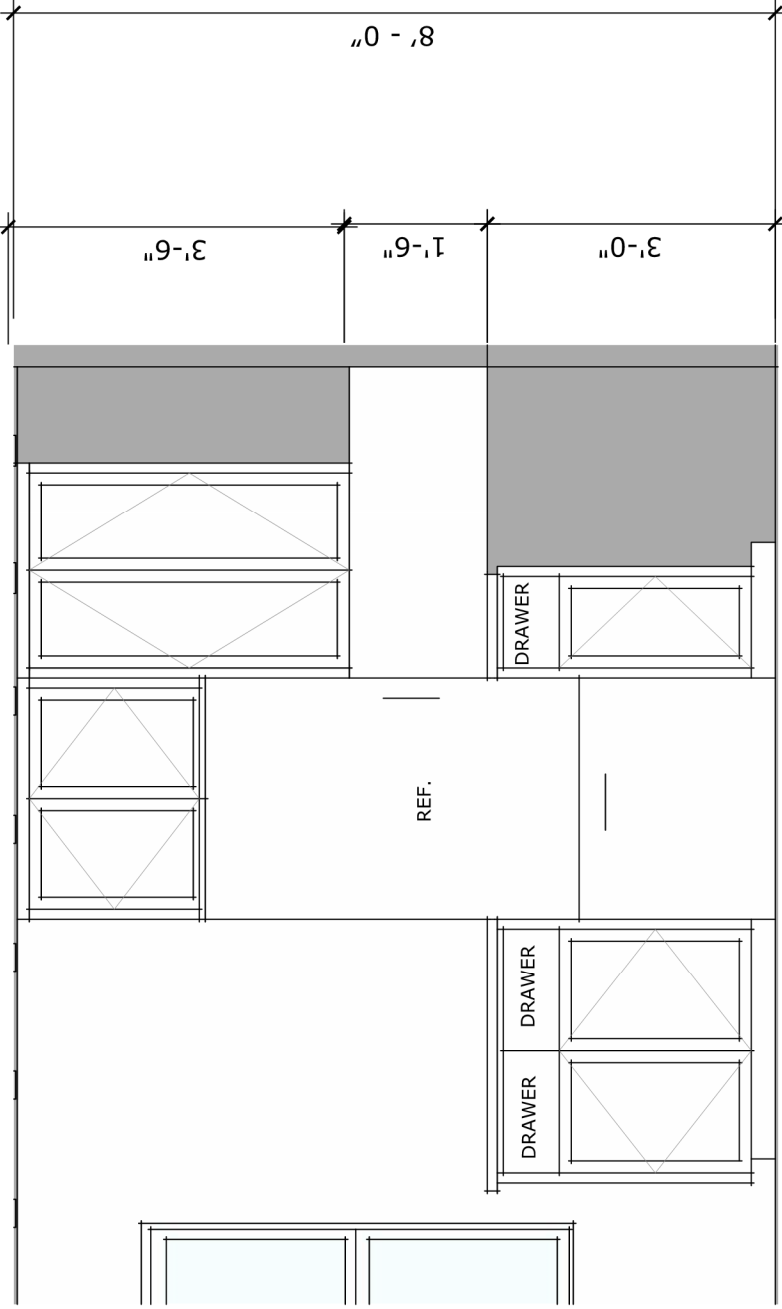
1 KITCHEN CAB. ELEVATION

5 SCALE : 1/2" = 1' - 0"



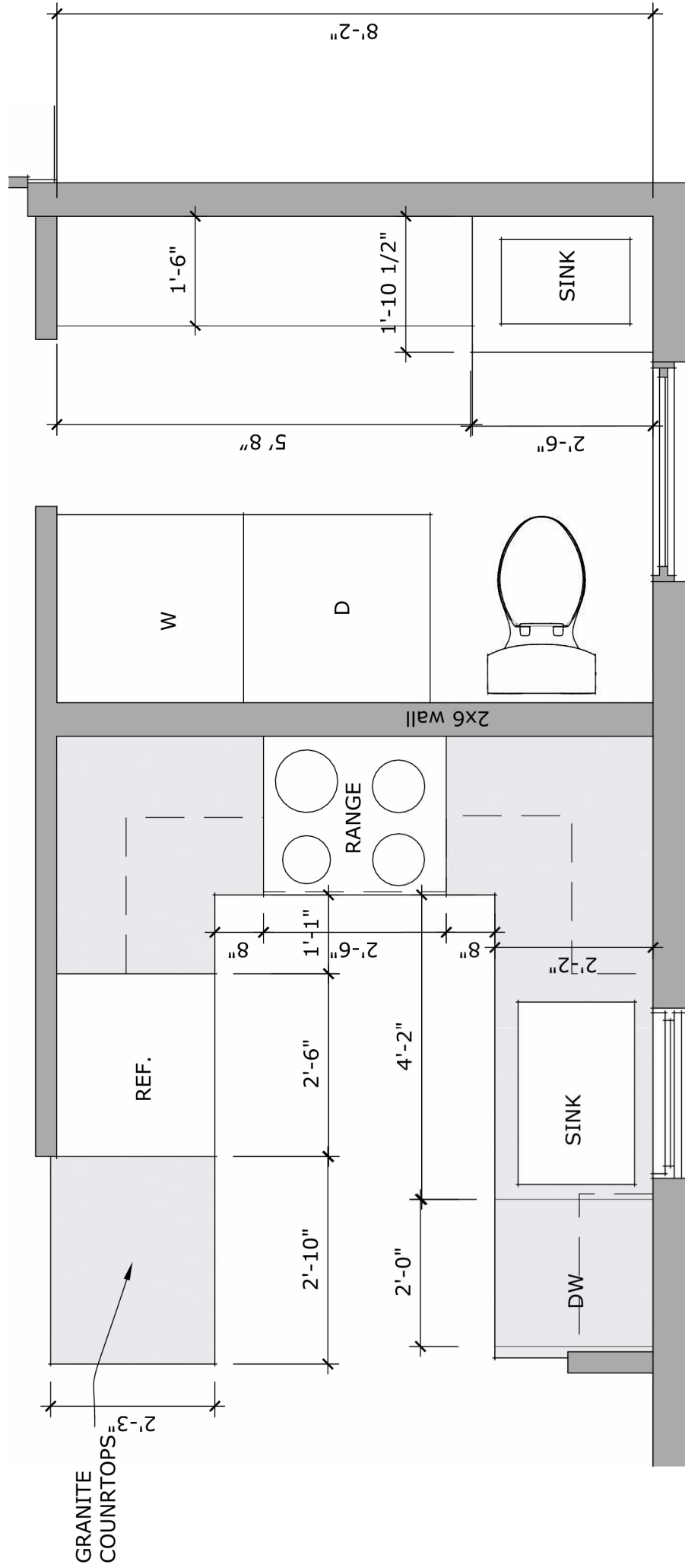
2 KITCHEN CAB. ELEVATION

5 SCALE : 1/2" = 1' - 0"



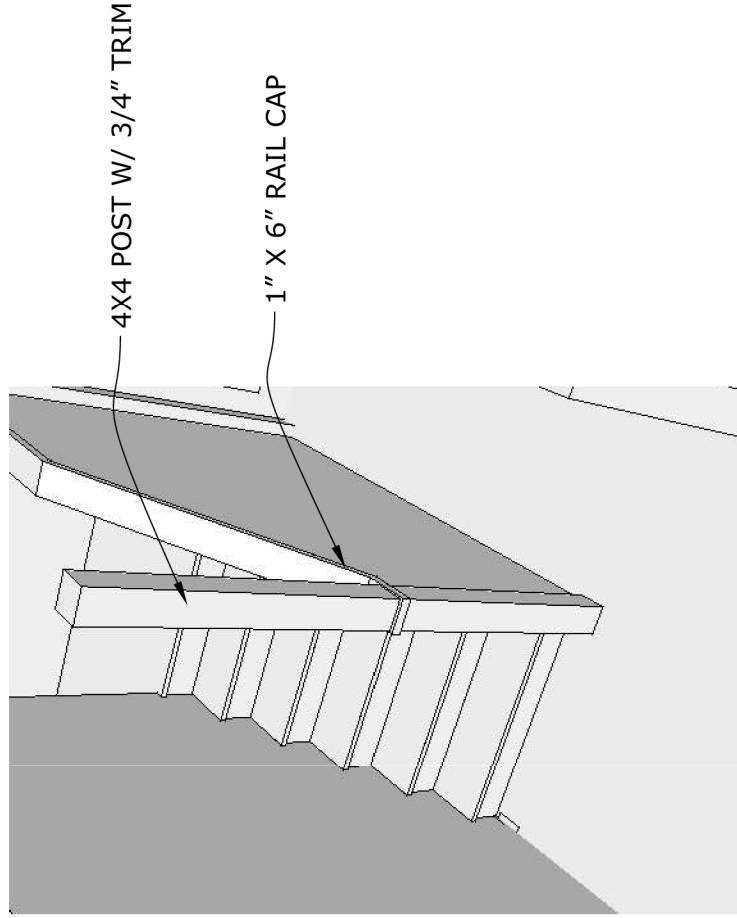
3 KITCHEN CAB. ELEVATION

5 SCALE : 1/2" = 1' - 0"



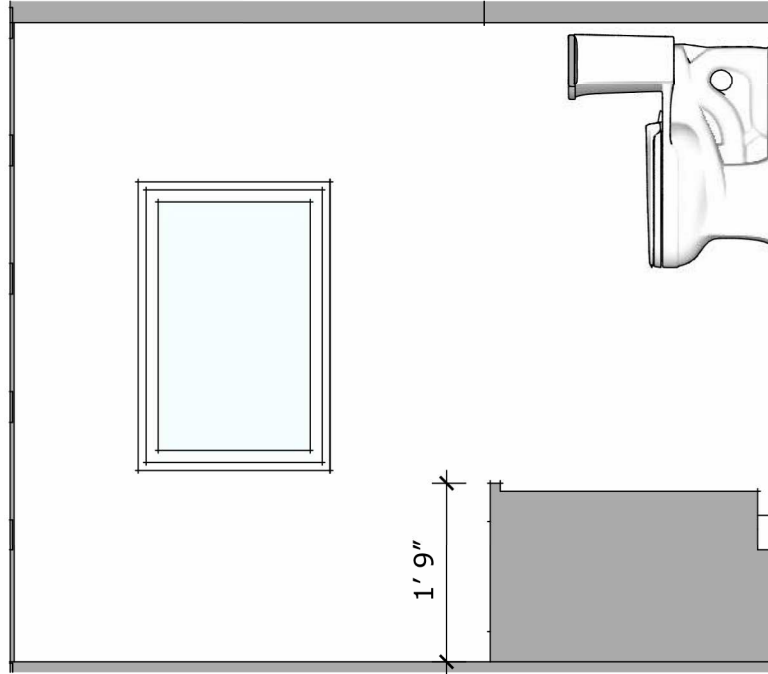
4 KITCHEN CAB. ELEVATION

5 SCALE : 1/2" = 1' - 0"



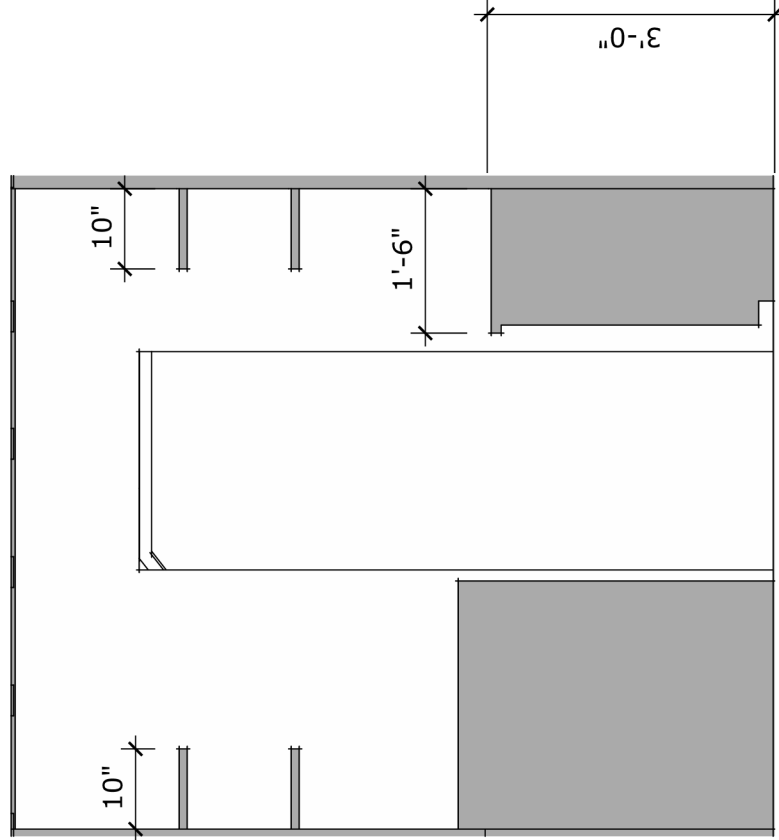
5 STAIR DETAIL

5



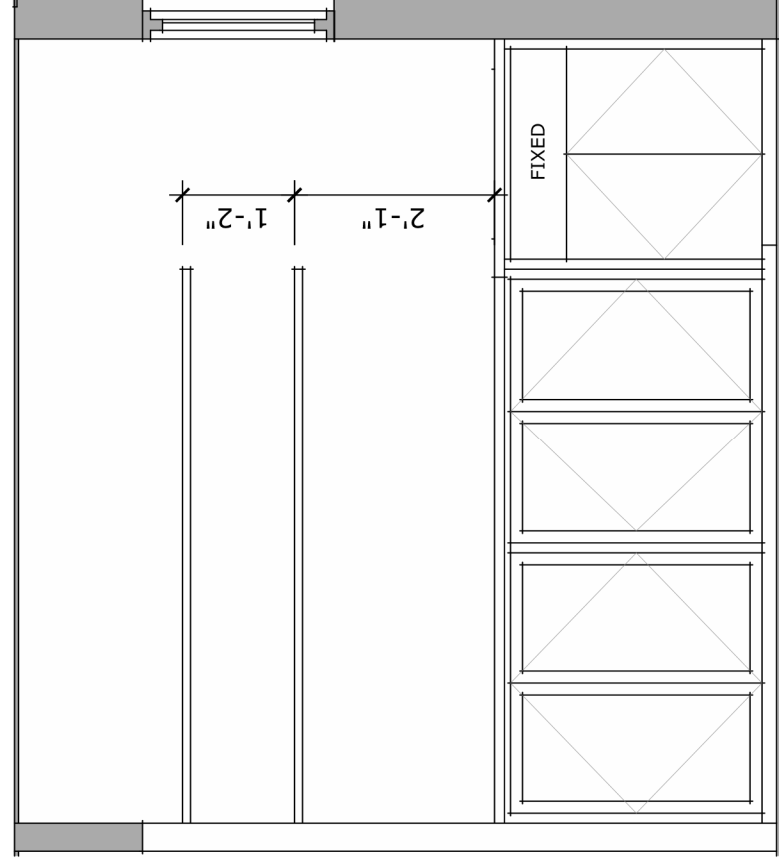
6 KITCHEN CAB. ELEVATION

5 SCALE : 1/2" = 1' - 0"



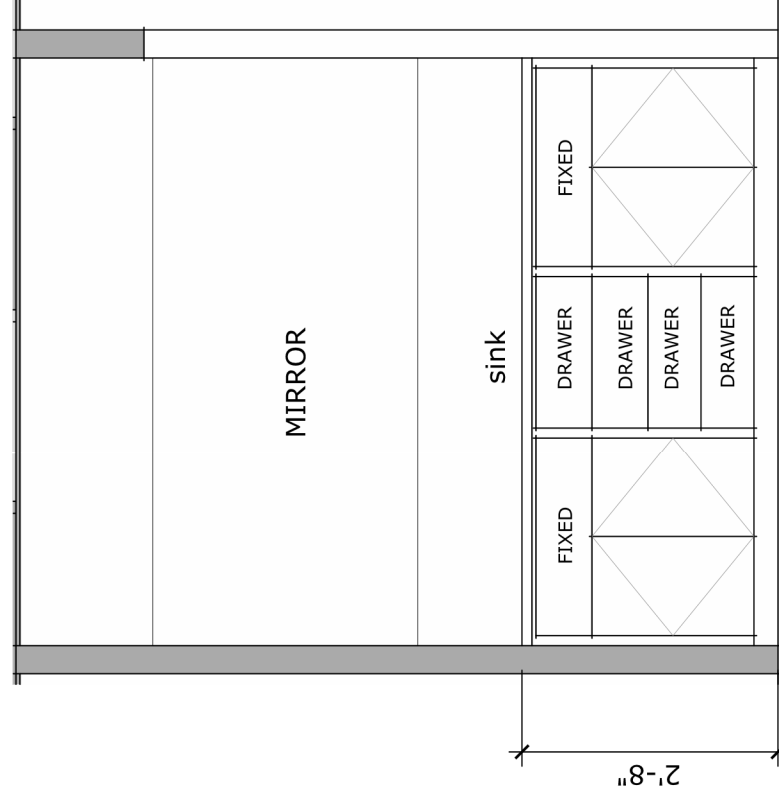
7 KITCHEN CAB. ELEVATION

5 SCALE : 1/2" = 1' - 0"



8 KITCHEN CAB. ELEVATION

5 SCALE : 1/2" = 1' - 0"



9 KITCHEN CAB. ELEVATION

5 SCALE : 1/2" = 1' - 0"

PRELIMINARY - NOT FOR CONSTRUCTION

2X6 CEILING JOIST @ 24" OC

2X4 BLOCKING

5/8" x 7 1/4" FIBER CEMENT FASCIA TRIM

1X2 TRIM

3/8" PLYWOOD CEILING

3/8" SOFFIT BOARD

DOUBLE 2 x 12 BOX BEAM

1X2 SCREEN TRIM

2X4 SCREEN HEAD

ALUMINUM SCREEN

3/4" x 7 1/4" fiber cement trim

2x4 SCREEN JAMB

ALUMINUM SCREEN

1X2 SCREEN TRIM

3 PORCH POST PLAN DET.

SCALE : 1" = 1' - 0"

7'-1 1/4"

8'-0"

2X4 RAIL

1X2 SCREEN TRIM

2X2 FRAME

3/8" HARDIE PANEL

1/4" X 3/4" VINYL TRIM ALL FOUR SIDES OF PANEL

PT 2X4 SILL

2X8 PT RIM JOIST

8X8 CMU COLUMN

2X6 PT JOISTS

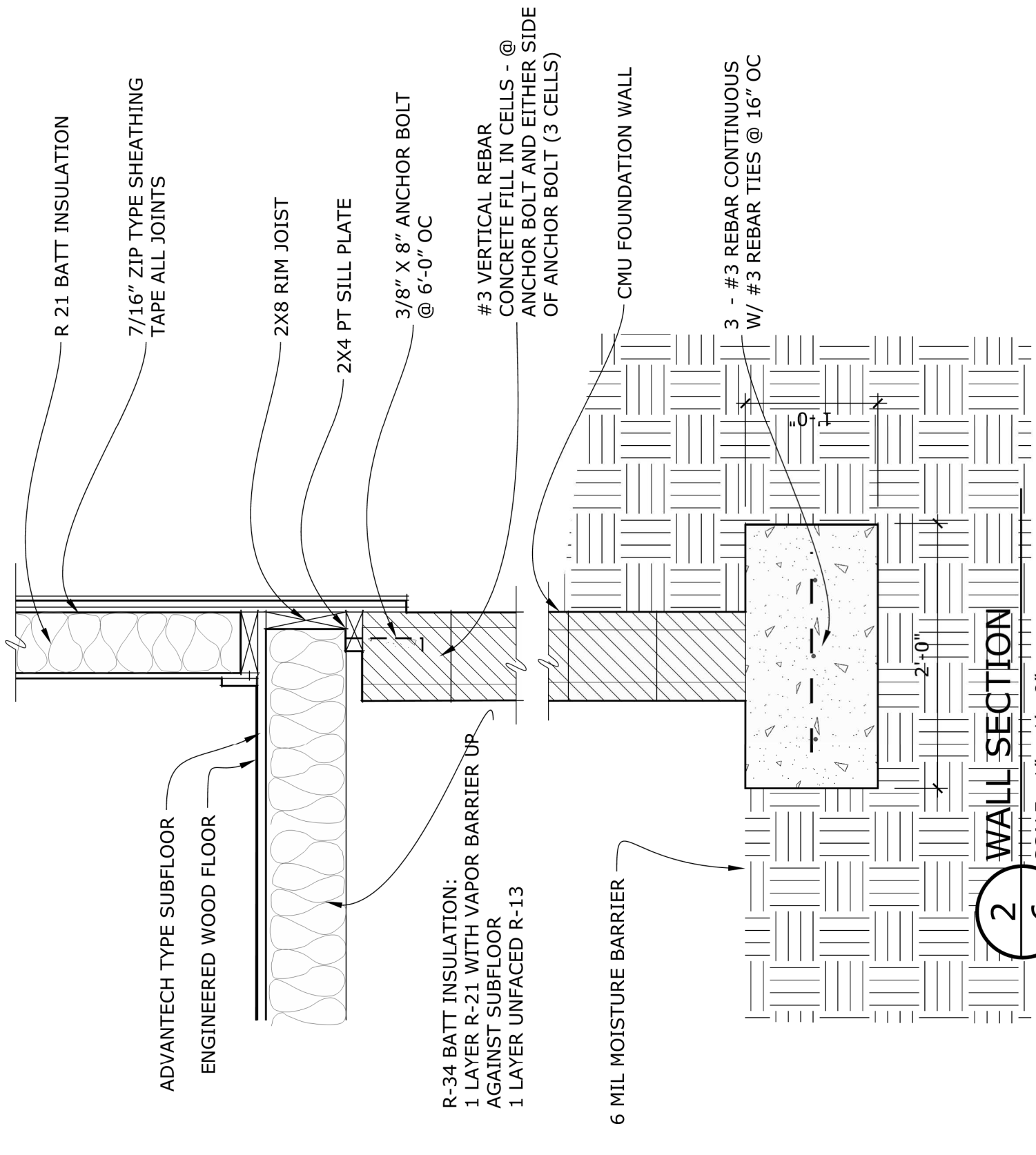
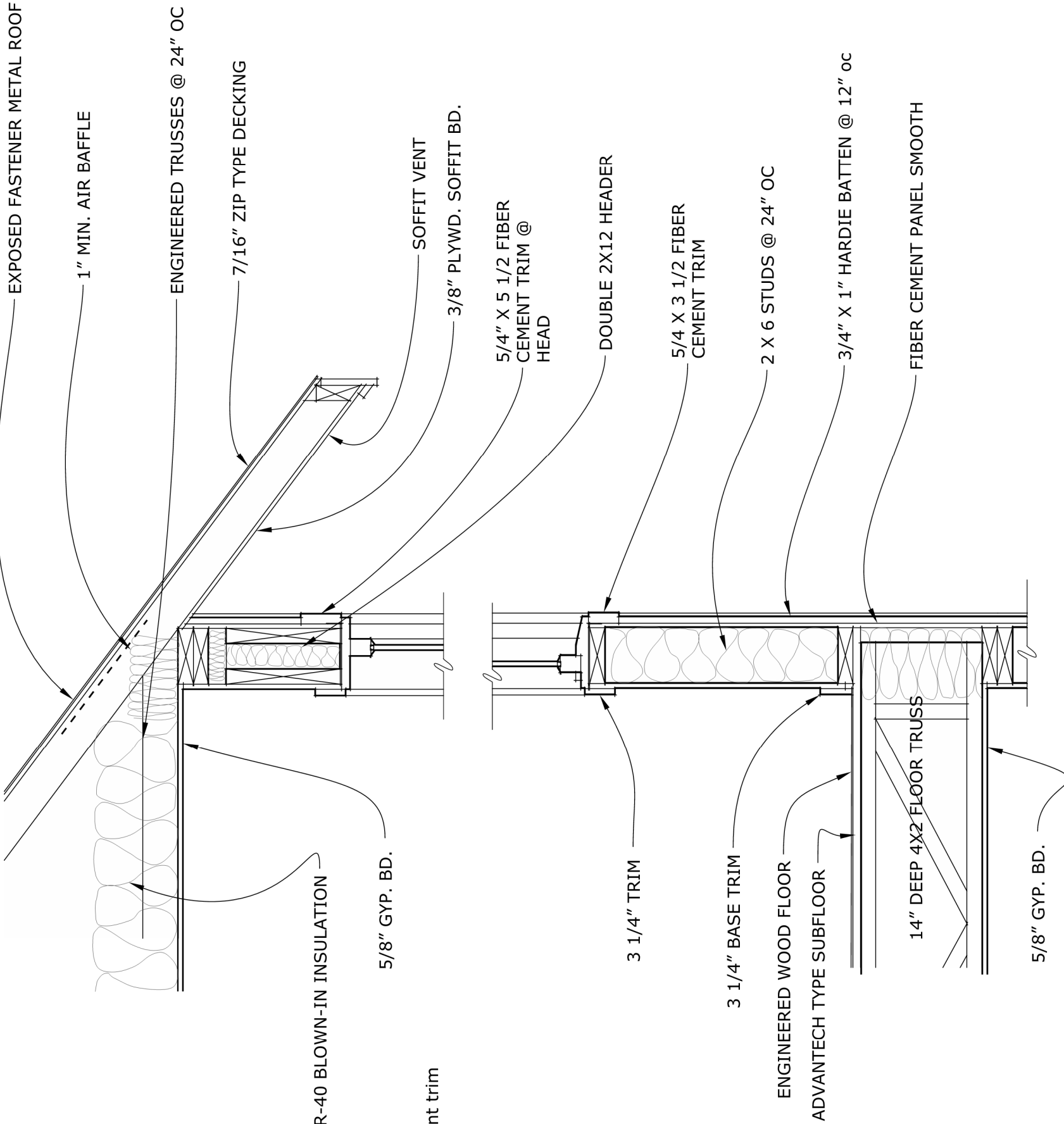
5/4 PT DECKING

16" X 12" CONCRETE PAD FOOTING W/ 2 - #3 REBAR EACH WAY

1 SCREENED PORCH WALL SECTION

SCALE : 1" = 1' - 0"

6



2 WALL SECTION

SCALE : 1" = 1' - 0"

6

9.12.23

232 Adams Street
Fayetteville, AR 72701

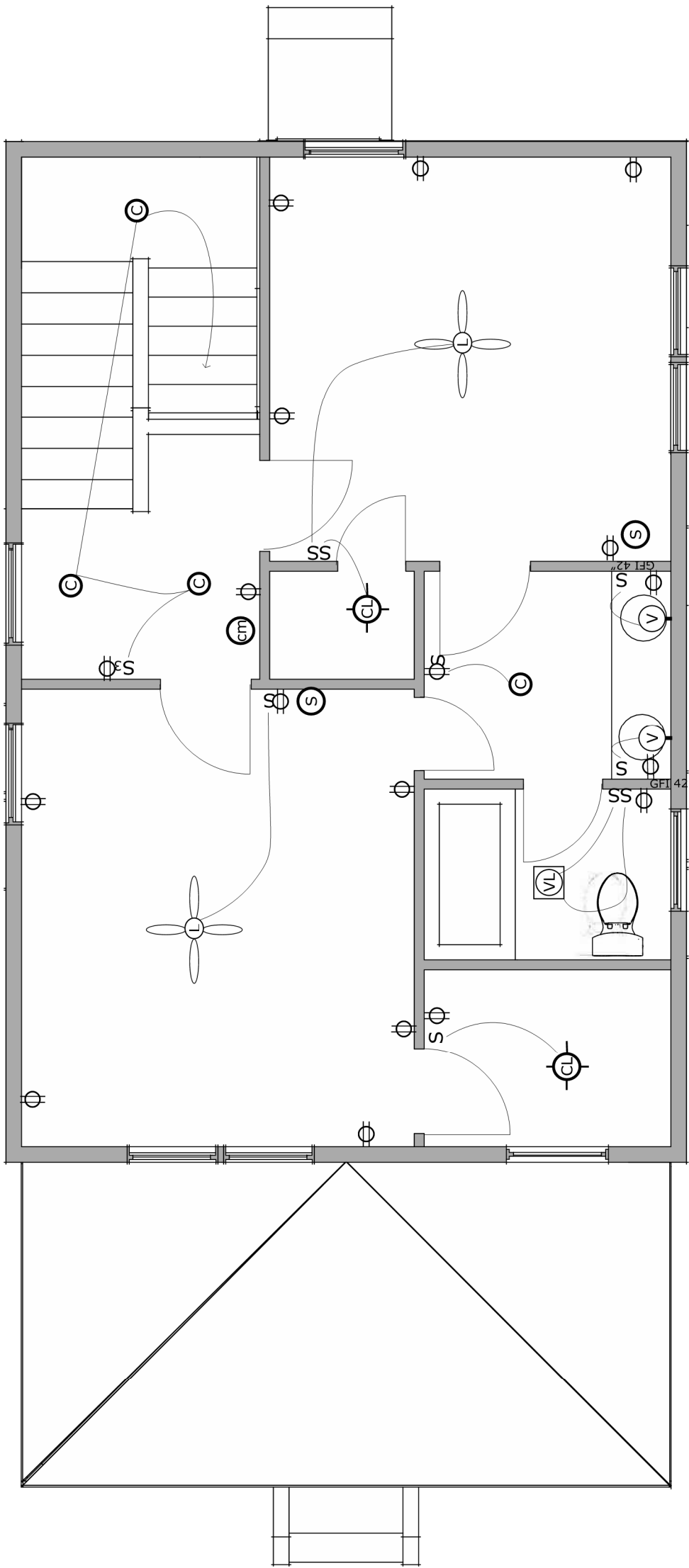
Michael Cockram
479.799.2404
michael@bowbird.com

bowbird design LLC

SWEET BAY AT KESSLER | TWO BEDROOM COTTAGE PROTO-TYPE

D&B OF NWA

PRELIMINARY - NOT FOR CONSTRUCTION



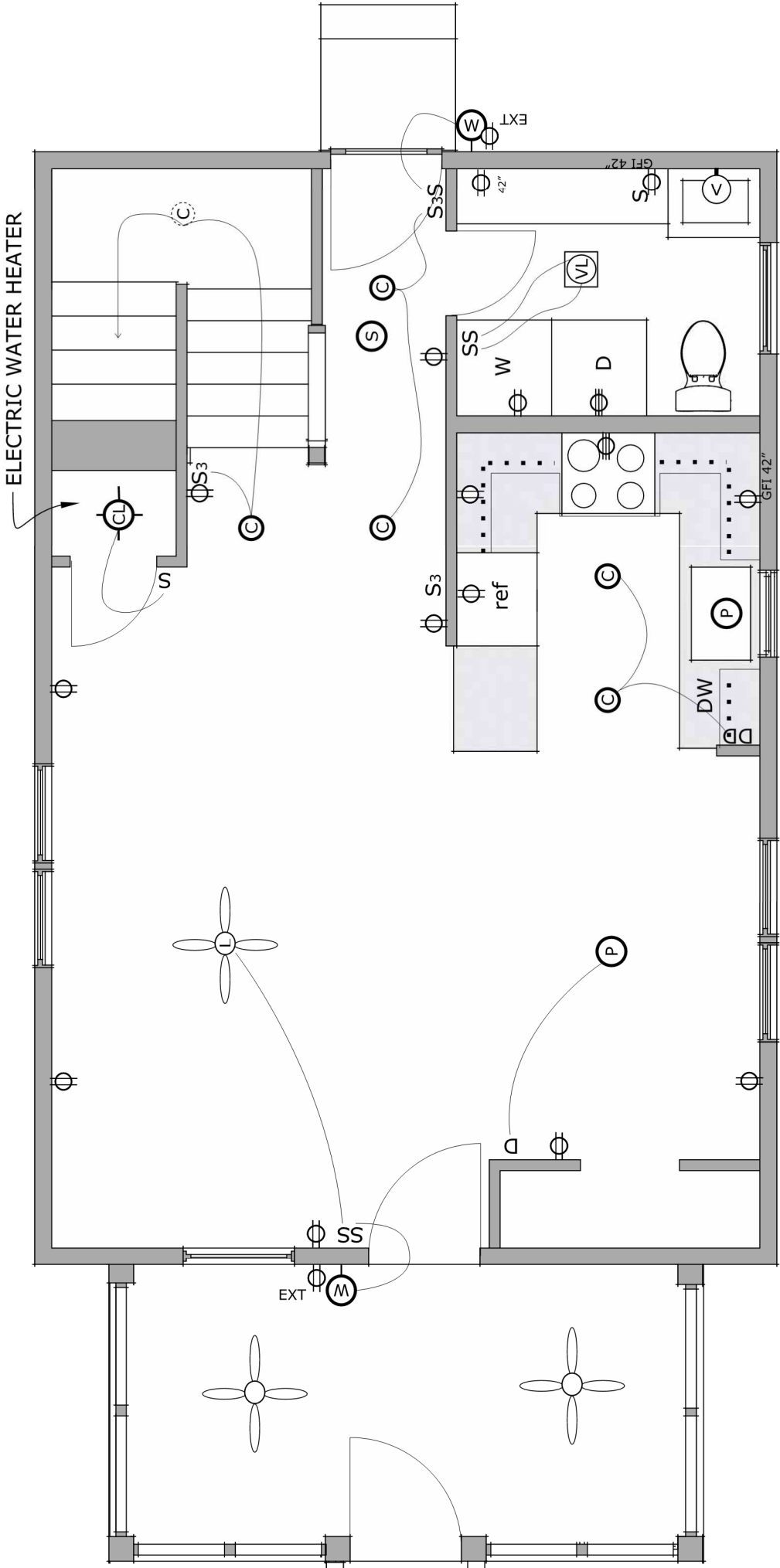
17

SECOND FLOOR ELECTRICAL PLAN

SCALE : 1/4" = 1' - 0"

ELECTRICAL KEY

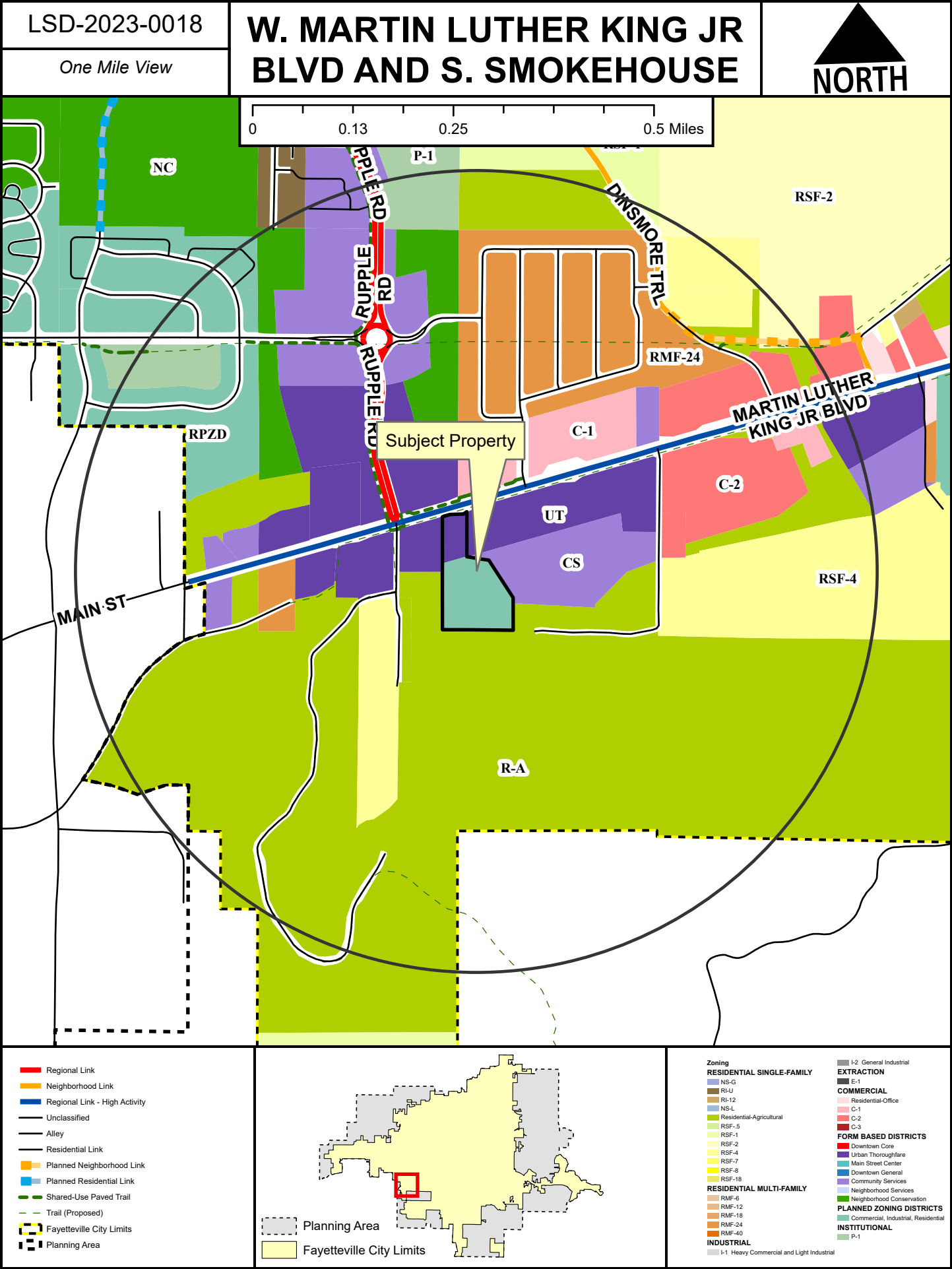
- S SWITCH
- S3 3 WAY SWITCH (two switches)
- D DIMMER
- ⌚ DUPLEX OUTLET
- ⌚ EXT DUPLEX OUTDOOR OUTLET GFI
- ⌚ 220 OUTLET
- ⊙ CAN LIGHT
- ⌚ CEILING LIGHT
- ⊙ WALL LIGHT
- Ⓟ PENDANT LIGHT
- ⌚ CEILING VENT LIGHT
- Ⓟ VANITY WALL LIGHT
- ⌚ CEILING FAN W/ LIGHT
- ⌚ CEILING FAN
- LED UNDER CABINET LIGHTS
- Ⓢ SMOKE DETECTOR
- Ⓢ CARBON MONOXIDE DETECTOR

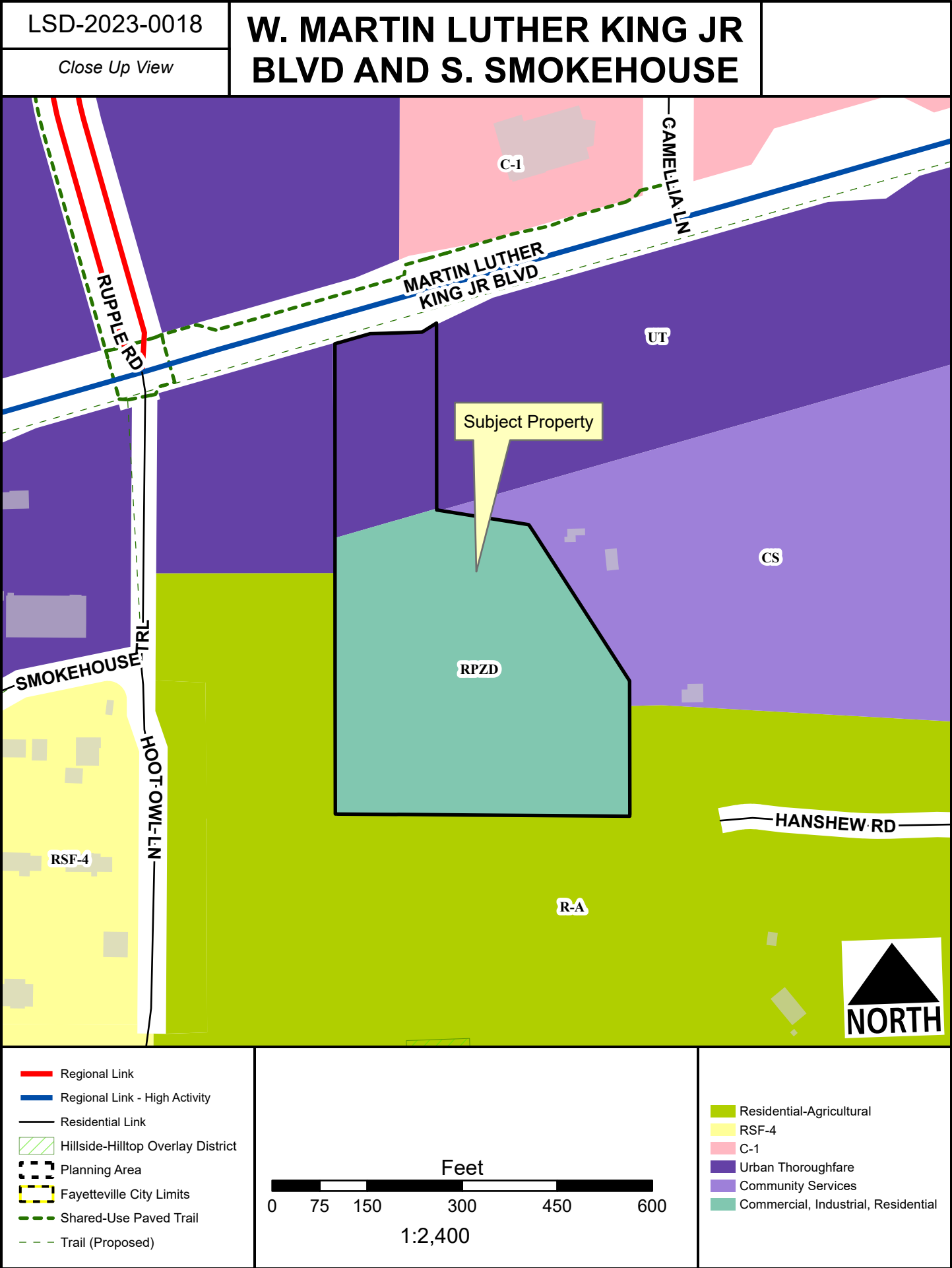


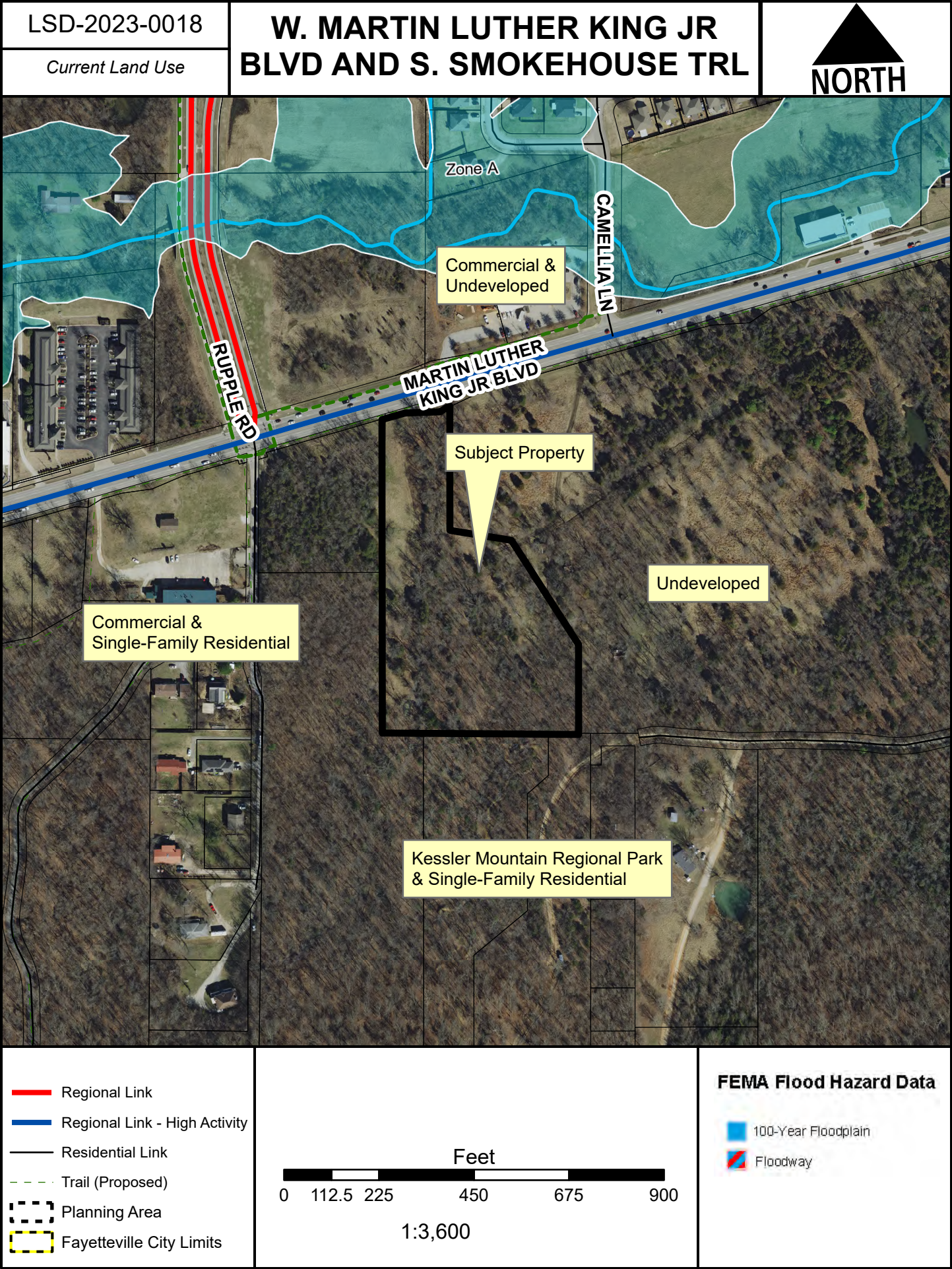
27

FIRST FLOOR ELECTRICAL PLAN

SCALE : 1/4" = 1' - 0"









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: November 27, 2023

SUBJECT: **CUP-2023-0163: Conditional Use Permit (1811 S. FINGER RD./GEOPFERT, 2596):** Submitted by KIMLEY-HORN for property located at 1811 S. FINGER RD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 7.95 acres. The request is for a campground in R-A zoning.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0163**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0163** 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 southwest Fayetteville, approximately 0.43 miles south of W. Martin Luther King Jr. Blvd. The 7.41 acre property is zoned R-A, Residential Agricultural and is currently undeveloped with the exception of an approximately 1,300 sq. ft. barn. To the west of the proposed area of development is a protected stream and a FEMA-designated floodplain. Approximately 21% of the site (1.57 acres) is within the Hillside/Hilltop Overlay District. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Residential; Undeveloped	R-A, Residential Agricultural
South	Residential	R-A, Residential Agricultural
East	Residential; Undeveloped	RSF-4, Residential Single-Family – Four Units per Acre
West	Undeveloped	R-A, Residential Agricultural

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

Proposal: The applicant requests conditional use permit approval to develop the front 2.5 acres of the property with 7 rental cabins. Use Unit 2, City-wide uses by conditional use permit (which includes campgrounds) is a conditional use in the R-A, Residential Agricultural zoning district. The applicant has described the use as follows:

- 7 rental cabins with living area, bathroom, lofted sleeping area, and deck
- Maximum occupancy of 3 guests per cabin

Public Comment: To date, staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0163**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed campground to be compatible with the surrounding area and uses for the reasons described 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. Conditional use permit approval does not constitute development approval. The project as proposed shall also be submitted, reviewed, and approved for building permit;
4. This conditional use permit is limited to the campground use as described in this report. This conditional use permit is non-transferable to a different property owner. The following specifications apply:
 - a. *Occupancy: Maximum of 21 campers*
 - b. *Parking: Maximum of 1 per cabin*
 - c. *Tents/RVs: No tents or recreational vehicles may be located on the site without applying for an amended conditional use permit*
5. All campfire locations will be approved by the Fire Marshal.
6. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>November 27, 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 2 in the R-A zoning district at 1811 S. Finger Rd. (parcel 765-14825-000).

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 §161.03 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 small in scale and located a minimum of 112 feet from the public right-of-

way. The applicants plan to preserve existing trees, which will help screen the property. The Future Land Use Map designates the property as both Natural and Rural Residential, which seems compatible with the proposed development.

(c.) The Planning Commission shall certify:

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

Finding: There are specific rules governing Campgrounds, as follows:

§163.12 CAMPGROUNDS

A. Campgrounds may be permitted citywide as a conditional use subject to the following minimum conditions:

1. **Consent.** The owner of the property shall provide written consent.

Finding: The applicant has submitted a Consent of Owner Form with their written application.

2. **Contact.** The owner of the property shall ensure current contact information is provided to the city for the owner or a responsible party.

Finding: Up-to-date contact information shall be provided to the City during licensing and updated annually.

3. **Owner or Agent Accessibility.** The property owner shall ensure that they or a designated agent are available at all times the property is being used for camping, 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 location within three (3) hours of being contacted.

Finding: The application letter suggests the property will be managed by the property owner, who resides on an adjacent parcel.

4. **Sanitation.** Provisions shall be made to ensure any person camping on the property has access to sanitary facilities, including restroom and potable water.

Finding: The proposed cabins feature private restroom and kitchen facilities. The site has access to City water, and the cabins will be placed on a septic system.

5. **Waste.** The owner of the property shall ensure the provision of adequate garbage services such that no accumulation of solid waste occurs.

Finding: The applicant proposes a shared dumpster located in a central location on the site. As a condition of approval, staff recommends that the dumpster be screened.

6. **Setbacks.** The owner shall ensure that any facilities, tents, or vehicles used for camping comply with the setback requirements of the applicable zoning district.

Finding: The proposed site plan meets all setback requirements for the R-A zoning district.

7. **Access by the City.** The city shall be authorized to enter the property to ensure compliance with the city's ordinances and any conditions of approval.

Finding: As part of the permitting process, this property will be inspected by various City divisions to ensure that the development complies with City ordinances. Following development, the City will be authorized to enter the property to verify whether the campground is still in compliance with City ordinance and any conditions of approval tied to this conditional use permit.

- B. In addition to the factors set forth in subsection 163.02(C)(3), campgrounds are further subject to approval, denial, or additional conditions based on the Planning Commission's findings on the following factors:

1. **Duration.** Where appropriate, conditions may be applied limiting the duration of the conditional use permit or the duration of stay by campground users;

Finding: This conditional use permit will be non-transferable to a different property owner.

2. **Natural Hazards.** Potential natural hazards, including flooding and slopes, shall be considered in siting of camping areas and may be a factor for denial of a conditional use permit;

Finding: The proposed location of all cabins lies outside of Zone A of the flood plain and outside of the streamside protection zone. Much of the front portion of the site is in the HHOD, with most at a slope of 15% or greater. However, this is unlikely to be a safety concern due to the nature of the proposed development. Compliance with development standards, including those for properties within the HHOD, will be evaluated at the time of development review.

3. **Separation and Screening.** The Planning Commission may require greater separation from adjacent properties than the minimum setbacks applicable to the zoning district. The Planning Commission may also require screening.

Finding: Proposed cabin locations are well outside of setbacks for the R-A zoning district and adjacent properties to the north and east are undeveloped. Trees and existing land cover will be preserved as much as possible.

4. **Occupancy Limits.** The Planning Commission should consider limits on the number of occupants on the property with consideration for factors including, but not limited to, the acreage of the property, the proximity of adjacent structures, and the capacity of utilities available on site.

Finding: Each cabin will have a maximum occupancy of three guests, totaling 21 for the entire site at any time. The front 2.5 acres of a total 7.41 acre site will be developed for camping, and appears to be able to support the maximum occupancy without overcrowding the site or having adverse impacts on the surrounding rural properties.

5. **Campfires.** Where appropriate, conditions may be applied limiting campfires or other open burning, with review and approval by the Fire Marshal.

Finding: As a condition of approval staff recommends that all campfires be limited to fire rings in locations approved by the Fire Marshal.

6. **Noise.** The Planning Commission may apply conditions limiting noise emissions from the campground.

Finding: The applicant states that large groups are not anticipated and that campground quiet hours will be enforced to reduce noise.

7. **Storage.** Where appropriate, conditions may be applied to ensure that any person camping on the property has access to securable storage for personal items.

Finding: The cabins will be secured and available for storage of guest's items.

- C. The requirements and limitations of this section shall not apply to or affect the limited camping authorizations of §97.068, Camping Prohibited in the Parks and Recreation Chapter of the Fayetteville Code.

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

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

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

Finding: Access to the site from S. Finger Rd. is available via two paved driveways. Gravel drives and walkways facilitate automotive and pedestrian access throughout the site.

- (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 at the rate of one space per bedroom/cabin (staff finds that the ratio for hotels/motels is most appropriate for this specific proposal). Due to the property's size and the abundance of mature trees, staff is not recommending any additional screening for parking.**

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

Finding: **The property is served by an on-site dumpster. As a condition of approval, staff recommends the dumpster be screened.**

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

Finding: **Water is located along S. Finger Rd., but sanitary sewer is not available at the site. The applicant proposes to place the cabins on a septic system.**

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

Finding: **Given the similar uses to the north, south, and east 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: **The proposed development meets setback and landscaping requirements for the district.**

(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 a campground with cabins is not out of character for the rural, residential nature of the adjacent properties.**

(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. City Plan 2040 established the area as a Natural and Rural Residential area in its Future Land Use Map. A Rural Residential area is meant to encourage the conservation and preservation of woodlands, grasslands, and agricultural lands that are sparsely settled. The subject property does not have access to appropriate infrastructure to support suburban development. The proposed use is appropriate for the location, providing small-scale lodging options near Kessler Mountain Regional Park. The proposed development aligns with City Plan 2040 Goal 5, to assemble an enduring green network, through the preservation of mature trees and avoidance of the streamside.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §161.03, R-A, Residential-Agricultural
- Applicant Request Letter
 - Site Plan
 - Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

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

(G) *Building area.* None.

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

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

1) Request Letter

We are proposing to develop approximately 2.5 acres to include 7 rental cabins with a living area, bathroom, lofted bed, and deck with a capacity for 3 people. The cabins will be rented like short-term rentals. We have had a pre-development meeting with the City to discuss the project. The site will have a master water meter and a private line ran throughout. All the cabins will be placed on septic. The driveways off Finger Rd will be paved and the remaining roads will be gravel. Each cabin will have its own parking space and a small outdoor area. The develop will remain east of the creek that runs through the property. The intent is also to not have to remove any of the trees on site. The existing barn on site will remain.

- a) Building floorplan is attached.
- b) Building elevation diagram is attached.
- c) Each unit will have one parking space provided.
- d) The use will be a business but also residential. The hours will be more of an on call rather than set hours and the owner and his wife will be the only employees. The owner's personal residence is adjacent to the property and will be managed from there. This location is shown on the Site Plan.
- e) There may be a light on the exterior of each building but none other than that.
- f) Noise is expected to be minimal. Large groups are not anticipated and there will be campground quiet hours to reduce potential noise.
- g) There is no planned additional screening from adjacent properties. There are several existing mature trees that will remain on the property. All proposed locations are more than 100' from the nearest residence.
- h) Trash will be collected at a central location for pickup.
- i) There will be two entrances to the site and traffic impacts will be minimal.
- j) The planned use will not impact surrounding properties and all surrounding owners have been notified of the development.

2) Legal Description

1811 S Finger Rd

PT FRL SW 7.41 AC FURTHER DESCRIBED FROM 2014-24976 AS: A PART OF THE FRACTIONAL SOUTHWEST QUARTER (FRL.SWI/4) OF SECTION NINETEEN (19), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE FRACTIONAL SOUTHWEST QUARTER (FRL.SWI/4) OF SAID SECTION NINETEEN (19), SAID POINT BEING AN EXISTING ALUMINUM ARKANSAS STATE MONUMENT; THENCE N88°31'38"W 766.14 FEET ALONG THE SOUTH LINE OF THE FRACTIONAL SOUTHWEST QUARTER (FRL.SWI/4) OF SAID SECTION NINETEEN (19) TO A SET COTTON SPINDLE IN FINGER ROAD; THENCE LEAVING THE SOUTH LINE OF THE FRACTIONAL SOUTHWEST QUARTER (FRL.SWI/4) OF SAID SECTION NINETEEN (19), N01°50'07"W 25.82 FEET TO A SET 1/2" RON REBAR ON THE NORTH RIGHT-OF-WAY LINE OF FINGER ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, THE FOLLOWING BEARINGS AND DISTANCES: N87°35'41 "W 46.05 FEET; N84°46'02"W 99.77 FEET; N83°56'48"W 147.93 FEET; N86°50'06"W 9.29 FEET TO A SET 1/2" IRON REBAR IN AN EXISTING FENCE; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND FOLLOWING ALONG SAID FENCE LINE, N06°56'02"E 393.22 FEET TO AN EXISTING IRON; THENCE ALONG SAID FENCE, THE .FOLLOWING BEARINGS AND DISTANCES: S87°59'16"W 98.79 FEET TO AN EXISTING IRON; S87°54'37"W 204.54 FEET TO AN EXISTING IRON; N89°09'10"W 30.18 FEET TO AN EXISTING IRON; S86°31 '15"W 203.62 FEET TO A NAIL IN A FENCE POST; N00°06'19"W 614.45 FEET TO A SET 1/2" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID FENCE, THE FOLLOWING BEARINGS AND DISTANCES: N00°06'19"W 270.69 FEET TO A FENCE POST; S89°08'05"E 243.16 FEET; S89°31'13"E 279.03 FEET; N89°57'09"E 82.26 FEET; N89°26'05"E 187.18 FEET; S89°13'38"E 347.24 FEET TO A FENCE POST; N89°54'53"E 161.59 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF FINGER ROAD; THENCE LEAVING SAID FENCE LINE ALONG SAID RIGHT-OF-WAY, THE .FOLLOWING BEARINGS AND DISTANCES: S00°32'00"W 92.11 FEET; S02°52'27"W 98.94

:FEET; S02°00'37"W 19.64 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING SAID RIGHT-OF-WAY LINE, N86°37'39"W 463.57 FEET TO A SET 1/2" IRON REBAR; THENCE S02°13'53"W 100.21 FEET TO A SET 1/2" IRON REBAR; THENCE N88°31'38"W 826.98 FEET TO THE POINT OF BEGINNING, CONTAINING 7.41 ACRES. MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 7.41 ACRE TRACT BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

765-14824-003

PT FRL SW 9.79 AC FURTHER DESCRIBED FROM 2014-24975 AS: A PART OF THE FRACTIONAL SOUTHWEST QUARTER OF SECTION NINETEEN (19), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE FRACTIONAL SOUTHWEST QUARTER OF SAID SECTION NINETEEN (19), SAID POINT BEING AN EXISTING ALUMINUM ARKANSAS STATE MONUMENT; THENCE N88°31'38"W 766.14 FEET ALONG THE SOUTH LINE OF THE FRACTIONAL SOUTHWEST QUARTER OF SAID SECTION NINETEEN (19) TO AN EXISTING COTTON SPINDLE IN FINGER ROAD; THENCE LEAVING THE SOUTH LINE OF THE FRACTIONAL SOUTHWEST QUARTER OF SAID SECTION NINETEEN (19), N01°50'07"W 25.82 FEET TO AN EXISTING 1/2" IRON REBAR ON THE NORTH RIGHT-OF-WAY LINE OF FINGER ROAD; THENCE ALONG SAID RIGHT-OF-WAY LINE, THE FOLLOWING BEARINGS AND DISTANCES: N87°35'41"W 46.05 FEET; N84°46'02"W 99.77 FEET; N83°56'48"W 147.93 FEET; N86°50'06"W 9.29 FEET TO AN EXISTING 1/2" IRON REBAR IN AN EXISTING FENCE; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND FOLLOWING ALONG SAID FENCE LINE, N06°56'02"E 393.22 FEET TO AN EXISTING IRON; THENCE CONTINUING ALONG SAID FENCE, THE FOLLOWING BEARINGS AND DISTANCES: S87°59'16"W 98.79 FEET TO AN EXISTING IRON; S87°54'37"W 39.64 FEET TO A SET 1/2" IRON REBAR FOR THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID FENCE, THE FOLLOWING BEARINGS AND DISTANCES: S87°54'37"W 164.90 FEET TO AN EXISTING IRON; N89°09'10"W 30.18 FEET TO AN EXISTING IRON; S86°31'15"W 203.62 FEET TO A NAIL IN A FENCE POST; N00°06'19"W 614.45 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING SAID FENCE, S88°31'38"E 826.98 FEET TO A SET 1/2" IRON REBAR; THENCE N02°13'53"E 100.21 FEET TO A SET 1/2" IRON REBAR; THENCE S86°37'39"E 463.57 FEET TO AN EXISTING IRON REBAR ON THE WEST RIGHT-OF-WAY LINE OF FINGER ROAD; THENCE S02°00'37"W 50.99 FEET ALONG SAID RIGHT-OF-WAY LINE TO A POINT; THENCE S00°01'53"W 9.04 FEET ALONG SAID RIGHT-OF-WAY LINE TO AN EXISTING IRON; THENCE LEAVING SAID RIGHT-OF-WAY LINE, N86°37'39"W 403.47 FEET TO AN EXISTING IRON REBAR IN AN EXISTING FENCE; THENCE ALONG SAID FENCE, THE FOLLOWING BEARINGS AND DISTANCES: S01°38'27"W 37.31 FEET TO A SET 1/2" IRON REBAR; S11°15'19"W 58.97 FEET TO A SET 1/2" IRON REBAR; S26°32'35"W 62.37 FEET TO A SET 1/2" IRON REBAR; S18°25'57"W 29.26 FEET TO A SET 1/2" IRON REBAR; S05°16'56"E 42.67 FEET TO A SET 1/2" IRON REBAR; S25°19'36"E 50.58 FEET TO A SET 1/2" IRON REBAR; S43°21'11"E 21.29 FEET TO AN EXISTING IRON; S00°33'12"W 93.84 FEET TO A SET 1/2" IRON REBAR; THENCE LEAVING SAID FENCE, N88°31'38"W 479.66 FEET TO A SET 1/2" IRON REBAR; THENCE S00°06'19"E 247.98 FEET TO THE POINT OF BEGINNING, CONTAINING 9.79 ACRES. MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

3) Site Plan

See attached.

4) Preliminary Floor Plan

See attached.

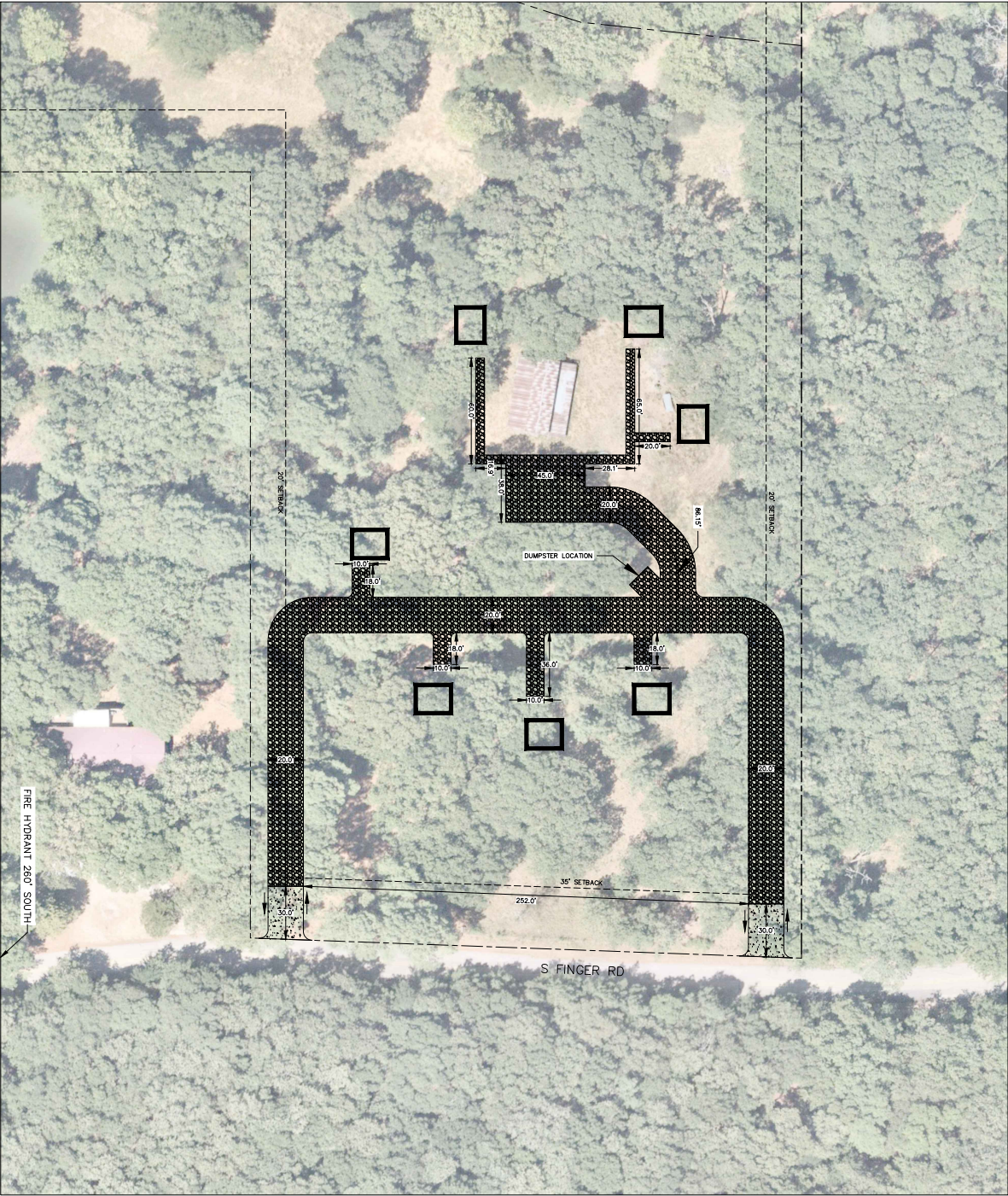
5) County Parcel Map

See attached.

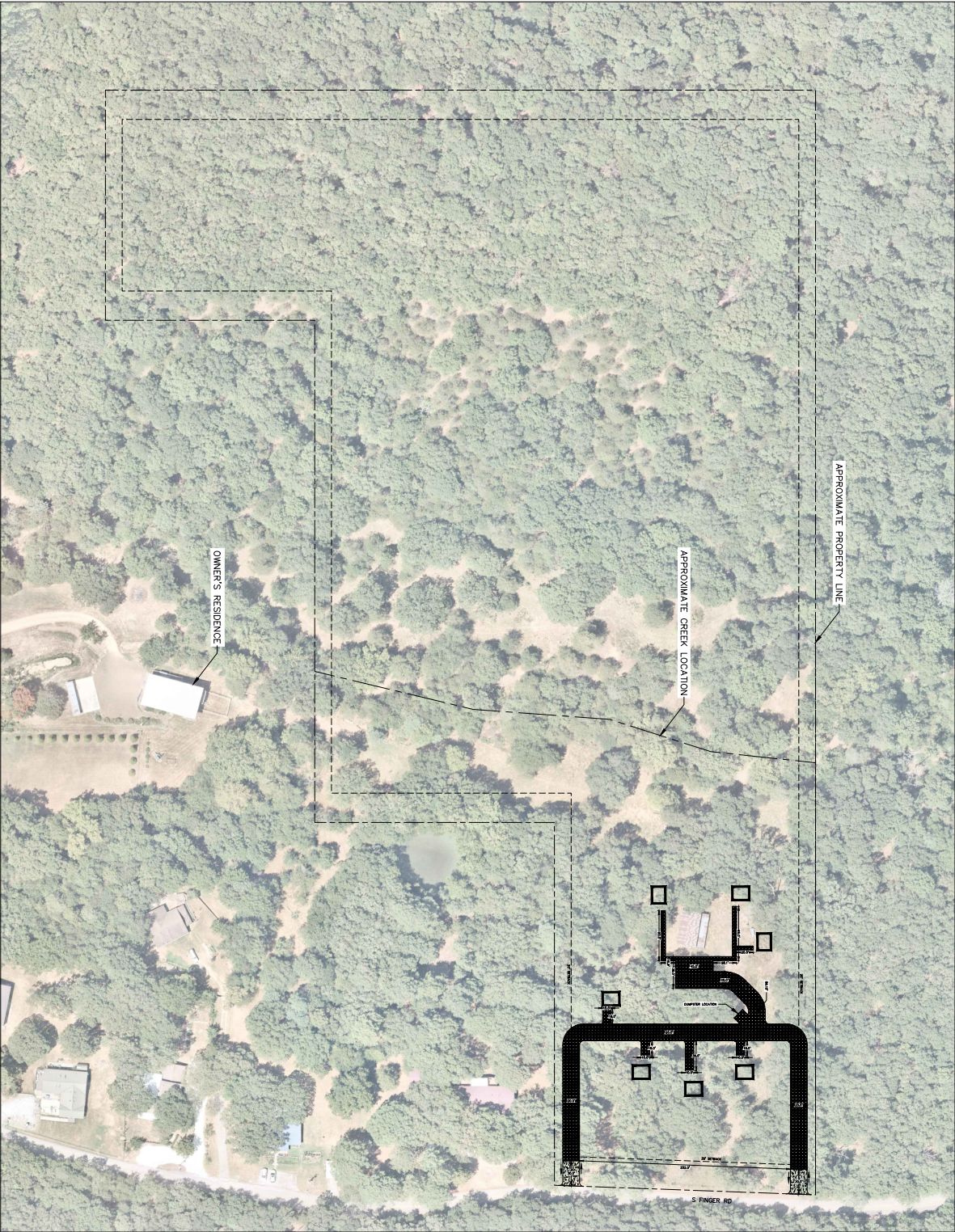
6) Public Notification

7) Property Owner Authorization

See attached.



SHEET NUMBER 1	SITE PLAN	GEOFERT LUXURY CAMPING	KHA PROJECT		 1437 S. BOULDER AVE., TULSA, OK 74119 PHONE: 918-209-3191 WWW.KIMLEY-HORN.COM © 2023 KIMLEY-HORN AND ASSOCIATES, INC. OKLAHOMA REGISTERED ENGINEERING FIRM	No.		REVISIONS	DATE	BY
			DATE 05/2023							
			SCALE AS SHOWN							
			DESIGNED BY							
			DRAWN BY							
			CHECKED BY							
						Planning Commission				
						November 27, 2023				
						CUE-2023-0163 (GEOP) Page 1				



SHEET NUMBER 1	SITE PLAN	GEOFERT LUXURY CAMPING	KHA PROJECT	Kimley»Horn 1437 S. BOULDER AVE., TULSA, OK 74119 PHONE: 918-209-3191 WWW.KIMLEY-HORN.COM © 2023 KIMLEY-HORN AND ASSOCIATES, INC. OKLAHOMA REGISTERED ENGINEERING FIRM	No.	REVISIONS	DATE	BY
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			DRAWN BY					
			CHECKED BY					
						Planning Commission		
						November 27, 2023		
						CUB 2023-0163 (GEOPFERT)		

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DATE: 11/1/2023
SCALE: 1 in = 1 in
SHEET: A-1

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TIMBERSTONE
OUTDOOR LIVING

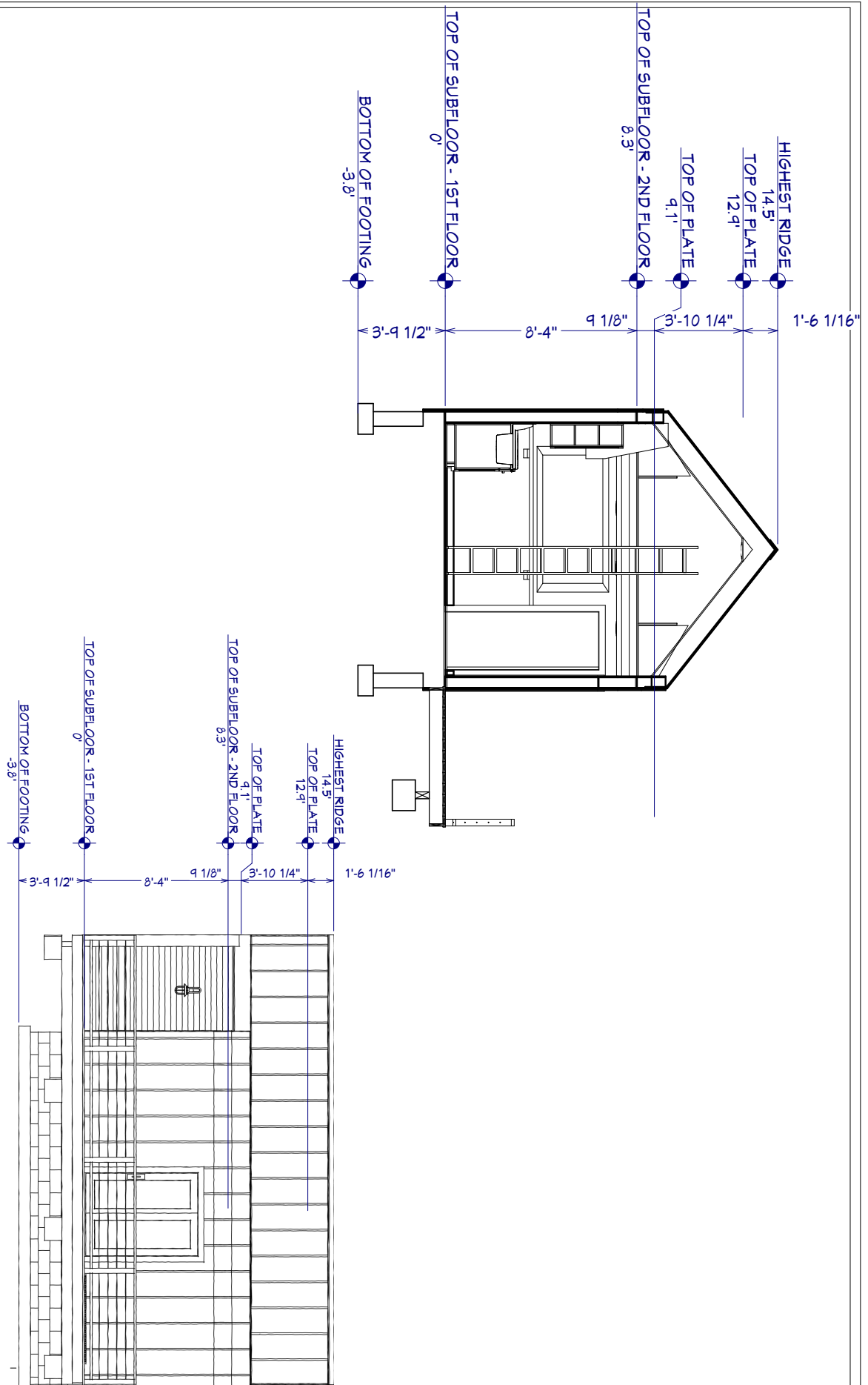
Bella Vista, AR
joe@tmbrstone.com
479-367-5262

MEMBER
A | I
B | D
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BUILDING DESIGN

Geopfert Tree House Project

Project Overview

[illegible]

[illegible]

DATE: 4/14/2009

SCALE:

SHEET:

A-2

DESIGN  BUILD

TIMBERSTONE

OUTDOOR LIVING

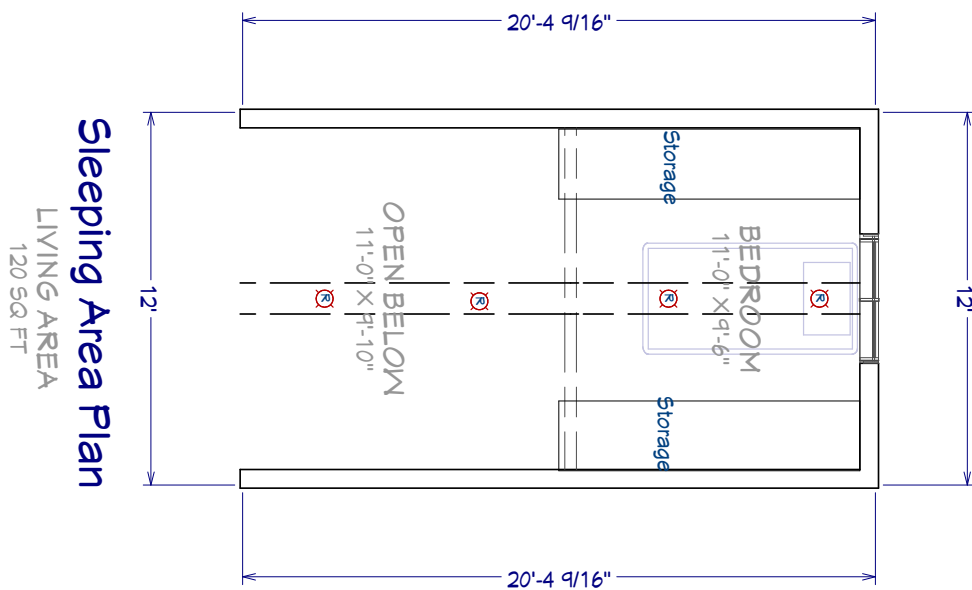
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Geopfert Tree House Project

Cross Section Elevations

REVISION TABLE			
NUMBER	DATE	REVISED BY	DESCRIPTION

[illegible]

DATE: 4/4/2003

SCALE:

SHEET:

A-4

DESIGN  BUILD

TIMBERSTONE

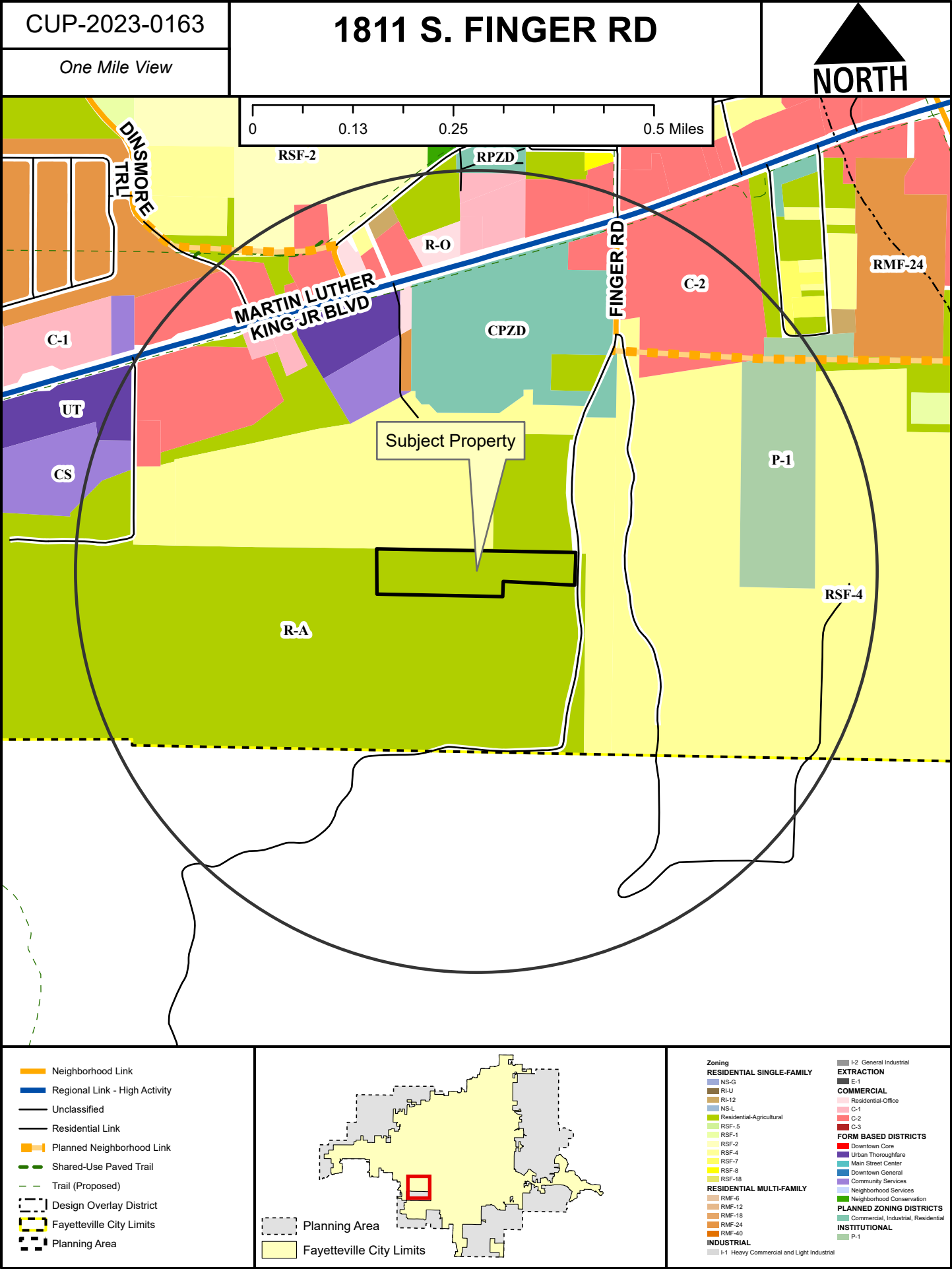
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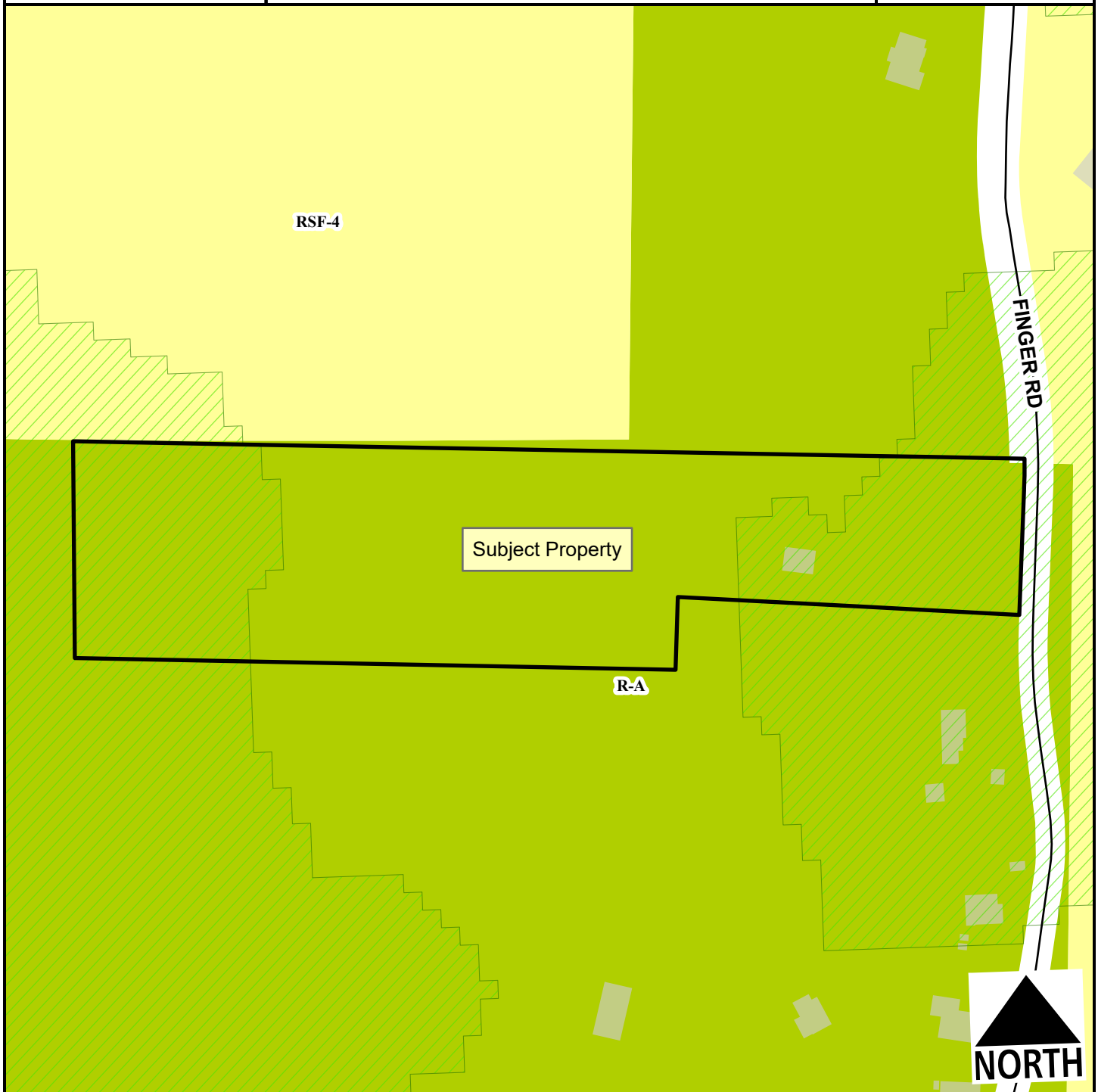
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joe@tmbrstone.com
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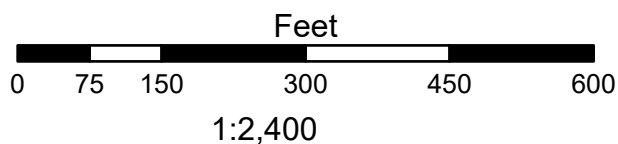
Geopfert
Tree House Project

REVISION TABLE			
NUMBER	DATE	REVISED BY	DESCRIPTION





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

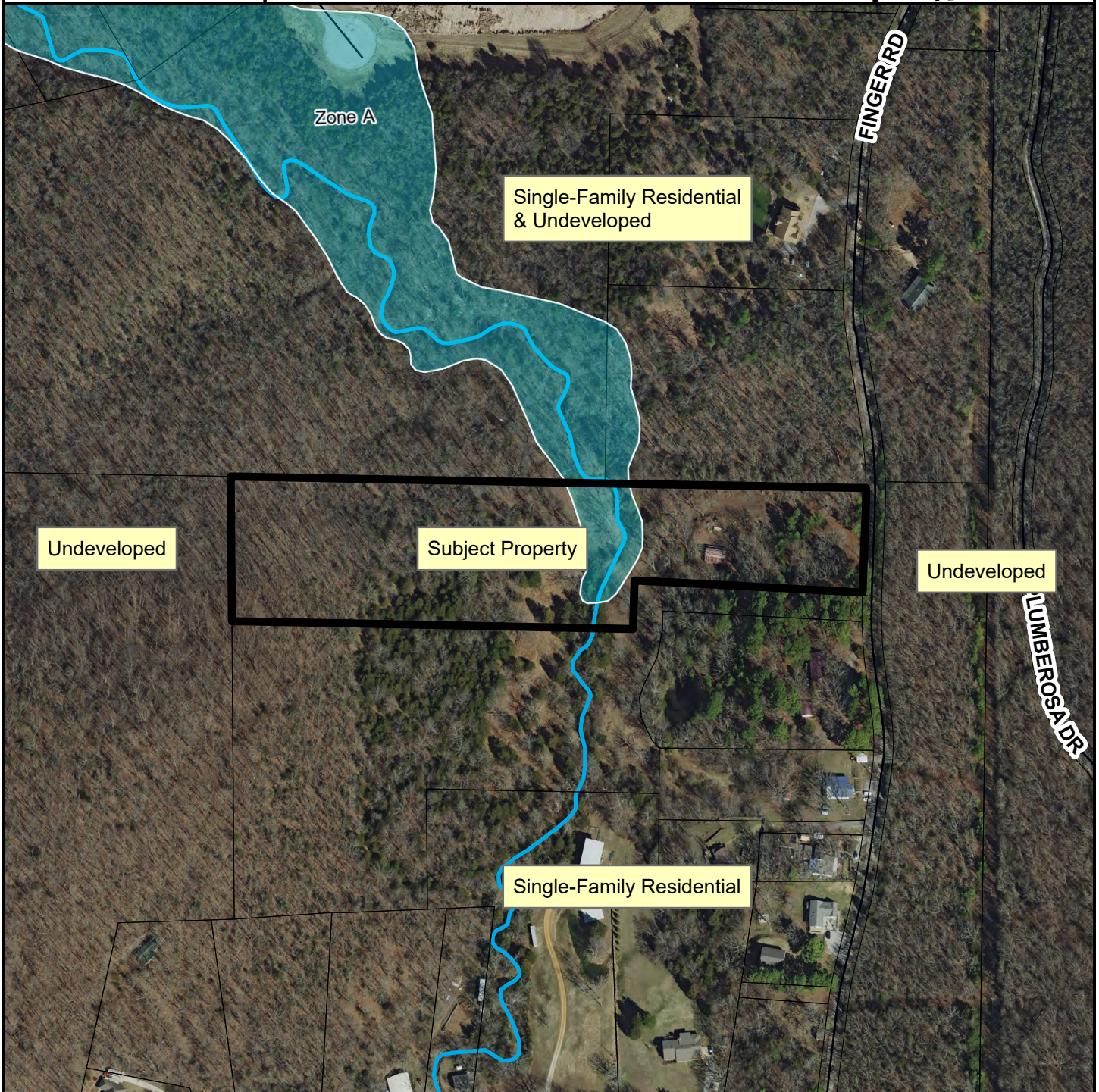


- Residential-Agricultural
- RSF-4

CUP-2023-0163

1811 S. FINGER RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: November 27, 2023

SUBJECT: **CUP-2023-0154: Conditional Use Permit (665 N. GRAY AVE./MCKEE PROPERTIES LLC, 443):** Submitted by MCKEE PROPERTIES, LLC. for property located at 665 N. GRAY AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 1.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0154**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0154** with conditions, determining:*

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

BACKGROUND:

The subject property is located in central Fayetteville approximately ¼ mile northwest of Baum Stadium. The property is zoned RSF-4, is entirely covered by the Hillside-Hilltop Overlay District, and totals approximately 1.10 acres. The 2,515 square foot single-family home, designed by prominent architect Fay Jones, was originally constructed in 1958 and completed restoration work earlier 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 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-2023-0154**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. The number of occupants is limited to a maximum of six guests.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per 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>November 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. The structure appears to be a three-bedroom unit, which per ordinance would mean a maximum occupancy limit of eight (8) guests. Staff recommends an occupancy limit of six (6) guests due to limited parking.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. Per the applicant, five off-street parking spaces are available (two carport, and three driveway). Based on the survey, the carport appears to be approximately 18 feet wide. Staff estimates that while the carport could comfortably hold one car, the carport may be too small to fit multiple standard or larger vehicles. The steep driveway is approximately 10 feet in width and about 60 feet in length, and staff estimates that three vehicles may be able to park in a line along its length. Given the drainage channel on the east side of N. Gray Ave. and the potential for vehicles backing into the road because of a lack of space to turn around on the property, staff recommends occupancy be limited to six guests if approved.

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 665 N. Gray 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 November 20, 2023, the City had issued 410 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 with a staff recommended condition for a reduced guest count of six due to the narrow, steep driveway. Per the applicant, five off-street parking spaces are available (two carport, and three driveway). However, staff finds that a total of four off-street parking spaces (one carport and three driveway) will be generally available. N. Gray Ave. does not have on-street parking available and is signed as no parking. City records indicate nine other units within a quarter-mile radius of the subject property have an active Type 2 short-term rental

business license. One additional property at 931 N. Lewis Ave. received conditional use approval earlier this year and has applied for their 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: N. Gray Ave. is a narrow, partially improved Residential Link Street with drainage channels and no sidewalks. Given limited ability to turn around on site, staff recommends a reduced guest count to minimize need for multiple vehicles. With these added conditions, staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 6 guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. Per the applicant, five off-street parking spaces are available (two carport, and three driveway). Based on the survey, the carport appears to be approximately 18 feet wide. Staff estimates that while the carport could comfortably hold one car, the carport may be too small to fit multiple standard or larger vehicles. The steep driveway is approximately 10 feet in width and about 60 feet in length, and staff estimates that three vehicles may be able to park in a line along its length. Given the drainage channel on the east side of N. Gray Ave. and the potential for vehicles backing into the road because of a lack of space to turn around on the property, staff recommends occupancy be limited to six guests if approved.

(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: On the balance, staff finds the use to be somewhat compatible with the surrounding properties. While there are no existing type 2 short-term rentals along N. Gray Ave. specifically, staff has some concerns that the density in this ¼ mile area is reaching a density that is placing an undue burden on long-term residents of this area. However, staff acknowledges that the Fay Jones house is a historic structure of significance and that allowing the property to be used as a short-term rental could create opportunities for architectural tourism within the city. Staff finds that a reduced guest count could be compatible with surrounding single-family homes, particularly noting restrictions on special events within short-term rental properties.

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

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

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

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

Request for Conditional Use Permit- 665 N Gray Avenue

Legal Description: PT SW SE 1.12 AC FURTHER DESCRIBED FROM 2014-5460 AS: A part of the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of Section Eight (8), Township Sixteen (16) North, Range Thirty (30) West, being more particularly described as follows: Commencing at the Northwest (NW) corner of said Forty (40) acre tract; thence South 00°51'37" East 400.00 Feet along the West line of said Forty (40) acre tract to a point; thence South 89°57'37" East 200.00 Feet to a set 1/2" iron rebar for the true Point of Beginning; thence North 00°48'49" West 150.02 Feet to an existing iron rebar; thence North 89°53'12" East 149.87 Feet to an existing iron rebar; thence South 00°08'51" East 25.11 Feet to an existing iron rebar; thence South 89°50'34" East 150.32 Feet to a point which is 500.00 Feet East of the West line of said Forty (40) acre tract, said point being in Gray Avenue and from which a 1/2" rebar reference iron set on the West right-of-way of Gray Avenue bears North 89°50'34" West 6.07 Feet; thence South 00°51'37"; East 125.00 Feet to a set 1/2" iron rebar; thence South 89° 57'37" East 1.07 Feet to a set 1/2" iron rebar; thence South 04 °07'30" East 10.82 Feet along said right-of-way line to a point; thence South 12 °24'15" East 14.55 Feet along said right-of-way line to an existing iron rebar; thence leaving said right-of-way line, North 89° 57'37" West 303.60 Feet to an existing iron rebar; thence North 00° 51'37" West 2.50 Feet to an existing iron rebar; thence North 89°57'37" West 1.00 feet to the Point of Beginning, containing 1.12 acres, more or less, Fayetteville, Washington County, Arkansas.

Description:

- A. **An existing 2,515 sqft single family residence with 3 bedrooms**
- B. **Uploaded elevation photos to portal**
- C. Offsite Parking- There is NO offsite parking at this location. The city does not allow parking along Gray Avenue. There is NO street parking. All parking for this business will be in the residence carport and residence driveway. There are two parking spots under the carport and three parking spots in the driveway.
- D. Hours of Operation, Employees, Patrons- N/A
- E. Outdoor Lighting- N/A
- F. Noise- N/A
- G. Screening- N/A
- H. Trash- Trash bins will be screened in carport closet when not at curb for pickup.
- I. Ingress/Egress Traffic- Head South on Gray Avenue, Turn down the driveway at 665 N Gray Avenue. Park under the car port. Walk along the walkways at the front or rear of the house to access the front door or back doors.
- J. **The property at 665 N Gray Avenue is an original Fay Jones residence which has recently been restored by McKee Properties LLC. The use of this residence as a short term rental allows for members of the community to experience the architecture first hand and attract new visitors to Fayetteville.**



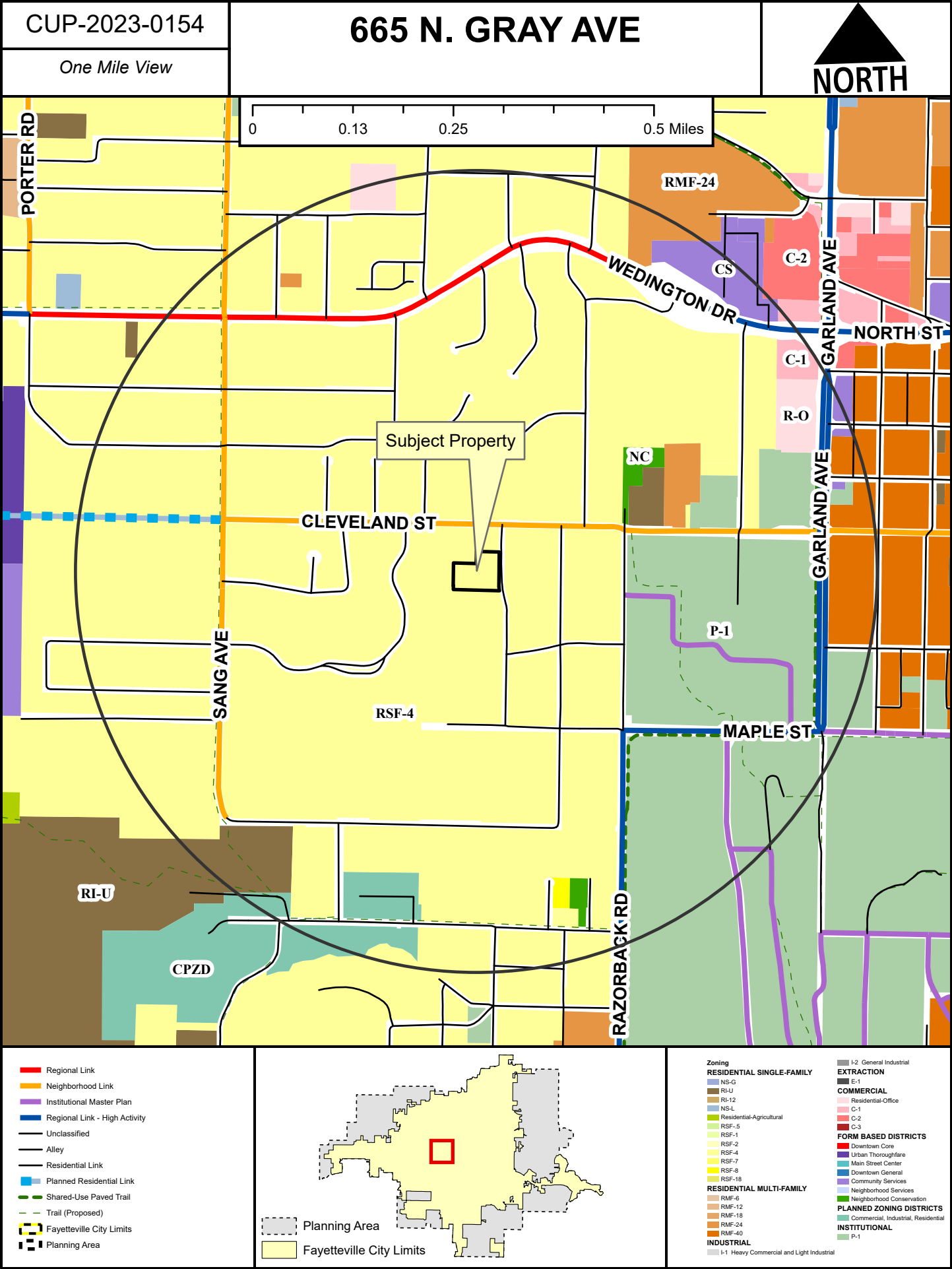


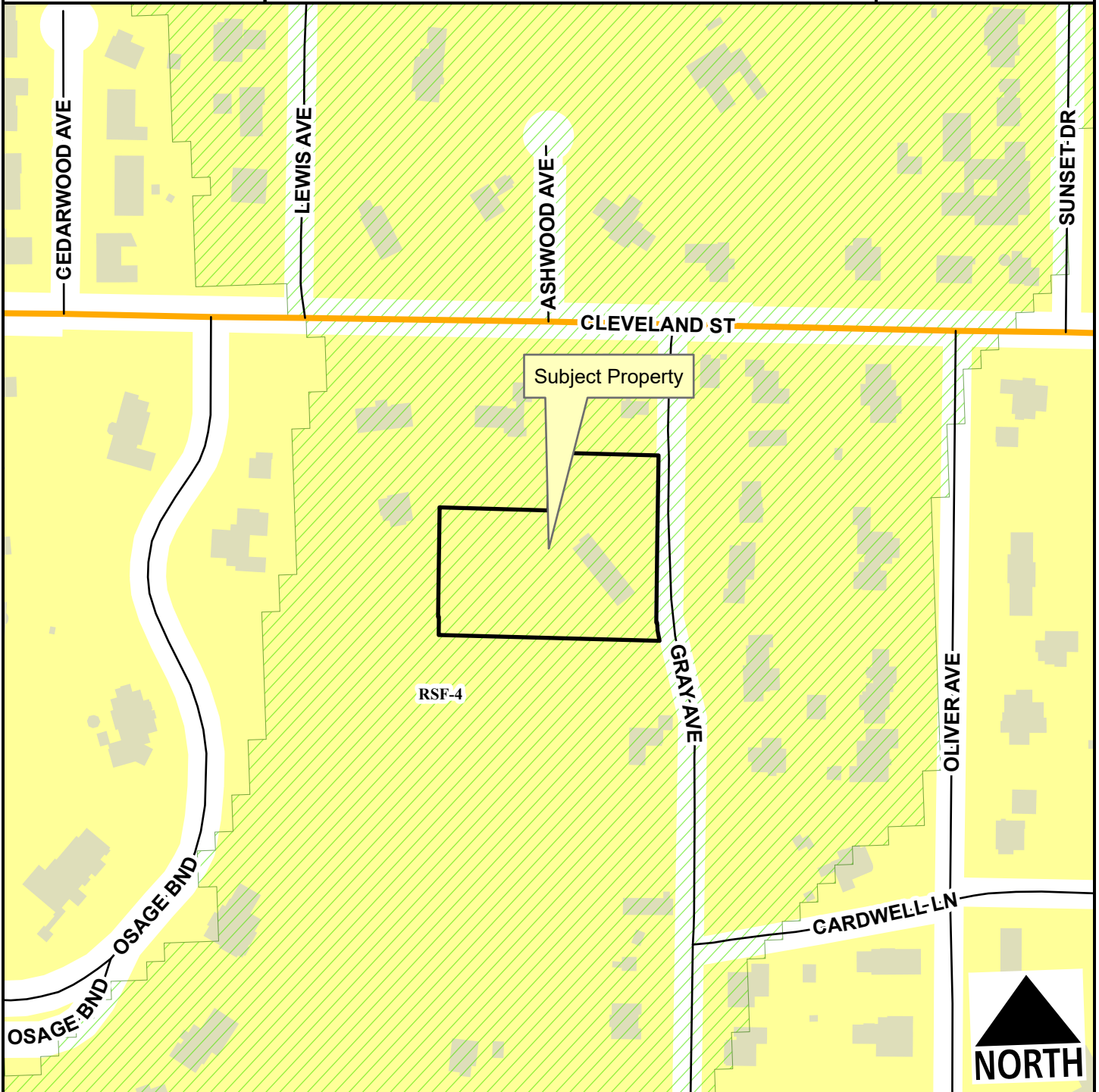
EU INE FAY JONES ARCHITECT

PLAN: LONEZ LEVEL ⁽²⁻¹⁾

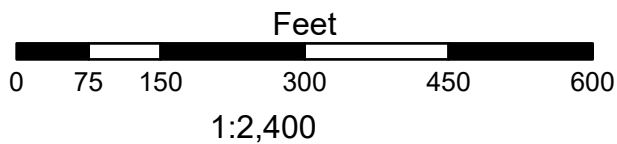
UPPER LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"







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



 RSF-4

CUP-2023-0154

665 N. GRAY AVE

Current Land Use



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



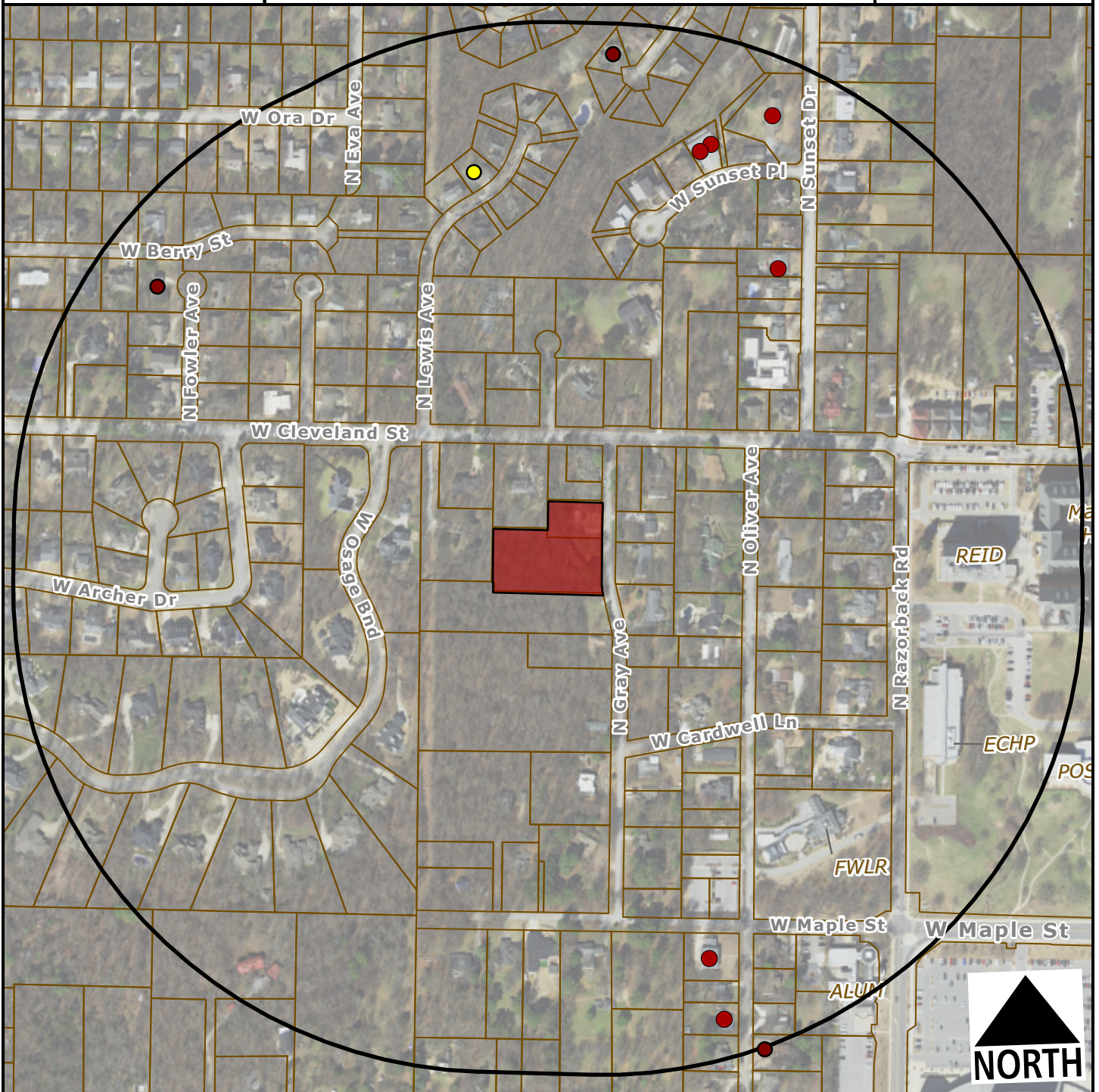
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

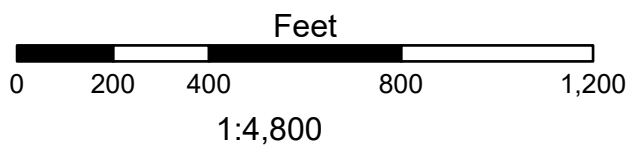
CUP-2023-0154

665 N. GRAY AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 6

Occupiable
Residential
Addresses
(Estimated
Housing Units): 215

Planning Commission

November 27, 2023



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: November 27, 2023

SUBJECT: **CUP-2023-0157: Conditional Use Permit (725 N LEWIS AVE./GWEN WATKINS, 442):** Submitted by GWEN WATKINS for property located at 725 N LEWIS AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 0.30 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0157**.

RECOMMENDED MOTION:
"I move to deny CUP-2023-0157."

BACKGROUND:

The subject property is located in central Fayetteville approximately ½ mile northwest of Baum Stadium. The property is zoned RSF-4, is fully overlaid by the Hillside/Hilltop Overlay District, and totals approximately 0.30 acres. A 2,662 square foot single family structure was built on the property in 1978 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 denial of **CUP-2023-0157**. 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.
11. Parking on the property shall be subject to §172.11 Driveway and Parking Standards for Four (4) or Less Parking Spaces, including that driveways and off-street parking areas shall be limited to a maximum of 40% of the front yard area. The paved area between the residence and the public ROW shall not be used for vehicle parking and shall be separated from the driveway through the use of planters, bollards, or other vertical separation.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>November 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. The applicant has indicated the structure has one bedroom, which would limit guest count to four per the ordinance.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures parking are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has one bedroom and two parking spaces in a detached garage. Staff notes that up to four additional vehicle parking spaces are permitted on the adjacent driveway. Staff recommends a condition that parking on the property shall be subject to §172.11 Driveway and Parking Standards for

Four (4) or Less Parking Spaces, including that driveways and off-street parking areas shall be limited to a maximum of 40% of the front yard area. The paved area between the residence and the public ROW shall not be used for vehicle parking and shall be separated from the driveway through the use of planters, bollards, or other vertical separation.

- 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 725 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 November 20, 2023, the City had issued 410 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 six off-street parking spaces (two garage and four driveway) will be available for up to eight guests. North Lewis Ave. does not have on-street parking available; however, staff anticipates that the use could be fully parked off-street. No previous zoning or code violations were reported for this property.

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. A conditional use permit for a type 2 short-term rental was received for 931 N. Lewis Ave. earlier in the year and the address is currently in the process of receiving their business license. If both this address and the subject property receive type 2 short-term rental licenses, then two of twenty-two dwelling on N. Lewis Ave (9.1%) would be short-term rentals.

§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 4 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 one bedroom 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 incompatible with the surrounding properties. N. Lewis Ave. is a narrow dead-end street that is not wide enough to support on-street parking. The neighborhoods directly east of the University of Arkansas have a large density of type-2 short-term rentals compared to their residential units, and the addition of a second type 2 short term rental on N. Lewis Ave. would likely have a disproportionate impact given the narrow, dead end street configuration. Additionally, the neighborhood has generally steep slopes, including steep driveways, which staff finds could contribute to difficulty navigating the neighborhood for guests unfamiliar with the area.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the City’s adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a

citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter
- 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."

To Whom it May Concern,

- We would like to use the property at 725 N Lewis as a short-term rental. We plan noise level to never be above normal sound.
- Operation hours will be 24 hours
- Occupational use is for four people
- Trash/recycling as well as two off street places
- Motion lighting
- 1000sq ft - one bedroom
- One employee
- Private entrance and fencing
- No impact to traffic
- Shielded from adjacent properties

Thank you,

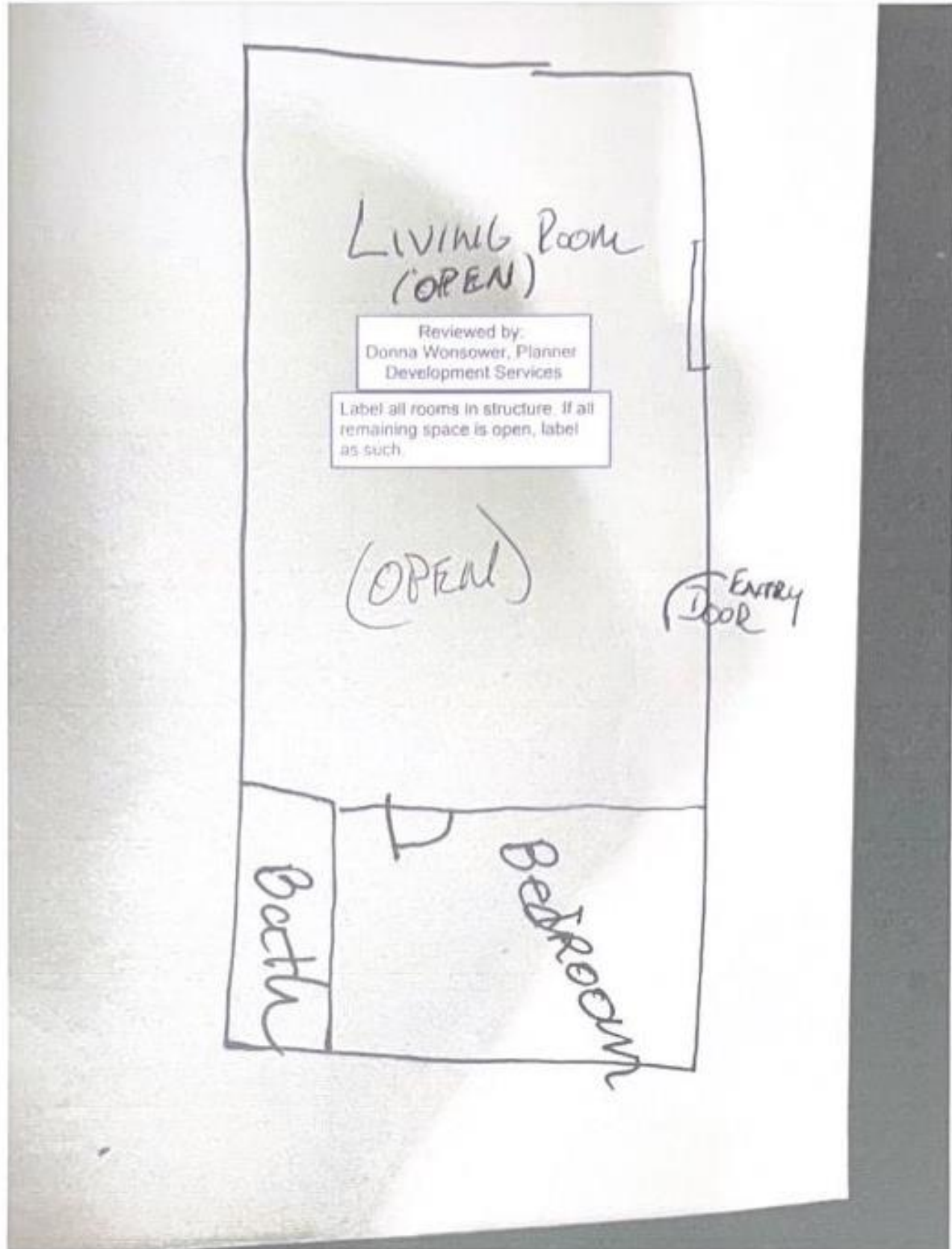
Larry and Gwen Watkins

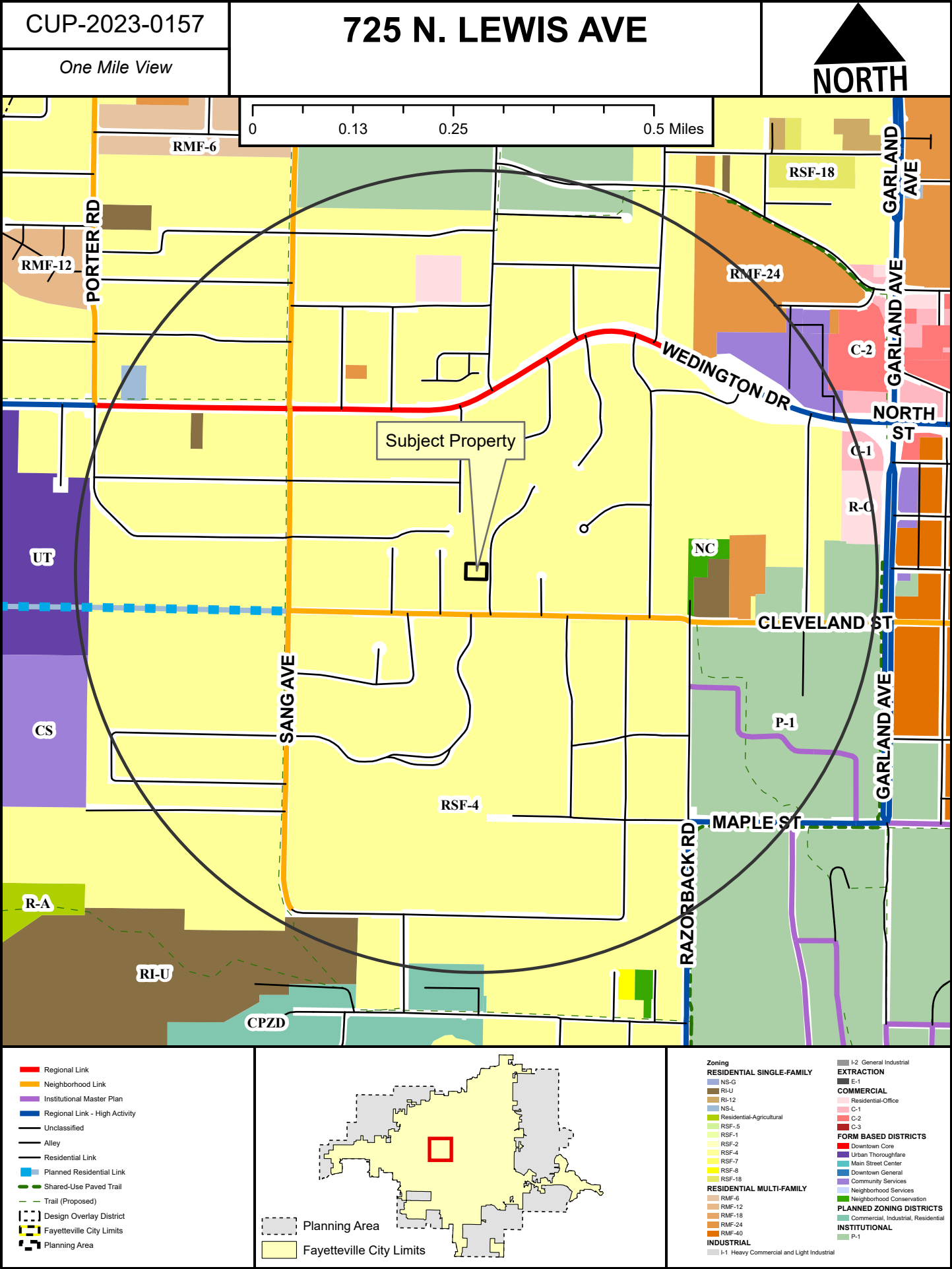


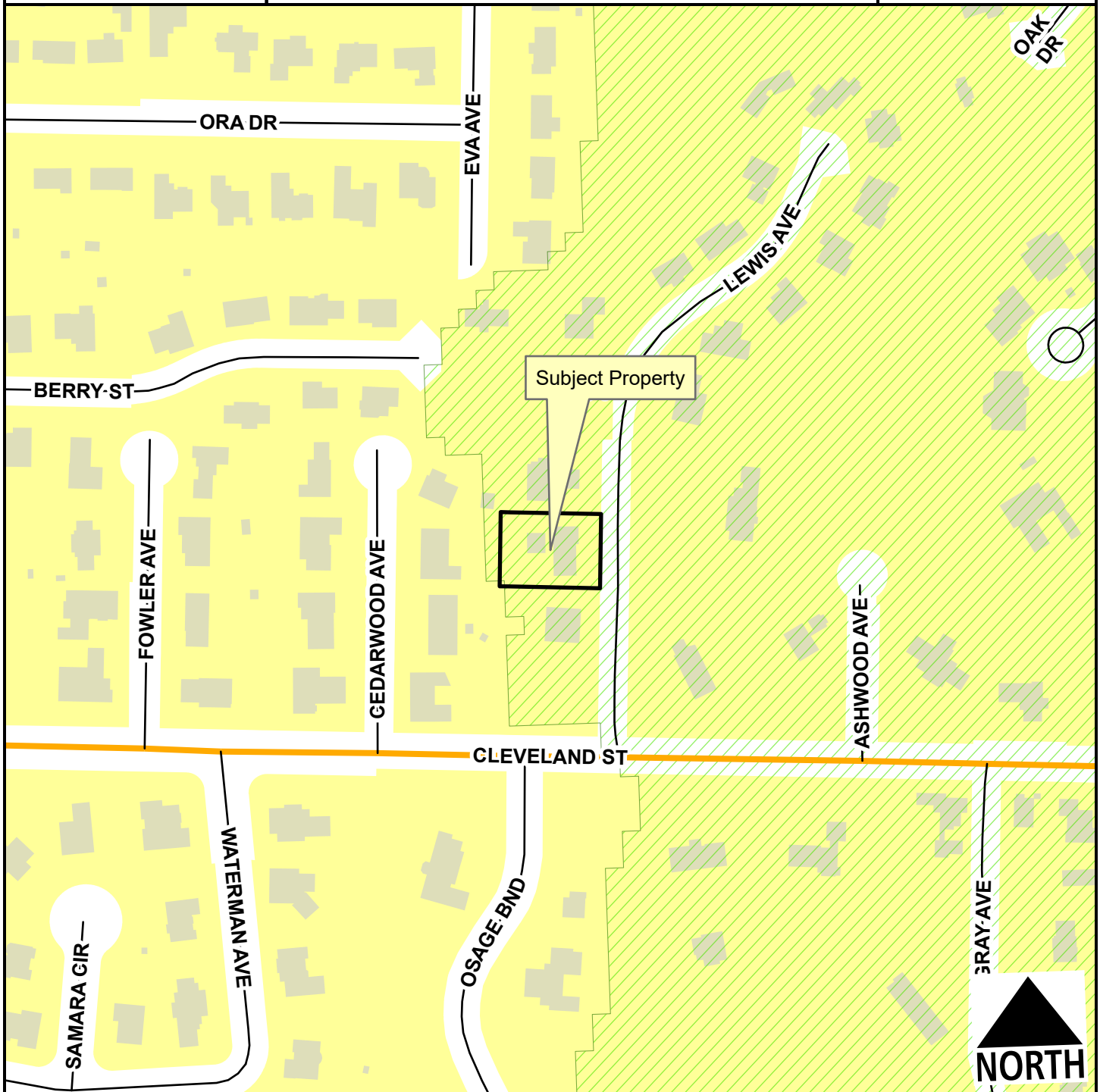


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- Neighborhood Link
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



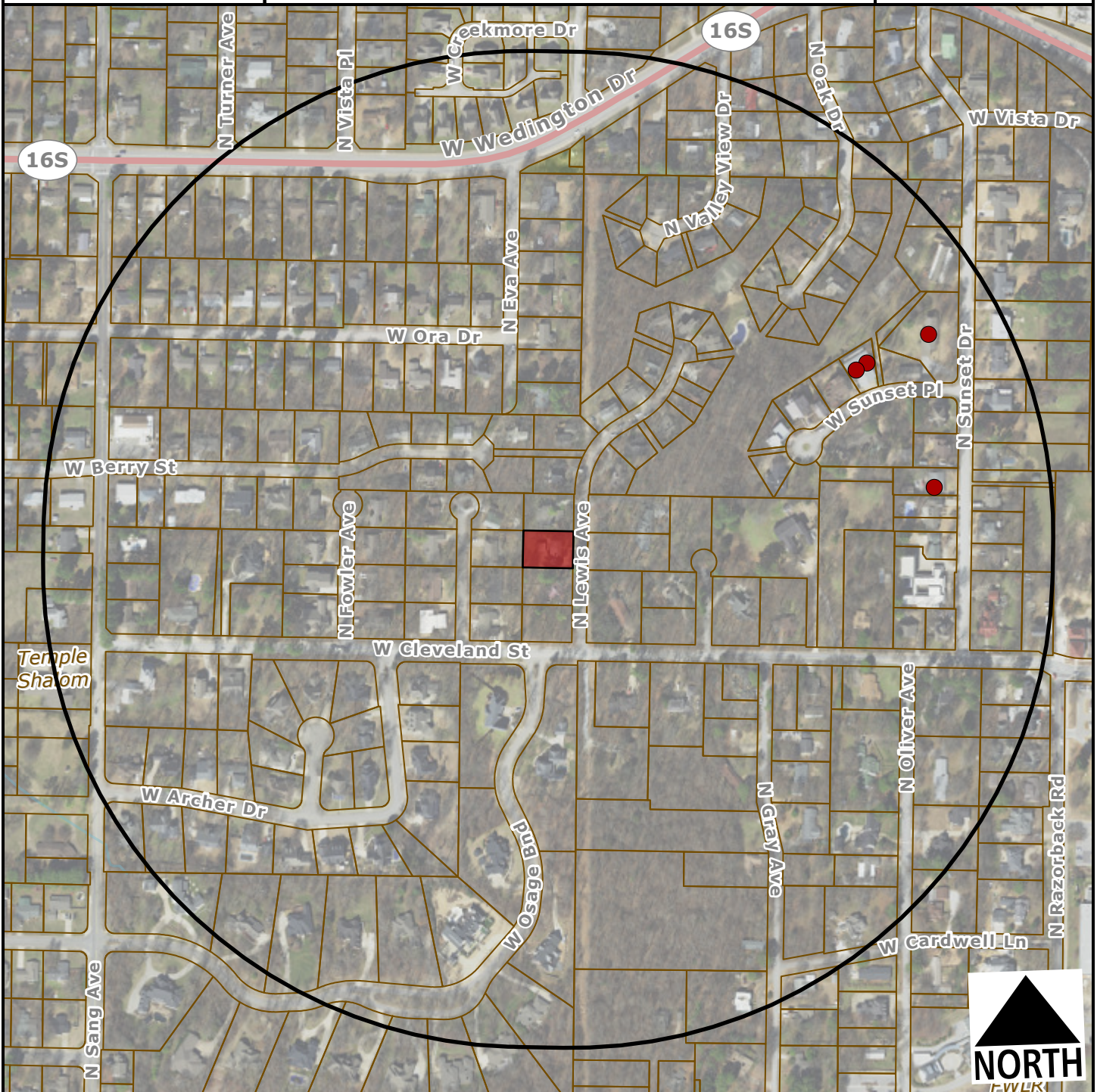
RSF-4



CUP-2023-0157

725 N. LEWIS 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): 252



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: November 27, 2023

SUBJECT: **CUP-2023-0155: Conditional Use Permit (772 S. STADIUM DR. #1/GARNER, 561):** Submitted by KATY GARNER for property located at 772 S. STADIUM DR, UNIT 1. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.60 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0155**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0155** 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 central Fayetteville, just south of Fayetteville High School and approximately 0.10 mile south of the intersection of S. Stadium Dr. and W. Martin Luther King Jr. Blvd. The property is zoned RMF-24, Residential Multi-Family, 24 Units per Acre, and totals approximately 0.60 acres. The property contains three duplexes constructed in 2023. The request is for one two-bedroom unit to be used as a short-term rental. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RMF-24, Residential Multi-family, 24 Units per Acre
South	Multi-family Residential	RMF-24, Residential Multi-family, 24 Units per Acre
East	Multi-family Residential	RMF-24, Residential Multi-family, 24 Units per Acre
West	Multi-family Residential	RMF-24, Residential Multi-family, 24 Units per Acre

City Plan 2040 Future Land Use Designation: City Neighborhood

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0155**, with the following conditions;

Conditions of Approval:

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

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>November 27, 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 RMF-24 zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RMF-24 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: The dwelling has two bedrooms which would limit the occupancy to a maximum of six guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

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

Finding: Parking for two-family dwellings is required to be provided at a rate of two spaces per unit. According to the applicant submittal, two on-site parking spaces will be available to guests in an existing parking lot.

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 772 S. Stadium Dr. Unit 1 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 November 20, 2023, the City had issued 410 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 two off-street parking spaces will be available for guests in an existing parking lot. On-street parking is not available along S. Stadium Dr., but limited on-street parking is available along the south side of W. Rochier St. City records indicate that 1 other unit within a quarter-mile radius of the property have an active Type-2 short-term rental business license (it is across W. Martin Luther King Blvd.). No prior zoning or code violations have been reported on the property.

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

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

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

Finding: **A paved driveway onto S. Stadium Dr. is available to accommodate vehicular ingress and egress to the subject property. S. Stadium Dr. is improved along the east side with a sidewalk to accommodate 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 six guests, which would not be out of character with use of the property for residential purposes.**

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

Finding: **A total of two off-street parking spaces are available in an existing parking lot. 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.**

- Page 188 of 270
- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

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

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

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

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

Finding: Staff finds the proposed use to be compatible with the surrounding properties. The property is surrounded by multi-family residential uses, but 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. There is one other licensed Type 2 short-term rental within a quarter-mile radius.

- (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
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units per Acre
- Applicant Request Letter
- Building Elevations
- Building Floor Plan
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

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

agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two (2) family	35 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
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(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

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

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

Garner Family Properties, LLC
2945 E Stone Mountain Drive
Fayetteville, AR 72701
501-766-4542
katy@garnerfamilyproperties.com
katycarv@gmail.com

Request Letter re Conditional Use Permit – Short Term Rentals

To Whom It May Concern:

This letter is to request that the duplex unit at 772 S Stadium Drive, Unit 1, Fayetteville, AR 72701 (the “Unit”) be used as a type 2 short-term rental. The Unit is owned by 764 Stadium Drive, LLC d/b/a Stadium Drive Duplexes, a wholly owned subsidiary of Garner Family Properties, LLC.

The Unit is part of a duplex complex consisting of 3 buildings, 2 duplex units per building for a total of 13 beds (collectively, the “Property”). See attached Exhibit A for the legal description of the Property.

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

The Unit is approximately 1,117 square feet and has 2 bedrooms and 2 bathrooms. It was built in 2023. No permanent resident has ever occupied the Unit.

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

See attachments.

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

The Unit has two (2) dedicated parking spaces.

(d) Outdoor lighting

The Unit is a ground unit, with exterior lighting on porch entrance.

(e) Noise

The Unit is one of 6 duplex units on the Property and the neighboring properties are mostly other apartment units or duplexes. The proposed use should not greatly impact noise in the area. Our long-term rentals on the Property have non disturbance provisions in the lease agreement. We would have the same restrictions with any short term rentals.

(f) Screening or buffering from adjacent properties

There is a significant distance between the Property and the adjacent properties. Additionally, the Property is screened/buffered from adjacent properties by trees and plant growth.

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

The City of Fayetteville provides trash and refuse service to the Property. Each unit is provided with individual city trash cans. Tenants have the option to store the trash cans on the sides of the buildings. Trash service has not been established yet for the Unit. We would set up a landlord account if the Unit is permitted to operate as a short term rental.

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

The Property has a separate entrance to its parking lot off Stadium Drive. The proposed use would not impact traffic in the area.

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

The proposed use as a short term rental is very compatible with the neighboring properties. The Unit is located in an area that is dominated by rentals. Nearby properties are a combination of apartment buildings, including the Vue (a large complex catering to students), duplexes, and single family homes.

Please don't hesitate to reach out with any questions.

Sincerely,



Katy Garner
Owner/Manager
Garner Family Properties
katy@garnerfamilyproperties.com
katycarv@gmail.com
501-766-4542

Building Elevations



North side



west side

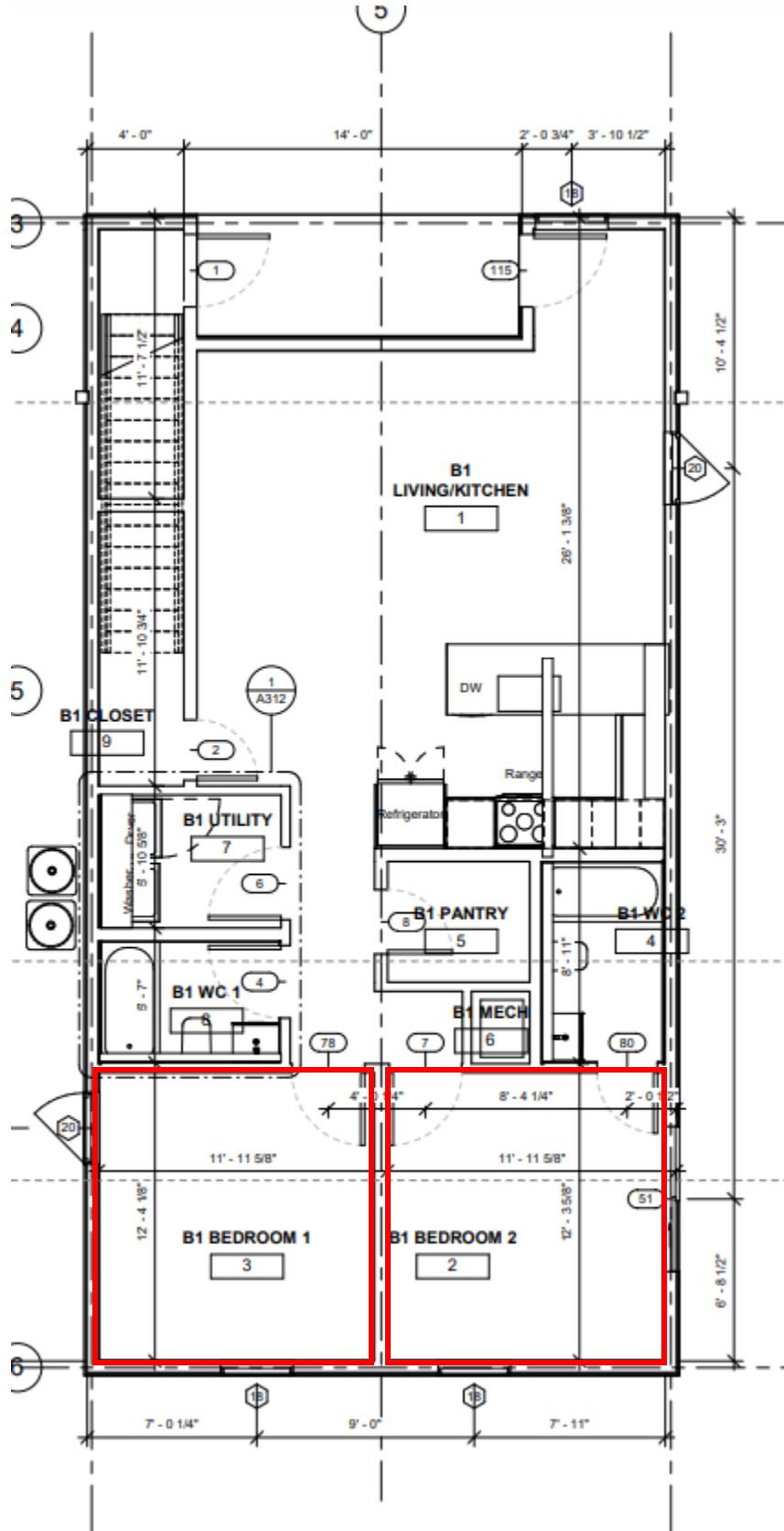


South side

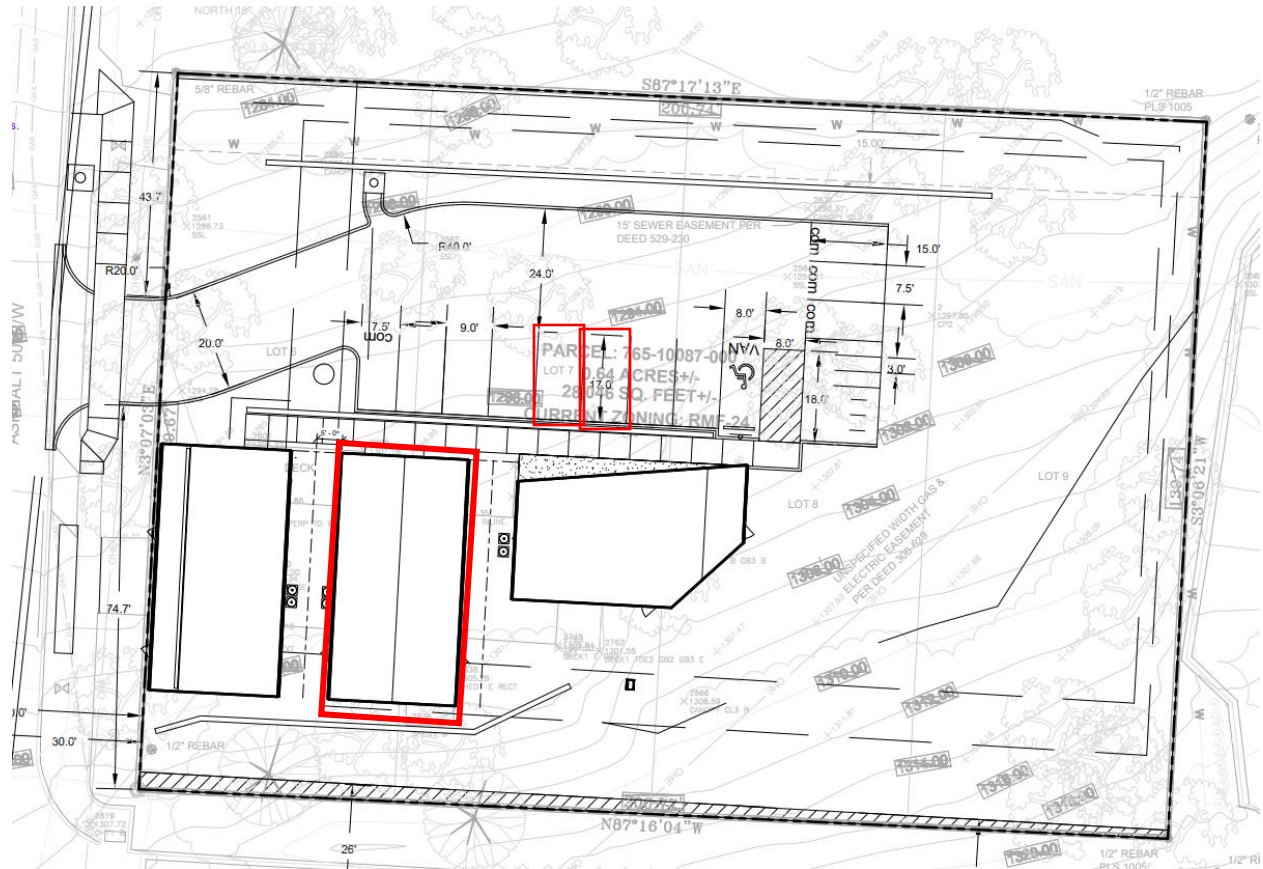


east side

Building Floor Plan



Site Plan



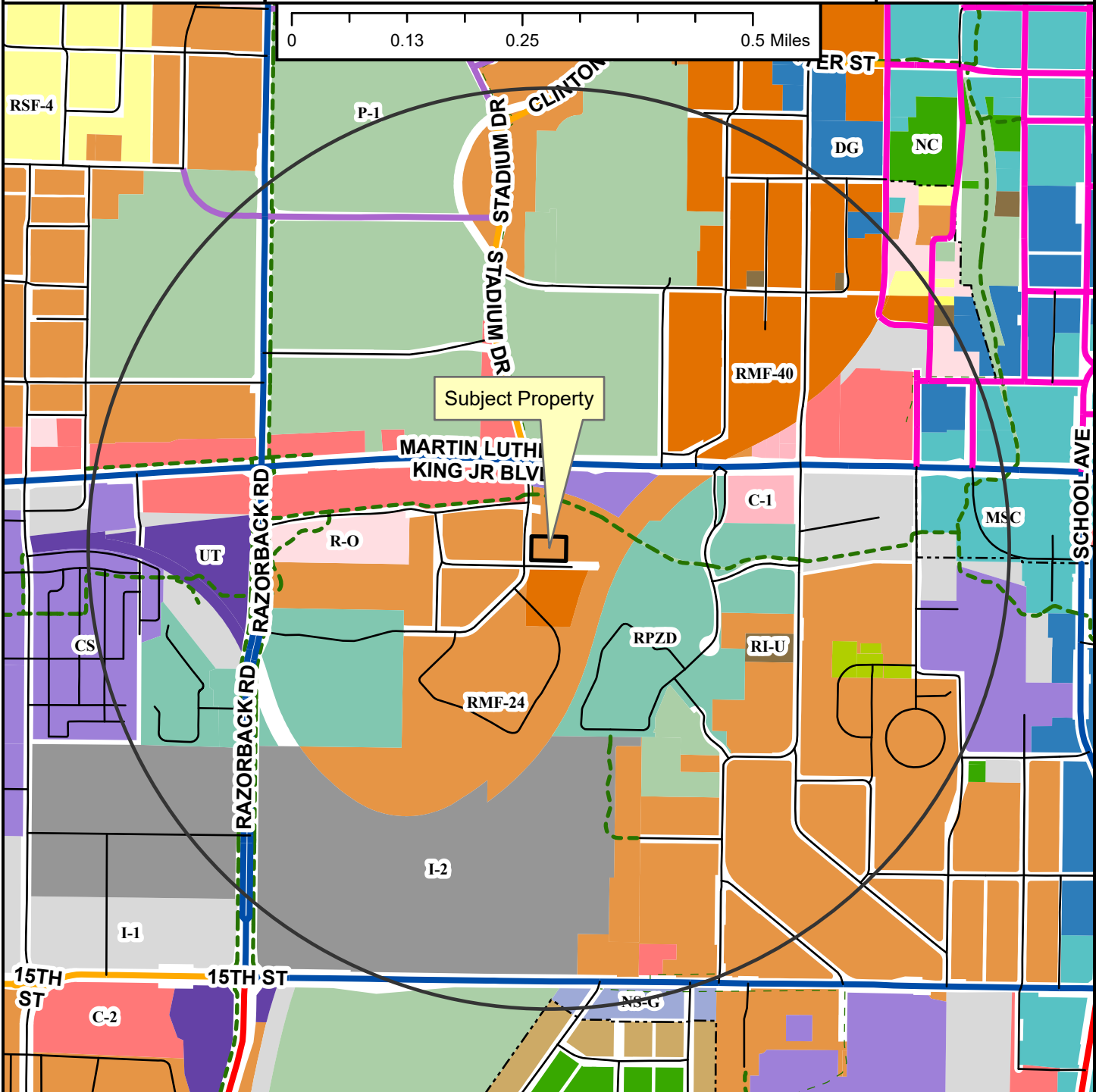
CUP-2023-0155

772 S. STADIUM DR, UNIT 1

One Mile View

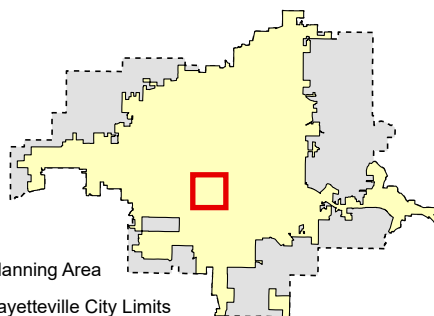


0 0.13 0.25 0.5 Miles



- 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

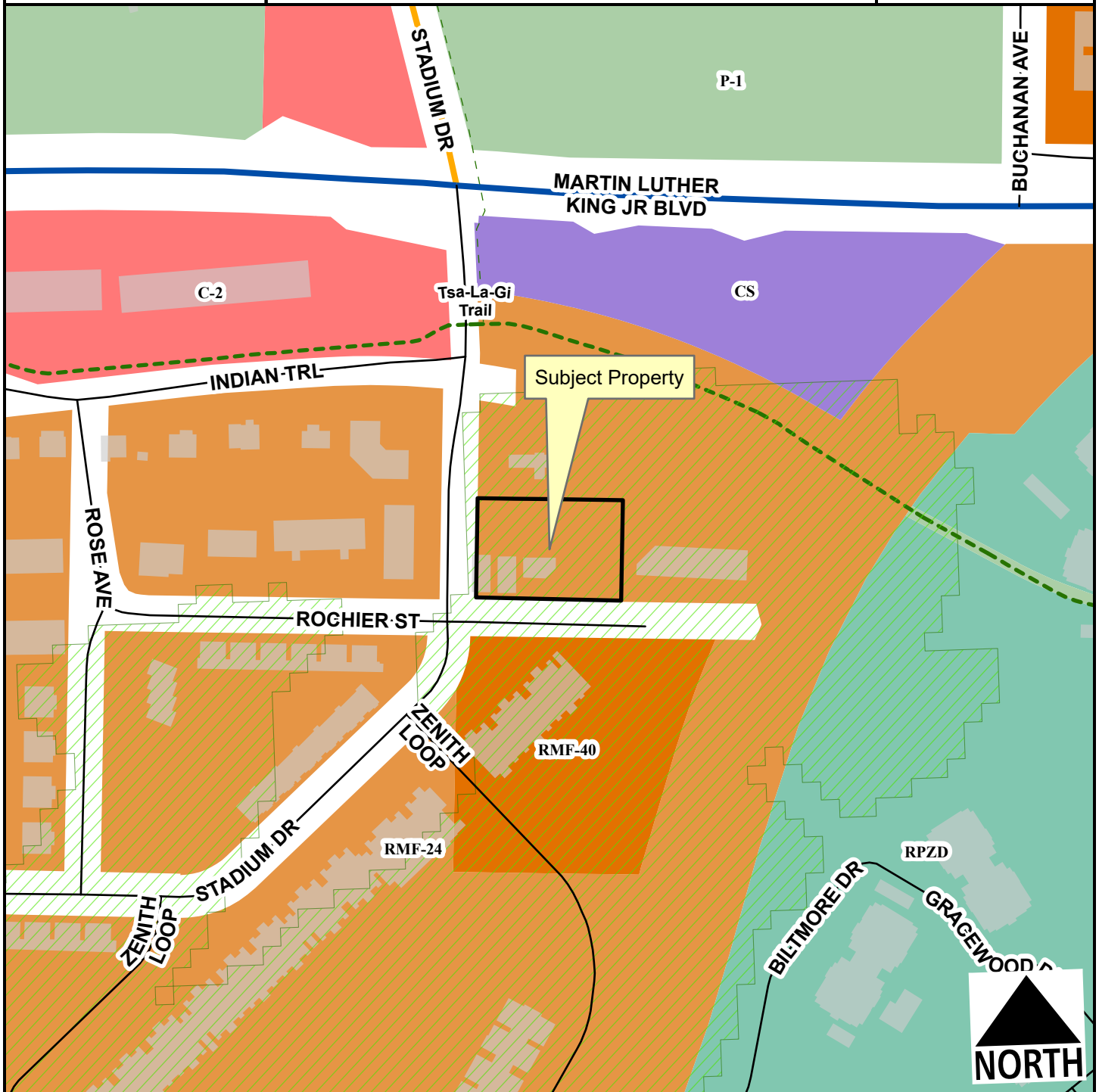


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - I-2 General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

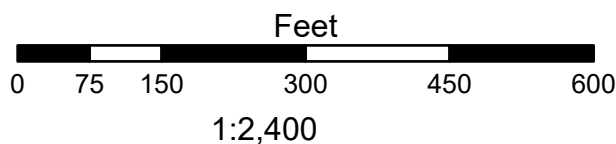
CUP-2023-0155

772 S. STADIUM DR, UNIT 1

Close Up View



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



- RMF-24
- RMF-40
- C-2
- Community Services
- Commercial, Industrial, Residential
- P-1

CUP-2023-0155

772 S. STADIUM DR, UNIT 1

Current Land Use



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



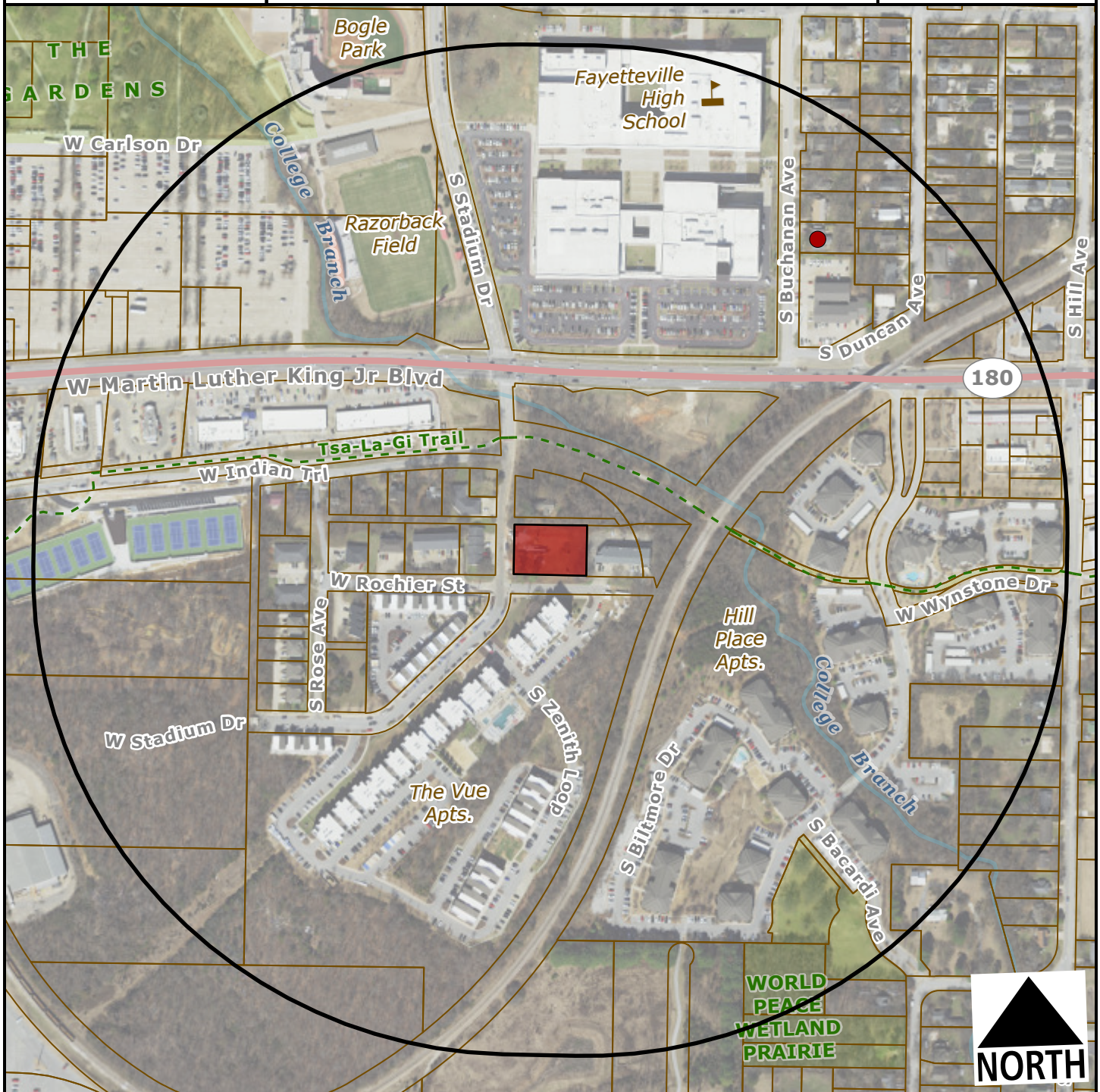
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0155

772 S. STADIUM DR, UNIT 1

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): 686



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: November 27, 2023

SUBJECT: **CUP-2023-0160: Conditional Use Permit (1195 S. LYNDON XING./CHANEY, 555):** Submitted by KATHRYN TIPTON for property located at 1195 S. LYNDON XING. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.15 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0160** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0160**, 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 the Coves Subdivision in west Fayetteville, just north of the intersection of Oxbow Way and Lyndon Crossing. The property contains approximately 0.15 acres and is developed with a 1,755-square-foot, three-bedroom, single-family home which was built in 2015. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RPZD, Residential Planned Zoning District
South	Single-Family Residential	RPZD, Residential Planned Zoning District
East	Single-Family Residential	RPZD, Residential Planned Zoning District
West	Single-Family Residential	RPZD, Residential Planned Zoning District

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

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

Public Comment: To date, staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0160** 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>November 27, 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 Coves at Walnut Crossing RPZD.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in The Coves at Walnut Crossing RPZD. Since the RPZD is a residential zoning district, a conditional use permit is required.

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

Finding: The property contains a total of three bedrooms which would limit occupancy to a maximum of eight guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

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

Finding: Parking for single-family dwellings is required to be provided at a rate of two spaces per unit and up to four vehicles are permitted to be parked outdoors on the property at any given time. The applicant indicated in their submittal that there is space to park four vehicles on site with two spaces in an attached garage and two spaces in a driveway. On-street parking also appears to be available along nearby public streets.

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

Finding: The applicant's request letter suggests that 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 1195 S. Lyndon 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 November 20, 2023, the City had issued 410 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 nearby. City records indicate that two 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 which ended 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 no prior zoning or code violations have been reported on this property.

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

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

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

Finding: A paved driveway with access onto a public alley is available to accommodate vehicular ingress and egress to the subject property. Sidewalk is also present along the property's frontage to accommodate pedestrian access. Staff finds that the proposal to use the property as a short-term rental will not adversely affect vehicular traffic flows considering the use of the property would be limited to a maximum of eight guests which would not be out of character with the use of the property for residential purposes.

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

Finding: A total of four off-street parking spaces are available in a paved 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 expected 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 two other licensed Type 2 short-term rentals within a quarter-mile radius of the property. However, due to the annual business license renewal period which ended 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
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- The Coves at Walnut Crossing RPZD Zoning Regulations
- Applicant Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

Proposed Planning Areas:

The Coves is a single family residential use development utilizing Use Units 8 and 1 with two distinctive housing options for homeowners.

- **Planning Area #1 - Residential Dwellings**
 - **The Residences** is a standard housing product with garages facing the street.
 - **The Villas** is made up of narrower lots accessed from alleys to the rear so that vehicular traffic is serviced from the back.
- **Planning Area #2 - Green Space** is commonly held property to be owned and maintained by The Coves Property Owners Association. Green spaces will provide opportunity for passive recreation, trails, and tree mitigation areas.

Proposed Planning Area and Development Standards

Land Use Summary		
Total Site Area	50.4 acres	
Areas in lots and rights of way	39.83 acres / 79%	
Area in Open Space	10.56 acres / 21%	
Use by Right	Units 1, 8	
Conditional Use	Use Units 2, 24	
Density	3.65 units per 50.4 acres	
Bulk and Area	PA #1 Residential Dwelling	PA #2 Green Space
Lot Width Min.	19 ft. at right of way	85' at right of way
	35 ft. at front setback	
Lot area Min.	3,900 sf	1980 sf
Lot Area per Unit	3,900 sf	1980 sf
Site Coverage	37% impervious per lot	65%
Setbacks	Front - 15'	Front - 15'
	Side 5'	Side 5'
	Rear 15'	Rear 15'
Height	35 ft. (two story maximum)	35 ft.

Minimum Setback from Right of Way – Lots intended by design to have greater setbacks than the minimum will be clearly indicated on the final plat and a plat plan showing the housing unit and driveway placement will be provided on a per lot format.

City of Fayetteville, Arkansas
Conditional Use Permit

1. Payment made in full

2. Residential Single Family

Legal Description: Lot 44, The Coves Subdivision, Phase I, an addition to the City of Fayetteville, Arkansas, as per final plat on said Subdivision on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. Subject to existing easements, building lines, restrictions and assessments of record, if any.

Also known as 1195 S. Lyndon Crossing, The Coves, Lot 44, Fayetteville, Arkansas 72704.

3. a) The house is 1,755 square feet.

b) The house has 2 floors. On the first floor there is a laundry room, eat-in kitchen, and living room as well as the main bedroom and bathroom. On the second floor there are 2 more bedrooms and another bathroom in the hallway as well as a bonus loft space. There are 3 bedrooms and 2 bathrooms in total. There is also a 2 car garage accessible from the laundry room off the kitchen. The exterior is beige. Please see the attached photos.

c) Aside from the 2 car garage, there is a driveway that would fit an additional 2 cars, with a total of 4 off street parking spaces. See attached photos.

d) N/A

e) There are four (4) exterior lights: One on the front porch, one on the back porch, and two on either side of the garage door.

f) The property will be used for short stays with up to four (4) people at a time. The noise level would be typical for any residential home, mainly television of which there will be two (2).

g) To the front of the house on the south side there is a spacious front yard and sidewalk between the house and Oxbow Way. There is a 6 ft. privacy fence surrounding the backyard that's on the northeast side of the house, which serves as privacy from the homes behind the house, and the ones across the street on Lyndon Crossing. There is greenspace and a sidewalk between the fence and the street. On the back of the house to the north, where the driveway and garage are accessed, there is an alleyway and a large shared greenspace between the other homes behind this house. There is only one home right next to the property on the west side of the house and there is 6ft between the house and the neighbor's privacy fence. Please see the attached pictures.

h) Trash and recycling will be in accordance with city pickup, using provided receptacles, which will be stored inside the garage.

i) As the house is a corner lot, it is accessible from Lyndon Xing and Oxbow Way. There is also an alley (Alley 1150) from which the driveway and garage are accessed. The house's guests will not impact the traffic as it will be used in a typical residential manner.

j) Using houses as short-term rentals is quite common in the area. It is a need for families visiting college students, prospective students, as well as traveling medical staff or people in need of care at facilities such as the Spero Clinic. The home will be well-cared for between each guest as there is a well-established local company that will be managing it as well as a cleaning company regularly maintaining the property.

4. The site plan drawn to scale of the property including structures dimensioned from the overhang to the property line, parking, driveway, and Master Street Plan right-of-way will be attached at the end of this document.
5. The preliminary floor plan drawn to scale showing walls, doors, windows and identification of activity areas will be attached at the end of this document.
6. A copy of the county parcel map from the Washington County Assessor's office website will be attached at the end of this document. The pictures show the subject property and all parcels within 200 feet.
7. The consent of ownership form signed by the property owner is attached as a separate document.

Please see images attached on the following pages.

Image Attachments

3. b) Elevations of all exteriors sides of the structure



3. c) Parking description



3. g) Screening or buffering from adjacent properties

The distance from the neighbor's fence to the west is 6 feet, pictured top left. The neighbors to the east across Lyndon Crossing are 100 feet away, pictured on the top right. The neighbors to the north across the alley and greenspace are 175 feet away, pictured bottom left. The neighbors to the southwest across Oxbow Way are 115 feet away, pictured bottom right.

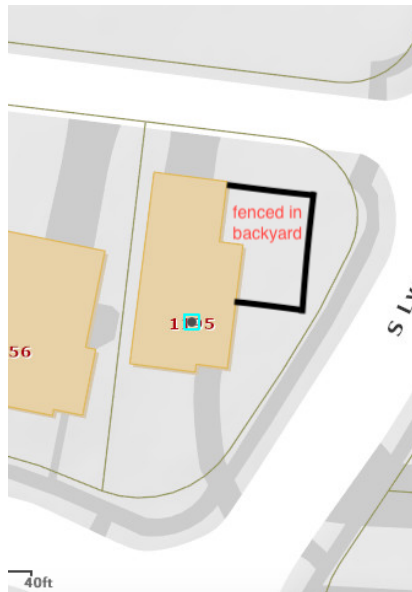


3. i) Ingress and egress to the property

Top left is ingress to the driveway from the alleyway, Alley 1150. The top right is egress from the alleyway. The bottom photo is the main ingress and egress from both Oxbow Way and Lyndon Crossing.



4. Site plan drawn to scale



4. Copy of Right-of-Way from Master Street Plan

The property is zoned in an Alley. In accordance with the Master Street Plan, the driveway allows ample space for parking so as not to encroach into the alley right-of-way.

Alleys - Design Service Volume: <200

Alleys are used in conjunction with streets to provide rear access to properties, garages and off-street parking. Driveways connected to alleys should have sufficient depth to allow vehicles to park and not encroach into the alley right-of-way. When alleys intersect streets a commercial driveway shall be used.

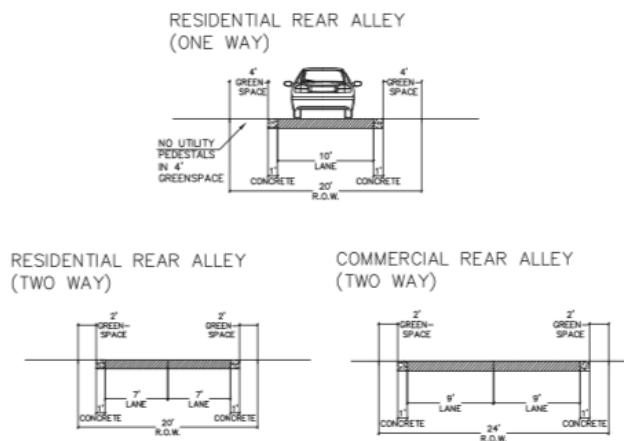


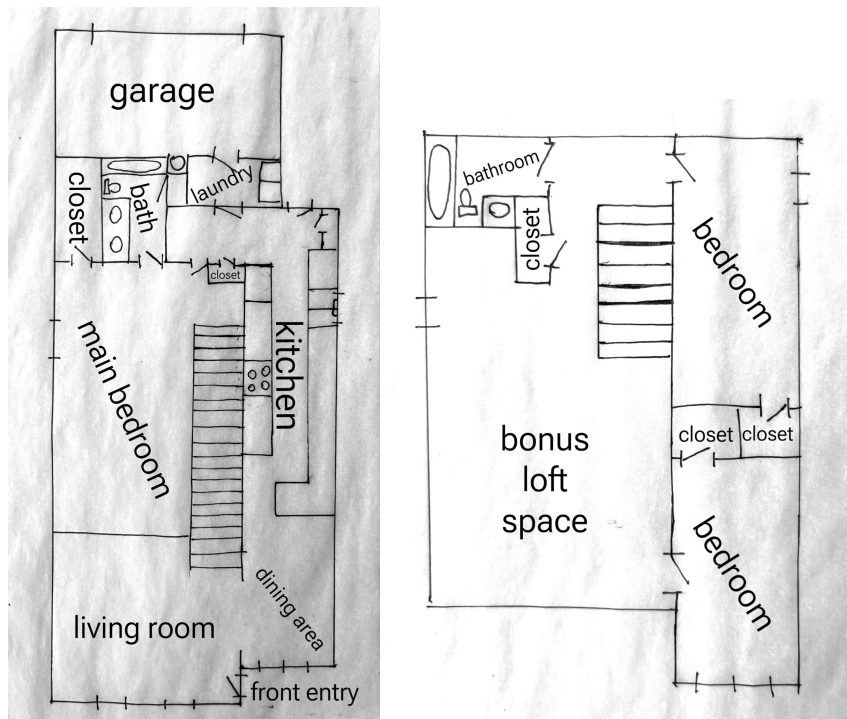
Figure 12.14 - Alleys



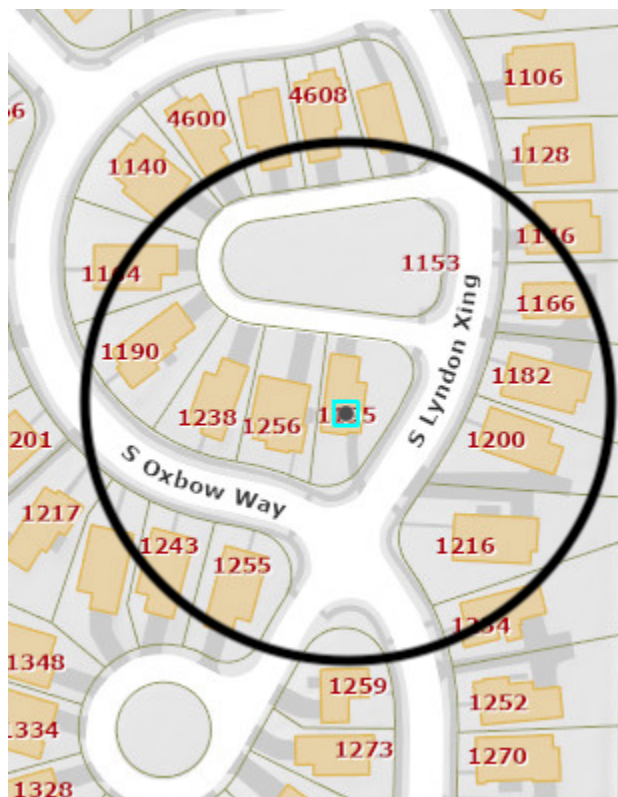
5. Pictures of floor plan

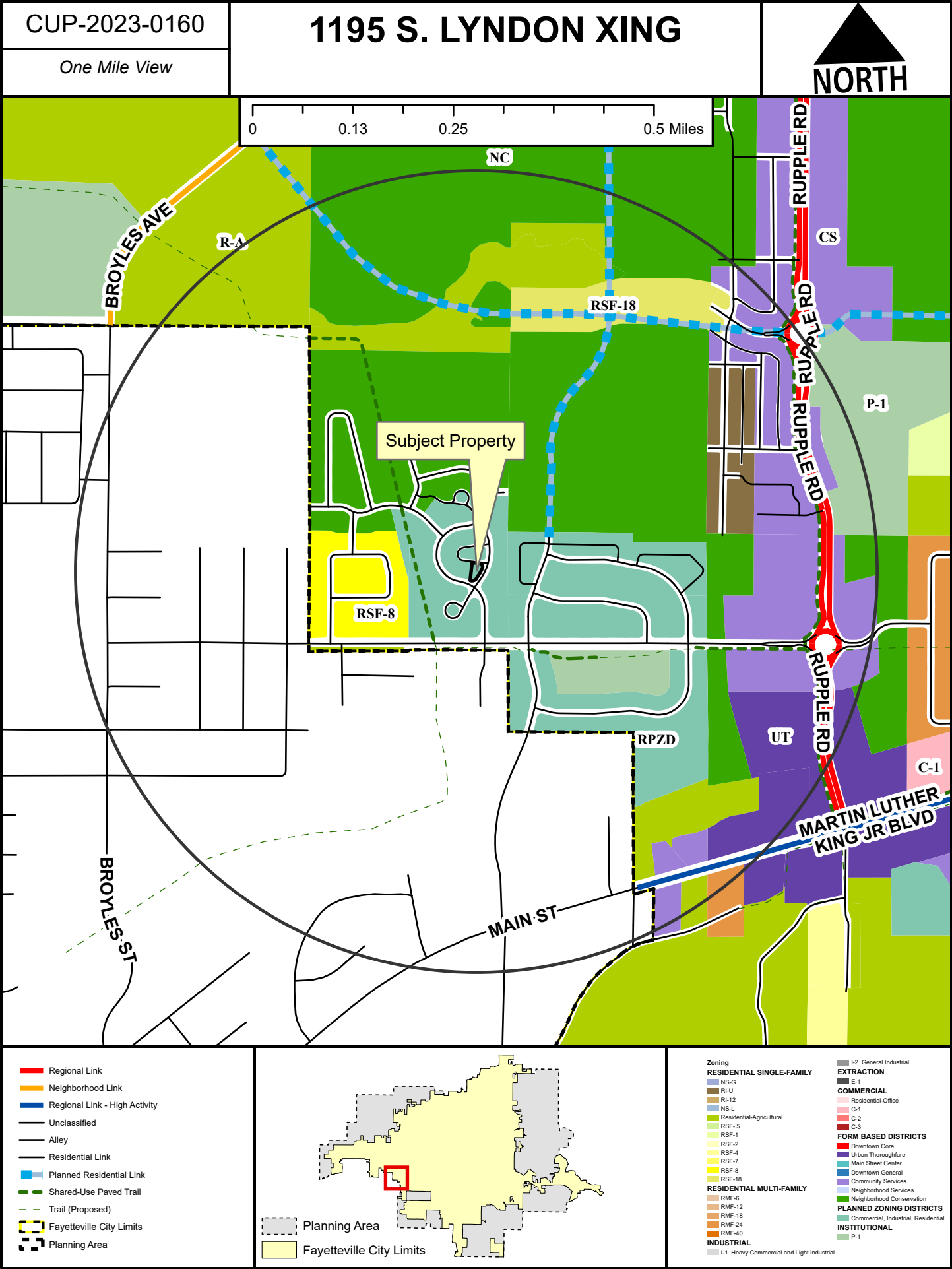


5. Floor plan drawn to scale. First floor, left. Second floor, right.



6. County Parcel Map – Parcels within 200 ft

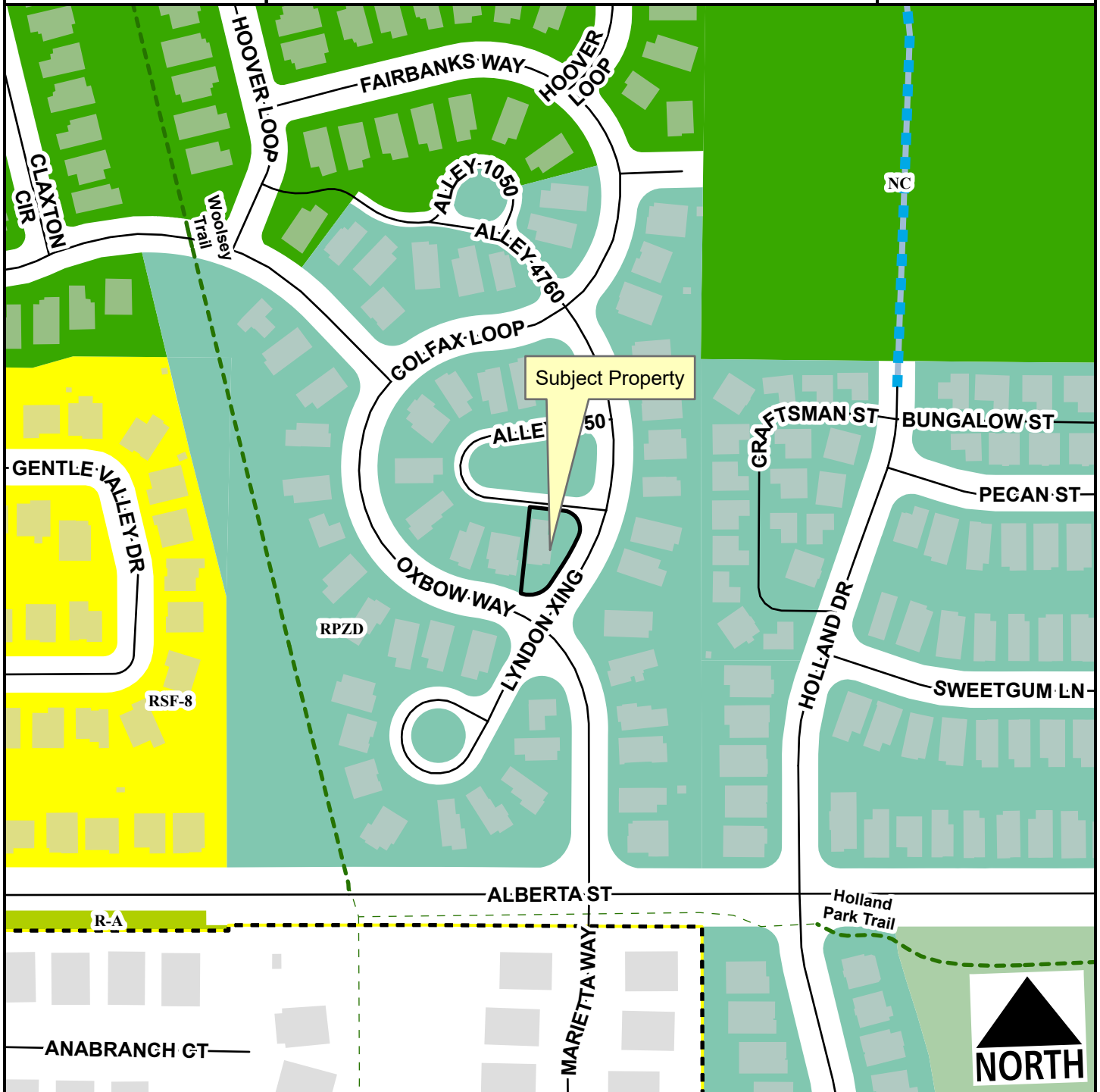




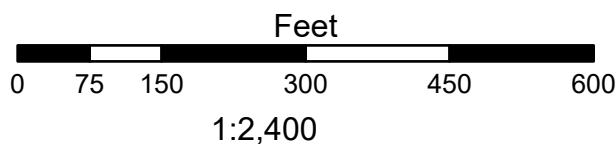
CUP-2023-0160

1195 S. LYNDON XING

Close Up View



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

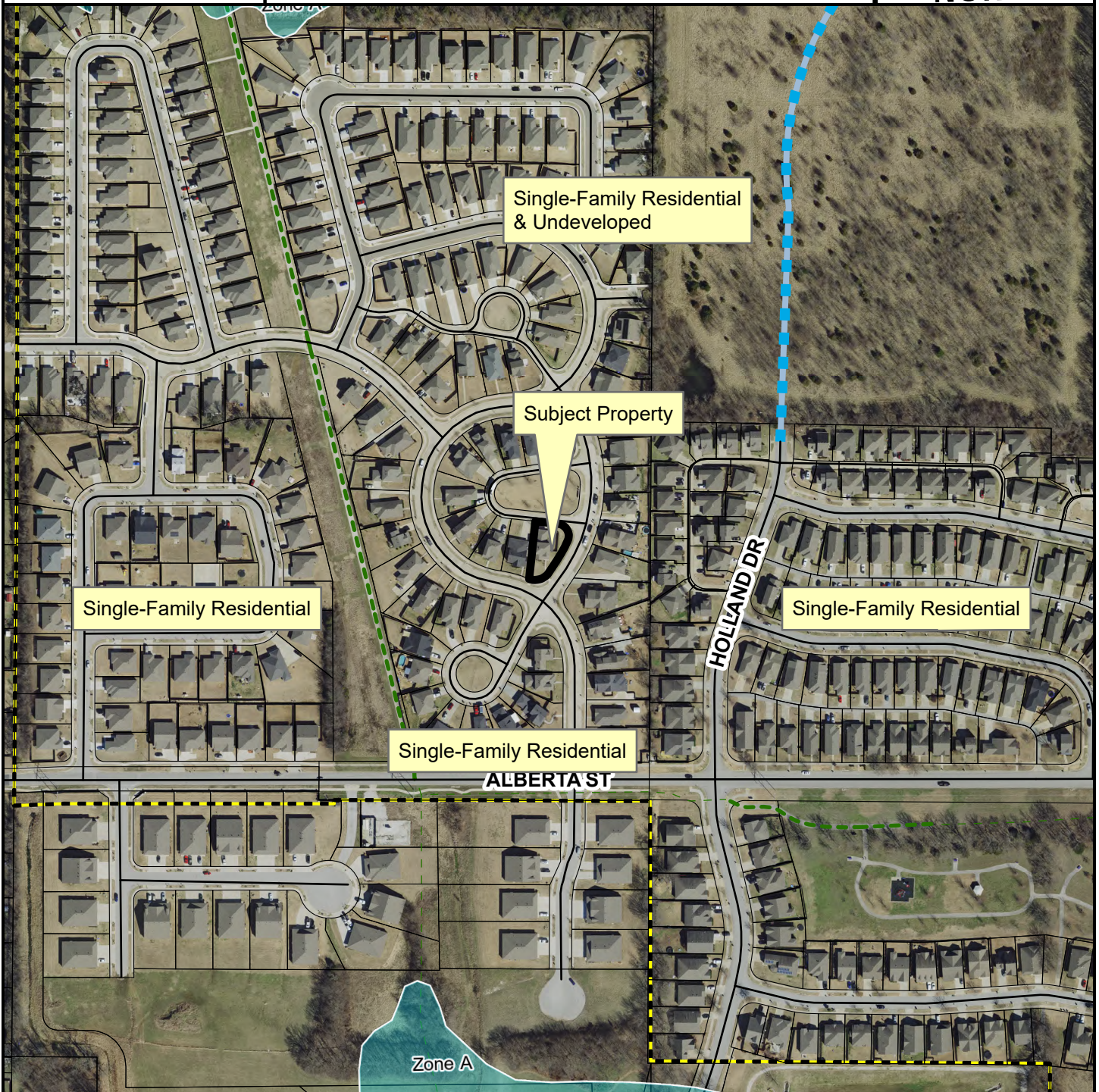


- Residential-Agricultural
- RSF-8
- Neighborhood Conservation
- Commercial, Industrial, Residential
- P-1

CUP-2023-0160

1195 S. LYNDON XING

Current Land Use



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



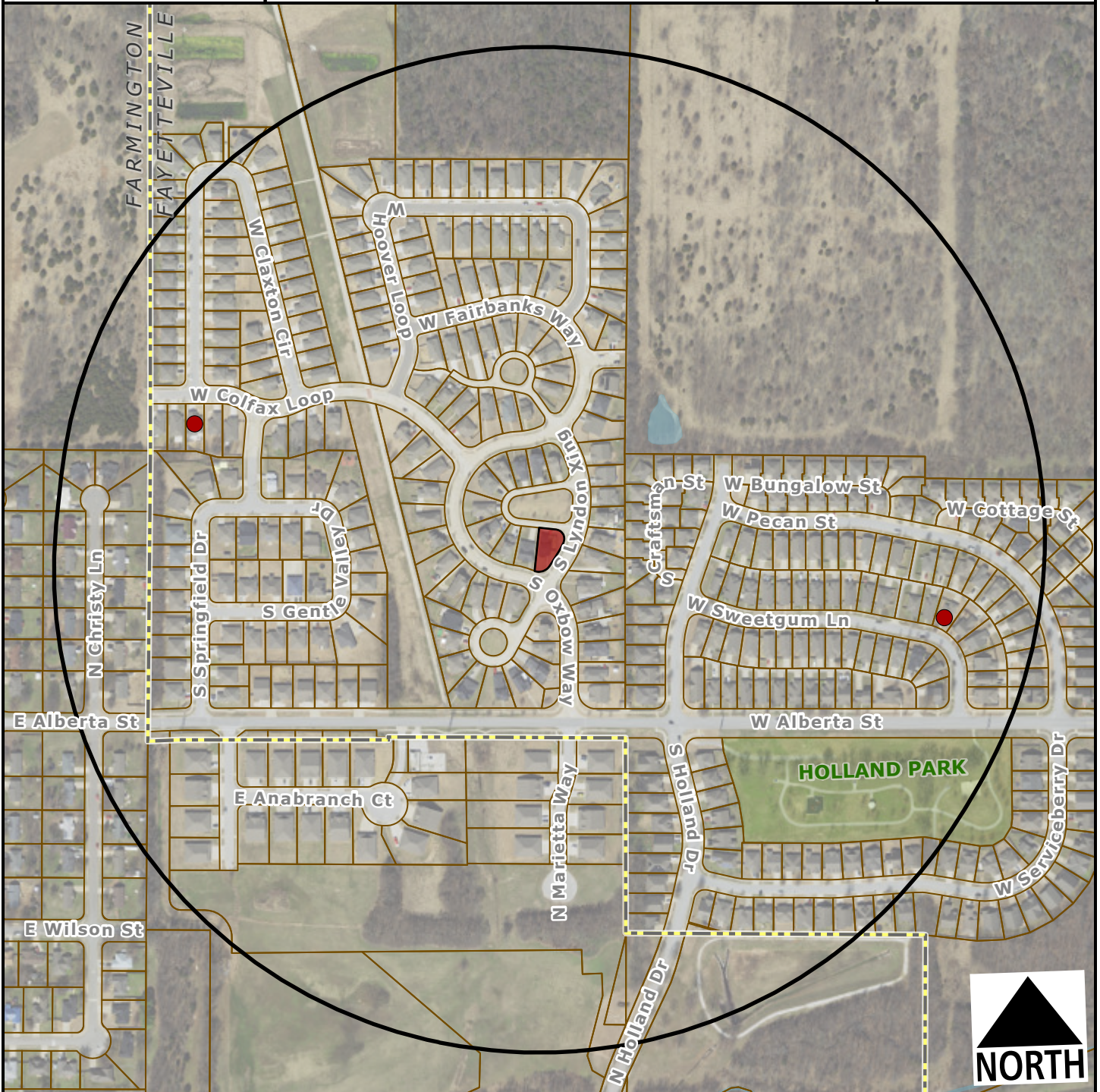
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0160

1195 S. LYNDON XING

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 2

Occupiable
Residential
Addresses
(Estimated
Housing Units): 369



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: November 27, 2023

SUBJECT: **CUP-2023-0161: Conditional Use Permit (1910 W. LAWSON ST./SMITH, 403):** Submitted by DEIRDRE SMITH for property located at 1910 W. LAWSON 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-2023-0161** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0161**, 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 a quarter of a mile north of Wedington Drive, just south of Asbell Elementary School on the north side of Lawson Street. The property contains approximately 0.30 acres and is developed with a 1,480-square-foot, three-bedroom, single-family home which was built in 1966. 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	Asbell Elementary School	P-1, Institutional
South	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre

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

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

Public Comment: To date, staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0161** 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>November 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in RSF-4 zoning. Since RSF-4 is a residential zoning district, a conditional use permit is required.

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

Finding: The property contains a total of three bedrooms which would limit occupancy to a maximum of eight guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

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

Finding: Parking for single-family dwellings is required to be provided at a rate of two spaces per unit and up to four vehicles are permitted to be parked outdoors on the property at any given time. The applicant indicated in their submittal that there is space to park three vehicles on site with one space in an attached carport and two spaces in a driveway. On-street parking does not appear to be available along Lawson Street.

- 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 that 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 1910 W. Lawson St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of November 20, 2023, the City had issued 410 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. Three off-street parking spaces will be available for guests on site. On-street parking is not available. City records indicate that three other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. However, due to the annual business license renewal period which ended 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 two notices of violation, one for overgrown grass and the other for junk and debris, were issued to the current property owner last year. Both violations were resolved shortly after a notice was issued.

§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 with access onto Lawson Street is available to accommodate vehicular ingress and egress to the subject property. Sidewalk is also available along the property's frontage to accommodate pedestrian access. Staff finds that the proposal to use the property as a short-term rental will not adversely affect vehicular traffic flows considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.

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

Finding: Three off-street parking spaces are available in a paved driveway and attached carport. 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 expected 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 three other licensed Type 2 short-term rentals within a quarter-mile radius. However, due to the annual business license renewal period which ended 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
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Building Floor Plans
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

Request Letter for Conditional Use Permit
1910 W. Lawson Street, Fayetteville, AR

I am requesting a conditional use permit for the purpose of converting the use of this home to a short-term rental property. The property would be listed on Airbnb and managed by Amanda Hall.

- (a) The existing house is 1,480 square feet. I am not proposing any changes to the size of the house.
- (b) For color elevations of the house, see attachments.
- (c) Three off site parking spaces will be provided.
- (d) N/A.
- (e) There are motion activated lights in the front and back of the house, 2 in total. There are also front and back porch lights, 3 in total. 5 total outdoor lights.
- (f) The noise level should be minimal. The person who would manage this Airbnb, Amanda Hall, already manages another property of mine. She is very good at selecting and monitoring tenants, and we have received no noise complaints.
- (g) There is a wooden privacy fence around the back of the house and up the right side of the house.
- (h) The house is on the City of Fayetteville city schedule for trash collection. The trash is collected on Tuesdays. The trash cans are hidden behind a wooden screen on the right-hand side of the house.
- (i) The house has a driveway that is accessible from Lawson Street, which is a typical residential street. The impact on traffic from ingress to and egress from the house should be minimal.
- (j) The house has been recently remodeled and is comparable to or nicer than most houses on the block and in the area. The area is mostly rental. In addition to single-family dwellings, there are duplexes and apartment buildings close by. Using the property for short-term rental purposes should be compatible with adjacent properties and other properties in the area.

Thank you for your time and consideration.

Sincerely,

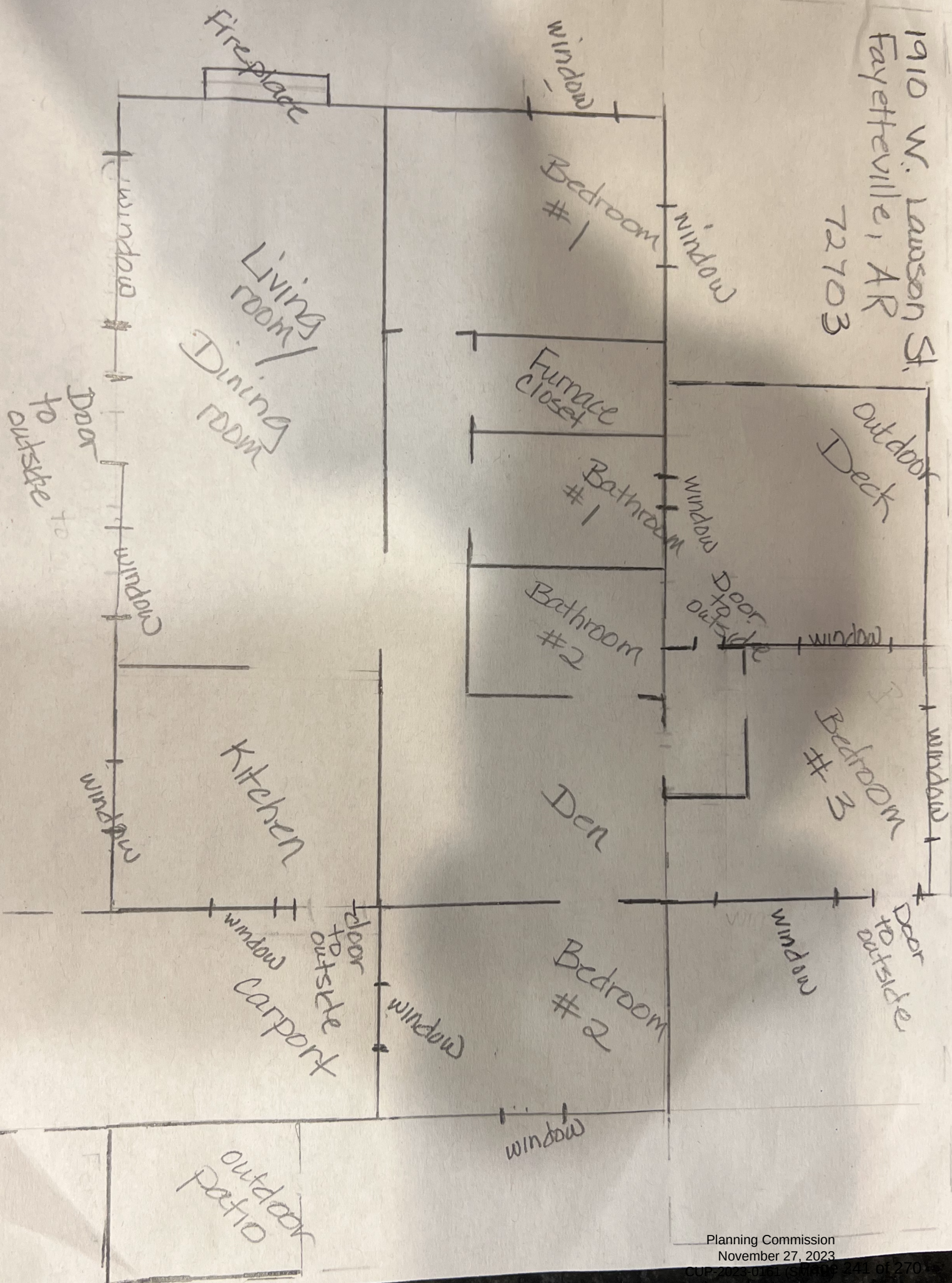
Deirdre Smith

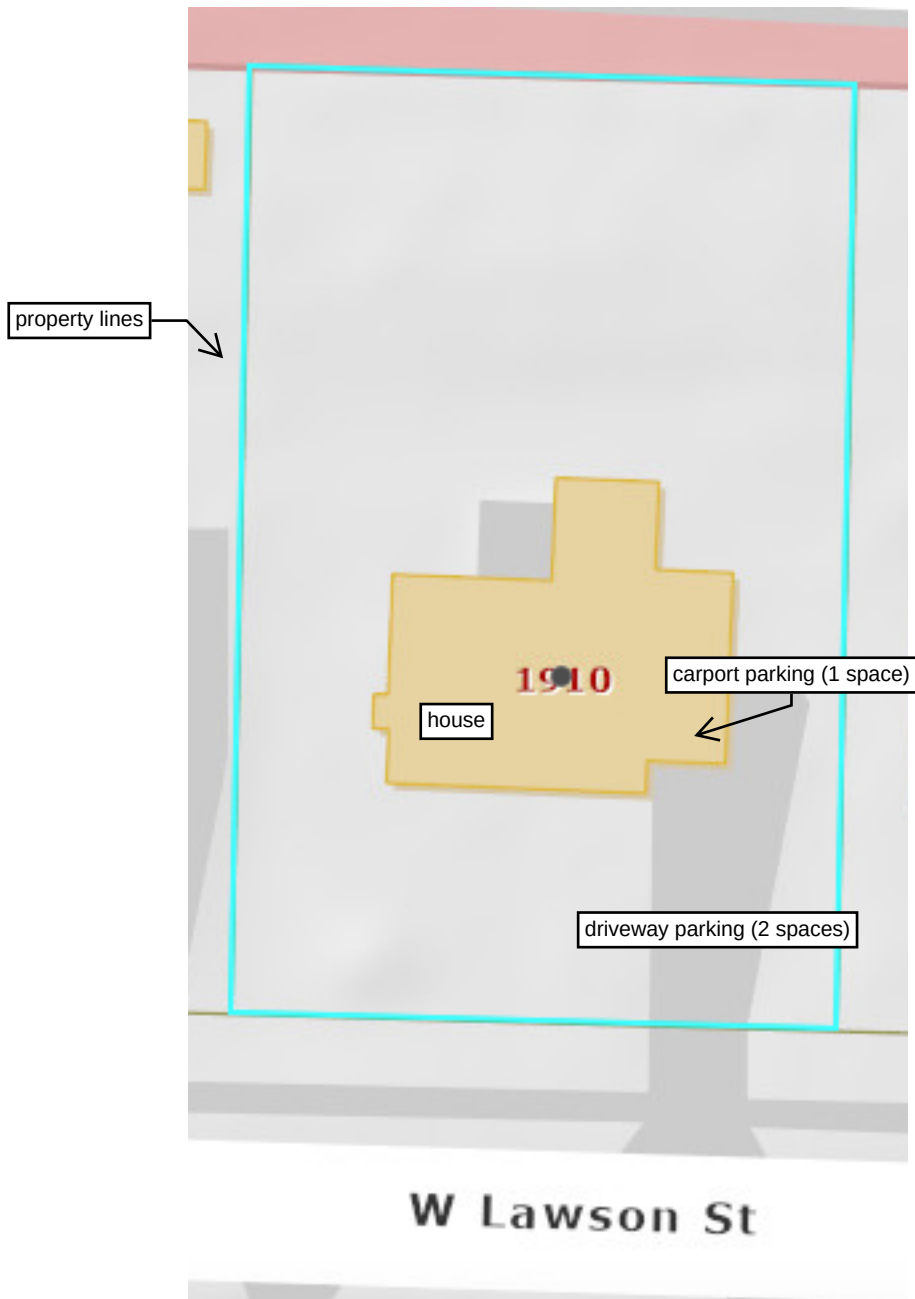
Elevations of 1910 W Lawson St.

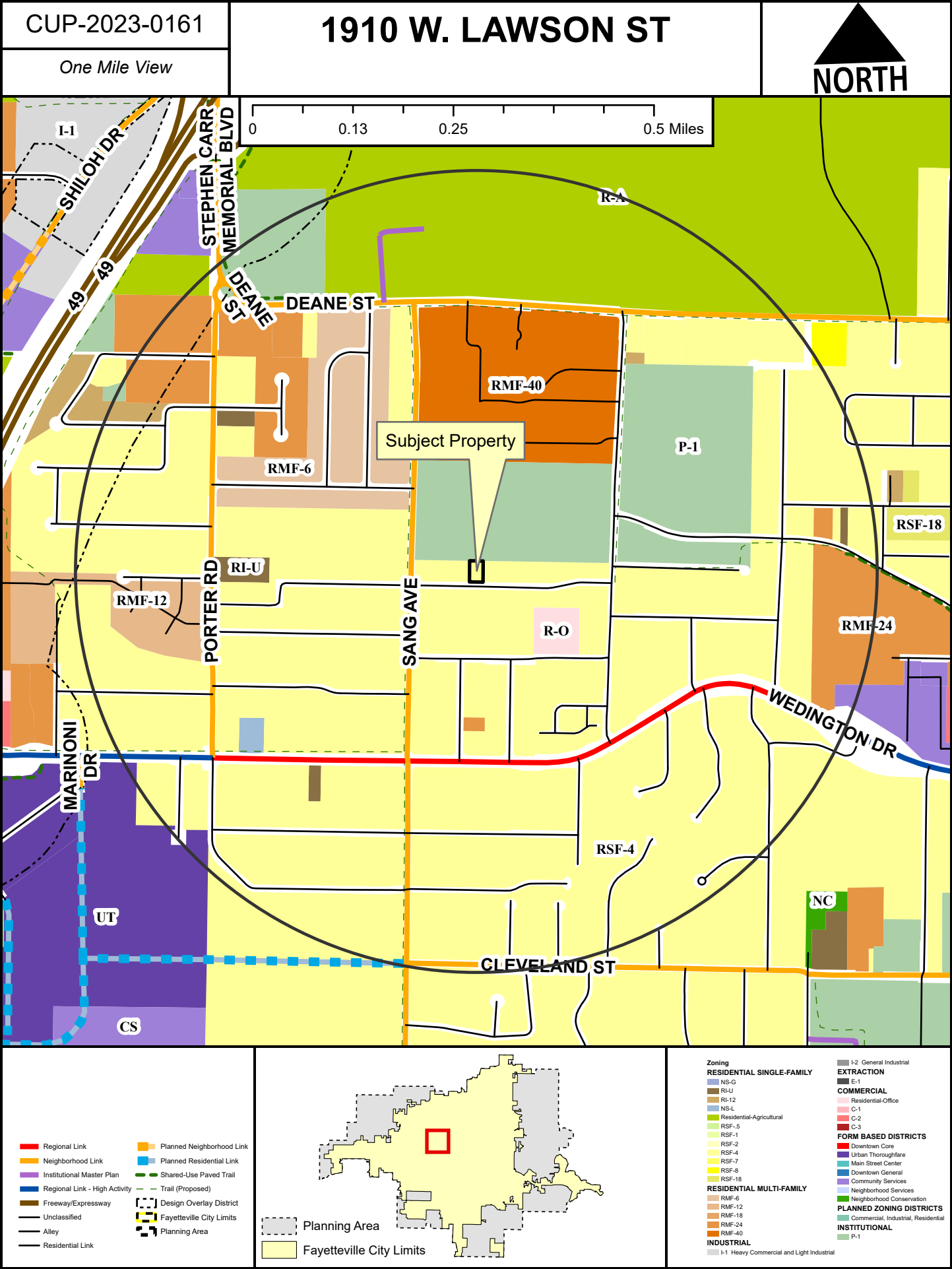


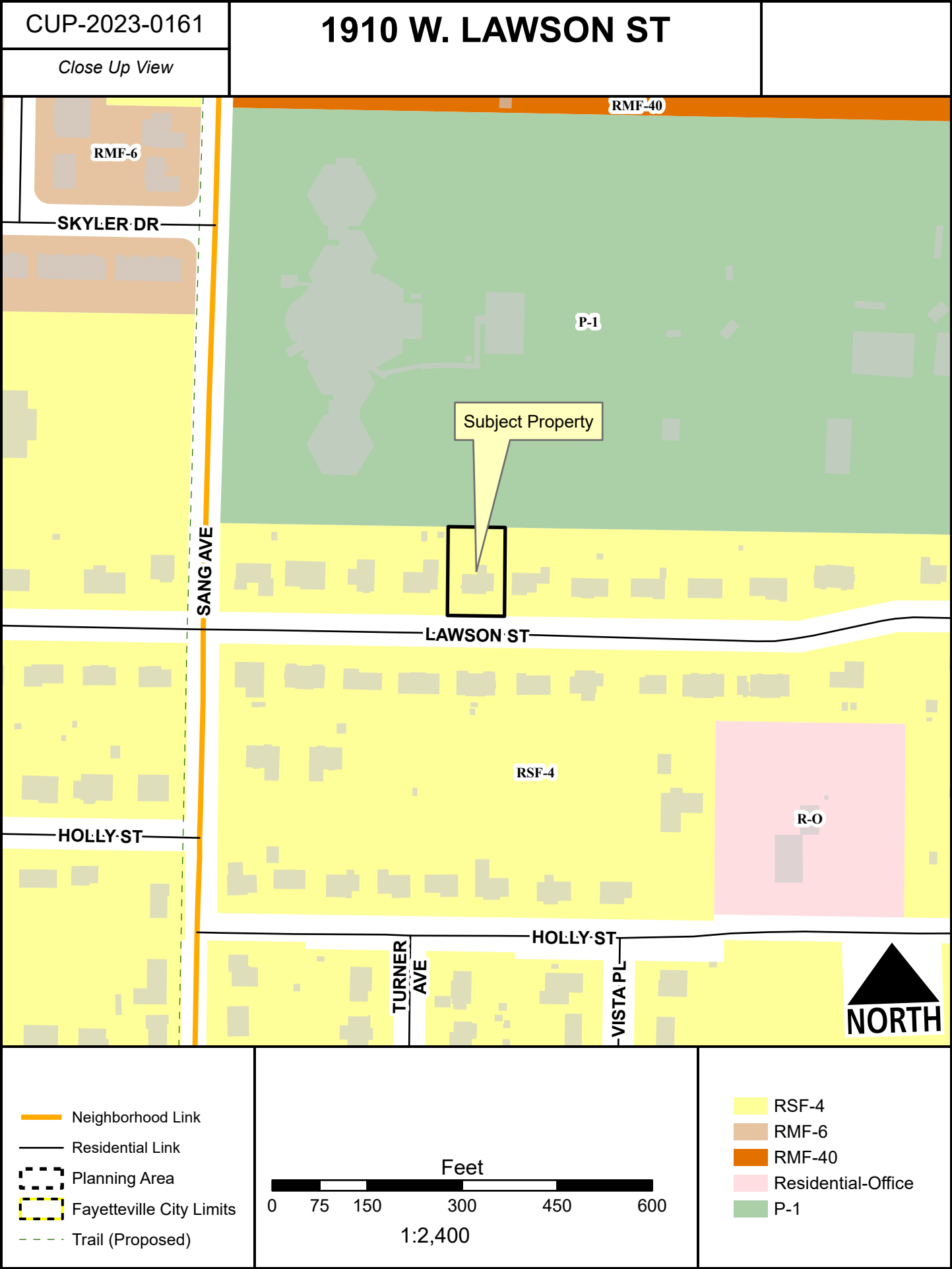


1910 W. Lawson St.
Fayetteville, AR
72703



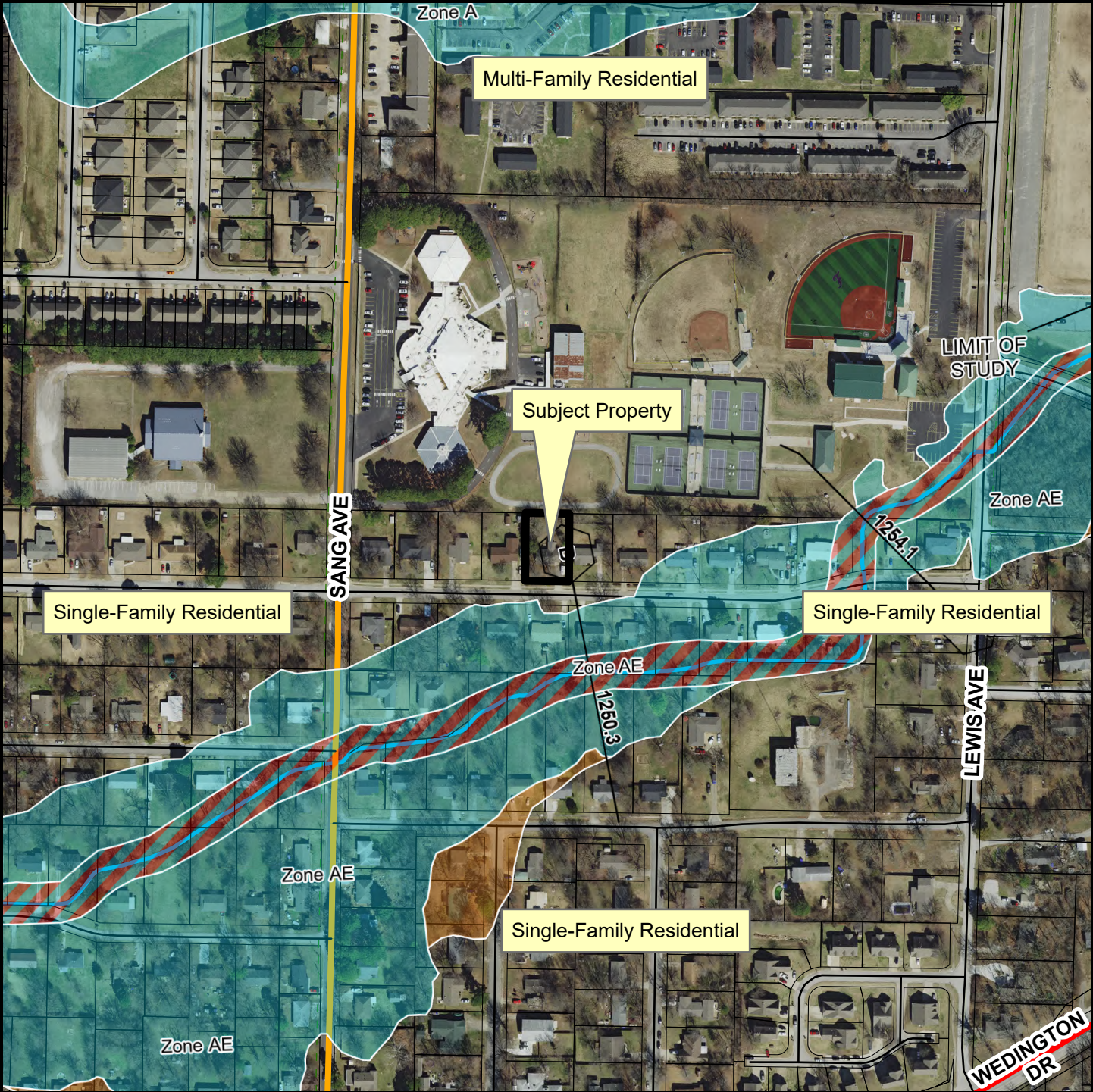






CUP-2023-0161
<i>Current Land Use</i>

1910 W. LAWSON ST



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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

-  100-Year Floodplain
 Floodway

Feet

0 112.5 225 450 675 900

1:3,600

Feet

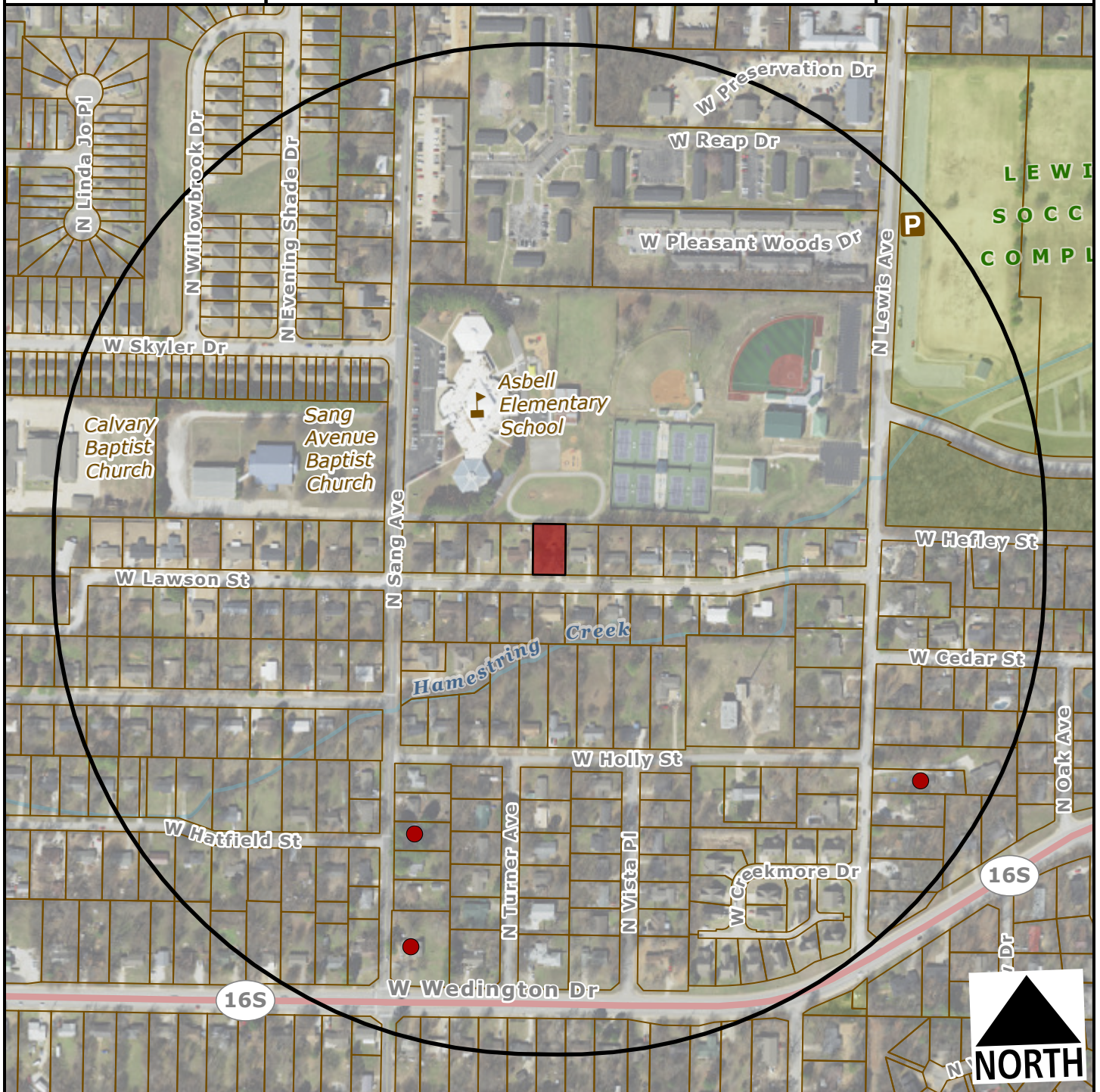
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CUP-2023-0161

1910 W. LAWSON ST

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): 487



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: November 27, 2023

SUBJECT: **CUP-2023-0162: Conditional Use Permit (2679 N. OLD WIRE RD./HARRIS, 292):** Submitted by SHANNON HARRIS for property located at 2679 N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0162** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0162**, 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 on the west side of Old Wire Road just north of Gulley Park and south of Community of Christ Church. The property contains approximately 0.20 acres and is developed with a 936-square-foot, two-bedroom, single-family home which was built in 1930. 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	Community of Christ Church	RSF-4, Residential Single-Family, Four Units Per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre

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

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

Public Comment: To date, staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0162** 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>November 27, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

- B. Authority; Conditions.** The Planning Commission shall:
1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;
 2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
 3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
 4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.
- C. Procedures.** A conditional use shall not be granted by the Planning Commission unless and until:
1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in RSF-4 zoning. Since RSF-4 is a residential zoning district, a conditional use permit is required.

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

Finding: The property contains a total of two bedrooms which would limit occupancy to a maximum of six guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

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

Finding: Parking for single-family dwellings is required to be provided at a rate of two spaces per unit and up to four vehicles are permitted to be parked outdoors on the property at any given time. The applicant indicated in their submittal that there is space to park up to four vehicles on the property in an existing driveway. On-street parking does not appear to be available 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 that 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 2679 N. Old Wire Rd. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of November 20, 2023, the City had issued 410 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. Up to four off-street parking spaces will be available for guests on site. On-street parking is not available. 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. However, due to the annual business license renewal period which ended 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 notice of violation for overgrown grass was issued to the current property owner last month on October 17, 2023. That violation has since been resolved and closed.

§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 with access onto Old Wire Road is available to accommodate vehicular ingress and egress to the subject property. There are no sidewalks nearby. Staff finds that the proposal to use the property as a short-term rental will not adversely affect vehicular traffic flows considering the use of the property would be limited to a maximum of six guests which would not be out of character with 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: Up to four off-street parking spaces are available in a paved driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

Finding: The applicant proposes to utilize existing residential trash cart 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 expected 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 primarily surrounded by residential uses and there is only one other licensed Type 2 short-term rental within a quarter-mile radius. However, due to the annual business license renewal period which ended 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
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Building Floor Plans
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

City of Fayetteville, Arkansas

Conditional Use Permit

1. Payment made in full
2. Residential Single-family, Four Units per Acre, 2679 N Old Wire Rd. Fayetteville, Arkansas 72703
3. We are applying for a conditional use permit from the city of Fayetteville for a property that we purchased in order to obtain a short-term rental Type 2 permit. We will not be residing in the residence. The property will be used for a nightly rental.
 - a. The unit is 936 square feet.
 - b. The unit is one floor. The unit has a kitchen, living space, primary bedroom with two closets, secondary bedroom with one open closet, a dining area, one bathroom, and patio. Attached pictures of the property will be at the end of this document.
 - c. For the unit there is a driveway with two distinct parking spaces but room to park up to four cars. STR Posting would limit total cars to three at any time. Description with pictures attached at the end of this document.
 - d. The unit will not have operating hours or employees. It will be in use whenever it is being rented. The anticipated number of guests will be up to six, based on city guidance of two guests per bedroom plus two additional guests in a convertible sleeping arrangement in the main living space. The unit will have a designated cleaner who will responsible for cleanings following strict Standard Operating Procedures with scheduling and payments facilitated through the web application, Turno.
 - e. Outdoor lighting – There is exterior light at the front door on the porch. There are also exterior lights that light up the side entrance by the driveway to illuminate the walkway. There is further exterior lighting in between the unit and the adjacent property, a Church, in the form of a light pole that illuminates the unit as well as the church parking lot.
 - f. The property will be used for short stays of 1-6 people so the noise level will be minimal. There will be one television in the unit and should represent the extent of the noise.
 - g. The property behind the proposed rental unit is separated by fencing, and the front of the house faces away from the unit and towards the south. The church is separated by 10 feet of green space and the church's large parking lot sits between the proposed rental unit and the church building. Pictures are located at the end of this document.
 - h. Trash is provided by the city with a designated receptacle by the deck. This trash will be taken to the curb according to city schedule by the cleaning company.
 - i. The property has a church as the neighbor to the north and will be vacant on all days of the week aside from Sunday and some Wednesdays. The neighbor across the street is a business, Apple Seeds, and does not have tenancy past business hours. Because the property's nearest neighbors are businesses with limited occupancy, impact to neighborhood is further mitigated.
4. The site plan drawn to scale of the property including structures dimensioned from the overhang to the property line, parking, driveway, and Master Street Plan right-of-way will be attached at the end of the this document. The property is zoned in Single Family 4.

5. The preliminary floor plan drawn to scale showing walls, doors, windows, and identification of activity areas will be attached at the end of this document.
6. A copy of the county parcel map from the Washington County Assessor's office website will be attached at the end of this document. The pictures show the subject property and all parcels within 200 feet.
7. The consent of ownership signed by both property owners is attached as a separate document.

3.b Building Elevations

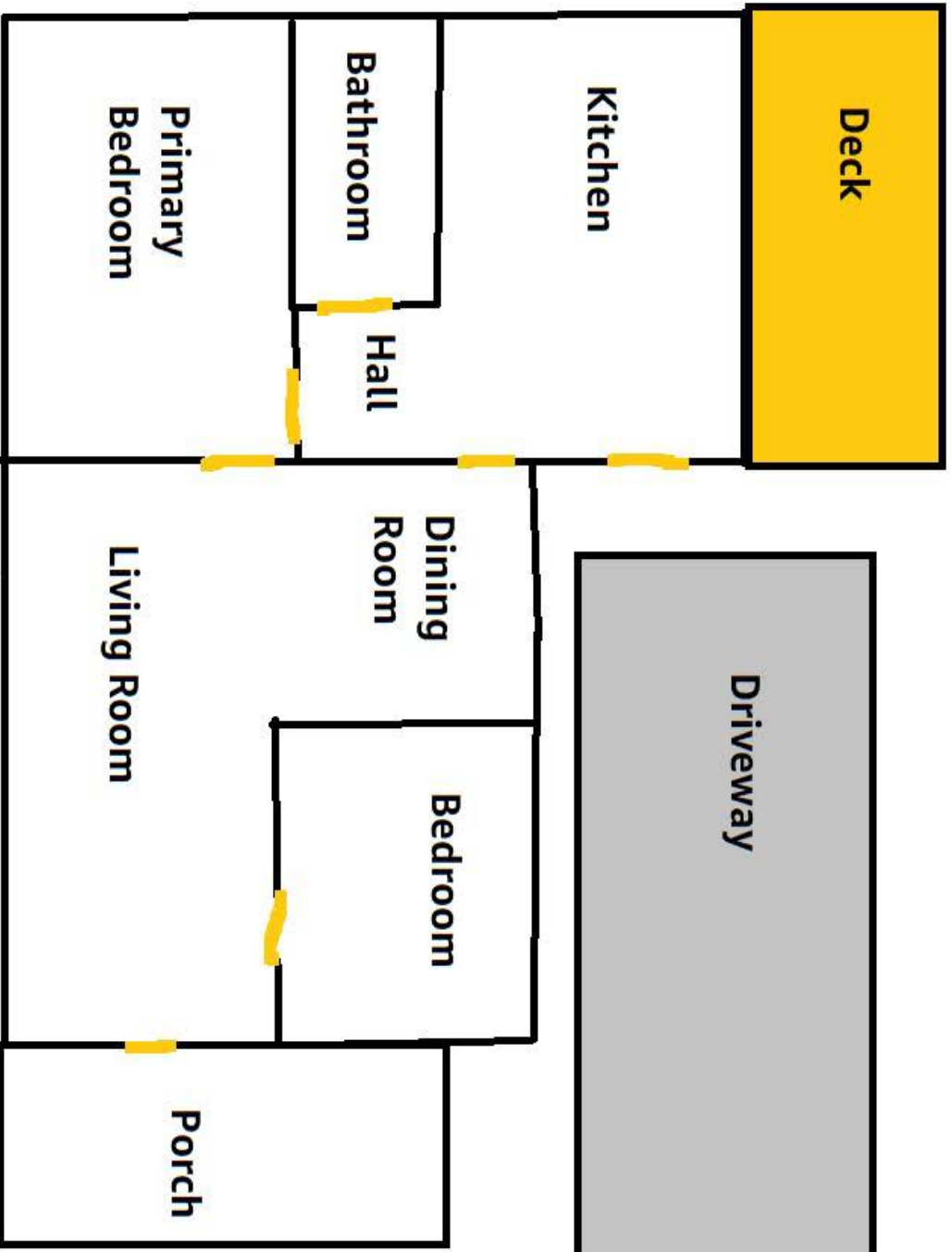












Fence



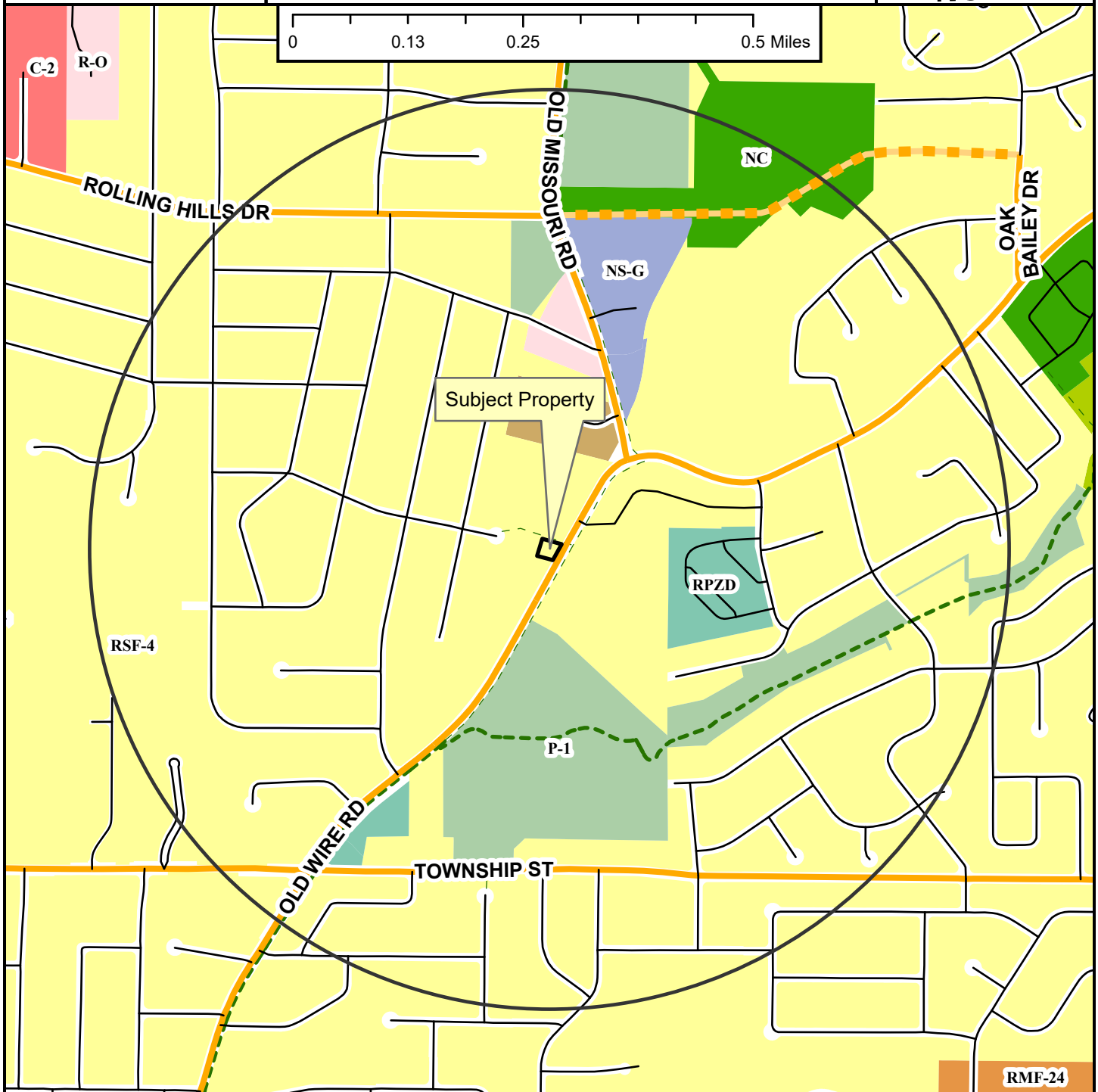
CUP-2023-0162

2679 N. OLD WIRE RD

One Mile View



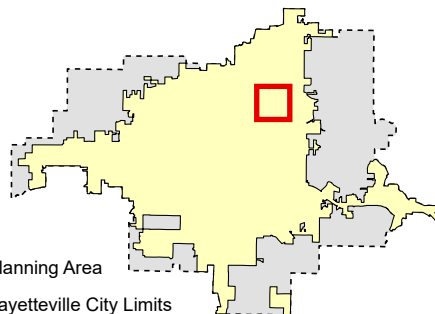
0 0.13 0.25 0.5 Miles



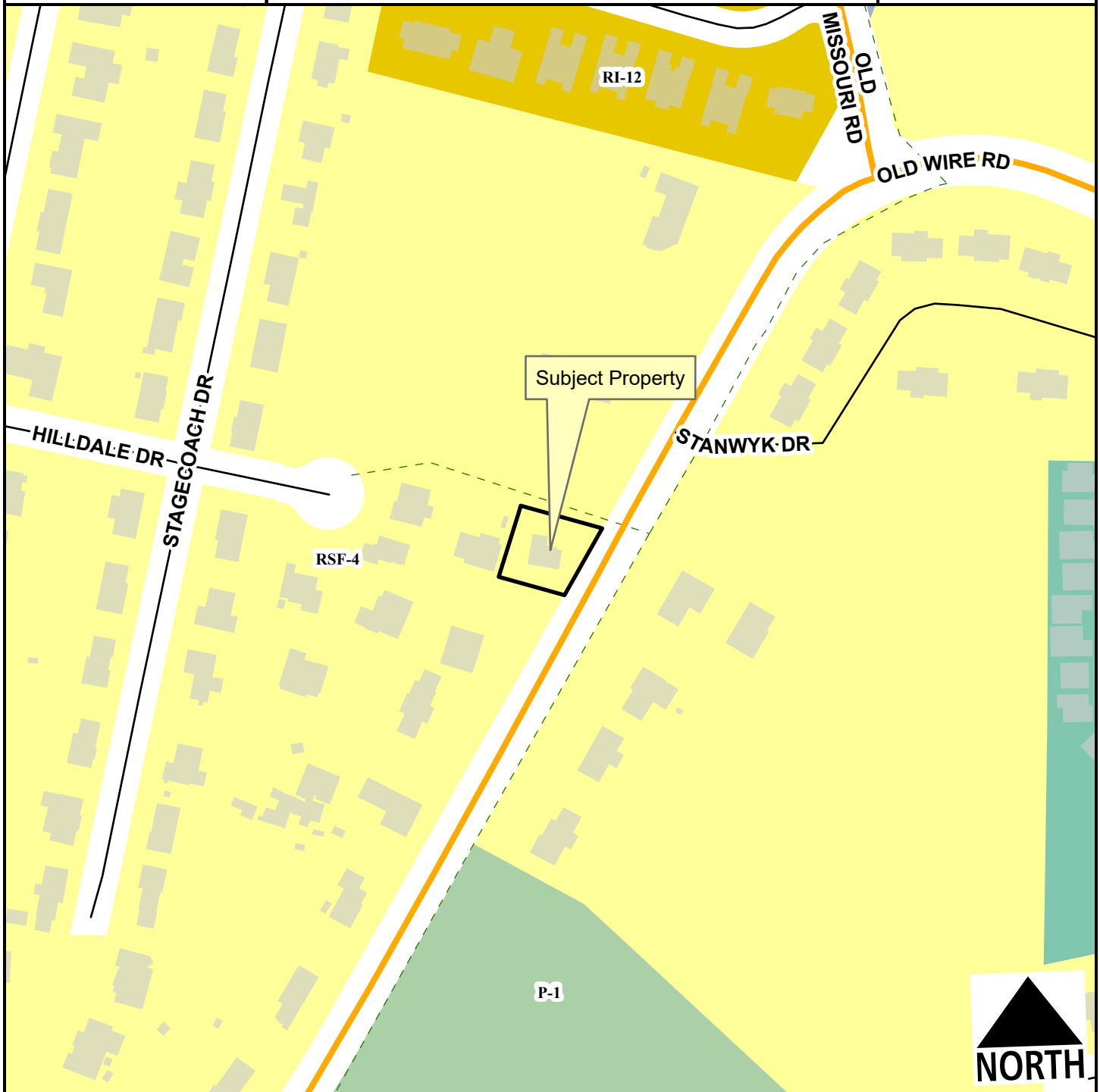
- Neighborhood Link
- Unclassified
- Residential Link
- Planned Neighborhood Link
- - - Shared-Use Paved Trail
- - - Trail (Proposed)
- Fayetteville City Limits
- Planning Area

Planning Area

Fayetteville City Limits



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



Neighborhood Link

Unclassified

Residential Link

Planning Area

Fayetteville City Limits

Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

RSF-4

RI-12

Neighborhood Services - Gen.

Commercial, Industrial, Residential

P-1

CUP-2023-0162

2679 N. OLD WIRE RD

Current Land Use



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



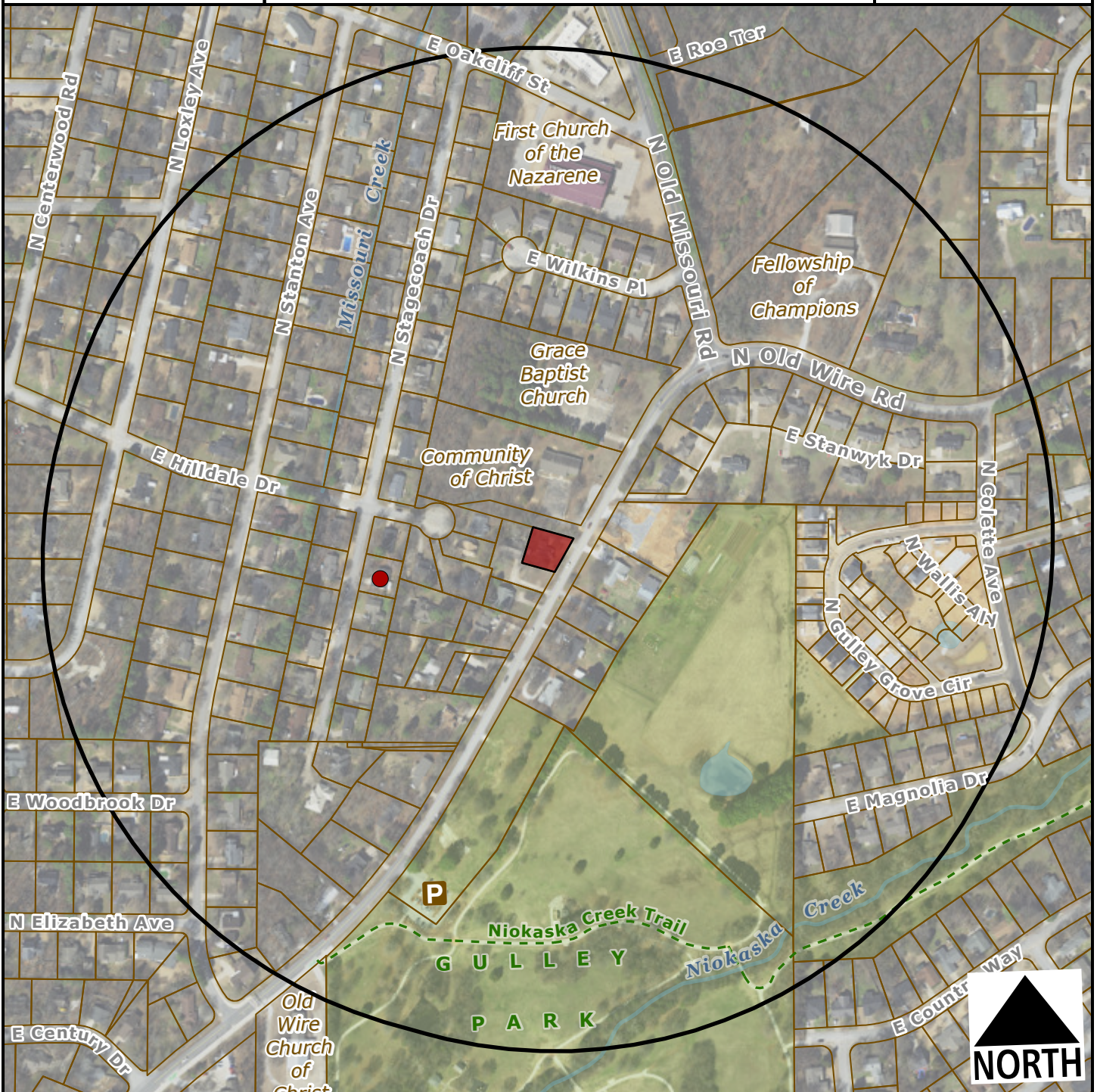
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0162

2679 N. OLD WIRE RD

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): 231