City of Fayetteville, Arkansas

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

Planning Commission Final Agenda

Monday, January 8, 2024

5:30 PM

City Hall Room 219

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 December 11, 2023 Planning Commission. - Mirinda Hopkins, Development Coordinator

2. ADM-2023-0047: Administrative Item (SOUTH OF S. LEFLAR WAY/RAZORBACK RV PARK, 596):

Submitted by CRAFTON TULL for property located SOUTH OF S. LEFLAR WAY. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and CS, COMMUNITY SERVICES and contains approximately 43.55 acres. The request it to extend the amended conditional use permit for an RV Park. - Donna Wonsower, Planner

3. ADM-2023-0050: Administrative Item (5624 W. WEDINGTON DR/MAVEN RAMSEY VILLAGE PROPERTIES LLC, 397):

Submitted by ENGINEERING SERVICES INC for properties located at 5624 W. WEDINGTON DR. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE and contains approximately 4.93 acres. The request is extend a previously approved large scale development. - Kylee Hevrdejs, Planner

4. VAR-2023-0053: Planning Commission Variance (NORTH OF 3420 W. MOUNT COMFORT RD/THE GODDARD SCHOOL, 323):

Submitted by BATES AND ASSOCIATES for property located NORTH OF 3420 W. MOUNT COMFORT RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.23 acres. The request is for a variance from required infrastructure improvements. - Gretchen Harrison, Senior Planner

Unfinished Business

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

Submitted by ECOLOGICAL DESIGN GROUP for the 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 reduction in the number of required parking spaces.

THIS ITEM WAS TABLED AT THE NOVEMBER 27, 2023 AND THE DECEMBER 11, 2023 PLANNING COMMISSION MEETING. - Donna Wonsower, Planner

6. ADM-2023-0041: Administrative Item (2277 S. ED EDWARDS RD/WANG, 649):

Submitted by KEVIN WANG for properties located at 2277 S. ED EDWARDS RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 11.60 acres. The request is to modify the Master Street Plan.

THIS ITEM WAS TABLED AT THE NOVEMBER 13, 2023 PLANNING COMMISSION MEETING.
APPLICANT HAS REQUESTED TO TABLE INDEFINITELY. - Jessica Masters, Development Review Manager

7. CUP-2023-0159: Conditional Use Permit (241 W. SPRING ST/FAYETTEVILLE OFFICE PORTFOLIO, LLC, 484):

Submitted by FAYETTEVILLE OFFICE PORTFOLIO, LLC for property located at 241 W. SPRING ST. The property is zoned MSC, MAIN STREET/CENTER and contains approximately 1.08 acres. The request is for an off-site parking lot.

THIS ITEM WAS TABLED AT THE DECEMBER 11, 2023 PLANNING COMMISSION MEETING. - Kylee Hevrdejs, Planner

8. RZN-2023-0034: Rezoning (WEST OF S. RAZORBACK RD/LOONEY, 599):

Submitted by COMMUNITY BY DESIGN for property located WEST OF S. RAZORBACK RD. The property is zoned NS-L, NEIGHBORHOOD SERVICES-LIMITED and contains approximately 3.06 acres. The request is to rezone the property to R-A, RESIDENTIAL-AGRICULTURAL AND UT, URBAN THOROUGHFARE.

THIS ITEM WAS TABLED AT THE DECEMBER 11, 2023 PLANNING COMMISSION MEETING. - Gretchen Harrison, Senior Planner

New Business

9. ADM-2023-0049: Administrative Item (41 N. SANG AVE/CARVER, 481):

Submitted by LAURA CARVER for property located at 41 N. SANG AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE and contains approximately 2.34 acres. The request is to remove the requirement of a sidewalk on the east side of the property. - Josh Boccaccio, Engineering Development Review Mgr

10. ADM-2023-0051: Administrative Item (1727 N. SHILOH DR/JUNCTION AT SHILOH, 363):

Submitted by LISA VALENTINE and MARTHA CLARK for properties located at 1727 N. SHILOH DR. The property is zoned CS, COMMUNITY SERVICES and RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 11.73 acres. The request is to appeal an approved grading permit. - Josh Boccaccio, Engineering Development Review Mgr

11. CCP-2023-0006: Concurrent Plat (3006 N. OLD MISSOURI RD/OLD MISSOURI LAND DEVELOPMENT LLC, 253 & 254):

Submitted by JORGENSEN & ASSOCIATES for property located at 3006 N. OLD MISSOURI RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and NS-G, NEIGHBORHOOD SERVICES-GENERAL, and contains approximately 36.20 acres. The request is for the concurrent plat of thirty-six residential lots, one commercial lot, two non-buildable lots, and two out lots. - Kylee Hevrdejs, Planner

12. CUP-2023-0194: Conditional Use Permit (1153 E. LAKE FAYETTEVILLE RD/LAKE FAYETTEVILLE SOFTBALL COMPLEX., 096/097):

Submitted by CITY OF FAYETTEVILLE for property located at 1153 E. LAKE FAYETTEVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 30.8 acres. The request is for a cultural and recreational facility (softball fields) in R-A zoning. - Jessica Masters, Development Review Manager

13. RZN-2023-0035: Rezoning (NE OF N. SHILOH DR & NW OF W. CHICORY PL/SPRINGWOODS INVESTMENTS LLC, 248):

Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NE OF N. SHILOH DR & NW OF W. CHICORY PL. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.44 acres. The request is to rezone the property to UT, URBAN THOROUGHFARE. - Kylee Hevrdejs, Planner

14. CUP-2023-0175: Conditional Use Permit (NORTHWEST OF N. SHILOH DR & W. CHICORY PL/SPRINGWOODS INVESTMENTS LLC, 248):

Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NORTHWEST OF N. SHILOH DR & W. CHICORY PL. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.44 acres. The request is for Use Unit 38: mini storage units in UT, Urban Thoroughfare zoning. - Kylee Hevrdejs, Planner

15. RZN-2023-0030: Rezoning (WEST OF 2558 W. VALLEY DR/NIBLOCK, 402):

Submitted by SWOPE CONSULTING for property located WEST OF 2558 W. VALLEY DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.60 acres. The request is

to rezone the property to RSF-8, RESIDENTIAL SINGLE FAMILY, EIGHT UNITS PER ACRE. - Donna Wonsower, Planner

16. CUP-2023-0165: Conditional Use Permit (1751 N. HUNTERS RDG/KIMBRO, 372):

Submitted by KRIS KIMBRO for property located at 1751 N. HUNTERS RDG. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

17. CUP-2023-0170: Conditional Use Permit (854 E. SPARROW CIR/VAN WINKLE, 603):

Submitted by GVW INVESTMENTS for property located at 854 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 0.10 acres. The request is to reconsider the denial of the residence as a short term rental. - Donna Wonsower, Planner

18. CUP-2023-0171: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603):

Submitted by GVW INVESTMENTS for property located at 1006 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 0.10 acres. The request is to reconsider the denial of the residence as a short term rental. - Donna Wonsower, Planner

19. CUP-2023-0172: Conditional Use Permit (1108 S. DUNN AVE/STRACENER, 562):

Submitted by B&L DEVELOPMENT for property located at 1108 S. DUNN AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

20. CUP-2023-0174: Conditional Use Permit (1633 N. GARLAND AVE/CAMPBELL, 404):

Submitted by SLOAN CAMPBELL for property located at 1633 N. GARLAND AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

21. CUP-2023-0176: Conditional Use Permit (158 E. CYDNEE ST/KIMSCO LLC, 251):

Submitted by DONALD TATMAN for property located at 158 E. CYDNEE ST.

The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.11 acres. The request is to use the residence as a short-term rental. - Kylee Hevrdejs, Planner

22. CUP-2023-0177: Conditional Use Permit (776 S. BENCHMARK LN, UNIT 1/AB JOINT VENTURES LLC, 556):

Submitted by GUANGYU ZHU-WEAVER for property located at 776 S. BENCHMARK LN, UNIT 1. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE - URBAN and contains approximately 0.15 acres. The request is to use the residence as a short-term rental. - Kylee Hevrdejs, Planner

23. CUP-2023-0178: Conditional Use Permit (1230 N. LEWIS AVE/3J LUXURY RENTALS LLC, 404):

Submitted by RYAN JONES for property located at 1230 N. LEWIS AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.40 acres. The request is to use the residence as a short-term rental. - Kylee Hevrdejs, Planner

24. CUP-2023-0179: Conditional Use Permit (1626 N. OAKHAVEN PL/ANTEZANA, 400):

Submitted by RICARDO ANTEZANA for property located at 1626 N. OAKHAVEN PL. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.27 acres. The request is to use the residence as a short-term rental. - Kylee Hevrdejs, Planner

25. CUP-2023-0164: Conditional Use Permit (132 W. SYCAMORE ST/MARTINEZ-ROMANO, 367):

Submitted by OSCAR MARTINEZ for property located at 132 W. SYCAMORE ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.50 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

26. CUP-2023-0167: Conditional Use Permit (802 N. PARK AVE/HARDIN, 445):

Submitted by BROOKE HARDIN for property located at 802 N. PARK AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

27. CUP-2023-0168: Conditional Use Permit (353 N. SAINT CHARLES AVE/ADAMS, 484):

Submitted by KATHY BALL for property located at 353 N. SAINT CHARLES AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.06 acres. The request is to use the residence as a

short-term rental.

THIS ITEM WAS WITHDRAWN BY STAFF FOR LACK OF PUBLIC NOTIFICATION. - Gretchen Harrison, Senior Planner

Items Administratively Approved by Staff

28. LSP-2023-0019: Lot Split (2715 N. OLD WIRE RD/REORGANIZED CHURCH OF JESUS OF LATTER DAY SAINTS, 292):

Submitted by BLEW AND ASSOCIATES for property located at 2715 N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 2.65 acres. The request is to split the property into two lots containing 1.46 and 1.19 acres. - Donna Wonsower, Planner

29. LSP-2023-0054: Lot Split (14431 HIGHLAND CHURCH RD/BREEDLOVE, 508):

Submitted by BLEW & ASSOCIATES for property located at 14431 HIGHLAND CHURCH RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 6.20 acres. The request is to divide the property into three lots containing 1.00, 2.65, and 2.35 acres. - Donna Wonsower, Planner

30. LSP-2023-0056: Lot Split (N. RUPPLE RD, NORTH OF DONALD W. REYNOLDS BOYS & GIRLS GLUB/MEADOWVIEW SENIOR LIVING, 439):

Submitted by ENGINEERING SERVICES INC for property located on N. RUPPLE RD, NORTH OF DONALD W. REYNOLDS BOYS & GIRLS GLUB. The property is zoned NS-L, NEIGHBORHOOD SERVICES-LIMITED and contains approximately 11.62 acres. The request is to subdivide the property into two lots containing 5.62 and 6.00 acres. - Donna Wonsower, Planner

31. LSP-2023-0058: Lot Split (3538 N. HWY 112/KUBALD VENTURES LLC, 209):

Submitted by MCCLELLAND CONSULTING ENGINEERS INC. for property located at 3538 N. HWY 112. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.32 acres. The request is to subdivide the property into two lots containing 0.50 and 0.82 acres. - Kylee Hevrdejs, Planner

32. LSP-2023-0059: Lot Split (512 N. MISSION BLVD/ZWEIG, 446):

Submitted by ALAN REID & ASSOCIATES for property located at 512 N. MISSION BLVD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.11 acres. The request is to subdivide the property into two lots containing 0.64 and 0.47 acres. - Donna Wonsower, Planner

33. LSP-2023-0065: Lot Split (N. SANG AVE & W. ORA DR/GLORIOUS ASSETS LLC, 442):

Submitted by BATES & ASSOCIATES for property located at N. SANG AVE & W. ORA DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.71 acres. The request is to subdivide the property into three lots containing 0.19, 0.26, and 0.26 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 you comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate appointed official, staff, or others for response. Please keep your comments brief, to the point, and relevant to the agenda item being considered so that everyone has a chance to speak.

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

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

(pg. 1) Planning Commission			Monday, 12/11/2023			
Time:	**5:30 PM**					
Staff :	□ Melissa Evans □ John Scott □ Jessie Masters □ Gretchen Harrison □ Donna Wonsower □ Kylee Hevrdejs					
	□ Britin Bostick □ Sherry Smith □ Josh Boccaccio □ Melissa Boyd □ Fire Marshal/Andrew Horton □ Chris Brown □ Alan Pugh					
	Roll Call	**1) Minutes 11-27-2023**	**2) CCP-2023-0004 (MOLLOY & AUST)**	**3) VAR-2023-0050 (1301 N. GREGG)**	**4) LSD-2023-0018 (SWEET BAY AT KESSLER)**	**5) CUP-2023-0141 (CITY OF FAYETTEVILLE, YRCC)**
Payne	**1**	**1**	**1**	**1**	**1**	**1**
Gulley	**1**	**1**	**1**	**1**	**1**	**1**
Holcomb	**1**	**1**	**1**	**1**	**1**	**1**
Winston	**0**					
McGetrick	**1**	**1**	**1**	**1**	**1**	**1**
Sparkman	**1**	**1**	**1**	**1**	**1**	**1**
Brink	**1**	**1**	**1**	**1**	**1**	**1**
Garlock	**1**	**1**	**1**		**1**	**1**
Madden	**1**	**1**	**1**	**1**	**1**	**0**
Agenda		**Consent**	**Consent**	**Old**	**Old**	**Old**
Motion By		Brink	Brink	Brink	Payne	Brink
Motion 2nd		Payne	Payne	Madden	Madden	Sparkman
Vote		8-0-0	8-0-0	7-0-1	8-0-0	7-1-0
Action		Approve	Approve	Table	Table	Approve
Time		5:33 PM	5:33 PM	5:35 PM	5:40 PM	6:43 PM
Motion Detail				Untill the January 8, 2024 Planning Commission Meeting.	Untill the December 9, 2024 Planning Commission Meeting.	With all conditions as recommended by staff, including variances.
Public Comment				0	0	3

	6) CUP-2023-0157 (WATKINS)	7) CCP-2023-0005 (FULCHER)	8) ADM-2023-0044 (WIENERSCHNITZEL)	9) ADM-2023-0047 (RAZORBACK RV PARK)	10) ADM-2023-0048 (BARTLETTE)	11) CUP-2023-0166 (TRINITAS DEVELOPMENT)
Payne		1	1		1	1
Gulley		1	1		1	1
Holcomb		1	1		1	1
Winston						
McGetrick		1	1		1	1
Sparkman		1	1		1	1
Brink		1	1		1	1
Garlock		1	1		0	1
Madden		1	1		0	1
Agenda	**Old**	**New**	**New**	**New**	**New**	**New**
Motion By		Brink	Payne		Sparkman	Garlock
Motion 2nd		Sparkman	Brink		Brink	Sparkman
Vote		8-0-0	8-0-0		6-2-0	8-0-0
Action	Withdrawn	Approve	Approve	Withdrawn	Deny	Deny
Time		6:54 PM	7:04 PM		7:41 PM	8:10 PM
Motion Detail		With all conditions as recommended by staff.	With all conditions as recommended by staff, including variances.		Staff approval of grading permit upheld.	
Public Comment		1	0		3	1

	12) CUP-2023-0159 (FAYETTEVILLE OFFICE PORTFOLIO)	13) RZN-2023-0030 (NIBLOCK)	14) RZN-2023-0033 (WIESE-GODDARD SCHOOL)	15) RZN-2023-0034 (LOONEY)	16) CUP-2023-0165 (KIMBRO)	
Payne	**1**		**1**	**1**		
Gulley	**1**		**1**	**1**		
Holcomb	**1**		**1**	**1**		
Winston						
McGetrick	**1**		**1**	**1**		
Sparkman	**1**		**1**	**1**		
Brink	**1**		**1**	**1**		
Garlock	**1**		**1**	**1**		
Madden	**1**		**1**	**1**		
Agenda	**New**	**New**	**New**	**New**	**New**	
Motion By	Brink		Payne	Brink		
Motion 2nd	Payne		McGetrick	Madden		
Vote	8-0-0		8-0-0	8-0-0		
Action	Table	Withdrawn	Forward	Table	Withdrawn	
Time	8:12 PM		8:19 PM	8:21 PM		
Motion Detail	Untill the January 8, 2024 Planning Commission Meeting.		With a recommendation of approval.	Untill the January 8, 2024 Planning Commission Meeting.		
Public Comment	**0**		**0**	**0**		

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024

SUBJECT: **ADM-2023-0047: Administrative Item: (S. OF S. LEFLAR WAY/PIGSKIN PARK, 569):** Submitted by CRAFTON TULL for property located S. OF S. LEFLAR WAY. The property is split-zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE and CS, COMMUNITY SERVICES and contains approximately 43.55 acres. The request is to extend a previously approved conditional use permit.

RECOMMENDATION:
Staff recommends approval of **ADM-2023-0047**, with conditions.

RECOMMENDED MOTION:
"I move to approve **ADM-2023-0047** *with conditions as recommended by staff."*

BACKGROUND:
The subject property is in southwest Fayetteville, roughly 650 feet south of the intersection of W. Martin Luther King Jr. Boulevard and S. Leflar Way. The site is at the southern terminus of S. Leflar Way, totals roughly 43.55 acres, and is entirely undeveloped. The Farmington Branch, which is in the Illinois River watershed, bisects the easternmost portion of the site and there are steep grades south and west of the stream. A FEMA designated Floodplain Zone A associated with the stream encumbers roughly 7.5 acres of the site. The approximately 43.55-acre property is undeveloped and almost entirely covered in tree canopy with approximately four acres near the south property line falling within the Hillside Hilltop Overlay District.

On January 10, 2022, the Planning Commission approved a conditional use permit (CUP-2021-000051) allowing the property to be used as an RV park in an RSF-4 zoned property. RV parks are categorized under Use Unit 2, City-Wide Uses by Conditional Use Permit. At that time the park contained 172 parking stalls with access to water and sanitary sewer service, greenspaces, pavilion restrooms, a security kiosk and two security gates. On October 10, 2022, the applicant submitted a request to amend the conditional use permit and extend its approval (ADM-2022-0052). The change added more amenities for users of the RV park including an outdoor pool, sports courts, playground, and parking lot with 26 spaces, as well as an emergency access drive connecting to S. Finger Road. Approval of the conditional use permit was extended through January 10, 2024, and the applicant is seeking one additional extension of the conditional use permit with this request. The associated large-scale development (LSD-2022-0031) was approved on February 27, 2023, and is still within the timeframe for an administrative renewal. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped/Lowe's	R-A, Residential Agricultural/RMF-24, Residential Multi-family, 24 Units per Acre/CPZD, Commercial Planned Zoning District
South	Undeveloped/Conservation Easement	R-A, Residential Agricultural
West	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
East	Undeveloped/Single-family Residential	R-A, Residential Agricultural/RSF-4, Residential Single-family, 4 Units per Acre

Proposal: Under 166.20, the applicant requests an extension from the Planning Commission for LSD-2022-0031, a Large-Scale Development plan with 165 RV stalls, community pool, sports courts, playground, and pavilion. The site will have an emergency entrance from S. Leflar Way, crossing the Farmington Branch. The applicant submitted a request letter to the Planning Division on November 13, 2023, prior to the elapse of the project extension approval.

DISCUSSION:
Staff recommends approval of the applicant's extension request. Unified Development Code section 166.20(B)(4) indicates that an additional one-year extension can be granted by the Planning Commission subject to the applicant providing good cause. Extensions beyond three (3) years from the original date of approval shall not be permitted. No requested modifications have been made by the applicant in association with this request. The applicant submitted a grading permit in May 2023 which is close to being issued. Building permits and an easement plat have not yet been submitted for staff review.

Public Comment: Staff has received no public comment on the proposed request.

RECOMMENDATION: Staff recommends approval of ADM-2023-0047, subject to the following conditions:

Conditions of Approval:

1. **Approval of the subject amendment shall extend the approval of the associated conditional use permit (CUP-2021-000051) for an additional year through January 10, 2025. No additional extensions shall be permitted.**

2. **All other conditions of the associated conditional use permit (CUP-2021-000051), associated modification (ADM-2022-0052), and large-scale development (LSD-2022-0031) not affected by this extension shall remain in effect;**

3. **Approval of this amendment does not constitute approval of the associated large scale development application and compliance with other ordinances that are not under review with the subject request; and**

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

PLANNING COMMISSION ACTION:	**Required**	**YES**		
Date: January 8, 2024	**❒ Tabled**	**❒ Approved**	**❒ Denied**	
Motion:				
Second:				
Vote:				

BUDGET/STAFF IMPACT:
None

Attachments:

- LSD-2022-0031 Conditions of Approval
- CUP-2021-0051 Conditions of Approval
- VAR-2022-0029 Conditions of Approval
- ADM-2022-0052 Conditions of Approval
- Applicant Request Letter
- Site Plan
- One Mile Map
- Close-up Map
- Current Land Use Map

RECOMMENDATION: Staff recommends approval of **LSD-2022-0031** subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends no right-of-way dedication;*

   Subdivision Committee recommended in favor of staff's recommendation.

2. **Planning Commission determination of street improvements.** *Staff recommends that the property's S. Finger Road frontage be improved with six feet of greenspace and a six-foot sidewalk at the back of the existing right-of-way;*

   Subdivision Committee recommended in favor of staff's recommendation.

3. This Large Scale Development is subject to the conditions of approval of CUP-2021-000051, VAR-2022-0029, and ADM-2022-0052, attached herein;

4. A copy of proposed covenants, if applicable, shall be submitted prior to grading permit approval;

5. Streetlights shall be installed in accordance with code at all street intersections and at intervals of no more than 300 feet. Streetlights must be purchased and/or installed at the time of grading permit;

6. The trash enclosure shall be constructed with material that is complimentary to, and compatible with, the proposed building;

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

Standard conditions of approval:

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

9. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks Electric, SWEPCO, and Cox Communications);

10. 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;

11. 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;

12. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;

13. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements;

14. All exterior 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;

15. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation;

16. Large scale development shall be valid for one calendar year;

17. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit. The coordinator has noted that a separate street name is required;

18. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and

19. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits;
    b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;

c. Exterior lighting package must be provided to the Planning Division;
d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
e. Project Disk with all final revisions; and
f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

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

Date: February 27, 2023 ❒ **Tabled** ☒ **Approved** ❒ **Denied**

Motion: Winston

Second: Sparkman With conditions, as recommended.

Vote: 8-0-0

CUP-2021-000051 Conditions of Approval:

1. Planning Commission determination of compatibility with adjacent properties, *Staff finds the reduced footprint of the proposed campground facility to be compatible with the surrounding area;*

2. A ~~traffic study and~~ copy of any proposed covenants shall be submitted with the applicable development application(s) for the site.

3. Access easements shall be platted over S. Leflar Way to ensure that cross access will be available for use of future developments along Martin Luther King Jr. Boulevard.

4. This conditional use permit is limited to a campground for a maximum of 172 recreational vehicles and associated access roads, accessory buildings, and amenities as described in the applicant's submittal materials.

5. The site shall be developed in a manner generally consistent with the attached site plan, after entitlement review and approval as required by UDC Chapter 166. Approval of this Conditional Use Permit does not constitute approval of the submitted site plan or support for any future rezoning.

6. The campground use may only be expanded by amendment to this conditional use permit approval;

7. Solid Waste and Recycling Department and the City Planning Division shall have final approval regarding trash service type and placement;

8. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year; and

9. Exterior lighting package must be provided to the Planning Division prior to building permit approval. Common area lighting shall comply with UDC §176 Outdoor Lighting.

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

Date: January 10, 2022 ❒ **Tabled** ☒ **Approved** ❒ **Denied**

Motion: Winston

Second: Sharp

Amending condition #2 to remove the requirement for a traffic study to be supplied.

Vote: 5-3-0

VAR-2022-0029 Conditions of Approval:

1. Planning Commission determination of a variance to UDC §166.04(B)(3)(c) to allow the subject property to be subdivided into two lots without existing sanitary sewer infrastructure in place. *Staff is supportive of this variance based on the findings herein;*

2. A sanitary sewer main extension is required to service both Lot 3A and Lot 3B as depicted in LSP-2022-0023:
   a. The applicant shall obtain a minimum 20-foot off-site sewer easement for the future extension of the sewer line to service Lot 3A,
   b. The applicant shall dedicate a 20-foot sewer and utility easement along the western boundary of Lot 3A for a future sewer extension, and
   c. The future sewer extension will be at the expense of the developer and must extend into the parcel it is proposed to service.

3. The developer shall be responsible to analyze the downstream capacity of the sewer system at the time of development. If off-site upgrades are required, they shall be completed at the developer's expense; and

4. Approval of this item does not represent approval of any other zoning or development variances, nor does it represent development entitlement approval for any associated plans.

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

Date: June 27, 2022 ❒ **Tabled** ☒ **Approved** ❒ **Denied**

on consent

Motion: Brink

Second: Winston

Vote: 8-0-0

ADM-2022-0052 Conditions of Approval:

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

2. **Approval of the subject amendment shall extend the approval of the associated conditional use permit (CUP-2021-000051) for an additional year through January 10, 2024.**

3. **All other conditions of the associated conditional use permit (CUP-2021-000051) shall apply.**

4. **A view-obscuring fence shall be installed south of the emergency access drive and along the boundary of adjoining properties to prevent accidental trespass from RV park users.**

5. **The proposed parking lot is limited to the maximum number of spaces for a regional or community park as specified by UDC §172.05.**

6. ~~**The outdoor pool and dog park shall not be included with the approval of the amendment.**~~ **If the Planning Commission chooses to approve the pool and dog park, hours shall be limited from 8:00 AM to 8:00 PM.**

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

8. **All newly proposed exterior lights shall comply with the regulations in UDC §176 – Outdoor Lighting.**

9. **Approval of this amendment does not constitute approval of the associated large scale development application and compliance with other ordinances that are not under review with the subject request; and**

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

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

Date: October 10, 2022 ☐ **Tabled** ☒ **Approved** ☐ **Denied**

Motion: Winston

Second: McGetrick

Vote: 7-1-0

Amending condition #5 to allow 26 vehicle spaces;
Amending condition #6 to allow a dog park and swimming pool; to require the pavilion to be enclosed on its east side to assist in limiting noise trespass; to require the pool to be located on the west end of the site; and to require the pavilion to be located on the east end of the site.

Crafton Tull
architecture | engineering | surveying

901 N 47th Street, Suite 200
Rogers, AR 72756

479.636.4838 (ph)
479.631.6224 (fax)

November 13, 2023

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

RE: Conditional Use Permit Amendment for Razorback Park
CTA Job No. 21109400

Dear Planning Committee,

This letter is provided in accordance with the conditional use permit amendment process. The proposed property is in zone RSF-4 with an approved CUP and CUP amendment. The project will be located due south of S Leflar way, near the Lowe's off M.L.K. Jr. Blvd. The total area of the property is 53 acres with the proposed project site using approximately 44 acres of the parcel.

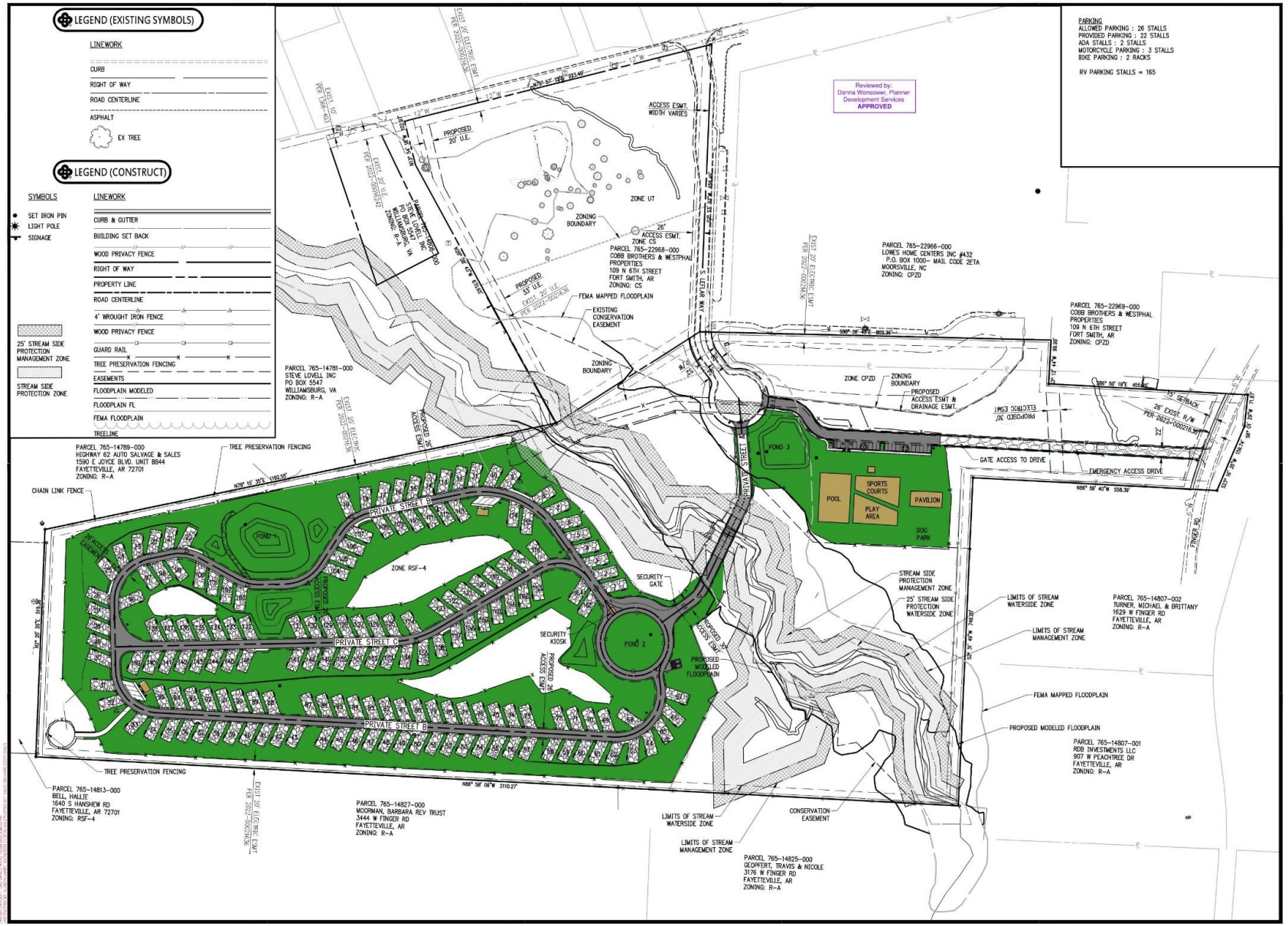
The proposed RV park was originally approved for a CUP that included 172 parking stalls and amenities including greenspace, pavilion, restrooms, and a security kiosk. On January 10, 2023, a CUP amendment for the project was approved (ADM-2022-0052). The amendment included additional amenities on the east side of the site: a pool area, sports courts, playground, and associated parking lot. At the request of staff, an emergency gravel access drive from Finger Road was also added to the scope of the project.

This request is for the extension of the CUP and CUP amendment for an additional year of approval. Because the project has recently been approved by City Staff for a grading permit (November 9, 2023) and has not yet received ADH approval, construction of the project has not been started. Therefore, the owner is requesting an extension of the CUP approval in order to stay compliant with the City code until the completion of the project. Per UDC 166.20(B)(4) an applicant may request the Planning Commission to extend the period of approval for one additional year if the plans and permits are substantially the same as those originally approved. In the case of Pigskin RV Park project, the plans are substantially the same as those submitted with the approved CUP amendment. The site layout, content, and design have not been changed substantially from the approval.

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

Sincerely,

Taylor Lindley, P.E.



901 N. 47th St., Suite 400
Rogers, Arkansas 72756
Crafton Tull
architecture | engineering | surveying
479.636.48381 479.631.6224
www.craftontull.com

CERTIFICATE OF AUTHORIZATION

REVIEWED FOR MINIMUM PROFESSIONAL STANDARDS OF FAYETTEVILLE ENGINEERING MANUAL
Taylor A. Lindsey, PE
11/09/2023
CITY OF FAYETTEVILLE

CERTIFICATE OF AUTHORIZATION
CRAFTON TULL & ASSOCIATES, INC.
No. 109

GRAPHIC SCALE IN FEET
100' 0 100'

PIGSKIN RV PARK

FAYETTEVILLE, AR

Key Plan

No.	Description	Date

This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the property of Crafton, Tull & Associates, Inc., and is not to be used, in whole or in part, for any other project, without the written authorization of Crafton, Tull & Associates, Inc.

PROJECT NO: 2110-400
ISSUE DATE: 07-12-2023
CONTACT: T. LINDLEY
DRAWN BY:
SCALE: MMO=0.0111"Y

STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 19309
TAYLOR A. LINDSEY

ISSUED FOR CONSTRUCTION

10.25.2023

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OVERALL SITE PLAN (C)

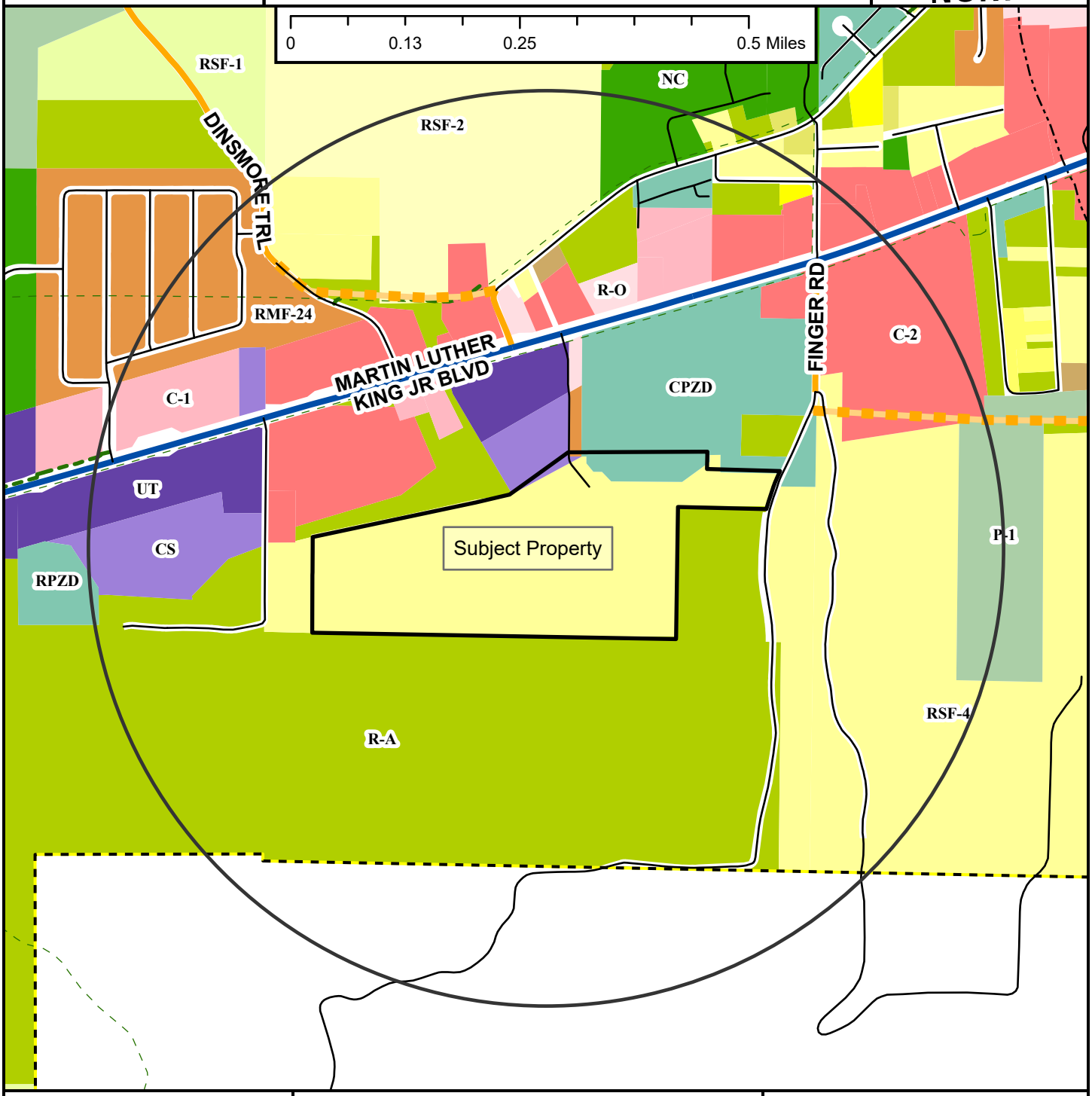
C-101

ADM-2023-0047

One Mile View

South of S. Leflar Way

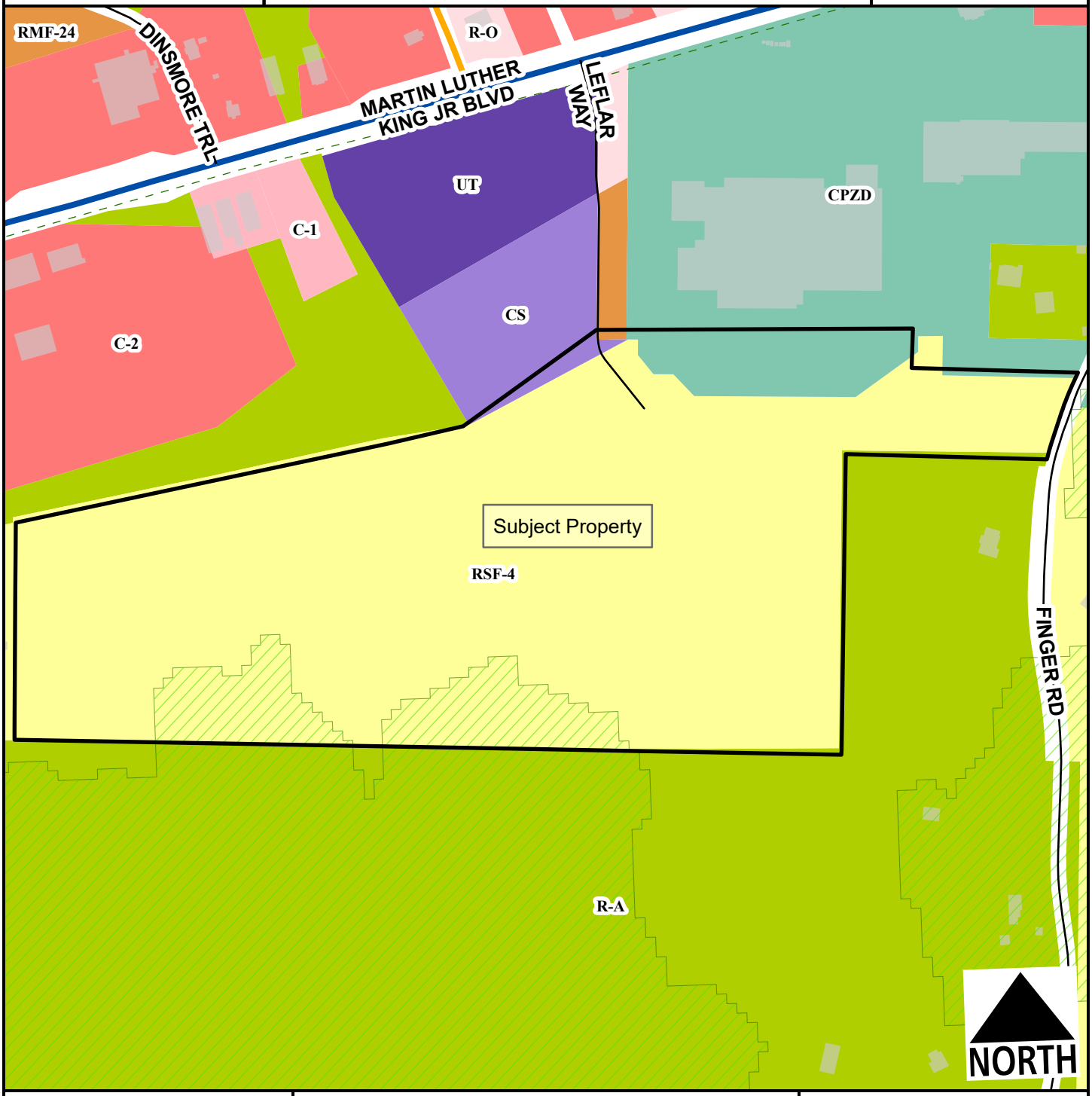
NORTH



ADM-2023-0047

Close Up View

South of S. Leflar Way



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

Feet

0 135 270 540 810 1,080

1:4,400

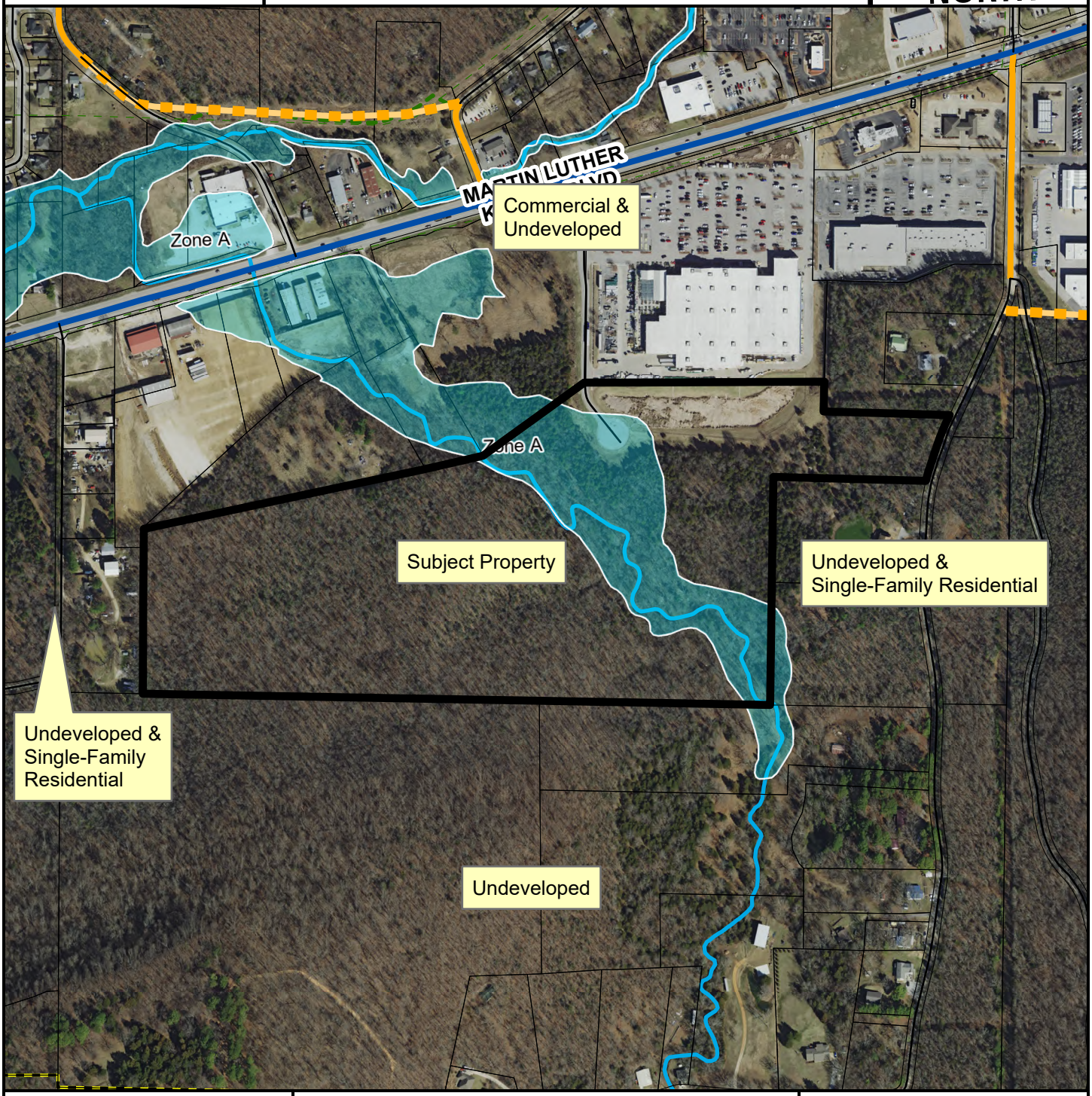
- Residential-Agricultural
- RSF-4
- RMF-24
- Residential-Office
- C-1
- C-2
- Urban Thoroughfare
- Community Services
- Commercial, Industrial, Residential

ADM-2023-0047

Current Land Use

South of S. Leflar Way

NORTH



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

Feet

0 175 350 700 1,050 1,400

1:5,800

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **ADM-2023-0050: Administrative Item (5624 W. WEDINGTON DR./MAVEN RAMSEY VILLAGE PROPERTIES LLC, 397):** Submitted by ENGINEERING SERVICES, INC. for properties located at 5624 W. WEDINGTON DR. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE contains approximately 4.93 acres. The request is to extend a previously approved large-scale development.

RECOMMENDATION:
Staff recommends approval of **ADM-2023-0050**.

RECOMMENDED MOTION:
*"I move to approve **ADM-2023-0050** with conditions as recommended by staff."*

BACKGROUND:
The subject property in west Fayetteville, roughly 500 feet west of the intersection of N. 54th Avenue and W. Wedington Drive. It is zoned RI-12, Residential Intermediate, 12 Units per Acre and contains approximately 4.94 acres. The Heritage Village subdivision borders the property to the north and west. The project (LSD-2021-000041) was originally approved on December 13, 2021. Subsequently, an administrative extension was applied for and approved, but was set to expire on December 13, 2023. Infrastructure improvements have begun under GRD-2022-0055, and building permits have been applied for and are currently under review but have not yet been issued. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
South	Single-Family Residential	R-A, Residential Agricultural / RSF-4, Residential Single-family, 4 Units per Acre
East	Single-Family Residential	R-A, Residential Agricultural / RI-12, Residential Intermediate, 12 Units per Acre
West	Single-Family Residential	RI-12, Residential Intermediate, 12 Units per Acre

Request: The applicant is requesting a one-year extension to their large scale development approval which expired on December 13, 2023. The applicant submitted a letter requesting the extension on November 30, 2023. Staff received notification from the applicant to extend their large scale development 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 December 13, 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 June 2022 and secured a permit after four rounds of review in September 2023. Applications for building permits were submitted in November 2023. Staff recommends approval of this extension request to allow the project to move forward to completion.

RECOMMENDATION: Staff recommends approval of **ADM-2023-0050** with the following conditions:

Conditions of Approval:

1. A one-year extension for LSD-2021-000041 will expire on December 13, 2024;

2. All other conditions of the associated large-scale development (LSD-2021-000041) not affected by this extension shall remain in effect; and

3. Approval of this large-scale development extension does not constitute approval of associated permits or entitlements not fully reviewed at this time.

PLANNING COMMISSION ACTION: Required YES

Date: January 8, 2024 ❒ **Tabled** ❒ **Approved** ❒ **Denied**

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
  - §166.20 Expiration of Approved Plans and Permits
- LSD-2021-000041 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)

RECOMMENDATION: Staff recommends approval of **LSD-2021-000041**, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of street improvements.** *Staff recommends the development construct the property's W. Wedington Drive frontage to the Master Street Plan Standard including a 10 foot-wide multi-use trail, 8-foot greenspace, curb and gutter, street lights and street trees. Staff does not recommend additional improvements to the property's W. Legacy Street frontage.*

Subdivision Committee recommended in favor of the recommended street improvements.

2. Planning Commission determination of a variance of Fayetteville Unified Development Code §166.08(F) – Access Management to grant relief from the curb cut separation distance requirement for two-, three-, and multi-family developments along W. Wedington Drive and W. Legacy Street, a Regional Link Street and Residential Link Street, respectively. *Staff recommends in favor of the requested variance for the reasons outlined above*;

Subdivision Committee recommended in favor of the variance

3. Planning Commission determination of money in-lieu of parkland dedication for 55 residential units. The actual amount of acreage and/or fees will be determined by the actual number of units and the park land formula at Planning Commission approval of this project. Park land fees must be paid prior to the issuance of building permits.

4. All comments from Planning staff must be addressed including:
    a. A staff determination on the build-to zone calculation is forthcoming;
    b. Update automobile parking calculation to reflect the accurate number of bike racks provided; and
    c. Provide a materials sample to confirm compliance with UDC §166.23.

5. Tree Preservation Easement must be dedicated per Chapter 167.04(L)(1) and clearly depicted on the Easement Plat for Large Scale Developments

6. All remaining comments from other City departments and divisions, including Engineering, Urban Forestry, and 9/11 Addressing, shall be addressed.

Standard conditions of approval:

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

8. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks Electric, SWEPCO, and Cox Communications);

9. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;

10. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;

11. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;

12. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements;

13. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;

14. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation;

15. Large scale development shall be valid for one calendar year;

16. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit. The coordinator has noted that a separate street name is required;

17. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and

18. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits;
    b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
    c. Exterior lighting package must be provided to the Planning Division;
    d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
    e. Project Disk with all final revisions; and
    f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

ENGINEERING SERVICES INC.
1207 S. Old Missouri Rd. • P.O. Box 282 • Springdale, Arkansas 72765-0282 Ph: 479-751-8733 • Fax: 479-751-8746

November 30, 2023

Ms. Jessie Masters
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

RE: Extension Request – Large Scale Development
Ramsey Village
LSD – 2021-000041, 5624 W Wedington Dr

Dear Ms. Masters:

Please let this letter serve as a narrative for an administrative extension request for the previously approved large-scale development for Ramsey Village LSD, located in West Fayetteville off W Wedington Dr. This project was originally approved on Dec 13, 2021. Construction of the infrastructure has begun with GRD-2022-0055. Building Permits have been applied for but have not been approved to date. This project has received a previous LSD extension set to expire on December 13, 2023. Because of this, we request an extension of the large-scale development for another 12 months to complete the work.

Please let me know if I can answer any questions.

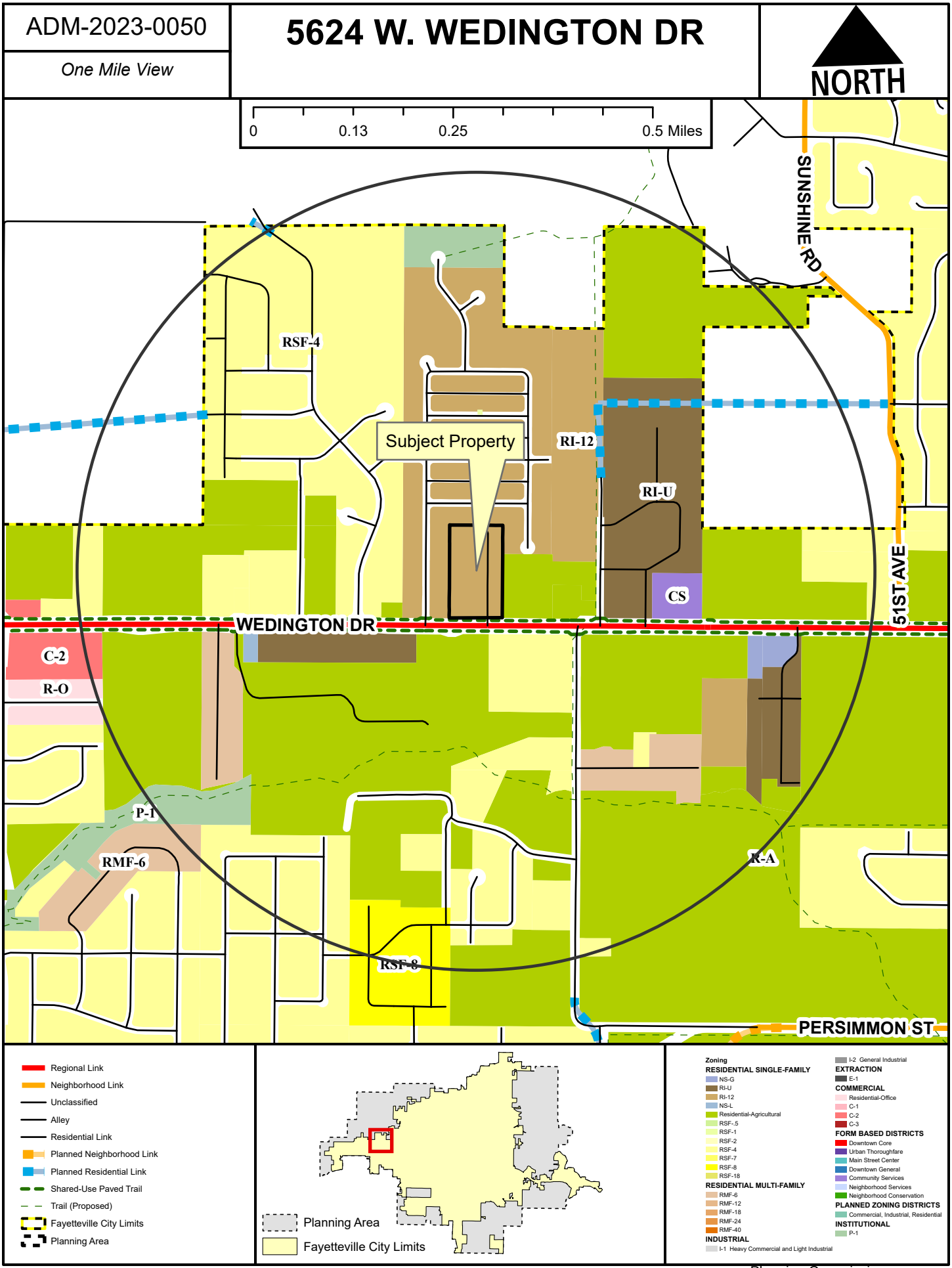
Sincerely,

Jason Appel, P.E.
Secretary/Treasurer

ADM-2023-0050

One Mile View

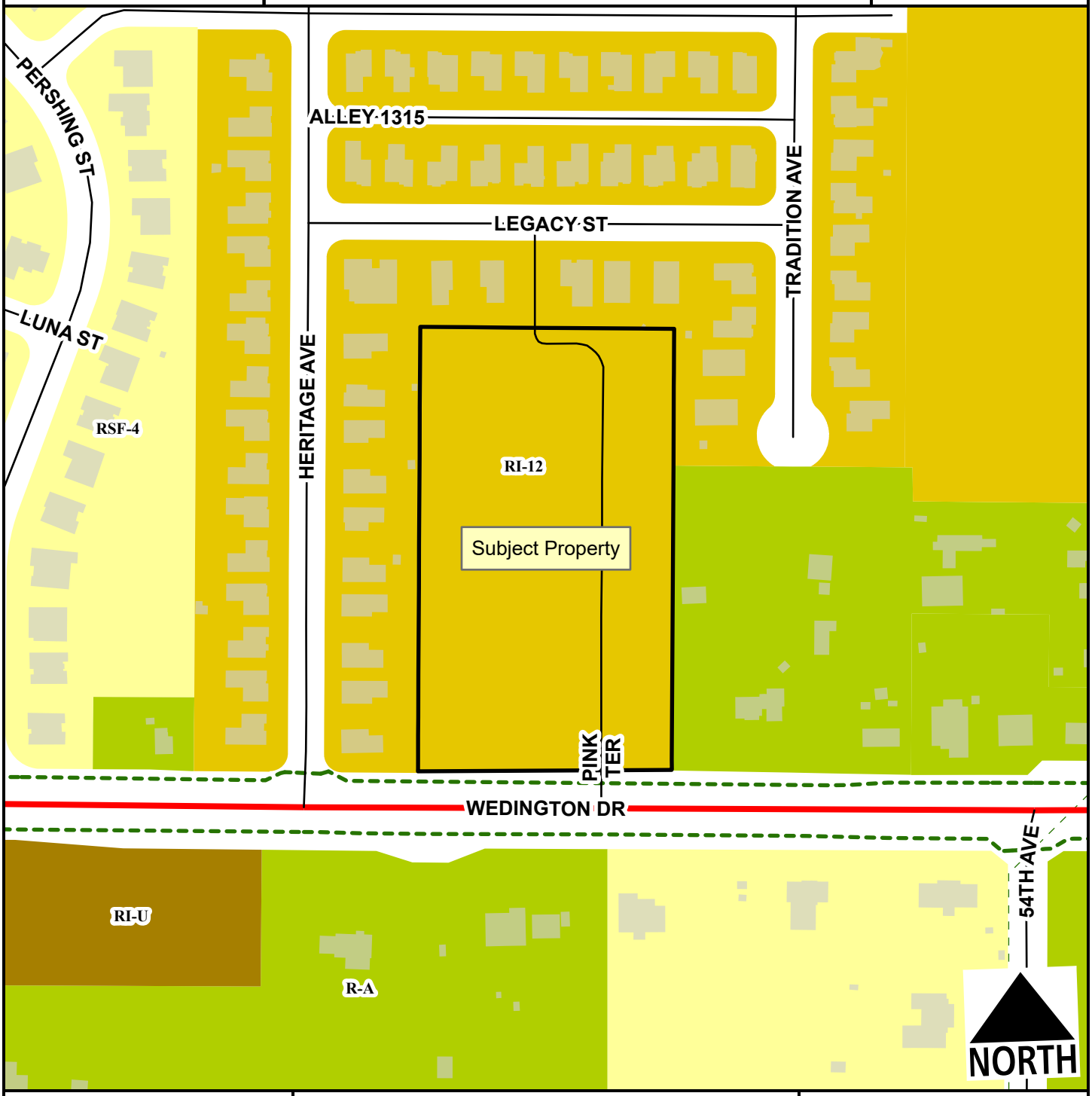
5624 W. WEDINGTON DR



ADM-2023-0050

Close Up View

5624 W. WEDINGTON DR



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

Feet

0 75 150 300 450 600

1:2,400

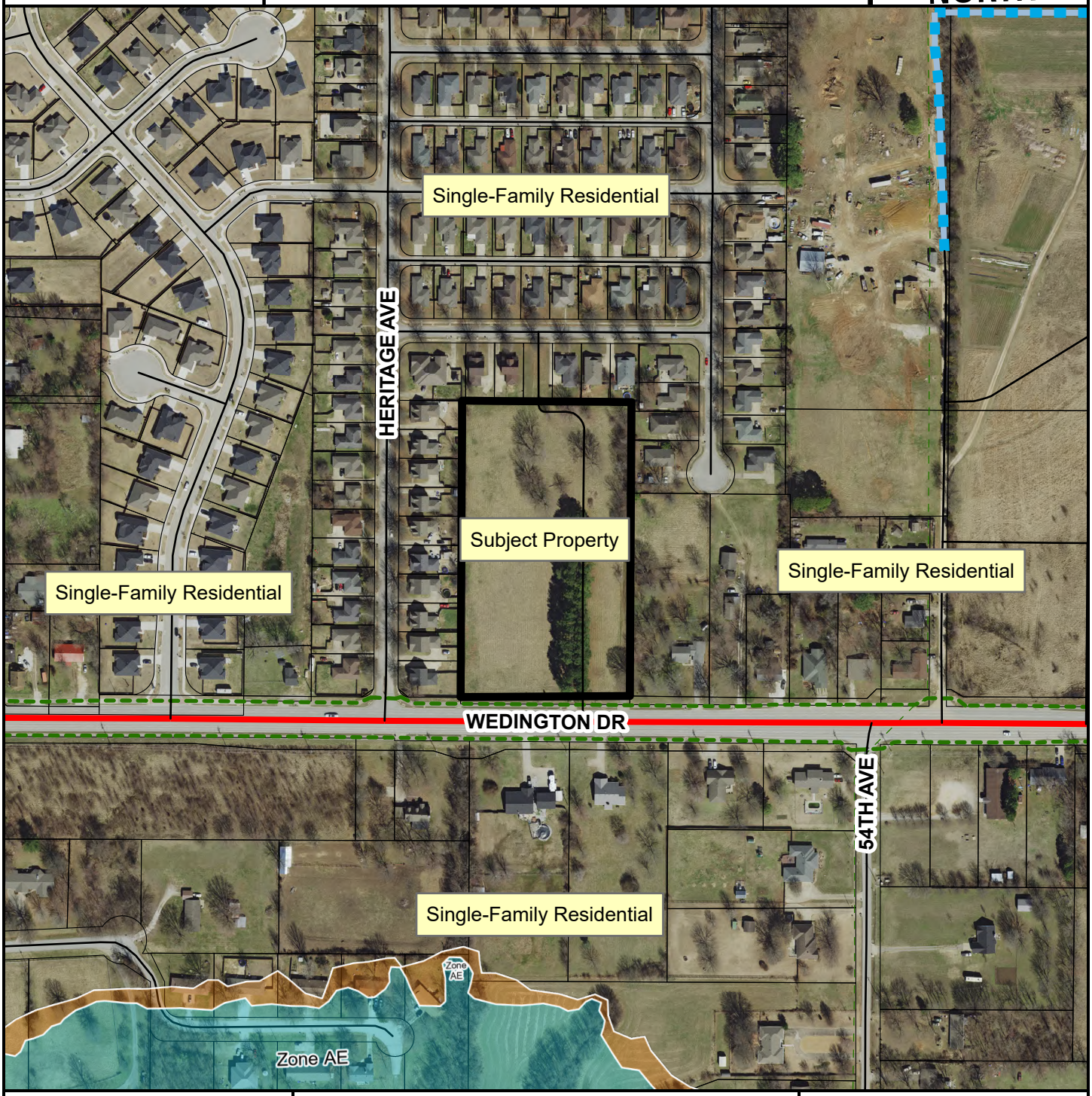
Residential-Agricultural
RSF-4
RI-12
RI-U

ADM-2023-0050

Current Land Use

5624 W. WEDINGTON DR

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner
Josh Boccaccio, Engineering Development Review Manager

MEETING DATE: January 8, 2024

SUBJECT: **VAR-2023-0053: Planning Commission Variance (NORTH OF 3420 W. MOUNT COMFORT RD/THE GODDARD SCHOOL, 323):** Submitted by BATES AND ASSOCIATES for property located NORTH OF 3420 W. MOUNT COMFORT RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.23 acres. The request is for a variance from required infrastructure improvements.

RECOMMENDATION:
Staff recommends approval of **VAR-2023-0053** based on the findings herein.

RECOMMENDED MOTION:
*"I move to approve **VAR-2023-0053**, determining:*

- *In favor of a variance to UDC §166.04(B)(3)(c) and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located in northwest Fayetteville, one lot north of Mount Comfort Road on the west side of Salem Road. The property contains one parcel totaling 3.23 acres which is currently undeveloped with the exception of two small outbuildings. A lot split, which would subdivide the property into two lots containing 1.60 and 1.63 acres, is currently under review by city staff (LSP-2023-0060). A request to rezone the property from R-A, Residential-Agricultural, to CS, Community Services, was recently approved by the City Council though it has not yet taken effect. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family – Four Units per Acre
South	Veterinarian Preschool & Child Care Center	CS, Community Services
East	Single-Family Residential	R-A, Residential-Agricultural RSF-4, Residential Single-Family – Four Units per Acre
West	Undeveloped	R-A, Residential-Agricultural

Request: The applicant is requesting a variance from Unified Development Code §166.04(B)(3)(c) which states that any lot created as part of a lot split shall have access to public water and sewer. Lot splits that result in the creation of a nonconforming situation, such as cutting off a lot from public water or sewer, are not allowed to be filed of record until an easement is dedicated, infrastructure is constructed, and/or a variance or waiver is granted by the Planning Commission. In this case, the applicant is requesting a variance to subdivide the subject property into two lots, one of which would not have direct access to public sewer.

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

DISCUSSION:
The subject property currently has access to sewer on Salem Road from a small strip of land that jogs around the north side of a separate parcel, which is surrounded on three sides by the subject property. The proposed lot split would subdivide the subject property into two lots containing roughly 1.60 and 1.63 acres. Given the subject property's limited access to sewer and the proposed lot split, one of the resulting lots would not have direct access to public sewer. City staff is supportive of the applicant's request for a variance to subdivide the subject property and create a lot that does not currently have access to sewer, with conditions as outlined below. Staff recommends that a public sewer main extension be installed at the time of development rather than at the time of lot split.

RECOMMENDATION: Staff recommends approval of VAR-2023-0053 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to UDC §166.04(B)(3)(c) which prohibits the creation of new lots within city limits without access to public sewer.** *Staff is supportive of this variance based on the findings herein;*

2. A public sewer main extension shall be required for any development requiring sewer service. A note reflecting this condition shall be added to the final lot split plat;

3. The City shall not be responsible for costs associated with the sewer main extension unless a cost share is approved by City Council; and

4. The main extension must meet the City of Fayetteville's Standard Specifications for the Design and Construction of Water Lines and Sewer Lines.

Planning Commission Action:	**❒ Approved**	**❒ Tabled**	**❒ Denied**
Meeting Date: January 8, 2024			
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:
- UDC §166.04 – Required Infrastructure Improvements – Development in City Limits
- City Engineering Memo
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.04 Required Infrastructure Improvements — Development in City Limits

...

(B) *Minimum Improvements by Application Type.* The property owner/developer shall be responsible for constructing the following minimum improvements.

...

(3) *Lot Split, Building Permit Requiring Grading Review.*

(a) *Dedication of Right-of-Way.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Subdivision Committee or Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.

(i) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Fayetteville Planning Commission/Subdivision Committee.

(b) *Monuments and Lot Stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes marking the corners of a parcel to be set in accordance with Section 3.2, General Procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.

(c) *Water, Sewer, or Street Frontage.* Any lot that is created shall have adequate street frontage or street access that meets the minimum requirements of the zoning code, and access to public water and sewer as required by city and state code. If a lot split would create or exacerbate a nonconforming situation (such as cutting off a lot from public water, sewer, street frontage, or street access), the lot split may not be filed of record until the required easement is dedicated and/or the infrastructure is first constructed to city specifications, or a variance or waiver is granted by the Planning Commission.

(d) *Parkland Dedication.* Parks fees shall be assessed for each new residential unit that is constructed on the additional lot(s) in accordance with the parkland dedication requirements outlined in Fayetteville Unified Development Code Chapter 166. Said fees shall be paid prior to issuance of a building permit for construction on the new lot.

...

CITY OF FAYETTEVILLE ARKANSAS

STAFF MEMO

TO: Gretchen Harrison, Senior Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: December 21, 2023

SUBJECT: **Subdivision Committee Engineering Comments for VAR 2023-0053 Required Infrastructure Improvements**

Recommendation:

Engineering Staff recommends approval of **VAR-2023-0053**, with conditions.

Background:

The proposed lot split will create a lot that does not have direct access to public sewer, therefore a public main extension would be required to provide sewer access for any future development.

Discussion:

The lot proposed to be split currently has access to sewer from a strip of land that goes around the north side of a separate parcel, which is surrounded on 3 sides by the subject property. The proposed lot split will prevent direct access to sewer for the new lot. If the new lot will remain its own lot, a public sewer extension will be required for any new development.

Recommendation:

Engineering Staff recommends approval of **VAR-2023-0053**, with the following conditions:

- A public sewer main extension shall be required for any development requiring sewer service.
- The city shall not be responsible for costs associated with the sewer main extension.
- The main extension must meet the City of Fayetteville's Standard Specifications for the Design and Construction of Water Lines and Sewer Lines.

BATES
Engineers · Surveyors
7230 S Pleasant Ridge Dr / Fayetteville, AR 72704
PH: (479) 442-9350 / batesnwa.com

December 11, 2023

Planning Commission Chair
City of Fayetteville
125 West Mountain Street
Fayetteville, AR 72701

RE: Goddard School

To whom it may concern,

We would like to request a variance from 166.04(B)(3)(c), Required Infrastructure Improvements.

Currently, large scale development plans are being prepared and will be submitted at the first of the year. As a part of the large scale, a lot split is proposed to split off the lot for the new school building. The new lot created will not have access to sewer. The plan is to extend the sewer main to the site at the same time as the construction of the building. That way there will be a contractor already on site and can all mobilize at the same time.

So the request is to delay construction of the sewer extension and allow it to be built along with the large scale development and not with the lot split.

Thank you for your consideration in the matter and if you have any questions or require additional information, please feel free to contact me at your convenience.

Sincerely

Bates & Associates, Inc.

Geoffrey Bates

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

TRACT SPLIT

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

DATE DERRICK THOMAS - AR PLS #1642

PARENT TRACT
PARCEL #765-13603-000
3.23 ACRES +/-

SURVEY DESCRIPTIONS:

PARENT TRACT:
A PART OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING REBAR WHICH IS S87°19'07"E 1151.42' AND N02°35'51"E 332.22' FROM AN EXISTING ALUMINUM MONUMENT MARKING THE SOUTHWEST CORNER OF SAID FRACTIONAL NORTHWEST QUARTER OF SECTION 6 AND RUNNING THENCE N87°23'34"W 164.95' TO AN EXISTING REBAR, THENCE N02°35'49"E 84.99' TO AN EXISTING REBAR, THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1392.19' FOR A CHORD BEARING AND DISTANCE OF N19°24'43"E 428.29', THENCE S87°23'17"E 236.44', THENCE S02°36'43"W 10.00', THENCE N87°23'17"W 86.50', THENCE S02°36'43"W 85.00', THENCE S87°23'17"E 86.52', THENCE S02°36'51"W 399.97', THENCE N87°23'34"W 195.27' TO THE POINT OF BEGINNING, CONTAINING 3.23 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN NORTH SALEM ROAD MASTER STREET PLAN RIGHT-OF-WAY ON THE EAST SIDE OF HEREIN DESCRIBED TRACT AND ALSO SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

TRACT 1:
A PART OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING FROM AN EXISTING ALUMINUM MONUMENT MARKING THE SOUTHWEST CORNER OF SAID FRACTIONAL NORTHWEST QUARTER OF SECTION 6 AND RUNNING THENCE S87°19'07"E 1151.42', THENCE N02°35'51"E 332.22' TO AN EXISTING REBAR, THENCE N87°23'34"W 164.95' TO AN EXISTING REBAR, THENCE N02°35'49"E 84.99' TO AN EXISTING REBAR, THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1392.19' FOR A CHORD BEARING AND DISTANCE OF N25°36'36"E 128.74' TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1392.19' FOR A CHORD BEARING AND DISTANCE OF N16°45'42"E 300.62', THENCE S87°23'17"E 236.44', THENCE S02°36'43"W 10.00', THENCE N87°23'17"W 86.50', THENCE S02°36'43"W 85.00', THENCE S87°23'17"E 86.52', THENCE S02°36'51"W 191.03', THENCE N88°23'57"W 310.00' TO THE POINT OF BEGINNING, CONTAINING 1.60 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN NORTH SALEM ROAD MASTER STREET PLAN RIGHT-OF-WAY ON THE EAST SIDE OF HEREIN DESCRIBED TRACT AND ALSO SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

TRACT 2:
A PART OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING REBAR WHICH IS S87°19'07"E 1151.42' AND N02°35'51"E 332.22' FROM THE SOUTHWEST CORNER OF SAID FRACTIONAL NORTHWEST QUARTER OF SECTION 6 AND RUNNING THENCE N87°23'34"W 164.95' TO AN EXISTING REBAR, THENCE N02°35'49"E 84.99' TO AN EXISTING REBAR, THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1392.19' FOR A CHORD BEARING AND DISTANCE OF N25°36'36"E 128.74', THENCE S87°23'17"E 195.27' TO THE POINT OF BEGINNING, CONTAINING 1.63 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN NORTH SALEM ROAD MASTER STREET PLAN RIGHT-OF-WAY ON THE EAST SIDE OF HEREIN DESCRIBED TRACT AND ALSO SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PROPERTY ZONED:
R-A (EXISTING)
CS (PROPOSED FOR TRACT 1)
P-1 (PROPOSED FOR TRACT 2)

BUILDING SETBACKS:

PER R-A ZONING:

FRONT	35ft
SIDE	20ft
REAR	35ft

PER CS ZONING:

FRONT	10ft-25ft (BUILD-TO-ZONE)
SIDE & REAR	00FT
SIDE & REAR	15FT (WHEN CONTIGUOUS TO A SINGLE FAMILY RESIDENTIAL DISTRICT)

PER P-1 ZONING:

FRONT	30ft
FRONT	50ft (IF PARKING IS ALLOWED BETWEEN THE R/W & THE BUILDING)
SIDE	20ft
SIDE	25ft (WHEN CONTIGUOUS TO A RESIDENTIAL DISTRICT)
REAR	25ft
REAR	10ft (FROM THE C/L OF PUBLIC ALLEY)

0' 60' 120' 180'
GRAPHIC SCALE (IN FEET)
1 Inch = 60ft.

STATE RECORDING NUMBER:
500-16N-30W-0-06-430-72-1642

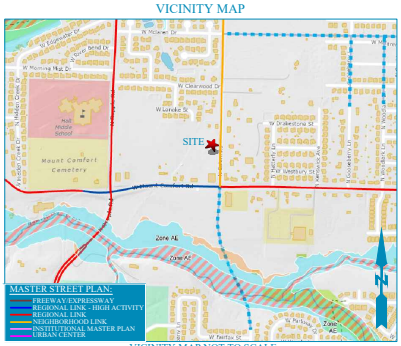
I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 28TH DAY OF SEPTEMBER, 2023.

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
NO. 1642
SIGNATURE
DERRICK L. THOMAS

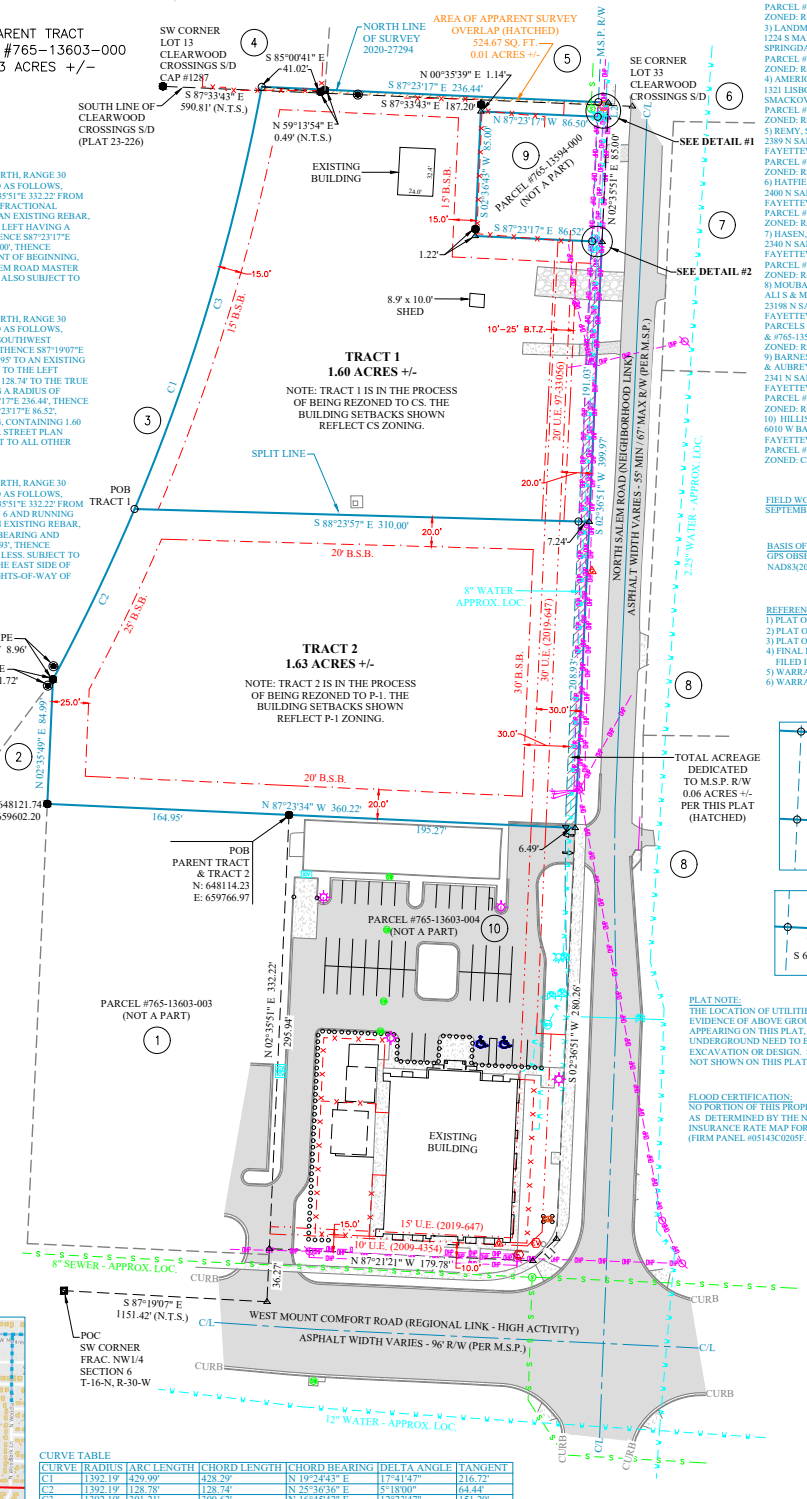
DRAFT

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

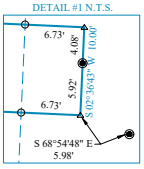
VICINITY MAP



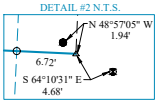
VICINITY MAP NOT TO SCALE



DETAIL #1 N.T.S.



DETAIL #2 N.T.S.



CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	1392.19'	429.99'	428.29'	N 19°24'43" E	17°41'47"	216.72'
C2	1392.19'	128.78'	128.74'	N 25°36'36" E	5°18'00"	64.44'
C3	1392.19'	301.21'	300.62'	N 16°45'42" E	12°23'47"	151.20'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 46°52'50" W	22.07'
L2	S 02°36'43" W	10.00'

ADJACENT LAND OWNERS

1) 3240WMCR LLC
230 S WALKER RD
FAYETTEVILLE, AR 72701
PARCEL #765-13603-003
ZONED: CS & R-A
2) WEST, LARRY D
3504 W MT COMFORT RD
FAYETTEVILLE, AR 72704
PARCEL #765-13602-000
ZONED: R-A
3) LANDMARC CUSTOM HOMES LLC
1224 S MAESTRI RD
SPRINGDALE, AR 72762
PARCEL #765-13589-000
ZONED: R-A
4) AMERICAN SERVICE & SUPPLY COMPANY
1321 LISBON RD
SMACKOVER, AR 71762
PARCEL #765-25478-000
ZONED: RSF-4
5) REMY, SUZANNE
2389 N SALEM RD
FAYETTEVILLE, AR 72704
PARCEL #765-25493-000
ZONED: RSF-4
6) HATFIELD, MEGAN LAURA
2400 N SALEM RD
FAYETTEVILLE, AR 72704
PARCEL #765-13587-000
ZONED: R-A
7) HASEN, GINER L REVOCABLE TRUST
2340 N SALEM
FAYETTEVILLE, AR 72704
PARCEL #765-13597-000
ZONED: R-A
8) MOUBARAK FAMILY REVOCABLE TRUST
ALI S & MELODY MOUBARAK
23198 N SALEM RD
FAYETTEVILLE, AR 72704
PARCELS #765-13586-000
& #765-13586-002
ZONED: RSF-4
9) BARNES, ISAAC DAVID
& AUBREY DEENEEN
2341 N SALEM RD
FAYETTEVILLE, AR 72704
PARCEL #765-13594-000
ZONED: R-A
10) HILLIS HOLDINGS LLC
6010 W BANNISTER DR
FAYETTEVILLE, AR 72704
PARCEL #765-13603-004
ZONED: CS & R-A

FIELD WORK:
SEPTEMBER 15, 27 & 28, 2023

BASIS OF BEARING:
GPS OBSERVATION - AR NORTH ZONE
NAD83(2011) HORIZONTAL DATUM

REFERENCE DOCUMENTS:
1) PLAT OF SURVEY FILED IN BOOK 2021 AT PAGE 14557
2) PLAT OF SURVEY FILED IN BOOK 2020 AT PAGE 27294
3) PLAT OF SURVEY FILED IN BOOK 2019 AT PAGE 647
4) FINAL PLAT OF CLEARWOOD CROSSINGS SUBDIVISION FILED IN BOOK 23 AT PAGE 226
5) WARRANTY DEED FILED IN BOOK 2022 AT PAGE 23528
6) WARRANTY DEED FILED IN BOOK 2022 AT PAGE 18102

PLAT NOTE:
THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES. ALL UTILITY LINES APPEARING ON THIS PLAT, AS WELL AS THOSE THAT MAY EXIST UNDERGROUND NEED TO BE VERIFIED PRIOR TO DOING ANY TYPE OF EXCAVATION OR DESIGN. SOME UTILITY LINES MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS PLAT.

FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS. (FIRM PANEL #05143C0205F. DATED 05/ 16/ 2008)

CERTIFICATE OF AUTHORIZATION
BATES & ASSOCIATES, INC.
#335
ARKANSAS ENGINEER

CERTIFICATE OF OWNERSHIP & DEDICATION:
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO WASHINGTON COUNTY AND TO THE PUBLIC UTILITY COMPANIES (INCLUDING ANY CABLE TELEVISION COMPANY HOLDING A FRANCHISE GRANTED BY WASHINGTON COUNTY) THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

DATE DARREL W. WIESE

PROPERTY OWNER:
WIESE, DARREL W
PO BOX 1955
JAY, OK 74346

PLAT PAGE INDEX:
323

DRAWING #23-261

FOR USE AND BENEFIT OF:
GODDARD SCHOOL
& DARREL WIESE
ADDRESS:
NORTH SALEM ROAD
FAYETTEVILLE, ARKANSAS

DATE: 11/01/23	SCALE: 1"=60'
LOCATION:	SURVEYED: DRAFTED:
SECTION: 06	JRICH AH
TOWNSHIP: 16 NORTH	DRAFT DATE:
RANGE: 30 WEST	REVIEWED: DT
	COA #1335

BATES
Engineers • Surveyors
7230 S. Pleasant Ridge Dr. • Fayetteville, Arkansas 72704 • 479.442.8350

BATES & ASSOCIATES, INC. Copyright 2023
This survey was conducted for the person or persons whose name(s) appear on this plat. This plat is protected by copyright. No one including the person(s) named may reproduce this plat without the express written consent of Bates & Associates, Inc. Surveyor has made no independent investigation for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other fact which a complete and accurate title search may disclose. Any flood statement provided on this plat is for information only and Bates & Associates, Inc. assumes no liability for the correctness of the hereon cited maps, furthermore the above statement does not represent the opinion of Bates & Associates, Inc. of the probability of flooding.

Location Map:
R-30-W
T-16-N
06

LEGEND:
THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.
FOUND 5/8" REBAR
FOUND ALUM. MONUMENT
FOUND 1/2" REBAR
FOUND PIPE
SET 5/8" REBAR/CAP
COMPUTED POINT
SET P/K NAIL
ELECTRIC PEDESTAL
TELEPHONE PEDESTAL
SANITARY SEWER MH
STORM SEWER MH
WATER METER
FIRE HYDRANT
WATER VALVE
FIRE DEPT. CONNECTION
IRRIG. CONT. VALVE
GAS METER
ELECTRIC VAULT
GAS MAIN
POWER POLE
GUY ANCHOR
LIGHT
BOLLARD
BOUNDARY LINE (MEASURED)
BOUNDARY LINE (EXISTING)
FORTY LINE/ TIE LINE
CENTERLINE OF ROAD
RIGHT-OF-WAY
WATER LINE
SEWER LINE
OVERHEAD POWER LINE
FENCE
UTILITY EASEMENT
BUILDING SETBACK

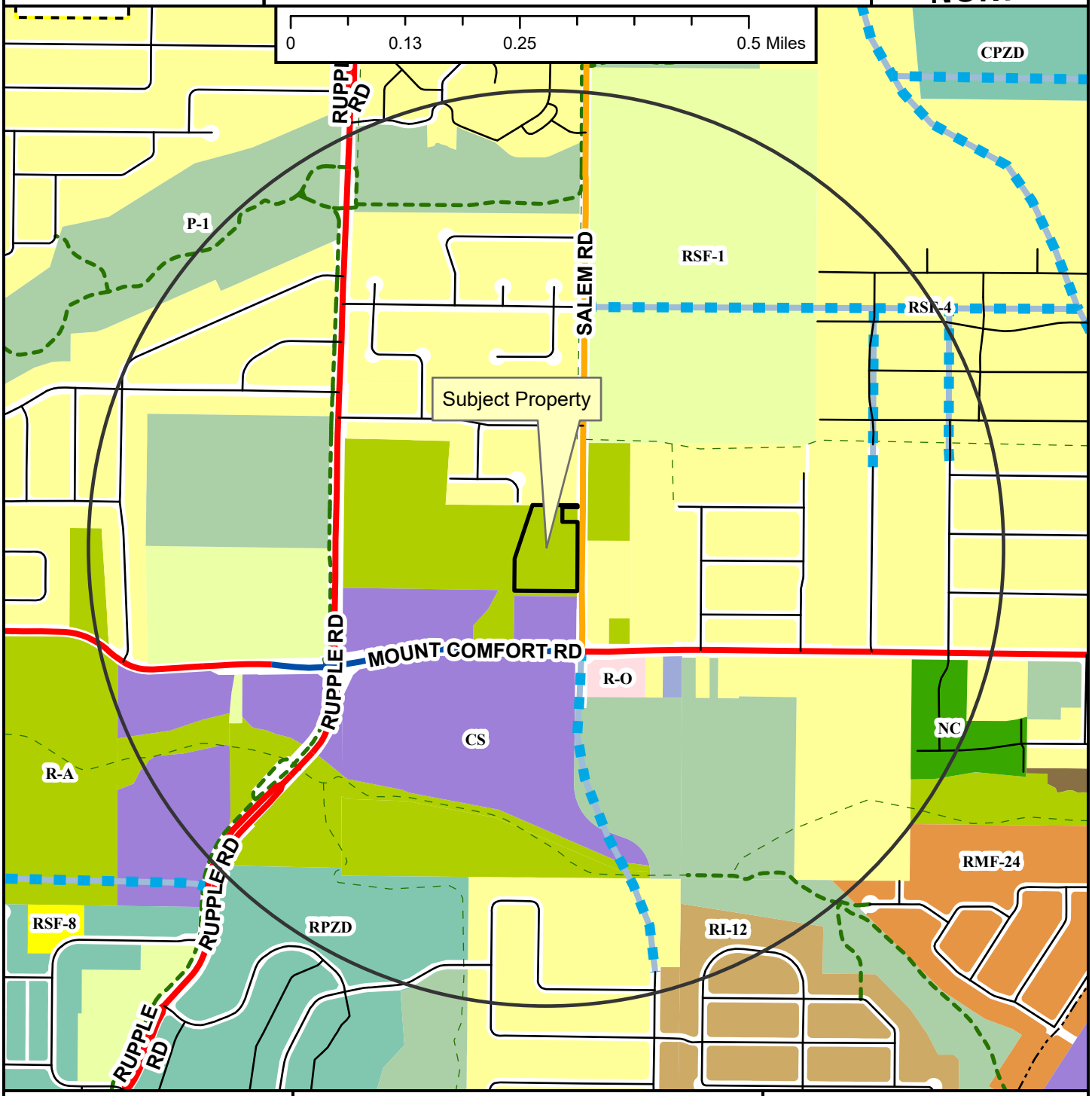
RECORDING NUMBER/DATE

VAR-2023-0053

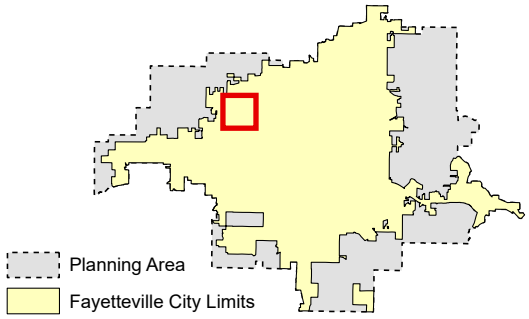
One Mile View

North of 3420 W. MOUNT COMFORT RD

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

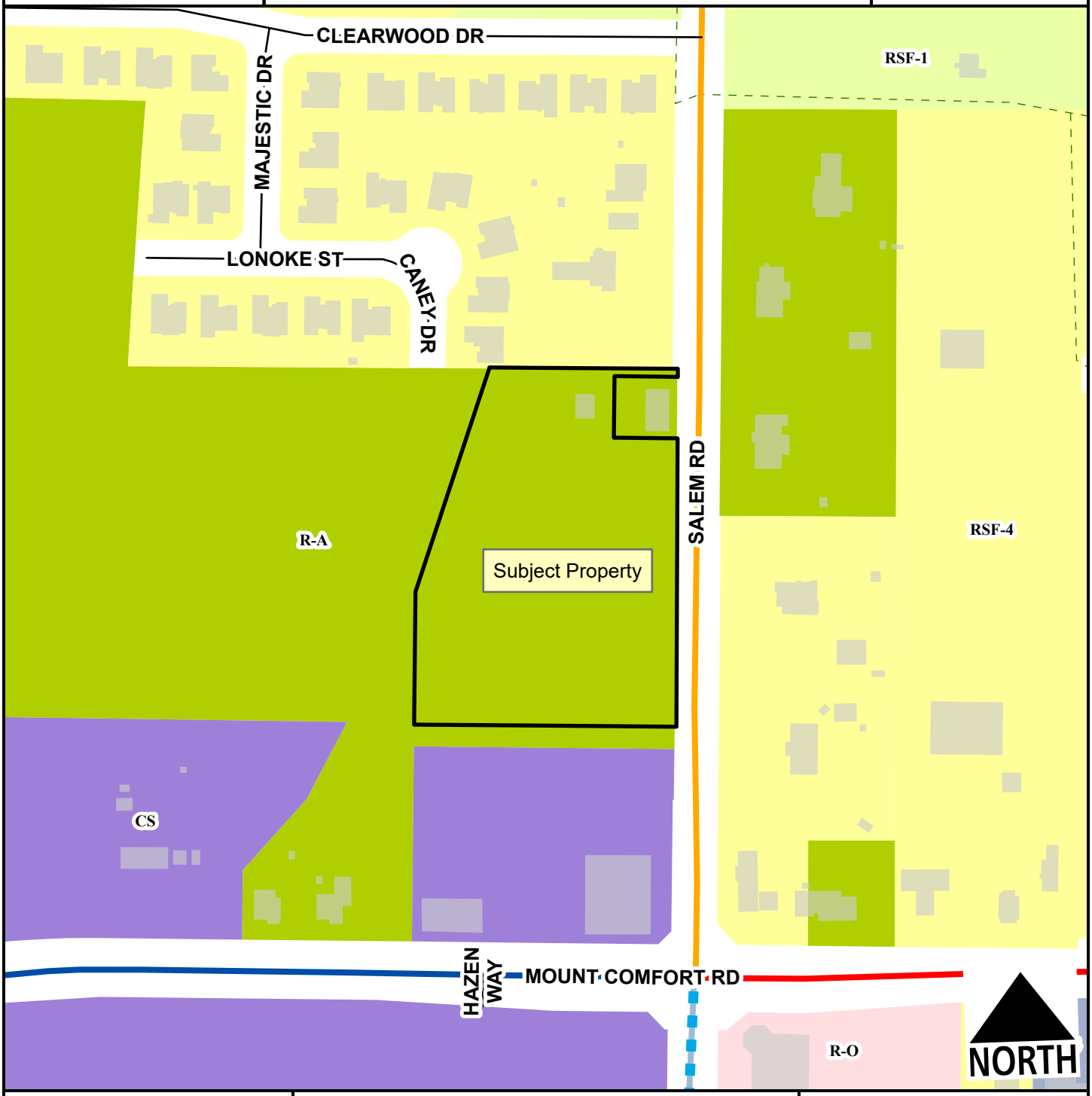
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAR-2023-0053

Close Up View

North of 3420 W. MOUNT COMFORT RD



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

Feet

0 75 150 300 450 600

1:2,400

Residential-Agricultural
RSF-1
RSF-4
Residential-Office
Community Services
Neighborhood Services - Gen.

VAR-2023-0053

Current Land Use

North of 3420 W. MOUNT COMFORT RD

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024

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 approval of **VAR-2023-0050, with conditions.**

RECOMMENDED MOTION:
*"I move to approve **VAR-2023-0050**, determining:*

- *In favor of a variance to UDC §172.05(A)(2), and*
- *In favor of all other conditions as recommended by staff."*

NOVEMBER 27, 2023, PLANNING COMMISSION MEETING:
This item was tabled at the November 27, 2023 and December 11, 2023 Planning Commission meetings at the applicant's request. In the interim, the variance request for §166.23(C)(4)(a) requiring pedestrian connections to the public sidewalk from ground floor dwelling units and the variance request to §172.04(D) requiring a maximum of 35% compact spaces have been withdrawn. A revised request for a variance to §172.05(A)(2) has been submitted in the interim.

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	Multi-Family 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/ Multi-Family Residential	RMF-24, Residential Multifamily, 24 Units per Acre I-1, Heavy Commercial and Light Industrial

Request: The applicant is requesting a variance to **Unified Development Code §172.05(A)(2), which requires that the minimum and maximum number of spaces required for residential use shall conform to the ratios listed in Table 3. For multi-family structures, the ratio is one space per bedroom.** The applicant is requesting to construct 410 parking stalls where 423 would be required by-right after allowable reductions outlined in §172.05.

DISCUSSION:

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

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

Table 2
Parking Requirements (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		-97 spaces
-10% reduction for additional bike racks		-65 spaces
-10% reduction for additional motorcycle spaces		-65 spaces
	Total:	**423 Required Spaces**
	Requested Number of Vehicle Spaces:	**410 Spaces**
	Requested Variance	**13 Spaces**

The applicant cites the topography of the site in their request letter, noting that approximately 15% of the site is unusable due to severe grades as the property slopes to an existing railroad bed along the western property boundaries. Also discussed is a large retaining wall adjacent to N. Gregg Ave. proposed to be constructed as part of the parking garage/apartment structure in order to create a buildable plinth for parking. The applicant also states that geotechnical studies have been completed to study the feasibility of subterranean parking, which was determined to be highly unfavorable. As proposed, most of the parking garage is located beneath the apartment and will not be visible from the public ROW. Given the updated information, staff finds that a site-specific hardship is present for the property.

Parking lot design requirements will be fully reviewed with the large-scale-development plans; however, a preliminary review indicates that the plans are substantially compliant with §172.04 Parking Lot Design Standards. Staff anticipates that remaining corrections can be completed through the large-scale development process.

Staff finds that the applicant's request is a relatively small reduction beyond what is permitted by right and likely to have minimal additional impact on the development or adjacent properties. Additionally, the property has substantial proximity to public transit, with four Razorback transit

stops and proximity to the Razorback Greenway trail system within ¼ mile, on-demand service through Ozark Regional transit, and service available through Fayetteville's ride-sharing apps. The property is approximately ½ mile north of the University of Arkansas campus, meaning alternative transportation is likely to be heavily utilized by students living at the apartments. Staff recommends a condition that a designated paved parking area for electric bike and scooter rideshares (i.e. Veoride and Spin) of at least 8 feet in depth and 18 feet in width shall be installed adjacent to the trail along N. Gregg Ave in order to accommodate anticipated rideshare users. Additionally, staff recommends that one or more of the vehicle spaces adjacent to the parking entry be designated for temporary parking uses such as delivery drivers or Uber/Lift pickups. Vehicle parking space shall include signage designating it as "Delivery/Rideshare Parking Only."

RECOMMENDATION: Staff recommends Planning Commission approve VAR-2023-0050, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of a variance to §172.05(2), which requires one parking space per bedroom to be constructed with multi-family residential development.** *Staff recommends approval of the request with the following conditions.*
    a. *A designated paved parking area for electric bike and scooter rideshares vehicles of at least 8 feet in depth and 18 feet in width shall be installed adjacent to the trail along N. Gregg Ave.*
    b. *One or more of the vehicle spaces adjacent to the parking entry shall be designated for temporary parking uses such as delivery drivers or Uber/Lift pickups. Vehicle parking space shall include signage designating it as "Delivery/Rideshare Parking Only."*

2. 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**	**YES**	
Date: January 8, 2024	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Development Code:
  - §172.05 Standards for The Number of Spaces by Use
- Applicant Exhibits
  - Request Letter
  - Parking Plan
  - Building Elevations
  - Geotechnical Report
- Staff Exhibits
  - Alternative Transportation Options
  - Recommended Condition Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map

172.05 Standards For The Number Of Spaces By Use

(A) *Required Parking.*

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

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

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

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

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

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

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

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

….

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

TABLE 3
PARKING RATIOS
(Use/Required Spaces)

Residential

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

…

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

E | D | G

ECOLOGICAL DESIGN GROUP, INC.
216 West Birch Street
Rogers, AR 72756

December 20, 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 161, Section 161.17 and Chapter 172, Section 172.04

Justification:

The design team is requesting a variance for the total number of required parking spaces to be reduced for the proposed multifamily project.

Given the proximity to campus and prevalence of public and alternative forms of transportation we feel this is a justifiable request when considering the hardship of the site. The primary hardship is topography. This is not a flat, easily accessible site. The site demands a significant retaining wall condition along Gregg Avenue to create a buildable plinth for parking. Additionally, approximately 15% of the site is completely unusable due to the severe grade on the edges as the hillside slopes down to the cut of the existing railroad bed. Geotechnical investigations have been completed and feasibility for subterranean parking is highly unfavorable.

All of this combined, generates significant hardship, especially when the goal is to completely hide the parking from public view and create an urban, appropriately scaled project along the burgeoning Gregg Avenue corridor.

The proposed 650 beds requires a 1:1 bed count. By accessing readily available code allowable reductions, the total requirement is down to 423 spaces. The design currently hosts 410 spaces and meets all other applicable requirements of the city's parking ordinance for space sizes, drive aisles, etc. And as mentioned above, this parking is tucked away out of sight from the public view.

We are kindly requesting a variance to decrease the total required parking to 13 spaces less than code allowable, which is roughly a 3% reduction.

Thank you for your time and consideration.

Sincerely,

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

PARKING SUMMARY.

TOTAL BED COUNT:		**650**
TOTAL AUTOMOBILE PARKING REQUIRED:		650

PER SECTION 172.05...

REDUCTIONS TO AUTOMOBILE PARKING:		
WITHIN 1/4 MILE OF TRANSIT	15%	-097
MOTORCYCLE/SCOOTER SPACES	10%	-065*
BICYCLE SPACES	10%	-065
TOTAL REDUCTION OF SPACES		-227

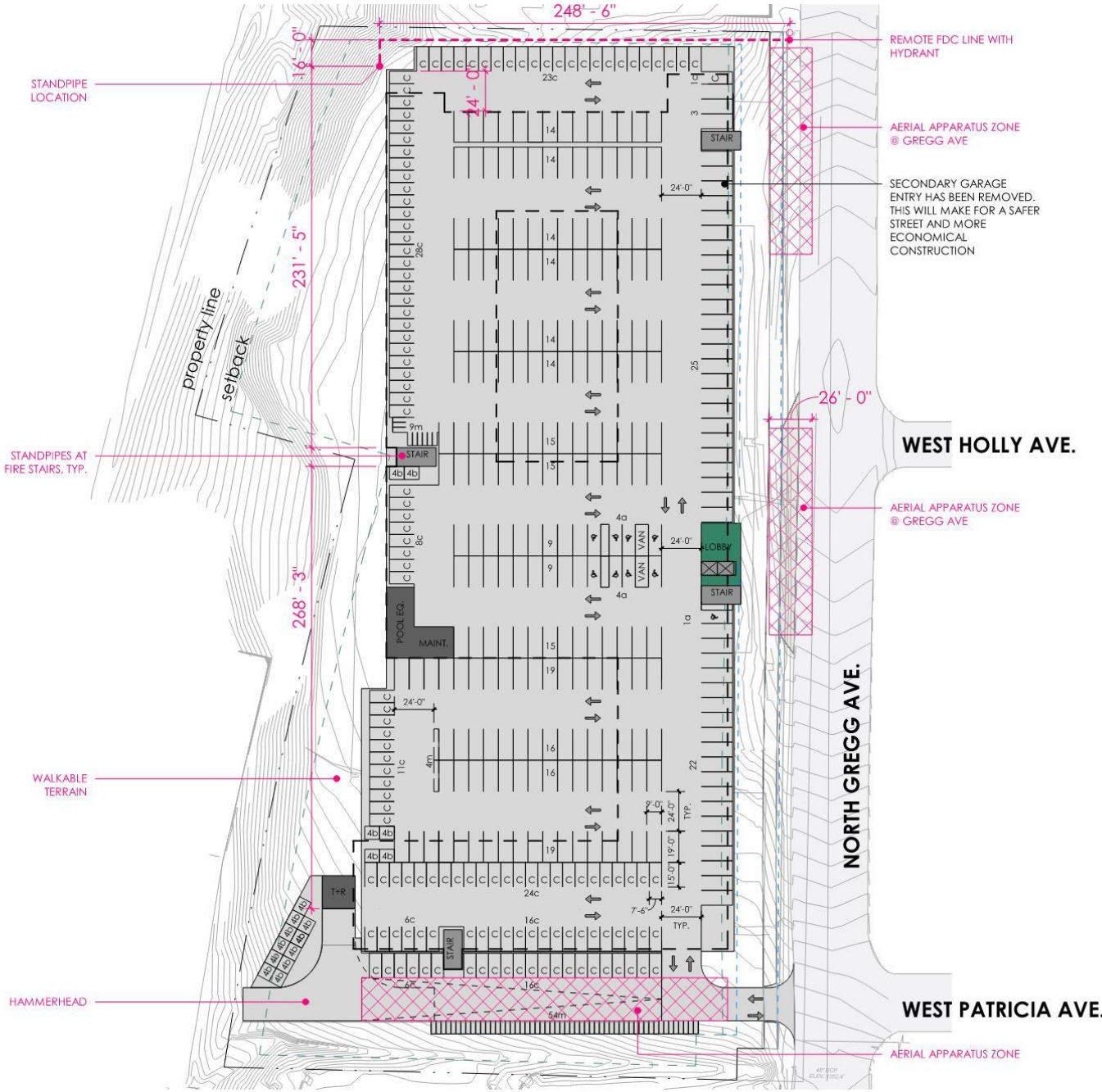
REVISED AUTOMOBILE PARKING REQUIRED: 650 - 227 = 423

AUTOMOBILE SPACES BREAKDOWN:		
ADA	(02%)	009
COMPACT	(35%)	139
STANDARD	(63%)	262
TOTAL AUTOMOBILE SPACES PROVIDED		**410****

**BICYCLE SPACES SHALL BE PROVIDED PER 172.10 IN THE PARKING GARAGE, BUILDING AND ON SITE*

***A VARIANCE IS BEING REQUESTED TO ALLOW FOR 10 LESS PARKING SPACES THAN REQUIRED. THE CHALLENGES OF THE SITE TOPOGRAPHY AND GEOLOGY PRESENT SIGNIFICANT PROBLEMS WITH BUILDING ADDITIONAL SUBTERRANEAN PARKING. THE BUILDING ITSELF IS ALREADY ENGAGING A 10' TALL RETAINING WALL ALONG GREGG AVENUE. IF THE SITE WERE FLAT, THE RELATIVE CONSTRUCTABILITY AND PARKABLE AREAS WOULD BE MORE READILY ACHIEVABLE.

THE SITE'S ADJACENCY TO CAMPUS, TRANSIT, AND THE TRAIL UNDERSCORE THE WALKABILTY AND BIKABILITY OF THE SITE AND THEREFORE A LOWER TOTAL AUTMOBILE PARKING REQUIREMENT SEEMS RELEVANT.



N SCALE: 1'- 0" = 60'

10 60 100

60'-0"

modus studio
architecture + prototype
479.455.5577
modusstudio.com
contact@modusstudio.com

1301 Gregg Avenue
Fayetteville, Arkansas

mark	date	description

DATE. 2023.12.18
PROJ. 23.13

DD - LEVEL 00

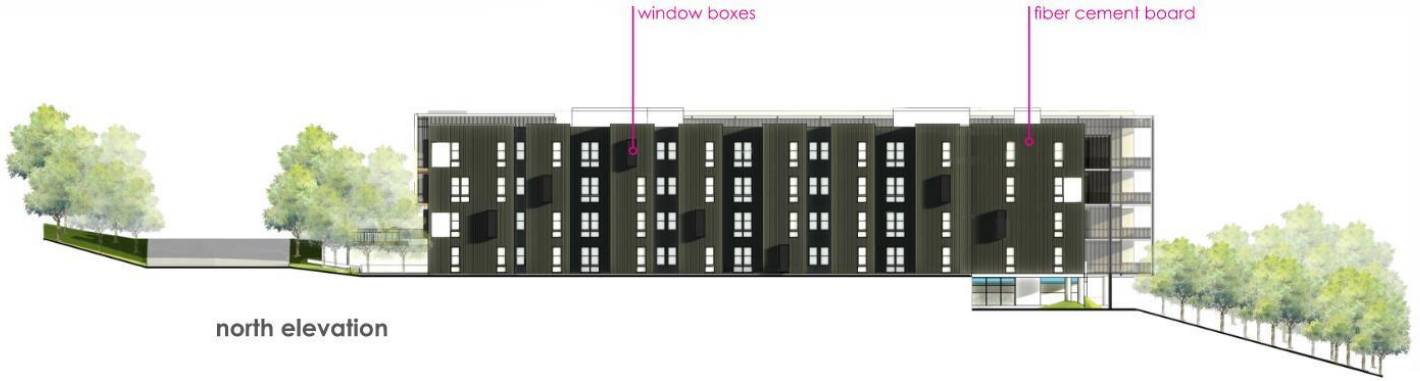
s0.0

1301 Gregg: Fayetteville, Arkansas

12.18.2023

elevations

modus studio



north elevation

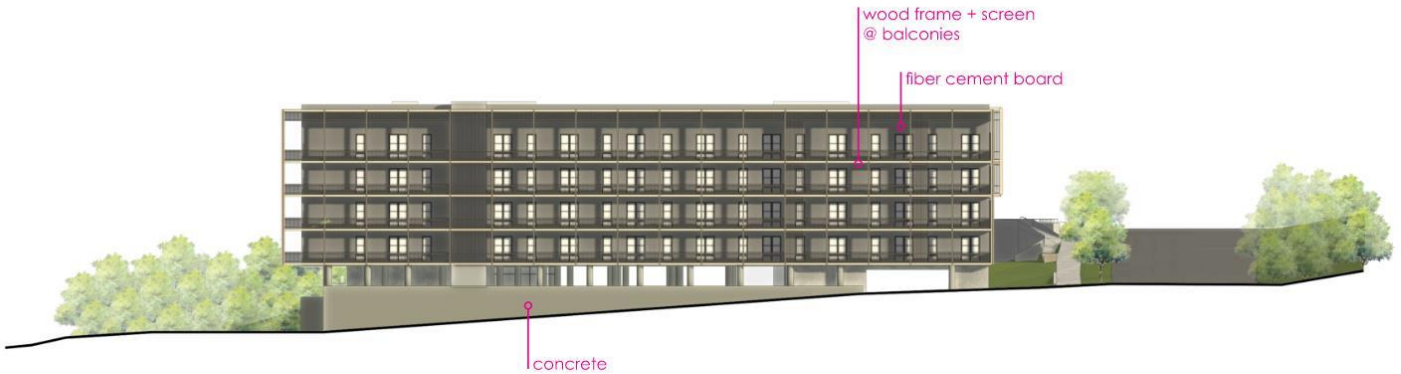
east elevation (Gregg Avenue)

1301 Gregg: Fayetteville, Arkansas

12.18.2023

elevations

modus studio



south elevation

west elevation

GEOTECHNICAL ENGINEERING ANALYSIS

Geotechnical Considerations

Existing Fill

As stated previously, existing fill materials were encountered below the surface organics or below the existing pavement at each boring location. The fill materials consisted of silty sand, clayey gravel, sandy gravel, and sandy lean clay; each with variable sand and gravel content (limestone, chert and sandstone fragments) as well as asphalt fragments. The existing fill materials extended to depths between 2 to 9 ½ feet below existing grades at our exploration locations.

GTS has no information regarding the placement and compaction history of the existing fill material located at the site. However, we anticipate that the existing fills were placed during construction of the existing structures and asphalt parking lot (prior to 1994).

Based on the variable in-place strengths measured within the existing fills, as well as the low in-place shear strength of portions of the native soils immediately underlying the existing fill, it is the opinion of GTS that the existing fill was not placed following standard construction industry practices (uncontrolled fill).

Because there can be variations in the thickness, quality, and composition of existing fill and given the potential for unsuitable materials to be buried in or under the existing fill, it should be recognized that there is assumed risk of unpredictable settlement and structural performance associated with constructing shallow foundations and on-grade slabs and pavements over existing fill. This risk cannot be eliminated unless the full depth of the existing fill is removed and replaced with approved, select fill. To reduce this risk in areas of future shallow foundations, we recommend extending the foundation excavations through the existing fills to bedrock – the resulting void can then be backfilled with flowable fill up the bottom of foundation elevations.

Floor slabs and pavements span weak zones much more effectively than concentrated foundation loading. Also, owners typically have a higher tolerance for cracks developing in floor slabs/pavements compared to building structures. If the owner elects to leave portions of the existing fill materials in-place, the new floor slabs/pavements could be constructed on a layer of tested and approved, new select fill placed above stable existing fill materials after performing thorough testing and evaluation during site preparation and construction. However, the client/owner should understand that some premature surface distress and increased maintenance may occur in future floor slab/pavement sections supported above the existing fill. Again, this risk can only be eliminated by full-depth removal and replacement with new fill.

Expansive Soils

Expansive fat clay soils (Stratum I) were encountered at a majority of our boring locations. These soils are prone to volume changes (defined as potential vertical movement (PVM)), with variations in moisture content. These volume changes often occur seasonally, throughout the life of the

planned structure. However, if the recommendations provided in this report are followed (e.g., sufficient drainage behind basement walls and beneath floor slabs as well as 1-foot of new select fill beneath floor slabs/pavements), it is our professional opinion that the PVM will be negligible (i.e., less than 1 inch).

This report provides recommendations to help mitigate the effects of shrinking and swelling of these soils. However, even if these recommendations are followed, some movement and cracking of the floor slabs and pavements should be anticipated. The severity of cracking and other damage will likely increase if site modification results in excessive wetting or drying of the expansive soils. Eliminating the risk of movement and distress may not be feasible, but it may be possible to further reduce the risk of movement if significantly more expensive measures are used during construction. We can discuss other mitigation options, if interested.

Low-Strength Soils

Low-shear-strength soils (SPT N-values of 6 bpf or less) were encountered to varying depths within the near-surface soils, generally in the northwest corner of the planned building footprint, which is also the area of the planned deepest fills. The low-strength soils extended to depths of approximately 5 to 18 ½ feet below existing grades at Borings B-1, B-4, B-7, B-10, and B-17. These low-strength soils generally consisted of existing fill materials and native, fat clay soils (Stratum I).

The apparent depths of these low strength soils encountered at our boring locations are shown in Table 2 below. Borings where low-strength soils were not encountered have been omitted from the table.

Table 2: Depths of Low-Shear-Strength Soils at Boring Locations

Boring Number	Apparent Depths of Weak Soils (feet below existing grades)	Recorded N-values (blows per foot)
B-1	0 to 2; 3 ½ to 18 ½	2, 4, 5, and 6
B-4	5 to 8 ½	6
B-7	0 to 5	6
B-10	5 to 8 ½	4
B-17	3 ½ to 5	5

Supporting foundation loads, floor slabs, pavements or placing new fill above these weak soils will result in soil consolidation, which will translate in relatively large settlement of the planned grade supported structures. Recommendations are provided in this report to reduce the potential large settlement of the floor slabs and pavements, generally through use of lightweight fill materials.

Settlement

Based on our understanding of the current grading plan, we understand that up to 10 ½ feet of new fill is planned at the northwest corner and up to 17 feet of new fill is planned at the southwest corner. In areas where fills greater than 2 ½ feet are required to reach the final grade, we anticipate relatively large post-construction settlement will likely occur without ground improvement. Settlement is caused by compression of the newly placed fill materials due to its own weight as well as the consolidation of the underlying native soils due to the weight of the new fill and structural loads.

With typical soil fill materials, GTS estimates about 1 percent of the compacted fill height (up to 1 ½ to 2 inches) should be anticipated for the compression of the newly placed fill material, assuming the fill is placed and compacted following standard construction industry practices, and up to about 3 ½ to 4 ½ inches of settlement in the underlying fill/native soils. Based on this and our understanding of the planned new fill thicknesses, GTS estimates that up to 3 to 5 ½ inches of total settlement would occur in the northwest and southwest portions of the planned building footprint where the deepest fills have been proposed.

To reduce the estimated settlement of the planned floor slabs and pavements to less than 1 inch, we recommend that any fill depths greater than 2 ½ feet consist of lightweight geofoam fill material. This material is discussed in detail in the Lightweight Fill section of this report.

Moisture-Sensitive Soils

Any existing silt-based soils and/or lean clay soils, as well as portions of the existing fill materials are susceptible to strength loss with increases in moisture content and/or when exposed to repetitive construction traffic. Ground improvement will be required during moderately wet to wet periods of the year and when wet site conditions develop. Therefore, it will be highly advantageous to perform earthwork operations during periods of extended dry weather.

Ground improvement recommendations are discussed in the Mass Grading Recommendations section.

Foundation Type Discussion

Based on our understanding of existing subsurface conditions as well as site development plans, we recommend the structure be supported on a hybrid shallow and deep foundation system, bearing in competent shale or sandstone bedrock (Stratum III). A majority of the subterranean parking (Level B1) and the eastern foundation wall may be supported on a footing foundation system bearing directly on competent shale or sandstone bedrock, or upon flowable fill placed directly over competent shale or sandstone bedrock. Outside of these areas, we recommend the structure be supported on a drilled pier foundation system, bearing in competent bedrock.

Bedrock (Stratum III) was typically encountered at depths of about 5 to 18 ½ feet below existing grades at the boring locations. For the purposes of this report, "**competent bedrock**" is defined as the depth at which the SPT N-value is greater than 50 blows for 6 inches or less of penetration.

Generally, the assumption used in generating our foundation recommendations was that it would be more cost effective to support the planned construction on a shallow foundation system where competent bedrock would be within 10 feet of final grades. At these locations the overburden soils could be overexcavated to bedrock and the resulting excavation/void backfilled up the bottom of foundation elevation with flowable fill.

Where competent rock will be encountered at depths greater than 10 feet, our assumption is that it will be more cost effective to install a drilled pier foundation. Based on our understanding of the planned elevations of the subterranean Level B1 (1,349 feet above MSL) and Level 00 (1,363 feet above MSL), we have estimated the depths to competent bedrock, which are presented in Table 3 below.

Table 3: Depths to/Elevation of Competent Shale or Sandstone Bedrock

Boring Number	Depths to/ Elevation of Competent Bedrock (feet below final grade)	Boring Number	Depths to/ Elevation of Competent Bedrock (feet below final grade)
B-1	24 ½ / 1,331	B-10	21 / 1,334
B-2	22 / 1,340	B-11	18 / 1,332
B-3	7 ½ / 1,355.5	B-12	Not Encountered (> 6 ½ feet)
B-4	18 ½ / 1,342	B-13	Not Encountered (> 6 ½ feet)
B-5	-1 ½ * / 1,364	B-14	Not Encountered (> 6 ½ feet)
B-6	0 / 1,356	B-15	10 ½ / 1,339
B-7	5 / 1,358	B-16	6 ½ / 1,343
B-8	7 / 1,356	B-17	7 ½ / 1,342
B-9	11 ½ / 1,338	---	---

*(-) represents depth of anticipated rock excavation

As an alternative to both shallow foundations and drilled piers, the design team may also consider driven piles as a method of foundation support. We would be happy to discuss this alternative further, upon request.

Slope Stability Analyses

We used SLIDE2 Version 2023 9.027 computer software developed by RocScience to perform the local slope stability analyses for the existing slope configuration (“existing conditions”) as well as the proposed slope configuration (“proposed conditions”) in the regions of deepest planned fill in both the northwest and southwest corners, as shown in Figure 3. The SLIDE program calculates a Factor of Safety (FOS) for any given 2D slope cross-section using the method of slices in conjunction with the limit equilibrium procedure. We analyzed the slopes with circular surfaces according to the Janbu Simplified Method. The Janbu Simplified Method

assumes balanced horizontal and vertical forces. The results of our slope stability analyses are included below as well as attached at the end of this report.

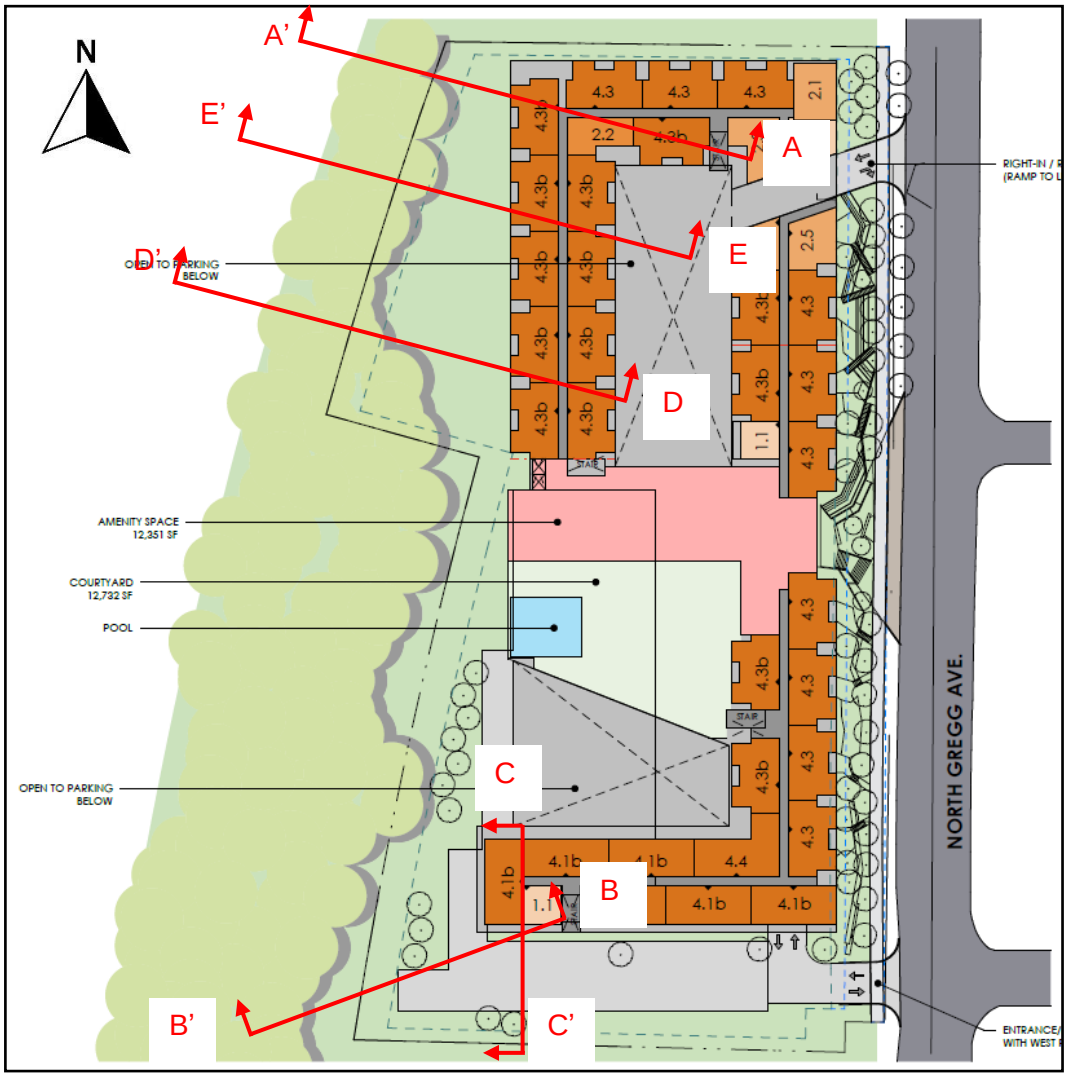


Figure 3: Slope Stability Profile Locations

Industry standards suggest that a minimum FOS of 1.5 for long-term slope stability is needed for a site with permanent, occupied structures to be considered stable under normal static conditions. A minimum FOS of 1.3 is required for unoccupied structures (e.g. dumpster pads, storage sheds, pavements, etc.). A minimum FOS of 1.1 is needed for a slope to be considered seismically stable under a design magnitude 7.0 earthquake. Given the relatively low seismic values (i.e. accelerations) for this area, we only analyzed the static case as is typical for the standard of practice locally.

Figure 4 below represents a typical geometric model and graphical results of the local slope stability analyses for the existing slope configuration along Profile A-A'. The figure below shows the analyzed failure plane with the lowest FOS. The results of our slope stability analyses (both existing and proposed conditions) are summarized in Table 4 on the following page. The graphical results from each of our analyses are also provided at the end of this report.

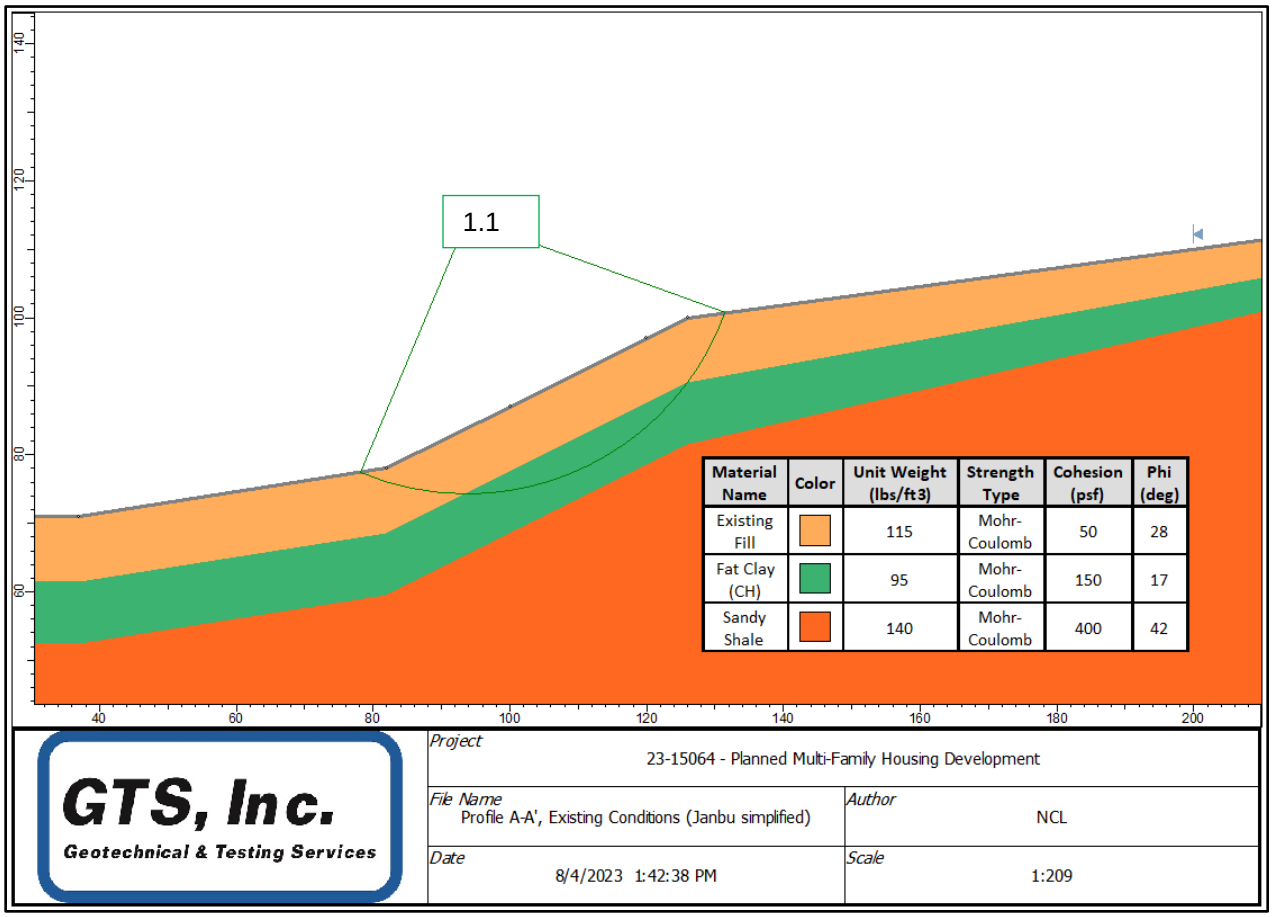


Figure 4: Profile A-A' – Existing Conditions

Table 4: Results of Slope Stability Analyses (Existing and Proposed)

Profile	Conditions	Required FOS (minimum)	Calculated FOS
A-A'	Existing Conditions	1.5	1.1
	Proposed Conditions, w/ Soil Fill Material	1.5	0.9
	Proposed Conditions, w/ Lightweight Fill	1.5	1.5*
B-B'	Existing Conditions	1.5	2.1
	Proposed Conditions, w/ Lightweight Fill	1.3 (Dumpster)	1.4
		1.5 (Building)	>1.6
C-C'	Existing Conditions	1.5	3.3
	Proposed Conditions, w/ Gravel Fill	1.3 (ADS)	1.8
D-D'	Existing Conditions	1.5	3.4
	Proposed Conditions, w/ Lightweight Fill	1.5	3.4
E-E'	Existing Conditions	1.5	1.0
	Proposed Conditions, w/ Lightweight Fill + ADS	1.5	1.1
	Proposed Conditions, w/ Lightweight Fill	1.5	1.5

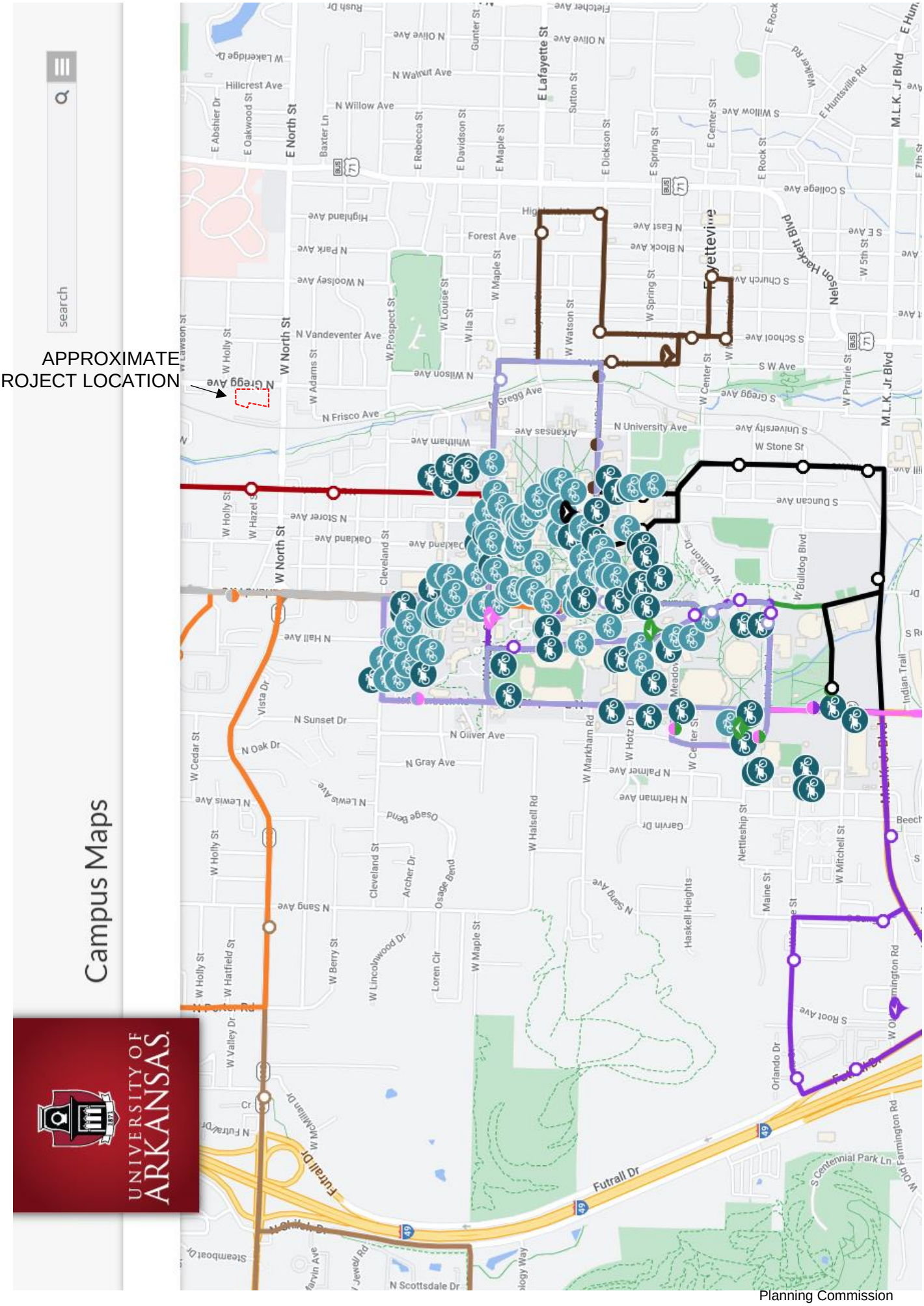
* For any failure plane passing through the building footprint. Outside of the footprint, the FOS may be less than 1.5.

As shown, the existing slope configuration should be considered moderately stable, with a FOS just above 1.0. This low FOS is largely due to the presence of a thick layer of soft to medium stiff fat clay underlying the existing fills along the western side of site. It should be noted that based on our experience mitigating slope instability, most slope failure planes in this region tend to occur within this fat clay layer, which is essentially a shale material that has weathered/decomposed into a fat clay.

Based on the existing site conditions along with the site constraints (distance to the property line), a retaining wall will need to be constructed to retain the planned fills at the northwest and southwest corners of the site. Currently, a retaining wall is only shown at the southwest corner of the site. Based on our initial analyses of traditional retaining walls (i.e., cantilevered and mechanically stabilized earth), these options will not provide an adequate FOS for the planned development. Therefore, GTS recommends that planned fills consist of lightweight geofoam material, which both provides adequate slope stability and addresses the settlement concerns discussed previously. For illustrative purposes, a cantilevered wall is shown retaining and protecting the proposed lightweight fill material in our analyses.

Stormwater Management System

As previously mentioned, we understand that an advanced drainage system (ADS) is planned along the western edge of the building, just outside of the building footprint. We understand that this system is designed to retain stormwater to allow it to percolate into the subsurface soils adjacent to the existing slope.


Campus Maps
search
APPROXIMATE
PROJECT LOCATION
UNIVERSITY OF
ARKANSAS.
N Gregg Ave
W North St
E North St
E Lafayette St
Fayetteville
Nelson Hackett Blvd
M.L.K. Jr Blvd
N Walnut Ave
N Willow Ave
N Olive Ave
Hillcrest Ave
Forest Ave
N Park Ave
N Woolsey Ave
N Vandeventer Ave
N Frisco Ave
N University Ave
W Stone St
S Duncan Ave
N Storer Ave
Oakland Ave
N Hall Ave
N Sunset Dr
N Oliver Ave
N Gray Ave
N Lewis Ave
N Sang Ave
N Palmer Ave
N Hartman Ave
W Halsell Rd
W Markham Rd
W Hotz Dr
W Center St
W Buildog Blvd
W Clinton Dr
Futrall Dr
N Scottsdale Dr
S Centennial Park Ln
W Old Farmington Rd
Orlando Dr
S Root Ave
W Mitchell St
Maine St
Nettleship St
Haskell Heights
Indian Trail
Cleveland St
Archer Dr
Osage Bend
W Maple St
W Lincolnwood Dr
Loren Cir
W Berry St
W Holly St
W Hatfield St
W Valley Dr
N Futral Dr
W McMillan Dr
Steamboat Dr
Vista Dr
N Oak Dr
W Cedar St
W Prospect St
W Louise St
W Ila St
W Watson St
W Spring St
W Center St
W Prairie St
S Church Ave
S School Ave
S W Ave
S Gregg Ave
S College Ave
S Willow Ave
E Huntsville Rd
E Rock St
E Center St
E Spring St
E Dickson St
E Maple St
E Davidson St
E Rebecca St
Baxter Ln
Highland Ave
N Wilson Ave
Whitham Ave
Arkansas Ave
Gunter St
Sutton St
Fletcher Ave
Rush Dr
W Lakeridge Dr
E Abshier Dr
E Oakwood St
W Adams St
W Hazel St
Cr

On-Demand Transit is currently available in Fayetteville, Springdale, Rogers and Bentonville.

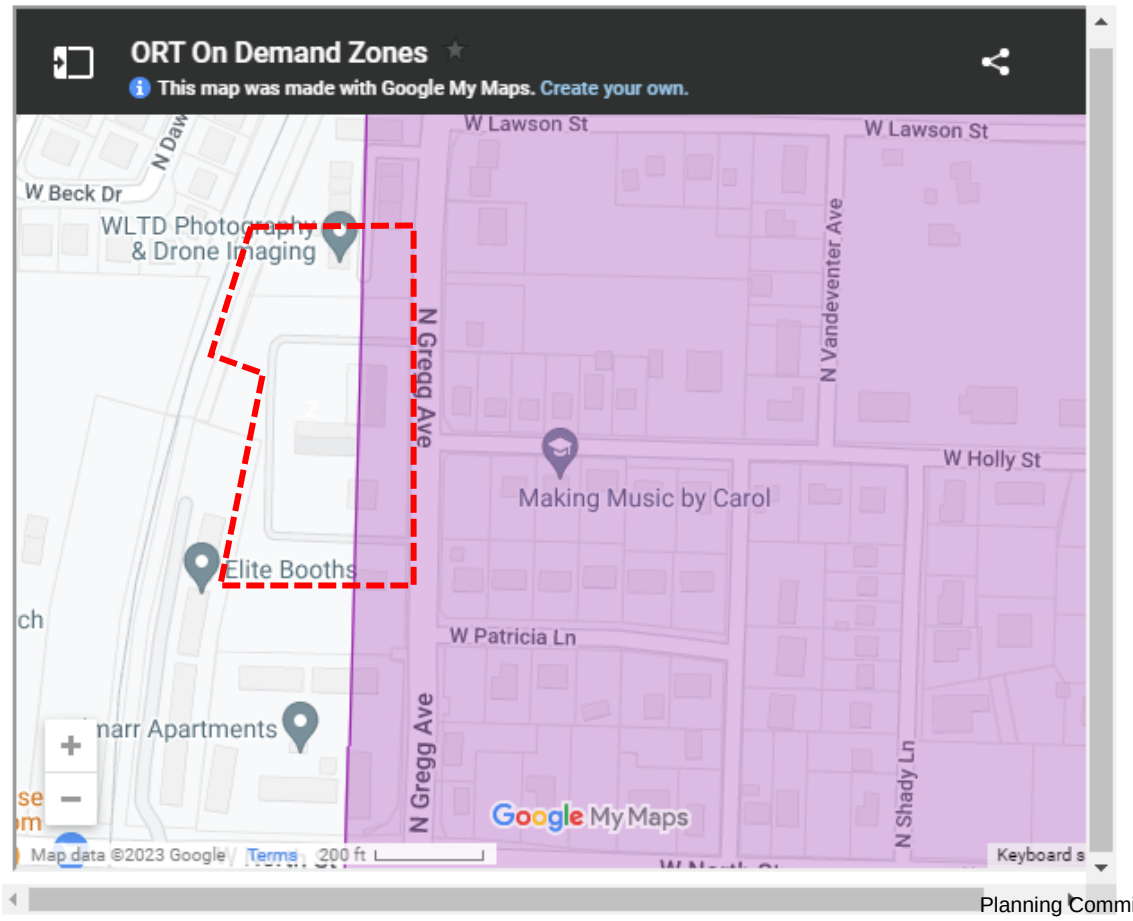
Ride the ORT-On-Demand Transit (ODT) service for zero charge to these destinations this weekend. Always confirm transit routes within the timeframe of your entertainment choices. ODT allows a rider to schedule trips from bus stop or address to a bus stop or address using the App on one's smart phone.

Download our free "ORT On-Demand" app today!

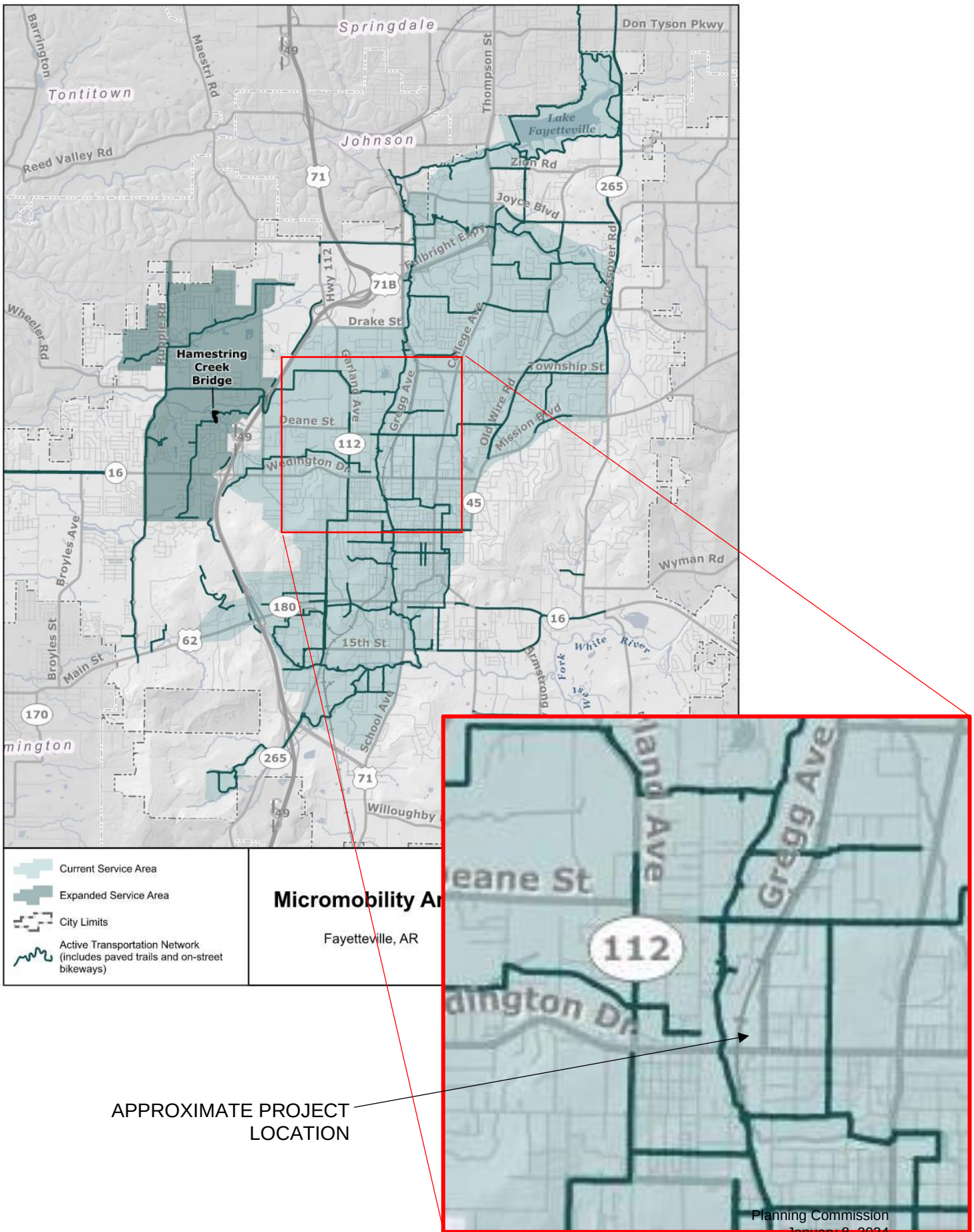
Apple App Store | Google Play Store

On-Demand Hours:	On-Demand Hours:	On-Demand Hours:	On-Demand Hours:
Fayetteville:	**Springdale:**	**Rogers**	**Bentonville**
Monday – Thursday	**Monday - Thursday**	**Monday - Thursday**	**Monday – Thursday**
6:30 AM – 7:00 PM	7:00 AM – 7:30 PM	7:00am - 6:30pm	7:00 AM – 6:30 PM
Friday	**Friday**	**Friday**	**Friday**
6:30 AM – 11:00 PM	7:00 AM – 9:00 PM	7:00am - 10:00pm	7:00 AM – 12:00 AM
Saturday	**Saturday**	**Saturday**	**Saturday**
10:00 AM – 10:00 PM	11:00 AM – 11:00 PM	4:00pm - 10:00pm	12:00 PM – 12:00 AM

Click for On-Demand Zones



STAFF EXHIBIT: MICROMBILITY MAP



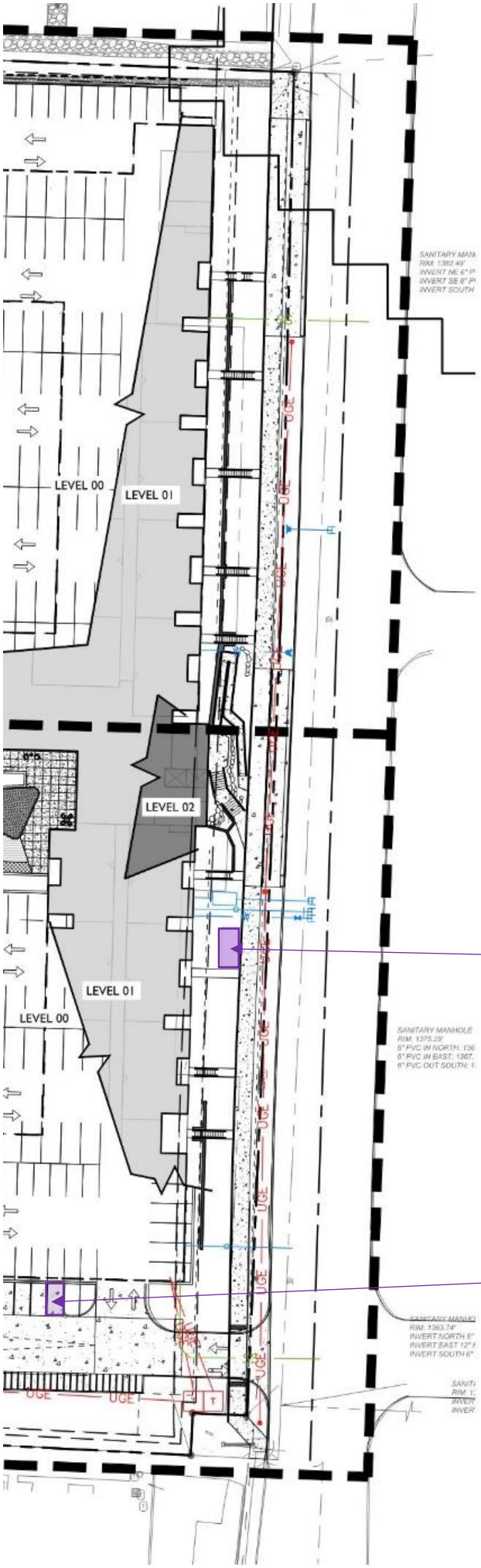
APPROXIMATE PROJECT LOCATION

STAFF EXHIBIT:

EXAMPLE DESIGNATED SCOOTER PARKING AREAS

OZARK NATURAL FOODS

STAFF EXHIBIT:
RIDESHARE EXAMPLE PARKING LOCATION



EBIKE AND SCOOTER RIDESHARE
PARKING ADJACENT TO ENTRY

AUTO RIDESHARE / DELIVERY
DESIGNATED PARKING SPACE

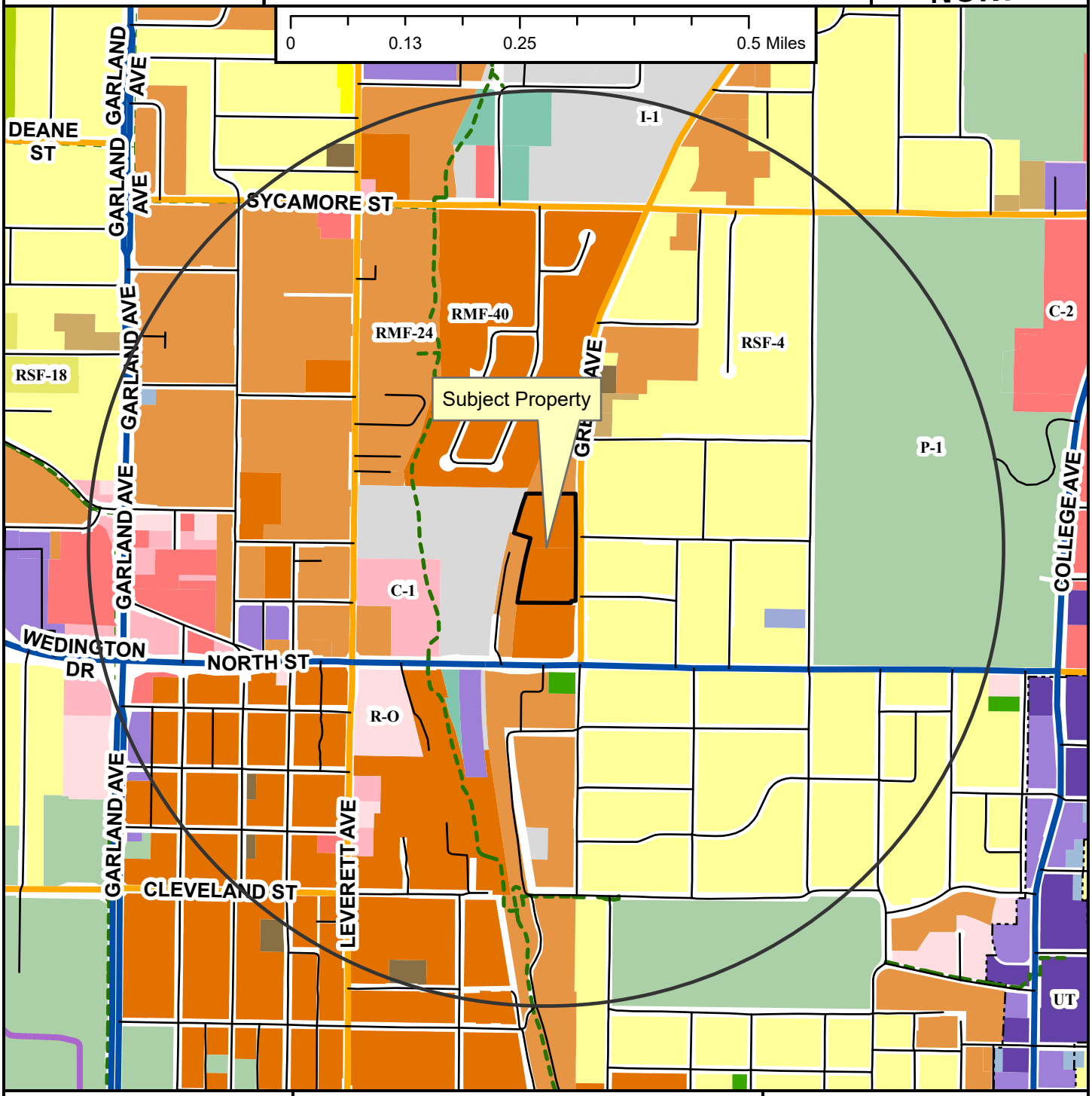
NORTH

VAR-2023-0050

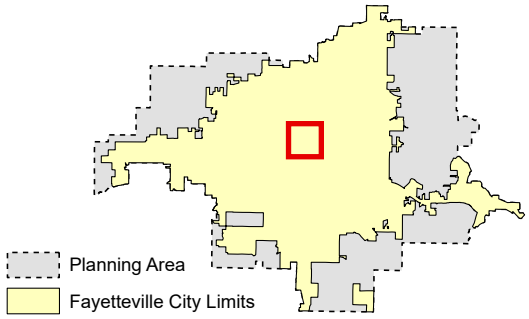
One Mile View

1301 N. GREGG AVE

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

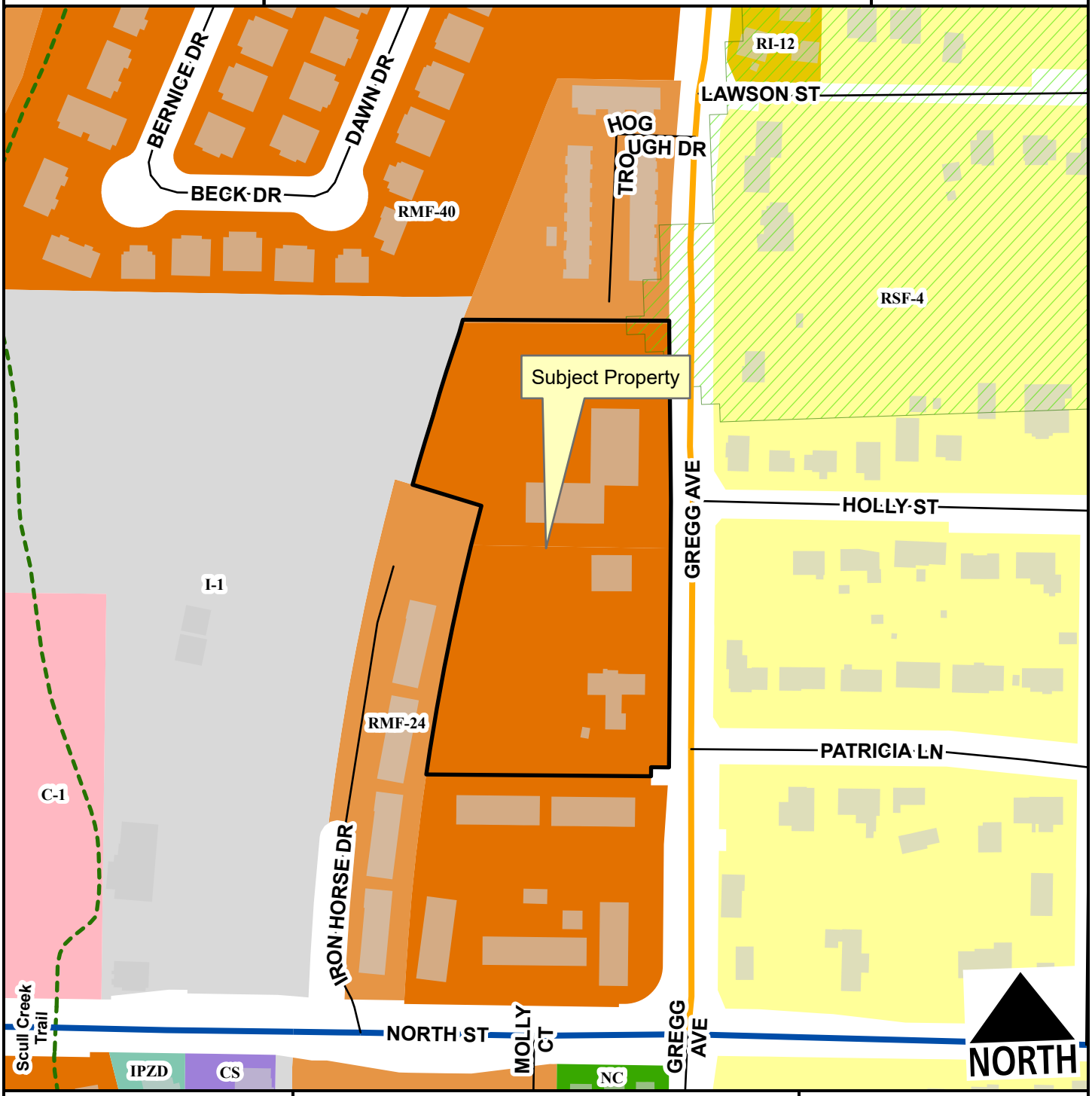
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAR-2023-0050

Close Up View

1301 N. GREGG AVE



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

Feet

0 75 150 300 450 600

1:2,400

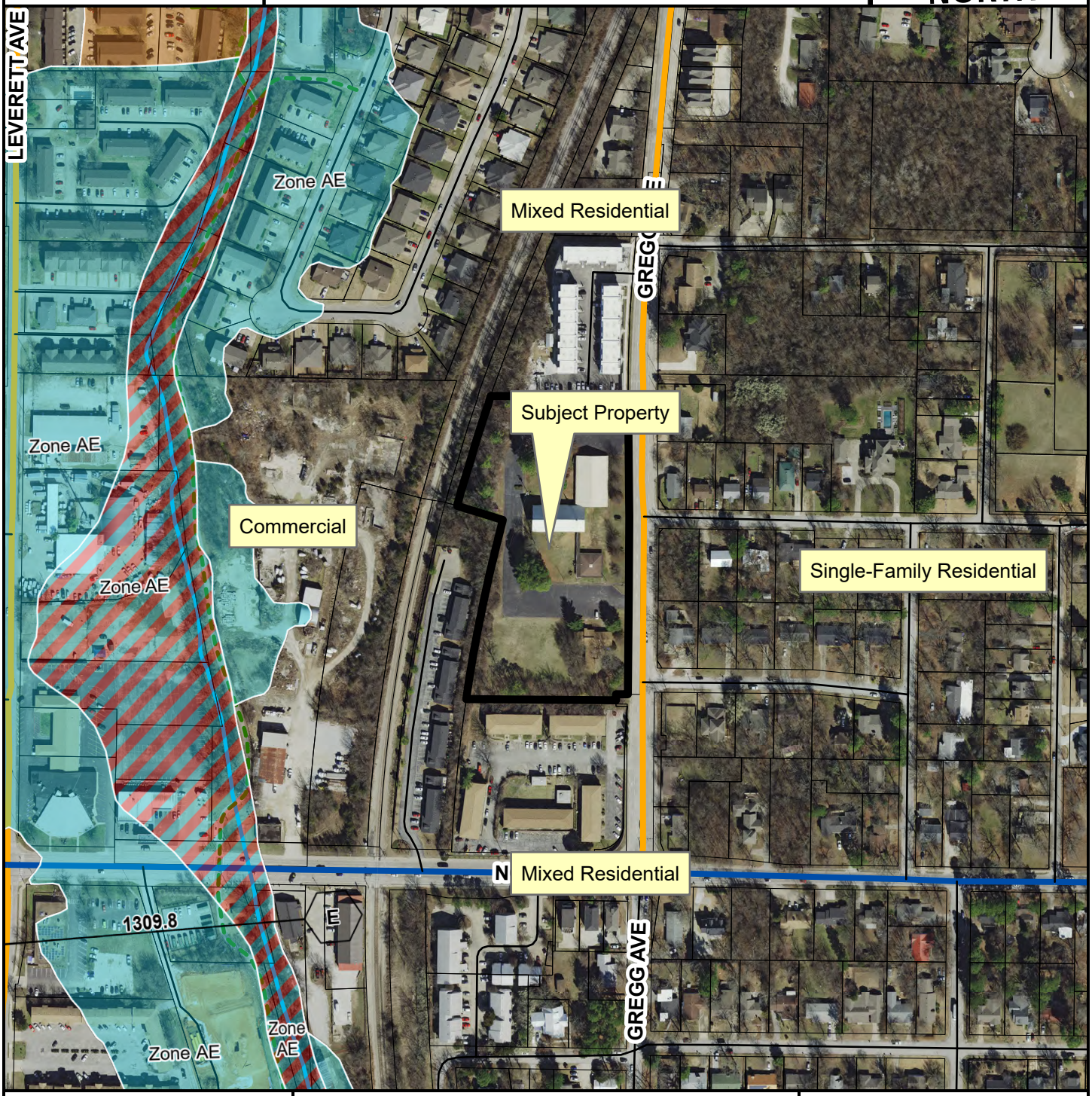
- RSF-4
- RI-12
- RMF-24
- RMF-40
- I-1 Heavy Commercial and Light Industrial
- C-1
- Community Services
- Neighborhood Conservation
- Commercial, Industrial, Residential

VAR-2023-0050

Current Land Use

1301 N. GREGG AVE

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 8, 2024

SUBJECT: **ADM-2023-0041: Administrative Item (2277 S. ED EDWARDS RD/WANG, 649):** Submitted by KEVIN WANG for properties located at 2277 S. ED EDWARDS RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 11.60 acres. The request is to modify the Master Street Plan.

RECOMMENDATION:
Staff recommends tabling **ADM-2023-0041 indefinitely**, at the applicant's request.

RECOMMENDED MOTION:
"I move to table **ADM-2023-0041 indefinitely**."

NOVEMBER 13, 2023 PLANNING COMMISSION MEETING:
At the above-referenced Planning Commission meeting, the applicant requested to table the item until January 8, 2024. In the interim, the applicant has informed City staff of their request to table the item indefinitely, as they intend to bring forward a larger, more comprehensive request in the near future in coordination with adjacent and nearby property owners. Staff recommended denial of the item at the November 13 Planning Commission meeting.

PLANNING COMMISSION ACTION:	**Required** **YES**
Date: January 8, 2024	❒ **Tabled** ❒ **Approved** ❒ **Denied**
Motion:	
Second:	
Vote:	

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0159: Conditional Use Permit (241 W. SPRING ST/FAYETTEVILLE OFFICE PORTFOLIO, 484):** Submitted by HOUSES, INC for property located at 241 W. SPRING ST. The property is zoned MSC, MAIN STREET/CENTER and contains approximately 1.08 acres. The request is for an off-site parking lot.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0159** with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0159** with conditions, determining:*

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

BACKGROUND:
The subject property is located in downtown Fayetteville on the southeast corner of W. Spring Street and N. Locust Avenue. The property is zoned MSC, Main Street Center and contains approximately 1.08 acres and was previously developed with an approximately 10,000 sq. ft commercial structure that was destroyed in a fire in December of 2022. An additional 3800 sq. ft. commercial structure still stands on the property. Surrounding land uses and zoning are depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

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

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

Proposal: The applicant requests conditional use permit approval to install an off-site parking lot in the Main Street Center zoning district. The purpose of this request is to provide a temporary parking facility without an established principal use. Fayetteville's Unified Development Code, under §172.06 – Parking Lot Location Standards, notes that parking lots that are not located on the same lot as the principal use, require conditional use permit approval from the Planning Commission. Staff's interpretation of ordinance is that this requires conditional use permit approval.

Public Comment: Staff received one comment in support and one comment in opposition of the project.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0159** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of compatibility for a temporary off-site parking lot in the Main Street Center zoning district without an established principal use. *Staff finds the proposed parking lot to be compatible for the reasons outlined in this report;*

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

3. Temporary improvements to the site are required to facilitate parking in a logical and safe manner. Wheel stops shall be located at each space. A temporary barrier, such as a fence, railroad ties, or landscaping planters shall be used to reduce the curb cut length along Locust Ave.

4. Parking spaces located in the build-to zone along Locust Ave. and W. Spring St. shall not be used.

5. Accessible parking requirements shall be evaluated for compliance with the Unified Development Code and the Americans with Disabilities Act;

6. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs;

7. Outdoor lighting on this property shall comply with UDC Chapter 176, Outdoor Lighting;

8. Upon receiving a valid complaint that the holder of the conditional use is violating any condition of this permit, the Planning Department may refer the conditional use to the Planning Commission for review. The Planning Commission may amend or add conditions to the permit, may reaffirm the conditional use, or revoke the conditional use in its entirety; and

9. This approval will expire one year from the date of approval. Should the applicant wish to extend the use of the off-site parking lot beyond the period of one year, the applicant shall submit a new application for review by the Planning Commission.

PLANNING COMMISSION ACTION: Required YES

Date: January 8, 2024 ❒ **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 conditional use approval for an off-site parking lot.

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;

Finding: The Planning Commission is empowered under Unified Development Code §172.06 to grant the requested conditional use permit.

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

Finding: Staff finds that granting the requested conditional use permit is not likely to adversely affect the public interest. Due to the proposed temporary nature of the proposed use, staff finds that redevelopment of the site would more likely serve the public interest. The off-site parking lot will serve the downtown Fayetteville community. Any further alterations to the lot will be subject to compliance with the Unified Development Code or further review by the Planning Commission.

(c.) The Planning Commission shall certify:

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

Finding: **There are specific rules governing off-site parking locations in Unified Development Code §172.06, Parking Lot Location Standards.**

§172.06. PARKING LOT LOCATION STANDARDS.

A. Permitted Locations by Right. Parking lots shall be located within the same zoning district as the use they serve. Required parking lots for uses allowed by right within a zoning district are allowed as a use by right in the same zoning district.

Finding: **The request is for a parking lot located within a mixed-use zone without an established principal use**. **Fayetteville's Unified Development Code, under §172.06 – Parking Lot Location Standards, notes that parking lots that are not located on the same lot as the principal use, require conditional use permit approval from the Planning Commission. Staff's interpretation of ordinance is that this requires conditional use permit approval. Staff finds that the proposed parking lot will not adversely affect adjacent residential and commercial uses due to its temporary nature. Staff finds that the recommended conditions of approval will further limit the impact of this parking lot on adjacent properties beyond the existing parking areas nearby which are permitted by right.**

…

C. Off-Site Locations. If off-street parking cannot be provided on the same lot as the principal use due to existing buildings or the shape of the parcel, parking lots may be located on other property not more than 600 feet distant from the principal use, subject to conditional use approval by the Planning Commission.

Finding: **Staff finds that the proposed parking lot may not meet the regulations for off-site parking since the lot is not associated with a principal use. However, the property is within walking distance of several points of interest and attractions in the area. It is 0.12 miles from Dickson St., 0.16 miles from the Walton Arts Center, and 0.12 miles from TheaterSquared. Therefore, the site's temporary use as a parking lot meets the needs of surrounding businesses and patrons.**

§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: **Vehicular ingress and egress to the parking lot is proposed through the existing curb cuts with full access onto W. Spring St. and left-in, left-out**

access onto Locust Ave. (one way). Staff finds that the proposed access using the existing curb cut along Locust Ave. should be reduced to a standard two-way drive and the parking spaces that back out onto Locust Ave. should not be used. A temporary barrier, such as a fence or railroad ties, should be used to block off the excess curb cut.

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

Finding: **No substantial economic, noise, glare, or odor effects on adjoining properties are anticipated. No additional screening is recommended for the property.**

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

Finding: **The property owner is responsible for maintaining the lot. A dumpster is provided in the southeast corner of the lot for trash disposal.**

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

Finding: **No development is currently proposed on the subject property where water and sewer services are necessary. Adequacy of existing infrastructure would be evaluated at the time of any future development.**

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

Finding: **Trees screen the property to the south, and the site plan orients cars to be primarily facing the north and south so impacts on residential properties to the east would be minimal. No additional screening is recommended.**

(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: **All signage shall be reviewed separately in accordance with UDC Chapter 174.**

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

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

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

Finding: **Staff finds that the proposal is compatible with adjacent properties. Surface parking lots are common in this part of Fayetteville and are reasonable to accommodate parking nearby heavily trafficked Dickson Street. Further, staff recognizes that this is a temporary use and eventual redevelopment of the site will be more appropriate.**

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

Finding: **Staff finds that the proposal is generally incompatible with the goals and intent of City Plan 2040. However, the proposal is for temporary use as a parking lot until the property can be redeveloped as multi-family housing, which would align with goals outlined in City Plan 2040. Further, conditions placed on the approval of this use would facilitate reapplication and reevaluation of the use.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
  - §172.06 - Parking Lot Location Standards
- Applicant Request Letter
- Applicant Site Plan
- Exhibit – Applicant Proposed Parking
- Exhibit – Staff Recommended Parking
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Dickson/Block Parking Study

172.06 - Parking Lot Location Standards

The location of all required and nonrequired parking lots with five (5) or more spaces shall meet the location requirements below. All conditional uses hereunder shall be granted by the Planning Commission in accordance with Chapter 163, governing applications of conditional uses; procedures.

(A) *Permitted Locations by Right.* Parking lots shall be located within the same zoning district as the use they serve. Required parking lots for uses allowed by right within a zoning district are allowed as a use by right in the same zoning district.

(B) *Permitted Locations as a Conditional Use.*

(1) Parking lots located within residential zones which serve uses in nonresidential zones may be allowed as a conditional use by the Planning Commission.

(2) Parking lots for uses allowed as conditional uses within residential zones must also be approved as a conditional use. A conditional use for a parking lot may be approved at the same time the use is approved or may be approved separately if additional parking lots are developed later.

The Planning Commission shall make a finding based upon the size, scale, and location of these activities that the proposed parking lot will not adversely affect adjacent residential uses or the residential character of the neighborhood.

(C) *Off-Site Locations.* If off-street parking cannot be provided on the same lot as the principal use due to existing buildings or the shape of the parcel, parking lots may be located on other property not more than 600 feet distant from the principal use, subject to conditional use approval by the Planning Commission.

...

Fayetteville Office Portfolio, LLC
19 E. Mountain Street
Fayetteville, AR 72701

October 12, 2023

City Planning
CITY OF FAYETTEVILLE ARKANSAS
113 W. Mountain Street
Fayetteville, AR 72701

Reference: Conditional Use Permit for 241 W Spring Street

Fayetteville Office Portfolio, LLC (FOP) is the owner of approximately 40,000sf of ground that lies at what was an office building addressed as 241 W. Spring Street, located between Locust and Church Avenues in downtown Fayetteville. On December 25th, 2022, the building located on this site burned to the point that required complete demolition. FOP is in the process of developing plans to construct an apartment complex on the site but would like to operate the area as temporary paid public parking during the development process. With the upcoming closing of the Walton Arts Center parking lot, we believe providing additional parking options downtown will be of benefit to the community.

Therefor FOP is seeking a conditional use permit to operate paid parking on a seven day a week, 24 hour a day basis. The site will contain 72 spaces; there will be no employees as payments will be made by QR Code via credit card; we anticipate very little day time use with perhaps 75% occupancy on Thursday, Friday and Saturday evenings; street lighting will illuminate the site; the noise will be negligible; the site abuts Spring Street to the north and Locust Avenue to the west with a wall and landscaping to the south as buffering; there are multiple existing points of ingress and egress; the adjacent properties are of commercial day time use, or surface parking as well; and, the previous use of the property was primarily for student training with considerable traffic due to heavy daytime and evening use of the 60 or so parking spaces that existed to service the training center.

See the attached plat of the property depicting the previous structure and requisite parking.

Respectfully,

Greg House

ENC

EXHIBIT A

Reviewed by Jessie Masters
Development Review Manager
479-575-8239
jmasters@fayetteville-ar.gov

Reviewed by Kylee Hevrdejs
Planner
khevrdejs@fayetteville-ar.gov

PREVIOUS COMMENT

-identify location of proposed QR code/enforcement signs on site plan

PREVIOUS COMMENT

Dimension all curb cuts

PREVIOUS COMMENT

Dimension all drive aisles

Exhibit - Applicant Proposed Site Plan (created by staff for clarity)

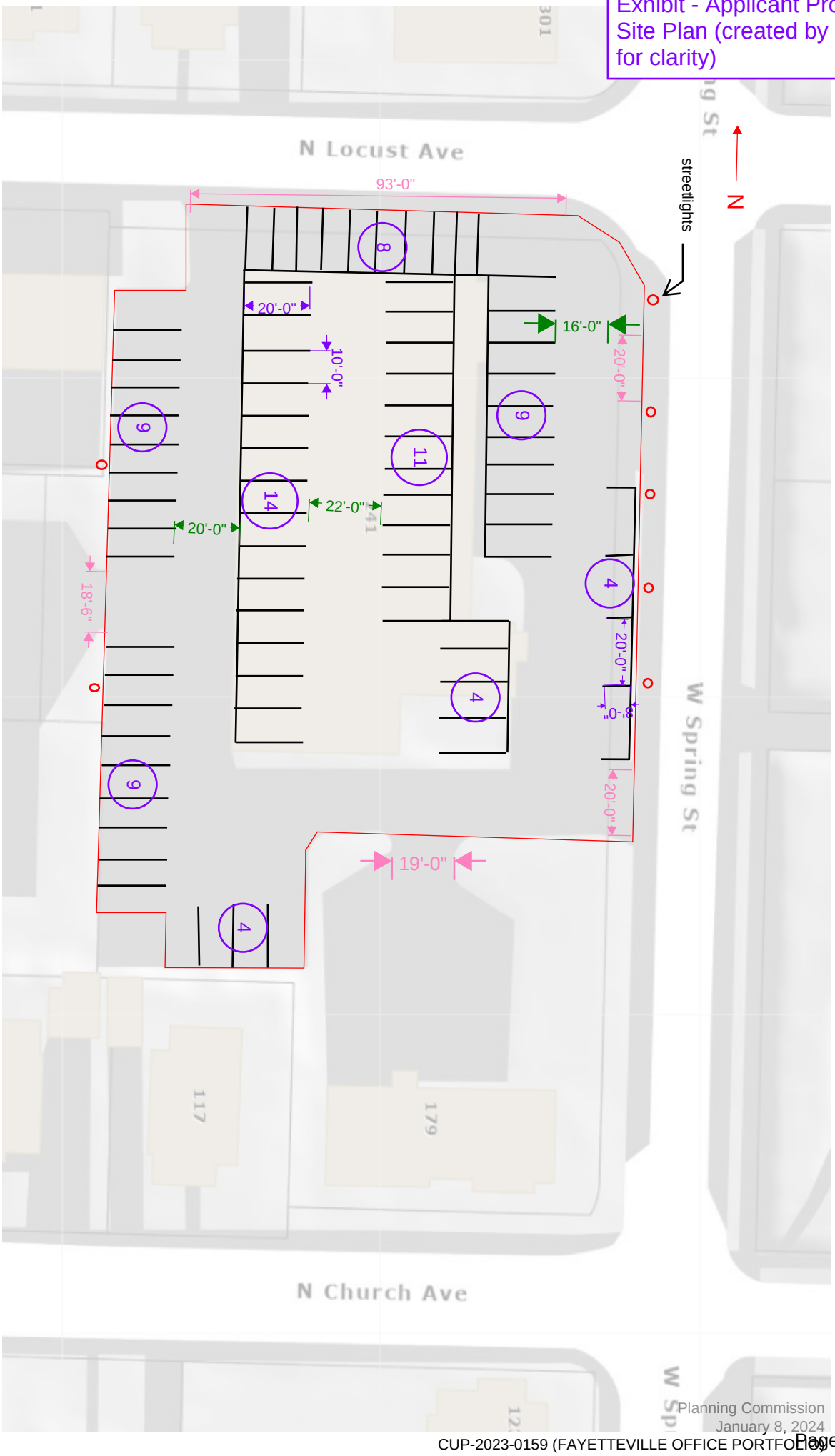
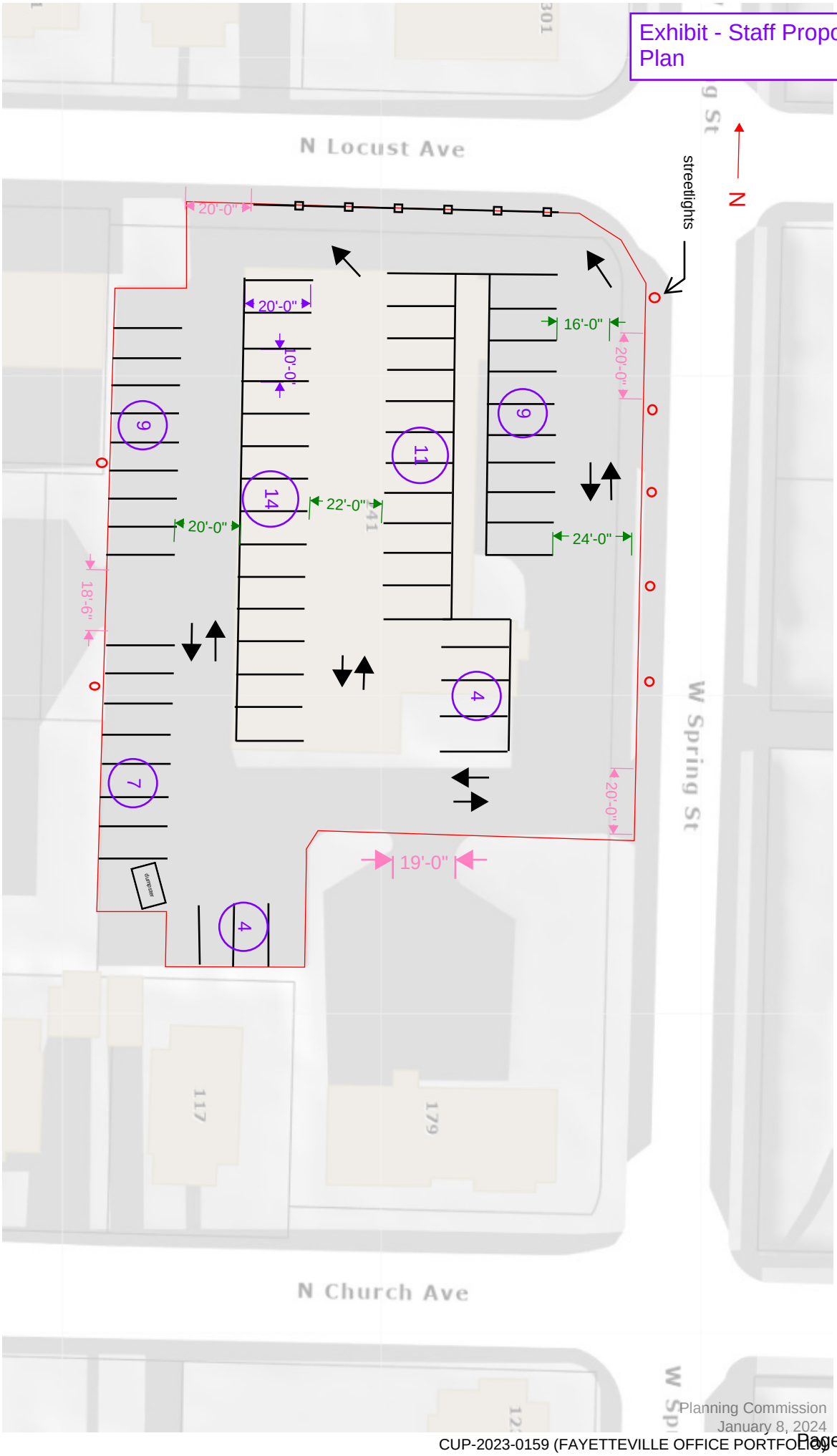


Exhibit - Staff Proposed Site Plan



Hevrdejs, Kylee

From: Planning Shared
Sent: Monday, December 11, 2023 8:53 AM
To: Hevrdejs, Kylee
Subject: FW: Conditional use as off-site parking: Planning Projects

For you

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville
479-575-8267
Website | Facebook | Twitter | Instagram | YouTube

CITY OF FAYETTEVILLE ARKANSAS

From: Carl Kernodle <ckernodle@twotrout.dev>
Sent: Monday, December 11, 2023 6:27 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Conditional use as off-site parking: Planning Projects

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

CUP-2023-0159 (241 W. SPRING ST)

Planning Projects
maps.fayetteville-ar.gov

I see that this property is posted for a January hearing for a conditional use permit to operate as an off-street parking lot. The property has been crudely setup as a rental parking lot and been selling parking spaces now for months.

1. Is the makeshift, poorly maintained/paved, parking lot up to city standards?
2. How can this owner operate an off-street parking operation without proper permits?

It seems that the property owner doesn't not have this approval. If that is the case, what measures can be taken until such authorization is granted? Seems a daily fine shall be charged for every day (goes back to September or longer) for operating without approval.

CAK

Carl Alan Kernodle, AIA, NCARB, LEED AP

c: 312.218.8333
e: ckernodle@twotrout.dev
w: twotrout.dev

This message and all attachments are intended only for the addressee containing confidential information exempt from disclosure. If you are not the intended recipient, any disclosure, copying, distribution, use, or any action or reliance on this communication is prohibited. We do not accept liability for any loss or damage due to this message or its attachments.

Hevrdejs, Kylee

From: Masters, Jessica
Sent: Wednesday, December 6, 2023 9:58 AM
To: Hevrdejs, Kylee
Cc: Hopkins, Mirinda
Subject: FW: Fayetteville Office Portfolio, LLC

Kylee,

I think this is actually for CUP-2023-0159. Can you please save and incorporate it into the packet for that item. I have not yet responded to Mr. Pendergraft.

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

CITY OF FAYETTEVILLE ARKANSAS

From: Planning Shared <planning@fayetteville-ar.gov>
Sent: Thursday, November 30, 2023 11:15 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: FW: Fayetteville Office Portfolio, LLC

Concerning CUP-2023-0166

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville
479-575-8267
Website | Facebook | Twitter | Instagram | YouTube

CITY OF FAYETTEVILLE ARKANSAS

From: Neal Pendergraft <zippy@33st.com>
Sent: Thursday, November 30, 2023 10:39 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Fayetteville Office Portfolio, LLC

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

I received the Written Notification Form on the proposed Conditional Use Permit for the parking lot proposed by Fayetteville Office Portfolio, LLC. We own a townhome at 211 Church Street. Greg House is a good operator. and is a good neighbor. I have no objections to the proposal. Please feel free to contact me if you need any further comment. Thanks, Neal Pendergraft

--

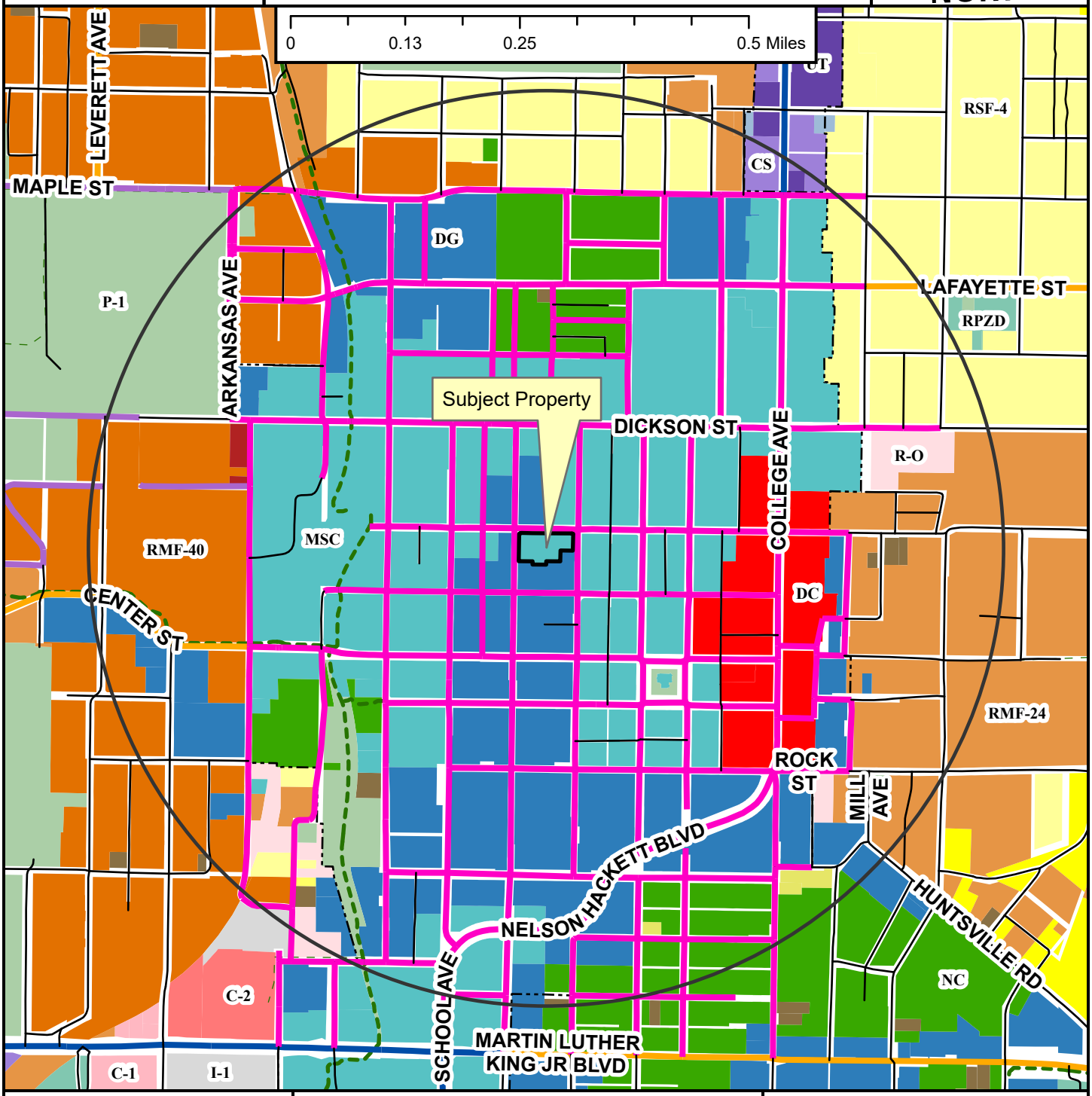
Neal R. Pendergraft
Drake Farms, LLC
2828 Mansfield Street, Ste. 205
P.O. Box 4245
Fayetteville, AR 72702
Telephone: 479-443-3301
Cell: 479-601-4945

CUP-2023-0159

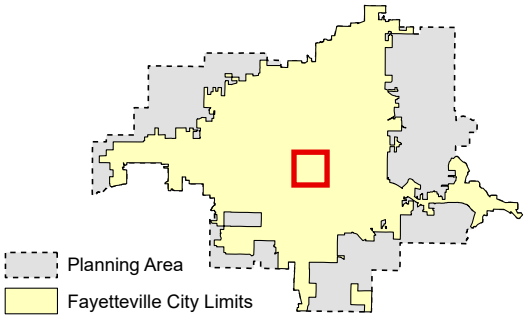
One Mile View

241 W. SPRING ST

NORTH



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



Zoning

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

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

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

EXTRACTION
- E-1

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

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

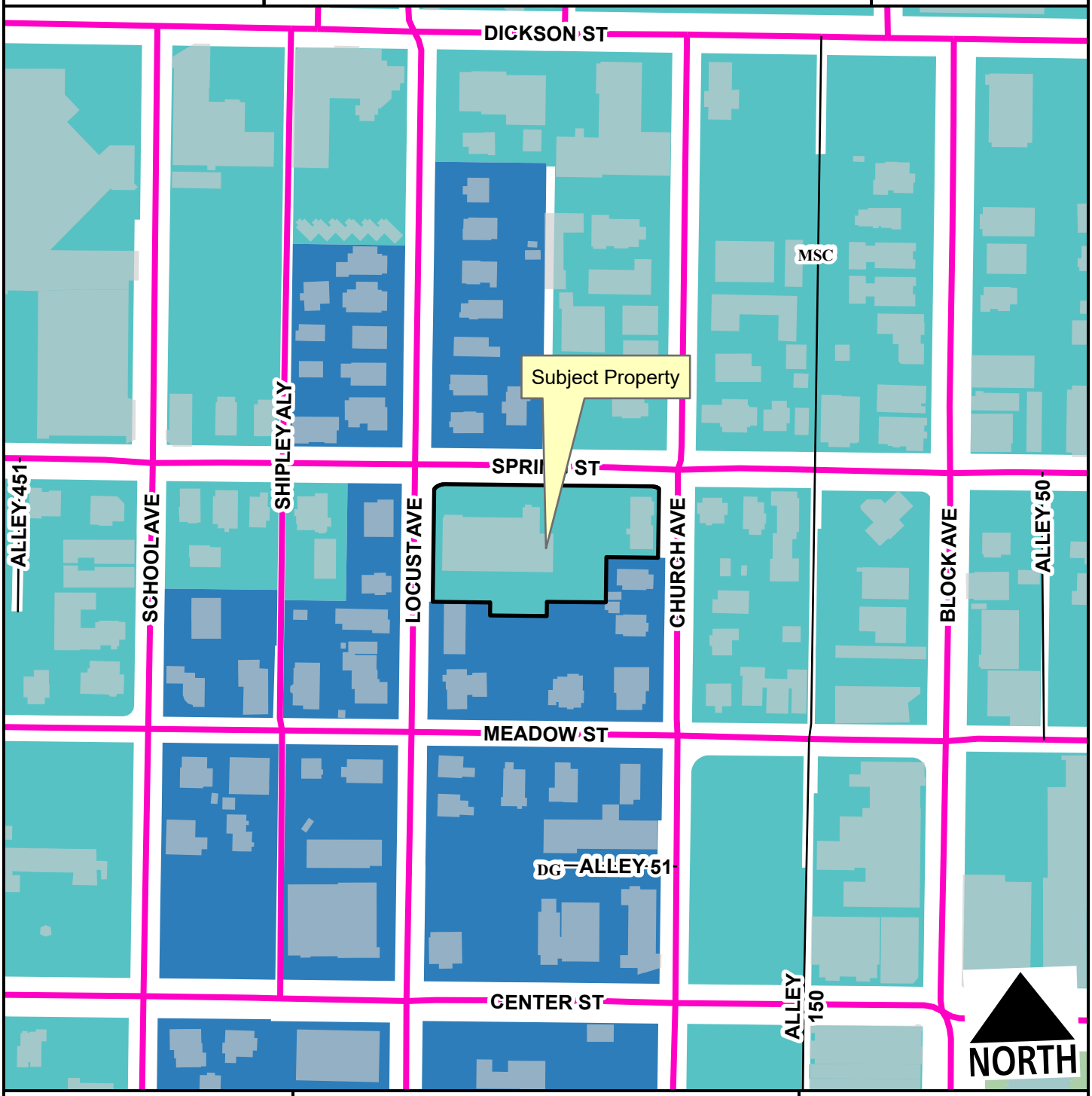
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0159

Close Up View

241 W. SPRING ST



Urban Center
Alley
Planning Area
Fayetteville City Limits
Design Overlay District

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

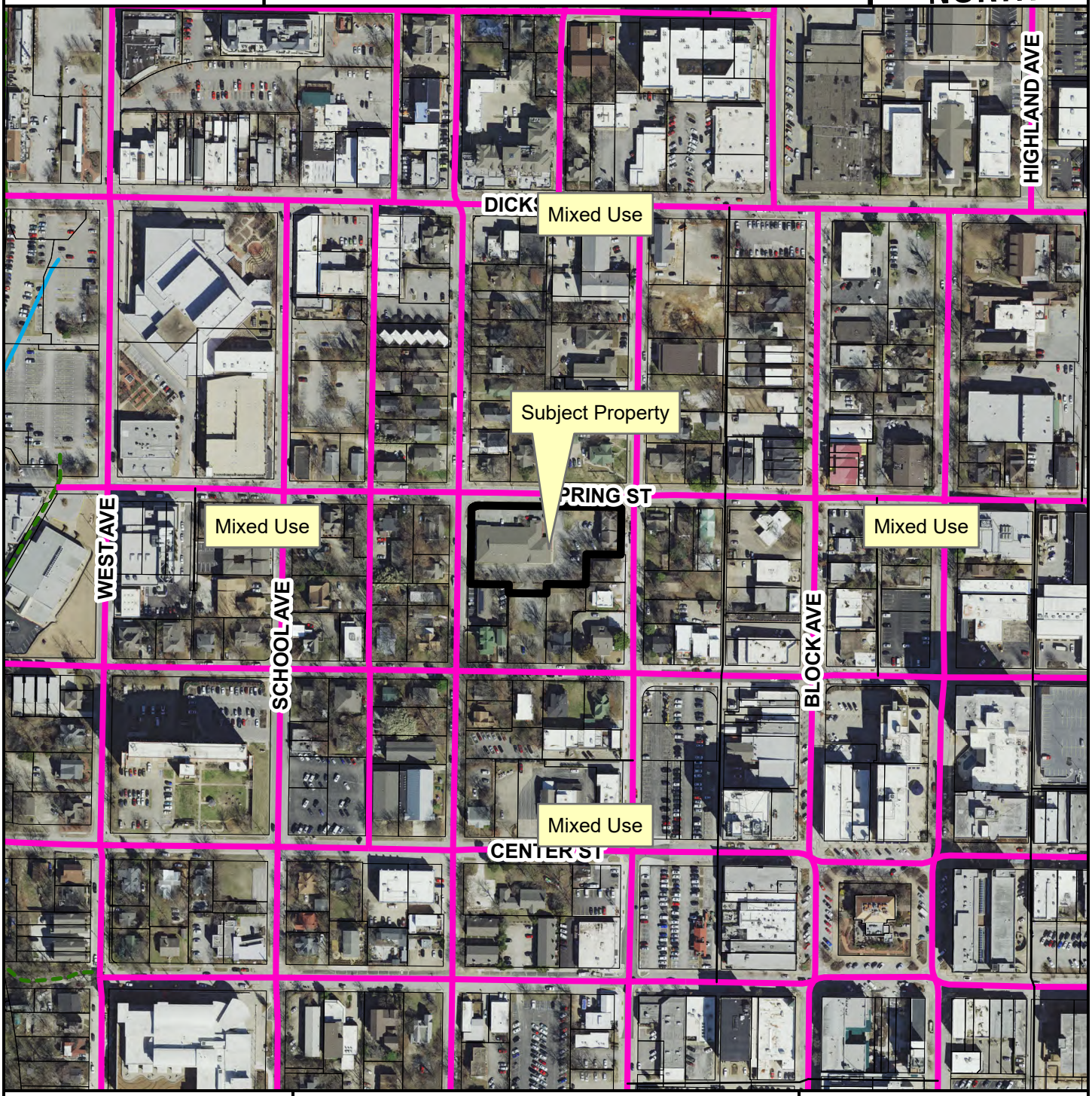
Main Street Center
Downtown General
P-1

CUP-2023-0159

Current Land Use

241 W. SPRING ST

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

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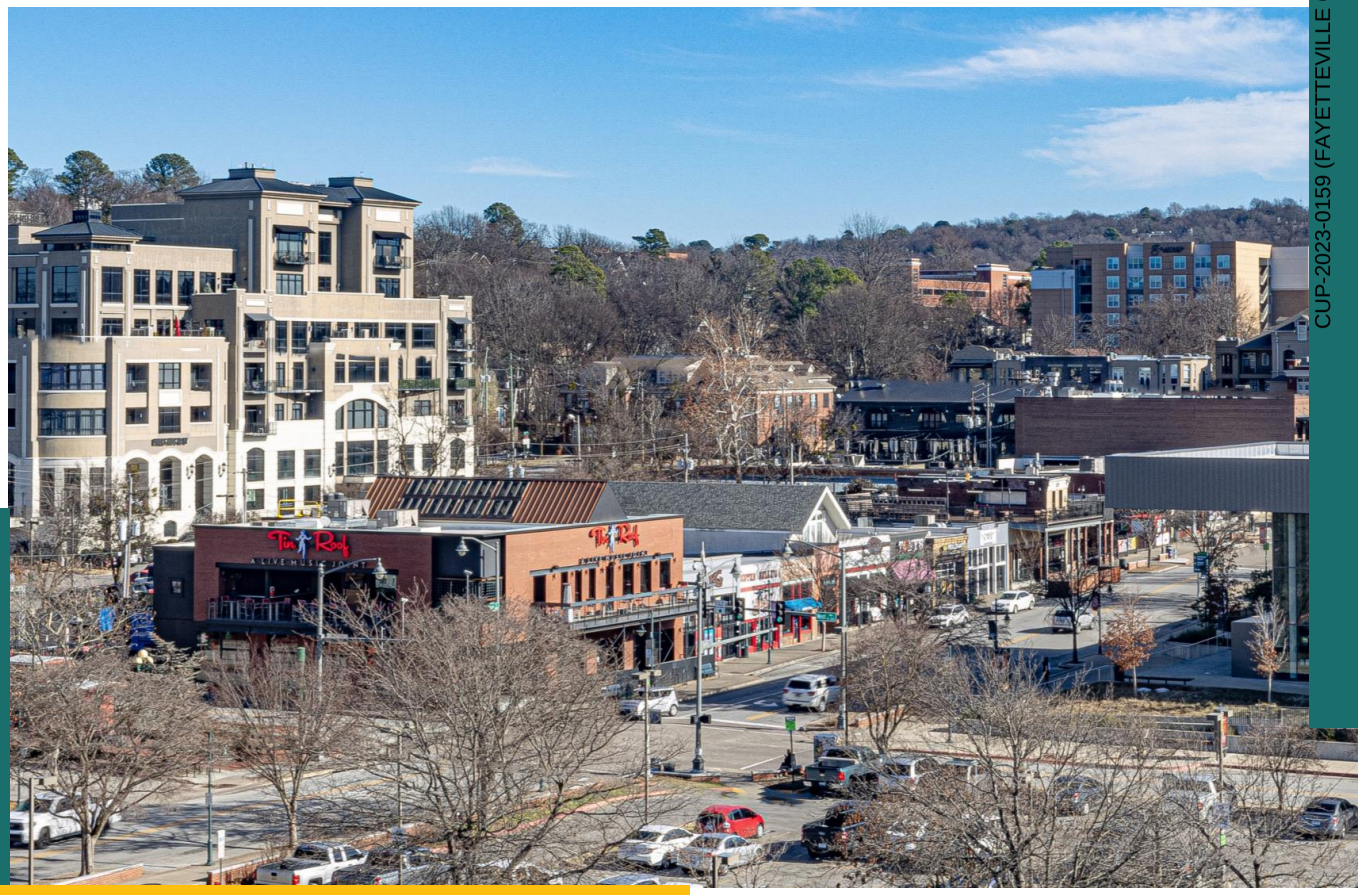
April 25, 2023

DICKSON / BLOCK PARKING STUDY

Fayetteville, AR

Final Report



Prepared By:

Kimley»Horn

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Acknowledgements

The Dickson/Block Parking Study was initiated by the Walton Arts Center in September 2022 with the support of a coalition, City of Fayetteville staff, and the Mayor's office. The coalition includes members of the Entertainment District community, including the Dickson Street Merchants, Experience Fayetteville, and the University of Arkansas.

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Purpose of Study

As the Dickson/Block corridors within the Entertainment District continue to expand their businesses, events, and arts offerings, the current parking capacity is nearly effectively full, at over 80% during some event conditions.

A strategic approach to accommodate future growth is needed.

The purpose of this study is to:

- Understand the current and future parking needs of the Entertainment District with a focus on the Dickson/Block corridors, various user groups, and size of events,
- Project parking supply needs with new Civic Plaza and proximate future developments, and
- Recommend viable short-, medium-, and longer-term solutions.

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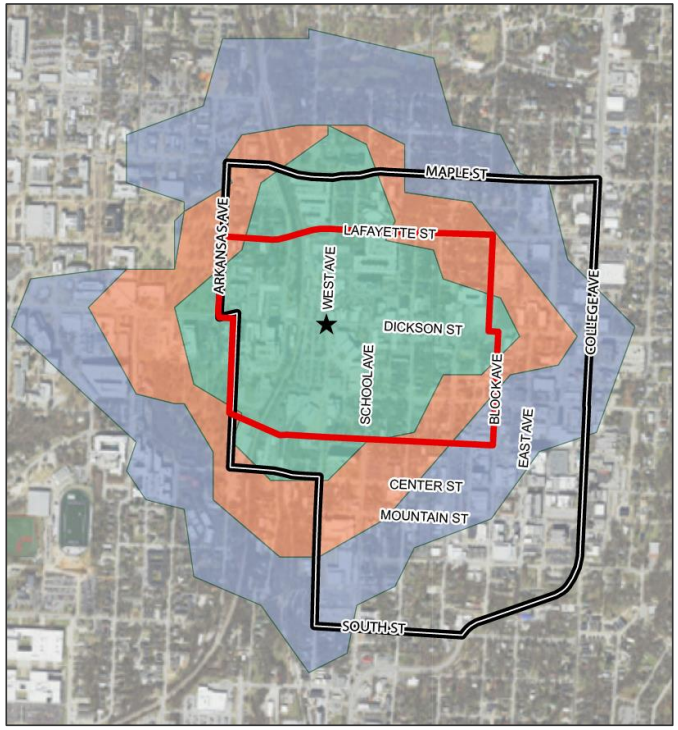
PROJECT OVERVIEW

Differences from 2017 Mobility Study



Source: City of Fayetteville, AR

In 2017, the City of Fayetteville commissioned a study to understand the existing conditions of the transportation network, which involved the parking ecosystem. Findings from the 2017 Mobility Study align with the Dickson/Block Parking Study, making the two studies complementary.

A key difference between the two studies is that the 2017 Mobility Study had a multimodal focus and included parking as a key element, whereas this study is focused primarily on parking.

The map to the left shows the current study boundaries compared to the one from 2017. The current study is more focused on the Entertainment District (~0.2 square miles), whereas the 2017 Mobility Study had a broader focus on the City of Fayetteville (~0.5 square miles).

Legend

- Current Parking Study Boundaries
- 2017 Mobility Study Boundaries
- 5-min Walkshed
- 7-min Walkshed
- 10-min Walkshed

Differences from 2017 Mobility Study

The 2017 Mobility Study included one (1) weekend to determine baseline parking conditions. The 2023 study collected parking demand data from three (3) weekends with a focus on special events, such as Broadway and University of Arkansas football weekend as well as non-event baseline conditions.

The additional data gathered also brings to light both the growing Entertainment District business community and the University of Arkansas student population as well as the increased number of event offerings, such as Broadway shows.

Best Practice Alert:

Parking studies should be updated about every five (5) years due to the nature of urban development, growth, and to ensure current parking strategies still align with the organization's goals and future vision.

	2017 Mobility Study	2023 Study
Study Area	0.5 Sq miles	0.2 Sq miles
Data Collection	1 weekend to determine baseline	3 weekends with special attention to events (Broadway show, football game, non-event)
Businesses	Dickson St. Merchants formed in 2013 and working to increase vitality of Dickson/Block corridors	New restaurants and businesses in Dickson/Block corridors and new proposed developments
University	27,000 students	30,000 students (11% growth)
Events	WAC was under construction during data collection	7 weeks of Broadway shows at WAC, Tin Roof, TheatreSquared

Context and Study Area

The study area boundaries are Lafayette Street (north), Arkansas and University Avenue (west), Meadow Street (south), and Saint Charles and Block Avenue (east). The map shows the city-managed facilities in red, and lots owned by private entities in blue. Lots that are privately owned but managed by the city are categorized as city-managed, shown in red.

Within the Entertainment District, there are different types of users utilizing the parking throughout the day and year for activities and events such as:

- Daytime activity
- Weekly evening entertainment
- Performing arts and Events
- University of Arkansas Football games

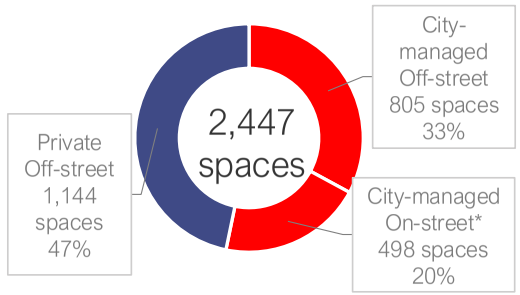
The Dickson/Block Parking Study aims to understand how various users and types of events that happen within the Entertainment District use parking in terms of proximity and availability needs.

The overall parking inventory of the study area is 2,447 spaces, which includes 1,144 spaces in private off-street spaces (47%), 805 spaces in city-managed off-street spaces (33%), and 498 spaces in city-managed on-street spaces (20%).

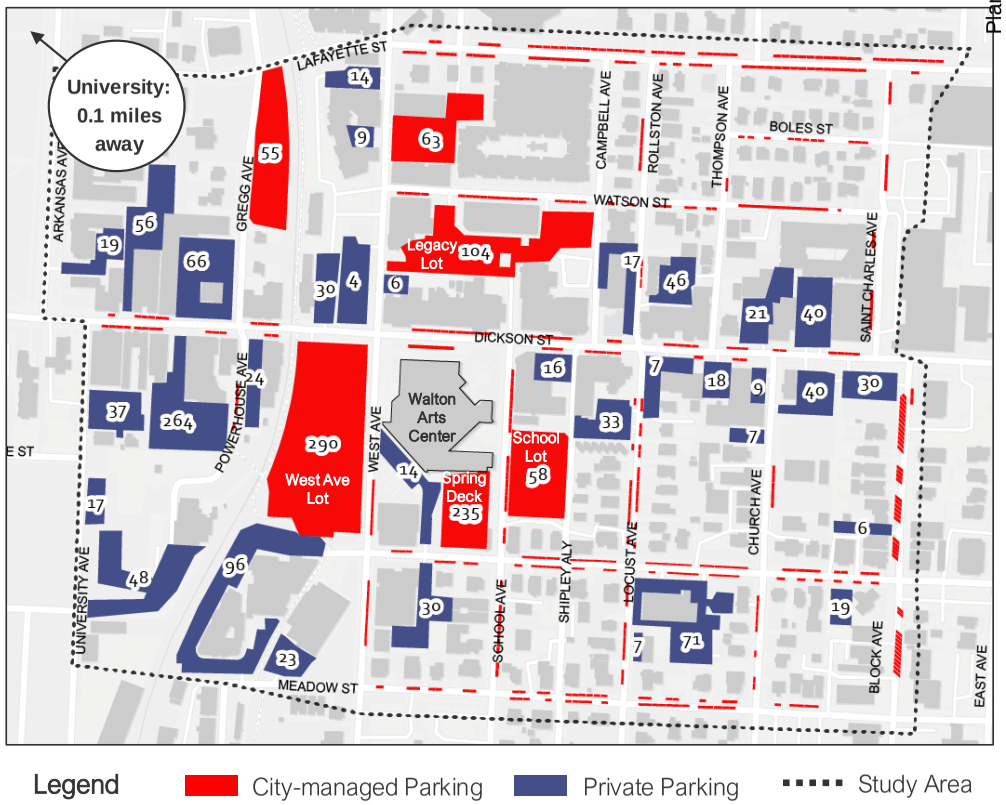
Parking Spaces in Study Area

Total Off-street: 1,949 spaces

Total On-street: 498 spaces*



*114 on-street parking spaces are reserved for resident-only parking



Users of the Dickson/Block Area

With the four (4) key user types that frequent the Entertainment District, it is important to understand their parking needs based on their frequency of use, typical ages, walking tolerances, and resulting parking needs.

Walking tolerances are particularly important to take into consideration in a downtown ecosystem because certain user types may not be willing or able to walk over a certain distance.

For example, a daytime patron that is coming to the Entertainment District for a lunchtime break will have a walking tolerance of ~1-3 minutes because they may be picking up lunch or dropping off mail. In comparison, a patron attending a football game at the University of Arkansas may be younger and willing to walk as much as one (1) mile to get to their destination from their parking spot.

Parking locations and intended user types should be taken into consideration when evaluating parking availability.

	Daytime Patrons	Weekly Evening Entertainment Patrons	Performing Arts/Events	Football Games
Frequency	365 days (100% of days/yr.)	52 weeks (100% of weekends/yr.)	37 weeks (70% of weekends/yr.)	6 home games (11% of weekends/yr.)
Typical Ages	Mixed group of students, residents, workers and visitors	Entertainment / younger crowd	Mixed group of patrons, including higher number of people ages 55+	Mixed group of students and football attendees
Walking Tolerances	~1-3 min walk	~ 5 min walk	~ 3 min walk	>15 min walk
Needs	Mix of high turn-over proximate parking and lower cost parking options to access local businesses	Off-street and less proximate parking is acceptable. Patrons willing to walk a further distance than during lunch.	Proximate parking to accommodate mobility needs. Enough parking to accommodate large peak volumes.	Attendees use Entertainment District parking as overflow; Not a primary user group.

Source: How Far Should Parkers have to Walk? (1994), https://www.gsweventcenter.com/GSW_RTC_References/2008_05_Smith-Butcher.pdf

Events in Dickson/Block

When planning for parking needs, a best practice is to evaluate special events and times in which a large amount of people are coming to the Dickson/Block area. This primarily includes:

- Walton Arts Center (1,400 capacity)
- George's Majestic Lounge (700 capacity)
- Tin Roof (600 capacity)
- Theatre Squared (275 capacity)

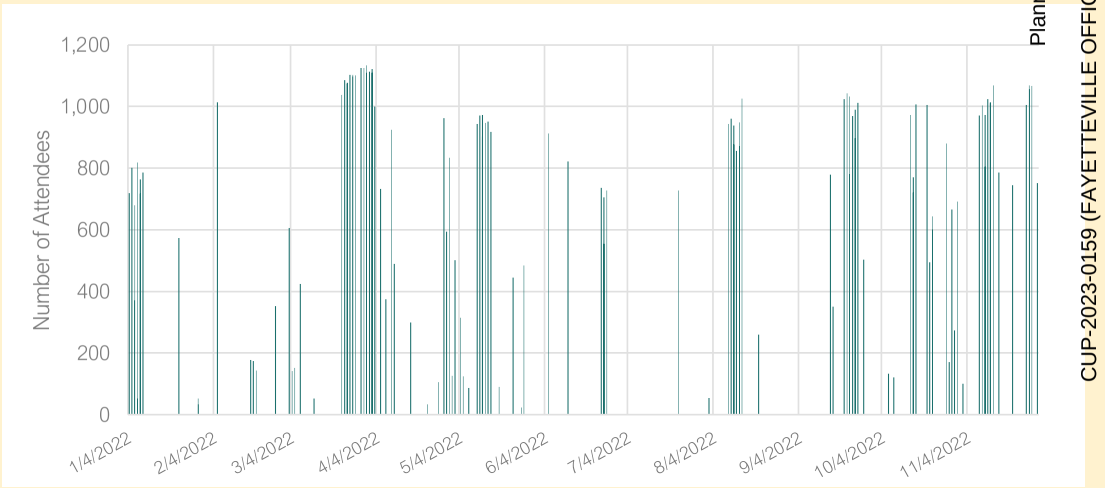
While there are many different event venues in the Dickson/Block area, events are happening more regularly and are a more frequent occurrence. The graphs to the right provide a snapshot of the event regularity throughout 2022 as well as the attendance by number of events. Approximately 50% of the events hosted by WAC attracted 800 attendees or more. In addition, WAC hosts events with over 800 attendees almost 20% of the weekends in a year.

According to the Institute of Transportation Engineers (ITE), approximately one (1) parking space is needed for every three (3) seats within a venue. Therefore, for a parking venue with a 1,400-seat capacity, approximately 420 parking spaces are needed for the event. This is consistent with the data Kimley-Horn collected.

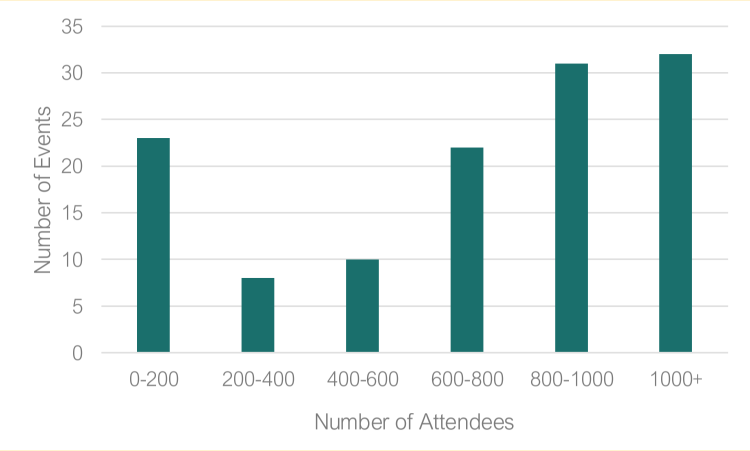
Takeaway

Due to the frequency of special events in the Dickson/Block area, the 2023 study focuses on evaluating and planning for event conditions and uses non-event conditions as a baseline metric.

Distribution of WAC Events throughout the Year



WAC Number of Attendees by Number of Events



The Role of Parking in a Downtown Environment

For efficient downtown parking ecosystems, on- and off-street parking serve different needs and are complementary parts of the same system. The map to the right shows both the on-street (yellow) and off-street parking facilities (black). On-street facilities serve short-term uses, such as lunch pick-up or mail drop-off, and have high patron turnover. Conversely, off-street parking serves longer-term needs and allows users to have access to the facility for an extended period for a lower cost. On-street parking availability is critical for small businesses to have access of their services to their customers. For pricing, on-street parking is typically set at a higher rate than off-street parking to incentivize shorter-term stays and high turnover.

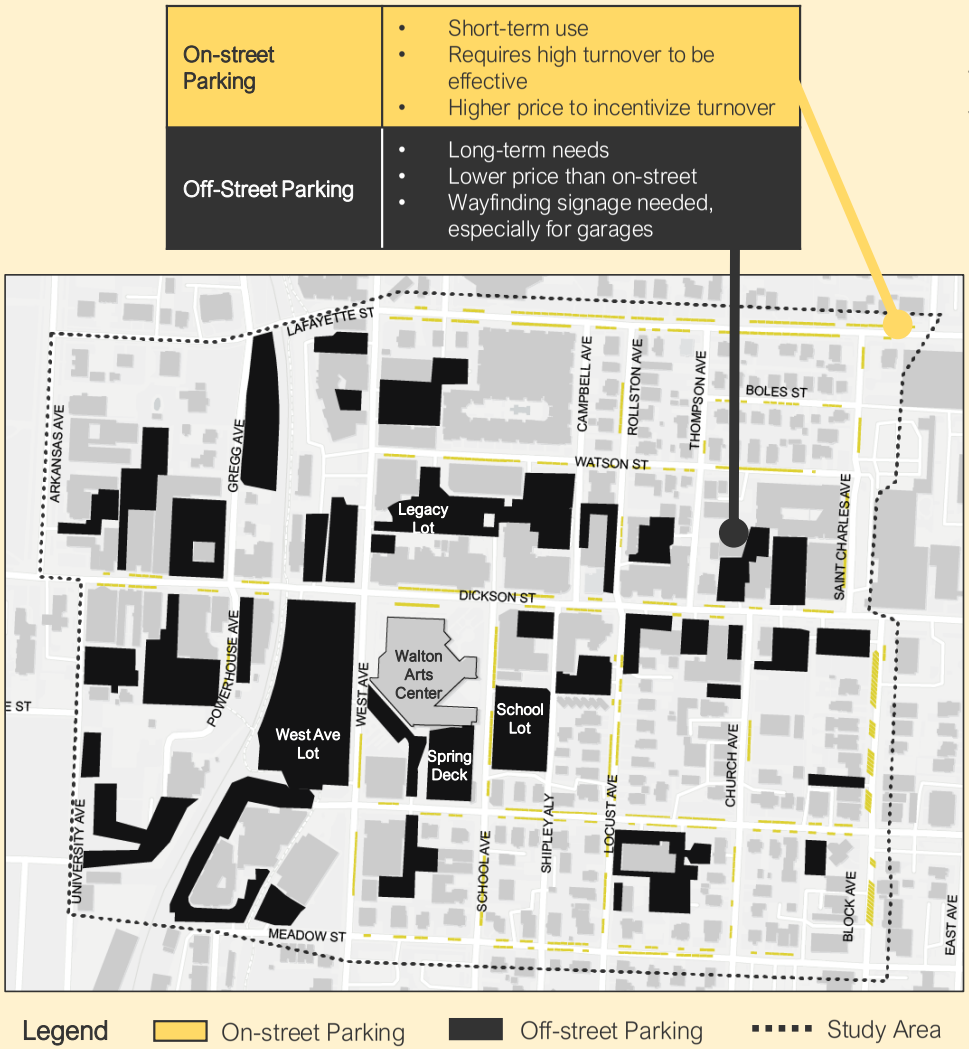
For users to be able to utilize off-street parking spaces and maintain on-street spaces for short-term use, off-street spaces must be easy to find and understand and offer adequate wayfinding and signage.

As a measure of how efficient the parking system is, parking space utilization is used to understand how many spaces are being used at one time. Optimal off-street utilization is between 85-95%, with 85% being more efficient. This analysis uses 90% as a conservative estimate. Optimal on-street utilization is between 65%-85%, with one to two spaces available per block.

Best Practice Alert:

As a parking management best practice, parking revenues cover parking capital, maintenance, and operational costs associated with running a parking system.

Source: Shoup (2005), The High Cost of Free Parking



DATA COLLECTION METHODOLOGY

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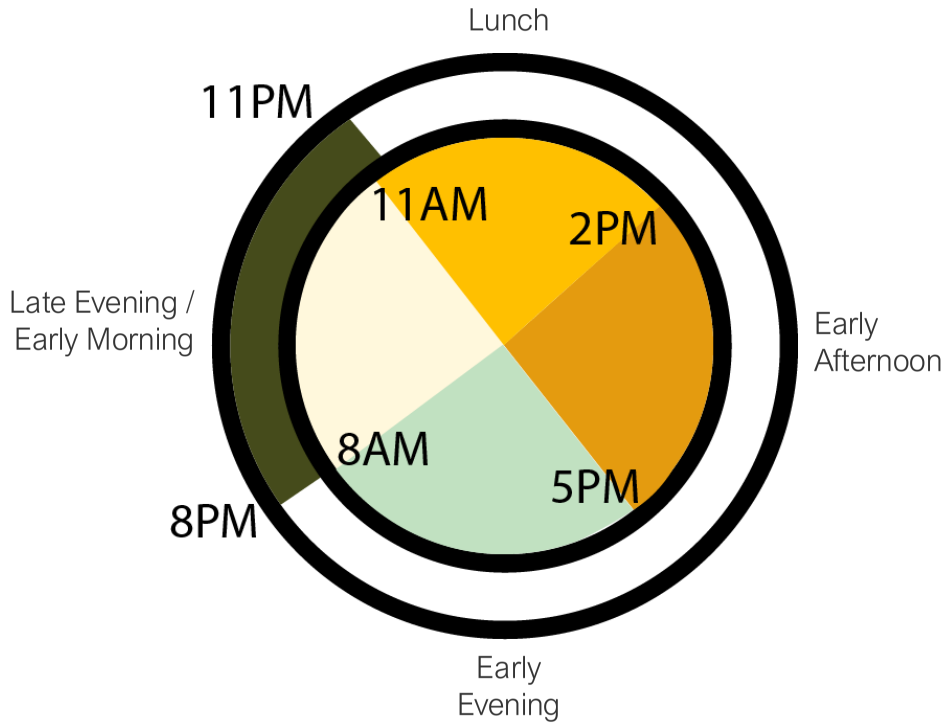
Time Periods Collected

Parking utilization was collected for the following periods:

- **Non-Event Weekend**
  (Thurs, Oct 6th – Fri, Oct 7th)
- **Broadway Show at WAC Weekend**
  (Thurs, Sept 22nd – Sat, Sept 24th)
- **University of Arkansas Football Weekend**
  (Fri, Sept 30th – Sat, Oct 1st)

DATA WAS COLLECTED EVERY THREE (3) HOURS:



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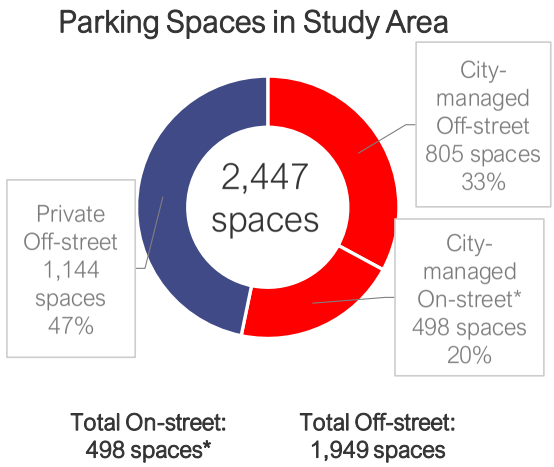
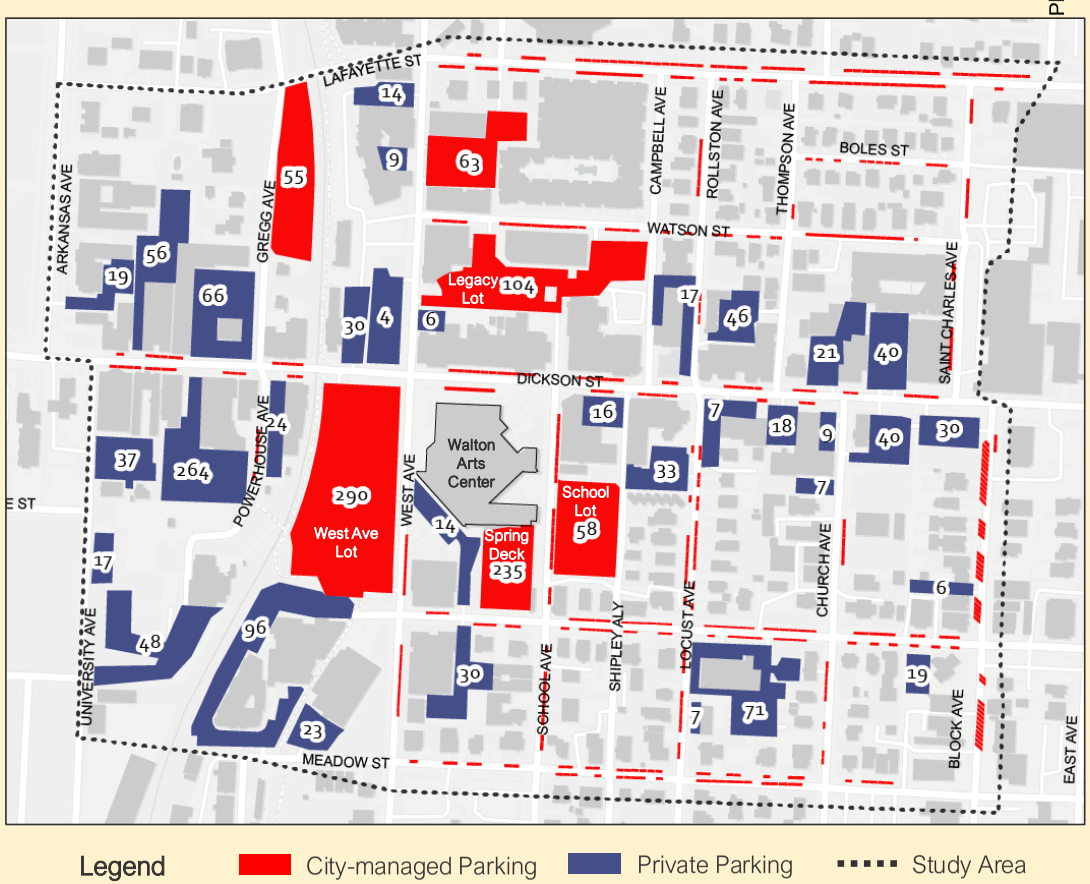
Data Collection Area

Data was collected for the full study area of 2,447 spaces including 1,949 spaces in off-street facilities and 498 spaces in on-street facilities.



*114 on-street parking spaces are reserved for resident-only parking



ON-STREET PARKING FINDINGS

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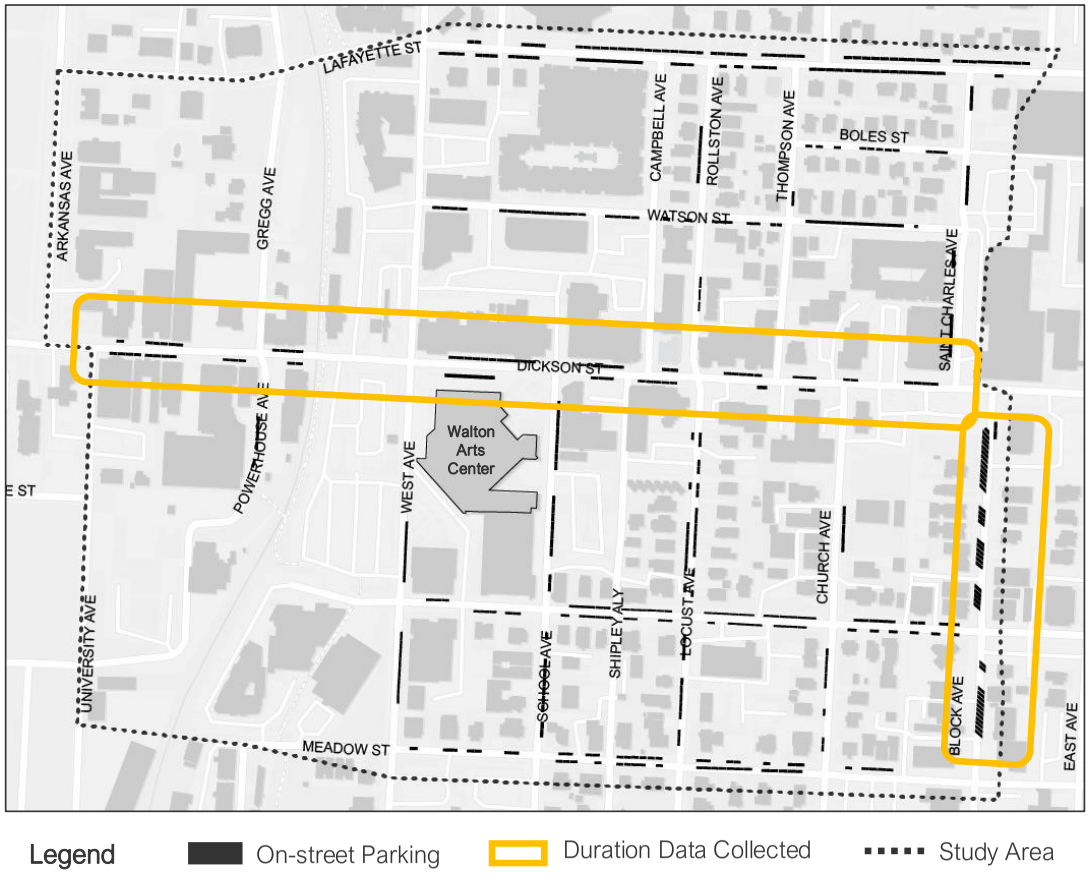
On-Street Characteristics

On-street parking within the Entertainment District is owned and operated by the City of Fayetteville and is free between 2 AM and 2 PM. The cost of parking for all other times is:

- 2 PM – 6 PM: $0.50 per hour
- 6 PM – 2 AM: $1 per hour
- All-day option: $5

Parking fees are collected through the ParkMobile app and pay stations located throughout the District.

Data was collected for both utilization (number of spaces occupied) as well as turnover (how often a new customer is in a parking space). Utilization data was collected for all 498 on-street parking spaces. In addition, turnover data was collected for the 114 on-street spaces along Dickson Street and Block Avenue (highlighted in yellow on the map to the right). Because Dickson and Block are the two primary commercial corridors within the District, the additional turnover information was collected to better understand current parking operations.



Dickson/Block Corridors On-Street Parking Demand

The graph to the right shows an overview of the Dickson/Block corridors on-street parking demand throughout the five (5) data collection time frames for all three (3) data collection weekends including:

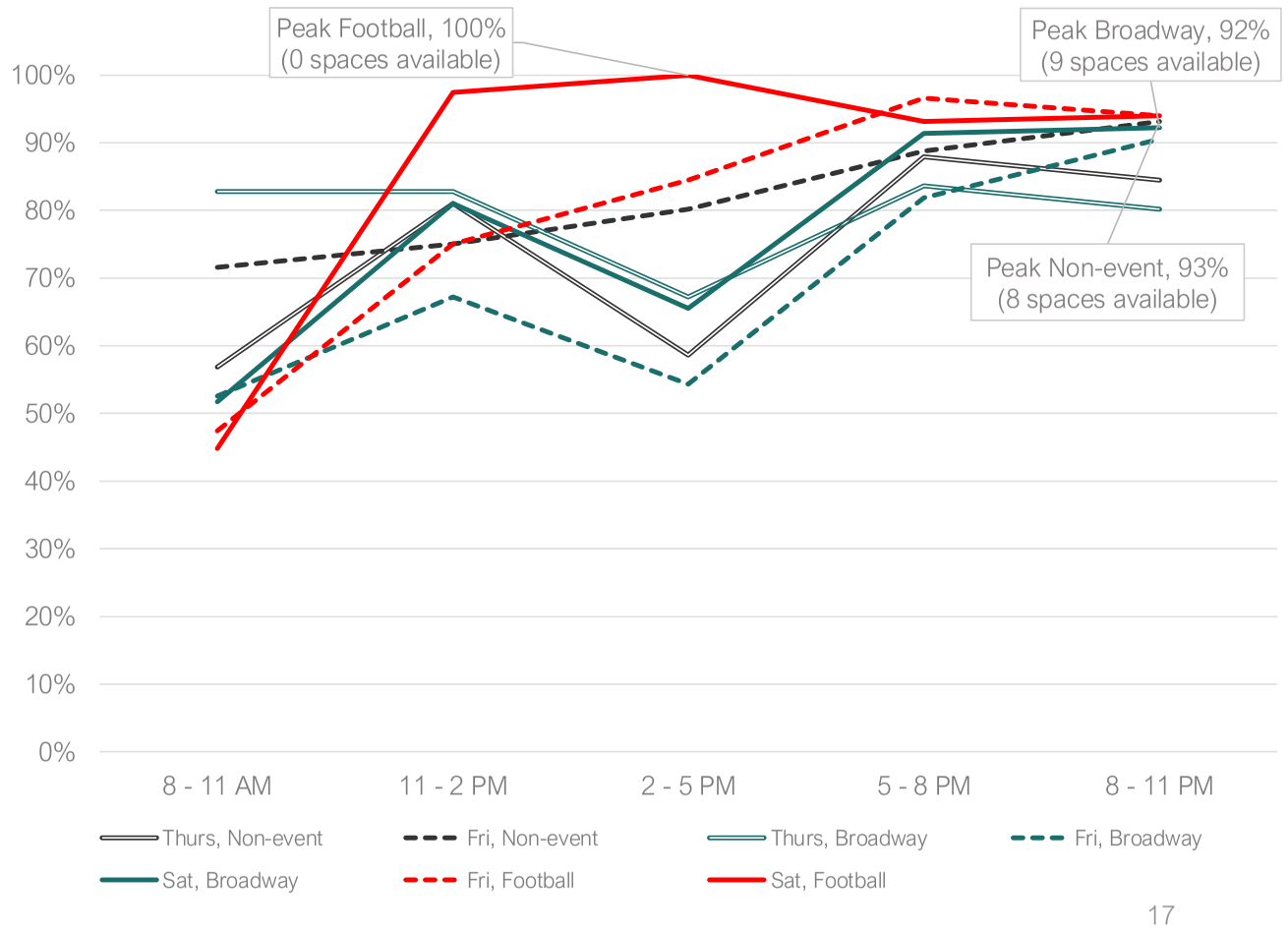
- Non-event Weekend (Shown in black)
- Broadway Weekend (Shown in green)
- Football Weekend (Shown in red)

The Dickson/Block corridors showed the highest utilization compared to the rest of the District. Of the data collection weekends, the highest occupancy was observed during the football weekend at 100% occupancy during the 2:00 PM – 5:00 PM time frame. This is in line with the football game start time of 2:30 PM. The Entertainment District experiences spillover from football attendees due to the proximity and low cost of parking.

Because football weekends only occur roughly six (6) times per year, the focus of the data analysis is on the Broadway and non-event weekends.

During non-football weekends, the peak time frame was 8:00 PM – 11:00 PM at 92-93%, which is considered full (>85% occupied*).

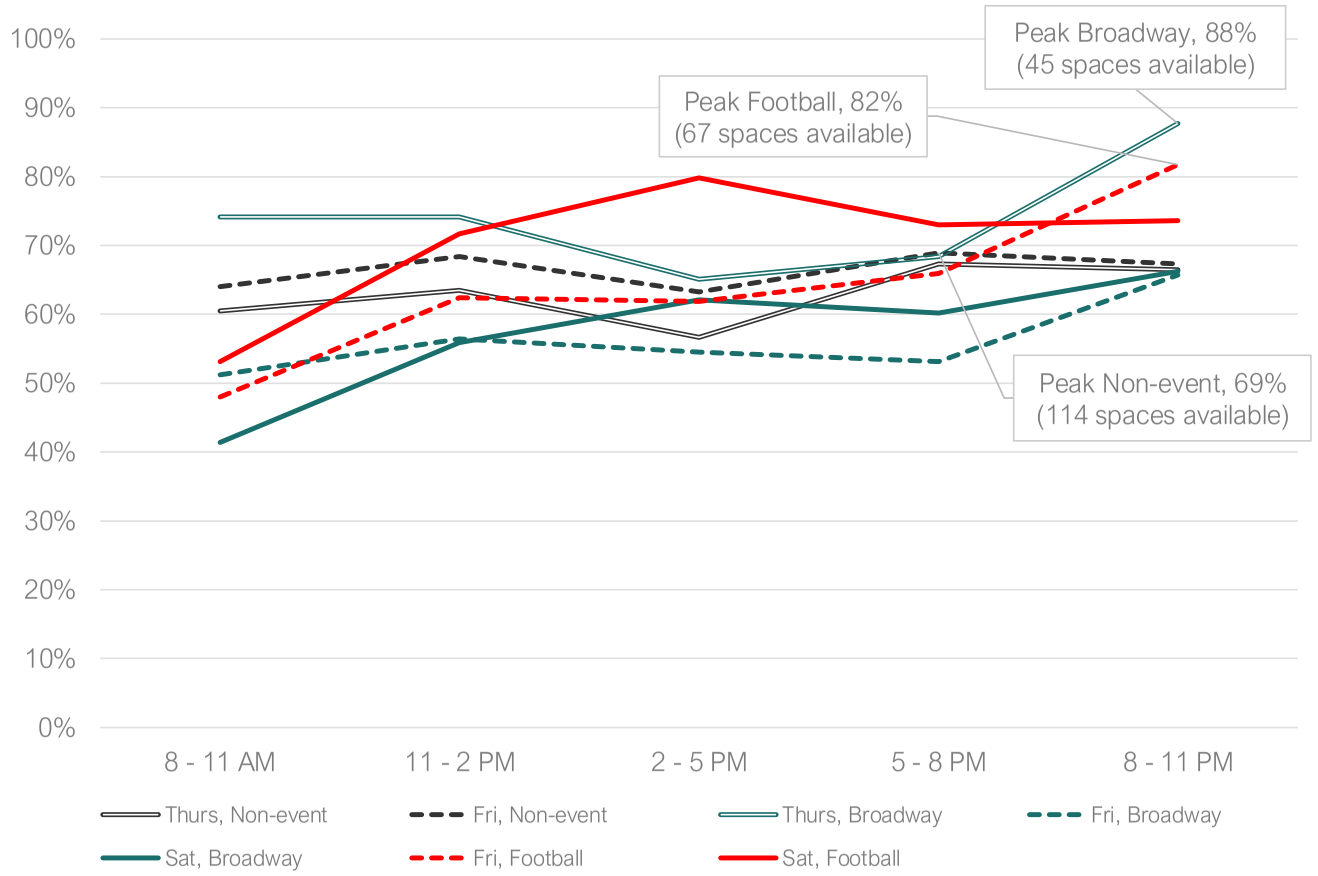
*Optimal on-street utilization is between 65-85%.
Source: Shoup (2005), The High Cost of Free Parking



Non-Dickson/Block Corridors On-Street Parking Demand

Non-Dickson/Block areas are areas with less commercial activity on them. These had lower utilization compared to the Dickson/Block corridors, but they were still highly utilized. In particular, the Broadway weekend had the highest peak occupancy of 88%, which is considered effectively full, during the 8:00 PM – 11:00 PM time frame.

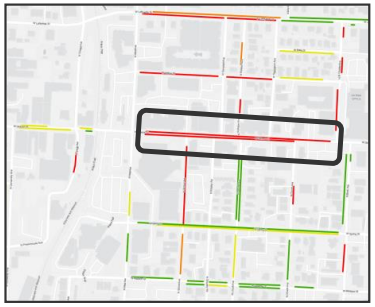
Parking utilization in the Entertainment District is high, with the on-street parking system being especially utilized, even in less commercial areas.



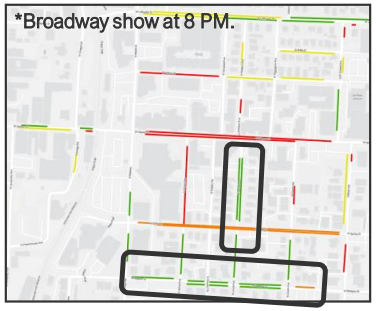
Data Collection Trends – At a Glance

The graphs below show the data on the previous slides in a different way and include the Friday of the Non-Event and Broadway weekends for the five (5) data collection time frames.

Non-event (Friday)

8 – 11 AM	11 - 2 PM	2 – 5 PM	5 – 8 PM	8 – 11 PM
				
Streets north of Dickson **have higher occupancy** than Spring Street. This indicates that residents are using on-street spaces for overnight parking	School Ave jumped from <50% occupied to >75% occupancy; Accommodates overflow from Dickson Street	Heavy lunch/afternoon demand for Dickson St corridor	On-street parking is highest **during dinner-time rush**	Block Ave is busiest during the **nighttime** hours

Broadway (Friday)

8 – 11 AM	11 - 2 PM	2 – 5 PM	5 – 8 PM	8 – 11 PM
				
Typical Demand	Typical Demand	Typical Demand	*Broadway show at 8 PM. • Residential parking areas remained underutilized during high demand of Broadway show. • WAC volunteers park on Spring	After show ends, on-street parking is still >90% full; **Broadway patrons use of off-street supply pushed evening entertainment to on-street.**

Legend: 0 – 50% | 50 - 75% | 75 – 90% | 90% +

*Football weekend is less common and reflects an outlier event.

On-Street Duration of Stay

Parking turnover information was collected for the 114 spaces on Dickson Street and Block Avenue, divided into four (4) blocks. Block 2, which has many active businesses, was the area where parkers stayed the longest, at an average duration of about 8 hours. The lowest parking duration was on Block 4, at about 4.5 hours.

The average duration of stay for Dickson/Block corridor parkers was approximately six (6) hours. Parkers are utilizing the low cost of parking, such as the all-day option for $5, to stay parked in one space for a long period of time. Therefore, each parking space can only accommodate about two (2) cars per day.

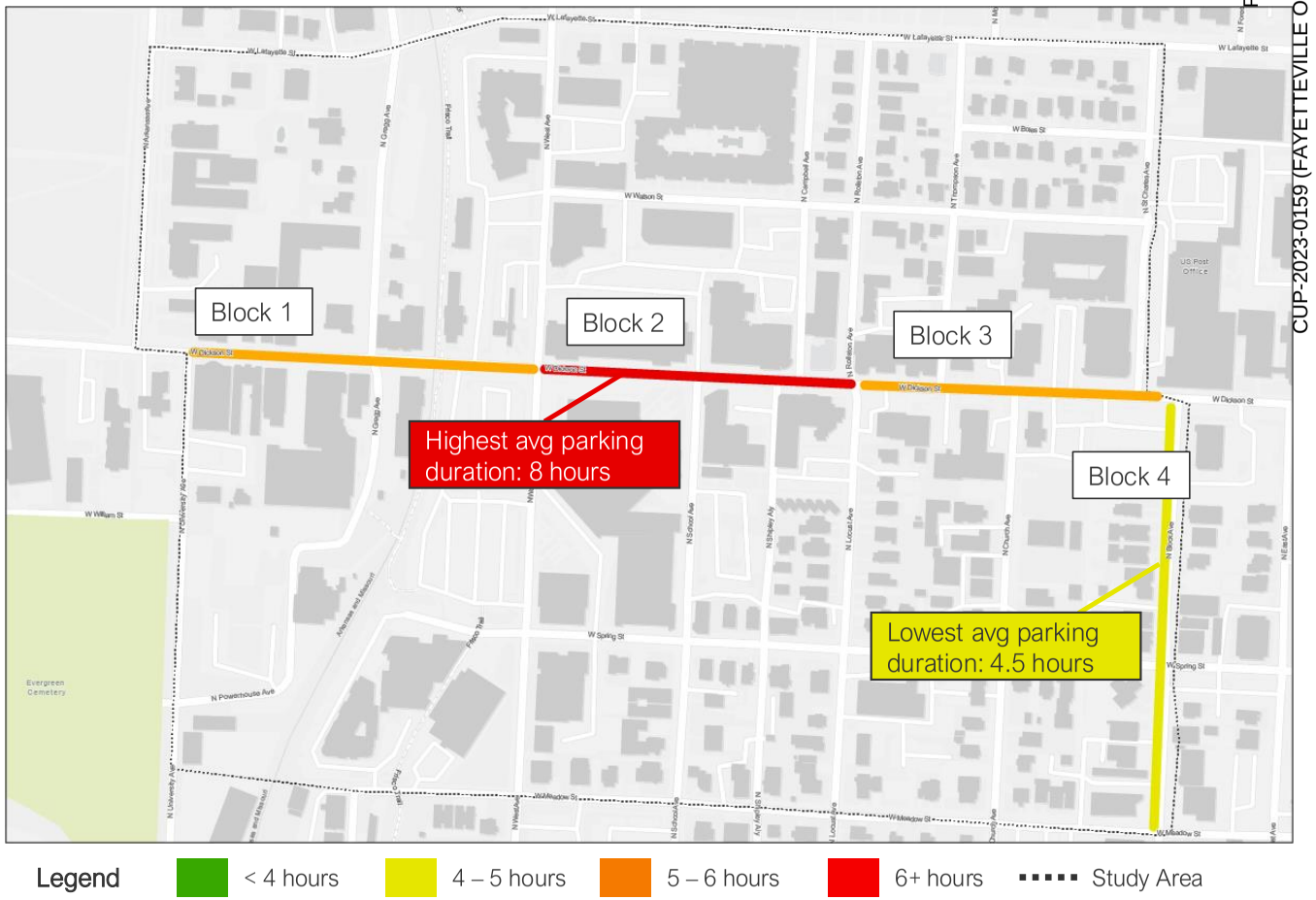
For perspective, there were about 250 unique vehicles that utilized the Dickson/Block corridors on-street spaces per day. If a 2-hour time restriction was implemented, the number of unique vehicles could be 750 vehicles per day.

Takeaways

The lack of turnover within the Dickson/Block corridors is working against the needs of businesses and limits the number of people that can access those businesses.

Additionally, the all-day parking option for $5 per day encourages people to stay for long periods, rather than only using the parking space when it is needed most.

OBSERVED PARKING DURATION DURING SATURDAY (9/24) OF BROADWAY WEEKEND



On-Street Parking Takeaways

- Dickson/Block are the **highest-demand** corridors, which is expected because of the high amount of commercial activity.
- During event conditions, evening entertainment parking demand **gets pushed** to on-street locations further from Dickson/Block.
- On-street parking pricing should be **higher** and **time-limited** to encourage higher turnover needed for businesses.
- Most on-street parking north of Dickson is **de facto residential parking**, presumably serving the needs of multi-family residential. Do residents have enough off-street parking or is on-street more convenient?
- Streets south of Dickson could be converted from **residential to public parking** to take advantage of underutilized on-street spaces. Streets such as Meadow St remained <50% utilized and presents an opportunity to increase the number of spaces available for public parking.

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OFF-STREET PARKING FINDINGS

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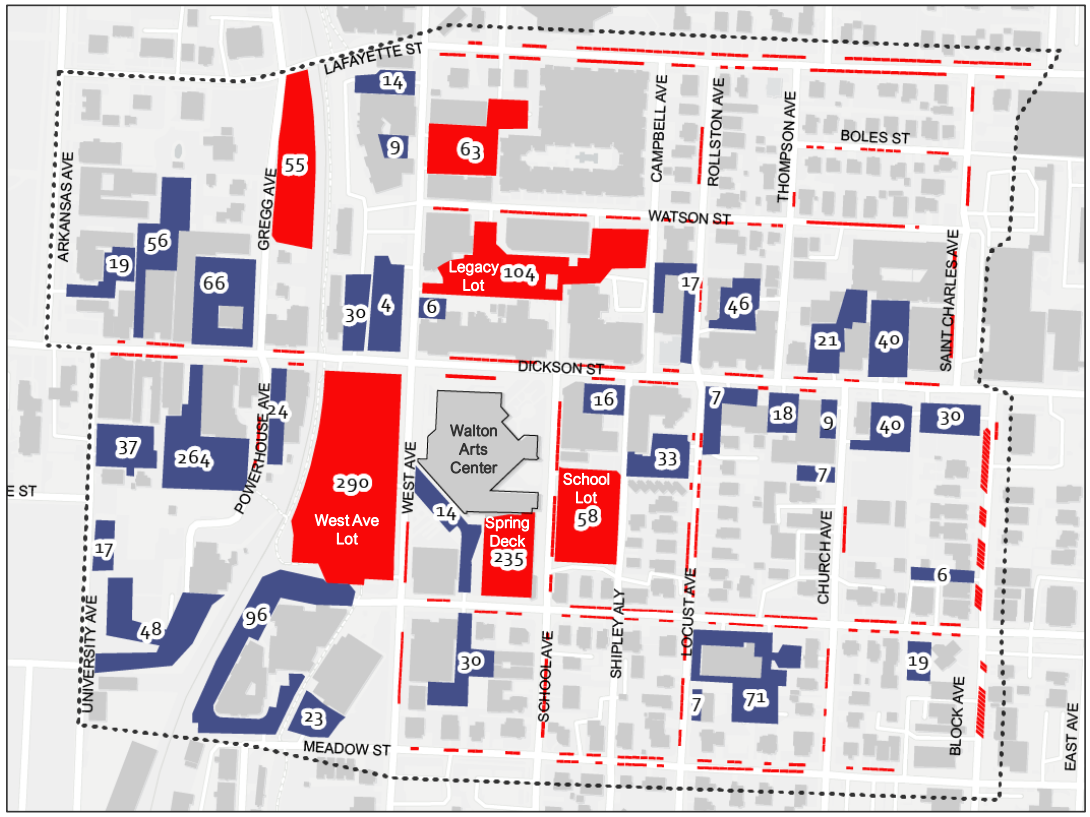
Off-Street Characteristics

There are approximately 1,949 off-street spaces within the Entertainment District. About 59% of the off-street spaces are privately owned and managed, and about 41% are city-managed. For the city-managed off-street facilities, parking is free between 2 AM and 2 PM. The cost of parking for all other times is:

- 2 PM – 6 PM: $0.50 per hour
- 6 PM – 2 AM: $1 per hour
- All-day option: $5



Data Collection Trends – At a Glance

The graphs below show the data on the previous slides in a different way and include the Friday of the Non-event and Broadway weekends for the five (5) data collection time frames.

Non-event (Friday)

8 – 11 AM

West Avenue Lot is still **>50% full** in the mornings, indicating long term parking use and potential student use

11 - 2 PM

West Ave and Legacy Lot are **>90% full** before 2 PM. Student parking combined with lunchtime demands result in high utilization

2 – 5 PM

West Ave Lot clears out after the lunchtime rush. This is also when the City starts to charge for parking

5 – 8 PM

Lots proximate to Dickson Street utilized more after 5 PM

8 – 11 PM

Non-event weekends **peak at night-time hours**. Spring Street garage is <50% utilized

Broadway (Friday)

8 – 11 AM

Typical Demand

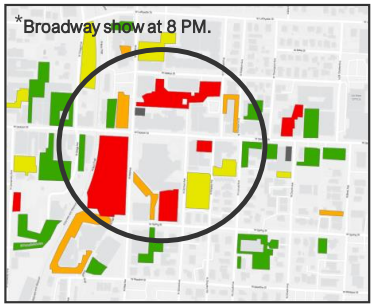
11 - 2 PM

Typical Demand

2 – 5 PM

Typical Demand

5 – 8 PM



- Proximate parking filled **before** Broadway show.
- About **360 more cars in off-street lots** compared to non-event.

8 – 11 PM

Broadway was the primary parking demand driver during the show run time and clears out afterward.

Legend 0 – 50% | 50 - 75% | 75 – 90% | 90% +

*Football weekend is less common and reflects an outlier event.

Off-Street Parking Takeaways

- During non-event conditions, **demand is highest** during the evenings, yet parking decks such as Spring Street remain underutilized. Is there adequate wayfinding in parking decks to guide parkers to available spaces?
- During event conditions, proximate parking **fills up before showtime** and shows a need for additional proximate parking.
- Many lots east and west of the Dickson/Block area appear available during peak conditions. However, many are privately owned and **present a challenge around accessibility**.
- Broadway shows attract about **360 additional cars** to the Dickson/Block area compared to non-event conditions. This is in line with industry standards of about one (1) parking space for every three (3) seats within a venue.

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SUMMARIZING EXISTING CONDITIONS

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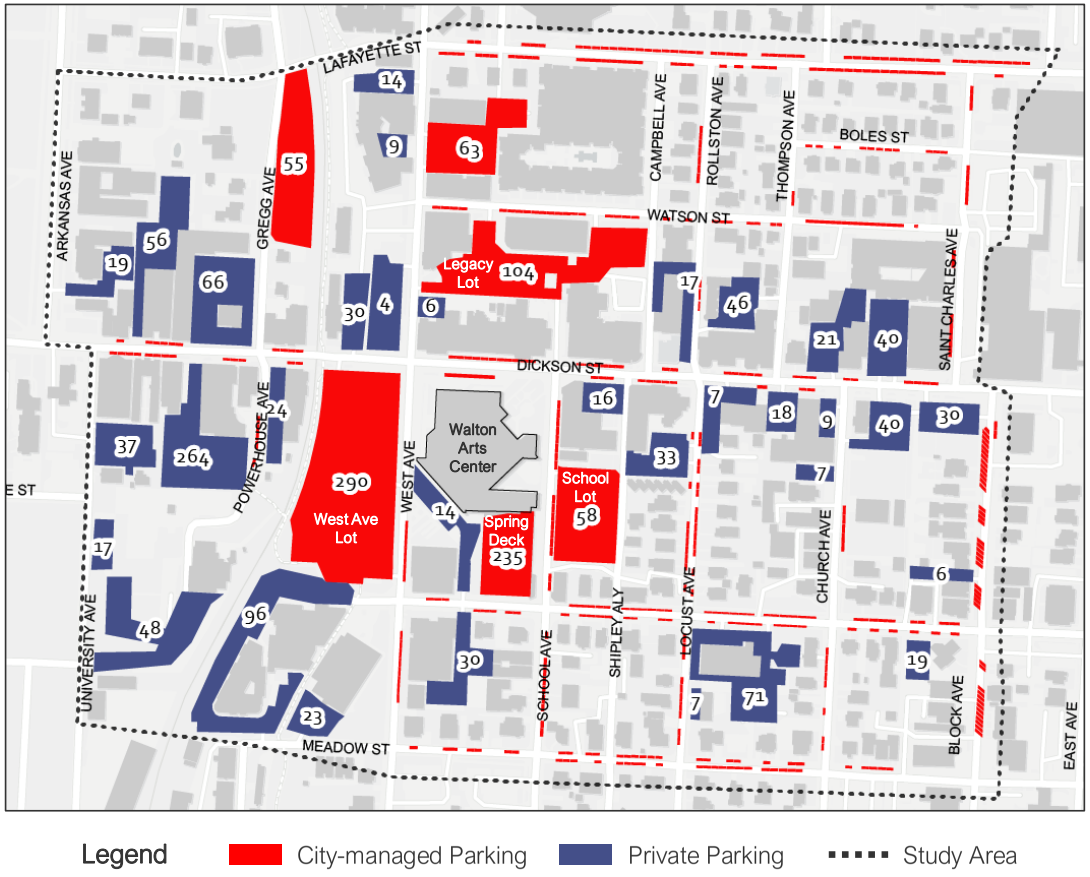
Available Parking within Dickson/Block Corridors

As seen in the existing conditions, many lots east and west of the Dickson/Block corridors remain underutilized. This is due in part to the insufficient wayfinding and signage available to guide parkers to available spaces. Additionally, private lots offer varied prices and different rules for compliant parking. As shown in the below photographs, signage may be hard to understand, unclear, or may not appear available to the public.

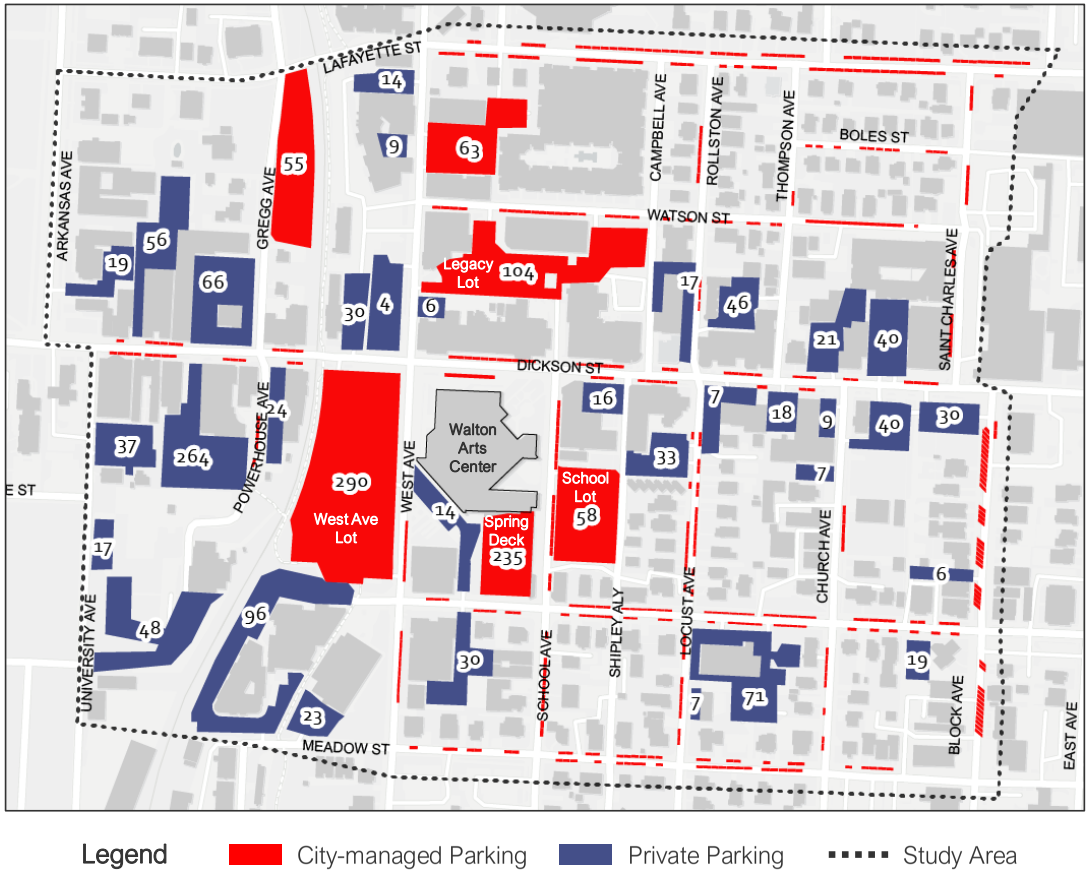
Therefore, before reporting on the existing conditions and availability of parking within the Dickson/Block corridors, an additional analysis is needed to better understand which parking options are useful and accessible to the public during both event and non-event conditions.



Challenge with Using Full Study Area

While there are 2,447 total parking spaces within the Entertainment District, there are challenges with using the full study area as a proxy for overall capacity within the system. In particular, the on-street parking spaces are limited throughout the Dickson/Block area for other uses such as residential and employee parking and are not always available for patrons to use. Off-street parking spaces, particularly privately-owned spaces, have varying rules and pricing. The spaces may be reserved for customer or building tenant use. While the 2017 study recommended the City should leverage private parking lots for additional capacity, this has not been done.

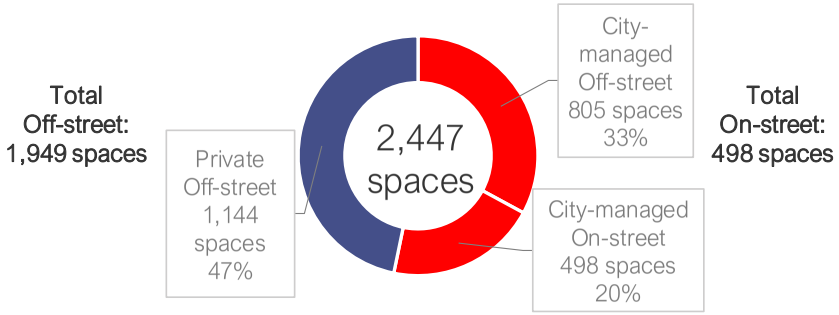
Therefore, patrons may find the parking limitations hard to understand and be unsure which spaces are available or open to the public.

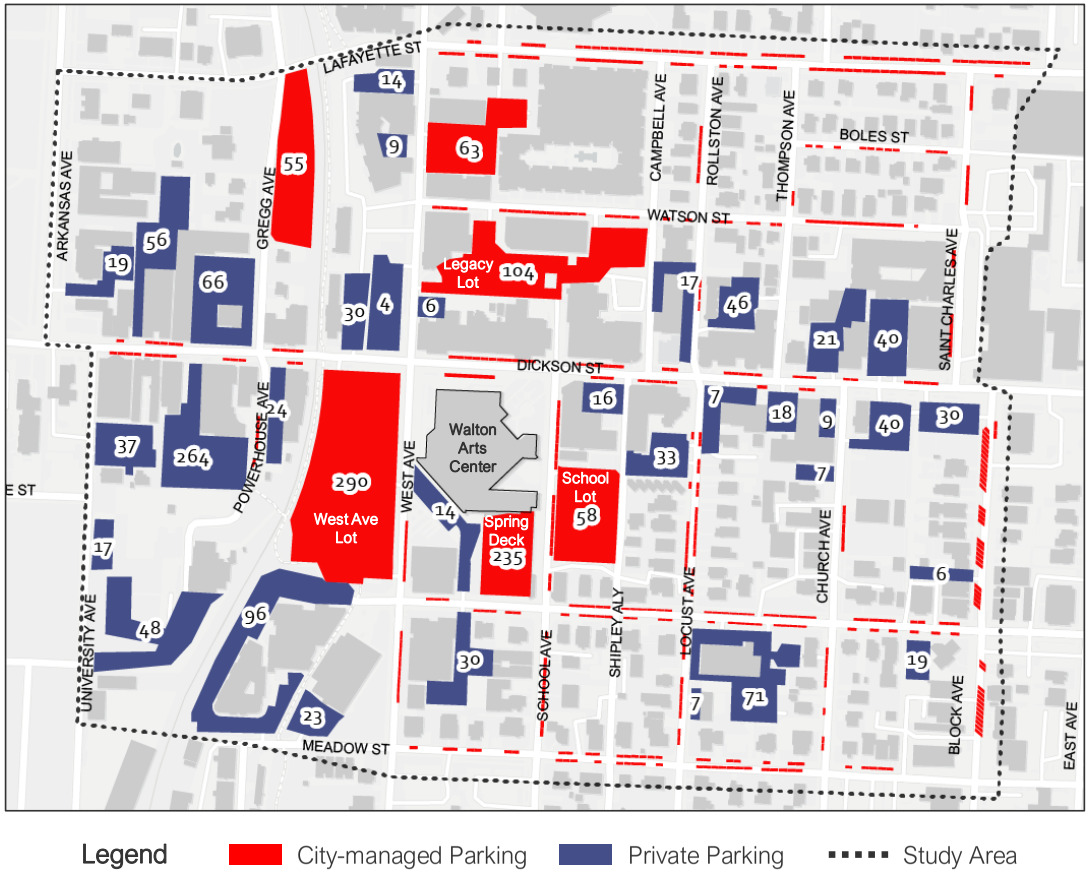


Reasonably Accessible Parking Study Area

While the study area includes 2,447 parking spaces, most privately-owned spaces are not reasonably accessible to the public. Therefore, an adjusted study area better illustrates the reasonably accessible on-street and off-street parking. The adjusted study area was determined by the Dickson/Block Parking Study Coalition.

Parking Spaces in Full Study Area





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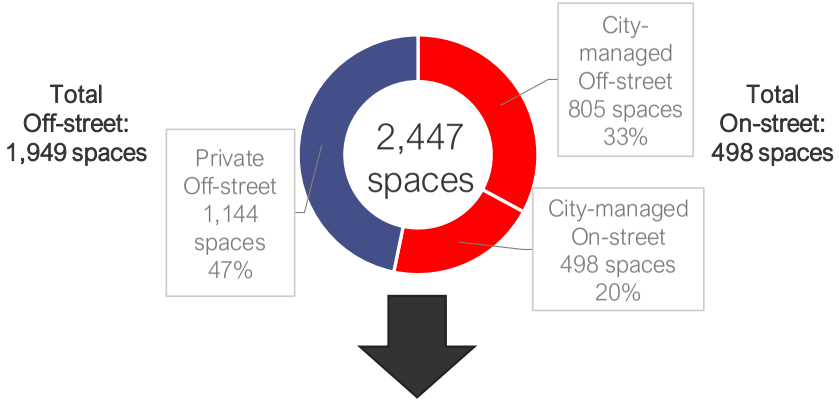
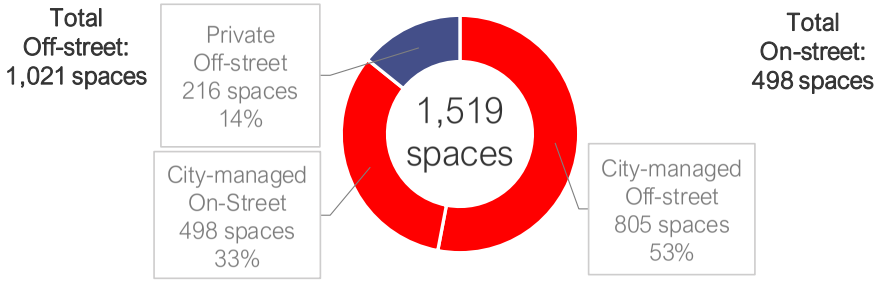
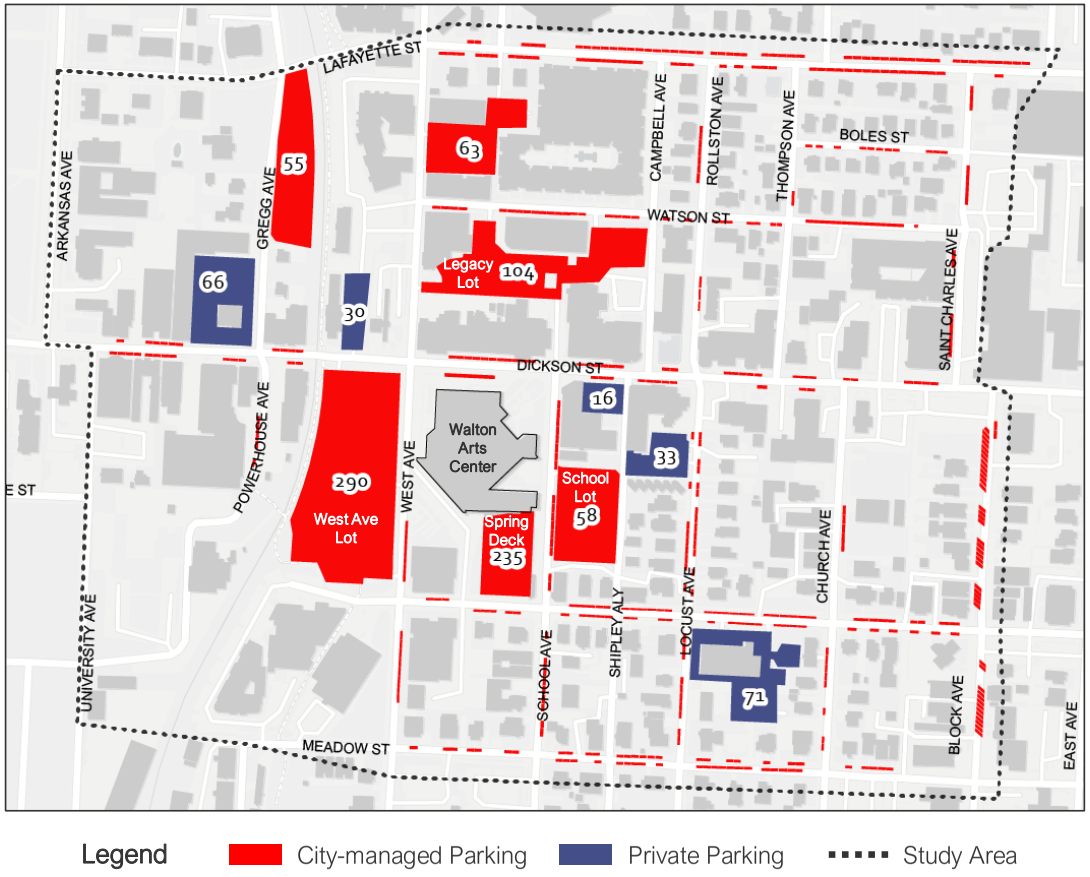
Parking Spaces in Full Study Area



Parking Spaces in Adjusted Study Area





Peak Parking Occupancy – On- and Off-Street

Factor	Full Study Area	Adjusted Study Area
Supply	2,447 spaces	1,519 spaces
Demand	1,733 spaces	1,227 spaces
Occupancy	71%	81%
Availability to "full" (90%)	19% (465 spaces)	9% (137 spaces)

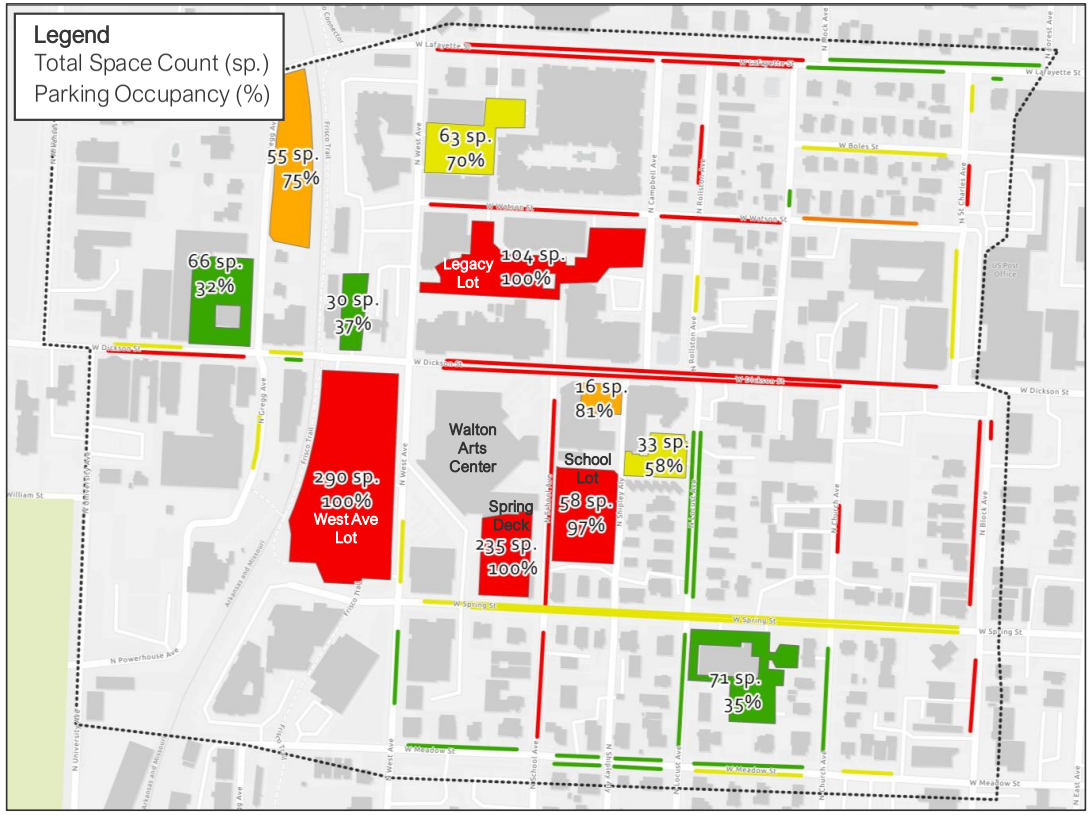
Within the adjusted area, the parking occupancy evaluation tells a different story. During the 11 AM – 2 PM time frame of the Broadway weekend (Thursday), the occupancy was 81% (1,227 spaces filled) compared to 71% occupancy (1,733 spaces filled) in the full study area during the same time frame.

The West Avenue Lot, Legacy Lot, and Spring Deck are effectively full (>90% occupancy). However, there are three (3) lots surrounding the West Ave Lot, Legacy Lot, and Spring Deck that remain <50% occupied. While they are smaller facilities, there is an opportunity to understand their capacity, use, and how they can be better utilized.

An industry best practice is to use "effective supply" (85-95% of total supply) to account for improper parking and finding the last parking space.* Therefore, there is about 9% capacity remaining in the adjusted study area before reaching effectively full (90% of total capacity).

Optimal off-street utilization is between 85-95%, with 85% being more efficient. Optimal on-street utilization is between 65-85%.

THURSDAY (9/22) AT 11 – 2 PM DURING THE BROADWAY WEEKEND



Adjusted Parking Occupancy

The majority of reasonably accessible lots are within a 3 min walk or less of the Dickson/Block corridor. This is in line with the estimated walking tolerance for the performing arts/events user group of 3 minutes or less. Consequentially, the Locust/Spring lot remains largely available and may indicate how far event-goers are willing to walk to an event.

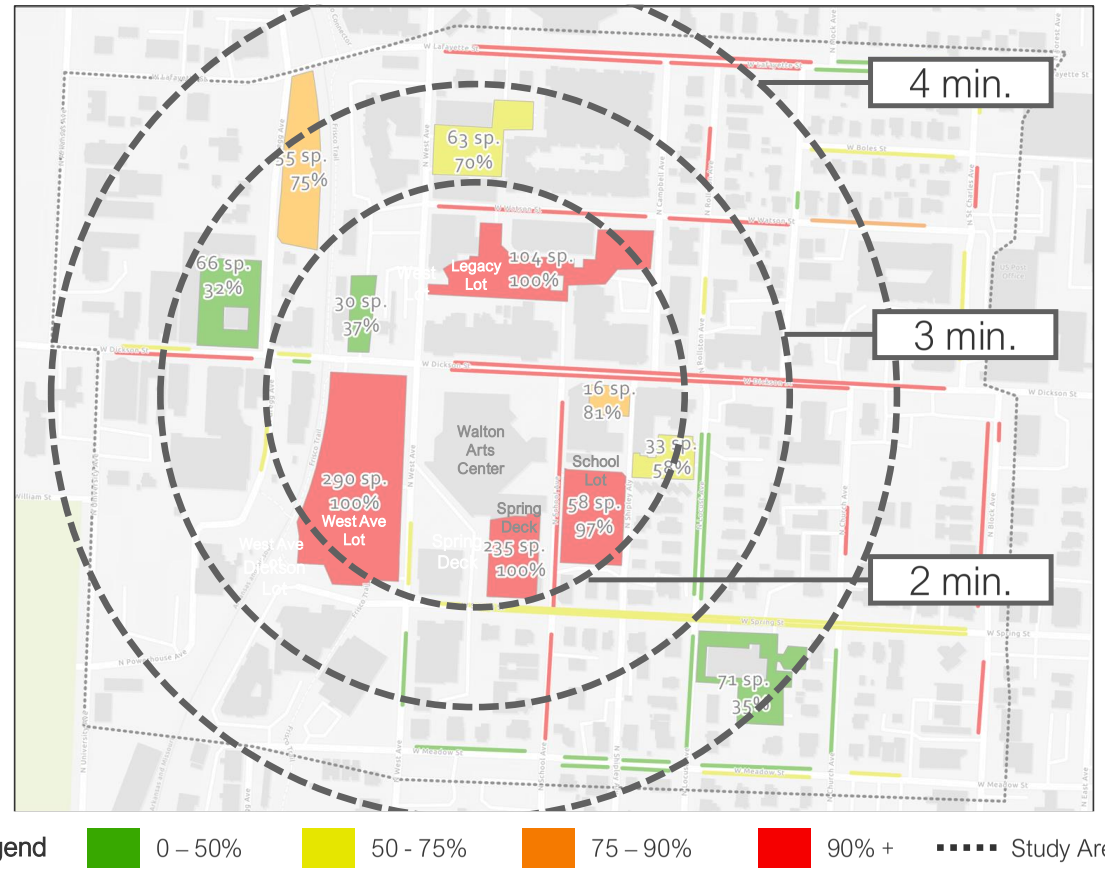
Takeaways

Within the adjusted area, parking occupancy is higher than in the full study area and indicates parkers may not be willing or able to walk over a certain distance.

Consider a focus and priority on building relationships with the owners of private lots within a 3 min walk or less from Dickson/Block corridors for additional capacity.

Adequacy of wayfinding and signage plays an important role in helping parkers find available spaces and understand which facilities are available or open to the public.

FRIDAY (9/23) AT 5-8PM DURING THE BROADWAY WEEKEND



*Optimal off-street utilization is between 85-95%, with 85% being more efficient. Optimal on-street utilization is between 65-85%.

Utilization Differences

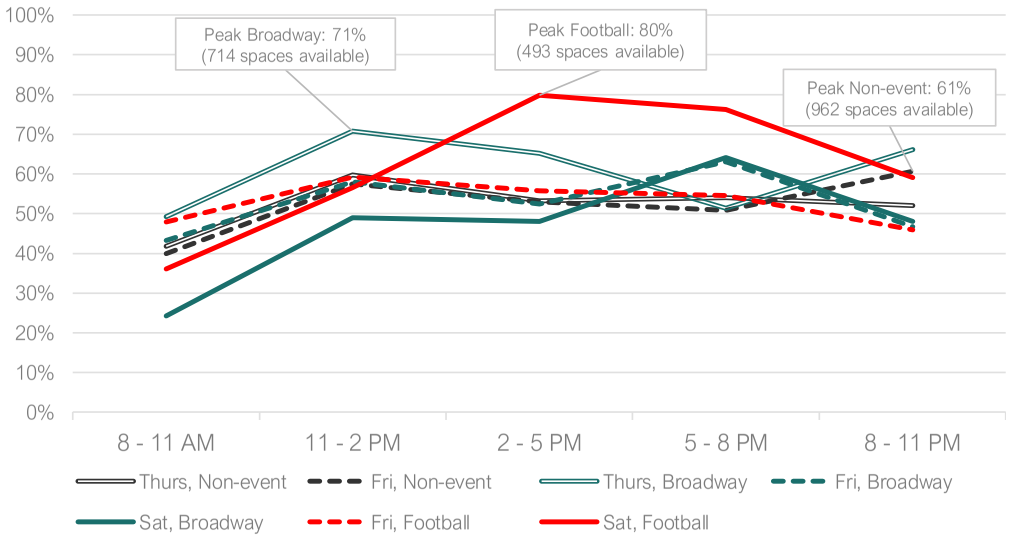
The parking utilization graphs show the differences between the full study area and the reasonably accessible lots throughout the data collection time frames.

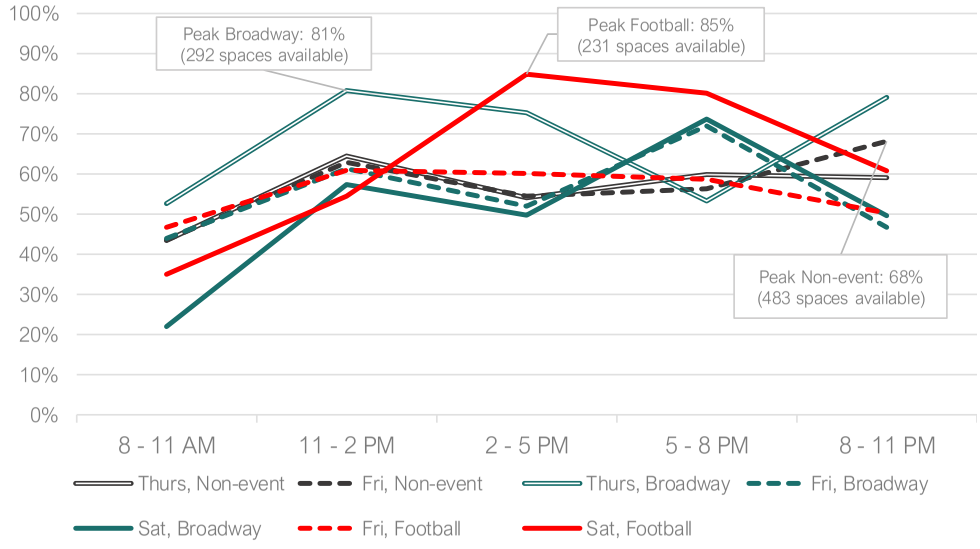
Full study area

- Football weekends are outliers; parking is effectively full
- Events bring the following additional parking demand to the district:
  - Broadway (Lunch, evening)
  - Football (Lunch, evening)
- This data doesn't tell the full story since much of the parking isn't reasonably accessible

Reasonably Accessible Lots

- Reasonably accessible lots showed higher peak times during all collection days compared to full study area
- Parking was highest during Broadway and Football weekends
- When there is a matinee Broadway show, the study area has a parking occupancy of around 81%
- When there is an evening Broadway show, parking occupancy is around 75% occupied





Key Takeaways of the Existing Conditions Assessment

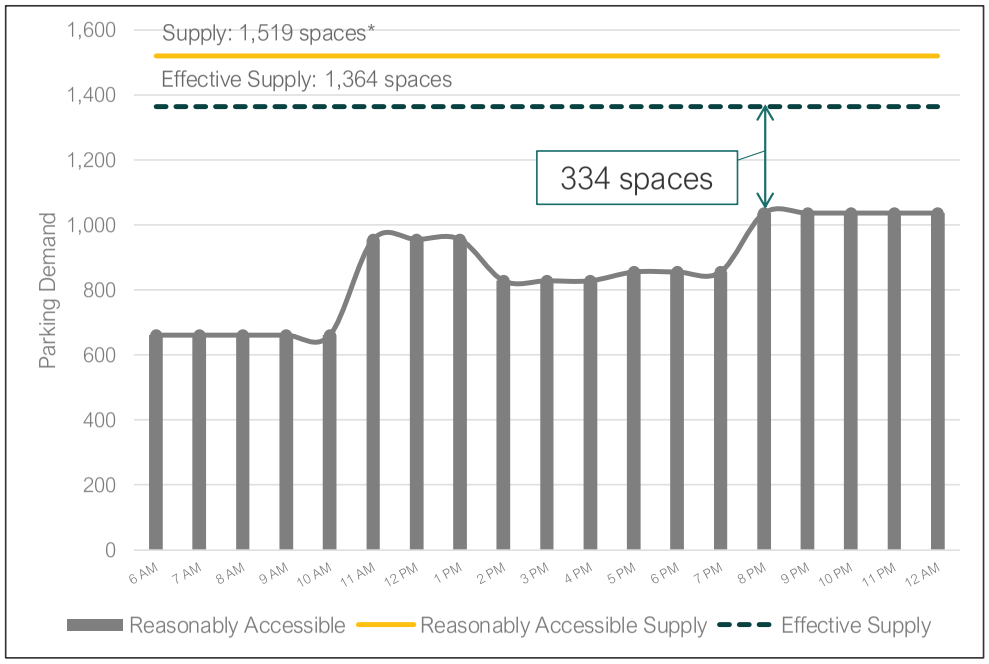
1	All parking in study area vs. reasonably accessible parking	While the study area has 2,447 spaces, parking that is advertised as open to the public in the Dickson/Block corridors in both on- and off-street facilities, totals 1,519 spaces (62% of total parking)
2	Private parking is available but is either restricted or not accessible.	For the full study area, 71% occupancy in off-street lots, compared to 81% occupancy in the reasonably accessible lots during the Broadway weekend
3	Insufficient wayfinding and varying signage	Private lots offer varied prices, signage is hard to understand, and different rules for compliant parking
4	Cost of parking is too low	Parking demand for on- and off-street parking indicate that current pricing is lower than what market would suggest
5	Off-street parking spaces should be used for long-term needs	With an average parking duration >8 hours on Dickson Street, pricing and time restrictions should push on-street parkers to off-street, long-term parking

Summary of Existing Conditions

Non-event Weekend Peak (Friday)

During non-event weekends, the peak day is on Fridays around 8:00 PM.

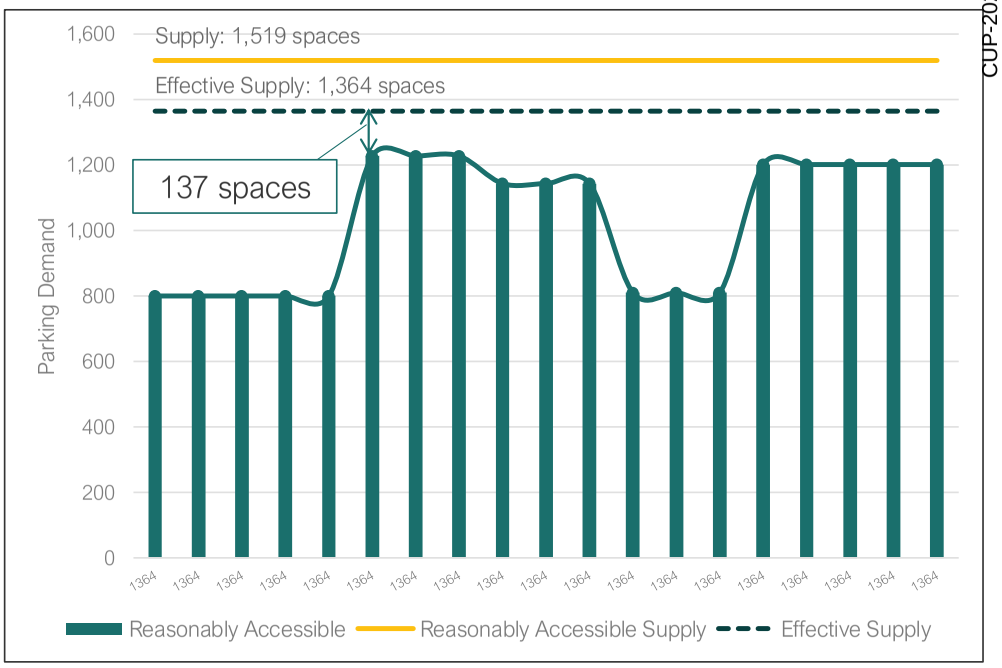
Peak Occupancy: **68% (334 spaces remaining)**



Broadway Weekend Peak (Thursday)

During Broadway weekends, the peak day is on Thursdays around 11:00 AM.

Peak Occupancy: **81% (137 spaces remaining)**



**Football weekend is less common and reflects an outlier event and has been excluded from the baseline conditions comparison*

PLANNED FUTURE DEVELOPMENT

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Proposed Developments

As the Entertainment District continues to grow, the goal of the future needs assessment is to understand the effect of proposed developments on parking demand. The future needs assessment models the impact on the parking ecosystem when the proposed developments all come online and are completed.

At the 2023 Parking Study kick-off meeting, Kimley-Horn and the Study coalition met with several stakeholders to understand proposed developments and evaluate which developments should be taken into consideration for the next 3-5 years. Stakeholders included:

- Walton Arts Center
- City of Fayetteville
    - Mayor's Office
    - Economic Vitality
    - Parking Management
    - Planning
    - Public Works/Services
    - Engineering
- Experience Fayetteville
- Dickson Street Merchants
- University of Arkansas Facilities Department
- High Street Realty
- Greg House/Dickson-West Development
- South Ramble Hotel Development

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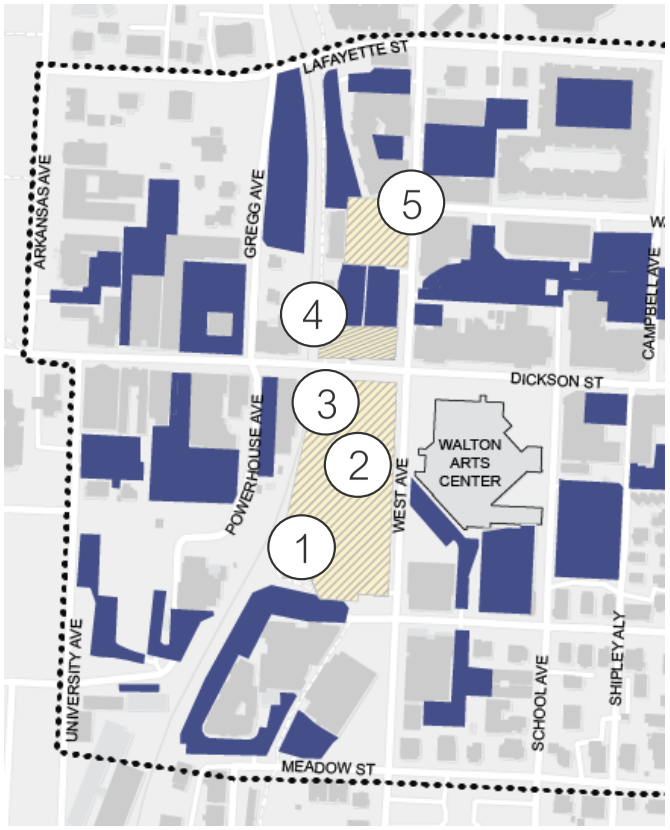
Proposed Developments

There are five (5) notable developments that are the most viable and likely to occur and they form the basis of the future parking demand generators:

1. South Civic Plaza Hotel
2. Civic Plaza
3. North Civic Plaza Food Hall
4. Hotel
5. Municipal Bond Parking Deck

Development*	Status	Land Use Densities
1. South Civic Plaza Hotel	Concept	Hotel: 132 keys 200 seat banquet Rooftop Bar/ Café/ Restaurant (unknown)
2. Civic Plaza	Concept	Public Plaza
3. North Civic Plaza Food Hall	Concept	Food Hall: 15,200 GSF
4. Hotel	Concept	Hotel: 125 keys 15,000 GSF Restaurant
5. Municipal Bond Parking Deck	Construction	Office/Retail: 50,000 GSF*



*Development Programs subject to change

Changes to Current Parking Supply

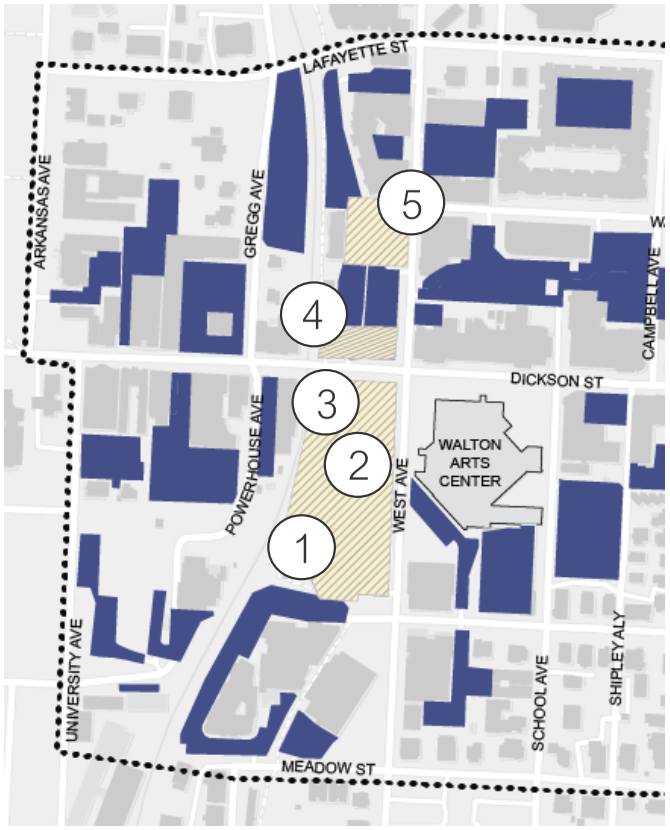
The table below outlines the five (5) notable developments including the status, planned parking, and removed parking to outline the net effect of the development on parking supply. It should be noted that this table presents our current understanding of changes to the parking supply, but it may be subject to alteration or changes in the future. Therefore, the proposed developments may add additional planned parking than shown in the table. Additionally, since the City of Fayetteville eliminated parking minimums for commercial developments in 2015, the table shows the minimum parking proposed at the time of the 2023 Study.

For planned parking, the South Civic Plaza Hotel will add between 32 to 45 spaces on-site, with additional valet spaces off-site. Additionally, the West/Dickson Development will add 330 spaces in the new City garage, for a total of 362 spaces of planned parking.

For removed parking, the Civic Plaza will remove the 290 spaces in the West Ave Lot. The hotel planned for the corner of West and Dickson Street will also remove about 30 spaces, for a total of 320 spaces of removed parking.

This results in a net of +42 spaces within the Dickson/Block area.

Development	Status	Planned Parking	Removed Parking
1. South Civic Plaza Hotel	Concept	**32 - 45 spaces on-site** Off-site spaces (Valet)	N/A
2. Civic Plaza	Concept	N/A	290 spaces
3. North Civic Plaza Food Hall	Concept	N/A	N/A
4. Hotel	Concept	N/A	30 spaces
5. Municipal Bond Parking Deck	Construction*	**330 spaces**	N/A
Total		32 spaces (conservative estimate for Civic Plaza Hotel) + 330 spaces	290 spaces (Municipal Bond Parking Deck provides replacement spaces) +30 spaces
		362 spaces	320 spaces
Net New Spaces		+ 42 spaces	



**Only on garage, not development program*

PROJECTING FUTURE DEMAND

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ULI Shared Parking Model and Base Ratios

To project the demand from the proposed developments, the Urban Land Institute (ULI) Shared Parking Model was used to determine the cumulative parking demand of future developments.

The ULI model considers multiple land uses, such as soft goods (retail), fine/casual dining, and office in order to project parking demand. The model also breaks down the parking demand in further detail such as by customers and employees, by number of bedrooms, or by visitors and employees. For example, soft goods (<400 KSF) can expect 2.90 spaces/KSF for customers and 0.70 spaces/KSF during peak times, for a total of 3.60 spaces/KSF.

Additionally, the ULI model considers hour-by-hour, day-by-day, and month-by-month **fluctuations** in parking behavior. For instance, an office building's parking demand may peak at 10:00 AM on a weekday, whereas a residential building may peak at 7:00 PM on weeknights and weekends.

Therefore, the ULI model can help to identify opportunities to share parking between land uses to **minimize space and resources** dedicated to parking.

Best Practice Alert:

The ULI Shared Parking model is a national best practice to right-size parking supply to demand while maintaining a vibrant environment.

Soft Goods (<400 KSF)	
Customers:	2.90 spaces/KSF
Employees:	0.70 spaces/KSF

Hotel Restaurant	
Customers:	6.67 spaces/KSF
Employees:	1.20 spaces/KSF

Fine/Causal Dining (Food Hall)	
Customers:	13.25 spaces/KSF
Employees:	2.25 spaces/KSF

Banquet Hall (20 – 50 SF/key)	
Customers:	26.72 spaces/KSF
Employees:	1.84 spaces/KSF

Office (< 25 KSF)	
Visitors:	0.30 spaces/KSF
Employees:	3.50 spaces/KSF

Hotel	
Visitors:	1.00 spaces/key
Employees:	0.15 spaces/key

Residential (Reserved)	
1-Bedrooms:	1.00 space/BR
2-Bedrooms:	1.00 space/BR

KSF = thousand square feet

Non-Vehicular Mode and Non-Capture Ratio Adjustments

The ULI Shared Parking Model accounts for trips generated by the site that **don't require parking** through two main mechanisms:

- **Non-vehicular mode adjustment** (walking, biking, transit, and rideshare trips)
- **Non-captive ratio adjustment** (trips originating from outside of the future development)

Therefore, the ULI model allows for reductions to the base ratio and total parking demand through non-vehicular and non-captive ratio adjustments. The adjustments are made to tailor the model to the specific characteristics of the Dickson/Block area.

Soft Goods (<400 KSF)

Driving Adjustment	Trips from Outside
Customers: 100%	Customers: 90%
Employees: 100%	Employees: 100%

Fine/Casual Dining (Food Hall)

Driving Adjustment	Trips from Outside
Customers: 100%	Customers: 75%
Employees: 100%	Employees: 100%

Office (<25 KSF)

Driving Adjustment	Trips from Outside
Visitors: 100%	Visitors: 100%
Employees: 100%	Employees: 100%

Hotel

Driving Adjustment	Trips from Outside
Visitors: 59%	Visitors: 100%
Employees: 100%	Employees: 100%

Non-Vehicular Mode and Non-Capture Ratio Adjustments

The ULI Shared Parking Model accounts for trips generated by the site that **don't require parking** through two main mechanisms:

- **Non-vehicular mode adjustment** (walking, biking, transit, and rideshare trips)
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Therefore, the ULI model allows for reductions to the base ratio and total parking demand through non-vehicular and non-captive ratio adjustments. The adjustments are made to tailor the model to the specific characteristics of the Dickson/Block area.

Banquet Hall (20 – 50 SF/key)

Driving Adjustment	Trips from Outside
Customers: 68%	Customers: 60%
Employees: 100%	Employees: 100%

Hotel Restaurant

Driving Adjustment	Trips from Outside
Customers: 63%	Customers: 90%
Employees: 100%	Employees: 100%

Residential

Driving Adjustment	Trips from Outside
Residents: 100%	Residents: 100%
Employees: 100%	Employees: 100%

Adjusted Project Ratios

When combined, the land use densities, ULI Shared Parking Model base ratios, the non-vehicular mode, and non-captive ratio adjustments result in the adjusted project ratios used to project the future parking demand.

Soft Goods (<400 KSF)	
Customers:	2.60 spaces/KSF
Employees:	0.70 spaces/KSF
Total:	**3.30 spaces/KSF**

Office (<25 KSF)	
Visitors:	0.30 spaces/KSF
Employees:	3.50 spaces/KSF
Total:	**3.80 spaces/KSF**

Banquet Hall (20 – 50 SF/key)	
Customers:	10.90 spaces/KSF
Employees:	1.84 spaces/KSF
Total:	**12.74 spaces/KSF**

Fine/Casual Dining (Food Hall)	
Customers:	9.94 spaces/KSF
Employees:	2.25 spaces/KSF
Total:	**12.19 spaces/KSF**

Hotel	
Visitors:	0.59 spaces/key
Employees:	0.15 spaces/key
Total:	**0.74 spaces/key**

Residential	
1-Bedroom	1.00 space/BR
2-Bedrooms	1.00 space/BR
Total:	**1.00 space/BR**

Hotel Restaurant	
Customers:	3.78 spaces/KSF
Employees:	1.20 spaces/KSF
Total:	**4.98 spaces/KSF**

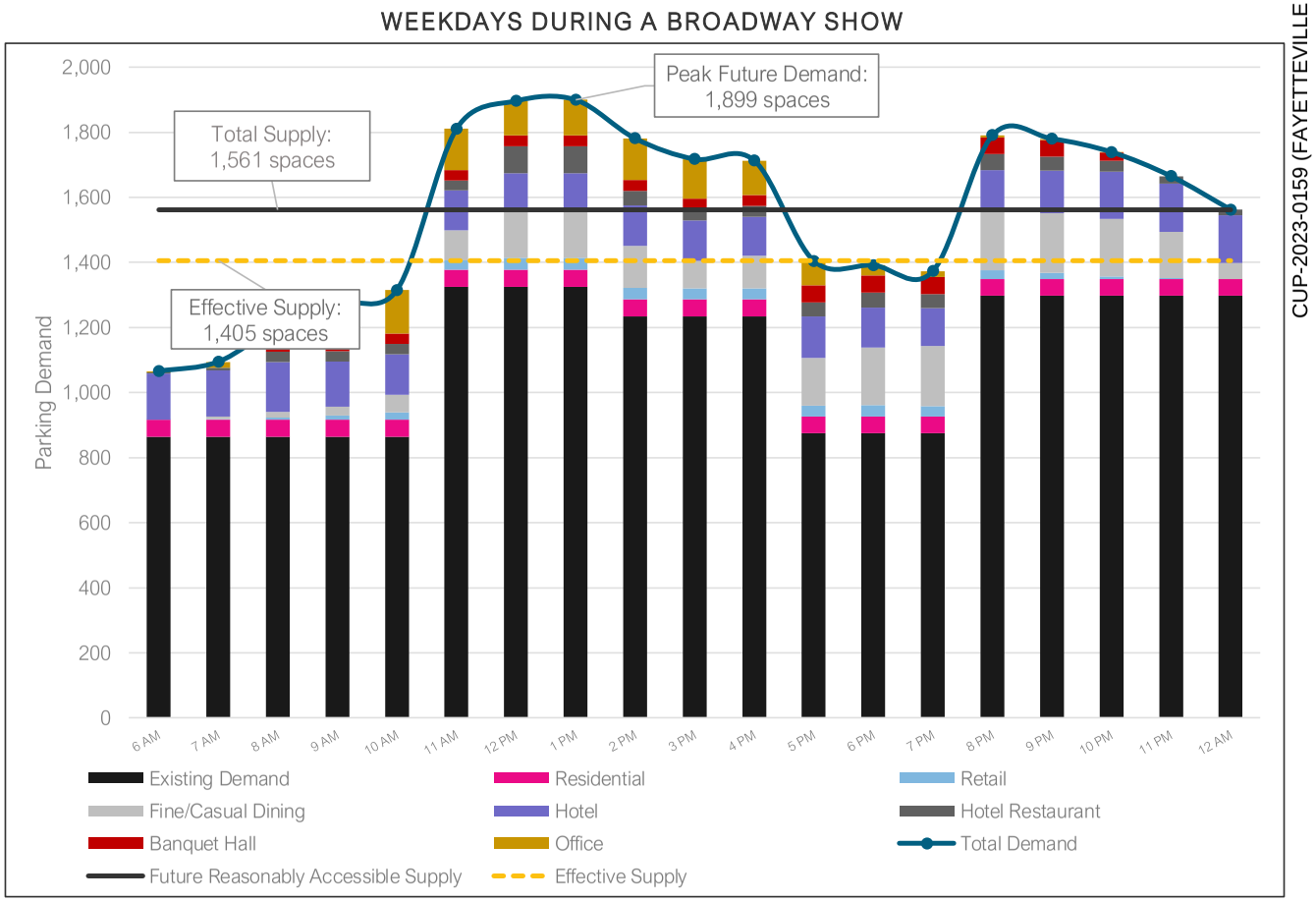
Projected Parking Demand During Events

After accounting for the land use densities, base ratios, and adjustments, the graph shows the resulting projected parking demand during an event weekend for a full day (6 AM to 12 AM). The existing parking demand is shown in black from the Broadway show weekend. In addition, the other stacked columns represent the future developments broken down by their individual land uses, such as dining, residential, and hotel.

Additionally, the graph to the right outlines the Future Reasonably Accessible supply (Total Supply), which accounts for the net 42 spaces **(1,561 spaces total)** from future developments. The graph also outlines the effective supply, an industry best practice to account for improper parking, and finding the last parking space, which is 90% of the Total Supply.

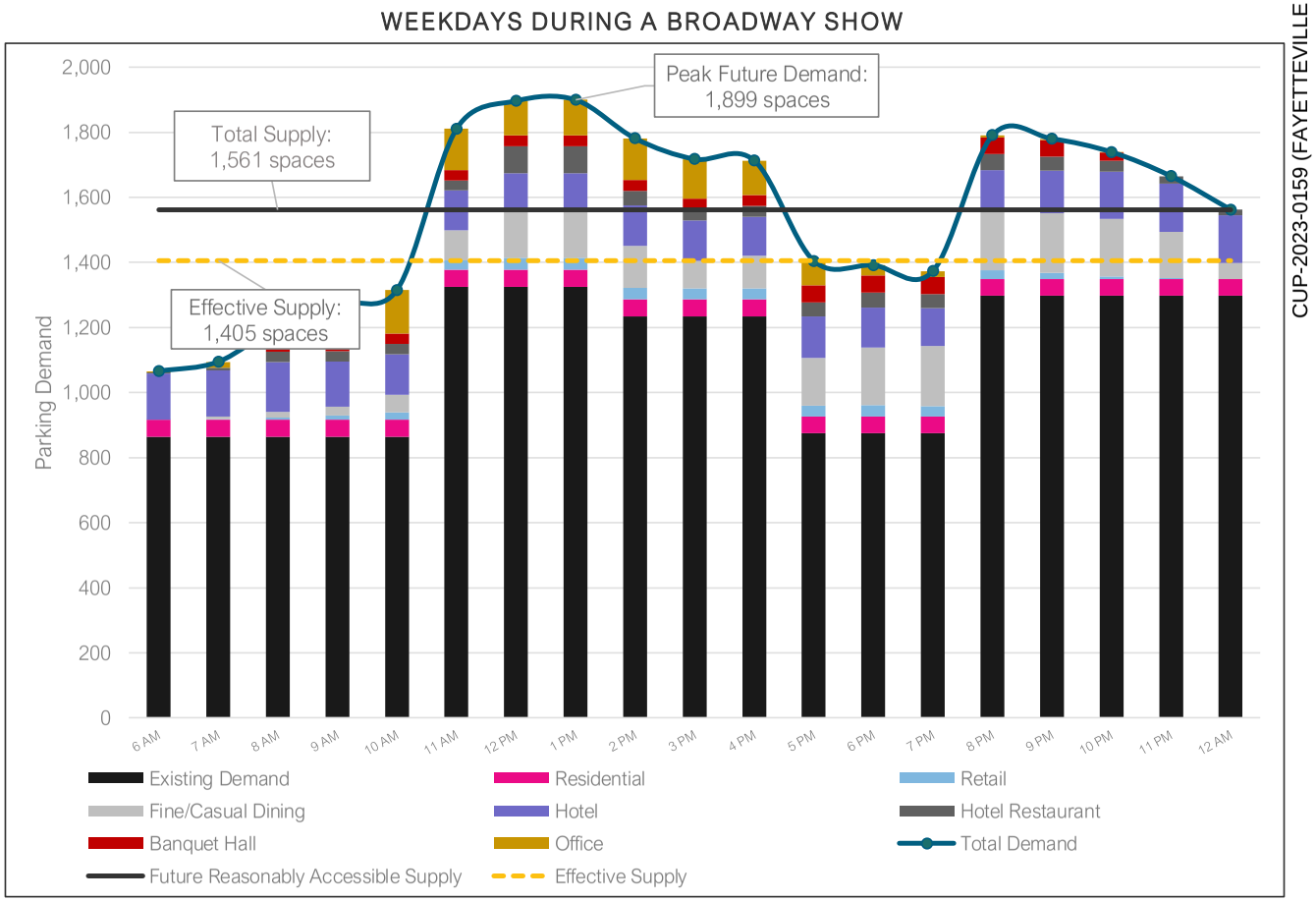
With future developments, the Dickson/Block area is estimated to peak at **1 PM on weekdays**. Future developments account for **574 space demand** at peak times. During **future** performing arts events, there is an estimated total projected **peak demand of 1,899 spaces**.

Of note, this assessment does **not** include demand from special events generated from the Upper Ramble/Civic Plaza.



Projected Parking Demand During Events

	Space Count
Supply	
Existing Supply within Reasonably Accessible Area	+ 1,519 spaces
Planned Parking	+ 362 spaces
Removed Parking	- 320 spaces
Net Supply	= 1,561 spaces
Effective Supply	= 1,405 spaces
Demand	
Existing Peak Demand	1,325 spaces*
Future Development Demand	+ 574 spaces
Total Demand	= 1,899 spaces
Spaces Needed	*1,405 spaces (Supply)* *- 1,899 spaces (Demand)* *= 494 spaces deficit***



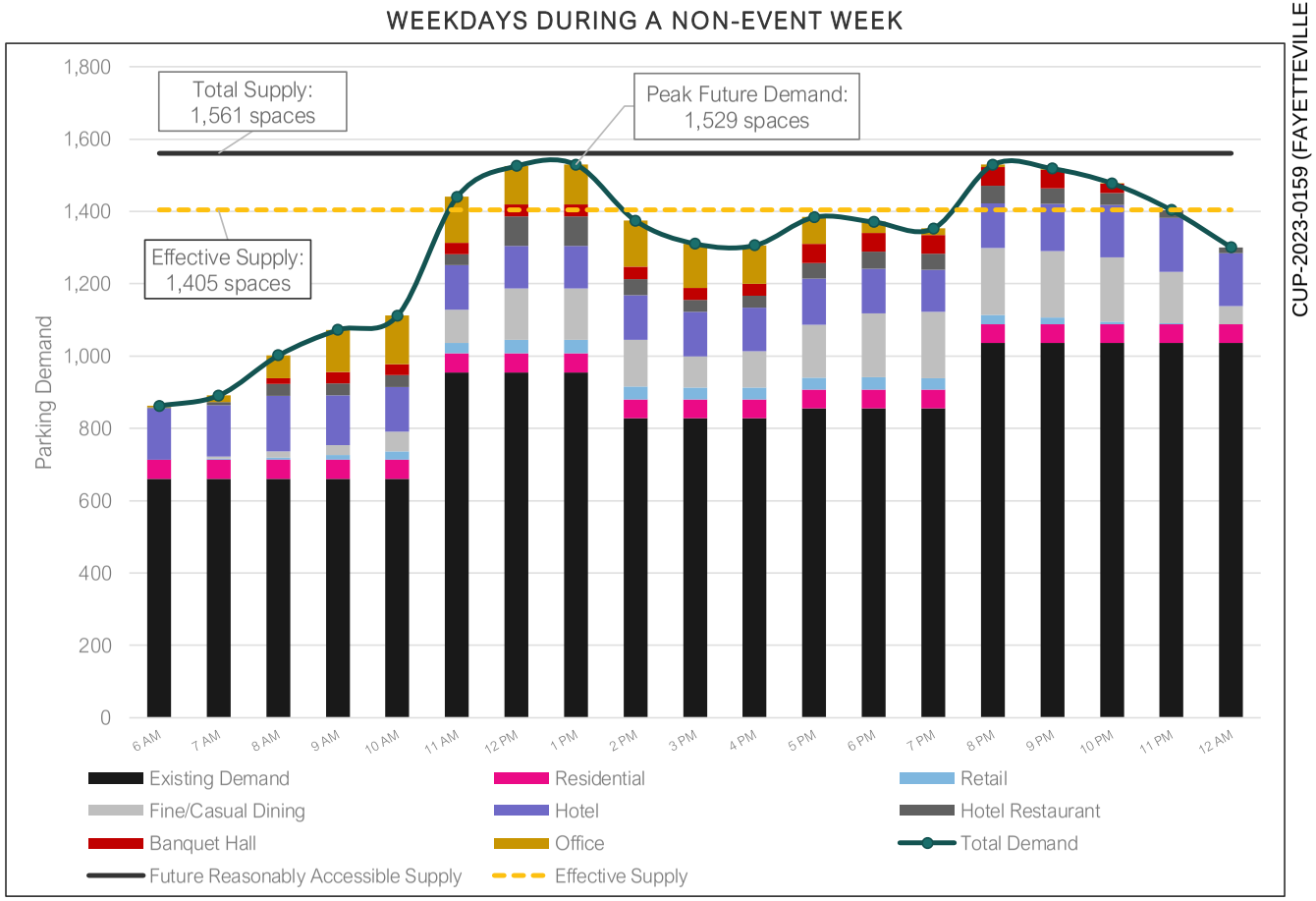
*Adjusted for peak WAC sell-out events
**Based on effective supply, not total supply

Takeaway

The combination of factors including WAC events, free parking before 2 PM, and longer-term parking needs (employee, student) create an unfavorable environment for parkers. Without further investments in parking within the Dickson/Block area, there will be an estimated **deficit of 494 spaces** during the lunchtime peak.

Projected Parking Demand During Non-Events

A similar future developments impact assessment was completed for non-event times. By accounting for future developments, during non-event times, the Dickson/Block area is estimated to peak at **1 PM on weekdays**. Future developments account for **574 space demand** at peak times. During **future** performing arts events, there is an estimated total projected **peak demand of 1,529 spaces.**



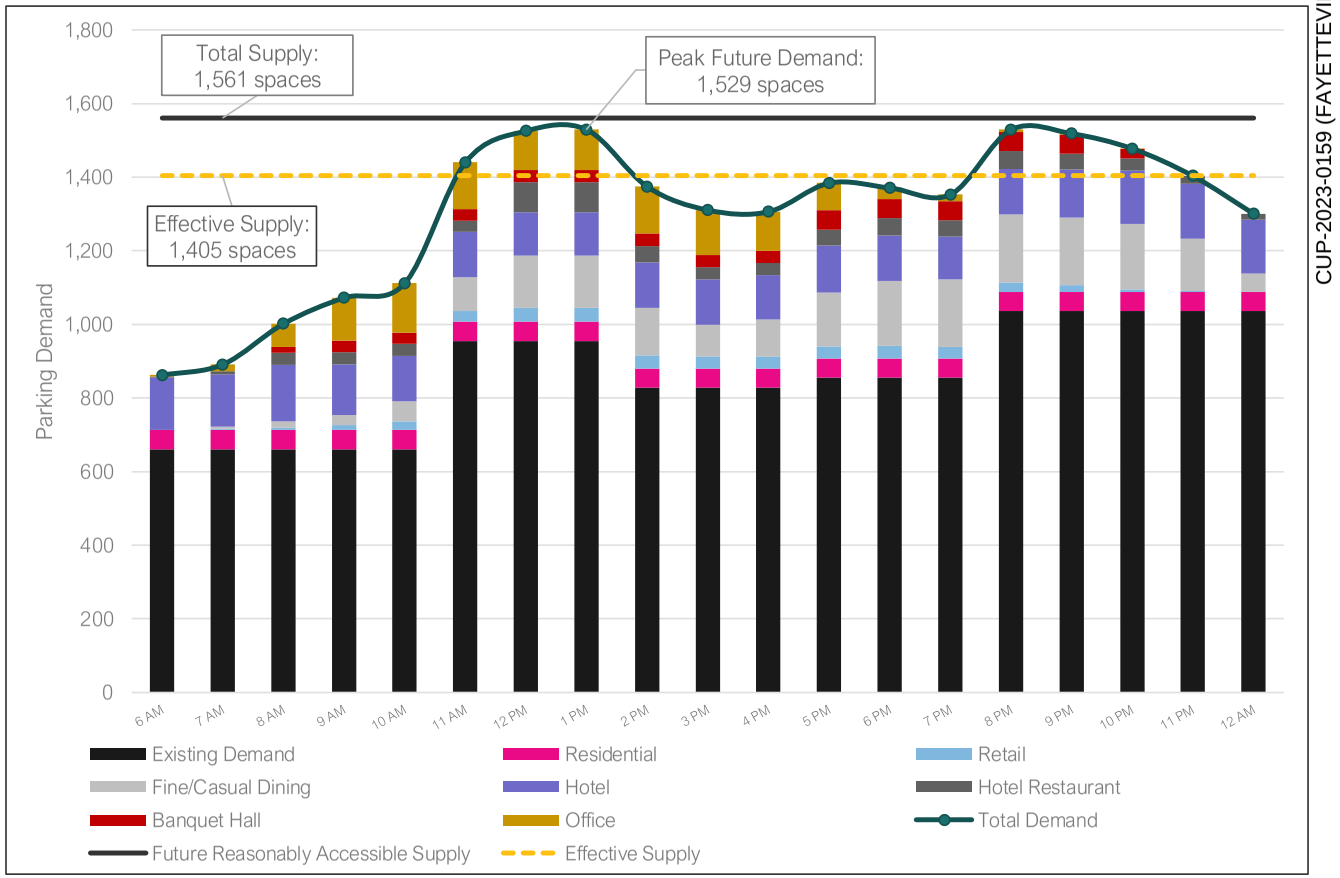
Projected Parking Demand During Non-Events

	Space Count
Supply	
Existing Supply within Reasonably Accessible Area	+ 1,519 spaces
Planned Parking	+ 362 spaces
Removed Parking	- 320 spaces
Net Supply	= 1,561 spaces
Effective Supply	= 1,405 spaces
Demand	
Existing Peak Demand	955 spaces
Future Development Demand	+ 574 spaces
Total Demand	= 1,529 spaces
Spaces Needed	*1,405 spaces (Supply)* *- 1,529 spaces (Demand)* *= 124 spaces deficit**

Takeaway

Without further investments in parking within the Dickson/Block area, there will be an estimated **deficit of 124 spaces** during the lunchtime peak.

**Based on effective supply, not total supply*



RECOMMENDATIONS

Mitigation Strategies

Strategies and Actions to Address Insufficient Parking

STRATEGIES	ACTIONS
	Balance parking demand Better utilize existing parking and distribute demand across the district
	Effectively price public parking Prioritize parking turnover on-street, while using off-street for long-term parking needs
	Further explore City's role in providing parking vs. private sector providing its own Consider alleviating concerns about future parking supply by ensuring developments are adequately providing parking, or evaluating if the City should invest in additional City-owned facilities
	Build more parking Related to the above, does private sector, or City provide additional parking for the district?

Balance Parking Demand

Balance Parking Demand

Unified approach to private off-street parking

Recommendation

- Create a parking coalition that advertises private lots throughout the district as “public parking” through consistent hours of operation, pricing, enforcement practices and signage
- Implement ParkMobile payment app for private lots

Considerations

- Limited number of private lots are proximate to Dickson/Block area
- Individual property owners may have different desires and expectations
- Time-intensive to coordinate with private owners
- May require a policy change to be effective
- Work with Dickson/Block coalition to redefine accessibility within proximate private lots
- Recommended in the 2017 study

Balance Parking Demand

District-wide wayfinding

Recommendation

- Install strategically placed real-time parking availability signage directing motorists to public parking
- New parking garage and Spring Deck recommended at a minimum

Considerations

- With distributed parking facilities, this is needed to inform motorists
- Many motorists don't consider where they will park until arriving in the district
- Consider real-time occupancy and pricing information
- Recommended in the 2017 study

EFFECTIVELY PRICED PUBLIC PARKING

Effectively Price Public Parking

Extend paid parking hours

Recommendation

- Extend public parking hours of enforcement to between 8 AM to 2 AM; free parking remains from 2 AM to 8 AM

Considerations

- Charging for parking earlier in the day will deter students and other long-term parkers from parking on-street and give more access to customers for local businesses
- Validate on-street or "core" parking in the short-term to ensure it does not deter patrons

Positive Impacts of Time-Limited On-Street / "Core" Parking in Commercial Areas

	Cost	Time Limit	Turnover
Current	2 AM – 2 PM: Free 2 PM – 6 PM: $0.50/hr. 6 PM – 2 AM: $1/hr. All day option: $5	N/A	~2.2 cars per day*
Proposed	2 AM – 8 AM: Free 8 AM – 2 AM: $1.50/hr.	2-hour limit	9 cars per day

Create a price difference between on and off-street parking

Recommendation

- Charge a higher hourly rate for on-street spaces vs. off-street public parking.

Considerations

- Reevaluate current policies for employee and residential on-street parking use
- On-street spaces are only 20% of total parking supply in study area and should be prioritized for high turnover activity (≤ 2-hour duration)
- Moves long-term parking needs (such as employee parking) to off-street facilities

Effectively Price Public Parking

Match parking revenues to fund future supply

Recommendation

- Continue to focus on long-term financial planning to raise capital for additional entertainment needs, such as streetscape improvements, parking maintenance and new parking structures.

Considerations

- Ensure that parking pricing is continuously monitored and adjusted to fund these future expenditures

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CITY vs. PRIVATE SECTOR ROLE IN PROVIDING PARKING

Further Explore City's Role in Providing Parking vs. Private Sector Providing its Own

Option 1: Require future developments to self-park

Recommendation

- Future developments demonstrate through a shared parking study that they can effectively share parking between uses on their own site and build the amount the shared parking methodology indicates it needs, thus not relying on other parking throughout the Dickson/Block area
- If developer does not build the parking needed to serve the site, the developer would be responsible for securing additional spaces needed via lease agreements

Considerations

- Allows developers to reduce parking built to serve their site while also accommodating the needs of their site
- May discourage some development due to cost to build parking

Or…

Option 2: City to build additional parking facilities to serve district demands

Recommendation

- Without a parking requirement for new developments, the City takes responsibility for providing additional parking facilities to meet future development demands throughout the district

Considerations

- Limited by bond capacity
- Parking needs will depend on future developments coming to fruition
- Opportunity cost of using taxpayer dollars to fund parking vs. other needs (such as transit, housing, revitalization efforts, etc.)

BUILDING MORE PARKING

Building More Parking

City-sponsored new parking facility

Opportunity

- Approximately 55-90 spaces per level for a parking garage on the School Lot or another location
- Proximate location to Dickson/Block patrons and event-goers
- New garage can include street-level activation to bring activity to School Street

Considerations

- Lose 58 spaces in the current School Lot
- Parking deficit depends on all future developments coming to fruition
- High cost; ~$13.2M for a 330-space garage in Fayetteville
- Decreases vibrancy of the block with two garages across the street from each other
- May require the purchase of private property to expand garage footprint

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Summary of Recommendations

If all future developments come to fruition, Dickson/Block area will need ~500 additional spaces during an event to account for the increased demand.

Strategy	Actions	Effort	Cost	Impact to Proximate Parking Supply
Manage Current Supply	Unified approach to private off-street parking	Medium	Low	Unknown*
	District-wide wayfinding	Medium	Medium	~50 spaces**
Policy Change / Increase Parking Supply	Extend paid parking hours	Low	Low	Estimated ~100-200 lunchtime, little impact in evenings
	Create a price difference between on and off-street parking	Medium	Low	
	Match parking revenues to fund future supply	Medium	Low	N/A
	Future developments self park (reduced parking through shared parking study)	Low	Low	Satisfied
	City-sponsored new parking facility	High	High	Satisfied

Conversations with Dickson/Block property owners needed
*** Squeezes out approximately 10% more capacity of parking facilities signed.*

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: January 8, 2024

SUBJECT: **RZN-2023-0034: Rezoning (WEST OF S. RAZORBACK RD./LOONEY, 599):** Submitted by COMMUNITY BY DESIGN for property located WEST OF S. RAZORBACK RD. The property is zoned NS-L, NEIGHBORHOOD SERVICES - LIMITED and contains approximately 3.06 acres. The request is to rezone the property to R-A, RESIDENTIAL-AGRICULTURAL and UT, URBAN THOROUGHFARE.

RECOMMENDATION:
Staff recommends forwarding **RZN-2023-0034** to City Council with a recommendation of approval.

RECOMMENDED MOTION:
*"I move to forward **RZN-2023-0034** to City Council with a recommendation of approval."*

DECEMBER 11, 2023 PLANNING COMMISSION MEETING:
On December 11, 2023, the Planning Commission voted to table this item until January 8, 2024 at the request of the applicant. Their original request was to rezone the property from NS-L to R-A and RI-U, though they asked to table their request to give themselves time to consider alternative zoning designations.

BACKGROUND:
The subject property is in south Fayetteville on the west side of Razorback Road, just south of Town Branch and about one-fifth of a mile south of the street's intersection with 15th Street. The property contains one parcel totaling 3.06 acres which, with the exception of the Town Branch Trail which bisects the northern portion of the property, is undeveloped. It received its current zoning designation of NS-L, Neighborhood Services – Limited as the result of a staff-initiated rezoning associated with the implementation of the Fayette Junction Neighborhood Plan (RZN 11-3892). Portions of the property are located within a FEMA-designated floodplain and hydric soils and a protected stream are present on site. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Town Branch Creek and Trail	P-1, Institutional
South	Undeveloped	NS-L, Neighborhood Services - Limited CS, Community Services RMF-24, Residential Multi-Family, 24 Units per Acre
East	Multi-Family Residential	NS-G, Neighborhood Services - General
West	Town Branch Creek and Trail	P-1, Institutional

Request: The request is to rezone the subject property from NS-L, Neighborhood Services - Limited to R-A, Residential-Agricultural and UT, Urban Thoroughfare.

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

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

Streets: The subject property has frontage along Razorback Road, a partially improved Regional Link Street with asphalt paving, sidewalk, curb, and gutter. Any street improvements required in this area would be determined at the time of development proposal.

Water: Public water is not available to the subject property. A water main extension would be required at the time of development.

Sewer: Sanitary sewer is available to the subject property. An existing 12-inch sewer main is present, running east to west along the south side of the property. An existing 24-inch sewer main is also present along the north side of the site.

Drainage: Any improvements or requirements for drainage will be determined at the time of development submittal. No portion of the subject property lies within the Hillside/Hilltop Overlay District, though it is located within a FEMA-designated floodplain and protected streams and hydric soils are present on site. A floodplain development review will be required at the time of permit or plan submittal. This will restrict the type of development and impact in flood zones and may require additional documentation such as flood studies or elevation certificates depending on the type of development. If a development impacts a floodplain, those impacts may require review and approval from FEMA.

Streamside Protection Zones generally consists of a protected area on each side of a stream or creek. This “protected area” is meant to preserve woody vegetation and natural areas along stream corridors to improve/protect stream health. At a minimum, it will be 50 feet wide as measured from the top of bank but depending on the shape and extents of the floodway, it could be substantially more. Certain construction activities such as trails and some utilities are allowed in these zones, but in general, improvements such as parking lots or buildings are prohibited.

Hydric soils are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It’s important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal.

Fire: Station 6, located at 990 S. Hollywood Ave., protects this site. The property is located approximately 1.2 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 one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Tree Preservation:

The proposed zoning districts, R-A, Residential-Agricultural and UT, Urban Thoroughfare, require **25% and 15% minimum canopy preservation**, respectively. The current zoning district of NS-L, Neighborhood Services - Limited requires **20% minimum canopy preservation**.

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

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. City Neighborhood Areas encourage complete, compact, and connected neighborhoods and non-residential uses are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

Natural Areas consist of lands approximating or reverting to a wilderness conditions, including those with limited development potential due to topography, hydrology, vegetation or value as an environmental resource. These resources can include stream and wildlife corridors, as well as natural hubs and cores, many of which are identified in the generalized enduring green network. A Natural Area designation would encourage a development pattern that requires conservation and preservation, prevents degradation of these areas, and would utilize the principles of low impact development stormwater infrastructure for all developments. Natural Areas are prime candidates for conservation subdivision design and/or clustered development patterns.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **6-9** for this site with a weighted score of **9.5** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 6, 990 S. Hollywood Ave.)
- Near Sewer Main (12-inch and 24-inch main, on site)
- Near Water Main (six-inch main, Razorback Road)
- Near U of A Campus
- Near City Park (Town Branch Trail Corridor)
- Near Paved Trail (Town Branch Trail)
- Near Razorback Bus Stop (Route 48)
- Appropriate Future Land Use (City Neighborhood)
- Within Master Plan Area (Fayette Junction Neighborhood)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** **Staff finds the requested rezoning to be mostly compatible with existing land use and zoning patterns in the surrounding area. The subject property is bordered to the north, east, and west by multi-family dwellings and it's bordered to the south by smaller lots which are either undeveloped or developed with single-family dwellings. Access to the property is limited with a portion of Razorback Road that is owned and maintained by the Arkansas Department of Transportation (ARDOT) being the only public street adjacent to the site. Platted right-of-way is present to the south which could eventually be developed to provide access to the site from Sligo Street. Opportunities for cross connectivity are otherwise limited due to the presence of a protected stream, Town Branch, which roughly serves as the north and west boundary of the site. Rezoning 0.73 acres of land along the north side of the property to R-A, Residential-Agricultural could help to conserve that protected stream and the land surrounding it by limiting the scale and nature of development in that area. Rezoning the remainder of the site to UT, Urban Thoroughfare could allow for increased development outside of sensitive areas which may be comparable to, and compatible with, adjacent residential uses. While the applicant has indicated an intent to develop the southern half of the site with a mixture of single-, two-, three-, and four-family dwellings and potentially some commercial uses, staff acknowledges that a rezoning to UT would allow for a greater variety of land uses by right, including gasoline service stations, transportation trades and services, and liquor stores. Those uses are not permitted or conditional uses in the existing NS-L zoning district. The applicant has also indicated that, while the land uses permitted in the NS-L zoning district are generally aligned with their development plans for the site, they are pursuing a rezoning to UT in order to provide greater flexibility in terms of lot size, density, and setbacks. While a rezoning to CS, Community Services may be more appropriate, since that zoning district has comparable lot size, density, and setback requirements with more restrictive land use allowances, staff finds UT to be generally compatible with the zoning and development patterns in the surrounding area.**

Land Use Plan Analysis: **Staff finds the applicant's request to be mostly consistent with the City's land use and zoning plans. The subject property is designated as City Neighborhood and Natural Area in the City Plan 2040 Future Land Use Map, and it is located within a Tier Two Center as indicated on the plan's Growth Concept Map. Staff finds that a rezoning to R-A and UT could support those designations since a rezoning to R-A could help conserve natural areas, and a rezoning to UT could support the development of a mixed-use center along a major thoroughfare. Staff also finds the requested rezoning to be aligned with Goals 1, 4, and 6 of City Plan 2040 since it would encourage increased development in an area that has a relatively high infill score ranging between 6 and 9, and since it would allow for the creation of additional housing units near a paved trail and bus routes. Staff finds that the requested rezoning may run afoul with Goal 3 of City Plan**

2040, though, since it would allow for increased development on a site that currently has limited opportunities for cross connectivity.

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

Finding: **Staff finds that the proposed rezoning from NS-L to R-A and UT is justified since it would encourage the conservation of natural resources and the development of denser residences along a major thoroughfare. The existing NS-L zoning district has more limited bulk and area and setback regulations, and it does not allow multi-family dwellings by right.**

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

Finding: **A rezoning from NS-L to R-A and UT has the potential to increase traffic at this location when considering that UT would allow for development that is greater in density and intensity than the existing NS-L zoning. Staff also finds that allowing denser development on a property that has limited opportunities for cross access and only has frontage along a Regional Link Street could potentially result in the creation of increased traffic danger and congestion. However, staff finds that increased traffic danger and congestion could be offset by the property's proximity to the Town Branch Trail and a Razorback Transit bus stop.**

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

Finding: **The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, the property currently has access to public streets and sanitary sewer. A water main extension will be required, and any necessary upgrades or improvements to existing infrastructure will be determined, at the time of development. 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-2023-0034 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: January 8, 2024	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
  - §161.03 District R-A, Residential-Agricultural
  - §161.18 NS-L, Neighborhood Services – Limited
  - §161.24 Urban Thoroughfare
- Request Letter
- Applicant Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

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

(B) *Uses*.

(1) *Permitted Uses.*

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

(2) *Conditional Uses*.

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

(C) *Density.*

Units per acre	One-half (½)

(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.

161.18 NS-L, Neighborhood Services - Limited

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

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited Business
Unit 24	Home occupations
Unit 40	Sidewalk cafes
Unit 41	Accessory dwelling units
Unit 44	Cluster housing development
Unit 46	Short-term rentals

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities*
Unit 45	Small scale production

(C) *Density.*

Units per acre	Ten (10) or less

(D) *Bulk and Area.*

(1) *Lot Width Minimum.*

Single-family	35 feet
Two (2) family or more	35 feet
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet of lot area per dwelling unit
All other permitted and conditional uses	None

(E) *Setback Regulations.*

Front:	A build-to zone that is located between 10 and 25 feet from the front property line.
Side	5 feet
Rear	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of the lot. Accessory ground mounted solar energy systems shall not be considered buildings.

161.24 Urban Thoroughfare

(A) *Purpose.* The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses*.

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 40	Sidewalk cafes
Unit 41	Accessory Dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 38	Mini-storage units
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family dwelling	18 feet
All other dwellings	None

Non-residential	None

(2) *Lot area minimum.* None

(E) *Setback regulations.*

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

(F) *Building Height Regulations*.

Building Height Maximum	5 stories/7 stories*

* A building or a portion of a building that is located between 10 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of seven (7) 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 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) *Minimum buildable street frontage.* 50% of the lot width.

December 8, 2023
Via Email: jmasters@fayetteville-ar.gov

Ms. Jessica Masters
Zoning and Development Administrator
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **Razorback Road Parcel 765-14877-000 – Rezone Request – RZN 2023 0034**

Ms. Masters,

I am writing to modify the rezone request previously submitted for this property on November 1, 2023. After further consideration, the Owner wishes to modify the request and replace the originally requested Residential Intermediate Urban (RI-U) proposed area with Urban Thoroughfare (UT). The originally requested Residential Agricultural (R-A) Zoning area remains a part of the proposal. Please find the following revised documents required for processing the rezoning request:

- One (1) copy of Exhibit #1 – Survey Descriptions of Property to be Rezoned
- One (1) copy of Exhibit #2 – Description Map of Property to be Rezoned
- One (1) copy of Exhibit #3 – Written Description of Request per City of Fayetteville Rezoning Application

The Owner of the property is making plans to build single, two, three, and four-family buildings and potentially mixed-use buildings on the property. The primary reason for the zoning change request is that the owner would like to utilize more flexible bulk, area, and setback regulations that other zoning districts offer. Along with an encouragement for mixed-use, the UT district provides the more flexible bulk, area, and setback regulations. Making possible a more compact development which will help to preserve trees and streamside in the area proposed for R-A zoning.

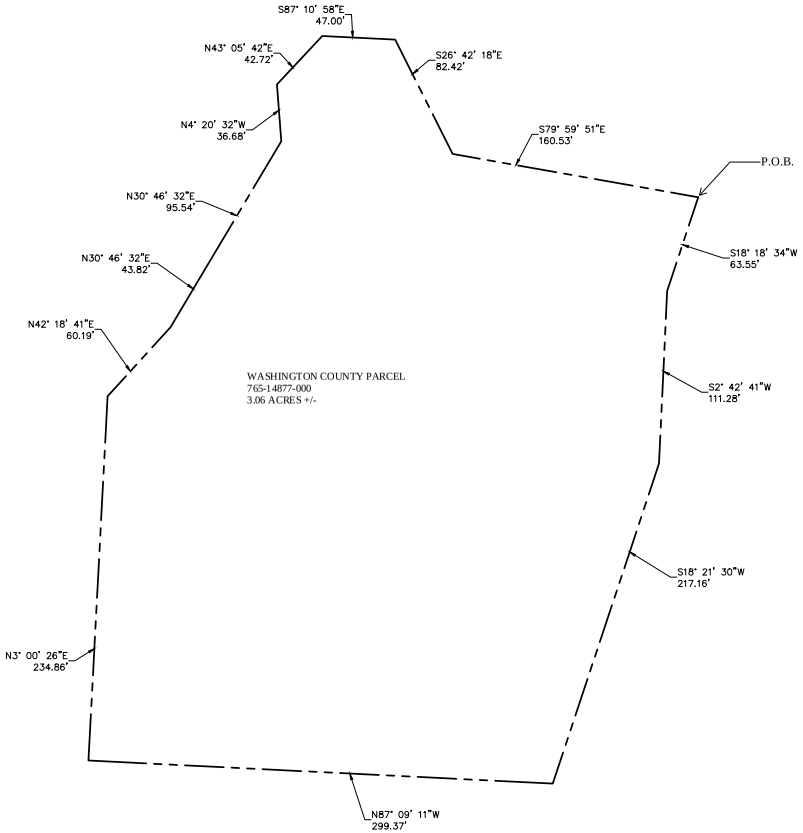
Please let me know if you have any questions or if you need additional information in order to process this request.

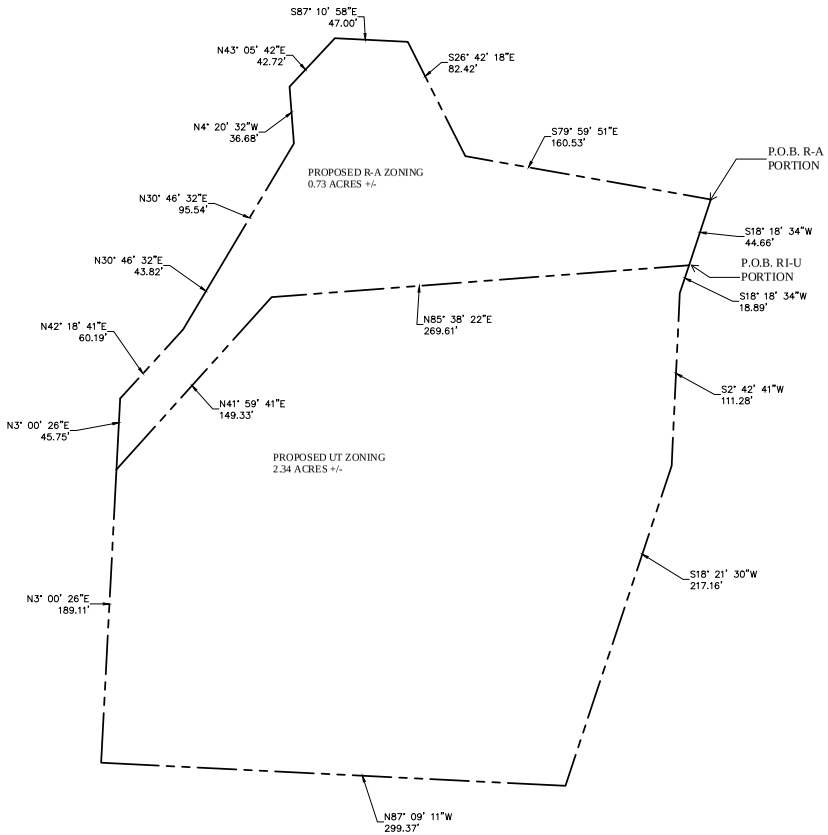
Sincerely,

Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701
479.790.6775

EXHIBIT 2 - DESCRIPTION MAP



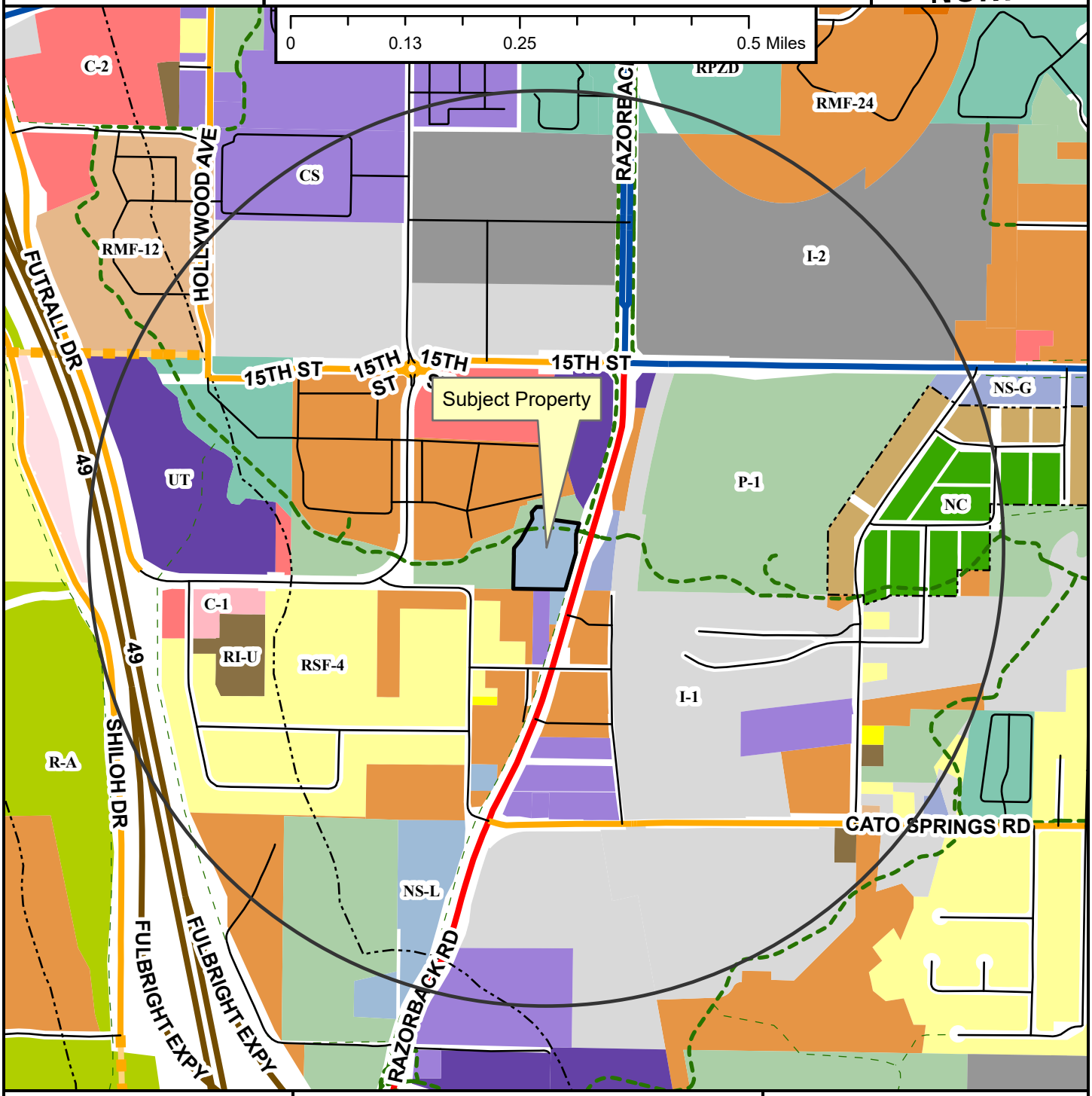


RZN-2023-0034

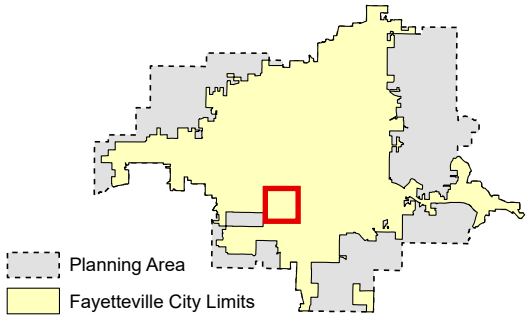
One Mile View

S. RAZORBACK RD & W. NEATHERLAND WAY

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

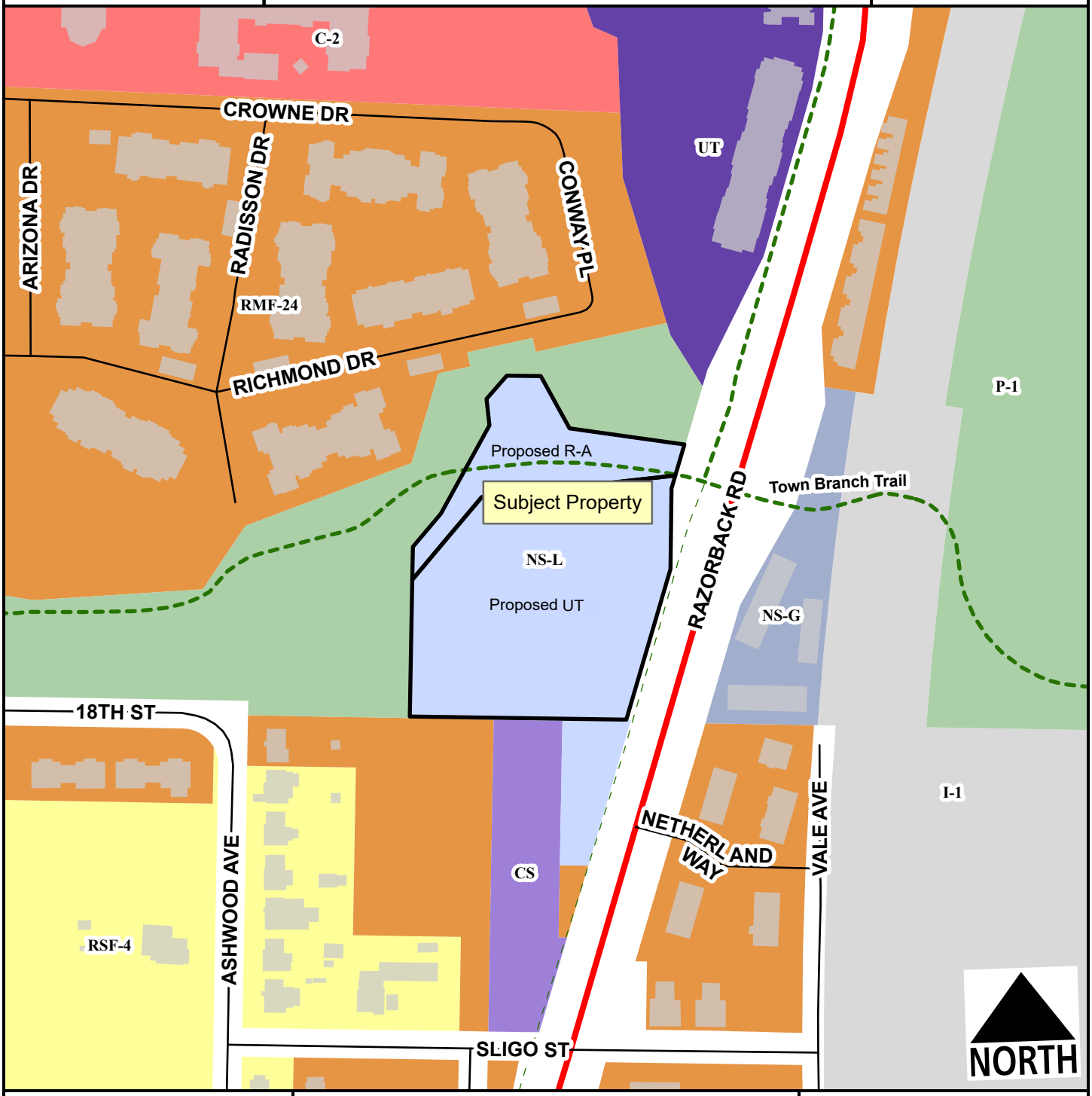
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

RZN-2023-0034

Close Up View

S. RAZORBACK RD & W. NEATHERLAND WAY



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

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
NS-L	3.1	0.0
UT	0.0	2.3
R-A	0.0	0.7
Total	**3.0 ac**	

RZN-2023-0034

Current Land Use

S. RAZORBACK RD & W. NEATHERLAND WAY

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

RZN-2023-0034

Future Land Use

S. RAZORBACK RD & W. NEATHERLAND WAY

NORTH

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

Feet

0 145 290 580 870 1,160

1:4,800

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

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
Josh Boccaccio, Staff Engineer

MEETING DATE: January 8, 2024

SUBJECT: **ADM-2023-0049: Administrative Item (41 N. SANG AVE/CARVER APPEAL, 481):** Submitted by LAURA CARVER for property located at 41 N. SANG AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE and contains approximately 2.34 acres. The request is to remove the requirement of a sidewalk on the east side of the property.

RECOMMENDATION:
Staff recommends denial of **ADM-2023-0049.**

RECOMMENDED MOTION:
"I move to deny **ADM-2023-0049**."

BACKGROUND:
The subject property is located at 41 N. Sang Avenue, just northwest of the intersection with W. Haskell Heights, and immediately to the south of the Pratt Place Inn and Barn. Currently undeveloped but with a 4,200 sq. ft. single-family home currently under construction on the property, the property is zoned RSF-4, Residential Single-Family, 4 Units per Acre and contains 1.3 acres. The Hillside-Hilltop Overlay District encompasses the entire property. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Under Development (Markham Hill)	RI-U, Residential Intermediate - Urban
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Under Development (Markham Hill)	RI-U, Residential Intermediate - Urban
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

*Request***:** The applicant seeks to appeal a City Engineer determination of the requirement for the construction of a 6-foot sidewalk along 41 N. Sang Avenue for approximately 165 feet in length. UDC §171.13 requires property owners to construct sidewalk to the Master Street Plan standards when, among other instances, a new structure is built on a property. In instances where sidewalk construction is not feasible, the City Engineer may waive the requirement and apply a fee-in-lieu in the amount of $5.00 per square foot of the amount that normally would have been required. The applicant wishes to appeal the fee-in-lieu requirement, which would total $4,937.40.

DISCUSSION:
Staff recommends denial of this request. Finding that ongoing development to the north of this property was not required to construct sidewalk along N. Sang Avenue, staff determined that fee-

in-lieu was an appropriate remedy in this case. Recognizing the existing site constraints, conversely, staff has not identified any hardship that would prevent the fee-in-lieu from being paid in accordance with §171.13, and finds the request to be a roughly proportional infrastructure improvement to the overall proposed development. The applicant is constructing a 4,200 sq. ft. house and associated garage. The Engineering Division has also supplied a memo to address this case.

Public Comment: No public comment has been received by City staff regarding this request.

RECOMMENDATION: Staff recommends denial of ADM-2023-0049, therefore requiring the applicant to pay the $4,937.40 fee-in-lieu for 165 linear width of sidewalk.

PLANNING COMMISSION ACTION: Required <u>YES</u>
Date: January 8, 2024 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Development Code
  - 171.13 Property Owner To Construct Sidewalk Or Contribute Cost Of Sidewalk
- Engineering Memo
- Appeal Request Letter
- Applicant Exhibits
- One Mile Map
- Close-up Map
- Current Land Use Map

171.13 Property Owner To Construct Sidewalk Or Contribute Cost Of Sidewalk

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

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

(2) The property owner may request a waiver to §171.13(A)(1) requiring sidewalk construction. The City Engineer shall review the following factors to determine whether or not to grant a waiver:

(a) Pedestrian traffic generators such as parks and schools in the area.

(b) The existence of a sidewalk network in the area.

(c) The density of current and future development in the area.

(d) The amount of pedestrian traffic likely to be generated by the proposed development.

(e) Whether the terrain is such that a sidewalk is physically practical and feasible, and the extent to which trees, ground cover and natural areas would be adversely impacted by the construction of the sidewalk.

(f) The overall need for a sidewalk to be constructed on the lot.

(3) If the City Engineer grants the waiver to construct a sidewalk, the owner shall have an option to construct the sidewalk, or to contribute money in lieu of construction as set forth below:

(a) The amount of money in lieu of construction to be dedicated shall be determined based upon the rough proportionality of the impact of the development upon the sidewalk infrastructure needs near the development including consideration of the persons served by the development and approximate pedestrian trip generation rates of the development.

(b) Unless the developer presents evidence that the number of persons served by the development and the pedestrian trip generation rates of the development justify a reduced contribution in lieu of the construction of sidewalks, all developments shall make a cash contribution in lieu of the construction of the sidewalk at a rate of $5.00 per square foot of the sidewalk that normally would have been required. The amount per square foot shall be reviewed by the City Council at least every five (5) years.

(c) Contribution in lieu of construction of sidewalks shall be paid or construction of the sidewalks shall be completed before receiving final plat approval, or issuance of a certificate of occupancy.

(d) Contributions must be expended within one (1) year to build a sidewalk close enough to serve the project being constructed.

(e) If the owner voluntarily consents in writing, the contributions may be used to construct sidewalk projects where most needed as determined by the City Engineer.

(4) An owner/builder may appeal the City Engineer's refusal to grant a waiver or the administrator's determination of the amount of contribution in lieu of construction to the Planning Commission pursuant to §155.06(D).

(B) *Application of Provisions.* The provisions of this section shall only apply to the following property:

(1) *New Structure.* On which a new structure is being built.

(2) *Existing Residential Structure.* On which an existing residential structure is being modified so as to increase the number of dwelling units located therein or to change the use of the nonresidential use.

(3) *Parking Lot/Garage.* On which a parking lot, or parking garage having a minimum capacity of five (5) automobiles is constructed.

(4) *Building Additions.* Additions of 2,500 square feet or larger.

(5) *Conditional Use.* Any development which requires conditional use approval.

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

December 5, 2023

Dear Chair of the Planning Committee,

We are appealing the city Master Street Plan requirement for the construction of a sidewalk on our property located at 41 N. Sang and the adjoining property at 15 N. Sang.

We are requesting a public hearing.

N. Sang between Markham and the dead end at Haskel Heights has no sidewalks and no trails on either side of the street. The property known as the Pratt Place is being developed by the Specialized Group without sidewalks on N. Sang between Markham and our property. This development is constructing a "fire truck access road" on the north side of our property. Most of the trees have been removed in the construction of this access road. The road has no sidewalk along N. Sang and the survey/permit shows no sidewalk required.

We would like to preserve the remaining trees on our properties along N. Sang and respectfully appeal the sidewalk requirement.

Sincerely,

Laura Carver

Laura Carver

Member, Davlind LLC.

Please see attached:

Survey of 41 N. Sang Boundary 2022

Survey of 41 N. Sang 2002

2231 W Markham Road Land Use in 2022

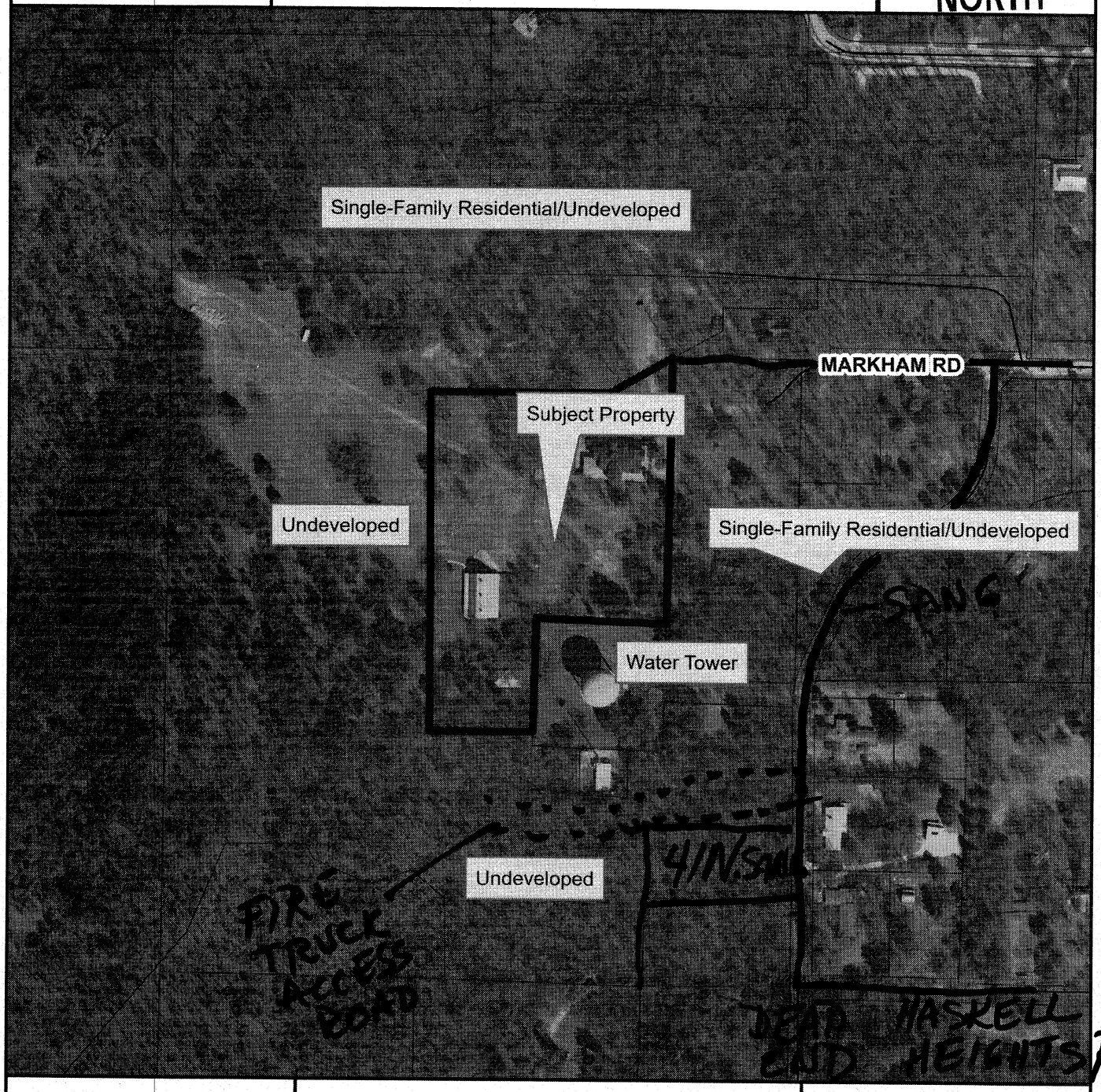
Plat Markham Hill Phase 1 2019

ADM-2022-0031

Current Land Use

2231 W MARKHAM RD

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

SITE PLAN ENLARGEMENT AREA 4A
SITE PLAN ENLARGEMENT AREA 4B
SEE SHEET 4A THIS SHEET FOR CONTINUATION
SEE SHEET 4A THIS SHEET FOR CONTINUATION
SEE SHEET C1.12 FOR CONTINUATION
SEE SHEET C1.14 FOR CONTINUATION
EXISTING LEGEND
PROPOSED LEGEND
PROPERTY INFORMATION (LOTS 2&3)
PRELIMINARY PLAT - MARKHAM HILL - PHASE 1
Tract 2, Tract 3, and portions of Tract 1 Markham Hill Rd. & Sang Ave. Fayetteville, AR
PPL # 19-6861
EDG
Ecological Design Group, Inc.
C1.13

FILED FOR RECORD
2002 DEC 11 AM 11: 27
WASHINGTON CO., AR
B. STAMPS

A-1

N 88°58'47" E 1320.00'

CERTIFICATE OF OWNERSHIP, TITLE, AND DEDICATION:
WE THE UNDERSIGNED OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE TO THE PUBLIC ALL EASEMENTS, STREETS, ALLEYS, PARKS, AND OTHER PUBLIC LANDS SHOWN UPON THIS PLAT. SAID EASEMENTS SHALL BE FOR THE BENEFIT OF THE CITY OF FAYETTEVILLE AND ALL UTILITY COMPANIES, INCLUDING CABLE TELEVISION COMPANIES, AND SAID EASEMENTS SHALL BE FOR THE PURPOSE OF CONSTRUCTION, MAINTAINING, REPAIRING, PLACING, AND REPLACING UTILITY LINES, CABLE TELEVISION LINES, AND DRAINAGE STRUCTURES. THE CITY OF FAYETTEVILLE, AND ALL UTILITY COMPANIES AND ALL CABLE TELEVISION COMPANIES SHALL HAVE THE RIGHT OF INGRESS ANG EGRESS TO SAID EASEMENTS AND THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES AND FENCES WITHIN SAID EASEMENTS.

DATE

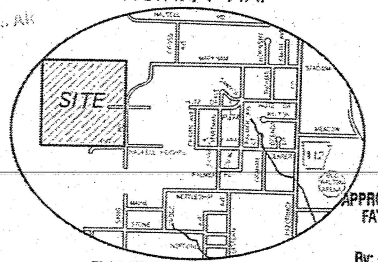
OWNER

12/10/02
DATE

OWNER

Doc ID: 018282070001 Type: REL
Kind: SURVEY
Recorded: 12/11/2002 at 12:53:48 PM
Fee Amt: Page 1 of 1
Washington County, AR
Kyle Sylvester Circuit Clerk
File 2002-00190436

VICINITY MAP



FAYETTEVILLE, AR.

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING ADMINISTRATION
By: Date 12/10/02

LEGEND:
O SET IRON PIN
⊙ FOUND IRON PIN

JULIAN ARCHER
2115 MARKAM
FAYETTEVILLE, AR. 72701
PARCEL 765-14548-000

NORTH 1320.00'

R-1

LEGAL DESCRIPTION (R/W DEDICATION):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS: BEGINNING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE S88°58'47"W 25.00 FEET, THENCE NORTH 696.10 FEET, THENCE N22°06'07"E 72.74 FEET, THENCE SOUTH 764.41 FEET TO THE P.O.B.; CONTAINING 0.42 ACRES MORE OR LESS.

N22°06'07"E 72.74'

NORTH 696.10'

SOUTH 764.41'

P.O.B. (25' R/W)
SE CORNER
SW1/4, NW1/4
17-16-30

S 88°58'47" W 25.00'

S 88°58'47" W 1320.00'

765-14585-000
ARARMINTA & ANN GIBSON, CHARLOTTE SLIMP
5000 ARKANSHIRE CIRCLE APT # 17
FAYETTEVILLE, AR. 72701

PREVIOUSLY SPLIT FOR WATER TANK
(CITY OF FAYETTEVILLE)

EAST 270.00'

NORTH 270.00'

SOUTH 115.00'

EAST 266.80'

24' WATER 50'

WEST 266.80'

SOUTH 105.00'

WEST 270.00'

P.O.B. FOR
WATER TOWER
TRACT

24" WATER

SOUTH 1320.00'

SANG STREET

8" WATER

N 88°58'47" E 330.00'

25 R/W

TRACT 2

104.50'

R/W

165.00'

N 88°58'47" E 330.00'

P.O.B.
TRACT 2

NORTH 329.00'

164.50'

TRACT 1

165.00'

SOUTH 329.00'

S 88°58'47" W 330.00'

765-14584-000
FELICIA FERRIS
2215 HASKELL HTS.
FAYETTEVILLE, AR. 72701

P.O.B.
(REMAINING TRACT)

P.O.B. (TRACT 1)
SE CORNER
SW1/4, NW1/4
17-16-30

A-1

765-14541-000
JOHN G. & FAYE WILLIAMS
140 N. SANG
FAYETTEVILLE, AR. 72701

A-1

765-14546-000
LYNN F. WADE
100 N. SANG
FAYETTEVILLE, AR. 72701

R-1

765-14543-000
DAVID CAMPBELL & SUSAN JOHNSON
48 N. SANG
FAYETTEVILLE, AR. 72701

765-14540-000
WILLIAM A & JOYCE FELDMAN
16 N. SANG
FAYETTEVILLE, AR. 72701

R-1

R-1
765-14585-000
PAT MCGETRICK
9 SANG
FAYETTEVILLE, AR. 72701

LEGAL DESCRIPTION (TRACT # 2):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS: COMMENCING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE NORTH 164.50 FEET TO THE P.O.B., THENCE S88°58'47"W 330.00 FEET, THENCE NORTH 164.50 FEET, THENCE N88°58'47"E 330.00 FEET, THENCE SOUTH 164.50 FEET TO THE P.O.B.; CONTAINING 1.25 ACRES MORE OR LESS SUBJECT TO EASEMENTS ADN R/W OF RECORD.

LEGAL DESCRIPTION (TRACT # 1):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS: BEGINNING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE S88°58'47"W 330.00 FEET, THENCE NORTH 164.50 FEET, THENCE N88°58'47"E 330.00 FEET, THENCE SOUTH 164.50 FEET TO THE P.O.B.; CONTAINING 1.25 ACRES MORE OR LESS SUBJECT TO EASEMENTS ADN R/W OF RECORD.

LEGAL DESCRIPTION (OLD):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS: BEGINNING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE S88°58'47"W 1320.00 FEET, THENCE NORTH 1320.00 FEET, THENCE N88°58'47"E 1320.00 FEET, THENCE SOUTH 1320.00 FEET TO THE P.O.B.; CONTAINING 39.99 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF RECORD.

LEGAL DESCRIPTION (WATER TANK TRACT):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS: COMMENCING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE NORTH 594.00 FEET TO THE P.O.B., THENCE WEST 266.80 FEET, THENCE SOUTH 105.00 FEET, THENCE WEST 270.00 FEET THENCE NORTH 270.00, THENCE EAST 270.00 FEET, THENCE SOUTH 115.00. THENCE EAST 266.8 FEET, THENCE SOUTH 50.00 FEET TO THE P.O.B.; CONTAINING 1.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF RECORD.

LEGAL DESCRIPTION (REMAINING TRACT):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS: COMMENCING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE S88°58'47"W 330.00 FEET TO THE P.O.B., THENCE S88°58'47"W 990.00 FEET, THENCE NORTH 1320.00 FEET, THENCE N88°58'47"E 1320.00 FEET, THENCE SOUTH 676.00 FEET, THENCE WEST 266.80 FEET, THENCE NORTH 115.00, THENCE WEST 270.00 FEET, THENCE SOUTH 270.00 FEET, THENCE EAST 270.00 FEET, THENCE NORTH 105.00 FEET, THENCE EAST 266.80 FEET, THENCE SOUTH 265.00 FEET, THENCE S88°58'47"W 330.00 FEET, THENCE SOUTH 329.00 FEET TO THE P.O.B.; CONTAINING 35.5 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF RECORD.

REGISTERED
STATE OF ARKANSAS
NO. 1118
DANIEL L. JORGENSEN
PROFESSIONAL LAND SURVEYOR

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS
1011 W. SUNBRIDGE DRIVE, SUITE A • FAYETTEVILLE, ARKANSAS 72703 • (479) 443-4506 • FAX (479) 443-4507

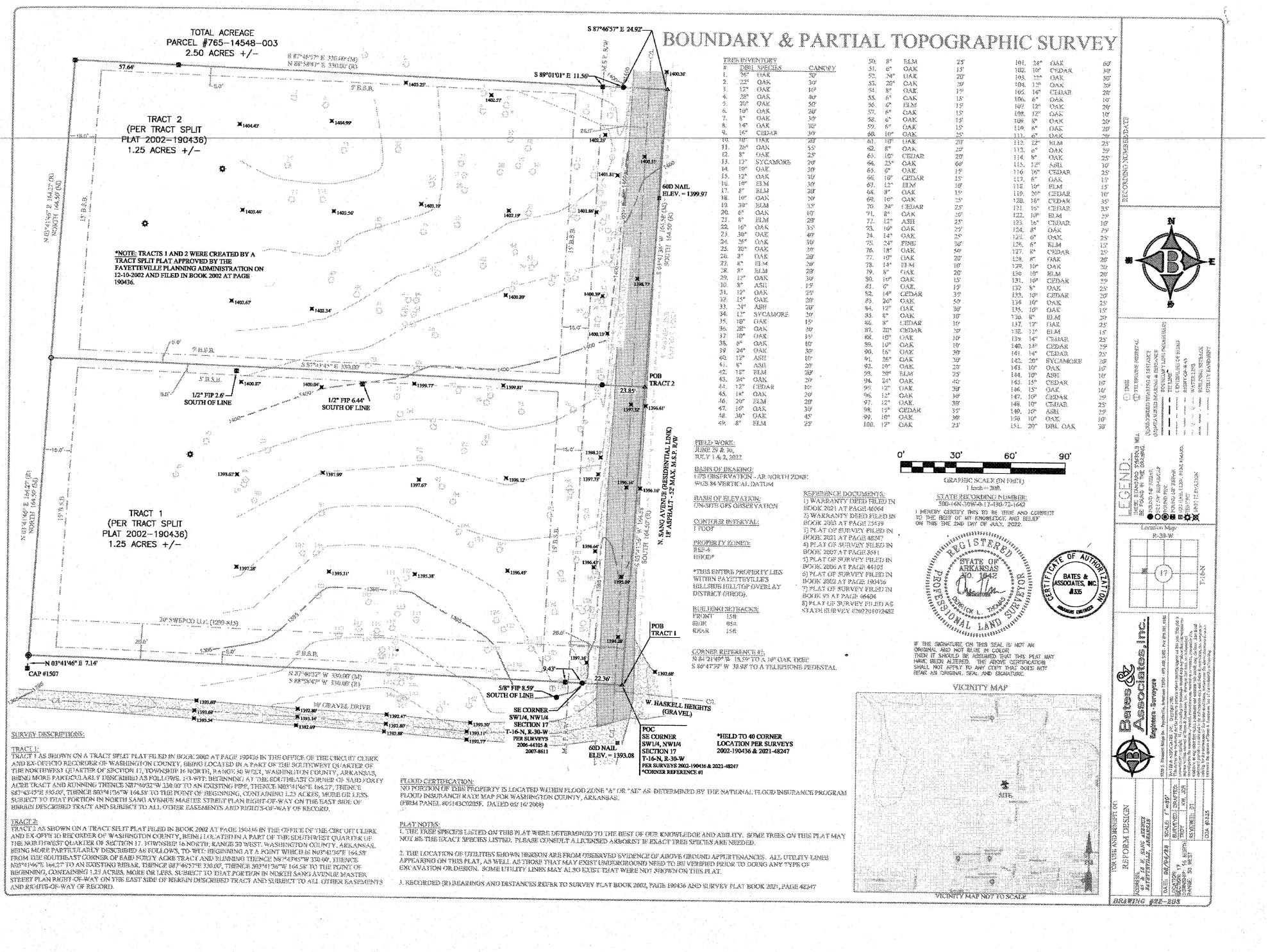
SCALE: 1"=100'
DATE: 30OCT.02'
DATE REVISED:
CHECKED BY: DLJ
DRAWN BY: BEJ
C:\JOBS\JOBS\ARCHER

LOT SPLIT FOR
JULIAN ARCHER

1 / 1

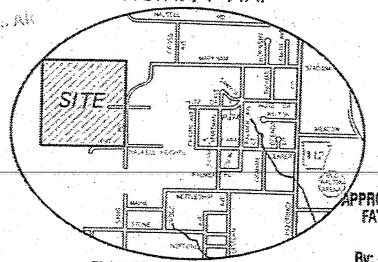
2002-190436

Planning Commission
January 8, 2024
ADM-2023-0049 (CARVER APPEAL)
Page 174 of 629
Page 7 of 15


BOUNDARY & PARTIAL TOPOGRAPHIC SURVEY
TOTAL ACREAGE
PARCEL #765-14548-003
2.50 ACRES +/-
TRACT 2
(PER TRACT SPLIT
PLAT 2002-190436)
1.25 ACRES +/-
TRACT 1
(PER TRACT SPLIT
PLAT 2002-190436)
1.25 ACRES +/-
*NOTE: TRACTS 1 AND 2 WERE CREATED BY A TRACT SPLIT PLAT APPROVED BY THE FAYETTEVILLE PLANNING ADMINISTRATION ON 12-10-2002 AND FILED IN BOOK 2002 AT PAGE 190436.
60D NAIL
ELEV. = 1399.97
POB
TRACT 2
POB
TRACT 1
POC
SE CORNER
SW1/4, NW1/4
SECTION 17
T-16-N, R-30-W
PER SURVEYS
2002-190436 &
2021-48247
*CORNER REFERENCE #1
60D NAIL
ELEV. = 1393.08
SE CORNER
SW1/4, NW1/4
SECTION 17
T-16-N, R-30-W
PER SURVEYS
2006-44105 &
2007-8611
*HELD TO 40 CORNER
LOCATION PER SURVEYS
2002-190436 & 2021-48247
1/2" FIP 2.6'
SOUTH OF LINE
1/2" FIP 6.44'
SOUTH OF LINE
5/8" FIP 8.59'
SOUTH OF LINE
CAP #1507
N. SANG AVENUE (RESIDENTIAL LINK)
18' ASPHALT - 52' MAX. M.S.P. R/W
W. HASKELL HEIGHTS
(GRAVEL)
20' SWEPCO U.E. (1209-815)
10' GRAVEL DRIVE
S 87°46'57" E 24.92'
S 89°01'01" E 11.56'
S 87°46'57" E 330.00' (M)
N 88°58'47" E 330.00' (R)
N 03°41'46" E 7.14'
N 03°34'46" E 164.27' (M)
NORTH 164.59' (R)
S 03°41'36" E 164.58' (M)
SOUTH 164.59' (R)
N 87°46'57" W 330.00' (M)
S 88°58'47" W 330.00' (R)
TREE INVENTORY
DBH SPECIES CANOPY
1. 26" OAK 50'
2. 22" OAK 30'
3. 12" OAK 10'
4. 28" OAK 40'
5. 26" OAK 50'
6. 10" OAK 20'
7. 8" OAK 30'
8. 14" OAK 30'
9. 16" CEDAR 30'
10. 11" OAK 25'
11. 28" OAK 55'
12. 8" OAK 25'
13. 12" SYCAMORE 20'
14. 10" OAK 20'
15. 12" OAK 30'
16. 10" ELM 30'
17. 8" ELM 20'
18. 10" OAK 30'
19. 30" ELM 35'
20. 6" OAK 10'
21. 8" ELM 20'
22. 10" OAK 30'
23. 30" OAK 40'
24. 28" OAK 30'
25. 20" OAK 20'
26. 8" OAK 20'
27. 8" ELM 20'
28. 8" ELM 20'
29. 12" OAK 30'
30. 8" ASH 15'
31. 12" OAK 25'
32. 15" OAK 20'
33. 20" ASH 20'
34. 15" SYCAMORE 30'
35. 18" OAK 35'
36. 28" OAK 30'
37. 10" OAK 30'
38. 8" OAK 40'
39. 26" OAK 30'
40. 12" ASH 10'
41. 8" ASH 20'
42. 18" ELM 20'
43. 36" OAK 20'
44. 12" CEDAR 10'
45. 18" OAK 20'
46. 20" ELM 20'
47. 10" OAK 30'
48. 36" OAK 45'
49. 8" ELM 25'
50. 8" ELM 25'
51. 6" OAK 15'
52. 34" OAK 20'
53. 20" OAK 20'
54. 8" OAK 15'
55. 6" OAK 15'
56. 6" ELM 15'
57. 6" OAK 15'
58. 6" OAK 15'
59. 8" OAK 15'
60. 16" OAK 25'
61. 18" OAK 20'
62. 8" OAK 25'
63. 15" CEDAR 20'
64. 25" OAK 60'
65. 6" OAK 15'
66. 10" CEDAR 15'
67. 12" ELM 15'
68. 8" OAK 15'
69. 10" OAK 25'
70. 24" CEDAR 25'
71. 8" OAK 25'
72. 12" ASH 25'
73. 10" OAK 25'
74. 14" OAK 25'
75. 24" PINE 30'
76. 18" OAK 50'
77. 10" OAK 20'
78. 14" ELM 10'
79. 8" OAK 20'
80. 10" OAK 15'
81. 6" OAK 15'
82. 14" CEDAR 35'
83. 26" OAK 50'
84. 12" OAK 30'
85. 8" OAK 10'
86. 8" CEDAR 10'
87. 20" CEDAR 30'
88. 10" OAK 10'
89. 10" OAK 10'
90. 18" OAK 30'
91. 26" OAK 30'
92. 10" OAK 20'
93. 20" ELM 25'
94. 24" OAK 40'
95. 12" OAK 30'
96. 12" OAK 30'
97. 12" OAK 30'
98. 15" CEDAR 35'
99. 10" OAK 30'
100. 12" OAK 25'
101. 24" OAK 60'
102. 10" CEDAR 30'
103. 22" OAK 50'
104. 12" OAK 30'
105. 14" CEDAR 20'
106. 8" OAK 10'
107. 12" OAK 20'
108. 12" OAK 10'
109. 8" OAK 20'
110. 8" OAK 20'
111. 6" OAK 20'
112. 12" ELM 25'
113. 6" OAK 25'
114. 8" OAK 25'
115. 12" ASH 10'
116. 16" CEDAR 25'
117. 8" OAK 15'
118. 16" ELM 15'
119. 20" CEDAR 10'
120. 16" CEDAR 35'
121. 16" CEDAR 35'
122. 18" ELM 35'
123. 16" CEDAR 10'
124. 8" OAK 25'
125. 6" OAK 25'
126. 8" ELM 15'
127. 8" CEDAR 25'
128. 8" OAK 20'
129. 10" OAK 20'
130. 10" ELM 20'
131. 10" CEDAR 25'
132. 8" OAK 25'
133. 10" CEDAR 20'
134. 16" OAK 25'
135. 10" OAK 15'
136. 8" ELM 20'
137. 12" OAK 25'
138. 12" ELM 15'
139. 14" CEDAR 25'
140. 14" CEDAR 35'
141. 14" CEDAR 25'
142. 20" SYCAMORE 30'
143. 10" OAK 15'
144. 10" ASH 10'
145. 15" CEDAR 10'
146. 15" OAK 10'
147. 10" CEDAR 20'
148. 10" CEDAR 25'
149. 10" ASH 20'
150. 10" OAK 10'
151. 20" DBL OAK 30'
FIELD WORK:
JUNE 29 & 30,
JULY 1 & 2, 2022
BASIS OF BEARING:
GPS OBSERVATION - AR NORTH ZONE
WGS 84 VERTICAL DATUM
BASIS OF ELEVATION:
ON-SITE GPS OBSERVATION
CONTOUR INTERVAL:
1 FOOT
PROPERTY ZONED:
RSF-4
HHOP
*THIS ENTIRE PROPERTY LIES WITHIN FAYETTEVILLE'S HILLSIDE HILLTOP OVERLAY DISTRICT (HHOD).
BUILDING SETBACKS:
FRONT 15ft
SIDE 05ft
REAR 15ft
REFERENCE DOCUMENTS:
1) WARRANTY DEED FILED IN BOOK 2021 AT PAGE 46064
2) WARRANTY DEED FILED IN BOOK 2003 AT PAGE 25439
3) PLAT OF SURVEY FILED IN BOOK 2021 AT PAGE 48247
4) PLAT OF SURVEY FILED IN BOOK 2007 AT PAGE 8611
5) PLAT OF SURVEY FILED IN BOOK 2006 AT PAGE 44105
6) PLAT OF SURVEY FILED IN BOOK 2002 AT PAGE 190436
7) PLAT OF SURVEY FILED IN BOOK 93 AT PAGE 86404
8) PLAT OF SURVEY FILED AS STATE SURVEY 07002N0932402
CORNER REFERENCE #1:
N 84°21'49" W 18.59' TO A 10" OAK TREE
S 56°47'39" W 38.98' TO A TELEPHONE PEDESTAL
0' 30' 60' 90'
(GRAPHIC SCALE ON FILE)
1 inch = 30ft.
STATE RECORDING NUMBER:
700-16N-30W-0.17-160.72-16442
I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 2ND DAY OF JAN. 2023.
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
NO. 16442
DERRICK L. THOMAS
CERTIFICATE OF AUTHORIZATION
BATES & ASSOCIATES, INC.
835
IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR, THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.
VICINITY MAP
SITE
VICINITY MAP NOT TO SCALE
LEGEND:
Bates & Associates, Inc.
Engineers · Surveyors
REFORM DESIGN
BRAWING #22-205
SURVEY DESCRIPTIONS:
TRACT 1:
TRACT 1 AS SHOWN ON A TRACT SPLIT PLAT FILED IN BOOK 2002 AT PAGE 190436 IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, BEING LOCATED IN A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N87°46'57"W 330.00' TO AN EXISTING PIPE, THENCE N03°41'46"E 164.27', THENCE S87°43'45"E 330.00', THENCE S03°41'36"W 164.58' TO THE POINT OF BEGINNING, CONTAINING 1.25 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN NORTH SANG AVENUE MASTER STREET PLAN RIGHT-OF-WAY ON THE EAST SIDE OF HEREIN DESCRIBED TRACT AND SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.
TRACT 2:
TRACT 2 AS SHOWN ON A TRACT SPLIT PLAT FILED IN BOOK 2002 AT PAGE 190436 IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, BEING LOCATED IN A PART OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N03°41'36"E 164.58' FROM THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N87°43'45"W 330.00', THENCE N03°41'46"E 164.27' TO AN EXISTING REBAR, THENCE S87°46'57"E 330.00', THENCE S03°41'36"W 164.58' TO THE POINT OF BEGINNING, CONTAINING 1.25 ACRES, MORE OR LESS. SUBJECT TO THAT PORTION IN NORTH SANG AVENUE MASTER STREET PLAN RIGHT-OF-WAY ON THE EAST SIDE OF HEREIN DESCRIBED TRACT AND SUBJECT TO ALL OTHER EASEMENTS AND RIGHTS-OF-WAY OF RECORD.
FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS. (FIRM PANEL #05143C0285F, DATED 05/16/2008)
PLAT NOTES:
1. THE TREE SPECIES LISTED ON THIS PLAT WERE DETERMINED TO THE BEST OF OUR KNOWLEDGE AND ABILITY. SOME TREES ON THIS PLAT MAY NOT BE THE EXACT SPECIES LISTED. PLEASE CONSULT A LICENSED ARBORIST IF EXACT TREE SPECIES ARE NEEDED.
2. THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES. ALL UTILITY LINES APPEARING ON THIS PLAT, AS WELL AS THOSE THAT MAY EXIST UNDERGROUND NEED TO BE VERIFIED PRIOR TO DOING ANY TYPE OF EXCAVATION OR DESIGN. SOME UTILITY LINES MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS PLAT.
3. RECORDED (R) BEARINGS AND DISTANCES REFER TO SURVEY PLAT BOOK 2002, PAGE 190436 AND SURVEY PLAT BOOK 2021, PAGE 48247

FILED FOR RECORD
2002 DEC 11 AM 11: 27
WASHINGTON CO., AR
B. STAMPS

VICINITY MAP



FAYETTEVILLE, AR.

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING
ADMINISTRATION
By: _____ Date 12/10/02

A-1

N 88°58'47" E 1320.00'

CERTIFICATE OF OWNERSHIP, TITLE, AND DEDICATION:
WE THE UNDERSIGNED OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE TO THE PUBLIC ALL EASEMENTS, STREETS, ALLEYS, PARKS, AND OTHER PUBLIC LANDS SHOWN UPON THIS PLAT. SAID EASEMENTS SHALL BE FOR THE BENEFIT OF THE CITY OF FAYETTEVILLE AND ALL UTILITY COMPANIES, INCLUDING CABLE TELEVISION COMPANIES, AND SAID EASEMENTS SHALL BE FOR THE PURPOSE OF CONSTRUCTION, MAINTAINING, REPAIRING, PLACING, AND REPLACING UTILITY LINES, CABLE TELEVISION LINES, AND DRAINAGE STRUCTURES. THE CITY OF FAYETTEVILLE, AND ALL UTILITY COMPANIES AND ALL CABLE TELEVISION COMPANIES SHALL HAVE THE RIGHT OF INGRESS ANG EGRESS TO SAID EASEMENTS AND THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES AND FENCES WITHIN SAID EASEMENTS.

DATE

OWNER

12/10/02
DATE

OWNER

Doc ID: 018282070001 Type: REL
Kind: SURVEY
Recorded: 12/11/2002 at 12:53:48 PM
Fee Amt: Page 1 of 1
Washington County, AR
Kyle Sylvester Circuit Clerk
File 2002-00190436

LEGEND:
O SET IRON PIN
⊙ FOUND IRON PIN

JULIAN ARCHER
2115 MARKAM
FAYETTEVILLE, AR. 72701
PARCEL 765-14548-000

NORTH 1320.00'

R-1

LEGAL DESCRIPTION (R/W DEDICATION):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:
BEGINNING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE S88°58'47"W 25.00 FEET, THENCE NORTH 696.10 FEET, THENCE N22°06'07"E 72.74 FEET, THENCE SOUTH 764.41 FEET TO THE P.O.B.; CONTAINING 0.42 ACRES MORE OR LESS.

N22°06'07"E 72.74'

NORTH 696.10'

SOUTH 764.41'

P.O.B. (25' R/W)
SE CORNER
SW1/4, NW1/4
17-16-30

S 88°58'47" W 25.00'

S 88°58'47" W 1320.00'

765-14585-000
ARARMINTA & ANN GIBSON, CHARLOTTE SLIMP
5000 ARKANSHIRE CIRCLE APT # 17
FAYETTEVILLE, AR. 72701

PREVIOUSLY SPLIT FOR WATER TANK
(CITY OF FAYETTEVILLE)

EAST 270.00'

NORTH 270.00'

SOUTH 115.00'

EAST 266.80'

24' WATER 50'

WEST 266.80'

SOUTH 105.00'

WEST 270.00'

P.O.B. FOR
WATER TOWER
TRACT

24" WATER

SOUTH 1320.00'

SANG STREET

N 88°58'47" E 330.00'

25 R/W

4 1/2

TRACT 2

104.50'

R/W

165.50'

N 88°58'47" E 330.00'

NORTH 329.00'

164.50'

TRACT 1

165.50'

SOUTH 329.00'

S 88°58'47" W 330.00'

P.O.B.
(REMAINING TRACT)

765-14584-000
FELICIA FERRIS
2215 HASKELL HTS.
FAYETTEVILLE, AR. 72701

P.O.B. (TRACT 1)
SE CORNER
SW1/4, NW1/4
17-16-30

A-1

765-14541-000
JOHN G. & FAYE WILLIAMS
140 N. SANG
FAYETTEVILLE, AR. 72701

A-1

765-14546-000
LYNN F. WADE
100 N. SANG
FAYETTEVILLE, AR. 72701

8" WATER

R-1

765-14543-000
DAVID CAMPBELL & SUSAN JOHNSON
48 N. SANG
FAYETTEVILLE, AR. 72701

765-14540-000
WILLIAM A & JOYCE FELDMAN
16 N. SANG
FAYETTEVILLE, AR. 72701

R-1

R-1
765-14585-000
PAT MCGETRICK
9 SANG
FAYETTEVILLE, AR. 72701

LEGAL DESCRIPTION (TRACT # 2):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:
COMMENCING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE NORTH 164.50 FEET TO THE P.O.B., THENCE S88°58'47"W 330.00 FEET, THENCE NORTH 164.50 FEET, THENCE N88°58'47"E 330.00 FEET, THENCE SOUTH 164.50 FEET TO THE P.O.B.; CONTAINING 1.25 ACRES MORE OR LESS SUBJECT TO EASEMENTS ADN R/W OF RECORD.

LEGAL DESCRIPTION (TRACT # 1):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:
BEGINNING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE S88°58'47"W 330.00 FEET, THENCE NORTH 164.50 FEET, THENCE N88°58'47"E 330.00 FEET, THENCE SOUTH 164.50 FEET TO THE P.O.B.; CONTAINING 1.25 ACRES MORE OR LESS SUBJECT TO EASEMENTS ADN R/W OF RECORD.

LEGAL DESCRIPTION (OLD):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:
BEGINNING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE S88°58'47"W 1320.00 FEET, THENCE NORTH 1320.00 FEET, THENCE N88°58'47"E 1320.00 FEET, THENCE SOUTH 1320.00 FEET TO THE P.O.B.; CONTAINING 39.99 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF RECORD.

LEGAL DESCRIPTION (WATER TANK TRACT):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:
COMMENCING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE NORTH 594.00 FEET TO THE P.O.B., THENCE WEST 266.80 FEET, THENCE SOUTH 105.00 FEET, THENCE WEST 270.00 FEET THENCE NORTH 270.00, THENCE EAST 270.00 FEET, THENCE SOUTH 115.00. THENCE EAST 266.8 FEET, THENCE SOUTH 50.00 FEET TO THE P.O.B.; CONTAINING 1.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF RECORD.

LEGAL DESCRIPTION (REMAINING TRACT):
PART OF THE SW1/4 OF THE NW1/4 OF SECTION 17, T16N, R30W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:
COMMENCING AT THE S.E. CORNER OF SAID SW1/4, NW1/4 THENCE S88°58'47"W 330.00 FEET TO THE P.O.B., THENCE S88°58'47"W 990.00 FEET, THENCE NORTH 1320.00 FEET, THENCE N88°58'47"E 1320.00 FEET, THENCE SOUTH 676.00 FEET, THENCE WEST 266.80 FEET, THENCE NORTH 115.00, THENCE WEST 270.00 FEET, THENCE SOUTH 270.00 FEET, THENCE EAST 270.00 FEET, THENCE NORTH 105.00 FEET, THENCE EAST 266.80 FEET, THENCE SOUTH 265.00 FEET, THENCE S88°58'47"W 330.00 FEET, THENCE SOUTH 329.00 FEET TO THE P.O.B.; CONTAINING 35.5 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND R/W OF RECORD.

REGISTERED
STATE OF ARKANSAS
No. 1118
DAVID L. JORGENSEN
PROFESSIONAL LAND SURVEYOR

SCALE: 1"=100'
DATE: 30CT.02'
DATE REVISED:
CHECKED BY: DLJ
DRAWN BY: BEJ
C:\SURVEY\JOBS\ARCHER

LOT SPLIT FOR JULIAN ARCHER

1 / 1

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS
1011 W. SUNBRIDGE DRIVE, SUITE A • FAYETTEVILLE, ARKANSAS 72703 • (479) 443-4506 • FAX (479) 443-4507

2002-190436

Planning Commission
January 8, 2024
Page 176 of 629
ADM-2023-0049 (CARVER APPEAL)
Page 9 of 15

citytitle llc & closing

File# 21-7586

Prepared under the supervision of:
Blake Hanby, Attorney
3790 N. Bellafont Blvd, Suite 3
Fayetteville, AR 72703

WARRANTY DEED
(Unmarried Person)

File # 21-7586

KNOW ALL MEN BY THESE PRESENTS:

That I, **Barbara K. Goodman, an unmarried person, and as surviving spouse of James M. Coger,** hereinafter called Grantor, for and in consideration of the sum of One and No/100-----Dollars---($1.00) and other good and valuable consideration in hand paid by **Davlind, LLC, an Arkansas limited liability company,** hereinafter called Grantee, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto said Grantee and unto its successors and assigns, forever, the following described land, situated and being in the County of Washington, State of Arkansas, to-wit:

PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SW 1/4 OF THE NW 1/4, THENCE NORTH 164.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 88°58'47" WEST 330.00 FEET; THENCE NORTH 164.50 FEET; THENCE NORTH 88°58'47" EAST 330.00 FEET; THENCE SOUTH 164.50 FEET TO THE POINT OF BEGINNING, CONTAINING 1.25 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

AND

PART OF THE SW 1/4 OF THE NW 1/4 OF SECTION 17, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID SW 1/4 OF THE NW 1/4, THENCE SOUTH 88°58'47" WEST 330.00 FEET; THENCE NORTH 164.50 FEET; THENCE NORTH 88°58'47" EAST 330.00 FEET; THENCE SOUTH 164.50 FEET TO THE POINT OF BEGINNING, CONTAINING 1.25 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

Subject to easements, right-of-ways, and protective covenants of record, if any.
Subject to all prior mineral reservations and oil and gas leases, if any.

TO HAVE AND TO HOLD the same unto said Grantee and unto its successors and assigns, forever, with all appurtenances thereunto belonging. And I hereby covenant with said Grantee that I will forever warrant and defend the title to the said lands against all claims whatsoever.

Signature page to follow

CITY OF FAYETTEVILLE ARKANSAS

STAFF MEMO

TO: Jessie Masters, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: December 15, 2023

SUBJECT: **Planning Commission Engineering Comments for ADM-2022-0026 Appeal of sidewalk requirement**

Recommendation: Engineering Staff recommends denial of the applicant's appeal of the requirement to construct sidewalk or pay fee-in-lieu of construction.

Background: The applicant submitted a building permit to the City of Fayetteville for a single-family residence at 41 N Sang. UDC § 171.13 requires property owners to construct sidewalk to the Master Street Plan when, among other instances, a new structure is built on a property.

Discussion: During review the applicant showed a 6' sidewalk along their frontage, in accordance with the Master Street Plan and UDC § 171.13. The permit was approved and issued after additional comments concerning standard details, green stormwater practices, and building safety comments were addressed. The permit was issued 7/13/23.

The applicant contacted Planning to question the sidewalk construction requirement. After farther review the Engineering division determined since there is currently no sidewalk along this section of Sang, a fee-in-lieu of construction to meet the requirements set forth in UDC §171.13 would be acceptable. The lot is approximately 165' in length and the current fee is $5 per square foot. **The total fee-in-lieu is $4,937.40.** The applicant desires to not be required to construct the sidewalk or pay a fee-in-lieu of construction.

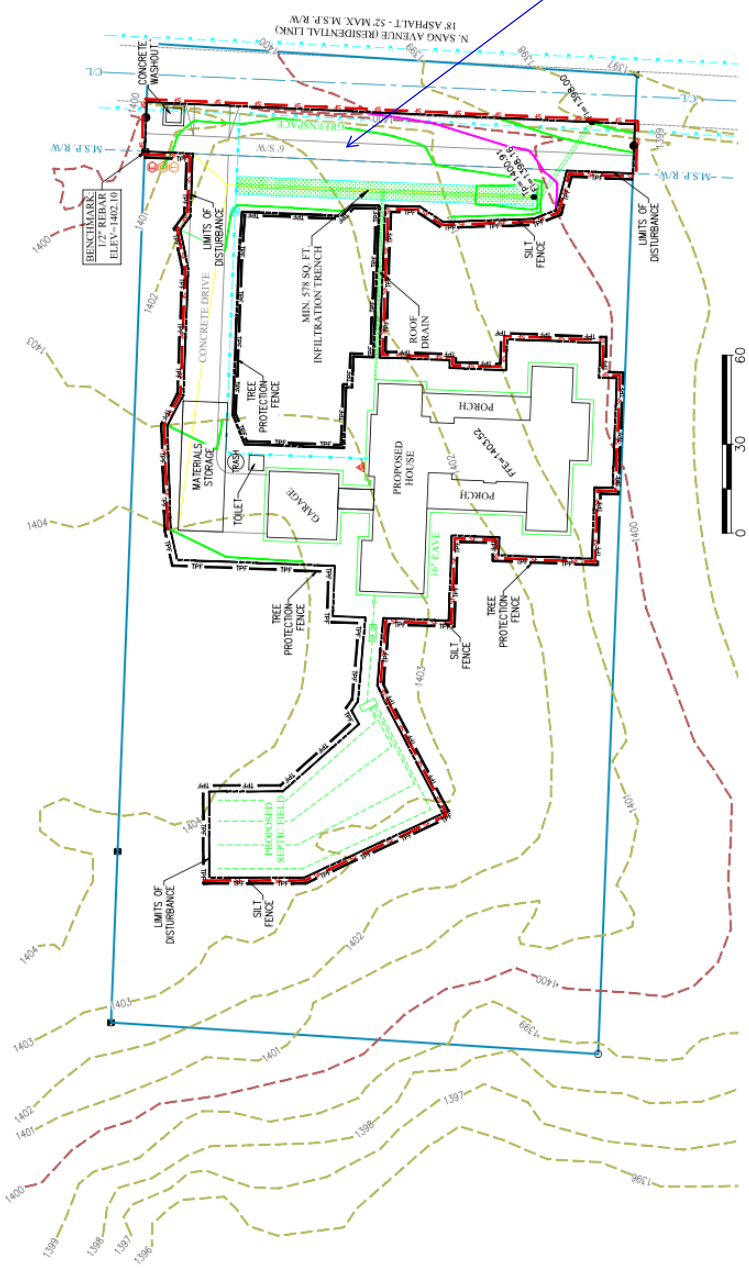
Concerning the development to the north of 41 N Sang, street improvements along N Sang were not required at this time due to the development's proposed access from a rear alley that connects to Markham Rd. A clip from the approved Planning Commission report for PPL 19-6861 is below:

- **Sang Avenue**: The applicant proposes no improvement to Sang Avenue along the property's frontage proposed for development.
    - *Staff recommends in favor of this proposal, finding that the impact of the proposed lots on Sang Avenue will be negligible given their access to a rear alley that connects to Markham Road to the north.*

Additionally, the site plan that was submitted and approved is attached.

GRADING & EROSION CONTROL PLAN

6' sidewalk shown on plans submitted for approval

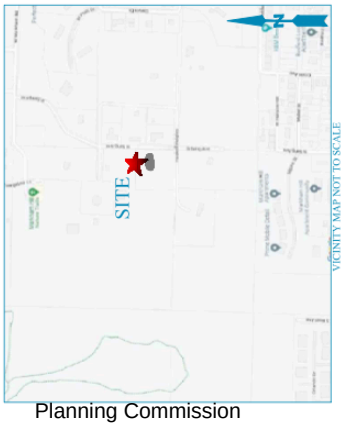


SEDIMENT & EROSION CONTROL NOTES:
1. BOTH THE CITY ENGINEER AND URBAN FORESTER WILL HAVE TO "SIGN-OFF" FOR ANY CERTIFICATE OF O
2. WHEN THE PROJECT IS COMPLETE AND PRIOR TO FINAL ACCEPTANCE BY ENGINEERING NECESSARY FOR THE WORK SHOWN ON THE GRADING PLAN MUST BE COMPLETE AND INSPECTED BY THE AS
   - VEGETATION MUST BE ESTABLISHED PER THE HHOD REQUIREMENTS ON THE PERMITTED LOT
   - WITH CONSTRUCTION INCLUDING OFFSITE.
   - CERTIFICATION THAT ANY DESIGNED RETAINING WALLS WERE INSTALLED PER APPROVED PLAN
   - PERIMETER EROSION CONTROLS REMOVED.
   - SIDEWALKS AND ADA RAMPS MUST BE IN COMPLIANCE WITH ADA SPECIFICATIONS. ONCE THE
   - AND PRIOR TO REQUEST OF THE TEMPORARY CERTIFICATE OF OCCUPANCY OR PERMANENT
   - DIVISION AT 575-8206 TO REQUEST A FINAL SITE INSPECTION FOR GRADING PERMIT COMPL
3. RE-VEGETATION SHALL BE REQUIRED TO MEET THE FOLLOWING PERFORMANCE STANDARDS (SEDIMENT C
RE-VEGETATION IS ESTABLISHED) UNLESS OTHERWISE ALLOWED BY THE CITY ENGINEER:
   - REVEGETATED AS SET FORTH IN §169.06(F)(6) BELOW. ANY APPLICATION OF TOPSOIL AND
   - SEEDING UNDER THE DRIP LINE OF A TREE SHOULD BE MINIMIZED TO 3 INCHES SO AS NOT TO DAMAGE THE TREES ROOT
   - SYSTEM.
   - FOR 0 TO 10% GRADE: RE-VEGETATION SHALL BE A MINIMUM OF SEEDING AND MULCHING. SAID SEEDING SHALL PROVIDE COMPLETE AND UNIFORM COVERAGE THAT MINIMIZES EROSION AND RUNOFF.
   - 10:1 UP TO 4:1 GRADE: RE-VEGETATION SHALL BE A MINIMUM OF HYDRO-SEEDING WITH MULCH AND FERTILIZER, SOD, OR GROUNDCOVER. SAID PLANTING SHALL PROVIDE COMPLETE AND UNIFORM COVERAGE THAT MINIMIZES EROSION AND RUNOFF.
   - 4:1 OR GREATER: RE-VEGETATION SHALL BE A MINIMUM OF HYDRO-SEEDING WITH MULCH AND FERTILIZER, SOD, OR STAKED SOD, OR GROUNDCOVER. SAID PLANTING SHALL PROVIDE COMPLETE AND UNIFORM COVERAGE THAT MINIMIZES EROSION AND RUNOFF.
   - MORE THAN 3:1 GRADE: ANY FINISH GRADE OVER 3:1 SHALL BE STABILIZED WITH ONE OR MORE OF THE FOLLOWING:
     - RETAINING WALLS; CRIBBING WITH LANDSCAPE FABRIC; TERRACING WITH GROUNDCOVER; RIPRAP; STAKED SOD (UP TO 2:1 SLOPE)
     - IF CRIBBING, TERRACING, OR RIPRAP IS USED, THE SLOPE'S STABILITY AND ERODIBILITY MUST BE EQUIVALENT TO OR BETTER THAN ITS PREDEVELOPMENT STATE.
4. REVEGETATION OF THE LAND WITH A MINIMUM OF HYDRO-SEEDING WITH MULCH AND FERTILIZER, SOD, OR GROUNDCOVER (ON WOODED AREAS) AND/OR A UNIFORM GROUNDCOVER (ON NON-WOODED AREAS) AND/OR A HYDROSEED WITH WARM SEASON GRASSES IS REQUIRED. REVEGETATION REQUIREMENTS SHALL BE MET PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY. CUT AND FILL TIE-BACK SLOPES SHALL BE RE-VEGETATED WITH APPROPRIATE TREE SPECIES TO ACHIEVE A MINIMUM OF 25% TREE CANOPY AT MATURITY.
5. DEBRIS, MUD AND SOIL SHALL NOT BE ALLOWED ON PUBLIC STREETS BUT IF ANY DEBRIS, MUD, OR SOIL FROM DEVELOPMENT SITES REACHES THE PUBLIC STREET IT SHALL BE IMMEDIATELY REMOVED VIA SWEEPING OR OTHER METHODS OF PHYSICAL REMOVAL. DEBRIS, MUD, OR SOIL IN THE STREET MAY NOT BE WASHED OFF THE STREET OR WASHED INTO THE STORM DRAINAGE SYSTEMS DOWNSTREAM OF A DEVELOPMENT SITE SHOULD BE PROTECTED FROM DEBRIS, MUD, OR SOIL IN THE EVENT THAT DEBRIS, MUD, OR SOIL REACHES THE DRAINAGE SYSTEM.
6. CONTACT CHUCK RUTHERFORD (ADA ADMINISTRATOR 575-8291) AND REQUEST AN INSPECTION PRIOR TO POURING ANY SIDEWALK OR DRIVEWAY IN THE RIGHT-OF-WAY. APPROVAL OF CITY REQUIREMENTS IN AHTD RIGHT OF WAY DOES NOT GUARANTEE APPROVAL OF AHTD. SCHEDULE JOINT MEETING TO BE CERTAIN.

FAYETTEVILLE STANDARD COMMENTS:
1. PRIOR TO FINAL ACCEPTANCE BY THE CITY OF FAYETTEVILLE, THE PROJECT SHALL BE SUBJECT TO A JOINT FINAL INSPECTION BY A DESIGNATED REPRESENTATIVE OF THE CITY ENGINEER'S OFFICE, THE OWNER, AND THE CONTRACTOR OR CONSTRUCTION MANAGER.
2. ALL MATERIALS AND CONSTRUCTION SHALL COMPLY WITH THE CITY OF FAYETTEVILLE'S REQUIREMENTS. IN THE CASE OF CONFLICTS, THE CITY'S CRITERIA SHALL GOVERN.
3. THE ENGINEER OF RECORD SHALL PROVIDE CONSTRUCTION INSPECTION FOR THIS PROJECT.
4. CUT OR FILL SLOPES SHALL HAVE A FINISH GRADE NO STEEPER THAN 2:1.
5. ALL GRADING SHALL BE DESIGNED SUCH THAT SLOPES ARE SET BACK A MINIMUM OF 5' FROM THE PROPERTY LINES UNLESS WRITTEN PERMISSION IS SUBMITTED FROM THE ADJACENT PROPERTY OWNER.
6. ANY RETAINING WALL MORE THAN FOUR FEET IN HEIGHT SHALL BE DESIGNED BY A REGISTERED PROFESSIONAL ENGINEER AND SHALL BE FIELD INSPECTED BY THE DESIGN ENGINEER.
7. SAFETY RAILINGS ARE REQUIRED ON ANY RETAINING WALL GREATER THAN 30" IN HEIGHT. THE SAFETY RAILING SHALL BE BUILT IN TO THE MORE STRINGENT REQUIREMENTS OF THE SBCC OR AHTD.
8. ALL AREAS WILL BE STABILIZED WITH A TEMPORARY SEED AND MULCH WITHIN 14 DAYS OF THE LAST DISTURBANCE IF CONSTRUCTION ACTIVITY IS TO TEMPORARILY CEASE FOR MORE THAN 21 DAYS; AREAS WITHIN 7 DAYS OF THE LAST CONSTRUCTION ACTIVITY IN AN AREA, THAT AREA WILL BE STABILIZED WITH PERMANENT SEED AND MULCH.
9. ONCE CONSTRUCTION ACTIVITY CEASES PERMANENTLY IN AN AREA, THAT AREA WILL BE STABILIZED WITH PERMANENT SEED AND MULCH.

THE ENTIRETY OF THIS PROPERTY IS LOCATED WITHIN THE HILLTOP HILLSIDE OVERLAY DISTRICT

VICINITY MAP



Grading Plan:
1) Completed Green Stormwater Practice Worksheet.
2) Green Stormwater Practice needs to provide width & length dimensions.
3) Details indicating how the Green Stormwater Practices will be installed. There are city standards for each of the allowed options. Please use the city standard details.
4) Complete GSP Owner Affidavit; this document must be signed by the owner and not a representative.

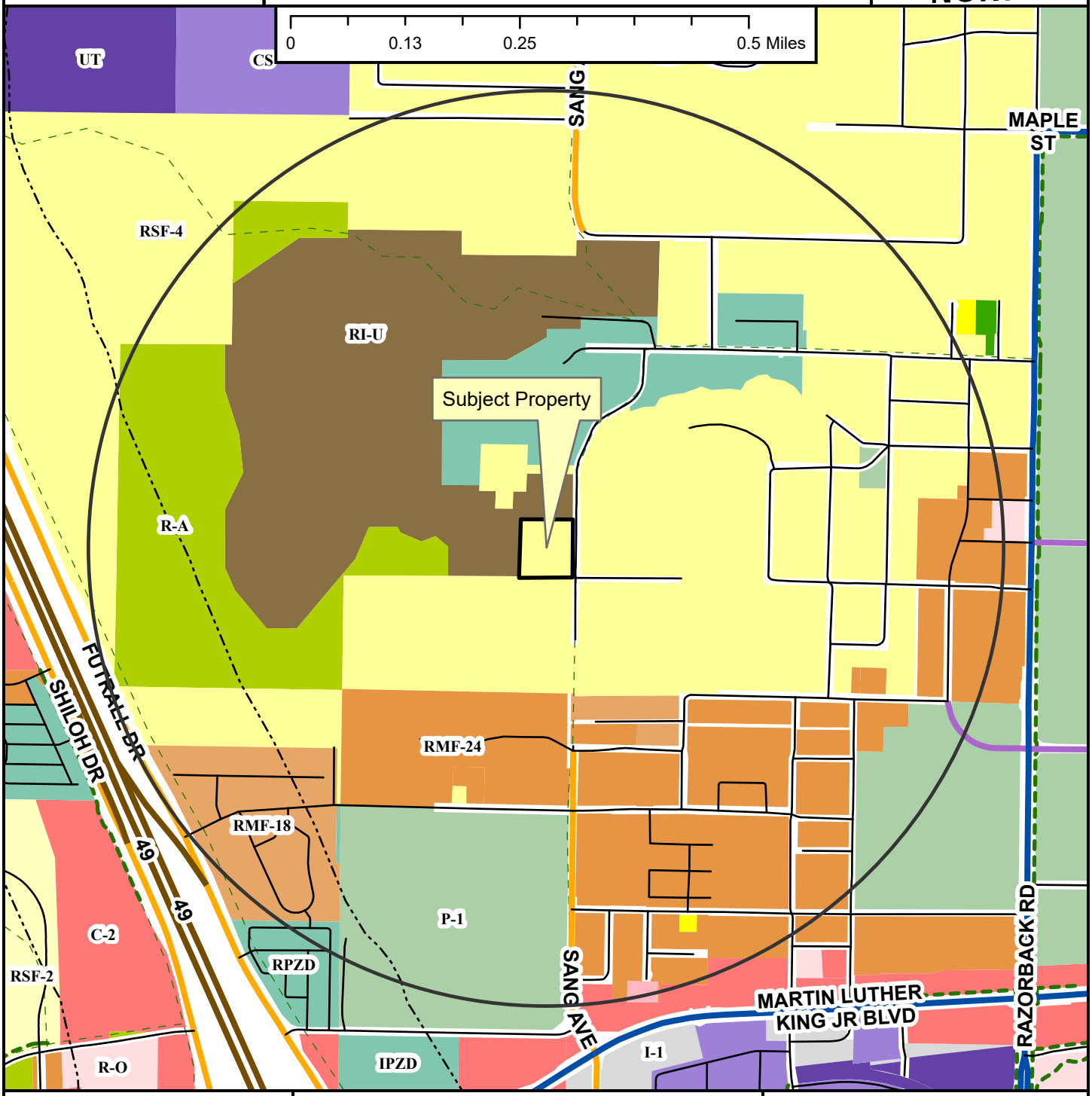
Reviewed by Dave Rowden
Engineering Division
drowden@fayetteville-ar.gov
479-587-7145

ADM-2023-0049

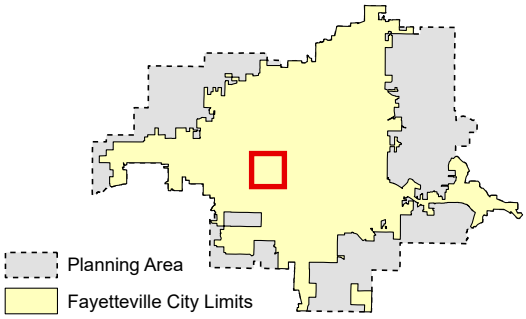
One Mile View

41 N. SANG AVE

NORTH



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



Zoning

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

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

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

EXTRACTION
- E-1

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

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

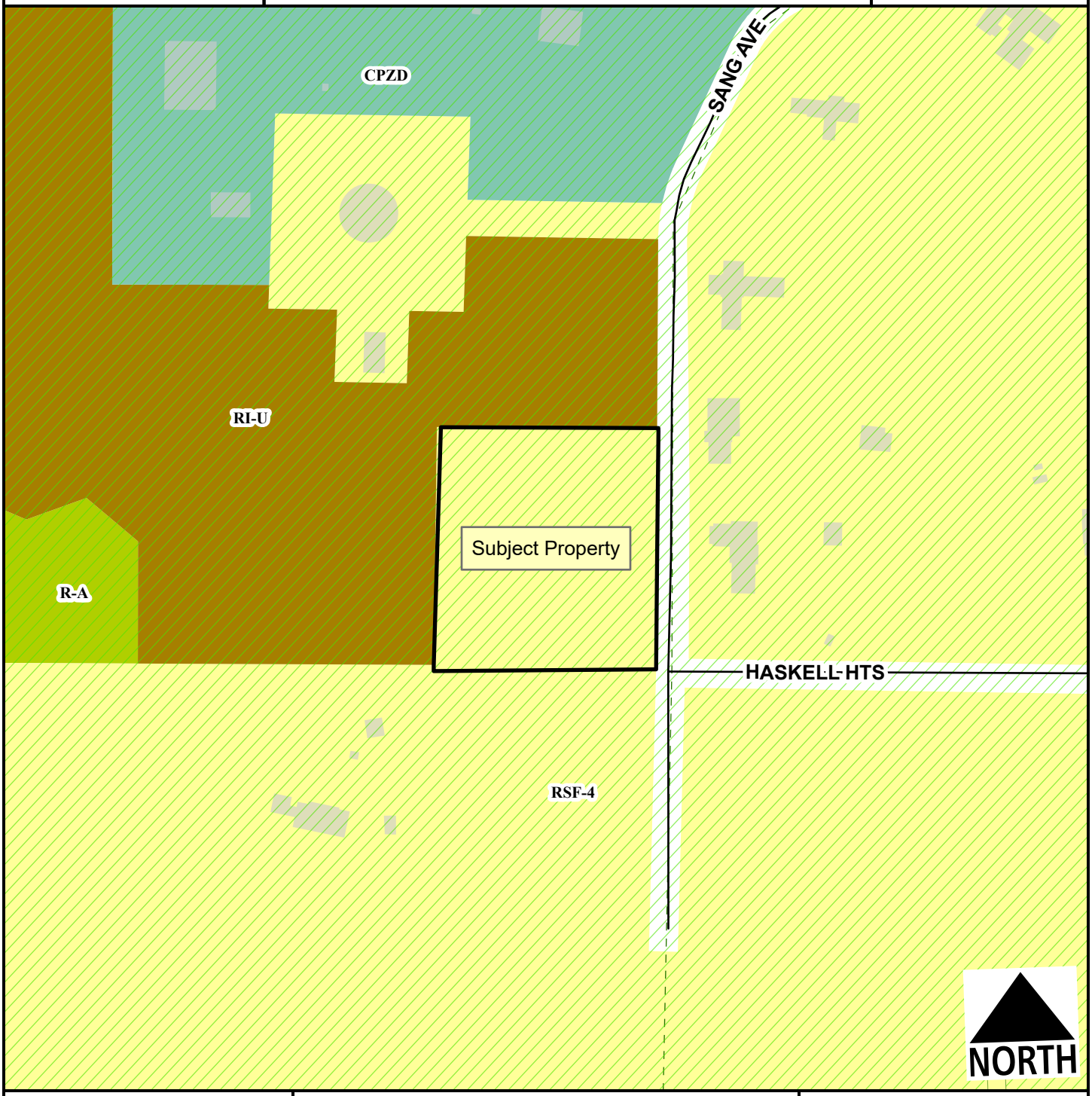
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

ADM-2023-0049

Close Up View

41 N. SANG AVE



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

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

Residential-Agricultural
RSF-4
RI-U
Commercial, Industrial, Residential

ADM-2023-0049

Current Land Use

41 N. SANG AVE

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

100-Year Floodplain
Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
Josh Boccaccio, Engineering Development Review Manager

MEETING DATE: January 8, 2024

SUBJECT: **ADM-2023-0051: Administrative Item (1727 N. SHILOH DRIVE, JUNCTION AT SHILOH APPEAL, VALENTINE/CLARK, 363):** Submitted by LISA VALENTINE and MARTHA CLARK for properties located at 1727 N. SHILOH DR. The property is zoned CS, COMMUNITY SERVICES and RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 11.73 acres. The request is to appeal an approved grading permit.

RECOMMENDATION:
Staff recommends denial of **ADM-2023-0051.**

RECOMMENDED MOTION:
"I move to deny **ADM-2023-0051,** recognizing the applicant's approved grading permit."

BACKGROUND:
The subject property is located south of W. Mount Comfort Road and west of I-49, where N. Shiloh Drive dead-ends. The property is split zoned RMF-24, Residential Multi-Family, Twenty-Four Units Per Acre and CS, Community Services. A portion of the site totaling 9.11 acres was rezoned from I-1, Heavy Commercial and Light Industrial to CS by City Council on February 15, 2022 (RZN-2022-. The undeveloped site totals approximately 11.73 acres and is covered by vegetation throughout. A branch of the Hamestring Creek runs through the center of the property and roughly 22% of the site lies within a floodplain. A large-scale development for a multi-family housing project was approved by the Fayetteville Planning Commission on April 10, 2023 (LSD-2023-0004). This approval was appealed by the neighbors to the City Council on May 16, 2023, where the approval was subsequently upheld. A grading permit was conditionally approved by City staff for the development on December 6, 2023. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Two-Family Dwellings/Offices	I-1, Heavy Commercial and Light Industrial; RMF-24, Residential Multi-Family, 24 Units per Acre
South	Natural Area	R-A, Residential-Agricultural
East	I-49	N/A
West	Two-Family Dwellings/Offices	RMF-24, Residential Multi-Family, 24 Units per Acre

*Request***:** The applicant seeks to appeal staff's issuance of a grading permit for the approved multi-family development (known as the Junction at Shiloh). The applicant has cited UDC 169.03(B)(4) "Review And/Or Permits Required; Exceptions" as grounds for the appeal. The

appellant asserts that the applicant has not yet been issued the required permits from the State of Arkansas prior to the approval of the associated grading permit. Appeal letter, supplemental information and associated memo from City Engineering are attached to this report.

DISCUSSION:
Staff have reviewed the associated grading permit, and early grading and utility approvals have been issued for the Junction at Shiloh. The early grading permit allows the applicant to begin land disturbance for the project and complete additional infiltration testing to verify the infiltration rate for the underlying soil of the permeable pavers. The utility approval allows the applicant to submit the water and sewer infrastructure to the Arkansas Department of Health for state approval. Engineering staff has reviewed the project multiple times and affirms it meets the minimum requirements necessary to begin work. A full summary of review and approval letters can be found from the Engineering Division in the attached memo.

Public Comment: Written public comment has been received by City staff in support of the appeal is attached to this report for the Commission's consideration.

RECOMMENDATION: Staff recommends denial of ADM-2023-0051, recognizing the applicant's approved grading permit.

PLANNING COMMISSION ACTION: Required <u>YES</u>
Date: January 8, 2024 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

BUDGET/STAFF IMPACT:
None

Attachments:
- Appeal Letter
- Supplemental Information from Appellant
- Engineering Memo
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map

December 16, 2023

City of Fayetteville Planning Commission
113 West Mountain Street
Fayetteville, Arkansas 72701
Attention: Sarah Sparkman, Chair City of Fayetteville Planning Commission
RE: APPEAL SUBMISSION FOR GRD-2023-0031 THE JUNCTION AT SHILOH

Dear Madam Chair Sparkman and Planning Commissioners,

We Lisa R. Valentine, and Martha Clark residents of Fayetteville, Arkansas, respectfully request to appeal: Permit GRD-2023-0031 issued to The Junction at Shiloh, as defined in CHAPTER 169: PHYSICAL ALTERATION OF LAND

169.03 Review And/Or Permits Required; Exceptions

(4) An Arkansas Department of Environmental Quality Stormwater Construction Permit and incorporated Stormwater Pollution Prevention Plan, if required by state law.

National Pollutant Discharge Elimination Systems (NPDES) and Short Term Activity Authorization (STAA), 401permits issued by Arkansas Department of Environmental Quality are required before a grading permit is issued. **The applicant has not been issued the permits required by the State of Arkansas.** https://www.adeq.state.ar.us/water/planning/instream/

We have added an addendum to be read at your discretion which is relevant to 169.00 and refer to codes that are applicable and required as outlined in The Unified Development Code. We have also included Exhibit A: An email from Alan Pugh outlining the requirements prior to issuance of the grading permit. We feel these points as outlined in our addendum require a careful analysis to ensure that all requirements have been met before any grading can continue.

We graciously thank and appreciate your input, questions, and authority in reference to our appeal.

Lisa R. Valentine
Martha Clark

SUPPLEMENTAL

(A) *Grading Review Required.* (Reference §166.02(E).)

A resident of the city or an owner/developer who is aggrieved by a decision of the Development Review Manager regarding development matters that are approved administratively (as required by Chapter 166.02(C)) may appeal the final development approval decision affected by this matter to the Planning Commission. The appeal shall be submitted in writing to the Planning Division within ten (10) working days of the final decision. The appeal shall be limited to the applicable approval or denial criteria as follows:

(ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.

On May 16, 2023, We appealed the variance as decided by the Subdivision Committee in reference to tree preservation and floodplain soil studies. It was heard by City Council and the appeal was denied.

On May 17, 2023, We received a forwarded email from Shawn Jackson, CFM, GISP State Climatologist/State NFIP Coordinator, Arkansas Department of Agriculture Natural Resources Division; Email is referred to as EXHIBIT A.

To: Alan Pugh. (Note: We have removed the copied recipients and are providing you with Alan Pugh's response to Shawn Jackson).

Exhibit A:

From: Pugh, Alan <apugh@fayetteville-ar.gov>
Sent: Tuesday, May 16, 2023 4:35 PM
To: Erin Miller <erin.miller@agriculture.arkansas.gov>; Martha Clark

<m3clark@yahoo.com>
Cc: Shawn Jackson shawn.jackson@arkansas.gov

Subject: RE: Appeal for Large Scale Development Shiloh Junction - Fayetteville

Good afternoon,

I would respectfully offer the following in response to your email below with regard to drainage and floodplain:

- The applicant has provided a complete HEC-RAS study showing no increase in base flood elevations, flows and only a minimal increase in velocity limited to the area around the culvert. FEMA only regulates base flood elevation, the remainder we analyzed based on City of Fayetteville regulations.

- While City staff shared the concern that a Conditional Letter of Map Revision (CLOMR) might be required before work could begin, we verified with Pedro Perez, FEMA's Arkansas Representative, that it would not be required based on the study the applicant performed. The study along with supporting information was provided to FEMA for this ruling. The applicant does intend to file a Letter of Map Revision (LOMR) upon completion of the project.

- National Pollutant Discharge Elimination System (NPDES) and Short Term Activity Authorization (STAA) will be required before a grading permit is issued.

- If hydric soils are present on the site, it is my understanding that Fayetteville will require a wetland analysis before a construction permit is obtained as well as corps of engineers permitting if applicable.

- An endangered species analysis will be required prior to construction as it will be a requirement to file the LOMR.

- As we discussed onsite, detention is provided for the project by way of pervious paving in the parking areas with storage below the parking area which will be reviewed in detail and meet all of Fayetteville's requirements before a construction permit is issued. This will include the water quality, channel protection and peak flow mitigation.

- The mentioned Base Level Engineering (BLE) data typically does not include many things required of a detailed analysis including crossings, of which there are several in this area. BLE data is generally less accurate than the detailed studies we have on file and certainly less accurate than the detailed study provided by the engineer.

- The crossing is designed to pass the 100-year event without overtop and should be able to be utilized during a large event. We understand that clogging could impact this but the overall master street plan also calls out for a connection to the south as well.

- It is my understanding that the tree preservation plan has been reviewed by urban forestry and been found to be in compliance with the City Ordinances.

- Many additional requirements will be addressed prior to a grading/construction permit being issued.

If you have additional questions please let us know.

Alan Pugh

Staff Engineer

Engineering Division

City of Fayetteville, Arkansas

479.575.8208

www.fayetteville-ar.gov

169.06 Land Alteration Requirements

169.08 Grading Plan Submittal

(D) *Grading Permit Application and Approval.* No grading permit shall be issued until the Grading and Erosion & Sediment Control Plan, endorsed by an architect, landscape architect, or engineer licensed in the state of Arkansas, is approved by the City Engineer. A separate permit shall be required for each site. Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion. Any application for a required grading permit under this chapter shall be submitted concurrently with the application and calculations for a drainage permit if such a drainage permit is required by §170.03. Tree Preservation and Protection is required in accordance with Chapter 167.

169.14 Stormwater Discharges from Construction Activities

(A) *Purpose.* The purpose of this section is to provide for the reduction of pollutants to the city's MS4 as required by its National Pollutant Discharge Elimination System (NPDES) permit.

(3) *Erosion and Sediment Control.* Best Management Practices (BMPs) shall be implemented to prevent the release of airborne dust and waterborne

sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed, and construction site entrances/exits shall be managed to prevent sediment tracking. Streets and storm inlets must be kept clean at all times and free of loose rock, mud, debris and trash. Specific inlet protection measures may be necessary, as long as they do not interfere with vehicular traffic. Mud on streets must be physically removed and not washed into inlets.

(5) *Construction Sites Requiring Storm Water Pollution Prevention Plans.* Erosion and sediment control systems must be installed and maintained per a state approved Storm Water Pollution Prevention Plan (SWPPP) before the beginning of construction and until slope stabilization and/or vegetation is established. For sites between 1 and 5 acres, the SWPPP and Notice of Coverage (NOC) must be onsite at all times. For sites over 5 acres, the SWPPP and NOC must be onsite at all times. The site owner bears responsibility in accordance with the Arkansas Department of Environmental Quality standards and general permit.

170.03 Permits Required

(A) *Applicability.* This chapter shall apply to all land within the corporate limits of the City of Fayetteville. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, or change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") from the city, except as specified in §170.03(C) and §170.03(E) below.

(B) *Permit Application.* Any application for a drainage permit shall be submitted to the City Engineer using appropriate forms as provided by the city for review, processing, and approval. The drainage permit application shall be submitted as part of the application for a grading permit, if such grading permit is required by §169.03. A permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with the requirements of this chapter. The specific items to

be submitted for a permit application shall be in the form and follow the procedures as described in the ***Drainage Criteria Manual*, Section 1.4,** Drainage Report Template and Checklist. The City Engineer shall make the final determination regarding detention.

https://www.fayetteville-ar.gov/DocumentCenter/View/2248/Drainage-Criteria-Manual-2014-PDF

https://www.fayetteville-ar.gov/1214/Streamside-Protection

Title 50 Chapter IV, Subchapter A, Part 402

Section 7

Formal Consultation

Formal consultation is defined within the ESA regulations (50 CFR 402.02) as a "process between the Service and the Federal agency that commences with the Federal agency's written request for consultation under section 7(a)(2) of the Act and concludes with the Service's Issuance of the biological opinion under section 7(b)(3) of the Act." Formal consultation with the USFWS and/or NMFS is initiated by a letter only when the Corps determines that a project may affect and is likely to adversely affect a Federally listed endangered and/or threatened species. This determination of adverse affect is made by the Corps if it is determined that a species or habitat is present on the site and would be adversely affected by the project. The biological opinion will state the opinion of the USFWS and/or NMFS as to whether or not the Federal action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat.

The applicant did not get approval for the ESA from USFW. They hired a consultant to prepare an ESA. The City approved the ESA.

USFW stated that a federal designee was needed and USFW did not conduct an on-site study. USFW has been contacted and are working on achieving a satisfactory Endangered Species Assessment.
https://www.ecfr.gov/current/title-50/chapter-IV/subchapter-A/part-402

https://ipac.ecosphere.fws.gov/location/MMLMVHDXGVHDJGJUV4IF5KZSCI/resources

The failure to enforce FEMA regulations may result in suspension of a community to participate in the National Flood Insurance Program and is outlined in the link below.

https://www.govinfo.gov/content/pkg/CFR-2010-title44-vol1/pdf/CFR-2010-title44-vol1-sec59-24.pdf

Supplemental Information from Appellant
ADM-2023-0051 | Junction at Shiloh Appeal

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Tuesday, December 26, 2023 12:36 PM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: RE: APPEAL ADM-2023-0051

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

This is the email from U.S. Fish and Wildlife to be attached to the appeal in reference to the Endangered Species Assessment as outlined in the Supplemental.

As soon as ADEQ issues their violation to the Junction at Shiloh; I will forward you the State of Arkansas ADEQ emails.

Thanks,

Lisa R. Valentine
Hamestring Creek Trail AFGC Stream Team
Urban Habitat Restoration Specialist
Master Naturalist

----- Forwarded Message -----
From: Ardapple-Kindberg, Pedro <pedro_ardapple-kindberg@fws.gov>
To: Lisa Valentine <lisarae515@yahoo.com>; Davidson, Chris <chris_davidson@fws.gov>
Cc: Justin Stroman <justin.stroman@agfc.ar.gov>; Trey Rozelle <trey.rozelle@fema.dhs.gov>; Jason Bolenbaugh (adpce.ad) <jason.bolenbaugh@adeq.state.ar.us>; pablo.bacon@usace.army.mil <pablo.bacon@usace.army.mil>
Sent: Monday, December 18, 2023 at 11:23:27 AM CST
Subject: Re: [EXTERNAL] Re: Federal Designee for ESA - The Junction at Shiloh

Good Morning Lisa,

I spoke with Allan Pugh and let him know that the consultation letter is not valid. He is relaying that information to the planning board. I also reached out to our Regional Office for clarification on if a Section 7 consultation is required for this project, but I expect it to take a week or two to get a response as our Regional Section 7 Coordinator is out of the office.

Thank you,
Pedro Ardapple

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Monday, December 18, 2023 11:07 AM
To: Davidson, Chris <chris_davidson@fws.gov>; Ardapple-Kindberg, Pedro <pedro_ardapple-

kindberg@fws.gov>
Cc: Justin Stroman <justin.stroman@agfc.ar.gov>; Trey Rozelle <trey.rozelle@fema.dhs.gov>; Jason Bolenbaugh (adpce.ad) <jason.bolenbaugh@adeq.state.ar.us>; pablo.bacon@usace.army.mil <pablo.bacon@usace.army.mil>
Subject: [EXTERNAL] Re: Federal Designee for ESA - The Junction at Shiloh

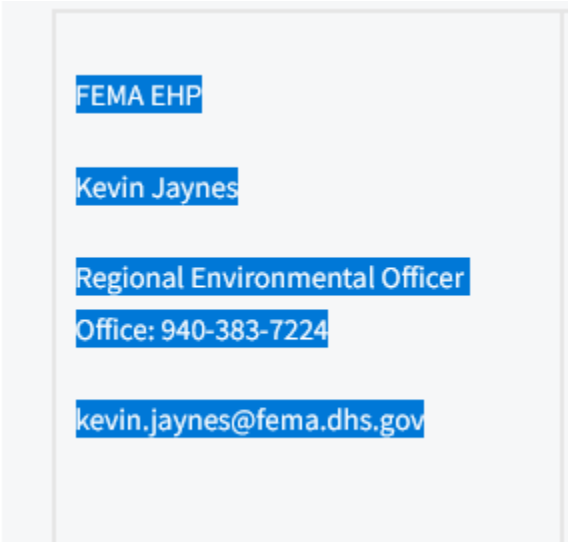
This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good Morning,

I filed an appeal with the City of Fayetteville for the grading permit issued. The ADEQ permits were not obtained prior to the issuance of the grading permit.

Pablo Bacon is reaching out to ADEQ. I filed a complaint with Jason Bolenbough and it was accepted.

I found a contact that may be the designee:



The appeal is to be hear by the City of Fayetteville Planning Commission on January 8th. The meeting is available through ZOOM. Members of the public may speak for 3 minutes. Pedro may want to explain the ESA issue.

Thank you,

Lisa R. Valentine

Supplemental Information from Appellant
ADM-2023-0051 | Junction at Shiloh Appeal

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Wednesday, December 27, 2023 9:51 AM
To: Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>
Cc: Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: RE: The Junction at Shiloh

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

Good Morning Mirinda,

Per our conversation regarding the ownership changes and the corresponding dates on the Washington County Tax Assessor, I have attached the screen shots and downloaded the deeds showing proof of sale and ownership.

This is in reference to the variance appeal hear by City Council on 5/16/2023.

DDB Investments sold the property to Mia Rose Holdings on 5/15/2023. This would reflect a change in ownership.

The appeal for the variance was issued to DDB Investments. Crafton Tull represented DBB Investments. Although it should have been Mia Rose Holdings. If you look at all 3 parcels, it is clear that at the time of the variance appeal, you may or may not have the owner on record or it's representatives documentation required by the City of Fayetteville per our discussion.

They also filed another parcel change after that as well. I attached the company tree from Mia Rose Holdings which shows Robert Kimbel as a Manager.

About - Mia Rose Holdings

About Our Team Mia Rose Holdings LLC Full-Service Real Estate Development Mia Rose Holdings LLC (MRH) is a St. L...

You will have to click the link and scroll down to see the company tree. Based on the information, anything after May 15, 2023 should have "Robert Kimbel" as the authorized representative. If it does not, then the variance needs to be scrutinized. If DBB Investments was aware that they sold it to Mia Rose Holdings the day prior to the variance appeal, I would think that the required ownership or representative information would have been done after the fact.

DDB Investments was then changed to: 2023 MARKET OPPORTUNITIES 1 LLC

I am not sure if this is a minor or major issue. However, as we discussed a valid question.
If in fact the UDC Code does not align with the owners representative, Crafton Tull or Robert Kimbel, then the variance in my opinion, was heard with false information. I assume that would void the variance.

Additionally, the variance was approved by the Subdivision Committee. However, Melissa Boyd was not a licensed engineer at the time the floodplain portion of the variance was approved. This may be in our UDC waiver under Stormwater Engineer. To my knowledge any issues referring to floodplains, must be approved by a Arkansas State Certified Engineer as it is a Federal Law with FEMA.

There is one Page number for all three deeds and they are three separate parcels.

To summarize, DBB sold to Mia Rose on 5/15/2023. That changed the three parcels from DDB Investments to 2023 Market Opportunities, LLC. You will have to refer to the Washington County Tax Assessor for all of the documentation.

Parcel 765-13631-000 shows a deed change dated 6/23/2023 and and ownership name change to: STL 2 Fayetteville, LLC. Parcels 765-13623-000 and 765-13637-000 show deeds dated 8/1/2023 and name changes to STL 2 Fayetteville, LLC. Note: All three parcels bear a different mailing address.

So the current ownership name should be STL 2 Fayettville, LLC for all three parcels. At the time of the variance hearing, the ownership name should have been: 2023 Market Opportunities, LLC.

To my knowledge, the permit for construction only was issued to DDB, Investments after all of the name changes.

I hope this makes sense....

Please see attached.

Thanks,

Lisa R. Valentine
Hamestring Creek Trail AFGC Stream Team
Urban Habitat Restoration Specialist
Master Naturalist

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Tuesday, January 2, 2024 11:21 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: Fw: Complaint 031898 - ADM-2023-0051

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

This is the first of a series of emails from ADEQ. This email pertains to the initial complaint I filed with ADEQ.

Thanks

Lisa R. Valentine
Hamestring Creek Trail AFGC Stream Team
Urban Habitat Restoration Specialist
Master Naturalist

----- Forwarded Message -----
From: Jason Bolenbaugh (adpce.ad) <jason.bolenbaugh@adeq.state.ar.us>
To: lisarae515@yahoo.com <lisarae515@yahoo.com>
Cc: Austin Hawes <austin.hawes@adeq.state.ar.us>; William Cody (adpce.ad) <william.cody@adeq.state.ar.us>; Jim Wise (adpce.ad) <jim.wise@adeq.state.ar.us>
Sent: Monday, December 11, 2023 at 11:44:26 AM CST

Supplemental Information from Appellant
ADM-2023-0051 | Junction at Shiloh Appeal

Subject: FW: Complaint 031898 -

Ms. Valentine,

Good morning. I have received your complaint regarding Permit ARR157805, The Junction at Shiloh. I have assigned the case to OWQ inspectors to investigate. The information you provided Mr. Justin Stroman and others was forwarded to the US Army Corps of Engineers for review and to determine any 404 certification requirements but I am not aware of their findings. You may wish to contact the USACE to learn of their findings. Once the OWQ inspectors complete their inspection we will forward you the report for your records.

Thank you,

Jason Bolenbaugh | Manager

Division of Environmental Quality | Office of Water Quality
Compliance Branch

5301 Northshore Drive | North Little Rock, AR 72118

t: 501.682.0659 | c: 501.766.8153 | e: Jason.Bolenbaugh@adeq.state.ar.us

ARKANSAS
ENERGY & ENVIRONMENT

From: Uniqika Marshall (adpce.ad) <Uniqika.Marshall@adeq.state.ar.us>
Sent: Monday, December 11, 2023 9:22 AM
To: Jason Bolenbaugh (adpce.ad) <Jason.Bolenbaugh@adeq.state.ar.us>
Cc: Brent Walker (adpce.ad) <Brent.L.Walker@adeq.state.ar.us>; Michael Young (adpce.ad) <Michael.Young@adeq.state.ar.us>
Subject: FW: Complaint 031898
Importance: High

Supplemental Information from Appellant
ADM-2023-0051 | Junction at Shiloh Appeal

Jason,

My call with Lisa Valentine, has been entered into PDS as 031898. She stated she is a wastewater expert and she thinks this construction group needs a 404 permit and, she is going to contact EPA on the issues they have regulation over. She has requested a callback, please let me know if I can further assist.

Lisa Valentine- 479-316-9637

Thank you,

Uniqika Marshall | Administrative Analyst

Division of Environmental Quality | Office of Water Quality | Permits Branch

5301 Northshore Drive | North Little Rock, AR 72118

t: 501.682.0972 | e: Uniqika.Marshall@adeq.state.ar.us

ARKANSAS
ENERGY & ENVIRONMENT

-

From: No-Reply <No-Reply@adeq.state.ar.us>
Sent: Monday, December 11, 2023 9:18 AM
To: Uniqika Marshall (adpce.ad) <Uniqika.Marshall@adeq.state.ar.us>
Subject: Complaint 031898

Supplemental Information from Appellant
ADM-2023-0051 | Junction at Shiloh Appeal

Complaint number: 031898

AFIN: 72-00000
AFIN/Facility Name: UNKNOWN (WASHINGTON COUNTY)
Complaint Name: KIMBLE MECHANICAL SYSTEMS
Complaint City:FAYETTEVILLE
Complaint County:Washington
Complaint Description:Lisa Valentine called to report Kimble Mechanical Systems, for operating without the proper permits. She stated her and her team of wastewater experts have done their homework on this matter and the company is required to obtain a 401 and STAA for the type of development they are completing, which they do not have. She stated the City has mistakenly issued them a grading permit which is concurrent with their flood plan permit that requires a 401 and STAA. This is a large scale development for a 100 unit apartment complex, on 100+ acre lot. The construction is taking place on a flood plain and flood way that naturally flows storm runoff into Hamstring Creek. There are no environmental protectors in place and there needs to be an endangered species survey completed for this area.

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Tuesday, January 2, 2024 10:32 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: RE: ADM-2023-0051

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

I spoke to Pedro Ardapple-Kindberg from USFWS and he spoke to Trey Rozelle at Region 6 FEMA. I have also had numerous phone conversations with Trey Rozelle.

Trey stated that if the Endangered Species Assessment is not rectified when The Junction at Shiloh applies for the LOMR (Letter of Map Revision) which is done at the end of the project); he stated he may suspend the City of Fayetteville's National Flood Plain Insurance Program rights.

That would also cause issues for our Stormwater Engineers and Alan Pugh, as he is our Floodplain Administrator.

I would like this information added to the appeal as it supports my last statement on the supplemental.

Thanks,

Lisa R. Valentine
Hamestring Creek Trail AFGC Stream Team
Urban Habitat Restoration Specialist

Master Naturalist

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Tuesday, January 2, 2024 10:27 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: RE: ADM-2023-0051

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

This email is part of a series of emails from ADEQ (Arkansas Department of Environmental Quality).

On December 18, Jason Bolenbough, Austin Hawes, and Pablo Bacon from USACE, inspected the Junction at Shiloh per a complaint I filed the day the grading permit was issued.

They are in the process of drafting violations for the silt fencing and a stop work order. Additionally, there is no STAA on file at this time.

The approximate amount of time to obtain an STAA permit it 90 days.

The Junction at Shiloh will be receiving a notice of violation from ADEQ. They will be required to address the violation, however will need the STAA to do so.

I wanted to add this email to the appeal documentation as it supports the State statute which aligns with our UDC code 169.00.

Thanks,

Lisa R. Valentine
Hamestring Creek Trail AFGC Stream Team
Urban Habitat Restoration Specialist
Master Naturalist

----- Forwarded Message -----
From: Jason Bolenbaugh (adpce.ad) <jason.bolenbaugh@adeq.state.ar.us>
To: Lisa Valentine <lisarae515@yahoo.com>; Bryan Leamons (adpce.ad) <bryan.leamons@adeq.state.ar.us>
Cc: Austin Hawes <austin.hawes@adeq.state.ar.us>; Jim Wise (adpce.ad) <jim.wise@adeq.state.ar.us>
Sent: Wednesday, December 20, 2023 at 01:42:09 PM CST

Supplemental Information from Appellant
ADM-2023-0051 | Junction at Shiloh Appeal

Subject: RE: The Junction at Shiloh - (formerly known as DDB Investments)

Ms. Valentine,

As you are aware Inspector Austin Hawes and I inspected The Junction at Shiloh site on December 18, 2023. We are in the process of drafting an inspection report to further address the installation of their silt fencing. Mr. Jim Wise and the Office of Water Quality Permits Branch will address any further requirements for a 401 Certification and/or Short Term Activity Authorization.

Thank you,

Jason Bolenbaugh | Manager

Division of Environmental Quality | Office of Water Quality
Compliance Branch

5301 Northshore Drive | North Little Rock, AR 72118

t: 501.682.0659 | c: 501.766.8153 | e: Jason.Bolenbaugh@adeq.state.ar.us

ARKANSAS
ENERGY & ENVIRONMENT

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Monday, December 18, 2023 7:57 PM
To: Bryan Leamons (adpce.ad) <Bryan.Leamons@adeq.state.ar.us>; Jason Bolenbaugh (adpce.ad) <Jason.Bolenbaugh@adeq.state.ar.us>
Subject: RE: The Junction at Shiloh - (formerly known as DDB Investments)

Good Morning,

Supplemental Information from Appellant
ADM-2023-0051 | Junction at Shiloh Appeal

The Junction at Shiloh is a Large Scale Development located south of 1936 N. Shiloh Drive. I reported this development to the compliance division.

Jason Bolenbough and his inspectors were at the site on December 18, 2023. At the entrance of the construction site there is a SWMPP mail box and a information board with a letter from Bryan Leomans who issued the NOC and the CGP.

In this letter posted on site, It clearly states that the NOC or the GCP relieve the developer of to comply with any other applicable federal, state, and local statute, ordinance, policy, or regulation which includes but is not limited to STAA 401 and 404 Permits.

It is required by the City of Fayetteville prior to issuing the a grading permit (which they did) that the state permits are required to grade the property.

Since the City issued the grading permit without the STAA and 401 and issued a grading permit which runs concurrent with the floodplain permit; it clearly indicates that all grading should stop and a stop work order be placed on the property.

I filed a complaint with compliance. I may have put the cart before the horse and and complained prematurely. However, I did file and appeal for the grading permit that was issued.

Additionally, the NOC and GCP are issued to DDB Investments. DDB Investments no longer exists. Therefore, that information needs to be corrected.

Please refer to the Washington County Tax Assessors Office for the proper name of the owner of the company. You will find the property has been divided into 3 parcels all bearing a different associated owner. Robert Kimbel of Kimbel Mechanical is one of the owners. However, when Mia Rose Holdings partnered with Rob Kimbel, they dissolved the DDB Investments name. Although this seem to be technicality, I think that the proper ownership name should be on the NOC and the GCP.

Since the City of Fayetteville's grading permit requires State and Federal permitting; I am hoping this can be addressed by ADEQ.

Thank you,

Lisa R. Valentine

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Monday, December 11, 2023 8:54 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Boccaccio, Joshua <jboccaccio@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>; Pugh, Alan <apugh@fayetteville-ar.gov>
Cc: Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>; Curth, Jonathan <jcurth@fayetteville-ar.gov>; Brown, Chris <cbrown@fayetteville-ar.gov>
Subject: Re: The Junction at Shiloh - Grading Permit

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

Alan,

I spoke to Pedro Appledore and no on site ebangered species study was conducted. He declined the application. FYI

To my knowledge, based on your email following the appeal for the easement vacation, the developer is required to obtain a STAA and a 401.

Perhaps there has been some communication breakdowns through contacts with USFW?\

Thanks,

Lisa

On Monday, December 11, 2023 at 08:02:27 AM CST, Pugh, Alan <apugh@fayetteville-ar.gov> wrote:

Lisa,

The ESA was performed and the results submitted to the City prior to signing the Community Acknowledgement Form. I'm attaching that documentation for your reference.

Alan

Supplemental Information from Appellant
ADM-2023-0051 | Junction at Shiloh Appeal

From: Lisa Valentine <lisarae515@yahoo.com>
Sent: Monday, December 11, 2023 7:57 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Boccaccio, Joshua <jboccaccio@fayetteville-ar.gov>; Pugh, Alan <apugh@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>
Cc: Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>; Curth, Jonathan <jcurth@fayetteville-ar.gov>; Brown, Chris <cbrown@fayetteville-ar.gov>
Subject: RE: The Junction at Shiloh - Grading Permit

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

Good Morning,

I have drafted my appeal and before I submit it, I would appreciate a phone call from Engineering. I will be reaching out to Blake and want to speak to Jesse or Miranda before I proceed with the final filing.

NOTE: The IPAC which is the application for the Endangered Species Study, Section 7, was declined by U.S. Fish and Wildlife. The applicant needed a Federal Designee, therefore no study was approved by USFW.

169.00 runs concurrent with the floodplain permit. 169.00 refers to 168.00 and 170.00., therefore if I am not mistaken, to begin tree removal and any other grading activities, the applicant requires an STAA and a 401 to be issued by ADEQ.

If the endangered species study has not been approved nor has been conducted, that could bring up significant issues for all involved when the LOMR application has been submitted.

I will be reaching out to Josh and Blake after I send this email.

Thank you,

Lisa R. Valentine

CITY OF FAYETTEVILLE ARKANSAS

STAFF MEMO

TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: January 3, 2024

SUBJECT: **Engineering Comments for ADM-2023-0051 an appeal of the grading permit for Junction at Shiloh**

RECOMMENDATION:
Engineering staff recommends denial of ADM-2023-0051 finding the project is meeting the minimum standards of approval for the work authorized at this time based, on a technical engineering review of applicable City of Fayetteville requirements.

BACKGROUND:
Junction at Shiloh was submitted to the City of Fayetteville for review February 15, 2023. The project was approved at the April 10, 2023 Planning Commission meeting with a 6-2 vote and subsequently appealed to the City Council. The appeal was heard at the May 16, 2023 council meeting and ultimately denied with a 7-1 vote, which upheld Planning Commission's approval.

The grading permit was applied for April 14, 2023 and the first round of comments were released after the City Council meeting in May. Five additional review rounds have occurred since May 2023 and the project has been conditionally approved by the City of Fayetteville for early grading and utility installation.

DISCUSSION:
Early grading and utility approvals have been issued for the Junction at Shiloh. The early grading permit allows the applicant to begin land disturbance for the project and complete additional infiltration testing to verify the infiltration rate for the underlying soil of the permeable pavers. The utility approval allows the applicant to submit the water and sewer infrastructure to the Arkansas Department of Health for state approval.

The appeal of this grading permit as stated in the appellant letter is "National Pollutant Discharge Elimination Systems (NPDES) and Short Term Activity Authorization (STAA), 401 permits issued by Arkansas Department of Environmental Quality are required before a grading permit is issued".

The applicant has provided the required NPDES permit. A Notice of Coverage was issued April 27, 2023. In the provided email response from May 16th, Alan Pugh stated that a STAA would be required prior to a grading permit being issued. However, historically the city has not required a STAA until such time as the work authorized by the STAA would occur. Engineering has

included a condition of approval of the grading permit that the applicant provide any required permits from the U.S. Army Corps of Engineers and Arkansas Department of Energy and Environment.

Additionally, the appellant states that “the applicant did not get approval for the ESA from USFW. They hired a consultant to prepare an ESA. The City approved the ESA”. The grading permit is not contingent upon an ESA.

Finally, concerning FEMA requirements for a Conditional Letter of Map Revision (CLOMR), the City and FEMA cannot require a CLOMR based on current regulations. However, the applicant has voluntarily committed to providing a CLOMR to FEMA for review. The applicant will submit a LOMR from the project after construction.

In summary, a NPDES permit has been issued by the state, a STAA is not required by the city until such time the applicant proposes to complete work in the stream, and a LOMR will be filed with FEMA after construction is complete. Engineering staff has reviewed the project multiple times and affirms it meets the minimum requirements necessary to begin work.

Attachments:
Early Grading Conditional Approval Letter
Utility Conditional Approval Letter
Notice of Coverage

CITY OF
FAYETTEVILLE
ARKANSAS

November 15, 2023 Uploaded via EnerGov

Ali Karr, PE
Crafton Tull
901 North 47th Street, Suite 400
Rogers, AR 72756

Re: EARLY GRADING - Junction at Shiloh
GRD-2023-0031
1727, 1751, 1773, 1776, 1887 N Shiloh Drive

Dear Ms. Karr:

The plans for the above project have been reviewed for general compliance and are approved subject to the following conditions:

Scope of Work Generally Consists of:
1. Early site grading for multifamily development.
2. No utilities are approved at this time.

Plan Conditions:
1. **Please provide a PDF of the final construction plans once all outstanding comments have been addressed. The plans will be stamped by the City of Fayetteville and must be printed out for the preconstruction meeting.**
2. Ensure tree preservation plans showing the location of tree preservation fence are included in the early grading plans and that all Urban Forestry requirements are being met.
3. Fees must be paid in EnerGov prior to scheduling the preconstruction meeting.
4. Include total site area and disturbed area acreages on erosion control plan sheets.
5. Heavy vehicle and construction traffic crossing the Middle Fork of Hamestring Creek shall be limited until the culvert crossing has been installed to minimize disturbance to the stream, including but not limited to the hauling of material to/from the site.
6. Construction entrance must be installed in a location so that it connects to a paved surface to help ensure track out onto the public right-of-way does not occur.
7. Where silt fence is installed at an angle of 30° or greater from parallel to contours, j-hooks must also be installed at intervals in accordance with EC4.
8. Additional erosion control BMPs not shown on these plans may be warranted based on conditions in the field and must be installed when necessary along with SWPPP documents updated accordingly.

9. Provide any required permits from the U.S. Army Corps of Engineers and Arkansas Department of Energy and Environment.
10. Based on email correspondence sent October 30, 2023, Crafton Tull understands a LOMR must be submitted at the end of construction to formally remap the floodplain area based on culvert installation for crossing the Middle Fork of Hamestring Creek.

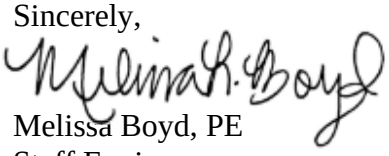
Standard Conditions:

1. This approval is valid for 1 year from the date above. If permit is not issued within 1 year this approval is void.
2. The review was for general compliance and does not warrant your design or relieve the owner from any items discovered during construction deemed necessary to comply with city ordinances and criteria.
3. Crafton Tull as engineer of record (EOR) shall be responsible for review and approval of all material submittals. Prior to placement of soils, aggregate, concrete or asphalt for public infrastructure, EOR shall review, approve and forward material submittals to the city engineering office. All materials and construction shall comply with the City of Fayetteville's requirements. In the case of conflicts, the City's criteria shall govern.
4. Periodic inspection of SWPPP contractor inspection logs will be made. These must be kept up to date and neat, accessible, and on-site.
5. The engineer of record shall provide comprehensive construction observation services for utilities, storm drainage and roadway construction for this project – weekly inspection reports should be submitted to the City of Fayetteville's public works inspector.
6. The City of Fayetteville relied upon the statements and representations made in the plans and specifications. In case any statement or representation in the aforementioned documents is found to be incorrect, this approval may be revoked.
7. There shall be no deviation from the plans and specifications unless revised plans and specifications have been first submitted for review and written consent given.
8. The review and approval of the drawings and specifications in no way constitute an analysis of the structural design.

Please provide one full size and one half size paper copies of the approved plans. One set of approved plans must remain onsite at all times during construction.

If you have any questions, please email me at mboyd@fayetteville-ar.gov or call me at 444-3415.

Sincerely,



Melissa Boyd, PE
Staff Engineer

Supplementary Permit Information

Grading Permit:

The following is required prior to issuing of the Grading Permit:

1. A signed copy of the SWPPP is provided to the city. The SWPPP should include a copy of the NOC, and will become part of the grading and drainage permit. (In PDF format)
2. A preconstruction conference has taken place with the following people:
    a. Engineer of Record (or appropriate design professional)
    b. Inspector for Engineer of Record
    c. Contractor(s):
        i. Superintendent who will be on-site daily during all phases of construction.
3. The perimeter erosion controls, construction exit, and SWPPP/Grading permit box have been inspected and approved by the Engineering Division. (Applicant is responsible for contacting and scheduling the erosion control inspection by calling the assigned Public Works Inspector)
4. The tree preservation fencing has been installed and inspected by Urban Foresters (Applicant is responsible for contacting and scheduling the tree preservation fence inspection by calling the assigned Urban Forester)
5. Projects greater than 5 acres - Performance bonds in the amount of 100% of the total cost to install the approved **erosion and sediment control plan** (Hydromulch with seed all proposed disturbed areas, including area of improvements) to ensure the continuation of the proper maintenance of the plan must be provided. The bond shall remain in place until permanent stabilization has been achieved for the development site**.**

CITY OF
FAYETTEVILLE
ARKANSAS

November 21, 2023 Uploaded via EnerGov

Ali Karr, PE
Crafton Tull
901 North 47th Street, Suite 400
Rogers, AR 72756

Re: UTILITY ONLY APPROVAL - Junction at Shiloh
GRD-2023-0031
1727, 1751, 1773, 1776, 1887 N Shiloh Drive

Dear Ms. Karr:

The plans for the above project have been reviewed for general compliance and are approved subject to the following conditions:

Scope of Work Generally Consists of:
1. Utility only approval for new multifamily development.
2. 642.65 LF of 8" sanitary sewer main extension.
3. 1,546.29 LF of 8" water main extension.
4. 225.43 LF of 6" fire line.

Plan Conditions:
1. **Please provide a PDF of the final construction plans once all outstanding comments have been addressed. The plans will be stamped by the City of Fayetteville and must be printed out for the preconstruction meeting.**
2. This is a utility only approval so the plans can be submitted to the ADH for review and does not constitute full grading conditional approval.
    a. Full grading approval cannot be issued until additional infiltration testing is performed and assumptions made in drainage design are confirmed or calculations are updated.
3. C-214: Show encasement under culvert to extend at least to edge of Waterside Zone, additional approximate 9.5 feet based on plan measurement.
4. Ensure maximum 15% slope in utility easements adjacent to the right-of-way.
5. Update all water and sewer details to the ones currently available on the City's website.
6. All conditions from the early grading conditional approval letter dated November 15, 2023 still apply.
7. Full grading permit must be issued prior to engineering signing off on building permits.

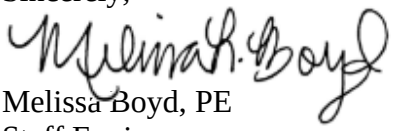
Standard Conditions:

1. This approval is valid for 1 year from the date above. If permit is not issued within 1 year this approval is void.
2. The review was for general compliance and does not warrant your design or relieve the owner from any items discovered during construction deemed necessary to comply with city ordinances and criteria.
3. Crafton Tull as engineer of record (EOR) shall be responsible for review and approval of all material submittals. Prior to placement of soils, aggregate, concrete or asphalt for public infrastructure, EOR shall review, approve and forward material submittals to the city engineering office. All materials and construction shall comply with the City of Fayetteville's requirements. In the case of conflicts, the City's criteria shall govern.
4. A copy of the approval letter from Arkansas Department of Health shall be presented prior to installation of public utilities.
5. Periodic inspection of SWPPP contractor inspection logs will be made. These must be kept up to date and neat, accessible, and on-site.
6. Prior to permit issuance, the Engineer of Record shall provide a PE-sealed letter stating that the design of water and sewer improvements meet all requirements of the City's Standard Specifications and details, Ten States Standards, ADH Rules Pertaining to Public Water Systems, ADH plastic pipe policies, and ADH Rules Pertaining to General Sanitation. No variance to any standard is given or implied unless specifically requested by the Engineer of Record and approved in writing by the City of Fayetteville prior to permit issuance, regardless of conflicts in the Engineer's plans or details.
7. The engineer of record shall provide comprehensive construction observation services for utilities, storm drainage and roadway construction for this project – weekly inspection reports should be submitted to the City of Fayetteville's public works inspector.
8. The City of Fayetteville relied upon the statements and representations made in the plans and specifications. In case any statement or representation in the aforementioned documents is found to be incorrect, this approval may be revoked.
9. There shall be no deviation from the plans and specifications unless revised plans and specifications have been first submitted for review and written consent given.
10. The review and approval of the drawings and specifications in no way constitute an analysis of the structural design.

Please provide one full size and one half size paper copies of the approved plans. One set of approved plans must remain onsite at all times during construction.

If you have any questions, please email me at mboyd@fayetteville-ar.gov or call me at 444-3415.

Sincerely,



Melissa Boyd, PE
Staff Engineer

Supplementary Permit Information

Grading Permit:

The following is required prior to issuing of the Grading Permit:

1. A signed copy of the SWPPP is provided to the city. The SWPPP should include a copy of the NOC, and will become part of the grading and drainage permit. (In PDF format)
2. A preconstruction conference has taken place with the following people:
    a. Engineer of Record (or appropriate design professional)
    b. Inspector for Engineer of Record
    c. Contractor(s):
        i. Superintendent who will be on-site daily during all phases of construction.
        ii. All subcontractors responsible for installation of public infrastructure.
        iii. Fireline contractor responsible for installation of any required fire lines.
3. The perimeter erosion controls, construction exit, and SWPPP/Grading permit box have been inspected and approved by the Engineering Division. (Applicant is responsible for contacting and scheduling the erosion control inspection by calling the assigned Public Works Inspector)
4. The tree preservation fencing has been installed and inspected by Urban Foresters (Applicant is responsible for contacting and scheduling the tree preservation fence inspection by calling the assigned Urban Forester)
5. Projects greater than 5 acres - Performance bonds in the amount of 100% of the total cost to install the approved **erosion and sediment control plan** (Hydromulch with seed all proposed disturbed areas, including area of improvements) to ensure the continuation of the proper maintenance of the plan must be provided. The bond shall remain in place until permanent stabilization has been achieved for the development site**.**

ARKANSAS
ENERGY & ENVIRONMENT

NOTICE OF COVERAGE (NOC) FOR
NPDES CONSTRUCTION STORMWATER GENERAL PERMIT (CGP) NUMBER ARR150000

Permittee Information (provided by Notice of Intent)

Ddb Investments Llc
Attn: Brad Payne
1936 N. Shiloh Drive
Suite 1
Fayetteville, Ar 72704

Permit Tracking No.: ARR157805
AFIN: 72-02639

This NOC is issued for the construction of the **Apartments** only. The permittee is responsible for compliance with all applicable terms and conditions of this NOC and the CGP. Any permit-related correspondence must include this Permit Tracking Number and AFIN. A copy of the CGP can be found at:

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/Permits/ARR150000.pdf

Project Name:	The Junction At Shiloh
Project Contact:	Brad Payne
Contact Number:	4798779956
SWPPP Location:	Mailbox at the Construction Site
Site Address:	N. Shiloh Drive, Fayetteville, Ar, 72704 in Washington County
Administrative Complete:	April 18, 2023
Total Acreage:	11.73
Disturbed Acreage:	7.07

Receipt of this NOC does not relieve any permittee of the responsibility to comply with any other applicable federal, state, and local statute, ordinance, policy, or regulation which includes but is not limited to Short Term Activity Authorizations (STAA) or 404 permits.

This authorization must be **posted** at the construction site in a prominent place per the general permit.

Expiration Date: 10/31/2026

Bryan Leamons

Bryan Leamons, P.E.
Senior Operations Manager
Office of Water Quality, Division of Environmental Quality
5301 Northshore Drive, North Little Rock, AR, 72118

April 27, 2023
Coverage Date

Compiled Public Comment
ADM-2023-0051

From: Thomas Brown <tbrownii@icloud.com>
Sent: Thursday, January 4, 2024 1:22 AM
To: Garlock, Jimm <jimm.garlock@fayetteville-ar.gov>; Brink, Andrew <andrew.brink@fayetteville-ar.gov>; Gulley, Fred <fred.gulley@fayetteville-ar.gov>; McGetrick, Mary <mary.mcgetrick@fayetteville-ar.gov>; Madden, Mary <mary.madden@fayetteville-ar.gov>; Holcomb, Joseph <joseph.holcomb@fayetteville-ar.gov>; Winston, Porter <porter.winston@fayetteville-ar.gov>; Sparkman, Sarah <sarah.sparkman@fayetteville-ar.gov>
Cc: CityClerk <cityclerk@fayetteville-ar.gov>; Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: ADM-2023-0051 Grading Appeal Comment

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

Planning Commissioners
Ms. Valentine's and Ms. Clark's appeal of the approved Grading Permit for properties located at 1727 N Shiloh Drive details the State and Federal environmental regulations that have not been met.

In accordance with UDC 169.03 (B)(4), the City needs to reverse the approval of the Grading Permit until all the required State and Federal environmental regulations have been met.

The threat to the environmentally sensitive part of these properties began when, in early 2022, the Planning Commission and City Council ignored the land-use guidance provided in the 2040 City Plan and it's Growth Concept Map and approved the applicant's CS zoning proposed in RZN-2021-000089.

First,the Growth Concept Map indicated that the property was located outside the Tier 3 Center near Mt Comfort and Deane Solomon.

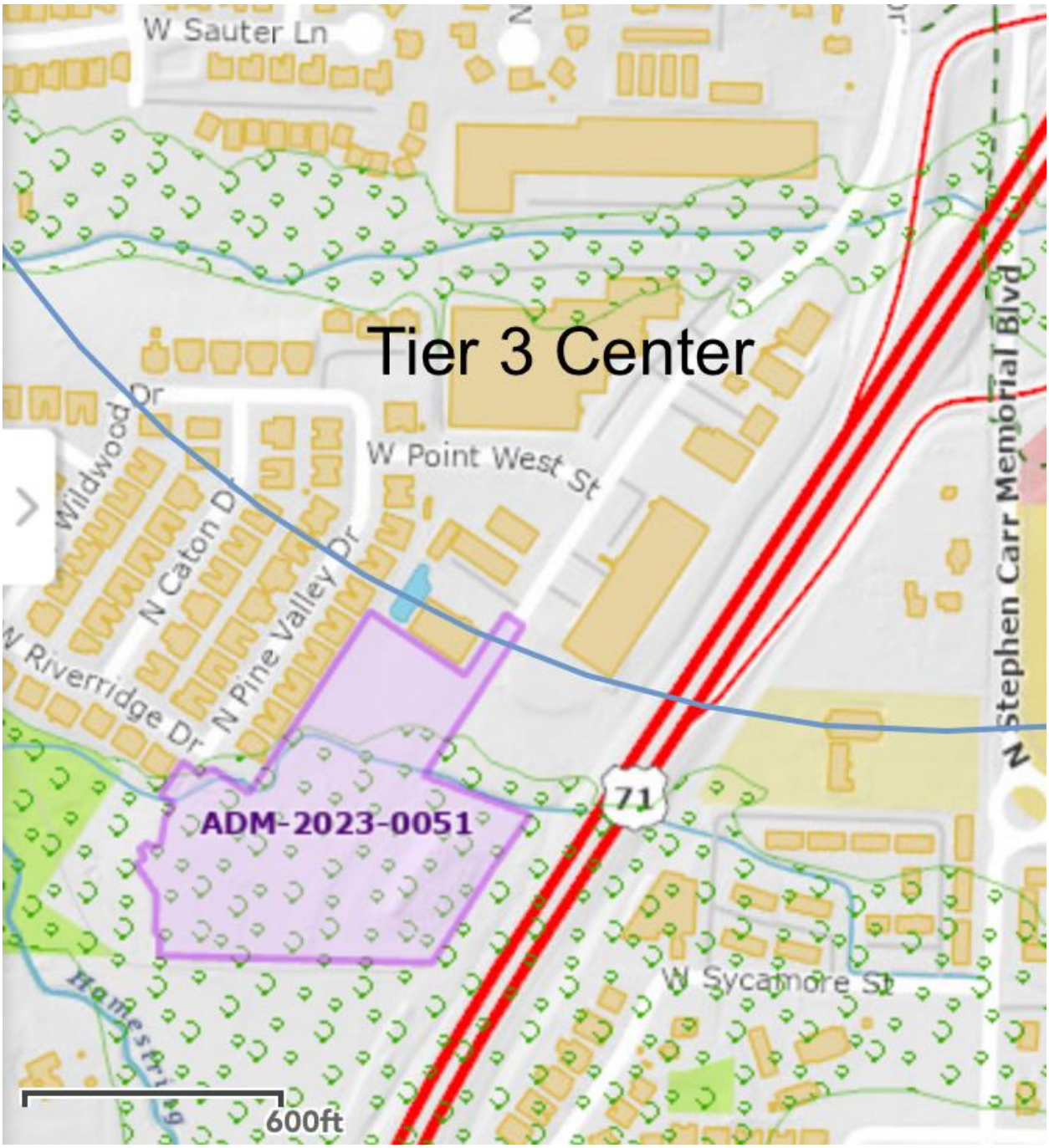
Section 2.2 of the City Plan defines Tier 3 Centers as Neighborhood scale, Mixed-use Urban Nodes that are pedestrian friendly and served by transit. This definition supports CS Zoning within the core of the Tier Center, but the fact that the property is located outside a the Tier 3 Center suggests that the land use policy objectives of "higher density" and "mixed-use" need to be replaced by insuring "compatibility" with the existing environmental values and adjacent developments.

Secondly, the Growth Concept Map indicated that most of the property was located within the Enduring Green Network except for a small part of the property located north of Hamestring Creek.

Section 2.2 of the City Plan states that areas depicted in the Growth Concept Map as located within the Enduring Green Network should be conserved for natural resources and open space.

If the Planning Commission and City Council would have properly integrated the Land Use Policy guidance conveyed in the 2040 City Plan and Growth Concept Map the properties should have been split zoned with the part of the property located in the Enduring Green Network as R-A and the part of the property located outside the Enduring Green Network as RMF-24 or less. Thereby resulting in a less intense and potentially more environmentally sensitive Development Project.

In the future it is my hope that the Planning Staff, Planning Commission and City Council will heed the Land-use Guidance provided in the 2040 City Plan and Growth Concept Map.



Sent from my iPhone

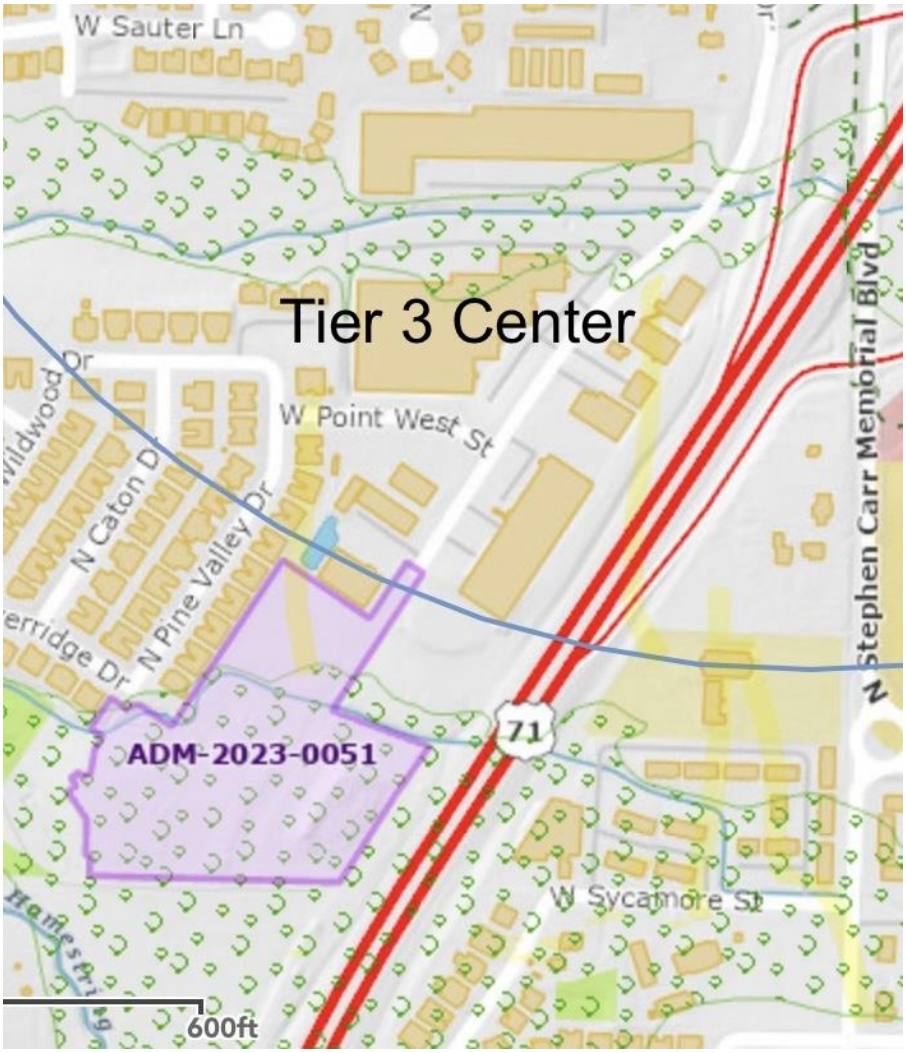
Compiled Public Comment
ADM-2023-0051

From: Thomas Brown <tbrownii@icloud.com>
Sent: Thursday, January 4, 2024 1:24 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: ADM-2023-0051 Graphic

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

Ms. Masters
I will be requesting you to display this graphic while I am commenting on **ADM-2023-0051.**

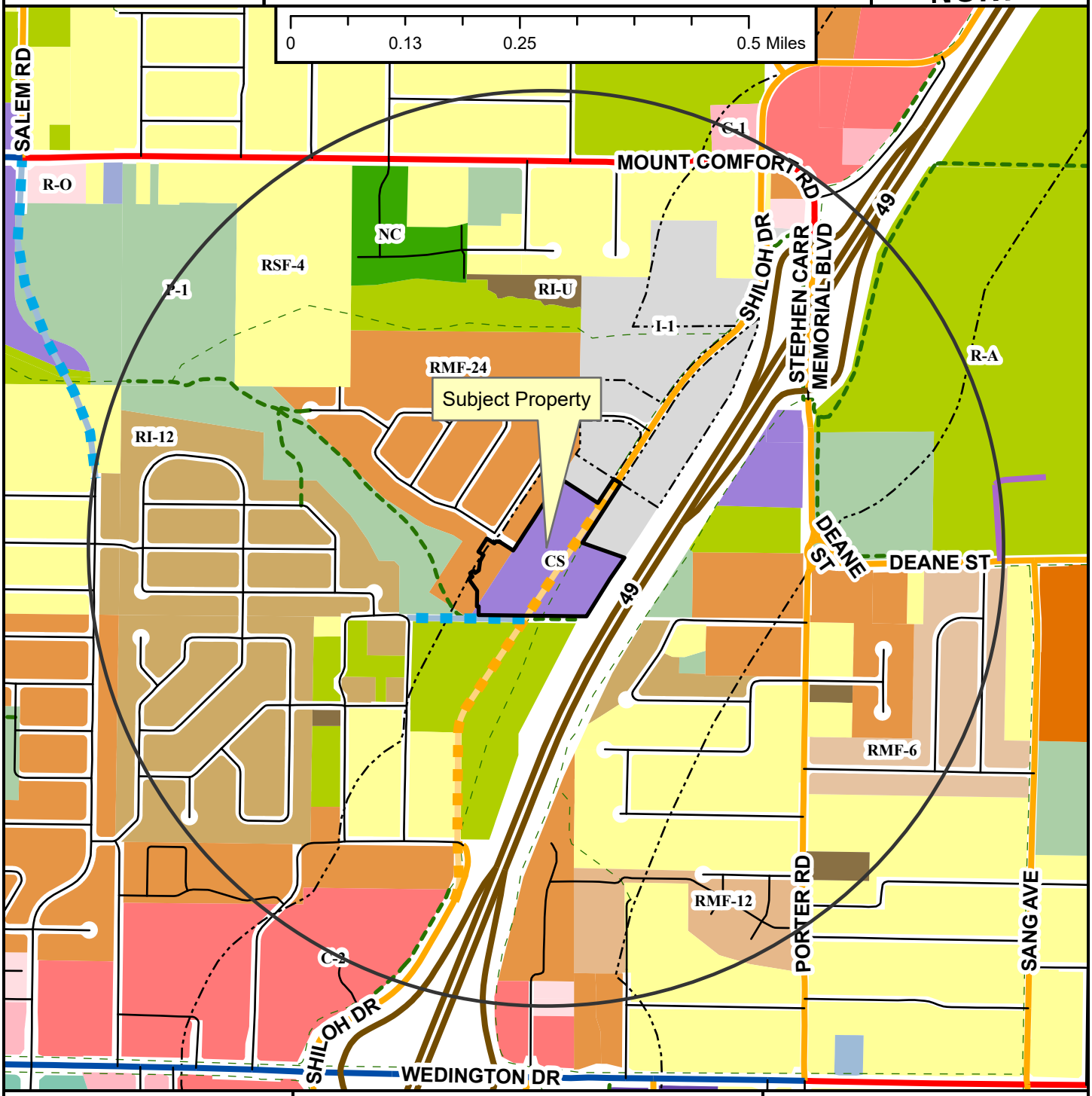
Thanks
Thomas Brown



ADM-2023-0051

One Mile View

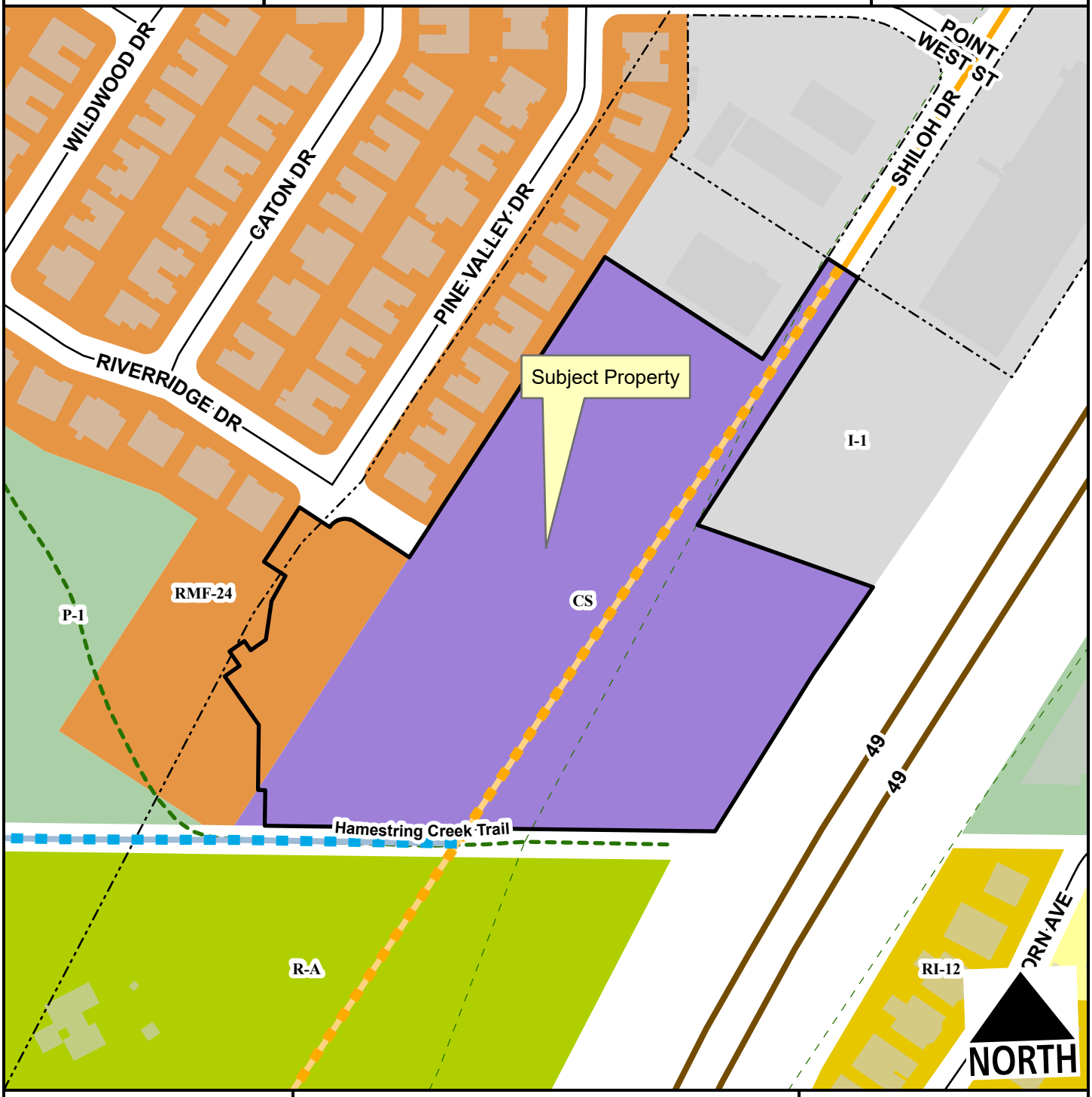
1727 N. SHILOH DR



ADM-2023-0051

Close Up View

1727 N. SHILOH DR



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

Feet

0 75 150 300 450 600

1:2,400

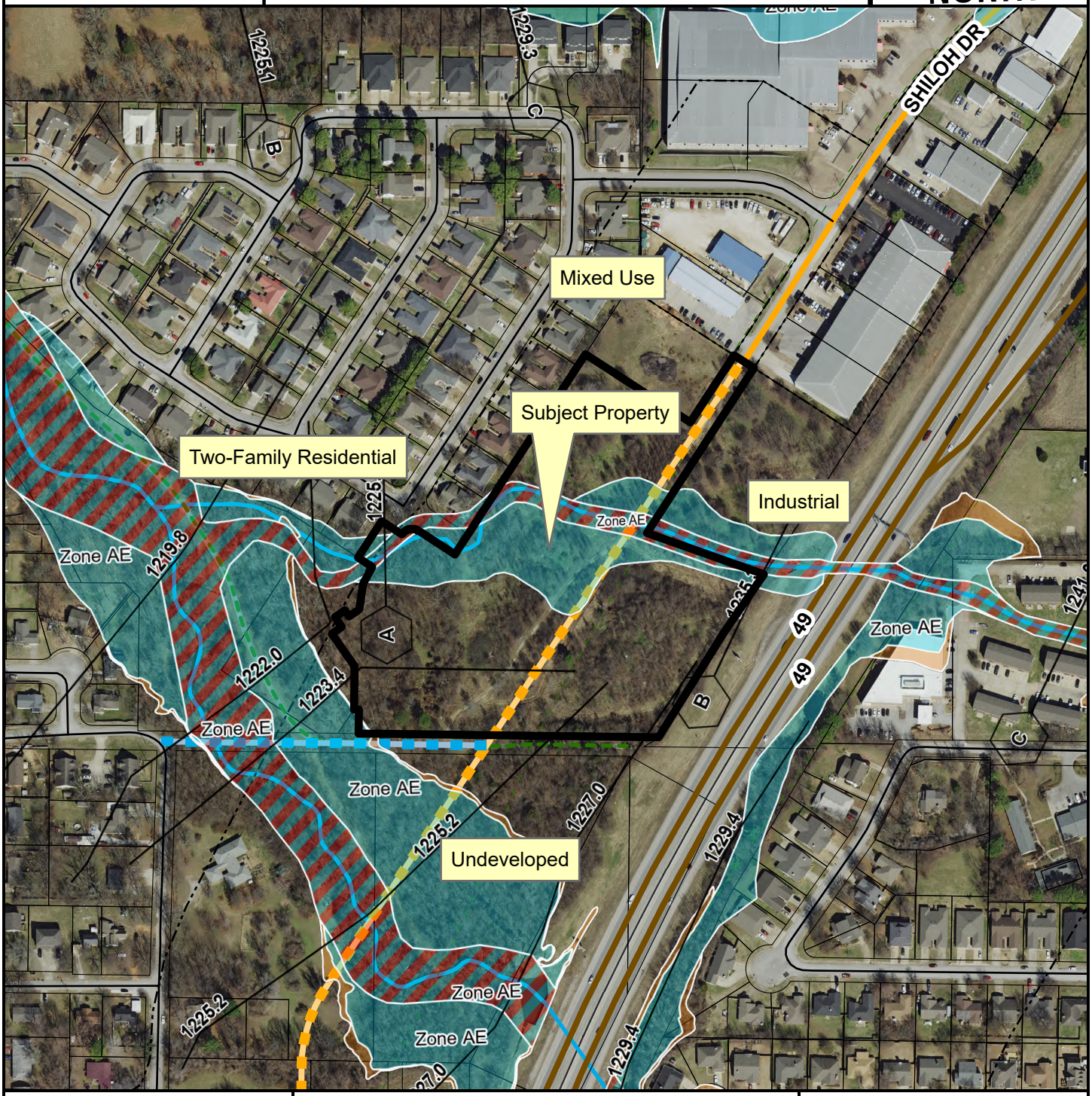
- Residential-Agricultural
- RSF-4
- RI-12
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Community Services
- P-1

ADM-2023-0051

Current Land Use

1727 N. SHILOH DR

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING: January 8, 2023

SUBJECT: **CCP-2023-0006: Concurrent Plat (3006 N. OLD MISSOURI RD./OLD MISSOURI LAND DEVELOPMENT LLC., 253 & 254):** Submitted by JORGENSEN & ASSOCIATES for property located at 3006 N. OLD MISSOURI RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and NS-G, NEIGHBORHOOD SERVICES-GENERAL, and contains approximately 36.20 acres. The request is for the concurrent plat of thirty-six residential lots, one commercial lot, two non-buildable lots, and two out lots.

RECOMMENDATION:
Staff recommends approval of **CCP-2023-0006** with conditions.

RECOMMENDED MOTION: *"I move to approve* **CCP-2023-0006,** *recommending:*

- *In favor of recommended right-of-way dedication and street improvements; and*
- *All other conditions of approval."*

BACKGROUND:
The subject property is in north Fayetteville, roughly ¼ mile north of the intersection of N. Old Wire Road and N. Old Missouri Road; immediately north of the Keenan Towerhouse. The property totals approximately 36.20 acres and is zoned NC, Neighborhood Conservation and NS-G, Neighborhood Services-General. At the Planning Commission meeting on April 11, 2022, a conditional use permit (CUP-2022-0004) was approved to allow multi-family on the portion of the property zoned NS-G, Neighborhood Services-General. The project received large scale development approval at the May 9, 2022 Planning Commission meeting (LSD-2022-0012). Surrounding land uses and zoning are depicted in *Table 1.*

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Butterfield Trail Elementary	P-1, Institutional
South	Undeveloped/Single-family Residential	NS-G, Neighborhood Services-General/RSF-4, Residential Single-family, 4 Units per Acre
East	Undeveloped/Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Good Shepherd Lutheran Church/Butterfield Trail Plaza/ Single-family Residential	P-1, Institutional/R-O, Residential-Office/RSF-4, Residential Single-family, 4 Units per Acre

Proposal: The applicant intends to plat thirty-six residential lots, one commercial lot, two non-buildable lots, and two out lots reserved for future development. The development will include twenty-seven multi-family townhouse units in three structures, ten single-family units, and a

commercial/retail space. The developer plans to subdivide the lots providing a minimum of 18 feet of lot width in accordance with 164.11(B).

Water and Sewer System: The applicant has installed water mains to provide necessary domestic water and fire protection for the subdivision. Sewer mains have been installed to provide sewer service. Drainage infrastructure has been installed that meets the 4 Minimum Standards outlined in the Drainage Criteria Manual. The main streets have been installed to provide paved access to the subdivision. The infrastructure is substantially complete, and a final punch list is being completed.

Right-of-way to be dedicated: N. Old Missouri Road is a Neighborhood Link Street per the 2040 Master Street Plan. Existing right-of-way for N. Old Missouri Road varies but appears to meet or exceed the typical requirement of 33.5 feet of right-of-way from centerline. Existing right-of-way along E. Rolling Hills Drive, a Neighborhood Link Street, meets the Master Street Plan requirements at 67 feet. Existing right-of-way on internal streets, N. Grace Reign Way and E. Little Crew Dr., meet the Master Street Plan requirements for alternative Residential Link streets (a determination made by the Planning Commission as part of the approval of LSD-2022-0012). Finally right-of-way along internal street, E. Roe Ter., meets the requirements for a Residential Link street. Accordingly, staff recommends no additional right-of-way dedication is required.

Street Improvements:
N. Old Missouri Road: The Active Transportation Plan shows a planned side-path trail along N. Old Missouri Road. The City and developer are currently in negotiations for a cost-share agreement to facilitate these improvements. The cost-share outlines the developer be responsible for costs associated with construction of an 8-foot-wide sidewalk, a cost estimate of approximately $64,750, and the city be responsible for additional costs beyond that to upgrade to a trail, approximately $58,533. This would include an additional 4-foot width of concrete, pavement markings, trail crossings, and signage. Also, since an abundance of right-of-way is shown to be dedicated to prevent the removal of pine trees, the valuation for that additional property could be factored into the developer's contribution and would be equal to, or less than a $10,000 contribution from the City. The cost share agreement would ultimately need to be considered by the City Council. Staff recommends all other street improvements for N. Old Missouri Road are constructed in line with the 2040 Master Street Plan requirements for a Neighborhood Link Street including planting street trees and installation of streetlights at intervals of no more than 300 feet. Additionally, staff recommends that the developer is required to improve the intersection of E. Rolling Hills Drive and N. Old Missouri Road for the addition of a west bound leg, including additional signal equipment and modifications to pavement markings.

E. Rolling Hills Drive: E. Rolling Hills Drive is a planned Neighborhood Link Street which requires a 30-foot paved width, two six-inch curbs, and 10-foot greenspace and 8-foot sidewalk on both sides of the street.

N. Grace Reign Way and E. Little Crew Dr.: These internal streets were determined by the Planning Commission to be alternative Residential Link Streets which requires a 27-foot paved width, two 1.5-foot curbs, and 6-foot green space and 6-foot sidewalks on one side of the street.

Tree Preservation:
- Canopy minimum requirement: 20%
- Existing canopy: 100%
- Preserved canopy: 42.9%
- Mitigation required: none

Parkland Fees: This project has a credit of 4 multi-family units, or $3,808, for future phases of the project. No additional parkland fees are due.

Public Comment: To date staff has received two comments via email requesting additional information about the project and stating concern about the review meetings being scheduled close to the holidays.

RECOMMENDATION: Staff recommends approval of **CCP-2023-0006,** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff does not recommend right-of-way dedication.*

   Subdivision Committee recommended in favor.

2. **Planning Commission determination of street improvements.** *Staff recommends the following street improvements:*

   a. An additional traffic signal must be installed at the intersection of E. Rolling Hills Dr. and N. Old Missouri Rd. for the addition of a west bound leg, including additional signal equipment and modifications to pavement markings.
   b. N. Old Missouri Road:
      i. Either a cost-share agreement for the construction of the planned side-path trail along N. Old Missouri Road is approved by City Council, or in the alternative, the developer shall construct their portion of the 12-foot-wide sidewalk (8-feet of the total 12-foot-width) and the City will be responsible for additional costs beyond that to upgrade the trail.
      ii. Staff recommends all other street improvements for N. Old Missouri Road are constructed in line with the 2040 Master Street Plan requirements for a Neighborhood Link Street including planting street trees and installation of streetlights at intervals of no more than 300 feet.
   c. E. Rolling Hills Drive: E. Rolling Hills Drive is a planned Neighborhood Link Street which requires a 30-foot paved width, two six-inch curbs, and 10-foot greenspace and 8-foot sidewalk on both sides of the street.
   d. N. Grace Reign Way and E. Little Crew Dr.: These internal streets were determined by the Planning Commission to be alternative Residential Link Streets which requires a 27-foot paved width, two 1.5-foot curbs, and 6-foot green space and 6-foot sidewalks on one side of the street.

   Subdivision Committee recommended in favor.

3. All remaining comments from City divisions, whether Urban Forestry, Fire, or Engineering shall be addressed prior to Planning Commission.

Standard conditions of approval:

4. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat (if applicable).

5. 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).

6. 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 the City's current requirements.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: January 8, 2024	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

Attachments:
- Applicant Cover Letter
- Site Plan
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map

JORGENSEN
+ASSOCIATES
Civil Engineering + Surveying

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

November 29, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Concurrent Plat for Stage Station

This letter is in regards to a request for a Concurrent Plat for Stage Station. The property is the site of the existing Stage Station Large Scale Development which included the installation and construction of roadways, water, sewer & storm drainage infrastructure for 10 single family lots, 26 townhomes and 1 commercial space.

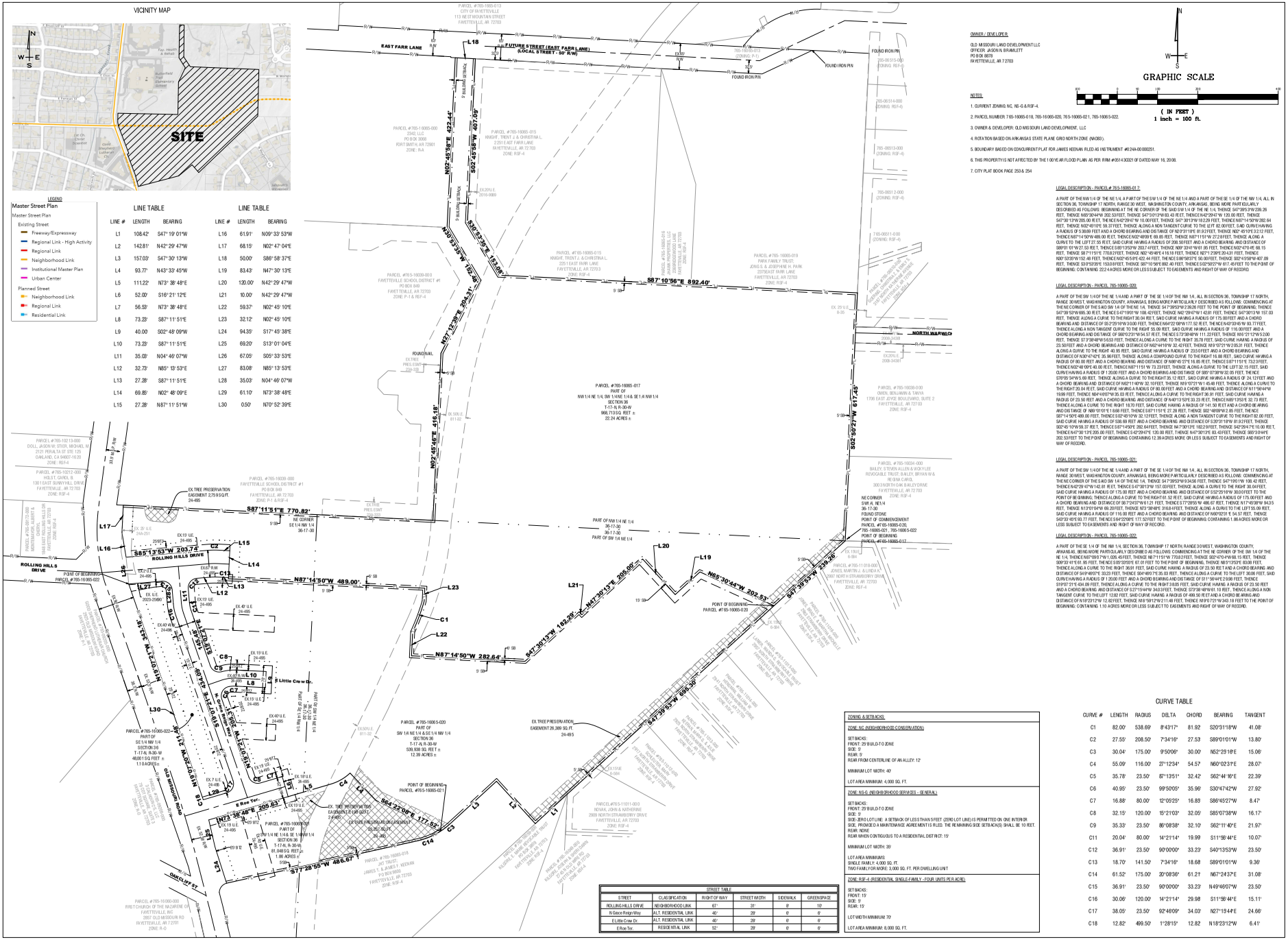
The purpose of this proposed Concurrent Plat is to create 41 lots, 37 of which are buildable, and 2 of which are outlots reserved for future development. All right-of-way, utility easements, drainage easements, access easements, and tree preservation easements have been dedicated with the previous Large Scale Development. All utility mains and service connections have been installed. Therefore, no new service taps or meters will be required. Stormwater drainage requirements are also being addressed with the detention pond and stormwater system constructed with the LSD.

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

Thank you.

Sincerely;

Charles A. Zardin



JORGENSEN + ASSOCIATES
124 W. Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Civil Engineering | Surveying | Planning
www.jorgensenassociates.com

Planning Commission
January 8, 2024

CCP-2023-0006 (OLD MISSOURI LAND DEVELOPMENT) Page 227 of 629

LEGEND
CALCULATED POINT
FOUND IRON PIN & CAP
SET IRON PIN & CAP
CENTERLINE STREET
BUILDING SETBACK
EXISTING EASEMENT
PROPOSED EASEMENT
BOUNDARY LINE
40 LINE
STREET RIGHT OF WAY
BUILDING SETBACK
BUILD-TO-ZONE
EX. TREE PRESERVATION EASEMENT

PROJECT DETAILS

PROJECT TITLE:
STAGE STATION

PROJECT LOCATION:
FAYETTEVILLE, AR

REVISIONS

DATE: 11/16/2023
DRAWN BY: CAZPMM
PROJECT # 2021161
FILE PATH: Z:\SUBDIVISIONS\2021161\DWG\EASEMENTPLAT
SHEET SIZE: 24" x 36"
SCALE: 1" = 100'

CERTIFICATE OF AUTHORIZATION
JORGENSEN & ASSOCIATES
No. 702
ARKANSAS – ENGINEER

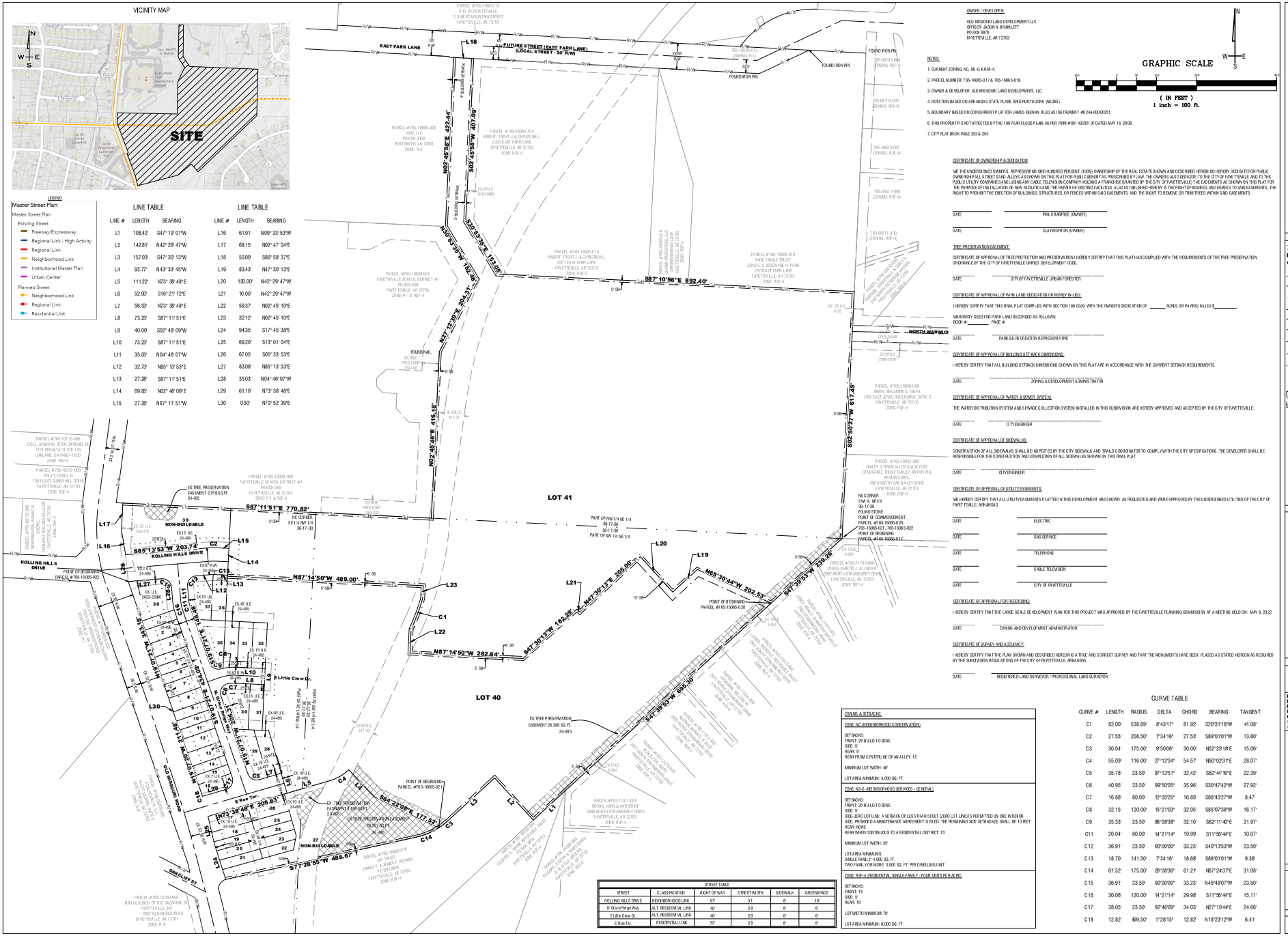
REGISTERED
ARKANSAS
No. 11118
PROFESSIONAL LAND SURVEYOR
JAMES T. KERNAN

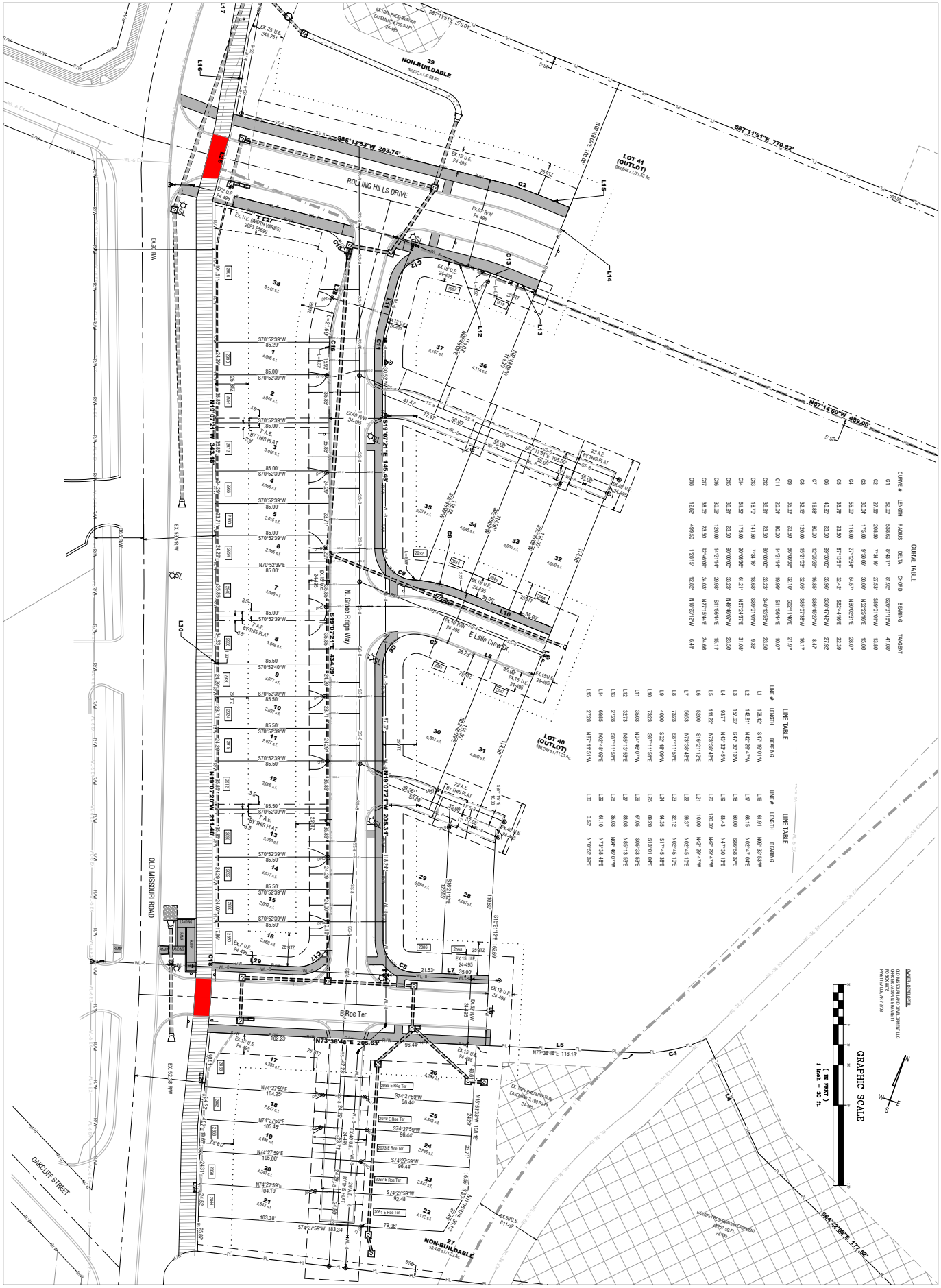
SHEET TITLE

BOUNDARY SURVEY

SHEET NUMBER

C1.1


VICINITY MAP
SITE
LEGEND
Master Street Plan
Existing Street
Freeway/Expressway
Regional Link - High Activity
Regional Link
Neighborhood Link
Institutional Master Plan
Urban Center
Planned Street
Neighborhood Link
Regional Link
Residential Link
LINE TABLE
LINE # LENGTH BEARING
L1 108.42' S47° 19' 01"W
L2 142.81' N42° 29' 47"W
L3 157.03' S47° 30' 13"W
L4 93.77' N43° 33' 45"W
L5 111.22' N73° 38' 48"E
L6 52.00' S16° 21' 12"E
L7 56.53' N73° 38' 48"E
L8 73.23' S87° 11' 51"E
L9 40.00 S02° 48' 09"W
L10 73.23' S87° 11' 51"E
L11 35.03' N04° 46' 07"W
L12 32.73' N85° 13' 53"E
L13 27.28' S87° 11' 51"E
L14 69.85' N02° 48' 09"E
L15 27.28' N87° 11' 51"W
LINE TABLE
LINE # LENGTH BEARING
L16 61.91' N09° 33' 53"W
L17 68.15' N02° 47' 04"E
L18 50.00' S86° 58' 37"E
L19 83.43' N47° 30' 13"E
L20 120.00' N42° 29' 47"W
L21 10.00' N42° 29' 47"W
L22 59.37' N02° 45' 10"E
L23 32.12' N02° 45' 10"E
L24 94.35' S17° 45' 38"E
L25 69.20' S13° 01' 04"E
L26 67.05' S05° 33' 53"E
L27 83.08' N85° 13' 53"E
L28 35.03' N04° 46' 07"W
L29 61.10' N73° 38' 48"E
L30 0.50' N70° 52' 39"E
EAST FARR LANE
FUTURE STREET (EAST FARR LANE) (LOCAL STREET - 50' R/W)
NORTH WARWICK
ROLLING HILLS DRIVE
E Little Cane Dr.
E Rose Ter.
OAKCLIFF ST
OLD MISSOURI ROAD
LOT 41
LOT 40
POINT OF BEGINNING PARCEL #765-16005-022
POINT OF BEGINNING PARCEL #765-16005-020
POINT OF BEGINNING PARCEL #765-16005-021
POINT OF COMMENCEMENT PARCEL #765-16005-020, 765-16005-021, 765-16005-022
POINT OF BEGINNING PARCEL #765-16005-017
NE CORNER SW 1/4 NE1/4 36-17-30 FOUND STONE
NE CORNER SE 1/4 NW 1/4 36-17-30
PART OF NW 1/4 NE 1/4 36-17-30
PART OF SW 1/4 NE1/4
EX TREE PRESERVATION EASEMENT 2,759 SQ.FT. 24-495
EX TREE PRESERVATION EASEMENT 26,389 SQ.FT. 24-495
EX TREE PRESERVATION EASEMENT 20,350 SQ.FT. 24-495
NON-BUILDABLE
FOUND IRON PIN
FOUND IRON PIN
FOUND IRON PIN
ROUNDNAIL
N02°45'58"E 422.44'
S02°45'58"W 407.09'
N30°03'39"W 152.60'
S30°53'39"E 153.18'
S87°10'56"E 892.40'
N87°12'38"E 294.31'
N02°45'48"E 416.18'
S02°29'24"W 617.45'
S87°11'51"E 770.82'
S85°13'53"W 203.72'
N87°14'50"W 489.00'
S47°39'53"W 239.26'
N65°30'44"W 202.53'
N47°30'13"E 209.09'
S47°30'13"W 182.48'
N87°14'50"W 282.64'
S47°39'53"W 695.38'
S64°22'08"E 177.52'
S77°28'55"W 486.67'
N12°27'48"W 211.46'
N12°27'48"W 211.46'
S87°38'48"E 209.83'
S87°38'48"E 209.83'
S87°38'48"E 211.37'
S87°38'48"E 211.37'
N87°38'48"W 211.37'
N87°38'48"W 211.37



CURVE #	LENGTH	RADIUS	DELTA	CHORD	BEARING	TANGENT
C1	82.00'	538.69'	8°43'17"	81.92'	S20°31'18"W	41.08'
C2	27.39'	208.39'	7°31'49"	27.37'	S88°01'01"W	13.80'
C3	30.04'	175.00'	9°50'05"	30.00'	N33°25'19"E	15.06'
C4	55.09'	116.00'	27°12'24"	54.57'	N60°02'31"E	28.07'
C5	35.78'	23.50'	87°13'51"	32.42'	S62°41'16"E	22.39'
C6	40.99'	23.50'	99°30'05"	35.98'	S33°47'42"W	27.92'
C7	16.68'	80.00'	11°57'01"	16.65'	S86°49'27"W	8.47'
C8	32.15'	120.00'	15°21'03"	32.05'	S85°07'58"W	16.17'
C9	35.33'	23.50'	86°08'08"	32.10'	S82°11'40"E	21.97'
C11	20.04'	80.00'	14°21'14"	19.99'	S11°56'44"E	10.07'
C12	36.91'	23.50'	90°00'00"	33.23'	S40°13'53"W	23.50'
C13	18.70'	141.50'	7°34'16"	18.68'	S88°01'01"W	9.36'
C14	61.32'	175.00'	20°04'06"	61.01'	N87°24'57"E	31.00'
C15	36.91'	23.50'	90°00'00"	33.23'	N46°46'07"W	23.50'
C16	30.08'	120.00'	14°21'14"	29.98'	S11°56'44"E	15.17'
C17	38.00'	23.50'	92°40'09"	34.03'	N27°15'44"E	24.69'
C18	12.82'	499.00'	1°28'19"	12.82'	N18°23'12"W	6.41'

LINE #	LENGTH	BEARING
L1	108.42'	S4°51'01"W
L2	142.81'	N42°29'47"W
L3	157.03'	S47°30'13"W
L4	93.17'	N43°33'45"W
L5	111.22'	N73°38'48"E
L6	50.00'	S16°21'12"E
L7	56.53'	N73°38'48"E
L8	73.23'	S87°11'51"E
L9	40.00'	S02°48'09"W
L10	73.23'	S87°11'51"E
L11	35.00'	N04°46'07"W
L12	32.73'	N86°13'55"E
L13	27.28'	S87°11'51"E
L14	69.85'	N02°48'09"E
L15	27.28'	N87°11'51"W

LINE #	LENGTH	BEARING
L16	65.91'	N20°33'52"W
L17	66.15'	N02°47'04"E
L18	50.00'	S86°58'37"E
L19	89.45'	N47°30'13"E
L20	120.00'	N42°29'47"W
L21	10.00'	N42°29'47"W
L22	99.37'	N02°49'10"E
L23	32.72'	N03°49'10"E
L24	94.35'	S17°49'38"E
L25	69.20'	S19°01'04"E
L26	67.00'	S00°33'55"E
L27	80.08'	N89°13'55"E
L28	35.00'	N04°46'07"W
L29	69.10'	N73°38'48"E
L30	0.00'	N70°52'39"E

LEGEND	
	CALCULATED POINT
	SET IRON PIN & CAP
	SET MAG NAIL & WASHER
	CENTERLINE STREET
	BUILDING SETBACK
	EXISTING EASEMENT
	PROPOSED EASEMENT
	BOUNDARY LINE
	40' LINE
	STREET/RIGHT OF WAY
	BUILDING SETBACK
	BALL-TOT-STONE
	EX. TREE PRESERVATION EASEMENT

PROJECT TITLE:
STAGE STATION

PROJECT LOCATION:
FAYETTEVILLE, AR

REVISIONS

PROJECT DETAILS

DATE: 11/10/2023
DRAWN BY: CAZ/PMW
CHECKED BY: JMJ
FILE PATH: Z:\2023\23-0036\23-0036.dwg
SHEET SIZE: 24" x 36"
SCALE: 1" = 30'

CONCURRENT PLAT

SHEET TITLE

C1.3

SHEET NUMBER

JORGENSEN +ASSOCIATES
124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
Civil Engineering | Surveying | Planning

Hevrdejs, Kylee

From: Planning Shared
Sent: Wednesday, December 27, 2023 9:23 AM
To: Hevrdejs, Kylee
Subject: FW: Appropriate notice?

Follow Up Flag: Follow up
Flag Status: Flagged

For you.

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville
479-575-8267
Website | Facebook | Twitter | Instagram | YouTube

CITY OF FAYETTEVILLE ARKANSAS

From: Chris Goering <chrisgoering@gmail.com>
Sent: Saturday, December 23, 2023 1:22 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Appropriate notice?

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

Hello,

I live at 3187 N. Katherine Ave. and will be impacted by the proposal set to be heard at the subdivision committee on December 29th. I'm confused as to why I wasn't given more notice--I received a letter on December 22nd and am also not thrilled with the idea of a meeting of this nature happening between Christmas and New Year's. It makes me think the company is attempting to hide changes in the development.

I'm referring to Old Missouri Land Development, LLC and the CCP-2023-006.

I've heard from multiple other neighbors feelings these same frustrations expressed here, chiefly relating to the timing of this. Many are out of town during this time and while it is possible for some to attend virtually, not all can do that.

I'd encourage the city to push this back so that proper notice can be given to the residents impacted. I have some specific concerns I'd like addressed following the development of the current area directly adjacent to Old Missouri.

Chris Goering

Hevrdejs, Kylee

From: Emily J. Brickman <emjhollingsworth@yahoo.com>
Sent: Wednesday, January 3, 2024 8:14 AM
To: Hevrdejs, Kylee
Subject: Re: Cup-2023-0006

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I'd also like to mention that there have been several issues related to the current development. In the past, the developers have burned trees they cut down. This has caused significant smoke, so much so that children at BTE were unable to play outside during recess due to allergic reactions. The smell of smoke was also strongly inside of the school. I would request that burning on this property not be allowed.

Additionally, many many children also walk to school and bike in this area. Children are curious. I'd also like to request that security fences be installed to limit children's access to the construction area and ward off potential for a child-construction interaction.

Thanks again,

-Emily

On Jan 3, 2024, at 8:02 AM, Hevrdejs, Kylee <khevrdejs@fayetteville-ar.gov> wrote:

Hi Emily,
I will include your comment in the Commissioner's packet.

Thank you,
Kylee

Kylee Cole
Planner
City of Fayetteville, Arkansas
479-575-8327
khevrdejs@fayetteville-ar.gov
Website | Facebook | Twitter | Instagram | YouTube
<image001.png>

From: Emily J. Brickman <emjhollingsworth@yahoo.com>
Sent: Tuesday, January 2, 2024 9:17 PM
To: Hevrdejs, Kylee <khevrdejs@fayetteville-ar.gov>
Subject: Re: Cup-2023-0006

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

Hi Kaylee,

I just wanted to express my dissatisfaction with high density development on this property and surrounding sections of the development. This property is currently wooded and has steep hills and located adjacent to an elementary school. I'm concerned about surface water runoff , removal of wetlands, and erosion and flooding. I would request that trees remain and development be limited. I'd also like to request that through streets not be created in order to limit traffic impacts.

Thanks for your consideration.

-Emily Brickman

On Dec 30, 2023, at 4:53 PM, Emily J. Brickman <emjhollingsworth@yahoo.com> wrote:

Thank you so much for the clarification!

-Emily

On Dec 28, 2023, at 11:25 AM, Hevrdejs, Kylee <khevrdejs@fayetteville-ar.gov> wrote:

Hi Emily,
They actually aren't requesting any modifications. This is a Concurrent Plat (CCP) which is the next phase in the development process for this site. They've already received large scale development approval and a grading permit for infrastructure. Here's the definition of a CCP from our city code:
Concurrent Plat. A concurrent plat combines the preliminary and final plat into one (1) step. A concurrent plat is permitted when a property is to be subdivided into more than four (4) lots, or when a parent or resulting tract has been subdivided three (3) or more times and is proposed to be further subdivided, and the existing and new parcels do not require construction of new infrastructure.

Essentially what this application does is finalize their plan for how this portion of the development will be subdivided and what the lots will look like. According to this plan, they will have 36 residential lots, 1 commercial lot, 2 non-buildable lots (used for water detention or limited because of topography), and two out-lots reserved for future phases of development. The residential lots will be divided between 26 multi-family townhouse units across three buildings and 10 single-family lots.

I know this can be confusing, so if you need additional clarification or if this brings up new questions just let me know.

Kylee

Kylee Cole
Planner
City of Fayetteville, Arkansas
479-575-8327
khevrdejs@fayetteville-ar.gov
Website | Facebook | Twitter | Instagram | YouTube
<image001.png>

From: Emily J. Brickman <emjhollingsworth@yahoo.com>
Sent: Thursday, December 28, 2023 11:16 AM
To: Hevrdejs, Kylee <khevrdejs@fayetteville-ar.gov>
Subject: Re: Cup-2023-0006

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

Thank Kylee. Can you please explain to me what the developers are requesting in this modification? Feel free to call my cell if you would like to explain over the phone 214-529-5600.

-Emily

> On Dec 28, 2023, at 9:41 AM, Hevrdejs, Kylee <khevrdejs@fayetteville-ar.gov> wrote:
>
> Good morning Emily,
> I'm the planner for this project. I understand that the timing for the subdivision committee review for this project is inconvenient. We follow a strict calendar that is established annually and it just happened that this subdivision committee review was between holidays. There will be another meeting for this item on January 8th, where the full Planning Commission will discuss the project. Attendance can be virtual or in person, and I'm happy to forward your concerns to the commissioners as well.
>
> I see that you were provided the plans for the site, but of course I'm happy to answer any questions you might have. I'm working remotely today and tomorrow so email will be the best way to contact me.
>
> Thank you!
> Kylee
>
> **Kylee Cole**
> Planner

City of Fayetteville, Arkansas
479-575-8327
khevrdejs@fayetteville-ar.gov
Website | Facebook | Twitter | Instagram | YouTube
<image003.png>

From: Planning Shared <planning@fayetteville-ar.gov>
Sent: Wednesday, December 27, 2023 9:22 AM
To: Emily J. Brickman <emjhollingsworth@yahoo.com>; Planning Shared <planning@fayetteville-ar.gov>
Cc: Hevrdejs, Kylee <khevrdejs@fayetteville-ar.gov>
Subject: RE: Cup-2023-0006

Here you are. The Planner, who I have copied on this email, will be able to answer any questions you may have.

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville
479-575-8267
Website | Facebook | Twitter | Instagram | YouTube
<image004.png>

From: Emily J. Brickman <emjhollingsworth@yahoo.com>
Sent: Saturday, December 23, 2023 2:00 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Cup-2023-0006

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

Hello,

We just received notice about this meeting (pertaining to ccp20230006) and I'd like to express frustration to the lack of notice and the date of the expected meeting. The meeting is proposed to occur in between Christmas and New Year's when many people are out of town or unable to attend virtually.

I'd also like to request additional information about this project, with more details provided in relation to what the development is requesting to complete. Id like to

see maps and plans if available.

Thanks,
Emily Brickman.

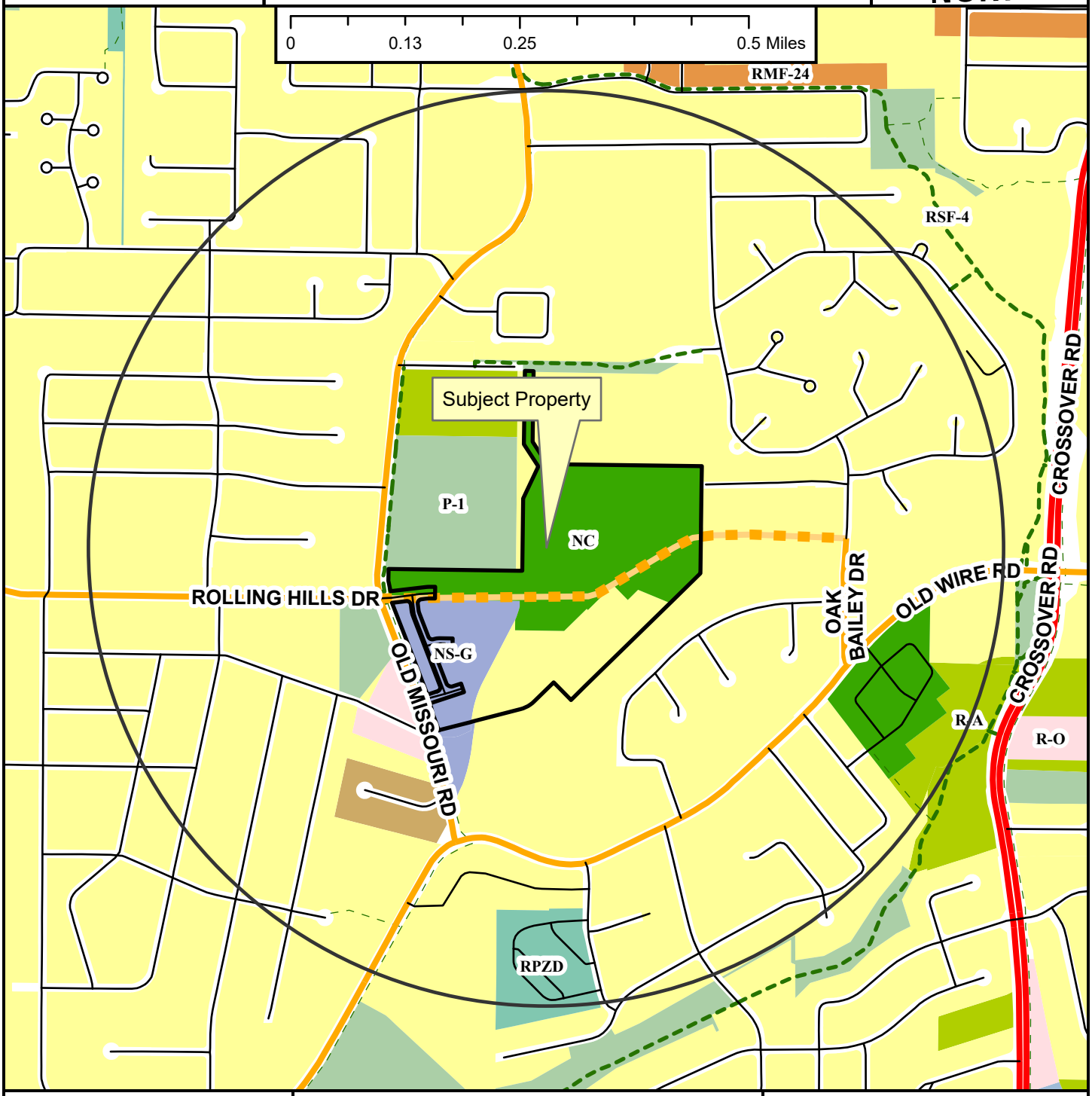
<image005.jpg>

CCP-2023-0006

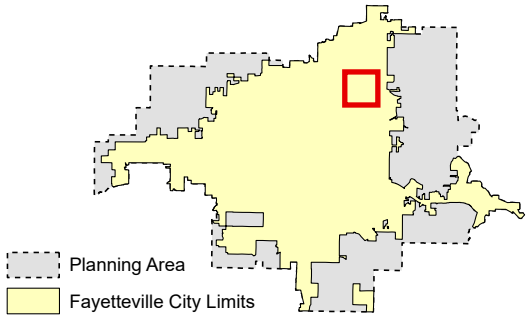
One Mile View

3006 N. OLD MISSOURI RD

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

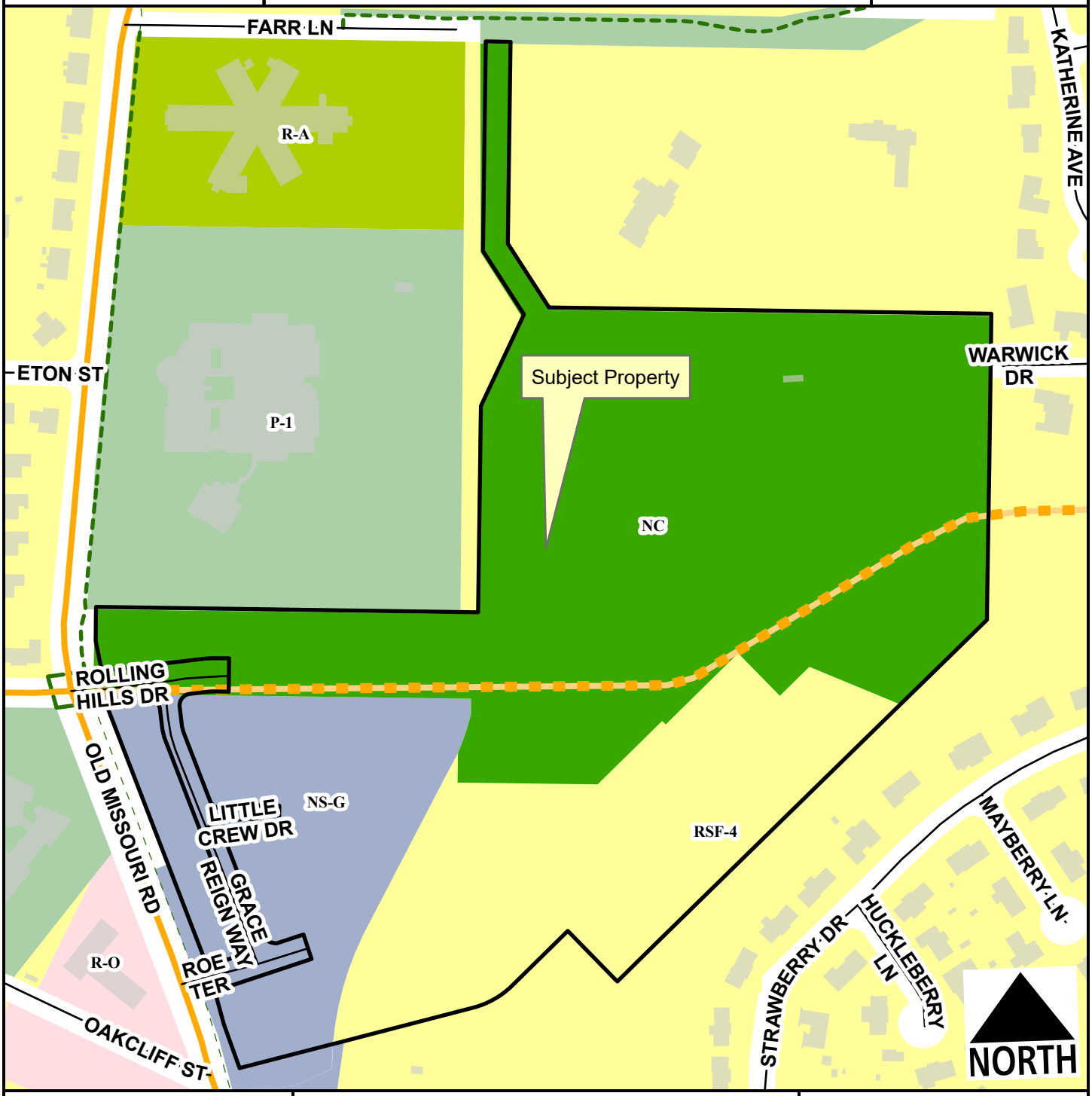
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CCP-2023-0006

Close Up View

3006 N. OLD MISSOURI RD



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

Feet

0 110 220 440 660 880

1:3,500

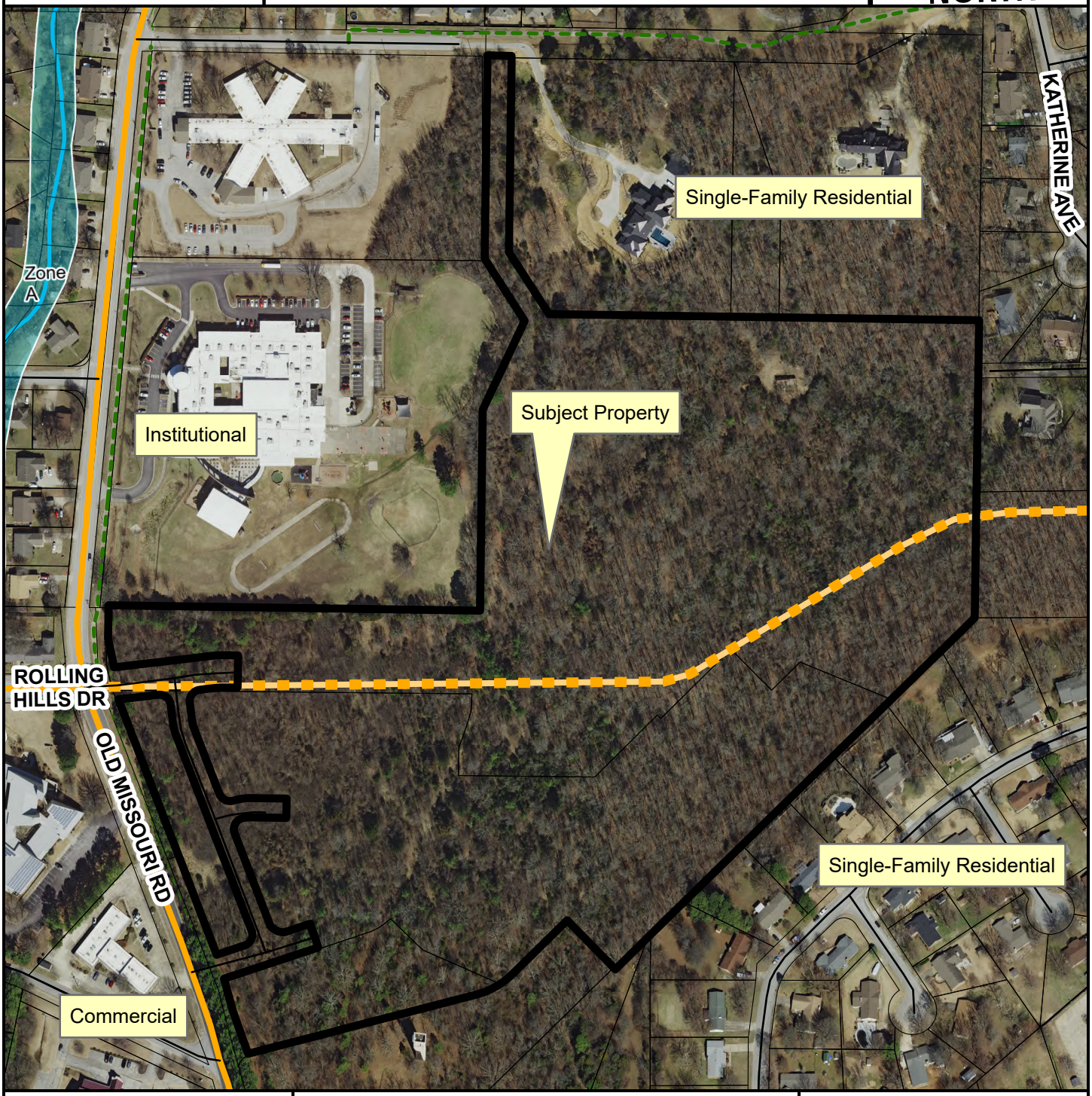
Residential-Agricultural
RSF-4
Residential-Office
Neighborhood Services - Gen.
Neighborhood Conservation
P-1

CCP-2023-0006

Current Land Use

3006 N. OLD MISSOURI RD

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0194: Conditional Use Permit (1153 E. LAKE FAYETTVILLE RD/CITY OF FAYETTEVILLE, 096/097):** Submitted by CITY OF FAYETTEVILLE for property located at 1153 E LAKE FAYETTEVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 30.8 acres. The request is for a cultural and recreational facility (softball fields) in R-A zoning.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0194** with conditions, based on the findings contained in this report.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0194**, 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 at Fayetteville's border with Springdale, along E. Lake Fayetteville Road, and is a feature of the overall Lake Fayetteville Park system. The property is zoned R-A, Residential Agricultural, and consists of approximately 30.8 acres. While the entirety of the overall Lake Fayetteville Park system is significantly larger, the area in question consists of three softball fields, existing restroom facility, and associated parking. No conditional use permit was issued for the complex's original construction, making the use an existing non-conformity. No overlay districts currently govern the site. 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	Springdale City Limits
South	Lake Fayetteville Park; Offices; Commercial Recreation	R-A, Residential Agricultural; R-O, Residential Office
East	Lake Fayetteville Park (Marina); Lake Fayetteville Trail	R-A, Residential Agricultural
West	Mobile Food Truck Court	C-2, Thoroughfare Commercial

City Plan 2040 Future Land Use Designation: Civic and Private Open Space

Proposal: The applicant requests conditional use permit approval for Use Unit 4, a cultural and recreational facility, for the reconstruction of existing softball dugouts, and improvements to the overall softball complex. Under 164.12(B)(1)(a), an existing non-conforming use must be brought into compliance with existing standards when enlarged, extended, constructed, reconstructed,

moved or structurally altered. Construction has begun on this facility, and upon a building permit review, staff determined that the installation was out of conformity with existing zoning district standards.

Hours of operation: Sunrise – 11 PM daily
Adult and Youth Softball Leagues, 5:00 PM – 11:00 PM
(when in season)

Public Comment: No public comment has been received by City staff on this item.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0194,** subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed expansion to be compatible with the surroundings for the reasons outlined in this report.*

2. All outdoor lighting must be compliant with Unified Development Code section 176, outdoor lighting, including the requirement that sports field lighting shall be designed in accordance with IESNA standards located in IESNA RP 6-01 "Sports and Recreational Area Lighting."

3. Approval of the conditional use permit does not ensure approval of a development application. The conditional use permit grants the applicant the right to submit a development proposal based on the conceptual layout included herein. However, the applicant must still be able to comply with all other development requirements, including but not limited to, tree preservation, drainage, utility installation and Fire Department access. These details shall be reviewed with the development application. The final project design shall follow the general layout and design of the conditional use plan;

4. Per UDC §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is valid for one year.

PLANNING COMMISSION ACTION: Required YES			
Date: January 8, 2024	**❒ 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 4, Cultural and Recreational Facilities in the R-A zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

Finding: The Planning Commission is empowered under Unified Development Code §161.03, District R-A, Residential-Agricultural, 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 adversely affect the public interest. The capital improvements to the softball fields are supported by the 2019 Bond Park Improvements, and completion is anticipated for March 2024. The greater Fayetteville community has been served by these facilities for over 50 years, and the improvements will accommodate both youth and adult softball for years to come.

(c.) The Planning Commission shall certify:

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

Finding: **There are no specific rules governing this specific cultural and recreational facility.**

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. Continued.

(ii.) 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 existing facility has vehicular access from E. Lake Fayetteville Road by way of two separate curb cuts which are approximately 97 feet apart. Improvements to existing on-site sidewalks and pavement are being considered with this reconstruction project. Staff finds that final compliance with any related fire code access will be evaluated with the associated building permits, but does not foresee any major issues with the proposed structures. Ingress and egress appear to meet relevant ordinances.**

(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 parking lot has 142 existing parking spaces and 6 ADA spaces. Four of the ADA spaces near the softball complex will be modified to bring them into compliance with current standards; the other 2 were updated with a previous project. The parking lot is currently lit, and those existing lights will be upgraded with energy efficient LED lighting with the capacity for dimming if needed. No updates are planned for the existing field lighting. Given that the lighting will be required to be compliant with chapter 176, outdoor lighting, staff finds that the likelihood of adverse impacts for glare to adjacent properties will be minimal. The entrance to the parking lot is approximately 50 feet from an adjacent residential property, across E. Lake Fayetteville Road, which is a public right-of-way. Further, the noise from the existing facility is not intended to increase with this facility. The proposed bleachers and dugouts are over 300 feet away from the nearest residential property.**

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

Finding: **The applicant intends to continue using an existing dumpster at the southern end of the parking lot but proposes a new dumpster pad and new fencing to**

be installed. Staff does not recommend any additional screening beyond what is already shown on the site plan.

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

Finding: **There is currently existing water at this site, but there is no existing sewer. The proposed modifications do not include any proposed changes to the utility provision at this site. The existing restroom facilities are proposed to stay in place.**

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

Finding: **Staff does not recommend any additional screening to be installed at this location. Adjacent properties appear to be adequately screened.**

(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 and exterior lighting in common areas will be subject to the City's ordinances and all the regulations therein.**

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

Finding: **The submitted site plan suggests that the open space and setback requirements will be met with this proposal.**

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

Finding: **Staff finds the applicant's proposal to be compatible with adjacent properties and those in the surrounding neighborhood. Cultural and recreational facilities typically require a conditional use permit in the R-A zoning district, but staff finds that the use generally is compatible with the surrounding area. Softball fields have existed on this site for over 50 years. Given the scale of the property as a regional park, staff finds that the continuance of this use at this location will be in the best interest of the public. The property is surrounded on almost all sides by other large-scale, outdoor recreational uses, and there is no anticipated adverse effect by the approval of the continuation of this use.**

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

Finding: **Staff finds that granting the requested conditional use is compatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans. The property has existed as softball fields for over 50 years,**

and no long-term plans are in place that would render this use to be out of compatibility with any future goals.

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
  - §161.03 District R-A, Residential-Agricultural
  - §164.12 Nonconforming Structures, Uses And Lots
- Applicant Request Letter
- Site Plan
- Dugout Elevations
- Public Comment
- 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."

164.12 Nonconforming Structures, Uses And Lots

It is the intent of this section to regulate nonconforming structures, uses or lots that are created when zoning designations or regulations are created or changed such than an existing lawfully established structure, use, or lot no longer conforms to the regulations of the Unified Development Code. It is also the intent of this section to permit nonconformities to continue as they exist presently and to guide future uses and development to be consistent with the city's planning policy and regulations.

…

(B) *Nonconforming Uses.* Nonconforming uses are declared by the underlying zoning district to be incompatible and are regulated to further restrict actions that would make the uses more permanent in their location or expand their nonconformity.

(1) *Nonconforming uses of Land, Structures or of Structures and Land in Combination.* Where a permitted or otherwise lawful use of land or of structure and land in combination exists which would not be permitted by subsequent regulations imposed by the Unified Development Code, the use may be continued as long as it remains otherwise lawful, subject to the following provisions.

(a) *Enlargement.* No use of land or an existing structure devoted to a use not permitted in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the land or structure to a use permitted in the district in which it is located or as required by other ordinances.

(b) *Extending Use.* Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such buildings.

(c) *Change of Use.* Any nonconforming use of land, structure, or structure and land in combination may as a conditional use be changed to another nonconforming use provided that the Planning Commission, either by general rule or by making finding in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change the Planning Commission may require appropriate conditions and safeguards in accord with the provisions of the Unified Development Code.

(d) *Conditional Use Provisions Not Nonconforming Uses.* Any use which is permitted as a conditional use in a district under the terms of this chapter and has been approved by the Planning Commission (other than a change through Planning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall be without further action considered a conforming use.

(e) *Superseded by Permitted Use.* Any land, structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

(f) *Abandonment of Use.* When a nonconforming use of land, a structure, or structure and land in combination is discontinued or abandoned for six (6) consecutive months, (except where government action impedes access to the premises), the land, structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(g) *Destruction.* Removal or destruction of a structure with a nonconforming use shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50% of the existing gross square feet of the structure.

(2) A nonconforming use may be brought into conformity through a rezoning action by the City Council or by Conditional Use Permit by the Planning Commission, as applicable. A use established unlawfully shall not be considered a nonconforming use for the purposes of this chapter and is a prohibited use unless it is brought into compliance as provided herein.

…

(Code 1965, App. A., Art. 4(1), (2), (4)—(7); 5(8); Ord. No. 1747, 6-29-70; Ord. No. 1806, 7-16-71; Ord. No. 1891, 12-5-72; Ord. No. 2126, 7-14-75; Ord. No. 2505, 2-20-79; Ord. No. 1918, 5-15-83; Ord. No. 3114, 9-3-85; Ord. No. 3124, 9-17-85; Ord. No. 3130, 10-1-84; Code 1991, §§160.135—160.142; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4930, 10-03-06; Ord. No. 5312, 4-20-10; Ord. No. 5453, 10-18-11)

CITY OF
FAYETTEVILLE
ARKANSAS

December 19, 2023

City of Fayetteville Planning Department
City of Fayetteville Planning Commission
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Letter of Intent for Conditional Use Permitting

Property Information:	1153 E Lake Fayetteville Road Softball Complex Tract Size: Approx 30.8 acres Current Use: Softball Facility Proposed Use: Updated Softball Facility Existing Zoning: Residential-Agriculture – R-A
Current Owner:	City of Fayetteville 113 W Mountain St, Fayetteville, Arkansas 72701
Applicant:	City of Fayetteville 113 W Mountain St, Fayetteville, Arkansas 72701

This letter serves as a request for conditional use of the existing Lake Fayetteville Softball Complex, currently zoned R-A, Residential-Agricultural and containing approximately 30.8 acres. This request is for an existing cultural and recreational facility (softball fields) in R-A zoning.

Legal Description:
PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS. BEGINNING AT THE NORTHEAST CORNER Of SAID SECTION 23; THENCE SOUTH 02'37'40" WEST A DISTANCE OF 2127.19 FEET; THENCE NORTH 43'10'25” WEST A DISTANCE Of 774.31 FEET: THENCE NORTH 13'17'40” WEST A DISTANCE OF 1608.45 FEET THENCE NORTH 02°33'14" EAST A DISTANCE OF 42.03 FEET: THENCE SOUTH 87 7'33" EAST A DISTANCE OF 996.43 FEET TO THE POINT OF BEGINNING. CONTAINING 31.93 ACRES MORE OR LESS. SUBJECT TO ANY EASEMENTS OF RECORD OR FACT.

Property Description:
The Lake Fayetteville softball complex has been located here and in operation for over 50 years. The property includes three existing buildings on site; a 600 sq ft storage shed, a 600 sq ft restroom building, and a 540 sq ft concession building. Additionally, three existing softball fields, playground and parking are located on this property. This project will update the six

existing dugouts which were demolished, and 6 new dugouts will be installed in their place. The new dugouts are the same size as the previous, 160 sq ft, and are prefabricated with chain link infill panels. Elevations of the new dugouts can be seen on the attached Plan (A-101).

Parking Requirements:
There are 142 existing parking spaces provided and 6 ADA spaces. Four of the ADA spaces near the softball complex will be modified in this project to bring them in compliance with current standards. The other 2 spaces were modified during a prior trail project and are already in compliance. Parking has proved adequate over the years.

Days and Hours of Operation:
The softball complex will continue to host Adult and Youth softball leagues and tournaments with the primary usage being in the evenings between 5:00 pm and 11:00 pm. The park is generally open from sunrise to 11:00 pm.

Outdoor Lighting:
There are existing field and parking lot lights. The field lighting remains unchanged. The parking lot lights will be upgraded to energy efficient LED lighting with the capability of dimming as needed.

Noise:
Noise from the facility is not expected to change and is typical of a softball facility and will not require a noise variance.

Screening:
There are existing trees planted along Lake Fayetteville Road and trees within the complex. Additional trees have been planted this fall adjacent to Lake Fayetteville Road and will also be added within the parking lot islands.

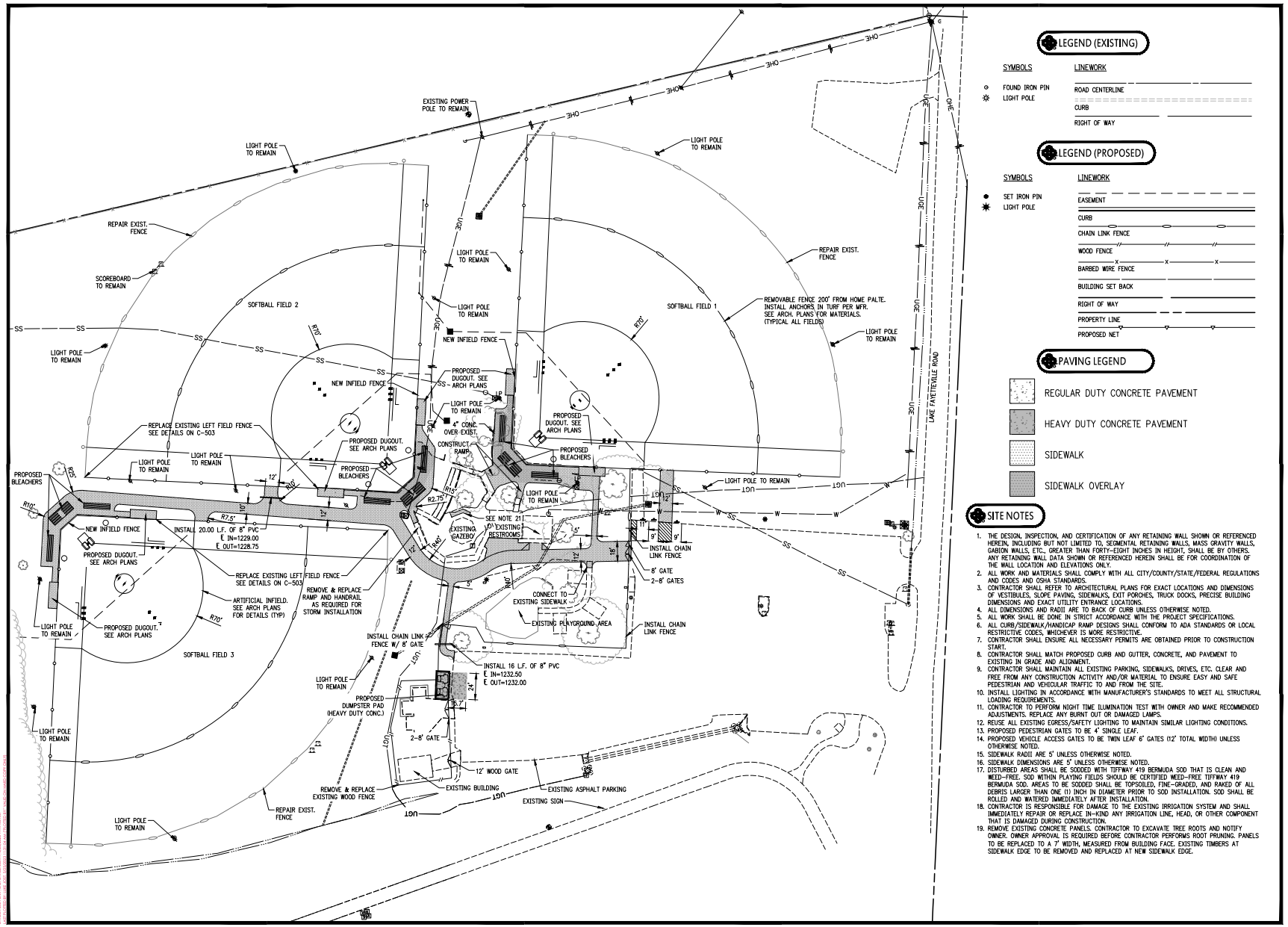
Trash and refuse service:
There is a fenced area to accommodate the existing two dumpsters used to service the softball complex. This fence is being replaced within the scope of this project.

Ingress and egress:
Ingress and egress to the property will not change with this project. The facility is accessed off Lake Fayetteville Rd. The parking lot will continue to serve the softball complex and trail.

General Compatibility:
The park is compatible with adjacent uses since it is an existing park and the softball complex has operated in its current location for more the 50 years.

Sincerely,

City of Fayetteville
Byron Humphry
Park Operations Director



LEGEND (EXISTING)

SYMBOLS	LINEWORK
FOUND IRON PIN	ROAD CENTERLINE
LIGHT POLE	CURB
	RIGHT OF WAY

LEGEND (PROPOSED)

SYMBOLS	LINEWORK
SET IRON PIN	EASEMENT
LIGHT POLE	CURB
	CHAIN LINK FENCE
	WOOD FENCE
	BARBED WIRE FENCE
	BUILDING SET BACK
	RIGHT OF WAY
	PROPERTY LINE
	PROPOSED NET

PAVING LEGEND

- REGULAR DUTY CONCRETE PAVEMENT
- HEAVY DUTY CONCRETE PAVEMENT
- SIDEWALK
- SIDEWALK OVERLAY

SITE NOTES

1. THE DESIGN, INSPECTION, AND CERTIFICATION OF ANY RETAINING WALL SHOWN OR REFERENCED HEREIN, INCLUDING BUT NOT LIMITED TO, SEGMENTAL RETAINING WALLS, MASS GRAVITY WALLS, GABION WALLS, ETC., GREATER THAN FORTY-EIGHT INCHES IN HEIGHT, SHALL BE BY OTHERS. ANY RETAINING WALL DATA SHOWN OR REFERENCED HEREIN SHALL BE FOR COORDINATION OF THE WALL LOCATION AND ELEVATIONS ONLY.
2. ALL WORK AND MATERIALS SHALL COMPLY WITH ALL CITY/COUNTY/STATE/FEDERAL REGULATIONS AND CODES AND OSHA STANDARDS.
3. CONTRACTOR SHALL REFER TO ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF VESTIBULES, SLOPE PAVING, SIDEWALKS, EXIT PORCHES, TRUCK DOCKS, PRECISE BUILDING DIMENSIONS AND EXACT UTILITY ENTRANCE LOCATIONS.
4. ALL DIMENSIONS AND RADII ARE TO BACK OF CURB UNLESS OTHERWISE NOTED.
5. ALL WORK SHALL BE DONE IN STRICT ACCORDANCE WITH THE PROJECT SPECIFICATIONS.
6. ALL CURB/SIDEWALK/HANDICAP RAMP DESIGNS SHALL CONFORM TO ADA STANDARDS OR LOCAL RESTRICTIVE CODES, WHICHEVER IS MORE RESTRICTIVE.
7. CONTRACTOR SHALL ENSURE ALL NECESSARY PERMITS ARE OBTAINED PRIOR TO CONSTRUCTION START.
8. CONTRACTOR SHALL MATCH PROPOSED CURB AND GUTTER, CONCRETE, AND PAVEMENT TO EXISTING IN GRADE AND ALIGNMENT.
9. CONTRACTOR SHALL MAINTAIN ALL EXISTING PARKING, SIDEWALKS, DRIVES, ETC. CLEAR AND FREE FROM ANY CONSTRUCTION ACTIVITY AND/OR MATERIAL TO ENSURE EASY AND SAFE PEDESTRIAN AND VEHICULAR TRAFFIC TO AND FROM THE SITE.
10. INSTALL LIGHTING IN ACCORDANCE WITH MANUFACTURER'S STANDARDS TO MEET ALL STRUCTURAL LOADING REQUIREMENTS.
11. CONTRACTOR TO PERFORM NIGHT TIME ILLUMINATION TEST WITH OWNER AND MAKE RECOMMENDED ADJUSTMENTS. REPLACE ANY BURNT OUT OR DAMAGED LAMPS.
12. REUSE ALL EXISTING EGRESS/SAFETY LIGHTING TO MAINTAIN SIMILAR LIGHTING CONDITIONS.
13. PROPOSED PEDESTRIAN GATES TO BE 4' SINGLE LEAF.
14. PROPOSED VEHICLE ACCESS GATES TO BE TWIN LEAF 6' GATES (12' TOTAL WIDTH) UNLESS OTHERWISE NOTED.
15. SIDEWALK RADII ARE 5' UNLESS OTHERWISE NOTED.
16. SIDEWALK DIMENSIONS ARE 5' UNLESS OTHERWISE NOTED.
17. DISTURBED AREAS SHALL BE SODDED WITH TIFFWAY 419 BERMUDA SOD THAT IS CLEAN AND WEED-FREE. SOD WITHIN PLAYING FIELDS SHOULD BE CERTIFIED WEED-FREE TIFFWAY 419 BERMUDA SOD. AREAS TO BE SODDED SHALL BE TOPSOILED, FINE-GRADED, AND RAKED OF ALL DEBRIS LARGER THAN ONE (1) INCH IN DIAMETER PRIOR TO SOD INSTALLATION. SOD SHALL BE ROLLED AND WATERED IMMEDIATELY AFTER INSTALLATION.
18. CONTRACTOR IS RESPONSIBLE FOR DAMAGE TO THE EXISTING IRRIGATION SYSTEM AND SHALL IMMEDIATELY REPAIR OR REPLACE IN-KIND ANY IRRIGATION LINE, HEAD, OR OTHER COMPONENT THAT IS DAMAGED DURING CONSTRUCTION.
19. REMOVE EXISTING CONCRETE PANELS. CONTRACTOR TO EXCAVATE TREE ROOTS AND NOTIFY OWNER. OWNER APPROVAL IS REQUIRED BEFORE CONTRACTOR PERFORMS ROOT PRUNING. PANELS TO BE REPLACED TO A 7' WIDTH, MEASURED FROM BUILDING FACE. EXISTING TIMBERS AT SIDEWALK EDGE TO BE REMOVED AND REPLACED AT NEW SIDEWALK EDGE.

GRAPHIC SCALE IN FEET
40' 0 40'

LAKE FAYETTEVILLE SOFTBALL COMPLEX
FAYETTEVILLE, AR

Key Plan

No.	Description	Date

300 N College Ave., Suite 317
Fayetteville, Arkansas 72701
Crafton Tull
architecture | engineering | surveying
479.636.4838 t

CERTIFICATE OF AUTHORIZATION
CRAFTON, TULL & ASSOCIATES, INC.
No. 109

This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the property of Crafton, Tull & Associates, Inc., and is not to be used, in whole or in part, for any other project without the written authorization of Crafton, Tull & Associates, Inc.

PROJECT NO: 221180
ISSUE DATE: 5/15/23
CONTACT: T. JOST
REVISIONS: 4/17/2023
2ND DATE: 4/7/23

ISSUED FOR CONSTRUCTION

STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
No. 18699
LUCAS K. KOST
05/26/2023

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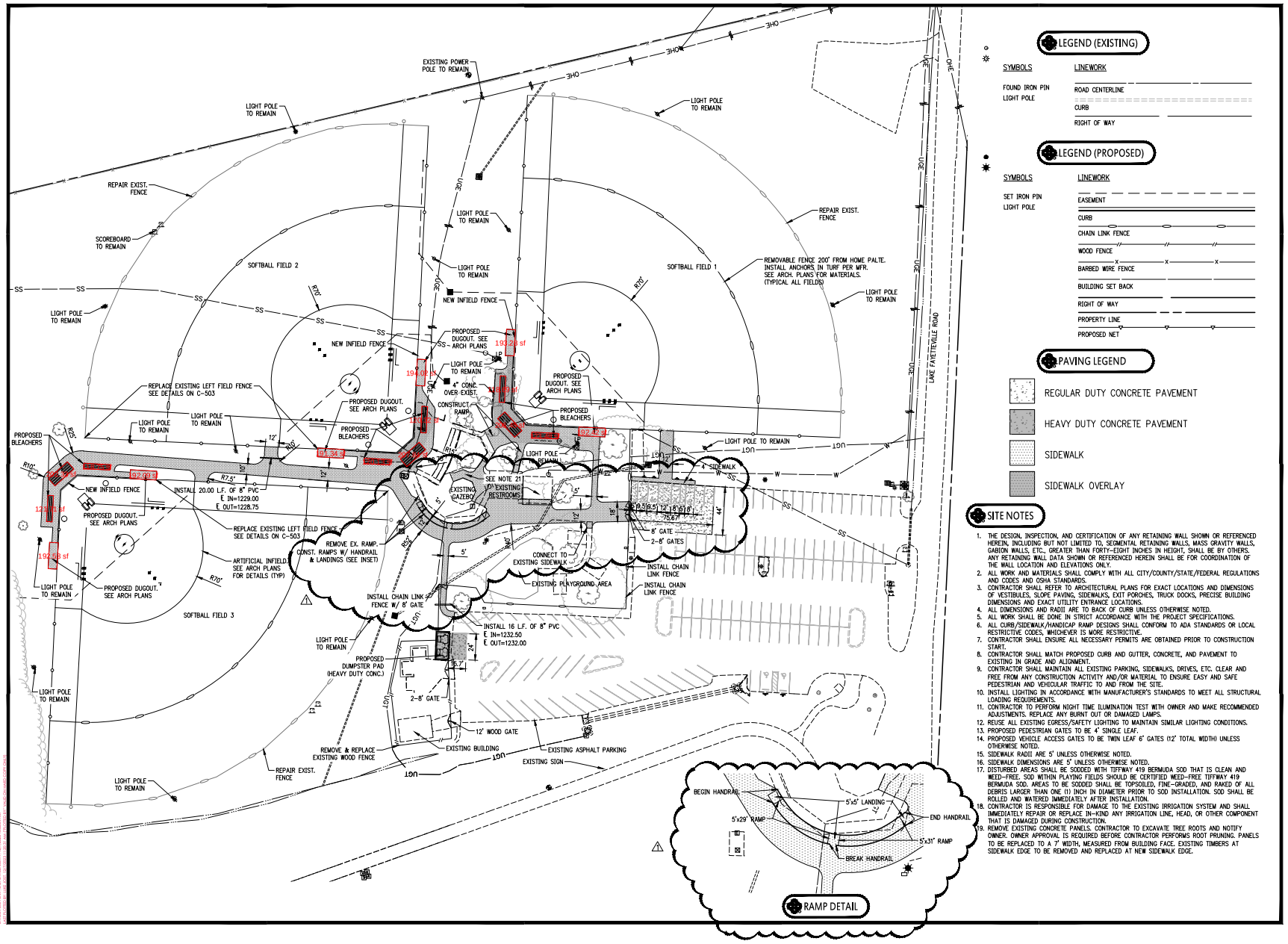
SITE PLAN

C-101



300 N College Ave., Suite 317
Fayetteville, Arkansas 72701
Crafton Tull
architecture | engineering | surveying
479.636.4838 t

CERTIFICATE OF AUTHORIZATION

CRAFTON, TULL & ASSOCIATES INC. No. 109

GRAPHIC SCALE IN FEET
40' 0 40'

LAKE FAYETTEVILLE SOFTBALL COMPLEX
FAYETTEVILLE, AR

Key Plan

No.	Description	Date
1	ADA ADJUSTMENT	12/5/2023

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PROJECT NO: 221118.00
ISSUE DATE: 9/6/23
CONTACT: L. JOST
REVISIONS: 12/5/2023
2C DATE: 4/7/23

ISSUED FOR CONSTRUCTION

STATE OF ARKANSAS REGISTERED PROFESSIONAL ENGINEER No. 18699 LUCAS K. JOST

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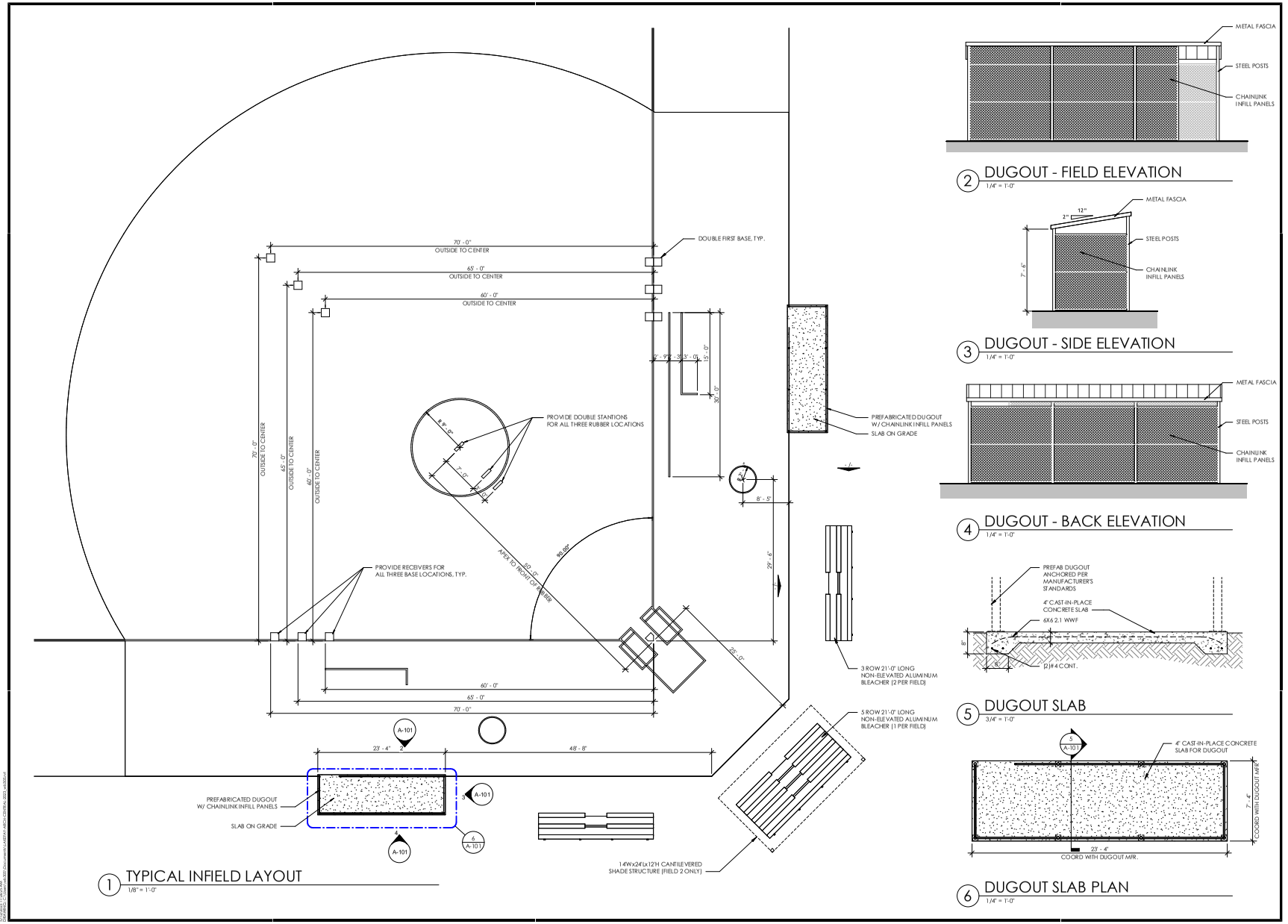
12/08/2023

SITE PLAN

C-101 R-1



1450 E. Zion Road, Suite 9
Fayetteville, Arkansas 72703
Crafton Tull
architecture | engineering | surveying
479.455.2207 t 479.631.6224 f
www.craftontull.com

LAKE FAYETTEVILLE SOFTBALL

1330 E. Lake Fayetteville Rd
Fayetteville, AR

Key Plan

No.	Description	Date

This document, and the ideas and designs incorporated herein, as an instrument of professional service, is the property of Crafton, Tull & Associates, Inc., and is not to be used, in whole or in part, for any other project, without the written authorization of Crafton, Tull & Associates, Inc.

PROJECT NO: 2011 1800
ISSUE DATE: 05/15/23
CONTACT: L. JOST
QC BY:
QC DATE:

CONSTRUCTION DOCUMENTS

© 2023 Crafton, Tull & Associates, Inc.

CRAFTON TULL & ASSOCIATES, INC. REGISTERED ARCHITECTS ARKANSAS
5/15/23

TYPICAL INFIELD & DETAILS

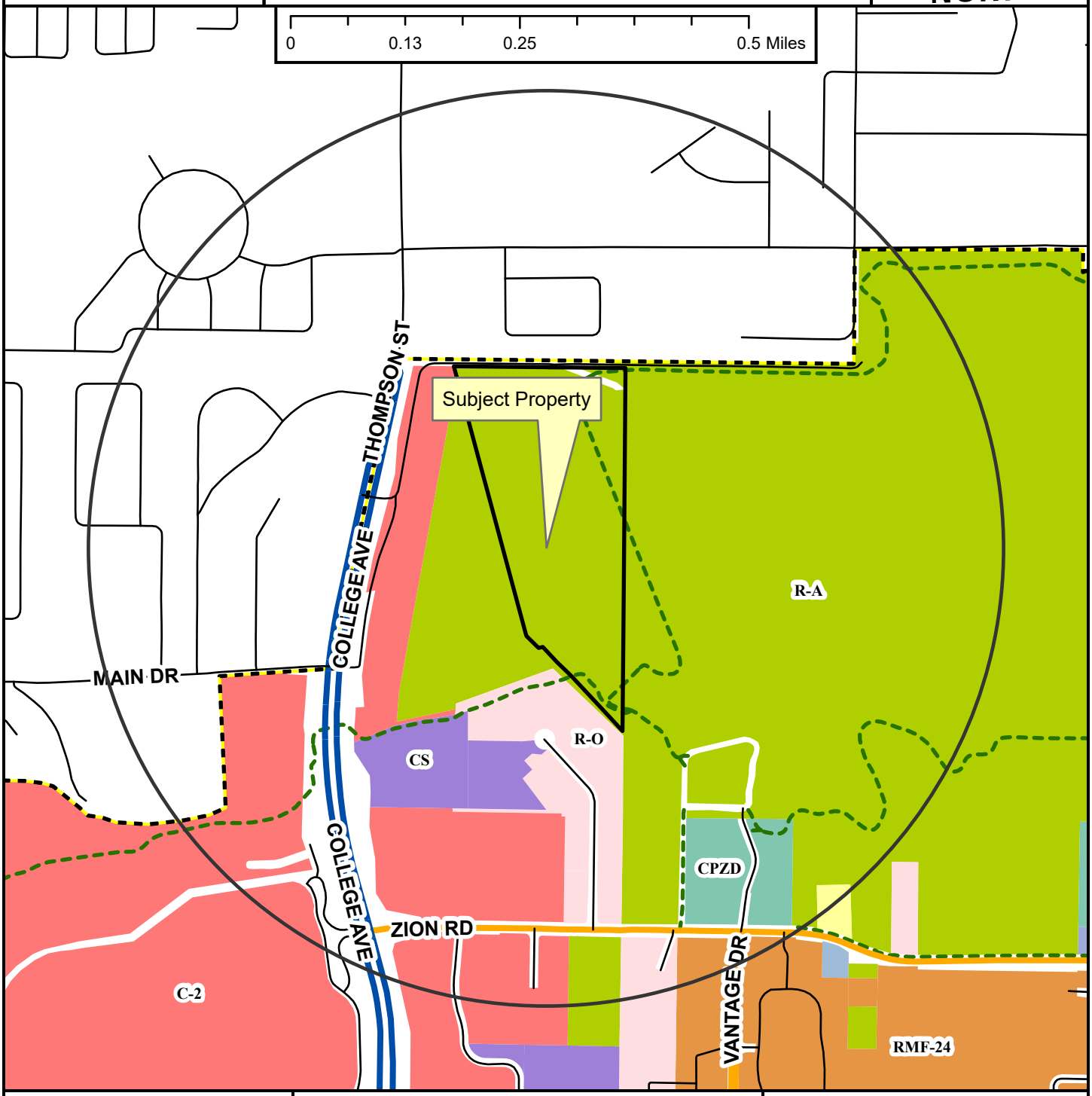
A-101

CUP-2023-0194

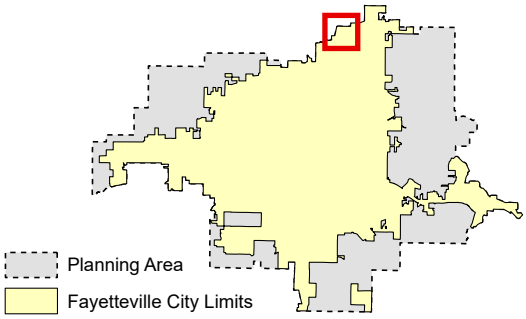
One Mile View

1153 E. LAKE FAYETTEVILLE RD

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

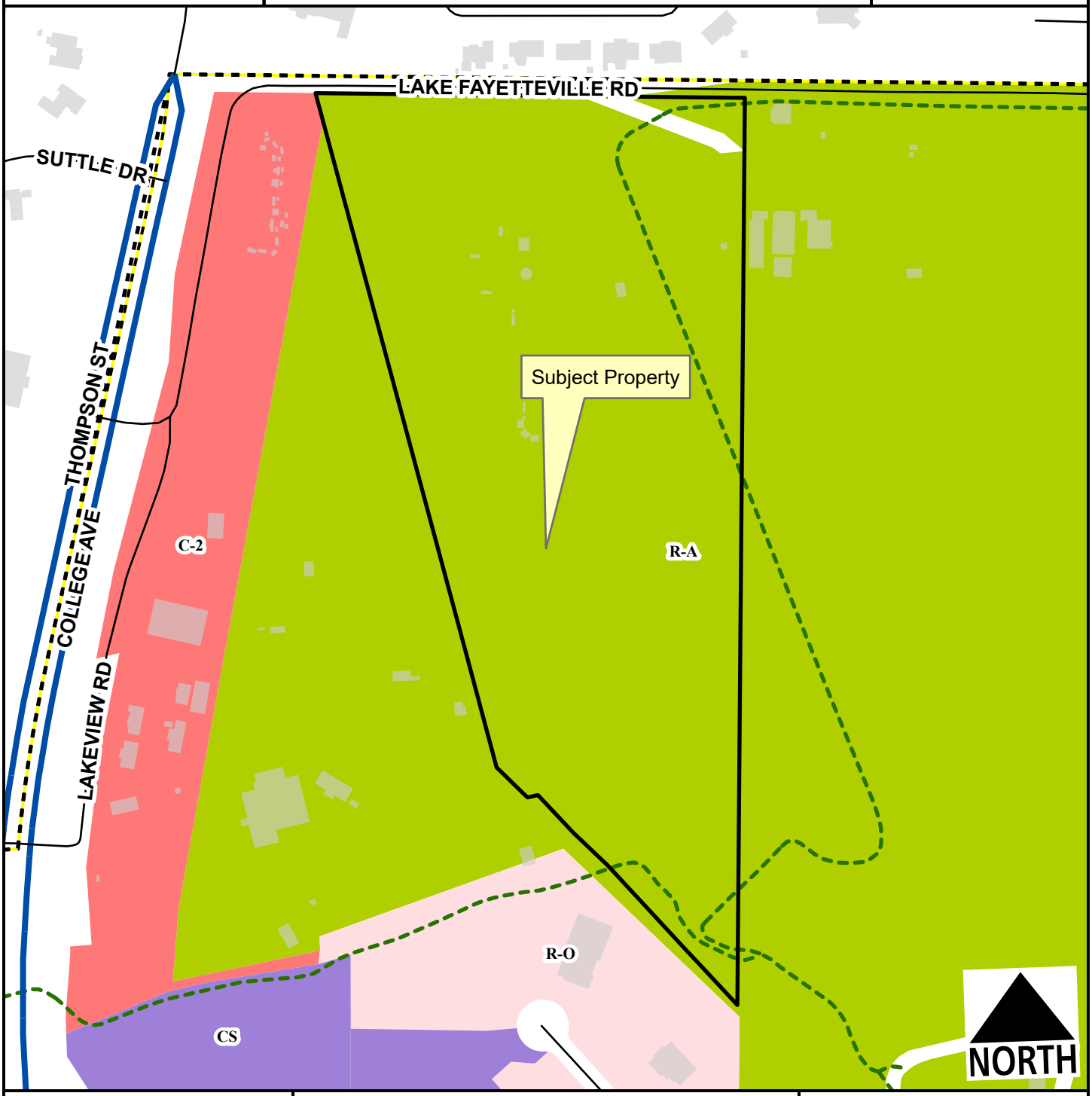
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0194

Close Up View

1153 E. LAKE FAYETTEVILLE RD



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

Feet
0 125 250 500 750 1,000
1:4,000

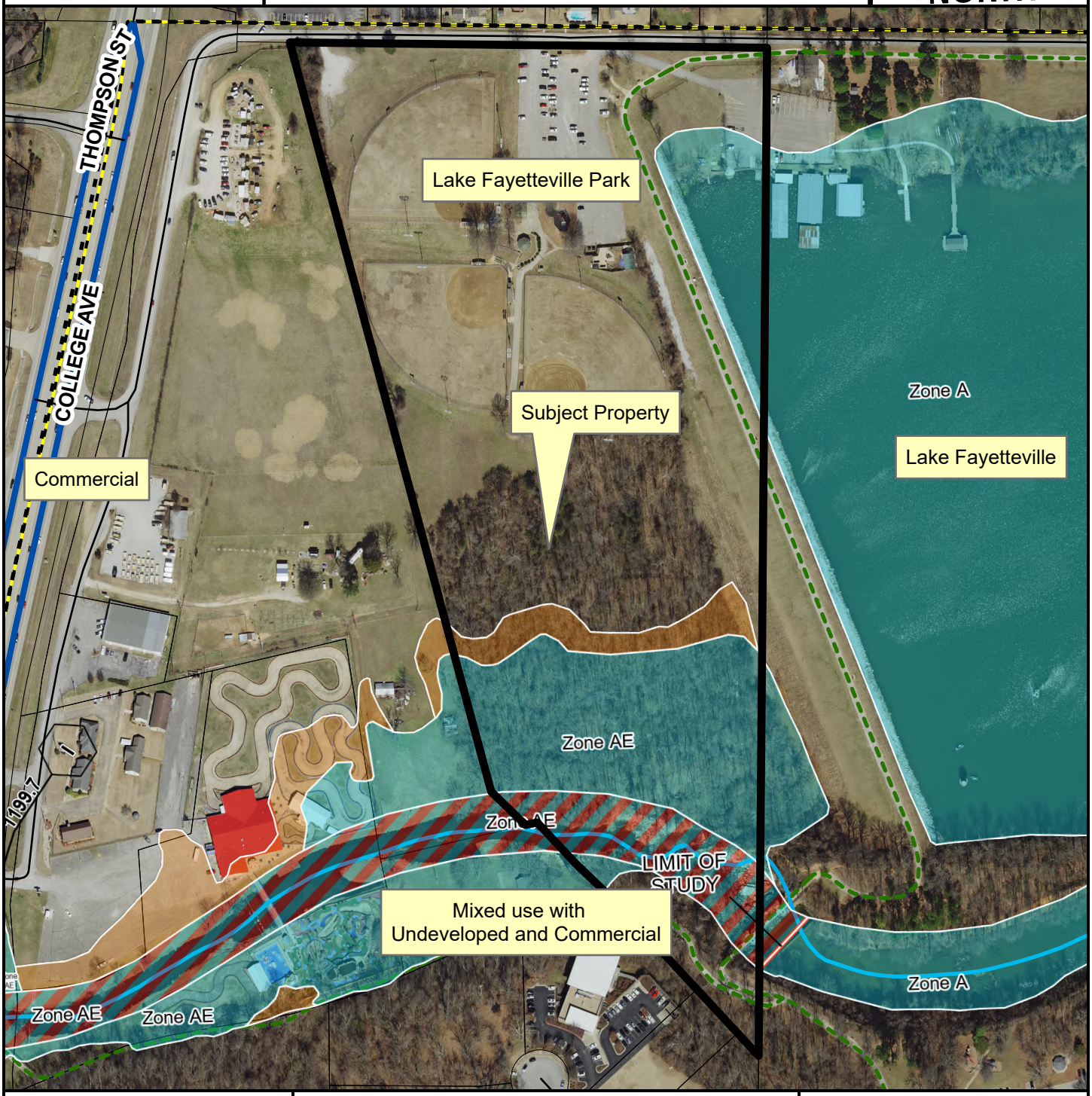
Residential-Agricultural
Residential-Office
C-2
Community Services

CUP-2023-0194

Current Land Use

1153 E. LAKE FAYETTEVILLE RD

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

MITO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **RZN-2023-0035: Rezoning (NW OF N. SHILOH DR. AND W. CHICORY PL./SPRINGWOODS INVESTMENTS LLC, 248):** Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located on W. CHICORY PL. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.44 acres. The request is to rezone the property to UT, URBAN THOROUGHFARE.

RECOMMENDATION:
Staff recommend forwarding **RZN-2023-0035** to City Council with a recommendation of approval.

RECOMMENDED MOTION:
*"I move to forward **RZN-2023-0014** to City Council with a recommendation of approval."*

BACKGROUND:
The subject property is in north Fayetteville, just west of I-49 and approximately 0.33 miles south of the intersection of N. Shiloh Dr. and N. Hwy 112. It is south of the Wilson Springs Preserve. The property received its current zoning in 2003, when it was rezoned to Springwoods CPZD (Ord. 4523, October 21, 2003) from I-1 – Heavy Commercial/Light Industrial. Specifically, the subject property was platted as lot #10 of area #1 (Audubon Society) in the Springwoods CPZD, which is now outdated, having expired in 2006. The property is currently undeveloped. The Shiloh Trail runs along the property's southeastern side. It is included in the Enduring Green Network and the I-540 Overlay District. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Wilson Springs Preserve	Springwoods CPZD
South	Commercial/Interstate	Springwoods CPZD
East	Interstate	Arkansas DOT
West	Commercial/Wilson Springs Preserve	Springwoods CPZD

Request: The request is to rezone the 2.44-acre property to UT, Urban Thoroughfare. This request is associated with a development proposal for a mixed-use mini-storage and office building. A conditional use permit for UU-38 Mini-storage units has been submitted simultaneously (CUP-2023-0175) with this application.

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

INFRASTRUCTURE:

Streets: The subject area has frontage along N. Shiloh Dr., which is a fully improved Neighborhood Link Street with asphalt paving, curb and gutter, and the Shiloh Trail along its eastern side. The subject area also has frontage along W. Chicory Pl. which is a fully improved Residential Link Street with asphalt paving, curb and gutter, 6-foot greenspace, and 6-foot sidewalks. Any street improvements will be determined at the time of development proposal.

Water: Public water is available to the subject area. An existing 12-inch water main is present on the west side of N. Shiloh Dr. An existing 8-inch water main is present on the south side of W. Chicory Pl.

Sewer: Sanitary sewer is available to the subject area. An existing 8-inch sewer main is present on the southwest corner of the subject property.

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District, or within a FEMA floodplain. However, the property is largely encumbered by hydric soils. Hydric soils are known indicators of wetlands, though for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric soil can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits are issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal.

Any additional improvements or requirements for drainage will be determined at the time of development.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. There is an existing fire hydrant at the northeast of the site. Station 8, located at 2266 W. Deane St., protects this site. The property is located approximately 1.5 miles from the fire station with an anticipated drive time of approximately 3 minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

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

Tree Preservation:

The current zoning district of CPZD, Commercial Planned Zoning District requires **25% minimum canopy preservation**. The proposed zoning district of UT, Urban Thoroughfare requires **15% minimum canopy preservation.**

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

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

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates an infill score of **6-7** for this site, with a weighted score of 8. The following elements of the matrix contribute to the score, at varying points:

- Near Sewer Main (W. Chicory Pl.)
- Near Water Main (N. Shiloh Dr. and W. Chicory Pl.)
- Near Paved Trail (Shiloh Trail)
- Near Grocery Store (Sam's Club)
- Near Razorback Bud Stop (this stop is across I-49, and is not reasonably accessible from the site)
- Appropriate Future Land Use (City Neighborhood)

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 that the proposed zoning is compatible with existing land uses. The Springwoods CPZD set aside the subject property for the Audubon Society to develop an environmental education center and permits only Use Unit 4. The subject property borders the Wilson Springs Preserve but does not abut public access points or trails. A large optometrist's office is located southwest of the subject property along N. Shiloh Drive. Further south along N. Shiloh Drive, are several automotive sales and service businesses. North along N. Shiloh Drive, the Sam's Club property offers large retail, a gas station, and a liquor store.

Staff also finds the proposed zoning to be compatible overall with uses permitted in the larger CPZD area and in alignment with the spirit and intent of the CPZD. For example, rezoning to UT would permit by-right residential development ranging from single to multifamily dwellings. Although these uses weren't originally permitted on the subject property, single and multi-family dwellings were permitted in other areas of the Springwoods CPZD. Commercial uses are also permitted under both the existing and proposed zoning districts.

Zoning regulations for each lot in the CPZD were to be determined during large-scale development review or subdivision approval. Requirements for the CPZD appear to have expired so rezoning is necessary.

Land Use Plan Analysis: **Staff finds that the proposal is largely in line with the goals in City Plan 2040 and adopted land use policies. The infill score for this site is moderate, which appears to somewhat align with the City's stated goal towards making infill development a priority. The area is designated as a City Neighborhood Area. This designation supports a wide spectrum of uses, which are permitted in the UT, Urban Thoroughfare district.**

The applicant has also submitted a conditional use permit application (CUP-2023-0175) for use unit 38: mini-storage units in the UT, Urban Thoroughfare zoning district. Support of this rezoning does not reflect approval or support of the applicant's proposed use. The conditional use permit will be evaluated separately, provided the City Council approves this rezoning.

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

Finding: **Staff finds that the proposed rezoning to UT, Urban Thoroughfare is justified. A rezoning of this nature, scale, and intensity aligns with City Plan 2040's designation of the site's future land use as a high density, mixed-use City Neighborhood area. Further, the subject property's current zoning designation as part of the Springwoods CPZD is outdated, having been originally approved in 2003, but not following the projected phasing plan. As a condition of approval of the CPZD, it was outlined that zoning regulations such as setbacks, height, and building area would be determined at the time of large-scale development or subdivision of the property, but this tract has never been developed and restrictive covenants and zoning regulations were never created. The CPZD expired in 2006. Any future development on this site would require rezoning first to establish zoning regulations.**

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

Finding: **The proposed zoning may increase traffic, particularly along N. Shiloh Dr. With the addition of potential high-density residential use (although not currently proposed), traffic along N. Shiloh Dr. could increase significantly. However, there are alternative transportation options such as pedestrian and bike access via the Shiloh Trail. That said, with the addition of potential walkable services in the area through the UT zoning request, staff finds that this somewhat alleviates this concern. However, staff recognizes that the relatively small size of the property, at 2.44 acres, would provide some limits on residential density and potential traffic impacts.**

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

Finding: **Rezoning the property from its current zoning designation may alter the potential population density in the area. Initial Engineering Division review indicates that utility extensions or upgrades are likely not required, but any modification to utility provision would be evaluated at the time of a development proposal. No comments were received from the Fayetteville Public School district.**

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-2023-0035 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: January 8, 2024	**❒ Tabled**	**❒ Forwarded**	**❒ Denied**
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None
ATTACHMENTS:

- Unified Development Code:
    - §161.24 Urban Thoroughfare
    - §161.35 Planned Zoning District
- Springwoods CPZD Ordinance
- Springwoods CPZD Plans
- Request Letter
- Applicant Exhibit
- Close Up Map
- One Mile Map
- Current Land Use Map
- Future Land Use Map

161.24 Urban Thoroughfare

(A) *Purpose.* The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses*.

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 40	Sidewalk cafes
Unit 41	Accessory Dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 38	Mini-storage units
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family dwelling	18 feet
All other dwellings	None
Non-residential	None

(2) *Lot area minimum.* None

(E) *Setback regulations.*

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

(F) *Building Height Regulations*.

Building Height Maximum	5 stories/7 stories*

* A building or a portion of a building that is located between 10 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of seven (7) 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 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) *Minimum buildable street frontage.* 50% of the lot width.

(Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7, 8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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

161.35 Planned Zoning District

(A) *Applicability.* To be considered for a Planned Zoning District, the applicant shall meet all of the following criteria:

(1) *Location.* Any property located within the city limits is eligible for a Planned Zoning District. Upon City Council approval, an owner or developer of a specific piece of property located within the City's designated planning area may be authorized to submit a Planned Zoning District application in conjunction with an annexation request, but final approval of the PZD will not be effective until said property is annexed into the City of Fayetteville.

(2) *Size.* There shall be no minimum or maximum tract size for a PZD application.

(B) *Purpose.* The intent of the Planned Zoning District is to permit and encourage comprehensively planned zoning and development whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the concurrent processing of zoning and development. The City Council may consider any of the following factors in review of a Planned Zoning District application.

(1) *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) *Compatibility.* Providing for compatibility with the surrounding land uses.

(3) *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) *No Negative Impact.* Does not have a negative effect upon the future development of the area;

(6) *Coordination.* Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) *Open Space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) *Natural Features.* Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) *Future Land Use Plan.* Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the Future Land Use Plan.

(10) *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.

(11) *Recognized Zoning Consideration.* Whether any other recognized zoning consideration would be violated in this PZD.

(C) *Rezoning.* Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 154, Amendments.

(1) Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and zoning standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of zoning standards and a specific master plan.

(2) All uses identified within §162 Use Units of the Unified Development Code may be allowed as permissible uses or conditional uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Residential Density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;
(b) The densities allowed under the current zoning;
(c) The urban development goals and other policies of the city's Future Land Use Plan;

(d) The topography and character of the natural environment; and
(e) The impact of a given density on the specific site and adjacent properties.

(4) Building Setback. There shall be no minimum building setback except as may be determined by the Planning Commission and City Council during review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. Greater setbacks may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate separation from adjacent properties.

(5) *Building Height.* There shall be no maximum building height except as may be determined by the Planning Commission and City Council during the review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

(6) *Building Area.* The Planning Commission and City Council shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

(Ord. No. 4434, §1 (Ex. A), 11-19-02; Ord. No. 4717, 7-5-05; Ord. No. 4764, 09-20-05; Ord. No. 4783, 10-18-05; Ord. No. 5312, 4-20-10; Ord. No. 5675, 4-1-14; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5945 , §§5, 7, 1-17-17)

ORDINANCE NO. 4523

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED SPRINGWOODS (C-PZD 03-08.00) LOCATED SOUTH OF HWY. 112 AND WEST OF I-540, CONTAINING 289.28 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED COMMERCIAL DEVELOPMENT PROJECT AS APPROVED BY THE PLANNING COMMISSION

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

Section 1. That the zone classification of the following described property is hereby changed as follows:

From I-1, Heavy Commercial/Light Industrial to C-PZD 03-08.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan and development standards as shown on the preliminary plat for springwoods and approved by the Planning Commission on October 13, 2003.

Section 3. That this ordinance shall not take affect and be in full force until approval of the final plat for the subdivision.

Section 4. That all conditions of approval of the subdivision as approved by the Planning Commission shall be satisfied prior to the issuance of a final plat.

Section 5. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and **APPROVED** this the 21st day of October, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

CITY OF FAYETTEVILLE WASHINGTON CO. ARK.

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
C-PZD 03-08.00

A PART OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NW CORNER OF SAID SECTION 33, THENCE SOUTH 87°19'24"EAST-2637.40 FEET TO THE NE CORNER OF THE NE ¼ OF THE NW ¼ OF SAID SECTION 33; THENCE SOUTH 87°14'56" EAST – 247.50 FEET; THENCE SOUTH 2°26'17" WEST-1030.76 FEET; THENCE SOUTH 87°17'25" EAST – 1100.15 FEET TO THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 BYPASS; THENCE ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING BEARINGS AND DISTANCES, SOUTH 26°01'09" WEST – 74.14 FEET; THENCE SOUTH 74°59'16" WEST – 100.11 FEET; THENCE SOUTH 75°15'02" WEST – 117.54 FEET; THENCE SOUTH 66°53'26" WEST – 127.62 FEET; THENCE SOUTH 50°13'36" WEST – 191.34 FEET; THENCE SOUTH 31°34'48" WEST – 190.36 FEET; THENCE SOUTH 16°24'53" WEST - 126.58 FEET; THENCE SOUTH 4°16'48" WEST - 188.26 FEET; THENCE SOUTH 16°36'56" EAST – 57.67 FEET; THENCE SOUTH 12°48'23" EAST 100.11 FEET; THENCE SOUTH 5°19'10" EAST – 280.77 FEET; THENCE SOUTH 7°15'05"WEST 170.41 FEET; THENCE SOUTH 27°10'09" WEST – 171.37 FEET; THENCE SOUTH 34° 22'25" WEST 949.12 FEET; THENCE SOUTH 38°27'59" WEST – 150.76 FEET; THENCE SOUTH 34°22'18" WEST – 922.60 FEET; THENCE LEAVING THE WEST RIGHT OF WAY OF HIGHWAY 71 BY PASS NORTH 87°11'53" WEST – 631.86 FEET; THENCE SOUTH 2°25'44" WEST – 329.87 FEET; THENCE NORTH 87°21'18" WEST – 660.00 FEET; THENCE NORTH 2°25'44" EAST 330.00 FEET; THENCE NORTH 87°21'18" WEST – 660.23 FEET; THENCE NORTH 2°28'11" EAST – 2480.65 FEET; THENCE NORTH 87°19'24" WEST – 330.00 FEET; THENCE NORTH 2°28'11" EAST—1816.06 FEET TO THE POINT OF BEGINNING, CONTAINING 289.28 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of October 13, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Associate Planner REVISED FOR CITY CANAL JP
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	October 08, 2003

Project: C-PZD 03-08.00: Planned Zoning District (springwoods, pp 248) was submitted by Joe Tarvin, P.E. of EGIS Engineering, Inc. on behalf of Collins Haynes for property located on the southwest side of I-540 and Arkansas Highway 112. The property is zoned I-1, Heavy Commercial/Light Industrial, in the Design Overlay District and contains approximately 289.26 acres. The request is to rezone the property to a Planned Zoning District to allow for development of Residential and Commercial sites.

Findings: The 289-acre subject property is being reviewed as a proposal for a Commercial Planned Zoning District. The applicant requests a rezoning and preliminary plat approval for a large lot subdivision within the Design Overlay District. The rezoning request, in conjunction with a development proposal, requires Planning Commission consideration and City Council approval pursuant to the requirements for a PZD. The proposed nine (9) lots have been assigned Use Units and/or specific uses that are legally binding to each lot. Each of the larger lots will require further review in the form of a preliminary and final plat and/or large scale development review. More detailed comments regarding vehicular and pedestrian circulation, street improvements, buffers and screening, commercial design standards, and other typical review items will be provided with the future submittals for each of these lots.

Numerous environmental concerns have been raised with the history of this particular site. The developer of the springwoods subdivision has indicated that the Audubon Society has particular interest in utilizing and preserving Lot #8, comprising approximately 124 acres, or 43% of the entire site. This particular lot is required to be preserved (or enhanced) in large part in its natural state, thereby retaining the wetlands, tree canopy, and grasslands currently existing. Any future development on this lot, as with the others, through Audubon or any other entity, is bound to these restrictions and must be reviewed for Code compliance through the City of Fayetteville.

Proposed Use Units:

(D) *C-PZD, Commercial Planned Zoning District*

Lot No.	Land Use	Use Units	Density	Acreage
1	Commercial	12,13,14,15,16,17,25	n/a	47.73
2	Multi-Family	26	18 DU/AC	26.36
3	Single Family	8	2 DU/AC	25.53
4	Multi Family	26	4 DU/AC	10.70
5	Single Family	8	2 DU/AC	32.28
6	Commercial	12,13,14,15,16,17,25	n/a	18.04
7	Commercial	12,13,14,15,16,17,25	n/a	5.17
8	Preservation Area	1*	n/a	123.45
9	Lift Station	3**	n/a	0.02

*Lot 8 (Audubon) Uses shall be further restricted as described in proposed uses of the" Wilson Spring Site" as stated by Audubon.

**Lot 9 to be retained by the City of Fayetteville for the existing lift station. Necessary utility and access easements shall be provided to this lot with the Final Plat.

(A) *Unit 1. City-wide uses by right.*

(1) *Description.* Unit 1 consists of public uses, essential services, agricultural uses, open land uses, and similar uses which are subject to other public controls or which do not have significantly adverse effects on other permitted uses and are, therefore, permitted as uses of right in all districts.

(2) *Included uses.* Public facilities of the types embraced within the recommendations of the General Plan.

Agricultural, forestry, and fishery:	•Field crop farms •Fishery •Forest •Fruit, tree, and vegetable farm
Essential services located in public right-of-way:	•Fire alarm box •Fire hydrant •Passenger stop for bus •Police alarm box •Sidewalk •Street, highway, and other thoroughfare •Street signs, traffic signs, and signals •Utility mainline, local transformer and station, and similar facilities customarily located in public right-of-way
Recreation and related use:	•Arboretum

	•Historical marker •Park area •Parkway •Wildlife preserve
Water facilities:	•Reservoir, open •Watershed •Conservation or flood control project

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Vacant pasture	R-A, Residential Agricultural
South	Single family homes, horse farm, commercial lots	R-A, Residential Agricultural C-2, Thoroughfare Commercial
East	I-540, Landers Autopark	C-2, Thoroughfare Commercial
West	Single family lots, agricultural land	RSF-4, Res. Single Family, 4 DU/acre RMF-24, Res. Multifamily 24 DU/acre Planning Area

Right-of-way being dedicated:

- Deane Solomon, Collector: 70 feet total, 35 feet from centerline
- Shiloh Drive, Collector: 35 feet from centerline
- Moore Lane, Local: 25 feet from centerline
- Truckers Dr/Gypsum Dr, Collector: To be considered for a Master Street Plan Amendment by City Council as indicated
- Technology Blvd, Collector: To be considered for a Master Street Plan Amendment by City Council as indicated

Requests for Master Street Plan amendments will be considered as individual items on the agenda for City Council

Street Improvements: No street improvements are proposed with the C-PZD and associated Preliminary Plat under review. Staff has made preliminary recommendations for street improvements to coincide with the development of each of the lots.

Tree Preservation:
It is the Landscape Administrator's understanding that most of the trees throughout the site will be preserved, and that as development occurs individual Tree Preservation Plans will be submitted for each large scale and residential subdivision.

Background:
The subject property was purchased by the City of Fayetteville in 1988. In the years following, water and sewer lines, a lift station and fiber optic cable were installed, in anticipation of a high-technology development site, which never occurred.

The site contains a number of environmentally sensitive areas, including delineated wetlands,

grasslands, stream corridors and associated floodplain, and habitat for the Arkansas Darter and numerous other wildlife species. These factors have presented both a challenge and an ecological asset to the development potential of the site.

A total of 165 acres of the property is proposed to be developed in mixed-use residential and commercial uses, with the remaining 124 acres (43%) to be set aside permanently for greenspace. The Audubon Society has expressed interest in the conservation of this property and its significant wildlife habitat for the past two years, as potential for an environmental education center for northwest Arkansas (see attached).

Responses from adjoining property owners all reflect "no objection" to the project as described, with one exception, which states "not enough commercial development."

The proposed C-PZD was heard at Technical Plat Review on August 27, 2003 and at Subdivision Committee on October 02, 2003. Discussion at the Subdivision Committee meeting included: traffic circulation and connectivity, proposed use and compatibility, buffering and screening, and wildlife interface with residential uses.

Recommendation:
Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed development subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district C-PZD 03-8.00 with all conditions of approval as determined by the Planning Commission.

2. An ordinance creating this C-PZD shall be approved by City Council.

3. A Final Plat is required to legalize the lot configuration and allow for the sale and/or development review of lots.

4. Requests for Master Street Plan amendments to Truckers Lane and Technology Blvd. require Planning Commission recommendation and City Council approval prior to final approval of the C-PZD. *Staff is in favor of these amendments.*

5. On- and off-site street improvements shall be coordinated with lot development. Staff has provided preliminary recommendations with Technical Plat Review comments, which remain applicable.

6. Each respective lot designated in the C-PZD shall be reviewed by Preliminary Plat and/or Large Scale Development in accordance with City Code for future development,

requiring Planning Commission approval.

7. Covenants to be filed with the final plat creating the springwoods subdivision shall address the uses and restrictions associated with these lots.

8. Draft covenants shall be further refined to include information required by §166.06 and to address residential as well as commercial development standards at the time of final plat. Draft covenants for the springwoods C-PZD zoning district shall address the overall master plan and shall be filed with the final plat creating this 9 lot subdivision.

9. Setbacks, Height, and Building Area shall be determined and approved by the Fayetteville Planning Commission at the time of large scale development and/or subdivision approval. These standards shall apply to all lots and development within the individual tracts as shown on this plat.

10. All requirements as stated within Chapter 166 Development of the Unified Development Code shall apply to all future large scale developments and/or subdivisions within the springwoods C-PZD zoning district.

11. Flexibility provided within the PZD guidelines shall be applied to each development tract (large scale development and/or subdivision) as determined appropriate by the Planning Commission to allow alternative methods of design where it is consistent with the objectives of the springwoods C-PZD zoning district.

Standard Conditions of Approval:

12. All utilities shall be placed underground. Any existing overhead electric lines under 12 kv shall be relocated underground at the developer's expense.

13. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

14. 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.

15. Tree Preservation Plans shall be required with the development of each individual lot.

16. Parks fees shall be assessed with the development of each individual residential lot. Coordination with Parks staff will be necessary to determine appropriate trail connections, corridors, and parkland dedication.

17. Sidewalk construction in accordance with current standards shall be required with the

development of each individual lot.

18. No construction will be authorized without a floodplain development permit where required.

PLANNING COMMISSION ACTION: **__yes__Required**
_____Approved _____Denied

Date: October 13, 2003

Comments:

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

By

Title

Date

Findings associated with R-PZD 03-4.00

Sec. 166.06. Planned Zoning Districts (PZD).

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposal includes residential development and commercial development

that provide compatible uses with surrounding development. The General Plan 2020 designates the surrounding area as Multi-Use, Residential and Regional Commercial, which are compatible uses with those proposed. The Master Development Plan proposal sets aside 124 acres, 43% of the total 289 acres for permanent conservation to preserve the unique natural amenities of wetlands, wildlife habitat, grasslands and tree canopy. The proposed Audubon lot will provide a buffer along Clabber Creek and the tributary which run through the site from erosion and siltation. All lots are required to submit large scale development plans and/or preliminary plats for future development, providing a venue for more detailed review of pedestrian and vehicular circulation, screening, parking and landscaping requirements. All proposals will be required to comply with City ordinances, along with the covenants as proposed and filed of record for this PZD.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: A detailed landscaping and screening plan, where appropriate, will be required with each development plan submitted, in accordance with current City Ordinances.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Internal street circulation systems are to be designed to safely and adequately carry traffic into and out of the proposed planned zoning district, as well as be sensitive to safety, convenience, separation of vehicular and pedestrian traffic and proper relationship of different land uses. Truckers Drive, a proposed Master Street Plan Collector, is proposed to be eliminated from crossing the wetland area, and instead stub out to the north property line, to connect to a future East-West Collector. Access from Truckers Drive to Lot 7 is also proposed. Technology Boulevard, an east-west future Collector is proposed to be removed from crossing the site to provide contiguous corridors of land for wildlife movement on Lot 8. Sidewalks and trails as designated on the Master Street Plan and Alternative Transportation and Trails Plan will be coordinated with the developer of each lot to carry out the goals and policies of connectivity as adopted by City Council.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: All proposed development within the PZD shall comply with Chapter 172 Parking and Loading where applicable.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: All proposed development within the PZD shall be reviewed and comply as necessary with the greenspace and buffer requirements as set forth by the Unified Development Code. Particular treatment of the interface between wildlife and human activity will be investigated. For those lots within the Design Overlay District boundary, all applicable ordinances within this boundary shall apply.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks are to be constructed in conformance with current standards.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be installed in conformance with current standards.

(8) *Water.* As required by §166.03.

FINDING: Water service is to be provided in conformance with current standards

(9) *Sewer*. As required by §166.03.

FINDING: Sewer service is to be provided in conformance with current standards

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and

any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: Public and private streets within this PZD shall be reviewed by staff and comply with all city ordinances at the time of development. Improvements to streets adjacent to the development has been recommended; specific recommendations by City staff will occur at the time of development review.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The

location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant is to comply with the requirements of Chapter 167, as determined by the Landscape Administrator, for all development within the PZD.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: For all proposed office and commercial structures within the C-PZD, the developer shall comply with appropriate ordinances with reference to Commercial Design Standards. Where applicable, commercial and office structures shall also comply with Design Overlay District requirements. The submitted draft of covenants addresses these structures to some degree, and a final draft shall be filed at the time of Final Plat.

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: N/A

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open

spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.
(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant has submitted a draft of covenants for the proposed PZD describing the responsibilities and maintenance of future open space and street systems.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposal is for mixed-use planned development comprised of multifamily residential, single family residential, office and commercial uses with 43% of the site, at minimum, to be preserved as greenspace. The rezoning of the property to a planned zoning district may be deemed appropriate due to the provision of flexibility by providing a number of housing types and opportunities; compatibility with existing and planned surrounding land uses; harmony in creating a mixture of land uses that serve one another; variety in providing housing, employment and recreational/educational activities to achieve an integration of economic and development opportunities; no negative impact on future land development in the area; provision of contiguous open space potentially providing educational and recreational activities at the community and regional levels; a maximum enhancement of existing natural features with the preservation of 124 acres of ecologically sensitive habitat; and a planning approach that incorporates mixed, yet harmonious development in the same area, consistent with the guiding policies of the General Plan.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. Covenants provided by the developer will be included in the PZD ordinance. This ordinance will be forwarded to the City Council for approval.*

(D) *C-PZD, Commercial Planned Zoning District*

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to

accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

(a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.

(b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.

(c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.

(d) To encourage commercial development which is consistent with the city's General Plan.

(e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: The proposal provides an effective relationship of different land uses within a single development, including single family residential, multifamily residential, open space, retail, commercial and office uses. The large lot subdivision identifies areas of potential land use in an orderly manner, encouraging commercial development which is consistent the with city's General Plan. As a PZD, the 289-acre development, currently zoned I-1, Heavy Commercial/Light Industrial, better facilitates more appropriate mixed land uses in a harmonious relationship.

(2) Permitted uses.

Unit 1	City-wide uses by right
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 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping Goods

Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 29	Dance Halls

FINDING: The proposal utilizes Unit 1 City-wide uses by right, Unit 3 Public protection and utility facilities, Unit 8 Single-family dwellings, Unit 12 Offices, studios and related services, Unit 13 Eating places, Unit 14 Hotel, motel and amusement facilities, Unit 15 Neighborhood shopping goods, Unit 16 Shopping Goods, Unit 17 Trades and services, Unit 25 Professional Offices, and Use Unit 26 Multi-family dwellings, which are permitted uses in a C-PZD.

(2) *Conditions.*

(a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.

(b) Residential uses must be appropriate to the design of the project.

(c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.

FINDING: The proposed PZD is required to meet the minimum 51% commercial use within the development.

***Required Findings for Rezoning Request.**

RECOMMENDATION:
Staff recommends approval of the requested rezoning based on the findings included as part of this report.

LAND USE PLAN: General Plan 2020 designates this site Industrial. Rezoning this property to C-PZD 03-8.00 is **not** consistent with the land use plan but is compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning is <u>not</u> consistent with the General Plan 2020 which designates the site Industrial, as it is currently zoned. However, immediate surrounding areas are designated Mixed Use, Community Commercial, Regional Commercial and Residential on the General Plan, thereby giving the C-PZD a high degree of consistency with current land use planning objectives, principles and policies and with land use and zoning plans.**

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

Finding: **The proposed zoning is justified in that the site is currently zoned for industrial purposes, which is generally incompatible within the context of the environmentally sensitive habitat. Surrounding uses are mixed in nature and are compatible with the proposed commercial planned zoning district.**

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

Finding: **The proposed zoning will not create or appreciably increase traffic danger and congestion, based on determinations made by the Fayetteville Police Department (see attached). The potential of employment and residential land uses in close proximity allows for increased multimodal transportation opportunities.**

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.

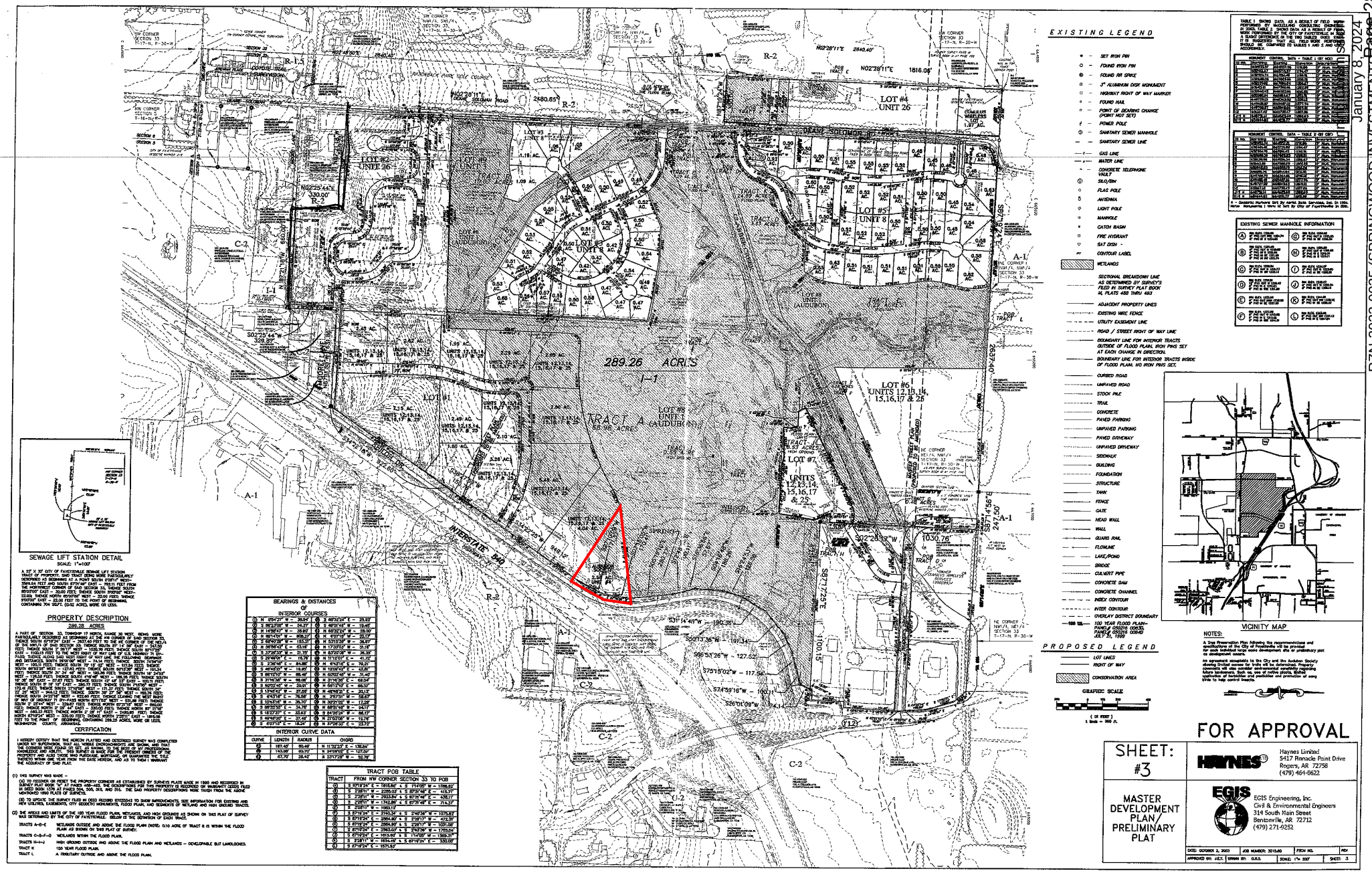
Finding: **Based on Fayetteville Police Department findings, this increase in population will not alter the population density in a manner which undesirably increases the load on public services including schools, water, and sewer facilities (see attached).**

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**


289.26 ACRES
TRACT A
59.98 ACRES
LOT #1
LOT #2 UNIT 26
LOT #3 UNIT 8
LOT #4 UNIT 26
LOT #5 UNIT 8
LOT #6 UNITS 12,13,14, 15,16,17 & 25
LOT #7 UNITS 12,13,14, 15,16,17 & 25
LOT #8 UNITS 12,13,14, 15,16,17 & 25
TRACT B 1.09 AC.
TRACT C 1.03 AC.
TRACT D 1.03 AC.
TRACT E 1.03 AC.
TRACT F 1.03 AC.
TRACT G 1.03 AC.
TRACT H 1.03 AC.
TRACT I 1.03 AC.
TRACT J 1.03 AC.
TRACT K 1.03 AC.
TRACT L 1.03 AC.
DEANE SOLOMON RD
INTERSTATE 540
SPRINGWOOD DR
R-1.5
R-2
C-2
I-1
A-1
N02°28'11"E 2640.40'
N02°28'11"E 1816.05'
N02°28'11"E 2480.65'
S87°17'52"E 2637.40'
S87°17'52"E 1100.15'
S87°14'56"E 2417.50'
S22°28'11"W 1030.76'
S31°14'49"W 180.38'
S60°13'26"W 191.14'
S66°53'26"W 127.52'
S75°15'02"W 117.54'
S74°59'16"W 100.11'
S26°01'09"W 74.11'
S02°25'44"E 330.00'
S02°25'44"W 329.32'
S22°26'16"W 1272.80'
S87°17'52"E 1316.15'
S87°17'52"E 1316.15'
S87°17'52"E 1316.15

WATKINS, BOYER, GRAY & CURRY, PLLC

ATTORNEYS AT LAW

WILLIAM P. WATKINS, III, P.A.
RONALD L. BOYER (OF COUNSEL)
JENNIFER E. GRAY, P.A.*
ANDREW T. CURRY, P.A.
WILLIAM A. KELLSTROM
* ALSO LICENSED IN MISSOURI

WRITER'S DIRECT E-MAIL
wkellstrom@watkinslawoffice.com

DELYNN HALE, SECRETARY
AMY BENSON, PARALEGAL
WHITNEY DUCKER, OFFICE MANAGER

November 27, 2023

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

RE: Rezoning Parcel No. 765-25766-000 from PZD–Planned Zoning District to UT, Urban Thoroughfare

Dear Planning Staff:

The Applicant, Focal Point Investments, LLC, is seeking approval to rezone approximately 2.44 acres located north of the intersection of W. Chicory Place and N. Shiloh Drive ("the Property"). The request is to rezone from PZD–Planned Zoning District to UT–Urban Thoroughfare. This applicant is being submitted simultaneously with a request for a conditional use permit for Use Unit 38–Mini-Storage Units, which is allowed conditionally under UT zoning.

The Applicant wishes to develop a climate-controlled self-storage complex with a bottom-floor office component on the Property. The intent is that the office component would be leased by companies who could make use of conveniently-located storage within the same building, such as start-ups who require a small amount of storage space.

The adjacent land uses are an optometrist's office, interstate highway, and nature preserve. The office and storage uses are compatible with the office use next door, and the development will be situated on the Southern end of the Property so as to remove as few trees as possible and create a buffer between the development and the nature preserve. Lastly, UT-zoning is appropriate for parcels which border major arterial roadways. Accordingly, the proposed use and zoning are compatible with the surroundings, and would not adversely impact neighboring properties.

1106 WEST POPLAR STREET
ROGERS, AR 72756
PH: 479-636-2168
FX: 479-636-6098
WWW.WATKINSLAWOFFICE.COM

REAL ESTATE, CONSTRUCTION & LIEN LAW, LAND USE & PLANNING
CORPORATE & COMMERCIAL LAW, BANKING, BANKRUPTCY
CRIMINAL LAW, FAMILY LAW, GUARDIANSHIPS, LANDLORD-TENANT
ESTATE PLANNING, ELDER LAW, PROBATE, TRUST LITIGATION
CIVIL LITIGATION, COMMERCIAL & CONSUMER DEBT COLLECTION

Thank you for considering this request for rezoning. If you need anything further on this application, all communication should be sent to both:

Will A. Kellstrom
Watkins, Boyer, Gray & Curry PLLC
479-636-2168
wkellstrom@watkinslawoffice.com

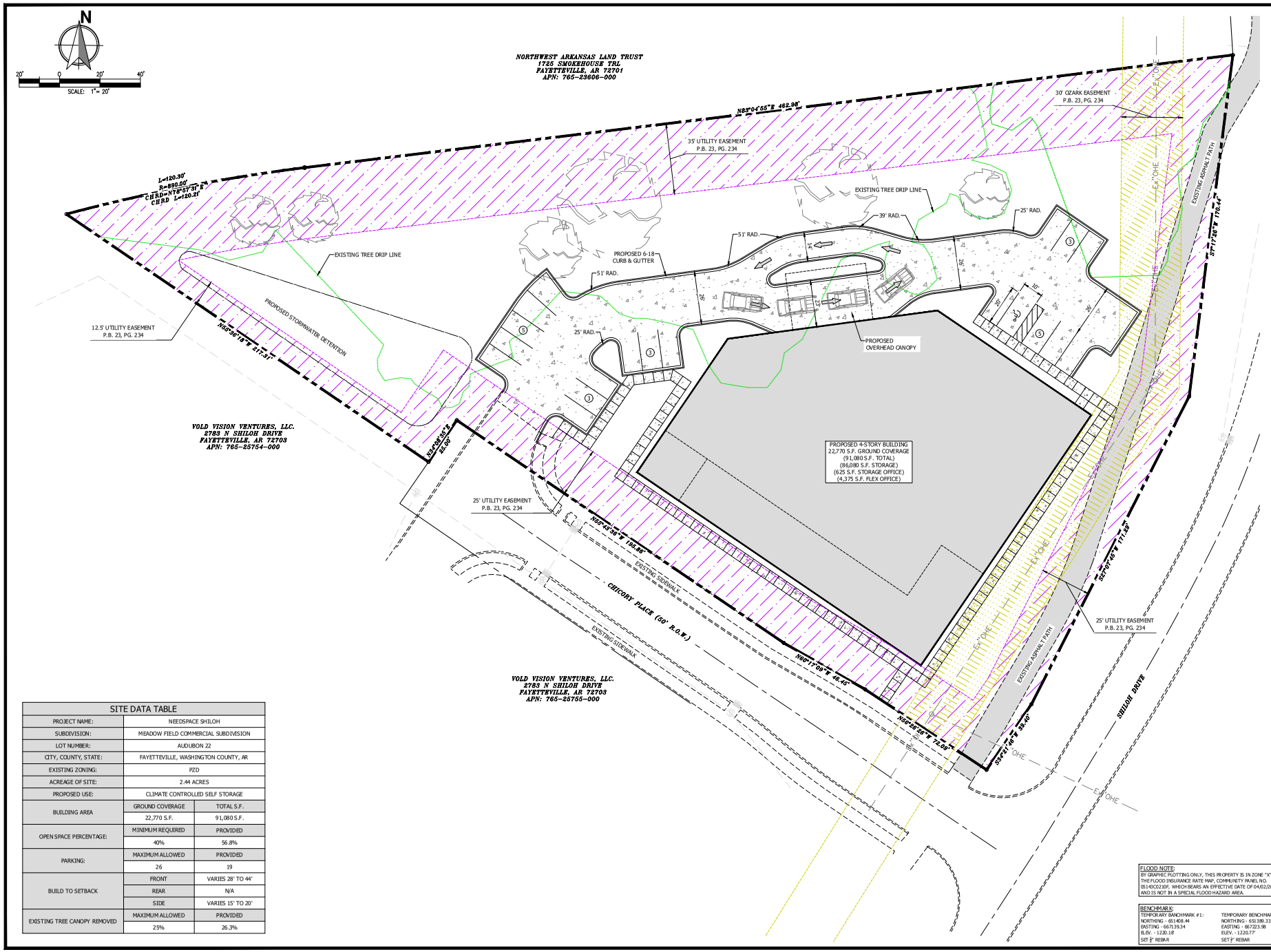
Kyle Ham
Focal Point Investments, LLC
901-326-3158
kham@sstower.com

Sincerely,

WATKINS, BOYER,
GRAY & CURRY, PLLC

/s/ *Will A. Kellstrom*

Will A. Kellstrom



SITE DATA TABLE		
PROJECT NAME:	NEEDSPACE SHILOH	
SUBDIVISION:	MEADOW FIELD COMMERCIAL SUBDIVISION	
LOT NUMBER:	AUDUBON 22	
CITY, COUNTY, STATE:	FAYETTEVILLE, WASHINGTON COUNTY, AR	
EXISTING ZONING:	PZD	
ACREAGE OF SITE:	2.44 ACRES	
PROPOSED USE:	CLIMATE CONTROLLED SELF STORAGE	
BUILDING AREA	GROUND COVERAGE	TOTAL S.F.
	22,770 S.F.	91,080 S.F.
OPEN SPACE PERCENTAGE:	MINIMUM REQUIRED	PROVIDED
	40%	56.8%
PARKING:	MAXIMUM ALLOWED	PROVIDED
	26	19
BUILD TO SETBACK	FRONT	VARIES 28' TO 44'
	REAR	N/A
	SIDE	VARIES 15' TO 20'
EXISTING TREE CANOPY REMOVED	MAXIMUM ALLOWED	PROVIDED
	25%	26.3%

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

BENCHMARK:
TEMPORARY BENCHMARK #1:
NORTHING - 651408.44
EASTING - 667139.34
ELEV. - 1220.18
SET ½" REBAR

TEMPORARY BENCHMARK#2:
NORTHING - 651389.33
EASTING - 667223.98
ELEV. - 1220.77
SET ½" REBAR

SIGNAL SOURCE LLC
8888 MID SOUTH DRIVE
SUITE 116
OLIVE BRANCH, MS 38654
TELE: 901-794-4022
WWW.SSTOWER.COM

SITE LAYOUT PLAN

NEED SPACE SHILOH
4-STORY CLIMATE CONTROLLED STORAGE
CITY OF FAYETTEVILLE

REVISIONS:

PLOT DATE:	12/18/2023
DRAWN BY:	KBH

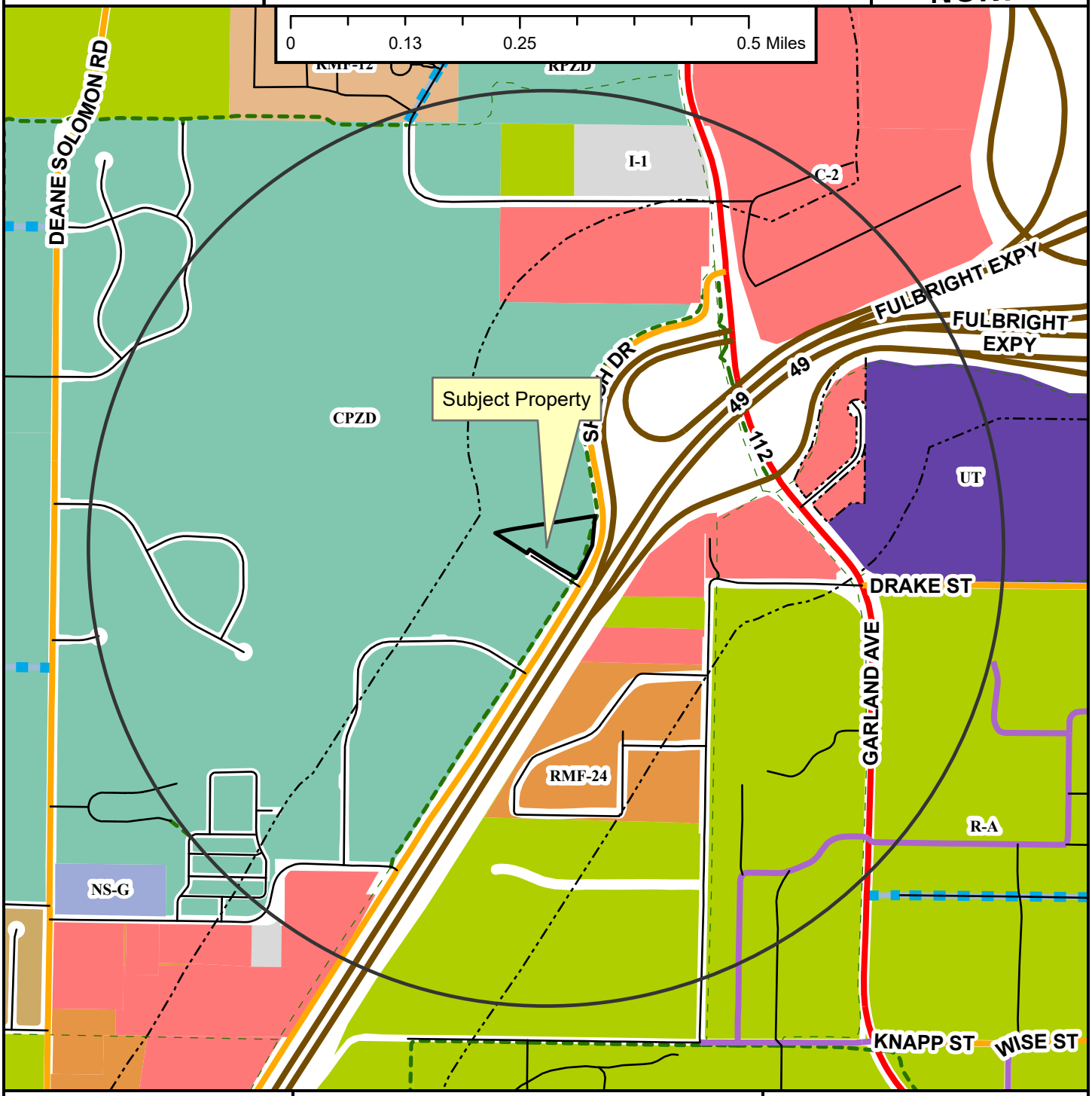
SHEET NUMBER:
C-3

RZN-2023-0035

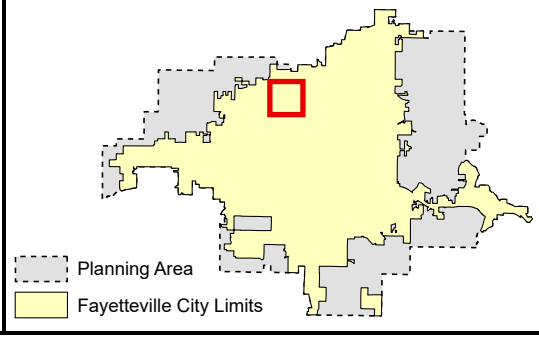
One Mile View

W. CHICORY PL

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

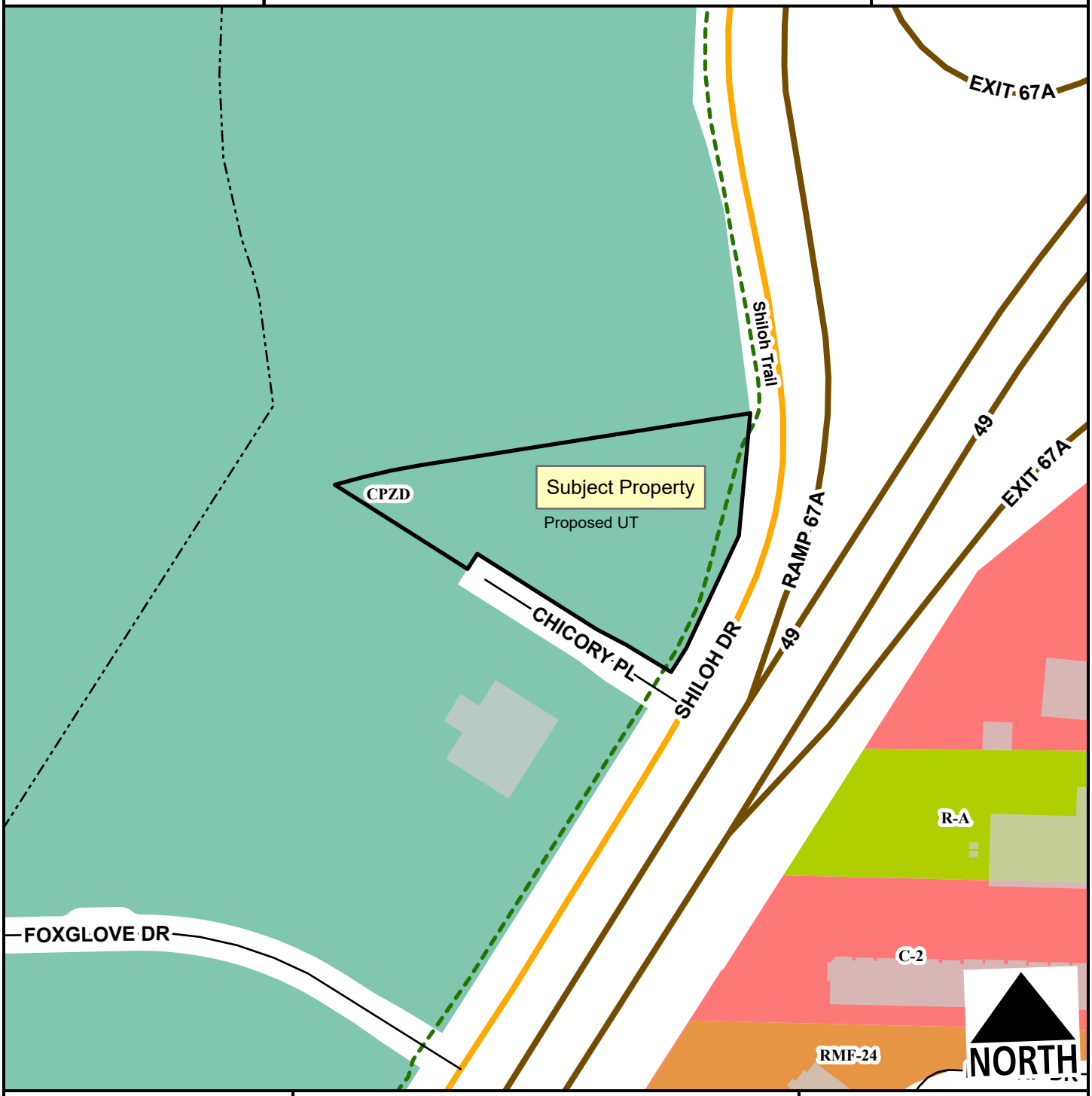
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

RZN-2023-0035

Close Up View

W. CHICORY PL



- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Design Overlay District
- Planning Area
- Fayetteville City Limits

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
CPZD	2.4	0.0
UT	0.0	2.4

Total 2.4 ac

RZN-2023-0035

Current Land Use

W. CHICORY PL

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

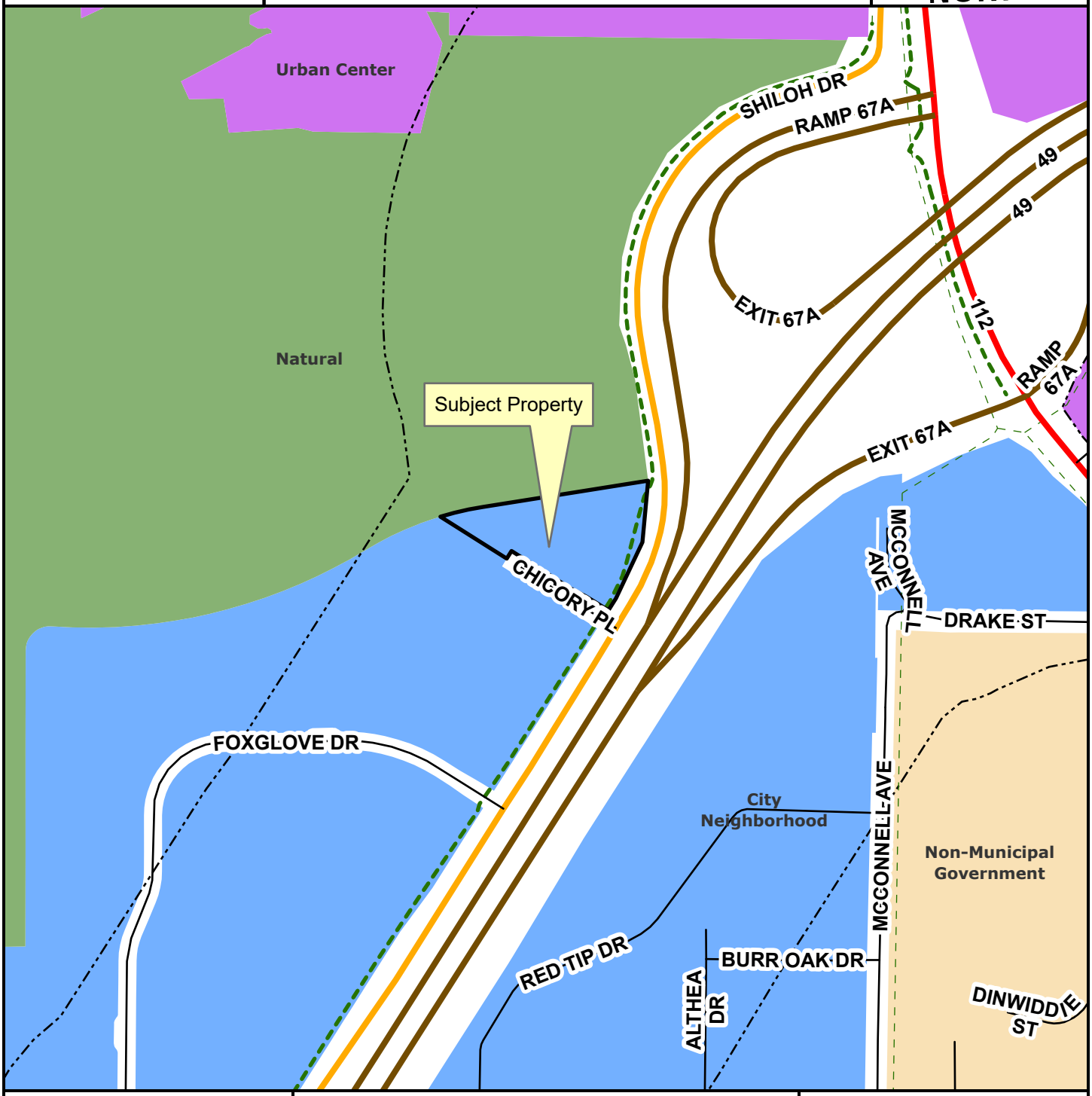
- 100-Year Floodplain
- Floodway

RZN-2023-0035

Future Land Use

W. CHICORY PL

NORTH



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

Feet

0 145 290 580 870 1,160

1:4,800

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

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0175: Conditional Use Permit (NE OF N. SHILOH DR. & NW OF W. CHICORY PL./FOCAL POINT INVESTMENTS, LLC):** Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NE. OF N. SHILOH DR. & NW. OF W. CHICORY PL. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.43 acres. The request is for Use Unit 38: mini storage units in CPZD zoning.

RECOMMENDATION:
Staff recommends tabling **CUP-2023-0175.**

RECOMMENDED MOTION:
*"I move to table **CUP-2023-0175** until the February 12, 2024 Planning Commission meeting."*

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: January 8, 2023	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024

SUBJECT: **RZN-2023-0030: Rezoning (WEST OF 2558 W. VALLEY DR./REDBRIDGE DEVELOPMENT LTD., 402):** Submitted by SWOPE CONSULTING for property located WEST OF 2558 W. VALLEY DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.60 acres. The request is to rezone the property to RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE.

RECOMMENDATION:
Staff recommends denial of **RZN-2023-0030**.

RECOMMENDED MOTION:
"I move to deny **RZN-2023-0030**."

BACKGROUND:
The subject property is in west Fayetteville approximately ¼ mile northwest of the I-49/W. Wedington Dr. intersection. The overall property is approximately 0.60 acres and is zoned RSF-4, Residential Single-Family, Four Units per Acre. It is currently undeveloped.

While there is a significant history of flooding in the area, including during the flood major events of April of 2017 and May of 2022, the subject property is located outside of the floodplain and floodway. Floodplain and floodway are both located less than 200 feet from the parcel boundaries to the north, east, and west. City Council passed a resolution on June 6, 2023, for to hire Fresse and Nichols, Inc. for assistance in developing a solution for flooding in the Hamestring Creek Watershed, one of Fayetteville's Repetitive Loss Areas, and in seeking grant funding in order to implement a solution. The study is currently underway (see Hamestring Repetitive Loss Memo attached). Surrounding land uses and zoning is depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	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

Request: The request is to rezone 0.60 acres of the property from RSF-4, Residential Single-Family, Four Units per Acre to RSF-8, Residential Single-Family, Eight Units per Acre.

Public Comment: Staff received one phone call and letter from a neighbor concerned about flooding, drainage, and potential for additional impervious surface to be added to this parcel. Staff also received an email from a neighbor against the request, citing the history of flooding in the area, increased impact of drainage and flood on adjacent properties, and potential impact to adjacent solar panels due to the installation of tall buildings. Photos of flooding in the area were provided and are attached to this report.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage on W. Valley Dr., a partially improved residential link street with asphalt paving and open ditches. Any street improvements required in these areas would be determined at the time of the development proposal. Any additional improvements or requirements for drainage will be determined at time of development.

Water: Public water is available to the subject area. An existing 2.25-inch water main is present on the south side of West Valley Drive.

Sewer: Sanitary Sewer is available to the subject area. Existing 8-inch and 6-inch sewer mains are present on the north side of W. Valley Dr.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 8, located at 2266 W. Deane St., protects this site. The property is located approximately 0.9 miles from the fire station with an anticipated drive time of approximately 2 minutes using existing streets. The anticipated response time would be approximately 4.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

Police: The Police Department expressed no concerns with this request.

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District and there are no protected streams present in the subject area. Hydric soils are present on the subject property. Hydric soils are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric Soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits are issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal.

Tree Preservation:

The proposed zoning district of RSF-8, Residential Single-Family, Eight Units per Acre requires **20% minimum canopy preservation.** The current zoning district of RSF-4, Residential Single-Family, Four Units per Acre Institutional 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 a **Residential Neighborhood.**

Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context: single-family, duplexes, rowhouses, multifamily and accessory dwelling units. 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, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment. Building setbacks may vary depending on the context of the existing neighborhood.

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

- Adequate Fire Response (Station #8, 2266 W. Deane St.)
- Near Sewer Main (6" Main, W. Valley Dr.)
- Near Water Main (2.25" Main, W. Valley Dr.)
- Near Public School (Asbell Elementary School)
- Near City Park (Lewis Soccer Complex)
- Near Paved Trail (Marked Shared Roadway on W. Valley Dr, Porter Rd., and W. End Ave; Futrall Trail (Incomplete)
- Near Razorback Bus Stop (W. Wedington Stops 12378 & 15368, Porter Rd. & W. Lawson St. intersection)

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 request to be incompatible with the surrounding context. Other lots along the street are highly regular in lot width and size consistent with the requirements of the RSF-4 zoning district, and a single-parcel zoned for RSF-8 may stand out based on those existing development patterns. The subject property, as currently zoned, would allow for the construction of two residential dwelling units on 0.6 acres. The proposed zoning district would increase the maximum permitted density to four dwelling units and would reduce required street frontage from 70 feet to 50 feet for single-family structures. Additionally, minimum lot size would be reduced from 8,000 square feet to 5,000 square feet for single-family structures. The maximum percentage of lots that may be covered by a building would increase from**

40% to 50% with no change in the permitted building height. The rear setback would be reduced from 15 feet to 5 feet. Other setbacks would remain the same. From a use perspective, the uses allowable in the proposed zoning district are identical to the allowable uses of the current zoning district. The lot has approximately 160 linear feet of street frontage which could allow for future subdivision of the land, though none has currently been proposed.

Staff finds that the proposed rezoning would not be a substantial upzoning considering the similarities between the current and proposed zoning districts and relatively low proposed density. The subject property is less than 200 feet to FEMA regulated flood areas to the north, east, and west. Given the history of flooding in the area, the recent purchase of the West End Apartments by the city, and continuing efforts to mitigate flooding and drainage issues in the area, staff has concerns that additional density, although small, may negatively impact surrounding properties. However, staff also notes that any development would be subject to §168 Flood Damage and Prevention and §170 Stormwater Management and Drainage and that any future development would be reviewed for compliance with the city's drainage performance criteria. Staff further notes that if the rezoning is not granted, the property is still developable under the existing zoning requirements.

***Land Use Plan Analysis:* Staff finds the proposal is somewhat inconsistent with the goals in City Plan 2040. The Future Land Use Map identifies this area as a Residential Neighborhood Area, which is primarily residential in nature and supports a wide variety of housing types of appropriate scale and context. Staff finds the proposal is consistent with this future land use designation. While this request would allow additional development within an existing neighborhood, encouraged by Goal #1, the 2040 Plan also acknowledges the risks, challenges, and expense associated with flooding within the city. The proposed location, while not within floodplain and floodway is within a section of the city designated as a repetitive loss area which received some of the highest requests for emergency services during the April 2017 flood.**

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

Finding: **On balance, staff finds that a rezoning to RSF-8 may not be justified. While the proposed rezoning is incremental in scale, the property is developable based on its current zoning, and could be further densified with the addition of accessory dwelling units. Up to two accessory dwelling units are permitted by right per single-family residence provided their cumulative footprint does not exceed 1,200 square feet. The proposed rezoning would double the permitted density, which could lead to additional future residents being affected by large flood events which would limit access to and from the property from both the east and west.**

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

Finding: **Rezoning to RSF-8 at this location has the possibility to increase traffic to the site, but staff finds that given the size of the request, the intended residential uses are not likely to significantly impact traffic congestion. Staff does note that, while the property is not within floodplain or floodway, W. Valley Dr. is anticipated to be impacted by significant street flooding during both 50- and 100-year storm events, which would limit access to and from the subject property.**

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

Finding: **Rezoning the property to RSF-8 may increase the load on public services. The area has been subject to swiftwater rescues during high-flood events, including in 2017, and additional units could increase the load / risk to emergency services during periods of flooding. The size of the property and access to existing water and sewer infrastructure means future development will likely avoid the need for costly extensions to services. Fayetteville Public Schools did not comment on this request.**

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

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

RECOMMENDATION: Staff recommends denial of RZN-2023-0030.

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

Date: **January 8, 2024** ❒ **Tabled** ❒ **Forwarded** ❒ **Denied**

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:
None

Attachments:

- Unified Development Code:
  - §161.07 RSF-4, Residential Single-Family, Four (4) Units per Acre
  - §161.09 RSF-8, Residential Single-Family, Eight (8) Units per Acre
- Applicant Request Letter
- Staff Exhibits
  - Hamestring Creek Repetitive Loss Area Memo
  - Proximity to Transit Map
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit*.

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories

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

(Ord. No. 4783, 10-18-05; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager
Donna Wonsower, Planner

FROM: Alan Pugh, Staff Engineer

MEETING DATE: July 24, 2023

SUBJECT: **RZN-2023-0030; Hamestring Repetitive Loss Area**

BACKGROUND:
The subject property is located along W Valley Drive between N West End Ave and N Porter Road. Although it has not been assigned an address, the parcel number is 765-11084-000. It is currently shown to be outside of the Special Flood Hazard Area (SFHA) according to Flood Insurance Rate Map (FIRM) Panel number 05143C0205F dated May 16, 2008. The property is located within the Hamestring Creek repetitive loss area.

Request: The applicant is requesting to rezone the property from RSF-4, Residential Single Family four units per acre to RSF-8, Residential Single Family eight units per acre.

DISCUSSION:
Although significant flooding has occurred in the area surrounding the property in question, as stated above it is outside of the SFHA, commonly referred to as the 100-year floodplain. The areas to both the east and west of the property do have a long history of flooding. However, the property in question is higher in elevation based on both the current FIRM and the City GIS contours and does not have a history of flooding to the best of staff's knowledge. Although it should be noted that during flood events the areas to the east and west of this property would be anticipated to flood including significant street flooding. That would limit access to and from the property during large flood events.

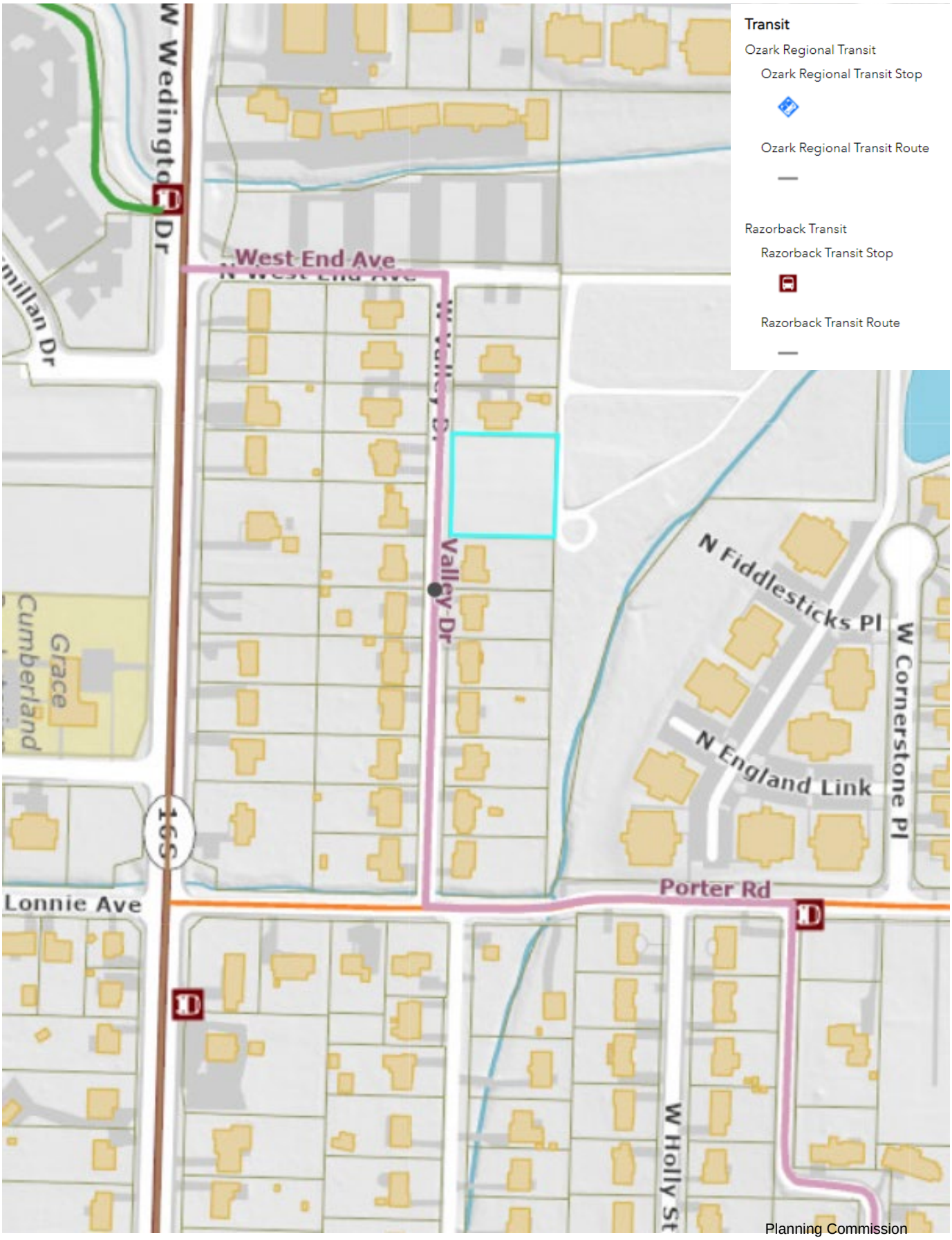
Based on limited information within flood insurance study (FIS) it appears Hamestring Creek would overtop Wedington Drive in the 50-year and 100-year events. Similar flooding would also be expected from the South Fork of Hamestring as it crosses Wedington Drive to the west. Hamestring Creek Tributary HS3 would overtop Porter Road more frequently according to the FIS. Based on this and past flood events, it is anticipated that the larger events such as the 50-year and 100-year storms would generally trigger flooding in which it would be anticipated to flood multiple streets in the area making access difficult.

As stated, the surrounding area does have a history of flooding and the City has undertaken projects to reduce flood losses in the area to both the east and west of this property. This includes the purchase and demolition of the West End Apartments to the west of the property and flood studies to determine if improvements to the drainage system could reduce the flooding experienced. To date, a solution has not been identified, however, the City is in the process of

requesting grant funding from FEMA to continue studying potential solutions for the flooding.

Ultimately, due to the fact the property is outside of the SFHA, the regulations regarding lot size in Chapter 168 would not apply and increased density would be a product of the appropriate land use from a planning perspective in the opinion of staff.

STAFF EXHIBIT: PROXIMITY TO TRANSIT



Wonsower, Donna

To: Barbara Fitzpatrick
Subject: RE: Planning issue RZN-2023-0030

From: Barbara Fitzpatrick <bfitz_1951@yahoo.com>
Sent: Monday, December 4, 2023 11:30 AM
To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>
Subject: RE: Planning issue RZN-2023-0030

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

Thank you for getting back with me so quickly. I will contact both Engineering and the developer. I'm glad you're getting better.

bf

From: Wonsower, Donna <dwonsower@fayetteville-ar.gov>
Sent: Monday, December 4, 2023 10:50 AM
To: Barbara Fitzpatrick <bfitz_1951@yahoo.com>
Subject: RE: Planning issue RZN-2023-0030

Good Morning,

Please see below for responses to your comments. I will include your email in the Planning Commission packet for the commissioners to review. Please feel free to call or email with any further questions.

Best Regards,
Donna Wonsower (she/her)
Planner, Development Services

479-575-8358
Website | Facebook | Twitter | Instagram | YouTube

CITY OF FAYETTEVILLE ARKANSAS

From: Barbara Fitzpatrick <bfitz_1951@yahoo.com>
Sent: Monday, December 4, 2023 9:48 AM
To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>
Subject: Planning issue RZN-2023-0030

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

Hi Donna,

I was told this is your case but that you're working from home because you've got Covid. First off, I devoutly hope it's a light case with no long-term effects and that you're feeling better. Thank you for your concern. I did have a light case and am feeling better each day.

As to the rezoning I have 3 concerns. I'm pretty sure that if this goes through the same mini-developments of ugly multistory houses that are showing up all around this area will be built. Even though all the housing on this block are single story and multistory buildings would be very jarring to see. "Progress" and all that. Two of my concerns are water related. The largest is that the north boundary of this property is about 100 feet from Little Hamestring Creek and there are already flooding issues the city is trying to address. Turning an open field at the highest rise on this block into mostly impervious surface is going to do nothing but increase those flooding issues.

Secondly, my property borders that empty field on the east. Depending on where those houses are placed, there's a very big potential for the runoff from that impervious surface to go hit my house and go underneath it causing ongoing damage. Aside from the fact that such a thing would be just plain wrong, I'm retired on Social Security and can't afford that. The situation would be even worse for the people living on the property bordering the empty property on the west as their house is already on the floodplain (mine is not) and has been flooded before in heavy rains even without a lot of impervious surface uphill from them. If the rezoning is approved, engineering will review drainage requirements per Chapter 170. In short, depending on the amount of impervious surface added the developer will be required to meet different levels of stormwater management; however development is not permitted to worsen existing stormwater conditions. I recommend reaching out to the engineering department if you have additional questions relating to drainage or flood.

Thirdly, and this is "just" an issue for me alone, I have solar panels on my roof. Depending on placement, multistory housing could shade them. Since owning my own house/not having a mortgage payment and having solar panels/not having an electric bill is how I CAN live on my

Social Security, this is very important to me personally. We have not yet seen design plans for the proposed development. The maximum building height is three stories and the building may not be located any closer to the street right-of-way than 15 feet. These requirements are the same as the current zoning. I would recommend reaching out to the project developer regarding your concerns about building height as they seem amenable to working with their neighbors to ensure a compatible development.

IF the houses are placed at the same distance back from the street as are the rest of the houses on this block, my own included, that would resolve the direct impacts on my own property and possibly the neighbor to the west as well. The concern about the creek and flooding, which is most important to the neighborhood and the city, is harder to resolve.

I'd appreciate anything you can tell me about this.

Thank you,
Barbara Fitzpatrick
2500 W. Valley Dr.
Fayetteville, AR 72703
479-443-4760 (not a cell phone)

Dear Planning Commission Members:

My name is Alessandra Brown and I own a home at 2425 W Valley Drive. I have spoken with Ms. Wonosower from the planning team about my concerns with the rezoning request RZN-2023-0030 west of 2558 W. Valley Drive. I was raised on Valley Drive and my family has lived there for more than 30 years. Our neighborhood is comprised mostly of retired seniors and working families who have found affordable housing in this area. For more than three decades, my family and I have witnessed significant infill changes close to this neighborhood that have added density to meet the demand for housing. Seeing the population increase consistently, one can understand and fully appreciate the complexity involved in deciding the appropriateness of rezoning and the code specifications each zone commands.

The reason I am writing to you is that during the conversation with Ms. Wonosower, there was a distinction made about this specific lot that I humbly request to be further examined. This specific lot is not in the FEMA-designated floodplain but rather is an elevated lot within the floodplain. Not being in a floodplain but rather adjacent to is a technicality with very serious implications for the homeowners in the surrounding neighborhood—my neighborhood.

There are nearly a million square feet of concrete south of Valley Drive designated for institutional rezoning. North of Valley Drive there is also a Lindsey apartment complex. Neither of these projects technically lies within the FEMA-designated floodplains and yet both can contribute significantly to the water runoff into Hamestring Creek which frequently floods. Attached is a picture taken during one such flood. The vantage is from my front porch. I would ask that you take a moment to examine it and its implications as you consider the following questions:

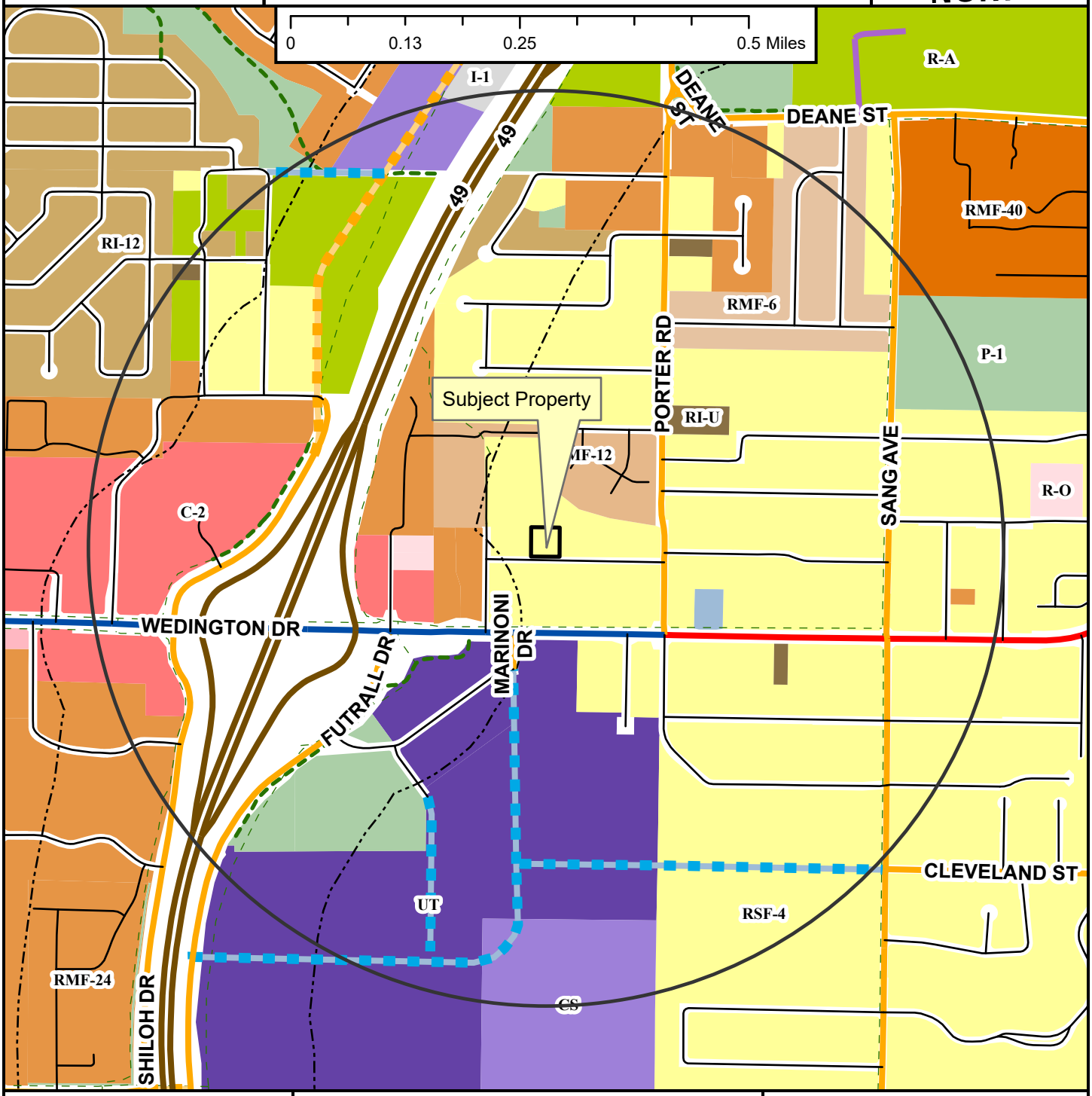
1. Will the planning commission have any part in pursuing accountability for drainage plans for this rezoning request, and if so when and who studies this aspect of the project?
2. Can anyone from Redbridge Development Ltd comment on their knowledge of the flooding in this area? What exactly is their experience building projects next to or within a floodplain? Are their project designs informed by considerations of how to mitigate any flooding their construction may contribute to on adjacent properties? Is there a mechanism in place that could force them to honor such considerations in their project designs?
3. Historically, West Valley Drive has been home to apartments that were frequently out of code compliance, leased at a weekly rate that attracted persons recently released from law enforcement. Police presence was necessary and frequent. Can anyone from Redbridge Development Ltd comment on the style of housing they plan to provide and what customer base they mean to serve?

PUBLIC COMMENT: FLOOD PICTURES

RZN-2023-0030

One Mile View

WEST OF 2500 W. VALLEY DR



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

Planning Area
Fayetteville City Limits

Zoning

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

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

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

EXTRACTION
E-1

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

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

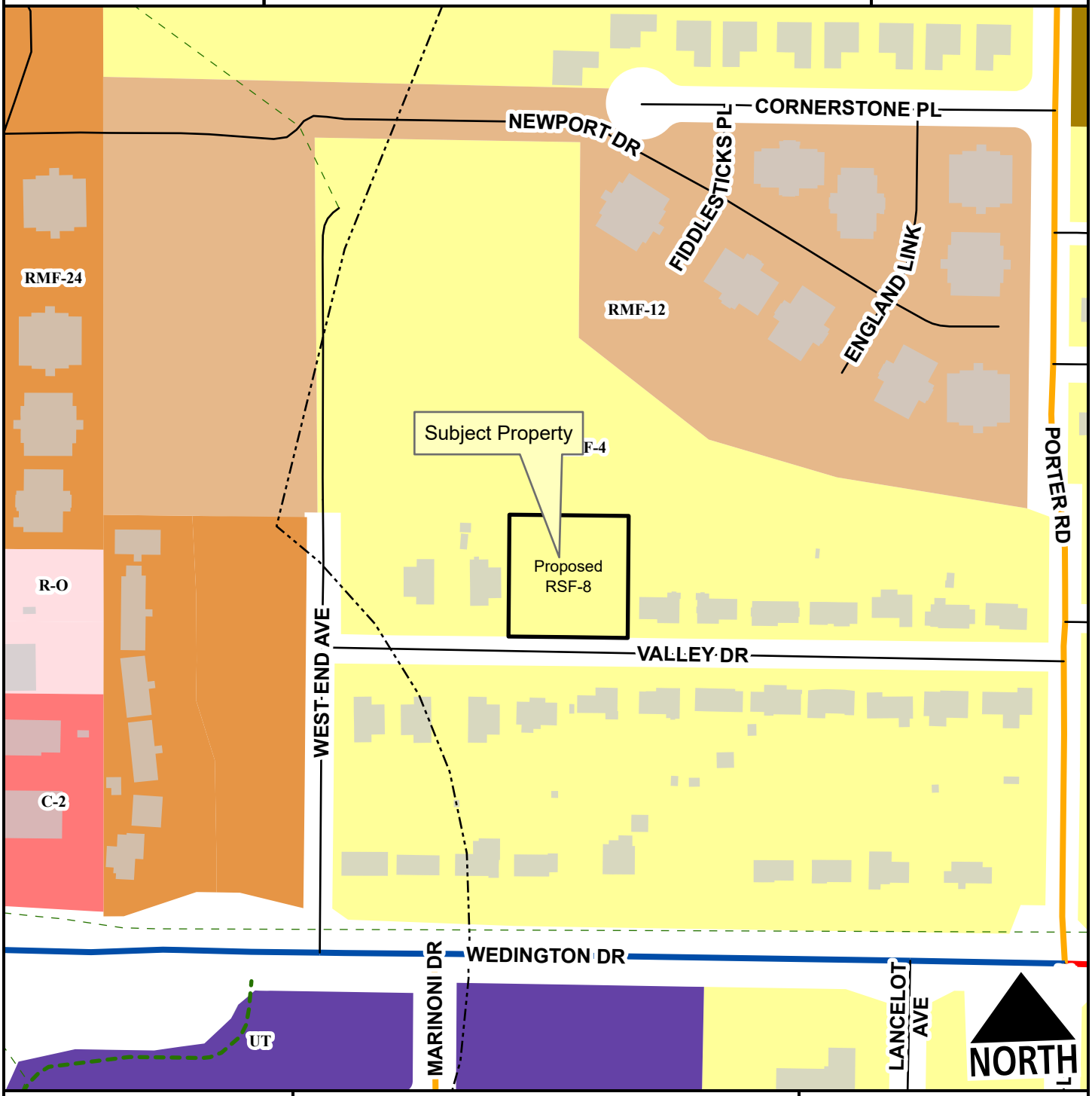
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

RZN-2023-0030

Close Up View

WEST OF 2500 W. VALLEY DR



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

Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
RSF-4	2.5	0.0
RSF-8	0.0	2.5

Total 2.5 ac

RZN-2023-0030

Current Land Use

WEST OF 2500 W. VALLEY DR

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

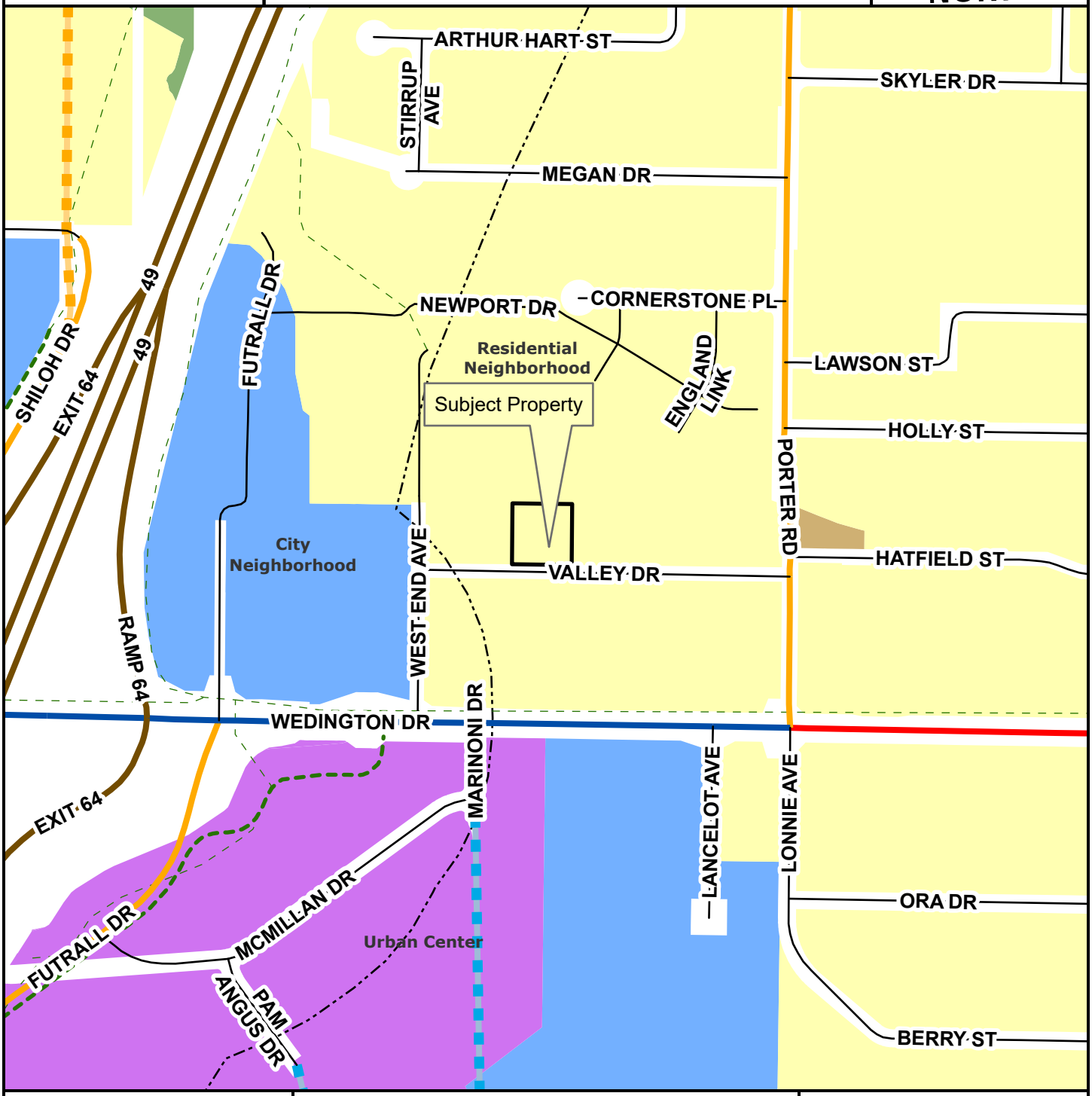
- 100-Year Floodplain
- Floodway

RZN-2023-0030

Future Land Use

WEST OF 2500 W. VALLEY DR

NORTH



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

Feet

0 145 290 580 870 1,160

1:4,800

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

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0165: Conditional Use Permit (1751 N HUNTERS RIDGE/KIMBRO, 372):** Submitted by KRIS KIMBRO for property located at 1751 N. HUNTERS RIDGE. The property is zoned RMF-24, RESIDENTIAL MULTIFAMILY, 24 UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-tern rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0165**, with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0165** with conditions, determining:*

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

BACKGROUND:
The subject property is located in east Fayetteville approximately ¼ mile southeast of the E. Mission Blvd. and N. Crossover Rd. intersection. The property is zoned RMF-24, Residential Multifamily, 24 Units Per Acre with no applicable zoning overlays, and totals approximately 0.20 acres. A 1,640 square foot single-family structure was built on the property in 1994 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	RMF-24, Residential Multifamily, 24 Units per Acre
South	Single-family Residential	RMF-24, Residential Multifamily, 24 Units per Acre
East	Mixed Density Residential	RMF-24, Residential Multifamily, 24 Units per Acre
West	Single-family Residential	RMF-24, Residential Multifamily, 24 Units per Acre

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0165,** with the following conditions;

Conditions of Approval:

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

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

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

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES

Date: January 8, 2024 ❒ **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 Type 2 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: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains three bedrooms, occupancy will be limited to a maximum of eight guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle space per dwelling unit. According to the applicant the structure has three bedrooms and four parking spaces; two spaces in an attached garage and two spaces in the driveway.

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

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

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

Finding: **The application is for use of the property at 1751 N. Hunters Ridge. 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 January 2, 2024, the City had issued 439 Type 2 short-term rental licenses, and 37 remain in the queue for processing. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **Staff finds there is likely adequate parking infrastructure to support the use of the property as a short-term rental. The structure has three bedrooms and four parking spaces within an attached garage and driveway. On-street parking is available along N. Hunters Ridge. City records indicate two other units within a quarter-mile radius of the subject property have an active Type 2 short-term rental business license, both of which are located on N. Pointers Ln. No zoning or code violations were found for this address.**

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

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

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience,

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

Finding: **The property has frontage on N. Hunters Ridge, a partially improved residential link with a sidewalk on the east side. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 8 guests, which would not be out of character with use of the property for residential purposes.**

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

Finding: **Per the applicant, the site has access to four off-street parking spaces: two in an attached garage and two in an associated driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the use to be compatible with the surrounding properties. While the residences along N. Hunters Ridge are primarily detached single-family dwellings, a substantial number of properties one block to the west are developed with two-family dwellings. The property is within a neighborhood zoned to allow multi-family dwellings by-right.**

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

Finding: **Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes. Additionally, the property is less than ¼ mile from a major intersection designated as a tier 2 growth node per City Plan 2040.**

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 Multifamily – Twenty-Four (24) Units Per Acre
- Applicant Request Letter, including elevations, site plan, and 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)

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

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

(B) *Uses.*

(1) Permitted Uses.

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	24 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit*.

Manufactured Home	3,000 square feet

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*

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

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

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

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

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

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

Request Letter

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

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

a. The home is already built and is 1,640 square feet.

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

(c)

(d)

(e)

(f)

(g)

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

There will be 4 parking spots (Two in the driveway and two in the garage)

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

-**Hours of operation: 8-5pm**

-Number of employees: 2 employees

-Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour)

-We anticipate average of 4 per day on most weekends. Most of our clients will be families with 2 children. Peak hour 4pm

(e) Outdoor lighting

-There are 3 outdoor lights (2 on either side of the garage and 1 next to the front door) that will be used and are on a time schedule to run when dark outside.

-There are also pathway lights to the front door

(f) Noise

-The noise level will be compliant with city ordinances.

(g) Screening or buffering from adjacent properties

-There is a privacy fence that surrounds the entire backyard

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

-Trash and recycling bins will be placed on the side of the home.

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

Ingress and egress to the property is the driveway. There is no traffic impact.

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

-Yes, this property causes an impact/change to the overall environment of the neighborhood. However, it should be a minimal impact as we expect families in line with the neighborhood.

2. Legal Description

Legal description of property (may be found on deed or current survey of property). A survey may be required if the deed cannot be platted accurately.

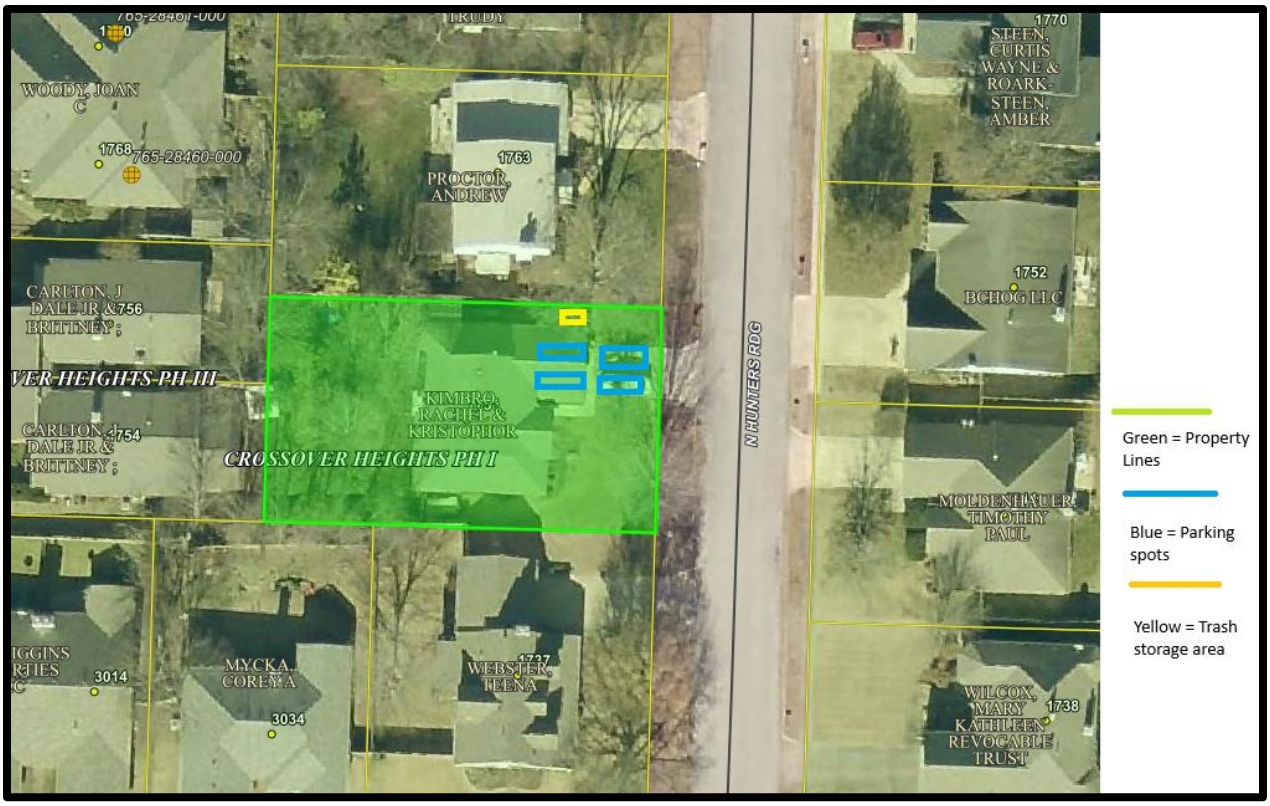
Lot 31, Crossover Heights Subdivision, Phase I, to the City of Fayetteville, Washington County, Arkansas, as shown on plat record 14 at page 65.

Subject to recorded instruments, covenants, rights of way, and easements. Subject to all prior mineral reservations and oil and gas leases, if any.

[Legal description provided by Realty Title & Closing Services, LLC.]

3. Site Plan

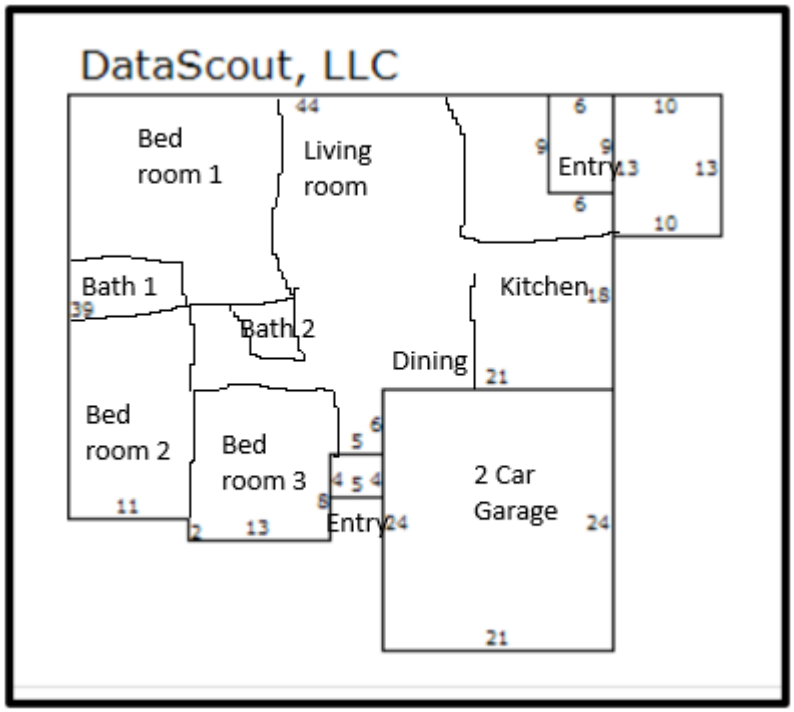
Site plan drawn to scale, based on the deed or survey, showing all proposed structures dimensioned from the overhang to the property line, parking, driveways, Master Street Plan right-of-way, required setbacks.



4. Preliminary Floor Plan

Floor Plan drawn to scale showing location of wall, windows, doors, and identification of activity areas.

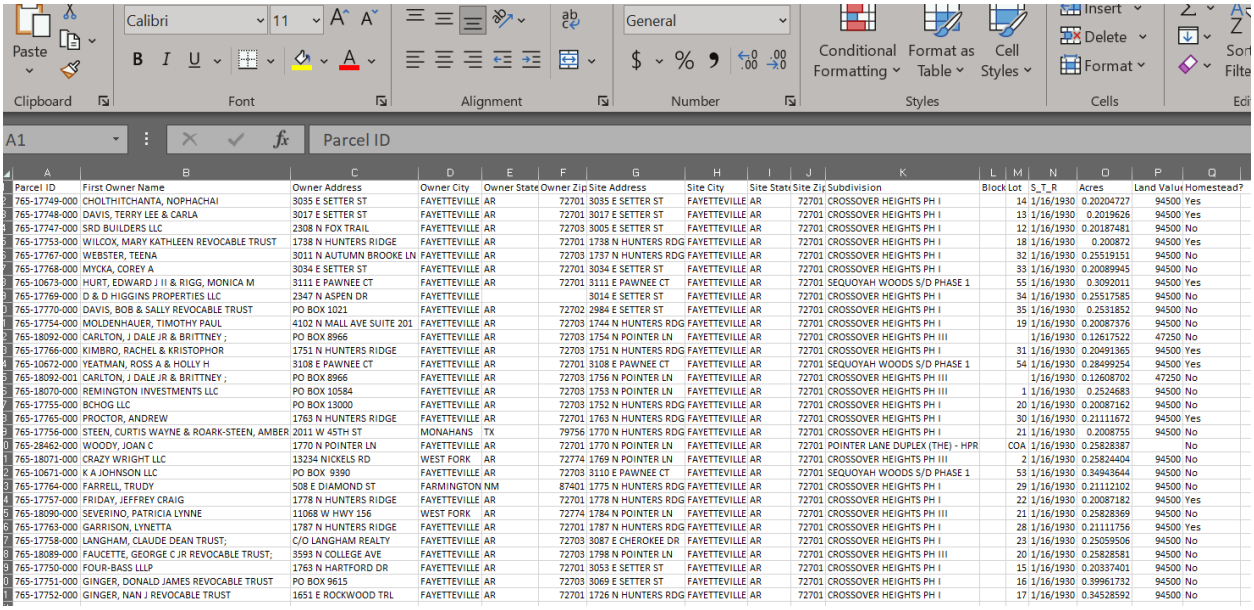
-The home is already built.



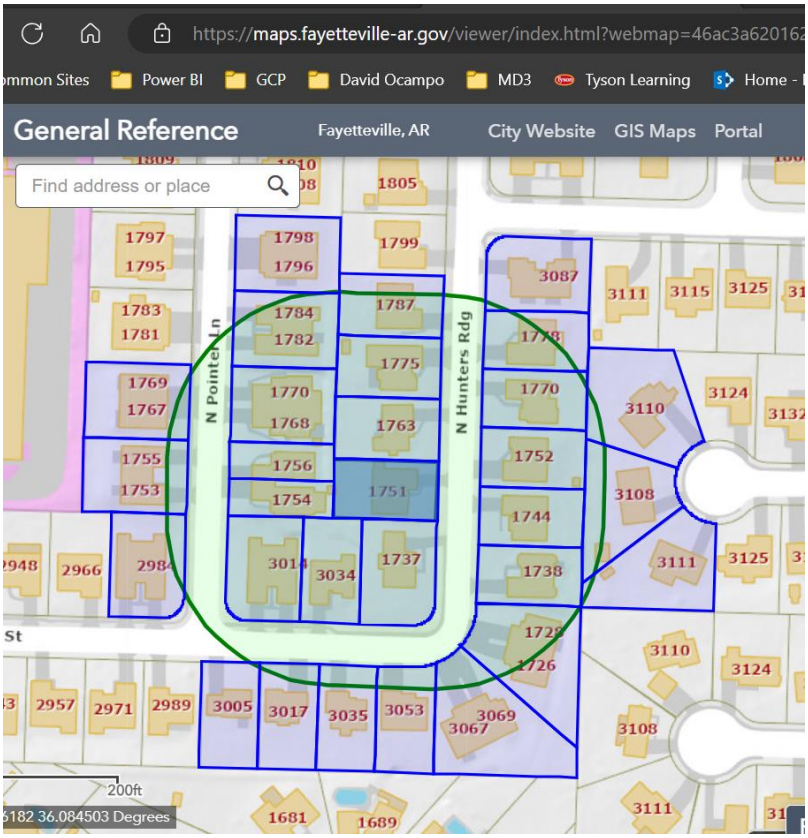
5. County Parcel Map

A copy of the county parcel map from the Washington County Assessor's office or from the Washington County website (www.co.washington.ar.us). The subject property and all adjacent parcels should be identified on this parcel map. The owner's name, official mailing address, and the parcel number for every adjacent property shall be shown on this map. ***(Applications for special conditional uses that require notification within 500 feet should show all properties and property owner information within 500 feet of the project site. See the notification requirements section of this application.)***

Created using the City of Fayetteville's General Reference website:



Parcel ID	First Owner Name	Owner Address	Owner City	Owner State	Owner Zip	Site Address	Site City	Site State	Site Zip	Subdivision	Block	Lot	S_T_R	Acres	Land Value	Homestead?
765-17749-000	CHOLTHITCHANTA, NOPHACHAI	3035 E SETTER ST	FAYETTEVILLE	AR	72701	3035 E SETTER ST	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		14	1/16/1930	0.20204727	94500	Yes
765-17748-000	DAVIS, TERRY LEE & CARLA	3017 E SETTER ST	FAYETTEVILLE	AR	72701	3017 E SETTER ST	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		13	1/16/1930	0.2019626	94500	Yes
765-17747-000	SRD BUILDERS LLC	2308 N FOX TRAIL	FAYETTEVILLE	AR	72703	3005 E SETTER ST	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		12	1/16/1930	0.20187481	94500	No
765-17753-000	WILCOX, MARY KATHLEEN REVOCABLE TRUST	1738 N HUNTERS RIDGE	FAYETTEVILLE	AR	72701	1738 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		18	1/16/1930	0.200872	94500	Yes
765-17767-000	WEBSTER, TEENA	3011 N AUTUMN BROOKE LN	FAYETTEVILLE	AR	72703	1737 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		32	1/16/1930	0.25519151	94500	No
765-17768-000	MYCKA, COREY A	3034 E SETTER ST	FAYETTEVILLE	AR	72701	3034 E SETTER ST	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		33	1/16/1930	0.20089945	94500	No
765-10673-000	HURT, EDWARD J II & RIGG, MONICA M	3111 E PAWNEE CT	FAYETTEVILLE	AR	72701	3111 E PAWNEE CT	FAYETTEVILLE	AR	72701	SEQUOYAH WOODS S/D PHASE 1		55	1/16/1930	0.3092011	94500	Yes
765-17769-000	D & D HIGGINS PROPERTIES LLC	2347 N ASPEN DR	FAYETTEVILLE			3014 E SETTER ST	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		34	1/16/1930	0.25517585	94500	No
765-17770-000	DAVIS, BOB & SALLY REVOCABLE TRUST	PO BOX 1021	FAYETTEVILLE	AR	72702	2984 E SETTER ST	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		35	1/16/1930	0.2531852	94500	No
765-17754-000	MOLDENHAUER, TIMOTHY PAUL	4102 N MALL AVE SUITE 201	FAYETTEVILLE	AR	72703	1744 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		19	1/16/1930	0.20087376	94500	No
765-18092-000	CARLTON, J DALE JR & BRITTNEY ;	PO BOX 8966	FAYETTEVILLE	AR	72703	1754 N POINTER LN	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH III			1/16/1930	0.12617522	47250	No
765-17766-000	KIMBRO, RACHEL & KRISTOPHOR	1751 N HUNTERS RIDGE	FAYETTEVILLE	AR	72703	1751 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		31	1/16/1930	0.20491365	94500	Yes
765-10672-000	YEATMAN, ROSS A & HOLLY H	3108 E PAWNEE CT	FAYETTEVILLE	AR	72701	3108 E PAWNEE CT	FAYETTEVILLE	AR	72701	SEQUOYAH WOODS S/D PHASE 1		54	1/16/1930	0.28499254	94500	Yes
765-18092-001	CARLTON, J DALE JR & BRITTNEY ;	PO BOX 8966	FAYETTEVILLE	AR	72703	1756 N POINTER LN	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH III			1/16/1930	0.12608702	47250	No
765-18070-000	REMINGTON INVESTMENTS LLC	PO BOX 10584	FAYETTEVILLE	AR	72703	1753 N POINTER LN	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH III		1	1/16/1930	0.2524683	94500	No
765-17755-000	BCHOG LLC	PO BOX 13000	FAYETTEVILLE	AR	72703	1752 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		20	1/16/1930	0.20087162	94500	No
765-17765-000	PROCTOR, ANDREW	1763 N HUNTERS RIDGE	FAYETTEVILLE	AR	72701	1763 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		30	1/16/1930	0.21111672	94500	Yes
765-17756-000	STEEN, CURTIS WAYNE & ROARK-STEEN, AMBER	2011 W 45TH ST	MONAHANS	TX	79756	1770 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		21	1/16/1930	0.2008755	94500	No
765-28462-000	WOODY, JOAN C	1770 N POINTER LN	FAYETTEVILLE	AR	72701	1770 N POINTER LN	FAYETTEVILLE	AR	72701	POINTER LANE DUPLEX (THE) - HPR	COA		1/16/1930	0.25828387		No
765-18071-000	CRAZY WRIGHT LLC	13234 NICKELS RD	WEST FORK	AR	72774	1769 N POINTER LN	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH III		2	1/16/1930	0.25824404	94500	No
765-10671-000	K A JOHNSON LLC	PO BOX 9390	FAYETTEVILLE	AR	72703	3110 E PAWNEE CT	FAYETTEVILLE	AR	72701	SEQUOYAH WOODS S/D PHASE 1		53	1/16/1930	0.34943644	94500	No
765-17764-000	FARRELL, TRUDY	508 E DIAMOND ST	FARMINGTON	NM	87401	1775 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		29	1/16/1930	0.21112102	94500	No
765-17757-000	FRIDAY, JEFFREY CRAIG	1778 N HUNTERS RIDGE	FAYETTEVILLE	AR	72701	1778 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		22	1/16/1930	0.20087182	94500	Yes
765-18090-000	SEVERINO, PATRICIA LYNNE	11068 W HWY 156	WEST FORK	AR	72774	1784 N POINTER LN	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH III		21	1/16/1930	0.25828369	94500	No
765-17763-000	GARRISON, LYNETTA	1787 N HUNTERS RIDGE	FAYETTEVILLE	AR	72701	1787 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		28	1/16/1930	0.21111756	94500	Yes
765-17758-000	LANGHAM, CLAUDE DEAN TRUST;	C/O LANGHAM REALTY	FAYETTEVILLE	AR	72703	3087 E CHEROKEE DR	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		23	1/16/1930	0.25059506	94500	No
765-18089-000	FAUCETTE, GEORGE C JR REVOCABLE TRUST;	3593 N COLLEGE AVE	FAYETTEVILLE	AR	72703	1798 N POINTER LN	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH III		20	1/16/1930	0.25828581	94500	No
765-17750-000	FOUR-BASS LLLP	1763 N HARTFORD DR	FAYETTEVILLE	AR	72701	3053 E SETTER ST	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		15	1/16/1930	0.20337401	94500	No
765-17751-000	GINGER, DONALD JAMES REVOCABLE TRUST	PO BOX 9615	FAYETTEVILLE	AR	72703	3069 E SETTER ST	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		16	1/16/1930	0.39961732	94500	No
765-17752-000	GINGER, NAN J REVOCABLE TRUST	1651 E ROCKWOOD TRL	FAYETTEVILLE	AR	72701	1726 N HUNTERS RDG	FAYETTEVILLE	AR	72701	CROSSOVER HEIGHTS PH I		17	1/16/1930	0.34528592	94500	No



6. Public Notification

The applicant is responsible for meeting the public notification requirements for a Conditional Use permit. Public notification is not required at time of plan submittal. Staff will contact applicant at a later date with notification details.

7. Property Owner Authorization

Authorization letter signed by current property owner of record or written verification signed by such owner designating a project representative.

-I, Kris Kimbro, am the property owner and I authorize the property to be used as a short term rental. I have included the official authorization letter.

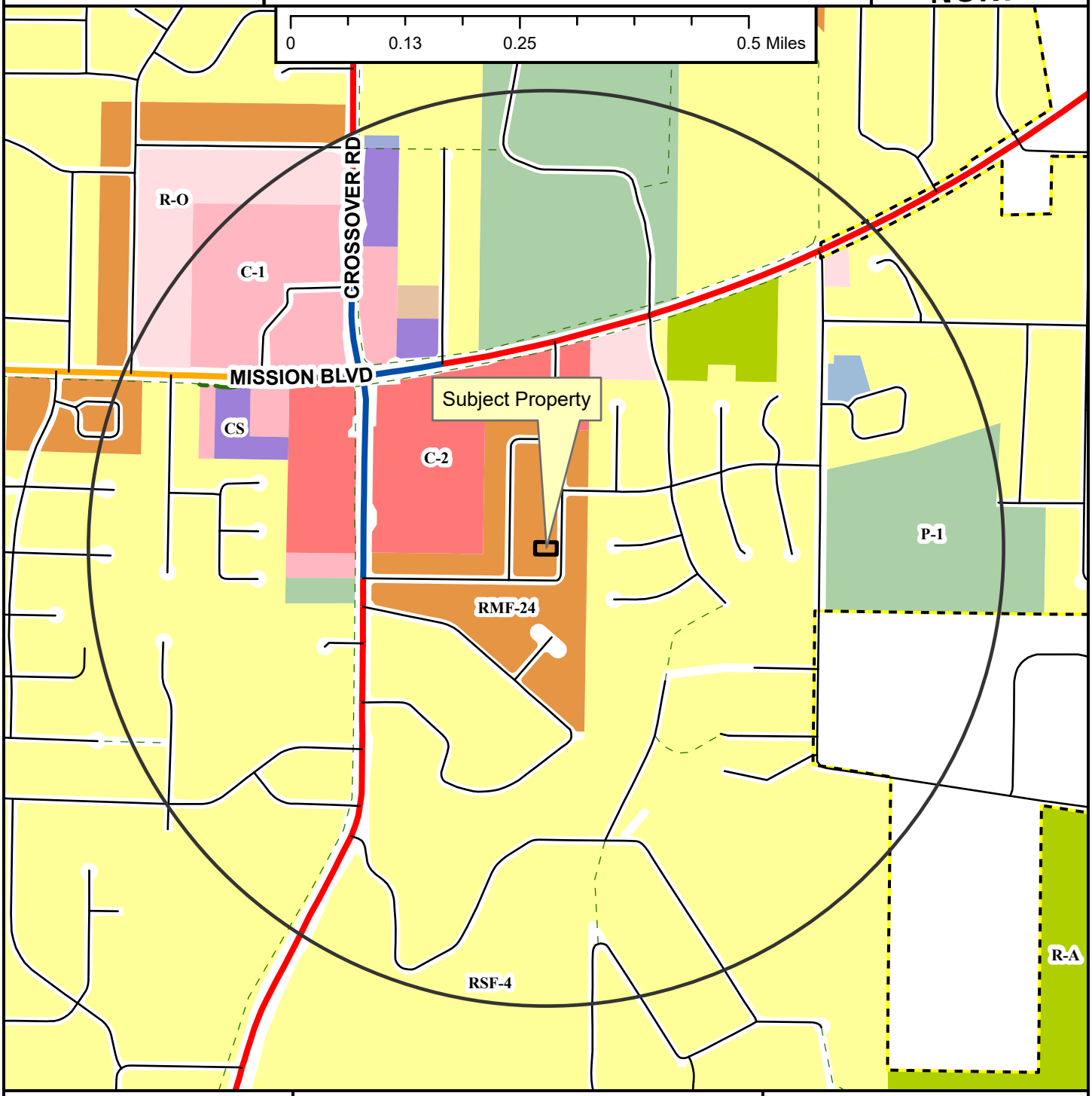
-I, Rachel Kimbro, am the property owner and I authorize the property to be used as a short term rental. I have included the official authorization letter.

CUP-2023-0165

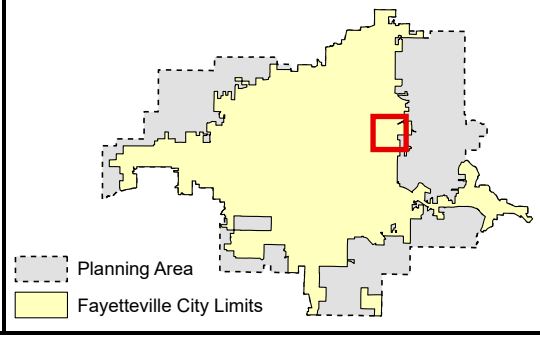
One Mile View

1751 N. HUNTERS RIDGE

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

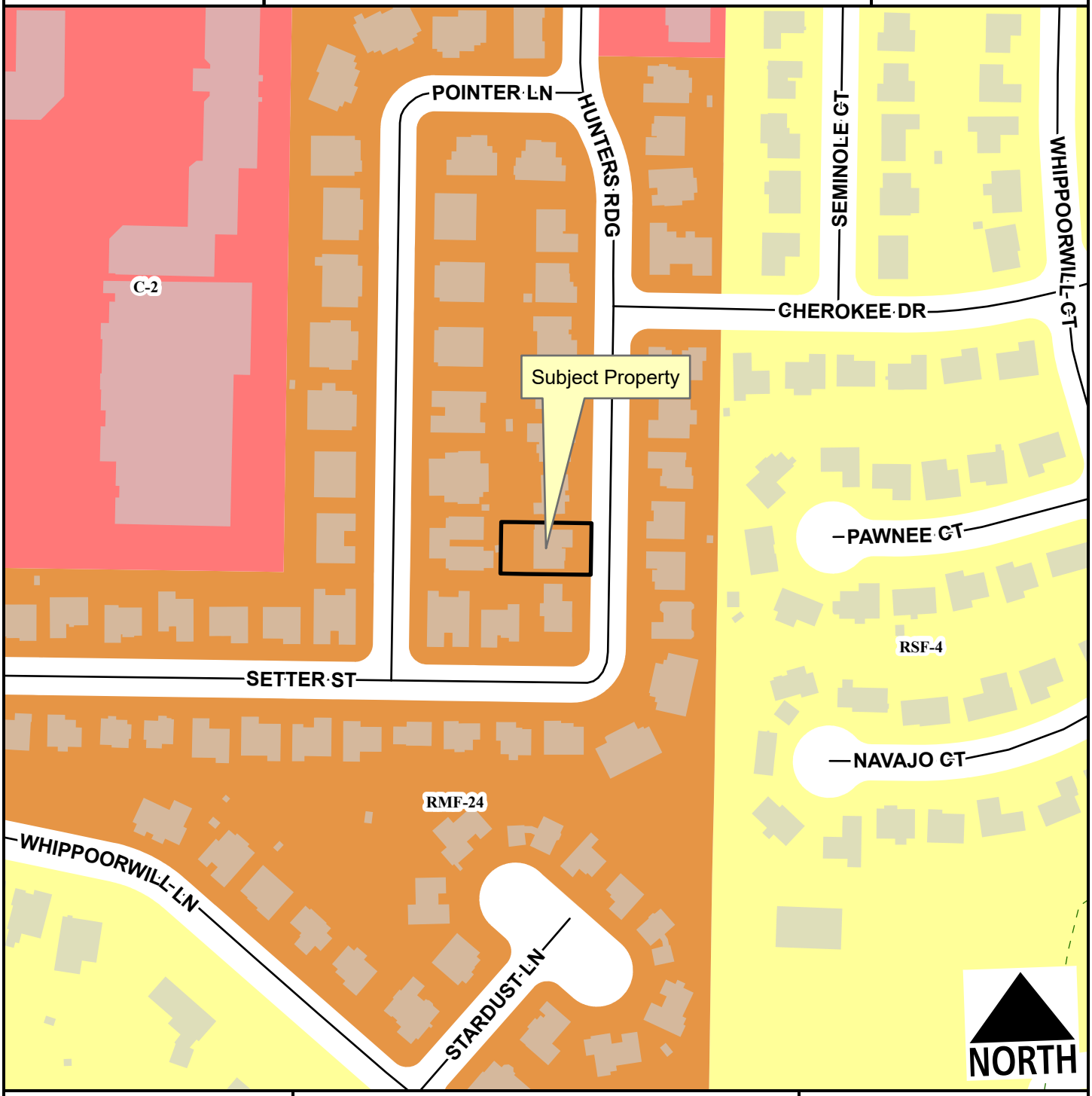
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0165

Close Up View

1751 N. HUNTERS RIDGE



Residential Link
Planning Area
Fayetteville City Limits
Trail (Proposed)

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

RSF-4
RMF-24
C-2

CUP-2023-0165

Current Land Use

1751 N. HUNTERS RIDGE

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

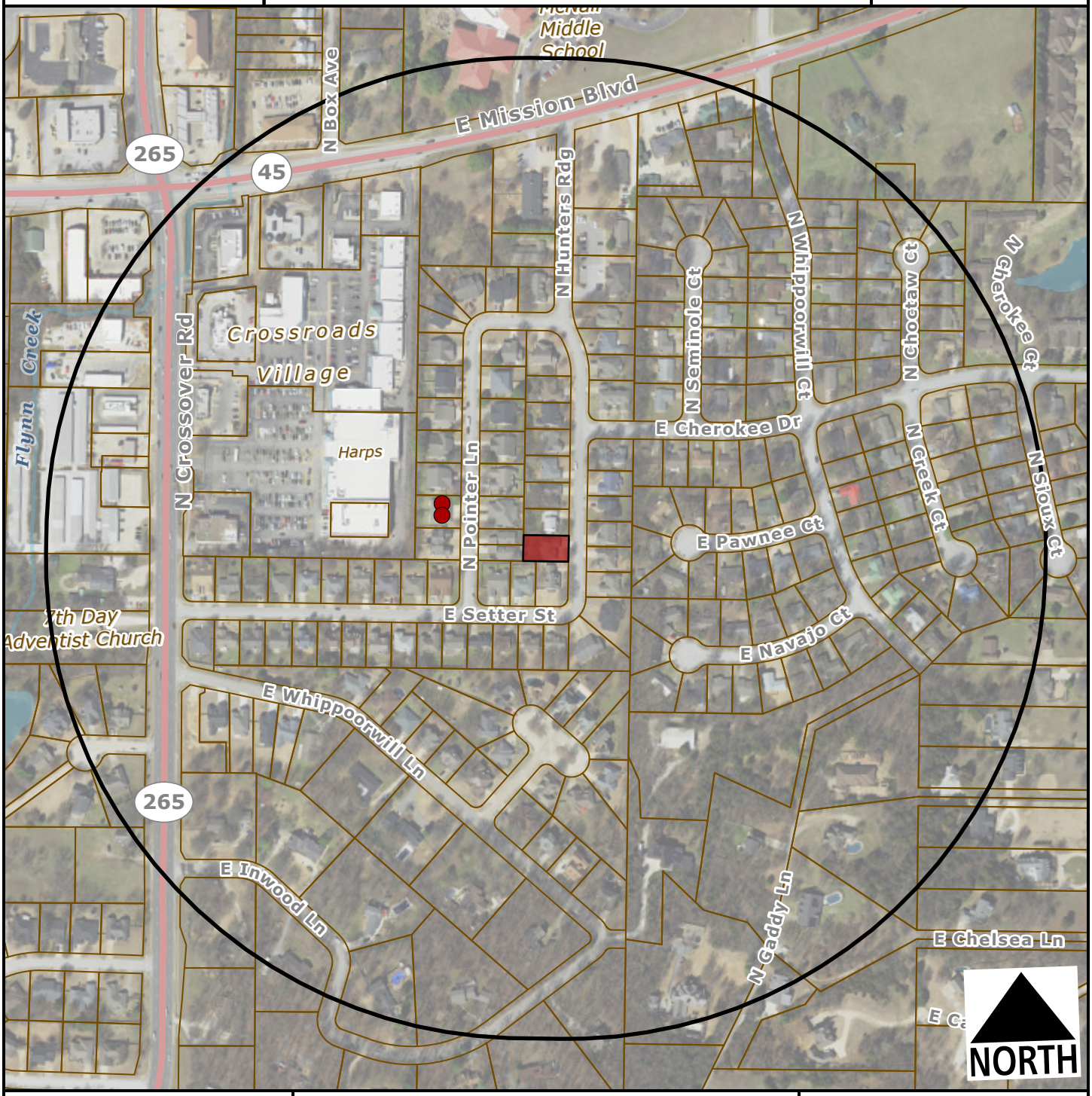
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0165

STRs Within 1/4 Mile

1751 N. HUNTERS RIDGE



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 2

Occupiable Residential Addresses (Estimated Housing Units): 260

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0170: Conditional Use Permit (854 E. SPARROW CIR/VAN WINKLE, 603):** Submitted by GVM INVESTMENTS for property located at 854 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contains approximately 0.10 acres. The request is to reconsider the denial of the residence as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0170**.

RECOMMENDED MOTION:
*"I move to deny the reconsideration request for **CUP-2023-0170**."*

If the reconsideration request is heard, staff recommends the below motion:
*"I move to deny **CUP-2023-0170**."*

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

On September 25, 2023, the Planning Commission voted 1-7-0 to deny this item, citing the high density of existing short-term rental units within the Creekside Meadows neighborhood, the difficulty of evaluating potential impacts of short-term rentals in new neighborhoods, and potential issues with parking enforcement and associated safety concerns due to the proximity of the fire hydrant. Commissioner Payne voted in favor of the request, stating that the 2% rule is no longer applicable and citing staff's findings of compatibility. A subsequent appeal to the City Council failed due to the applicant not meeting time, form, and place requirements. A zoning violation letter for operating a short-term rental illegally was issued on October 25 and escalated to the city prosecutor on December 5. The applicant has requested that the conditional use request be reconsidered pursuant to §163.02(D), which requires that the Planning Commission make a determination on changed conditions or new circumstances prior to hearing the new request. Additional information regarding the project history and proposed reconsideration are included in the report below and in staff attachments.

On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
South	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
West	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre

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

Proposal: The applicant requests reconsideration of a 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: No public comment was provided with the previous conditional use permit. Staff has not received any public comment regarding the revised request.

RECOMMENDATION: Staff recommends denial of **CUP-2023-0170.** 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. The number of occupants is limited to a maximum of eight for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

10. Any short-term rental guests shall park in either the garage or on-site driveway. No on-street parking shall be permitted.

11. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: January 8, 2024	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES; APPROVAL/RECONSIDERATION.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

Finding: **The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit; however as the request was denied less than one year ago, the application is subject to §163.02(D), which prohibits an application for a conditional use permit from being considered by the Planning Commission within twelve (12) months of final disapproval unless there is sufficient evidence of changed circumstances or new circumstances that justify reconsideration. The applicant has provided a letter describing changed circumstances on the property for Planning Commission consideration.**

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

Finding: **Staff finds that granting the requested conditional use could negatively affect the public interest given the existing density of short-term rentals within the Creekside neighborhood and potential impacts from on-street parking within a fire lane. The addition of further short-term rentals within the neighborhood could place an undue burden on adjacent long-term residents.**

(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 described in §163.18 and in the following report.**

D. **Approval/Reconsideration.** No application for a conditional use will be considered by the Planning Commission within twelve (12) months from the date of final disapproval of a proposed conditional use unless there is evidence of changed conditions or new circumstances which justify reconsideration submitted to the Planning Commission.

Finding: **Staff does not find evidence of changed conditions or new circumstances that would warrant a reconsideration by the Planning Commission. Of the four items listed in the applicant's letter, three have not changed since the previous application. The applicant states they will limit guests to a maximum of eight; however, an occupancy limit of eight guests was a recommended condition of approval for the previous report and does not constitute a change. Additionally, the applicant states that a maximum of**

four cars will be permitted to park on the property with no on-street parking permitted. The staff report for the previous conditional use request listed a maximum of four off-site parking spaces and cited the fire lane and adjacent hydrant when noting that no on-street parking would be permitted. As such, the described parking limitations also do not constitute a change of circumstances. The final item that the applicant cites as a change of circumstance is the monitoring of the property via a property manager and cameras. As the monitoring of the property was not discussed in the previous report, staff is unable to determine if this constitutes a change. Due to lack of cited changed circumstances, staff recommends that the previous denial of the request stand.

§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-8 zoning which requires a conditional use permit.**

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

Finding: **Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains four bedrooms, occupancy will be limited to a maximum of ten guests per ordinance. The applicant has stated an intent to limit the total guest count to eight. This limit aligns with previous staff recommendations given the lack of on-street parking on E. Sparrow Cir.**

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

Finding: **Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has four bedrooms, two parking spaces within an attached garage and two parking spaces within an associated driveway. No change has been made from the previous conditional use request.**

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

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

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

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

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of January 2, 2024, the City had issued 439 Type 2 short-term rental licenses., and 37 remain in the queue for processing. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **Staff finds there is likely adequate parking infrastructure to support the use of the property as a short-term rental with a reduced guest count. The structure has four bedrooms and four parking spaces within an attached garage and driveway. Parking on E. Sparrow Circle is prohibited in order to maintain fire access. The street is wider in front of the subject parcel due a fire hydrant located on the west side of the street, and any vehicles parked in front of the property will likely be impeding access to the hydrant. Staff recommends conditions that guests be limited to eight and that no on-street**

parking shall be permitted. No change has been made from the previous conditional use request regarding these conditions.

City records indicate seven other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license; however, staff notes that this applicant has also requested reconsideration of the conditional use approval for short-term rentals at 1006 E. Sparrow Cir. which was also denied at the September 25 meeting. Within Creekside Meadows, if both 854 and 1006 E. Sparrow Circle are approved, the neighborhood would be approximately 5% short-term rentals, which is over double the previous city-wide cap of 2%. The neighborhood is currently at 4% capacity. Staff finds that approving the additional short-term rentals within Creekside Meadows may be too high of a concentration for the area.

Additionally, the property currently has an active zoning violation for operating without a business license. Staff received the complaint on October 4, issued a violation letter on October 25, and escalated the violation to the city prosecutor on December 5 after remedial measures were not completed. Additional information on the project history and zoning violation are included in staff exhibits.

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

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

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

Finding: **The property has frontage along E. Sparrow Circle, an improved residential link street with sidewalk on both sides. The street widens in front of this property in order to provide adequate space around a fire hydrant on the west side of the street and is designated as a fire lane. With added conditions limiting guests count to eight and prohibiting parking within the fire lane, staff finds the proposal will not adversely affect traffic flows or fire access. No change has been made from the previous conditional use request as on-street parking is not legal in this location.**

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

Finding: **Four off street parking spaces are available in an attached garage and associated driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. No change has been made from the previous conditional use request.**

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

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the use to be incompatible with the surrounding properties. Since the previous conditional use request was heard on September 25, an additional two short-term rentals, including one by the applicant, have received type 2 short-term rental business licenses in within ¼ mile of the subject property. Staff finds the addition of further short-term rentals within Creekside Meadows is likely to negatively impact the neighborhood. Further the applicant has been operating the short-term rental illegally and has an active zoning violation that has been escalated to the city prosecutor.**

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

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

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
- Applicant Exhibits
  - Reconsideration Request
  - Conditional Use Request Letter
  - Site Plan
  - Building Floor Plan
  - Building Elevations
- Staff Exhibits:
  - Project History Timeline
  - Excerpts from CUP-2023-0104 Final PC Report (Denied)
  - City Attorney Memo: Failed Appeals of CUP-2023-0104 & CUP-2023-0105
  - CVZD-2023-0660 Zoning Violation Reports
    - Violation Letter
    - Violation History
    - Images and STR Records
  - Short-Term Rentals Neighborhood Analysis
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

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

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

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

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit*.

Single-family	5,000 square feet

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories

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

(Ord. No. 4783, 10-18-05; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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

GIS Approved
12/05/2023

This letter is to request the Planning Commissions reconsideration of both 854 E Sparrow Circle & 1006 E Sparrow Circle Conditional Use Permit.

Based on the reason for the commission's denial of both homes we have adjusted the number of people allowed to stay as well as the number of cars allowed. We are allowing a maximum of 8 people at any given time as well as 4 cars max. 2 parking inside the garage and 2 parking on driveway. Making it clear that there is to be absolutely no street parking for any reason at any given time.

We will also be monitoring this via property manager and cameras.

We hope that this adjustment will allow us the opportunity to move forward with an appeal.

I will also attach a screenshot of house rules showing changes to rules.

Thank you for your

consideration! Greg Van Winkle

These align with staff recommendations or previous conditions of the site per the previous conditional use permit request. Have any other circumstances changed on the site, property, or neighborhood?

Reviewed by:
Donna Wonsower, Planner Development Services

No other changes- GVW

Conditional Use Permit

Request to apply for a conditional use permit, required to own and operate a single family residence for short term rental use. 4bdrm/ 2bath -GVW

List total number of bedrooms in residence

Reviewed by:
Donna Wonsower, Planner
Development Services

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

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

(c) Number of off-street parking spaces to be provided / number required- 4 total. 2 inside garage & 2 on driveway

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

(e) Noise- N/A

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

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

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

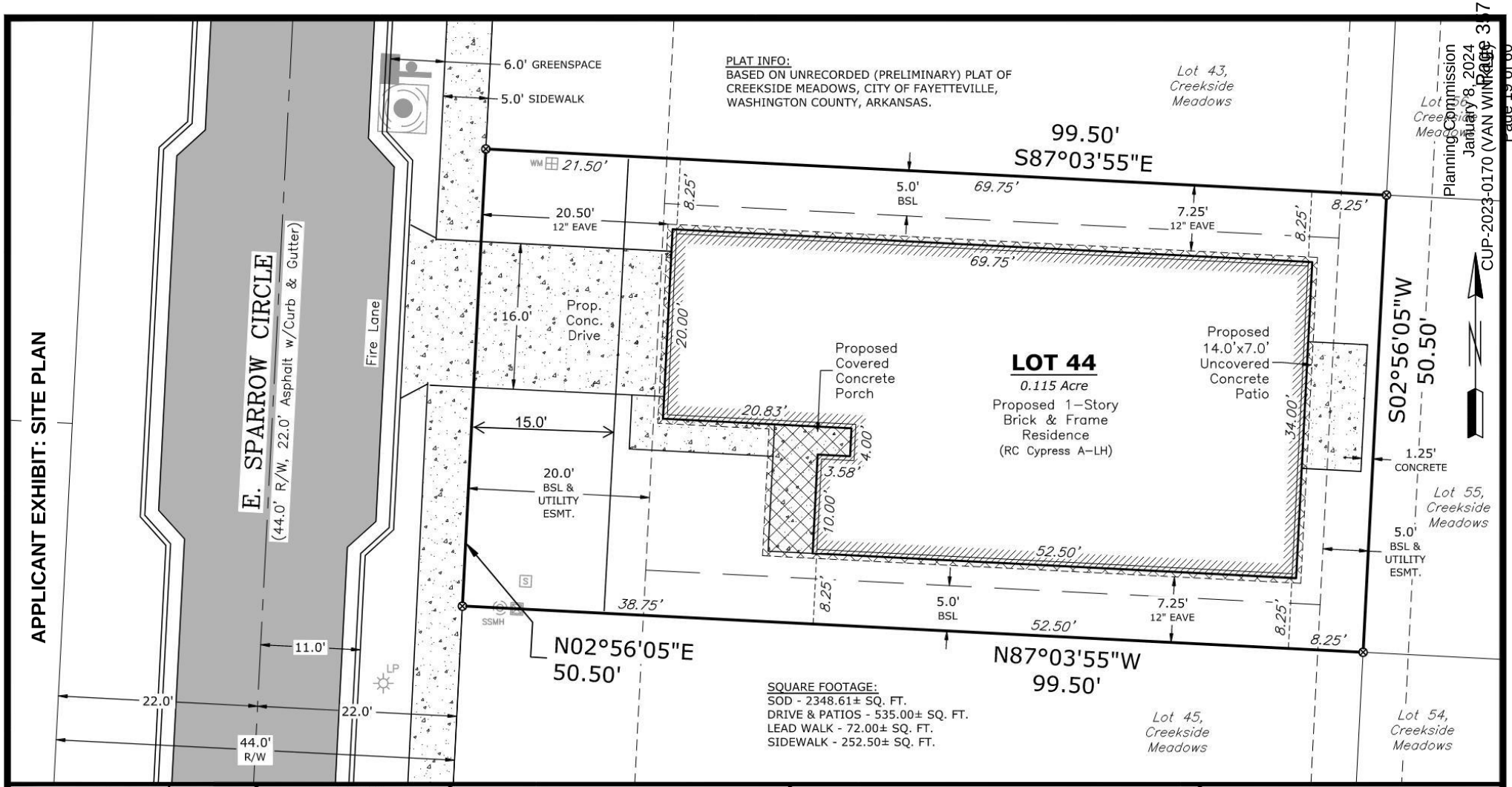
(i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood- Based on conversation with

neighbors. Several are University students renting and have no concerns with short term rentals in the area

APPLICANT EXHIBIT: SITE PLAN

854 E Sparrow- County Parcel Map

01/04/2023



REVISIONS	DATE

10 0 10
Scale in Feet

LEGEND
- SUBJECT PROPERTY LINE
- ADJOINER PROPERTY LINE
- ROAD CENTERLINE
- BUILDING SETBACK LINE
- EASEMENT LINE
- ⊗ = CALCULATED POINT

ABBREVIATIONS

R/W	= RIGHT-OF-WAY
ESMT.	= EASEMENT
BSL	= BUILDING SETBACK LINE
PROP.	= PROPOSED
ARC L.	= ARC LENGTH
ARC R.	= ARC RADIUS
CHORD B.	= CHORD BEARING
CHORD D.	= CHORD DISTANCE

NOTES:
- ALL DIMENSIONS SHOWN ARE IN DECIMAL FEET FORMAT.
- ALL HOUSE DIMENSIONS SHOWN ARE TO OUTSIDE OF FRAME UNLESS OTHERWISE NOTED.
- CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
- ALL PROPERTY INFORMATION SHOWN IS BASED ON SUBDIVISION PLAT PROVIDED BY DEVELOPER AND MAY BE SUBJECT TO CHANGE.

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

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

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

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

APPLICANT EXHIBIT: FLOOR PLAN

First Floor

APPLICANT EXHIBIT: ELEVATIONS

APPLICANT EXHIBIT: ELEVATIONS

STAFF EXHIBIT: PROJECT HISTORY

After the project denial on September 25, extensive communication has occurred between the applicant and city staff regarding the project status and potential next steps. A short summary of the project history in the interim months is included below:

- **SEPTEMBER 26, 2023:** Email from Donna Wonsower, planner, to applicant explaining appeal process. (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)

- **OCTOBER 3, 2023:** Email from Blake Pennington, senior assistant city attorney, to applicant and city council further clarifying time, form, and place requirements of UDC 155.02 (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)

- **OCTOBER 4, 2023:** Planning staff received complaint that property was operating a short-term rental without a business license. CVZD-2023-0660 opened (see attached zoning violation reports).

- **OCTOBER 5, 2023:** Donna Wonsower sent additional email sent clarifying appeal date and written appeal process with a follow up phone conversation (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)

- **OCTOBER 6, 2023:** Blake Pennington emailed example appeals to applicant, and received email from attorney Beau Wilcox noting appeal was being prepared (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)

- **OCTOBER 8, 2023:** Appeal emailed to mayor, city attorney, and city council. Appeal was not emailed to city clerk per UDC 155.02 (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)

- **OCTOBER 9, 2023:** Appeal deadline.

- **OCTOBER 10, 2023:** Blake Pennington emailed applicant notifying them of appeal failure due to failure to file with the city clerk (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)

- **OCTOBER 25, 2023:** Notice of zoning violation sent (see attached zoning violation reports).

- **OCTOBER 28, 2023:** Notice of violation delivered per USPS tracking system.

- **NOVEMBER 7, 2023:** Application received for conditional use permit reconsideration.

- **DECEMBER 5, 2023:** Zoning violation escalated to city prosecutor. Short-term rental listing removed from Airbnb; however, the applicant has not completed all required remedial actions including the provision of all guest records (see attached zoning violation reports).

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 25, 2023 (UPDATED WITH MEETING RESULTS)

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

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

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

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

BACKGROUND:
The subject property is in south Fayetteville southeast of the intersection of S. Morningside Dr. and E. 15th St. The property is zoned RSF-8, Residential Single-Family, Eight Units per Acre and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,990 square foot single-family structure that received certificate of occupancy in April 2023. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
South	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
West	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre

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

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

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

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

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

Conditions of Approval:

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

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

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

4. The number of occupants is limited to a maximum of eight for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

10. Any short-term rental guests shall park in either the garage or on-site driveway. No on-street parking shall be permitted.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: September 25, 2023	❒ **Tabled**	❒ **Approved**	☒ **Denied**
Motion:	SPARKMAN		MOTION TO APPROVE FAILED
Second:	PAYNE		
Vote:	1-7-0 (MCGETRICK, SPARKMAN, BRINK, GARLOCK, MADDEN, GULLEY, AND WINSTON VOTED AGAINST)		

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

Finding: **The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RSF-8 zoning which requires a conditional use permit.**

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

Finding: **Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains four bedrooms, occupancy will be limited to a maximum of ten guests. As on street parking is not available adjacent to the property, staff recommends a condition be added limiting guests to eight.**

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

Finding: **Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has four bedrooms, two parking spaces within an attached garage and two parking spaces within an associated driveway.**

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

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

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

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

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of September 18, 2023, the City had issued 399 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

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

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

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

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

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

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

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

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

Finding: **Four off street parking spaces are available in an attached garage and associated driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the use to be compatible with the surrounding properties. While the residences along E. Sparrow Cir. are all detached single-family dwellings, Creekside Meadows has multiple commercial lots available along E. 15th St. Further, a significant amount of the adjoining area outside of the Creekside Meadows neighborhood is zoned to allow commercial/industrial uses or multi-family dwellings by-right.**

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

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

BUDGET/STAFF IMPACT:
None

Attachments:

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

Conditional Use Permit

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

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

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

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

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

(e) Noise- N/A

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

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

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

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

PATIO
OPTIONAL
MSTR. BEDROOM
GREAT ROOM
W.I.C.
MSTR. BATH
DINING
BEDROOM 2
BATH
KITCHEN
HALL
LAUNDRY
D
W
BEDROOM 3
ENTRY
BEDROOM 4
WH
PORCH
GARAGE
OPT. HVAC MOVES TO ATTIC
OPT. FLUSH BAR TOP
OPT. BARTOP
MSTR. BATH
OPT. DOUBLE BOWL SINK
MSTR. BATH
OPT. SOAKER TUB & SHOWER
MSTR. BATH
OPT. 60" SHOWER
MSTR. BATH
OPT. SOAK TUB W/ SHWR HEAD

First Floor

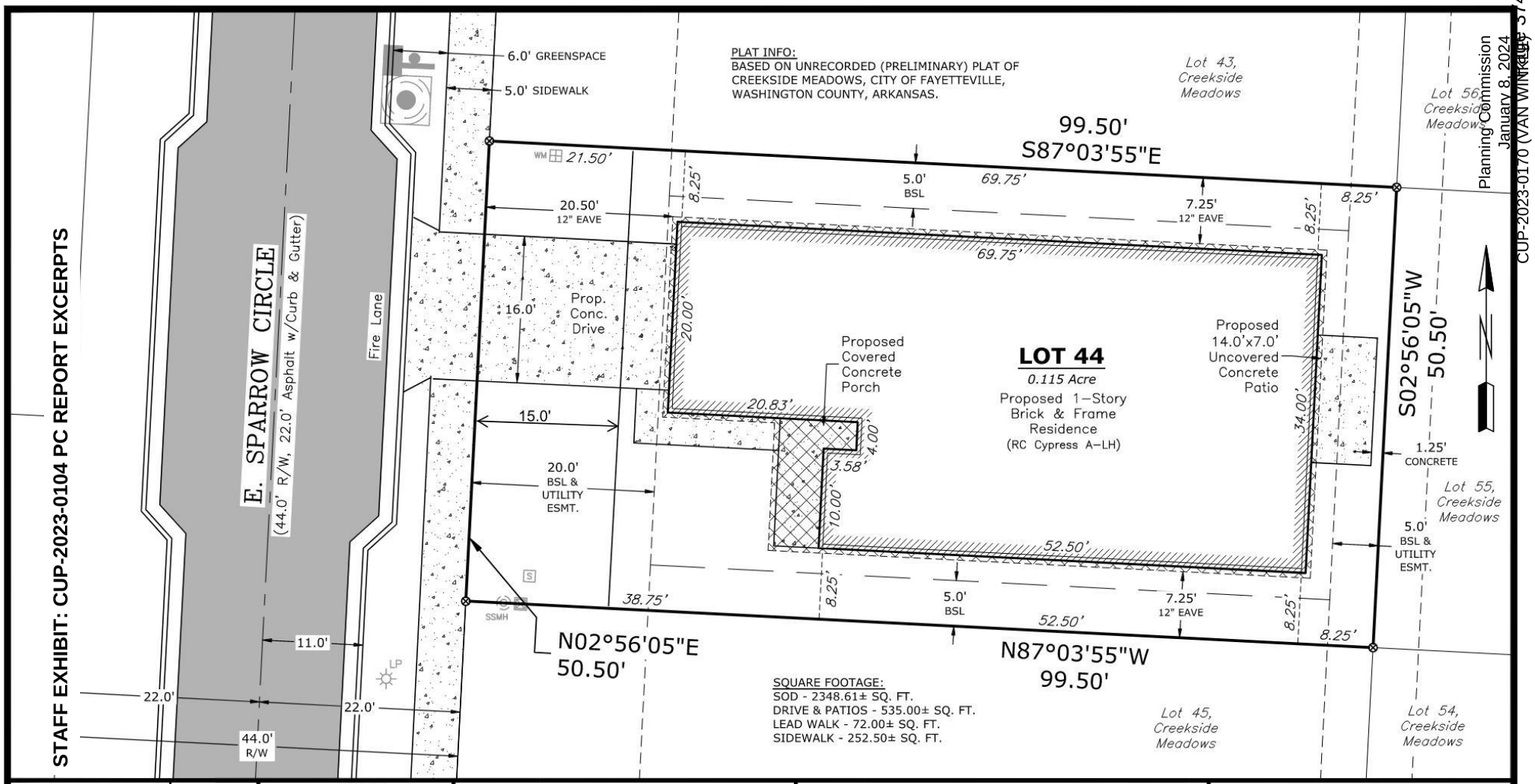
STAFF EXHIBIT: CUP-2023-0104 PC REPORT EXCERPTS

STAFF EXHIBIT: CUP-2023-0104 PC REPORT EXCERPTS

854 E Sparrow- County Parcel Map

01/04/2023

STAFF EXHIBIT: CUP-2023-0104 PC REPORT EXCERPTS



REVISIONS	DATE

10 0 10
Scale in Feet

LEGEND
- = SUBJECT PROPERTY LINE
- = ADJOINER PROPERTY LINE
- = ROAD CENTERLINE
- = BUILDING SETBACK LINE
- = EASEMENT LINE
- ⊗ = CALCULATED POINT

ABBREVIATIONS

R/W	= RIGHT-OF-WAY
ESMT.	= EASEMENT
BSL	= BUILDING SETBACK LINE
PROP.	= PROPOSED
ARC L.	= ARC LENGTH
ARC R.	= ARC RADIUS
CHORD B.	= CHORD BEARING
CHORD D.	= CHORD DISTANCE

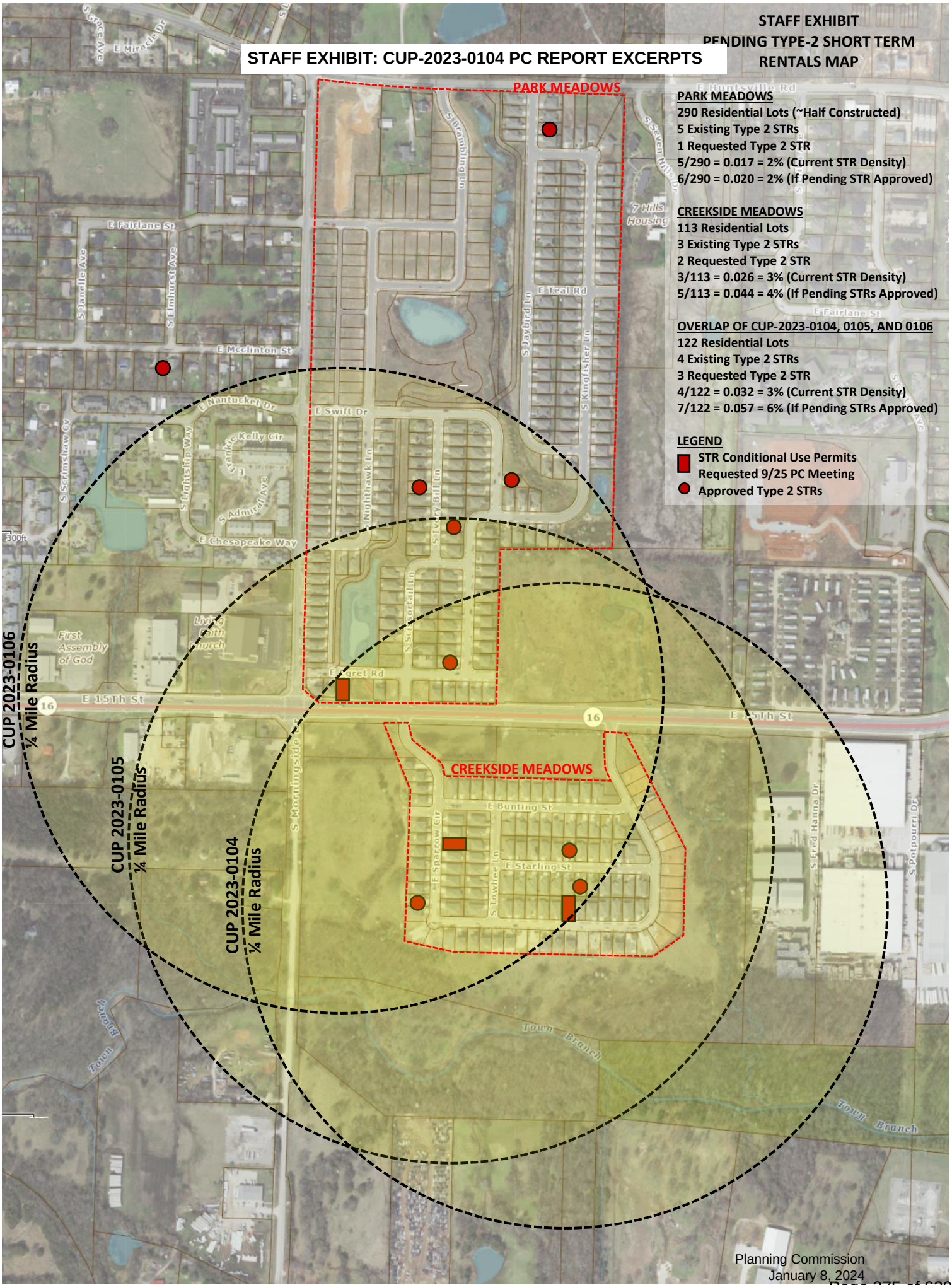
NOTES:
- ALL DIMENSIONS SHOWN ARE IN DECIMAL FEET FORMAT.
- ALL HOUSE DIMENSIONS SHOWN ARE TO OUTSIDE OF FRAME UNLESS OTHERWISE NOTED.
- CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
- ALL PROPERTY INFORMATION SHOWN IS BASED ON SUBDIVISION PLAT PROVIDED BY DEVELOPER AND MAY BE SUBJECT TO CHANGE.

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

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

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

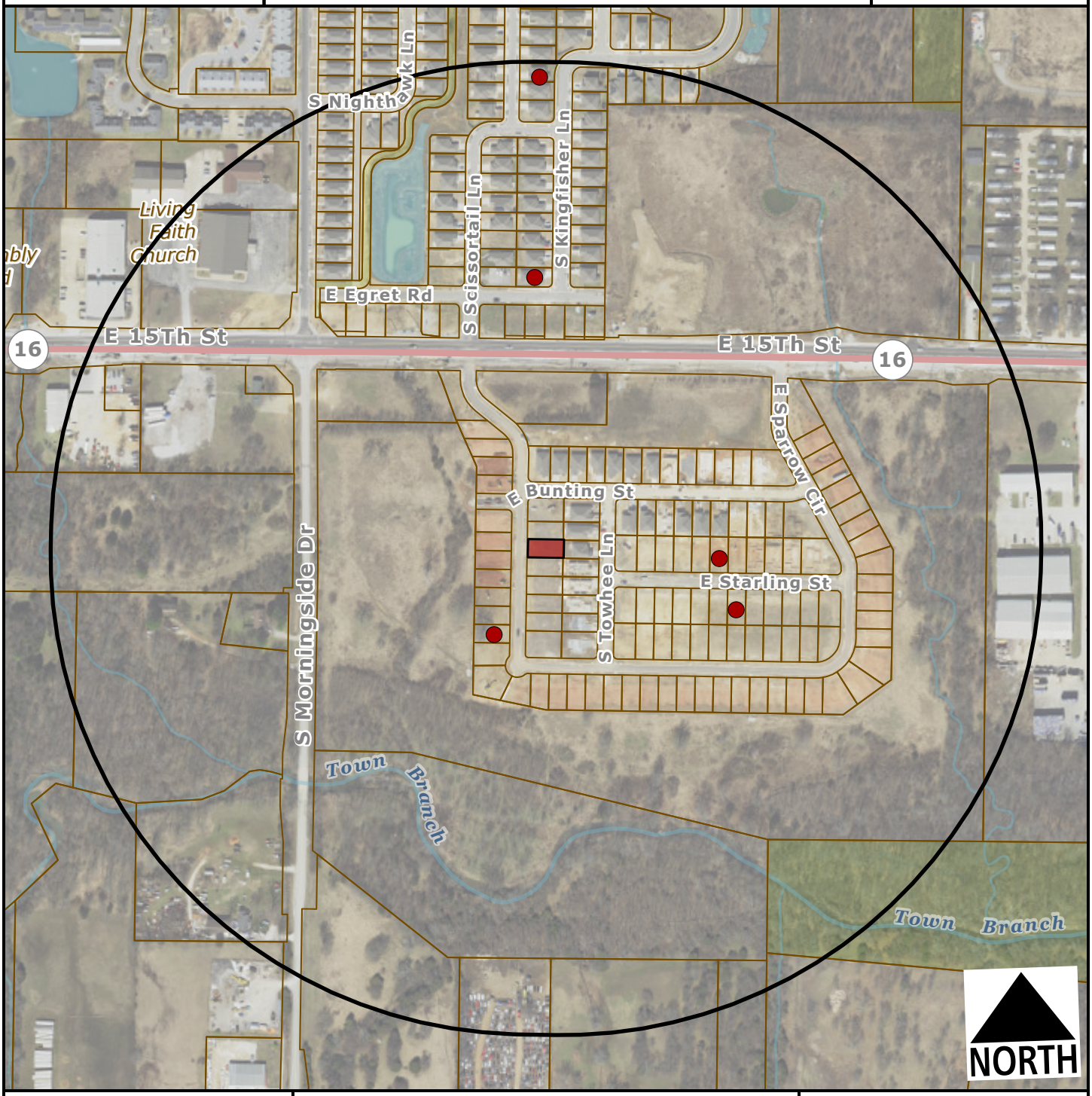
JAKE WORTHINGTON
Residential Plot Plans
P.O. Box 2021
Alma, AR 72921
(479)-226-6400
e-mail: zjakew@gmail.com


STAFF EXHIBIT: CUP-2023-0104 PC REPORT EXCERPTS
STAFF EXHIBIT
PENDING TYPE-2 SHORT TERM RENTALS MAP
PARK MEADOWS
PARK MEADOWS
290 Residential Lots (~Half Constructed)
5 Existing Type 2 STRs
1 Requested Type 2 STR
5/290 = 0.017 = 2% (Current STR Density)
6/290 = 0.020 = 2% (If Pending STR Approved)
CREEKSIDE MEADOWS
113 Residential Lots
3 Existing Type 2 STRs
2 Requested Type 2 STR
3/113 = 0.026 = 3% (Current STR Density)
5/113 = 0.044 = 4% (If Pending STRs Approved)
OVERLAP OF CUP-2023-0104, 0105, AND 0106
122 Residential Lots
4 Existing Type 2 STRs
3 Requested Type 2 STR
4/122 = 0.032 = 3% (Current STR Density)
7/122 = 0.057 = 6% (If Pending STRs Approved)
LEGEND
STR Conditional Use Permits Requested 9/25 PC Meeting
Approved Type 2 STRs
CUP 2023-0106 ¼ Mile Radius
CUP 2023-0105 ¼ Mile Radius
CUP 2023-0104 ¼ Mile Radius
CREEKSIDE MEADOWS
E Fairlane St
E Mcclinton St
E Nantucket Dr
E Swift Dr
E Teal Rd
E Chesapeake Way
E Egret Rd
E 15Th St
E Bunting St
E Starling St
S Morningside
S Rambling Ln
S Jaybird Ln
S Kingfisher Ln
S Nighthawk Ln
S Ivory Bill Ln
S Lighthship Way
S Admiral Ave
S Elmhurst Ave
S Janelle Ave
S Serimshaw Cv
E Kelly Cir
S Sparrow Cir
S Towhee Ln
S Fred Hanna Dr
S Potpourri Dr
First Assembly of God
Living Faith Church
7 Hills Housing
Town Branch
16

CUP-2023-0104

STRs Within 1/4 Mile

854 E. SPARROW CIR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 5

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Jonathan Curth**, Development Services Director

FROM: **Blake Pennington**, Senior Assistant City Attorney

DATE: **October 11, 2023**

RE: **Failed Appeal of CUP-2023-0104 and CUP-2023-0105**

On September 25, the Planning Commission voted 7-1 to deny CUP-2023-0104 for a Type 2 short term rental at 854 E. Sparrow Circle and 6-2 to deny CUP-2023-0105 for a Type 2 short term rental at 1006 E. Sparrow Circle.

In line with the Planning Division's practice, the Planner assigned to these applications sent an email the next morning to the applicant with information about their options. Ms. Wonsower's email chain with the applicant, including some later communications, is attached as Exhibit 1. Ms. Wonsower told the applicant the deadline to appeal was October 9 and that the appeal must be filed with the City Clerk.

On Tuesday, October 3, Council Member Sarah Bunch forwarded an email to the other council members and our office stating that she had been contacted by Greg Van Winkle about appealing those denials. (Exhibit 2)

Also on Tuesday, October 3, I sent an email to the City Council and Mr. Van Winkle that the form, time, and place requirements of § 155.02 of the Unified Development Code had not been met. I explained how those requirements could be met and also attached a copy of § 155.02. (Exhibit 3)

On Friday, October 6, I received a call from Stephanie Van Winkle asking how an appeal should be submitted. At her request I emailed two examples of appeals that had been properly submitted in the past on other Type 2 short term rental denials. In my email I advised that "You will need to email that to the City Clerk at cityclerk@fayetteville-ar.gov..." (Exhibit 4)

Later that day I received an email from Attorney Beau Wilcox who said he was preparing a more formal letter "to satisfy the city's requirements concerning the appeal and ensuring that it is properly perfected for the City Council's November 9, 2023 meeting." He also said "I have copied the City Clerk's office on this email as well, and will send the formal letters of appeal to them as well." This email acknowledges the appeal deadline of Monday, October 9. A copy of this email went to his client and to the City Clerk. (Exhibit 5)

On Sunday, October 8, Attorney Wilcox emailed the Mayor, me, and the Council Members who had previously agreed to sponsor the appeal with an appeal letter attached. (Exhibit 6) The letter of appeal (Exhibit 7) is addressed only to me and the Mayor.

I did not have a chance to review this email until yesterday, at which time I saw that the appeal letter was not filed with the City Clerk by October 9 as required by §155.02 of the Unified Development Code. This failure to comply with the appeal requirements is fatal to an appeal and, therefore, the Planning Commission's denials of CUP-2023-0104 and CUP-2023-0105 will stand.

Pennington, Blake

From: Wonsower, Donna
Sent: Wednesday, October 11, 2023 10:29 AM
To: Masters, Jessica; Pennington, Blake
Subject: FW: CUP-2023-0104 and 0105 Appeal Options

Jessie/ Blake,

I also spoke to Stephanie Van Winkle on the phone shortly after this email, as the Van Winkles were under the impression that the appeal date had already passed and that they would potentially be heard on the next city council meeting in October. I reiterated the deadline was the date that all the documents and notices of support had to be received, and not the date it would be heard by the city council as staff had to have time to prepare the report for the meeting. The email thread below also mentions multiple times (highlighted) that the documents must be sent to the city clerk.

Best Regards,
Donna Wonsower (she/her)
Planner, Development Services

479-575-8358
Website | Facebook | Twitter | Instagram | YouTube

CITY OF
FAYETTEVILLE
ARKANSAS

From: Wonsower, Donna
Sent: Thursday, October 5, 2023 8:09 AM
To: Greg VanWinkle <gvwinvestments22@gmail.com>
Subject: RE: CUP-2023-0104 and 0105 Appeal Options

Good Morning,

Yes. Please note that the city council members must send their support to the city clerk in writing in order for your appeal to be placed on the agenda.

Best Regards,
Donna Wonsower (she/her)
Planner, Development Services

479-575-8358
Website | Facebook | Twitter | Instagram | YouTube

CITY OF
FAYETTEVILLE
ARKANSAS

EXHIBIT
tabbies
1

From: Greg VanWinkle <gvwinvestments22@gmail.com>
Sent: Wednesday, October 4, 2023 8:40 PM
To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>
Subject: Re: CUP-2023-0104 and 0105 Appeal Options

STAFF EXHIBIT: FAILED APPEAL MEMO

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

Hello Mrs Donna,

We have been diligently working on this appeal. We have received verbal confirmations of 3 City Council members supporting our appeal. If I am reading your previous email correctly... we had 10 "working days" (in our case Oct 9th) to officially submit the appeal. You sent the email on Sept 26th. Backdating 10 business days would have been Sept 25th. Am I correct?

Thank you!
Stephanie Van Winkle

On Tue, Sep 26, 2023 at 9:18 AM Wonsower, Donna <dwonsower@fayetteville-ar.gov> wrote:

> Good Morning,
>
> Please see below for the corrected appeal date of October 9. Apologies for any confusion.
>
> Best Regards,
>
> Donna Wonsower (she/her)
>
> Planner, Development Services
>
> 479-575-8358
>
> Website | Facebook | Twitter | Instagram | YouTube

STAFF EXHIBIT: FAILED APPEAL MEMO

From: Wonsower, Donna
Sent: Tuesday, September 26, 2023 8:46 AM
To: Greg VanWinkle <gvwinvestments22@gmail.com>
Subject: CUP-2023-0104 and 0105 Appeal Options

Good morning,

I wanted to make you aware that last night the Planning Commission denied your requests for a conditional use permit to operate an STR at 854 and 1006 E. Sparrow Cir. I've attached staff's final reports on the items.

You may appeal the Planning Commission's decision to deny your CUP to City Council, so long as three council members in unison support your request to appeal (UDC §155.05(A)(3)). Appeal requests must be submitted within 10 working days from the date of the Planning Commission hearing (which in your case would be by October 9), and must be officially filed with the City Clerk within that timeframe. (Our form, time, and place requirements for appeals are described in UDC §155.02.) To request support from Council Members, you will need to reach out to them directly. Contact information for each Council Member can be found on the City's website here. To officially file your appeal with the City Clerk, you will need to forward your appeal request letter and the statements of support from three council members to our City Clerk's office at cityclerk@fayetteville-ar.gov.

Please also note that you will be unable to obtain a business license for a Type 2 STR. Using the property as a short-term rental without a license is a violation of City ordinance. Your associated business license will not be able to be approved

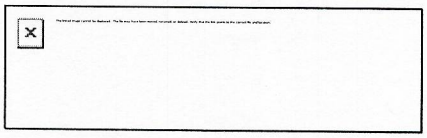
Best Regards,

Donna Wonsower (she/her)

Planner, Development Services

479-575-8358

Website | Facebook | Twitter | Instagram | YouTube



Pennington, Blake

STAFF EXHIBIT: FAILED APPEAL MEMO

From: Bunch, Sarah
Sent: Tuesday, October 3, 2023 9:01 AM
To: Williams, Kit; Pennington, Blake; Jones, D'Andre; Moore, Sarah; Wiederkehr, Mike; Berna, Scott; Turk, Teresa; Hertzberg, Holly
Subject: Fwd: Statement of Support for Conditional use permit to operate an STR
Attachments: CUP-2023-0105 PC Report_DENIED.pdf; CUP-2023-0104 PC Report_DENIED.pdf

Everyone,

Mr. Van Winkle applied for 2 CUPs and both were denied by Planning Commission. He is now seeking to appeal the Planning Commission decision, and after speaking to him I have decided to back his appeal.

He will need the support of two other council members, and I strongly suggested he reach out to the entire council, but in particular the representatives from the ward where the homes are located.

Sincerely,

Sarah Bunch

Sent from my iPhone

Begin forwarded message:

> **From:** Greg VanWinkle <gvwinvestments22@gmail.com>
> **Date:** September 28, 2023 at 12:13:39 PM CDT
> **To:** "Bunch, Sarah" <sarah.bunch@fayetteville-ar.gov>
> **Subject: Statement of Support for Conditional use permit to operate an STR**
>
> CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.
>
> Hello Mrs. Bunch,
>
> My name is Greg Van Winkle. I am a business owner of 23 years in Central Arkansas and am currently trying to expand my business to the Fayetteville area. I have 2 daughters that currently attend the U of A and am trying to make the transition to move my family there permanently.
>
> I have invested in 3 new construction properties in the area and have recently gone through the tedious process of meeting all of the compliance requirements to operate them as STR. 1 of the 3 has been approved and the other 2 were denied. Please see attached. It is essential that these homes be approved in order for me to be able to relocate my family and my business. (especially since we have complied with all of the requirements and are willing to adjust what is needed moving forward) The amount of vehicles in the driveway is something that we can easily regulate.
>
> I am reaching out to you specifically to ask if you would be able to provide any assistance at all? We have dedicated so much of our time and finances to make this dream of ours happen. We absolutely love the city of Fayetteville and love the University! Anything you can do to help us wo
> appreciated!

EXHIBIT 2
tabbies
Planning Commission — January 8, 2024
CUP-2023-0170 (VAN WINKLE) 382 of 629
Page 44 of 60

GIS Approved
12/05/2023

This letter is to request the Planning Commissions reconsideration of both 854 E Sparrow Circle & 1006 E Sparrow Circle Conditional Use Permit.

Based on the reason for the commission's denial of both homes we have adjusted the number of people allowed to stay as well as the number of cars allowed. We are allowing a maximum of 8 people at any given time as well as 4 cars max. 2 parking inside the garage and 2 parking on driveway. Making it clear that there is to be absolutely no street parking for any reason at any given time.

We will also be monitoring this via property manager and cameras.

We hope that this adjustment will allow us the opportunity to move forward with an appeal.

I will also attach a screenshot of house rules showing changes to rules.

Thank you for your

consideration! Greg Van Winkle

These align with staff recommendations or previous conditions of the site per the previous conditional use permit request. Have any other circumstances changed on the site, property, or neighborhood?

Reviewed by:
Donna Wonsower, Planner Development Services

No other changes- GVW

Pennington, Blake

STAFF EXHIBIT: FAILED APPEAL MEMO

From: Pennington, Blake
Sent: Tuesday, October 3, 2023 1:02 PM
To: Berna, Scott; Bunch, Sarah; Williams, Kit; Jones, D'Andre; Moore, Sarah; Wiederkehr, Mike; Turk, Teresa; Hertzberg, Holly
Cc: Williams, Kit; Curth, Jonathan; CityClerk; gvwinvestments22@gmail.com
Subject: RE: Statement of Support for Conditional use permit to operate an STR
Attachments: UDC 155.02 Form, Time, and Place.pdf

All,

I am attaching Section 155.02 of the Unified Development Code which sets out the form, time, and place requirements for appeals. Subsection (A) requires that the appeal reference the applicable UDC section(s) and set out the reasons the applicant believes the Planning Commission erroneously denied the application. Mr. Van Winkle's email does not meet this requirement.

Typically on appeals in which a council member must sign on, the applicant will provide a letter or email outlining the argument for why they believe the Planning Commission wrongly denied their application. In this case, the appeal letter can reference Section 163.02, which covers the general authority for conditional use permits and/or Section 163.18, which is more specific to short term rentals.

The applicant will still need to explain why they believe the Planning Commission decision was wrong, and then any three council members wishing to sponsor the appeal can adopt those reasons to meet the requirement of Section 155.04(A)(3).

Please let me know if there are any questions.

Thank you,

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov

CITY OF FAYETTEVILLE ARKANSAS

From: Berna, Scott <scott.berna@fayetteville-ar.gov>
Sent: Tuesday, October 3, 2023 10:36 AM
To: Bunch, Sarah <sarah.bunch@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>; Jones, D'Andre <dandre.jones@fayetteville-ar.gov>; Moore, Sarah <sarah.moore@fayetteville-ar.gov>; Wiederkehr, Mike <mike.wiederkehr@fayetteville-ar.gov>; Turk, Teresa <teresa.turk@fayetteville-ar.gov>; Hertzberg, Holly <holly.hertzberg@fayetteville-ar.gov>
Subject: Re: Statement of Support for Conditional use permit to operate an STR

EXHIBIT 3
Planning Commission
January 8, 2024
CUP-2023-0170 (VAN WINKLE)

Pennington, Blake **STAFF EXHIBIT: FAILED APPEAL MEMO**

From: Pennington, Blake
Sent: Friday, October 6, 2023 10:49 AM
To: gvwinvestments22@gmail.com
Subject: STR Appeal
Attachments: Appeal Letter for CUP 2023-0068.pdf; Walnofer CUP.pdf

Good morning. As discussed, I am attaching a couple of examples of previous appeals from the Planning Commission denial of Type 2 short term rentals.

The easiest thing to do is to prepare your own letter or email explaining the reasons you believe the Planning Commission's denials were incorrect. Because there were two separate applications denied I would recommend a different letter for each one but you can send both letters in a single email. Having separate letters will help us distinguish between the two properties. The letter does not have to be long or detailed – it just needs to explain why you believe the City Council should approve your applications. You'll have 10 minutes at the City Council meeting to make further arguments.

Section 163.02 is the section of the Unified Development Code that discusses compatibility and adverse impact, which are the most important factors for conditional use permits. Section 163.18 has the more specific short term rental factors like parking, density, etc.

You will need to email that to the City Clerk at cityclerk@fayetteville-ar.gov and copy at least the three Council members who have already agreed to sponsor the appeal. You could send it to all 7 councilmembers (we have one seat vacant at the moment).

Feel free to call if you have any further questions.

Thanks,

Blake

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov

CITY OF FAYETTEVILLE ARKANSAS

EXHIBIT 4
tabbies
Planning Commission
January 8, 2024
CUP-2023-0170 (VAN WINKLE)
Page 47 of 60

Pennington, Blake

STAFF EXHIBIT: FAILED APPEAL MEMO

From: Beau Wilcox <Beau@beauwilcoxlaw.com>
Sent: Friday, October 6, 2023 4:07 PM
To: Pennington, Blake
Cc: gvwinvestments22@gmail.com; CityClerk
Subject: RE: Greg Van Winkle/GVW Investments, LLC - short term rental appeal (re-sent to correct clerk email)

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

Dear Mr. Pennington,

Good afternoon and thank you for your helpful correspondence below with my client, Greg Van Winkle, and his affiliated entity, GVW Investments, LLC. I have been retained by these parties with respect to the short-term rental appeal of the Planning Commission's denials of the petition and conditional use permits for the properties in question.

I am preparing more formal correspondence to satisfy the city's requirements concerning the appeal and ensuring that it is properly perfected for the City Council's November 9, 2023 meeting. I will, per your request, also send separate letters for each property/application. To be clear, while we respect the Commission's decision, we do believe that the parking/occupancy concerns have been addressed by my client to the extent that the Code requires. Also, we certainly assert that no harm or nuisance will occur with respect to surrounding property owners.

I have copied the City Clerk's office on this email as well, and will send the formal letters of appeal to them as well. We will also transmit such correspondence to the council members.

Please let me know if my client or I need to do anything further. As I understand, the letters are needed by Monday morning, but I will be traveling this weekend so I should have them transmitted by email to all concerned parties by tomorrow (Saturday, Oct. 7, 2023) morning.

Best regards,

Beau Wilcox, Attorney at Law
1315 Main Street
Conway, AR 72034
(501) 327-5708 (telephone)
beau@beauwilcoxlaw.com

---------- Forwarded message ---------
From: **Pennington, Blake** <bpennington@fayetteville-ar.gov>
Date: Fri, Oct 6, 2023 at 10:49 AM
Subject: STR Appeal
To: gvwinvestments22@gmail.com <gvwinvestments22@gmail.com>

Good morning. As discussed, I am attaching a couple of examples of previous appeals from the Planning Commission denial of Type 2 short term rentals.

EXHIBIT 5
Planning Commission
January 8, 2024
CUP-2023-0170 (VAN WINKLE)

Pennington, Blake

STAFF EXHIBIT: FAILED APPEAL MEMO

From: Beau Wilcox <Beau@beauwilcoxlaw.com>
Sent: Sunday, October 8, 2023 7:50 PM
To: Mayor; Pennington, Blake; Pennington, Blake
Cc: Bunch, Sarah; Berna, Scott; Jones, D'Andre; Greg VanWinkle
Subject: Appeal of Planning Commission denial of CUP - GVW Investments, LLC / Greg Van Winkle
Attachments: letter of appeal.GVW Investments Van Winkle.10082023.pdf

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

Good evening to all—I represent Mr. Van Winkle and his LLC, GVW Investments, LLC, regarding a recent denial by the Fayetteville planning commission for his conditional use permit request. Please find attached the letter of appeal for my client, and please let me know if you have any questions.

Best regards,

Beau Wilcox, Attorney at Law
1315 Main Street
Conway, AR 72034
(501) 327-5708 (telephone)
beau@beauwilcoxlaw.com

EXHIBIT 6
Planning Commission
January 8, 2024
CUP-2023-0170 (VAN WINKLE)

BEAU WILCOX, ATTORNEY AT LAW
1315 MAIN STREET, CONWAY, AR 72034
(501) 327-5708 (TELEPHONE)
BEAU@BEAUWILCOXLAW.COM

October 8, 2023

City of Fayetteville, Arkansas
ATTN: Blake Pennington, City Attorney
ATTN: Lioneld Jordan, Mayor
113 West Mountain Street
Fayetteville, AR 72701

VIA EMAIL – bpennington@fayetteville-ar.gov

RE: Conditional Use Permit Appeal – GVW Investments, LLC

Dear Mayor Jordan & Mr. Pennington,

I write today on behalf of Greg Van Winkle and GVW Investments, LLC, a limited liability company in good standing which owns certain properties in Fayetteville commonly known as 854 E. Sparrow Circle and 1006 E. Sparrow Circle. The Fayetteville Planning Commission denied my client's request for a conditional use permit ("CUP") for these properties to serve as short-term rentals. This letter is for the purpose of formally appealing this decision to the Fayetteville City Council.

My client has addressed concerns raised by the Planning Commission with respect to maximum occupancy concerns. We believe any issues that elicited objections from the Commission have therefore been rectified, and that the CUP should be granted based upon all applicable zoning, code, and associated city regulations. The proposed CUP would not unreasonably interfere with the use, access, or enjoyment of neighboring properties.

It is my understanding that this letter of appeal will move this matter to consideration by the Council at its November 10, 2023 meeting. I plan to attend on behalf of my client, and he will be present as well to address the Council with respect to this matter, so please confirm its placement on the agenda.

I have copied the Fayetteville City Council members who have agreed to sponsor this appeal on this email. Please do not hesitate to contact me if you have any questions.

Sincerely,

Beau Wilcox, Attorney at Law

cc: Client; Council members (as stated)

CITY OF
FAYETTEVILLE
ARKANSAS

VIOLATION NOTICE

October 25, 2023

GREGORY VAN WINKLE
GVW INVESTMENTS LLC
25 WATERCREST COVE
AUSTIN, AR 72007

CARLOS SANCHEZ
DESIGNATED AGENT
2104 W OAK STREET
ROGERS, AR 72758

Re: CVZD-2023-0660 Zoning Violation

Dear Property Owner and Designated Agent:

It appears that your property located at 854 E SPARROW CIRCLE contains violations of the Fayetteville Code of Ordinance. This letter is being sent to the property and the designated agent listed. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct these problems, please call our office at (479) 575-8362 or email ehyke@fayetteville-ar.gov.

Violations:
§118.01, §120.02, §161.02, §163.18 of the City of Fayetteville Unified Development Code.

Remedial Action(s) needed for compliance:

1. Cease use of the property as a short-term rental immediately.
2. Cease all advertising of the property as a short-term rental.
3. Cease use of the property for special events (i.e. parties) as they are not an allowed use for short-term rentals.
4. Provide summary guest registration records for the subject short-term rental property for the twelve (12) months preceding this letter and any future bookings. The records shall contain 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 should be emailed to the provided email address in this letter within upon receiving this request.

Penalty:
If these violations are repeated, or the requested remedial actions are not taken upon receiving this letter, this notice and all documents related to this case shall be turned over to the City Prosecutor's Office. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to an appeal. Please see Chapter 155 of the Unified Development Code.

The City of Fayetteville is a truly beautiful and unique place to live and work and we rely on all our citizens and the business community to help us to maintain the high quality of life we have all come to expect. Thank you for your contributions to that quality of life and for resolving the violation in a timely manner.

Sincerely,

Bliss Hyke
Planning Technician

CITY OF FAYETTEVILLE ARKANSAS

CODE CASE HISTORY REPORT CVZD-2023-0660 FOR CITY OF FAYETTEVILLE

Changed On	User	Description	Before	After	Additional Info
10/04/2023	Bliss Hyke	Code Case added			Code Case (CVZD-2023-0660)
10/04/2023	Bliss Hyke	Attachment added			Attachment (854 E Sparrow Page 3.png)
	Bliss Hyke	Attachment added			Attachment (854 E Sparrow Page 4.png)
	Bliss Hyke	Attachment added			Attachment (854 E Sparrow Reserve & Pay.png)
	Bliss Hyke	Attachment added			Attachment (854 E Sparrow Page 5.png)
	Bliss Hyke	Attachment added			Attachment (854 E Sparrow Page 1.png)
	Bliss Hyke	Attachment added			Attachment (854 E Sparrow Page 2.png)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0660)
10/04/2023	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0660)
10/04/2023	Bliss Hyke	Code Case Note added			Code case note text: (DENIED DUE TO CUP DENIAL ON 09/25/2023: STR-0835-2023 • GVW Investments (854 E SPARROW CIR FAYETTEVILLE, AR 72701))
	Bliss Hyke	Code Case Note added			Code case note text: (DENIED 9/25/2023: CUP-2023-0104 (854 E SPARROW CIR FAYETTEVILLE, AR 72701))
10/04/2023	Bliss Hyke	Contact added			Contact (Gregory Van Winkle)
	Bliss Hyke	Contact added			Contact (Gregory Van Winkle)
10/04/2023	Bliss Hyke	Attachment added			Attachment (Intial Email Complaint.pdf)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0660)
10/04/2023	Bliss Hyke	Contact added			Contact (Mike Wiederkehr)
10/04/2023	Bliss Hyke	Attachment added			Attachment (Host Profile on AirBnB Screenshot 2023-10-04 114609.png)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0660)
10/25/2023	Bliss Hyke	Attachment added			Attachment (Failed CUP Appeal Memo E. Sparrow Circle.pdf)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0660)
10/25/2023	Bliss Hyke	Attachment added			Attachment (10.25.23 SparrowE Host AirBnb listings.png)
	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow854e AirBnb listing.png)
10/25/2023	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow854e Landlord Registry.png)
	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow854e Property Records.png)
10/25/2023	Bliss Hyke	Attachment added			Attachment (Sparrow854e - STR (CUP & BL denied but still active).pdf)
10/25/2023	Bliss Hyke	Code Case Workflow Step Start Date	[none]	10/25/2023	Code Case Workflow Step (Notice of Violation)
	Bliss Hyke	Step Workflow Status	Not Started	Started	Code Case Workflow Step (Notice of Violation)
	Bliss Hyke	Code Case Workflow Step Action Start Date	[none]	10/25/2023	Code Case Workflow Step Action (Tracking Notice of Violation)
	Bliss Hyke	Code Enforcement Activity added			Code Enforcement Activity Additional Info

CODE CASE HISTORY REPORT CVZD-2023-0660

STAFF EXHIBIT: VIOLATION HISTORY

Changed On	User	Description	Before	After	Additional Info
	Bliss Hyke	Action Workflow Status	Not Started	Started	Code Case Workflow Step Action (Tracking Notice of Violation)
	Bliss Hyke	Code Case Workflow Step Action added			Code Case Workflow Step Action (Tracking Notice of Violation)
11/08/2023	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0660)
	Bliss Hyke	Code Case Note added			Code case note text: (NOV has not been received yet.)
12/05/2023	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0660)
	Bliss Hyke	Code Activity Comments	[none]	11/16/2023 Returned to Sender	Code Enforcement Activity Additional Info
	Bliss Hyke	Returned undeliverable	[none]	Yes	Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Started	Failed	Code Case Workflow Step Action (Tracking Notice of Violation)
	Bliss Hyke	Code Activity Comments	DA is Designated Agent	Delivered 10/28/2023 DA is Designated Agent	Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Started	Passed	Code Case Workflow Step Action (Tracking Notice of Violation)
12/05/2023	Bliss Hyke	Attachment added			Attachment (Host Profile as of Screenshot 2023-12-05 155251.png)
	Bliss Hyke	Attachment added			Attachment (Host Profile reviews as of Screenshot 2023-12-05 155251.png)
	Bliss Hyke	Attachment added			Attachment (Listing removed 854 E Sparrow Screenshot 2023-12-05 155105.png)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0660)
	Bliss Hyke	Code Case Note added			Code case note text: (Have not heard from owner or designated agent, have not received guest records.)
12/05/2023	Bliss Hyke	Date Closed	[none]	12/5/2023	Code Case (CVZD-2023-0660)
	Bliss Hyke	Code Case Status	In Progress	Closed - Escalated to Prosecutor	Code Case (CVZD-2023-0660)
	Bliss Hyke	Complete	No	Yes	Code Case (CVZD-2023-0660)
12/05/2023	Bliss Hyke	Attachment added			Attachment (Arkansas Secretary of State.pdf)
12/05/2023	Bliss Hyke	Code Case Workflow Step Start Date	[none]	12/5/2023	Code Case Workflow Step (Status Escalated)
	Bliss Hyke	Step Workflow Status	Not Started	Started	Code Case Workflow Step (Status Escalated)
	Bliss Hyke	Code Case Workflow Step Action Start Date	[none]	12/5/2023	Code Case Workflow Step Action (Escalated to Prosecutor)
	Bliss Hyke	Code Enforcement Activity added			Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Not Started	Started	Code Case Workflow Step Action (Escalated to Prosecutor)

CASE AND INSPECTION(S) DETAILS FOR CASE CVZD-2023-0660

Case Type: Zoning/Development
Status: Closed - Escalated to Prosecutor
Open Date: 10/04/2023
Close Date: 12/05/2023
Address: 854 E SPARROW CIR
Fayetteville, AR 72701

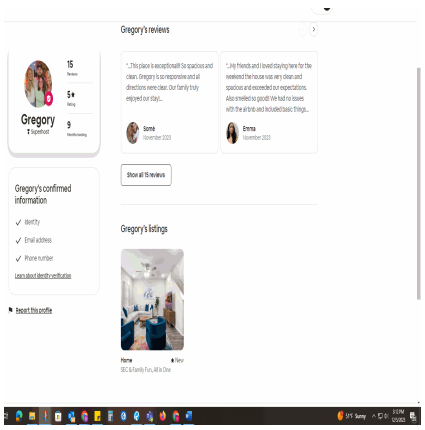
Description: PZ320, PZ370, PZ340 It appears they are operating without a license. 854 E Sparrow Circle. These were denied CUPs at the last PC meeting. Donna, copying you since you were the Planner on the items, and I believe they may be trying to appeal.

Contacts: Complainant: Mike Wiederkehr
Owner: Gregory Van Winkle
Violator: Gregory Van Winkle

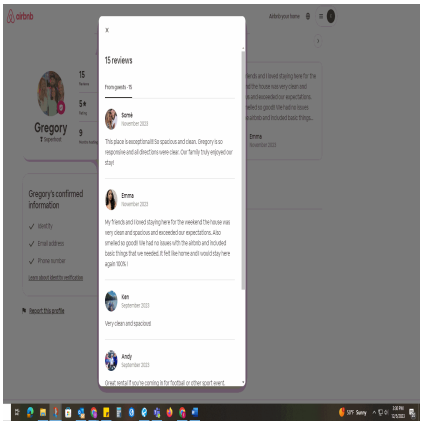
Note	Created By	Date and Time Created
1. DENIED DUE TO CUP DENIAL ON 09/25/2023: STR-0835-2023 • GVW Investments (854 E SPARROW CIR FAYETTEVILLE, AR 72701)	Bliss Hyke	10/4/2023 10:55 am
2. DENIED 9/25/2023: CUP-2023-0104 (854 E SPARROW CIR FAYETTEVILLE, AR 72701)	Bliss Hyke	10/4/2023 10:56 am
3. NOV has not been received yet.	Bliss Hyke	11/8/2023 3:40 pm
4. Have not heard from owner or designated agent, have not received guest records.	Bliss Hyke	12/5/2023 3:56 pm

Activity Type	Activity Number	Activity Name	User	Created On
Notice of Violation Tracking	PRE-1671-2023	USPS # 70212720000005580524	Bliss Hyke	10/25/2023
	PRE-1672-2023	DA:USPS# 70212720000005580531	Bliss Hyke	10/25/2023
Other Activity	ACT-1784-2023		Bliss Hyke	12/05/2023

Attached Images:



Added on: 12-05-2023 (Direct Link)



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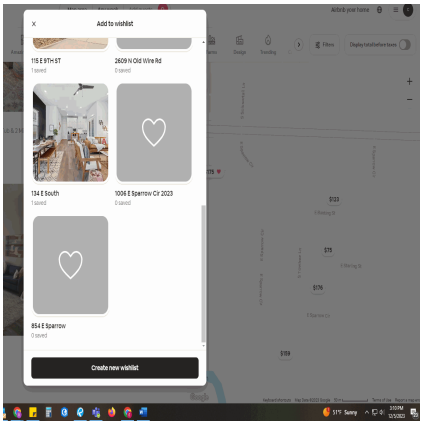

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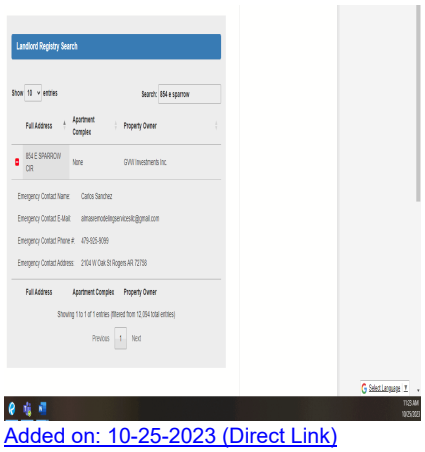

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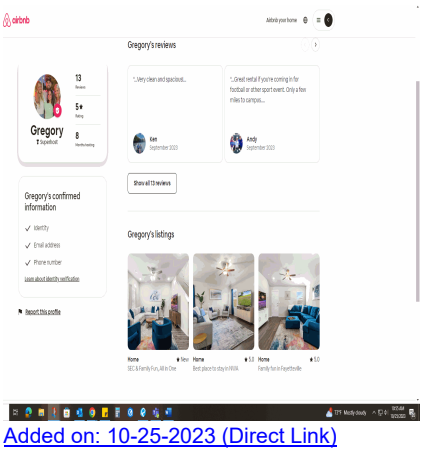
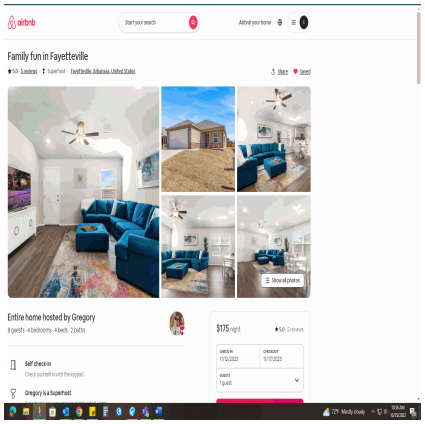


Added on: 10-25-2023 (Direct Link)

CASE AND INSPECTION(S) DETAILS FOR CASE CVZD-2023-0660



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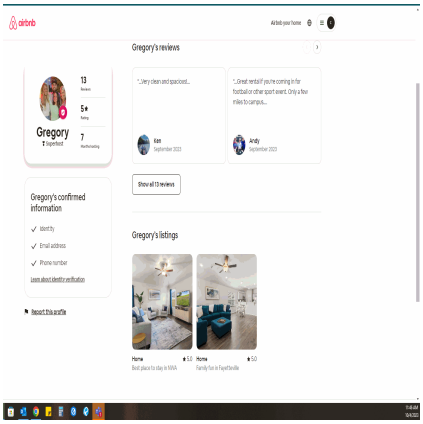
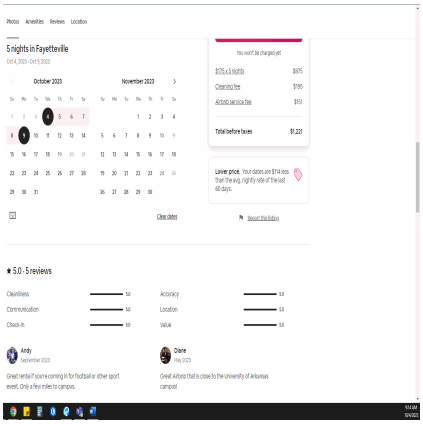
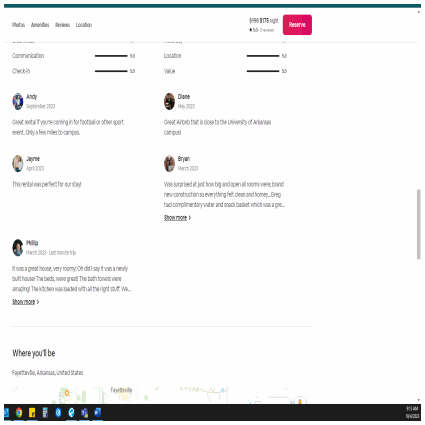


Added on: 10-04-2023 (Direct Link)



Added on: 10-04-2023 (Direct Link)



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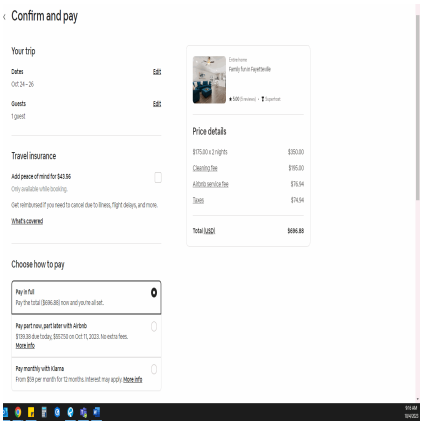

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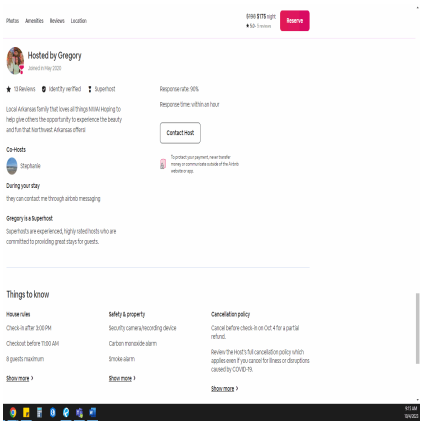

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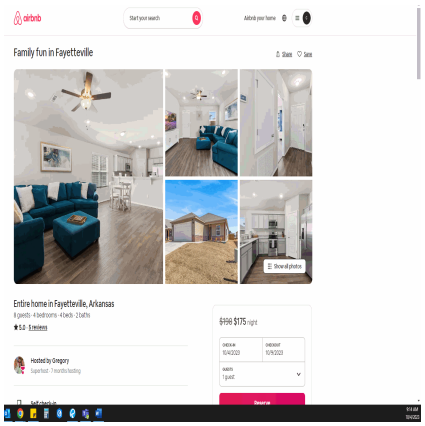

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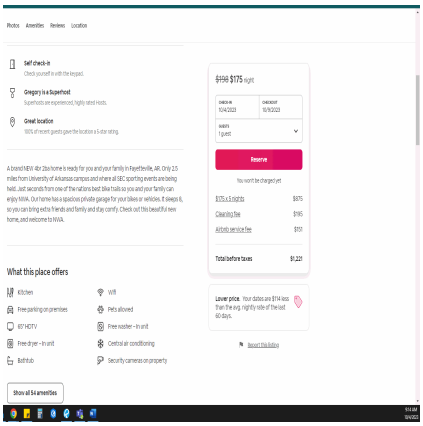

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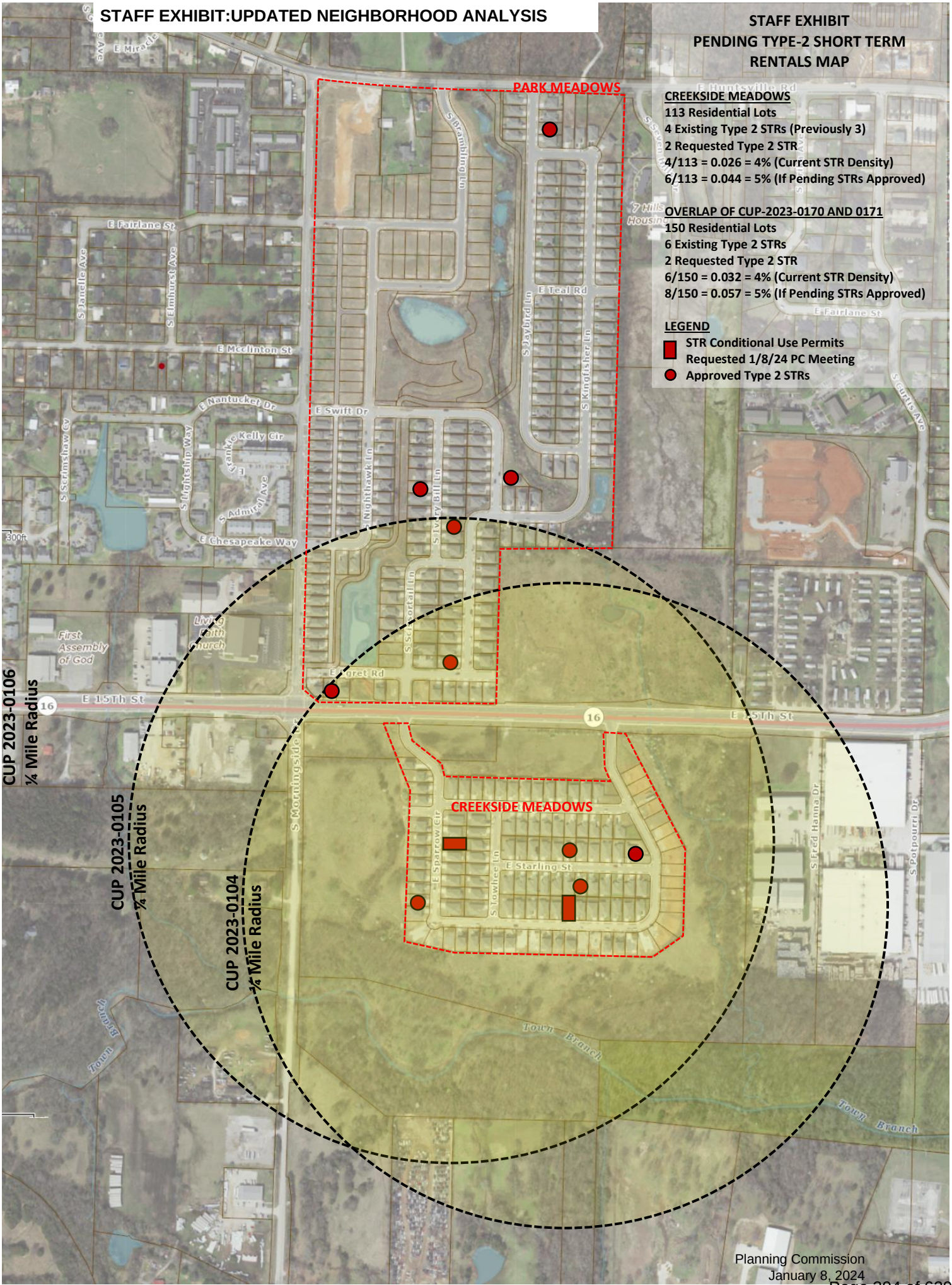
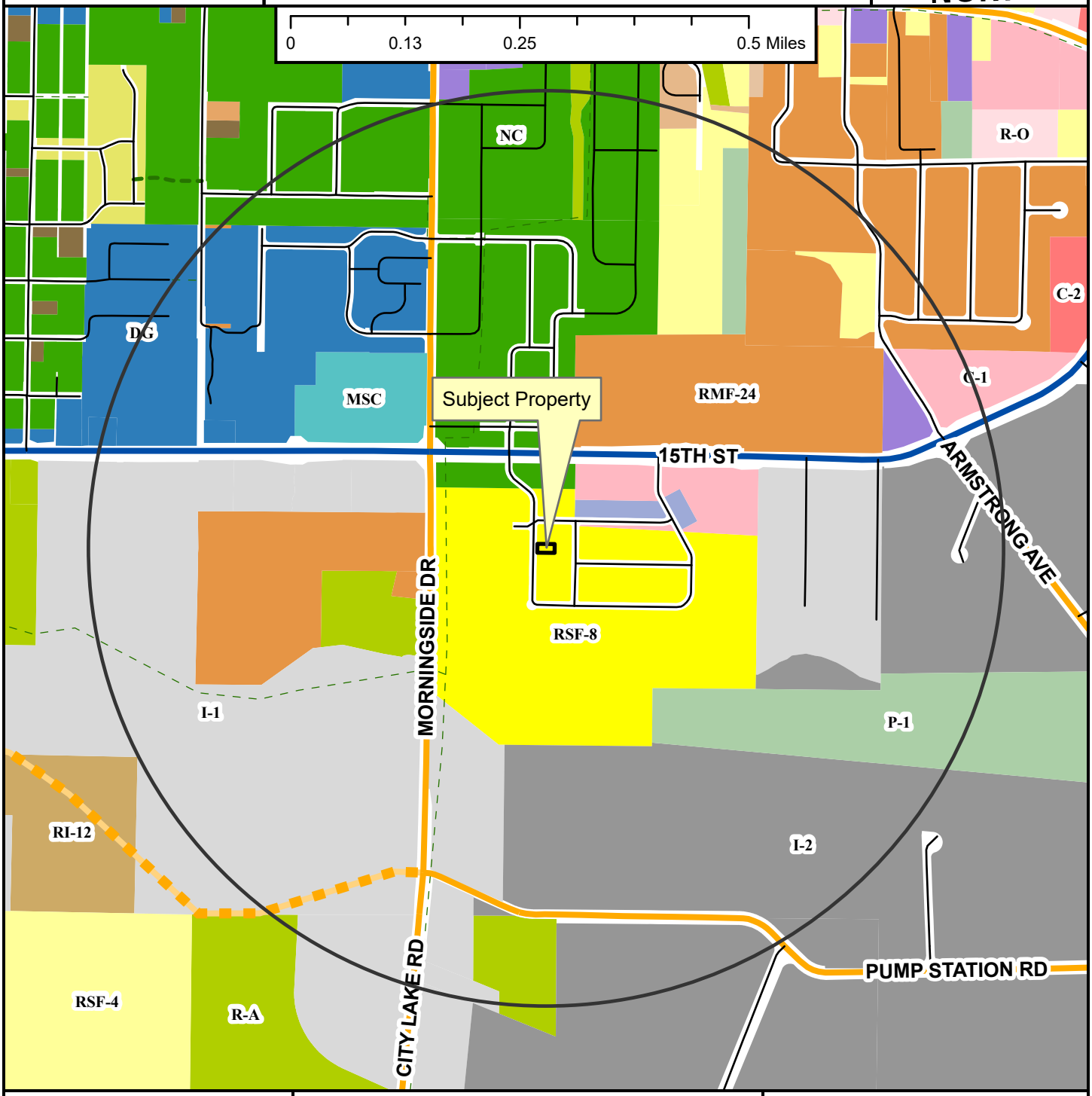

STAFF EXHIBIT:UPDATED NEIGHBORHOOD ANALYSIS
STAFF EXHIBIT
PENDING TYPE-2 SHORT TERM
RENTALS MAP
CREEKSIDE MEADOWS
113 Residential Lots
4 Existing Type 2 STRs (Previously 3)
2 Requested Type 2 STR
4/113 = 0.026 = 4% (Current STR Density)
6/113 = 0.044 = 5% (If Pending STRs Approved)
OVERLAP OF CUP-2023-0170 AND 0171
150 Residential Lots
6 Existing Type 2 STRs
2 Requested Type 2 STR
6/150 = 0.032 = 4% (Current STR Density)
8/150 = 0.057 = 5% (If Pending STRs Approved)
LEGEND
STR Conditional Use Permits Requested 1/8/24 PC Meeting
Approved Type 2 STRs
PARK MEADOWS
CREEKSIDE MEADOWS
CUP 2023-0106
¼ Mile Radius
CUP 2023-0105
¼ Mile Radius
CUP 2023-0104
¼ Mile Radius
E Fairlane St
E Mcclinton St
E Nantucket Dr
E Swift Dr
E Teal Rd
E Chesapeake Way
E 15Th St
E Starling St
S Morningside Dr
Town Branch
S Fred Hanna Dr
S Potpourri Dr
S Curtis Ave
S Kingfisher Ln
S Jaybird Ln
S Brambling Ln
S Nighthawk Ln
S Ivory Bill Ln
S Scissortail Ln
E Sparrow Cir
S Towhee Ln
S Lightship Way
S Admiral Ave
S Scrimshaw Cv
S Janelle Ave
S Elmhurst Ave
E Miracle
E Huntsville Rd
First Assembly of God
Living Faith Church
16

CUP-2023-0170

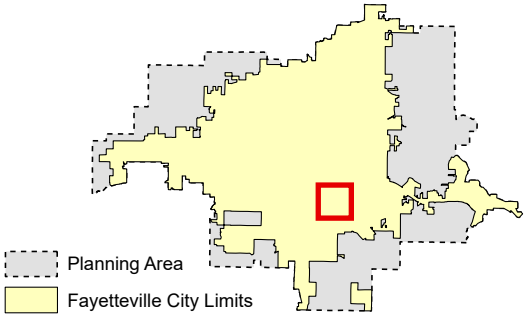
One Mile View

854 E. SPARROW CIR

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

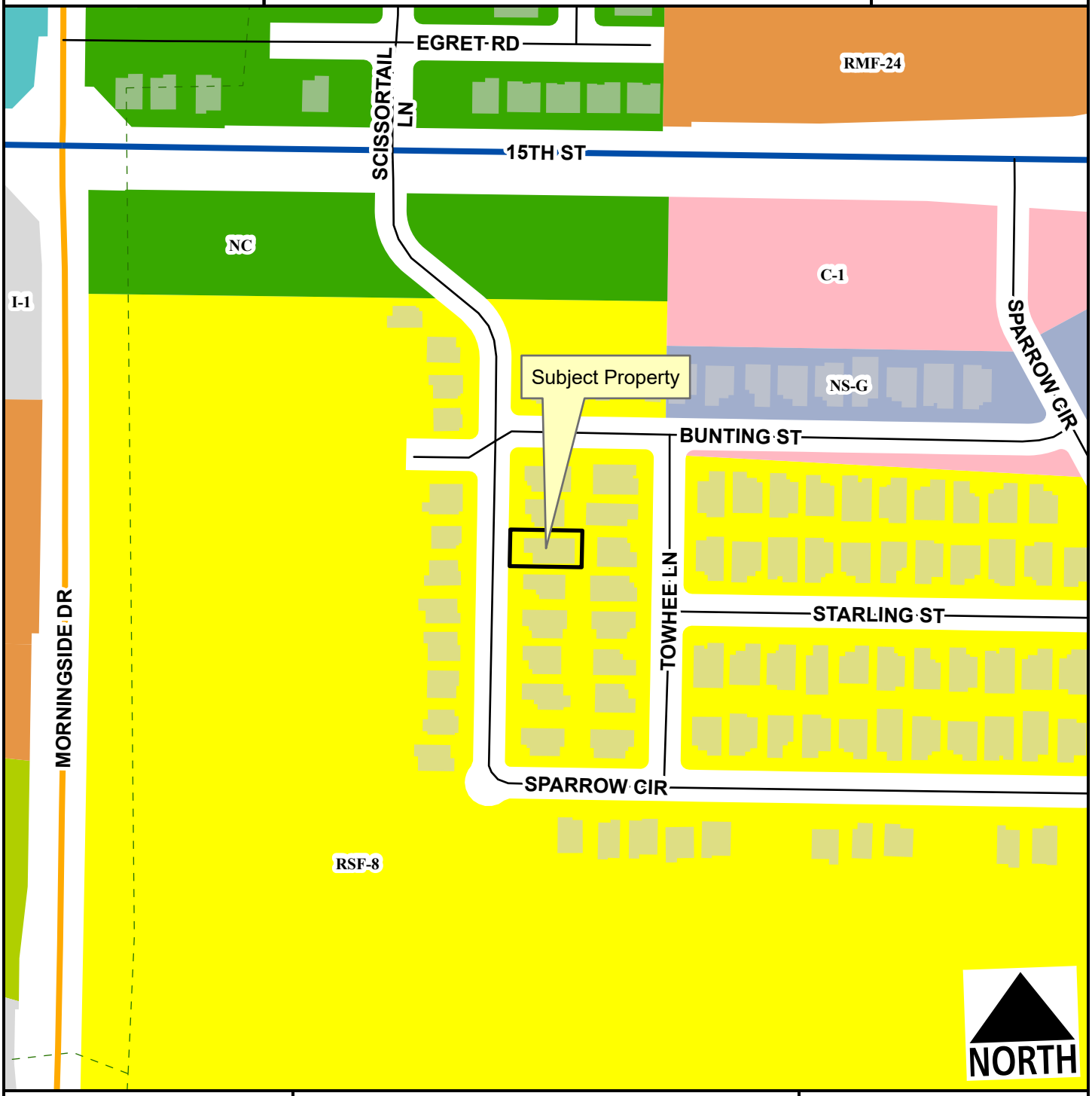
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0170

Close Up View

854 E. SPARROW CIR



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

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

Residential-Agricultural
RSF-8
RMF-24
I-1 Heavy Commercial and Light Industrial
C-1
Main Street Center
Neighborhood Services - Gen.
Neighborhood Conservation

CUP-2023-0170

Current Land Use

854 E. SPARROW CIR

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

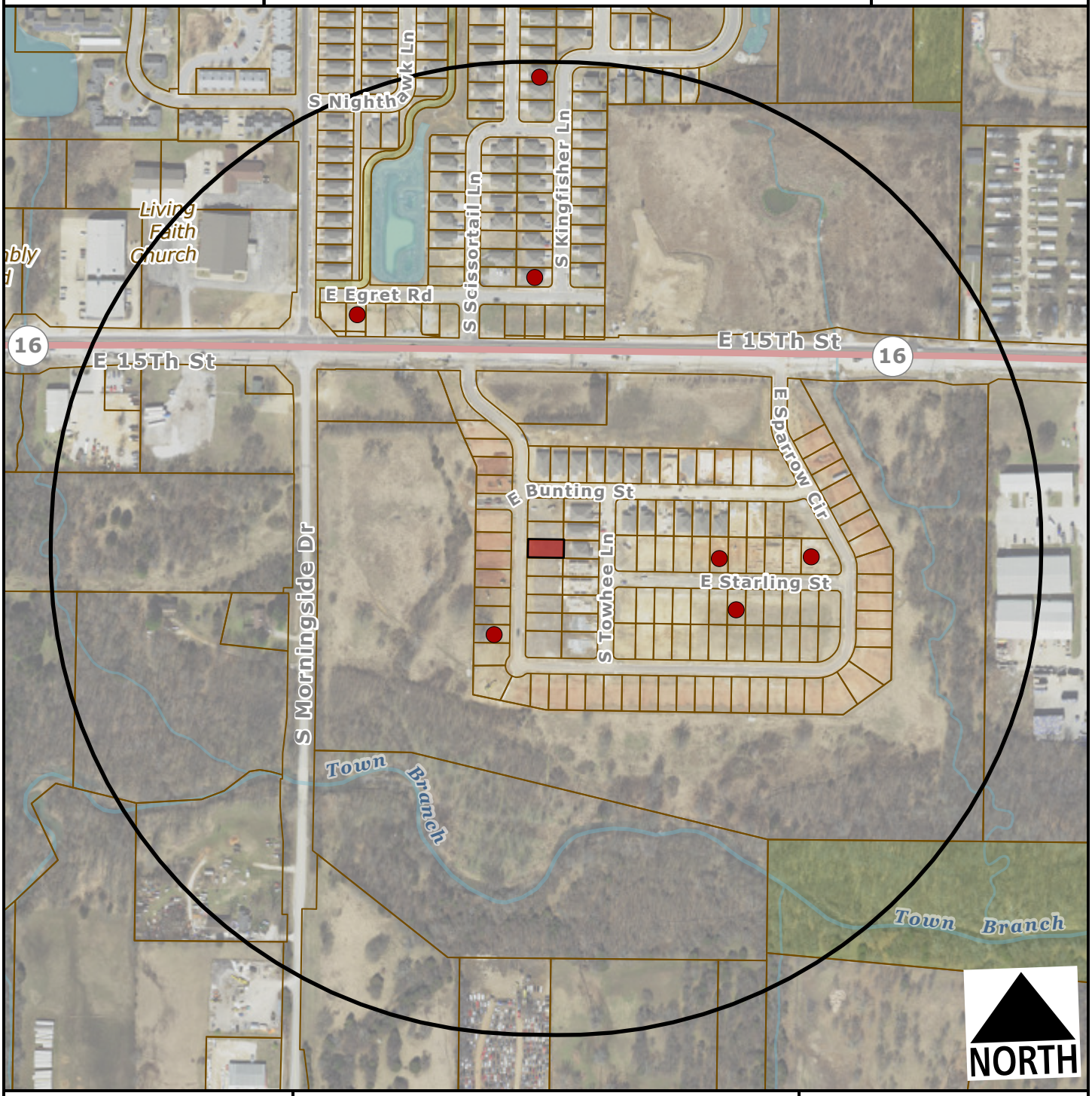
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0170

STRs Within 1/4 Mile

854 E. SPARROW CIR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 7

Occupiable Residential Addresses (Estimated Housing Units): 184

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0171: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603):** Submitted by GREGORY VAN WINKLE for property located at 1006 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0171**."

RECOMMENDED MOTION:
*"I move to deny the reconsideration request for **CUP-2023-0171**."*

If the reconsideration request is heard, staff recommends the below motion:
*"I move to deny **CUP-2023-0171**."*

BACKGROUND:
The subject property is in south Fayetteville southeast of the intersection of S. Morningside Dr. and E. 15th St. The property is zoned RSF-8, Residential Single-Family, Eight Units per Acre and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,730 square foot single-family structure.

On September 25, 2023, the Planning Commission voted 2-6-0 to deny this item, citing the high density of existing short-term rental units within the Creekside Meadows neighborhood, the difficulty of evaluating potential impacts of short-term rentals in new neighborhoods, potential issues with parking enforcement and associated safety concerns due to the proximity of the fire hydrant. Commissioner Payne voted in favor of the request, stating that the 2% rule is no longer applicable and citing staff's findings of compatibility. Commissioner McGetrick also voted in favor of the request. A subsequent appeal to the City Council failed due to the applicant not meeting time, form, and place requirements. A zoning violation letter for operating a short-term rental illegally was issued on October 25 and escalated to the city prosecutor on December 5. The applicant has requested that the conditional use request be reconsidered pursuant to §163.02(D), which requires that the Planning Commission make a determination on changed conditions or new circumstances prior to hearing the new request. Additional information regarding the project history and proposed reconsideration are included in the report below and in staff attachments.

On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
South	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
West	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre

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

Proposal: The applicant requests reconsideration of a 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: No public comment was provided with the previous conditional use permit. Staff has not received any public comment regarding the revised request.

RECOMMENDATION: Staff recommends denial of **CUP-2023-0171.** 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. The number of occupants is limited to a maximum of eight for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

10. Any short-term rental guests shall park in either the garage or on-site driveway. No on-street parking shall be permitted.

11. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: January 8, 2024	**❒ Tabled**	**❒ Approved**	**❒ Denied**
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES; APPROVAL/RECONSIDERATION.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

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

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

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

Finding: **The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit; however as the request was denied less than one year ago, the application is subject to §163.02(D), which prohibits an application for a conditional use permit from being considered by the Planning Commission within twelve (12) months of final disapproval unless there is sufficient evidence of changed circumstances or new circumstances that justify reconsideration. The applicant has provided a letter describing changed circumstances on the property for Planning Commission consideration.**

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

Finding: **Staff finds that granting the requested conditional use could negatively affect the public interest given the existing density of short-term rentals within the Creekside neighborhood and potential impacts from illegal on-street parking within a fire lane. The addition of further short-term rentals within the neighborhood could place an undue burden on adjacent long-term residents.**

(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 described in §163.18 and in the following report.**

D. **Approval/Reconsideration.** No application for a conditional use will be considered by the Planning Commission within twelve (12) months from the date of final disapproval of a proposed conditional use unless there is evidence of changed conditions or new circumstances which justify reconsideration submitted to the Planning Commission.

Finding: **Staff does not find evidence of changed conditions or new circumstances that would warrant a reconsideration by the Planning Commission. Of the four items listed in the applicant's letter, three have not changed since the previous application. The applicant states they will limit guests to a maximum of eight; however, an occupancy limit of eight guests was a recommended condition of approval for the previous report and does not**

constitute a change. Additionally, the applicant states that a maximum of four cars will be permitted to park on the property with no on-street parking permitted. The staff report for the previous conditional use request listed a maximum of four off-site parking spaces and cited the fire lane and adjacent hydrant when noting that no on-street parking would be permitted. As such, the described parking limitations also do not constitute a change of circumstances. The final item that the applicant cites as a change of circumstance is the monitoring of the property via a property manager and cameras. As the monitoring of the property was not discussed in the previous report, staff is unable to determine if this constitutes a change. Due to lack of cited changed circumstances, staff recommends that the previous denial of the request stand.

§163.18 - SHORT-TERM RENTALS

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

Finding: **The request is to operate a Short-Term Rental, Use Unit 46, in RSF-8 zoning which requires a conditional use permit.**

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

Finding: **Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains four bedrooms, occupancy will be limited to a maximum of ten guests. The applicant has stated an intent to limit the total guest count to eight. This limit aligns with previous staff recommendations given the lack of on-street parking on E. Sparrow Cir.**

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

Finding: **Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has four bedrooms and four parking spaces within an attached garage and associated driveway. No change has been made from the previous conditional use request.**

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

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

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

Finding: **The application is for use of the property at 1006 E. Sparrow Cir. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of January 2, 2024, the City had issued 439 Type 2 short-term rental licenses, and 37 remain in the queue for processing. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **Staff finds there is likely adequate parking infrastructure to support the use of the property as a short-term rental with a reduced guest count. The structure has four bedrooms and four parking spaces within an attached garage and driveway. Parking on E. Sparrow Circle is prohibited in order to maintain fire access. The street is wider in front of the subject parcel due a fire hydrant located on the west side of the street, and any vehicles parked in front of the property will likely be impeding access to the hydrant. Staff recommends conditions that guests be limited to eight and that no on-street**

parking shall be permitted. No change has been made from the previous conditional use request regarding these conditions.

City records indicate six other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license; however, staff notes that this applicant has also requested reconsideration of the conditional use approval for short-term rentals at 854 E. Sparrow Cir. which was also denied at the September 25 meeting. Within Creekside Meadows, if both 854 and 1006 E. Sparrow Circle are approved, the neighborhood would be approximately 5% short-term rentals, which is over double the previous city-wide cap of 2%. The neighborhood is currently at 4% capacity. Staff finds that approving the additional short-term rentals within Creekside Meadows may be too high of a concentration for the area.

Additionally, the property currently has an active zoning violation for operating without a business license. Staff received the complaint on October 4, issued a violation letter on October 25, and escalated the violation to the city prosecutor on December 5 due to the listing still being active. Additional information on the project history and zoning violation are included in staff exhibits.

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

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

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

Finding: **The property has frontage along E. Sparrow Circle, an improved residential link street with sidewalk on both sides. The street widens in front of this property in order to provide adequate space around a fire hydrant on the west side of the street and is designated as a fire lane. With added conditions limiting guests count to eight and prohibiting parking within the fire lane, staff finds the proposal will not adversely affect traffic flows or fire access. No change has been made from the previous conditional use request as on-street parking is not legal in this location.**

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

Finding: **Four off street parking spaces are available in an attached garage and associated driveway (two each). The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. No change has been made from the previous conditional use request.**

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

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the use to be incompatible with the surrounding properties. Since the previous conditional use request was heard on September 25, an additional two short-term rentals, including one by the applicant, have received type 2 short-term rental business licenses in within ¼ mile of the subject property. Staff finds the addition of further short-term rentals within Creekside Meadows is likely to negatively impact the neighborhood; further the applicant has been operating the short-term rental illegally and has an active zoning violation that has been escalated to the city prosecutor.**

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

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

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
- Applicant Exhibits
  - Reconsideration Request
  - Conditional Use Request Letter
  - Site Plan
  - Building Floor Plan
  - Building Elevations
- Staff Exhibits:
  - CUP-2023-0104 Final PC Report Excerpts (Denied)
  - City Attorney Memo: Failed Appeals of CUP-2023-0104 & CUP-2023-0105
  - CVZD-2023-0661 Zoning Violation Reports
    - Summary
    - Violation History
    - Images and STR Records
  - Short-Term Rentals Neighborhood Analysis
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

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

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

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

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit*.

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories

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

(Ord. No. 4783, 10-18-05; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

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

This letter is to request the Planning Commissions reconsideration of both 854 E Sparrow Circle & 1006 E Sparrow Circle Conditional Use Permit.

Based on the reason for the commission's denial of both homes we have adjusted the number of people allowed to stay as well as the number of cars allowed. We are allowing a maximum of 8 people at any given time as well as 4 cars max. 2 parking inside the garage and 2 parking on driveway. Making it clear that there is to be absolutely no street parking for any reason at any given time.

We will also be monitoring this via property manager and cameras.

We hope that this adjustment will allow us the opportunity to move forward with an appeal.

I will also attach a screenshot of house rules showing changes to rules.

Thank you for your

consideration! Greg Van Winkle

No Other Changes- GVW

recommendations or previous conditions of the site per the previous conditional use permit request. Have any other circumstances changed on the site, property, or neighborhood?

Reviewed by:
Donna Wonsower, Planner Development Services

These align with staff

Reviewed by:
Donna Wonsower, Planner
Development Services
APPROVED

Conditional Use Permit

Request to apply for a conditional use permit, required to own and operate a single family residence for short term rental use. 4 bdrm/ 2 bath- gvw

(a) Building size in square feet; existing and proposed- 1699
(b) Color elevations of all exterior sides of the structure Blue/gray siding & mixed brick
(c) Number of off-street parking spaces to be provided / number required- 4- 2 inside garage & 2 in driveway (d) Outdoor lighting- 2- Garage, 1 Front porch, 1 Back porch (e) Noise- N/A
(f) Screening or buffering from adjacent properties- N/A (g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)- Trash can kept inside garage
(h) Ingress and egress to the property; traffic impacts- Paved street
(i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood- Based on conversation with neighbors. Several are University students renting and have no concerns with short term rentals in the area

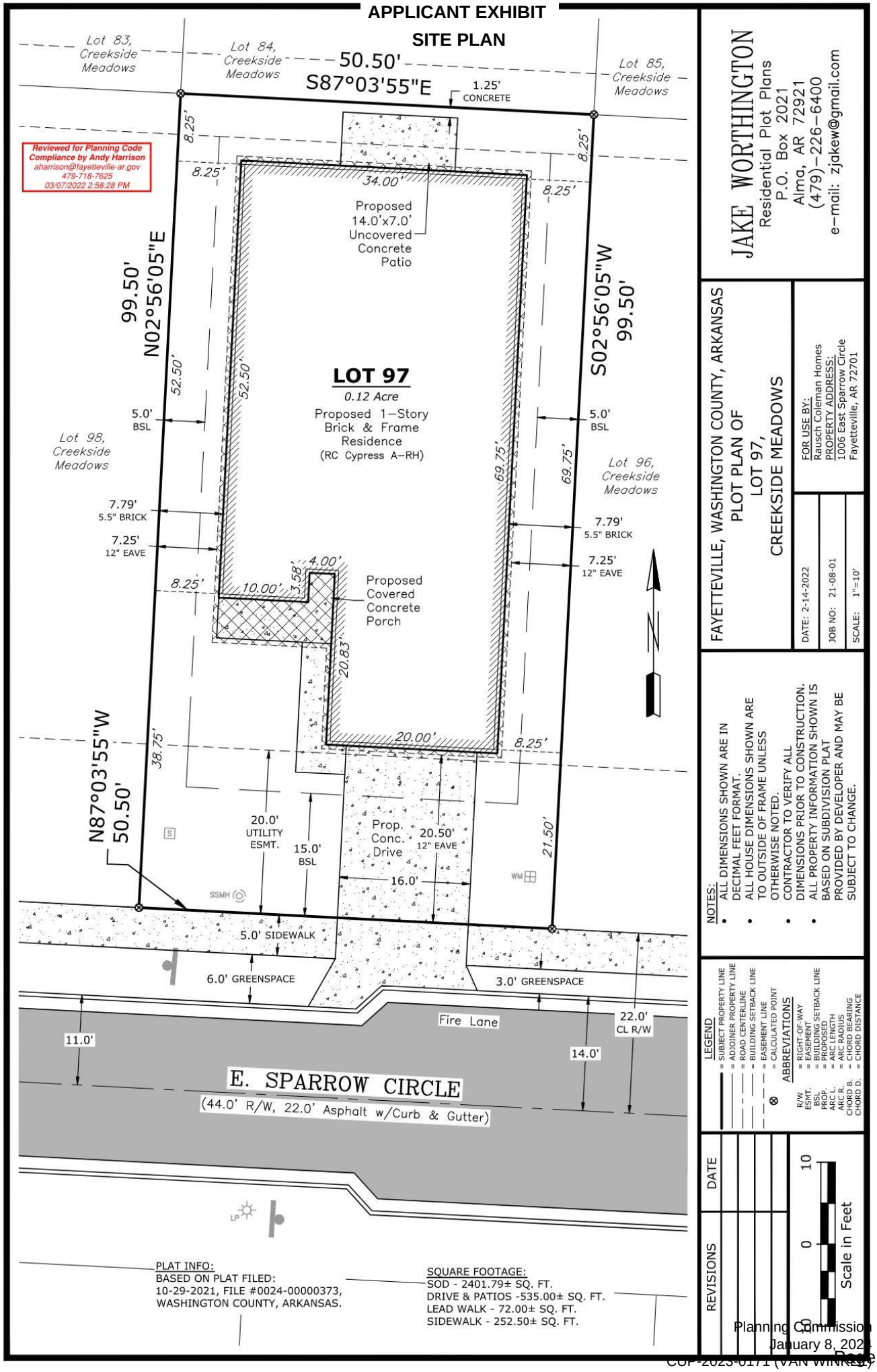
How many bedrooms are within the residence?

Reviewed by:
Donna Wonsower, Planner
Development Services

APPLICANT EXHIBIT

SITE PLAN

1006 E Sparrow- Ariel View


APPLICANT EXHIBIT
SITE PLAN
Lot 83, Creekside Meadows
Lot 84, Creekside Meadows
Lot 85, Creekside Meadows
50.50'
S87°03'55"E
1.25' CONCRETE
Reviewed for Planning Code Compliance by Andy Harrison
aharrison@fayetteville-ar.gov
479-718-7625
03/07/2022 2:58:28 PM
8.25'
34.00'
Proposed 14.0'x7.0' Uncovered Concrete Patio
99.50'
N02°56'05"E
S02°56'05"W
99.50'
LOT 97
0.12 Acre
Proposed 1-Story Brick & Frame Residence
(RC Cypress A-RH)
52.50'
69.75'
5.0' BSL
Lot 98, Creekside Meadows
Lot 96, Creekside Meadows
7.79' 5.5" BRICK
7.25' 12" EAVE
4.00'
3.58'
10.00'
Proposed Covered Concrete Porch
20.83'
20.00'
38.75'
N87°03'55"W
50.50'
20.0' UTILITY ESMT.
15.0' BSL
Prop. Conc. Drive
20.50' 12" EAVE
16.0'
21.50'
SSMH
WM
5.0' SIDEWALK
6.0' GREENSPACE
3.0' GREENSPACE
Fire Lane
11.0'
14.0'
22.0' CL R/W
E. SPARROW CIRCLE
(44.0' R/W, 22.0' Asphalt w/Curb & Gutter)
PLAT INFO:
BASED ON PLAT FILED:
10-29-2021, FILE #0024-00000373,
WASHINGTON COUNTY, ARKANSAS.
SQUARE FOOTAGE:
SOD - 2401.79± SQ. FT.
DRIVE & PATIOS -535.00± SQ. FT.
LEAD WALK - 72.00± SQ. FT.
SIDEWALK - 252.50± SQ. FT.
JAKE WORTHINGTON
Residential Plot Plans
P.O. Box 2021
Alma, AR 72921
(479)-226-6400
e-mail: zjakew@gmail.com
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
PLOT PLAN OF
LOT 97,
CREEKSIDE MEADOWS
FOR USE BY:
Rausch Coleman Homes
PROPERTY ADDRESS:
1006 East Sparrow Circle
Fayetteville, AR 72701
DATE: 2-14-2022
JOB NO: 21-08-01
SCALE: 1"=10'
NOTES:
ALL DIMENSIONS SHOWN ARE IN DECIMAL FEET FORMAT.
ALL HOUSE DIMENSIONS SHOWN ARE TO OUTSIDE OF FRAME UNLESS OTHERWISE NOTED.
CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
ALL PROPERTY INFORMATION SHOWN IS BASED ON SUBDIVISION PLAT PROVIDED BY DEVELOPER AND MAY BE SUBJECT TO CHANGE.
LEGEND
= SUBJECT PROPERTY LINE
= ADJOINER PROPERTY LINE
= ROAD CENTERLINE
= BUILDING SETBACK LINE
= EASEMENT LINE
= CALCULATED POINT
ABBREVIATIONS
R/W = RIGHT-OF-WAY
ESMT. = EASEMENT
BSL = BUILDING SETBACK LINE
PROP. = PROPOSED
ARC L. = ARC LENGTH
ARC R. = ARC RADIUS
CHORD B. = CHORD BEARING
CHORD D. = CHORD DISTANCE
REVISIONS
DATE
0
10
Scale in Feet

APPLICANT EXHIBIT
FLOOR PLAN

APPLICANT EXHIBIT
ELEVATIONS

APPLICANT EXHIBIT
ELEVATIONS

STAFF EXHIBIT: PROJECT HISTORY

After the project denial on September 25, extensive communication has occurred between the applicant and city staff regarding the project status and potential next steps. A short summary of the project history in the interim months is included below:

- **SEPTEMBER 26, 2023:** Email from Donna Wonsower, planner, to applicant explaining appeal process. (see attached memo "Failed Appeal of CUP-2023-0104 & CUP-2023-0105.")

- **OCTOBER 3, 2023:** Email from Blake Pennington, senior assistant city attorney, to applicant and city council further clarifying time, form, and place requirements of UDC 155.02 (see attached memo "Failed Appeal of CUP-2023-0104 & CUP-2023-0105.")

- **OCTOBER 4, 2023:** Planning staff received complaint that property was operating a short-term rental without a business license. CVZD-2023-0661 opened (see attached zoning violation reports).

- **OCTOBER 5, 2023:** Donna Wonsower sent additional email sent clarifying appeal date and written appeal process with a follow up phone conversation (see attached memo "Failed Appeal of CUP-2023-0104 & CUP-2023-0105.")

- **OCTOBER 6, 2023:** Blake Pennington emailed example appeals to applicant, and received email from attorney Beau Wilcox noting appeal was being prepared (see attached memo "Failed Appeal of CUP-2023-0104 & CUP-2023-0105.")

- **OCTOBER 8, 2023:** Appeal emailed to mayor, city attorney, and city council. Appeal was not emailed to city clerk per UDC 155.02 (see attached memo "Failed Appeal of CUP-2023-0104 & CUP-2023-0105.")

- **OCTOBER 9, 2023:** Appeal deadline.

- **OCTOBER 10, 2023:** Blake Pennington emailed applicant notifying them of appeal failure due to failure to file with the city clerk (see attached memo "Failed Appeal of CUP-2023-0104 & CUP-2023-0105.")

- **OCTOBER 25, 2023:** Notice of zoning violation sent (see attached zoning violation reports).

- **OCTOBER 28, 2023:** Notice of violation delivered per USPS tracking system.

- **NOVEMBER 15, 2023:** Application received for conditional use permit reconsideration.

- **DECEMBER 5, 2023:** Zoning violation escalated to city prosecutor. Short-term rental listing is still an active listing. Additionally, the applicant has not completed all required remedial actions including the provision of all guest records (see attached zoning violation reports).

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 25, 2023 (UPDATED WITH MEETING RESULTS)

SUBJECT: **CUP-2023-0105: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603):** Submitted by GREGORY VAN WINKLE for property located at 1006 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contain approximately 0.10 acres. The request is to use the residence as a short-tern rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0105**, with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0105** with conditions, determining:*

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

BACKGROUND:
The subject property is in south Fayetteville southeast of the intersection of S. Morningside Dr. and E. 15th St. The property is zoned RSF-8, Residential Single-Family, Eight Units per Acre and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,730 square foot single-family structure. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1.*

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
South	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
West	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre

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

STAFF EXHIBIT: PC REPORT (DENIED)

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0105,** with the following conditions;

Conditions of Approval:

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

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

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

4. The number of occupants is limited to a maximum of eight for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

10. Any short-term rental guests shall park in either the garage or on-site driveway. No on-street parking shall be permitted.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: **September 25, 2023**	❒ **Tabled**	❒ **Approved**	☒ **Denied**
Motion:	SPARKMAN		MOTION TO APPROVE FAILED
Second:	PAYNE		
Vote:	2-6-0 (SPARKMAN, BRINK, GARLOCK, MADDEN, GULLEY, AND WINSTON VOTED AGAINST)		

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

Finding: **The request is to operate a Short-Term Rental, Use Unit 46, in RSF-8 zoning which requires a conditional use permit.**

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

Finding: **Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains four bedrooms, occupancy will be limited to a maximum of ten guests. As on street parking is not available adjacent to the property, staff recommends a condition be added limiting guests to eight.**

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

Finding: **Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has four bedrooms and four parking spaces within an attached garage and associated driveway.**

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

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

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

Finding: **The application is for use of the property at 1006 E. Sparrow Cir. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of September 18, 2023, the City had issued 399 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

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

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

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

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

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

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

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

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

Finding: **Four off street parking spaces are available in an attached garage and associated driveway (two each). The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the use to be compatible with the surrounding properties. While the residences along E. Sparrow Cir. are all detached single-family dwellings, Creekside Meadows has multiple commercial lots available along E. 15th St. Further, a significant amount of the adjoining area outside of the Creekside Meadows neighborhood is zoned to allow commercial/industrial uses or multi-family dwellings by-right.**

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

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

BUDGET/STAFF IMPACT:
None

Attachments:

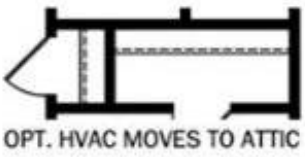
- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
- Applicant Request Letter
- Building Floor Plan
- Staff Exhibit: STRs Within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

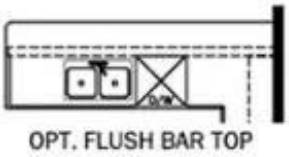
Conditional Use Permit

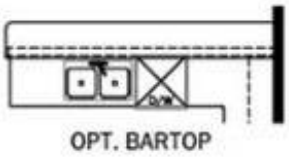
Request to apply for a conditional use permit, required to own and operate a single family residence for short term rental use.

(a) Building size in square feet; existing and proposed- 1699
(b) Color elevations of all exterior sides of the structure- Blue/gray siding & mixed brick
(c) Number of off-street parking spaces to be provided / number required- 4- 2 inside garage & 2 in driveway
(d) Outdoor lighting- 2- Garage, 1 Front porch, 1 Back porch
(e) Noise- N/A
(f) Screening or buffering from adjacent properties- N/A
(g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)- Trash can kept inside garage
(h) Ingress and egress to the property; traffic impacts- Paved street
(i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood- Based on conversation with neighbors. Several are University students renting and have no concerns with short term rentals in the area

First Floor


OPT. HVAC MOVES TO ATTIC


OPT. FLUSH BAR TOP


OPT. BARTOP

OPT. DOUBLE BOWL SINK

OPT. SOAKER TUB & SHOWER

OPT. 60" SHOWER

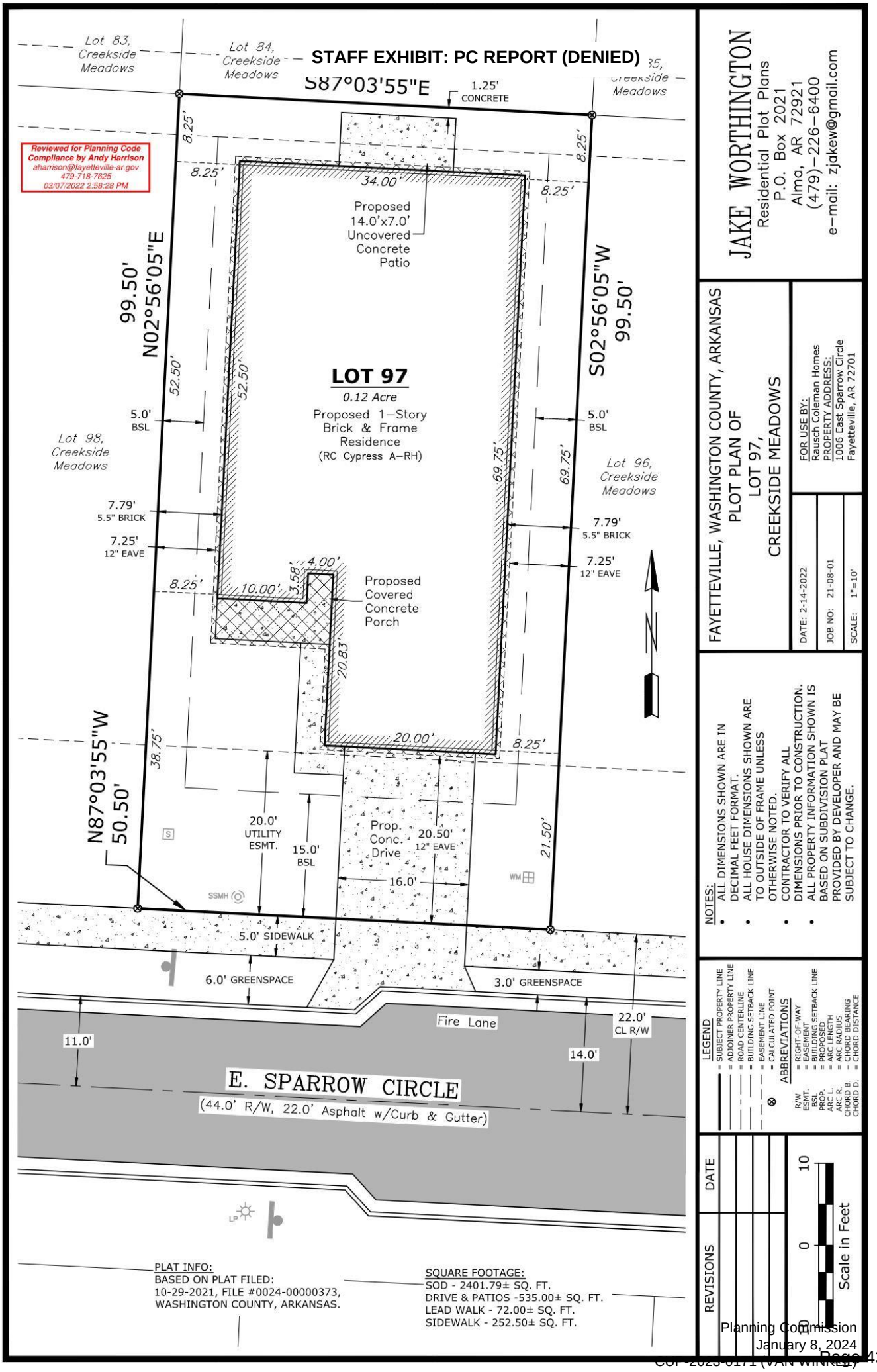
OPT. SOAK TUB W/ SHWR HEAD

STAFF EXHIBIT: PC REPORT (DENIED)

STAFF EXHIBIT: PC REPORT (DENIED)

STAFF EXHIBIT: PC REPORT (DENIED)

1006 E Sparrow- Ariel View



PLAT INFO:
BASED ON PLAT FILED:
10-29-2021, FILE #0024-00000373,
WASHINGTON COUNTY, ARKANSAS.

SQUARE FOOTAGE:
SOD - 2401.79± SQ. FT.
DRIVE & PATIOS -535.00± SQ. FT.
LEAD WALK - 72.00± SQ. FT.
SIDEWALK - 252.50± SQ. FT.

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

FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
PLOT PLAN OF
LOT 97,
CREEKSIDE MEADOWS

FOR USE BY:
Rausch Coleman Homes
PROPERTY ADDRESS:
1006 East Sparrow Circle
Fayetteville, AR 72701

DATE: 2-14-2022
JOB NO: 21-08-01
SCALE: 1"=10'

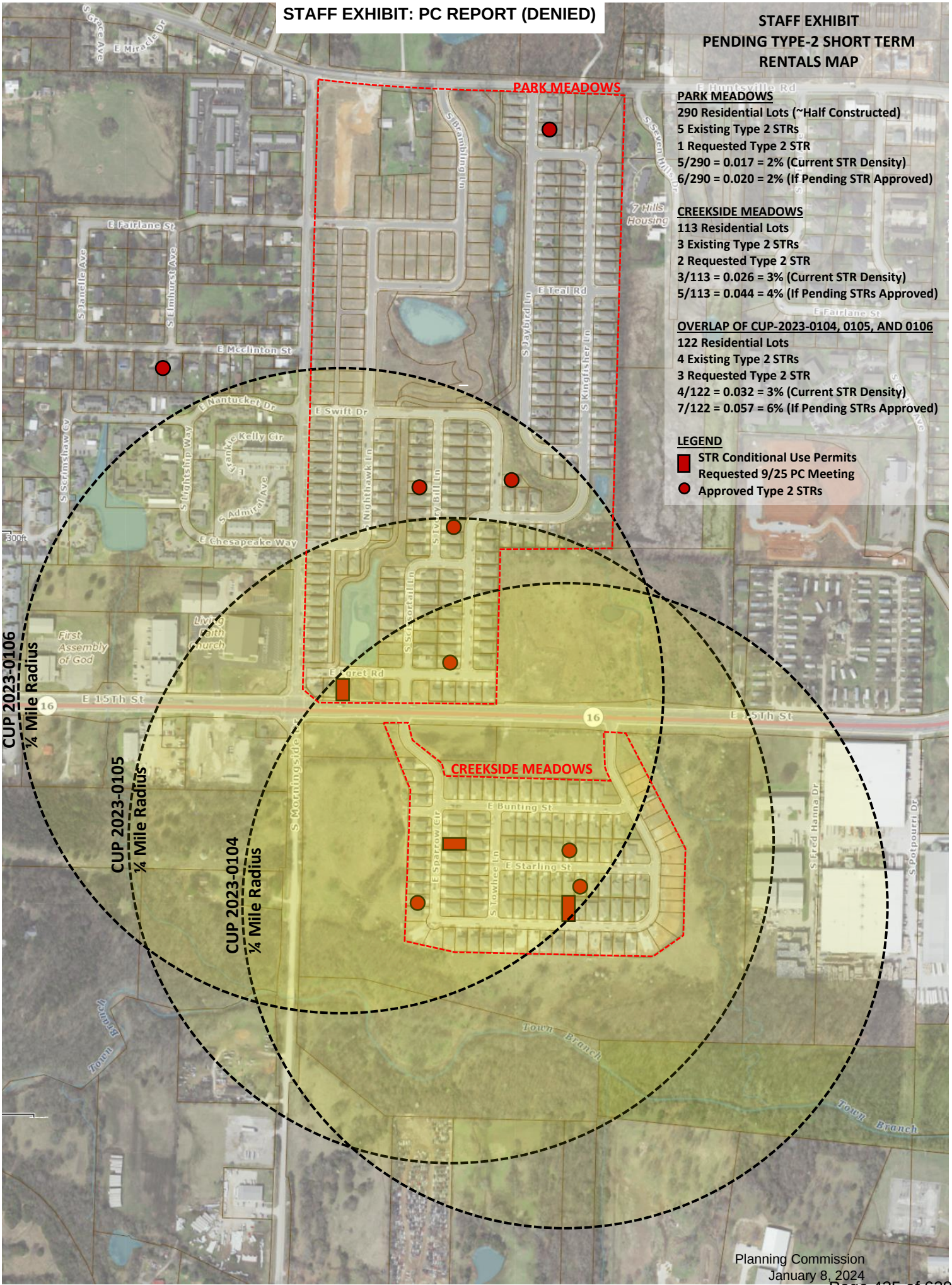
NOTES:
- ALL DIMENSIONS SHOWN ARE IN DECIMAL FEET FORMAT.
- ALL HOUSE DIMENSIONS SHOWN ARE TO OUTSIDE OF FRAME UNLESS OTHERWISE NOTED.
- CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
- ALL PROPERTY INFORMATION SHOWN IS BASED ON SUBDIVISION PLAT PROVIDED BY DEVELOPER AND MAY BE SUBJECT TO CHANGE.

LEGEND
= SUBJECT PROPERTY LINE
= ADJOINER PROPERTY LINE
= ROAD CENTERLINE
= BUILDING SETBACK LINE
= EASEMENT LINE
= CALCULATED POINT

ABBREVIATIONS
R/W = RIGHT-OF-WAY
ESMT. = EASEMENT
BSL = BUILDING SETBACK LINE
PROP. = PROPOSED
ARC L. = ARC LENGTH
ARC R. = ARC RADIUS
CHORD B. = CHORD BEARING
CHORD D. = CHORD DISTANCE

REVISIONS | DATE

Scale in Feet: 0 10

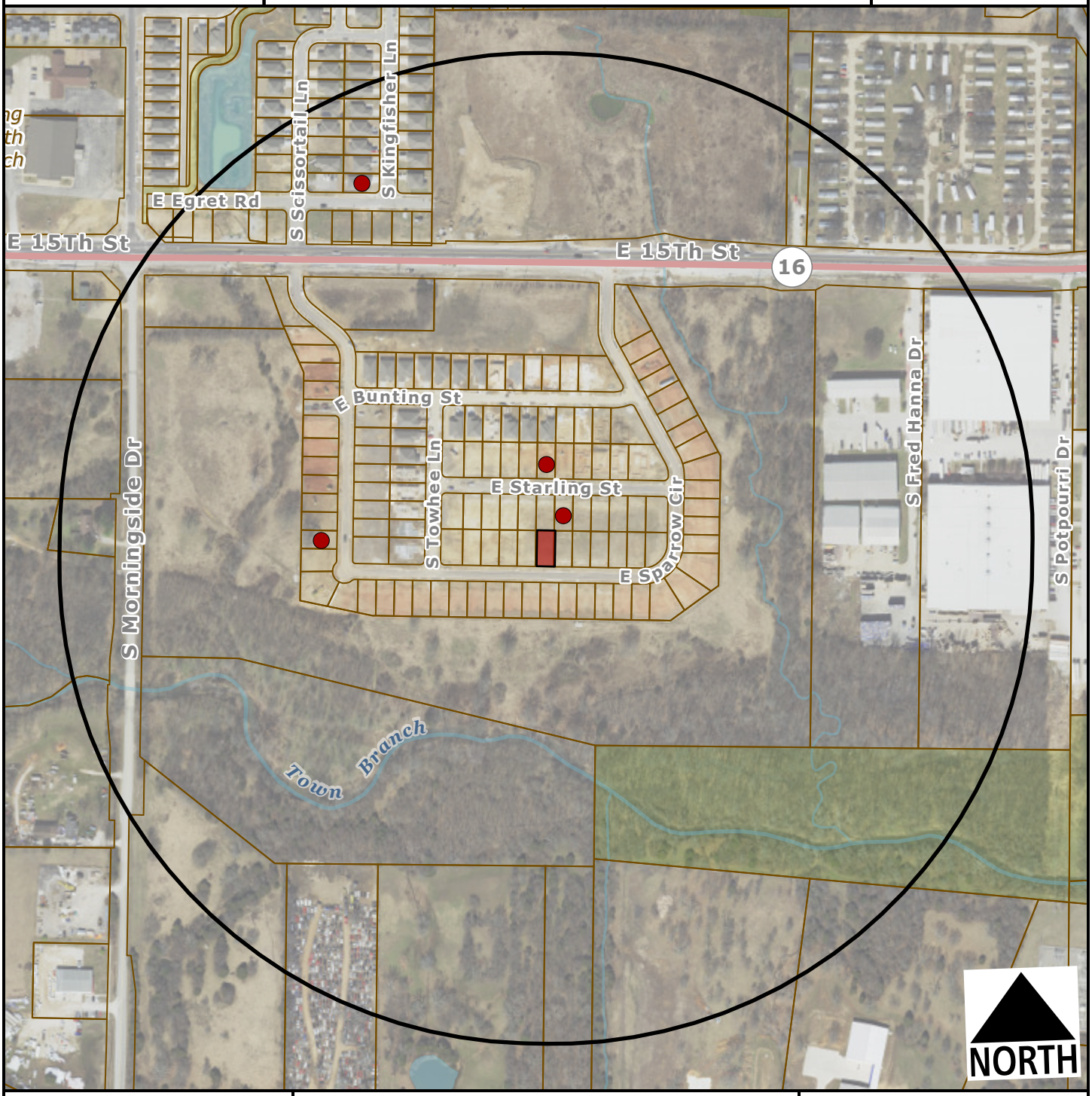

STAFF EXHIBIT: PC REPORT (DENIED)
STAFF EXHIBIT
PENDING TYPE-2 SHORT TERM RENTALS MAP
PARK MEADOWS
290 Residential Lots (~Half Constructed)
5 Existing Type 2 STRs
1 Requested Type 2 STR
5/290 = 0.017 = 2% (Current STR Density)
6/290 = 0.020 = 2% (If Pending STR Approved)
CREEKSIDE MEADOWS
113 Residential Lots
3 Existing Type 2 STRs
2 Requested Type 2 STR
3/113 = 0.026 = 3% (Current STR Density)
5/113 = 0.044 = 4% (If Pending STRs Approved)
OVERLAP OF CUP-2023-0104, 0105, AND 0106
122 Residential Lots
4 Existing Type 2 STRs
3 Requested Type 2 STR
4/122 = 0.032 = 3% (Current STR Density)
7/122 = 0.057 = 6% (If Pending STRs Approved)
LEGEND
STR Conditional Use Permits Requested 9/25 PC Meeting
Approved Type 2 STRs
CUP 2023-0106 ¼ Mile Radius
CUP 2023-0105 ¼ Mile Radius
CUP 2023-0104 ¼ Mile Radius
PARK MEADOWS
CREEKSIDE MEADOWS
E Fairlane St
E Teal Rd
E Mcclinton St
E Nantucket Dr
E Swift Dr
E Chesapeake Way
E Egret Rd
E 15Th St
E Bunting St
E Starling St
S Morningside
Town Branch
First Assembly of God
Living Faith Church
7 Hills Housing

CUP-2023-0105

STRs Within 1/4 Mile

1006 E. SPARROW CIR

STAFF EXHIBIT: PC REPORT (DENIED)



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Number of STR Licenses

Total 4

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Jonathan Curth**, Development Services Director

FROM: **Blake Pennington**, Senior Assistant City Attorney

DATE: **October 11, 2023**

RE: **Failed Appeal of CUP-2023-0104 and CUP-2023-0105**

On September 25, the Planning Commission voted 7-1 to deny CUP-2023-0104 for a Type 2 short term rental at 854 E. Sparrow Circle and 6-2 to deny CUP-2023-0105 for a Type 2 short term rental at 1006 E. Sparrow Circle.

In line with the Planning Division's practice, the Planner assigned to these applications sent an email the next morning to the applicant with information about their options. Ms. Wonsower's email chain with the applicant, including some later communications, is attached as Exhibit 1. Ms. Wonsower told the applicant the deadline to appeal was October 9 and that the appeal must be filed with the City Clerk.

On Tuesday, October 3, Council Member Sarah Bunch forwarded an email to the other council members and our office stating that she had been contacted by Greg Van Winkle about appealing those denials. (Exhibit 2)

Also on Tuesday, October 3, I sent an email to the City Council and Mr. Van Winkle that the form, time, and place requirements of § 155.02 of the Unified Development Code had not been met. I explained how those requirements could be met and also attached a copy of § 155.02. (Exhibit 3)

On Friday, October 6, I received a call from Stephanie Van Winkle asking how an appeal should be submitted. At her request I emailed two examples of appeals that had been properly submitted in the past on other Type 2 short term rental denials. In my email I advised that "You will need to email that to the City Clerk at cityclerk@fayetteville-ar.gov..." (Exhibit 4)

Later that day I received an email from Attorney Beau Wilcox who said he was preparing a more formal letter "to satisfy the city's requirements concerning the appeal and ensuring that it is properly perfected for the City Council's November 9, 2023 meeting." He also said "I have copied the City Clerk's office on this email as well, and will send the formal letters of appeal to them as well." This email acknowledges the appeal deadline of Monday, October 9. A copy of this email went to his client and to the City Clerk. (Exhibit 5)

On Sunday, October 8, Attorney Wilcox emailed the Mayor, me, and the Council Members who had previously agreed to sponsor the appeal with an appeal letter attached. (Exhibit 6) The letter of appeal (Exhibit 7) is addressed only to me and the Mayor.

I did not have a chance to review this email until yesterday, at which time I saw that the appeal letter was not filed with the City Clerk by October 9 as required by §155.02 of the Unified Development Code. This failure to comply with the appeal requirements is fatal to an appeal and, therefore, the Planning Commission's denials of CUP-2023-0104 and CUP-2023-0105 will stand.

Pennington, Blake

From: Wonsower, Donna
Sent: Wednesday, October 11, 2023 10:29 AM
To: Masters, Jessica; Pennington, Blake
Subject: FW: CUP-2023-0104 and 0105 Appeal Options

Jessie/ Blake,

I also spoke to Stephanie Van Winkle on the phone shortly after this email, as the Van Winkles were under the impression that the appeal date had already passed and that they would potentially be heard on the next city council meeting in October. I reiterated the deadline was the date that all the documents and notices of support had to be received, and not the date it would be heard by the city council as staff had to have time to prepare the report for the meeting. The email thread below also mentions multiple times (highlighted) that the documents must be sent to the city clerk.

Best Regards,
Donna Wonsower (she/her)
Planner, Development Services

479-575-8358
Website | Facebook | Twitter | Instagram | YouTube

CITY OF FAYETTEVILLE ARKANSAS

From: Wonsower, Donna
Sent: Thursday, October 5, 2023 8:09 AM
To: Greg VanWinkle <gvwinvestments22@gmail.com>
Subject: RE: CUP-2023-0104 and 0105 Appeal Options

Good Morning,

Yes. Please note that the city council members must send their support to the city clerk in writing in order for your appeal to be placed on the agenda.

Best Regards,
Donna Wonsower (she/her)
Planner, Development Services

479-575-8358
Website | Facebook | Twitter | Instagram | YouTube

CITY OF FAYETTEVILLE ARKANSAS

EXHIBIT 1

From: Greg VanWinkle <gvwinvestments22@gmail.com>
Sent: Wednesday, October 4, 2023 8:40 PM
To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>
Subject: Re: CUP-2023-0104 and 0105 Appeal Options

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

Hello Mrs Donna,

We have been diligently working on this appeal. We have received verbal confirmations of 3 City Council members supporting our appeal. If I am reading your previous email correctly... we had 10 "working days" (in our case Oct 9th) to officially submit the appeal. You sent the email on Sept 26th. Backdating 10 business days would have been Sept 25th. Am I correct?

Thank you!
Stephanie Van Winkle

On Tue, Sep 26, 2023 at 9:18 AM Wonsower, Donna <dwonsower@fayetteville-ar.gov> wrote:

> Good Morning,
>
> Please see below for the corrected appeal date of October 9. Apologies for any confusion.
>
> Best Regards,
>
> Donna Wonsower (she/her)
>
> Planner, Development Services
>
> 479-575-8358
>
> Website | Facebook | Twitter | Instagram | YouTube

STAFF EXHIBIT: FAILED APPEAL MEMO

From: Wonsower, Donna
Sent: Tuesday, September 26, 2023 8:46 AM
To: Greg VanWinkle <gvwinvestments22@gmail.com>
Subject: CUP-2023-0104 and 0105 Appeal Options

Good morning,

I wanted to make you aware that last night the Planning Commission denied your requests for a conditional use permit to operate an STR at 854 and 1006 E. Sparrow Cir. I've attached staff's final reports on the items.

You may appeal the Planning Commission's decision to deny your CUP to City Council, so long as three council members in unison support your request to appeal (UDC §155.05(A)(3)). Appeal requests must be submitted within 10 working days from the date of the Planning Commission hearing (which in your case would be by October 9), and must be officially filed with the City Clerk within that timeframe. (Our form, time, and place requirements for appeals are described in UDC §155.02.) To request support from Council Members, you will need to reach out to them directly. Contact information for each Council Member can be found on the City's website here. To officially file your appeal with the City Clerk, you will need to forward your appeal request letter and the statements of support from three council members to our City Clerk's office at cityclerk@fayetteville-ar.gov.

Please also note that you will be unable to obtain a business license for a Type 2 STR. Using the property as a short-term rental without a license is a violation of City ordinance. Your associated business license will not be able to be approved

Best Regards,

Donna Wonsower (she/her)

Planner, Development Services

479-575-8358

Website | Facebook | Twitter | Instagram | YouTube

Pennington, Blake

From: Bunch, Sarah
Sent: Tuesday, October 3, 2023 9:01 AM
To: Williams, Kit; Pennington, Blake; Jones, D'Andre; Moore, Sarah; Wiederkehr, Mike; Berna, Scott; Turk, Teresa; Hertzberg, Holly
Subject: Fwd: Statement of Support for Conditional use permit to operate an STR
Attachments: CUP-2023-0105 PC Report_DENIED.pdf; CUP-2023-0104 PC Report_DENIED.pdf

Everyone,

Mr. Van Winkle applied for 2 CUPs and both were denied by Planning Commission. He is now seeking to appeal the Planning Commission decision, and after speaking to him I have decided to back his appeal.

He will need the support of two other council members, and I strongly suggested he reach out to the entire council, but in particular the representatives from the ward where the homes are located.

Sincerely,

Sarah Bunch

Sent from my iPhone

Begin forwarded message:

> **From:** Greg VanWinkle <gvwinvestments22@gmail.com>
> **Date:** September 28, 2023 at 12:13:39 PM CDT
> **To:** "Bunch, Sarah" <sarah.bunch@fayetteville-ar.gov>
> **Subject: Statement of Support for Conditional use permit to operate an STR**
>
> CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.
>
> Hello Mrs. Bunch,
>
> My name is Greg Van Winkle. I am a business owner of 23 years in Central Arkansas and am currently trying to expand my business to the Fayetteville area. I have 2 daughters that currently attend the U of A and am trying to make the transition to move my family there permanently.
>
> I have invested in 3 new construction properties in the area and have recently gone through the tedious process of meeting all of the compliance requirements to operate them as STR. 1 of the 3 has been approved and the other 2 were denied. Please see attached. It is essential that these homes be approved in order for me to be able to relocate my family and my business. (especially since we have complied with all of the requirements and are willing to adjust what is needed moving forward) The amount of vehicles in the driveway is something that we can easily regulate.
>
> I am reaching out to you specifically to ask if you would be able to provide any assistance at all? We have dedicated so much of our time and finances to make this dream of ours happen. We absolutely love the city of Fayetteville and love the University! Anything you can do to help us wo
> appreciated!

EXHIBIT 2 tabbies
Planning Commission — January 8, 2024
CUP-2023-0171 (VAN WINKLE) 142 of 629
Page 44 of 59

Pennington, Blake

From: Pennington, Blake
Sent: Tuesday, October 3, 2023 1:02 PM
To: Berna, Scott; Bunch, Sarah; Williams, Kit; Jones, D'Andre; Moore, Sarah; Wiederkehr, Mike; Turk, Teresa; Hertzberg, Holly
Cc: Williams, Kit; Curth, Jonathan; CityClerk; gvwinvestments22@gmail.com
Subject: RE: Statement of Support for Conditional use permit to operate an STR
Attachments: UDC 155.02 Form, Time, and Place.pdf

All,

I am attaching Section 155.02 of the Unified Development Code which sets out the form, time, and place requirements for appeals. Subsection (A) requires that the appeal reference the applicable UDC section(s) and set out the reasons the applicant believes the Planning Commission erroneously denied the application. Mr. Van Winkle's email does not meet this requirement.

Typically on appeals in which a council member must sign on, the applicant will provide a letter or email outlining the argument for why they believe the Planning Commission wrongly denied their application. In this case, the appeal letter can reference Section 163.02, which covers the general authority for conditional use permits and/or Section 163.18, which is more specific to short term rentals.

The applicant will still need to explain why they believe the Planning Commission decision was wrong, and then any three council members wishing to sponsor the appeal can adopt those reasons to meet the requirement of Section 155.04(A)(3).

Please let me know if there are any questions.

Thank you,

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov

CITY OF FAYETTEVILLE ARKANSAS

From: Berna, Scott <scott.berna@fayetteville-ar.gov>
Sent: Tuesday, October 3, 2023 10:36 AM
To: Bunch, Sarah <sarah.bunch@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>; Jones, D'Andre <dandre.jones@fayetteville-ar.gov>; Moore, Sarah <sarah.moore@fayetteville-ar.gov>; Wiederkehr, Mike <mike.wiederkehr@fayetteville-ar.gov>; Turk, Teresa <teresa.turk@fayetteville-ar.gov>; Hertzberg, Holly <holly.hertzberg@fayetteville-ar.gov>
Subject: Re: Statement of Support for Conditional use permit to operate an STR

EXHIBIT 3 tabbies
Planning Commission
January 8, 2024
CUP-2023-0171 (VAN WINKLE)

Pennington, Blake

From: Pennington, Blake
Sent: Friday, October 6, 2023 10:49 AM
To: gvwinvestments22@gmail.com
Subject: STR Appeal
Attachments: Appeal Letter for CUP 2023-0068.pdf; Walnofer CUP.pdf

Good morning. As discussed, I am attaching a couple of examples of previous appeals from the Planning Commission denial of Type 2 short term rentals.

The easiest thing to do is to prepare your own letter or email explaining the reasons you believe the Planning Commission's denials were incorrect. Because there were two separate applications denied I would recommend a different letter for each one but you can send both letters in a single email. Having separate letters will help us distinguish between the two properties. The letter does not have to be long or detailed – it just needs to explain why you believe the City Council should approve your applications. You'll have 10 minutes at the City Council meeting to make further arguments.

Section 163.02 is the section of the Unified Development Code that discusses compatibility and adverse impact, which are the most important factors for conditional use permits. Section 163.18 has the more specific short term rental factors like parking, density, etc.

You will need to email that to the City Clerk at cityclerk@fayetteville-ar.gov and copy at least the three Council members who have already agreed to sponsor the appeal. You could send it to all 7 councilmembers (we have one seat vacant at the moment).

Feel free to call if you have any further questions.

Thanks,

Blake

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov

CITY OF FAYETTEVILLE ARKANSAS

EXHIBIT 4

Pennington, Blake

From: Beau Wilcox <Beau@beauwilcoxlaw.com>
Sent: Friday, October 6, 2023 4:07 PM
To: Pennington, Blake
Cc: gvwinvestments22@gmail.com; CityClerk
Subject: RE: Greg Van Winkle/GVW Investments, LLC - short term rental appeal (re-sent to correct clerk email)

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

Dear Mr. Pennington,

Good afternoon and thank you for your helpful correspondence below with my client, Greg Van Winkle, and his affiliated entity, GVW Investments, LLC. I have been retained by these parties with respect to the short-term rental appeal of the Planning Commission's denials of the petition and conditional use permits for the properties in question.

I am preparing more formal correspondence to satisfy the city's requirements concerning the appeal and ensuring that it is properly perfected for the City Council's November 9, 2023 meeting. I will, per your request, also send separate letters for each property/application. To be clear, while we respect the Commission's decision, we do believe that the parking/occupancy concerns have been addressed by my client to the extent that the Code requires. Also, we certainly assert that no harm or nuisance will occur with respect to surrounding property owners.

I have copied the City Clerk's office on this email as well, and will send the formal letters of appeal to them as well. We will also transmit such correspondence to the council members.

Please let me know if my client or I need to do anything further. As I understand, the letters are needed by Monday morning, but I will be traveling this weekend so I should have them transmitted by email to all concerned parties by tomorrow (Saturday, Oct. 7, 2023) morning.

Best regards,

Beau Wilcox, Attorney at Law
1315 Main Street
Conway, AR 72034
(501) 327-5708 (telephone)
beau@beauwilcoxlaw.com

---------- Forwarded message ---------
From: **Pennington, Blake** <bpennington@fayetteville-ar.gov>
Date: Fri, Oct 6, 2023 at 10:49 AM
Subject: STR Appeal
To: gvwinvestments22@gmail.com <gvwinvestments22@gmail.com>

Good morning. As discussed, I am attaching a couple of examples of previous appeals from the Planning Commission denial of Type 2 short term rentals.

EXHIBIT 5
Planning Commission
January 8, 2024
CUP-2023-0171 (VAN WINKLE)

Pennington, Blake

From: Beau Wilcox <Beau@beauwilcoxlaw.com>
Sent: Sunday, October 8, 2023 7:50 PM
To: Mayor; Pennington, Blake; Pennington, Blake
Cc: Bunch, Sarah; Berna, Scott; Jones, D'Andre; Greg VanWinkle
Subject: Appeal of Planning Commission denial of CUP - GVW Investments, LLC / Greg Van Winkle
Attachments: letter of appeal.GVW Investments Van Winkle.10082023.pdf

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

Good evening to all—I represent Mr. Van Winkle and his LLC, GVW Investments, LLC, regarding a recent denial by the Fayetteville planning commission for his conditional use permit request. Please find attached the letter of appeal for my client, and please let me know if you have any questions.

Best regards,

Beau Wilcox, Attorney at Law
1315 Main Street
Conway, AR 72034
(501) 327-5708 (telephone)
beau@beauwilcoxlaw.com

BEAU WILCOX, ATTORNEY AT LAW
1315 MAIN STREET, CONWAY, AR 72034
(501) 327-5708 (TELEPHONE)
BEAU@BEAUWILCOXLAW.COM

October 8, 2023

City of Fayetteville, Arkansas
ATTN: Blake Pennington, City Attorney
ATTN: Lioneld Jordan, Mayor
113 West Mountain Street
Fayetteville, AR 72701

VIA EMAIL – bpennington@fayetteville-ar.gov

RE: Conditional Use Permit Appeal – GVW Investments, LLC

Dear Mayor Jordan & Mr. Pennington,

I write today on behalf of Greg Van Winkle and GVW Investments, LLC, a limited liability company in good standing which owns certain properties in Fayetteville commonly known as 854 E. Sparrow Circle and 1006 E. Sparrow Circle. The Fayetteville Planning Commission denied my client's request for a conditional use permit ("CUP") for these properties to serve as short-term rentals. This letter is for the purpose of formally appealing this decision to the Fayetteville City Council.

My client has addressed concerns raised by the Planning Commission with respect to maximum occupancy concerns. We believe any issues that elicited objections from the Commission have therefore been rectified, and that the CUP should be granted based upon all applicable zoning, code, and associated city regulations. The proposed CUP would not unreasonably interfere with the use, access, or enjoyment of neighboring properties.

It is my understanding that this letter of appeal will move this matter to consideration by the Council at its November 10, 2023 meeting. I plan to attend on behalf of my client, and he will be present as well to address the Council with respect to this matter, so please confirm its placement on the agenda.

I have copied the Fayetteville City Council members who have agreed to sponsor this appeal on this email. Please do not hesitate to contact me if you have any questions.

Sincerely,

Beau Wilcox, Attorney at Law

cc: Client; Council members (as stated)

CITY OF
FAYETTEVILLE
ARKANSAS

VIOLATION NOTICE

October 25, 2023

GREGORY VAN WINKLE
1006 E SPARROW CIRCLE
FAYETTEVILLE, AR 72701

CARLOS SANCHEZ
DESIGNATED AGENT
2104 W OAK STREET
ROGERS, AR 72758

Re: CVZD-2023-0661 Zoning Violation

Dear Property Owner and Designated Agent:

It appears that your property located at 1006 E SPARROW CIRCLE contains violations of the Fayetteville Code of Ordinance. This letter is being sent to the property and the designated agent listed. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct these problems, please call our office at (479) 575-8362 or email ehyke@fayetteville-ar.gov.

Violations:
§118.01, §120.02, §161.02, §163.18 of the City of Fayetteville Unified Development Code.

Remedial Action(s) needed for compliance:

1. Cease use of the property as a short-term rental immediately.
2. Cease all advertising of the property as a short-term rental.
3. Cease use of the property for special events (i.e. parties) as they are not an allowed use for short-term rentals.
4. Provide summary guest registration records for the subject short-term rental property for the twelve (12) months preceding this letter and any future bookings. The records shall contain 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 should be emailed to the provided email address in this letter within upon receiving this request.

Penalty:
If these violations are repeated, or the requested remedial actions are not taken upon receiving this letter, this notice and all documents related to this case shall be turned over to the City Prosecutor's Office. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to an appeal. Please see Chapter 155 of the Unified Development Code.

The City of Fayetteville is a truly beautiful and unique place to live and work and we rely on all our citizens and the business community to help us to maintain the high quality of life we have all come to expect. Thank you for your contributions to that quality of life and for resolving the violation in a timely manner.

Sincerely,

Bliss Hyke
Planning Technician

CITY OF FAYETTEVILLE ARKANSAS

CODE CASE HISTORY REPORT CVZD-2023-0661 FOR CITY OF FAYETTEVILLE

STAFF EXHIBIT: VIOLATION HISTORY

Changed On	User	Description	Before	After	Additional Info
10/04/2023	Bliss Hyke	Code Case added			Code Case (CVZD-2023-0661)
10/04/2023	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Case Note added			Code case note text: (DENIED DUE TO CUP DENIAL ON 09/25/2023: STR-0799-2023 • GVW Investments (1006 E SPARROW CIR FAYETTEVILLE, AR 72701))
	Bliss Hyke	Code Case Note added			Code case note text: (DENIED 09/25/2023 PC: CUP-2023-0105 (1006 E SPARROW CIR FAYETTEVILLE, AR 72701))
10/04/2023	Bliss Hyke	Contact added			Contact (Gregory Van Winkle)
	Bliss Hyke	Contact added			Contact (Gregory Van Winkle)
10/04/2023	Bliss Hyke	Attachment added			Attachment (Intial Email Complaint.pdf)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
10/04/2023	Bliss Hyke	Contact added			Contact (Mike Wiederkehr)
10/04/2023	Bliss Hyke	Attachment added			Attachment (Host Profile on AirBnB Screenshot 2023-10-04 114609.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 3.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 2.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 1.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Reserve & Pay.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 6.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 5.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 4.png)
10/25/2023	Bliss Hyke	Attachment added			Attachment (Failed CUP Appeal Memo E. Sparrow Circle.pdf)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
10/25/2023	Bliss Hyke	Attachment added			Attachment (10.25.23 SparrowE Host AirBnb listings.png)
	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow1006e AirBnb listing.png)
10/25/2023	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow1006e Landlord Registry.png)
	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow1006e Property Records.png)
10/25/2023	Bliss Hyke	Attachment added			Attachment (Sparrow1006e - STR (CUP & BL denied but still active).pdf)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Case Workflow Step Start Date	[none]	10/25/2023	Code Case Workflow Step (Notice of Violation)
	Bliss Hyke	Step Workflow Status	Not Started	Started	Code Case Workflow Step (Notice of Violation)
	Bliss Hyke	Code Case Workflow Step Action Start Date	[none]	10/25/2023	Code Case Workflow Step Action (Tracking Notice of Violation)
	Bliss Hyke	Code Enforcement Activity added			Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Not Started	Started	Code Case Workflow Step Action (Tracking Notice of Violation)

CODE CASE HISTORY REPORT CVZD-2023-0661

STAFF EXHIBIT: VIOLATION HISTORY

Changed On	User	Description	Before	After	Additional Info
	Bliss Hyke	Code Case Workflow Step Action added			Code Case Workflow Step Action (Tracking Notice of Violation)
11/08/2023	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Case Note added			Code case note text: (NOV has not been received yet.)
12/05/2023	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Activity Comments	mailed to designated agent	Delivered on 10/28/2023 mailed to designated agent	Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Started	Passed	Code Case Workflow Step Action (Tracking Notice of Violation)
12/05/2023	Bliss Hyke	Code Case Note added			Code case note text: (Confirmed STR is still listed on AirBnb and VRBO, No one has sent me the guest records or tried to reach out. I am forwarding this case to the prosecutor.)
12/05/2023	Bliss Hyke	Attachment added			Attachment (Host Profile as of Screenshot 2023-12-05 155251.png)
	Bliss Hyke	Attachment added			Attachment (Host Profile reviews as of Screenshot 2023-12-05 155251.png)
	Bliss Hyke	Attachment added			Attachment (Listing removed. Added back 1006 E Sparrow Screenshot 2023-12-05 155151.png)
	Bliss Hyke	Attachment added			Attachment (VRBO 1006 E Sparrow Screenshot 2023-12-05 155342.png)
12/05/2023	Bliss Hyke	Date Closed	[none]	12/5/2023	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Case Status	In Progress	Closed - Escalated to Prosecutor	Code Case (CVZD-2023-0661)
	Bliss Hyke	Complete	No	Yes	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Case Note added			Code case note text: (Have not heard from owner or designated agent, have not received guest records and listing is still active.)
12/05/2023	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Case Workflow Step Start Date	[none]	12/5/2023	Code Case Workflow Step (Status Escalated)
	Bliss Hyke	Step Workflow Status	Not Started	Started	Code Case Workflow Step (Status Escalated)
	Bliss Hyke	Code Case Workflow Step Action Start Date	[none]	12/5/2023	Code Case Workflow Step Action (Escalated to Prosecutor)
	Bliss Hyke	Code Enforcement Activity added			Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Not Started	Started	Code Case Workflow Step Action (Escalated to Prosecutor)

CASE AND INSPECTION(S) DETAILS FOR CASE CVZD-2023-0661

Case Type: Zoning/Development
Status: Closed - Escalated to Prosecutor
Open Date: 10/04/2023
Close Date: 12/05/2023
Address: 1006 E SPARROW CIR Fayetteville, AR 72701

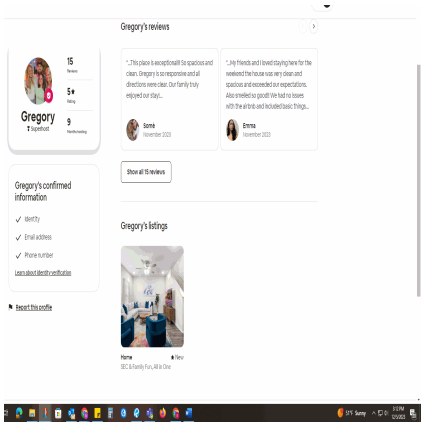
Description: PZ320, PZ370, PZ340 It appears they are operating without a license. 1006 E Sparrow Circle. These were denied CUPs at the last PC meeting. Donna, copying you since you were the Planner on the items, and I believe they may be trying to appeal.

Contacts: Complainant: Mike Wiederkehr
Owner: Gregory Van Winkle
Violator: Gregory Van Winkle

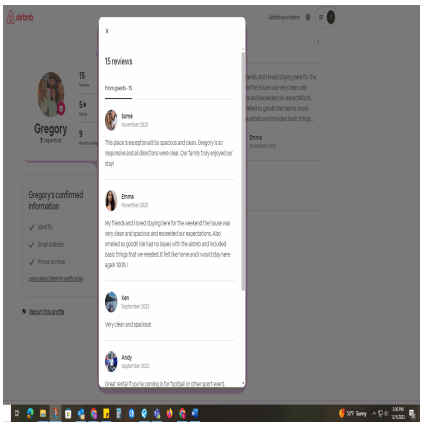
Note	Created By	Date and Time Created
1. DENIED DUE TO CUP DENIAL ON 09/25/2023: STR-0799-2023 • GVW Investments (1006 E SPARROW CIR FAYETTEVILLE, AR 72701)	Bliss Hyke	10/4/2023 10:57 am
2. DENIED 09/25/2023 PC: CUP-2023-0105 (1006 E SPARROW CIR FAYETTEVILLE, AR 72701)	Bliss Hyke	10/4/2023 10:58 am
3. NOV has not been received yet.	Bliss Hyke	11/8/2023 3:41 pm
4. Confirmed STR is still listed on AirBnb and VRBO, No one has sent me the guest records or tried to reach out. I am forwarding this case to the prosecutor.	Bliss Hyke	12/5/2023 3:31 pm
5. Have not heard from owner or designated agent, have not received guest records and listing is still active.	Bliss Hyke	12/5/2023 3:55 pm

Activity Type	Activity Number	Activity Name	User	Created On
Notice of Violation Tracking	PRE-1676-2023	DA USPS #70212720000005580531	Bliss Hyke	10/25/2023
	PRE-1675-2023	USPS #70212720000005580517	Bliss Hyke	10/25/2023
Other Activity	ACT-1785-2023		Bliss Hyke	12/05/2023

Attached Images:



Added on: 12-05-2023 (Direct Link)



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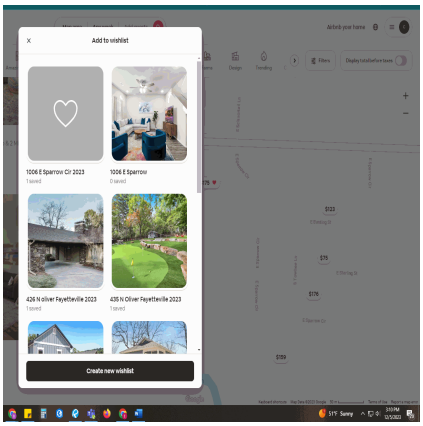

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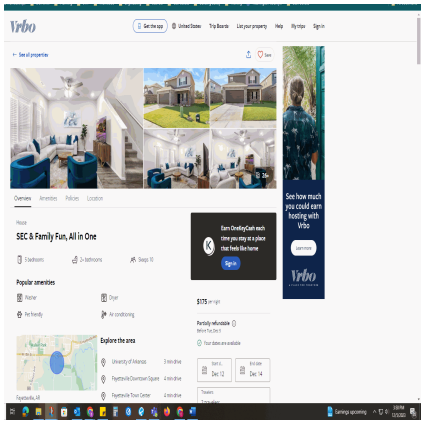

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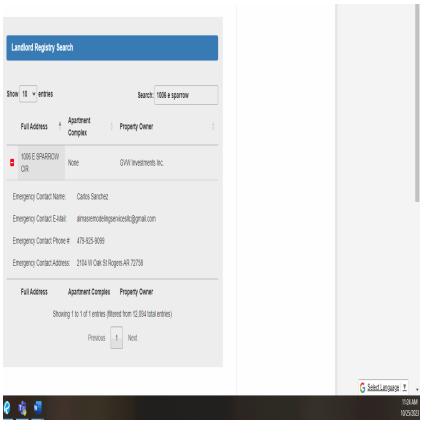

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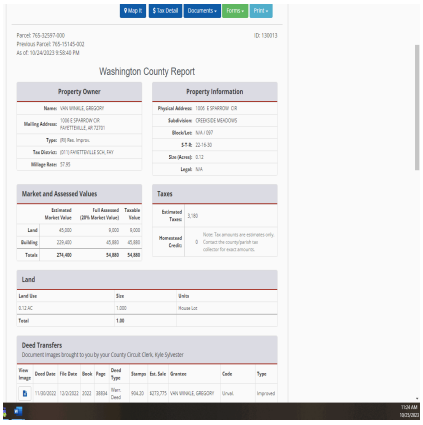

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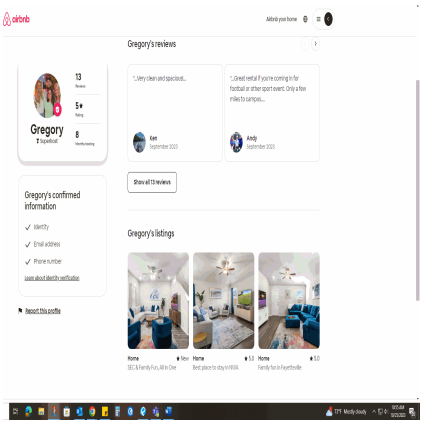
CASE AND INSPECTION(S) DETAILS FOR CASE CVZD-2023-0661



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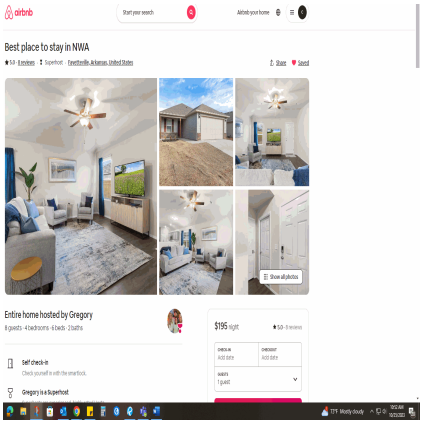

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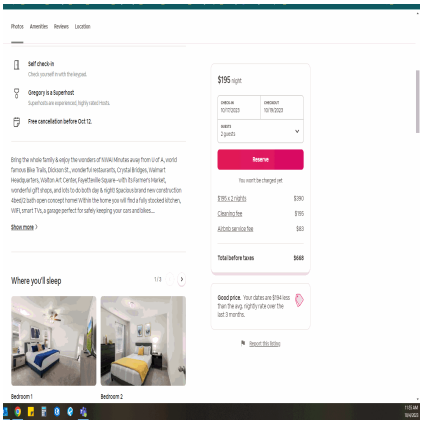

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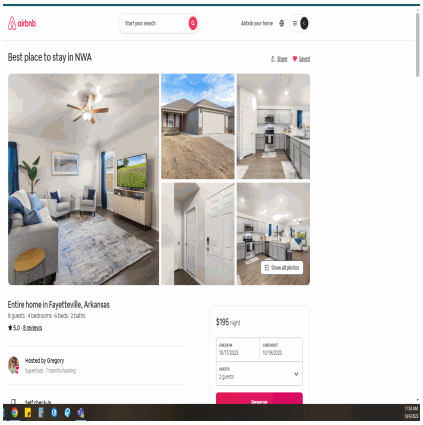

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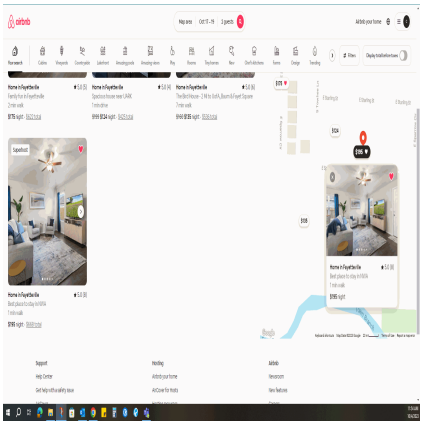

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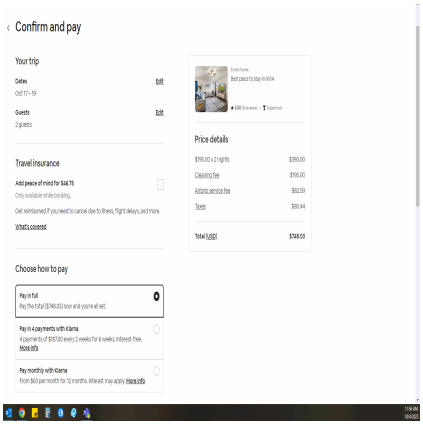

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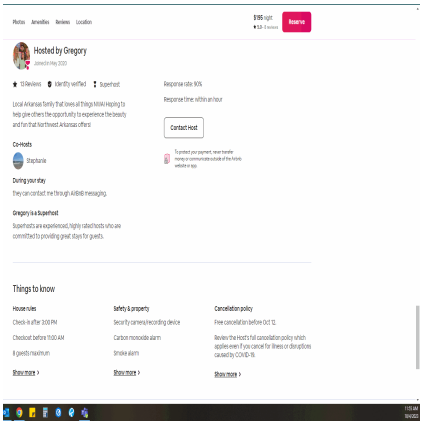

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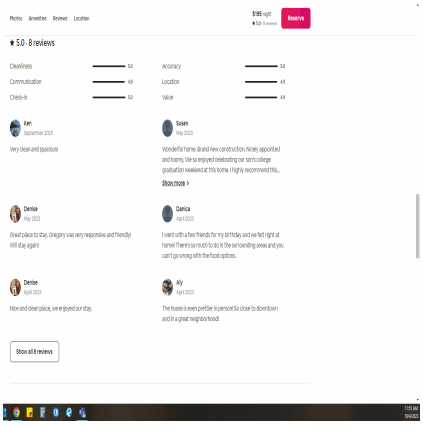

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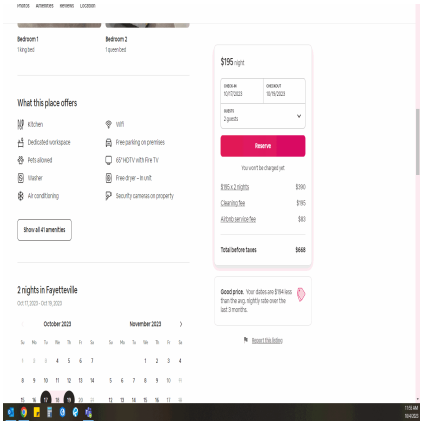

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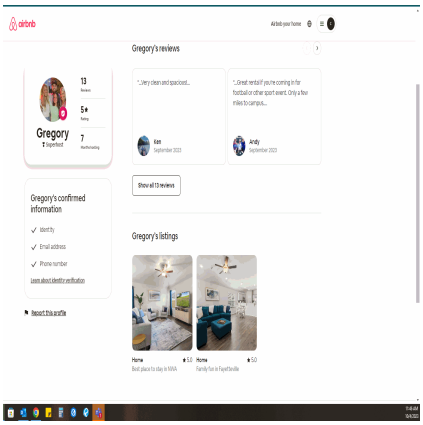

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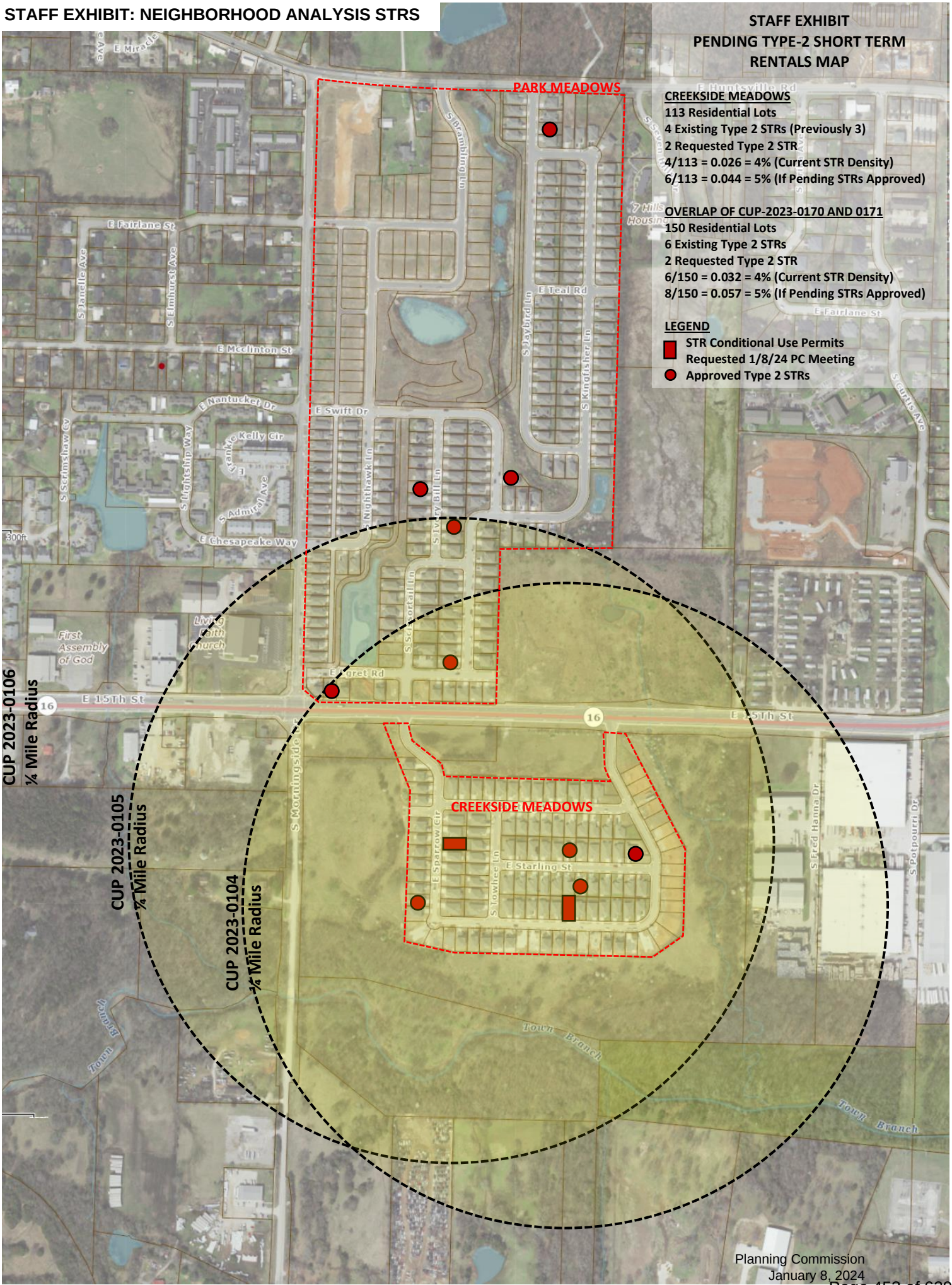
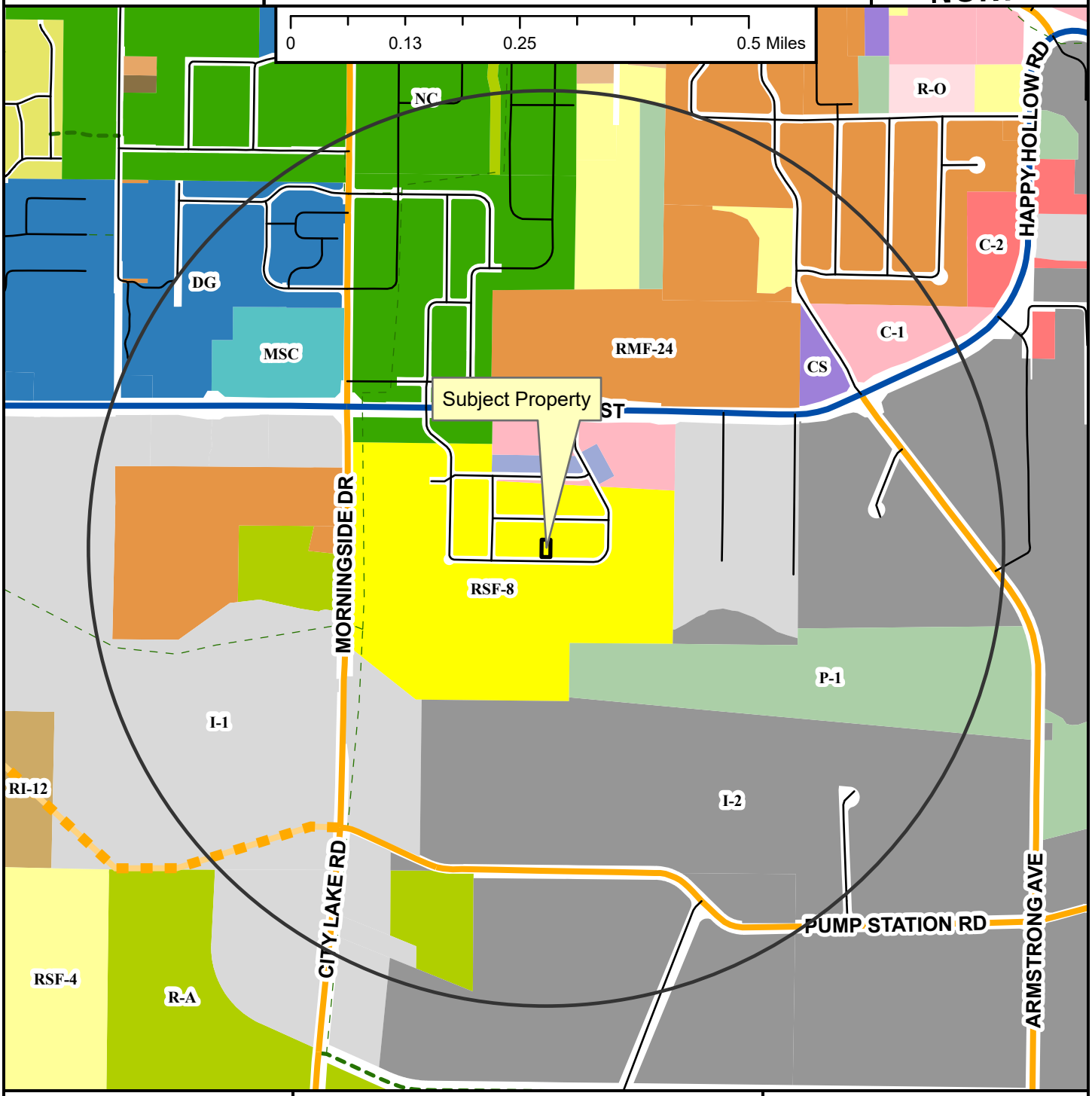

STAFF EXHIBIT
PENDING TYPE-2 SHORT TERM RENTALS MAP
CREEKSIDE MEADOWS
113 Residential Lots
4 Existing Type 2 STRs (Previously 3)
2 Requested Type 2 STR
4/113 = 0.026 = 4% (Current STR Density)
6/113 = 0.044 = 5% (If Pending STRs Approved)
OVERLAP OF CUP-2023-0170 AND 0171
150 Residential Lots
6 Existing Type 2 STRs
2 Requested Type 2 STR
6/150 = 0.032 = 4% (Current STR Density)
8/150 = 0.057 = 5% (If Pending STRs Approved)
LEGEND
STR Conditional Use Permits Requested 1/8/24 PC Meeting
Approved Type 2 STRs
PARK MEADOWS
CREEKSIDE MEADOWS
CUP 2023-0106 ¼ Mile Radius
CUP 2023-0105 ¼ Mile Radius
CUP 2023-0104 ¼ Mile Radius
E Fairlane St
E Mcclinton St
E Nantucket Dr
E Swift Dr
E Teal Rd
E Egret Rd
E Chesapeake Way
E 15Th St
S Morningside
S Nighthawk Ln
S Ivory Bill Ln
S Kingfisher Ln
S Jaybird Ln
S Brambling Ln
E Sparrow Cir
E Starling St
S Towhee Ln
First Assembly of God
Town Branch

CUP-2023-0171

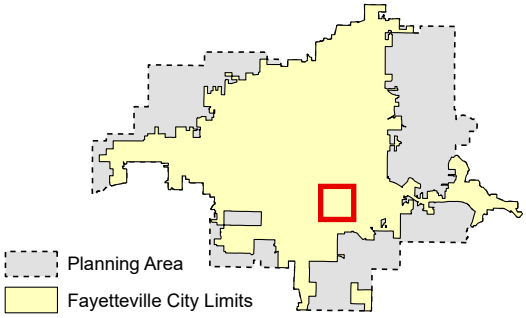
One Mile View

1006 E. SPARROW CIR

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

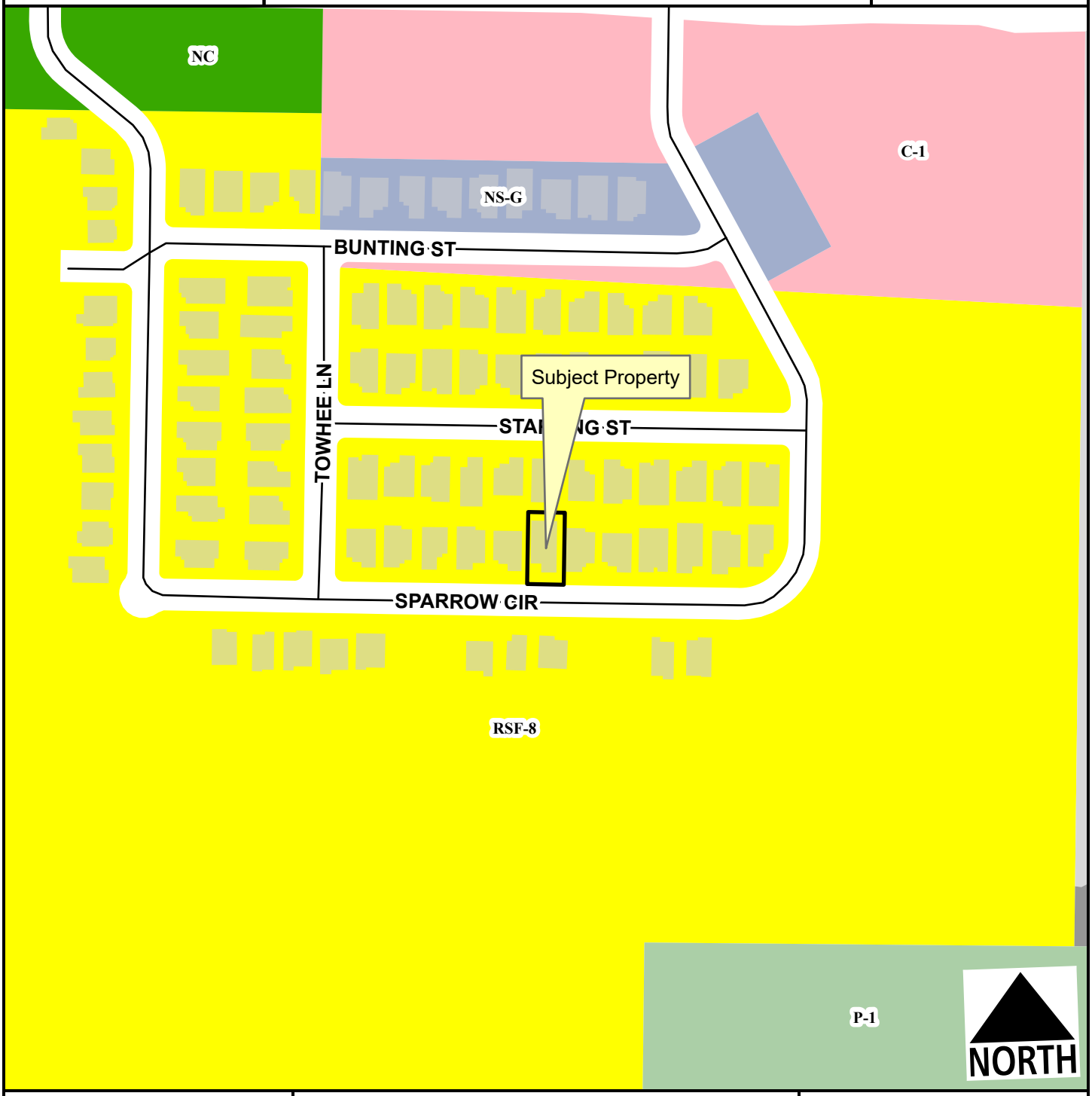
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0171

Close Up View

1006 E. SPARROW CIR



Residential Link
Planning Area
Fayetteville City Limits

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

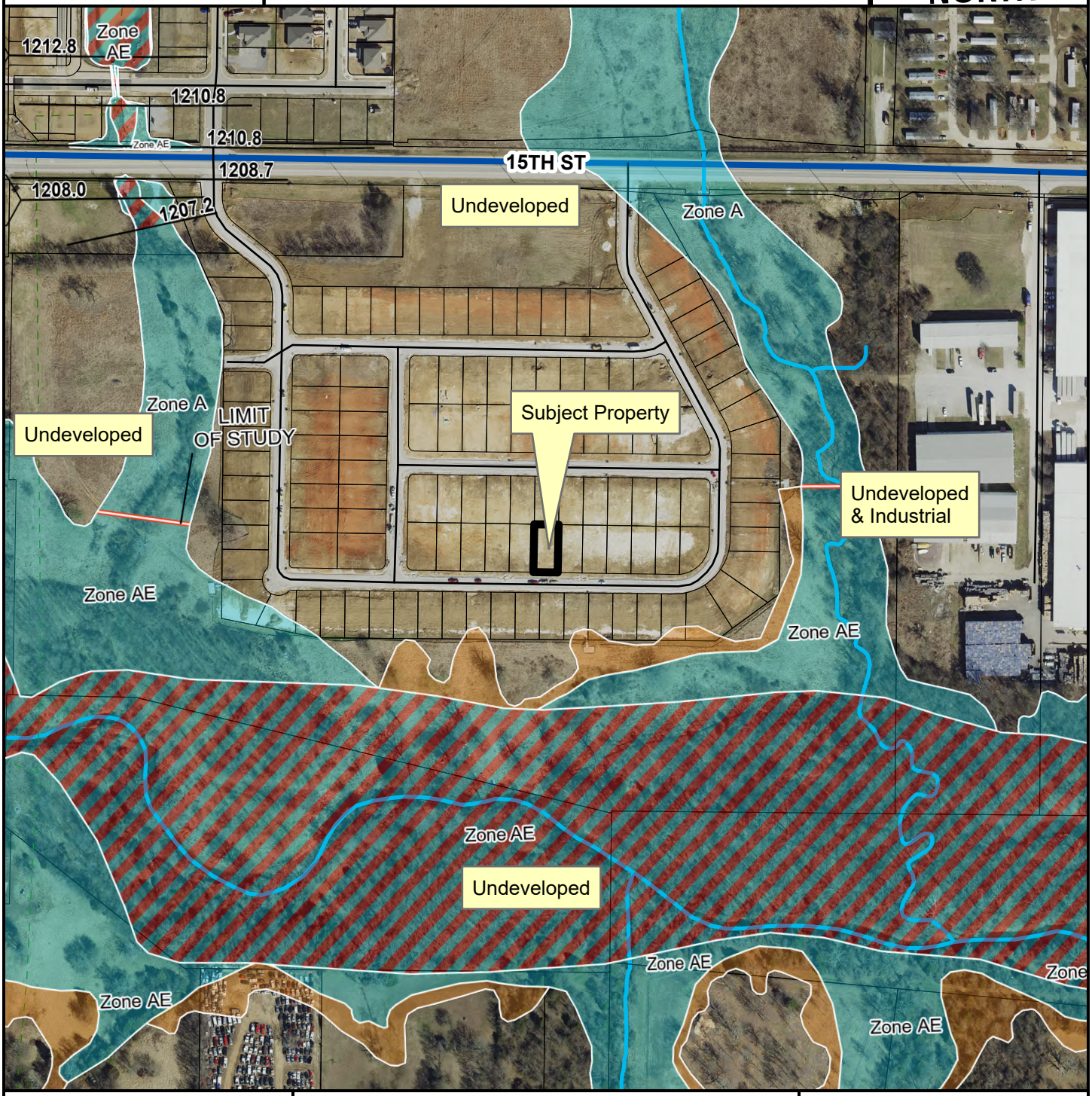
RSF-8
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial
C-1
Neighborhood Services - Gen.
Neighborhood Conservation
P-1

CUP-2023-0171

Current Land Use

1006 E. SPARROW CIR

NORTH



Regional Link - High Activity

Unclassified

Residential Link

Trail (Proposed)

Planning Area

Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

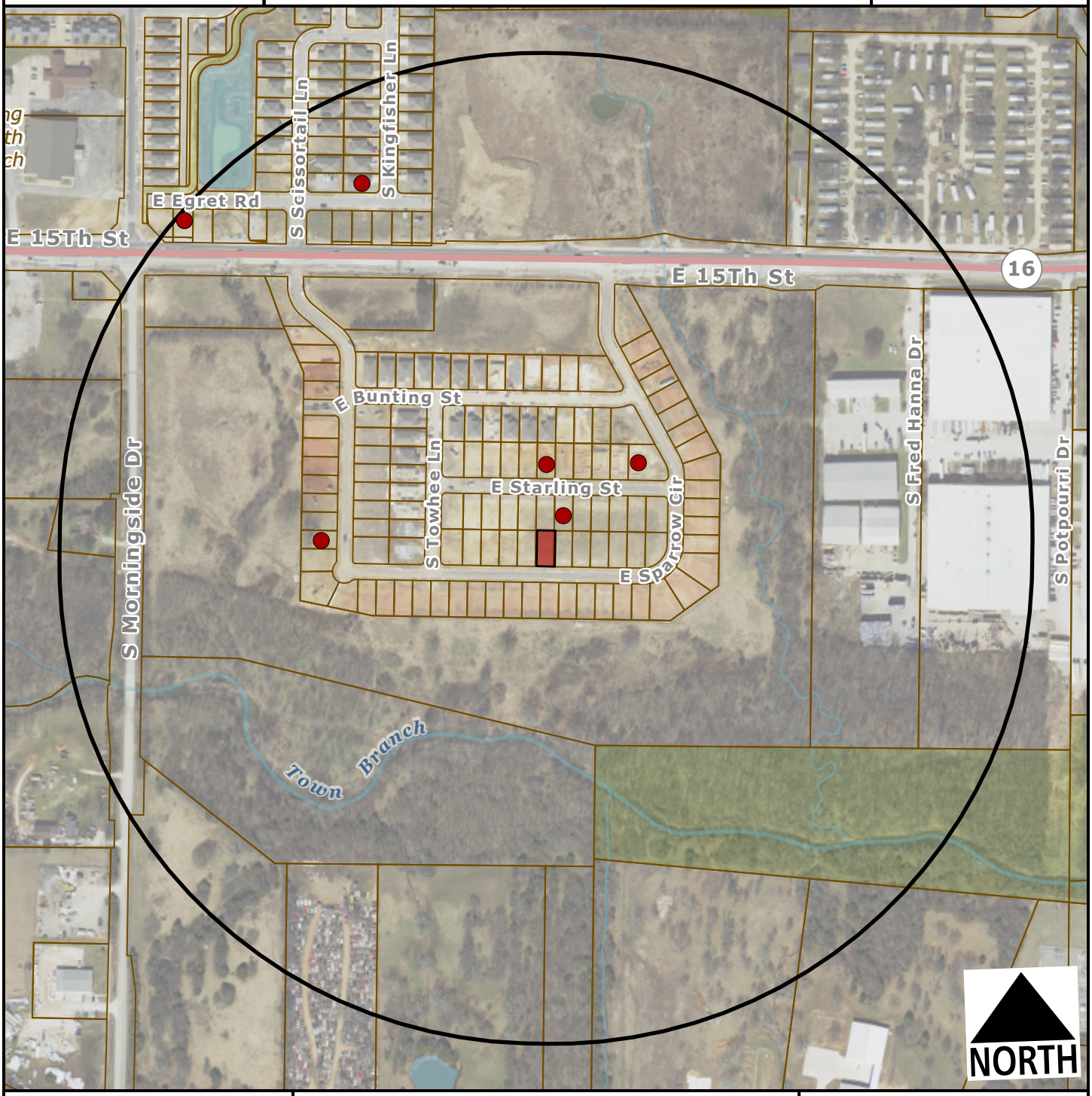
100-Year Floodplain

Floodway

CUP-2023-0171

STRs Within 1/4 Mile

1006 E. SPARROW CIR



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 6

Occupiable Residential Addresses (Estimated Housing Units): 157

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0172: Conditional Use Permit (1108 S. DUNN AVE./B&L DEVELOPMENT, 562):** Submitted by B&L DEVELOPMENT for property located at 1108 S. DUNN AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.10 acres. The request is to use the residence as a short-tern rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0172**, with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0172** with conditions, determining:*

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

BACKGROUND:
The subject property is in south Fayetteville across from the Fayetteville National Cemetery and approximately 50 feet south of the intersection of S. Dunn Ave. and W. 11th St. The property is zoned NC, Neighborhood Conservation and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,539 square foot single-family structure built in 2021. 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, Multifamily Residential	NC, Neighborhood Conservation CS, Community Services
South	Single-family Residential	RMF-24, Residential Multifamily, 24 Units per Acre
East	Manufacturing Facility (Mad Rooster Beer Co.)	I-1, Heavy Commercial and Light Industrial
West	Fayetteville National Cemetery	RMF-24, Residential Multifamily, 24 Units per Acre

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0172,** 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 when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES
Date: January 8, 2024 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains three bedrooms, occupancy will be limited to a maximum of eight guests per code. The applicant's request letter states that the number of guests shall be limited to six, and staff recommends a condition in line with this lower limit.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has three bedrooms and two off-street parking spaces within the rear driveway.

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

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

E. Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle,

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

Finding: **The application is for use of the property at 1108 S. Dunn 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 January 2, 2024, the City had issued 439 Type 2 short-term rental licenses, and 37 remain in the queue for processing. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: Staff finds there is likely adequate parking infrastructure to support the use of the property as a short-term rental with a reduced occupancy of six. The structure has three bedrooms and two parking spaces within the rear driveway. One designated parking spot is available on S. Dunn Ave. City records indicate seven other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license. No zoning or code violations were found for this address.

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

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

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

Finding: **The property has frontage along S. Dunn Ave., an improved residential link street with a sidewalk on both sides. Vehicles access the driveway through a shared drive located off W. 11th Street.**

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

Finding: **Two off-street parking spaces are available in the rear driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

Finding: **The applicant proposes typical residential trash cart service rather than dumpster service, with pickup located at the top of the guest parking area. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.**

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the use to be compatible with the surrounding properties. Residential properties within the area vary widely in density and include single- and two-family dwellings, as well as numerous multifamily complexes. The property is also directly adjacent to nonresidential uses such as the Fayetteville National Cemetery and a small manufacturer (Mad Rooster Beer Company). Given the mix of residential and nonresidential uses and the wide spread of short-term rentals throughout the ¼ mile radius, staff does not anticipate the addition of a short-term rental in this location will cause significant impact to the neighboring residents.**

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

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

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter Including Site Plan, Elevations, and Floor Plans
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

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

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

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

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations*.

(1) *Lot Width Minimum.*

All dwelling types	40 feet

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

(E) *Setback Regulations*.

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

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

1) Payment made in full

2) Residential Single-family at 1108 S Dunn Ave.

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 house is 1539 square feet.

b) The house is 2 floors. On the bottom floor is the kitchen and living space, master bedroom, and one and a half baths, and the above is two bedrooms, both with a closet and one bathroom. Attached pictures of the property will be at the end of this document.

c) For the house there is one parking space in front of the House and there is guest parking in the back of the property for additional guests. Description with pictures attached at the end.

d) The house will not have operating hours or employees. It will be in use whenever it is being rented.

e) Outdoor Lighting-There is an exterior light at the front of the door. There are also exterior lights that light up the entrance walkway on the exterior of the building and all the buildings next to it.

f) The property will be used for short stays of 1-6 people so the noise level should be minimal. There will be four televisions in the house and that will be the extent of the noise.

g) The house to the left side of the property is 14 feet. The house located to the right of the property is separated by 14 feet. Pictures are located at the end of this document.

h) The location for the trash drops off is located at the top of the guest parking lot.

I) The house does not add additional traffic on the road because this area is already used for short-term rentals and residential properties. Pictures are attached to the end of this document.

j) The use of the property as a nightly rental is very common in this location.

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 both property owners is attached as a separate document.

Image Attachments

3.b Elevations of all exterior sides of the structure

3.c Parking description

There is one designated spot for parking in the front of the house, and there are two guest parking spaces located at the back of the house if needed. No garage.

3.g Screening or buffering from adjacent properties

The distance between the 1108 and the house on the left and right is approximately 14 feet. No building or house in the front or back of 1108.

3.i Ingress and egress to the property

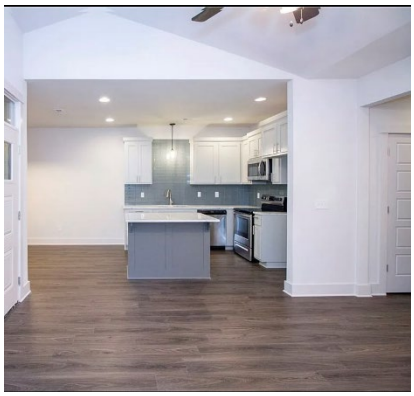
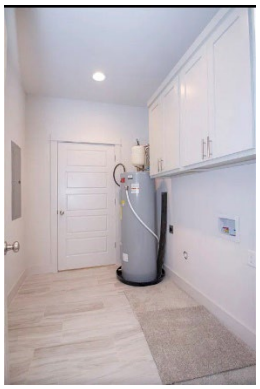
The right of egress is the legal right to exit or leave a property while the right of ingress is the legal right to enter a property. To enter the back of the house for parking the egress and ingress would be 11th St. (1st picture). To enter the front door of the house the egress and ingress would be Dunn St. (second picture).

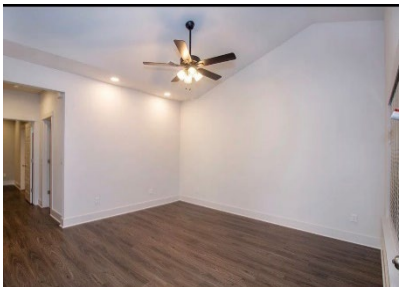
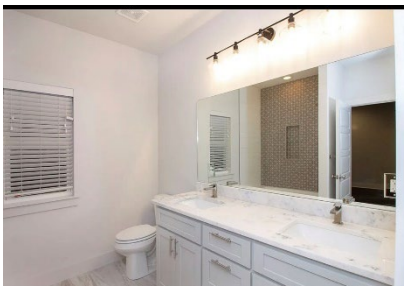
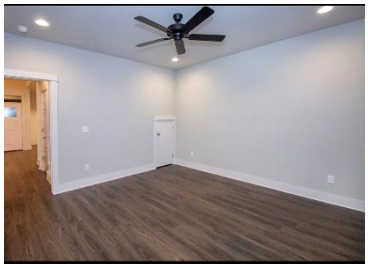
4. Site plan drawn to scale

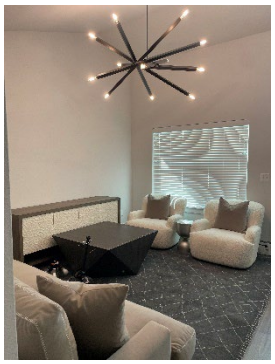
The attached image from the general reference map shows a good overview of the site plan and the adjoining properties.

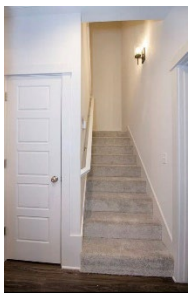
4. Copy of Right-of-Way from Master Street Plan.

5. Pictures of Floor Plan. Scroll for drawn out floor plan.

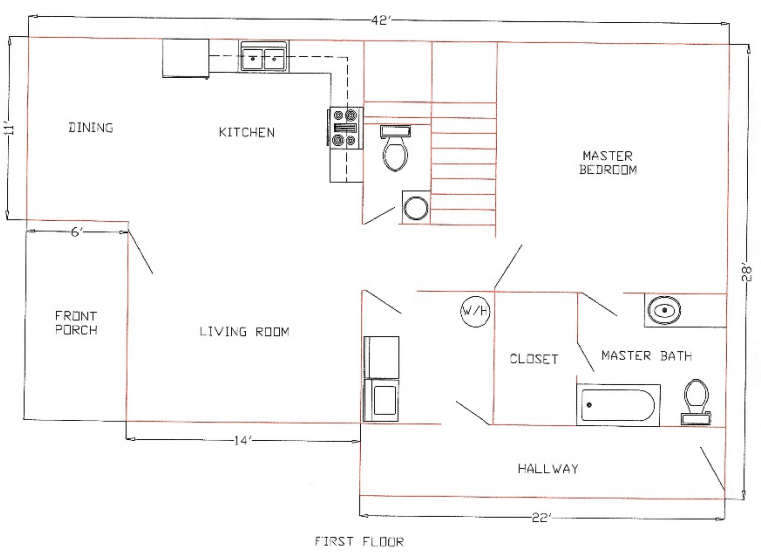



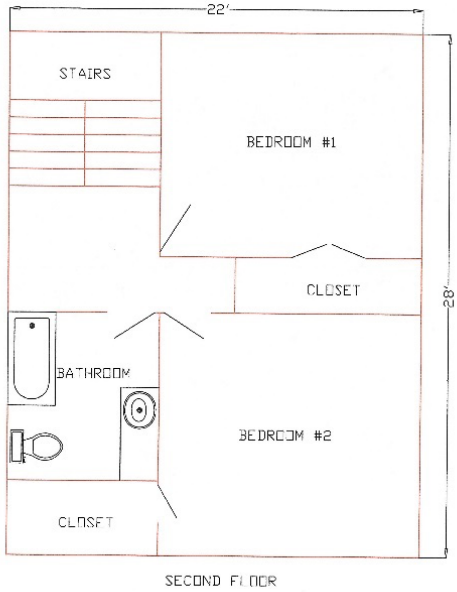






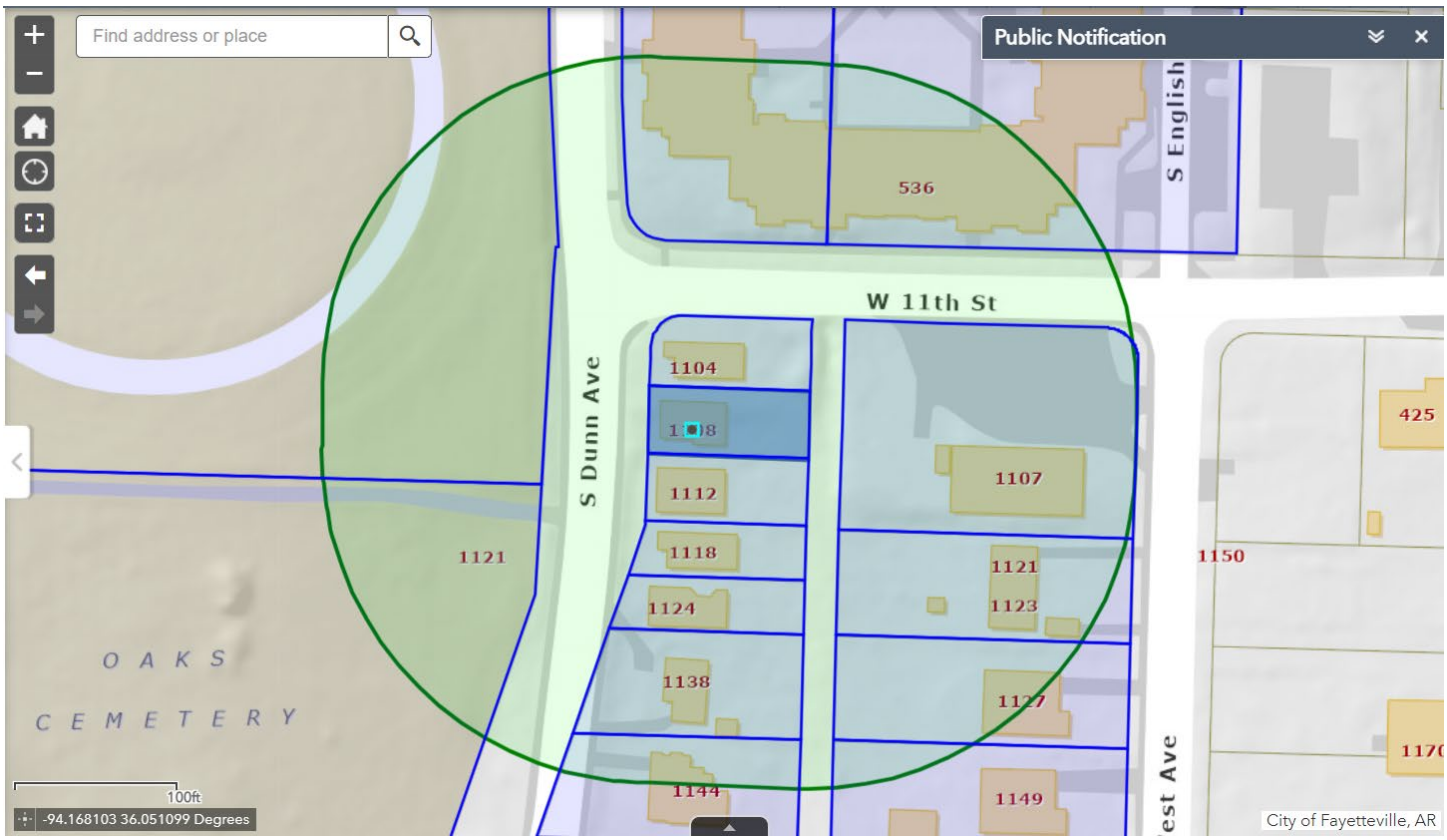


5. Floor Plan- Drawn to scale





6. County Parcel Map- Parcels within 200 ft

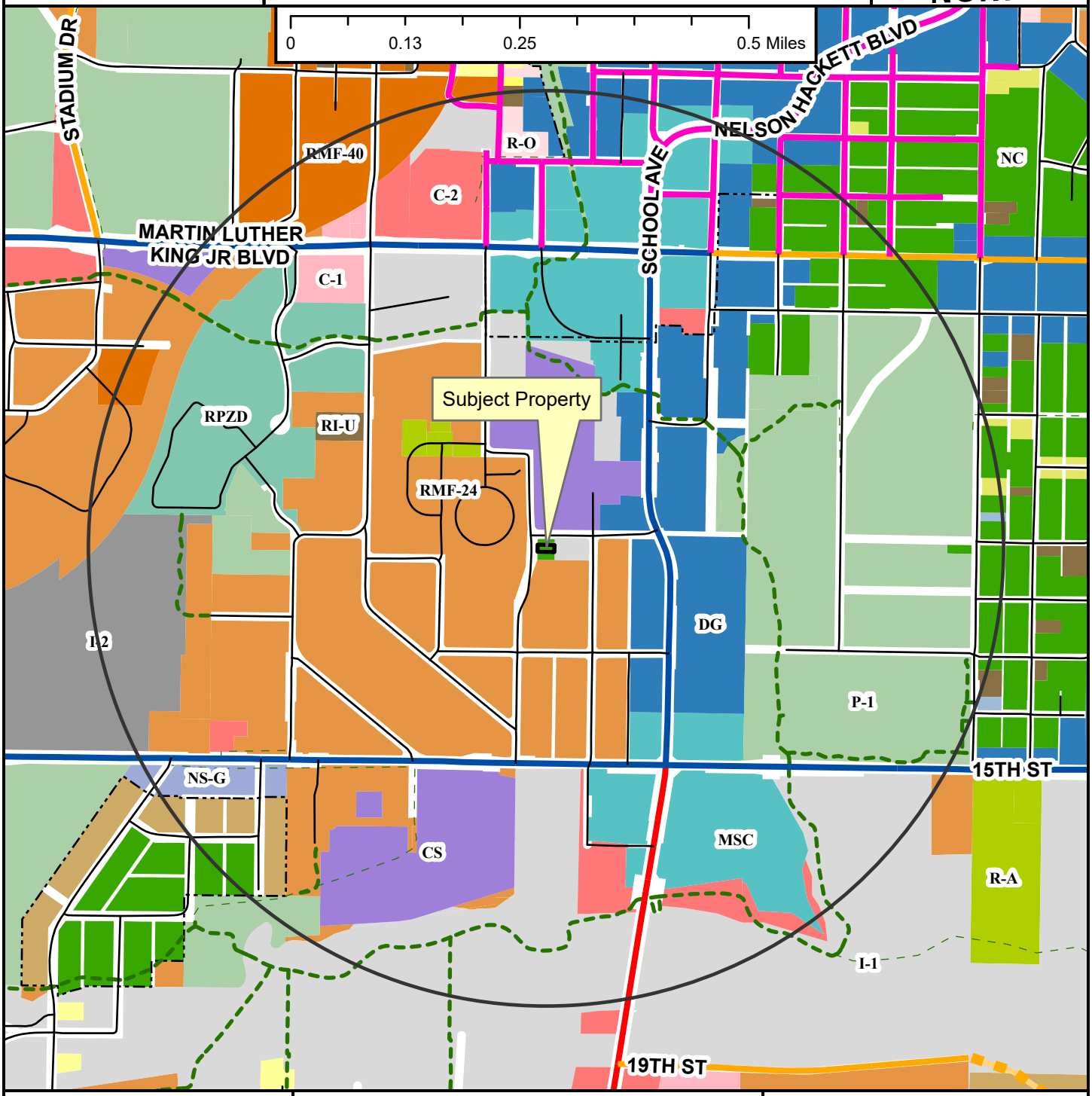


CUP-2023-0172

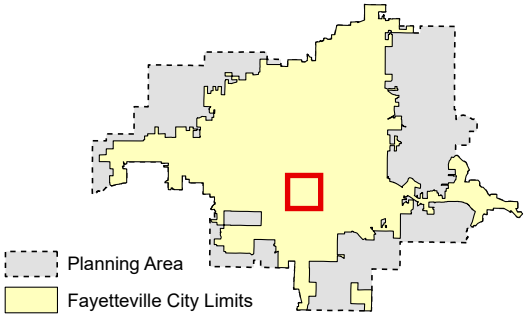
One Mile View

1108 S. DUNN AVE

NORTH



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



Zoning

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

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

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

EXTRACTION
- E-1

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

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

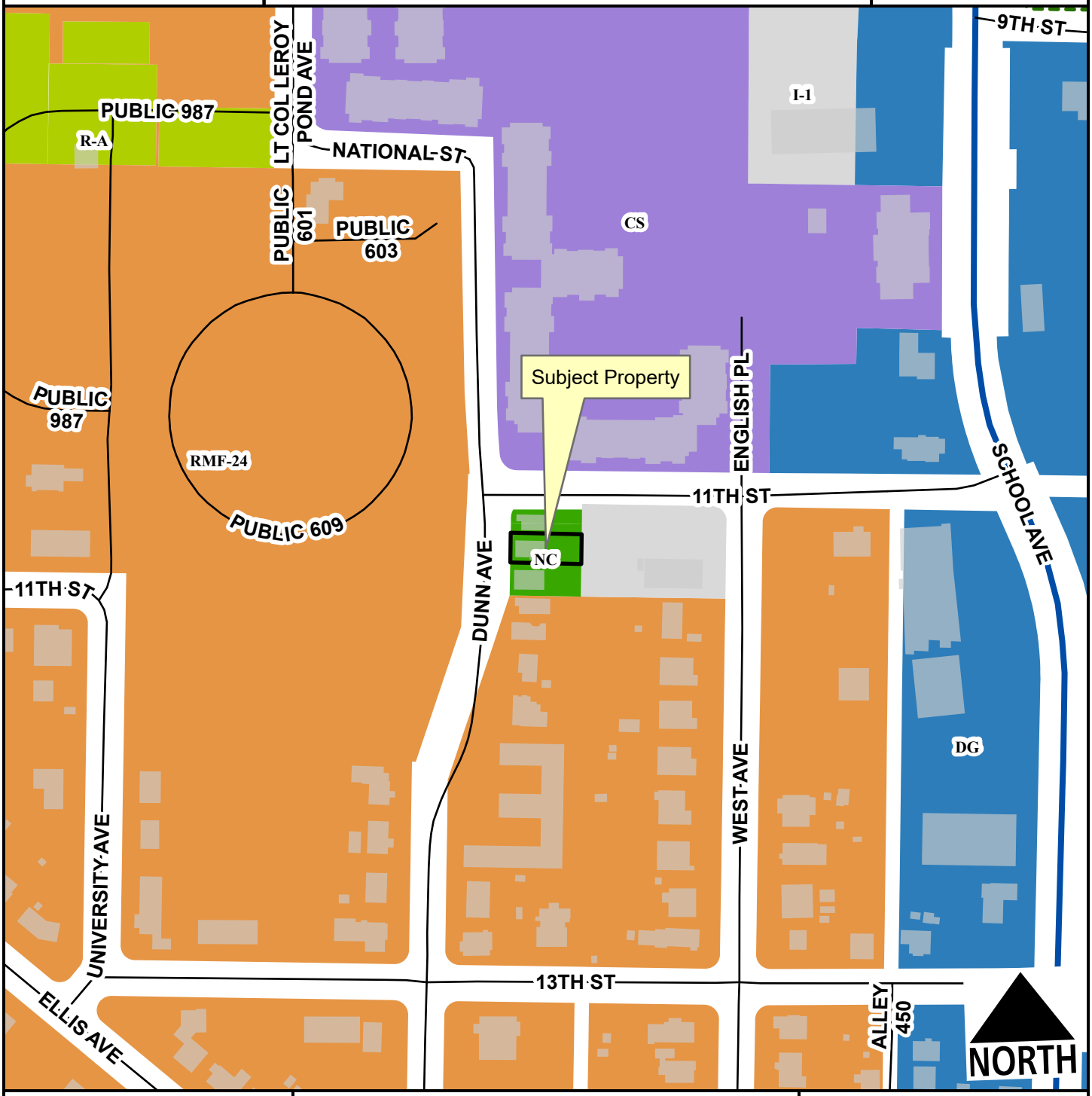
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0172

Close Up View

1108 S. DUNN AVE



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

Feet

0 75 150 300 450 600

1:2,400

- Residential-Agricultural
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Downtown General
- Community Services
- Neighborhood Conservation

CUP-2023-0172

Current Land Use

1108 S. DUNN AVE

NORTH

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

Feet

0 112.5 225 450 675 900

1:3,600

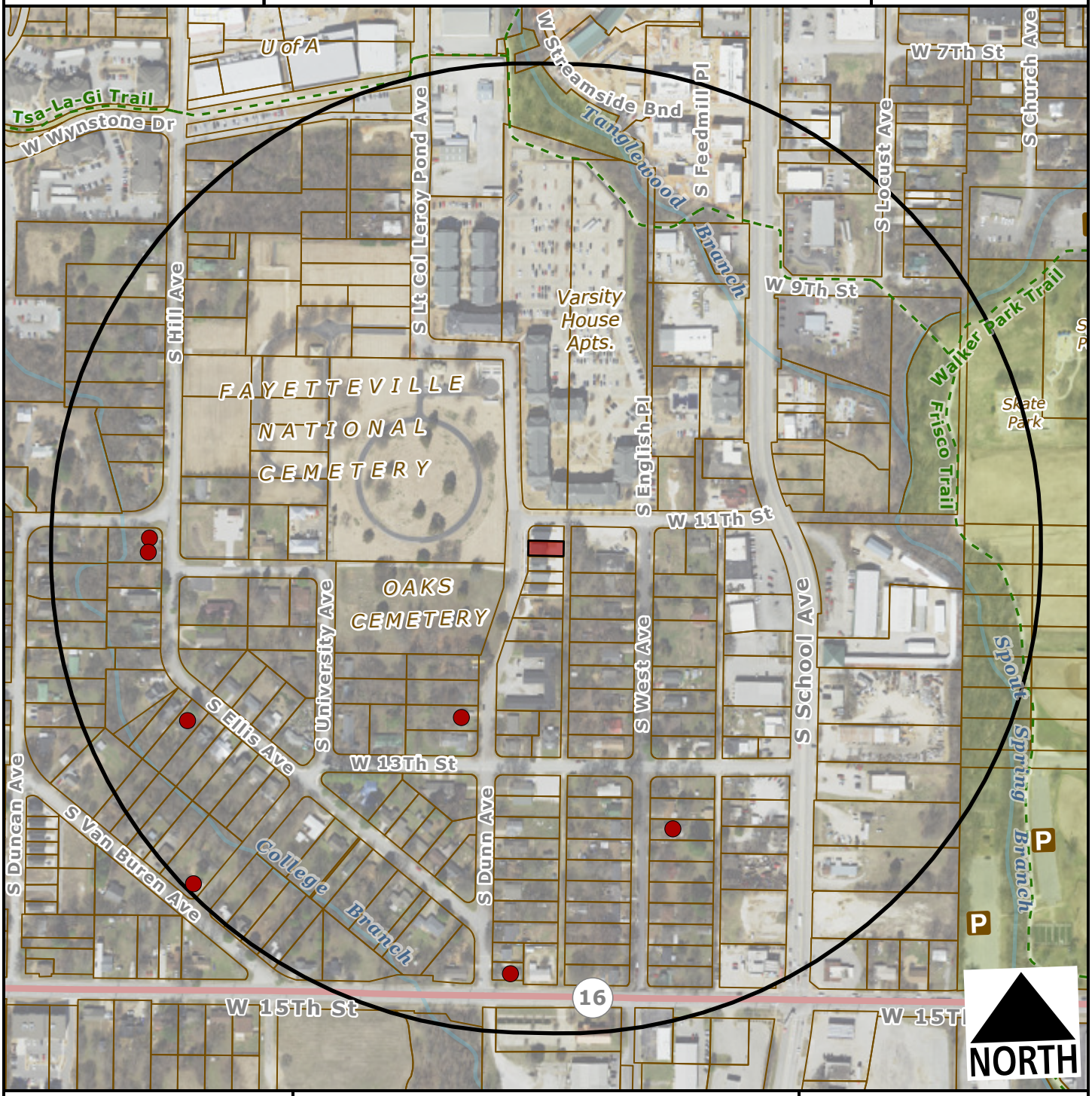
FEMA Flood Hazard Data

100-Year Floodplain
Floodway

CUP-2023-0172

STRs Within 1/4 Mile

1108 S. DUNN AVE



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 7

Occupiable Residential Addresses (Estimated Housing Units): 457

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0174: Conditional Use Permit (1633 N. GARLAND AVE/CAMPBELL, 404):** Submitted by SLOAN CAMPBELL for property located at 1633 N. GARLAND AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-tern rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0174**, with conditions as outlined by staff.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0174** with conditions, determining:*

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

BACKGROUND:
The subject property is located in north Fayetteville at the southwest corner of N. Garland Ave. and N. Maxwell Dr. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre, and totals approximately 0.20 acres. A 1,052 square foot single-family residence was constructed in 1956 per the Washington County Assessor. No zoning overlay districts apply. 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	Mixed-Density Residential, Religious Facility	RMF-24, Residential Multi-Family, 24 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-2023-0174,** with the following conditions;

Conditions of Approval:

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

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

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

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
Date: January 8, 2024,	**❒ 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 Short-Term Rental, Use Unit 46, in RSF-4 zoning which requires a conditional use permit.

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

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

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has three bedrooms and three parking spaces: one space in an attached garage and two in the driveway.

D. Special events are not permitted in a short-term rental. Examples 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 1633 N. Garland Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.**

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

Finding: **Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of January 2, 2024, the City had issued 439 Type 2 short-term rental licenses, and 37 remain in the queue for processing. 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 requested.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **Staff finds there is likely adequate parking infrastructure to support the use of the property as a short-term rental. The structure has three bedrooms and three parking spaces within an attached garage and driveway. On-street parking is not permitted on either N. Garland Ave. or N. Maxwell Ave. City records indicate four other units within a quarter-mile radius of the subject property have an active Type 2 short-term rental business license, only one of which if located on the western side of N. Garland Ave. No zoning or code violations were found for this address.**

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

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

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience,

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

Finding: **The property is located at the SW corner of the N. Garland Ave. and N. Maxwell Dr. intersection, with access off of N. Maxwell Ave. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 8 guests, which would not be out of character with use of the property for residential purposes.**

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

Finding: **Per the applicant, the site has access to three off-street parking spaces: one in an attached garage and two in an associated driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

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

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

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

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

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

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

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

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

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

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

Finding: **Staff finds the use to be compatible with the surrounding properties. While the residences along N. Maxwell Dr. are primarily single-family residential, there are also townhomes and two-family dwellings within close proximity. Additionally, there are multiple non-residential uses in close proximity to the request, including Trinity United Methodist Church across N. Garland Ave. and Tri-Cycle Farm, an urban farm located approximately 200 feet to the north. N. Garland Ave., a high-activity regional link, which could likely support additional traffic generation.**

(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, including Elevations and Floor Plan
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

1) R-A
2) RSF-.5

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

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

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

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

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

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

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

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

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

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

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

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

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

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

Description of Request

1633 N Garland Ave
Fayetteville, AR. 72703

Complete description of this request (what is proposed by the applicant) to include all applicable items below (indicate N/A if it does not apply to your project):

(a) Building size in square feet; existing and proposed: Existing is 1087 sqft, no proposed additions.
(b) Color elevations of all exterior sides of the structure: Home is currently painted white with Black shutters, no change.
(c) Number of off-street parking spaces to be provided / number required : N/A – leveraging existing parking on property.
(d) When request applies to a business or non-residential use: -Hours of operation -Number of employees -Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour): N/A
(e) Outdoor lighting: No changes to existing lighting.
(f) Noise: No change in noise.
(g) Screening or buffering from adjacent properties: Maintaining existing foliage and fence lines.
(h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties): No change, Standard Residential Trash Service
(i) Ingress and egress to the property; traffic impacts: No Impact, standard Single Family Resident ingress and egress.
(j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood: Neighborhood is a mix of investment/rentals properties and primary homeowners. No issues with compatibility.

Comments specific to letter

1. List number of bedrooms in the residence. 3 Bedrooms, 2 Baths

2. List number of available parking spaces available on property (garage, driveway, carport, etc.). Whether the property has sufficient parking is one of the factors the commission reviews to determine if a conditional use permit will be granted. Total of 3 (2 driveway parking spots available, plus 1 car garage). Additional grass parking on property if needed.

3. Is parking available on any adjacent street? No need for adjacent street parking available.

The following must be provided for the application to be considered complete.

1. Color elevations are required for all sides of structure. This may be photographs of the existing building.

Front:

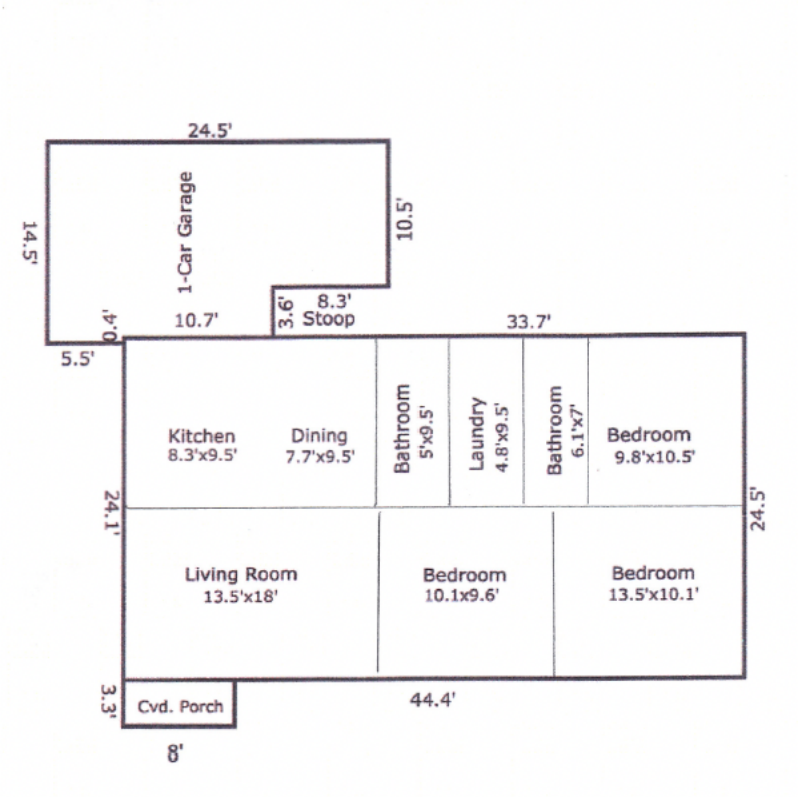
Back:

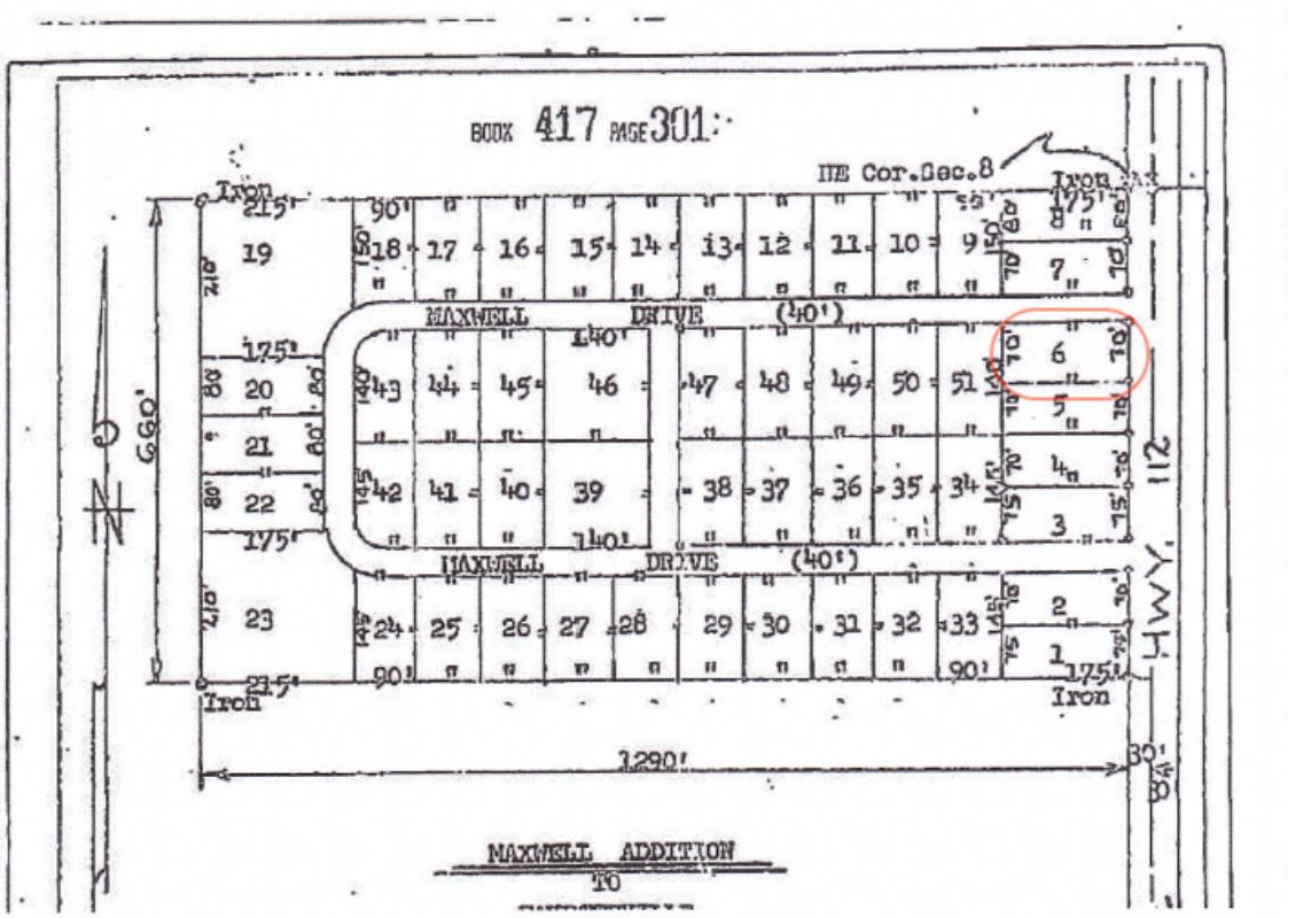
Left Side:

Right Side:

Additonal Photos:

2. Floor plan indicating major rooms of the house (bedrooms, bathrooms, kitchen, living area, offices, etc.). Floor plan may be hand drawn and is not required to be to scale.




BOOK 417 PAGE 301
NE Cor. Sec. 8
Iron
MAXWELL DRIVE (40')
MAXWELL DRIVE (40')
660'
1290'
112
HWY.
MAXWELL ADDITION
TO

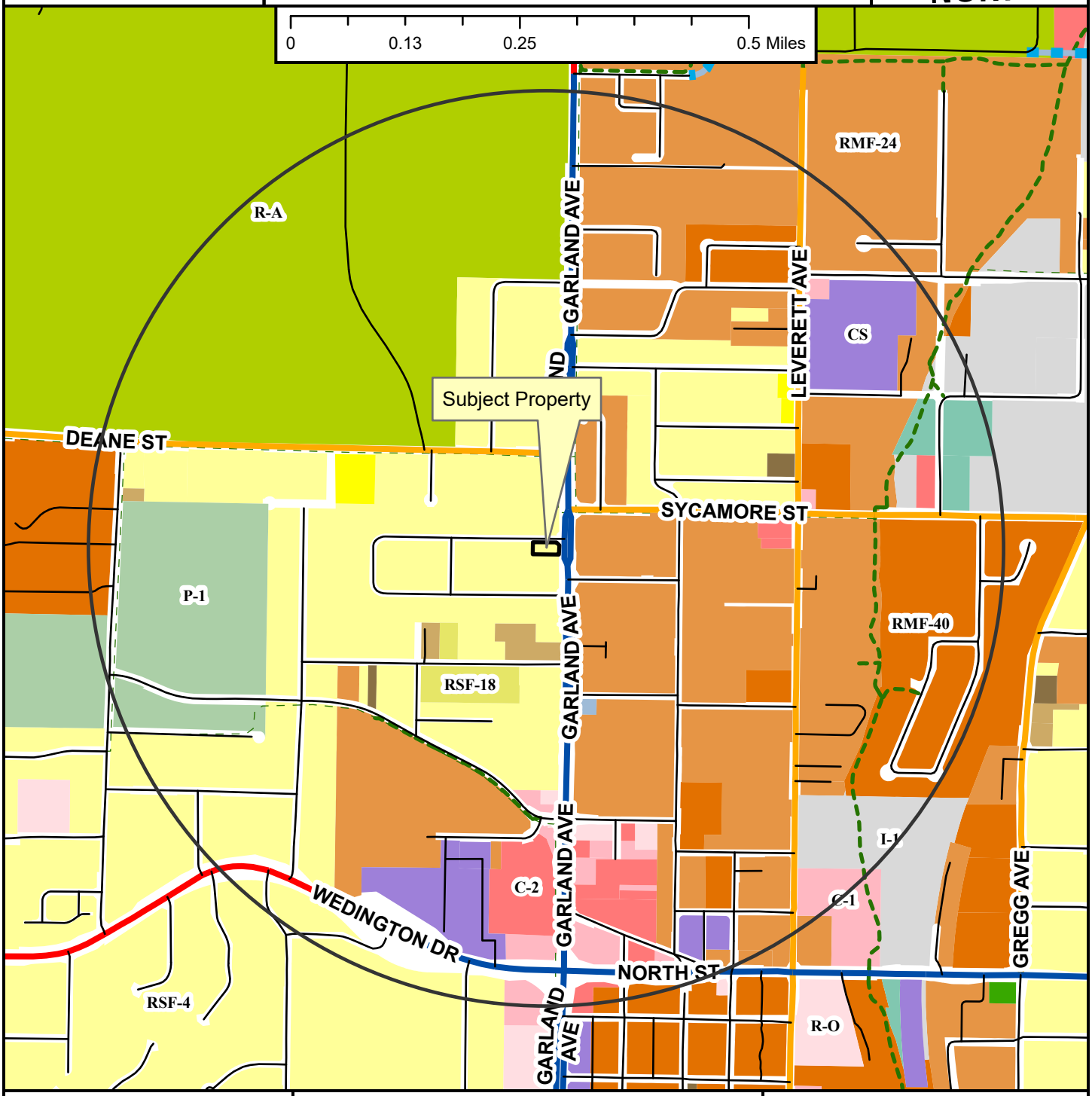
1126
N Maxwell Dr
112
N Garland Ave
1633
1631

CUP-2023-0174

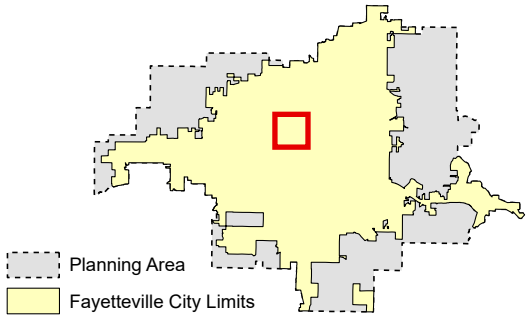
One Mile View

1633 N. GARLAND AVE

NORTH



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



Zoning

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

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

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

EXTRACTION
E-1

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

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

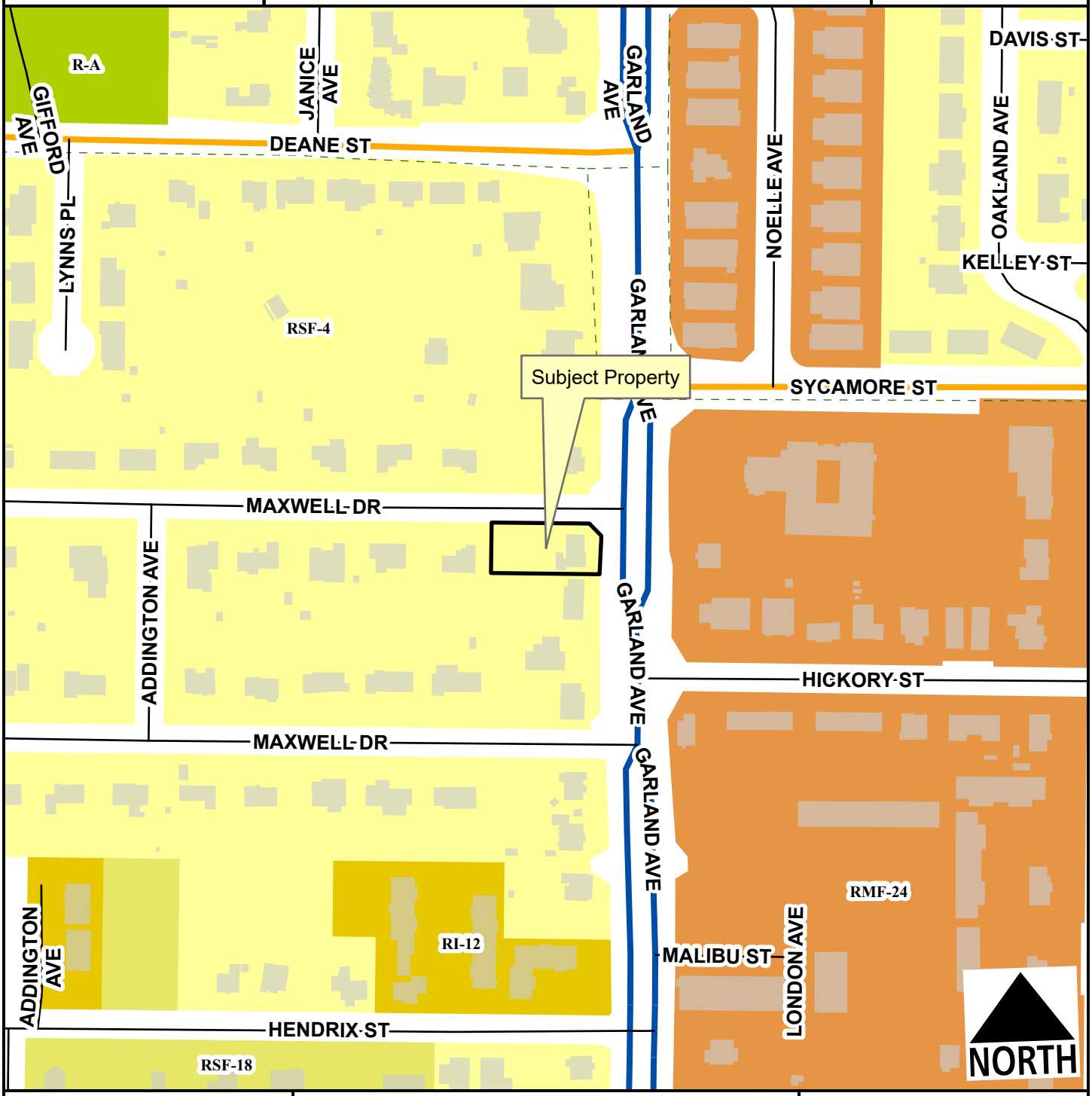
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0174

Close Up View

1633 N. GARLAND AVE



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

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

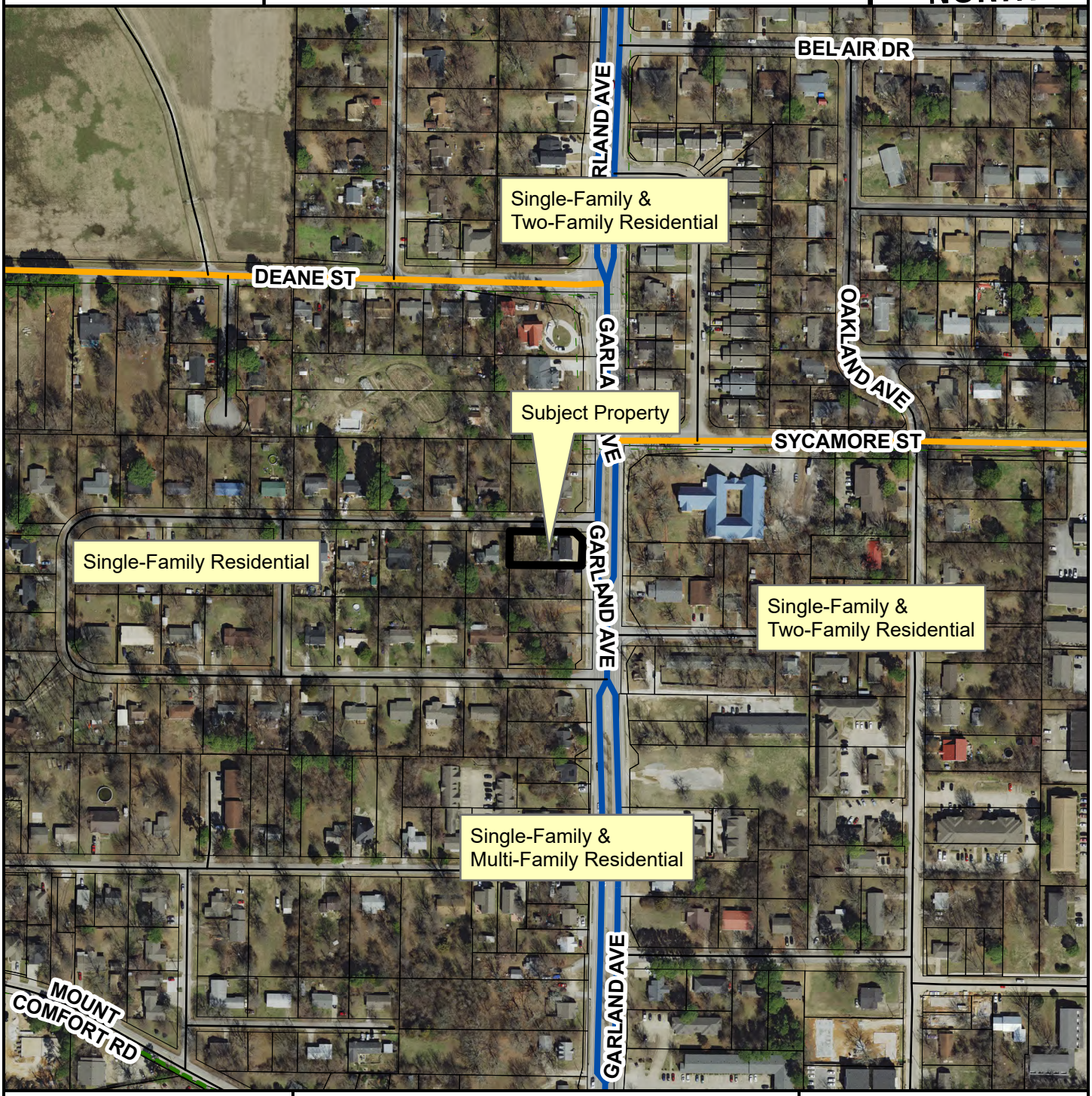
Residential-Agricultural
RSF-4
RSF-18
RI-12
RMF-24

CUP-2023-0174

Current Land Use

1633 N. GARLAND AVE

NORTH



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

Feet

0 112.5 225 450 675 900

1:3,600

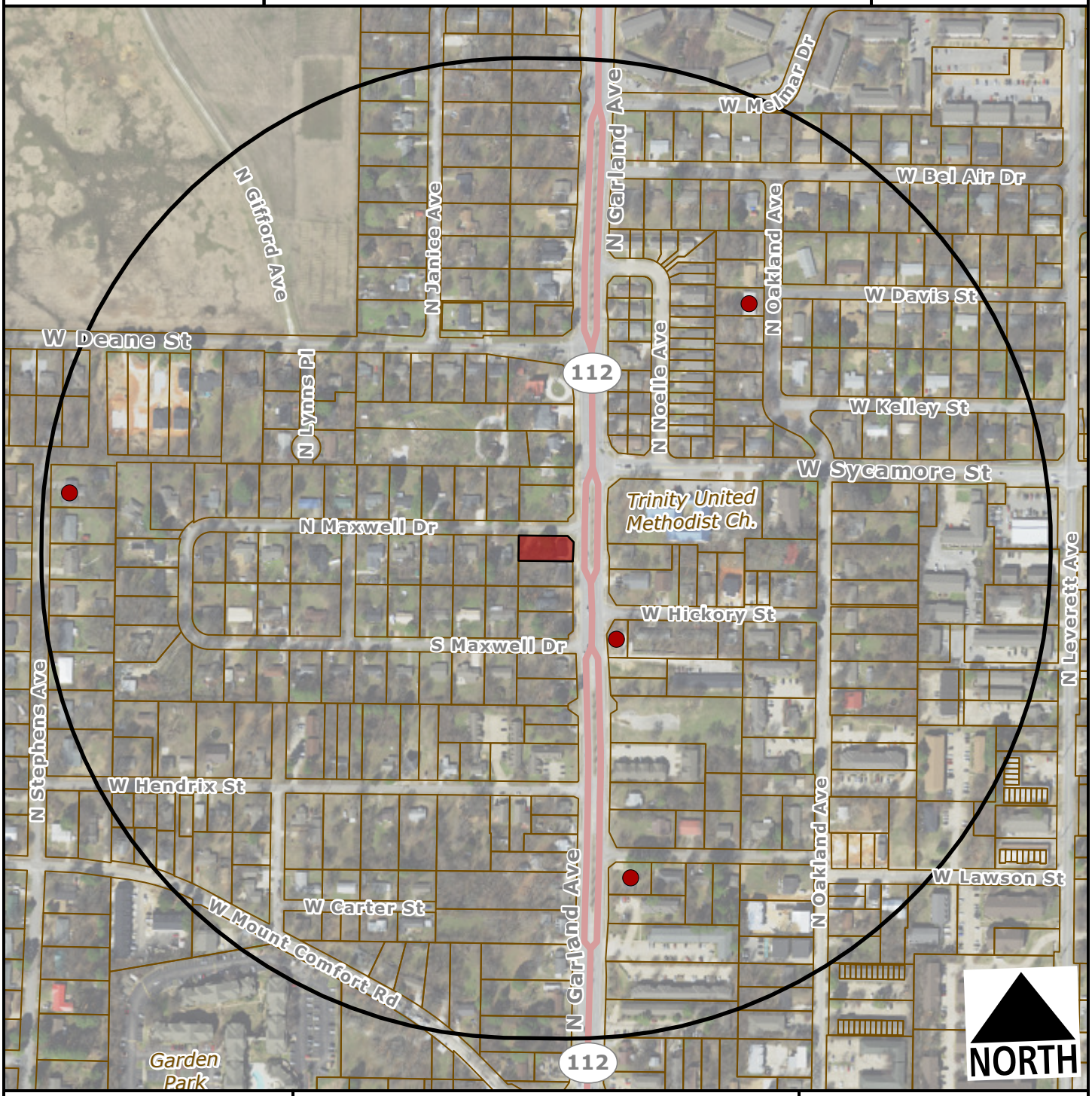
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0174

STRs Within 1/4 Mile

1633 N. GARLAND AVE



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 4

Occupiable Residential Addresses (Estimated Housing Units): 651

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0176: Conditional Use Permit (158 E. CYDNEE ST./KIMSCO LLC, 251):** Submitted by DONALD TATMAN for property located at 158 E. CYDNEE ST. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.11 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0176** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0176**, 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 east of N. Gregg Ave., approximately 0.25 miles southeast of the Washington Regional Medical Center Campus. The property contains approximately 0.11 acres and is developed with a 1,638-square-foot, three-bedroom, duplex unit which was built in 1995. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	North Hills Lifecare & Rehab	RA-4, Residential - Agricultural
South	Two-Family Residential	RMF-24, Residential Multi-Family, Twenty-Four Units Per Acre
East	Two-Family Residential	RMF-24, Residential Multi-Family, Twenty-Four Units Per Acre
West	Two-Family Residential	RMF-24, Residential Multi-Family, Twenty-Four Units Per Acre

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

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

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

Public Comment: Staff received one comment via email from the North Heights Subdivision POA in opposition to the request. The email is included in this report.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0176** 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. The number of occupants is limited to six guests total;

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;

6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;

7. All trash receptacles shall be screened from view of the right-of-way;

8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;

9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES
Date: January 8, 2024 ❒ Tabled ❒ Approved ❒ Denied
Motion:
Second:
Vote:

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: **The request is to operate a Type 2 short-term rental in RMF-24 zoning, 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 property contains a total of three bedrooms which would limit occupancy to a maximum of eight guests per ordinance, however the applicant has self-limited to allow only six guests.**

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

Finding: **Parking for two-family dwellings is required to be provided at a rate of two spaces per unit . The applicant indicated in their submittal that there is space to park up to four vehicles on the property, two in an attached garage and two in an existing driveway. On-street parking is available along Cydnee St.**

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 158 E. Cydnee 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 January 2, 2024, the City had issued 439 Type 2 short-term rental business licenses, and 37 remain in the queue for processing. 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 along Cydnee St. is also available. 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. There are no zoning or code violation on record 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: **A paved driveway with access onto E. Cydnee St. is available to accommodate vehicular ingress and egress to the subject property. E. Cydnee St. is fully improved with sidewalks to facilitate 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 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 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 primarily surrounded by residential uses and there are only two other licensed Type 2 short-term rentals within a quarter-mile radius.. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.**

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

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

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:
- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Building Floor Plans
- Site Plan
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

(B) *Uses.*

(1) Permitted Uses.

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

(2) *Conditional Uses.*

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

(C) *Density.*

Units per acre	24 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet

Two (2) family	35 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit*.

Manufactured Home	3,000 square feet

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*

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

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

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

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

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

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

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

November 27, 2023

To Whom It may concern:

Owners: Donald and Kim Tatman, DBA Kimsco, LLC

Location: Lot 20 A, North Heights Addition, a townhouse development, Fayetteville, Washington County, AR as per plat 12, page 45

Street address: 158 E. Cydnee, Fayetteville, AR 72703

Proposed use for this property is a type 2 short term rental. Attached are:

1. Consent of owner form
2. Floor plan
3. City Address verification and map
4. Photos of exterior (some showing exterior lights) emailed

5. No signs would be posted on this property.

Additional Information:

(1) There are 4 off street parking spaces at the property, 2 inside the enclosed garage and 2 more on the driveway. There is temporary on-street parking on Cydnee St.

(2) (2) Our plan is to limit the occupancy to 6 people, (2 per bedroom).

(3) There is ample space in the enclosed garage to accommodate a large trash container and recycling bin to be moved to the curb on Tuesday mornings for collection, to be returned to the garage after the pickup.

(4) We have met several of our neighbors and we will have "house rules" in place that will display respect to them, especially the ones who live next door. We plan to establish "quiet hours" and will not allow parties. We plan to partner with a Licensed Rental Management Co. to oversee our plan to have quality tenants and uphold our rules and the laws of the City.

Pg. 2.

This property is located just behind the Washington Regional Medical Center Our goal is to offer a short term rental option to families or individuals who may need to be close to the hospital. Our hope is that we have submitted all the property forms and applications to win approval from the city. Your staff at the city have been very helpful.

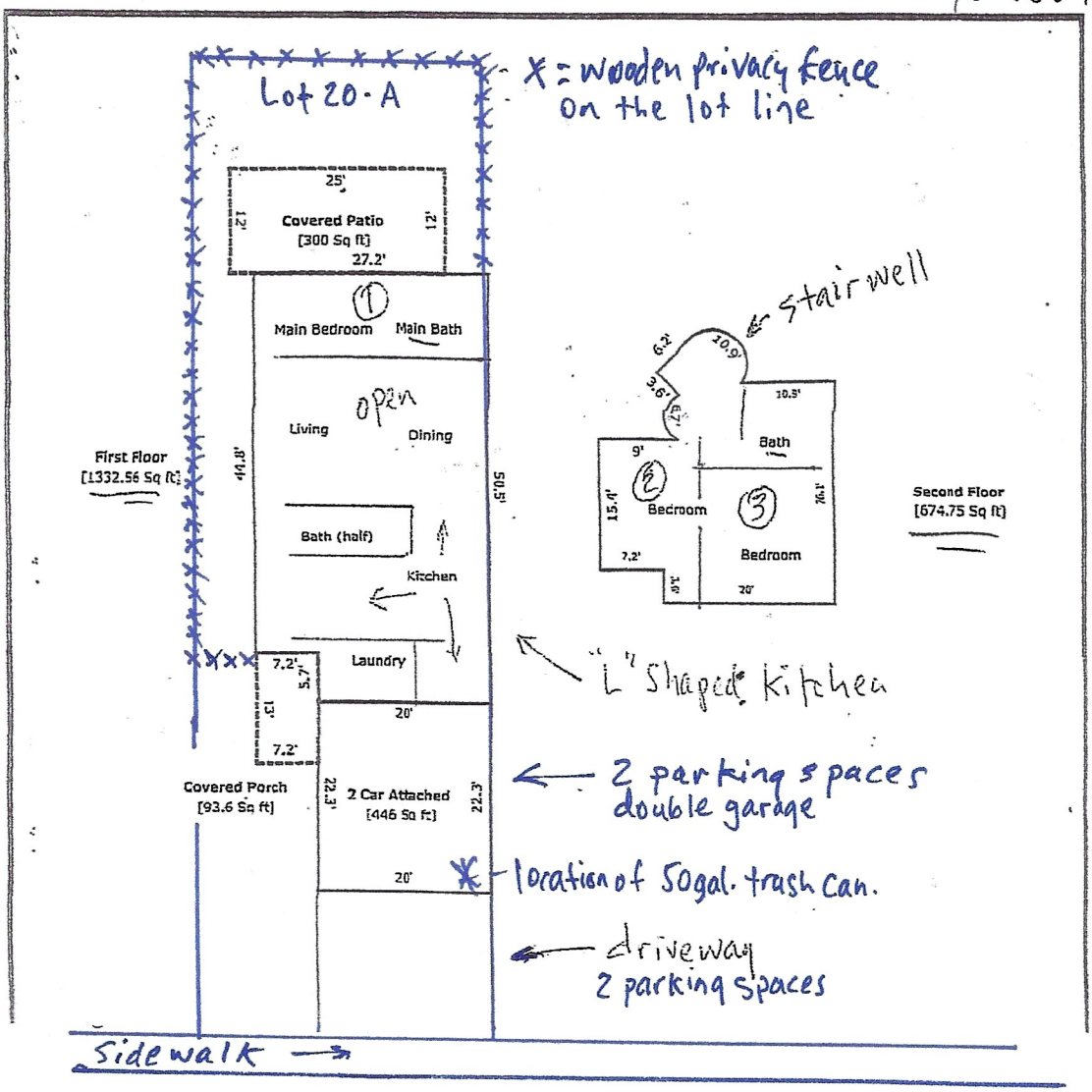
Sincerely,

Donald Scott + Kim Tatman

12-9-23

Building Elevations

158 East Cydnee St. Fayetteville



Hevrdejs, Kylee

From: Bostick, Britin
Sent: Wednesday, January 3, 2024 4:21 PM
To: Sharon Ackerson
Cc: Hevrdejs, Kylee
Subject: RE: HOA comments in regard to 158 E Cydnee

Thank you so much Sharon! I am copying Kylee, our planner assigned to this CUP, so that she can convey your comments to our Planning Commissioners. Please let us know if you have any questions about attending the meeting!

Regards,

Britin Bostick
Long Range Planning/Special Projects Manager
Long Range Planning
City of Fayetteville, Arkansas
479-575-8262
fayetteville-ar.gov

CITY OF FAYETTEVILLE ARKANSAS

From: Sharon Ackerson <sharona.ack@gmail.com>
Sent: Wednesday, January 3, 2024 4:15 PM
To: Bostick, Britin <bbostick@fayetteville-ar.gov>
Subject: HOA comments in regard to 158 E Cydnee

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

Dear Planning Commission. My name is Sharon Ackerson, I am currently the POA president of North Heights Subdivision. We as a subdivision are opposed to the application for a type 2 STR for the townhome located at 158 E Cydnee. These are our following reasons.
North Heights Subdivision is a one street, (E. Cydnee Street), subdivision off of Appleby Rd. We are in close proximity to several medical services of Washington Regional Medical System. We have mature residents, approximately 65-70% of the homeowners in North Heights have strategically moved to this area to be close to medical services and enjoy safe independent living,
The new owner of 158 lives out of town, has never lived on our street and does not understand how close we are as a group of neighbors. If this owner ever lived in their property on Cydnee street that they would find that short term rental is not a good fit for our neighborhood.
According to our covenants and bylaws commercial activities are not permitted in North Heights subdivision. Short term rental is a commercial business.
We are also concerned about increasing car traffic on our street as some of our residents are still physically active walking and riding bikes, and we are a cul de sac with a cut through street that is already utilized too much as a cut through street especially during increase in construction on Appleby.
We feel as an HPOA, that having a short term rentals in our neighborhood will decreases our property values, this could affect 65% of our homeowners because they will eventually move out of their townhouse to assisted living or have to

pay for assistance to stay in independent living, and the value of
their real estate is pivotal in supporting their livelihood for the duration of their life, as it is their largest asset.

I will be attending the Planning Commission Meeting 1/8/2024, along with other residents. Thank you for your time and consideration.

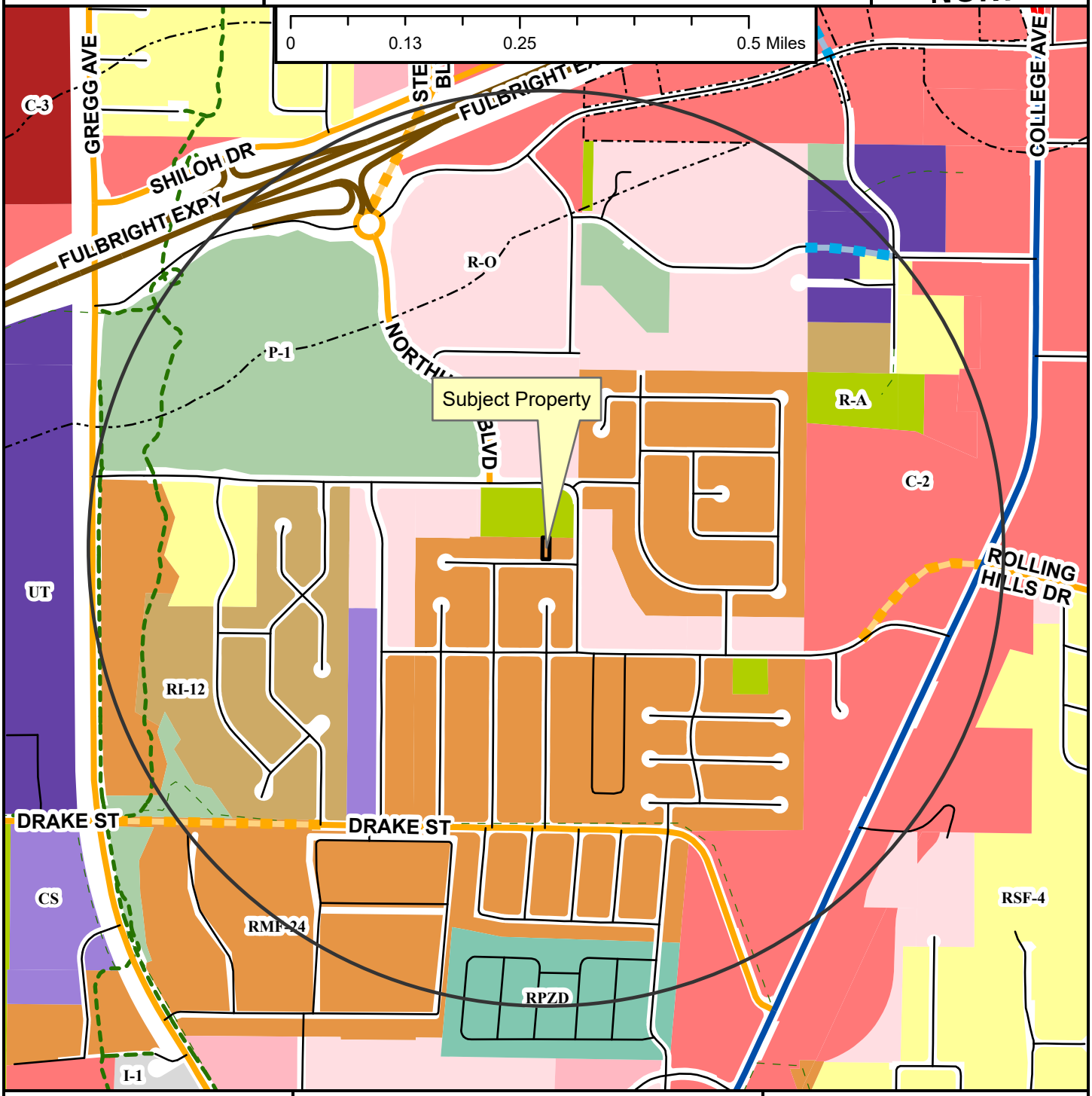
Sincerely,
Sharon Ackerson
479-530-0939
North Heights POA president

CUP-2023-0176

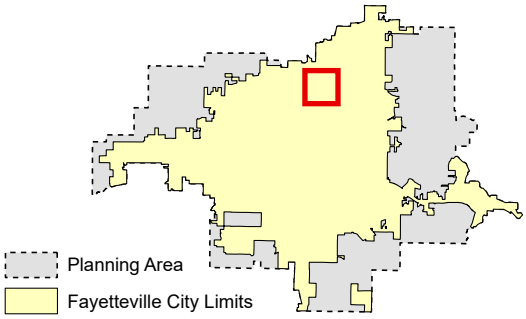
One Mile View

158 E. CYNDEE ST

NORTH



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



Zoning

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

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

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

EXTRACTION
- E-1

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

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

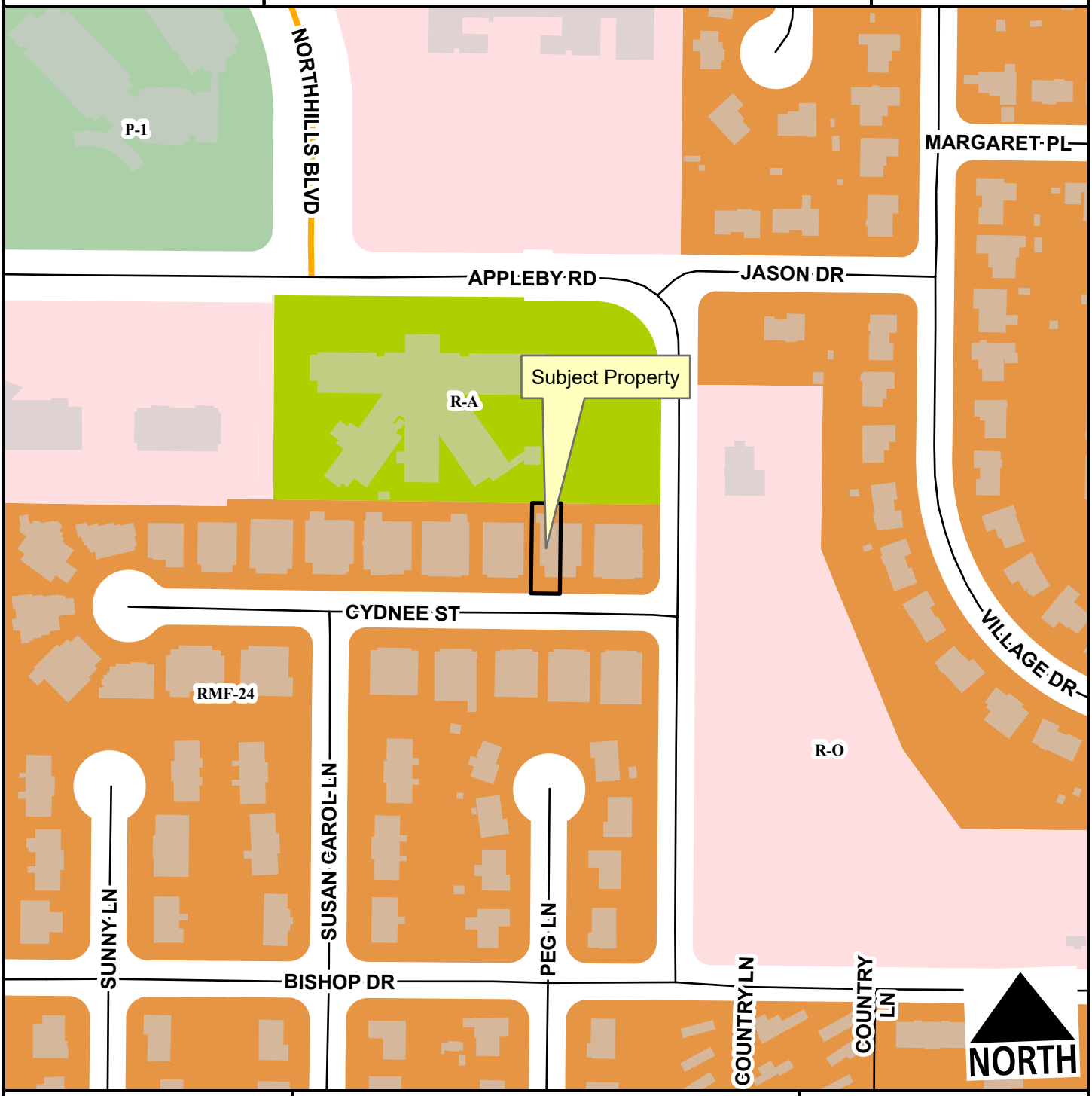
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0176

Close Up View

158 E. CYNDEE ST



Neighborhood Link
Unclassified
Residential Link
Planning Area
Fayetteville City Limits

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

Residential-Agricultural
RMF-24
Residential-Office
P-1

CUP-2023-0176

Current Land Use

158 E. CYNDEE ST

NORTH

Neighborhood Link
Unclassified
Residential Link
Planning Area
Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

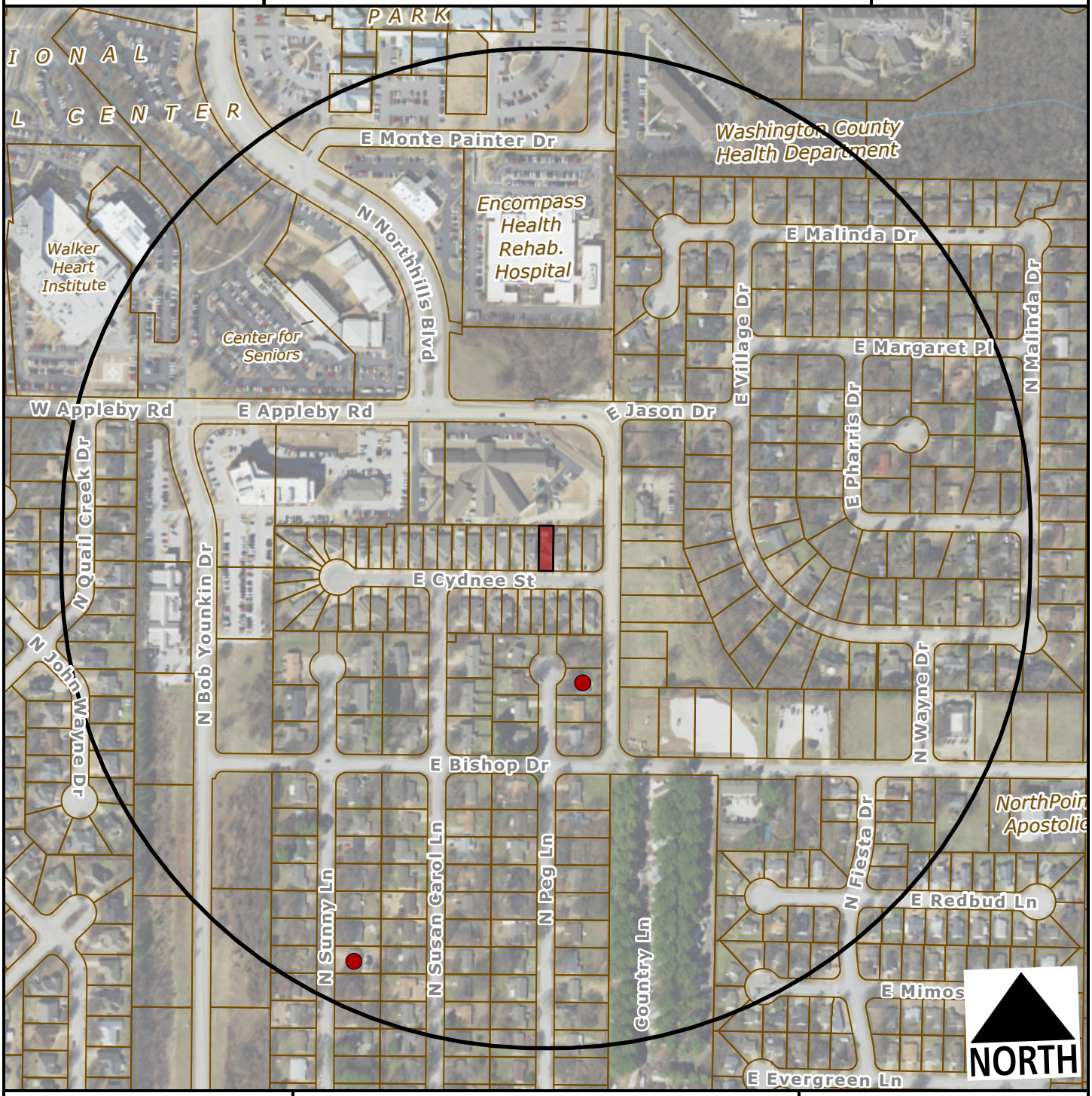
FEMA Flood Hazard Data

100-Year Floodplain
Floodway

CUP-2023-0176

STRs Within 1/4 Mile

158 E. CYNDEE ST



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 2

Occupiable Residential Addresses (Estimated Housing Units): 336

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0177: Conditional Use Permit (776 S. BENCHMARK LN. #1/AB JOINT VENTURES LLC, 556):** Submitted by CHRISTINE ZHU-WEAVER for property located at 776 S. BENCHMARK LN., UNIT 1. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE - URBAN and contains approximately 0.15 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0177**, with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0177** 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 southwest Fayetteville, just west of S. Rupple Rd. The property is zoned RI-U, Residential Intermediate - Urban and totals approximately 0.15 acres. The property contains a duplex constructed in 2023. The request is for one 1,952 sq. ft., four-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	CS, Community Services
South	Two-family Residential	RI-U, Residential Intermediate - Urban
East	Two-family Residential	RI-U, Residential Intermediate - Urban
West	Two-family Residential	RI-U, Residential Intermediate - Urban

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0177,** with the following conditions;

Conditions of Approval:

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

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

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

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.

6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

7. All trash receptacles shall be screened from view of the right-of-way.

8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

9. Any signage shall meet the requirements as outlined in §174, Signage.

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative to the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:	**Required**	**YES**		
Date: January 8, 2024	**❒ 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 RI-U 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 RI-U 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 four bedrooms which would limit the occupancy to a maximum of ten guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.**

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

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

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

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

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

Finding: **The application is for use of the property at 776 S. Benchmark Ln., 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 city-wide density cap at 475 units. As of January 2, 2024, the City had issued 439 Type 2 short-term rental business licenses, and 37 remain in the queue for processing. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.**

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

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

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

1. Adequate parking infrastructure;

2. Adequate adjoining or nearby streets for on-street parking;

3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4. Prior zoning or code violations.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four off-street parking spaces will be available for guests in an attached garage and driveway. On-street parking is available along S. Benchmark Ln. City records indicate that no other units within a quarter-mile radius of the property have an active Type-2 short-term rental business license. No prior zoning or code violations have been reported on the property.**

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

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

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

Finding: **A paved driveway onto a rear alley is available to accommodate vehicular ingress and egress to the subject property. S. Benchmark Ln. is fully improved 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 four off-street parking spaces are available in a driveway and attached garage. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

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

Finding: **The applicant proposes typical residential trash cart service. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view when not at the curb for residential pick-up.**

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

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

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

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

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

Finding: **Any proposed signage will be subject to Unified Development Code 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 two-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 are no other licensed Type 2 short-term rentals 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 is does not clearly support any of the stated goals in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals. These include a city-wide density cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.**

BUDGET/STAFF IMPACT:
None

Attachments:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
  - §161.12 District RI-U, Residential Intermediate – Urban
- Applicant Request Letter
- Building Elevations
- Building Floor Plan
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

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

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

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

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

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

161.12 District RI-U, Residential Intermediate - Urban

(A) *Purpose.* The RI-U Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a range of housing types compatible in scale with single-family homes and to encourage a diversity of housing types to meet demand for walkable urban living.

(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 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

	Dwelling (all types)
Lot width minimum	18 feet
Lot area minimum	None

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear, from centerline of an alley
A build-to zone that is located between the front property, line and a line 25 feet from the front property line.	None	5 feet	5 feet	12 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*

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

(G) *Building Area.* The area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

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

(Ord. No. 5945 , §5(Exh. A), 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."

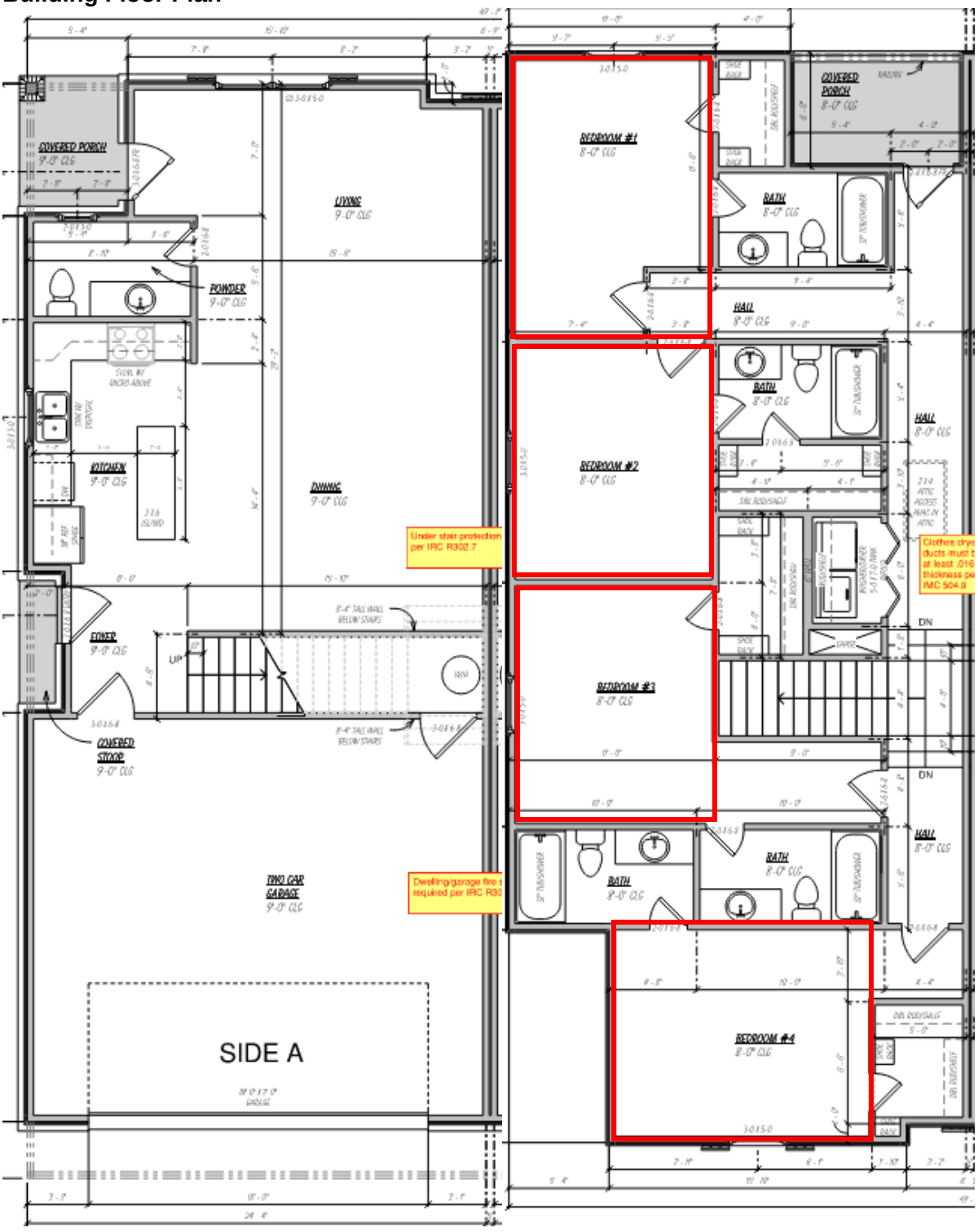
Building Elevations

Front (West side)

Rear (east side)

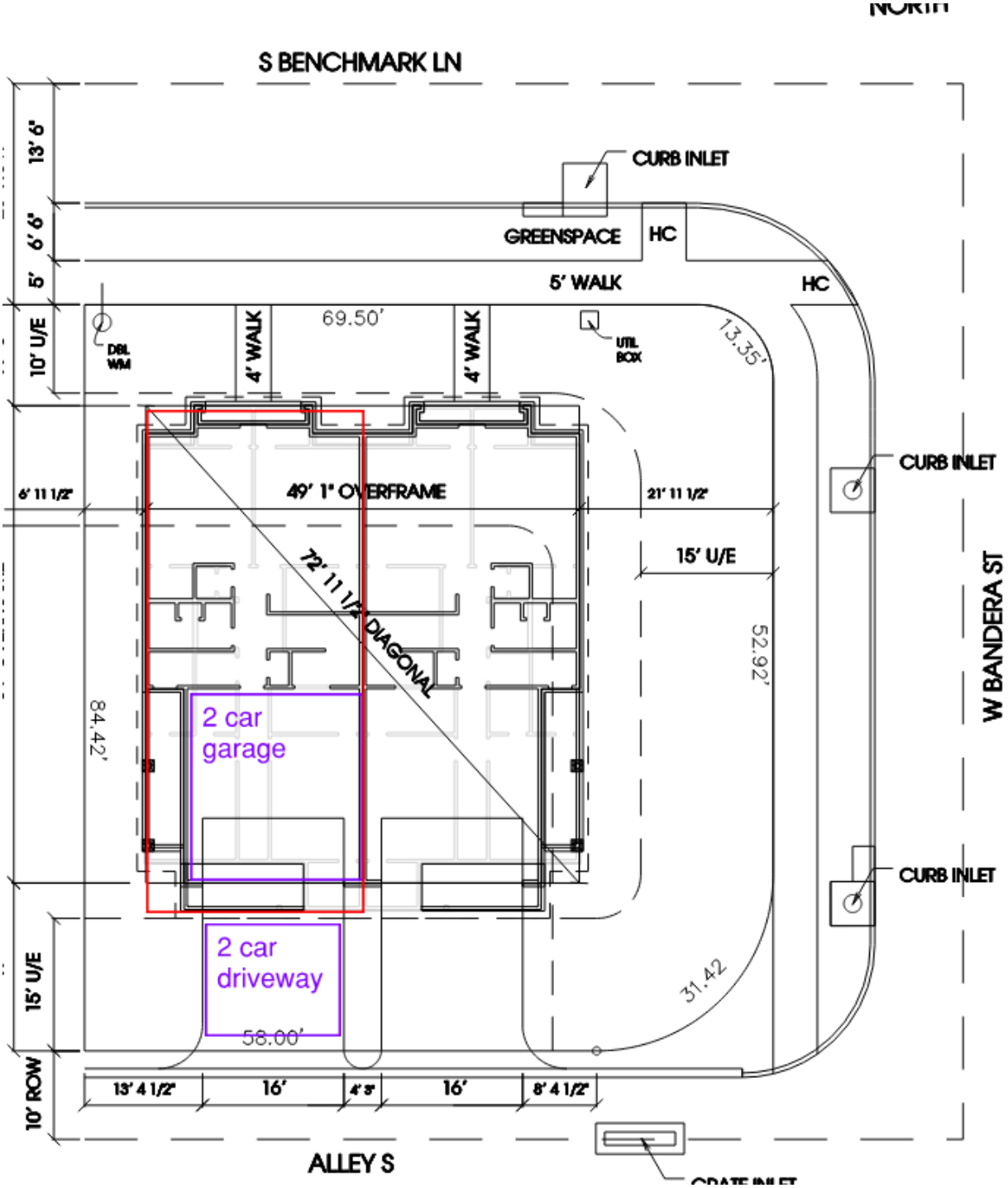
North and west side

Building Floor Plan



First Floor Second Floor

Site Plan

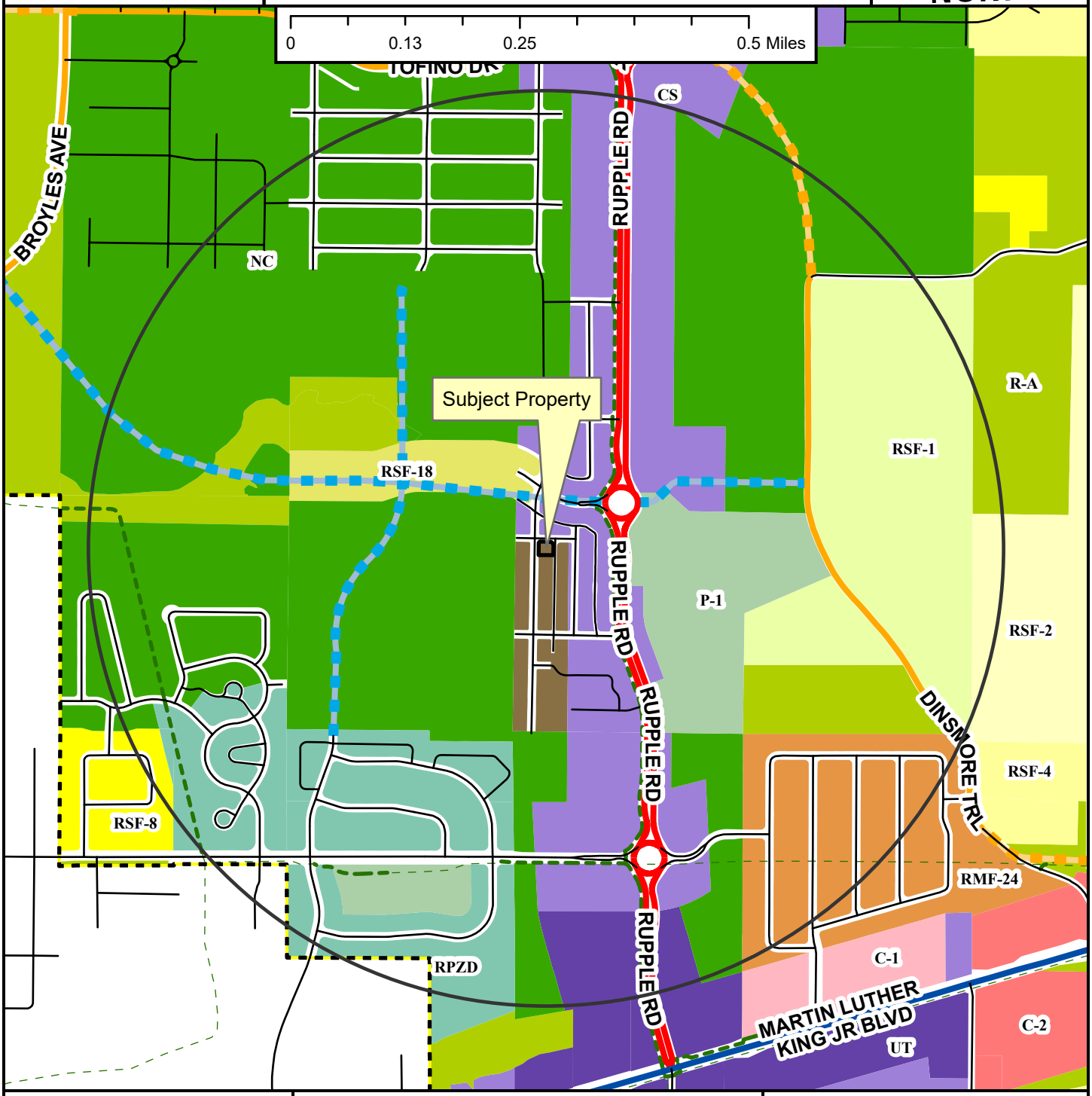

NORTH
S BENCHMARK LN
13' 6"
6' 6"
5'
10' U/E
CURB INLET
GREENSPACE
HC
5' WALK
HC
DBL WM
4' WALK
69.50'
4' WALK
UTIL BOX
13.35'
CURB INLET
6' 11 1/2"
49' 1" OVERFRAME
21' 11 1/2"
15' U/E
72' 11 1/2" DIAGONAL
52.92'
84.42'
2 car garage
W BANDERA ST
CURB INLET
2 car driveway
31.42
15' U/E
58.00'
10' ROW
13' 4 1/2"
16'
4' 5"
16'
8' 4 1/2"
ALLEY S
CRATE INLET

CUP-2023-0177

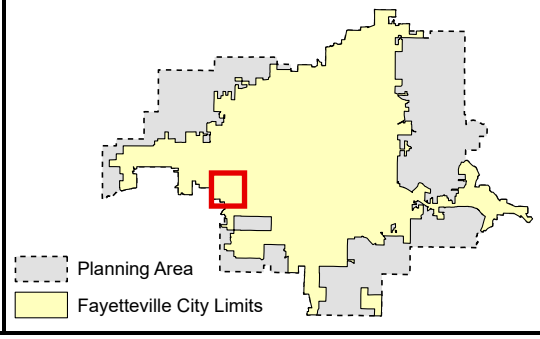
One Mile View

776 S. BENCHMARK LN, UNIT 1

NORTH



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



Zoning

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

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

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

EXTRACTION
- E-1

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

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

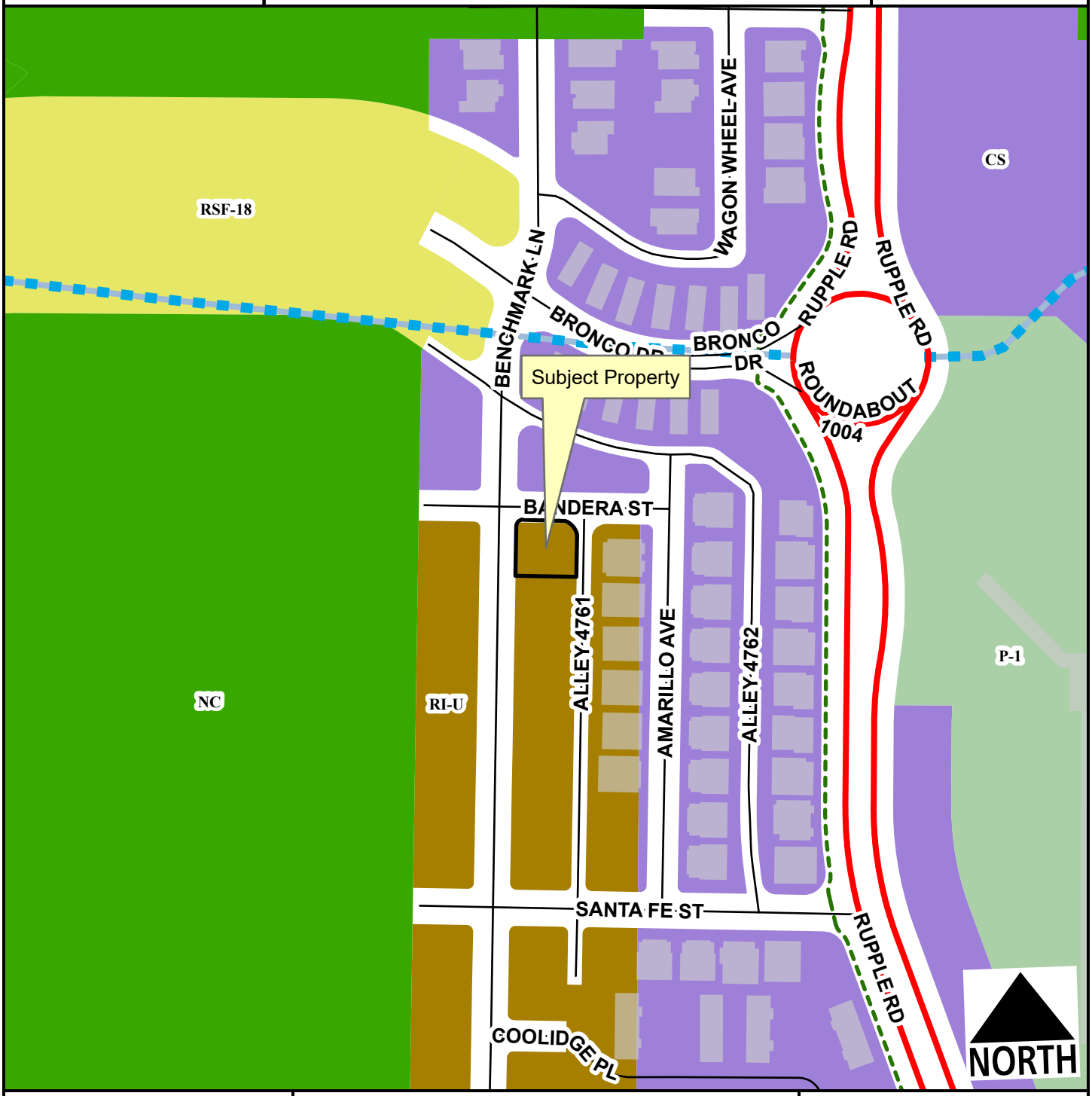
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0177

Close Up View

776 S. BENCHMARK LN, UNIT 1



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

Feet

0 75 150 300 450 600

1:2,400

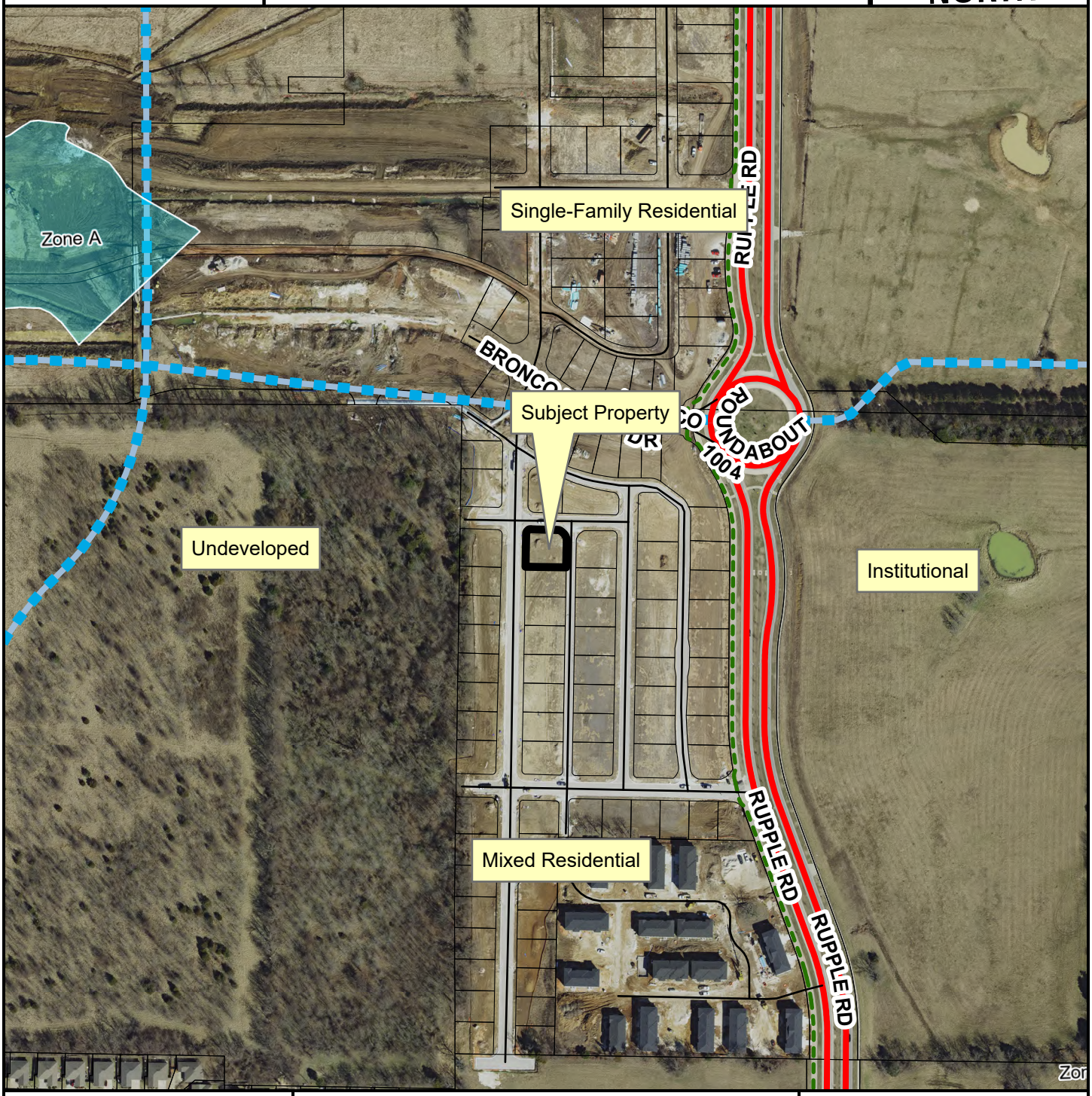
- RSF-18
- RI-U
- Community Services
- Neighborhood Conservation
- P-1

CUP-2023-0177

Current Land Use

776 S. BENCHMARK LN, UNIT 1

NORTH



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

Feet

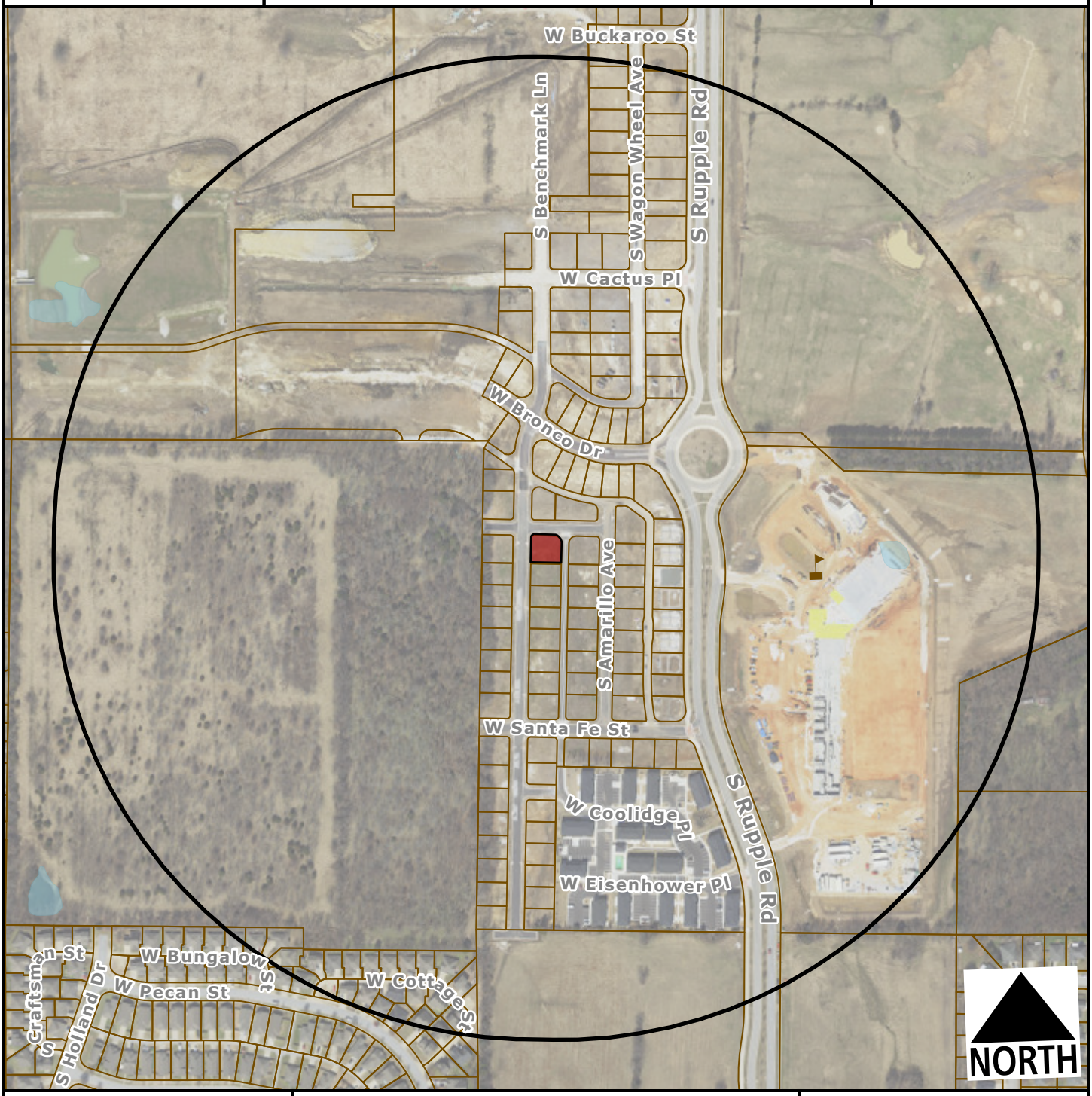
0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0177	776 S. BENCHMARK LN, UNIT 1	
STRs Within 1/4 Mile		



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 0

Occupiable Residential Addresses (Estimated Housing Units): 190

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0178: Conditional Use Permit (1230 N. LEWIS AVE./3J LUXURY RENTALS LLC, 404):** Submitted by RYAN JONES for property located at 1230 N. LEWIS AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE and contains approximately 0.40 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0178** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0178**, determining:*

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

BACKGROUND:
The subject property is in central Fayetteville, approximately 0.07 miles north of W. Wedington Dr. The property contains approximately 0.40 acres and is developed with a 1,536-square-foot, three-bedroom, single-family home which was built in 1964. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Uses and Zoning

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0178** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*

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

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

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;

6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;

7. All trash receptacles shall be screened from view of the right-of-way;

8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;

9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES

Date: January 8, 2024 ❒ **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, 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 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 two-family dwellings is required to be provided at a rate of two spaces per unit . The applicant indicated in their submittal that there is space to park more than four vehicles on the property in an existing driveway. Up to four vehicles are permitted to be parked at a residence at one time. 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 1230 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 city-wide density cap at 475 units. As of January 2, 2024, the City had issued 439 Type 2 short-term rental business licenses, and 37 remain in the queue for processing. 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 twelve other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. Seven of those are south of W. Wedington Dr., which acts as a spatial division between the neighborhoods. Five are on the north side of W. Wedington, but only one is in the immediate vicinity, and is located at the neighboring property to the north (1240 N. Lewis Ave. approved by PC on October 23, 2023). City records also indicate that one notice of violation for operating a short-term rental without a conditional use permit or business license was issued on November 21, 2023. The property owner ceased operation and removed the property listing from AirBnB and is applying for this conditional use permit to come into compliance.**

§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 gravel driveway with access onto N. Lewis Ave. 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 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: **Up to four off-street parking spaces are available in a gravel 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 are twelve other licensed Type 2 short-term rentals within a quarter-mile radius. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.**

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

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

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

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

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

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

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

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

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

(B) *Uses.*

(1) *Permitted Uses*.

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

(2) *Conditional Uses*.

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

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

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

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

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

Request Letter

I am writing to request a conditional use permit for a type 2 short term rental at 1230 N Lewis Avenue. The structure has 1536 square feet. It has 10 off street parking spaces, which is many more than the 3-4 required. There is a porch light in the front. There are both hanging lights and a porch light in the back. There is no irregular noise. All three adjacent property lines include a woodline. There is plenty of room for the trash and recycling to sit by the house during the week. There is also plenty of room by the front of the driveway for the trash to be picked up. Entry and exit of the driveway are easy. I believe that the use of this property as a short term rental should be compatible with adjacent properties, and other properties in the neighborhood, because of the separation created by trees and bushes on all three sides.

Site Plan

The red area is parking. The green dots are trash and recycling placement. There are 10 spaces within the confines of the red parking area.

CITY OF
FAYETTEVILLE
ARKANSAS

VIOLATION NOTICE

November 21, 2023

Kevin Lee Jones and/or Scott W Waymire (3J LUXURY RENTALS)
3528 LAKE POINTE
JONESBORO, AR 72404

Re: CVZD-2023-0784 Zoning Violation

Dear Property Owner:

It appears that your property located at 1230 N LEWIS AVE contains violations of the Fayetteville Code of Ordinances. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct these problems, please call our office at (479) 444-3443 or email ztamijani@fayetteville-ar.gov.

Violations:
§118.01, §161.07, §163.18 of the City of Fayetteville Unified Development Code.

Remedial Action(s) needed for compliance:

1. Cease use of the property as a short-term rental immediately.
2. Cease all advertising of the property as a short-term rental immediately.
3. Provide summary guest registration records for the subject short-term rental property for the twelve (12) months preceding this letter and any future bookings. The records shall contain 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 should be emailed to the provided email address in this letter within upon receiving this request.

A short-term rental may resume operations once an appropriate business license is approved.

Penalty:
A Type 2 Short Term Rental operator who does not have a valid and legal business license for the Type 2 Short Term Rental and has not already been afforded an opportunity for a procedural due process hearing pursuant to §118.01(E)(17) may request a procedural due process hearing prior to withholding city services in not less than five (5) nor more than (10) business days. If such due process hearing is requested by the owner or operator prior to the expiration of ten (10) business days, such hearing shall be promptly scheduled. The Chief of Staff shall hear evidence from City staff and others that the subject Type 2 Short Term Rental does not have a valid current license and has been operating the Short-Term Rental in violation of the City Code. The owner or operator may then explain and/or provide evidence disputing the City's allegations or explaining why city services should not be withheld from the premises of the Type 2 Short Term Rental and what could be done by the owner/operator of the premises to obtain city services at this location again. The Mayor may then order the withholding of all city services including water, sewer, and solid waste from the premises and property.

The City of Fayetteville is a truly beautiful and unique place to live and work and we rely on all our citizens and the business community to help us to maintain the high quality of life we have all come to expect. Thank you for your contributions to that quality of life and for resolving the violation in a timely manner.

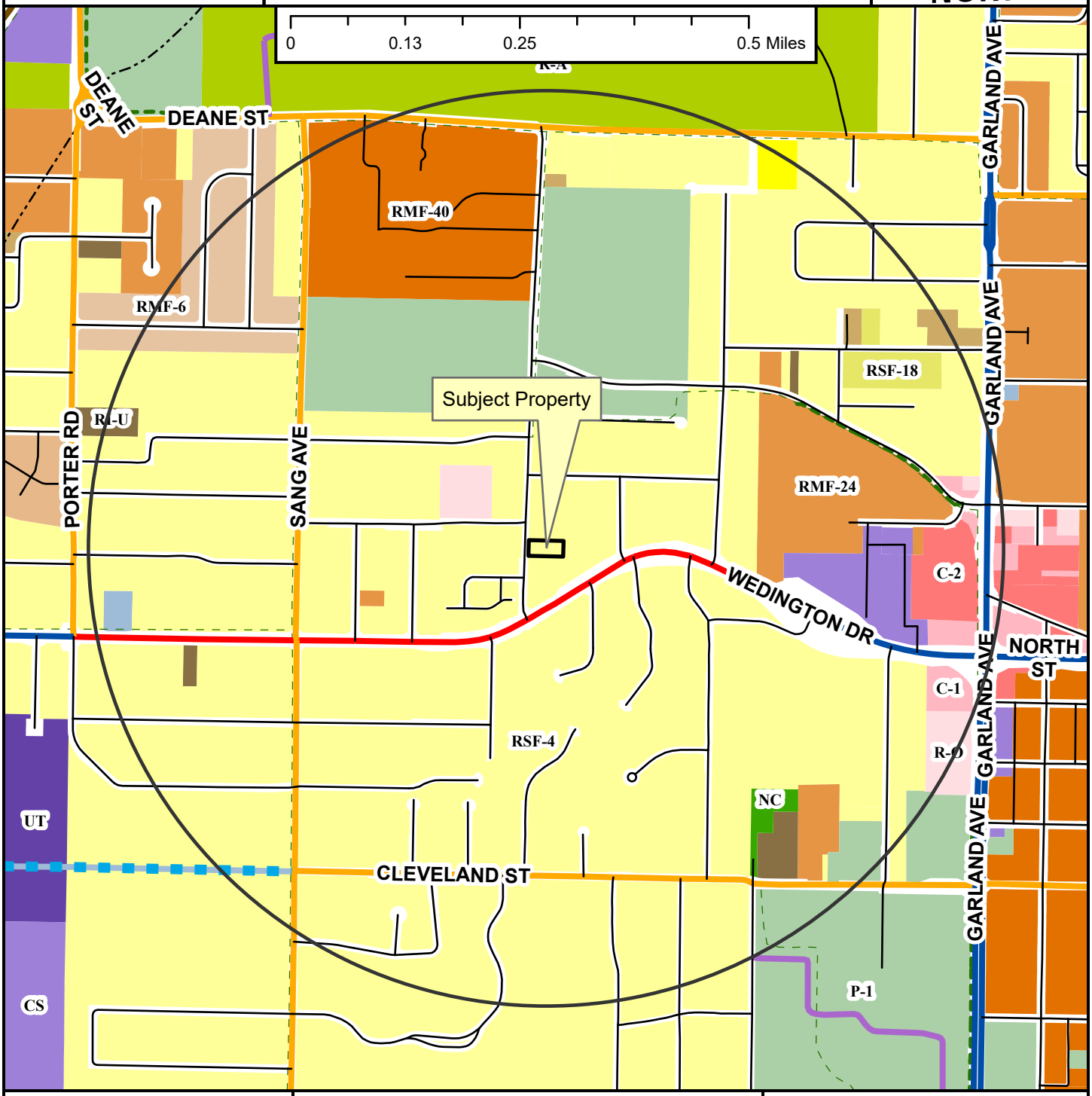
Sincerely,
Zak Tamijani
Planning Technician

CUP-2023-0178

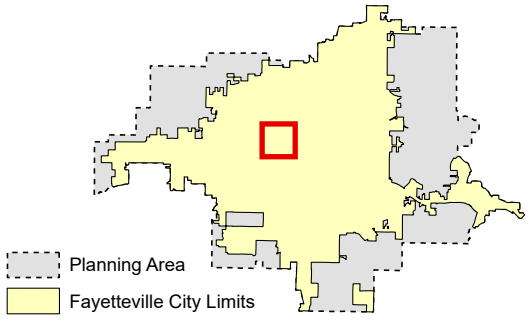
One Mile View

1230 N. LEWIS AVE

NORTH



Regional Link
Neighborhood Link
Institutional Master Plan
Regional Link - High Activity
Freeway/Expressway
Unclassified
Alley
Residential Link
Planned Residential Link
Shared-Use Paved Trail
Trail (Proposed)
Design Overlay District
Fayetteville City Limits
Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

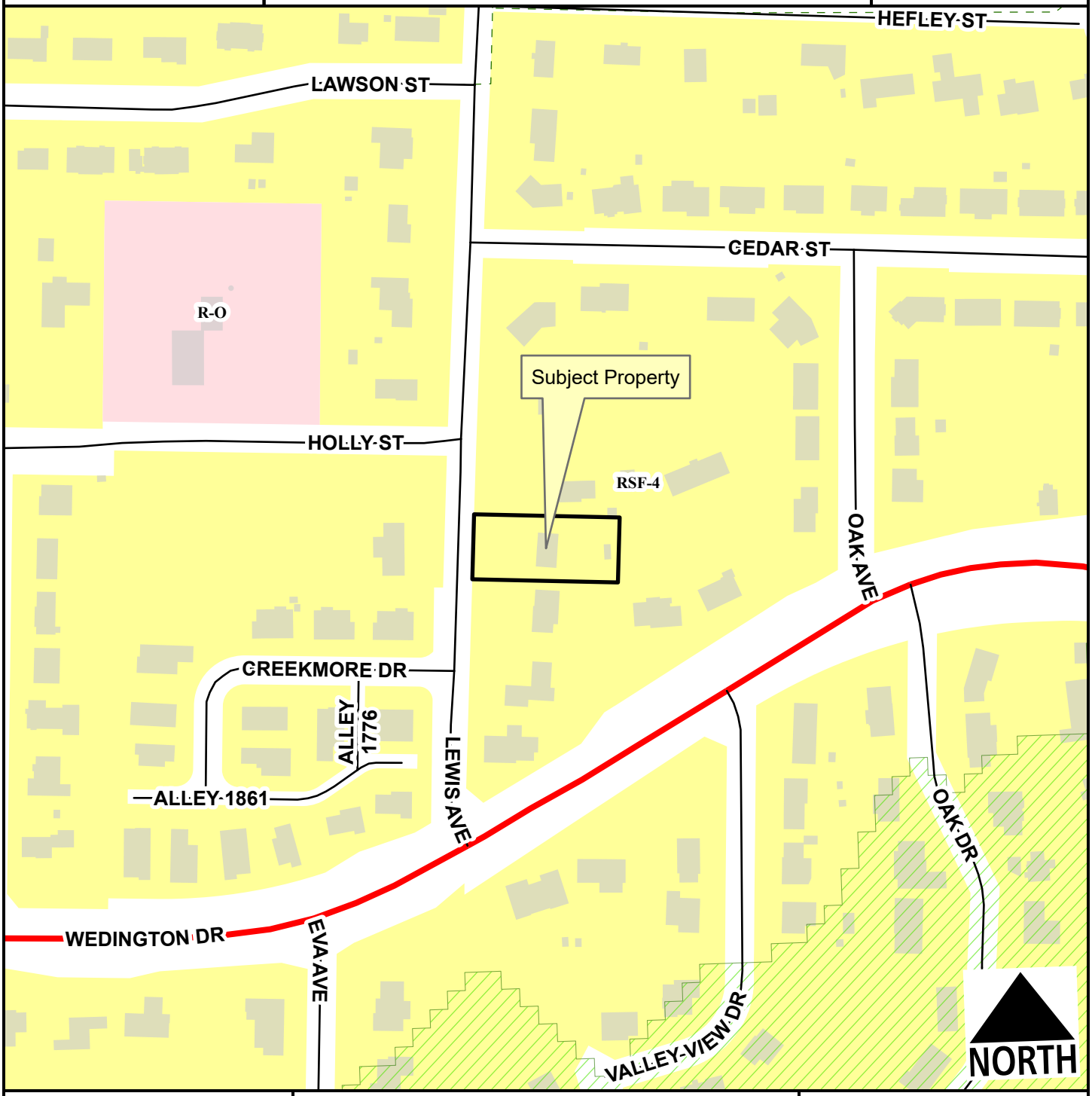
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0178

Close Up View

1230 N. LEWIS AVE



Regional Link
Unclassified
Alley
Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits
Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

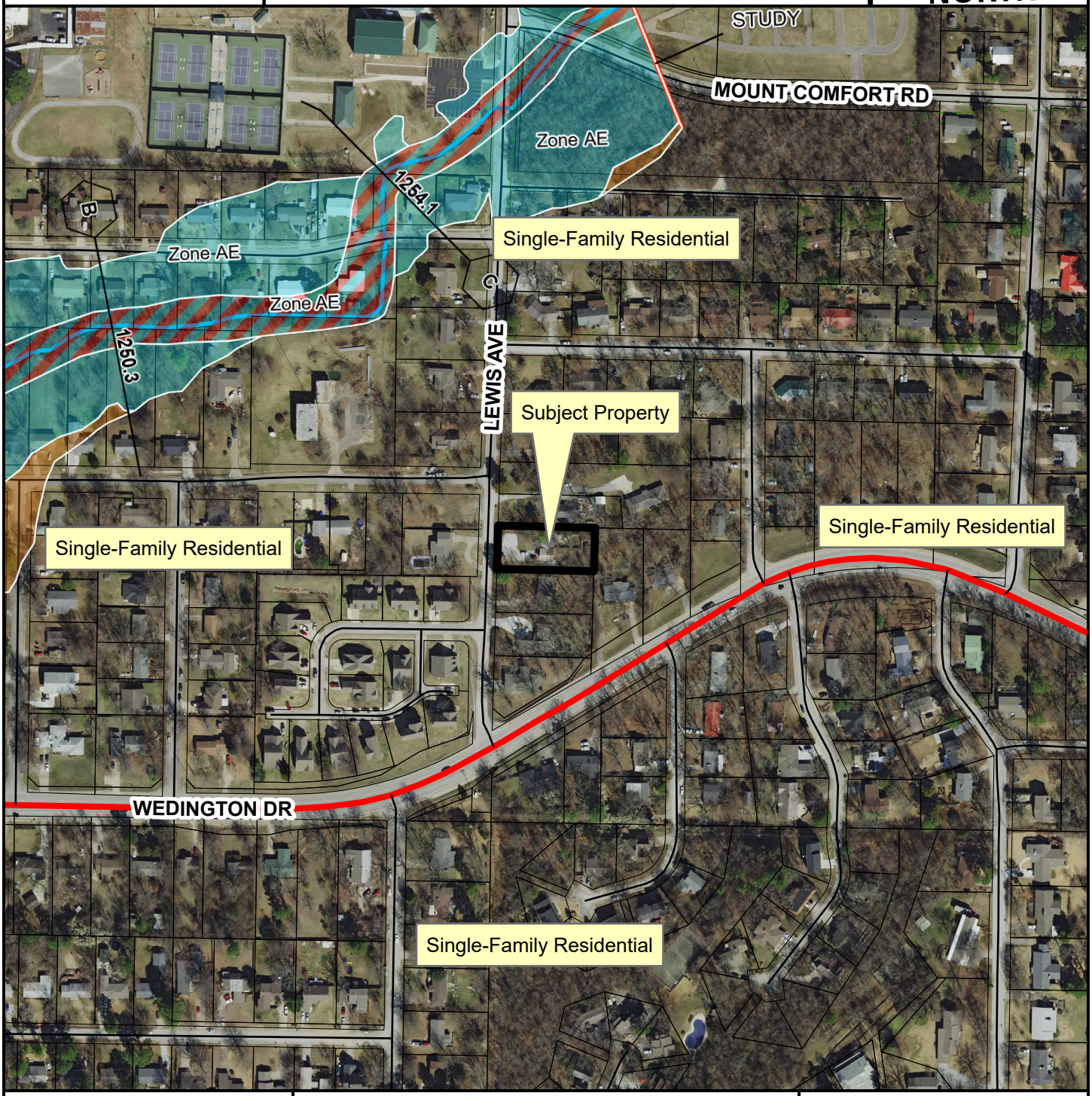
RSF-4
Residential-Office

CUP-2023-0178

Current Land Use

1230 N. LEWIS AVE

NORTH



- Regional Link
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

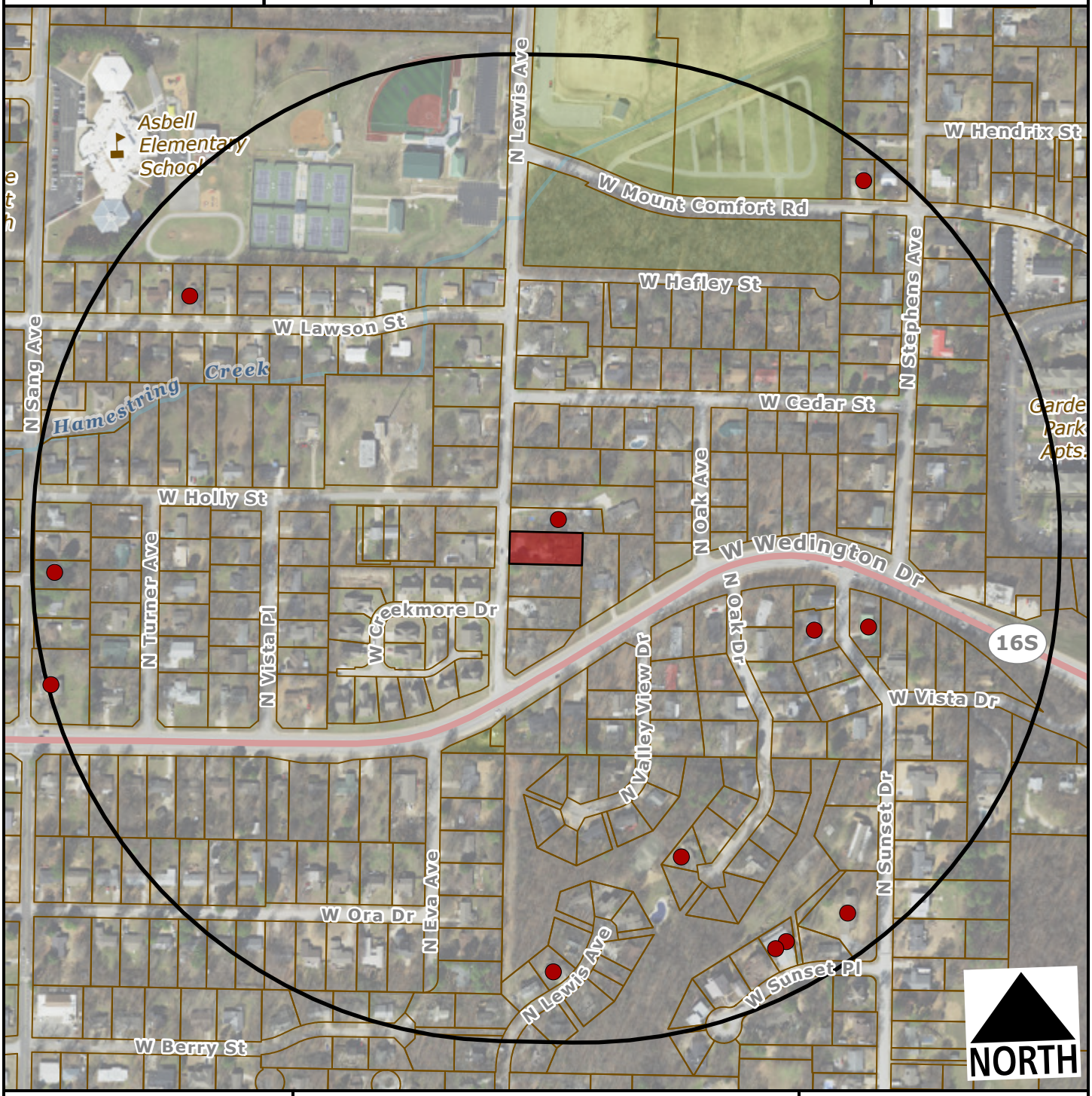
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0178

STRs Within 1/4 Mile

1230 N. LEWIS AVE



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 12

Occupiable Residential Addresses (Estimated Housing Units): 304

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0179: Conditional Use Permit (1626 N. OAKHAVEN PL./ANTEZANA, 400):** Submitted by RICARDO ANTEZANA for property located at 1626 N. OAKHAVEN PL. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE and contains approximately 0.27 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0179** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0179**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is in west Fayetteville, approximately 0.40 miles north of the intersection of N. Rupple Rd. and W. Wedington Dr. The property contains approximately 0.27 acres and is developed with a 1,622-square-foot, three-bedroom, single-family home which was built in 2009. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre
East	Multi-Family Residential	RPZD – Links at Fayetteville
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-2023-0179** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;

3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;

6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;

7. All trash receptacles shall be screened from view of the right-of-way;

8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;

9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES
Date: January 8, 2024 ❒ 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, 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 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 two-family dwellings is required to be provided at a rate of two spaces per unit . The applicant indicated in their submittal that there is space to park four vehicles on the property in an existing driveway and attached garage. On-street parking appears to be available along N. Oakhaven Pl.**

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 1626 N. Oakhaven Pl. 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 January 2, 2024, the City had issued 439 Type 2 short-term rental business licenses, and 37 remain in the queue for processing. 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. On-street parking is 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. No zoning or code violations are on file for the subject property.**

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **A paved driveway with access onto N. Oakhaven Pl. is available to accommodate vehicular ingress and egress to the subject property. N. Oakhaven Pl. is fully improved with sidewalks to facilitate 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: **Four off-street parking spaces are available on-site. 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. 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 Floor Plan
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses*.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625 , §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

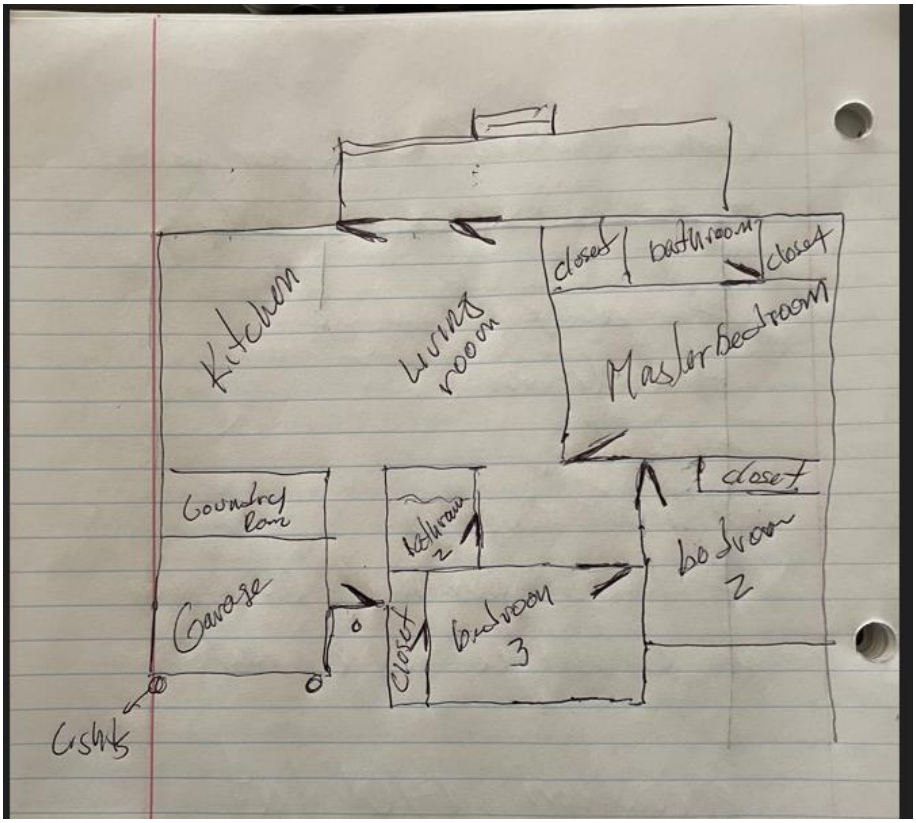
City of Fayetteville, Arkansas

Conditional Use Permit for a Type 2 Short- Term Rental

Address: 1626 N Oakhave Pl, Fayetteville, AR 72704

I Ricardo Antezana am applying for a Conditional Use Permit for a Type 2 Short-Term Rental from the City of Fayetteville; I will not be residing in the residence.

a) The unit is 1641 sqft
b) The unit has 3 bedrooms, 2 baths, kitchen, dining, and living room, garage area will be unavailable to guests
c) The unit has two parking spaces in the garage and two parking spaces on drive way
d) The unit will not have operating hours or employees, it will be in use whenever it is being rented, we will accept a maximum of 8 occupants' guests
e) There are exterior lights, two in from of the drive way and one in front of main entrance door
f) The property is located on the corner of Chantilly St and oakhaven Pl, therefore only has one neighbor on the left side of property, the drive way is located on Oakhaven Pl
g) The trash can is placed inside the fence on the side yard



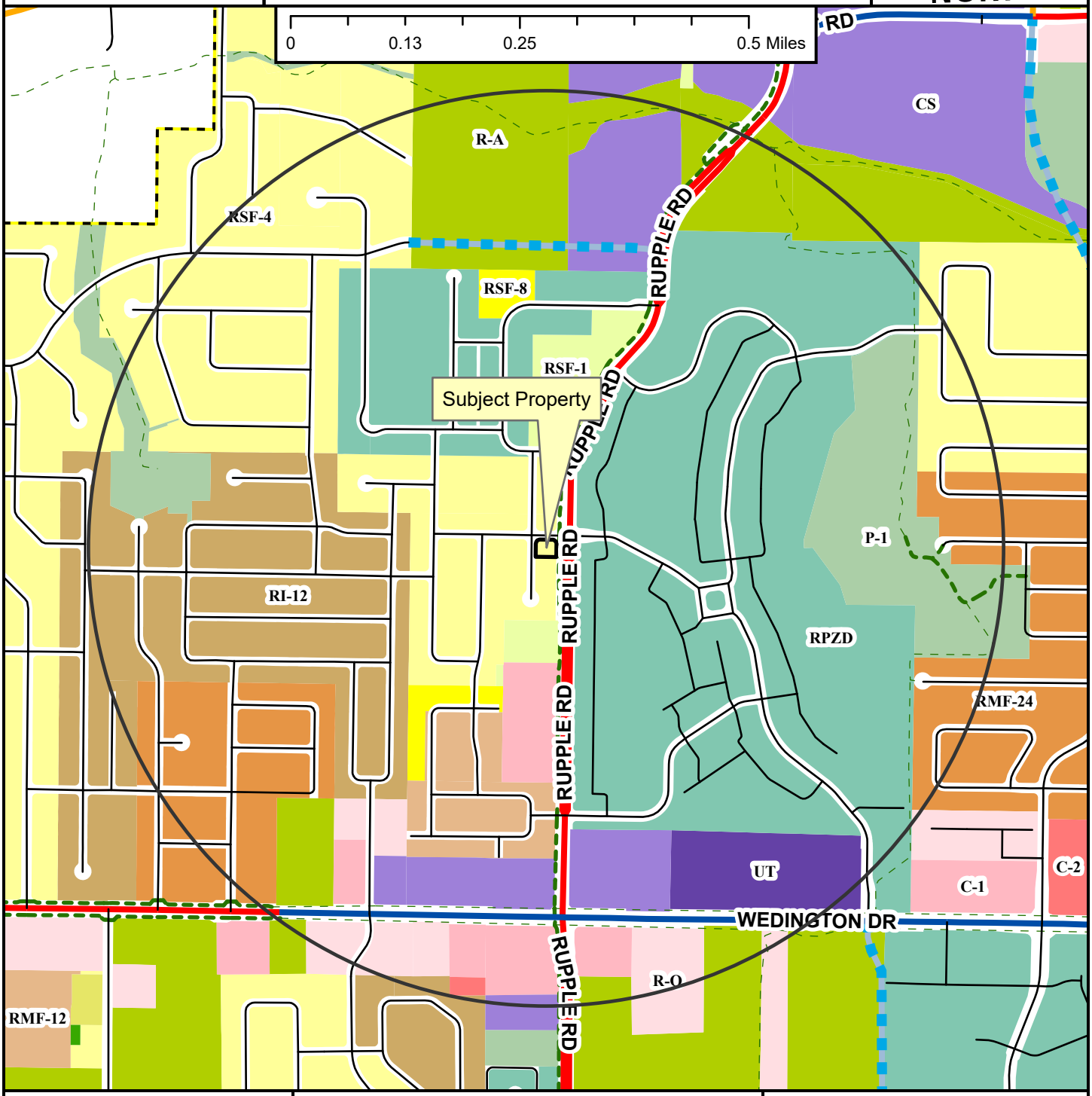
antilly Dr W Chantilly Dr
W Chantilly Dr W Chantilly Dr
N Oakhaven Pl
N Oakhaven Pl
N Rupple Rd

CUP-2023-0179

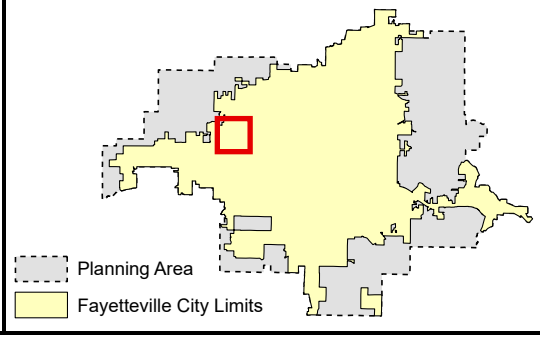
One Mile View

1626 N. OAKHAVEN PL

NORTH



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

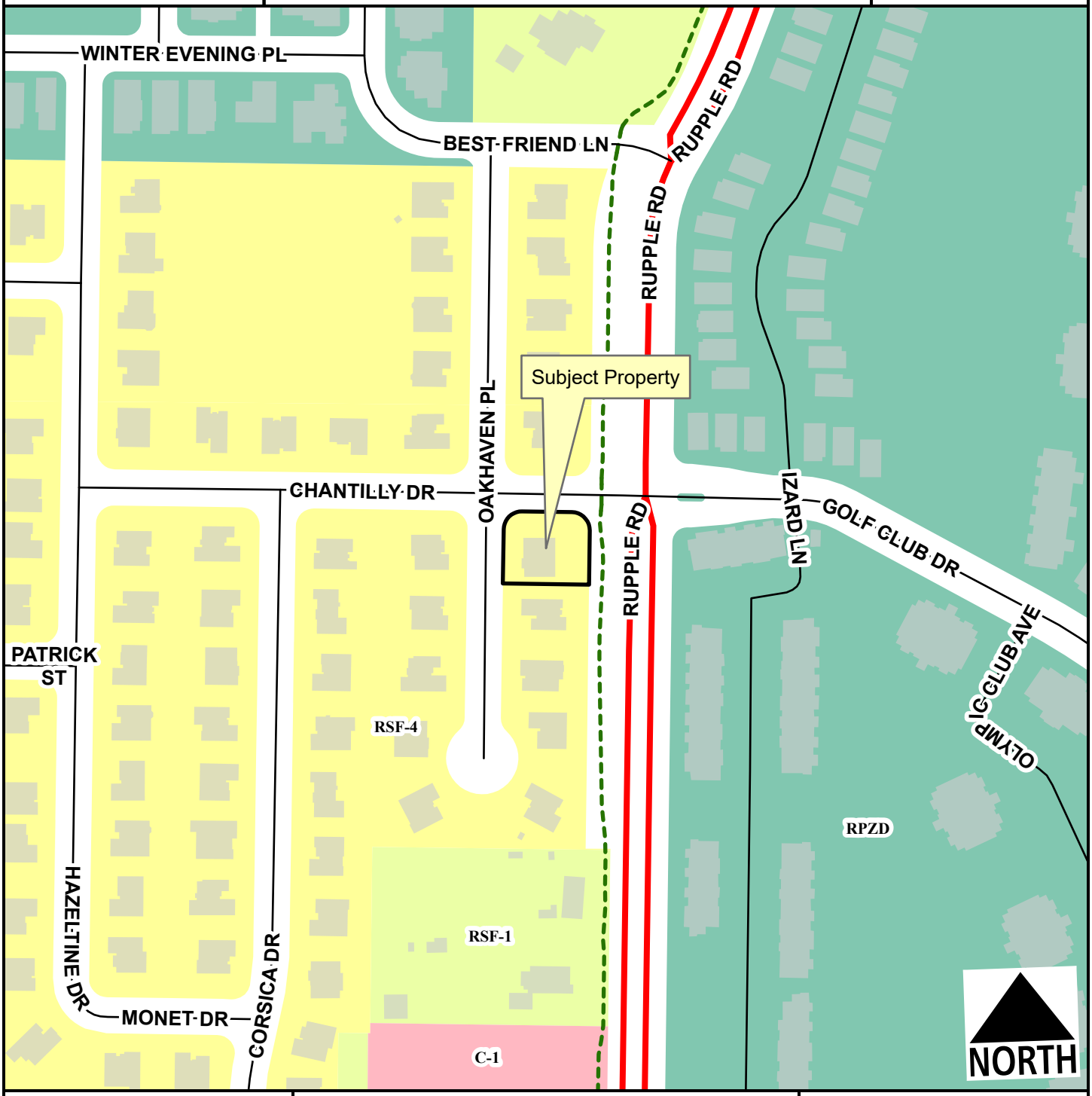
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0179

Close Up View

1626 N. OAKHAVEN PL



Regional Link
Unclassified
Residential Link
Planning Area
Fayetteville City Limits
Shared-Use Paved Trail

Feet

0 75 150 300 450 600

1:2,400

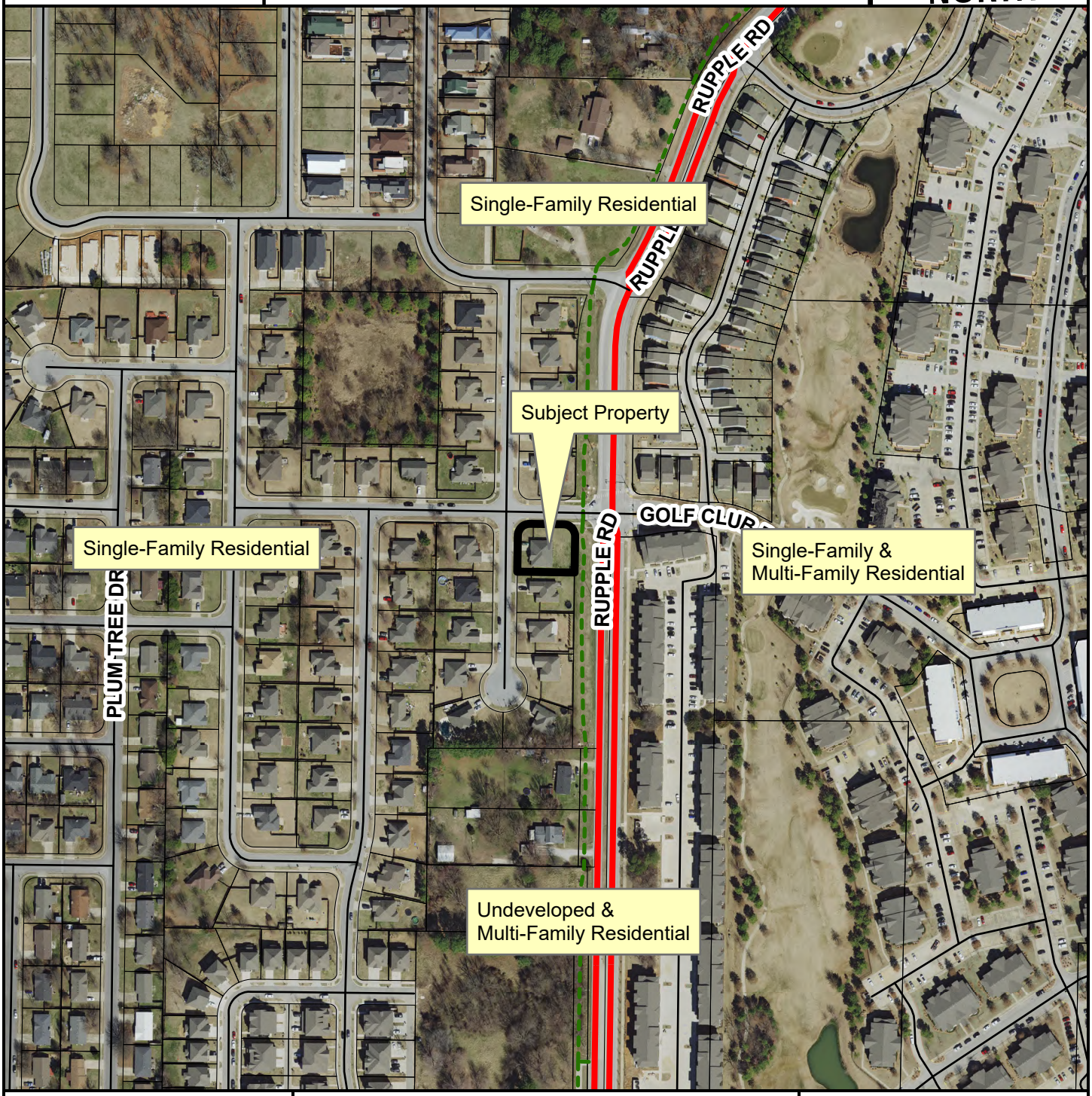
RSF-1
RSF-4
C-1
Commercial, Industrial, Residential

CUP-2023-0179

Current Land Use

1626 N. OAKHAVEN PL

NORTH



Regional Link
Unclassified
Residential Link
Planning Area
Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

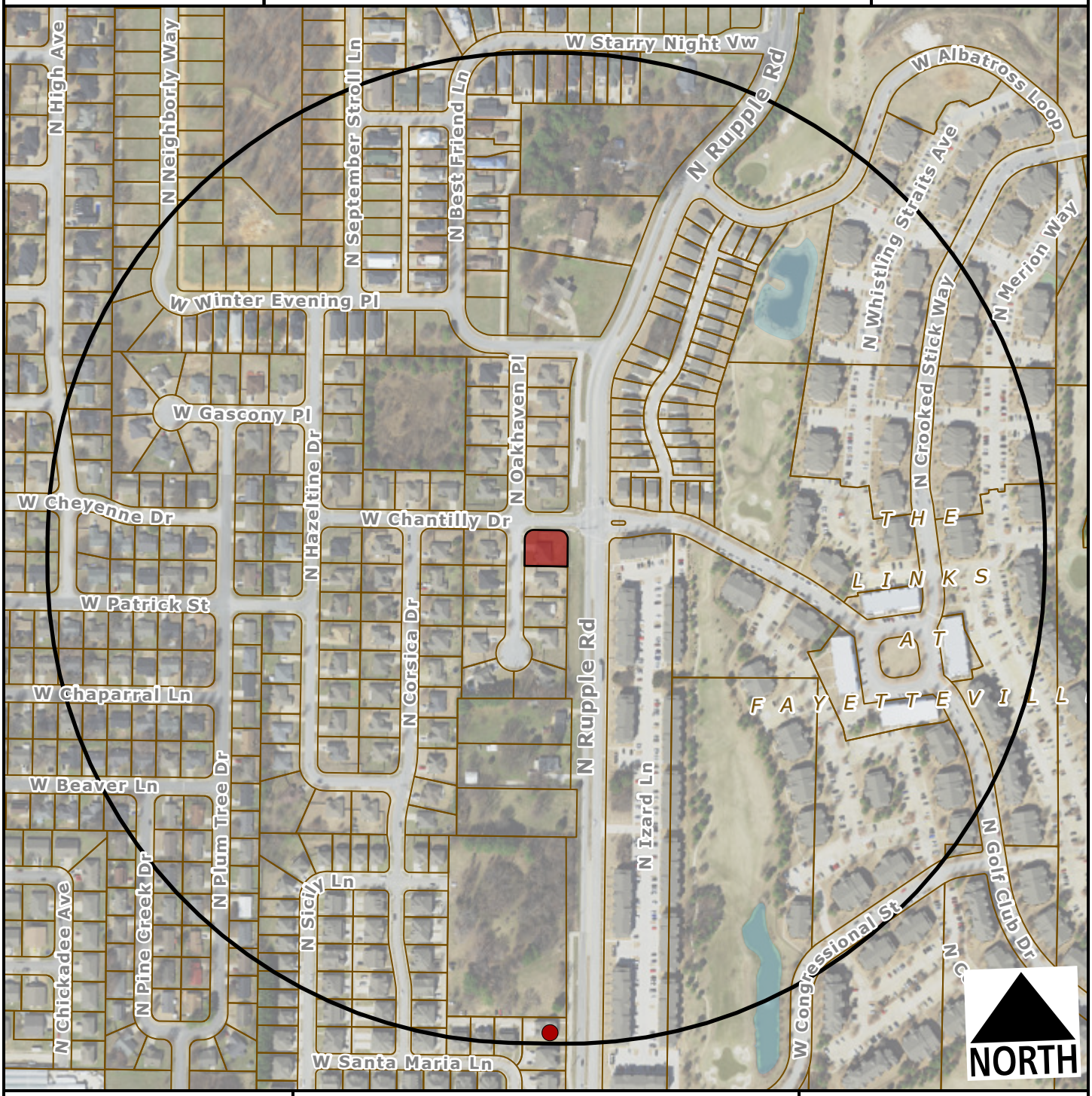
FEMA Flood Hazard Data

100-Year Floodplain
Floodway

CUP-2023-0179

STRs Within 1/4 Mile

1626 N. OAKHAVEN PL



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 1

Occupiable Residential Addresses (Estimated Housing Units): 1097

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0164: Conditional Use Permit (132 W. SYCAMORE ST./MARTINEZ-ROMANO, 367):** Submitted by OSCAR MARTINEZ for property located at 132 W. SYCAMORE ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.50 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0164** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0164**, recommending:*

- *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 north side of Sycamore Street, one lot east of Woolsey Avenue and just north of Gregory Park. The property contains approximately 0.50 acres and is developed with a five-bedroom, 3,666-square-foot, 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	Undeveloped	RSF-4, Residential Single-Family, Four Units Per Acre
South	Gregory Park	P-1, Institutional
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-2023-0164** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;

3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;

4. Occupancy in this short-term rental shall be limited to a maximum of 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 UDC Chapter 176, Outdoor Lighting;

9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES

Date: January 8, 2024 ❒ **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: **Based on the number of bedrooms in this house, occupancy would be limited by ordinance to a maximum of 12 guests. The applicant has asked to self-limit occupancy to a maximum of six guests, and staff has included that as a recommended condition of approval.**

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 outdoors on the property in two driveways that are located in the front yard. The applicant is aware that no more than four vehicles can be parked in those driveways based on city ordinance, and they do not believe that overparking will occur given their intent to limit occupancy to no more than six guests.**

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 132 W. Sycamore 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 January 2, 2024, the City had issued 439 Type 2 short-term rental business licenses, and 37 remain in the queue for processing. 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: **Staff finds that there is adequate room for parking on site to support the use of the property as a short-term rental. On-street parking does not appear to be available nearby. City records indicate that four other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license, including the property directly to the west. City records also indicate that no prior or active zoning violations have been reported under the property's current ownership.**

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: **Two paved driveways with access onto Sycamore Street are available to accommodate vehicular ingress and egress to the subject property. There are no sidewalks along the property's frontage, though there is a bike lane. Based on the proposal to limit occupancy to a maximum of six guests, staff finds that the use of the property as a short-term rental is not likely to adversely affect vehicular traffic flows considering the amount of vehicles and traffic 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: **At least four off-street parking spaces are available in two paved driveways in the front yard on the property. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.**

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading;

Finding: **The applicant proposes to utilize existing residential trash cart services. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view when not placed at the curb for pick-up.**

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: **Utilities are currently available to the property and its use as a short-term rental is not 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 four other licensed Type 2 short-term rentals within a quarter-mile radius. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.**

(i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: **Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans since it does not clearly support any of the stated goals in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a city-wide density cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.**

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Business Regulations
  - §118.01 Applicability
- Unified Development Code
  - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
  - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Elevations
- Building Floor Plans
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses*.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

Oscar Martinez and Zaily Romano

132 W Sycamore

Fayetteville, AR 72703

Date: 9/12/2023

To Who it may concern,

The purpose of this letter is to satisfy step 1 (Request Letter) for the Conditional Use Permit -Short-Term Rental and step 2 Legal Description.

Request Letter: For use of 132 W Sycamore

(a) Building size in square feet; existing and proposed: 3,666 Sq Ft
(b) Color Elevation of all exterior sides of the structure: Beige Color with dark green/brown sides
(c) Number of street parking spaces to be provided/number required: 4 Total Spaces
(d) Outdoor Lightning: Front Door (Qty=1), 4 Corners of the Home (Qty=4), Back Deck (2), Lower Deck (2), Total Lights: 9 outdoor lights
(e) Noise: Quiet for the most part, largest noise = car passing by and trains
(f) Screening or Buffering from adjacent properties: 0, no screening or buffering
(g) Trash and Refuse Service: Trashed is picked up every Tuesday, trash buckets are located adjacent to the garage outside wall. Trash can will be located in front of the garage.
(h) Ingress and Egress to the property (traffic impact): Property has two exits to the same street where traffic is ongoing. There is not intrusion to traffic affected by property driveway/parking.
(i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood? As far as compatibility, there should be no issues with the adjacent neighbors, from the back side, there is a large amount wood where I can't even see my back neighbors, from my neighbors on each side, there are clear division of the homes lines and parking.
(j) Maximum number of occupancies that will be allowed: 6 people

Legal Description:

Parcel: 765-13545-000
Previous Parcel: 146706-000-00
As of: 9/7/2023 10:03:10 PM

Extended Legal

PT SE SE 135 X 165 FURTHER DESCSRIBED FROM 2015-10991 AS: A part of the Southeast Quarter of the Southeast Quarter of Section 4, Township 16 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Beginning at a point 129.0 feet East of the SW corner of said 40 acre tract, running thence East 135.0 feet; thence North 165.0 feet; thence West 135.0 feet; thence South 165.0 feet to the point of beginning.

ELEVATIONS

Front of the House (Main Entrance)

Front of the House with Parking Spaces

Back of the House

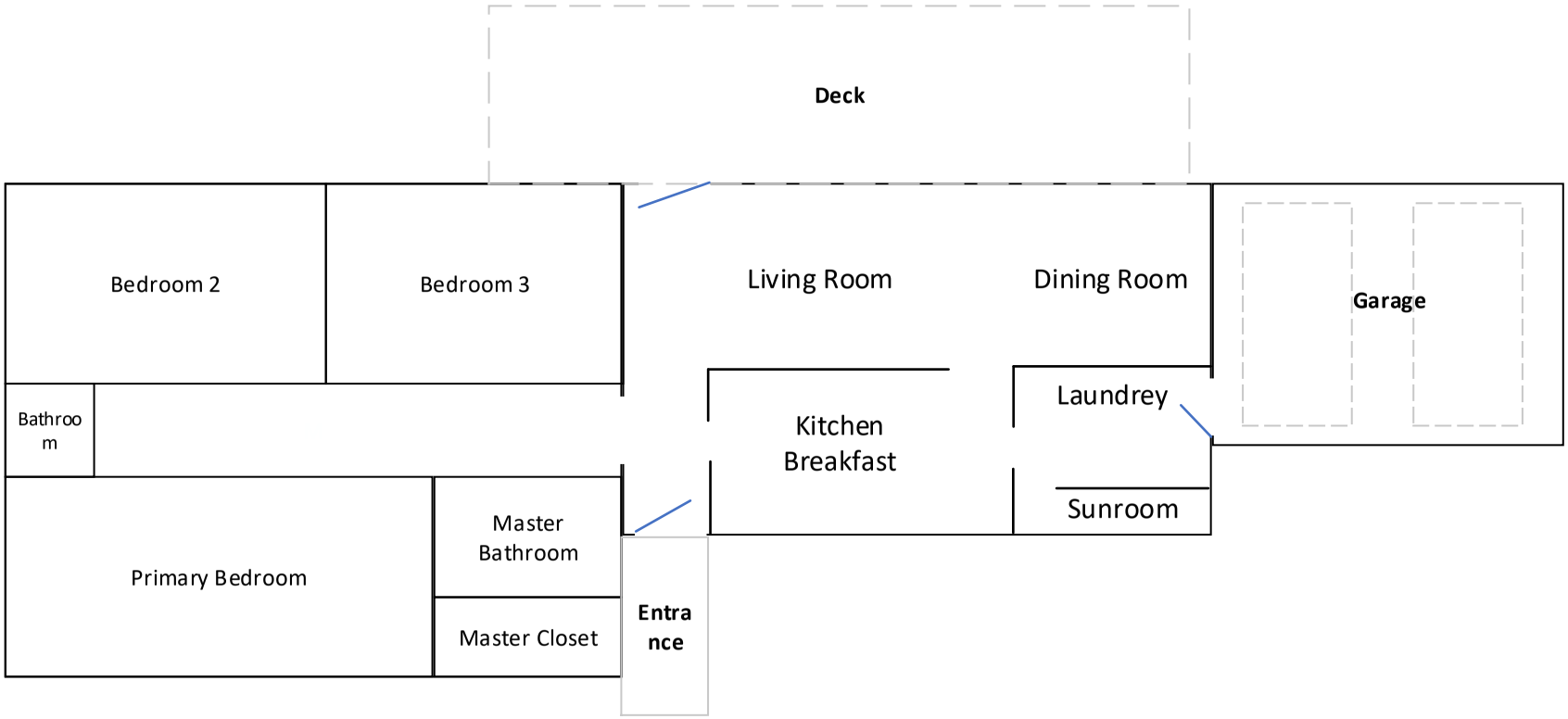
Back of the House Deck Level

Side of the House

Side 1 of the House

Side 2 of the House

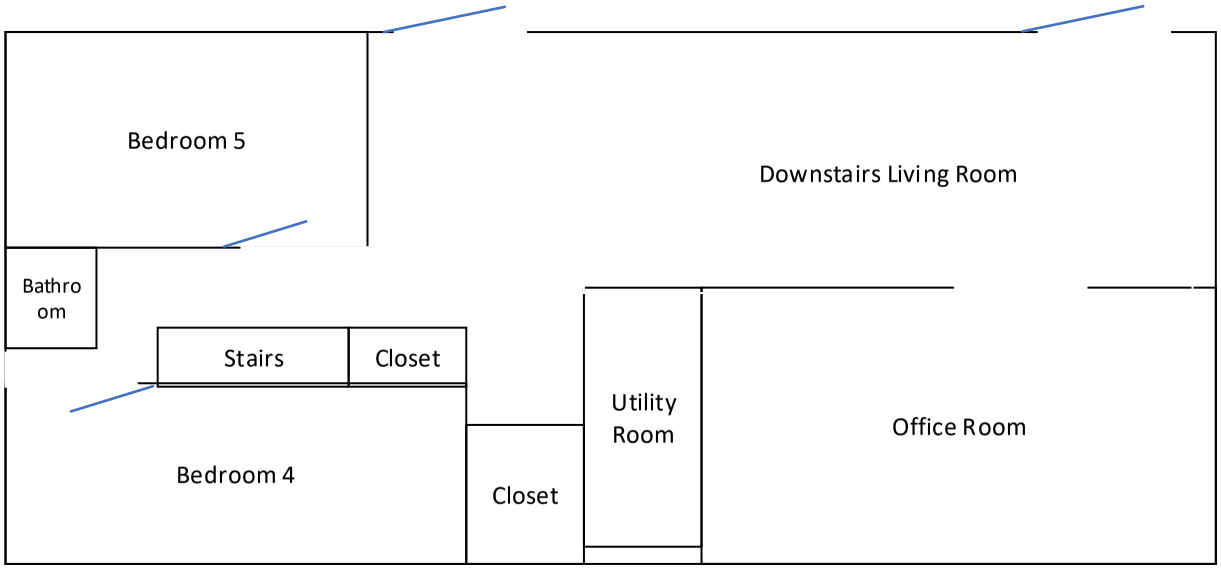
Preliminary Plan Floor



Not Drawn to Scale

Planning Commission
January 8, 2024
CUP-2023-0164(MARTINEZ-ROMERO)
Page 16 of 22
Page 603 of 629

Basement Layout



Property Lines

House

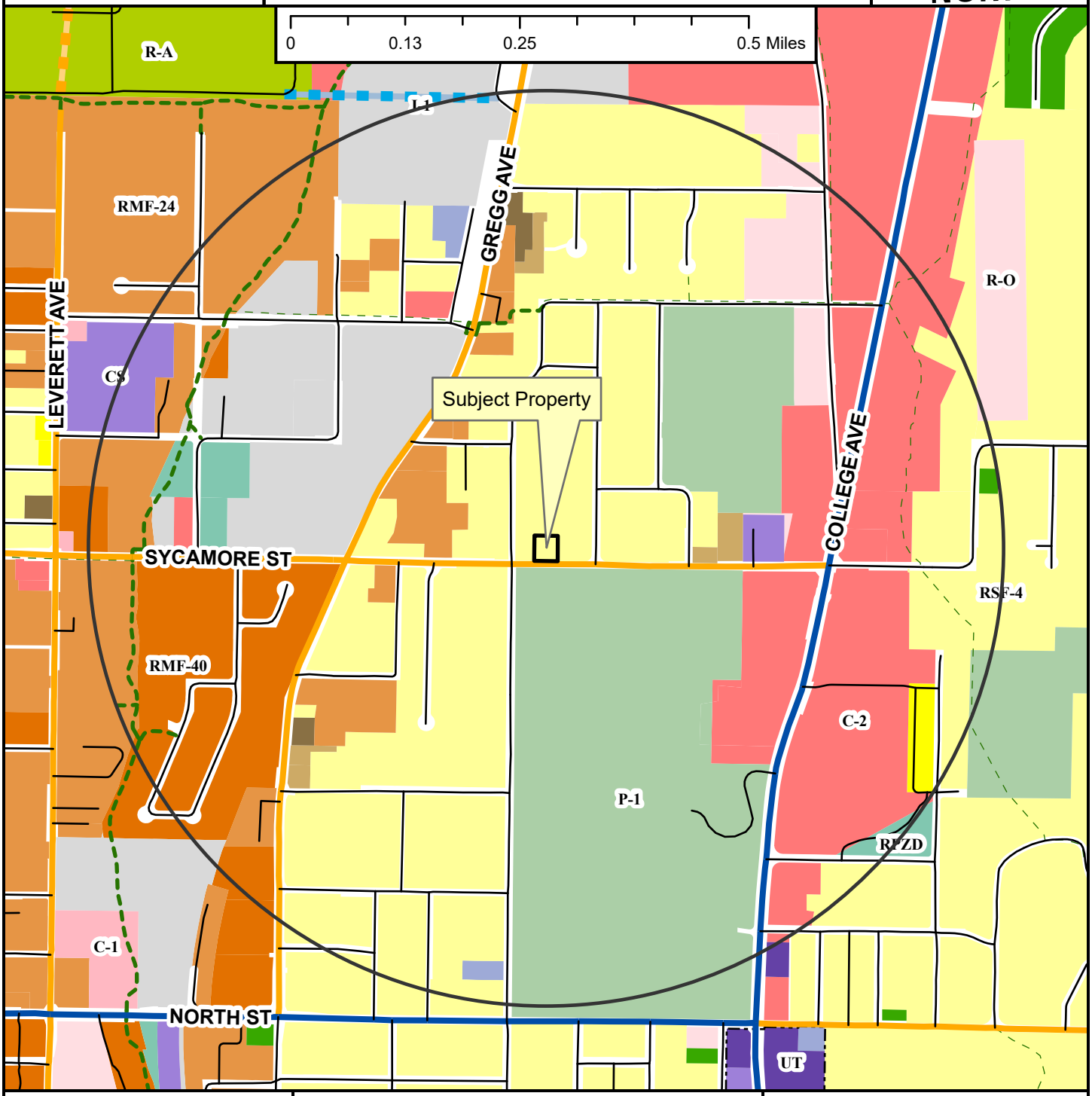
Parking Stalls

CUP-2023-0164

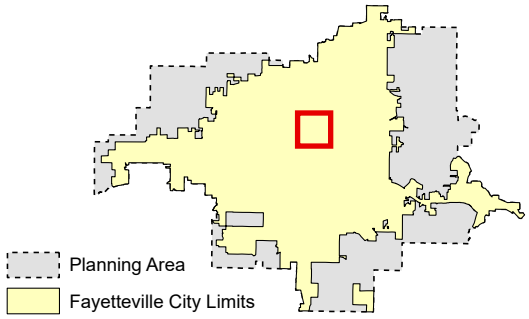
One Mile View

132 W. SYCAMORE ST

NORTH



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
- NS-G
- RI-U
- RI-12
- NS-L
- Residential-Agricultural
- RSF-.5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18

RESIDENTIAL MULTI-FAMILY
- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial

EXTRACTION
- E-1

COMMERCIAL
- Residential-Office
- C-1
- C-2
- C-3

FORM BASED DISTRICTS
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

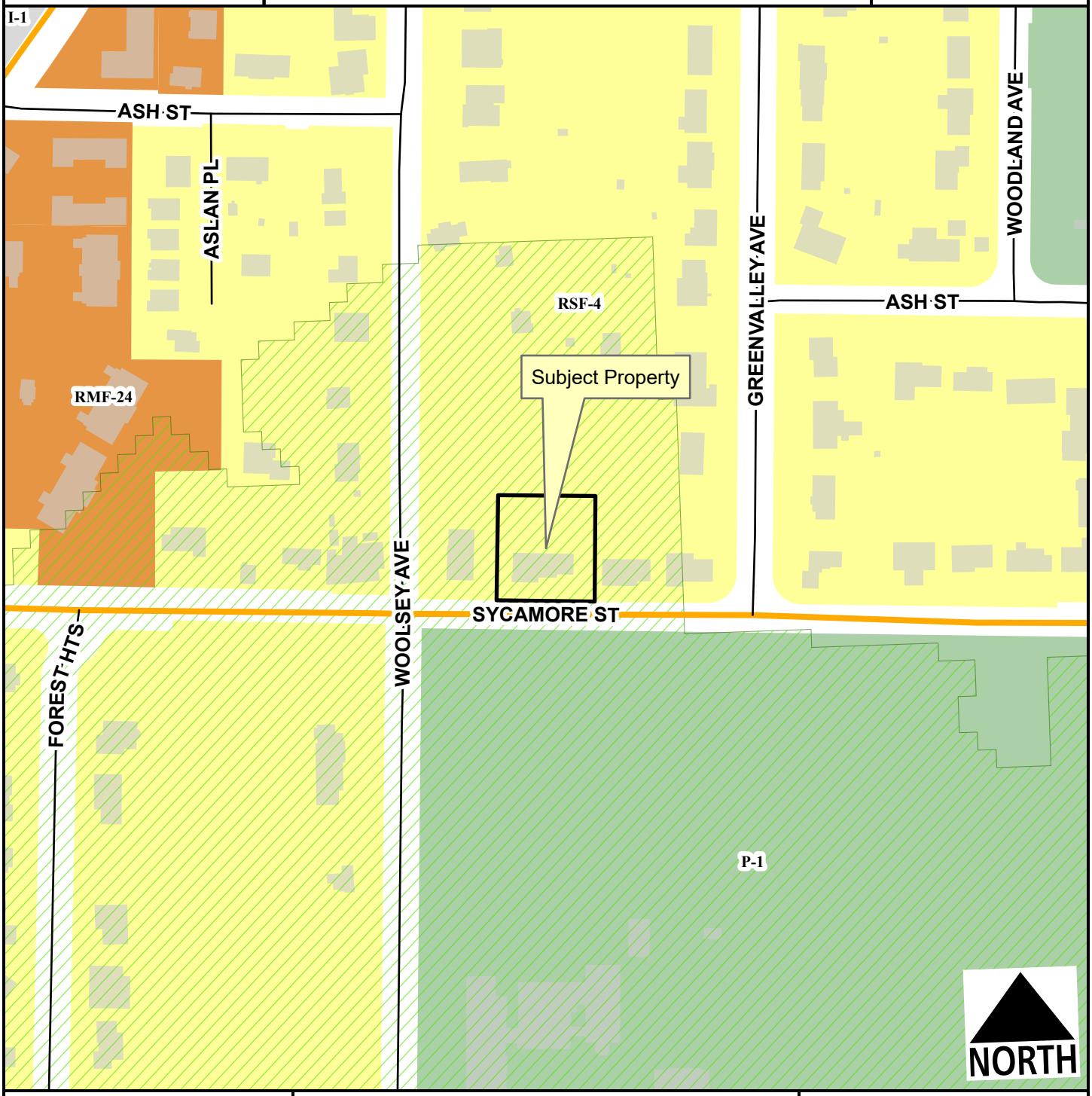
PLANNED ZONING DISTRICTS
- Commercial, Industrial, Residential

INSTITUTIONAL
- P-1

CUP-2023-0164

Close Up View

132 W. SYCAMORE ST



Neighborhood Link
Unclassified
Residential Link
Hillside-Hilltop Overlay District
Planning Area
Fayetteville City Limits

Feet
0 75 150 300 450 600
1:2,400

RSF-4
RMF-24
I-1 Heavy Commercial and Light Industrial
P-1

CUP-2023-0164

Current Land Use

132 W. SYCAMORE ST

NORTH

Neighborhood Link
Unclassified
Residential Link
Planning Area
Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

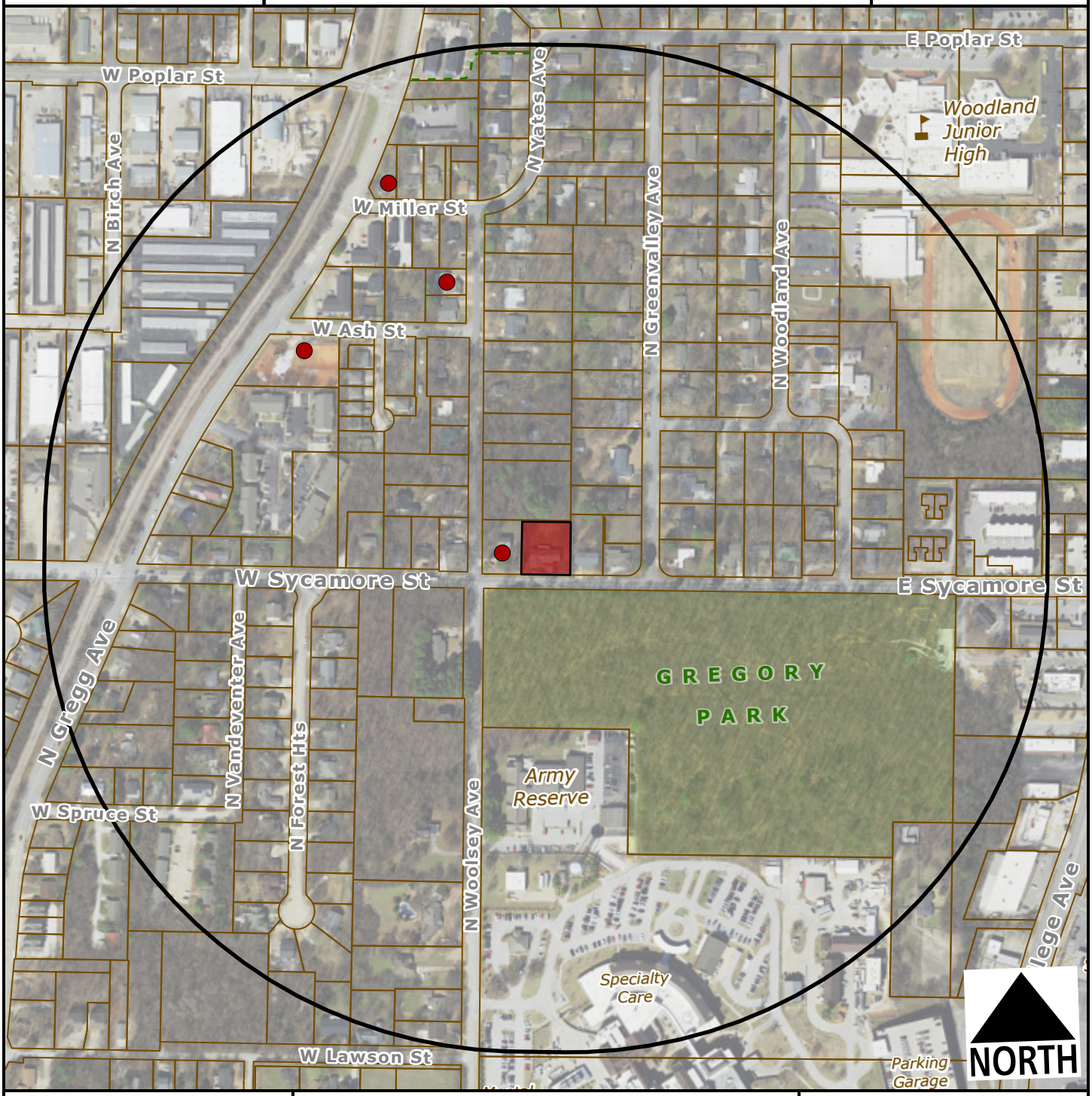
FEMA Flood Hazard Data

100-Year Floodplain
Floodway

CUP-2023-0164

STRs Within 1/4 Mile

132 W. SYCAMORE ST



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 4

Occupiable Residential Addresses (Estimated Housing Units): 299

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: January 8, 2024

SUBJECT: **CUP-2023-0167: Conditional Use Permit (802 N. PARK AVE./BROOKE HARDIN, 445):** Submitted by BROOKE HARDIN for property located at 802 N. PARK AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends approval of **CUP-2023-0167** with conditions.

RECOMMENDED MOTION:
*"I move to approve **CUP-2023-0167**, determining:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located just northeast of Wilson Park on the east side of Park Avenue. The property contains one parcel totaling 0.20 acres which is currently developed with a three-bedroom, single-family home which was built in 1952. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1.*

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
South	Single-Family Residential Wilson Park	RSF-4, Residential Single-Family, Four Units per Acre P-1, Institutional
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-2023-0167** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*

2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;

3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;

4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;

5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;

6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;

7. All trash receptacles shall be screened from view of the right-of-way;

8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;

9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and

10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required YES

Date: January 8, 2024 ❒ **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 the 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 at any given time. The applicant indicated that there is space to park four vehicles in a driveway on site, and on-street parking is available nearby along Park Avenue. Park Avenue, however, appears to be about 25 feet wide which is slightly more narrow than what the city typically requires for a two-way street with a parking lane. While people currently park along the east side of the street, and there are no signs posted prohibiting parking there, it may be difficult for fire trucks to maneuver if vehicles are parked along the street. Signs are posted prohibiting parking along the west side of the street.**

D. Special events are not permitted in a short-term rental. Examples 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 802 N. Park Ave. Staff recommends a condition confirming that no recreational vehicle, trailer,**

other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

F. **Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: **Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of January 2, 2024, the City had issued 439 Type 2 short-term rental business licenses, and 37 remain in the queue for processing. 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. On-street parking is available along the east side of Park Avenue but it may adversely impact fire access. City records indicate that six other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. 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 Park Avenue is available to accommodate vehicular ingress and egress to the subject property. There is no sidewalk present along the property's frontage though there are sidewalks and trails nearby to help accommodate pedestrian access. Staff finds that the proposal to use the property as a short-term rental would 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. 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 six other licensed Type 2 short-term rentals within a quarter-mile radius of the property, in an area that contains roughly 322 housing units. 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
- Floor Plan
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

(1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.

(2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.

(3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

(a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
(b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
(c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.

(4) A separate business license shall be required for each dwelling unit used as a short-term rental.

(5) Any change in ownership requires a new or amended business license.

(6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.

(7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:

(a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
(b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
(c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
(d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
(e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
(f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
(g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.

(8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).

(9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:

(a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
(b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
(c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.

(10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

(11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.

(12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.

(13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.

(14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

(15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).

(16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
(b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
(c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
(d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

(17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.

(18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted Uses*.

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses*.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations*.

Building Height Maximum	3 stories

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

1) R-A
2) RSF-.5
3) RSF-1
4) RSF-2
5) RSF-4
6) RSF-7
7) RSF-8
8) RSF-18
9) RI-12
10) RI-U
11) RMF-6
12) RMF-12
13) RMF-18
14) RMF-24
15) RMF-40
16) NC

Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

(B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

(C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

(D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

(E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

(G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1) Adequate parking infrastructure;

2) Adequate adjoining or nearby streets for on-street parking;

3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and

4) Prior zoning or code violations

11.06.23

Address: 802 N Park Ave. Fayetteville, Ar 72701

Dear community,

We are interested in offering our beautiful home on Wilson Park to the public. This property is a 3-bedroom 3-bathroom home. We will be right across the street to manage everything quickly and make sure this doesn't take away from the neighborhood.

Recommended questions to answer:

1. 1448 square feet
2. We have 4 parking spots in our driveway and can park 2-3 in front of our house that are not numbered by the city
3. We have Outdoor lighting provided by our exterior garage lighting and the city also has outdoor lighting
4. Noise would primarily be coming from Wilson park activity
5. We have fencing with Screening or buffering from adjacent properties
6. Trash is provided from the city
7. Ingress and egress to the property if from park ave and straight to our property. No traffic impacts
8. We already have exciting VRBO's within Wilson park so there will not be an issue with adding our beautiful home

Please reach out if you have any questions:

Brooke Hardin 479-651-6065

Ryan Hardin 479-841-1301

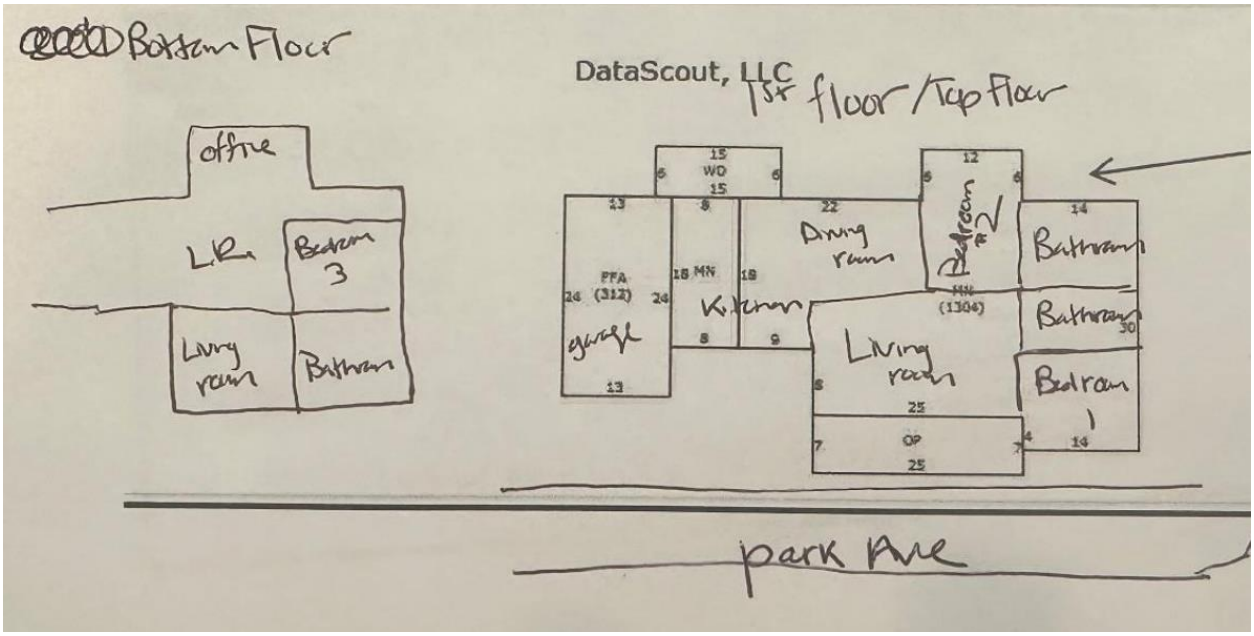
Thank you,

Brooke Hardin

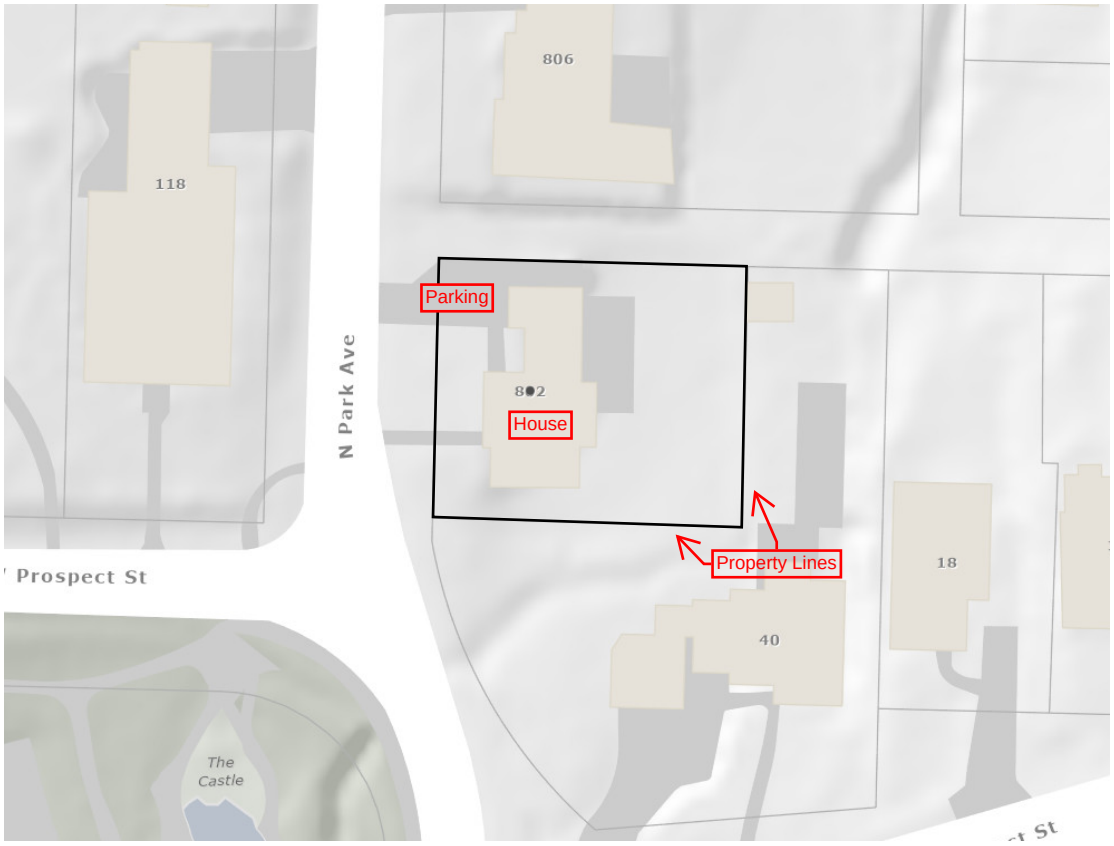
Building Elevations

Building Elevations

Floor Plan


Bottom Floor
DataScout, LLC
1st floor / Top Floor
office
L.R.
Bedroom 3
Living room
Bathroom
15 WD 15
13
PFA (312)
24
24
13
8
18 MN
18
8
9
22
Dining room
Kitchen
12
Bedroom #2
MN (1304)
14
Bathroom
Bathroom
30
Living room
25
OP
25
Bedroom 1
14
park Ave

Site Plan

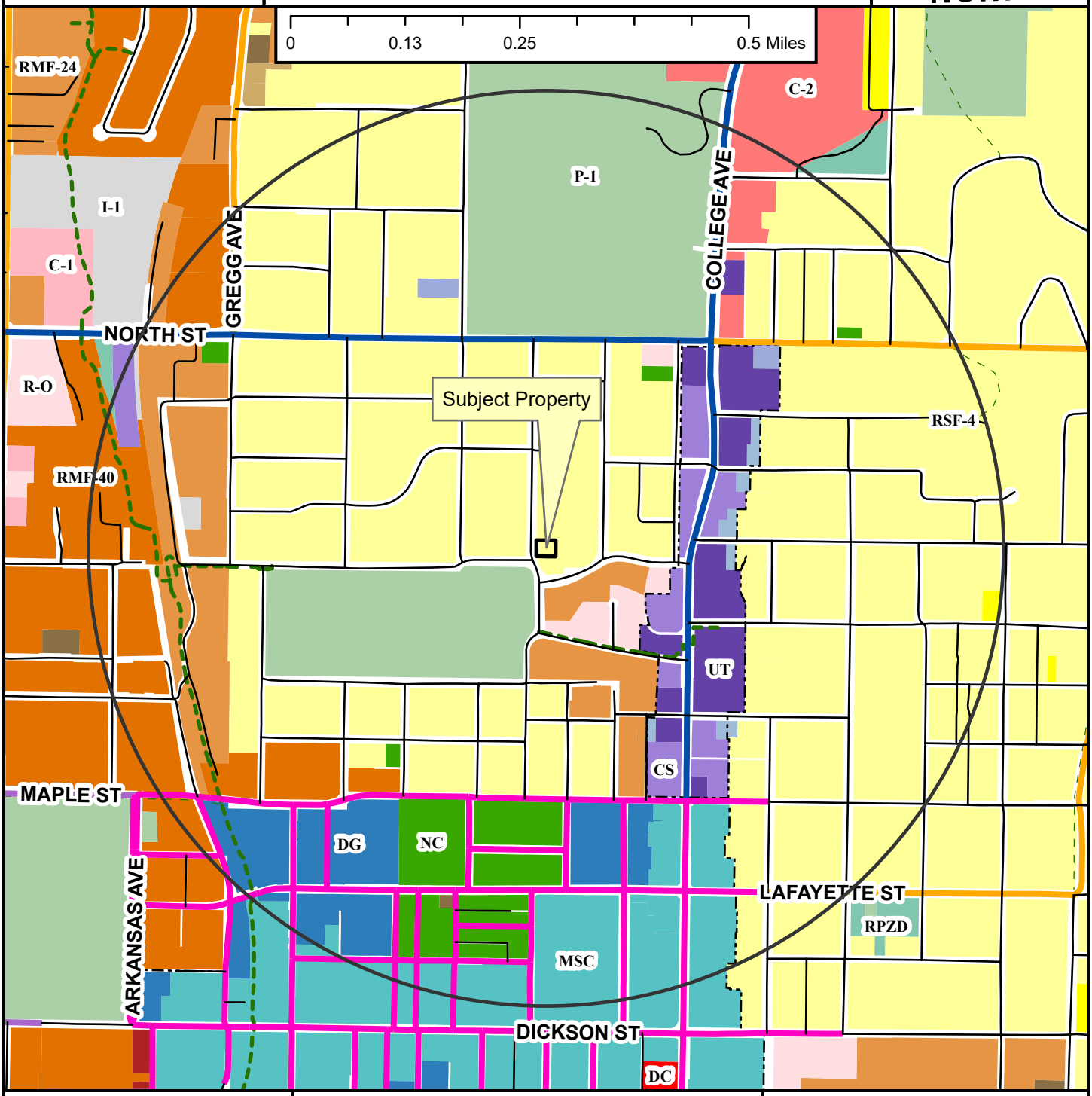

806
118
Parking
802
House
N Park Ave
Prospect St
Property Lines
18
40
The Castle

CUP-2023-0167

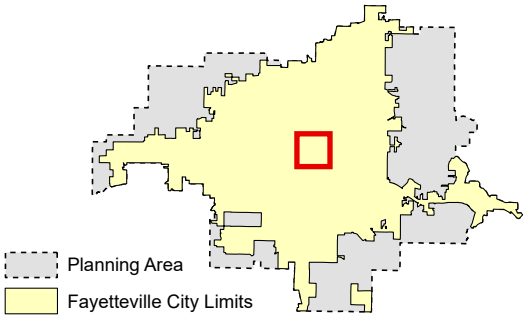
One Mile View

802 N Park Ave

NORTH



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



Zoning

RESIDENTIAL SINGLE-FAMILY
NS-G
RI-U
RI-12
NS-L
Residential-Agricultural
RSF-.5
RSF-1
RSF-2
RSF-4
RSF-7
RSF-8
RSF-18

RESIDENTIAL MULTI-FAMILY
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40

INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial

EXTRACTION
E-1

COMMERCIAL
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

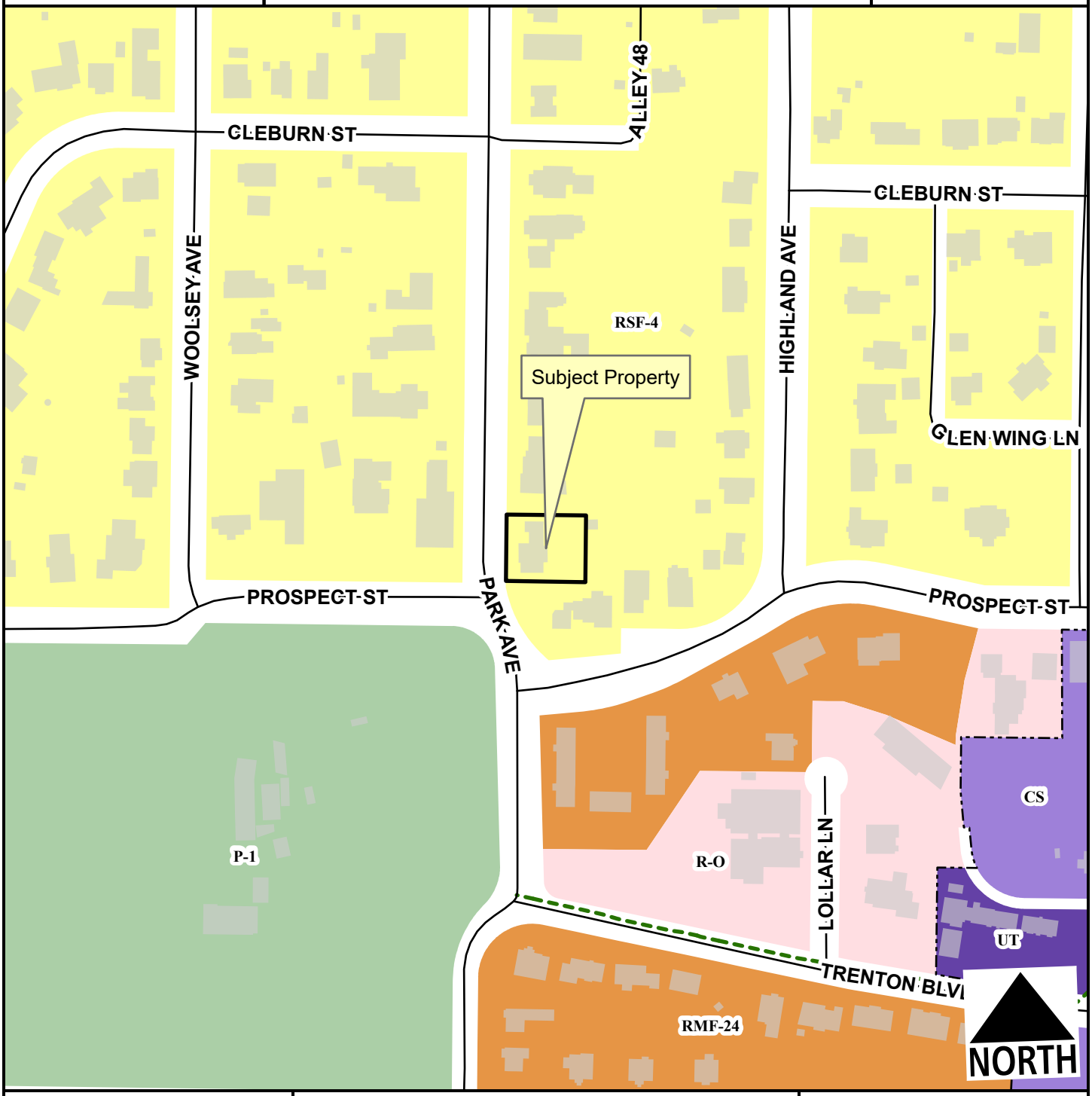
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

CUP-2023-0167

Close Up View

802 N Park Ave



Alley
Residential Link
Planning Area
Fayetteville City Limits
Shared-Use Paved Trail
Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

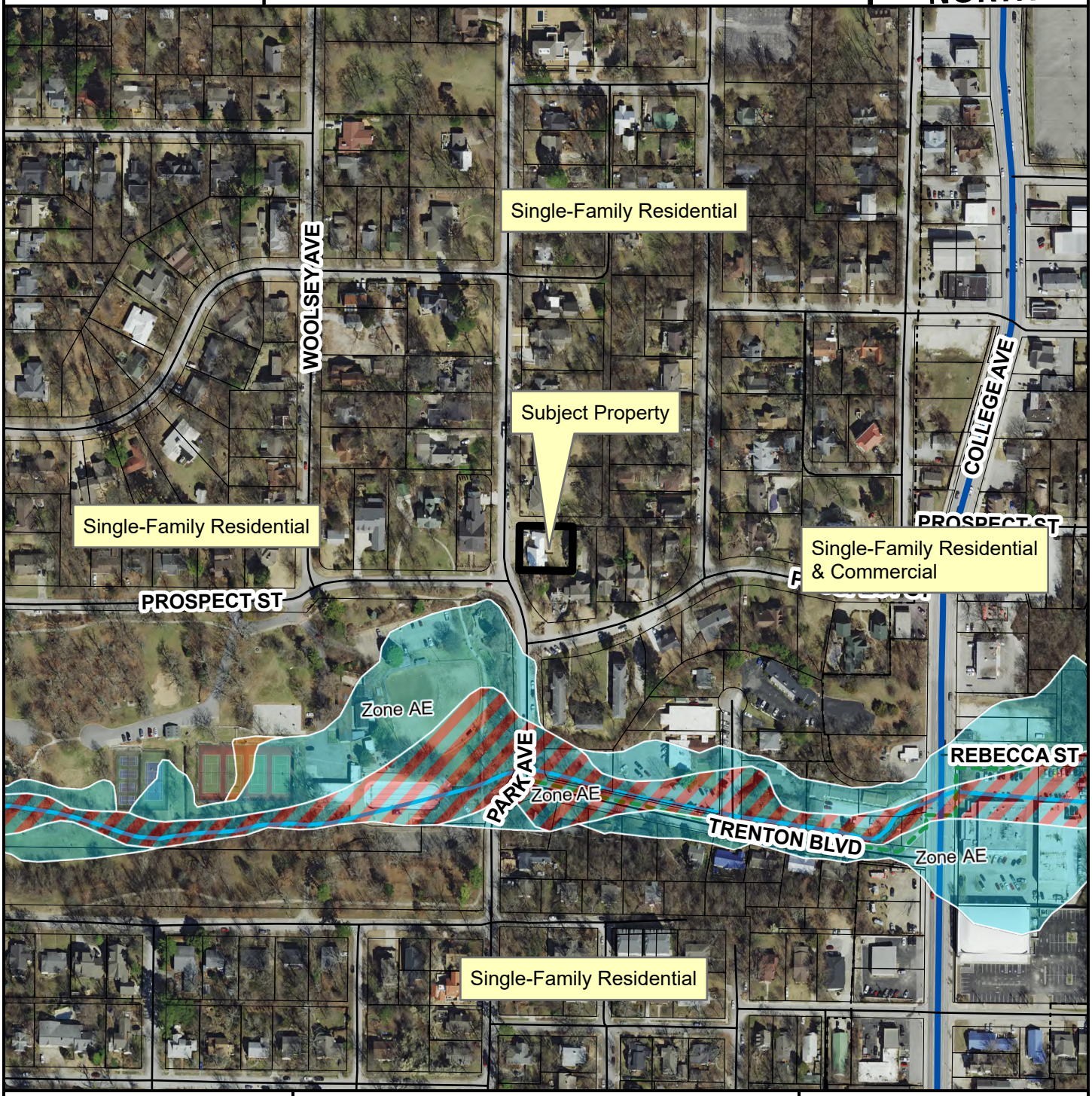
RSF-4
RMF-24
Residential-Office
Urban Thoroughfare
Community Services
P-1

CUP-2023-0167

Current Land Use

802 N Park Ave

NORTH



- Regional Link - High Activity
- Alley
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

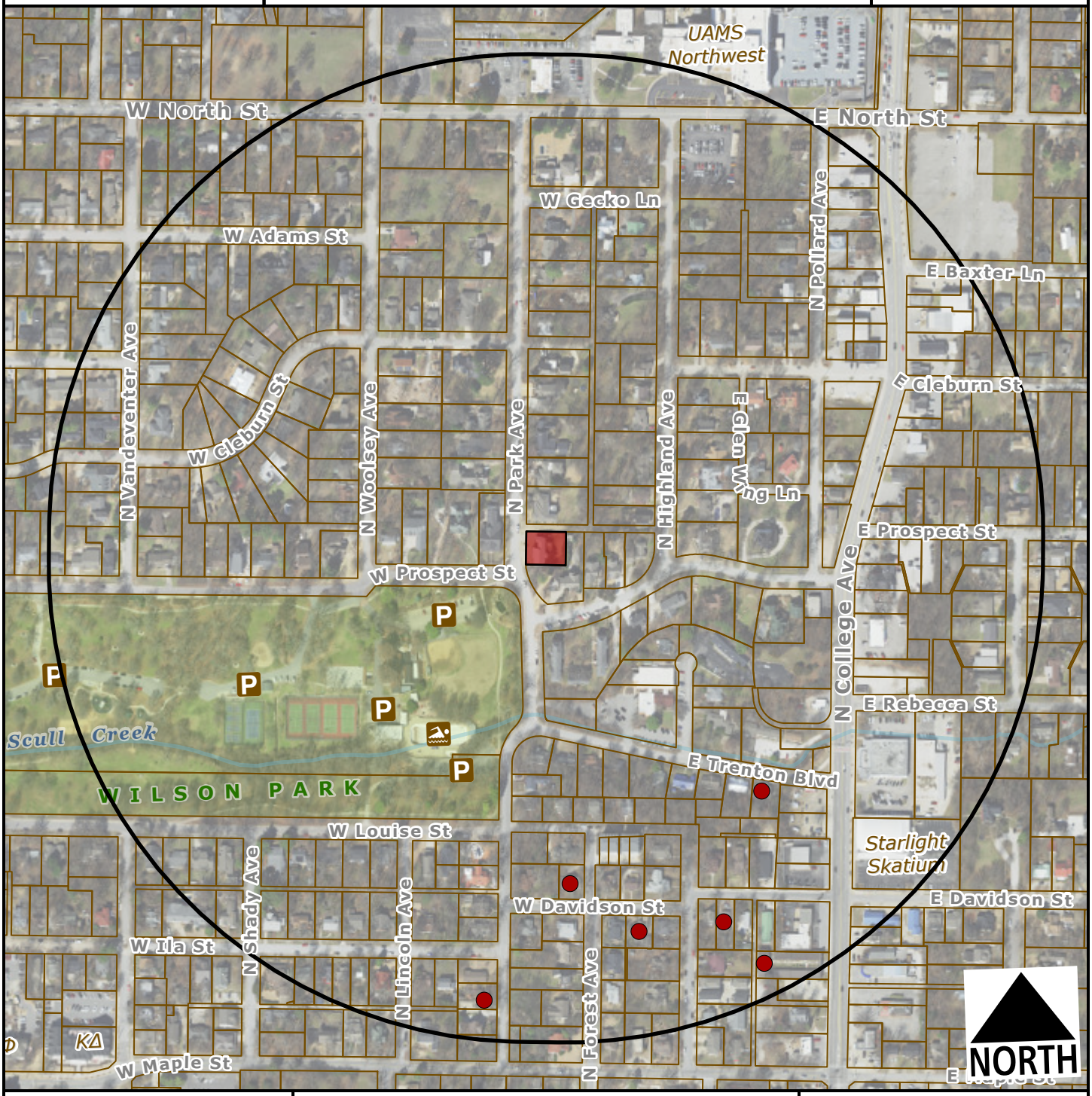
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0167

STRs Within 1/4 Mile

802 N Park Ave



Subject Property

Short Term Rental, Type 2

Feet

0 200 400 800 1,200

1:4,800

Within 1/4 Mile

Type 2 STRs: 6

Occupiable Residential Addresses (Estimated Housing Units): 322