

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, January 18, 2024

4:30 PM

City Hall Room 111

Planning Commission Members

Sarah Sparkman, Chair

Andrew Brink, Vice Chair

Mary McGetrick, Secretary

Jimm Garlock

Fred Gulley

Joseph Holcomb

Mary Madden

Brad Payne

Porter Winston

Senior Assistant City Attorney Blake Pennington

Call to Order**Roll Call****Consent****1. MINUTES:**

Approval of the minutes from the January 8, 2024 Planning Commission. -
Mirinda Hopkins, Development Coordinator

2. CCP-2023-0007: Concurrent Plat (SOUTHEAST OF 2936 S. BLACK OAK RD/RIVERSIDE VILLAGE SUBDIVISION, 682):

Submitted by CRAFTON TULL for property located SOUTHEAST OF 2936 S. BLACK OAK RD. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 38.50 acres. The request is for the concurrent plat of 81 residential lots. - Jessica Masters, Development Review Manager

Unfinished Business**New Business****3. ADM-2023-0052: Administrative Item (Amend UDC Chapter 166):**

Submitted by the CITY OF FAYETTEVILLE STAFF to establish UDC Chapter 166.28 – Permit-Ready Building Design Program. The proposed code change would provide for the establishment of a Permit-Ready Building Design Program and associated development requirements specific to the program's residential buildings. - Britin Bostick, Long Range Planning/Special Projects Manager

4. ADM-2024-0002: Administrative Item (Amend UDC Chapter 166 - Development):

Submitted by CITY OF FAYETTEVILLE STAFF. The request is for an amendment to UDC Chapter 166.20 - Expiration of Approved Plans and Permits. The proposed code change would adjust expiration requirements for approved plans. - Gretchen Harrison, Senior Planner

5. VAR-2023-0054: Planning Commission Variance (117 E. ELLA ST/COTTAGES AT ASHWOOD LLC, 563):

Submitted by STEPHEN BROOKS for the property located 117 E. ELLA ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.18 acres. The request is for variance for existing non-conforming driveways. - Kylee Hevrdejs, Planner

6. PPL-2023-0006: Preliminary Plat (SOUTH OF W. PLANETREE ST/THE ELEMENT PHASE 4, 516):

Submitted by JORGENSEN & ASSOCIATES for property located SOUTH OF W. PLANETREE ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.79 acres. The request is for the preliminary plat of 141 residential lots and one non-buildable lot. - Kylee Hevrdejs, Planner

7. LSD-2023-0022: Large Scale Development (1236 S. SCHOOL AVE/VAUGHN RECYCLING, 562):

Submitted by BLEW & ASSOCIATES for property located at 1236 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 2.33 acres. The request is for a series of site improvements to the existing facility. - Gretchen Harrison, Senior Planner

8. CUP-2023-0188: Conditional Use Permit (3202 S. BLACK OAK RD/RIVERSIDE VILLAGE, 683):

Submitted by RAUSCH COLEMAN HOMES for property located at 3202 S. BLACK OAK RD. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 43.52 acres. The request is for an off-site parking lot. - Jessica Masters, Development Review Manager

9. CUP-2023-0189: Conditional Use Permit (3919 N. MALL AVE/WALMART, 173):

Submitted by BRR ARCHITECTURE INC for property located at 3919 N. MALL AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 24.12 acres. The request is for an on-site prefabricated recycling center. - Kylee Hevrdejs, Planner

10. CUP-2023-0190: Conditional Use Permit (2690 E. CITIZENS DR/WALMART, 371):

Submitted by BRR ARCHITECTURE INC for property located at 2690 E. CITIZENS DR. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 3.14 acres. The request is for an on-site prefabricated recycling center. - Kylee Hevrdejs, Planner

11. RZN-2023-0036: Rezoning (NORTH OF W. TECHNOLOGY WAY/T&J NWA, LLC, 479):

Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NORTH OF W. TECHNOLOGY WAY. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 15.32 acres. The request is to rezone the property to CS, COMMUNITY SERVICES and R-A, RESIDENTIAL AGRICULTURAL. - Donna Wonsower, Planner

12. CUP-2023-0183: Conditional Use Permit (517 E. MCCLINTON ST/HOWARD, 563):

Submitted by RHETA HOWARD for property located at 517 E. MCCLINTON ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

13. CUP-2023-0184: Conditional Use Permit (1427 E. STUBBLEFIELD RD/LEONARD, RAMSEY, 214):

Submitted by REBECCA LEONARD AND LENNY RAMSEY for property located at 1427 E. STUBBLEFIELD RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.40 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

14. CUP-2023-0185: Conditional Use Permit (864 W. MELMAR DR/PRESSELLER, 366):

Submitted by SELENE PRESSELLER for property located at 864 W. MELMAR DR. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

15. CUP-2023-0180: Conditional Use Permit (2609 N. OLD WIRE RD/HARRIS-PITTMAN, 292):

Submitted by SHANNON HARRIS for property located at 2609 N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.37 acres. The request is to use the residence as a short-term rental.

THIS ITEM HAS BEEN TABLED BY STAFF FOR LACK OF INFORMATION. - Kylee Hevrdejs, Planner

16. CUP-2023-0181: Conditional Use Permit (1897 W. STONE ST, UNIT 2/QUILLSPORTIVA LLC, 520):

Submitted by KATHERINE STEED for property located at 1897 W. STONE ST, UNIT 2. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.46 acres. The request is to use the residence as a short-term rental. - Kylee Hevrdejs, Planner

17. CUP-2023-0186: Conditional Use Permit (331 E NOBLE LN/SPENCER, 407):

Submitted by HAWG HAVEN 1 LLC for property located at 331 E. NOBLE LN. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.03 acres. The request is to use the residence as a

short-term rental. - Gretchen Harrison, Senior Planner

18. CUP-2023-0187: Conditional Use Permit (2235 N. MARKS MILL LN/BETTER BUILT HOMES INC, 329):

Submitted by BETTER BUILT HOMES INC for property located at 2235 N. MARKS MILL LN. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

19. CUP-2023-0182: Conditional Use Permit (220 E. SUTTON ST/WELLERMAN, 485):

Submitted by FLINTLOCK LTD CO. for property located at 220 E. SUTTON ST. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

THIS ITEM HAS BEEN WITHDRAWN PER APPLICANT'S REQUEST. - Kylee Hevrdejs, Planner

Items Administratively Approved by Staff

20. LSP-2023-0070: Lot Split (2432 N. RAVEN LN/CRYSTAL SPRINGS CLUSTER PHASE 1, 285):

Submitted by CRAFTON TULL for property located at 2432 N. RAVEN LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 4.11 acres. The request is to subdivide the property into 22 lots. - Gretchen Harrison, Senior Planner

21. LSIP-2023-0007: Large Site Improvement Plan (NORTHEAST OF W. WEDINGTON DR & N. MEADOWLANDS DR/WIENERSCHNITZEL, 400):

Submitted by BATES & ASSOCIATES for property located NORTHEAST OF W. WEDINGTON DR & N. MEADOWLANDS DR. The property is zoned CS, COMMUNITY SERVICES and contains approximately 3.37 acres. The request is for a 1,467-square-foot restaurant and associated parking. - Gretchen Harrison, Senior Planner

Agenda Session Items

22. PRESENTATION: URBAN FORESTRY MASTER PLAN - Melissa Evans, Urban Forester

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

(pg. 1) Planning Commission			Monday, 01/08/2024			
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 12-11-2023	2) ADM-2023-0047 (RAZORBACK RV PARK)	3) ADM-2023-0050 (MAVEN RAMSEY VILLAGE PROPERTIES LLC)	4) VAR-2023-0053 (THE GODDARD SCHOOL)	5) VAR-2023-0050 (1301 N. GREGG)
Gulley	1	1	1	1	1	1
Holcomb	0					
Winston	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Sparkman	1	1	1	1	1	1
Brink	1	1	1	1	1	1
Garlock	1	1	1	1	1	0
Madden	1	1	1	1	1	1
Payne	1	1	1	1	1	1
Agenda		Consent	Consent	Consent	Consent	Old
Motion By		Brink	Brink	Brink	Brink	Winston
Motion 2nd		Garlock	Garlock	Garlock	Garlock	Sparkman
Vote		8-0-0	8-0-0	8-0-0	8-0-0	7-1-0
Action		Approve	Approve	Approve	Approve	Approve
Time		5:34 PM	5:34 PM	5:34 PM	5:34 PM	5:47 PM
Motion Detail						With all conditions as recommended by staff.
Public Comment						0

(pg. 2) Planning Commission				Monday, 01/08/2024		
	6) ADM-2023-0041 (WANG)	7) CUP-2023-0159 (FAYETTEVILLE OFFICE PORTFOLIO)	8) RZN-2023-0034 (LOONEY)	9) ADM-2023-0049 (CARVER)	10) ADM-2023-0051 (JUNCTION AT SHILOH)	11) CCP-2023-0006 (OLD MISSOURI LAND DEVELOPMENT)
Gulley	1	1	1	1	1	1
Holcomb						
Winston	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Sparkman	1	1	1	1	1	1
Brink	1	1	1	1	1	1
Garlock	1	1	1	1	0	1
Madden	1	1	1	1	1	1
Payne	1	1	1	1	Recuse	1
Agenda	Old	Old	Old	New	New	New
Motion By	Brink	Brink	Payne	Garlock	Sparkman	Brink
Motion 2nd	Payne	Winston	Brink	Payne	Brink	Payne
Vote	8-0-0	8-0-0	8-0-0	8-0-0	6-1-1	8-0-0
Action	Table	Approve	Forward	Deny	Deny	Approve
Time	5:50 PM	6:02 PM	6:21 PM	6:30 PM	7:30 PM	7:40 PM
Motion Detail	Indefinitely	With all conditions as recommended by staff.	In favor of approval.	Staff's recommendation upheld.	Staff's approval upheld.	With all conditions as recommended by staff.
Public Comment	0	0	2	0	2	0

(pg. 3) Planning Commission				Monday, 01/08/2024		
	12) CUP-2023-0194 (LAKE FAYETTEVILLE SOFTBALL COMPLEX)	13) RZN-2023-0035 (SPRINGWOODS INVESTMENTS LLC)	14) CUP-2023-0175 (SPRINGWOODS INVESTMENTS LLC)	15) RZN-2023-0030 (NIBLOCK)		16) CUP-2023-0165 (KIMBRO)
Gulley	1	1	1	0	1	1
Holcomb						
Winston	1	1	1	0	1	1
McGetrick	1	1	1	0	1	1
Sparkman	1	1	1	0	1	1
Brink	1	1	1	0	1	1
Garlock	1	0	1	1	0	1
Madden	1	0	1	0	1	1
Payne	1	1	0	0	1	1
Agenda	New	New	New	New		New
Motion By	Payne	Payne	Brink	Garlock	Sparkman	Brink
Motion 2nd	Madden	Brink	Winston	Gulley	Brink	Winston
Vote	8-0-0	6-2-0	6-1-1	1-7-0	7-1-0	8-0-0
Action	Approve	Forward	Table	Deny	Forward	Approve
Time	7:46 PM	7:57 PM	7:59 PM	8:13 PM		8:27 PM
Motion Detail	With all conditions as recommended by staff.	With a recommendation of approval.	Until february 12, 2024 Planning Commission meeting.		With all conditions as recommended by staff.	With all conditions as recommended by staff. No consideration for hours or employees.
Public Comment	0	0	0	0		1

(pg. 4) Planning Commission		Monday, 01/08/2024				
	17) CUP-2023-0170 (VAN WINKLE)	18) CUP-2023-0171 (VAN WINKLE)	19) CUP-2023-0172 (STRACENER)	20) CUP-2023-0174 (CAMPBELL)	21) CUP-2023-0176 (KIMSCO LLC)	22) CUP-2023-0177 (AB JOINT VENTURES LLC)
Gulley	0	0	1	1	1	1
Holcomb						
Winston	0	0	1	1	1	1
McGetrick	0	0	1	1	1	1
Sparkman	0	0	1	1	1	1
Brink	1	1	1	1	1	1
Garlock	0	0	1	1	1	1
Madden	0	0	1	1	1	1
Payne	1	1	1	1	1	1
Agenda	New	New	New	New	New	New
Motion By	Sparkman	Winston	Garlock	Brink	Garlock	Payne
Motion 2nd	Garlock	Sparkman	Sparkman	Payne	Sparkman	Winston
Vote	2-6-0	2-6-0	8-0-0	8-0-0	8-0-0	8-0-0
Action	Reconsider	Reconsider	Approve	Approve	Approve	Approve
Time	8:30 PM	8:30 PM	8:48 PM	8:56 PM	9:37 PM	9:45 PM
Motion Detail	Was not reheard/reconsidered.	Was not reheard/reconsidered.	Limiting occupancy to 6 people. With all other conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.

(pg. 5) Planning Commission		Monday, 01/08/2024				
	23) CUP-2023-0178 (3J LUXURY RENTALS LLC)	24) CUP-2023-0179 (ANTEZANA)	25) CUP-2023-0164 (MARTINEZ-ROMANO)	26) CUP-2023-0167 (HARDIN)	27) CUP-2023-0168 (ADAMS)	
Gulley	1	1	1	1		
Holcomb						
Winston	1	1	1	1		
McGetrick	1	1	1	1		
Sparkman	1	1	1	1		
Brink	1	1	1	1		
Garlock	1	1	1	1		
Madden	1	1	1	1		
Payne	1	1	1	1		
Agenda	New	New	New	New	New	
Motion By	Brink	Winston	Payne	Garlock		
Motion 2nd	Garlock	Payne	Winston	Payne		
Vote	8-0-0	8-0-0	8-0-0	8-0-0		
Action	Approve	Approve	Approve	Approve	Withdrawn	
Time	9:49 PM	9:52 PM	9:58 PM	10:03 PM		
Motion Detail	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.		
Public Comment	0	0	1	0		



TO: Fayetteville Planning Commission

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

MEETING: January 22, 2024

SUBJECT: **CCP-2023-0007: Concurrent Plat (SOUTHEAST OF 2936 S. BLACK OAK RD/RIVERSIDE VILLAGE SUBDIVISION, 682):** Submitted by CRAFTON TULL for property located SOUTHEAST OF 2936 S. BLACK OAK RD. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 38.50 acres. The request is for the concurrent plat of 81 residential lots.

RECOMMENDATION:

Staff recommends approval of **CCP-2023-0007** with conditions.

RECOMMENDED MOTION: *"I move to approve **CCP-2023-0007**, recommending:*

- In favor of recommended right-of-way dedication and street improvements; and*
- All other conditions of approval."*

BACKGROUND:

The subject property is in south Fayetteville off S. Black Oak Road and is the site of the Riverside Village residential development. The property was annexed into the City limits and rezoned as a Planned Zoning District in 2021. A large-scale development was approved in 2022. As a portion of a larger, 94.00 acre site, this area contains approximately 38.50 acres, and represents the platting of the first phase of the approved large-scale development. An unnamed protected tributary of the West Fork White River is present in the northeast quadrant of the property. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1: Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Superior Industries Combs Park	I-2, General Industrial P-1, Institutional
South	Undeveloped	Washington County
East	Undeveloped	Washington County
West	Undeveloped	Washington County

Proposal: The applicant intends to plat 81 residential lots, or the first phase of the Riverside Village subdivision. No variances are being requested with this proposal.

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. No additional water or sewer infrastructure is required to be extended to this site.

Right-of-way to be dedicated:

S. Black Oak Road: S. Black Oak Road is designated as a Neighborhood Link Street per the Master Street Plan. Planning Commission required right-of-way dedication in the amount of 33.5 feet from street centerline to accommodate this street classification, in line with the original large-scale development proposal.

Internal Streets (Buffalo Bend, Ouachita Drive): Planning Commission required 52-feet of right-of-way dedication in line with the typical Residential Link Street classification from the Master Street Plan for these proposed internal streets. These are the only internal streets being platted at this time.

Internal Alleys (S. Saline Alley): Staff is recommending 20 feet of right-of-way to meet the Master Street Plan standard cross-section for residential alleys for S. Saline Alley. Planning Commission required this with the associated large-scale development.

Street Improvements: Staff does not recommend any additional street improvements in association with this request. Planning Commission required standard Master Street Plan improvements and approved a proposed 90-degree parking variance for spaces shown on Buffalo Street.

Tree Preservation: N/A; tree preservation requirements were met with the initial large-scale development. No additional tree preservation is required.

Parkland Fees: N/A; parkland dedication requirements were met with the initial large-scale development. The applicant dedicated 2.44 acres of land, which is equivalent to 106 single-family lots. Only 81 residential lots are being platted with this phase of development, leaving the applicant with a credit for 25 single-family lots to be applied to future phases.

Public Comment: Staff has not received any comments from the public on this item.

RECOMMENDATION: Staff recommends approval of **CCP-2023-0007**, with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Right-of-way to be dedicated with concurrent plat in alignment with large-scale development approval.*
2. **Planning Commission determination of street improvements.** *No additional street improvements required.*
3. A separate Conditional Use Permit will need to be approved for proposed off-site parking lots prior to subdivision of land under 172.06(C). A separate application is being considered under CUP-2023-0188;
4. Plat comments from the Planning Division shall be addressed prior to signature, including the following:
 - Please show all street improvements, and include a street table with required sidewalk, greenspace, and street widths.

5. All remaining comments from City divisions, whether Urban Forestry, Fire, or Engineering shall be addressed prior to Planning Commission.

Standard conditions of approval:

6. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat (if applicable).
7. 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).
8. 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 22, 2024

☐ **Tabled**

☐ **Approved**

☐ **Denied**

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Engineering Memo
- Urban Forestry Memo
- Applicant Cover Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Jessie Master, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: January 16, 2024

SUBJECT: **Planning Commission Engineering Comments for CCP-2023-0007 Riverside Village Phase 1**

Recommendation: Engineering recommends approval of CCP-2023-0007 for portions of Riverside Village Phase 1, with conditions.

Background: Riverside Village was submitted for grading permit in April 2022 and approval was granted in October 2022. Since that time the contractor has installed the required infrastructure to plat the proposed lots.

Discussion: 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.

Conditions: Outstanding items on the punch list for these specific lots must be completed prior to engineering signing the plat.



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Taylor Lindley, P.E., Crafton Tull

From: Melissa Evans, Urban Forestry

CC: Jessie Masters, Development Review Manager

Meeting Date: January 22, 2024

Subject: CCP-2023-0007: Riverside Village: S. Ouachita Dr.

1. General Landscape Plan Checklist	Yes	No	N/A
a. Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03A7g, 177.04B3a</i>	X		
b. Species of plant material identified <i>UDC Chapter 177.03A7d,e</i>	X		
c. Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03A7b,c</i>	X		
d. Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e. Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f. LSD and Subdivisions plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>	X		
g. Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h. Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>	X		
i. Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2e</i>	X		

2. Parking Lot Requirements	1 Tree : 12 Parking Spaces	Yes	No	N/A
a. Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>		X		
b. Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>				X

c.	Tree Island (8' min. width, 18.7' min length OR 150 square feet) <i>UDC Chapter 177.04C</i>	X		
d.	Placement of Trees (either side at entrances and exits) <i>UDC Chapter 177.04C2</i>			X
3. Perimeter Landscaping Requirements		Yes	No	N/A
a.	Side and Rear Property Lines (5' wide landscaped area) <i>UDC Chapter 177.04D2a</i>	X		
b.	Front Property Line (15' wide landscape) <i>UDC Chapter 177.04C2a</i>	X		
c.	Shade trees planted on south and west sides of parking lots <i>UDC Chapter 177.04D2e</i>	X		
d.	50% Evergreen shrubs if parking lot adjacent to ROW <i>UDC Chapter 177.04D4a</i>			X
4. Street Tree Planting Requirements		Yes	No	N/A
a.	Residential Subdivisions 1 Large Shade Species Tree per Lot <i>UDC Chapter 177.05</i>	X		
b.	Non-Residential Subdivisions 1 Large Species Shade Tree every 30' (planted in greenspace) <i>UDC Chapter 177.05</i>			X
c.	Urban Tree Well – Urban Streetscapes Trees every 30' (8' sidewalk) <i>UDC Chapter 177.05B3a-f</i>			X
d.	Structured Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan <i>UDC Chapter 177.05B3a-f</i>			X
e.	Residential Subdivisions Timing of planting indicated on plans <i>UDC Chapter 177.05A4</i>			X
f.	Residential Subdivisions Written description for method of tracking planting <i>UDC Chapter 177.05A4e</i>			X

5. Landscape Requirement Totals		Amount
Mitigation Trees		0
Parking Lot Trees		2
Street Trees		58
Detention Pond – Large Trees (1 Tree/3,000 square feet)		28
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		111
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		168

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	12-20-23	1-5-24	1-17-24
Approved			
Tabled			
Denied			

Comments	
1.	Address items above marked “No” and all Redlines provided.
2.	The City of Fayetteville landscape requirements as per Ch. 177.03 (A)(1) of the Code, have been met with the associated Large Scale Development for the project.



URBAN FORESTRY
TREE PRESERVATION COMMENTS

To: Taylor Lindley, P.E., Crafton Tull

From: Melissa Evans, Urban Forestry

CC: Jessie Masters, Development Review Manager

Meeting Date: January 22, 2024

Subject: CCP-2023-0007: Riverside Village: S. Ouachita Dr.

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

2. Tree Preservation Calculations

Tree Preservation Calculations were provided per Ch. 167.04(A)(6) of Code with the Large Scale Development review and approval of this project.

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

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

5. Tree Preservation Plan Checklist	Tech Plat	Subdivision Committee	Planning Commission
<i>UDC Chapter 167.04H1</i>			
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes

d. Existing Topography and Proposed Grading	Yes	Yes	Yes
e. Soil Types	Yes	Yes	Yes
f. Significant Trees	No	No	No
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	No	No	No
i. All Existing and Proposed Utilities	Yes	Yes	Yes
j. All Existing and Proposed Utility Easements and ROW's	No	No	No
k. All Streams (with approximate center line)	Yes	Yes	Yes
l. Floodplains and floodways	Yes	Yes	Yes
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan (if required)	N/A	N/A	N/A
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes

Tree Protection Methods

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

6. Site Analysis Report (if required)	Yes	No	N/A
<i>UDC Chapter 167.04H4</i>			

a. Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.			X

7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	12-20-23	1-5-24	1-17-24
Approved			
Tabled			
Denied			

Comments

1. Address items above marked "No" and all Redlines provided.
2. The proposed Tree Preservation Easements will be dedicated with the Easement Plat recording. Please let Urban Forestry know when it is recorded.
3. A Tree Preservation Plan is required per Ch 167.04(A)(6) and was submitted and approved with the associated large scale development of the project.



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: December 22, 2023

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: October 4, 2021

Project Title: Riverside Village (Phase 1)

Project Number: CCP-2023-0007

Project Location: 2936 S Black Oak Rd

Plat Page: 682

Park Quadrant: SE

Billing Name & Address: Don Draper, NWA LD, LLC, 4058 N College Ave, Ste 300, Box 9
Fayetteville, AR 72703

☒ **Land Dedication**

☐ **Fee-in-Lieu**

☐ **Combination**

LAND DEDICATION

Single Family: 81 units x 0.023 acres per unit = 1.86 acres

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

**TOTAL
Acres**

1.86

FEE-IN-LIEU

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

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

**TOTAL
Fees**

\$ 0

SUMMARY:

- Project proposes 81 SF units and 0 MF units.
- Developer dedicated 2.44ac of land to meet Parkland Dedication Requirements for Phase 1 (Deed# 2023-00023649). The 2.44ac land dedication is equal to 106 single-family lots. This project, CCP-2023-0007, will create 81 single-family lots, equivalent to 1.86 acres. The remainder of 25 single-family lots (which is equal to 0.58 acres or a \$27,225 value) can be applied to future PLD fees for projects in this development.
- Fees are assessed for the additional lot(s) created and are due upon project's approval.

- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB. All fees must be paid prior to final receipt by the city.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.



December 12, 2023

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

RE: Riverside Village Phase 1
CTA Job No. 21108400

To whom it may concern,

This submittal is for a concurrent plat for a portion of Riverside Village Phase 1. The development is a single-family residential subdivision with an open lot in the NE corner dedicated as commercial space. The total area of the site is approximately 94 acres and includes 106 residential lots in Phase 1. This concurrent plat includes 84 of those lots including the commercial property. All public infrastructure pertaining to these lots has been installed including public streets, utility extensions, and drainage improvements.

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

Sincerely,

Taylor Lindley, P.E.
Project Manager

ACREAGE BY QUARTER - QUARTER SECTION

SW/4 SW/4 25-16-30 = 0.4041 ACRES
NW/4 SW/4 25-16-30 = 0.1441 ACRES
NE/4 SE/4 26-16-30 = 1.1914 ACRES
SE/4 SE/4 26-16-30 = 2.1941 ACRES
NW/4 SE/4 26-16-30 = 8.0841 ACRES
SW/4 SE/4 26-16-30 = 9.9841 ACRES
NE/4 SW/4 26-16-30 = 1.2941 ACRES
SE/4 SW/4 26-16-30 = 0.1041 ACRES
TOTAL = 34.1031 ACRES

LOT LINE TABLE

LINE #	DIRECTION	LENGTH
L1	S 38° 21' 02" E	4.41'
L2	N 49° 56' 46" E	51.69'
L3	N 49° 56' 46" E	51.69'
L4	N 49° 56' 46" E	51.69'
L5	N 49° 56' 46" E	51.69'
L6	N 49° 56' 46" E	51.69'
L7	N 49° 56' 46" E	51.69'
L8	N 49° 56' 46" E	51.69'
L9	N 49° 56' 46" E	51.69'
L10	N 49° 56' 46" E	51.69'
L11	N 49° 56' 46" E	51.69'
L12	N 49° 56' 46" E	51.69'
L13	N 49° 56' 46" E	51.69'
L14	N 49° 56' 46" E	51.69'
L15	N 49° 56' 46" E	51.69'
L16	N 49° 56' 46" E	51.69'
L17	N 49° 56' 46" E	51.69'
L18	N 49° 56' 46" E	51.69'
L19	N 49° 56' 46" E	51.69'
L20	N 49° 56' 46" E	51.69'

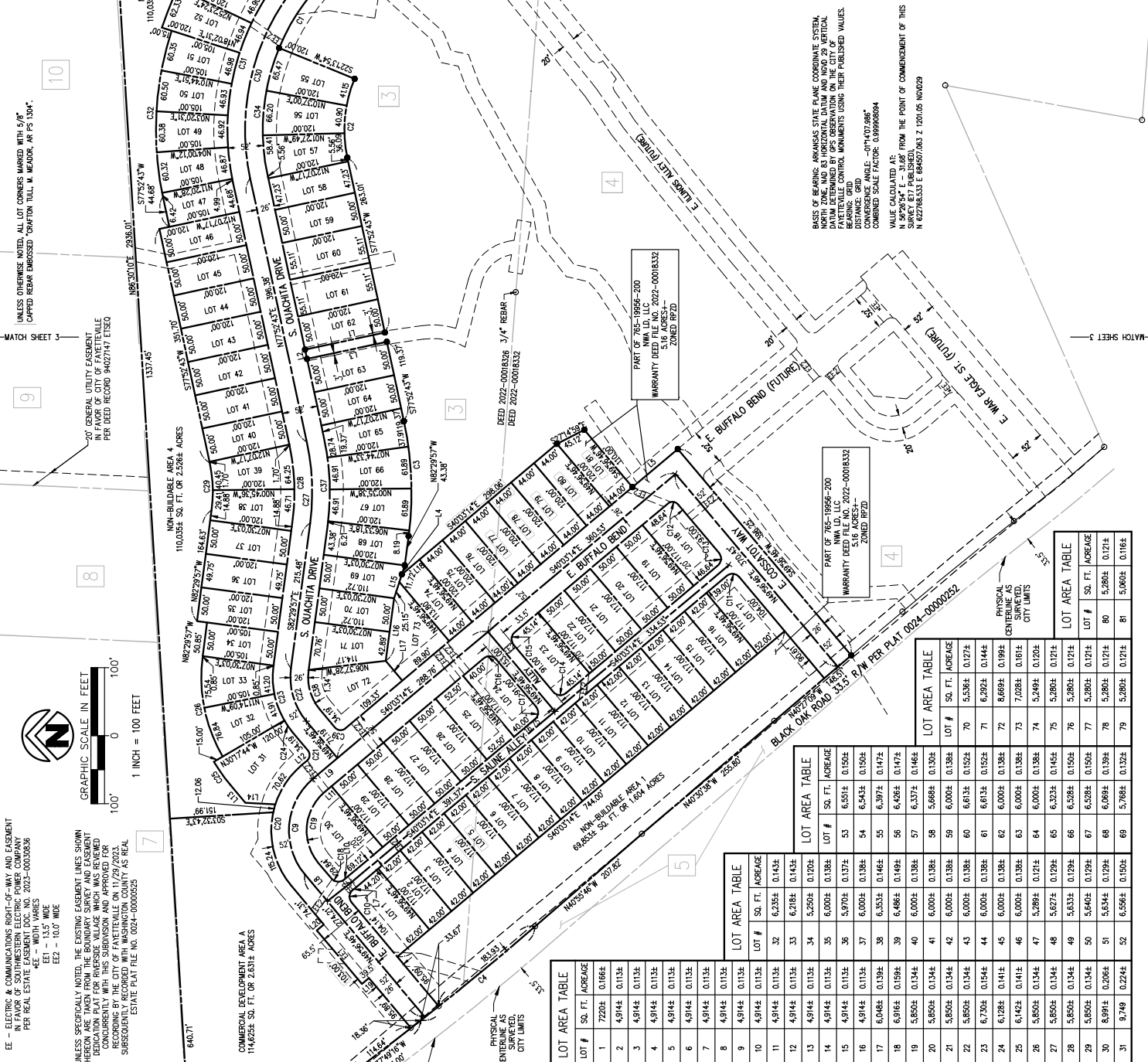
LOT AREA TABLE

LOT #	SO. FT. AREAGE	LOT #	SO. FT. AREAGE
1	7220.4	16	6,048.1
2	4,914.4	17	6,048.1
3	4,914.4	18	6,048.1
4	4,914.4	19	6,048.1
5	4,914.4	20	6,048.1
6	4,914.4	21	6,048.1
7	4,914.4	22	6,048.1
8	4,914.4	23	6,048.1
9	4,914.4	24	6,048.1
10	4,914.4	25	6,048.1
11	4,914.4	26	6,048.1
12	4,914.4	27	6,048.1
13	4,914.4	28	6,048.1
14	4,914.4	29	6,048.1
15	4,914.4	30	6,048.1
16	4,914.4	31	6,048.1
17	4,914.4	32	6,048.1
18	4,914.4	33	6,048.1
19	4,914.4	34	6,048.1
20	4,914.4	35	6,048.1
21	4,914.4	36	6,048.1
22	4,914.4	37	6,048.1
23	4,914.4	38	6,048.1
24	4,914.4	39	6,048.1
25	4,914.4	40	6,048.1
26	4,914.4	41	6,048.1
27	4,914.4	42	6,048.1
28	4,914.4	43	6,048.1
29	4,914.4	44	6,048.1
30	4,914.4	45	6,048.1
31	4,914.4	46	6,048.1
32	4,914.4	47	6,048.1
33	4,914.4	48	6,048.1
34	4,914.4	49	6,048.1
35	4,914.4	50	6,048.1
36	4,914.4	51	6,048.1
37	4,914.4	52	6,048.1
38	4,914.4	53	6,048.1
39	4,914.4	54	6,048.1
40	4,914.4	55	6,048.1
41	4,914.4	56	6,048.1
42	4,914.4	57	6,048.1
43	4,914.4	58	6,048.1
44	4,914.4	59	6,048.1
45	4,914.4	60	6,048.1
46	4,914.4	61	6,048.1
47	4,914.4	62	6,048.1
48	4,914.4	63	6,048.1
49	4,914.4	64	6,048.1
50	4,914.4	65	6,048.1
51	4,914.4	66	6,048.1
52	4,914.4	67	6,048.1
53	4,914.4	68	6,048.1
54	4,914.4	69	6,048.1
55	4,914.4	70	6,048.1
56	4,914.4	71	6,048.1
57	4,914.4	72	6,048.1
58	4,914.4	73	6,048.1
59	4,914.4	74	6,048.1
60	4,914.4	75	6,048.1
61	4,914.4	76	6,048.1
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63	4,914.4	78	6,048.1
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65	4,914.4	80	6,048.1
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67	4,914.4	82	6,048.1
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70	4,914.4	85	6,048.1
71	4,914.4	86	6,048.1
72	4,914.4	87	6,048.1
73	4,914.4	88	6,048.1
74	4,914.4	89	6,048.1
75	4,914.4	90	6,048.1
76	4,914.4	91	6,048.1
77	4,914.4	92	6,048.1
78	4,914.4	93	6,048.1
79	4,914.4	94	6,048.1
80	4,914.4	95	6,048.1
81	4,914.4	96	6,048.1
82	4,914.4	97	6,048.1
83	4,914.4	98	6,048.1
84	4,914.4	99	6,048.1
85	4,914.4	100	6,048.1

LOT AREA TABLE

LOT #	SO. FT. AREAGE	LOT #	SO. FT. AREAGE
1	7220.4	16	6,048.1
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6	4,914.4	21	6,048.1
7	4,914.4	22	6,048.1
8	4,914.4	23	6,048.1
9	4,914.4	24	6,048.1
10	4,914.4	25	6,048.1
11	4,914.4	26	6,048.1
12	4,914.4	27	6,048.1
13	4,914.4	28	6,048.1
14	4,914.4	29	6,048.1
15	4,914.4	30	6,048.1
16	4,914.4	31	6,048.1
17	4,914.4	32	6,048.1
18	4,914.4	33	6,048.1
19	4,914.4	34	6,048.1
20	4,914.4	35	6,048.1
21	4,914.4	36	6,048.1
22	4,914.4	37	6,048.1
23	4,914.4	38	6,048.1
24	4,914.4	39	6,048.1
25	4,914.4	40	6,048.1
26	4,914.4	41	6,048.1
27	4,914.4	42	6,048.1
28	4,914.4	43	6,048.1
29	4,914.4	44	6,048.1
30	4,914.4	45	6,048.1
31	4,914.4	46	6,048.1
32	4,914.4	47	6,048.1
33	4,914.4	48	6,048.1
34	4,914.4	49	6,048.1
35	4,914.4	50	6,048.1
36	4,914.4	51	6,048.1
37	4,914.4	52	6,048.1
38	4,914.4	53	6,048.1
39	4,914.4	54	6,048.1
40	4,914.4	55	6,048.1
41	4,914.4	56	6,048.1
42	4,914.4	57	6,048.1
43	4,914.4	58	6,048.1
44	4,914.4	59	6,048.1
45	4,914.4	60	6,048.1
46	4,914.4	61	6,048.1
47	4,914.4	62	6,048.1
48	4,914.4	63	6,048.1
49	4,914.4	64	6,048.1
50	4,914.4	65	6,048.1
51	4,914.4	66	6,048.1
52	4,914.4	67	6,048.1
53	4,914.4	68	6,048.1
54	4,914.4	69	6,048.1
55	4,914.4	70	6,048.1
56	4,914.4	71	6,048.1
57	4,914.4	72	6,048.1
58	4,914.4	73	6,048.1
59	4,914.4	74	6,048.1
60	4,914.4	75	6,048.1
61	4,914.4	76	6,048.1
62	4,914.4	77	6,048.1
63	4,914.4	78	6,048.1
64	4,914.4	79	6,048.1
65	4,914.4	80	6,048.1
66	4,914.4	81	6,048.1
67	4,914.4	82	6,048.1
68	4,914.4	83	6,048.1
69	4,914.4	84	6,048.1
70	4,914.4	85	6,048.1
71	4,914.4	86	6,048.1
72	4,914.4	87	6,048.1
73	4,914.4	88	6,048.1
74	4,914.4	89	6,048.1
75	4,914.4	90	6,048.1
76	4,914.4	91	6,048.1
77	4,914.4	92	6,048.1
78	4,914.4	93	6,048.1
79	4,914.4	94	6,048.1
80	4,914.4	95	6,048.1
81	4,914.4	96	6,048.1
82	4,914.4	97	6,048.1
83	4,914.4	98	6,048.1
84	4,914.4	99	6,048.1
85	4,914.4	100	6,048.1

CADASTRAL SHEET 1 -
WEST SIDE OF SUBDIVISION



STATE PLAT CODE:
500-16N-30W-0-25-300-72-1304
500-16N-30W-0-26-203-72-1304

REGISTERED
STATE OF ARKANSAS
No. 1304

CONCURRENT PLAT PHASE 1.1 OF
RIVERSIDE VILLAGE SUBDIVISION
PART OF THE SW 1/4 SECTION 26 & SOUTH 1/2 SECTION 26
TOWNSHIP 16 NORTH, RANGE 30 WEST
CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
PREPARED FOR:
NWA LD, LLC

RECORD INFORMATION
PROJECT NO: 21106400
CONTACT: NAWADOR

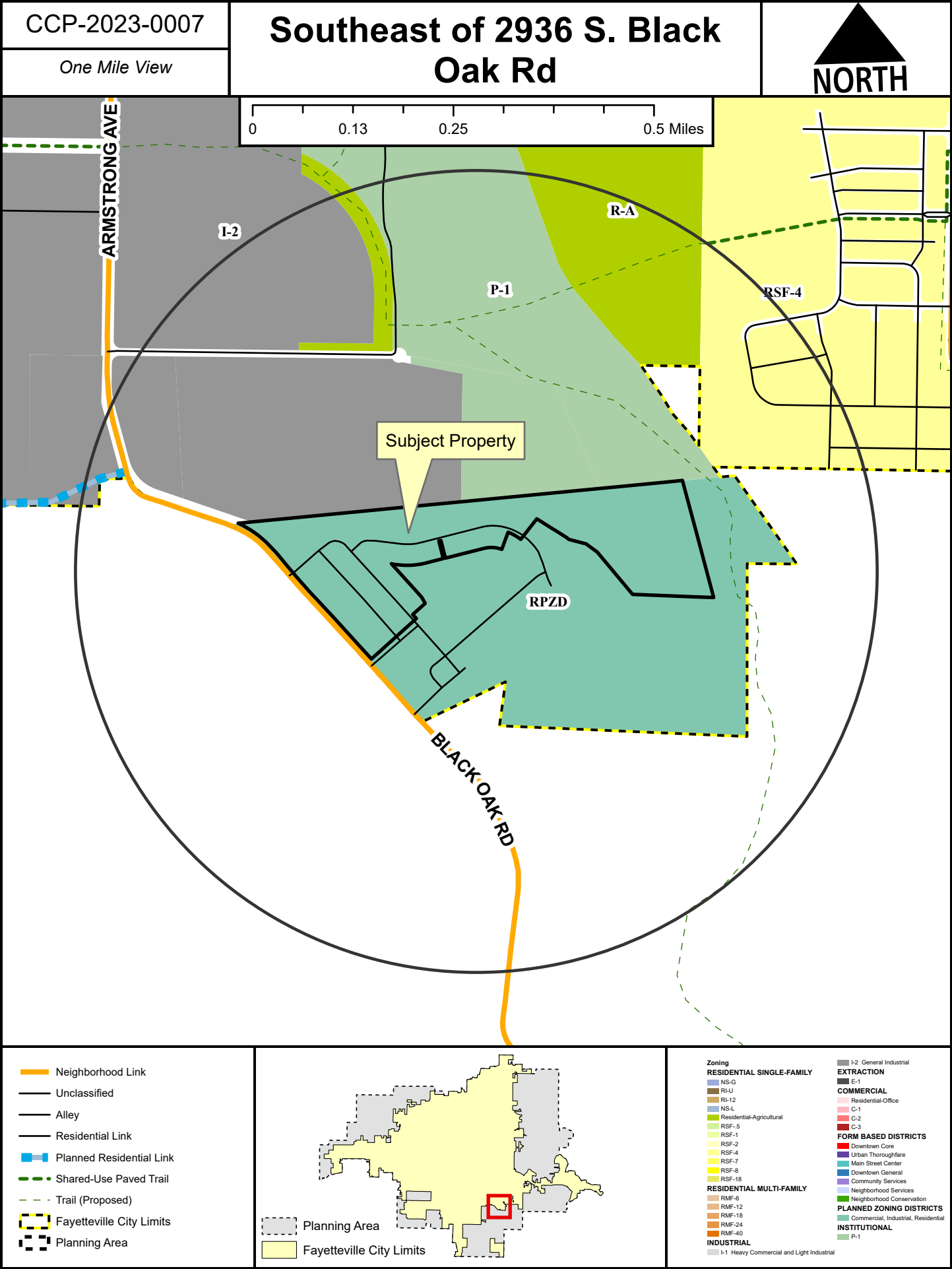
Crafton Tull
Surveyors
901 N. 4th St., Suite 400
Fayetteville, Arkansas 72701
479.636.4881 479.631.0244
www.craftontull.com

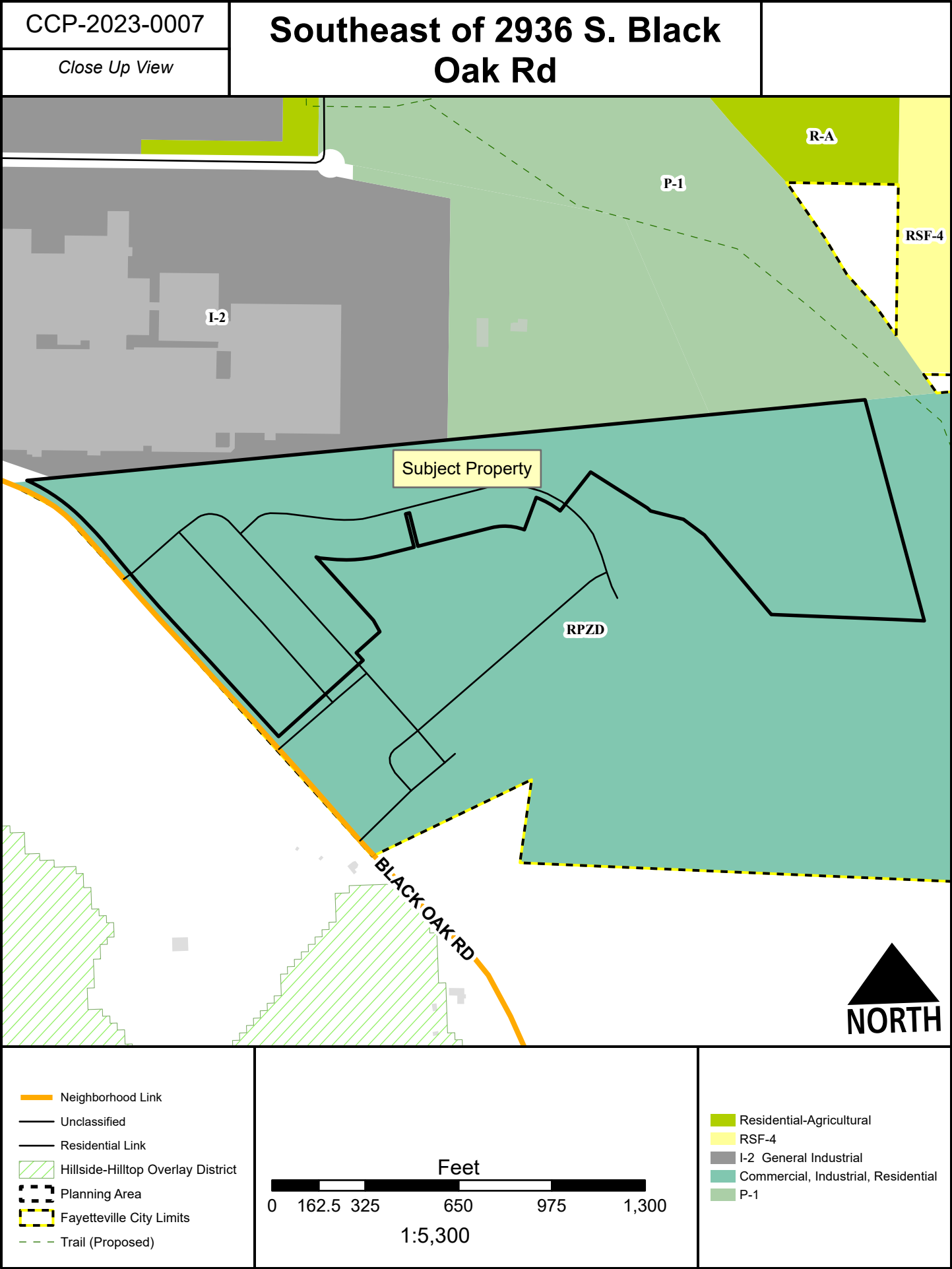
DATE: 12/17/2023
CITY COMMENTS: 01-03-2024
2ND CITY COMMENTS: 01-12-2024

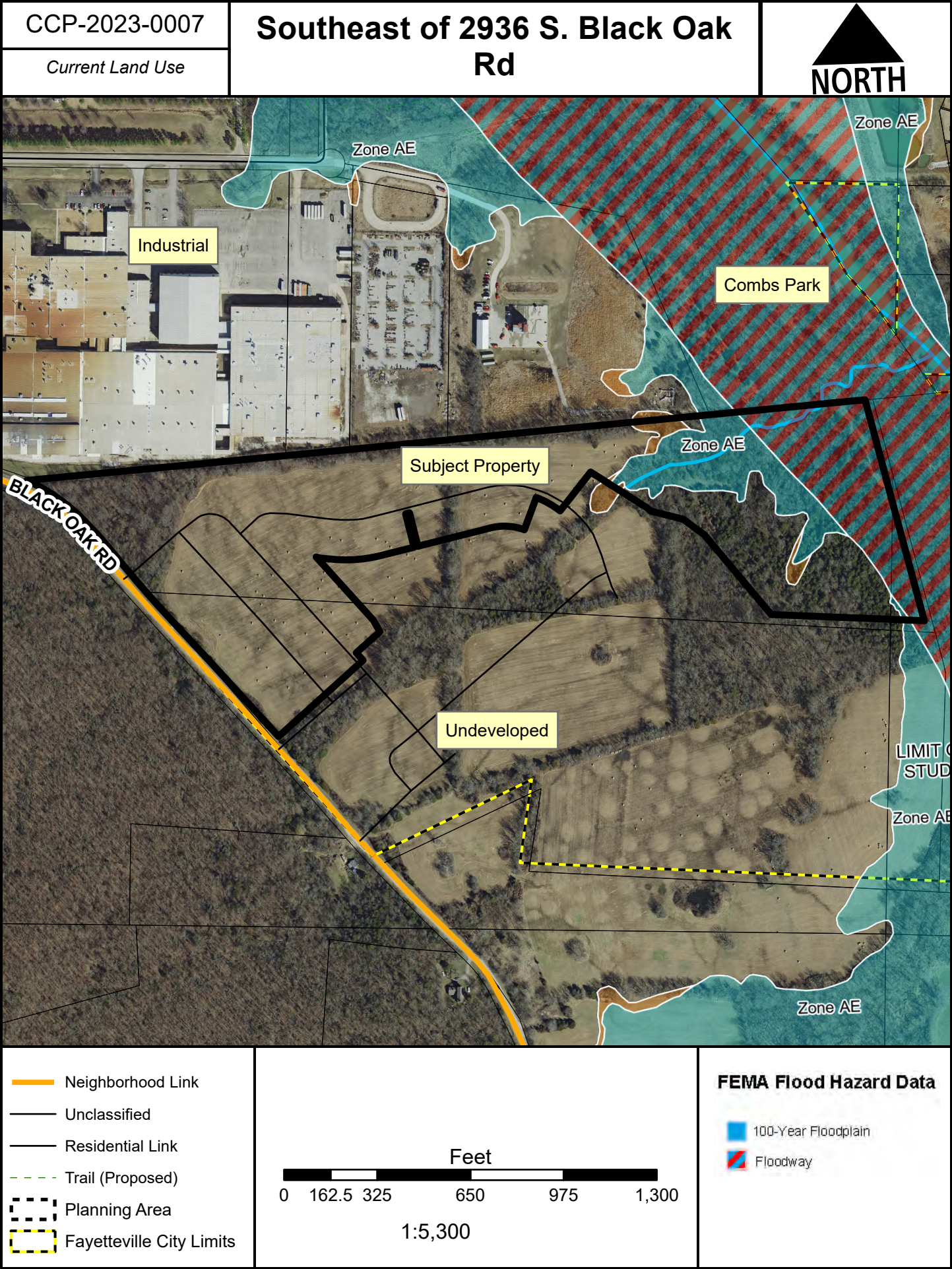
UNLESS OTHERWISE NOTED, ALL LOT CORNERS MARKED WITH 3/8" CAPTED REBAR DRIVEN CRAFTON TULL, N. W. MCGRAW, AT 15' DIA.

2 OF 9

2ND CITY COMMENTS: 01-03-2024
2ND CITY COMMENTS: 01-12-2024









TO: Fayetteville Planning Commission

FROM: Britin Bostick, Long Range Planning/Special Projects Manager

MEETING DATE: January 22, 2024

SUBJECT: **ADM-2023-0052: Administrative Item (Amend UDC Chapter 166 - Development):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is to establish §166.28 – Permit-Ready Building Design Program. The proposed code change would provide for the establishment of a Permit-Ready Building Design Program and associated development requirements specific to the program's residential buildings.

RECOMMENDATION:

Staff recommends forwarding **ADM-2023-0052** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **ADM-2023-0052** to the City Council with a recommendation of approval."

BACKGROUND:

The City of Fayetteville's comprehensive plan, City Plan 2040, lists twenty-five short term benchmarks to be completed by 2025. Among those benchmarks is "Create pre-approved building types for identified neighborhoods." Four of the plan's six goals are related to this benchmark:

1. We will make appropriate infill and revitalization our highest priority
2. We will discourage suburban sprawl
3. We will make compact, complete, and connected development the standard
6. We will create opportunities for attainable housing

Part of the design process is to meet the city's zoning, development, and building code standards, producing plan sets that have been reviewed through city staff before they are finalized. The designs can also be tailored to fit housing needs for neighborhoods, and remove or reduce design costs for infill projects, thereby reducing the overall project costs and permit review timelines. This cost and time reduction provide an incentive to use the neighborhood-sensitive designs and can potentially provide more attractive solutions for housing density, whether the need is for accessory dwellings for existing homes or for a triplex that more closely resembles a single-family home.

A contract for consulting services for the creation of such a program was approved by the Fayetteville City Council on October 4, 2022. The project study area included the Downtown Master Plan area and the Walker Park Neighborhood Plan area as they are two neighborhoods that have experienced an increase in infill development in recent years, and the program's building designs are focused on compatibility with existing neighborhoods. Several recommended guiding standards have been developed by city staff and the project consultant in coordination

with assessments of development patterns in the project area and in response to input from focus groups and an evaluation of residential building permit requirements. A set of development standards specific to the use of the Permit-Ready Building Design Program are being recommended with the attached ordinance proposal. Staff and the project consultant have identified additional opportunities for project implementation related to zoning standards that will be presented to the Planning Commission in a few weeks.

DISCUSSION:

The purpose of this amendment is to establish a new section under the Unified Development Code (UDC) Chapter 166 – Development for development standards specific to the City’s Permit-Ready Building Design Program. Development standards are not a zoning entitlement, rather they are the standards for development that may be specific to a development type or a component of development. In this case the proposed development standards address aspects such as variation in the building designs used across adjacent lots, street-facing orientation, screening of trash and recycling containers, stormwater management, parking standards, driveways, and sidewalk construction. While most of the proposed development standards align with existing requirements in the Unified Development Code or provide additional standards for site design as the use of the program is voluntary, some are meant to provide additional flexibility. The proposed parking standards are an example of increased flexibility specific to the use of the program.

The proposed section 166.28(D)(2) would require only one parking space per dwelling unit. Properties developed with a single unit would require only one parking space, while a property developed with two units, either as a duplex or as a single-family house with an accessory dwelling unit, would require only two spaces. Currently the UDC requires two parking spaces per dwelling unit for single-family, duplex, and triplex residential, while multi-family or townhouse residential requires one parking space per bedroom. Additionally, parking lots with 5-13 spaces would be exempt from parking lot construction and parking lot design standards if the parking lots are for buildings in the program.

Sidewalk construction has been identified as a challenge in the residential building permit process as the timing of sidewalk construction, sidewalk location, and other factors for required sidewalk construction related to small scale residential buildings have resulted in project delays. The program development standards propose to address this by creating a sidewalk fee-in-lieu option that does not require a special approval to waive construction. The fee amount would be set based on annual bids and the City’s use of the funds would not have an expiration. The fee-in-lieu funds would be spent to complete sidewalks as determined by the City Engineer.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: January 22, 2024	☐ Tabled	☐ Forwarded	☐ Denied		
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

Attachments:

- Proposed Ordinance, Clean
 - §166.28
- Proposed Ordinance, Strikethrough/Highlight
 - §166.28

166.28 Permit-Ready Building Design Program

- (A) *Purpose.* The purpose of this section is to encourage new buildings that are compatible with the existing development pattern of the neighborhood in scale, height and building placement. The program provides permit-ready building designs for infill construction and site redevelopment that are meant to fit the context of the existing building scale, styles and materials in the neighborhood.
- (B) *Applicability.* The Permit-Ready Building Design Program applies to lots or parcels of land on which the Permit-Ready Building Design Program is utilized.
- (C) *General Requirements.* The following general requirements are applicable only to residential building projects that use the Permit-Ready Building Design Program and submit building permit applications that utilize one or more of the program's building plan sets.
 - (1) *Variability.* Any contiguous set of three or more lots or parcels with program buildings shall include at least two distinct variations in building façade design.
 - (2) *Street-facing Orientation.* All buildings which are adjacent to the street shall be oriented such that their primary facade as designated on the architectural plan set, or a secondary facade if also noted, faces the public street. Buildings which do not have a primary facade indicated on their architectural plans shall not be the primary, street-facing structure abutting a public street.
 - (3) *Solid Waste and Recycling Containers.* All waste and recycling containers must be screened from view from public right of way except on designated days of service. Screening fences shall be opaque and constructed of wood fence, fiber cement, masonry, or a combination thereof, or may be dense shrubbery having year-round foliage within two years of date of planting.
 - (4) *Stormwater.* Where required, stormwater infiltration systems shall comply with the pre-approved stormwater facilities available from the Engineering Division. Where feasible stormwater facilities shall be located parallel and adjacent to any edge of the property.
- (D) *Parking and Driveways.* The following general requirements are applicable only to residential building projects that use the Permit-Ready Building Design Program and submit building permit applications that utilize one or more of the program's building plan sets.
 - (1) *Parking Areas.* Site plans shall show required off-street parking spaces located to the rear or side of a principal dwelling, in a garage, or in a carport.
 - (2) *Number of Spaces.* One parking space per dwelling unit shall be required. Projects shall not utilize reductions for residential use. Up to two parking spaces per dwelling unit is permitted. Any increase or reduction to the number of spaces permitted shall be allowed only by the Planning Commission as a variance and shall be granted in accordance with Chapter 156.03.
 - (3) *Parking Lot Standards.* Parking lots or parking areas containing between 5 and 13 spaces are exempt from Parking Lot Construction Standards and Parking Lot Design Standards unless the parking lot is located within a build-to zone.
 - (4) *Tandem Lots.* Parking for dwelling units on tandem lots shall not be considered off-site parking if the parking spaces are located on the parent lot or another tandem lot related to the parent lot.
 - (5) *Driveway Width.* The minimum driveway width is 8'.
 - (6) *Shared Driveways.* Shared driveways must be utilized to access parking areas for attached townhouse dwellings. Individual driveways from the primary street frontage are not permitted.
- (E) *Sidewalks.* Project sites with existing sidewalks which are not in need of repair or major relocation are encouraged to use fees in lieu of reconstruction and/or relocation.

-
- (1) *Applicability.* The provisions of this section shall only apply to the following property:
- (i) If a sidewalk does not exist, a new sidewalk must be constructed, or sidewalk fee-in-lieu must be paid. The fee-in-lieu option shall not require a waiver by the City Engineer.
 - (ii) Projects must bring existing sidewalks into good condition. Cracks with an offset greater than 0.5" must be ground flat and sidewalk segments with extensive spalling must be replaced.
 - (iii) If an existing sidewalk is required to be relocated, the fee-in-lieu option is preferred in lieu of construction. The building location shall accommodate the future sidewalk construction.
 - (iv) If an existing sidewalk is substandard, the fee-in-lieu option is preferred for sidewalk replacement.
- (2) *Sidewalk Fee-In-Lieu for Permit-Ready Building Program.*
- (i) Fees will be set by the City Engineer on a per-square-foot basis and will be determined annually by conducting a bid for contracted construction and use the average cost per square foot of the accepted contract.
 - (ii) Contribution in lieu of construction of sidewalks shall be paid, or construction of the sidewalks shall be completed before issuance of a certificate of occupancy.
 - (iii) Contributions do not have an expiration on the expenditure of funds.
 - (iv) The contributions may be used to construct sidewalk projects where most needed as determined by the City Engineer.

166.28 Permit-Ready Building Design Program

- (A) *Purpose.* The purpose of this section is to encourage new buildings that are compatible with the existing development pattern of the neighborhood in scale, height and building placement. The program provides permit-ready building designs for infill construction and site redevelopment that are meant to fit the context of the existing building scale, styles and materials in the neighborhood.
- (B) *Applicability.* The Permit-Ready Building Design Program applies to lots or parcels of land on which the Permit-Ready Building Design Program is utilized.
- (C) *General Requirements.* The following general requirements are applicable only to residential building projects that use the Permit-Ready Building Design Program and submit building permit applications that utilize one or more of the program's building plan sets.
- (1) *Variability.* Any contiguous set of three or more lots or parcels with program buildings shall include at least two distinct variations in building façade design.
 - (2) *Street-facing Orientation.* All buildings which are adjacent to the street shall be oriented such that their primary facade as designated on the architectural plan set, or a secondary facade if also noted, faces the public street. Buildings which do not have a primary facade indicated on their architectural plans shall not be the primary, street-facing structure abutting a public street.
 - (3) *Solid Waste and Recycling Containers.* All waste and recycling containers must be screened from view from public right of way except on designated days of service. Screening fences shall be opaque and constructed of wood fence, fiber cement, masonry, or a combination thereof, or may be dense shrubbery having year-round foliage within two years of date of planting.
 - (4) *Stormwater.* Where required, stormwater infiltration systems shall comply with the pre-approved stormwater facilities available from the Engineering Division. Where feasible stormwater facilities shall be located parallel and adjacent to any edge of the property.
- (D) *Parking and Driveways.* The following general requirements are applicable only to residential building projects that use the Permit-Ready Building Design Program and submit building permit applications that utilize one or more of the program's building plan sets.
- (1) *Parking Areas.* Site plans shall show required off-street parking spaces located to the rear or side of a principal dwelling, in a garage, or in a carport.
 - (2) *Number of Spaces.* One parking space per dwelling unit shall be required. Projects shall not utilize reductions for residential use. Up to two parking spaces per dwelling unit is permitted. Any increase or reduction to the number of spaces permitted shall be allowed only by the Planning Commission as a variance and shall be granted in accordance with Chapter 156.03.
 - (3) *Parking Lot Standards.* Parking lots or parking areas containing between 5 and 13 spaces are exempt from Parking Lot Construction Standards and Parking Lot Design Standards unless the parking lot is located within a build-to zone.
 - (4) *Tandem Lots.* Parking for dwelling units on tandem lots shall not be considered off-site parking if the parking spaces are located on the parent lot or another tandem lot related to the parent lot.
 - (5) *Driveway Width.* The minimum driveway width is 8'.
 - (6) *Shared Driveways.* Shared driveways must be utilized to access parking areas for attached townhouse dwellings. Individual driveways from the primary street frontage are not permitted.
- (E) *Sidewalks.* Project sites with existing sidewalks which are not in need of repair or major relocation are encouraged to use fees in lieu of reconstruction and/or relocation.
-

(1) *Applicability.* The provisions of this section shall only apply to the following property:

- (i) If a sidewalk does not exist, a new sidewalk must be constructed, or sidewalk fee-in-lieu must be paid. The fee-in-lieu option shall not require a waiver by the City Engineer.
- (ii) Projects must bring existing sidewalks into good condition. Cracks with an offset greater than 0.5" must be ground flat and sidewalk segments with extensive spalling must be replaced.
- (iii) If an existing sidewalk is required to be relocated, the fee-in-lieu option is preferred in lieu of construction. The building location shall accommodate the future sidewalk construction.
- (iv) If an existing sidewalk is substandard, the fee-in-lieu option is preferred for sidewalk replacement.

(2) *Sidewalk Fee-In-Lieu for Permit-Ready Building Program.*

- (i) Fees will be set by the City Engineer on a per-square-foot basis and will be determined annually by conducting a bid for contracted construction and use the average cost per square foot of the accepted contract.
- (ii) Contribution in lieu of construction of sidewalks shall be paid, or construction of the sidewalks shall be completed before issuance of a certificate of occupancy.
- (iii) Contributions do not have an expiration on the expenditure of funds.
- (iv) The contributions may be used to construct sidewalk projects where most needed as determined by the City Engineer.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: January 22, 2024

SUBJECT: **ADM-2024-0002: Administrative Item (Amend UDC Chapter 166 - Development):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is for an amendment to UDC Chapter 166.20 – Expiration of Approved Plans and Permits. The proposed code change would adjust expiration requirements for approved plans.

RECOMMENDATION:

Staff recommends forwarding **ADM-2024-0002** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **ADM-2024-0002** to the City Council with a recommendation of approval."*

BACKGROUND:

In 2002, the City Council adopted Chapter 166.20 of the Unified Development Code (UDC) which required all previously approved plans and permits to comply with current ordinances and established a typical one-year time limit for future plan and permit approvals. The ordinance also allowed applicants to submit a request for a one-year extension to the Planning Commission to extend their project's approval for up to one additional year. In 2008, an amendment to that ordinance was passed which allowed staff to approve one-year extensions administratively, provided that the project complies with all applicable zoning and development requirements that were adopted subsequent to the project's original approval. It also allowed applicants who missed their deadline to request an administrative extension, prior to the date of the project's expiration, to request a one-year extension from the Planning Commission within 18 months of the project's original approval. In addition, the amendment gave applicants the ability to request a second one-year extension from the Planning Commission to extend their project's approval for a second year, allowing an approval period of up to three years.

DISCUSSION:

The purpose of this amendment is to allow extensions requested within 18 months of a project's original approval to be reviewed and granted administratively by the City's Zoning and Development Administrator. Currently, an applicant has the ability to request a one-year extension administratively so long as their request is submitted prior to the project's initial expiration. If an applicant misses their deadline to request an administrative extension, then they have the ability to request a one-year extension from the Planning Commission so long as their request is submitted within the next six months. The allowance for a one-year extension from the Planning Commission within 18 months of a project's original approval was established as a way to give

applicants additional time to extend their project's approval without having to resubmit their project in its entirety. However, staff has received an increasing number of requests for one-year extensions from the Planning Commission in recent years as a result of applicants narrowly missing their window to request an administrative extension. City records indicate that staff processed six such requests in 2021, four in 2022, and 14 in 2023. All 14 requests that were processed in 2023 were approved by the Planning Commission with 10 of those items being placed on the consent agenda.

All extension requests, whether reviewed by the Zoning and Development Administrator or the Planning Commission, are evaluated under the same general criteria. For an extension to be approved, an applicant must show good cause why all required tasks could not reasonably be completed within the typical one year time limit and demonstrate that their plans are substantially the same as those that were originally approved. Since all project extensions are reviewed in a similar manner and requests that are submitted to the Planning Commission require additional time and resources, taking at least four weeks to process and requiring completion of public notification, staff recommends UDC Chapter 166.20 be amended to allow all one-year extensions requested within 18 months of a project's original approval to be reviewed and granted administratively. Allowing those extensions to be approved administratively would reduce the amount of time and resources needed to process those requests from applicants who are usually close to completing their required tasks, and subsequently reduce the amount of time needed to process any permits associated with their project. Proposed Unified Development Code changes are attached as clean text and as strikethrough.

RECOMMENDATION: Staff recommends forwarding ADM-2024-0002 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>January 22, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied	
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Proposed Ordinance, Clean
 - §166.20 – Expiration Of Approved Plans And Permits
- Proposed Ordinance, Strike-through
 - §166.20 – Expiration Of Approved Plans And Permits

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 (grading)/storm water, drainage, and erosion control (drainage) permit;
- (7) Tree preservation plans; and
- (8) 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.

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- (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; Ord. No. 6446 , §8(Exh. C), 6-15-21)

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 (grading)/storm water, drainage, and erosion control (drainage) permit;
- (7) Tree preservation plans; and
- (8) 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 Administrative 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, an applicant may request the Planning Commission Zoning and Development Administrator to extend the period to accomplish the tasks by 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. 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.~~

(43) 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.

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- (54) 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)~~166.01(D) Modifications.
- (65) 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.
- (76) 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; Ord. No. 6446 , §8(Exh. C), 6-15-21)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: January 22, 2024

SUBJECT: **VAR-2023-0054: Planning Commission Variance (117 E. ELLA ST./BROOKS, 563):** Submitted by STEPHEN BROOKS for the property located 117 E. ELLA ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.18 acres. The request is for variance for existing non-conforming driveways.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0054** with conditions.

RECOMMENDED MOTION:

"I move to approve VAR-2023-0054, recommending:

- In favor of the requested variance to §166.08(G), Non-conforming Access Features; and*
- In favor of the requested variance to §166.08(F) Access Management; and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in south Fayetteville just west of Walker Park. The parcel is improved with a 1,536-square-foot single-family structure with attached accessory dwelling unit built in 2007. Two existing non-conforming driveways are located on the north side of the property. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	NS-L, Neighborhood Services-Limited
South	Single-Family Residential	NC, Neighborhood Conservation
West	Walker Park	P-1, Institutional
East	Single-Family Residential	NC, Neighborhood Conservation

Request: The applicant requests a variance to §166.08(G), *Non-conforming Access Features* and §166.08(F) *Access Management* for two existing non-conforming driveways. The applicant intends to add an accessory dwelling unit and ribbon driveway which would require the existing driveways to come into conformity with current requirements.

DISCUSSION

Variance: §166.08(G), Street Design and Access Management Standards, Non-conforming Access Features. Nonconforming features are required to be brought into compliance with

current standards when new access connections are requested or when the property is expanded by greater than 50% of the market value. There are currently two existing paved driveways that do not meet the minimum separation distance from each other or from the intersection of E. Ella St. and S. College Ave. Under §172.11(K), Loop, Circle, and Multiple Driveways. Multiple driveways are permitted on the same parcel if a separation distance of 30 feet is provided. The two existing driveways have approximately 24 feet 10 inches of separation between them. The applicant requests a variance from this requirement to bring the existing driveways into conformity. The applicant requests a variance from this requirement so they can develop the property with a 432 sq. ft. accessory dwelling unit with carport and ribbon driveway.

- *Staff recommendation: Staff supports this request. The existing driveways have been in place since the dwelling was constructed in 2007. The subject property currently has two paved driveways with approximately 24 feet 10 inches separation between them. The continued use of these two driveways serving the dwelling and attached ADU is not anticipated to substantially alter the existing conditions or impact traffic safety along E. Ella St. as no change in the existing driveway locations is proposed. However, the increased separation distance may reduce on-site parking at the property which would increase the demand for on-street parking. Further, the site is encumbered by mature trees along the east side and extensive utility easements along the north and west sides that make locating the proposed detached ADU and reorienting the driveways difficult.*

Variance: §166.08(F), Access Management. When two streets are of the same classification (Residential Links), access shall be from the lower volume street (E. Ella St.). Additionally, single-family homes on corner lots should have driveways “located as far from the street intersection as possible.” The applicant is proposing to construct a new accessory dwelling unit with a ribbon driveway approximately 25 feet south of the intersection of S. College Ave. and E. Ella St. on the higher volume street.

- *Staff recommendation: Staff supports the request finding due to the narrow width of the parcel along S. College, the location of easements, and a storm drain it is not possible to meet access management standards along S. College Ave. The property is heavily encumbered by utility easements that limit the buildable area for the accessory dwelling unit. Although S. College Ave. is a higher volume street, the posted speed along this section of S. College Ave. is low, at 25-miles-per-hour and staff does not anticipate that the addition of a driveway for a small accessory dwelling unit will increase the traffic volume along the street to create unsafe conditions.*

Public Comment: Staff has not received any public comment at this time.

RECOMMENDATION: Staff recommends approval of VAR-2023-0054 with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.08(G), Street Design and Access Management Standards, Non-conforming Access Features to not require existing non-conforming driveways to be altered.** *Staff recommends approval of the requested variance for the reasons outlined above.*
2. **Planning Commission determination of a variance to §166.08(F), Access Management to permit the construction of a new driveway on a higher volume street of the same classification.** *Staff recommends approval of the requested variance for the reasons outlined above and subject to the following conditions:*

- a. *Any new proposed driveway shall be of the minimum width necessary to facilitate access to the property and appropriate parking.*
 - b. *A ribbon driveway or driveway using permeable materials will be required to reduce the impact of additional impervious surface on the property.*
3. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Developed Code:
 - §166.08, Street Design and Access Management Standards
 - §172.11 - Driveway And Parking Standards For Four (4) Or Less Parking Spaces
- Request Letter
- Boundary Survey
- Site Plan
- One Mile Map
- Close-up Map
- Current Land Use Map

166.08 Street Design And Access Management Standards

...

- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed with new primary structures and all other developments where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).

...

- (F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. **In a case where the streets have the same classification, access shall be from the lower volume street,** or as determined by the City Engineer.
- (1) *Curb Cut Separation.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.
- (2) Separation for two (2) family, three (3) and four (4) family, multi-family and nonresidential development.
- (a) *Regional and Regional High Activity Links.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway.
- (b) *Neighborhood Links.* Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along neighborhood links shall be shared between two (2) or more lots.
- (c) *Residential Links.* Curb cuts shall be located a minimum of 50 feet from an intersection or driveway. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection.
- (3)
- (3) *Separation for Single-Family Homes.*
- (a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. **Driveways serving corner lots shall be located as far from the street intersection as possible** while still meeting a 5-foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.
- (b) *Regional and Neighborhood Links.* Individual curb cuts along regional and neighborhood links streets shall be discouraged. When necessary, curb cuts along regional and neighborhood link streets shall be shared between two (2) or more lots.
- (4) *Reduction in Separation Distance.* In order to protect the ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.
- (G) *Non-Conforming Access Features.*

- (1) *Existing.* Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:

- (a) When new access connection permits are requested;
- (b) Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor; or
- (c) As roadway improvements allow.
- (d) With development of a new primary structure on the property.

(Code 1965, App. C., Art. IV, §§C, D, F—H; Ord. No. 1750, 7-6-70; Ord. No. 1801, 6-21-71; Ord. No. 2196, 2-17-76; Ord. No. 2353, 7-5-77; Code 1991, §§159.45, 159.58, 159.51—159.53; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4757, 9-6-05; Ord. No. 4919, 9-05-06; Ord. No. 5156, 8-5-08; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12; Ord. No. 5642, 12-03-13; Ord. No. 6179, §1, 4-16-19; Ord. No. 6207, §§1—4, 7-16-19; Ord. No. 6244, §1, 10-1-19; Ord. No. 6350, §4(Exh. C), 8-18-20)

172.11 - Driveway And Parking Standards For Four (4) Or Less Parking Spaces

(A) *Purpose.* The purpose of this ordinance section is to promote the public health, safety and general welfare, to prevent the adverse impacts associated with excess parking and over-occupancy of homes in single family districts, and to ensure that compatibility of land uses within single family districts remain intact.

(B) *Applicability.* The following requirements shall apply to properties within single family districts that require four (4) or less parking spaces and properties within all zoning districts that are utilized for a single family detached home requiring four (4) or less parking spaces. The regulations herein do not apply to motor vehicles located completely within or underneath garages or carports, nor to properties zoned Residential Agricultural.

...

(K) *Loop, Circle, and Multiple Driveways.* Loop, circle and multiple driveways on a single property shall be allowed so long as a 30 foot separation between the drives is maintained, as measured from the interior edges of the curb cuts, subject to other restrictions for driveway separations in the UDC.

12/13/2023

To Sarah Sparkman and the Fayetteville Planning Commission

I am the owner of the duplex at 117/129 E Ella St. I purchased the duplex in 2018 as one of my passions is offering small, affordable housing units to residents in Fayetteville. The reason I am requesting a variance is because I'd like to add a small ADU to the lot in an unused section of the property to be able to provide housing for another resident in Fayetteville. In communication with Planner Kylee Hevrdejs, we discovered that the existing driveways to the duplex (built in 2007) are non conforming due to:

172.11 (K) Loop, Circle, and Multiple Driveways. Loop, circle and multiple driveways on a single property shall be allowed so long as a 30 foot separation between the drives is maintained, as measured from the interior edges of the curb cuts, subject to other restrictions for driveway separations in the UDC.

The existing driveways for the duplex are about 24 ft, 10 inches apart rather than the new requirement of 30 ft apart. art.

Since I am wanting to provide a driveway for the ADU I hope to build, that will require addressing the nonconforming driveways due to:

(166.08 (G)Non-Conforming Access Features. (1)Existing. Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:(a)When new access connection permits are requested;(b)Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor; or(c)As roadway improvements allow.(d)With development of a new primary structure on the property.)

I'd like a variance to simply leave the existing driveways in place and still have the option to add a single car width ribbon driveway off S College Ave as shown in the attached preliminary site plan. I believe it is to the advantage of the future resident of the ADU cottage as well as to the advantage of the City of Fayetteville and the neighbors that we be able to provide off-street parking and a covered carport instead of relying on street parking for the resident of the ADU. That's why I am requesting a variance to be approved for the existing driveways.

Without a variance, I would have 2 options as I move forward to build an ADU cottage:

1. cut out part of each existing driveway, making them narrower until there is 30 feet between them (approx 3 feet cut off each driveway).

----- Not only would the expense of doing this option be a hardship to me as the property owner, it would also reduce the usability of the driveways to the residents of the existing duplex.

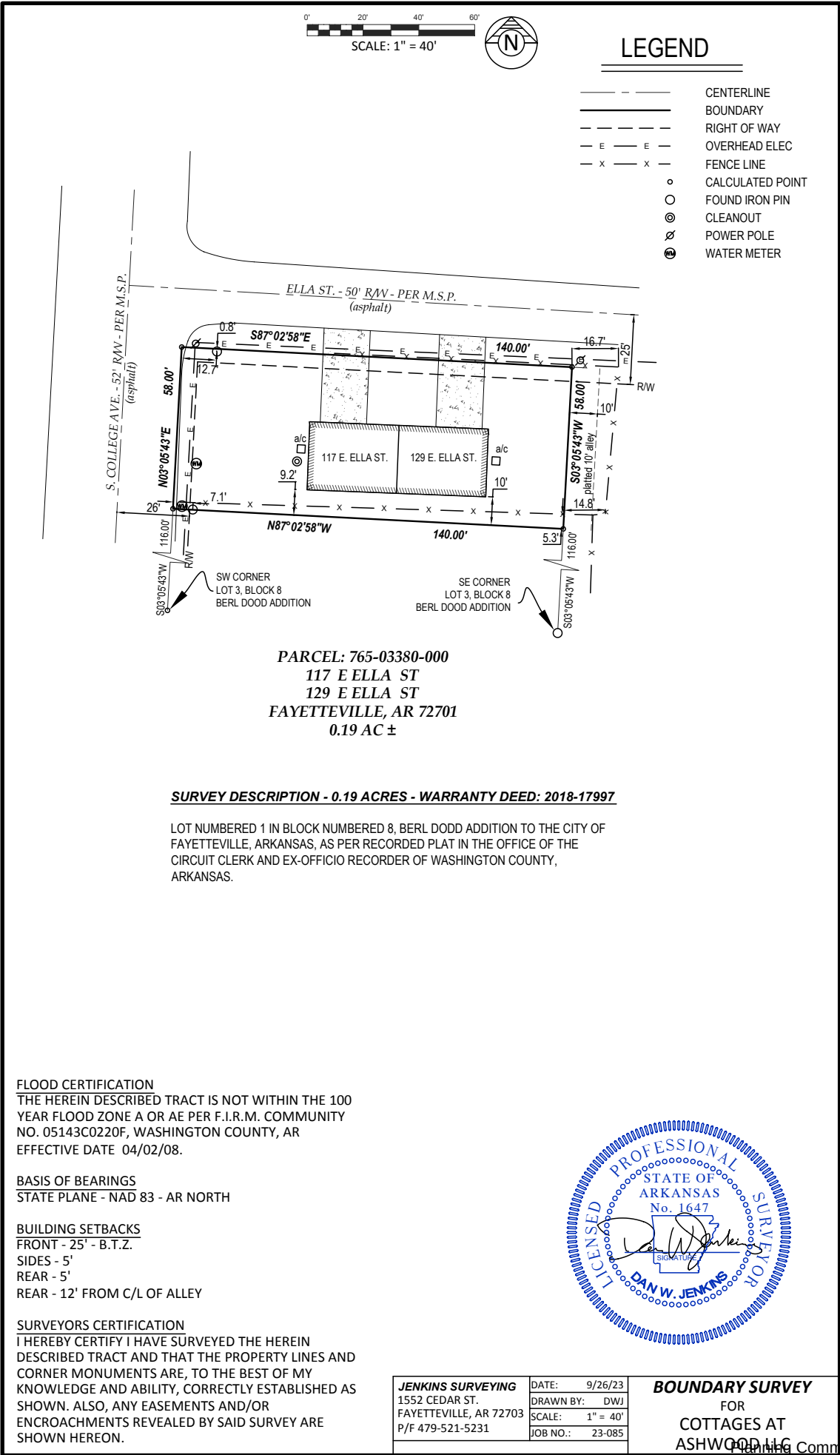
2. In order to avoid triggering the ordinance 166.08 (G) referenced above, I could build the ADU with no driveway or parking but then the resident would be required to park in the street or at Walker Park across the street.

-----While it would actually be cheaper for me to build an ADU without a driveway I believe that providing parking for the resident will create a better living environment, it will reduce hardship to the City of Fayetteville by not creating more street parking and also still fit with the spirit and purpose of the NC zoning by protecting the neighborhood character while still providing housing

I believe this variance approval will avoid the hardship involved in cutting out part of the existing driveways just to meet the 30 ft required distance between driveways. The unnecessary expense and decreased driveway usability to the residents of the existing duplex would be a detriment to the neighborhood.

Thank you for your consideration,

Stephen Brooks



PARCEL: 765-03380-000

117 E ELLA ST
129 E ELLA ST
FAYETTEVILLE, AR 72701
0.19 AC ±

SURVEY DESCRIPTION - 0.19 ACRES - WARRANTY DEED: 2018-17997

LOT NUMBERED 1 IN BLOCK NUMBERED 8, BERL DODD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER RECORDED PLAT IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

FLOOD CERTIFICATION

THE HEREIN DESCRIBED TRACT IS NOT WITHIN THE 100 YEAR FLOOD ZONE A OR AE PER F.I.R.M. COMMUNITY NO. 05143C0220F, WASHINGTON COUNTY, AR
EFFECTIVE DATE 04/02/08.

BASIS OF BEARINGS

STATE PLANE - NAD 83 - AR NORTH

BUILDING SETBACKS

FRONT - 25' - B.T.Z.
SIDES - 5'
REAR - 5'
REAR - 12' FROM C/L OF ALLEY

SURVEYORS CERTIFICATION

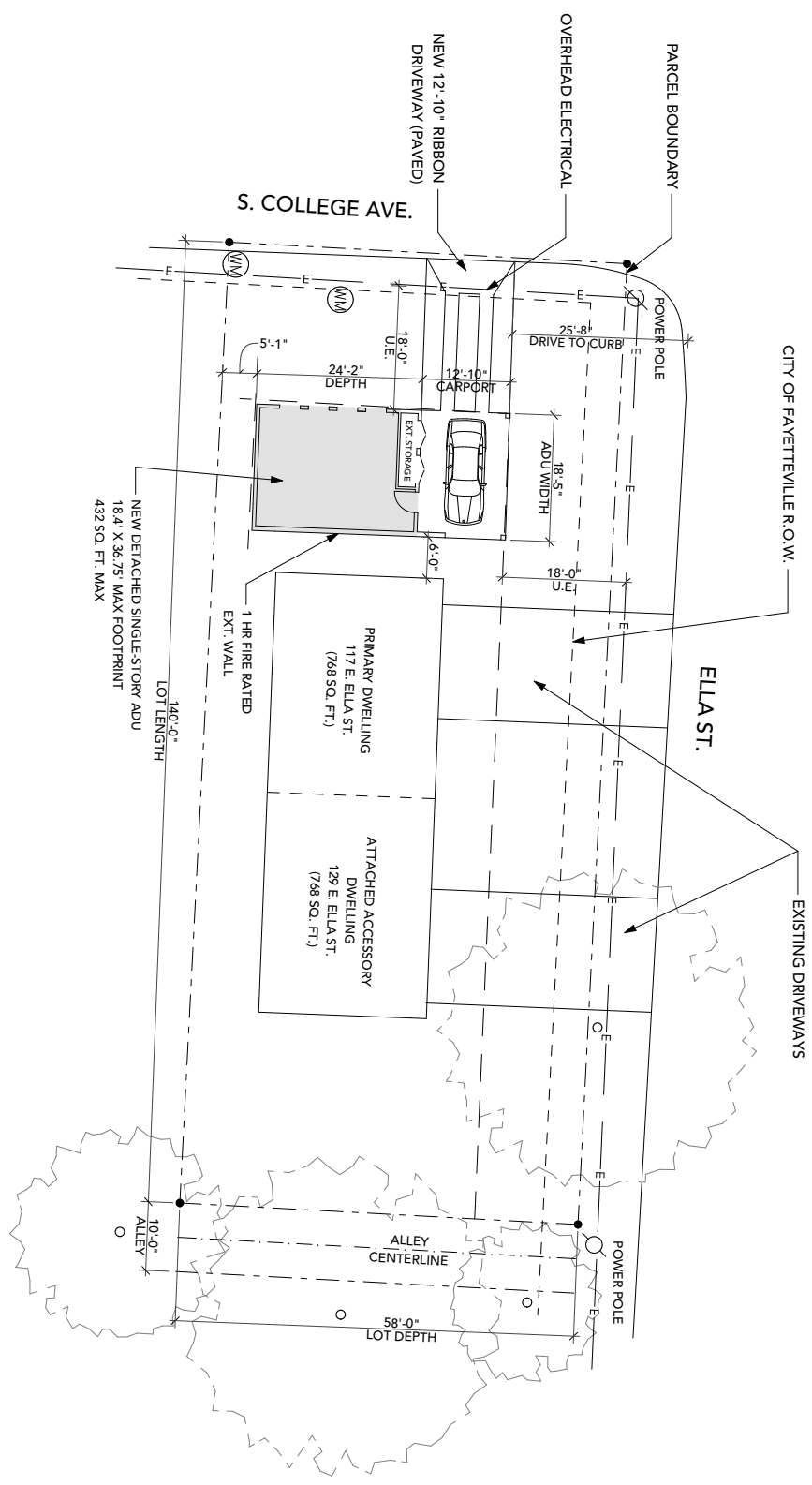
I HEREBY CERTIFY I HAVE SURVEYED THE HEREIN DESCRIBED TRACT AND THAT THE PROPERTY LINES AND CORNER MONUMENTS ARE, TO THE BEST OF MY KNOWLEDGE AND ABILITY, CORRECTLY ESTABLISHED AS SHOWN. ALSO, ANY EASEMENTS AND/OR ENCROACHMENTS REVEALED BY SAID SURVEY ARE SHOWN HEREON.

JENKINS SURVEYING
1552 CEDAR ST.
FAYETTEVILLE, AR 72703
P/F 479-521-5231

DATE: 9/26/23
DRAWN BY: DWJ
SCALE: 1" = 40'
JOB NO.: 23-085

BOUNDARY SURVEY
FOR
COTTAGES AT
ASHWOOD II





ARCHITECTURAL SITE PLAN
SCALE 1/8" = 1'-0"

117 Ella St.

117 Ella St., Fayetteville AR
72701
PROJECT NO. Project No.

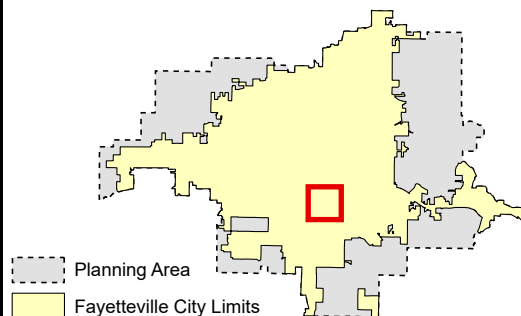
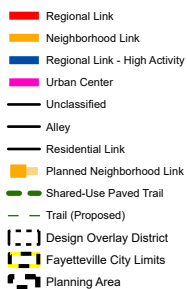
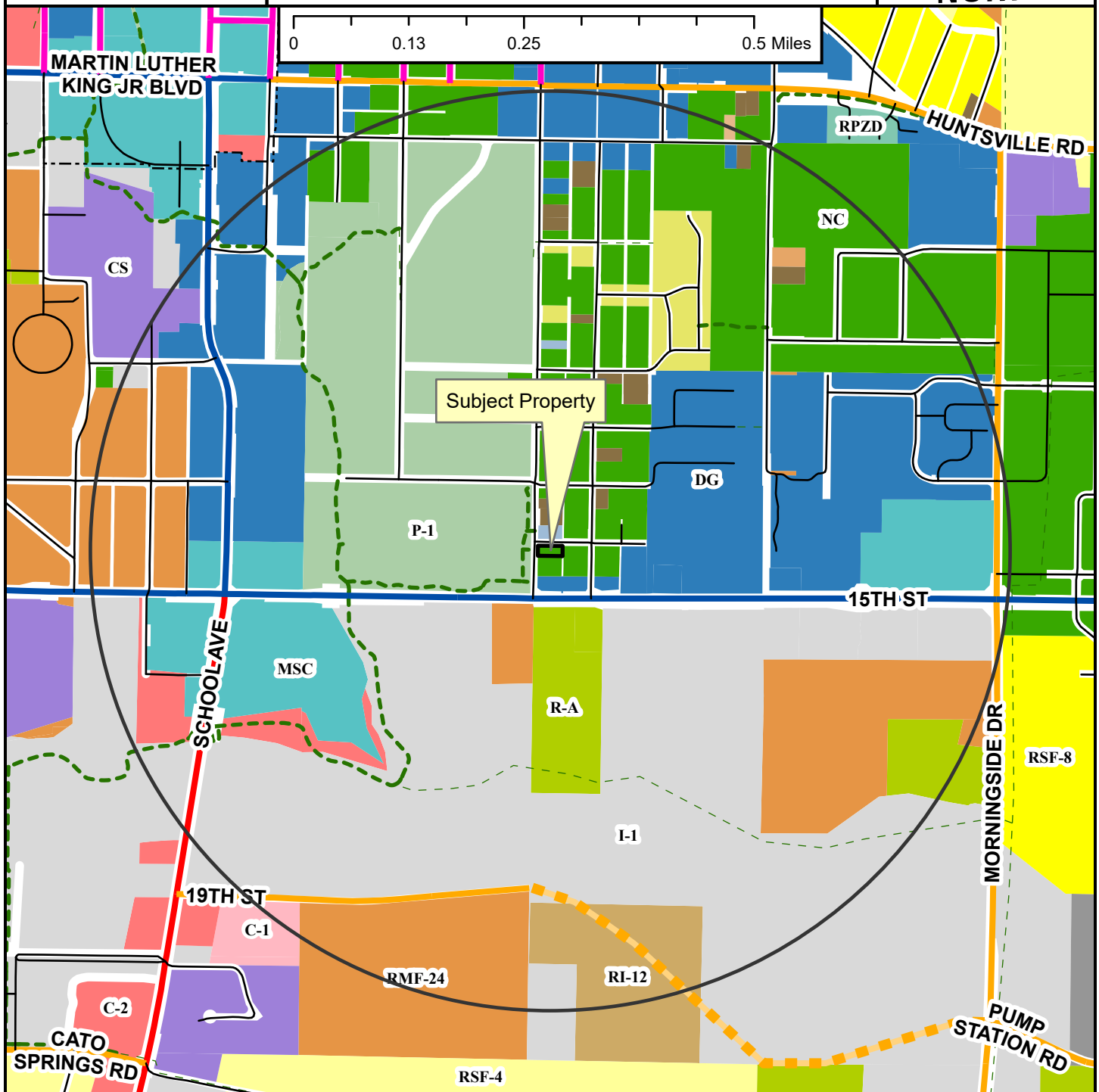
SD3B
ARCHITECTURAL
SITE PLAN

VAR-2023-0054

117 E. ELLA ST

One Mile View

NORTH



Zoning

- I-2 General Industrial
- I-1 Heavy Commercial and Light Industrial
- I-3 Medium Density Industrial

RESIDENTIAL SINGLE-FAMILY

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

RESIDENTIAL MULTI-FAMILY

- RMF-6
- RMF-12
- RMF-18
- RMF-24
- RMF-40

INDUSTRIAL

- I-1 Heavy Commercial and Light Industrial

EXTRACTION

- E-1

COMMERCIAL

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

FORM BASED DISTRICTS

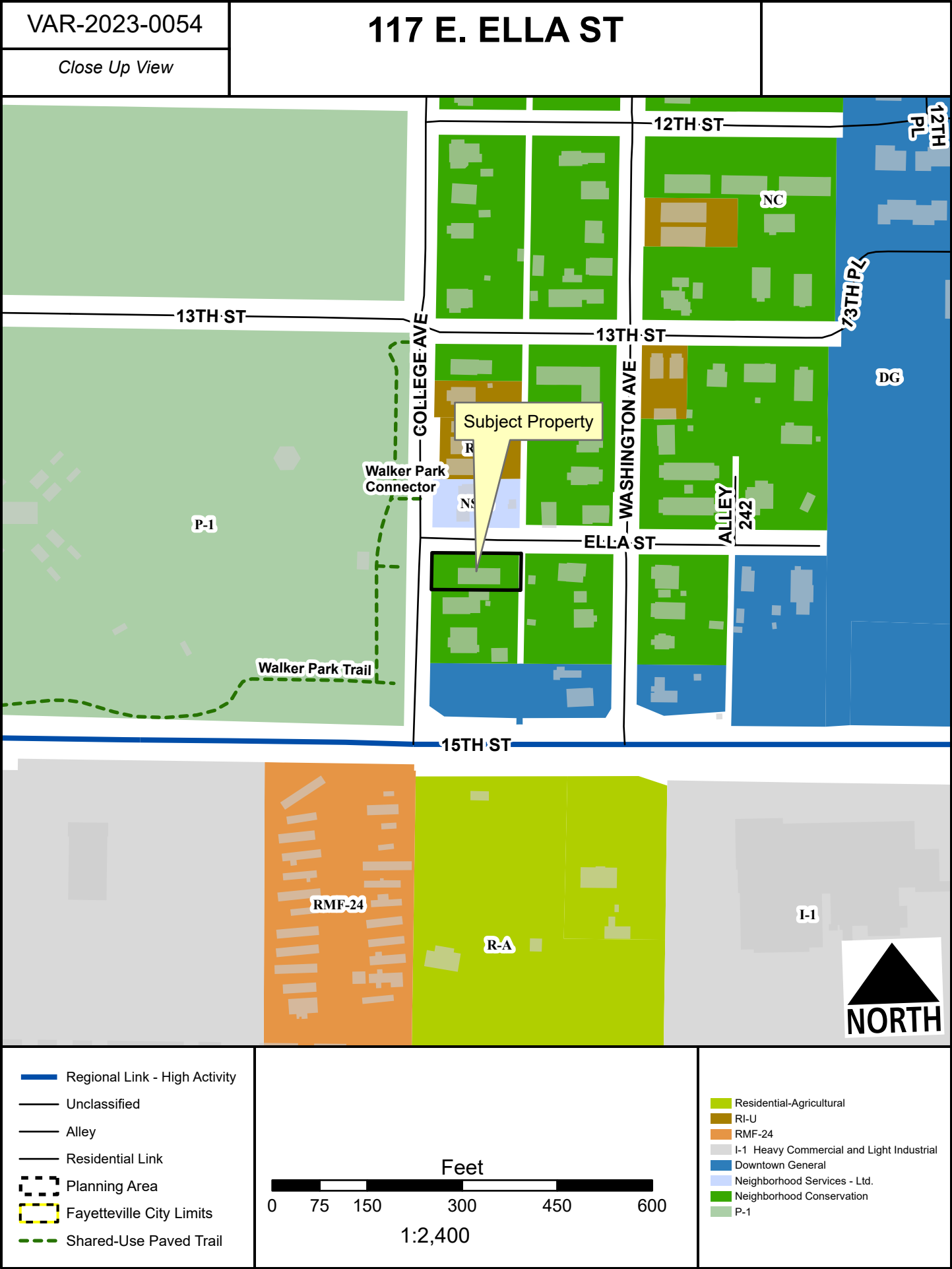
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS

- Commercial, Industrial, Residential

INSTITUTIONAL

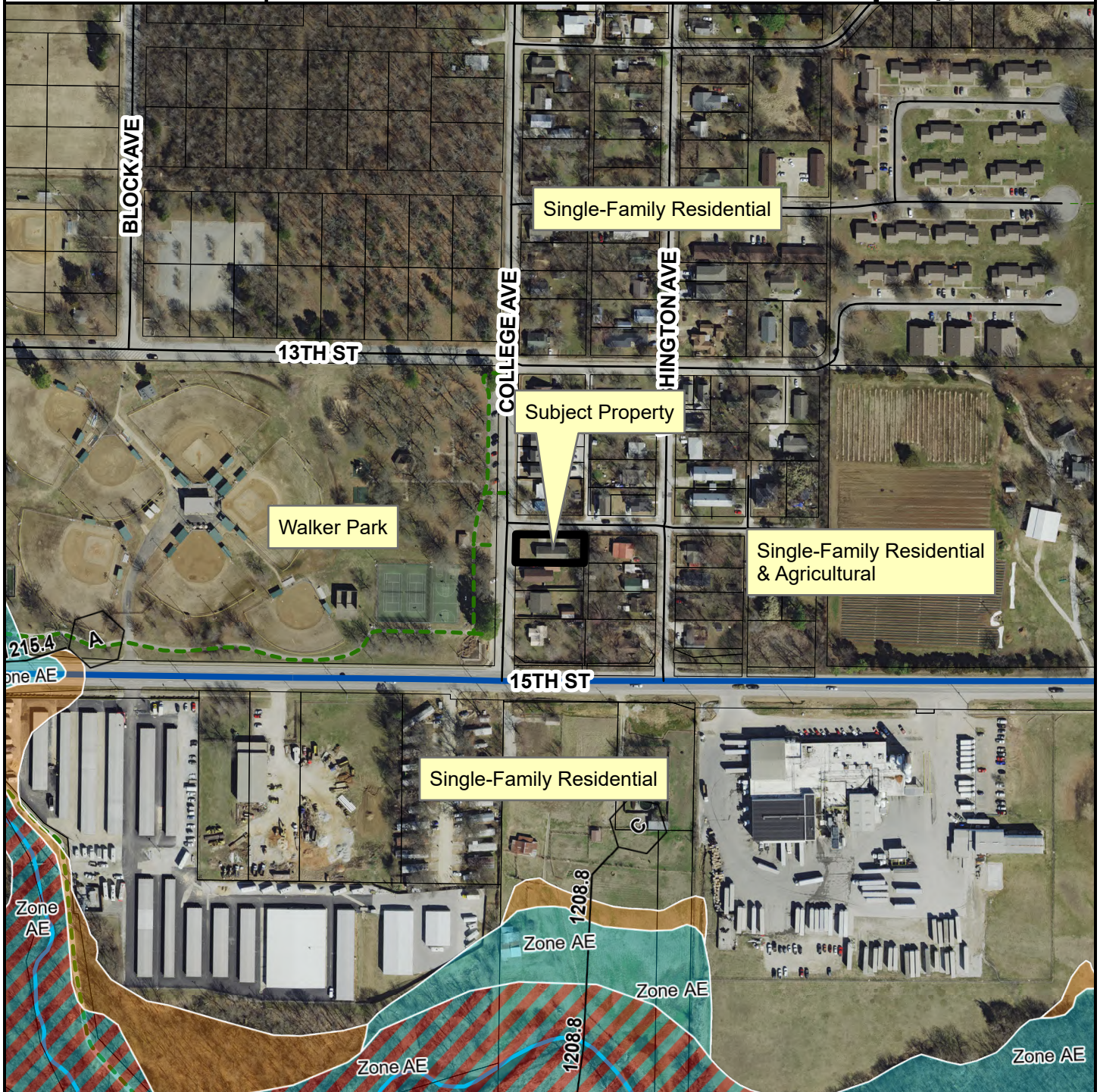
- P-1



VAR-2023-0054

117 E. ELLA ST

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forester

MEETING: January 22, 2024

SUBJECT: **PPL-2023-0006: Preliminary Plat (SOUTH OF W. PLANETREE ST./THE ELEMENT PHASE 4, 516):** Submitted by JORGENSEN & ASSOCIATES for property located SOUTH OF W. PLANETREE ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.79 acres. The request is for the preliminary plat of 141 residential lots and one non-buildable lot.

RECOMMENDATION:

Staff recommends approval of **PPL-2023-0006** with conditions.

RECOMMENDED MOTION:

"I move to approve PPL-2023-0006, determining:

- In favor of the recommended street improvements;*
- In favor of the variance to §166.08(E), Block Length;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property includes 39.79 acres located in west Fayetteville between S. Broyles Ave. and S. Ruppel Rd. The property is largely clear, level, and undeveloped. This will be the fourth phase of the Element subdivision (formerly known as the Broyles subdivision). Phases I and II received final plat approval in 2022 for 56 and 27 single-family lots, respectively. The final plat for Phase III was approved in late 2023 for 43 single-family lots. Surrounding land use and zoning is depicted in Table 1.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential (The Element, ph. 1 & 2)	NC, Neighborhood Conservation
South	Undeveloped/Agricultural	NC, Neighborhood Conservation
East	Single-family Residential (Under Construction)	NC, Neighborhood Conservation; R-A, Residential-Agricultural; RSF-18, Residential Single-Family 18 units per Acre
West	West Side Wastewater Treatment Facility; Undeveloped	R-A, Residential Agricultural

Proposal: The applicant is proposing a residential subdivision with 141 single-family lots and one non-buildable lot. A variance to §166.08(E)(1)(c), Block Length and §166.08(E)(3), Connectivity is also requested.

Street Improvements:

Internal Streets: The internal street system includes six Residential Link streets with 52-foot right-of-way. These are proposed with improvements in accordance with the Master Street Plan.

Block Length/Connectivity: The subdivision is providing two street connections to the east, four to the north, and one to the west to Broyles Avenue. The western connection will require crossing city-owned property (and ultimately City Council approval) to facilitate a Master Street planned connection through the area. Although originally planned to connect through the southern portion of the development area, staff is recommending the alignment be made as proposed to avoid areas of floodplain and tree preservation.

The applicant has requested a variance to **§166.08(E), Block Length**, which requires that intersections on Residential Link streets will occur at a minimum of one (1) every 660 feet. Along Neon Ave./Street D, the applicant proposes a block length of 965 feet. Similarly, a variance to **§166.08(E)(3), Connectivity** is required as connectivity to the south is not proposed.

Staff recommendation: Staff finds that the requested variance to block length and connectivity is appropriate given the existence of a flood zone on the southern end of the development that makes street connections to the south unfeasible. Alternatively, staff recommends pedestrian connectivity to the south via a trail connection. As a condition of approval for this variance, staff requested a pedestrian connection to the trail between lots 19 and 21, which the applicant has provided. At Subdivision Committee, staff and the committee recommended a condition that the applicant provide a cost estimate for the connection of the trail to the existing Woolsey Trail to the south so that staff could further evaluate the rough proportionality. In the interim, the applicant provided a cost estimate for the trail connection, proposing a 45-foot pedestrian bridge and associated improvements totaling \$128,000. The City Engineer also issued a determination of “No Feasible Alternative” for this crossing.

In evaluating the rough proportionality of this request, staff considered the entire Element subdivision and previously required improvements including sidewalks, streetlights, street trees, and a lift-station. With this phase of development, the developer was asked to facilitate a Master Street Plan connection, which they proposed be at the northwest corner of the site, to avoid disturbing a tree preservation area and avoid a flood study. Staff were supportive of this realignment and the avoidance of the floodplain. Since the proposed Woolsey Trail connection can avoid the floodplain entirely a flood study is not required and the burden on the developer is lessened. This recommended trail connection would benefit the entire Element subdivision (approximately 267 lots in total, including this phase) and is roughly proportional to the needs created by the addition of 141 additional single-family lots. Staff recommend construction of the trail connection in full at the developer’s expense.

Water and Sewer System: The applicant is proposing to extend 8” water and sewer mains throughout the development for service.

Tree Preservation:

Canopy minimum requirement: 20.6%

Existing canopy: 10%

Preserved canopy: 10%

Mitigation required: 12,280 Sq. Ft. (56 2” caliper trees)

Parks: In February of 2020, the Parks Recreation and Advisory Board reviewed this project and recommended payment in-lieu of parkland dedication, totaling \$157,905 for 145 single-family lots. Currently, 141 single-family lots are proposed, totaling \$153,549. Fees are due before signing of the final plat.

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

RECOMMENDATION: Staff recommends approval of PPL-2023-0006, with the following conditions.

Conditions of Approval:

1. Planning Commission determination of street improvements:
 - a. *The internal streets shall be constructed as depicted on the proposed preliminary plat in accordance with the Master Street Plan for a Residential Link;*
 - b. *Streetlights shall be installed in accordance with code at all street intersections and spaced no more than 300 feet;*
 - c. *Right-of-way dedication for the internal streets shall be 52 feet based on the Master Street Plan;*
 - d. *W. Buckaroo St. shall connect to S. Broyles Ave. at the developer's expense, contingent upon any required City Council approval for the construction on City-owned property.*

The Subdivision Committee recommended in favor of the proposed street improvements

2. Planning Commission determination of a variance to §166.08(E), Block Length for a block length exceeding 660 feet and to §166.08(E)(3), Connectivity for no street connection to the south:
 - a. *Staff recommends in favor of the request with the following condition: a connection to the Woolsey Trail will be constructed in full at the developer's expense.*

The Subdivision Committee recommended in favor of the proposed variances. Additional information was received by City staff between the Subdivision Committee and Planning Commission meetings and are evaluated in full above.

3. Fees-in-lieu for parkland dedication shall be paid in the amount of \$153,549 for the creation of 141 single-family lots.
4. Conditions of approval from Engineering, Urban Forestry, and Parks Department are included in the official conditions of approval, attached hereto;

Standard conditions of approval:

5. All existing overhead utility lines 12kV and under shall be relocated underground. All proposed utilities shall be located underground;
6. Sidewalk along all commonly owned lots (detention ponds, etc.) shall be constructed prior to final plat. All other sidewalks shall be constructed or guaranteed prior to final plat;

7. All street names shall be approved by the 911 Coordinator and indicated on the final plat. All streets require naming for final addresses. Contact the addressing office at (479) 575-8380 for more details;
8. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat;
9. A floodplain development permit is required prior to construction for any grading or structures in the flood zone;
10. 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, SWBT, Ozarks, SWEPCO, Cox Communication)
11. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements; and
12. Preliminary Plat approval shall be valid for one calendar year.

Planning Commission Action: ☐ Tabled ☐ Approved ☐ Denied Meeting Date: <u>January 22, 2024</u> Motion: Second: Vote:
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BUDGET/STAFF IMPACT:

None.

Attachments:

- UDC 166.08 – *Street Design and Access Management Standards*
- City Engineering comments
- Urban Forestry comments
- Parks comments
- Request Letter
- Site Plans
- One Mile Map
- Close-up Map
- Current Land Use Map

166.08 Street Design And Access Management Standards

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- (B) *Fitness for Development.* Based on topographic maps, soil surveys prepared by the Department of Agriculture and drainage information from the Future Land Use Plan and the Hillside/Hilltop Overlay District, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property.
- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed with new primary structures and all other developments where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).
- (D) *Street Design Principles.*
 - (1) *Extensions.* All street extensions shall be constructed to minimum street standards. Street extension stub-outs to adjacent properties are required to meet block layout/connectivity standards unless existing development or physical barriers prohibit such.
 - (2) *Substandard Widths.* Developments that adjoin existing streets shall dedicate additional right-of-way to meet the Master Street Plan.
 - (3) *Street Names.* Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names shall not duplicate or be similar to existing street names. Developers shall coordinate the naming of new streets through the GIS Office during the plat review process.
 - (4) *Pedestrian.* Pedestrian-vehicular conflict points should be controlled through signalized intersections and proven traffic calming design principles.
 - (5) *Street Standards.* All street requirements shall be met as set forth in the City of Fayetteville Master Street Plan and adopted minimum street standards.
- (E) *Block Layout/Connectivity.*
 - (1) *Block Length.* Block lengths and street intersections are directly tied to the functional hierarchy of the street pattern that exists or is proposed.
 - (a) *Regional and Regional High Activity Links.* Signalized intersections should be located at a minimum of one (1) every 2,640 feet (half a mile) along regional links and should be based on traffic warrants.
 - (b) *Neighborhood Links.* Intersections should be located at a minimum of one (1) every 1,320 feet (quarter of a mile) along neighborhood links.
 - (c) *Residential Link and Downtown/Urban Street.* Intersections shall occur at a minimum of one (1) every 660 feet.
 - (d) *Variances.* Block length standards may be varied by the Planning Commission when terrain, topographical features, existing barriers or streets, size or shape of the lot, or other unusual conditions justify a departure.
 - (2) With the exception of corner lots, double-street frontage lots are prohibited except where such lots front on access restricted roadways such as expressways. Alleys are not considered as frontage. Double frontage lots may be permitted by the Planning Commission for topographical problems, feasibility issues relating to the parcel's dimensions, or other good cause which must be established and proven by the developer. The Planning Commission may impose additional landscape requirements along the back of such double-frontage lots. Unless otherwise approved by the Planning Commission, all primary structures shall be oriented toward the higher functional classification street.
 - (3) *Connectivity.* Wherever a proposed development abuts undeveloped land, street stub-outs shall be provided as deemed necessary by the Planning Commission to abutting properties or to logically extend the street system.
 - (4) *Topography.* Local streets should be designed to relate to the existing topography and minimize the disturbance zone.
 - (5) *Dead-End Streets.* Dead end streets are discouraged and should only be used in situations where they are needed for design and development efficiency, reduction of necessary street paving, or where proximity to floodplains, creeks, difficult topography or existing barriers warrant their use. All dead end streets shall end in a cul-de-sac with a radius of 50 feet, or an alternative design approved by the city

and the Fire Department. The maximum length of a dead end street (without a street stub-out) shall be 500 feet.

- (F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.
- (1) *Curb Cut Separation.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.
 - (2) Separation for two (2) family, three (3) and four (4) family, multi-family and nonresidential development.
 - (a) *Regional and Regional High Activity Links.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway.
 - (b) *Neighborhood Links.* Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along neighborhood links shall be shared between two (2) or more lots.
 - (c) *Residential Links.* Curb cuts shall be located a minimum of 50 feet from an intersection or driveway. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection.
 - (3) *Separation for Single-Family Homes.*
 - (a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. Driveways serving corner lots shall be located as far from the street intersection as possible while still meeting a 5-foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.
 - (b) *Regional and Neighborhood Links.* Individual curb cuts along regional and neighborhood link streets shall be discouraged. When necessary, curb cuts along regional and neighborhood link streets shall be shared between two (2) or more lots.
 - (4) *Reduction in Separation Distance.* In order to protect the ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.
 - (5) *Speed.* All streets should be designed to discourage excessive speeds.
- (G) *Non-Conforming Access Features.*
- (1) *Existing.* Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:
 - (a) When new access connection permits are requested;
 - (b) Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor; or
 - (c) As roadway improvements allow.
 - (d) With development of a new primary structure on the property.
- (H) *Easements.* Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

(Code 1965, App. C., Art. IV, §§C, D, F—H; Ord. No. 1750, 7-6-70; Ord. No. 1801, 6-21-71; Ord. No. 2196, 2-17-76; Ord. No. 2353, 7-5-77; Code 1991, §§159.45, 159.58, 159.51—159.53; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4757, 9-6-05; Ord. No. 4919, 9-05-06; Ord. No. 5156, 8-5-08; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12; Ord. No. 5642, 12-03-13; Ord. No. 6179, §1, 4-16-19; Ord. No. 6207, §§1—4, 7-16-19; Ord. No. 6244, §1, 10-1-19; Ord. No. 6350, §4(Exh. C), 8-18-20; Ord. No. 6658, §9, 5-2-23)



TO: Kylee Hevrdejs, Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: January 18, 2024

SUBJECT: **Planning Commission Engineering Comments for
PPL-2023-006 The Element Phase 4**

Water: The applicant is proposing to extend 8" water mains through the development to provide fire protection and domestic water.

Sewer: The applicant is proposing to extend 8" sewer mains through the development to provide sanitary sewer.

Streets: The applicant is proposing to install typical residential streets in the development as well as provide a Master Street Plan connection to Broyles Ave. The City is supportive of the proposed connection and is currently working through the necessary steps to allow construction of the proposed residential street on city property.

Natural Features: A portion of this property is shown to have hydric soil which may indicate potential wetlands. A wetland delineation must be provided with, or prior to grading permit submittal. There is also regulatory flood plain and floodway as well as stream side protection zone. Additionally, portions of the site are encumbered by special flood hazard areas. Currently the applicant is proposing to avoid those areas.

Drainage: The proposed subdivision will add more than 10,000 square feet of impervious area and therefore must meet the 4 Minimum Standards outlined in the Drainage Criteria Manual. Water quality is proposed to be met via the use of a proprietary device, micro-pool detention pond, as well as a bioretention pond. Channel Protection is proposed to be met by releasing the increase in volume for the 1-year storm over a period of 40 hours. Overbank and Extreme Flood Protection are proposed to be met with a detention pond. Additional review of the drainage and storm network will occur during grading permit.

Plan Comments:

1. Depending on timing, connection of this development's utilities to Towne West utilities will be required by this development. If Towne West utilities are not in place, stub outs will be required.
2. Water and sewer alignment will be reviewed in greater detail during grading permit review.
3. 150' should be used as the length for sheet flow calculations provided in the drainage report.

Standard Comments:

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



URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Charles A. Zardin, PE, Jorgensen + Associates
From: Melissa Evans, Urban Forester
CC: Kylee Cole, Planner
Meeting Date: January 22, 2024
Subject: PPL- 2023-0006: The Element Phase 4: South of W. Plantetree St.

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

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

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

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

5. Landscape Requirement Totals	Amount
Mitigation Trees	56 required
Parking Lot Trees	0
Street Trees	168 Lot Trees provided (169 required)
Detention Pond – Large Trees (1 Tree/3,000 square feet)	15
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	63
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	95

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	11-13-23 12-22-23	1-8-24	1-17-24
Approved			
Tabled			
Denied			

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

Comments

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



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Charles A. Zardin, PE, Jorgensen + Associates

From: Melissa Evans, Urban Forester

CC: Kylee Cole, Planner

Meeting Date: January 22, 2024

Subject: PPL- 2023-0006: The Element Phase 4: South of W. Plantetree St.

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

2. Tree Preservation Calculations

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	1,589,895	100%
Zoning Designation * Select Below with drop down arrow		
NC (20%) & R_A (25%) = 20.6%	327,518	20.6%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	327,518	20.6%
Existing Tree Canopy * Minus Right of Way and Easements	166,799	10%
Tree Canopy Preserved	154,519	10%
Tree Canopy Removed *On Site	12,280	1%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	12,280	1%
Removed Below Minimum	0	
Mitigation Requirements	12,280	1%

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	12,280	56
Low Priority		
Total Mitigation Trees Required	12,280	56

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

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1 and 167.04L1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes
d. Existing Topography and Proposed Grading	Yes	Yes	Yes
e. Soil Types	Yes	Yes	Yes
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	Yes	Yes	Yes
i. All Existing and Proposed Utilities	Yes	Yes	Yes
j. All Existing and Proposed Utility Easements and ROW's	Yes	Yes	Yes
k. All Streams (with approximate center line)	No	No	Yes
l. Floodplains and floodways	Yes	Yes	Yes
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan (if required)	N/A	N/A	N/A
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	N/A	N/A	N/A

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

6. Site Analysis Report (if required) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.	X		
7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	11-13-23 12-22-23	1-8-24	1-17-24
Approved			
Tabled			
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided.
2. Please move the Tree Preservation Fence along the Northeast area of the property to hug the tree line and move the tree preservation fence a minimum of 5’ out of the area of future homes (so the fence can remain while the homes are being constructed).



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: January 9, 2024

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: February 3, 2020

Project Title: The Element (Phase 4) AKA Broyles Subdivision

Project Number: PPL-2023-0006

Project Location: S of W. Planetree St

Plat Page: 516

Park Quadrant: SW

Billing Name & Address: DR Horton, 5502 W Walsh Ln, Rogers, AR 72758

☐ Land Dedication

☒ Fee-in-Lieu

☐ Combination

LAND DEDICATION

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

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

**TOTAL
Acres**

0.0

FEE-IN-LIEU

Single Family: 141 units x \$1,089 per unit = \$153,549

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

**TOTAL
Fees**

\$153,549

SUMMARY:

- Project proposes **145** SF units and **0** MF units.
- The final amount of fee-in-lieu and/or land dedication needed to satisfy Parkland Dedication requirements will be determined after Planning Commission's approval of the Final Plat.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

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Fax: 479.582.4807
www.jorgensenassoc.com

October 31, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Preliminary Plat for The Element Phase 4

This letter is in regards to a proposed Preliminary Plat for The Element Phase 4. This property is located at the south end of Harrogate Lane, just south of the previous phases of The Element Subdivision. Currently the site is mostly open pasture with a tree lined creek running along the southern property line. This property is zoned NC (Neighborhood Conservation) & R-A (Residential – Agricultural) and the proposed development includes 147 buildable lots. Water, Sewer, Street and Drainage improvements are proposed in order to serve these lots. There will be 3 detention ponds in order to meet the minimum drainage requirements.

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

Thank you.

Sincerely;

Charles A. Zardin, PE



January 2, 2024

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: The Element Phase 4 Preliminary Plat - Variance Request

Please accept this request for a variance from the Unified Development Code section 166.08(E) Block Length, which states that intersections shall occur at a minimum of one every 660 feet for Residential Link Streets. The proposed layout for The Element Phase 4 contains one location where the block length exceeds the minimum. This occurs on Neon Ave. / Street D at the southern end of the development where the proposed block length is 965 feet. This is due to the existing creek and flood zone to the south / southeast, which makes it unfeasible to propose a roadway connection to the south and break-up the block. Therefore, we would like to request a variance to allow for the block length to exceed 660 feet at this location.

In regard to the potential trail connection across the Streamside Protection Zone and extending to the property to the south, the developer would like to propose to pay an assessment fee for their portion of the improvements.

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

Thank you.



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January 15, 2024

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: The Element Phase 4 Preliminary Plat – Trail Extension Cost Estimate

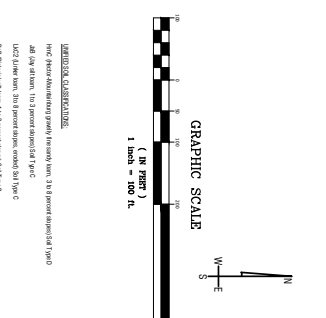
The following is a cost estimation for the future trail bridge at the southwestern portion of the proposed Element Phase 4 Subdivision.

45-foot Modified Bow Pedestrian Bridge: \$67,200
Concrete Bridge Foundation: \$52,000
Excavation / Dirt Work: \$9,000

Total: \$128,200

Developers contribution = 50% of total, \$64,100

Thank you.



The Preservation Calculations		Square Feet Preserved as a % of Total
Total City Area * 100 (Right of Way and Easements)	1,500,000	100%
Zone(s) Disposition	NC (20%)	
Combined Average (NC & R-1)	188,250	
20% * 2500 (Total City Area with 20% Zone) <i>minus</i>	37,515	25.6%
Zone(s) Disposition	NC	
Total City Area for Minimum Preservation Requirements	156,735	26.6%
Existing City Area * Minus Right of Way and Easements	154,515	10%
Zone(s) Preserved	12,280	12.80%
Zone(s) Removed to Site	12,280	12.80%
Zone(s) Removed Total	24,560	1.6%
Zone(s) Preserved Total	12,280	0.8%
Removed below Minimum	12,280	1%

SHEET TITLE
TREE PRESERVATION
PLAN
SHEET NUMBER



EXISTING & SEWER LINE	SS-3
PROPOSED & SEWER LINE	SS-3
EXISTING WATER LINE	SS-4
PROPOSED & WATER LINE	SS-4
CENTRELINE STREET	SS-4
BUILDING SETBACK	SS-4
UTILITY EASEMENT	SS-4
NEW SIDEWALK	SS-4
UTILITY CROSSING	SS-4
EXISTING CONTOUR	SS-4
FINISHED CONTOUR	SS-4
PROJECT DETAILS	SS-4

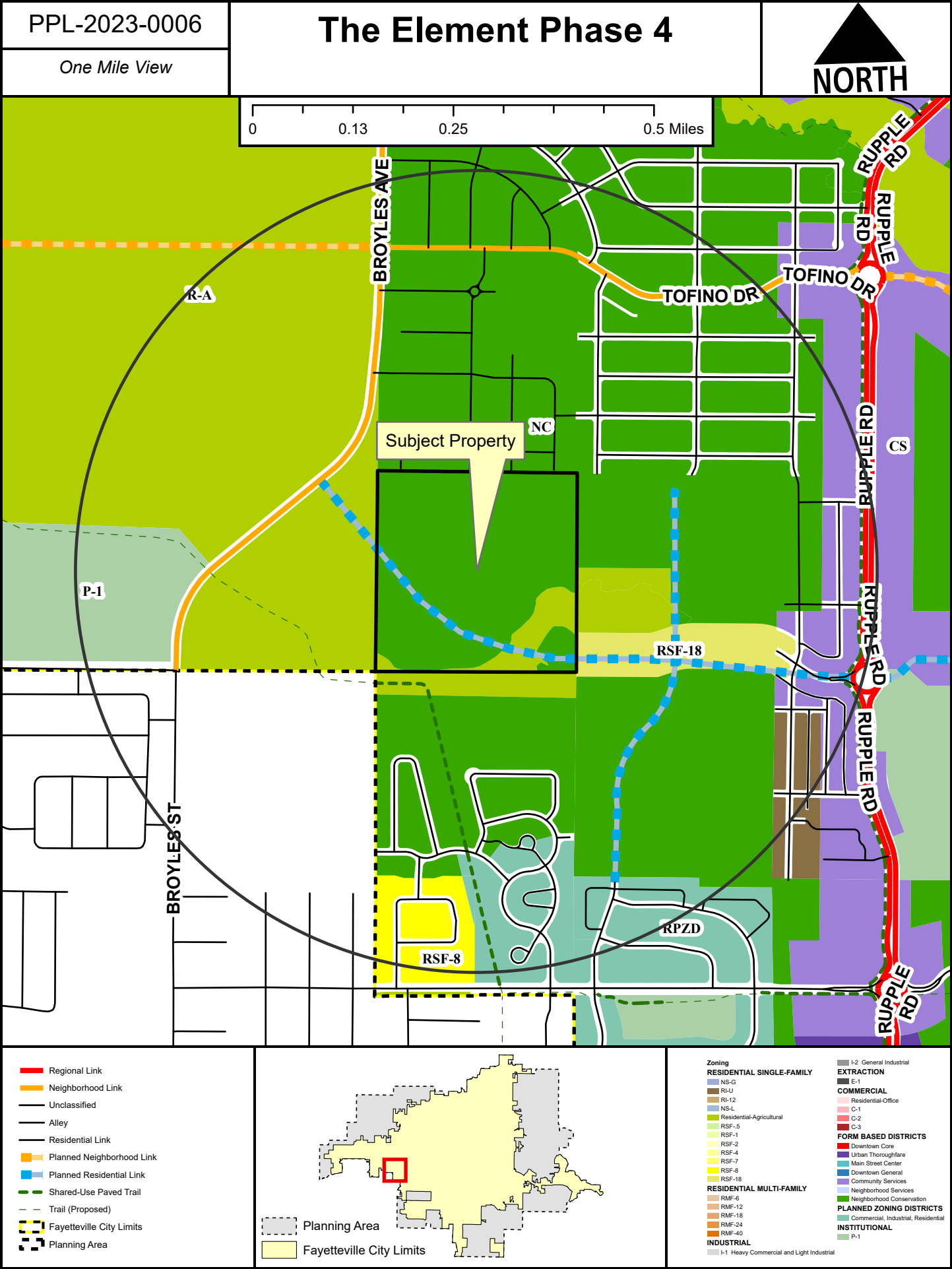
X CALCULATING POINT
 O ROUNDING POINT
 S SIGN IN/OUT
 C CHECKPOINT
 S STOPPING POINT
 S SERVICE AREA
 S SIGHT TRIANGLE

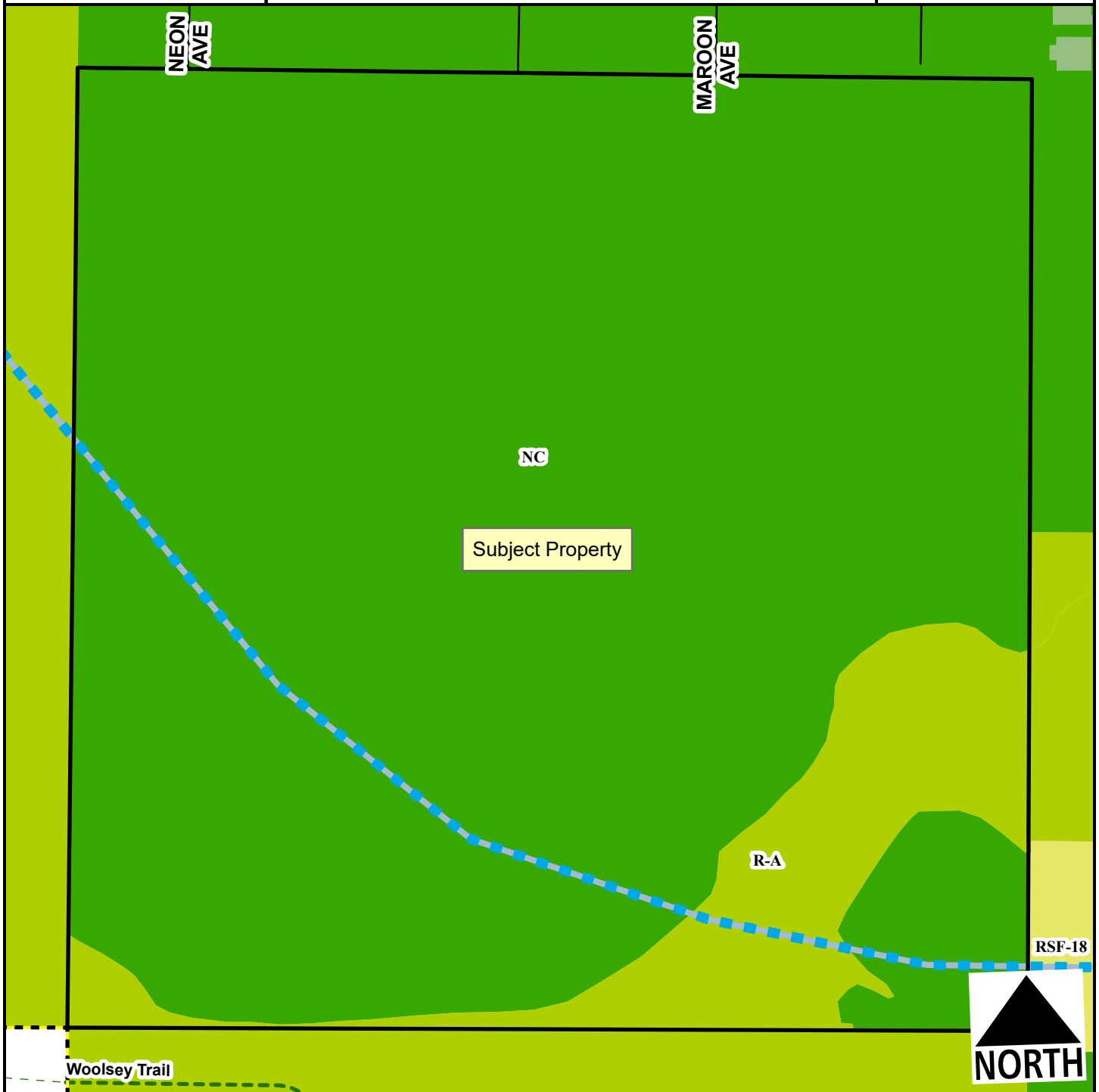
JORGENSEN
 + ASSOCIATES
 Civil Engineering / Surveying / Environmental Science

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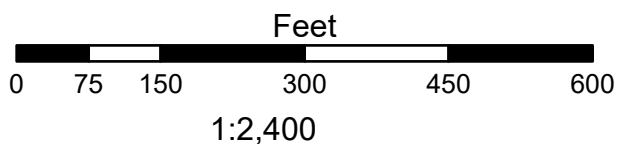
January 22, 2024

THE ELEMENT PHASE

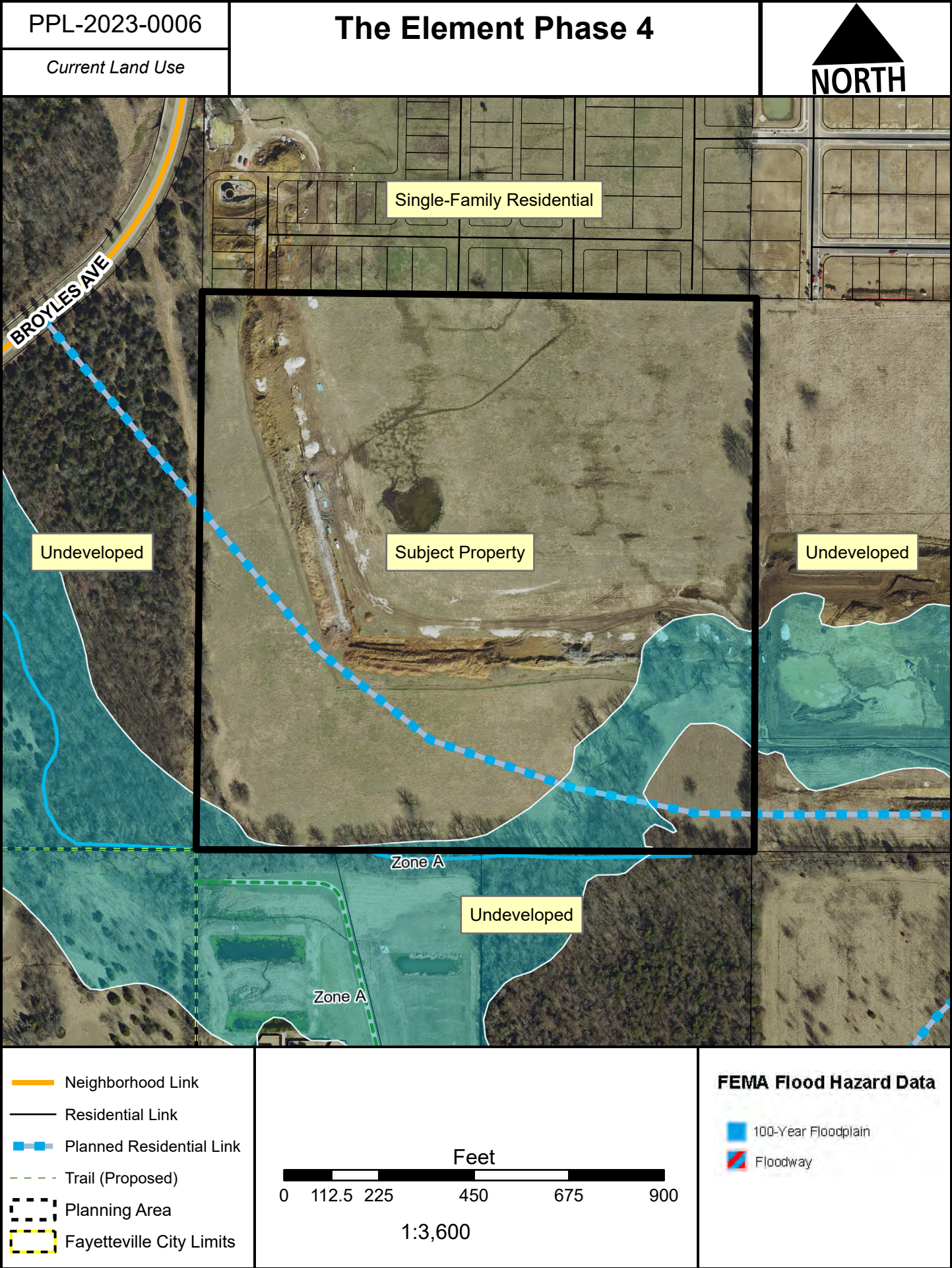




- Residential Link
- Planned Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



- Residential-Agricultural
- RSF-18
- Neighborhood Conservation





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forester

MEETING: January 22, 2024

SUBJECT: **LSD-2023-0022: Large Scale Development (1236 S. SCHOOL AVE/VAUGHN RECYCLING, 562):** Submitted by BLEW & ASSOCIATES for property located at 1236 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 2.33 acres. The request is for a series of site improvements to the existing facility.

RECOMMENDATION:

Staff recommends approval of **LSD-2023-0022** with conditions.

RECOMMENDED MOTION:

*"I move to approve **LSD-2023-0022**, recommending:*

- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements,*
- In favor of a variance to UDC §166.08(F)(2)(a), and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

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

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

In February of 2021, staff received a complaint that the recycling business was storing multiple trailers in front of the property and that the operation had expanded to the northern lot without a permit (CVZD-2021-000262). A separate complaint was submitted to the City's Transportation Division due to dirt and mud being tracked onto School Avenue. Multiple inspections confirmed the presence of trailers, debris, and an expanded footprint of the business. A violation letter was issued on April 28, 2021, which notified the property owner that the recycling business was in violation of its conditional use permit. Staff advised the applicant that amending their conditional use permit was an option to remedy the violation. The property owner applied but their amendment request was subsequently denied by the Planning Commission. The applicant appealed the Planning Commission's decision to City Council where the expansion and a one-year extension was granted on October 5, 2021 (Res. 247-21). It was determined with that request that a large scale development would be needed to account for the recycling center's expansion onto the lot to the north to bring the site into compliance with the City's current standards for access management, drainage, landscaping, and tree preservation.

In September of 2022, the property owner submitted another request to amend and extend the recycling center's conditional use permit approval. Specifically, the applicant requested permission to expand the loading/processing area to the northern lot, add time for trailers to be parked, remove a requirement for a six-foot privacy fence along the northern property line, and extend the permit's approval in perpetuity provided the business remain in compliance. Their request was approved by the Planning Commission, limiting them to a one-year extension with an added condition that the property not be used as Use Unit 31, Facilities emitting odors and facilities handling explosives (ADM-2022-0048). In September of 2023, the applicant requested another one-year extension to give them additional time to submit a large scale development application (ADM-2023-0036). That request was approved by the Planning Commission, extending their conditional use permit approval to September 26, 2024. Existing land uses and zoning surrounding the property are depicted in *Table 1*.

**Table 1:
Surrounding Land Uses and Zoning**

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

Proposal: The applicant requests large scale development approval for a series of site improvements associated with the expansion of the existing recycling center. One variance from the Unified Development Code has been requested as described below:

- **§166.08(F)(2)(a) Street Design and Access Management Standards – Regional and Regional High Activity Links.** Where a curb cut must access a Regional Link, it shall be located a minimum of 250 feet from an intersection or driveway. The applicant proposes to maintain two curb cuts on the subject property which do not meet the minimum separation requirement outlined in code.
 - *Staff recommendation: Staff is supportive of this variance request, with conditions. The site currently has four curb cuts along School Avenue. The applicant is proposing to close their portion of a shared curb cut at the far north end of their property as well as another curb cut about 27 feet south of it. The two remaining curb cuts farther south would be maintained, and narrowed, to provide access to the site. While the overall number of curb cuts is being reduced, the minimum 250-foot separation required along Regional High Activity Link Streets would not be*

maintained. The two remaining curb cuts would be spaced about 58 feet apart, with the southern one located about 33 feet away from the nearest one on the property to the south, and the northern one located about 127 feet away from the nearest one on the property to the north. Staff finds that the requested access management variance is necessary for vehicular circulation on site. However, engineering staff has recommended that conditions of approval be added to limit the potential for adverse impacts associated with the reduced curb cut separation. Those conditions are outlined in the attached memo provided by engineering and they have been incorporated into the conditions of approval recommended in this staff report.

Right-of-Way to be Dedicated: The subject property has frontage along School Avenue which is classified as a Regional High-Activity Link Street in the 2040 Master Street Plan. Staff recommends right-of-way dedication in the amount of 48 feet from the centerline of the road along the property's frontage to align with the typical street section for a Regional High-Activity Link Street.

Street Improvements: Staff recommends that the property's frontage be improved to align with the typical requirements for a Regional High-Activity Link Street to include a 10-foot-wide sidewalk at the back of the right-of-way, as currently proposed on the provided civil plans.

Access Management/Connectivity: Staff has determined that the proposed improvements are not meeting the City's access management standards. A variance from those standards has been requested by the applicant and is described further above alongside staff's recommendation.

Design Standards: N/A; no parking lots or modifications to the buildings on site are proposed with this request.

Water and Sewer System: The site has existing domestic service on an eight-inch water main along School Avenue. It also has existing access to an 18-inch sanitary sewer main on the east side of the property. No changes are proposed or required to water or sewer systems with this request.

Parkland dedication or fee in-lieu: N/A; non-residential developments are not subject to parkland dedication.

Tree Preservation:

Canopy minimum requirement: 10%

Existing canopy: 15%

Preserved canopy: 10.1%

Mitigation required: None

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

RECOMMENDATION: Staff recommends approving **LSD-2023-0022** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** Staff recommends right-of-way dedication in the amount of 48 feet from centerline along School Avenue;

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

2. **Planning Commission determination of street improvements.** *Staff recommends that the property's School Avenue frontage be improved with 10-foot-wide sidewalk;*

Subdivision Committee recommended in favor of street improvements.

3. **Planning Commission determination of a variance to UDC §166.08(F)(2)(a) Street Design and Access Management Standards – Regional and Regional High Activity Links.** *Staff recommends approval of this variance for the reasons stated above and with conditions as outlined below:*
 - a. Driveways must be one-way with each one specifically being designated as ingress or egress only,
 - b. Curb cut widths are reduced to the minimum necessary to accommodate the truck size that commonly accesses the property while also meeting planning requirements and Fire Code, and
 - c. Striping shall be placed to visually decrease the width of the driveway curb cuts and arrows in front of the building to encourage vehicles entering and exiting the site to use the correct driveways.

This variance was requested after Subdivision Committee.

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

Standard Conditions of Approval:

5. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
6. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or their representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);
7. 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;
8. 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;
9. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
10. 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;

11. 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;
12. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;
13. Large scale development approval shall be valid for one year;
14. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
15. 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
16. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - a. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - b. Project Disk with all final revisions; and
 - c. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Engineering Memo
- Urban Forestry Comments
- ADM-2022-0048 Staff Report
- Request Letter
- Variance Request Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Gretchen Harrison, Senior Planner

FROM: Melissa Boyd, Staff Engineer

DATE: January 22, 2024

**SUBJECT: Planning Commission Engineering Comments for
LSD-2023-0021 VAUGHN RECYCLING**

Access Management: The subject property currently has access to four curb cuts along School Avenue. At the north property line, there's a curb cut approximately 41 feet wide that is shared with the property to the north, with 11 feet being on this property. The applicant is proposing to close their portion of the shared curb cut to the north and the northernmost curb cut contained entirely on this property while maintaining the southern two at widths narrower than what currently exists. An exhibit of the existing and proposed curb cuts showing separation from adjacent driveways is attached to the end of this memo.

While the number of curb cuts is being reduced, the minimum 250 feet separation required per UDC §166.08(F)(2)(a) is not being provided with this proposal. Following Subdivision Committee, the applicant has requested a Planning Commission variance to keep the driveways as shown. As a note, the distance between driveways on the adjacent properties to the north and south is approximately 266 feet and does not allow for the required separation to be met if only one driveway is maintained.

Should the Planning Commission vote to approve the access management variance, staff recommends the following conditions of approval:

1. Driveways must be one-way, with each one specifically being designated as ingress or egress only (shown on 1/15/2024 submittal);
2. Curb cut widths are reduced to the minimum necessary to accommodate the truck size that commonly accesses this property while also meeting Planning requirements and Fire Code (meets based on truck turning exhibit); and
3. Striping shall be placed to visually decrease the width of the driveway curb cuts and arrows in front of the building to encourage vehicles entering and exiting the site to use the correct driveways (shown on 1/15/2024 submittal).

Water: This site has existing domestic service on an 8" water main along School Avenue. No changes are proposed or required with this proposal.

Sewer: This site has existing sewer service access to an 18" sanitary sewer main on the east side of the property. No changes are proposed or required with this proposal.

Drainage: There are two separate drainage requirements for this development. The first is for all impervious areas that were added to the subject property beyond what was approved in 2008, where the four Minimum Standards of the current Drainage Criteria Manual must be met. The

second is regarding the area that was considered under the 2008 approval. Added impervious area was defined by utilizing the 2008 aerial imagery to determine what existed prior to the site's current use. The requirements are outlined individually below:

1. Minimum Standard 1 water quality requirements are proposed to be met with bioretention. Minimum Standard 2 channel protection requirements are shown to be met by keeping the peak flows leaving the detention pond below 2.0 cfs for the 1-year, 24-hour storm. Minimum Standards 3 and 4 for overbank and extreme flood protection are indicated to be met by sizing the outlet structure to keep the peak flows post-development below the pre-development peak flows. Additional review of the drainage design will be done during grading permit review.
2. The bioswale on the southern portion of the property must be reconstructed to the conditions that were approved in 2008. The drainage report and bioswale detail associated with that approval have been uploaded to the LSD-2023-0021 attachments for the applicant's consideration and has been shown on this submittal.

Plan Comments:

1. Extend proposed sidewalk to north property line, approximately 9 linear feet.
2. Provide shortest flow path to length ratio calculations in drainage report to ensure Appendix B requirements are being met with the proposed bioretention layout.
3. Level spreader for the pond needs to be sized to 13 feet/cfs for the 10-year storm.

Standard Comments:

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

[illegible]



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Jorge Du Quesne, Blew and Associates

From: Melissa Evans, Urban Forestry

CC: Gretchen Harrison, Senior Planner

Meeting Date: January 11, 2024

Subject: LSD-2023-0022: Vaughn Recycling 1236 S. School, 662

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

2. Tree Preservation Calculations

Tree Preservation Calculations Square Feet		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	89,897	100%
Zoning Designation * Select Below with drop drop-down arrow		
DG, Downtown General	8,990	10%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	8,990	10.0%
Existing Tree Canopy * Minus Right of Way and Easements	13,475	15.0%
Tree Canopy Preserved	9,067	10.1%
Tree Canopy Removed *On Site	4,408	4.9%
Tree Canopy Removed *Off-Site	0	
Tree Canopy Removed Total	4,408	4.9%
Removed Below Minimum	0	
Mitigation Requirements	0	

3. Mitigation Requirements

High Priority

0

0

Low Priority

Total Mitigation Trees Required

0

0

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

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

Tree Protection Methods

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

6. Site Analysis Report (if required) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve the canopy.			X



URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Jorge Du Quesne, Blew and Associates

From: Melissa Evans, Urban Forestry

CC: Gretchen Harrison, Senior Planner

Meeting Date: January 11, 2024

Subject: LSD-2023-0022: Vaughn Recycling, 1236 S School, 662

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

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

3. Perimeter Landscaping Requirements

Yes No N/A

- | | | | | |
|--|-----|--|---|---|
| a. Front Property Line (15' wide landscape) and five on sides.
<i>UDC Chapter 177.04D2a</i> | | | | X |
| b. Side and Rear Property Lines (5' Wide Landscape Area)
<i>UDC Chapter 177D1</i> | Yes | | | |
| c. Shade trees planted on the south and west sides of parking lots
<i>UDC Chapter 177.04D2e</i> | X | | | |
| d. Screening of parking lot from adjacent residential properties. | | | X | |

4. Street Tree Planting Requirements

Yes No N/A

- | | | | | |
|--|---|--|--|---|
| a. Residential Subdivisions
1 Large Shade Species Tree per Lot
<i>UDC Chapter 177.05B1a</i> | | | | X |
| b. Non-Residential Subdivisions
1 Large Species Shade Tree every 30' (planted in greenspace)
<i>UDC Chapter 177.05B2a</i> | X | | | |
| c. Urban Tree Well – Urban Streetscapes
Trees every 30' (8' sidewalk)
<i>UDC Chapter 177.05B3a-f</i> | | | | X |
| d. Structured Soil – Urban Tree Wells
Include a note and detail of structural soil on the Landscape Plan.
<i>UDC Chapter 177.05B3a-f</i> | | | | X |
| e. Residential Subdivisions
Timing of planting indicated on plans
<i>UDC Chapter 177.05A4</i> | | | | X |
| f. Residential Subdivisions
Written description for a method of tracking planting
<i>UDC Chapter 177.05A4e</i> | | | | X |

5. Landscape Requirement Totals		Amount
Mitigation Trees		0
Parking Lot Trees		1
Street Trees		9
Detention Pond – Large Trees (1 Tree/3,000 square feet)		3
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		11
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		16

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	12-27-2023	1-9-24	
Approved			
Tabled			
Denied			

Comments	
1.	Address items above marked “No” and all Redlines provided.
2.	Please show shrubs between the parking and street ROW per Ch. 177.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: September 26, 2022 (Updated with Planning Commission Results)

SUBJECT: **ADM-2022-0048: Administrative Item (1236 & 1246 S. SCHOOL AVE./VAUGHN RECYCLING, 562):** Submitted by KNIGHT HALBERT, LLP ATTORNEYS AT LAW for property located at 1236 & 1246 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 2.33 acres. The request is to extend the approval of CUP 08-2908 and amend its associated conditions.

RECOMMENDATION:

Staff recommends approval of **ADM-2022-0048**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **ADM-2022-0048** with conditions as recommended by staff."*

BACKGROUND:

The subject property is located on S. School Avenue, south of City Lumber, west of Walker Park, and north of The Attic, a thrift store. The subject properties total approximately 2.33 acres and is the site of Vaughn Recycling. The properties contain a 6,000 square foot warehouse facility and 1,488 square foot service garage structure which previously operated as C & C Auto Detail. The southern lot has a paved parking area and backyard previously served as vehicle storage for Bud's Import Auto Parts.

In March of 2008, a conditional use permit (CUP 08-2908) was issued to operate a center for the collection of recyclable materials, Use Unit 28, in C-2, Thoroughfare Commercial zoning. Later that year the property was rezoned to DG, Downtown General as a part of the Walker Park Neighborhood Plan. Use Unit 28 is also a conditional use in DG zoned properties. In October 2008, a request to amend the conditions of approval of CUP 08-2908 was approved (ADM 08-3128). Specifically, the request amended a condition of approval that required all materials to be sorted, processed, packed, and stored inside the building and revised the condition to read, "Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/processing for shipping shall be permitted outside provided that a woodboard fence is extended, as shown on the site plan. Materials shall not be visible above the woodboard fence and/or from the public right of way."

In February of 2021 staff received a complaint that the recycling business was storing multiple trailers in front of the property and that the operation had expanded to 1236 S. School Avenue

without a permit (CVZD-2021-000262). A separate complaint was submitted to the Transportation Division due to dirt and mud being tracked onto S. School Avenue. Multiple inspections confirmed the presence of the trailers, debris, and an expanded footprint of the business. A violation letter was issued on April 28, 2021, to the subject property's owner, advising that the business is in violation of its conditional use permit. Staff advised the applicant that amending their conditional use permit was an option to remedy the violation. The property owner applied but their amendment request was subsequently denied by the Planning Commission. The applicant appealed the decision to City Council where a one-year extension was approved on October 5, 2021. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

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

Request: As noted above, the property owner holds an approved conditional use permit (CUP 08-2908) and amendment (Res. 247-21) approving the properties at 1236 and 1246 S. School Avenue to be utilized for their recycling business through October 5, 2022. Per staff's recommendation the applicant mentions a few conditions they wish to have considered by the Planning Commission to ensure compliance going forward. These include a request to expand the loading/processing area to the northern lot, added time for trailers to be parked, removing a requirement for a six-foot privacy fence along the north property line, and that the permit is extended in perpetuity, provided the business remain in compliance.

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

DISCUSSION:

Staff finds that expanding the recycling center to the property at 1236 S. School Avenue is compatible with the surrounding uses. As it currently exists, the corridor is characterized by bulk supply and auto-oriented businesses. City Lumber to the north, a used auto repair shop to the west, and other intense commercial and retail uses in the vicinity are unlikely to be negatively affected by the expansion. Further, staff acknowledges that the applicant has been cooperative in correcting the violation and working towards alternatives to remedy the issue. Since receiving a complaint in February of 2021 staff has not been notified of, or discovered subsequent violations.

Logistical issues, exacerbated by the Covid-19 health crisis, contributed towards violations being reported on-site. The applicant claimed increased prices for recycled metals brought an influx of material to the site and the facility did not have the means to process the goods. Compounding the situation, Vaughn Recycling had difficulty finding trucks to haul metal from the site which has left them with an abundance of material. With further scrutiny, staff determined there were many instances where the applicant operated outside the bounds of their conditional use permit and, at that time, recommended denial of the 2021 amendment. In the intervening time the applicant has worked toward compliance with specific issues mentioned in staff's findings including meeting with staff five times on-site in the past year.

Staff finds that permanently expanding the recycling facility's operational area will assist with maneuverability of trucks and allow trailers to be stored at the rear of the subject properties. The expanded site has also allowed the daily operations to continue in a scope that is proportional to

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

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

Conditions of Approval:

1. Planning Commission determination of compatibility with adjacent properties.
2. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/processing for shipping shall be permitted outside provided that materials are not visible above the woodboard fence and/or from the public right of way.
3. Large trailers shall be utilized for loading and removal of materials from the site and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the property and shall be screened from the public right-of-way, until the time of shipping materials. Any one trailer may be parked at the site for a maximum of seven (7) days.
4. The applicant shall construct a bioswale along the entire east boundary of the site for drainage purposes, to be approved by the Engineering Division.
5. Hours of operation shall be limited to Monday through Friday, 7:30 AM – 5:30 PM, and Saturday, 8:00 AM – 2:00 PM.
6. The applicant shall plant a continuous row of evergreen vegetation, no less than six (6) feet in height, along the north and east property lines to screen the use from the adjoining property.
7. As part of the development entitlements, the applicant shall submit the appropriate development review application pursuant to City ordinances and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.
8. Parking in areas identified in the original site plan as “loading” or “unloading” areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Parking, including the current maximum allowed on the subject property (eight parking spaces), shall be evaluated with a site improvement plan or large scale development proposal.
9. Curbing or curb stops shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.
10. Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a grading permit. All new signs shall be permitted according to City codes.

11. All exterior lights shall comply with the City lighting ordinance.
12. Vehicles that access the site must enter and exit in a forward manner, in accordance with City regulations.
13. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.
14. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate amendment request and applicable development review, pursuant to ordinance.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 26, 2022</u>	☐ Tabled	☒ Approved	☐ Denied
Motion: Canada			
Second: Johnson	With an added condition that the property is not permitted to be used at Use Unit 31.		
Vote: 7-1-0			

BUDGET/STAFF IMPACT:

None

Attachments:

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

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

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

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

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

RECOMMENDED MOTION:

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

1. All materials shall be sorted, processed, packed, and stored inside the building. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited.
2. Large trailers shall be utilized only for loading and removal of materials from the site, and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the building, as indicated on the site plan, and shall not be visible from the public right-of-way, until the time of shipping of materials. Any one trailer may be parked at the site for a maximum of five (5) days.
3. The paved maneuvering area shall be extended 12 feet to the east to ensure maneuverability. The applicant shall include a bioswale, east of the paved maneuvering area, for drainage purposes, to be approved by the Engineering Division.

PLANNING COMMISSION CONDITION OF APPROVAL

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

5. Staff recommends that a wood board fence, no less than six feet in height, be constructed along a portion of the south property line, as indicated on the site plan, to screen the use from the property to the south. Additionally, staff recommends that the applicant plant a continuous row of evergreen vegetation along the south property line, west of the recommended wood board fence. Staff also recommends that the applicant screen the east side of the proposed maneuvering area located at the eastern portion of the subject property with evergreen trees.
6. As part of the building permit, the applicant shall submit a Site Improvement Plan, Landscape and Tree Preservation Plan for approval pursuant to City Ordinance and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.
7. Parking in areas identified on the proposed site plan as “loading” or “unloading” areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Should the proposed use require more than the maximum allowable parking on the subject property (8 parking spaces), the applicant shall submit a conditional use request for additional parking.
8. Curb stops or curbing shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.
9. Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a building permit. All new signs shall be permitted according to City codes.
10. All exterior lights shall comply with the City lighting ordinance. Manufacturer’s cut-sheets are required for review and approval prior to issuance of a building permit.
11. Vehicles that access the site must enter and exit in a forward manner, in accordance with city regulations.
12. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.
- * 13. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a Site Improvement Plan or a Large Scale Development request.

PLANNING COMMISSION ACTION: Required YES

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

Meeting Date: **March 10, 2008**

City Plan 2025 designation:

City Neighborhood Area

Guiding policies include protecting adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with proper mitigation measures.

Section 163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: **The applicant has submitted a written application requesting a conditional use for a recycling center (Use Unit 28) within the C-2 zoning district.**

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

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

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

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

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

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

DISCUSSION

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

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

RECOMMENDATION

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

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

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



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

Resolution: 247-21

File Number: 2021-0659

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

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

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

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

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

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

1. City Council determination of compatibility with adjacent properties.
2. All conditions of approval of the associated conditional use permit will remain in effect. The requested area shall be subject to the same conditions of approval including master street plan

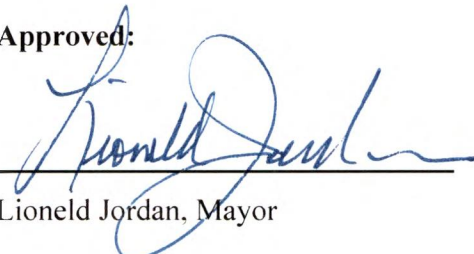
dedication and approval of a site improvement plan or large scale development.

3. All materials shall be sorted, processed, packed, and stored inside the existing building or an expanded facility. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited.
4. Large trailers shall be utilized for loading and removal of materials from the site and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the building, as indicated on the site plan, and shall not be visible from the public right-of-way, until the time of shipping materials. Any one trailer may be parked at the site for a maximum of five (5) days.
5. The applicant shall include a bioswale, east of the paved maneuvering area, for drainage purposes, to be approved by the Engineering Division.
6. Hours of operation shall be limited to Monday through Friday, 7:30 AM - 5:30 PM, and Saturday, 8:00 AM - 2:00 PM.
7. A wood board fence, no less than six (6) feet in height, shall be constructed along the length of the north property line to screen the use from the adjoining properties. The applicant should plant a continuous row of evergreen vegetation along the north property line, south of the recommended wood board fence and screen any newly proposed maneuvering areas with evergreen trees.
8. As part of the development entitlements, the applicant shall submit a site improvement plan or large scale development, landscape and tree preservation plan for approval pursuant to City ordinances and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.
9. Parking in areas identified in the original site plan as "loading" or "unloading" areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Should the proposed use require more than the maximum allowable parking on the subject property (8 parking spaces), the applicant shall submit an additional conditional use request for supplementary parking.
10. Curb stops or curbing shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.
11. Any existing non-conforming signage shall be removed, together with its supporting structure

-
- prior to issuance of a building permit. All new signs shall be permitted according to City codes.
12. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.
 13. Vehicles that access the site must enter and exit in a forward manner, in accordance with City regulations.
 14. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.
 15. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a site improvement plan or a large scale development request.
 16. The applicant shall allow city staff to inspect the premises monthly with unannounced visits during normal business hours and shall promptly correct any violations of these conditions discovered by city staff.
 17. This approval expires after one year (October 5, 2022), but may be extended by the Planning Commission if applicant has consistently complied with these conditions including preventing or promptly cleaning up any mud or debris tracked onto the public right-of-way from this property. The applicant is responsible for applying for and obtaining the Planning Commission's approval to extend this Conditional Use Permit prior to its automatic expiration.

PASSED and APPROVED on 10/5/2021

Approved:


Lioneld Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer



KNIGHT HALBERT, LLP
ATTORNEYS AT LAW
PO BOX 1272
FAYETTEVILLE, AR 72702
PHONE (479) 571-0014
FAX (877) 450-0781
tripp@knightlaw.net

August 26, 2022

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

NOTICE OF ADMENDMENT
REQUEST

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

Commissioners,

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

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

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

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

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

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

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

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

Best,

Knight Halbert, LLP

Tripp Halbert
Charles E. Halbert III

CEH/hdc
cc : Vaughn Recycling, LLC

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

1. City Council determination of compatibility with adjacent properties.
2. All conditions of approval of the associated conditional use permit will remain in effect. The requested area shall be subject to the same conditions of approval including master street plan dedication and approval of a site improvement plan or large-scale development.
3. Storage or processing of potentially explosive or combustible materials and/ or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/ processing for shipping shall be permitted outside provided that a wood board fence is extended, as shown on the site plan. Materials shall not be visible above the woodboard fence and/ or from the public right- of-way.
4. Large trailers shall be utilized for loading and removal of materials from the site and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the building, as indicated on the site plan, and shall not be visible from the public right-of-way, until the time of shipping materials. Any one trailer may be parked at the site for a maximum of seven (7) business days.
5. The applicant shall include a bioswale, east of the paved maneuvering area, for drainage purposes, to be approved by the Engineering Division.
6. Hours of operation shall be limited to Monday through Friday, 7:30 AM – 5:30 PM, and Saturday, 8:00 AM – 2:00 PM.
7. ~~A wood board fence, no less than six (6) feet in height, shall be constructed along the length of the north property line to screen the use from the adjoining properties.~~ The applicant should plant a continuous row of evergreen vegetation along the north property line, south of the recommended wood board fence and screen any newly proposed maneuvering areas with evergreen trees.
8. As part of the development entitlements, the applicant shall submit a site improvement plan or large-scale development, landscape and tree preservation plan for approval pursuant to City ordinances and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.
9. Parking in areas identified in the original site plan as “loading” or “unloading” areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Should the proposed use require more than the maximum allowable parking on the subject property (8 parking spaces), the applicant shall submit an additional conditional use request for

supplementary parking.

10. Curb stops or curbing shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.
11. Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a building permit. All new signs shall be permitted according to City codes.
12. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.
13. Vehicles that access the site must enter and exit in a forward manner, in accordance with City regulations.
14. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.
15. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a site improvement plan or a large scale development request.
16. The applicant shall allow city staff to inspect the premises annual with announced visits during normal business hours and shall promptly correct any violations of these conditions discovered by city staff.
17. This approval shall run indefinitely given the recent compliance of the applicant.

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

Parcel No. 765-14914-000

Physical Address: 1236 S. School Ave.

A part of the SW1/4 of the NE1/4 of Section 21, T-16-N, R-30-W, Washington County, Arkansas, and more particularly described as beginning at a point which is 8 chains and 40 links South of the NE corner of said forty acre tract; and running thence North 155 feet; thence West 414 feet; thence South 155 feet; thence East 414 feet to the point of beginning, containing 1.43 acres, more or less.

Now being more accurately described on a plat of survey dated July 31, 1984 by Neal B. Albright, L.P.E., designated as drawing #8451 P-3, as follows:

A part of the SW1/4 of the NE1/4 of Section 21, T-16-N, R-3-W, Washington County, Arkansas, and more particularly described as beginning at a point which is 554.40 feet South of the NE corner of said forty acre tract, and running thence North 155.00 feet; thence N 89° 41' 20" W, 397.50 feet to the East Right-of-Way for U.S. Highway 71; thence South along said East Right-of-Way 155.00 feet; thence S 89° 41' 20" E, 397.50 feet to the Point of Beginning, and containing 1.41 acres, more or less.

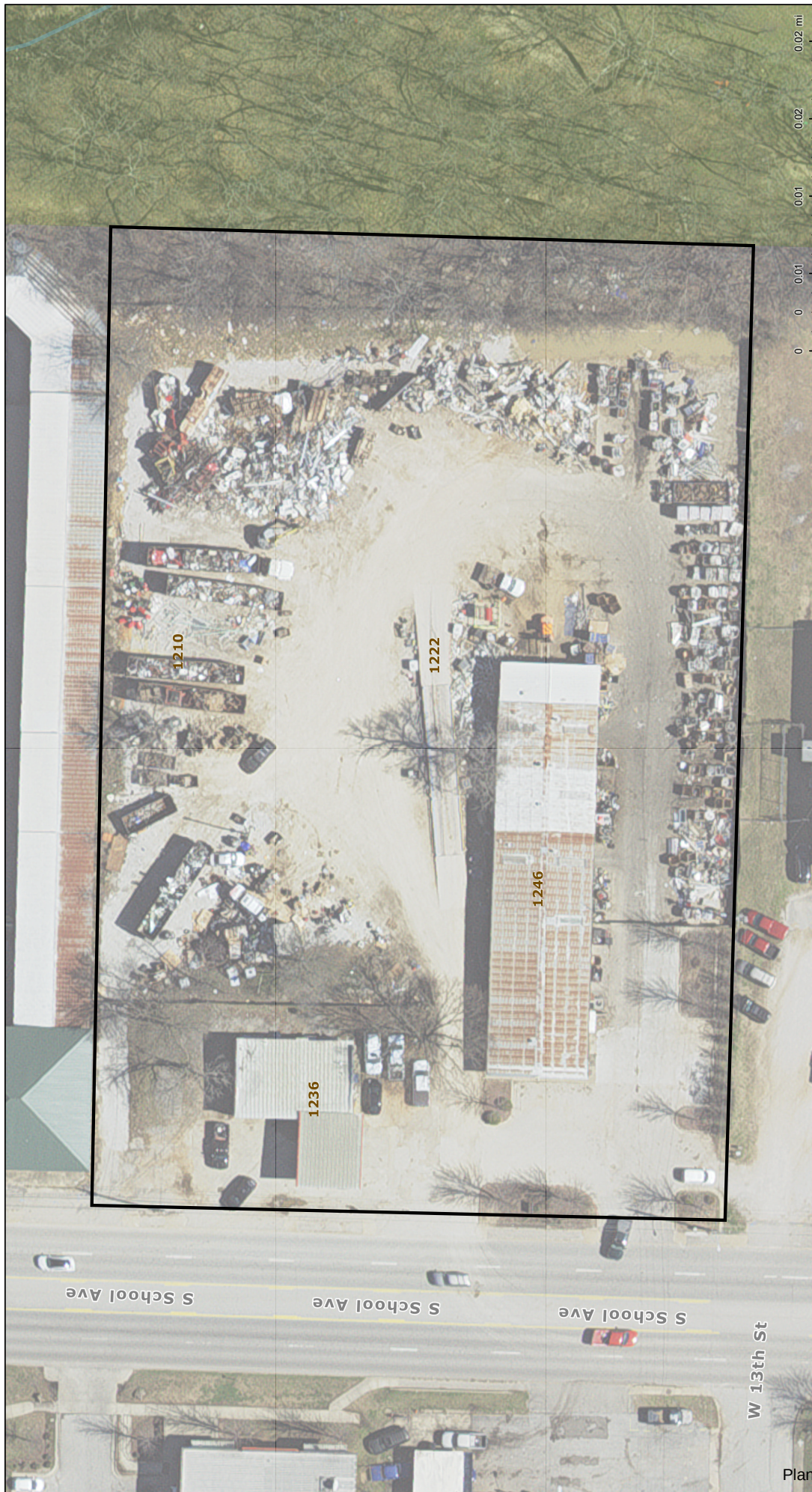
Parcel No. 765-14905-000

Physical Address: 1246 S. School Ave.

A part of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section Twenty-one (21) in Township Sixteen (16) North, Range Thirty (30) West of the 5th P.M., and being more particularly described as beginning 660 feet North of the Southeast corner of said 40 acre tract, thence running West 26 rods; thence North $6 \frac{2}{13}$ rods; thence East 26 rods; thence South $6 \frac{2}{13}$ rods to the place of beginning, containing One (1) acre, more or less.

Subject to easements, right-of-ways, and protective covenants of record, if any.

Subject to all prior mineral reservations and oil and gas leases.



The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville. The City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost or damages, including reasonable attorney's fees, that may be asserted against or incurred by the City of Fayetteville in connection with this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause herein shall be construed to waive that tort immunity set forth under Arkansas law.

Created: 8/05/2022
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 Map Author:

Vaughn Recycling Aerial

Fayetteville, AR



CITY OF
FAYETTEVILLE
ARKANSAS

VIOLATION NOTICE

April 28, 2021

VAUGHN REVOCABLE TRUST
13553 OWL HOLLOW RD
WEST FORK, AR 72774

Re: Zoning Violation

Dear Property Owner:

City Staff received a complaint and it appears that your property, located at 1246 S. School Ave. Fayetteville, AR 72701, contains a violation of the Conditional Use Permit that was obtained for this property. It is our goal to notify and assist property owners to correct violations of Conditional Use Permits before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479) 444-3443.

Violation:

In violation of "CUP 08-2908 1246 S. School Avenue (Vaughn Recycling Center)"

Remedial Action(s) needed for compliance:

- Amend the existing CUP permit above to include any and all expansion of the business by applying for the "Amendments to Conditional Use Permits" application online at: https://egov.fayetteville-ar.gov/EnerGov_Prod/SelfService#/home
- Setup a meeting with City Planner to determine if a Site Improvement Plan or a Large-Scale Development will be needed also and then apply for that permit; 479-575-8267.
- Resolve the violation of the trailers parking along the School Ave side that are being used for the recycle business as that is not allowed.

Penalty:

If the remedial actions above are not completed within thirty (30) days from the service of this notice, 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.

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 the problem, please call our office at (479) 444-3443.

Sincerely,

Drew Richmond
Planning Technician



02-08-2021



07-21-2021



07-28-2022



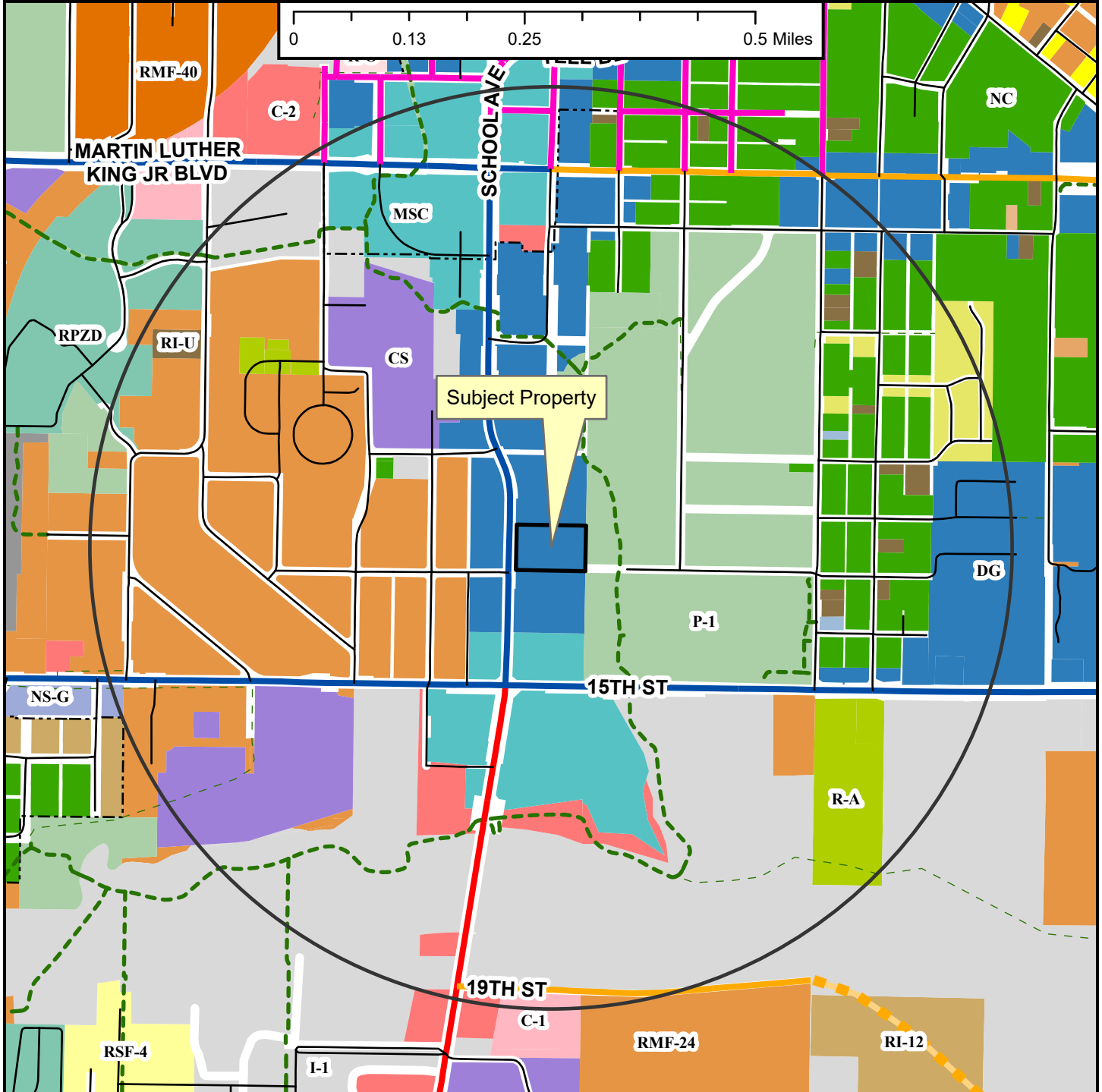
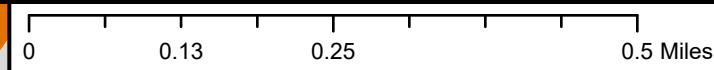
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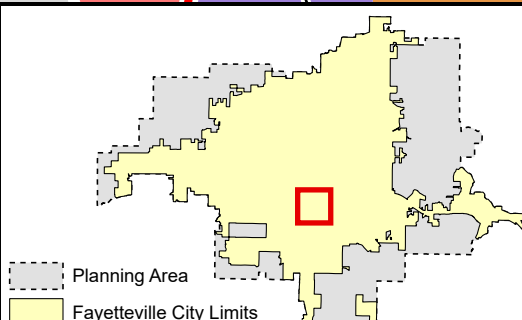
ADM-2022-0048

1236 & 1246 S. SCHOOL AVE

One Mile View



- 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

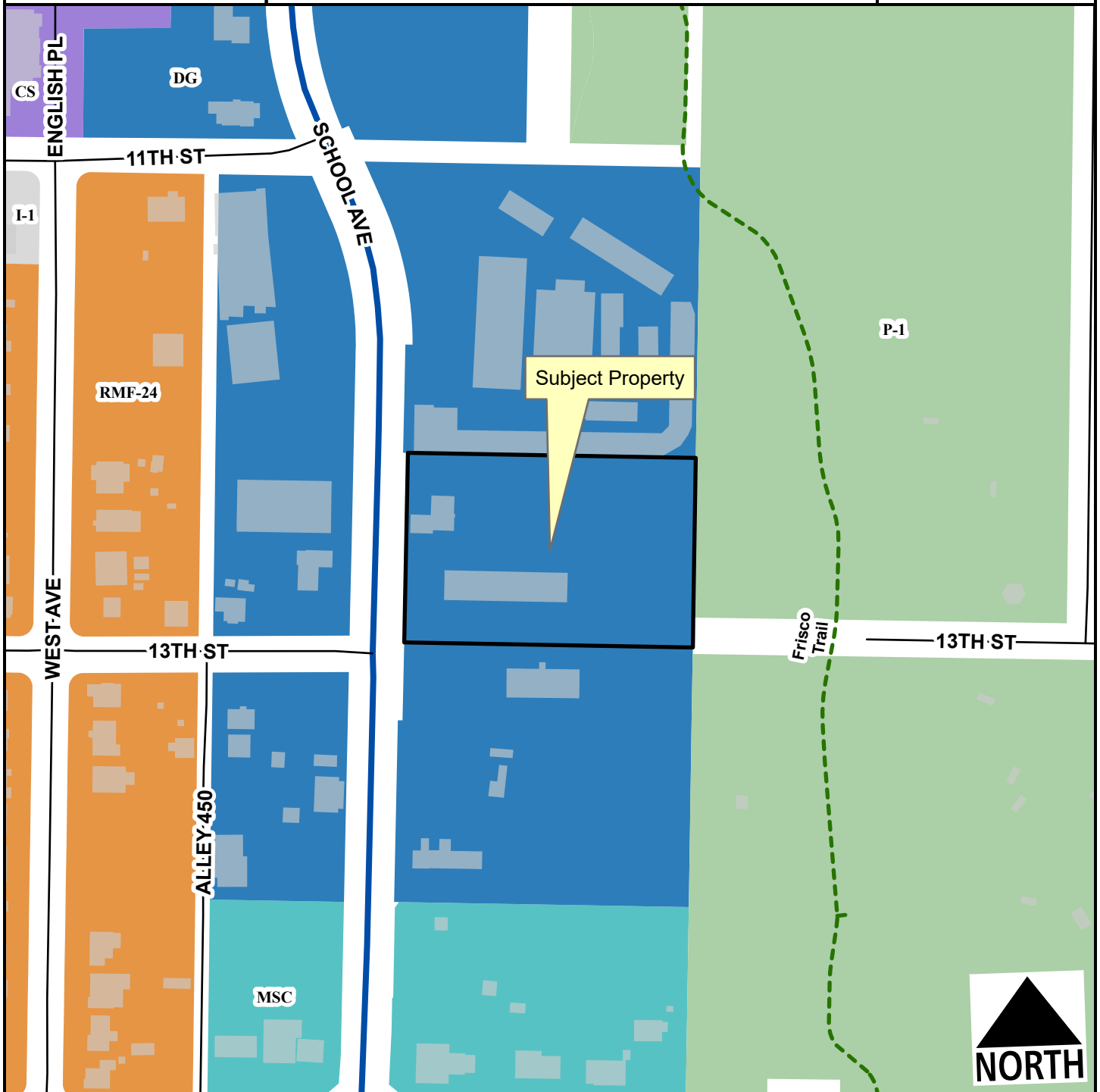


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| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> NS-G RI-U RI-12 NS-L Residential-Agricultural RSF-5 RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RMF-6 RMF-12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

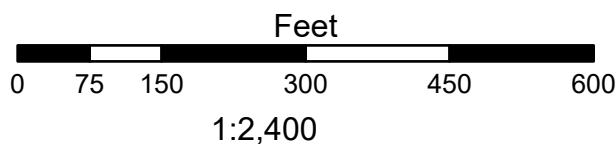
ADM-2022-0048

1236 & 1246 S. SCHOOL AVE

Close Up View



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



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

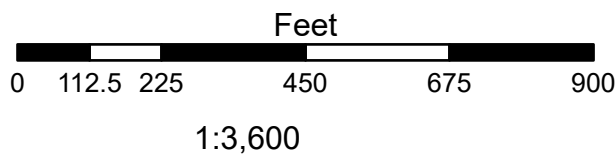
ADM-2022-0048

1236 & 1246 S. SCHOOL AVE

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

BLEW

Surveying | Engineering
Environmental

December 13, 2023

City of Fayetteville – Planning Department
125 W Mountain St, Fayetteville, AR 72701

SUBJECT: Vaughn Recycling Site Improvements – Plan Submittal

To Whom It May Concern:

Vaughn Recycling is proposing a series of site improvements for their existing facility at 1246 S. School Ave. This site consists of two parcels on which the recycling facility currently exists. The owner is proposing a redesign of the parking lot spanning the west side of both parcels including pavement removal and replacement as well as adding new pavement for a few additional parking stalls. This will include bringing the two entrances from School Ave. up to ARDOT and City standards as well as forming new parking islands and replacing existing islands with parking stalls.

Additionally, this project will involve the construction of a new dry detention basin and bioretention cell on the Northeast corner of the site. A drainage study has been included in this submittal. In accordance with the City's instructions, this study considers only the north parcel and improvements which have already been completed but for which drainage infrastructure was not installed.

Buildings:

No changes to existing buildings or construction of new buildings are proposed with this project.

Water:

Not applicable.

Sanitary Sewer:

Not applicable.

Franchise Utilities:

No changes to existing franchise utilities or easements is anticipated.

Storm Water:

Stormwater will comply with the City of Fayetteville's Drainage Manual. A dry extended detention pond and bioretention is being proposed to handle the different storm events as well as the water quality for the entire north parcel in its developed condition.

Streets:

Access points to School Ave. will remain generally the same with upgrades being made to bring the entrances into compliance with ARDOT and City requirements.



479-443-4506



blewinc.com



Planning 1025 Mission Hills Pkwy
Fayetteville, Arkansas 72701
January 22, 2024

LSD-2023-0022 (VAUGHN RECYCLING) Page 125 of 328
Page 43 of 49

Fire Access:

Fire Access will remain the same as in the existing condition.

Parkland:

Not Applicable

Tree Preservation:

Tree preservation will be conducted as shown in the attached tree preservation plan.

No variances are requested at this time, however all interested parties reserve the right to submit future waivers, variances, or conditional uses if so warranted.

Sincerely,

Evan McMahon, EI
Blew & Associates, PA

BLEW

Surveying | Engineering
Environmental

January 15, 2024

City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72703

SUBJECT: Vaughn Recycling – 1236 S. School Ave.

To Whom It May Concern:

We are requesting a variance to the driveway spacing requirements listed in UDC 166.08 (F)(2)(a) for non-residential developments. We are proposing that the two access points be located as they are currently in order to facilitate semi-truck movements into and out of the site. We are proposing to make the south access an entrance only and the north access an exit only. Note that the site consists of two lots and there is only one access point for each lot.

Thank you for your consideration,

Evan McMahon
Blew & Associates, P.A.



479-443-4506



blewinc.com



Planning Commission
1025 S. Pineapple Hills Pkwy
Rogers, Arkansas 72758

Proposed Features:

[illegible]

Site General Notes:

[illegible]

Site Information

PROPERTY INFORMATION	
Gross Site Area	30,600 sf
Net Usable Area	2,938 sq ft
Proposed Building Footprint	1,700 sq ft
Site Zoning	PDC, Downtown Office
ZONING REGULATIONS	
Front Build-out Zone	0-25%
Side Setback	5'
Rear Setback	5'
Lot Width Minimum	35'
Max Usable Storage	18
Min Building Height	10'
SITE INFORMATION	
Total Paved Area	5,835,000 sf
Total Sealed Area	302,000 sf
Total Building Footprint Area	7,499,000 sf
Total Impervious Area	62,153,000 sf
Total Pervious Area	57,667,000 sf
	13.84%

Parking Information

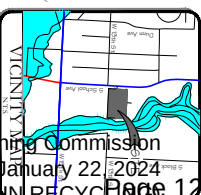
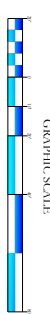
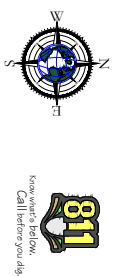
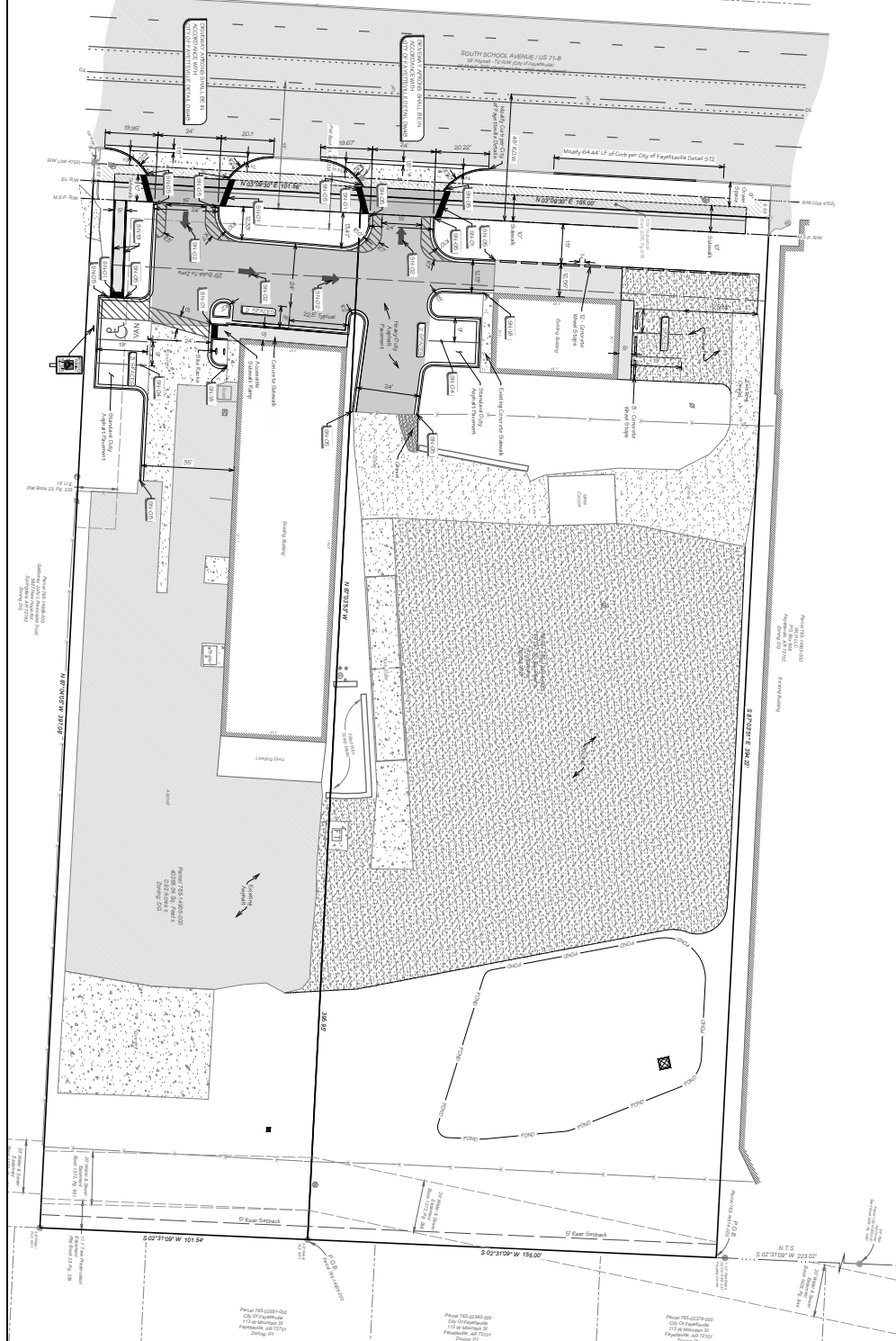
VEHICULAR		TOTAL		NOTES	
Roading Space	796 ft			11 foot C/A	
Mal. Road Space (Per Curb)	0.0 ft			200 foot C/A	
UTV Storage	8			1 Space	
Additional Treatment	0			300 x 180' Max.	
Additional Fence	0			500 x 180' Max.	
Roof Space, Poles, Etc.	9			500 x 180' Max.	
Periodic Soil Space	8				
Periodic Camp Space	9			3 Spaces Maximum	
Periodic Storage (1' x 6')	0				
Roading/Access Space	1				
Periodic Storage (1' x 6')	1				
Periodic Storage (1' x 6')	0				
Periodic Vehicle Storage	0				
Periodic Vehicle Storage	0				
MOTORCYCLE / SCOOTER		TOTAL		NOTES	
Roading Space	0			150 x 25' Parking Sp.	
Periodic	0				
BICYCLE		TOTAL		NOTES	
Minimum Required	1			1000' Rad. / 20' Pedest.	
Periodic	2				

Site Plan Notes:

	Stylized 'S' Logo	Decorative	Size	Font Type
	Handwriting	12 x 18	U.S. Standard	

nd

Sign Legend			
Symbol	Code	Description	Size Post Type
	-	Handicap Sign	12 x 18 I-Chand



Site Plan

Large Scale Development For

Vaughn Recycling
1236 S School Ave Fayetteville, Arkansas

Donald Vaughn
3176 N Warwick Dr
Fayetteville, AR 72703
(479) 443-2145

REVISIONS:

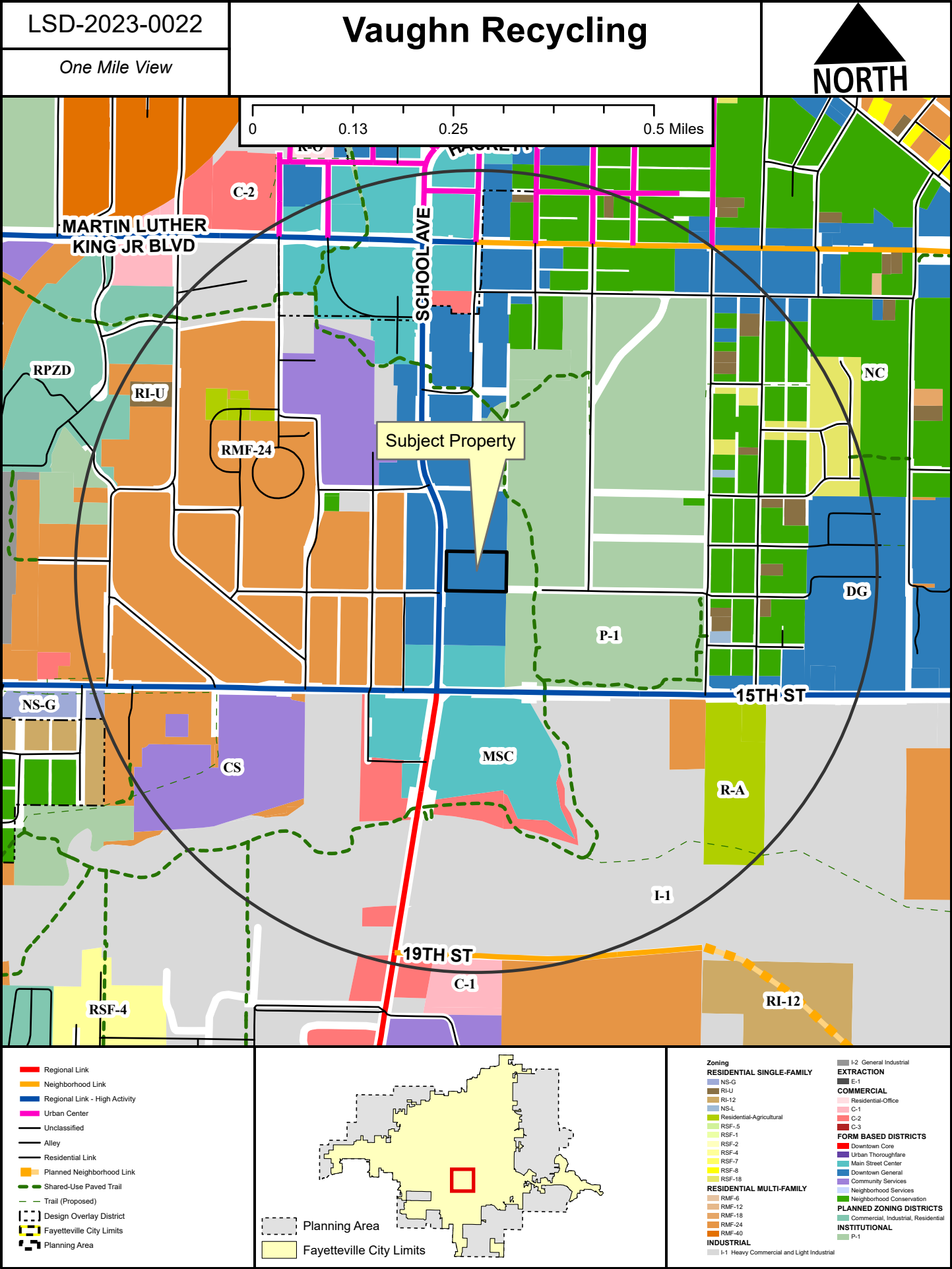
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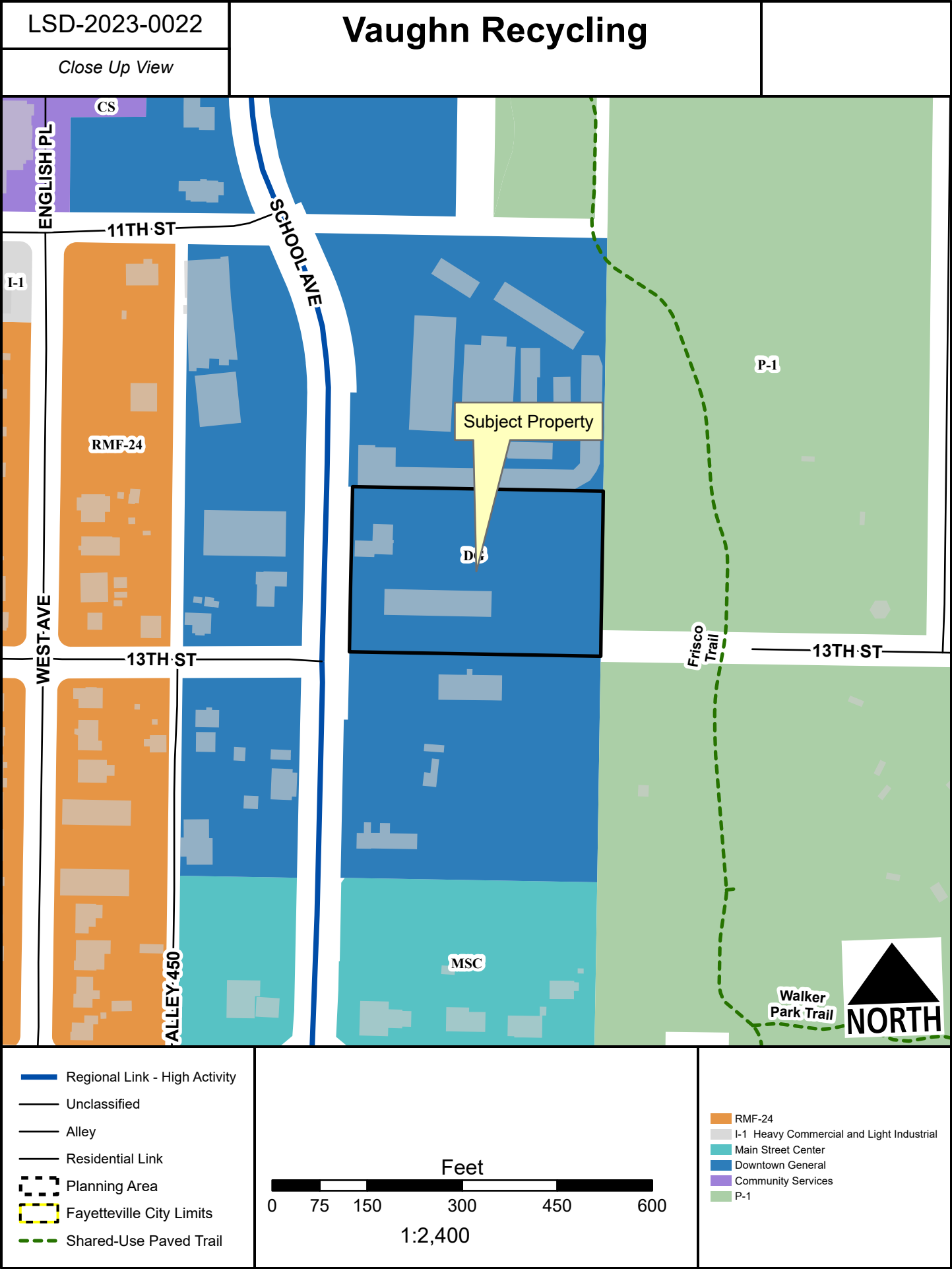
BLEW

23-2854 C ₂ 00.2 days	DRAGON (NASH)	1.11100400	J. L. L. 1983
VIENTIANE			

NOT FOR
CONSTRUCTION
FOR REVIEW
ONLY!!!

LSD-2023-0022 (VAUGHN RECYC) Page 128 of 328





LSD-2023-0022

Vaughn Recycling

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0188: Conditional Use Permit (3202 S. BLACK OAK RD/RIVERSIDE VILLAGE, 683):** Submitted by RAUSCH COLEMAN HOMES for property located at 3202 S. BLACK OAK RD. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 93.98 acres. The request is for an off-site parking lot.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0188** with conditions as outlined by staff.

RECOMMENDED MOTION:

"I move to approve **CUP-2023-0188** 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 in south Fayetteville off S. Black Oak Road and is the site of the Riverside Village residential development. The property was annexed into the City limits, rezoned as a Planned Zoning District in 2021, and overall contains approximately 94 acres. A large-scale development was approved in 2022 (LSD-2022-0008) and a concurrent plat is currently under review for the first phase of this development (approximately 81 single-family lots; CCP-2023-0007). An unnamed protected tributary of the West Fork of the White River is present in the northeast quadrant of the property. Surrounding land uses and zoning are depicted in Table 1.

Table 1: Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Superior Industries Combs Park	I-2, General Industrial P-1, Institutional
South	Undeveloped	Washington County
East	Undeveloped	Washington County
West	Undeveloped	Washington County

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

Proposal: The applicant requests conditional use permit approval to install an off-site parking lot in the RPZD zoning district. The purpose of this request is to provide additional parking for lots 73 through 81 of the first phase of the Riverside Village development. 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, and approval of this conditional use permit was listed as a condition of approval of the project's overall large-scale development approval.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0188** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility for an off-site parking lot in the RPZD zoning district.** *Staff finds the proposed parking lot to be compatible for the reasons outlined in this report;*
2. **Planning Commission determination of a variance to 172.04(C)(3), which prohibits off-site parking lots from being located within build-to-zones.** *Staff recommends in favor, with an added condition that the parking lot is screened in accordance with 172.04(C)(1).*
3. **Accessible parking requirements shall be evaluated for compliance with the Unified Development Code and the Americans with Disabilities Act;**
4. **Landscape requirements shall meet the requirements as outlined in UDC Chapter 177, Landscaping;**
5. **Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs;**
6. **Outdoor lighting on this property shall comply with UDC Chapter 176, Outdoor Lighting;**
7. **This approval will expire one year from the date of approval. The applicant shall have received all necessary construction permits for the construction of the parking lot by that time.**

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 22, 2024</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.

2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

Finding: The applicant has submitted a written application requesting 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. Adjacent to the parking lot are the residential uses that the parking lot is intended to serve, as well as open green space that was created by the developer with this overall site plan. Since access to newly dedicated parkland is included with this development, staff finds that the additional parking may help contribute overall to the development's parking system.

- (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 residential planned zoning district, where the primary use is meant to serve the adjacent single-family homes. The lot is located within 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.

Finding: **Staff finds that the size and scale of the parking lot are compatible with the overall neighborhood, and will not adversely affect the adjacent residences. The parking lot instead will likely serve those residents with appropriate overflow parking and prevent parking on the street and potentially blocking sidewalks or mailboxes. The location is within a convenient distance from the homes it is meant to serve. The applicant has indicated that the homes will individually meet minimum parking requirements.**

- 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: **The proposed lot is located within 400 feet of all of the homes and lots it is intended to serve.**

§172.04(C). PARKING LOT DESIGN STANDARDS: BUILD-TO-ZONE.

- C. Build-to Zone.** A portion of a required parking lot may be located within the build-to zone, subject to the following:

1. A parking lot located within the build-to zone shall be screened with a masonry screen wall between 32 inches and 42 inches in height and 50% opaque minimum.
2. Parking lots that are located within the build-to zone shall comply with Chapter 177: Landscape Regulations, related to landscape setbacks.

3. Off-site parking lots shall be prohibited from being located within the build-to zone.
4. In urban zoning districts that specify urban form (i.e., a build-to zone) the intent is for drive-thru lanes, parking lot drive aisles, and parking spaces to be located to the side or rear of buildings. In urban zoning districts, a drive-thru lane, parking lot drive aisle, or parking spaces are not permitted to be located in the front yard directly between a building and the Master Street Plan right-of-way.

Finding: The applicant is requesting a variance to 172.04(C)(3) by installing this parking lot within the build-to-zone. While the applicant has not indicated a specific hardship or site-specific necessity for this variance request, staff finds that the encroachment is minimal, and as long as the parking lot is screened in accordance with 172.04(C)(1), the intent of the ordinance will still be met. There are specific design requirements for parking lots located within a build-to-zone so that the pedestrian realm is protected visually and spatially; with adequate screening, staff finds that this intent is maintained.

§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 one curb cut with direct access onto Buffalo Street. Staff does not anticipate any adverse traffic affects with the proposed lot and its designed egress. The applicant also shows a pedestrian path that leads to the adjacent trail, and eventually connects to the overall sidewalk network in the development.

(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. Staff recommends landscape screening in line with the requirements as outlined in along the western side of the parking lot to shield lot 81 from headlight glare. The applicant is showing landscaping that appears to meet the requirements of chapter 177.

(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, and the applicant has indicated that maintenance will be the responsibility of the HOA. No trash services are currently indicated.**

(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: **Landscape screening shall be included in alignment with 177.03, landscape requirements.**

(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. While surface parking lots are not common in residential developments, staff finds that the addition of overflow parking for guests in this area is likely to be more of a benefit than a burden to the community. There is also an established trail network, and parkland dedication that occurred with this development, so staff finds that the addition of 13 parking spaces may positively contribute to the overall parking network in the neighborhood.**

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

Finding: **Generally, City Plan 2040 goals of infill, curbing suburban sprawl, and growing a livable transportation network may not seem immediately in line with the approval of an off-site parking lot. That said, staff finds that the size, scale, and the intention in this case make sense and will likely be a benefit. Further, the parking may help serve additional guests to the neighborhood who may be looking to access the proposed trail and parkland network.**

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §172.04 - Parking Lot Design Standards
 - §172.06 - Parking Lot Location Standards
 - §177.04 Site Development And Parking Lot Landscape Standards
 - Applicant Request Letter
 - Applicant Exhibit
 - One Mile Map
 - Close-Up Map
 - Current Land Use Map
-

172.04 Parking Lot Design Standards

(See: Illustration: Parking Dimension Factors)

- (A) *Maneuvering.* Parking lots shall be designated, maintained, and regulated so that no parking or maneuvering incidental to parking will encroach into the areas designated for sidewalks, streets, or required landscaping. Parking lots shall be designed so that parking and un-parking can occur without moving other vehicles, unless a valet service has been approved as part of the development plans. Vehicles shall exit the parking lot in a forward motion.
- (B) *Pedestrian Access.*
- (1) Pedestrian access shall be provided from the street to the entrance of the structure by way of designated pathway or sidewalk.
 - (2) Parking lots may be utilized by restaurants, cafes, and similar uses where pedestrian seating, access, or service does not interfere with safe and functional circulation. If a parking lot utilized for outdoor service is determined to represent a hazard to pedestrian or vehicular use, sites may be required to include an implied or physical barrier with landscaping elements, gated fencing, changes in ground surface texture, material or color, or similar treatments.
- (C) *Build-to Zone.* A portion of a required parking lot may be located within the build-to zone, subject to the following:
- (1) A parking lot located within the build-to zone shall be screened with a masonry screen wall between 32 inches and 42 inches in height and 50% opaque minimum.
 - (2) Parking lots that are located within the build-to zone shall comply with Chapter 177: Landscape Regulations, related to landscape setbacks.
 - (3) Off-site parking lots shall be prohibited from being located within the build-to zone.
 - (4) In urban zoning districts that specify urban form (i.e., a build-to zone) the intent is for drive-thru lanes, parking lot drive aisles, and parking spaces to be located to the side or rear of buildings. In urban zoning districts, a drive-thru lane, parking lot drive aisle, or parking spaces are not permitted to be located in the front yard directly between a building and the Master Street Plan right-of-way.

...

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.

...

177.04 Site Development And Parking Lot Landscape Standards

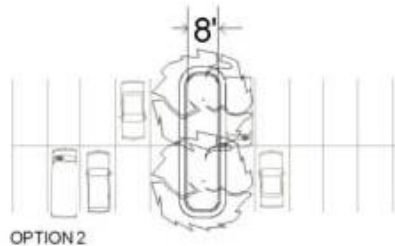
- (A) *Applicability.* A detailed landscape plan is required to be submitted for all development when either new development or expansion of 25% of the existing building square footage occurs and for all new or expanded parking lots containing five (5) or more spaces. Landscape plans shall be submitted with the application for building permit or parking lot permit. Submittals shall conform to the standards established within this chapter.
- (B) *General Requirements.*
 - (1) *Separation of Landscaped Areas and Vehicles.* All landscaped areas shall be protected from potential damage by vehicles by placing concrete curbs or wheel barriers adjacent to the landscaped area.
 - (2) *Vehicle Overhangs.* A portion of a standard parking space may be landscaped instead of paved to meet part of the landscaping requirement. The landscaped area may be up to 2 feet of the front of the space as measured from a line parallel to the direction of the bumper of the vehicle using the space. Landscaping may only be groundcover plants in the overhang area.
 - (3) *Maintenance.* The current owner of the property shall be responsible for the maintenance of all required landscaping.
 - (a) *Irrigation System.* Some method of irrigation shall be required in landscaped areas. An automated irrigation system is encouraged to ensure adequate moisture to plant material. In landscaped areas without an automated irrigation system the installation of hose bibs (water spigots), installed one (1) for every 100-foot radius, will be required.
 - (b) *Planting Beds.* All landscaping shall be planted within areas designated as planting beds. Planting beds shall have amended soil to insure the health of the plant materials. All sod shall be removed within the planting bed and mulch shall cover the bare soil to ease maintenance. Sod will be allowed in tree lawns and tree islands if no other plant material is included within these areas.
 - (c) *Replacement Landscaping.* Landscaping that dies or is damaged shall be removed and replaced by the current owner of the property. The owner shall have sixty (60) days from the receipt of written notice issued by the city to remove and replace any required landscaping that dies or is damaged.

(C) *Interior Landscaping Requirements.*

- (1) *Amount of Landscaping.* Parking lots containing ten (10) or more spaces shall be landscaped with one of the following options:



- (a) *Option 1. Narrow Tree Lawn.* A continuous landscape strip between rows of parking. The minimum width of a tree lawn shall be 8 feet ; the minimum area shall be 300 square feet. One (1) tree every twelve (12) parking spaces or one tree every 30 linear feet, whichever provides more canopy, shall be planted with this option. Trees may be grouped or spaced within the lawn area.



- (b) *Option 2. Tree Island.* The minimum width of a tree island shall be 8 feet; the minimum area shall be 150 square feet. One (1) tree shall be planted for every twelve (12) parking spaces with this option, with a maximum run of twelve (12) parking spaces permitted without a tree island.
- (2) *Placement of Trees.* Interior trees shall be placed on either side of points of access (entrance drives, exit drives) within tree islands, as indicated in the Landscape Manual.
- (3) *Tree Planting.* All trees planted to meet these requirements shall be deciduous shade trees. Species selection shall be chosen from the approved list of trees found in the appendices of the *City of Fayetteville Landscape Manual*. Alternate tree species selections may be approved by the Urban Forester.
- (4) *Calculation of Area.* Required perimeter landscaping may not be substituted for interior landscaping. However, it is recognized that interior landscaping may join perimeter landscaping. In such cases, landscaping which extends 4 feet or more into the parking area may be included in the calculation of interior landscaped area.
- (5) *Exceptions.* All parking lots used solely for the purpose of providing areas for the display and storage of motor vehicles for sale, lease, and rental shall be exempt from the interior landscaping requirements.
- (D) *Perimeter Landscaping Requirement.* Proposed development shall be landscaped meeting the following requirements:
- (1) *Side and Rear Property Lines.* All parking lots shall have 5 feet of landscaped area between the property line and parking lot. The 2-foot vehicle overhang option may be included to meet this requirement. Depending on the use and location, additional landscaped area and screening may be required along property lines. Where parking lots are located adjacent to a public alley, greenspace is not required between the parking lot and the alley. A shared driveway or parking lot drive aisle within a platted access easement may encroach fully within the required greenspace along the side or rear property lines.
- (2) *Property Lines Adjoining Street Right-of-Way.*
- (a) *Landscape Area Required.* A 15-foot wide landscaped area shall be provided along the front property line exclusive of and adjacent to the Master Street Plan right-of-way. Points of access (entrance drives, exit drives) and sidewalks are allowed to cross the 15-foot landscaped area provided the integrity of the landscaped area is maintained.

- (b) *Urban Zoning Districts.* Zoning districts that prescribe urban building form (e.g., a build-to zone) permitting front setbacks of less than 15 feet may be permitted to eliminate the greenspace between the principal façade of a building and the Master Street Plan right-of-way and instead provide pedestrian oriented elements as referenced in 166.24(E).
 - (c) *Residential Zones.* Except for permitted entrance drives, every development shall be landscaped for an equal and uniform width of 15 feet parallel to the front property line(s) street right-of-way. Single and two-family residential uses shall be exempt from this requirement.
 - (d) *Nonresidential Zones.* Except for permitted entrance drives, every development shall be landscaped for an equal and uniform width of 15 feet parallel to the front property line(s) street right-of-way.
 - (e) *Shade.* All tree planting locations shall attempt to achieve shade for parking lots, cars, benches, pedestrian walkways, etc., by utilizing aspect and locating trees along the south and west boundary of these areas.
 - (f) *Screening.* Parking lots containing five (5) or more spaces shall be screened from the public right-of-way and adjacent properties, where said parking areas are adjacent to residential zones, with shrubs and/or graded berms. If graded berms are used, shrubs are also required.
 - (g) *Perimeter Planting Location.* Street trees shall be installed in the location identified under the street tree planting standards described herein, all other plantings noted herein shall be installed within the required landscape area. Subject to approval by the Urban Forester, required shrubs may be planted within the right-of-way or outside the required landscape area parallel to the street right-of-way only in extenuating circumstances.
- (3) *Tree Planting.*
- (a) Large species trees shall be planted in the location identified in the Street Tree Planting Standards containing one (1) tree per 30 linear feet along the front property line. Trees along the perimeter may be grouped to allow flexibility in design. The maximum allowed grouping may be up to 25% of the required number of street trees.
 - (b) Species selection shall be chosen from the approved list of trees for landscaping found in the appendices of the City of Fayetteville Landscape Manual. Alternate tree species selections may be approved by the Urban Forester. No more than 25% of trees planted to meet perimeter landscaping requirements may be evergreen.
 - (c) Planted trees shall have a 2-inch caliper (diameter) measured 6 inches above ground level at the time of planting.
 - (d) At the request of the developer, the Urban Forester may exempt specific areas from required tree planting where the terrain, existing trees or other physical limitations make the planting of new trees impracticable. In cases of existing overhead power lines, small trees shall be planted that will not interfere with the existing power lines. Species selection shall be approved by the Urban Forester.
- (4) *Shrub Screening.* Parking lots that require screening shall have shrubs that are spaced so as to create a seamless row of hedging. A minimum of 50% of the shrubs shall be evergreen. Shrub size at the time of planting shall be in a minimum of 3-gallon containers with an expected height of three feet or more within two (2) years of planting.
- (5) *Perennial Groundcover.* All landscaped areas shall be vegetated or re-vegetated with appropriate perennial groundcover. Prior to the issuance of a certificate of occupancy, all bare soil shall be adequately covered.

(Ord. No. 4917, 9-05-06; Ord. No. 5312, 4-20-10; Ord. No. 5337, 8-3-10; Ord. No. 5859 , §3(Exh. B), 3-15-16; Ord. No. 6090 , §1, 9-18-18)



January 11th, 2024

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

RE: Riverside Village Conditional Use Permit

Please accept this letter as a request for a Conditional Use Permit for an off-site parking lot within the Riverside Village subdivision. The parking lot is off Buffalo Street, was built with Phase 1, and was part of the approved Large Scale Development & construction plans. The purpose of this parking lot is for the residents/guests of lots 73 through 81 and was added voluntarily to serve those lots without garages. The parking lot is 5,162 square feet, consists of 13 total parking spaces including 1 handicap space. See attached Landscape plan for landscaping, and standard street lighting will be provided. Maintenance of the parking lot will be handled by the HOA. A very small portion of the first parking space on the north side and on the south side are within the BTZ, and will request a variance for that as requested by staff.

Sincerely,

Jesse Fulcher

LSDP



DESCRIPTION

LEGEND (CONSTRUCT)

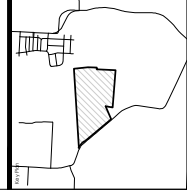


Know what's below.
Call before you dig.

811

* BY OTHERS

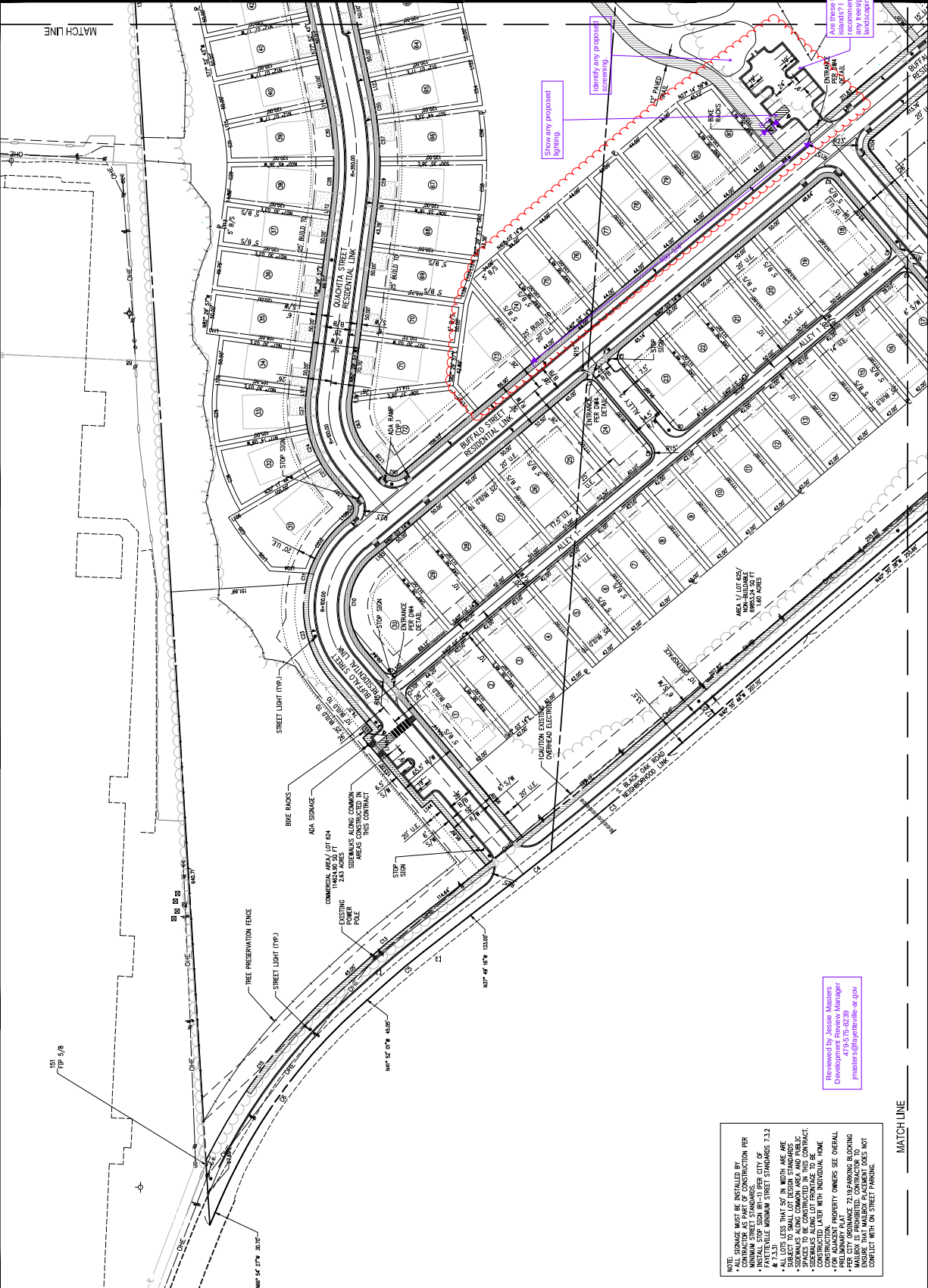
Call before you dig.



DATE	DESCRIPTION
03/20/2022	ISSUED FOR PERMIT

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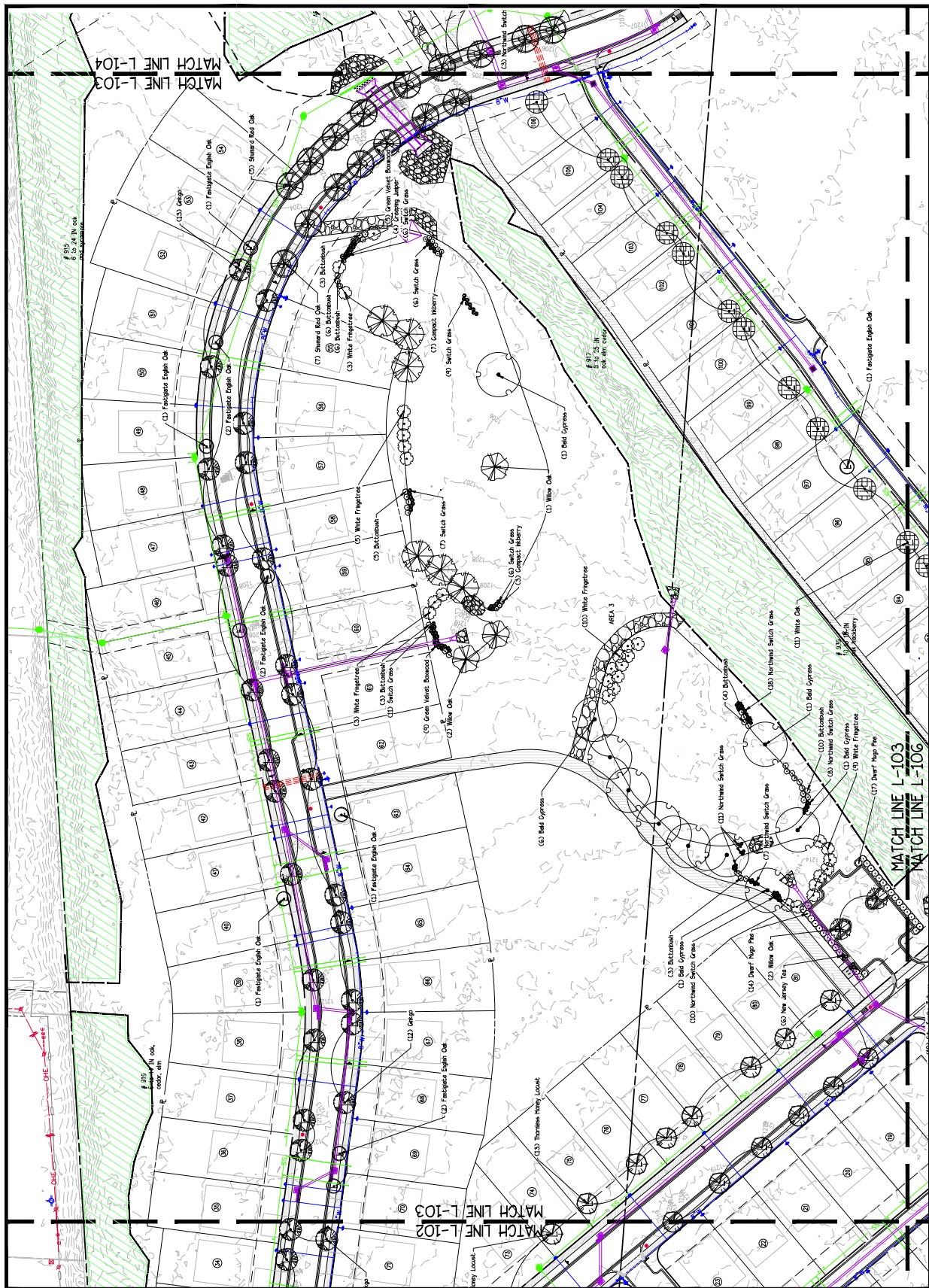
PROJECT NO. 2022-0018
 SHEET NO. 1 OF 1
 ISSUED FOR PERMIT
 1.16-22223

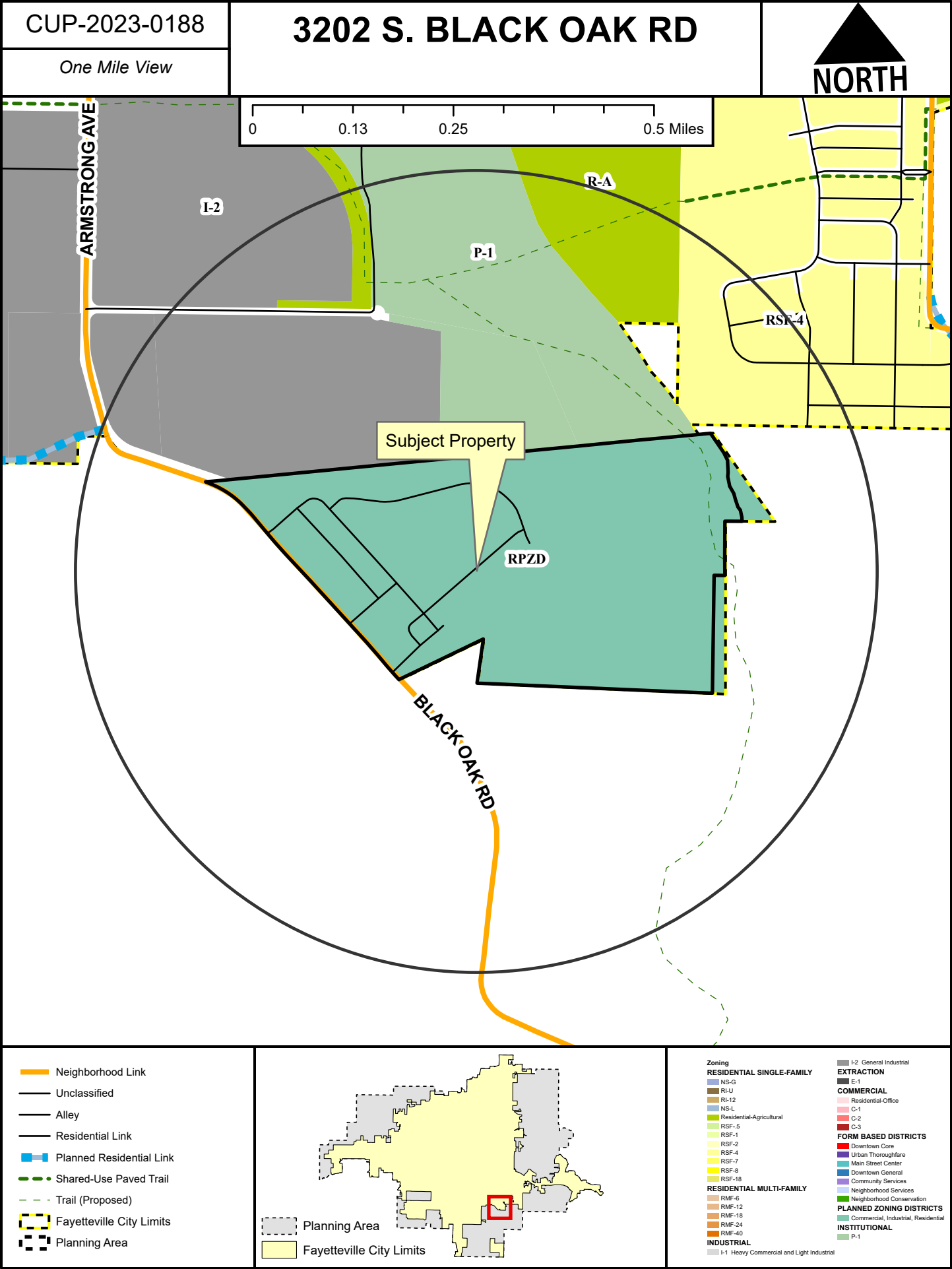


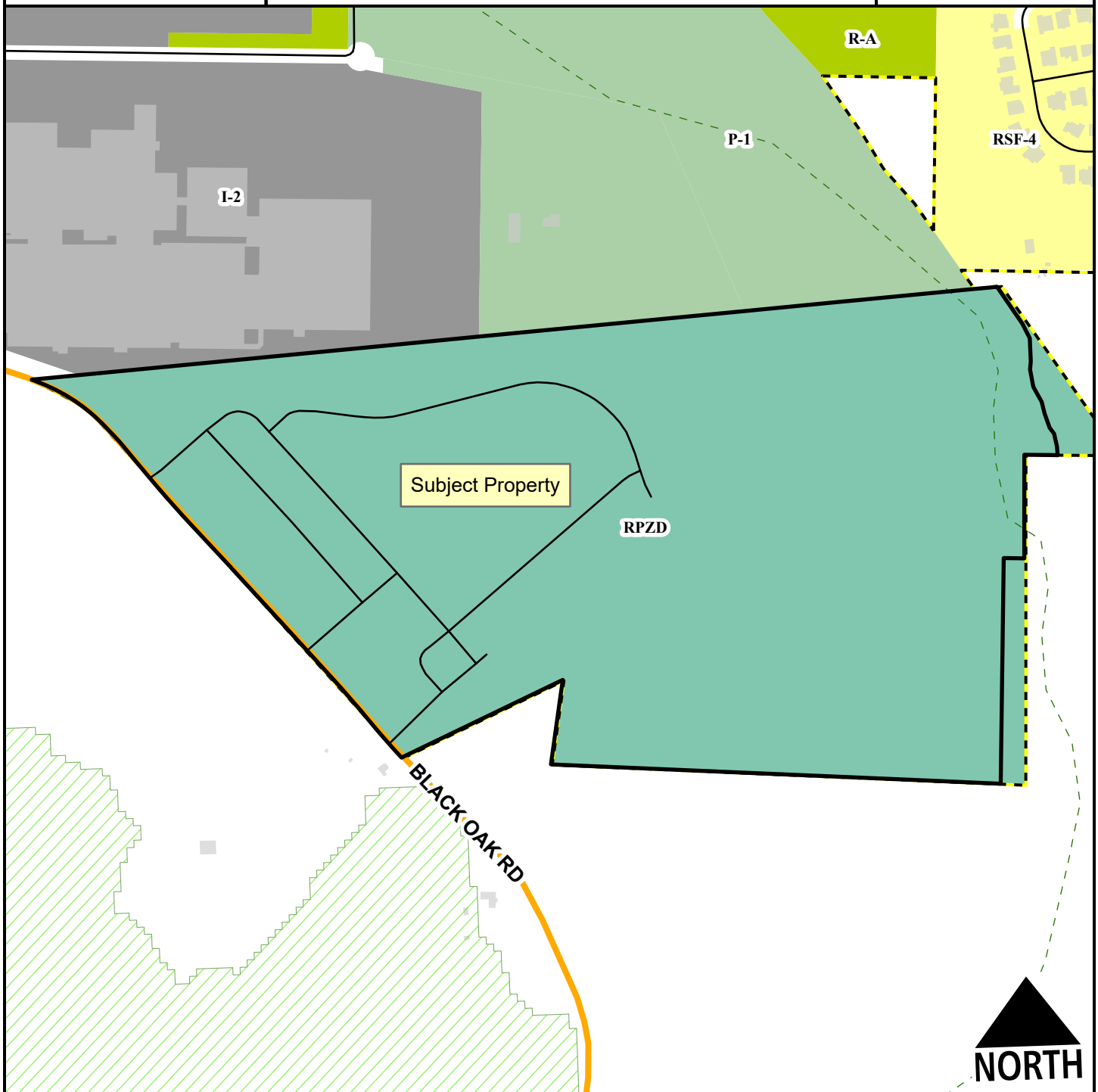
NOTE:

- ALL SIGNAGE MUST BE INSTALLED BY THE CITY OF RIVERSIDE.
- INSTALL STOP SIGN 80-11 PER CITY OF RIVERSIDE STANDARD SPECIFICATIONS.
- ALL LOTS LESS THAN 50' IN WIDTH ARE REQUIRED TO HAVE A STOP SIGN.
- SIDEWALKS ALONG COMMON AREAS AND PUBLIC AREAS SHALL BE CONSTRUCTED BY THE CONTRACTOR.
- SIDEWALKS SHALL BE 5' WIDE MINIMUM.
- CONTRACTOR SHALL PROVIDE SIGNAGE FOR ALL ADJACENT PROPERTY OWNERS SEE OVERALL SITE PLAN.
- FOR ADJACENT PROPERTY OWNERS SEE OVERALL SITE PLAN.
- CONTRACTOR SHALL PROVIDE SIGNAGE FOR ALL ADJACENT PROPERTY OWNERS SEE OVERALL SITE PLAN.
- CONTRACTOR SHALL PROVIDE SIGNAGE FOR ALL ADJACENT PROPERTY OWNERS SEE OVERALL SITE PLAN.

Reviewed by: Jessica Martinez
 Development Services Manager
 470-575-0230
 jmartinez@cityofriverside.org







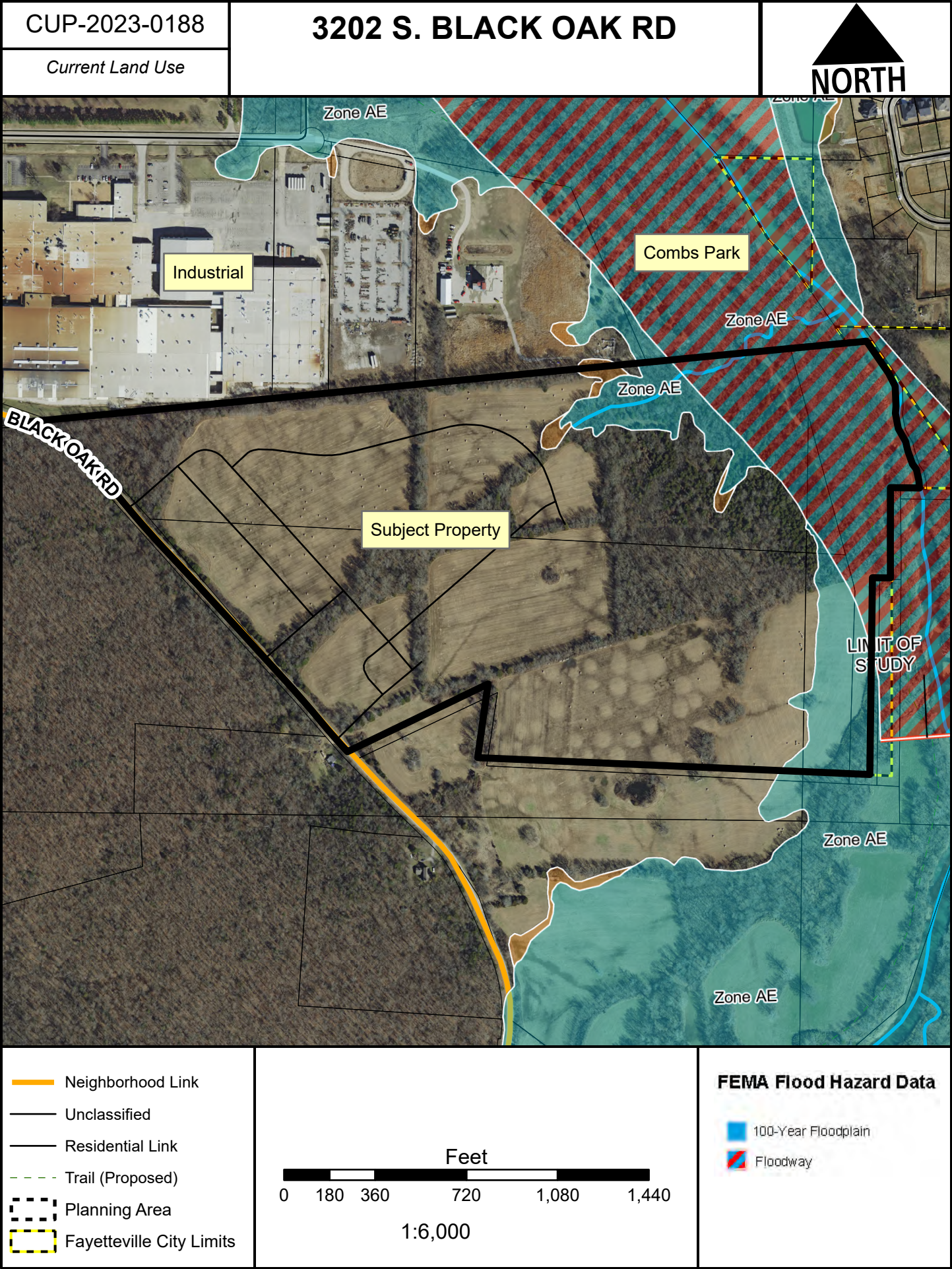
- Neighborhood Link
- Unclassified
- Residential Link
- / / / Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- - - Trail (Proposed)

Feet

0 180 360 720 1,080 1,440

1:6,000

- Residential-Agricultural
- RSF-4
- I-2 General Industrial
- Commercial, Industrial, Residential
- P-1





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0189: Conditional Use Permit (3919 N. MALL AVE./WALMART, 173):** Submitted by BRR ARCHITECTURE for property located at 3919 N. MALL AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 24.10 acres. The request is for a community recycling drop-off facility.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0189** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0189**, determining:*

- In favor of compatibility with adjacent properties;*
- In favor of a variance to 166.25(D)(3)(b)(ii) for screening; and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in north Fayetteville, at the southwest corner of E. Joyce Blvd. and N. Mall Ave. The property is zoned C-2, Thoroughfare Commercial, and is currently developed with a Walmart Supercenter and associated parking. Most of the property lies within the 71B Corridor Master Plan Area. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Shopping Center/Commercial	C-2, Thoroughfare Commercial
South	Undeveloped/Mud Creek Trail	C-2, Thoroughfare Commercial
East	Movie Theater/Commercial	C-2, Thoroughfare Commercial
West	Shopping Center/Commercial	C-2, Thoroughfare Commercial

City Plan 2040 Future Land Use Designation: **Urban Center**

Request: The applicant requests approval of a conditional use permit to operate a commercial recycling drop-off facility, which would be classified as Use Unit 2: City-wide uses by conditional use permit. This use is allowed as a conditional use in all zoning districts in the City of Fayetteville. The applicant has described the use as follows:

- A roughly 10-foot by 20-foot recycling container*
- Number of employees: No employees, but there will be weekly scheduled pick-up*
- Hours of operation: 24 hours a day, 7 days a week*

- *Parking: approximately 4 to serve the use, 8 spaces occupied in total*

The applicant is also requesting a variance to **166.25(D)(3)(b)(ii)** which requires that all recycling and trash containers be screened with materials that are compatible and complementary to the principal structure.

Staff recommendation: Staff recommends in favor of the request for the applicant to not install screening of the proposed recycling container. The intention of the ordinance is to prevent unsightly clutter, debris, and other material from being seen from the public right-of-way, or from adjacent property. In this instance, screening the container may prevent members of the public who will rely on this service to deposit their materials to see the container, and may run counter to the proposed use. Staff recommends an added condition of approval that trash and debris are maintained and are not permitted to collect around the facility to maintain compliance with the intent of the ordinance.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0189** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed use to be compatible with surrounding properties for the reasons outlined in this report;*
2. **Planning Commission determination of a variance to 166.25(D)(3)(b)(ii), which requires that all recycling and trash containers be screened with materials that are compatible and complementary to the principal structure.** *Staff recommends in favor for the reasons outlined above, and recommends an added condition that trash and debris must not be permitted to collect around the proposed container.*
3. This conditional use permit is limited to the use as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:
 - Size of the business: *200 sq. ft.*
 - Number of employees: *None, excluding maintenance staff*
 - Hours of operation: *24 hours per day, seven days per week*
 - Parking: *None additional required; existing Walmart parking lot to serve the patrons.*
4. Approval of the conditional use permit does not grant development entitlement for any necessary site improvements. Improvements shall be considered for compliance with applicable zoning and development standards as required by the Unified Development Code;
5. Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein
6. All site improvements shall comply with the Americans with Disabilities Act, as applicable, and;

7. Any future expansion or change in the use shall require Planning Commission approval.
-

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a community recycling facility, which is classified as Use Unit 2. This use is permitted as a conditional use in the C-2 zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

Finding: The Planning Commission is empowered under Unified Development Code §161.23 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 and finds that allowing the use will provide an additional resource for members of the community to recycle and reduce the amount of items ending up in the landfill. The scale and impact of the recycling center relative to the overall Walmart parking lot is minimal, and staff finds that minimal intrusion or nuisance is expected.

- (c.) The Planning Commission shall certify:

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

Finding: There are no specific rules governing the applicant's request.

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

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

Finding: Staff does not identify or anticipate any issues with ingress, egress or pedestrian safety. The proposed location for the community recycling center will leave plenty of surrounding space for customers to park and access the container. Emergency services will also have plenty of space to access the container from all sides in the event of an emergency; typically, 20-feet is required for a fire truck to access the container.

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

Finding: While community recycling centers have a potential for odor effects or noise, staff anticipates that the impacts to surrounding properties would be negligible. The structure is located approximately 135 feet from the adjacent property line.

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

Finding: The submittal is a refuse container itself, but the intention is for it to serve the community at large. Staff does not identify any issues with ingress, egress, or parking and loading at this proposed location.

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

Finding: The property has access to water and sewer, but staff does not anticipate any impact to existing services.

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

Finding: No screening or buffering is provided with this proposal, and staff does not find any to be necessary. The container is situated far enough away from both the public right-of-way and the adjacent property that staff does not find there would be any adverse impact to the surroundings, provided trash and debris are maintained and are not permitted to collect outside of the proposed containers.

(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: While the applicant's conceptual plan does not indicate setbacks, it does appear that the proposed container would meet the relevant setbacks as defined by the C-2 zoning district.

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

Finding: Staff finds the proposal to be compatible with adjacent properties for the reasons outlined above.

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

Finding: Staff finds the proposed use to be compatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans. The proposed recycling container will have the ability to accept materials that are not widely accepted by the City, in an effort to provide a waste reduction service to the greater Fayetteville population.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.23 District C-2, Thoroughfare Commercial
- Request Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.23 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 42	Clean technologies
Unit 43	Animal boarding and training

- (C) *Density.* None.
- (D) *Bulk and Area Regulations.* None.
- (E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None
Side, when contiguous to a residential district	15 feet
Rear	20 feet

Urban Form Setback Regulations:

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

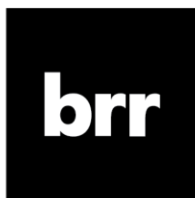
- (F) *Building Height Regulations.*

Building Height Maximum	6 stories*
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* If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from side boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

- (G) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.
- (H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4727, 7-19-05; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; 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, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 6, 7, 4-2-19; Ord. No. 6223, §1, 9-3-19; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §5, 1-18-22)



Wednesday, December 13, 2023

Ms. Jessica Masters, AICP
Fayetteville Planning Division
125 West Mountain Street
Fayetteville, AR, 72701
479.575.8239

Re: **Walmart #2745 – Proposed Recycling Container**

Ms. Masters,

On behalf of Walmart, BRR Architecture, Inc. is requesting approval of a Conditional Use Permit for placement of a prefabricated community recycling container on the existing Walmart parking lot. Site is located at 3919 Mal Ave., Fayetteville, AR 72704. The container is roughly 10 foot x 20 foot in dimension; the footprint and placement of which would use approximately (8) existing parking spaces. The proposed location for the container is in the southeastern quadrant of the existing parking field, furthest from the entry vestibule, and just west of the existing fueling station. A site plan is enclosed for reference. This location is preferred for the visibility it provides to customers while not utilizing parking spaces that are in high demand for members.

This letter of intent also requests a variance from screening requirements as the container will have graphics and instructions to customers on how the container operates. Refer to example image attached to enclosed site plan.

The unit will be locked at all times, only access to the door is through the QR code and will unlock for 30 seconds. There aren't set operation hours, it's available to the community throughout the day and week. It will also be emptied up on a weekly schedule.

We hope that this submittal package contains all necessary information in consideration of the request. Thank you for your time.

Sincerely,

Dennis Wilson, AIA
BRR Architecture, Inc.

www.brrarch.com

700 SE 5th Street, Suite 104, Bentonville, AR 72712 MAIN 479.286.2900

Kansas City – Bentonville – Phoenix – San Francisco – Philadelphia – Atlanta – Austin – Seattle – Dallas – Los Angeles

Planning Commission

January 22, 2024

CUP-2023-0189 (WALMART)

Page 8 of 12



2 RECYCLING CONTAINER IMAGE
SCALE = NOT TO SCALE



PROPOSED 10' x 20'
PREFABRICATED
RECYCLING
CONTAINER

NOTE: THIS SHEET IS A COPY OF THE AVAILABLE AS-BUILT SITE PLAN FOR THIS PROJECT. THE SHEET IS NOT A CONTRACT DOCUMENT. THE ARCHITECT HAS ASSUMED EXISTING CONDITIONS AT THE PROJECT SITE. THE ARCHITECT OR RECORD HAS MADE NO MODIFICATIONS TO THIS SHEET OR THE INFORMATION CONTAINED HEREIN. THE USER OF THIS SHEET SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE CONDITIONS ILLUSTRATED.

NOTES

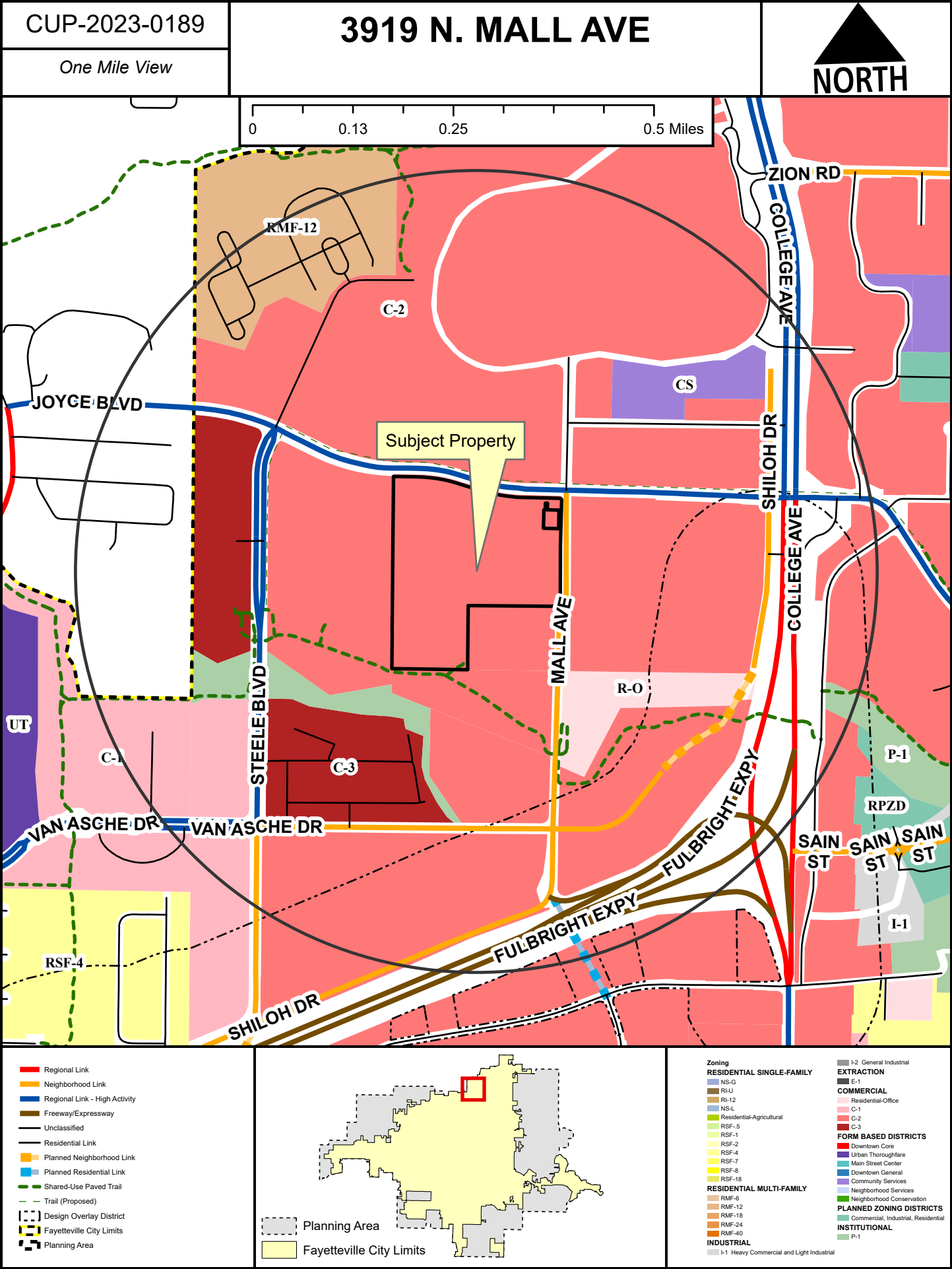
1. REPAIRED RECYCLING CONTAINER DOES NOT REQUIRE POWER SUPPLY. POWER IS OPERATED VIA OR CODE POWERED BY SELF-CONTAINED SOLAR POWER SYSTEM.
2. RECYCLING CONTAINER IS A REPAIRED SHIPPING CONTAINER THAT DOES NOT REQUIRE HANDPICK OR FOUNDATIONS.

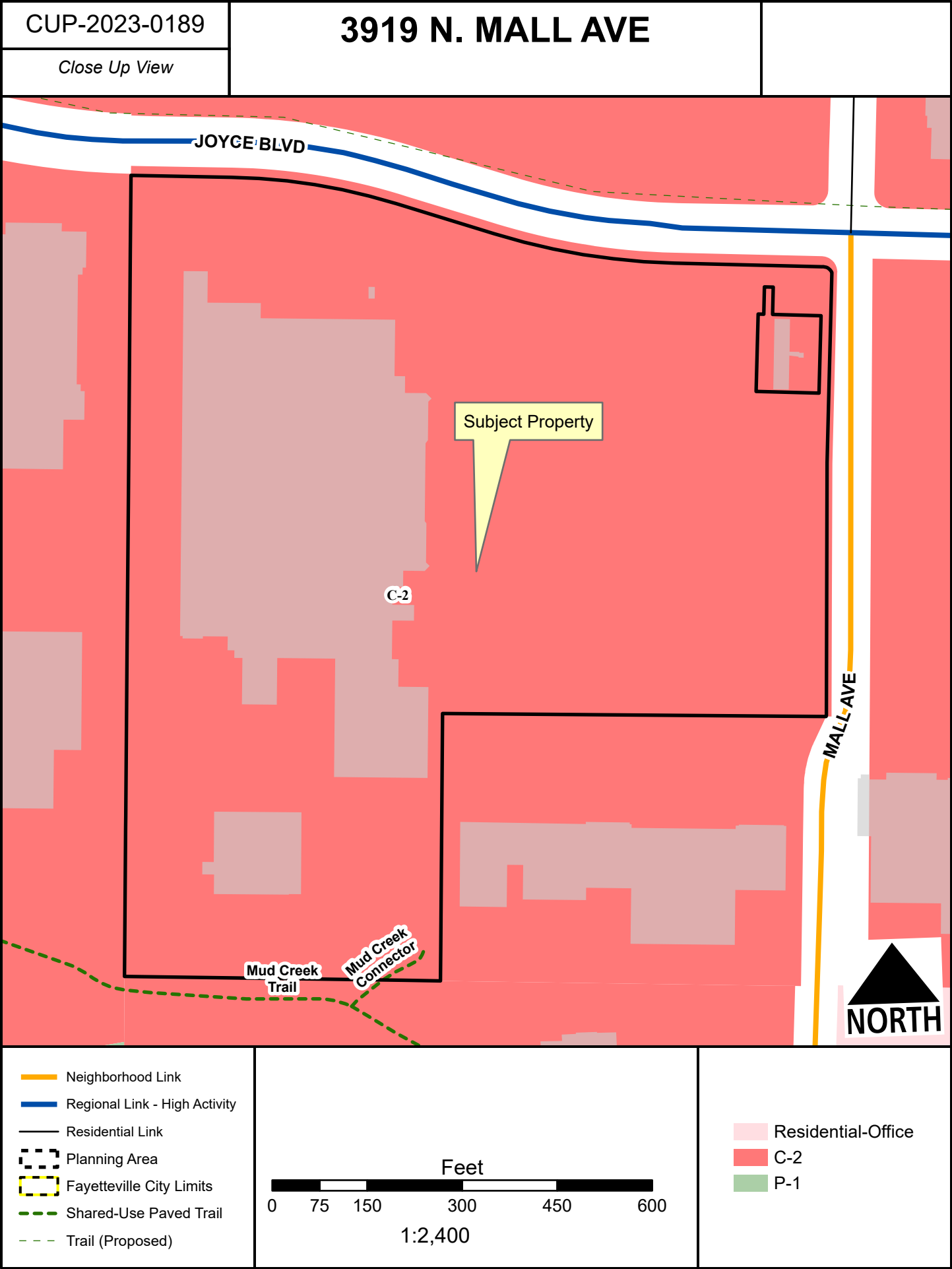
PROJECT SCOPE OF WORK

PLACE PREFABRICATED RECYCLING CONTAINER ON EXISTING PARKING LOT. CONTAINER SIZE IS 10' x 20' AND WILL TEMPORARILY COVER APPROXIMATELY (4) PARKING SPACES ON THE EXISTING LOT.

10' x 20' RECYCLING CONTAINER 

1 SITE PLAN
SCALE = NOT TO SCALE





CUP-2023-0189
<i>Current Land Use</i>

3919 N. MALL AVE



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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

-  100-Year Floodplain
 Floodway

Feet

0 112.5 225 450 675 900

1:3,600



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0190: Conditional Use Permit (290 E. CITIZENS DR./WALMART, 371):** Submitted by BRR ARCHITECTURE for property located at 290 E. CITIZENS DR. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 4.92 acres. The request is for a community recycling drop-off facility.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0190** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0190**, determining:*

- In favor of compatibility with adjacent properties;*
- In favor of a variance to 166.25(D)(3)(b)(ii) for screening; and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in west Fayetteville, at the northwest corner of E. Mission Blvd. and N. Crossover Rd. The property is zoned C-1, Neighborhood Commercial, and is currently developed with a Walmart Neighborhood Market and associated parking. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	R-O, Residential - Office
South	Bank	C-1, Neighborhood Commercial
East	Drive-Thru Restaurant	C-1, Neighborhood Commercial
West	Shopping Center/Commercial	C-1, Neighborhood Commercial

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

Request: The applicant requests approval of a conditional use permit to operate a commercial recycling drop-off facility, which would be classified as Use Unit 2: City-wide uses by conditional use permit. This use is allowed as a conditional use in all zoning districts in the City of Fayetteville. The applicant has described the use as follows:

- A roughly 10-foot by 20-foot recycling container*
- Number of employees: No employees, but there will be weekly scheduled pick-up*
- Hours of operation: 24 hours a day, 7 days a week*

- *Parking: approximately 4 to serve the use, 8 spaces occupied in total*

The applicant is also requesting a variance to **166.25(D)(3)(b)(ii)** which requires that all recycling and trash containers be screened with materials that are compatible and complementary to the principal structure.

Staff recommendation: Staff recommends in favor of the request for the applicant to not install screening of the proposed recycling container. The intention of the ordinance is to prevent unsightly clutter, debris, and other material from being seen from the public right-of-way, or from adjacent property. In this instance, screening the container may prevent members of the public who will rely on this service to deposit their materials to see the container, and may run counter to the proposed use. Staff recommends an added condition of approval that trash and debris are maintained and are not permitted to collect around the facility to maintain compliance with the intent of the ordinance.

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0190** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed use to be compatible with surrounding properties for the reasons outlined in this report;*
2. **Planning Commission determination of a variance to 166.25(D)(3)(b)(ii), which requires that all recycling and trash containers be screened with materials that are compatible and complementary to the principal structure.** *Staff recommends in favor for the reasons outlined above, and recommends an added condition that trash and debris must not be permitted to collect around the proposed container.*
3. This conditional use permit is limited to the use as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:
 - Size of the business: *200 sq. ft.*
 - Number of employees: *None, excluding maintenance staff*
 - Hours of operation: *24 hours per day, seven days per week*
 - Parking: *None additional required; existing Walmart parking lot to serve the patrons.*
4. Approval of the conditional use permit does not grant development entitlement for any necessary site improvements. Improvements shall be considered for compliance with applicable zoning and development standards as required by the Unified Development Code;
5. Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein
6. All site improvements shall comply with the Americans with Disabilities Act, as applicable, and;

7. Any future expansion or change in the use shall require Planning Commission approval.
-

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a community recycling facility, which is classified as Use Unit 2. This use is permitted as a conditional use in the C-1 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 §161.23 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, and finds that allowing the use will provide an additional resource for members of the community to recycle and reduce the amount of items ending up in the landfill. The scale and impact of the recycling center relative to the overall Walmart parking lot is minimal, and staff finds that minimal intrusion or nuisance is expected.

- (c.) The Planning Commission shall certify:

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

Finding: There are no specific rules governing the applicant's request.

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

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

Finding: Staff does not identify or anticipate any issues with ingress, egress or pedestrian safety. The proposed location for the community recycling center will leave plenty of surrounding space for customers to park and access the container. Emergency services will also have plenty of space to access the container from all sides in the event of an emergency; typically, 20-feet is required for a fire truck to access the container.

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

Finding: While community recycling centers have a potential for odor effects or noise, staff anticipates that the impacts to surrounding properties would be negligible. The structure is located approximately 80 feet from the adjacent property line.

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

Finding: The submittal is a refuse container itself, but the intention is for it to serve the community at large. Staff does not identify any issues with ingress, egress, or parking and loading at this proposed location.

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

Finding: The property has access to water and sewer, but staff does not anticipate any impact to existing services.

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

Finding: No screening or buffering is provided with this proposal, and staff does not find any to be necessary. The container is situated far enough away from both the public right-of-way and the adjacent property that staff does not find there would be any adverse impact to the surroundings, provided trash and debris are maintained and are not permitted to collect outside of the proposed containers.

(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: While the applicant's conceptual plan does not indicate setbacks, it does appear that the proposed container would meet the relevant setbacks as defined by the C-1 zoning district.

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

Finding: Staff finds the proposal to be compatible with adjacent properties for the reasons outlined above.

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

Finding: Staff finds the proposed use to be compatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans. The proposed recycling container will have the ability to accept materials that are not widely accepted by the City, in an effort to provide a waste reduction service to the greater Fayetteville population.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.21 District C-1, Neighborhood Commercial
- Request Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.21 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 25	Offices, studios, and related services
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments*
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None

Side, when contiguous to a residential district	10 feet
Rear	20 feet

Urban Form Setback Regulations:

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

(F) *Building Height Regulations.*

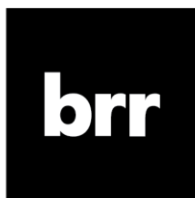
Building Height Maximum	5 stories
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If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

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

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; 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, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 4, 5, 4-2-19; Ord. No. 6223, §1, 9-3-19; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §4, 1-18-22)



Wednesday, December 13, 2023

Ms. Jessica Masters, AICP
Fayetteville Planning Division
125 West Mountain Street
Fayetteville, AR, 72701
479.575.8239

Re: **Walmart #2745 – Proposed Recycling Container**

Ms. Masters,

On behalf of Walmart, BRR Architecture, Inc. is requesting approval of a Conditional Use Permit for placement of a prefabricated community recycling container on the existing Walmart parking lot. Site is located at 2690 E. Citizens Dr., Fayetteville, AR 72704. The container is roughly 10 foot x 20 foot in dimension; the footprint and placement of which would use approximately (8) existing parking spaces. The proposed location for the container is in the southeastern quadrant of the existing parking field, furthest from the entry vestibule, and just west of the existing fueling station. A site plan is enclosed for reference. This location is preferred for the visibility it provides to customers while not utilizing parking spaces that are in high demand for members.

This letter of intent also requests a variance from screening requirements as the container will have graphics and instructions to customers on how the container operates. Refer to example image attached to enclosed site plan.

The unit will be locked at all times, only access to the door is through the QR code and will unlock for 30 seconds. There aren't set operation hours, it's available to the community throughout the day and week. It will also be emptied up on a weekly schedule.

We hope that this submittal package contains all necessary information in consideration of the request. Thank you for your time.

Sincerely,

Dennis Wilson, AIA
BRR Architecture, Inc.

www.brrarch.com

700 SE 5th Street, Suite 104, Bentonville, AR 72712 MAIN 479.286.2900

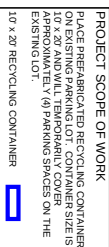
Kansas City – Bentonville – Phoenix – San Francisco – Philadelphia – Atlanta – Austin – Seattle – Dallas – Los Angeles

Planning Commission

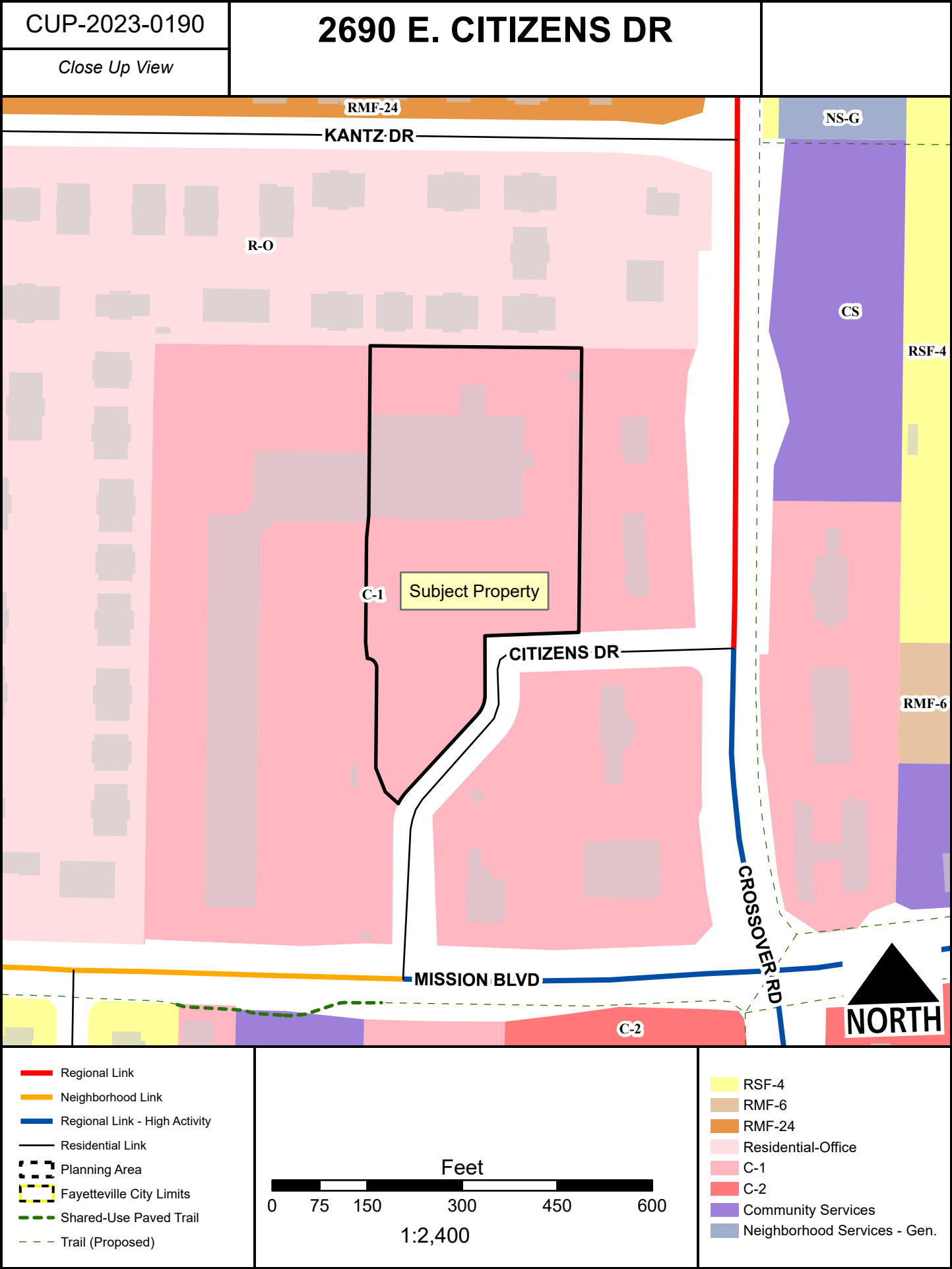
January 22, 2024

CUP-2023-0190 (WALMART)

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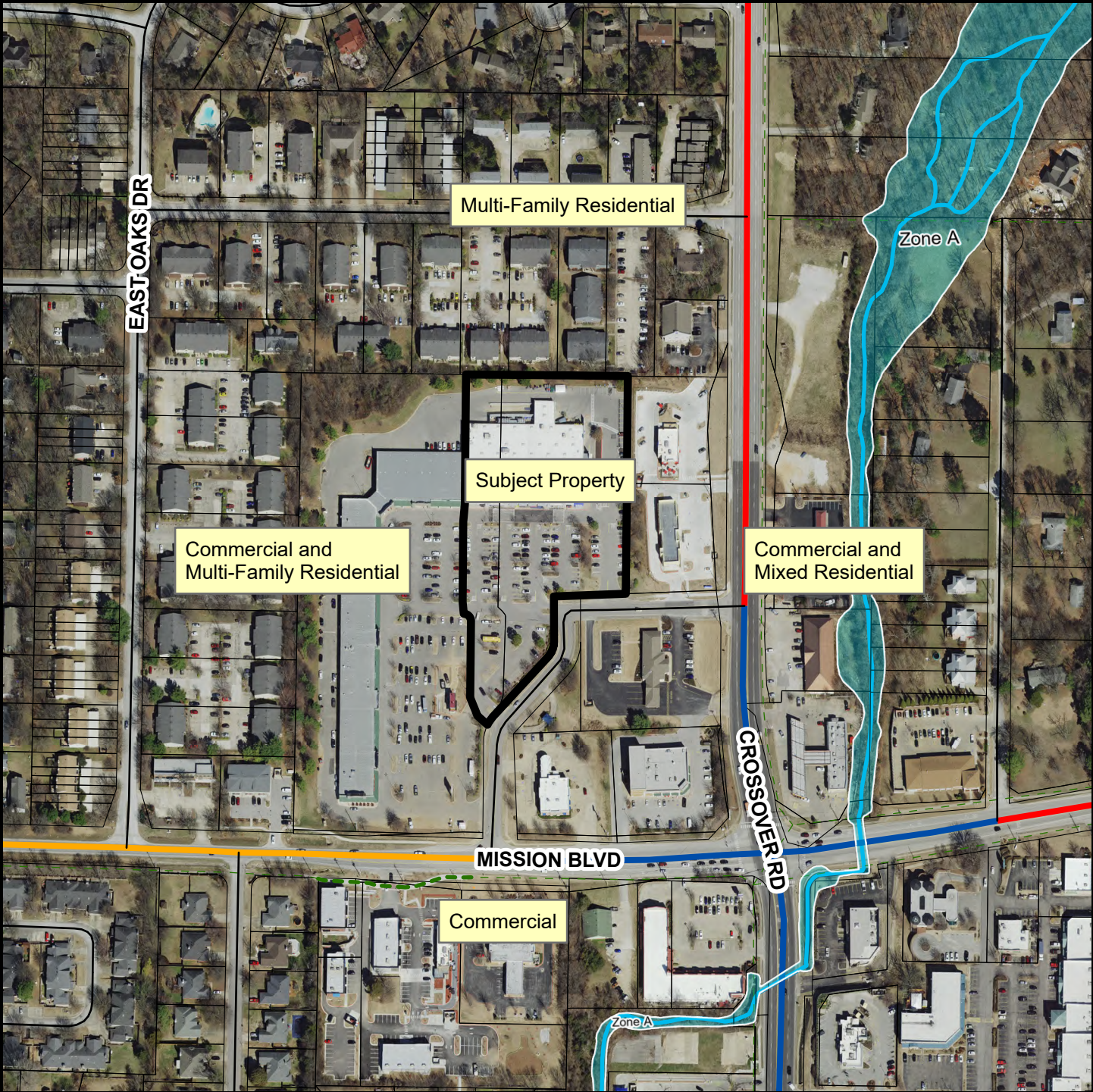
CONSULTANTS	STIPULATION FOR REUSE	ARCHITECT & ENGINEER'S USE OF CONSULTANT'S WORK IS LIMITED TO THE PROJECT AND SITE SPECIFICALLY IDENTIFIED IN THE CONSULTANT'S AGREEMENT. ANY REUSE OF THE CONSULTANT'S WORK FOR OTHER PROJECTS OR SITES WITHOUT THE WRITTEN PERMISSION OF THE CONSULTANT IS PROHIBITED.
Planning Commission January 22, 2024 CUP-2023-0190 (WALMART) Page 169 of 170		



CUP-2023-0190
<i>Current Land Use</i>

Current Land Use

2690 E. CITIZENS DR



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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

-  100-Year Floodplain
 Floodway

Feet

0 112.5 225 450 675 900

1:3,600

Feet

0 112.5 225 450 675 900

1:3,600



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 22, 2024

SUBJECT: **RZN-2023-0036: Rezoning (NORTH OF W. TECHNOLOGY WAY/WATKINS, BOYER, GRAY & CURRY PLLC, 479):** Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NORTH OF W. TECHNOLOGY WAY. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 15.66 acres. The request is to rezone the property to CS, COMMUNITY SERVICES and R-A, RESIDENTIAL AGRICULTURAL.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0036** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0036** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is located in south Fayetteville on the southwest corner of the N. Shiloh Dr. and W. Persimmon St. The property includes two parcels totaling 15.32 acres. The east parcel was developed as a detention pond as part of a previous commercial development. The west property is currently undeveloped and includes a large stand of trees in the southern portion of the parcel. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Unit per Acre
South	Technology Manufacturing	C-2, Thoroughfare Commercial
East	I-49 Interstate	NA
West	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Unit per Acre

Request: The request is to rezone the subject property from C-2, Thoroughfare Commercial to approximately 13.12 acres of CS, Community Services and 2.54 acres of R-A, Residential Agricultural.

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

INFRASTRUCTURE:

Streets: The subject area has frontage along three streets. W. Persimmon St. is a partially improved Neighborhood Link with asphalt paving with curb & gutter, open ditches and some sidewalk. N. Shiloh Dr. is a partially improved Neighborhood Link with asphalt paving with curb & gutter and open ditches. W. Technology Way is a partially improved Residential Link with asphalt paving, curb & gutter 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. Existing 12-inch water main is present on the south side of W. Persimmon St. Existing 8-inch water main is present on the south side of W. Technology Way and the west side of Shiloh Trail.

Sewer: Sanitary Sewer is available to the subject area. Existing 8-inch sewer main is present in W. Persimmon St and along the west side of Shiloh Trail.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District or contain hydric soils.

Portions of the property lie within a FEMA floodplain. 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.

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

Fire: Station 7, located at 835 N. Ruppel Rd., protects this site. The property is located approximately 1 mile 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 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 6 minutes for an engine and 8 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 current zoning district of C2, Thoroughfare Commercial requires **15% minimum canopy preservation**. The proposed zoning district of CS, Community Services requires **20% minimum canopy preservation**. The proposed zoning district of R-A, Residential Agricultural requires **25% minimum canopy preservation**.

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

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a 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 a score range between **7-8** 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 7)
- New Sewer Main (W. Persimmon St and Shiloh Trail)
- New Water Main (W. Persimmon St., W. Technology Way, and Shiloh Trail)
- Near Grocery Store (Walmart Neighborhood Market)
- Near City Park (Centennial Park)
- Near Paved Trail (Shiloh Trail)
- Near Razorback Bus Stop (Persimmon & Betty Jo)
- Appropriate Land Use

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the proposed rezoning from C-2 to CS to be compatible with the surrounding area. The intent of the CS zoning district is to provide convenience goods and personal services for persons living in the surrounding residential areas, to provide for adaptable mixed-use centers located along commercial corridors that connect denser development nodes, and to provide standards that enable development to be approved administratively. The two parcels in question are located adjacent to an existing apartment complex (Mountain Ranch) to the west, a mixed-density residential area to the north, and a mix of commercial uses and city park (Centennial Park) to the south. Interstate 49 is located directly to the east. Staff finds the requested rezoning to be compatible since the parcel is bound by a mix of both residential and commercial uses. CS permits a mix of both residential and commercial uses that could serve as a transition area between existing residential and commercial properties. C-2 has a mix of Euclidean and form-based zoning, while CS is an entirely form-

based district. The setback and minimum buildable street frontage requirements of CS are identical to the form-based requirements of the existing C-2 district. Neither C-2 or CS have bulk and area regulations for nonresidential uses, with CS having a lot width minimum of 18 feet for residential dwellings. C-2 only permits cluster housing as residential use and has no density limits. CS also has no density limits, though staff finds this is unlikely to contribute to a development that is out of scale with the surroundings given the scale of the existing commercial and the presence of existing apartment complexes to the west and north. Further, the maximum building height would be reduced from 6 stories to 5 stories. The applicant also proposes to rezone a portion of the site as R-A, Residential Agricultural. This area includes extensive tree canopy and is intended to remain as a preserved canopy in future development. Staff finds the zoning of R-A to be compatible with this stated intent, particularly given the proximity of Centennial Park to the south.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as City Neighborhood area. The property is located at the intersection of W. Persimmon St. and N. Shiloh Dr., an area designated as a Tier 3 center per the City Plan 2040 Growth Concept Map. Tier 3 centers are intended to serve the immediately surrounding residential areas and will cater to the specific needs of a small market with varying characteristics based on location and needs of the surrounding community. The property is also approximately half a mile from the Tier 2 center located at the intersection of 49 and W. Wedington Dr. A rezoning to CS could allow for the creation, maintenance, of mixed-use developments that provide both services and housing. The property has a moderate infill score ranging between 7 and 8 with a weighted score of 9.5. Staff finds the requested rezoning to be appropriate since it would provide the opportunity to develop a mix of residential and commercial uses in a Tier 3 center at a major intersection. The designation of a portion of extensive tree canopy as R-A will further contribute to city goals to establish an enduring green network.

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

Finding: Staff finds that rezoning the subject property to CS is justified since it would better comply with both the future land-use designation and the property's location at a Tier 3 center (W. Persimmon St. and N. Shiloh Dr.).

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

Finding: A rezoning from C-2 to CS has the potential to increase traffic at this location when considering that C-2 does not currently permit residential development except for cluster housing. However, staff finds that a rezoning is not likely to create or appreciably increase traffic danger or congestion given multiple street frontages. Additionally, staff finds that improving connectivity along N. Shiloh Dr. could aid in reducing traffic needs to N. Shiloh Dr., an existing

one-way street, by allowing alternative routes between adjacent developments.

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

Finding: The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, staff finds that the proposed rezoning would not undesirably increase the load on public services. The property currently has access to public utilities and any necessary improvements to adjacent streets would be determined at the time of development review. Fayetteville Public Schools did not comment on this request.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0036 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 22, 2024,</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.23 District C-2, Thoroughfare Commercial
 - §161.22 District CS, Community Services
 - §161.03 District R-A, Residential Agriculture
- Applicant Exhibits
 - Request Letter
 - Legal Descriptions
 - Site Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.23 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None

Side, when contiguous to a residential district	15 feet
Rear	20 feet

Urban Form Setback Regulations:

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

(F) *Building Height Regulations.*

Building Height Maximum	6 stories*
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* If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from side boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

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

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4727, 7-19-05; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; 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, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 6, 7, 4-2-19; Ord. No. 6223, §1, 9-3-19; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §5, 1-18-22)

161.22 Community Services

(A) *Purpose.* The Community Services District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 40	Sidewalk Cafes
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Dwelling	18 feet
All others	None

(2) *Lot Area Minimum.* None.

(E) *Setback regulations.*

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

(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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(G) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6409 §1, 2-2-21; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21; Ord. No. 6497 , §1, 10-19-21)

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."

161.03 District R-A, Residential-Agricultural

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

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

(E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

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

(G) *Building area.* None.

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

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

**WATKINS, BOYER,
GRAY & CURRY, PLLC**

ATTORNEYS AT LAW

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* ALSO LICENSED IN MISSOURI

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DELYNN HALE, SECRETARY
AMY BENSON, PARALEGAL
WHITNEY DUCKER, OFFICE MANAGER

January 11, 2024

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

**RE: Rezoning Parcel No. 765-28835-000 and 765-28838-000 from C-2,
Thoroughfare Commercial to CS, Community Services**

Dear Planning Staff:

The Applicant, T&J NWA, LLC, is seeking approval to rezone approximately 15.65 acres located at the intersection of W. Persimmon St. and N. Shiloh Drive ("the Property"). The request is to rezone from C-2-Commercial Thoroughfare to a mix of CS-Community Services and R-A, Residential Agricultural. The purpose for this rezoning request is to rezone the property to sell to a developer to build a multi-family development.

The properties surrounding the Property are a mix of RPZD (consisting of dense single family housing), RMF-24 (consisting of apartments), and C-2 (consisting of an office building and undeveloped land). CS zoning is compatible with the abovementioned uses and zones due to the fact that it allows for a mix of residential and commercial. CS zoning is being requested by the Applicant due to the mix of commercial and residential uses allowed, and due to the fact that CS is a form-based code that requires development in a more urban style. Moreover, the Property is situated close to Centennial Park, and has close access to Interstate 49, which makes it ripe for higher intensity development. For the aforementioned reasons, a rezoning to CS is compatible with the surrounding area, and should not adversely affect adjacent properties.

Whitten Development, Inc.
Page 2.

Lastly, there is a portion of the property which is covered by existing tree canopy on the Southwestern end of the property. The Developer plans to locate the development towards the remaining portion of the property, which is flatter, and which has previously been cleared, in order to preserve as many of the existing trees as possible. Accordingly, the Developer has proposed to rezone two portions of the Property—a 2.35 acre and a .10 acre—to R-A to indicate an intent to preserve the existing tree canopy.

If you have any questions, please feel free to contact me at 479-636-2168, or at wkellstrom@watkinslawoffice.com.

Sincerely,

WATKINS, BOYER,
GRAY & CURRY, PLLC

/s/ Will A. Kellstrom

Will A. Kellstrom

**C-S ZONING
SURVEY DESCRIPTION**

A PART OF THE NW1/4 OF THE NW1/4 & PART OF THE NE1/4 OF THE NW1/4 OF SECTION 18, TOWNSHIP 16 NORTH, RANGE 30 WEST IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW CORNER OF LOT 34 IN MOUNTAIN RANCH SUBDIVISION; THENCE N 02°26'00" E A DISTANCE OF 825.25' TO A POINT; THENCE S 87°34'00" E A DISTANCE OF 101.06' TO A POINT; THENCE S 87°36'24" E A DISTANCE OF 944.10' TO A POINT; THENCE S 03°24'38" E A DISTANCE OF 239.28' TO A POINT; THENCE S 10°32'43" E A DISTANCE OF 370.24' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 54.44', WITH A RADIUS OF 200.00', WITH A CHORD BEARING OF S 85°22'25" W, WITH A CHORD LENGTH OF 54.27', TO A POINT; THENCE N 86°55'01" W A DISTANCE OF 652.46' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 524.95', WITH A RADIUS OF 500.00', WITH A CHORD BEARING OF S 65°23'45" W, WITH A CHORD LENGTH OF 501.17', TO THE POINT OF BEGINNING, CONTAINING 682,065 SQ. FEET, 15.66 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.

LESS & EXCEPT:

COMMENCING FROM THE SW CORNER OF LOT 34 IN MOUNTAIN RANCH SUBDIVISION; THENCE N 02°26'00" E A DISTANCE OF 43.68' TO THE POINT OF BEGINNING; THENCE N 02°26'00" E A DISTANCE OF 333.35' TO A POINT; THENCE S 87°22'34" E A DISTANCE OF 500.47' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 58.04', WITH A RADIUS OF 75.04', WITH A CHORD BEARING OF N 77°11'48" E, WITH A CHORD LENGTH OF 56.60', TO A POINT; THENCE N 61°33'58" E A DISTANCE OF 22.87' TO A POINT; THENCE S 43°40'17" E A DISTANCE OF 59.13' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 57.42', WITH A RADIUS OF 87.20', WITH A CHORD BEARING OF S 21°30'05" E, WITH A CHORD LENGTH OF 56.38', TO A POINT; THENCE S 03°04'59" W A DISTANCE OF 58.82' TO A POINT; THENCE N 86°55'01" W A DISTANCE OF 192.82' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 513.44', WITH A RADIUS OF 524.91', WITH A CHORD BEARING OF S 67°20'39" W, WITH A CHORD LENGTH OF 493.21', TO THE POINT OF BEGINNING, CONTAINING 105,413 SQ. FEET, 2.42 ACRES, MORE OR LESS.

ALSO, LESS & EXCEPT:

COMMENCING FROM THE SW CORNER OF LOT 34 IN MOUNTAIN RANCH SUBDIVISION; THENCE N 02°26'00" E A DISTANCE OF 43.68' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 514.48', WITH A RADIUS OF 525.00', WITH A CHORD BEARING OF N 67°23'56" E, WITH A CHORD LENGTH OF 494.14', TO A POINT; THENCE S 86°55'14" E A DISTANCE OF 336.23' TO THE POINT OF BEGINNING; THENCE N 45°42'23" E A DISTANCE OF 104.65' TO A POINT; THENCE S 42°13'31" E A DISTANCE OF 70.98' TO A POINT; THENCE S 03°04'59" W A DISTANCE OF 27.08' TO A POINT; THENCE N 86°55'14" W A DISTANCE OF 121.32' TO THE POINT OF BEGINNING, CONTAINING 5,354 SQ. FEET, 0.12 ACRES, MORE OR LESS.

**R-A ZONING "2"
SURVEY DESCRIPTION**

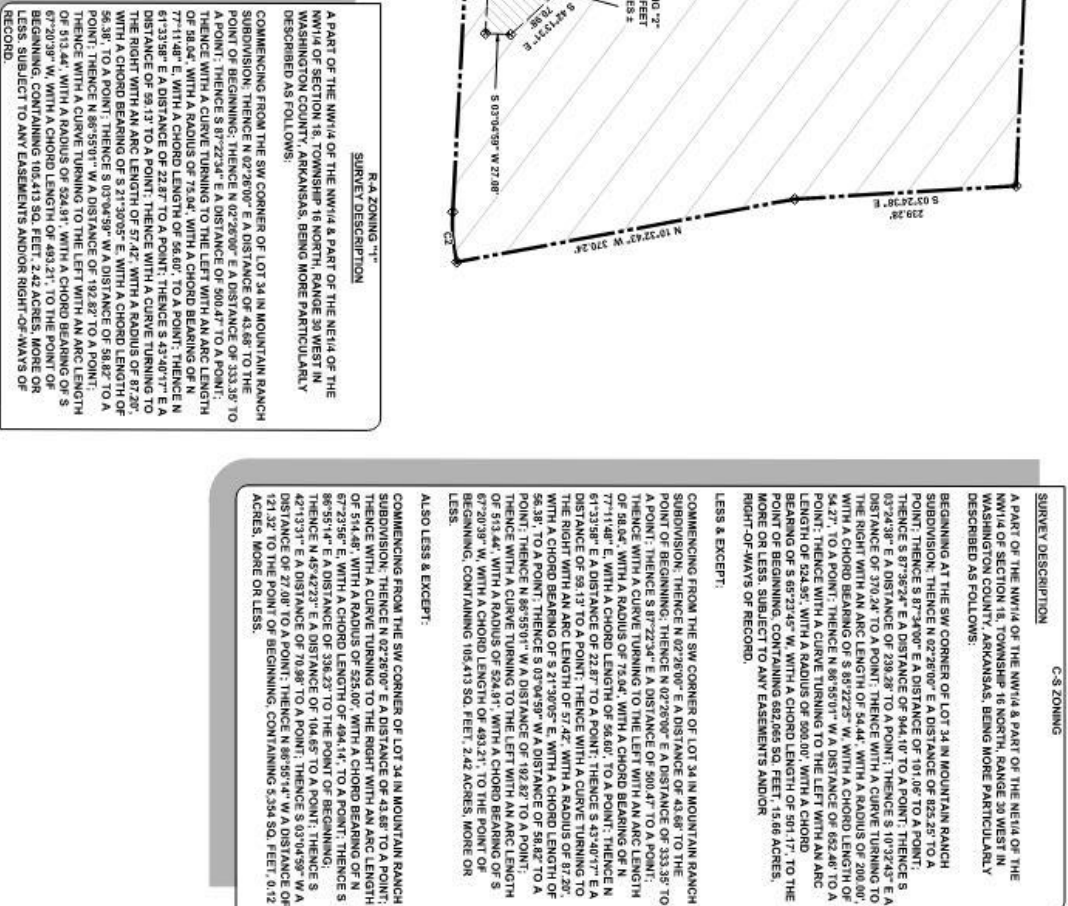
A PART OF THE NE1/4 OF THE NW1/4 OF SECTION 18, TOWNSHIP 16 NORTH, RANGE 30 WEST IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM THE SW CORNER OF LOT 34 IN MOUNTAIN RANCH SUBDIVISION; THENCE N 02°26'00" E A DISTANCE OF 43.68' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 514.48', WITH A RADIUS OF 525.00', WITH A CHORD BEARING OF N 67°23'56" E, WITH A CHORD LENGTH OF 494.14', TO A POINT; THENCE S 86°55'14" E A DISTANCE OF 336.23' TO THE POINT OF BEGINNING; THENCE N 45°42'23" E A DISTANCE OF 104.65' TO A POINT; THENCE S 42°13'31" E A DISTANCE OF 70.98' TO A POINT; THENCE S 03°04'59" W A DISTANCE OF 27.08' TO A POINT; THENCE N 86°55'14" W A DISTANCE OF 121.32' TO THE POINT OF BEGINNING, CONTAINING 5,354 SQ. FEET, 0.12 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.

R-A ZONING "1"
SURVEY DESCRIPTION

A PART OF THE NW1/4 OF THE NW1/4 & PART OF THE NE1/4 OF THE NW1/4 OF SECTION 18, TOWNSHIP 16 NORTH, RANGE 30 WEST IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

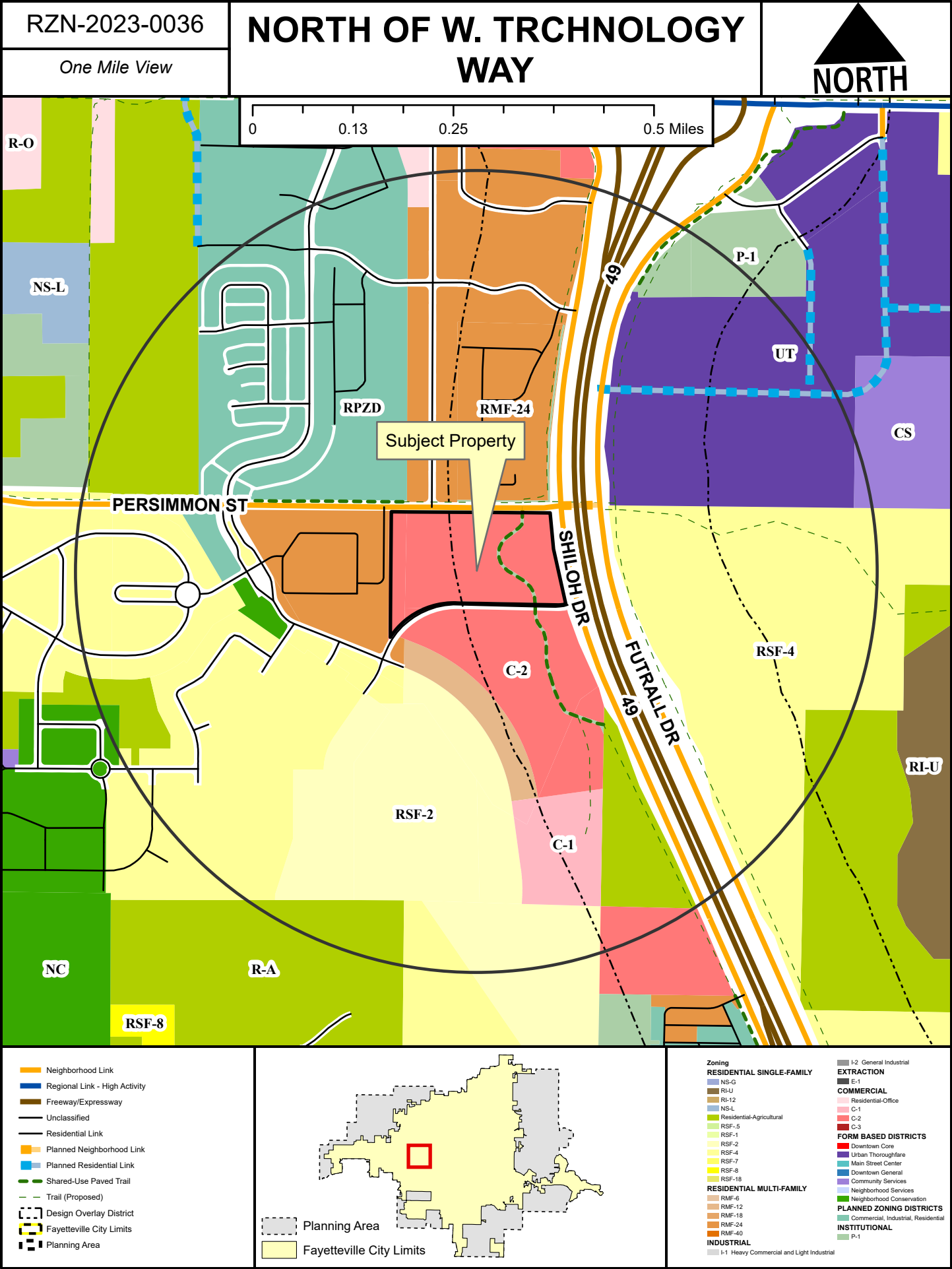
COMMENCING FROM THE SW CORNER OF LOT 34 IN MOUNTAIN RANCH SUBDIVISION; THENCE N 02°26'00" E A DISTANCE OF 43.68' TO THE POINT OF BEGINNING; THENCE N 02°26'00" E A DISTANCE OF 333.35' TO A POINT; THENCE S 87°22'34" E A DISTANCE OF 500.47' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 58.04', WITH A RADIUS OF 75.04', WITH A CHORD BEARING OF N 77°11'48" E, WITH A CHORD LENGTH OF 56.60', TO A POINT; THENCE N 61°33'58" E A DISTANCE OF 22.87' TO A POINT; THENCE S 43°40'17" E A DISTANCE OF 59.13' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 57.42', WITH A RADIUS OF 87.20', WITH A CHORD BEARING OF S 21°30'05" E, WITH A CHORD LENGTH OF 56.38', TO A POINT; THENCE S 03°04'59" W A DISTANCE OF 58.82' TO A POINT; THENCE N 86°55'01" W A DISTANCE OF 192.82' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 513.44', WITH A RADIUS OF 524.91', WITH A CHORD BEARING OF S 67°20'39" W, WITH A CHORD LENGTH OF 493.21', TO THE POINT OF BEGINNING, CONTAINING 105,413 SQ. FEET, 2.42 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.

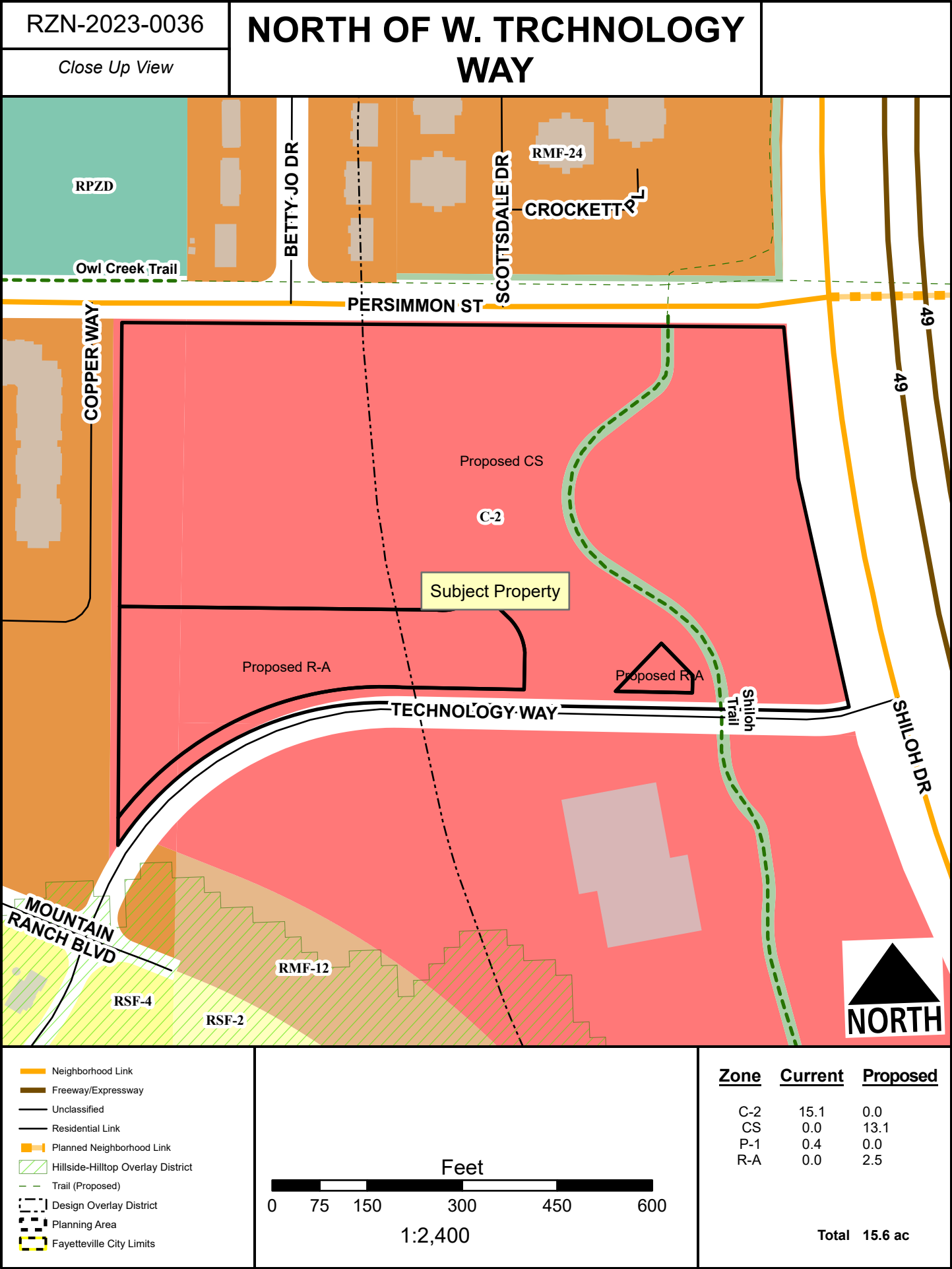


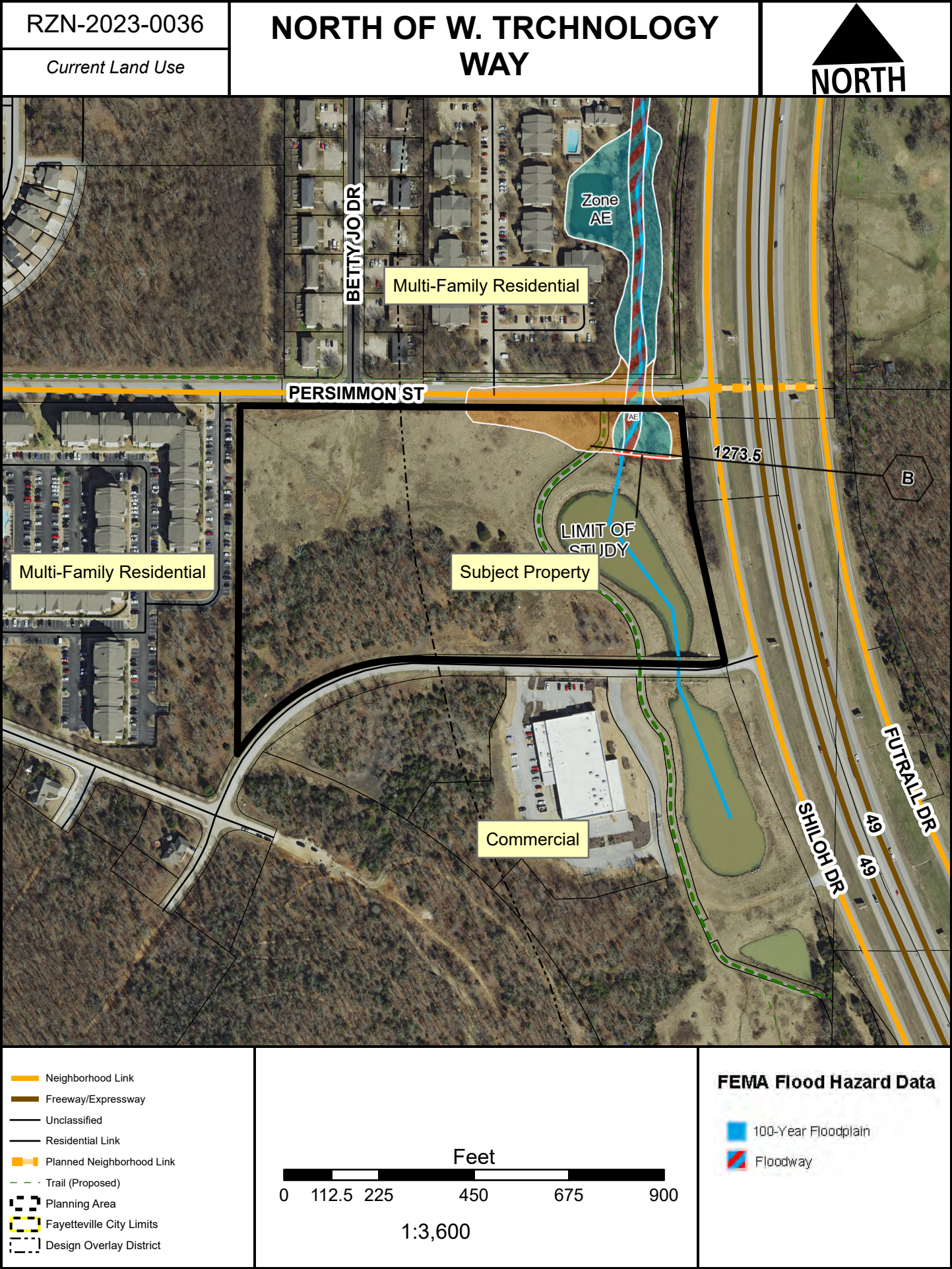
Certificate of Authorization № 2831

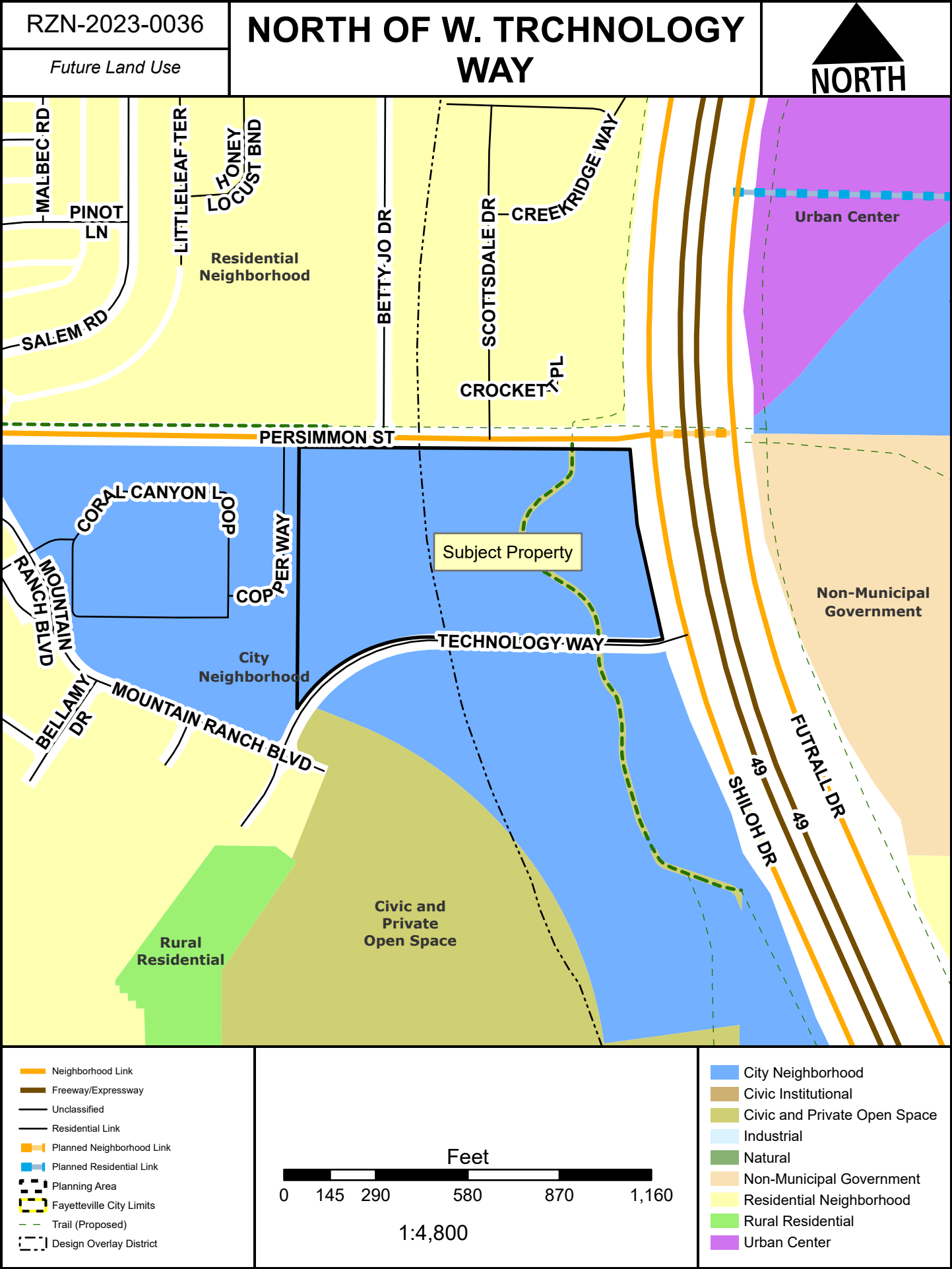
Date: 01/11/2024













TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0183: Conditional Use Permit (517 E. MCCLINTON ST./HOWARD, 563):** Submitted by RHEETA HOWARD. for property located at 517 E. MCCLINTON ST. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.30 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0183**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0183** 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 approximately 100 feet east of the S. Wood Ave. and E. McClinton St. intersection about ¼ mile east of Walker Park. The property is zoned NC, Neighborhood Conservation, and is part of the Walker Park Neighborhood Master Plan. It totals approximately 0.30 acres and has been developed with a 1,288 square-foot single-family house built in 1952. A parcel line adjustment was approved and recorded in 2018 that is not yet reflected in county records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	NC, Neighborhood Conservation
South	Single-family Residential, Retail (Auto parts)	RMF-24, Residential Multifamily, 24 Units per Acre DG, Downtown General
East	Single-family Residential	NC, Neighborhood Conservation
West	Single-family Residential	NC, Neighborhood Conservation

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0183**, with the following conditions;

Conditions of Approval:

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

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

- (c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the residence contains three bedrooms, occupancy would be limited to eight guests per ordinance.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has three bedrooms and six parking spaces: two in a rear carport and another four 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 517 E. McClinton St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of January 16, 2024, the City had issued 441 Type 2 short-term rental licenses, and 28 remain in the queue for processing. An additional 15 are on the waitlist. 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 up to six parking spaces within a carport and driveway. E. McClinton St. does not appear to have sufficient width to support on-street parking. No zoning or code violations were found for this address. City records indicate three other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license, with only one of these units also on E. McClinton St.

§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 access off of E. McClinton St., a residential link with no sidewalks. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 8 guests, which would not be out of character with use of the property for residential purposes.

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

Finding: According to the applicant, up to six parking spaces are available on the property: two in an enclosed carport and an additional four in a gravel parking area adjacent to the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be compatible with the surrounding properties. While the residences along E. McClinton St. are all detached single-family dwellings, the parcel is directly north of a large block of DG, Downtown General zoning which permits short-term rentals by right. Additionally, the property is less than 500 feet from the Nantucket Apartment complex.

(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 Exhibits
 - Applicant Request Letter
 - Site Plan
 - Building Floor Plan
 - Elevations
- Staff Exhibit
 - Recorded Property Line Adjustment
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs Within ¼ Mile Map

118.01 Applicability

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

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

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwelling types	40 feet
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(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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

Requesting Conditional Use Permit

Jim and Rheta Howard Owners
517 E. McClinton Street
Fayetteville AR 72701

517 E. McClinton is a single family home. Approximately, 1300 square feet. 3 bedroom, 1 bath house.

We purchased this property in 2008 and lived in it until 2019 when we moved into our new home at 525 E. McClinton, which is next door.

Our intention was to start using the property as a short term rental and a guest house for our family and friends at that time. However, the pandemic, delayed those plans. We rented the house to my daughter from 2020 to 2022 and to a friends daughter from 2022 to Sept. 1 2023. At which point, we decide to follow our original plans of turning the house into a short term rental and personal use of a guest house when needed. So we just invested \$50K in improvements, including new roof, siding, windows, doors and patio.

We feel it would be a good location for short term rental due to the proximity to the U of A sports, downtown Fayetteville and more.

We have **off road parking for 5 or more cars**, so there will be no traffic issues.

Drive way is gated to the back of the property for more parking.

We only want to rent to 4 to 6 people max per reservation.

We live next door and will be able to regulate quiet times according to Fayetteville ordinances.

We will not allow any open fire pits.

I would assume that it will be rented approximately 50-75%

Covered outdoor space for gatherings (tv, sitting area, propane grill)

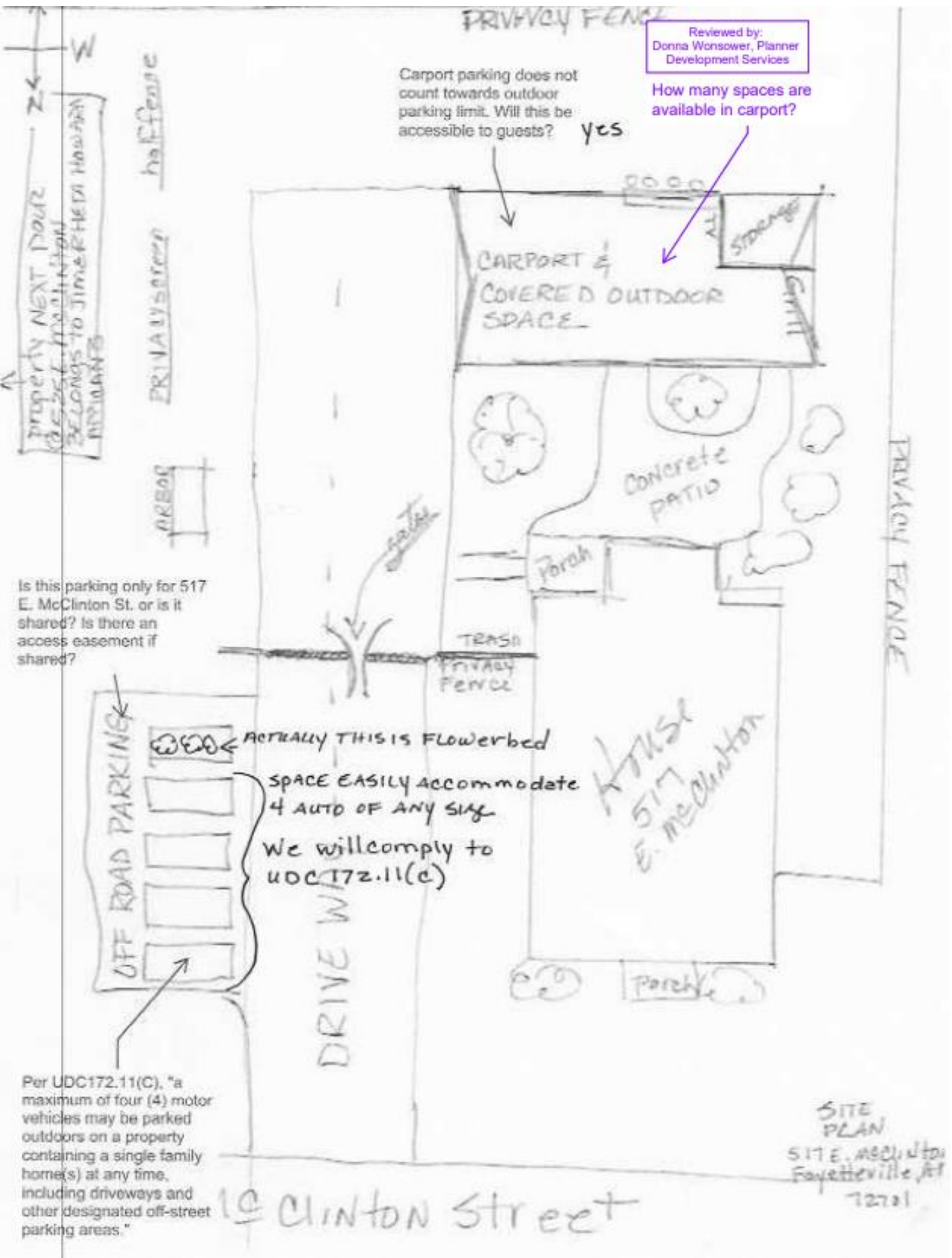
Privacy fence

Trash cans out of sight from street.

Since living at this location since 2008, we have built friendships with our neighbors and love our surrounding community.

Thank you for your consideration,

Jim and Rheta Howard





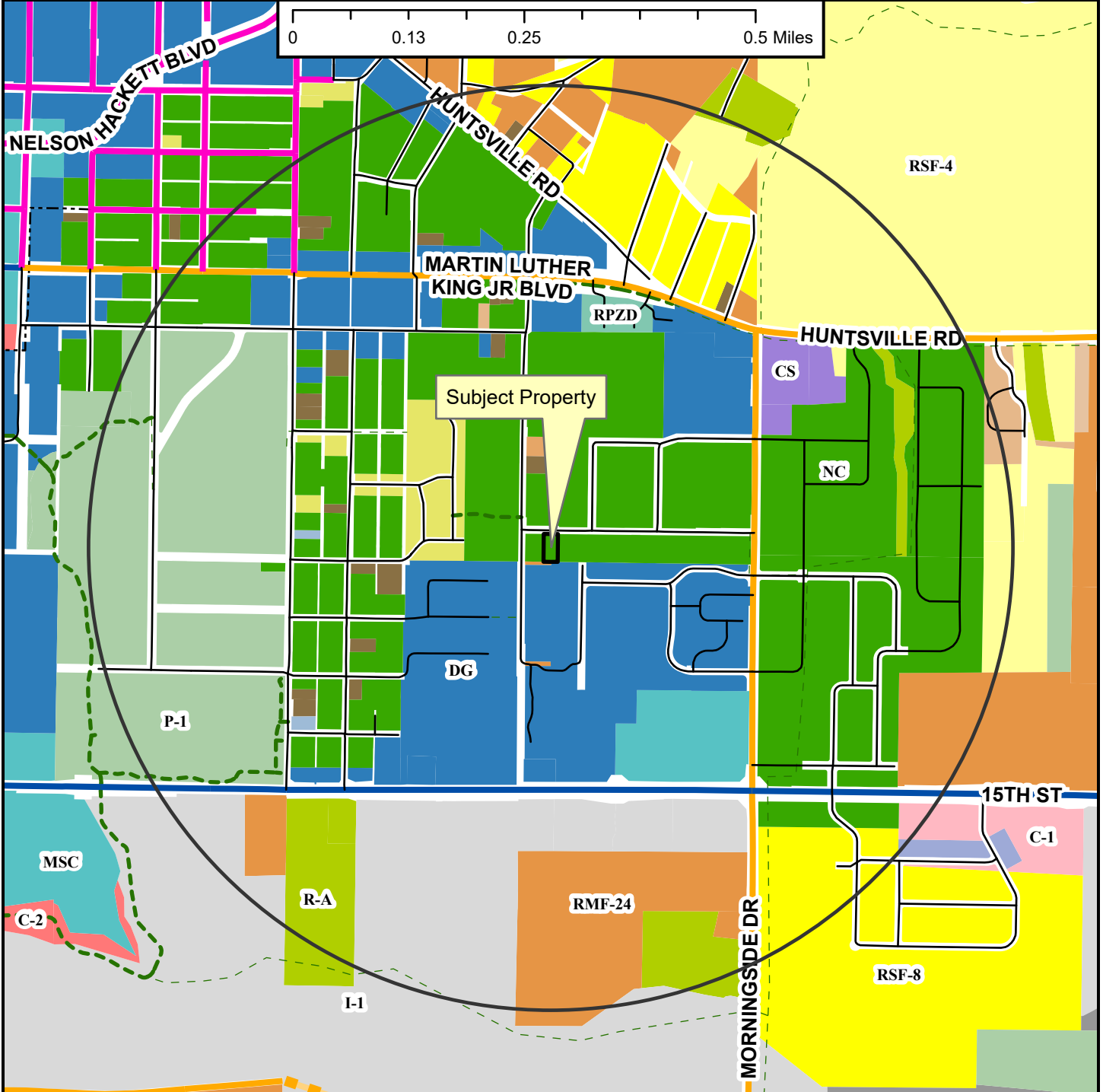
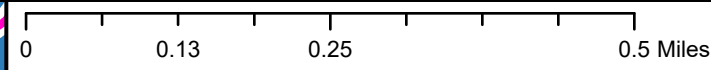




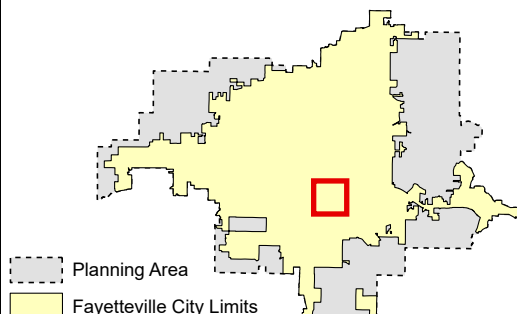
CUP-2023-0183

517 E. MCCLINTON ST

One Mile View

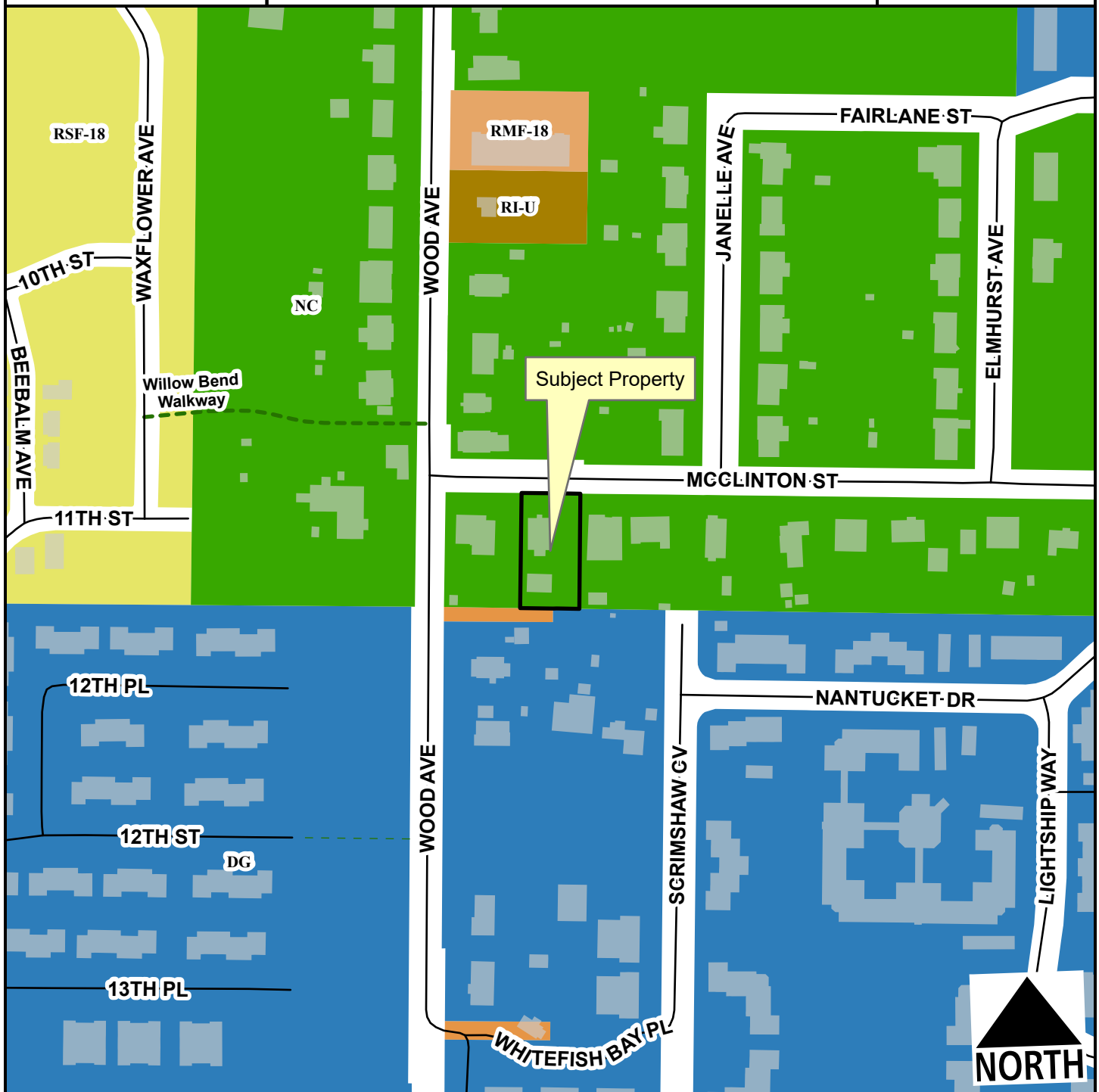


- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



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

Close Up View



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

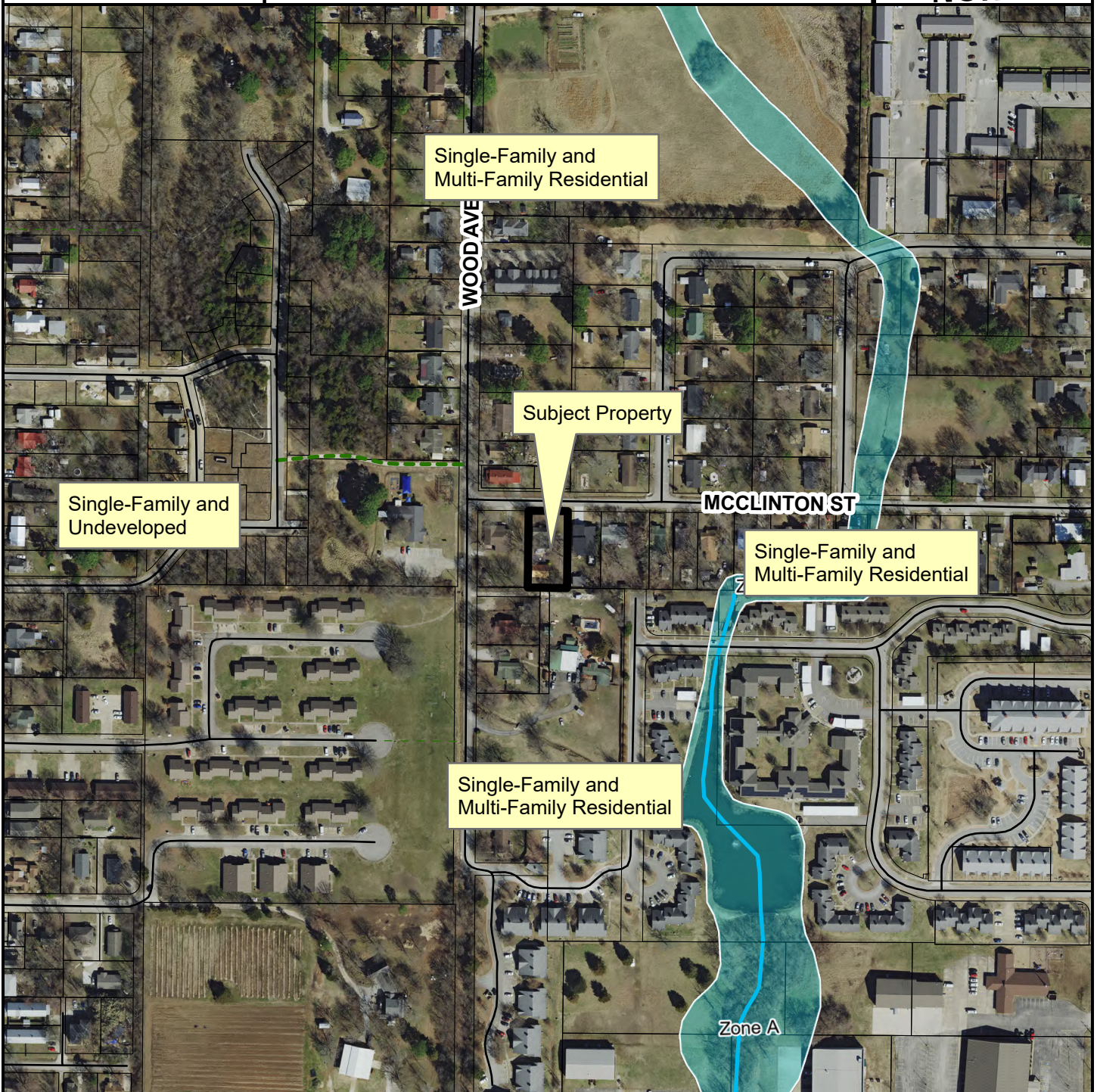


- RSF-18
- RI-U
- RMF-18
- RMF-24
- Downtown General
- Neighborhood Conservation

CUP-2023-0183

517 E. MCCLINTON ST

Current Land Use



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



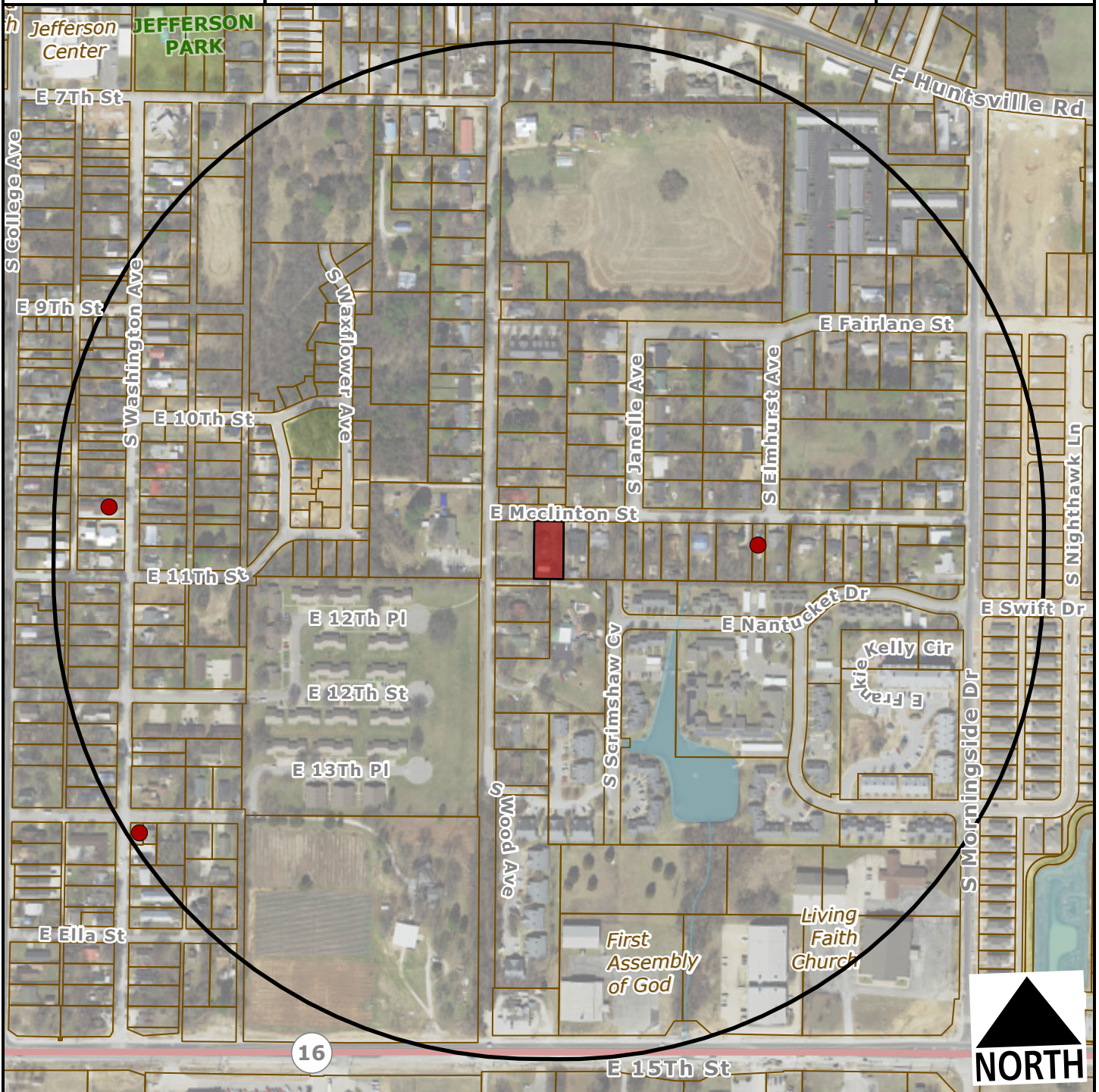
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0183

517 E. MCCLINTON ST

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 3

Occupiable
Residential
Addresses
(Estimated
Housing Units): 538



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0184: Conditional Use Permit (1427 E. STUBBLEFIELD RD./ RAMSEY, 214):** Submitted by LENNY RAMSEY for property located at 1427 E. STUBBLEFIELD RD. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 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-2023-0184**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0184** with conditions, determining:*

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

BACKGROUND:

The subject property is in north Fayetteville directly south of the intersection of E. Stubblefield Rd. and N. Summerhill Dr. and approximately 1/3-mile northeast of Butterfield Trail Elementary. The 0.4-acre property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is not part of any overlay district. A 2,098 square foot single-family dwelling was constructed on the parcel in 1986 according to the Washington County Assessor records. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0184**, with the following conditions;

Conditions of Approval:

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

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

- (c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

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

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains three bedrooms, occupancy will be limited to a maximum of eight guests per ordinance.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has three bedrooms and up to six parking spaces: two spaces in an attached garage and four 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 1427 E. Stubblefield Rd. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of January 16, 2024, the City had issued 441 Type 2 short-term rental licenses, and 28 remain in the queue for processing. An additional 15 are on the waitlist. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.

- G.** Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

- H.** Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;
2. Adequate adjoining or nearby streets for on-street parking;
3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4. Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. The property has three bedrooms and up to six off-street parking spaces available for guests on site. On-street parking is not available on E. Stubblefield Rd. 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. 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: The property has driveway access and frontage on E. Stubblefield Rd., a partially improved Residential Link with sidewalk on the north side. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 8 guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. Per the applicant, the property has up to six off-street parking spaces: 2 in an attached garage and an additional 4 in the driveway.

(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 E. Stubblefield Rd. are all detached single-family dwellings, the property is approximately 1/3-mile from N. College Ave. As there is a low count of existing type-2 short-term rental within ¼ mile and none of this block, staff finds that the addition of a short-term rental at this location is not likely to negatively impact surrounding properties.

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

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

BUDGET/STAFF IMPACT:

None

Attachments:

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

118.01 Applicability

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

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

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

Lenny E. Ramsey and Rebecca L. Leonard
1968 E Cobblestone Square
Fayetteville, AR 72703

December 22, 2023

To Whom It May Concern,

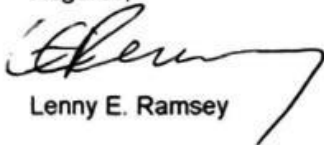
We – the owners of 1427 E Stubble Road, Fayetteville, AR 72703 – are writing to apply for a Conditional Use Permit (CUP) regarding this 3-bedroom, 2.5-bath property. Our long-term intention is the convert this property into a short-term rental; we understand this is a first step.

Per egov.fayetteville-ar.gov (Apply for Plan – Conditional Use Permit – Short-Term Rental), here are the detailed impacts expected. Those not applicable / no change to existing structure are marked "N/A".

- (a) Building size in square feet; existing and proposed
 - a. Existing: 2,098 sqft
 - b. Proposed: N/A, no change – 2,098 sqft
- (b) Color elevations of all exterior sides of the structure
 - a. Refer to elevation pictures uploaded as separate file – no changes will be made to the existing structure
- (c) Number of off-street parking spaces to be provided / number required
 - a. Existing: 6 (2 garage, 4 driveway)
 - b. Proposed: N/A, no change – 6
- (d) Outdoor lighting – N/A
- (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 and recycling bin will be stored inside the garage (out of anyone's sight) when not at curb for pickup
- (h) Ingress and egress to the property; traffic impacts – N/A
- (i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood
 - a. There should be no impact to adjacent properties or other properties in the neighborhood

Please let us know in case of any questions. We look forward to hearing from you regarding next steps.

Regards,


Lenny E. Ramsey


Rebecca L. Leonard

1427 Stubblefield Road

Site plan

Trash storage inside garage (when not at curb for pickup)

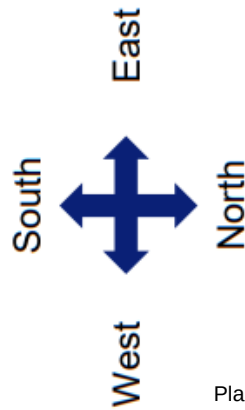
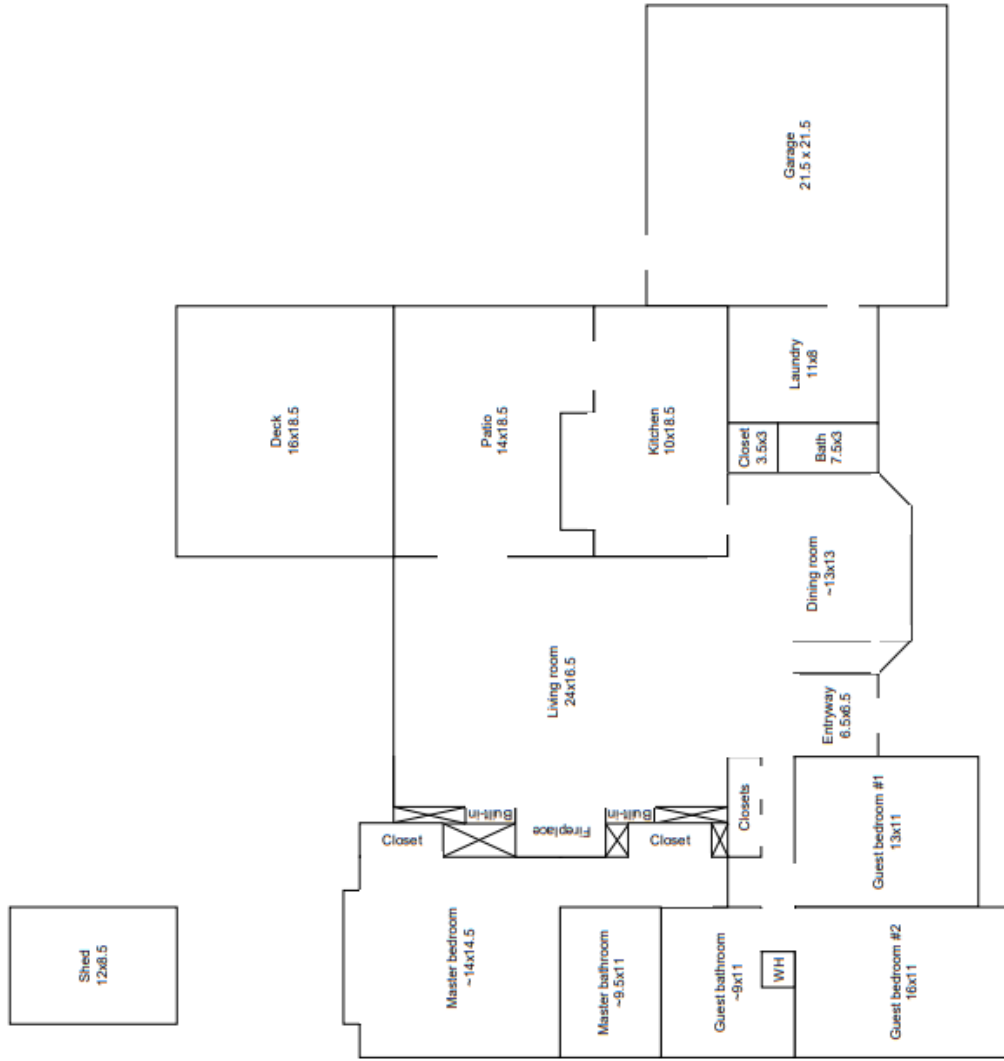


E Stubblefield Rd



1427 Stubblefield Road

Floor plan



units in feet – drawn to scale

1427 Stubblefield Road

Exterior photos



North



South



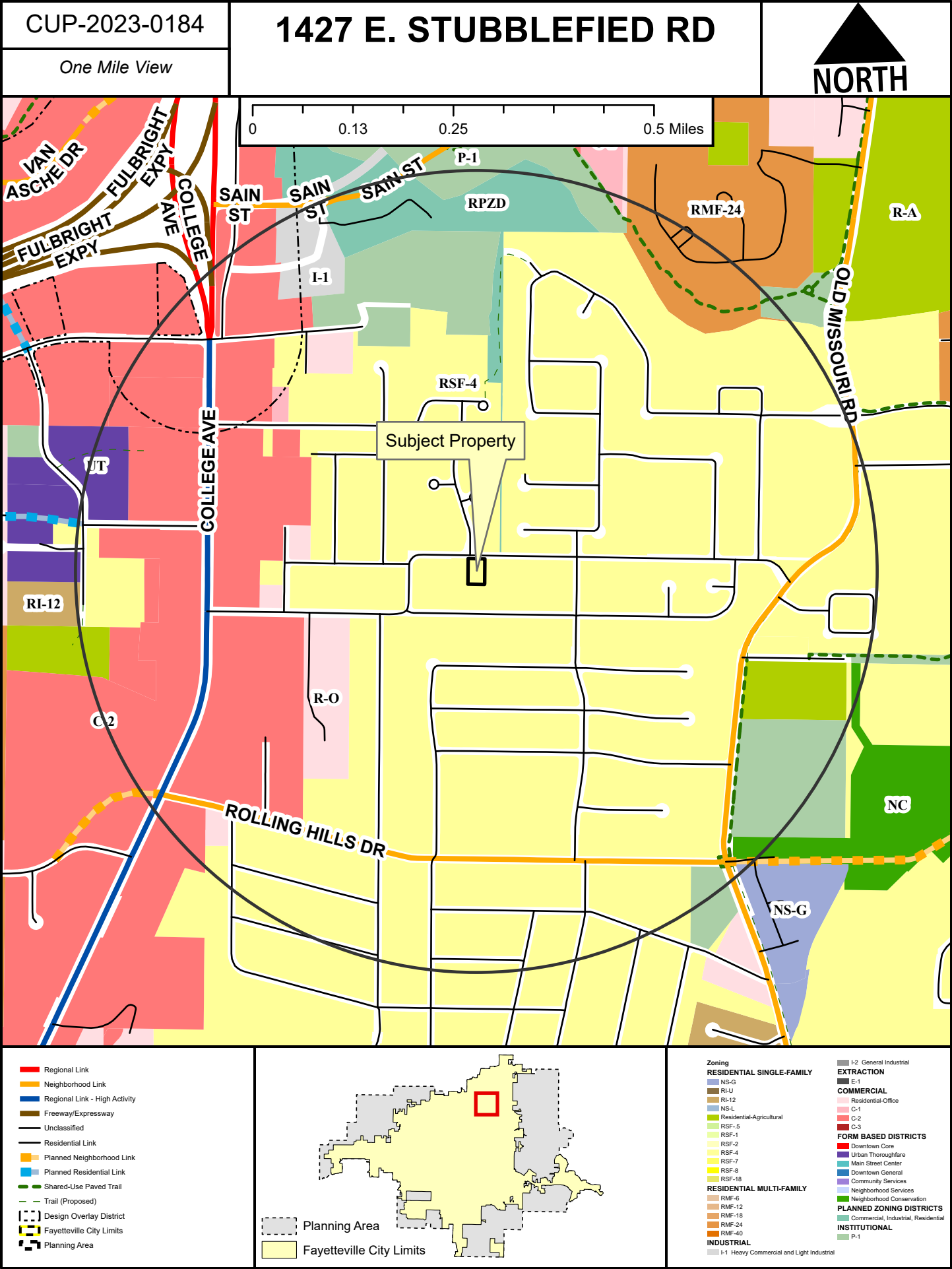
East



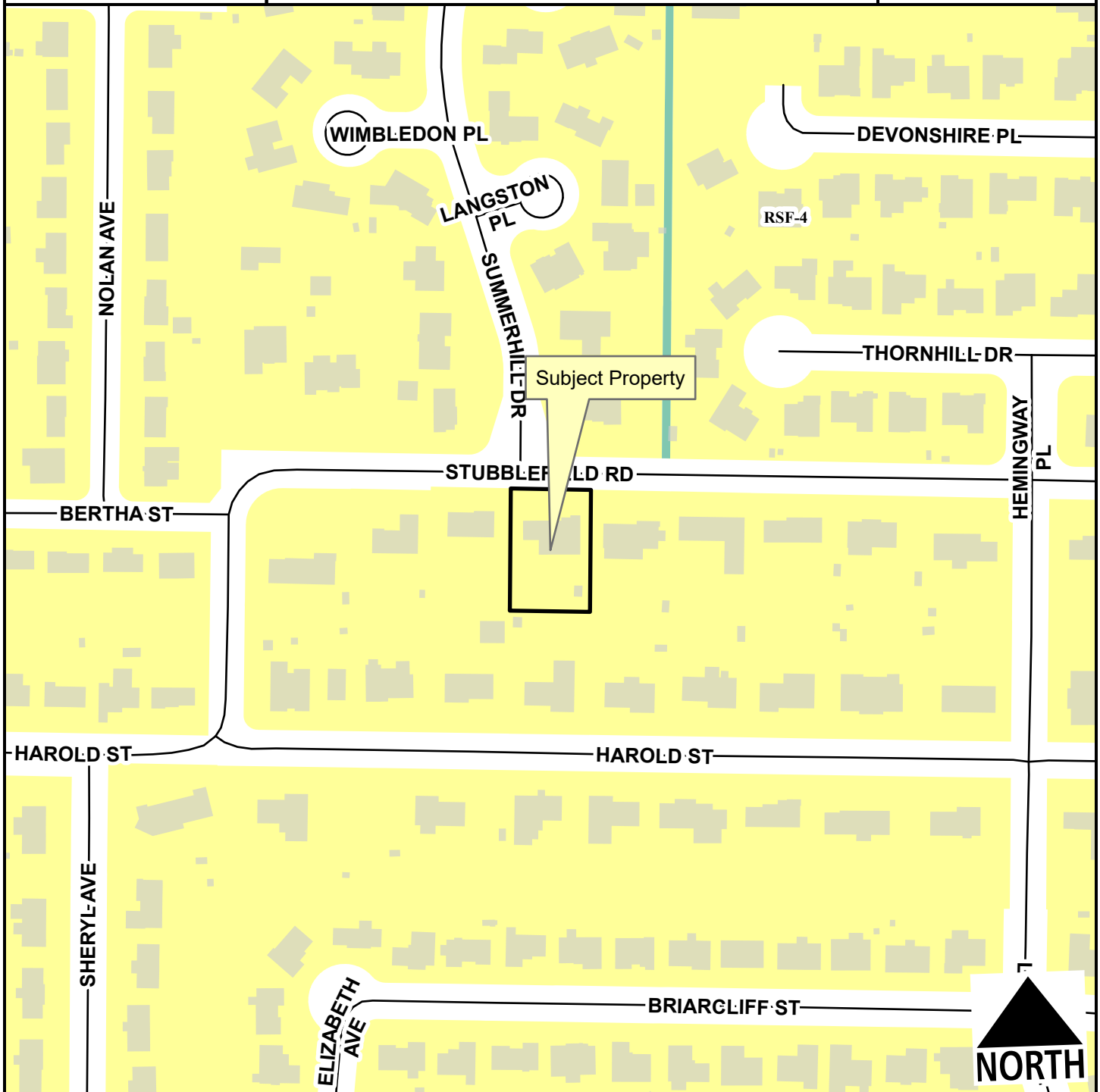
West



Shed – South (back yard)



Close Up View



- Residential Link
- Planning Area
- Fayetteville City Limits

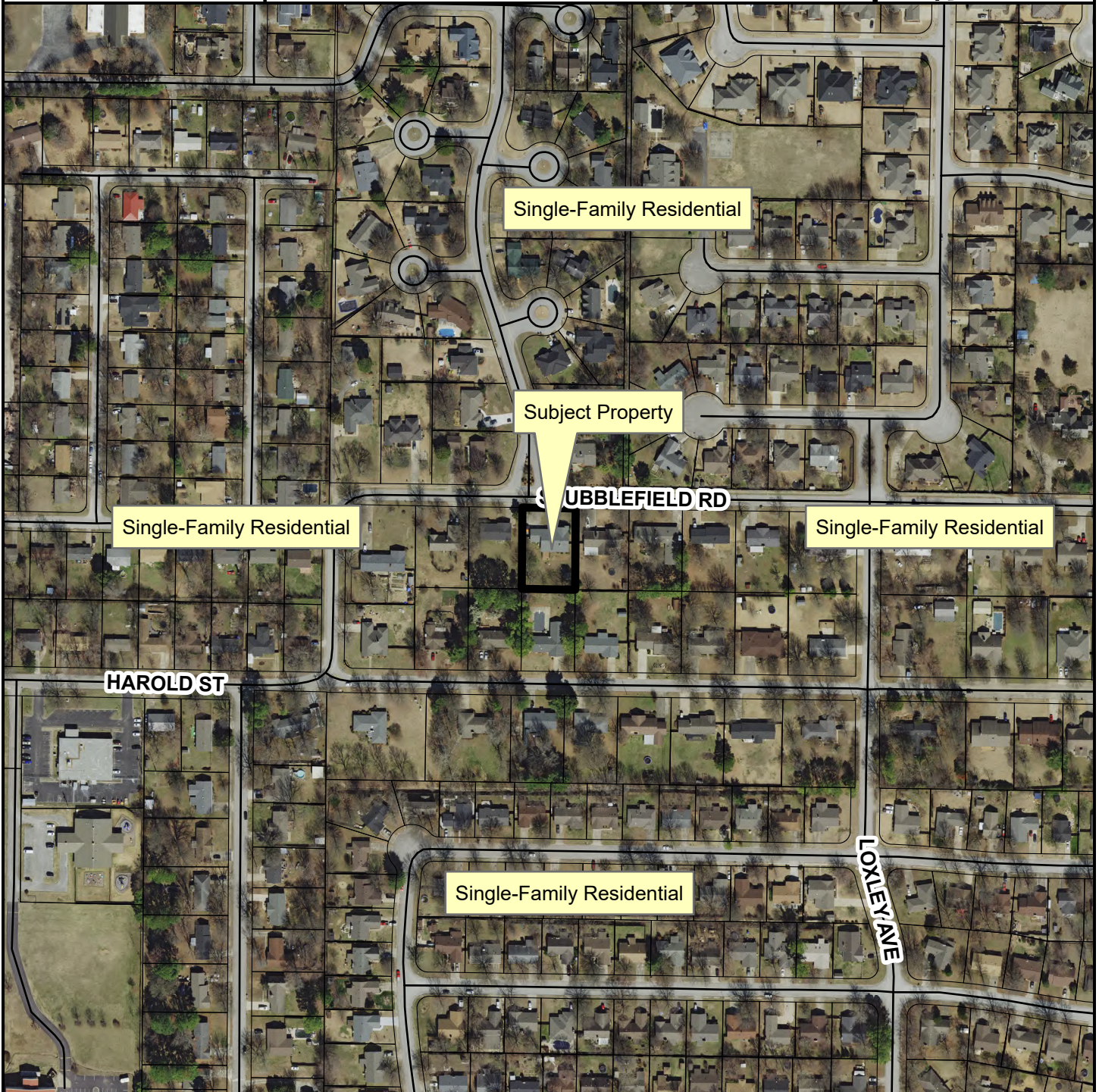


- RSF-4
- Commercial, Industrial, Residential

CUP-2023-0184

1427 E. STUBBLEFIELD RD

Current Land Use



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



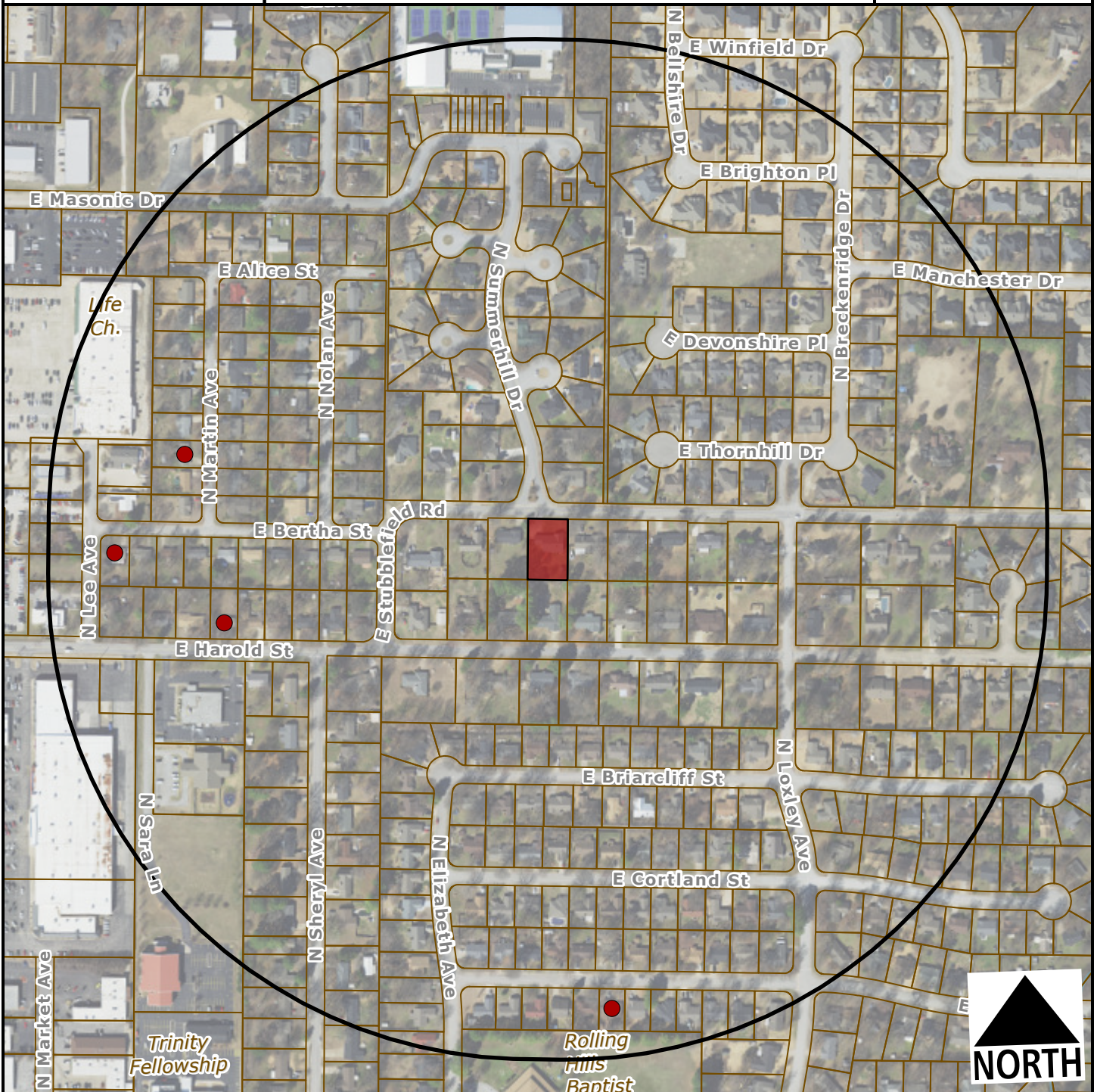
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0184

1427 E. STUBBLEFIED RD

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 4

Occupiable
Residential
Addresses
(Estimated
Housing Units): 349



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0185: Conditional Use Permit (864 W. MELMAR DR./PRESSELLER, 366):** Submitted by SELENE PRESSELLER for property located at 864 W. MELMAR DR. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-018**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0185** with conditions, determining:*

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

BACKGROUND:

The subject property is in north Fayetteville approximately 220 feet northwest of the intersection of W. Melmar Dr. and N. Leverett Ave. The 0.10-acre property is zoned RMF-40, Residential Multi-Family, 40 Units per Acre and is not part of any overlay districts. A 1,496 square foot townhome was constructed on the parcel in 2002 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-40, Residential Multi-family, 40 Units per Acre
South	Multi-family Residential	RMF-24, Residential Multi-family, 24 Units per Acre
East	Single-family Residential	RMF-40, Residential Multi-family, 40 Units per Acre
West	Single-family Residential	RMF-40, Residential Multi-family, 40 Units per Acre

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0185**, 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.
11. Parking within the driveway be clearly marked with signs, pavement striping, or other means in order to clearly define what portions of the driveway may be used by guests of the short-term rental.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RMF-40 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-40 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 two bedrooms, occupancy will be limited to a maximum of six guests per ordinance. The applicant has stated an intent to limit occupancy to five.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). For single-family structures parking is required to be provided at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has two bedrooms and three parking spaces: one space in an attached garage and another two 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 864 W. Melmar Dr. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of January 16, 2024, the City had issued 441 Type 2 short-term rental licenses, and 28 remain in the queue for processing. An additional 15 are on the waitlist. 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: 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. The property has two bedrooms and up to three off-street parking spaces

available for guests on site. On-street parking is not available on W. Melmar Dr. City records indicate that five other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license, three of which are located in the Bradford Place Apartments approximately ¼ mile northwest. 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: The property has shared driveway access and frontage off of W. Melmar Dr., a partially improved residential link with no sidewalks. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 6 guests, which would not be out of character with use of the property for residential purposes.

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

Finding: The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. The property has a shared driveway with the adjacent townhome to the east. According to the applicant, the property has up to three off-street parking spaces: one in an attached garage and two in the adjacent driveway. Staff recommends that the parking within the driveway be clearly marked with signs, striping, or other means in order to clearly define what portions of the driveway may be used by guests of the short-term rental.

(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 W. Melmar Dr. are all detached single-family dwellings, multi-family complexes are located directly south, northwest along N. Leverett Ave., and west along Garland Ave. Further, the parcel is part of a development zoned RMF-40, which permits multi-family dwellings by right. Staff finds the proposal to be a request for appropriate location for a short-term rental.**

- (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
 - §161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre
- Applicant Exhibits
 - Applicant Request Letter, including Site Plan, Building Elevations, 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)

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	2,500 square feet
Two (2) family	3,000 square feet

Three (3) family or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

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

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21; Ord. No. 6658, §7(Exh. F), 5-2-23)

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

City of Fayetteville, Arkansas
Conditional Use Permit Request

Property Address: 864 W. Melmar Dr., Fayetteville, AR 72703

Submitted By: Selene Presseller

I am requesting to use my property at 864 W. Melmar Dr. in Fayetteville, Arkansas, as a short-term rental. I purchased the property as my primary residence, but have since moved in with my partner and would like to have the ability to rent out the townhome as a short-term rental while I am living with my partner in Bella Vista, AR.

Description of our request:

- a) The house contains 1,496 square feet. The house has two bedroom and two and half bathrooms.
- b) Pictures of the exterior of the house have been attached to serve as color elevations.
- c) A total of three off-street parking spaces are available on the property with two spaces in a driveway and one space in an attached garage. On-street parking may also available for short term parking along Melmar Drive.
- d) The request is to operate a short-term rental. City ordinance limits the number of guests permitted in a short-term rental to two per bedroom, plus two, for the entire unit. Since there are two bedrooms in this house, occupancy would be limited by ordinance to no more than 6 guests. However, I intend to limit occupancy to a maximum of 5 guests to help dissuade guests from parking an excessive number of vehicles or hosting special events.
- e) Light fixtures have been installed to illuminate the pathway between the driveway and the front door. All lighting on the property has been installed in a way that limits the potential for glare and light trespass on other properties.
- f) Using the property as a short-term rental is not expected to impact noise levels. Parties and other special events will be prohibited.

g) A wooden privacy fence is installed around the backyard. The property is fully surrounded by other houses and the use of the property as a short-term rental should not require additional screening or buffering. No modifications to the house or the property are proposed with this request.

h) Residential trash cart service is available to this property. When not placed at the curb for pick-up, trash containers will be stored in the garage and/or at a location that is communally used by other residents of the adjoining townhomes.

i) A 20-foot-wide paved driveway, which extends about 25 feet in length, is available to accommodate vehicular ingress and egress to the property. A sidewalk is also available next to the front of the house, along Melmar Drive, to provide access for pedestrians.

j) The proposed use of this property as a short-term rental is generally compatible with adjacent properties and others in the neighborhood. The property is surrounded by other townhomes and apartments and this short-term rental is intended to remain residential in character.

Legal Description

LOT 5C BLOCK B

Physical Address – 864 W. Melmar Dr.

Subdivision – Georgian Place

Block/Lot – 00B/005C

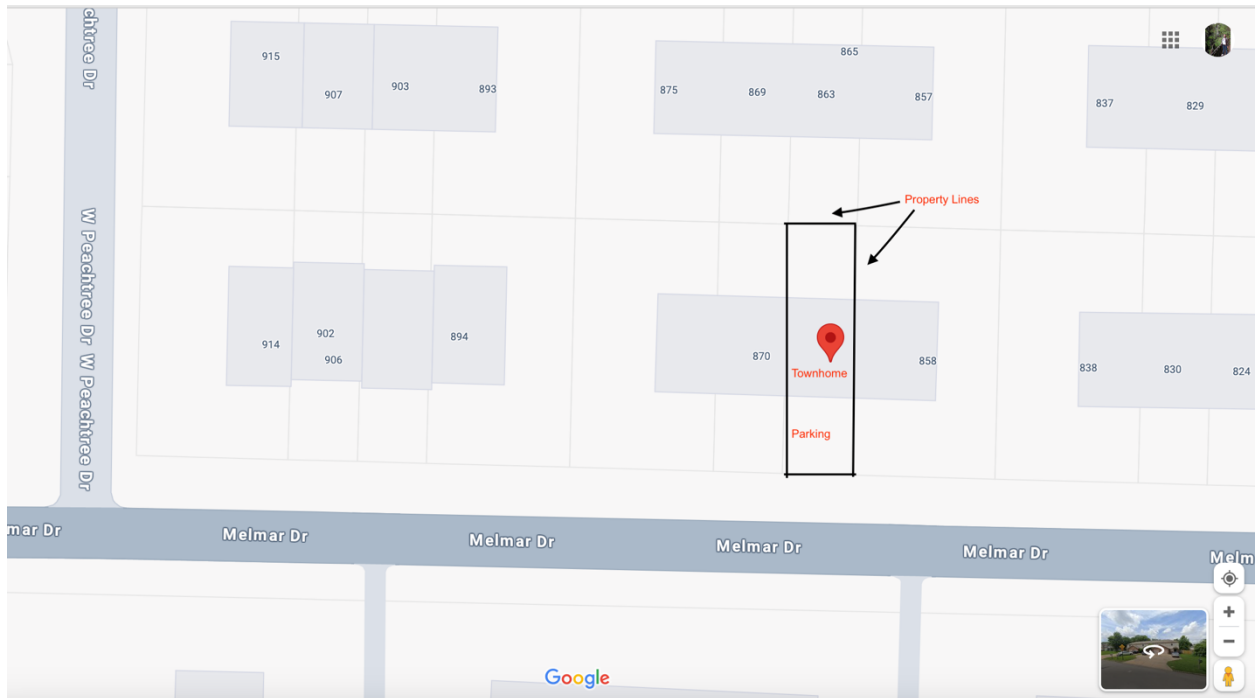
S-T-R – 04-16-30

Size (Acres) – N/A

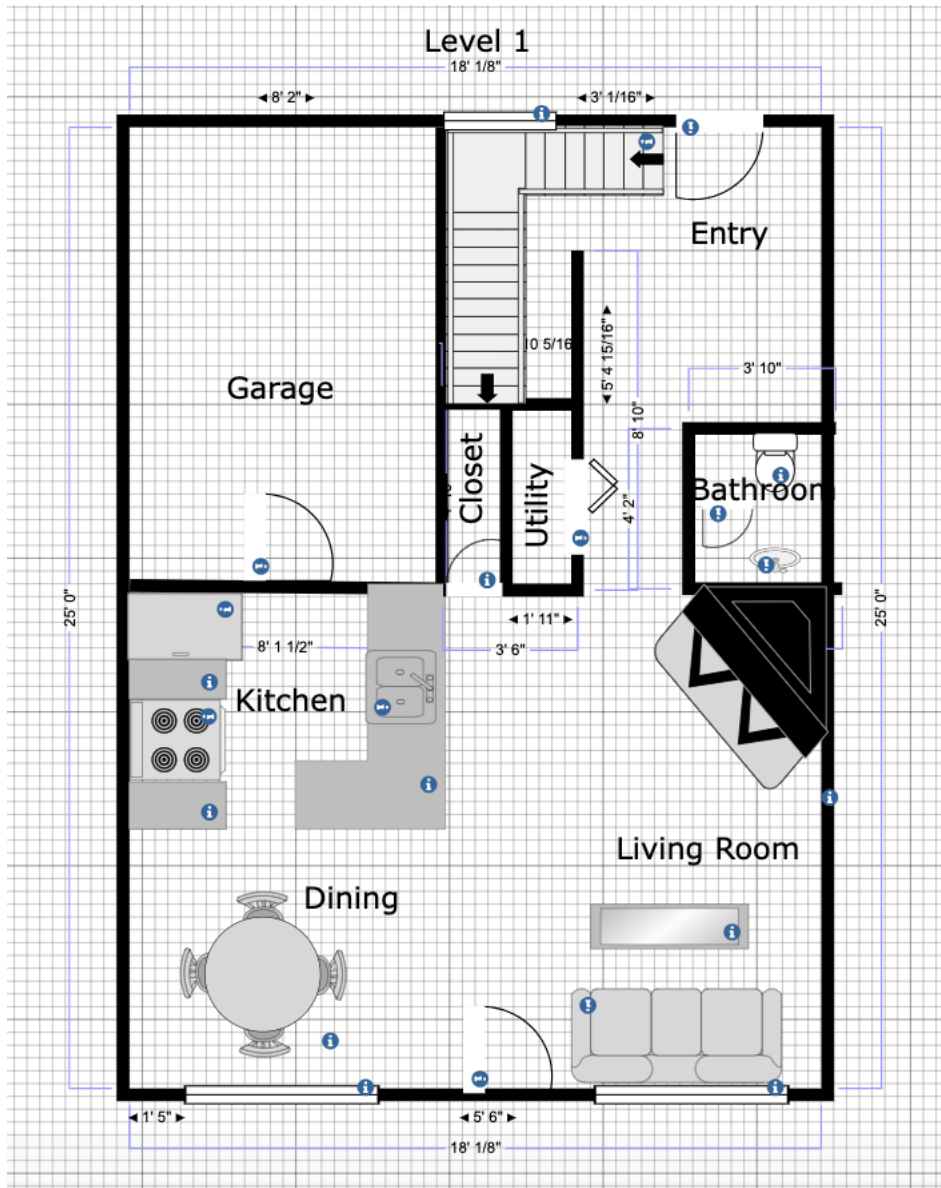
Exterior of Home

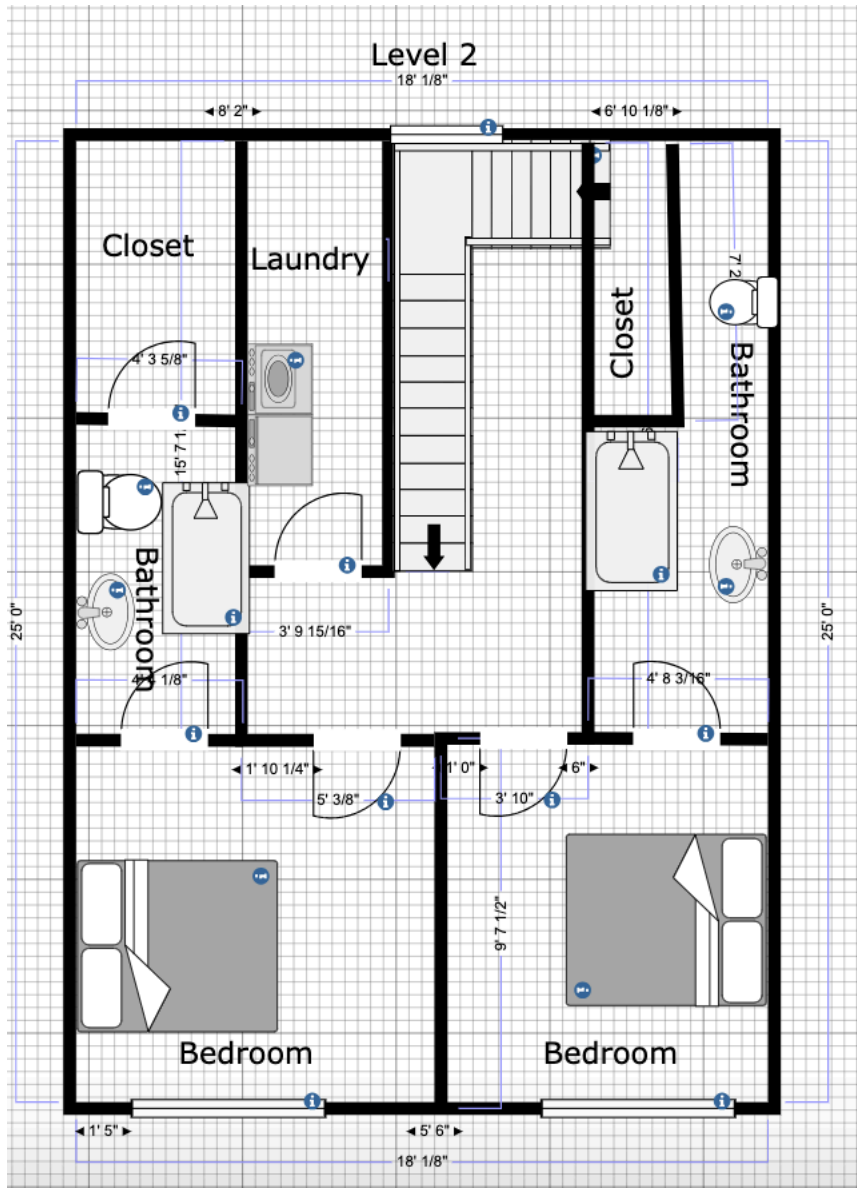


Site Plan



Floor Plans

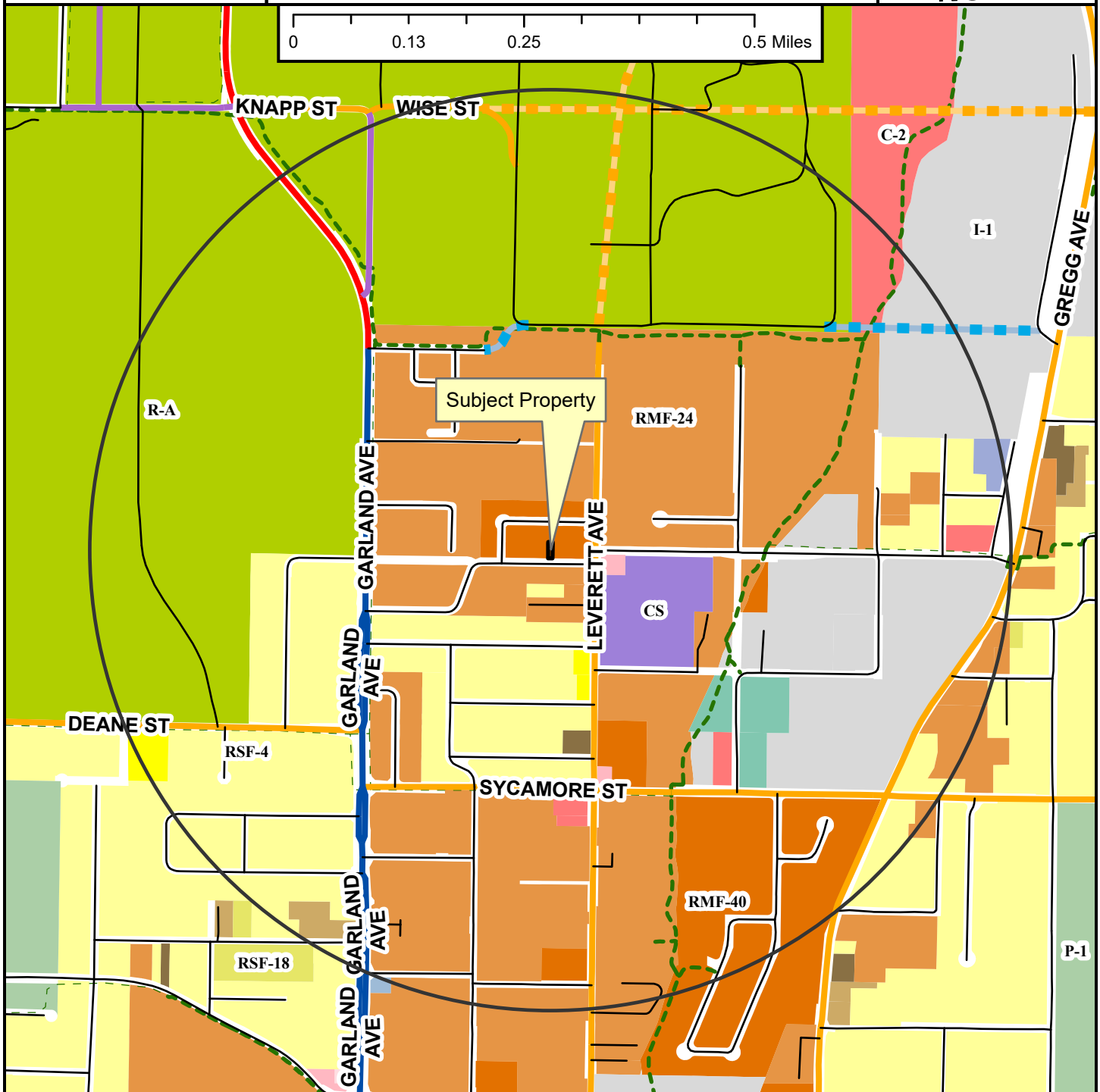




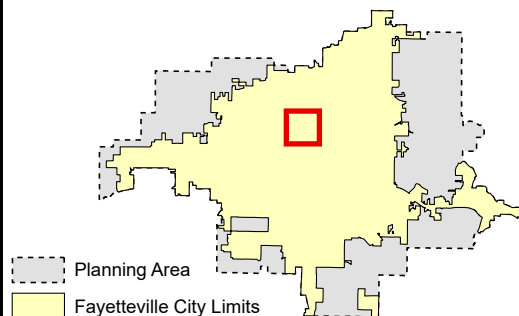
[illegible]



0 0.13 0.25 0.5 Miles



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



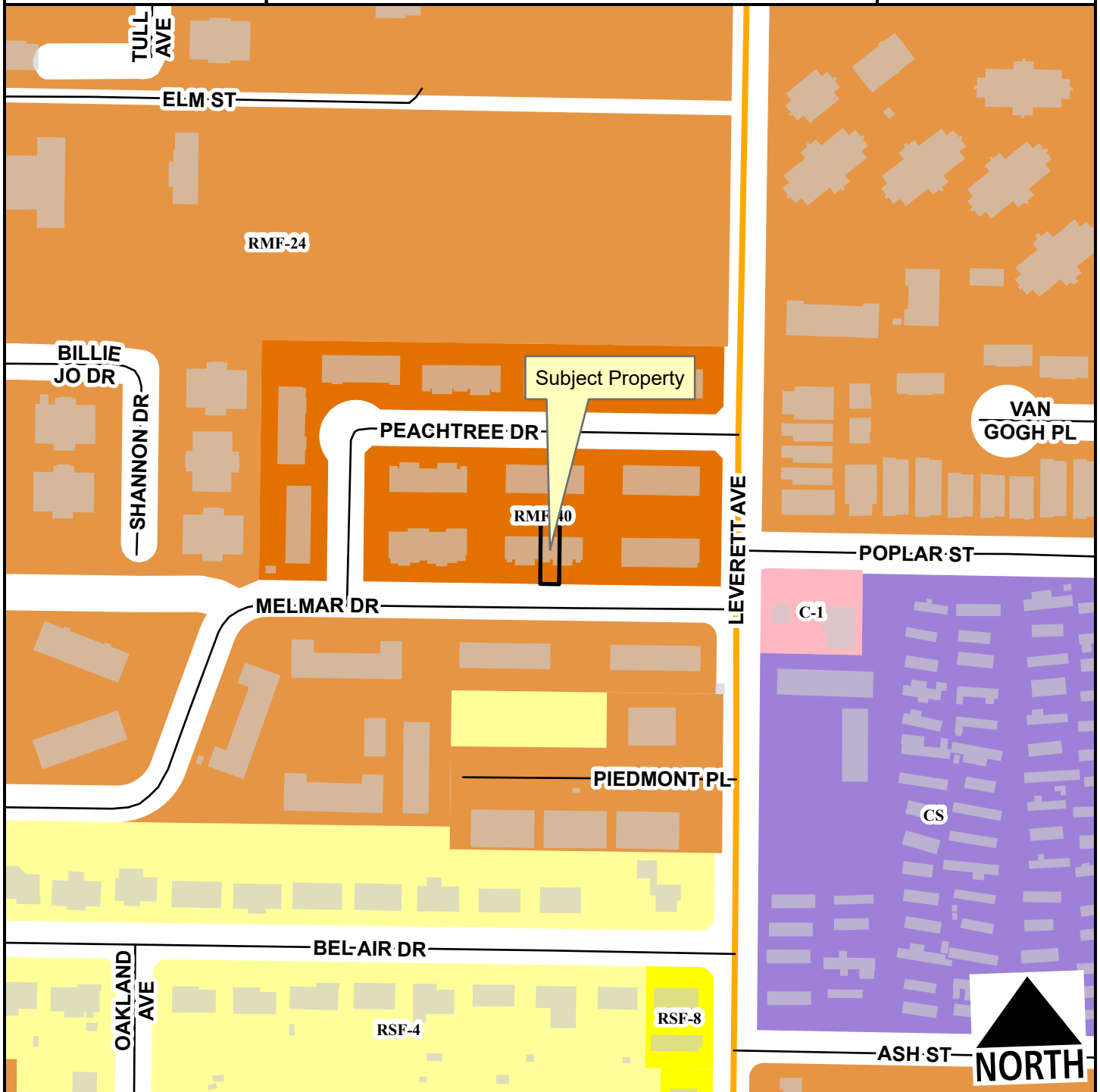
Planning Area
 Fayetteville City Limits

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

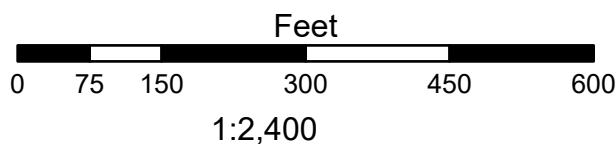
CUP-2023-0185

864 W. MELMAR DR

Close Up View



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



- RSF-4
- RSF-8
- RMF-24
- RMF-40
- C-1
- Community Services

CUP-2023-0185

864 W. MELMAR DR

Current Land Use



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



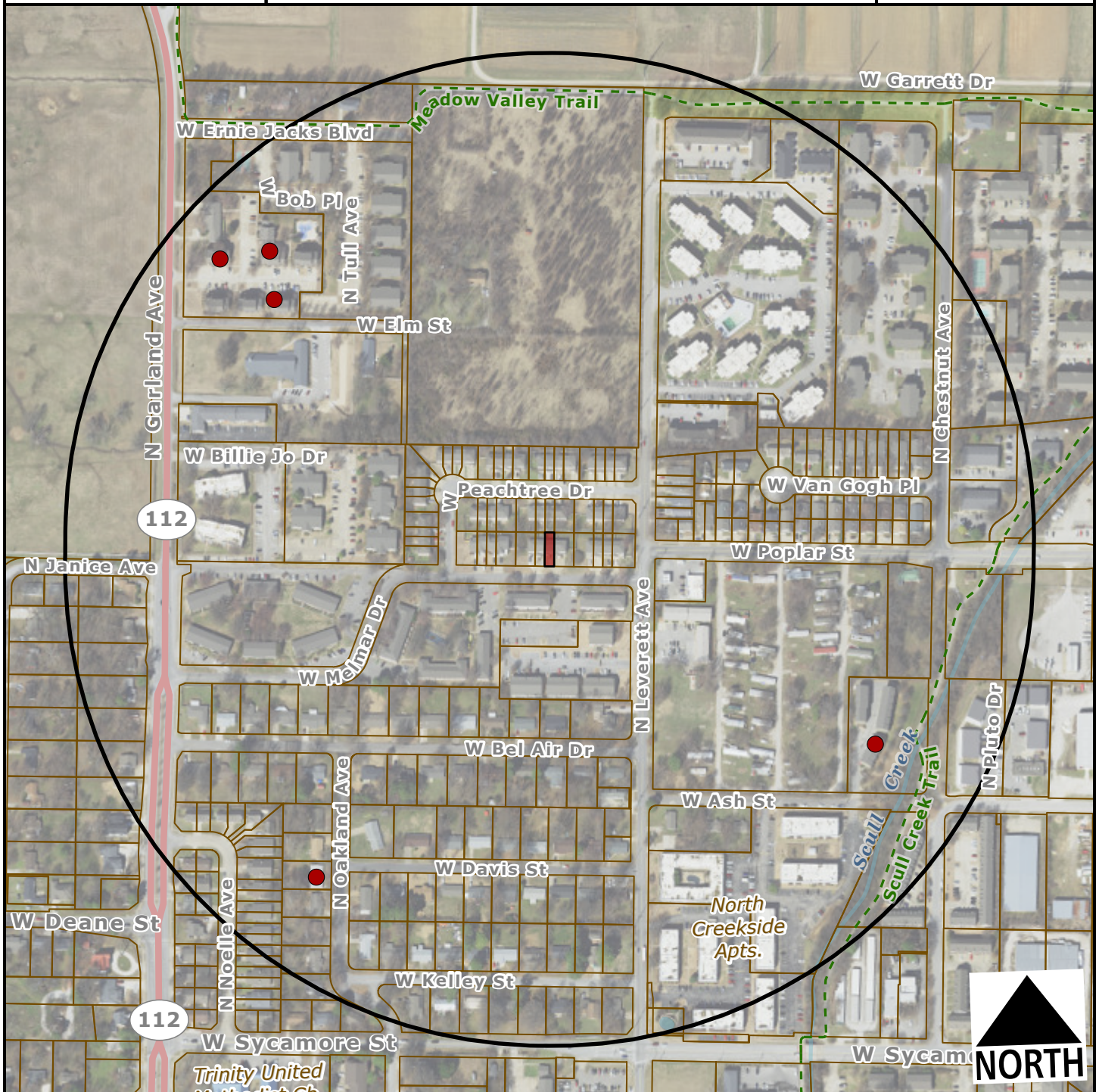
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0185

864 W. MELMAR DR

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 5

Occupiable
Residential
Addresses
(Estimated
Housing Units): 1186



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0180: Conditional Use Permit (2609 N. OLD WIRE RD/HARRIS & PITTMAN, 292):** Submitted by SHANNON HARRIS for property located at 2609 N. OLD WIRE RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.37 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends tabling **CUP-2023-0180**.

RECOMMENDED MOTION:
*"I move to table **CUP-2023-0180** until the February 12, 2024 Planning Commission Meeting."*

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved ☐ Denied
Motion:		
Second:		
Vote:		



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0181: Conditional Use Permit (1897 W. STONE ST. UNIT 2/QUILLSPORTIVA LLC, 520):** Submitted by KATHERINE STEED for property located at 1897 W. STONE ST, UNIT 2. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.46 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0181** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0181**, 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 0.15 miles east of Ramay Junior High School. The property contains approximately 0.46 acres and is developed two three-unit condo buildings constructed in 2006. The request is to use one two-bedroom condo unit containing 1,160 square feet 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 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	Multi-Family Residential	RMF-24, Residential Multi-Family, Twenty-Four Units Per Acre
South	Multi-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	Single-Family Residential	RMF-24, Residential Multi-Family, Twenty-Four Units Per Acre

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0181** 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 shall be limited to a maximum of four;
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 shall be placed in the existing dumpster;
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RMF-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 two bedrooms which would limit occupancy to a maximum of six guests per ordinance. The applicant has self-limited to allow a maximum occupancy of four 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 townhouses 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 two vehicles on the property in designated parking spots. On-street parking is not available along W. Stone 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 1897 W. Stone St. Unit 2. 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 16, 2024, the City had issued 441 Type 2 short-term rental licenses, and 28 remain in the queue for processing. An additional 15 are on the waitlist. 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. Two off-street parking spaces will be available for guests on site. City records indicate that ten other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. The adjacent unit (#1) also has a business license for a Type-2 short-term rental. There are no zoning or code violations 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 W. Stone St. is available to accommodate vehicular ingress and egress to the subject property. W. Stone St. is fully improved with sidewalks to facilitate pedestrian access on the north side of the street and partially improved on the south side of the street. Staff finds that the proposal to use the property as a short-term rental will not adversely affect vehicular traffic flows considering the use of the property would be

limited to a maximum of four guests which would not be out of character with the use of the property for residential purposes.

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

Finding: Four off-street parking spaces are available in designated parking spots. 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 shared dumpster services.

- (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: No recommendation.

- (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 ten other licensed Type 2 short-term rentals within a quarter-mile radius, including one in the same complex. 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
- 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
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

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

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

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

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

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

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

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.

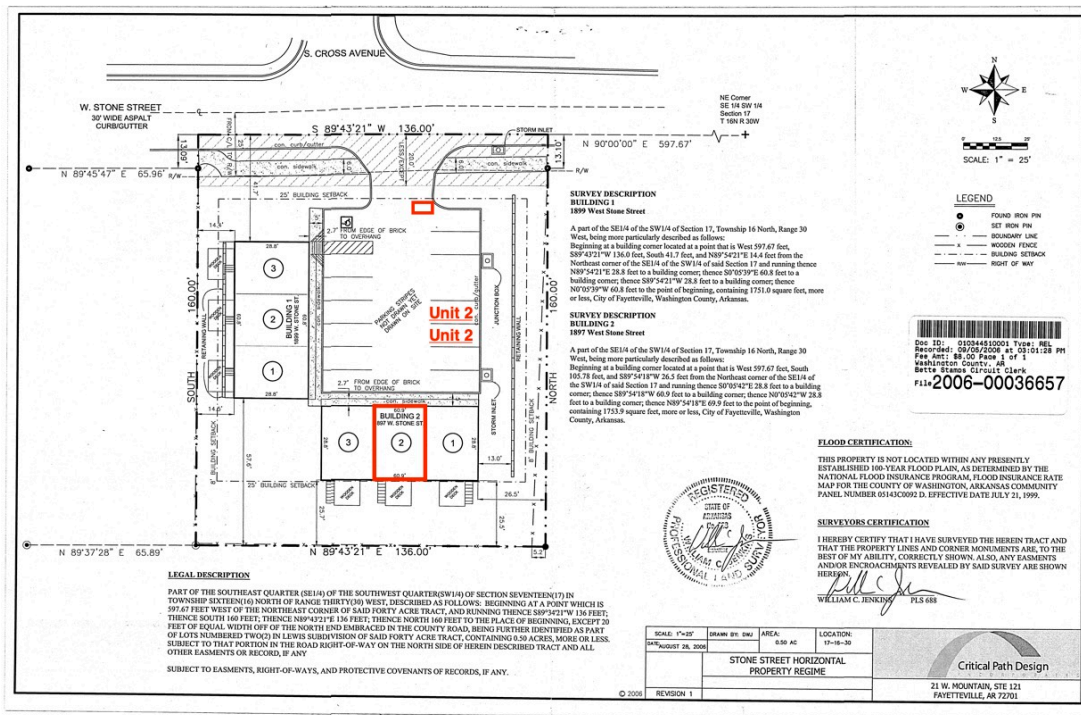
- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special 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

Katherine Steed owner of Quillsportiva LLC is submitting an application for a Type 2 Short Term Rental at **1897 W Stone St. Unit 2 Fayetteville, AR 72701.**

- (a) **Building size in square feet; existing and proposed**
 - 3480 sqft, the building. 1160 Sqft, the unit
- (b) **Color elevations of all exterior sides of the structure. (Attached)**



- (c) **Number of off-street parking spaces to be provided / number required**
 - 2



- **(d) Outdoor lighting**
 - One at the entrance of each unit
- **(e) Noise**
 - Number of guests, 4
 - No party allowed
 - Quiet-time starts at 10 pm
- **(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)**
 - The complex has a trash container used by all the residents. It is at the property's gate and visible from the street.
 -

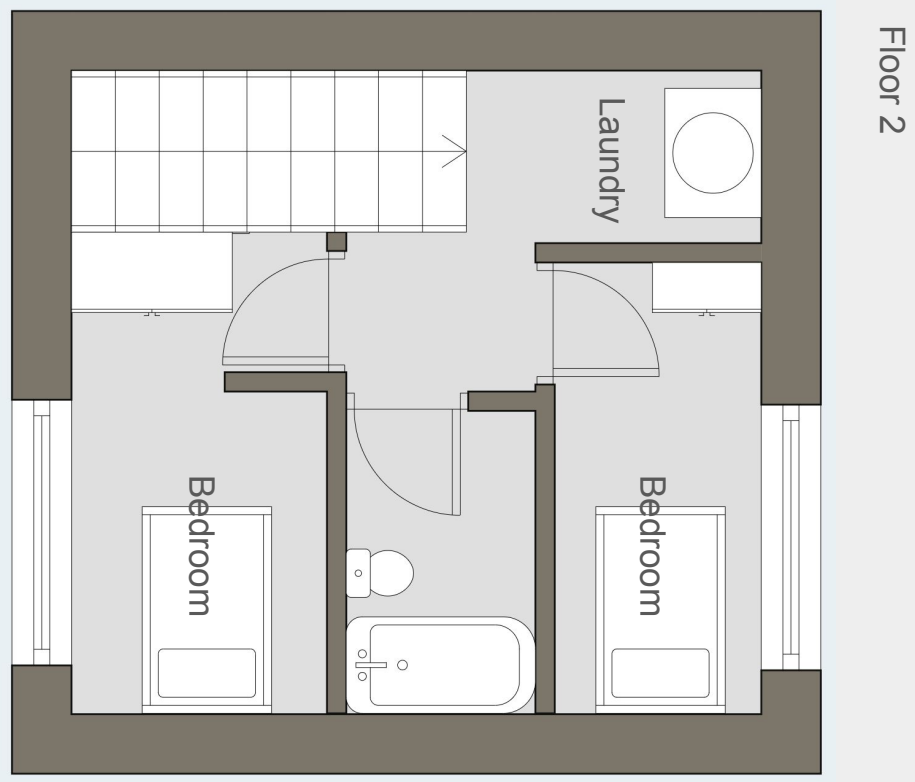
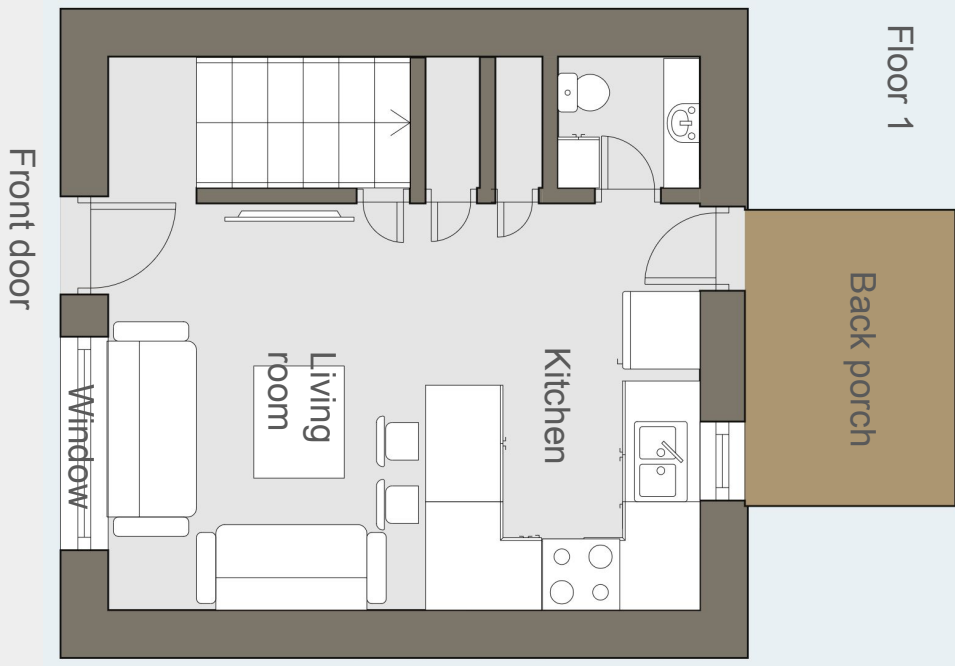


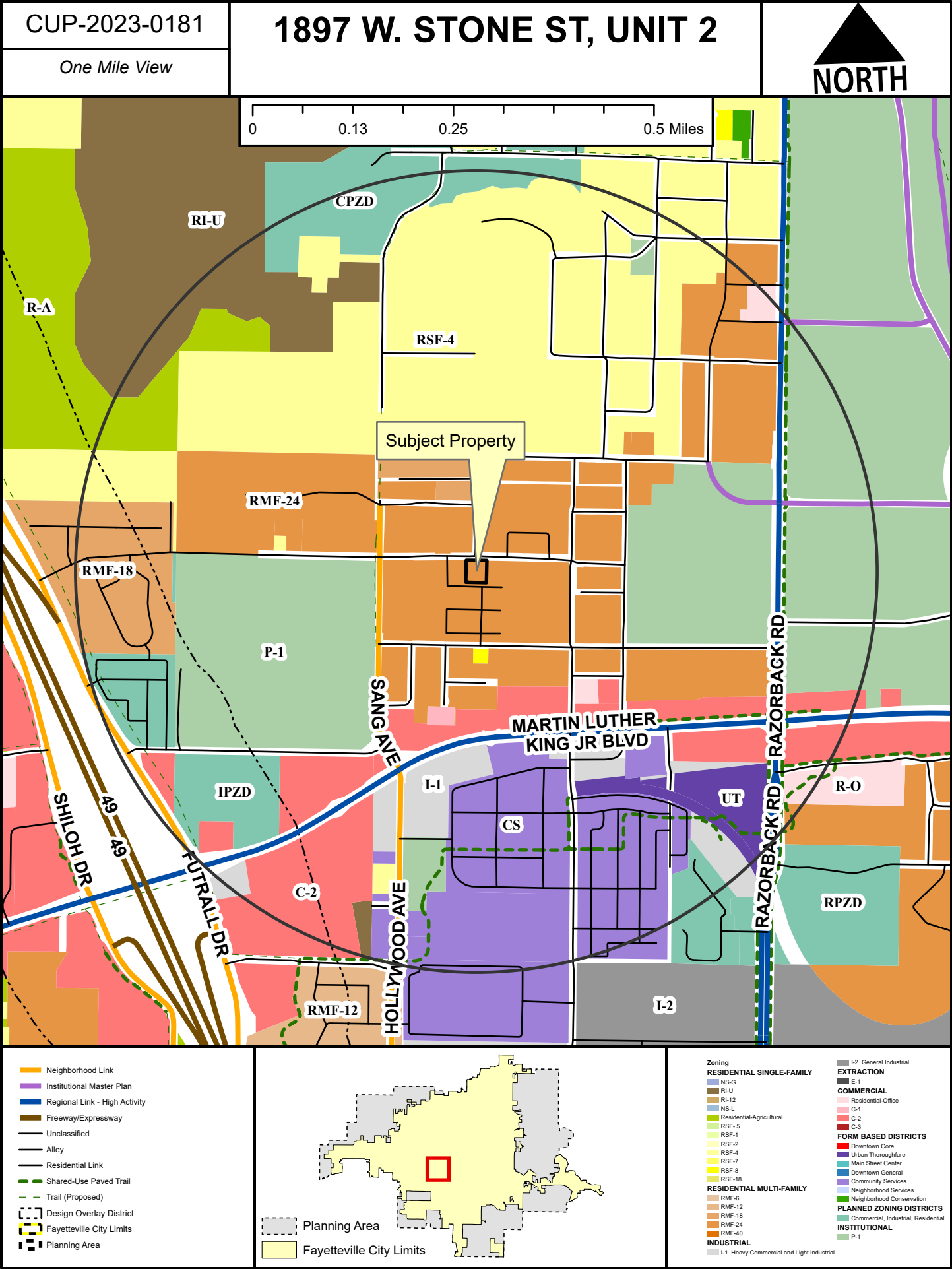
- **(h) Ingress and egress to the property; traffic impacts**
 - One gate to ingress and egress the property from Stone St. Low volume of vehicles.



- **(i) A response discussing the general compatibility of the proposed use with adjacent properties and other properties in the neighborhood**
 - The majority of the properties around the area rentals are either long and/or short. In the complex in which the proposed, 2 of them are used for short rentals.

Floor Plan 1897 W. Stone St. Unit 2

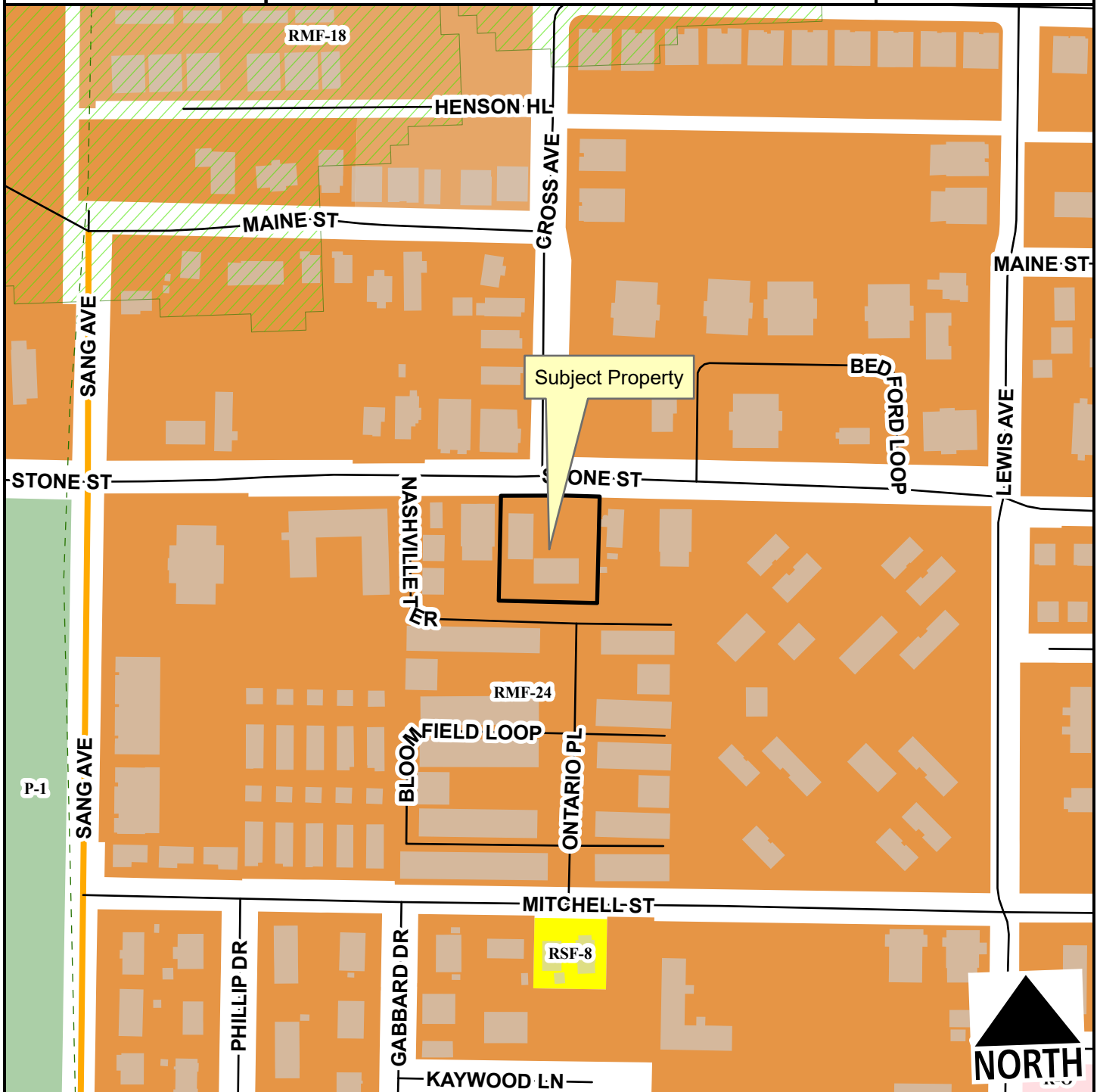




CUP-2023-0181

1897 W. STONE ST, UNIT 2

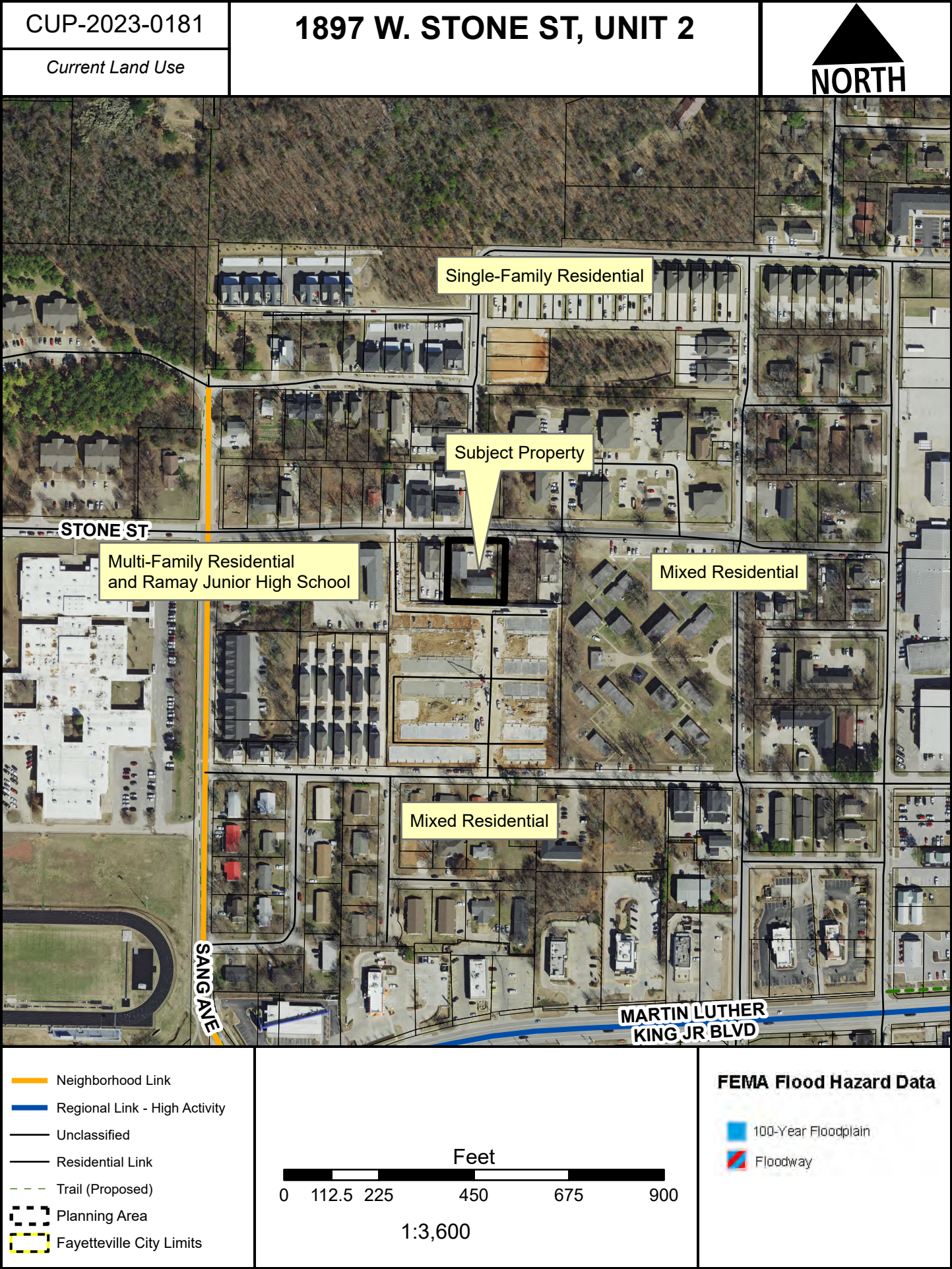
Close Up View



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



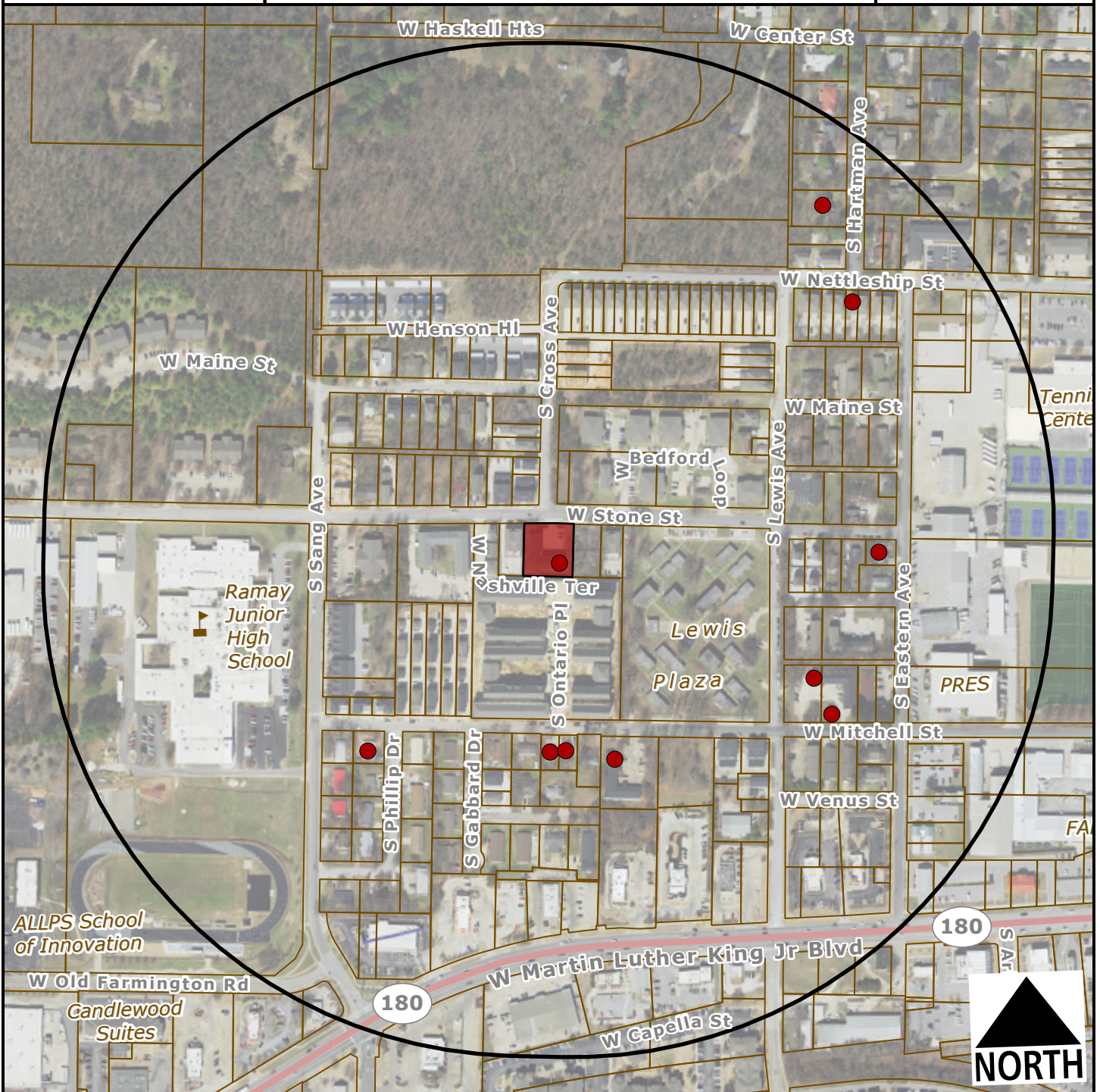
- RSF-8
- RMF-18
- RMF-24
- Residential-Office
- P-1



CUP-2023-0181

1897 W. STONE ST, UNIT 2

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 10

Occupiable
Residential
Addresses
(Estimated
Housing Units): 604



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0186: Conditional Use Permit (331 E. NOBLE LN./SPENCER, 407):** Submitted by HAWG HAVEN 1 LLC for property located at 331 E. NOBLE LN. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.03 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0186**.

RECOMMENDED MOTION:
*"I move to deny **CUP-2023-0186**."*

BACKGROUND:
The subject property is located just southeast of the Evelyn Hills Shopping Center in an 11-unit townhouse development referred to as Abshier Heights. The subject property contains one parcel totaling 0.03 acres which is currently developed with a 2,022-square-foot, three-bedroom townhouse. 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	Evelyn Hills Shopping Center	C-2, Thoroughfare Commercial
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	Multi-Family Residential	RPZD, Residential Planned Zoning District

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

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

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

RECOMMENDATION: Staff recommends denial of **CUP-2023-0186**. Should the Planning Commission choose to approve this item, staff recommends the following conditions:

Conditions of Approval:

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

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the Abshier Heights Residential Planned Zoning District (RPZD). Since that planned zoning district is residential, a conditional use permit is required for the proposed land use per UDC §163.18(A).

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 may adversely affect the public interest given the high concentration of other units nearby that are already operating as a Type 2 short-term rental. Of the 11 units in the underlying development, three have an active business license to operate as a Type 2 short-term rental. Granting the requested conditional use permit would allow more than one-third of the units in the development to operate

as Type 2 short-term rentals. While the applicant has indicated that they own one of the three units that are currently operating as a short-term rental and they have shared an intent to sell it, staff recognizes that that other unit still has an active zoning entitlement to operate as a Type 2 short-term rental, and that entitlement could be transferred to a new owner.

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in the Abshier Heights RPZD. Since that RPZD is a residential zoning district, a conditional use permit is required.

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

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

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

Finding: Parking for townhouses is required to be provided at a rate of one space per bedroom. Since the subject property contains three bedrooms, three parking spaces are required. The applicant has indicated that there is space to park up to four vehicles on the property with two spaces in a garage and two spaces in a driveway. Additional parking is available along an adjacent private 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. Should the Planning Commission

choose to approve this item, staff has included a recommended condition of approval prohibiting 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 331 E. Noble Ln. Should the Planning Commission choose to approve this item, staff has recommended 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 16, 2024, the City had issued 441 Type 2 short-term rental business licenses, and 28 remain in the queue for processing. An additional 15 are on the waitlist. 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 are available for guests and additional on-street parking is available along Noble Lane. City records indicate that five other units within a quarter-mile radius, including three other units in the underlying 11-unit development, have an active Type 2 short-term rental business license. Staff finds that approving the applicant's request may adversely affect the character of the development since it would allow more**

than one-third of all units to operate as short-term rentals. With regard to zoning and code violations, none 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: Access to the site is provided from Abshier Drive and Hillcrest Avenue by way of a private drive, Noble Lane. Abshier Drive and Hillcrest Avenue are classified as Residential Link Streets. 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: The use of the property as a short-term rental is not expected to impact its compliance with relevant setbacks.

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

Finding: On the balance of considerations, staff finds the proposed use to be incompatible with adjacent properties. With three other units already having received a business license to operate a Type 2 short-term rental, staff finds that the underlying development is currently bearing a higher burden on accommodating short-term rentals than others in the City.

- (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. Staff acknowledges that 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 cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes with single ownership. However, staff finds that approving this short-term rental may run counter to Goal 3 of City Plan 2040, creating compact, complete, and connected neighborhoods, by removing another unit of long-term housing from a development that already has a high concentration of short-term rentals.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Abshier Heights RPZD Zoning Regulations
- Applicant Request Letter
- Floor Plan

- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within $\frac{1}{4}$ Mile Map

118.01 Applicability

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

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

Abshier Heights RPZD Bulk and Area Regulations

The following bulk and area regulations are proposed by the applicant:
(A) *Proposed Uses.*

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 2	City-wide uses by conditional use permit
Use Unit 9	Two-family dwellings
Use Unit 26	Multi-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 24	Home Occupations

(B) *Density.*

Units per acre	7.3
----------------	-----

(C) *Bulk and area regulations.*

Lot minimum width	N/A - Condo units and duplexes
Lot area minimum	N/A
Land area per dwelling unit	5,000 sq. ft.

(E) *Setback requirements.*

Front Building Setbacks: 25'.

Rear Building Setback: 15'

Side Building Setback: 8'

(F) *Height.* 35' maximum height

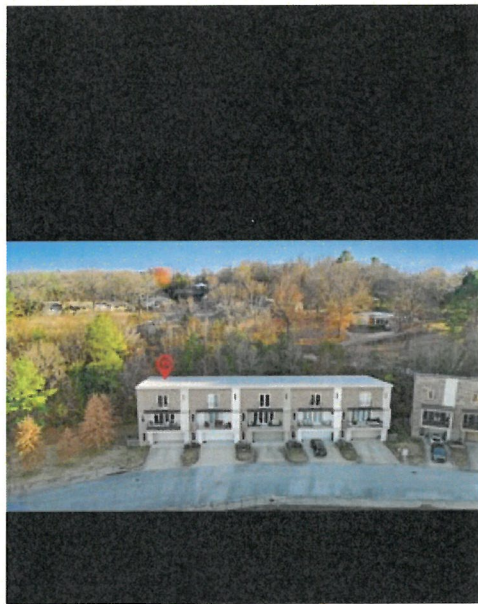
(G) *Building area.* 16.8% of site.

We have an existing ARBNB at 313 E. Noble Ln. Fayetteville AR. We would like to purchase the condominium at 331 E. Noble Ln. that is currently for sale. If we end up purchasing that property, we would like to set it up as an STR. We would sell 313 E. Noble Ln. Instead of transferring our existing license to 331 E Noble Lane, we were told to apply for the CUP form.. (We were told the qualifications were first come first Serve basis).

2. ABSHIER HEIGHTS, LOT... Lot: 00E

Physical Address:331 E NOBLE LN Subdivision:ABSHIER HEIGHTSBlock/
Lot:N/A / 00ES-T-R:10-16-30Size (Acres):0.04Legal:See *Extended Legal*

3.



- a. Building size is 2022 sq. ft.
- b. Creme siding and brick on all sides of the building see picture
- c. Two parking spaces inside the garage and two outside in the driveway. There are two more additional parking spaces on the street that are designated for each condo. See photo below of aerial view. The street in front of the condominiums allows for street parking.



- D. N/A
- E. Two porches residential lighting
- F. Minimum
- G. Fencing between properties
- H. City of Fayetteville trash pick up. There is an overhang on the garage where the trash can is stored outside. It is put to the curb on Monday mornings and returned to its place after pickup

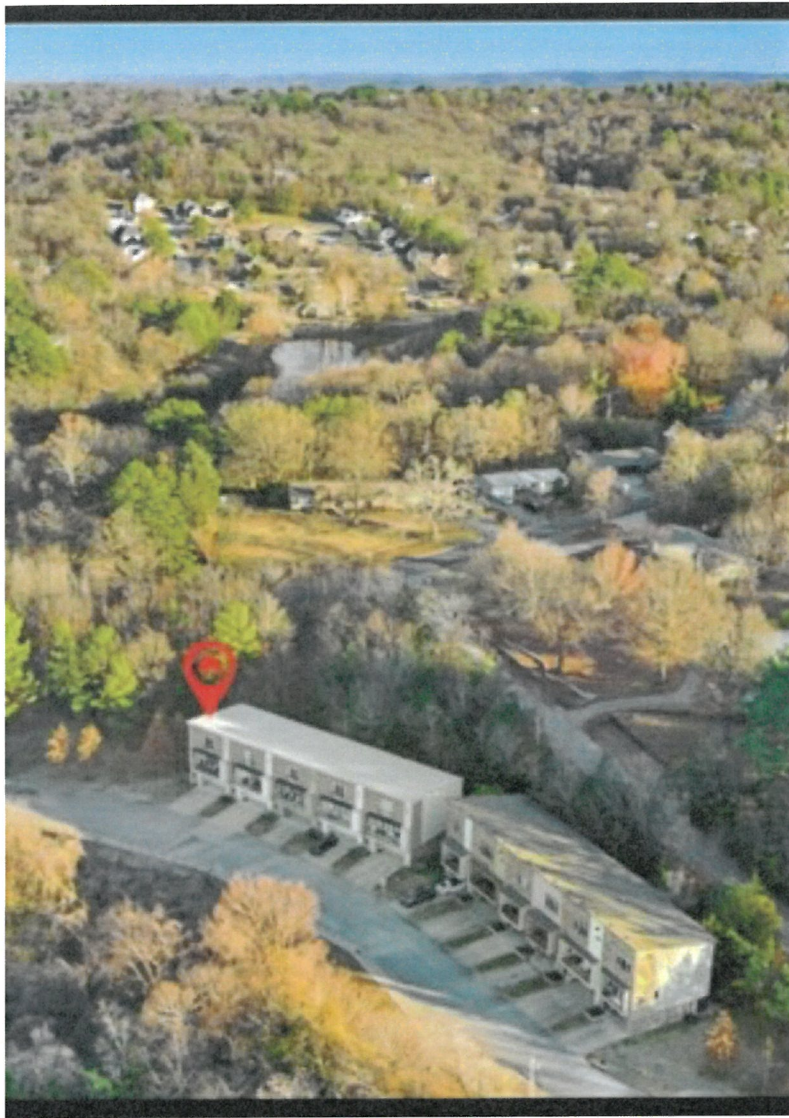




I. Low traffic

J. There are 3 total STR properties including the one we already own in this area. However, in the properties in the section of five where we are trying to purchase 331, these residents aren't living there full-time. They only come from time to time. The other six condos separated from 313 thru 331 have two STR and these should not pose a problem for the residents or rentals in my opinion. See photo below.

-on next page



Street Parking



This picture shows the over flow of cars parking on the street available.



The picture below shows the aerial view of the street with parking alongside of the condo units of all 11 units on E. Noble Lane.



☐300 of 328☐

26



4. continued

Base Structure

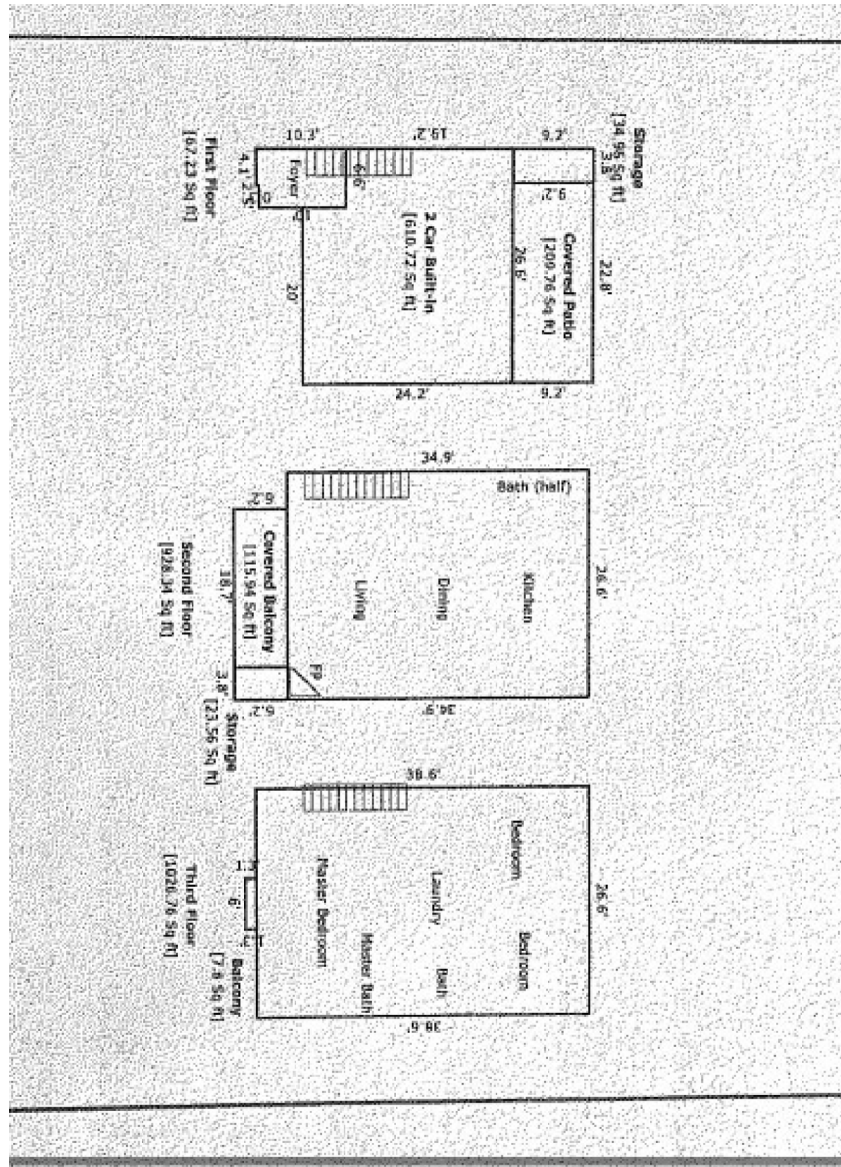
Item	Label	Description	Area
A	MN	Main Living Area	818
B	OP	Porch, open	54
C	OP2	Porch, half open	36
D	STG	Storage	20
E	1+	1+, Upper Level	884
F	LL	Lower Level Living Area	225
G	MFB	Garage - masonry finished, bui	630

Outbuildings and Yard Improvements

Item	Type	Size / Dim	Unit Multi.	Quality	Age
Driveway, concrete	N/A	15 x 20	N/A	N/A	N/A

Other Adjustments

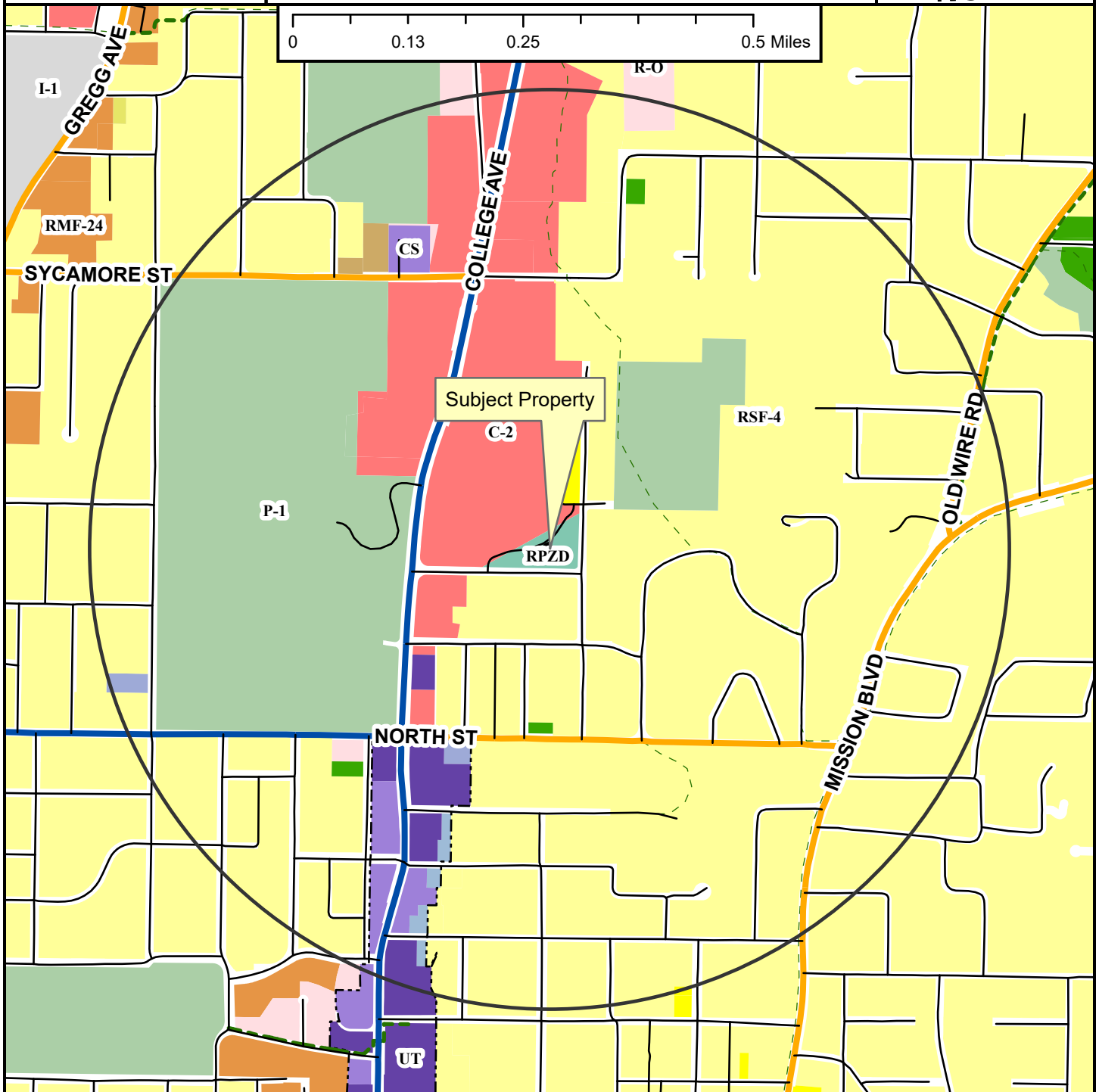
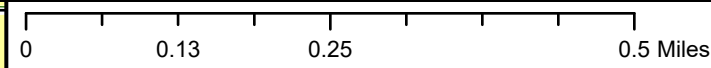
Code	Type	Qty
FLOORC	T	389
FLOORC	H	779



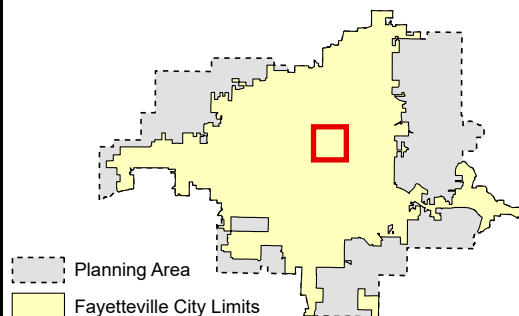
CUP-2023-0186

331 E. NOBLE LN

One Mile View



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

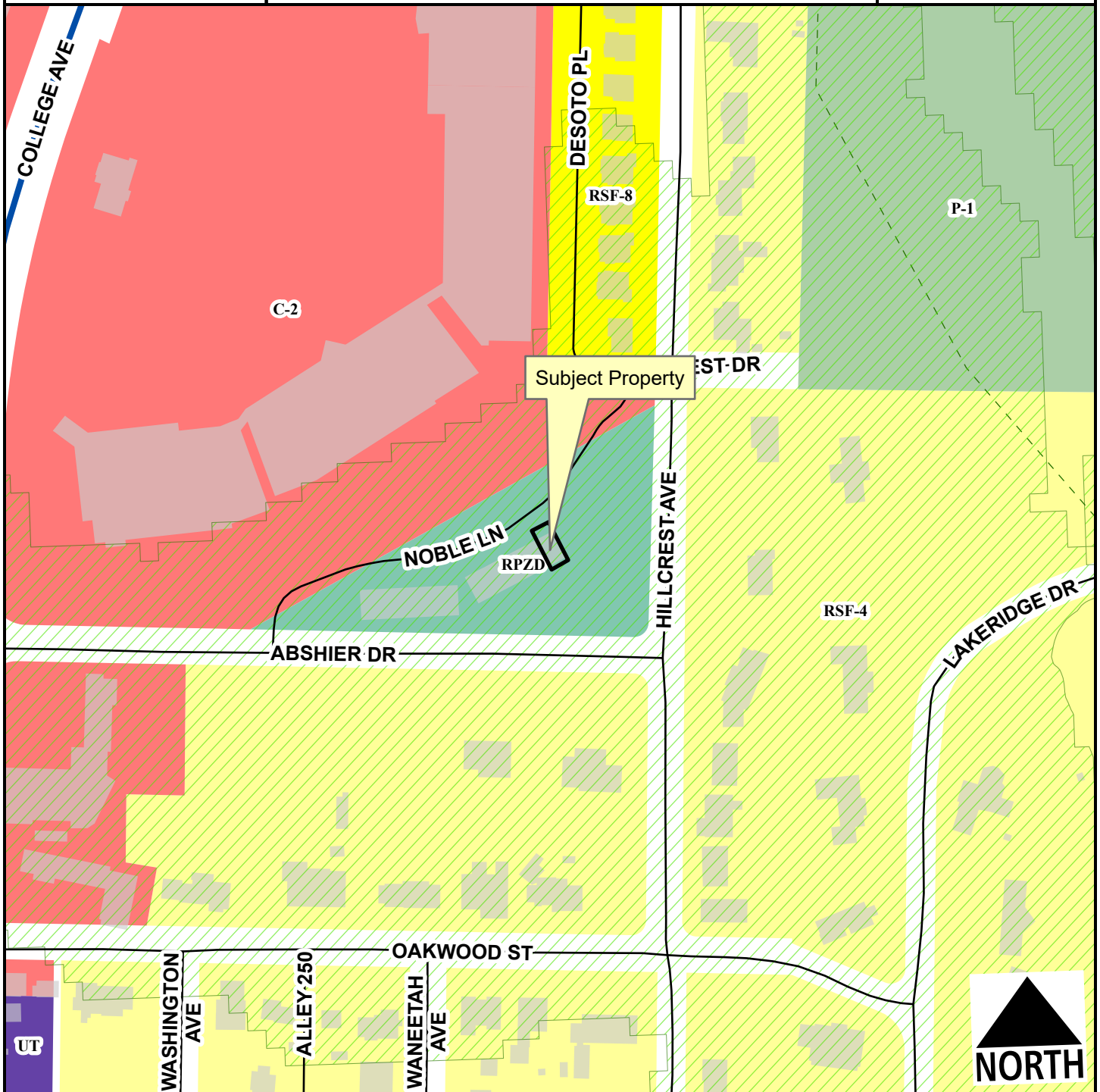


- | | |
|---|---|
| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> NS-G RI-U RI-12 NS-L Residential-Agricultural RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RMF-6 RMF-12 RMF-13 RMF-24 RMF-40 <p>INDUSTRIAL</p>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

CUP-2023-0186

331 E. NOBLE LN

Close Up View



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

Feet

0 75 150 300 450 600

1:2,400

- RSF-4
- RSF-8
- C-2
- Urban Thoroughfare
- Commercial, Industrial, Residential
- P-1

CUP-2023-0186

331 E. NOBLE LN

Current Land Use



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



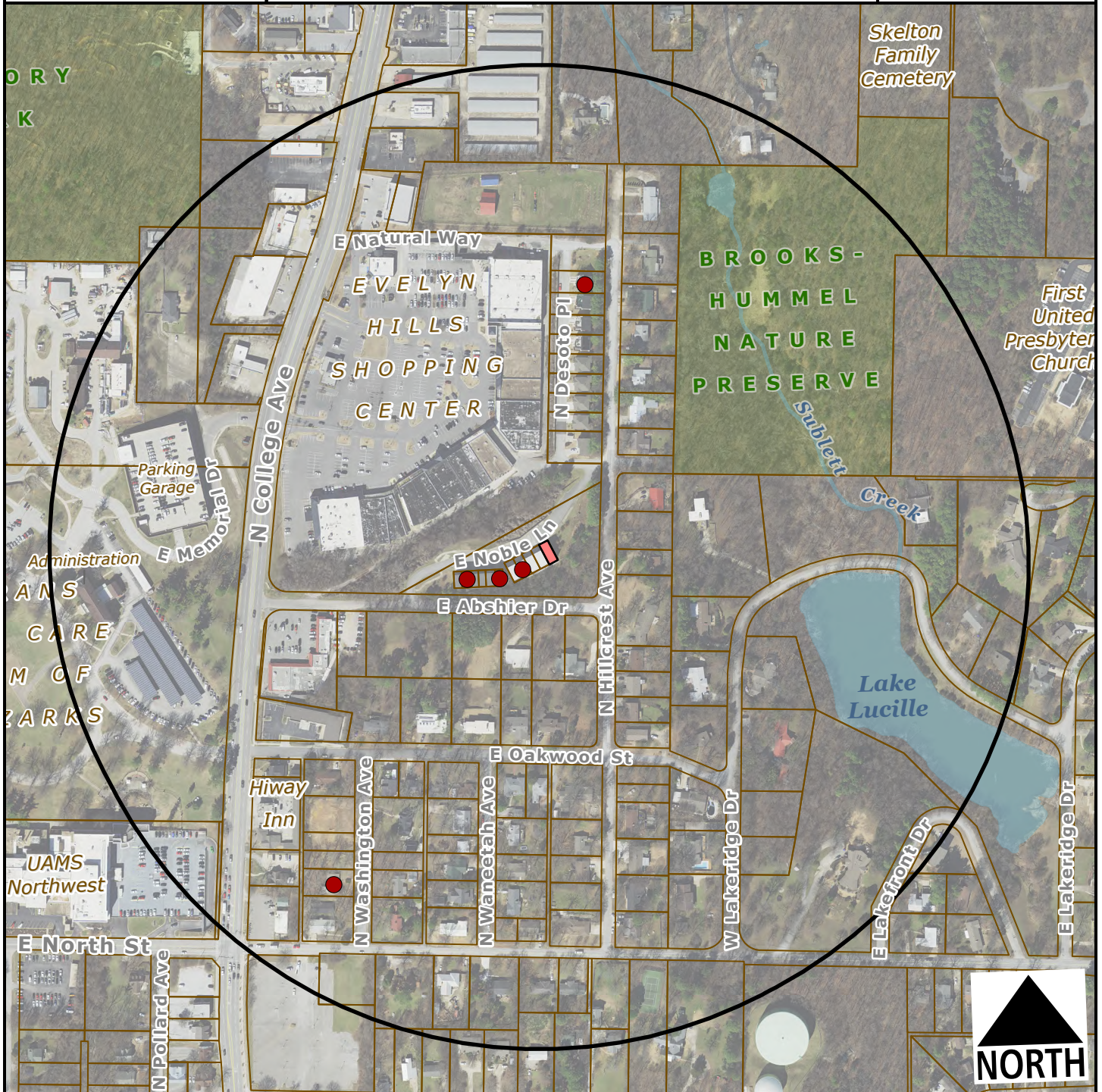
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

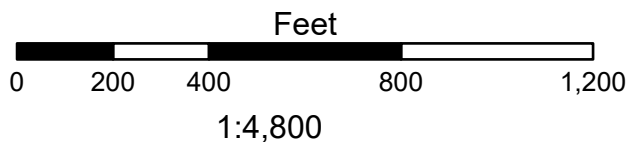
CUP-2023-0186

331 E. NOBLE LN

STRs Within 1/4 Mile



● Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 5

Occupiable
Residential
Addresses
(Estimated
Housing Units): 98



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: January 22, 2024

SUBJECT: **CUP-2023-0187: Conditional Use Permit (2235 N. MARKS MILL LN./BETTER BUILT HOMES INC, 329):** Submitted by BETTER BUILT HOMES INC for property located at 2235 N. MARKS MILL LN. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0187** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0187**, 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 southeast of the intersection of College Avenue and Township Street on the west side of Marks Mill Lane in the Summit Place Subdivision. The property contains one parcel totaling 0.20 acres which is currently developed with a 2,508-square-foot, three-bedroom, single-family home which was built in 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 from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Undeveloped	NC, Neighborhood Conservation
South	Undeveloped	NC, Neighborhood Conservation
East	Single-Family Residential	NC, Neighborhood Conservation
West	Undeveloped	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-2023-0187** with the following conditions:

Conditions of Approval:

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

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 22, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

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

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

§163.18. SHORT-TERM RENTALS.

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

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

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

Finding: The 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 on site with two spaces in a garage and two spaces in a driveway. On-street parking also appears to be available along Marks Mill Lane.

- 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 2235 N. Marks Mill Ln. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of January 16, 2024, the City had issued 441 Type 2 short-term rental business licenses and 28 remain in the queue for processing. An additional 15 are on the waitlist. 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 are available for guests on site and on-street parking is available along Marks Mill Lane. 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, and no 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 Marks Mill Lane is available to accommodate vehicular ingress and egress to the subject property. Staff finds that the proposal to use the property as a short-term rental 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 and garage. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

Finding: The applicant proposes to utilize existing residential trash cart 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 located in a residential subdivision mostly surrounded by undeveloped properties, and there are no other licensed Type 2 short-term rentals within a quarter-mile radius. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

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

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

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.29 Neighborhood Conservation
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwelling types	40 feet
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(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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

We, Better Built Homes, Inc., are requesting our property at 2235 Marks Mill, Fayetteville, AR, be considered for an AirBnB (short term rental). The following are descriptions of the property:

- a) Building size-2508 sqft
- b) Color of exterior-White
- c) Number of parking spaces-4
- d) Sconce lighting on the back and front entrances
- e) No excessive noise
- f) Screening on windows
- g) Standard residential trash services
- h) Ingress & egress-front entrance, back entrance, and garage overhead door
- i) There are no other short term rentals in the neighborhood.



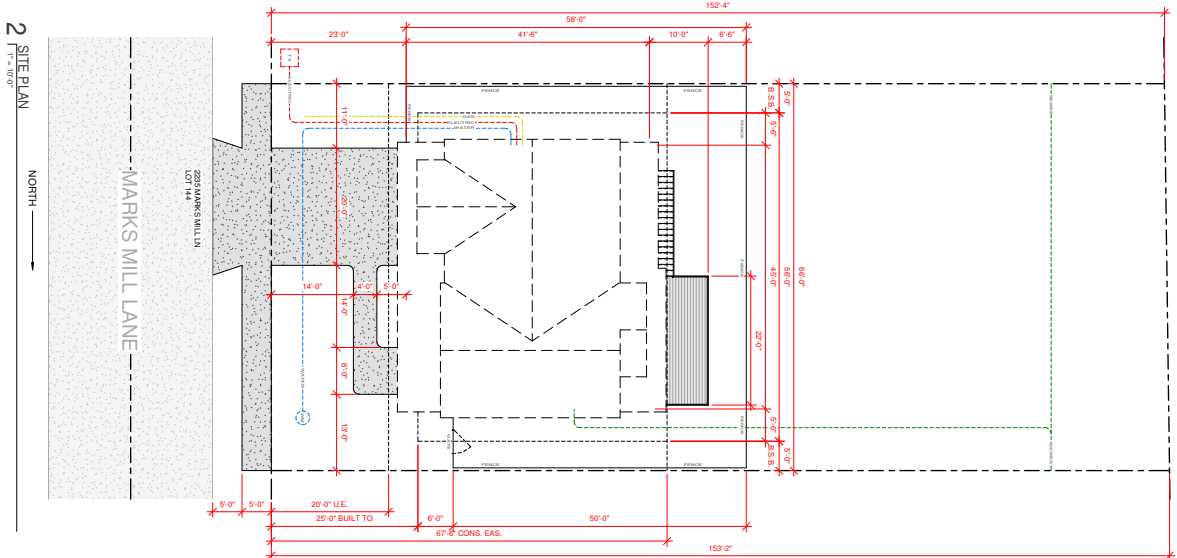
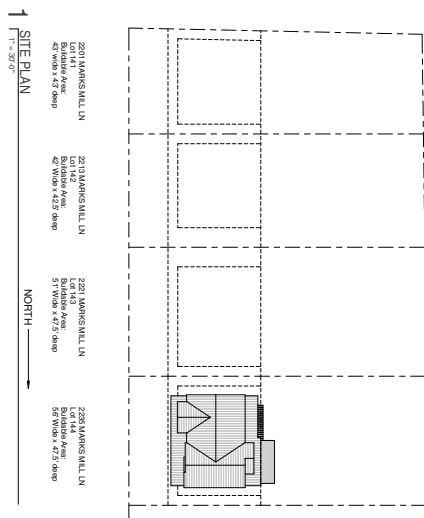
Better Built Homes, INC.

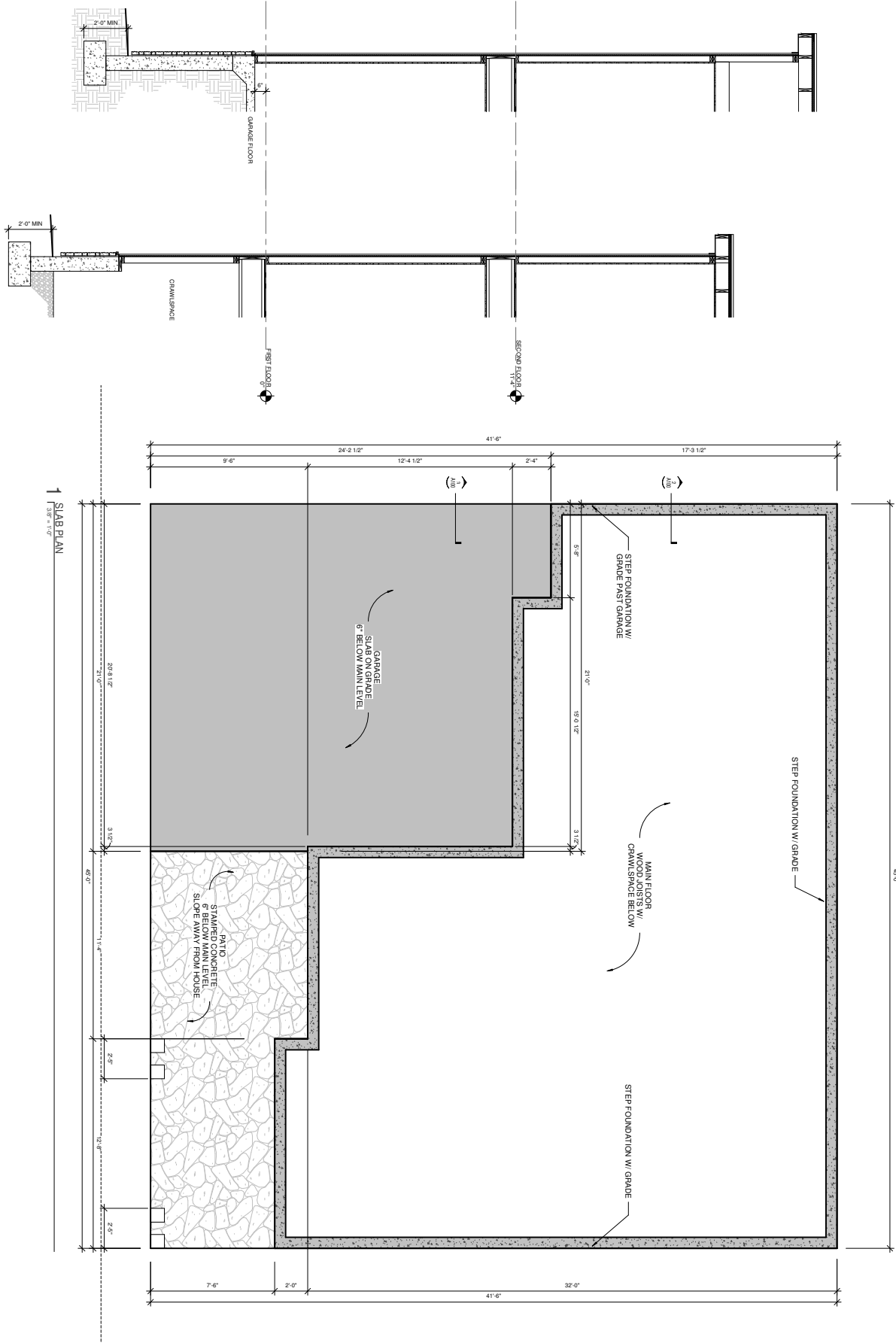
Fletcher Hall

2235 MARKS MILL LN

SITE PLAN

A000

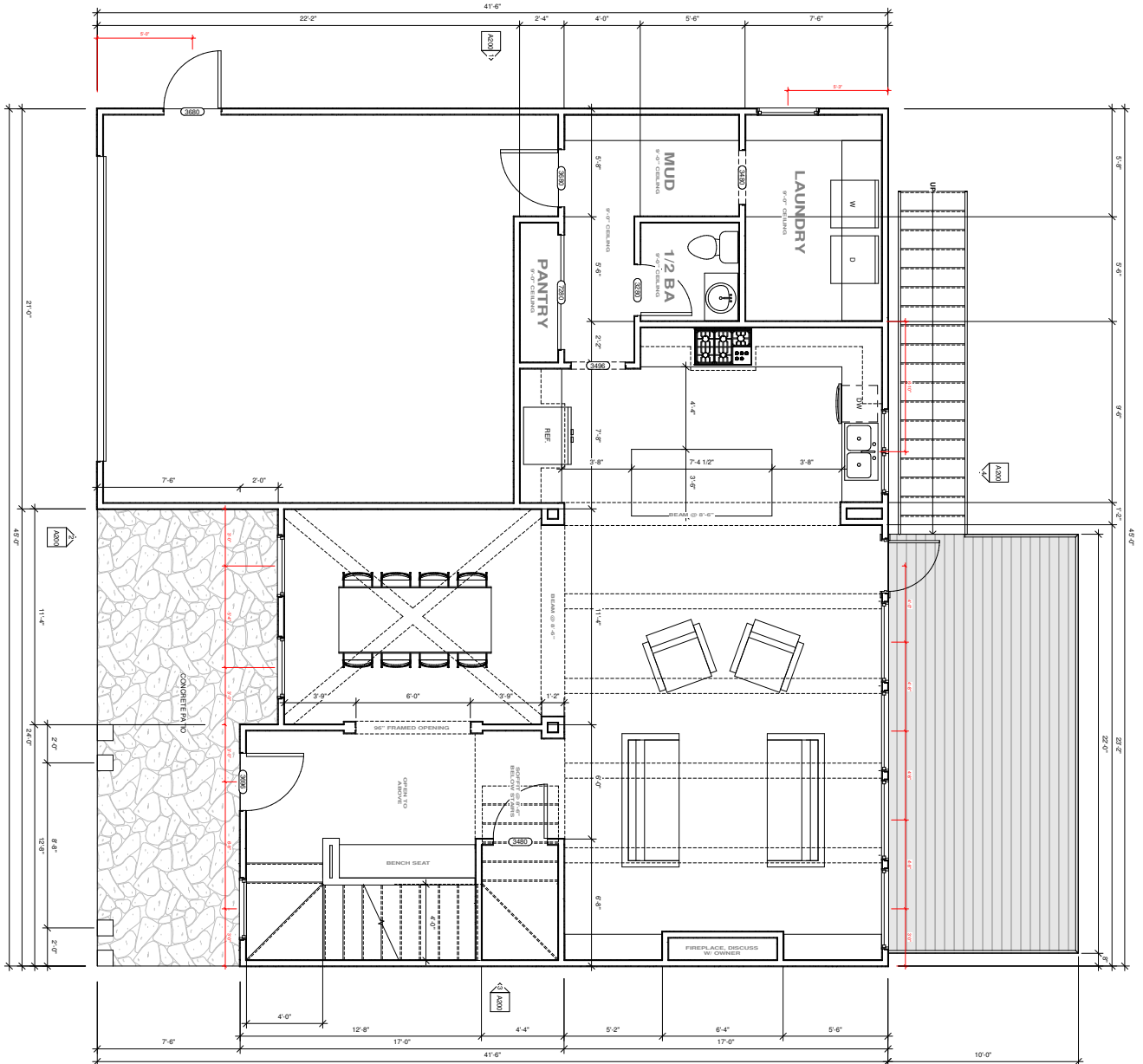




GENERAL NOTE:
 THE SUBMITTANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE PLANNING COMMISSION AND THE BOARD OF SUPERVISORS. THE SUBMITTANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE PLANNING COMMISSION AND THE BOARD OF SUPERVISORS. THE SUBMITTANT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE PLANNING COMMISSION AND THE BOARD OF SUPERVISORS.

2235 MARKS MILL LN

Planning Commission
 January 22, 2024



1 FIRST FLOOR PLAN

MAIN 1190 SF

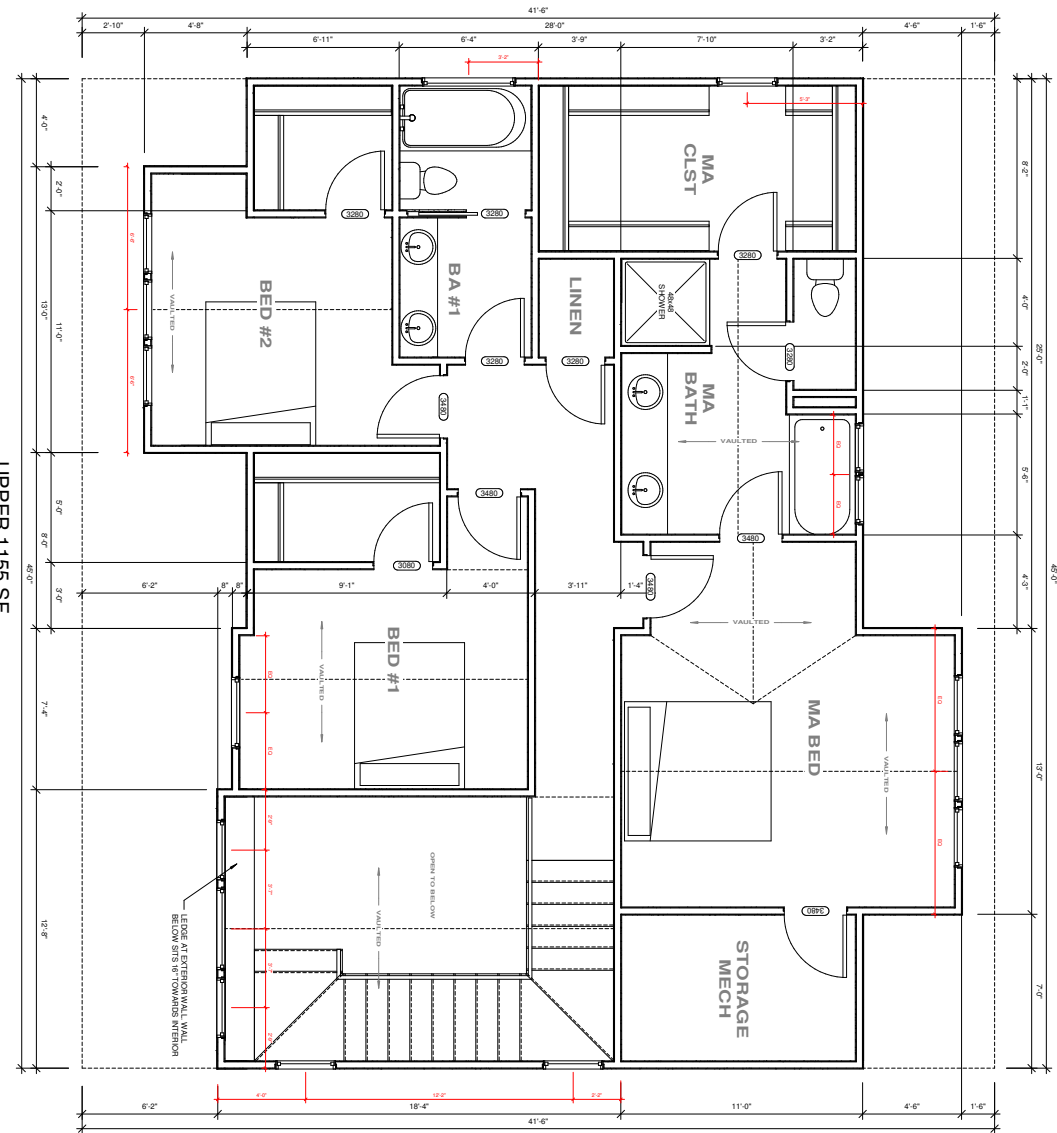
2235 MARKS MILL LN

Planning Commission
January 22, 2024

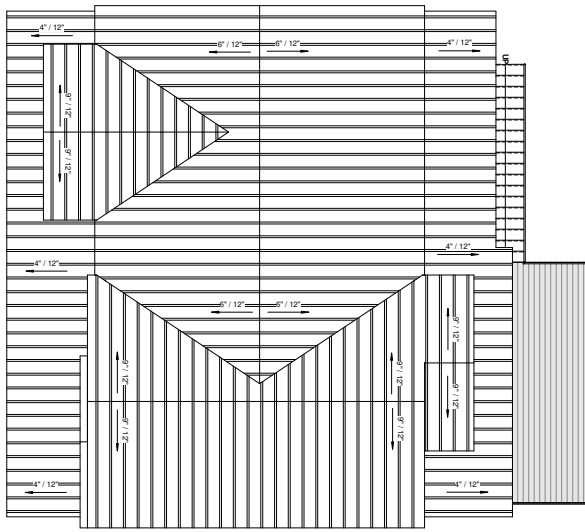
CUP-2023-0187 (BETTER BUILT HOMES)

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GENERAL NOTE:
ALL DIMENSIONS ARE SHOWN ON WALLS UNLESS NOTED OTHERWISE.
OVERHEAD DOORS TO BE 6" BELOW MAIN FLOOR, 10" 6" BELOW MAIN FLOOR.
ALL DIMENSIONS ARE SHOWN ON WALLS UNLESS NOTED OTHERWISE.
ALL DIMENSIONS ARE SHOWN ON WALLS UNLESS NOTED OTHERWISE.

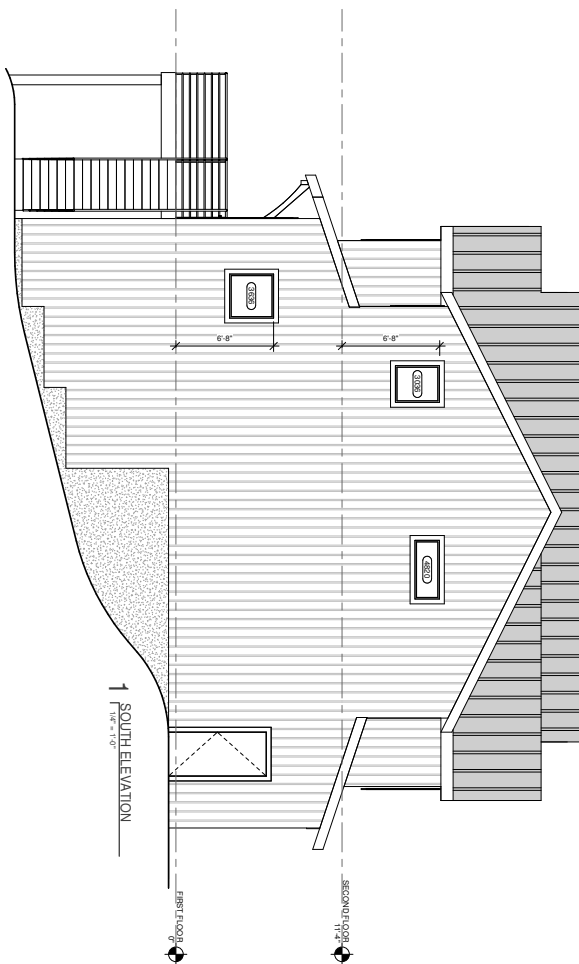


1 SECOND FLOOR PLAN
38' x 42'

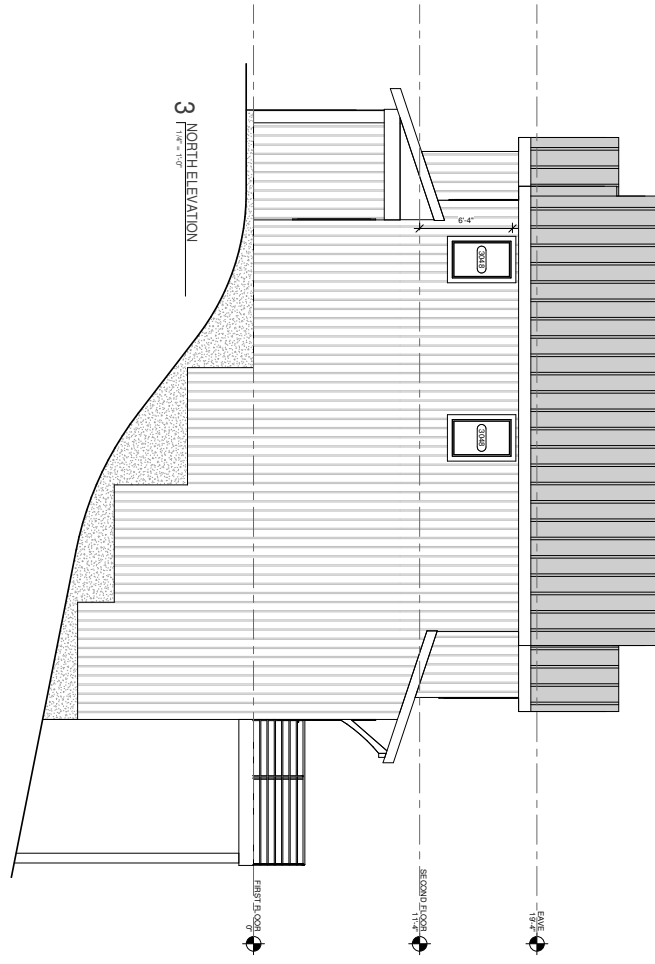


2 ROOF PLAN
38' x 42'

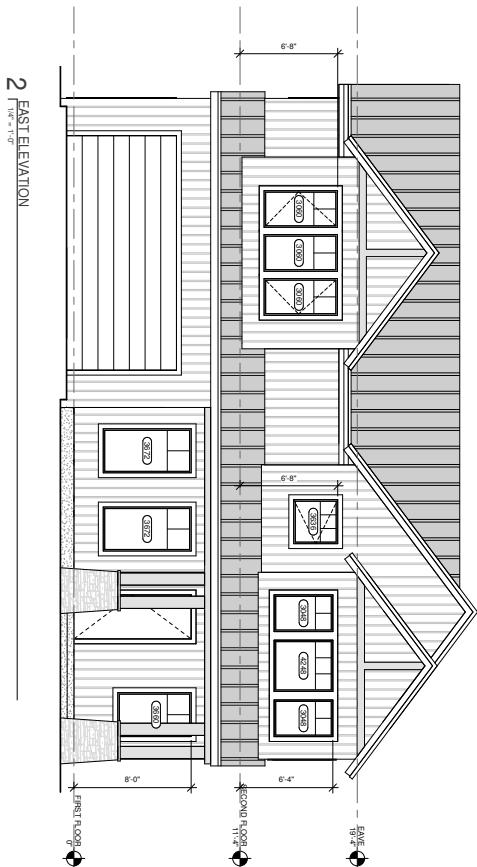
GENERAL NOTES
1. 8' BURNING WALLS ON FLOOR
2. ELEVATIONS FOR ADDITIONAL HEIGHTS ARE
3. 4' DOOR AND WINDOW SIZES ARE SHOWN AS INCHES
4. DOOR X INCHES TALL EX. (2000) - 36" WIDE X 80" TALL



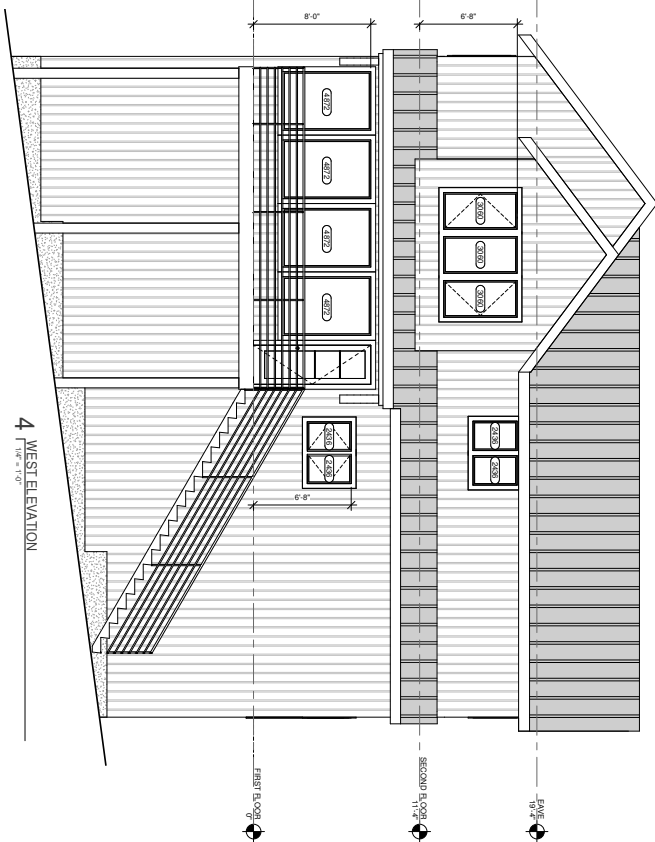
1 SOUTH ELEVATION
1/4" = 1'-0"



3 NORTH ELEVATION
1/4" = 1'-0"



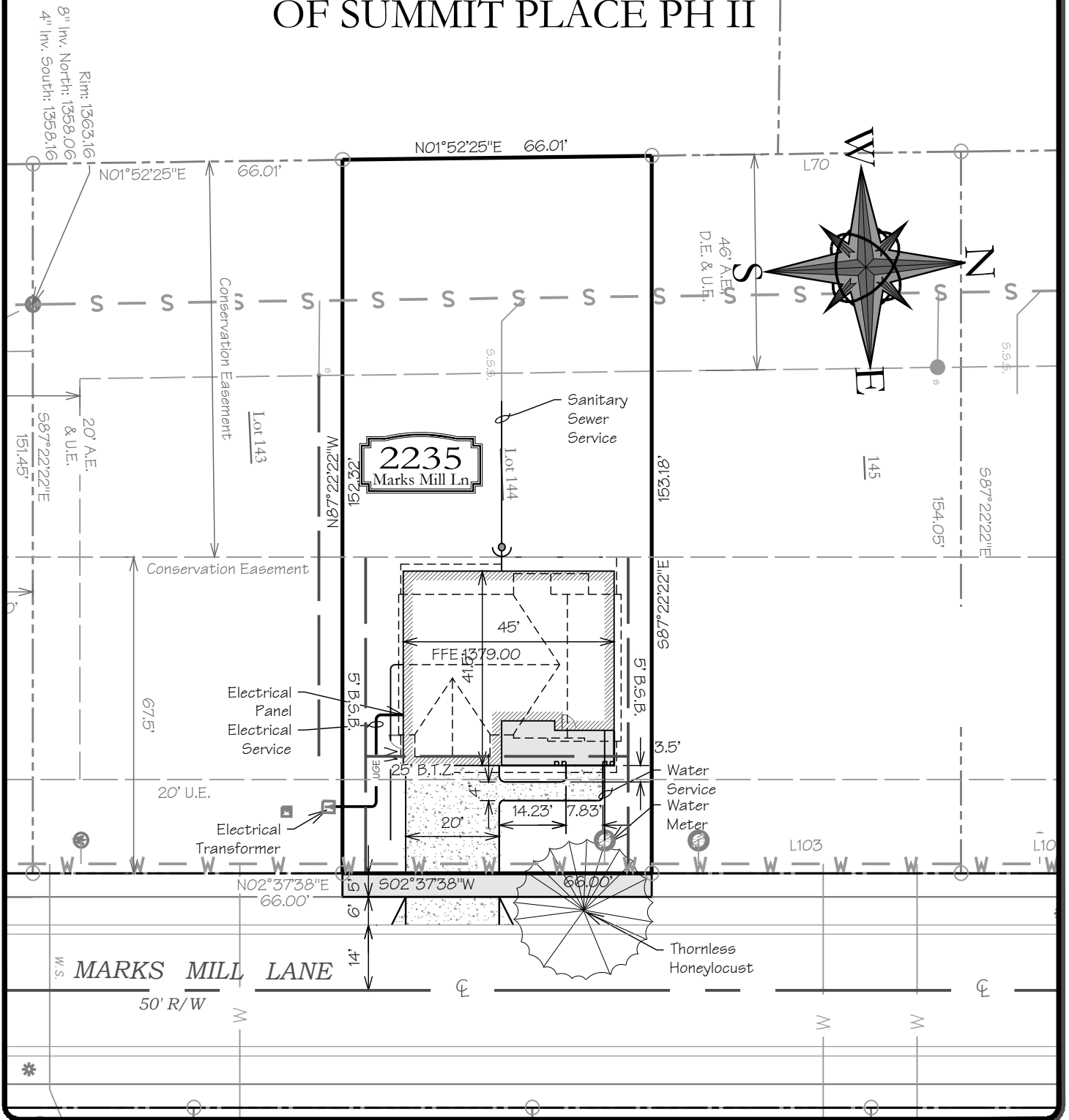
2 EAST ELEVATION
1/4" = 1'-0"



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

GENERAL NOTES
1. ALL DIMENSIONS ARE SHOWN ON WALL ELEVATIONS.
2. ALL DIMENSIONS ARE SHOWN ON WALL ELEVATIONS.
3. ALL DIMENSIONS ARE SHOWN ON WALL ELEVATIONS.
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9. ALL DIMENSIONS ARE SHOWN ON WALL ELEVATIONS.
10. ALL DIMENSIONS ARE SHOWN ON WALL ELEVATIONS.

LOT 144 OF SUMMIT PLACE PH II



BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

SITE/UTIL PLAN

Scale: 1" = 30'-0"

Project Number:
22-003

Certificate of Authorization No 1534

Date: 02/09/2022

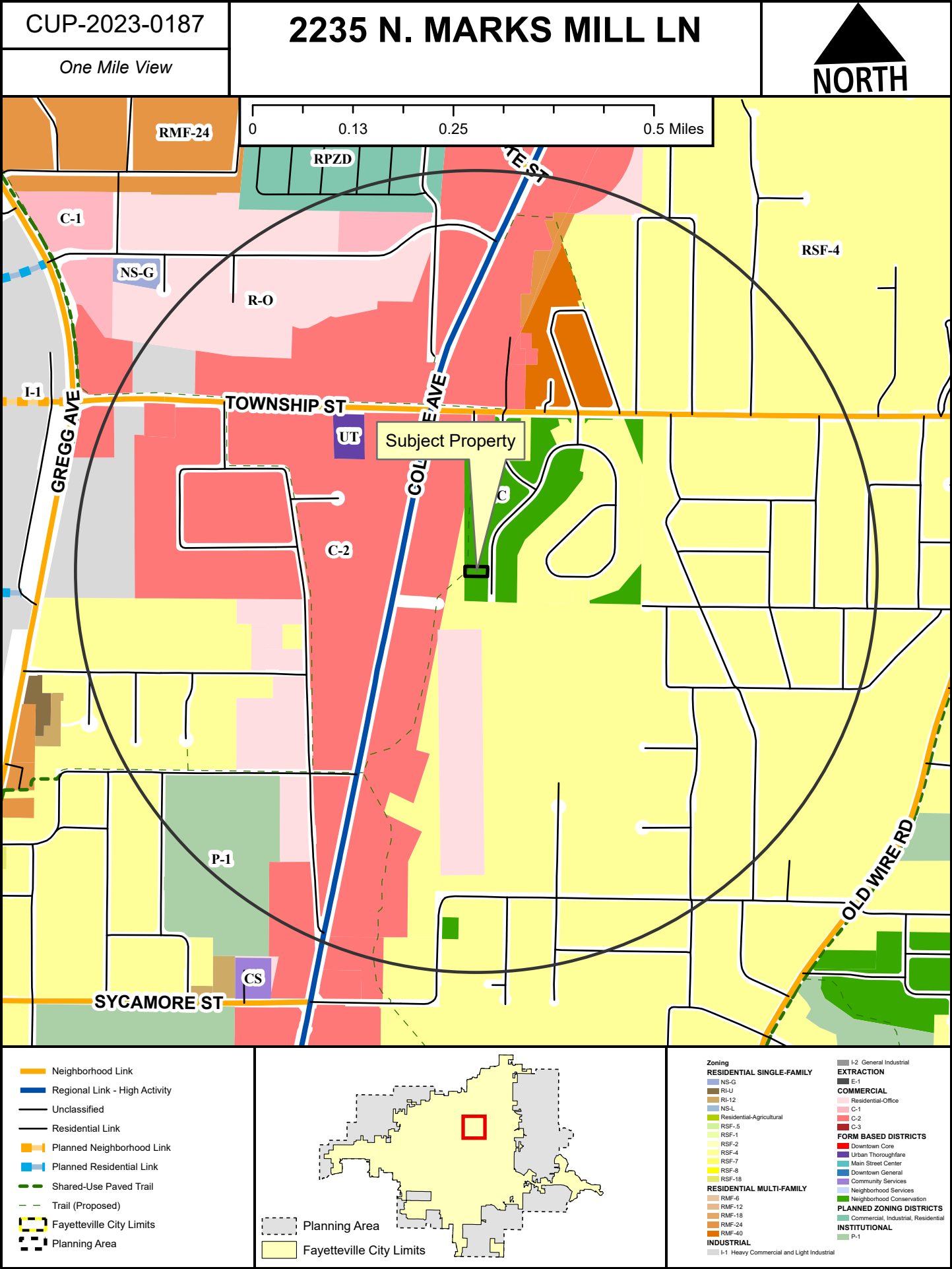
3825 N. Shiloh Drive ♦ Fayetteville, Arkansas 72703 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax

Planning Commission

January 22, 2024

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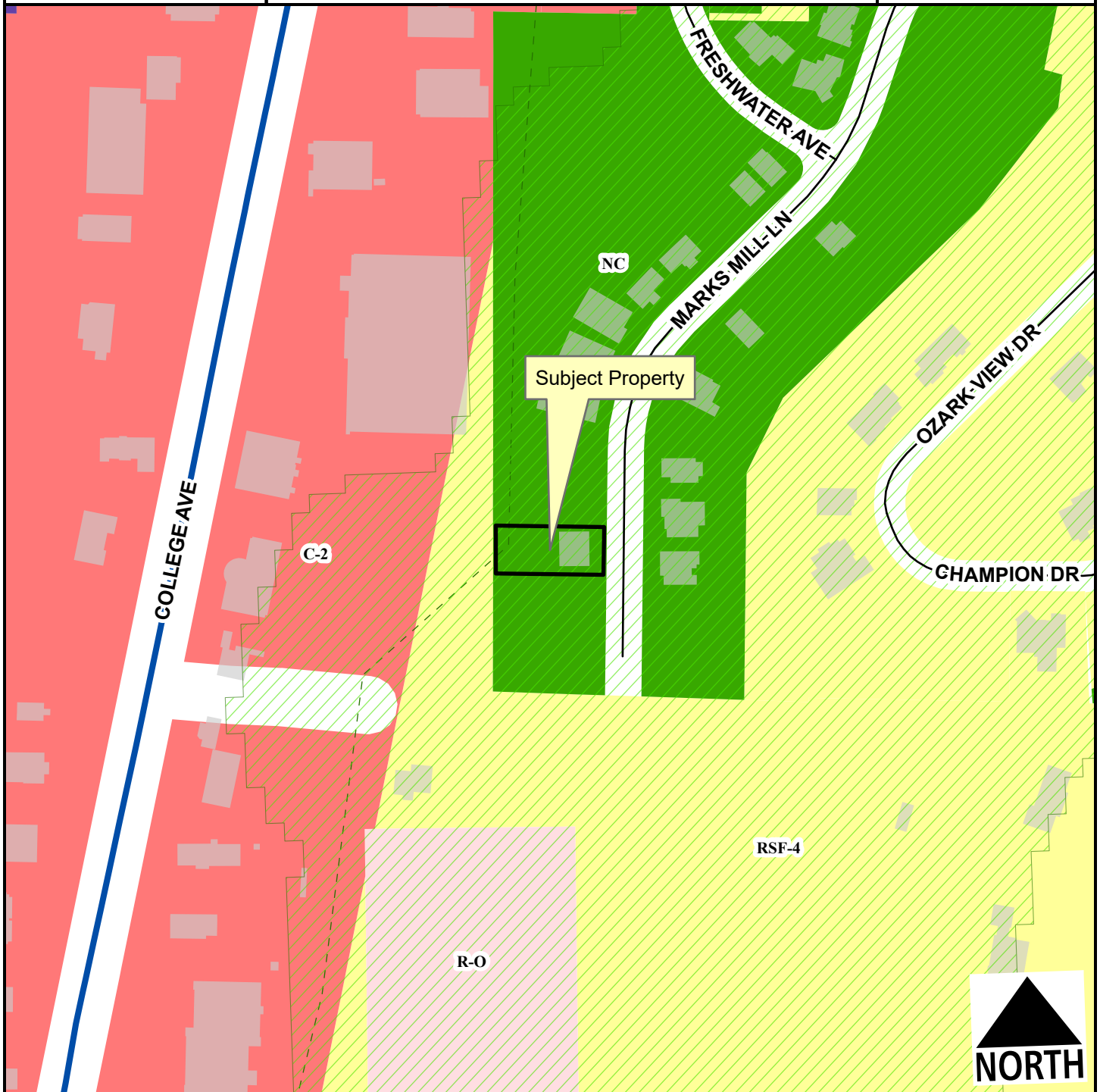
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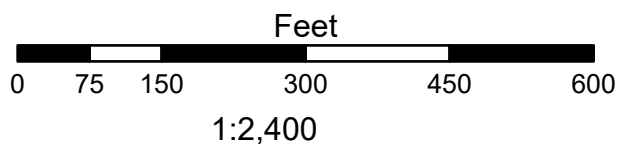
CUP-2023-0187

2235 N. MARKS MILL LN

Close Up View



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



- RSF-4
- Residential-Office
- C-2
- Urban Thoroughfare
- Neighborhood Conservation

CUP-2023-0187

2235 N. MARKS MILL LN

Current Land Use



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



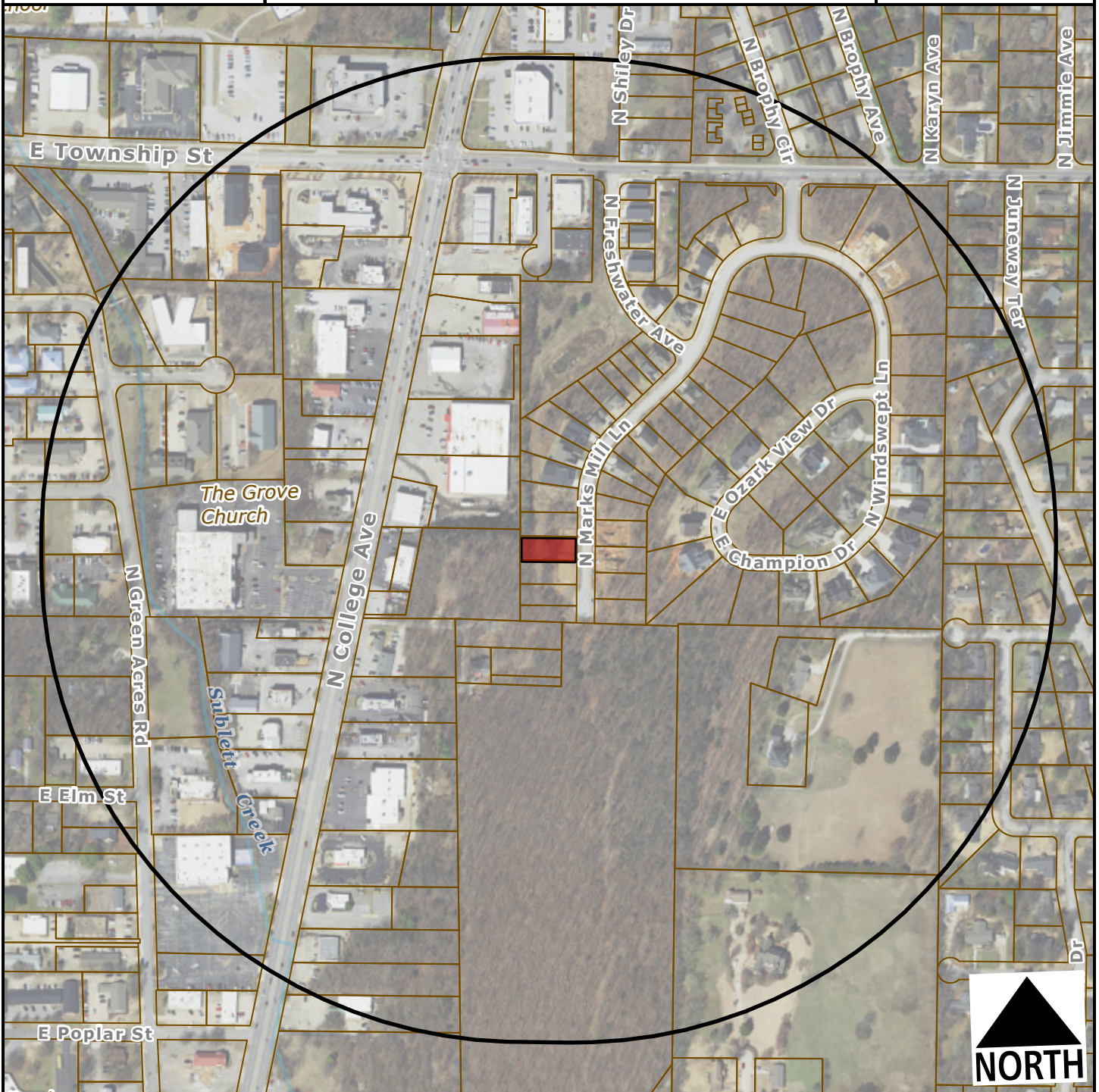
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0187

2235 N. MARKS MILL LN

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 0

Occupiable
Residential
Addresses
(Estimated
Housing Units): 123