

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, February 8, 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 22, 2024 Planning Commission. -
Mirinda Hopkins, Development Coordinator

**2. ADM-2024-0003: Administrative Item (930 S. WICHITA AVE/SOUTHERN-
WOODS, 557):**

Submitted by COMMUNITY BY DESIGN for property located at 930 S. WICHITA AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is to extend an approved conditional use permit. - Gretchen Harrison, Senior Planner

**3. VAR-2023-0055: Planning Commission Variance (SOUTH OF 870 N.
RUPPLE RD/MEADOWVIEW OF FAYETTEVILLE, 439):**

Submitted by MEADOWVIEW SENIOR LIVING for property located SOUTH OF 870 N. RUPPLE RD. The property is zoned NS-L, NEIGHBORHOOD SERVICES-LIMITED and contains approximately 6.61 acres. The request is for a variance from required infrastructure improvements. - Gretchen Harrison, Senior Planner

**4. VAR-2024-0001: Planning Commission Variance (6964 W. DAVIS
RD/STANLEY, 278):**

Submitted by ALAN REID & ASSOCIATES for property located at 6964 W. DAVIS RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 11.41 acres. The request is for a variance from road frontage requirements. - Donna Wonsower, Planner

Unfinished Business**5. 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.

THIS ITEM WAS TABLED AT THE JANUARY 22, 2024 PLANNING

COMMISSION MEETING. - Britin Bostick, Long Range Planning/Special Projects Manager

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

Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NW OF N. SHILOH DR. & W. CHICORY PL. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.43 acres. The request is for Use Unit 38: Mini Storage Units.

THIS ITEM WAS TABLED AT THE JANUARY 8, 2024 PLANNING COMMISSION MEETING.

APPLICANT HAS REQUESTED TO TABLE THIS ITEM TILL THE FEBRUARY 26, 2024, PLANNING COMMISSION MEETING. - Kylee Hevrdejs, Planner

7. PPL-2023-0006: Preliminary Plat (SOUTH OF W. PLANETREE ST/THE ELEMENT PH 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.

THIS ITEM WAS TABLED AT THE JANUARY 22, 2024 PLANNING COMMISSION MEETING. - Kylee Hevrdejs, Planner

8. 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 WAS TABLED AT THE JANUARY 22, 2024 PLANNING COMMISSION MEETING. - Kylee Hevrdejs, Planner

New Business

9. ADM-2024-0001: Administrative Item (2277, 2400, 2423, 2550 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552 AND 2600 S. HUNT LN/MASTER STREET PLAN MODIFICATION REQUEST, 595):

Submitted by RONALD WOODRUFF for properties located at 2277, 2400, 2423, 2550 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552, AND 2600 S. HUNT LN. The property is in the FAYETTEVILLE PLANNING

AREA and contains approximately 213.30 acres. The request is to modify the Master Street Plan. - Jessica Masters, Development Review Manager

10. VAR-2024-0002: Planning Commission Variance (EAST OF 1905 E. MISSION BLVD/EAST MISSION BLVD. LLC, 370):

Submitted by DAKOTA DEVELOPMENT for property located EAST OF 1905 E MISSION BLVD. The property is zoned CS, COMMUNITY SERVICES and contains approximately 4.18 acres. The request is for a variance from curb cut requirements.

APPLICANT HAS REQUESTED TO TABLE THIS ITEM TILL THE FEBRUARY 26, 2024, PLANNING COMMISSION MEETING. - Kylee Hevrdejs, Planner

11. VAR-2024-0003: Planning Commission Variance (3733 E. NATCHEZ TRCE/PETERSON, 295):

Submitted by PREMIERE POOLS AND SPAS OF NWA for property located at 3733 E. NATCHEZ TRCE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.00 acres. The request is for a variance from streamside protection requirements. - Alan Pugh, Staff Engineer

12. VAR-2024-0004: Planning Commission Variance (612 W. CENTER ST/TRINITAS DEVELOPMENT, 483):

Submitted by CLARK LAW FIRM PLLC for property located at 612 W. CENTER ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.19 acres. The request is for a variance to parking lot design standards and parking garages in a build-to zone. - Jessica Masters, Development Review Manager

13. LSD-2023-0021: Large Scale Development (4392 S. SCHOOL AVE/TOM SIMS AIRPLANE HANGER, DRAKE FIELD AIRPORT, 795):

Submitted by ENGINEERING SERVICES INC for property located at 4392 S. SCHOOL AVE. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 186.11 acres. The request is for a 10,620-square-foot airplane hanger and associated parking. - Kylee Hevrdejs, Planner

14. CUP-2023-0191: Conditional Use Permit (680 N. FALLIN AVE/ROBERTS, DIGRAZIA, 447):

Submitted by TAYLOR ROBERTS AND SARAH DIGRAZIA for property located at 680 N. FALLIN AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.22 acres. The request is to use the residence as a short-term rental. - Donna Wonsower,

Planner

15. CUP-2023-0193: Conditional Use Permit (729 S. MOUNT MILLSAP LN/BATES, 557):

Submitted by CHRISTIE MYHRA for property located at 729 S. MOUNT MILLSAP LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.40 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

16. CUP-2023-0195: Conditional Use Permit (277 S. HILL AVE/EARTHMAN, 522):

Submitted by LAUREN EARTHMAN for property located at 277 S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY UNITS PER ACRE and contains approximately 0.33 acres. The request is to use the residence as a short-term rental. - Kylee Hevrdejs, Planner

17. CUP-2023-0196: Conditional Use Permit (1138 S. OLEANDER LN/HOLLAND, 556):

Submitted by JJET MANAGEMENT for property located at 1138 S. OLEANDER LN. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

Items Administratively Approved by Staff

18. LSIP-2023-0003: Large Site Improvement Plan (653 W. 15TH ST/UNIVERSITY LOFTS AT THE SANCTUARY, 600):

Submitted by DEVELOPMENT CONSULTANTS INC for property located at 653 W. 15TH ST. The property is zoned CS, COMMUNITY SERVICES and contains approximately 10.22 acres. The request is for a multi-family residential development containing 152 units. - Gretchen Harrison, Senior Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard at the public hearings. If you wish to address the Planning Commission on an agenda item, please queue behind the podium when the Chair asks for public comment. Once the Chair recognizes you, go to the podium and give your name and address. Address 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, 01/22/2024			
Time:	5:30 PM					
Staff :	x Melissa Evans □ John Scott x Jessie Masters x Gretchen Harrison x Donna Wonsower x Kylee Hevrdejs x Britin Bostick x Sherry Smith x Josh Boccaccio □ Melissa Boyd x Fire Marshal/Andrew Horton □ Chris Brown □ Alan Pugh					
	Roll Call	1) Minutes 01-08-2024	2) CCP-2023-0007 (RIVERSIDE VILLAGE SUBDIVISION)	3) ADM-2023-0052 (AMEND UDC CHAPTER 166)	4) ADM-2024-002 (AMEND UDC CHAPTER 166 - DEVELOPMENT)	5) VAR-2023-0054 (COTTAGES AT ASHWOOD LLC)
Holcomb	1	1	1	1	1	1
Winston	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Sparkman	1	1	1	0	1	1
Brink	1	1	1	1	1	1
Garlock	1	1	1	1	1	1
Madden	1	1	1	0	1	1
Payne	1	1	1	1	1	1
Gulley	1	1	1	1	1	1
Agenda		Consent	Consent	New	New	New
Motion By		Brink	Brink	Winston	Madden	Garlock
Motion 2nd		Madden	Madden	Garlock	Payne	Winston
Vote		9-0-0	9-0-0	7-2-0	9-0-0	9-0-0
Action		Approve	Approve	Table	Forward	Approve
Time		5:33 PM	5:33 PM	6:27 PM	6:32 PM	6:38 PM
Motion Detail				Until the February 12, 2024 Planning Commission meeting.	To City Council with a recommendation of approval.	With all conditions as recommended by staff.
Public Comment		0	0	0	0	0

(pg. 2) Planning Commission		Monday, 01/22/2024				
	6) PPL-2023-0006 (THE ELEMENT PH 4)	7) LSD-2023-0022 (VAUGHN RECYCLING)	8) CUP-2023-0188 (RIVERSIDE VILLAGE)	9) CUP-2023-0189 (WALMART)	10) CUP-2023-0190 (WALMART)	11) RZN-2023-0036 (T&J NWA LLC)
Holcomb	1	1	1	1	1	1
Winston	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Sparkman	1	1	1	Recuse	Recuse	1
Brink	1	1	1	1	1	1
Garlock	1	1	1	1	1	1
Madden	1	1	1	1	1	1
Payne	1	1	1	1	1	1
Gulley	1	1	1	1	1	1
Agenda	New	New	New	New	New	New
Motion By	Brink	Payne	Payne	Winston	Winston	Payne
Motion 2nd	Sparkman	Brink	Brink	Garlock	Gulley	Brink
Vote	9-0-0	9-0-0	9-0-0	8-0-1	8-0-1	9-0-0
Action	Table	Approve	Approve	Approve	Approve	Forward
Time	6:51 PM	6:59 PM	7:06 PM	7:11 PM	7:12 PM	7:20 PM
Motion Detail	Until the February 12, 2024 Planning Commission meeting.	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.	To City Council with a recommendation of approval.
Public Comment	0	0	0	0	0	0

(pg. 3) Planning Commission						
Monday, 01/22/2024						
	12) CUP-2023-0183 (HOWARD)	13) CUP-2023-0184 (LEONARD RAMSEY)	14) CUP-2023-0185 (PRESELLER)	15) CUP-2023-0180 (HARRIS-PITMAN)	16) CUP-2023-0181 (QUILLSPORTIVA LLC)	17) CUP-2023-0186 (SPENCER)
Holcomb		1	1	1	1	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	1
Madden	1	1	1	1	1	1
Payne	1	1	1	1	1	0
Gulley	1	1	1	1	1	1
Agenda	New	New	New	New	New	New
Motion By	Brink	Payne	Garlock	Garlock	Winston	Garlock
Motion 2nd	Payne	Madden	Madden	Payne	Garlock	Madden
Vote	8-0-0	9-0-0	9-0-0	9-0-0	9-0-0	7-2-0
Action	Approve	Approve	Approve	Table	Approve	Deny
Time	7:32 PM	7:35 PM	7:39 PM	7:41 PM	7:45 PM	8:01 PM
Motion Detail	With all conditions as recommended by staff.	With all conditions as recommended by staff.	With all conditions as recommended by staff.	Till February 12, 2024 Planning Commission Meeting.	With all conditions as recommended by staff.	
Public Comment	0	0	0	0	0	0

(pg. 4) Planning Commission		Monday, 01/22/2024				
	18) CUP-2023-0187 (BETTER BUILT HOMES INC)	19) CUP-2023-0182 (WELLERMAN)				
Holcomb	1					
Winston	1					
McGetrick	1					
Sparkman	1					
Brink	1					
Garlock	1					
Madden	1					
Payne	1					
Gulley	1					
Agenda	New	New				
Motion By	Garlock					
Motion 2nd	Winston					
Vote	9-0-0					
Action	Approve	Withdrawn				
Time	8:12 PM					
Motion Detail	With all conditions as recommended by staff.					
Public Comment	2					



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: February 12, 2024

SUBJECT: **ADM-2024-0003: Administrative Item (930 S. WICHITA AVE./SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):** Submitted by COMMUNITY BY DESIGN for property located at 930 S. WICHITA AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is to extend an approved conditional use permit.

RECOMMENDATION:

Staff recommends approval of **ADM-2024-0003**.

RECOMMENDED MOTION:

*"I move to approve **ADM-2024-0003** with conditions as recommended by staff."*

BACKGROUND:

The subject property is located just south of Centennial Park and north of Old Farmington Road. The property contains 20.40 acres and is zoned NC, Neighborhood Conservation. A conditional use permit for 15 cluster housing developments on this property (CUP-2021-000056) was approved by the Planning Commission on January 24, 2022. At the June 13, 2022, Planning Commission meeting, a large scale development (LSD-2022-0014) was approved to develop a three of the cluster housing developments on this property. About a year later, the Planning Commission approved a one-year extension to the conditional use permit (ADM-2023-0010) and the large scale development (ADM-2023-0037). A second large scale development (LSD-2022-0042) for the remaining 12 cluster housing developments was approved by the Planning Commission on August 14, 2023. 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; Centennial Park	R-A, Residential-Agricultural; RSF-4, Residential Single-family, 4 Units per Acre
South	Single-family Residential	R-A, Residential-Agricultural; R-PZD, Residential Planned Zoning District; RSF-4, Residential Single-family, 4 Units per Acre
West	Undeveloped	R-A, Residential-Agricultural; RSF-2, Residential Single-family, 2 Units per Acre
East	Single-family Residential	NC, Neighborhood Conservation

Request: The applicant requests a second one-year extension to CUP-2021-000056. The conditional use permit originally received approval on January 24, 2022, and subsequently

received a one-year extension from the Planning Commission which extended its approval to January 24, 2024. The applicant submitted a letter requesting a second one-year extension on January 12, 2024, prior to the project's expiration date.

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

DISCUSSION:

Staff supports the applicant's request to extend their conditional use permit approval until January 24, 2025. The request was received before January 24, 2024, the deadline which such request must be made. The applicant's request letter speaks to the variety of entitlements required for the project, suggesting all approvals were not able to be pulled within the previously approved approval period due to the large scope of the development. The development team is currently preparing an easement plat and working towards pulling building permits for the remaining 134 units. Staff finds that the applicant has demonstrated a good faith effort to complete the work and therefore recommends approval.

RECOMMENDATION: Staff recommends approval of ADM-2024-0003, with the following conditions.

Conditions of Approval:

1. A one-year extension for CUP-2021-000056 will expire on January 24, 2025. No additional extensions will be permitted after this;
2. All other conditions of the associated conditional use permit (CUP-2021-000056) not affected by this extension shall remain in effect; and
3. Approval of this extension does not represent approval of other development issues that have not been fully reviewed at this stage, nor does it represent development entitlement or approval for any associated plan.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>February 12, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- CUP-2021-000056 Conditions of Approval
- CUP-2021-000056 Site Exhibit
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map

CUP-2021-000056 Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed cluster housing development to be compatible with the proposed neighborhood based on the findings in this report;*
2. **Planning Commission determination of requested Master Street Plan determination and variance.** *Staff finds in favor of a variance to §166.04, Required Infrastructure Improvements for reasons stated above;*
3. **Planning Commission determination of street improvements.** *Staff recommends the following street improvements:*
 - a. *The internal streets shall be constructed as depicted on the applicant's street section exhibit, with sidewalk widths amended to 6½ feet. Improvements include right-of-way dedication of 34½ feet, 6½-foot sidewalk, a 7-foot on-street parking lane, and curb and gutter in the right-of-way and a 6½-foot sidewalk, 4-feet of greenspace, and street trees within the proposed 10-foot easement. Infrastructure outside of the right-of-way, including alleys, shall be owned and maintained by a property owner's association; and*
 - b. *A traffic study shall be provided at the time of the first development application. This traffic study should follow the Minimum Street Standards, Chapter 3, and evaluate possible needs for improvements to the following intersections: Old Farmington Road – Martin Luther King Jr. Blvd., Old Farmington Road – One Mile Road, and One Mile Road – Martin Luther King Jr. Blvd.*
4. *At the time of development submittal, the applicant shall include analysis of stormwater downstream, off-site capacity analysis of existing conditions along Old Farmington Road;*
5. *Prior to development submittal, the applicant shall coordinate with the City's Recycling and Trash Collection Commercial Representative, Drew Cook, to establish a collection plan. The current trash collection plan is inadequate;*
6. *Conditional use permit approval of the conditional use permit does not ensure approval of a development application. The conditional use grants the applicant rights to submit a development proposal based on the conceptual layout included herein. However, the applicant must still be able to comply with all other development requirements, including but not limited to, tree preservation, drainage, utility installation and Fire Department access. These details shall be reviewed with the development application.*
7. *The final project design shall follow the general layout and design of the conditional use concept plan. A development application (Preliminary Plat and/or Large Scale/Site Improvement Plan) is required to go through the review process prior to any building permits to ensure compliance with all Unified Development Code requirements;*
8. *Fence details shall be provided at the time of development review. Fences interior to the development or between a unit and a public street or trail shall be no higher than 48 inches;*
9. *A condominium association, homeowner's association, or similar mechanism to maintain the common amenities shall be established prior to issuance of construction permits. The City of Fayetteville does not enforce these private agreements, but will require that this agreement be in place prior to issuing building permits;*

10. Prior to receiving a certificate of occupancy for the first home all shared parking areas and bike racks shall be installed. All development requirements, such as detention facilities, utilities, required landscaping, etc. shall be installed prior to any building permits being issued. The exact phasing of improvements will be determined at development review;
 11. The maximum number of unrelated persons in any dwelling unit is three, pursuant to the underlying single-family zoning district;
 12. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year; and
 13. Exterior lighting package must be provided to the Planning Division prior to building permit approval. Common area lighting shall comply with UDC §176 Outdoor Lighting.
-

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 24, 2022</u>	☐ Tabled	☒ Approved	☐ Denied		
Motion: Sharp					
Second: Belden					
Vote: 8-1-0	As recommended.				



January 6, 2024

Via Email: jmasters@fayetteville-ar.gov

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

RE: **CUP 2021 000056 – Request to Extend Conditional Use Permit Approval**

Ms. Masters,

The above referenced conditional use permit was approved by the City of Fayetteville Planning Commission on the evening of January 24, 2022 and then extended for a second year by the Planning Commission on April 10, 2023. On behalf of the owner of the property, please allow this letter to serve as a request to extend CUP 2021 000056 for a third year.

Since the original CUP approval, the development team worked diligently to obtain planning commission approval, grading permit approval, and building permit approval of the first 28 homes. Most of those 28 homes have been completed while the remainder are under construction. Planning commission approval for the later 134 homes was granted in 2023 and the grading permit for those homes has undergone 3 reviews and is nearing approval. The development team is currently preparing an easement plat and lot split for review so that building permits for some of the 134 homes can be applied for once the grading permit is approved.

Given the complicated scope and scale of the project it was not feasible for the development team to be able to pull all associated building permits within the previously-approved approval period. Another extension is needed in order to allow for this time.

The plan is to continue working with the City to obtain all permits for full build out of the conditional use permit.

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

Sincerely,



Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701

479.790.6775
Planning Commission

February 12, 2024

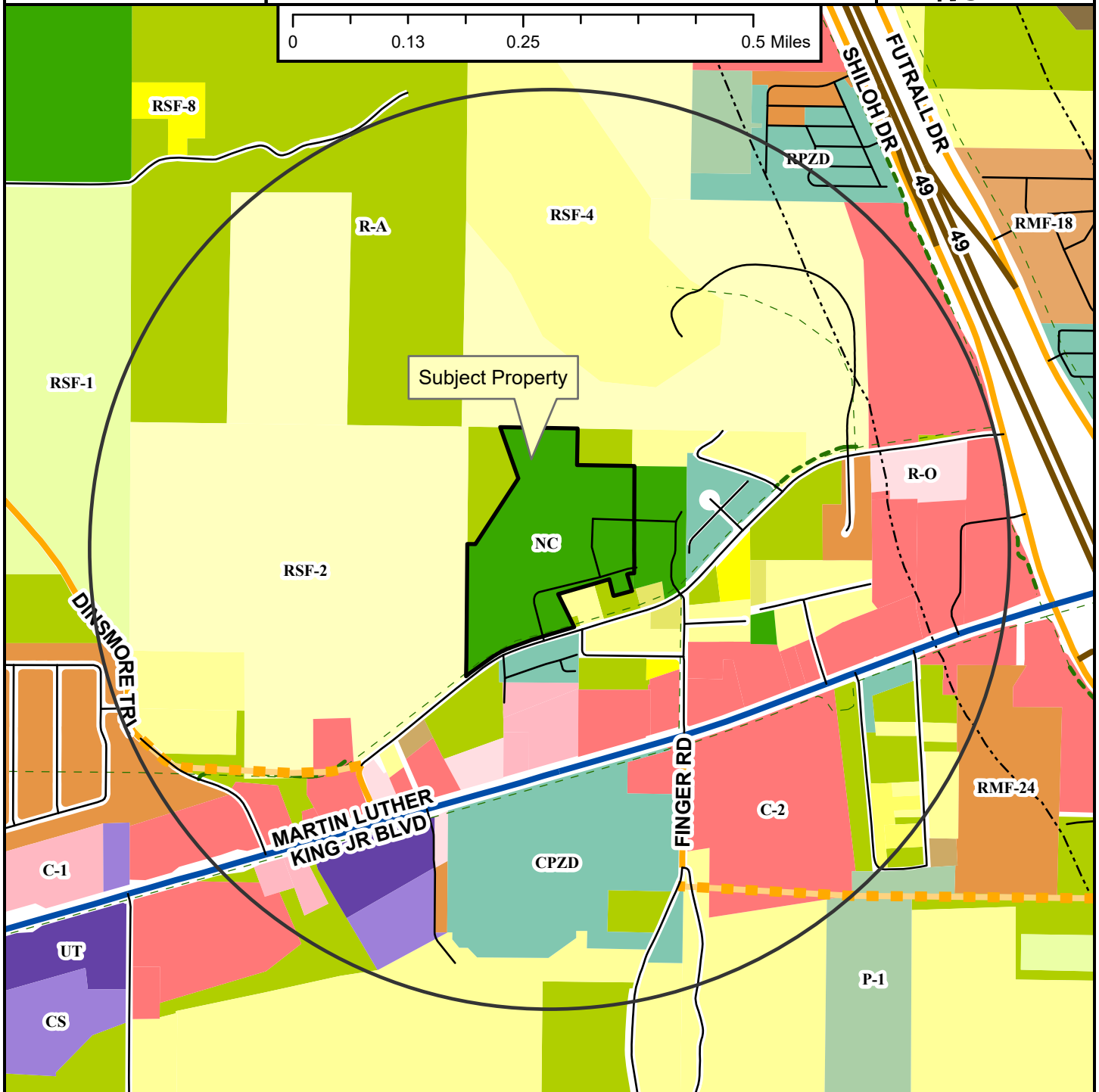
ADM-2024-0003

One Mile View

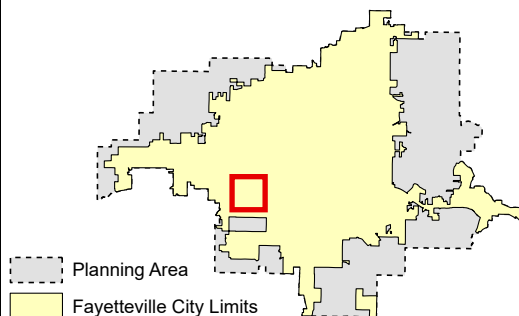
930 S. WICHITA AVE.



0 0.13 0.25 0.5 Miles



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

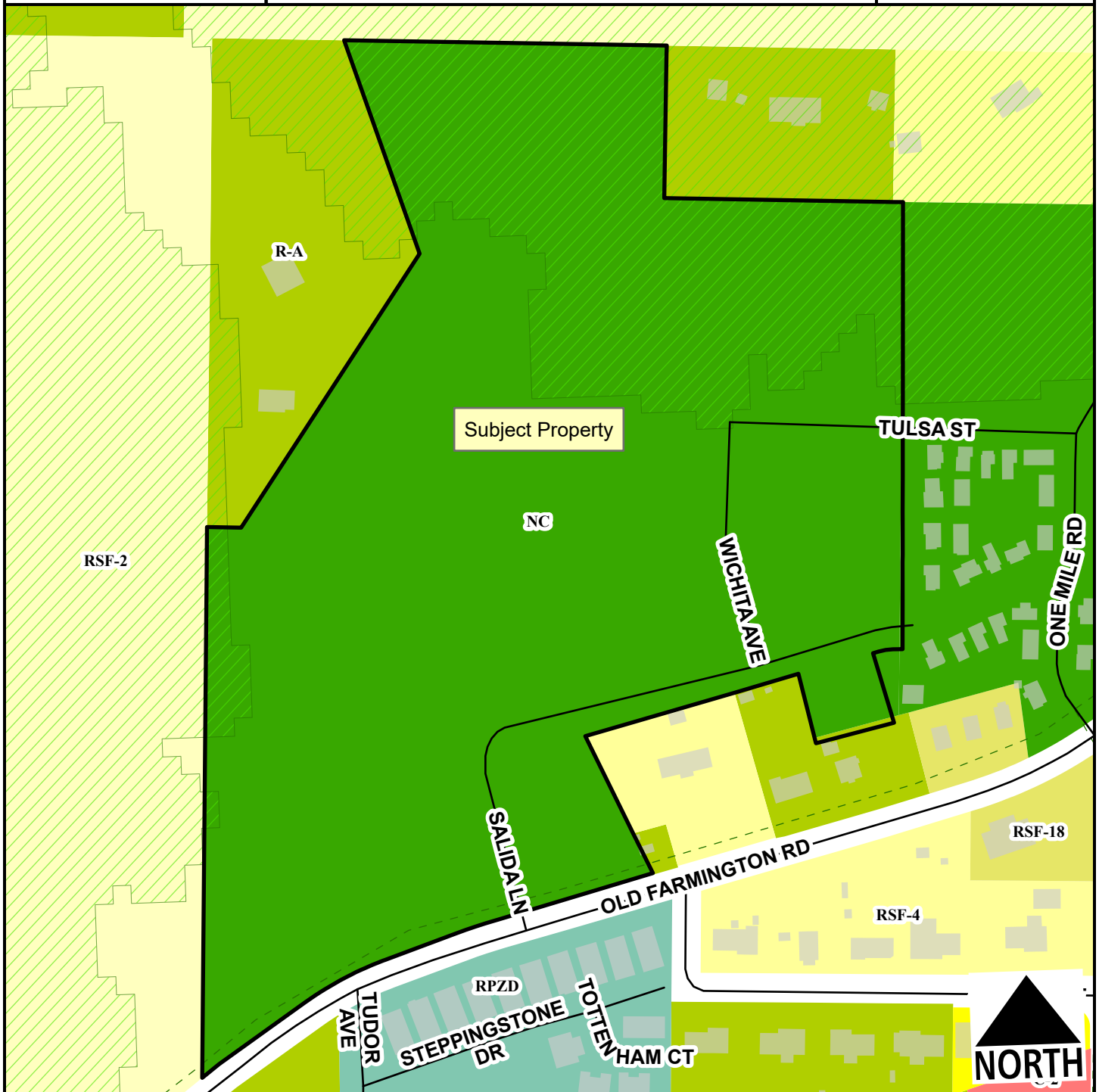


- | | |
|---|-------------------------------------|
| Zoning | EXTRACTION |
| RESIDENTIAL SINGLE-FAMILY | E-1 |
| NS-G | COMMERCIAL |
| RI-U | Residential-Office |
| RI-12 | C-1 |
| NS-L | C-2 |
| Residential-Agricultural | C-3 |
| RSF-5 | FORM BASED DISTRICTS |
| RSF-1 | Downtown Core |
| RSF-2 | Urban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

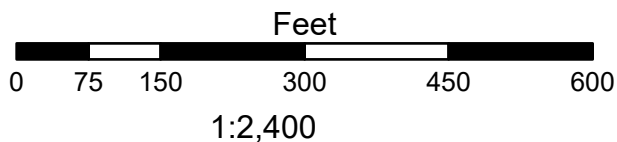
ADM-2024-0003

930 S. WICHITA AVE.

Close Up View



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



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

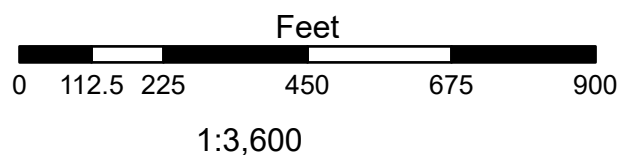
ADM-2024-0003

Current Land Use

930 S. WICHITA AVE.



- Neighborhood 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

THRU: Jessie Masters, Development Review Manager

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

MEETING DATE: February 12, 2024

SUBJECT: **VAR-2023-0055: Planning Commission Variance (SOUTH OF 870 N. RUPPLE RD./MEADOWVIEW SENIOR LIVING, 439):** Submitted by MEADOWVIEW SENIOR LIVING for property located SOUTH OF 870 N. RUPPLE RD. The property is zoned NS-L, NEIGHBORHOOD SERVICES-LIMITED and contains approximately 6.61 acres. The request is for a variance from required infrastructure improvements.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0055** based on the findings herein.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0055**, determining:*

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

BACKGROUND:

The subject property is located in west Fayetteville about a quarter of a mile south of Wedington Drive on the east side of Ruppel Road. A lot split was recently approved by city staff which would subdivide the subject property into two parcels containing 5.01 and 6.61 acres. The property under consideration with this request is the resultant 6.61-acre parcel which has 51.51 feet of frontage along Ruppel Road. A conditional use permit for an independent and assisted living facility for seniors on this property was approved by the Planning Commission on November 13, 2023 (CUP-2023-0145). A Board of Adjustment variance to setback requirements, associated with the approved conditional use and lot split, was approved on January 8, 2024 (BOA-2023-0018). The entire property is located within the Wedington Corridor Plan area and contains hydric soils. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Mixed-Use	R-A, Residential-Agricultural
South	Undeveloped	P-1, Institutional; NS-L, Neighborhood Services-Limited
East	Ozarks Electric Cooperative	R-A, Residential-Agricultural
West	Single-Family Residential	NS-L, Neighborhood Services-Limited; RPZD, Residential Planned Zoning District

Request: The applicant is requesting a variance from Unified Development Code §166.04(B)(3)(c) which states that any lot created as part of a lot split shall have access to public water and sewer. Lot splits that result in the creation of a nonconforming situation, such as cutting off a lot from

public water or sewer, are not allowed to be filed of record until an easement is dedicated, infrastructure is constructed, and/or a variance or waiver is granted by the Planning Commission. In this case, the applicant is requesting a variance to subdivide the subject property into two lots, one of which would not have direct access to public water or sewer.

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

DISCUSSION:

The parent tract associated with the subject property currently has access to water and sewer along its Ruppel Road frontage. The proposed lot split would subdivide the parent tract into two lots containing roughly 5.01 and 6.61 acres. Given the subject property's large size and limited access to water and sewer, one of the resulting lots would not have direct access to public water or sewer. City staff is supportive of the applicant's request for a variance to subdivide the subject property and create a lot that does not currently have access to water or sewer with conditions as outlined below. Staff recommends that public water and sewer main extensions be installed at the time of development rather than at the time of lot split.

RECOMMENDATION: Staff recommends approval of VAR-2023-0055 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to UDC §166.04(B)(3)(c) which prohibits the creation of new lots within city limits without access to public water or sewer.** *Staff is supportive of this variance based on the findings herein;*
2. Public water and sewer main extensions shall be required for any development requiring water or sewer service. A note reflecting this condition shall be added to the final lot split plat;
3. The city shall not be responsible for costs associated with the utility extensions unless a cost share is approved by City Council; and
4. The main extension must meet the City of Fayetteville's Standard Specifications for the Design and Construction of Water Lines and Sewer Lines.

Planning Commission Action: ☐ Approved ☐ Tabled ☐ Denied

Meeting Date: February 12, 2024

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- UDC §166.04 – Required Infrastructure Improvements – Development in City Limits
- City Engineering Memo
- Applicant Request Letter

- Applicant Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.04 Required Infrastructure Improvements — Development in City Limits

...

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

...

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

- (a) *Dedication of Right-of-Way.* Sufficient right-of-way dedication, to bring those streets which the Master Street Plan shows to abut or intersect the property into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Subdivision Committee or Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.
- (i) *Dedications.* The City Council accepts all streets and alleys located in Fayetteville that have been previously approved and accepted as dedications by the Fayetteville Planning Commission/Subdivision Committee. The City Council confirms the acceptance of all such streets and alleys dedicated by developers/owners to the city which have been approved by the Fayetteville Planning Commission/Subdivision Committee.
- (b) *Monuments and Lot Stakes.* The surveyor shall cause, preserve, and/or replace monuments and/or lot stakes marking the corners of a parcel to be set in accordance with Section 3.2, General Procedures, of the Arkansas Minimum Standards for Property Boundary Surveys and Plats.
- (c) *Water, Sewer, or Street Frontage.* Any lot that is created shall have adequate street frontage or street access that meets the minimum requirements of the zoning code, and access to public water and sewer as required by city and state code. If a lot split would create or exacerbate a nonconforming situation (such as cutting off a lot from public water, sewer, street frontage, or street access), the lot split may not be filed of record until the required easement is dedicated and/or the infrastructure is first constructed to city specifications, or a variance or waiver is granted by the Planning Commission.
- (d) *Parkland Dedication.* Parks fees shall be assessed for each new residential unit that is constructed on the additional lot(s) in accordance with the parkland dedication requirements outlined in Fayetteville Unified Development Code Chapter 166. Said fees shall be paid prior to issuance of a building permit for construction on the new lot.

...



TO: Gretchen Harrison, Senior Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: January 16, 2024

SUBJECT: **Planning Commission Engineering Comments for
VAR 2023-0055 Required Infrastructure Improvements**

Recommendation:

Engineering Staff recommends approval of **VAR-2023-0055**, with conditions.

Background:

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

Discussion:

The lot proposed to be split currently has access to water and sewer along its frontage with Ruppel Rd. The proposed lot split will prevent direct access to water and sewer for the new lot which is not permitted based on the Water and Sewer Division's connection policy.

Recommendation:

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

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



MEADOWVIEW

SENIOR LIVING

December 26, 2023

Sarah Sparkman, Chair
Fayetteville Planning Commission
113 West Mountain Street
Fayetteville, AR 72701

RE: Planning Commission Variance

Dear Ms. Sparkman:

Meadowview of Fayetteville is requesting a Planning Commission Variance due to a unique situation not commonly seen in Fayetteville according to engineering staff. Specifically, Meadowview of Fayetteville is requesting a variance from the lot split requirement that "water and sewer extensions must be completed and accepted by the City of Fayetteville" prior to granting a lot split.

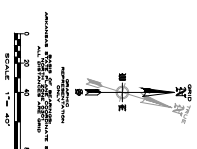
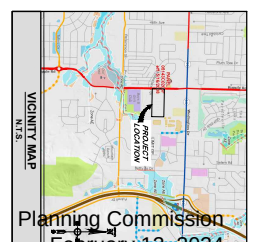
The lot we are a part of is approximately 12 acres and is 1,070 feet deep. Since we only need 6 acres for our senior living project, we asked the landowner to split the lot with us. The only available land to purchase at a competitive price and one that made the project economically feasible were the rear 6 acres. We purchased the rear 6 acres and requested a lot split from the original 12 acres.

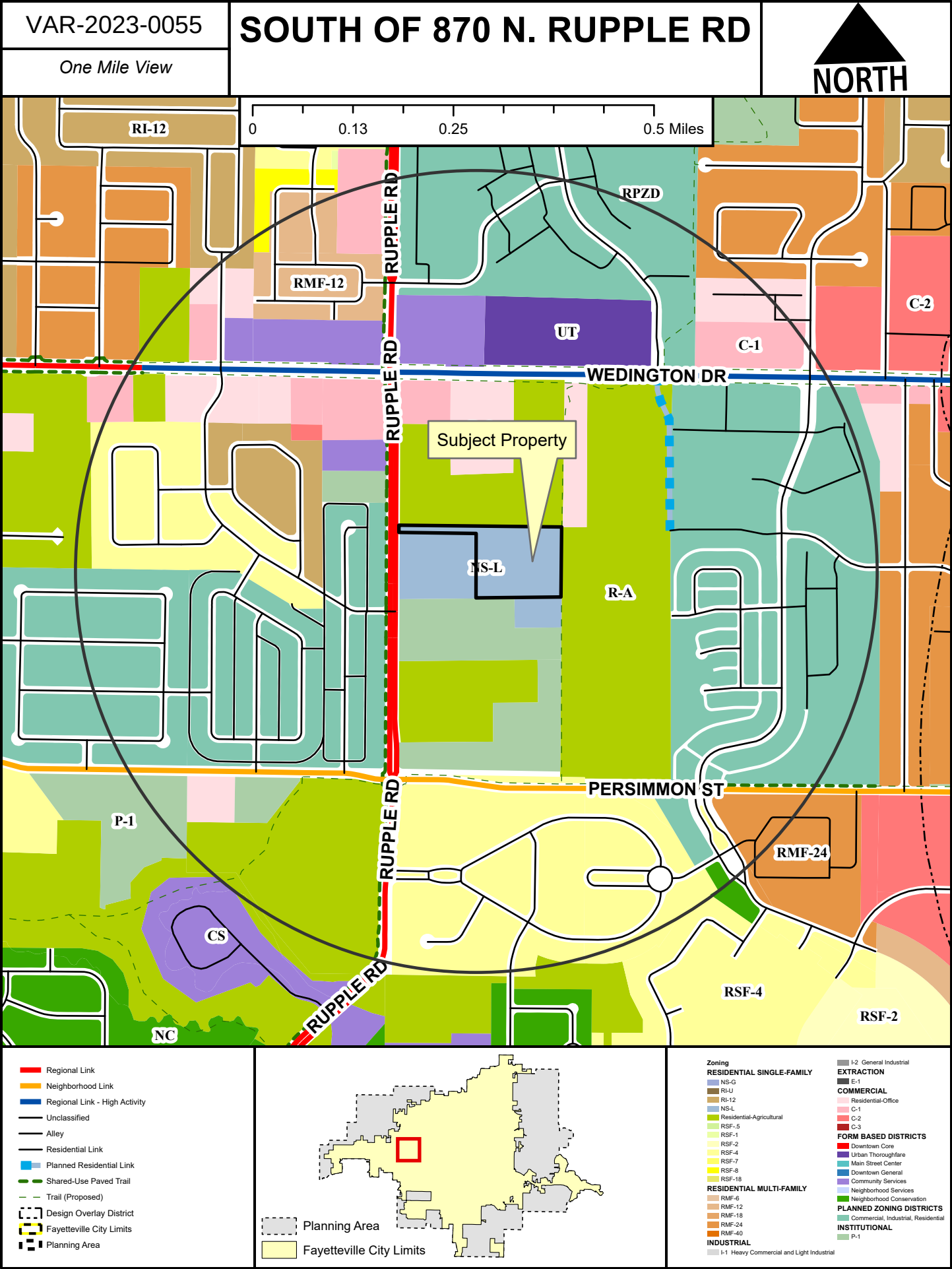
In the process of obtaining the lot split, the city engineer provided approval with conditions. One condition requires that "[p]rior to approval of the lot split, water and sewer extensions must be completed and then accepted by the City of Fayetteville." This poses two significant hardships. First, the project cannot justify the substantial expense of installing sewer and water on land that hasn't received a lot split in the event one is not received. Second, and more importantly, without an approved lot split, we cannot receive clean title on the land and therefore would be prevented from initiating construction from our lender.

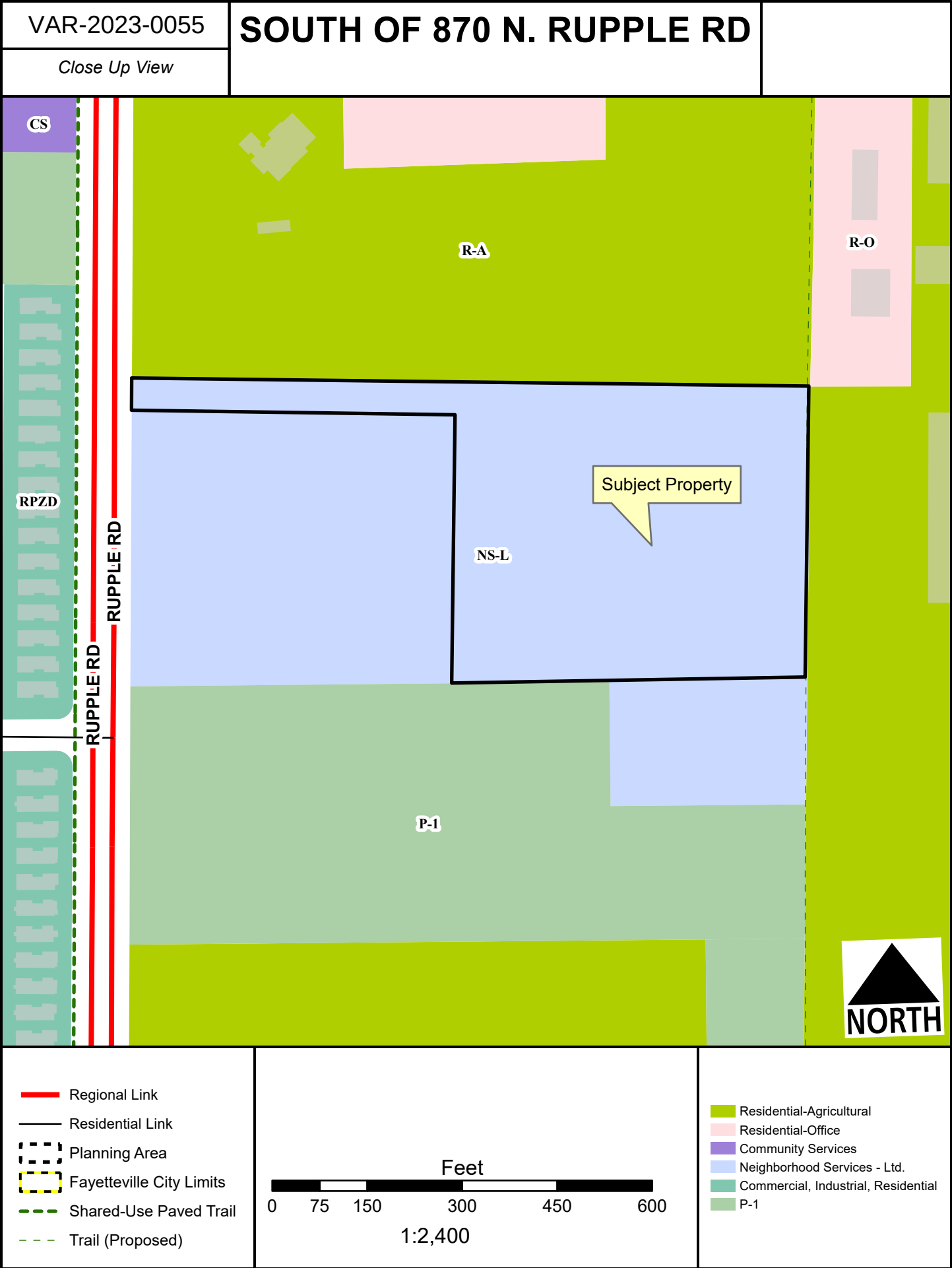
That being said, with the granting of this variance, and ultimately the lot split, Meadowview of Fayetteville will be able to obtain clean title and will be installing water and sewer extensions to provide services to its future senior living residents. Thank you for your consideration of this request.

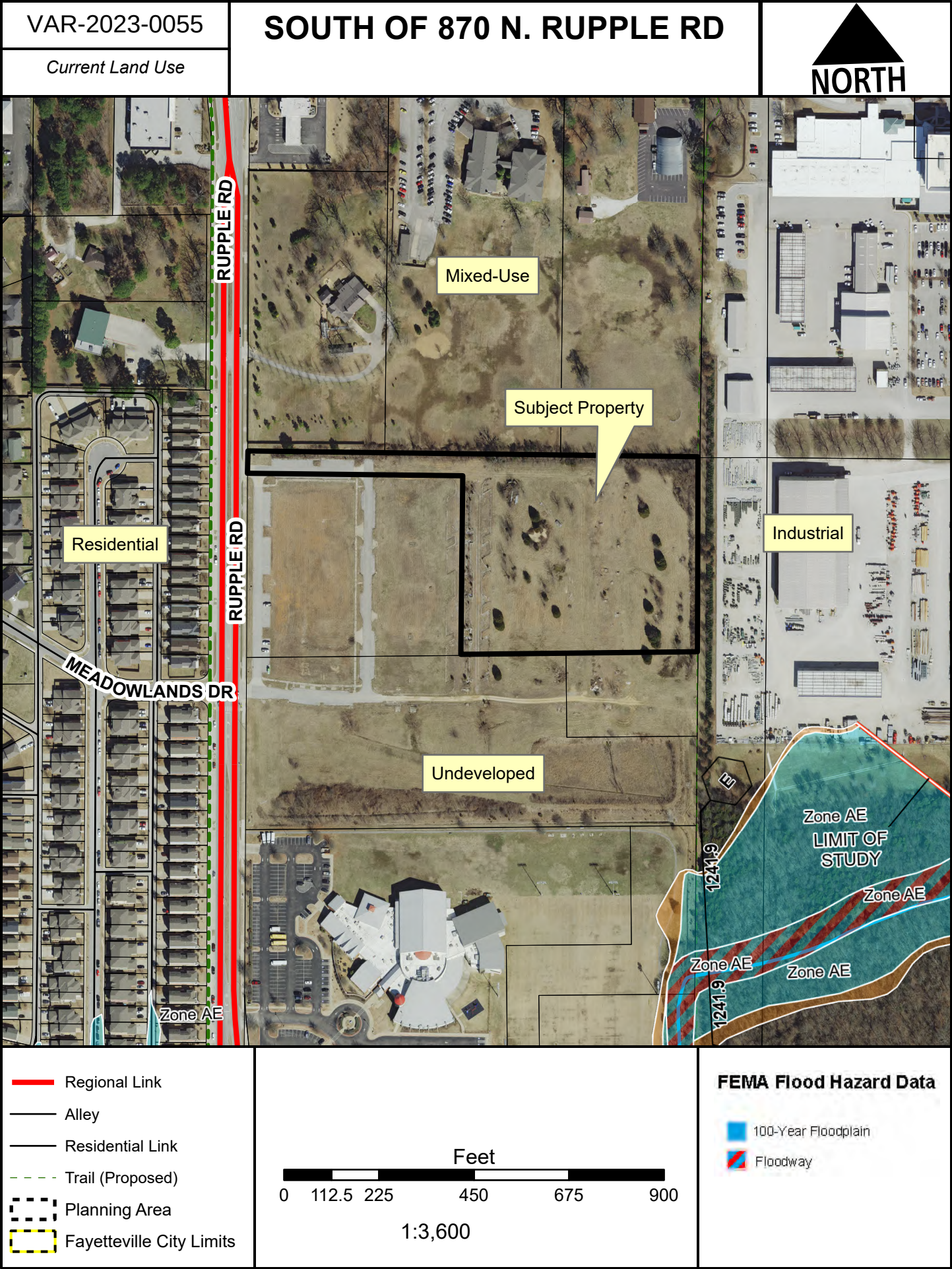
Sincerely,

Michael Schoenecker
Managing Member











TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 12, 2024

SUBJECT: **VAR-2024-0001: Planning Commission Variance (6964 W. DAVIS RD./STANLEY, 278):** Submitted by ALAN REID & ASSOCIATES for property located at 6964 W. DAVID RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 11.41 acres. The request is for a variance to the street frontage requirements due to a proposed lot split.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0001**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **VAR-2024-0001**, determining:*

- In favor of the requested variance to 166.05(A)(3); and*
- In favor of all other conditions recommended by staff."*

BACKGROUND:

The subject property is northwest of the City limits in Washington County near the boundary of the Fayetteville Planning Area. The property has frontage off W. Davis Rd., a private street. Containing approximately 11.41 acres, the property is largely undeveloped. A 961 square foot single-family home was constructed on the property in 1944 and a 1,620 square foot mobile home was built in 2000 per the Washington County Assessor. A portion of the property is within the Hillside-Hilltop Overlay District. A lot split is under review for the subject property. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

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

Request: The applicant is requesting a variance to 166.05(A)(3) which requires that any lot in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards (typically 75 feet). The

property is currently without public street frontage, and the applicant intends to create two lots where there is currently one.

DISCUSSION:

Staff recommends approval of the applicant's request. One intent of the ordinance is to maintain a consistent lot and block pattern in developments outside the City limits in the event they are ever annexed into the City. Another is to create lots that are developable in a manner consistent with City standards. There is not a consistent lot and block pattern in this area, and it has historically been used as a low-density agricultural use. The property is also within the furthest boundary of the Fayetteville Planning Area. Also, the closest public right-of-way is nearly 1,100 feet, or 2/10 mile to the northeast, and to dedicate right-of-way in this distance would exceed the test of rough proportionality, and would require additional property owners to dedicate right-of-way as well to make a continuous connection. There is a pre-existing 50-foot private right-of-way (W. Davis Rd.) that provides access to all of the proposed lots from the public street of N. Double Springs Rd., so staff does not recommend an added condition to maintain access.

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

RECOMMENDATION: Staff recommends approval of VAR-2024-0001, with the following conditions of approval;

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.05(A)(3), which states that any lot created in the Planning Area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards. Staff recommends approval of the request for the reasons stated above.**
2. Approval of this variance does not constitute approval for any associated lot split, concurrent plat, or constitute approval for any future development;
3. Approval from Washington County Planning must be received prior to recordation of any associated lot split or concurrent plat.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>February 12, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

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

166.05 Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area**(A) Required Infrastructure Improvements and Subdivision Regulations Outside the City.**

- (1) *Within 1 Mile of City Limits.* On and off-site improvements and subdivision regulations for development outside the city limits and within one mile of the city are the same as for those developments within the city limits, with the exception of park land dedication requirement which is not required.
- (2) *Beyond 1 Mile of City Limits.* On- and off-site improvements and subdivision regulations for development outside 1 mile of the city limits shall meet Washington County standards.
- (3) All lots in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards.

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

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



Alan Reid
& ASSOCIATES

PROFESSIONAL
LAND
SURVEYORS
BOUNDARY
TOPO
GPS

January 2nd, 2024

City of Fayetteville
Planning & Engineering
125 W. Mountain Street
Fayetteville, Arkansas

Re: VARIANCE FOR LACK OF PUBLIC ROAD FRONTAGE IN CONJUNCTION WITH A FAYETTEVILLE GROWTH AREA PROPOSED TRACT SPLIT ON W. DAVIS RD (WC 4756), WASHINGTON COUNTY PARCEL ID 001-17575-000 / ARA JOB NO.23238

Dear Planners / Planning Commission,

This is a request for a variance on public road frontage in conjunction with a Fayetteville Growth Area proposed property division (LSP-2023-0061) that is currently under review with the City of Fayetteville Planning Office. The property division involves Washington County Parcel ID, 001-17575-000. The property has the following two addresses associated with it: 6964 and 6922 W. Davis Road, Fayetteville, AR 72704. The property is not located within city limits, it is located within the Fayetteville Growth Area on W. Davis Road, WC #4756.

As per City of Fayetteville Technical Plat Review Comments for the tract split (LSP-2023-0061) from December 13, 2023:

Planning commission variance required to UDC 166.05(A)(3) "All lots in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards."

The overall tract prior to the proposed property division is 12.47+/- acres. The owner, Mr. Jimmie L. Stanley Sr., aims to split Tract 'A', 2.16+/- acres, off for his son. This would leave a remainder acreage of 10.31+/- acres, referred to as Tract 'B' on the attached survey (ARA job #23238). While Washington County Planning does have a 75 feet of public road frontage requirement for tracts that are subdivided through the subdivision process, there is a separate process referred to as the Exemption process that allows property divisions to be granted approval administratively if certain criteria are met. This property division proposal would fall under meeting those criteria (all proposed acreages are over an acre, property division for a family member), along W. Davis Road (WC #4756). Ingress/egress easements are also denoted on the survey. The proposed property division would not create numerous tracts; it would just create one additional tract for a family member.

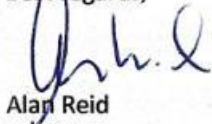
Additional information on the subject property:

- Subject property is zoned through Washington County, Arkansas as residential (1 acre minimum) / agricultural, the proposed property division is following Washington County Zoning.

****Refer to drafted plat for further details regarding the project.***

Please contact our office with any questions regarding the project.

Best regards,

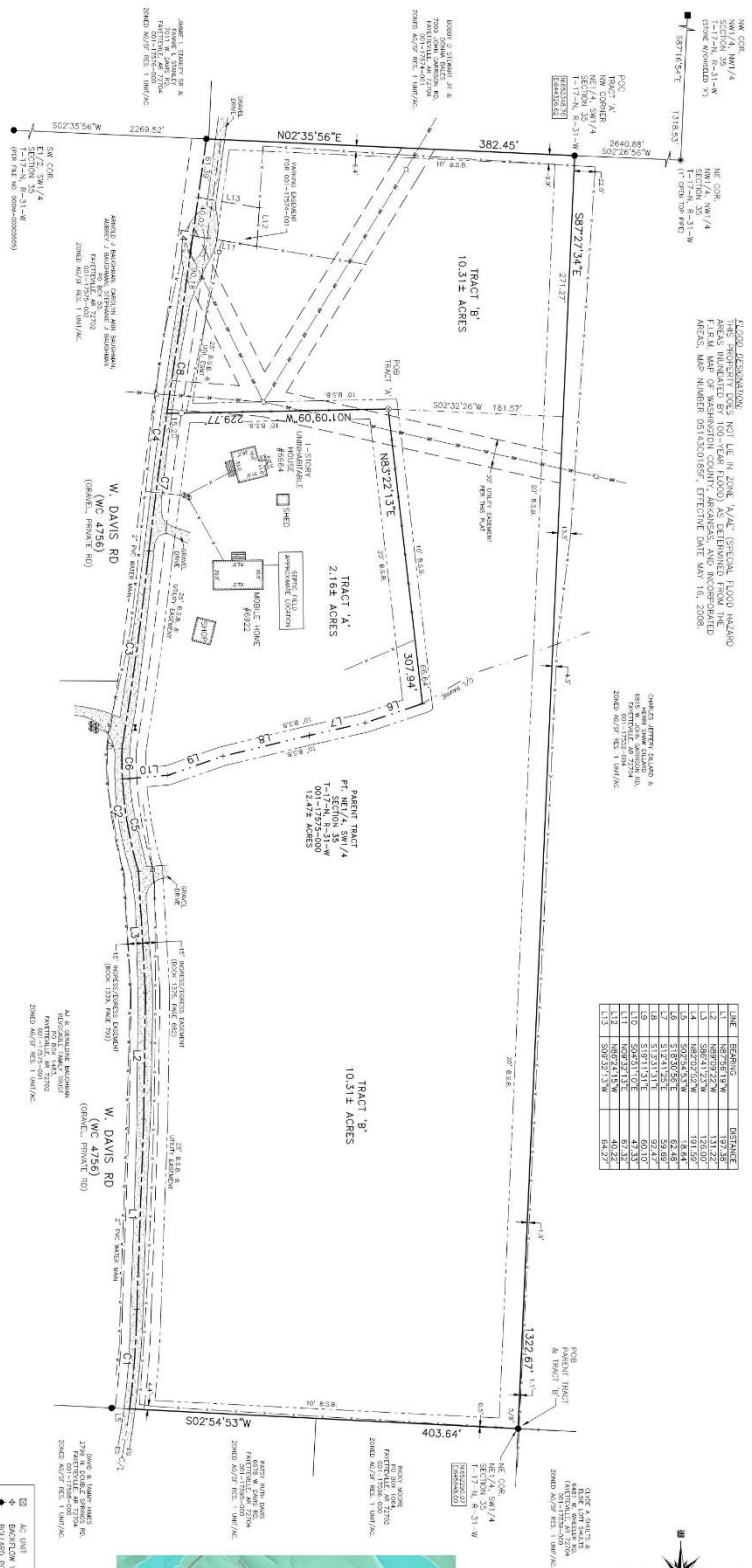


Alan Reid

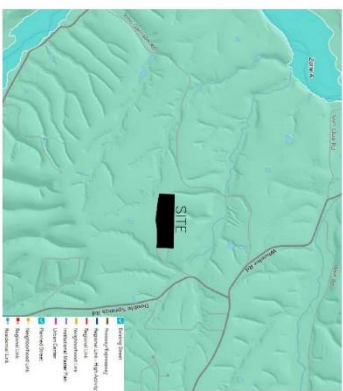
Professional Land Surveyor

118 S. College Avenue Fayetteville, Arkansas 72701 479 444 8784 1 888 549 8784

Planning Commission
February 12, 2024
VAR-2024-0001 (STANLEY)
Page 4 of 9
Page 33 of 305



LINE	FEEDING	DISTANCE
11	N87°56.19'W	197.58
12	N89°09.22'W	131.22
13	N86°41.22'W	121.60
14	N87°03.59'W	126.09
15	S07°54.53'W	146.64
16	S18°30.56'E	62.48
17	S12°41.29'E	59.09
18	S15°51.31'E	82.47
19	S18°11.31'E	60.10
110	S04°51.07'E	47.13
111	N09°42.11'E	67.82
112	N06°24.15'E	40.22
113	S09°52.13'W	64.27



Planning Commission
February 12, 2024

VAR-2024-0001 (STANLEY) Page 34 of 305

Page 5 of 9

CERTIFICATE OF SURVEY AND ACCURACY

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

DATE _____

REGISTERED LAND SURVEYOR/
PROFESSIONAL LAND SURVEYOR

WORTHINGTON COUNCIL
CERTIFICATE OF OWNERSHIP & DEDICATION

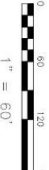
WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DENOUNCE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DECLINE TO WAIVER ANY RIGHTS OR TO SURRENDER ANY INTERESTS THE OWNERS AS SHOWN ON THIS PLAT TO THE WASHINGTON GOVERNMENT AND TO THE PEOPLE OF THE STATE OF WASHINGTON. THE RIGHT TO ALSO ESTABLISH HEREIN THE RIGHT OF MOTORS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT OR TRIM TREES WITHIN SAID EASEMENTS, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

OWNER

DATE _____

Peer-reviewed by: Donna Worsener, Partner Development Services
APPROVED

Q/R	RAIUS	CHORD LENGTH	CHORD BEARING	DIS. ANGLE
C1	96.3, 4°	103.56°	100.77°	6°10.30'
C2	41.9, 9°	120.15°	58.27/27.2°	5°02.32'
C3	354.6, 9°	270.6°	206.61°	3°18.11'
C4	328.0, 7°	240.26°	180.2/4.38°	2°35.25'
C5	411.8, 7°	32.13°	58.0/0.74°	4°28.00'
C6	526.0, 7°	14.9, 9°	182.7/5.49°	1°33.44'
C8	326.0, 7°	36.39°	181.1/1.95°	1°02.41'

[illegible]

SHEET 1 OF 2		JOB NO. 22320	
REVIEWS		DATE	BY
DESCRIPTION			
 Alan Reid ASSOCIATES 1115 S. GALE DRIVE 425.44-4455 FAX 425.44-4456 1100 20TH AVENUE SUITE 100 DENVER, CO 80202 1997			
DRAWING NO.	DATE	CHECKED	SCALE
01	10/26/2002	1" = 6'	
SHEET SIZE	24" x 36"		

TRACT SPLIT - FAYETTEVILLE, ARKANSAS

AYETTEVILLE, AR 727
-000

A PART OF THE NORTHEAST QUARTER (NE1/4) OF T. SOUTHWEST QUARTER (SW1/4) OF SECTION THIRTY-FIVE (35), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY-ONE (31) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING IRON REBAR AT A TENCE CORNER; THENCE S025.4533°W 403.64 FEET ALONG THE EAST LINE OF SAID 40 ACRE TRACT TO A POINT IN THE CENTER OF DAVIS ROAD (COUNTY ROAD 4750), SAID POINT BEING ON A 953.94 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE S82.2022°W 129.73 FEET ALONG SAID CURVE AND CENTERLINE; THE CHORD FOR WHICH BEING N87.56191°W 197.38 FEET ALONG SAID CENTERLINE; THE CHORD FOR WHICH BEING N85.6491°SEW 103.77 FEET TO THE POINT OF TANGENCY; THENCE S41.1197°FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE S089.09322°W 131.22 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S86.41123°W 126.00 FEET ALONG SAID CENTERLINE TO THE BEGINNING OF A 411.97 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE SOUTHWESTERLY 129.73 FEET ALONG SAID CURVE AND CENTERLINE; THE CHORD FOR WHICH BEING S82.2022°W 129.19 FEET, TO THE BEGINNING OF A 358.4537°FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY 206.64 FEET ALONG SAID CURVE AND CENTERLINE; THE CHORD FOR WHICH BEING N82.13107°W 206.61 FEET, TO THE BEGINNING OF A 5280.77 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE NORTHWESTERLY 240.26 FEET ALONG SAID CURVE AND CENTERLINE; THE CHORD FOR WHICH BEING N82.5225°W 240.26 FEET, TO AN EXISTING IRON REBAR AT THE WEST LINE OF SAID 40 ACRE TRACT, SAID POINT BEING THE NORTHWEST CORNER OF WASHINGTON COUNTY LAND PARCEL 001-117575-002; THENCE N02.3556°E 382.45 FEET TO AN EXISTING IRON REBAR AT THE NORTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE S87.2734°E 1322.67 FEET TO THE POINT OF BEGINNING, CONTAINING 12.47 ACRES, MORE OR LESS, THE ABOVE DESCRIBED 12.47 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF DAVIS ROAD, BEING THE SOUTH BOUNDARY AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

SURVEY DESCRIPTION - TRACT A,
A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION
THIRTY-FIVE (35), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY-ONE (31) WEST OF THE FIFTH
RANGE AND THE NORTHERN CORNER OF SAID ONE (1) ACRES BEING EXISTING ROAD
COMMENCING AT THE NORTHERN CORNER OF SAID ONE (1) ACRES TRACT A TO A POINT;
REAR; THENCE S87°22'13"E 271.27 FEET ALONG THE NORTH LINE OF SAID ONE (1) ACRES TRACT A TO A POINT;
THENCE LEAVING THE NORTH LINE OF SAID 40 ACRES TRACT, S02°32'26"W 181.57 FEET TO AN EXISTING
FENCE CORNER POST FOR THE TRUE POINT OF BEGINNING; THENCE N83°22'13"E 307.94 FEET ALONG AND IN
LINE WITH AN EXISTING FENCE LINE TO A POINT IN THE CENTER OF A RAVINE AND FROM WHICH AN EXISTING
FENCE CORNER POST BEARS S83°22'13"W 66.64 FEET; THENCE ALONG THE CENTRALITY OF SAID RAVINE, THE
COLLUMING BEARINGS AND DISTANCES:
S02°32'26"W 181.57 FEET

S045°11'0"E 47.33 FEET TO A POINT IN THE CENTER OF DAVIS ROAD (COUNTY ROAD 4756), SAID POINT BEING ON A 411.97 FOOT RADIUS CURVE CONCAVE TO THE NORTH; THENCE WESTERLY 32.14 FEET ALONG SAID CURVE AND CENTRELINE, THE CHORD FOR WHICH BEING S89°07'34"W 32.13 FEET, TO THE BEGINNING OF A 3584.57 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY 206.64 FEET ALONG SAID CURVE AND CENTRELINE, THE CHORD FOR WHICH BEING N82°13'10"W 206.61 FEET, TO THE BEGINNING OF A 5280.77 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; THENCE N82°35'49"W 143.97 FEET ALONG SAID CURVE AND CENTRELINE, THE CHORD FOR WHICH BEING N82°35'49"W 143.97 FEET, TO A POINT FROM WHICH A 1/2" REFERENCE IRON SET ON THE NORTH SIDE OF SAID ROAD BEARS N01°09'09"W 15.20 FEET; THENCE LEAVING THE CENTRELINE OF SAID ROAD, N01°09'09"W 229.77 FEET TO THE POINT OF BEGINNING, CONTAINING 2.16 ACRES, MORE OR LESS, THE ABOVE DESCRIBED 2.16 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF DAVIS ROAD ALONG THE SOUTH BOUNDARY AND ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE:

EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

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

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

DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY, IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.

THE PROPOSED TRACTS SHOWN HEREON HAVE NO ACCESS TO THE CITY OF FAYETTEVILLE PUBLIC SEWER.

A PART OF THE NORTHEAST QUARTER (NE¹/₄) OF THE SOUTHWEST QUARTER (SW¹/₄) OF SECTION
ONE (S1), TOWNSHIP SEVENTEEN (17) NORTH, RANGE EIGHTY-THREE (83) WEST OF THE PRIN-
CIPAL MERIDIAN, WASHINGTON COUNTY LAND PARCEL, MAP RECORDED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SAID ACRE TRACT, SAID POINT BEING AN EXISTING IRON REBAR
AT A FENCE CORNER; THENCE S02°54'53"W, 403.64 FEET ALONG THE EAST LINE OF SAID ACRE TRACT TO
A POINT IN THE CENTER OF DAVIS ROAD (COUNTY ROAD 4756); SAID POINT BEING ON A 953.34 FOOT
RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE NORTHEASTERLY, 103.82 FEET ALONG SAID CURVE AND
CENTRELINE, THE CHORD FOR WHICH BEING: N85°49'36"W, 103.77 FEET, TO THE POINT OF TANGENCY; THENCE
N87°56'19"W, 197.38 FEET ALONG SAID CENTRELINE TO A POINT; THENCE N89°09'22"W, 131.22 FEET ALONG
SAID CENTRELINE TO A POINT; THENCE S86°41'23"W, 126.00 FEET ALONG SAID CENTRELINE TO THE BEGINNING
OF A 411.97 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST; THENCE SOUTHWESTERLY, 97.59 FEET ALONG
SAID CURVE AND CENTRELINE, THE CHORD FOR WHICH BEING S80°06'18"W, 97.36 FEET, TO A POINT IN LINE
WITH THE CENTER OF A RAINE; THENCE LEAVING THE CENTER OF SAID ROAD AND RUNNING ALONG THE
CENTRELINE OF SAID RAINE, THE FOLLOWING BEARINGS AND DISTANCES:

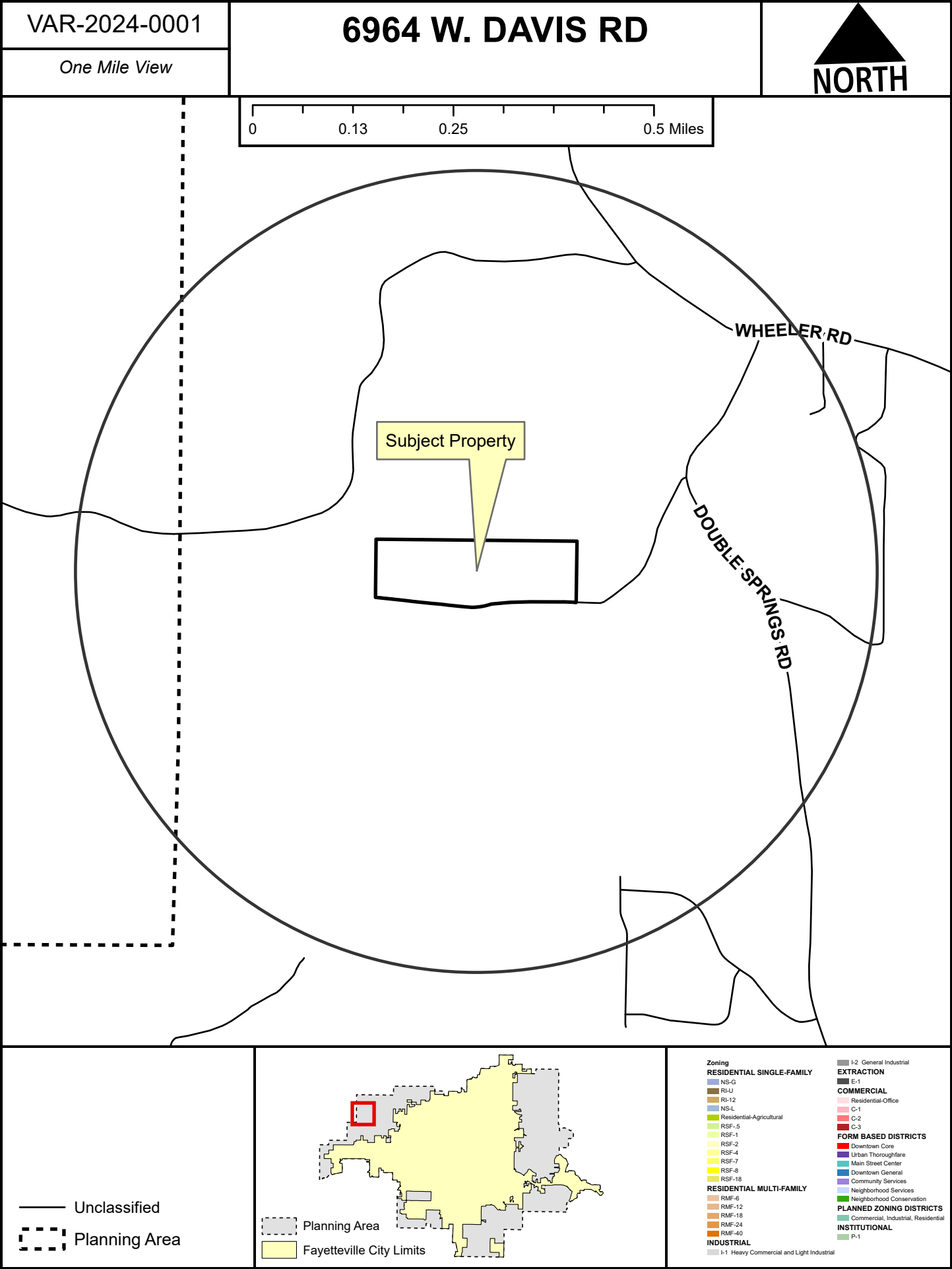
N04°51'10"W	47.33 FEET;	60.10 FEET;
N13°31'31"W	9.47 FEET;	
N18°30'56"E	62.48 FEET TO A POINT FROM WHICH AN EXISTING FENCE CORNER	
POST BEARS S83°22'13"W, 66.64 FEET;	THENCE LEAVING SAID RAINE CENTRELINE, S83°22'13"W, 307.94 FEET	
TO IN LINE WITH AND ALONG AN EXISTING FENCE LINE, TO A FENCE CORNER POST; THENCE S01°09'09"E,	229.77 FEET ALONG AN EXISTING FENCE LINE TO A POINT IN THE CENTER OF DAVIS ROAD; SAID POINT BEING	
ON A 5280.77 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST; AND FROM WHICH A 1/2" REFERENCE IRON	SET ON THE NORTH SIDE OF SAID ROAD BEARS N01°09'09"W, 15.20 FEET; THENCE NORTHEASTERLY, 96.29	
FEET ALONG SAID CURVE AND CENTRELINE, THE CHORD FOR WHICH BEING N81°17'36"W, 96.29 FEET TO THE	POINT OF TANGENCY; THENCE N82°02'52"W, 191.59 FEET ALONG AND LEAVING SAID CENTRELINE TO AN	
EXISTING IRON REBAR ON THE WEST LINE OF SAID ACRE TRACT; SAID POINT BEING THE NORTHEAST	CORNER OF WASHINGTON COUNTY LAND PARCEL, 001-17575-002; THENCE N02°35'56"E, 382.45 FEET TO AN	
EXISTING IRON REBAR AT THE NORTHEAST CORNER OF SAID ACRE TRACT; THENCE S87°57'34"E, 132.67	FEET TO THE POINT OF BEGINNING, CONTAINING 10.31 ACRES, OR LESS; THE ABOVE DESCRIBED TO .31	
ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF DAVIS ROAD AND ANY OTHER EASEMENTS AND/OR	RIGHTS-OF-WAY WHETHER OR NOT OF RECORD.	

SURVEY DESCRIPTION - PARKING AREA EASEMENT
A PART OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THIRTY-FIVE (35), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY-ONE (31) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE POINT OF BEGINNING, THENCE S09°23'56"W, 389.45 FEET ALONG THE WEST LINE OF SAID 40 ACRES TRACT TO AN EXISTING IRON REBAR AT THE NORTHWEST CORNER WASHINGTON COUNTY LAND PARCEL .001-17575-002; THENCE LEAVING THE WEST LINE OF SAID 40 ACRES TRACT, S82°02'52"E, 61.39 FEET ALONG THE SOUTH LINE OF WASHINGTON COUNTY LAND PARCEL .001-17575-001 TO THE TRUE POINT OF BEGINNING, THENCE S28°02'52"E, 40.02 FEET; THENCE LEAVING THE SOUTH LINE OF SAID PARCEL, N09°32'13"E, 67.32 FEET; THENCE N66°24'15"W, 40.22 FEET; THENCE S09°32'13"W, 64.27 FEET TO THE POINT OF BEGINNING.

[illegible]

JIMMIE L STANLEY SR
6964 & 6922 W. DAVIS RD (WC 3511), FAYETTEVILLE, AR 72704
PARCEL NO. 001-17575-000

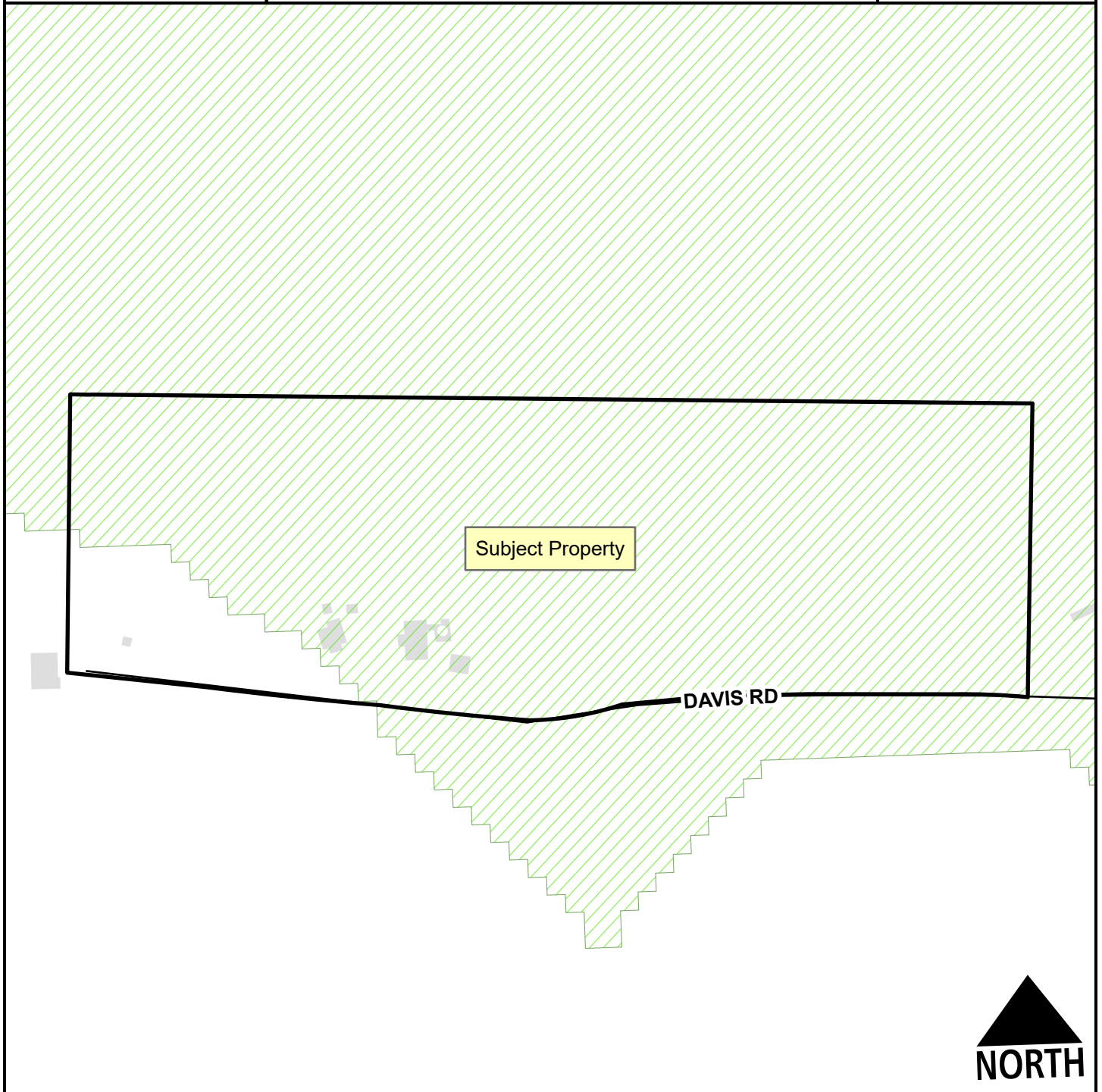
TRACT SPLIT - FAYETTEVILLE, ARKANSAS



VAR-2024-0001

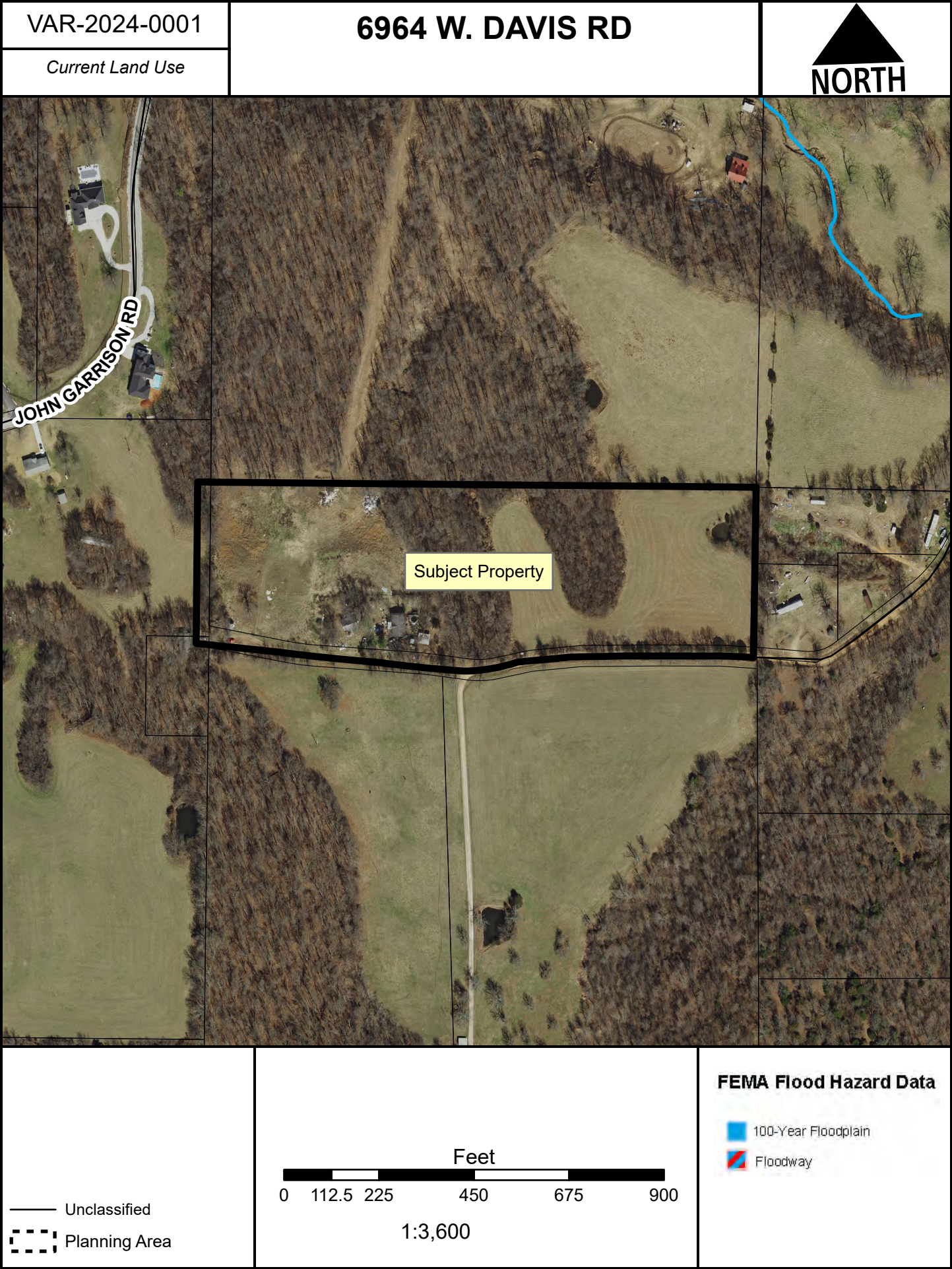
6964 W. DAVIS RD

Close Up View



— Unclassified
Hillside-Hilltop Overlay District
Planning Area

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





TO: Fayetteville Planning Commission

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

MEETING DATE: February 12, 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."

JANUARY 22, 2024 PLANNING COMMISSION HEARING:

Long Range Planning staff presented a proposal for development standards specific to the program buildings and related site development. Commissioners asked questions relating to other programs of this type nationally, what information is anticipated to be included in the plan sets, whether the development standards could be expanded to all projects in the program area or city wide, and how some technical requirements such as stormwater management will be addressed. Staff requested that the item be tabled to the February 12 meeting for additional time to respond to questions and the Commissioners tabled the item with a 7-2-0 vote in favor.

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. The attached map exhibit shows the proposed program area within which the program's buildings would be available for use. The program area boundaries will be used for program administration and coordination with the program vendor and to guide development review and building permit application review, as well as for potential applicants to be able to confirm a property location for their selected building plan set and permit application.

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: February 12, 2024	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Proposed Ordinance, Clean
 - §166.28
- Program Area Exhibit Map



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: February 12, 2024

SUBJECT: **CUP-2023-0175: Conditional Use Permit (NE OF N. SHILOH DR. & NW OF W. CHICORY PL./FOCAL POINT INVESTMENTS, LLC):** Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NE. OF N. SHILOH DR. & NW. OF W. CHICORY PL. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.43 acres. The request is for Use Unit 38: mini storage units in CPZD zoning.

RECOMMENDATION:

Staff recommends tabling **CUP-2023-0175**.

The applicant has requested that the rezone affiliated with the subject property be forwarded to the February 20, 2024 City Council meeting due to a scheduling conflict. This conditional use permit request should be considered after the rezoning is finalized by City Council.

RECOMMENDED MOTION:

*"I move to table **CUP-2023-0175** until the February 26th Planning Commission meeting."*

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>February 12, 2024</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					



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: February 12, 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.

JANUARY 22, 2024 PLANNING COMMISSION MEETING: Commissioners voted to table the item to allow the applicant and staff to further discuss the proposed street improvements and trail connection. In the interim, staff and the applicant met and determined a cost-share proposal for the trail connection. More information is included in the street improvements section of the report.

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 the developer construct the bridge and the trail to and including the sidewalk connection to the neighborhood. The City will pursue a 50/50 cost share agreement for the cost of the concrete trail north to W. Buckaroo St. (1,019 linear feet at a 12-foot width, totaling 1,359 square yards of concrete, estimated at \$122,321, with the City responsible for \$61,155).

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 conditions:*
 - i. *The developer construct the bridge and the trail to and including the sidewalk connection to the neighborhood.*
 - ii. *The City will pursue a 50/50 cost share agreement for the cost of the concrete trail north to W. Buckaroo St. (1,019 linear feet at a 12-foot width, totaling 1,359 square yards of concrete, estimated at \$122,321, with the City responsible for \$61,155).*

The Subdivision Committee recommended in favor of the proposed variances. Additional information regarding a cost-share agreement for the concrete trail 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>February 12, 2024</u>			
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None.

Attachments:

- UDC 166.08 – *Street Design and Access Management Standards*
- Staff Memos
 - City Engineering comments
 - Urban Forestry comments
 - Parks comments
- Request Letter
 - Variance Request
 - Trail Connection Cost Estimate
 - Trail Concrete Cost Estimate
- 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.

...

(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.



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 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%
<i>Zoning Designation * Select Below with drop down arrow</i>		
NC (20%) & R_A (25%) = 20.6%	327,518	20.6%
<i>HHOD * Select Below with Drop Down Arrow</i>		
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).



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.



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

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703

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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

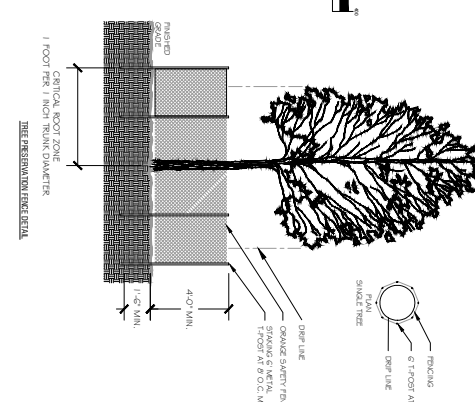
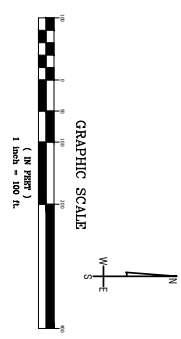
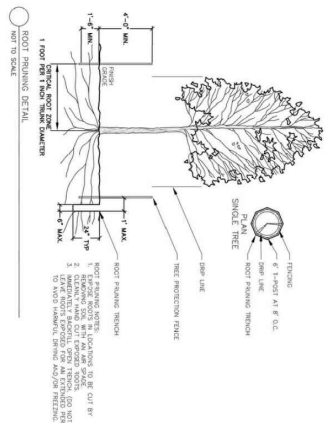
Total: \$128,200

Thank you.



Cost Share Estimate for
The Element Ph. 4
Concrete portion of the Trail Extension
February 2, 2024

Item #	Description	Quantity	Unit	Unit Price	Amount
1	4" Concrete for Trail (1218 l.f. x 12 ft width)	1624	S.Y.	\$90	\$146,160
				Total	\$146,160

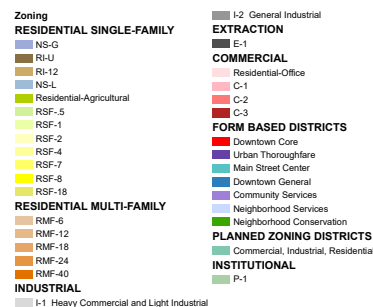
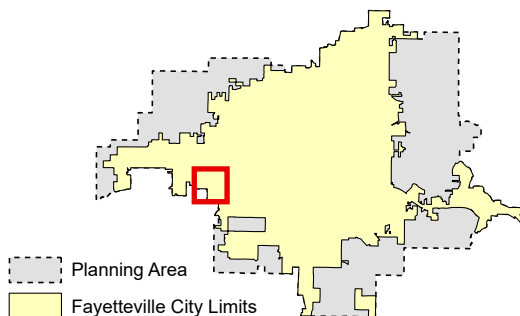
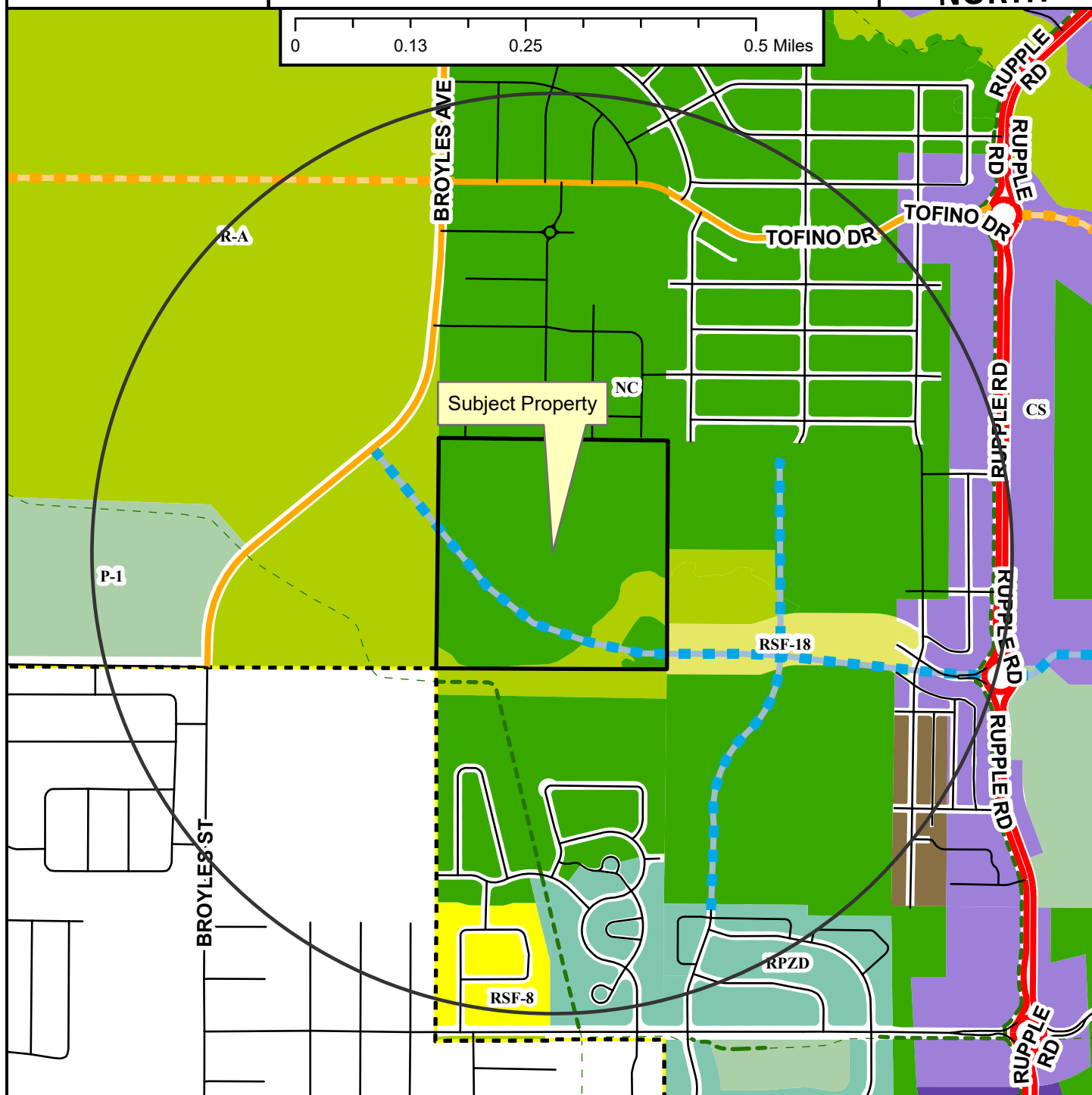
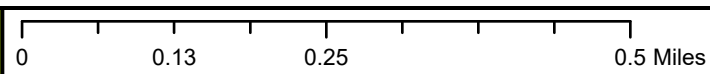
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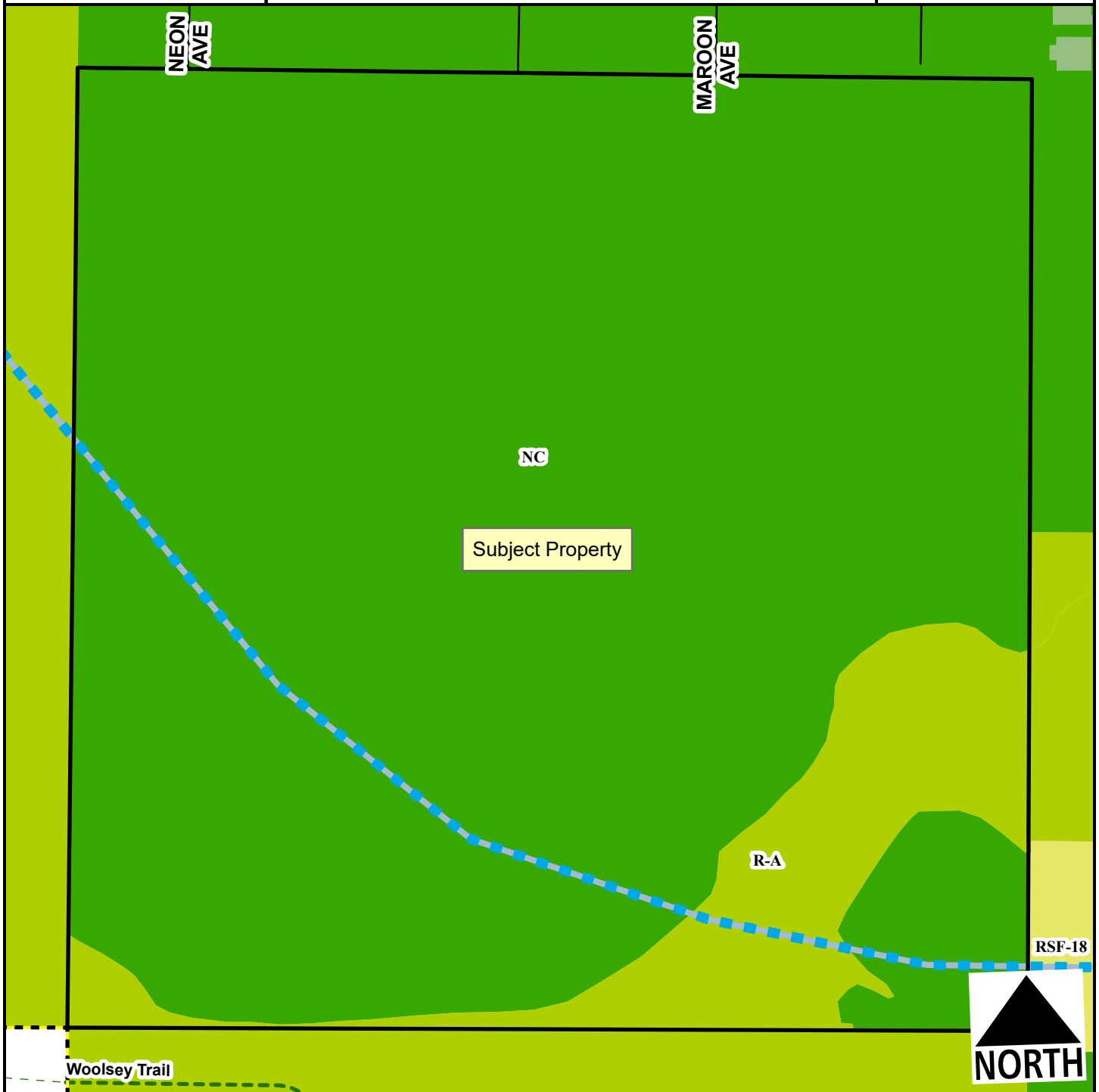
TRNG NO	TRNG DATE	DESCRIPTION	ACTION	NOTES
1000	27	INCH 10/25/ST	PRESERVE	
1001	27	2F DECKBLK	PRESERVE	
1002	27	2F DECKBLK	PRESERVE	ON TRAIL ROAD
1003	27	2F	PRESERVE	
1004	27	2F	PRESERVE	
1005	27	2F	PRESERVE	
1006	27	2F	PRESERVE	
1007	27	2F	PRESERVE	
1008	27	2F	PRESERVE	
1009	27	2F	PRESERVE	
1010	27	2F	PRESERVE	
1011	27	2F	PRESERVE	
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1234	27	2F DECKBLK	PRESERVE	
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1236	27	2F DECKBLK	PRESERVE	
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1291	27	2F DECKBLK	PRESERVE	
1292	27	2F DECKBLK	PRESERVE	
1293	27	2F DECKBLK	PRESERVE	
1294	27	2F DECKBLK	PRESERVE	
1295	27			

Tree Preservation Calculations		
Tree Species	Number of Trees	Percentage of Total
Redwood (Sequoia sempervirens)	1,500	100%
Douglas Fir (Pseudotsuga menziesii)	1,400	93%
Coastal Redwood (Sequoia sempervirens)	1,300	87%
California Redwood (Sequoia sempervirens)	1,200	80%
Western Redcedar (Thuja plicata)	1,100	73%
Portuguese Laurel (Elaeagnus angustifolia)	1,000	67%
Black Oak (Quercus kelloggii)	900	60%
White Oak (Quercus alba)	800	53%
Madroño (Arbutus menziesii)	700	47%
California Sycamore (Platanus racemosa)	600	40%
Bigleaf Maple (Acer macrocarpum)	500	33%
Western Juniper (Juniperus occidentalis)	400	27%
California Bay Laurel (Umbellularia californica)	300	20%
California Redbay (Litsea californica)	200	13%
California Redwood (Sequoia sempervirens)	100	7%
California Redwood (Sequoia sempervirens)	50	3%
California Redwood (Sequoia sempervirens)	25	2%
California Redwood (Sequoia sempervirens)	10	1%
California Redwood (Sequoia sempervirens)	5	0.3%
California Redwood (Sequoia sempervirens)	2	0.1%
California Redwood (Sequoia sempervirens)	1	0.07%
California Redwood (Sequoia sempervirens)	0.5	0.03%
California Redwood (Sequoia sempervirens)	0.25	0.02%
California Redwood (Sequoia sempervirens)	0.125	0.01%
California Redwood (Sequoia sempervirens)	0.0625	0.004%
California Redwood (Sequoia sempervirens)	0.03125	0.002%
California Redwood (Sequoia sempervirens)	0.015625	0.001%
California Redwood (Sequoia sempervirens)	0.0078125	0.0005%
California Redwood (Sequoia sempervirens)	0.00390625	0.00025%
California Redwood (Sequoia sempervirens)	0.001953125	0.000125%
California Redwood (Sequoia sempervirens)	0.0009765625	0.0000625%
California Redwood (Sequoia sempervirens)	0.00048828125	0.00003125%
California Redwood (Sequoia sempervirens)	0.000244140625	0.000015625%
California Redwood (Sequoia sempervirens)	0.0001220703125	0.0000078125%
California Redwood (Sequoia sempervirens)	0.00006103515625	0.00000390625%
California Redwood (Sequoia sempervirens)	0.000030517578125	0.000001953125%
California Redwood (Sequoia sempervirens)	0.0000152587890625	0.0000009765625%
California Redwood (Sequoia sempervirens)	0.00000762939453125	0.00000048828125%
California Redwood (Sequoia sempervirens)	0.000003814697265625	0.000000244140625%
California Redwood (Sequoia sempervirens)	0.0000019073486328125	0.0000001220703125%
California Redwood (Sequoia sempervirens)	0.00000095367431640625	0.00000006103515625%
California Redwood (Sequoia sempervirens)	0.000000476837158203125	0.000000030517578125%
California Redwood (Sequoia sempervirens)	0.0000002384185791015625	0.0000000152587890625%
California Redwood (Sequoia sempervirens)	0.00000011920928955078125	0.00000000762939453125%
California Redwood (Sequoia sempervirens)	0.000000059604644775390625	0.000000003814697265625%
California Redwood (Sequoia sempervirens)	0.0000000298023223876953125	0.0000000019073486328125%
California Redwood (Sequoia sempervirens)	0.00000001490116119384765625	0.00000000095367431640625%
California Redwood (Sequoia sempervirens)	0.000000007450580596923828125	0.000000000476837158203125%
California Redwood (Sequoia sempervirens)	0.0000000037252902984619140625	0.0000000002384185791015625%
California Redwood (Sequoia sempervirens)	0.00000000186264514923095703125	0.00000000011920928955078125%
California Redwood (Sequoia sempervirens)	0.000000000931322574615478515625	0.000000000059604644775390625%
California Redwood (Sequoia sempervirens)	0.0000000004656612873077392578125	0.0000000000298023223876953125%
California Redwood (Sequoia sempervirens)	0.00000000023283064365386962890625	0.00000000001490116119384765625%
California Redwood (Sequoia sempervirens)	0.000000000116415321826934814453125	0.000000000007450580596923828125%
California Redwood (Sequoia sempervirens)	0.000000000058207660913467407171875	0.0000000000037252902984619140625%
California Redwood (Sequoia sempervirens)	0.0000000000291038304567337035859375	0.00000000000186264514923095703125%
California Redwood (Sequoia sempervirens)	0.00000000001455191522836685179296875	0.000000000000931322574615478515625%
California Redwood (Sequoia sempervirens)	0.000000000007275957614183425896484375	0.0000000000004656612873077392578125%
California Redwood (Sequoia sempervirens)	0.0000000000036379788070917129482421875	0.00000000000023283064365386962890625%
California Redwood (Sequoia sempervirens)	0.00000000000181898940354585647412109375	0.000000000000116415321826934814453125%
California Redwood (Sequoia sempervirens)	0.000000000000909494701772928237060546875	0.000000000000058207660913467407171875%
California Redwood (Sequoia sempervirens)	0.000000000000454747350	0.0000000000000291038304567337035859375%

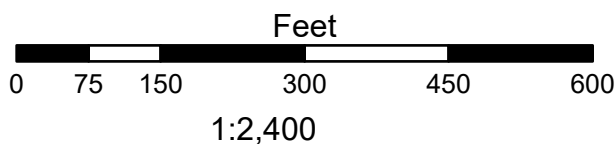
Mitigation Requirements			
Crop/ Below Requirements Sq. Ft.	Preservation Priority Type	Forestation Base Density/Acre	Number of 2" Caliper Trees to be Planted
12,280	High Priority	200	56
0	Low Priority	100	0

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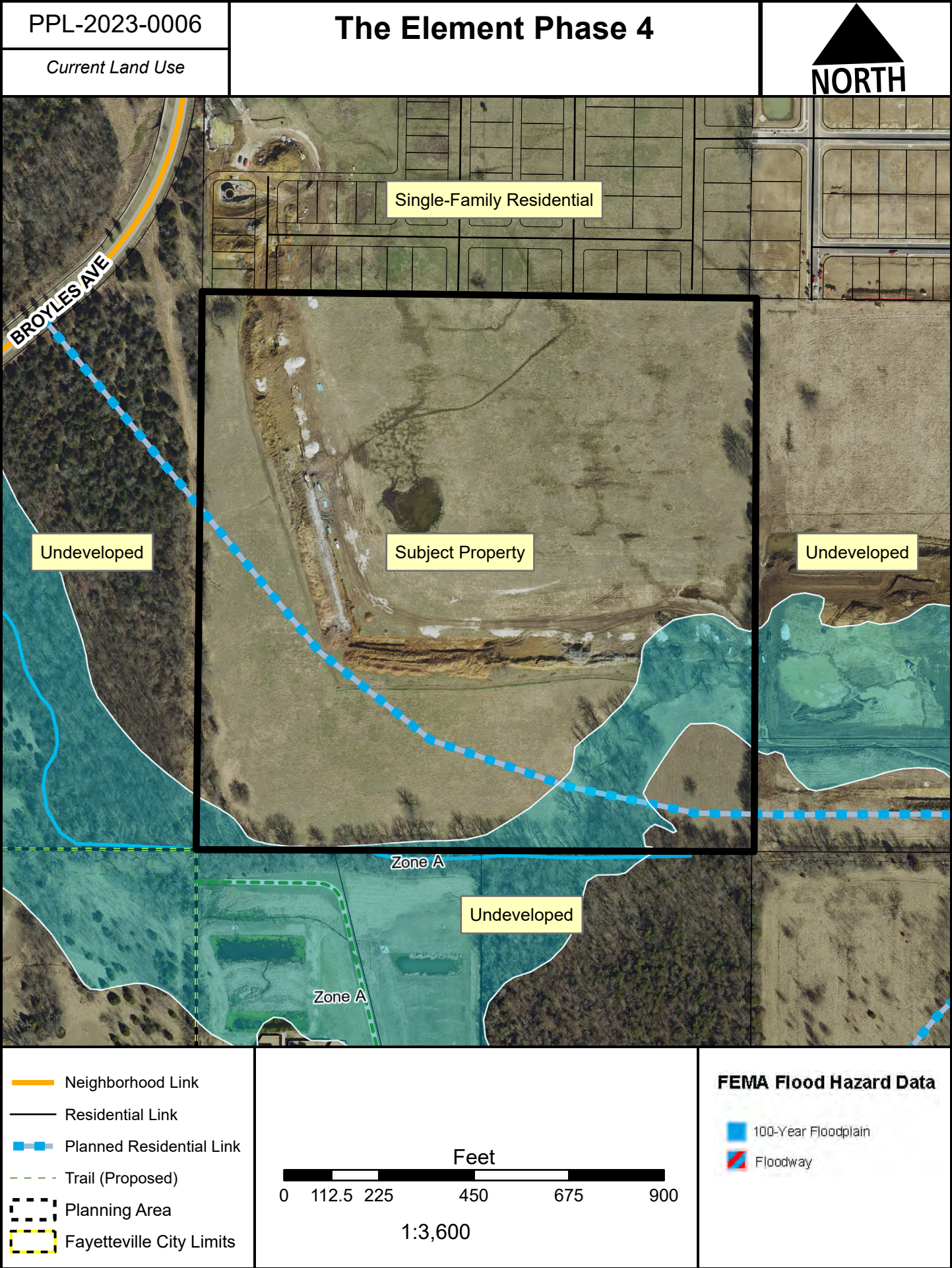




- Residential Link
- Planned Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



- Residential-Agricultural
- RSF-18
- Neighborhood Conservation





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: February 12, 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 approval of **CUP-2023-0180** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0180**, 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 north Fayetteville, across the street from the northwest corner of Gulley Park. The property contains approximately 0.36 acres and is developed with a 1,860-square-foot, four-bedroom, single-family home with an attached ADU that was built in 1972. In late 2023, a Type 1 STR business license was issued for the attached ADU (STR-1267-2023). Now the applicant wishes to rent the single-family home as a Type 2 STR. The application was tabled at the January 22, 2024 meeting to clarify the current business license status and the applicant's current request. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre
East	Single-Family Residential; Gulley Park	RSF-4, Residential Single-Family, Four Units Per Acre; P-1, Institutional
West	Single-Family Residential	RSF-4, Residential Single-Family, Four Units Per Acre

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

Proposal: The applicant requests conditional use permit approval to use the single-family home portion of 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 one inquiry about the project. The email is attached to this report.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0180** 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>February 12, 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 RSF-4 zoning.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

- (c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

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

Finding: The request is to operate a Type 2 short-term rental in RSF-4 zoning, which requires a conditional use permit.

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

Finding: The single-family home contains a total of four bedrooms which would limit occupancy to a maximum of ten 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: Parking for single-family dwellings is required to be provided at a rate of two spaces per unit. The applicant indicated in their submittal that there is space to park up to six vehicles on the property, two in an attached garage and four in an existing driveway. On-street parking is not available along N. Old Wire Rd.

- 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 2609 N. Old Wire Rd. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of February 7, 2024, the City had issued 447 Type 2 short-term rental business licenses, and 27 remain in the queue for processing. An additional 22 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 single-family home as a Type 2 short-term rental and the ADU as a Type 1 short-term rental based on the applicant's submittal. Up to six off-street parking spaces will be available for guests on site, supplying adequate parking for the Type 1 ADU (1 space recommended) and the single-family unit (2 spaces required). City records indicate that two other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. A nearby property, 2679 N. Old Wire Rd. is also owned by the applicant and is operating as a licensed Type 2 STR (STR-1138-2023 and CUP-2023-0162). Of note, the subject property also has an attached ADU operating with a Type-1 STR business license (STR-1267-2023). There is one

zoning or code violation on record for this property (under the current owner) for the attached ADU that was operating as an unlicensed Type 1 STR prior to November 2023. The applicant immediately took the appropriate measures to come into compliance and the case was closed in December 2023.

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

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

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

Finding: A paved driveway with access onto N. Old Wire Rd. is available to accommodate vehicular ingress and egress to the subject property. An additional paved access is available that connects from the subject property to a shared access drive that leads to N. Old Wire Rd. N. Old Wire Rd. is not improved with sidewalks to facilitate pedestrian access. Staff finds that the proposal to use the property as a short-term rental will not adversely affect vehicular traffic flows considering the use of the property would be limited to a maximum of ten guests which would not be out of character with the use of the property for residential purposes.

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

Finding: Up to six off-street parking spaces are available in a paved driveway and attached garage. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. Specifically, two spaces would need to be available for the single-family home unit, and the ADU, falling under the 300-square-foot threshold, would not be required to have dedicated parking.

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

Finding: The applicant proposes to utilize existing residential trash cart services. Staff recommends a condition confirming that the containers are stored in a location that is screened from public view when not placed at the curb for pick-up.

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

Finding: Utilities are currently available to the property and its use as a short-term rental is not expected to impact the provision of utilities.

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

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

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

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

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

Finding: Based on the applicant's submittal, the house appears to be meeting relevant setbacks.

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

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is primarily surrounded by residential uses and there are only two other licensed Type 2 short-term rentals within a quarter-mile radius. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

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

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

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code

- §161.07 - District RSF-4, Residential Single-Family - Four (4) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
 - Building Elevations
 - Building Floor Plans
 - Site Plan
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

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

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
 - 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

City of Fayetteville, Arkansas

Conditional Use Permit

1. Payment made in full
2. Residential Single-family, Four Units per Acre, 2609 N Old Wire Rd. Fayetteville, Arkansas 72703
3. We are applying for a conditional use permit for a Type 2 Short Term Rental from the city of Fayetteville for a property that we purchased in 2020 and lived in while running a Type 1 Short Term Rental through the duration of our occupancy. We will not be residing in the residence in the near future and would like to maintain our compliance and expand use to the entire property for a nightly rental.
 - a. The unit is 1,860 square feet.
 - b. The unit is split level with additional dwelling in the form of an adjoined accessory unit. The unit has a kitchen, living space, primary bedroom with one open closet and a bathroom, two secondary bedrooms each with one closet, a dining area, one and a half additional bathrooms, patio, two garages, and an adjoined accessory dwelling unit that has its own full bathroom and kitchen in a studio apartment format. Attached pictures of the property will be at the end of this document.
 - c. For the unit there is a driveway with six distinct parking spaces. STR Posting would limit total cars to four at any time due to city ordinance limiting cars parked outside of a single residence. There are two garages that can fit two vehicles each, guests would have access to one of the garages (eastern-most garage) for any additional needed parking. Description with pictures attached at the end of this document.
 - d. The unit will not have operating hours or employees. It will be in use whenever it is being rented. The anticipated number of guests will be up to ten, based on city guidance of two guests per bedroom plus two additional guests in a convertible sleeping arrangement in the main living space. The unit will have a designated cleaner who will responsible for cleanings following strict Standard Operating Procedures with scheduling and payments facilitated through the web application, Turno.
 - e. Outdoor lighting – There is exterior light at the front door on the porch. There are also exterior lights that light up the side entrance by the driveway to illuminate the walkway. There is further exterior lighting at the back of the unit overlooking the deck and back yard area.
 - f. The property will be used for short stays of 1-10 people but the size and location of the property begets minimal noise impact to the neighborhood. There will be two televisions dispersed throughout the property and there are imbedded speakers in the home that could be used, which should represent the extent of the noise and is no different from the owner-occupant use of the property. Parties will not be allowed and this policy will be strictly enforced.
 - g. The property behind the proposed rental unit is separated by fencing, and the front of the house faces away from the unit and towards the north. The unit to the south of the proposed property is also separated by fencing with more than 50 ft. The neighbors to the north are separated from the property by two large driveways and an additional 40

feet before the beginning of their dwelling. Pictures are located at the end of this document.

- h. Trash is provided by the city with a designated receptacle by the garage. This trash will be taken to the curb according to city schedule by the cleaning company.
 - i. The property has a community service center as the neighbor across the street and does not have consistent tenancy. Gulley Park is directly across the street and the area of the park across the street is empty and only used intermittently for spill over parking. Because two of the property's nearest neighbors are businesses with limited occupancy, impact to neighborhood is further mitigated.
- 4. The site plan drawn to scale of the property including structures dimensioned from the overhang to the property line, parking, driveway, and Master Street Plan right-of-way will be attached at the end of this document. The property is zoned in Single Family 4.
- 5. The preliminary floor plan drawn to scale showing walls, doors, windows, and identification of activity areas will be attached at the end of this document.
- 6. A copy of the county parcel map from the Washington County Assessor's office website will be attached at the end of this document. The pictures show the subject property and all parcels within 200 feet.
- 7. The consent of ownership signed by both property owners is attached as a separate document.

3.b Building Elevations







3.c Parking Description

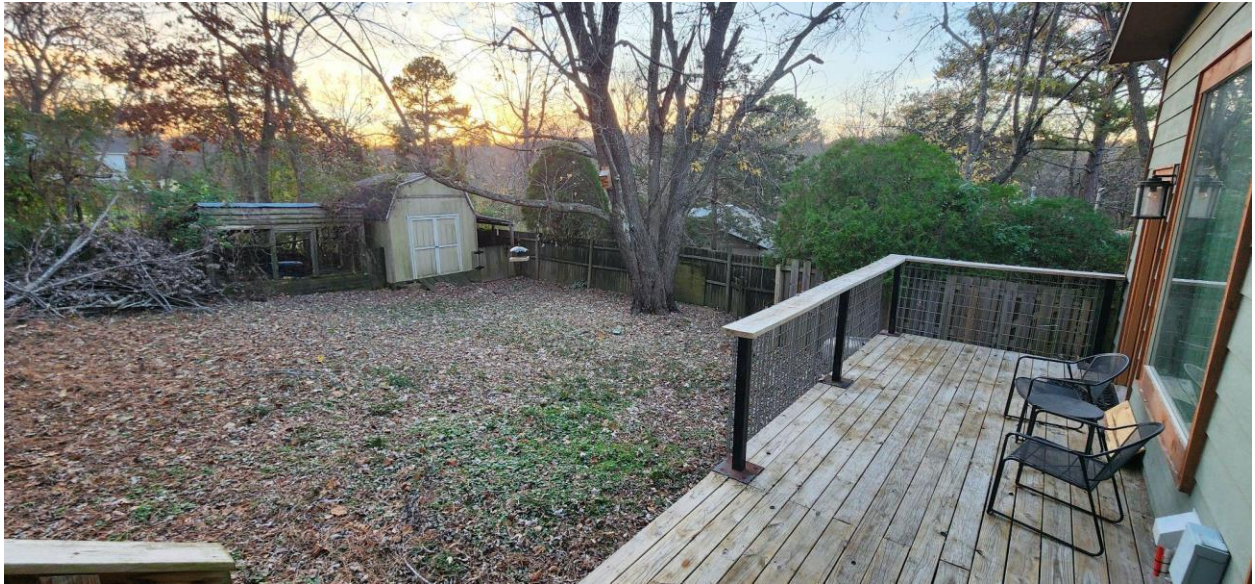
There are six designated parking spaces (two at each level) which should provide sufficient parking for the amount of guests allowed at the property at any one time. However, the listing will limit the quantity of cars parked outside the residence to four. The guests will have access to the easternmost garage which could provide parking for an additional two vehicles. The listing will designate no more than four cars in the driveway at any time. Additional parking can be found across the street at the public parking lot at Gulley Park.





3.g Screening or buffering from adjacent properties







The distance from the building to the fencing to the west is 50 feet. The fence separates the unit from the neighboring property to the west by an additional 15 or more feet. The distance from the property to the southern fencing is 15 feet, with an additional 40 or more feet separating the southern neighbor from the property line. There are two garages and two large driveways separating the property from the neighbors to the north.

3.i Ingress and Egress to the property





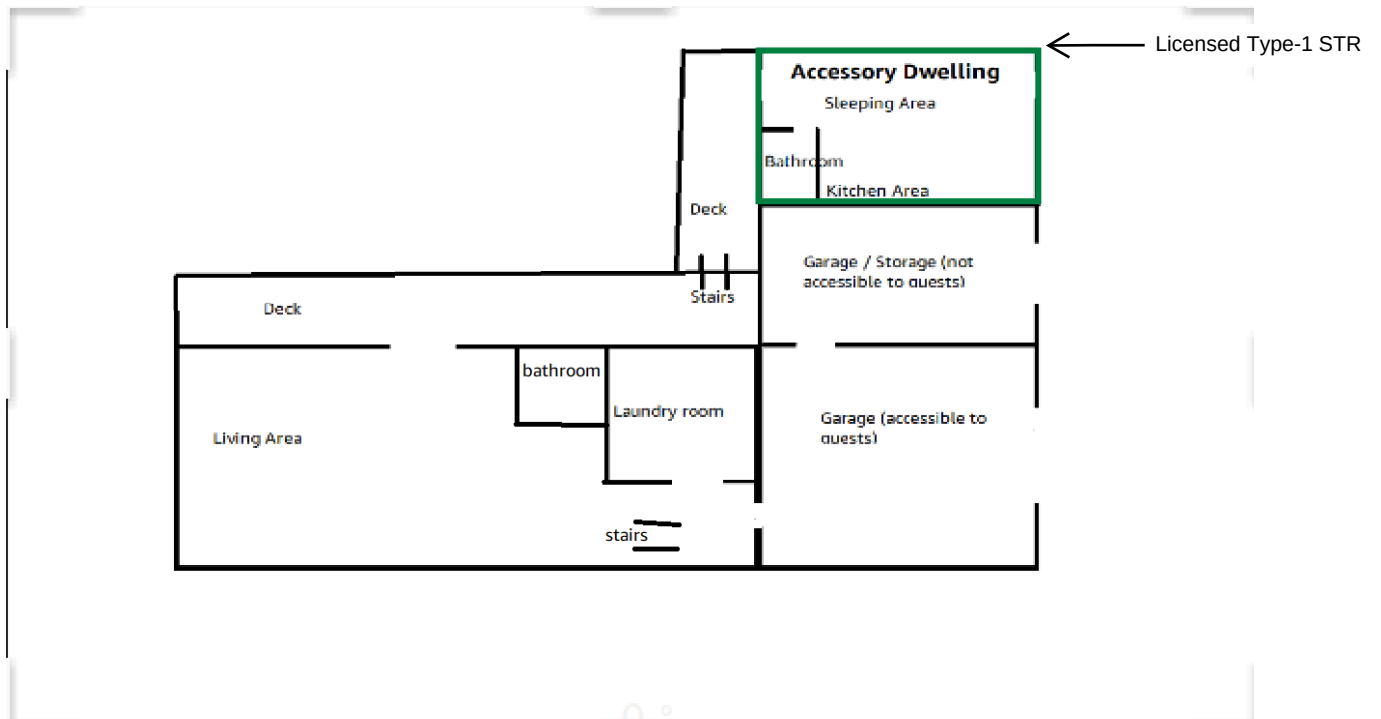
This shows the entrance to the driveway from Old Wire Rd. The tenants should enter through this main driveway, but there is an additional ingress and egress to the adjacent driveway leading to the western neighbors' houses.

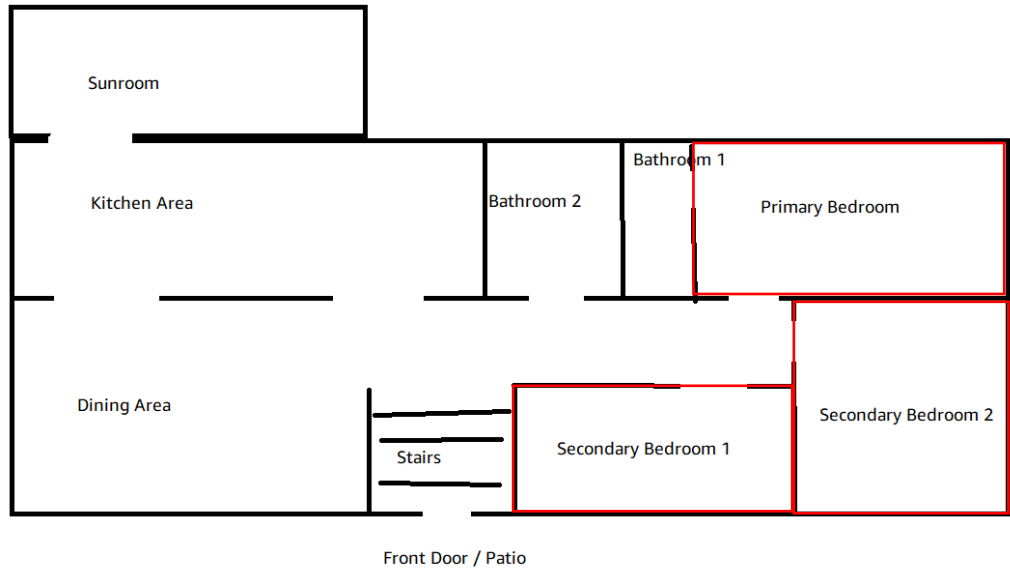
4. Site plan drawn to scale



5. Pictures of Floor Plan

Floor 1, including accessory dwelling unit





Hevrdejs, Kylee

From: Planning Shared
Sent: Wednesday, January 10, 2024 1:50 PM
To: Hevrdejs, Kylee
Subject: FW: Red Public Notice Sign at 2609 N Old Wire Road

Follow Up Flag: Follow up
Flag Status: Flagged

For you

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville
479-575-8267

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



CITY OF
FAYETTEVILLE
ARKANSAS

From: Brandy (Carter) Allen <brandykcarter@gmail.com>
Sent: Wednesday, January 10, 2024 12:42 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Re: Red Public Notice Sign at 2609 N Old Wire Road

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

Thanks for the information - I was hoping the zoning team was looking into their property lines for their parcel "765-16089-000 for Res. Vacant" when it has a garage that is attached to the house that has been used as a short-term rental for years.

On Wed, Jan 10, 2024 at 12:31 PM Planning Shared <planning@fayetteville-ar.gov> wrote:

They are requesting to use the property as at Full-Time Short Term Rental/Airbnb. This item will be in the January 22nd Planning Commission Meeting in City Hall at 5:30pm. Public is welcome to attend.

Thank you

Mirinda Hopkins

Development Coordinator

Planning Division

City of Fayetteville

479-575-8267

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Brandy (Carter) Allen <brandykarter@gmail.com>

Sent: Wednesday, January 10, 2024 11:42 AM

To: Planning Shared <planning@fayetteville-ar.gov>

Subject: Red Public Notice Sign at 2609 N Old Wire Road

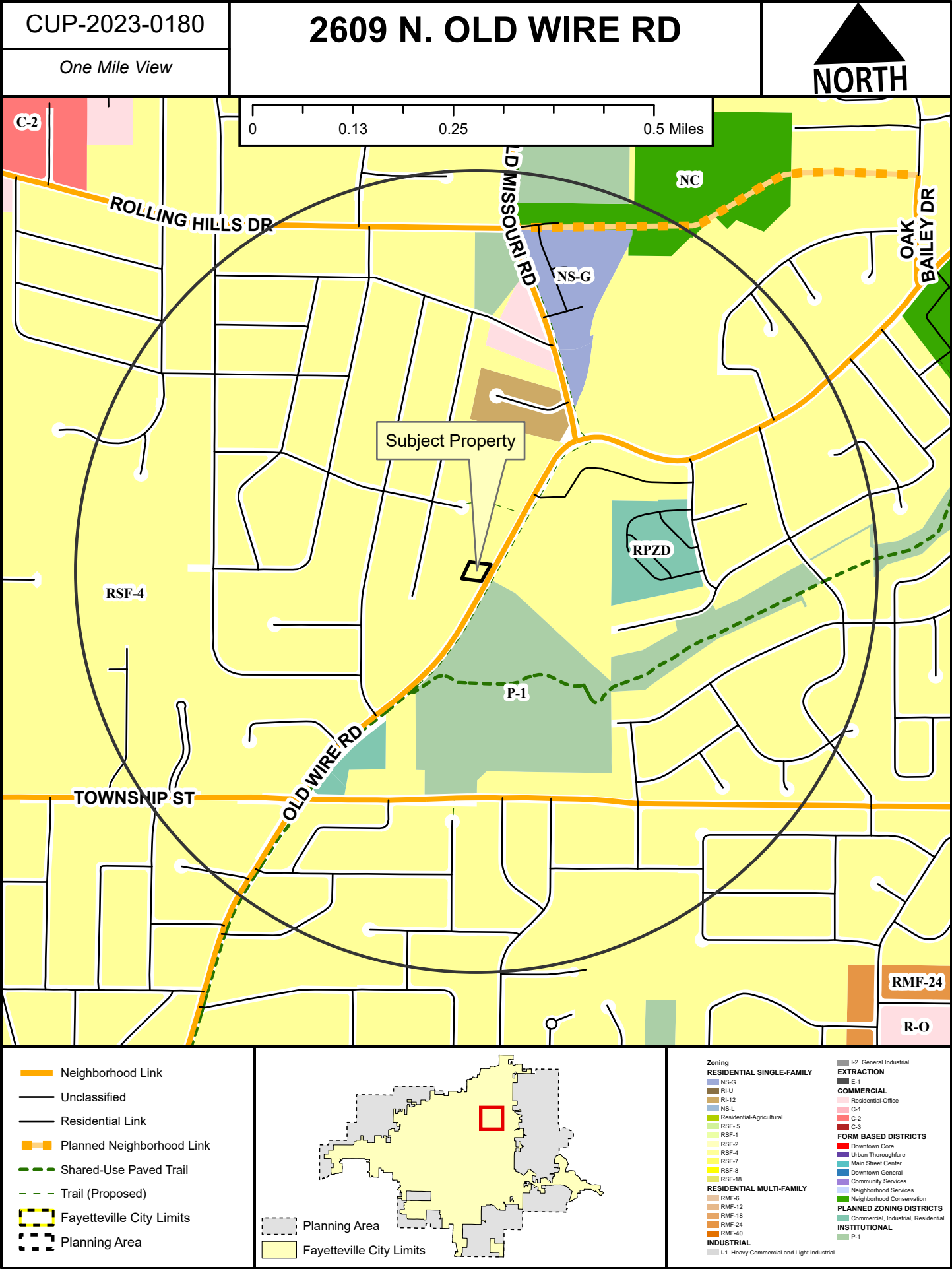
CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

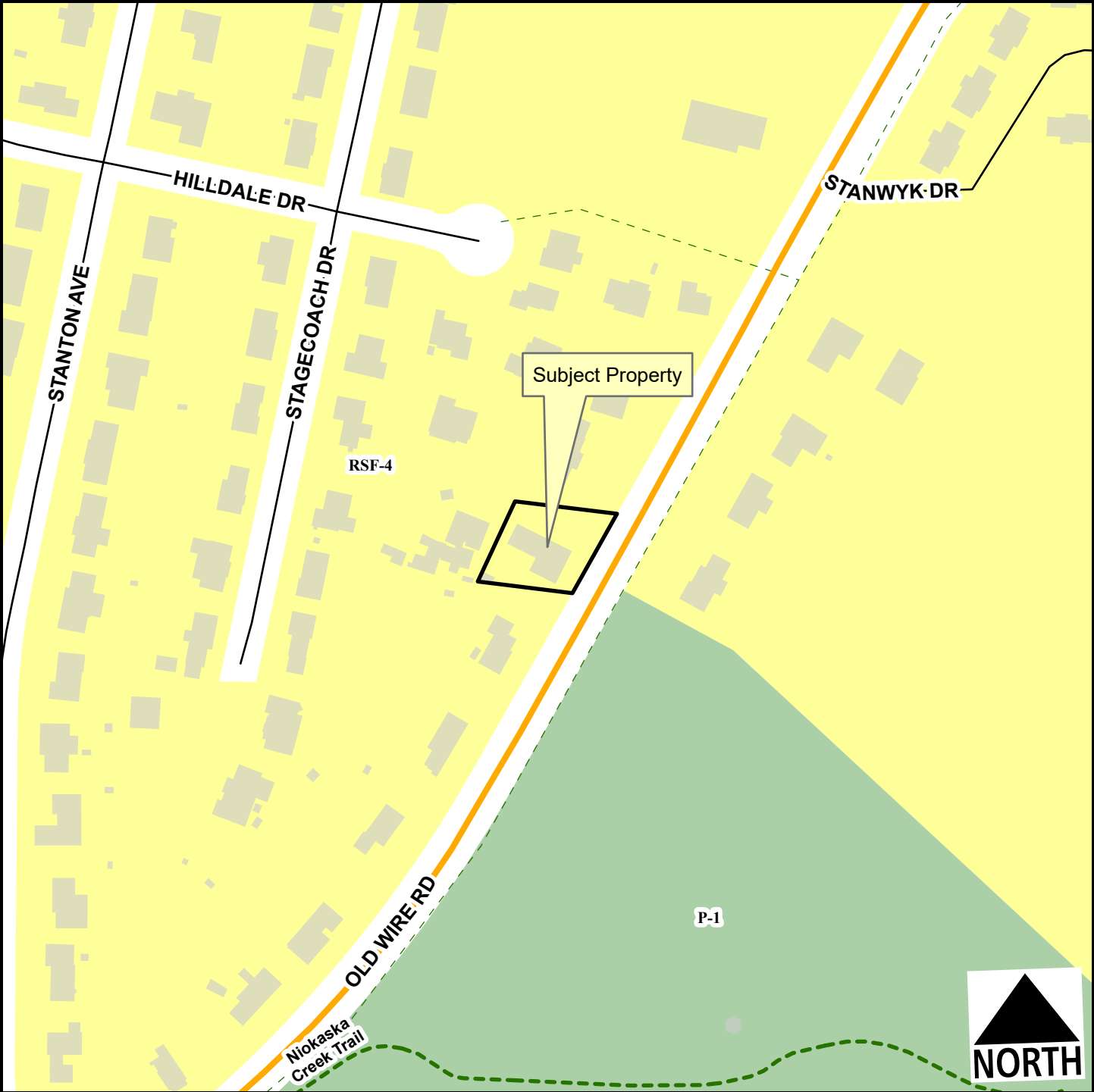
Good Afternoon -

I noticed a red public notice sign in my neighbor's yard at 2609 N Old Wire Road and couldn't find any details on the map.

Thanks,

Brandy Carter





- Neighborhood Link - Unclassified - Residential Link - Planning Area - Fayetteville City Limits - Shared-Use Paved Trail - Trail (Proposed)	Feet 0 75 150 300 450 600 1:2,400	- RSF-4 - P-1
--	--	--



CUP-2023-0180

2609 N. OLD WIRE RD

STRs Within 1/4 Mile



6XEMHFW 3URSHUW\

6KRUW 7HUP 5HQWDO 7\SH

)HHW

:LWKLQ 0LOH

7\SH 675V

2FFXSLDEOH
5HVLGHQWLDO
\$GGUHVHV
(VWLPDWHG
+RXVLQJ 8QLWV

Planning Commission

February 12, 2024

CUP-2023-0180 (HARRIS & PITTMAN) Page 102 of 305

Page 34 of 34



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: February 12, 2024

SUBJECT: **ADM-2024-0001: Administrative Item (2277, 2400, 2423, 2550 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552 AND 2600 S. HUNT LN/WOODRUFF, KLINE, WANG, WARDEN, DURNING, FARKAS/GREGORY, DURNING AND HAMM, 595):** Submitted by RONALD WOODRUFF for properties located at 2277, 2400, 2423, 2550 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552, AND 2600 S. HUNT LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 213.3 acres. The request is to modify the Master Street Plan. The request is to modify the Master Street Plan.

RECOMMENDATION:
Staff recommends denial of **ADM-2024-0001**.

RECOMMENDED MOTION:
"I move to deny **ADM-2024-0001**."

BACKGROUND:
The subject area is southeast of the City limits in Washington County, within the Fayetteville Planning Area. Containing 11 parcels in total, the properties range from undeveloped, agricultural, and low-density, single family uses. The current property owners have no specific development plans, though at least one property owner intends to sell, and has expressed difficulty in completing a transaction due to the existence of a planned Master Street Plan connection on his property. The surrounding land use and zoning is depicted on *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Rural Residential	Washington County; Ag/SF Res I Unit per Acre
South	Rural Residential	Washington County; Ag/SF Res I Unit per Acre
West	Rural Residential	Washington County; Ag/SF Res I Unit per Acre
East	Rural Residential	Washington County; Ag/SF Res I Unit per Acre

Proposal: The petitioners request to have an approximately 1.5-mile section of a planned 2.25-mile connection of the 2040 Master Street Plan removed from the subject properties. The proposed Residential Link Street would provide a future east/west connection from S. Mally Waggon Road connecting eventually to S. Dead Horse Mountain Road to the west.

DISCUSSION:

On the balance of considerations, staff does not support the applicants' request. The proposed connection has been on the Master Street Plan since 2007 (Resolution 161-07) where it was originally classified as a Collector Street for the 2025 Master Street Plan; this is the equivalent of a Neighborhood Link Street under 2040 Master Street Plan Standards. After being re-affirmed as a Collector Street in 2011 (under the 2030 Master Street Plan, Resolution 166-11), the portion in question was downgraded from a Collector Street to a Residential Link Street with the adoption of the 2040 Master Street Plan (Resolution 15-20). In 2007, the street was established after significant study, public interaction, and multiple considerations by the Planning Commission and City Council.

Master Street Plans account for a longer-term potential for the property, and are considered to be just that; a plan. The Master Street Plan is a policy document to help guide decisions regarding location, form, function, design, and classifications of streets. The Plan considers infrastructure and anticipates where new building developments might occur to plan for possible street connections and capital expenditures. Arkansas State Law establishes a 2-mile territorial jurisdiction for cities with a population between 60,000 – 150,000, under the premise that those lands may be annexed by the City in the future. Further, under that requirement as established by the State, the city Planning Commission is charged with preparing plans for that area, which includes the creation of a Master Street Plan; that plan may be adopted to designate the general location, characteristics, and functions of streets and highways to be reserved for future public acquisition. The Master Street Plan is not a formal land acquisition, an allocation of funding, or a construction document, nor does it establish a final alignment.

Given the property's current location within Washington County, and lack of immediate adjacency to the City limits, staff does not foresee any City-initiated construction of this connection and acknowledges that there do not appear to be any portions of the connection currently built or planned for construction or development. Further, any near-term development in the area would be subject to the zoning standards as established by Washington County, which require a minimum lot size of one acre and are strictly limited to either residential or agricultural uses.

That said, the alignment shown on the existing Master Street Plan currently appears to more or less align with existing slopes and contours on the site and is likely the most feasible route given the existing topography. The final alignment is ultimately determined at the time of a development, when constructability (including any necessary floodplain, wetland, or tree preservation mitigation) is taken into consideration. While also taking topographic and geographic considerations into account, redundancy in street connections is another important factor in establishing necessary future streets. With this proposed connection located just shy of one mile south of E. Huntsville Road, this location was meant to act as a secondary east/west connection to relieve any future congestion along E. Huntsville Road should the area continue to develop. With the White River to the north of E. Huntsville Road and significant topography south of the subject Master Street Plan connection, this link represents the sole, viable, planned transportation link in the area.

Prior to the preparation and adoption of the current Master Street Plan, the City conducted extensive studies as required by Ark. Code Ann. § 14-56-414. Without another more formal study for the area to re-evaluate the necessity of the proposed street, staff recommends that the street connection be maintained to protect the potential for future east/west connectivity in the area should development occur within the next 20 years.

Public Comment: Staff has met with the petitioners and discussed the proposal. Petitioners' major concerns are reflected in the petition provided, and additional written comment provided by

individuals in the group is also attached to this packet. Petitioners are primarily concerned with a perceived diminished value in their property due to the existence of this Plan, watershed and existing flooding in the area that may be exacerbated by the addition of a street and subsequent development, future constructability of the street, the protection of existing wildlife habitat, diminished privacy, and an overall negative impact to the existing quality of life.

RECOMMENDATION: Staff recommends denial of ADM-2024-0001; if the Planning Commission votes to forward the item to City Council with a recommendation of approval, staff recommends the following conditions.

1. Approval of the removal of this segment of the Master Street Plan connection does not reflect approval of any associated lot split or other planned development; any planned developments must be submitted according to the allowances in relevant City code.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>February 12, 2024</u>	☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

Attachments:

- City Attorney Memo
- Applicant Request Letter
- 2007 Master Street Plan Exhibit
- 2030 Master Street Plan Exhibit
- 2040 Master Street Plan Exhibit
- Additional Petitioner Comment
- Current Land Use Map



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

TO: **Planning Commission**

CC: **Jessie Masters**, Development Review Manager

FROM: **Blake Pennington**, Senior Assistant City Attorney

DATE: **February 7, 2024**

RE: **Master Street Plan Amendments**

An application to remove a planned future street outside of the city limits but within the City's planning area from the Master Street Plan will be considered by the Planning Commission on Monday, February 11. The applicants may attempt to raise claims about diminished property values, uncompensated takings, or inverse condemnation. These are not issues that are relevant to the Planning Commission's decision about whether to recommend to the City Council that the Master Street Plan should be amended.

Ark. Code Ann. § 14-56-402 authorizes the City to "adopt and enforce plans for the coordinated, adjusted and harmonious development of the municipality and its environs." Ark. Code Ann. § 14-56-403 explains the purposes of these plans:

- (a) The plans of the municipality shall be prepared in order to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens.
- (b) The plans may provide, among other things, for:
 - (1) Efficiency and economy in the process of development;
 - (2) The appropriate and best use of land;
 - (3) Convenience of traffic and circulation of people and goods;
 - (4) Safety from fire and other dangers;
 - (5) Adequate light and air in the use and occupancy of buildings;

Master Street Plan Amendments

- (6) Healthful and convenient distribution of population;
- (7) Good civic design and arrangement;
- (8) Adequate public utilities and facilities; and
- (9) Wise and efficient expenditure of funds.

Among the powers and duties of the Planning Commission is the creation of a planning area map and also “plans for all, or any portion of, the area encompassed by the map” which may include “a master street plan[].” Ark. Code Ann. § 14-56-412. Ark. Code Ann. § 14-56-414 provides further guidance about the development of plans, including the requirement that “suitable studies” be undertaken related to the plans to be prepared. Staff can verify that extensive studies were done prior to the adoption of the current Master Street Plan and significant changes may require further study.

Furthermore, Ark. Code Ann. § 14-56-413 grants jurisdiction to the City over a number of matters, including development, within an extended territorial jurisdiction. We generally refer to this as the City’s planning area. This falls squarely within what is referred to as the City’s “environs” in Ark. Code Ann. § 14-56-402 cited above. Therefore, the City’s also has the authority to adopt and enforce plans, including a master street plan, for the “coordinated, adjusted and harmonious development” of lands within its territorial jurisdiction for those purposes listed above.

A number of state and federal cases significantly undermine any legal claims a landowner might try to bring against the City for alleged diminution of value or uncompensated taking. I will not go into those here because I don’t want to distract the Planning Commission from the relevant considerations. Suffice it to say that landowners who have an unwanted potential future street identified in the Master Street Plan on their property have no valid claim that the plan is a taking and are not entitled to compensation from the City. The only remedy available is to request that the City Council remove the unwanted portion of potential future street from the Master Street Plan.

Conclusion

When making your decision on the applicant’s proposal to remove this portion of potential future street from the Master Street Plan, you should consider the purposes listed above as well as the goals and guiding policies of the Master Street Plan itself, which is covered very well in the staff report.

December 27, 2023

Chairman
City of Fayetteville Planning Commission

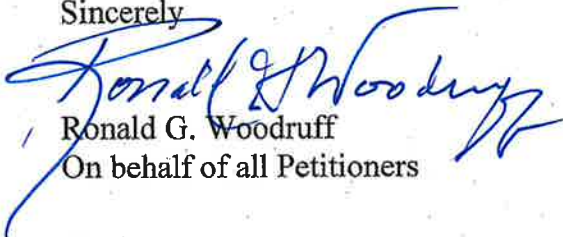
Re: Petition to Remove Cloud Upon Title

Dear Chairman:

1. Payment of \$100.00 application fee to be delivered to Planning Commission Office.
2. Full legal descriptions and parcel numbers for all directly affected lands is attached to the Petition marked as Exhibits A - G.
3. Attached to this letter is a Petition that sets forth the request and underlying explanation of hardships placed on each described property. This variance has unique criteria to be addressed and considered by the Planning Commission.
4. Petitioners do not believe notification surrounding property owners is required.
5. Site plan is set out in maps displayed in CITY PLAN 2040. Copies of the maps are attached to the Petition marked Exhibit H.

Petitioners offer constitutional basis and practical reasons for granting our Petition to have the "Residential Link Street" removed from City Plan 2040.

Sincerely



Ronald G. Woodruff
On behalf of all Petitioners

cc:

Allan and Velva L. Kline
Kevin and Lucia Wang
Steve and Candy Warden
Jerry and Shirley Durning
Richard Farkas and Carol Gregory
David Hamm

PETITION TO REMOVE A CLOUD UPON TITLE ON
CERTAIN LANDS WITHIN WASHINGTON COUNTY, ARKANSAS
SITUATED OUTSIDE THE INCORPORATED CITY LIMITS OF
FAYETTEVILLE, ARKANSAS

Ronald G. and Marsha C. Woodruff, Trustees
Ronald G. And Marsha C. Woodruff Family Trust

Allan and Velva L. Kline, Husband and Wife

Kevin and Lucia Wang, Husband and Wife

Steve and Candy Warden, Husband and Wife

Jerry and Shirley Durning, Trustees
The Jerry and Shirley Durning Revocable Trust

Richard Farkas and Carol Gregory, Husband and Wife

David Hamm, Manager
Hamm Land and Cattle, LLC

PETITIONERS

VS

City of Fayetteville, Washington County, Arkansas

RESPONDENT

PETITION

Comes now each and all Petitioners named above and for their Petition addressed to the
City of Fayetteville (hereinafter "The City") state:

1. Petitioners each own and hold title to parcels of real property situated outside of the
corporate city limits of The City. Documentary proof and copies of public records reflecting the
ownership of each Petitioner is attached and marked as exhibit as follows:

Petitioner	Exhibit	Parcel
Woodruff Trust	A	001-10982-000 and 001-10980-000

Kline	B	001-10990-000
Wang	C	001-10991-003
Warden Trust	D	001-10991-000
Durning Trust	E	001-11032-000, 001-11030-000, 001-11029-000
Farkas/Gregory	F	001-11031-000, 001-11031-001
Hamm LLC	G	001-11028-000, 001-11028-001

2. The City adopted and has implemented "City Plan 2040" which includes designation of a "Residential Link Street" that consists of a 52 foot future right of way across and through the lands owned by Petitioners. A copy of a map of lands included in "City Plan 2040" that displays the location of the designated "Residential Link Street" is attached and marked as Exhibit H.

3. The placement of the "Residential Link Street" across and through the lands of Petitioners places a cloud upon the title requiring disclosure by Petitioner to prospective buyers who may be interested in purchasing the real property. The existence of such an encumbrance upon the title to the land clearly diminishes the value of the land and constitutes a "taking" and damage to the value of the property. For example: See copy of letter request given the City Planning Commission by Kevin Wang marked Exhibit I.

4. The burden and cloud placed upon Petitioners' land by "The City" violates the Fifth Amendment of the United States Constitution. That amendment includes a clause known as the "Taking Clause". It states that private property shall not be taken for public use, without just compensation. This clause stands for the principle that the government should not single out isolated individuals (such as the Petitioners in this case) to bear excessive burdens, even in support of an important public good. When this happens, the remedy is the payment of "just compensation", which The City has failed to recognize and provide in "City Plan 2040".

5. Closer to home, Article 2 Section 22 of the Arkansas Constitution states: "The right of property is before and higher than any constitutional sanction; and private property shall not be

taken, appropriated or damaged for public use, without compensation therefor.” Petitioners submit that the actions of The City complained of herein constitutes a taking, appropriation, and damage to Petitioners’ property, in violation of rights granted by the state constitution.

6. The Due Process Clause of both the Fifth and Fourteenth Amendment to the United States Constitution prohibits the deprivation of life, liberty, or PROPERTY [emphasis added] by the federal and state governments without due process of law. Prior to the passage of “City Plan 2040”, Petitioners were given no notice or opportunity to offer defense to the taking of their property. The failure of due process deprived Petitioners (and others similarly situated) the right of a fundamental fairness as granted by law.

7. Petitioners recognize that in 2020, Arkansas enacted a public law setting “territorial jurisdiction” for municipal governments to use for planning purposes. That distance is limited to an area of two (2) miles beyond the corporate city limits. Petitioners’ lands do fall within the permitted area. However, the grant of “territorial jurisdiction” does not permit violation of state and federal constitutional protection by taking of property without just compensation.

8. The actual physical taking (i.e. possession) of Petitioners’ real property, which is situated in a rural setting, will result in a loss of privacy, quality of life, and the quiet enjoyment of home and property, all of which devalues the property. In some cases, parcels of land will be separated into two sections divided by the roadway again see Wang’s request (Exhibit I)

9. Many other reasons (practical, financial, and environmental) exist to support the removal of the “Residential Link Street” from City Plan 2040, including but not limited to the following:

- A. This proposed street crosses a major gas pipeline;
- B. This proposed street crosses an existing Ozark Electric high voltage transmission

power line;

C. This proposed street cuts through existing buildings and within a few feet of at least one current residential dwelling and perhaps others;

D. Two spring fed ponds and a third pond is directly in the path of this proposed street;

E. There are gas wells situated on some of these properties that are functioning and serving two homes;

F. One property is in use as an operating cattle operation;

G. There are reports of existing Indian mounds located on one parcel;

H. Important prairie land (Drake's Prairie) will be disturbed by this proposed street;

I. The runoff of water from the mountain to the south (Bear Mountain) is considerable and the interruption of the existing creek and other flow ditches will likely cause significant flooding of homes on some of Petitioners' land as well as that of homeowners residing within the subdivision of The City at lower elevations;

J. Neighbors living in close proximity to Petitioners' land will experience deterioration of their rural tranquil existence by the locating of this proposed street;

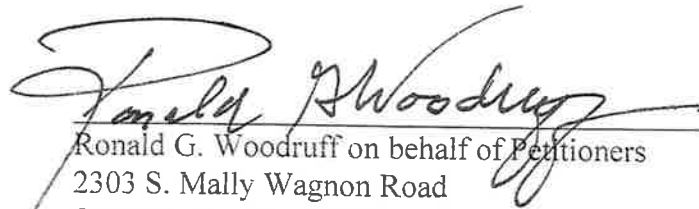
K. Destruction of wildlife habitat will be a direct result of such a construction project; and

L. Existing connecting area roadways provide the City better alternatives to serve future needs of the City.

FOR THE REASONS STATED, Petitioners respectfully petition the CITY OF FAYETTEVILLE to amend City Plan 2040 by removing and deleting the designation of the "Residential Link Street" that runs from Dead Horse Mountain Road east to Mally Wagnon Road across Petitioners' land.

A list of contact information for each petitioner is attached marked Exhibit J.

Submitted by:



Ronald G. Woodruff on behalf of Petitioners

2303 S. Mally Wagon Road

Fayetteville, AR 72701

ronwoodruff40@gmail.com

(479)841-8790

Date: December 20, 2023

EXHIBIT “A”

Woodruff

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT we, **Ronald G. Woodruff and Marsha C. Woodruff**, Husband and Wife, hereinafter called Grantors for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to me in hand paid by:

Ronald G. Woodruff and Marsha C. Woodruff as Trustees of "**THE RONALD G. AND MARSHA C. WOODRUFF FAMILY TRUST**," hereinafter called Grantees, do hereby grant, bargain, sell, and quitclaim unto the said Grantees and Grantees' assigns, the following described land situate in Washington County, State of Arkansas, to Wit:

Part of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section Twenty-nine (29), Township Sixteen (16) North, Range Twenty-nine (29) West of the 5th P.M. described as follows, to-wit: Beginning at the Southeast corner of said forty acre tract, and running thence North 500.01 feet, thence West 555 feet, thence South 500.01 feet, thence East 555 feet to the point of beginning, containing 6.37 acres, more or less.

Subject to any easements and/or right-of-ways of record.

Note: This transfer is made for the purpose of family estate planning and no consideration is exchanged.

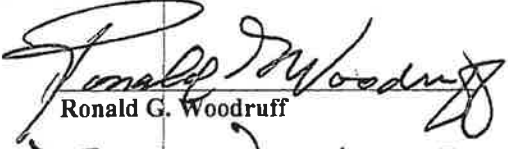
To have and to hold the said lands and appurtenances thereunto belonging unto the said Grantees and Grantees' assigns, forever.

And we, the Grantors, hereby release and relinquish unto the Grantees our homestead in and to said lands.

Witness our hand and seal on this 7th day of July, 2017.

Prepared By:

WOODRUFF LAW FIRM
Ronald G. Woodruff
P.O. Box 1866
Fayetteville, AR 72702
(479) 444-8444


Ronald G. Woodruff


Marsha C. Woodruff

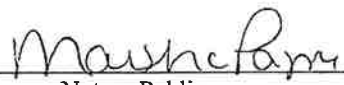
ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

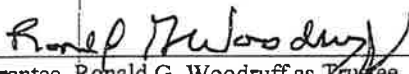
On this the 7th day of July, 2017, before me a notary public personally appeared **Ronald G. Woodruff and Marsha C. Woodruff**, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument and acknowledge that they had executed the same for the purposes therein set forth.

My Commission Expires:




Notary Public

I certify that under penalty of false swearing that at least the legally required amount of documentary stamps have been placed on this instrument.


Grantee, Ronald G. Woodruff as Trustee
Of the Ronald G. and Marsha C. Woodruff Family Trust

Mail taxes to: Ronald and Marsha Woodruff, P. O. Box 1866, Fayetteville, AR 72702

Doc ID: 017609720001 Type: REL
Kind: QUITCLAIM DEED
Recorded: 08/25/2017 at 02:33:12 PM
Fee Amt: \$15.00 Page 1 of 1
Washington County, AR
Kyle Sylvester Circuit Clerk
File **2017-00026345**

EXHIBIT “B”

Kline

WARRANTY DEED

with relinquishment of dower and homestead

KNOW ALL MEN BY THESE PRESENTS:

That we, C. A. Hughes, Jr, and Mary L. Hughes,
husband & wife

for and in consideration of the sum of One Dollar (\$1.00) and other
good and valuable considerations
to us in hand paid by Allan S. Kline and
Velva L. Kline

do hereby grant, bargain and sell unto the said Allan S. Kline and
Velva L. Kline, husband & wife, and their

heirs and assigns, the following described land, situate in:
Washington County, State of Arkansas, to-wit:

A part of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of
Section Twenty-nine (29), Township Sixteen (16) North of Range Twenty-nine
(29) West, Described as follows, to-wit: Beginning at the Southwest corner
of said forty acre tract, and running thence East 765 feet, thence North
500 feet, thence West 765 feet, thence South 500 feet to the point of
beginning and containing 8.78 acres, more or less.

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING
ADMINISTRATOR
SIGNED B. J. [Signature] DATE 9-8-80

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said
Allan S. Kline and Velva L. Kline, husband & wife, and their
heirs and assigns, forever. And We the said C. A. Hughes, Jr. and Mary L. Hughes,
husband & wife

hereby covenant that we are lawfully seized of said land and premises; that the same is unincumbered, and we will
forever warrant and defend the title to the said lands against all legal claims whatever.
And I, the said Mary L. Hughes wife of C. A. Hughes, Jr.

in consideration of said sum of money, do hereby release and relinquish unto the said Allan S. Kline and
Velva L. Kline

all my interest, right, title and dower and convey my homestead in and to said lands.
WITNESS our hands and seals on this 5th day of September 1980

[Signature] (Seal)
Mary L. Hughes (Seal)
(Seal)

ACKNOWLEDGMENT

STATE OF ARKANSAS

County of Washington

BE IT REMEMBERED, That on this day came before the undersigned, a Notary Public
within and for the County aforesaid, duly commissioned and act-
ing. C. A. Hughes, Jr. and Mary L. Hughes, husband & wife
to me well known as the Grantors in the foregoing Deed, and stated that they
had executed the same for the consideration and purposes therein mentioned and set forth.
Witness my hand and seal as such Notary Public this 5th day of
September 1980.

My Commission expires

July 9, 1983

[Signature] Planning Commission
February 12, 2024

EXHIBIT “C”

Wang

Type: REAL ESTATE
Kind: WARRANTY DEED
Recorded: 10/14/2022 9:05:54 AM
Fee Amt: \$25.00 Page 1 of 3
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2022-00033692**Please Return To:**

Lenders Title Company
3761 N Mall Avenue, Suite 1
Fayetteville AR, 72703
Phone: 479-444-3333
Fax: 479-443-4256

File Number: 22-067213-500

This deed form prepared under the supervision of:
J. Mark Spradley, Attorney at Law
1501 N. University, Suite 155
Little Rock, AR 72202

Transactional data completed by Lenders Title Company

Warranty Deed - Unmarried (Letter).rtf

FOR RECORDER'S USE ONLY

WARRANTY DEED

(UNMARRIED PERSON)

KNOW ALL MEN BY THESE PRESENTS:

That, Sharon Buss-Rosso (erroneously shown of record as Sharron Buss-Russo), an unmarried person, Grantor, for and in consideration of the sum of —TEN AND 00/100— DOLLARS (\$10.00)—and other good and valuable consideration in hand paid by Kevin Wang and Lucia Wang, a married couple, Grantee(s), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantee(s), and unto their heirs and assigns forever, the following lands lying in the County of Washington and the State of Arkansas to-wit:

A part of the NW1/4 of the NW1/4 of Section 29, Township 16 North, Range 29 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows: to-wit: Beginning at a set #4 rebar on the West line of said NW1/4 NW1/4, which is S01°40'39"W 925.64 feet from an existing cotton picker spindle in the top of a railroad tie fence corner post marking the NW corner of said NW1/4 NW1/4 and running thence leaving said West line, S88°14'04"E 1318.43 feet to the East line of said NW1/4 NW1/4, thence along said East line, S01°34'50"W 398.27 feet to a set #4 rebar marking the SE corner of said NW1/4 NW1/4, thence along the South line of said NW1/4 NW1/4, N88°16'11"W 1319.10 feet to an existing 2" pipe marking the SW corner of said NW1/4 NW1/4, thence along the West line of said NW1/4 NW1/4, N01°40'39"E 399.02 feet, to the Point of Beginning, containing 12.07 acres, more or less, also known as adjusted Tract B.

Subject to any recorded: assessments, building lines, easements, mineral reservations and/or conveyances, and restrictions, if any.

TO HAVE AND TO HOLD the above described lands unto the Grantee(s) and their heirs and assigns forever,
with all tenements, appurtenances, and hereditaments thereunto belonging.

And I hereby covenant with the Grantee(s) that I will forever warrant and defend the title to the above described
lands against all claims whatsoever.

13
WITNESS my hand and seal on this 13th day of October, 2022.

I certify under penalty of false swearing
that documentary stamps or a documentary
symbol in the legally correct amount has
been placed on this instrument. Exempt or no
consideration paid if none shown.

GRANTEE OR AGENT:

Kevin Wang and Lucia Wang

GRANTEE'S ADDRESS: 614 Oriole Drive
Springdale, AR 72762

Sharon Buss-Rosso
Sharon Buss-Rosso (aka erroneously shown of
record as Sharron Buss-Russo)

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) SS.

BE IT REMEMBERED, that on this day came before me, the undersigned, a notary public within and for the County
and State aforesaid, duly commissioned and acting, Sharon Buss-Rosso (aka erroneously shown of record as Sharron
Buss-Russo), an unmarried person, to me well known as (or satisfactorily proven to be) the person whose name is
subscribed to the foregoing instrument and acknowledged that she had executed the same for the consideration, uses and
purposes therein mentioned and set forth.

13
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 13th day of October, 2022.



My commission Expires:

2-9-2025

Charles Edward Young III
Notary Public

EXHIBIT “D”

Warden

1916099-131

Type: REAL ESTATE
Kind: WARRANTY DEED
Recorded: 1/7/2020 8:55:23 AM
Fee Amt: \$30.00 Page 1 of 4
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2020-00000533

After recording please return to:
Waco Title Company
2592 S. 48th St.
Springdale, AR 72762

**WARRANTY DEED
(LLC)**

File #: 1916099-131

KNOW ALL MEN BY THESE PRESENTS:

That, **Eagle Holdings, LLC**, an Arkansas limited liability company, hereinafter called GRANTOR(S), for and in consideration of the sum of ---ONE AND 00/100--- DOLLAR---(\$1.00)---and other good and valuable consideration, in hand paid by **Steve Warden and Candy Lynne Warden, husband and wife**, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto **Steve Warden and Candy Lynne Warden, husband and wife**, hereinafter called GRANTEE(S), and unto his heirs and assigns forever, the following described lands lying in **Washington County, Arkansas** to-wit:

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD the same unto the said Grantee(s) and unto his heirs and assigns forever, with all appurtenances thereunto belonging. And the Grantor(s) hereby covenants with said Grantee(s) that it will forever warrant and defend the title to the said lands against all claims whatsoever.

Prepared under the supervision of
Brian Blackman, Attorney
2592 S. 48th St.
Springdale, AR. 72762

IN TESTIMONY WHEREOF, the name of the grantor and its seal are hereunto affixed by its duly authorized Member(s)/Manager(s), this 3 day of Jan, 2020.

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this instrument.

GRANTEE OR AGENT:

[Signature]

Eagle Holdings, LLC

By: KSDA, Inc., Member

GRANTEE'S ADDRESS:

3784 E. Spyglass Hill Dr.
Fayetteville, AR
72701

By: [Signature]
Keith Marrs, President

ACKNOWLEDGMENT

STATE OF AR)
COUNTY OF Washington) SS.

On this day before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named **Keith Marrs** to me personally known or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who stated that he/she is the **President of KSDA, Inc.**, the authorized Member(s)/Manager(s) of **Eagle Holdings, LLC**, an Arkansas limited liability company, and is duly authorized in his/her capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he/she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 3 day of Jan, 2020.

[Signature]
Notary Public

My commission expires:

6/13/23

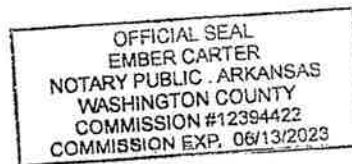


EXHIBIT "A"

A part of the SW 1/4 of the NW 1/4 of Section 29, Township 16 North, Range 29 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a set #4 rebar on the South of the NW 1/4 NW 1/4 which is S 01°40'39" W 1324.66 feet and S 88°16'01" E 53.92 feet from an existing cotton picker spindle in the top of a railroad tie fence corner post marking the NW Corner of the NW 1/4 NW 1/4 and running thence leaving said South line S 88°16'01" E 1241.85 feet to the centerline of Ed Edwards Road; thence along said centerline the following: S 03°00'55" W 14.63 feet; S 04°46'36" W 80.80 feet; S 07°10'08" W 61.49 feet; S 12°53'19" W 59.62 feet, along a curve to the right having a radius of 495.12 feet for a chord bearing and distance of S 14°58'48" W 4.97 feet, along a curve to the right having a radius of 495.12 feet for a chord bearing and distance of S 19°09'46" W 67.27 feet, along a curve to the right having a radius of 495.12 feet for a chord bearing and distance of S 23°38'36" W 10.12 feet; S 26°32'07" W 87.19 feet; S 33°58'45" W 124.76 feet; S 39°18'22" W 96.86 feet; S 42°49'30" W 91.27 feet; S 45°35'44" W 56.94 feet; thence leaving said road centerline N 52°48'13" W 1145.69 feet to the Point of Beginning, containing 10.36 acres, more or less.

AND: A part of the SW 1/4 of the NW 1/4 of Section 29, Township 16 North, Range 29 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at an existing 2" pipe marking the NW Corner of said SW 1/4 NW 1/4 which is S 01°40'39" W 1324.66 feet from an existing cotton picker spindle in the top of a railroad tie fence corner post marking the NW Corner of the NW 1/4 NW 1/4 of said Section 29 and running thence along the North line of the SW 1/4 NW 1/4 S 88°16'01" E 53.92 feet to a set #4 rebar; thence leaving said North line S 52°48'13" E 1145.69 feet to the centerline of Ed Edwards Road; thence along said road centerline the following: S 45°35'44" W 34.67 feet; S 45°15'07" W 129.58 feet; S 31°36'29" W 38.66 feet; thence leaving said road centerline N 88°24'39" W 849.40 feet to the west line of said SW 1/4 NW 1/4; thence along said West line N 01°22'18" E 819.35 feet, to the Point of Beginning containing 11.12 acres, more or less.

LESS AND EXCEPT: A part of the SW 1/4 of the NW 1/4 of Section 29, Township 16 North, Range 29 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a set #4 rebar on the West line of said SW 1/4 of the NW 1/4 which is N 01°22'18" E 500.00 feet from an existing aluminum monument (PLS #1532) marking the SW corner of said SW 1/4 of the NW 1/4 and running thence along the West line of said SW 1/4 of the NW 1/4, N 01°22'18" E 160.00 feet; thence leaving said West line, S 89°20'35" E 7.22 feet to an existing fence line; thence along said fence line, S 01°48'39" E 41.62 feet; thence continuing along said fence line, S 01°43'52" W 118.56 feet; thence leaving said fence line, N 88°24'39" W 8.79 feet to the Point of Beginning, containing 0.03 acres, more or less.

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

EXHIBIT “E”

Durning

THIS INSTRUMENT WAS PREPARED BY:
MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, P.L.L.C.
ATTORNEYS AT LAW
425 WEST CAPITOL, SUITE 1800
LITTLE ROCK, ARKANSAS 72201-3525


Doc ID: 018629110002 Type: REL
Kind: WARRANTY DEED
Recorded: 06/10/2019 at 01:15:18 PM
Fee Amt: \$20.00 Page 1 of 2
Washington County, AR
Kyle Sylvester Circuit Clerk
File **2019-00016610**

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WE, **Jerry R. Durning** and **Shirley M. Durning**, husband and wife, GRANTORS, for and in consideration of the sum of Ten and No/100 dollars (\$10.00) and other valuable consideration, in hand paid by **Jerry R. Durning** and **Shirley M. Durning, Trustees of The Jerry and Shirley Durning Revocable Trust** u/a/d November 13, 2006, GRANTEES, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said Grantees, and unto their successors and assigns forever, all of the Grantors' right, title and interest in and to the following lands lying in Washington County, Arkansas:

Part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 30 in Township 16 North of Range 29 West, described as follows: Beginning at the Southeast corner of said 20 acre tract, and running thence North 420 feet; thence West 420 feet; thence South 420 feet; thence East 420 feet to the point of beginning, containing 4 acres, more or less.

Also a 20 foot easement along the South line of the said North half of the Southeast Quarter of the Northeast Quarter for roadway purposes, beginning at the West line of the above described four acre tract and running West to the West line of said 20 acre tract.

Subject to all liens and encumbrances of record.

TO HAVE AND TO HOLD the same unto the said Grantees and unto their successors and assigns forever with all appurtenances thereunto belonging.

And we hereby covenant with the said Grantees that we will forever warrant and defend the title to the said lands against all lawful claims or encumbrances whatever.

And we, for and in consideration of the said sum of money, do hereby release and relinquish unto the said Grantees, and unto their successors and assigns, all of our right and possibility of dower, curtesy and homestead in and to the said lands.

WITNESS our hands on this 4th day of June, 2019.

Jerry R. Durning
Jerry R. Durning

Shirley M. Durning
Shirley M. Durning

STATE OF ARKANSAS)
) ss.
COUNTY OF Washington)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned and acting, came **Jerry R. Durning** and **Shirley M. Durning**, to me well known as the Grantors in the foregoing deed, and stated that they had executed the same for the consideration, uses and purposes therein mentioned and set forth.

And Grantors declared that they had, of their own free wills, executed said instrument and signed and sealed the relinquishment of dower, curtesy and homestead therein for the consideration and purposes therein contained and set forth, without compulsion or undue influence of the other.

WITNESS my hand and official seal this 4th day of June, 2019.

Mary Barnard
Notary Public

My Commission Expires:

08/10/2025
(SEAL)



I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument. Exempt or no consideration paid if none shown.

Jerry R. Durning
Grantee or Grantee's Agent

Grantee's address: 2600 Hunt Lane
Fayetteville, AR 72701

THIS INSTRUMENT WAS PREPARED BY:
MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, P.L.L.C.
ATTORNEYS AT LAW
425 WEST CAPITOL, SUITE 1800
LITTLE ROCK, ARKANSAS 72201-3525

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS:

THAT I, **Shirley M. Durning**, a married, GRANTOR, for and in consideration of the sum of Ten and No/100 dollars (\$10.00) and other valuable consideration, in hand paid by **Jerry R. Durning and Shirley M. Durning**, Trustees of the Jerry and Shirley Durning Revocable Trust, GRANTEES, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said Grantees, and unto their successors and assigns forever, all of the Grantor's right, title and interest in and to the following lands lying in Washington County, Arkansas:

A part of the North Half (N ½) of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Thirty (30) in Township Sixteen (16) North, Range Twenty-Nine (29) West of the 5th P.M., being more particularly described as follows, to-wit: Commencing at the Southeast corner of said twenty (20) acre tract; thence North four hundred and twenty (420) feet for a point of beginning; thence West four hundred and twenty (420) feet; thence South three hundred and ninety-five feet; thence West nine hundred (900) feet to the West line of said twenty (20) acre tract; thence North along the West line of said twenty (20) acre tract to a point which is three hundred seventy-two and seventy-two hundredths (372.72) feet South of the Northwest corner of said twenty (20) acre tract; thence East one hundred and ninety-four (194) feet; thence North one hundred and sixty-four (164) feet; thence East one hundred and nineteen and five hundredths (119.05) feet; thence North two hundred and eight and seventy-two hundredths (208.72) feet to the North line of said twenty (20) acre tract; thence East along the North line of said twenty (20) acre tract to the Northeast corner of said twenty (20) acre tract; thence South along the East line of said twenty (20) acre tract to the point of beginning, containing in all 12.79 acres, more or less, subject to the following:

1. A blanket right-of-way grant to the Arkansas Western Gas Company, dated June 27, 1950 and recorded in Deed Record Book 428 at Page 192.

2. A blanket right-of-way grant to Ozarks Electric Cooperative Corporation filed for record July 9, 1976 and recorded in Deed Record Book 909 at Page 828 thereof.
3. An Oil and Gas Lease dated November 18, 1985 to Dunsmoor Oil & Gas Properties, and subsequently assigned to Ross Explorations, Inc., and thereafter to War Eagle Oil & Gas Company.
4. The right-of-way of an existing paved county road (commonly known as Hunt Lane along the western boundary of said twenty (20) acre tract).

This conveyance is subject to the life estate of Clarence H. Eans and Pauline Eans, reserved in a Warranty Deed recorded on December 10, 1987 in Book 1987, Page 822, in the real estate records of Washington County, Arkansas.

Subject to all liens and encumbrances of record.

TO HAVE AND TO HOLD the same unto the said Grantees and unto their successors and assigns forever with all appurtenances thereunto belonging.

And I hereby covenant with the said Grantees that I will forever warrant and defend the title to the said lands against all lawful claims or encumbrances whatever.

And Grantor and **Jerry R. Durning**, her husband, for and in consideration of the said sum of money, do hereby release and relinquish unto the said Grantees, and unto their successors and assigns, all of our right and possibility of dower, curtesy and homestead in and to the said lands.

WITNESS our hands on this 25 day of MAY, ~~2006~~ ²⁰⁰⁷.

Shirley M. Durning
Shirley M. Durning

Jerry R. Durning
Jerry R. Durning

STATE OF ARKANSAS)

COUNTY OF WASHINGTON) ss.

ACKNOWLEDGMENT

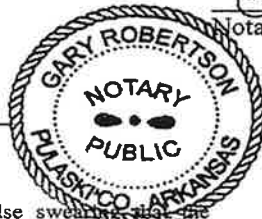
On this day, before me, the undersigned, a Notary Public, duly commissioned and acting, came **Shirley M. Durning**, to me well known as the Grantor in the foregoing deed, and **Jerry R. Durning**, her husband, and stated that they had executed the same for the consideration, uses and purposes therein mentioned and set forth.

And Grantor and **Jerry R. Durning**, her husband, declared that they had, of their own free wills, executed said instrument and signed and sealed the relinquishment of dower, curtesy and homestead therein for the consideration and purposes therein contained and set forth, without compulsion or undue influence of the other.

WITNESS my hand and official seal this 25 day of May, 2007.

My Commission Expires:

8-1-2010
(SEAL)



Gary Robertson
Notary Public

I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument. Exempt or no consideration paid if none shown.

Shirley M. Durning Jerry R. Durning
Grantee or Grantee's Agent

Grantee's address: 2550 HUNT LN
FAYETTEVILLE, AR
72701

1006903.1

EXHIBIT “F”

Farkas/Gregory



Doc ID: 017748870002 Type: REL
 Kind: QUITCLAIM DEED
 Recorded: 11/21/2017 at 04:16:04 PM
 Fee Amt: \$20.00 Page 1 of 2
 Washington County, AR
 Kyle Sylvester Circuit Clerk

**QUITCLAIM DEED
 (MARRIED PERSON)**

File **2017-00035493**

KNOW ALL MEN BY THESE PRESENTS:

THAT I, Richard Bruce Farkas, Grantor, a married person, for and in consideration of the sum of Ten Dollars (\$10.00), paid by Carol Lynn Gregory, my wife, Grantee, the receipt of which is hereby acknowledged, do hereby grant, convey and quitclaim unto Richard Bruce Farkas and Carol Lynn Gregory, Husband and Wife Grantees, and unto Grantees' successors and assigns forever, all of my right, title, interest, equity and estate in and to the following lands lying in the County of Washington, State of Arkansas:

Part of the South Half (S/2) of the Southeast Quarter (SE/4) of the Northeast Quarter (NE/4) of Section 30, Township 16 North, Range 29 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said S/2 of the SE/4 of the NE/4, thence South 00°00'41" West 347.16 feet; thence South 79°42'25" East 433.66 feet to the Point of Beginning; thence South 79°42'25" East 907.92 feet to the East line of said S/2 of the SE/4 of the NE/4; thence North 00°00'49" East 584.10 feet along said East line; thence North 89°52'46" West 817.03 feet along the north line of said S/2 of the SE/4 of the NE/4; thence South 10°13'38" West 430.43 feet to the Point of beginning, containing 9.96 acres, more or less, and subject to any easements of record or not of record. And an easement over and across the following described lands, to-wit: Part of the S/2 of the SE/4 of the NE/4 of Section 30, Township 16 North, Range 29 West, Washington County, Arkansas; being more particularly described as follows: Commencing at the NW corner of said S/2 of the SE/4 of the NE/4, thence S01°00'41" W 347.16 feet, thence S 79°42'25" E 433.66 feet to the point of beginning, thence N10°13'38" E 60.00 feet, thence N 79°42'25" W 444.47 feet, thence S0°00'41" W 60.98 feet, thence S79°42'25" E 433.66 feet to the point of beginning.

To have and to hold the same unto the said Grantees, and unto Grantees' successors and assigns forever, with all tenements, appurtenances and hereditaments thereunto belonging.

WITNESS my hand and seal this 20th day of November, 2017.


 Richard Bruce Farkas, Grantor

ACKNOWLEDGMENT

STATE OF ARKANSAS

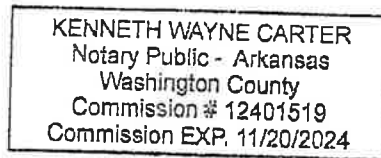
§
 §

COUNTY OF WASHINGTON §

On this 20 day of November, 2017, the above signatory, Richard Bruce Farkas, (known to or satisfactorily proven to me to be the same) personally appeared before me, a duly commissioned Notary Public, and personally executed this writing before me, acknowledging that he freely did same for the purposes stated in this writing.

My commission expires:
11-20-2024

Kenneth Wayne Carter
Notary Public



After recording please return to:
Waco Title Company
6815 Isaac's Orchard Rd, Ste D
Springdale, AR 72762

File# 2017-00002726

**WARRANTY DEED
(TRUSTEE)**

File #: 1613190-103

KNOW ALL MEN BY THESE PRESENTS:

That, **Victoria G. Mayo, Trustee of the Victoria G. Mayo Revocable Trust u/t/d October 1, 2001,** hereinafter called GRANTOR, for and in consideration of the sum of ---ONE AND 00/100--- DOLLARS---(\$1.00)---and other good and valuable consideration in hand paid by **Richard B. Farkas and Carol L. Gregory, husband and wife,** the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto **Richard B. Farkas and Carol L. Gregory, husband and wife,** hereinafter called GRANTEE(S), and unto their heirs and assigns forever, the following lands lying in **Washington County, Arkansas** to-wit:

Part of the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 30, Township 16 North, Range 29 West, Washington County, Arkansas being more particularly described as follows: Beginning at the Northwest corner of said South 1/2 of the Southeast 1/4 of the Northeast 1/4, thence South 00° 00' 41" West 347.16 feet, thence South 80° 41' 34" East 433.72 feet, thence North 10° 13' 38" East 422.97 feet, thence North 89° 52' 46" West 503.04 feet to the point of beginning, containing 4.11 acres more or less, and subject to the Right-of-Way of Washington County Road 169 along the West side of the property and a 60 foot wide easement for ingress and egress along and parallel to the South line of the property.

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

TO HAVE AND TO HOLD the same unto the said Grantee(s) and unto their heirs and assigns forever, with all appurtenances thereunto belonging. And the Grantor hereby covenant with said Grantee(s) that the Grantor will forever warrant and defend the title to the said lands against all claims whatsoever.

Prepared under the supervision of
Brian Blackman, Attorney
6815 Isaac's Orchard Road
Springdale, AR. 72762

WITNESS my hand and seal on this 20 day of January, 2017.

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this instrument.

The Victoria G. Mayo Revocable Trust
u/t/d October 1, 2001

GRANTEE OR AGENT: Richard B. Farkas & Carol L. Gregory

GRANTEE'S ADDRESS: 2748 S. Hunt Lane
Fayetteville, AR 72701

Victoria G. Mayo
By: Victoria G. Mayo, Trustee

ACKNOWLEDGMENT

STATE OF Arkansas)
COUNTY OF Washington) SS.

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, and appeared in person the within named **Victoria G. Mayo, Trustee of the Victoria G. Mayo Revocable Trust u/t/d October 1, 2001**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, and stated that she was duly authorized in such capacity to execute the foregoing Warranty Deed by Trustee for and in the name and behalf of said Trust, and further stated and acknowledged that she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 20th day of January, 2017.

[Signature]
Notary Public

My commission expires:

9-22-21



EXHIBIT “G”

Hamm

File# 2019-00011242

QUITCLAIM DEED

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WE, Debbie Jean Boyce, David Doyne Hamm, and Sandra Jeanne Hamm also known as Sandra Hamm Martini, hereafter Grantor whether one or more, for and in consideration of the sum of Ten and no/100 dollars (\$10.00) and other good and valuable consideration, in hand paid by Hamm Land & Cattle LLC, an Arkansas limited liability company, Grantee, the receipt of which is hereby acknowledged, do hereby grant, bargain, convey, and quitclaim unto the said Grantee, and unto Grantee's successors and assigns forever, all of Grantor's interest in and to the following lands, located in Washington County, Arkansas to-wit:

The fractional Northwest Quarter of the Northwest Quarter (Frl. NW ¼ of the NW ¼) and the West Half (W ½) of the Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼); and the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼); and the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼); and 19 rods of equal and uniform width off the North side of the Fractional Southwest Quarter of the Northwest Quarter (Frl. SW ¼ of NW ¼); all in Section Thirty (30) in Township Sixteen (16) North of Range Twenty-nine (29) West, and containing in all 149.97 acres, more or less.

(Legal description provided to Scrivener by Grantor.)

TO HAVE AND TO HOLD the same unto the said Grantee and unto Grantee's successors and assigns forever with all appurtenances thereunto belonging.

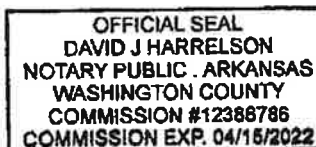
**This instrument prepared by:
Coleman Taylor PLLC
Attorney at Law
P.O. Box 8068
Payetteville, AR 72703**


David Doyne Hamm

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

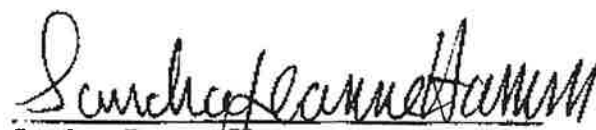


On this day before the undersigned, a notary public, duly qualified and acting in and for the county and state aforesaid, personally appeared David Doyne Hamm, to me well known to be the person whose name appears as Grantor in the foregoing instrument, and stated that he had executed the same for the consideration, uses, and purposes therein stated.

In witness whereof, I hereunto set my hand and seal on this 16th day of April 2019.


Notary Public

My commission expires: 04/15/2022
(Seal)


Sandra Jeanne Hamm, also known as
Sandra Hamm Martini

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this day before the undersigned, a notary public, duly qualified and acting in and for the county and state aforesaid, personally appeared Sandra Jeanne Hamm also known as Sandra Hamm Martini, to me well known to be the person whose name appears as Grantor in the foregoing instrument, and stated that she had executed the same for the consideration, uses, and purposes therein stated.

In witness whereof, I hereunto set my hand and seal on this 19th day of April 2019.


Notary Public

My commission expires: 6-30-2028
(Seal)

I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument. (NO TAX DUE).




Grantee or Grantee's Agent
Grantee's Mailing Address:
2395 S. Hunt Lane
Fayetteville, AR 72701

WITNESS our hands and seals this 15 day of APRIL 2019.

Debbie Jean Boyce
Debbie Jean Boyce

ACKNOWLEDGMENT

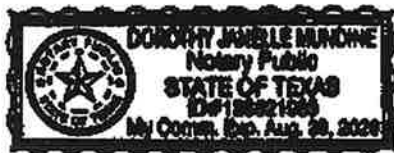
STATE OF TEXAS
COUNTY OF BEXAR

On this day before the undersigned, a notary public, duly qualified and acting in and for the county and state aforesaid, personally appeared Debbie Jean Boyce, to me well known to be the person whose name appears as Grantor in the foregoing instrument, and stated that she had executed the same for the consideration, uses, and purposes therein stated.

In witness whereof, I hereunto set my hand and seal on this 15 day of APRIL 2019.

Dorothy J. Mardine
Notary Public

My commission expires: AUGUST 30, 2020
(Seal)



Washington County, AR
I certify this instrument was filed on
4/23/2019 10:23:18 AM
and recorded in REAL ESTATE

File# 2019-00011242
Kyle Sylvester - Circuit Clerk

[Signature]

File# 2023-00010239

QUITCLAIM DEED (LLC)

KNOW ALL PERSONS BY THESE PRESENTS:

THAT Hamm Land & Cattle LLC, an Arkansas limited liability company, Grantor, for and in consideration of the sum of ten and no/100 dollars (\$10.00) and other good and valuable consideration, in hand paid by David D. Hamm, Trustee, **David D. Hamm Revocable Trust Under Declaration Dated April 19, 2018**, Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, convey, and quitclaim unto the said Grantee, and unto Grantee's heirs, successors and assigns forever, all of Grantor's interest in and to the following lands, located in Washington County, Arkansas, to-wit:

Part of the Southwest Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Thirty (30), Township Sixteen (16) North, Range Twenty-Nine (29) West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Southeast corner of said 40-acre tract, said point being in Hunt Lane; thence along said Lane North, 296.18 feet; thence leaving said Lane West, 441.21 feet; thence South, 296.18 feet; East, 441.21 feet to the point of beginning and containing 3 acres, more or less and subject to that portion which lies in Hunt Lane on the East side.

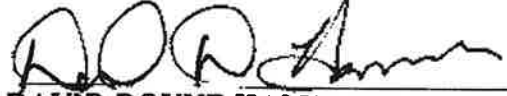
TO HAVE AND TO HOLD the same unto the said Grantee and unto Grantee's heirs, successors and assigns forever with all appurtenances thereunto belonging.

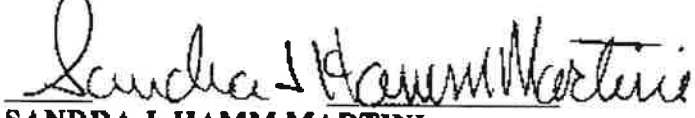
This instrument prepared by

Coleman Taylor PLLC
Attorney at Law
P O Box 8068
Fayetteville AR 72703

WITNESS our hands and seals on this 26 day of Apr., 2023.

Hamm Land & Cattle LLC


DAVID DOYNE HAMM, MANAGER


SANDRA J. HAMM MARTINI,
MANAGER

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

In said County and State, on this day, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **David Doyne Hamm and Sandra J. Hamm Martini**, to me personally known (or satisfactorily proven), who stated that they are the **Managers of Hamm Land & Cattle LLC**, an Arkansas limited liability company, and are duly authorized in their capacities to execute and deliver the foregoing instrument for and in the name and behalf of said Grantor, and further stated and acknowledged that he has so signed, executed, and delivered said instrument in the capacity and for the consideration, uses, and purposes therein mentioned and set forth.

In witness whereof, I hereunto set my hand and seal on this 26 day of Apr., 2023.

My commission expires: 12/30/31
(Seal)



I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument. (NO TAX DUE).

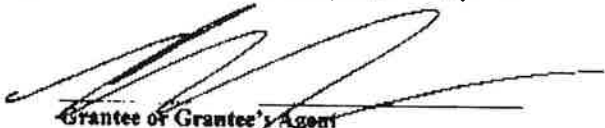

Grantee or Grantee's Agent
Grantee's Mailing Address:
2395 S. Hunt Lane
Fayetteville, AR 72701

EXHIBIT “H”

Maps



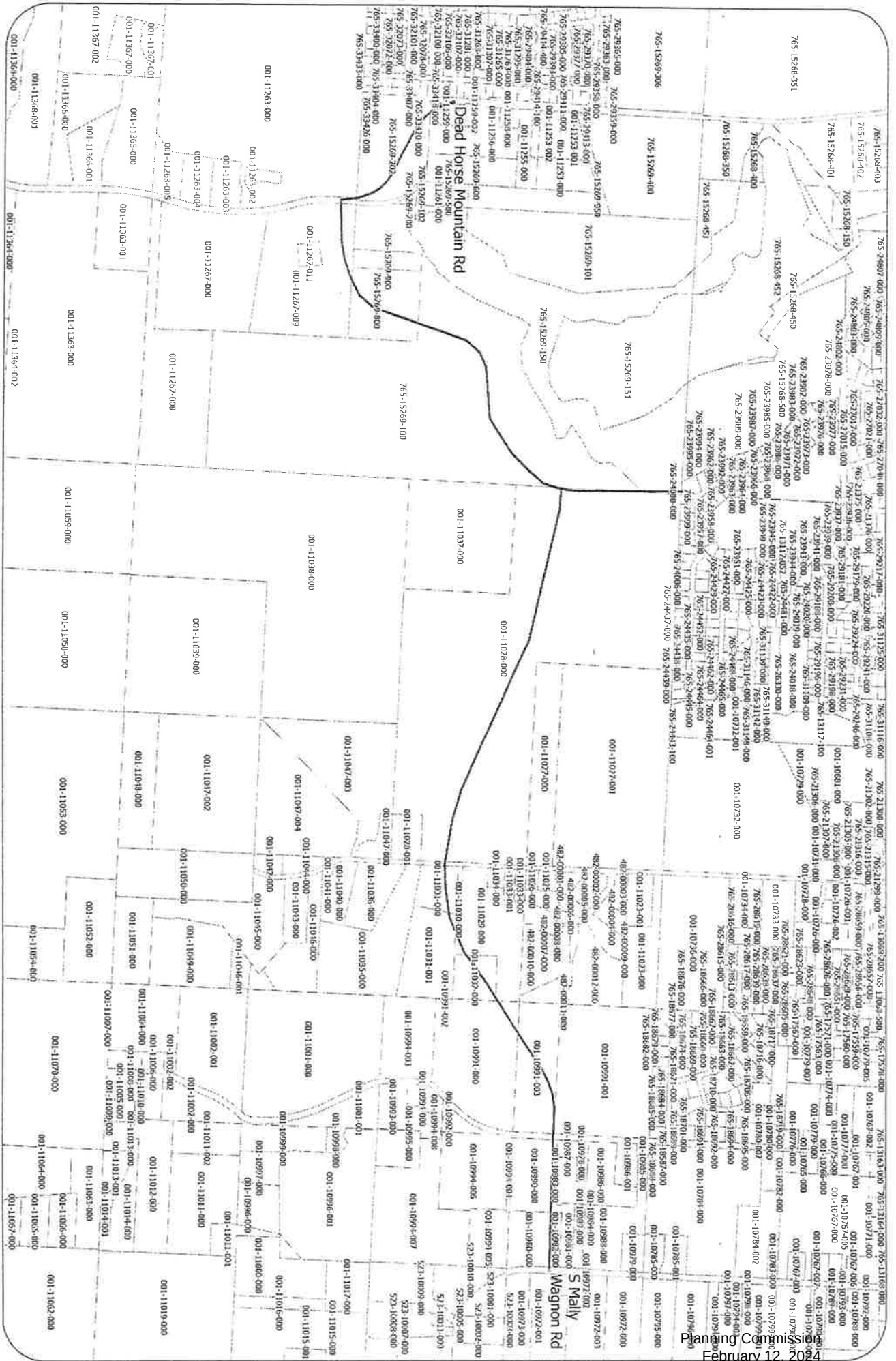
42

Planned Street

Parcels



County Disclaimer: These maps were created by Washington County using data created or acquired by its Assessor's office, Dept. of Emergency Management, and Road Department and in accordance with Arkansas Code 15-21-502 (2) (B), which states "The digital cadastre manages and provides access to cadastral information. Digital cadastre does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastre," and Arkansas Code 15-21-502 (6) which indicates that "Digital cadastre means the storage and manipulation of computerized representations of parcel maps and linked databases." These maps have been developed from the best available sources. No guarantee of accuracy is granted, nor is any responsibility for reliance thereon assumed. In no event shall said Washington County be liable for direct, indirect, incidental, consequential or special damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising out of use or reliance on the maps. The parcel lines shown are considered a graphical representation of the actual boundaries. Washington County is in no way responsible for or liable for any misrepresentation or re-use of these maps. Distribution of these maps are intended for informational purposes and should not be considered authoritative for engineering, legal and other site-specific uses.



County Disclaimer: These maps were created by Washington County using data created or acquired by its Assessor's office, Dept. of Emergency Management, and Road Department and in accordance with Arkansas Code 15-21-502 (2) (6), which states: "The digital cadastral managers and provides access to cadastral information. Digital cadastral maps do not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastral, and databases." These maps have been developed from the best available sources. No guarantee of accuracy is granted, nor is any responsibility for reliance thereon assumed. In no event shall said Washington County be liable for direct, indirect, consequential or special damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising out of use of or reliance on the maps. The parcel lines shown are considered a graphical representation of the actual boundaries. Washington County is in no way responsible for or liable for any misrepresentation or re-use of these maps. Distribution of these maps are intended for informational purposes and should not be considered authoritative for engineering, legal and other site-specific uses.

Date Printed: 12/7/2023

Planning Commission
February 12, 2024

EXHIBIT “I”

Wang Request to City

To whom it may concern:

I am writing to you to request the review and removal or modification of a future residential link that passes through a parcel of land that I currently own and am attempting to sell. Please reference the attached survey (uploaded as supplemental information) for parcel ID 001-10991-103, address listed as 2277 Ed Edwards Rd, Fayetteville, AR 72701. The survey shows the future residential link in "Tract B", which is the parcel of land I own.

From reviewing the "City Plan 2040" document, the "Residential Link Street" design of 52' of right of way access would affect the majority of any construction plans for this piece of land (home construction, neighborhood development). There have already been several potential buyers that have brought this issue up and wanted additional guarantees from my end to state that a road would not be built, which of course I am unable to provide.

While I understand this residential link has no immediate dates of construction, in my request I would like to understand any available options that could lead to removing this link from the master road plan. Or alternatively, any possible modifications to this residential link that would improve my chances to sell this property and reassure any future owners that their designs for the land will not be impacted.

Thank you for your time and considering this request,

Kevin Wang

515-556-2433

wangkisu@gmail.com

Supplemental Information for amendment ADM-2023-0041

Primary request is for the removal of the residential link that goes through parcel listed in ADM-2023-0041. However, if removal is not able to be approved, **Exhibit B** shows a proposed alternate route of the residential link compared with how it is currently laid out on the parcel (**Exhibit A**). In addition, a request for the design of the residential link to be the “Alternative Residential Link Street (Local)” design, (pg. 143, City Plan 2040 document) instead of the “Residential Link Street (Local)” design (pg. 142, City Plan 2040 document).

If that alternative route is not possible, I am open to other alternative routes that will help minimize the residential link getting in the way of future construction on the property (home, septic fields, farm use, etc.). This would still help alleviate potential buyer concerns if/when this residential link is to be built.

Exhibit C shows the contingency requested from a potential buyer requesting the sale be dependent on removing the proposed road from the 2040 Master Street Plan. Realtor clarified the “feasibility study” being their attempt to propose an amendment to the city. Similar requests have been brought up by potential buyers asking for documentation stating that the residential link will not be built in the future, which is not feasible.

This is mainly to show the added difficulty in selling this property due to the concerns of this residential link.

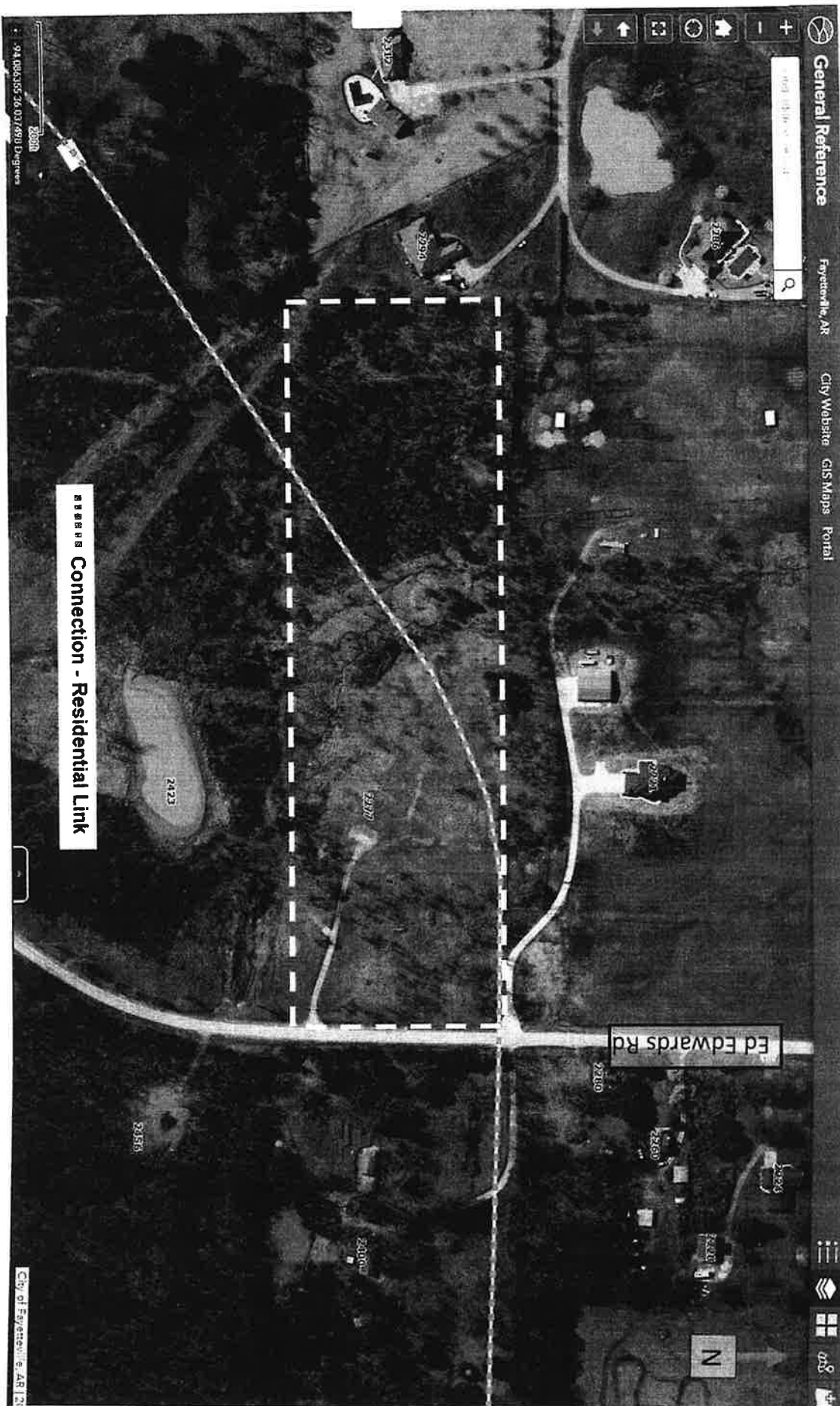


Exhibit A

Screenshot from GIS map with layer showing the existing City Plan 2040 Master Street Plan at 2277 S Ed Edwards Rd

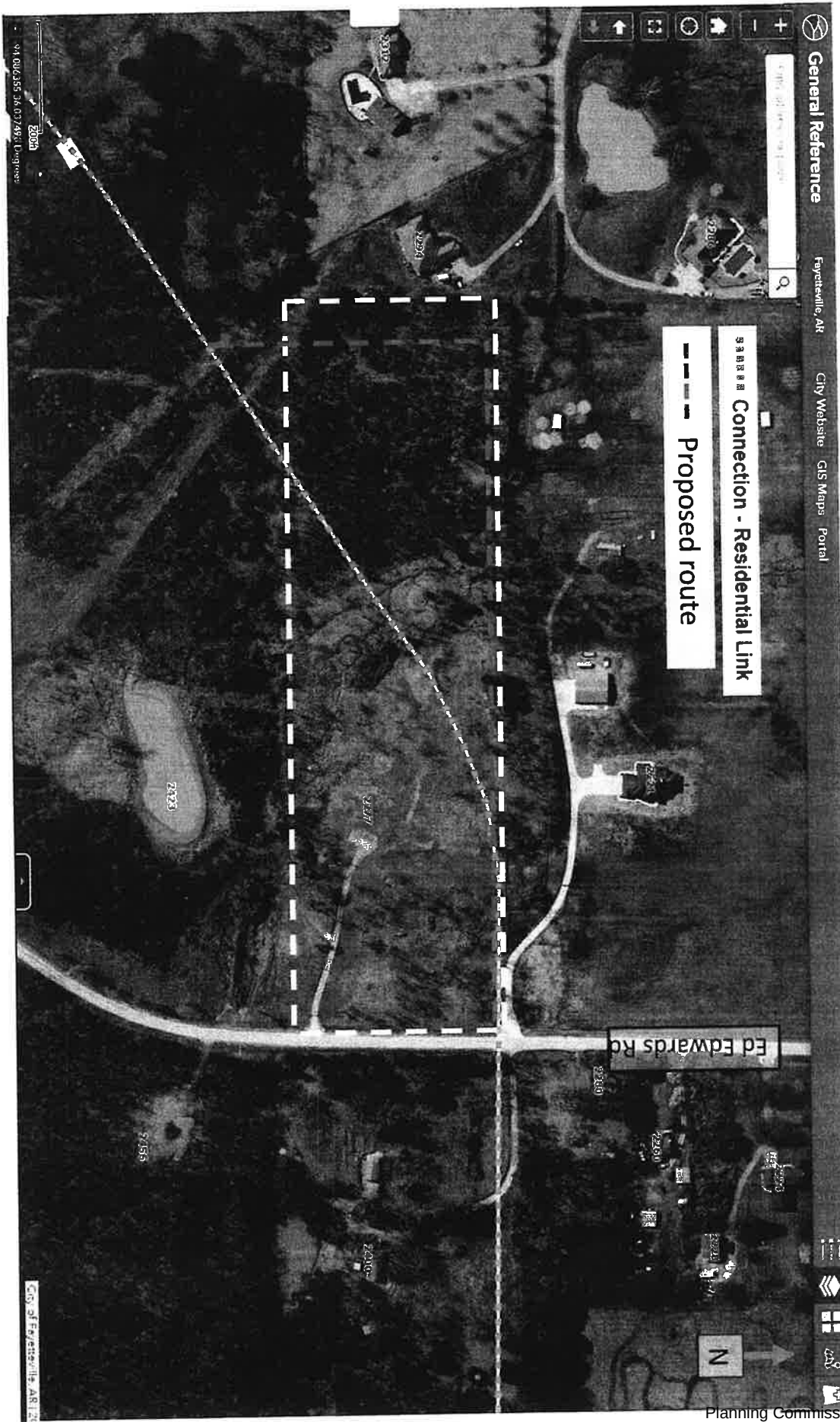


Exhibit B

Proposed re-route of Residential Link if not able to be removed from the Master Street Plan

Exhibit C

Example of recent offer from potential buyer adding in a contingency concerning the residential link

Real Estate Contract
(Lots and Acreage)

Page 7 of 11

Form Serial Number: 032653-300769-3607917

17. OTHER CONTINGENCY:
☐ A. No Other Contingency (Except for those conditions listed elsewhere in this Real Estate Contract.) It is understood and agreed that Seller has the right to enter into subordinate Real Estate Contracts and other Real Estate Contracts shall not affect this Real Estate Contract.
☒ B. This Real Estate Contract is contingent upon:
OBTAINING SATISFACTORY RESULTS OF A FEASIBILITY STUDY, IN BUYER'S SOLE DISCRETION, WITHIN 122 DAYS AFTER ACCEPTANCE

on or before (month) September (day) 5 (year) 2023

During the term of this Real Estate Contract (Select one):
☐ (i) Binding with Escape Clause: Seller has the right to continue to show the Property and solicit and enter into another Real Estate Contract on this Property. However, all Real Estate Contracts shall be subject to termination of this Real Estate Contract. Should Seller elect to provide written notice of an additional Real Estate Contract being accepted by Seller, Seller shall utilize the Seller's Contingency Notice Addendum (the "Notice") and Buyer shall have _____ hours to remove this contingency. Buyer shall be deemed in receipt of the Notice upon the earlier of (a) actual receipt of the Notice or (b) two (2) business days after Seller or Listing Firm deposits the Notice in the United States mail, certified for delivery to Buyer at _____ with sufficient postage to ensure delivery. Removal of this contingency shall occur only by delivery of the Notice, in a manner ensuring actual receipt, to Seller or Listing Firm. Time is of the essence. In the event Buyer removes this contingency and does not perform on this Real Estate Contract for any reason concerning this contingency, Seller may assert all legal or equitable rights that may exist as a result of Buyer breaching this Real Estate Contract. Alternatively, Seller, at his sole and exclusive option may retain the Earnest Money, as liquidated damages. If this contingency is removed, a Closing date shall be agreed upon by the parties. If a Closing date is not agreed upon, Closing shall occur _____ calendar days from removal. Should Buyer not remove this contingency as specified, then this Real Estate Contract shall be terminated with Buyer and Seller both agreeing to sign a Termination of Contract Addendum with Buyer to recover Earnest Money. All time constraints in this Real Estate Contract referred to in Paragraphs 6, 10, 11, 19, and 21B refer to the time Buyer removes the contingency.
☒ (ii) Binding without Escape Clause: It is understood and agreed Seller has the right to enter into subordinate Real Estate Contracts, and other Real Estate Contracts shall not affect this Real Estate Contract.

Page 7 of 11

Copyright 2021 Arkansas REALTORS' Association

EXHIBIT “J”

Contact Information for Petitioners

Ronald G. and Marsha C. Woodruff
ronwoodruff40@gmail.com
2303 S. Mally Wagnon Road
Fayetteville, AR 72701
(479)841-8790

Allan and Velva L. Kline
vkline2@icloud.com
2400 S. Ed Edwards Road
Fayetteville, Arkansas 72701
(479)521-5922

Kevin and Lucia Wang
wangkisu@gmail.com
2277 S. Ed Edwards Road (physical address)
Fayetteville, AR 72701
614 Oriole Drive
Springdale, AR 72762 (mailing address)
(515)556-2433

Steve and Candy Warden
sleej32@hotmail.com
2555 S. Ed Edwards Road
Fayetteville, AR 72701 (physical address)
P. O. Box 11130
Fayetteville, AR 72703 (mailing address)
(479)684-1807

Jerry and Shirley Durning
eansduring@aol.com
2600 S. Hunt Lane
Fayetteville, AR 72701
(479)442-6367

Richard Farkas and Carol Gregory
clgpa27@gmail.com
2748 S. Hunt Lane,
Fayetteville, AR 72701
(479)530-3456

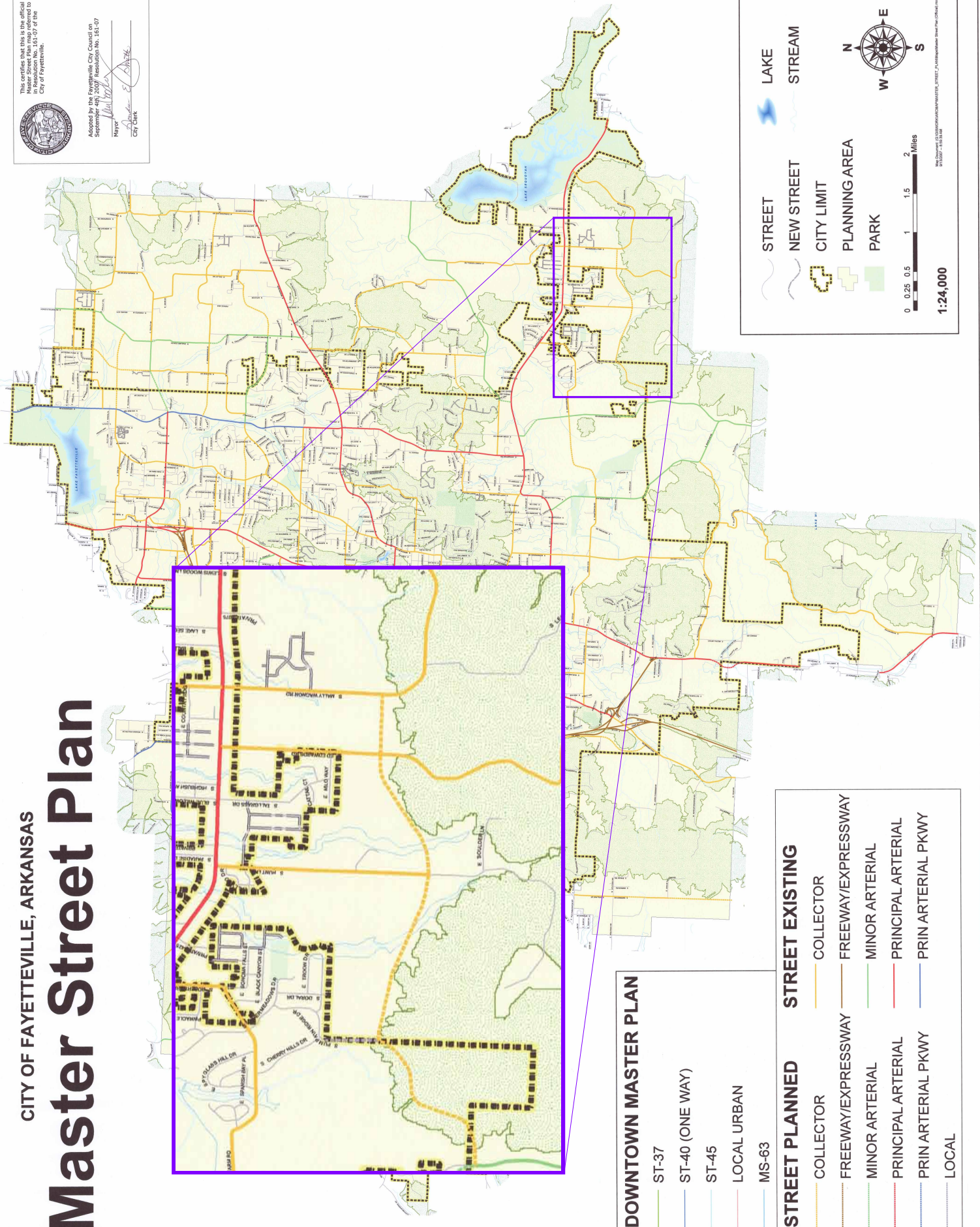
David Hamm
4218dhamm@gmail.com
2433 S. Hunt Lane
Fayetteville, AR 72701 (physical address)
2395 S. Hunt Lane
Fayetteville, AR 72701 (mailing address)
(479)841-1905

Master Street Plan

This certifies that this is the official Master Street Plan map referred to in Ordinance No. 15,107 of the City of Fayetteville.

Approved by the Fayetteville City Council on September 4th, 2020 Resolution No. 15,107

Mayor *[Signature]*
City Clerk *[Signature]*



DOWNTOWN MASTER PLAN

- ST-37
- ST-40 (ONE WAY)
- ST-45
- LOCAL URBAN
- MS-63

STREET PLANNED

- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- PRIN ARTERIAL PKWY
- LOCAL

STREET EXISTING

- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- PRIN ARTERIAL PKWY
- LOCAL

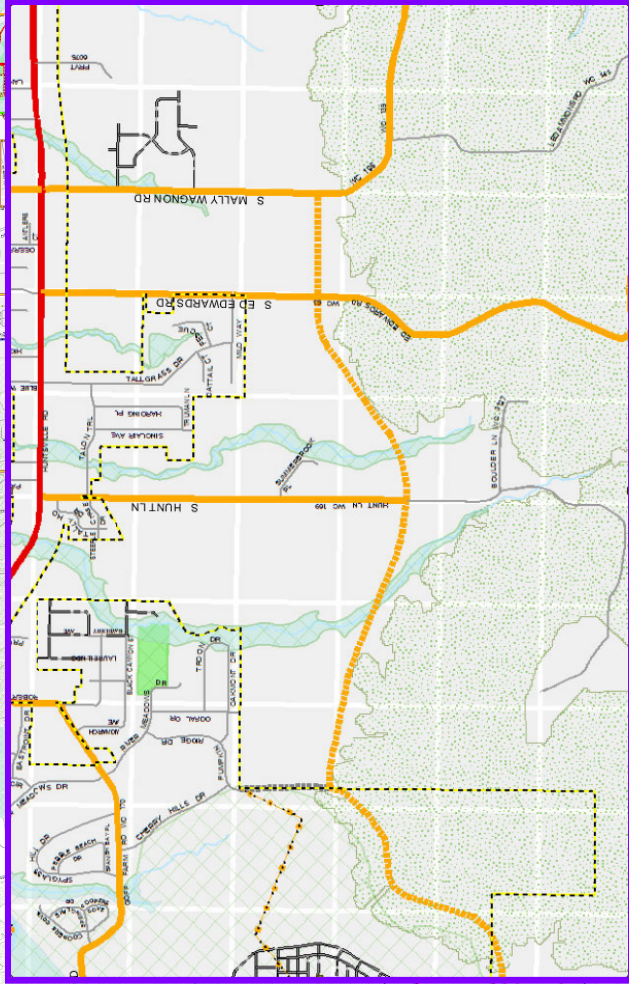
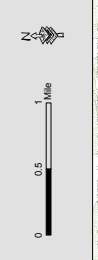
City Plan 2030

Master Street Plan

Fayetteville
ARKANSAS

Adopted by the Fayetteville City Council on
August 16, 2011 Resolution No. 146-11

Mayor _____
City Clerk _____



- Downtown Master Plan**
- ST-37
 - ST-43 (ONE WAY)
 - ST-44
 - LOCAL URBAN
 - MS-63
- EXISTING STREETS**
- U of A Campus Master Plan
 - COLLECTOR
 - FREEWAY/EXPRESSWAY
 - MINOR ARTERIAL
 - PRINCIPAL ARTERIAL
 - PRINCIPAL ARTERIAL PKWY
 - PRINCIPAL ARTERIAL PKWY
- PLANNING COMMISSION**
- Future Trails
 - Multi-Use Trails-Existing
 - Paved Street
 - Existing Green Network
 - Stream Polygons
 - 100 YEAR FLOOD
 - Planning Area Boundary
 - Blaine/Hilltop Overlay District
 - PARK
 - Other Cities
 - Quarter Mile Grid

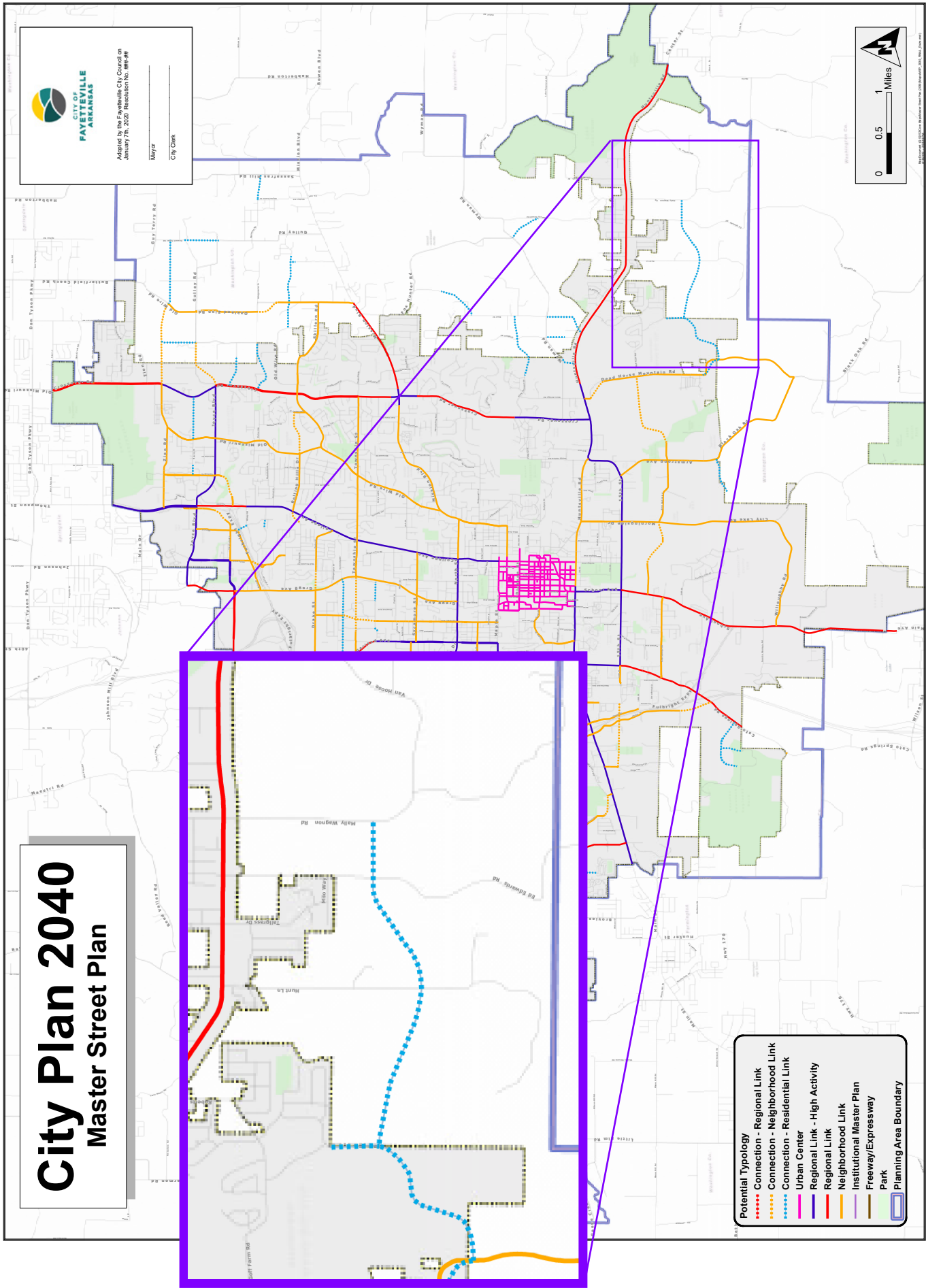


Figure 12.7 - Master Street Plan Map

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

From: Carol Gregory <clgpa27@gmail.com>

Sent: Wednesday, February 7, 2024 10:07 AM

To: Masters, Jessica <jmasters@fayetteville-ar.gov>; RONALD G. Woodruff <ronwoodruff40@gmail.com>; Jerry and Shirley Durning <eansdurning@aol.com>; David Hamm <4218dhamm@gmail.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; Steve Warden <sleej32@hotmail.com>; Velva Kline <vkline2@icloud.com>

Subject: Re: Master Street Plan - Resolutions

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Good Morning Jessie,

Thank you again for taking the time to listen to the Petitioner's concerns at our Monday meeting. I have attached a letter to the Planning Commissioners that I wish to have included in the agenda package. I am concerned about the extreme limitation on the Petitioner's speaking times and am asking in my letter that consideration be given to expanding the time to 3 minutes each so that Petitioners are afforded at least the same amount of time as the general public. It would be helpful for us to know just how much time will be given to us to speak before we arrive on Monday the 12th of February, so that we can adequately prepare. If that issue could be resolved at the agenda session and the results conveyed to us, we would appreciate that very much.

Sincerely,

Carol Gregory

*Carol Gregory
Attorney at Law
2748 S Hunt Lane
Fayetteville, AR 72701
(479)530-3456
clgpa27@gmail.com*

February 6, 2024

RE: Proposed Residential Link Street from Dead Horse Mountain Road to
Mally Wagnon Road

Fayetteville City Planning Commissioners:

My name is Carol Gregory. I've lived at 2748 S Hunt Lane for the past 27 years with my husband Richard Farkas. I am a licensed attorney who practiced mostly real estate law for a number of years.

I had planned to make these remarks in person on Monday night. However, since I've been informed by staff that I will have either 30 seconds or one and a half minutes of speaking time (10 minutes divided by 7 or 13 petitioners depending upon whether families or individuals are counted), I decided that writing was in order. I respectfully request that

speaking time for at least one Petitioner per household be extended to 3 minutes each, so that Petitioners are accorded the same amount of time as the public at large. It seems only fair.

I only very recently learned that this proposed residential link street would traverse my 14 acre sanctuary, where I care for 2 rescued elderly dwarf Shetland therapy ponies and an elderly mini donkey named Buster. As a result of my care for these animals, I am able to supply something that I call “magic pony poo” (compost) to 15 back-yard gardeners in the community. The proposed link street would cut through my property, place my animals in jeopardy, reduce my acreage and limit my ability to access the portion of land which would be on the other side of the street from my home.

One of my chief concerns about this proposed project is the effect that it would have on a major watershed. There are two creeks and three ponds located on my property. One of the ponds is spring fed. One of the creeks is the watershed for much of the Bear Mountain range and it is located only a few feet from my house. It is a wet weather creek, but there are times of the year when massive amounts of water flow off the mountain range, down the creek behind my house, into our ponds and on downstream. Both creeks feed ponds that hold large amounts of water from the watershed. The proposed street would cross both of those creeks, as well as destroy two of our ponds, including the one that is spring fed. The proposed road construction would obstruct the flow of water coming through the creeks and ponds, unless massive infrastructure is built to handle the full amount of the flow. I am reasonably certain that our house will flood if this project is constructed. In fact, just a few years ago, my garage and hay barn were placed within a revised flood plain, and my house sits on the edge of that flood plain. The main reason that I am here is to put the city on notice that my home will flood if it goes through with this project, and mine will not be the only one that will be adversely affected. I understand that city engineers believe that this is not an issue, because they can engineer around any problem, but there are people all over town who have experienced otherwise, including people very near me in Stone Bridge Subdivision whose houses flooded because the city used undersized culverts in that project. In just the last couple of weeks, I’ve heard from a steady stream of citizens who have experienced significant flooding and erosion as a result of city interference with their land.

In addition, I wish to persuade you that there is no need for this project. There are currently existing streets adequate to accommodate traffic well into the future. It’s my understanding that further widening of Hwy 16 is to take place later this year and eventually will be 4 lane all the way to Elkins. Right now, there are ample connections between Hunt Lane and Ed Edwards Road. Talon, Tallgrass and Milo already serve as connector streets between Hunt Lane and Ed Edwards Road. These alternative routes have the benefit of avoiding the necessity of eminent domain, the costs of new street construction, moving utilities, contending with high voltage transmission lines owned by Ozarks Electric, and a major gas line as well. Furthermore, the existing streets go through residential neighborhoods and would not affect the Bear Mountain watershed, spring-fed

ponds, ongoing agriculture enterprises, and a trail system that I've spent years building on my property. The 2040 Plan specifically states that the taking of agriculture land and springs should be avoided, because of the need to maintain both in our environment. The US Constitution (Article XIV) requires that a citizen may not be deprived of property without due process of law, which is notification and an opportunity to be heard. Amendment V of the US Constitution states that private property shall not be taken for public use, without just compensation. It is my considered belief that if governmental entities were to give more deference to, and consideration of, this most basic land rights proposition, our nation's political climate would improve tremendously. In this case specifically, with no notice to my husband and me (or the other petitioners) whatsoever, and no opportunity to be heard, the city's act of placing a line on a map (the proposed road), or failing to remove that line, has reduced the fair market value of our property, places a cloud on our title, and affects our ability to sell should we need to do so in the future. All of this is done with no feasibility studies, no allocation of funds for the project, no condemnation proceedings and no payment to my husband and me for the diminished fair market value and inability to market and sell our land. We are not guessing about this. We have the current example of our fellow petitioners, Kevin Wang and his wife, who have had 3 separate contracts for the sale of their land, all with a contingency requiring the removal of the proposed roadway from their parcel. Now that we know that the city proposes this residential link street on our land we are obligated to disclose that to any potential buyer. The Arkansas Real Estate Disclosure form would require the disclosure, and any current survey will reveal the planned street. This disclosure puts the world on notice that our land is likely to be the subject of future eminent domain litigation, significantly reducing the pool of buyers, because of the associated costs, unknown outcome, and time involved.

Finally, I would also like you to understand who we the petitioners are in this case. Most of us are elderly people with health issues who value our quiet rural surroundings. My husband and I are both cancer survivors. The city's taking of our land has a detrimental effect on our health causing many of us to experience a great deal of stress at a time in our lives when that is the last thing in the world that we need. Some of us have respiratory health issues which will be exacerbated by the traffic related ozone and other pollutants that will collect in the bowl of Bear Mountain, if this project occurs.

Some of my neighbors have spent their entire lives on the land that they call home and have been entrusted by their ancestors, now long gone, to care for, protect, and preserve the land for future generations. I am asking that you please, for a moment put yourselves in our shoes and understand that we are already experiencing an unconstitutional taking of our most significant investment. Even before the official eminent domain proceeding occurs, our property has been placed in limbo while we wait for the city to decide whether it really will take, by way of eminent domain, and destroy our land. Meanwhile, we are unable to make decisions about our property and have to seriously consider whether we should be spending time and money maintaining and improving the home that we love

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

knowing that the city proposes to destroy it in the future. Please release us from this nightmare and vacate this proposed link street.

Your consideration of these matters is appreciated.

Sincerely,
Carol Gregory

From: RONALD G. Woodruff <ronwoodruff40@gmail.com>
Sent: Wednesday, February 7, 2024 10:50 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Cc: Carol Gregory <clgpa27@gmail.com>; Steve Warden <sleej32@hotmail.com>; Velve Kline <vkline2@icloud.com>; Jerry and Shirley Durning <eansdurning@aol.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; David Hamm <4218dhamm@gmail.com>
Subject: ADM 2024-0001

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Ms. Masters: Please past this message on to the Commission at their Agenda meeting today.

To the Planning Commission: Please take note that there are 7 individual property owners/applicants who have joined in this Petition. We could have sent seven proposals, but as a matter of economy of time and effort for the parties (owners and commissioners), we elected to bring our claims all together as one Petition. It would be appreciated if the commission would grant each owner the amount of time normally given to each applicant to present their position on points of interest and concern to your group.

Ron Woodruff
Petitioner/Property Owner/Applicant

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

From: Steve Warden <sleej32@hotmail.com>

Sent: Wednesday, February 7, 2024 1:56 PM

To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Carol Gregory <clgpa27@gmail.com>; RONALD G. Woodruff <ronwoodruff40@gmail.com>; Jerry and Shirley Durning <eansdurning@aol.com>; David Hamm <4218dhamm@gmail.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; Velva Kline <vkline2@icloud.com>

Subject: Re: Master Street Plan - Resolutions

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Jessica I appreciate you taking time to read our emails. I am not writing a long formal letter because Carol has already done a great job doing that. I am one of the petitioners so I know you feel bombarded by all our correspondence but if the planning commission follows through with only allowing 10 minutes between the 7 families that are on this petition to have input verbally then correspondence is our best option. I know these planning commission meetings can be long and often confrontational but that is not what I am a petitioner want for our group. Having been in many of meetings and speaking on occasion I know that the City want to provide infrastructure for future development to be mostly paid for by developers. Many connecting street are already constructed between Ed Edwards and Hunt Lane. There is one path from Hunt lane that would be much shorter to reach Roberts Road witch already tied into Dead Horse Mountain Road which by the way s turns into Stonebridge Rd. Which at this time is the only stop light between Crossover Road and HWY 74 in Elkins on Hwy 16. So no matter how you try and connect streets you are going to create a traffic nightmare beyond belief for Dead Horse Mountain Road. That road is already too small and too many hidden driveway and one the slippery

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From: Steve Warden <sleej32@hotmail.com>

Sent: Wednesday, February 7, 2024 2:10 PM

To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Carol Gregory <clgpa27@gmail.com>; RONALD G. Woodruff <ronwoodruff40@gmail.com>; Jerry and Shirley Durning <eansdurning@aol.com>; David Hamm <4218dhamm@gmail.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; Velva Kline <vkline2@icloud.com>

Subject: Re: Master Street Plan - Resolutions

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Most slippery s curves in the City. This is Steve Warden and I live at 2555 Ed Edwards Road. I have been here 4 years. I own nearly 30 acres but the bottom 21 are both effectively separated from me being able to utilize them past the proposed road. I have 5 Grandchildren that I intend to teach to hunt and fish on my property. The elevation changes on my property means that it could never be a subdivision. Not to mention I have a Home

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

with over 4,200 square ft at the top of that 21 acres with what I believe to be one of the best views in the area and I have spent a fortune creating this view. I am constantly fighting watershed on the gas line right of way that 1,300 feet long 60' wide in a grade probably 20% or better. The proposed road is quite possibly the worst place it could have ever been drawn. Please help us get it removed and let developers add roads as they are needed in the future when you can follow a correct path of notifications and public input each time a development tries to happen because I know one has already failed on Dead Horse Mountain road recently. Thanks, Steve Warden 479-684-1807

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From: eansdurning@aol.com <eansdurning@aol.com>

Sent: Wednesday, February 7, 2024 2:47 PM

To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Carol Gregory <clgpa27@gmail.com>; RONALD G. Woodruff <ronwoodruff40@gmail.com>; Velva Kline <vkline2@icloud.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; Steve Warden <sleej32@hotmail.com>; cigpa27@gmail.com

Subject: petition concerning connector street

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Hello, all,

I have written and rewritten so many times and lost so much sleep since this came to light in October, 2023. Having lived on Hunt Lane since 1946, I have a very strong attachment. Only child and with my one and only husband since 1969, we feel that we could lose our paradise. The line heads up our driveway, over my cherished creek, and dead on wipes out our two big Amco buildings and possibly our home, established in 1978. Eight model T and model A cars built by Bill Durning, surround Jerry in his man cave and refuge he visits most evenings. There are old-growth trees and dogwoods and redbuds in the path of the road. Our usually gentle creek will be eroded and our fields will be even more swampy. Birds and wildlife will lose cover and arable land destroyed forever. Those who make the decision must at least walk the path, hear the frogs and see what is at stake. Hunt Lane is special. My surviving childhood friends, neighbors and cousins have stayed or returned to live out their days here.

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

From: Ronald Woodruff <ronwoodruff40@gmail.com>
Sent: Wednesday, February 7, 2024 4:23 PM
To: eansdurning@aol.com
Cc: Carol Gregory <clgpa27@gmail.com>; Masters, Jessica <jmasters@fayetteville-ar.gov>; Kevin and Lucia Wang <wangkisu@gmail.com>; Steve Warden <sleej32@hotmail.com>; Velva Kline <vkline2@icloud.com>; cigpa27@gmail.com
Subject: Re: petition concerning connector street

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Hope you will be able to pass your passion for this property on to the commission. Ron Woodruff

On Wed, Feb 7, 2024 at 2:49 PM . <eansdurning@aol.com> wrote:
Hello, all,

I have written and rewritten so many times and lost so much sleep since this came to light in October, 2023. Having lived on Hunt Lane since 1946, I have a very strong attachment. Only child and with my one and only husband since 1969, we feel that we could lose our paradise. The line heads up our driveway, over my cherished creek, and dead on wipes out our two big Amco buildings and possibly our home, established in 1978. Eight model T and model A cars built by Bill Durning, surround Jerry in his man cave and refuge he visits most evenings. There are old-growth trees and dogwoods and redbuds in the path of the road. Our usually gentle creek will be eroded and our fields will be even more swampy. Birds and wildlife will lose cover and arable land destroyed forever. Those who make the decision must at least walk the path, hear the frogs and see what is at stake. Hunt Lane is special. My surviving childhood friends, neighbors and cousins have stayed or returned to live out their days here.

From: wangkisu@gmail.com <wangkisu@gmail.com>
Sent: Wednesday, February 7, 2024 4:56 PM
To: RONALD G. Woodruff <ronwoodruff40@gmail.com>
Cc: Masters, Jessica <jmasters@fayetteville-ar.gov>; Carol Gregory <clgpa27@gmail.com>; Steve Warden <sleej32@hotmail.com>; Velva Kline <vkline2@icloud.com>; Jerry and Shirley Durning <eansdurning@aol.com>; David Hamm <4218dhamm@gmail.com>
Subject: Re: ADM 2024-0001

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Hi Jessie,
In addition to the letters my fellow petitioners have sent, please include my attached letter for the commission.
Thank you
-Kevin

Kevin & Lucia Wang
Owners of 2277 Ed Edwards Rd, Fayetteville, AR 72701
515-556-2433
wangkisu@gmail.com

To the Fayetteville City Planning Commissioners:

I am writing this letter on behalf of myself and my wife, Lucia Wang, to explain and provide additional background information in the request to remove the “Residential Link” as referenced in our joint petition with my fellow neighbors.

We purchased this land back in October 2022 with the intention to build a forever home and made many land improvements (clearing/mulching) and started to finalize house plans. However due to personal and work related reasons, we had to put the property for sale in March of 2023, otherwise we found the area to have all the items we wanted in our forever home (privacy, natural scenery, beautiful landscape).

Since putting the property for sale, we’ve endured the following hardships:

- Land is priced within the comparable market analysis review (done by Luis Martinez with eXp Realty in Northwest Arkansas)
- The “Residential Link” in question shows up on my Survey (performed by Atlas Professional Land Surveying)
- I average several calls a month with potential buyers, who are unfamiliar with the “Master Street Plan” and bring up assumptions that the road is already budgeted to be built.
- I have a premade message that I send to each potential buyer, that explains what the Master Street Plan is and I use the same details that the city staff has explained to us petitioners in what this “residential link” is (not budgeted, no full approvals yet to proceed, but the intention is that it will get built if the plan is followed through). I also include contact information to the city staff to ask them directly if any questions.
- Most do not have follow up with questions after my explanation and do not reply with further interest.
- The few that are interested in purchasing my land and have submitted contractual offers include in their contingencies section, concerns relating to this “Residential Link” and specifically call it out in their real estate contract. Examples below of three offers we received:
 - Buyers requiring a “guaranteed letter” from the City stating this road won’t be built.
 - Offer from 9/1/23 - An additional 122 days to do their own petition to the city for the road’s removal, before closing date
 - Offer on 9/30/23 – A “due diligence” period of 90 days with right to withdraw if unable to receive approval from City
 - In addition to being unable to agree to the contingencies above due to the process required to review the status of this “Residential Link”, **all offers have come at a very reduced price below the market analysis price, which we will not agree to.**

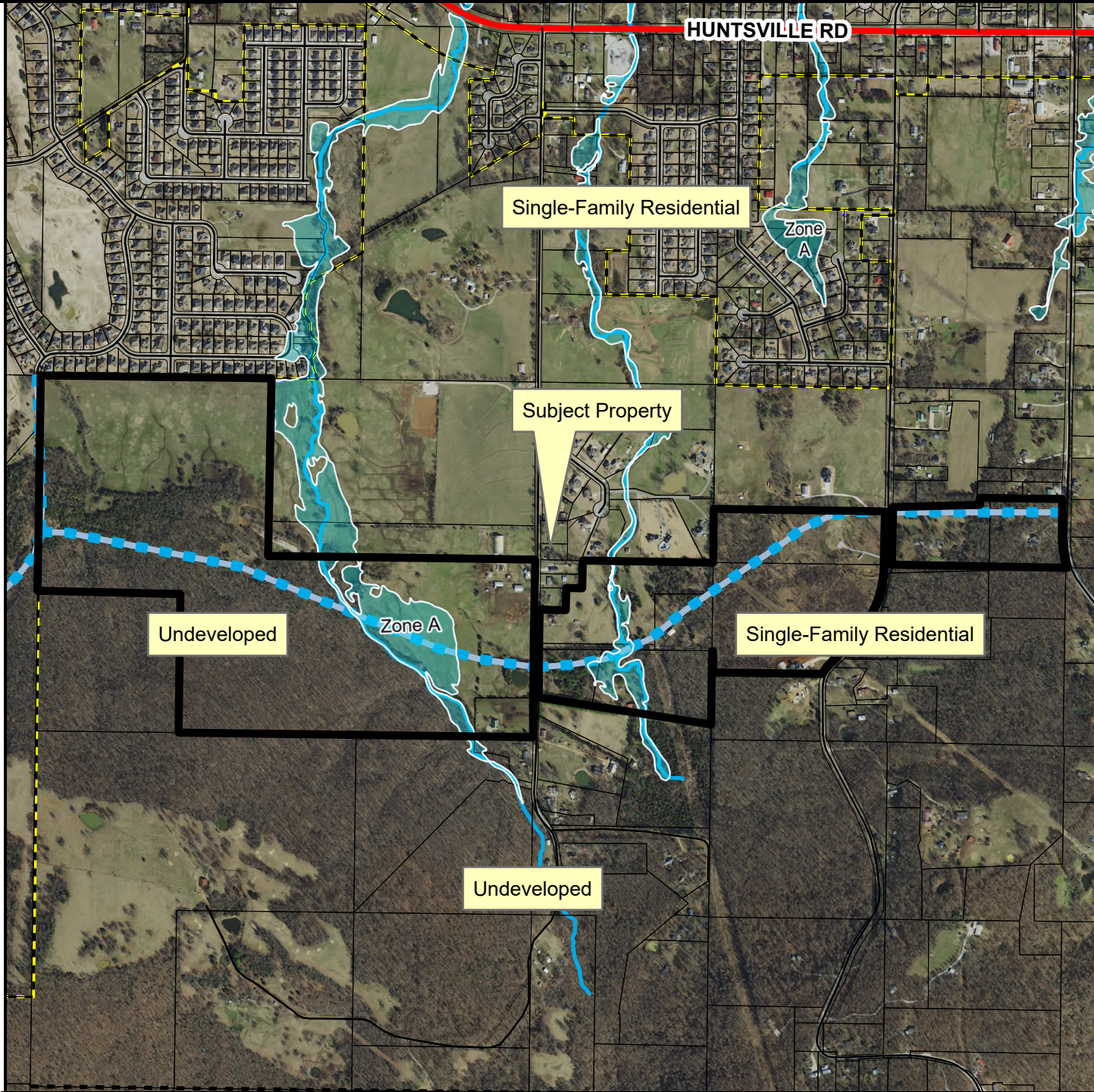
- We are not intending to profit from the sale of this land, but we are not willing to take such an extreme loss that is being caused by this “residential link”
- For the contracted offers that did not have contingencies, the price offered was at an even lower price below market value

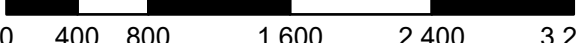
The petitioners recently had a meeting with the city staff, which I do appreciate their time in hearing our concerns. I await to review more information that calls out specifically, what data/facts was done to draw this “residential link” as it exists on the master street plan. I understand the benefits and importance of having a Master Street Plan, however I am asking the members of the planning commission to review the “residential link” in our petition and to look at the surrounding area in terms of topography, feasibility, constructability, and overall cost versus other more relevant road improvements that are needed. If this “residential link” is needed to support future growth, then all I ask is for the specific and measurable facts and data that justifies it.

While my wife and I have not owned our land for very long, it’s been very touching to meet so many of our neighbors who grew up on their land and expect to see their children to do the same. I just ask the amount of due diligence that was put into this “residential link” to be drawn the way it is, is shared with us so that we can understand the effort that was put into this road and see if that matches all the time, energy, and stress that this “line” on a map has clouded over us. But I also ask that you review that information and hopefully make the right decision in terms of the question “is this specific road” really needed?

Thank you for your time and consideration,

Kevin Wang



 Regional Link  Unclassified  Residential Link  Planned Residential Link  Trail (Proposed)  Planning Area  Fayetteville City Limits	Feet  0 400 800 1,600 2,400 3,200 1:13,000	FEMA Flood Hazard Data  100-Year Floodplain  Floodway
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TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: February 12, 2024

SUBJECT: **VAR-2024-0002: Planning Commission Variance (EAST OF 1905 E. MISSION BLVD./EAST MISSION BLVD. LLC, 370):** Submitted by DAKOTA DEVELOPMENT for property located EAST OF 1905 E MISSION BLVD. The property is zoned CS, COMMUNITY SERVICES and contains approximately 4.4 acres. The request is for a variance from access management standards.

RECOMMENDATION:
Staff recommends tabling **VAR-2024-0002**.

RECOMMENDED MOTION:
*"I move to table **VAR-2024-0002** until the February 26th Planning Commission meeting."*

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 12, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			



TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager
Chris Brown, Public Works Director

FROM: Alan Pugh, Staff Engineer

MEETING DATE: February 12, 2024

SUBJECT: **VAR-2024-0003: Variance (3733 E Natchez Trace, 295):** Submitted by Brent and Jennifer Peterson for property located at 3733 E Natchez Trace. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY 4 UNITS PER ACRE and contains approximately 1 acre. The request is a variance from streamside protection requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0003** with conditions.

RECOMMENDED MOTION:

"I move to approve **VAR-2024-0003** with conditions, determining:

- In favor of the requested streamside protection variance; and
- In favor of all other conditions as recommended by staff.

BACKGROUND:

The subject property is located on the south side of E Natchez Trace, just west of its intersection with N Surrey Xing and located within the Savanna Estates Subdivision. The property totals approximately 1 acre and is currently developed with a single-family residence. The subject lot was platted in 1996 and the home constructed in 1997 according to the County records. An unnamed tributary to Flynn Creek is located on the rear portion of the subject property. Although the home was constructed prior to the Streamside Protection Ordinance, the tributary is considered protected following the 2011 adoption of the Streamside Protection Zones ordinance. 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	RSF-4, Residential Single-family, 4 Units per Acre
South	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
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre

Proposal: The applicant proposes an in-ground pool on the southern portion of their property. As shown on the attached exhibits, the protection area does occupy the majority of the rear yard and would prevent the installation of the below ground pool in the rear yard as shown.

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

DISCUSSION:

The proposed project includes the construction of an in-ground pool and additional riparian landscaping as shown on the attached exhibits. As noted, the existing streamside protection zones encompass most of the rear yard of the home. As such, the construction of an in-ground pool would not be allowed by ordinance or feasible in the area outside of the protection zones. There was discussion with the applicant about relocating the pool on their property but for the reasons outlined in the request letter those were deemed not feasible.

However, as outlined in the attached request letter, staff does feel that the applicant has a unique need for the pool in question. Although there are currently two planting beds adjacent to the stream within the waterside zone, there is also an opportunity to enhance the zone and improve the vegetated buffer from the existing turf grass. Given that, the owner has agreed to create a more robust riparian zone within the waterside zone by replacing the existing turf grass with a combination of native trees, shrubs and grasses to offset the proposed encroachment. The owner also currently owns and controls a parcel of land on the south side of the creek as well. This area is currently vacant with mature trees. It is also in the streamside zones; however, the owner has expressed desire to maintain this area as a natural area with the current trees on the property. This would limit any encroachment on the south side of the stream as well.

RECOMMENDATION: Staff recommends approval of **VAR-2024-0003**, subject to the following conditions:

Conditions of Approval:

1. Applicant shall locate the pool such that the pool and any decking is outside of the waterside zone.
2. Applicant shall enhance the riparian buffer zone with a combination of native trees and shrubs. A final landscape plan shall be submitted and approved by staff prior to any construction permits within the encroachment being issued.
3. The current owner shall disclose to any potential buyer of the lot/home affected that the lot/home is subject to the streamside ordinance and they will be responsible for compliance as the owner. This disclosure shall include a description of the purpose of any features constructed to comply with this variance request and the fact that the features must be maintained in order for the lot to remain in compliance.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>February 12, 2024</u>	☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

Section 156.03 Development Variances

Certain variances of the development regulations may be applied for as follows:

(C) Consideration by the Planning Commission

(9) Streamside Protection Zones

- (a) *Undue hardship.* If the provisions of the Streamside Protection Ordinance are shown by the owner or developer to cause undue hardship as strictly applied to the owner or developer's property because of its unique characteristics, the Planning Commission may grant a variance on a permanent or temporary basis from such provision so that substantial justice may be done and the public interest protected, provided that the variance will not have the effect of nullifying the intent and purpose of the Streamside Protection regulations.

The lot was platted previous to the streamside zones being adopted. The pool would not be allowed in the rear yard as noted. Alternate locations for the pool were discussed with the owner and the owner indicated those were not feasible for reasons outlined in the request; however, the determination of undue hardship is up to the commission.

- (b) *Consideration of alternative measures.* The applicant for the variance shall establish that a reasonable rezoning by the City Council or variance request from the Board of Adjustment will not sufficiently alleviate the claimed undue hardship caused by the Streamside Protection regulations.

Rezoning or rulings from the board of adjustments would not change the extent of the streamside protection zone and would not alleviate the need for a variance in this case.

- (c) *Conditions and safeguards.* In granting any variance, the Planning Commission may prescribe appropriate conditions and safeguards to substantially secure the objectives and purpose for the regulations so varied and to mitigate any detrimental effects the variance may cause. The Planning Commission should consider the Streamside Protection Best Management Practices Manual and any mitigation recommendations from the City Engineer.

See staff conditions listed above.

BUDGET/STAFF IMPACT:

None

Attachments:

- Applicant request letter
- Proposed variance request exhibit
- One Mile Map
- Close Up Map
- Current Land Use Map

Application for Variance to Fayetteville Stormwater Management Zone

3733 E Natchez Trace
Fayetteville, AR 72703

Lot 33, Savanna Estates, Phase IV, a Subdivision to the City of Fayetteville, Arkansas, as shown on plat of record in Plat Book 14, at Page 91, plat records of Washington County, Arkansas

ATTN: Chair of the Fayetteville Planning Commission

RE: Reduction in width of Streamside Protection Zone – Mitigation Area

We are applying for a variance to the Fayetteville Streamside Protection Zone enacted through Ordinance 11-5390, Chapter 168 Section 168.12 of the Fayetteville Code of Ordinances, to install an in-ground swimming pool within the Zone 2 Streamside Management Zone located on our property. There is no recommendation for swimming pools in the Streamside Protection Best Management Practices Manual. Our yard currently already has a riparian area along the stream.

We have been actively managing the tree population on our property, and have systematically added many new trees over the last few years. We have replaced trees that have a bigger impact on our allergies due to excessive pollen with varieties that do not impact our allergies as much. Specifically, we have added a greater variety of species including many evergreen varieties that do not shed pollen and leaves to the same degree as trees we have removed. We have increased the health and variety of the tree population on our property throughout our ownership.

Our insurance carrier requested that we remove trees from our property to reduce risk from damage due to falling trees and branches. There were three large trees in our back yard that were removed partly as a result of this request along with the condition of the trees. Our arborist also recommended that we remove these trees. Additionally, these trees affected our ability to use our yard fully and to be able to see our grandchildren from the house and patio when they are playing near the creek. This was a safety concern that we were able to reduce through increased visibility of the area along the creek from within our home.

Since removing these trees, we have decided to install a swimming pool in our back yard. The location of the pool was carefully planned and selected. We have made several changes to the size, shape and location of the pool. The final size, shape and location are important for a variety of reasons:

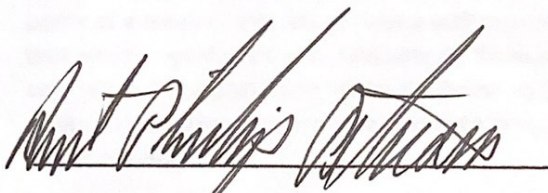
- Our son has Cerebral Palsy and swimming is one of the best methods for him to get the exercise he needs.
- This design and size pool allows us to help him exercise and increases the types of activities and exercises we can help with. Water exercise is encouraged and recommended by his physician.
- This location enhances safety - we can see entirety of the pool clearly from this location.
- We can easily access the entirety of the pool from both our upstairs deck and downstairs living area in this location if there is an emergency
- The size and location of the pool deck allow us to easily navigate around the pool should we need to quickly get to any specific part of the pool due to an emergency
- We can install an automatic safety cover to ensure that our pool is covered when not in use in this location and with this specific design

Brent & Jennifer Peterson
3733 E. Natchez Trace
Fayetteville, AR 72703

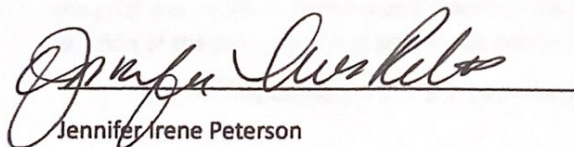
- We are able to stay completely out of the existing drainage easement and out of the Streamside Protection Zone (Zone 1) area
- We do not have to remove additional trees along the side of our house, which is the only reasonable alternate location
- The utilities along the side of the house would also have to be relocated if the pool was located on the side of the house
- We have an existing buffer along the creek of flower beds, shrubs and small trees
- We own the portion of land across the stream, and have already added several trees to that area that increase the streamside protection of the entire property as well as flower beds, trees and shrubs between the proposed swimming pool location and stream

We are applying for a variance to allow us to construct our pool within the Zone 2 Mitigation Zone. We are willing to add additional shrubs and trees along the bank of the stream in order to further minimize any potential impacts the swimming pool may have if necessary. Our pool will not have any backwash discharge to the grounds as we are using a cartridge type filter (i.e. no sand or DE filter). The automatic cover also will reduce the likelihood of chemically treated pool water overflowing. The area is not a designated floodway and is outside of the existing drainage easement. Our builder will install run-off protection between the stream and swimming pool during construction in order to prevent additional runoff while the pool is being built.

For these reasons, we are requesting a variance to the Streamside Protection Zone requirements pursuant to Chapter 156.03(C).(7).(i) or as otherwise applicable.

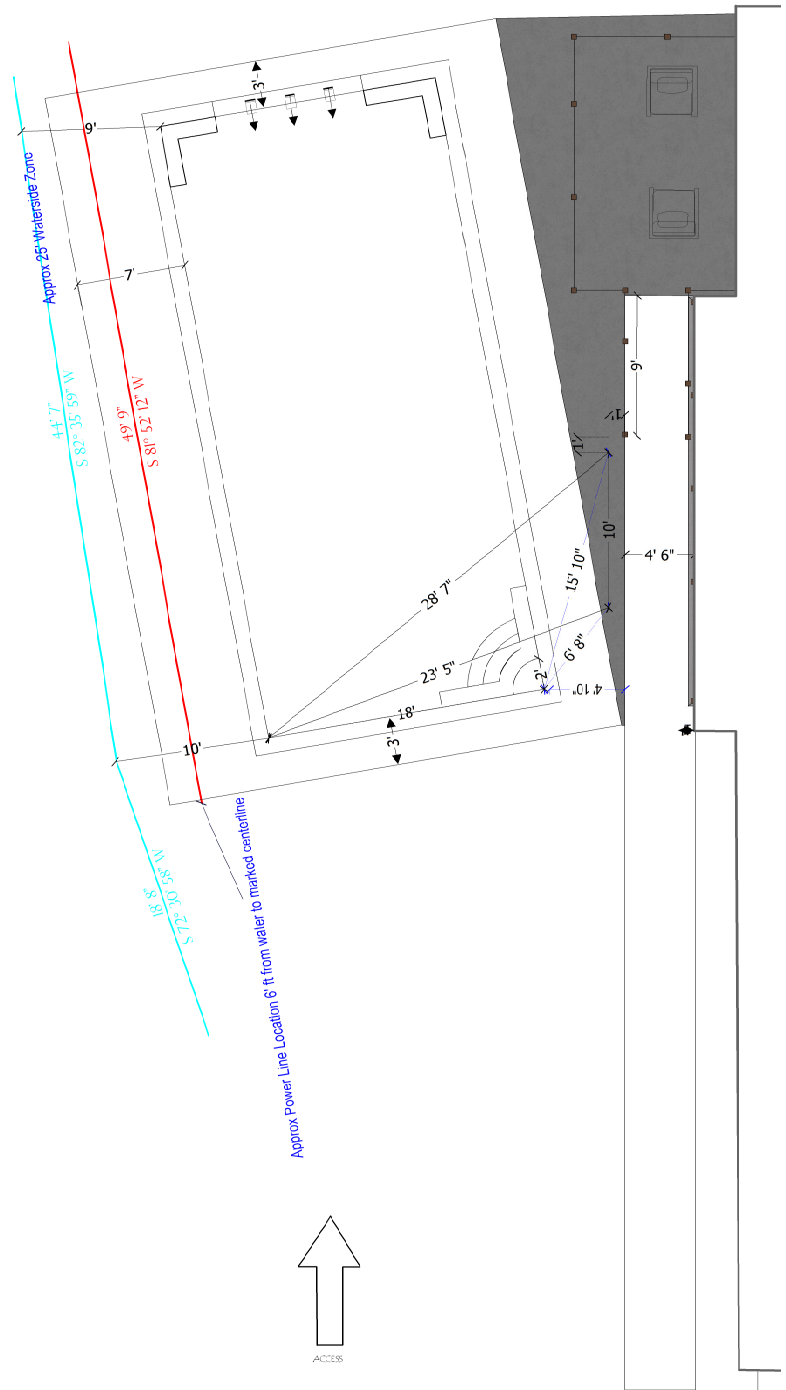

Brent Philip Peterson

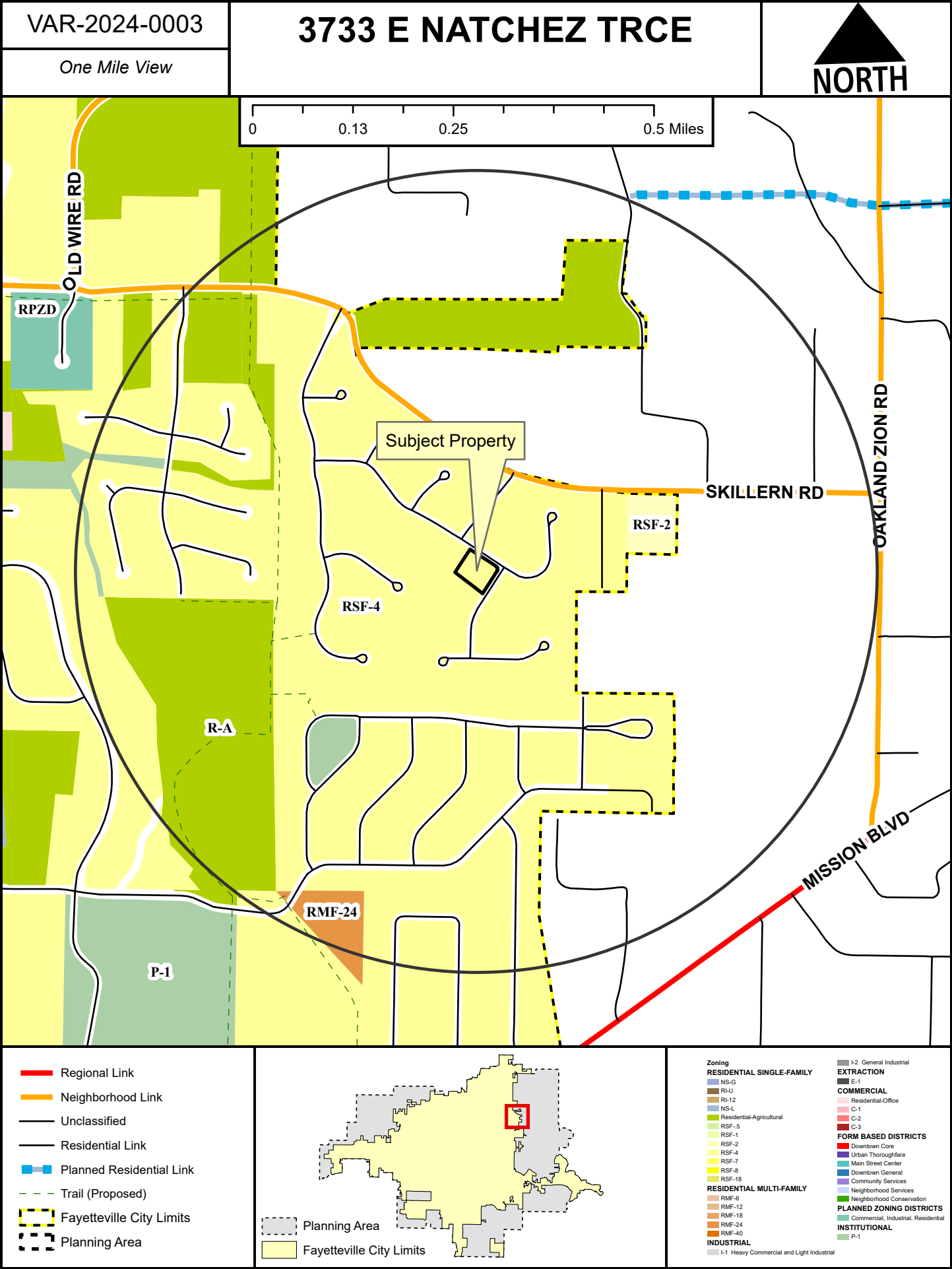
12/26/23 (Date)

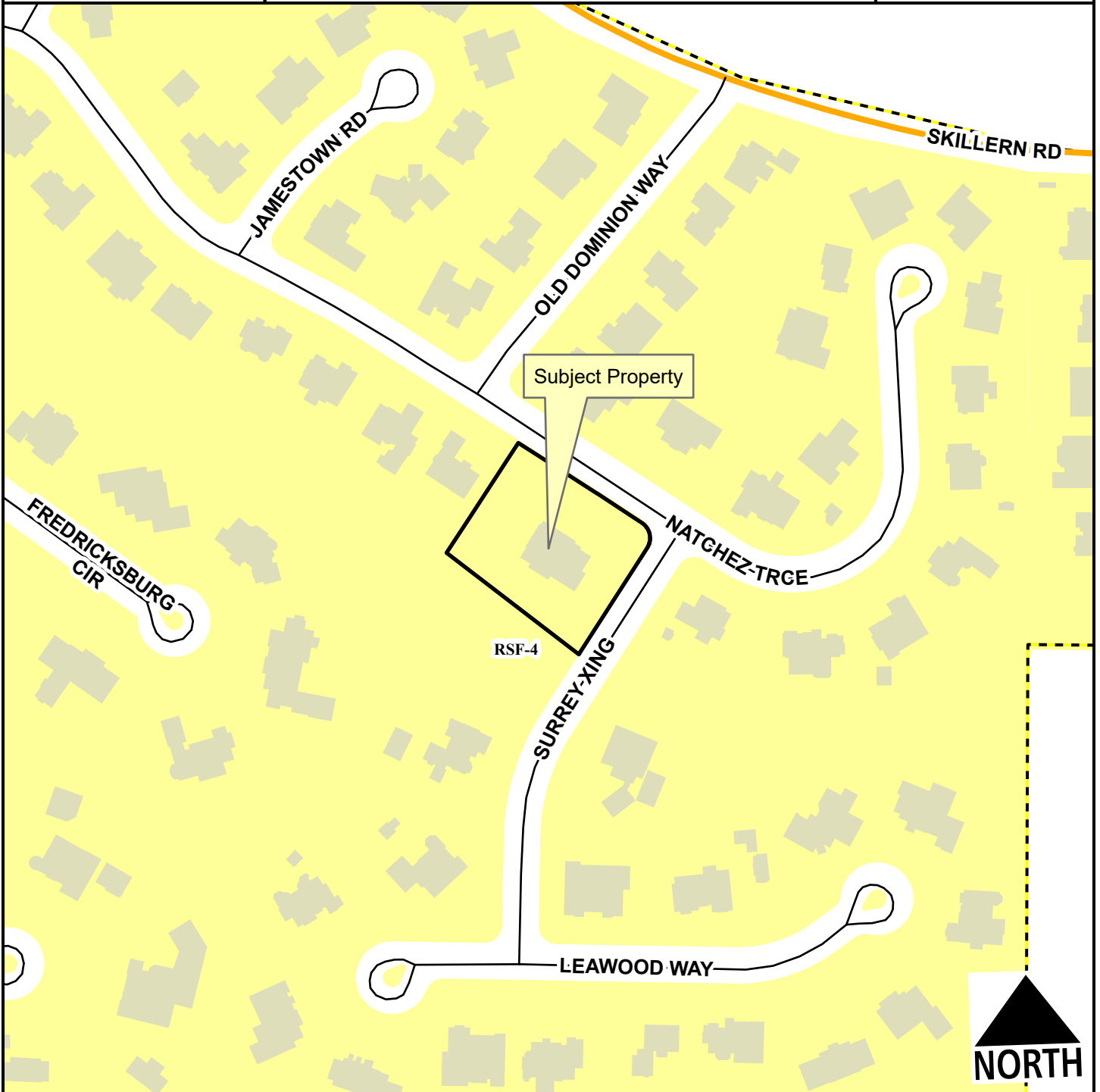

Jennifer Irene Peterson

12/20/23 (Date)

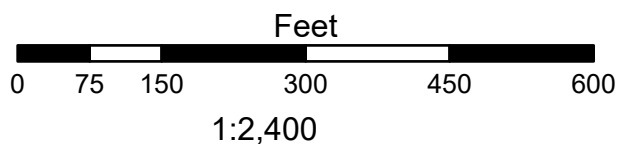
020724 TEC







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

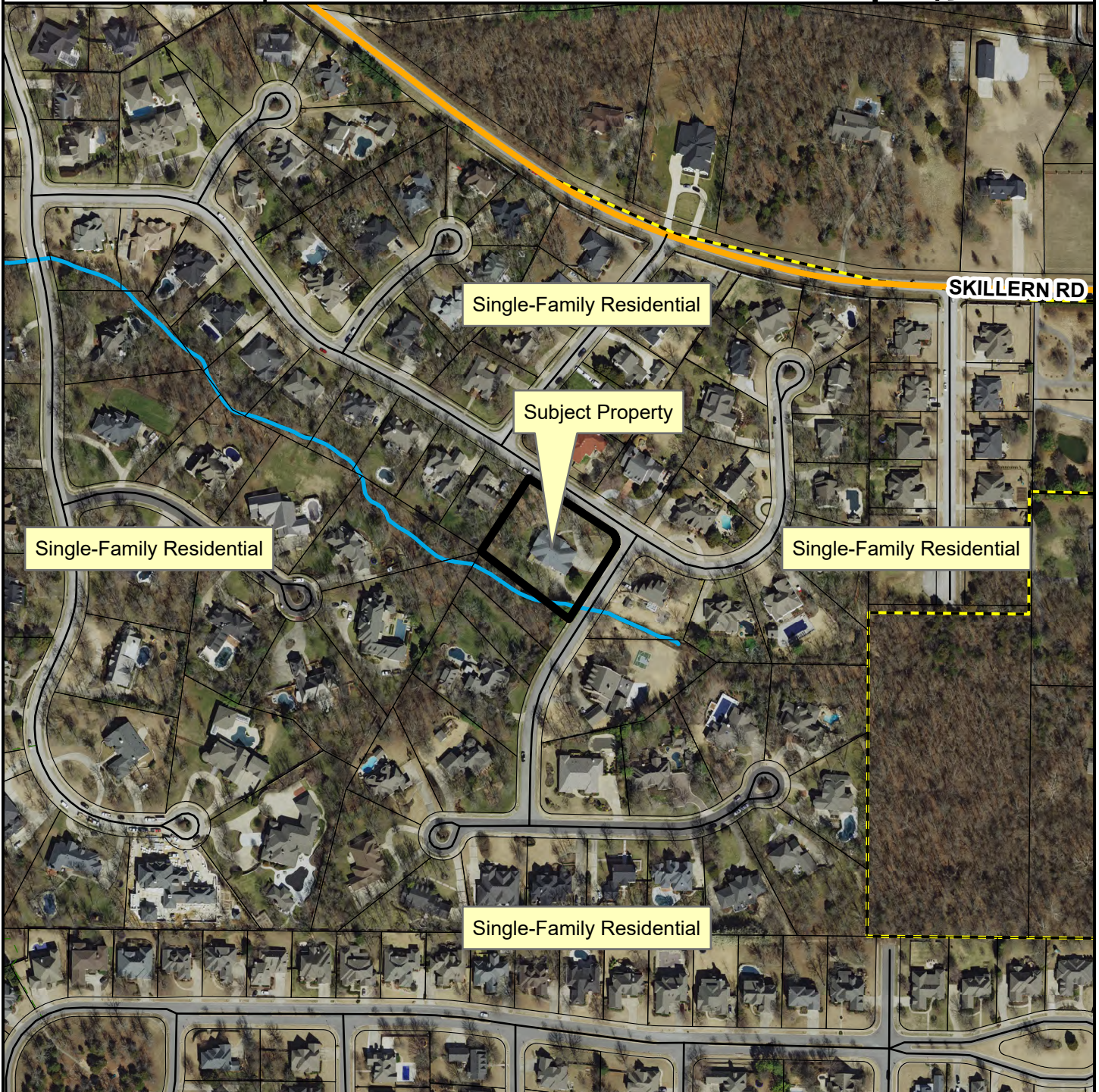


RSF-4

VAR-2024-0003

3733 E NATCHEZ TRCE

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: City of Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: February 12, 2024

SUBJECT: **VAR-2024-0004: Planning Commission Variance (612 W. CENTER ST/TRINITAS DEVELOPMENT, 483):** Submitted by CLARK LAW FIRM PLLC for property located 612 W. CENTER ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.19 acres. The request is for a variance to parking lot design standards and parking garages in a build-to zone.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0004**, with conditions.

RECOMMENDED MOTION:

"I move to approve VAR-2024-0004, determining:

- In favor of the requested variance to 166.11(A) Conformance to Plans and Regulations;*
- In favor of the requested variance to 172.04 Parking Lot Design Standards;*
- In favor of the requested variance to 166.22(C)(2), Parking Garages;*
- And in favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in downtown Fayetteville and contains two separate parcels that straddle W. Gregg Alley (765-12934-000 and 765-01886-000). The site is developed with commercial structures that were developed from the early 1920s through the mid-1960s. In total, the property makes up approximately 1.70 acres, and is zoned MSC, Main Street Center. The Downtown Design Overlay District also governs this site. Rather than being classified as an Urban/Downtown Street in the Master Street Plan, the alley received its designation in 2004 (Ordinance 4629). An associated right-of-way vacation for Gregg Alley was approved in 2023 (VAC-2023-0005). Surrounding land use and zoning is depicted on *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	MSC, Main Street Center
South	Multi-Family Residential	MSC, Main Street Center
East	Frisco Trail/Mixed-Density Residential	MSC, Main Street Center
West	Arkansas Missouri Railroad/University of Arkansas	MSC, Main Street Center

Request: The applicant is requesting the following variances to the Unified Development Code in association with a proposed multi-family development:

- **Variance #1: 166.11(A) Conformance to Plans and Regulations:** The subdivision shall conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Master Street Plan. The applicant intends to vary from the typical standards of an Urban Street.
- **Variance #2: 172.04 Parking Lot Design Standards:** This section of code outlines requirements for parking lots generally, including requirements for maneuvering, pedestrian access, location within the build-to-zone, and overall circulation. The applicant requests to alter the design requirements to provide additional parking for the overall development.
- **Variance #3: 166.22(C)(2) Entrances or pedestrian door openings shall be no greater than 50 feet apart for parking garages within the build-to zone.** The applicant requests to supply one pedestrian entryway along a building façade of approximately 230 feet.

DISCUSSION:

Variance #1: Staff recommends in favor of this request to vary from the typical Master Street Plan standards. The intent of the Urban Street classification is to allow for wide sidewalks with separate furnishing and tree zones to allow for pedestrian comfort and utilization. The characteristics of this specific site and location, however, do not necessarily allow for the alignment with these goals, since the right-of-way operates more as an alley, rather than as a publicly facing street. This entryway is primarily vehicular, since this is the street frontage with the lower volume (W. Center Street being the other alternative). However, pedestrians will likely be using the adjacent trail to access the overall building from nearby downtown; staff recommends that an additional pedestrian entryway and paved path be added along the northeastern corner of the development for the convenience of residents. Removal of the sidewalk in this location will also allow for the addition of eight 90-degree parking spaces in this location to primarily serve guests and visitors to the site.

Variance #2: Staff recommends in favor of this request to vary from typical parking lot design standards. The intent of this ordinance is meant to provide for convenience, safety, and for parking lots to positively contribute to the visual impact on the public realm. The parking lot in question is in a unique location; while being located directly off public right-of-way, the physical nature of the space and its existing topography create a feeling that the area is functioning more reasonably as an alleyway. Code typically permits 90-degree parking to occur when located in a property's rear from an alley. The parking lot is also technically located within the build-to-zone, but the primary build-to-zone is being met with this development along W. Center Street, the higher classification street and the more prominent frontage. While staff recommends in favor of the applicant's request, staff recommend conditions of approval to help meet the spirit and intent of the ordinance. Given that the main vehicular entrance to the parking garage is approximately 38 feet to the west of this parking lot, staff recommends that a mirror be placed along the northern property line for a visual aid for those vehicles who may be simultaneously backing out of the parking lot while another vehicle is exiting the parking garage. Further, staff recommends additional masonry screening along the eastern side of the parking lot to help shield the parking lot and additional asphalt from the view of the trail.

Variance #3: Staff recommends in favor of this request to reduce the number of pedestrian entryways into the parking garage. The intent of the design standard is to reduce the often-monolithic appearance of a parking garage and provide porosity along the pedestrian frontage of the building. Code specifies that parking garages that are within build-to-zones are required to either have a liner building, a specific architectural treatment (including regular windows and doors), or a green screen when used in conjunction with other architectural elements. Staff finds that the applicant's proposal, even though it is missing additional pedestrian entryways along the

frontage, is meeting the overall intent by providing architectural interest in the form of a masonry screening with visual interest.

RECOMMENDATION: Staff recommends Planning Commission approve VAR-2024-0004 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to 166.11(A) Conformance to Plans and Regulations:** The subdivision shall conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Master Street Plan. Staff recommends approval of the request for the reasons stated above, with the following conditions:
 - a. An additional pedestrian entryway and associated paved connection shall be added to the northeast corner of the building from the existing trail.
2. **Planning Commission determination of a variance to 172.04 Parking Lot Design Standards.** Staff recommends in favor of the request for the reasons stated above, with the following conditions:
 - a. The eastern side of the parking lot shall be screened with a masonry screen wall between 32 inches and 42 inches in height and 50% opaque minimum.
 - b. A mirror or other visual aid be installed along the northern property line to improve visibility between the proposed parking lot and the proposed parking garage entryway.
3. **Planning Commission determination of a variance to §166.22(C)(2) Entrances or pedestrian door openings shall be no greater than 50 feet apart for parking garages within the build-to zone.** Staff recommends approval of the request for the reasons stated above.
4. Approval of this variance request is only for the requests as stated above, and does not extend approval to any variances not yet reviewed for at this stage.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>February 12, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §166.11 Conformance To Plans And Regulations
 - §166.22 Parking Garages
 - §172.04 Parking Lot Design Standards

- Applicant Request Letter
- Applicant Exhibits
- Staff Exhibit
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map

166.11 Conformance To Plans And Regulations

(A) *Conform to Plans and Regulations.* The subdivision shall conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Future Land Use Plan, the Master Street Plan, access control, setback ordinances, the Community Facilities Plan and Zoning, Chapters 160 through 164.

(B) *Reserve Sites for Public Use.*

- (1) For a period of six (6) months after submitting application for approval of a preliminary plat with the Planning Commission, the Planning Commission may require the subdivider to reserve sites for public use that are indicated within the boundaries of the proposed subdivision which are indicated on an officially adopted plan, to permit the public board, commission, or body having jurisdiction, or financial responsibility, the opportunity to acquire said sites.
- (2) The subdivider at his or her option may provide such areas or may be required to make them available for acquisition by the city under statutory procedure. All such areas shall be maintained at the expense of the city or other body which may be involved.

(C) *Future Acquisition.* The Planning Commission may require the subdivider to establish building lines to allow for future acquisition of right-of-way for streets on the Master Street Plan.

(Code 1965, App. A., Art. 8(10.1); Ord. No. 1747, 6-29-70; Ord. No. 3073, 3-19-86; Code 1991, §160.119; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4919; 9-05-06; Ord. No. 6350 , §5(Exh. D), 8-18-20)

166.22 Parking Garages

(A) *Purpose.* Parking garages by their nature tend to overwhelm the built environment due to their scale and repetitious construction. Parking garages must be detailed carefully in order for them to enhance the built environment in terms of scale, appearance, and pedestrian safety.

(B) *General Requirements.*

- (1) All parking garages shall utilize materials and architectural detailing found in the primary development being served, or when stand alone, shall establish a distinct architectural style.
- (2) All parking garages shall provide adequate interior and exterior lighting to maintain visibility and public safety. Higher efficiency lighting such as LED, is encouraged.
- (3) *City of Fayetteville Parking Garage Manual.*
 - (a) The *City of Fayetteville Parking Garage Manual* shall be used in support of this chapter to show images with acceptable architectural design techniques meeting the intent of this Code.
 - (b) Copies of the Manual are to be made readily available to the public in the Planning Division.

(C) *Parking Garages in the Build-to Zone.* The following regulations shall apply to minimize the appearance of a blank parking garage at the street level and to incorporate human scale elements and visual interest into parking garages located immediately adjacent to the street.

- (1) Property with multiple street frontages shall have a liner building at all corner locations; in accordance with section 3(a) below.
- (2) Entrances or pedestrian door openings shall be no greater than 50 feet apart.
- (3) The entire length of the principal façade of the parking garage on the first or ground floor shall provide one or a combination of the following options:

- (a) The principal façade of the parking garage on the first or ground floor shall be comprised of habitable area, such as retail, office, residential, and/or lobby space at a minimum depth of 15 feet. The habitable area may be interrupted to allow for vehicle and pedestrian access to the parking garage. The upper floors of a parking garage in this configuration may extend over the first or ground floor. A liner building constructed as the principal façade of a parking garage shall meet the applicable design standards for the use.
- (b) Architectural treatment shall be applied to the first or ground floor principal façade with the intent to make the appearance of the parking garage in the build-to zone appear part of the primary structure and/or enhance the pedestrian realm and visual interest. This includes utilizing building materials and pedestrian scale elements such as regular openings for windows and doors, display windows, glazing applied to the façade, or other design techniques approved by the Zoning and Development Administrator meeting the intent of the code. The upper floors of a parking garage in this configuration may extend over the first or ground floor.
- (c) A green screen (a trellis that will support vines and other landscaping materials to create a living green façade) may be utilized for a maximum of 10% of the principal façade where other permanent landscaping or urban design elements are also proposed in conjunction with the screen.
- (4) The principal façade above the first floor shall utilize one of the following options with the intent to screen cars in the parking garage and prevent a blank parking garage façade from view of the street:
 - (a) Either of the options in section 3 above;
 - (b) An architectural screen; or
 - (c) Building materials utilized on the principal structure shall be applied to the façade.

...

(Ord. No. 5056, 9-4-07; Ord. No. 5271, 9-1-09; Ord. No. 5679, 4-15-14)

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.

TABLE 1
DIMENSIONAL REQUIREMENTS

Angle (A)	Type	Width (in ft.) (B)	Curb length (in ft.) (C)	One-way aisle width (in ft.) (D)	Two-way aisle width (in ft.) (D)	Stall depth (in ft.) E)
0°	Standard	8	22.5	12	24	8
Parallel	Compact	7.5	19.5	12	24	7.5
30°	Standard	9	18	12	24	17
	Compact	7.5	15	12	24	14
45°	Standard	9	12.5	12	24	19
	Compact	7.5	10.5	12	24	16
60°	Standard	9	10.5	18	24	20
	Compact	7.5	8.5	15	24	16.5
90°	Standard	9	9	24	24	19
	Compact	7.5	7.5	22	24	15
	Motorcycle/Scooter	3	3	12-24	24	7.5 - 9

(3) *Entrances and Internal Aisle Design for Parking Lots Containing 8 Parking Spaces or Less.* The driveway width into parking lots shall meet the following requirements:

(a) *Entrances.*

- (i) *One-Way Access to Parking Lots.* If the driveway is a one-way in or one-way out, then the driveway width shall be a minimum of 12 feet and a maximum of 16 feet. Parking lots shall not be located more than 100 feet from the street right-of-way. Commercial solid waste service is required.
- (ii) *Two-Way Access to Parking Lots.* For two way access, the driveway width shall be a minimum of 12 feet and a maximum of 24 feet. Parking lots shall not be located more than 100 feet from the street right-of-way. This standard shall only apply when a 2-yard dumpster is allowed.
- (iii) *Driveway Width Requirements for Parking Lots Located 100 Feet or More from the Street Right-of-Way.* Two (2) drive lanes a minimum width of 10 feet each, up to a maximum combined width of 24 feet, shall be required for adequate parking lot access.
- (iv) *Effective Curb Radius.* All driveway entrances serving 8 or less parking spaces shall have a minimum effective curb radius of 10 feet and a maximum of 20 feet.

(b) *Internal aisle design.*

- (i) Aisles shall be designed so that they intersect at 90 degrees with other aisles and driveways where practical.
- (ii) Aisles shall be designed to discourage cut-through traffic by use of landscape islands, and shall meet the requirements of Chapter 177: Landscape Regulations.
- (iii) Aisles shall conform to the dimensional requirements of §172.04(C).

(c) *Variances.* Development proposals which do not meet these standards may apply for a variance from these requirements subject to Planning Commission approval.

Parking Lots With Eight (8) Spaces or Less	
	Driveway Dimensional Requirement
One Way Access <100 feet	12 feet Minimum - 16 feet Maximum
Two Way Access <100 feet	12 feet Minimum - 24 feet Maximum
>100 feet Driveway Length	2 Drive Lanes 10 feet Minimum Each - 24 feet Maximum Total Driveway Width
Effective Curb Radius	10 feet Minimum - 20 feet Maximum

...

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



Design Variance

Fayetteville Center St
612 W Center St. Fayetteville, AR

01.15.2024

Revised 02.06.2024

Design Variances

166.11 Conform to Plans and Regulations of the Master Street Plan – Variance to provide 90-degree parking on Meadow St

172.04 Parking Lot Design Standards – Variance to provide 90-degree parking onto Meadow St.

166.22.C.2 Parking Garages in Build-to Zone – Variance to provide egress doors as required for 2018 IBC life safety code in lieu of 50' apart.

Parking on Meadow St

166.11 - Conform to Plans and Regulations. The subdivision shall conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Future Land Use Plan, the Master Street Plan, access control, setback ordinances, the Community Facilities Plan and Zoning, Chapters 160 through 164.

Variance Request & Reason:

To maximize the parking provided on site for the 612 Center St project, we seek a variance to provide 90-degree parking on the dead-end section of Meadow St which is not allow by the Master Street Plan. Meadow St terminates at the 612 Center St site and the project has provided a full hammerhead turn-around for firetrucks, garbage trucks, and the public. Allowing the 90-degree spaces increases the amount of parking that can be provided on site. On-site parking has been noted by planning staff, the planning commission, city services, and the city council as a high priority for projects in the Main Street Center zoning district. Furthermore, planning staff has noted that Meadow is the lowest-classification street for the project.

172.04 - Parking Lot Design Standards lays out the requirements for parking lot maneuvering, pedestrian access, build-to-zone, and vehicular circulation that we seek to vacate to maximize parking on the public right-of-way.

Variance Request & Reason:

172.04(A) – The variance seeks to allow 8 parked cars to maneuver into the public street to maximize on-site parking. The street is a dead-end and the only vehicles on this portion of the street would be visiting the property. The project does provide a turn-around for anyone needing to change direction.

172.04(B) – Pedestrian access is required and is provided to the Meadow parking by a sidewalk; a variance is needed as the parking is provided on the public way without physical barriers as barriers here would prohibit the parking being provided to maximize parking on site.

172.04(C)1&2 – Parking provided in the build-to-zone requires screening and landscape. Parking in the build-to-zone on Meadow requires a variance to limit the provision of landscape and screening specific to the 8 parking spaces as it would prohibit parking from being provided. The project does provide landscape around the building project and does screen the majority of parking through an enclosed garage. The parking spaces provided along Meadow are a limited portion of the provided parking but helps the project maximize code compliant parking in order to deter tenants and visitors from parking illegally along public streets. The fire department noted that illegal parking is a concern. We'd like to partner with the city and deter illegal parking by providing street parking outside of the fire lane and fire department required hammerhead.

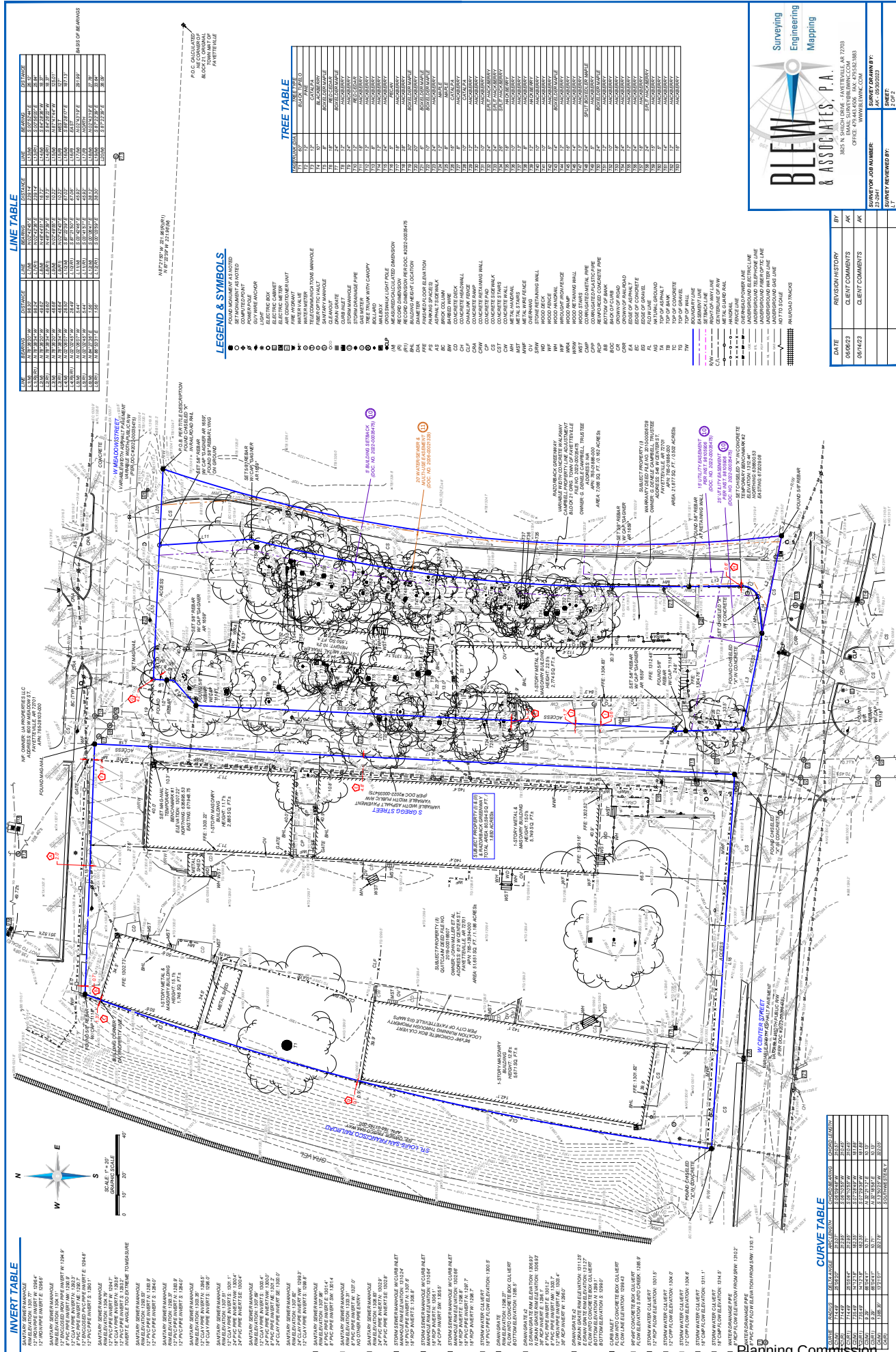
172.04(F) 3a&b – Parking lots have requirements for entrances and internal aisles separate from the public right-of-way. A variance is required as the parking provided 90 degrees off Meadow is sited perpendicular to the edge of the right-of-way with no private entrance and no internal aisle. To provide an entrance and internal aisle prohibits the provision of the proposed 8 parking spaces. The majority of parking on site is compliant to the requirements of the parking lot vehicular circulation with a private entrance lane and internal aisles. The Meadow parking is specifically designed to account for visitor and short term parking that is often parked illegally and is noted as a concern by the fire department. The parking along Meadow allows people to park on the street legally and keep the fire lane and fire hammerhead open at all times.

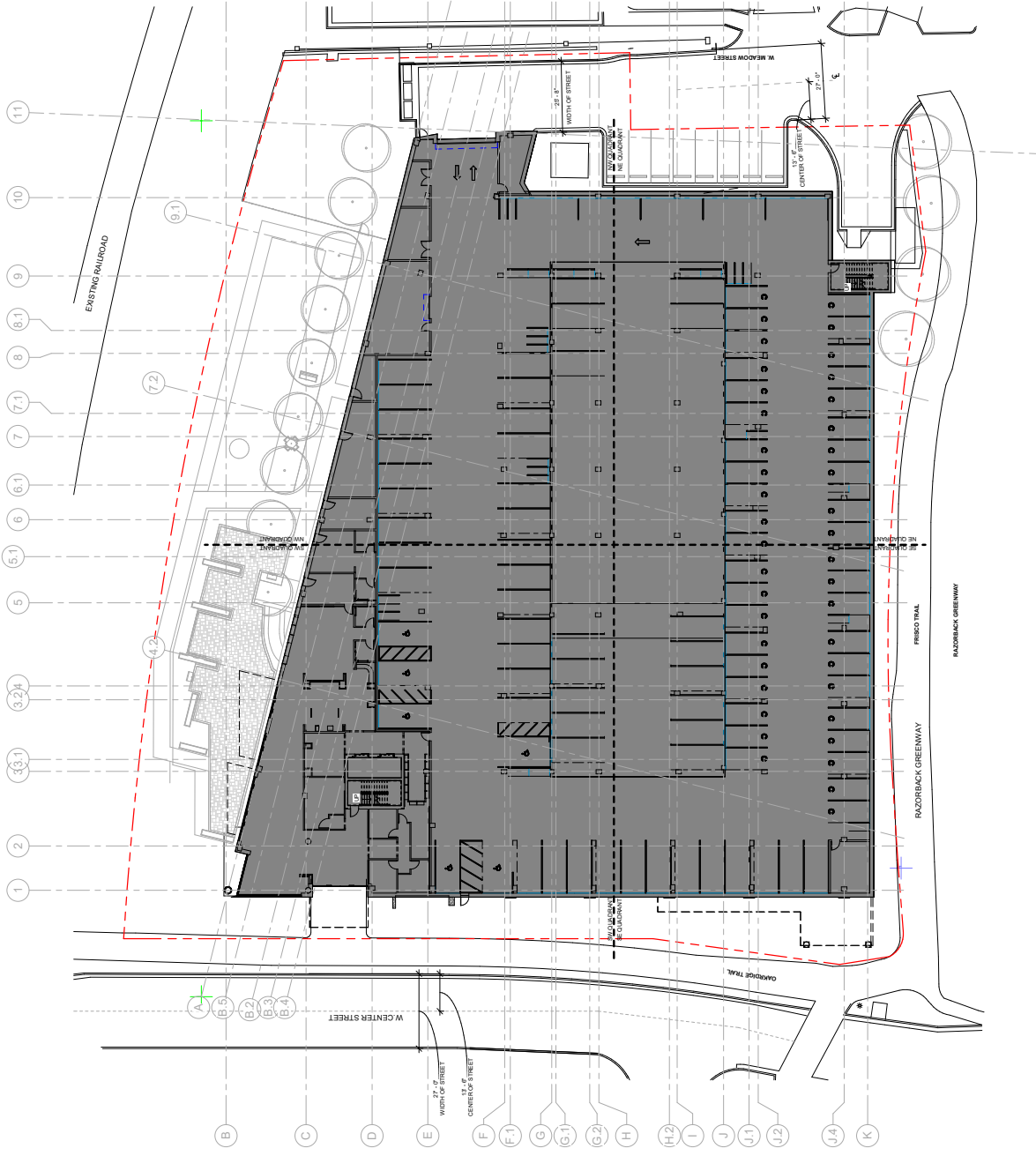
Number of Access Points to Parking Garage

166.22.C.2 - Parking Garages (C) *Parking Garages in the Build-to Zone. The following regulations shall apply to minimize the appearance of a blank parking garage at the street level and to incorporate human scale elements and visual interest into parking garages located immediately adjacent to the street. (2) Entrances or pedestrian door openings shall be no greater than 50 feet apart.*

Variance Request & Reason:

The parking garage at the ground and level 1 floors of the 612 Center St project is a private garage along the city's busy Razorback Greenway. The garage is for tenants only and the projects seeks to secure the garage for the safety and security of the building residents. Per the zoning code, the goal is to reduce the appearance of a blank parking garage, to into incorporate human scale elements, and visual interest. The project seeks to respond to the human scale and provide visual interest through screened openings into the garage, murals along the public right-of-way, and doors as required for life safety egress. Providing additional doors to a private garage creates opportunities for security breach. The life safety and security of tenants is key to the building design. The intent of the code is met through design in lieu of through providing doors. See the floorplans and renderings for reference of screened openings and murals.

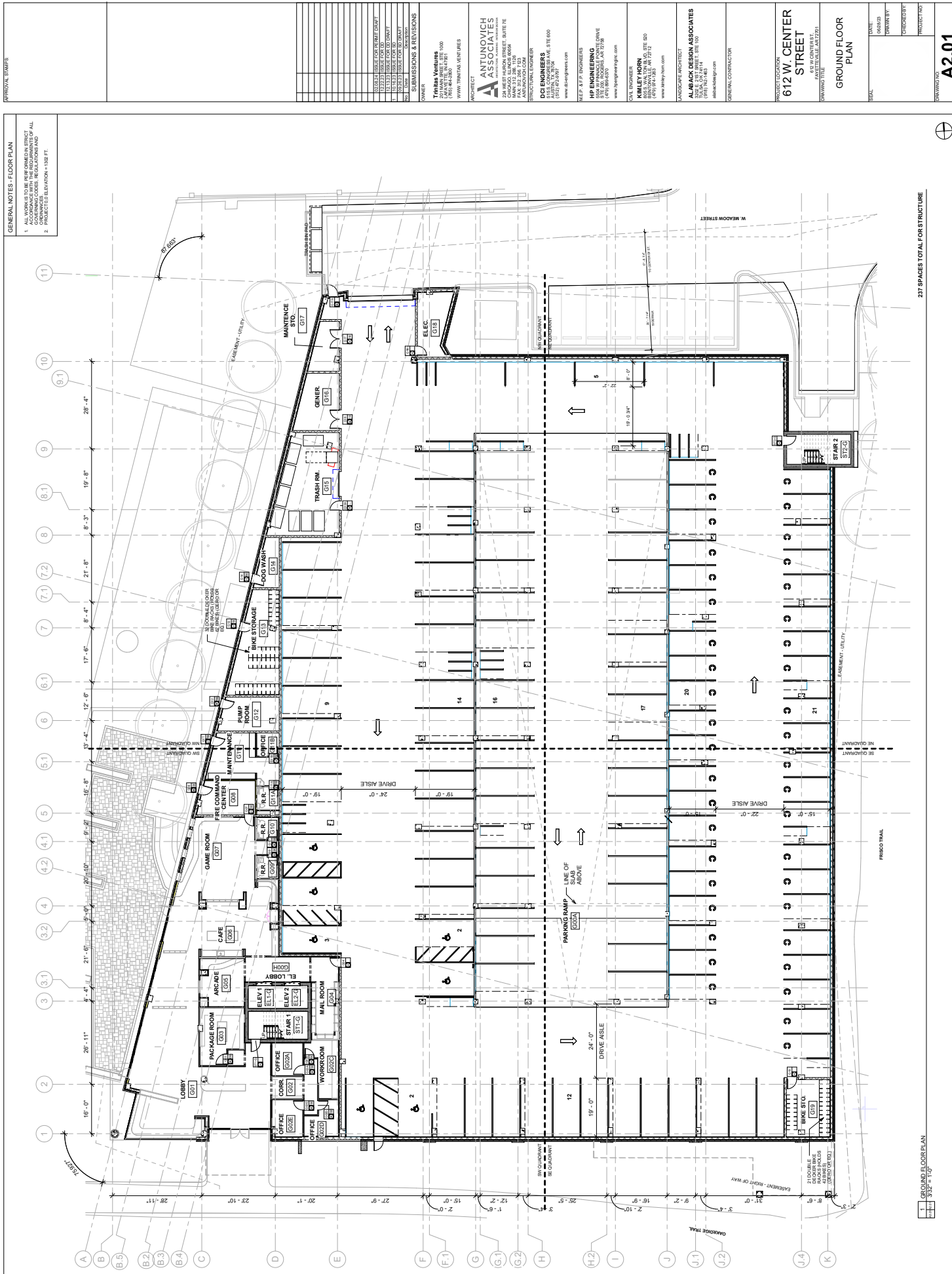




00- SITE PLAN
1/8" = 1'-0"

GENERAL NOTES - FLOOR PLAN

1. ALL WORK IS TO BE PERFORMED IN ACCORDANCE WITH THE LATEST EDITIONS OF ALL APPLICABLE CODES, ORDINANCES, REGULATIONS AND SPECIFICATIONS.
2. PROJECT TO ELEVATION +100 FT.



237 SPACES TOTAL FOR STRUCTURE

GROUND FLOOR PLAN
1/12/24
9:27 AM

Planning Commission

February 12, 2024

VAR-2024-0004 (TRINITAS DEVELOPMENT) Page 189 of 305

Page 13 of 22

A2.01

DATE

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PROJECT NO.



237 SPACES TOTAL FOR STRUCTURE

[illegible]

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101 MAIN STREET, STE 1000
JAYETTE, IN 47901
(765) 464-2800
WWW.TRINITASVENTURES.COM

ARCHITECT

ANTUNOVICH ASSOCIATES
ARCHITECTURE PLANNING INTERIOR DESIGN

A

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TULSA, OK 74114
(918) 742-1463
alabackdesign.com

GENERAL CONTRACTOR

PROJECT LOCATION
612 W. CENTER STREET
612 W CENTER ST.
FAYETTEVILLE, AR 72701

FIRST FLOOR PLAN

DATE:	06/28/23
DRAWN BY:	
CHECKED BY:	
PROJECT NO.	

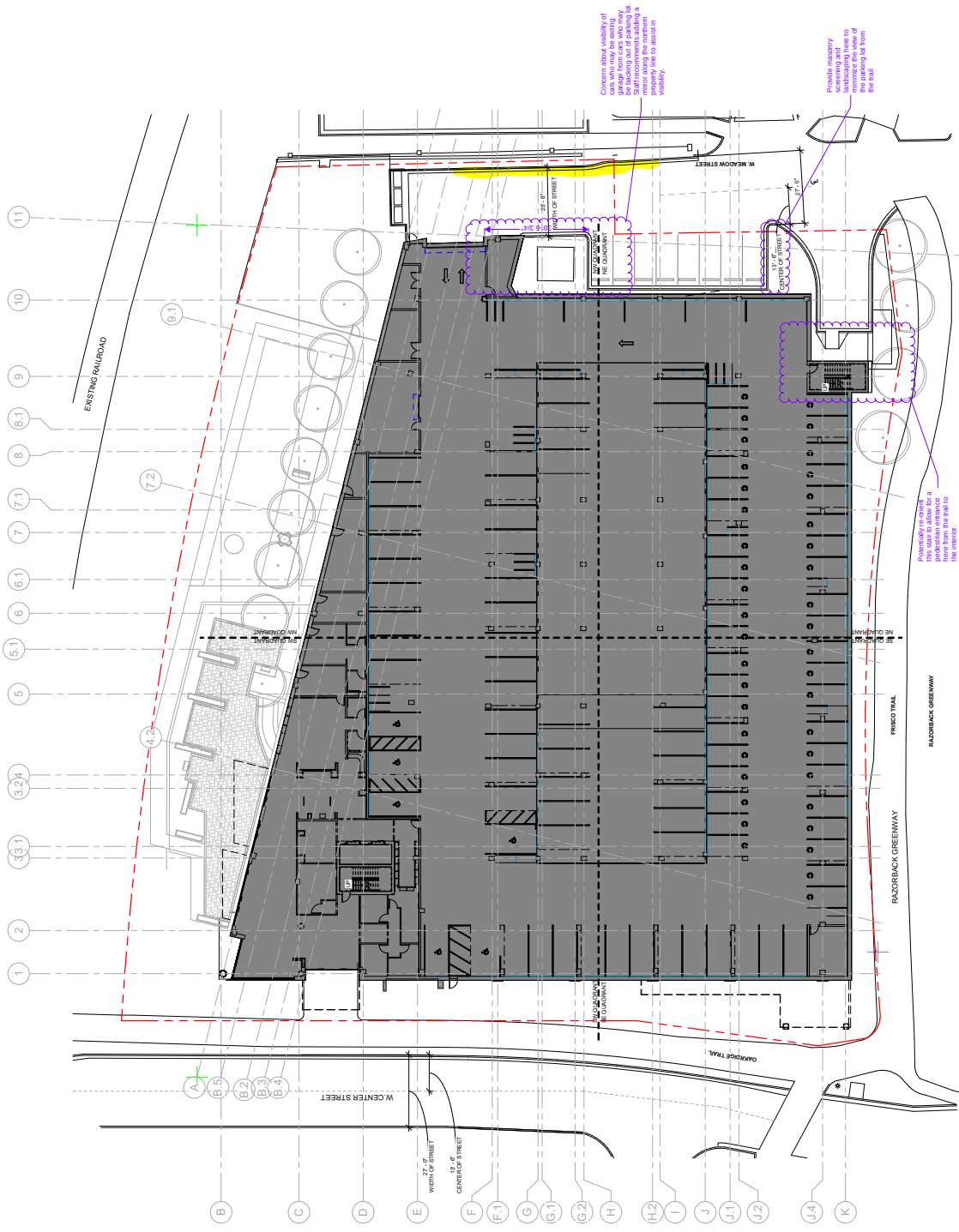
DRAWING NO: **A2.02**

612 Center St
Center St View



612 Center St
Meadow St & Razorback Greenway View



[illegible]

From: Claire Kolberg <ckroberds@gmail.com>
Sent: Thursday, January 25, 2024 1:37 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Re: Gregg Avenue Alley Vacation - VAC 2023-0005

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

If they're requesting a variance to the parking lot, does that mean this student housing plan is already approved?

We own two residences near the building site, and the only notification we have received has been about the parking lot back in August 2023, when I first emailed.

At what point did the UA corporate expansion become a priority over tax-paying citizens, who do not get any tax breaks living downtown. We are frustrated beyond belief that our neighbors continue to become students who don't even live here at the expense of long-time Fayetteville residents.

When will public comment be open about this student housing project, because the student housing project needs to be addressed before any parking related variances attributed to it are handled.

Thank you,

On Thu, Jan 25, 2024 at 1:22 PM Planning Shared <planning@fayetteville-ar.gov> wrote:

Here is what was submitted to us for Conceptual Plat on 12/13/2023

Thank you

Mirinda Hopkins

Development Coordinator

Planning Division

City of Fayetteville

479-575-8267

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Claire Kolberg <ckroberds@gmail.com>
Sent: Thursday, January 25, 2024 1:05 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Re: Gregg Avenue Alley Vacation - VAC 2023-0005

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

Hello,

Please send me the plans for the student housing and the parking lot design associated with 612 W Center.

I never heard back from my original email back in August. I would appreciate a reply.

Thank you,

Claire

On Aug 24, 2023, at 11:15 AM, Claire Kolberg <ckroberds@gmail.com> wrote:

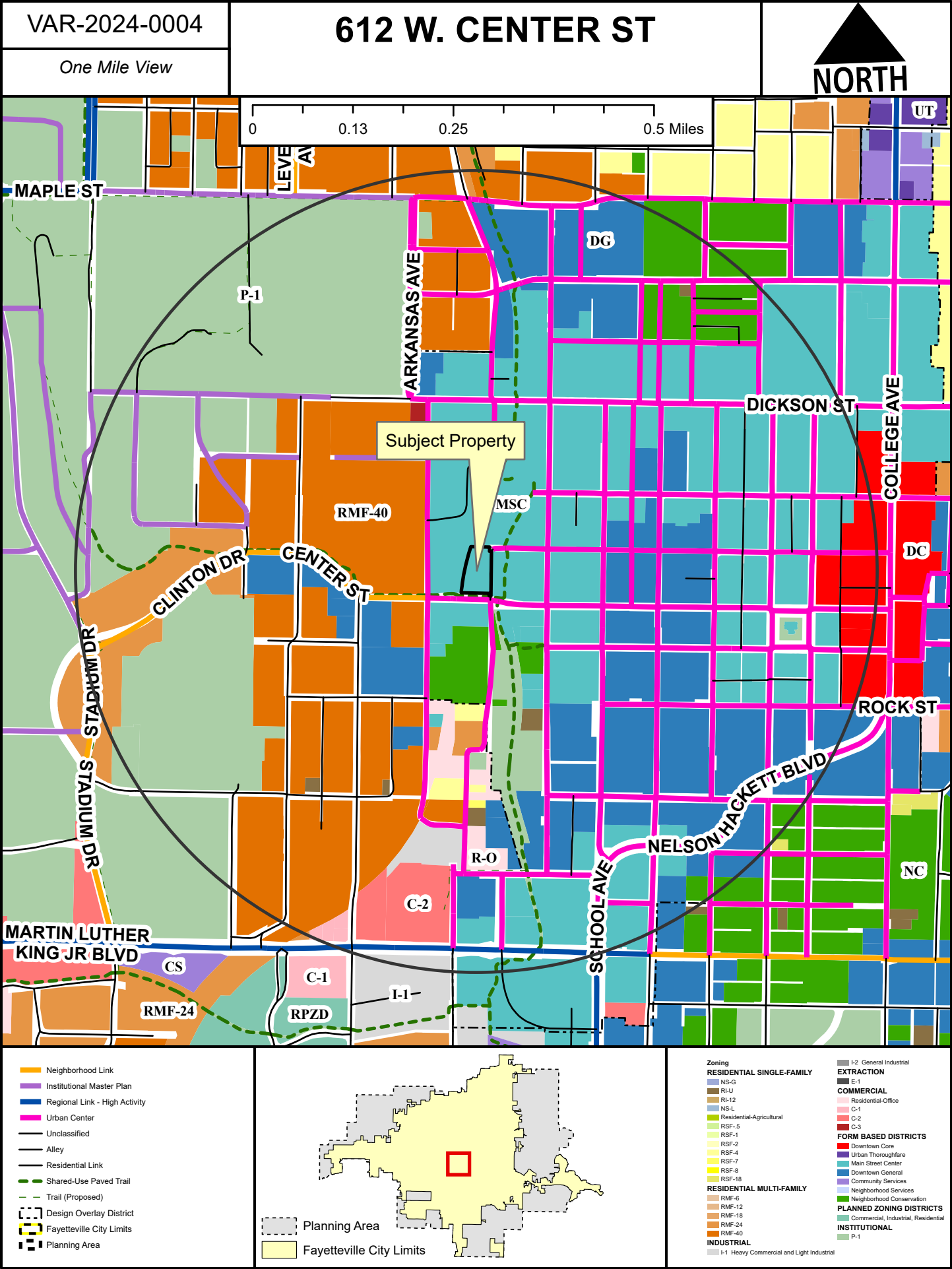
Good morning, just received the notification from Clark Law Firm regarding the vacation of N. Gregg Avenue Alley.

What exactly are they proposing for this location (612 W Center)? I can't find the information on the Planning Division website. Are they rezoning that commercial space? Are they tearing down the shacks to build new student housing? How tall will the building be? Why do they need the parking?

I assume if more parking is needed then more residential is being added. Otherwise parking should be sufficient for the commercial spaces that are already there.

We own 507 Center and this is the first we've been notified of anything happening on that property.

Thanks,



Neighborhood Link

Institutional Master Plan

Regional Link - High Activity

Urban Center

Unclassified

Alley

Residential Link

Shared-Use Paved Trail

Trail (Proposed)

Design Overlay District

Fayetteville City Limits

Planning Area

Planning Area

Fayetteville City Limits

Zoning

RESIDENTIAL SINGLE-FAMILY

NS-G

RH-U

RH-12

NS-L

Residential-Agricultural

RSF-5

RSF-1

RSF-2

RSF-4

RSF-7

RSF-8

RSF-18

RESIDENTIAL MULTI-FAMILY

RMF-6

RMF-12

RMF-13

RMF-24

RMF-40

INDUSTRIAL

I-1 Heavy Commercial and Light Industrial

EXTRACTION

E-1

COMMERCIAL

Residential-Office

C-1

C-2

C-3

FORM BASED DISTRICTS

Downtown Core

Urban Thoroughfare

Main Street Center

Downtown General

Community Services

Neighborhood Services

Neighborhood Conservation

PLANNED ZONING DISTRICTS

Commercial, Industrial, Residential

P-1

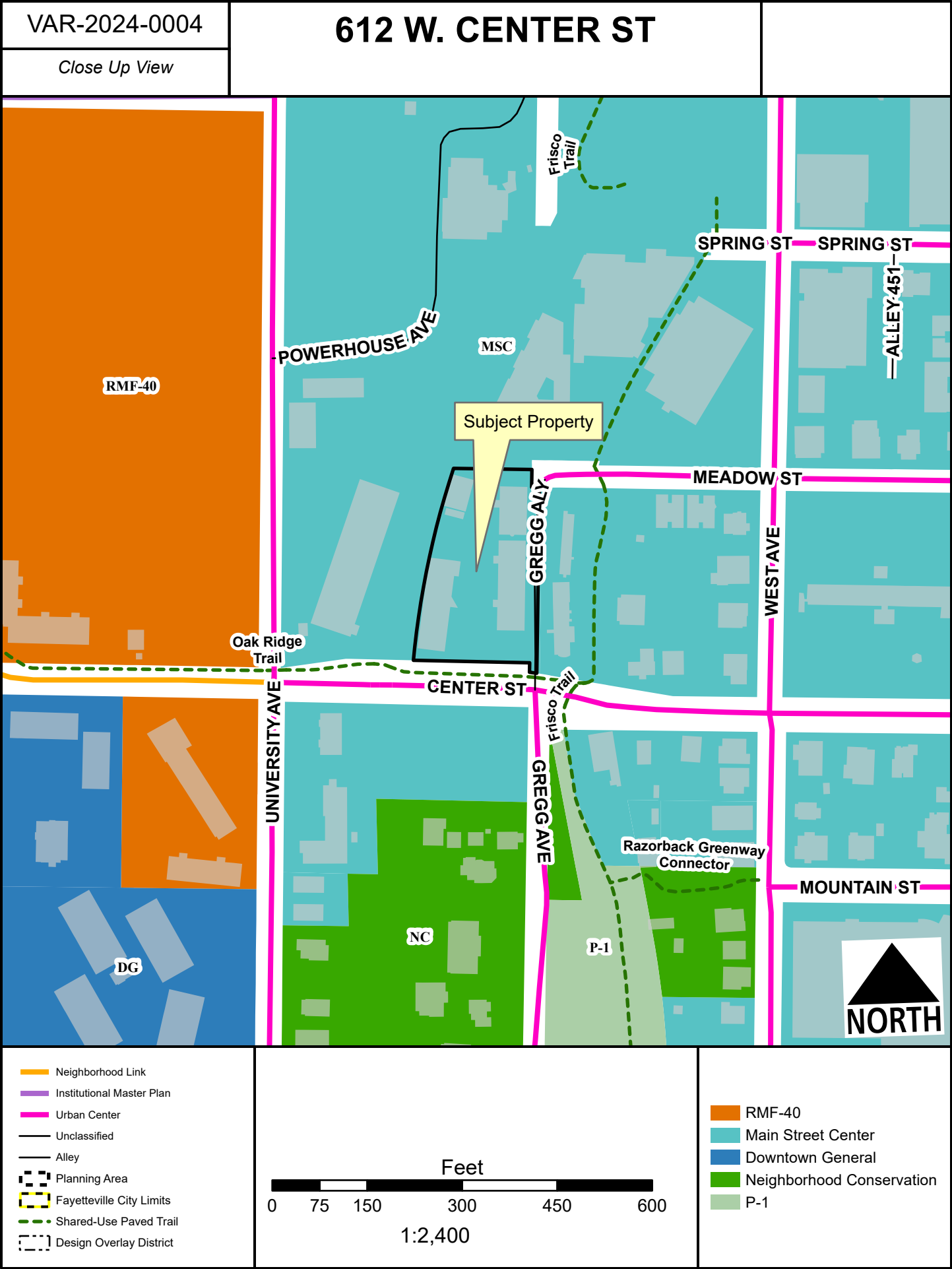
Planning Commission

February 12, 2024

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VAR-2024-0004 (TRINITAS DEVELOPMENT)

Page 20 of 22



VAR-2024-0004

612 W. CENTER ST

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forester

MEETING: February 12, 2024

SUBJECT: **LSD-2023-0021: Large Scale Development (4392 S. SCHOOL AVE/SIMS' HANGAR, 795):** Submitted by ENGINEERING SERVICES INC for property located at 4392 S. SCHOOL AVE. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 186.11 acres. The request is for a 10,620-square-foot airplane hanger and associated parking.

RECOMMENDATION:

Staff recommends approval of **LSD-2023-0021** with conditions.

RECOMMENDED MOTION:

*"I move to approve **LSD-2023-0021** with conditions:*

- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements,*
- In favor of variance to UDC §177.04, Interior Landscaping Requirements;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located at the west side of Drake Field, approximately 500 feet north of the terminal and immediately south of the Arkansas Air & Military Museum. The property contains multiple parcels, but the proposed hangar is mostly located on a parcel totaling 186.11 acres. 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	Airport; Museum	I-1, Heavy Commercial and Light Industrial
South	Airport	I-1, Heavy Commercial and Light Industrial
East	Airport	I-1, Heavy Commercial and Light Industrial
West	Residential Single-Family; Undeveloped	Washington County – Agricultural/Single-Family – 1 Unit per Acre

Proposal: The applicant requests large scale development approval for the construction of a 10,620-square-foot airplane hanger and associated parking. The applicant's client has entered into a ground-lease agreement with the City for the property. The applicant has requested one variance to the Unified Development Code, as follows:

- **§177.04(C) Interior Landscaping Requirements.** This development would require one parking lot island tree for the 8 proposed parking spaces on the site. The applicant is requesting that this tree be placed in escrow rather than being planted on site.
 - *Staff recommendation: Staff is supportive of this request, finding that the airport staff is concerned about trees planted near the taxiway attracting birds and causing conflicts with planes. It is city staff and airport staff's preference that the tree be placed in escrow and planted elsewhere.*

Right-of-Way to be Dedicated: The subject property has frontage along School Avenue which is classified as a Regional Link Street in the 2040 Master Street Plan. The existing right-of-way exceeds the minimum established in the 2040 Master Street Plan, and no additional right of way is required.

Street Improvements: Staff recommend fee-in-lieu of \$2,406.25 for sidewalks and one street tree to be placed in escrow. Since four hangars will eventually be constructed in this area, fee-in-lieu was determined by measuring the adjacent street frontage (385 linear feet) and dividing by four (number of hangars), then multiplying by a 5-foot sidewalk width. This equaled 481.25 square feet of sidewalks at a cost of \$5 per square foot, totaling \$2,406.25.

Access Management/Connectivity: Staff has determined that the proposed improvements meet access management standards.

Design Standards: Staff has determined that the proposed improvements meet relevant design standards. Although there is not a specific ratio established for airplane hangars, staff determined that "commercial recreation-large sites" ratio of 1 space per 1,000 square feet would be the closest metric given the form and function of an airplane hangar. They would be permitted a maximum of ten spaces and propose seven standard spaces and one ADA space.

Water and Sewer System: The site has existing domestic service on a 12-inch water main along School Avenue. It also has existing access to an 8-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: The applicant submitted a tree preservation plan waiver since the property is located within Drake Field and no trees are present at the site.

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

RECOMMENDATION: Staff recommends approval of **LSD-2023-0021** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff does not recommend right-of-way dedication.*
2. **Planning Commission determination of street improvements.** *Staff recommends that the applicant pay fee-in-lieu of \$2,406.25 for sidewalks and for one street tree to be placed in escrow (\$625);*

3. **Planning Commission determination of variance to UDC §177.04, Interior Landscaping Requirements.** *Staff recommends in favor of the variance with the following condition of approval:*
 - a. An additional tree will be placed in escrow, through a payment of \$625, for the parking lot tree that will not be installed on the site;
4. All comments on the plat must be addressed prior to grading permit approval;
5. The lease boundary must be established and shown on easement plat documentation prior to building permit approval;
6. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

7. Impact fees for fire, police, water, and sewer shall be paid in accordance with city ordinance;
8. Technical Plat Review and Subdivision Committee 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 Electric, SWEPCO, and Cox Communications);
9. All mechanical and utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
10. Trash enclosures shall be screened on three sides with materials that are 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 Recycling & Trash Collection divisions for review prior to building permit;
11. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
12. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements;
13. All exterior lighting shall comply with city ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
14. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation;
15. Large scale development approval shall be valid for one year;

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

Planning Commission action: ☐ Denied ☐ Tabled ☐ Approved Meeting Date: <u>February 12, 2024</u> Motion: Second: Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- UDC §177.04, *Site Development and Parking Lot Landscape Standards*
- Staff Memos
 - Engineering Memo
 - Urban Forestry Memos
- Request Letter
 - Variance Request Letter
- Site Plan
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

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.

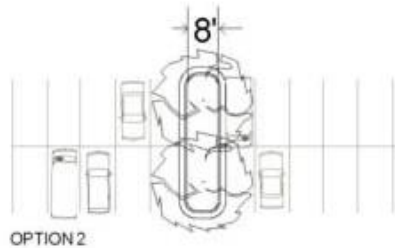
...

- (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.



TO: Kylee Hevrdejs, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: February 7, 2024

SUBJECT: **Planning Commission Engineering Comments for
LSD-2023-0021 TOM SIMS AIRPLANE HANGAR - DRAKE FIELD AIRPORT**

Water: There is an existing 12-inch water main present along the east side of S. School Ave that can provide domestic service to the proposed hangar.

Sewer: There is an existing 8-inch sanitary sewer main present to the east of the proposed hangar that the applicant may connect to for sewer service.

Streets: No public street improvements are proposed with this development. Staff recommends a fee in lieu of construction of a 5-foot-wide sidewalk along S. School Ave. In addition to this project, an additional three hangars are anticipated to be constructed in the same area at the airport. To determine the proportional impact to be assessed by this project and future proposals when they submit for development entitlement, the distance was measured between two consecutive driveways on S. School Ave near this area and divided by four. The breakdown is outlined below:

Recommended Sidewalk Fee in Lieu Amount

- Impact based on frontage: 385 linear feet (LF) / 4 hangars = 96.25 LF
- Sidewalk area: 96.25 LF x 5 feet wide = 481.25 square feet (SF)
- Proportional impact: 481.25 SF x \$5 per SF = \$2,406.25

Natural Features: The proposed hangar is not within a floodplain regulated by FEMA or in direct proximity to any Streamside Protection Zones. The overall Drake Field Airport property is within a regulated FEMA Zone AE floodplain and contains three protected streams, Ward Slough and two unnamed tributaries.

Drainage: Drake Field Airport master planned drainage improvements in 2022 to accommodate forthcoming development at the airport. An Aqua Swirl hydrodynamic separator was installed to provide water quality treatment for a total of 63,200 square feet (SF) of added impervious area. To date, approximately 10,560 SF of impervious area have been added to the airport. This proposal includes about 14,810 SF of impervious area, which will reduce what can be added to 37,830 SF before the 63,200 SF threshold once this project is complete.

Plan Comments:

1. Proposed impervious area for this project is shown in acres, please also include as square footage as this project is contributing towards a total that can be added to the airport prior to additional drainage improvements being required.

Standard Comments:

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

TO: Fayetteville Planning Commission

THRU: Kylee Cole, Planner

FROM: Melissa Evans, Urban Forester

MEETING DATE: February 12, 2024

SUBJECT: **LSD-2023-0021: Variance (4392 S. School Ave.)** Submitted by ESI for property located at 4392 S. School. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL, and contains approximately 0.47 acres. The request is for a variance to Section 177.04(C)(1)(b) of the Unified Development Code.

RECOMMENDATION:

Urban Forestry Staff recommends approval of the variance for LSD-2023-0021 which would allow the property owner to not follow the landscape regulation in Chapter 177 of the Unified Development Code that requires one parking lot tree to be planted in a parking island for every 12 parking spaces.

BACKGROUND:

Per the Unified Development Code Chapter 177.04(C)(1)(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." The applicant is required to plant one parking lot island tree for the 8 proposed parking spaces on the site. The airport staff is concerned about planting a tree on the site as they want to limit birds within the airport area to avoid conflicts with planes.

One street tree is required as well and that will be placed in Tree Escrow due to potential changes to S. School in the future.



URBAN FORESTRY
TREE PRESERVATION COMMENTS

To: Preston Locher, ESI
From: Melissa Evans, Urban Forester
CC: Kylee Cole, Planner
Meeting Date: February 12, 2024
Subject: LSD-2023-0021: Drake Field Airport: 4392 S. School Ave., 795

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

2. Tree Preservation Calculations

There are no existing trees on the site.

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
UDC Chapter 167.04H1 and 167.04L1			
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	No	No	N/A
f. Significant Trees	N/A	N/A	N/A
g. Groupings of Trees	N/A	N/A	N/A
h. Table Inventory List (species, size, health, priority)	N/A	N/A	N/A
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)	N/A	N/A	N/A
l. Floodplains and floodways	N/A	N/A	N/A
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	N/A	N/A	N/A
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	N/A	N/A	N/A
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	N/A	N/A	N/A
e. Location of concrete wash out	No	No	N/A
f. Location of construction entrance/exit	No	No	N/A

6. Site Analysis Report (if required)

UDC Chapter 167.04H4

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

7. Review Status (See Comments)

	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	12-22-23 1-10-24	1-30-24	2-7-24
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.



URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Preston Locher, ESI
From: Melissa Evans, Urban Forester
CC: Kylee Cole, Planner
Meeting Date: February 12, 2024
Subject: LSD-2023-0021: Drake Field Airport: 4392 S. School Ave., 795

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

b. Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>	Yes			
c. Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>				X
d. Tree Island (8' min. width, 18.7' min length, 150 square feet) <i>UDC Chapter 177.04C</i>	X			
e. Placement of Trees (either side at entrances and exits) <i>UDC Chapter 177.04C2</i>				X
3. Perimeter Landscaping Requirements	Yes	No	N/A	
a. Front Property Line (15' wide landscape) and 5' on sides and rear. <i>UDC Chapter 177.04D2a</i>	X			
b. Shade trees planted on south and west sides of parking lots <i>UDC Chapter 177.04D2e</i>				X
c. Screening of parking lot from adjacent residential properties.				X
4. Street Tree Planting Requirements	Yes	No	N/A	
a. Residential Subdivisions 1 Large Shade Species Tree per Lot <i>UDC Chapter 177.05B1a</i>				X
b. Non-Residential Subdivisions 1 Large Species Shade Tree every 30' (planted in greenspace) <i>UDC Chapter 177.05B2a</i>				X
c. Urban Tree Well – Urban Streetscapes Trees every 30' (8' sidewalk) <i>UDC Chapter 177.05B3a-f</i>				X
d. Structural Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan <i>UDC Chapter 177.05B3a-f</i>				X
e. Residential Subdivisions Timing of planting indicated on plans <i>UDC Chapter 177.05A4</i>				X
f. Residential Subdivisions Written description for method of tracking planting <i>UDC Chapter 177.05A4e</i>				X

5. Landscape Requirement Totals		Amount		
Mitigation Trees				0
Parking Lot Trees				1 required and provided (with Variance sought)
Street Trees				1 required (provided in Tree Escrow)
Detention Pond – Large Trees (1 Tree/3,000 square feet)				0
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)				0
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)				0
6. Review Status (See Comments)		Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved		12-22-23 1-10-24	1-30-24	2-7-24
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. One street tree is required. Due to the utilities and future road work on S. School, please place this tree in Tree Escrow.
3. It is understood that the applicant is requesting a variance from Planning Commission for the required parking lot tree.

December 13, 2023

City of Fayetteville
Development Services Building
125 West Mountain Street
Fayetteville, AR 72701

Re: Large Scale Development Application
Tom Sims Hangar
4392 S School Ave
Fayetteville, Arkansas

Planning Staff:

Please accept this letter as a narrative accompanying a large scale development application for a proposed hangar at Drake Field Airport. The project will include a 10,620 sf proposed hangar on the north side of the existing tarmac along School Ave with associated parking, site, and drainage improvements.

The property where the hangar is proposed consists of 2 parcels, 765-13310-000 & 765-13307-000, more commonly known as Drake Field Airport. The property is currently zoned I-1 and no Variances are requested for this proposed project.

Very truly yours,

Preston Locher

February 7, 2023

Melissa Evans
Urban Forester
City of Fayetteville
Development Services Building
125 West Mountain Street
Fayetteville, AR 72701

Re: Large Scale Development LSD-2023-0021
Tom Sims Hangar
4392 S School Ave
Fayetteville, Arkansas

Approved By:
Melissa Evans, Urban Forester
City of Fayetteville
479-444-3486 mevans@fayetteville-ar.gov
02/07/2024

Melissa,

We would like to request a variance for the one parking lot tree required with the proposed hangar.

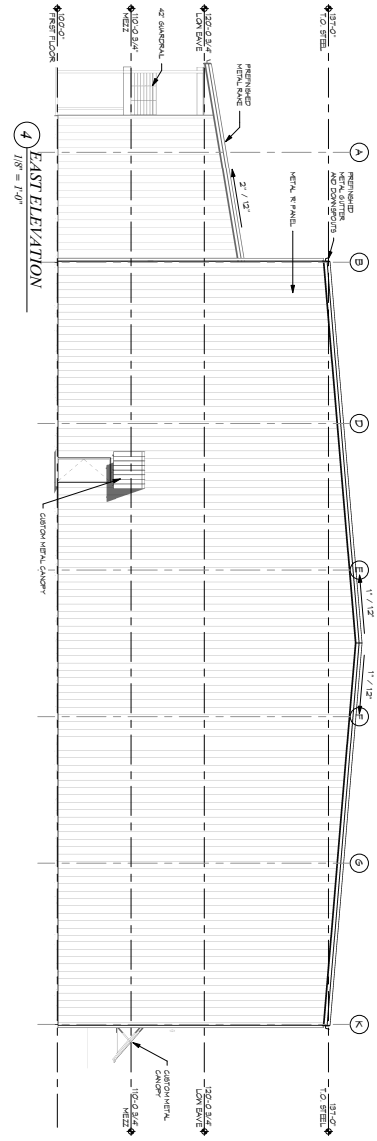
We are requesting a variance to Chapter 177.04(C)(1)(b) Option 2. Tree Island. The minimum width of a tree island shall be 8 feet; the minimum area shall be 150 square feet. One (1) tree shall be planted for every twelve (12) parking spaces with this option, with a maximum run of twelve (12) parking spaces permitted without a tree island.

Airport staff are concerned about including a tree on site, as this would encourage birds within the airport and could lead to damaged planes. The street tree will be included in Tree Escrow.

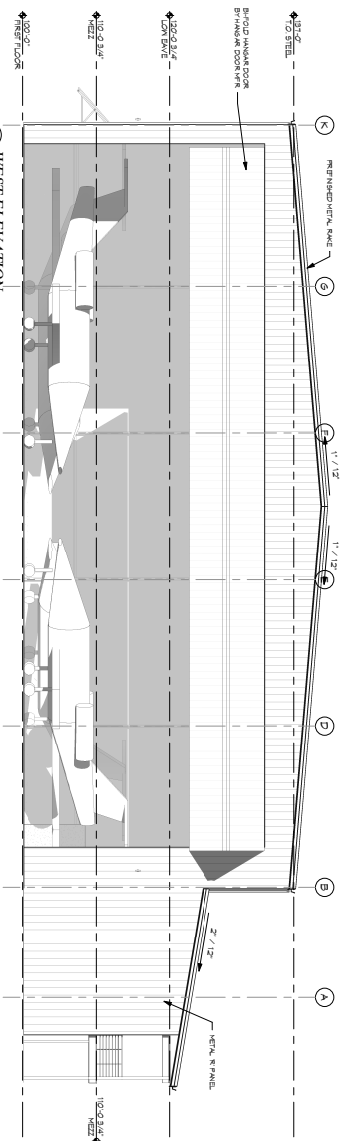
Very truly yours,



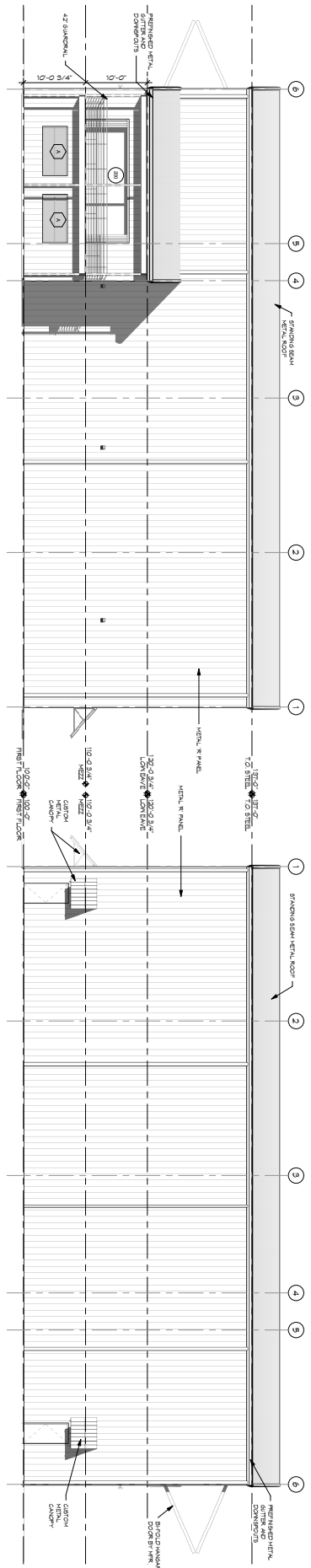
Josh Haley
Project Engineer



4 EAST ELEVATION
1/8" = 1'-0"



3 WEST ELEVATION
1/8" = 1'-0"



2 SOUTH ELEVATION
1/8" = 1'-0"

1 NORTH ELEVATION
1/8" = 1'-0"

SIMS HANGAR
DRAKE FIELD
FAYETTEVILLE, AR

Burris
Architecture
820 Tiger Blvd, Suite 4, Bentonville, Ar 72715
479-831-9509

Planning Commission
February 12, 2024

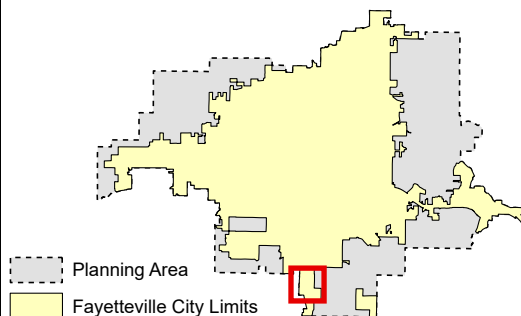
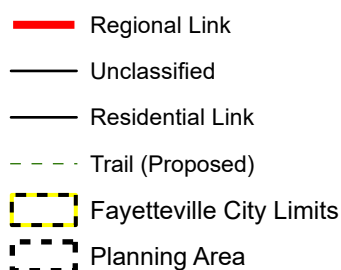
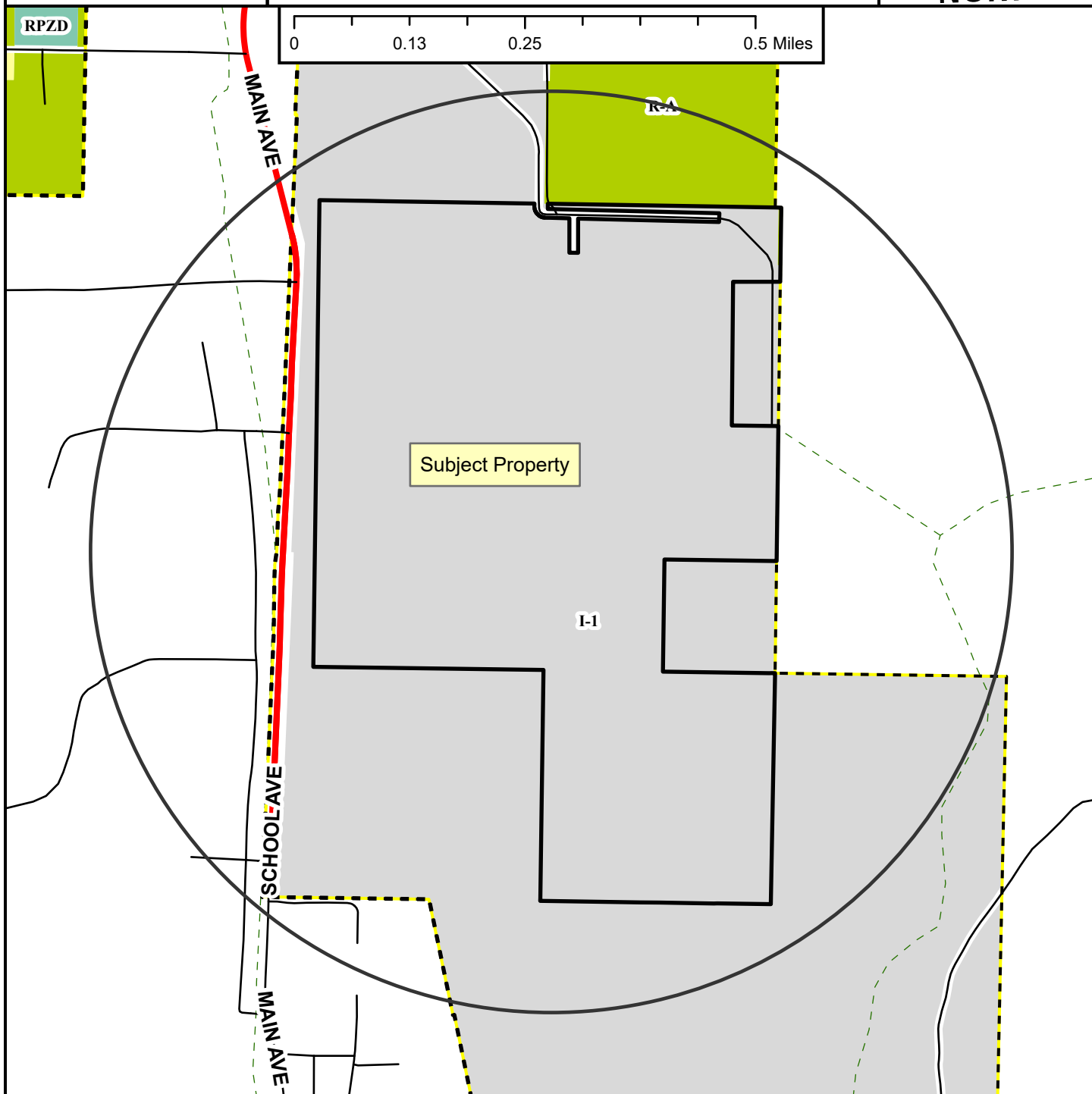
PRELIMINARY
NOT FOR CONSTRUCTION

DATE: 5-6-22
JOB NO.: 20044
REVISIONS:

A2.0
EXTERIOR ELEVATIONS



A horizontal scale bar with tick marks at 0, 0.13, 0.25, and 0.5 Miles.



- Zoning**

 - 12 General Industrial

RESIDENTIAL SINGLE-FAMILY

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

RESIDENTIAL MULTI-FAMILY

 - RMF-6
 - RMF-12
 - RMF-16
 - 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

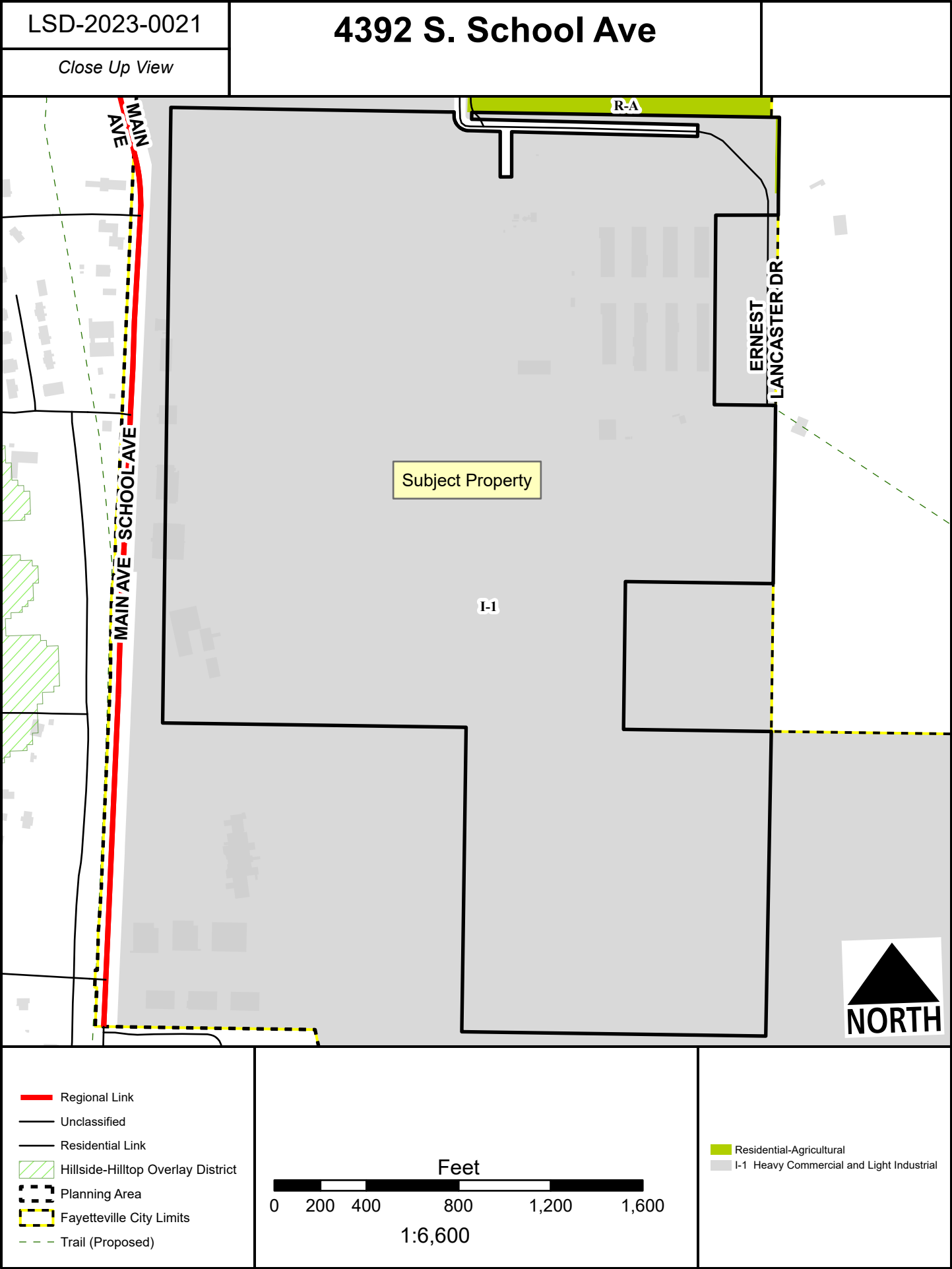
 - Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation

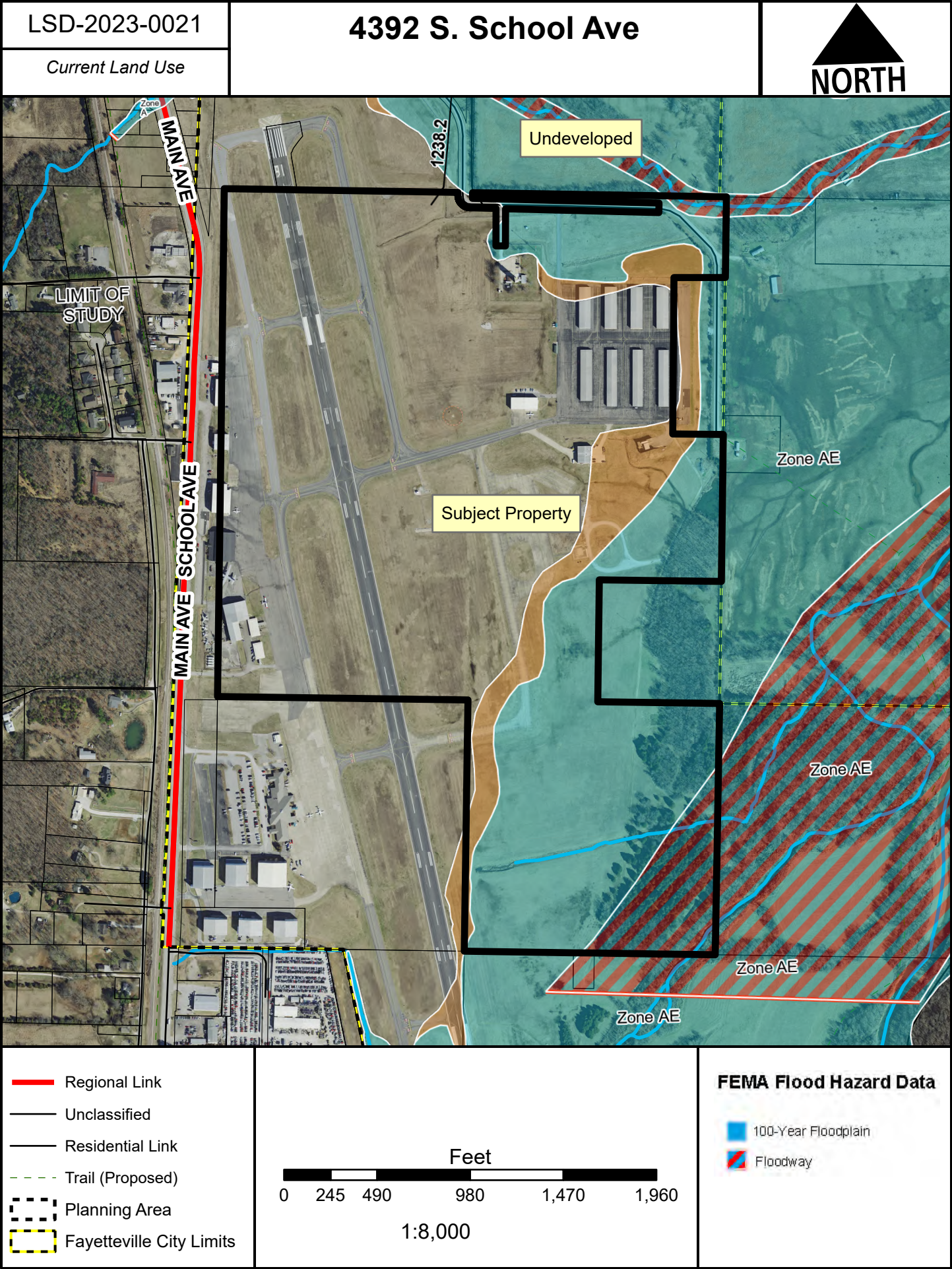
PLANNED ZONING DISTRICTS

 - Commercial, Industrial, Residential

INSTITUTIONAL

 - P-1







TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 12, 2024

SUBJECT: **CUP-2023-0191: Conditional Use Permit (680 N. FALLIN AVE./ROBERTS, 447):** Submitted by TAYLOR ROBERTS for property located at 680 N. FALLIN AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.22 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0191**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0191** 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 east Fayetteville at the southeast corner of the N. Fallin Ave. and E. Rebecca St. intersection. The 0.22-acre property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is partially encumbered by the Hillside/Hilltop Overlay District. A 1,320 square foot single-family structure was built on the property in 1993 per the Washington County Assessor. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2023-0191**, 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>February 12, 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-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains two bedrooms, occupancy will be limited to a maximum of six 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 two bedrooms and three parking spaces; one space in an attached carport 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 680 N. Fallin Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of February 6, 2024, the City had issued 447 Type 2 short-term rental licenses, and 27 remain in the queue for processing. An additional 22 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 two bedrooms and up to three off-street parking spaces available for guests on site (one carport and two in the driveway). On-street

parking is not available on either N. Fallin Ave. or E. Rebecca St. City records indicate that eight other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. GIS estimates that there are approximately 355 housing units within this radius. Eight active STR licenses is a density of 2.2%. The addition of a ninth unit would raise this density to 2.5%. Staff finds this density is not likely an undue burden on this area of the city, particularly given the spread-out nature of the existing units. City records indicate 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 is accessed off E. Rebecca St. but has frontage on both E. Rebecca St. and N. Fallin Ave, both of which are less than 20 feet in width with no existing curb and gutter or sidewalk. E. Rebecca St. is a dead-end street approximately 400 feet in length. While no on-street parking is available on these streets, staff finds that the property can likely be parked on site and that the approximately 30-foot-long driveway is of sufficient size to park two vehicles without impeding street traffic. 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 property has one parking spot available beneath an attached carport and an additional two in an adjacent 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 proposed use to be compatible with surrounding properties. The property is surrounded by residential uses, and short-term rentals are permitted by right in the RSF-4 zoning district. There appears to be adequate parking to accommodate the number of permitted guests on site 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 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.

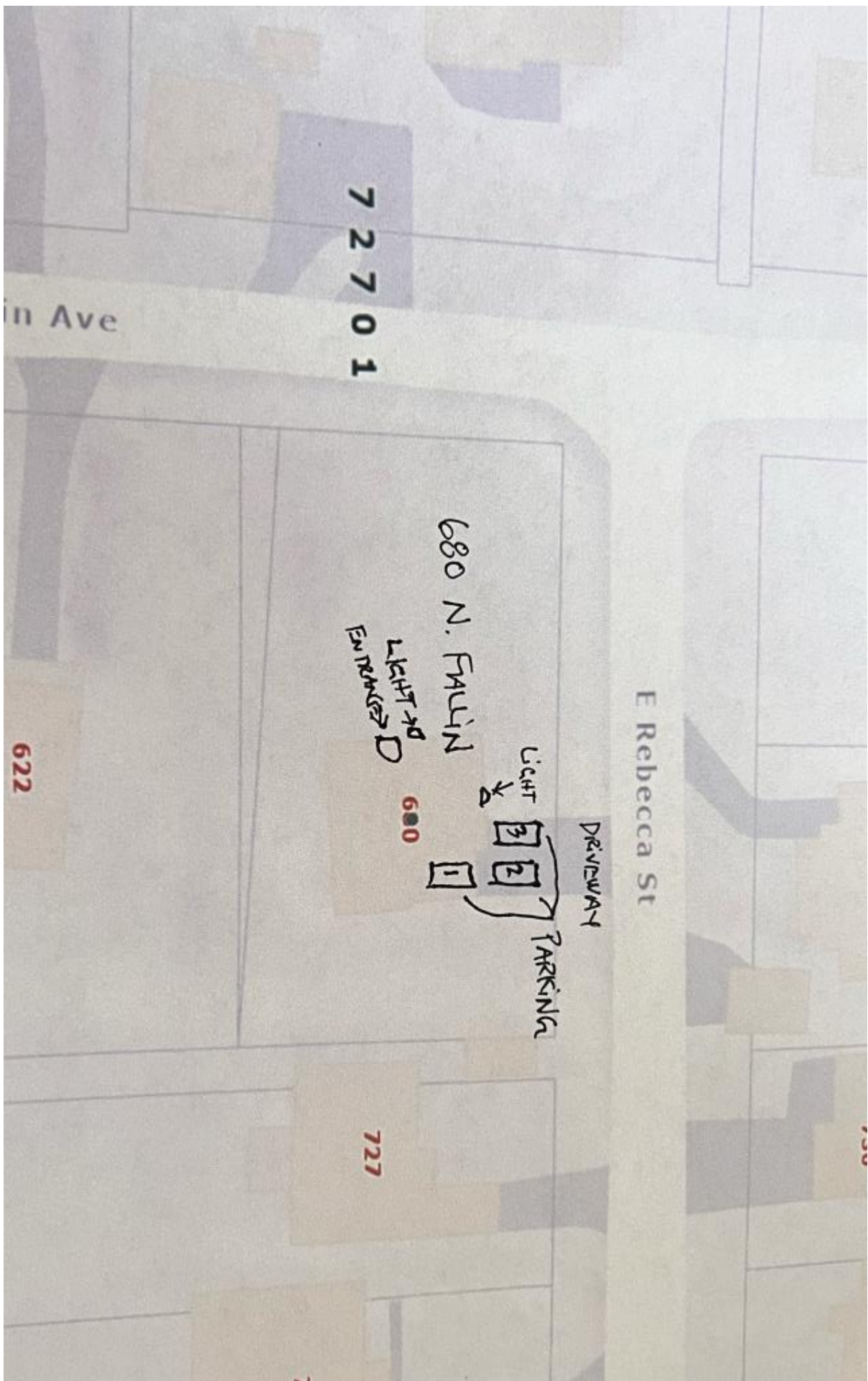
(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh.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

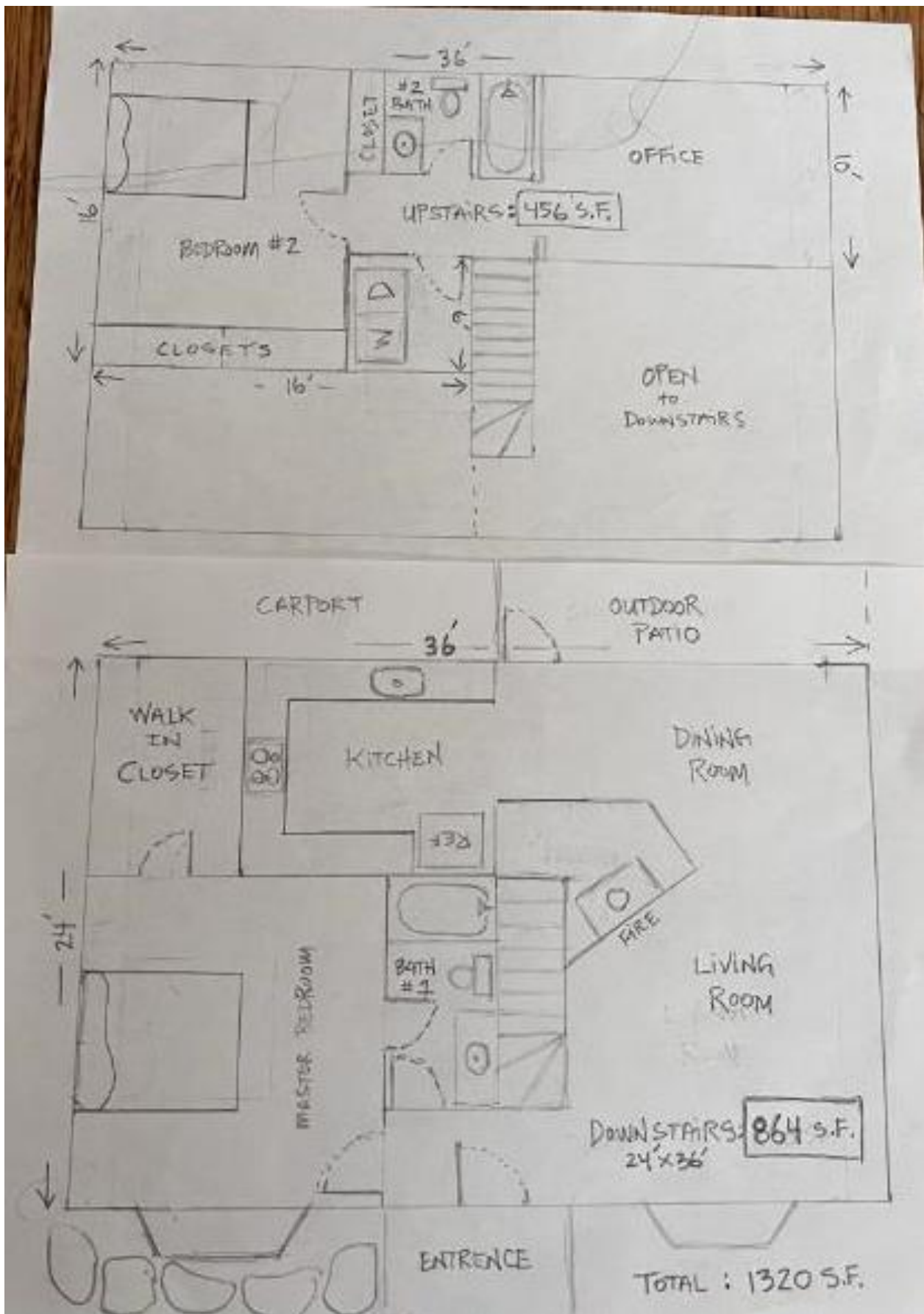
To the City of Fayetteville,

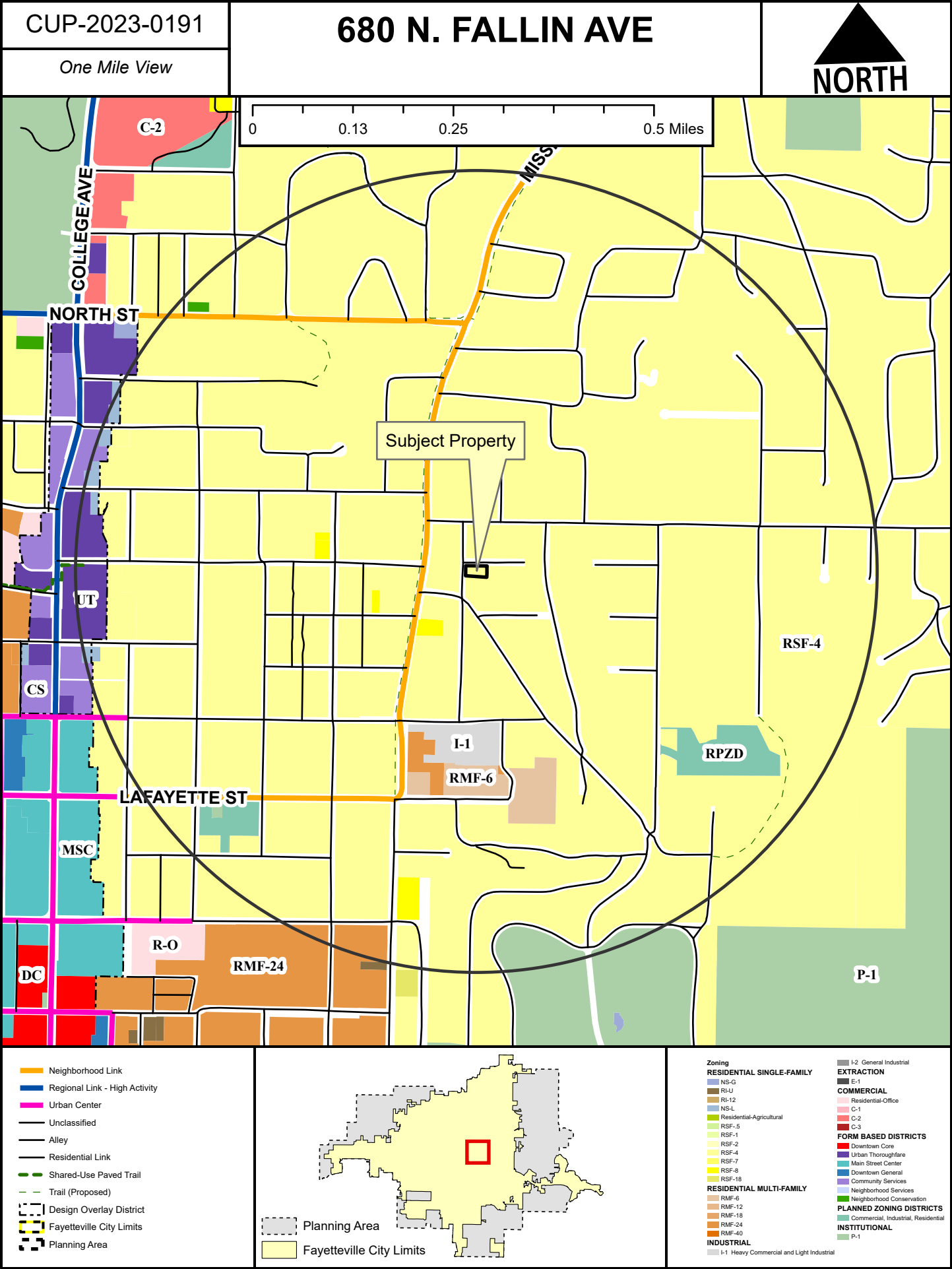
Here are the descriptions as requested:

- A. Home is 1320 s.f.
- B. Color elevations will be attached with photos of all 4 sides.
- C. Three off-street parking spaces are provided.
- D. Outdoor lighting provided in driveway in front of carport, front door entrance and back covered patio.
- E. Noise is not a significant issue on the property.
- F. Trees and bushes are on both street sides of property and fencing is on other two sides as barriers.
- G. Trash bins are stored in back of carport, just outside of kitchen and close to street.
- H. No significant traffic would be added to the street beyond what home owners already create.
- I. The compatibility of the proposed use of this property seems good and we do not anticipate any negative effects to the adjacent properties.





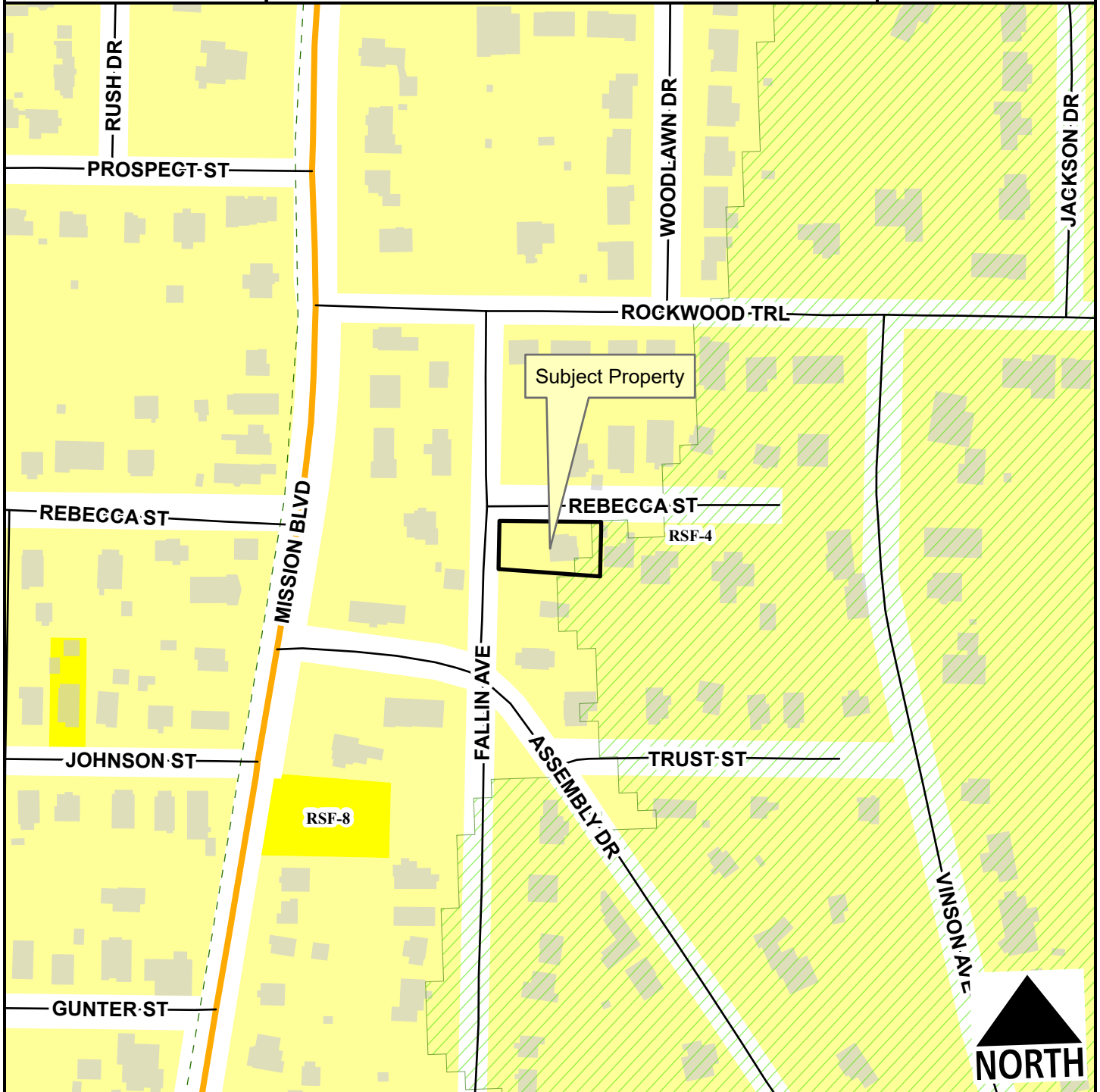




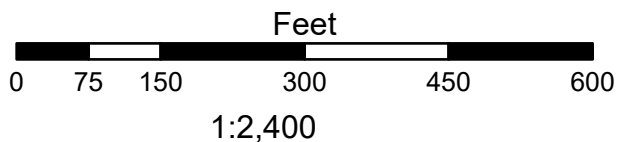
CUP-2023-0191

680 N. FALLIN AVE

Close Up View



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



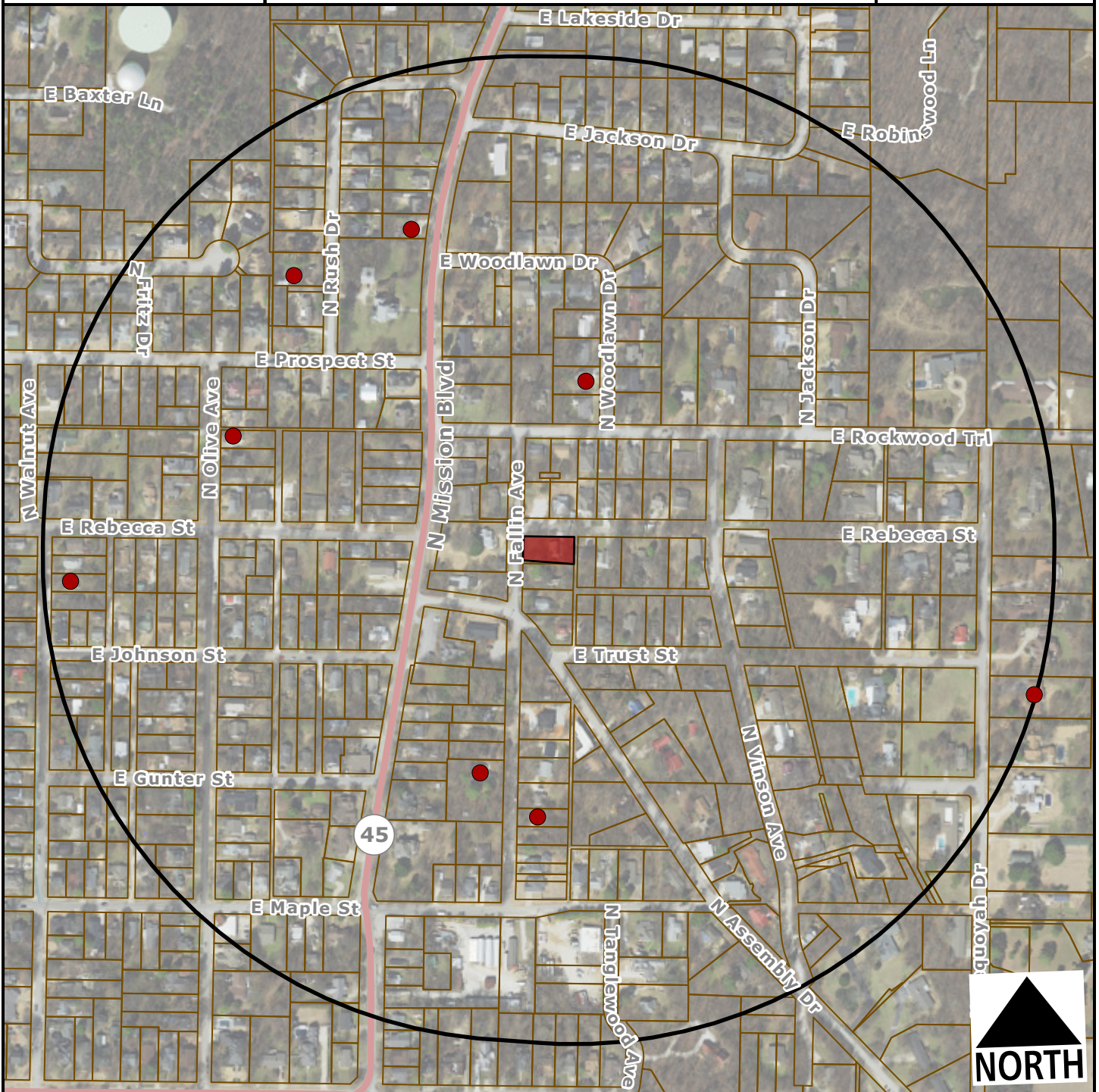
- RSF-4
- RSF-8



CUP-2023-0191

680 N. FALLIN AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 8

Occupiable
Residential
Addresses
(Estimated
Housing Units): 355



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 12, 2024

SUBJECT: **CUP-2023-0193: Conditional Use Permit (729 S. MOUNT MILLSAP LN./BATES, 557):** Submitted by CHRISTIE MYHRA for property located at 729 S. MOUNT MILLSAP LN. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 1.40 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0193**.

RECOMMENDED MOTION:
"I move to deny CUP-2023-0193."

BACKGROUND:
The subject property is in west Fayetteville directly south of Centennial Park approximately 1/10-mile northwest of the intersection of W. Old Farmington Rd. and S. Mount Millsap Ln. The 1.40-acre property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is designated as part of the Enduring Green Network. A 1,260 square foot single-family structure was built on the property in 1982 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	Centennial Park	RSF-2, Residential Single-family, 2 Units per Acre
South	Tree Preservation Easement	NC, Neighborhood Conservation
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Single-family Residential	R-A, Residential Agricultural

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

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

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

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

RECOMMENDATION: Staff recommends denial of **CUP-2023-0193**. If approved, staff recommends the following conditions;

Conditions of Approval:

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

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>February 12, 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-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

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

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. The property contains a total of two bedrooms which would limit occupancy to a maximum of six 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 two bedrooms and five parking spaces: one space in an attached garage and up to four in the driveway. The applicant letter cites three parking spaces in the driveway; however staff notes that up to four parking spaces are permitted outdoors per ordinance and that the driveway appears to be of sufficient length and width to support four parking spaces.

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

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

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of February 6, 2024, the City had issued 449 Type 2 short-term rental licenses, and 27 remain in the queue for processing. An additional 22 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. Up to five off-street parking spaces are available for guests (1 garage and up to four on the driveway). On-street parking is not available on S. Mount Millsap Ln, though staff finds the property could likely be parked on-site.

City records indicate that ten other units within a quarter-mile radius, all south of Centennial Park and accessible only off of W. Old Farmington Rd, have an active Type 2 short-term rental business license. Staff finds that approving the applicant's request may adversely impact the surroundings since it would allow more than 7% of all estimated residential units (149) within this 0.25-mile radius to operate as short-term rentals. Additionally, all of the existing units are clustered within a smaller 0.15-mile radius

containing approximately 100 residences. The addition of an eleventh type-2 short term rental would cause density in this area to reach 11%.

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

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

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

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

Finding: The property is accessed off a driveway on S. Mount Millsap Ln., a narrow, partially improved residential link street that turns sharply at the applicant's property. 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: A total of five parking spaces are available on site: one space in an attached garage and up to four in the driveway. The applicant letter cites three parking spaces in the driveway; however staff notes that up to four parking spaces are permitted outdoors per ordinance and that the driveway appears to be of sufficient length and width to support four parking spaces. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

Finding: On the balance of considerations, staff finds the proposed use to be incompatible with adjacent properties. With ten other units already having received a business license to operate a Type 2 short-term rental within a 0.15-mile radius, all of which are accessed from W. Old Farmington Rd., staff finds that this area 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 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
- Staff Exhibit: Detailed STR Density Map
- 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."

CUP Request Letter - Christie Bates/Myhra

To whom it may concern:

Please find the requested information about my home below:

- A. Building size in square feet; existing and proposed
 - o 1260
- B. Color elevations of all exterior sides of the structure
 - o The home is tan siding with a light greenish metal roof.
- 
- C. Number of off-street parking spaces to be provided / number required
 - o The house has ample parking adjacent to the home. The carport holds 1 car, and the driveway can hold an additional 3 cars.
- D. When request applies to a business or non-residential use:
 - o -Hours of operation
 - o -Number of employees
 - o -Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour)
- E. Outdoor lighting
 - o One city street light in the backyard as well as front porch lighting, back porch lighting, and carport motion lighting.
- F. Noise
 - o This is a small home with no extra noise.
- G. Screening or buffering from adjacent properties
 - o My house is located in a wooded area with little to no visibility to other homes.
- H. Trash and refuse service (with particular reference to visibility from the street and adjacent properties)
 - o I use the City of Fayetteville for trash, recycle, and water
- I. Ingress and egress to the property; traffic impacts
 - o My house is located near the I-49 highway so it is easy to access. No traffic will be impacted.
- J. A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood
 - o I have very few neighbors. I mostly have one neighbor, Matthew, to the west of the property who has been a great neighbor. He has older kids. Making the home a rental will have no impact on the adjacent properties.

Thank you,

Christie Bates
479-903-6458

729 S Mount Millsap Lane
Fayetteville, AR 72704*

**Please note that the city of Fayetteville has changed my address from 2800 W Old Farmington Road to 729 S Centennial Park Lane to 729 S Mount Millsap, in case you see a differing address on documentation.*

Floor Plan - 729 S Mount Millsap Ln



Building Elevations - Christie Bates/Myhra

To whom it may concern:

Please find the requested Building Elevations for my home below - photos taken by inspector:

A. The home is tan siding with a light greenish metal roof.



-
- I have since installed a structure to hide the AC unit:



-





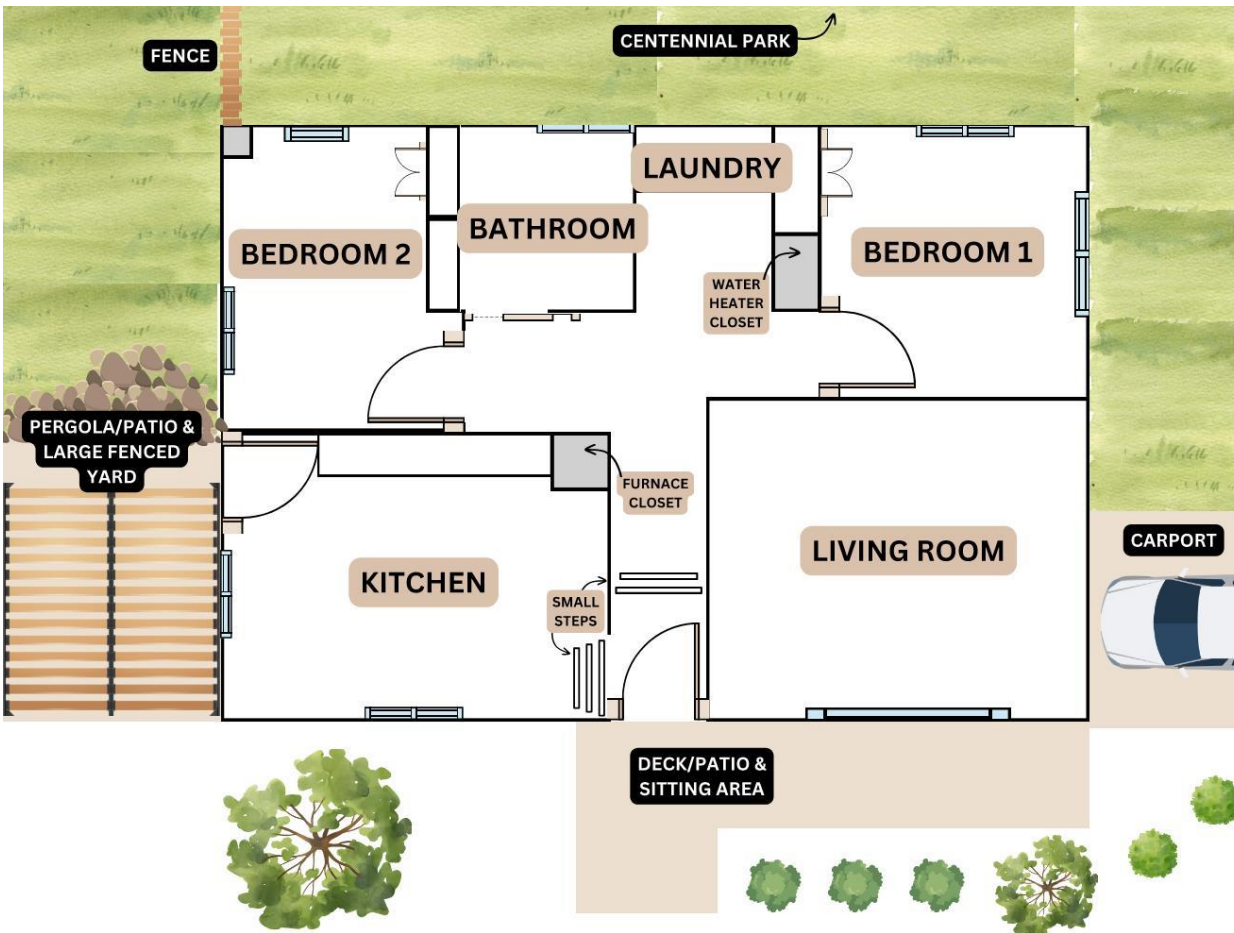
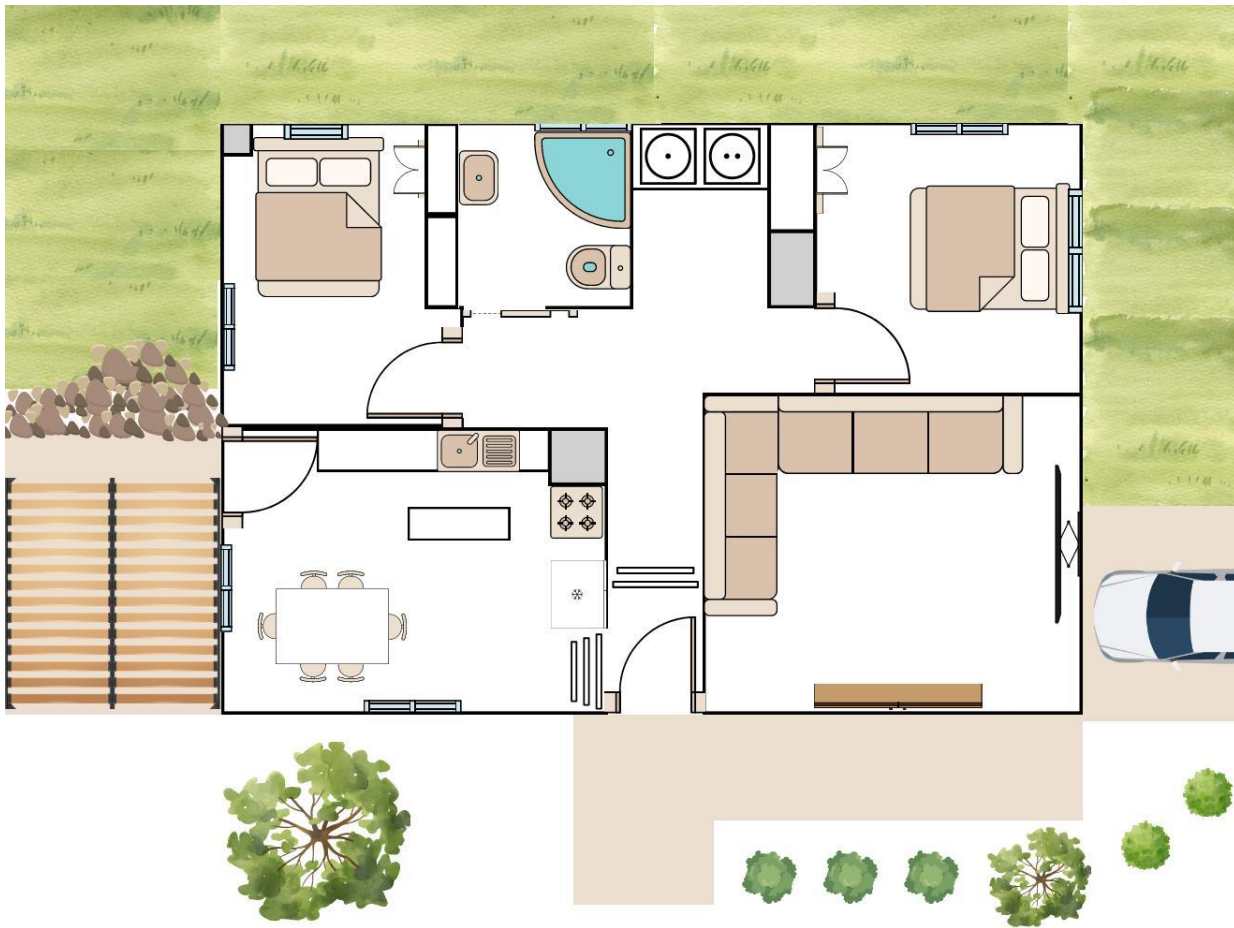
-
- *Playground was removed by previous owners and I added a pergola and shed against the house:



-

Thank you,

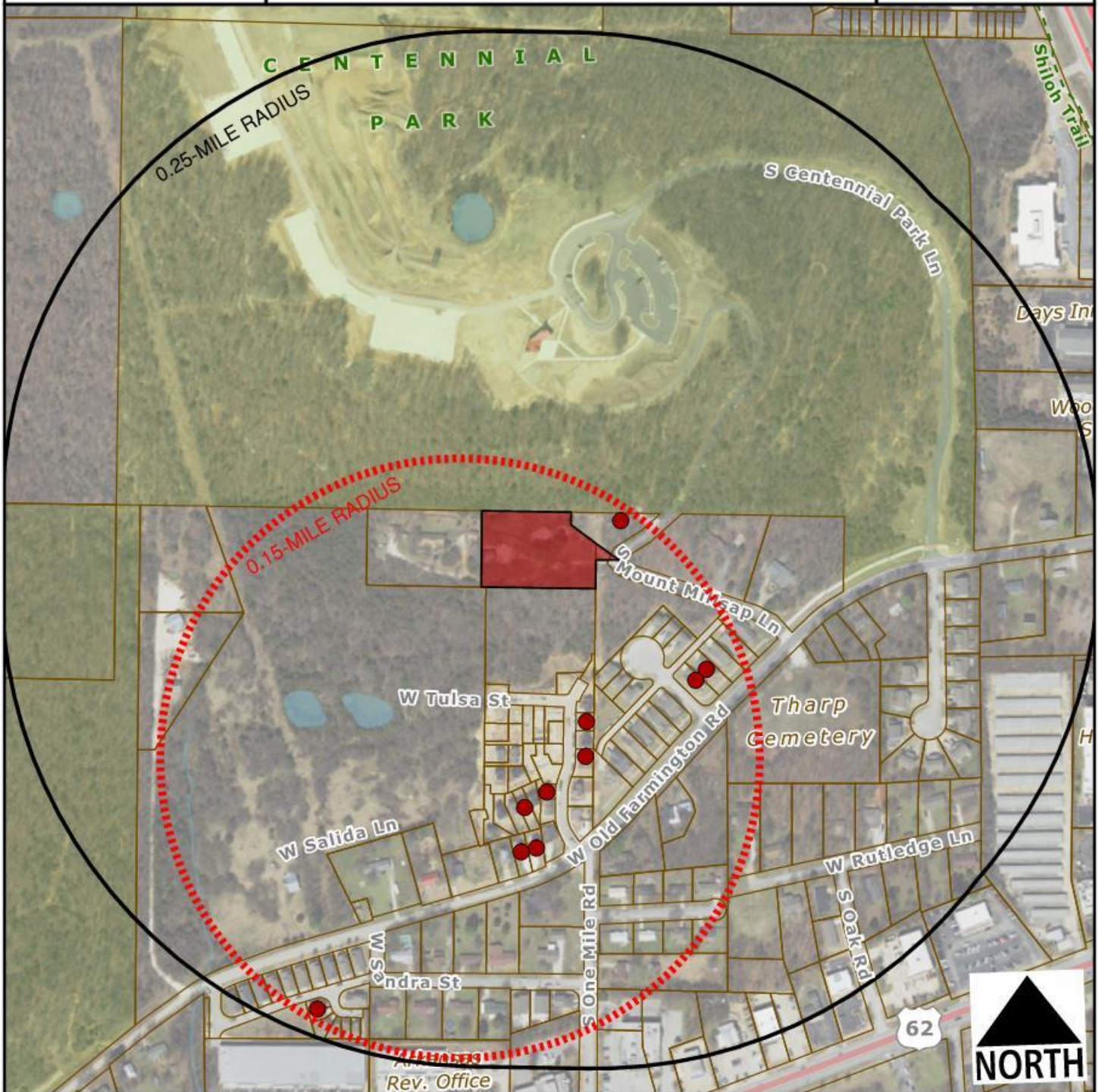
Christie Bates
479-903-6458



CUP-2023-0193

729 S. MILLSAP LN

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2

0.25-Mile Radius

10 / 149 Housing Units = 6.7%
11 / 149 Housing Units = 7.3%

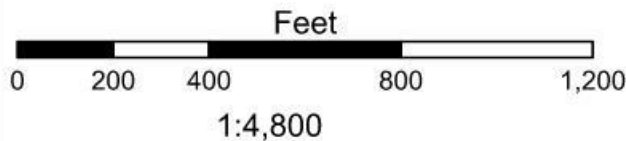
0.15-Mile Radius

10 / 100 Housing Units = 10%
11 / 100 Housing Units = 11%

Within 1/4 Mile

Type 2 STRs: 10

Occupiable
Residential
Addresses
(Estimated
Housing Units): 149



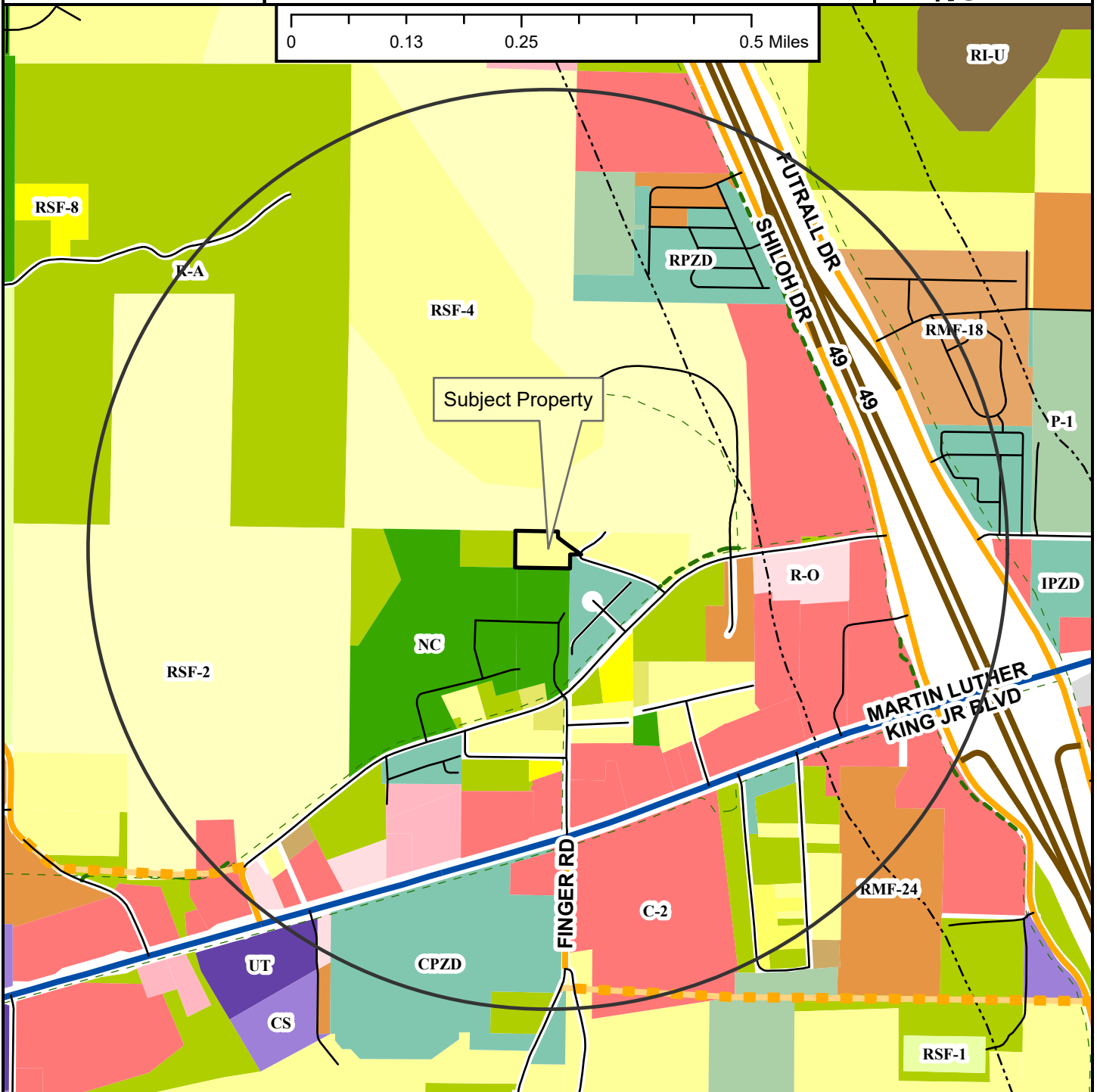
CUP-2023-0193

729 S. MILLSAP LN

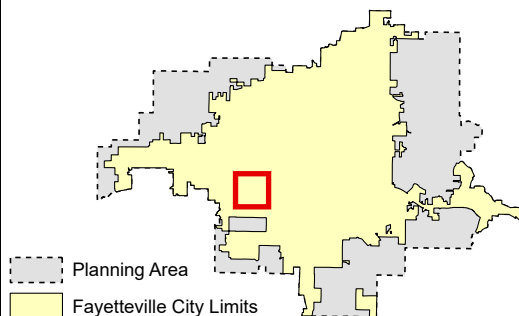
One Mile View



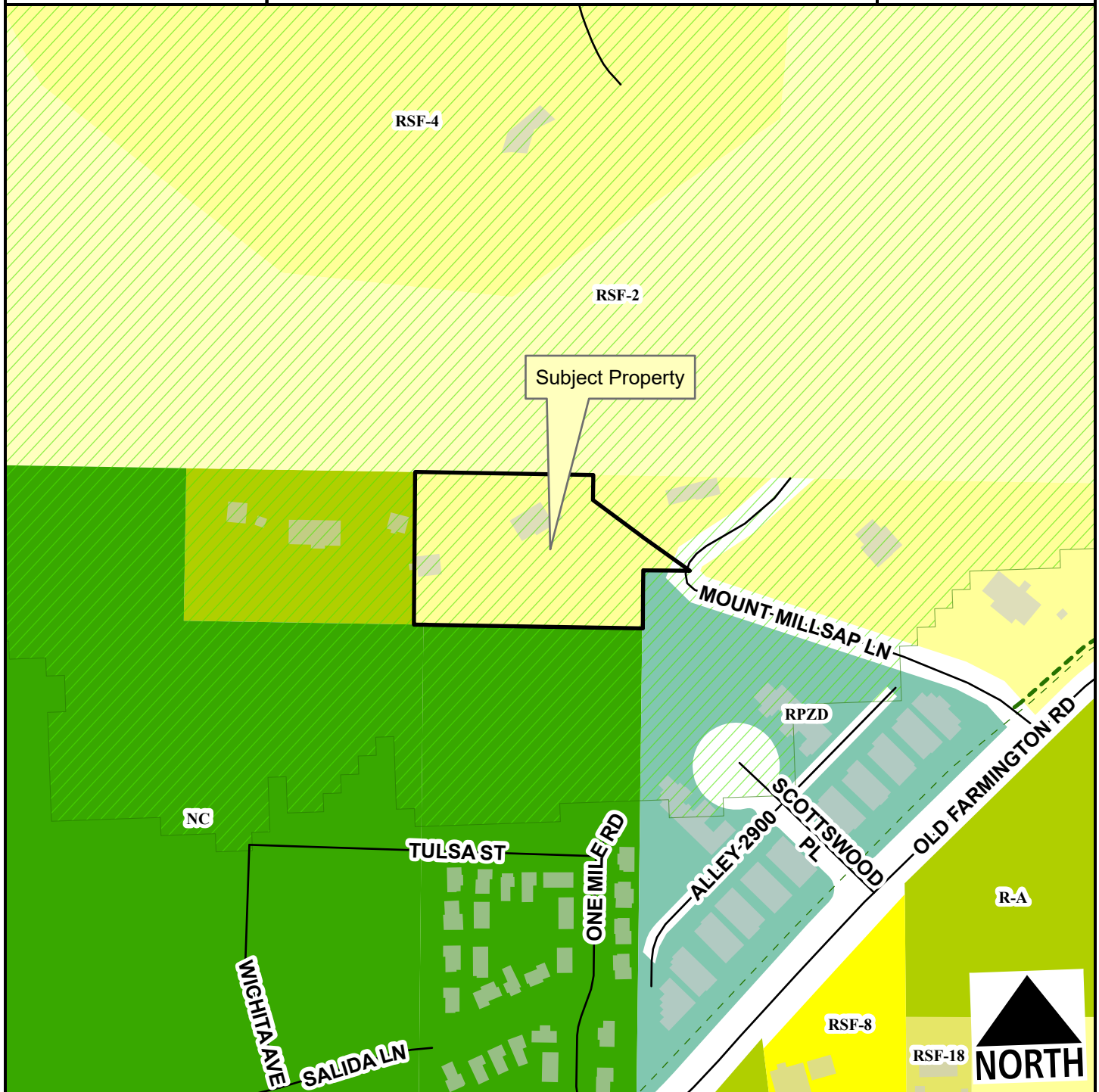
0 0.13 0.25 0.5 Miles



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



- | | |
|--|--|
| <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 | <ul style="list-style-type: none"> I-2 General 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 |
|--|--|



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



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



CUP-2023-0193

729 S. MILLSAP LN

Current Land Use



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



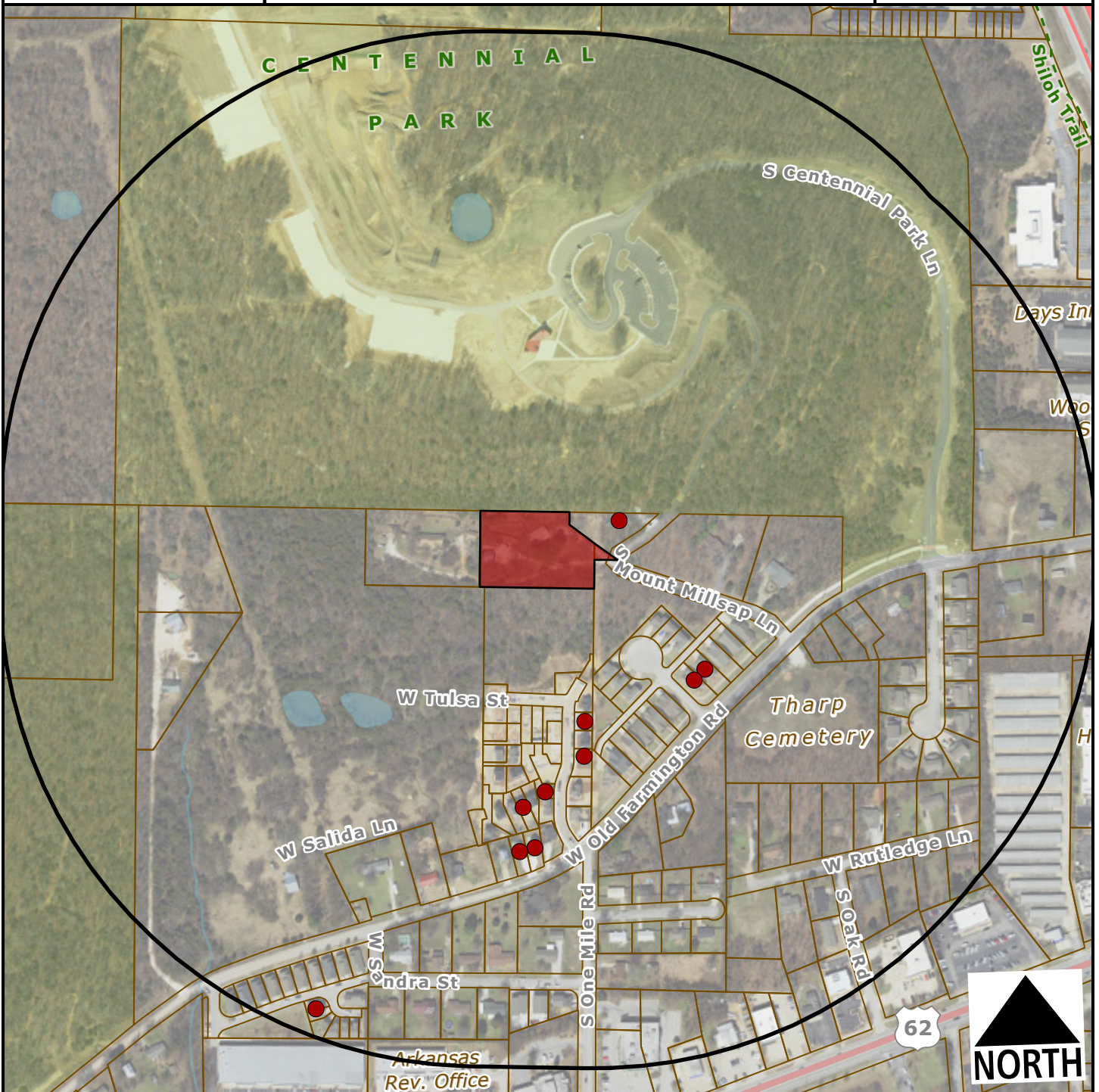
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0193

729 S. MILLSAP LN

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): 149



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: February 12, 2024

SUBJECT: **CUP-2023-0195: Conditional Use Permit (277 S. HILL AVE/EARTHMAN, 522):** Submitted by LAUREN EARTHMAN for property located at 277 S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY UNITS PER ACRE and contains approximately 0.33 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0195** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0195**, 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 Fayetteville High School. The property contains approximately 0.33 acres and is developed with a 1,200 square-foot single-family dwelling constructed in 1911. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-40, Residential Multi-Family, Forty Units Per Acre
South	Single-Family Residential	RMF-40, Residential Multi-Family, Forty Units Per Acre
East	Multi-Family Residential	RMF-40, Residential Multi-Family, Forty Units Per Acre
West	Multi-Family Residential	RMF-40, Residential Multi-Family, Forty 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-2023-0195** 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. The parking area will be improved to conform with §172.11, including installing pavement to a minimum of 18 feet beyond the Master Street Plan right-of-way at a maximum width of 24 feet;
6. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;
7. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;
8. All trash receptacles shall be screened from view of the right-of-way;
9. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
10. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
11. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 12, 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-40 zoning.

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

- (c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

- A. **Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.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-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: The property contains a total of two bedrooms which would limit occupancy to a maximum of six 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: Parking for single-family homes 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 five vehicles on the property. Per ordinance, up to four cars are permitted to be parked outdoors at a single-family property. Based on the applicant's submittal, it does not appear that the driveway meets requirements established in 172.11. Specifically, the driveway is not clearly defined by pavement, a change in materials, edging, or other means. As a condition of approval, staff recommends that the driveway be improved to meet current code requirements.

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

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

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of February 7, 2024, the City had issued 447 Type 2 short-term rental licenses, and 27 remain in the queue for processing. An additional 22 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 will be available for guests on site. City records indicate that twenty-one other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. To contextualize this, these twenty-one units are just 2.29% of the 917 total housing units in the same radius. The nearest units operating with a Type 2

STR business license are approximately 400 feet away from the subject property, and on different streets or different blocks of Hill Avenue. 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 driveway with access onto S. Hill Ave. is available to accommodate vehicular ingress and egress to the subject property. S. Hill Ave. is fully improved with sidewalks to facilitate pedestrian access on the east and west sides 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 six guests which would not be out of character with the use of the property for residential purposes.

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

Finding: Four off-street parking spaces are available in a 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 residential trash service.

- (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.

- Page 7
- (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
 - § 161.1 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
 - Building Elevations
 - Building Floor Plans
 - Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

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

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

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 feet
Three (3) family or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	2,500 square feet
Two (2) family	3,000 square feet
Three (3) family or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

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

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21; Ord. No. 6658, §7(Exh. F), 5-2-23)

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

Lauren Earthman
5800 Lookout Mountain Drive
Austin TX 78731
832-489-9178
leearthman@sbcglobal.net

Request Letter / Conditional Use Permit

Parcel address: 277 S Hill Ave, Fayetteville AR 72701

Parcel ID 765-09789-000

Partial Legal LOT 15 & S HALF LOT 16 BLOCK 3

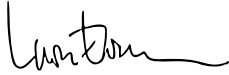
December 20, 2023

We are requesting from The City of Fayetteville that our property at 277 S Hill Ave, Fayetteville, Arkansas 72701 be permitted for short term rentals.

- (a) *Building size*: 1204 sq ft, 2 bedroom, 2 bathroom bungalow on .33 acre lot
- (b) *Elevations*: (see attached)
- (c) *Number of off-street parking spaces to be provided*: 5
- (d) *Outdoor lighting*: There are porch lights on front and back of the house, a motion flood light in the driveway and city street lamp in front by sidewalk
- (e) *Noise*: The area is primarily college students and University employees. The street is a route for the Razorback Transit buses so there is a moderate amount of activity on S. Hill Ave and I would consider the noise level moderate.
- (f) *Screening or buffering from adjacent neighbors*: The house has wood fencing and trees/bushes along the sides and back to provide privacy from neighbors. In front is a short 3ft tall picket fence to create a boundary from the pedestrian walkway.
- (g) *Trash and refuse service*: Trash cans and recycling bins are stored on the side of the house out of visibility from the street and adjacent properties.
- (h) *Ingress and egress to the property; traffic impacts*: The driveway enters and exits onto S. Hill Ave. There is enough space in the driveway/front area to turn a car around in order to exit the driveway forward facing if desired. I do not believe there are any traffic impacts to be noted here.
- (i) *A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood*: A short term rental at this address would not cause disturbances to neighboring properties. The area is very active and some noise should be expected.

Fayetteville High School is a few blocks behind the house and on Friday night you can hear the excitement of the football games which adds to the charm of this location. It is close to campus and ideal for families coming to tour the University. The property is large so there is space between the house and neighboring houses to buffer from some of the surrounding activity.

Sincerely,



Lauren Earthman

VIEW OF FRONT & SOUTH SIDE OF HOUSE



VIEW OF FRONT & NORTH SIDE OF HOUSE, DRIVEWAY & STORAGE SHED

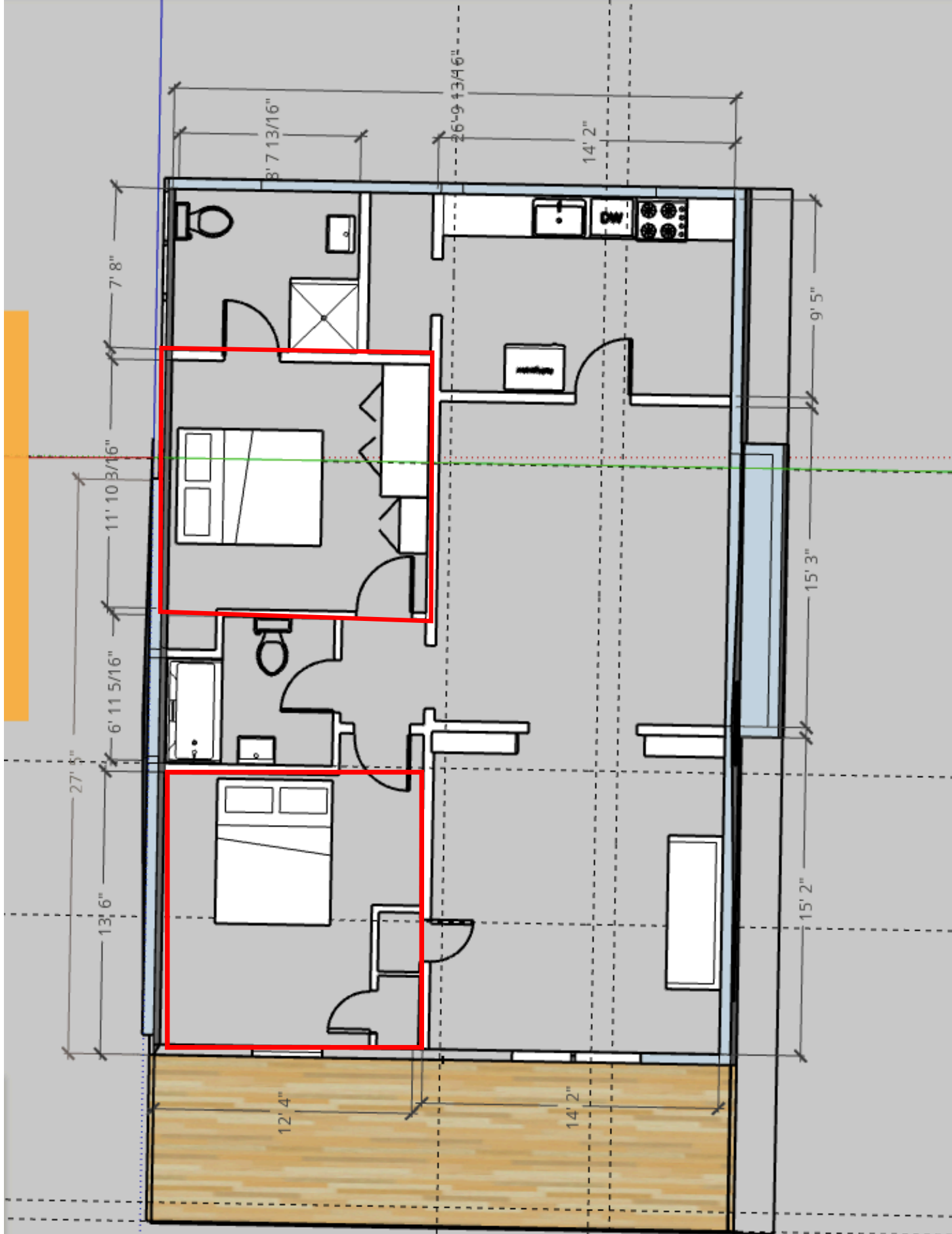


VIEW OF FRONT YARD & PROXIMITY TO S. HILL AVE.



VIEW OF BACKSIDE OF HOUSE AND STORAGE SHED

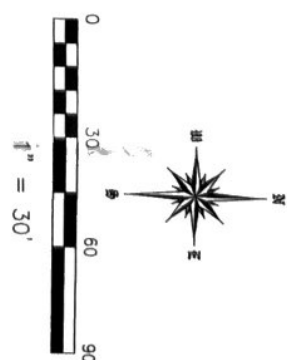






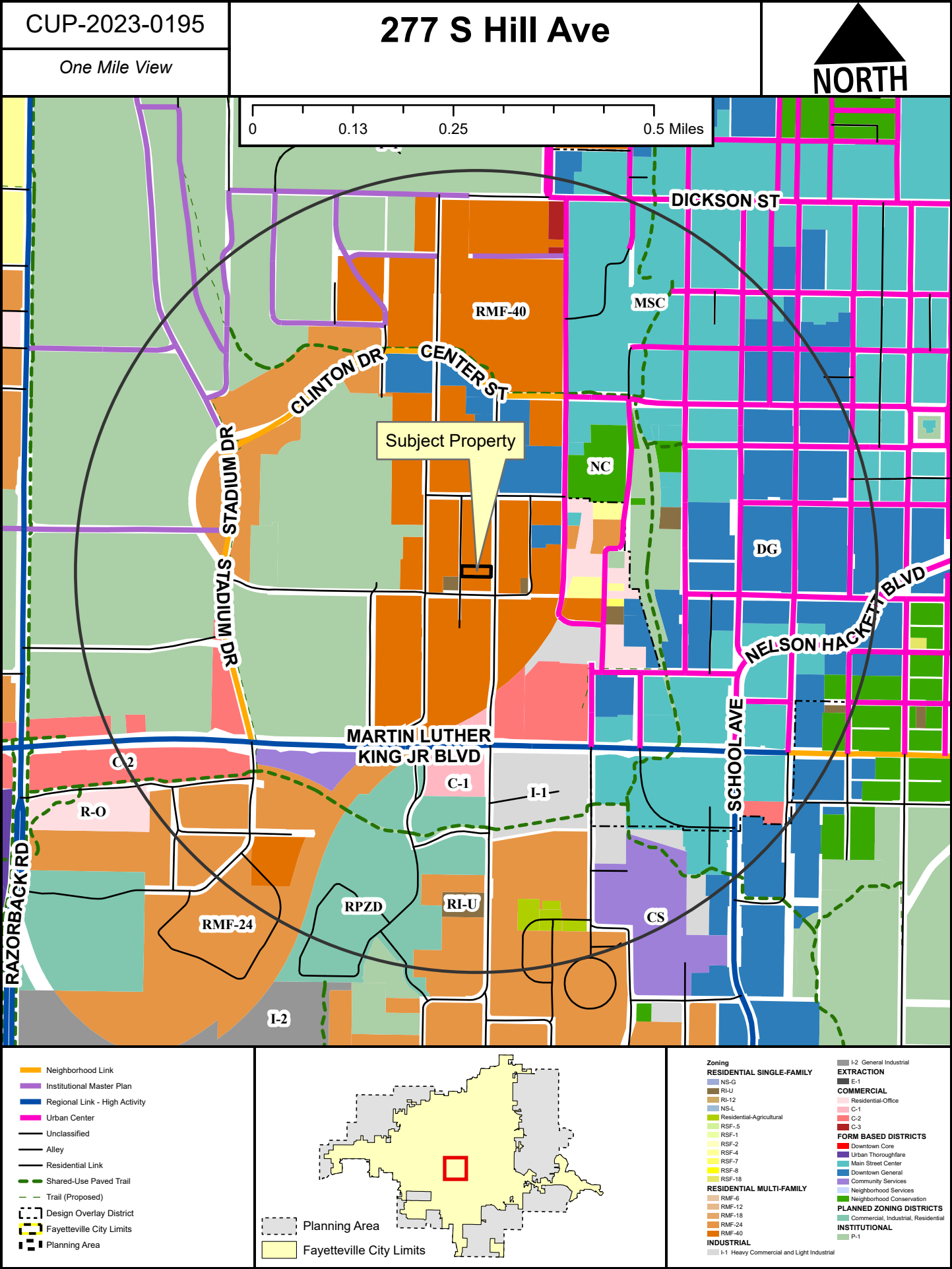
DATE: 10/11/2023	REVISED:	PROJECT NO.
SCALE: 1" = 30'	DRAWN BY: DF	23247

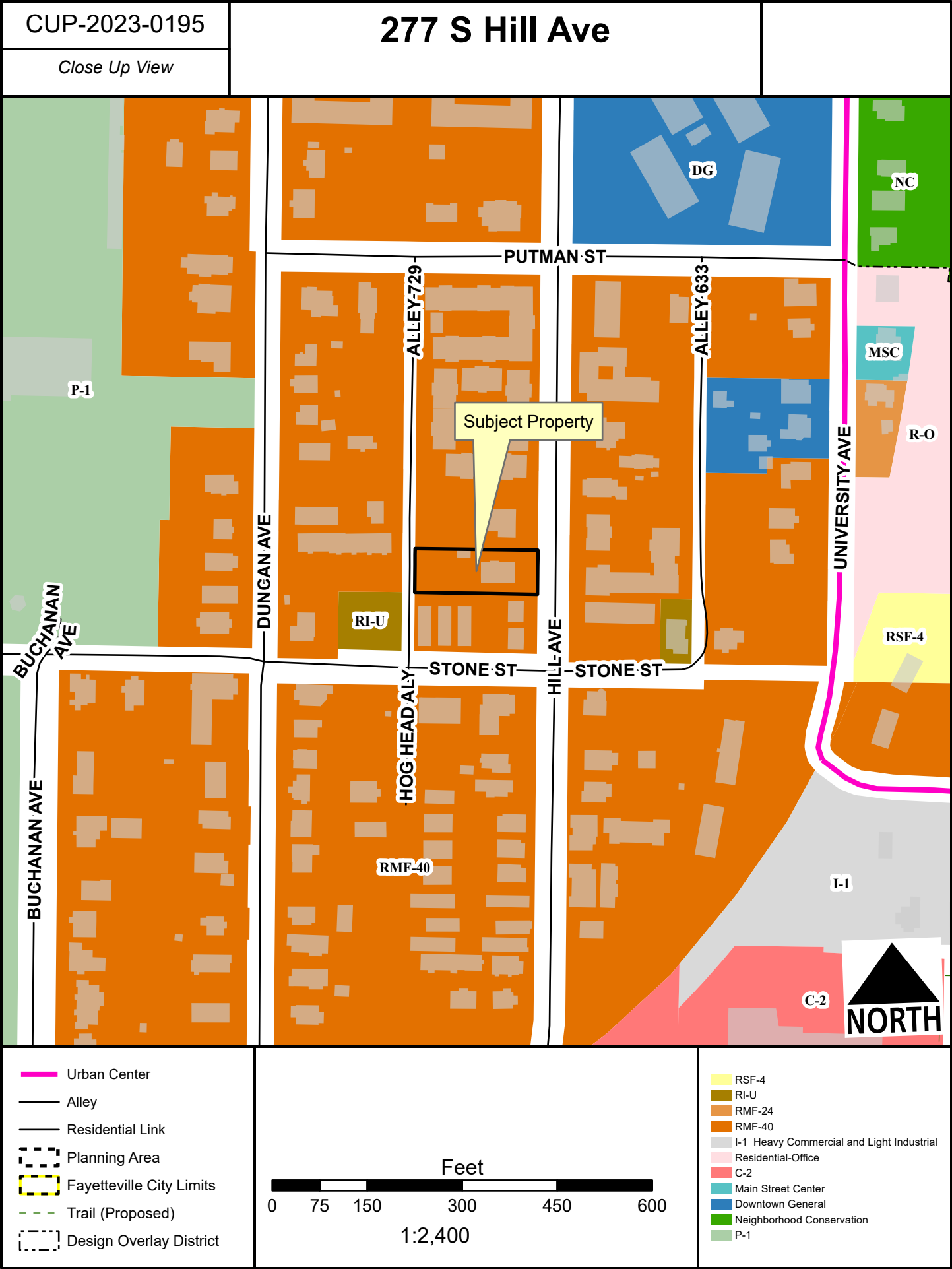
BOUNDARY SURVEY



LEGEND

+ COMPUTED POINT
● EXISTING IRON REBAR
♂ POWER POLE
① TELEPHONE PEDESTAL
② WATER METER
— CENTERLINE ROAD
— CHAIN-LINKED FENCE
— OVERHEAD ELECTRIC LINE
— PROPERTY LINE
— RIGHT-OF-WAY LINE
— WOOD FENCE

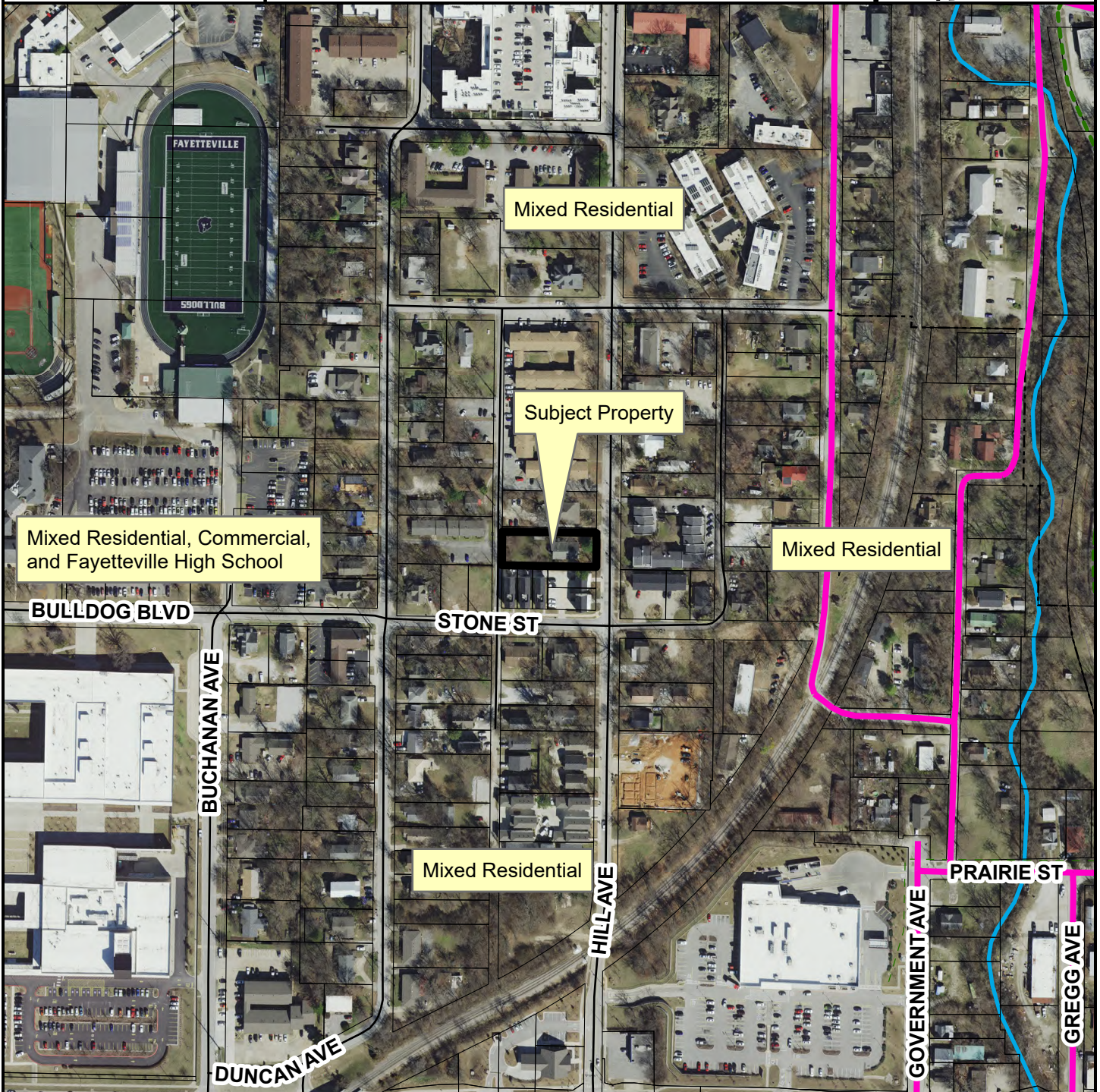




CUP-2023-0195

277 S Hill Ave

Current Land Use



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



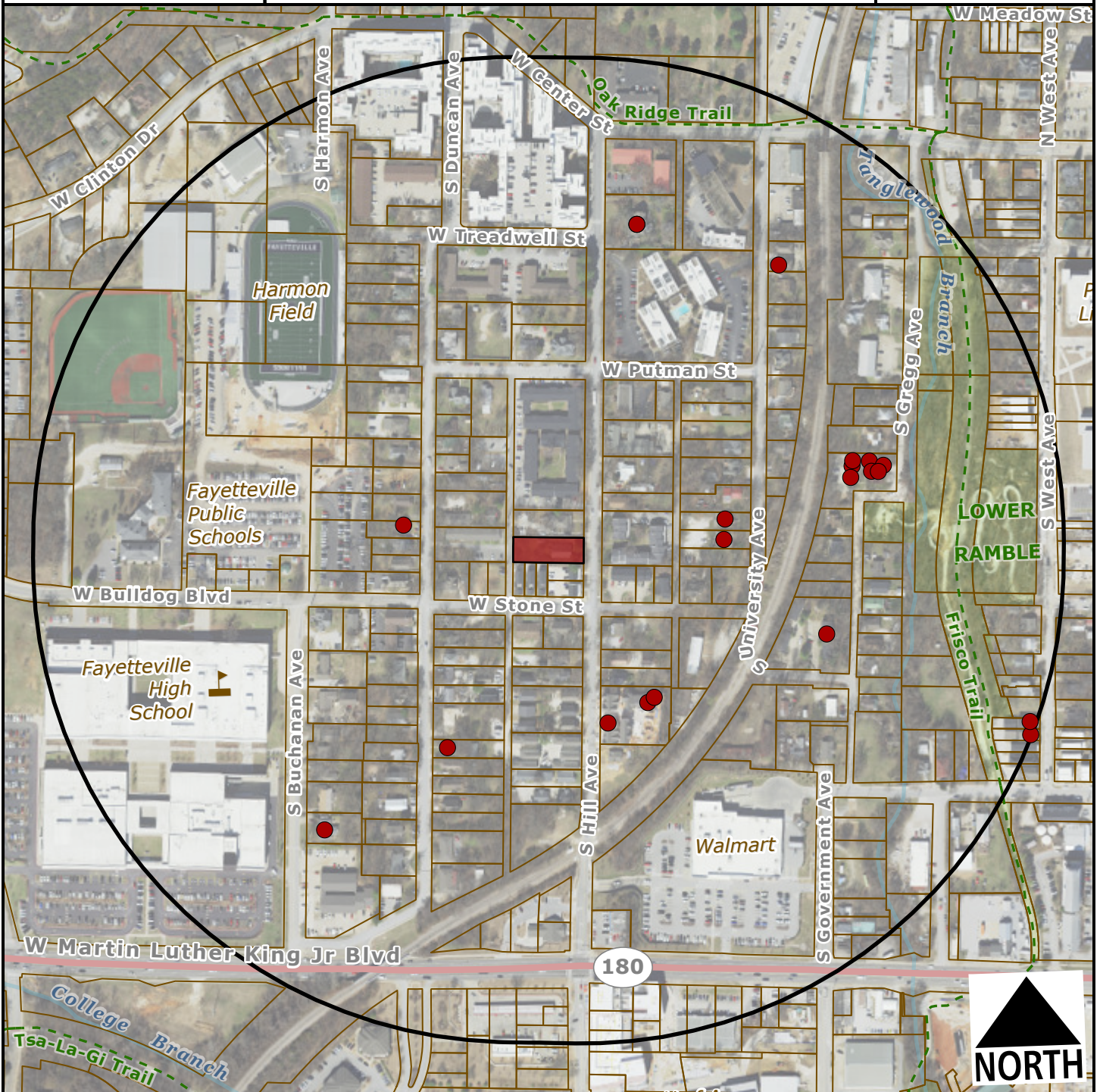
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0195

277 S Hill Ave

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 21

Occupiable
Residential
Addresses
(Estimated
Housing Units): 917





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: February 12, 2024

SUBJECT: **CUP-2023-0196: Conditional Use Permit (1138 S. OLEANDER LN./HOLLAND, 556):** Submitted by JJET MANAGEMENT for property located at 1138 S. OLEANDER LN. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0196** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0196**, 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 about one third of a mile northeast of the intersection of Ruppel Road and Martin Luther King Jr. Boulevard on the east side of Oleander Lane in the Magnolia Crossing Subdivision. The property contains one parcel totaling 0.20 acres which is currently developed with a 1,432-square-foot, three-bedroom, single-family home which was built in 1998. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

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

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

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 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-2023-0196** 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>February 12, 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. Since RMF-24 is a residential zoning district, a conditional use permit is required.

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

Finding: The 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 Lilac Drive and the east side of Oleander 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 1138 S. Oleander 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 February 6, 2024, the City had issued 447 Type 2 short-term rental business licenses and 27 remain in the queue for processing. An additional 22 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 nearby. City records indicate that only one other unit within a quarter-mile radius of the property has 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 Oleander 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 with upgraded size containers. 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 in a residential subdivision and there is only one other licensed Type 2 short-term rental within a quarter-mile radius. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

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

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

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.16 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 Floor Plan
- Building Elevations
- 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.

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

To: City of Fayetteville, conditional use permit committee

From: John Holland, property owner

Please accept my application for a conditional use permit, to allow for short term rentals and permitted stays of family members.

1138 S Oleander is 1432 sq ft single family residence with 3 bedrooms and 2 baths, laying in the county of Washington and state of Arkansas.

This corner lot is #107, Magnolia Crossing, plat book 14, pages 98 & 99.

All red brick structure with no proposed additions. 2 car garage and 2+ parking spaces in the driveway.

Outdoor lighting displays 3 wall mount, hard wired fixtures, permanently mounted to the brick along front of home. 2 permanently mounted fixtures, attached to brick in the rear and 4 in ground lights in the front yard.

Only standard neighborhood noise has been observed. No industrial, commercial or corporate/traffic noise has been heard.

This corner lot has 1 neighbor to the south (25' separate dwellings) and one neighbor to the east (36+ separate dwellings).

Trash and refuse collection is standard residential service with upgraded size container. Containers are stored inside of the perimeter fence, until trash day. (handled by management company)

This neighborhood is supplied with 3 main ingress/egress options. S Ruppel Rd, S Camellia Ln and S Densmore Trail. With the low volume of total homes in this neighborhood, there is very little traffic and the use of this home would not impact overall traffic flow.

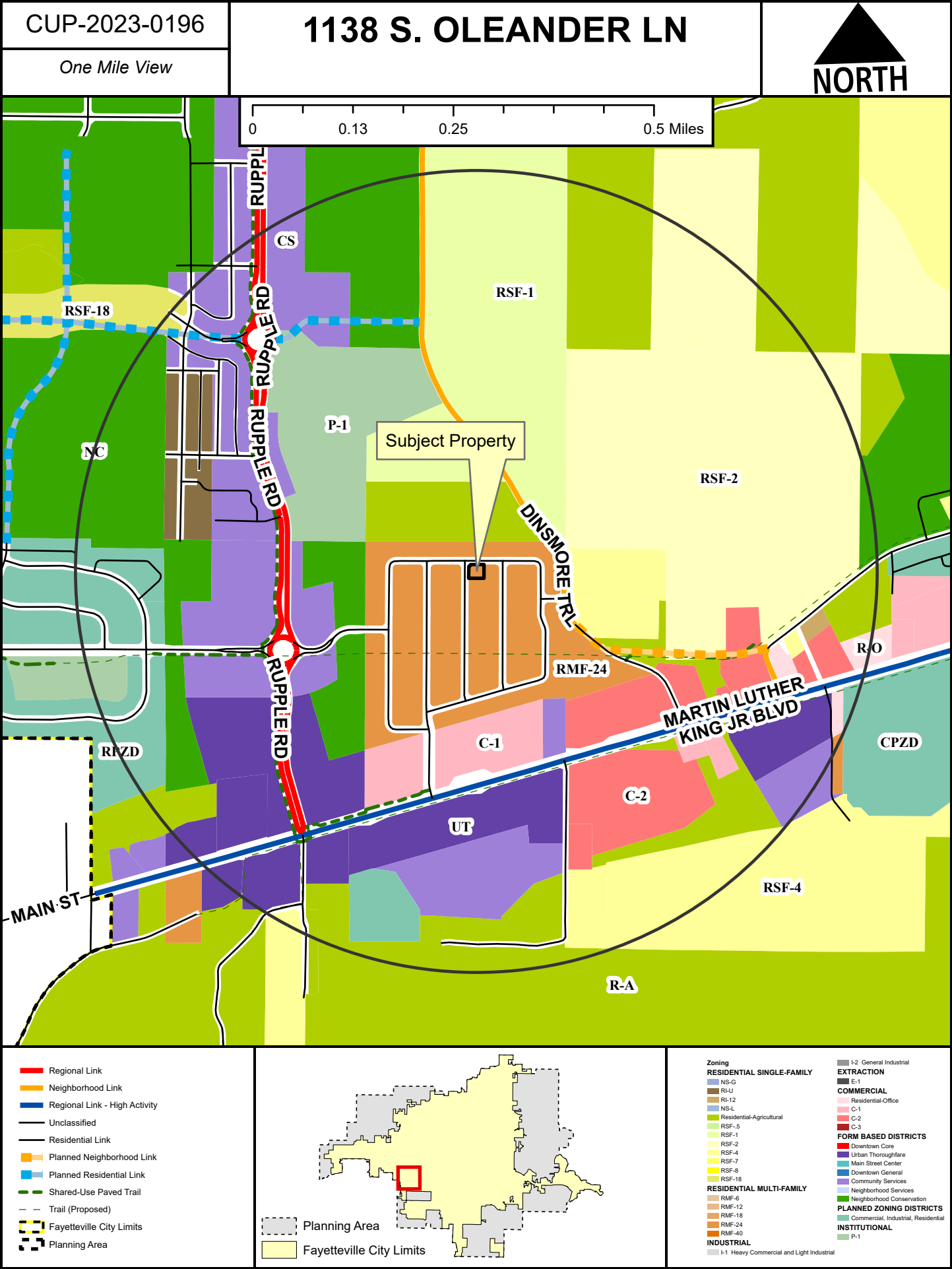
There appear to be 1-2 other short term rental properties in this neighborhood and several long term rentals. Being a smaller, single family home the primary use is assumed to be for sports events conducted at the University of Arkansas and for short durations, with management, cleaning and landscape services maintaining the appeal, value and impact on the neighborhood.

Thank you for your consideration.

John Holland

JohnHolland@JJETrealty.com / 714-369-9380

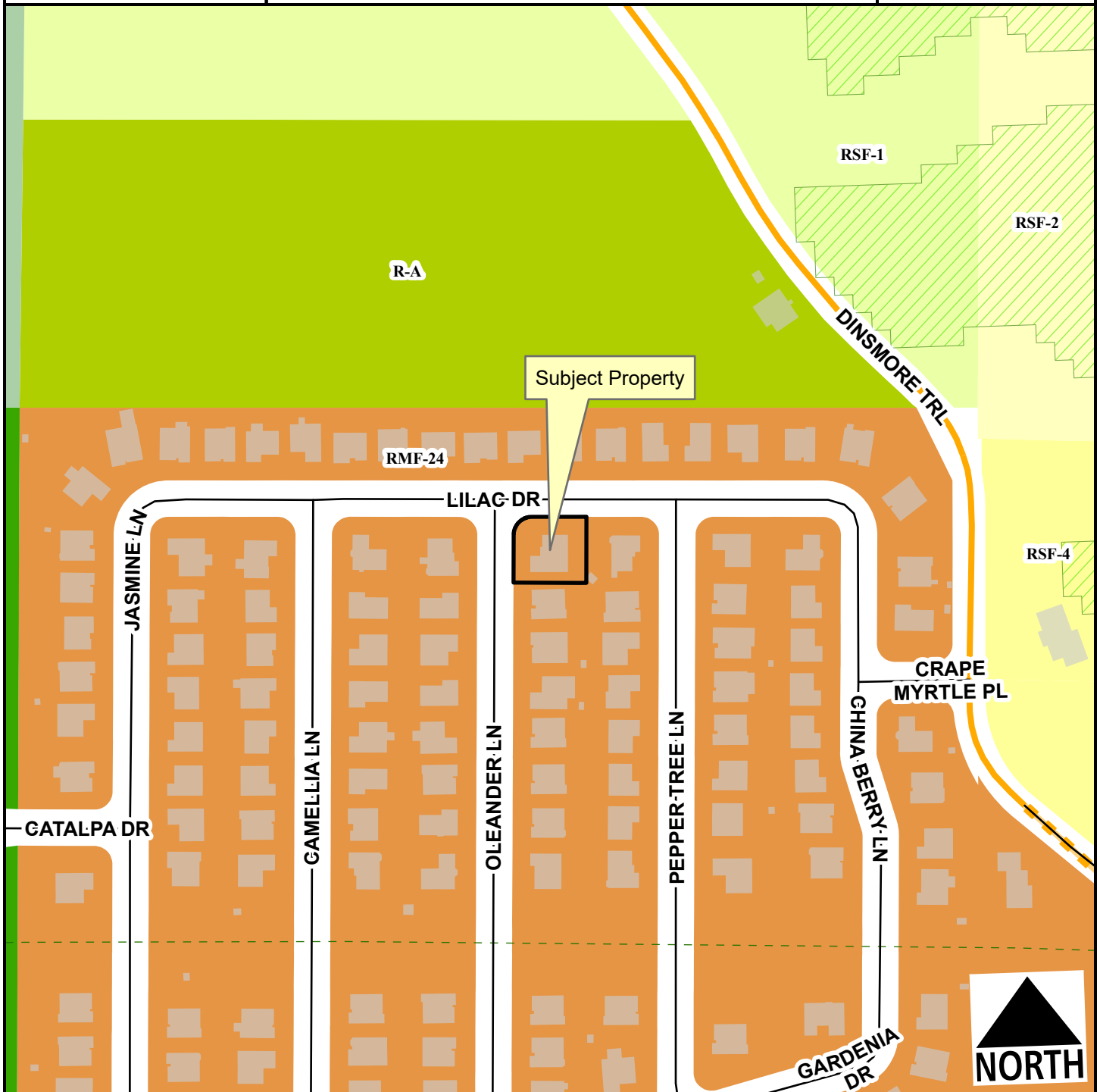




CUP-2023-0196

1138 S. OLEANDER LN

Close Up View



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



- Residential-Agricultural
- RSF-1
- RSF-2
- RSF-4
- RMF-24
- Neighborhood Conservation
- P-1

CUP-2023-0196

1138 S. OLEANDER LN

Current Land Use



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



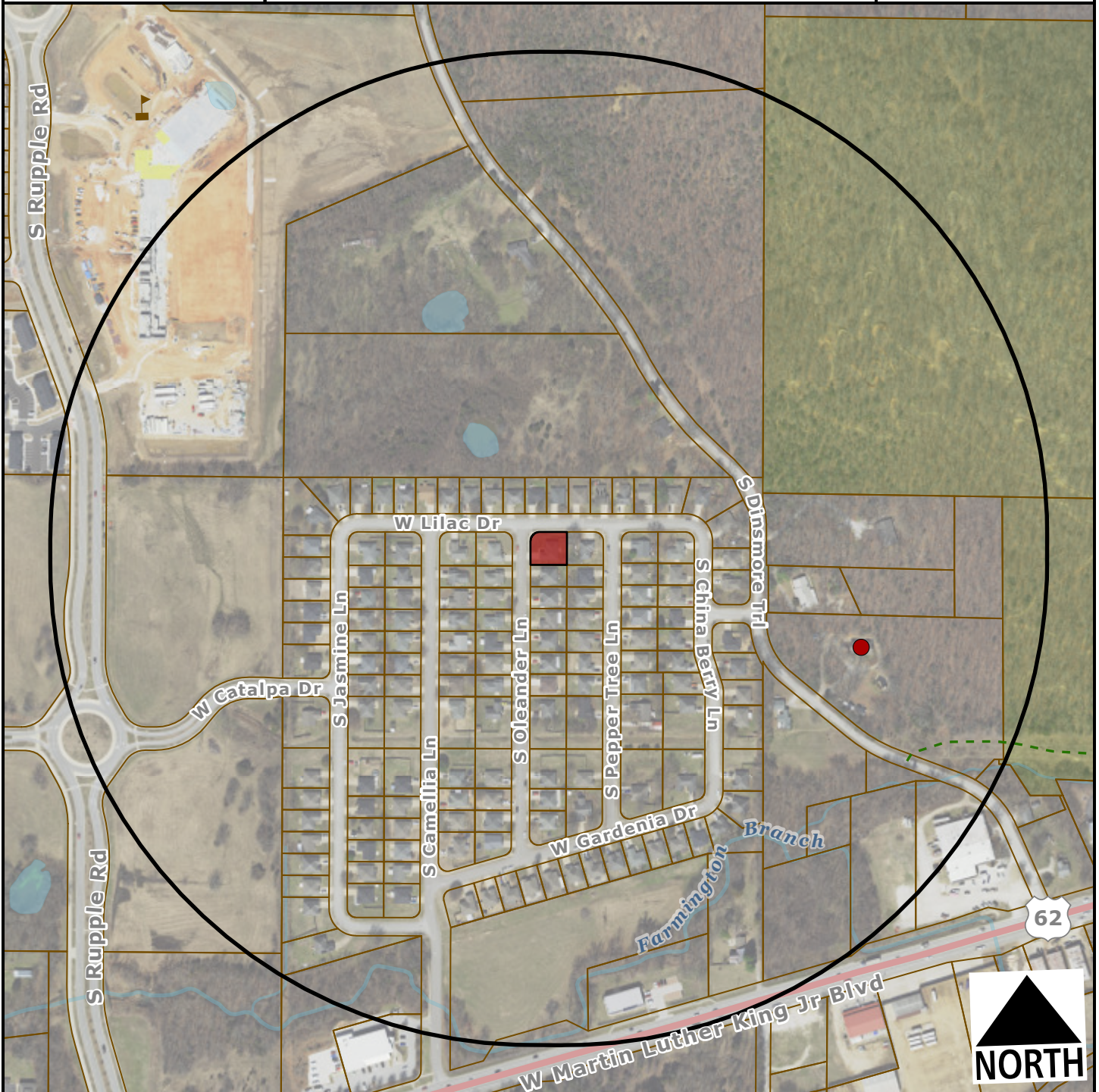
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0196

1138 S. OLEANDER LN

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 1

Occupiable
Residential
Addresses
(Estimated
Housing Units): 153