

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, January 5, 2023

4:30 PM

City Hall Room 219

Planning Commission Members

Sarah Sparkman, Chair
Matthew Johnson, Vice Chair
Quintin Canada, Secretary
Andrew Brink
Jimm Garlock
Joseph Holcomb
Mary Madden
Mary McGetrick
Porter Winston

Assistant City Attorney Blake Pennington

Call to Order**Roll Call****Consent****1. ADM-2022-0065**

Administrative Item (N. OF N. RAVEN LN./CRYSTAL SPRINGS SD COTTAGE DEVELOPMENT EXTENSION, 285): Submitted by RAUSCH COLEMAN HOMES for properties located N. OF N. RAVEN LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approx. 2.29 acres. The request is to extend CUP-2021-000025. - Ryan Umberger, Senior Planner

2. Minutes

Approval of the minutes from the December 12th, 2022 Planning Commission - Mirinda Hopkins, Development Coordinator

Unfinished Business**1. CUP-2022-0110**

Conditional Use Permit (1124 S. TOTTENHAM CT/BARNES, 557): Submitted by BLEAUX BARNES for property located at 1124 S. TOTTENHAM CT. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 0.11 acres. The request is to use the residence as a short-term rental.

THIS ITEM WAS TABLED AT THE DECEMBER 12TH PLANNING COMMISSION MEETING AND SUBSEQUENTLY WITHDRAWN BY THE APPLICANT. - Ryan Umberger, Senior Planner

2. CUP-2022-0115

Conditional Use Permit (1341 W. HENDRIX ST/TILLMAN, 404): Submitted by JORGENSEN AND ASSOCIATES for property located at 1341 W. HENDRIX ST. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE – URBAN, and contains approximately 0.27 acres. The request is to allow Use Unit 26, Multi-Family Dwellings in RI-U zoning. - Gretchen Harrison, Planner

New Business**1. LSD-2022-0039**

Large Scale Development (SOUTH OF E. HUNTSVILLE RD/E. HUNTSVILLE

RD. MULTI-FAMILY WEST, 565): Submitted by DCI for property located at SOUTH OF EAST HUNTSVILLE RD. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY-FOUR UNITS PER ACRE and contains approximately 1.02 acres. The request is for a residential development with seven triplexes, one single-family dwelling, and associated parking. - Gretchen Harrison, Planner

2. ADM-2022-0062

Administrative Item (S. WAXFLOWER AVE/WILLOW BEND, 563): Submitted by COMMUNITY BY DESIGN for properties located at Lots 31, 26, & 23 in WILLOW BEND SUBDIVISION on S. WAXFLOWER AVE. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 3.90 acres. The request is to amend and extend CUP-2020-000004 for CLUSTER HOUSEING. - Jessica Masters, Development Review Manager

3. VAR-2022-0061

Planning Commission Variance (2699 W. MARTIN LUTHER KING JR BLVD/CROSKREY, 558): Submitted by ISIAH OJEDA. for property located at 2699 W. MARTIN LUTHER KING JR BLVD. The property is split zoned R-A, RESIDENTIAL AGRICULTURAL and C-2, THOROUGHFARE COMMERCIAL and contains approx. 0.43 acres. The request for a variance from UDC 168.12 Streamside Protection Zones. - Alan Pugh, Staff Engineer

4. VAR-2022-0062

Planning Commission Variance (354 S. HILL AVE/REINDL, 522): Submitted by REINDL MANAGEMENT LLC. for property located at 354 S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and contains approx. 0.71 acres. The request is for a variance to the master street plan section sidewalk width for tree grates.

- Jessica Masters, Development Review Manager

5. CUP-2022-0123

Conditional Use Permit (6250 W. WEDINGTON DR/TITAN LAWN & LANDSCAPE, 396): Submitted by ROY LOVELL JR for property located at 6250 W. WEDINGTON DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY – FOUR UNITS PER ACRE and contains approx. 2.11 acres. The request is for Use Unit 2, City-Wide Uses by Conditional Use Permit in RSF-4 zoning. - Ryan Umberger, Senior Planner

6. CUP-2022-0126

Conditional Use Permit (2634 N. HUGHMOUNT RD/MOREHART, 282): Submitted by WHITLEY MOREHART for property located at 2634 N.

HUGHMOUNT RD. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY – ONE UNIT PER ACRE and contains approx. 1.09 acres. The request is for Use Unit 24, Home Occupations in RSF-1 zoning. - Gretchen Harrison, Planner

7. RZN-2022-0052

Rezoning (EAST OF S. RUPPLE RD AND WEST OF S. DINSMORE TRL/READING, 517): Submitted by EDWARD ROSE AND SONS for property located EAST OF S. RUPPLE RD AND WEST OF S. DINSMORE TRL. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 19.91 acres. The request is to rezone the property to CS, COMMUNITY SERVICES. - Jessica Masters, Development Review Manager

8. CUP-2022-0116

Conditional Use Permit (1017 E. STARLING ST/JOHNSON, 603): Submitted by WEEKENDER MANAGMENT for property located at 1017 E. STARLING ST. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE, and contains approximately 0.11 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

9. CUP-2022-0117

Conditional Use Permit (205 N. CHURCH AVE, UNIT 1/PRATT, 484): Submitted by A PRATT PROPERTY MANAGMENT for property located at 205 N. CHURCH AVE, UNIT 1. The property is zoned MSC, MAIN STREET CENTER, and contains approximately 0.39 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

10. CUP-2022-0118

Conditional Use Permit (171 N. SOLITUDE BND/RAMPART ENTERPRISES INC, 478): Submitted by RAMPART ENTERPRISES INC for property located at 171 N. SOLITUDE BND. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.12 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Planner

11. CUP-2022-0119

Conditional Use Permit (1631 W. NETTLESHIP ST/BUIE, 521): Submitted by COURTNEY BUIE for property located at 1631 W. NETTLESHIP ST. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE and contains approximately 0.11 acres. The request is to use the residence as a short-term rental. - Ryan Umberger, Senior Planner

12. CUP-2022-0122

Conditional Use Permit (521 N. SHADY AVE, UNIT

4/STRANGE,445): Submitted by STATLER STRANGE for property located at 521 N. SHADY AVE, UNIT 4. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approx. 0.24 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

13. CUP-2022-0124

Conditional Use Permit (1578 N. GARLAND AVE/KENNEDY, 405): Submitted by JEREMY KENNEDY for property located at 1578 N. GARLAND AVE. The property is zoned RMF-24, TWENTY FOUR UNITS PER ACRE and contains approximately 0.12 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

14. CUP-2022-0125

Conditional Use Permit (376 S. HILL AVE/BLUE VIOLIN LLC, 522): Submitted by BLUE VIOLIN LLC for property located at 376 S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY – FORTY UNITS PER ACRE, and contains approximately 0.44 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

Items Administratively Approved by Staff

1. LSP-2022-0071

Lot Split (S. OF WAYNE SELLERS RD/SHREVE, 514): Submitted by BATES AND ASSOCIATES for property located at S. OF WAYNE SELLERS RD. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY, ONE UNIT PER ACRE and contains approximately 23.14 acres. The request is to divide the property into three lots containing 5.50 acres, 8.97 acres, and 8.67 acres. - Gretchen Harrison, Planner

2. LSP-2022-0061

Lot Split (1275 N. GREGG AVE/CENTRAL BAPTIST CHURCH, 405): Submitted by BLEW & ASSOCIATES for property located at 1275 N. GREGG AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE, and contains approximately 4.51 acres. The request is to divide the property into two lots containing 2.25 acres each. - Ryan Umberger, 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.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: January 9, 2023

SUBJECT: **ADM-2022-0065: Administrative Item (NORTH OF N. RAVEN LN/CRYSTAL SPRINGS SD COTTAGE DEVELOPMENT EXTENSION, 285):** Submitted by RAUSCH COLEMAN HOMES for properties located NORTH OF N. RAVEN LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approx. 2.29 acres. The request is to extend CUP-2021-000025.

RECOMMENDATION:

Staff recommends approval of **ADM-2022-0065**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **ADM-2022-0065** with conditions as recommended by staff."*

BACKGROUND:

The subject property is a roughly 2.29-acre lot within the larger 53.10-acre Crystal Springs subdivision. The subdivision is immediately to the north of stub outs to N. Raven Lane, N. Woodlark Lane, and N. Gooseberry Lane. It is roughly ¼ mile north of W. Mount Comfort Road; about halfway between its intersection with N. Ruppel Road to the west and I-49 to the East. The property is undeveloped and zoned RSF-4, Residential Single-family, 4 Units per Acre. Trees are sparsely populated throughout the site and it is very flat with a 3% grade.

There is considerable history related to this property in terms of development proposals. As far back as 1994 the development team dedicated parkland, now the Gary Hampton Sports Complex, to satisfy dedication requirements for approximately 575 single-family lots within the Crystal Springs subdivision. Phases 1 through 3 are platted and constructed north of Clabber Creek and between Salem Road and Deane Solomon Road. The original Phase 4 (06-1977) of Crystal Springs was appealed to City Council (Resolution 113-06) and approved for 275 lots. However, this phase of the subdivision was never built, and its approval expired. In September of 2019, a preliminary plat (PPL 19-6719) was approved for a 161 lot, single-family subdivision including two lots for detention ponds. Originally proposed to occur in three phases, a minor modification was administratively approved in 2020 to amend the project to be completed in two phases. The area designated for cluster housing is approximately 2.29 acres of the larger lot. It is identified to be developed during phase two of the subdivision. Surrounding land uses and zoning are depicted in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction	Land Use	Zoning
North	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre
South	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre
East	Large Lot Single-family Residential	CPZD, Underwood-Razorback GC
West	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre

Request: The applicant is requesting a one-year extension to their conditional use permit, citing continued construction of Phase 2 overall for the delay.

DISCUSSION:

Staff supports the applicant's extension to the conditional use permit. Staff received notification from the applicant to extend the conditional use permit within the 18-month timeline they are allotted per UDC §166.20 and finds that the applicant meets the requirements set forth. In their request letter the applicant states that the completion of the cluster housing development was not possible within a year of starting construction on Phase 1 since it is located in a future phase. They continue to suggest that the extension is essential so that grading and utility placement can be designed which is why the conditional use permit was requested prior to construction of Phase 2.

Public Comment: Staff received public comment opposing the extension. The neighbor says the continued construction has resulted in negative impacts to their property including trees dying due to roots being exposed, burning of brush piles, dust, noise, a broken gas line, and construction traffic routed through the existing neighborhood.

RECOMMENDATION: Staff recommends approval of ADM-2022-0065 with the following conditions:

Conditions of Approval:

1. A one-year extension for CUP-2021-000025 will expire on May 10, 2023.
2. All other conditions of approval of the associated conditional use permit (CUP-2021-000025) will remain in effect.
3. Approval of the conditional use permit does not constitute approval of the associated development entitlements.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None.

ATTACHMENTS:

- \$166.20 – Expiration of Approved Plans and Permits
- CUP-2021-000025 Conditions of Approval
- Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map

166.20 Expiration Of Approved Plans And Permits

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

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

(B) Time Limit.

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

(C) Three (3) Year Time Limit.

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

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

CUP-2021-000025 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. 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. The final project design shall follow the general layout and design of the conditional use concept plan.
3. 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;
4. Prior to receiving a certificate of occupancy for the first home all shared drives, sidewalks 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;
5. The maximum number of unrelated persons in any dwelling unit is three, pursuant to the underlying single-family zoning district; and
6. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year.
7. 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.

CUP-2021-000025 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. 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. The final project design shall follow the general layout and design of the conditional use concept plan.
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7. 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.



December 9, 2022

Jessie Master
City of Fayetteville

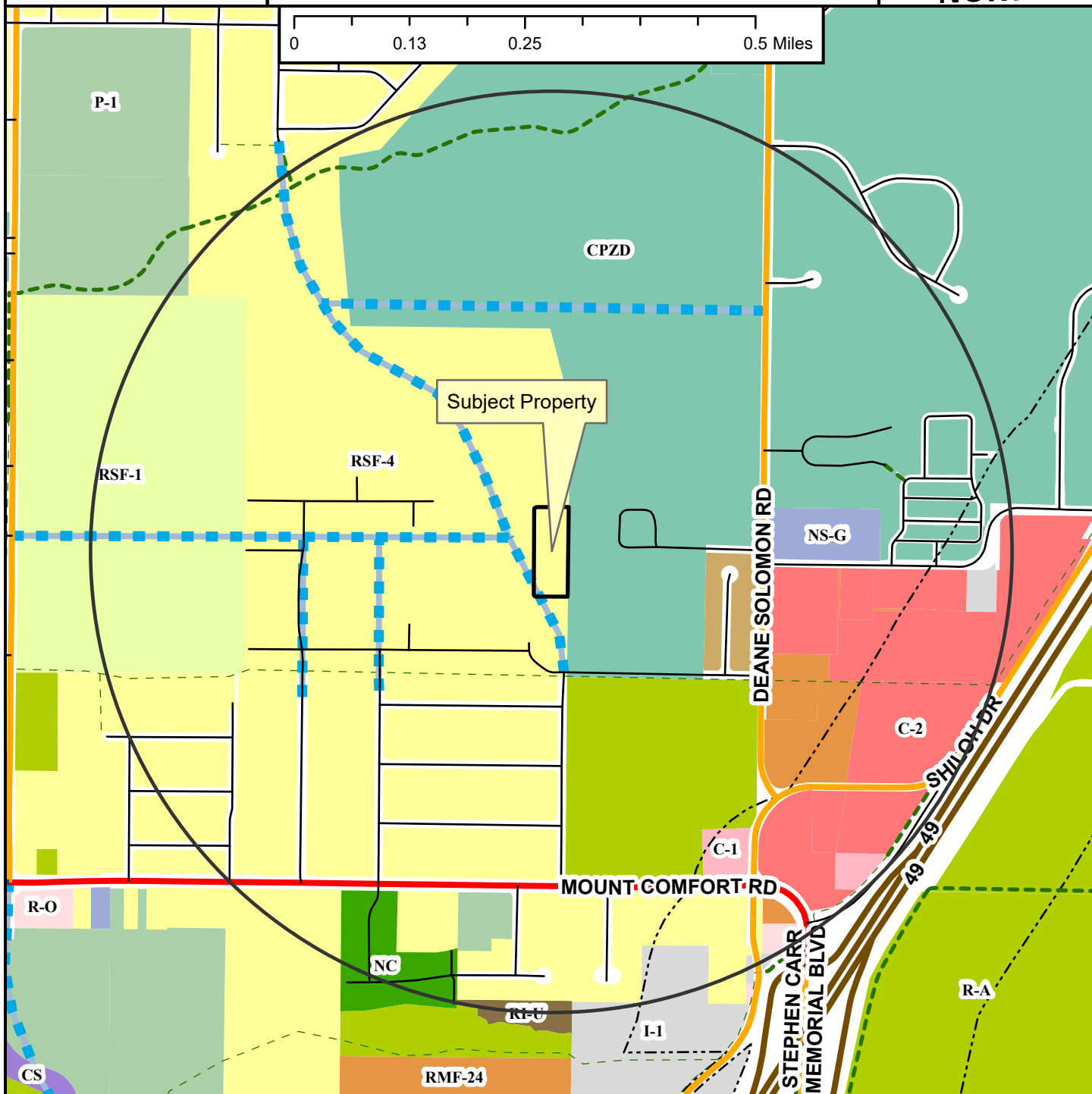
RE: Crystal Springs Cluster Housing - Extension

Please accept this letter as a request to extend our conditional use permit for a cluster housing development within the Crystal Springs subdivision. We were approved for a cluster housing development in 2021. However, this area is located in Phase 2 of our project, which is still under construction. Completing the cluster housing is not reasonable within one year of starting construction on Phase 1, when the cluster housing is located within a future phase. However, it's essential that we have conditional use approval, so grading and utility placement can be designed based on what's going to be built. Therefore the original request was made prior to starting construction of Phase 2. We fully intend to complete Phase 2 in 2023 and develop the cluster housing area at that time.

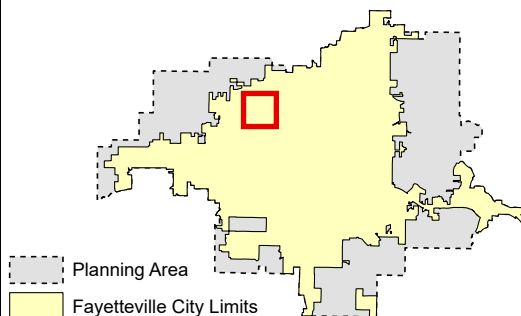
Sincerely,

A handwritten signature in blue ink, appearing to read "Jesse Fulcher".

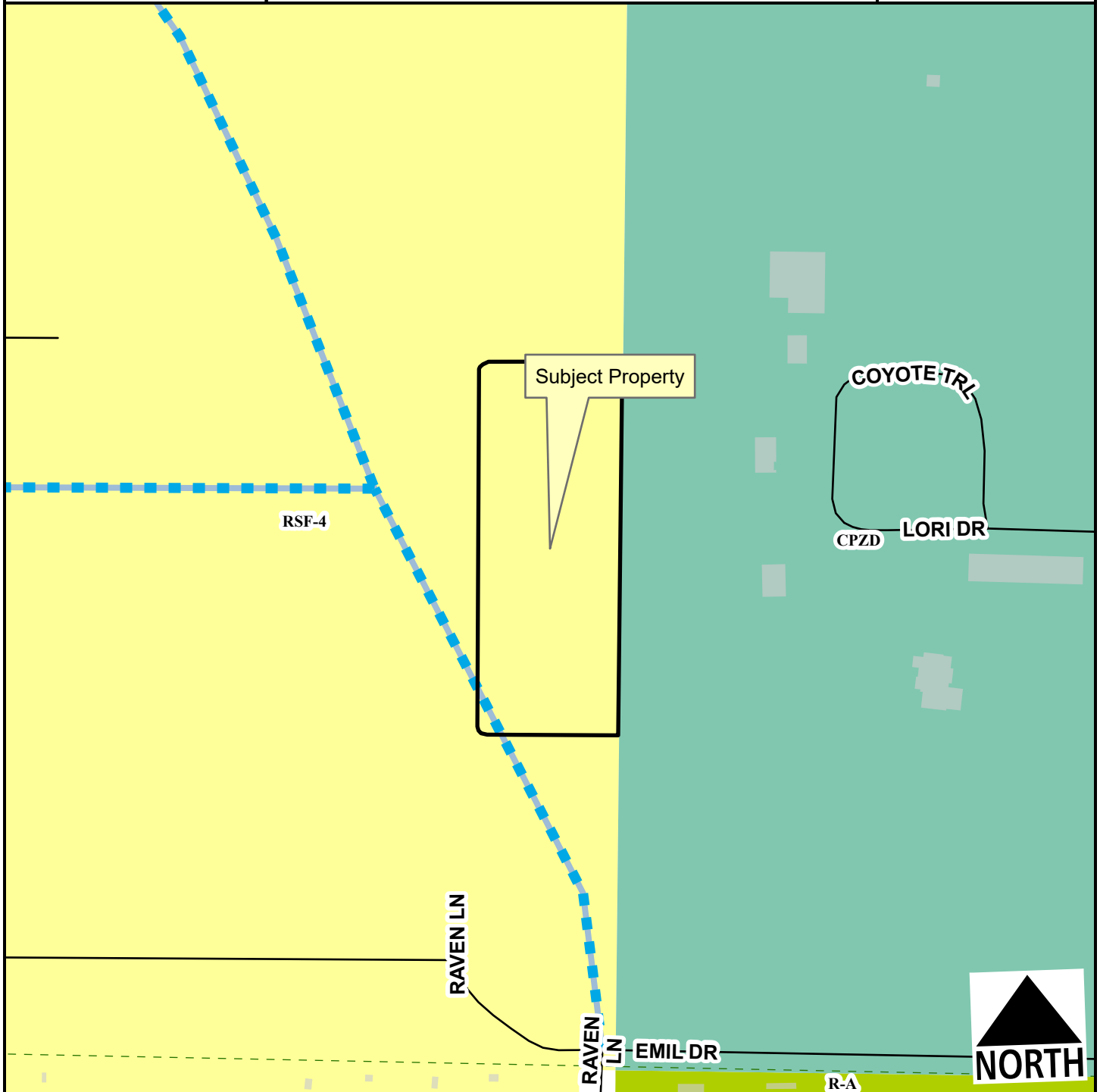
Jesse Fulcher



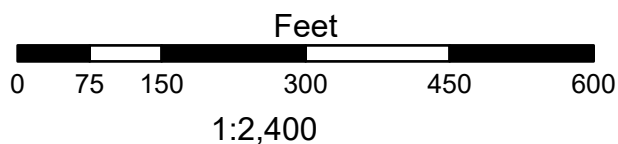
-  Regional Link
-  Neighborhood Link
-  Regional Link - High Activity
-  Freeway/Expressway
-  Unclassified
-  Alley
-  Residential Link
-  Planned Residential Link
-  Shared-Use Paved Trail
-  Trail (Proposed)
-  Design Overlay District
-  Fayetteville City Limits
-  Planning Area



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



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



- Residential-Agricultural
- RSF-4
- Commercial, Industrial, Residential



(pg. 1) Planning Commission			Monday, 12/12/2022			
Time:	5:30pm					
Staff :	☐ Sherry Smith ☐ Jessie Masters ☐ Gretchen Harrison ☐ Josh Boccaccio ☐ Melissa Boyd ☐ Ryan Umberger ☐ Britin Bostick ☐ Will Beeks					
	Roll Call	(1) Minutes 11-28-2022	2) LSD-2022-0038 (ELLIOTT ELECTRIC)	3) ADM-2022-0060 (CITY STAFF)	4) CAR-2022-0059 (MAX ALLEY INVESTMENTS)	5) RZN-2022-0051 (PAYNELESS)
Sparkman	x					
Johnson	1	1	1	1	1	1
Garlock	1	1	1	1	1	1
Madden	1	1	1	1	1	1
Holcomb	1	1	1	1	1	1
Brink	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Winston	1	1	1	1	1	1
Canada	1	1	1	1	1	1
Agenda		Consent	Consent	New	New	New
Motion By		Garlock	Garlock	Garlock	Winston	Winston
Motion 2nd		Madden	Madden	Canada	Brink	Brink
Vote		8-0-0	8-0-0	8-0-0	8-0-0	8-0-0
Action		Approve	Approve	Forward	Approve	Forward
Time		5:33pm	5:33pm	5:38pm	5:45pm	5:51pm
Motion Detail				With a recommendation of approval.	With conditions as recommended by staff.	With a recommendation of approval.

A Video of this meeting is accessible through the link below:

https://accessfayetteville.granicus.com/player/clip/8359?view_id=14&redirect=true&h=afc4e2d33618afd3f96b31645c2326be

(pg. 2) Planning Commission		Monday, 12/12/2022				
	6) VAC-2022-0024 (UNIVERSITY OF ARKANSAS)	7) CUP-2022-0102 (TUNE & TUNE INVESTMENT)	8) CUP-2022-0115 (TILLMAN)	9) CUP-2022-0103 (SMITH)	10) CUP-2022-0105 (SHIPLEY)	
Sparkman						
Johnson	1	1	1	1	1	
Garlock	1	1	1	1	1	
Madden	1	1	1	1	1	
Holcomb	1	1	1	1		
Brink	1	1	1	1	1	
McGetrick	1	1	1	1	1	
Winston	1	1	1	1	1	
Canada	1	1	1	1	1	
Agenda	New	New	New	New	New	
Motion By	Garlock	Brink	Canada	Brink	Garlock	
Motion 2nd	Winston	Canada	Garlock	Madden	Madden	
Vote	8-0-0	8-0-0	8-0-0	8-0-0	7-0-0	
Action	Forward	Approve	Table	Approve	Approve	
Time	6:03 PM	6:20pm	6:23pm	6:30pm	6:34pm	
Motion Detail	With a recommendation of approval.	With conditions as recommended by staff.	Table till Jan. 9th PC Meeting	With conditions as recommended by staff.	With conditions as recommended by staff.	

(pg. 3) Planning Cc		Monday, 12/12/2022			
	11) CUP-2022-0106 (TALBERT)	12) CUP-2022-0107 (JACKSON)	13) CUP-2022-0108 (HARBERS)	14) CUP-2022-0109 (KJ6 HOLDINGS)	15) CUP-2022-0110 (BARNES)
Sparkman					
Johnson	1	1	1	1	1
Garlock	1	1	1	1	1
Madden	1	1	1	1	1
Holcomb	1	1	1	1	1
Brink	1	1	1	1	1
McGetrick	1	1	1	1	1
Winston	1	1	1	1	1
Canada	1	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Garlock	Garlock	Garlock	Garlock	Garlock
Motion 2nd	McGetrick	Brink	Holcomb	Madden	Madden
Vote	8-0-0	8-0-0	8-0-0	8-0-0	8-0-0
Action	Approve	Approve	Approve	Approve	Table
Time	6:48pm	6:58pm	7:07pm	7:12pm	7:17pm
Motion Detail	With conditions as recommended by staff.	With conditions as recommended by staff.	With conditions as recommended by staff. With an added condition that the parking area is submitted for development review for compliance with UDC 172.11.	With conditions as recommended by staff.	Table till Jan 9th PC Meeting

(pg. 4) Planning Commission			Monday, 12/12/2022		
	16) CUP-2022-0111 (BIRD WATCH RENTAL PROPERTIES)	17) CUP-2022-0112 (HORWITZ)	18) CUP-2022-0113 (QUEZADA)	19) CUP-2022-0114 (CARTER)	
Sparkman					
Johnson	1	1	1	1	
Garlock	1	1	1	1	
Madden	1	1	1	1	
Holcomb	1	1	1	1	
Brink	1	1	1	1	
McGetrick	1	1	1	1	
Winston	1	1	1	1	
Canada	1	1	1		
Agenda	New	New	New	New	
Motion By	Garlock	Brink	Brink	Garlock	
Motion 2nd	Brink	Canada	McGetrick	Madden	
Vote	8-0-0	8-0-0	8-0-0	7-0-0	
Action	Approve	Approve	Approve	Approve	
Time	7:21pm	7:30pm	7:33pm	7:53pm	
Motion Detail	With conditions as recommended by staff.	With conditions as recommended by staff.	With conditions as recommended by staff.	With conditions as recommended by staff. And Parking limited to 2 parking spaces on site (no on-street parking)	



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0115: Conditional Use Permit (1341 W. HENDRIX ST./TILLMAN, 404):** Submitted by JORGENSEN & ASSOCIATES for property located at 1341 W. HENDRIX ST. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE – URBAN and contains approximately 0.27 acres. The request is for Use Unit 26, Multi-Family Dwellings in RI-U zoning.

RECOMMENDATION:

Staff recommends denial of **CUP-2022-0115** based on the findings contained in this report.

RECOMMENDED MOTION:

"I move to deny CUP-2022-0115."

DECEMBER 12, 2022 PLANNING COMMISSION MEETING:

At the December 12, 2022 Planning Commission meeting, the item was tabled to allow the applicant time to address concerns expressed by the Fire Department. Staff has received no updates in the interim.

BACKGROUND:

The subject property is a residential through lot located about a quarter of a mile west of the intersection of Hendrix Street and Garland Avenue with frontage onto Hendrix Street and Mount Comfort Road. The property contains about 0.27 acres, is undeveloped, and zoned RI-U, Residential Intermediate-Urban. The property received its current zoning designation as a result of a rezoning in 2020. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 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 develop the subject property with a multi-family residential development containing nine attached units. Multi-family dwellings are classified as Use Unit 26, which is a conditional use in the RI-U zoning district. Conformance

with development requirements, including drainage, tree preservation, and fire apparatus access will be reviewed at the time of permitting.

Public Comment: Staff received a phone call from a neighbor who expressed their opposition to this request. The neighbor stated that the proposed development would be incompatible with surrounding properties, citing concerns about guest parking along Hendrix Street, trash collection, limited greenspace, and increased runoff.

RECOMMENDATION: Staff recommends denial of **CUP-2022-0115**. Should the Planning Commission choose to approve this item, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed multi-family residential development to be incompatible with the surrounding neighborhood based on the findings herein;*
2. Shrubs or fencing shall be provided along the east and west property line to screen parking areas from adjacent residences;
3. Units adjacent to public right-of-way shall have direct pedestrian connections to the public sidewalk to align with UDC §166.23, Urban Residential Design Standards;
4. Per UDC §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is valid for one year; and
5. An exterior lighting package must be provided to the Planning Division prior to building permit approval.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

Finding: **The applicant has submitted a written application requesting a conditional use permit for Use Unit 26, Multi-Family Dwellings, in RI-U 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 Unified Development Code §161.12, District RI-U, Residential Intermediate – Urban, to grant the requested conditional use permit.**

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

Finding: **Staff finds that granting the requested conditional use may adversely affect the public interest. The proposed multi-family dwelling would introduce a different residential character and type mid-block in an established single-family residential neighborhood. While allowing more dense development could support several goals of City Plan 2040, including growing a livable transportation network, discouraging suburban sprawl, and creating opportunities for housing, staff finds that the scale of the proposed development is inconsistent with the surrounding area and may constitute infill that is not appropriate. Other residential uses that are already permitted by right in the underlying RI-U zoning district, including single- to four-family dwellings, may be more appropriate at this location and better aligned with the City's goals for infill development. Further, Urban Forestry and Fire have expressed concerns about the scale of the proposed development since it does not allow for any tree preservation and may run afoul with fire apparatus access requirements.**

- (c.) The Planning Commission shall certify:
 - (i.) Compliance with the specific rules governing individual conditional uses; and
 - (ii.) That satisfactory provisions and arrangements have been

made concerning the following, where applicable:

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

Finding: Vehicular ingress and egress to the property is proposed through a shared 12-foot-wide private driveway which runs along the west side of the property between Hendrix Street and Mount Comfort Road. Pedestrian and vehicular circulation appears to overlap with each unit being accessed through a carport. No direct connections to public sidewalk are shown on the provided site plan. The Fire Department has expressed concerns about fire apparatus access given the narrowness of the proposed private driveway. Additional information is needed to confirm whether satisfactory provisions and arrangements have been made regarding ingress and egress to the property, though this would be fully reviewed and addressed at the time of building permit.

- (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 proposed development is a nine-unit multi-family dwelling with parking on the first floor and living spaces above. Each unit has a covered carport with angled parking. Parking areas are proposed to be accessed through a shared one-way private driveway. Multi-family dwellings require parking at a rate of one space per bedroom, though there are some reductions and allowances that may be utilized. The proposed carports appear to be meeting off-street parking requirements since there is enough space to accommodate the nine parking spaces that are required for this proposed development.

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

Finding: The Recycling and Trash Collection Division will review the proposed site plan at the time of building permit review. Ingress and egress to the development is proposed through a private drive along the west side of the property.

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

Finding: Utilities are currently available to the site. A six-inch water main and six- and 12-inch sewer mains are present along the property's Hendrix Street frontage. An eight-inch water main and six-inch sewer main are also present along the property's Mount Comfort Road frontage. Determinations of capacity or the need for improvements will be determined at the time of building permit review.

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

Finding: Given the proposal for a multi-family dwelling in a single-family residential neighborhood, staff recommends screening along the property's east and west property lines. A condition requiring screening is included in staff's recommendations.

- (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 or exterior lighting would be subject to the City's ordinances and all regulations therein.

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

Finding: The provided site plan suggests that required open spaces will be provided. All required yards and open spaces will be fully reviewed at the time of building permit.

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

Finding: Staff finds the applicant's proposal to be partially incompatible with adjacent properties and those in the surrounding neighborhood. While varying from a single-family residential development pattern would allow for increased density, staff finds that the proposal for a nine-unit multi-family building mid-block would not result in appropriate infill since it would be out of scale with the existing character of the surrounding neighborhood. While the underlying RI-U zoning district has no density limitation, staff finds that other residential building types, such as duplexes or triplexes, may be more suitable at this location while allowing for gradual infill.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.12 – District RI-U, Residential Intermediate - Urban
- Urban Forestry Memo
- Fire Memo
- Request Letter
- Proposed Site Plan
- Proposed Building Elevations and Floor Plans
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.12 District RI-U, Residential Intermediate - Urban

(A) *Purpose.* The RI-U Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a range of housing types compatible in scale with single-family homes and to encourage a diversity of housing types to meet demand for walkable urban living.

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12a	Limited business
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

	Dwelling (all types)
Lot width minimum	18 feet
Lot area minimum	None

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear, from centerline of an alley
A build-to zone that is located between the front property, line and a line 25 feet from the front property line.	None	5 feet	5 feet	12 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
-------------------------	----------------------

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

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

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

(Ord. No. 5945 , §5(Exh. A), 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."



Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester

MEETING DATE: November 16, 2022

SUBJECT: **CUP-2022-0115: Conditional Use Permit (1341 W. Hendrix St., Unit 8):**
Submitted by Jorgensen & Associates for property located at 1341 W. Hendrix St. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE. The request is for Use Unit 26, which will allow for a multi-family dwelling unit.

RECOMMENDATION:

Urban Forestry Staff does not have an official recommendation of CUP-2022-0115 which would allow the property owner to build a multi-family dwelling in the RI-U zoning. Urban Forestry does have some comments regarding the proposal:

The proposed site layout and design does not allow for any Tree Preservation. There are existing trees along the western property line and some of the trunks may be on the neighbor's property. The design as shown will be detrimental to the trees. There are also trees along the eastern property line that need to be considered and protected as their trunks may be on the neighbor's property and care must be taken to not damage or destroy them. Tree preservation and protection is always encouraged by Urban Forestry. Oftentimes, building the property out to the fully allowed capacity does not allow for tree preservation.



To: Jesse Masters, Planner

CC: Battalion Chief Jeremy Ashley, Fire Marshal

From: Captain Andrew Horton, Deputy Fire Marshal

Date: 11/6/2022

Subject: CUP 2022-0115: 1341 W HENDRIX ST Unit:8 FAYETTEVILLE, AR 72703

We recommend denial at this time. The Fayetteville Fire Marshals office needs a completed fire code review sheet, including information related to fire hydrant location, fire flow requirements, and fire apparatus access.

November 2, 2022

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: CUP-Tillman B @ Hendrix

Please accept this request for a CUP for parcel 765-06293-000. The current zoning of the property is RI-U. The request for use unit 26, will allow for a multi-family dwelling unit. While this designation calls for multi-family, the proposal is to build 9 one-bedroom units with carports below. This property is very long and narrow and so we have developed a proposal that will allow a one-way alley to be constructed with angled parking below single bedroom units above that will be squared to the property. The goal is to bring an efficient living space to an area that has an infill score that promotes this type of development.

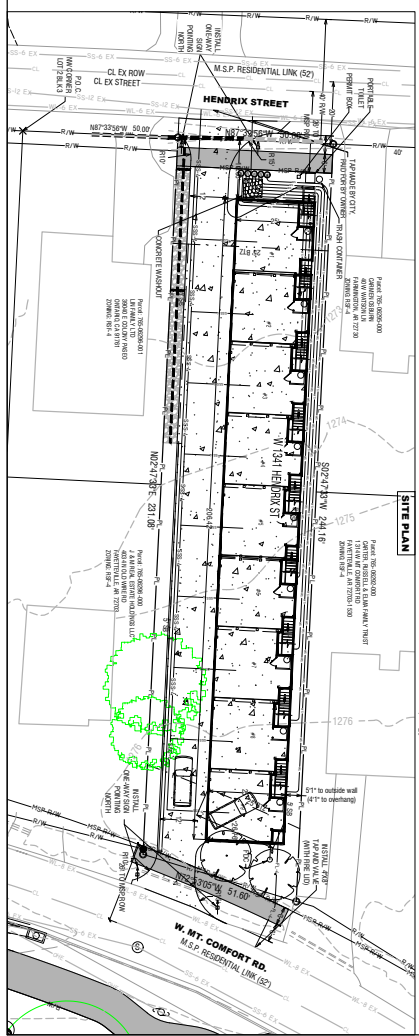
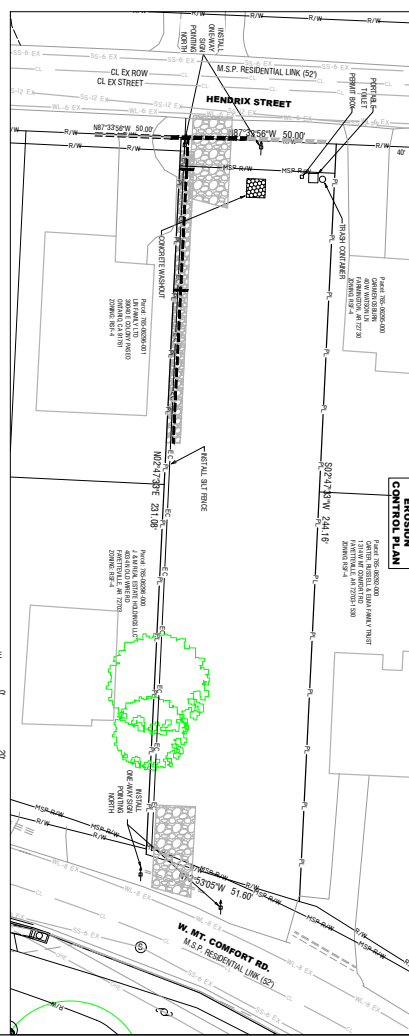
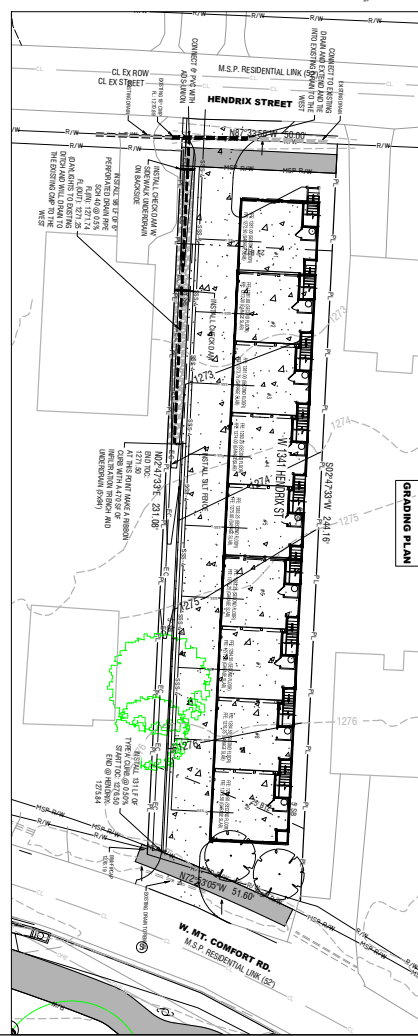
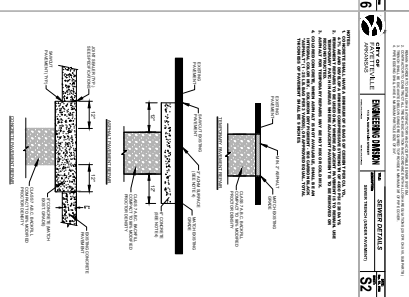
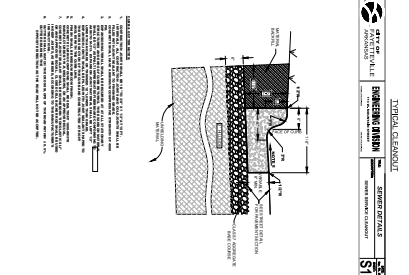
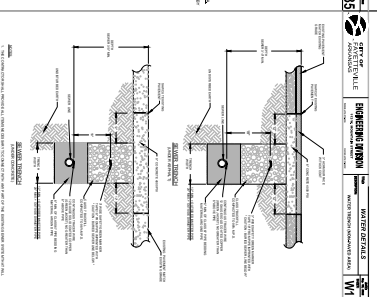
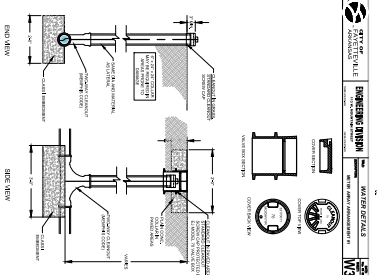
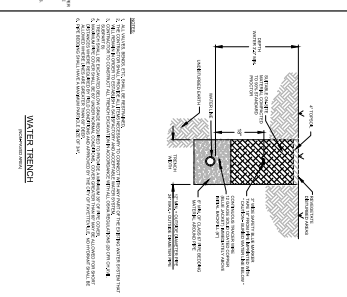
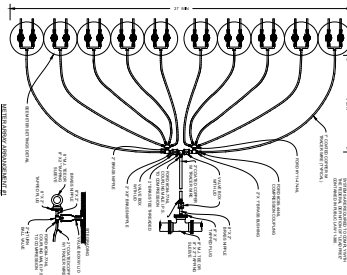
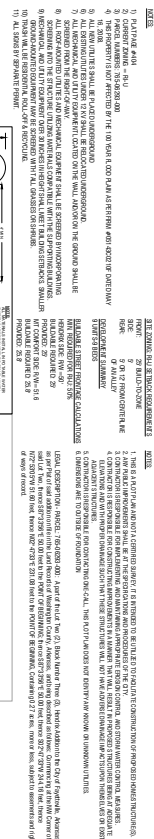
The site currently has adequate access to water, sewer, and ample street capacity.

Please review this application and let us know if there are any questions that we may be able to answer.

Thanks.

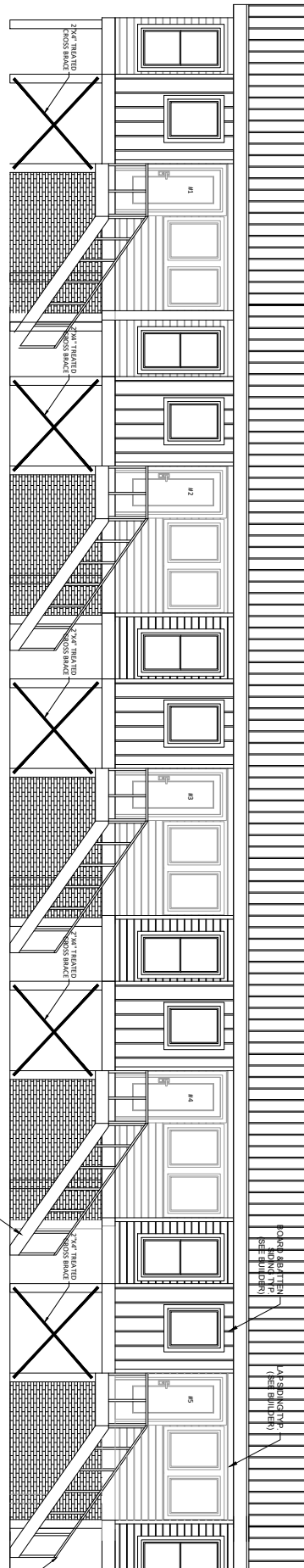


Blake Jorgensen, PE
Jorgensen + Associates

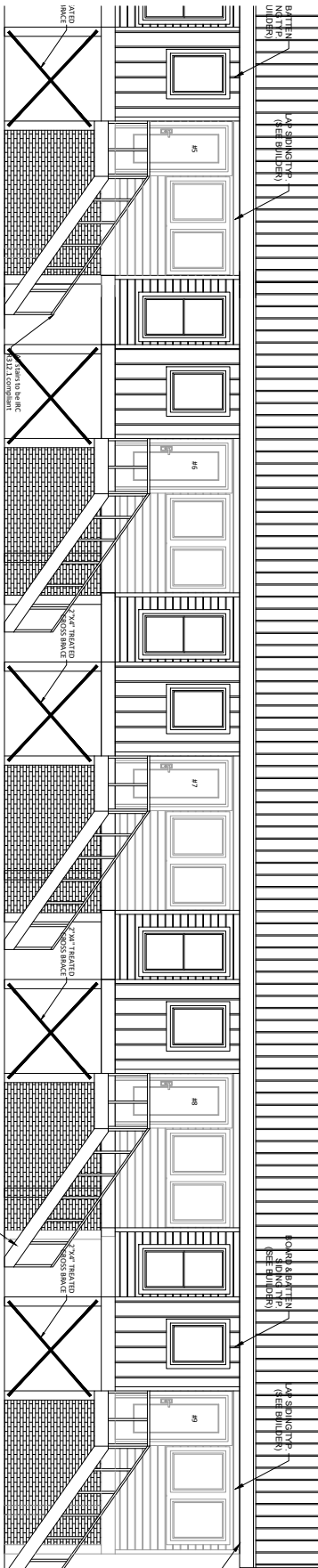


EAST ELEVATION

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



SEE BUILDER FOR SPECS
OF STAIRS, POSTS, RAILING,
STRUCTURE, ETC.

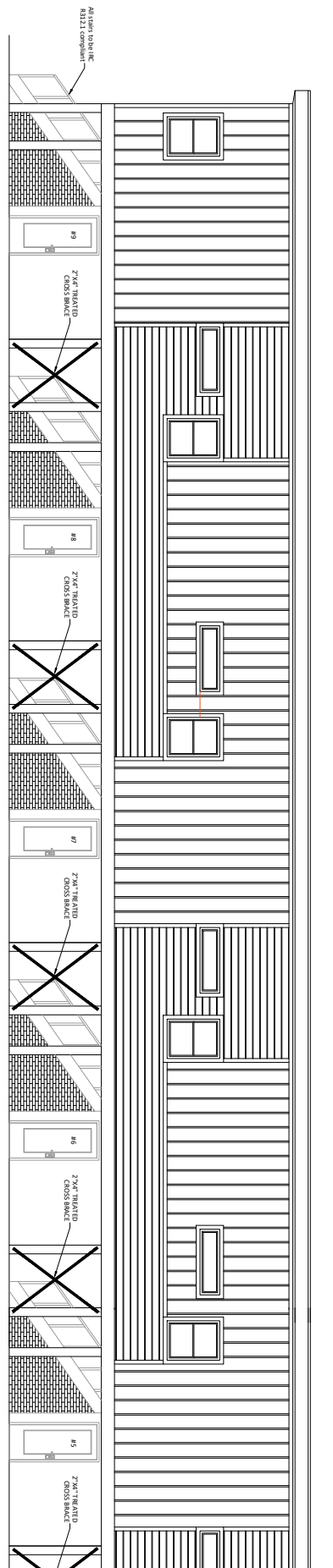


SEE BUILDER FOR SPECS OF POSTS, RAILING, STAIRS, STRUCTURE, FOUNDATION, ETC.

SEE BUILDER FOR SPECS
OF STAIRS, POSTS, RAILING,
STRUCTURE, ETC.

EAST ELEVATION

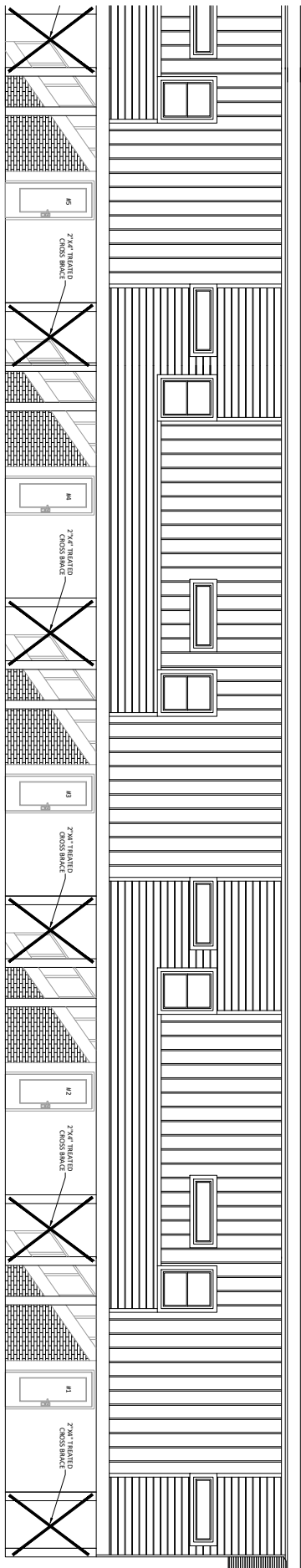
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WEST ELEVATION

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

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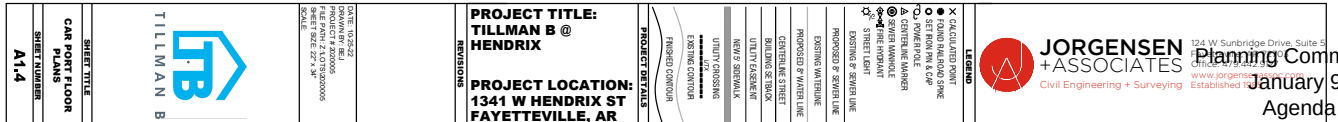


WEST ELEVATION

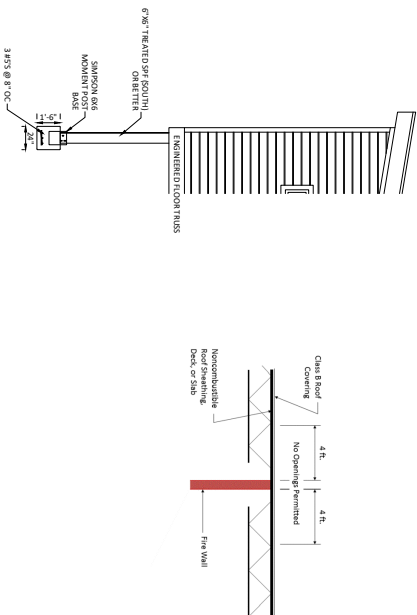
SCALE: 1/4" = 1'-0"

 TILLMAN B. LFB	 JORGENSEN +ASSOCIATES Civil Engineering + Surveying	 Planning Consultants 124 W. Sunbridge Drive, Suite 200 Chandler, Arizona 85224 Established 1978	DATE: 10-26-22 BY: JRM FILE NAME: 2-0732020005 PROJECT: 2000005 SHEET: 1 OF 2
WEST ELEVATIONS SHEET NUMBER A1.2	PROJECT TITLE: TILLMAN B. HENDRIX PROJECT LOCATION: 1341 W HENDRIX ST FAYETTEVILLE, AR REVISIONS: PROJECT DETAILS EXISTING CONDITIONS PROPOSED CHANGES		

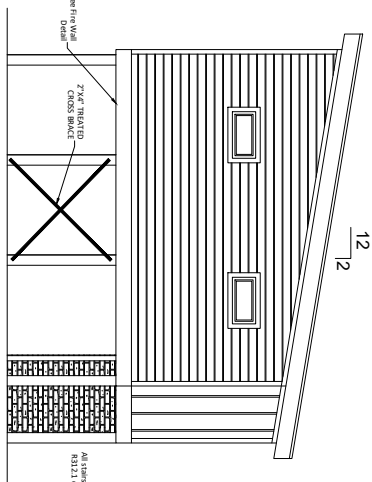
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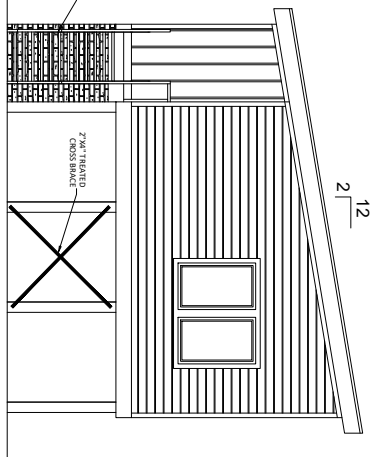
TYPICAL FOOTING/BASE WALL SECTION



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



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





**JORGENSEN
+ ASSOCIATES**
Civil Engineering + Surveying

124 W Sunbridge Drive, Suite 500
Fayetteville, AR 72703
www.jorgensen-ar.com
Established 1982

PROJECT TITLE:
**TILLMAN B
@
HENDRIX**

PROJECT LOCATION:
**1341 W HENDRIX ST
FAYETTEVILLE, AR**

REVISIONS

NO.	DATE	DESCRIPTION
1	10-20-22	ISSUED FOR PERMITS
2	11-15-22	REVISED PER COMMENTS

PROJECT DETAILS

EXISTING CONDITIONS

- EXISTING FOUNDATION
- EXISTING ROOF
- EXISTING WALLS
- EXISTING FLOORING
- EXISTING INTERIORS

PROPOSED CONDITIONS

- PROPOSED FOUNDATION
- PROPOSED ROOF
- PROPOSED WALLS
- PROPOSED FLOORING
- PROPOSED INTERIORS

DATE: 10-20-22
PROJECT: TILLMAN B @ HENDRIX
SCALE: 1/4" = 1'-0"

SHEET TITLE:
ELEVATIONS

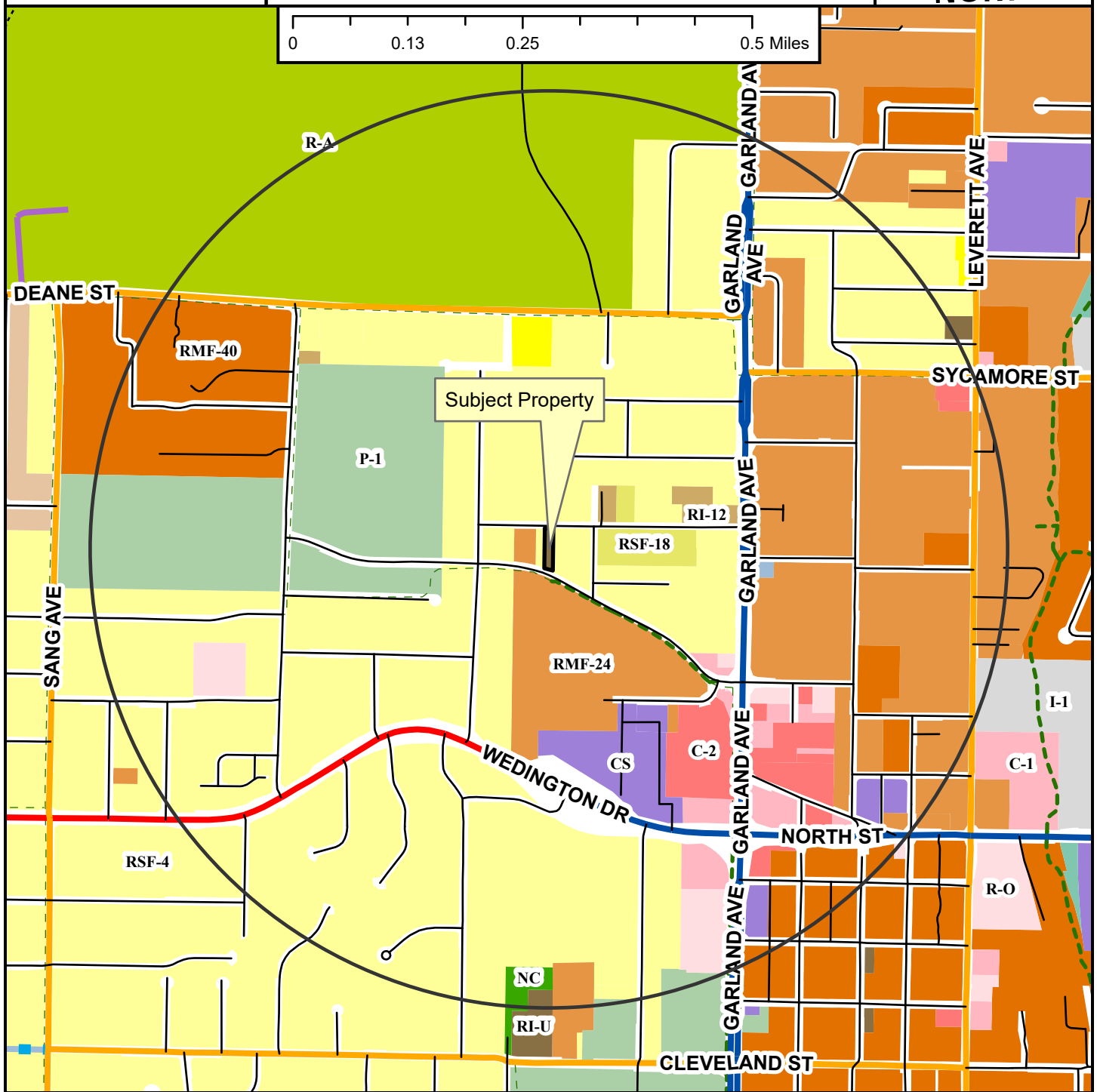
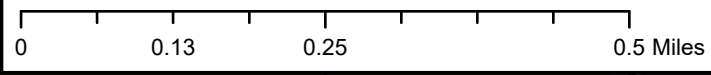
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A1.6

TILLMAN B

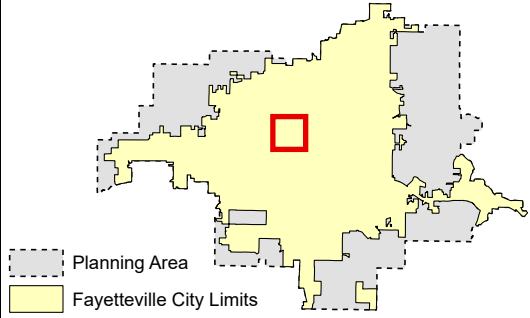
CUP-2022-0115

One Mile View

1341 E. HENDRIX ST

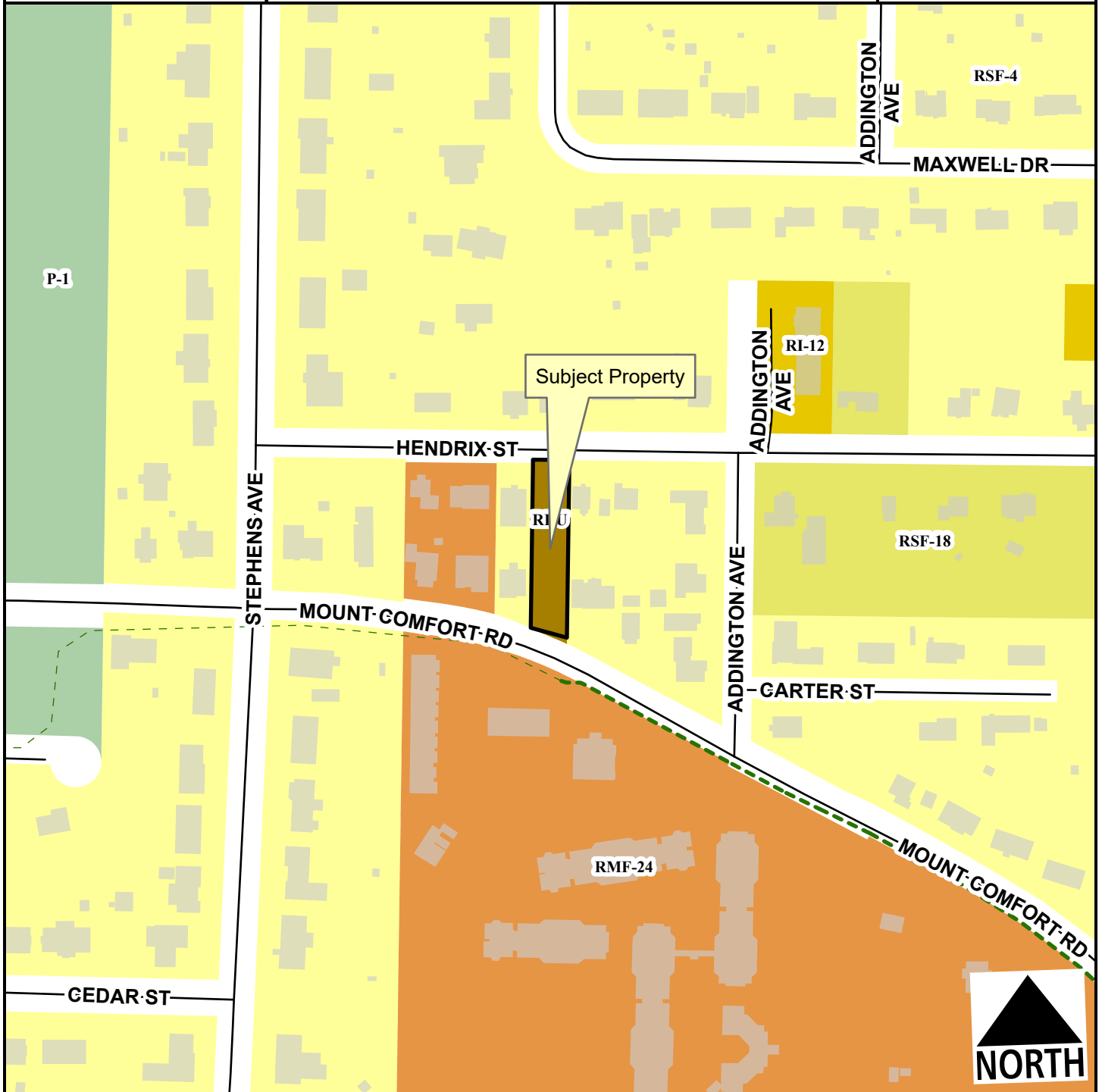


- Regional Link
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area

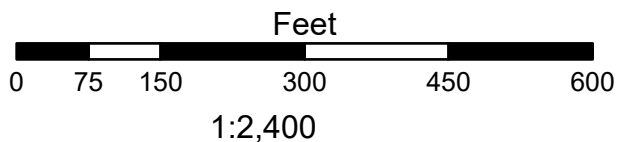


- | | |
|----------------------------------|---|
| Zoning | EXTRACTION |
| RESIDENTIAL SINGLE-FAMILY | E-1 |
| NS-G | COMMERCIAL |
| RI-U | Residential-Office |
| RI-12 | C-1 |
| NS-L | C-2 |
| Residential-Agricultural | C-3 |
| RSF-1 | FORM BASED DISTRICTS |
| RSF-2 | Downtown Core |
| RSF-4 | Urban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

Planning Commission
January 9, 2023



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



- RSF-4
- RSF-18
- RI-12
- RI-U
- RMF-24
- P-1

CUP-2022-0115

1341 E. HENDRIX ST

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

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

MEETING: January 9, 2023

SUBJECT: **LSD-2022-0039: Large Scale Development (788 S. SHERMAN AVE./E. HUNTSVILLE RD. MULTI-FAMILY WEST, 565):** Submitted by DCI for property located at 788 S. SHERMAN AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 1.21 acres. The request is for a residential development with seven triplexes, one single-family dwelling, and associated parking.

RECOMMENDATION:

Staff recommends approval of **LSD-2022-0039** with conditions.

RECOMMENDED MOTION: *"I move to approve LSD-2022-0039, determining:*

- In denial of a variance to UDC §166.08(F)(2)(b),*
- In denial of a variance to UDC §172.03(E),*
- In favor of a variance to UDC §177.04(D)(1),*
- In favor of a variance to UDC §177.04(D)(2)(f),*
- In favor of the recommended right-of-way dedication,*
- In favor of the recommended street improvements, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in southeast Fayetteville on the south side of Huntsville Road, about a quarter of a mile west of the street's intersection with Happy Hollow Road. The property contains roughly 1.21 acres and is currently developed with one duplex which is slated to be demolished. Another multi-family residential development is planned just east of this site which is currently under review as a Large Site Improvement Plan (LSIP-2022-0009). The applicant has provided a combined drainage report that includes both proposed developments. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	CS, Community Services
South	Multi-Family Residential; Doc Mashburn Park	RMF-24, Residential Multi-Family, 24 Units per Acre; P-1, Institutional
East	Single-Family Residential	CS, Community Services
West	Multi-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre; RMF-24, Residential Multi-Family, 24 Units per Acre

Proposal: The applicant requests Large Scale Development approval to develop the subject property with seven triplexes, one single-family dwelling, and associated parking. Four variances from the Unified Development Code have been requested. Each variance is described further below alongside staff's recommendations:

- **§166.08(F)(2)(b): Access Management - Neighborhood Links.** Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along neighborhood links shall be shared between two (2) or more lots. The applicant has requested a variance to allow the proposed curb cut serving this development to be located approximately 70 feet away from existing and proposed curb cuts to the east and west along Huntsville Road. The applicant has stated that this variance is needed due to fire code requirements. If cross access were provided to the proposed development to the east, the Fire Department would require that all buildings be sprinkled, or a secondary point of access be provided. Per the applicant, a second point of access is not possible given the location and size of the property and sprinkling the buildings would be cost prohibitive to the owner.
 - *Staff recommendation: Staff is not supportive of this variance request. The subject property currently shares a curb cut with the property to the west which is proposed to remain but not be accessed by this development. A similar multi-family residential development is proposed to the east, and staff recommends that a combined access point be provided between those developments to accommodate the maximum curb cut separation possible between new and existing curb cuts along Huntsville Road, and based on the codified language that, when necessary, curb cuts along neighborhood links shall be shared between two or more lots. The intent of the City's access management standards is to ensure safe and adequate vehicular, bicycle, and pedestrian access to all properties. The site design appears to be a self-imposed hardship, as there is an existing curb cut on the property that is not being utilized for this development, and there are opportunities for shared access that would improve the safety of ingress and egress. Since sprinkling is an option available to the applicant, which would allow them to provide cross access to the proposed development to the east, staff does not find fire code requirements to constitute a hardship in this instance.*
- **§172.03(E): Minimum Number of Accessible Spaces.** In parking lots that contain 26-50 total parking spaces, a minimum of two (2) accessible spaces are required. The applicant has requested a variance to allow no accessible spaces in a parking lot that contains a total of 44 spaces. The applicant has cited the limited space available for parking and the non-accessible architectural design of each unit as their reasoning for this variance request.
 - *Staff recommendation: Staff is not supportive of this variance request. While the applicant has stated that there is limited room for parking on site due to the size of the property and the required parking ratios for single-family dwellings and triplexes, staff finds that there are options available that would allow the applicant to provide two accessible parking spaces. The City's parking ordinance allows up to 20% of required standard parking spaces to be substituted with motorcycle/scooter parking and bicycle parking. Since 44 spaces are required for this development, up to nine standard parking spaces could be substituted for motorcycle/scooter and bicycle parking, reducing the parking requirement to 35 standard spaces and providing room for two accessible spaces to be provided.*

- **§177.04(D)(1): Perimeter Landscaping Requirement – Side and Rear Property Lines.** All parking lots shall have five feet of landscaped area between the property line and parking lot. To maximize tree preservation on the west side of the property while maintaining necessary fire lane widths, the applicant is requesting a variance from this requirement to provide no landscape buffer between the east property line and the parking lot proposed to serve this development. The adjacent property owner has expressed his support for this request.
 - *Staff recommendation: Staff is supportive of this variance request. While there is no landscape buffer proposed between the parking lot serving this development and the subject property's east property line, a landscaped area with an average width of 10 feet is currently proposed for the development to the east which is currently under administrative review. Since the applicant has demonstrated an intent to maintain a landscaped area between adjacent properties, staff is supportive of this variance request with the added condition that 10 feet of landscaped area be maintained on the property to the east. However, at Subdivision Committee, the applicant requested that this condition be amended to reduce the width to eight feet.*
- **§177.04(D)(2)(f): Perimeter Landscaping Requirement – Screening.** Parking lots containing five (5) or more spaces shall be screened from the public right-of-way and adjacent properties, where said parking areas are adjacent to residential zones, with shrubs and/or graded berms. If graded berms are used, shrubs are also required. Since no landscape buffer is proposed along the east side of the property, the applicant is requesting a variance to provide no shrubs or graded berms for screening between the proposed parking lot and the property to the east. The adjacent property owner has expressed his support for this request.
 - *Staff recommendation: Staff is supportive of this variance request. Since there is no landscape buffer provided between the proposed parking area and the east property line, it is not possible to screen parking from the adjacent property with shrubs or graded berms. Further, a bioretention swale is proposed in the landscaped buffer on the lot to the east, making it difficult to install vegetative screening on the adjacent property. Staff still recommends that shrubs be planted between the parking lot and the public right-of-way.*

Right-of-Way to be Dedicated: The subject property has frontage along Huntsville Road, a Neighborhood Link street. Neighborhood Link streets typically require right-of-way in the amount of 33.5 feet from the centerline of the road. Since the existing right-of-way is shown to total 33.5 feet from centerline, staff does not recommend any additional right-of-way dedication with this development.

Street Improvements: Huntsville Road is a Neighborhood Link street with asphalt paving and six-foot sidewalk along the property's frontage. Staff recommends that six-foot greenspace and a 10-foot trail be installed along the property's Huntsville Road frontage, in line with the Active Transportation Plan and the Master Street Plan section for a Neighborhood Link street.

Access Management/Connectivity: Staff has determined that the proposed development is only partially compliant with the City's access and connectivity standards. The applicant proposes to access the site with one driveway onto Huntsville Road, which is located less than 100 feet away from adjacent driveways. A variance from Unified Development Code §166.08(F) would be necessary to place the curb cut as proposed. The applicant has requested this variance, as further

described above, though staff is not supportive of the variance since there is an existing curb cut on site and there is potential to provide cross access with the proposed development to the east.

Design Standards: As a multi-family residential development, this proposal is subject to Unified Development Code §166.23, Urban Residential Design Standards. In reviewing the provided site plan and elevations, staff has determined that this development is likely compliant with applicable design standards. Pedestrian circulation is proposed throughout the site and mechanical and utility equipment is shown to be screened from the right-of-way. Four building types are provided with variety in roof form and building color. However, descriptions of materials are needed to confirm that variety in building material is also being provided.

Water and Sewer System: This project includes approximately 800 linear feet of new eight-inch water mains. The applicant is proposing to connect to an existing 12-inch water main on the north side of Huntsville Road and an existing six-inch main on the adjacent multi-family development just west of Doc Mashburn Park. As proposed, the southern connection is shown to extend through the existing utility easement on the multi-family development to the west of Doc Mashburn Park. In terms of sanitary sewer, this project includes approximately 805 linear feet of new eight-inch sanitary sewer mains. The applicant is proposing to connect to an existing eight-inch main on Fairlane Street to the south by installing a new main through the west side of Doc Mashburn Park. Approval from the City's Parks Department would be required to install any new mains on Parks' property.

Parkland dedication or fee in-lieu: This proposal was discussed by the Parks and Recreation Advisory Board (PRAB) at their November 7, 2022. PRAB recommended fee-in-lieu for this development in the amount of \$20,944 based on 22 multi-family units. PRAB also recommended that an accessible pedestrian connection be installed between this development and Doc Mashburn Park to the south.

Tree Preservation:

Canopy minimum requirement: 20%

Existing canopy: 46.6%

Preserved canopy: 12.6%

Mitigation required: 24 two-inch caliper trees

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

RECOMMENDATION: Staff recommends approval of **LSD-2022-0039** with the following conditions:

Conditions of Approval:

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

Subdivision Committee recommended in favor of this.

2. Planning Commission determination of street improvements. *Staff recommends improvements along the property's Huntsville Road frontage in line with the typical Master Street Plan standard for a Neighborhood Link street, including six-foot greenspace and 10-foot trail, and staff recommends that an accessible pedestrian connection be provided to Doc Mashburn Park;*

Subdivision Committee recommended in favor of this.

3. Planning Commission determination of a variance to UDC §166.08(F)(2)(b), Access Management – Neighborhood Links. *Staff recommends denial of this variance for the reasons stated above;*

Subdivision Committee did not make a recommendation on this variance.

4. Planning Commission determination of a variance to UDC §172.03(E), Minimum Number of Accessible Parking Spaces. *Staff recommends denial of this variance for the reasons stated above;*

Subdivision Committee did not make a recommendation on this variance.

5. Planning Commission determination of a variance to UDC §177.04(D)(1), Perimeter Landscaping Requirement – Side and Rear Property Lines. *Staff recommends approval of this variance for the reasons stated above;*

Subdivision Committee recommended in favor of this variance.

6. Planning Commission determination of a variance to UDC §177.04(D)(2)(f), Perimeter Landscaping Requirement – Screening. *Staff recommends approval of this variance for the reasons stated above;*

Subdivision Committee recommended in favor of this variance.

7. Remaining comments from the Planning Division shall be addressed, including:
 - a. Clarify how the architectural design requirements in our Urban Residential Design Standards will be met (UDC §166.23(D)). It is unclear what building materials will be used.
 - b. There may be a conflict between the four spaces in the turnaround and our vehicle maneuvering requirements (UDC §172.04). Those spaces may create a potential conflict in the event of a fire as well, since vehicles may be parked in a way that blocks Fire's access. It's also unclear how cars will park in the two 'parallel' spaces.
 - c. Striping should be provided across the turnaround for a pedestrian crossing.
8. Shrubs should be provided for screening between the parking lot and the public right-of-way;
9. 10 feet of landscaped area should be maintained on the west side of the property to the east;
10. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

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

12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);
13. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
14. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
15. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
16. 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;
17. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
18. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;
19. Large scale development shall be valid for one calendar year;
20. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
21. 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
22. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - e. Project Disk with all final revisions; and

- f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Engineering Memo
- Fire Memo
- Urban Forestry Comments
- Request Letter
- Variance Request Letter
- Site Plan
- Elevations
- One Mile Map
- Close-up Map
- Current Land Use Map



TO: Gretchen Harrison, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: January 4, 2023

SUBJECT: **Planning Commission Engineering Comments for
LSD-2022-0039 E. HUNTSVILLE RD MULTIFAMILY WEST**

Access Management: The applicant requested a City Engineer waiver to UDC 166.08(F)(1) to not provide the minimum 5' of separation between curb cuts and adjoining property lines (unless curb cuts are shared) and 166.08(F)(2)(b) requiring a minimum of 100' of separation between adjacent curb cuts on Neighborhood Links. As proposed, the separation between the existing and proposed east and west curb cuts will be approximately 70' when measured according to UDC 166.08(F)(1). The subject property currently shares a curb cut with the property to the west that is proposed to remain, but not be accessed by this development. The City Engineer is not able to approve this request based on the addition of a curb cut on a property where one exists even though the applicant is proposing to dedicate an access easement for the adjacent property owner for the existing curb cut, so this curb cut will require a Planning Commission variance. The City Engineer is able to approve the request for the lesser separation on the east proposed curb cut, determining that it isn't adding a new curb to this property and provides the most separation from the proposed west curb cut and the existing curb cut to the east, with it also being centrally located on the property's frontage; however, Engineering is recommending a combined access point between these two developments to provide the maximum separation possible between the new and existing curb cuts on the adjacent properties, and based on UDC 166.08(F)(2)(b) stating that, "When necessary, curb cuts along neighborhood links shall be shared between two (2) or more lots."

Water: This project includes approximately 800LF of new 8" watermain. They are proposing to connect to the existing 12" watermain on the north side of E. Huntsville Rd. and an existing 6" watermain on the adjacent multifamily development just west of Doc Mashburn Park. As proposed, the southern connection is shown to extend through the existing utility easement on the multifamily development and no longer through park property.

Sewer: This project includes approximately 805LF of new 8" sanitary sewer main. They are proposing to connect to an existing 8" sanitary sewer main on E. Fairlane St. by installing sanitary sewer through the west side of Doc Mashburn Park. Parks approval to install the sanitary sewer main on the park property will be required.

Drainage: This development is required to meet the four Minimum Standards of the Drainage Criteria Manual. Minimum Standard 1 water quality requirements will be met through use of bioretention. They are showing to keep the peak flow of the 1-year, 24-hour storm below 2.0cfs, so the channel protection requirement of Minimum Standard 2 does not apply. Minimum Standard 3 Overbank Flood Protection and Minimum Standard 4 Extreme Flood Protection requirements

will be met by the design of the pond outfall structure keeping peak flows post-development below peak flows pre-development. Further review of the design will be conducted with the grading permit submittal.

One administrative variance to the Drainage Criteria Manual is being requested, which has been reviewed by the City Engineer and is outlined below:

1. The applicant is requesting to reduce the setback distance from buildings to 5' from 25' as outlined in Appendix B of the Drainage Criteria Manual. The applicant provided a recommendation from a geotechnical engineer, and this variance can be approved with the requirement that the geotechnical recommendations be followed during construction.

Plan Comments:

1. Outlet structure detail in drainage report needs to include elevations.
2. Provide table with pipe size, material, and length of proposed water and sewer mains on plans.
3. Confirm if the correct bioretention area for sub-basin W is included in the drainage report as the post-development map has changed since the previous submittal, but the calculations have stayed the same.

Standard Comments:

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



To: Jesse Masters, Planner

CC: Battalion Chief Jeremy Ashley, Fire Marshal

From: Captain Andrew Horton, Deputy Fire Marshal

Date: 1/4/2023

Subject: LSD 2022-0039 - 788 S. SHERMAN AVE, FAYETTEVILLE, AR 72703

Attached below I have provided the code as it reads for clarification.

SECTION D107 - ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS

AFPC 2012 D107.1 *Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads and shall meet the requirements of Section D104.3.*

Exceptions:

- 1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the International Fire Code, access from two directions shall not be required.*

AFPC 2012 D104.3 Remoteness. *Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.*



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Allen Jay Young, DCI

From: Melissa M. Evans, Urban Forestry & John Scott, Urban Forester

CC: Gretchen Harrison, Planner

Meeting Date: December 29, 2022

Subject: LSD-2022-0039: E. Huntsville Rd. Multi-Family West: 788 S. Sherman Ave., 565

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

2. Tree Preservation Calculations

Tree Preservation Calculations <u>Square Feet</u>		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	52,624	100%
<i>Zoning Designation * Select Below with drop down arrow</i>		
RMF-24 Multi-Family Residential-Twenty-Four Units Per Acre	10,525	20%
<i>HHOD * Select Below with Drop Down Arrow</i>		
No	0	0%
Total Canopy for Minimum Preservation Requirements	10,525	20.0%
Existing Tree Canopy * Minus Right of Way and Easements	24,497	46.6%
Tree Canopy Preserved	6,631	12.6%
Tree Canopy Removed *On Site	17,866	34.0%
Tree Canopy Removed *Off Site	1,413	
Tree Canopy Removed Total	19,279	36.6%
Removed Below Minimum	3,894	
Mitigation Requirements	5,307	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	5307	24
Low Priority		
Total Mitigation Trees Required	5307	24

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

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

Tree Protection Methods

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

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

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

7. Review Status	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved		11-28-22	
		12-27-22	
Approved			
Tabled	10-31-22		
	11-14-22		
Denied			

Comments

1. Address items above marked “No” and all Redlines provided.
2. Staff is concerned about trees due to new water line going through the park. Please adjust the tree preservation calculations and fence around the trees due to the water line.
3. Please double check your mitigation numbers as 24 is the required number.



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Allen Jay Young, DCI

From: Melissa M. Evans, Urban Forestry & John Scott, Urban Forester

CC: Gretchen Harrison, Planner

Meeting Date: December 29, 2022

Subject: LSD-2022-0039: E. Huntsville Rd Multi-Family West: 788 S. Sherman Ave., 565

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.	Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>		X	
b.	Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>			X

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

3. Perimeter Landscaping Requirements

Yes	No	N/A
-----	----	-----

- | | | | |
|--|----|---|--|
| a. Front Property Line (15' wide landscape) and five on sides.
<i>UDC Chapter 177.04D2a</i> | X | | |
| b. Side and Rear Property Lines (5' Wide Landscape Area)
<i>UDC Chapter 177D1</i> | No | | |
| c. Shade trees planted on south and west sides of parking lots
<i>UDC Chapter 177.04D2e</i> | X | | |
| d. Screening of parking lot from adjacent residential properties. | | X | |

4. Street Tree Planting Requirements

Yes	No	N/A
-----	----	-----

- | | | | |
|--|---|--|---|
| a. Residential Subdivisions
1 Large Shade Species Tree per Lot
<i>UDC Chapter 177.05B1a</i> | | | X |
| b. Non-Residential Subdivisions
1 Large Species Shade Tree every 30' (planted in greenspace)
<i>UDC Chapter 177.05B2a</i> | X | | |
| c. Urban Tree Well – Urban Streetscapes
Trees every 30' (8' sidewalk)
<i>UDC Chapter 177.05B3a-f</i> | | | X |
| d. Structured Soil – Urban Tree Wells
Include a note and/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	24
Parking Lot Trees	4
Street Trees	3
Detention Pond – Large Trees (1 Tree/3,000 square feet)	?
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	?
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	?

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved		12-27-22	
Approved			
Tabled	10-31-22	11-29-22	
	11-14-22		
Denied			

Comments

1. Address items above marked "No" and all Redlines provided.
2. This project is required and needs to be reviewed and stamped by a licensed landscape architect.
3. It is understood that the Owner and adjacent Property Owner do not want to provide shrubs along the east side of the site to screen the adjacent residential zoning. The applicant applied for a variance on this and the requirement for 5' of greenspace. The plan shows 2'-6" of greenspace. Since more greenspace is being provided along the property line for the proposed development to the east, which is in review now, Urban Forestry will support the variance request.
4. Please provide shrubs between the parking and E. Huntsville Road.

**Written request and narrative to accompany petition packet for the
E. Huntsville Rd. Multi-Family West LSD at 788 S Sherman Ave, City of Fayetteville, Arkansas.**

To: The Fayetteville City Planning Commission

On behalf of the landowners, I am petitioning the Fayetteville City Planning Commission to accept the included Large Scale Development of the property located at 788 S Sherman Ave. in the City of Fayetteville, Arkansas.

This property is currently being used as a single-family residence with a one existing residential home.

Current zoning is MF-24, allowing up to 24 units per acre. The proposed multi-family development will include 22 units comprised of 7 triplexes and 1 stand alone unit fronting E. Huntsville Road. Improvements to water, sewer, and drainage are included with this project. The proposed development intends to have a single point of vehicular access along the north side of the property from E. Huntsville Rd. for all of the multi-family units.

A fee-in-lieu is being requested for the Park Land Dedication requirement. The fee-in-lieu totals to \$20,944.00 for the 22 multi-family units.

Additionally, 22 – 2 inch caliper trees will be planted as part of the tree preservation plan.

By accepting this large scale development request, the current owners would benefit, and no other landowner would be adversely affected.

The public interest and welfare would not be adversely affected by accepting this large scale development request.

Included in the Petition Packet is:

- 1 Application and Payment of applicable fees for processing the application \$400.00.
- 2 This written description.
- 3 Authorization Letter
- 4 LSD Civil/Landscape Plans
- 5 Survey
- 6 Architectural Elevations
- 7 Drainage Report
- 8 Tech Plat Fire Review



Allen Jay Young, Development Consultants, Inc.

04 January 2023

City of Fayetteville

Planning Commission
125 W. Mountain Street
Fayetteville, AR 72701
479.575.8267

DCI Job Number: 2022-128 West
LSD Number: 2022-0039
Project Name: E. Huntsville Road Multi-Family West
Owner: Nicholas Corter, 3216 N Deane Solomon Rd, 479.445.8075

Project Narrative:

The E. Huntsville Road Multi-Family West development is located at 786 S Sherman Ave, Parcel 765-15235-002, and is approximately 1.21 acres. This parcel is approximately 110' along E. Huntsville Road and 507.9' deep. The project is a multifamily development consisting of seven triplexes and one single family unit for a total of 22 units. Each unit is designed to be a multistory building utilizing steps into the home and stairs to the living areas on the second floor. Because of the architect's width of the units and the tight layout of the site, the minimum number of required parking stalls was met by utilizing spaces around the hammerhead turnaround.

The Owner of the subject property and the owner of the property to the east are developing their properties simultaneously. They have agreed that their two developments will share storm water management responsibilities, and that the detention pond will be located on the property to the east. This development is utilizing a bioretention swale for water quality that is located along the shared property line that captures the subject property storm water and channels it to the detention pond for storm water management. Due to the location of the bioretention swale, simultaneous and similar development of their properties, and shared responsibility of the swale along the common property line, the two landowners have agreed that they wish to not have any side yard landscape buffer between their properties.

Variance Request:

On behalf of the owner, DCI is requesting variances to the following sections of the Unified Development Code.

1. Variance to UDC Section 166.08.F, Access management. E. Huntsville Road is classified as a Neighborhood Link in the Fayetteville Master Street Plan and thus is required to have 100' spacing between curb cuts. The parcel is approximately 110' wide along E. Huntsville Road with existing neighbor curb cuts located on the subject property western property line and approximately 55' east of the eastern property line. So, this property needs a curb cut for access between two existing curb cuts that are currently only 165' apart. DCI has designed this development to create an equal spacing between the existing curb cut to the west and a future curb cut to the east (shifted slightly east from current location). The new spacing will be approximately 90' from each driveway centerline, or 70'

from the one curb cut to the next, which maximizes the distance between curb cuts given the constraints of the site (see attached Exhibit A).

In this spacing, the driveway radius return also lies within 5' of the extension of the east property line to the back of curb. Shifting the driveway west could meet the requirement but would reduce the distance from the existing curb cut to the west, resulting in a less desirable configuration. Additionally, this shift would require the driveway to move approximately 10.2 feet west, reducing the available footprint of Unit 1, making it less desirable for the owner. The adjoining east property owner has agreed to this design for the radius to cross the extension of the property line within the right-of-way. The existing driveway on the western property line will be granted an access easement to the property owner the west and not utilized for this project.

The option of a shared access drive with the neighboring property to the east was explored, however whenever both properties share a common drive, the fire department counts all of the units of both developments, which by code necessitates a second access which must be separated from the first access by a minimum of half the distance of the long diagonal of the combined properties. In this scenario, it would require a second entrance at least 228 feet from the potential shared drive. Due to the location of these parcels, the private ownership of the properties on each side, and the public park to the south, this is not possible. The only other option allowed by fire code would be to require that every unit have an automated sprinkler system. We anticipated utilizing the 13D fire suppression system at an estimated cost of \$5,000 per unit. With the combined properties having 45 units, that cost would be approximately \$225,000.00. That option is cost prohibitive to the owners and would inhibit the ability of the owners to proceed with the development. We are requesting this variance due to a hardship resulting from the fire code as described above, since fire code allows each development to be developed with a separate entrance off of E. Huntsville Road.

2. Variance to UDC Section 172.03.E, Minimum Number of Accessible Spaces. Due to the limited parking on this site, with no additional room for more parking, as well as the non-accessible architectural design of each unit, DCI is requesting a variance from providing ADA Accessible parking. The addition of the two required ADA parking stalls would be a net loss of 1 parking space for the site for the ADA landing, thus requiring an elimination of one unit or an additional variance for reduced parking, creating a hardship for the owner. Also, since each unit requires steps to enter it and steps up to the second floor, and they are not going to be built with other ADA accessibility traits within the units, it is anticipated that they will not have any disabled occupants. Therefore, if we were to include the two ADA parking spaces, they would not likely be utilized and would take away from available parking for the anticipated residents of the units. If we are required to include two spaces on the idea that a disabled individual may decide to visit a resident of the development at some point in the future, there would only be a 2 in 22 chance that the space would actually be in the correct location to be utilized by that individual.
3. Variance to UDC Section 177.04.D.1, Perimeter Landscape Requirements on Side and Rear Property Lines. In order to maximize tree preservation on the west property line while providing the necessary fire lane widths, and due to the narrow nature of the parcel, DCI is requesting a variance for the 5' wide side yard perimeter landscape buffer requirements along the eastern property line. The subject property owner and the owner of the parcel to the east have an

agreement that neither owner wants the buffer. Additionally, the bioretention swale is located along the eastern property line. In order to create the landscape buffer on the east property line, the site would be required to shift west, either impacting existing trees and reducing the tree preservation on the site, or further reducing the units which only have a 575 square foot footprint as is, creating a hardship for the owner.

4. Variance to UDC Section 177.04.d.2.f, Parking Lot Screening. In order to maximize tree preservation on the west property line while providing the necessary fire lane widths, and due to the narrow nature of the parcel, DCI is requesting a variance for the parking lot screening requirement along the eastern property line. The subject property owner and the owner of the parcel to the east have an agreement that neither owner wants the screening. Additionally, the bioretention swale is located along the eastern property line, limiting the ability to plant screening vegetation at this location. In order to create the screening on the east property line, the site would be required to shift west, either impacting existing trees and reducing the tree preservation on the site, or further reducing the units which only have a 575 square foot footprint as is, creating a hardship for the owner.

Thank you for your consideration and we look forward to working with the City moving forward.

Sincerely,

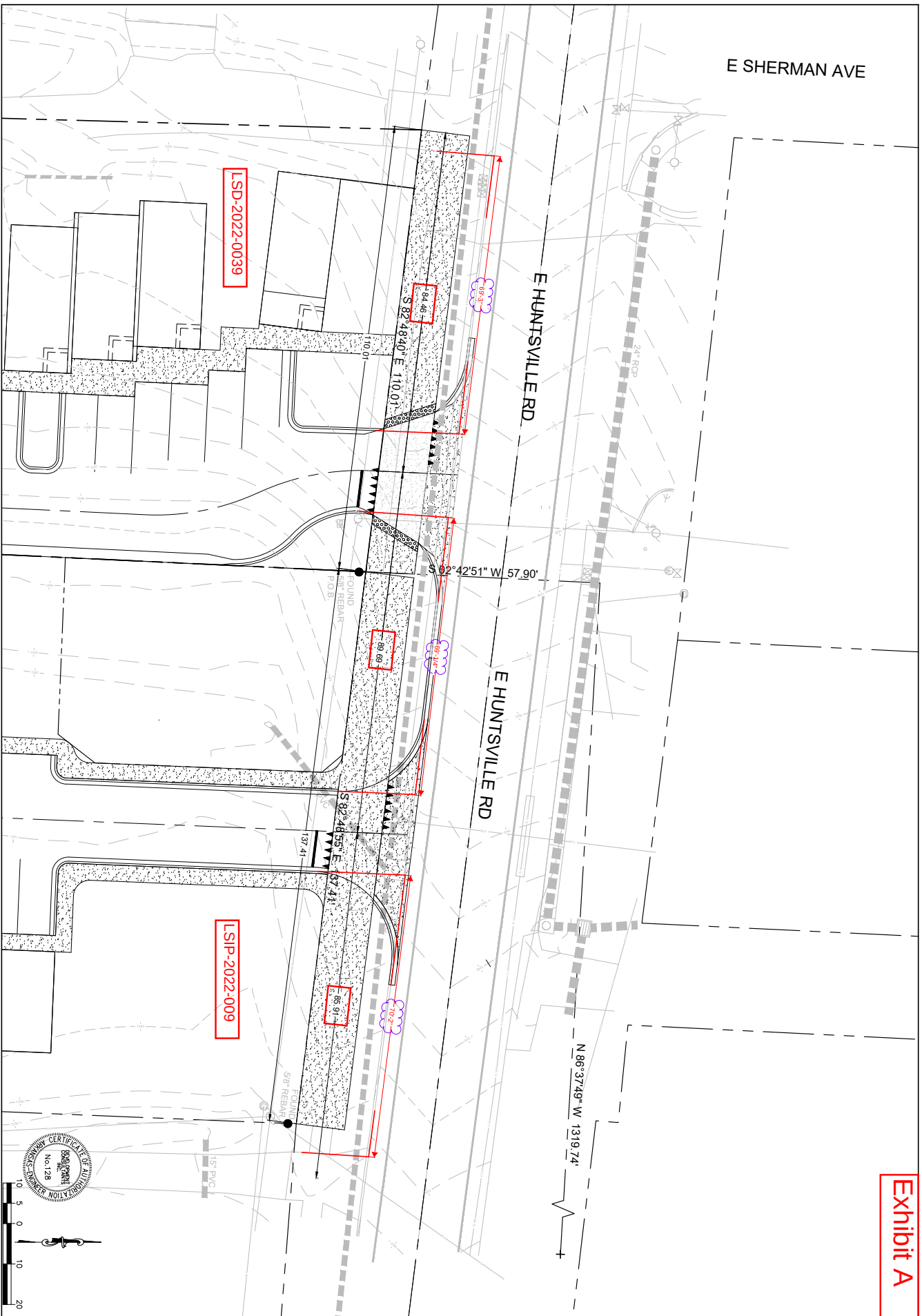


Chase Henrichs, P.E.

ChaseH@DCIUS.PRO

479.444.7880

Development Consultants

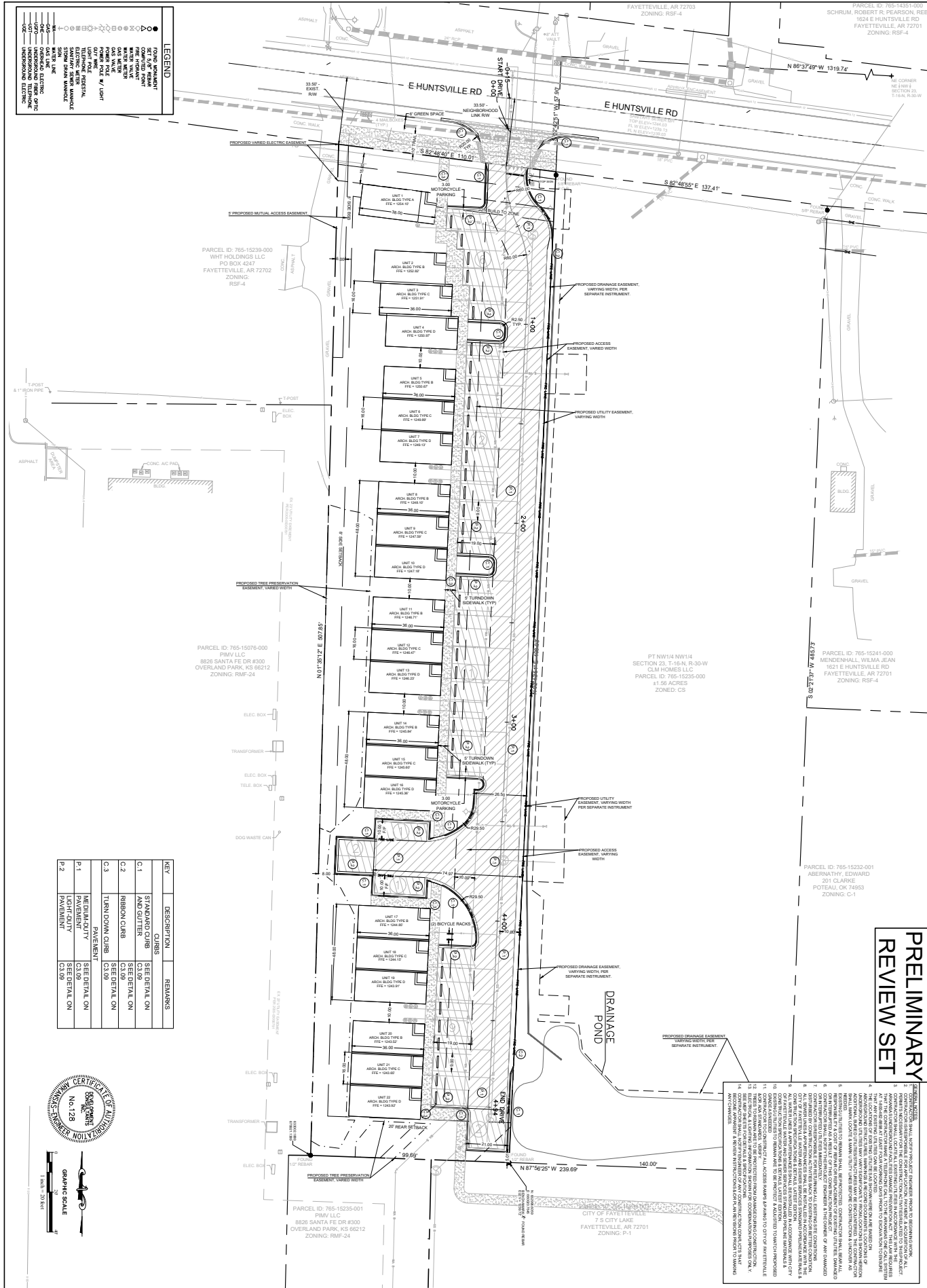


E SHERMAN AVE

E HUNTSVILLE RD

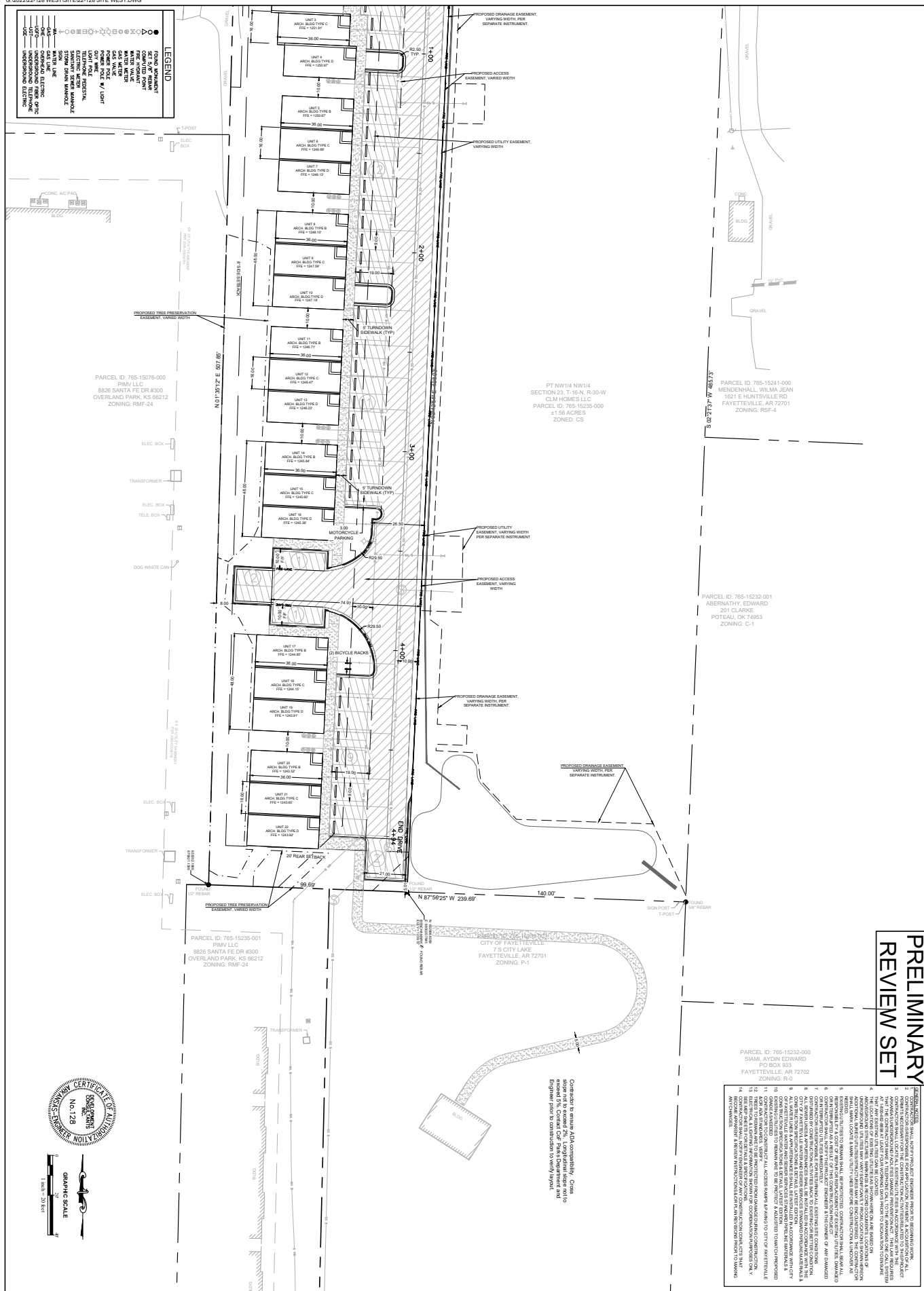
E HUNTSVILLE RD

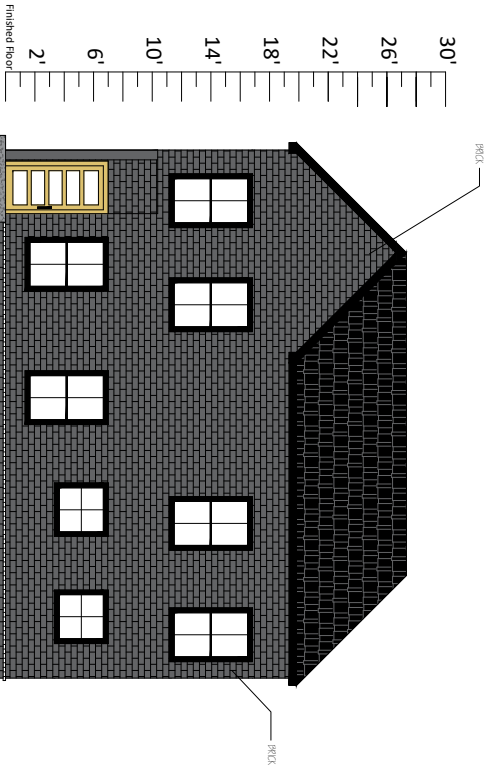
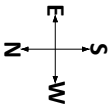
Exhibit A



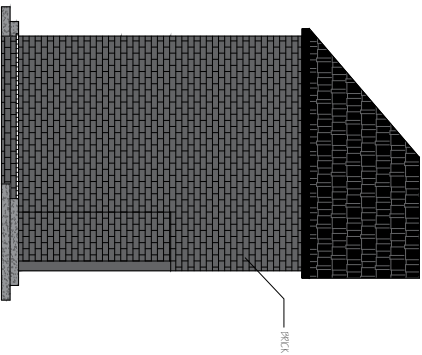
PRELIMINARY
REVIEW SET

THESE PLANS AND SPECIFICATIONS ARE PREPARED BY THE ARCHITECT FOR THE DEVELOPER'S USE ONLY. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE ARCHITECT. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN OF THE BUILDING AND ITS MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS. THE ARCHITECT DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED TO THE ARCHITECT OR THE RESULTS OF THE DESIGN. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN OF THE BUILDING AND ITS MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS. THE ARCHITECT DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED TO THE ARCHITECT OR THE RESULTS OF THE DESIGN.

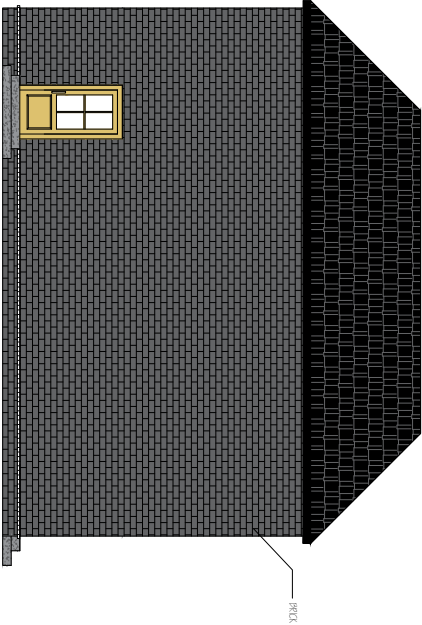




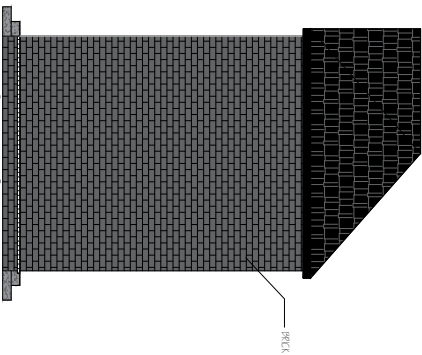
Front Elevation



Side Elevation



Rear Elevation

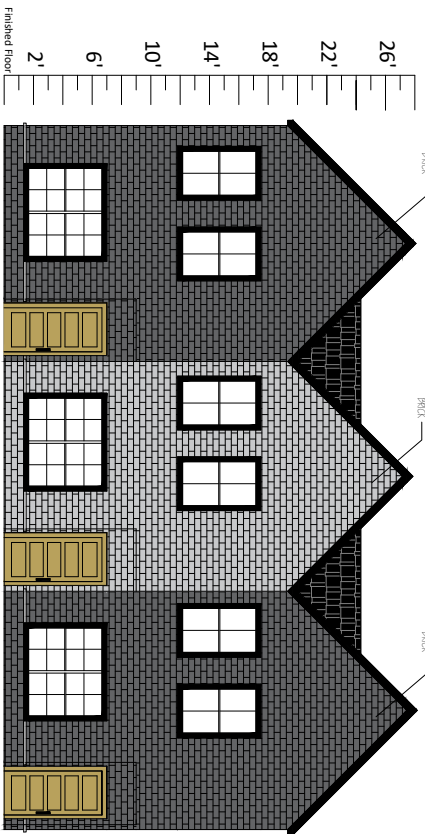
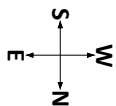


Side Elevation

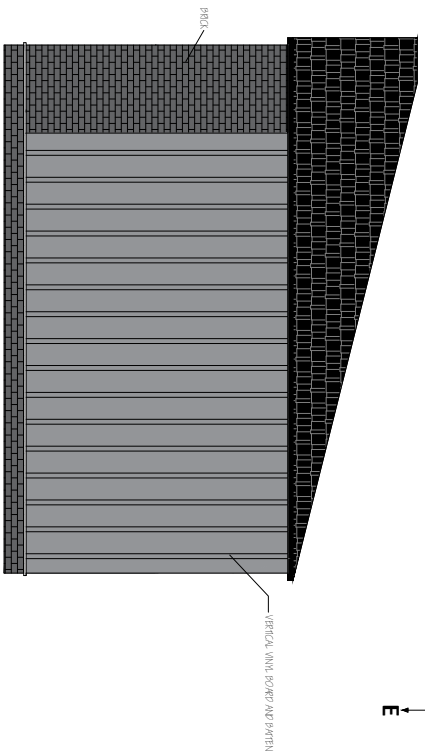
GENERAL NOTES:

- 1) 2X4 FRAME WALLS THROUGHOUT, UNLESS NOTED OTHERWISE.
- 2) 9'-1" PLATE HEIGHT, UNLESS NOTED OTHERWISE.
- 3) ALL WINDOW HEADS SHALL BE AT 6'-8" AFF, UNLESS NOTED OTHERWISE.
- 4) ALL WINDOWS SHALL BE OPERABLE, UNLESS NOTED OTHERWISE.
- 5) ALL WINDOWS SHALL BE FRAMED INDIVIDUALLY, UNLESS NOTED OTHERWISE.

Scale: $\frac{1}{4}" = 1'-0"$



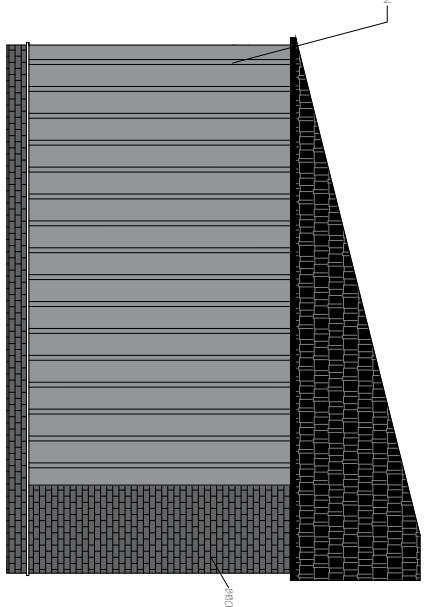
Front Elevation



Side Elevation

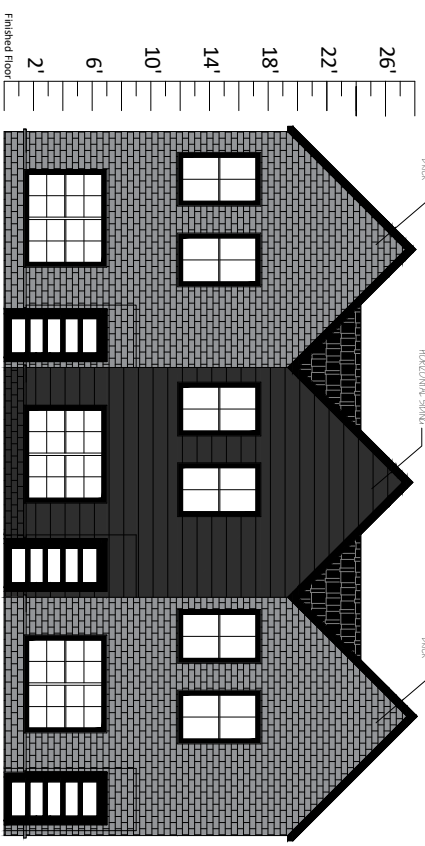
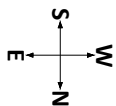


Rear Elevation

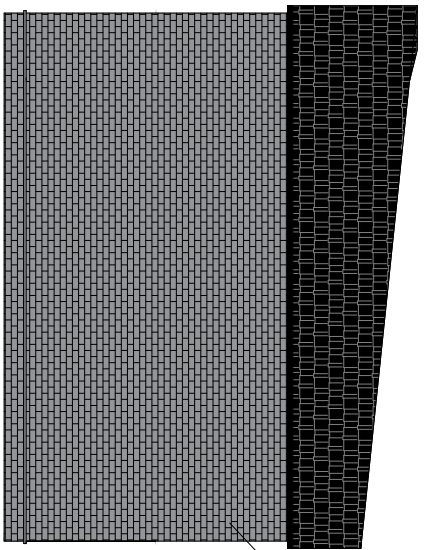


Side Elevation

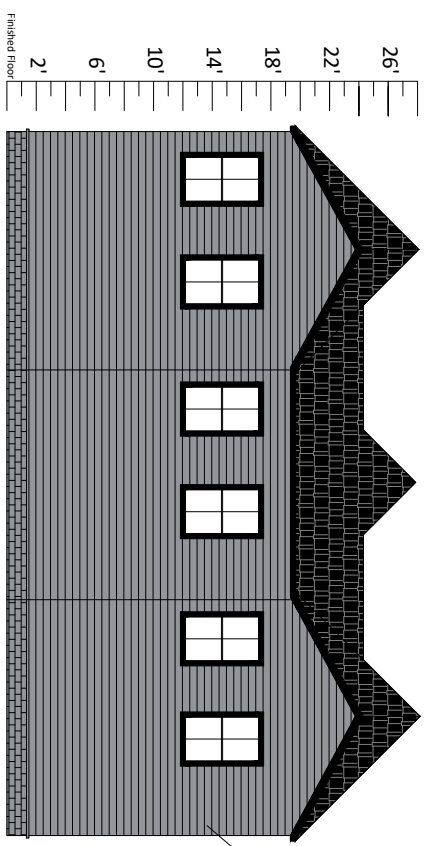
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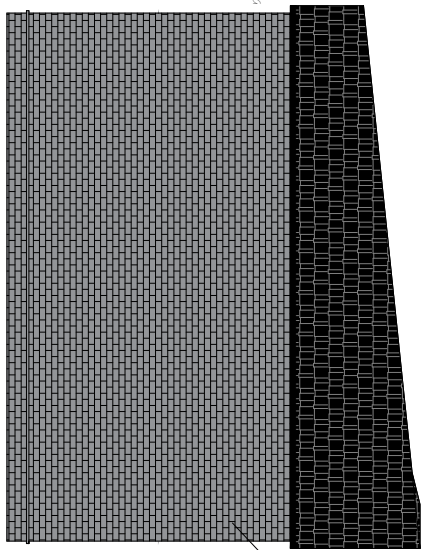
Front Elevation



Side Elevation

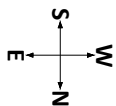


Rear Elevation

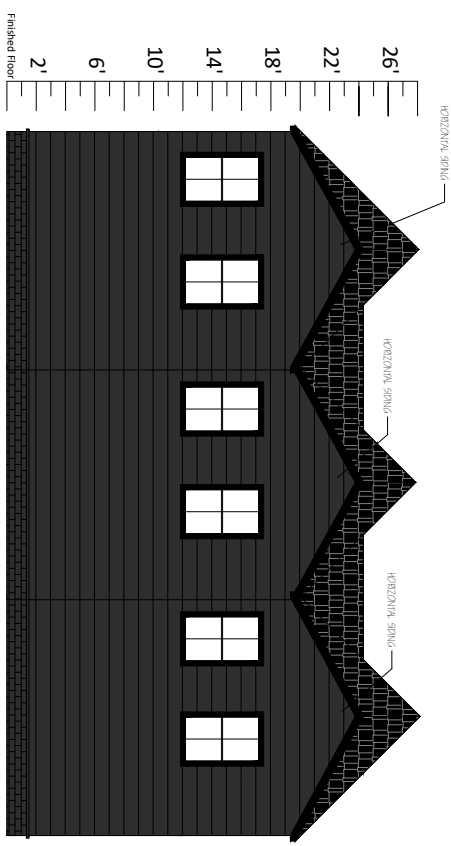


Side Elevation

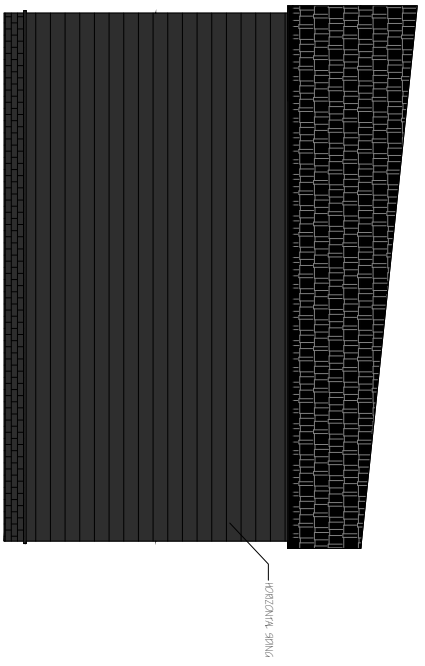
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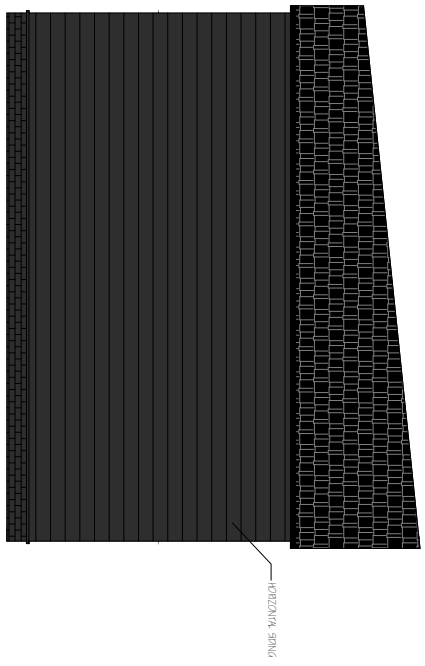
Front Elevation



Rear Elevation

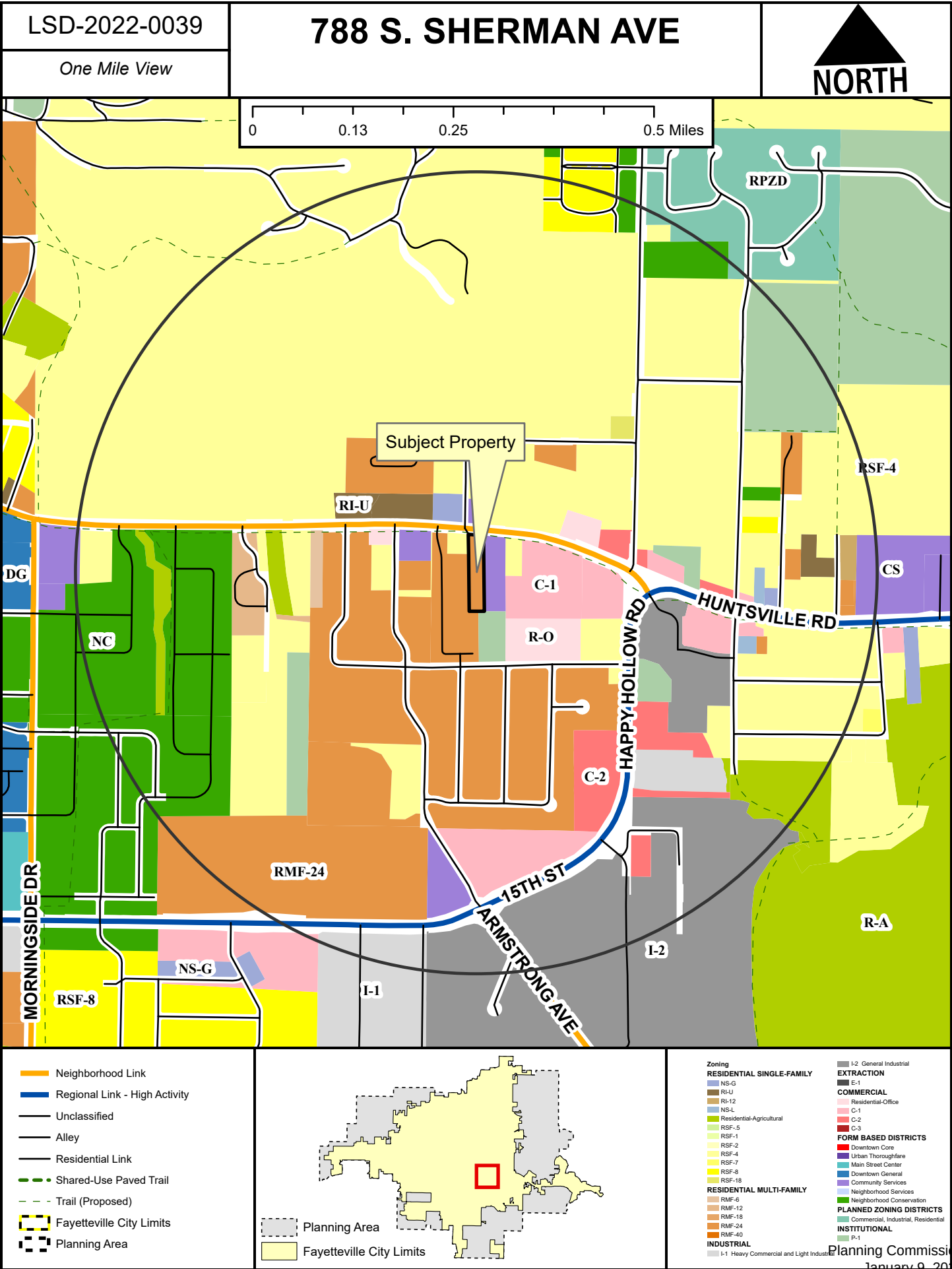


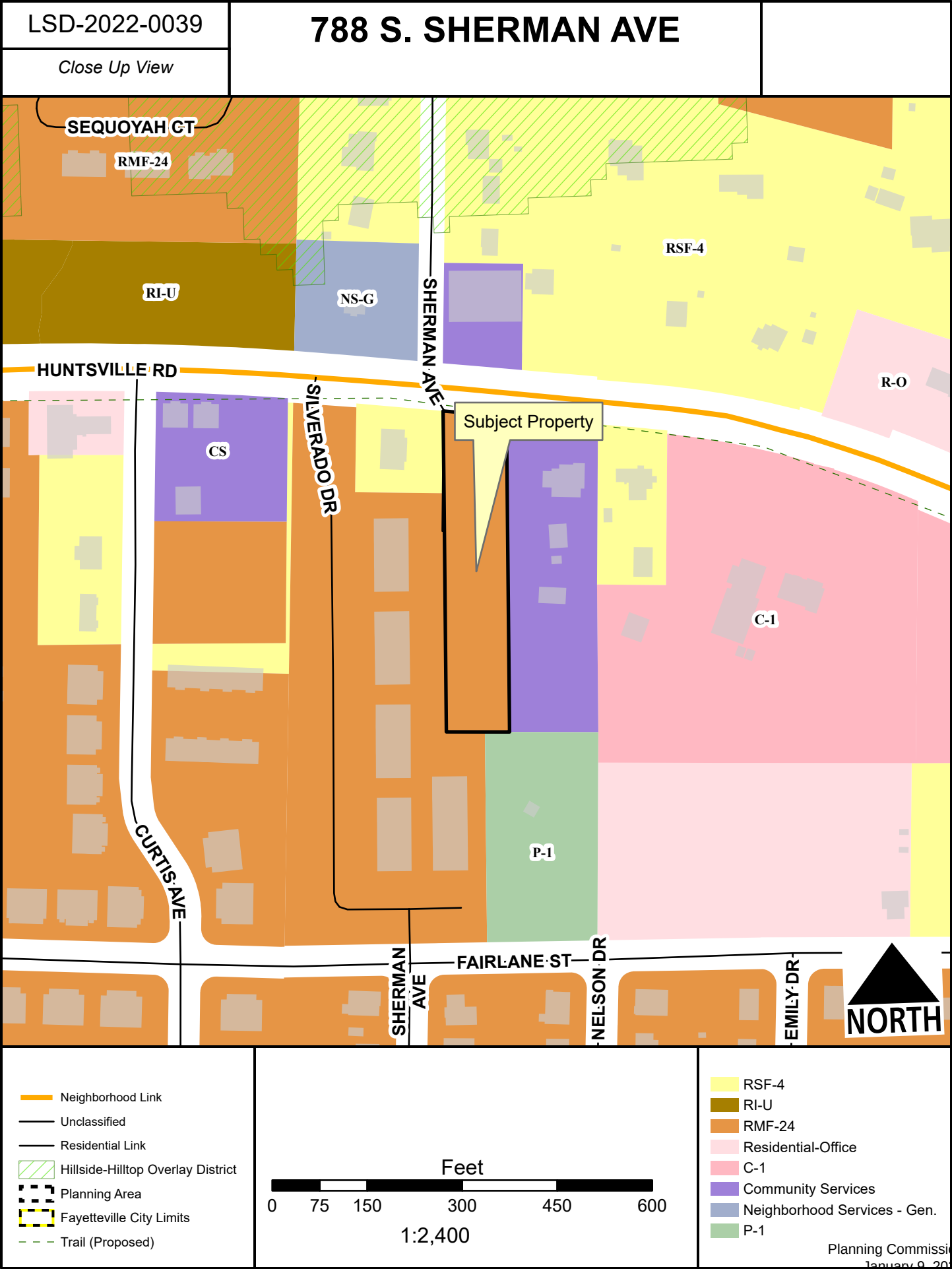
Side Elevation



Side Elevation

Scale: $\frac{1}{4}" = 1'-0"$









TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 9, 2023

SUBJECT: **ADM-2022-0062: Administrative Item (LOTS 23, 26, & 31-WILLOW BEND SD/WILLOW BEND CLUSTER DEVELOPMENTS, 563):** Submitted by COMMUNITY BY DESIGN, INC. for properties located at LOTS 23, 26, & 31 IN WILLOW BEND SD. The properties are zoned RSF-18, RESIDENTIAL SINGLE FAMILY, 18 UNITS PER ACRE & NC, NEIGHBORHOOD CONSERVATION and contain approximately 3.90 acres. The request is for an extension to an approved conditional use permit for cluster housing.

RECOMMENDATION:

Staff recommends approval of **ADM-2022-0062**, with conditions.

RECOMMENDED MOTION:

"I move to approve **ADM-2022-0062**, with conditions as recommended by staff."

BACKGROUND:

The subject property is comprised of three separate undeveloped lots within the Willow Bend neighborhood (lots 23, 26, and 31, with 0.9, 1.2, and 1.8 acres, respectively) for a total of 3.90 acres. The properties are currently zoned Residential Single-Family, 18 Units Per Acre, and NC, Neighborhood Conservation. The Willow Bend neighborhood is a platted subdivision whose final plat was recorded in February 2020. A conditional use permit for cluster housing was initially approved on these three lots in February 2017, later expired, and a new conditional use permit (CUP-2020-000004) was approved by the Planning Commission in September 2020. An administrative extension was granted by staff and expired on September 14, 2022. Separately, the applicant received large-scale development approval for cluster housing on lot 26 (LSD-2021-000037) and lot 31 (LSD-2021-000036) on October 14, 2021. Those approvals expired on October 14, 2022. 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	NC, Neighborhood Conservation
South	Two and Three Family Residential	DG, Downtown General
East	Single-Family Residential; Head Start Center	NC, Neighborhood Conservation
West	Single-family Residential	RSF-18, Residential Single-Family, 18 Units per Acre; NC, Neighborhood Conservation

Proposal: Under 166.20, the applicant requests an extension from the Planning Commission for CUP-2020-000000, a conditional use permit for cluster housing on lots 23, 26, and 31 of the Willow Bend subdivision. The applicant submitted a letter to the Planning Division on September 13, 2022, prior to any expiration of associated projects. LSD-2021-000036 and LSD-2021-000037,

are subject to administrative extension through staff since the applicant submitted a request prior to those projects' expiration date. Approval of those LSD extensions, however, are subject to the extension of the associated conditional use permit.

DISCUSSION:

Staff recommends approval of the applicant's extension request. Unified Development Code section 166.20(B)(4) indicates that a final one-year extension can be granted by the Planning Commission if the plans are substantially the same as those originally approved. No requested modifications have been made by the applicant to date. The burden is also upon the applicant to provide good cause why the tasks could not be reasonably completed. The applicant has begun the permitting process and submitted for grading permit in May 2022 but has not yet received approval through that process. Staff finds that the applicant submitted for permits in good faith that the project will be completed in a timely manner as originally approved.

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

RECOMMENDATION: Staff recommends approval of ADM-2022-0062, with the following conditions.

1. A one-year extension for CUP-2020-000004 will expire on September 14, 2023. No other extensions are permitted to be granted beyond that date, per code;
2. All conditions of approval of CUP-2020-000004 not affected by this extension shall remain in effect;
3. Administrative extension for associated large-scale developments must be received separately from the Zoning and Development Administrator;
4. Approval of this extension does not constitute approval of associated permits or entitlements not fully reviewed at this time.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 9, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

Attachments:

- 166.20 Expiration Of Approved Plans And Permits
 - CUP-2020-000004 Conditions of Approval
 - Applicant Request Letter
 - One Mile Map
 - Close-up Map
 - Current Land Use Map
-

166.20 Expiration Of Approved Plans And Permits

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

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

(B) *Time Limit.*

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

permitted extension period. Extensions beyond three (3) years from the original date of approval shall not be permitted.

- (5) Ordinance Amendments. To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval. Projects that must be substantially modified to meet new code requirements are subject to Ch. 166.05(F) Modifications.
- (6) Variances. Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
- (7) Expiration. If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(C) Three (3) Year Time Limit.

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

(Ord. No. 5155, 7-15-08); Ord. No. 5425, 8-2-11; Ord. No. 6446 , §8(Exh. C), 6-15-21)

CUP-2020-000004 Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed cluster housing development compatible with the surrounding neighborhood based on the findings in this report;*
2. **Planning Commission determination of requested variances.** *Staff finds in favor of all three for reasons stated above.*
 - a. 164.22(D), Dwellings Permitted.
 - b. 164.22(H)(1) Building Design Standards, Variety in Detached Cluster Housing Units Floor Plans and Architectural Treatments.
 - c. 172.02(B), Parking Lot Construction Standards, Surfacing. *Staff recommends a condition of approval for 172.02(B) that driveway must be paved 18' from the right-of-way.*
3. 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, recycling and trash collection, and Fire Department access. These details shall be reviewed with the development application.

4. The final project design shall follow the general layout and design of the conditional use concept plan. A development application is required to go through the review process prior to any building permits to ensure *compliance with all Unified Development Code requirements*;
5. 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;
6. Prior to receiving a certificate of occupancy for the first home all shared parking areas, common amenities, and bike racks shall be installed.
7. The maximum number of unrelated persons in any dwelling unit is three, pursuant to the underlying single-family zoning district; and
8. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year.

September 13, 2022

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 2020-000004 – Request to Extend Conditional Use Permit Approval**
LSD 2021-000036 – Request to Extend Large Scale Development Approval
LSD 2021-000037– Request to Extend Large Scale Development Approval

Ms. Masters,

The above referenced conditional use permit was approved by the City of Fayetteville Planning Commission on the evening of September 14, 2020. The approval was extended on September 14, 2021. On behalf of the owner of the property, please allow this letter to serve as a request to extend CUP 2020-000004 for another year.

In association with the conditional use permit the following approvals were requested in September of 2021:

Lot 23 – Cluster Development SIP 2021 000030
Lot 26 – Cluster Development LSD 2021 000037
Lot 31 – Cluster Development LSD 2021 000036

LSD 2021 000036 and LSD 000037 were approved by the planning commission on the evening of October 25, 2021.

The request is also to extend LSD 2021 000036 and LSD 000037 approvals for another year.

Grading permits for all 3 cluster developments were applied for in 2022. So far the grading permits have not received approval but we are still in the review / revision process.

Sincerely,



Brian Teague
Community By Design

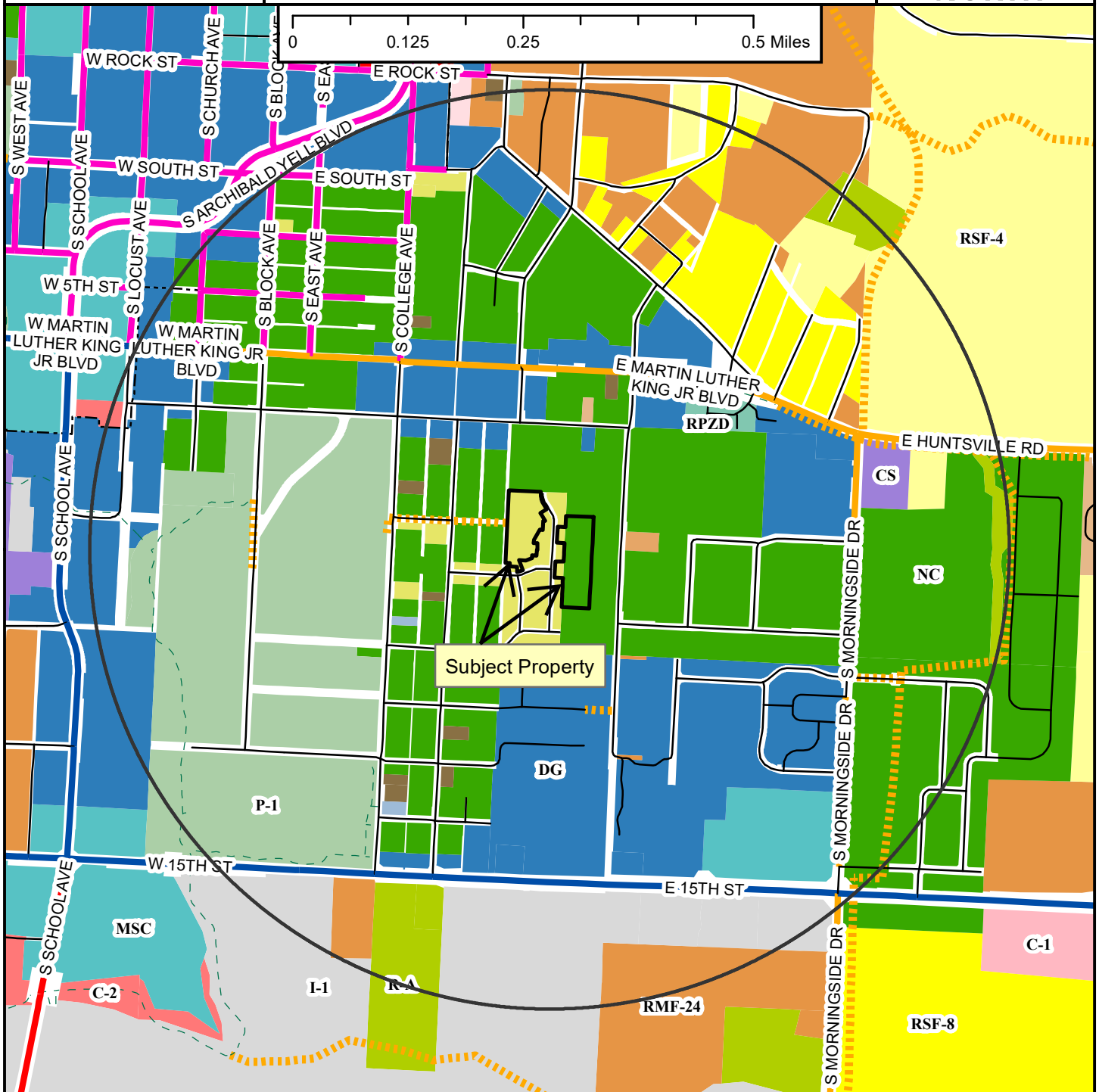
CUP-2020-000004

Willow Bend Cluster Housing

One Mile View

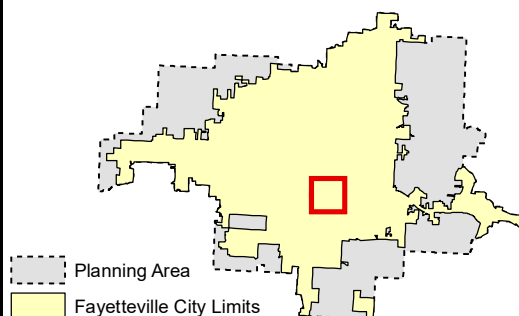


0 0.125 0.25 0.5 Miles



Legend

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



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

Planning Commission

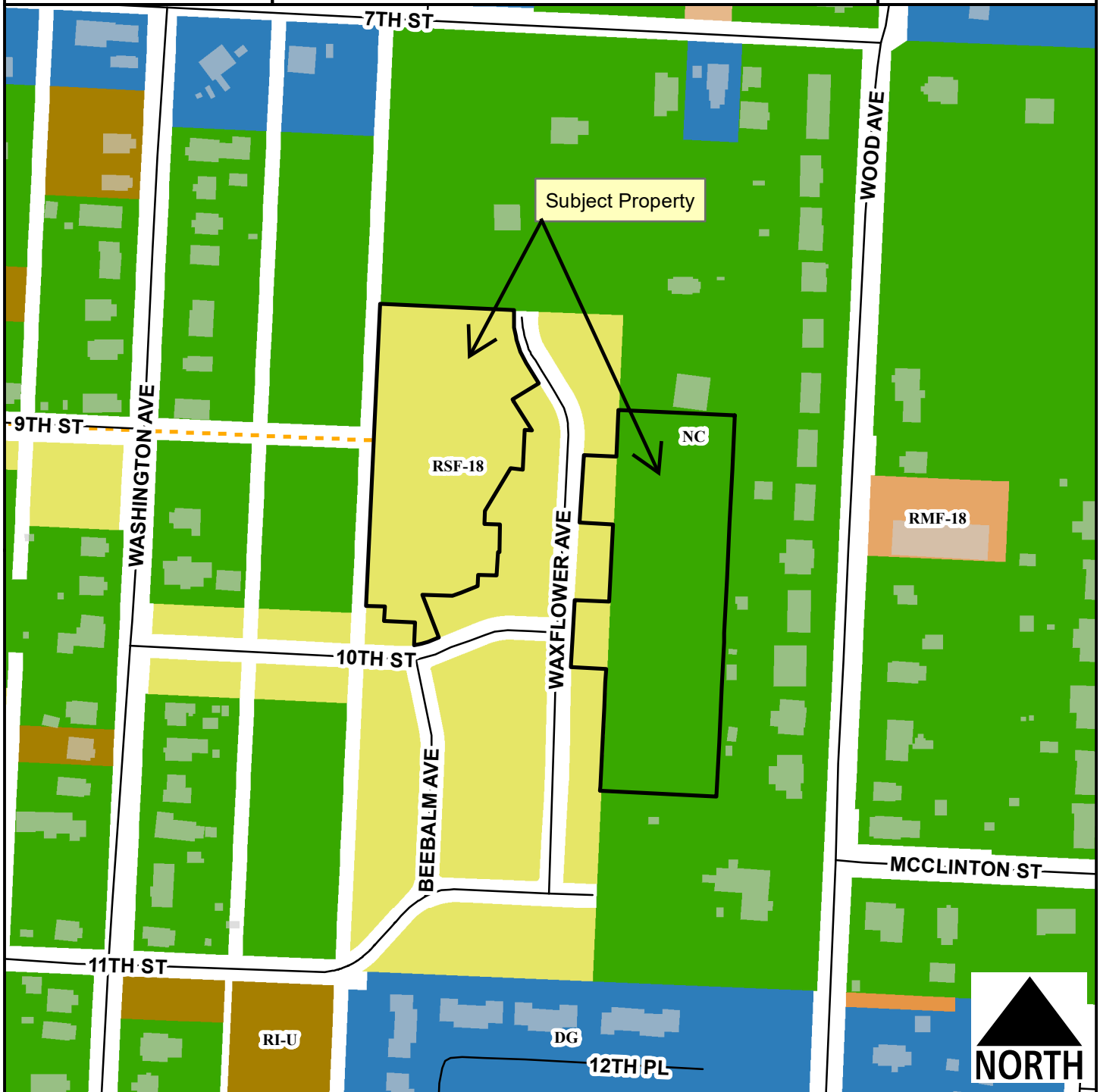
January 9, 2023

Agenda Item 5

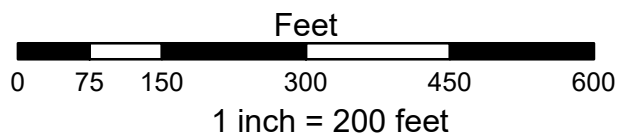
ADM-2022-0062 (WILLOW BEND)

Page 7 of 9

Close Up View

**Legend**

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Building Footprint

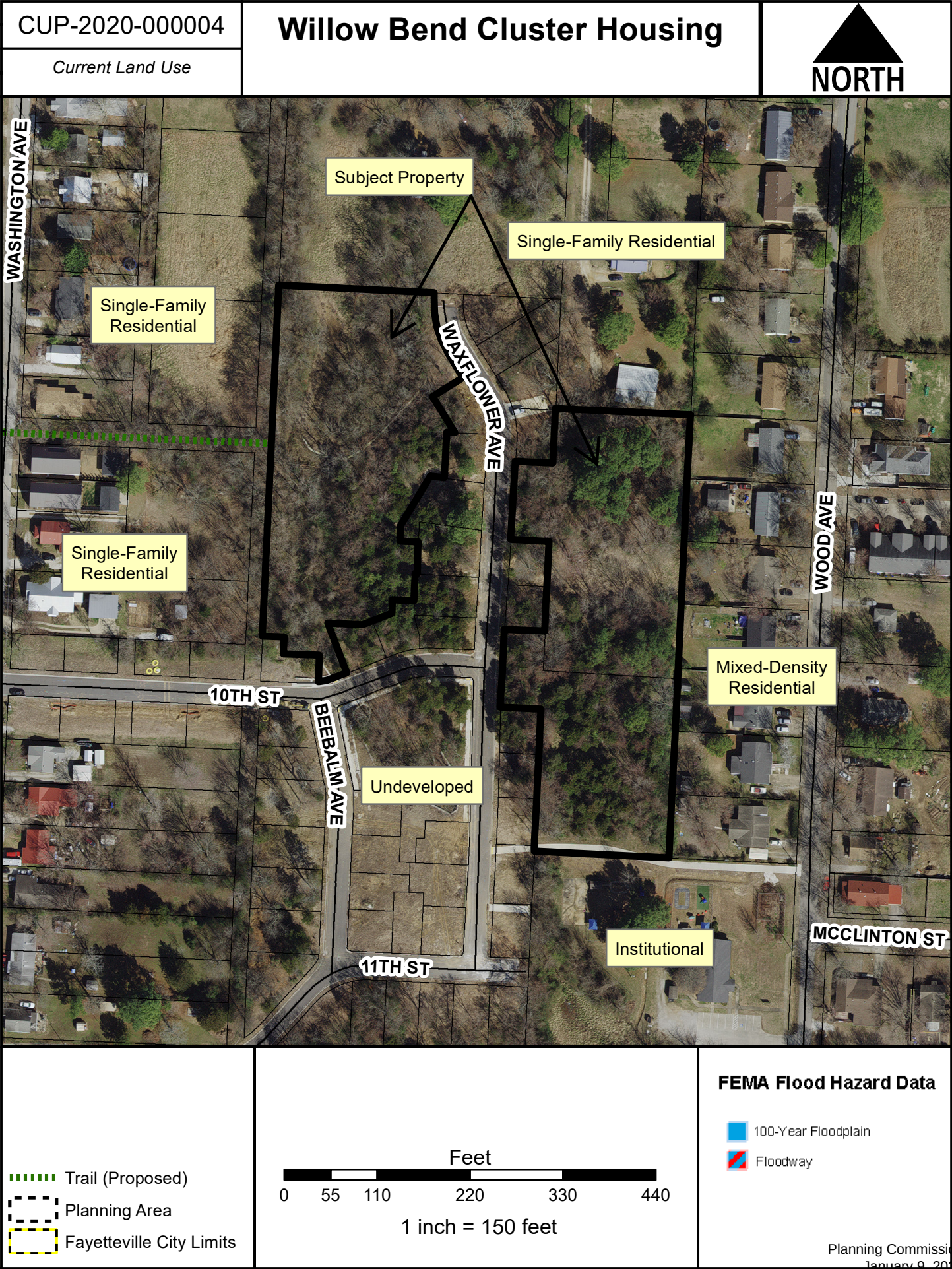


- RSF-18
- RI-U
- RMF-12
- RMF-18
- RMF-24
- Downtown General
- Neighborhood Conservation

Planning Commission

January 9, 2023

Agenda Item 5





TO: City of Fayetteville Planning Commission

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

FROM: Alan Pugh, Staff Engineer

MEETING DATE: January 4, 2023

SUBJECT: **VAR-2022-0061: Variance (2699 W Martin Luther King Jr Blvd, 558):**
Submitted by HAMZA ABAILAT for property located at 2699 W Martin Luther King Jr. Blvd. The property is zoned C-2, THOROUGHFARE COMMERCIAL and R-A, RESIDENTIAL AGRICULTURAL and contains approximately 0.4 acres. The request is a variance from streamside protection requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2022-0061**, based on the findings contained in this report.

RECOMMENDED MOTION:

"I move to approve **VAR-2022-0061** with conditions, determining:

- The existing building and parking area are largely within the streamside zones, and;
- The project is removing a portion of the existing parking area that is closest to the stream, and;
- The project reduces potential impacts by utilizing the existing improvements to extent possible and utilizing permeable pavements within streamside zones for new paved areas.

BACKGROUND:

The subject property is located on the south side of W Martin Luther King Jr Blvd on the SE corner of its intersection with E Farmers Dr. Based on aerial imagery the existing building and parking area dates back to at least 1994. This was well in advance of the streamside protection ordinance being in place. The current building and most of the parking area encroaches into the streamside zones and would be limited in development/redevelopment due to those restrictions.

Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Commercial	CPZD, RA and C-2, see attached project maps
South	Residential	
East	Commercial	
West	Commercial	

Request: The applicant is requesting a variance to the Streamside Protection ordinance to construct a drive through for a proposed business.

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

DISCUSSION:

As stated, the subject property has been developed in its current state since at least 1994. The building has been vacant for some time at this point. While staff has received several inquiries regarding development, they have not moved forward. The proposed development to utilize the existing structure with minor modifications and construct a drive through seems like a reasonable use for the proposed property while being somewhat minimally invasive with respect to additional development within the streamside protection zones. It should be noted that in some instances additional impervious areas are a use by right within the management zone, however, they cannot be used for the parking or storage of vehicles.

The applicant has agreed to remove a portion of the existing concrete pavement next to the stream as shown in the attached exhibit as well as construct the new drive from pervious materials such as permeable pavers or permeable pavement. This would further reduce/offset the impacts of the additional development so close to the stream.

RECOMMENDATION: Staff recommends approval of **VAR-2022-0061** with the following conditions of approval:

Conditions of Approval:

1. *Applicant obtain all required permits including, but not limited to, a commercial building permit and floodplain development permit.*
2. *Applicant shall abide by all other floodplain and streamside regulations unless stated within the variance.*
3. *Applicant shall utilize permeable pavements for the proposed drive through aisle and remove the concrete as shown on the attached exhibit at the*
4. *The current owner shall disclose to any potential buyer that the lot/business 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>January 9, 2023</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 previously developed prior to the streamside protection ordinance being in place. It is a small lot with multiple challenges including streamside protection and floodplain. Staff feels the applicant has taken reasonable steps to re-use the current improvements to the extent possible and minimize impacts to the streamside zones in keeping with the ordinance while making the site usable for their business. 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

10

ISAIAH OJEDA

CITY OF FAYETTEVILLE PC VARIANCE APPLICATION

CONTACT

5642 E Jess Anderson Rd.
Fayetteville, AR 72704
isaiahojeda3@gmail.com
(509) 591-2900

RECIPIENT NAME

CITY OF FAYETTEVILLE • 113 WEST MOUNTAIN STREET • 72701

12/8/2022

Dear Recipient Name,
Attached is the request to add an asphalt drive-thru to subject property: 2699 W M.L.K. JR Blvd. Fayetteville, AR 72701.

The asphalt addition will be in accordance with FEMA regulations and City of Fayetteville requirements per Streamside Protection Zone Code (168.12). For questions regarding the proposal. Please use the number on this form.

This application is being drafted on behalf of property owner, Nathan Croskrey, whose contact number is (509) 554-0757.

Sincerely,
Isaiah Ojeda

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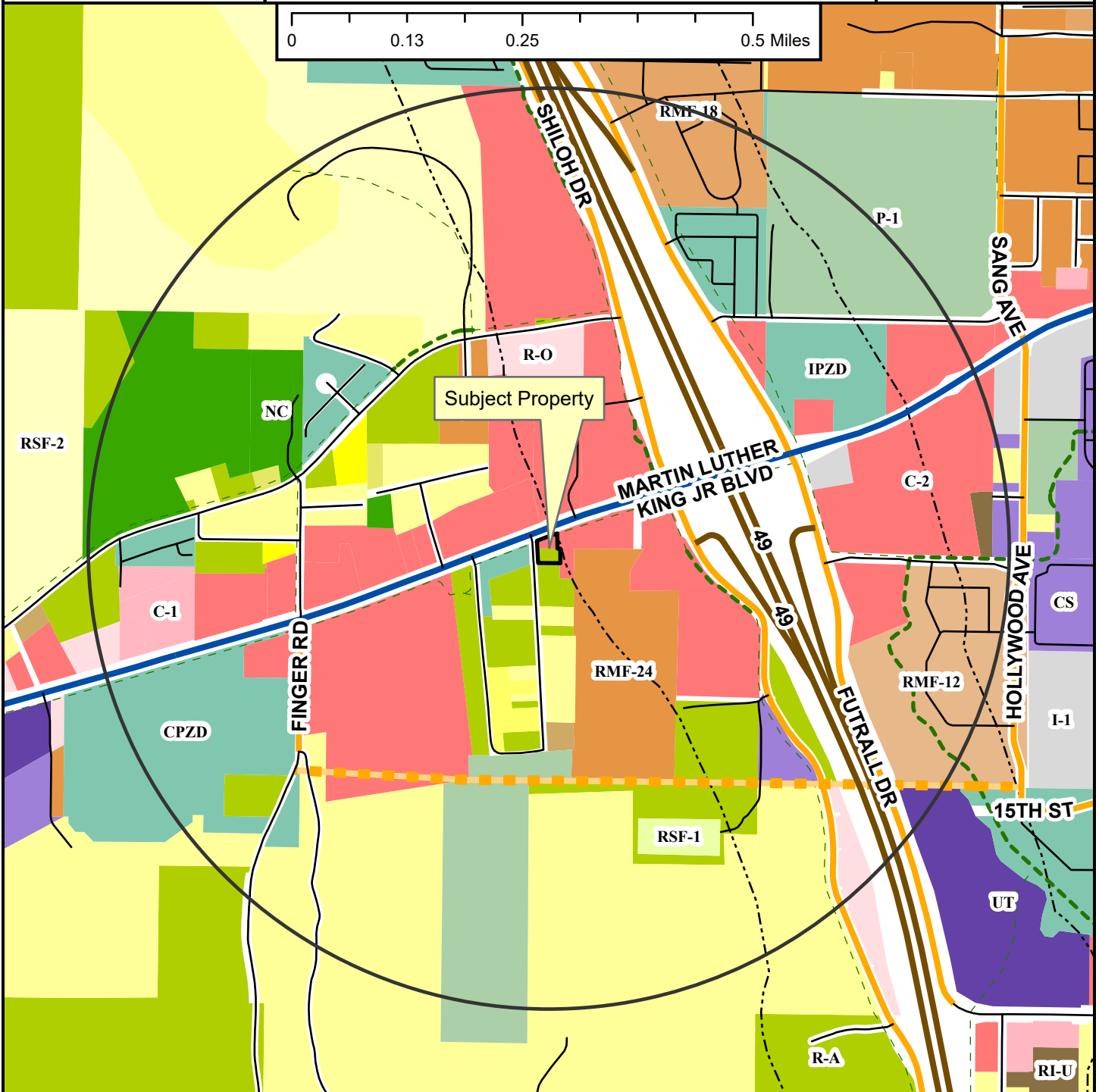
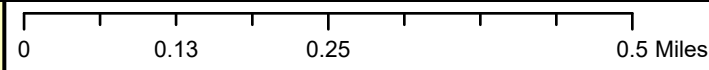
ISAIAH OJEDA

PROFESSION OR INDUSTRY | LINK TO OTHER ONLINE
PROPERTIES: PORTFOLIO/WEBSITE/BLOG

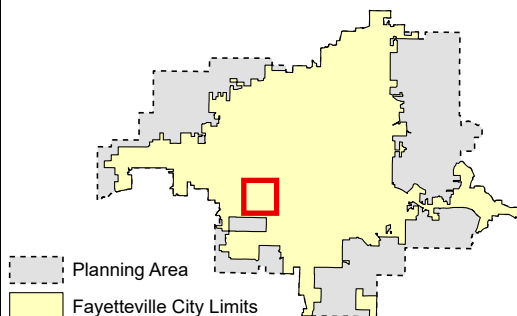
VAR-2022-0061

One Mile View

2699 W. MARTIN LUTHER KING JR BLVD



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



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

Planning Commission

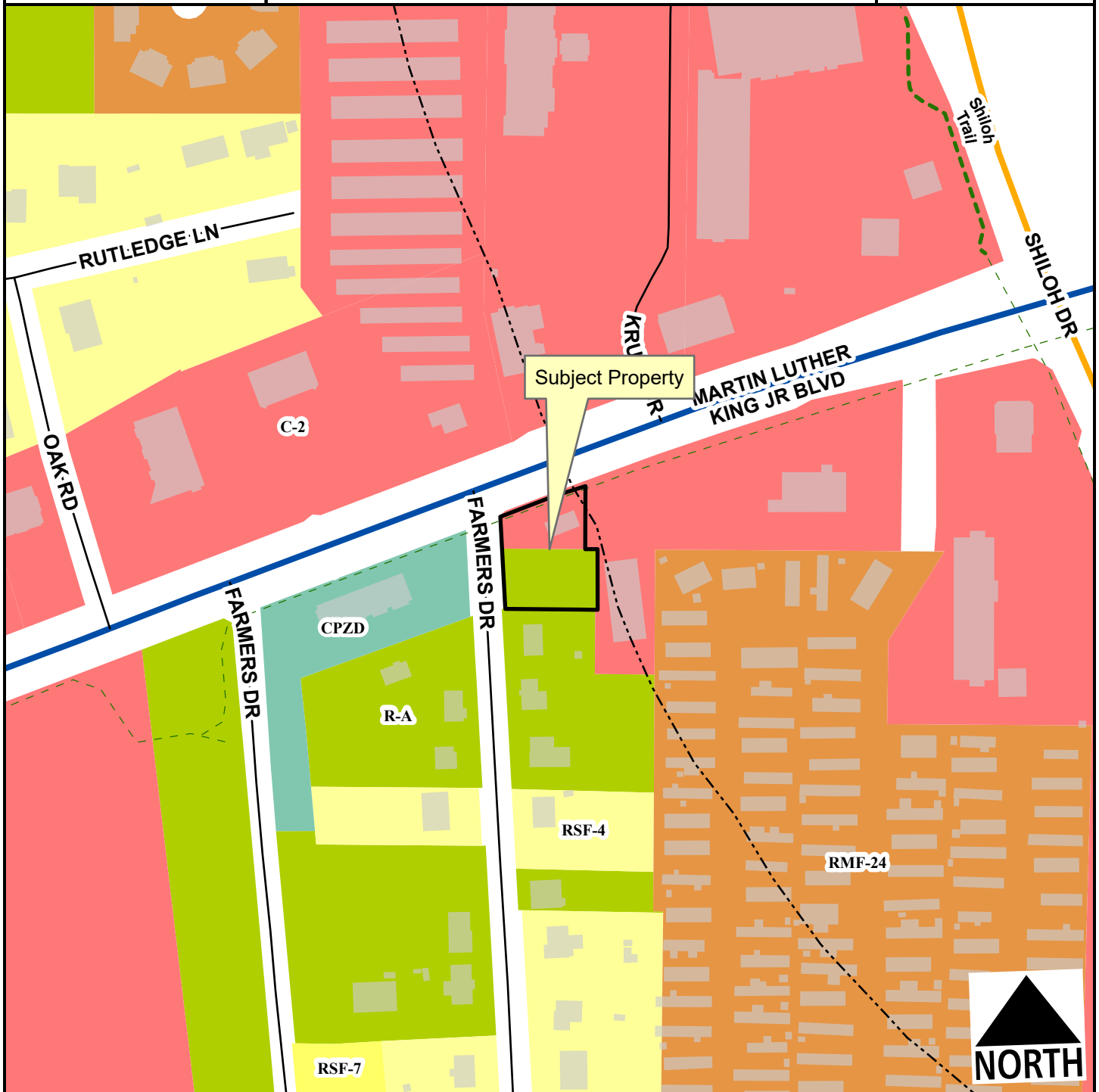
January 9, 2023

VAR-2022-0061 (CROSKREY)

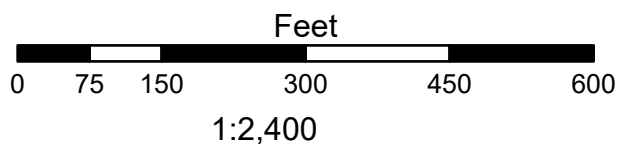
VAR-2022-0061

Close Up View

2699 W. MARTIN LUTHER KING JR BLVD



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



- Residential-Agricultural
- RSF-4
- RSF-7
- RMF-24
- C-2
- Commercial, Industrial, Residential

VAR-2022-0061

Current Land Use

2699 W. MARTIN LUTHER KING JR BLVD



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0123: Conditional Use Permit (6250 & 6310 W. WEDINGTON DR./TITAN LAWN & LANDSCAPE):** Submitted by ROY LOVELL JR for property located at 6250 & 6310 W. WEDINGTON DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approx. 2.11 acres. The request is for Use Unit 2, City-Wide Uses by Conditional Use Permit in RSF-4 zoning.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0123** with conditions, based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0123**, determining:*

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

BACKGROUND:

The subject property is in west Fayetteville on the north side of W. Wedington Drive, roughly 500 feet east of its intersection with N. Double Springs Road. The property is developed with a 2,385 square-foot single-family dwelling and a 1,200 square-foot accessory building. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Agricultural/Single-Family Residential/Utility	Washington County - Ag/SF 1 (Agricultural/Single-family Residential, One Unit per Acre)
South	Commercial	Thoroughfare Commercial
East	Agricultural/Single-Family Residential	R-A, Residential Agricultural
West	Single-Family Residential/Utility	R-A, Residential Agricultural; RSF-4, Residential Single-Family, 4 Units per Acre

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

Request: The applicant requests approval of a conditional use permit to operate their landscaping business on site. Landscape contracting businesses are classified under Use Unit 2, City-Wide Uses by Conditional Use Permit. The applicant has described the business as follows:

- Approximately 1,200 square-foot building*

- *Number of employees: eight full-time employees*
- *Hours of operation: 7:30 AM to 4:00 PM; seven days per week*
- *Parking: Up to five employees will use personal vehicles and up to four employees will park on-site, using company vehicles*
- *Frequency of commercial traffic: employee visits are expected to occur twice daily; company trucks and equipment will be picked up and taken to work sites*
- *Outdoor storage of equipment: intermittent storage of trailers and equipment on north side of the privacy fence at 6310 W. Wedington Drive*
- *Solid waste: residential waste carts*

Public Comment: Staff has received no public comment on this item.

RECOMMENDATION: Staff recommends approval of **CUP-2022-0123**, subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff recommends that the proposed use is compatible with surrounding properties for the reasons outlined in this report;*
2. This conditional use permit is limited to the use as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:
 - Size of the business: Approximately 1,200 square feet
 - Number of employees: Eight full time
 - Hours of operation: 7:30 AM to 4:00 PM; seven days per week
 - Parking: Eight on-site parking spaces
3. Approval of the conditional use permit does not grant development entitlement for site improvements. Improvements shall be considered for compliance with applicable zoning and development standards as required by the Unified Development Code;
4. Outdoor employee and trailer parking and storage areas shall be paved with asphalt concrete, brick, or stone pavers, or other solid surface. If a row of parking contains five or more spaces, parking areas shall be compliant with UDC §172;
5. Residential waste carts shall be screened so that they are not visible from the public right-of-way; and
6. Any future expansion or change in the use shall require Planning Commission approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

Section 163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

C. 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 landscape contracting business. Landscape contracting businesses are classified under Use Unit 2, City-Wide Uses by Conditional Use Permit which is allowed by conditional use 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 §161.07 to grant the requested conditional use permit.**

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

Finding: **Staff finds that granting the requested conditional use permit will not adversely affect the public interest. The on-site business activity is proposed to largely take place within an existing 1,200 square foot accessory structure. Nearby properties are used for a mix of rural residential, agricultural, commercial, and utility purposes with the nearest residential dwelling located over 400 feet from the accessory building at 1254 N. Double Springs Road. The applicant says up to eight employees will meet on the property where equipment and vehicles will be picked up and taken to off-site properties where work will occur. Commercial traffic is expected to visit the subject site twice daily – once to pick up and once to return the equipment. Given the anticipated commercial traffic volume and the surrounding context staff finds the use is unlikely to have a negative impact on neighboring properties or generate traffic that is determinantal to the public interest.**

(c.) The Planning Commission shall certify:

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

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

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

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

Finding: **The applicant proposes to utilize an existing curb cut on W. Wedington Drive which serves the existing residence. The curb cut has been in place since 2004, when the single-family dwelling was constructed. A single documented accident was reported along the property's frontage from 2017 to 2021.**

(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 500-foot-long driveway serves the site and is paved roughly 40 feet into the property from the W. Wedington Drive right-of-way. Parking will occur near the northeast corner of the site and, at times, at the rear of a privacy**

fence serving 6310 W. Wedington Drive. There is no privacy fence or vegetation buffering the intended parking area from the adjoining properties which are currently used as pastureland and a wireless communications facility. Staff does not anticipate issues arising from the proposed parking arrangement or continued use of the driveway.

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

Finding: Residential trash cart service is available and proposed to be used for the subject business. In the request letter the applicant suggests yard waste will be left at client's properties. Staff finds the current residential trash service is likely suitable for the proposed use and recommends residential waste carts shall be screened in accordance with UDC §166.23, Urban Residential Design Standards.

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

Finding: City water and sanitary sewer utilities are currently available to the subject property. An existing six-inch sewer main is present along the north side of W. Wedington Drive. An existing two-inch water main is present along the north side of W. Wedington Drive.

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

Finding: Staff recommends that residential carts remain 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 the City's sign ordinance and all regulations therein.

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

Finding: No new structures are proposed with this conditional use permit. The existing structures on-site have been permitted and appear to be compliant with required setbacks.

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

Finding: Staff finds the proposal to be compatible with adjacent properties. The use as described by the applicant is of a limited intensity that the site can suitably accommodate due, in part, to the presence of large residential properties and agricultural uses nearby. Limited hours, employees, solid

waste generation and visits to the site suggest noise, lighting, and refuse will not negatively impact neighboring properties.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.07, RSF-4, Residential Single-Family, 4 Units per Acre
- Request Letter
- Site Plan
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

Roy Lovell - Titan Lawn & Landscape LLC

6250 Wedington Drive
Fayetteville Arkansas 72704
479-200-6702
lawntitan@gmail.com

November , 21 2022

To Whom it you concern:

Here's my request letter for a conditional use permit (use unit 2) for my landscape company Titan Lawn & Landscape LLC . We are located in Fayetteville and would like to obtain the conditional use permit (use unit 2) for our residence at 6250 Wedington Drive Fayetteville AR. 72704. Our company has about 8 employees that will meet at our location each during scheduled hours of 7:30 a.m - 4:00 p.m. They will park cars in a location behind a privacy fence, get into company trucks and not be back until the end of their shift. We do not have traffic from customers to this facility. The building that employees report to currently is an existing shop building that is about 1200 sq ft. tan in color with no outside lighting or noise other than normal vehicle noise and is screened by fences. There will be no onsite trash or refuse service at this site for the company. All our properties we maintain have this service on-site and allows us to leave any trash we gather in their trash service containers. The ingress and egress is the main driveway to the house located on property. This property is surrounded by a CPA office, cattle farm, automotive shop and 2 cellular towers.

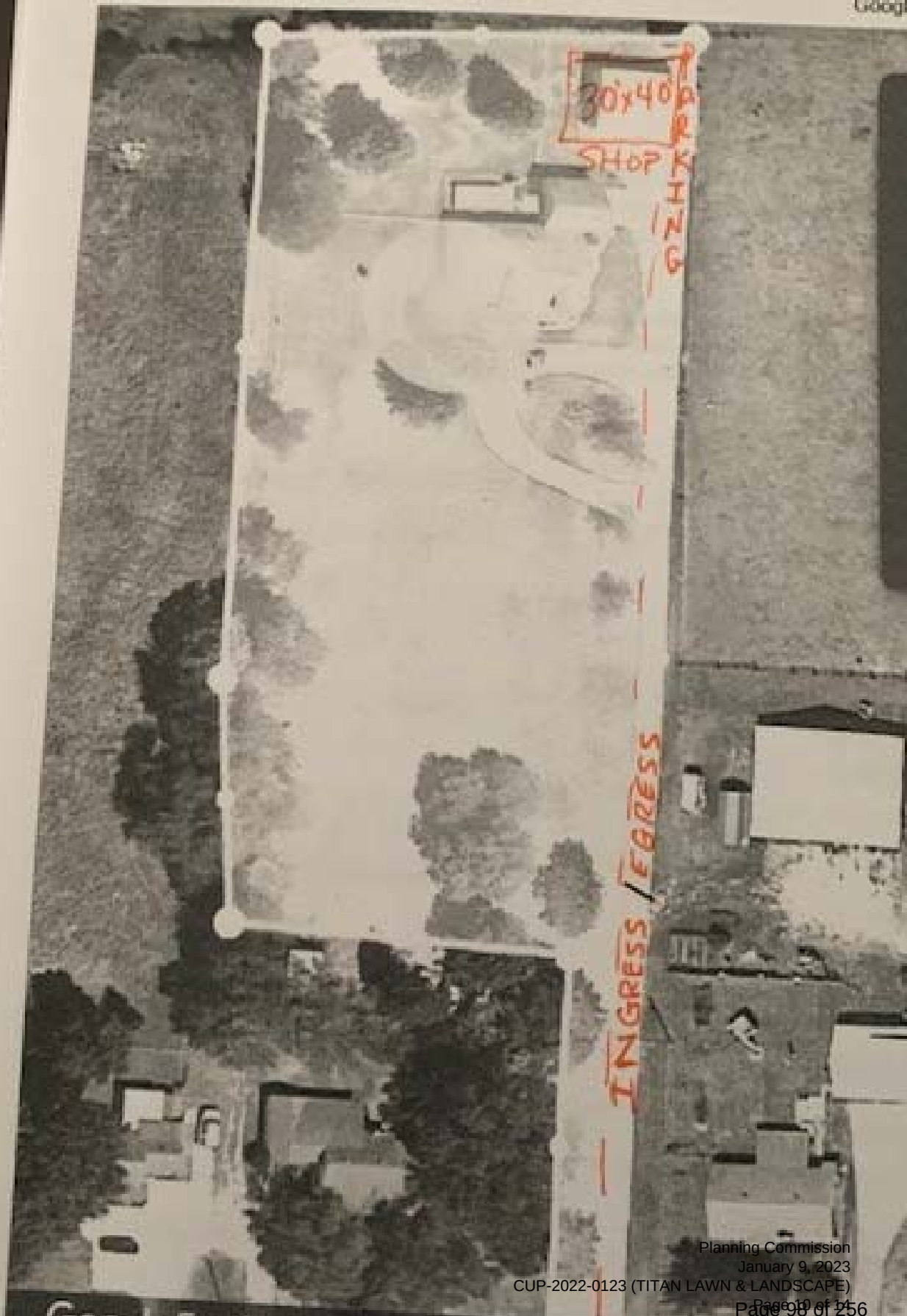
Sincerely,

Roy Lovell

Owner Titan Lawn & Landscape LLC

12/13/22, 2:41 PM

Google



Google Earth



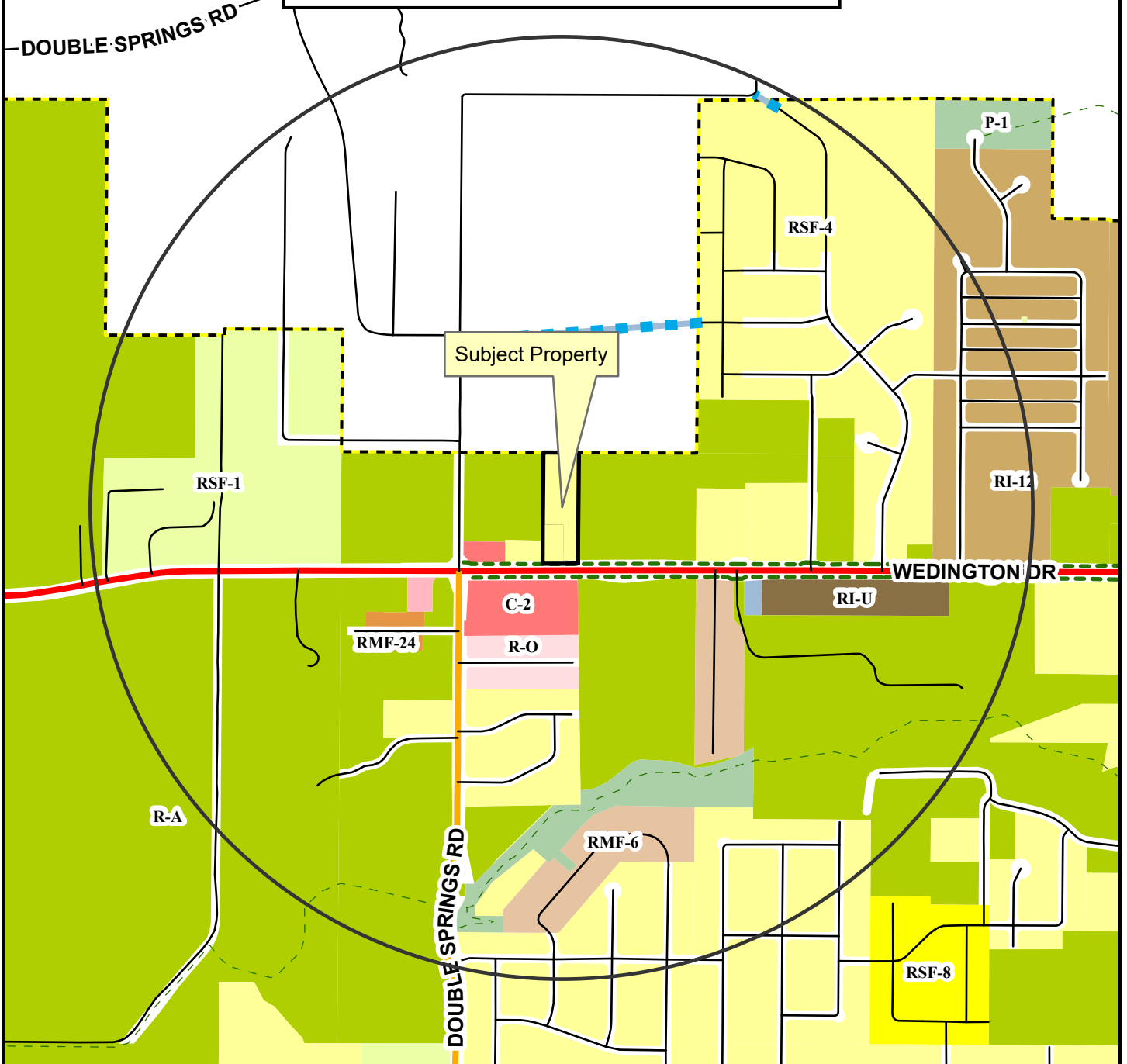
CUP-2022-0123

6250 W. WEDINGTON DR.

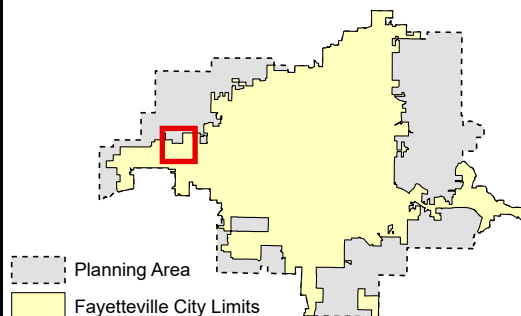
One Mile View



0 0.13 0.25 0.5 Miles



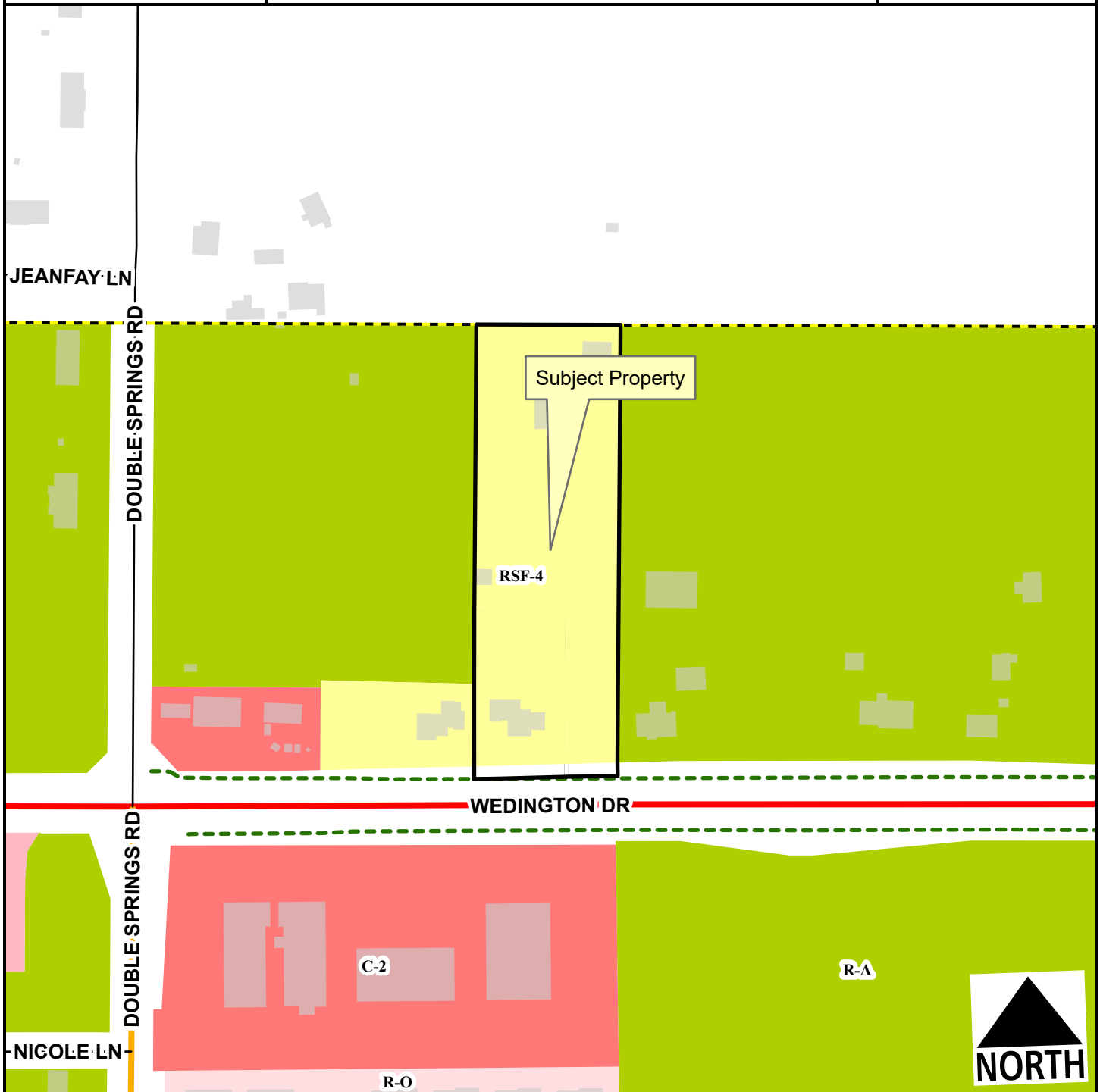
- Regional Link
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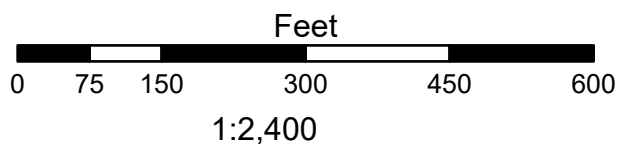
- Zoning**
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- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
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 - C-2
 - C-3
- FORM BASED DISTRICTS**
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 - Community Services
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 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1

Planning Commission
January 9, 2023

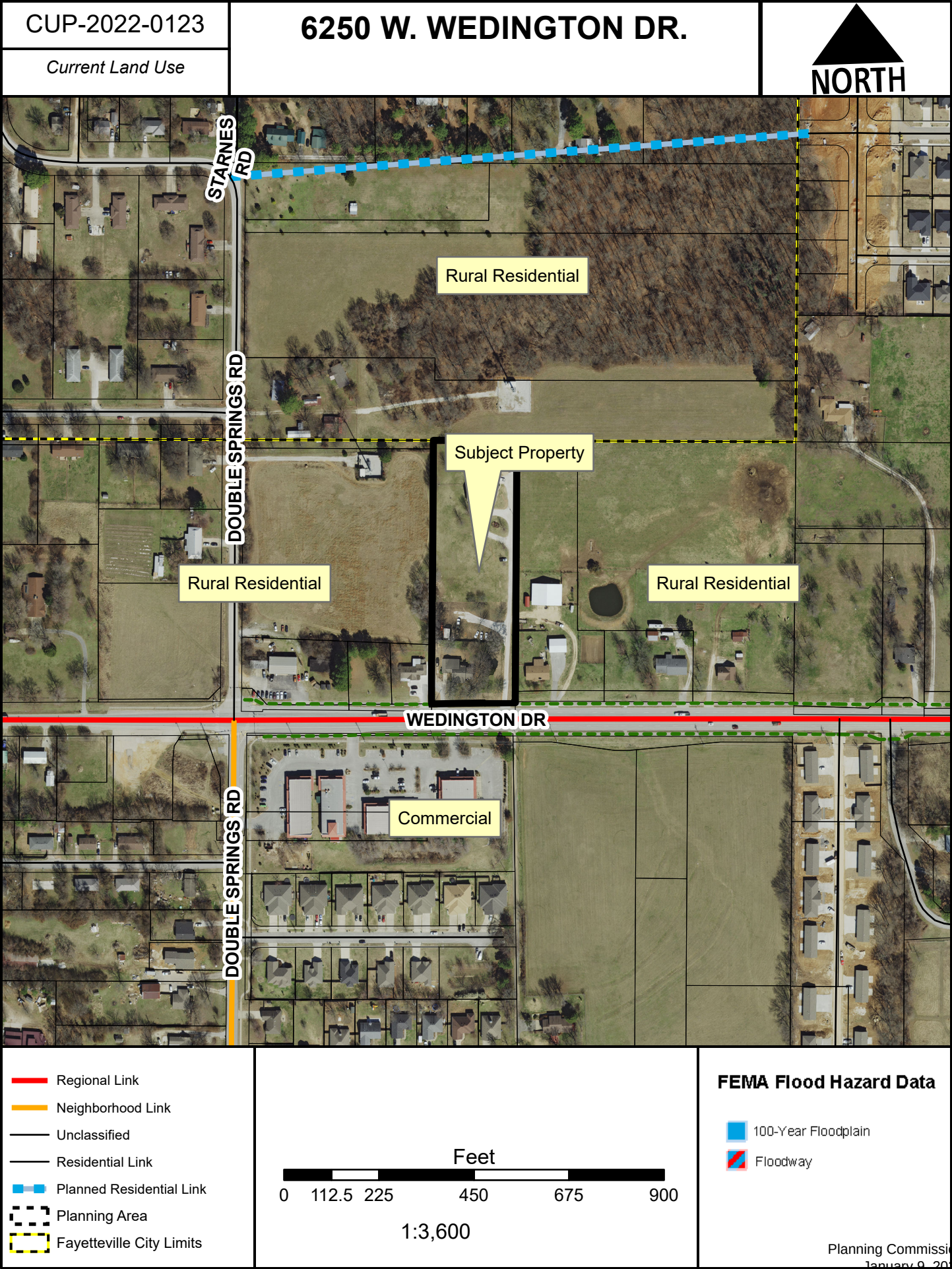
CUP-2022-0123 (TITAN LAWN & LANDSCAPE)



- Regional Link
- Neighborhood Link
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- - - Shared-Use Paved Trail



- Residential-Agricultural
- RSF-4
- RMF-6
- Residential-Office
- C-1
- C-2





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0126: Conditional Use Permit (2634 N. HUGHMOUNT RD./SHIPLEY, 282):** Submitted by WHITLEY MOREHART for property located at 2634 N. HUGHMOUNT RD. The property is zoned RSF-1, RESIDENTIAL SINGLE-FAMILY, 1 UNIT PER ACRE and contains approximately 1.09 acres. The request is for Use Unit 24, Home Occupations in RSF-1 zoning.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0126** with conditions, based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0126**, 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 northwest Fayetteville on the east side of Hughmount Road about a quarter of a mile north of Clabber Creek. The property contains one parcel totaling approximately 1.09 acres and is currently developed with one single-family dwelling and two accessory structures. The property received its current zoning designation of RSF-1, Residential Single-Family, 1 Unit per Acre as a result of a rezoning in 2020. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	NC, Neighborhood Conservation; RSF-8, Residential Single-Family, 8 Units per Acre
South	Single-Family Residential	NC, Neighborhood Conservation
East	Single-Family Residential	NC, Neighborhood Conservation; RSF-8, Residential Single-Family, 8 Units per Acre
West	Natural Area	R-A, Residential-Agricultural

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

Request: The applicant requests approval of a conditional use permit to use a loft above their detached garage as a spray tanning salon. Home-based businesses are classified as Use Unit 24, Home Occupations which is considered a conditional use in the RSF-1 zoning district. The applicant has described the business as follows:

- An approximately 650 square foot loft within a 3,150-square-foot square foot residence
- Number of employees: 1
- Number of customers: Will vary; 16-20 per day with 30-minute sessions
- Hours of operation: Monday – Sunday, 8:00 AM to 5:00 PM
- Number of off-street parking: 1 vehicle space on concrete slab in front of the garage
- No additional lighting, noise, or signage proposed

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

RECOMMENDATION: Staff recommends approval of **CUP-2022-0126** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility with adjacent properties.**
Staff finds the proposed home occupation to be compatible with the other uses present in the area;
2. **This conditional use permit is limited to use by the applicant as described herein. This conditional use permit is non-transferrable to a different business or property owner;**
3. **The conditional use permit is limited to the business as outlined in the applicant's request letter. The following specifications apply:**
 - **Size of the business:** Approximately 650 square feet
 - **Hours of operation:** Monday – Sunday, 7:30 AM to 5:30 PM
 - **Parking:** 1 space on concrete slab in front of the garage
 - **Number of employees:** 1
 - **Customers:** Up to 20 per day
4. **To retain the residential appearance of the property, exterior modifications shall not be permitted in association with the business, except as provided under the signage allowances under §163.08, Home Occupations, and Chapter 174, Signs;**
5. **Trash collection shall be by residential cart and recycling containers;**
6. **A city business license must be obtained within one year of conditional use permit approval;**
7. **A Fire Marshal inspection shall be required as part of the associated city business license review; and**
8. **Any new lighting shall meet the requirements of §176, Outdoor Lighting, as a commercial building.**

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. **Authority; Conditions.** The Planning Commission shall:

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

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

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

Finding: **The applicant has submitted a written application requesting conditional use approval of a home-based spray tanning salon. Home-based businesses are classified as Use Unit 24, Home Occupation, which is a conditional use in the RSF-1 zoning district.**

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

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

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

the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §161.05 to grant the requested conditional use permit.

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

Finding: Staff finds that granting the requested conditional use permit will not adversely affect the public interest. All business operations will occur in an existing loft area above a detached garage and no exterior modifications to the building are proposed. Given the scope of the proposed business activities, staff finds that the proposed home occupation will have a negligible impact on neighboring properties despite being located within a residential area.

(c.) The Planning Commission shall certify:

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

Finding: There are specific rules governing Home Occupations, as follows:

§163.08. HOME OCCUPATIONS.

In any zoning district where home occupations are permitted by right or conditional use, said home occupations shall not occupy more than 30% of the gross floor area of one floor of the primary dwelling unit, nor more than 300 square feet of the gross floor area, whichever is greater.

Finding: The applicant's primary dwelling contains approximately 2,500 square feet. A detached loft with roughly 650 square feet is proposed to be used for the home occupation. To calculate 30% of the gross floor area of one floor of the primary dwelling unit, staff combined the loft, which totals 650 square feet, with the first floor of the primary residence, which totals 1,672 square feet. The combined area contains 2,322, and 30% of that area would be 697 square feet. Since the loft area only contains 650 square feet, staff finds that the proposed home-based spray tanning business would be compliant with the size limitations for home occupations.

A. Exterior Alterations. No exterior alterations of the structure may be made which are of a nonresidential nature.

Finding: No exterior alterations are proposed.

B. Sign/Evidence of Business. No advertising, display, storage or other external evidence of business shall be permitted, except that for each dwelling unit with a permitted home occupation, one (1) unanimated, non-illuminated home occupation sign which identifies the home occupation shall be permitted, if such sign is erected flat against a wall or door or is displayed in a window, and does not exceed three (3) square feet in area. No freestanding signs shall be permitted for home

occupations in any zone.

Finding: No exterior modifications are proposed. Any exterior lighting or signage would be subject to UDC Chapter 174, Signs and UDC Chapter 176, Outdoor Lighting.

C. Employees. No person may be employed other than a member of the immediate family residing on the premises.

Finding: One employee is associated with this business who resides on the subject property.

D. Mechanical Equipment. No mechanical equipment may be used which creates a disturbance such as noise, dust, odor, or electrical disturbance.

Finding: No noise, dust, odor, or electrical disturbances will be made by the operation of the business.

E. Parking. No parking spaces other than normal residential parking spaces shall be permitted.

Finding: Single-family dwellings are required to have two parking spaces and are permitted to have up to four cars parked outside. Off-street parking is available on this property in a two-car garage and in a gravel driveway that can likely accommodate four additional vehicles. The applicant is proposing to utilize the concrete slab at the end of the driveway as customer parking.

§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: An existing gravel driveway provides vehicular ingress and egress to the property. There is no sidewalk present along this portion of Hughmount Road.

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: Staff finds that the driveway can adequately accommodate a low-customer volume and serve the residents of the property without negatively impacting other properties in the neighborhood.

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

Finding: The applicant has indicated that existing residential solid waste and recycling services will be used, which staff finds to be generally adequate for the proposed business.

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

Finding: A six-inch water main on the east side of Hughmount Road and a private septic system are currently available to this site. No new public main connections or extensions are proposed.

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

Finding: Staff is not recommending additional screening with the proposed conditional use permit. A new residential subdivision is currently under construction to the north, however, there are trees and shrubs present along the south side of that adjacent property which serve as a natural buffer.

- 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: No signage is proposed. Any proposed signage will be subject to UDC Chapter 174, Signs, and all regulations therein. Signage shall be submitted for permit through the City's Planning Division.

- g) Required yards and other open space; and

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

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

Finding: Staff finds the proposal to be compatible with adjacent properties. The business as described by the applicant is intended to serve clients by appointment only with no more than 20 clients visiting the site per day. In the interest of providing added flexibility, staff recommends allowing extended hours of operation from 7:30 AM to 5:30 PM, per UDC §163.08. Considering the scale of the use, adverse effects on surrounding residences are not anticipated.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.05 – District RSF-1, Residential Single-Family – One (1) Unit Per Acre
 - §163.08 – Home Occupations
- Request Letter
- Building Elevations
- Building Floor Plan
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.05 District RSF-1, Residential Single-Family - One (1) Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one (1) unit per acre. The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted Uses.*

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

(D) *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 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(E) *Density.*

Units per acre	1
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(F) *Bulk and Area Regulations.*

Lot width minimum	150 feet
Lot area minimum	35,720 square feet
Land area per dwelling unit	35,720 square feet

(G) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

(H) *Building Height Regulations.*

Building Height Maximum	3 stories
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(I) *Building Area.* None.

(Code 1965, §160.44; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; 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. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

163.08 Home Occupations

In any zoning district where home occupations are permitted by right or conditional use, said home occupations shall not occupy more than 30% of the gross floor area of one floor of the primary dwelling unit, nor more than 300 square feet of the gross floor area, whichever is greater. For Building Regulations purposes, any non-residential use that exceeds 30% of the gross floor area of one floor of the primary dwelling unit or more than 300 square feet of the gross floor area of the structure shall meet all applicable building and Unified Development Code regulations and shall not be considered a home occupation. These limitations shall not apply to foster family care, or the providing of room or board as an accessory use only. Home occupations that require a conditional use permit shall be subject to the following regulations:

- (A) *Exterior Alterations.* No exterior alterations of the structure may be made which are of a nonresidential nature.
- (B) *Sign/Evidence of Business.* No advertising, display, storage or other external evidence of business shall be permitted, except that for each dwelling unit with a permitted home occupation, one (1) unanimated, non-illuminated home occupation sign which identifies the home occupation shall be permitted, if such sign is erected flat against a wall or door or is displayed in a window, and does not exceed three (3) square feet in area. No freestanding signs shall be permitted for home occupations in any zone.
- (C) *Employees.* No person may be employed other than a member of the immediate family residing on the premises.
- (D) *Mechanical Equipment.* No mechanical equipment may be used which creates a disturbance such as noise, dust, odor, or electrical disturbance.
- (E) *Parking.* No parking spaces other than normal residential parking spaces shall be permitted.
- (F) *Additional Regulations.* Home occupations in an RSF District shall be subject to the following additional regulations:
 - (1) *Term.* No conditional use permit for a home occupation in any RSF District shall be issued for a period exceeding one year, but such a permit may be for a period shorter than one year. Upon expiration of a conditional use permit, the Zoning and Development Administrator shall have the authority to renew a conditional use permit for the same period as originally authorized, if the Zoning and Development Administrator has received no complaints or opposition from residents of the neighborhood in which the home occupation is located. The Zoning and Development Administrator may refer any proposed renewal of a conditional use permit to the Planning Commission for final decision.
 - (2) *Hours.* No home occupation shall be open to the public earlier than 7:30 a.m. or later than 5:30 p.m.; provided, the Planning Commission may vary the restrictions imposed hereby upon a determination that such a variance will not adversely affect the health, safety, peace, tranquility, or welfare of the neighborhood in which the home occupation is located.
 - (3) *Traffic.* No home occupation shall be allowed in an RSF District if the Planning Commission determines that the home occupation would generate such excessive traffic as would adversely affect the safety, peace, tranquility or welfare of the neighborhood.

Conditional Use Permit Request Letter

Whitley Morehart – Sunless Spray Tanning Salon

I am requesting a conditional use permit for a home occupation. I will be running a sunless spray tanning salon out of the loft area of our detached garage. The following lists further details about the property and business plan:

- A) The property consists of a 2,500 sq ft house with a detached 2 car garage with a loft above it. The proposed business would be housed in the loft area above the garage.
- B) The exterior of the structure matches the exterior of the house. It has green siding and light colored trim.
- C) There is one parking space on the concrete slab in front of the garage.
- D) Hours of operation – Approximately 8am – 5pm by appointment only. I will be the only employee. The average anticipated number of clients will vary per day based upon number of appointments.
- E) There is outdoor lighting currently installed on the exterior of the detached garage and house.
- F) There will be no noticeable noise produced for anyone outside of the building to hear or be disturbed.
- G) Currently, there are natural tree buffers that screen our property from those adjacent to us.
- H) There will be no additional dumpsters or trashcans present other than our residential trash can.
- I) The clients will use the existing gravel drive to access our property from the road. There will be no impact to the existing traffic.
- J) There are no other houses or properties currently near our property. This operation will be housed completely indoors and will not be noticed or seen by anyone passing by or living in the area.

Elevation View of Exterior

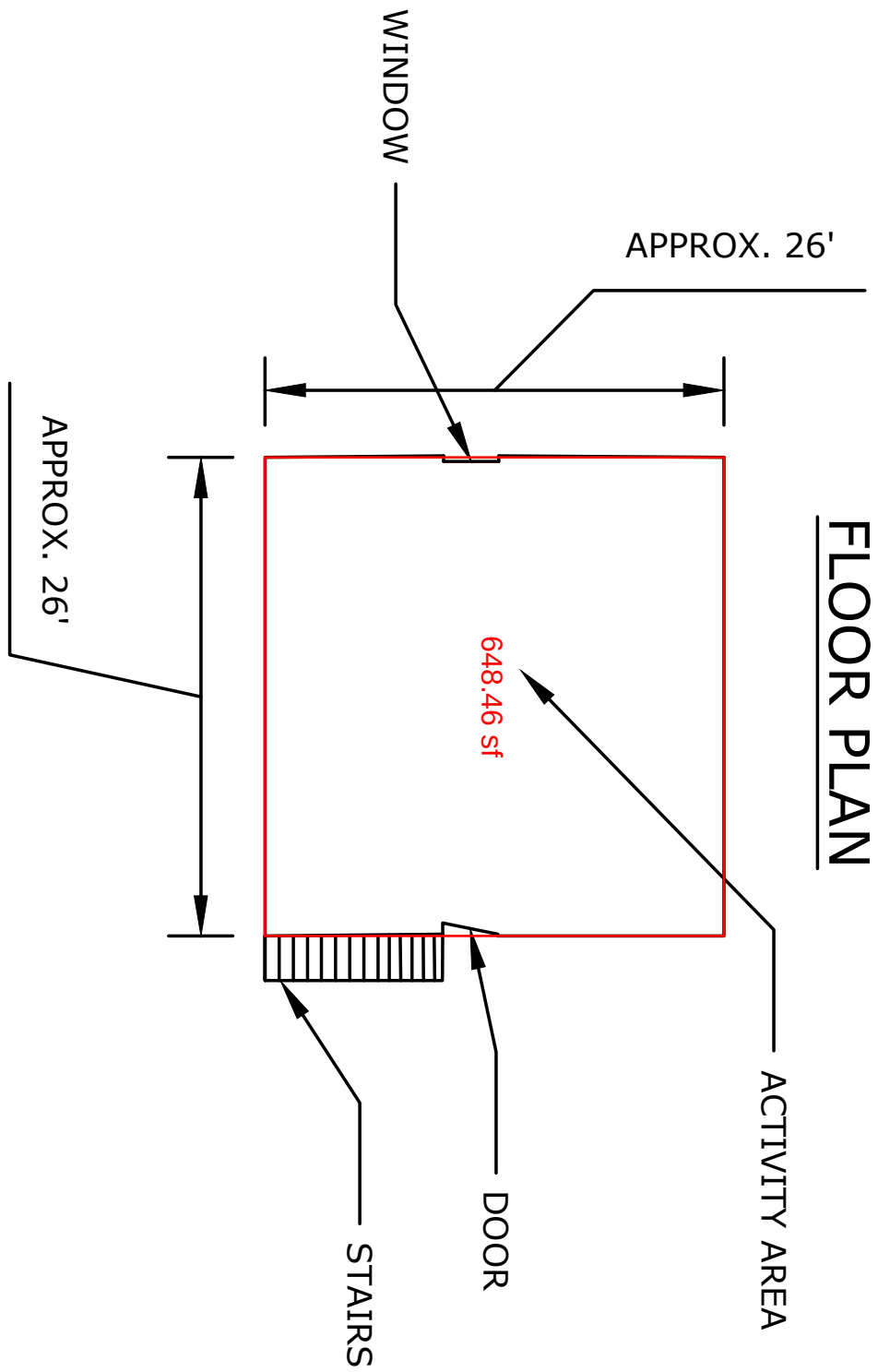


Elevation View of Exterior



Elevation View of Exterior







Site Plan

Fayetteville, AR

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

Created: 11/28/2022
Credits: City of Fayetteville, AR, 2022 Imagery | EagleView Technologies | Streets Corporation
Map Author:

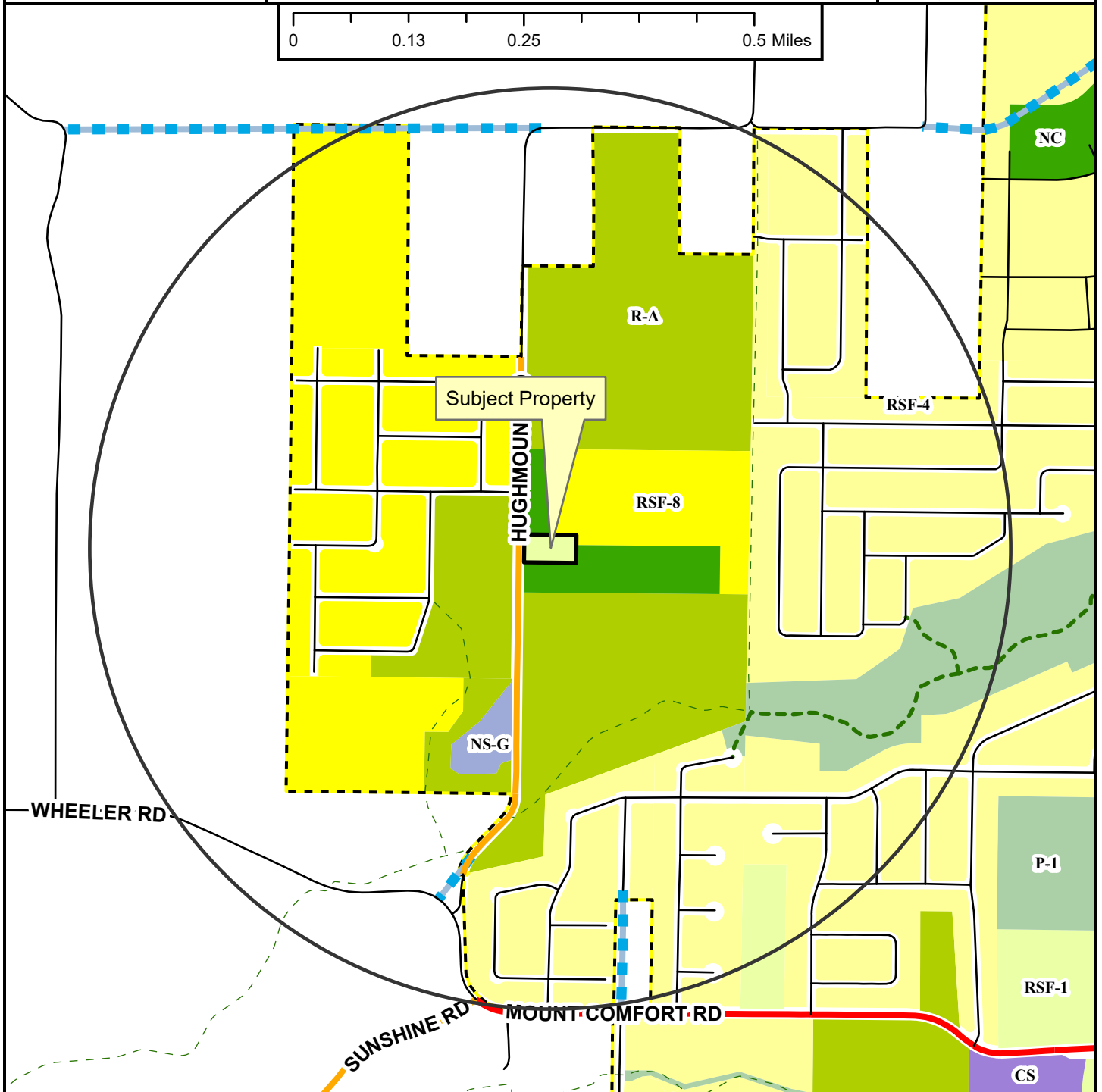
CUP-2022-0126

2634 N. HUGHMONT RD

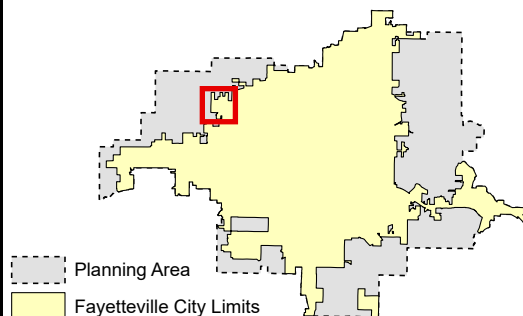
One Mile View



0 0.13 0.25 0.5 Miles



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

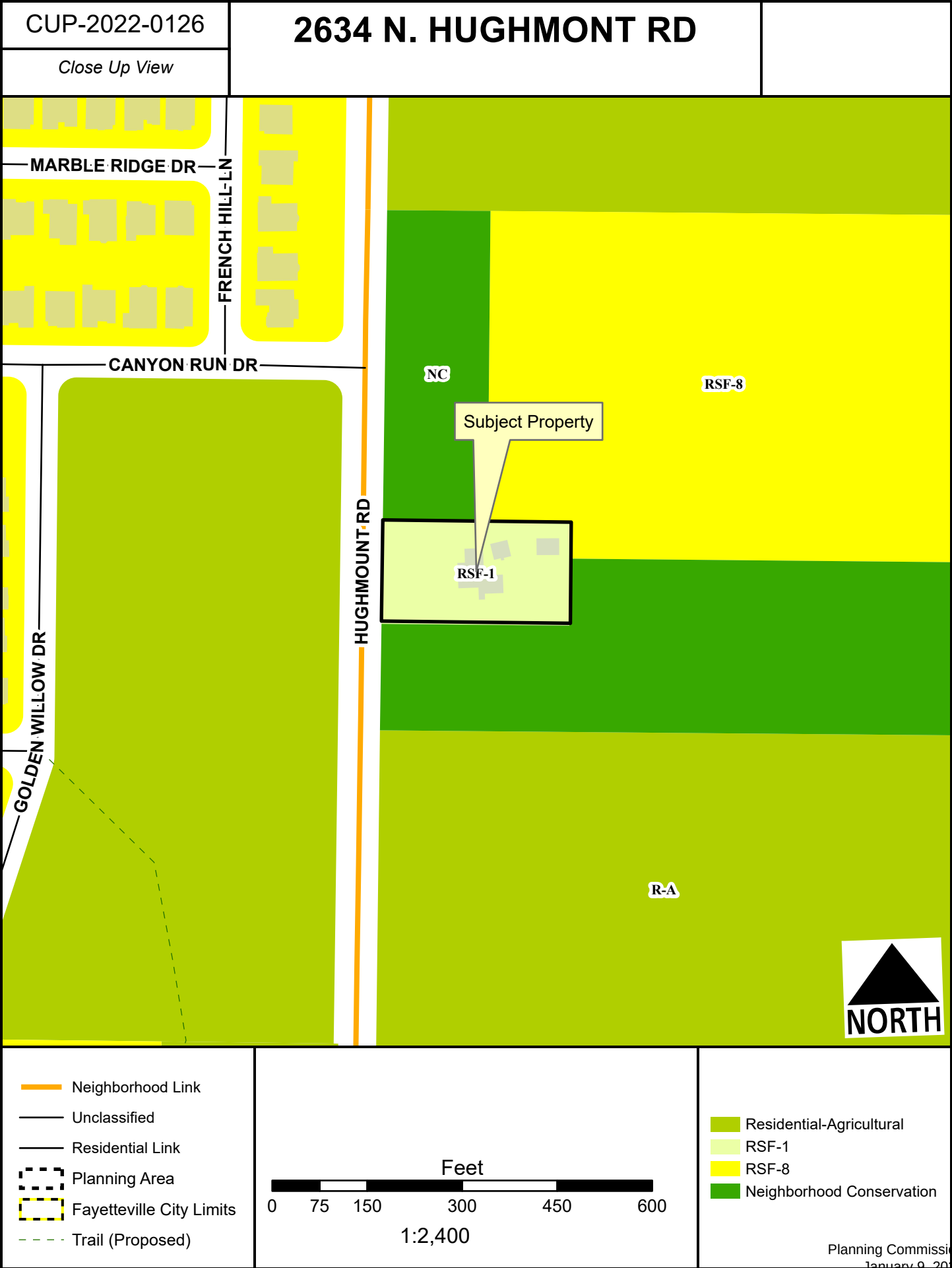


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RH-U
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - EXTRACTION**
 - E-1
 - COMMERCIAL**
 - C-1 Residential-Office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

Planning Commission

January 9, 2023

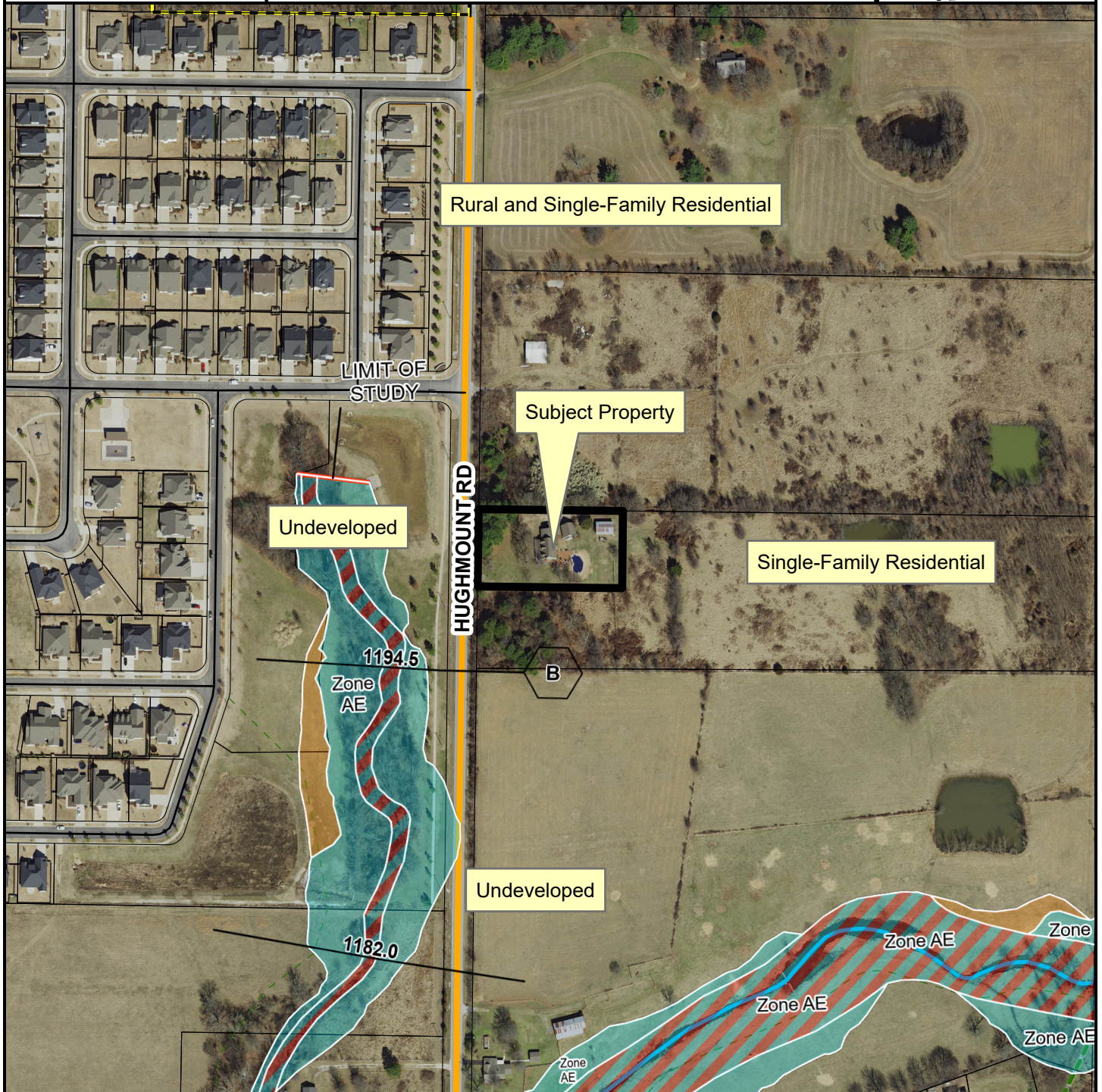
CUP-2022-0126 (SHIPLEY)



CUP-2022-0126

2634 N. HUGHMOUNT RD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 9, 2023

SUBJECT: **RZN-2022-0052: Rezoning (EAST OF S. DINSMORE TRL/READING, 517):** Submitted by EDWARD ROSE AND SONS for property located at EAST OF S. DINSMORE TRL. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 19.91 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

RECOMMENDATION:
Staff recommends denial of **RZN-2022-0052**.

RECOMMENDED MOTION:
"I move to deny **RZN-2022-0052**."

BACKGROUND:
The subject property is in west Fayetteville between S. Ruppel Road and S. Dinsmore Trail. The area in question is a 19.91-acre portion of a 30.27-acre lot (parcel 765-22366-700) and is currently undeveloped. Overall, the property is split-zoned between CS, Community Services, and NC, Neighborhood Conservation, following passage of City Council ordinance 5775 in 2015. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Rural Residential	NC, Neighborhood Conservation
South	Fayetteville Public Schools	P-1, Institutional
East	Rural Residential	RSF-1, Residential Single-Family, 1 Unit per Acre
West	Undeveloped	CS, Community Services

Request: The request is to rezone a portion of parcel 765-22366-700 to CS, Community Services. The applicant has not submitted any specific development plans to City staff.

Public Comment: Staff has not received any public comment on the request.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along the west side of S. Dinsmore Trail. S. Dinsmore Trail is a minimally improved Neighborhood Link street with asphalt paving and open ditches. Any street improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to the subject area. An existing 8-inch water main is present on the west side of W. Dinsmore Trail. There is a lack of water capacity and pressure for this water main and no development of this property with multiple housing units will be allowed without improvement to the water main.

Sewer: Sanitary sewer is not available to the subject area.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 6, located at 900 S. Hollywood Ave., protects this site. The property is located approximately 2.4 miles from the fire station with an anticipated drive time of approximately 7 minutes using existing streets. The anticipated response time would be approximately 9.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

Police: The Police Department expressed no concerns with this request.

Drainage: Any additional improvements or requirements for drainage will be determined at time of development. No portion of the site is located within the Hillside-Hilltop Overlay District, nor within a FEMA floodplain. There are no protected streams on the subject property.

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

Tree Preservation:

The existing zoning district of NC, Neighborhood Conservation requires **20% minimum canopy preservation**. The requested zoning district of CS, Community Services also requires **20% minimum canopy preservation**.

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

Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context: single-family, duplexes, rowhouses, multifamily and accessory dwelling units. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional

neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment. Building setbacks may vary depending on the context of the existing neighborhood.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **2-4** for this site, with a weighted score of **4.5**. The following elements of the matrix contribute to the score:

- Near Water Main (S. Dinsmore Trail)
- Near City Park (Centennial Park)
- Near Public School (Pending, Fayetteville Public School under development to the south)
- Near Paved Trail (S. Ruppel Road)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds that the request is not fully compatible with surrounding land uses and available infrastructure. The property received this zoning entitlement in 2015 in conjunction with the development of Ruppel Road, and was initiated by City staff at the direction of the Mayor, by the request of City Council. The intention of that proposal, an overall site including approximately 642 acres, was to concentrate form-based, mixed-use districts along the new Ruppel Road frontage, with single-family zoning in the peripheral areas to allow for "adequate transition and compatibility amongst existing uses." While the surrounding area is largely still currently undeveloped, there is a significant amount of development activity in the area, including residential subdivisions to the west across S. Ruppel Road and a new Fayetteville public school to the south. Staff finds that the current zoning entitlement of NC, Neighborhood Conservation, would allow for primarily single-family residential uses built to a density of 10 units per acre, which on a 19-acre site, could allow for up to 190 single-family homes. In CS, the use schedule allows for multi-family residential by-right, with no stated density maximum, and for non-residential uses ranging from institutional uses to commercial uses such as restaurants, offices, and small scale production. Staff asserts that these uses make sense and are compatible with the property's frontage along Ruppel Road, but maintaining the NC-buffer transition ensures compatibility as the property moves east towards Dinsmore Trail. The adjacent property to the east is almost entirely in the Hillside-Hilltop Overlay District, has limited infrastructure, and is zoned RSF-1, making future high-density development less likely. Staff also finds that the width of the existing zoning configuration is a roughly similar condition to other, more urban environments in Fayetteville, such as along College Avenue near Wilson Park. To extend the mixed-use area all the way to Dinsmore Trail may not be fully compatible with existing or expected mass, density, and form along the City-developed infrastructure.

Other development requirements would still be considered beyond density, such as parking requirements, tree preservation, and drainage, which would place a limit on how many units could ultimately be placed on site under CS zoning. While the overall property also has frontage along S. Ruppel Road, the portion in question only has frontage along S. Dinsmore Trail, which is a minimally improved Residential Link Street.

Land Use Plan Analysis: Staff finds that the proposal is not compatible with the goals in City Plan 2040, adopted land use policies, or the future land use designation for this location. This area is designated as a Residential Neighborhood Area, which supports a wide variety of housing types of appropriate scale and context. The infill score for the property is low, only scoring between 2-4 on the matrix, and even falling outside the realm of a typical fire response time of under 6 minutes. The by-right allowances in CS may be too much, too soon for this piece of property.

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

Finding: A rezone from NC, Neighborhood Conservation to CS, Community Services, is not justified to meet the goals of City Plan 2040. Staff finds that a scaled-back consideration for the eastern half of this property, or the property should maintain its current zoning entitlement.

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

Finding: Rezoning the property as the applicant is requesting could appreciably increase traffic along Dinsmore Trail, though adequate street improvements to absorb the added impact would be evaluated at the time of development review. The property does not currently have access to good public transportation, but does have close access to a trail, as well as proximity to an incoming school.

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

Finding: Rezoning the property from NC, Neighborhood Conservation to CS, Community Services, could undesirably increase the load on public services, especially with concerns to water service. The existing water main currently experiences a lack of water pressure and capacity in the area, so major improvements to that system would be needed to provide adequate service. While Fayetteville Public Schools did not offer a comment on this proposal, there is a new school under development immediately to the south of this property. Staff does not anticipate that the rezoning would cause an undesirable load on school services.

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

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

Finding: N/A

RECOMMENDATION: Planning staff recommends denial of RZN-2022-0052.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.29 Neighborhood Conservation
 - §161.22 - Community Services
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.22 Community Services

- (A) *Purpose.* The Community Services District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the

purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted Uses.*

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

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

(2) *Conditional Uses.*

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

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Dwelling	18 feet
All others	None

(2) *Lot Area Minimum.* None.

(E) *Setback regulations.*

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

(F) *Building Height Regulations.*

Building Height Maximum	5 stories
-------------------------	-----------

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

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

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

EDWARD ROSE PROPERTIES, INC.
6101 NEWPORT ROAD
POST OFFICE BOX 3015
KALAMAZOO, MI 49003-3015
PHONE (269) 323-9484
FAX (269) 321-7918

November 30, 2022

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

RE: Rezoning Request

Dear Planning Staff:

Edward Rose Properties, Inc. requests that Parcel No. 765-22366-700 (the portion west of Dinsmore Trail that was recently split), shown on Exhibit A, be rezoned from NC, Neighborhood Conservation to CS, Community Services. Currently, the remainder of the site is zoned CS, Community Services zoning.

The current surrounding zoning includes CS, Community Services and Neighborhood Conservation to the north and northeast; RSF-1, Residential Single-Family One Unit per Acre to the east and southeast; P-1, Institutional to the south; and CS, Community Services to the southwest, west, northwest with RI-U, Residential Intermediate Urban, Neighborhood Conservation, and RSF-18 Residential Single-Family-Eighteen Unit per Acre behind the Community Service.

In this section of Ruppel Road, one can find a mix of single family housing, multifamily housing, the new middle school and undeveloped land. Because the property is partially zoned for CS, Community Services and with the mixed use of the surrounding property, the zoning change is compatible with the surrounding area and would not adversely affect the area.

Thank you for your consideration of our request for rezoning. If you have any questions, please contact me at 269-321-7836 or at Kirsten_rimes@edwardrose.com.

Respectfully,

KIRSTEN RIMES

Kirsten Rimes,
Land Acquisition Manager
KR/mr
Encl.

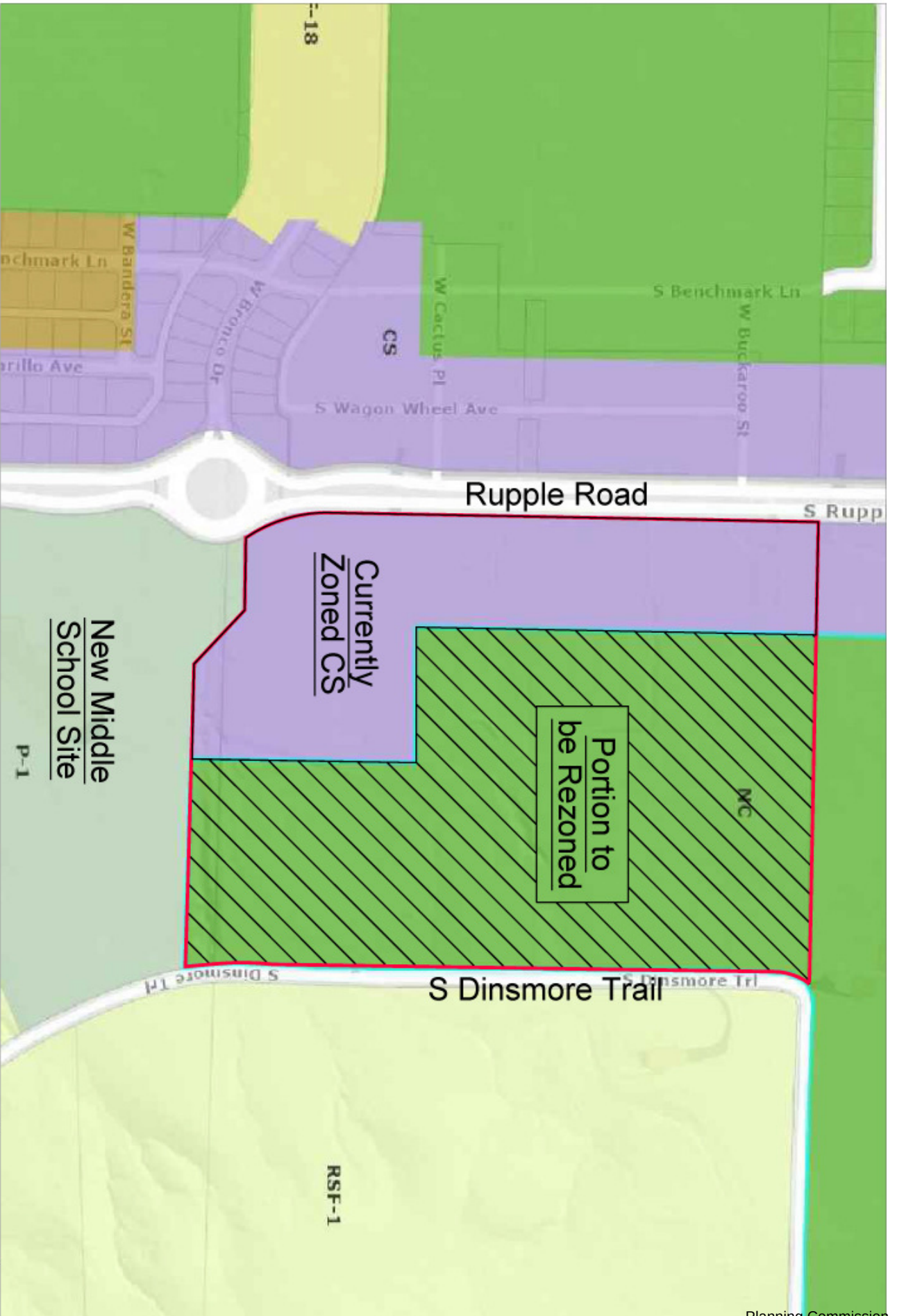
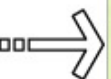


Exhibit A- Rezoning Map

Rupple Road Site

Fayetteville, Arkansas



Not to Scale
November 29, 2022



EDWARD
ROSE & SONS

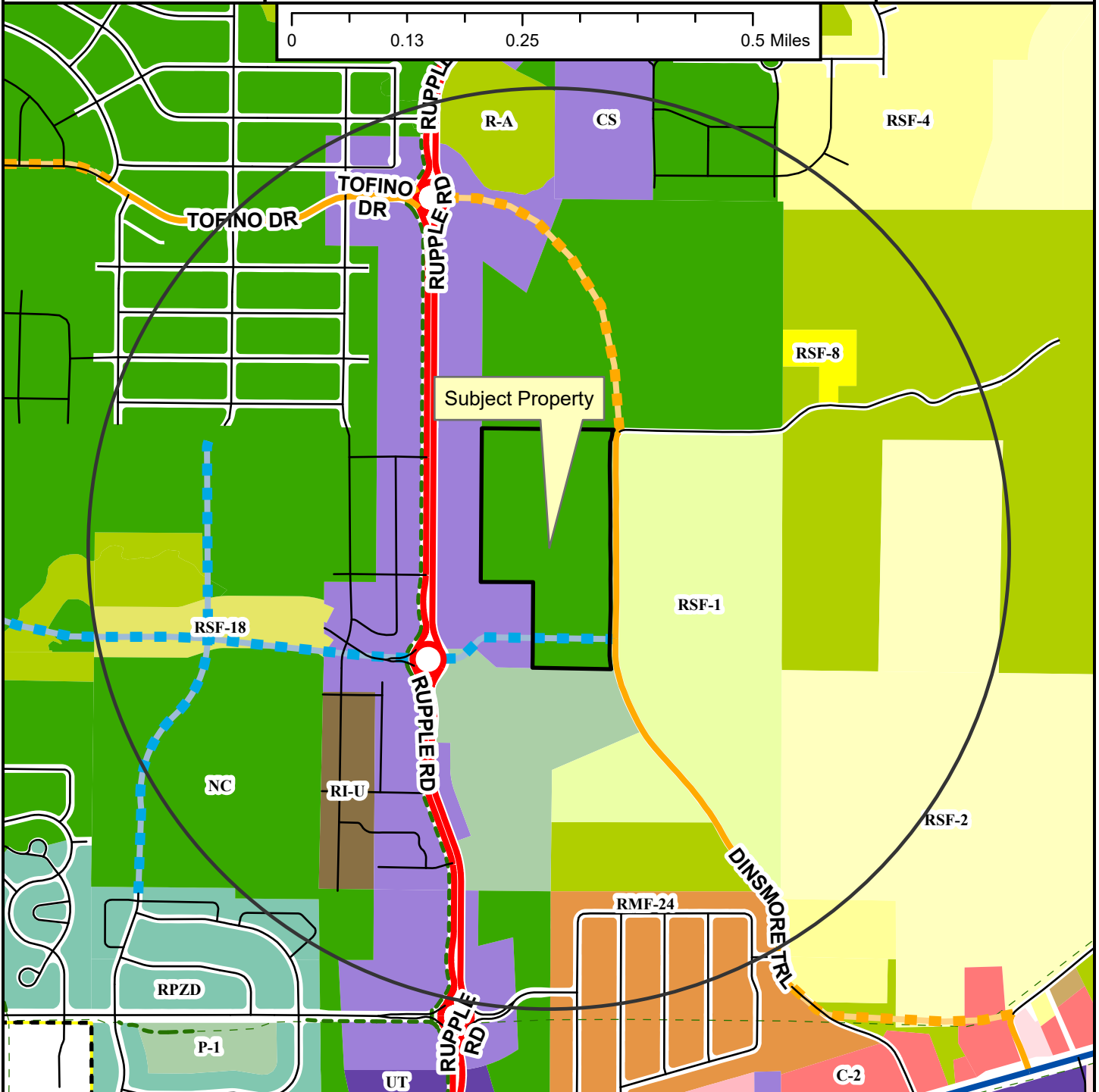
RZN-2022-0052

369 S. DINSMORE TRL

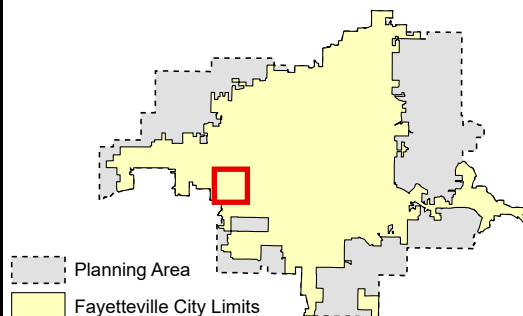
One Mile View



0 0.13 0.25 0.5 Miles



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

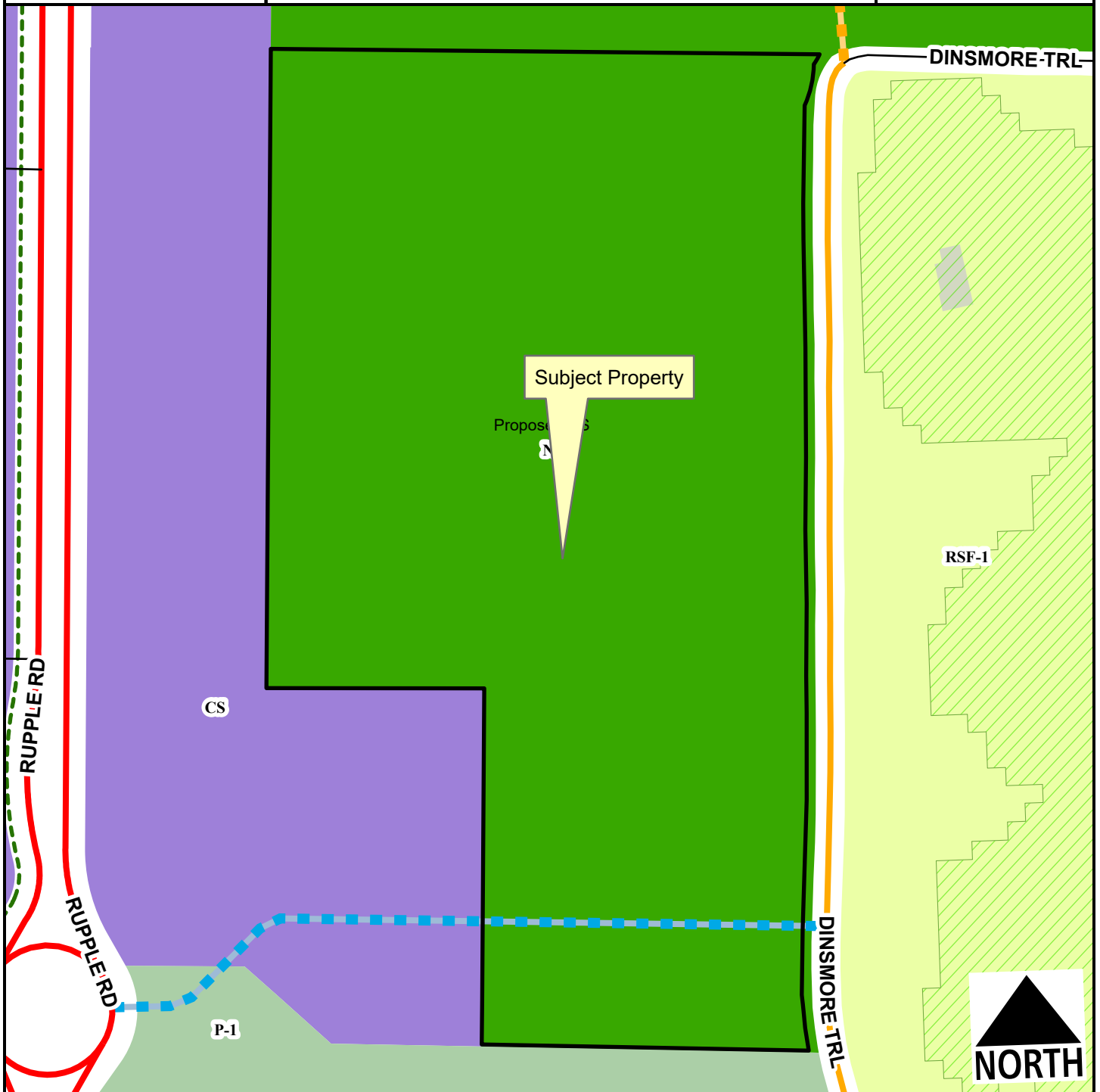


- | | |
|---|---|
| Zoning | EXTRACTION |
| RESIDENTIAL SINGLE-FAMILY | E-1 |
| NS-G | COMMERCIAL |
| RI-U | Residential-Office |
| RI-12 | C-1 |
| NS-L | C-2 |
| Residential-Agricultural | C-3 |
| RSF-5 | FORM BASED DISTRICTS |
| RSF-1 | Downtown Core |
| RSF-2 | Urban Thoroughfare |
| RSF-4 | Main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

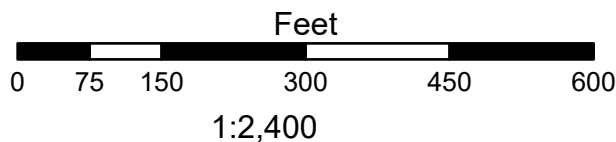
Planning Commission

January 9, 2023

Agenda Item 11



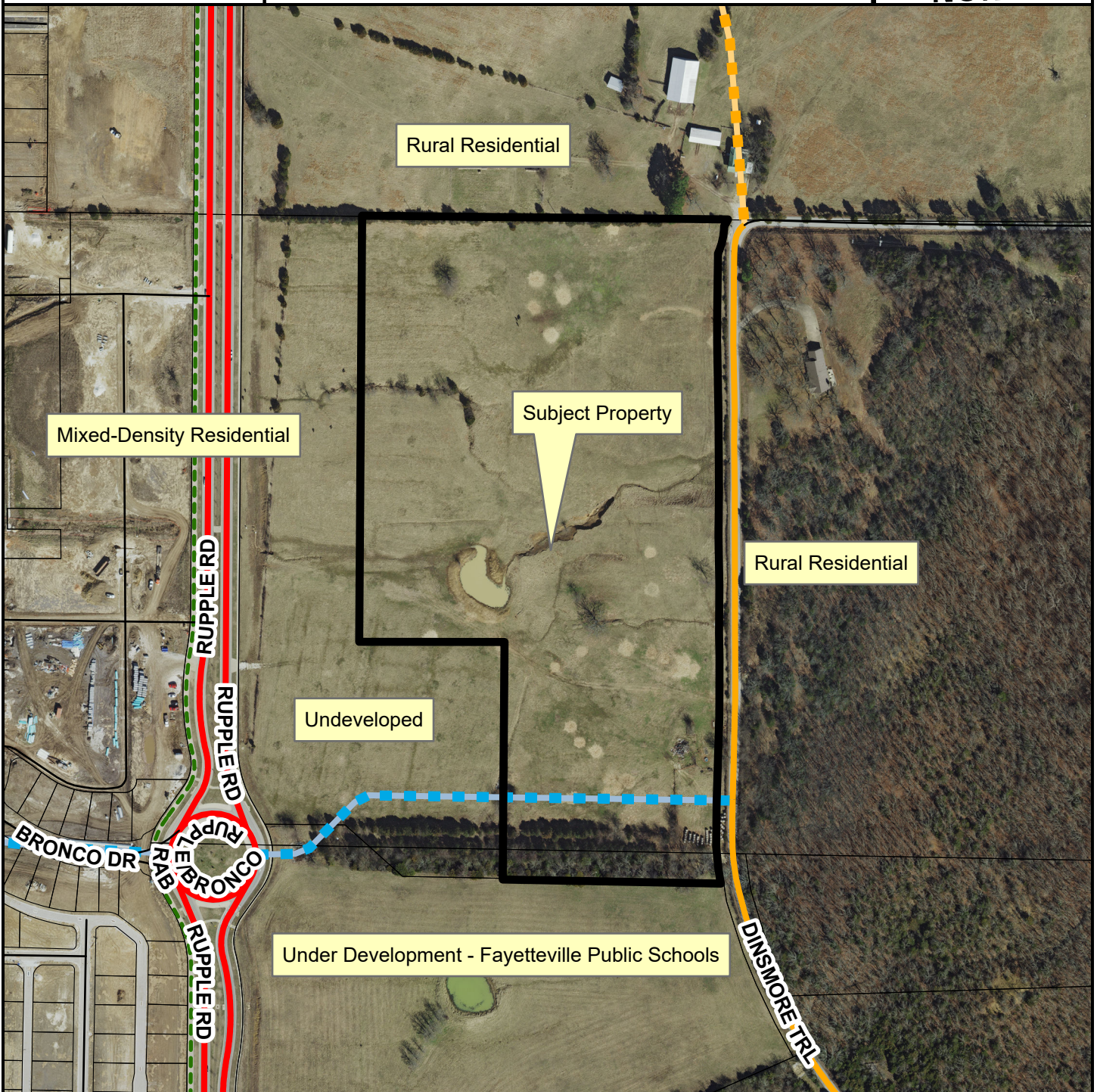
- Regional Link
- Neighborhood Link
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- / / / / Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



Zone	Current	Proposed
CS	0.0	19.9
NC	19.9	0.0



Current Land Use



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



FEMA Flood Hazard Data

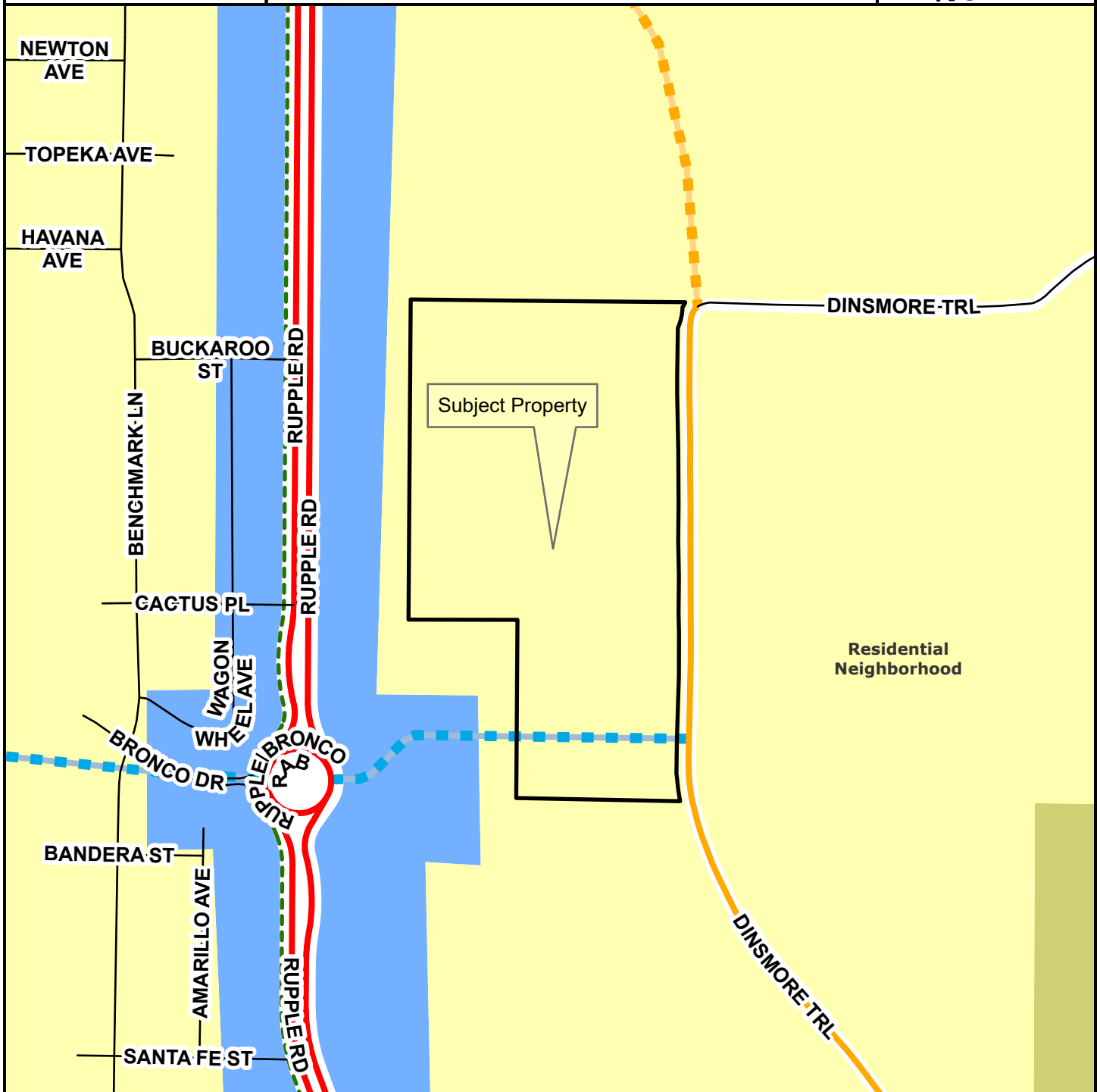
- 100-Year Floodplain
- Floodway

RZN-2022-0052

369 S. DINSMORE TRL



Future Land Use



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

Feet
0 145 290 580 870 1,160
1:4,800

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



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0116: Conditional Use Permit (1017 E. STARLING ST./JOHNSON, 603):** Submitted by WEEKENDER MANAGEMENT for property located at 1017 E. STARLING ST. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE and contains approximately 0.11 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0116** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0116**, 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 southeast Fayetteville on the south side of Starling Street in the Creekside Meadows subdivision. The property contains approximately 0.11 acres and is developed with one single-family dwelling which was recently constructed. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within city limits. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-8, Residential Single-Family, 8 Units per Acre
South	Single-Family Residential	RSF-8, Residential Single-Family, 8 Units per Acre
East	Single-Family Residential	RSF-8, Residential Single-Family, 8 Units per Acre
West	Single-Family Residential	RSF-8, Residential Single-Family, 8 Units per Acre

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2022-0116** 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 Unified Development Code §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, Signage.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

Finding: Staff finds that granting the requested conditional use is not likely 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. General Standards.

1. *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RSF-8 zoning. Use Unit 46 is a permitted use by-right in the RSF-8 zoning district.

2. *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released five-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 300 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RSF-8 zoning, so this short-term rental would contribute to the city-wide density cap.

3. *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 unit has three bedrooms, so the maximum number of guests will be capped at eight.

4. *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 that parking be limited as described in UDC §163.18(A)(4). Single-family dwellings are required to have two parking spaces and are permitted to have up to four cars parked outside. Off-street parking is available in a two-car garage and in a driveway that can likely accommodate two additional vehicles.

5. 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.

6. 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 1017 E. Starling St. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

§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 subject property has frontage along Starling Street, which is classified as a Residential Link street. Staff finds that the proposal will not adversely affect traffic flows onto Starling Street considering the use of the property would be limited to a maximum of eight guests, which would not be out of character with use of the property for residential purposes. Sidewalk is present along the property's frontage.

(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: Single-family dwellings are required to have two parking spaces and are permitted to have up to four cars parked outside. Off-street parking is available on this property in a two-car garage and in a driveway that can likely accommodate two additional vehicles. 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 service. Staff recommends a condition requiring trash receptacles to be stored in an area that is screened from the right-of-way when not in use.

(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 remain 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, required yards and other open spaces are maintained with the existing development on the property.

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

Finding: Staff finds the use to be compatible with the surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

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

118.01 Applicability

(A) *General Businesses.*

- (1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.
- (2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.
- (3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

(B) *Religious Entities.* Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The city business license shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

(C) *Minors Exempt.* No individual under eighteen (18) years of age shall be required to register or obtain a business license. Minors are prohibited from leasing, advertising, managing or any other activity involved in STRs unless they are an emancipated minor.

(D) *Individual Landlords Renting Less Than Three (3) Dwelling Units Exempt.* An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three (3) dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter. However, a landlord that operates a short-term residential rental shall not be exempt and must apply for and obtain a business license for each individual short-term rental.

(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 prior to the city issuing a business license, except as defined in §118.01(E)(4).
- (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) *Twelve (12) Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license for the operation of a short-term rental. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and

- restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
- (b) Persons seeking to operate a Type 2 short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the 12-month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the 12-month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the City by that time.
- (5) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (6) Any change in ownership requires a new or amended business license.
 - (7) 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.
 - (8) *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.
 - (10) *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.
 - (12) *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.
 - (13) *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.
 - (14) *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.
 - (15) *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.

- (16) *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.
- (17) *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).
- (18) *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.
- (19) *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.
- (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and 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)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

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

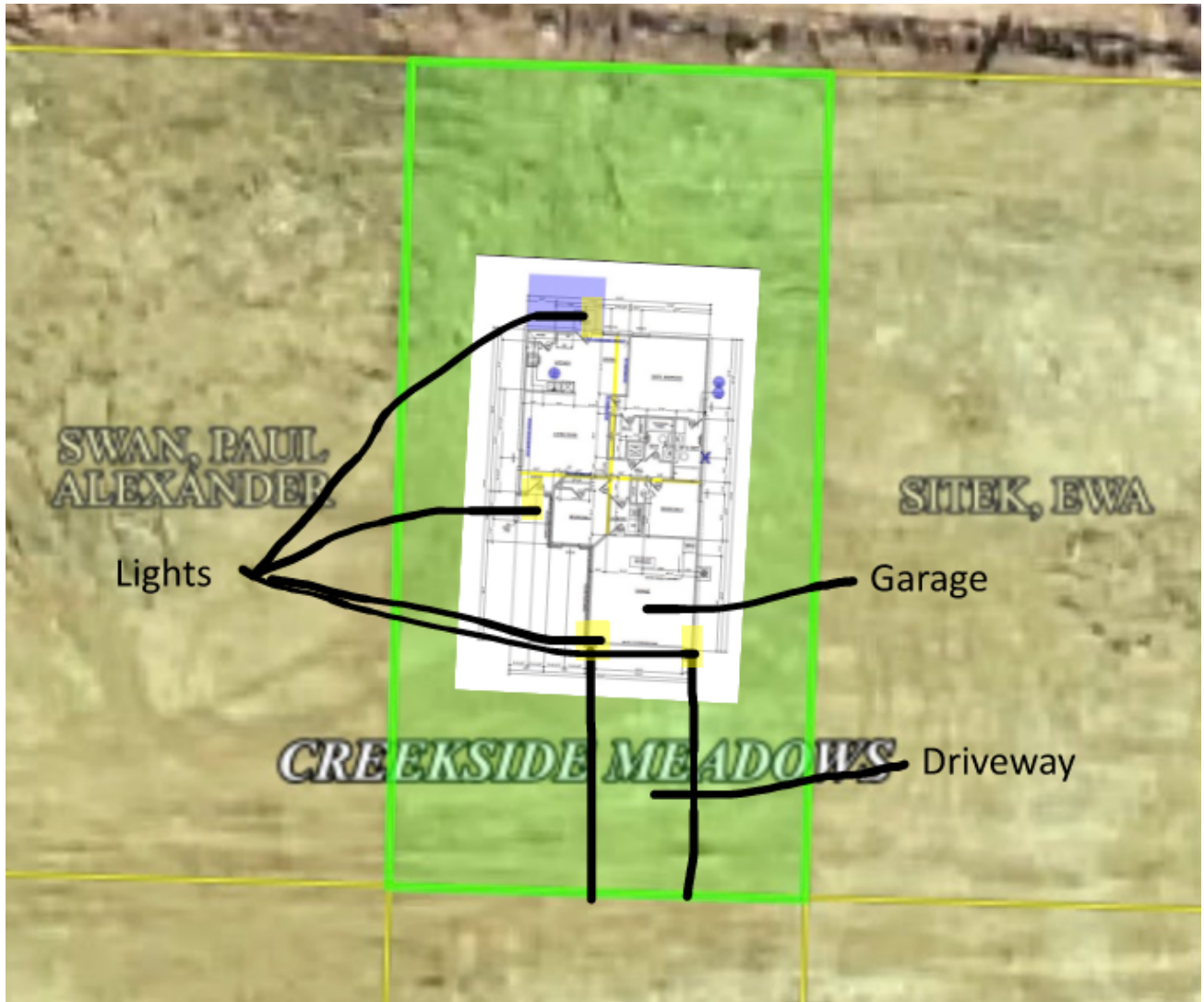
163.18 Short-Term Rentals

(A) General Standards.

- (1) *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.
- (2) *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.
- (3) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (4) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (5) 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.
- (6) 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.
- (7) *Twelve-Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
 - (b) Persons seeking to operate a Type 2 Short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the twelve (12) month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the twelve (12) month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the city by that time.
- (8) *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.
- (9) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(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)

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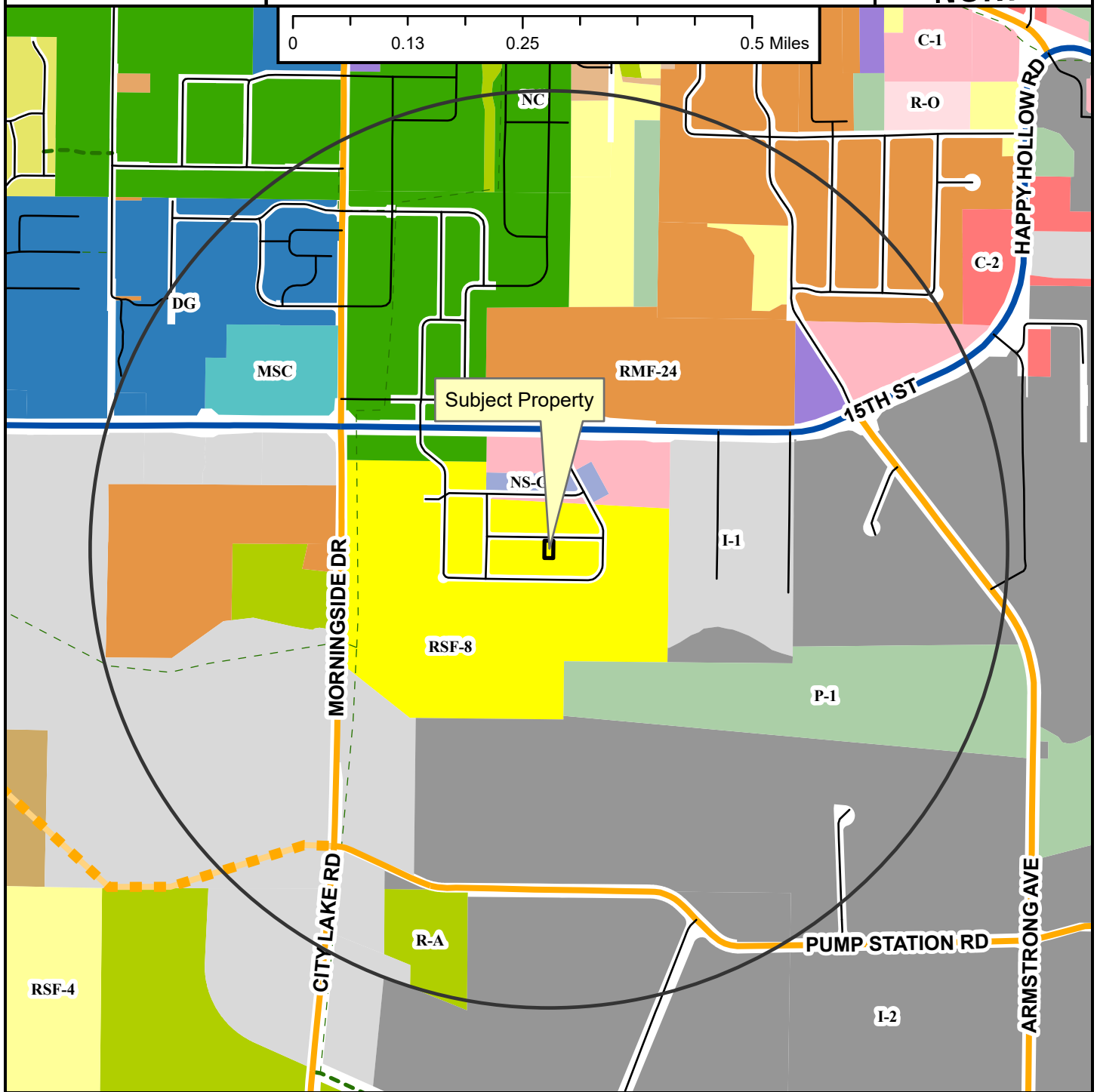
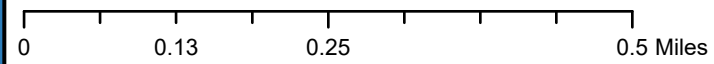




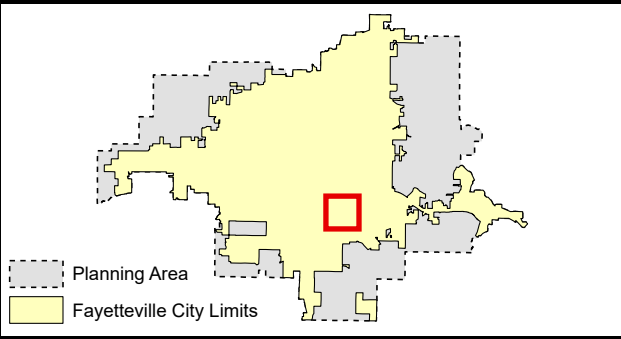
CUP-2022-0116

1017 E. STARLING ST

One Mile View



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



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - 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
 - I-2 General Industrial
 - EXTRACTION**
 - E-1
 - COMMERCIAL**
 - Residential-Office
 - C-1
 - C-2
 - C-3
 - FORM BASED DISTRICTS**
 - Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
 - PLANNED ZONING DISTRICTS**
 - Commercial, Industrial, Residential
 - INSTITUTIONAL**
 - P-1

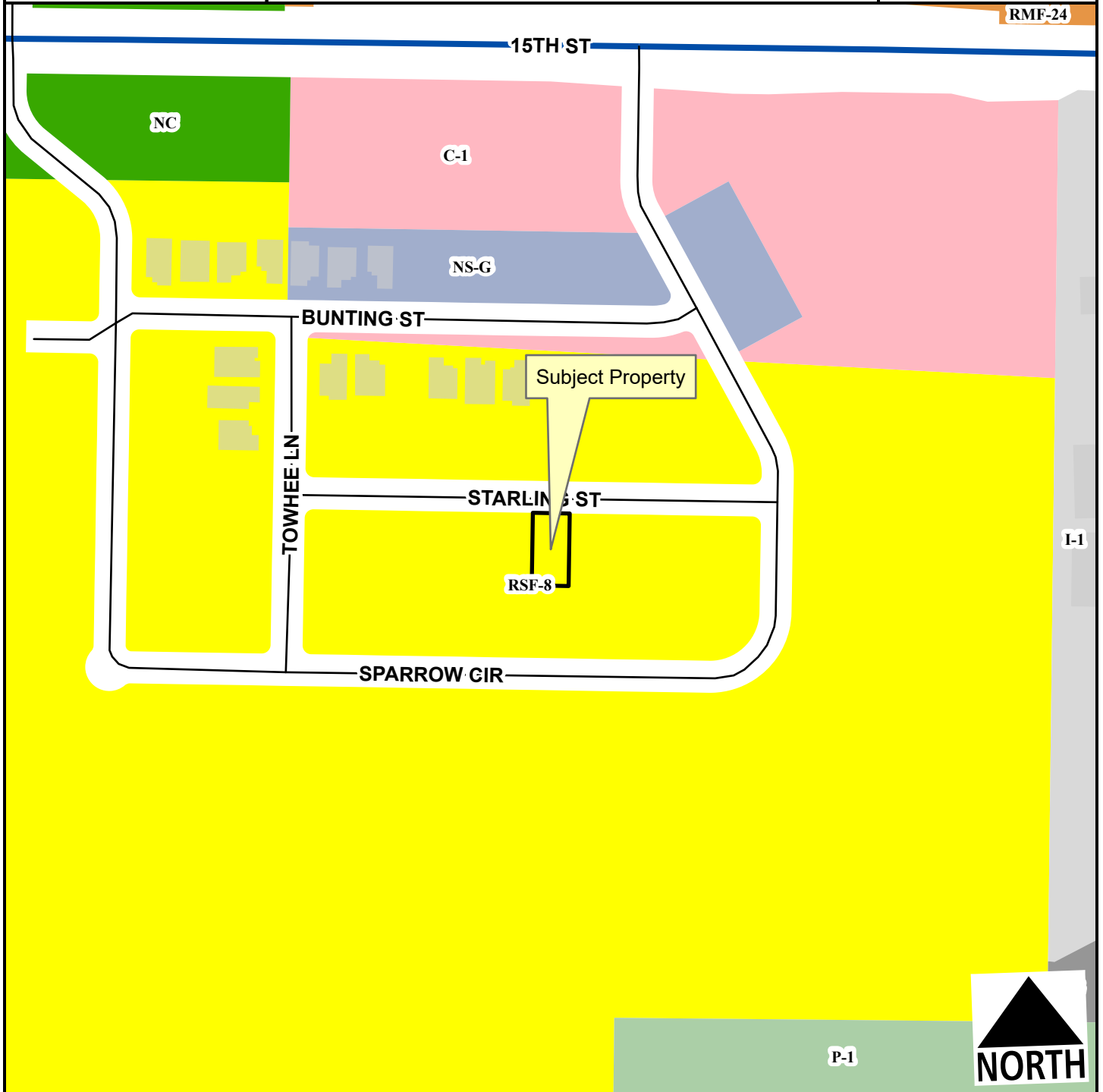
Planning Commission
January 9, 2023

CUP-2022-0116

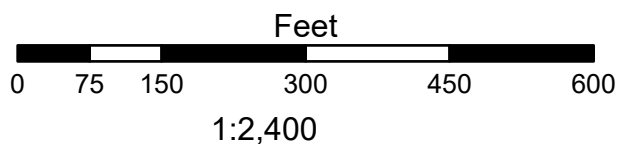
1017 E. STARLING ST

Close Up View

RMF-24



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



- RSF-8
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial
- C-1
- Neighborhood Services - Gen.
- Neighborhood Conservation
- P-1

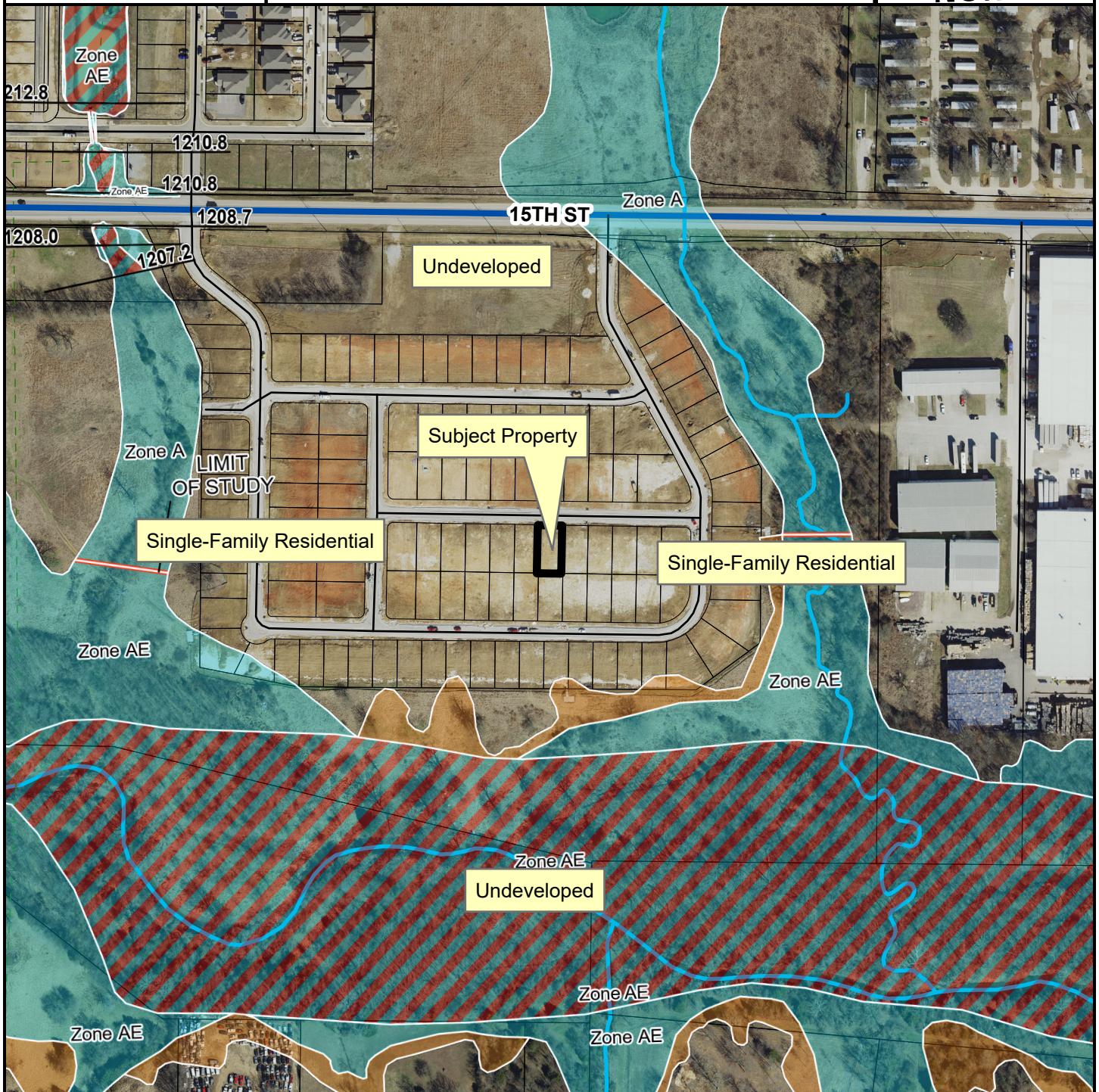
Planning Commission
January 9, 2023

CUP-2022-0116 (JOHNSON)

CUP-2022-0116

1017 E. STARLING ST

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0117: Conditional Use Permit (205 N. CHURCH AVE., UNIT 1/PRATT, 484):** Submitted by A PRATT PROPERTY MANAGEMENT for property located at 205 N. CHURCH AVE., UNIT 1. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.39 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0117** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0117**, 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 near downtown Fayetteville, northwest of the intersection of Church Avenue and Spring Street. The property contains approximately 0.39 acres and is developed with a multi-family residence containing eight units. City Council adopted an ordinance to regulate short-term rentals operating within city limits. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	MSC, Main Street Center
South	Professional Offices	MSC, Main Street Center
East	Single-Family Residential	MSC, Main Street Center
West	Single-Family Residential	DG, Downtown General

City Plan 2040 Future Land Use Designation: City Neighborhood

Proposal: The applicant requests conditional use permit approval to use one unit on the subject 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 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends approval of **CUP-2022-0117** 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 Unified Development Code §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 containers 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, Signage.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in MSC 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 not likely 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. General Standards.

1. *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in MSC zoning. Use Unit 46 is a permitted use by-right in the MSC zoning district.

2. *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 300 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are permitted by right in MSC zoning, so this short-term rental would not contribute to the city-wide density cap. Since all units on the property are owned by the same entity, this short-term rental would be subject to a building density cap. The number of Type 2 short-term rentals permitted within a multi-family dwelling complex is limited to no more than 10% or a single unit, whichever is greater. Since this complex contains eight units, only one could serve as a Type 2 short-term rental.

3. *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 unit has one bedroom, so the maximum number of guests will be capped at four.

4. *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 that parking be limited as described in UDC §163.18(A)(4). Multi-family dwellings are required to provide parking at a rate of one space per bedroom. Since the subject unit contains one bedroom, one parking space is required. The applicant has noted that 13 shared off-street parking spaces are available in a parking lot adjacent to the building.

5. 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.

6. 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 Unit 1 on the property at 205 N. Church 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.

§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 subject property has frontage along Church Avenue and Spring Street which are both classified as Urban Center streets. Staff finds that the proposal will not adversely affect traffic flows onto either street considering the use of one unit as a short-term rental would not be out of character with the use of the property for residential purposes. Metered on-street parking is available along Spring Street and sidewalk is present along the property's frontage.

- (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: Multi-family dwellings are required to provide parking at a rate of one space per bedroom. 13 shared off-street parking spaces are currently available to accommodate parking for this short-term rental. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles 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 dumpsters at the west end of the property.

- (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 dumpsters 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, required yards and other open spaces are maintained with the existing development on the property.

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

Finding: Staff finds the use to be compatible with the surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are proposed to be screened, and minimal disruptions are expected for neighbors.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.27 Main Street/Center
 - §163.18 Short-Term Rentals
- Applicant Request Letter
- Site Plan
- Building Elevations
- Unit Floor Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

(A) *General Businesses.*

- (1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.
- (2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.
- (3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

(B) *Religious Entities.* Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The city business license shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

(C) *Minors Exempt.* No individual under eighteen (18) years of age shall be required to register or obtain a business license. Minors are prohibited from leasing, advertising, managing or any other activity involved in STRs unless they are an emancipated minor.

(D) *Individual Landlords Renting Less Than Three (3) Dwelling Units Exempt.* An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three (3) dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter. However, a landlord that operates a short-term residential rental shall not be exempt and must apply for and obtain a business license for each individual short-term rental.

(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 prior to the city issuing a business license, except as defined in §118.01(E)(4).
- (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) *Twelve (12) Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license for the operation of a short-term rental. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and

- restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
- (b) Persons seeking to operate a Type 2 short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the 12-month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the 12-month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the City by that time.
- (5) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (6) Any change in ownership requires a new or amended business license.
 - (7) 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.
 - (8) *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.
 - (10) *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.
 - (12) *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.
 - (13) *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.
 - (14) *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.
 - (15) *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.

- (16) *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.
- (17) *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).
- (18) *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.
- (19) *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.
- (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and 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)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.27 Main Street/Center

- (A) *Purpose.* A greater range of uses is expected and encouraged in the Main Street/Center. The Center is more spatially compact and is more likely to have some attached buildings than Downtown General or Neighborhood Conservation. Multi-story buildings in the Center are well-suited to accommodate a mix of uses, such as apartments or offices above shops. Lofts, live/work units, and buildings designed for changing uses over time are appropriate for the Main Street/Center. The Center is within walking distance of the surrounding, primarily residential areas. For the purposes of Chapter 96: Noise Control, the Main Street/Center district is a commercial zone.
- (B) *Uses.*
- (1) *Permitted uses.*

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

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

- (2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 42	Clean technologies

- (C) *Density.* None.
- (D) *Bulk and Area Regulations.*
- (1) *Lot Width Minimum.*

Dwelling (all unit types)	18 feet
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- (2) *Lot Area Minimum.* None.

- (E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line
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	and a line 25 feet from the front property line.
Side	None
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Minimum Buildable Street Frontage.* 75% of lot width.

(G) *Building Height Regulations.*

Building Height Maximum	5 stories/7 stories*
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* A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or a portion of a building that is located greater than 15 feet from the master street plan right-of-way line shall have a maximum height of seven (7) stories.

(Ord. No. 5028, 6-19-07; Ord. No. 5029, 6-19-07; Ord. No. 5042, 8-07-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

163.18 Short-Term Rentals

(A) General Standards.

- (1) *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.
- (2) *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.
- (3) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (4) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (5) 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.
- (6) 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.
- (7) *Twelve-Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
 - (b) Persons seeking to operate a Type 2 Short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the twelve (12) month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the twelve (12) month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the city by that time.
- (8) *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.
- (9) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(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)

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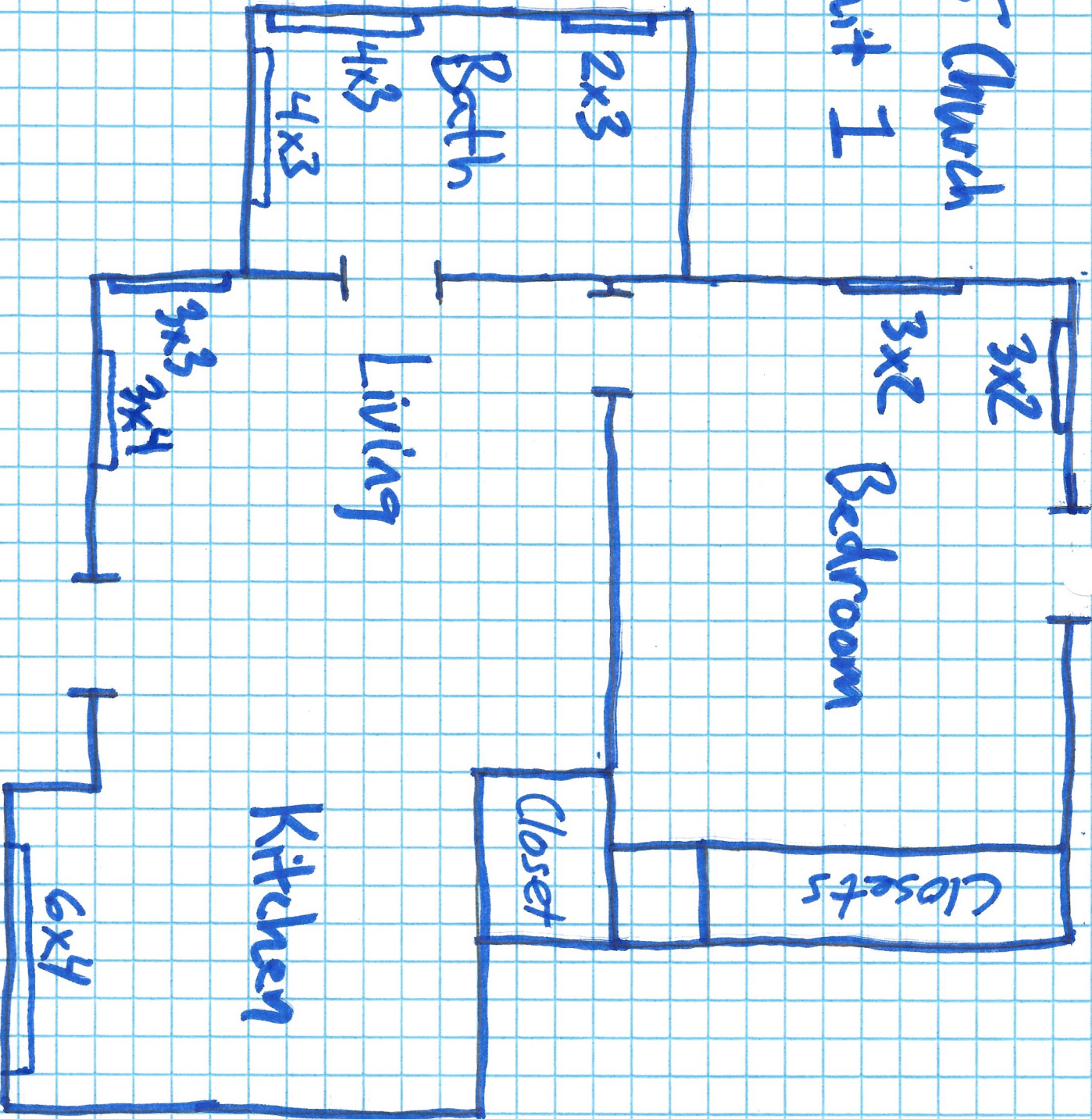
1. Request Letter- Application for Type 2 Short-Term Rental @ 205 N Church Ave #1 in Fayetteville. The property is located in zoning district Main Street Center which allows hotels by right.
 - a. Unit 1 is ~600 SF. Entire house is ~3,850 SF.
 - b. The home has yellow brick around the basement level of the house with a yellow brick front porch and façade on the 1st floor. The rest of the home is green wood siding with some yellow trim. The roof is green.
 - c. Shared parking lot has 13 parking spaces for 7 units. Units also have on-street parking passes.
 - d. The apartment will be rentable for a minimum of 1 day. There are no employees. Management will be provided by Elevation Real Estate and Management. The maximum number of guests will be 4. Occupancy rate estimated to be about 50-60%.
 - e. There are exterior lights over porches or entrances on all 4 sides of the building. Lights on the south side of the building are for the basement units and are partially screened by being down a small set of stairs. Unit 1 only has lights on the north and south side of the building.
 - f. Noise will be the normal amount found in a residential apartment. No parties or special events will be allowed.
 - g. Unit 1 is a basement unit. Both the front and back entrances to the unit require you to go down a set of stairs which provides screening from adjacent properties and the street.
 - h. Trash is handled by the City of Fayetteville from an on-site dumpster.
 - i. Ingress and egress to the property is possible through 2 driveways, one on the east side of the lot from Church Ave, and the other on the south side of the lot from Spring St. Traffic impacts are expected to be minimal.
 - j. The proposed use of the property is compatible with adjacent properties and other property in the neighborhood. Being zoned Main Street Center, many of our neighbors are currently operating an STR. One small unit with a maximum of 4 guests should be minimally disruptive and not out of character with all the other business uses surrounding our property.
2. Legal Description- Lot numbered ten (10) in block numbered four (4) as shown and designated on the plat of the subdivision of said block four (4) in the original plat of the town (now city) of Fayetteville, in the county of Washington, state of Arkansas. The property is located in Washington County at 205 N. Church Avenue, Fayetteville, Arkansas 72701. Subject to all easements and rights-of-way of record.
3. Site Plan- Survey Attached
4. Preliminary Floor Plan- Drawing Attached
5. County Parcel Map- Picture Attached
6. Public Notification- Table Below:

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205 Church Unit 1



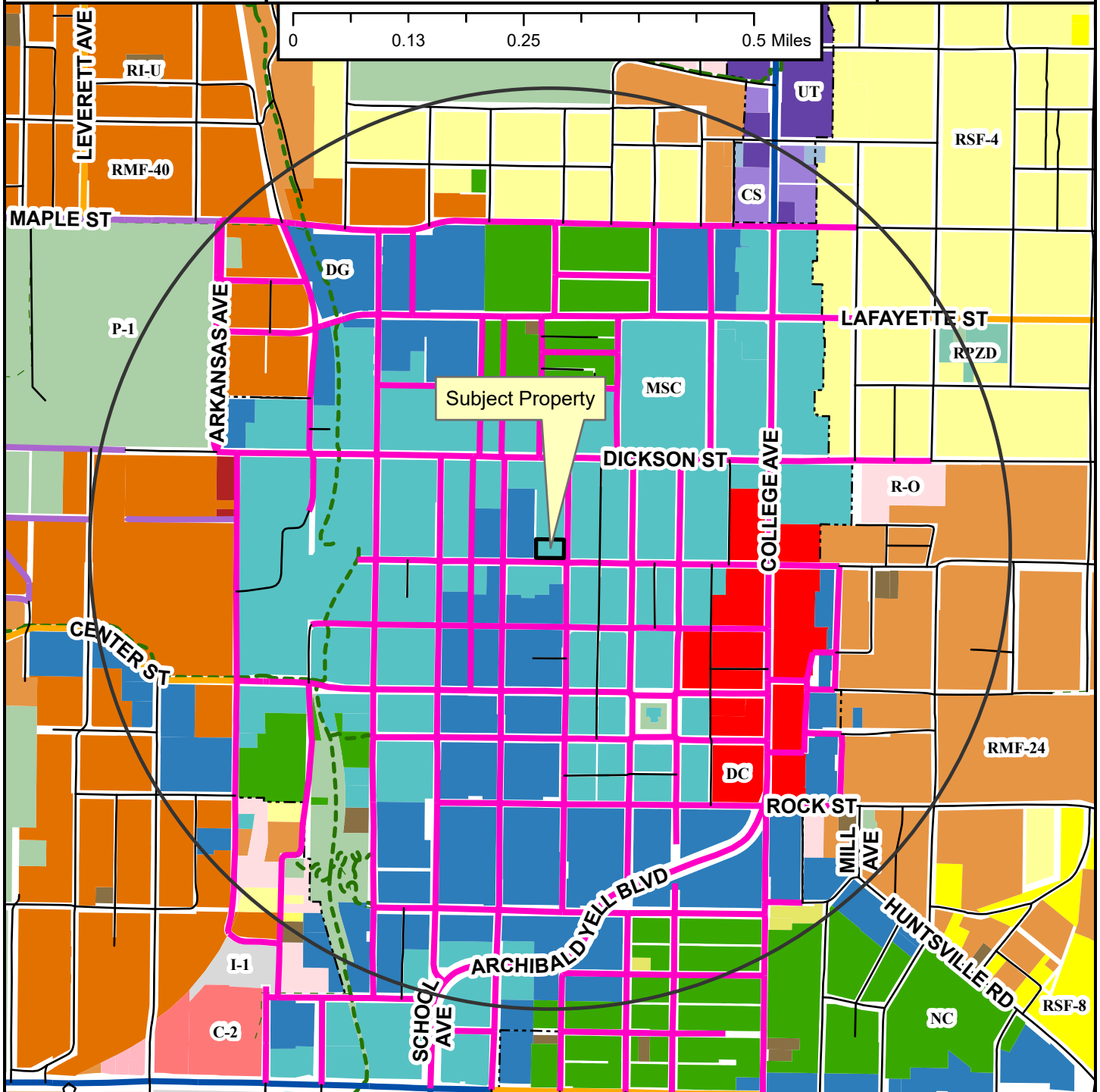
CUP-2022-0117

205 N. CHURCH AVE, UNIT 1

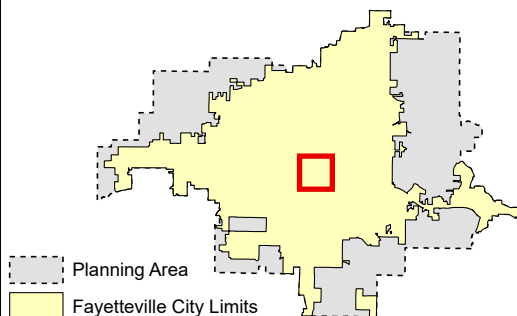
One Mile View



0 0.13 0.25 0.5 Miles



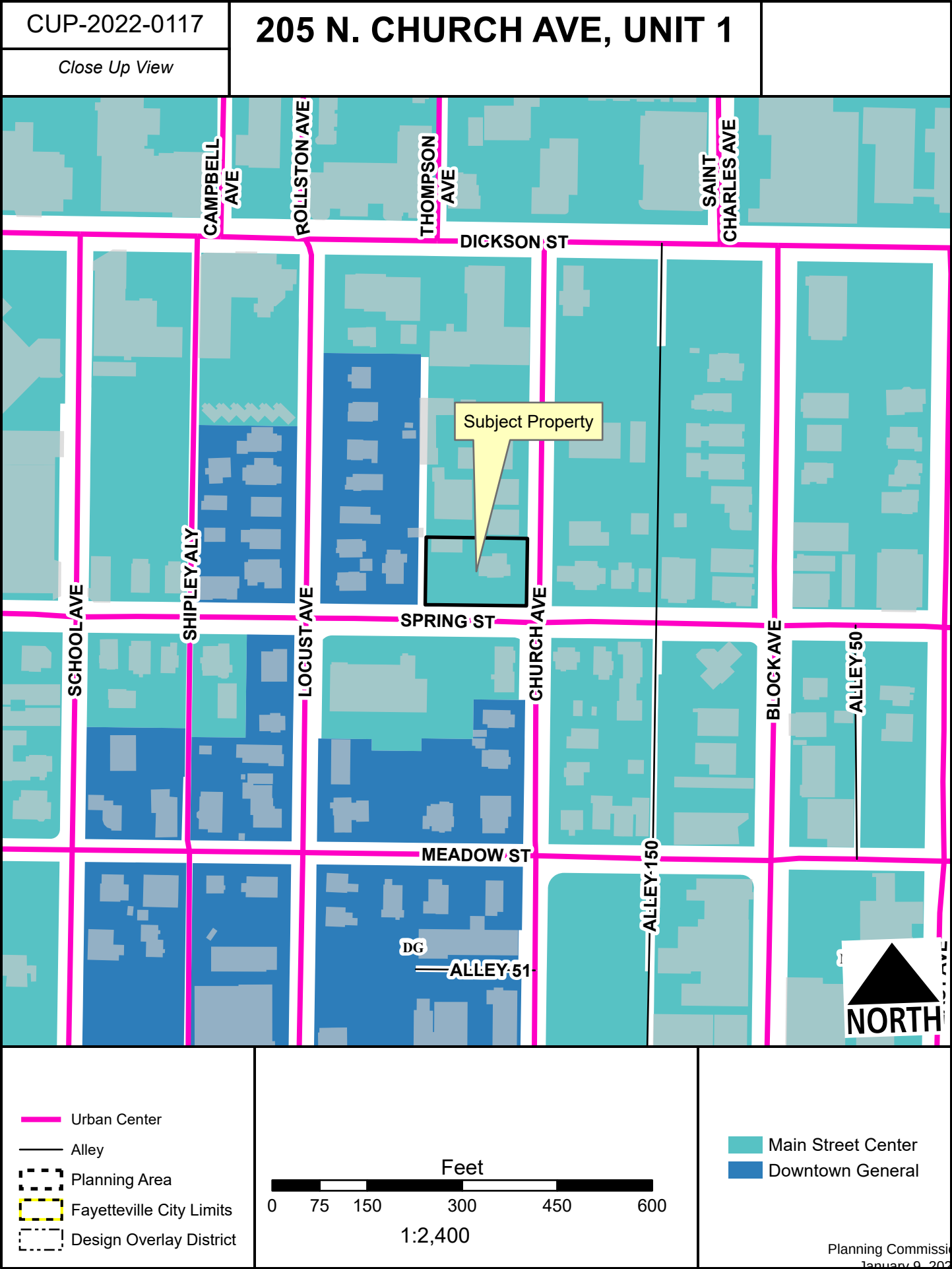
- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



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

Planning Commission
January 9, 2023

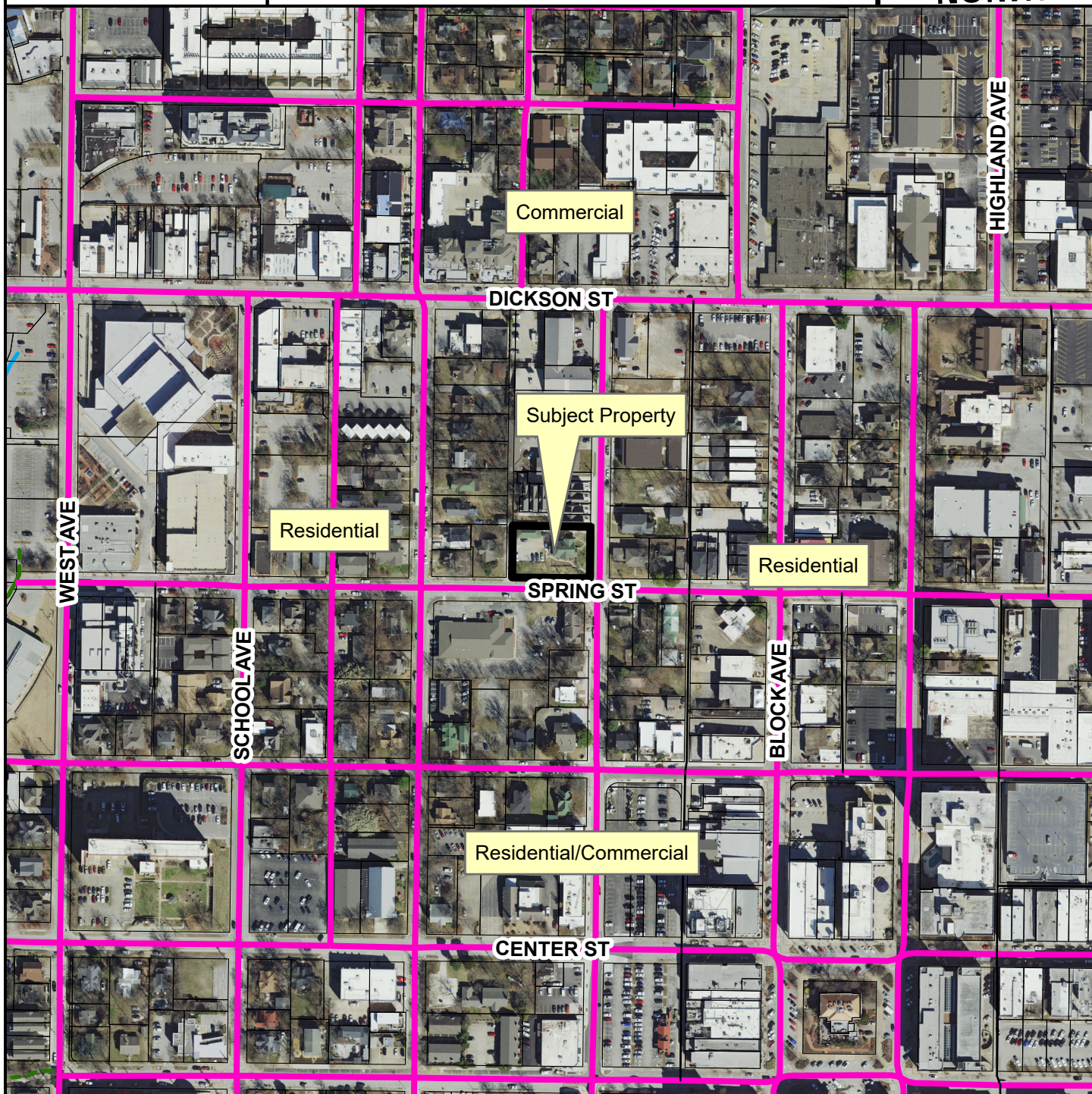
CUP-2022-0117 (PRATT)



CUP-2022-0117

205 N. CHURCH AVE, UNIT 1

Current Land Use



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



FEMA Flood Hazard Data

-  100-Year Floodplain
-  Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0118: Conditional Use Permit (171 N. SOLITUDE BND./RAMPART ENTERPRISES LLC, 479):** Submitted by ETHAN WALKER for property located at 171 N. SOLITUDE BND. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.12 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0118** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0118**, 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 the Brooklands at Mountain Ranch subdivision, just southwest of the roundabout at the intersection of Maclura Way and Solitude Bend. The property contains about 0.12 acres and is developed with a 2,043-square-foot single-family dwelling. City Council adopted an ordinance to regulate short-term rentals operating within city limits. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

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

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

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

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

RECOMMENDATION: Staff recommends approval of **CUP-2022-0118** 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 Unified Development Code §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, Signage.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

Finding: Staff finds that granting the requested conditional use is not likely 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. General Standards.

1. *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in NC zoning. Use Unit 46 is a permitted use by-right in the NC zoning district.

2. *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released five-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 300 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in NC zoning, so this short-term rental would contribute to the city-wide density cap.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the unit has two bedrooms, the maximum number of guests would be capped at six.

4. *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 that parking be limited as described in UDC §163.18(A)(4). Single-family dwellings are required to have two parking spaces and are permitted to have up to four cars parked outside. The applicant has indicated that off-street parking is available in a two-car garage and in a driveway that can likely accommodate three additional vehicles.

5. 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.

6. 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 171 N. Solitude Bnd. 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.

§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 subject property has frontage along Maclura Way and Solitude Bend, which are classified as Residential Link streets. Staff finds that the proposal will not adversely affect traffic flows onto those streets considering the use of the property would be limited to a maximum of six guests, which would not be out of character with use of the property for residential purposes. Sidewalk is present along the property's frontage.

(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: Single-family dwellings are required to have two parking spaces and are permitted to have up to four cars parked outside. Off-street parking is available on this property in a two-car garage and in a driveway that can likely accommodate three additional vehicles. 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 service. Staff recommends a condition requiring trash receptacles to be stored in an area that is screened from the right-of-way when not in use.

(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 remain screened so that they are not visible from the public right-of-way. The applicant indicated in their request letter that trash containers will be stored in the garage.

- (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 would 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, required yards and other open spaces are maintained with the existing development on the property.

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

Finding: Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.29 Neighborhood Conservation
 - §163.18 Short-Term Rentals
- Applicant Request Letter
- Site Plan and Building Floor Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

(A) *General Businesses.*

- (1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.
- (2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.
- (3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

(B) *Religious Entities.* Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The city business license shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

(C) *Minors Exempt.* No individual under eighteen (18) years of age shall be required to register or obtain a business license. Minors are prohibited from leasing, advertising, managing or any other activity involved in STRs unless they are an emancipated minor.

(D) *Individual Landlords Renting Less Than Three (3) Dwelling Units Exempt.* An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three (3) dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter. However, a landlord that operates a short-term residential rental shall not be exempt and must apply for and obtain a business license for each individual short-term rental.

(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 prior to the city issuing a business license, except as defined in §118.01(E)(4).
- (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) *Twelve (12) Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license for the operation of a short-term rental. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and

- restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
- (b) Persons seeking to operate a Type 2 short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the 12-month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the 12-month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the City by that time.
- (5) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (6) Any change in ownership requires a new or amended business license.
 - (7) 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.
 - (8) *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.
 - (10) *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.
 - (12) *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.
 - (13) *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.
 - (14) *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.
 - (15) *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.

- (16) *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.
- (17) *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).
- (18) *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.
- (19) *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.
- (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and 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)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(E) *Setback Regulations.*

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

(F) *Building Height Regulations.*

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

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163.18 Short-Term Rentals

(A) General Standards.

- (1) *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.
- (2) *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.
- (3) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (4) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (5) 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.
- (6) 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.
- (7) *Twelve-Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
 - (b) Persons seeking to operate a Type 2 Short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the twelve (12) month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the twelve (12) month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the city by that time.
- (8) *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.
- (9) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(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)

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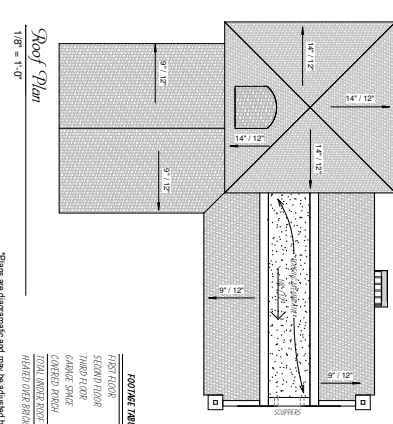
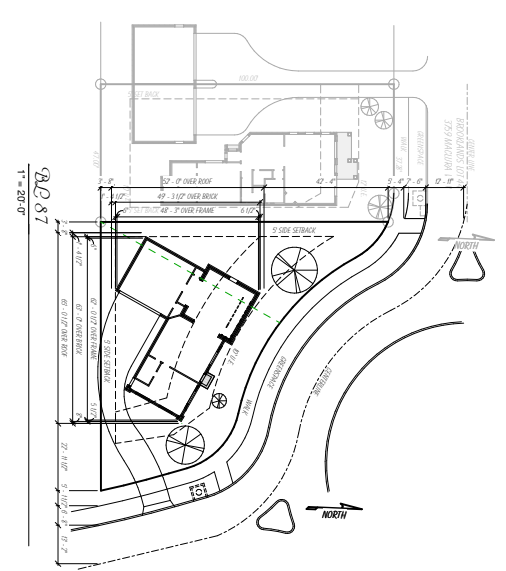
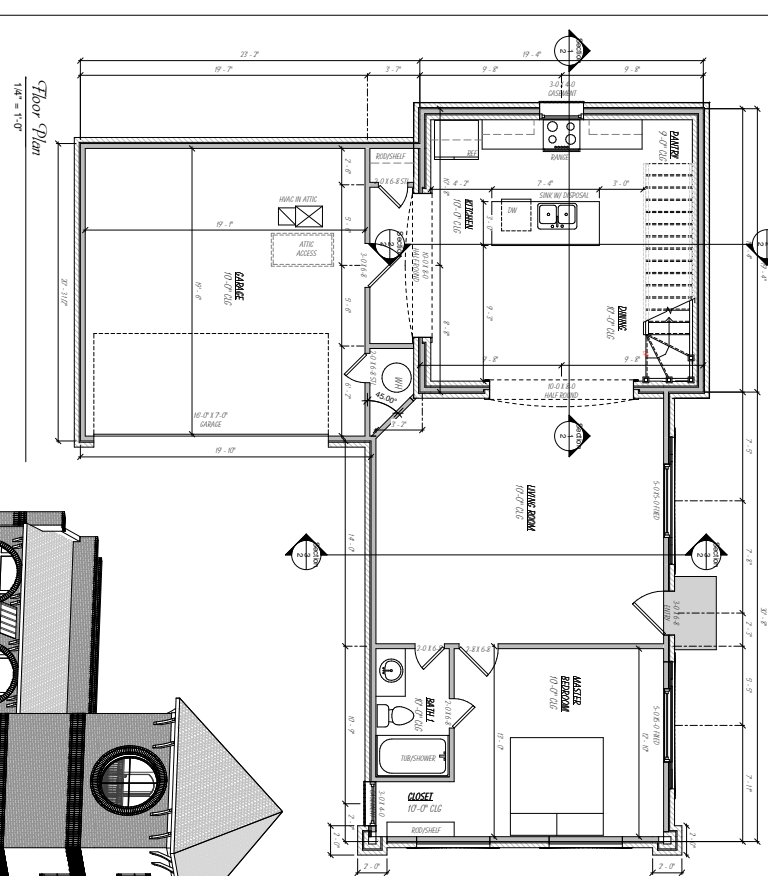
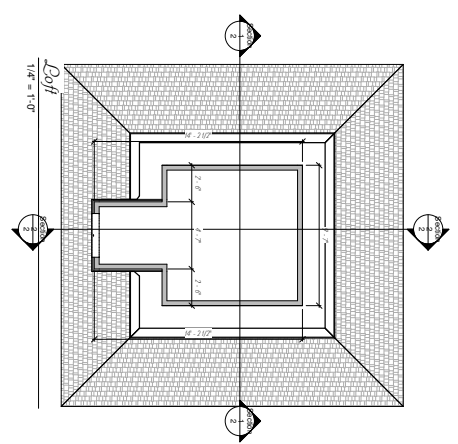
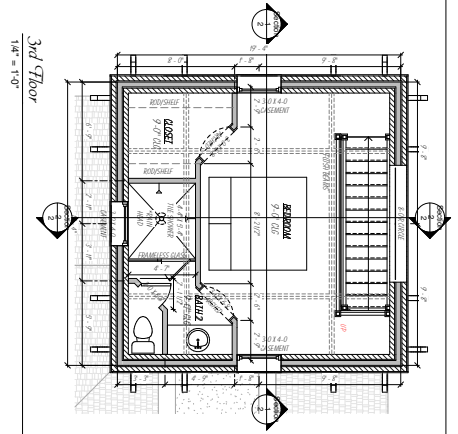
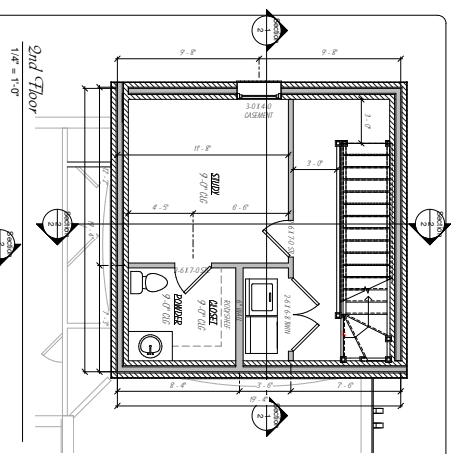
Conditional Use Permit- Request Letter

Short Term Rental

171 N Solitude Bend Fayetteville, AR 72704

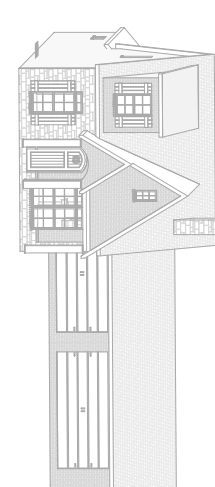
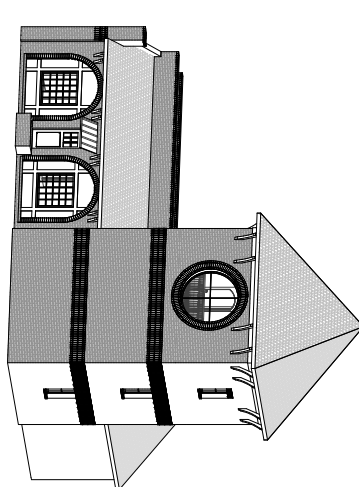
1. Request Letter
 - a. 2043sqft
 - b. See attached pictures
 - c. Driveway and 2-Car garage will provide 5 spots
 - d. "When request applies to a business or non-residential use:
 - i. We will advertise to sleep 8 travels.
 - e. There are lights on the front in the landscaping and lights on the exterior of the garage
 - f. Travelers will be required to keep noise levels in accordance with neighborhood covenants and city ordinances.
 - g. It's in a neighborhood on the circle
 - h. Trash can will be kept in the garage.
 - i. There is a driveway entrance on the east side of the property
 - j. The property is to be used as a Type 2- Short Term Rental
2. Legal Description
 - a. Lot 87 of Brooklands @ Mountain Ranch, a subdivision to the City of Fayetteville, Arkansas, as per Plat Book 24A at Page 145 on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.
3. Site plan is with the floor plan and is attached
4. Floor plan is attached





FOOTING INFORMATION

FIRST FLOOR	1064 SF
SECOND FLOOR	374 SF
THIRD FLOOR	373 SF
GARAGE SPACE	440 SF
CLOSET SPACE	46 SF
TOTAL ROOF AREA	2072 SF
HEATED ROOF AREA	2043 SF



3D View

KCP
Residential Design
COBBLESTONE HOMES

www.KCPH.net
Phone: (979) 431-1839; (979) 431-6210

Clocktower
Lot 87
Brooklands
Cocktower - Hood Farm, Section
View: Roof Plan, Site

7/15/2021 2:18:39 PM





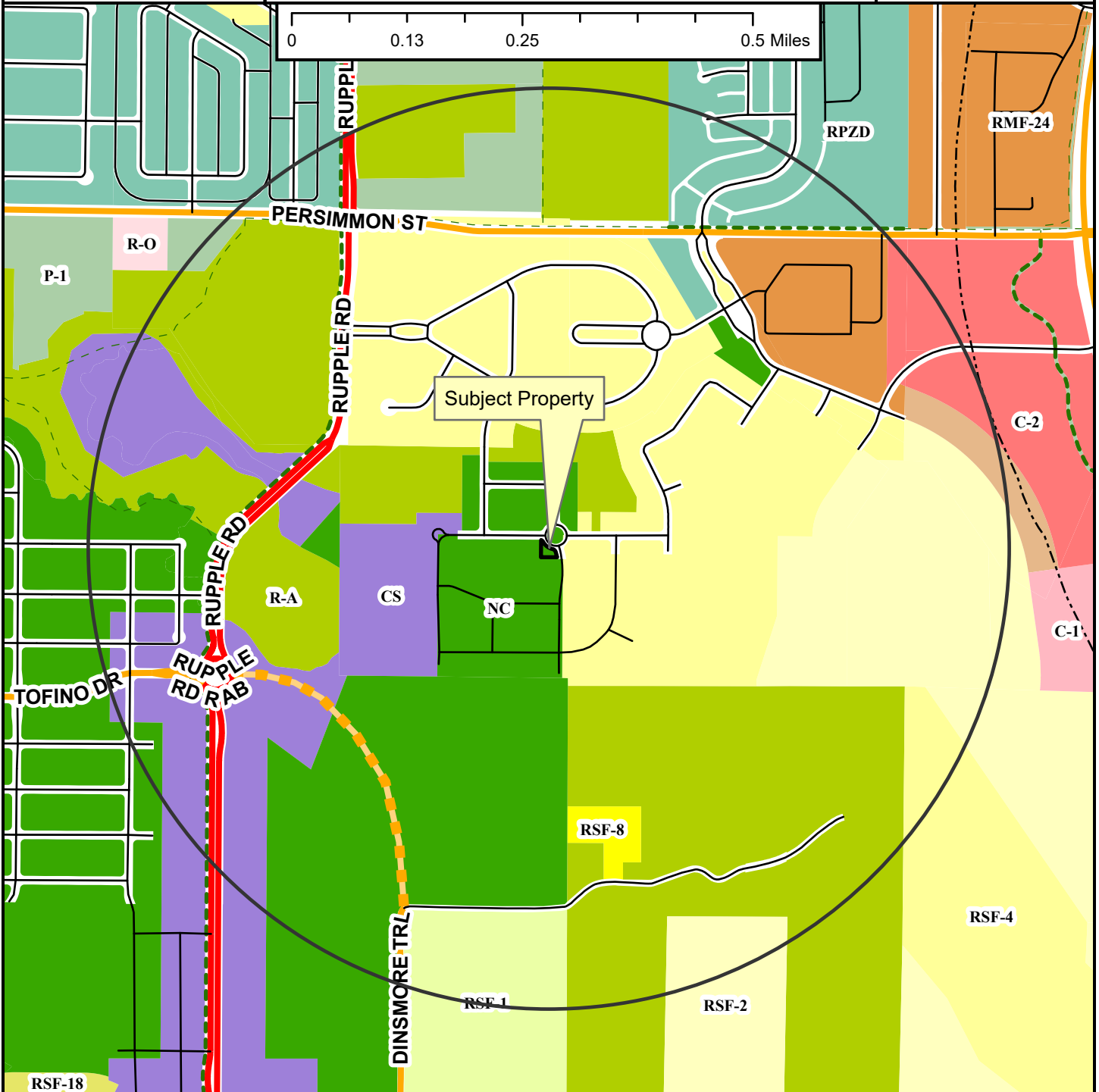
CUP-2022-0118

171 N. SOLITUDE BND

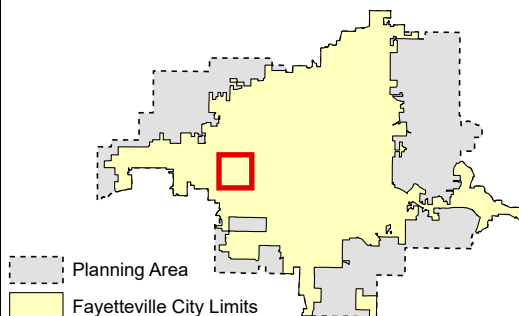
One Mile View



0 0.13 0.25 0.5 Miles



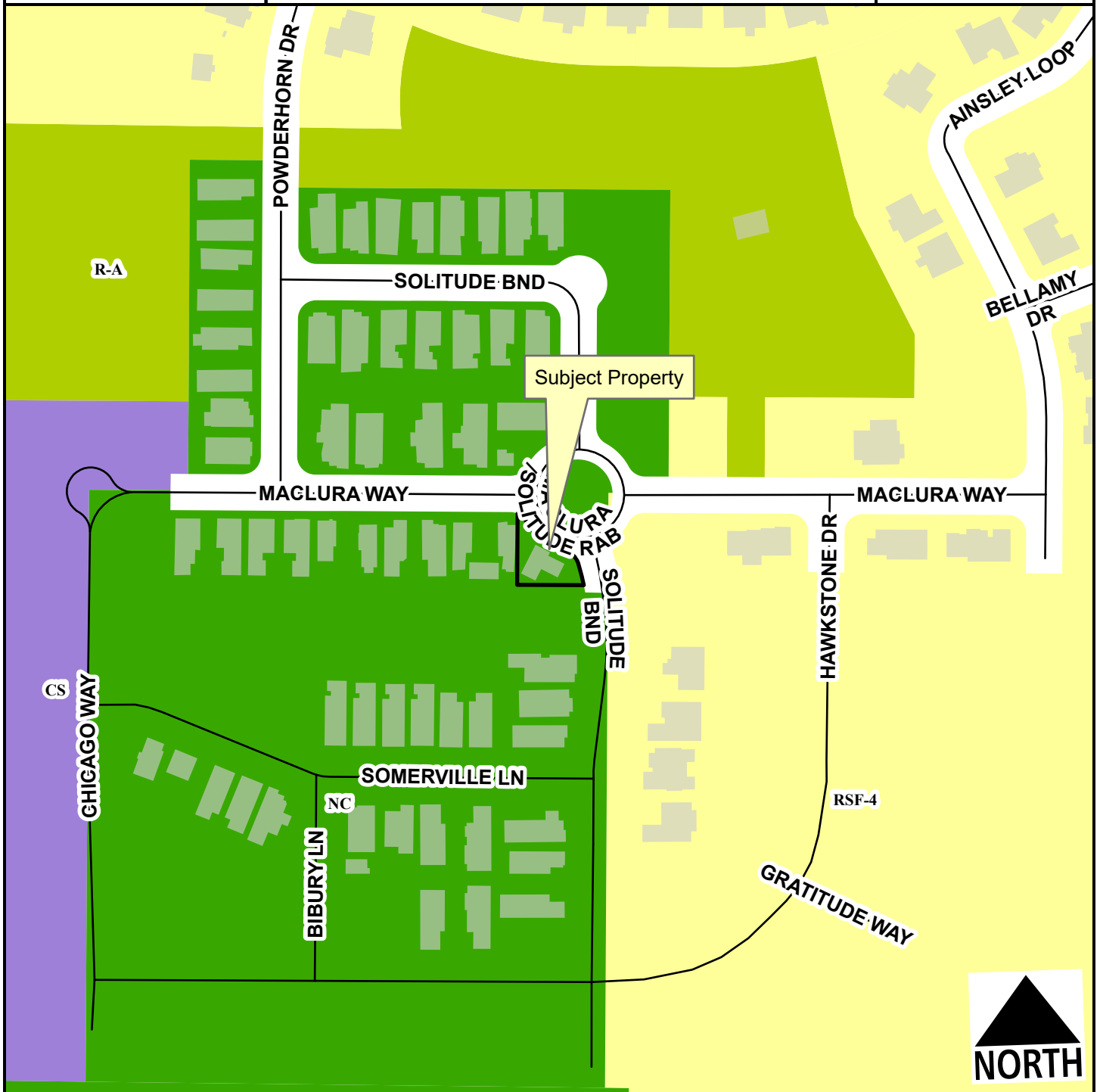
- Regional Link
- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



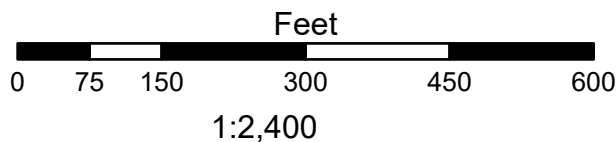
- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
- RH-U
- RH-12
- NS-L
- Residential-Agricultural
- RSF-5
- RSF-1
- RSF-2
- RSF-4
- RSF-7
- RSF-8
- RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
- RMF-12
- RMF-13
- RMF-24
- RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial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

Planning Commission
January 9, 2023

CUP-2022-0118 (RAMPART ENTERPRISES)



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



- Residential-Agricultural
- RSF-4
- Community Services
- Neighborhood Conservation

CUP-2022-0118

171 N. SOLITUDE BND

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
January 9, 2023

CUP-2022-0118 (RAMPART ENTERPRISES)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0119: Conditional Use Permit (1631 W. NETTLESHIP ST/BUIE, 521):** Submitted by COURTNEY BUIE for property located at 1631 W. NETTLESHIP ST. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY - TWENTY FOUR UNITS PER ACRE and contains approximately 0.11 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0119** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0119**, determining:*

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

BACKGROUND:

The subject property is in south Fayetteville, west of the University of Arkansas athletic facilities and on the southeast slope of Markham Hill. It is roughly ¼ mile southwest of the intersection of W. Center Street and S. Razorback Road. The property is zoned RMF-24, Residential Multi-Family 24 Units per Acre and contains approximately 0.11 acres. An approximately 2,079 square foot townhouse built in 1976 currently occupies the property. City Council adopted an ordinance to regulate short-term rentals operating within city limits. 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	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: **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 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

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

RECOMMENDATION: Staff recommends approval of **CUP-2022-0119** 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 Unified Development Code §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, Signage.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RMF-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 not likely 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. General Standards.

1. *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RMF-24 zoning. Use Unit 46 is a permitted use by-right in the RMF-24 zoning district.

2. *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released five-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 300 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by right in RMF-24 zoning, so this short-term rental would contribute to the city-wide density cap. The unit is on its own legal lot of record and held through separate ownership from its attached townhome so no cap is applied to the overall structure.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since the unit has four bedrooms, the maximum number of guests would be capped at 10.

4. *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 that parking be limited as described in UDC §163.18(A)(4). Townhomes are required to provide parking at a rate of two per bedroom. The applicant indicates six spaces are available: two inside the attached garage, two on the private driveway, and two behind the property on a private drive marked with signage.

5. 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.

6. 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 1631 W. Nettleship Street. 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.

§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 subject property has frontage along W. Nettleship Street, which is classified as a Residential Link Street. Staff finds that the proposal will not adversely affect traffic flows onto those streets considering the use of the property would be limited to a maximum of 10 guests, which would not be out of character with use of the property for residential purposes. Sidewalk is present along the property's frontage.

- (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: Townhouses are required to provide parking at a rate of one per bedroom. Off-street parking is available on this property in a two-car garage and in a driveway that can likely accommodate four additional vehicles. 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 service. Staff recommends a condition requiring trash receptacles to be stored in an area that is screened from the right-of-way when not in use.

- (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 remain screened so that they are not visible from the public right-of-way. The applicant indicated in their request letter that trash containers will be stored in the garage.

(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 would 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, required yards and other open spaces are maintained with the existing development on the property.

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

Finding: Staff finds the use to be compatible with surrounding properties. The property appears to have adequate parking to accommodate overnight guests, trash containers are screened, and minimal disruptions are expected for neighbors.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.16 Residential Multi-Family, 24 Units per Acre
 - §163.18 Short-Term Rentals
- Applicant Request Letter
- Site Plan and Building Floor Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

(A) *General Businesses.*

- (1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.
- (2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.
- (3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

(B) *Religious Entities.* Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The city business license shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

(C) *Minors Exempt.* No individual under eighteen (18) years of age shall be required to register or obtain a business license. Minors are prohibited from leasing, advertising, managing or any other activity involved in STRs unless they are an emancipated minor.

(D) *Individual Landlords Renting Less Than Three (3) Dwelling Units Exempt.* An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three (3) dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter. However, a landlord that operates a short-term residential rental shall not be exempt and must apply for and obtain a business license for each individual short-term rental.

(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 prior to the city issuing a business license, except as defined in §118.01(E)(4).
- (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) *Twelve (12) Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license for the operation of a short-term rental. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and

- restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
- (b) Persons seeking to operate a Type 2 short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the 12-month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the 12-month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the City by that time.
- (5) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (6) Any change in ownership requires a new or amended business license.
 - (7) 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.
 - (8) *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.
 - (10) *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.
 - (12) *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.
 - (13) *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.
 - (14) *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.
 - (15) *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.

- (16) *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.
- (17) *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).
- (18) *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.
- (19) *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.
- (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and 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)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

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-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-family	35 feet
Three 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) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

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

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

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

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

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

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163.18 Short-Term Rentals

(A) General Standards.

- (1) *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.
- (2) *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.
- (3) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (4) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (5) 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.
- (6) 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.
- (7) *Twelve-Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
 - (b) Persons seeking to operate a Type 2 Short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the twelve (12) month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the twelve (12) month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the city by that time.
- (8) *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.
- (9) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(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)

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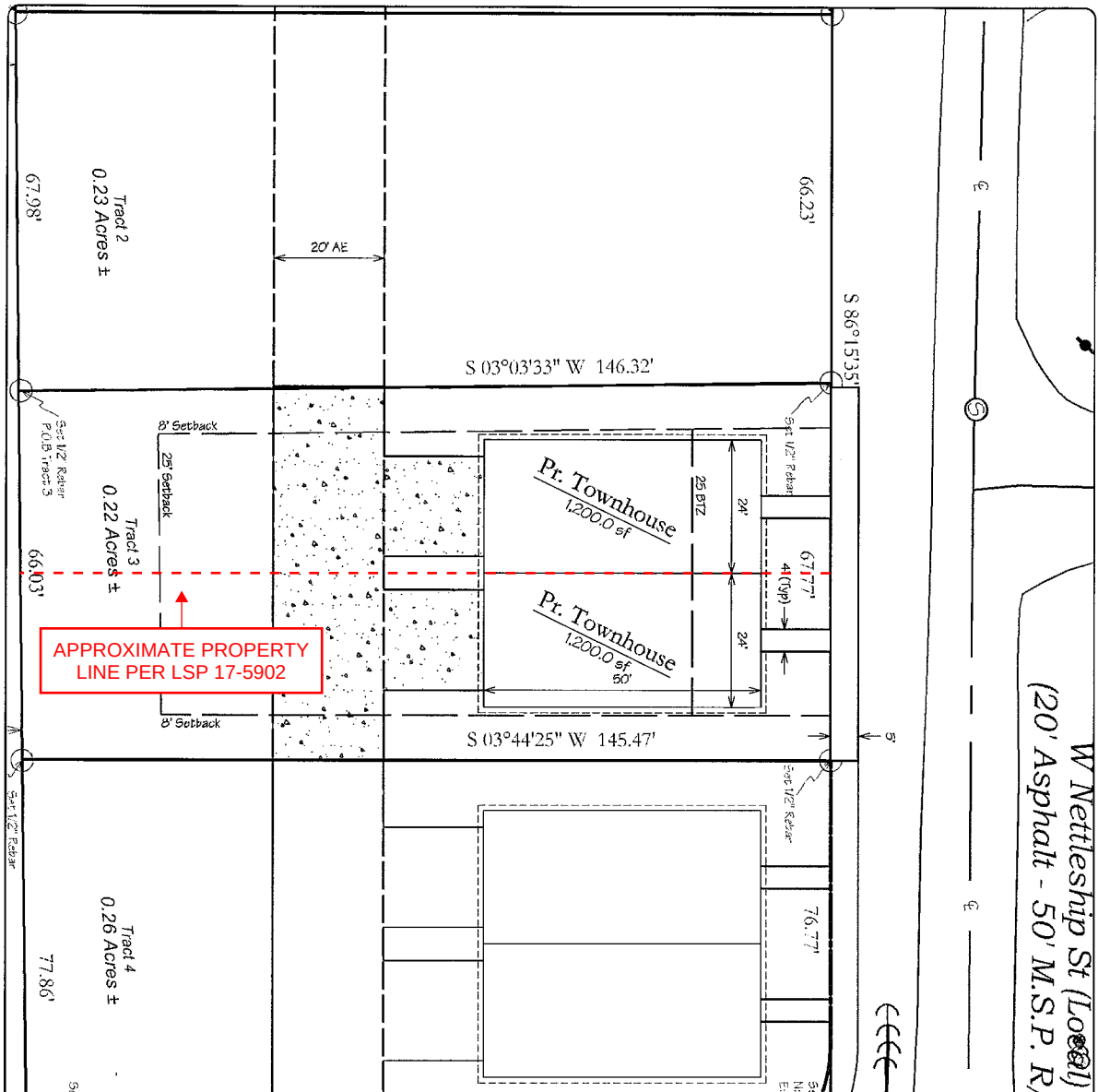
Request Letter for Conditional Use Permit – 1631 W. Nettleship Street, Fayetteville, AR 72701

Application is for a conditional use permit in order to rent the property short-term for a 7-month period only, between January 2023 through July 2023.

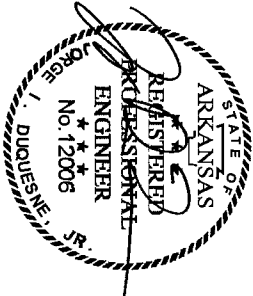
- (a) Building size – 2079 square feet, no proposed addition to square feet
- (b) Color exterior – brown siding and beige, brown-tone brick
- (c) Parking – 6 spaces provided (2 inside attached garage, 2 on private driveway, 2 adjacent/behind property on private drive marked with signage)
- (d) Employees - N/A
- (e) Outdoor lighting – typical residential
- (f) Noise – N/A
- (g) Screening from adjacent properties – N/A
- (h) Trash service – provided by City of Fayetteville, 2 - 96 gallon trash carts, pick-up location along S. Eastern Ave. at same location as other townhomes in the addition
- (i) Ingress and egress – entrance to private drive, access to driveway and back of home, is off of S. Eastern Ave.
- (j) Proposed use (short-term rental for limited time period) is very compatible with adjacent properties. Majority of units are LLC-owned properties, one of the units two doors down has been leased short-term previously

58739 - Site Plan

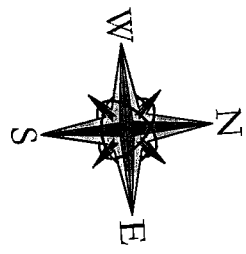
1631 - 1623 - Lot 3



APPROXIMATE PROPERTY LINE PER LSP 17-5902



4/1/14



BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

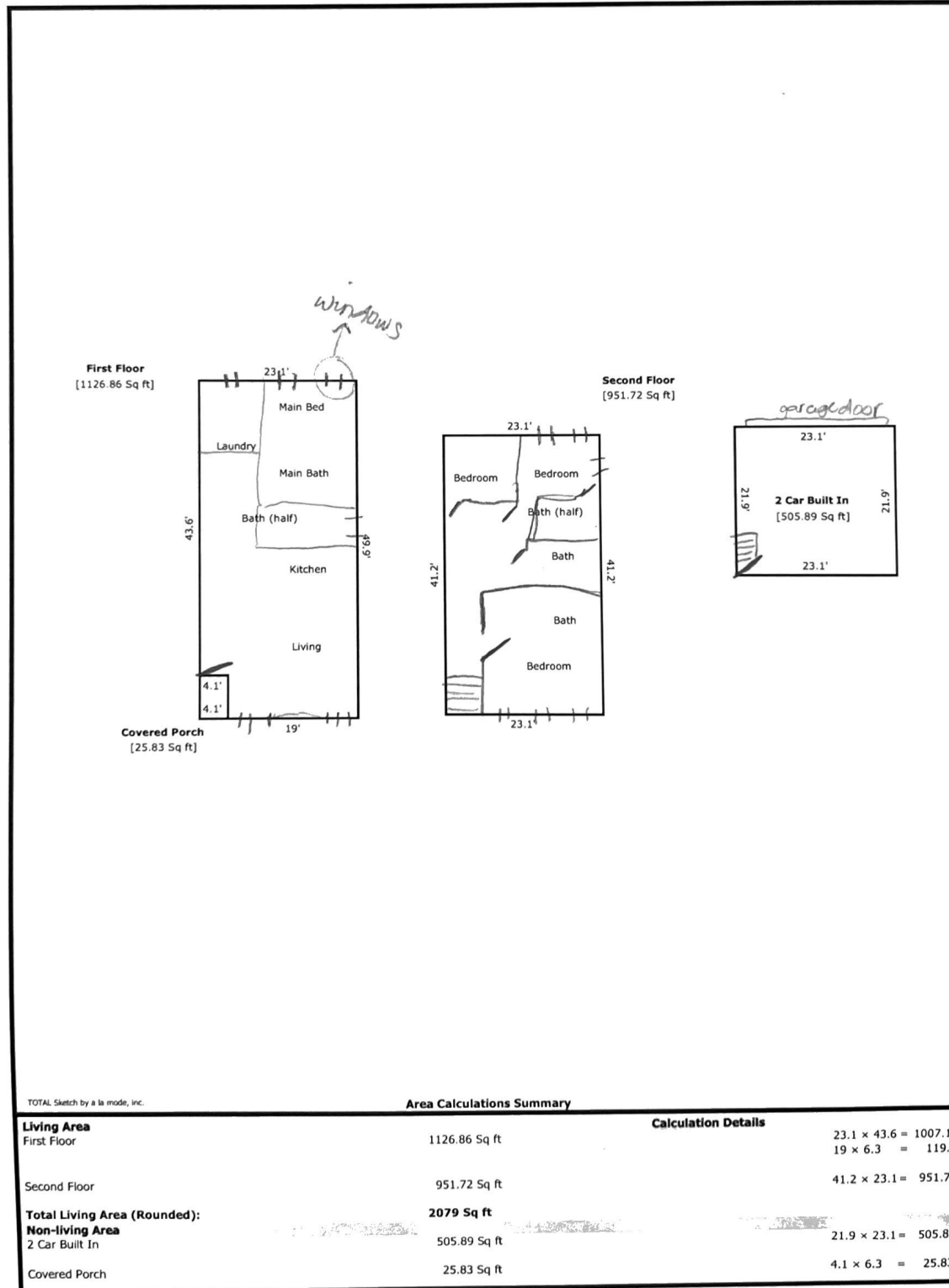
Tract 3 Site Plan

1 inch = 20 ft

Project Number: 13-159 Tract 3
Certificate of Authorization No 1534
Date: 03/26/2014

Building Sketch

Borrower	Buie, Courtney; Davis, Drew				
Property Address	1631 W Nettleship St				
City	Fayetteville	County	Washington	State	AR Zip Code 72701
Lender/Client	Cornerstone Home Lending, Inc.				



Subject Photo Page

Borrower	Buie, Courtney;Davis, Drew					
Property Address	1631 W Nettleship St					
City	Fayetteville	County	Washington	State	AR	Zip Code 72701
Lender/Client	Cornerstone Home Lending, Inc.					



Subject Front

1631 W Nettleship St
 Sales Price 585,000
 Gross Living Area 2,079
 Total Rooms 7
 Total Bedrooms 4
 Total Bathrooms 3.2
 Location N;Res;
 View N;Res;
 Site 4792 sf
 Quality Q3
 Age 7



Subject Rear



Subject Street

Subject Photograph Addendum

Borrower	Buie, Courtney; Davis, Drew					
Property Address	1631 W Nettleship St					
City	Fayetteville	County	Washington	State	AR	Zip Code 72701
Lender/Client	Cornerstone Home Lending, Inc.					



Living Room



Kitchen



Main Bedroom



Main Bathroom



Bathroom



Bathroom

Subject Photograph Addendum

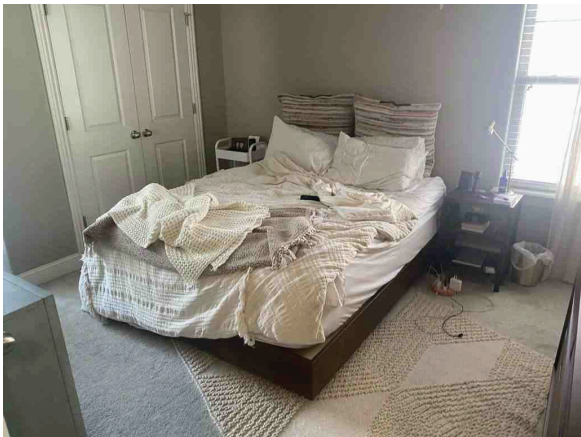
Borrower	Buie, Courtney; Davis, Drew					
Property Address	1631 W Nettleship St					
City	Fayetteville	County	Washington	State	AR	Zip Code 72701
Lender/Client	Cornerstone Home Lending, Inc.					



Half Bath



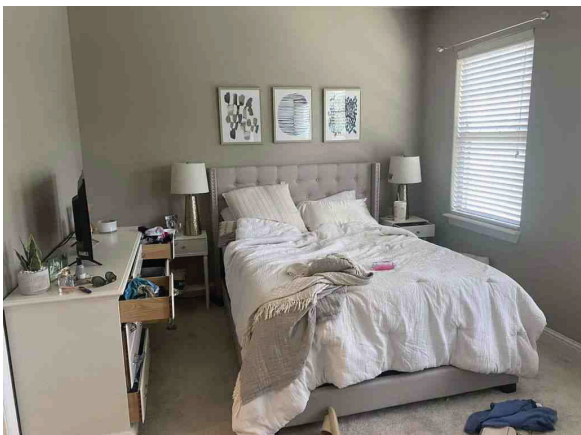
Half Bath



Bedroom



Bedroom



Bedroom



Laundry

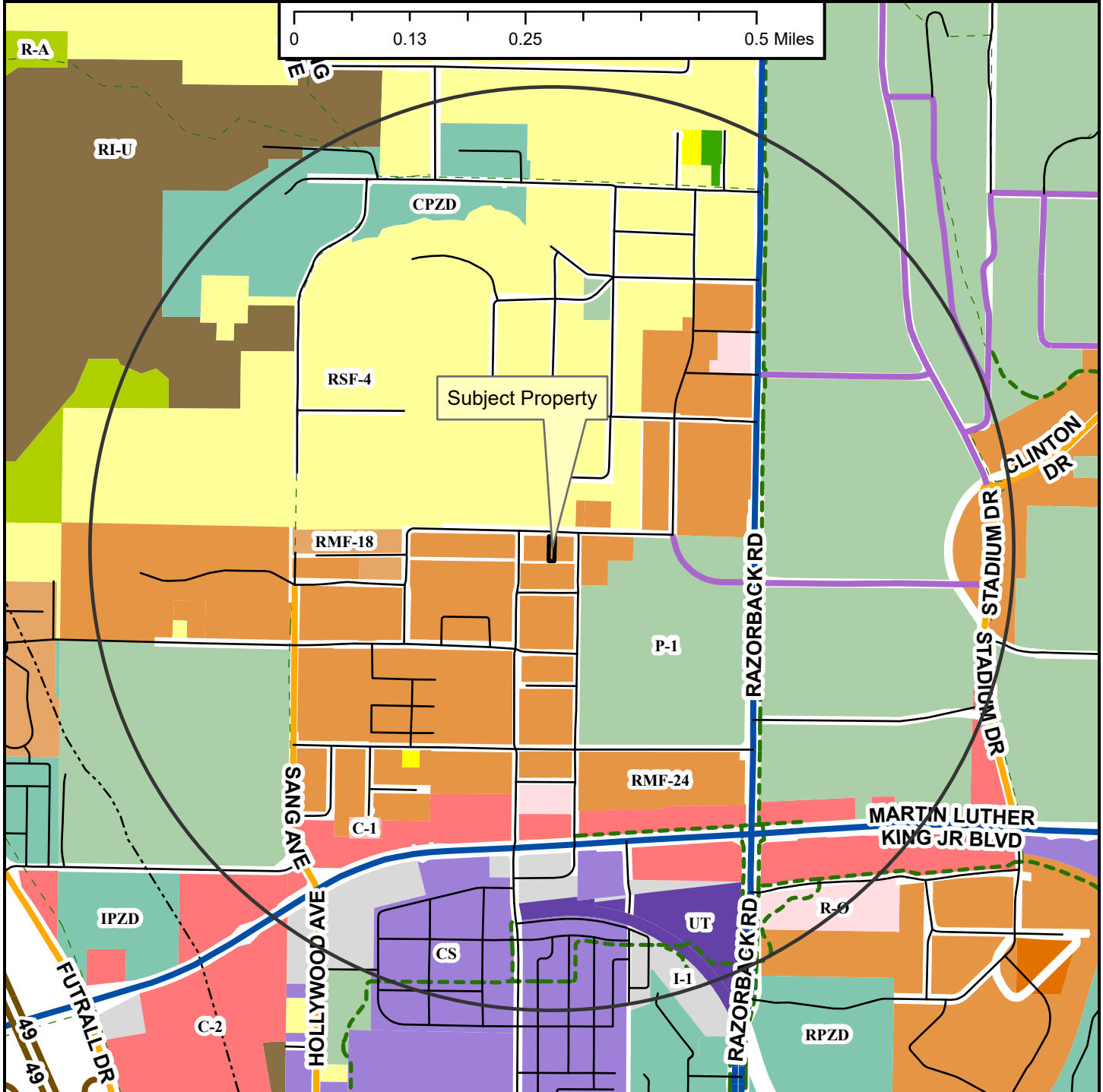
CUP-2022-0119

1631 W. NETTLESHIP ST

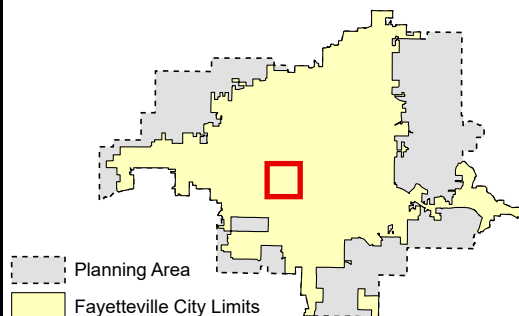
One Mile View



0 0.13 0.25 0.5 Miles



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

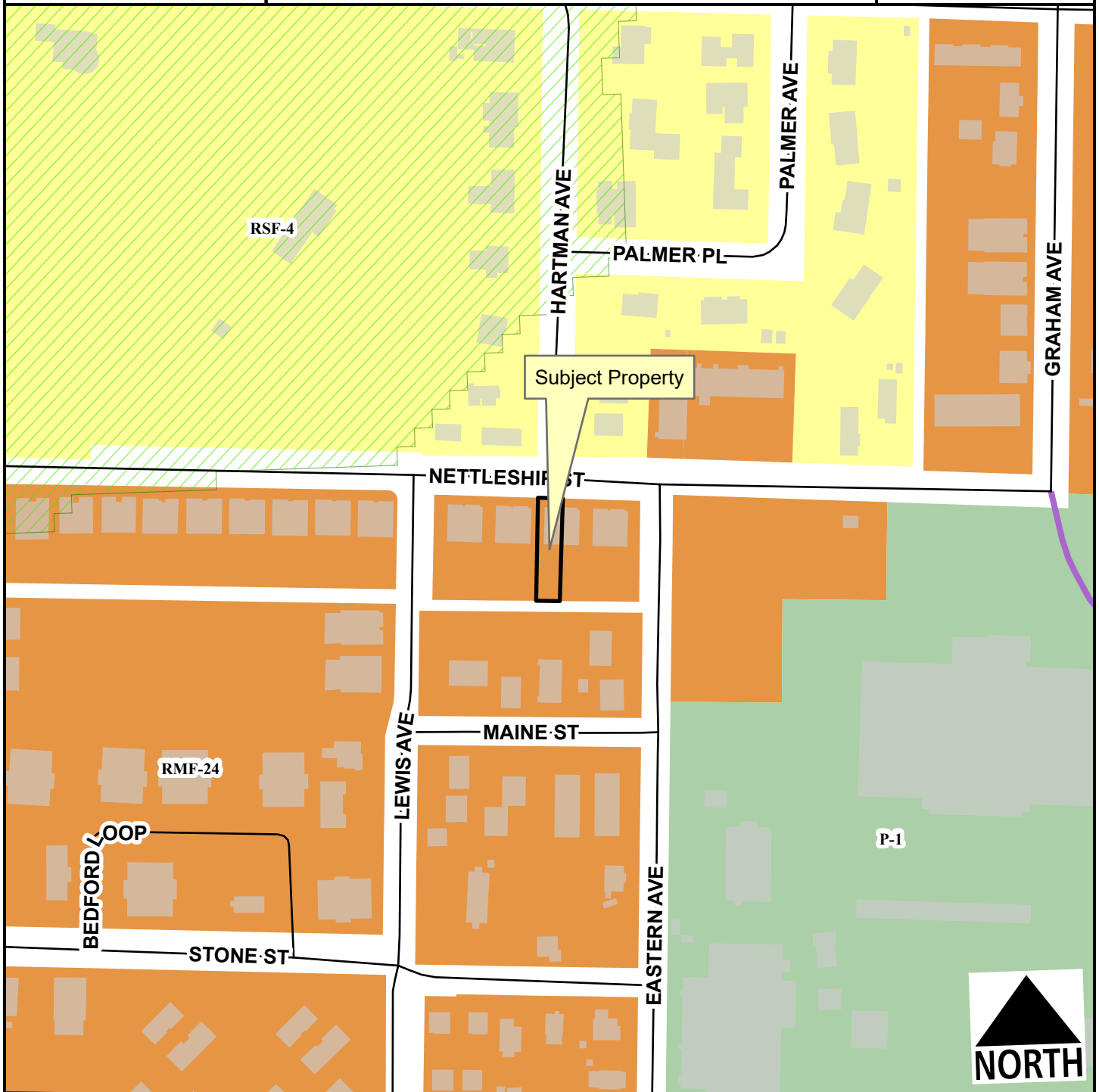


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial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

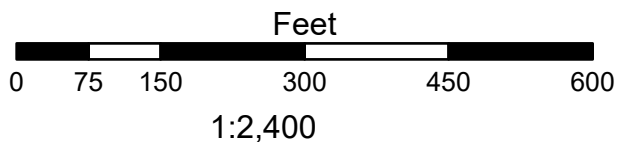
Planning Commission
January 9, 2023

CUP-2022-0119 (BUIE)

Page 19 of 256



- Institutional Master Plan
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



- RSF-4
- RMF-24
- P-1

CUP-2022-0119

1631 W. NETTLESHIP ST

Current Land Use



- Institutional Master Plan
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0124: Conditional Use Permit (1578 N. GARLAND AVE/KENNEDY, 405):** Submitted by JEREMY KENNEDY for property located at 1578 N. GARLAND AVE. The property is zoned RMF-24, TWENTY FOUR UNITS PER ACRE and contains approximately 0.12 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0124**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0124** with conditions, determining:*

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

BACKGROUND:

The subject property is located at the southeast corner of N. Garland Avenue and W. Hickory Lane. The property is zoned RMF-24, Residential Multi-Family, 24 Units per Acre, and totals approximately 0.12 acres. The property is developed with a single-family dwelling that County records indicate was built in 1951. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Undeveloped	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Duplexes	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Single-family Residential	RSF-4, Residential Single-Family, 4 Unit per Acre

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

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 2% citywide cap, 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-2022-0124**, 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.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 9, 2023</u>		☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RMF-24 zoning district.**

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

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

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RMF-24 zoning. Use Unit 46 is a permitted use by-right in the RMF-24 zoning district.

(2) *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 300 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by-right in the RMF-24 zoning district, so this short-term rental would contribute to the cap.

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

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. The applicant has indicated that the structure has 4 bedrooms, so occupancy would be limited to 10 guests.

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

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family dwellings are permitted to have up to four vehicles parked outside. Based on the applicant's submission, 4 vehicles can be parked in a stacked formation on the east side of the house.

(5) 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.

(6) 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 1578 N. Garland Avenue. 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.

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

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

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

Finding: The property has driveway access through a shared driveway along the southern property line. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 10 guests, which would not be out of character with 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: There are four available parking spaces along the property's eastern side that would not block entry with the shared drive, and meets ordinance for the maximum number of vehicles to be parked outside. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be compatible with the surrounding properties. The property appears to have ample parking to accommodate overnight guests and is rear-loaded as to not intrude into the pedestrian streetscape, trash receptacles will be stored out of sight, and the limitations set by the short-term rental ordinance will likely prevent this property from becoming a nuisance to neighbors under this use.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §118.01 Applicability
 - §163.18 Short-Term Rentals
 - §161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre
- Applicant Request Letter
- Site Plan
- Floor Plans
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

(A) *General Businesses.*

- (1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.
- (2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.
- (3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

(B) *Religious Entities.* Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The city business license shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

(C) *Minors Exempt.* No individual under eighteen (18) years of age shall be required to register or obtain a business license. Minors are prohibited from leasing, advertising, managing or any other activity involved in STRs unless they are an emancipated minor.

(D) *Individual Landlords Renting Less Than Three (3) Dwelling Units Exempt.* An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three (3) dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter. However, a landlord that operates a short-term residential rental shall not be exempt and must apply for and obtain a business license for each individual short-term rental.

(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 prior to the city issuing a business license, except as defined in §118.01(E)(4).
- (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) *Twelve (12) Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license for the operation of a short-term rental. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel,

- motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
- (b) Persons seeking to operate a Type 2 short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the 12-month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the 12-month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the City by that time.
- (5) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (6) Any change in ownership requires a new or amended business license.
 - (7) 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.
 - (8) *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.
 - (10) *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.
 - (12) *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.
 - (13) *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.
 - (14) *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.
 - (15) *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.

- (16) *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.
- (17) *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).
- (18) *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.
- (19) *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.
- (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and 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)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

163.18 Short-Term Rentals

(A) General Standards.

- (1) *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.
- (2) *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.
- (3) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

- (4) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (5) 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.
- (6) 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.
- (7) *Twelve-Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
 - (b) Persons seeking to operate a Type 2 Short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the twelve (12) month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the twelve (12) month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the city by that time.
- (8) *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.
- (9) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(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)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

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-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-family	35 feet
Three 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) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit.*

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

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

(F) *Building Height Regulations.*

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

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

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

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

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

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

November 28, 2022

City of Fayetteville
Planning Commission
113 West Mountain Street
Fayetteville, AR 72701

Re: Conditional Use Permit for Short Term Rental Type 2

1578 N Garland Ave

GIS Approved
tjorgensen 12/05/2022 4:57:53

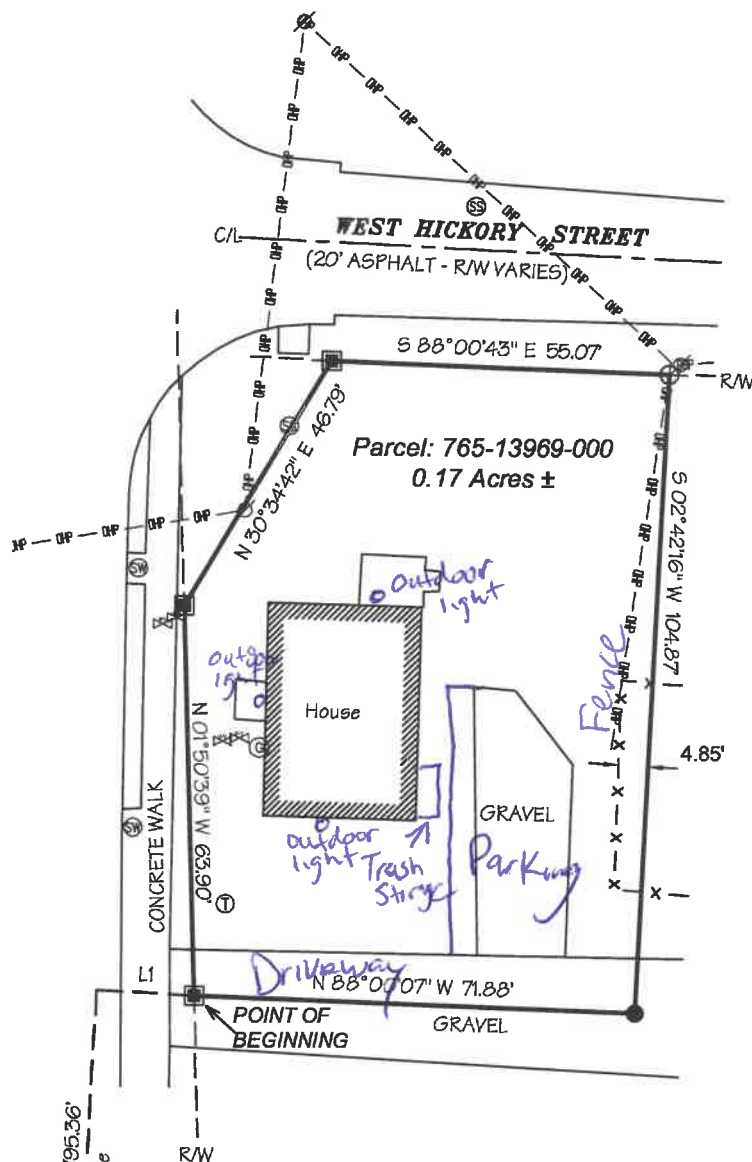
Dear Commissioners:

I am writing to request a conditional use permit to allow for Short Term Rental – Type 2 at the above property. The following information will detail the information for the Conditional Use Request:

- (a) Building size in square feet; existing and proposed
The house is approximately 1400 SF. No additional square footage is proposed.
- (b) Color elevations of all exterior sides of the structure
Please see attached color photographs
- (c) Number of off-street parking spaces to be provided / number required
4 in a stacked configuration
- (d) When request applies to a business or non-residential use: -Hours of operation -
Number of employees -Anticipated number of patrons, clients, children, customers, etc.
(average per day / peak hour)
Expectation is that the 4 bedroom house will accommodate up to 8 guests.
- (e) Outdoor lighting
Existing residential style lighting over front and side entries
- (f) Noise
No parties or large gatherings will be allowed. Noise levels will be consistent with that of a typical residential use.
- (g) Screening or buffering from adjacent properties
There is fencing located to the east that will screen parking area from the neighboring yard. There is a vacant lot to south that provides buffering to the neighboring properties in that direction.
- (h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)
Trash is currently serviced with residential cart and recycling bin(s). The cart and bins are stored to the rear of the property.
- (i) Ingress and egress to the property; traffic impacts
Traffic enters and exits the property from the private drive off of Garland Avenue.
- (j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood
Short term rental in this area should blend well as the use will continue to be residential in nature while offering flexibility of potential renters to stay for a single night or longer & experience living in Fayetteville.

Thank you for your time in reviewing my request. Please contact me a (479) 841-4088 if you have any questions.

Sincerely,
Jeremy Kennedy
Marquardt Speck House, LLC



LINE	BEARING	DISTANCE
L1	N 87° 21' 39" W	16.06'



1 INCH = 30 FEET

PART OF THE
NORTHWEST
NORTH, RANC
ARKANSAS, BI
FOLLOWS, TO
CORNER OF S
THENCE S87°0
THENCE S87°2
MONUMENT,
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FIRM:

BLEW &
CIVIL ENGINEER

524 W. S
FAYETTE
OF
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Certificate

DRAWN BY & DATE:

J.C.H. 11/

COUNTY & STATE:

WASHINGTON COUN

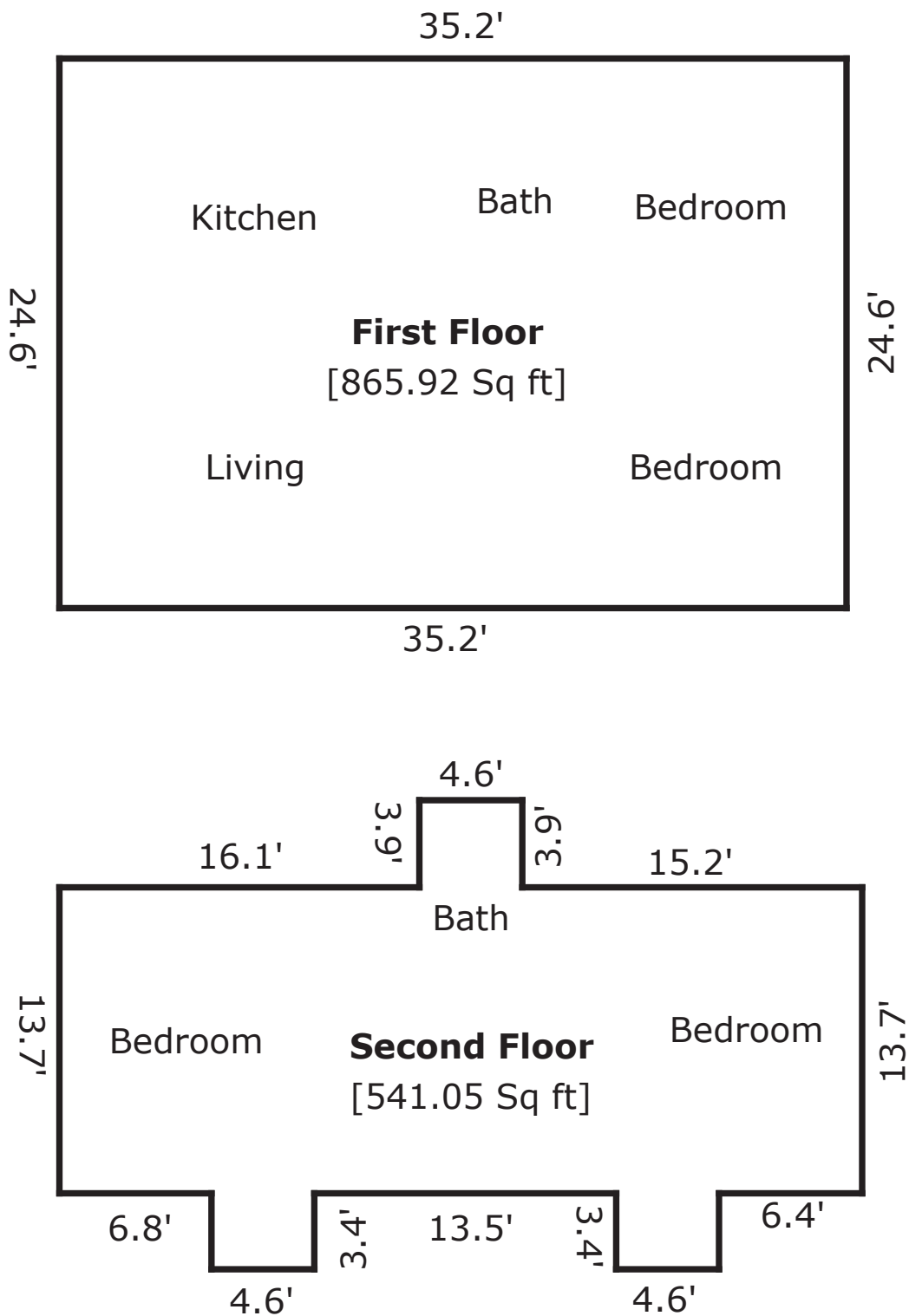
LOCATION:

SW (

SEC

FOR THE USE AND BENEFIT

BC





East (Front)



South (Side)



West (Rear)



North (Side)

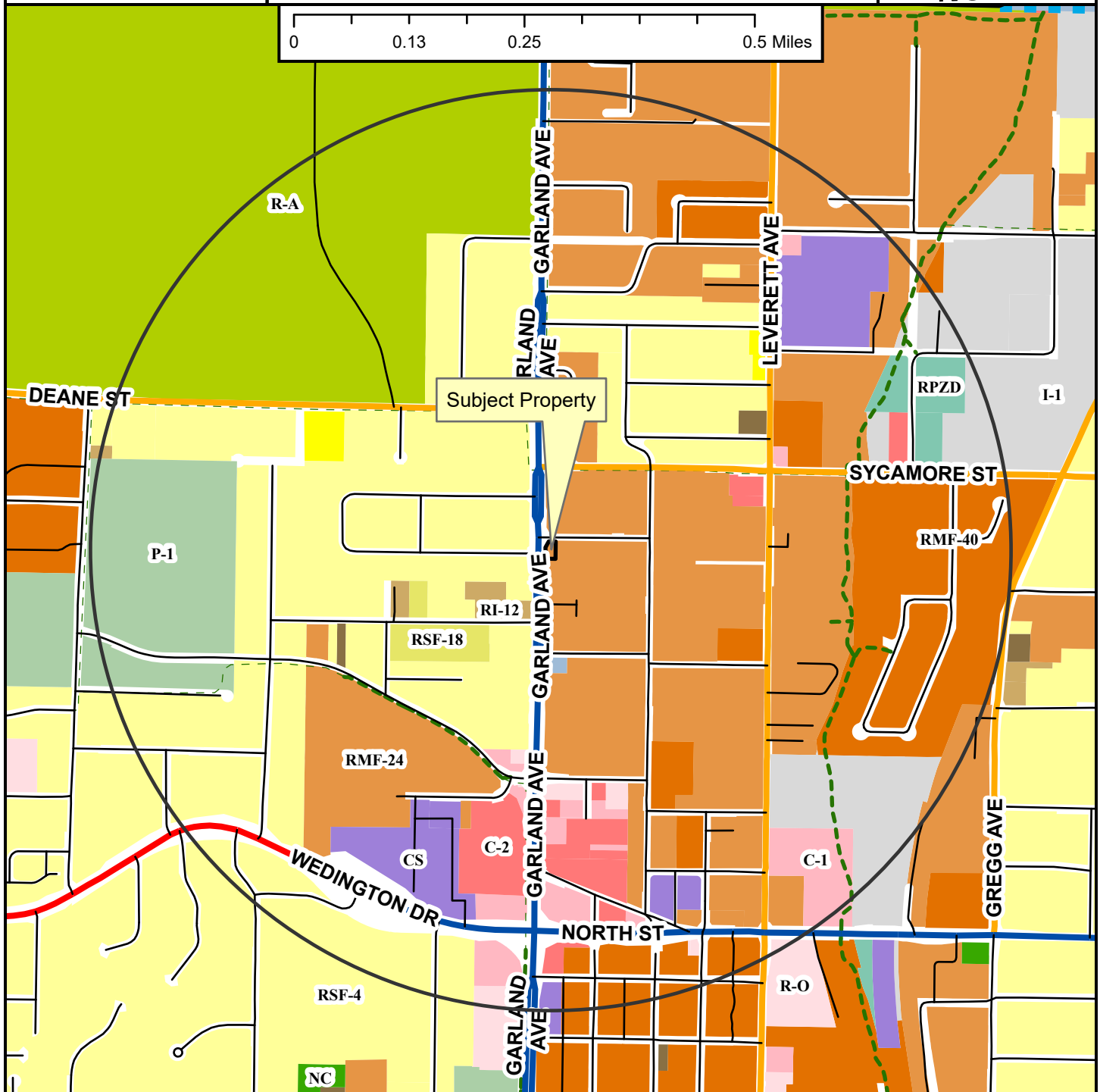
CUP-2022-0124

1578 N. GARLAND AVE

One Mile View



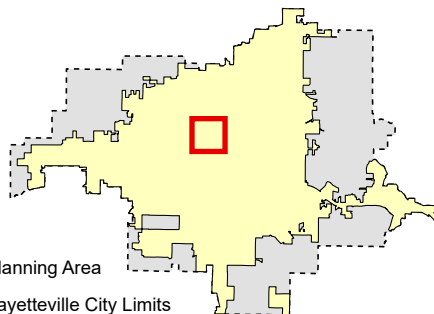
0 0.13 0.25 0.5 Miles



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

Planning Area

Fayetteville City Limits



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

Planning Commission

January 9, 2023

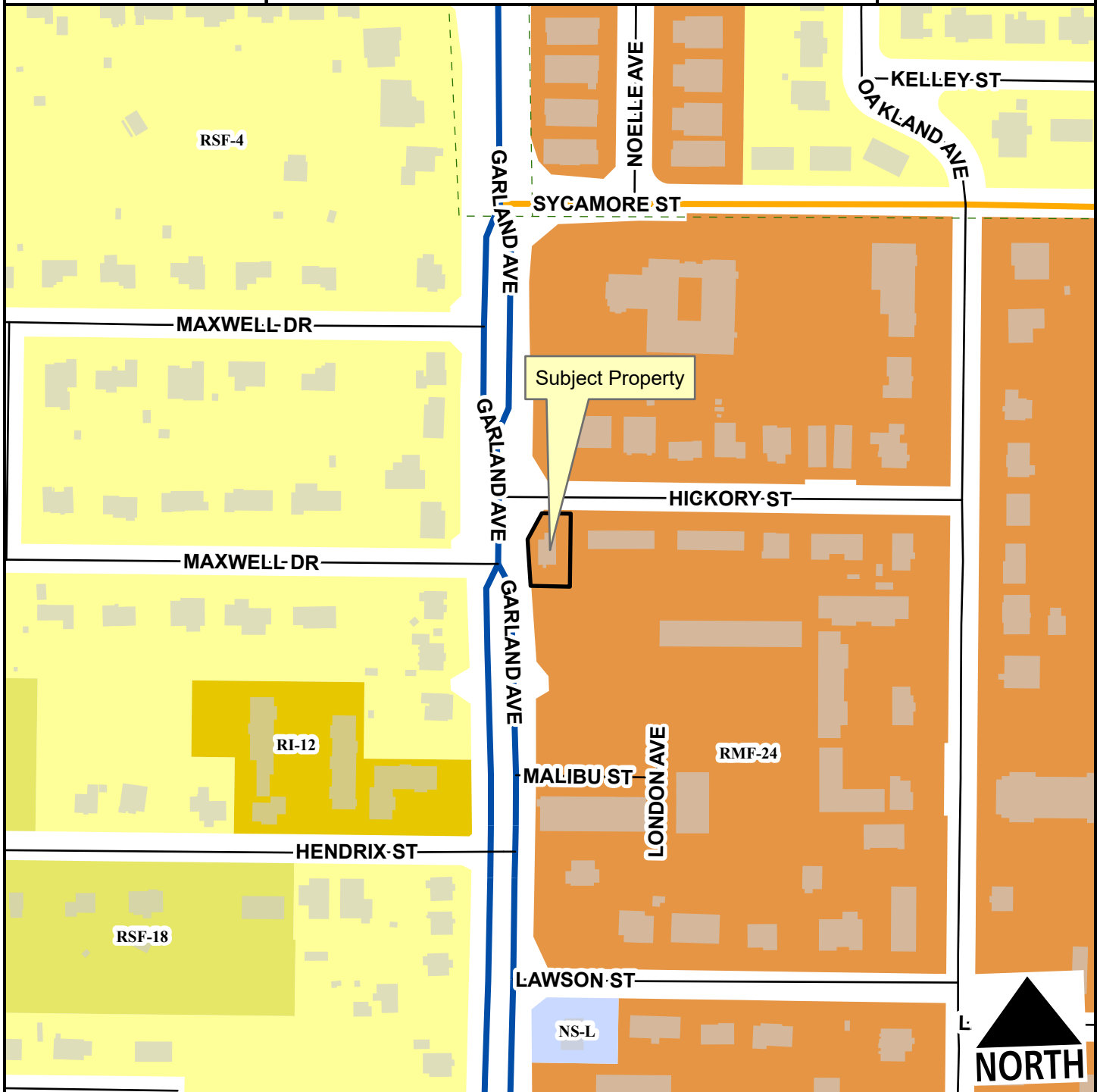
CUP-2022-0124 (KENNEDY)

Page 17 of 256

CUP-2022-0124

1578 N. GARLAND AVE

Close Up View



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

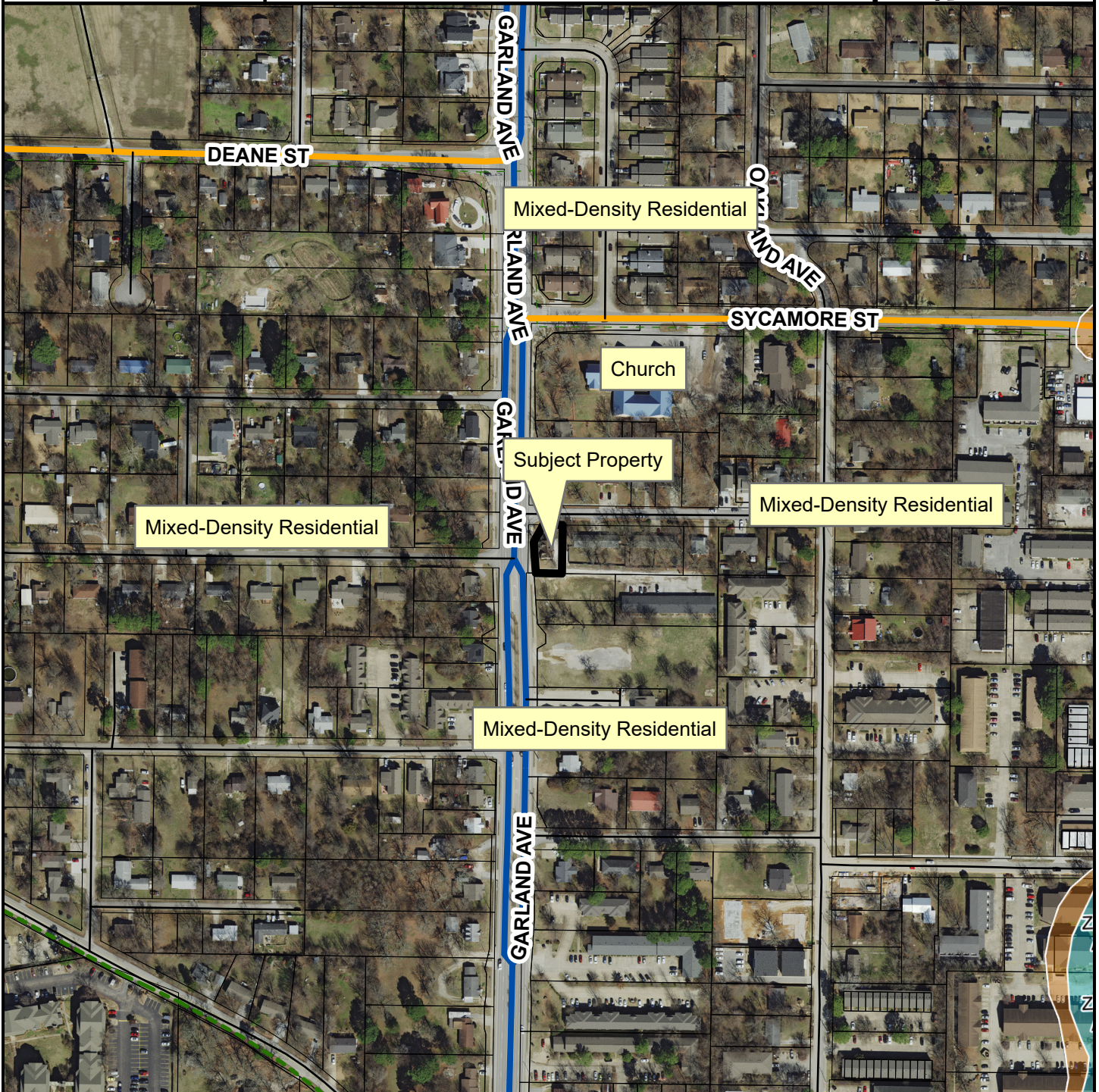


- RSF-4
- RSF-18
- RI-12
- RMF-24
- Neighborhood Services - Ltd.

CUP-2022-0124

1578 N. GARLAND AVE

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: January 9, 2023

SUBJECT: **CUP-2022-0125: Conditional Use Permit (376 S. HILL AVE/ONEILL, 522):** Submitted by BLUE VIOLIN LLC for property located at 376 S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY – FORTY UNITS PER ACRE, and contains approximately 0.44 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2022-0125**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2022-0125** with conditions, determining:*

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

BACKGROUND:

The subject property is located on S. Hill Avenue, just north of the Walmart Neighborhood Market, and is part of the Hill Avenue Townhomes development. The property is zoned RMF-40, Residential Multi-Family, 40 Units per Acre, and totals approximately 0.44 acres. The property is developed with a multi-family residential townhome development. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. Surrounding land use and zoning are depicted in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
South	Single-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
East	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
West	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre

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

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 2% citywide cap, 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-2022-0125**, 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.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>January 9, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

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

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

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

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

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

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

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

(c.) The Planning Commission shall certify:

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

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

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RMF-40 zoning. Use Unit 46 is a permitted use by-right in the RMF-40 zoning district.

(2) *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 2% of total dwelling units, as determined by United States Census Bureau data. Recently released 5-year American Community Survey data from 2021 lists total housing units in Fayetteville at 44,706, which puts the cap at 894 total Type 2 short-term rentals. To date, the City has issued 300 Type 2 short-term rental licenses that are subject to this cap. Hotel and motel uses are not permitted by-right in the RMF-40 zoning district, so this short-term rental would contribute to the cap. Further, because the structure is within a horizontal property regime, and each unit is individually owned, the short-term rental license would not contribute to the building cap for multi-family buildings.

(3) *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. Based on the applicant's submission, the townhome contains 2 bedrooms, so occupancy would be limited to 6 guests.

(4) *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 multi-family structures, parking is required to be provided at a rate of one vehicle space per bedroom. According to the documents provided by the applicant, there are two spaces available in a shared parking lot for this unit.

(5) 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.

(6) 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 376 S. Hill Avenue. 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.

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

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

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

Finding: The property has access from a driveway that was constructed with the associated multi-family development. 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 applicant has indicated that there are two spaces available to this unit in the shared parking lot. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

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

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

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

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

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

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

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

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

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

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

Finding: Staff finds the use to be compatible with the surrounding properties. The property appears to have ample parking to accommodate the anticipated number of guests and it does not interfere with the pedestrian streetscape. Also, the trash receptacles will be stored out of sight, and the limitations set by the short-term rental ordinance will likely prevent this property from becoming a nuisance to neighbors under this use.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §118.01 Applicability
 - §163.18 Short-Term Rentals
 - §161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre
- Applicant Request Letter
- Site Plan
- Floor Plans
- Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map

118.01 Applicability

(A) *General Businesses.*

- (1) All businesses, institutions, corporations, LLCs, LLPs, partnerships, non-profit associations or corporations, sole proprietorships or other non-governmental entities with a physical address or which operates either a legally permitted home occupation or a short-term rental within the Fayetteville city limits shall be required to file for the City of Fayetteville Business Registry and License. A covered business or entity with multiple physical addresses in Fayetteville must obtain a separate business license for each such business address.
- (2) In addition, any person or non-governmental entity who has or should have a sales tax permit and operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.
- (3) In addition, any person or non-governmental entity who is engaged in any trade or occupation which requires federal or state licenses and who operates out of a physical address within Fayetteville shall be required to file for the City of Fayetteville Business Registry and License.

(B) *Religious Entities.* Churches and other religious institutions are exempt from this chapter unless they are performing functions like daycare that must be licensed by the state or that generate revenue upon which state sales or use taxes must be paid. The city business license shall not be required for the religious entity but only for those functions that require a state license or upon which state sales or use taxes must be paid.

(C) *Minors Exempt.* No individual under eighteen (18) years of age shall be required to register or obtain a business license. Minors are prohibited from leasing, advertising, managing or any other activity involved in STRs unless they are an emancipated minor.

(D) *Individual Landlords Renting Less Than Three (3) Dwelling Units Exempt.* An individual landlord, not operating as a corporation, LLC, LLP, or other business entity, who rents out less than three (3) dwelling units, and no commercial, industrial, or institutional unit, site or building shall be exempt from this chapter. However, a landlord that operates a short-term residential rental shall not be exempt and must apply for and obtain a business license for each individual short-term rental.

(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 prior to the city issuing a business license, except as defined in §118.01(E)(4).
- (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) *Twelve (12) Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license for the operation of a short-term rental. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel,

- motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
- (b) Persons seeking to operate a Type 2 short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the 12-month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the 12-month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the City by that time.
- (5) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (6) Any change in ownership requires a new or amended business license.
 - (7) 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.
 - (8) *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.
 - (10) *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.
 - (12) *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.
 - (13) *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.
 - (14) *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.
 - (15) *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.

- (16) *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.
- (17) *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).
- (18) *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.
- (19) *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.
- (20) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and 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)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

163.18 Short-Term Rentals

- (A) *General Standards.*
- (1) *Residential Zoning Districts.* Short-term rentals may be permitted in all zoning districts where residential uses are allowed by right.
 - (2) *Commercial and Mixed Use Zoning Districts.* Short-term rentals may be permitted in all zoning districts where hotel/motel uses are permitted by right and shall not count towards the Type 2 short-term rental density cap in these districts except in multi-family buildings as specified in Chapter 118 of the Fayetteville City Code.
 - (3) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

- (4) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (5) 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.
- (6) 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.
- (7) *Twelve-Month Start-up Period.* After the enactment of the short-term rental ordinance, short-term rental operators shall have twelve (12) months to submit an application for a business license. After the twelve (12) month start-up period, all short-term rental units must have a business license to be considered in compliance.
 - (a) Persons seeking to operate a short-term rental within twelve (12) months of the enactment of this Code section shall be granted a conditional use permit for such short-term rental without having to pay a fee or have a hearing before the Planning Commission. The conditions for such permit shall be full compliance with all terms and requirements of Chapter 118, Business Registry and Licenses, this section, and all other requirements of the Fayetteville Code including timely and full payment of all hotel, motel, and restaurant taxes to the city. Revocation of the business license shall also revoke the conditional use permit granted by this subsection.
 - (b) Persons seeking to operate a Type 2 Short-term rental who have failed to apply for such conditional use permit and business license prior to the end of the twelve (12) month start-up period shall be required to follow normal procedures and apply to the Planning Commission to request a conditional use permit which will be issued or denied pursuant to the Planning Commission's decision pursuant to §163.18(2)(a).
 - (c) Type 1 and 2 short-term rentals seeking a business license or permit under the twelve (12) month start-up period which are currently operating in 2-, 3- and 4-unit buildings in which more than one (1) unit is being used as a short-term rental may obtain a business license for all currently operating short-term rentals.
 - (d) Applications submitted prior to the end of the twelve (12) month start-up period shall expire sixty (60) days after the start-up period has ended if the business license has not been issued by the city by that time.
- (8) *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.
- (9) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

(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)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

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-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
----------------	--------------------

(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 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) 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*
-------------------------	--------------------------------

* 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)

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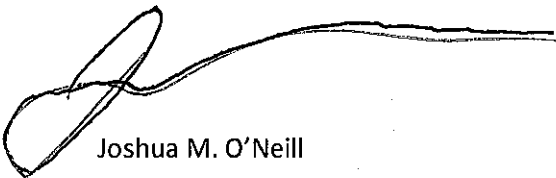
December 27, 2022

To Whom it may concern,

My business, Blue Violin LLC, is submitting documents to obtain a conditional use permit in order to obtain a business license from the city of Fayetteville, Arkansas. The business will be the short-term rental of a single townhouse recently purchased and located at 376 South Hill Avenue, Fayetteville (72701). The town house will be used as a short-term rental for at least the next few years; my wife and I do not plan to live at this location during that time. This unit is part of a property owners association and we pay monthly dues; it is also a horizontal property regime. I will be submitting, as requested, a legal description, site plan, floor plan and a copy of the county parcel map.

Please do not hesitate to contact me if there are any questions, concerns or documents that I have not addressed or provided.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua M. O'Neill', with a long horizontal flourish extending to the right.

Joshua M. O'Neill

Blue Violin LLC

joneill@littlerockpediatricclinic.com

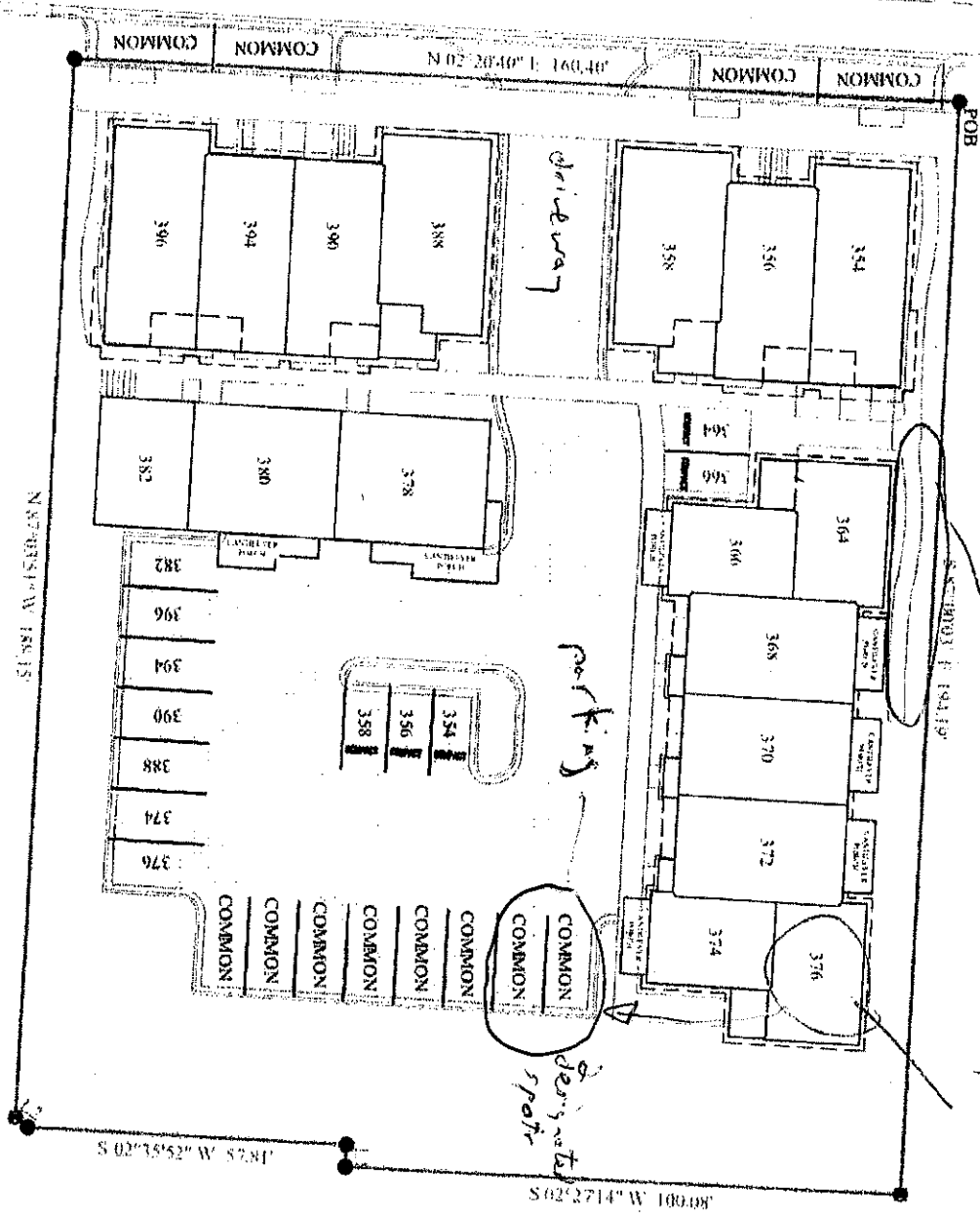
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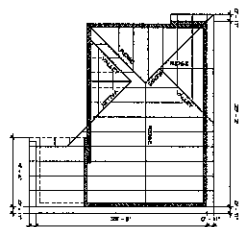
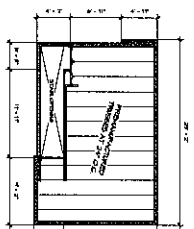
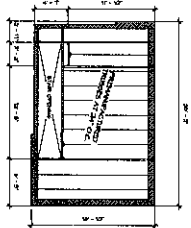
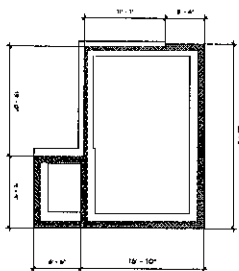
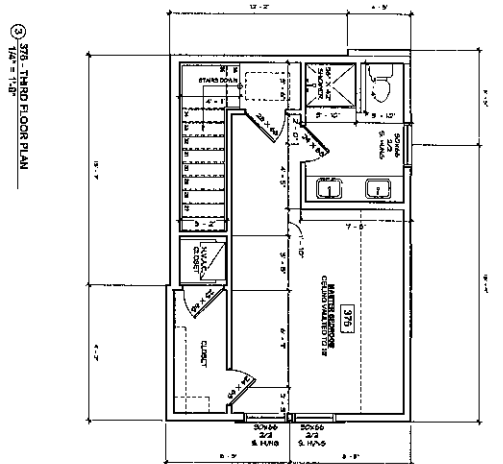
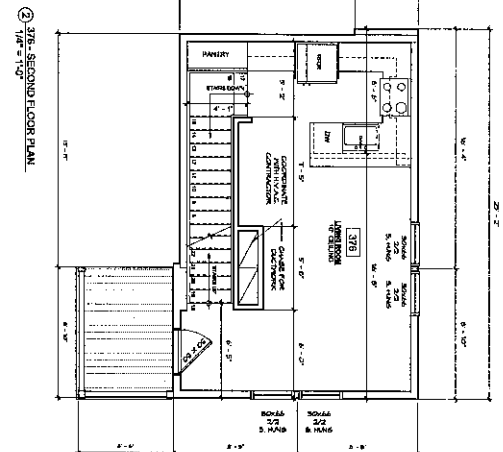
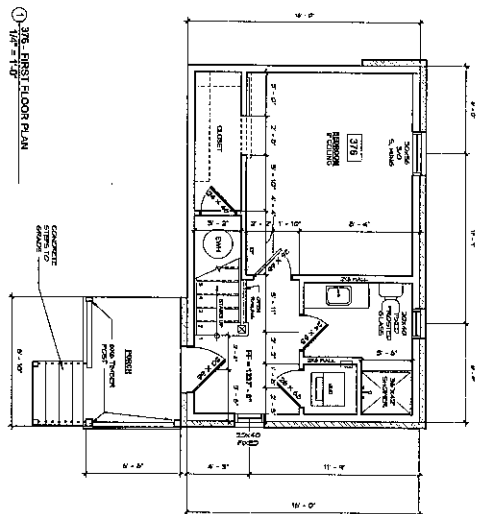
EXHIBIT C

Trailer (separate)

cur
four lane



DRAWING# 22-XXX	LEGEND: THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.		FOR USE AND REFERENCE		 Bates & Associates, Inc. Engineers • Surveyors 7220 S. Pleasant Ridge Dr • Fayetteville, Arkansas 72701 • 479.442.9150 • Fax 479.621.9950
			NAME		
			ADDRESS		
			CITY OF XXXXXXXX XXXXXXX COUNTY, ARKANSAS		
			DATE: XX/XX/XX 1"=50'		
LOCATION: SEC.XX E-XX-N, R-XX-W		SURVEYED: XX	DRAFTED: XX	THIS IS A PRELIMINARY DRAWING. IT IS NOT TO BE USED FOR CONSTRUCTION OR RECORD. IT IS THE PROPERTY OF BATES & ASSOCIATES, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF BATES & ASSOCIATES, INC.	
		REVIEWED: DT			
		COA #1335			



1. AS CALLED QUESTIONS, AND AS RECOMMEND TO ANALYST MEMBERS OF THE BOARD.
2. TOOK UP AND LAYED ON DOOR SEVERAL TIMES BEING TO A DOOR OF THE HOUSE AND THE HOUSE WAS OPENED BY A MEMBER OF THE BOARD AND THE HOUSE WAS OPENED.
3. ANALYST DISTRIBUTION AND RECOMMENDATIONS AS PROVIDED BY OTHER MEMBERS OF THE BOARD AND RECOMMENDATIONS AS PROVIDED BY OTHER MEMBERS OF THE BOARD AND RECOMMENDATIONS AS PROVIDED BY OTHER MEMBERS OF THE BOARD.
4. TOOK UP AND LAYED ON DOOR SEVERAL TIMES BEING TO A DOOR OF THE HOUSE AND THE HOUSE WAS OPENED BY A MEMBER OF THE BOARD AND THE HOUSE WAS OPENED.
5. ANALYST DISTRIBUTION AND RECOMMENDATIONS AS PROVIDED BY OTHER MEMBERS OF THE BOARD AND RECOMMENDATIONS AS PROVIDED BY OTHER MEMBERS OF THE BOARD AND RECOMMENDATIONS AS PROVIDED BY OTHER MEMBERS OF THE BOARD.

- [illegible]

13. IMPURE SALT, CONTAINS A MIXTURE OF NaCl AND NaNO_3 .
14. PRODUCT COMPLETELY CANNOT BE RECOVERED BY EXTRACTION.
15. MOST OF THE SALT REMAINS IN THE AQUEOUS PHASE, INSTEAD OF BEING EXTRACTED BY THE ORGANIC SOLVENT.
16. REACTION OF NaCl WITH H_2SO_4 TO FORM HCl AND NaHSO_4 REQUIRES DIFFERENTIAL HEATING, WHICH IS NOT THE CASE WITH NaNO_3 AND H_2SO_4 .
17. NaNO_3 CONTAINS NO H^+ IONS, THEREFORE, THERE IS NO H^+ AVAILABLE TO REACT WITH H_2SO_4 TO FORM HNO_3 AND HSO_4^- .
18. ALL NaNO_3 IS SALT, EXCEPT FOR THE HNO_3 EXTRACTED, WHICH REMAINS IN THE AQUEOUS PHASE. NaCl IS COMPLETELY EXTRACTED, AND DOES NOT REMAIN IN THE AQUEOUS PHASE. NaNO_3 IS NOT A SALT, BUT A SALT-ACID MIXTURE.

22. CARRIER SHALL DEMONSTRATE THAT THE VEHICLE AND EQUIPMENT ARE NOT BEING USED IN CONNECTION WITH THE STREET LIGHTS OR CONNECTED TO THE STREET LIGHTS.
23. THE STREET LIGHTS SHALL BE USED ONLY FOR THE PURPOSES OF ILLUMINATING THE STREET AND NOT FOR ANY OTHER PURPOSE.
24. THE STREET LIGHTS SHALL BE USED ONLY FOR THE PURPOSES OF ILLUMINATING THE STREET AND NOT FOR ANY OTHER PURPOSE.
25. THE STREET LIGHTS SHALL BE USED ONLY FOR THE PURPOSES OF ILLUMINATING THE STREET AND NOT FOR ANY OTHER PURPOSE.

1. REINFORCEMENT
REFER TO SFT PLAN FOR FINISH FLOOR ELEVATION OF
HOUSE & GARAGE.
2. PROVIDE FOUNDATION SYSTEM AS PER GEOTECHNICAL
DESIGNER'S RECOMMENDATION

1. PROVIDE CHAIRS FOR EACH READER WITHIN THE READING AREA.
2. INSTALL FIVE ROWS OF COTTON JOINTS TO CUSHION READING AS NOTED ON THE FLOOR PLAN.
3. 1" X 1" FLOOR DECORING.
4. FLOOR THERIES AT 24" O.C.
5. BALCONY FLOOR JOISTS AT 16" O.C.

- NOTE**
- * USE TOP CHORD BEARING WHEN THROSSER CONTACT PARTY WALL.

- BEFORE READING PLAN NOTED:
1. PHOTOGRAPH CEILING, LIGHTS AND NECESSARY TO ORIENTATE
CLIMBER HEIGHTS NOTED ON FLOOR PLAN.
 2. 1/2" PLUMBOOD MOORE DECKING.
 3. REFLECT TO PAINT SUPPORT, AN "A" PATTERN DETAILS FROM
OVERLAP, PLASTER CEILING & BILBOARDS.

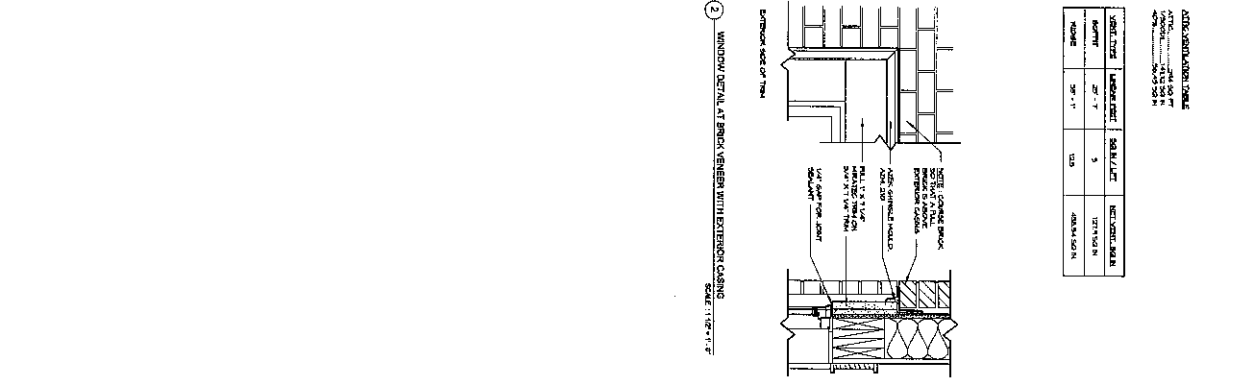
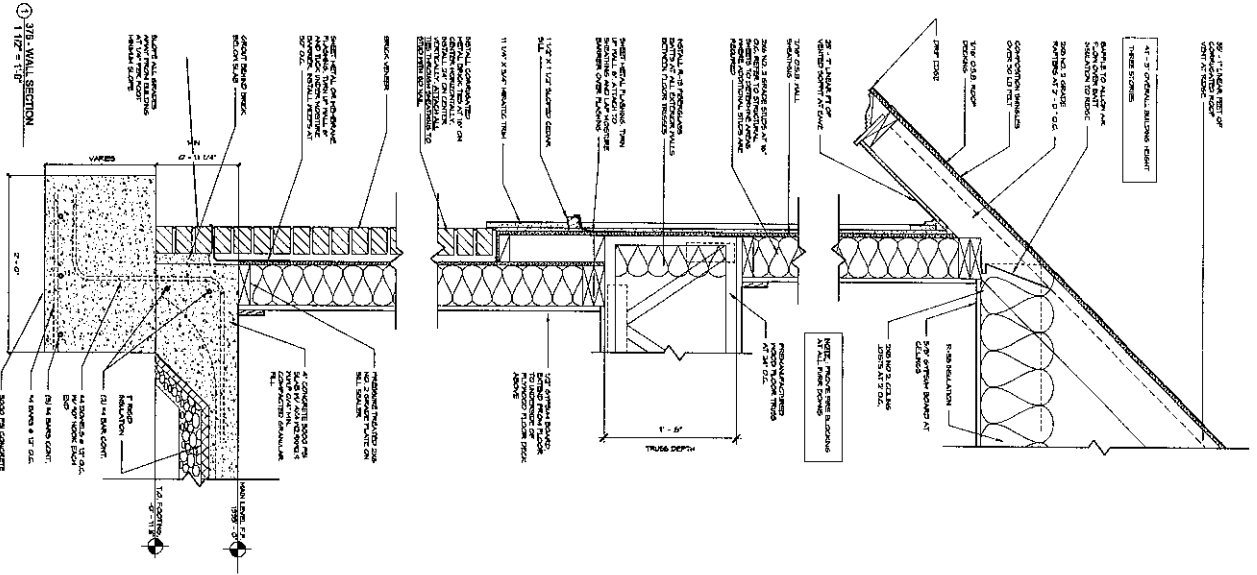
- FOR SITE PLAN, DRAINAGE PLAN, AND GRADING PLAN, RETAINED & ASSOCIATES INC DRAWINGS DATED SEPTEMBER 10, 2020

Project Number	
JG SLP 2020	
#LXOR PLANS	
A1.1	

HILL
376 S HILL AVENUE
FAYETTEVILLE

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COURTYARD BUILDING & BLOCK LLC		
100 W. CENTER ST		STE 300
FAYETTEVILLE	AR	72701
PHONE: 479-643-0279		E-MAIL: info@theporch.net



ARCH. SYMBOLS

SYMBOL	DESCRIPTION
(Symbol)	2\"/>

HILL AVENUE TOWNHOUSES

376 S HILL AVENUE
FAYETTEVILLE

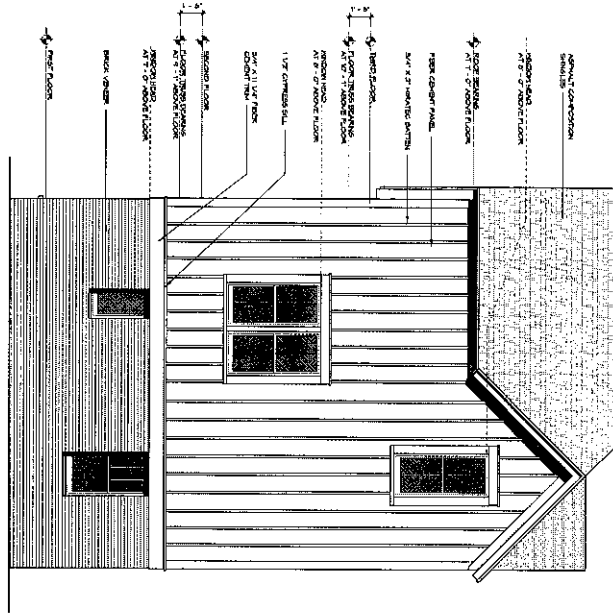
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COURTYARD BUILDING & BLOCK LLC

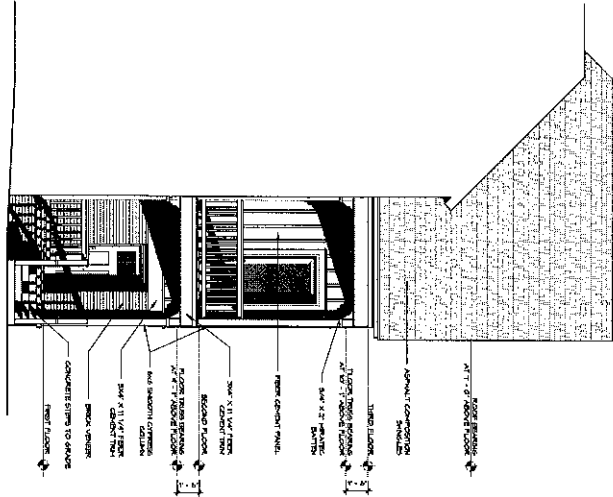
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FAYETTEVILLE AR 72701

PHONE: (501) 482-1234 FAX: (501) 482-1235

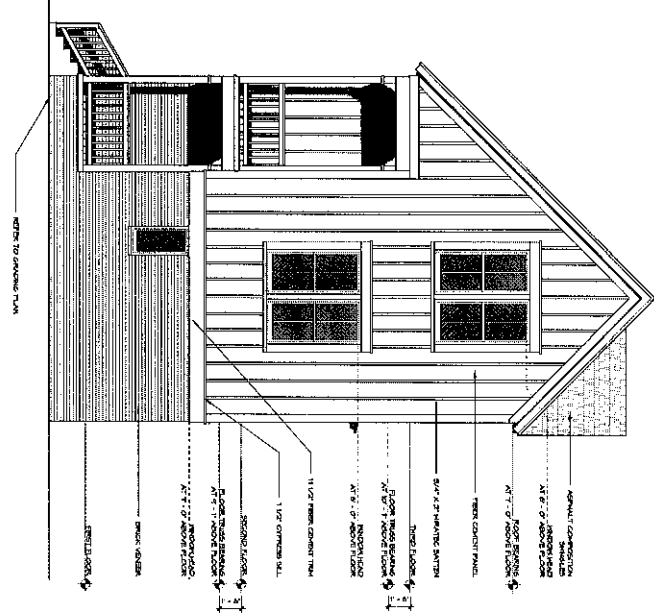
② 318-NORTH ELEVATION
1/4" = 1'-0"



③ 318-SOUTH ELEVATION
1/4" = 1'-0"



① 318-EAST ELEVATION
1/4" = 1'-0"



Project Number	318-01
Drawings	2/2/20
Scale	1/4" = 1'-0"
Sheet	A2.1

HILL AVENUE TOWNHOUSES	
376 SHILL AVENUE	AR
FAYETTEVILLE	

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COURTYARD BUILDING & BLOCK LLC	
100 W. CENTER ST	SITE 900
FAYETTEVILLE	AR 72751

Parcel photo



© All EagleView Technology Corporation



1 inch = 62 feet

Created By actDataScout on 11/21/2022 1:23:24 PM

via DataScout OneMap

This map should be used for reference purposes only and should not be considered a legal document. While every effort has been made to ensure the accuracy of this product, the publisher accepts no responsibility for any errors or omissions nor for any loss or damage alleged to be suffered by anyone as a result of the publication of this map and the notations on it, or as a result of the use or misuse of the information provided herein.

Planning Commission

January 9, 2023

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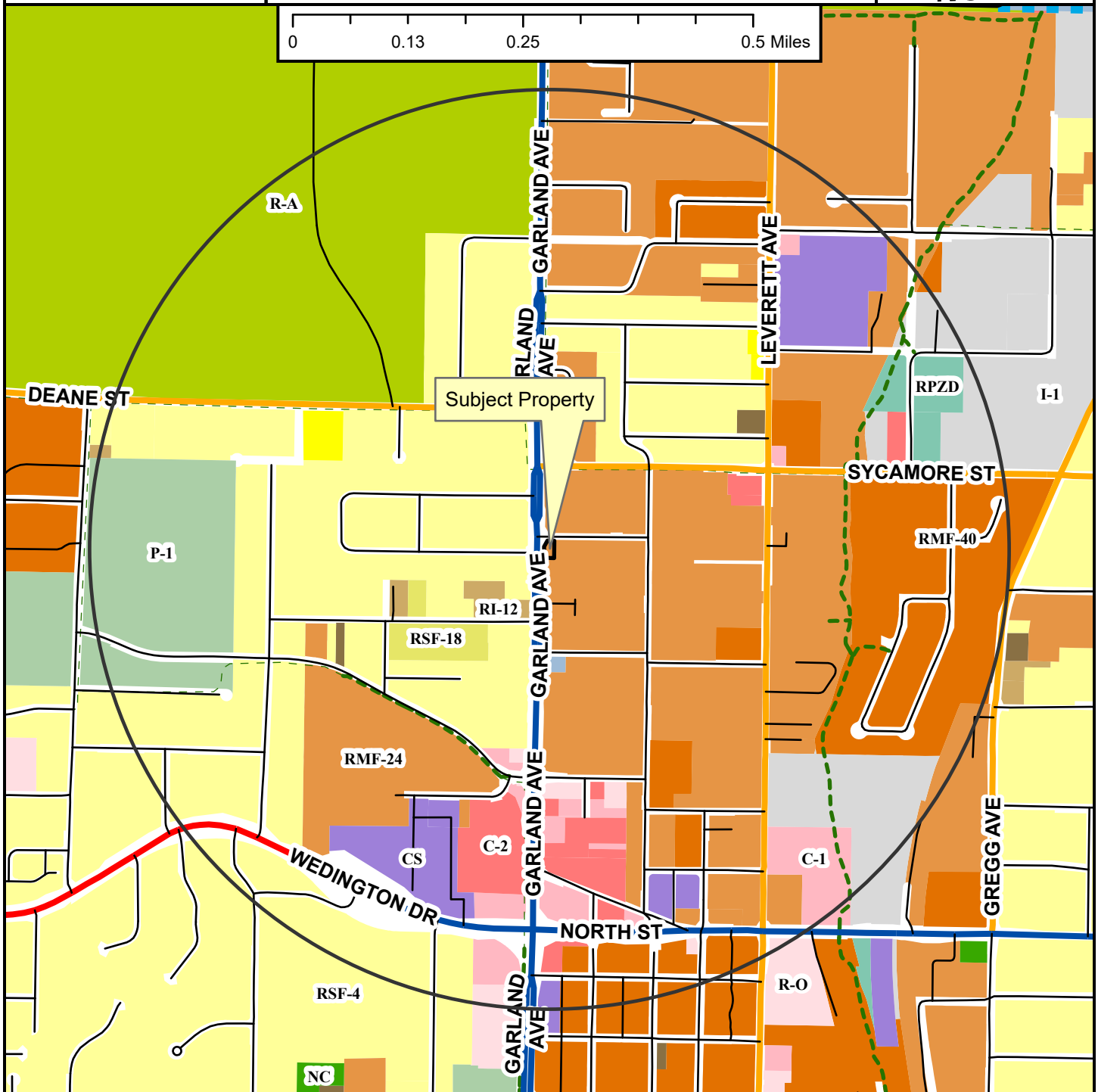
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1578 N. GARLAND AVE

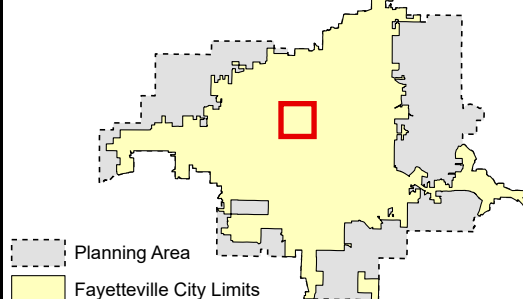
One Mile View



0 0.13 0.25 0.5 Miles



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



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

Planning Commission

January 9, 2023

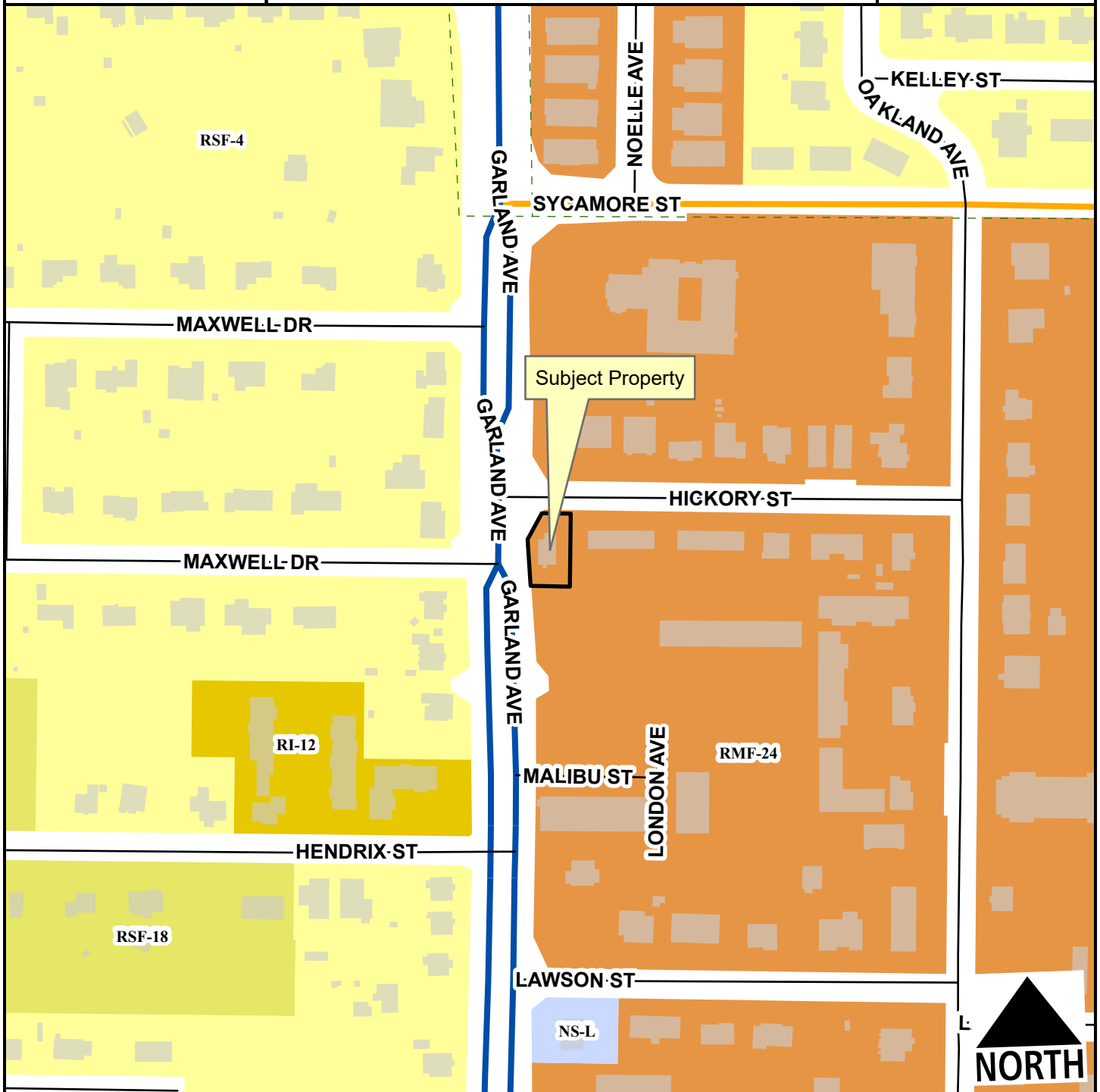
CUP-2022-0125 (O'NEILL)

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CUP-2022-0124

1578 N. GARLAND AVE

Close Up View



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

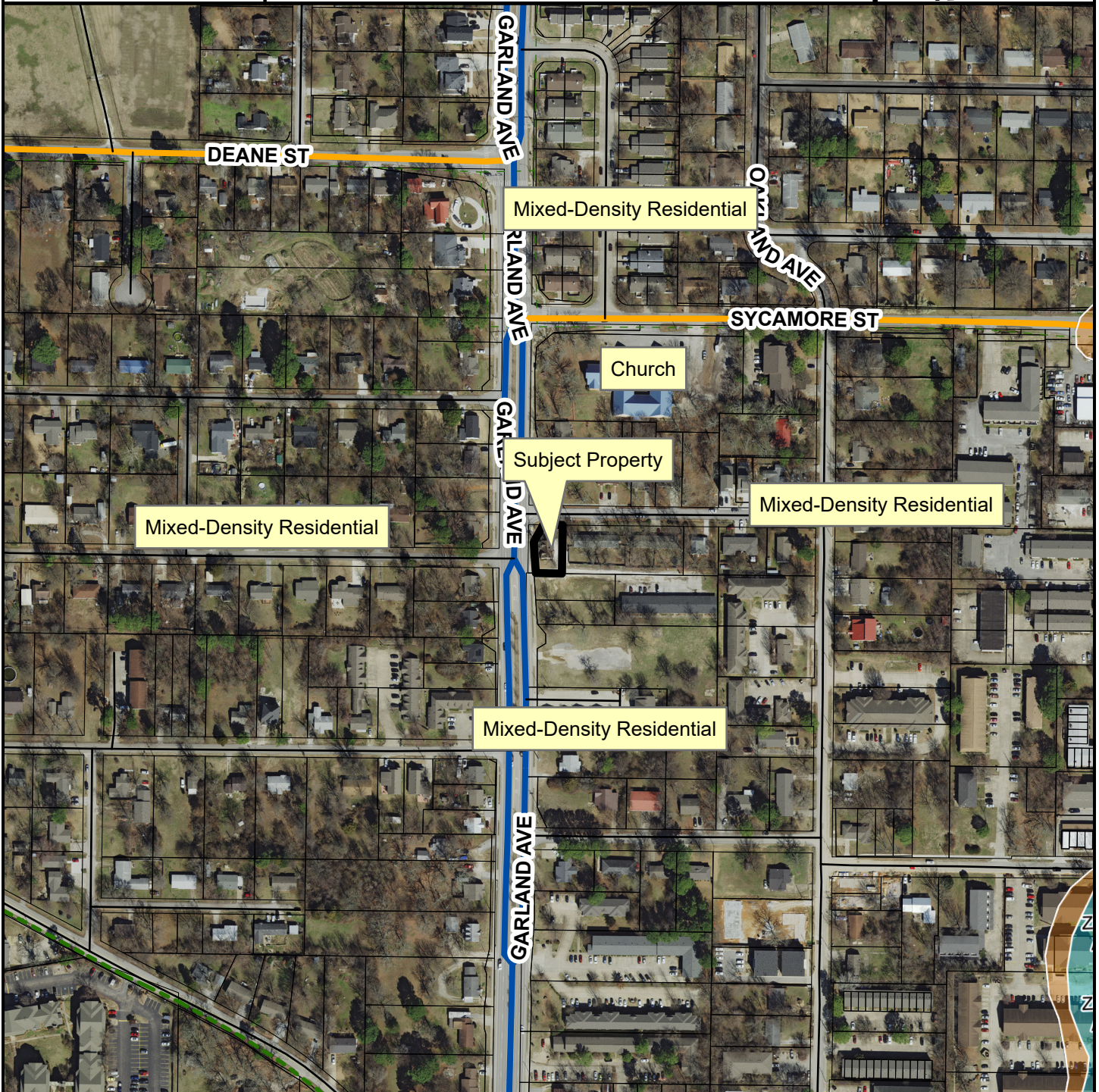


- RSF-4
- RSF-18
- RI-12
- RMF-24
- Neighborhood Services - Ltd.

CUP-2022-0124

1578 N. GARLAND AVE

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway