

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8323



City Council Tentative Agenda

Tuesday, May 14, 2024

4:30 PM

City Hall Room 219

City Council Members

Council Member Robert B. Stafford Ward 1

Council Member D'Andre Jones Ward 1

Council Member Sarah Moore Ward 2

Council Member Mike Wiederkehr Ward 2

Council Member Scott Berna Ward 3

Council Member Sarah Bunch Ward 3

Council Member Teresa Turk Ward 4

Council Member Holly Hertzberg Ward 4

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Treasurer Kara Paxton

MEETING INFORMATION:

1. **WEBINAR ID: 864 6276 4193**
PUBLIC REGISTRATION LINK: [HTTPS://US06WEB.ZOOM.US/WEBINAR/REGISTER/WN_I4LFW-PSSAMH7BURNV74GQ](https://us06web.zoom.us/join/86462764193)

AGENDA ITEM COMMENT - AGENDAITEMCOMMENT@FAYETTEVILLE-AR.GOV

CALL TO ORDER**ROLL CALL****PLEDGE OF ALLEGIANCE****MAYOR' S ANNOUNCEMENTS, PROCLAMATIONS AND RECOGNITIONS****CITY COUNCIL MEETING PRESENTATIONS, REPORTS AND DISCUSSION ITEMS****A. CONSENT****A.1. HWY 112 CONDEMNATION (IV GENERATION PROPERTIES):**

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY IV GENERATION PROPERTIES, LLC NEEDED FOR THE HIGHWAY 112 (GARLAND AVENUE) WIDENING PROJECT (2024-70)

A.2. HWY 112 CONDEMNATION (OSMENT INVESTMENTS):

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY OSMENT INVESTMENTS, LLC; DUNN & DAVIS TOWNHOMES, LLC; AND MAE HOLDINGS, LLC NEEDED FOR THE HIGHWAY 112 (GARLAND AVENUE) WIDENING PROJECT (2024-71)

A.3. ARKANSAS DIVISION OF AERONAUTICS (GRANT APPLICATION):

A RESOLUTION TO AUTHORIZE AN APPLICATION FOR AN ARKANSAS DIVISION OF AERONAUTICS GRANT TO FUND 80% OF PROJECT COSTS FOR A PROPOSED HANGAR INFRASTRUCTURE IMPROVEMENTS PROJECT AT DRAKE FIELD (2024-95)

A.4. WATER TECHNOLOGY, INC. (SERVICE CONTRACT):

A RESOLUTION TO AUTHORIZE A CONTRACT WITH WATER TECHNOLOGY, INC. IN AN AMOUNT NOT TO EXCEED \$151,591.00,

PURSUANT TO RFQ 24-01, FOR CONSULTING SERVICES TO DEVELOP AN AQUATIC FEASIBILITY STUDY, TO APPROVE A PROJECT CONTINGENCY OF \$5,000.00, AND TO APPROVE A BUDGET ADJUSTMENT (2024-52)

A.5. WATER & SEWER STREET CUTS (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT TRANSFERRING ADDITIONAL FUNDS INTO THE WATER & SEWER OPERATIONS BUDGET TO COVER THE COSTS OF STREET CUTS FOR THE REMAINDER OF 2024 (2024-63)

A.6. POLICE IMPACT FEES (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$73,395.00 RECOGNIZING POLICE IMPACT FEES COLLECTED THROUGH MARCH 2024 FOR THE EXPANSION OF POLICE DEPARTMENT OPERATIONS TO THE ENTERTAINMENT DISTRICT POLICE SUBSTATION (2024-19)

B. UNFINISHED BUSINESS

B.1. VACATION-2024-0006: (151 W. DICKSON ST./151 DICKSON DEVELOPMENT, 484):

AN ORDINANCE TO APPROVE VAC-24-006 FOR PROPERTY LOCATED AT 151 WEST DICKSON STREET IN WARD 2 TO VACATE A 273 SQUARE FEET PORTION OF ACCESS EASEMENT (2024-6)

AT THE MAY 7, 2024 CITY COUNCIL MEETING THIS ITEM WAS LEFT ON THE SECOND READING.

B.2. REZONING-2024-0011: (VARIOUS EXPIRED PZD LOCATIONS/ EXPIRED PZDS, PP VARIES):

AN ORDINANCE TO REZONE THE PROPERTIES DESCRIBED IN REZONING PETITION RZN 2024-0011 FOR APPROXIMATELY 90.65 ACRES LOCATED IN WARDS 1, 2, AND 4 FROM PLANNED ZONING DISTRICTS TO VARIOUS STANDARD ZONING DISTRICTS (2024-26)

AT THE MAY 7, 2024 CITY COUNCIL MEETING THIS ITEM WAS LEFT ON THE FIRST READING.

C. NEW BUSINESS

C.1. INTENT TO ENACT STORMWATER UTILITY FEE (RESOLUTION OF INTENT):

A RESOLUTION OF INTENT TO ENACT A STORMWATER UTILITY ORDINANCE AND ESTABLISH A STORMWATER MANAGEMENT AND

WATER QUALITY FUND, AUTHORIZE ADDITIONAL SERVICES RELATED TO IMPLEMENTATION AND PUBLIC OUTREACH, AND TO APPROVE A BUDGET ADJUSTMENT (2024-1836)

C.2. TEMPORARY POSITION REQUEST (SHORT-TERM RENTAL ENFORCEMENT):

A RESOLUTION TO AUTHORIZE THE ADDITION OF A TEMPORARY SHORT-TERM RENTAL CLERK POSITION IN THE DEVELOPMENT SERVICES DEPARTMENT FOR A TERM OF SIX MONTHS FOR PROACTIVE SHORT-TERM RENTAL ENFORCEMENT (2024-94)

C.3. ADMINISTRATIVE-2024-0019: (AMEND UDC CHAPTERS 166.04):

AN ORDINANCE TO AMEND §166.04(B)(4)(L) PARKLAND DEDICATION OF THE UNIFIED DEVELOPMENT CODE TO MODIFY THE APPLICABILITY SECTION FOR PARKLAND DEDICATION REQUIREMENTS (2024-56)

C.4. VACATION-2024-0007: (EAST OF 1074 E. SAIN ST/TRAILS ON THE CREEK, 174):

AN ORDINANCE TO APPROVE VAC-24-07 FOR PROPERTY LOCATED EAST OF 1074 EAST SAIN STREET IN WARD 3 TO VACATE A 0.076 ACRE PORTION OF DRAINAGE EASEMENT (2024-62)

C.5. REZONING-2024-0015: (4600 E. HUNTSVILLE RD./STONE STREET RENTALS LLC., 565):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-15 FOR APPROXIMATELY 1.94 ACRES LOCATED AT 4600 EAST HUNTSVILLE ROAD IN WARD 1 FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE (2024-58)

C.6. REZONING-2024-0016: (2460 N. OLD WIRE RD./FAYETTEVILLE NATURE SCHOOL, 292):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-16 FOR APPROXIMATELY 1.95 ACRES LOCATED AT 2640 NORTH OLD WIRE ROAD IN WARD 3 FROM CPZD, COMMERCIAL PLANNED ZONING DISTRICT TO P-1, INSTITUTIONAL (2024-59)

C.7. REZONING-2024-0017: (512 N. MISSION BLVD./ZWEIG, 446):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-17 FOR APPROXIMATELY 0.90 ACRES LOCATED AT 512 NORTH MISSION BOULEVARD WARD 1 FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE TO NS-G, NEIGHBORHOOD SERVICES - GENERAL (2024-60)

C.8. REZONING-2024-0018: (SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE./SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO, 522):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-18 FOR APPROXIMATELY 2.9 ACRES LOCATED SOUTHWEST OF WEST TREADWELL STREET AND SOUTH HILL AVENUE IN WARD 2 FROM RMF-40, RESIDENTIAL MULTIFAMILY, 40 UNITS PER ACRE TO MSC, MAIN STREET CENTER, SUBJECT TO A BILL OF ASSURANCE (2024-57)

C.9. INTENT TO APPROVE EXTENSION OF WATER & SEWER SERVICE (RESOLUTION OF INTENT):

A RESOLUTION TO EXPRESS THE CITY COUNCIL'S INTENTION TO APPROVE AN EXTENSION OF WATER AND SEWER SERVICE TO A PROPOSED DEVELOPMENT OUTSIDE OF THE CITY LIMITS AT 1011 SOUTH MALLY WAGNON ROAD AT THE OWNER/DEVELOPER'S EXPENSE (2024-98)

C.10. REQUEST TO APPROPRIATE FUNDS - TO FUND THE HOUSING CRISIS TASK FORCE:

A RESOLUTION TO APPROPRIATE \$1,000,000.00 IN GENERAL FUND REVENUE RECEIVED AS ARPA GENERAL REVENUE LOSS TO FUND THE HOUSING CRISIS TASK FORCE EARLY RECOMMENDATIONS IN RESPONSE TO THE DECLARED HOUSING CRISIS (2024-69)

PROPOSED AGENDA ADDITIONS**1. AMEND 157.03 (NOTIFICATION REQUIREMENTS):****D. CITY COUNCIL AGENDA SESSION PRESENTATIONS****E. CITY COUNCIL TOUR****F. ANNOUNCEMENTS****G. ADJOURNMENT**



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Chris Brown, Public Works Director
Susan Norton, Chief of Staff

FROM: Paul Libertini, Staff Engineer

SUBJECT: **Approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by IV Generation Properties, LLC necessary for the Highway 112/Garland Avenue Widening Project.**

RECOMMENDATION:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by IV Generations Properties, LLC necessary for the widening of the Highway 112 (Garland Avenue) Project from Poplar Street to Drake Street.

BACKGROUND:

On January 3, 2017, City Council approved Resolution No. 27-17 to allow the City to enter into a partnering agreement with ARDOT (Arkansas Department of Transportation) for improvements to Hwy 112 between Razorback Road and Garland Avenue and to approve the reclassification of Hwy 112 between 15th Street and Interstate 49 as a City Street.

On September 19, 2017, the City executed an Agreement of Understanding with ARDOT detailing the responsibilities of each entity. One such duty is for the City to prepare all legal descriptions and exhibits for the acquisition of right-of-way and easements for the construction of this project. This duty has been completed and approved by ARDOT.

The design of the Hwy 112 (Garland Ave) widening project is currently approximately 95% complete including the specifications and the cost estimate. Hwy 112 (Garland Ave) is currently a 2-lane roadway which will be widened to include 4-lanes with a raised center median and a roundabout at the intersection of Alzheimer Drive and Cassatt Street.

On April 4, 2023, ARDOT authorized the City to appraise the properties affected by this road widening project. The City's contract real estate appraiser, Rife & Company, completed the final appraisal on September 21, 2023. The Appraisal Reports were then submitted to ARDOT for review and the City received approval of the same on December 27, 2023. The Reviewing Appraiser for ARDOT certified in writing that the consultant appraiser followed accepted appraisal principles and techniques in the valuation of real property, and certified the fair market value of the acquisition.

On January 30, 2024, the City received authorization from ARDOT to present offer letters to property owners to acquire the needed land acquisition for this project. The City intends to bid this construction project this year as soon as the land acquisition is complete.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

DISCUSSION:

Right of way and easement acquisition began for this project in January of 2024. The owner of this property at 2054 N. Garland Avenue has refused to sign right-of-way and easement documents. Staff will continue to negotiate with this property owner to avoid condemnation if possible. However, it is imperative that the right of way and easements be acquired in a timely manner so as not to delay the construction. The City is acquiring 67 square feet of right of way, 2,338 square feet of permanent grading & utility easement, 1,339 square feet of permanent drainage easement, and 788 square feet of a temporary construction & grading easement from this property.

BUDGET/STAFF IMPACT:

Federal and State funds of \$1,948,635 have been obligated by FHWA/ARDOT for the purchasing of right of way and easements. The City will pay the individual property owner from the Sales Tax Capital Improvement funds, and then the City will submit a request to ARDOT for 100% reimbursement of expenditures.

The Appraisal Report prepared by Rife and Company, Inc. established a value of just compensation of \$66,100 as of June 20, 2023, which will be deposited into the Registry of the Circuit Court. The final cost is subject to negotiation with the property owner or by court order.

ATTACHMENTS: SRF (#3), Property Location - 2054 N Garland Ave (#4), GIS Aerial - IV Generation Properties (#5), Documents & Exhibits - IV Generation Properties (#6), Case History - IV Generation Properties (#7)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

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City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-70

Approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by IV Generation Properties, LLC necessary for the Highway 112/Garland Avenue Widening Project.

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY IV GENERATION PROPERTIES, LLC NEEDED FOR THE HIGHWAY 112 (GARLAND AVENUE) WIDENING PROJECT

WHEREAS, the City of Fayetteville and IV Generation Properties, LLC have been unable to agree upon a fair price for approximately 67 square feet of right of way, 2,338 square feet of permanent grading and utility easement, and 788 square feet of temporary construction and grading easement needed to complete the Highway 112 Widening Project; and

WHEREAS, the City of Fayetteville needs to gain possession of this needed property promptly to begin work on this public improvement and to not delay construction of the project.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 (Garland Avenue) Widening Project and owned by IV Generation Properties, LLC, that is needed for a right-of-way, permanent grading and utility, and temporary construction and grading easements for the project and to pay into the registry of the Circuit Court just compensation in the amount of \$66,100.00.

City of Fayetteville Staff Review Form

2024-70

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Paul Libertini

4/25/2024

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by IV Generation Properties, LLC necessary for the widening of the Highway 112 (Garland Avenue) Project from Poplar Street to Drake Street.

Budget Impact:

4470.800.8835-5805.00

Sales Tax Capital Improvements

Account Number

Fund

06035.3800

Hwy 112 (Poplar St - Drake St)

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 1,950,756.00

Expenses (Actual+Encum)

\$ 3,970.00

Available Budget

\$ 1,946,786.00

Does item have a direct cost? Yes

Item Cost

\$ 66,100.00

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 1,880,686.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

HWY 112 (GARLAND AVE.)
2054 N. GARLAND AVE.

ERNIE JACKS BLVD

112

PROPERTY
LOCATION

PEACHTREE

MELMAR

BEL - AIR DR

DAVIS ST.

KELLY ST.

LEVERETT AVE

NOELLE AVE.

DEANE ST.

N MAXWELL DR

S MAXWELL DR

SYCAMORE

HICKORY

STREET

OAKLAND AVE.



**IV GENERATION
PROPERTIES, LLC**

2054 N. GARLAND AVENUE

Exhibit
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 for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

Created: 4/24/2024
Credits: City of Fayetteville, AR, 2024 Imagery | EagleView Technologies | Surdex Corporation
Map Author:

WARRANTY DEED

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **IV Generation Properties, LLC, Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A variable width RIGHT OF WAY (ROW), said ROW being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said ROW being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence N02°28'45"E, 327.61 feet; thence S87°43'05"E, 23.92 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW); thence N02°37'09"E, 66.17 feet to a point of curvature; thence along a non-tangent curve to the left, an arc distance of 66.19 feet, said curve having a radius of 5679.10 feet, and a chord bearing and distance of S00°45'52"W, 66.19 feet to the grantor's south property line; thence leaving said curve, along said south property line N87°43'05"W, 2.14 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW), with said ROW containing 67 square feet or 0.002 acres.

REVENUE STAMPS AFFIDAVIT

The foregoing deed has the correct amount of Revenue Stamps affixed to it or is **exempt** from such stamps.

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And the said Grantors, hereby covenant that they are lawfully seized of said lands and premises; that the same is unencumbered, and that the Grantors will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS the execution hereof on this _____ day of _____, 2024.

**IV Generation Properties, LLC,
Arkansas limited liability company**

By: James Walton Beazley, IV, Member/Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF) SS.

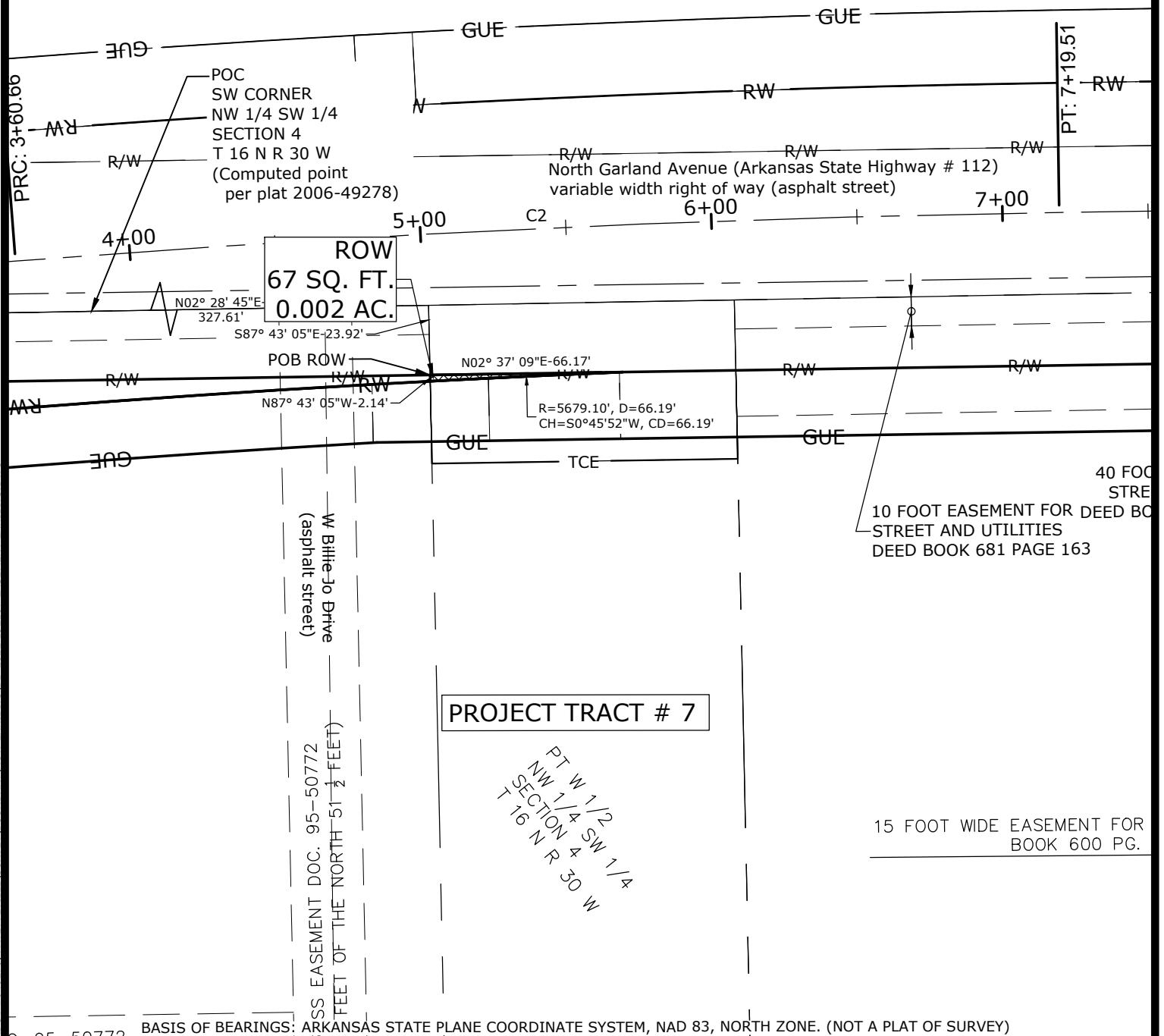
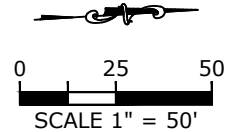
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **James Walton Beazley, IV**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member/Manager, of **IV Generation Properties, LLC, Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

SHEET 2 OF 4



765-05144-000	TAX PARCEL NUMBER
2020-2643	DEED RECORD
---	EXISTING PROPERTY LINE
---	EXISTING EASEMENT LINE
R/W	EXISTING RIGHT-OF-WAY LINE
GUE	PROPOSED GRADING AND UTILITY EASEMENT
GEN	PROPOSED GENERAL UTILITY EASEMENT

LEGEND

	PROPOSED RIGHT-OF-WAY
	PROPOSED UTILITY EASEMENT
	PROPOSED TEMP. CONST. EASEMENT
	PROPOSED DRAINAGE EASEMENT
	PROPOSED GRADING EASEMENT

PROJ. MANAGER:	DRAWN BY:
PW	DB
DATE:	REVISION:
JUNE 2022	
SCALE:	PROJ. NUMBER:
AS NOTED	192107

EXHIBIT "A"
MAP

HWY 112 IMPROVEMENTS, ARDOT #040720
FAYETTEVILLE, ARKANSAS
TRACT 7
IV Generation Properties LLC

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
1580 E. STEARNS ST.
FAYETTEVILLE, AR 72703
(479) 443-2377
HTTP://WWW.MCE.US.COM

©2022

PERMANENT GRADING & UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **IV Generation Properties, LLC, Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent grading and utility easement (GUE) for the purpose of constructing and maintaining Highway 112 (Garland Avenue) and appurtenances, thereto and for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, traffic signal poles and equipment, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Warranty Deed: 2020-02643

A part of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 4, Township 16 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point which is 990 feet South of the NW corner of said 20 acre tract and running thence North 105 feet; thence East 300 feet; thence South 105 feet; thence West 300 feet to the place of beginning, being a part of Block 5, Evin's Farm as designated on plat of record in Plat Book 5 at Page 80, plat records of Washington County, Arkansas. LESS AND EXCEPT that portion conveyed to the City of Fayetteville, Arkansas, as additional right of way for Arkansas Highway 112 (Garland Avenue) and described as: A variable width RIGHT OF WAY (ROW), said ROW being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said ROW being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence N02°28'45"E, 327.61 feet; thence S87°43'05"E, 23.92 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW); thence N02°37'09"E, 66.17 feet to a point of curvature; thence along a non-tangent curve to the left, an arc distance of 66.19 feet, said curve having a radius of 5679.10 feet, and a chord bearing and distance of S00°45'52"W, 66.19 feet to the grantor's south property line; thence leaving said curve, along said south property line N87°43'05"W, 2.14 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW), with said ROW containing 67 square feet or 0.002 acres.

PERMANENT EASEMENT DESCRIPTION:

A variable width GRADING/UTILITY EASEMENT (GUE), said GUE being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said GUE being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence N02°28'45"E, 327.61 feet; thence S87°43'05"E, 26.06 feet to a point of curvature and to the POINT OF BEGINNING OF THE GRADING/UTILITY EASEMENT (POB GUE); thence along a curve to the right, an arc distance of 66.19 feet, said curve having a radius of 5679.10 feet, and a chord bearing and distance of N00°45'52"E, 66.19 feet; thence leaving said curve N02°37'09"E, 38.83 feet to the grantor's north property line; thence along said north property line S87°43'05"E, 22.90 feet; thence leaving said north property line S02°37'09"W, 105.00 feet to the grantor's south property line; thence along said south property line N87°43'05"W, 20.76 feet to the POINT OF BEGINNING OF THE GRADING/UTILITY EASEMENT (POB GUE), with said easement containing 2,338 square feet or 0.05 acres.

Together with all the rights, easements and privileges in or to said lands which may be required for the full use and enjoyment of the rights herein granted said street purposes being the construction of a road with all its appurtenances and aforementioned utilities thereto by the City of Fayetteville, Arkansas, the maintenance of said road to be the responsibility of the City of Fayetteville, Arkansas.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees not to erect any buildings or structures in said permanent grading and utility easement. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines, electric power lines, telephone and/or television lines or cables upon the above-described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this day of , 2024.

**IV Generation Properties, LLC,
Arkansas limited liability company**

By: James Walton Beazley, IV, Member/Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF) SS.

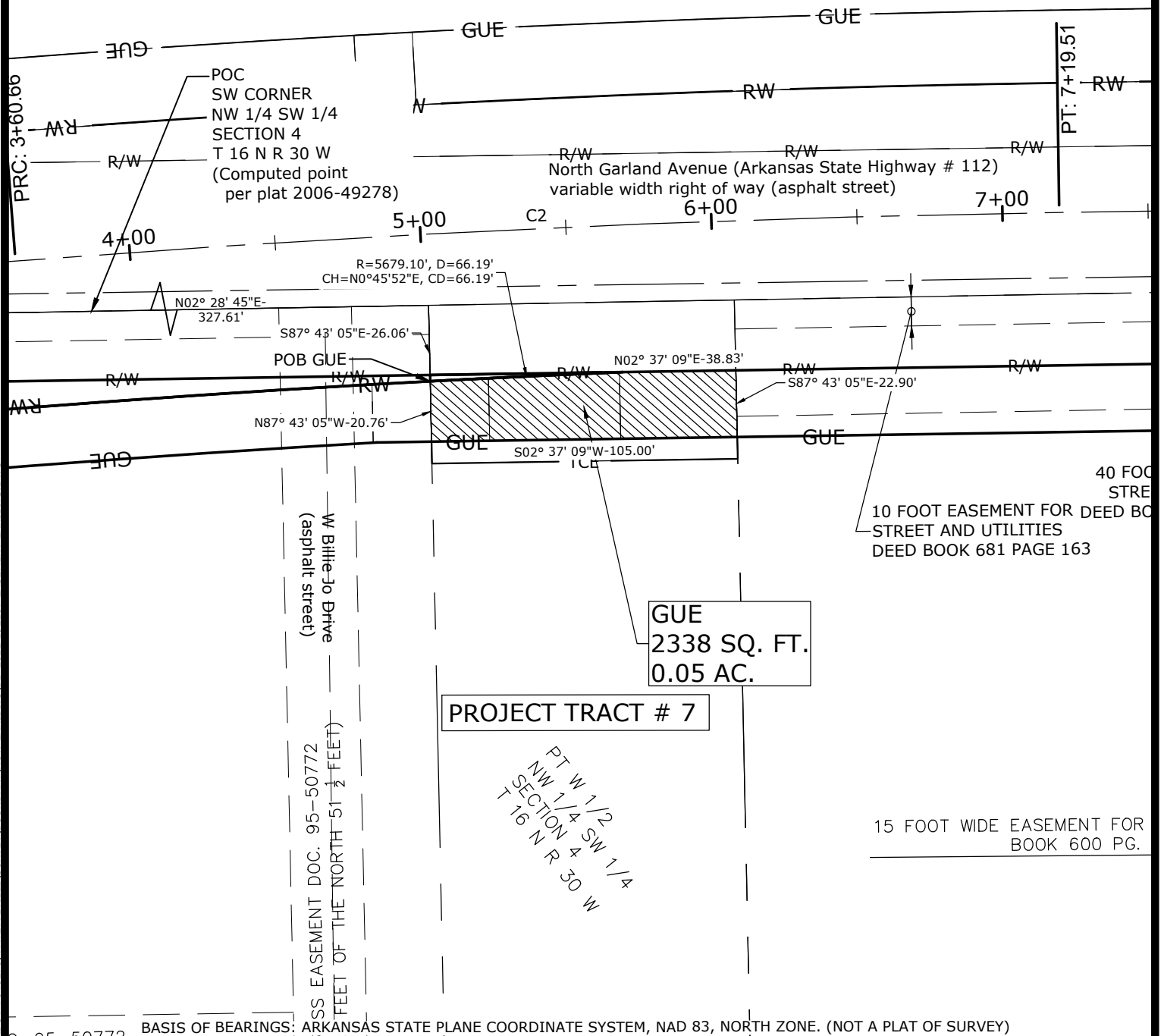
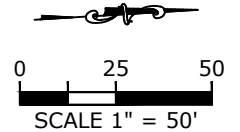
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **James Walton Beazley, IV**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member/Manager, of **IV Generation Properties, LLC, Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

SHEET 1 OF 4



BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NAD 83, NORTH ZONE. (NOT A PLAT OF SURVEY)

765-05144-000	TAX PARCEL NUMBER
2020-2643	DEED RECORD
---	EXISTING PROPERTY LINE
---	EXISTING EASEMENT LINE
R/W	EXISTING RIGHT-OF-WAY LINE
GUE	PROPOSED GRADING AND UTILITY EASEMENT
GEN	PROPOSED GENERAL UTILITY EASEMENT

LEGEND

	PROPOSED RIGHT-OF-WAY
	PROPOSED UTILITY EASEMENT
	PROPOSED TEMP. CONST. EASEMENT
	PROPOSED DRAINAGE EASEMENT
	PROPOSED GRADING EASEMENT

PROJ. MANAGER:	DRAWN BY:
PW	DB
DATE:	REVISION:
JUNE 2022	
SCALE:	PROJ. NUMBER:
AS NOTED	192107

EXHIBIT "A"
MAP

HWY 112 IMPROVEMENTS, ARDOT #040720
FAYETTEVILLE, ARKANSAS
TRACT 7
IV Generation Properties LLC

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
1580 E. STEARNS ST.
FAYETTEVILLE, AR 72703
(479) 443-2377
HTTP://WWW.MCE.US.COM

EX-7.1

©2022

DRAINAGE EASEMENT

BE IT KNOWN BYTHESE PRESENTS:

THAT WE, **IV Generation Properties, LLC, Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, maintain, repair and/or replace an earthen retaining levee, drainage pipe, open ditch, concrete channel and/or concrete inlet box, and appurtenances thereto, on over, across, under and through the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Warranty Deed: 2020-02643

A part of the W½ of the NW¼ of the SW¼ of Section 4, Township 16 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point which is 990 feet South of the NW corner of said 20 acre tract and running thence North 105 feet; thence East 300 feet; thence South 105 feet; thence West 300 feet to the place of beginning, being a part of Block 5, Evin's Farm as designated on plat of record in Plat Book 5 at Page 80, plat records of Washington County, Arkansas. LESS AND EXCEPT that portion conveyed to the City of Fayetteville, Arkansas, as additional right of way for Arkansas Highway 112 (Garland Avenue) and described as: A variable width RIGHT OF WAY (ROW), said ROW being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said ROW being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence N02°28'45"E, 327.61 feet; thence S87°43'05"E, 23.92 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW); thence N02°37'09"E, 66.17 feet to a point of curvature; thence along a non-tangent curve to the left, an arc distance of 66.19 feet, said curve having a radius of 5679.10 feet, and a chord bearing and distance of S00°45'52"W, 66.19 feet to the grantor's south property line; thence leaving said curve, along said south property line N87°43'05"W, 2.14 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW), with said ROW containing 67 square feet or 0.002 acres.

PERMANENT EASEMENT DESCRIPTION:

(DE 1)

A 20-foot-wide DRAINAGE EASEMENT (DE), said DE being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said DE being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence N02°28'45"E, 327.61 feet; thence S87°43'05"E, 26.06 feet to a point of curvature and to the POINT OF BEGINNING OF THE DRAINAGE EASEMENT 1 (POB DE 1); thence along a curve to the right, an arc distance of 20.01 feet, said curve having a radius of 5679.10 feet, and a chord bearing and distance of N00°31'54"E, 20.01 feet; thence leaving said curve, S87°43'05"E, 21.49 feet; thence S02°37'09"W, 20.00 feet to the grantor's south property line; thence along said south property line N87°43'05"W, 20.76 feet to the POINT OF BEGINNING OF DRAINAGE EASEMENT 1 (POB DE 1) with said easement containing 423 square feet or 0.01 acres.

(DE 2)

A variable width DRAINAGE EASEMENT (DE), said DE being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said DE being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence N02°28'45"E, 327.61 feet; thence S87°43'05"E, 26.06 feet to a point of curvature; thence along a curve to the right, an arc distance of 66.19 feet, said curve having a radius of 5679.10 feet, and a chord bearing and distance of N00°45'52"E, 66.19 feet to the POINT OF BEGINNING OF THE DRAINAGE EASEMENT 2 (POB DE 2); thence continuing along said curve an arc distance of 1.17 feet, said curve having a radius of 5679.10 feet, and a chord bearing and distance of N01°05'33"E, 1.17 feet; thence leaving said curve N02°37'09"E, 38.83 feet to the grantor's north property line; thence along said north property line S87°43'05"E, 22.90 feet; thence leaving said north property line, S02°37'09"W, 40.00 feet; thence N87°43'05"W, 22.87 feet to the POINT OF BEGINNING OF DRAINAGE EASEMENT 2 (POB DE 2), with said DE 2 containing 916 square feet or 0.02 acres.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors, and assigns, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee.

The Grantor agrees not to erect any buildings or structures in said permanent easement. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional drainage structures within the above-described permanent easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2024 .

**IV Generation Properties, LLC,
Arkansas limited liability company**

By:

James Walton Beazley, IV, Member/Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF _____) SS.

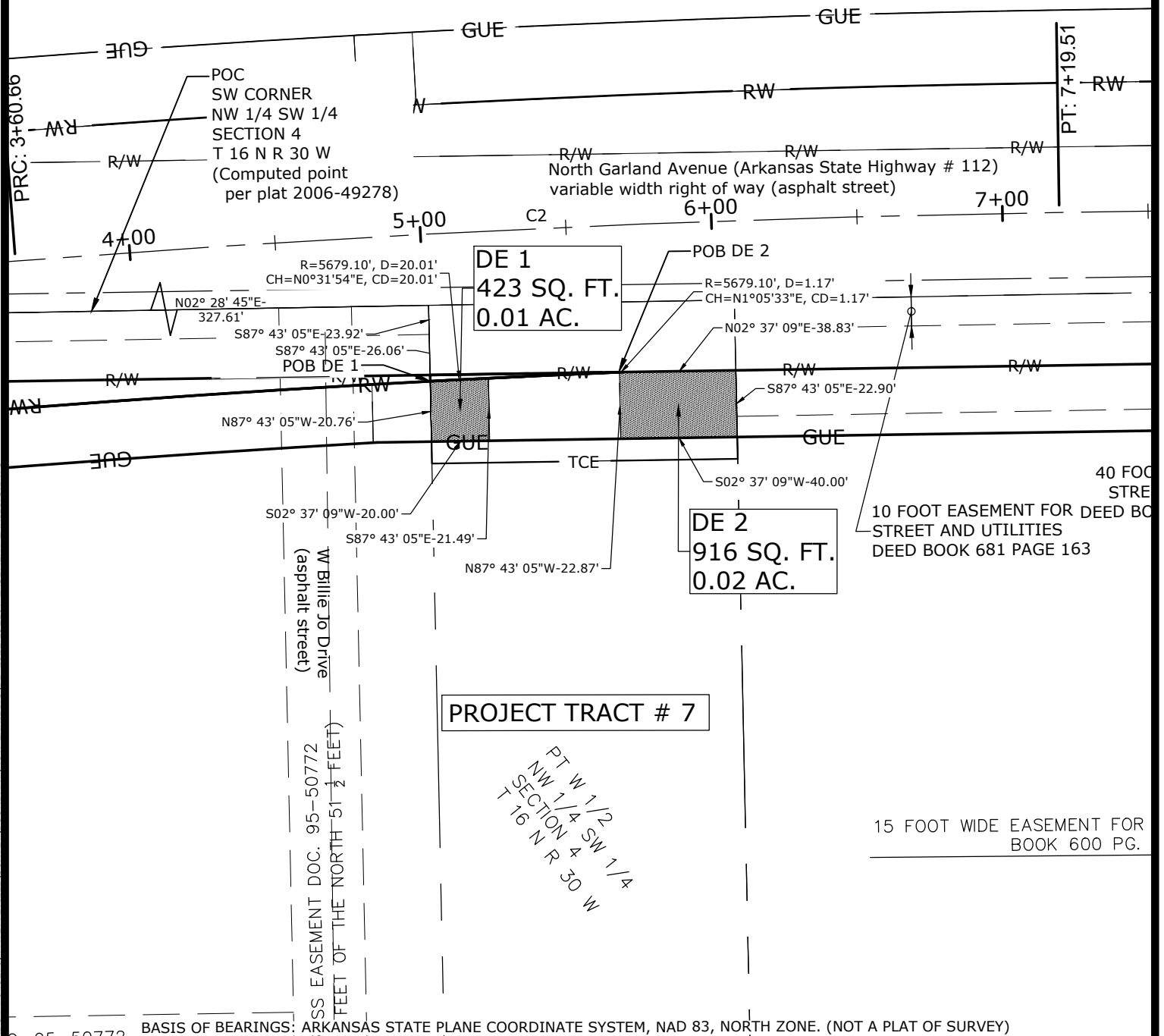
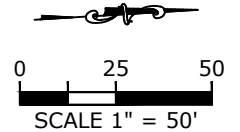
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **James Walton Beazley, IV**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member/Manager, of **IV Generation Properties, LLC, Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

SHEET 3 OF 4



PROJECT TRACT # 7

PT W 1/2
SECTION 4 SW 1/4
T 16 N R 30 W

15 FOOT WIDE EASEMENT FOR
BOOK 600 PG.

BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NAD 83, NORTH ZONE. (NOT A PLAT OF SURVEY)

- | | |
|---------------|---------------------------------------|
| 765-05144-000 | TAX PARCEL NUMBER |
| 2020-2643 | DEED RECORD |
| --- | EXISTING PROPERTY LINE |
| --- | EXISTING EASEMENT LINE |
| R/W | EXISTING RIGHT-OF-WAY LINE |
| GUE | PROPOSED GRADING AND UTILITY EASEMENT |
| GEN | PROPOSED GENERAL UTILITY EASEMENT |

LEGEND

- | | |
|--|--------------------------------|
| | PROPOSED RIGHT-OF-WAY |
| | PROPOSED UTILITY EASEMENT |
| | PROPOSED TEMP. CONST. EASEMENT |
| | PROPOSED DRAINAGE EASEMENT |
| | PROPOSED GRADING EASEMENT |

PROJ. MANAGER:	DRAWN BY:
PW	DB
DATE:	REVISION:
JUNE 2022	
SCALE:	PROJ. NUMBER:
AS NOTED	192107

EXHIBIT "A"
MAP

HWY 112 IMPROVEMENTS, ARDOT #040720
FAYETTEVILLE, ARKANSAS
TRACT 7
IV Generation Properties LLC

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
1580 E. STEARNS ST.
FAYETTEVILLE, AR 72703
(479) 443-2377
HTTP://WWW.MCE.US.COM

EX-7.3

©2022

Hwy 112 Improvement Project
Parcel No. 765-05144-000
Tract 7

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **IV Generation Properties, LLC, Arkansas limited liability company**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of improvements to Highway 112, to-wit:

PROPERTY DESCRIPTION: Warranty Deed: 2020-02643

A part of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 4, Township 16 North, Range 30 West, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point which is 990 feet South of the NW corner of said 20 acre tract and running thence North 105 feet; thence East 300 feet; thence South 105 feet; thence West 300 feet to the place of beginning, being a part of Block 5, Evin's Farm as designated on plat of record in Plat Book 5 at Page 80, plat records of Washington County, Arkansas. LESS AND EXCEPT that portion conveyed to the City of Fayetteville, Arkansas, as additional right of way for Arkansas Highway 112 (Garland Avenue) and described as: A variable width RIGHT OF WAY (ROW), said ROW being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said ROW being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence N02°28'45"E, 327.61 feet; thence S87°43'05"E, 23.92 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW); thence N02°37'09"E, 66.17 feet to a point of curvature; thence along a non-tangent curve to the left, an arc distance of 66.19 feet, said curve having a radius of 5679.10 feet, and a chord bearing and distance of S00°45'52"W, 66.19 feet to the grantor's south property line; thence leaving said curve, along said south property line N87°43'05"W, 2.14 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW), with said ROW containing 67 square feet or 0.002 acres.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A 7.5-foot-wide TEMPORARY CONSTRUCTION EASEMENT (TCE), said TCE being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said TCE being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence N02°28'45"E 327.61 feet thence S87°43'05"E 26.06 feet; thence along a curve to the left having a radius of 5679.10 feet for a distance of 66.19 feet and a chord bearing and distance of N0°45'52"E 66.19 feet; thence N02°37'09"E 38.83 feet; thence S87°43'05"E 22.90 feet to the POINT OF BEGINNING OF THE TEMPORARY CONSTRUCTION EASEMENT (POB TCE 1); thence S87°22'51"E 7.50 feet; thence S02°37'09"W 105.00 feet; thence N87°22'51"W 7.50 feet; thence N02°37'09"E 105.00 feet; to the POINT OF BEGINNING OF TEMPORARY CONSTRUCTION EASEMENT (POB TCE 1), with said TCE 1 containing 788 square feet or 0.02 acres.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the herein-above referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2024.

**IV Generation Properties, LLC,
Arkansas limited liability company**

By: James Walton Beazley, IV, Member/Manager

ACKNOWLEDGMENT

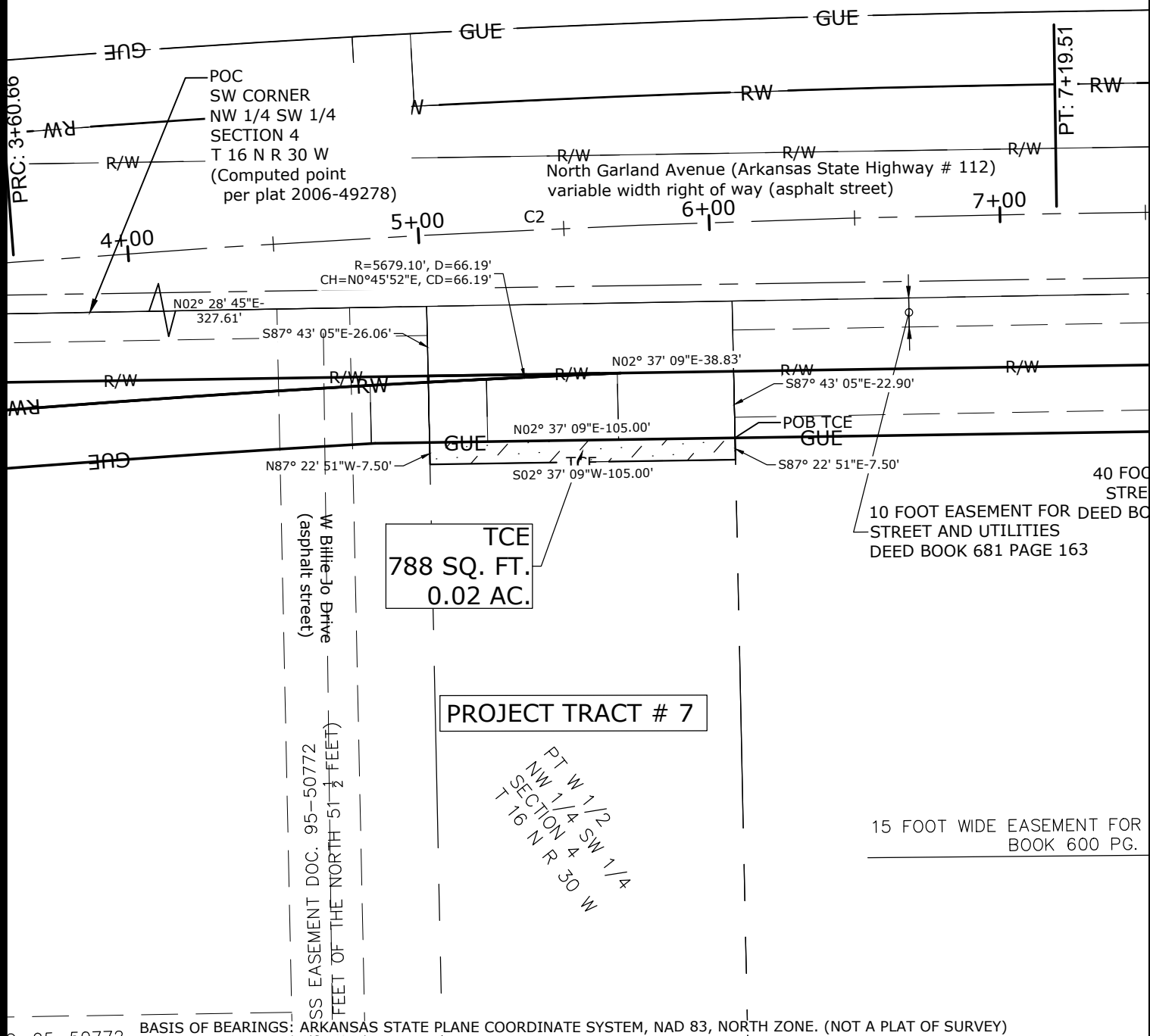
STATE OF ARKANSAS)
COUNTY OF _____) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **James Walton Beazley, IV**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member/Manager, of **IV Generation Properties, LLC, Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

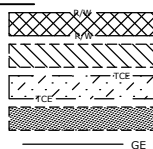
WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public



LEGEND



PROJ. MANAGER: PW	DRAWN BY: DB
DATE: JUNE 2022	REVISION:
SCALE: AS NOTED	PROJ. NUMBER: 192107

HWY 112 IMPROVEMENTS, ARDOT #040720
FAYETTEVILLE, ARKANSAS
TRACT 7
IV Generation Properties LLC

MCE McCLELLAND
CONSULTING
ENGINEERS, INC.
DESIGNED TO SERVE
1580 E. STEARNS ST.
FAYETTEVILLE, AR 72703
(479) 443-2377
[HTTP://WWW.MCE.US.COM](http://www.mce.us.com)

CASE HISTORY
HWY 112 (POPLAR ST – DRAKE ST)

Tract 7 IV Generation Properties LLC

7/24/2023	Appraisal by Tom Rife & Associates, Inc. received. Awaiting review and approval by ArDOT to move forward with offers.
1/31/2024	Offer packet mailed including offer letter for proposed right of way acquisition (67sf), permanent grading and utility easement (2338sf), permanent drainage easement (1339sf), temporary construction and grading easement (788sf) and parking lot damages within the proposed acquisition areas. Included in the packet were the plan sheet, exhibit and appraisal summary sheet and W-9. Total offer is \$66,100.00 .
3/19/2024	hj Sent a reminder email to Mr. Walter Beazley to confirm that he had received the above-mentioned packet of documents and information regarding the project. 3/20 he responded and requested we meet with him on site and explain the plans that were sent to him.
3/21/2024	PL & HJ met with Walt at this property. We left the meeting with Mr. Beazley planning to send us a “reasonable” counteroffer and asking to see the full appraisal. HJ emailed that to him upon returning to the office.
4/16/2024	Reminder email sent. He responded on the 18 th that he would send his counteroffer on Monday.
4/22/2024	Mr. Beazley emailed his counteroffer of \$127,000.00 , because of anxiety of tenants and how construction phase of this project will affect their quality of life.
4/24/2024	Final Offer \$66,100.00 and Notification of May 21, 2024, Council date will be sent.



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Chris Brown, Public Works Director
Susan Norton, Chief of Staff

FROM: Paul Libertini, Staff Engineer

SUBJECT: **Approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by Osment Investments, LLC, Dunn & Davis Townhomes, LLC and Mae Holdings, LLC necessary for the Highway 112/Garland Avenue Widening Project**

RECOMMENDATION:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by Osment Investments, LLC, Dunn & Davis Townhomes, LLC and Mae Holdings, LLC necessary for the widening of the Highway 112 (Garland Avenue) Project from Poplar Street to Drake Street.

BACKGROUND:

On January 3, 2017, City Council approved Resolution No. 27-17 to allow the City to enter into a partnering agreement with ARDOT (Arkansas Department of Transportation) for improvements to Hwy 112 between Razorback Road and Garland Avenue and to approve the reclassification of Hwy 112 between 15th Street and Interstate 49 as a City Street.

On September 19, 2017, the City executed an Agreement of Understanding with ARDOT detailing the responsibilities of each entity. One such duty is for the City to prepare all legal descriptions and exhibits for the acquisition of right-of-way and easements for the construction of this project. This duty has been completed and approved by ARDOT.

The design of the Hwy 112 (Garland Ave) widening project is currently approximately 95% complete including the specifications and the cost estimate. Hwy 112 (Garland Ave) is currently a 2-lane roadway which will be widened to include 4-lanes with a raised center median and a roundabout at the intersection of Alzheimer Drive and Cassatt Street.

On April 4, 2023, ARDOT authorized the City to appraise the properties affected by this road widening project. The City's contract real estate appraiser, Rife & Company, completed the final appraisal on September 21, 2023. The Appraisal Reports were then submitted to ARDOT for review and the City received approval of the same on December 27, 2023. The Reviewing Appraiser for ARDOT certified in writing that the consultant appraiser followed accepted appraisal principles and techniques in the valuation of real property, and certified the fair market value of the acquisition.

On January 30, 2024, the City received authorization from ARDOT to present offer letters to property owners to

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

acquire the needed land acquisition for this project. The City intends to bid this construction project this year as soon as the land acquisition is complete.

DISCUSSION:

Right of way and easement acquisition began for this project in January of 2024. The owner of this property at 2000 N. Garland Avenue has refused to sign right-of-way and easement documents. Staff will continue to negotiate with this property owner to avoid condemnation if possible. However, it is imperative that the right of way and easements be acquired in a timely manner so as not to delay the construction. The City is acquiring 3,397 square feet of right of way, 6,073 square feet of permanent grading & utility easement, and 806 square feet of permanent drainage easement from this property.

BUDGET/STAFF IMPACT:

Federal and State funds of \$1,948,635 have been obligated by FHWA/ARDOT for the purchasing of right of way and easements. The City will pay the individual property owner from the Sales Tax Capital Improvement funds, and then the City will submit a request to ARDOT for 100% reimbursement of expenditures.

The Appraisal Report prepared by Rife and Company, Inc. established a value of just compensation of \$136,000 as of June 20, 2023, which will be deposited into the Registry of the Circuit Court. The final cost is subject to negotiation with the property owner or by court order.

ATTACHMENTS: SRF (#3), Property Location - 2000 N Garland Ave (#4), GIS Aerial - Osment Investments (#5), Documents & Exhibits - Osment Investments (#6), Case History - Osment Investments (#7)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-71

Approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by Osment Investments, LLC, Dunn & Davis Townhomes, LLC and Mae Holdings, LLC necessary for the Highway 112/Garland Avenue Widening Project

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY OSMENT INVESTMENTS, LLC; DUNN & DAVIS TOWNHOMES, LLC; AND MAE HOLDINGS, LLC NEEDED FOR THE HIGHWAY 112 (GARLAND AVENUE) WIDENING PROJECT

WHEREAS, the City of Fayetteville and Osment Investments, LLC; Dunn & Davis Townhomes, LLC; and Mae Holdings, LLC have been unable to agree upon a fair price for approximately 3,397 square feet of right of way, 6,073 square feet of permanent grading and utility easement, and 800 square feet of permanent drainage easement needed to complete the Highway 112 Widening Project; and

WHEREAS, the City of Fayetteville needs to gain possession of this needed property promptly to begin work on this public improvement and to not delay construction of the project.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the Highway 112 (Garland Avenue) Widening Project and owned by Osment Investments, LLC; Dunn & Davis Townhomes, LLC; and Mae Holdings, LLC, that is needed for a right-of-way, permanent grading and utility, and permanent drainage easements for the project and to pay into the registry of the Circuit Court just compensation in the amount of \$136,000.00.

City of Fayetteville Staff Review Form

2024-71

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Paul Libertini

4/25/2024

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession of certain land owned by Osment Investments, LLC, Dunn & Davis Townhomes, LLC and Mae Holdings, LLC necessary for the widening of the Highway 112 (Garland Avenue) Project from Poplar Street to Drake Street.

Budget Impact:

4470.800.8835-5805.00

Sales Tax Capital Improvements

Account Number

Fund

06035.3800

Hwy 112 (Poplar St - Drake St)

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 1,950,756.00

Expenses (Actual+Encum)

\$ 3,970.00

Available Budget

\$ 1,946,786.00

Does item have a direct cost? Yes

Item Cost

\$ 136,000.00

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 1,810,786.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

HWY 112 (GARLAND AVE.)
2000 N. GARLAND AVE.

ERNIE JACKS BLVD

112

PROPERTY
LOCATION

PEACHTREE

MELMAR

BEL - AIR DR

DAVIS ST.

KELLY ST.

LEVERETT AVE

NOELLE AVE.

DEANE ST.

N MAXWELL DR

S MAXWELL DR

SYCAMORE

HICKORY

STREET

OAKLAND AVE.



**Osment Investments, LLC
Dunn & Davis Townhomes, LLC
and Mae Holdings, LLC**

2000 N. Garland Avenue

Exhibit

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 for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

Created: 4/24/2024
Credits: City of Fayetteville, AR, 2024 Imagery | EagleView Technologies | Surdex Corporation
Map Author:

WARRANTY DEED

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **Osment Investments, LLC, an Arkansas limited liability company, Dunn and Davis Townhomes, LLC, an Arkansas limited liability company, and Mae Holdings, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A variable width RIGHT OF WAY (ROW), said ROW being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said ROW being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence along the grantor's south property line S87°15'09"E 23.12 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW); thence leaving said south property line N02°37'09"E, 327.80 feet to the grantor's north property line; thence along said north property line S87°43'05"E, 2.14 feet to a point of curvature; thence leaving said north line, along a curve to the left, an arc distance of 138.78 feet to a point of reverse curve, said curve having a radius of 5679.10 feet, and a chord bearing and distance of S00°16'10"E, 138.77 feet; thence, leaving said curve, along a reverse curve to the right, an arc distance of 189.46 feet to the grantor's south property line, said curve having a radius of 5780.10 feet, and a chord bearing and distance of S00°01'49"E, 189.45 feet; thence leaving said curve, along said south property line N87°15'09"W, 17.89 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW), with said ROW containing 3,397 square feet or 0.08 acres.

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And the said Grantors, hereby covenant that they are lawfully seized of said lands and premises; that the same is unencumbered, and that the Grantors will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS the execution hereof on this _____ day of _____, 2024.

REVENUE STAMPS AFFIDAVIT

The foregoing deed has the correct amount of Revenue Stamps affixed to it or is exempt from such stamps.
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dunn and Davis Townhomes, LLC
Early Holdings LLC, Member

By: _____
Jacob Newell, Manager of
Early Holdings LLC

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF _____) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Jacob Newell**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Manager of **Early Holdings, LLC**, the Member of **Dunn and Davis Townhomes, LLC, an Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

WITNESS the execution hereof on this _____ day of _____, 2024.

Osment Investments, LLC

By: Ray Osment, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF _____) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Ray Osment**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member of **Osment Investments, LLC, an Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

WITNESS the execution hereof on this _____ day of _____, 2024.

Mae Holdings, LLC

By: Mitchell Moore, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF) SS.

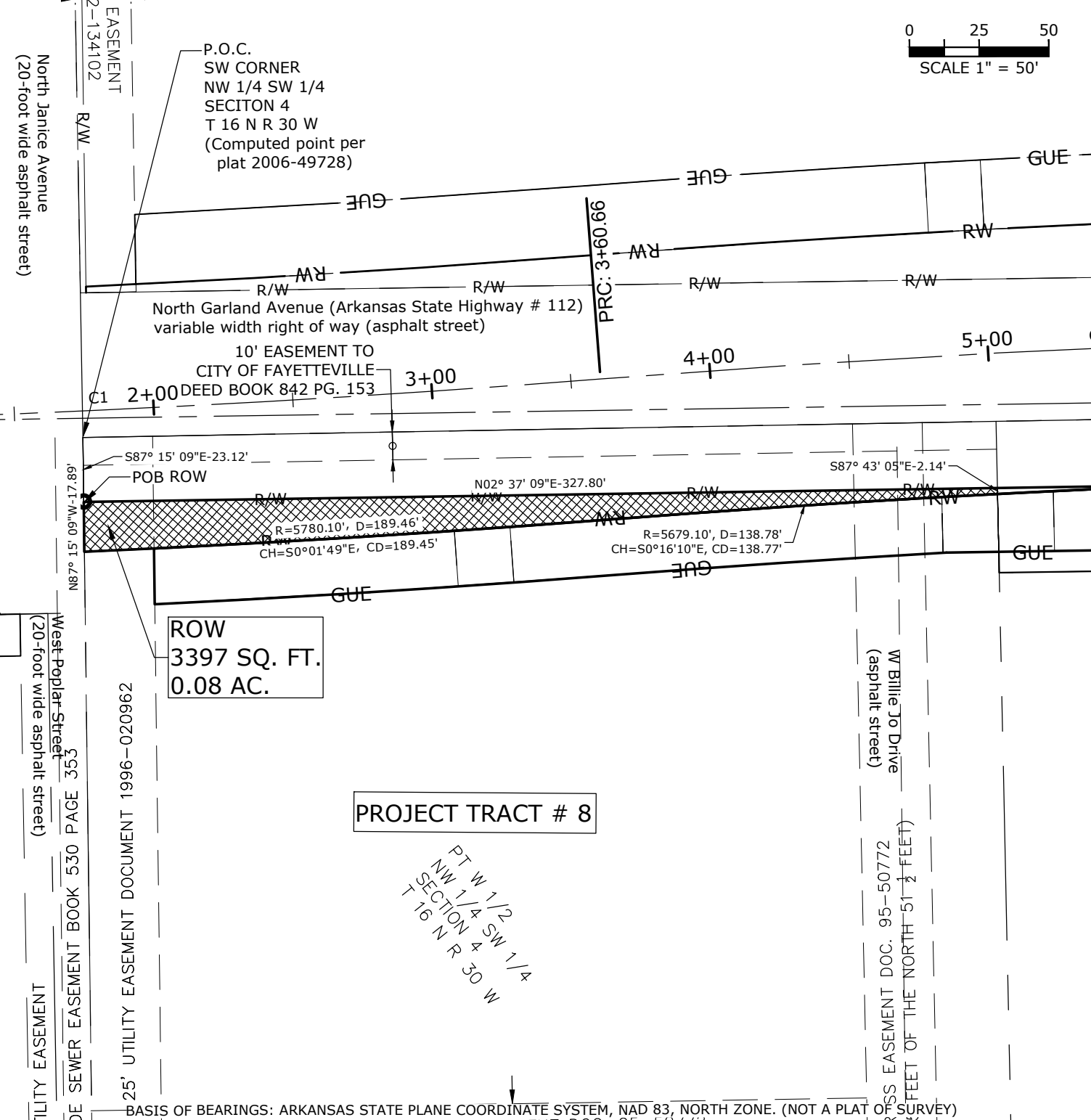
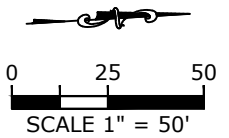
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Mitchell Moore**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member of **Mae Holdings, LLC, an Arkansas limited liability company** and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

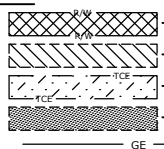
MY COMMISSION EXPIRES:

Notary Public _____

SHEET 2 OF 3



BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NAD 83, NORTH ZONE. (NOT A PLAT OF SURVEY)

765-05145-000	TAX PARCEL NUMBER	LEGEND 	PROPOSED RIGHT-OF-WAY
2021-49143	DEED RECORD		PROPOSED UTILITY EASEMENT
---	EXISTING PROPERTY LINE		PROPOSED TEMP. CONST. EASEMENT
---	EXISTING EASEMENT LINE		PROPOSED DRAINAGE EASEMENT
R/W	EXISTING RIGHT-OF-WAY LINE		PROPOSED GRADING EASEMENT
GUE	PROPOSED GRADING AND UTILITY EASEMENT		
GEN	PROPOSED GENERAL UTILITY EASEMENT		

PROJ. MANAGER:	DRAWN BY:
PW	DB
DATE:	REVISION:
JUNE 2022	
SCALE:	PROJ. NUMBER:
AS NOTED	192107

EXHIBIT "A"
MAP

HWY 112 IMPROVEMENTS, ARDOT #040720
FAYETTEVILLE, ARKANSAS
TRACT 8
Osment Investments LLC; Mae Holdings LLC; Dunn & Davis Townhomes LLC

MCE McCLELLAND CONSULTING ENGINEERS, INC.
1580 E. STEARNS ST.
FAYETTEVILLE, AR 72703
(479) 443-2377
HTTP://WWW.MCE.US.COM

EX-8.2

PERMANENT GRADING & UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **Osment Investments, LLC, an Arkansas limited liability company, Dunn and Davis Townhomes, LLC, an Arkansas limited liability company, and Mae Holdings, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent grading and utility easement (GUE) for the purpose of constructing and maintaining Highway 112 (Garland Avenue) and appurtenances, thereto and for the purpose of construction, maintenance, repair and/or replacement, enlargement and operations of general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, traffic signal poles and equipment, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Warranty Deed: 2021-49143)

A part of the West half (W1/2) of the South half (S1/2) of Lot Five (5) of Evins Farm addition to the City of Fayetteville, Washington County, Arkansas, being located in the West half (W1/2) of the Northwest quarter (NW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$) of Section Four (4), Township Sixteen (16) North, Range Thirty (30) West, and being more particularly described as follows: Beginning at the Southwest corner of the West half (W1/2) of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said Section Four, said point also being the Southwest corner of said Lot Five and being located in Garland Avenue and from which an existed reference iron on the East right of way line of said street bears North 89 degrees 54 minutes 48 seconds East 24.07 feet; thence North 00 degrees 18 minutes 03 seconds East along the West line of said Lot Five (5) 329.75 feet to the Northwest corner of the South half (S1/2) of Lot Five (5) of said Evins Farm said point being in Garland Avenue and from which an existing reference iron on the East right of way line of said street bears North 89 degrees 49 minutes 51 seconds East 22.37 feet; thence leaving the West line of said Lot five (5) North 89 degrees 49 minutes 51 seconds east 307.37 feet to an existing iron; thence leaving the North line of the South half (S1/2) of Lot five (5) of said Evins Farm South 00 degrees 04 minutes 43 seconds east 330.19 feet to a set $\frac{1}{2}$ " iron rebar on the South line of said Lot Five (5); thence South 89 degrees 54 minutes 48 seconds West 309.55 feet to the point of beginning, containing 2.34 acres, more or less. ALSO, the North 10 feet of a 20-foot vacated street running east and west adjoining the south side of the south half of Lot 5 of Evin's Farm, a Subdivision to the City of Fayetteville, Arkansas by virtue of Ordinance No. 1899, filed January 23, 1973. LESS AND EXCEPT that portion conveyed to the City of Fayetteville for the purpose of additional right of way of Arkansas Highway 112 or Garland Avenue and described as: A variable width RIGHT OF WAY (ROW), said ROW being a part of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said ROW being more particularly described as follows: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said SW $\frac{1}{4}$; thence along the grantor's south property line S87°15'09"E 23.12 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW); thence leaving said south property line N02°37'09"E, 327.80 feet to the grantor's north property line; thence along said north property line S87°43'05"E, 2.14 feet to a point of curvature; thence leaving said north line, along a curve to the left, an arc distance of 138.78 feet to a point of reverse curve, said curve having a radius of 5679.10 feet, and a chord bearing and distance of S00°16'10"E, 138.77 feet; thence, leaving said curve, along a reverse curve to the right, an arc distance of 189.46 feet to the grantor's south property line, said curve having a radius of 5780.10 feet, and a chord bearing and distance of S00°01'49"E, 189.45 feet; thence leaving said curve, along said south property line N87°15'09"W, 17.89 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW), with said ROW containing 3,397 square feet or 0.08 acres.

PERMANENT EASEMENT DESCRIPTION:

A variable width GRADING/UTILITY EASEMENT (GUE), said GUE being a part of the Northwest Quarter (NW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said GUE being more particularly described as follows: Commencing at the Southwest corner of the NW $\frac{1}{4}$ of said SW $\frac{1}{4}$; thence along the grantor's south property line S87°15'09" E 41.01 feet to a point of curvature; thence leaving said south line, along a curve an arc distance of 25.01 feet, said curve having a radius of 5780.10 feet and a chord bearing and distance of N00°47'05" E 25.01 feet to the POINT OF BEGINNING OF THE GRADING/UTILITY EASEMENT (POB GUE), thence continuing along said curve to the left, an arc distance of 164.45 feet to a point of reverse curve, said curve having a radius of 5780.10 feet, and a chord bearing and distance of N00°09'16"W, 164.44 feet; thence along a reverse curve to the right, an arc distance of 138.78 feet to the grantor's north property line, said curve having a radius of 5679.10 feet, and a chord bearing and distance of N00°16'10"W, 138.77 feet; thence leaving said curve, along said north

property line S87°43'05"E, 20.76 feet; thence leaving said north property line, S02°37'09"W, 18.73 feet to a point of curvature; thence along a curve to the left, an arc distance of 118.90 feet to a point of reverse curve, said curve having a radius of 5659.10 feet, and a chord bearing and distance of S00°22'03"E, 118.90 feet; thence along said reverse curve to the right, an arc distance of 165.75 feet, said curve having a radius of 5800.10 feet, and a chord bearing and distance of S00°09'03"E, 165.74 feet; thence leaving said curve, N87°15'09"W, 20.01 feet to the POINT OF BEGINNING OF THE GRADING/UTILITY EASEMENT (POB GUE), with said GUE containing 6,073 square feet or 0.14 acres.

Together with all the rights, easements and privileges in or to said lands which may be required for the full use and enjoyment of the rights herein granted said street purposes being the construction of a road with all its appurtenances and aforementioned utilities thereto by the City of Fayetteville, Arkansas, the maintenance of said road to be the responsibility of the City of Fayetteville, Arkansas.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, lines and/or cables where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above water.

The Grantor agrees not to erect any buildings or structures in said permanent grading and utility easement. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional pipelines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this day of , 2024.

Dunn and Davis Townhomes, LLC
Early Holdings LLC, Member

By: Jacob Newell, Manager of
Early Holdings LLC

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Jacob Newell**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Manager of **Early Holdings, LLC**, the Member of **Dunn and Davis Townhomes, LLC, an Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

WITNESS the execution hereof on this _____ day of _____, 2024.

Osment Investments, LLC

By: Ray Osment, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF _____) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Ray Osment**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member of **Osment Investments, LLC, an Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

WITNESS the execution hereof on this _____ day of _____, 2024.

Mae Holdings, LLC

By: Mitchell Moore, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF) SS.

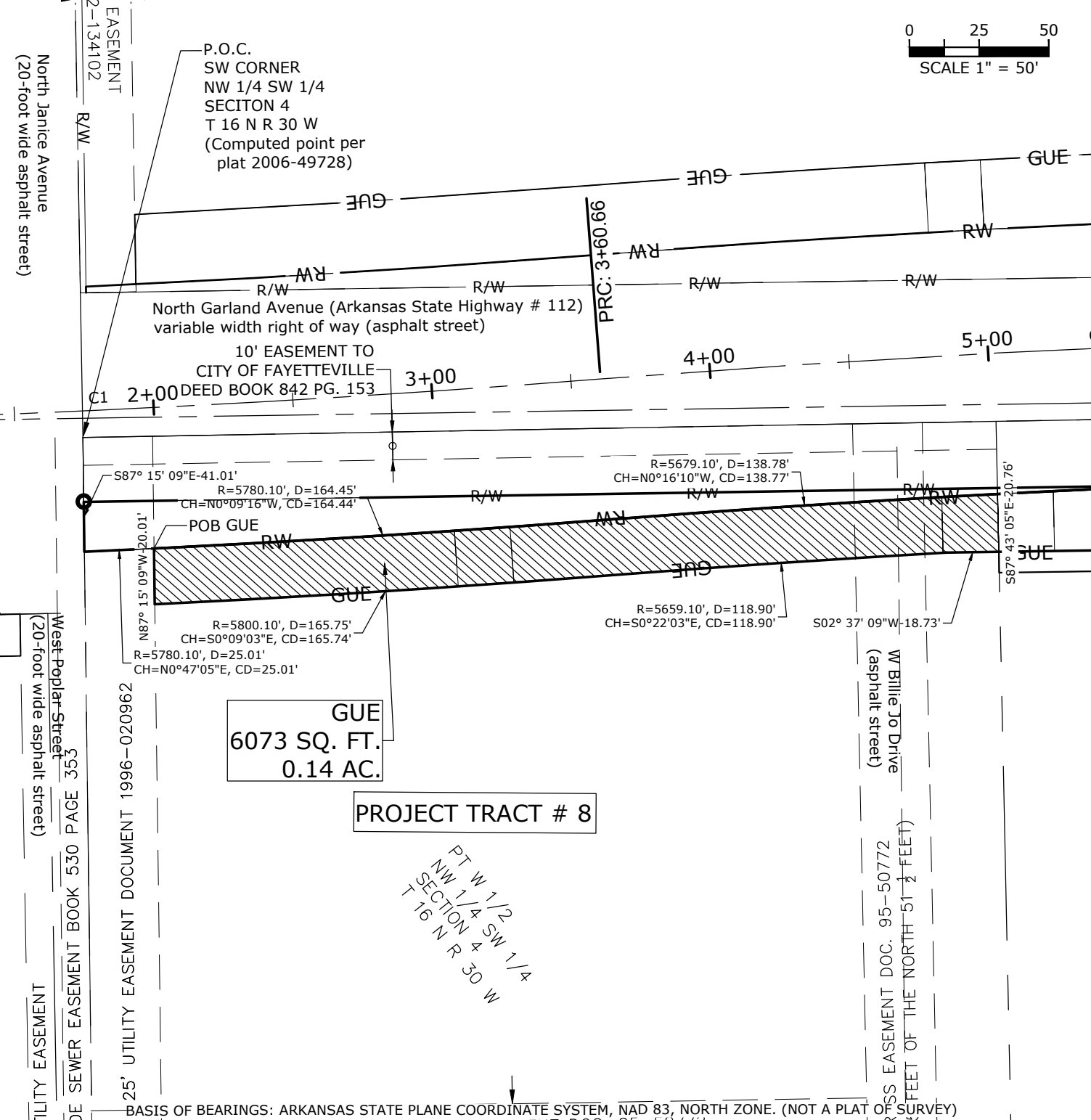
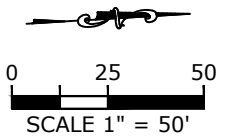
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Mitchell Moore**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member of **Mae Holdings, LLC, an Arkansas limited liability company** and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

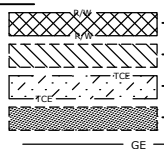
MY COMMISSION EXPIRES:

Notary Public

SHEET 1 OF 3



BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM, NAD 83, NORTH ZONE. (NOT A PLAT OF SURVEY)

765-05145-000	TAX PARCEL NUMBER	LEGEND 	PROPOSED RIGHT-OF-WAY
2021-49143	DEED RECORD		PROPOSED UTILITY EASEMENT
---	EXISTING PROPERTY LINE		PROPOSED TEMP. CONST. EASEMENT
---	EXISTING EASEMENT LINE		PROPOSED DRAINAGE EASEMENT
R/W	EXISTING RIGHT-OF-WAY LINE		PROPOSED GRADING EASEMENT
GUE	PROPOSED GRADING AND UTILITY EASEMENT	GE	
GEN	PROPOSED GENERAL UTILITY EASEMENT		

PROJ. MANAGER:	DRAWN BY:
PW	DB
DATE:	REVISION:
JUNE 2022	
SCALE:	PROJ. NUMBER:
AS NOTED	192107

EXHIBIT "A"
MAP

HWY 112 IMPROVEMENTS, ARDOT #040720
FAYETTEVILLE, ARKANSAS
TRACT 8
Osment Investments LLC; Mae Holdings LLC; Dunn & Davis Townhomes LLC

MCE McCLELLAND CONSULTING ENGINEERS, INC.
1580 E. STEARNS ST.
FAYETTEVILLE, AR 72703
(479) 443-2377
HTTP://WWW.MCE.US.COM

EX-8.1

DRAINAGE EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT WE **Osment Investments, LLC, an Arkansas limited liability company, Dunn and Davis Townhomes, LLC, an Arkansas limited liability company, and Mae Holdings, LLC, an Arkansas limited liability company,** hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation,** hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, maintain, repair and/or replace an earthen retaining levee, drainage pipe, open ditch, concrete channel and/or concrete inlet box, and appurtenances thereto, on over, across, under and through the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Warranty Deed: 2021-49143)

A part of the West half (W1/2) of the South half (S1/2) of Lot Five (5) of Evins Farm addition to the City of Fayetteville, Washington County, Arkansas, being located in the West half (W1/2) of the Northwest quarter (NW¼) of the Southwest quarter (SW¼) of Section Four (4), Township Sixteen (16) North, Range Thirty (30) West, and being more particularly described as follows: Beginning at the Southwest corner of the West half (W1/2) of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of said Section Four, said point also being the Southwest corner of said Lot Five and being located in Garland Avenue and from which an existed reference iron on the East right of way line of said street bears North 89 degrees 54 minutes 48 seconds East 24.07 feet; thence North 00 degrees 18 minutes 03 seconds East along the West line of said Lot Five (5) 329.75 feet to the Northwest corner of the South half (S1/2) of Lot Five (5) of said Evins Farm said point being in Garland Avenue and from which an existing reference iron on the East right of way line of said street bears North 89 degrees 49 minutes 51 seconds East 22.37 feet; thence leaving the West line of said Lot five (5) North 89 degrees 49 minutes 51 seconds east 307.37 feet to an existing iron; thence leaving the North line of the South half (S1/2) of Lot five (5) of said Evins Farm South 00 degrees 04 minutes 43 seconds east 330.19 feet to a set ½" iron rebar on the South line of said Lot Five (5); thence South 89 degrees 54 minutes 48 seconds West 309.55 feet to the point of beginning, containing 2.34 acres, more or less. ALSO, the North 10 feet of a 20-foot vacated street running east and west adjoining the south side of the south half of Lot 5 of Evin's Farm, a Subdivision to the City of Fayetteville, Arkansas by virtue of Ordinance No. 1899, filed January 23, 1973. LESS AND EXCEPT that portion conveyed to the City of Fayetteville for the purpose of additional right of way of Arkansas Highway 112 or Garland Avenue and described as: A variable width RIGHT OF WAY (ROW), said ROW being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said ROW being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence along the grantor's south property line S87°15'09"E 23.12 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW); thence leaving said south property line N02°37'09"E, 327.80 feet to the grantor's north property line; thence along said north property line S87°43'05"E, 2.14 feet to a point of curvature; thence leaving said north line, along a curve to the left, an arc distance of 138.78 feet to a point of reverse curve, said curve having a radius of 5679.10 feet, and a chord bearing and distance of S00°16'10"E, 138.77 feet; thence, leaving said curve, along a reverse curve to the right, an arc distance of 189.46 feet to the grantor's south property line, said curve having a radius of 5780.10 feet, and a chord bearing and distance of S00°01'49"E, 189.45 feet; thence leaving said curve, along said south property line N87°15'09"W, 17.89 feet to the POINT OF BEGINNING OF RIGHT OF WAY (POB ROW), with said ROW containing 3,397 square feet or 0.08 acres.

PERMANENT EASEMENT DESCRIPTION:

(DE 1) A 20-foot-wide DRAINAGE EASEMENT (DE), said DE being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4 Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County Arkansas and said DE being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW ¼ thence S87°15'09"E 41.01 feet to a point of curvature, said curve to the left, having an arc distance of 25.01 feet and having a radius of 5780.10 and a chord bearing and distance of N 00°47'05"E 25.01 feet; thence along a curve to the left with an arc distance of 107.93, having a radius of 5780.10 and a chord bearing and distance of N00°07'33"W 107.93 feet to the POINT OF BEGINNING OF DRAINAGE EASEMENT 1 (POB DE 1); thence along a curve to the left, an arc distance of 20.00 feet, said curve having a radius of 5780.10 feet, and a chord bearing and distance of N00°30'30"W, 20.00 feet; thence leaving said curve, N89°29'30"E, 20.00 feet to point of curvature; thence along a curve to the right, an arc distance of 20.00 feet, said curve having a radius of 5800.10 feet, and a chord bearing and distance of S00°30'30"E, 20.00 feet; thence S89°29'30"W, 20.00 feet to the POINT OF BEGINNING OF DRAINAGE EASEMENT 1 (POB DE 1), with said DE containing 400 square feet or 0.01 acres.

(DE 2) A 20-foot-wide DRAINAGE EASEMENT (DE), said DE being a part of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas and said DE being more particularly described as follows: Commencing at the Southwest corner of the NW 1/4 of said SW 1/4; thence along the grantor's south property line S87°15'09"E 23.12 feet; thence leaving said south property line N02°37'09"E, 327.80 feet to the grantor's north property line; thence along said north property line S87°43'05"E, 2.14 feet to the POINT OF BEGINNING OF DRAINAGE EASEMENT 2 (POB DE 2); thence along said north property line S87°43'05"E, 20.76 feet; thence S02°37'09"W, 18.73 feet to a point of curvature thence along a curve to the left, an arc distance of 1.27 feet, said curve having a radius of 5659.10 feet, and a chord bearing and distance of S00°13'41"W, 1.27 feet; thence leaving said curve, N87°43'15"W, 19.92 feet to a point of curvature thence along a curve to the right, an arc distance of 20.02 feet, said curve having a radius of 5680.30 feet, and a chord bearing and distance of N00°04'32"E, 20.02 feet to the POINT OF BEGINNING OF DRAINAGE EASEMENT 2 (POB DE 2) with said DE 2 containing, 406 square feet or 0.01 acres.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors, and assigns, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee.

The Grantor agrees not to erect any buildings or structures in said permanent easement. This easement cannot be used for above-ground micro-wireless facilities, small wireless facilities (including associated poles or support structures), or any other similar wireless communications facilities.

The Grantee shall have the right to construct additional drainage structures within the above-described permanent easement at any time in the future and agrees to pay any damages because of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2024.

Dunn and Davis Townhomes, LLC
Early Holdings LLC, Member

By: Jacob Newell, Manager of
Early Holdings LLC

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Jacob Newell**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Manager of **Early Holdings, LLC**, the Member of **Dunn and Davis Townhomes, LLC, an Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

WITNESS the execution hereof on this _____ day of _____, 2024.

Osment Investments, LLC

By: Ray Osment, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF _____) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Ray Osment**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member of **Osment Investments, LLC, an Arkansas limited liability company**, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

WITNESS the execution hereof on this _____ day of _____, 2024.

Mae Holdings, LLC

By: Mitchell Moore, Member

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF _____) SS.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Mitchell Moore**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that he is the Member of **Mae Holdings, LLC, an Arkansas limited liability company** and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said limited liability company, and further stated and acknowledged that he had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2024.

MY COMMISSION EXPIRES:

Notary Public

SHEET 3 OF 3

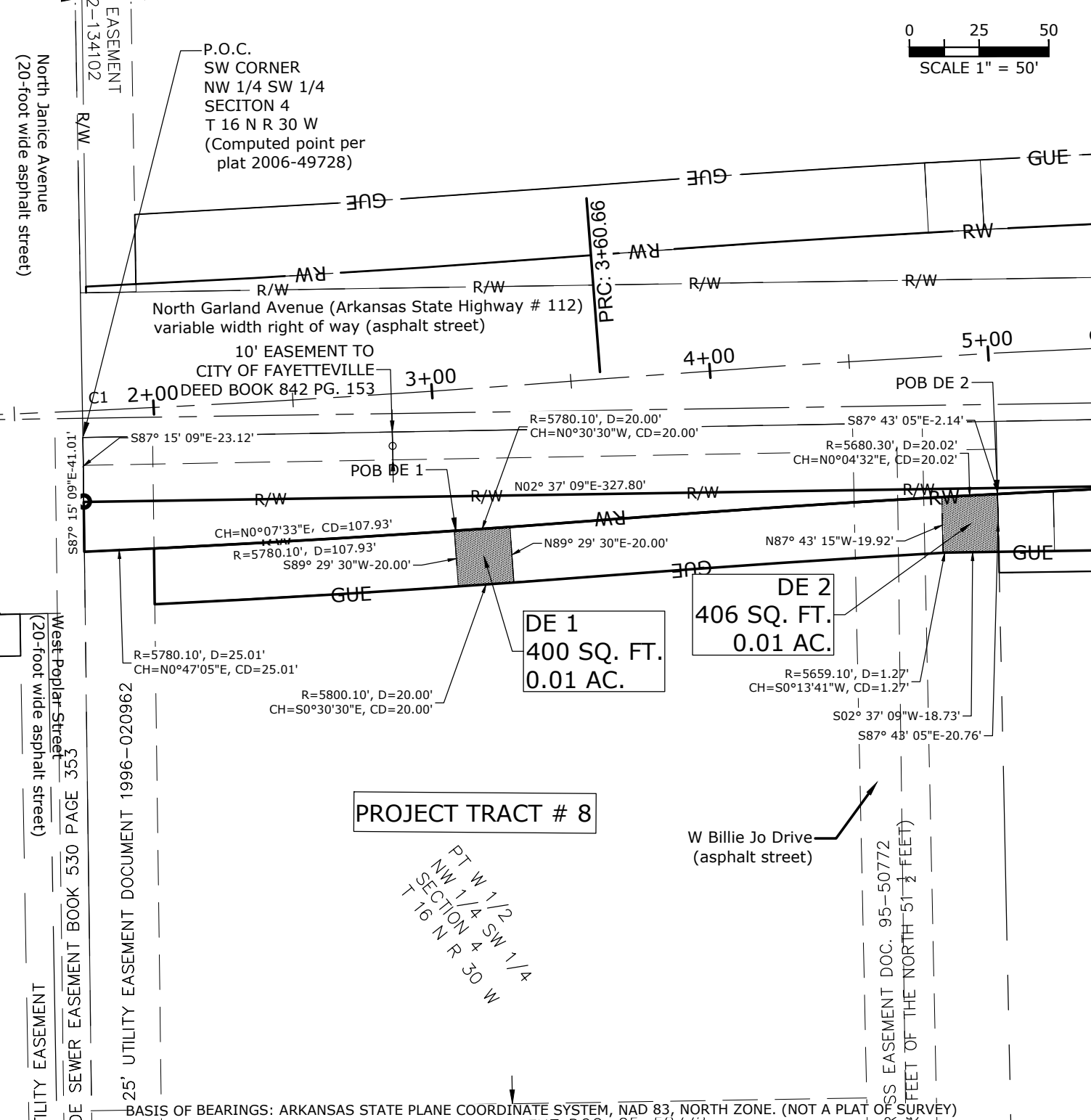
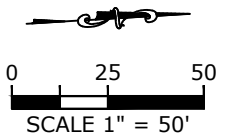


EXHIBIT "A" MAP		HWY 112 IMPROVEMENTS, ARDOT #040720 FAYETTEVILLE, ARKANSAS TRACT 8 Osment Investments LLC; Mae Holdings LLC; Dunn & Davis Townhomes LLC		McCLELLAND CONSULTING ENGINEERS, INC. 1580 E. STEARNS ST. FAYETTEVILLE, AR 72703 (479) 443-2377 HTTP://WWW.MCE.US.COM	
PROJ. MANAGER: PW DATE: JUNE 2022 SCALE: AS NOTED	DRAWN BY: DB REVISION: PROJ. NUMBER: 192107	EX-8.3			

CASE HISTORY
HWY 112 (POPLAR ST – DRAKE ST)

Tract 8 **Osment Investments, LLC**
 Dunn & Davis Townhomes, LLC
 Mae Holdings, LLC

9/21/2023	Appraisal by Tom Rife & Associates, Inc. received. Awaiting review and approval by ArDOT to move forward with offers.
1/31/2024	Offer packet mailed including offer letter for proposed right of way acquisition (3397sf), permanent grading and utility easement (6073sf), permanent drainage easement (806sf) and landscaping damages for trees within the proposed acquisition areas. Included in packet were the plan sheet, exhibit and appraisal summary sheet and W-9. Total offer is \$136,000.00 .
2/14/2024	Email from Mitch Moore, Manager of Mae Holdings LLC, rejecting our offer and requesting \$277,452.00 . After reviewing his comps, it was discovered that all but one are Commercial or RMF-40. This property is zoned RMF-24. We declined their counteroffer via email 2/15/2024.
3/19/2024	hj Sent a reminder email to Mr. Moore asking for an update or response. 3/20 Mr. Moore responded that he would like to meet via Zoom, still indicating that the comps in our appraisal don't match their property. A meeting was set for 3/25 with hj, Paul L. and Mr. Moore via Google by Mr. Moore.
3/25/2024	This meeting consisted of conversations regarding the valuation of property based on the appraisal and the fact that our appraisal was reviewed and approved by ARDOT for offers. We left the meeting indicating that we would have a conversation with ARDOT to determine the amount they would approve through our own negotiations with further approval through them.
4/2/2024	A counteroffer from the City of Fayetteville was emailed and mailed. All right of way and easement square footage stayed the same. Total offer \$149,600.00 or 10% more than our previous offer as approved by ARDOT.
4/5/2024	Mr. Moore emailed that they decline our offer and counteroffer \$236,348.00 again stating that their comps are better than ours.
4/24/2024	Final Offer \$149,600.00 and Notification of May 21, 2024 Council date will be sent.



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Jared Rabren, Airport Director
SUBJECT: **FYV Hangar Infrastructure Improvements – Arkansas Division of Aeronautics Grant Application**

RECOMMENDATION:

Staff requests approval for the Aviation Division to apply for an Arkansas Division of Aeronautics (ADA) grant to fund 80% of project costs for a proposed Hangar Infrastructure Improvements project at Fayetteville – Drake Field.

BACKGROUND:

General Aviation aircraft based at Fayetteville-Drake field utilize the apron and T-hangar facilities located at the northeast corner of airport. The GA apron currently has 8 hangar buildings with 93 T-hangars. All hangar spaces are currently leased. The airport has a hangar waiting list of 112, indicating heavy demand for additional hangar space. The number of based aircraft at FYV directly impacts airport revenue through a combination of lease agreements and fuel sales. The number of based aircraft is also considered by the FAA when determining federal funding amounts available to FYV.

This project includes constructing approximately 1,400 linear ft of 8-inch water line to support future hangar construction along the east side of the existing GA apron. The water line extension is necessary to provide fire protection capacity for future hangar development.

DISCUSSION:

This project is included in the Airport's Capital Improvement Plan (CIP). Upon receipt of an ADA Grant Offer, the Aviation Division will seek approval from Council to execute the grant offer and execute a Task Order with Garver, LLC to provide design and construction phase services for the project. The ADA grant will cover 80% of the project costs, with the remaining 20% to be funded by the City

Below is a summary of the anticipated project costs and funding breakdown for the project.

Design and Construction Phase Services ¹ :	\$48,000.00	ADA:	\$300,000.00
<u>Construction (Estimated):</u>	<u>\$327,000.00</u>	<u>City:</u>	<u>\$75,000.00</u>
TOTAL:	\$375,000.00	TOTAL:	\$375,000.00

1. Future Task Order with Garver, LLC pending receipt of ADA Grant Offer.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

BUDGET/STAFF IMPACT:

No staff or budget impacts at this time. After receipt of a grant offer, the Aviation Division will seek approval from Council to execute a design services Task Order with Garver, LLC, and process a budget adjustment.

ATTACHMENTS: SRF (#3), 80-20 ADA Grant Application - Hangar Infrastructure (#4)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-95

FYV Hangar Infrastructure Improvements – Arkansas Division of Aeronautics Grant Application

A RESOLUTION TO AUTHORIZE AN APPLICATION FOR AN ARKANSAS DIVISION OF AERONAUTICS GRANT TO FUND 80% OF PROJECT COSTS FOR A PROPOSED HANGAR INFRASTRUCTURE IMPROVEMENTS PROJECT AT DRAKE FIELD

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes an application for an Arkansas Division of Aeronautics Grant to fund 80% of project costs for a proposed hangar infrastructure improvements project at Fayetteville Drake Field.

City of Fayetteville Staff Review Form

2024-95

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jared Rabren

5/2/2024

AIRPORT SERVICES (760)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff requests approval for the Aviation Division to apply for an Arkansas Division of Aeronautics (ADA) grant to fund 80% of project costs for a proposed Hangar Infrastructure Improvements project at Fayetteville – Drake Field.

Budget Impact:

5550.760.3960-5804.00

Airport

Account Number

Fund

24014

Airport East Side Hangar

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 12,000.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 12,000.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 12,000.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



**CITY OF
FAYETTEVILLE
ARKANSAS**

May 21, 2024

Jerry Chism
Arkansas Department of Aeronautics
2315 Crisp Drive
Hangar 8
Little Rock, AR 72202

Re: Fayetteville – Drake Field
Hangar Infrastructure Improvements
Application for Airport Aid (ADA 80-20 Grant)

Dear Mr. Chism:

The City of Fayetteville appreciates the continued partnership of the Arkansas Department of Aeronautics in improving Fayetteville- Drake Field. In continuation of this partnership, we are pleased to submit to you this enclosed application for state airport aid.

As you know, we have recently had an increase in hangar development requests at our airport. We currently have multiple hangar development projects making their way through the City's permitting process. Once complete, these hangars will exhaust all our current hangar development areas that are prepped for development.

Given our recent increase in hangar development, the City is in need of additional developable hangar space. This project will provide new water utility infrastructure to a new hangar development area located east of the existing T-Hangars on the east side of the airfield. The proposed water infrastructure will provide fire flows and potable water to support multiple clear span hangar developments. Existing apron pavement, sewer, and electrical infrastructure are already available in this area.

We respectfully request consideration of this matching grant for the amount of \$300,000.00 on the upcoming agenda. We greatly appreciate your consideration of this grant.

Please call me or Kyle Bennett with Garver if you have any questions or comments.

Sincerely,

Mr. Lioneld Jordan
Mayor
City of Fayetteville

Attachments: State Airport Aid Application
Project Budget
Project Exhibit

Cc: Kyle Bennett, Garver

State Airport Aid Application – Page 1

The City/County of Fayetteville, herein called “Sponsor”, hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the city of Fayetteville Arkansas, Washington county.

Date of Request: May 21, 2024

Name of Airport: Fayetteville – Drake Field (FYV)

Name and address of City/County Commission
sponsoring request:

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Phone Number: 479-575-8330

Fax Number: 479-585-8257

Person to Contact about project:

Jared Rabrem Airport Services Manager
City of Fayetteville
Fayetteville – Drake Field

Phone Number: 479-718-7644

Cell Number: _____

Fax Number: 479-718-7646

Name and address of Engineering Firm
(if applicable):

Garver
2049 E. Joyce Blvd.
Suite 105
Fayetteville, AR 72703

Contact Person: Kyle Bennett

Phone/Fax Number: 479-527-9100

Describe the work to be accomplished: The Airport is currently in the process of developing multiple hangars across the airfield. These recent developments have exhausted the airport’s existing hangar development areas. This project will provide new water utility infrastructure to a new hangar development area located east of the existing T-Hangars on the east side of the airfield. The proposed water infrastructure will provide fire flows and potable water to support multiple clear span hangar developments. Existing apron pavement, sewer, and electrical infrastructure are already available in this area.

State and Local Project Costs:
Please indicate:

Federal AIP Projects:

AIP Number: N/A

◇ 50-50% Match

◆ 80-20% Match

◇ 90-10% Match

◇ 100

◇ 95-5% Match

◇ 90-10% Match

Total Cost of Project: \$375,000.00

Local Share/Funds: \$75,000.00

Local Share/In-Kind: _____

State Share: \$300,000.00

Total Cost of Project: _____

Federal Share: _____

State Share: _____

Local Share: _____

State Airport Aid Application – Page 2

Provide the information listed below as it applies to your project:

Funding:

Source of Funds: Arkansas Department of Aeronautics (80%) City of Fayetteville (20%)

Source of In-Kind Services: N/A

Estimated starting date of project: July 1, 2024

Estimated completion date of project: June 30, 2025

Project will be for: New Airport **Existing Airport**

Is land to be leased or purchased? N/A

Description of land and cost per acre: N/A

Provide the Federal AIP Grant Number (if applicable): N/A

State Legislators for your area:

State Senator: Greg Leding

State Representative: Denise Garner

State Airport Aid Application – Page 3

The sponsor agrees to furnish the Arkansas Department of Aeronautics a copy of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480-1, *Notice of Landing Area Proposal*, must be approved by the FAA before review for grant can be made by the State. Applications for hangar construction or renovation funds must include a signed lease agreement. This agreement must be in compliance with all FAA grant assurances. The application must be based on bids and include a calculated return on investment.

No land, hangars, or buildings purchased with State Grant funds may be sold or disposed of without State Aeronautics Commission prior approval. All requests for sale or disposal of property will be considered on an individual case basis. No hangar (funded by a grant from the Department of Aeronautics) shall be used for non-aviation purposes without State Aeronautics Commission prior approval. All requests for non-aviation use will be considered on a case-by-case basis. Failure to receive prior approval from A.D.A. concerning land and/or building use could result in the commission requesting grant refund from the Sponsor. Additionally, all hgr/building grant applications must include proof of insurance coverage.

No airport accepting State Grant funding may issue an Exclusive Rights lease.

All applications for navigational aids (such as NDB or ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP) funding must be accompanied by the approved FAA grant agreement with grant number assigned.

If this project is approved by the Arkansas Department of Aeronautics, and is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined in the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc. shall have a base and a thickness that will accommodate the weight of aircraft expected to operate at this airport.

All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County, and City laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued.

It is understood and agreed that the sponsor shall start this project immediately upon award of grant. It is also agreed that this project shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur. Amendment requests are to be made only under extraordinary circumstances.

Funds will be disbursed according to Department procedures and final inspection of completed project (See payment instruction page). *Payment of grant funds are contingent upon the Department's annual appropriation.*

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this _____ day of _____, 2024 .

Mr. Lioneld Jordan

Name of Sponsor

Authorized Signature

Mayor

Title

**CITY OF FAYETTEVILLE
HANGAR INFRASTRUCTURE IMPROVEMENTS
ENGINEER'S ESTIMATE OF PROBABLE COST**

ITEM NO.	SPEC. NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	Engineer's Estimate of Probable Cost	
					UNIT PRICE	AMOUNT
1	SS-101	C-900 PVC Water Pipe	LF	1,400	\$135.00	\$189,000.00
2	SS-101	Ductile Iron Fittings	LB	1,000	\$25.00	\$25,000.00
3	SS-101	Fire Hydrant Assembly	EA	1	\$14,000.00	\$14,000.00
4	SS-101	8" Gate Valves	EA	2	\$5,700.00	\$11,400.00
5	SS-101	Fence Repair	LS	1	\$2,900.00	\$2,900.00
6	SS-101	Concrete Anchor Collar	EA	1	\$11,500.00	\$11,500.00
7	SS-101	8"x8" Tapping Sleeve & Valve	EA	1	\$11,000.00	\$11,000.00
8	SS-101	Trench Safety System	LS	1	\$15,000.00	\$15,000.00
9	SS-101	Erosion Control	LS	1	\$7,500.00	\$7,500.00
10	SS-101	Testing	LS	1	\$7,500.00	\$7,500.00
11	SS-101	Arkansas Dept. of Health Permit	EA	1	\$500.00	\$500.00
12	C-105	Mobilization	LS	1	\$31,700.00	\$31,700.00

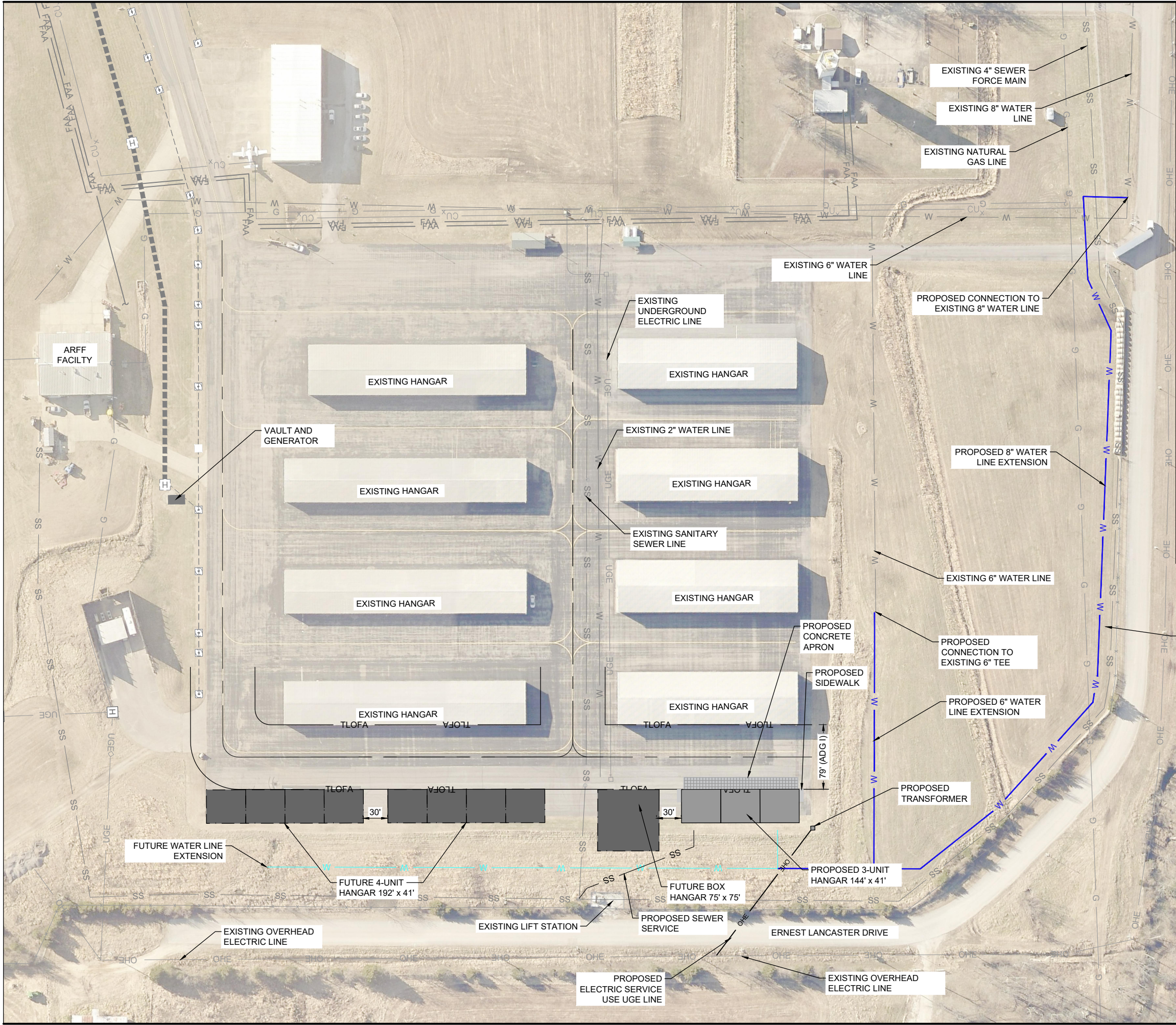
TOTAL ESTIMATED CONSTRUCTION COST	\$327,000.00
--	---------------------

ENGINEERING & OTHER SERVICES (ESTIMATED 15%)	\$48,000.00
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TOTAL ESTIMATED PROJECT COST	\$375,000.00
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PROJECT FUNDING (ADA 80-20 Grant)	
ADA 80-20 (\$300,000 CAP)	\$300,000.00
City of Fayetteville (Remainder)	\$75,000.00
TOTAL PROJECT FUNDING	\$375,000.00





LEGEND

	PROPOSED HANGAR
	FUTURE HANGAR
	TLOFA
	EXISTING UNDERGROUND ELECTRIC LINE
	EXISTING SANITARY SEWER LINE
	EXISTING WATER LINE
	EXISTING NATURAL GAS LINE
	EXISTING OVERHEAD ELECTRIC LINE
	EXISTING PERIMETER FENCE
	EXISTING COMMUNICATION LINE
	EXISTING FAA UTILITIES
	EXISTING ELECTRICAL DUCT
	EXISTING SANITARY SEWER MANHOLE
	EXISTING ELECTRIC STRUCTURES
	EXISTING EDGE LIGHT



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REV.	DATE	DESCRIPTION	BY

GA APRON HANGAR EXPANSION

DRAKE FIELD (FYV)
FAYETTEVILLE, AR

GA APRON HANGAR LAYOUT - OPTION 2

JOB NO.: 20A13210
DATE: JUNE 2023
DESIGNED BY: KAB
DRAWN BY: BLW

BAR IS ONE INCH ON ORIGINAL DRAWING
IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY.

DRAWING NUMBER
EXB-002

SHEET NUMBER
1



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Alison Jumper, Director of Parks, Natural Resources and Cultural Affairs

FROM: Lee Farmer, Recreation Superintendent

SUBJECT: **Aquatic Feasibility Study**

RECOMMENDATION:

Staff recommends entering into a contract with Water Technology, Inc (WTI), pursuant to RFQ 24-01 for professional consulting services to develop an Aquatic Feasibility Study for a fee not to exceed \$151,591, and approving an associated budget adjustment, and a project contingency of \$5,000.

BACKGROUND:

The Park and Recreation System Master Plan was adopted by the City Council in March of 2023, which had a priority action of initiating a study to provide an updated aquatic facility. This priority action prompted staff to budget for the Aquatic Feasibility Study in the 2024 CIP Budget.

Staff worked with Purchasing on RFQ-24-01 for this study and the professional selection committee selected WTI for this service. WTI is a world-renowned aquatic design firm with an extensive portfolio of projects.

DISCUSSION:

The Aquatic Feasibility Study will assess the current aquatic facilities, conduct community input to gauge demand for a new aquatic facility, explore appropriate locations, and provide cost estimates for construction and annual operations.

BUDGET/STAFF IMPACT:

Funds for this Water Technology, Inc. contract for the Aquatic Feasibility Study are available in the Capital Improvement Plan GL Account 4470.520.8520-5315.00 and Park Development GL Account 2250.520.9255-5315.00 within the Aquatic Facility Feasibility Study project # 24008.1.

ATTACHMENTS: SRF (#3), BA (#4), WTI Final Contract (#5), Appendix A - Scope of Work - FINAL (#6), Appendix B - City Issued RFQ (#7), Appendix C - Water Technology's Submittal (#8), Appendix D - WTI Certificate of Insurance (#9), Sel. 4 - Voting Results (#10)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-52

Aquatic Feasibility Study

A RESOLUTION TO AUTHORIZE A CONTRACT WITH WATER TECHNOLOGY, INC. IN AN AMOUNT NOT TO EXCEED \$151,591.00, PURSUANT TO RFQ 24-01, FOR CONSULTING SERVICES TO DEVELOP AN AQUATIC FEASIBILITY STUDY, TO APPROVE A PROJECT CONTINGENCY OF \$5,000.00, AND TO APPROVE A BUDGET ADJUSTMENT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a Consulting Services Contract with Water Technology, Inc., in an amount not to exceed \$151,591.00, pursuant to RFQ 24-01, to develop an Aquatic Feasibility Study and further approves a project contingency in the amount of \$5,000.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

City of Fayetteville Staff Review Form

2024-0052

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Lee Farmer

4/30/2024

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends entering into a contract with Water Technology, Inc (WTI), pursuant to RFQ 24-01 for professional consulting services to develop an Aquatic Feasibility Study for a fee not to exceed \$151,591, and approving an associated budget adjustment, and a project contingency of \$5,000.

Budget Impact:

4470.520.8520-5315.00

Sales Tax Cap Imp

2250.520.9255-5315.00

Park Development

Account Number

Fund

24008.1

Aquatic Feasibility Study

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 100,000.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 100,000.00

Does item have a direct cost? Yes

Item Cost

\$ 151,591.00

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 56,591.00

Remaining Budget

\$ 5,000.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024	PARKS & RECREATION (520)	
	Requestor: Alan Bearden	

Budget adjustment to transfer required funds to enter into a contract with Water Technology, Inc. (WTI), pursuant to RFQ # 24-01 for professional consulting services to develop an Aquatic Feasibility Study. Additional funds needed for a total contract amount not to exceed \$151,491 and a project contingency of \$5,000.

	COUNCIL DATE:	5/21/2024
	ITEM ID#:	2024-0052
	Holly Black	
	5/1/2024 3:54 PM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

v.2024422



THIS AGREEMENT (Contract) is executed this _____ day of _____, 2024, by and between the City of Fayetteville, Arkansas acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or CITY) and **Water Technology, Inc.** (hereinafter called Engineer/Architect or **WTI**).

CITY OF FAYETTEVILLE from time to time requires professional Engineering and/or Architectural services in connection with the evaluation, design, construction drawings, bidding, and/or construction observation of capital improvement projects. Therefore, CITY and **WTI** in consideration of their mutual covenants agree as follows:

WTI shall serve as the professional engineer/architect consultant to the CITY in those assignments to which this Agreement applies and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of services defined in the scope of work. All services shall be performed under the direction of a licensed engineer/architect registered in the State of Arkansas and qualified in the particular field.

1. **Contracted parties:** This agreement shall be binding between all parties. Fees for services shall be provided as identified in appendices.
2. **Entire Agreement and Exhibits:** This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Parties shall not be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein. This agreement may be modified only by a duly executed written instrument signed by the CITY and **WTI**.
 - a. Appendices included under this agreement include the following and shall govern in the following order. Contract language in this document shall prevail over all exhibits:
 - i. **Appendix A:** Scope of Work & Fees
 - ii. **Appendix B:** City's solicitation identified as RFQ 24-01, Engineering & Architectural Services
 - iii. **Appendix C:** **WTI's** Response to RFQ 24-01
 - iv. **Appendix D:** **WTI's** Certificate of Insurance
3. **Notices:** Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:
 - a. City of Fayetteville: Attention: Mayor Lioneld Jordan, 113 W. Mountain, Fayetteville, AR 72701
 - b. Water Technology, Inc.: Attention: Jen Gerber, 100 Park Avenue, Beaver Dam, WI 53916
4. **Fees, Expenses, and Payments:**
 - a. The Fixed Fee amount authorized for this agreement is **\$134,091.00** plus any reimbursable expenses attributed to the project (refer to **Appendix A**). Progress payments shall be paid to **WTI** as described in **Appendix A**. Additional services may be utilized using rates in **Appendix A**.
 - b. **WTI** shall track, log, and report hours and expenses directly related to this Agreement. Invoices shall be itemized by Task. Invoice and payment requests shall not exceed the percentage of work completed as defined by **Appendix A**.

- c. **Payment Terms:** All invoices are payable upon approval and due within thirty (30) calendar days. If a portion of an invoice or statement is disputed by CITY, the undisputed portion shall be paid. CITY OF FAYETTEVILLE shall advise **WTI** in writing the basis for any disputed portion of any invoice. CITY shall make reasonable effort to pay invoices within 30 calendar days of date the invoice is approved.
 - d. Monthly invoices for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY may designate for professional services consistent with **WTI's** normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Invoices shall be made in accordance with a format to be developed by **WTI** and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY's approval and acceptance with the satisfactory completion of professional services for the Project.
 - e. **Final Payment:** Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, **WTI** shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by **WTI** to be set forth therein.
 - i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE claims against **WTI** or sureties under this Agreement.
5. **Jurisdiction:** Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.
6. **Venue:** Venue for all legal disputes shall be Washington County, Arkansas.
7. **Changes in Scope or Price:** Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost or fees.
8. **Omissions by the Engineer/Architect:** If **WTI** fails to include or omits an item from the Contract Documents, which was fully anticipated to be included in the Project, thereby necessitating the need for a Change Order, **WTI** will not receive a fee for work associated with the Change Order.
9. **Insurance:** **WTI** shall furnish a certificate of insurance addressed to the CITY OF FAYETTEVILLE, showing coverage for the following insurance which shall be maintained throughout the term of this agreement. Any work sublet to major subconsultants including MEP, Structural, and Civil, **WTI** shall require the subconsultant to provide the insurance identified. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, **WTI** shall provide and shall cause each Subcontractor to provide adequate insurance for the protection of such of his employees as are not otherwise protected.
- a. **Water Technology, Inc.** shall provide to the CITY certificates as evidence of the specified insurance presented in Appendix D within ten (10) calendar days of the date of this agreement and upon each renewal coverage.
 - i. Certificates of Insurance shall list the CITY OF FAYETTEVILLE as an additional insured. Listing the CITY has a Certificate Holder only is NOT an acceptable substitute. Certificates of Insurance must include the endorsement(s) showing the CITY OF FAYETTEVILLE listed as an additional insured.
 - b. Subconsultants shall maintain reasonable insurance including but not limited to worker's compensation, auto as applicable, general liability, errors and omissions, etc.

10. **Professional Responsibility:** WTI will exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices. CITY OF FAYETTEVILLE will promptly report to WTI any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so WTI can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damage caused by any negligence of WTI.
11. **Responsibility of the City of Fayetteville:** CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of WTI:
- Provide full information as to the requirements for the Project including but not limited to project site surveys, project record drawings (if available), and project site geotechnical analysis and reports (if available).
 - Assist WTI by making available all available information pertinent to the assignment including previous reports and any other data relative thereto.
 - Assist WTI in obtaining access to property reasonably necessary to perform the services under this Agreement.
 - Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by WTI and render in writing decisions pertaining thereto.
 - Review all documents and provide written comments to WTI in a timely manner.
 - The City of Fayetteville's Parks, Natural Resources, and Cultural Affairs Director is the project representative with respect to the services to be performed under this Agreement. The Parks, Natural Resources, and Cultural Affairs Director shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
12. **Cost Opinions and Projections:** Cost opinions and projections prepared by the WTI relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on WTI's experience, qualifications, and judgment as a design professional. Since WTI has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, WTI does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by WTI.
13. **Period of Service:** This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. WTI will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the work authorized and the time in which the work is to be completed.
14. **Termination:**
- This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be affected unless the other party is given:

- i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that **WTI** is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to **WTI** at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of **WTI's** default.
- d. If termination for default is affected by **WTI**, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to **WTI** for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by **WTI** relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action, **WTI** shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by **WTI** in performing this Agreement, whether completed or in process.
- f. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of **WTI** to fulfill contractual obligations, it is determined that **WTI** had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

15. Delays

- a. In the event the services of **WTI** are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond reasonable control, **WTI** shall be entitled to additional compensation and time for reasonable documented costs actually incurred by **WTI** in temporarily closing down or delaying the Project.
- b. In the event the services are suspended or delayed by **WTI**, CITY shall be entitled to compensation for its reasonable costs incurred in temporarily closing down or delaying the project. The CITY does not agree to waive its right to claim (in addition to direct damages) special, indirect, or consequential damages, whether such liability arises in breach of contract or warranty, tort (including negligence), strict or statutory liability, or any other cause of action.

16. **Rights and Benefits:** **WTI's** services shall be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

17. Dispute Resolution

- a. **Scope of Paragraph:** The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and **WTI** which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or **WTI** in the performance of this Agreement, and disputes concerning payment.
- b. **Exhaustion of Remedies Required:** No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.
- c. **Notice of Dispute**
 - i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
 - ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give **WTI** written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
 - iii. **Negotiation:** Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and **WTI** shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of **WTI** and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site, or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

18. **Sufficient Funds:** The CITY represents it has sufficient funds or the means of obtaining funds to remit payment to **WTI** for services rendered by **WTI**.

19. **Publications:** Recognizing the importance of professional development on the part of **WTI's** employees and the importance of **WTI's** public relations, **WTI's** may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining **WTI's** services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to **WTI**, CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. Approved materials may be used in a variety of situations and do not require additional review or approval for each use. The cost of **WTI's** activities pertaining to any such publication shall be for **WTI's** account.

20. **Indemnification:** **WTI** shall indemnify, hold harmless and, not excluding the CITY's right to participate, defend the CITY and any of its officers, or employees from and against all liabilities, claims, actions, damages, losses and expenses, including without limitation reasonable attorneys' fees and costs, arising out of or resulting in any way from the performance of professional services for the CITY in **WTI's** capacity as an Engineer/Architect, and caused by any willful or negligent error, omission, or act of **WTI** or any person employed by it or anyone for whose acts **WTI** is legally liable.

21. **Freedom of Information Act:** CITY OF FAYETTEVILLE contracts and documents prepared while performing CITY contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act

request is presented to the CITY OF FAYETTEVILLE, the engineer/architect will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

22. **Debarment Certification:** **WTI** hereby provides debarment/suspension certification indicating compliance with the below Federal Executive Order. Federal Executive Order (E.O.) 12549 “Debarment and Suspension” requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. **WTI** hereby attests its principal is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

23. **Ownership of Documents:**

- a. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. **WTI** may retain reproduced copies of drawings and copies of other documents.
- b. Engineering and architectural documents, computer models, drawings, specifications and other hard copy or electronic media prepared by **WTI** as part of the Work shall become the property of CITY OF FAYETTEVILLE when **WTI** has been compensated for all Services rendered, provided, however, that **WTI** shall have an unrestricted perpetual license right to their use. **WTI** shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of **WTI**.
- c. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. **WTI** makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

24. **Additional Responsibilities of Water Technology, Inc.:**

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve **WTI** of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- b. **WTI** shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by **WTI's** negligent performance, except beyond the **WTI** normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. **WTI's** obligations under this clause are in addition to **WTI's** other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against **WTI** for faulty materials, equipment, or work.

25. **Audit and Access to Records:**

- a. **WTI** shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. **WTI** shall also maintain the financial information and data used by **WTI** in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, or any of their authorized representatives, shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. **WTI** will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.
- d. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements:
 - ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement:
 - iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 - 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of **WTI**;
 - 2. If there is any indication that fraud, gross abuse or corrupt practices may be involved;
 - 3. If the sub agreement is terminated for default or for convenience.

26. Covenant Against Contingent Fees:

- a. **WTI** warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by **WTI** for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

27. Gratuities:

- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that **WTI** or any of **WTI's** agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, or related third party contractor associated with this project, in an attempt to secure an agreement or favorable treatment in

awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to **WTI** terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

- b. The CITY may pursue the same remedies against **WTI** as it could pursue in the event of a breach of the Agreement by **WTI**. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount, as determined by CITY, which shall be not less than three nor more than ten times the costs **WTI** incurs in providing any such gratuities to any such officer or employee.

28. **Clarification and Understanding of all parties:** **WTI** shall not assign its duties under the terms of this agreement without prior written consent of the City. Subconsultants identified in **WTI's** response shall be permitted as being referenced herein.

IN WITNESS WHEREOF, **CITY OF FAYETTEVILLE, ARKANSAS** by and through its Mayor, and **WATER TECHNOLOGY, INC.**, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

WATER TECHNOLOGY, INC.

By: _____

By: _____

LIONELD JORDAN, MAYOR

JEN GERBER, VICE PRESIDENT

ATTEST:

By: _____

Kara Paxton, City Clerk

Date Signed: _____

Date Signed: 5.1.2024

**PROFESSIONAL SERVICES FOR RFQ 24-01, Selection #4
AQUATIC FEASIBILITY STUDY**

1. SCOPE OF WORK

Water Technology, Inc. (WTI) will provide professional consulting to develop an Aquatics Feasibility Study for the City of Fayetteville’s Parks, Natural Resources, and Cultural Affairs Department. Scope includes assessment of current aquatics, market analysis, community input, site inventory, existing facility analysis, concept design, partnership opportunities review, and proforma.

A. Task 1 – Current Aquatics Assessment

WTI will provide high-level assessment of Wilson Park Pool. Detailed engineering assessment not anticipated. WTI will provide feedback on program, services, and industry trends relative to cities of a similar size (nationally) and in Northwest Arkansas. Anticipate a review of up to two (2) cities for benchmarking; including Lawrence, KS and other regionally relevant cities as identified by WTI staff.

- i. WTI will provide assessment of Wilson Park Pool for feedback on potential non-aquatic venue reuse.
- ii. Perform review of Fayetteville against other cities for benchmarking exercise.
- iii. Establish bi-weekly coordination calls with consultant partners.

B. Task 2 – Market & Existing Facility Analysis & Partnership Opportunities

WTI will provide review of recently completed 10-year Masterplan and provide focused review specific to aquatic facilities. WTI will identify secondary service area and will provide overview of aquatic trends in indoor and outdoor environments alongside competition and leisure amenities/elements. WTI will begin identifying opportunities for partnerships and address re-use opportunities for Wilson Park Pool site. Discussions of ideas for site opportunities, high-level assessment of potential future opportunities for re-use will be the focus; no design work is anticipated. WTI will present findings and strategies to the public during the community input process. Following the market analysis, WTI will identify capital and operating partnership opportunities.

- i. WTI to provide presentation on trends in aquatics.
- ii. Opportunities for partnerships & provide cost/benefit analysis with potential partners shall be identified.
- iii. Service area identification, demographic characteristics/community profile, competitive market analysis, comparison with regional and location participation statistics/trends, and market segment determination and analysis shall all be provided.

C. Task 3 – Community Input

WTI will examine indoor, outdoor, or combined facility options, single/multiple locations, priorities for non-aquatic amenities/support spaces, and programs/services to be offered. WTI will provide an approach to public input and surveying using the following:

- i. Virtual kick-off meeting with full consultant team & City staff to discuss, schedule, and prioritize community input approach

- ii. Three (3) virtual meetings with staff-appointed steering committee
- iii. Two (2) in-person public input meetings: initial polling & concept review/feedback.
- iv. Virtual meeting for final presentation of concept to Parks Advisory Board at an open public forum
- v. In-person meeting for final presentation of concept to Fayetteville City Council
- vi. Provide two (2) online surveys for public input: first survey to seek early feedback and guidance; second survey to obtain feedback on design concepts.
 - 1. Surveys to be hosted on City of Fayetteville's website
 - 2. Project team to identify survey questions and share with Staff for integration

D. Task 4 – Site Inventory & Analysis

WTI to identify optimal locations for a new facility and provide recommendations for future sites and land acquisition costs. Following feedback on the service area, WTI will evaluate preferred sites and present potential land acquisition costs.

E. Task 5 – Concept Design

Following Staff, Steering committee, and community input to identify the preferred program, WTI will provide various concepts with differing levels of amenities and costs for discussion and review.

- i. Confirm aquatic program & amenities for multiple scenarios/budgets.
- ii. WTI will provide 2D concept options for review & feedback (limit 3).
 - 1. 3D renderings are NOT part of this scope of work; 2D concepts only.
- iii. WTI will provide ROM budget for preferred concept.

F. Task 6 – Proforma

Project the operating costs and staffing levels required of the facility design while noting the cost recovery rate potential. WTI will provide the capital expense required to fund the project from start to finish.

- i. Attendance Estimates
 - 1. Daily
 - 2. Annually
 - 3. By facility and/or component
- ii. Fee Structure
 - 1. Drop-in
 - 2. Multiple admissions/annual passes
 - 3. Family, corporate, group
 - 4. Rentals
- iii. Sources of Income
 - 1. Identification and verification of revenue sources
- iv. Operation Cost Projections
 - 1. Develop a line item budget

2. Personnel by position
3. Contractual services
4. Commodities
5. Capital replacement
- v. Revenue Generation Projections
 1. Develop a line item accounting
 2. Admissions
 3. Annual/multiple admissions
 4. Programs and services
 5. Rentals
 6. Other revenue sources
- vi. Revenue/Expenditure Comparisons
 1. Cost recovery level
- vii. Project Recommendations/Profitability of Components
 1. Marketing strategy
 2. Program/service considerations

2. SCHEDULE

The final report is anticipated to be completed in November 2024.

3. COST/FEES

- A. The Fixed Fee amount authorized for this agreement is \$134,091.00 plus any reimbursable expenses attributed to the project. Reimbursable expenses may include travel, express shipping, and printing.
 - i. Reimbursable expenses are estimated at 10 trips in total with an estimated cost of \$1,750.00 per trip. Reimbursable expenses are estimated at \$17,500.00.
- B. The Fixed Fee has been broken down by task and billing will be issued to the City monthly, on a percent complete basis.

Task Identification	Cost of Task
Task 1 – Current Aquatics Assessment	\$2,650.00
Task 2 – Market & Existing Facility Analysis & Partnership Opportunities	\$18,780.00
Task 3 – Community Input	\$66,811.00
Task 4 – Site Inventory & Analysis	\$12,550.00
Task 5 – Concept Design	\$22,400.00
Task 6 - Proforma	\$10,900.00
	\$134,091.00

- C. Additional services related to this project may be requested and provided on an hourly basis utilizing the following hourly rates:
 - i. Principal/Director: \$250.00 per hour

- ii. Project Manager/Engineer: \$185.00 per hour
- iii. Creative Studio: \$160.00 per hour
- iv. Project Design: \$145.00 per hour
- v. Mechanical Design: \$170.00 per hour
- vi. Technical Design: \$105.00 per hour
- vii. Administrative: \$75.00 per hour



**CITY OF
FAYETTEVILLE
ARKANSAS**

City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8256

TDD (Telecommunication Device for the Deaf): 479.521.1316

RFO (REQUEST FOR QUALIFICATION)

REQUEST FOR QUALIFICATION: RFQ 24-01, Engineering & Architectural Services

DEADLINE: Tuesday, January 9, 2024 before 2:00 PM, local time

SR. PURCHASING AGENT: Amanda Beilfuss, abeilfuss@fayetteville-ar.gov

DATE OF ISSUE AND ADVERTISEMENT: 12/10/2023

**REQUEST FOR STATEMENTS OF QUALIFICATION
RFQ 24-01, Engineering & Architectural Services**

It is the intent for the accepted responses of this solicitation to be considered for all engineering and architectural selections for 2024.

The City may select engineers and architects for bond projects from this RFQ as well as projects related to funding from the American Rescue Plan.

The City reserves the right to issue a separate RFQ at any time for any job specific engineering and/or architectural selection.

Submittals shall be submitted via upload and complete submission on the City's electronic platform at <http://fayetteville-ar.gov/bids>. No physical copies shall be submitted. The City will not accept late or misdirected responses.

All statements of qualification shall be submitted in accordance with the attached City of Fayetteville specifications and documents attached hereto. Each Proposer is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. Any bid, proposal, or statements of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

The Proposer hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Director.

City of Fayetteville, AR
RFQ 24-01, Engineering & Architectural Services
Advertisement

City of Fayetteville, AR
Request for Statements of Qualification
RFQ 24-01, Engineering & Architectural Services

The City of Fayetteville, Arkansas, is requesting statements of qualifications from firms interested in providing engineering, architectural, & land surveying services for 2024 street, drainage, bridge, water & sewer, trails, parks, and other projects.

All statements shall be received by **Tuesday, January 9, 2024 before 2:00 PM, local time** utilizing the City's electronic portal located at <http://fayetteville-ar.gov/bids>. Late or misdirected proposals will not be accepted. Proposals will not be accepted after the deadline. The City of Fayetteville will not be responsible for lost or misdirected RFQ's, or failure of bidder's technical equipment.

Forms & addendums can be downloaded from the City's electronic portal at <http://fayetteville-ar.gov/bids>. All questions regarding the process shall be directed to Amanda Beilfuss at abeilfuss@fayetteville-ar.gov or (479)575-8220.

All interested parties shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the project is located. Interested parties shall be registered with the Arkansas Secretary of State.

The City of Fayetteville reserves the right to reject any or all Proposals and to waive irregularities therein, and all parties agree that such rejection shall be without liability on the part of the City of Fayetteville for any damage or claim brought by any interested party because of such rejections, nor shall any interested party seek any recourse of any kind against the City of Fayetteville because of such rejections. The filing of any Statement in response to this invitation shall constitute an agreement of the interested party to these conditions.

City of Fayetteville

By: Amanda Beilfuss, Sr. Purchasing Agent

P: 479.575.8220 abeilfuss@fayetteville-ar.gov

TDD (Telecommunications Device for the Deaf): (479) 521-1316

Date of advertisement: 12/10/2023

This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.

Amount paid: \$150.72

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Appendix B
RFQ 24-01, Selection #4
Aquatic Feasibility Study
City Issued RFQ

1. SUBMISSION OF A STATEMENT OF QUALIFICATION SHALL INCLUDE:

- a. A written narrative describing the method or manner in which the Proposer proposes to satisfy requirements of this RFQ. The term Proposer shall be in reference to a firm or individual responding to this solicitation. The term proposal is used in this document as equal to statement of qualification (SOQ).
- b. A description of the Proposer's experience in providing the same or similar services as outlined in the RFQ. This description should include the names of the person(s) who will provide the services, their qualifications, and the years of experience in performing this type of work. Also, include the reference information requested in this RFQ.
- c. Electronic Submittal: Proposers are required to go to <http://fayetteville.ar.gov/bids> and follow the prompts to submit a statement of qualification within the electronic platform. **Physical submittals are not allowed for this RFQ.**
 - i. SOQ's shall be prepared simply and economically, providing a straightforward, concise description of its ability to meet the requirements for the project. Fancy bindings, colored displays, and promotional material are not required. Emphasis should be on completeness and clarity of content. All documents submitted through the electronic portal shall be standard page size of 8 1/2" x 11". Exceptions would be schematics, exhibits, one-page resumes, and City required forms. Limit proposal to twenty- five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion. All proposals shall be uploaded in a PDF format to the City's electronic platform prior to the stated deadline.
- d. Proposals will be reviewed following the stated deadline, as shown on the cover sheet of this document. Only the names of responders will be available as selections will be made all year for various projects.
- e. Proposers shall submit a statement of qualification based on documentation published by the Fayetteville Purchasing Division.
- f. Proposals must follow the format of the RFQ. Proposers should structure their responses to follow the sequence of the RFQ, if provided.
- g. Proposers shall have experience in work of the same or similar nature and must provide references that will satisfy the City of Fayetteville. Proposer may furnish a reference list of clients for whom they have performed similar services and must provide information as requested in this document.
- h. Proposer is advised that exceptions to any of the terms contained in this RFQ or the attached service agreement must be identified in its response to the RFQ. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.
- i. Local time shall be defined as the time in Fayetteville, Arkansas on the due date of the deadline. Documents shall be received before the deadline time as shown in the electronic bidding platform.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

No oral interpretations will be made to any firms as to the meaning of specifications or any other contract documents. All questions pertaining to the terms and conditions or scope of work of this proposal must be sent in writing via e-mail to the Purchasing Department. Responses to questions may be handled as an addendum if the response would provide clarification to the requirements of the proposal. All such addenda shall become part of the contract documents. The City will not be responsible for any other explanation or interpretation of the proposed RFQ made or given prior to the award of the contract.

3. RIGHTS OF CITY OF FAYETTEVILLE IN THIS PROCESS:

In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves the following:

- a. The City of Fayetteville reserves the right to rank firms and negotiate with the highest-ranking firm. Negotiation with an individual Proposer does not require negotiation with others.
- b. The City of Fayetteville reserves the right to select the proposal that it believes will serve the best interest of the City.
- c. The City of Fayetteville reserves the right to accept or reject any or all proposals.
- d. The City of Fayetteville reserves the right to cancel the entire request.
- e. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the request for statements of qualification or resulting submittal.
- f. The City of Fayetteville reserves the right to request any necessary clarifications, additional information, or proposal data without changing the terms of the proposal.
- g. The City of Fayetteville reserves the right to make selection of the Proposer to perform the services required on the basis of the original proposals without negotiation.
- h. The City of Fayetteville intends on utilizing the received proposals for applicable 2024 engineering, architectural, and land surveying projects. Projects believed to be under \$35,000 by the City will be selected by the Department/Division head in accordance with the presented selection criteria in this RFQ. Projects expected to exceed \$35,000 shall be voted on by the selection committee and any related contract exceeding \$35,000 shall require formal authorization by the Fayetteville City Council.

4. EVALUATION CRITERIA:

The evaluation criterion defines the factors that will be used by the selection committee to evaluate and score responsive, responsible, and qualified proposals. Proposers shall include sufficient information to allow the selection committee to thoroughly evaluate and score proposals. Each contract will be awarded to the most qualified Proposer, per the evaluation criteria listed in this RFQ. Proposers are not guaranteed to be ranked.

5. COSTS INCURRED BY PROPOSERS:

All expenses involved with the preparation and submission of proposals to the City, or any work performed in connection therewith, shall be borne solely by the Proposer(s). No payment will be made for any responses received, or for any other effort required of, or made by, the Proposer(s) prior to contract commencement.

6. ORAL PRESENTATION:

An oral presentation and/or interview may be requested of any firm, at the selection committee's discretion.

7. CONFLICT OF INTEREST:

- a. The Proposer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided in City of Fayetteville Code Section 34.26 titled "Limited Authority of City Employee to Provide Services to the City".
- b. The Proposer shall promptly notify Amanda Beilfuss, City Sr. Purchasing Agent, in writing, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may influence or appear to influence the Proposer's judgment or quality of services being provided. Such written notification shall identify the prospective business association, interest or circumstance, the nature of which the Proposer may undertake and request an opinion to the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Proposer. The City agrees to communicate with the Proposer its opinion via e-mail or first-class mail within thirty days of receipt of notification.

8. WITHDRAWAL OF PROPOSAL:

A proposal may be withdrawn at any time.

9. LATE PROPOSAL OR MODIFICATIONS:

- a. Proposal and modifications received after the time set for the proposal submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected responses. Proposers will receive an email confirmation after successful submission in the electronic submission platform.
- b. The time set for the deadline shall be local time for Fayetteville, AR. All proposals shall be received in the Purchasing Division BEFORE the deadline stated. The official clock to determine local time shall be the clock located in the electronic bidding platform.

10. CONSTITUTIONAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

The laws of the State of Arkansas apply to any purchase made under this request for statements of qualification. Proposers shall comply with all constitutional, state, and federal directives, orders and laws as applicable to this proposal and subsequent contract(s) including but not limited to Equal Employment Opportunity (EEO), Disadvantaged Business Enterprises (DBE), & OSHA as applicable to this contract.

11. COLLUSION:

The Proposer, by affixing his or her signature to this proposal, agrees to the following: "Proposer certifies that his proposal is made without previous understanding, agreement, or connection with any person, firm or corporation making a proposal for the same item(s) and/or services and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action."

12. RIGHT TO AUDIT, FOIA, AND JURISDICTON:

- a. The City of Fayetteville reserves the privilege of auditing a vendor's records as such records relate to purchases between the City and said vendor.
- b. Freedom of Information Act: City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the (Contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.
- c. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

13. CITY INDEMNIFICATION:

The successful Proposer(s) agrees to indemnify the City and hold it harmless from and against all claims, liability, loss, damage or expense, including but not limited to counsel fees, arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon, with respect to the services or any part thereof covered by this order, and such obligation shall survive acceptance of the services and payment thereof by the City.

14. VARIANCE FROM STANDARD TERMS & CONDITIONS:

All standard terms and conditions stated in this request for statements of qualification apply to this contract except as specifically stated in the subsequent sections of this document, which take precedence, and should be fully understood by Proposers prior to submitting a proposal on this requirement.

15. ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:

Persons with disabilities requiring reasonable accommodation to participate in this proceeding/event, should call 479.521.1316 (telecommunications device for the deaf), not later than seven days prior to the deadline. Persons needing translation of this document shall contact the City of Fayetteville, Purchasing Division, immediately.

16. PAYMENTS AND INVOICING:

The Proposer must specify in their proposal the exact company name and address which must be the same as invoices submitted for payment as a result of award of this RFQ. Further, the successful Proposer is responsible for immediately notifying the Purchasing Division of any company name change, which would cause invoicing to change from the name used at the time of the original RFQ. Payment will be made within thirty days of invoice received. The City of Fayetteville is very credit worthy and will not pay any interest or penalty for untimely payments. **Payments can be processed through Proposer's acceptance of Visa at no additional costs to the City for expedited payment processing.** The City will not agree to allow any increase in hourly rates by the contract without PRIOR Fayetteville City Council approval.

17. CANCELLATION:

- a. The City reserves the right to cancel this contract without cause by giving thirty (30) days prior notice to the Contractor in writing of the intention to cancel or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.

- b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
- c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.
- d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the vendor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

18. ASSIGNMENT, SUBCONTRACTING, CORPORATE ACQUISITIONS AND/OR MERGERS:

- a. The Contractor shall perform this contract. No assignment of subcontracting shall be allowed without prior written consent of the City. If a Proposer intends to subcontract a portion of this work, the Proposer shall disclose such intent in the proposal submitted as a result of this RFQ.
- b. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the City within thirty (30) calendar days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first.

19. NON-EXCLUSIVE CONTRACT:

Award of this RFQ shall impose no obligation on the City to utilize the vendor for all work of this type, which may develop during the contract period. This is not an exclusive contract. The City specifically reserves the right to concurrently contract with other companies for similar work if it deems such an action to be in the City's best interest. In the case of multiple-phase contracts, this provision shall apply separately to each item.

20. ADDITIONAL REQUIREMENTS:

The City reserves the right to request additional services relating to this RFQ from the Proposer. When approved by the City as an amendment to the contract and authorized in writing prior to work, the Contractor shall provide such additional requirements as may become necessary.

21. SERVICES AGREEMENT:

A written agreement, in substantially the form attached, incorporating the RFQ and the successful proposal will be prepared by the City, signed by the successful Proposer and presented to the City of Fayetteville for approval and signature of the Mayor.

22. INTEGRITY OF STATEMENT OF QUALIFICATION (RFQ) DOCUMENTS:

Proposers shall use the original RFQ form(s) provided by the Purchasing Division and enter information only in the spaces where a response is requested. Proposers may use an attachment as an addendum to the RFQ form(s) if sufficient space is not available on the original form for the Proposer to enter a complete response. **Any modifications or alterations to the original RFQ documents by the Proposer, whether intentional or otherwise, will constitute grounds for rejection of such RFQ response.** Any such modifications or alterations a Proposer wishes to propose shall be clearly stated in the Proposer's RFQ response and presented in the form of an addendum to the original RFQ documents.

23. LOBBYING:

Lobbying or communicating with selection committee members, City of Fayetteville employees, or elected officials regarding request for proposals, request for qualifications, bids or contracts, during the pendency of bid protest, by the bidder/proposer/protestor or any member of the bidder's/proposer's/protestor's staff, and agent of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with or representing an organization that is responding to the request for proposal, request for qualification, bid or contract, or has a pending bid protest is **strictly prohibited** either upon advertisement or on a date established by the City of Fayetteville and shall be prohibited until either an award is final or the protest is finally resolved by the City of Fayetteville; provided, however, nothing herein shall prohibit a prospective/bidder/proposer from contacting the Purchasing Division to address situations such as clarification and/or questions related to the procurement process. For purposes of this provision lobbying activities or communication shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any request for proposal, request for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any request for proposal, request for qualification, bid or contract to be rejected.

24. DEBARRED ENTITIES:

By submitting a statement of qualification, vendor states submitting entity is not a debarred contractor with the federal, any state, or local government.

25. OTHER GENERAL CONDITIONS:

- a. Proposers shall provide the City with proposals signed by an employee having legal authority to submit proposals on behalf of the Proposer. The entire cost of preparing and providing responses shall be borne by the Proposer.
- b. The City reserves the right to request any additional information it deems necessary from any or all Proposers after the submission deadline.
- c. The request for statement of qualification is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by Proposer in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for statements of qualification is at the Proposer's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.
- d. If products, components, or services other than those described in this bid document are proposed, the Proposer must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- e. Any uncertainties shall be brought to the attention to Amanda Beilfuss immediately via telephone (479.575.8220) or e-mail (abeilfuss@fayetteville-ar.gov). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all Proposers to be on equal terms.
- f. Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Amanda Beilfuss, City of Fayetteville, Sr. Purchasing Agent via e-mail (abeilfuss@fayetteville-ar.gov) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any

part of this request for statements of qualification. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.

- g. At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews.
- h. Any information provided herein is intended to assist the Proposer in the preparation of proposals necessary to properly respond to this RFQ. The RFQ is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and/or test requirements but is not intended to limit a RFQ's content or to exclude any relevant or essential data.
- i. Proposers irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be controlled by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
- j. The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.
- k. The successful Proposer's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to City of Fayetteville.
- l. All interested parties shall understand the City is not utilizing AIA contracts for projects. Standard City contracts will be used for all projects.

26. INSURANCE:

- a. Any project selected under this RFQ shall require professional liability insurance in the amount of \$1 million US dollars, at minimum. Such Certificate of Insurance shall list the City as an additional insured and not be required unless firm is selected.

27. ATTACHMENTS:

- a. Appendix A: City Standard Federal Contract Provisions

28. SELECTION CRITERIA:

The evaluation criterion below defines the factors which will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. The evaluation factors are as follows:

1. **30 Points** – Specialized experience and technical competence of the firm with respect to the type of professional services required
2. **25 Points** – Capacity and capability of the firm the perform the work in question including specialized services, within the time limitations fixed for the completion of the project
3. **25 Points** – Past record of performance of the firm with respect to such factors as quality of work and ability to meet schedules and deadlines
4. **20 Points** – Firm's proximity to and familiarity with the area in which the project is located

****Note:** Price shall not be a considered factor used to select a vendor. In the event the City is not able to negotiate a successful contract with the selected vendor, the City reserves the right to cease negotiations with such selected vendor and proceed on to the next selected vendor. Statements of Qualification/Proposals shall NOT include prices, hourly fees, consulting rates, etc. of any kind.

Appendix B
RFQ 24-01, Selection #4
Aquatic Feasibility Study
City Issued RFQ

City of Fayetteville, AR
RFQ 24-01, Engineering & Architectural Services
SECTION B: Vendor References

The following information is required from all firms so all statements of qualification may be reviewed and properly evaluated:

COMPANY NAME: _____

NUMBER OF YEARS IN BUSINESS: _____ HOW LONG IN PRESENT LOCATION: _____

TOTAL NUMBER OF CURRENT EMPLOYEES: _____ FULL TIME _____ PART TIME

NUMBER OF EMPLOYEES PLANNED FOR THIS CONTRACT: _____ FULL TIME _____ PART TIME

PLEASE LIST FOUR (4) REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed):

1. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

FAX NUMBER

E-MAIL ADDRESS

3. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

FAX NUMBER

E-MAIL ADDRESS

2. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

FAX NUMBER

E-MAIL ADDRESS

4. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

FAX NUMBER

E-MAIL ADDRESS

City of Fayetteville, AR
RFQ 24-01, Engineering & Architectural Services
SECTION C: 2024 Annual Statement of Qualifications Summary Form

ATTENTION: This form shall be completed and returned with EACH SUBMITTED Statement of Qualification. The City will utilize the selection marked by each firm to correspond with the scope of work for each project.

NAME OF FIRM: _____

SUMMARY STATEMENT:

Proposer should provide summary information on this form by checking the areas of expertise based on experience and qualifications.

This form must be completed and returned in order for your proposal to be eligible for consideration.

☐ Airport	☐ Natural Resource/Conservation Planning
☐ Architecture	☐ Parks: Urban Forestry Planning
☐ Bridges	☐ Parks: Land Dedication Fees Consultant
☐ Carbon Sequestration Analysis	☐ Parks: Aquatics Consultant
☐ Civil/Structural Design	☐ Site Utility
☐ Climate Resilience Analysis	☐ Studio Design
☐ Construction Administration	☐ Storm Water Management
☐ Drainage Design, Analysis, & Planning	☐ Stormwater Modeling
☐ Ecosystem Services Analysis	☐ Stormwater Design
☐ Electrical	☐ Structural Design
☐ Environmental Analysis, Remediation, & Permitting	☐ Surveying
☐ Environmental Water Services	☐ Sustainability Design
☐ Floodplain Services	☐ Testing Services: Soil/Materials
☐ GIS Mapping	☐ Traffic Studies
☐ Geotechnical Engineering	☐ Utility Asset Inspections
☐ Hydrology	☐ Value Engineering
☐ Grant Writing Services	☐ Wastewater Design
☐ Independent Fee Estimates	☐ Wastewater Management
☐ Interior Design	☐ Wastewater Modeling
☐ Landscape Architecture	☐ Wastewater Rate Studies
☐ LEED/Sites Certification	☐ Wastewater SSES
☐ Lighting Design	☐ Watershed Studies
☐ Master Planning: Arts/Culture	☐ Water/ Sewer Rate Studies
☐ Master Planning: City/Government	☐ Water Audit Services
☐ Master Planning: Parks	☐ Water Design
☐ Master Planning: Streets	☐ Water Management
☐ Master Planning: Wastewater	☐ Water Modeling
☐ Master Planning: Water	☐ Water Quality Monitoring
☐ Mechanical, Electrical, & Plumbing	☐ Water Service Line Inventory
	☐ Wetlands

1. DISCLOSURE INFORMATION

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

_____ 1) NO KNOWN RELATIONSHIP EXISTS

_____ 2) RELATIONSHIP EXISTS (Please explain):

I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. **NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number where the City's Purchasing Division can contact for clarification or interview request.**

Name of Firm: _____

Name of Primary Contact: _____

Title of Primary Contact: _____

Phone Number: _____

E-Mail Address: _____

3. ACKNOWLEDGEMENT OF ADDENDA

Acknowledge receipt of addenda for this invitation to bid, request for proposal, or request for qualification by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject Contractor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

4. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

COMPANY: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

PHONE: _____ FAX: _____

E-MAIL: _____

TAX ID #: _____ UEI #: _____

By submitting your response, you certify that you are authorized to represent and bind your company:

SIGNATURE: _____

PRINTED NAME : _____

TITLE: _____ DATE: _____

Appendix B
RFQ 24-01, Selection #4
Aquatic Feasibility Study
City Issued RFQ

END OF RFQ DOCUMENT



CITY OF
FAYETTEVILLE
ARKANSAS

RFQ 24-01, Engineering and Architectural Services

Appendix A: Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

CODE OF FEDERAL REGULATIONS

TITLE 2 – GRANTS AND AGREEMENTS

PART 200, APPENDIX II

[Appendix II to Part 200, Title 2 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](https://www.govinfo.gov/content/pkg/CFR-2021-title2-vol1/pdf/CFR-2021-title2-vol1-part200.pdf)
<https://www.govinfo.gov/content/pkg/CFR-2021-title2-vol1/pdf/CFR-2021-title2-vol1-part200.pdf>

Contractors and vendors shall comply with the following federal guidelines, in accordance with the most recent published version of Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. The definition of a “non-Federal entity” in this section shall mean the City of Fayetteville, AR. Language in this Appendix shall override and supersede any language contained in the bid documents. All parties shall understand the terms “vendor” and “contractor” may apply to a design firm, construction contractor and/or sub-contractor. Language in this appendix shall apply as it is applicable to federal law. Design firms shall incorporate all applicable federal language into bid specifications, qualification requirements and contract documents prepared for City of Fayetteville projects.

1. Termination for Cause and Convenience

- a. The City of Fayetteville reserves the right to cancel this Contract, without cause, by giving thirty (30) days’ notice to the vendor of the intent to cancel, or with cause if at any time the vendor fails to fulfill or abide by any of the terms or conditions specified. This Agreement shall be automatically terminated if funds under federal award, number are discontinued by the awarding agency for any reason. Such termination shall take effect upon receipt of written notice. If there is a need to settle on an early termination, partial payment up to the termination date would be determined by incurrence of allowable cost, by completion of task, by percent of time completed up to the settlement, or some other method as defined by the City upon review of the vendor’s records.
- a. Failure of the vendor to comply with any of the provisions of this contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
- b. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source any services which have not been provided within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by the City.

2. Equal Employment Opportunity – Vendor shall comply with 41 CFR 60–1.4(b)

- a. During the performance of this contract, the vendor agrees as follows:
 - (1) The vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The vendor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The vendor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the vendor's legal duty to furnish information.
- (4) The vendor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the vendor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The vendor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The vendor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the vendor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the vendor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The vendor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-vendor or vendor. The vendor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
- a. Provided, however, that in the event a vendor becomes involved in, or is threatened with, litigation with a sub-vendor or vendor as a result of such direction by the administering agency, the vendor may request the United States to enter into such litigation to protect the interests of the United States.
 - b. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.
 - c. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of vendors and sub vendors with

the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

- d. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a vendor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon vendors and sub-vendors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.
 - b. Subcontracts. Each nonexempt prime vendor or sub-vendor shall include the equal opportunity clause in each of its nonexempt subcontracts.
 - c. Inclusion of the equal opportunity clause by reference. The equal opportunity clause may be included by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director of OFCCP may designate.
 - d. Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the vendor is written.
 - e. Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.
3. **Davis-Bacon Act**, ([40 U.S.C. 3141–3144](#), and 3146–3148) as supplemented by Department of Labor regulations ([29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"](#))
 - a. See also [2 C.F.R. Part 200, Appendix II, ¶ D.](#)
 - b. In accordance with the statute, vendors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, vendor must be required to pay wages not less than once a week.
 - c. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
 - i. **Contractor's on projects shall reference the appendices containing Wage Determination Numbers and dates.**
 4. **Copeland "Anti-Kickback" Act** ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").
 - a. Each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- i. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- ii. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- iii. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

5. Contract Work Hours and Safety Standards Act

- a. Where applicable (see [40 U.S.C. § 3701](#)), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- b. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- c. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- d. Compliance with the Contract Work Hours and Safety Standards Act
 - ii. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - iii. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
 - iv. Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
 - v. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

- 6. **Rights to Inventions Made Under a Contract or Agreement:** If the Federal award meets the definition of "funding agreement" under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit

organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

7. **Clean Air Act [42 U.S.C. 7401](#):** Contracts in excess of \$150,000 shall comply with the following related to the Clean Air Act
 - a. The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
 - b. The vendor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - c. The vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance funding.
8. **Federal Water Pollution Control Act:** Contracts in excess of \$150,000 shall comply with the following related to the Federal Water Pollution Control Act
 - a. The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
 - b. The vendor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - c. The vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.
9. **Debarment and Suspension (Executive Orders 12549 and 12689)**
 - a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the vendor is required to verify that none of the vendor/contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
 - b. A contract award (per [2 CFR 180.220](#)) shall not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
 - c. The vendor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
 - d. If it is later determined that the vendor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
 - e. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.
10. **Byrd Anti-Lobbying Amendment [31 U.S.C. § 1352](#) (as amended)**
 - a. Vendor’s who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal

funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

11. Procurement of recovered materials ([§ 200.323](#))

- a. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors and vendors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

12. Prohibition on certain telecommunications and video surveillance services or equipment ([§ 200.216](#))

- a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - i. Procure or obtain;
 - ii. Extend or renew a contract to procure or obtain; or
 - iii. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (2) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b. In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- c. See [Public Law 115-232](#), section 889 for additional information.
- d. See also [§ 200.471](#).

13. Domestic preferences for procurements ([§ 200.322](#))

- a. As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- b. For purposes of this section:
 - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

- ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Appendix B
RFQ 24-01, Selection #4
Aquatic Feasibility Study
City Issued RFQ



CITY OF
FAYETTEVILLE
ARKANSAS

RFQ 24-01

Water Technology Inc

Supplier Response #4

Event Information

Number: RFQ 24-01

Title: Engineering and Architectural Services

Type: Request for Qualifications

Issue Date: 12/10/2023

Deadline: 1/9/2024 02:00 PM (CT)

Notes: The City of Fayetteville, Arkansas, is requesting statements of qualifications from firms interested in providing engineering, architectural, & land surveying services for 2024 street, drainage, bridge, water & sewer, trails, parks, and other projects. Any questions regarding this solicitation process shall be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov or (479) 575-8220.

Contact Information

Contact: Amanda Beilfuss

Address: Purchasing

Room 306

City Hall

113 West Mountain Street - Room 306

Fayetteville, AR 72701

Email: abeilfuss@fayetteville-ar.gov

Water Technology Inc Information

Contact: Nicole Seibert
Address: 100 Park Ave
PO Box 614
Beaver Dam, WI 53090
Phone: (920) 887-7375
Email: nseibert@wtiworld.com
Web Address: www.watertechnologyinc.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Jen Gerber

Signature

Submitted at 1/8/2024 08:40:12 PM (CT)

jgerber@wtiworld.com

Email

Requested Attachments

RFQ 24-01, Engineering and Architectural Services

WTI Proposal_RFQ 24-01.pdf

Please attach the signed and completed RFQ form, located in the 'Attachments' tab, along with statement of qualifications.

Bid Attributes

1 Addendum Acknowledgement

By selecting "I agree", you acknowledge that you have read all addendum(s) that have been issued for this solicitation, if applicable.

☒ I agree

THE CITY OF FAYETTEVILLE ENGINEERING & ARCHITECTURAL SERVICES

JANUARY 9, 2024
RFQ #24-01



RESPONSE TO:
THE CITY OF FAYETTEVILLE

ABIELFUSS@FAYETTEVILLE-
AR.GOV
479.575.8220

TEAM LETTER OF INTEREST

January 9, 2024

RE: RFQ #24-01 – ENGINEERING & ARCHITECTURAL SERVICES

Dear City of Fayetteville Selection Committee,

Thank you for inviting Water Technology, Inc. (WTI) to respond to the RFQ for Engineering & Architectural Services. We are pleased to be submitting our qualifications for your consideration and have created a thoughtful response that highlights our capabilities and qualifications. Together with our partner, Ballard*King, we are confident that we can provide superior customer service and insight into the planning and feasibility for the future of Fayetteville Parks, more specifically the beloved Wilson Park Pool. This team's collective and shared experience with planning, operations, financial assessment/modeling, and beyond is unparalleled, with a large portfolio of renovations and replacements where budget and future-proofing were paramount to the success of the project.

WTI completes 150-200+ aquatic projects of all shapes, sizes, and venues each year and we are well-versed in the challenges that communities face as they begin the journey of evaluating the present and looking toward the future. WTI's team has critical experience in the following areas that will be of benefit to the overall feasibility and planning of Fayetteville Parks:

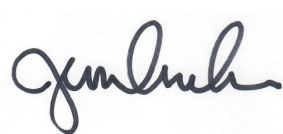
- Projects of a similar size and scope – Dozens, if not hundreds of projects each year with inherent challenges from the associated constraints of the existing, aging pool and site.
- Projects that take a cost-conscious approach to examining life-cycle expenses and future developments and additions
- Projects where park maintenance and operations are top of mind – our team focuses on project decisions that positively impact operations, efficiency, and longevity.

Through our review of the RFQ, we understand that there are key topics that are especially important to the City of Fayetteville, and we are confident that we can bring insight and education to these areas of focus. Some of the topics that we understand are important to you are:

- Specialized experience and technical competence of the firm with respect to the type of professional services required -- our team specializes in aquatics and feasibility; understanding the benefit in working with two independent firms to deliver unbiased information and insight.
- Capability and capacity of the firm to perform the work in question including specialized services, within the time limitations fixed for the completion of the project -- our team has a staff of more than 10 people, solely in aquatics and with Ballard*King's support, we're confident that we can meet even the most aggressive of schedules.
- Past record of performance of the firm with respect to such factors as quality of work and ability to meet schedules and deadlines – We have included a variety of references and project sheets, but this is just the beginning! We're adept at creating memorable designs, providing solutions, and educating our clients all on a schedule.
- Firm's proximity to and familiarity with the area in which the project is located – our team has performed over a dozen projects in Arkansas and has an innate understanding of local and state codes. We also have active projects in Arkansas currently and are regularly in the area for meetings and site visits.

We understand that this is the first step in a significant process, and you should feel comfortable and confident in your consultant team. We'd love to talk with you more about how we can be partners and advocates for you in this important process. WTI was founded on the belief that aquatic recreation can bring people and communities together and we are pleased to offer you our proposal to accomplish this. From the entire WTI team, thank you for the opportunity to share our qualifications and experience and we look forward to working collaboratively with the City of Fayetteville team!

Respectfully Submitted,



Jennifer Gerber
Vice President, Strategic Partnerships & Operations
Mobile: 763.360.0594
jgerber@wtiworld.com



WATER TECHNOLOGY, INC



Firm Overview

The WTI team is a highly qualified group of individuals comprised of creative architects, landscape architects, engineers, designers, business developers and administrators, all with a passion for aquatics. Together, we combine our talents to develop original, aquatic facilities from concept to reality. In addition, WTI maintains solid relationships with other consultants and contractors and continues to set the standards in the aquatic industry across the United States and around the world.

PHILOSOPHY

Water Technology, Inc.'s (WTI) creative energy and passion embraces the philosophy that aquatic recreation completes communities and makes them a better place to live.

COMPANY DETAILS

- Established in 1983
- Largest Aquatic Design Firm in North America, Staff of 65+
- Quality Control Implementation
- Collaborative Team Process
- International Portfolio
- Specialized Aquatic Professionals on Staff:
 - Executive Team (5)
 - Project Development (4)
 - Architects (4)
 - Landscape Architects (2)
 - Engineers (6)
 - Civil (2), Mechanical (3), Structural (1)
 - Artistic / Creative Design (3)
 - Site Planners / Designers (3)
 - Technical Designers (7)
 - Mechanical Designers (6)
 - Project Managers (8)
 - Administrative (7)

WTI ADVANTAGES

- Solution driven planning and philosophy
- Two-way sharing process between WTI and client
- Forward-looking designs that support dynamic community programs
- 150+ AQUATIC Projects Per Year
- Historical database of cost estimates and realistic timelines

EXTENSIVE PORTFOLIO OF PROJECTS OF VARYING VENUES

- Waterparks
- Resort and Hotel Pools
- Competition Pools
- Faith Based Community Centers
- Water Playgrounds
- Public Facilities
- Therapy and Wellness Pools
- Schools and Universities

Locations

HEADQUARTERS

100 Park Avenue
Beaver Dam, WI 53916
T. 920.887.7375

TEXAS

6636 N Riverside Dr.,
Ste 500B
Fort Worth, TX 76137
T. 682.708.7007





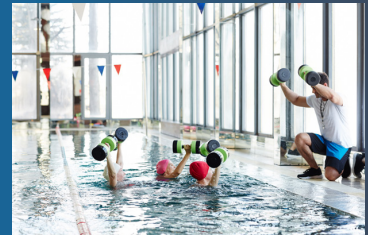
FIRM PROFILE

Established in 1992, Ballard*King & Associates, LTD (B*K) is a recreation program, planning and operations consulting firm that provides services and expertise to the recreation and leisure industry. Through our commitment and collaboration with community leaders, staff, stakeholders, elected officials, and corporate partners, we have developed loyal and long-term relationships with a variety of both public sector and private agencies to inspire and engage their constituents.

Our vast practical experience in the recreation industry enables us to guide clients through the challenges of developing strategies, feasibility studies, asset management, funding mechanisms, and opening, operating and maintaining recreation parks, facilities and services. From pinpointing specifics to broad visions, Ballard*King & Associates provides meaningful analysis, thoughtful consideration, expertise and services to ensure the long-term sustainability and success of your project. We believe that through a collaborative approach to consensus building, Ballard*King can successfully navigate with you to meet the unique challenges of your project, community and future. We specialize in developing strategic plans to integrate new business operations into existing business models.

As a company, Ballard*King & Associates has achieved over 30 years of success by listening and coaching our clients, and realizing that each client's needs are specific and unique. We have completed over 800 recreation facility projects in 50 states, and we have working relationships with more than 100 architects from coast-to-coast. We are frequently invited to speak at state and national industry conferences and have been honored to be the recipient of five Athletic Business Facilities of Merit Awards.

First and foremost to Ballard*King & Associates is our reputation of being a company of strong ethical character. Our top concern is the client's best interests and we have a keen awareness of the impact a sports or recreational park or facility has on a community and subsequently the department that operates it. Thanks to our extensive field experience we are able to provide assistance with practical tools, an uncommon ability to see the overlooked and view your project from a wealth of expertise and knowledge. We aim to help our clients see the full potential of their project by providing trustworthy services to achieve their goal.





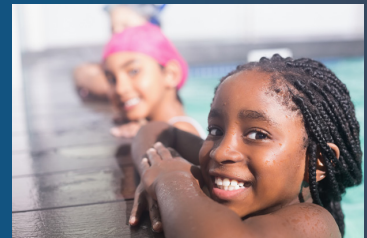
THE B*K ADVANTAGE

B*K BRINGS TO EACH CLIENT AND PROJECT:

- Our vast planning, managerial and operational experience with aquatic and recreation facilities, from conception through operation.
- Our direct experience as aquatic facility operators and subsequent programs and services to the public.
- Our knowledge and understanding of aquatic and recreation trends and operation considerations from a National perspective.
- Our knowledge of the public participation process and experience in facilitating this process.
- Our experience working on similar projects.
- Our strong commitment to representing the client's best interests in all projects through proven, practical experience in providing independent third-party financial analysis.

SELECTED PROJECTS:

- Conway Aquatic Center Study, Conway, AR
- Sebastian County Aquatic Center Study, Fort Smith, AR
- Burleson Recreation Center (BRiCK), Burleson, TX
- Salvation Army Ray & Joan Kroc Corps Community Center (RJKCCC) Kerrville, TX
- El Paso Aquatic Master Plan & Business Plan, El Paso, TX
- Georgetown Aquatic Center Feasibility Study, Georgetown, TX
- Wellness Matagorda County Aquatic Park Feasibility Study, Bay City, TX
- University Park Indoor Aquatic Center Feasibility Study, University Park, TX
- Maryville Aquatic Center Feasibility Study, Maryville, TN
- Aquaport, Maryland Heights, MO
- Excelsior Springs Community Center Aquatics Study, Excelsior Springs, MO
- North Kansas City Community Center, North Kansas City, MO
- The Edge Aquatic Center, Ellisville, MO
- Sunset Hills Community Center & Pool Study, Sunset Hills, MO



BENTONVILLE COMMUNITY CENTER

Bentonville, Arkansas



OWNER

City of Bentonville
Parks and Recreation Department
305 SW A Street
Bentonville, AR 72712

COMPLETED

2014

WEBSITE

www.bentonvillear.com

WTI teamed with Barker Rinker Seacat Architects and Ballard*King in conducting a study in 2010 for the City of Bentonville. WTI was responsible for the planning, design and engineering of the aquatics portion, which consists of three pools and a body slide with deceleration runout. The three pools desired by the community, as determined through public input, include a warm water leisure/program pool, a competition pool and a whirlpool. The competition pool and whirlpool will be housed separately from the leisure/program pool, utilizing a transparent building wall to provide ease of phasing these amenities and the opportunity for energy savings with different water and air temperatures, while allowing each pool to operate independently. Features that will enhance operations and access include underwater pool lights, easily accessible stairs in water less than 4'-0", in-wall steps, or a combination. There shall be one means of egress that meets ADA Guidelines for each pool.

Swimming ranks high among all ages as a popular recreational activity and combining competitive and leisure components into one facility helps create a partnership that includes a full spectrum of activities that complement each other well.

AMENITIES

Indoor Leisure Pool with Zero Depth Entry, Water Play Structure with Dumping Bucket, Slides and Interactive Features, a Current Channel with Underwater Bench, Three Lap Lanes and Handicap Lift, and Water Basketball

10 Lane, 25 Yard x 25 Meter Indoor Competition Pool

Indoor Whirlpool

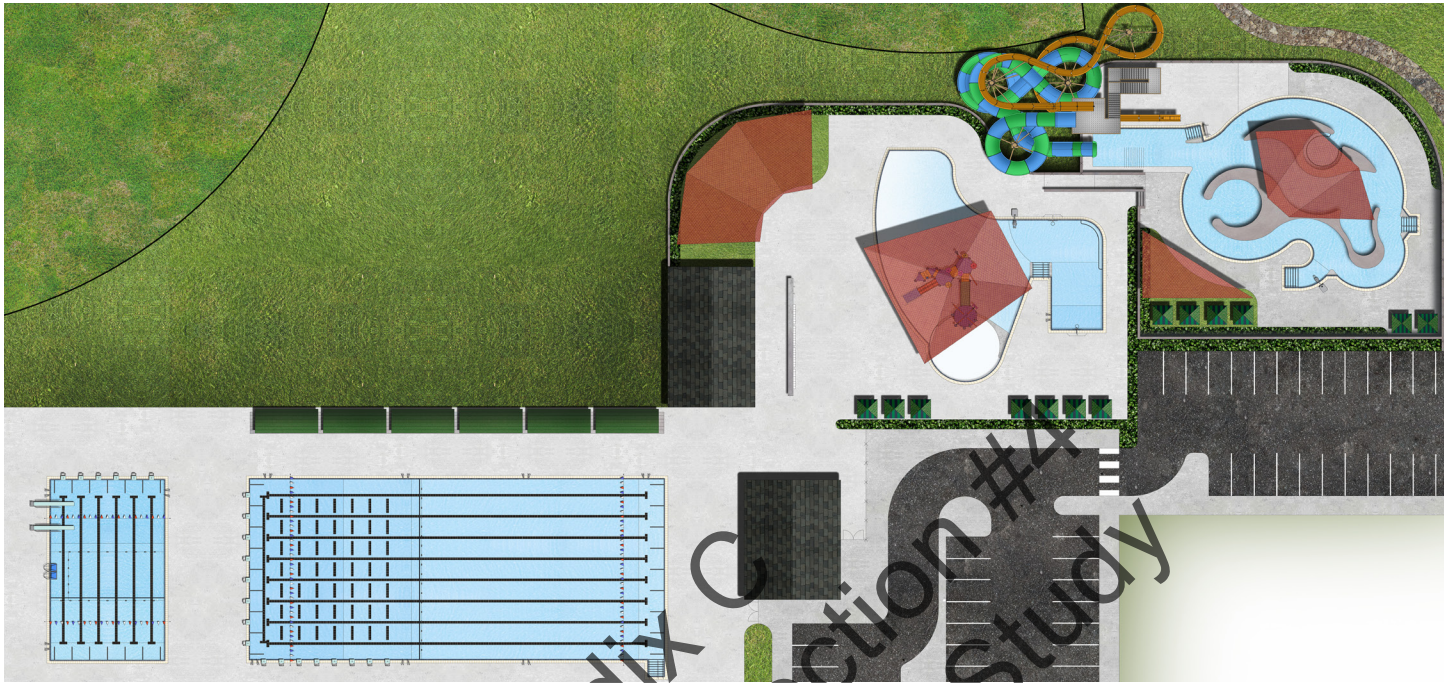


BALLARD* KING
& ASSOCIATES LTD



BENTONVILLE OUTDOOR AQUATIC FACILITY STUDY

Bentonville, Arkansas



OWNER

City of Bentonville
Parks and Recreation Department
305 SW A Street
Bentonville, AR 72712

MASTERPLAN COMPLETED

2018

WEBSITE

www.bentonvillear.com

In 2015, the new state-of-the-art, indoor, community recreation center opened its doors for the citizens of Bentonville, Arkansas. The recreation center was heavily attended and quickly became a community staple; Bentonville even reached their one-millionth attendee just three years after their grand opening. The overwhelming community response led the City of Bentonville to begin the process of master planning some outdoor space for additional aquatic competition and recreation opportunities.

Following the success of the indoor community recreation center, Water Technology, Inc. (WTI) was excited to be involved with a repeat client to help in the visioning and planning process for future aquatic amenities in Bentonville. Together with the community, preferences were identified and there was a focus on space for competitions and training as well as a segregated community recreation area. There is something for all ages and abilities in the leisure area - from the zero depth entry, to the lazy river, to the deep water for activities, this area is sure to engage Bentonville in outdoor aquatic recreation. The waterslide complex features a raft ride and a new SlipStream Standing Waterslide, one of the first of its kind in North America.

AMENITIES

3,421 SF - 6-Lane x 25-Yard Training & Competition Pool with 2, 1-Meter Diving Boards

Waterslide Complex Featuring a Raft Slide and SlipStream Standing Waterslide

12,363 SF - 8-lane x 50-Meter Competition Pool

4,921 SF - Lifestyle Leisure Pool with Spray Zero Depth Entry and Interactive Play Unit

4,668 SF - Lazy River and Splash Down Pool



CITY LAKE POOL

High Point, North Carolina



Imagery Courtesy of Monica Stanley



OWNER

City of High Point
211 S. Hamilton Street
High Point, NC 27262

COMPLETED

2018 - Evaluation
2019 - Full-Scope Design
2022 - Construction Complete
May 2023 - Grand Opening

WEBSITE

www.highpointnc.gov

AMENITIES

9,808 SF 8-Lane, 50-Meter Competition Pool
Basketball Hoop

5,595 SF Lifestyle Pool
Interactive Play Structure
Interactive Water Features
Geysers

High Point's historic City Lake Park Pool, the focal point of the park, was known to be the largest pool in the Southeast since its inception in 1935. Since the 1940s, High Point hosted several swimming and diving meets on the local, state, regional, and even national AAU level. Many other events and activities were held at the pool such as exhibitions, stunts, and pageants.

Fast forward to 2018, the City council took a critical look at the future of the esteemed 24-acre park – the oldest park in their system. Revitalizations to the park were deemed necessary to meet the increased recreational demand and the large shift in demographics. Emphasis was placed on the importance of preserving the park's heritage.

Water Technology, Inc. (WTI) was hired in 2018 to perform an aquatic evaluation of the existing pool that assessed its functionality and future recreational impact. Following the evaluation, the pool systems were deemed non-operable, and the pool officially closed in 2019. With support from the community, a \$9.5M bond referendum was passed in 2019 to restore the aging park. WTI was contracted for the full-scope design and engineering of the new and improved aquatic center. Key design considerations included accessibility, functionality, historical preservation, and multi-generational appeal.

To maximize programming opportunities, the existing pool was transformed into two pools – a 50-Meter Competition Pool and a Leisure Pool. The new leisure pool features zero-depth entry with an interactive play structure and water table for optimal play opportunities. New to High Point Aquatic Center is a current channel, a multi-programmable amenity that caters to several user groups.

A brand-new splash pad parallel to the competition pool is equipped with a Life Floor safety flooring solution that is slip resistant for safe aquatic play. Numerous ground sprays provide a unique play element while enhancing the aesthetic of the park. The original two waterslides have been refurbished and a new dual waterslide was added to the multi-slide complex providing a thrilling and competitive racing experience complete with a timing system that is unique for historic recreation facilities of this nature. Shade pavilions, strategically placed around the pool deck, provide comfort away from the hot summer sun.

City Lake Park Aquatic Center features an array of modernized and lasting aquatic amenities with revamped mechanical systems, infrastructure, and support spaces that the High Point community will be able to enjoy for decades to come.



GARDEN RAPIDS AT “THE BIG POOL”

Garden City, Kansas



OWNER

City of Garden City, Kansas
301 N. 8th St.
Garden City, KS 6784

COMPLETED

Master Plan - 2019
Construction - 2021

AWARDS / FEATURES

Associated General Contractors
of America Award, 2022

Aquatic Design Portfolio
Athletic Business, 2022

Leading Edge Award
World Waterpark Association, 2021

Aquatics International
Dream Designs, 2022

WEBSITE

www.garden-city.org/government/departments/big-pool

History runs deep at “The Big Pool” with the initial pool being hand-dug in 1921 and the construction of the bathhouse in the 1930s as part of a WPA project. As the “World’s Largest Outdoor Concrete Municipal Swimming Pool”, Garden City’s municipal swimming pool was larger than a football field with a water surface area of 72,600 square feet and it could hold 2.6 million gallons of water! Over the last 100 years, this public amenity became a beloved summer staple to Garden City residents who appreciated its rich roots within the community. The Big Pool was truly one-of-a-kind; on various occasions, elephants from the neighboring zoo in Finnhup Park played and swam in the pool and boats pulled water skiers across the immense water surface. After nearly 100 years of use and despite many repairs, the Big Pool was losing over 200,000 gallons of water daily. Due to these rising repair costs, Water Technology, Inc. (WTI) and the project design team were contracted to complete a master plan to re-imagine and rejuvenate this city treasure.

The Master Plan for the Big Pool involved many public meetings and events to gain input and insight from the community about this beloved amenity. The design team met with residents at The Big Pool and asked them what they loved about the current pool and what they hoped to see in the new facility. Overwhelming support from the community highlighted interests in three key areas for the new pool: a 50-Meter competition pool featuring the nation’s first SlipStream Standup Waterslide and two of the first municipally-owned FlyTyme Launch Slides, alongside other body and tube slides, a leisure pool with a large lazy river and interactive play structure, and a separate toddler wading pool and splash ground.

Part of the rejuvenation of The Big Pool was to re-brand the facility and the citizens voted on the name Garden Rapids at “The Big Pool.” After a brief 255 days of construction, the revitalized park opened to the community and was met with an incredibly warm reception. The average weekday park attendance is 900 and the average weekend attendance is 1200. The community is thrilled about the new legacy of “The Big Pool” for the future of Garden City recreation. Following a successful first summer season, the park was awarded the prestigious Leading Edge Award by the World Waterpark Association. Garden Rapids was the only municipality featured amongst the international commercial waterpark heavy-hitters, which is truly a testament to the unique innovation of this incredible facility.

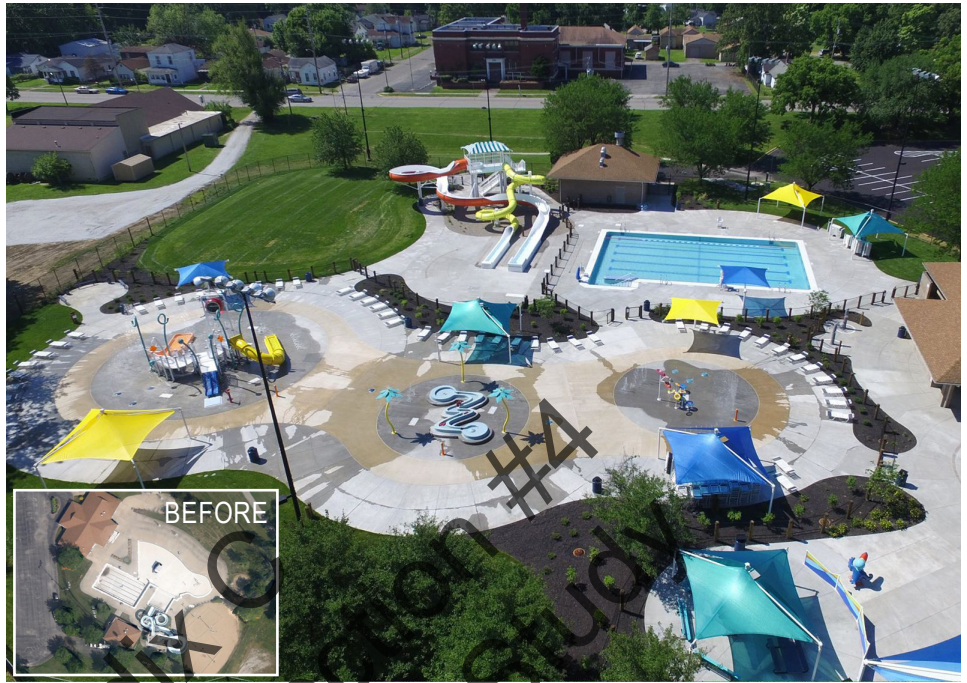


BALLARD* KING
& ASSOCIATES LTD



CLARKSVILLE COVE AQUATIC CENTER RENOVATION

Clarksville, Indiana



OWNER

Clarksville Parks and Recreation
2000 Broadway St., Suite 221,
Clarksville, IN 47129

COMPLETED

2017

AWARDS / FEATURES

Award of Merit - Athletic Business
Association

WEBSITE

www.clarksvillecove.com

AMENITIES

3,461 SF Lap Pool - 6 lane, 25 yard

5,611 SF Splash Pad with 3 Zoned

Amenity Areas Including:

(3) Splash Pads
(21) Geysers
(2) Spray Tunnels
(8) Puddles
(2) Carronade
(3) Daisy Mae
(2) Team Effect
Discovery Stream
Play Structure with Tot Slides
Group Volcano
Bubble Trouble

Run-Out Tube Slide & Body Slide

WTI was the original designer for the Clarksville Family Aquatic Center facility which opened its doors in 1995. The pool was well loved and cared for but by 2015 much had changed in the aquatic industry and in guest expectations.

The Town of Clarksville Parks and Recreation Department contracted WTI to evaluate the existing outdoor swimming pool facility at the Clarksville Family Aquatic Center and to present findings to The Clarksville Parks and Recreational Board including outlining deficiencies in pool structure, water systems and heating for the facility, address how these deficiencies could be corrected, and budget costs for the proposed future use. In July 2015, the Clarksville Redevelopment Committee voted to help fund the project as part of the South Clarksville Redevelopment Plan. The changes made to the Aquatic Center resulted in lower operating costs and energy/water usage and added additional play features and amenities for their guests.

In the summer of 2017, Clarksville Cove proudly opened the newly rejuvenated, redesigned facility. While the main pool was reduced in size to create space for lap swimming and lessons, the focus of the renovation involved the construction of a splash pad complex with zones for tots, intermediate age users and a large activity space for the oldest swimmers-at-play. Run-out troughs were added to the flume slides, which were retained from the original park features. From 2015 to 2017 (first full summer in operation):

- Attendance increased by 12%
- Total sales increased by 30%
- Concession sales increased by 20%
- Daily admission revenue increased by 29%
- Annual pass revenue was up 59%
- Total number of guards was decreased from 30+, down to only 9
- Birthday party attendance increased 263% with the renovated birthday party area in the aquatic center

WTI was proud to be part of the re-imagining of Clarksville Cove and to witness how this success story is shaping aquatic recreation in Clarksville for users of all ages and abilities.



CHERRY PARK POOL RENOVATION

Weatherford, Texas



OWNER

City of Weatherford
303 Palo Pinto Street
Weatherford, TX 76086

COMPLETED

2019

AWARDS / FEATURES

Recreation Facility Design, Class II
TRAPS North 2019

WEBSITE

www.weatherfordparks.com/165/Aquatics

The Cherry Park Pool has been an aquatic institution in Weatherford ever since its grand opening in 1949. The pool was originally going to be built in 1944 but was delayed because of the U.S. involvement in World War II. The pool was officially opened to the public June 4, 1949 and 70 years later, the City of Weatherford was able to debut a renovated and updated facility that will serve the needs of the community for the next few decades.

It was a pleasure to work with the city to understand the needs of their growing community and user base, and to find creative and affordable design solutions that would update and bring excitement to their aquatic facility. The original pool shell from 1949 proved to be structurally-sound and was kept intact; in fact, WTI's engineering team designed a pool within the existing pool shell to reduce in construction expense. The construction team was then able to dig around the existing concrete pool shell and add new plumbing; additional concrete was poured inside the pool shell to build within it. The new pool features 6 lap lanes and an attached zero-depth entry area with a play structure. This multi-purpose pool provides space for lap swimming to take place concurrently with family swim and splash hours for younger users. Additionally, a small spray pad was added to the site for added recreation opportunities for families visiting Cherry Park.

Shannon Goodman, Director of Parks, Recreation & Special Events for City of Weatherford said, "This will kind of revitalize it and bring a lot more energy back to the pool and a lot more people using it again. I think it will be really good for the community, and it is our only public pool so we're trying to do what we can to keep it." WTI was proud to bring some energy and excitement to this historic and beloved facility in the heart of North Texas.

AMENITIES

6,801 SF Lap Pool with 6 lap lanes, starting platforms, Two 1-Meter springboards, drop slide, basketball and attached zero-depth entry leisure area with geysers and play structure.

Small Splash Pad features dumping bells and ground sprays.



BALLARD***KING**
& ASSOCIATES LTD



SOUTHSIDE PLACE FIRETRUCK PARK POOL

Houston, Texas



OWNER

City of Southside Place
6309 Edloe Avenue
Houston, TX 77005

COMPLETE

November 2017

WEBSITE

www.ci.southside-place.tx.us

WTI was hired by local architects to review the existing pool equipment to determine reuse and adaptability and to conduct a programming presentation to help define the aquatic goals and objectives. WTI developed a concept design that replaced an obsolete pool for one that generated more recreation appeal. WTI did the detailed design and construction administration for the new pool that included six lap lanes, a separated diving area with a drop slide, and a shallow water teaching area that slopes from 3-4 feet. There is also a small zero depth entry pool that is one foot, six inches at the deep end that features a small spray pad with geysers for the little ones. Both are deck level pools with lots of seating area and deck social space.

THOMPSON PARK POOL

Amarillo, Texas



OWNER

City of Amarillo
601 S. Buchanan
Amarillo, TX 79101

COMPLETED

2021

WEBSITE

www.amarillo.gov

After a tremendous outpouring of input from a community survey, the City of Amarillo was granted funding to update the 87-year-old Thompson Park Pool. The pool closed in 2018 after becoming a safety hazard to the community due to structural issues. The new, six-acre, \$8 Million outdoor community aquatic center received a complete overhaul featuring a lazy river, zero-depth entry leisure pool and waterslide complex, alongside a brand-new concession area and party pavilion. Thompson Park Pool was made possible when the City approved the funding in certificates of obligation. It is now considered the largest public aquatic center within the area.

The goal for the facility was to appeal to citizens beyond the Amarillo city limits and into the surrounding Texas Panhandle region, bringing more tourism to the town. "We feel like this is a great thing for the community and hopefully, long-term start to spur a little bit of economic development in this area," stated by Michael Kashuba, Director of Parks and Recreation.

WTI worked in conjunction with a local architect to create a facility that fulfilled both the project budget and community feature requests. The Thompson Park Pool anticipates providing aquatic entertainment for visitors of all ages for years to come.

AMENITIES

6,049 SF Leisure Pool
Zero-Depth Entry
Sun-Shelf Deck
Spray Feature

3,343 SF Lazy River With Vortex Pool
Two Run Out Slides
Party Pavilion
Two Pool-Side Basketball Hoops
Toddler Water Table and Play Features



ADVENTURE COVE AT ROSE PARK

Abilene, TX



OWNER

City of Abilene
555 Walnut Street
Abilene, TX 79601

COMPLETED

2017 - Full Park Design
2019 - "Red Racer" Slide Addition

AWARDS / FEATURES

2019 - Dream Design - Aquatics
International

WEBSITE

www.abilenetx.com

After getting approval by voters in the 2015 bond election, the City of Abilene officially broke ground on the \$6 million renovation to the Rose Park Aquatic Center. The facility had been aging, there was a decline in pool attendance, and the community desperately needed a little life to be breathed into their aquatic facility.

Together with the prime architect, WTI worked diligently to deliver a unique, timely and on-budget aquatic facility that would meet the needs and exceed the dreams of Abilene residents. At the grand opening in June of 2017, there was a line out the door and lots of big smiles as the residents of Abilene got their first look at the newly designed and themed facility of "Adventure Cove at Rose Park". Using the same footprint as the old Rose Park Aquatic Center, WTI worked closely with the architect and the City of Abilene to create various concepts and layouts to ensure that all of the critical components would fit into the park. The work for Adventure Cove was completed on an accelerated timeline with design in early 2016, groundbreaking in June 2016 and grand opening in June 2017.

Whether attendees are looking for thrills on the Big Blue or Green Monster waterslides, a more relaxed day in the sun at Stingray Bay, or enjoying the meandering Lazy River, there is truly something for every age, ability and interest at Adventure Cove.

2018 was the first full summer of operation for Adventure Cove and they were able to host nearly 50,000 guests and they have been able to boast 75-85% cost recovery for the facility. After such a great first year they are already looking to expand the facility to include a larger lazy river and a third waterslide. The new waterslide made it's debut in Summer 2019 at Adventure Cove. WTI is excited to be involved in the continued development at Adventure Cove.

AMENITIES

Leisure Pool
3,449 SF Water Surface Area
Zero Depth Entry
Raining Buckets
Cascade
Frog

Lazy River
4,114 SF Water Surface Area

Slides
Body Slide
Tube Slide



H2O'BRIEN POOL

Parker, Colorado



OWNER

Town of Parker
20120 E Mainstreet
Parker, CO 80138

COMPLETED

July 2022

AWARDS / FEATURES

Aquatic Design Portfolio
Athletic Business, 2021

WEBSITE

www.parkerrec.com/234/H2OBrien-Pool

H2O'Brien Pool suffered from decreased attendance within the last seven years of its life. The city quickly recognized the aging of the facility and the prominent need of improvements and repairs. Water Technology, Inc. (WTI) was hired as the consultant alongside the architect of record, Barker Rinker Seacat to restore this beloved community pool.

Taking into consideration the existing site, the design team was faced with the challenge of ensuring that the footprint of the new play structure, deemed the best fit for the specific requirements of the existing structure, fit within the blueprint of the existing pool. After careful consideration, a hybrid Kaledioscope and Grasslands Activity Tower were selected. The design process was seamless thanks to Waterplay Interactive Concept Designer, an advanced planning tool that was used between the design team and Town Officials to collaboratively decide on design elements.

The \$2.8 million renovation consisted of the new Activity Tower with two tot slides that features several interactive play features such as a Sky Soaker (Dumping Bucket), Waterfall 2, Water Weaver 3, Aqua-Knot, Funbrella, Misty Twisty, and more creating the ultimate universal play experience. A leisure pool with zero-depth entry and 4-lap lanes provides opportunities for all users regardless of age.

After a quick turnaround, with the renovations completed during the off-season, the H2O'Brien was set to open Memorial Day Weekend 2020, however, COVID-19 Pandemic delayed the opening until July 2020.

"It's been packed pretty much nonstop," said Bryan Gentilini, the town's recreation supervisor for aquatics. "As soon as it hit the 80s, it's been packed every day."

AMENITIES

- 7,382 SF Leisure Pool
- Play Structure with Two Child Slides
- Zero Depth Entry
- 4 Lap Lanes
- Interactive Water Features
- Dumping Feature
- Variety of Sprays



SAR-KO-PAR AQUATIC CENTER

Lenexa, Kansas



OWNER

City of Lenexa
17101 West 87th St. Pkwy
Lenexa, KS 66219

COMPLETED

1996 - First Renovation
2022 - Second Renovation & Design
Enhancement
2024 - Estimated Construction
Completion

WEBSITE

www.lenexa.com

The Indian Trails Aquatic Center at Sar-Ko-Par Trails Park was originally built in 1976 and has been widely favored by the community since. In 1996, Water Technology, Inc. (WTI) was engaged in the first set of renovations. Nearly 3 decades later, in 2021, WTI was hired alongside the prime architect to enhance and modernize the aquatic amenities to protect the future of Lenexa's aquatic investment.

The facility was designed with community input, global market demands, and operational requirements in mind. The aquatic center creates optimum programming opportunities with ample open water and attractive amenities while preserving the historical aspects of the park and enhancing the overall user appeal.

The design is comprised of two pools with a multi-generational appeal that can accommodate multi-faceted programs such as learn to swim, recreational swim and dive teams, water fitness activities, aquatic events, and party rentals. The two pools are to co-exist in the same operational environment which will have energy-saving benefits and allows each pool to operate independently without impacting the operation of the other facility components.

The multi-use lifestyle pool consists of a zero-depth entry with a passive play area and an active spray play zone that links the shallow water to the current channel and presents recreational and wellness opportunities for all age ranges.

The 8-lane, 25-meter competition pool is intended for water aerobics, competition and training, recreation, lap swimming, diving, deep water activities, and learn to swim. It also features a 30-foot tall slide tower that terminates into the plunge pool area. Ample shade and deck space are available creating an elevated guest experience.

Groundbreaking for the \$15M renovation is anticipated to begin in 2023.

AMENITIES

7,377 SF 8-Lane 25-Meter Competition Pool	11,341 SF Current Channel Zero-Depth Children's Pool
(2) 1-Meter Diving Boards	Interactive Play Structure
(1) 1-Meter Diving Boards	Geysers



BALLARD***KING**
& ASSOCIATES LTD



VFW AQUATIC CENTER

De Pere, Wisconsin



OWNER

City of De Pere
925 S. Sixth Street
De Pere, WI 54115

COMPLETED

2021

AWARDS / FEATURES

Outstanding Facility Design and
Renovation
Wisconsin Park and Recreation
Association, 2021

WEBSITE

www.deperewi.gov

After several years, the original VFW pool in DePere suffered from extensive amounts of damage and the City of DePere began searching for funds for a new aquatic center. The city received an abundance of support. "The referendum passed overwhelmily, so we are here for the community wants. We're here for the quality of life. The community said this is a need for us" says Marty Kosobucki, Director of Parks, Recreation, and Forestry. Plans for the new aquatic center had been in the works for 5-years before coming to full fruition.

WTI was hired alongside the architect of record to assess the existing aquatic facility and incorporate feedback into the design from key stakeholders which was gathered through public meetings and interviews. Several renderings and budgets were prepared and presented before the City approved the final rendering and budget.

Groundbreaking for the \$7.14 Million aquatic facility took place in July of 2020. Despite the COVID-19 Pandemic, the project stayed on track with little to no delays. By June of 2021, the final touches were being put in place and the aquatic center opened to the public on Saturday, June 12th, just in time for some summer fun.

The 5,300 SF VFW Pool is the perfect beat-the-heat summer destination. It is equipped with a lap pool, a zero-depth entry leisure pool, diving boards, climbing wall, basketball hoop, water walk, drop slides, and a tot area for the little ones. In addition, it features a 6,150 SF bathhouse with bathrooms and changing rooms, office and guard spaces, first aid, entry lobby, meeting rooms, and concessions. There is truly something for everyone to enjoy at this family-friendly aquatic destination located on the west side of the city.

AMENITIES

5,300 Leisure Pool
Lap Lanes
Diving Boards
Activity Zone
Water Walk
Drop Slide
Water Basketball
Climbing Wall

1,800 SF Wading Pool with Zero Depth
Entry
Play Structure
Interactive Water Features
Body Slides with Runouts



DOUGLASS WHITEAKER

President



Douglass G. Whiteaker, President and Principal of Water Technology, Inc., has extensive knowledge and experience in the aquatic industry. He is dedicated to the planning, design, engineering and construction of aquatic facilities, and his engaging personality helps to facilitate a two-way sharing process with our clients. Doug helps the team to understand unique project demographics and public needs which ultimately results in team ownership of the project, producing the ultimate in project excellence. He excels in managing integrated project delivery teams, and his hands-on management abilities energize effective collaboration. Ultimately, his goal is to ensure that the needs and expectations of the client are exceeded.

Mr. Whiteaker leads projects of great diversity in size, scope and function including colleges and universities, athletic and wellness centers, YMCA's, community developments, family aquatic centers, and waterparks. Renowned for his knowledge of recreational water treatment systems, he provides insight into emerging technologies for pristine water quality. His academic background in biochemistry and decades of practical experience in the design and construction of aquatic facilities proves to be an invaluable resource.

FEATURED PROJECTS

Cottonwood Community Recreation Center - Cottonwood, AZ*
Morenci Community Center - Morenci, AZ*
Phoenix South Mountain Kroc Center - Phoenix, AZ*
The Flagstaff Aquaplex - Flagstaff, AZ*
Bill Heddies Recreation Center - Delta, CO*
Brighton Prairie Recreation Center - Brighton, CO*
Broomfield CO Broomfield Community Center Study - Broomfield, CO*
Central Park Recreation Center at Stapleton - Denver, CO*
City of Alamosa Aquatic Center - Alamosa, CO*
East Ridge Recreation Center - Highlands Ranch, CO*
Eastern Rio Blanco Recreation Center - Meeker, CO*
Erie Community Center - Erie, CO*
Fraser Valley Recreation Center - Fraser, CO*
Gunnison Community Center - Gunnison, CO*
Hatfield Chilson Rec/Senior Center - Loveland, CO*
Margaret W. Carpenter Recreation Center - Thornton, CO*
Wheat Ridge Recreation Center - Wheat Ridge, CO*
Woodland Park Family YMCA - Woodland Park, CO*
Crown Mountain Recreation Center - Basalt, CO
LeMars YMCA & Recreation Facility - Le Mars, IA
Ray and Joan Kroc Corps Community Center - Coeur d'Alene, ID*
Waterpark Design and Big Pool Replacement - Garden City, KS*
Blue Springs Community Center - Blue Springs, MO*
Las Cruces Regional Recreation & Aquatic Center - Las Cruces, NM*
Albany Family YMCA - Albany, OR
Bandon, Oregon - Community Swimming Pool - Bandon, OR
East Portland Community Center - Portland, OR*
Portland, OR Washington Monroe Community Center - Portland, OR
West Linn Aquatic Center - West Linn, OR*
Salem, OR - Salvation Army Kroc Center - Salem, OR*
Eastside Park Master Plan - El Paso, TX*
The Rec - Grapevine, TX*
Federal Way Community Center - Federal Way, WA*
Snohomish Aquatic Center - Snohomish, WA*
Haselwood YMCA - Silverdale, WA
Lynnwood Recreation Center - Lynnwood, WA*

**Project included feasibility study component*

EDUCATION

Bachelor of Arts,
Chemistry and Biology
Luther College
Decorah, IA

PROFESSIONAL AFFILIATIONS

Construction Specifications Institute
(CSI)
National Recreation and Park
Association (NRPA)
Themed Entertainment Association
(TEA)

EXPERIENCE

19 Years with WTI
50 Years in Industry

30% Availability



JEN GERBER

Vice President, Strategic Partnerships & Operations



Jen has a solid understanding of the aquatic recreation market with a strong emphasis on strategic consultant teaming and business development planning; this focus leads to successful design teams. Her in-depth knowledge of the aquatic planning process gives her a unique perspective on the challenges faced by each segment of the aquatic industry in building business. Through her tenure at WTI, she continues to build strong relationships with clients, architectural firms and peers from coast to coast. Her exceptional organizational and communication skills have contributed to the numerous successful projects that WTI and its clients celebrate each year.

Jen is based in WTI's Texas office and is active in many industry organizations, including state and national parks and recreation organizations, the International Association of Amusement Parks and Attractions (IAAPA) and the World Waterpark Association. Jen started with WTI in 2013 and has been a key part of WTI's public sector projects, marketing initiatives and growth in Texas. WTI is benefited by her outgoing personality, commitment to her team and passion for relationship building every day.

EDUCATION

Bachelor of Communications and Management
University of Minnesota
Minneapolis, MN

PROFESSIONAL AFFILIATIONS

Themed Entertainment Association (TEA)

World Waterpark Association (WWA) - Public Sector Committee

International Association of Amusement Parks and Attractions (IAAPA)

National Parks and Recreation Association (NRPA)

TRAPS Texas Recreation and Parks Association Member

EXPERIENCE

10 Years with WTI
10 Years in Industry

20% Availability

FEATURED PROJECTS

Lewis Farms Facility and Park - Edmonton, Alberta, Canada
Texas Water World Gasul Bay Waterpark - China
Pool Improvements at McClintock - Tempe, AZ
Chico Area Aquatic and Recreation Center - Chico, CA
Northglenn Recreation and Senior Center - Northglenn, CO
DuPont Country Club - Wilmington, DE
Sun 'N' Fun - Naples, FL
Camp Southern Ground Aquatic Center - Fayetteville, GA
Garden Rapids at the Big Pool - Garden City, KS
Lenexa Civic Center - Lenexa, KS
Indian Trails Aquatic Center at Sar-Ko-Par Trails Park - Lenexa, KS
Augustana College Aquatic Center - Rock Island, IL
Rock Island YWCA - Rock Island, IL
Romeoville Athletic and Event Center - Romeoville, IL
Kennedy Park Outdoor Aquatic Center - South Bend, IN
Crawford Park Splash Pad - Mishawaka, IN
Blue Sun Bay - Blue Springs, MO
City Lake Park Aquatic Center - High Point, NC
Island Park Pool - Fargo, ND
Mahoney State Park Aquatic Facility Expansion - Ashland, NE
Grandview Heights Pool - Grandview Heights, OH
Master Plan for Lou Eves Municipal Pool - Mason, OH
Mayfield Heights Community and Aquatic Center - Mayfield Heights, OH
Facility Scenario Estimating - Portland, OR
Adventure Cove - Abilene, TX
Southeast Recreation Center - Arlington, TX
Generations Park at Boys Ranch - Bedford, TX
Multi-Purpose Natatorium and Outdoor Waterpark - Bay City, TX
El Paso Area Waterparks - El Paso, TX
The REC - Grapevine, TX
Keller Spray Pad - Keller, TX
The Vineyard Community Center Pool - Midland, TX
Tom Muehlenbeck Recreation Center Renovation - Plano, TX
Byrnes Park Pool - Waterloo, IA
Gates Park Spray Park - Waterloo, IA





DARIN BARR

PRESIDENT



Darin joined Ballard*King & Associates in 2007 after working with municipal, collegiate and private recreation agencies. During his time with B*K, Darin has completed master plans, feasibility studies, and operational assessments and provided operational and management solutions to numerous clients nationwide.

EDUCATION

MASTER OF ARTS IN PUBLIC ADMINISTRATION

- State University of New York, Brockport

BACHELOR OF SCIENCE IN PARKS, RECREATION & TOURISM

- University of Missouri

PROFESSIONAL AFFILIATIONS

- National Intramural Recreational Sports Association
- New York State Parks & Recreation Society
- Missouri Park & Recreation Association
- University of Missouri – Adjunct Faculty

CONTACT



Phone:
Mobile (573) 673-6597



Email:
darin@ballardking.com



Web:
www.BallardKing.com

Darin's passion for the parks and recreation industry has allowed him to successfully serve agencies nationwide. Darin utilizes a multi-layer approach when working on projects and believes in the importance of listening to stake holders, agency administration and staff members. A key part of his process is helping clients utilize statistical data and public input to understand the difference between needs and wants.

Prior to joining B*K, Darin worked in the municipal, private, and university sectors, all within the parks and recreation industry. This broad background of practical, in-field and operational experience, combined with his experience as a consultant, helps shape the approach Darin brings to each project. He understands that each community and their goals are unique, as is the process by which they attain these goals. The end result is success and diversity in delivering parks and recreation services and programs, with solutions that are tailored to each community and agency.

Throughout his career, Darin has been involved with aquatic operations and programming. He has served as Senior Associate Director for the University of Missouri-Columbia Student Recreation Complex, Aquatic Manager for the Mizzou Aquatic Center, Recreation Supervisor for the Town of Pittsford (NY), and Recreation Superintendent and Aquatics Coordinator for the St. Peter's Rec-Plex in Missouri. Additionally, he has held numerous aquatic certifications including, but not limited to: AFO, CPO and Lifeguard Instructor Trainer with both the Red Cross and Ellis & Associates.

SELECT RELEVANT EXPERIENCE

- Aquatic Center Operational Plan, Conway, AR
- Recreation Center Feasibility Study, Bentonville, AR
- Aquatic Master Plan, Waterloo, IA
- Indoor/Outdoor Aquatic Center Feasibility Study, Scarsdale, NY



JENISE JENSEN

ASSOCIATE



Jenise began working with Ballard*King & Associates in 2015 and brings over 30 years of experience in parks and recreation. During her time with B*K, Jenise has utilized a robust recreation background combined with data and analysis to guide clients through their projects. Her involvement with projects includes feasibility studies and operational assessments.

EDUCATION

ASSOCIATE OF ARTS

- Colorado Mountain College
- CERTIFIED POOL OPERATOR
- National Swimming Pool Foundation

PROFESSIONAL AFFILIATIONS

- COLORADO PARKS & RECREATION ASSOCIATION
- MISSOURI PARKS & RECREATION ASSOCIATION
- NATIONAL RECREATION & PARK ASSOCIATION
- ATHLETIC BUSINESS
- ICE SPORTS INDUSTRY

EXPERTISE

MARKET ASSESSMENTS/DATA ANALYSIS

OPERATIONS PLANS

MARKETING

RECREATION PROGRAMMING

CONTACT



Phone:
cell (970)-333-9687



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jenise@ballardking.com



Web:
www.BallardKing.com

Prior to joining B*K, Jenise held a variety of positions with both public and private recreation agencies. She served as Assistant Recreation Director for the City of Chaska, MN; Ice Arena Manager, Recreation Center Manager and Administrative Manager for the Town of Breckenridge Recreation Department, CO; and Recreation Coordinator for the City of St. Peters, MO. In addition, she worked for private recreation facilities in Texas and Georgia and has served on a number of recreation related non-profit boards.

Jenise has experience with a variety of operational and leadership models, from subsidized recreation to enterprise models to for-profit facilities. She has experience with operations programming, marketing and administrative practices for recreation facilities and multi-facility departments. Jenise has helped lead the approval, design, and renovation of projects in excess of \$17 million, and managed both indoor and outdoor facilities. One of Jenise's strengths is creativity and marketing, combined with the ability to create new, interesting and successful revenue generating programs.

Jenise has spoken and presented to Town/City Councils, Citizen Advisory Boards, and recreation organizations, such as the National Recreation and Parks Association, Athletic Business, Colorado Parks and Recreation Association, and the Ice Sports Industry. She served as an Assistant Media Supervisor for the 2002 Olympic Winter Games. All of these varying roles have shaped her appreciation for the challenges of successfully navigating within a variety of leadership and organizations to reach common goals.

SELECT RELEVANT EXPERIENCE

- Upper Macungie Community Center Operations Plan and Feasibility Study, Upper Macungie Township, PA
- Pembroke Pines Master Plan, Pembroke Pines, FL
- Beeville Outdoor Sports Complex, Beeville, TX
- Gladstone Museum & Special Event Market Assessment, Gladstone, MO
- Brentwood Market Assessment, Brentwood, MO

PROJECT APPROACH



Parks facilities exist at many different levels of complexity, supporting vastly different levels of usership and programming. Understanding the needs of the community, the strengths and weaknesses of the existing aquatic and support spaces, and what potential aquatic enhancements will satisfy the requirements and excite the Fayetteville community is at the crux of this project. Our Team has a proven track record for success when working with communities that have valuable recreation assets at hand, while planning for the future – whether that be consolidation, renovation, or replacement.

Our team has unparalleled capabilities to help Fayetteville focus on the key topics that have been identified as priorities, including but not limited to understanding the market, competition, demographic analysis, external impacts, best practices, and recommendations for the future of Fayetteville's aquatics and recreation.

Our process seeks to take stock of the current environment, evaluate the present, the priorities, planning, and dreaming for the future. Taking stock of existing facilities, demographics, needs assessments and other pertinent factors is all part of the basic feasibility equation. We provide the tools necessary to obtain information that is crucial for developing the right plan for the community's needs. During this time, our team will hone in on efficiency in operations and we'll share information on new energy-efficient systems that can be employed to reduce long-term operational investments, water consumption, and staffing requirements. There is often an up-front capital investment for new cost-conscious systems, and we'll provide the necessary background to aid in the decision-making process.

Our clients are always involved in the collaborative and educational Planning/Concept process. We bring to each project a team experienced in the programming and masterplanning of aquatic facilities. Together, we work to create a plan that enhances and optimizes all the possibilities. The initial planning process for an aquatic facility is perhaps the most important phase in determining the success of the project. During this process, we take into consideration: programming, natural site characteristics, theming, entertainment value, future expansion, cultural considerations, sustainability, operations, budget, and capacity. We begin by helping the City evaluate their existing aquatic facilities. Then, we use our vast experience in the programming and master planning phases to identify goals and objectives for optimum user benefit within the parameters of the site (whether planning for new or renovating the existing). This provides clear direction and sound footing for the project, and it is the first step in ensuring long-term success.

We're prepared to bring our team's shared experience to the City of Fayetteville in a cohesive and sophisticated way. Conceptual plans are developed and reviewed against the program requirements. A broad range of features should be reviewed for appropriateness and revenue opportunities. Opportunities and features of each conceptual plan are reviewed, and the opportunities and desired features are enhanced with a final conceptual masterplan.



During the conceptual planning phase, budgets are developed and modified to reflect information developed about the project. By working with the City of Fayetteville's experienced staff to carefully assess budgets, needs, and objectives, we can transform ideas into an original design including dynamic yet practical solutions for sustainable and engaging aquatic enhancements. This is also the best time to discuss new aquatic trends! We want to talk with you about the latest and greatest things that we're doing in our projects so that we can find ways to be innovative with anything new that we're incorporating into the waterpark.

Now more than ever, we are seeing an unprecedented rise in the cost of construction and as your advocate, we will work to price our designs throughout every phase of the project, and we'll verify our construction cost estimates with local pool and general contractors. We understand the cost implications of every line we draw, and we can effectively correlate that information to the bottom line of each project we undertake. Developing and maintaining budget estimates and comparing these costs to similar projects helps our team maintain a comprehensive database of aquatic-related costs. We develop specifications for literally hundreds of projects throughout the country and overseas, and we use these materials on a daily basis to figure out the most precise, cost-efficient budgets possible.

We're confident that our national reach and local touch, coupled with our decades of experience will serve to provide unparalleled support for the City of Fayetteville in further enhancing the community to be a place where people are proud to live, work, invest, and engage in community.

PROJECT SCHEDULE

Though no project schedule is formally stated in the RFP, our team will work closely with the City of Fayetteville and any stakeholders to establish a schedule that will allow for proper time to complete the work scope. We look forward to this process as part of a kick-off meeting; we'll be ready to outline scope, deliverables and timelines to ensure project success.



City of Fayetteville, AR
RFQ 24-01, Engineering & Architectural Services
SECTION B: Vendor References

The following information is required from all firms so all statements of qualification may be reviewed and properly evaluated:

COMPANY NAME: Water Technology, Inc. (WTI)

NUMBER OF YEARS IN BUSINESS: 40 years HOW LONG IN PRESENT LOCATION: 27 years

TOTAL NUMBER OF CURRENT EMPLOYEES: 69 FULL TIME 2 PART TIME

NUMBER OF EMPLOYEES PLANNED FOR THIS CONTRACT: 4 FULL TIME 0 PART TIME

PLEASE LIST FOUR (4) REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed):

1. City of Bentonville

COMPANY NAME

Bentonville, AR, 72712

CITY, STATE, ZIP

David Wright, Parks & Recreation Director

CONTACT PERSON

479.464.7275

TELEPHONE

N/a

FAX NUMBER

dwright@bentonvillear.com

E-MAIL ADDRESS

2. City of Lenexa

COMPANY NAME

Lenexa, KS, 66219

CITY, STATE, ZIP

Logan Wagler, Parks & Recreation Director

CONTACT PERSON

913.477.7140

TELEPHONE

N/a

FAX NUMBER

lwagler@lenexa.com

E-MAIL ADDRESS

3. City of Garden City

COMPANY NAME

Garden City, KS, 67846

CITY, STATE, ZIP

Aaron Stewart, Parks and Recreation Director

CONTACT PERSON

785.587.2754

TELEPHONE

785-587-2727

FAX NUMBER

aaron.stewart@cityofmhk.com

E-MAIL ADDRESS

*Aaron is no longer with Garden City but has agreed to remain a reference contact for services completed during his time in Garden City.

City of Fayetteville, AR

RFQ 24-01, Engineering & Architectural Services

Page 12 of 16

4. City of High Point

COMPANY NAME

High Point, NC, 27261

CITY, STATE, ZIP

Lee Tillery, Director of Parks and Recreation

CONTACT PERSON

336.883.3469

TELEPHONE

N/a

FAX NUMBER

lee.tillery@highpointnc.gov

E-MAIL ADDRESS

City of Fayetteville, AR
 RFQ 24-01, Engineering & Architectural Services
 SECTION C: 2024 Annual Statement of Qualifications Summary Form

ATTENTION: This form shall be completed and returned with EACH SUBMITTED Statement of Qualification. The City will utilize the selection marked by each firm to correspond with the scope of work for each project.

NAME OF FIRM: Water Technology, Inc. (WTI)

SUMMARY STATEMENT:

Proposer should provide summary information on this form by checking the areas of expertise based on experience and qualifications.

This form must be completed and returned in order for your proposal to be eligible for consideration.

☐ Airport	☐ Natural Resource/Conservation Planning
☐ Architecture	☐ Parks: Urban Forestry Planning
☐ Bridges	☐ Parks: Land Dedication Fees Consultant
☐ Carbon Sequestration Analysis	☒ Parks: Aquatics Consultant
☐ Civil/Structural Design	☐ Site Utility
☐ Climate Resilience Analysis	☐ Studio Design
☐ Construction Administration	☐ Storm Water Management
☐ Drainage Design, Analysis, & Planning	☐ Stormwater Modeling
☐ Ecosystem Services Analysis	☐ Stormwater Design
☐ Electrical	☐ Structural Design
☐ Environmental Analysis, Remediation, & Permitting	☐ Surveying
☐ Environmental Water Services	☒ Sustainability Design
☐ Floodplain Services	☐ Testing Services: Soil/Materials
☐ GIS Mapping	☐ Traffic Studies
☐ Geotechnical Engineering	☐ Utility Asset Inspections
☐ Hydrology	☐ Value Engineering
☐ Grant Writing Services	☐ Wastewater Design
☐ Independent Fee Estimates	☐ Wastewater Management
☐ Interior Design	☐ Wastewater Modeling
☐ Landscape Architecture	☐ Wastewater Rate Studies
☐ LEED/Sites Certification	☐ Wastewater SSES
☐ Lighting Design	☐ Watershed Studies
☐ Master Planning: Arts/Culture	☐ Water/ Sewer Rate Studies
☐ Master Planning: City/Government	☐ Water Audit Services
☒ Master Planning: Parks	☐ Water Design
☐ Master Planning: Streets	☐ Water Management
☐ Master Planning: Wastewater	☐ Water Modeling
☐ Master Planning: Water	☐ Water Quality Monitoring
☐ Mechanical, Electrical, & Plumbing	☐ Water Service Line Inventory
	☐ Wetlands

Name of Firm: Water Technology, Inc. (WTI)

Name of Primary Contact: Jen Gerber

Title of Primary Contact: Vice President, Strategic Partnerships & Operations

Phone Number: 763.360.0594 (mobile)

E-Mail Address: jgerber@wtiworld.com

3. ACKNOWLEDGEMENT OF ADDENDA

Acknowledge receipt of addenda for this invitation to bid, request for proposal, or request for qualification by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject Contractor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

4. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

COMPANY: Water Technology, Inc. (WTI)

PHYSICAL ADDRESS: 100 Park Avenue, Beaver Dam, WI 53916

MAILING ADDRESS: 100 Park Avenue, Beaver Dam, WI 53916

1. DISCLOSURE INFORMATION

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

- ☒ 1) NO KNOWN RELATIONSHIP EXISTS
- ☐ 2) RELATIONSHIP EXISTS (Please explain)
- _____
- _____
- _____

I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true, and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number where the City's Purchasing Division can contact for clarification or interview request.

PHONE: 920.887.7375

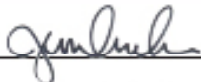
FAX: 866.240.7328

E-MAIL: jgerber@wtiworld.com

TAX ID #: 39-1466848

UEI #: _____

By submitting your response, you certify that you are authorized to represent and bind your company:

SIGNATURE: 

PRINTED NAME : Jen Gerber

TITLE: VP, Strategic Partnerships & Operations

DATE: 1/5/2024

Appendix C
RFQ 24-01, Selection #4
Aquatic Feasibility Study
WTI's Submittal

END OF REQ DOCUMENT

City of Fayetteville, AR
RFQ 24-01, Engineering & Architectural Services
SECTION B: Vendor References

The following information is required from all firms so all statements of qualification may be reviewed and properly evaluated:

COMPANY NAME: Ballard*King & Associates, Ltd

NUMBER OF YEARS IN BUSINESS: 31 HOW LONG IN PRESENT LOCATION: 31

TOTAL NUMBER OF CURRENT EMPLOYEES: 5 FULL TIME 3 PART TIME

NUMBER OF EMPLOYEES PLANNED FOR THIS CONTRACT: 2 FULL TIME 1 PART TIME

PLEASE LIST FOUR (4) REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed):

1. City of Waterloo Leisure Services

COMPANY NAME

Waterloo, IA 50701

CITY, STATE, ZIP

Paul Huting, Leisure Services Director

CONTACT PERSON

319-291-4370

TELEPHONE

N/A

FAX NUMBER

paul.huting@waterloo-ia.org

E-MAIL ADDRESS

2. City of Nixa Parks & Recreation

COMPANY NAME

Nixa, MO 65714

CITY, STATE, ZIP

Matt Crouse

CONTACT PERSON

417-725-5486

TELEPHONE

N/A

FAX NUMBER

mcrouse@nixa.com

E-MAIL ADDRESS

3. City of Joplin Parks & Recreation

COMPANY NAME

Joplin, MO 64801

CITY, STATE, ZIP

Paul Bloomberg

CONTACT PERSON

417-627-8879

TELEPHONE

n/a

FAX NUMBER

pbloombe@joplinmo.org

E-MAIL ADDRESS

4. City of Garden City

COMPANY NAME

Garden City, KS, 67846

CITY, STATE, ZIP

Aaron Stewart

CONTACT PERSON

785.587.2754

TELEPHONE

785.587.2727

FAX NUMBER

aaron.stewart@cityofmhk.com

E-MAIL ADDRESS

*Aaron is no longer with Garden City but has agreed to remain a reference for services completed during his time at Garden City.

1. DISCLOSURE INFORMATION

Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

☒ _____ 1) NO KNOWN RELATIONSHIP EXISTS

_____ 2) RELATIONSHIP EXISTS (Please explain)

I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true, and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

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2. PRIMARY CONTACT INFORMATION

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number where the City's Purchasing Division can contact for clarification or interview request.

Name of Firm: Ballard*King & Associates, Ltd

Name of Primary Contact: Darin J. Barr

Title of Primary Contact: President

Phone Number: 573-673-6597 (mobile)

E-Mail Address: darin@ballardking.com

3. ACKNOWLEDGEMENT OF ADDENDA

Acknowledge receipt of addenda for this invitation to bid, request for proposal, or request for qualification by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject Contractor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

4. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

COMPANY: Ballard*King & Associates, LTD

PHYSICAL ADDRESS: 3602 Snow Leopard Dr, Columbia, MO 65202

MAILING ADDRESS: 2743 E. Ravenhill Circle, Highlands Ranch, CO 80126

City of Fayetteville, AR
RFQ 24-01, Engineering & Architectural Services
Page 15 of 16

City of Fayetteville, AR
RFQ 24-01, Engineering & Architectural Services
SECTION C: 2024 Annual Statement of Qualifications Summary Form

ATTENTION: This form shall be completed and returned with EACH SUBMITTED Statement of Qualification. The City will utilize the selection marked by each firm to correspond with the scope of work for each project.

NAME OF FIRM: Ballard*King & Associates, LTD

SUMMARY STATEMENT:

Proposer should provide summary information on this form by checking the areas of expertise based on experience and qualifications.

This form must be completed and returned in order for your proposal to be eligible for consideration.

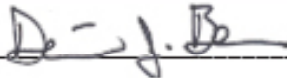
☐ Airport	☐ Natural Resource/Conservation Planning
☐ Architecture	☐ Parks: Urban Forestry Planning
☐ Bridges	☐ Parks: Land Dedication Fees Consultant
☐ Carbon Sequestration Analysis	☒ Parks: Aquatics Consultant
☐ Civil/Structural Design	☐ Site Utility
☐ Climate Resilience Analysis	☐ Studio Design
☐ Construction Administration	☐ Storm Water Management
☐ Drainage Design, Analysis, & Planning	☐ Stormwater Modeling
☐ Ecosystem Services Analysis	☐ Stormwater Design
☐ Electrical	☐ Structural Design
☐ Environmental Analysis, Remediation, & Permitting	☐ Surveying
☐ Environmental Water Services	☐ Sustainability Design
☐ Floodplain Services	☐ Testing Services: Soil/Materials
☐ GIS Mapping	☐ Traffic Studies
☐ Geotechnical Engineering	☐ Utility Asset Inspections
☐ Hydrology	☐ Value Engineering
☐ Grant Writing Services	☐ Wastewater Design
☐ Independent Fee Estimates	☐ Wastewater Management
☐ Interior Design	☐ Wastewater Modeling
☐ Landscape Architecture	☐ Wastewater Rate Studies
☐ LEED/Sites Certification	☐ Wastewater SSES
☐ Lighting Design	☐ Watershed Studies
☐ Master Planning: Arts/Culture	☐ Water/ Sewer Rate Studies
☐ Master Planning: City/Government	☐ Water Audit Services
☒ Master Planning: Parks	☐ Water Design
☐ Master Planning: Streets	☐ Water Management
☐ Master Planning: Wastewater	☐ Water Modeling
☐ Master Planning: Water	☐ Water Quality Monitoring
☐ Mechanical, Electrical, & Plumbing	☐ Water Service Line Inventory
	☐ Wetlands

PHONE: 303-470-8661 FAX: 303-470-8642

E-MAIL: darin@ballardking.com

TAX ID #: 84-1580661 UEI #:

By submitting your response, you certify that you are authorized to represent and bind your company:

SIGNATURE: 

PRINTED NAME : Darin J. Barr

TITLE: President DATE: 1/4/2024

Appendix C
RFQ 24-01, Selection #4
Aquatic Feasibility Study
WTI's Submittal

END OF REQ DOCUMENT



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/8/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, LLC 777 108th Ave NE #200 Bellevue WA 98004	CONTACT NAME: Charles Underhill PHONE (A/C, No, Ext): 425-586-1045 E-MAIL ADDRESS: charles_underhill@ajg.com FAX (A/C, No): 425-451-3716
INSURED Water Technology Inc. 100 Park Avenue Beaver Dam WI 53916	INSURER(S) AFFORDING COVERAGE INSURER A : Travelers Property Casualty Co of America INSURER B : INSURER C : INSURER D : INSURER E : INSURER F : NAIC # 25674

COVERAGES

CERTIFICATE NUMBER: 1631890708

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:			6801J744112	6/4/2023	6/4/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N ☐	N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**CBTWO Architects
500 Liberty St. SE Suite 100
Salem OR 97301

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CITY OF
FAYETTEVILLE
ARKANSAS

SELECTION COMMITTEE - VOTING RESULTS

Selection Description:

RFQ 24-01, Selection 4 - Aquatics
Feasibility Study

Selection Committee Date/Time: 3/18/2024 at 4:00 PM in Room #326

Firms are listed in alphabetical order

Overall RANK	1		
	1	2	3
	Councilman-Hunsaker	Water Technology Inc	Waters Edge
1st			
2nd			
3rd			

OVERALL RANK SUMMARY SCORING

1st ranked firm:

WATER TECHNOLOGY INC

2nd ranked firm:

WATERS EDGE

3rd ranked firm:

COUNCILMAN - HUNSAKER

Tallied by:

L. McLaugh
Les McLaugh, Purchasing Director

Date: 03 / 20 / 2024

K Fitch
Kenny Fitch, Purchasing Agent

Date: 03 / 19 / 24



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas
Attendance Sheet

BID/RFP/RFQ #: RFQ 24-01, Selection #4

Description: Aquatics Feasibility Study

Function : Interview # 1 : Councilman-Hunsaker

Date: 03/18/2024 Start Time: 2:00pm

City staff e-mail includes "@fayetteville-ar.gov"

Name	Company	Title	Phone	Email
1 Mike Wiederkehr <i>WGO</i>	City of Fayetteville, AR	Council Member	479-575-8323	mike.wiederkehr@fayetteville-ar.gov
2 Wade Abernathy	City of Fayetteville, AR	Construction Mngr.	479-575-8361	wabernathy@fayetteville-ar.gov
3 Lyssie Koscheski <i>LK</i>	City of Fayetteville, AR	Acct. Manager	479-575-8274	lkoscheski@fayetteville-ar.gov
4 Allison Jumper <i>AJ</i>	City of Fayetteville, AR	Parks & Rec. Dir.	479-444-3473	ajumper@fayetteville-ar.gov
5 Corey Granderson <i>CG</i>	City of Fayetteville, AR	Utilities Engineer	479-444-3452	cgranderson@fayetteville-ar.gov
8 Les McGaugh <i>LM</i>	City of Fayetteville, AR	Purchasing Director	479-575-8289	lmcgaugh@fayetteville-ar.gov
9 Kenny Fitch <i>KF</i>	City of Fayetteville, AR	Purch. Agent	479-575-8258	kfitch@fayetteville-ar.gov
10 GEORGE DEINES	COUNCILMAN-HUNSAKER	DIRECTOR	214-998-2911	GEORGE.DEINES@CH2D.COM
11 Dean Rawlings	City of Fayetteville, AR	Aquatics Manager	479-444-3474	drawlings@fayetteville-ar.gov
12 Lee Farmer	City of Fayetteville	Rec Super	479-444-3471	lfarmer@fayetteville-ar.gov
13				
14				
15				
16				
17				
18				
19				
20				

*All bid openings are livestreamed on the City's YouTube page: <https://www.youtube.com/user/cityoffayettevillear>
Meeting Notes, Decision, Description of Handouts, etc.:

No Handouts.



Attendance Sheet

BID/RFP/RFQ #: RFQ 24-01, Selection #4

Description: Aquatics Feasibility Study

Function : Interview # 2 : Water Technology Inc.

Date: 03/18/2024 Start Time: 2:45 pm

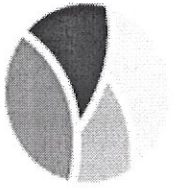
City staff e-mail includes "@fayetteville-ar.gov"

CITY OF
FAYETTEVILLE
ARKANSAS

	Name	Company	Title	Phone	Email
1	Mike Wiederkehr	City of Fayetteville, AR	Council Member	479-575-8323	mike.wiederkehr@fayetteville-ar.gov
2	Wade Abernathy	City of Fayetteville, AR	Construction Mngr.	479-575-8361	wabernathy@fayetteville-ar.gov
3	Lyssie Koscheski	City of Fayetteville, AR	Acct. Manager	479-575-8274	lkoscheski@fayetteville-ar.gov
4	Allison Jumper	City of Fayetteville, AR	Parks & Rec. Dir.	479-444-3473	ajumper@fayetteville-ar.gov
5	Corey Granderson	City of Fayetteville, AR	Utilities Engineer	479-444-3452	cgranderson@fayetteville-ar.gov
8	Les McGaugh	City of Fayetteville, AR	Purchasing Director	479-575-8289	lmcgaugh@fayetteville-ar.gov
9	Kenny Fitch	City of Fayetteville, AR	Purch. Agent	479-575-8258	kfitich@fayetteville-ar.gov
10	VanDerNeer	Under Technology	IT Operations	7603-3000594	van@under.com
11	Sto H Caron	Belard King	Belard King Assoc.	903-353-1928	stoh@belardking.com
12	Van Kewling	COF	Aquatics Manager	479-444-3474	drawings@cof.com
13	Lee Farmer	COF	REC SUPER	479-444-3471	lfarmer@cof.com
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**All bid openings are livestreamed on the City's YouTube page: <https://www.youtube.com/user/cityoffayettwillard>
Meeting Notes, Decision, Description of Handouts, etc.:*

NO HANDOUTS



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas
Attendance Sheet

BID/RFP/RFQ #: RFQ 24-01, Selection #4

Description: Aquatics Feasibility Study

Function : Interview # 3 : Waters Edge

Date: 03/18/2024 Start Time: 3:30

City staff e-mail includes "@fayetteville-ar.gov"

Name	Company	Title	Phone	Email
1 Mike Wiederkehr <i>WGO</i>	City of Fayetteville, AR	Council Member	479-575-8323	mike.wiederkehr@fayetteville-ar.gov
2 Wade Abernathy	City of Fayetteville, AR	Construction Mngfr.	479-575-8361	wabernathy@fayetteville-ar.gov
3 Lysie Koscheski <i>LK</i>	City of Fayetteville, AR	Acct. Manager	479-575-8274	lkoscheski@fayetteville-ar.gov
4 Alison Jumper <i>AJ</i>	City of Fayetteville, AR	Parks & Rec. Dir.	479-444-3473	ajumper@fayetteville-ar.gov
5 Corey Granderson <i>CG</i>	City of Fayetteville, AR	Utilities Engineer	479-444-3452	cgranderson@fayetteville-ar.gov
8 Les McGaugh <i>LM</i>	City of Fayetteville, AR	Purchasing Director	479-575-8289	lmcgaugh@fayetteville-ar.gov
9 Kenny Fitch <i>KF</i>	City of Fayetteville, AR	Purch. Agent	479-575-8258	kfitch@fayetteville-ar.gov
10 Lauren Deburn	<i>Waters Edge Aquatics Division</i>	Project Manager	913-680-3511	ldeburn@watersedgeaquatics.com
11 <i>BORIS HZEL</i>	<i>WATERS EDGE AQUATICS DIVISION</i>	<i>PROJECT MGR</i>	<i>316-576-5753</i>	<i>bh11@watersedgeaquatics.com</i>
12 <i>Scott Carson</i>	<i>Ballard King</i>	<i>Sr. Assoc</i>	<i>903-353-1928</i>	<i>scott@ballardking.com</i>
13 <i>Lee Farmer</i>	<i>COF</i>	<i>REC SUPER</i>	<i>479-444-3471</i>	<i>lfarmer@cof</i>
14 <i>Dean Landings</i>	<i>COF</i>	<i>AQUATICS MANAGER</i>	<i>479-444-3474</i>	<i>landings@cof</i>
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*All bid openings are livestreamed on the City's YouTube page: <https://www.youtube.com/user/cityoffayettevillear>
Meeting Notes, Decision, Description of Handouts, etc.:

ONE HANDOUT

WATERS EDGE AQUATIC DESIGN

Aquatics and Prime Consultant

1153 Southwest Blvd., Ste. 202
Kansas City, KS 66103
(913) 438-4338
www.wedesignpools.com

We are an industry leader in aquatic study and design in the Midwest with a national reach. You will receive the most intimate, thorough, and honest services from Waters Edge Aquatic Design. We tailor our work to the needs of each unique community with a focus on comprehensive studies, and creating visually stunning, energy efficient, sustainable aquatic facilities that are easy to operate.

Since 2000 when Waters Edge Aquatic Design was founded by engineers passionate about serving communities through waterplay, we have continued to serve the purpose of being a valued resource for everything aquatics. Centrally located in Kansas City makes Waters Edge Aquatic Design an accessible, hometown firm and top trusted choice for many communities.



AQUATIC PROJECTS

872



AQUATIC AWARDS

37

SERVICES

Planning and Study
Design

Construction Management
Post Occupancy



waters edge
AQUATIC DESIGN

1

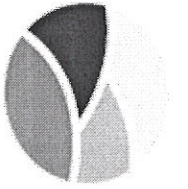
SFS ARCHITECTURE

Architect



- We enrich communities through meaningful collaborations and purposeful design
- 50+ Years Serving Communities
- 40+ Aquatic Centers
- 60+ Park/Athletic Facilities
- 45+ Community Centers
- 100+ Communities Served
- Based out of Kansas City, MO

2



City of Fayetteville, Arkansas Attendance Sheet

BID/RFP/RFQ #: RFQ 24-01, Selection #4

Description: Aquatics Feasibility Study

Function : Selection Committee Meeting

Date: 03/18/2024 Start Time: 4:15

CITY OF
FAYETTEVILLE
ARKANSAS

City staff e-mail includes "@fayetteville-ar.gov"

Name	Company	Title	Phone	Email
1 Mike Wiederkehr <i>mw</i>	City of Fayetteville, AR	Council Member	479-575-8323	mike.wiederkehr@fayetteville-ar.gov
2 Wade Abernathy <i>wa</i>	City of Fayetteville, AR	Construction Mngr.	479-575-8361	wabernathy@fayetteville-ar.gov
3 Lyssie Koscheski <i>lk</i>	City of Fayetteville, AR	Acct. Manager	479-575-8274	lkoscheski@fayetteville-ar.gov
4 Alison Jumper <i>aj</i>	City of Fayetteville, AR	Parks & Rec. Dir.	479-444-3473	ajumper@fayetteville-ar.gov
5 Corey Granderson <i>cg</i>	City of Fayetteville, AR	Utilities Engineer	479-444-3452	cgranderson@fayetteville-ar.gov
8 Les McGaugh <i>lm</i>	City of Fayetteville, AR	Purchasing Director	479-575-8289	lmcgaugh@fayetteville-ar.gov
9 Kenny Fitch <i>kf</i>	City of Fayetteville, AR	Purch. Agent	479-575-8258	kfitch@fayetteville-ar.gov
10 <i>Lee Farmer</i>	<i>COF</i>	<i>Rec SUPER</i>	<i>479-444-3471</i>	<i>lfarmer</i>
11 <i>Dean Landings</i>	<i>COF</i>	<i>Aquatics Manager</i>	<i>479-444-3474</i>	<i>dlandings</i>
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*All bid openings are livestreamed on the City's YouTube page: <https://www.youtube.com/user/cityoffayettevilleor>
Meeting Notes, Decision, Description of Handouts, etc.:



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Tim Nyander, Utilities Director
SUBJECT: **Budget Adjustment - Water & Sewer Street Cuts**

RECOMMENDATION:

Staff recommends approval of a budget adjustment to move additional funds into the Water & Sewer operations budget to cover the costs of street cuts for the remainder of 2024.

BACKGROUND:

In 2024, the Water & Sewer Department has expensed almost \$30,000 for street cuts/repairs. These street repairs are performed after water and sewer line repairs require the street to be cut to access the lines for repair. These expenses come out of the operations accounts for contract services - street cuts (Water, Sewer, and Taps). Water & Sewer has already moved \$25,000 from Minor Equipment. We still have to pay for several street cuts in Green Acres and other street cuts that will be billed from Transportation that have not yet been entered.

DISCUSSION:

It is estimated that our department will need an additional \$100,000 to cover the remaining costs for street cuts/repairs in 2024. Staff recommends a budget adjustment to move funds from our capital budget to our operations budget to cover these costs for the remainder of the year.

BUDGET/STAFF IMPACT:

Funds will be moved from the Lake Sequoyah Sediment Removal account, WWTP Water Quality Improvements account, and the Phosphorus Standards Management account to the Contract Services Street Cuts account to cover the costs of street cuts for the remainder of the year.

ATTACHMENTS: SRF (#3), BA (#4)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-63

Budget Adjustment - Water & Sewer Street Cuts

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT TRANSFERRING ADDITIONAL FUNDS INTO THE WATER & SEWER OPERATIONS BUDGET TO COVER THE COSTS OF STREET CUTS FOR THE REMAINDER OF 2024

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this resolution, transferring funds in the amount of \$100,000.00 into the Water & Sewer operations budget to cover costs of street cuts for the remainder of 2024.

City of Fayetteville Staff Review Form

2024-63

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

4/25/2024

WATER SEWER (720)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a budget adjustment to move additional funds into the Water & Sewer operations budget to cover the costs of street cuts and repairs for the remainder of 2024.

Budget Impact:

5400.720.4310-5315.03

Water & Sewer

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 48,000.00

Expenses (Actual+Encum)

\$ 29,407.00

Available Budget

\$ 18,593.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 100,000.00

Remaining Budget

\$ 118,593.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division /Org2	Adjustment Number
2024	WATER SEWER (720) Requestor: Cheryl Partain	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

A budget adjustment is needed to move budgeted funds from Water/Sewer capital projects to the Water/Sewer operational budget to cover the costs of street cuts and repairs for the remainder of 2024. Additional costs for 2024 is due to getting caught up on street cuts needed and due to growth of the City. Budgeted funds being moved are from capital sub-projects being closed and utilizing the cost savings from the completed projects.

	COUNCIL DATE:	5/21/2024
	ITEM ID#:	2024-63
	<i>Holly Black</i>	
	<i>4/29/2024 8:54 AM</i>	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
RESOLUTION/ORDINANCE	CHKD/POSTED:	/

TOTAL		-	-				v.2024422
Account Number	Increase / (Decrease)		Project.Sub#		AT	Account Name	
	Expense	Revenue	Project	Sub.Detl			
5400.720.4310-5315.03	100,000	-			EX	Contract Services - Street Cuts	
5400.720.5600-5808.00	(35,000)	-	17004	1	EX	Improvements - Water Line	
5400.730.5800-5818.00	(35,000)	-	13018	1	EX	Wastewater Treatment Plant - Improveme	
5400.730.5800-5801.00	(30,000)	-	10027	1001	EX	Fixed Assets	
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MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council
THRU:
FROM: Mike Reynolds, Police Chief
SUBJECT: **Budget Adjustment to Recognize Police Impact Fees**

RECOMMENDATION:

Staff recommends the approval of a resolution and a budget adjustment in the amount of \$73,395 to recognize Police Impact Fees collected through March 2024 for the expansion of Police Department operations.

BACKGROUND:

The intent of impact fee charges is to ensure new developments bear a proportionate share of the cost of capacity improvements and ensure that the proportional share does not exceed the costs of the demand for additional capacity that is reasonably attributable to providing these services and facilities to the use and occupancy of the new developments.

DISCUSSION:

The Police Department is currently expanding our operational footprint to include opening a new Entertainment District Police Substation within the parking deck located at the northwest corner of West Dickson Street and North West Avenue. These impact fees will provide construction, equipment, and furnishings for the timely completion of this new police substation. Anticipated completion of the Entertainment District Police Substation is the last week of June 2024.

BUDGET/STAFF IMPACT:

The Police Impact Fee Improvements project expense budget will increase equal to the revenue received. There is no staffing impact related to this budget adjustment.

ATTACHMENTS: SRF (#3), BA (#4), SRM (#5)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-19

Budget Adjustment to Recognize Police Impact Fees

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$73,395.00 RECOGNIZING POLICE IMPACT FEES COLLECTED THROUGH MARCH 2024 FOR THE EXPANSION OF POLICE DEPARTMENT OPERATIONS TO THE ENTERTAINMENT DISTRICT POLICE SUBSTATION

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$73,395.00 recognizing police impact fees collected through March 2024 for a portion of the costs of construction, equipment, and furnishings for the expansion of police department operations to the Entertainment District Police Substation.

City of Fayetteville Staff Review Form

2024-19

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Mike Reynolds

4/23/2024

POLICE (200)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends the approval of a resolution and a budget adjustment in the amount of \$73,395 to recognize Police Impact Fees collected through March 2024 for the expansion of Police Department operations.

Budget Impact:

2300.200.9300-5210.00

Impact Fees

Account Number

Fund

07001.7820

Police Impact Fee/Police Substation

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 577,753.00

Expenses (Actual+Encum)

\$ 231,955.23

Available Budget

\$ 345,797.77

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 73,395.00

Remaining Budget

\$ 419,192.77

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024	POLICE (200)	
	Requestor: Willie Newman	

Reconcile and establish revenue and expense budgets for Police Impact Fee Improvements through March 31, 2024.

	COUNCIL DATE:	5/21/2024
	ITEM ID#:	2024-19
	Holly Black	
	4/23/2024 2:33 PM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]



CITY OF
FAYETTEVILLE
ARKANSAS

CITY COUNCIL MEMO

MEETING OF MAY 21, 2024

TO: Mayor and City Council

FROM: Mike Reynolds, Chief of Police

A handwritten signature in black ink, reading "Mike Reynolds".

DATE: April 23, 2024

SUBJECT: Budget Adjustment to Recognize Police Impact Fees

RECOMMENDATION:

Staff recommends the approval of a resolution and a budget adjustment in the amount of \$73,395 to recognize Police Impact Fees collected through March 2024 for the expansion of Police Department operations.

BACKGROUND:

The intent of impact fee charges is to ensure new developments bear a proportionate share of the cost of capacity improvements and ensure that the proportional share does not exceed the costs of the demand for additional capacity that is reasonably attributable to providing these services and facilities to the use and occupancy of the new developments.

DISCUSSION:

The Police Department is currently expanding our operational footprint to include opening a new Entertainment District Police Substation within the parking deck located at the northwest corner of West Dickson Street and North West Avenue. These impact fees will provide construction, equipment, and furnishings for the timely completion of this new police substation. Anticipated completion of the Entertainment District Police Substation is the last week of June 2024.

BUDGET/STAFF IMPACT:

The Police Impact Fee Improvements project expense budget will increase equal to the revenue received. There is no staffing impact related to this budget adjustment.

Attachments:

Budget Adjustment



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

SUBJECT: **VAC-2024-0006: Vacation (151 W. DICKSON ST/151 DICKSON DEVELOPMENT, 484): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at 151 W. DICKSON ST. in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.23 acres. The request is to vacate a sidewalk easement containing 273 square feet.**

RECOMMENDATION:

Staff recommends approval of **VAC-2024-0006** as shown in the attached Exhibits 'A' and 'B.'

BACKGROUND:

The subject property is located just southeast of the intersection of Church Avenue and Dickson Street. The property is zoned MSC, Main Street/Center and contains five parcels totaling approximately 1.42 acres. A semicircular access easement on the north side of the property, totaling roughly 273 square feet, was dedicated to the City of Fayetteville in 2001 for use in placing a public bench along Dickson Street by a previous landowner. Currently, there is no bench in that easement.

Request: The applicant is requesting to vacate the 273-square-foot access easement on the north side of the property. According to the applicant, this easement vacation is required since there are plans to redevelop the property and the footprint of the proposed building would encroach into that easement.

DISCUSSION:

The applicant submitted the required approvals with no objections. With the submittal of required vacation forms and utility consent, staff recommends approval.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Applicant Request Letter (#6), Petition to Vacate (#7), Survey (#8)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-6

**VAC-2024-0006: Vacation (151 W. DICKSON ST/151 DICKSON DEVELOPMENT, 484):
Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at 151 W.
DICKSON ST. in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains
approximately 0.23 acres. The request is to vacate a sidewalk easement containing 273 square feet.**

AN ORDINANCE TO APPROVE VAC-24-006 FOR PROPERTY LOCATED AT 151 WEST
DICKSON STREET IN WARD 2 TO VACATE A 273 SQUARE FEET PORTION OF ACCESS
EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or
portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of access easement is
not required for corporate purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates the portion of
sidewalk easement as described in Exhibit B attached to the Planning Department's memo.

Section 2: A copy of this Ordinance duly certified by the City Clerk along with the map attached as
Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County
Circuit Clerk.

City of Fayetteville Staff Review Form

2024-6

Item ID

5/7/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

4/19/2024

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC-2024-0006: Vacation (151 W. DICKSON ST/151 DICKSON DEVELOPMENT, 484): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at 151 W. DICKSON ST. in WARD 2. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.23 acres. The request is to vacate a sidewalk easement containing 273 square feet.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

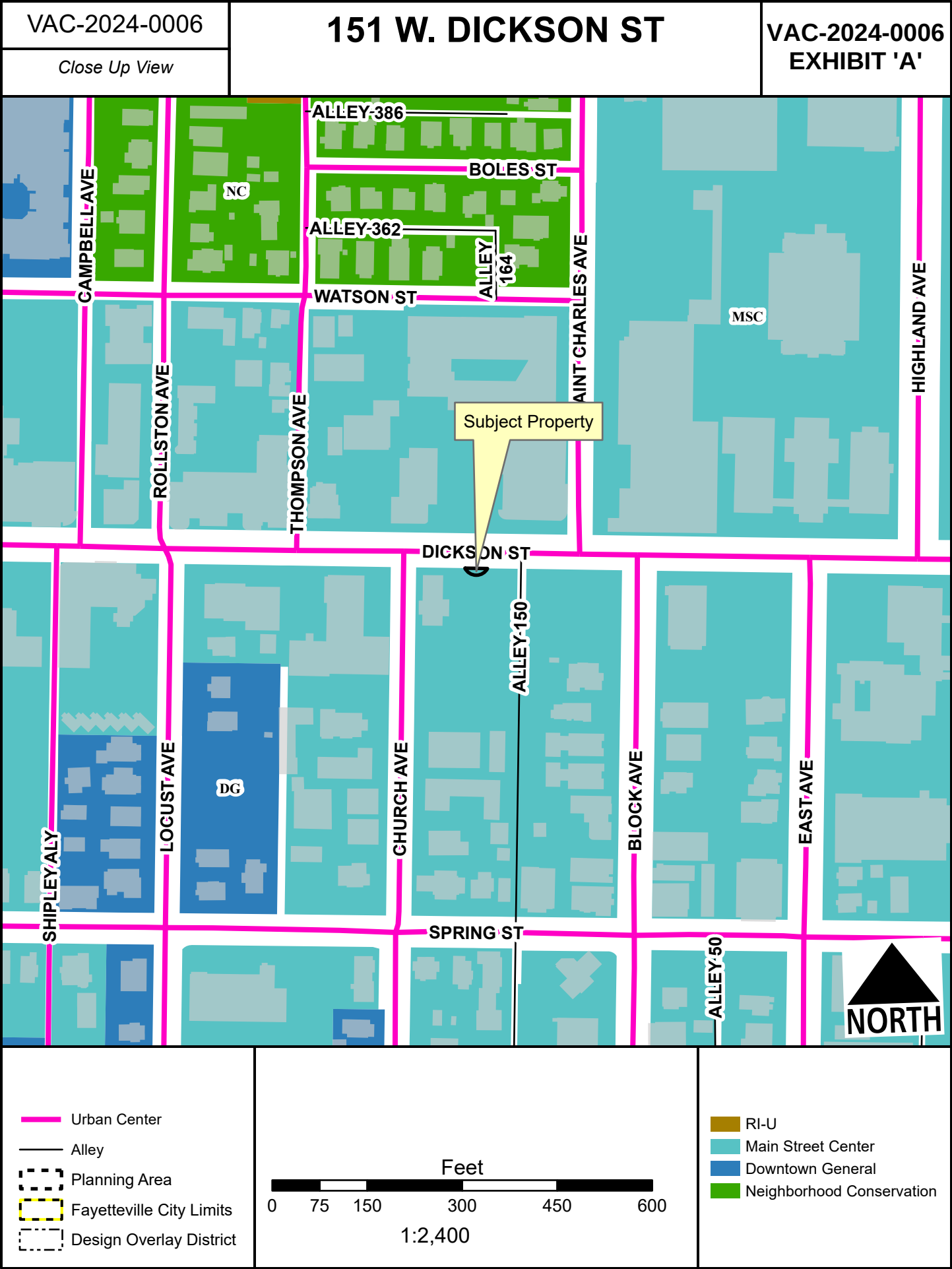
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



VAC-2024-0006
EXHIBIT 'B'

EASEMENT DESCRIPTION PER EASEMENT DOCUMENT 2001125062

A PART OF BLOCK THREE (3) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, ARKANSAS, DESCRIBED AS FOLLOWS: BEGINNING A POINT SOUTH 87°03'14" EAST 77.02 FEET FROM THE NORTHWEST CORNER OF SAID BLOCK THREE (3) TO A CURVE, SAID POINT BEING ON THE SOUTH RIGHT OF WAY LINE OF DICKSON STREET; THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 20 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 87°03'14" EAST 35.50 FEET; THENCE NORTH 87°03'14" WEST 35.50 FEET ALONG SAID SOUTH RIGHT OF WAY OF DICKSON STREET TO THE POINT OF BEGINNING, CONTAINING 273 SQUARE FEET OR 0.006 ACRE, MORE OR LESS

February 22, 2024

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

RE: Access Easement Vacation Request for 151 W Dickson Multifamily

Planning Commission,

Please accept this Access Easement Vacation request for the Dickson Street Multifamily development located at 151 W Dickson Street in Fayetteville. This Access Easement Vacation request is to remove an existing access easement dedicated to the City of Fayetteville for use in placing a public bench along Dickson Street by a previous land owner. The easement in question is approximately 273 sq ft, directly adjacent to the Dickson Street right-of-way and located just east of North Church Avenue. The intent of this request is to remove the encroachment of this access easement on the proposed building footprint.

If you should have any questions, please do not hesitate to contact me. We appreciate your continued support of this project.

Sincerely,
McClelland Consulting Engineers, Inc.



James Dibble
Assistant Project Manager
(479) 443.2377
jdibble@mce.us.com

March 18, 2024

Fayetteville Planning Commission & City Council
RE: 151 W. Dickson Street Multi-family Access Easement Vacation Petition

PETITION TO VACATE AN ACCESS EASEMENT LOCATED IN PART OF BLOCK 3 OF THE ORIGINAL TOWN OF FAYETTEVILLE, CITY OF FAYETTEVILLE, ARKANSAS

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Block 3 of the Original Town of Fayetteville, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an access easement which is as follows:

EASEMENT DESCRIPTION PER EASEMENT DOCUMENT 2001125062

A PART OF BLOCK THREE (3) OF THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, ARKANSAS, DESCRIBED AS FOLLOWS: BEGINNING A POINT SOUTH 87°03'14" EAST 77.02 FEET FROM THE NORTHWEST CORNER OF SAID BLOCK THREE (3) TO A CURVE, SAID POINT BEING ON THE SOUTH RIGHT OF WAY LINE OF DICKSON STREET; THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 20 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 87°03'14" EAST 35.50 FEET; THENCE NORTH 87°03'14" WEST 35.50 FEET ALONG SAID SOUTH RIGHT OF WAY OF DICKSON STREET TO THE POINT OF BEGINNING, CONTAINING 273 SQUARE FEET OR 0.006 ACRE, MORE OR LESS

That the abutting real estate affected by said abandonment of the access easement are a part of Block 3 of the Original Town of Fayetteville, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above-described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above-described real estate, subject, however, to existing easements as required, and that the above-described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above-described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above-described real estate, subject to said easements, and that title to said real estate sought to be abandoned by vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said real estate.

Sincerely,
McClelland Consulting Engineers, Inc.



James Dibble, Assistant Project Manager
(479) 443.2377
jdibble@mce.us.com

ADDRESS: 1511 W DICKSON ST, 2ND CHURCH AVE. & 299 N BLOCK AVE.
FAVETTE WLE, AR 72701
PHNS: 765-0166-000, 765-0166-000, 765-0167-000, 765-0166-000, & 765-0167-000
01,001 ± SQUARE FEET, OR 1.416 ± ACRES

THE PROPERTY MENTIONED IS THE SAME AS THE PROPERTY PROPERTY AS DESCRIBED IN FIRST AMERICAN TITLE INSURANCE COMPANY, TITLE COMMITMENT NO. MCS-1194249-CH12, WITH A COMMITMENT DATE OF SEPTEMBER 10, 2023 AT 8:00 A.M.

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF WASHINGTON STATE OF AFRANSA, AND IS DESCRIBED AS FOLLOWS:

[illegible]

— EASEMENT EXECUTED BY E. LAMAR PETTUS AND DONNA C. PETTUS AS CO-TRUSTEES OF THE PETTUS FAMILY TRUST UTA MARCH 1, 1980 IN FAVOR OF CITY OF FAYETTEVILLE, ARKANSAS AS A MUNICIPAL CORPORATION AS SET FORTH IN

- [illegible]

TOTAL = 39

ZONE "X" - AREA OF MINIMAL FLOOD HAZARD. USUALLY DEPECTED ON FIRMS AS ABOVE THE 500-YEAR FLOOD LEVEL. ZONE "X" IS THE AREA DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD AND PROTECTED BY LEVEE FROM 500-YEAR FLOOD.

THE BASIS OF BEARING OF THIS SURVEY IS LINED NORTH BASED ON THE WEST LINE OF THE SUBJECT PROPERTY, ALSO BEING THE EAST RIGHT-OF-WAY LINE OF NORTH CHURCH AVENUE. THE BEARING IS DENOTED AS N 02°41'17" E PER GPS COORDINATE

- 14 — THE ASPHALT PAVEMENT EXTENDS ACROSS THE PROPERTY LINE BY AS MUCH AS 15
- 15 — THE ROCK RETAINING WALL EXTENDS ACROSS THE PROPERTY LINE BY AS MUCH AS 0.4%

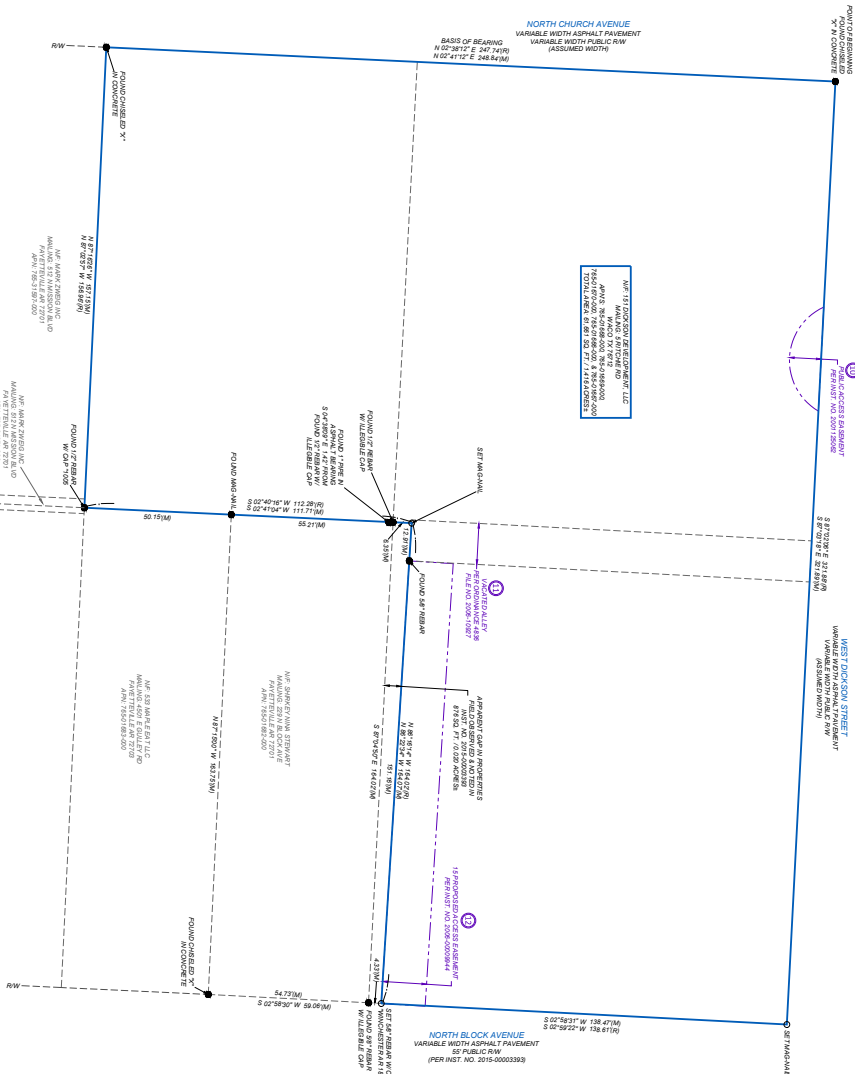
THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD MEASUREMENTS, UTILITY MAP DRAWINGS, AND ARKANSAS 811 DIG UTILITY LOCATOR SERVICES. BLUE AND A SSO CAT'S NAME'S NO WARRANTY TO THE EXACT LOCATION OF

PROPERTY IS CURRENTLY ZONED ADULT FAMILY HOME			
PERMITTED USE	RE ZONING	OTHER	REASON
MIN. RESIDENTIAL FRONT	2.5 R		
MIN. RESIDENTIAL REAR	2.5 R		
MIN. RESIDENTIAL REAR	1.5 R		
MIN. RESIDENTIAL REAR	2.5 R		
MIN. LOT AREA	11,171		\$1,661.50 P.F.Y.
MIN. LOT FRONT	11,171		
MIN. LOT SIDE/REAR	1,196		
MINIMUM FRONT YARD	37		
MINIMUM SIDE/REAR	2		
MINIMUM SIDE/REAR	39		

PROPERTY IS CURRENTLY ZONED ANALYZING ZONING REPORT			
EXISTING	PROPOSED ZONE	REASON FOR REQUEST	OTHER COMMENTS
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	2.0	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	2.0	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	14.0 R	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	21.2	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	61.000 S.F.F. G	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	11.717	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	3.750 R	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	27	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	2	
INDUSTRIAL	INDUSTRIAL MEDIUM DENSITY	39	

MIN. LOT WIDTH	111.2'1
MAX. ROAD COVERAGE	3.5%
PAVING GULLAR	37
PAVING HANDCAP	2
PAVING TO TIE	59

PAVING INFORMATION



FOUND NO MONUMENT AS NOTED
SET MONUMENT AS NOTED
SET TEMPORARY BENCHMARK
SEE THE MAP

- | | |
|----|----------------------|
| AC | ACCELERATION |
| AD | ADAPTIVE |
| AE | ELECTRIC WALT |
| AF | AF COOLING/THAW WALT |
| AG | AG COOLING/THAW WALT |
| AH | ELCTRIC BOX |
| AI | AI COOLING/THAW WALT |
| AL | AL COOLING/THAW WALT |
| AM | AL COOLING/THAW WALT |
| AN | AN COOLING/THAW WALT |
| AO | AN COOLING/THAW WALT |
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| BX | BX COOLING/THAW WALT |
| BY | BY COOLING/THAW WALT |
| BZ | BZ COOLING/THAW WALT |
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| CB | CB COOLING/THAW WALT |
| CC | CC COOLING/THAW WALT |
| CD | CD COOLING/THAW WALT |
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| CH | CH COOLING/THAW WALT |
| CI | CI COOLING/THAW WALT |
| CJ | CJ COOLING/THAW WALT |
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| CM | CM COOLING/THAW WALT |
| CN | CN COOLING/THAW WALT |
| CO | CO COOLING/THAW WALT |
| CP | CP COOLING/THAW WALT |
| CQ | CQ COOLING/THAW WALT |
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| DX | DX COOLING/THAW WALT |
| DY | DY COOLING/THAW WALT |
| DZ | DZ COOLING/THAW WALT |
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| EG | EG COOLING/THAW WALT |
| EH | EH COOLING/THAW WALT |
| EI | EI COOLING/THAW WALT |
| EJ | EJ COOLING/THAW WALT |
| EK | EK COOLING/THAW WALT |
| EL | EL COOLING/THAW WALT |
| EM | EM COOLING/THAW WALT |
| EN | EN COOLING/THAW WALT |
| EO | EO COOLING/THAW WALT |
| EP | EP COOLING/THAW WALT |
| EQ | EQ COOLING/THAW WALT |
| ER | ER COOLING/THAW WALT |
| ES | ES COOLING/THAW WALT |
| ET | ET COOLING/THAW WALT |
| EU | EU COOLING/THAW WALT |
| EV | EV COOLING/THAW WALT |
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| EX | EX COOLING/THAW WALT |
| EY | EY COOLING/THAW WALT |
| EZ | EZ COOLING/THAW WALT |
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| FP | FP COOLING/THAW WALT |
| FQ | FQ COOLING/THAW WALT |
| FR | FR COOLING/THAW WALT |

1. SOME PLANTAINS SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY.
2. DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF.



TO: FIRST AMERICAN TITLE INSURANCE COMPANY;
THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED

WE'RE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL.
REQUIREMENTS FOR ALL TANKS'S LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND
ADJACENT TO ALTA AND NPSR, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6A, 6B, 7B, 7C, &
8, 9, 10, 11, 12, 13, 14, 15, 16, 17, AND 18 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED
ON 10/23/2022.

DATE OF PLAT OR MAP: 11/01/2023

PRELIMINARY
DATE OF PLAT ON MAP: 11/01/2023

PROFESSIONAL SURVEYOR NO. 1803
STATE OF ARKANSAS
ARKANSAS C.O.A. 1534



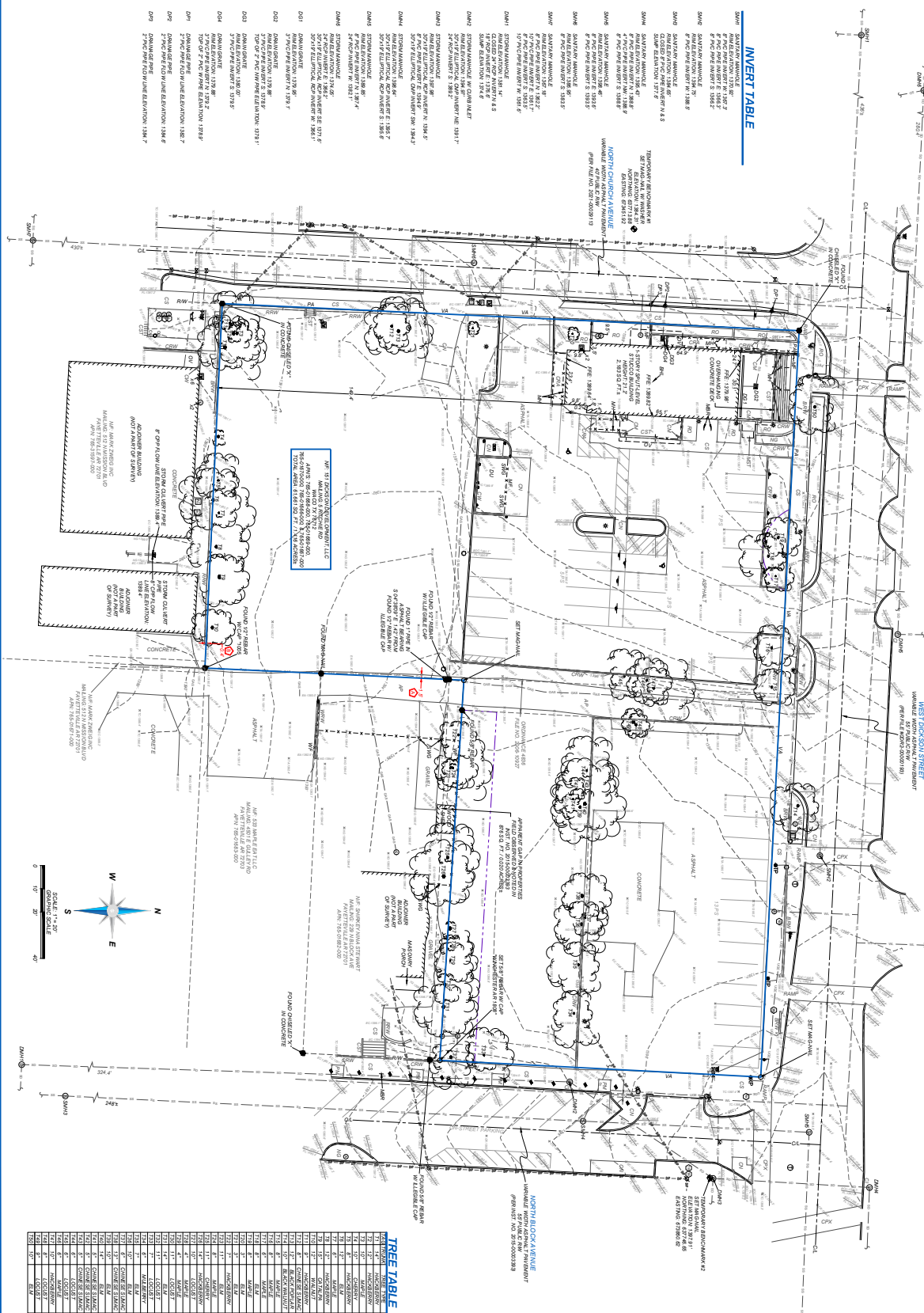
**Surveying
Engineering
Mapping**

**BLEWM
& ASSOCIATES, P.A.**

DATE	REVISION/HISTORY	BY
11/6/23	CLIENT COMMENTS	AK
SUPERVISOR JOB NUMBER:	3025 N SHOSH DRIVE - FAYETTEVILLE, AR 72703 OFFICE: 870-939-0000 FAX: 870-939-1883 WWW.BWMC.COM	
23-7068	SUPERVISING PLAIN BY: AK - 11/01/2023	
LIT	SHEET REVIEWED BY: 1 OF 2	

ALTANSPS LAND TITLE SURVEY

151 WEST DICKSON STREET, 224 NORTH CHURCH AVENUE, & 299 NORTH BLOCK AVENUE
LOCATED IN: SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS 72701



LEGEND & SYMBOLS

- 1" = 40'
- 2" = 80'
- 3" = 120'
- 4" = 160'
- 5" = 200'
- 6" = 240'
- 7" = 280'
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- 23" = 920'
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- 25" = 1000'
- 26" = 1040'
- 27" = 1080'
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- 42" = 1680'
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- 94" = 3760'
- 95" = 3800'
- 96" = 3840'
- 97" = 3880'
- 98" = 3920'
- 99" = 3960'
- 100" = 4000'

INVERT TABLE

Point	Elevation
1	100.00
2	100.00
3	100.00
4	100.00
5	100.00
6	100.00
7	100.00
8	100.00
9	100.00
10	100.00
11	100.00
12	100.00
13	100.00
14	100.00
15	100.00
16	100.00
17	100.00
18	100.00
19	100.00
20	100.00
21	100.00
22	100.00
23	100.00
24	100.00
25	100.00
26	100.00
27	100.00
28	100.00
29	100.00
30	100.00
31	100.00
32	100.00
33	100.00
34	100.00
35	100.00
36	100.00
37	100.00
38	100.00
39	100.00
40	100.00
41	100.00
42	100.00
43	100.00
44	100.00
45	100.00
46	100.00
47	100.00
48	100.00
49	100.00
50	100.00
51	100.00
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72	100.00
73	100.00
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80	100.00
81	100.00
82	100.00
83	100.00
84	100.00
85	100.00
86	100.00
87	100.00
88	100.00
89	100.00
90	100.00
91	100.00
92	100.00
93	100.00
94	100.00
95	100.00
96	100.00
97	100.00
98	100.00
99	100.00
100	100.00

TREE TABLE

Point	Tree Name	Location
1	Maple	100.00
2	Oak	100.00
3	Pine	100.00
4	Elm	100.00
5	Birch	100.00
6	Willow	100.00
7	Sycamore	100.00
8	Hickory	100.00
9	Walnut	100.00
10	Cherry	100.00
11	Plum	100.00
12	Apple	100.00
13	Peach	100.00
14	Orange	100.00
15	Lemon	100.00
16	Lime	100.00
17	Grape	100.00
18	Strawberry	100.00
19	Raspberry	100.00
20	Blueberry	100.00
21	Blackberry	100.00
22	Rose	100.00
23	Hydrangea	100.00
24	Philadelphus	100.00
25	Deutzia	100.00
26	Spirea	100.00
27	Abelia	100.00
28	Laurel	100.00
29	Yucca	100.00
30	Agave	100.00
31	Snake Plant	100.00
32	ZZ Plant	100.00
33	Peace Lily	100.00
34	Spider Plant	100.00
35	Philodendron	100.00
36	Monstera	100.00
37	Fiddle Leaf Fig	100.00
38	Pothos	100.00
39	Snake Plant	100.00
40	ZZ Plant	100.00
41	Peace Lily	100.00
42	Spider Plant	100.00
43	Philodendron	100.00
44	Monstera	100.00
45	Fiddle Leaf Fig	100.00
46	Pothos	100.00
47	Snake Plant	100.00
48	ZZ Plant	100.00
49	Peace Lily	100.00
50	Spider Plant	100.00
51	Philodendron	100.00
52	Monstera	100.00
53	Fiddle Leaf Fig	100.00
54	Pothos	100.00
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87	Snake Plant	100.00
88	ZZ Plant	100.00
89	Peace Lily	100.00
90	Spider Plant	100.00
91	Philodendron	100.00
92	Monstera	100.00
93	Fiddle Leaf Fig	100.00
94	Pothos	100.00
95	Snake Plant	100.00
96	ZZ Plant	100.00
97	Peace Lily	100.00
98	Spider Plant	100.00
99	Philodendron	100.00
100	Monstera	100.00

LEGEND & SYMBOLS

- 1" = 40'
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- 92" = 3680'
- 93" = 3720'
- 94" = 3760'
- 95" = 3800'
- 96" = 3840'
- 97" = 3880'
- 98" = 3920'
- 99" = 3960'
- 100" = 4000'



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

SUBJECT: **RZN-2024-0011: Rezone (VARIOUS EXPIRED PZD LOCATIONS/ EXPIRED PZDS, PP VARIES): Submitted by CITY PLANNING STAFF for VARIOUS PROPERTIES LOCATED WITHIN THE CITY LIMITS OF FAYETTEVILLE in WARDS 1, 2, AND 4. The properties are zoned as PLANNED ZONING DISTRICTS and contain approximately 90.65 acres. The request is to rezone the properties to various standard zoning districts.**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject properties consist of five Planned Zoning Districts (PZDs) that are located throughout the City limits of Fayetteville. Properties are a mix of fully undeveloped properties, partially developed neighborhoods and/or commercial blocks with sections of undeveloped lots, or part of a larger PZD that has been almost entirely rezoned. The original zoning of these properties, before they became PZDs, ranged from R-A, Residential-Agricultural to I-1, Heavy Commercial and Light Industrial. Prior to 2014, Fayetteville's PZD standards required all construction permits to be secured within a specific time frame. If permits were not obtained, then the development rights became null and void. As a result, many of these properties have PZDs which have expired.

Additionally, because planned zoning districts are customized, they are inherently more complicated than the City's standard zoning districts. Many were established before many of the city's current development regulations, such as the landscape and tree preservation code, were passed, leading to complex zoning regulations that are hundreds of pages long and which are generally outdated. As such, staff propose to rezone the properties to various zoning districts as shown in *Table 1* in attached exhibits.

Request: City Planning staff requests to rezone the properties from the expired PZD designation to one or more zoning districts as shown in the attached exhibits. Proposed zoning districts include UT, Urban Thoroughfare; CS, Community Services; RI-U, Residential Intermediate Urban; NC, Neighborhood Conservation; and R-A, Residential Agricultural.

Public Comment: Staff sent letters in late February to notify all affected property owners of the staff-initiated rezoning and provide opportunities for initial feedback. A second round of letters was sent with full public notice

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in March. Over this time frame, staff have received numerous inquiries and comments which are summarized in a table in the staff report.

Land Use Compatibility: The proposed zoning districts are compatible with the surrounding land uses. When determining proposed zoning districts, staff evaluated three primary factors. First was consideration for permitted and conditional uses within the expired PZDs to determine the nature and intensity of the previous entitlements. Second, where developed or platted, staff prioritized the minimization of nonconformances. Lastly, staff identified zoning districts which are compatible with surrounding land uses to the greatest extent possible. The resulting proposals and findings are as follows:

Park West: Staff recommends rezoning the remaining Park West PZD to a combination of UT and CS. Staff finds the rezoning is consistent with the existing development patterns and recent proposals. All other parcels of the original Park West PZD have been rezoned since the PZD's expiration, with entitlement including, most recently, multifamily residential development. Other developments originally included within the PZD boundaries include an existing retirement community known as Grand Village at Clear Creek directly west and the Fellowship Baptist Church directly north. Other portions of the Park West PZD to the north and northwest have been rezoned to a mix of CS, UT, and Neighborhood Services-General (NS-G) but have not yet been developed. Further, there is existing UT zoning located across Hwy 112 at the previous 112 Drive-In-Theatre, which was recently approved for a mixed-use development titled "The Aronson." Staff finds that a split rezoning of CS and UT would be compatible in this area given the existing and planned developments. As proposed, limiting UT to a smaller portion of the property abutting Hwy 112 can restrict more intensive uses to the areas adjacent to the major thoroughfare, with more limited uses permitted adjacent to residential developments.

Cliffside: Staff recommends rezoning the Cliffside PZD to a combination of RI-U and R-A. The approved PZD included approval for 15 single-family homes and 48 two-family homes. All residential lots were approved with front and rear setbacks of 20 feet. Single-family dwellings were approved with side setbacks of 8 feet on all side property lines, and two-family dwellings were approved to utilize a zero-lot line along a shared common wall. Lot sizes range from approximately 3,500 square feet to 10,600 square feet, with only three parcels meeting minimum lot standards for the RSF-4 zoning that predated the PZD. Six of the eight parcels that remain undeveloped have street frontage of approximately 16 feet to 22 feet, with the remaining corner lots having street frontages of nearly 200 feet. Because RI-U has a minimum lot width of 18 feet for residential uses, it is one of the few districts that would allow the platted lots to conform with existing zoning requirements. RI-U would remain primarily residential in nature with limited conditional non-residential uses. While RI-U has no density limitations, staff finds that the zoning is unlikely to result in development that is out of scale with the surroundings as most parcels are small and do not have sufficient width to permit additional subdivision of land. While RI-U permits up to three and four family dwellings by right, staff finds this is not likely due to the existing platting and infrastructure. Further, most parcels are encumbered by utility or drainage easements. Staff proposes to rezone the entire Cliffside development rather than solely the undeveloped parcels in order to create consistent zoning entitlements and reduce administrative difficulty for staff and current/future property owners. Staff proposes to rezone the areas designated as common areas and tree preservation lots by the approved PZD as Residential Agricultural, R-A, in order to maintain these areas as communal green space. Staff also proposes to rezone parcel 765-26323-000 (Lot 119) as R-A, as this lot is owned by the City of Fayetteville. R-A allows Use Unit 3: Public Protection and Utility Facilities by right, which would facilitate the lot's intended purpose.

Springwoods: Staff recommends rezoning the undeveloped portions of the Springwoods PZD to a

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combination of UT, CS, and RI-U. Due to the overall scale of the PZD acreage, staff is not recommending a full rezoning of the Springwoods PZD at this time, choosing instead to focus on those properties that are either undeveloped or currently under development. Undeveloped lots are spread throughout the PZD in three primary sections further described below. Lot 1 of the Springwoods CPZD was replatted as the Meadow Field Commercial Subdivision in 2006. Lots 1-2, 5-9 & 12 of Meadow Field remain undeveloped and zoning entitlement for these parcels has since expired. Lot 6A of the original Springwoods CPZD and a portion of PID 765-26552-000 (The Pines at Springwoods Horizontal Property Regime) also remain undeveloped.

Given the proximity of these parcels to the Wilson Springs Creek Preserve, staff finds that the original zoning of I-1 would be incompatible. However, staff notes the remaining parcels within the Meadow Field Commercial Subdivision and Lot 6A abut an I-49 entrance and exit and have the capacity to serve residents throughout the City with large commercial uses. As such, staff evaluated a mix of CS and UT to restore commercial and development rights. Both CS and UT allow a wide mix of residential and commercial uses, creating the opportunity for mixed-use developments rather than solely commercial uses. Staff initially recommended CS on parcels 765-23604-000, 765-25746-000, and 765-25745-000 as these parcels are adjacent to residential uses and could provide a transition to the higher intensity uses permitted by the UT district. Since the initial recommendation of CS, staff has consulted extensively with the property owner of parcels 765-25746-000 and 765-25745-000, who requested the City propose UT, a zoning district that would permit Use Unit 17: Transportation Trades and Services by right rather than CS. Staff analyzed the request and finds that since that the original PZD included this use unit by right and surrounding parcels have been extensively developed with auto-oriented developments, the inclusion of a district which permits Use Unit 17 by right is likely to be compatible in these locations. Staff finds UT, Urban Thoroughfare would be consistent for the requested parcels.

The Pines at Springwoods has been almost entirely developed with four-family dwellings in a form-based style. A single buildable portion of the parcel remains and staff finds that RI-U would best facilitate similar development given the limited development area and the consistent development of four-family dwellings.

Westbrook Village Phase 2: Staff recommends rezoning the Westbrook Village Phase 2 PZD to RI-U. The property was originally platted as part of the Salem Village Planned Unit Development (PUD) in 1997, most of which has since been rezoned to RSF-4. The original PUD designated these parcels as mixed-use village centers. A revised PZD was approved in 2006 that revised the permitted uses to either strictly single-family residential or green space. All but one parcel designated for development have since been constructed with single-family homes, and staff recommends rezoning to RI-U to bring these parcels to a standard zoning district. RI-U has a minimum lot width of 18 feet for residential uses, which would allow the existing lots to conform with existing zoning requirements. Internal parcels here have approximately 20 feet of street frontage. Given existing development patterns and lot sizes, staff finds the uses permitted in RI-U are not likely to create development that is out of sync on the remaining undeveloped parcel.

Paddock Road Subdivision: Staff recommends rezoning the Paddock Road Subdivision PZD to NC. This parcel has been developed and has not expired; however, all other parcels within the original PZD have been rezoned in the years since its passage. As a result of this and the complexity of the Paddock Road Subdivision PZD, staff recommends this parcel be rezoned to NC. The parcels to the immediate west and south were successfully rezoned to NC, Neighborhood Conservation in 2014 and the rezoning of the

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remaining parcel would fully eliminate the remaining RPZD, creating consistent zoning entitlements and reducing administrative difficulty for staff and current/future property owners. The existing parcel meets bulk and area as well as the minimum buildable street frontage required by the NC zoning. As the parcel is already constructed with a residence, staff finds a rezoning is unlikely to result in development that is inconsistent with the surrounding parcels.

Land Use Plan Analysis: The proposed zoning districts are compatible with the Future Land Use Map, which vary from property to property (see Table 2). Staff finds that the recommended zoning districts are generally compatible with goals to encourage infill and discourage suburban sprawl, create compact, complete and connected development, provide opportunities for attainable housing, and grow a livable transportation network. Additionally, rezoning the remaining parcels will eliminate many planned zoning districts, simplifying the zoning regulations and bringing these areas into conformance with current zoning standards.

Park West: Staff finds that rezoning the remaining Park West PZD to a combination of UT and CS is consistent with long-range planning goals. The CS and UT zoning districts will restore development rights and could allow for a mixed-use development in close proximity to a Tier 2 Center, as defined in City Plan 2040's Growth Concept Map. Similarly, the property's Future Land Use Map designation of City Neighborhood Area encourages "complete, compact and connected neighborhoods... intended to serve the residents of Fayetteville, rather than a regional population", which is complemented by both the CS and UT zoning districts. The expired PZD included a mixed-use district, commercial, condominiums, and a preserve/botanical/detention area. Staff finds that the reduced uses permitted by the CS district would be compatible adjacent to existing and proposed residential developments to the west with UT abutting the highway. Staff further finds that the additional pedestrian-oriented requirements of the form-based CS and UT zoning districts generally align the City's 2040 Growth Plan, which calls for all centers to be "mixed-use nodes that are pedestrian friendly areas served by current or future transit."

Cliffside: Staff finds that the split zoning of RI-U and R-A will bring the overall neighborhood into standard zoning districts that will simplify future city reviews, allow for infill, protect existing open space, and permit the city-owned parcel to be utilized for Use Unit 3: Public Protection and Utility Facilities. These units have a moderate infill score of 6-7, though staff notes that only eight parcels within the neighborhood remain undeveloped. The affected parcels are between $\frac{1}{2}$ and $\frac{3}{4}$ of a mile from three Tier Centers: a Tier 2 Center located at the S. Crossover Rd. and E. Huntsville Rd. intersection, a Tier 3 Center located at the S. Crossover Rd. and E. Peppervine Dr. intersection, and a Tier 3 Center located at the E. Huntsville Rd. and S. Happy Hollow Rd. intersection.

Springwoods: Staff finds that rezoning the undeveloped lots in the Springwoods PZD to a combination of UT, CS, and RI-U will restore development rights and could allow for a mixed-use development in proximity to a Tier 2 Center, and that the proposed zoning districts generally align with previously permitted uses. Lot 6A is designated as Urban Center on the Future Land Use Map, which includes "the most intense and dense development patterns within Fayetteville and allows for the tallest and greatest variety of buildings." Undeveloped parcels within the Meadow Field Commercial Subdivision (lots 1-2, 5-9 & 12) and parcel 765-26552-000 (The Pines at Springwoods Horizontal Property Regime) are designated as City Neighborhood Areas, which encourage "complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population." The affected parcels are between $\frac{1}{4}$ to $\frac{3}{4}$ of a mile from a Tier 2 Center located adjacent to the N. Hwy 112 and W. Truckers Dr. intersection. Staff finds that the additional pedestrian-oriented requirements of the form-based CS and UT zoning districts generally align with the City's 2040 Growth Plan, which calls for all centers to be "mixed-use nodes that are pedestrian-friendly areas served by current or future transit," a development style that would be facilitated by the proposed zoning districts.

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Staff initially recommended CS on parcels 765-23604-000, 765-25746-000, and 765-25745-000 as these parcels are abutting residential uses and could provide a transition to the higher intensity uses permitted by the UT district. Since the initial recommendation of CS, staff has consulted extensively with the property owner of parcels 765-25746-000 and 765-25745-000, who requested that staff propose UT, a zoning district that would permit Use Unit 17: Transportation Trades and Services by right rather than CS. Staff analyzed the request and finds that given that the original PZD included this use unit by right and that surrounding parcels have been extensively developed with automobile-oriented uses, automobile-oriented uses are likely to be compatible in these locations. Additionally, given the presence of the Wilson Springs Preserve and limited access from N. Shiloh Dr., staff finds that the only residential areas with easy access to potential future commercial developments are likely the neighborhood abutting W. Moore Ln. As such, staff finds most of the commercial developments will likely serve Fayetteville as a whole and that UT would be compatible in this case.

The Pines at Springwoods have been almost entirely developed with four-family dwellings in a form-based style. A single buildable portion of the parcel remains, and staff finds that RI-U would best facilitate similar development given the limited development area and consistent development of four-family dwellings.

Westbrook Village Phase 2: Staff finds that the RI-U zoning district substantially aligns with previously permitted bulk and area requirements as well as land uses of the previously approved PZD. Many parcels are less than 30 feet in width, and RI-U would allow these narrower parcels to remain conforming while restoring development rights on the undeveloped parcel. The affected parcels are approximately ½ of a mile south of a Tier 3 Center located north of the N. Ruppel Rd. and W. Country Meadows St. intersection, and approximately ¾ of a mile north of a Tier 2 Center located at the N. Ruppel Rd. and W. Mount Comfort Rd. intersection.

Paddock Rd. Subdivision: Staff finds that rezoning this sole remaining parcel of the Paddock Road Subdivision to NC will eliminate complex requirements that may run counter to existing tree preservation and landscape requirements. While this PZD has not expired, it was approved during the adoption of the original HHOD and included several self-imposed tree preservation requirements. Today, site development standards are sufficiently addressed within current tree preservation codes and grading ordinances. The NC zoning district will permit development of a medium density similar to the expired PZD, allowing effective use of the existing infrastructure if the site is ever redeveloped. The affected parcel is between ½ and ¾ of a mile from three Tier Centers: a Tier 2 Center located at the S. Crossover Rd. and E. Huntsville Rd. intersection, a Tier 3 Center located at the S. Crossover Rd. and E. Peppervine Dr. intersection, and a Tier 3 Center located at the E. Huntsville Rd. and S. Happy Hollow Rd. intersection.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix score is summarized in Table 2 in Exhibit C.

DISCUSSION:

The rezoning was originally heard at the March 25, 2024, Planning Commission meeting, where a vote of 4-3-0 tabled the item to the April 8, 2024, meeting. Several commissioners cited the size of the request and the fact that it is a City-initiated project as reasoning for tabling the item for additional Commissioner and resident time to review the proposal. There was limited discussion regarding the need for rezoning the properties and what options were available. Commissioners Garlock, Gulley, and Holcomb voted against tabling the item, citing the straightforward nature of the request, staff recommendations, and the need for the properties to be rezoned. One member of the public spoke, requesting confirmation of the proposed zoning for Lot 6A in Springwoods and expressing support for the proposed CS zoning. Staff confirmed the proposed CS zoning for this parcel at the meeting.

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At the April 8, 2024, Planning Commission meeting, all portions of the request were ultimately forwarded to City Council with a recommendation of approval as recommended by staff. At the beginning of the item discussion, Commissioner Payne motioned to divide the question and to consider the Springwoods PZD separately. Commissioner Werner seconded, and the question was divided by a unanimous vote. Commissioner Payne expressed hesitation regarding allowing housing in Meadow Field Commercial Subdivision Lots 5-9 & 12 (previously part of Springwoods Lot 1) considering the intensity of adjacent uses. Commissioner Brink cited an adjacent rezoning that included a Bill of Assurance limiting permitting uses in UT as a concern. There was discussion regarding potential alternative zoning districts and clarification requested on staff's reasoning. Staff noted that UT permits a wide range of uses, including use unit 17, which would permit developments similar to the large number of adjacent auto lots while requiring additional design standards and pedestrian-oriented uses, whereas I-1, Heavy Commercial and Light Industrial, would allow even more intensive uses which are generally not subject to heightened design standards. There was also discussion about the process for future development plans and what the Commission should consider regarding connectivity and compact neighborhoods.

Commissioner Payne motioned to amend the proposed zoning for Meadow Field Commercial Subdivision Lots 5-9 & 12 to revert to I-1, the previous zoning district. Commissioner Brink seconded the motion, which failed on a vote of 2-6-0 with only Commissioners Payne and Brink voting in favor. Commissioner Garlock, McGetrick and Madden cited compatibility with long range plans, higher design standards, increased flexibility, lack of public comment opposed to the request, staff recommendations, and the uses permitted in UT versus I-1 as reasons for their vote to deny the revision to I-1. After the motion failed, Commissioner Werner made a motion to reconsider the zoning for Springwoods, which passed on a vote of 6-2-0. There was then some discussion regarding staff's recommendations for Meadow Field Commercial Subdivision Lots 1 & 2, which staff noted had been initially recommended for CS but revised to UT at the property owner's request. Staff noted that an evaluation of UT found this zoning was also compatible with the adjacent properties. A subsequent motion to forward the Springwoods rezoning to City Council as recommended by staff with a recommendation of approval was made by Commissioner Garlock and seconded by Commissioner Gulley, which passed 7-1-0, with Commissioner Payne voting against.

Commissioner Garlock then motioned to forward the remainder of the rezone to City Council as proposed by staff with a recommendation of approval. Commissioner Castin seconded. There was no additional discussion, and the motion was unanimously approved.

BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Exhibit C (#6), Planning Commission Staff Report (#7)

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City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-26

RZN-2024-0011: Rezone (VARIOUS EXPIRED PZD LOCATIONS/ EXPIRED PZDS, PP VARIES): Submitted by CITY PLANNING STAFF for VARIOUS PROPERTIES LOCATED WITHIN THE CITY LIMITS OF FAYETTEVILLE in WARDS 1, 2, AND 4. The properties are zoned as PLANNED ZONING DISTRICTS and contain approximately 90.65 acres. The request is to rezone the properties to various standard zoning districts.

AN ORDINANCE TO REZONE THE PROPERTIES DESCRIBED IN REZONING PETITION RZN 2024-0011 FOR APPROXIMATELY 90.65 ACRES LOCATED IN WARDS 1, 2, AND 4 FROM PLANNED ZONING DISTRICTS TO VARIOUS STANDARD ZONING DISTRICTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the properties shown on the maps (Exhibit A) and the legal descriptions (Exhibit B) both attached to the Planning Department's Agenda Memo from Planned Zoning Districts to UT, Urban Thoroughfare; CS, Community Services; RI-U, Residential Intermediate Urban; NC, Neighborhood Conservation; and R-A, Residential Agricultural.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning changes provided in Section 1.

City of Fayetteville Staff Review Form

2024-26

Item ID

5/7/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

4/19/2024

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN 2024-0011: Rezone (VARIOUS EXPIRED PZD LOCATIONS/ EXPIRED PZDS, PP VARIES): Submitted by CITY PLANNING STAFF for VARIOUS PROPERTIES LOCATED WITHIN THE CITY LIMITS OF FAYETTEVILLE in WARDS 1, 2, AND 4. The properties are zoned as PLANNED ZONING DISTRICTS and contain approximately 90.65 acres. The request is to rezone the properties to various standard zoning districts.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number: _____

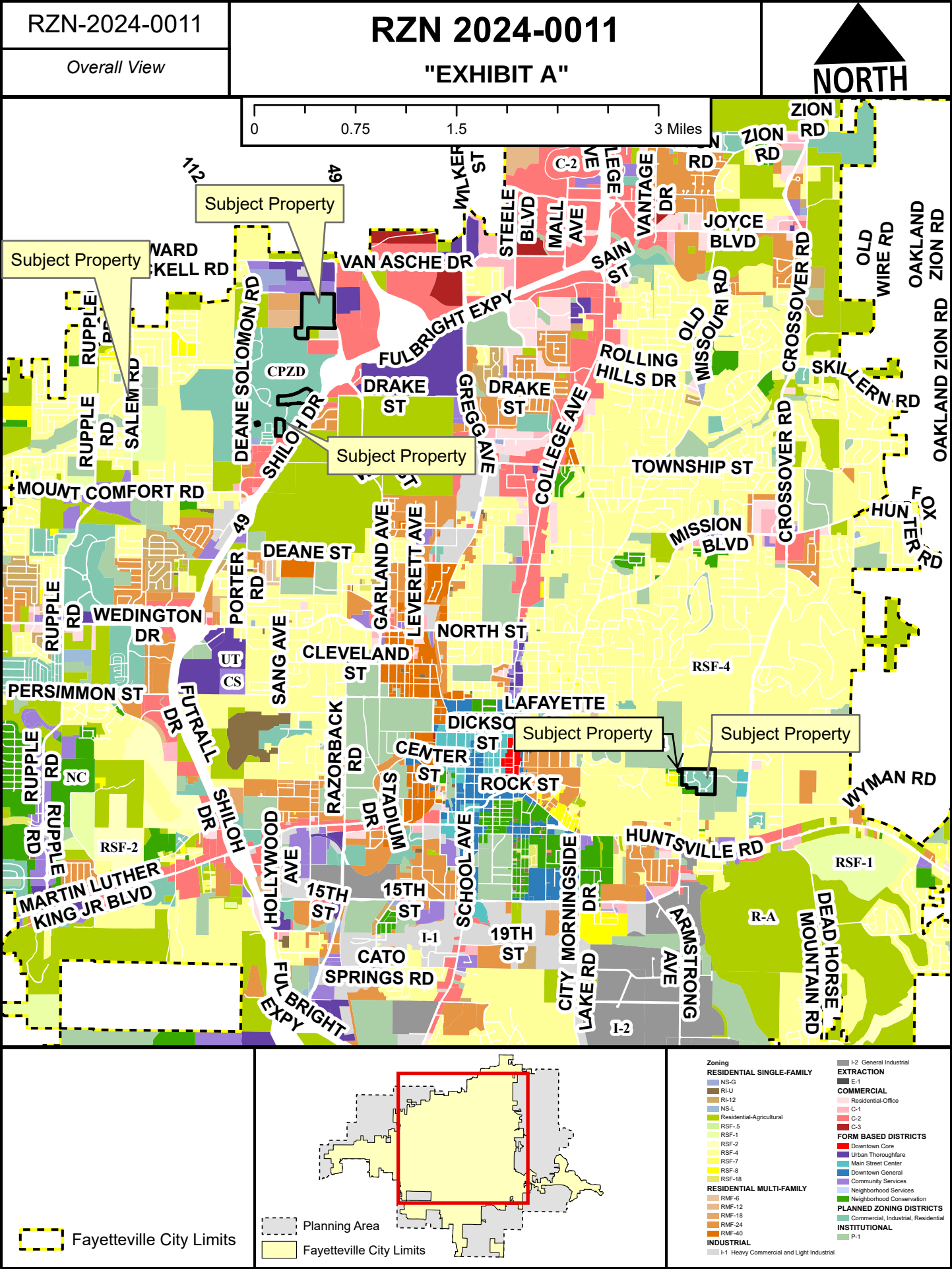
Previous Ordinance or Resolution # _____

Change Order Number: _____

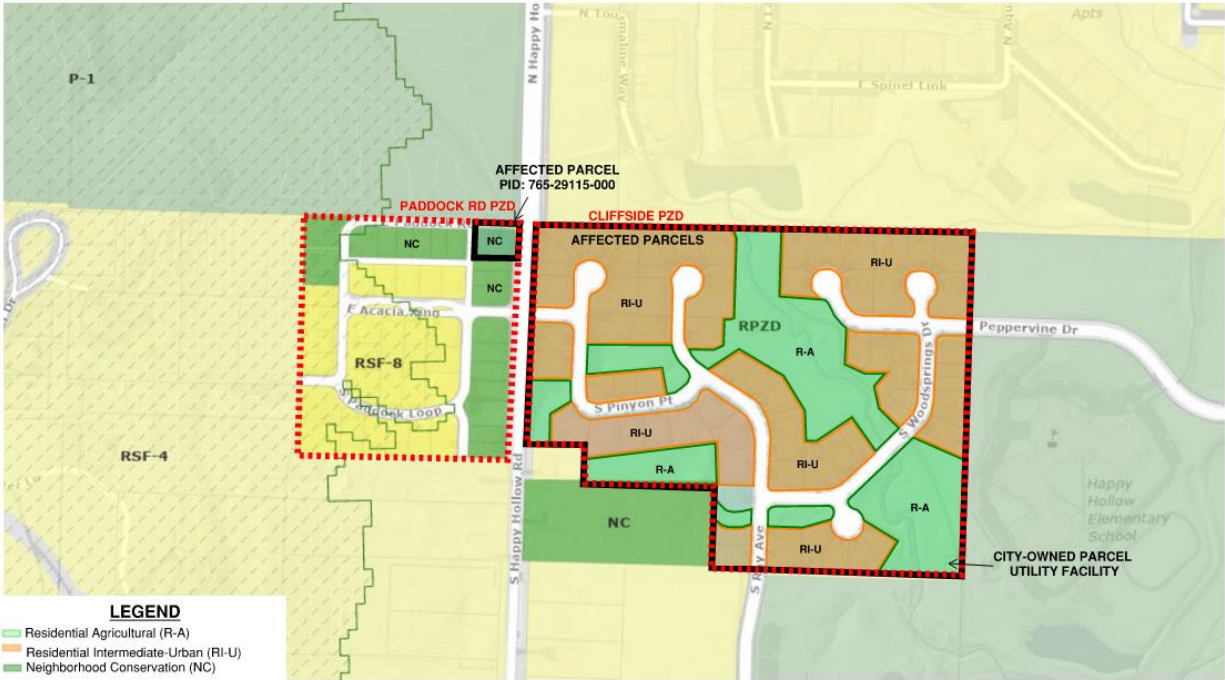
Approval Date: _____

Original Contract Number: _____

Comments:



RZN-2024-0011 EXHIBIT A

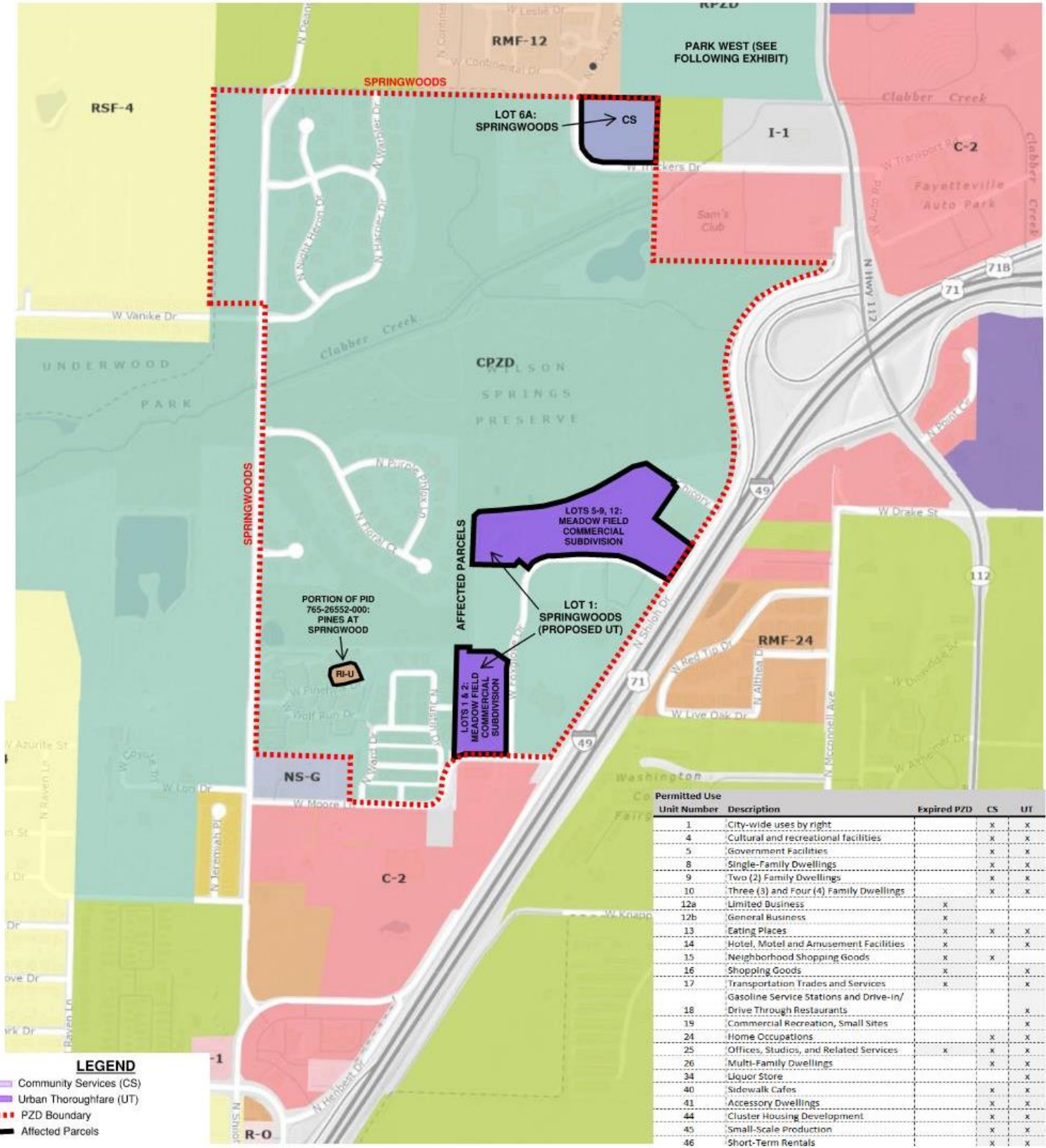


CLIFFSIDE AND PADDOCK RD



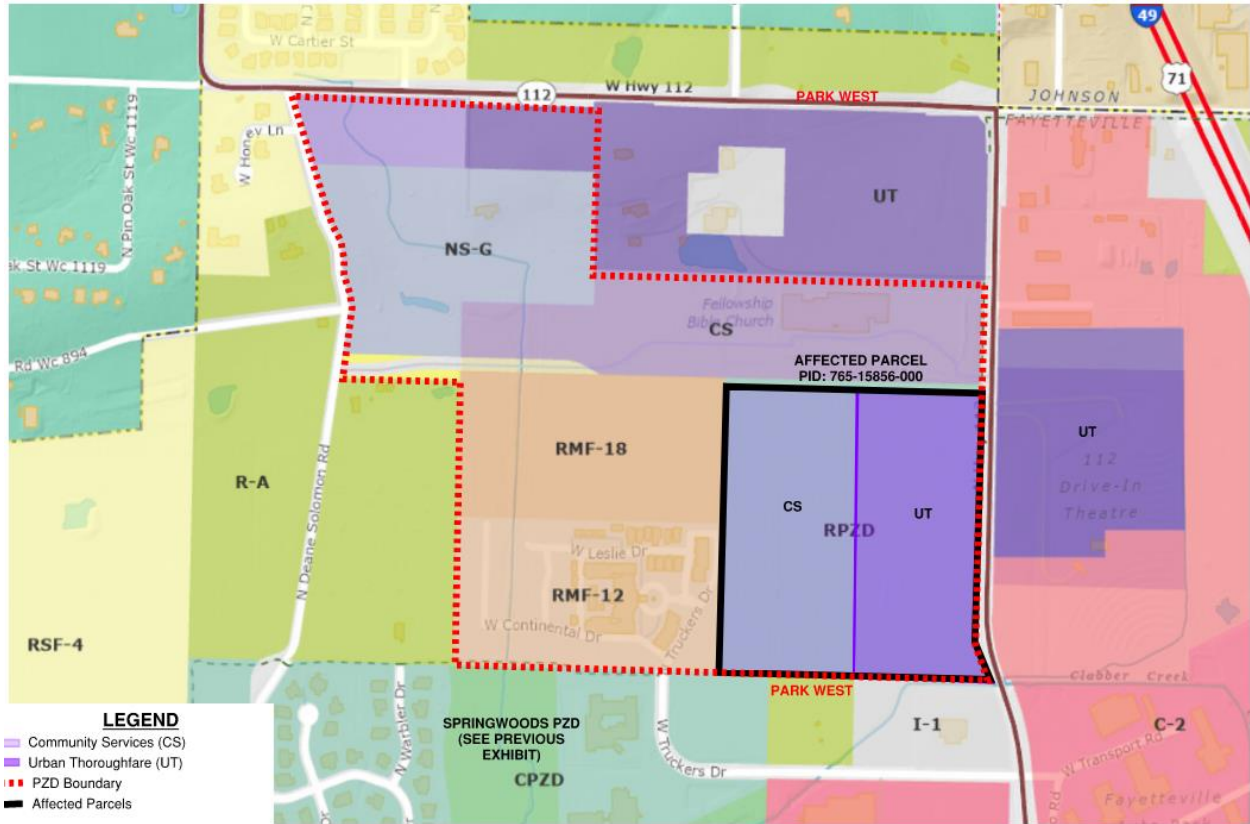
WESTBROOK VILLAGE PHASE 2

RZN-2024-0011
EXHIBIT A

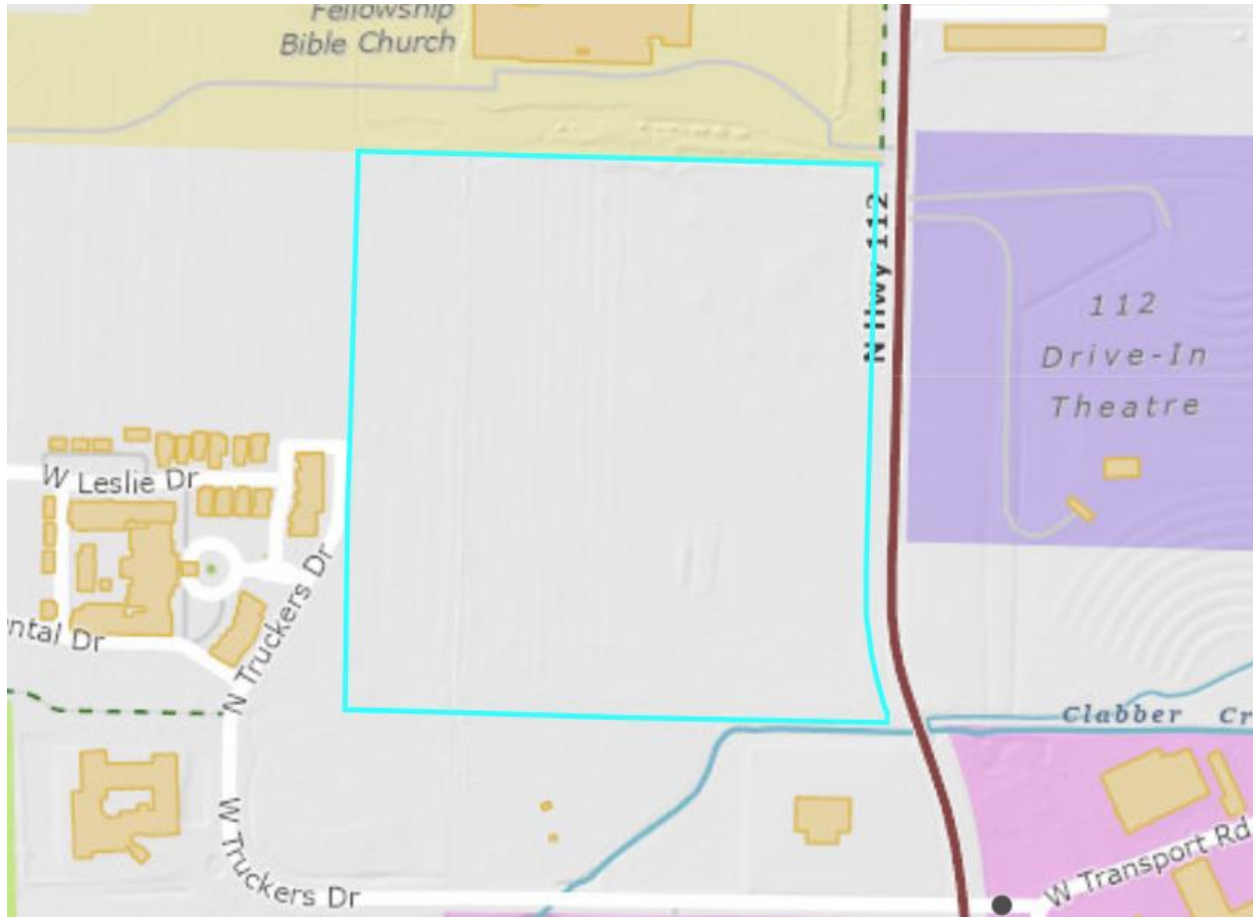


SPRINGWOODS

RZN-2024-0011
EXHIBIT A



PARK WEST

RZN-2024-0011 LEGAL DESCRIPTIONS**Parent Tract: (Assessor's Page)**

SW SE & SE SW 39.43 FURTHER DESCRIBED FROM 2017-7010 AS: PART OF THE WEST HALF OF THE SOUTHEAST QUARTER, ALL IN SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 28 BEING A FOUND COTTON PICKER SPINDLE IN ASPHALT ROADWAY; THENCE ALONG THE WEST LINE OF SAID NE 1/4 OF THE SW 1/4, S02°34'52"W A DISTANCE OF 1283.11 FEET TO A FOUND IRON PIN WITH CAP "PLS 1439"; THENCE LEAVING SAID WEST LINE, S87°19'58"E A DISTANCE OF 1315.10 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A SET IRON PIN WITH CAP "PLS 1156"; THENCE S87°19'58"E A DISTANCE OF 1266.91 FEET TO THE WESTERLY RIGHT OF WAY LINE OF HIGHWAY 112 THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING EIGHT (8) CALLS, S02°43'18"W A DISTANCE OF 978.38 FEET TO A POINT; THENCE S02°02'26"W A DISTANCE OF 63.14 FEET TO A POINT; THENCE S00°11'50"W A DISTANCE OF 51.97 FEET TO A POINT; THENCE S03°04'07"E A DISTANCE OF 40.08 FEET TO A POINT; THENCE S07°04'04"E A DISTANCE OF 55.68 FEET TO A POINT; THENCE S11°50'44"E A DISTANCE OF 58.74 FEET TO A POINT; THENCE S15°34'53"E A DISTANCE OF 71.32 FEET TO A POINT; THENCE S18°13'53"E A DISTANCE OF 15.95 FEET TO A POINT; THENCE LEAVING SAID RIGHT OF WAY, S02°32'54"W A DISTANCE OF 26.08 FEET TO A FOUND 3 INCH ALUMINUM CAP AT THE SOUTHEAST CORNER OF THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 28; THENCE ALONG THE SOUTH LINE OF SAID SW 1/4 OF THE SE 1/4, N87°08'52"W A DISTANCE OF 1322.12 FEET TO A FOUND IRON PIN WITH CAP "PLS 1439", BEING THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE LEAVING SAID SOUTH LINE, N02°32'22"E A DISTANCE OF 1349.51 FEET TO THE POINT OF BEGINNING. SAID TRACT OR PARCEL OF LAND CONTAINING 39.43 ACRES (1,717,256 SQUARE FEET), MORE OR LESS RECORDS OF WASHINGTON COUNTY, ARKANSAS.

RZN-2024-0011
EXHIBIT B

Westerly portion Tract 1 PLA 2017-3176 (Proposed CS Zoning)

A portion of the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West, Fifth Principal Meridian, Washington County, Arkansas being more particularly described as follows:

Commencing at the Southeast corner of said Forty (40) acre tract;
thence North 87°08'52" West 819.76 feet to the Point of Beginning;
thence North 87°09'40" West 504.68 feet to a point;
thence North 02°32'22" East 1349.51 feet to a point;
thence South 87°19'58" East 508.97 feet to a point;
thence South 02°43'18" West 1351.02 feet to the point of beginning,
having an area of 15.710 acres, more or less.

Easterly portion Tract 1 PLA 2017-3176 (Proposed UT)

A portion of the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section Twenty-Eight (28), Township Seventeen (17) North, Range Thirty (30) West, Fifth Principal Meridian, Washington County, Arkansas being more particularly described as follows:

Beginning at the Southeast corner of said Forty (40) acre tract;
thence North 87°08'52" West 819.76 feet to a point;
thence North 02°43'18" East 1351.02 feet to a point;
thence South 87°19'58" East 757.94 feet to a point;
thence South 02°43'18" West 978.38 feet to a point;
thence South 02°02'26" West 63.14 feet to a point;
thence South 00°11'50" West 51.97 feet to a point;
thence South 03°04'07" East 40.08 feet to a point;
thence South 07°04'04" East 55.68 feet to a point;
thence South 11°50'44" East 58.74 feet to a point;
thence South 15°34'53" East 71.32 feet to a point;
thence South 18°13'53" East 15.95 feet to a point;
thence South 02°32'54" East 26.08 feet to the point of beginning,
having an area of 23.704 acres, more or less.

RZN-2024-0011
EXHIBIT B



Proposed RI-U Zoning
Staff Created Legal Description

A part of the Northwest Quarter (NW) of the Southwest Quarter (SW ¼) of Section Thirty-three (33), Township Seventeen (17) North, Range Thirty (30) West, Fifth Principal Meridian, Washington County, Arkansas being more particularly described as follows:

Commencing at the Northwest (NW) corner of said Section Thirty-three (33) as shown on Instrument Number 2019-034613 filed for record with the Office of the Circuit Clerk and Ex-Officio Recorder of said County;

thence South 02°28'26" West 1816.10 feet to a point; thence South 02°30'44" West 1806.69 feet to a point; thence South 89°13'36" East 843.85 feet to a point; thence South 00°46'24" East 143.81 feet to the **Point of Beginning**;

thence North 80°40'42" East 123.65 feet to a point;

thence South 57°28'51" East 21.49 feet to a point;

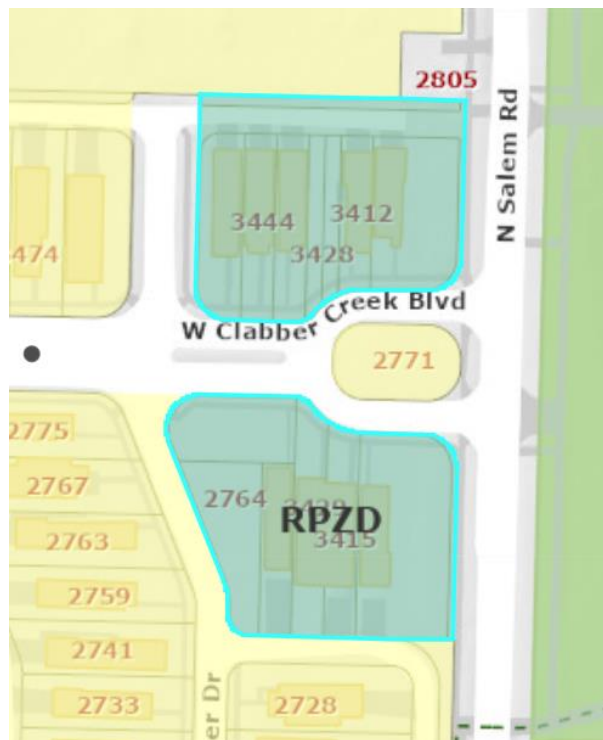
thence South 12°28'51" East 97.61 feet to a point;

thence South 77°31'09" West 129.66 feet to a point;

thence North 57°28'51" West 20.92 feet to a point;

thence North 09°19'18" West 104.99 feet to the point of beginning,

having an area of 16227 square feet, more or less.



PROPOSED RI-U ZONING.

Legal Description from Previous PZD

EXHIBIT "A" -- R-PZD 06-2349

TRACT ONE:

ALL OF TRACT ONE AS SHOWN ON THE FINAL PLAT OF SALEM VILLAGE P.U.D., RECORDED IN PLAT BOOK 15 AT PAGE 70, BEING PART OF THE NW1/4 OF THE SW1/4 OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID TRACT ONE; THENCE S87°28'49"E 198.16 FEET; THENCE S02°34'27"W 117.00 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS S47°34'27"W, 35.36 FEET, AN ARC DISTANCE OF 39.27 FEET TO A FOUND IRON PIN; THENCE N87°25'33"W 46.20 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A LONG CHORD THAT BEARS S66°03'25"W, 42.86 FEET, AN ARC DISTANCE OF 44.43 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS S66°01'47"W, 13.38 FEET, AN ARC DISTANCE OF 13.87 FEET TO A FOUND IRON PIN; THENCE N87°28'49"W 51.48 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS N42°28'49"W, 35.36 FEET, AN ARC DISTANCE OF 39.27 FEET TO A FOUND IRON PIN; THENCE N02°31'11"E 142.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.70 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

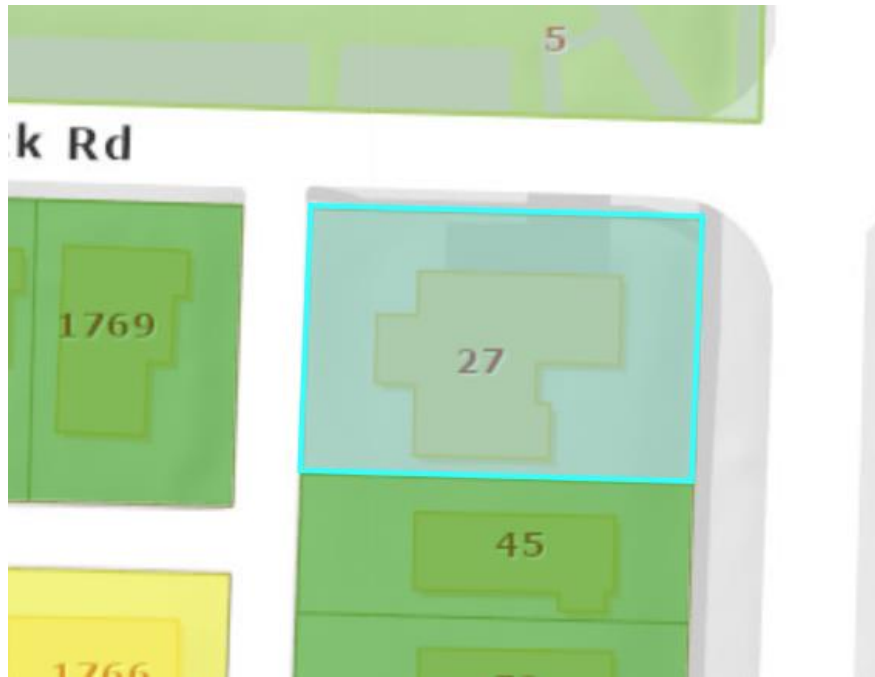
RZN-2024-0011
EXHIBIT B

TRACT TWO:

ALL OF TRACT TWO AS SHOWN ON THE FINAL PLAT OF SALEM VILLAGE P.U.D., RECORDED IN PLAT BOOK 15 AT PAGE 70, BEING PART OF THE NW1/4 OF THE SW1/4 OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 2; THENCE N87°28'49"W 152.99 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS N42°27'11"W, 21.22 FEET, AN ARC DISTANCE OF 23.58 FEET TO A FOUND IRON PIN; THENCE N02°34'27"E 6.23 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 51.00 FEET, A LONG CHORD THAT BEARS N08°56'20"W, 20.36 FEET, AN ARC DISTANCE OF 20.50 FEET TO A FOUND IRON PIN; THENCE N20°27'08"W 109.75 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS N36°02'02"E, 41.69 FEET, AN ARC DISTANCE OF 49.29 FEET TO A FOUND IRON PIN; THENCE S87°28'49"E 70.64 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS S61°04'04"E, 13.34 FEET, AN ARC DISTANCE OF 13.83 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A LONG CHORD THAT BEARS S61°02'26"E, 42.66 FEET, AN ARC DISTANCE OF 44.21 FEET; THENCE S87°25'33"E 46.19 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS S42°25'33"E, 35.36 FEET, AN ARC DISTANCE OF 39.27; THENCE S02°34'27"W 127.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.72 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

RZN-2024-0011
EXHIBIT B



Proposed NC
Parent Tract: (Warranty Deed)

Lot 1, Paddock Subdivision, Fayetteville, as per the plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

RZN-2024-0011
EXHIBIT B



Proposed UT

**LOTS 1-2, 5-10, AND 12 OF THE FINAL PLAT OF MEADOW FIELD COMMERCIAL SUBDIVISION,
BEING A REPLAT OF SPRINGWOODS LOT #1, INCLUDING THE FOLLOWING PARCELS**

**MEADOW FIELD COMMERCIAL SUBDIVISION LOT 1 (PID 765-25745-000)
MEADOW FIELD COMMERCIAL SUBDIVISION LOT 2 (PID 765-25746-000)
MEADOW FIELD COMMERCIAL SUBDIVISION LOT 5 (PID 765-25749-000)
MEADOW FIELD COMMERCIAL SUBDIVISION LOT 6 (PID 765-25750-000)
MEADOW FIELD COMMERCIAL SUBDIVISION LOT 7 (PID 765-25751-000)
MEADOW FIELD COMMERCIAL SUBDIVISION LOT 8 (PID 765-25752-000)
MEADOW FIELD COMMERCIAL SUBDIVISION LOT 9 (PID 765-25753-000)
MEADOW FIELD COMMERCIAL SUBDIVISION LOT 10 (PID 765-25754-000)
MEADOW FIELD COMMERCIAL SUBDIVISION LOT 12 (PID 765-25756-000)**

RZN-2024-0011
EXHIBIT B



Proposed CS

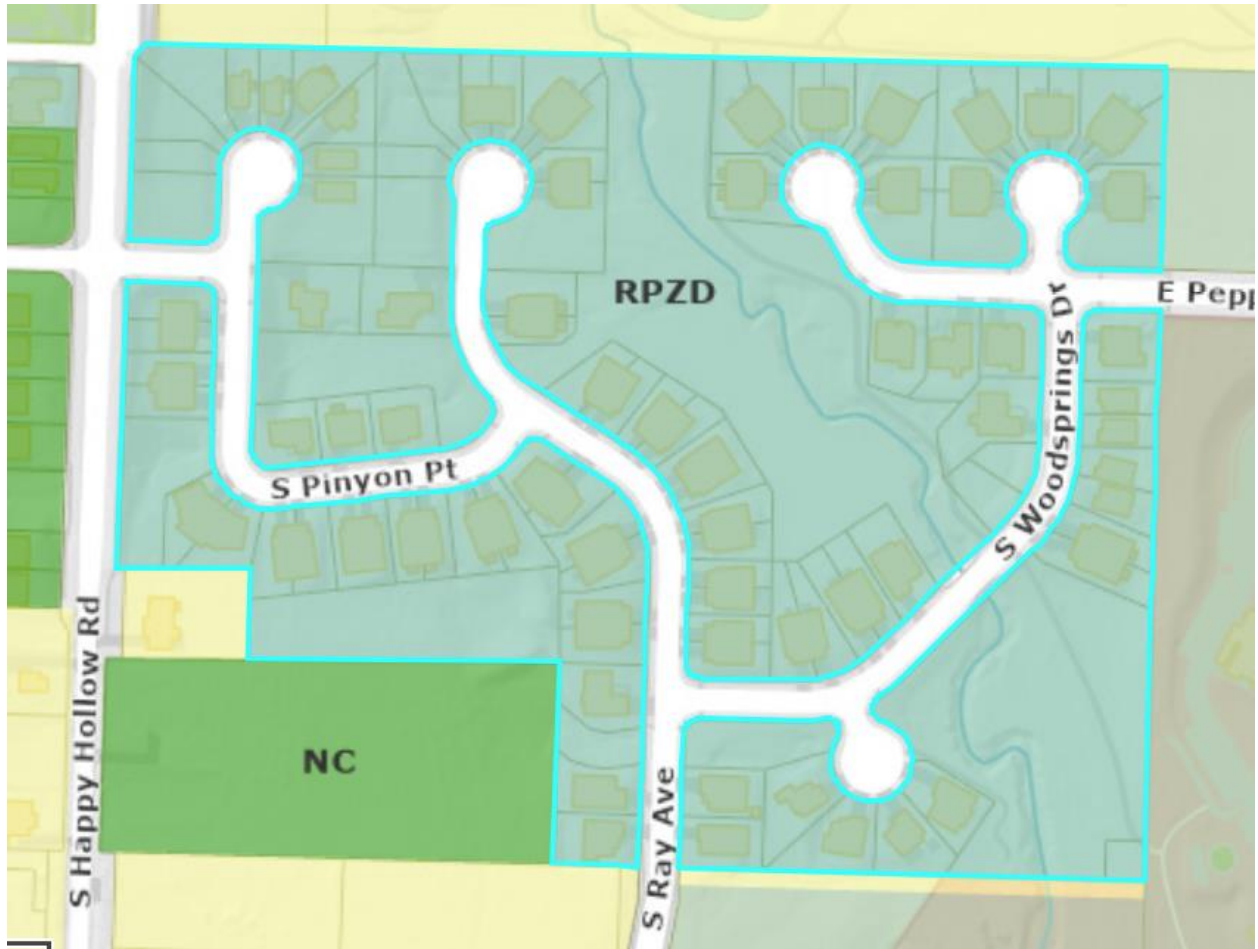
Extended Legal

PT LOT 6

FURTHER DESCRIBED FROM 2022-3463 AS:

ALL OF LOT 6A OF SPRINGWOODS C-PZD AS RECORDED IN PLAT RECORD 2006-00029843, BEING LOCATED IN A PART OF THE NE OF THE NW AND IN A PART OF THE NW OF THE NE OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: STARTING AT NE CORNER OF THE NE OF THE NW OF SECTION 33 FOR THE TRUE POINT OF BEGINNING; THENCE SOUTH 87°12 MINUTES 42 SECONDS EAST 247.42 FEET; THENCE SOUTH 02°27 MINUTES 35 SECONDS WEST 418.05 FEET; THENCE NORTH 87°54 MINUTES 20 SECONDS WEST 329.13 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 165.00 FEET, AN ARC LENGTH OF 260.23 FEET AND A CHORD OF NORTH 42°43 MINUTES 22 SECONDS WEST 234.09 FEET; THENCE NORTH 02°27 MINUTES 35 SECONDS EAST 257.55 FEET; THENCE SOUTH 87° 18 MINUTES 53 SECONDS EAST 247.76 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 4.649 ACRES, MORE OR LESS,

RZN-2024-0011
EXHIBIT B



PROPOSED R-A

Lots 112, 113, 114, 115, 116, 117, and 118, Timber Trails Subdivision, Fayetteville, Washington County, Arkansas as shown on plat record "23A" at page 55

Subject to recorded instruments, covenants, rights of way and easements.

and

Part of the NE 1/4 of the SW 1/4 of Section 14, Township 16 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows:

Commencing at a found iron pin at the Northwest Corner of said NE 1/4 of the SW 1/4; thence along the north line of said NE 1/4 of the SW 1/4 S87°07'09"E 1,322.49 feet to the Northeast Corner of said NE 1/4 of the SW 1/4; thence along the east line of said NE 1/4 of the SW 1/4 S02°49'15"W 938.39 feet to the point of beginning; thence continuing along said east line S02°49'15"W 50.00 feet to the south line of the North 30 acres of said NE 1/4 of the SW 1/4; thence along said south line N87°07'09"W 50.00 feet; thence departing said south line N02°49'15"E 50.00 feet; thence S87°07'09"E 50.00 feet to the point of beginning, containing 2,500 square feet or 0.06 acres, more or less. Subject to any easements, covenants or restrictions of record or fact.

Also known as Lot 119 in the proposed Timber Trails Subdivision.

RZN-2024-0011
EXHIBIT B

PROPOSED RI-U

Lots 1-111 of Timber Trails Subdivision, Fayetteville, Washington County, Arkansas as shown on Plat Record "23A" at Page 255.

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

**TABLE 1
EXPIRED PZDs TO BE REZONED**

PZD Name	Ward	Location	PZD Approval Year	Prior Zoning District	Proposed Zoning	Acreage
Park West	2	N. Hwy 112	2006	R-A & RSF4	UT CS	23.70 (UT) 15.71 (CS)
Cliffside (AKA Timber Trails)	1	S. Pinyon Pt., S. Ray Ave., S. Woodsprings Dr., & E. Peppervine Dr.	2004	RSF-4	RI-U R-A	18.67 (RI-U) 7.44 (R-A)
Springwoods	2	W. Truckers Dr., W. Chicory Pl., W. Foxglove Dr., and W. Pinehills Dr.	2003	I-1	UT CS RI-U	17.05 (UT) 6.09 (CS) 0.37 (RI-U)
Westbrook Village Phase 2	4	W. Clabber Creek Blvd. and N. Salem Rd.	2007	RSF-4	RI-U	1.42
Paddock Road Subdivision	1	27 S. Happy Hollow Rd.	2005	RSF-4	NC	0.20

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan varies by property. Please see Table 2 below.

**TABLE 2
FUTURE LAND USE/ZONING COMPARISON**

PZD Name	Future Land Use Designation	Proposed Zoning	Infill Score	Overlay Districts
Park West	City Neighborhood	CS & UT	2-5 Weighted 6	Enduring Green Network
Cliffside (AKA Timber Trails)	Residential Neighborhood	RI-U & R-A	6-7 Weighted 8	Enduring Green Network
Springwoods	Urban Center & City Neighborhood	CS & UT	3-7 Weighted 8	Enduring Green Network, I-540 Overlay District
Westbrook Village Phase 2	Residential Neighborhood	RI-U	4-5 Weighted 5.5	Enduring Green Network
Paddock Road Subdivision	Residential Neighborhood	NC	6-7 Weighted 6	Enduring Green Network

**TABLE 3
INFRASTRUCTURE AND ENVIRONMENTAL REVIEW**

PZD Name	Water	Sewer	Drainage	Fire and Police* Response Goal in Minutes: Engine: 6 / Ladder: 8	Tree Preservation+ (Proposed Zonings)
Park West	8" (N. Truckers Dr.) 6" (N. Hwy. 112) 36" (N. Hwy. 112 & South Property Line)	8" (N. Hwy. 112) 48" (South Property Line)	Floodplain, Protected Stream Hydric Soils	Station #8 3 Minute Response	15% (UT) 20% (CS)
Cliffside (AKA Timber Trails)	8" (S. Happy Hollow Rd.) 6" & 8" (Throughout Neighborhood)	8" (S. Happy Hollow Rd.) 8" (Throughout Neighborhood)	Floodplain, Protected Stream, Hydric Soils	Station #3 2 Minute Response	15% (RI-U) 25% (R-A)
Springwoods	8" (W. Truckers Dr.) 8" (W. Foxglove Dr.) 12" (N. Shiloh Dr.) 8" (W. Moore Ln.) 8" (W. Pinehills Dr.)	8" (W. Truckers Dr.) 8" (Lot 1) 8" (W. Pinehills Dr.) 48" (Lot 6A)	Hydric Soils	Station #8 3 Minute Response	15% (UT) 20% (CS) 15% (RI-U)
Westbrook Village Phase 2	8" (N. Salem Rd.) 8" (Alley) 2" & 6" (W. Clabber Creek Blvd.)	15" (N. Salem Rd.) 10" (N. Westminster Dr.) 8" (Alley)	Floodplain	Station #8 4 Minute Response	15% (RI-U)
Paddock Road Sub.	8" (E. Paddock Loop) 8" (Alley 49) 8" (S. Happy Hollow Rd.)	8" (S. Happy Hollow Rd.)	NA	Station #3 2 Minute Response	20% (NC)

**Police did not comment on the proposed rezonings*

+ All PZDs have a required tree preservation of 25%.

PUBLIC COMMENTS

PZD Name	Public Comment
Cliffside (AKA Timber Trails)	One phone inquiry requesting additional information on the proposed zoning districts. One email inquiry requesting additional information.
Paddock Road Subdivision	No Comments Received
Westbrook Village Ph. 2	One inquiry regarding extent of proposal and expressing general support for proposed rezoning. One inquiry regarding proposed zoning / future plans and expressing general concerns about flooding and drainage within the neighborhood, particularly to the south of the proposed rezoning area.
Springwoods	PID 765-25746-000 & PID 765-25745-000 (Lots 1 & 2): Extensive email and phone conversations with staff regarding expiration of PZD, rezoning process, and staff request. The owner is opposed if rezoning is forwarded with a recommendation of CS. Owner preference in favor of request with change to UT. PID 765-23604-000 (Lot 6A): Email / phone conversation with ownership team. Owner in support of staff-proposed rezoning PID 765-25752-000& 765-25756-000 (Lots 8 & 12): Slight concern about CS and UT, but owner may be looking at doing some form of warehouse use. PID 765-26552-000 (Pines at Springwood): Phone Inquiry from the POA board president clarifying the scope of the request. Caller expressed general support for the rezoning, acknowledging that RI-U aligns with what has been constructed in the neighborhood already.
Park West	Phone Inquiry from property owners: Minimal concern about split zoning of UT and CS as potential development could work in both districts, general support of request. Owners are also working through other development issues such as easement and ROW acquisitions.

LEGEND

(See comments for details)

TEXT = Neither support nor opposition to request expressed

TEXT = Comment in support

TEXT = Comment in opposition



TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: April 8, 2024 (UPDATED WITH MEETING RESULTS)

SUBJECT: **RZN 2024-0011: Rezone (VARIOUS EXPIRED PZD LOCATIONS/ EXPIRED PZDS, PP VARIES):** Submitted by CITY PLANNING STAFF for VARIOUS PROPERTIES LOCATED WITHIN THE CITY LIMITS OF FAYETTEVILLE. The properties are zoned as PLANNED ZONING DISTRICTS and contain approximately 90.65 acres. The request is to rezone the properties to various standard zoning districts.

RECOMMENDATION:

Staff recommends **RZN 2024-0011** be forwarded to the City Council with a recommendation of approval.

MARCH 25, 2024, PLANNING COMMISSION MEETING:

At the March 25, 2024, Planning Commission meeting, the item was tabled to provide additional time for the Planning Commission to review staff's proposal more fully. No changes have been made to the proposal in the interim.

BACKGROUND:

The subject properties consist of five Planned Zoning Districts (PZDs) that are located throughout the City limits of Fayetteville. Properties are a mix of fully undeveloped properties, partially developed neighborhoods and/or commercial blocks with sections of undeveloped lots, or part of a larger PZD that has been almost entirely rezoned. The original zoning of these properties, before they became PZDs, range from R-A, Residential-Agricultural to I-1, Heavy Commercial and Light Industrial. Prior to 2014, Fayetteville's PZD standards required all construction permits to be secured within a specific timeframe. If permits were not obtained, then the development rights were null and void. As a result, many of these properties are zoned PZD but since construction was not fully completed within a specific allotted timeframe, the planned zoning district has expired.

Additionally, because planned zoning districts are customized, they are inherently more complicated than the city's standard zoning districts. Many were established before many of the city's current development regulations such as the landscape and tree preservation code were passed, leading to complex zoning regulations that are hundreds of pages long and which are generally outdated. As such, staff propose to rezone the properties to various zoning districts as shown in *Table 1*.

Request: City Planning staff requests to rezone the properties from the expired PZD designation to one or more zoning districts as shown in Table 1.

Public Comment: Staff sent letters in late February to notify all affected property owners of the staff-initiated rezoning and provide opportunities for initial feedback. A second round of letters was sent with full public notice in March. Over this timeframe, staff have received numerous inquiries and comments which are summarized in a table in the attachments.

**TABLE 1
EXPIRED PZDs TO BE REZONED**

PZD Name	Ward	Location	PZD Approval Year	Prior Zoning District	Proposed Zoning	Acreage
Park West	2	N. Hwy 112	2006	R-A & RSF4	UT CS	23.70 (UT) 15.71 (CS)
Cliffside (AKA Timber Trails)	1	S. Pinyon Pt., S. Ray Ave., S. Woodsprings Dr., & E. Peppervine Dr.	2004	RSF-4	RI-U R-A	18.67 (RI-U) 7.44 (R-A)
Springwoods	2	W. Truckers Dr., W. Chicory Pl., W. Foxglove Dr., and W. Pinehills Dr.	2003	I-1	UT CS RI-U	17.05 (UT) 6.09 (CS) 0.37 (RI-U)
Westbrook Village Phase 2	4	W. Clabber Creek Blvd. and N. Salem Rd.	2007	RSF-4	RI-U	1.42
Paddock Road Subdivision	1	27 S. Happy Hollow Rd.	2005	RSF-4	NC	0.20

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FUTURE LAND USE/ZONING COMPARISON**

PZD Name	Future Land Use Designation	Proposed Zoning	Infill Score	Overlay Districts
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Cliffside (AKA Timber Trails)	Residential Neighborhood	RI-U & R-A	6-7 Weighted 8	Enduring Green Network
Springwoods	Urban Center & City Neighborhood	CS & UT	3-7 Weighted 8	Enduring Green Network, I-540 Overlay District
Westbrook Village Phase 2	Residential Neighborhood	RI-U	4-5 Weighted 5.5	Enduring Green Network
Paddock Road Subdivision	Residential Neighborhood	NC	6-7 Weighted 6	Enduring Green Network

**TABLE 3
INFRASTRUCTURE AND ENVIRONMENTAL REVIEW**

PZD Name	Water	Sewer	Drainage	Fire and Police* Response Goal in Minutes: Engine: 6 / Ladder: 8	Tree Preservation+ (Proposed Zonings)
Park West	8" (N. Truckers Dr.) 6" (N. Hwy. 112) 36" (N. Hwy. 112 & South Property Line)	8" (N. Hwy. 112) 48" (South Property Line)	Floodplain, Protected Stream Hydric Soils	Station #8 3 Minute Response	15% (UT) 20% (CS)
Cliffside (AKA Timber Trails)	8" (S. Happy Hollow Rd.) 6" & 8" (Throughout Neighborhood)	8" (S. Happy Hollow Rd.) 8" (Throughout Neighborhood)	Floodplain, Protected Stream, Hydric Soils	Station #3 2 Minute Response	15% (RI-U) 25% (R-A)
Springwoods	8" (W. Truckers Dr.) 8" (W. Foxglove Dr.) 12" (N. Shiloh Dr.) 8" (W. Moore Ln.) 8" (W. Pinehills Dr.)	8" (W. Truckers Dr.) 8" (Lot 1) 8" (W. Pinehills Dr.) 48" (Lot 6A)	Hydric Soils	Station #8 3 Minute Response	15% (UT) 20% (CS) 15% (RI-U)
Westbrook Village Phase 2	8" (N. Salem Rd.) 8" (Alley) 2" & 6" (W. Clabber Creek Blvd.)	15" (N. Salem Rd.) 10" (N. Westminster Dr.) 8" (Alley)	Floodplain	Station #8 4 Minute Response	15% (RI-U)
Paddock Road Sub.	8" (E. Paddock Loop) 8" (Alley 49) 8" (S. Happy Hollow Rd.)	8" (S. Happy Hollow Rd.)	NA	Station #3 2 Minute Response	20% (NC)

*Police did not comment on the proposed rezonings
+ All PZDs have a required tree preservation of 25%.

FINDINGS OF THE STAFF

RECOMMENDATION: Staff recommends RZN 2024-0011 be forwarded to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u> Date: <u>April 8, 2024</u> ☐ Tabled ☒ Forwarded ☐ Denied Motion: Second: Vote:	SEE FOLLOWING PAGE
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PLANNING COMMISSION ACTION: Required YES

	MOTION #1	MOTION #2	MOTION #3	MOTION #4	MOTION #5
	Motion to divide the question to consider Springwoods separately	Motion to forward Springwoods with a recommendation of approval, revising Meadowfield Commercial Subdivision lots 5-9 & 12 to I-1, Light Industrial	Motion to reconsider	Motion to forward Springwoods rezoning to City Council as recommended by staff with a recommendation of approval	Motion to forward remainder to City Council as recommended by staff with a recommendation of approval
FIRST	PAYNE	PAYNE	WERNER	GARLOCK	GARLOCK
SECOND	WERNER	BRINK	GARLOCK	GULLEY	CASTIN
VOTE	8-0-0	2-6-0	6-2-0	7-1-0	8-0-0
RECORD	All commissioners voted in favor	*The following commissioners voted against the motion: 1. CASTIN 2. GARLOCK 3. WERNER 4. GULLEY 5. MADDEN 6. MCGETRICK	*The following commissioners voted against the motion: 1. PAYNE 2. BRINK	*The following commissioners voted against the motion: 1. PAYNE	All commissioners voted in favor

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:*** The proposed zoning districts are compatible with the surrounding land uses. Staff evaluated permitted and conditional uses within the expired PZDs to determine the nature and intensity of the previously approved PZDs. Where developed or platted, staff evaluated the properties and proposed zoning districts that avoid or minimize nonconformance. For others, staff proposes zoning districts which are compatible with surrounding land uses to the greatest extents possible. See below for specific evaluations.

- **Park West:** Staff recommends rezoning the remaining Park West PZD to a combination of UT and CS. Staff finds the rezoning is consistent with the existing development patterns, including those currently in the development pipeline. All other parcels of the original Park West PZD have since been rezoned with a wide mix of uses, including the most recent rezoning for parcel 765-15830-007 to RMF-18 directly west, proposed to be developed with a multi-family residential development. Other developments originally included within the PZD boundaries include an existing retirement community known as Grand Village at Clear Creek directly west and the Fellowship Baptist Church directly north. Other portions of the Park West PZD to the north and northwest have been rezoned to a mix of CS, UT, and Neighborhood Services-General (NS-G) but have not yet been developed. Further, existing UT is located across Hwy 112 at the 112 Drive-In-Theatre location, which was recently approved for a mixed-use development titled “The Aronson.”

Staff finds that a split rezoning of CS and UT would be compatible in this area given the existing and planned multifamily developments and existing commercial uses. Limiting UT to a smaller portion of the property abutting Hwy 112 would restrict more intensive uses to the areas adjacent to the major thoroughfare, with more limited uses permitted adjacent to residential developments.

- **Cliffside:** Staff recommends rezoning the Cliffside PZD to a combination of RI-U and R-A. The approved PZD included approval for 15 single-family homes and 48 two-family homes. All residential lots were approved with front and rear setbacks of 20 feet. Single-family dwellings were approved with side setbacks of 8 feet on all side property lines, and two-family dwellings were approved to utilize a zero-lot line along a shared common wall. Lot sizes range from approximately 3,500 square feet to 10,600 square feet, with only three parcels meeting lot minimum requirements for the previous RSF-4 zoning. Six of the eight parcels that remain unbuilt have street frontage of approximately 16 feet to 22 feet, with the remaining corner lots having street frontages of nearly 200 feet. Because RI-U has a minimum lot width of 18 feet for residential uses, it is one of the few districts that would allow the existing lots to conform with existing

zoning requirements. RI-U would remain primarily residential in nature with a small number of conditional non-residential uses. While RI-U has no density limitations, staff finds that the zoning is unlikely to result in development that is out of scale with the surroundings as most parcels are small and do not have sufficient width to permit additional subdivision of land. Additionally, while RI-U permits up to three and four family dwellings by right, staff finds this is not likely to lead to development that is incompatible given the existing development patterns of the neighborhood. Further, most parcels are encumbered by utility or drainage easements. Staff proposes to rezone the entire Cliffside development rather than solely the undeveloped parcels in order to create consistent zoning entitlements and reduce administrative difficulty for staff and current/future property owners. Additionally, staff proposes to rezone the areas designated as common areas and tree preservation lots by the approved PZD as Residential Agricultural, R-A, in order to maintain these areas as communal green space. Staff also proposes to rezone PID 765-26323-000 (Lot 119) as R-A, as this lot is owned by the City of Fayetteville. R-A allows Use Unit 3: Public Protection and Utility Facilities by right, which would facilitate the lot's intended purpose.

- **Springwoods:** Staff recommends rezoning the undeveloped portions of the Springwoods PZD to a combination of UT, CS, and RI-U. Due to the overall scale of the PZD acreage, staff is not recommending a full rezoning of the Springwoods PZD at this time, choosing instead to focus on those properties that are either undeveloped or currently under development. Undeveloped lots are spread throughout the PZD in three primary sections further described below. Lot 1 of the Springwoods CPZD was replatted as the Meadow Field Commercial Subdivision in 2006. Lots 1-2, 5-9 & 12 of Meadow Field remain undeveloped and zoning entitlement for these parcels has since expired. Lot 6A of the original Springwoods CPZD and a portion of PID 765-26552-000 (The Pines at Springwoods Horizontal Property Regime) also remain undeveloped.

Given the proximity of these parcels to the Wilson Springs Creek Preserve, staff finds that the original zoning of I-1 would be incompatible. However, staff notes the remaining parcels within the Meadow Field Commercial Subdivision and Lot 6A abut an I-49 entrance and exit and have the capacity to serve residents throughout the city with large commercial uses. As such, staff evaluated a mix of CS and UT to restore commercial and development rights. Both CS and UT allow a wide mix of residential and commercial uses, creating the opportunity for mixed-use developments rather than solely commercial uses.

Staff initially recommended CS on parcels 765-23604-000, 765-25746-000 and 765-25745-000 as these parcels are abutting residential uses and could provide a transition to the higher intensity uses permitted by the UT district. Since the initial recommendation of CS, staff has

consulted extensively with the property owner of PID 765-25746-000 and 765-25745-000, who requested the city propose UT, a zoning district that would permit Use Unit 17: Transportation Trades and Services by right rather than CS. Staff analyzed the request and finds that since that the original PZD included this use unit by right and surrounding parcels have been extensively developed with auto-oriented developments, the inclusion of a district which permits Use Unit 17 by right is likely to be compatible in these locations. Staff finds UT, Urban Thoroughfare would be consistent for the requested parcels.

The Pines at Springwoods has been almost entirely developed with four-family dwellings in a form-based style. A single buildable portion of the parcel remains and staff finds that RI-U would best facilitate development in a similar style given limited development area and the consistent development of four-family dwellings.

- **Westbrook Village Phase 2:** Staff recommends rezoning the Westbrook Village Phase 2 PZD to RI-U. The property was originally platted as part of the Salem Village Planned Unit Development (PUD) in 1997, most of which has since been rezoned to RSF-4. The original PUD designated these parcels as mixed-use village centers. A revised PZD was approved in 2006 that revised the permitted uses to either strictly single-family residential or greenspace. All but one parcel designated for development have since been constructed with single-family homes, and staff recommends rezoning to RI-U to bring these parcels to a standard zoning district. RI-U has a minimum lot width of 18 feet for residential uses, which would allow the existing lots to conform with existing zoning requirements. Internal parcels here have approximately 20 feet of street frontage. Given existing development patterns and existing lot sizes, staff finds the uses permitted in RI-U are not likely to create development that is out of sync on the remaining undeveloped parcel.
- **Paddock Road Subdivision:** Staff recommends rezoning the Paddock Road Subdivision PZD to NC. This parcel has been developed and has not expired; however, all other parcels within the original PZD have been rezoned in the years since its passage. Because of this and the complexity of the Paddock Road Subdivision PZD, staff recommends this parcel be rezoned to NC, Neighborhood Conservation. The parcels to the immediate west and south were successfully rezoned to NC, Neighborhood Conservation in 2014 and the rezoning of the remaining parcel would fully eliminate the remaining RPZD, creating consistent zoning entitlements and reducing administrative difficulty for staff and current/future property owners. The existing parcel meets bulk and area as well as minimum buildable street frontages required by the NC zoning. As the parcel is already constructed with a residence, staff finds a rezoning is unlikely to result in development that is inconsistent with the surrounding parcels.

Land Use Plan Analysis: The proposed zonings are compatible with the Future Land Use Map, which vary from property to property (see Table 2). Staff finds that the recommended zoning districts are generally compatible with goals to encourage infill and discourage suburban sprawl, create compact, complete and connected development, provide opportunities for attainable housing, and grow a livable transportation networks. Additionally, rezoning the remaining parcels will eliminate many planned zoning districts, simplifying the zoning regulations and bringing these areas into conformance with current zoning standards.

- **Park West:** Staff finds that rezoning the remaining Park West PZD to a combination of UT and CS will restore development rights and could allow for a mixed-use development in close proximity to a Tier 2 Center, and that the proposed zoning districts generally align with previously permitted uses. City Neighborhood Areas, encourage “complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population.” The expired PZD included a mixed-use district, commercial, condominiums, and a preserve/botanical/detention area. Staff finds that the reduced uses permitted by the CS district would be compatible adjacent to existing and proposed residential developments to the west with UT abutting the highway. Staff further finds that the additional pedestrian-oriented requirements of the form-based CS / UT zoning districts generally align the city 2040 Growth Plan, which calls for all centers to be “mixed-use nodes that are pedestrian friendly areas served by current or future transit.” The parcel is approximately 800 feet north of a Tier 2 Center located adjacent to the N. Hwy 112 and W. Truckers Dr. intersection.
- **Cliffside:** Staff finds that the split zoning of RI-U and R-A will bring the overall neighborhood into standard zoning districts that will simplify future city reviews, allow for infill, protect existing open space, and permit the city-owned parcel to be utilized for Use Unit 3: Public Protection and Utility Facilities. These units have a moderate infill score of 6-7, though staff notes that only eight parcels within the neighborhood remain undeveloped. The affected parcels are between $\frac{1}{2}$ and $\frac{3}{4}$ of a mile from three Tier Centers: a Tier 2 Center located at the S. Crossover Rd. and E. Huntsville Rd. intersection, a Tier 3 Center located at the S. Crossover Rd. and E. Peppervine Dr. intersection, and a Tier 3 Center located at the E. Huntsville Rd. and S. Happy Hollow Rd. intersection.
- **Springwoods:** Staff finds that rezoning the undeveloped lots in the Springwoods PZD to a combination of UT, CS, and RI-U will restore development rights and could allow for a mixed-use development in close proximity to a Tier 2 Center, and that the proposed zoning districts generally align with previously permitted uses. Lot 6A is designated as Urban Center on the Future Land Use Map, which includes “the most intense and dense development patterns within the city and allow for the tallest and greatest variety of buildings.” Undeveloped parcels within the Meadow Field Commercial

Subdivision (lots 1-2, 5-9 & 12) and PID 765-26552-000 (The Pines at Springwoods Horizontal Property Regime) are designated as City Neighborhood Areas, which encourage “complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population.” The affected parcels are between approximately $\frac{1}{4}$ to $\frac{3}{4}$ of a mile from a Tier 2 Center located adjacent to the N. Hwy 112 and W. Truckers Dr. intersection. Staff finds that the additional pedestrian-oriented requirements of the form-based CS / UT zoning districts generally align with the City 2040 Growth Plan, which calls for all centers to be “mixed-use nodes that are pedestrian friendly areas served by current or future transit,” a development style that would be facilitated by the proposed zoning districts.

Staff initially recommended CS on parcels 765-23604-000, 765-25746-000 and 765-25745-000 as these parcels are abutting residential uses and could provide a transition to the higher intensity uses permitted by the UT district, which could be located on the remaining lots near or abutting I-49. Since the initial recommendation of CS, staff has consulted extensively with the property owner of PID 765-25746-000 and 765-25745-000, who requested the city propose UT, a zoning district that would permit Use Unit 17: Transportation Trades and Services by right rather than CS. Staff analyzed the request and finds that given that the original PZD included this use unit by right and that surrounding parcels have been extensively developed with automobile-oriented uses, auto-oriented uses are likely to be compatible in these locations. Additionally, given the presence of the Wilson Springs Preserve and limited access off N. Shiloh Dr., an existing one-way access road, staff finds that the only residential areas with easy access to future developments commercial developments are likely the neighborhood abutting W. Moore Ln. As such, staff finds most of the commercial developments will likely serve the city as a whole and that UT would be compatible in this case.

The Pines at Springwoods has been almost entirely developed with four-family dwellings in a form-based style. A single buildable portion of the parcel remains, and staff finds that RI-U would best facilitate development in a similar style given the limited development area and consistent development of four-family dwellings.

- **Westbrook Village Phase 2:** Staff finds that the RI-U zoning district substantially aligns with previously permitted bulk and area requirements as well as land uses of the previously approved PZD. Many parcels are less than 30 feet in width, and RI-U would allow these narrower parcels to remain conforming while restoring development rights on the undeveloped parcel. The affected parcels are approximately $\frac{1}{2}$ of a mile south from a Tier 3 Center located north of the N. Ruppel Rd. and W. Country Meadows St. intersection, and approximately $\frac{3}{4}$ of a mile north of a Tier 2 Center located at the N. Ruppel Rd. and W. Mount Comfort Rd. intersection.

- **Paddock Rd. Subdivision:** Staff finds that rezoning this sole remaining parcel of the Paddock Road Subdivision to NC will eliminate complex requirements that may run counter to existing tree preservation and landscape requirements. While this PZD has not expired, it was approved during the adoption of the original HHOD and included several self-imposed tree preservation requirements. Today, site development standards are sufficiently addressed within current tree preservation codes and grading ordinances. The NC zoning district will permit development of a median density similar to the expired PZD, allowing an effective use of the existing infrastructure if the site is ever redeveloped. The affected parcel is between $\frac{1}{2}$ and $\frac{3}{4}$ of a mile from three Tier Centers: a Tier 2 Center located at the S. Crossover Rd. and E. Huntsville Rd. intersection, a Tier 3 Center located at the S. Crossover Rd. and E. Peppervine Dr. intersection, and a Tier 3 Center located at the E. Huntsville Rd. and S. Happy Hollow Rd. intersection.

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

Finding: In staff's opinion, the recommended zoning districts are justified at this time as the properties are currently within either an expired PZD with no development rights or a PZD with outdated and complex requirements. This is a necessary measure to ensure and protect the rights of the existing property owners. Further, staff's recommendations are in line with the current surrounding land uses and the Future Land Use Map.

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

Finding: Rezoning the properties will not likely increase traffic danger or congestion. The proposed rezoning districts are substantially compatible with existing development patterns and/or previously approved entitlements. Staff finds that the grounds for these entitlements, including no appreciable increase in traffic congestion or danger, still stand.

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 properties will not substantially increase the potential population density or load on public services. The proposed rezoning districts are substantially compatible with the existing development patterns and uses permitted under the expired PZDs, and existing utility and street infrastructure is present for all properties in this report. Police, Fire, and Fayetteville School District have expressed no objections to the proposal.

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

BUDGET/STAFF IMPACT:

None

Attachments:

- City Attorney Memo- Expired PZDs
- PZD Ordinances
 - ORD 4434 Excerpts (2002)
 - ORD 5675 Excerpts (2014)
- Request Letter
- Public Comment
 - Public Comment Summary Table
 - Written Public Comments
- Maps
 - Citywide Overall Map
 - Comparison Maps
 - Close-up Maps
 - Current Land Use Maps
 - Future Land Use Map



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Jonathan Curth**, Development Services Coordinator
Jessica Masters, Development Review Manager

CC: **Blake Pennington**, Senior Assistant City Attorney
Hannah Hungate, Assistant City Attorney

FROM: **Kit Williams**, City Attorney

DATE: **November 13, 2023**

RE: **Properties that have not yet been rezoned after their old PZDs with zoning/development rights have expired**

Properties such as the Park West PZD which rezoned almost 140 acres, but was never developed and now has no development rights, should be rezoned by the City to its original zoning. This would mean that all un-zoned remnants of the 140 acre Park West PZD should be returned to R-A.

R-A has always been used when annexing in new, un-zoned property. It is a proper initial zoning. It is also quite proper when a rezoning away from R-A which occurred in the Park West PZD failed due to lack of timely development. I know Planning looked at many of these expired old PZD's with initial development rights and requested and received rezoning approvals by the City Council.

It is now time to finish the job so no expired PZD property remains in undevelopable limbo. A simple return to the previous zoning is logical. A property owner then may seek rezoning to another appropriate zoning which may be approved by the City Council upon the owner's application.

It is not appropriate to allow any property with old PZD expired zoning with no development rights to remain anywhere in Fayetteville.



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TO: **Jonathan Curth**, Development Services Coordinator
Jessica Masters, Development Review Manager

CC: **Blake Pennington**, Senior Assistant City Attorney
Hannah Hungate, Assistant City Attorney

FROM: **Kit Williams**, City Attorney

DATE: **November 15, 2023**

RE: **"Expired Planned Zoning District Exhibit"**

Thank you for providing me a copy of your "Expired Planned Zoning District Exhibit." However, one of these has not and will not "expire." When the PZD Ordinance was amended on April 1, 2014 by Ordinance No. 5675 to become a normal rezoning decision by severing the construction rights from the rezoning decision, PZD rezonings like all other zoning decisions became permanent.

Final Plats, Large Scale Developments, and other development authorizing decisions do have time limitations and can expire if not developed. The original PZD joined the rezoning with development rights which led to a time limitation for the entire PZD including its zoning component. This unification of a rezoning and development entitlement into a single decision caused a major problem when a PZD was challenged in Court. The Judge decided not to use rezoning's normal "arbitrary and capricious" test which grants great discretion to the City Council. (The City Council has never had one of its rezoning decisions reversed in Court this century.) The Court instead used the land development test in which gives the Judge or jury great discretion to decide for themselves the rezoning issue.

The *U.D.C.* was amended so that new PZDs would become pure rezoning issues which ensured the proper "arbitrary and capricious" test would protect the City Council's rezoning decision. That amendment also removed the time limited component of development rights so that PZDs like all other rezonings became permanent (at least until future City Council amendment).

The title of the 2014 Ordinance stated the amendment was "TO CLEARLY SEPARATE THE ZONING AND DEVELOPMENT APPROVALS FOR PLANNED ZONING DISTRICTS..." The Planning Department's Agenda Memo recommending the 2014 amendment to make a PZD exclusively a rezoning decision states: "One final change is to amend the modification requirements and remove PZD revocation...Revocation of a PZD is unnecessary in staff's opinion, because the zoning decision by the City Council should not expire. Once a property is rezoned the zoning remains until a zoning amendment is made by the City Council. This is the case for all other zoning amendments."

Any PZD approved after April 2014 should have been a purely rezoning issue without the construction rights of a development approval. Accordingly, any PZD so adopted will not expire which includes the Underwood (R-PZD-20-7093) erroneously listed on your exhibit as expired. Any future development on this property would have to comply with the current PZD requirements or seek rezoning from the City Council.

The remnants of the Park West PZD can be rezoned to its original R-A zoning district or whatever the City Council deems appropriate. The Springwoods PZD is an unusual situation. This land was purchased by the City in the 1980's and zoned I-1, Heavy Commercial and Light Industrial to encourage Texas Instruments to locate in Fayetteville. When that did not happen, the Administration and City Council around 2002-2003 sought to sell this land while preserving a substantial area around Wilson Springs for conservation. Some parcels have been developed and the conservation area dedicated. Remnant parcels should be rezoned to R-A or other compatible zoning rather than spot zoned back to the incompatible I-1. Again, the City Council needs to promptly make its legislative decision on what the preferred zoning should be.

All City Council rezoning decisions will be accorded great deference by the Courts if challenged. I also do not believe that these decisions to rezone remnants of expired PZDs could be successfully challenged as takings even under the Private Property Protection Act since none would actually be downzonings or zonings providing fewer or less valuable development rights as were in existence in April of 2014.

ORD 4434 Excerpts



ORDINANCE NO. 4434

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT ORDINANCE OF THE CODE OF FAYETTEVILLE TO ESTABLISH A PROCESS FOR THE EVALUATION AND APPROVAL OF PLANNED ZONING DISTRICTS.

WHEREAS, flexible guidelines for the review of specific development plans are desirable; and,

WHEREAS, informed land use decisions can guide development more effectively in the best interest of the health, safety and welfare of the city; and

WHEREAS, developments that are compatible with the surrounding area, harmonious with the character of the neighborhood, do not have a negative effect upon the future development of the area and create a stable environment are desirable; and

WHEREAS, the development and zoning review process shall be enhanced when review and approval of development and zoning are addressed simultaneously;

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

Section 1. That Chapter 161 Zoning Regulations is amended by inserting §161.22 District PZD Planned Zoning District, a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That Chapter 166 Development is amended by inserting §166.18 Planned Zoning District Developments, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

Section 3. That Chapter 163 Use Conditions, Section §163.21 Limited Neighborhood Commercial Uses Within Residential Districts of the Code of Fayetteville is hereby repealed.

Section 4. That Chapter 159: Fees, Section §159.01 Fees/Schedule, subsection (B)(3) is amended by adding a fee for Planned Zoning District applications as follows:

§159.01 Fees/Schedule

- A. Fees
- B. Fee Schedule
 - 3. Development

Planned Zoning District	
Non-residential	\$1,125
Residential:	
10 units/lots or less	\$525
25 units/lots or less	\$725
25 units/lots or more	\$1,125

Section 5. That Chapter 151: Definitions is amended by deleting the definition of **Planned Unit Development** and adding the following definitions:

Common Open Space. Land within or related to a development, not individually owned or dedicated for public use, which is reserved for the exclusive use or enjoyment of the residents or occupants of the development and their guests.

Planned Zoning District. A zoning district that allows for comprehensively planned developments for either single-use or mixed-use and permits development and zoning review as a simultaneous process.

Private Open Space. The outdoor living area directly adjoining a dwelling unit or building, intended for the private enjoyment of the residents or occupants of the dwelling unit or building and defined in such a manner that its boundaries are evident.

Public Open Space. Open space, including but not limited to, any park, lake, stream, playground, or natural area, commonly open to the public.

Recreational Structures. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground that has a primary use that is recreation in nature. Among other things, recreational structures include tennis courts, basketball courts, swimming pools and jogging trails.

Section 6. That §166.05 (A) Requirement is hereby repealed and replaced with the following:

§166.05 Large Scale Development

A. Requirement. The development of a lot or parcel larger than one acre or development of a Planned Zoning District must be processed in accordance with the requirements for a large-scale development.

Section 7. That §166.60 Planned Unit Development of the Unified Development Ordinance is hereby repealed.

PASSED and APPROVED this the 19th day of November, 2002.



By: 
HEATHER WOODRUFF, City Clerk

APPROVED

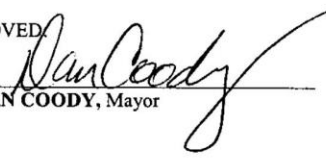
By: 
DAN COODY, Mayor

EXHIBIT "A"

To be inserted in Chapter 161 Zoning Regulations:

§161.22 District PZD Planned Zoning District.

A. Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

1. *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
2. *Compatibility.* Providing for compatibility with the surrounding land uses.
3. *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
4. *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
5. *No negative impact.* Does not have a negative effect upon the future development of the area;
6. *Coordination.* Permit coordination of the planning of the land surrounding the PZD and cooperation between the City and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
7. *Open Space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
8. *Natural Features.* Maximum enhancement and minimal disruption of existing natural features and amenities.
9. *General Plan.* Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
10. *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.

B. Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166 Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

EXHIBIT "B"

To be inserted in Chapter 166: Development:

§166.18 Planned Zoning District Developments

- A. Applicability.** To be considered for a planned zoning district, the applicant shall meet all of the following criteria:
1. **Location.** Eligible properties include those located within the city limits.
 2. **Ownership.** Eligible applicants for preliminary plan review shall be a landowner of record or an authorized agent. The approved development plan shall be binding on all subsequent owners of the land until revised or modified.
 3. **Size.** There shall be no minimum tract size for a PZD application.
- B. Application.** The initial application for a PZD shall include the following items:
1. **Application.** Complete application form to request a PZD.
 2. **Copies.** Copies of a development plan in accordance with the submission requirements on the project application form. Copies of a preliminary plat if a subdivision of land is proposed in accordance with the preliminary plat application form.
 3. **Fee.** Applicant shall pay all required filing fees for a planned zoning district as set forth in Chapter 159 Fees of the UDO. If a subdivision of land is proposed, a fee for the preliminary plat shall also be paid.
- C. Review and Approval Procedures.**
1. **Pre-application meeting.** Before submitting an application the landowner or authorized agent shall confer with the Planning Division in order to become familiar with the development review process. The staff shall inform the applicant of any perceived problems that may arise. A further purpose of the pre-application meeting is to make sure the applicant has, or will be able to, submit the necessary information for filing the application. The intent of this conference is to provide guidance to the applicant prior to incurring substantial expense in the preparation of plans, surveys and other data required in a preliminary plan.
 2. **Planning Commission.** All planned zoning district applications shall follow the procedures for large scale development as set forth in §166.05 Large Scale Development. If a subdivision of land is proposed, the applicant shall obtain subdivision approval as set forth in 166.01 Subdivision Approval.
 3. **City Council.** If the development plan is approved by the Planning Commission, it shall be forwarded to the City Council for review. The City Council may grant or deny as submitted, or as they may so amend, defer for requested changes or more information, or return the application to the Planning Commission for further study. The applicant shall not modify to a design other than that reviewed by the Planning Commission prior to City Council review. The City Council may direct Planning Commission to reconsider specific aspects of the plan. If the development plan is approved, an ordinance shall be prepared which incorporates the plan and conditions.
 4. **Appeals.** Appeals from the action of the Planning Commission shall be in accordance with Chapter 155 Appeals of the UDO.

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (9). All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
 - (10.) There shall be no minimum building setback requirement from a private street.
 - (11). The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.
12. **Construction of Nonresidential Facilities.** Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.
13. **Tree Preservation.** All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.
14. **Commercial Design Standards.** All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.
15. **View Protection.** The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

E. Revocation.

1. **Causes for revocation as enforcement action.** The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- a. **Building permit.** If no building permit has been issued within the time allowed.
- b. **Phased development schedule.** If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- c. **Open space and recreational facilities.** If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of

construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

2. **Procedures.** Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
3. **Effect.** In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

F. Covenants, trusts and homeowner associations.

1. **Legal entities.** The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
2. **Common areas.** If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
 1. The homeowner's association must be legally established before building permits are granted.
 2. Membership and fees must be mandatory for each home buyer and successive buyer.
 3. The open space restrictions must be permanent, rather than for a period of years.
 4. The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 5. Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.
 6. The association must be able to adjust the assessment to meet changing needs.

ORD 5675 Excerpts

Doc ID: 015677290005 Type: REL
Kind: ORDINANCE
Recorded: 04/11/2014 at 09:07:54 AM
Fee Amt: \$35.00 Page 1 of 6
Washington County, AR
Kyle Sylvester Circuit Clerk
File **2014-00008557**

ORDINANCE NO. 5675

AN ORDINANCE TO AMEND § 161.32 **PLANNED ZONING DISTRICT** AND § 166.06 **PLANNED ZONING DISTRICT** OF THE UNIFIED DEVELOPMENT CODE TO CLEARLY SEPARATE THE ZONING AND DEVELOPMENT APPROVALS FOR PLANNED ZONING DISTRICTS AND TO SIMPLIFY AND REDUCE CURRENT REGULATIONS AND TO ENACT AN EMERGENCY CLAUSE

WHEREAS, the Planned Zoning District ordinance was established to allow concurrent processing of zoning and development plans; and

WHEREAS, the City of Fayetteville Planning Commission may grant approval of development applications; and

WHEREAS, the City of Fayetteville City Council may approve and enact zoning amendments; and

WHEREAS, the City of Fayetteville desires to establish clear boundaries in the development and zoning review process of a Planned Zoning District request; and

WHEREAS, the Unified Development Code's regulations should be clarified, simplified and shortened whenever possible and feasible.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 161.32 **Planned Zoning District** in its entirety and enacts a replacement § 161.32 **Planned Zoning District** as shown in Exhibit "A."

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby repeals § 166.06 **Planned Zoning District** in its entirety and enacts a replacement § 166.06 **Planned Zoning District** as shown in Exhibit "B."



Section 3. EMERGENCY CLAUSE. That the City Council of the City of Fayetteville, Arkansas hereby determines that the need to immediately resolve the issue of how Planned Zoning Districts should be applied for and handled as a zoning issue is necessary for the public peace, health and safety. Therefore, the City Council of the City of Fayetteville, Arkansas hereby declares an emergency exists such that this ordinance shall be in full force and effect from the date of its passage.

PASSED and APPROVED this 1st day of April, 2014.

APPROVED:

ATTEST:

By: 
LIONEL JORDAN, Mayor

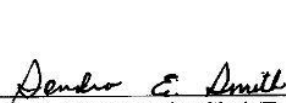
By: 
SONDRA E. SMITH, City Clerk/Treasurer



EXHIBIT "A"

161.32 Planned Zoning District

(A) *Applicability.* To be considered for a Planned Zoning District, the applicant shall meet all of the following criteria:

(1) *Location.* Any property located within the city limits is eligible for a Planned Zoning District. Upon City Council approval, an owner or developer of a specific piece of property located within the City's designated planning area may be authorized to submit a Planned Zoning District application in conjunction with an annexation request, but final approval of the PZD will not be effective until said property is annexed into the City of Fayetteville.

(2) *Size.* There shall be no minimum or maximum tract size for a PZD application.

(B) *Purpose.* The intent of the Planned Zoning District is to permit and encourage comprehensively planned zoning and developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the concurrent processing of zoning and development. The City Council may consider any of the following factors in review of a Planned Zoning District application.

(1) *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) *Compatibility.* Providing for compatibility with the surrounding land uses.

(3) *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) *No negative impact.* Does not have a negative effect upon the future development of the area;

(6) *Coordination.* Permit coordination and planning of the land surrounding the PZD

and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) *Open space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) *Natural features.* Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) *Future Land Use Plan.* Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the Future Land Use Plan.

(10) *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.

(11) *Recognized zoning consideration.* Whether any other recognized zoning consideration would be violated in this PZD.

(C) *Rezoning.* Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 154, Amendments.

(1) Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and zoning standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of zoning standards and a specific master plan.

(2) All uses identified within §162 Use Units of the Unified Development Code may be allowed as permissible uses or conditional uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;

CD161:1

- (b) the densities allowed under the current zoning;
 - (c) the urban development goals and other policies of the city's Future Land Use Plan;
 - (d) the topography and character of the natural environment; and
 - (e) the impact of a given density on the specific site and adjacent properties.
- (4) **Building setback.** There shall be no minimum building setback except as may be determined by the Planning Commission and City Council during review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. Greater setbacks may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate separation from adjacent properties.
- (5) **Building height.** There shall be no maximum building height except as may be determined by the Planning Commission and City Council during the review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.
- (6) **Building area.** The Planning Commission and City Council shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

(Ord. No. 4434, §1 (Ex. A), 11-19-02; Ord. 4717, 7-5-05; Ord. 4764, 09-20-05; Ord. 4783, 10-18-05; Ord. 5312, 4-20-10)

161.33-161.99 Reserved

(Ord. 4930, 10-03-06 repealed and re-adopted the entire chapter

CD161:2

EXHIBIT "B"

166.06 Planned Zoning District (PZD)

(A) General Requirements.

- (1) A development application may be concurrently processed with a rezoning application through the PZD process and may be conditionally approved, subject to City Council approval of the Planned Zoning District zoning standards.
- (2) Development plans submitted with a PZD may include more restrictive development regulations than that which are included in other sections of the UDC, but standards shall not be established that fall below these minimum standards.

(B) Modifications to development plan.

- (1) *Minor Modifications.* Minor modifications to an approved PZD development plan shall follow the criteria established for the specific development category.
- (2) *Major Modifications.* Major modifications to an approved PZD development plan shall be submitted to the Planning Commission in a form which compares the approved submission with the desired changes.

(C) Construction of community amenities. Unless otherwise approved by the Planning Commission, community amenities offered as part of a PZD development plan shall be constructed with the first phase of development.

(Ord. 4717, 7-5-05; Ord. 4779, 10-18-05; Ord. 4919, 9-05-06; Ord. 5104, 1-15-08)

CD166:1



CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

Jeremy Pate, Development Services Director

From: Jesse Fulcher, Senior Planner

Date: February 28, 2014

Subject: ADM 13-4602 (UDC Amendment: Chapter 161.32 Planned Zoning District and Chapter 166.06 Planned Zoning District)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to amend the Planned Zoning District (PZD) regulations. The amendments are significant; however, it is staff's opinion that the PZD remains a valuable tool to retain the ability for the Council to see a zoning and development item processed concurrently. The Council makes important legislative decisions related to zoning: building height, setbacks from adjacent properties, permitted and conditional uses, etc. A PZD proposal is a unique custom zoning district, allowing the City Council to review and approve or deny the proposal with neighborhood, staff and applicant input.

BACKGROUND

The City of Fayetteville adopted the Planned Zoning District (PZD) ordinance in November 2002 by Ordinance No. 4434. The PZD ordinance replaced the Planned Unit Development (PUD) process that had been in place for several decades. Planned Zoning Districts and Planned Unit Developments are but two names used to identify master development plan processes, which are employed by municipalities across the nation.

The primary reasons that the PZD ordinance was adopted was to allow customized zoning districts for unique development, to allow concurrent processing of zoning and development plans, and to provide the City Council with an opportunity to make policy decisions related to land use. Under the PUD ordinance, these policy decisions were built into the ordinance and were approved by the Planning Commission. This was very different from a rezoning request where the Planning Commission makes only a recommendation on the zoning amendment and the City Council makes the final legislative zoning decision. The PZD process reestablished the Council's role in master development plan zoning decisions and provided a streamlined review process for the development community.

In 2012, after the approval of a Planned Zoning District, a lawsuit was filed challenging the City's PZD ordinance. In response to this action, the City Attorney requested Planning Staff amend portions of the Unified Development Code to clearly separate the zoning and development standards in the ordinance.

PROPOSAL

Staff's primary goal with these code amendments is to group all of the "zoning" standards in Chapter 161, Zoning Regulations, and all "development" standards in Chapter 166, Development. Currently, terminology associated with "zoning" and "development" crosses into both chapters, creating confusion in the code and in the decision making process. The end result should be a PZD process that includes a pure zoning decision by the City Council and a separate development plan decision by the Planning Commission. This process already exists for similar applications. Large scale developments and preliminary plats only require Planning Commission approval and zoning decisions are made by the City Council after a recommendation by the Planning Commission.

A second goal is to streamline Chapters 161.32 and 166.08. Currently, 161.32 outlines many of the findings for a PZD which is appropriate. However, it also includes categories and standards for residential, commercial, and industrial PZD's. These groups are all based on the primary land use, and ultimately provide only a name for the type of PZD, but little else. The remaining standards are related to compatibility with surrounding properties, which is a finding already under 161.32(B). Staff is proposing to remove all of 161.32(C), (D), and (E).

Chapter 166.06 Planned Zoning District is currently over nine pages long. The largest part of this code is dedicated to items found in the PZD application – essentially instructions. This includes instructions to submit copies of the PZD plan, to complete a PZD application and pay the required filing fees listed in Chapter 159. Similar requirements exist for all types of applications (large scale developments, lot splits, etc.), however, this is the only application type with instructions listed in the ordinance. Staff is proposing to eliminate all such items from Chapter 166.

Staff is also recommending that the allowance for private streets within PZD's be removed. Currently all private streets must be constructed to the same standards as public streets, so there is no cost savings to the developer. However, the long term maintenance responsibility is given to a limited number of property owners within the development, most of which don't realize that they are financially responsible for the street. This does not preclude the use of private drives such as those found within multi-family developments.

Staff is proposing to remove all references to covenants, trusts and homeowner associations. These terms and regulations all deal with private agreements between private property owners. The City does not enforce private party agreements.

One final change is to amend the modification requirements and remove PZD revocation. The Unified Development Code already provides regulations for modifications for both development plans and zoning regulations. Modifications to development plans may be minor or major and can be approved by planning staff or the Planning Commission respectively. A development plan that is part of a PZD action should not have different standards. A request to vary the zoning standards should be brought before the Board of Adjustment, which is the requirement for all zoning variances. Significant changes to a PZD zoning code would likely require a new zoning action by the City Council.

Revocation of a PZD is unnecessary in staff's opinion, because the zoning decision by the City Council should not expire. Once a property is rezoned the zoning remains until a zoning amendment is made by the City Council. This is the case for all other zoning amendments. However, the development approval should expire, as provided by Chapter 166.20. Should a development plan proposed as part of a PZD expire, then the applicant would have to resubmit the development plan through the appropriate process and receive a new approval. For a large property, the applicant can process the zoning request for the entire property and only submit a

development application for the first phase of development. Separate development applications would be submitted for each subsequent phase.

Changes to the Unified Development Code are shown in ~~strikeout~~ and highlight in the attached document.

DISCUSSION

On February 24, 2014 the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 6-0-1 with Commission Chessser voting 'no'.

BUDGET IMPACT

None.



CITY OF
FAYETTEVILLE
ARKANSAS

CITY-INITIATED REZONING (PZDS)

February 21, 2024

Re: City-Initiated Rezoning of Planned Zoning Districts

Dear Planning Commission and City Council,

City staff recently completed a review of existing Planned Zoning Districts throughout the city and identified properties that would benefit from a rezoning due to outdated/expired zoning entitlement, including properties in Cliffside Subdivision, Paddock Road Subdivision, Westbrook Village II, Springwoods, and Park West. City staff will be initiating a rezoning to confirm land use rights, clean up City records, and bring these properties into consistency with City Plan 2040, Fayetteville's comprehensive land use plan.

For background, these parcels are zoned under a "Planned Zoning District (PZD)." This designation established custom zoning and development standards for these properties to allow for more specific permitted uses, setbacks, lot sizes, and other requirements with the approval of the Planning Commission and City Council. However, prior to changes to this ordinance in 2014, this zoning approval was tied to a development plan and was set to expire if all needed permits were not received in a timely manner. Due to the outdated nature of the existing zoning entitlement, this could create difficulties for any future construction, major renovations, efforts to revise property lines, subdivide parcels, or request other permits that require review of City's zoning code. In order to avoid those issues, staff is recommending that the property be rezoned to one of the City's standard zoning districts.

Staff has analyzed each PZD to determine what types of land uses, lot sizes, setbacks, and building heights were originally permitted in each district, and compared that with current land uses on the property or in the immediate vicinity. Staff used this information as well as comparisons with the City's Future Land Use map to identify recommendations for which of the city's existing zoning districts would be the best fit for each parcel. Those recommendations will be first heard by the Planning Commission on March 25, 2024, and will ultimately go to the City Council for final consideration.

If you have any questions, or would like more information about staff's recommendations, please feel free to contact me directly at (479) 575-8239. You may also reach out to the main City of Fayetteville Planning office at (479) 575-8267.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessie Masters".

Jessie Masters, AICP
Development Review Manager

**EXHIBIT
PUBLIC COMMENTS**

PZD Name	Public Comment
Cliffside (AKA Timber Trails)	One phone inquiry requesting additional information on the proposed zoning districts. One email inquiry requesting additional information.
Paddock Road Subdivision	No Comments Received
Westbrook Village Ph. 2	One inquiry regarding extent of proposal and expressing general support for proposed rezoning. One inquiry regarding proposed zoning / future plans and expressing general concerns about flooding and drainage within the neighborhood, particularly to the south of the proposed rezoning area.
Springwoods	PID 765-25746-000 & PID 765-25745-000 (Lots 1 & 2): Extensive email and phone conversations with staff regarding expiration of PZD, rezoning process, and staff request. The owner is opposed if rezoning is forwarded with a recommendation of CS. Owner preference in favor of request with change to UT. PID 765-23604-000 (Lot 6A): Email / phone conversation with ownership team. Owner in support of staff-proposed rezoning PID 765-25752-000& 765-25756-000 (Lots 8 & 12): Slight concern about CS and UT, but owner may be looking at doing some form of warehouse use. PID 765-26552-000 (Pines at Springwood): Phone Inquiry from the POA board president clarifying the scope of the request. Caller expressed general support for the rezoning, acknowledging that RI-U aligns with what has been constructed in the neighborhood already.
Park West	Phone Inquiry from property owners: Minimal concern about split zoning of UT and CS as potential development could work in both districts, general support of request. Owners are also working through other development issues such as easement and ROW acquisitions.

LEGEND

(See comments for details)

TEXT = Neither support nor opposition to request expressed

TEXT = Comment in support

TEXT = Comment in opposition

Wonsower, Donna

From: Masters, Jessica
Sent: Monday, March 18, 2024 1:22 PM
To: Don Nelms
Cc: David Nelms; Scott Price; Wonsower, Donna
Subject: RE: Proposed rezoning

Mr. Nelms,

Thank you for the follow up, and for taking the time to review the UT zoning district. We certainly appreciate the feedback, and we will get this accounted for in our forthcoming report.

Jessie

Jessie Masters, AICP

Development Review Manager
City of Fayetteville, Arkansas
(479) 575-8239

www.fayetteville-ar.gov

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



From: Don Nelms <dnelms46@gmail.com>
Sent: Monday, March 18, 2024 11:52 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Cc: David Nelms <daviddnelms@gmail.com>; Scott Price <gscottar@gmail.com>
Subject: Proposed rezoning

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

Dear Jessie,

I really appreciate you taking the time to visit with me about zone district PZD and the rezoning of Springwood. I am satisfied that changing this to UT will accommodate all of our needs. Thank you very much for agreeing to do this for us. That will eliminate my concerns and make our lives much easier.

--

Don Nelms
Jasper 870-446-6477
Gallery 870-446-5477
Fayetteville 479-521-3963
Cell 479-841-2886
dnelms46@gmail.com
www.nelmsgallery.com

Wonsower, Donna

From: Masters, Jessica
Sent: Thursday, February 29, 2024 8:09 AM
To: Tim Brisiel; Wonsower, Donna
Subject: RE: Timber Trails

Tim,

Thank you for the inquiry, and for clarifying the location. Staff is going to be recommending RI-U for those lots, and R-A for the lots that are greenspace.

Let me know if you have any comments that you would like for the Commission to consider!

Jessie

Jessie Masters, AICP
Development Review Manager
City of Fayetteville, Arkansas
(479) 575-8239

www.fayetteville-ar.gov

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



From: Tim Brisiel <Tim@Legacyventuresnwa.com>
Sent: Wednesday, February 28, 2024 5:17 PM
To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>; Masters, Jessica <jmasters@fayetteville-ar.gov>; Tim Brisiel <Tim@Legacyventuresnwa.com>
Subject: Timber Trails

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

The lots I own are all of them clouded in red. It is a total of eight lots. please disregard any verbiage as this is an old sheet but at least you could see the lots in question.

Thank you!

Tim Brisiel
Legacy Ventures | Legacy Asset Management
PO Box 8216
Fayetteville, AR 72703
479-790-3315

Currently mobile so please forgive spelling and grammar!

Wonsower, Donna

From: Masters, Jessica
Sent: Thursday, February 29, 2024 3:43 PM
To: Wonsower, Donna
Subject: Expired PZD - Inquiries

Follow Up Flag: Follow up
Flag Status: Flagged

Donna,

I have so far received two phone calls about the staff-initiated rezoning.

Foxglove: Slightly concerned about CS and UT, but it sounds like they may be wanting to do some form of warehousing use anyway. They may be following up with an email regarding this.

HWY 112 (east of Truckers Drive): Not terribly concerned about the split of UT and CS, since they are trying to do residential and the use schedule in both of those zoning districts would allow for it. They are also working out other issues such as easement acquisitions and ROW acquisitions.

Thanks!

Jessie

Jessie Masters, AICP

Development Review Manager

City of Fayetteville, Arkansas

(479) 575-8239

www.fayetteville-ar.gov

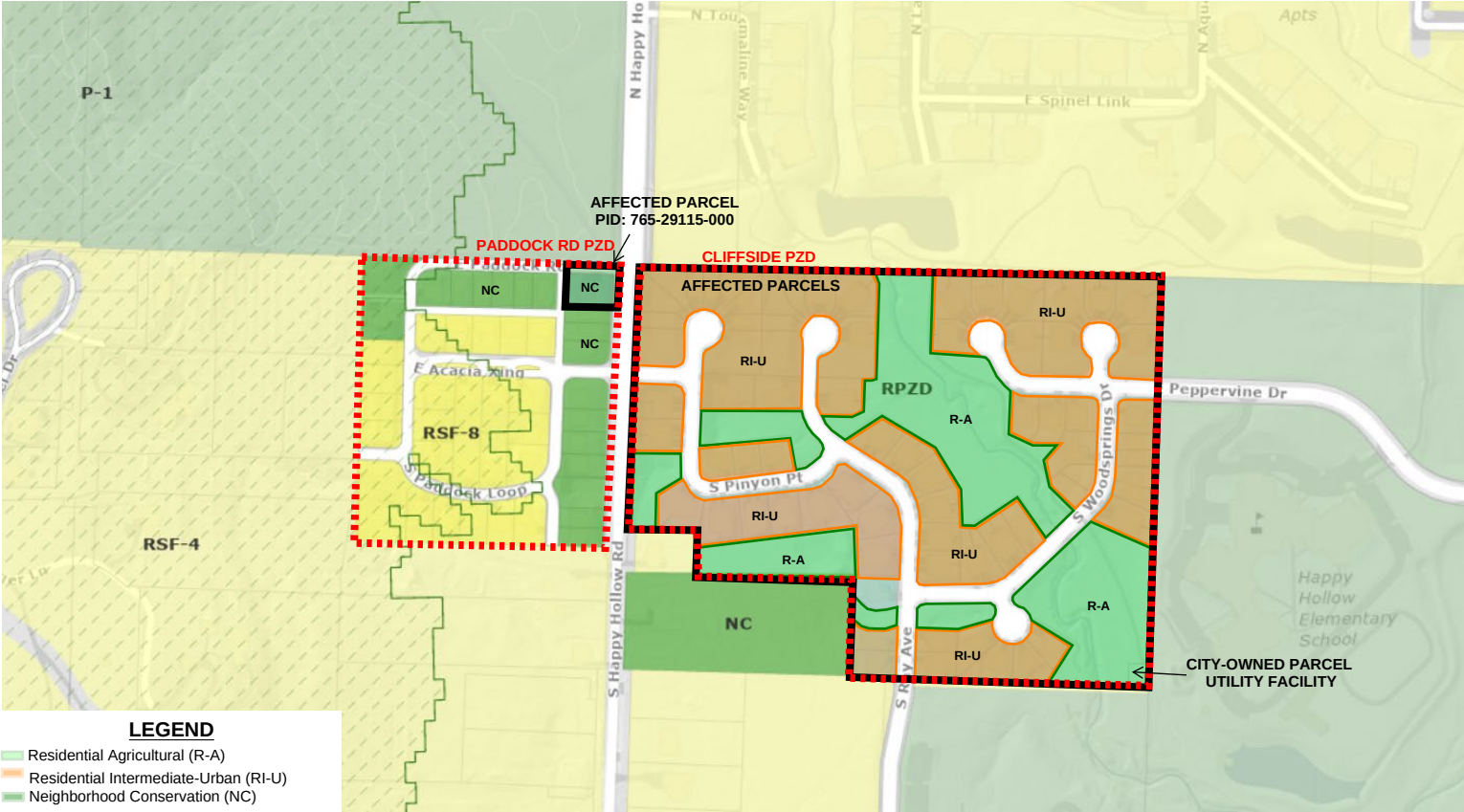
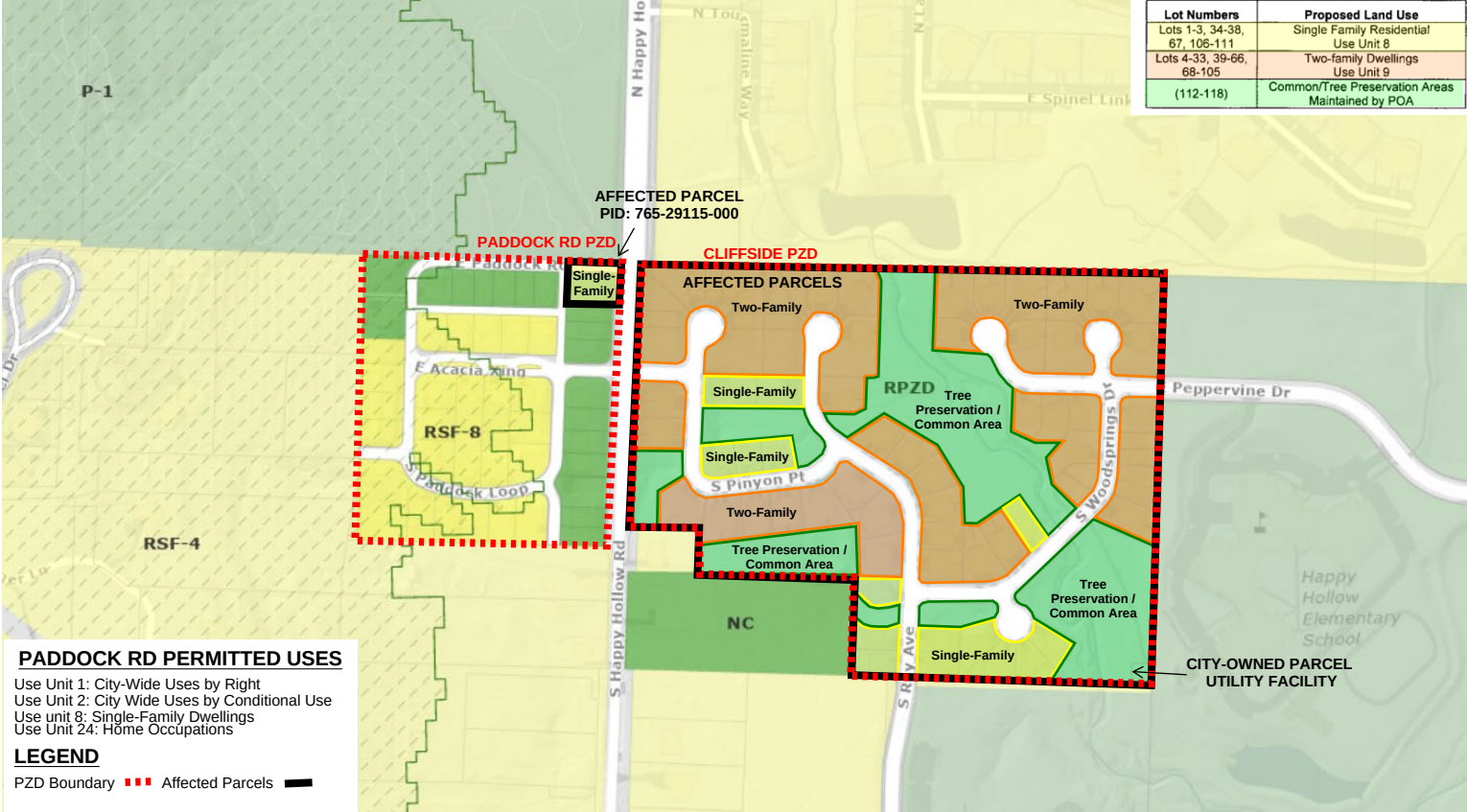
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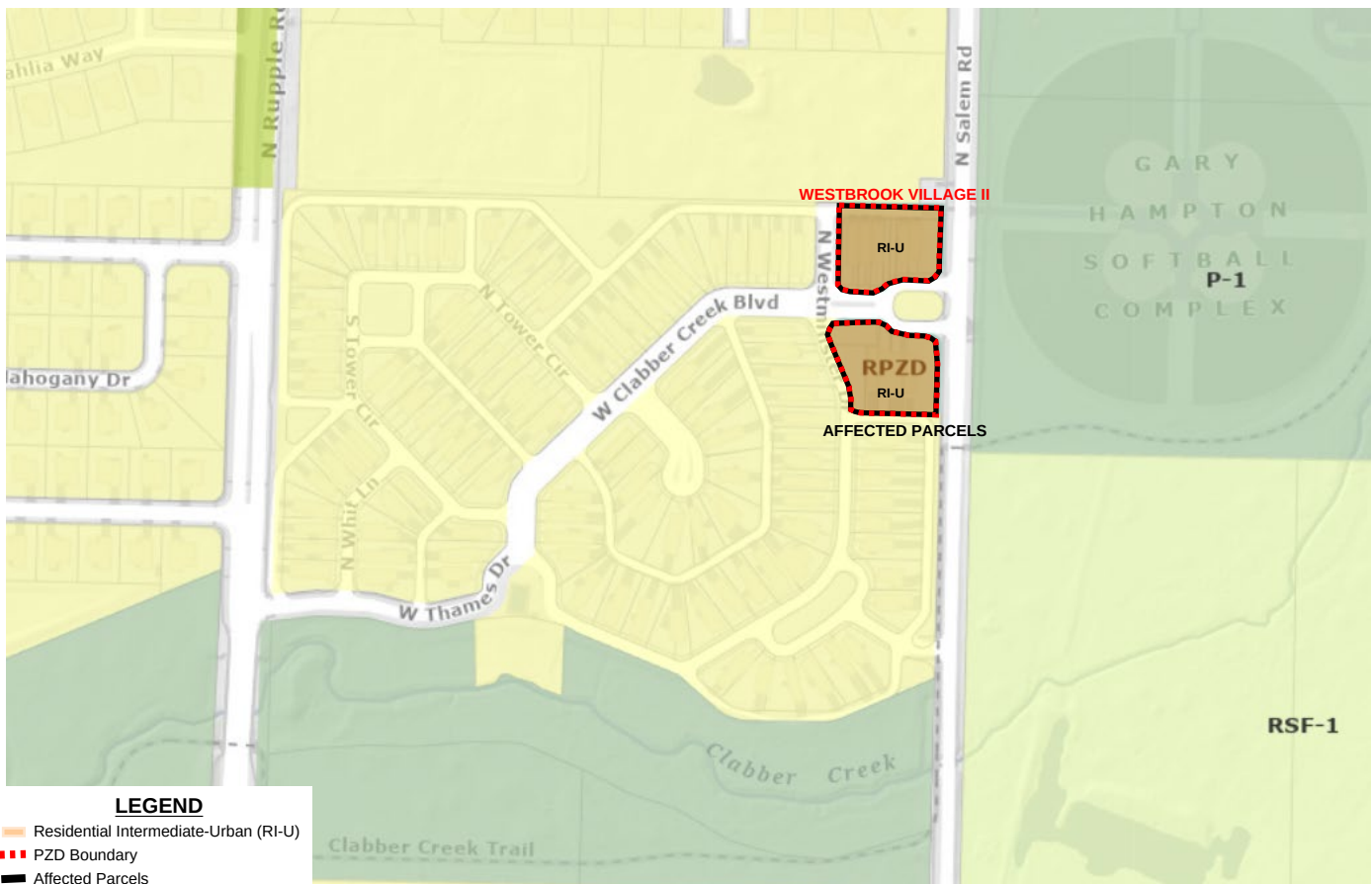
PZD AND ZONING COMPARISON CLIFFSIDE AND PADDOCK RD SUBDIVISION

CLIFFSIDE PERMITTED USES

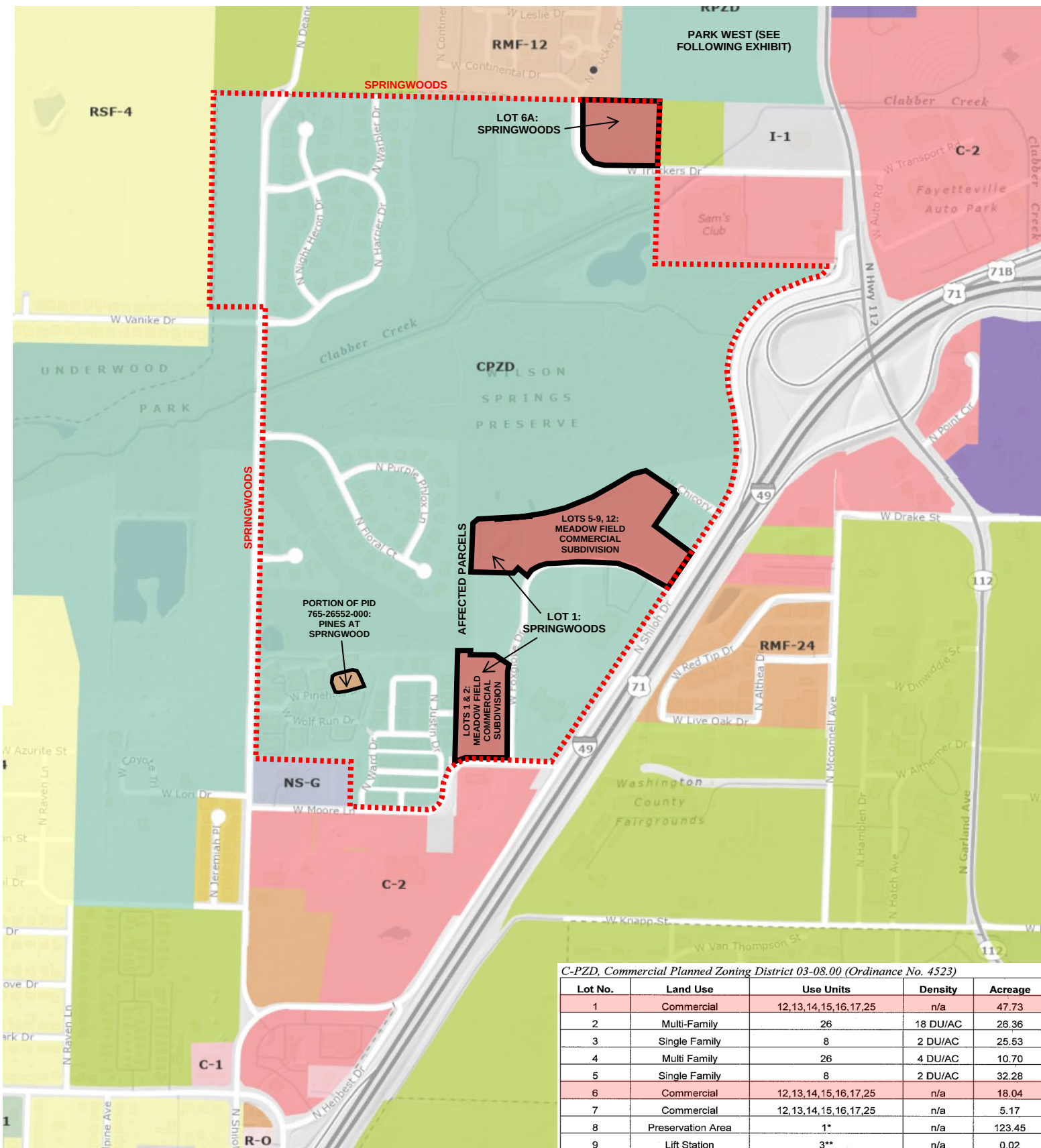
Lot Numbers	Proposed Land Use
Lots 1-3, 34-38, 67, 108-111	Single Family Residential Use Unit 8
Lots 4-33, 39-66, 68-105	Two-family Dwellings Use Unit 9
(112-118)	Common/Tree Preservation Areas Maintained by POA



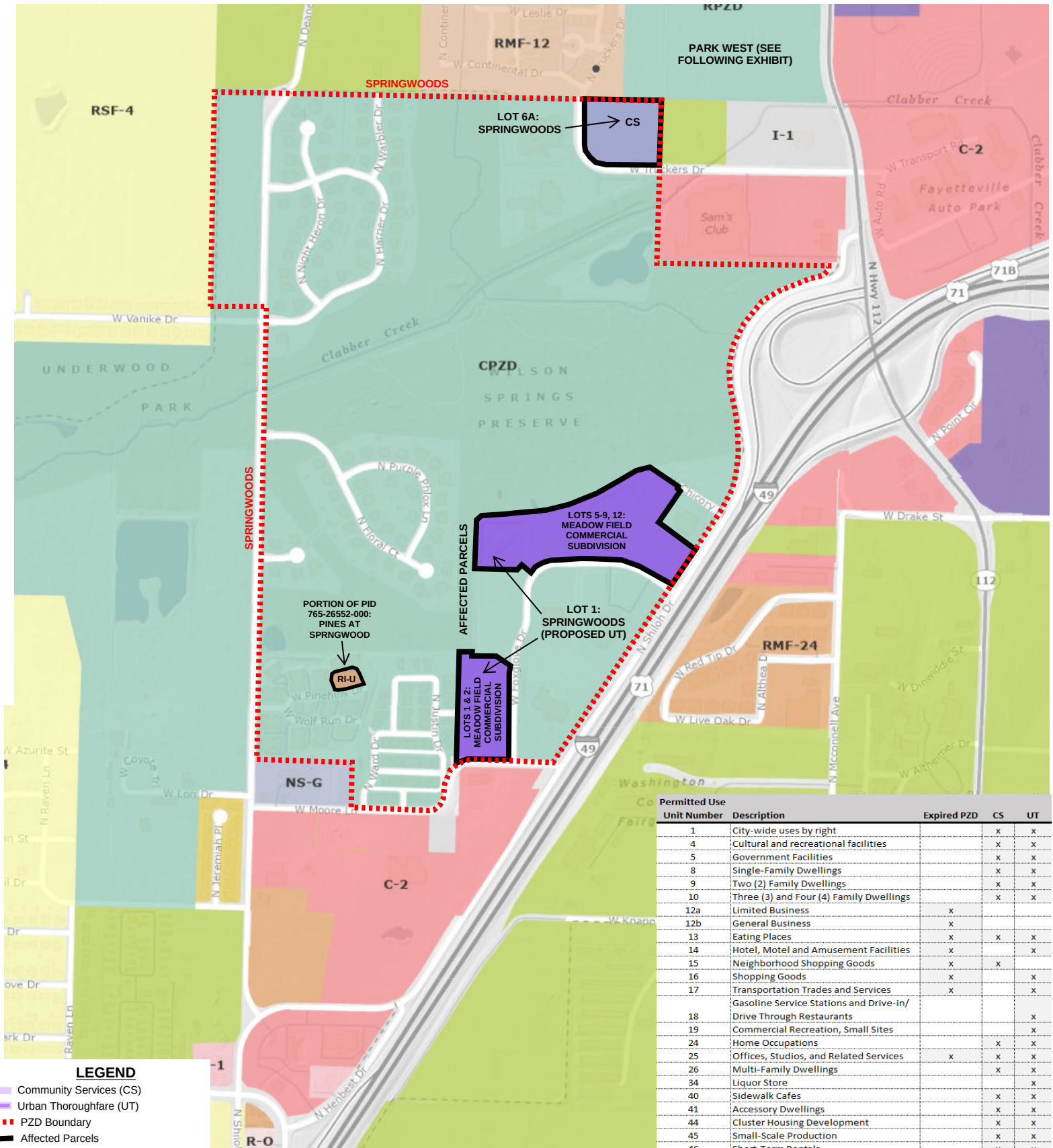
PZD AND ZONING COMPARISON WESTBROOK VILLAGE II

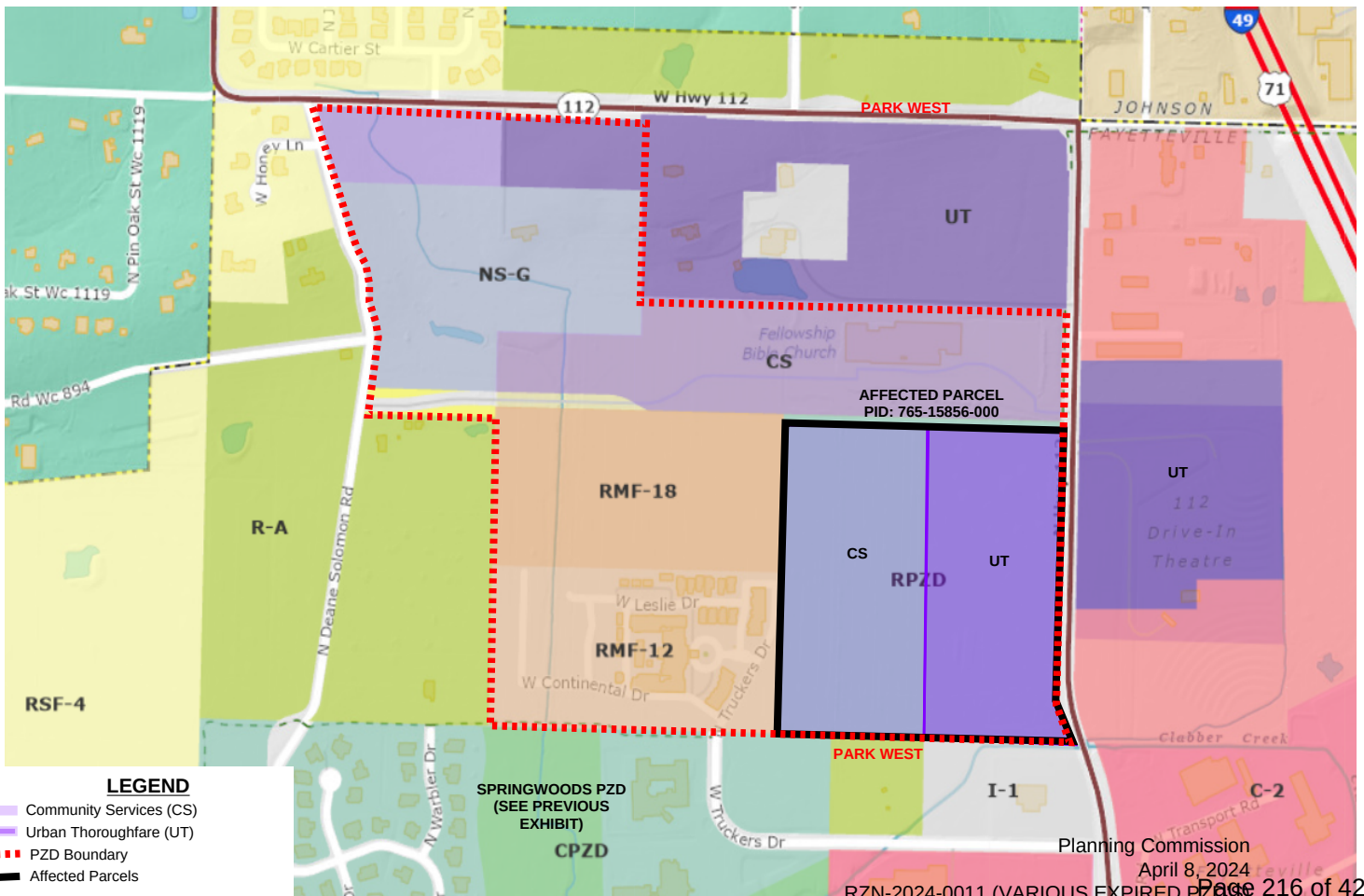


PZD AND ZONING COMPARISON SPRINGWOODS



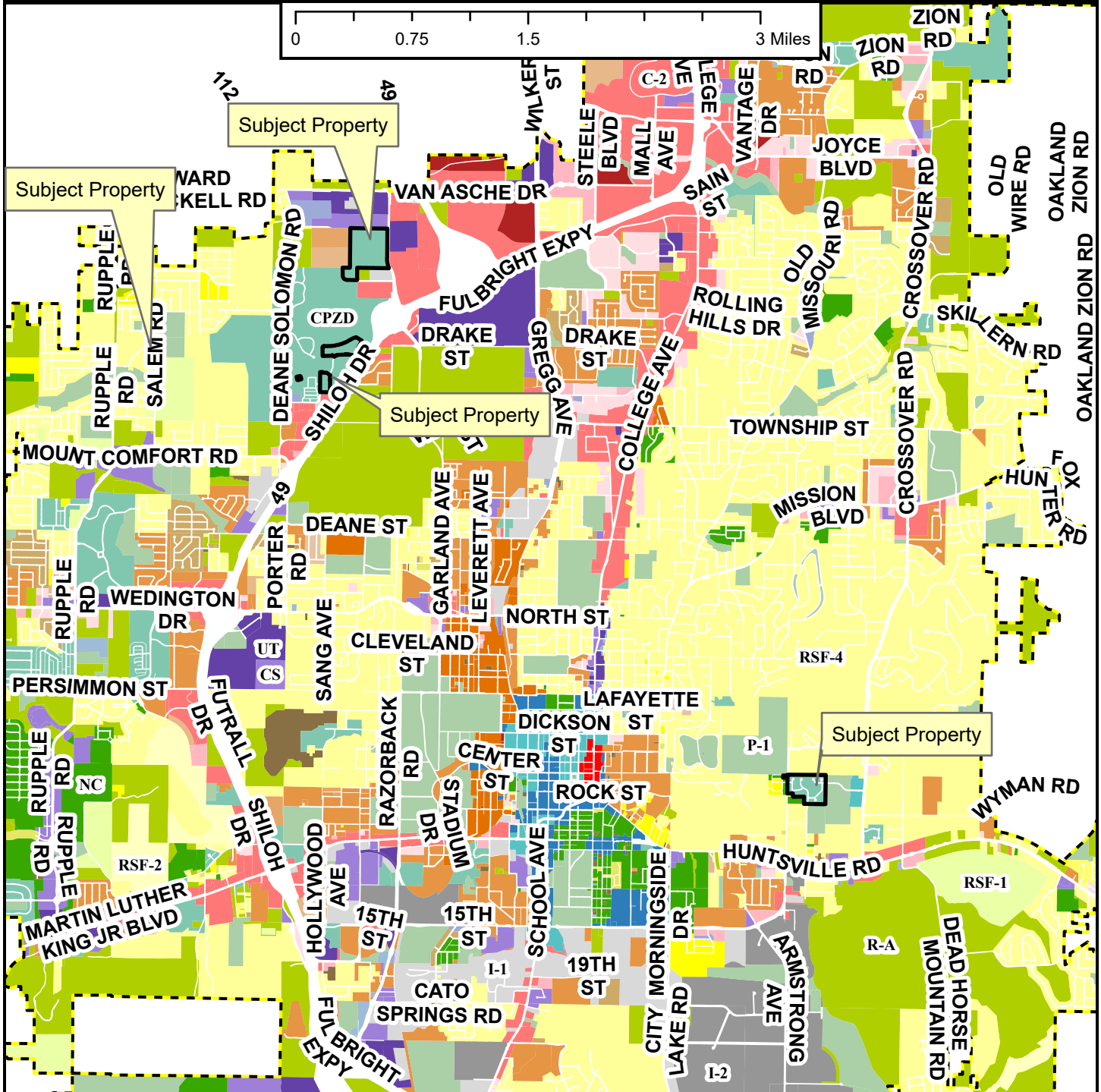
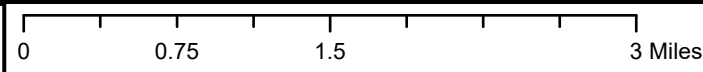
PZD AND ZONING COMPARISON
SPRINGWOODS



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RZN-2024-0011 (VARIOUS EXPIRED PDZs)

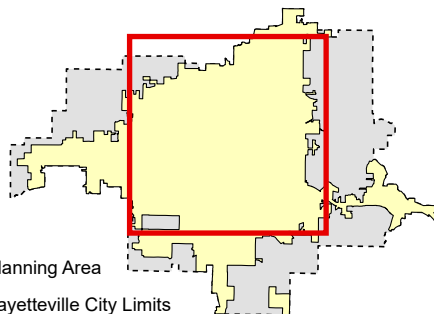
**PZD AND ZONING COMPARISON
PARK WEST**

Permitted Use Unit Number	Description	Park West PA-3	Park West PA-8	Park West PA-11 & 12	Park West PA-14	CS	UT
1	City-wide uses by right	x	x	x	x	x	x
3	Public Protection and Utility Facilities			x			
4	Cultural and recreational facilities		x	x	x	x	x
5	Government Facilities				x	x	x
8	Single-Family Dwellings	x		x		x	x
9	Two (2) Family Dwellings	x		x		x	x
10	Three (3) and Four (4) Family Dwellings	x		x		x	x
12a	Limited Business	x		x	x		
12b	General Business	x		x	x		
13	Eating Places	x		x	x	x	x
14	Hotel, Motel and Amusement Facilities			x	x		x
15	Neighborhood Shopping Goods	x		x	x	x	
16	Shopping Goods	x		x	x		x
17	Transportation Trades and Services			x	x		x
18	Gasoline Service Stations and Drive-in/ Drive Through Restaurants				x		x
19	Commercial Recreation, Small Sites			x	x		x
24	Home Occupations			x		x	x
25	Offices, Studios, and Related Services	x		x	x	x	x
26	Multi-Family Dwellings	x		x		x	x
34	Liquor Store			x	x		x
40	Sidewalk Cafes					x	x
41	Accessory Dwellings					x	x
44	Cluster Housing Development					x	x
45	Small-Scale Production					x	x
46	Short-Term Rentals					x	x

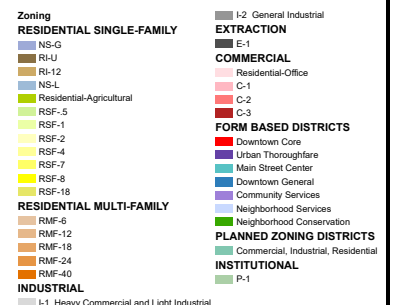


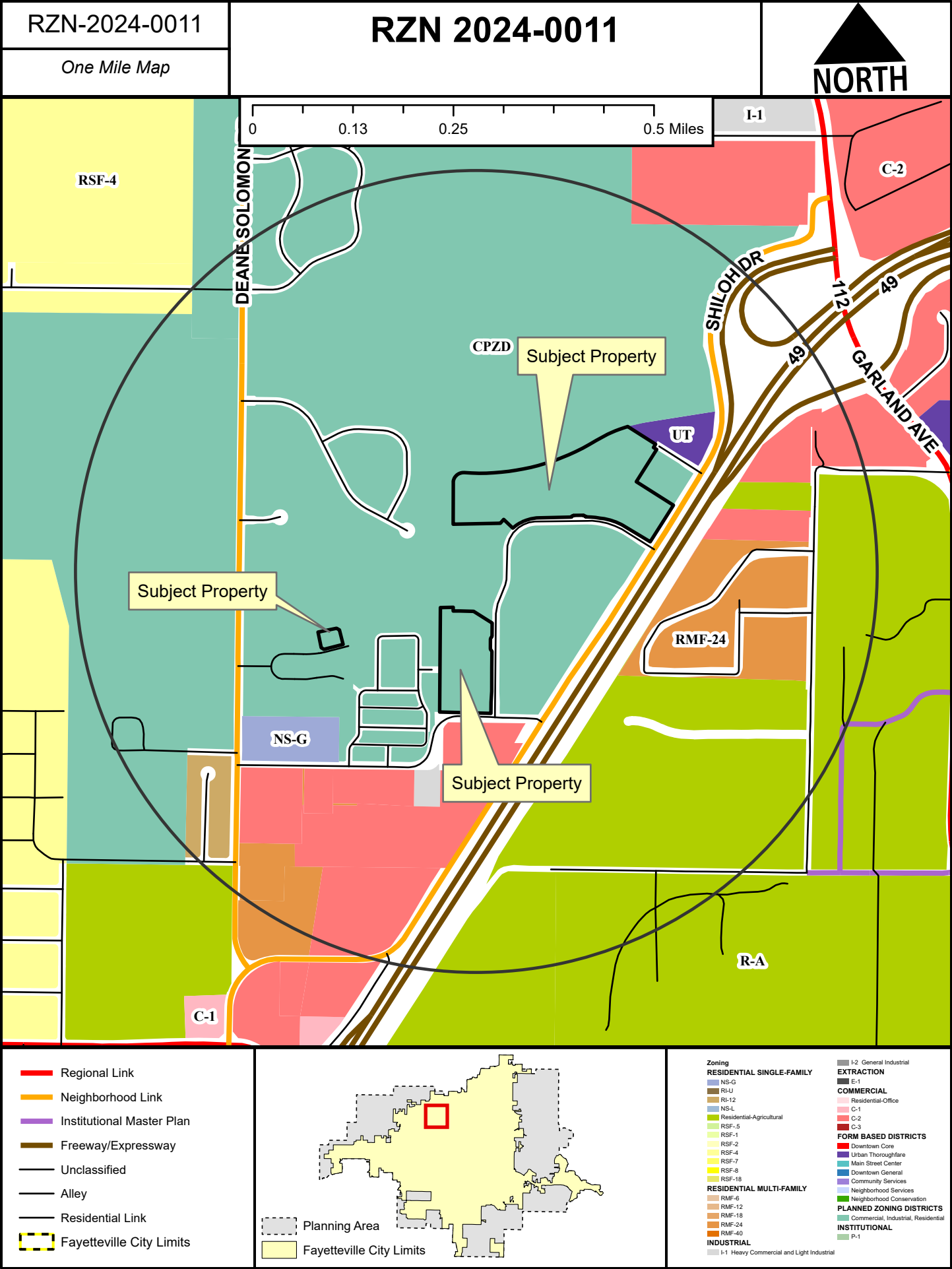
Fayetteville City Limits

Planning Area
 Fayetteville City Limits



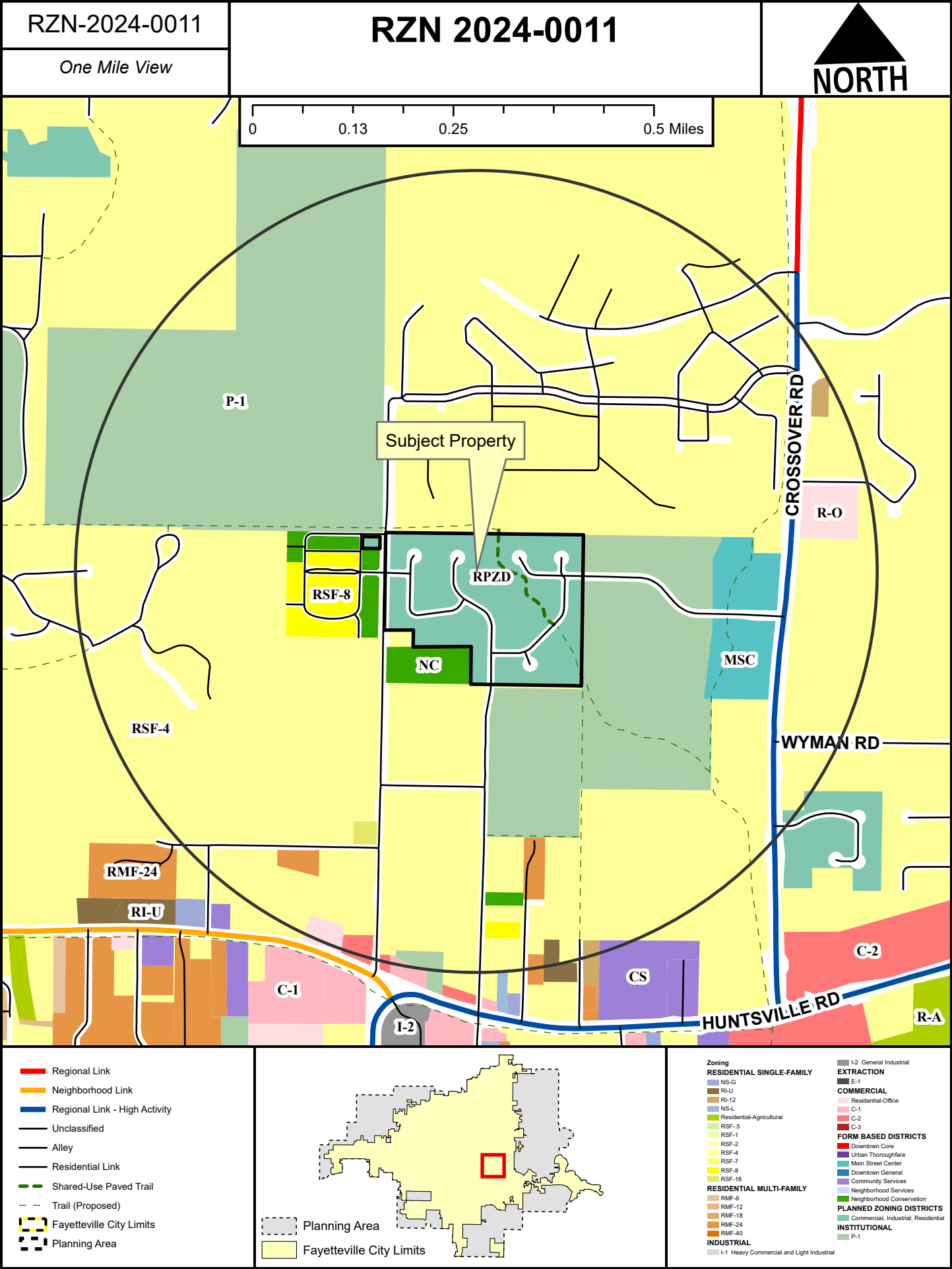
Zoning	I-2 General Industrial
RESIDENTIAL SINGLE-FAMILY	EXTRACTION
NS-G	E-1
RH-U	COMMERCIAL
RH-12	Residential-Office
NS-L	C-1
Residential-Agricultural	C-2
RSF-5	C-3
RSF-1	FORM BASED DISTRICTS
RSF-2	Downtown Core
RSF-4	Urban Thoroughfare
RSF-7	Main Street Center
RSF-8	Downtown General
RSF-18	Community 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	

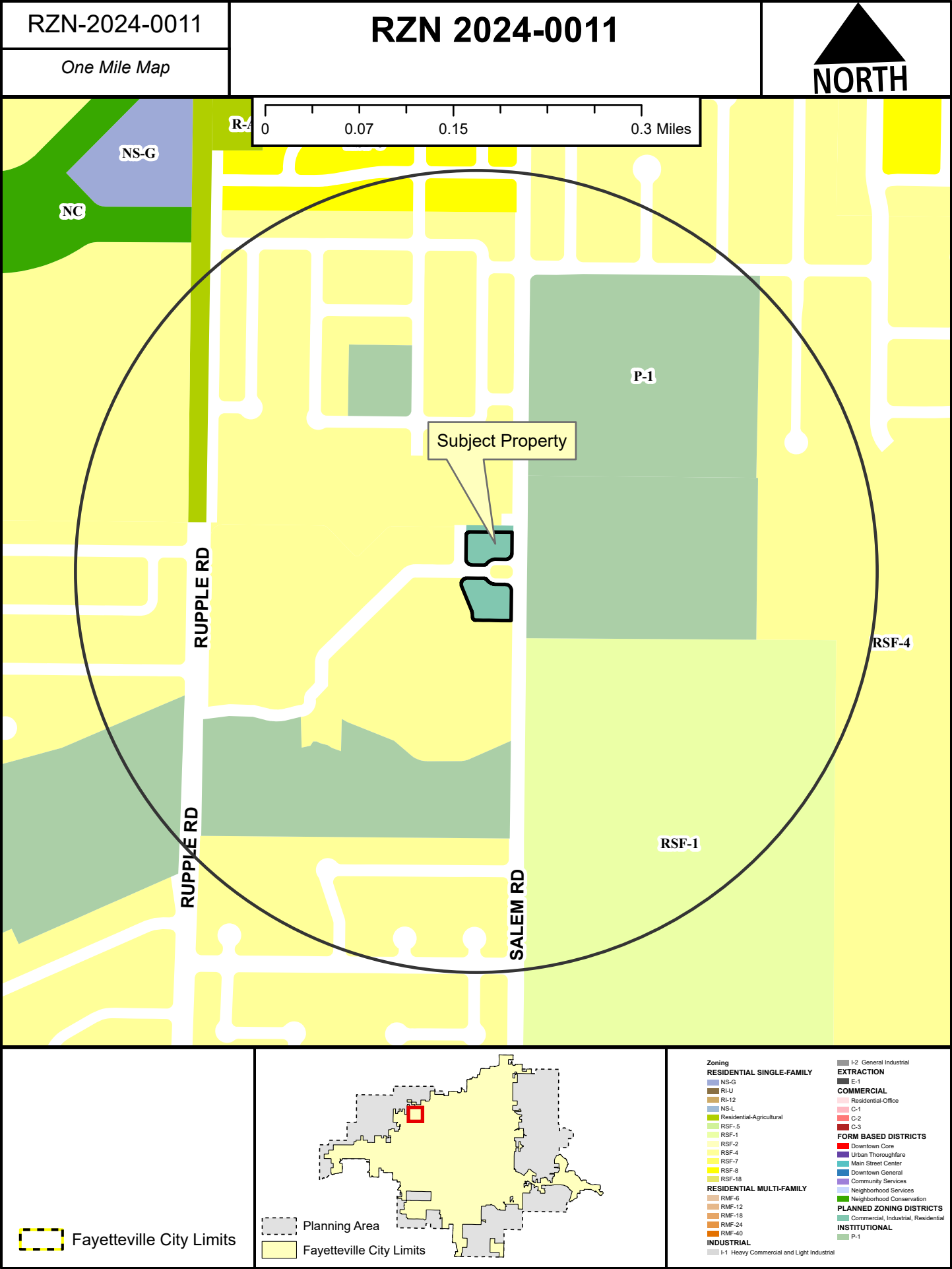


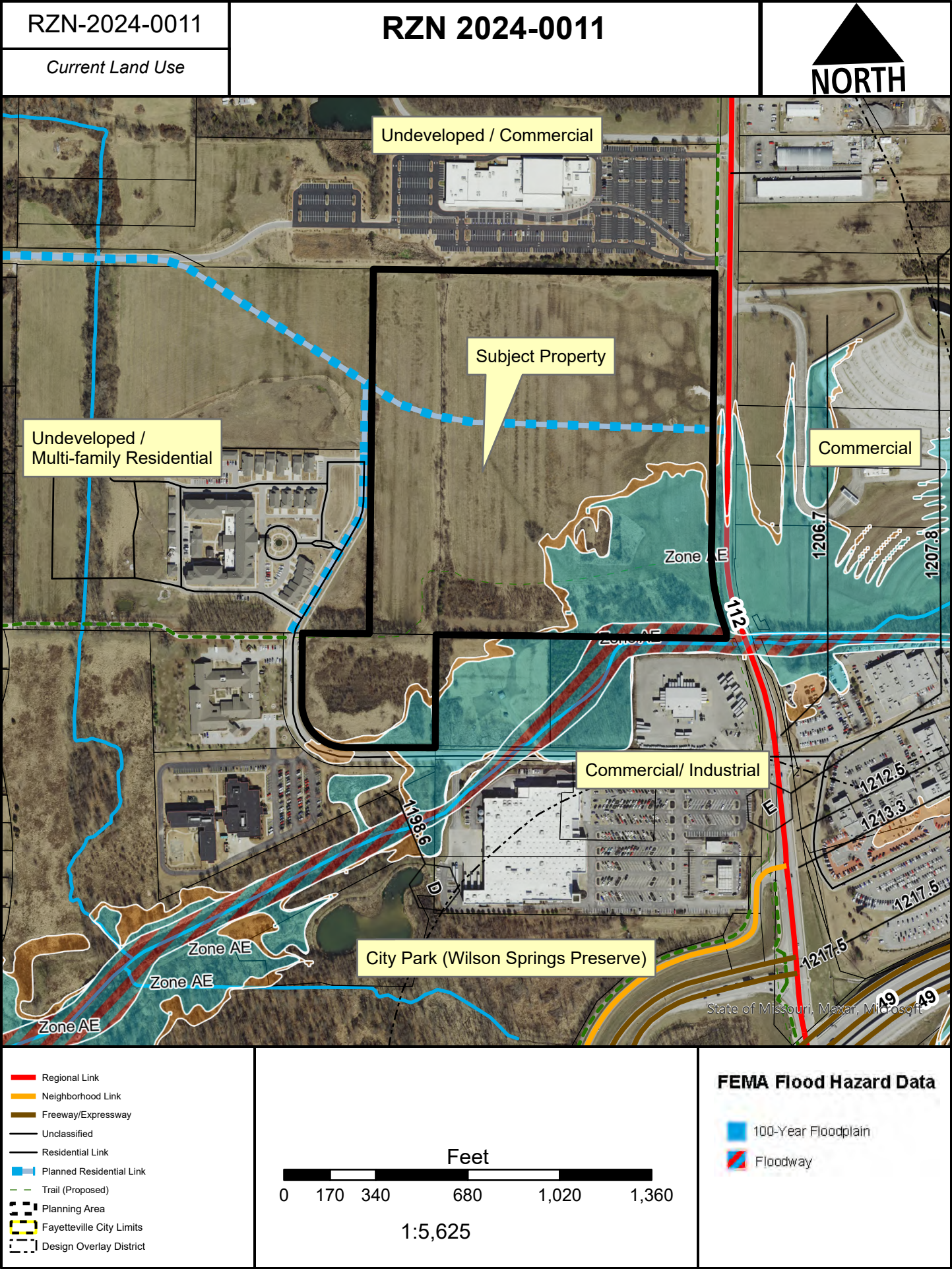


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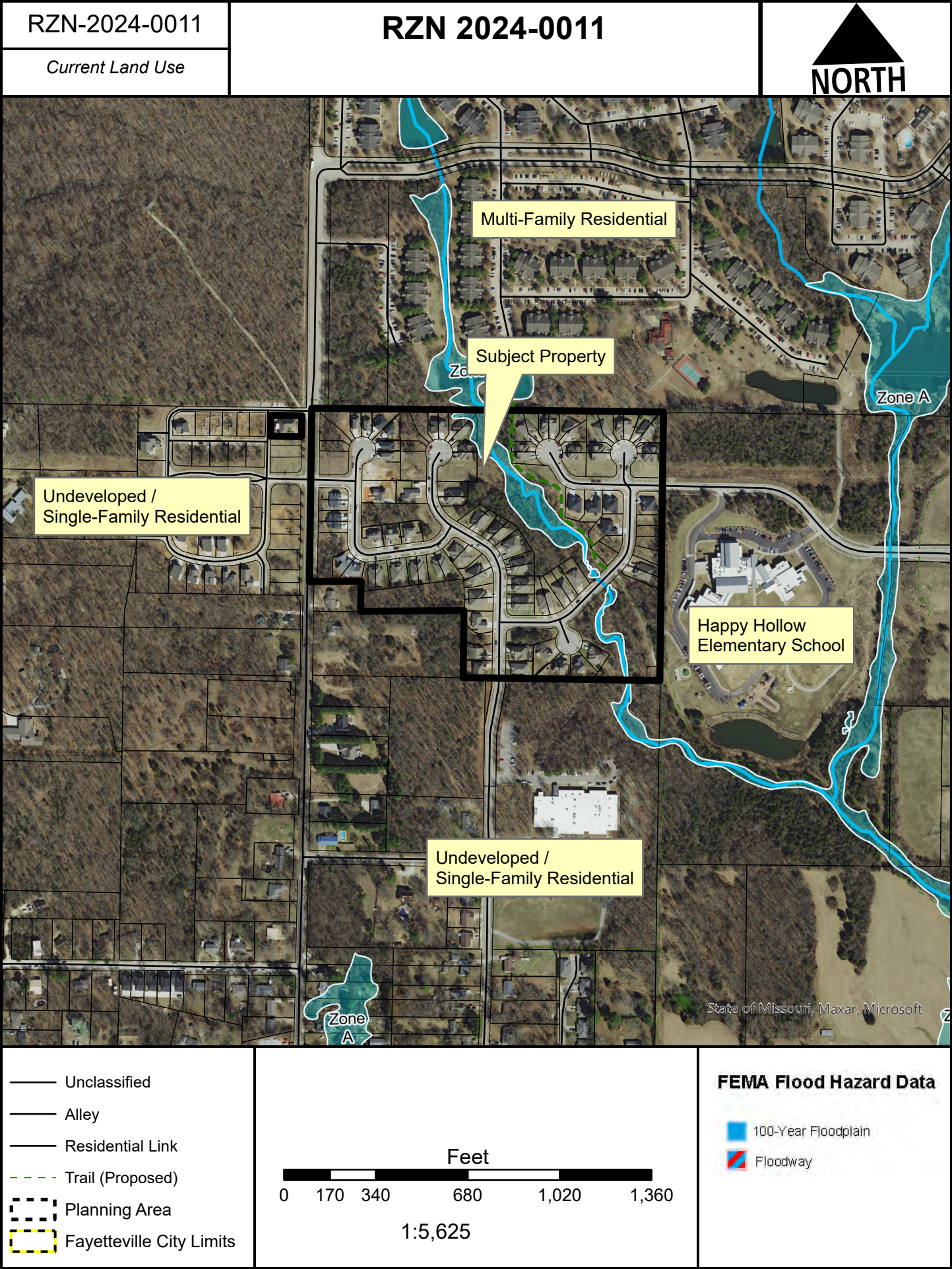
Page 43 of 52

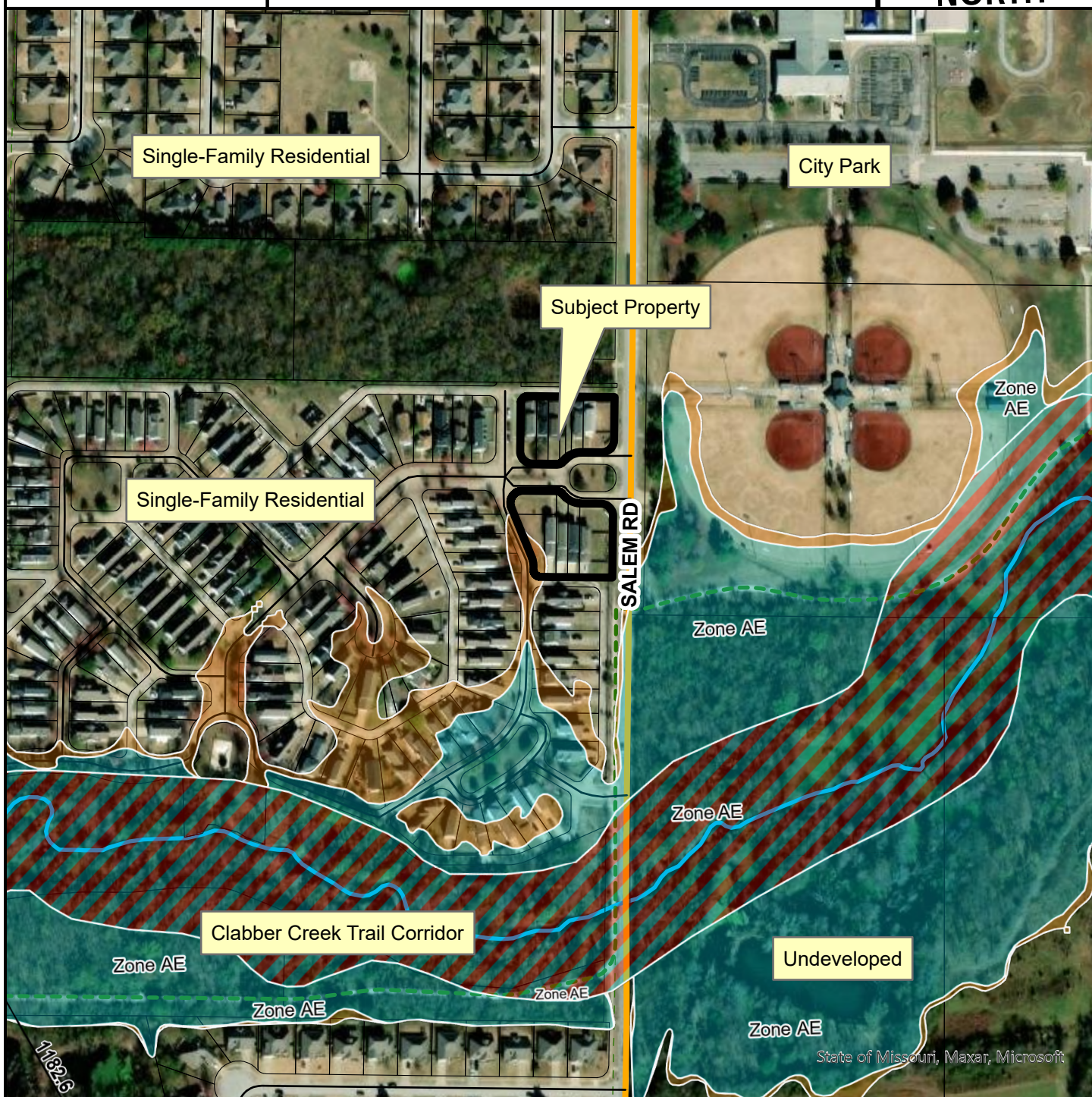












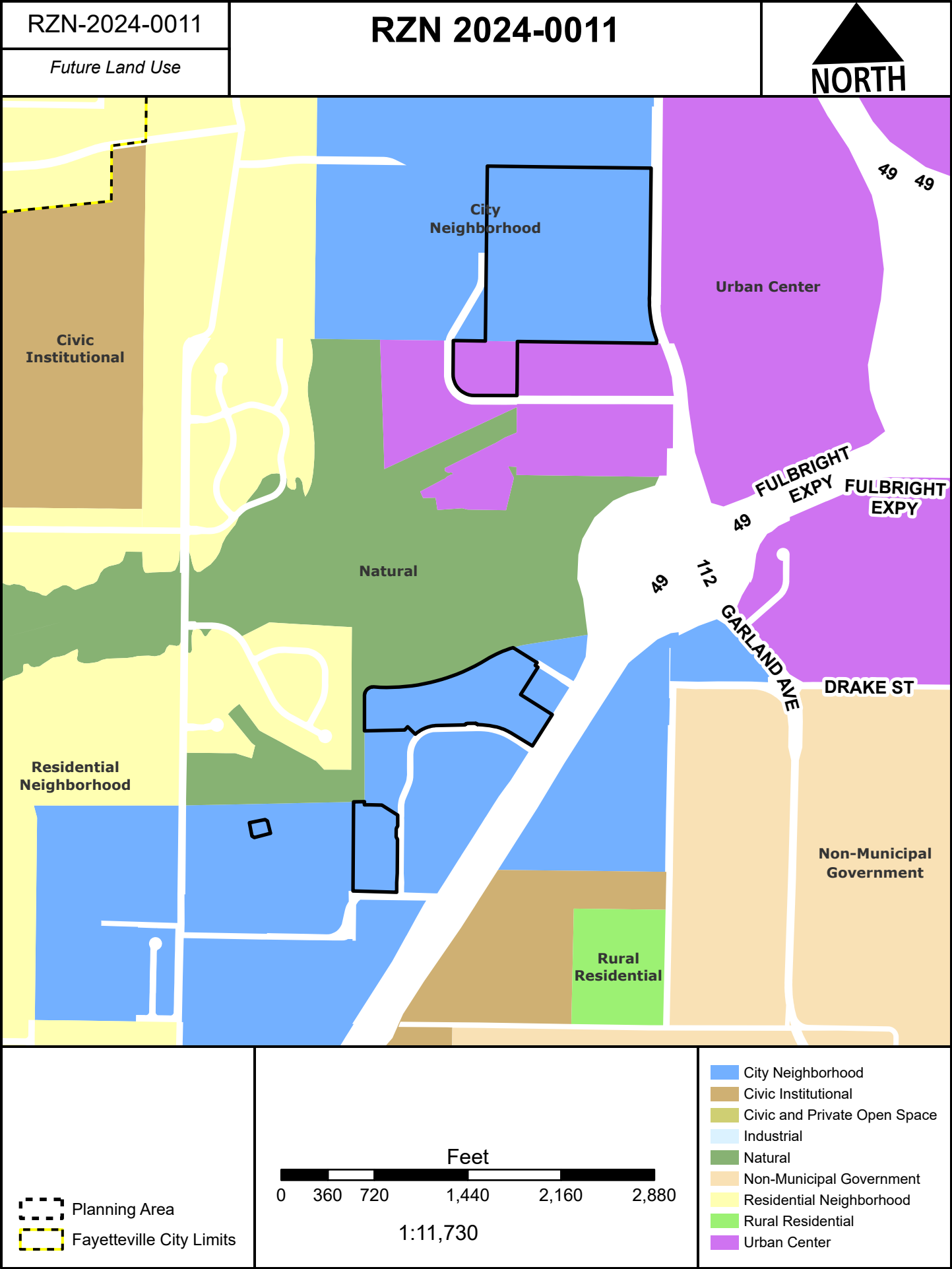
-  Neighborhood Link
-  Unclassified
-  Residential Link
-  Trail (Proposed)
-  Planning Area
-  Fayetteville City Limits

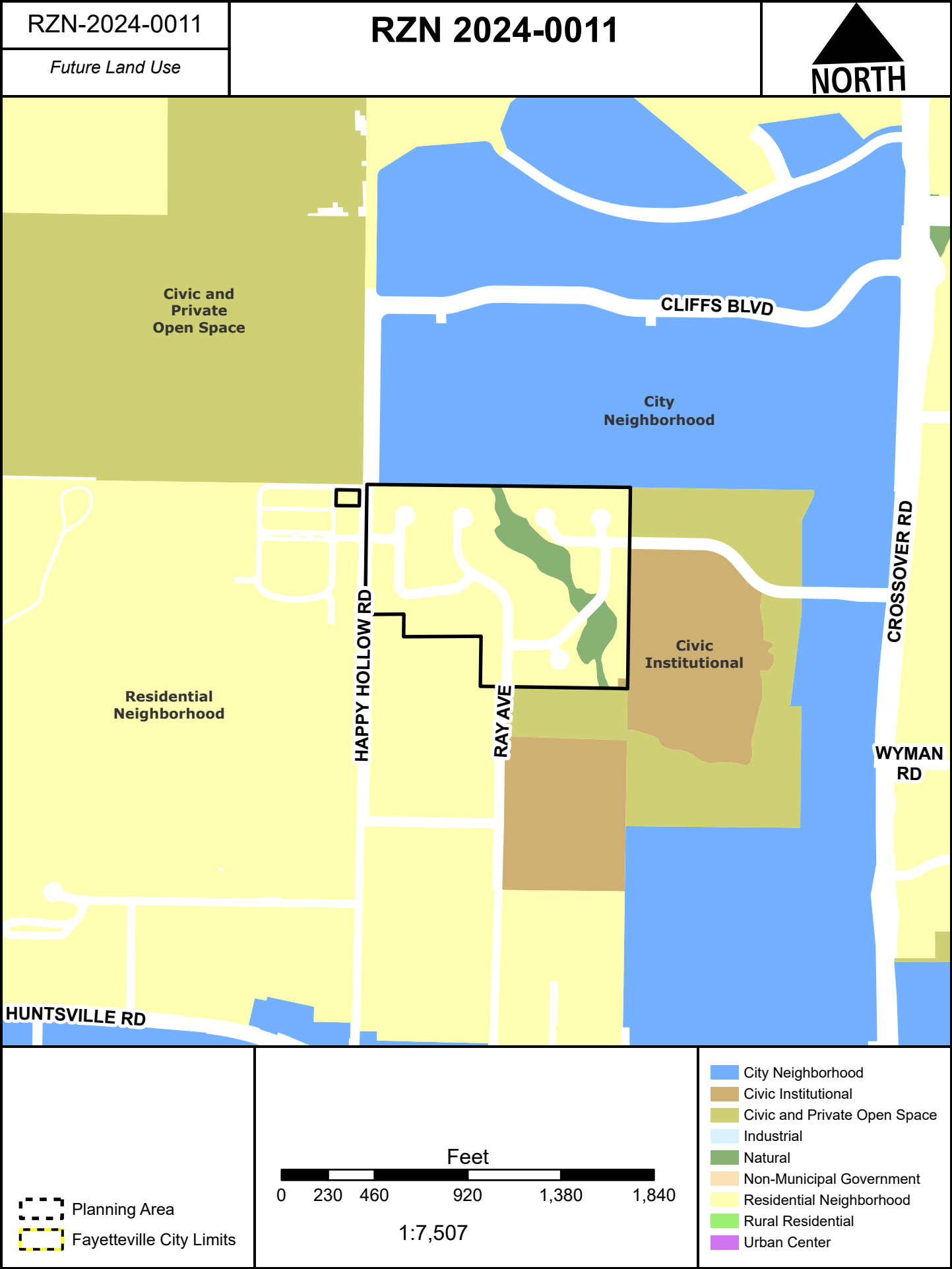
FEMA Flood Hazard Data

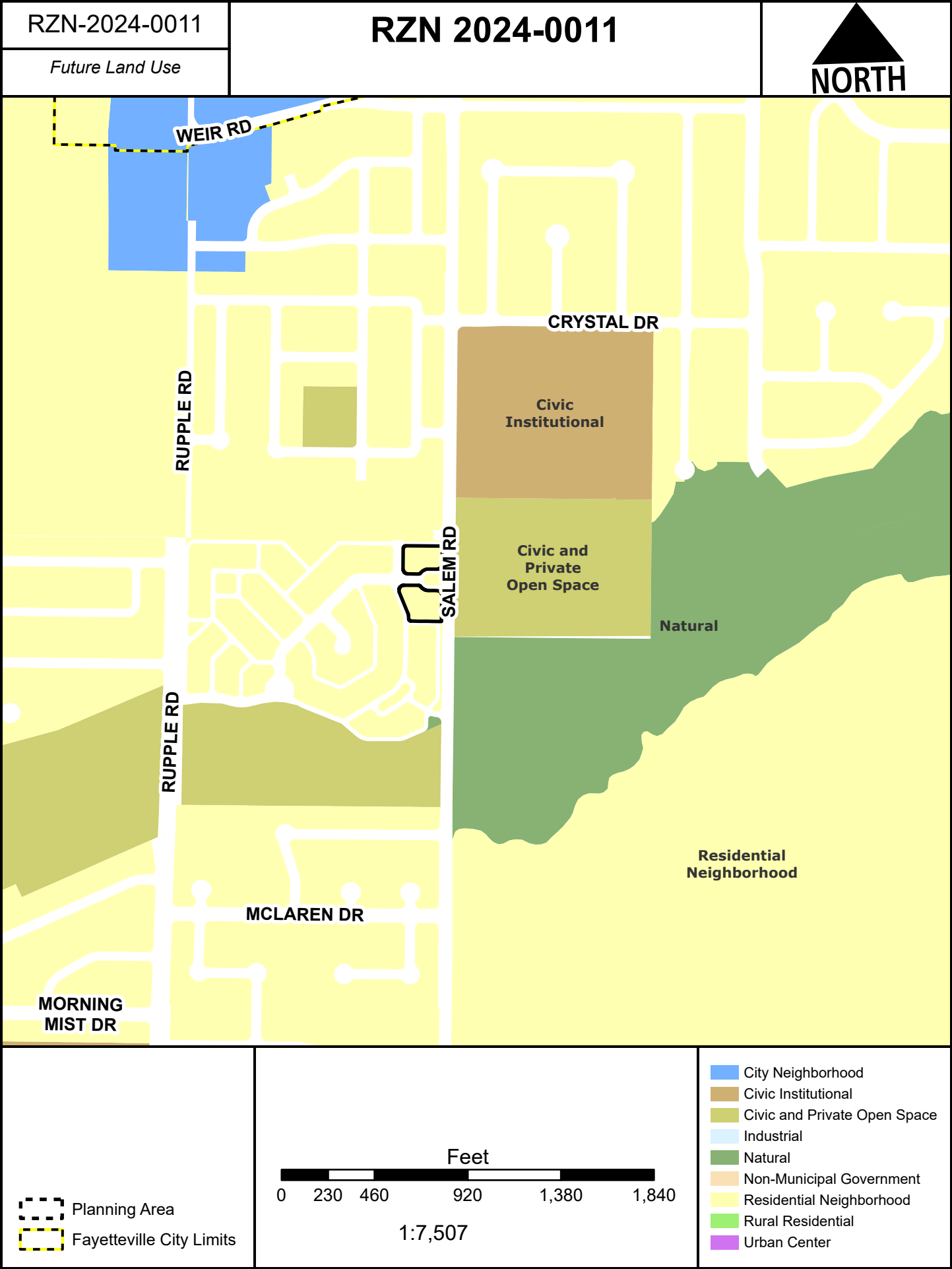
-  100-Year Floodplain
 Floodway

Feet

1:3,600









MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Chris Brown, Public Works Director

FROM: Alan Pugh, Staff Engineer

SUBJECT: **Approval of a resolution of intent to adopt Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment**

RECOMMENDATION:

Staff recommends approval of a resolution of intent to adopt Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment.

BACKGROUND:

Like many cities throughout the state and nation, the City of Fayetteville experiences issues with management of its stormwater utility system. These issues stem from many sources including, but not limited to, compliance with the mandated Municipal Separate Stormwater System (MS4) requirements, aging infrastructure, maintenance of system capacity, personnel to perform systematic inspections and the lack of formal drainage systems in many older areas of the City. To address these concerns, the City has historically funded the stormwater program through the Sales Tax Capital Improvement Program (CIP) and the Street Fund for capital and operational/maintenance functions, respectively. However, there are many needs within the City that require funding from these sources and, at least in recent years, the funding for stormwater has been inadequate to comprehensively address stormwater management within the City. To develop a comprehensive solution, additional funding is required for personnel and equipment as well as multiple capital projects, many of which will require more than \$1 million dollars for each project. Given the current levels, it would take many years to address just one of those projects.

In June, 2018, the City Council recognized these needs and approved with a consultant contract for a feasibility study (Resolution 131-18) and amended that agreement on two occasions (Resolutions 209-19 and 250-19) to provide additional investigation and details. That study was completed in August of 2019 and updated in 2022 with more recent program costs, impervious area and associated fees. The Council also passed a resolution of intent to establish a stormwater utility in July of 2022 (Resolution 157-22)

DISCUSSION:

The study recognized several areas that are currently underfunded, with the gap between the funding and actual costs to provide the services increasing every year. These needs include categories such as:

- Operation and Maintenance
 - Engineering and Planning
-

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113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

- Regulatory Compliance
- Capital Improvement Projects

The costs associated with these categories were based on a level and extent of service agreed upon by council early in the program discussions as well as estimates of future regulatory compliance costs and expansion of the stormwater system as Fayetteville continues to grow. The costs associated with the recommended stormwater utility program can be found below.

Program Costs	Current Budget	Additional Needs	Total Program
Operation and Maintenance	\$998,441	\$1,508,000	\$2,506,441
Engineering and Planning	\$67,000	\$122,000	\$189,000
Regulatory Compliance	\$193,000	\$274,000	\$467,000
Stormwater CIP	\$200,000	\$913,400	\$1,113,400
Administrative	\$0	\$324,000	\$324,000
Total	\$1,458,441	\$3,141,400	\$4,599,841

In response to the completed study and the need to find a sustainable funding source for the stormwater management program, City staff has drafted Chapter 52, Stormwater Management and Water Quality Utility, for consideration by City Council. The proposed ordinance would establish an equitable funding source based on impervious areas, which can be directly correlated to the impact of any given property to the stormwater system. The fee is proposed to be billed to sewer users with the City limits in a tiered system. Properties with greater impervious areas would have a higher fee than smaller properties due to the increased impact to the system. If there are multiple sewer customers on a single property, the total impervious area would be allocated between those customers and the appropriate portion of the total fee billed to each customer.

Staff have worked closely with the City Attorney's office throughout the process and has modified the program to address the concerns that have been raised. The City Attorney has expressed concern over the legality of billing federal, state and county governments, and recommended that they be exempted.

Staff has included a revised monthly fee that reflects this recommendation. The monthly fee is estimated to go to \$1.35 per billing unit with those exemptions, which is a slight increase from the \$1.30 per billing unit discussed previously. That change is reflected in the table below and in the attached draft of Chapter 52.

The proposed fee would provide funding, in addition to that already being allocated from existing sources, to operate and maintain as well as improve and expand the stormwater system. The fee tiers are as shown below.

Tier	Tier Range (by square footage of impervious area on a property)	Billing Units	Initial Monthly Fee (\$1.35 per unit)
1	0≤2,000	1.25	\$1.69

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2	>2,000 to ≤ 3,500	2.75	\$3.71
3	>3,500 to ≤ 5,000	4.25	\$5.73
4	>5,000 to ≤ 6,500	5.75	\$7.76
5	>6,500 to ≤ 8,000	7.25	\$9.79
6	>8,000	Per Calc	Billing Unit x Rate

This fee will close the existing funding gap and will fully fund a program to adequately manage stormwater within the City of Fayetteville. The proposed program presents a sustainable and equitable method of funding.

The additional services authorized with this proposal would include development of the billing database and billing tool that would allow property owners and residents to view their proposed fee as a portion of the continued public outreach efforts. This could include engaging a consultant and/or additional temporary staff. If a consultant is engaged, the contract for the services will be brought back to the council. However, council would be authorizing and to authorize the addition of up to 3.0 temporary full-time equivalent positions for the GIS and utility financial services to backfill existing employees related with the implementation of a Stormwater Utility with this resolution.

This would bring the City one step closer to implementing the program. The anticipated schedule moving forward would be for the billing tool to be available to the public by October of this year and for the council to consider the ordinance adopting the program prior to the end of the year with the goal of the fee being included on sanitary sewer bills by August of 2025. Additional funding is anticipated to be necessary at the time of adoption of Chapter 52 for aerial imagery and impervious data in order to establish the baseline of impervious area for the program.

BUDGET/STAFF IMPACT:

The proposal would initially generate approximately \$3 million in additional funding to be allocated to the Stormwater Management and Water Quality program.

ATTACHMENTS: SRF (#3), BA (#4), Exhibit A - Stormwater Management and Water Quality - Final Draft (#5)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-1836

Approval of a resolution of intent to adopt Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment

A RESOLUTION OF INTENT TO ENACT A STORMWATER UTILITY ORDINANCE AND ESTABLISH A STORMWATER MANAGEMENT AND WATER QUALITY FUND, AUTHORIZE ADDITIONAL SERVICES RELATED TO IMPLEMENTATION AND PUBLIC OUTREACH, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the Engineering Division, the City Council Stormwater Committee, and the City Council Water & Sewer Committee have studied our community's growing need to improve our stormwater management services; and

WHEREAS, with the help of a professional consultant with extensive experience in creating Stormwater Utilities supported by appropriate and fair utility fees, these City Council committees and Engineering staff have devised the fairest Stormwater Management Utility Fee possible and recommend this ordinance to the full City Council for passage; and

WHEREAS, the City Council has determined that the Stormwater Utility Fee is necessary to equitably and efficiently fund stormwater management services in order to provide for the safety, preserve the health, and promote the prosperity of Fayetteville residents, businesses, and institutions; and

WHEREAS, the City Council also agrees with and adopts all the purposes explained in § 52.01 – **Purpose** of the proposed new code section; and

WHEREAS, additional services authorized with this resolution of intent include development of the billing database and billing tool that would allow property owners and residents to view their proposed fee as a portion of the continued public outreach efforts, which could include engaging a consultant or additional temporary staff.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to enact **Chapter 52 Stormwater Management Utility Fee** as shown in Exhibit A attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, to appropriate funds for additional services including development of the billing database and a billing tool to allow property owners and residents to view their proposed fees.

City of Fayetteville Staff Review Form

2024-1836

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chris Brown

5/2/2024

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a resolution of intent to adopt Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment

Budget Impact:

1010.090.6600-5314.00

General Fund

Account Number

Fund

17008.1

Stormwater Feasability Study

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 52,685.00

Expenses (Actual+Encum)

\$ 52,684.64

Available Budget

\$ 0.36

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 150,000.00

Remaining Budget

\$ 150,000.36

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 131-18, 209-19,
250-19, 157-22

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024	ENGINEERING (621)	
	Requestor: Chris Brown	

Approval of a resolution of intent to adopt of Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment

	COUNCIL DATE:	5/21/2024
	ITEM ID#:	2024-1836
	Holly Black	
	5/3/2024 11:11 AM	
	Budget Division	Date
	D - (City Council)	
TYPE:		
JOURNAL #:		
GLDATE:		
CHKD/POSTED:	/	
RESOLUTION/ORDINANCE		

[illegible]

EXHIBIT A

CHAPTER 52: STORMWATER MANAGEMENT UTILITY FEE

ARTICLE I – GENERAL PROVISIONS

52.01 - Purpose

The Stormwater Management Utility Fee is hereby established to create an equitable, efficient, and dedicated funding source for stormwater management services in the City of Fayetteville and provide for the safety, preserve the health and promote the prosperity of Fayetteville residents, businesses and institutions. The purposes for the Stormwater Management Fee further include:

- (A) To establish an equitable, fair, efficient and dedicated funding source for stormwater management services in the City of Fayetteville, Arkansas in addition to other taxpayer funds so that better long-range planning can be achieved.
- (B) To lessen or deter hazards to persons, property and the environment caused by increased runoff, obstructions to drainage and introduction of excessive silts, debris and pollutants into the drainage system, lakes, ponds, streams, rivers and other water bodies in the City of Fayetteville, and to otherwise promote the public health, safety and welfare of the public.
- (C) To fund the City's MS4 Stormwater Management Program for which it is expected to require a series of minimum control measures and report on their progress annually. In addition to new measures with each 5-year permit renewal, the City is projected to meet the population threshold of 100,000 by no later than 2030 and would be designated a medium MS4 community, triggering additional mandated activities.
- (D) To administer the National Flood Insurance Program and its Community Rating System which provides property owners with credits to reduce their flood insurance premiums,
- (E) To equitably and legally address drainage needs, also known as stormwater management, to protect public health, safety, and welfare and to reduce flooding on city streets thereby ensuring access of emergency vehicles to all properties within the City during flood events, by providing resources for construction, maintenance, and operation of stormwater facilities.
- (F) To implement additional watershed improvements of the City's waters in general, and specifically, that of Beaver Lake, the City's drinking water source, and the Illinois River.

52.02 - Definitions

The following definitions shall apply to this chapter:

Billing Unit shall mean the unit by which stormwater utility bills are calculated. A single billing unit shall be equal to 1,000 square feet of impervious area.

Customer shall mean all persons or entities to whom the Stormwater Management Utility Fee is properly billed. A customer is further defined as a person or an entity billed for sanitary sewer services within the City limits.

Credit shall mean a conditional, renewable reduction in the amount of the fee owed by a customer in accordance with the Sustainable Credit Framework.

EXHIBIT A

Public customer shall mean a local public agency including property of a school district within the City of Fayetteville.

Public Stormwater System shall mean all stormwater conveyance systems located within the City of Fayetteville right-of-way or public drainage easements. All other stormwater conveyance systems shall be considered Private Stormwater Systems.

Stormwater Management Utility Fee is the utility fee authorized by state law to provide necessary funds for a city to adequately address stormwater problems and needs through an equitable and fair utility fee derived from an expert analysis of the amount of impervious surface of each property which causes increased stormwater runoff that needs to be managed by the city to reduce or prevent flooding problems for our citizens and businesses.

52.03 - Applicability

- (A) The stormwater utility fee shall apply to all real property within the territorial jurisdiction of the City of Fayetteville for which sanitary sewer is provided by the City and upon which the City may constitutionally and legally assess such stormwater utility fee.
- (B) City-owned real property constituting the municipal drainage system, including public streets, public rights-of-way, drainage facilities, and related infrastructure is not served by a sanitary sewer and thus is not subject to a stormwater utility fee.
- (C) The requirements of this chapter do not relieve landowners, developers, other individuals, and entities from their responsibility for complying with the obligations of other portions of the Unified Development Code.

52.04—52.05 - Reserved

ARTICLE II – STORMWATER MANAGEMENT UTILITY FUND

52.06 - Establishment of a Stormwater Management Utility Fund

Pursuant to A.C.A. § 14-235-201 and other state law, the City of Fayetteville hereby creates a fund entitled the “Stormwater Management Utility Fund” for the purpose of segregating, identifying, and controlling revenues and expenses for operation of the City of Fayetteville Stormwater Management Program and other storm-related equipment, construction, materials, supplies or services attributable to these functions. The following revenue sources shall be deposited in said fund:

- (A) All revenue collected by or on behalf of the Stormwater Management Utility Fee.
- (B) Revenue from contributions in-lieu of onsite detention or from developers as contributions for required off-site drainage improvements, which may include bridge assessments.
- (C) Any interest earned on monies held in the Stormwater Management Utility Fund.
- (D) Any other revenue as may be determined appropriate by the City Council, including but not limited to general revenue, bond and grant proceeds.

These revenues shall be used exclusively for the purposes listed in Article I – General Provisions.

EXHIBIT A

52.07 – Authorization of a Stormwater Management Utility Fee

The Stormwater Management Utility Fee is a utility fee that is hereby authorized to be charged on most real property within the City of Fayetteville, Arkansas. The fee shall be billable to the City's Sewer Utility customers. The rate structure for the utility fee shall:

- (A) Be based on the square footage of impervious area on a property,
- (B) Be owner / customer type (residential, commercial, etc..)-neutral,
- (C) Use a billing unit of 1,000 square feet of impervious area,
- (D) Slot property within the following six-tier billing unit structure:

Tier	Tier Range (by square footage of impervious area on a property)	Billing Units	Initial Monthly Fee (Billing Unit times Billing Rate)
1	Less than 2,000	1.25	\$1.69
2	2,001 to 3,500	2.75	\$3.71
3	3,501 to 5,000	4.25	\$5.73
4	5,001 to 6,500	5.75	\$7.76
5	6,501 to 8,000	7.25	\$9.79
6	More than 8,000	See (F)	See (F)

- (E) For Tiers 1 through 5, the billing unit in the chart shall be multiplied by the billing rate per unit rounded down to the nearest cent.
- (F) For Tier 6, properties with impervious area greater than 8,000 square feet, the actual impervious area is divided by 1,000 and multiplied by the monthly rate per billing unit.
- (G) The initial rate per billing unit shall be \$1.35. This rate shall be increased by 3% per year beginning in the January 2026 billing period. No rates shall increase after 2031 without a further rate study.
- (H) Fees for sewer customers on properties with multiple sewer accounts shall be based on the individual sewer customer's percentage of total impervious area of the property or properties that may be attributed to the customer's account, included any areas of parking, common use areas, or other impervious area on the attributable properties.
- (I) Sewer customers or property owners may apply to have the fee for their property mitigated or reduced by the Sustainable Credit Framework.

52.08 – Initial Charge for the Stormwater Management Utility Fee

The initial assessment of the Stormwater Management Utility Fee established shall be charged beginning one year after the effective date of the ordinance.

52.09 – Level and Extent of Service Policies

The level of services funded by the Stormwater Management Utility Fees are dependent upon the amount of revenue generated by this Utility Fee, as well as possible general fund, sales tax bond, grants and other sources. These revenues shall fund the operation and maintenance, engineering and planning, regulatory compliance, stormwater capital improvements and administration of the City of Fayetteville's MS4 Program. The most recently adopted version of the City of Fayetteville Drainage Criteria Manual and Green Stormwater Practices will serve as the basis for the extent of stormwater service related to:

- (A) Public roads, public rights of way and public detention ponds(detention pond maintenance limited to activities necessary for proper functionality),

EXHIBIT A

- (B) Drainage features within existing dedicated public easements (excluding private commercial detention ponds).
- (C) These services extend to the downstream end of the first private infrastructure connected to the City of Fayetteville's drainage system.
- (D) Prior to City accepting responsibility for any private stormwater system, its owner must dedicate a drainage easement to the City of sufficient size as determined by the City to allow access to and work on the drainage facilities with appropriate equipment. The City Engineer shall determine the sufficiency of the width and extent of easements.

52.10 - Reserved

ARTICLE III – ADMINISTRATION

52.11 – Administration and Appeals

- (A) The City Engineer is responsible for the interpretation and administration of this chapter.
- (B) Owners may appeal the initial amount of the Stormwater Management Utility Fee credit allowed denial of exemption or other dispute to the City Engineer, who shall determine the validity of any such appeal. The City Engineer shall set forth the requirements of any such appeal in the Drainage Criteria Manual. The City Engineer shall report the amount of any requested credit to be allowed in writing to the appellant and maintain such record by the Engineering Department for at least one year.
- (C) After exhausting administrative means with the City Engineer, customers desiring to further appeal of an impervious area estimate, fee or credit can be heard by The City Water and Sewer Committee pursuant to Chapter 155: Appeals."

52.12 – Sustainable Credit Framework

- (A) A Sustainable Credit Framework will be established by the City Council that provides all Stormwater Management Utility customers with an opportunity to reduce their normal fees. Customers may qualify for renewable fee reductions by demonstrating activities or stormwater practices that increase the water quality and thereby reduce the water quality and quantity burden imposed on the City of Fayetteville's drainage system. Activities eligible for credit include the following:
 - (1) Compliance with an industrial stormwater permit.
 - (2) Public customers that establish contracts, or Interlocal Cooperation Agreements, with the City under § 25-20-104 will receive a credit recognizing the value of their public efforts to reduce stormwater runoff, in accordance with the terms of the interlocal agreement.
 - (3) Using shared parking lots to minimize the creation of new impervious area
 - (4) Property retrofits using Water Quality, Flood, and Tree Mitigation Measures from the Drainage Criteria Manual.
 - (5) Attendance at approved Stormwater Education Program and Stormwater Stewardship Activities.
 - (6) Demonstration of no direct discharge of stormwater.

EXHIBIT A

- (B) The final Sustainable Credit Framework, including appropriate application forms and instructions, will be developed and available to customers a minimum of 6 months in advance of the effective date of the initial collection of the Stormwater Management Utility Fee.

52.13 - Billing and collection

The Stormwater Management and Fee shall be administered and collected in the same manner as the City's sewer utility.

52.14—52.15 - Reserved



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Jonathan Curth, Development Services Director
SUBJECT: **TEMPORARY SHORT-TERM RENTAL ENFORCEMENT POSITION**

RECOMMENDATION:

City staff recommend approval of a temporary position in the Development Services Department for a term of six months for proactive short-term rental enforcement.

BACKGROUND:

In the ongoing evaluation, implementation, and enforcement of Fayetteville's short-term rental (STR) ordinances, Councilmember interest was expressed for proactive enforcement of the STR ordinance's requirements and prohibitions. These standards range from a life-safety inspection and tax verification to locational allowances and illegal operation. Currently, Fayetteville's STR ordinance is enforced on a complaint basis.

As recently as April 30th, 2024, data provided by the City's short-term rental monitoring service, Host Compliance, found 737 STRs advertised through 1,247 listings on various platforms. This compares with 855 STRs advertised among 1,092 listings at the same time in 2023. Of the 737 STRs, and estimated 240 are noncompliant, meaning they lack a business license and its associated reviews and inspection.

DISCUSSION:

In evaluating the potential for proactive STR enforcement, staff assessed recent STR investigation timelines, which includes the following elements:

- Field complaints/concerns
- Identify and confirm illegally-operating properties
- Coordinate cross-divisionally/departamentally
- Draft and issue violation letters
- Evaluate if illegal activity ceased
- Schedule hearings for those protesting violation/water shut-offs
- Hold hearings
- Track water shut-offs
- Evaluate if illegal activity ceased
- Water reconnects

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113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

Ultimately, an estimate of 800-1,000 hours, or approximately six months, of staff time is found to be necessary to address the nearly 250 currently identified, non-compliant properties. At the conclusion of the position's six month term, staff anticipates existing positions and capacity will be capable of handling new violations and non-compliant properties moving forward.

Per the attached New Personnel Request Form, the proposed position has an associated cost of \$40,532, including equipment and benefits. If approved, staff will finalize a job description, grade the position, and return to City Council with a budget adjustment.

BUDGET/STAFF IMPACT:

This position would be funded through the General Fund.

ATTACHMENTS: SRF (#3), New Personnel Request Form - Short Term Rental Clerk (#4), Short-Term Rental Clerk May 2024 - Draft (#5)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-94

TEMPORARY SHORT-TERM RENTAL ENFORCEMENT POSITION

A RESOLUTION TO AUTHORIZE THE ADDITION OF A TEMPORARY SHORT-TERM RENTAL CLERK POSITION IN THE DEVELOPMENT SERVICES DEPARTMENT FOR A TERM OF SIX MONTHS FOR PROACTIVE SHORT-TERM RENTAL ENFORCEMENT

WHEREAS, in the ongoing evaluation, implementation, and enforcement of Fayetteville's short-term rental (STR) ordinances, Council member interest was expressed for proactive enforcement of the STR ordinance's requirements and prohibitions; and

WHEREAS, as recently as April 30th, 2024, data provided by the City's short-term rental monitoring service, Host Compliance, found 737 STRs advertised through 1,247 listings on various platforms; and

WHEREAS, an estimate of 800-1,000 hours, or approximately six months, of staff time is found to be necessary to address the nearly 250 currently identified, non-compliant properties; and

WHEREAS, if approved, staff will finalize a job description, grade the position, and return to City Council with a budget adjustment.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the addition of a temporary Short-Term Rental Clerk position in the Development Services Department for a term of six months for proactive short-term rental enforcement.

City of Fayetteville Staff Review Form

2024-94

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

5/3/2024

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Request to create a temporary position for six months for proactive short-term rental enforcement.

Budget Impact:

1010.620.6200-51XX.XX

1010 - General

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

2024 Budget - New Personnel Request Form (Details)

POSITION TITLE
Short-Term Rental Clerk

REQUESTED BUDGET TOTAL	\$	40,532
------------------------	----	--------

REQUEST JUSTIFICATION SECTION:

What has created the need for this new position request?

A desire for staff to enforce short-term rental standards on a proactive basis.

How is this work currently getting done and by whom? Also, will any duties be removed from another position and added to this position?

Short-term rental enforcement currently occurs on a complaint basis. Existing Development Review and Development Services staff incorporate complaints in to their workload as complaints are received, from which they are investigated. Validation results in violation letter issuance and the potential for utility shut-off or penalty. The proposed position will centralize these functions and actively identify and pursue any active short-term rental violation.

Will this position help reduce overtime, temporary workers, and/or contracts? Please quantify this over the next fiscal year.

No.

What impact will there be on the department if this position is not filled?

It is unfeasible to enforce the existing short-term rental ordinances on a proactive basis and in a timely manner with existing staff. This temporary position will address active violations, which number in the 100s, with the anticipation that existing staff has capacity for ongoing proactive enforcement once the temporary position expires.

Additional notes (optional):

2024 Budget - New Personnel Request Form (Details)

POSITION TITLE	
Short-Term Rental Clerk	

POSITION CONTROL INPUTS:			
Organization Set:	1010.620.6200 - General.Development Services.Development Services Director		
Request Type:	Increase FTE	Position Sequence:	
Job Description (Job#/Grade#)	*J413 - Merit T1 (\$17.79-\$26.57)		
Budgeted Hourly Rate to Use:	Mrk		\$ 21.43
FTE	0.50	Annual Hours	2,080
Benefit Group:	100 - GEN EMP FT 40 HRS (NON-EXEMPT)		
Health Insurance:	BUD-Health - HEALTH INSURANCE		
Pension Plan:	760 - PENSION		
Overtime Hours:	-		
Overtime Hours (FLSA):	-	} PUBLIC SAFETY ONLY	
Other Pay:	\$ -		

OTHER EXPENSE ITEMS:				
ITEM DESCRIPTION	GLACCOUNT	ACCT DESCRIPTION		BUDGET
Computer/Monitor/iPad (one-time)	1010.640.6400-5210.00	Minor Equipment, :	\$	3,500
Software Licenses - EnerGov; Adobe	1010.640.6400-5209.00	Software, :		4,800
Office 365 (\$284/Year)	1010.050.0500-5309.02	Lease, Software		284
""				-
""				-
""				-
""				-
OTHER EXPENSE TOTAL			\$	8,584

2024 Budget - New Personnel Request Form (Details)

POSITION TITLE
Short-Term Rental Clerk

RATES:

Grade Range (Min-Mrk-Max)	J413	\$17.79 - \$21.43 - \$26.57
		\$37,003 - \$44,574 - \$55,266

FICA Rate:	6.20%
Medicare Rate:	1.45%
Health Rate (Monthly):	\$ 854.00
Pension Rate (Annual %):	12.00%
Full-Time Benefits:	Y
Life Rate 900 (%):	0.19
LTD Rate 920 (%):	0.0033
ADD Rate 680 (Monthly):	\$ 0.50

PERSONNEL BUDGET CALCULATIONS:

SALARY TOTAL	1010.620.6200-5100.00		\$ 22,288
OVERTIME TOTAL	1010.620.6200-5101.00		-
SALARY OVERTIME TOTAL			22,288
FICA TAXES	1010.620.6200-5105.00	6.20%	1,382
MEDICARE TAXES	1010.620.6200-5105.01	1.45%	324
HEALTH BUDGET	1010.620.6200-5108.00		5,124
LTD BUDGET	1010.620.6200-5108.01		74
ADD BUDGET	1010.620.6200-5108.02		3
LIFE BUDGET	1010.620.6200-5108.03		78
PENSION BUDGET	1010.620.6200-5109.06	12.00%	2,675
PERSONNEL TOTAL			\$ 31,948

2024 BUDGET IMPACT

SALARY	\$ 22,288
OVERTIME	-
BENEFITS	9,660
OTHER EXPENSE ITEMS	8,584
REQUESTED BUDGET TOTAL	\$ 40,532



CITY OF FAYETTEVILLE

Position Description

POSITION TITLE: Short-Term Rental Clerk

EXEMPT (Y/N): No	DEPARTMENT: Development Services
SUPERVISOR: Ops & Cust Relations Mgr.	DIVISION: Development Services
JOB GRADE: J413	DATE REVISED: May 2024

ESSENTIAL DUTIES AND RESPONSIBILITIES: *Note: All City of Fayetteville positions require employees to provide good customer service to both internal and external customers, maintain positive and effective working relationships with other City employees (especially members of their own team), and have regular and reliable attendance that is non-disruptive.* Other essential duties of this position include the following:

1. Greet and interact with residents and city employees, assist with needs and questions either in person, through email or over the phone. Resolve a wide variety of situations that arise, either by researching and/or answering questions personally or forwarding to appropriate person.
2. Initiate proactive investigations into short-term rental violations and accept and verify short-term rental complaints.
3. Provide information on short-term rental regulations.
4. Monitor and track existing compliant and noncompliant short-term rental properties.
5. Establish, track, and post short-term rental data.
6. Research and respond to difficult customer problems and complaints. Provide solutions to identified issues to senior staff members.
7. Assist with short-term rental business license acceptance, processing, and issuance of including fielding questions from current or prospective operators.
8. Have a thorough understanding of the short-term permitting and licensing processes and be able to convey this information effectively to customers.
9. Perform other duties as assigned.

SECONDARY DUTIES AND RESPONSIBILITIES include the following:

1. Secondary duties as assigned.

MINIMUM QUALIFICATIONS

1. High school diploma or GED and two years of related experience.

2. Must successfully pass criminal background check, including but not limited to convictions, guilty pleas, or no contest pleas to violent offenses, theft offenses and any offense under A.C.A. 21-15-103 and A.C.A. 21-15-111.
3. Effectively communicate with others orally and in writing.
4. Possess the ability to read and develop a working knowledge of applicable ordinances and zoning regulations.
5. Requires the use of tact, initiative and independent judgment in dealing with difficult citizen complaints, requests for assistance, information or services to the public.
6. Must be proficient in the use of a computer and related software programs such as word processing and spreadsheet applications. Must be able to become proficient in the use of other software programs such as municipal permitting software. Must be able to effectively operate standard office equipment.
7. Ability to work with mathematical concepts such as addition, subtraction, multiplication, and division. Ability to calculate percentages, rates, and ratios.
8. Must possess the ability to work effectively in a front desk environment that includes regularly receiving walk-in traffic and phone calls. The noise level in the working environment is frequently elevated due to group discussions taking place in the general area.
9. While performing the functions of this job, the employee is regularly required to communicate effectively. The employee regularly is required to move within the department, sit; use hands to finger, handle, or feel; reach with hands and arms; stoop, kneel, or crouch. The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities required to accomplish computer and office work. While performing the functions of this job the employee is occasionally exposed to outside weather conditions.



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Jessica Masters, Development Review Manager

SUBJECT: **ADM-2024-0019: Administrative Item (Amend UDC Chapters 166.04, Parkland Dedication): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 166.04(B)(4)(I) Parkland Dedication. The proposed code changes would modify the applicability section for Parkland Dedication requirements.**

RECOMMENDATION:

City staff and the Planning Commission recommend approval of an amendment to the Unified Development Code amending §166.04(B)(4)(I) Parkland Dedication as described in the attached Exhibit 'A'.

BACKGROUND:

In 2021, Fayetteville City Council passed a sweeping amendment to the Unified Development Code intended to revamp drainage and development standards, with a secondary objective of incentivizing infill. Through these changes, the basis for a project to receive an additional site plan review, either through a site improvement plan or a large scale development, was shifted to the amount of proposed imperviousness and the size of the overall site in question. In the intervening period since 2021, staff audited the outcomes of these changes, and has identified several areas that require revision and clarification. While additional ordinance changes are still being considered by the Long-Range Planning Committee of the Planning Commission, an immediate concern was raised given the potential and actual loss of parkland dedication fees-in-lieu.

DISCUSSION:

The requirement to dedicate parkland with the development of a residential project was originally adopted by City Council in 1981 (Ordinance 2695) and reaffirmed with the adoption of the Unified Development Code in 1998 (Ordinance 4100). While minor changes have occurred to clarify the ordinance requirements throughout the years, the intention to capture the impact of new residential units on the City's Park system has not changed. Parkland dedication can also be met through the payment of fees-in-lieu of land.

Currently, parkland dedication requirements are specifically tied to project type in ordinance. Since 2021, development project types are dependent upon the amount of added impervious surface and no longer tied to unit counts or use specifically. With this change, staff now recognizes that many residential projects that would have previously been subject to a small site improvement plan, large site improvement plan, or large scale development, and therefore subject to parkland dedication, are no longer classified in this manner. As a result, they may also not be subject to parkland dedication or fees in-lieu. While a number is difficult to confirm, staff estimates that this has potentially resulted in at least \$20,000 worth of fees-in-lieu that have not been collected. Given the larger scale of impending projects for review and possible approval within the next calendar year, staff estimates the potential for closer to \$250,000 in uncollected fees or equivalent parkland dedication based

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

on an anticipated number of units.

Staff recommend an amendment to the applicability section that decouples the parkland dedication requirement from a specific project type, and instead ties that parkland dedication requirement to any project that proposes to add one (1) or more residential dwelling unit to a site. Staff finds that this would help absorb the impact of additional residents to Fayetteville on the Parks system and maintain the integrity of the intent of the ordinance as adopted over 40 years ago.

At the April 18th agenda session for the Planning Commission's April 22nd meeting, the City Attorney's office issued a memo expressing concerns with staff's original language. Text changes were proposed to ensure that the applicability section adequately covered both the development of additional residential lots, and the development of additional residential dwelling units to lots that have already been created. In the interim, staff and the City Attorney's office met and modified the text to incorporate their concerns. The attachments reflect the modified version of the ordinance.

At the April 22, 2024 Planning Commission meeting, Commissioners unanimously voted to forward the proposed ordinance changes to the City Council with a recommendation of approval. Commissioner Madden made the motion, which was seconded by Commissioner Werner. Commissioners asked for clarification regarding the changes that occurred to the proposed ordinance between agenda session and the meeting itself, specifically with regards to the interpretation of the word "development." Staff clarified that the language was written to be broad enough that staff could make a reasonable interpretation of the applicability. One Commissioner also asked whether accessory dwelling units would be subject to parkland dedication fees, and staff clarified that current interpretation of existing ordinance suggests that ADUs do not contribute parkland dedication and anticipated that the interpretation would remain the same with the proposed changes. No members of the public spoke at the meeting. One member of the public provided a written comment prior to the meeting, which is included in the attached report.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A - Proposed Ordinance (#4), Strikethrough Changes (#5), Planning Commission Staff Report (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-56

ADM-2024-0019: Administrative Item (Amend UDC Chapters 166.04, Parkland Dedication): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 166.04(B)(4)(I) Parkland Dedication. The proposed code changes would modify the applicability section for Parkland Dedication requirements.

AN ORDINANCE TO AMEND §166.04(B)(4)(I) PARKLAND DEDICATION OF THE UNIFIED DEVELOPMENT CODE TO MODIFY THE APPLICABILITY SECTION FOR PARKLAND DEDICATION REQUIREMENTS

WHEREAS, in 2021, City Council passed a sweeping amendment to the Unified Development Code intended to revamp drainage and development standards, with a secondary objective of incentivizing infill; and

WHEREAS, in the intervening period since 2021, staff audited the outcomes of these changes, and has identified several areas that would benefit from revision and clarification; and

WHEREAS, an immediate concern is the potential and actual loss of parkland dedication fees-in-lieu on projects not requiring additional site plan review because they are not creating more than 10,000 square feet of new impervious surface.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 166.04(B)(4)(I) of the *Unified Development Code* regarding parkland dedication and enacts a replacement § 166.04(B)(4)(I) as shown in Exhibit A attached to this Ordinance.

City of Fayetteville Staff Review Form

2024-56

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

5/3/2024

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

ADM-2024-0019: Administrative Item (Amend UDC Chapters 166.04, Parkland Dedication): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 166.04(B)(4)(I) Parkland Dedication. The proposed code changes would modify the applicability section for Parkland Dedication requirements.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:

EXHIBIT 'A'

UDC 166.04(B)(4) – PROPOSED CHANGES (CLEAN)

166.04 Required Infrastructure Improvements — Development In City Limits

...

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

...

- (4) *Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.*

..

- (I) *Parkland Dedication.*

- (i) *Applicability.* The requirements of this subsection shall apply to development that creates one (1) or more additional lots upon which residential dwelling units may be constructed and to development on an existing lot to create one (1) or more additional residential dwelling units.
- (ii) *Residential Development.*
 - (a) *Dedication or Fee-in-Lieu.* When a proposed residential development does not provide an area or areas for a public park based on the most recent Fayetteville Park and Recreation System Master Plan, the developer shall be required to make a reasonable dedication of land for public park facilities, or to make a reasonable equivalent contribution in lieu of dedication of land, such contribution to be used for the acquisition and development of park land that serves the subdivision or development.
 - (b) *Parks, Natural Resources and Cultural Affairs Advisory Board.* Prior to the submittal of a preliminary plat, large scale development plan, or large site improvement plan the developer shall submit to the Parks, Natural Resources and Cultural Affairs Advisory Board a conceptual development plan. If land dedication is being requested by the developer, a small site improvement plan shall also be submitted to the Parks, Natural Resources and Cultural Affairs Advisory Board.
 - (c) *Planning Commission.* The developer and the Parks, Natural Resources and Cultural Affairs Advisory Board shall make a joint recommendation to the Planning Commission as to the land dedication or contribution in lieu of dedication for a preliminary plat or large scale development. With the agreement of the Parks, Natural Resources and Cultural Affairs Advisory Board and developer, dedication or fee-in-lieu associated with small or large site improvement plans subject to administrative approval shall be accepted as a condition of approval. In the event that they are unable to agree, the developer and advisory board shall make separate recommendations to the Planning Commission who shall determine the issue.
 - (d) *Decision.* If the developer proposes to dedicate land for a public park after consultation with the Parks, Natural Resources and Cultural Affairs Advisory Board which the Planning Commission determines is suitable for park purposes, the proposed dedication shall be accepted. Upon consent and consultation with the developer and the Parks, Natural Resources and Cultural Affairs Advisory Board, a developer may dedicate a portion of the required park land dedication and make a contribution of money in lieu of land dedication for the remaining park land dedication requirement. This monetary contribution may be used to develop the park land in the development or elsewhere within the quadrant consistent with the most recent Fayetteville Park and Recreation System Master Plan.
 - (e) *Approval.* The Planning Commission's decision must be incorporated into the developer's preliminary plat or large scale development. Dedication or fee-in-lieu associated with small or large site improvement plans or other plans subject to administrative approval must also be incorporated into the developer's final approval.

EXHIBIT 'A'

UDC 166.04(B)(4) – PROPOSED CHANGES (CLEAN)

- (f) *Dedication Ratios.* Land shall be dedicated at a ratio of 0.023 acres of land for each single-family dwelling unit and 0.020 acres of land for each multi-family dwelling unit.
- (g) *Fee-in-Lieu formulas.* A contribution in lieu of land dedication shall be made according to the following formula:

\$1,089.00 for each single-family unit.

\$952.00 for each multi-family unit.

The Parks, Natural Resources and Cultural Affairs Department shall review the contribution formula every two (2) years and make recommendations to the City Council following such review.
- (h) *Dedication in Excess.* If a developer wishes to dedicate park land which exceeds the requirement of this subsection, the developer shall make a written request to the Planning Commission who may grant the developer a credit equivalent to said excess. Said credit shall be applied toward the developer's obligation under this subsection for any subsequent development located in the same park quadrant.
- (iii) *Timing of Dedication and/or Contribution.* All dedications of land must be made before the city signs the final plat or issues building permits for developments that create one (1) or more additional residential dwelling unit. A final plat shall not be released for recordation until the deed for a land dedication is received. Deeded land is dedicated public park land and not subject to any right of reversion or refund. A cash contribution in lieu of required land dedication shall be payable before the city signs the final plat, or issues building permits for a development that creates one (1) or more additional residential dwelling units. With the approval of the Planning Commission a developer may pay such contribution in three (3) equal installments to be paid in full within one (1) year of final plat approval. If a developer makes a cash contribution in lieu of land dedication, the developer shall be entitled to a pro rata refund, together with the accrued interest therefrom, in the event actual density is less than the density used as the basis for the developer's contribution; provided, no refund shall be made unless application therefore is made in writing to the Zoning and Development Administrator within one (1) year from the date of final plat approval. In the event actual density is more than the density used as the basis for a dedication of land or case contribution the developer must make an additional land dedication or contribution in lieu of dedication.
- (iv) *Zoning Requirements.* Lots created for the purpose of park land dedication shall not be required to meet the standards for lot size, bulk and area within any zoning district. Lots created for the purpose of park land dedication to serve the residents of the surrounding area shall not be subject to POA/HOA dues or other fees established for maintenance or other purposes within the neighborhood.
- (v) *Fee-in-Lieu Allocation.* All parkland fees received under this subsection shall be deposited in an interest bearing account. This money together with its earned interest shall be expended within five (5) calendar years of the last date of the calendar year in which it was received for the acquisition and/or development of parkland that services the subdivision or development for which the contribution in lieu of dedication was made. If this money has not been expended within the allowed period, the unexpended money together with any of its remaining earned interest shall be refunded to the present owner of the property that was the subject of the new development and against which the parkland fee was assessed and collected.

...

(Code 1965, App. C., Art. III, §A(2), (3); Ord. No. 1979, 2-5-74; Ord. No. 2353, 7-5-77; Ord. No. 2755, 9-1-81; Code 1991, §§159.31, 159.32; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4263, 8-1-00; Ord. No. 4660, 12-21-04; Ord. No. 5152, 7-15-08; Ord. No. 5271, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5374, 12-21-10; Ord. No. 5523, 9-4-12; Ord. No. 5570, 03-05-13; Ord. No. 6116, §1, 11-20-18; Ord. No. 6166, §§1, 2, 4-2-19; Ord. No. 6195, §1, 6-4-19; Ord. No. 6350, §3(Exh. B), 8-18-20; Ord. No. 6426, §1, 4-6-21; Ord. No. 6446, §8(Exh. C), 6-15-21)

166.04 Required Infrastructure Improvements — Development In City Limits

...

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

...

- (4) *Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.*

..

- (I) *Parkland Dedication.*

- (i) *Applicability.* The requirements of this subsection shall apply to development that creates one (1) or more additional lots upon which residential dwelling units may be constructed and to development on an existing lot to create one (1) or more additional residential dwelling units, residential lot splits, subdivisions, large scale developments, planned zoning districts, large scale site improvement plans, and small scale site improvement plans; provided that these requirements shall not apply to a lot split or subdivision that does not create one (1) or more vacant lots on which a residential structure could be erected pursuant to the Unified Development Code.

- (ii) *Residential Development.*

- (a) *Dedication or Fee-in-Lieu.* When a proposed residential development does not provide an area or areas for a public park based on the Fayetteville Parks and Recreation Plan, most recent Fayetteville Park and Recreation System Master Plan, the developer shall be required to make a reasonable dedication of land for public park facilities, or to make a reasonable equivalent contribution in lieu of dedication of land, such contribution to be used for the acquisition and development of park land that serves the subdivision or development.
- (b) Parks, Natural Resources and Cultural Affairs Advisory Board. Parks and Recreation Advisory Board. Prior to the submittal of a preliminary plat, large scale development plan, or large site improvement plan the developer shall submit to the Parks, Natural Resources and Cultural Affairs Advisory Board Parks and Recreation Advisory Board a concept plat or conceptual development plan. If land dedication is being requested by the developer, a small site improvement plan shall also be submitted to the Parks, Natural Resources and Cultural Affairs Advisory Board.
- (c) *Planning Commission.* The developer and the Parks and Recreation Advisory Board Parks, Natural Resources and Cultural Affairs Advisory Board shall make a joint recommendation to the Planning Commission as to the land dedication or contribution in lieu of dedication for a preliminary plat or large scale development. ~~In the event that they are unable to agree, the developer and advisory board shall make separate recommendations to the Planning Commission who shall determine the issue. With the agreement of the Parks, Natural Resources and Cultural Affairs Advisory Board and developer, dedication or fee-in-lieu associated with small or large site improvement plans subject to administrative approval shall be accepted as a condition of approval.~~ In the event that they are unable to agree, the developer and advisory board shall make separate recommendations to the Planning Commission who shall determine the issue.
- (d) *Decision.* If the developer proposes to dedicate land for a public park after consultation with the Parks and Recreation Advisory Board Parks, Natural Resources and Cultural Affairs Advisory Board which the Planning Commission determines is suitable for park purposes, the proposed dedication shall be accepted. Upon consent and consultation with the developer and the Parks, Natural Resources and Cultural Affairs Advisory Board Parks and Recreation Advisory Board, a developer may dedicate a portion of the required park land dedication and make a contribution of money in lieu of land dedication for the remaining park land dedication requirement. ~~With consent of the Parks and~~

~~Recreation Advisory Board, t~~This monetary contribution may be used to develop the park land in the development or elsewhere within the quadrant consistent with the ~~Fayetteville Parks and Recreation Plan~~ most recent Fayetteville Park and Recreation System Master Plan.

- (e) *Approval.* The Planning Commission's decision must be incorporated into the developer's preliminary plat or, large scale development, or large site improvement plan prior to plat or plan approval. ~~Dedication or fee-in-lieu associated with small or large site improvement plans or other plans subject to administrative approval must also be incorporated into the developer's final approval.~~
- (f) *Dedication Ratios.* Land shall be dedicated at a ratio of 0.023 acres of land for each single-family dwelling unit and 0.020 acres of land for each multi-family dwelling unit.
- (g) *Fee-in-Lieu formulas.* A contribution in lieu of land dedication shall be made according to the following formula:

\$1,089.00 for each single-family unit.

\$952.00 for each multi-family unit ~~based upon actual density.~~

The Parks, ~~Natural Resources and Cultural Affairs -and Recreation~~ Department shall review the contribution formula every two (2) years and make recommendations to the City Council following such review.

- (h) *Dedication in Excess.* If a developer wishes to dedicate park land which exceeds the requirement of this subsection, the developer shall make a written request to the Planning Commission who may grant the developer a credit equivalent to said excess. Said credit shall be applied toward the developer's obligation under this subsection for any subsequent development located in the same park quadrant.
- (iii) *Timing of Dedication and/or Contribution.* All dedications of land must be made before the city signs the final plat, ~~or issuance-issues of building permits- for developments that create one (1) or more additional residential dwelling unit. for a large scale development or large site improvement plan.~~ A final plat shall not be released for recordation until the deed for a land dedication is received. Deeded land is dedicated public park land and not subject to any right of reversion or refund. A cash contribution in lieu of required land ~~dedication development~~ shall be payable before the city ~~signing-signs~~ the final plat, ~~or issuance-issues of building permits for a large scale development or large site improvement plan development that creates one (1) or more additional residential dwelling units.~~ With the approval of the ~~planning Planning commission-Commission~~ a developer may pay such contribution in three (3) equal installments to be paid in full within one (1) year of final plat approval. If a developer makes a cash contribution in lieu of land dedication, the developer shall be entitled to a pro rata refund, together with the accrued interest therefrom, in the event actual density is less than the density used as the basis for the developer's contribution; provided, no refund shall be made unless application therefore is made in writing to the Zoning and Development Administrator within one (1) year from the date of final plat approval. In the event actual density is more than the density used as the basis for a dedication of land or case contribution the developer must make an additional land dedication or contribution in lieu of dedication.
- (iv) *Zoning Requirements.* Lots created for the purpose of park land dedication shall not be required to meet the standards for lot size, bulk and area within any zoning district. Lots created for the purpose of park land dedication to serve the residents of the surrounding area shall not be subject to POA/HOA dues or other fees established for maintenance or other purposes within the neighborhood.
- (v) *Fee-in-Lieu Allocation.* All parkland fees received under this subsection shall be deposited in an interest bearing account. This money together with its earned interest shall be expended within five (5) calendar years of the last date of the calendar year in which it was received for the acquisition and/or development of parkland that services the subdivision or development for which the contribution in lieu of dedication was made. If this money has not been expended within the allowed period, the unexpended money together with any of its

UDC 166.04(B)(4) – PROPOSED CHANGES (STRIKETHROUGH)

remaining earned interest shall be refunded to the present owner of the property that was the subject of the new development and against which the parkland fee was assessed and collected.

...

(Code 1965, App. C., Art. III, §A(2), (3); Ord. No. 1979, 2-5-74; Ord. No. 2353, 7-5-77; Ord. No. 2755, 9-1-81; Code 1991, §§159.31, 159.32; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4263, 8-1-00; Ord. No. 4660, 12-21-04; Ord. No. 5152, 7-15-08; Ord. No. 5271, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5374, 12-21-10; Ord. No. 5523, 9-4-12; Ord. No. 5570, 03-05-13; Ord. No. 6116, §1, 11-20-18; Ord. No. 6166, §§1, 2, 4-2-19; Ord. No. 6195, §1, 6-4-19; Ord. No. 6350, §3(Exh. B), 8-18-20; Ord. No. 6426, §1, 4-6-21; Ord. No. 6446, §8(Exh. C), 6-15-21)



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: April 22, 2024 **Updated with results from April 22, 2024 PC Meeting**

SUBJECT: **ADM-2024-0019: Administrative Item (Amend UDC Chapters 166.04, Parkland Dedication):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 166.04(B)(4)(I) Parkland Dedication. The proposed code changes would modify the applicability section for Parkland Dedication requirements.

RECOMMENDATION:

Staff recommend forwarding **ADM-2024-0019** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **ADM-2024-0019** to the City Council with a recommendation of approval."*

APRIL 18, 2024 AGENDA SESSION:

At the agenda session prior to this meeting, the City Attorney's office issued a memo with some concerns and proposed text changes to ensure that the applicability section adequately covered both the development of additional residential lots, and the development of additional residential dwelling units to lots that have already been created. In the interim, staff and the City Attorney's office met and modified the text to incorporate their concerns. The attachments reflect the modified version of the ordinance.

BACKGROUND:

In 2021, Fayetteville City Council passed a sweeping amendment to the Unified Development Code intended to revamp drainage and development standards, with a secondary objective on incentivizing infill. Through these changes, the requirement for a project to receive an additional site plan review, either through a site improvement plan or a large scale development, was shifted solely to a basis on the addition of 10,000 sq. ft. of impervious surface to a property, and the size of the overall site in question. In the intervening period since 2021, staff have audited the outcomes of these changes, and have identified several areas that require revision and clarification. While additional ordinance changes are still being considered by the Long-Range Planning Committee and the Planning Commission, an immediate concern was raised given the potential and actual loss of parkland dedication fees-in-lieu.

DISCUSSION:

The requirement to dedicate parkland with the development of a residential project was originally adopted by City Council in 1981 (Ordinance 2695) and was ultimately reaffirmed with the adoption of the Unified Development Code in 1998 (Ordinance 4100). Minor changes have also occurred to clarify the ordinance requirements throughout the years, though the intention to capture impact of new residential units on the City's Park system has not changed. Parkland dedication can also be met through the payment of fees-in-lieu of land.

Currently, parkland dedication requirements are specifically tied to project type in ordinance. Since 2021, development project types are dependent upon the amount of added impervious surface, and no longer tied to unit counts or use specifically. With this change, staff recognizes that many residential projects that would have previously been subject to a small site improvement plan, large site improvement plan, or large scale development are no longer classified in this manner, which can have the unexpected result of lost parkland dedication fees-in-lieu. While an associated number is difficult to track, staff estimates that this has potentially resulted in at least \$20,000 worth of fees-in-lieu that have not been collected. Given the larger scale of impending projects for review and possible approval within the next calendar year, staff estimates the potential for closer to \$250,000 in uncollected fees based on an anticipated number of units.

Staff recommend an amendment to the applicability section that decouples the parkland dedication requirement from a specific project type, and instead ties that parkland dedication requirement to any project that proposes to add one (1) or more residential dwelling unit to a site. Staff finds that this would help absorb the impact of additional residents to Fayetteville on the Parks system and maintain the integrity of the intent of the ordinance as adopted over 40 years ago.

RECOMMENDATION: Staff recommend forwarding ADM-2024-0019 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>April 22, 2024</u>	☐ Tabled	☒ Forwarded	☐ Denied		
Motion: Madden	with a recommendation of approval.				
Second: Werner					
Vote: 9-0-0					

BUDGET/STAFF IMPACT:

None

Attachments:

- UDC §166.04(B)(4)(I) – Parkland dedication - Current Regulations
- Proposed Ordinance, Clean
 - §166.04(B)(4)(I) – Parkland dedication
- Proposed Ordinance, Strike-through
 - §166.04(B)(4)(I) – Parkland dedication
- City Attorney Memo

Public comment

166.04 Required Infrastructure Improvements — Development In City Limits

...

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

...

- (4) *Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.*

..

- (I) *Parkland Dedication.*

- (i) *Applicability.* The requirements of this subsection shall apply to residential lot splits, subdivisions, large scale developments, planned zoning districts, large scale site improvement plans, and small scale site improvement plans; provided that these requirements shall not apply to a lot split or subdivision that does not create one (1) or more vacant lots on which a residential structure could be erected pursuant to the Unified Development Code.

- (ii) *Residential Development.*

- (a) *Dedication or Fee-in-Lieu.* When a proposed residential development does not provide an area or areas for a public park based on the Fayetteville Parks and Recreation Plan, the developer shall be required to make a reasonable dedication of land for public park facilities, or to make a reasonable equivalent contribution in lieu of dedication of land, such contribution to be used for the acquisition and development of park land that serves the subdivision or development.
- (b) *Parks and Recreation Advisory Board.* Prior to the submittal of a preliminary plat, large scale development plan, or large site improvement plan the developer shall submit to the Parks and Recreation Advisory Board a concept plat or plan.
- (c) *Planning Commission.* The developer and the Parks and Recreation Advisory Board shall make a joint recommendation to the Planning Commission as to the land dedication or contribution in lieu of dedication. In the event that they are unable to agree, the developer and advisory board shall make separate recommendations to the Planning Commission who shall determine the issue.
- (d) *Decision.* If the developer proposes to dedicate land for a public park after consultation with the Parks and Recreation Advisory Board which the Planning Commission determines is suitable for park purposes, the proposed dedication shall be accepted. Upon consent and consultation with the developer and the Parks and Recreation Advisory Board, a developer may dedicate a portion of the required park land dedication and make a contribution of money in lieu of land dedication for the remaining park land dedication requirement. With consent of the Parks and Recreation Advisory Board, this monetary contribution may be used to develop the park land in the development or elsewhere within the quadrant consistent with the Fayetteville Parks and Recreation Plan.
- (e) *Approval.* The Planning Commission's decision must be incorporated into the developer's preliminary plat, large scale development, or large site improvement plan prior to plat or plan approval.
- (f) *Dedication Ratios.* Land shall be dedicated at a ratio of 0.023 acres of land for each single-family dwelling unit and 0.020 acres of land for each multi-family dwelling unit.
- (g) *Fee-in-Lieu formulas.* A contribution in lieu of land dedication shall be made according to the following formula:

\$1,089.00 for each single-family unit.

\$952.00 for each multi-family unit based upon actual density.

The Parks and Recreation Department shall review the contribution formula every two (2) years and make recommendations to the City Council following such review.

- (h) *Dedication in Excess.* If a developer wishes to dedicate park land which exceeds the requirement of this subsection, the developer shall make a written request to the Planning Commission who may grant the developer a credit equivalent to said excess. Said credit shall be applied toward the developer's obligation under this subsection for any subsequent development located in the same park quadrant.
- (iii) *Timing of Dedication and/or Contribution.* All dedications of land must be made before the city signs the final plat, or issuance of building permits for a large scale development or large site improvement plan. A final plat shall not be released for recordation until the deed for a land dedication is received. Deeded land is dedicated public park land and not subject to any right of reversion or refund. A cash contribution in lieu of required land development shall be payable before the city signing the final plat, or issuance of building permits for a large scale development or large site improvement plan. With the approval of the planning commission a developer may pay such contribution in three (3) equal installments to be paid in full within one (1) year of final plat approval. If a developer makes a cash contribution in lieu of land dedication, the developer shall be entitled to a pro rata refund, together with the accrued interest therefrom, in the event actual density is less than the density used as the basis for the developer's contribution; provided, no refund shall be made unless application therefore is made in writing to the Zoning and Development Administrator within one (1) year from the date of final plat approval. In the event actual density is more than the density used as the basis for a dedication of land or cash contribution the developer must make an additional land dedication or contribution in lieu of dedication.
- (iv) *Zoning Requirements.* Lots created for the purpose of park land dedication shall not be required to meet the standards for lot size, bulk and area within any zoning district. Lots created for the purpose of park land dedication to serve the residents of the surrounding area shall not be subject to POA/HOA dues or other fees established for maintenance or other purposes within the neighborhood.
- (v) *Fee-in-Lieu Allocation.* All parkland fees received under this subsection shall be deposited in an interest bearing account. This money together with its earned interest shall be expended within five (5) calendar years of the last date of the calendar year in which it was received for the acquisition and/or development of parkland that services the subdivision or development for which the contribution in lieu of dedication was made. If this money has not been expended within the allowed period, the unexpended money together with any of its remaining earned interest shall be refunded to the present owner of the property that was the subject of the new development and against which the parkland fee was assessed and collected.

...

(Code 1965, App. C., Art. III, §A(2), (3); Ord. No. 1979, 2-5-74; Ord. No. 2353, 7-5-77; Ord. No. 2755, 9-1-81; Code 1991, §§159.31, 159.32; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4263, 8-1-00; Ord. No. 4660, 12-21-04; Ord. No. 5152, 7-15-08; Ord. No. 5271, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5374, 12-21-10; Ord. No. 5523, 9-4-12; Ord. No. 5570, 03-05-13; Ord. No. 6116, §1, 11-20-18; Ord. No. 6166, §§1, 2, 4-2-19; Ord. No. 6195, §1, 6-4-19; Ord. No. 6350, §3(Exh. B), 8-18-20; Ord. No. 6426, §1, 4-6-21; Ord. No. 6446, §8(Exh. C), 6-15-21)

166.04 Required Infrastructure Improvements — Development In City Limits

...

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

...

- (4) *Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.*

..

- (I) *Parkland Dedication.*

- (i) *Applicability.* The requirements of this subsection shall apply to development that creates one (1) or more additional lots upon which residential dwelling units may be constructed and to development on an existing lot to create one (1) or more additional residential dwelling units.
- (ii) *Residential Development.*
 - (a) *Dedication or Fee-in-Lieu.* When a proposed residential development does not provide an area or areas for a public park based on the most recent Fayetteville Park and Recreation System Master Plan, the developer shall be required to make a reasonable dedication of land for public park facilities, or to make a reasonable equivalent contribution in lieu of dedication of land, such contribution to be used for the acquisition and development of park land that serves the subdivision or development.
 - (b) *Parks, Natural Resources and Cultural Affairs Advisory Board.* Prior to the submittal of a preliminary plat, large scale development plan, or large site improvement plan the developer shall submit to the Parks, Natural Resources and Cultural Affairs Advisory Board a conceptual development plan. If land dedication is being requested by the developer, a small site improvement plan shall also be submitted to the Parks, Natural Resources and Cultural Affairs Advisory Board.
 - (c) *Planning Commission.* The developer and the Parks, Natural Resources and Cultural Affairs Advisory Board shall make a joint recommendation to the Planning Commission as to the land dedication or contribution in lieu of dedication for a preliminary plat or large scale development. With the agreement of the Parks, Natural Resources and Cultural Affairs Advisory Board and developer, dedication or fee-in-lieu associated with small or large site improvement plans subject to administrative approval shall be accepted as a condition of approval. In the event that they are unable to agree, the developer and advisory board shall make separate recommendations to the Planning Commission who shall determine the issue.
 - (d) *Decision.* If the developer proposes to dedicate land for a public park after consultation with the Parks, Natural Resources and Cultural Affairs Advisory Board which the Planning Commission determines is suitable for park purposes, the proposed dedication shall be accepted. Upon consent and consultation with the developer and the Parks, Natural Resources and Cultural Affairs Advisory Board, a developer may dedicate a portion of the required park land dedication and make a contribution of money in lieu of land dedication for the remaining park land dedication requirement. This monetary contribution may be used to develop the park land in the development or elsewhere within the quadrant consistent with the most recent Fayetteville Park and Recreation System Master Plan.
 - (e) *Approval.* The Planning Commission's decision must be incorporated into the developer's preliminary plat or large scale development. Dedication or fee-in-lieu associated with small or large site improvement plans or other plans subject to administrative approval must also be incorporated into the developer's final approval.

(f) *Dedication Ratios.* Land shall be dedicated at a ratio of 0.023 acres of land for each single-family dwelling unit and 0.020 acres of land for each multi-family dwelling unit.

(g) *Fee-in-Lieu formulas.* A contribution in lieu of land dedication shall be made according to the following formula:

\$1,089.00 for each single-family unit.

\$952.00 for each multi-family unit.

The Parks, Natural Resources and Cultural Affairs Department shall review the contribution formula every two (2) years and make recommendations to the City Council following such review.

(h) *Dedication in Excess.* If a developer wishes to dedicate park land which exceeds the requirement of this subsection, the developer shall make a written request to the Planning Commission who may grant the developer a credit equivalent to said excess. Said credit shall be applied toward the developer's obligation under this subsection for any subsequent development located in the same park quadrant.

(iii) *Timing of Dedication and/or Contribution.* All dedications of land must be made before the city signs the final plat or issues building permits for developments that create one (1) or more additional residential dwelling unit. A final plat shall not be released for recordation until the deed for a land dedication is received. Deeded land is dedicated public park land and not subject to any right of reversion or refund. A cash contribution in lieu of required land dedication shall be payable before the city signs the final plat, or issues building permits for a development that creates one (1) or more additional residential dwelling units. With the approval of the Planning Commission a developer may pay such contribution in three (3) equal installments to be paid in full within one (1) year of final plat approval. If a developer makes a cash contribution in lieu of land dedication, the developer shall be entitled to a pro rata refund, together with the accrued interest therefrom, in the event actual density is less than the density used as the basis for the developer's contribution; provided, no refund shall be made unless application therefore is made in writing to the Zoning and Development Administrator within one (1) year from the date of final plat approval. In the event actual density is more than the density used as the basis for a dedication of land or cash contribution the developer must make an additional land dedication or contribution in lieu of dedication.

(iv) *Zoning Requirements.* Lots created for the purpose of park land dedication shall not be required to meet the standards for lot size, bulk and area within any zoning district. Lots created for the purpose of park land dedication to serve the residents of the surrounding area shall not be subject to POA/HOA dues or other fees established for maintenance or other purposes within the neighborhood.

(v) *Fee-in-Lieu Allocation.* All parkland fees received under this subsection shall be deposited in an interest bearing account. This money together with its earned interest shall be expended within five (5) calendar years of the last date of the calendar year in which it was received for the acquisition and/or development of parkland that services the subdivision or development for which the contribution in lieu of dedication was made. If this money has not been expended within the allowed period, the unexpended money together with any of its remaining earned interest shall be refunded to the present owner of the property that was the subject of the new development and against which the parkland fee was assessed and collected.

...

(Code 1965, App. C., Art. III, §A(2), (3); Ord. No. 1979, 2-5-74; Ord. No. 2353, 7-5-77; Ord. No. 2755, 9-1-81; Code 1991, §§159.31, 159.32; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4263, 8-1-00; Ord. No. 4660, 12-21-04; Ord. No. 5152, 7-15-08; Ord. No. 5271, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5374, 12-21-10; Ord. No. 5523, 9-4-12; Ord. No. 5570, 03-05-13; Ord. No. 6116, §1, 11-20-18; Ord. No. 6166, §§1, 2, 4-2-19; Ord. No. 6195, §1, 6-4-19; Ord. No. 6350, §3(Exh. B), 8-18-20; Ord. No. 6426, §1, 4-6-21; Ord. No. 6446, §8(Exh. C), 6-15-21)

166.04 Required Infrastructure Improvements — Development In City Limits

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...

- (4) *Preliminary/Final/Concurrent Plat; Large Scale Development; Large or Small Site Improvement Plan.*

..

- (I) *Parkland Dedication.*

- (i) *Applicability.* The requirements of this subsection shall apply to development that creates one (1) or more additional lots upon which residential dwelling units may be constructed and to development on an existing lot to create one (1) or more additional residential dwelling units, residential lot splits, subdivisions, large scale developments, planned zoning districts, large scale site improvement plans, and small scale site improvement plans; provided that these requirements shall not apply to a lot split or subdivision that does not create one (1) or more vacant lots on which a residential structure could be erected pursuant to the Unified Development Code.

- (ii) *Residential Development.*

- (a) *Dedication or Fee-in-Lieu.* When a proposed residential development does not provide an area or areas for a public park based on the Fayetteville Parks and Recreation Plan, most recent Fayetteville Park and Recreation System Master Plan, the developer shall be required to make a reasonable dedication of land for public park facilities, or to make a reasonable equivalent contribution in lieu of dedication of land, such contribution to be used for the acquisition and development of park land that serves the subdivision or development.
- (b) Parks, Natural Resources and Cultural Affairs Advisory Board. Parks and Recreation Advisory Board. Prior to the submittal of a preliminary plat, large scale development plan, or large site improvement plan the developer shall submit to the Parks, Natural Resources and Cultural Affairs Advisory Board Parks and Recreation Advisory Board a concept plat or conceptual development plan. If land dedication is being requested by the developer, a small site improvement plan shall also be submitted to the Parks, Natural Resources and Cultural Affairs Advisory Board.
- (c) *Planning Commission.* The developer and the Parks and Recreation Advisory Board Parks, Natural Resources and Cultural Affairs Advisory Board shall make a joint recommendation to the Planning Commission as to the land dedication or contribution in lieu of dedication for a preliminary plat or large scale development. ~~In the event that they are unable to agree, the developer and advisory board shall make separate recommendations to the Planning Commission who shall determine the issue. With the agreement of the Parks, Natural Resources and Cultural Affairs Advisory Board and developer, dedication or fee-in-lieu associated with small or large site improvement plans subject to administrative approval shall be accepted as a condition of approval.~~ In the event that they are unable to agree, the developer and advisory board shall make separate recommendations to the Planning Commission who shall determine the issue.
- (d) *Decision.* If the developer proposes to dedicate land for a public park after consultation with the Parks and Recreation Advisory Board Parks, Natural Resources and Cultural Affairs Advisory Board which the Planning Commission determines is suitable for park purposes, the proposed dedication shall be accepted. Upon consent and consultation with the developer and the Parks, Natural Resources and Cultural Affairs Advisory Board Parks and Recreation Advisory Board, a developer may dedicate a portion of the required park land dedication and make a contribution of money in lieu of land dedication for the remaining park land dedication requirement. ~~With consent of the Parks and~~

~~Recreation Advisory Board, t~~This monetary contribution may be used to develop the park land in the development or elsewhere within the quadrant consistent with the ~~Fayetteville Parks and Recreation Plan~~ most recent Fayetteville Park and Recreation System Master Plan.

- (e) *Approval*. The Planning Commission's decision must be incorporated into the developer's preliminary plat or, large scale development, ~~or large site improvement plan prior to plat or plan approval~~. Dedication or fee-in-lieu associated with small or large site improvement plans or other plans subject to administrative approval must also be incorporated into the developer's final approval.
- (f) *Dedication Ratios*. Land shall be dedicated at a ratio of 0.023 acres of land for each single-family dwelling unit and 0.020 acres of land for each multi-family dwelling unit.
- (g) *Fee-in-Lieu formulas*. A contribution in lieu of land dedication shall be made according to the following formula:

\$1,089.00 for each single-family unit.

\$952.00 for each multi-family unit ~~based upon actual density~~.

The Parks, ~~Natural Resources and Cultural Affairs~~ ~~and Recreation~~ Department shall review the contribution formula every two (2) years and make recommendations to the City Council following such review.

- (h) *Dedication in Excess*. If a developer wishes to dedicate park land which exceeds the requirement of this subsection, the developer shall make a written request to the Planning Commission who may grant the developer a credit equivalent to said excess. Said credit shall be applied toward the developer's obligation under this subsection for any subsequent development located in the same park quadrant.
- (iii) *Timing of Dedication and/or Contribution*. All dedications of land must be made before the city signs the final plat, ~~or issuance-issues of building permits- for developments that create one (1) or more additional residential dwelling unit, for a large scale development or large site improvement plan~~. A final plat shall not be released for recordation until the deed for a land dedication is received. Deeded land is dedicated public park land and not subject to any right of reversion or refund. A cash contribution in lieu of required land ~~dedication development~~ shall be payable before the city ~~signing-signs~~ the final plat, ~~or issuance-issues of building permits for a large scale development or large site improvement plan development that creates one (1) or more additional residential dwelling units~~. With the approval of the ~~planning~~ Planning Commission-Commission a developer may pay such contribution in three (3) equal installments to be paid in full within one (1) year of final plat approval. If a developer makes a cash contribution in lieu of land dedication, the developer shall be entitled to a pro rata refund, together with the accrued interest therefrom, in the event actual density is less than the density used as the basis for the developer's contribution; provided, no refund shall be made unless application therefore is made in writing to the Zoning and Development Administrator within one (1) year from the date of final plat approval. In the event actual density is more than the density used as the basis for a dedication of land or case contribution the developer must make an additional land dedication or contribution in lieu of dedication.
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 - (v) *Fee-in-Lieu Allocation*. All parkland fees received under this subsection shall be deposited in an interest bearing account. This money together with its earned interest shall be expended within five (5) calendar years of the last date of the calendar year in which it was received for the acquisition and/or development of parkland that services the subdivision or development for which the contribution in lieu of dedication was made. If this money has not been expended within the allowed period, the unexpended money together with any of its

UDC 166.04(B)(4) – PROPOSED CHANGES (STRIKETHROUGH)

remaining earned interest shall be refunded to the present owner of the property that was the subject of the new development and against which the parkland fee was assessed and collected.

...

(Code 1965, App. C., Art. III, §A(2), (3); Ord. No. 1979, 2-5-74; Ord. No. 2353, 7-5-77; Ord. No. 2755, 9-1-81; Code 1991, §§159.31, 159.32; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4263, 8-1-00; Ord. No. 4660, 12-21-04; Ord. No. 5152, 7-15-08; Ord. No. 5271, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5374, 12-21-10; Ord. No. 5523, 9-4-12; Ord. No. 5570, 03-05-13; Ord. No. 6116, §1, 11-20-18; Ord. No. 6166, §§1, 2, 4-2-19; Ord. No. 6195, §1, 6-4-19; Ord. No. 6350, §3(Exh. B), 8-18-20; Ord. No. 6426, §1, 4-6-21; Ord. No. 6446, §8(Exh. C), 6-15-21)



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

TO: **Jesse Masters**, Development Review Manager

CC: **Jonathan Curth**, Development Services Director
Blake Pennington, Senior Assistant City Attorney

FROM: **Kit Williams**, City Attorney

DATE: **April 18, 2024**

RE: **Proposed Change To Parkland Dedication Requirement**

I do not think you understood my concern that after decades requiring developers being assessed parkland fees for the number of new residential lots they were creating for these developments, you now place the parkland fee on the home builder. Your proposal states:

“Applicability: The requirements of this subsection shall apply to development that creates one (1) or more additional residential **dwelling units**.”

So a developer establishes a large new subdivision by final plat. This subsection places no requirement for any parkland assessment on the developer who has yet to build any “additional residential dwelling units.” Homebuilders purchase lots in the platted subdivision and build houses (a/k/a residential dwelling units) and thus must pay park fees for each house. Is that your intention?

The remainder of the proposed code makes little sense because it is not the developer who is necessarily creating additional residential building lots, but the builder who builds “additional residential dwelling units” to which “the requirements of this subsection shall apply to.” If you do not want to make this major change to allow developers to pass the costs of parkland fees directly to home builders, I suggest the following wording for the applicability subsection:

"The requirements of this subsection shall apply to development that creates one (1) or more additional lots upon which residential dwelling units may be constructed and to development of an existing lot to create one (1) or more additional residential dwelling units."

I would also add "small site improvement plan" to the listed developments in (b).

Also I would add to (b) the following to handle the fees vs. dedication of land issue for large and small site improvement plans (which I believe you do not wish to refer to the Planning Commission, but decide administratively by the Planning Department):

"The Planning Department shall consider the developer's and Advisory Board's recommendations concerning potential parkland dedication as opposed to fees in lieu of dedication and shall accept the proposed parkland dedication of property if such property is suitable for park purposes."

In (e) *Approval*, please add small site improvement plan to the sentence for large site improvement plans.

Please remove the not needed "of" in (iii) between "issues" and "building permits." However, I disagree with most of your changes to (iii) which are somewhat confusing. I would be happy to work with you to make this subsection more clear, but I need to get this memo to you before trying to work in that subsection.

-----Original Message-----

From: Thomas Brown <dog13gregg@aol.com>

Sent: Sunday, April 21, 2024 6:39 PM

To: Garlock, Jimm <jimm.garlock@fayetteville-ar.gov>; Brink, Andrew <andrew.brink@fayetteville-ar.gov>; Payne, Brad <brad.payne@fayetteville-ar.gov>; Gulley, Fred <fred.gulley@fayetteville-ar.gov>; McGetrick, Mary <mary.mcgetrick@fayetteville-ar.gov>; Madden, Mary <mary.madden@fayetteville-ar.gov>; Cabe, Matthew <matthew.cabe@fayetteville-ar.gov>; Castin, Nick <nick.castin@fayetteville-ar.gov>; Werner, Nick <nick.werner@fayetteville-ar.gov>

Cc: Masters, Jessica <jmasters@fayetteville-ar.gov>; CityClerk <cityclerk@fayetteville-ar.gov>

Subject: ADM-2024-0019: Administrative Item (Amend UDC Chapters 166.04, Parkland Dedication):

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

Planning Commissioners,
Please forward ADM-2024-0019 to the City Council with a recommendation of approval.

Thomas Brown



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Jessica Masters, Development Review Manager

SUBJECT: **VAC-2024-0007: Vacation (EAST OF 1074 E. SAIN ST/TRAILS ON THE CREEK, 174): Submitted by BLEW AND ASSOCIATES for property located EAST OF 1074 E. SAIN STREET in WARD 3. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 10.60 acres. The request is to vacate 0.076 acres of drainage easement.**

RECOMMENDATION:

Staff recommends approval of VAC-2024-0007 as shown in the attached Exhibits 'A' and 'B', and with the following condition of approval:

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense;

BACKGROUND:

The subject property is in north Fayetteville, south of Mud Creek, and west of Butterfield Trail Village. The eastern and southern portions of the main site are characterized by steep slopes down to Mud Creek and its floodplain to the north, and up to Brookhaven Estates and Christian Life Cathedral to the south. The property received its current zoning designation of RPZD on November 5, 2020 with the passage of Ordinance 6377 by City Council. An associated large-scale development for multi-family housing was approved by the Planning Commission on November 28, 2022 and is currently working its way through the permitting process. Previous easement and right-of-way vacation requests were heard and approved by City Council on February 21, 2023 (Ordinance 6645 and 6646, respectively).

Request: The applicant proposes to vacate a drainage easement that is currently within three separate segments and totaling 0.076 acres. These easements are required for vacation to continue moving forward with a multi-family large-scale development that received approval in November 2022.

DISCUSSION:

City of Fayetteville staff recommends in favor of the requested drainage easement vacation. The applicant submitted all the necessary approvals without objections. A new 20-foot wide drainage easement is planned to be dedicated to the east of this existing easement to align with the planned drainage system to be installed with the associated multi-family development.

BUDGET/STAFF IMPACT:

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

N/A

ATTACHMENTS: Exhibit A (#3), Exhibit B (#4), Applicant Request Letter (#5), Petition to Vacate (#6), Survey (#7)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-62

VAC-2024-0007: Vacation (EAST OF 1074 E. SAIN ST/TRAILS ON THE CREEK, 174): Submitted by BLEW AND ASSOCIATES for property located EAST OF 1074 E. SAIN STREET in WARD 3. The property is zoned RPZD, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 10.60 acres. The request is to vacate 0.076 acres of drainage easement.

AN ORDINANCE TO APPROVE VAC-24-07 FOR PROPERTY LOCATED EAST OF 1074 EAST SAIN STREET IN WARD 3 TO VACATE A 0.076 ACRE PORTION OF DRAINAGE EASEMENT

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

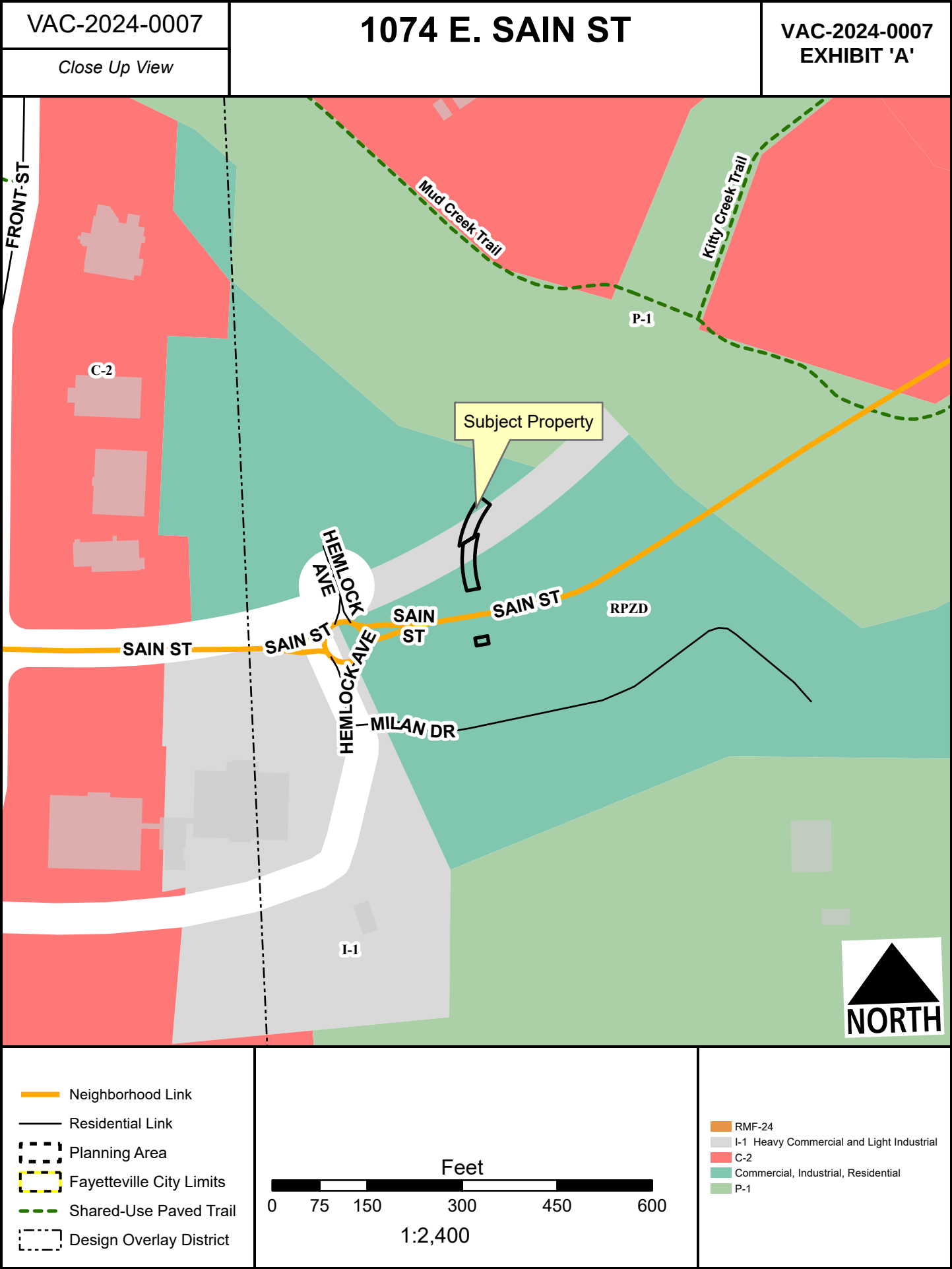
WHEREAS, the City Council has determined that the following described portion of drainage easement is not required for corporate purposes.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates the portion of drainage easement as described in Exhibit B attached to the Planning Department's memo.

Section 2: A copy of this Ordinance duly certified by the City Clerk along with the map attached as Exhibit A to the Planning Department's memo shall be filed in the office of the Washington County Circuit Clerk.

Section 3: This vacation approval is subject to the condition that any damage to or relocation of any existing facilities will be at the property owner/developer's expense





Surveying | Engineering
Environmental

DRAINAGE EASEMENT VACATION

A PERMANENT DRAINAGE EASEMENT (PDE) ACROSS PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE/4 NE/4) OF SECTION 26, IN TOWNSHIP 17 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, IN WASHINGTON COUNTY, ARKANSAS, BEING ALSO A PART OF A TRACT DESCRIBED IN WASHINGTON COUNTY DEED BOOK 799, PAGE 170, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SAID SE/4 NE/4 OF SECTION 26; THENCE ALONG THE SOUTH LINE OF THE ADJACENT SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25; S87°37'28"E 140.00 FEET; THENCE LEAVING THE SOUTH LINE N02°40'55"E 199.11 FEET; THENCE N41°08'13"W 279.19 FEET TO THE NEW NORTH LINE OF SAIN STREET; THENCE ALONG THE NEW NORTH LINE OF SAIN STREET FOR THE FOLLOWING COURSES: S65°35'09"W 107.91 FEET; THENCE S62°21'02"W 32.68 FEET; THENCE S59°43'42"W 25.52 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT WITH A RADIUS OF 312.00 FEET; THENCE 119.95 FEET ALONG THE CURVE FOR A CHORD OF S70°44'31"W 119.21 FEET TO THE POINT OF TANGENCY; THENCE S81°45'20"W 89.51 FEET TO THE PDE POINT OF BEGINNING; THENCE CONTINUING THENCE S81°45'20"W 20.16 FEET; THENCE LEAVING THE NEW NORTH LINE OF SAIN STREET, ALONG A NON-TANGENT CURVE TO THE NORTH, CONCAVE TO THE EAST, WITH A RADIUS OF 167.00 FEET AND ARC LENGTH OF 75.25 FEET, FOR A CHORD OF N02°10'20"W 74.62 FEET TO THE CENTERLINE OF THE FORMER SAIN STREET AS ABANDONED BY FAYETTEVILLE CITY ORDINANCE 2883; THENCE LEAVING THE CURVE ALONG THE SAID FORMER CENTERLINE OF SAIN STREET, ALONG A NON-TANGENT CURVE TO THE NORTHEAST, CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 1145.51 FEET AND ARC LENGTH OF 27.62 FEET, FOR A CHORD OF N60°30'52"E 27.62 FEET; THENCE LEAVING THE CURVE AND THE FORMER CENTERLINE, ALONG A NON-TANGENT CURVE TO THE SOUTH, CONCAVE TO THE EAST, WITH A RADIUS OF 147.00 FEET AND ARC LENGTH OF 86.52 FEET, FOR A CHORD OF S00°50'38"W 85.28 FEET TO THE PDE POINT OF BEGINNING, ENCLOSING 1,613 SQUARE FEET, OR 0.037 ACRES.

AND

A PERMANENT DRAINAGE EASEMENT (PDE) ACROSS PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE/4 NE/4) OF SECTION 26, IN TOWNSHIP 17 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, IN WASHINGTON COUNTY, ARKANSAS, BEING ALSO A PART OF A TRACT DESCRIBED IN WASHINGTON COUNTY DEED BOOK 799, PAGE 170, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SAID SE/4 NE/4 OF SECTION 26; THENCE, ALONG THE SOUTH LINE OF THE ADJACENT SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, S87°37'28"E 140.00 FEET; THENCE LEAVING THE SOUTH LINE OF N02°40'55"E 199.11 FEET; THENCE N41°08'13"W 192.68 FEET; THENCE S53°55'36"W 143.47 FEET; THENCE S68°16'53"W 124.12 FEET; THENCE S84°11'56"W 164.94 FEET TO THE PDE POINT OF BEGINNING; THENCE S81°45'20"W 20.00 FEET; THENCE N08°18'32"W 12.25 FEET TO THE NEW SOUTH LINE OF SAIN STREET; THENCE ALONG THE NEW SOUTH LINE OF SAIN STREET N81°45'20"E 20.00 FEET; THENCE LEAVING THE NEW SOUTH LINE OF SAIN STREET S08°18'32"E 12.25 FEET TO THE PDE POINT OF BEGINNING, ENCLOSING 245 SQUARE FEET, OR 0.006 ACRES.

AND

A PERMANENT DRAINAGE EASEMENT (PDE) ACROSS PART OF LOT 11 OF VANTAGE SQUARE, UNIT 2, AS DESCRIBED IN A DEED FILED AS WASHINGTON COUNTY, ARKANSAS DOCUMENT 94-047826 (THE PARENT TRACT), AND DEPICTED ON A PLAT FILED IN WASHINGTON COUNTY PLAT BOOK 10, PAGE 79, ALL BEING IN THE CITY OF FAYETTEVILLE, IN WASHINGTON COUNTY, ARKANSAS AND THE PDE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL SOUTHWEST CORNER OF THE SAID LOT 11 OF VANTAGE SQUARE, UNIT 2; THENCE ALONG THE PLATTED NORTH LINE OF SAIN STREET FOR THE FOLLOWING COURSES: ALONG A NON-TANGENT CURVE TO THE EAST, CONCAVE TO THE NORTH, WITH A RADIUS OF 1,115.51 FEET AND ARC LENGTH OF 59.38 FEET FOR A



479-443-4506



blewinc.com



5102 S Pinnacle Hills Pkwy
Rogers, Arkansas 72758

VAC-2024-0007
EXHIBIT 'B'

CHORD OF N85°04'27"E 59.37 FEET OT THE SOUTHWEST CORNER OF THE PARENT TRACT; THENCE CONTINUING 175.94 FEET ALONG THE 1,115.51 FEET RADIUS CURVE FOR A CHORD N79°01'52"E 175.76 FEET; THENCE LEAVING THE CURVE, ALONG A NON-TANGENT CURVE TO THE NORTHEAST, CONCAVE TO THE SOUTHEAST, WITH A RADIUS OF 60.00 FEET AND ARC LENGTH OF 185.27 FEET, FOR A CHORD OF N71°25'51"E 119.96 FEET; THENCE LEAVING THE PLATTED NORTH LINE OF SAIN STREET AND CONTINUING 31.64 FEET ALONG THE 60.00 FEET RADIUS CURVE FOR A CHORD OF S05°00'10"E OF 31.28 FEET TO THE CENTERLINE OF THE FORMER SAIN STREET AS ABANDONED BY FAYETTEVILLE CITY ORDINANCE 2883; THENCE LEAVING THE CURVE, ALONG THE FORMER CENTER OF SAIN STREET, ALONG A NON-TANGENT CURVE TO THE NORTHEAST, CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 1145.51 FEET AND ARC LENGTH OF 151.78 FEET FOR A CHORD OF N65°00'03"E 151.67 FEET TO THE PDE POINT OF BEGINNING; THENCE LEAVING THE CURVE AND THE FORMER CENTERLINE, ALONG A NON-TANGENT CURVE TO THE NORTHEAST, CONCAVE TO THE SOUTHEAST, WITH A RADIUS OF 167.00 FEET AND ARC LENGTH OF 85.03 FEET, FOR A CHORD OF N25°19'22"E 84.11 FEET; THENCE LEAVING THE CURVE S50°05'29"E 20.00 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE SOUTHWEST, CONCAVE TO THE SOUTHEAST, WITH A RADIUS OF 147.00 FEET AND ARC LENGTH OF 56.97 FEET, FOR A CHORD OF S28°48'25"W 56.61 FEET OT THE FORMER CENTERLINE; THENCE LEAVING THE CURVE, ALONG THE FORMER CENTERLINE, ALONG A NON-TANGENT CURVE TO THE SOUTHWEST, CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 1,145.51 FEET AND ARC LENGTH OF 27.62 FEET FOR A CHORD OF S60°30'52"W 27.62 FEET TO THE POINT OF BEGINNING, ENCLOSING 1,425 SQUARE FEET OR 0.033 ACRES.

BLEW

Surveying | Engineering
Environmental

April 18, 2024

City of Fayetteville City Council
125 W. Mountain Street
Fayetteville, AR 72701

SUBJECT: Drainage Easement Vacations for Trails on the Creek

Dear Council Members:

We are requesting to vacate Three Drainage Easements within the Trail on the Creek development, along Sain Street. The drainage easements followed the previous alignment of an old drainage channel and are no longer needed. The property is under development and the drainage channel is being replaced with a public box culvert drainage system.

The 20' wide Easements are named as follows:

PDE – Approximately 70 foot long easement containing 0.037 acres.

North PDE #1 – Approximately 75 foot long easement containing 0.03 acres.

South PDE #2 – Approximately 12 foot long easement containing 0.006 acres.

A new drainage easement for the alignment of the box culvert has been dedicated by Easement Plat. Please see the attached exhibit.

Sincerely,



Cody Sexton
Blew & Associates, PA



479-443-4506

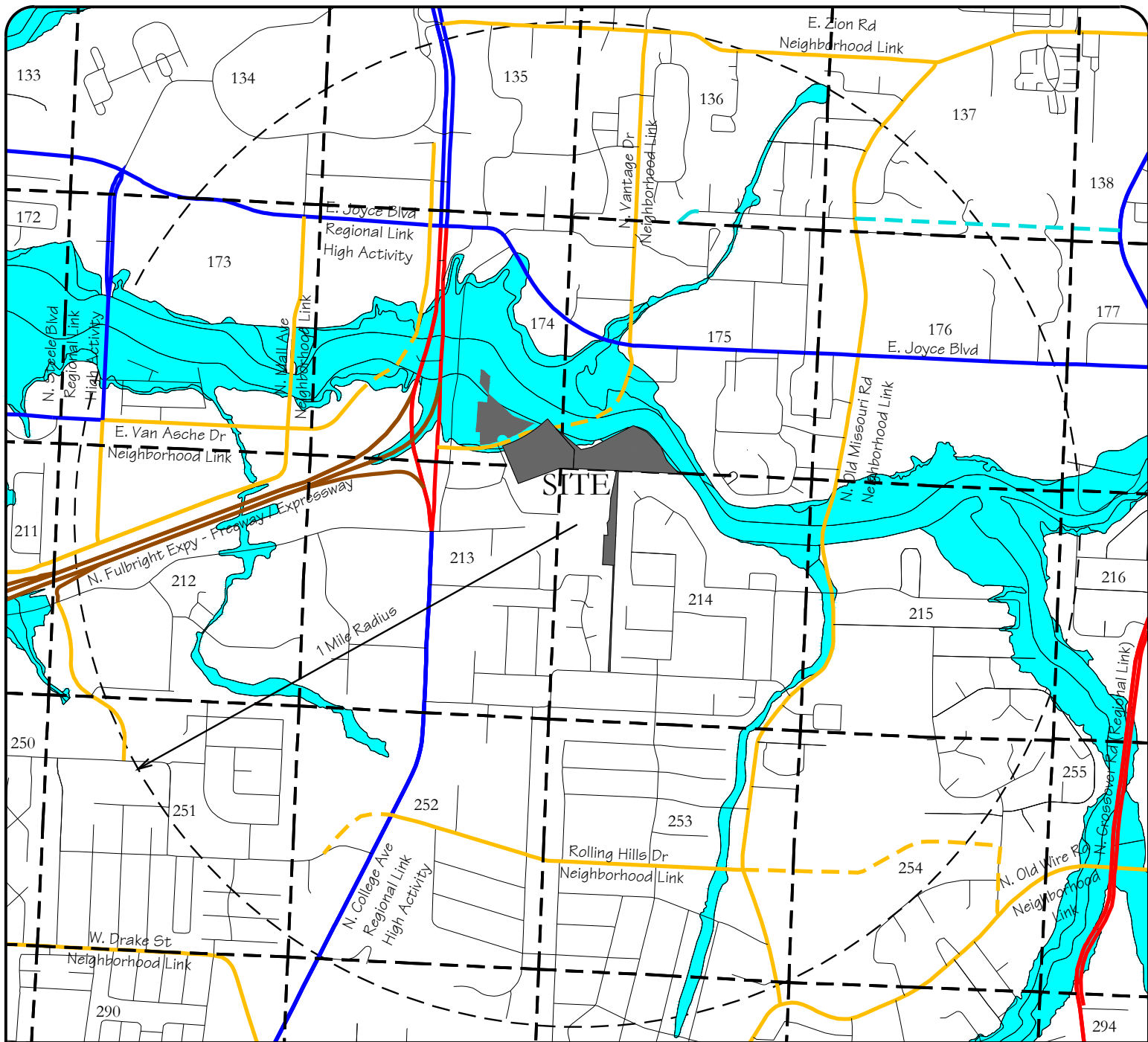


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Rogers, Arkansas 72758

Page 278 of 420



VICINITY MAP

N.T.S.

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

Vicinity Map

Project Number:
19-3732

Certificate of Authorization № 1534

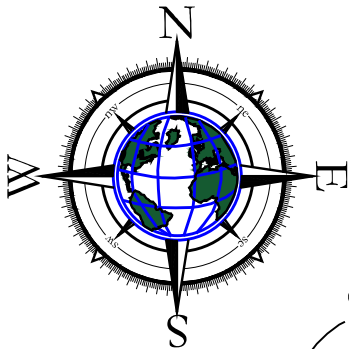
Date: 04/18/2024

3825 N. Shiloh Drive ♦ Fayetteville, Arkansas 72703 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax

Curve Table				
Curve #	Arc Length	Radius	Chord Length	Chord Bearing
C1	59.38'	1115.51'	59.37'	N85°04'27"E
C2	175.94'	1115.51'	175.76'	N79°01'52"E
C3	185.27'	60.00'	119.96'	N71°25'51"E
C4	31.64'	60.00'	31.28'	S05°00'10"E
C5	151.78'	1145.51'	151.67'	N65°00'03"E
C6	85.03'	167.00'	84.11'	N25°19'22"E
C7	56.97'	147.00'	56.61'	S28°48'25"W
C8	27.62'	1145.51'	27.62'	S60°30'52"W

Line Table		
Line #	Distance	Bearing
L1	20.00'	S50°05'29"E

②
765-16854-000
WD 2020 15948 05/19/2020
**THE TRAILS ON THE CREEK
APARTMENTS**
(part Lot 11, Vantage Square, Unit 2)



①

C1
C2
SAIN STREET
60' ROW

P.O.C.
SW Corner
Orig. Lot 11

PDE
1,425.11 SF
0.03 AC
P.O.B.

PDE VACATION

A Permanent Drainage Easement (PDE) across part of Lot 11 of Vantage Square, Unit 2, as described in a deed filed as Washington County, Arkansas document 94-047826 (the Parent Tract), and depicted on a plat filed in Washington County Plat Book 10, Page 79, all being in the City of Fayetteville, in Washington County, Arkansas and the PDE being more particularly described as follows: Commencing at the original southwest corner of the said Lot 11 of Vantage Square, Unit 2; thence along the platted north line of Sain Street for the following courses: along a non-tangent curve to the east, concave to the north, with a radius of 1,115.51 feet and arc length of 59.38 feet for a chord of N85°04'27"E 59.37 feet at the southwest corner of the Parent Tract; thence continuing 175.94 feet along the 1,115.51 feet radius curve for a chord N79°01'52"E 175.76 feet; thence leaving the curve, along a non-tangent curve to the northeast, concave to the southeast, with a radius of 60.00 feet and arc length of 185.27 feet, for a chord of N71°25'51"E 119.96 feet; thence leaving the platted north line of Sain Street and continuing 31.64 feet along the 60.00 feet radius curve for a chord of S05°00'10"E of 31.28 feet to the centerline of the former Sain Street as abandoned by Fayetteville City Ordinance 2883; thence leaving the curve, along the former center of Sain Street, along a non-tangent curve to the northeast, concave to the northwest, with a radius of 1145.51 feet and arc length of 151.78 feet for a chord of N65°00'03"E 151.67 feet to the PDE Point of Beginning; thence leaving the curve and the former centerline, along a non-tangent curve to the northeast, concave to the southeast, with a radius of 167.00 feet and arc length of 85.03 feet, for a chord of N25°19'22"E 84.11 feet; thence leaving the curve S50°05'29"E 20.00 feet; thence along a non-tangent curve to the southwest, concave to the southeast, with a radius of 147.00 feet and arc length of 56.97 feet, for a chord of S28°48'25"W 56.61 feet of the former centerline; thence leaving the curve, along the former centerline, along a non-tangent curve to the southwest, concave to the northwest, with a radius of 1,145.51 feet and arc length of 27.62 feet for a chord of S60°30'52"W 27.62 feet to the Point of Beginning, enclosing 1,425 square feet or 0.033 acres.

PDE Easement Exhibit



Project Number:
20-4434 Trails on the Creek

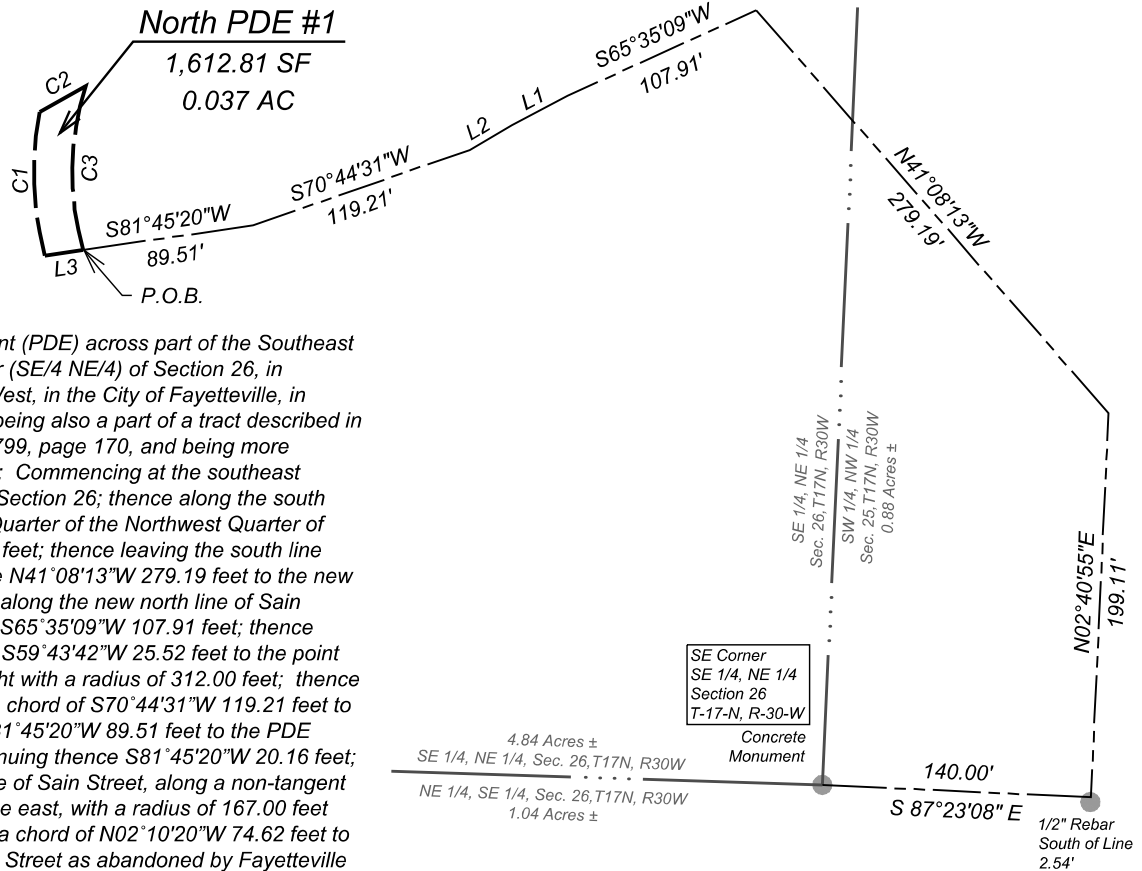
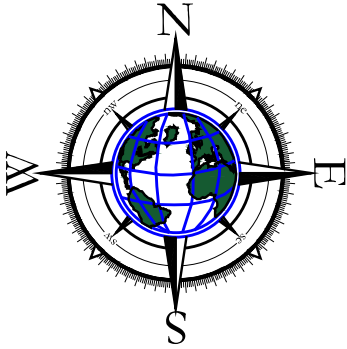


(in feet) 1 inch = 100 ft.

Certificate of Authorization № 1534

Date: 02/10/2023

5104 S. Pinnacle Hills Pkwy ♦ Rogers, Arkansas 72758 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax



NORTH PDE #1 VACATION
 A Permanent Drainage Easement (PDE) across part of the Southeast Quarter of the Northeast Quarter (SE/4 NE/4) of Section 26, in Township 17 North, Range 30 West, in the City of Fayetteville, in Washington County, Arkansas, being also a part of a tract described in Washington County deed book 799, page 170, and being more particularly described as follows: Commencing at the southeast corner of the said SE/4 NE/4 of Section 26; thence along the south line of the adjacent Southwest Quarter of the Northwest Quarter of Section 25; S87°37'28"E 140.00 feet; thence leaving the south line N02°40'55"E 199.11 feet; thence N41°08'13"W 279.19 feet to the new north line of Sain Street; thence along the new north line of Sain Street for the following courses: S65°35'09"W 107.91 feet; thence S62°21'02"W 32.68 feet; thence S59°43'42"W 25.52 feet to the point of curvature of a curve to the right with a radius of 312.00 feet; thence 119.95 feet along the curve for a chord of S70°44'31"W 119.21 feet to the point of tangency; thence S81°45'20"W 89.51 feet to the PDE Point of Beginning; thence continuing thence S81°45'20"W 20.16 feet; thence leaving the new north line of Sain Street, along a non-tangent curve to the north, concave to the east, with a radius of 167.00 feet and arc length of 75.25 feet, for a chord of N02°10'20"W 74.62 feet to the centerline of the former Sain Street as abandoned by Fayetteville City Ordinance 2883; thence leaving the curve along the said former centerline of Sain Street, along a non-tangent curve to the northeast, concave to the northwest, with a radius of 1145.51 feet and arc length of 27.62 feet, for a chord of N60°30'52"E 27.62 feet; thence leaving the curve and the former centerline, along a non-tangent curve to the south, concave to the east, with a radius of 147.00 feet and arc length of 86.52 feet, for a chord of S00°50'38"W 85.28 feet to the PDE Point of Beginning, enclosing 1,613 square feet, or 0.037 acres.

Line Table		
Line #	Distance	Bearing
L1	32.68'	S62°21'02"W
L2	25.52'	S59°43'42"W
L3	20.16'	S81°45'20"W

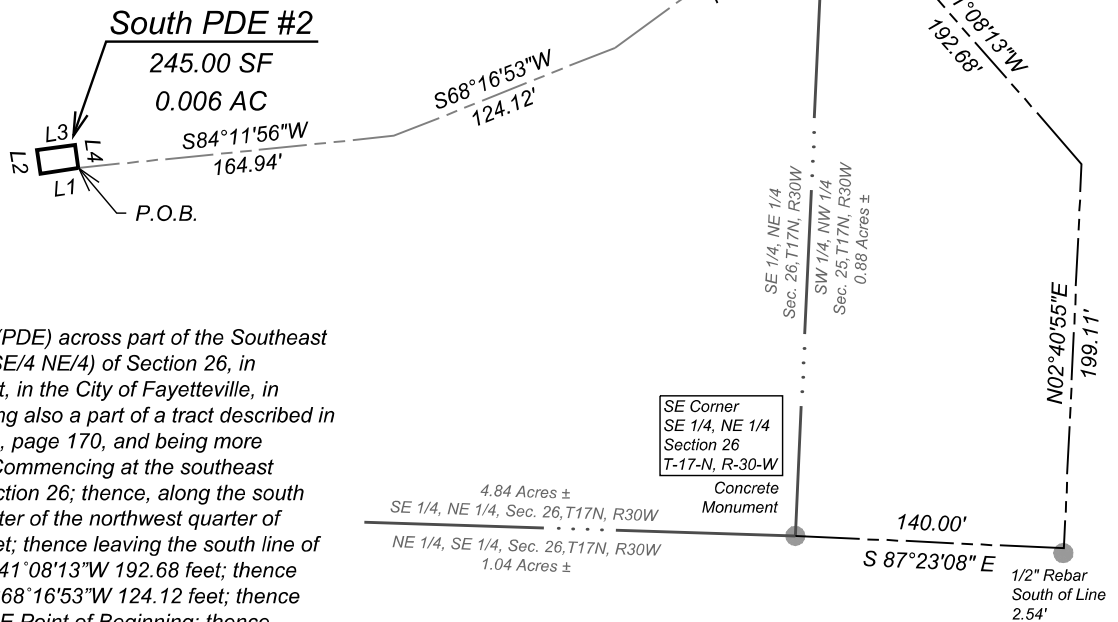
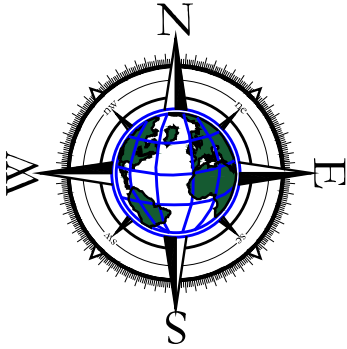
Curve Table				
Curve #	Arc Length	Radius	Chord Length	Chord Bearing
C1	75.26'	167.00'	74.62'	S02°10'20"E
C2	27.62'	1145.51'	27.62'	N60°30'52"E
C3	86.52'	147.00'	85.28'	S00°50'38"W

North PDE #1 Easement Exhibit



Project Number: 20-4434 Trails on the Creek
 Certificate of Authorization № 1534
 Date: 02/02/2023

5104 S. Pinnacle Hills Pkwy ♦ Rogers, Arkansas 72758 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax

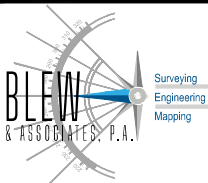


SOUTH PDE #2 VACATION

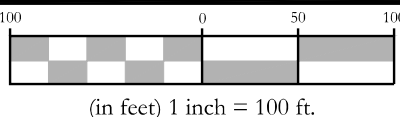
A Permanent Drainage Easement (PDE) across part of the Southeast Quarter of the Northeast Quarter (SE/4 NE/4) of Section 26, in Township 17 North, Range 30 West, in the City of Fayetteville, in Washington County, Arkansas, being also a part of a tract described in Washington County deed book 799, page 170, and being more particularly described as follows: Commencing at the southeast corner of the said SE/4 NE/4 of Section 26; thence, along the south line of the adjacent southwest quarter of the northwest quarter of Section 25, S87°37'28"E 140.00 feet; thence leaving the south line of N02°40'55"E 199.11 feet; thence N41°08'13"W 192.68 feet; thence S53°55'36"W 143.47 feet; thence S68°16'53"W 124.12 feet; thence S84°11'56"W 164.94 feet to the PDE Point of Beginning; thence S81°45'20"W 20.00 feet; thence N08°18'32"W 12.25 feet to the new south line of Sain Street; thence along the new south line of Sain Street N81°45'20"E 20.00 feet; thence leaving the new south line of Sain Street S08°18'32"E 12.25 feet to the PDE Point of Beginning, enclosing 245 square feet, or 0.006 acres.

Line Table		
Line #	Distance	Bearing
L1	20.00'	S81°45'20"W
L2	12.25'	N08°18'32"W
L3	20.00'	N81°45'20"E
L3	12.25'	S08°18'32"E

South PDE #2 Easement Exhibit



Project Number:
20-4434 Trails on the Creek



Certificate of Authorization № 1534

Date: 02/10/2023

5104 S. Pinnacle Hills Pkwy ♦ Rogers, Arkansas 72758 ♦ 479.443.4506 Office ♦ 479.582.1883 Fax

PETITION

PETITION TO VACATE A PERMANENT DRAINAGE EASEMENT LOCATED IN PART OF LOT 11, VANTAGE SQUARE, UNIT II, CITY OF FAYETTEVILLE, ARKANSAS.

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 11, Vantage Square, Unit II, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

A PERMANENT DRAINAGE EASEMENT (PDE) ACROSS PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE/4 NE/4) OF SECTION 26, IN TOWNSHIP 17 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, IN WASHINGTON COUNTY, ARKANSAS, BEING ALSO A PART OF A TRACT DESCRIBED IN WASHINGTON COUNTY DEED BOOK 799, PAGE 170, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SAID SE/4 NE/4 OF SECTION 26; THENCE ALONG THE SOUTH LINE OF THE ADJACENT SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25; S87°37'28"E 140.00 FEET; THENCE LEAVING THE SOUTH LINE N02°40'55"E 199.11 FEET; THENCE N41°08'13"W 279.19 FEET TO THE NEW NORTH LINE OF SAIN STREET; THENCE ALONG THE NEW NORTH LINE OF SAIN STREET FOR THE FOLLOWING COURSES: S65°35'09"W 107.91 FEET; THENCE S62°21'02"W 32.68 FEET; THENCE S59°43'42"W 25.52 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT WITH A RADIUS OF 312.00 FEET; THENCE 119.95 FEET ALONG THE CURVE FOR A CHORD OF S70°44'31"W 119.21 FEET TO THE POINT OF TANGENCY; THENCE S81°45'20"W 89.51 FEET TO THE PDE POINT OF BEGINNING; THENCE CONTINUING THENCE S81°45'20"W 20.16 FEET; THENCE LEAVING THE NEW NORTH LINE OF SAIN STREET, ALONG A NON-TANGENT CURVE TO THE NORTH, CONCAVE TO THE EAST, WITH A RADIUS OF 167.00 FEET AND ARC LENGTH OF 75.25 FEET, FOR A CHORD OF N02°10'20"W 74.62 FEET TO THE CENTERLINE OF THE FORMER SAIN STREET AS ABANDONED BY FAYETTEVILLE CITY ORDINANCE 2883; THENCE LEAVING THE CURVE ALONG THE SAID FORMER CENTERLINE OF SAIN STREET, ALONG A NON-TANGENT CURVE TO THE NORTHEAST, CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 1145.51 FEET AND ARC LENGTH OF 27.62 FEET, FOR A CHORD OF N60°30'52"E 27.62 FEET; THENCE LEAVING THE CURVE AND THE FORMER CENTERLINE, ALONG A NON-TANGENT CURVE TO THE SOUTH, CONCAVE TO THE EAST, WITH A RADIUS OF 147.00 FEET AND ARC LENGTH OF 86.52 FEET, FOR A CHORD OF S00°50'38"W 85.28 FEET TO THE PDE POINT OF BEGINNING, ENCLOSING 1,613 SQUARE FEET, OR 0.037 ACRES.

AND

A PERMANENT DRAINAGE EASEMENT (PDE) ACROSS PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE/4 NE/4) OF SECTION 26, IN TOWNSHIP 17 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, IN WASHINGTON COUNTY, ARKANSAS, BEING ALSO A PART OF A TRACT DESCRIBED IN WASHINGTON COUNTY DEED BOOK 799, PAGE 170, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SAID SE/4 NE/4 OF SECTION 26; THENCE, ALONG THE SOUTH LINE OF THE ADJACENT SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, S87°37'28"E 140.00 FEET; THENCE LEAVING THE SOUTH LINE OF N02°40'55"E 199.11 FEET; THENCE N41°08'13"W 192.68 FEET; THENCE S53°55'36"W 143.47 FEET; THENCE S68°16'53"W 124.12 FEET; THENCE S84°11'56"W 164.94 FEET TO THE PDE POINT OF BEGINNING; THENCE S81°45'20"W 20.00 FEET; THENCE N08°18'32"W 12.25 FEET TO THE NEW SOUTH LINE OF SAIN STREET; THENCE ALONG THE NEW SOUTH LINE OF SAIN STREET N81°45'20"E 20.00 FEET; THENCE LEAVING THE NEW SOUTH LINE OF SAIN STREET S08°18'32"E 12.25 FEET TO THE PDE POINT OF BEGINNING, ENCLOSING 245 SQUARE FEET, OR 0.006 ACRES.

AND

A PERMANENT DRAINAGE EASEMENT (PDE) ACROSS PART OF LOT 11 OF VANTAGE SQUARE, UNIT 2, AS DESCRIBED IN A DEED FILED AS WASHINGTON COUNTY, ARKANSAS DOCUMENT 94-047826 (THE

PARENT TRACT), AND DEPICTED ON A PLAT FILED IN WASHINGTON COUNTY PLAT BOOK 10, PAGE 79, ALL BEING IN THE CITY OF FAYETTEVILLE, IN WASHINGTON COUNTY, ARKANSAS AND THE PDE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE ORIGINAL SOUTHWEST CORNER OF THE SAID LOT 11 OF VANTAGE SQUARE, UNIT 2; THENCE ALONG THE PLATTED NORTH LINE OF SAIN STREET FOR THE FOLLOWING COURSES: ALONG A NON-TANGENT CURVE TO THE EAST, CONCAVE TO THE NORTH, WITH A RADIUS OF 1,115.51 FEET AND ARC LENGTH OF 59.38 FEET FOR A CHORD OF N85°04'27"E 59.37 FEET OT THE SOUTHWEST CORNER OF THE PARENT TRACT; THENCE CONTINUING 175.94 FEET ALONG THE 1,115.51 FEET RADIUS CURVE FOR A CHORD N79°01'52"E 175.76 FEET; THENCE LEAVING THE CURVE, ALONG A NON-TANGENT CURVE TO THE NORTHEAST, CONCAVE TO THE SOUTHEAST, WITH A RADIUS OF 60.00 FEET AND ARC LENGTH OF 185.27 FEET, FOR A CHORD OF N71°25'51"E 119.96 FEET; THENCE LEAVING THE PLATTED NORTH LINE OF SAIN STREET AND CONTINUING 31.64 FEET ALONG THE 60.00 FEET RADIUS CURVE FOR A CHORD OF S05°00'10"E OF 31.28 FEET TO THE CENTERLINE OF THE FORMER SAIN STREET AS ABANDONED BY FAYETTEVILLE CITY ORDINANCE 2883; THENCE LEAVING THE CURVE, ALONG THE FORMER CENTER OF SAIN STREET, ALONG A NON-TANGENT CURVE TO THE NORTHEAST, CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 1145.51 FEET AND ARC LENGTH OF 151.78 FEET FOR A CHORD OF N65°00'03"E 151.67 FEET TO THE PDE POINT OF BEGINNING; THENCE LEAVING THE CURVE AND THE FORMER CENTERLINE, ALONG A NON-TANGENT CURVE TO THE NORTHEAST, CONCAVE TO THE SOUTHEAST, WITH A RADIUS OF 167.00 FEET AND ARC LENGTH OF 85.03 FEET, FOR A CHORD OF N25°19'22"E 84.11 FEET; THENCE LEAVING THE CURVE S50°05'29"E 20.00 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE SOUTHWEST, CONCAVE TO THE SOUTHEAST, WITH A RADIUS OF 147.00 FEET AND ARC LENGTH OF 56.97 FEET, FOR A CHORD OF S28°48'25"W 56.61 FEET OT THE FORMER CENTERLINE; THENCE LEAVING THE CURVE, ALONG THE FORMER CENTERLINE, ALONG A NON-TANGENT CURVE TO THE SOUTHWEST, CONCAVE TO THE NORTHWEST, WITH A RADIUS OF 1,145.51 FEET AND ARC LENGTH OF 27.62 FEET FOR A CHORD OF S60°30'52"W 27.62 FEET TO THE POINT OF BEGINNING, ENCLOSING 1,425 SQUARE FEET OR 0.033 ACRES.

That the abutting real estate affected by said abandonment of the alley are Lot 11, Vantage Square, Unit II, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

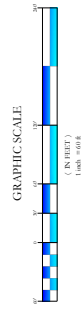
Dated this 22nd day of MARCH, 20 24.

The Trails on the Creek Apartments, a Limited Partnership
By: The Trails on the Creek Apartments Management
Company, Inc., Its General Partner

By: [Signature]
James Earl "Lyndy" Lindsey, President

[illegible]

DATE	SEASONS	DISTANCE
11/01	1150-42/42 E	23/01
12/01	1150-42/42 E	23/01
13/01	1150-42/42 E	23/01
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09/11	1150-42/42 E	23/01
10/11	1150-42/42 E	23/01



BLEW
Surveying | Engineering
Environmental

3625 N. Shiloh Drive
Fayetteville, Arkansas 72703
Office: (479) 443-4506
www.BLEWMNC.com

Project No. 20-4434
SHEET 1 OF 1



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Kylee Cole, Planner

SUBJECT: **RZN-2024-0015: Rezoning (4600 E. HUNTSVILLE RD./STONE STREET RENTALS LLC., 565): Submitted by JOHN CLOYED for property located at 4600 E. HUNTSVILLE RD. in WARD 1. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 1.94 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is in southeast Fayetteville approximately two miles east of the intersection of S. Crossover Rd. and E. Huntsville Rd. The property contains approximately 1.94 acres and is developed with a single-family dwelling constructed in 1936. The property is zoned R-A, Residential-Agricultural which it received in 2003 with the adoption of the new city zoning map.

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RSF-4, Residential Single-Family, Four Units per Acre.

Public Comment: To date, staff have received no public comment.

Land Use Compatibility: Staff finds the proposed rezoning from R-A to RSF-4 to be compatible with the surrounding area. The subject property is adjacent to RSF-4-zoned single-family property across E. Huntsville Rd. to the southwest and properties developed with single-family homes to the north, east, and west. A rezoning to RSF-4 would allow for the by-right development of low-density, single-family dwellings. Additional housing options providing increased density are available through conditional use, such as two-family dwellings and cluster housing. R-A and RSF-4 have significantly different bulk and area requirements. Lot width minimum in R-A is 200 feet, but in RSF-4 is only 70 feet. Lot area in R-A is a minimum of 2 acres, but in RSF-4 is 8,000 square feet (.18 acres). Staff finds the requested rezoning to be compatible with surrounding land uses and provides opportunities for increased housing opportunities at an increment appropriate for an area towards the periphery of Fayetteville.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's adopted land

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RSF-4 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and offer some flexibility in housing types. Staff finds that the requested rezoning could allow for the creation of housing that meets City Goals 1: We Will Make Appropriate Infill and Revitalization our Highest Priority and 6: We Will Create Opportunities for Attainable Housing.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of 4 for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 3, 1050 S. Happy Hollow Rd.)
- Near Sewer Main (6-inch main, north side of subject property; 6-inch main, E. Huntsville Rd.)
- Near Water Main (6-inch main, E. Huntsville Rd.)
- Near City Park (Bayyari Park and Rodney Ryan Park)

DISCUSSION:

At the April 22, 2024 Planning Commission meeting, a vote of 9-0-0 forwarded the request to City Council with a recommendation of approval. The commissioners cited future land use compatibility and staff recommendations as noted in the report as reasons for approval. No public comment was provided at the meeting.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Report (#6)

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113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-58

RZN-2024-0015: Rezoning (4600 E. HUNTSVILLE RD./STONE STREET RENTALS LLC., 565): Submitted by JOHN CLOYED for property located at 4600 E. HUNTSVILLE RD. in WARD 1. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 1.94 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-15 FOR APPROXIMATELY 1.94 ACRES LOCATED AT 4600 EAST HUNTSVILLE ROAD IN WARD 1 FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-A, Residential Agricultural to RSF-4, Residential Single-Family, Four Units per Acre.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2024-58

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

5/3/2024

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2024-0015: Rezoning (4600 E. HUNTSVILLE RD./STONE STREET RENTALS LLC., 565): Submitted by JOHN CLOYED for property located at 4600 E. HUNTSVILLE RD. in WARD 1. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 1.94 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

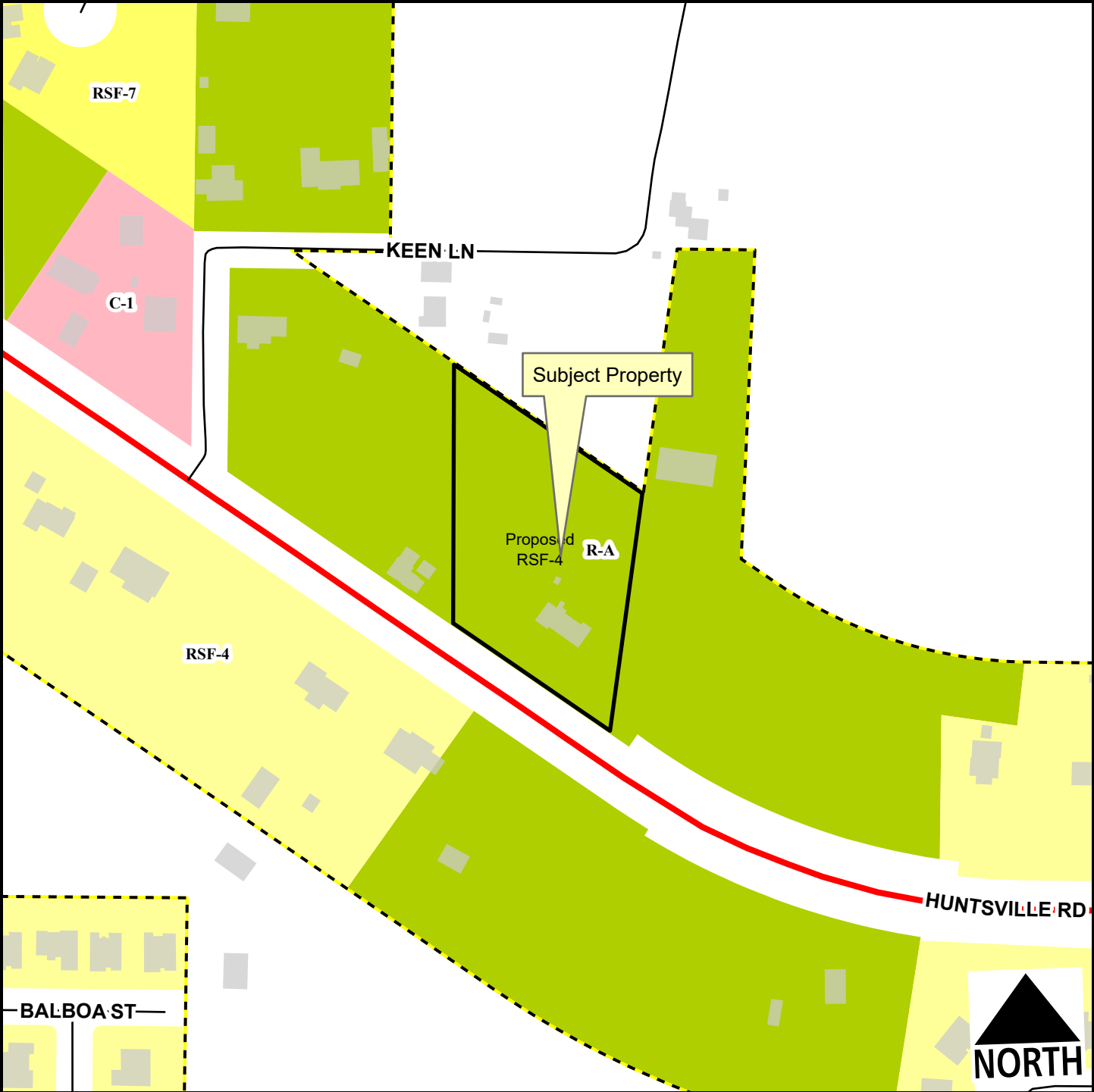
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



— Regional Link — Unclassified — Residential Link Planning Area Fayetteville City Limits	Feet 075150300450600 1:2,400	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Zone</th> <th style="text-align: center;">Current</th> <th style="text-align: center;">Proposed</th> </tr> </thead> <tbody> <tr> <td>R-A</td> <td style="text-align: center;">1.9</td> <td style="text-align: center;">0.0</td> </tr> <tr> <td>RSF-4</td> <td style="text-align: center;">0.0</td> <td style="text-align: center;">1.9</td> </tr> <tr> <td colspan="3" style="text-align: right; padding-top: 10px;"> Total 1.9 ac </td> </tr> </tbody> </table>	Zone	Current	Proposed	R-A	1.9	0.0	RSF-4	0.0	1.9	Total 1.9 ac		
Zone	Current	Proposed												
R-A	1.9	0.0												
RSF-4	0.0	1.9												
Total 1.9 ac														

Parcel ID

765-13079-000

RPID

48108777778

CAMA Acreage

1.94

Partial Legal

PT SW NE 1.940 AC FURTHER DESCRIBED FROM 2022-29072 AS: PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 29 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING FROM A FOUND ALUMINUM MONUMENT MARKING THE NORTHWEST CORNER OF SAID FORTY ACRE TRACT; THENCE S02°41'54"W 438.09'; THENCE S88°12'41"E 358.11' TO A SET 5/8" REBAR; THENCE S02°09'41"W 146.52' TO A FOUND 5/8" REBAR BEING THE TRUE POINT OF BEGINNING; THENCE S53°37'56"E 31 3.54' TO A FOUND 5/8" REBAR; THENCE S09°44'35"W 329.35' TO A SET 5/8" REBAR; THENCE N53°32'19"W 261.28' TO A SET 5/8" REBAR; THENCE N02°09'41"E 355.50' TO THE POINT OF BEGINNING. CONTAINING 1.940 ACRES MORE OR LESS.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: April 22, 2024 **updated w/ meeting results**

SUBJECT: **RZN-2024-0015: Rezoning (4600 E. HUNTSVILLE RD./STONE STREET RENTALS LLC., 565):** Submitted by JOHN CLOYED for property located at 4600 E. HUNTSVILLE RD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 1.94 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

RECOMMENDATION:

Staff recommend forwarding **RZN-2024-0015** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0015** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in southeast Fayetteville approximately 0.18 miles east of the intersection of S. Happy Hollow Rd. and E. Huntsville Rd. The property contains approximately 1.94 acres and is developed with a single-family dwelling constructed in 1936. The property is zoned R-A, Residential-Agricultural which it received in 2003 with the adoption of the new city zoning map. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	Agricultural/Residential Single-Family, 1 Unit per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre; R-A, Residential-Agricultural
East	Single-Family Residential/Undeveloped	R-A, Residential-Agricultural
West	Single-Family Residential	R-A, Residential-Agricultural

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RSF-4, Residential Single-Family, Four Units per Acre.

Public Comment: To date, staff have received no public comment.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

- Streets:** The property has frontage along E. Huntsville Road. E. Huntsville Road is a partially improved Regional 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. Existing 8-inch water main is present on the north side of E. Huntsville Road.
- Sewer:** Sanitary Sewer is available to the Subject area. Existing 6-inch sewer main is present on the North side of the subject property line. Existing 6-inch sewer main is present on the South side of E. Huntsville Road.
- Drainage:** No portion of the subject property lies within the Hillside/Hilltop Overlay District or a FEMA-designated floodplain and no protected streams or hydric soils are present. Any improvements or requirements for drainage would be determined at the time of development submittal.
- Fire:** Station 3, located at 1050 Happy Hollow Road, protects this site. The property is located approximately 2.6 miles from the fire station with an anticipated drive time of approximately 4 minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.
- Police:** The Police Department did not comment on this request.

Tree Preservation:

The current zoning district of R-A, Residential-Agricultural requires **25% minimum canopy preservation**. The proposed zoning district of RSF-4, Residential Single-Family, Four Units per Acre, requires **25% minimum canopy preservation**.

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

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

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **4** for this site with a weighted score of **3.5**. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 3, 1050 S. Happy Hollow Rd.)
- Near Sewer Main (6-inch main, north side of subject property; 6-inch main, E. Huntsville

- Rd.)
- Near Water Main (6-inch main, E. Huntsville Rd.)
- Near City Park (Bayyari Park and Rodney Ryan Park)

FINDINGS OF THE STAFF

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

Finding: *Land Use Compatibility:* Staff finds the proposed rezoning from R-A to RSF-4 to be compatible with the surrounding area. The subject property is adjacent to RSF-4-zoned single-family property across E. Huntsville Rd. to the southwest and properties developed with single-family homes to the north, east, and west. A rezoning to RSF-4 would allow for the by-right development of single-family dwellings with a density of up to four units per acre. Additional housing options providing increased density are available through conditional use, such as two-family dwellings and cluster housing. R-A and RSF-4 have significantly different bulk and area requirements. Lot width minimum in R-A is 200 feet, but in RSF-4 is only 70 feet. Lot area in R-A is a minimum of 2 acres, but in RSF-4 is 8,000 square feet (.18 acres). Staff finds the requested rezoning to be compatible with surrounding land uses and provides opportunities for increased housing opportunities.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RSF-4 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and offer some flexibility in housing types. Staff finds that the requested rezoning could allow for the creation of missing middle housing that meets City Goals 1: We Will Make Appropriate Infill and Revitalization our Highest Priority and 6: We Will Create Opportunities for Attainable Housing.

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

Finding: Staff finds that there is sufficient justification to rezone the property from R-A to RSF-4 since the proposed rezoning would be consistent with the property's future land use designation and supports several goals of City Plan 2040.

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

Finding: A rezoning from R-A to RSF-4 does have the potential to increase traffic danger and congestion due to increased density and additional curb cuts. Courts have established a precedent that properties with frontage to a public street have a legal right to access the street, therefore additional curb cuts could be added and increase traffic danger and congestion along E. Huntsville Rd. However, 166.08(F)(3)(b) does discourage individual curb cuts

and states “curb cuts along regional and neighborhood link streets shall be shared between two (2) or more lots.” Access management will be reviewed at the time of development.

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

Finding: The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, the property currently has access to public streets, water, and sewers, and any necessary improvements would be determined at the time of development. Fayetteville Public Schools did not comment on this request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommend forwarding RZN-2024-0015 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>April 22, 2024</u>	☐ Tabled	☒ Forwarded w/ rec. of approval	☐ Denied
Motion: <u>Werner</u>			
Second: <u>Garlock</u>			
Vote: <u>9-0-0</u>			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.03 District R-A, Residential-Agricultural
 - §161.07 District RSF-4, Residential Single-Family, Four (4) Units Per Acre
- Request Letter
- One Mile Map
- Close-Up Map

- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

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

- (B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

- (C) *Density.*

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

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

- (E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

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

- (G) *Building area.* None.

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

LETTER OF COMPATIBILITY

March 04, 2024

To Whom It May Concern:

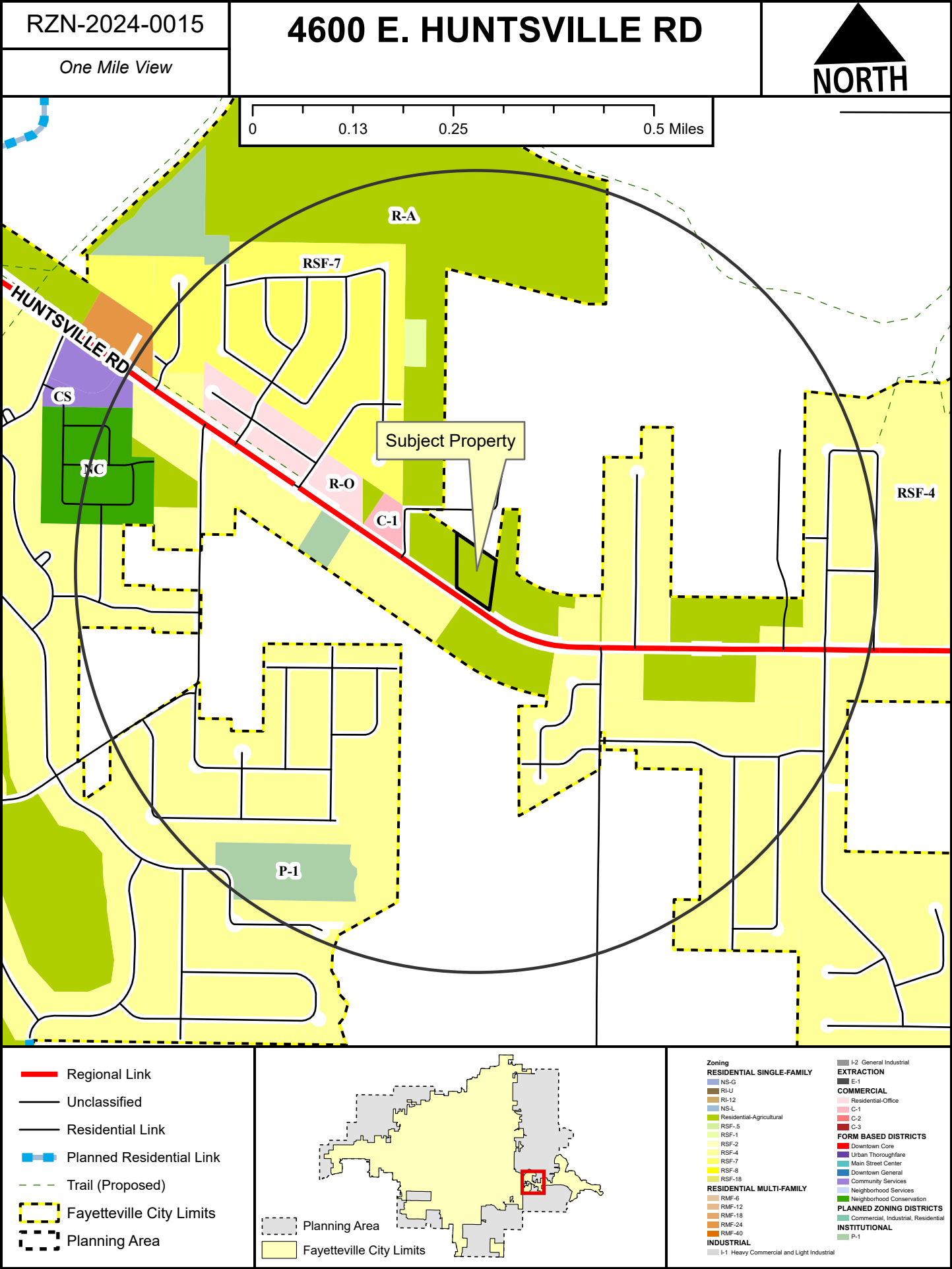
PARCEL ID: 765-13079-000 / RPID: 48108

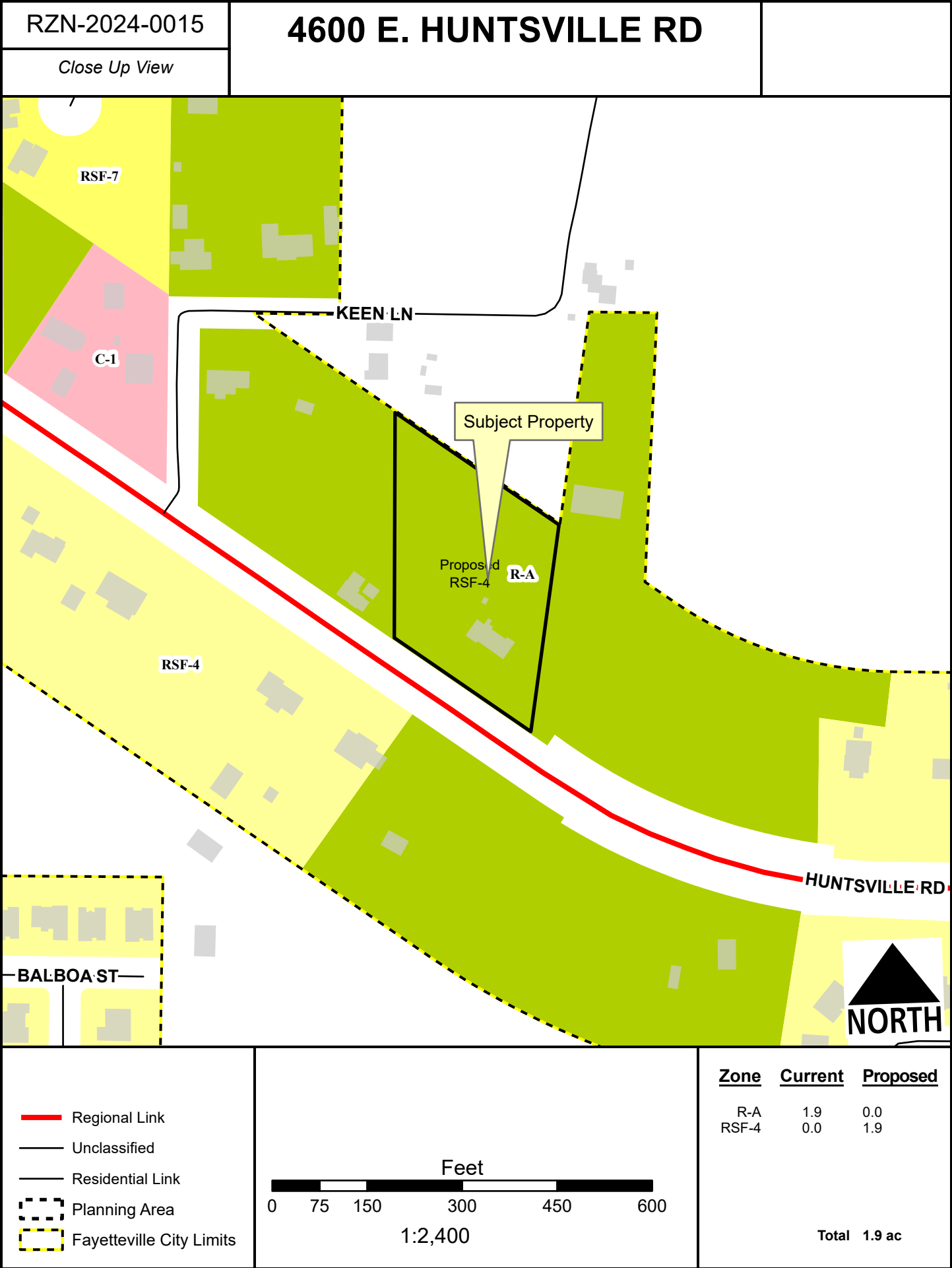
The proposed rezoning of this property will fit the neighboring residential properties in which the majority are already zoned RSF-4. The surrounding area is no longer agriculturally based and our current community is in great need of more housing. By rezoning to RSF this will provide the opportunity for denser housing than the current agricultural zoning but still stay compatible with the surrounding properties.

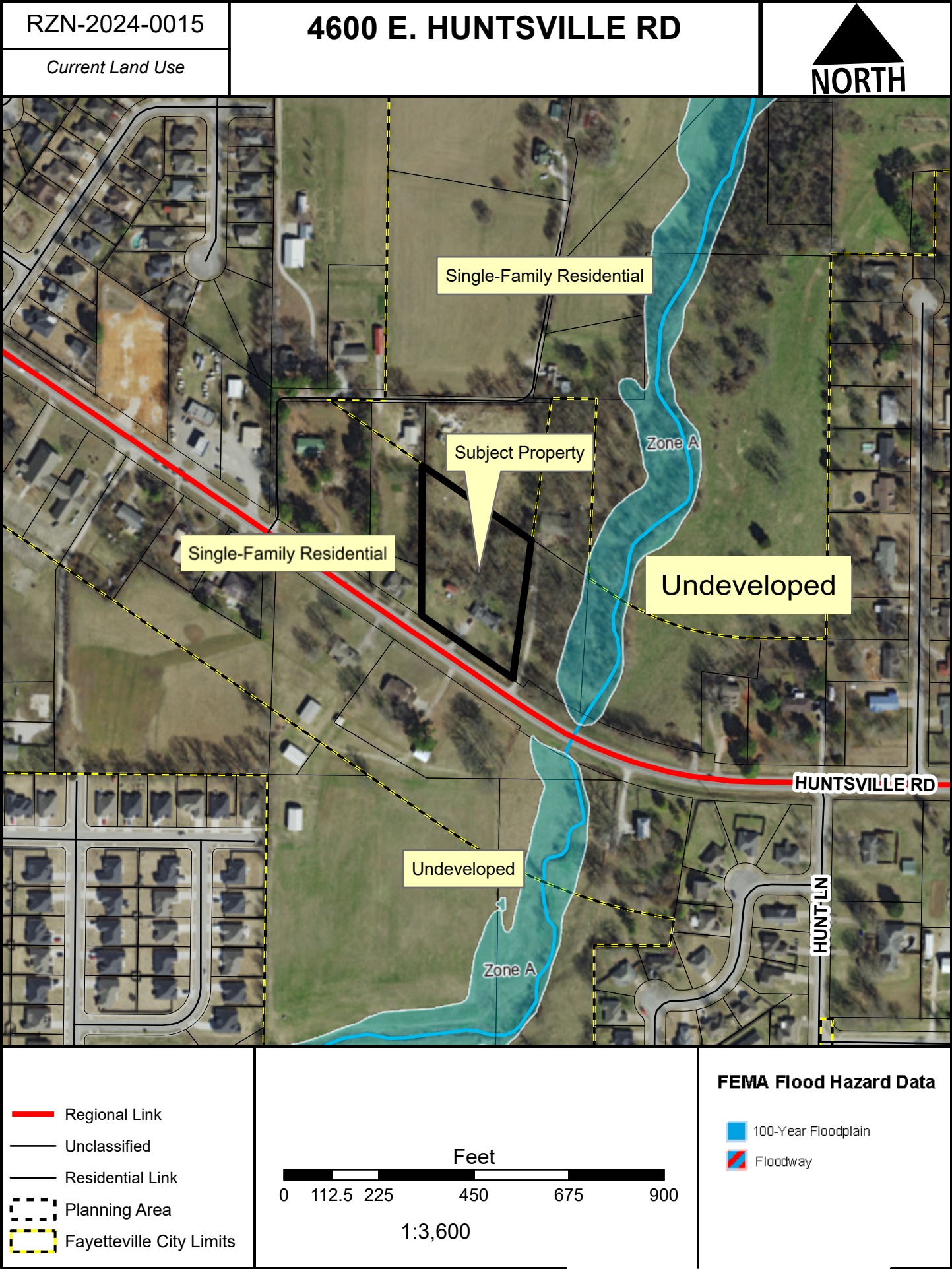
Sincerely,

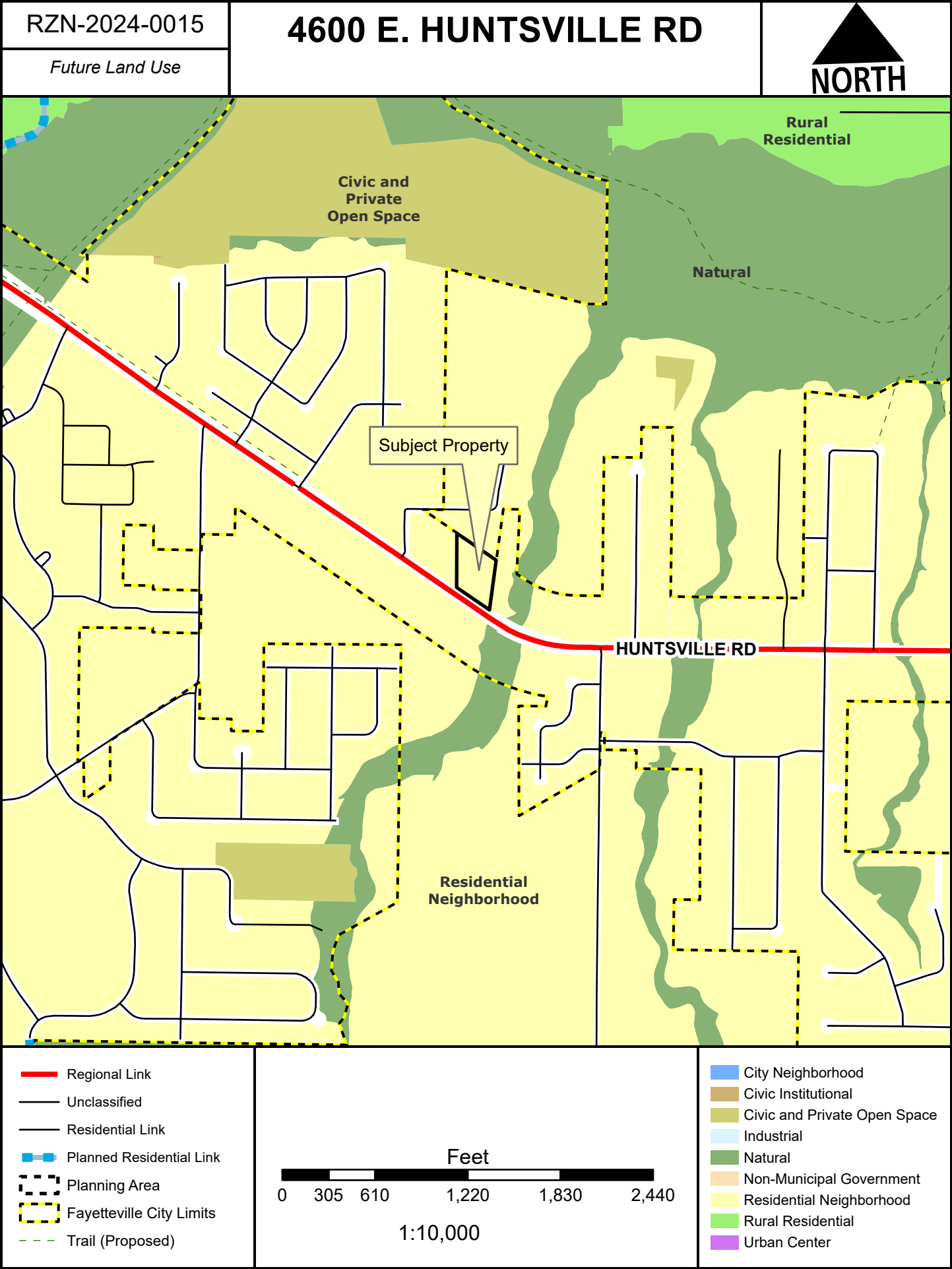
John C. Cloyed

John C. Cloyed
Stone Street Rentals











MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Kylee Cole, Planner

SUBJECT: **RZN-2024-0016: Rezoning (2460 N. OLD WIRE RD./FAYETTEVILLE NATURE SCHOOL, 292): Submitted by MELANEE LAVERY for property located at 2640 N. OLD WIRE RD. in WARD 3. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 1.95 acres. The request is to rezone the property to P-1, INSTITUTIONAL.**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is in east Fayetteville approximately 300 feet southwest of Gulley Park along N. Old Wire Rd. The property contains approximately 1.95 acres and is developed with a single-family dwelling constructed in 1988 that was adapted into a preschool in the early 2000s. The property is zoned CPZD, Sunshine House (Ord. No. 5075) which it received in 2007. The PZD entitled the property to be used as a childcare center.

Request: The request is to rezone the subject property from CPZD, Commercial Planned Zoning District to P-1, Institutional.

Public Comment: At the Planning Commission meeting on April 22, 2024, public comment was given in support of the request as described in the meeting summary below.

Land Use Compatibility: Staff finds the proposed rezoning from CPZD, Sunshine House to P-1 to be compatible with the surrounding area. The subject property is adjacent to a variety of properties with community services such as a veterinary clinic, church, and public park. Many RSF-4-zoned single-family properties are nearby to the north and south. The property has been operating as a childcare facility since 2008. A rezoning to P-1 would allow for the continued use of the property as a pre-school and nature school without some of the restrictions on building expansion or student numbers established in the Sunshine House CPZD. The Sunshine House CPZD only has a stated bulk and area for single-family dwellings, and P-1 does not have bulk and area requirements. The CPZD has building height allowance of 45 feet, and P-1 allows a height of up to six stories. The existing structure is meeting setbacks and height limitations for the proposed P-1 district. Staff finds the requested rezoning to be compatible with

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

surrounding land uses and provides opportunities for increased services in the neighborhood.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's land use and zoning plans. The subject property is designated as a Residential Neighborhood area in the City Plan 2040 Future Land Use Map and is located within a Tier Three Center as indicated on the plan's Growth Concept Map. Staff finds that a rezoning to P-1 would support those designations as a pre-school and elementary school are vital components of a residential neighborhood. Staff also finds the requested rezoning to be aligned with City Goal 3: We Will Make Compact, Complete, and Connected Development the Standard.

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

- Adequate Fire Response (Station 5, 2979 N. Crossover Rd.)
- Near Sewer Main (8-inch main, south of subject property)
- Near Water Main (2-inch water main, East side of North Old Wire Road; 6-inch water main; West side of North Old Wire Road; 36-inch transmission water main; East side on North Old Wire Road)
- Near City Park (Gulley Park)
- Near Paved Trail (N. Old Wire Rd. side-path trail; E. Township St. bike lane)

DISCUSSION:

At the April 22, 2024 Planning Commission meeting, a vote of 9-0-0 forwarded the request to City Council with a recommendation of approval. The commissioners cited future land use compatibility and staff recommendations as noted in the report as reasons for approval. One member of the public spoke in favor of the request citing the school's unique offerings and enjoyment by children.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Staff Report (#6)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-59

RZN-2024-0016: Rezoning (2460 N. OLD WIRE RD./FAYETTEVILLE NATURE SCHOOL, 292): Submitted by MELANEE LAVERY for property located at 2640 N. OLD WIRE RD. in WARD 3. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 1.95 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-16 FOR APPROXIMATELY 1.95 ACRES LOCATED AT 2640 NORTH OLD WIRE ROAD IN WARD 3 FROM CPZD, COMMERCIAL PLANNED ZONING DISTRICT TO P-1, INSTITUTIONAL

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from CPZD, Commercial Planned Zoning District to P-1, Institutional.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2024-59

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

5/3/2024

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2024-0016: Rezoning (2460 N. OLD WIRE RD./FAYETTEVILLE NATURE SCHOOL, 292): Submitted by MELANEE LAVERY for property located at 2640 N. OLD WIRE RD. in WARD 3. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 1.95 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number: _____

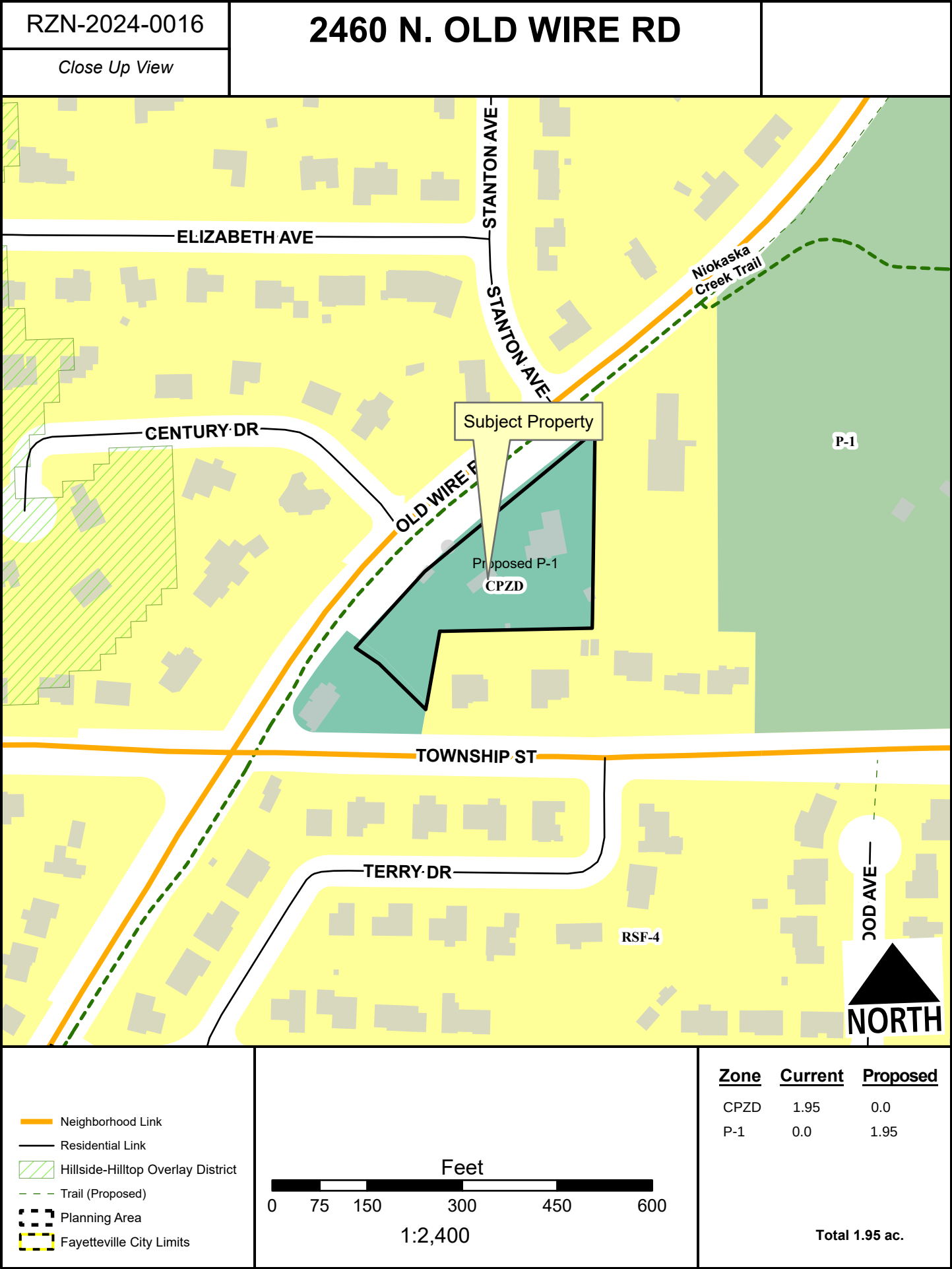
Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



Legal Description
2460 N Old Wire Rd Fayetteville, Ar 72703

Parcel: 765-16113-000
Previous Parcel: 149096-000-00
As of: 3/8/2024 9:36:36 PM
ID: 53847

PT S/2 SW SW 1.95 A. FURTHER DESCRIBED FROM 2019-5393 AS: Part of the Southwest Quarter of the Southwest Quarter of Section Thirty-Six (36), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a found iron pin which is N00°00'26"E 207.00 feet from a point located the Southeast Corner of said forty acre tract and running thence S88°20'39"W 240.91 feet to a found iron pin; thence S09°35'38"W 125.42 feet to a found iron pin; thence N46°06'00"W 103.37 feet to a found iron pin; thence N56°26'42"W 77.37 feet to a found iron pin located on the South right-of-way of Old Wire Road; thence along said road right-of-way N39°24'12"E 172.77 feet to a found iron pin; N49°48'37"E 381.00 feet to a found iron pin; thence leaving said road right-of-way S00°00'26" w 363.18 feet to the point of beginning, containing in all 2.00 acres, more or less. LESS AND EXCEPT Thirty five (35') feet of equal and uniform width adjacent to the North line of the following described tract: A part of the Southwest Quarter of the Southwest Quarter of Section 36, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a found iron pin which is N02°47'29"E 207.00 feet from a point located at the Southeast corner of said forty acre tract and running thence N88°52'18"W 240.91 feet to a found iron pin; thence S12°22'41"W 125.42 feet to a found iron pin; thence N43°18'57"W 103.37 feet to a found iron pin; thence N53°39'39"W 78.88 feet to a found iron pin located on the South right-of-way of Old Wire Road; thence along said road right-of-way N44°17'40"E 168.51 feet to a found iron pin; N52°28'34"E 380.67 feet to a found iron pin; thence leaving said road right-of-way S02°47'29"W 357.09 feet to the Point of Beginning, containing in all 1.95 acres, more or less.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: April 22, 2024 **updated w/ meeting results**

SUBJECT: **RZN-2024-0016: Rezoning (2460 N. OLD WIRE RD./FAYETTEVILLE NATURE SCHOOL, 292):** Submitted by MELANEE LAVERY for property located at 2640 N. OLD WIRE RD. in WARD 3. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 1.95 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

RECOMMENDATION:

Staff recommend forwarding **RZN-2024-0016** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0016** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in east Fayetteville approximately 300 feet southwest of Gulley Park along N. Old Wire Rd. The property contains approximately 1.95 acres and is developed with a single-family dwelling constructed in 1988 that was adapted into a preschool in the early 2000s. The property is zoned CPZD, Sunshine House (Ord. No. 5075) which it received in 2007, which allowed the property to be used as a childcare facility. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Old Wire Church of Christ	RSF-4, Residential Single-Family, 4 Units per Acre
West	Commercial (Vet Clinic)	CPZD (Core Pet Wellness)

Request: The request is to rezone the subject property from CPZD, Commercial Planned Zoning District to P-1, Institutional.

Public Comment: To date, staff have received no public comment.

INFRASTRUCTURE:

Streets: The subject area has frontage along N. Old Wire Road. North Old Wire Road is a partially improved Neighborhood Link Street with asphalt paving, curb and gutter, sidewalk along the east side, and open ditches on the west side. 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. Existing 2-inch water main is present on the east side of N. Old Wire Road. Existing 6-inch water main is present on the west side of N. Old Wire Road. Existing 36-inch transmission water main is also present on the east side on N. Old Wire Road.

Sewer: Sanitary Sewer is not available to the Subject area. Existing 8-inch sewer main is within 110 feet of the property on the southeast side of the property running in a utility easement. The Utility easement stops 25 feet from the southeast corner of the property.

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

Fire: Station 5, located at 2979 N. Crossover Rd., protects this site. The property is located approximately 1.5 miles from the fire station with an anticipated drive time of approximately 3 minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Tree Preservation:

The current zoning district of CPZD requires **25% minimum canopy preservation**. The proposed zoning district of P-1, Institutional requires **25% minimum canopy preservation**.

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

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

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of 5 for this site with a weighted score of 5.5. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 5, 2979 N. Crossover Rd.)
- Near Sewer Main (8-inch main, south of subject property)
- Near Water Main (2-inch water main, East side of North Old Wire Road; 6-inch water main;

West side of North Old Wire Road; 36-inch transmission water main; East side on North Old Wire Road)

- Near City Park (Gulley Park)
- Near Paved Trail (N. Old Wire Rd. side-path trail; E. Township St. bike lane)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the proposed rezoning from CPZD, Sunshine House to P-1 to be compatible with the surrounding area. The subject property is adjacent to a variety of properties with community services such as a veterinary clinic, church, and public park. Many RSF-4-zoned single-family properties are nearby to the north and south. A rezoning to P-1 would allow for the continued use of the property as a pre-school and nature school without some of the restrictions on building expansion or student numbers established in the Sunshine House CPZD. The Sunshine House CPZD only has a stated bulk and area for single-family dwellings, and P-1 does not have bulk and area requirements. The CPZD has building height allowance of 45 feet, and P-1 allows a height of up to six stories. The existing structure is meeting setbacks and height limitations for the proposed P-1 district. Staff finds the requested rezoning to be compatible with surrounding land uses and provides opportunities for increased services in the neighborhood.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's land use and zoning plans. The subject property is designated as a Residential Neighborhood area in the City Plan 2040 Future Land Use Map and is located within a Tier Three Center as indicated on the plan's Growth Concept Map. Staff finds that a rezoning to P-1 would support those designations as a pre-school and elementary school are vital components of a residential neighborhood. Staff also finds the requested rezoning to be aligned with City Goal 3: We Will Make Compact, Complete, and Connected Development the Standard.

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

Finding: Staff finds that there is sufficient justification to rezone the property from CPZD to P-1 since schools and daycare facilities are a vital part of complete neighborhoods, which supports Goal 3 of City Plan 2040. Further, the proposed rezoning is consistent with the property's future land use designation.

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

Finding: A rezoning from CPZD to P-1 is unlikely increase traffic danger and congestion due to limited permitted uses, including the removal of Use Unit 8: Single-Family Dwellings as a permitted use. The property has frontage

along N. Old Wire Rd. and adjacent side-path trail, and any street improvements in the area would be determined at the time of development review.

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

Finding: The proposed rezoning is unlikely to alter the population density since it would remove Unit 8: Single-Family Dwellings as permitted use, and only allow institutional development adding public services to the surrounding neighborhood. The property currently has access to public streets, water, but not sewers, and any necessary improvements would be determined at the time of development.

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 recommend forwarding RZN-2024-0016 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>April 22, 2024</u>	☐ Tabled	☒ Forwarded w/ recommendation of approval	☐ Denied
Motion: Madden			
Second: McGetrick			
Vote: 9-0-0			

BUDGET/STAFF IMPACT:
None

- ATTACHMENTS:**
- Unified Development Code
 - §161.32 District P-1, Institutional
 - Sunshine House CPZD (Ord. No. 5075) – Abridged by Staff for Inclusion in Report
 - Request Letter
 - One Mile Map

- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.32 District P-1, Institutional

(A) *Purpose.* The Institutional District is designed to protect and facilitate use of property owned by public and religious institutions. Larger facilities and institutions may still use historical setback regulations, but public and religious institutions may also choose to use urban form with build-to zones and minimum buildable street frontage allowing administrative approval.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
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 12b	General Business
Unit 20	Commercial recreation, large sites
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

(C) *Density.* None.

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

(E) *Setback Regulations.*

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

Urban Form Setback Regulations

Front	A build-to-zone that is located between 10 feet and a line 25 feet from the front property line
Side and rear	None

Side and rear, when contiguous to a single-family residential district	15 feet
--	---------

(F) *Building Height Regulations.*

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

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

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

(Code 1965, App. A., Art. 5(XI); Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.042; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5073, 11-06-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §8, 1-18-22)

ORDINANCE NO. 5075

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 07-2726 THE SUNSHINE HOUSE, LOCATED AT 2460 NORTH OLD WIRE ROAD, CONTAINING APPROXIMATELY 1.95 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RSF-4, Residential Single Family, 4 units per acre to C-PZD 07-2726 The Sunshine House as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this 6th day of November, 2007.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA E. SMITH, City Clerk/Treasurer

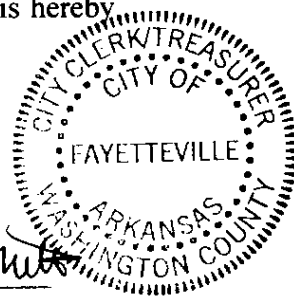
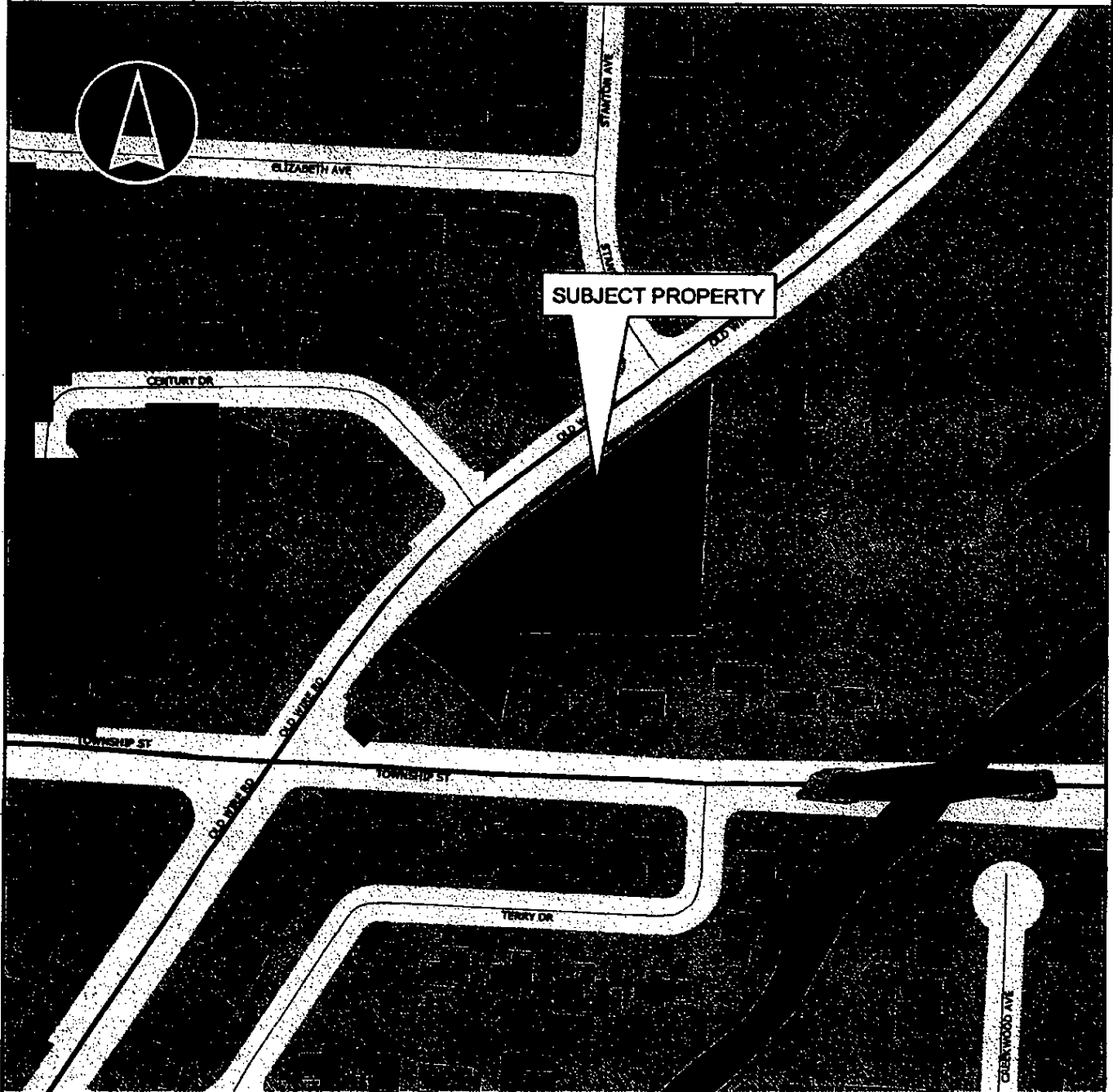


EXHIBIT "A"

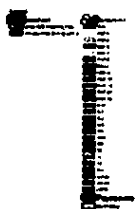
CPZD07-2726

Close Up View

THE SUNSHINE HOUSE



Overview



0 75 150 300 450 600 Feet

EXHIBIT "B"
C-PZD 07-2726

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO -WIT: BEGINNING AT A FOUND IRON PIN WHICH IS N01°25'02"E 207.00' FROM A POINT, LOCATED AT THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE S89°45'15"W 240.91' TO A FOUND IRON PIN, THENCE S11°00'14"W 125.42' TO A FOUND IRON PIN, THENCE N44°41'24"W 103.37' TO A FOUND IRON PIN, THENCE N55°02'06"W 78.88' TO A FOUND IRON PIN, LOCATED ON THE SOUTH RIGHT-OF-WAY OF OLD WIRE ROAD, THENCE ALONG SAID ROAD RIGHT-OF-WAY N42°55'13"E 168.51' TO A FOUND PIN, N51°06'07"E 380.67' TO A FOUND IRON PIN, THENCE LEAVING SAID ROAD RIGHT-OF-WAY S01°25'02"W 357.09' TO THE POINT OF BEGINNING. CONTAINING IN ALL 1.95 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

CONDITIONS OF APPROVAL:

R-PZD 07-2726

Page 1 of 3

Conditions of approval associated with R-PZD 07-2726 (Sunshine House):

1. Determination of street improvements. Based on the vehicular and pedestrian traffic generated from this development with a future maximum of 60 children and 30 employees, staff recommends the following street improvements:
 - a. Street Improvements: Planning and Engineering Staff have evaluated the overall traffic impact that would occur as a result of the proposed Commercial Planned Zoning District use of this site for a daycare facility. The current request would allow up to 40 children (plus the ratio of required employees) at the facility, with up to a maximum of 60 children in the future phases. Based upon ITE trip generation numbers, a 40-child daycare facility will generate approximately 181 24-hour, two-way vehicle trips; a facility with 60 children will generate approximately 271 vehicle trips per day. Staff has compared the traffic volume generated by the proposed use (excluding the assumed 10 trips per day generated by the existing single family house) to the design service volume of Old Wire Road, at 6,000 vehicles per day (VPD). This ratio is then assigned a cost of the required street improvements (widening the street, curb, gutter, sidewalk, etc.). Staff is recommending, based on the applied conservative rational nexus calculation, that with the initial 40-child facility, the applicant must contribute \$10,561.40, prior to Certificate of Zoning Compliance and Occupancy for the first phase of development utilizing the square footage of the existing building, a new 11-space parking lot, and a maximum of 40 children. Should the facility be expanded to the maximum 60 children, the total shall be \$16,120.00 (\$5,558.60 in addition to the previous amount). A memo indicating the calculation is attached.
 - b. Future Phases. If the building and 11-space parking lot expands, or the permit is changed to accommodate greater than 40 children, the project will be required to go through Large Scale Development review. Additional assessments for street improvements will be evaluated and will likely require an additional assessment. The rational nexus calculation currently presented anticipates an additional \$5,558.60 for the addition of 20 children, for a grand total of \$16,120.00 for a 60-child daycare facility.

City Council determined in favor.

2. Right-of-way dedication in the amount of 35 feet from centerline along Old Wire Road prior to issuance of permits to construct the new parking lot. This may be dedicated by easement plat or separate document.
3. Approval of this C-PZD grants approval for a new 11-space parking lot and 1,809 square foot fenced play area on the property as indicated on the Master Development Plan plat. This initial phase of development grants approval for a daycare to be operated out of the existing square footage of the building with a maximum of 40 children, or the number approved by the State licensing board, whichever is less. The new 11-space parking lot shall be required to obtain parking lot and grading permits in accordance with Fayetteville Unified Development Code requirements for tree preservation, landscaping grading, and parking lot

CONDITIONS OF APPROVAL:

R-PZD 07-2726

Page 2 of 3

design standards.

4. Any development on the property beyond the 11-space parking lot, existing square footage of the house, or 40 children shall be required to go through Large Scale Development review and approval. Expansions on the property shall be limited to providing a child care facility with a maximum of 60 children, under the proposed C-PZD.
5. Prior to issuance of Certificate of Occupancy, the daycare facility shall be inspected and approved by the Fayetteville Fire Department and all requirements of the State and National Fire Codes shall be met. Written verification from the Fire Department shall be provided to the Planning Division.
6. Any expansion of the residential structure on the property shall be reviewed by Planning staff to ensure that the architectural style is consistent and compatible with the existing house.
7. A maximum of 22 children are allowed at one time within the 1,809 sq. ft. outdoor play area. If the play area is expanded, then the maximum number of children allowed will be based on a minimum of 80 square feet per child. A revised site plan shall be submitted for approval prior to expansion of the play area.
8. A 25' greenspace buffer shall be maintained along property lines directly adjacent to single family residences.
9. All trash receptacle(s) utilized by this structure shall be stored within the structures on-site, or, if located outside, it shall be screened on all sides with access not visible from the street or adjacent properties. If a dumpster is required or proposed, screening shall be provided that is constructed of materials that are compatible with and complimentary to the building. Staff shall review the dumpster screen and materials prior to building permit.
10. A Certificate of Zoning Compliance shall be required prior to the start of operations of the child care facility.
11. A Certificate of Zoning Compliance shall not be issued until: the necessary fencing has been installed and inspected to provide a minimum of 1,809 square feet of enclosed, outdoor play space, and the parking lot with a maximum of 11 spaces, sufficient for the number of children and employees approved by the State licensing board, has been constructed and inspected.
12. Prior to the issuance of a Certificate of Zoning Compliance the applicant shall provide a copy of an approved license from the Department of Health and Human Services for a child care facility.
13. Prior to issuance of a Certificate of Zoning Compliance or Occupancy a public sewer line must be extended to the property, the child care facility connected to City sewer service and the sewer service inspected and approved.

CONDITIONS OF APPROVAL:

R-PZD 07-2726

Page 3 of 3

14. As indicated in the proposed zoning criteria, signage shall be limited to one sign on the house or in the driveway to list the name of the business and hours of operation on a two-foot by two-foot wooden sign. The sign shall meet the required setbacks for freestanding signs in R-O zoning district from Chapter 174 of the Unified Development Code.
15. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
16. Prior to this item being placed on the City Council agenda, comments from the City GIS Division regarding the legal description and State Plane Coordinates shall be adequately addressed.
17. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

Washington County, AR
I certify this instrument was filed on
12/17/2007 11:24:28 AM
and recorded in Real Estate
File Number 2007-00045812
Bette Stamps - Circuit Clerk

September 28, 2007

PLANNING DIVISION
CITY OF FAYETTEVILLE
113 WEST MOUNTAIN ST.
FAYETTEVILLE, AR 72701

C-PZD OF THE SUNSHINE HOUSE

APPLICANTS: GREG AND ANGIE LANDERS
20628 HILLCREST DR.
SPRINGDALE, AR 72764

Dear Planning,

Please review this letter and the attached plan sheets for our submittal of the conceptual C-PZD for The Sunshine House project.

SUMMARY: The Sunshine House will be a PZD located in central Fayetteville near the intersection of Township St. and Old Wire Rd on a parcel containing an existing house, and 2 acres located at 2460 N. Old Wire Rd. We are proposing a Commercial PZD in order to operate a fully functional day-care center out of the existing house on the property.

GENERAL PROJECT CONCEPT FOR REZONING OF PROPERTY LOCATED IN
FAYETTEVILLE AT 2460 N. OLD WIRE ROAD:

- A. Current ownership: Albert G. and Nancy T. Erbach.
Existing house and its lot sale is pending.
- B. Proposal is to rezone the house and 2 acres to a Commercial PZD to allow the operation of a day-care center out of the existing house on the property to include approximately 40-60 children and approximately 10-30 employees.
- C. General project concept:
 - 1) The existing street layout will not change. We will expand the driveway near the house to accommodate a parking area for our employees and customers. We will also add an 1800 square foot privacy fence in the back yard to allow for a safe playing area for the children.
 - 2) The submitted survey plat depicts the single proposed planning area.
 - 3) The lot provides its own natural buffer areas with the tree lines and brush that surround the property.
 - 4) We are not proposing to remove any trees from this property. We want to keep it "as is" as much as possible.
 - 5) The only change that may require some additional storm water drainage areas is with the addition of the parking area.
 - 6) Undisturbed Natural Areas – Not Applicable
 - 7) There will be no change to the existing water and sewer.
 - 8) We are not proposing any "Development and Architectural Design Standards." The house will stay "as is."

9) Building Elevations – Home Pictures (see attachment A)

- D. With the rezoning of this property our intended open date will be early January 2008.
- E. There is only one planning area covering the entire parcel. Please see attached survey for Child Care Facility.
- F. Zoning criteria (see attachment B)
- G. See attachment C comparing the existing and proposed zoning. The house will be brought to code according to DHS, the Fire Department, and the Health Department as outlined in accordance with their requirements to obtain a license for a child care facility. We have already had a preliminary inspection performed by the Fire Department and the Health Department and they have both given their consent to operate a child care center in this house. A final inspection will be required from both departments once we are open in order to obtain our license. The owner/applicant is not aware of any hazardous, sensitive, or natural resource areas, or any other hazards on the property.
- H. Closest park is located next to the property (Gulley Park).
- I. Reason for zoning change – In order to buy an existing house and property for the operation of a neighborhood child care facility. The request for rezoning is due to the fact that in Use Unit 4, a Child Care Facility is allowed as a Conditional Use Permit in RSF-4 zoning district; however, in a residential zoning district a maximum of only 10 children are allowed. I would like to have 40-60 children in this facility; therefore, it will need to be rezoned to a commercial zoning. However, a standard commercial zoning such as C-1 or C-2 is not appropriate due to the surrounding residential neighborhood. The proposed C-PZD zoning will allow for the child care facility, while limiting the uses and character of the project to ensure that it is compatible with the surrounding neighborhood. We feel that there is a definite need for a “quality” facility with a more “home-like” environment that will accommodate the Fayetteville community in the surrounding area. The residential appearance of the homes give the child care facility a “home-like” environment for the children and the natural beauty of the property will provide them with unique learning opportunities that a traditional commercial facility cannot.
- J. The day-care facility will relate well to existing and surrounding properties as there are a few other commercial facilities within 1 mile of the property (i.e. Several churches two of which operate child care facilities within the church, and a law office located at the corner of Township St. and Old Wire Rd.). Also with the C-PZD it will allow us to ensure that the home is still compatible with the surrounding neighborhood. We want to keep the “home-like” feel as much as possible; therefore, preserving the neighborhood environment.
 - 1) Land Use – There is a church located next to the property as well as a city park and we feel this will provide compatibility and harmony that will only enhance the child care center as a commercial facility.
 - 2) Traffic – Old Wire Rd. is coded as a “Collector Street” on the Master Street Plan. We do not foresee any traffic issues with this location.
 - 3) Appearance – The appearance of the property will not change. We want to keep the residential, “home-like” environment as much as possible.
 - 4) Signage – I would like to post a sign on the house or in the driveway to just list our name, hours, etc.

- K. Project's compliance with the Fayetteville City Plan 2025 – we believe a child care center at this location is consistent with the City Plan 2025 Guiding Policies for Residential Neighborhood Areas by:
- 1) Protecting the current residential architecture
 - 2) Encouraging a development scale to maintain compatibility and proportionality between nonresidential and residential land uses.
 - 3) Site new residential areas accessible to community amenities and schools
 - 4) Provide non-residential uses that are accessible for the convenience of individuals living in residential districts and where compatibility with existing desirable development patterns occurs.
 - 5) Encourage mixed-use development that is sensitive to surrounding residential uses and allows for day and night utilization of available parking.
- L. Traffic study has not been requested by the city.
- M. There will be no impact on city services, including the availability of water and sewer.
- N. "STATEMENT OF COMMITMENTS"
- The statement of commitments shall, in all cases describe the development commitments including a method for assigning responsibility to heirs, successors, or assigns, and timing of the fulfillment of these commitments for the following:
- 1) Dedication – no parks, streets, water, or sewer lines would be built that would require dedication to the city.
 - 2) On or off site improvements: Any fees associated with the addition of the parking area and privacy fence would be paid at the request of the city.
 - 3) The property contains no land in a floodplain or delineated wetland area, and a tree preservation plan will be drawn at the request of the city.
 - 4) There are no project phasing restrictions anticipated.
 - 5) Fire Protection – The home would be brought to code based on inspection by the City Fire Marshall. A preliminary inspection has already been performed and consent has been given. A final inspection will be performed before opening to issue the license.
 - 6) There are currently no other commitments imposed by the city.
 - 7) Parks/Trails/Open Space Commitments – Not Applicable
 - 8) Proposed Preliminary Building Elevations (see attachment A).
- O. Conceptual Descriptions of Development Standards
- 1) Screening and Landscaping – Addition of Parking Area and home will be professionally landscaped and well maintained. The parking lot will be landscaped in accordance with City ordinance.
 - 2) Traffic and Circulation – The driveway is a circle drive that will allow easy access to and from the property. No traffic impact is expected.
 - 3) Parking Standards – Parking will be provided in accordance with City ordinance. We will provide 1 parking space for each employee and the circle drive will provide adequate area for the dropping off and loading of children.
 - 4) Perimeter Treatment – The parking lot will receive perimeter landscaping in accordance with City ordinance with shrubs screening the parking area and one tree planted every 30 feet along the street.
 - 5) Sidewalks – Not Required
 - 6) Streetlights – Not Applicable
 - 7) Water – Existing water in place

- 8) Sewer – Existing sewer in place
- 9) Streets and drainage – will not change
- 10) Construction of Nonresidential Facilities – We will convert the existing garage into an additional child care room and the back yard will be fenced in for an outdoor play area.
- 11) Tree Preservation – A plan will be drawn, at the request of the city, with the addition of the parking area.
- 12) Architectural Design Standards (see attachment A).
- 13) Proposed Signage - I would like to post a sign on the house or in the driveway to just list our name, hours, etc. (approx. 2ft x 2ft wooden sign)
- 14) View Protection – Not impacted
- 15) Revocations – We understand causes for revocation and will take all necessary measures to avoid revocation.
- 16) Covenants, Trusts, and Homeowner Associations – Not Applicable

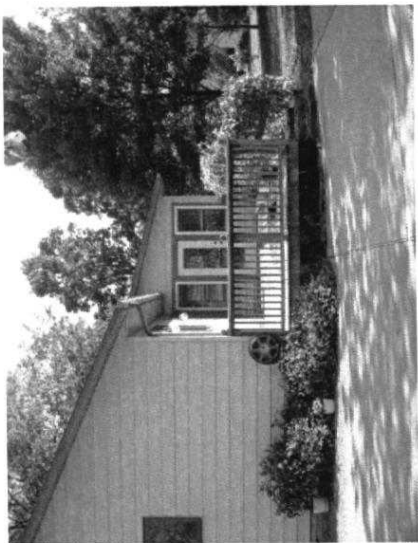
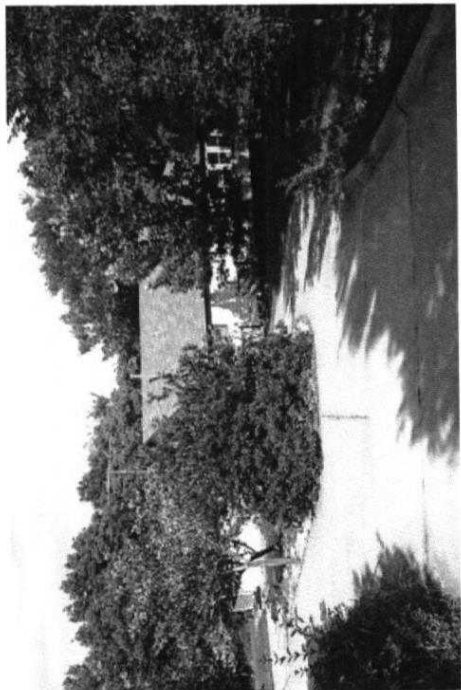
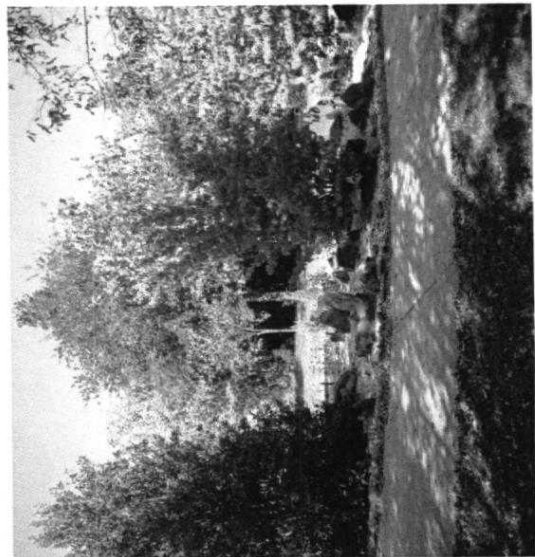
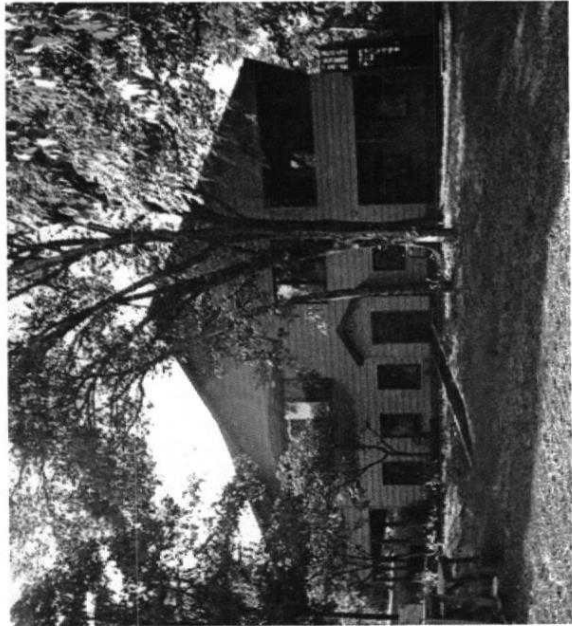
P. RESPONSE AS TO HOW THE PROPOSAL FULFILLS THE INTENT/PURPOSE OF THE PLANNED ZONING DISTRICT:

This development fulfills the intent and purpose of the Planned Zoning District Ordinance by permitting a development with a unique use that is not allowed in any other PZD. The PZD would allow the sale of an existing home, ensuring the existing low density housing found in the present neighborhood. It would also provide compatibility and harmony with the few existing commercial properties surrounding this property as well as the public park at the back of the property.

THANK YOU FOR YOUR CONSIDERATION OF OUR SUBMITTAL. WE LOOK FORWARD TO WORKING WITH YOU TOWARDS A SUCCESSFUL PROJECT. PLEASE FEEL FREE TO CALL ANGIE AT 479-236-3932 IF YOU HAVE ANY QUESTIONS OR COMMENTS.

Respectfully,

Greg and Angie Landers



ATTACHMENT B

PLANNING AREA 1 ZONING CRITERIA

(A) Purpose. The Planning Area 1 Zoning Criteria is designed to permit and encourage 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 dwelling

Unit 4 Cultural and Recreational Facilities (Child Care Center/Nursery School Only)

(2) Conditional uses.

Unit 2 City – wide uses by conditional use permit

Unit 3 Public protection and utility facilities

Unit 24 Home occupations

(C) Density.

Intensity.

Acreage: 2.00 acres

Number of dwelling units: 1

Density: 0.5 units per acre

Non-residential Sq. Footage: 5,000

Intensity (Non-residential SF/Acre) 2,500

(D) Bulk and area regulations.

	Single-family dwellings
Lot minimum width	70 feet
Lot area minimum	8,000 square feet
Land area per dwelling unit	8,000 square feet

(E) Setback requirements

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.

(F) Height. Structures in the Planning area 1 District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming structures.

(G) Building Area. On any lot the area occupied by all the buildings shall not exceed 40% of the total area of such lot.

(H) Landscaping. The project will be landscaped in accordance with City ordinance.

(I) Parking. Parking will be provided in accordance with City ordinance.

(J) Architectural Design Standards. See photos of the existing house attached to the PZD booklet.

(K) Signage. One sign on the house or in the driveway to list the name of the business, hours of operation (two-foot by two-foot wooden sign).

Planning Division
City of Fayetteville
125 W Mountain St
Fayetteville, Ar 72701

Rezoning Parkside Properties to P1- Institutional

Please review our reasoning for rezone

SUMMARY:

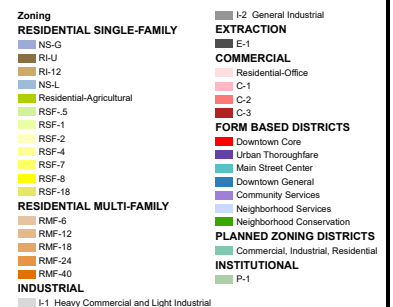
A statement explaining the compatibility of this proposed rezoning with neighboring property and explaining why the proposed rezoning will not unreasonably adversely affect or conflict with surrounding land uses.

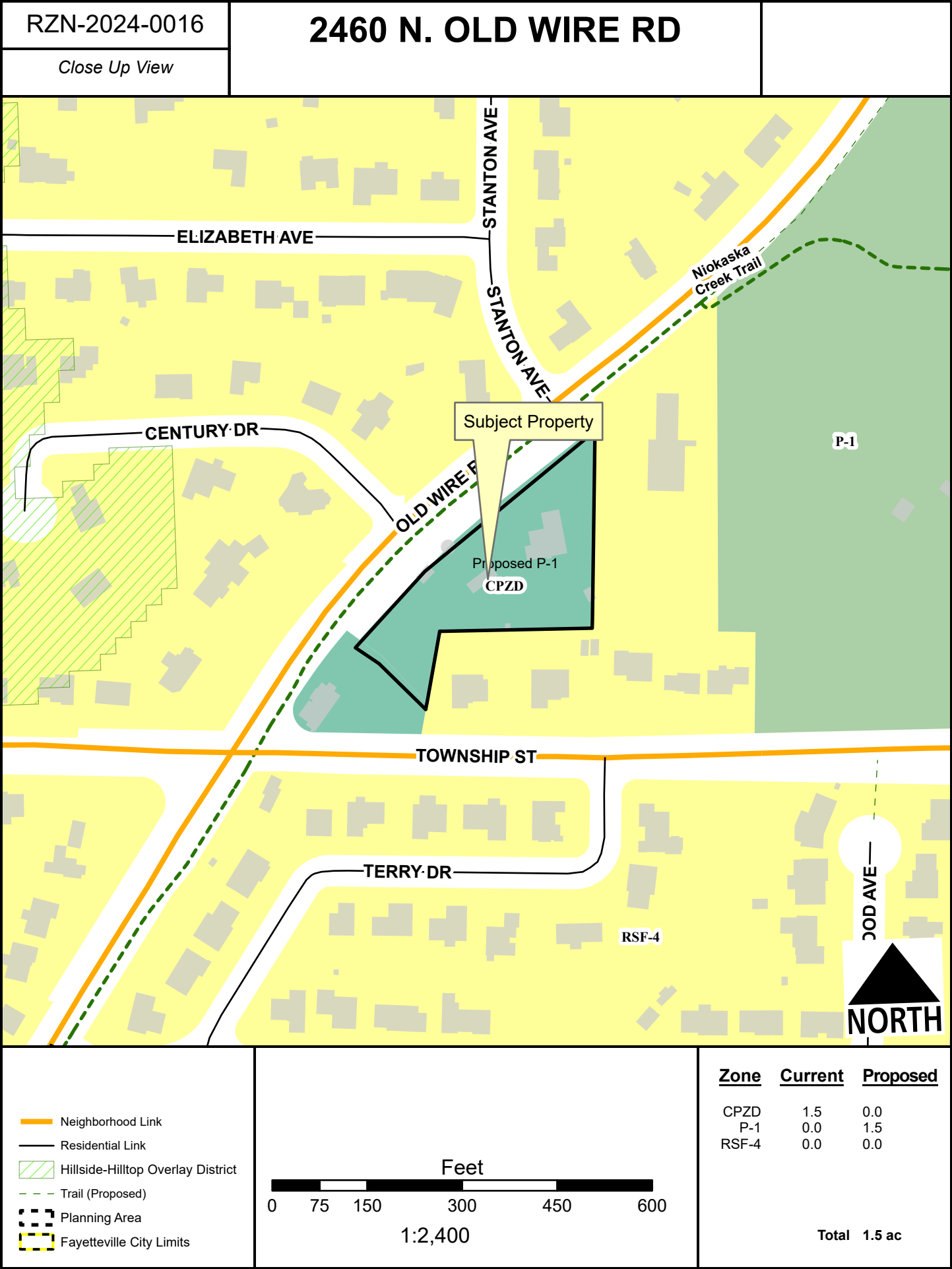
Melanee Lavery began the purchase of the property at 2460 N Old Wire Rd in 2018 to continue the operation of a childcare facility. After renovations, she opened as Parkside Playschool which has become a much-loved neighborhood preschool in the east Fayetteville Area. 3 years later, she opened Fayetteville Nature School, a one of its kind outdoor based elementary school.

We believe that rezoning to p1- Institutional is in the best interest of the neighborhood and the school and that there are no adverse effects or conflicts with surrounding land use. The business on site has been a preschool for 15 years and under current ownership and brand for the last 6 years The onsite nature school has been in operation for 2 and half years. Neighbors include a veterinary clinic and a Church. The 27-acre Gully park is one lot away. To the south, neighbors are residents on Township.

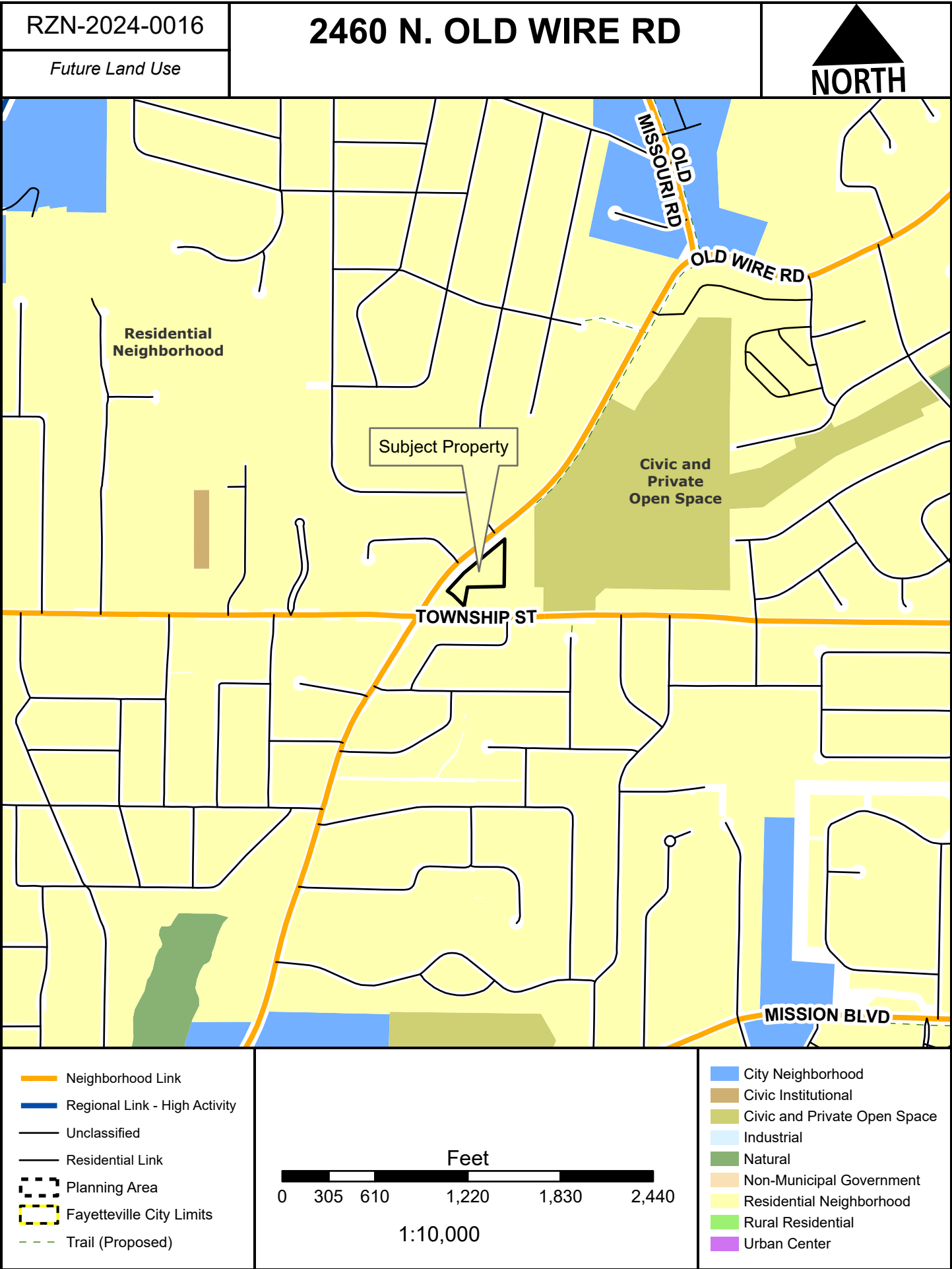
The property was converted from residential to a PZD in 2008 and the current owners purchased the property without an understanding of the intricacies of this zoning. As the Nature School has matured, we have found the current requirement of going through Large Scale Development on any future development prohibitive in our efforts to add a 1500 sf shelter and bathrooms on the property. The proposed building does not increase attendance substantially enough to require parking. The property is on the trail and many families use the bike trail to walk or ride to school.

We ask for your support in this rezone to allow for the property to be treated as it is being used and to allow for appropriate, reasonable, and locally compatible development.











MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

SUBJECT: **RZN-2024-0017: Rezoning (512 N. MISSION BLVD./ZWEIG, 446): Submitted by FLINTLOCK LTD CO. for property located at 512 N. MISSION BLVD. in WARD 1. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.90 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES - GENERAL.**

RECOMMENDATION:

City planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is located at the northeast corner of Maple Street and Mission Boulevard. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is currently developed with a single-family dwelling and two accessory structures. Washington County records indicate that the house on the property was built in 1870. A lot split, which subdivided the property into two lots containing roughly 0.34 and 0.55 acres, was recorded in January of this year (LSP-2023-0059).

Request: The request is to rezone the subject property from RSF-4, Residential Single-Family, Four Units per Acre, to NS-G, Neighborhood Services – General.

Public Comment: One member of the public spoke in opposition to this item at Planning Commission.

Land Use Compatibility: Staff finds the proposed zoning of NS-G, Neighborhood Services - General to be compatible with other properties nearby which contain a mixture of residential, commercial, and industrial uses. The subject property is located along Mission Boulevard, which is a Neighborhood Link Street lined with a variety of land uses. While there are a variety of land uses along that street, the subject property is located in an area that is primarily zoned RSF-4, Residential Single-Family, Four Units per Acre, which only allows single-family residences by right. A rezoning to NS-G would offer a greater mix of residential and commercial uses that are of a scale that fits with the existing development pattern in the surrounding area. By-right residential development in NS-G zoning is limited to single- to four-family dwellings at a density of 18 units per acre, and commercial development is limited to medium-scale retail and office services. Since NS-G has urban form setbacks, any redevelopment could provide an opportunity to encourage a more pedestrian-oriented neighborhood form along Mission Boulevard. However, the applicant has stated an intent to preserve the existing building on the property, which could support either residential or commercial uses. A rezoning to NS-

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

G would provide an opportunity to maintain residential uses and densities that are compatible with the existing development pattern, or commercial uses which could mirror the existing use of the site or serve the surrounding area. Any commercial redevelopment of the property would be restricted to 8,000 square feet under NS- G zoning.

Land Use Plan Analysis: Staff finds the applicant's request to be consistent with the City's adopted land use plans. The subject property is designated as Residential Neighborhood area in the City Plan 2040 Future Land Use Map. Staff finds that a rezoning from RSF-4 to NS-G could support that designation since it would allow for the incorporation of low-intensity nonresidential uses, such as retail and offices, which could serve surrounding neighborhoods. Staff also finds the requested rezoning to be aligned with Goals 1, 4, and 6 of City Plan 2040, which are to encourage infill, grow a livable transportation network, and create opportunities for attainable housing since it could encourage residential infill in an area that has a moderate infill score of 7 and is in proximity to nonresidential uses.

City Plan 2040 Infill Matrix: City Plan 2040's Infill Matrix indicates a score range of 6-7 for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 1, located at 303 W. Center St.)
- Near Sewer Main (eight-inch main, Maple Street)
- Near Water Main (six-inch main on Mission Boulevard and 1.25-inch main on Maple Street)
- Near Grocery Store (Ozark Natural Foods)
- Near Transit (ORT Route 10)
- Near City Park (Saint Joseph Park)
- Near Paved Trail (Wilson Park Trail)
- Sufficient Intersection Density

DISCUSSION:

At the April 22, 2024, Planning Commission meeting, a vote of 8-1-0 forwarded this request to City Council with a recommendation of approval. Commissioner McGetrick made the motion and Commissioner Brink seconded it. Commissioner Cabe voted against it. Commissioner Werner asked if the house on the property was subject to any historic registry or might be in the process of being added to one. Staff found that the house has not been added to a historic registry, though the applicant did state that they plan to apply for historic tax credits which would provide some protection for the house long-term. Commissioner Madden asked if the bike trail under construction on Mission will cross this property and Commissioner Castin confirmed that it will be located on the west side of the street. One member of the public spoke at the meeting and stated their opposition to the requested rezoning. That individual shared concerns about the applicant's intent to use the property as a professional office, stating that it could compound traffic and parking problems along Maple Street and may adversely affect surrounding property values and the historic character of the house.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-60

RZN-2024-0017: Rezoning (512 N. MISSION BLVD./ZWEIG, 446): Submitted by FLINTLOCK LTD CO. for property located at 512 N. MISSION BLVD. in WARD 1. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.90 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES - GENERAL.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-17 FOR APPROXIMATELY 0.90 ACRES LOCATED AT 512 NORTH MISSION BOULEVARD WARD 1 FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE TO NS-G, NEIGHBORHOOD SERVICES - GENERAL

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from RSF-4, Residential Single-Family, Four Units per Acre to NS-G, Neighborhood Services - General.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2024-60

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

5/3/2024

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2024-0017: Rezoning (512 N. MISSION BLVD./ZWEIG, 446): Submitted by FLINTLOCK LTD CO. for property located at 512 N. MISSION BLVD. in WARD 1. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.90 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES - GENERAL.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

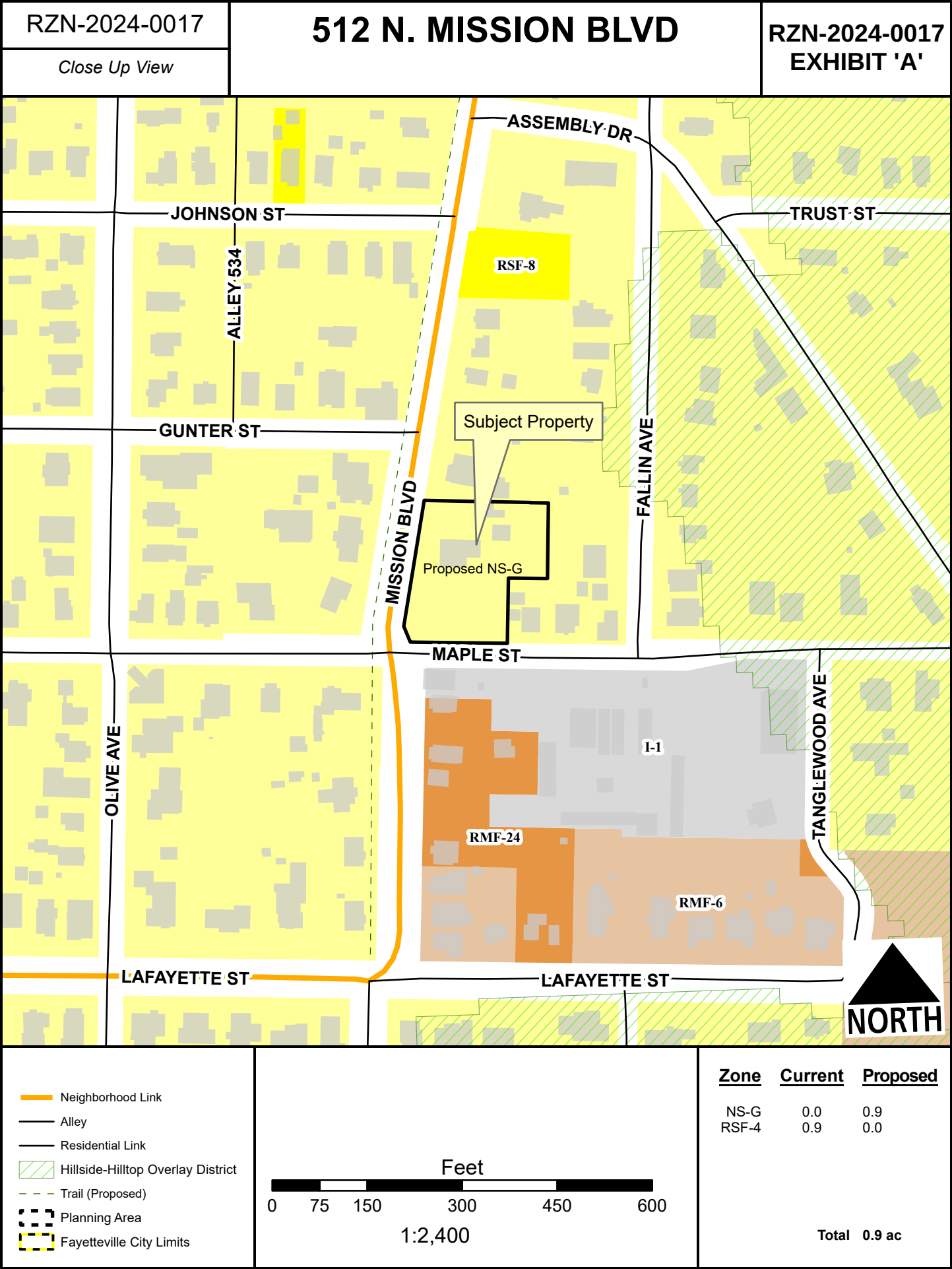
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



512 N MISSION BLVD – LEGAL DESCRIPTION

From Washington County Assessor's office, [via](#):

PT LOT 8 222X119.78X62X111X197X 240

FURTHER DESCRIBED FROM 2021-45778 AS:

Part of the Southeast Quarter of the Southwest Quarter of Section (10), Township Sixteen (16) North, Range Thirty (30) West, being also known and described as a part of Lot Numbered Eight (8) in Ambrose Addition to the City of Fayetteville, and being more particularly described as follows: Beginning at a point which is one hundred eighty seven (187) feet West and one hundred twenty three (123) feet North of the South East corner of said forty acre tract, and running, thence East sixty two (62) feet; thence North one hundred nineteen and seventy eight hundredths (119.78) feet; thence West two hundred twenty two (222) feet, more or less, to the center of the Old Missouri Road (now Mission Street); thence South bearing West with the center line of said road or street to appoint which is twelve (12) feet North of the South line of said forty acre tract; thence East parallel with and twelve (12) feet equi-distant from the South line of said forty acre tract one hundred ninety seven (197) feet, more or less, to the West line of conveyance by John E. Shoemaker to Edna Oliphant; thence North bearing East along the West line of said Edna Oliphant lot one hundred eleven (111) feet to the place of beginning.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: April 22, 2024 (updated with results)

SUBJECT: **RZN-2024-0017: Rezoning (512 N. MISSION BLVD./ZWEIG, 446):**
Submitted by FLINTLOCK LTD CO. for property located at 512 N. MISSION BLVD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.90 acres. The request is to rezone the property to NS-G, NEIGHBORHOOD SERVICES - GENERAL.

RECOMMENDATION:

Staff recommends forwarding **RZN-2024-0017** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0017** to the City Council with a recommendation of approval."*

BACKGROUND:

The subject property is located at the northeast corner of Maple Street and Mission Boulevard. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is currently developed with a single-family dwelling and two accessory structures. Washington County records indicate that the house on the property was built in 1870. A lot split, which subdivided the property into two lots containing roughly 0.34 and 0.55 acres, was recorded in January of this year (LSP-2023-0059). Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
South	Commercial	I-1, Heavy Commercial and Light Industrial
East	Single- and Two-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre

Request: The request is to rezone the subject property from RSF-4, Residential Single-Family, Four Units per Acre, to NS-G, Neighborhood Services – General.

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

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

Streets: The subject property has frontage along Mission Boulevard and Maple Street. Mission Boulevard is a partially improved Neighborhood Link Street with asphalt paving and sidewalk. Curb and gutter are present along the west side of the street. Maple Street is a partially improved Residential Link Street with asphalt paving and sidewalk, and with curb and gutter present along the north side of the street. Any street improvements required in this area would be determined at the time of development proposal.

Water: Public water is available to the subject property. An existing six-inch water main is present on the east side of Mission Boulevard. An existing 1.25-inch water main is also present on the south side of East Maple Street.

Sewer: Sanitary sewer is available to the subject property. An existing eight-inch sewer main is present on the south side of Maple Street.

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

Fire: Station 1, located at 303 W. Center St., protects this site. The property is located approximately 1.3 miles from the fire station with an anticipated drive time of approximately four minutes using existing streets. The anticipated response time would be approximately 6.2 minutes. Fire Department response time is calculated based on the drive time plus one minute for dispatch and 1.2 minutes for turn-out time. Within the city limits, the Fayetteville Fire Department has a response time goal of six minutes for an engine and eight minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

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

Tree Preservation:

The proposed zoning district, NS-G, Neighborhood Services - General, requires **20% minimum canopy preservation**. The current zoning district, RSF-4, Residential Single-Family, Four Units per Acre, require **25% minimum canopy preservation**.

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

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

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of **6-7** for this site with a weighted score of **9** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 1, located at 303 W. Center St.)
- Near Sewer Main (eight-inch main, Maple Street)
- Near Water Main (six-inch main on Mission Boulevard and 1.25-inch main on Maple Street)
- Near Grocery Store (Ozark Natural Foods)
- Near City Park (Saint Joseph Park)
- Near Paved Trail (Wilson Park Trail)
- Sufficient Intersection Density

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the proposed zoning of NS-G, Neighborhood Services - General to be compatible with other properties nearby which contain a mixture of residential, commercial, and industrial uses. The subject property is located along Mission Boulevard which is a Neighborhood Link Street lined with a variety of land uses. While there are a variety of land uses along that street, the subject property is located in an area that is primarily zoned RSF-4, Residential Single-Family, Four Units per Acre, which only allows single-family residences by right. A rezoning to NS-G would offer a greater mix of residential and commercial uses that are of a scale that fits with the existing development pattern in the surrounding area. By-right residential development in NS-G zoning is limited to single- to four-family dwellings at a density of 18 units per acre, and commercial development is limited to medium-scale retail and office services. Since NS-G has urban form setbacks, any redevelopment could provide an opportunity to encourage a more pedestrian-oriented neighborhood form along Mission Boulevard. However, the applicant has stated an intent to preserve the existing building on the property, which could support either residential or commercial uses. A rezoning to NS-G would provide an opportunity to maintain residential uses and densities that are compatible with the existing development pattern, or commercial uses which could mirror the existing use of the site or serve the surrounding area. Any commercial redevelopment of the property would be restricted to 8,000 square feet under NS- G zoning.

Land Use Plan Analysis: Staff finds the applicant's request to be consistent with the City's adopted land use plans. The subject property is designated as Residential Neighborhood area in the City Plan 2040 Future Land Use Map. Staff finds that a rezoning from RSF-4 to NS-G could support that designation since it would allow for the incorporation of low-intensity nonresidential uses, such as retail and offices, which could serve surrounding neighborhoods. Staff also finds the requested rezoning to be aligned with Goals 1, 4, and 6 of City Plan 2040, which are to encourage infill, grow a livable transportation network, and create opportunities for attainable

housing since it could encourage residential infill in an area that has a moderate infill score of 7 and is in close proximity to nonresidential uses.

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

Finding: Staff finds that there is sufficient justification for rezoning the property from RSF-4 to NS-G. A rezoning to NS-G would be compatible with adjacent properties, since it would allow for non-residential uses and street-oriented development, and it would be generally aligned with the goals outlined in City Plan 2040.

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

Finding: A rezoning from RSF-4 to NS-G has the potential to create or appreciably increase traffic danger and congestion when considering that NS-G would allow for more dense development than RSF-4. The lots under consideration have direct access to public streets and any necessary street improvements and potential traffic impacts would be determined at the time of development.

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

Finding: The proposed zoning has the potential to alter the population density since NS-G would allow for more dense residential development. However, staff finds that the size of the property and relevant development requirements, such as parking, drainage, and tree preservation, will limit potential adverse impacts to public services. Any necessary upgrades or improvements to existing infrastructure would be determined at the time of development. Fayetteville Public Schools did not comment on this request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2024-0017 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>April 22, 2024</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: McGetrick		with a recommendation of approval	
Second: Brink			
Vote: 8-1-0 (Commission Cabe opposed)			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
 - §161.19 NS-G, Neighborhood Services – General
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

161.19 NS-G, Neighborhood Services - General

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

(B) *Uses.*

(1) *Permitted Uses.*

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

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities
Unit 45	Small scale production

(C) *Density.* Eighteen (18) or less per acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwellings	35 feet
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet per dwelling unit
All other uses	None

(E) *Setback regulations.*

Front	Side	Side-Zero Lot Line*	Rear	Rear when contiguous to a single-family residential district
-------	------	---------------------	------	--

A build-to zone that is located between the front property line and a line 25 feet from the front property line.	5 feet	A setback of less than 5 feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed**. The remaining side setback(s) shall be 10 feet.	None	15 feet
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(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Minimum Buildable Street Frontage.* 50% of the lot width.

March 11, 2024

PETITION TO CHANGE ZONING

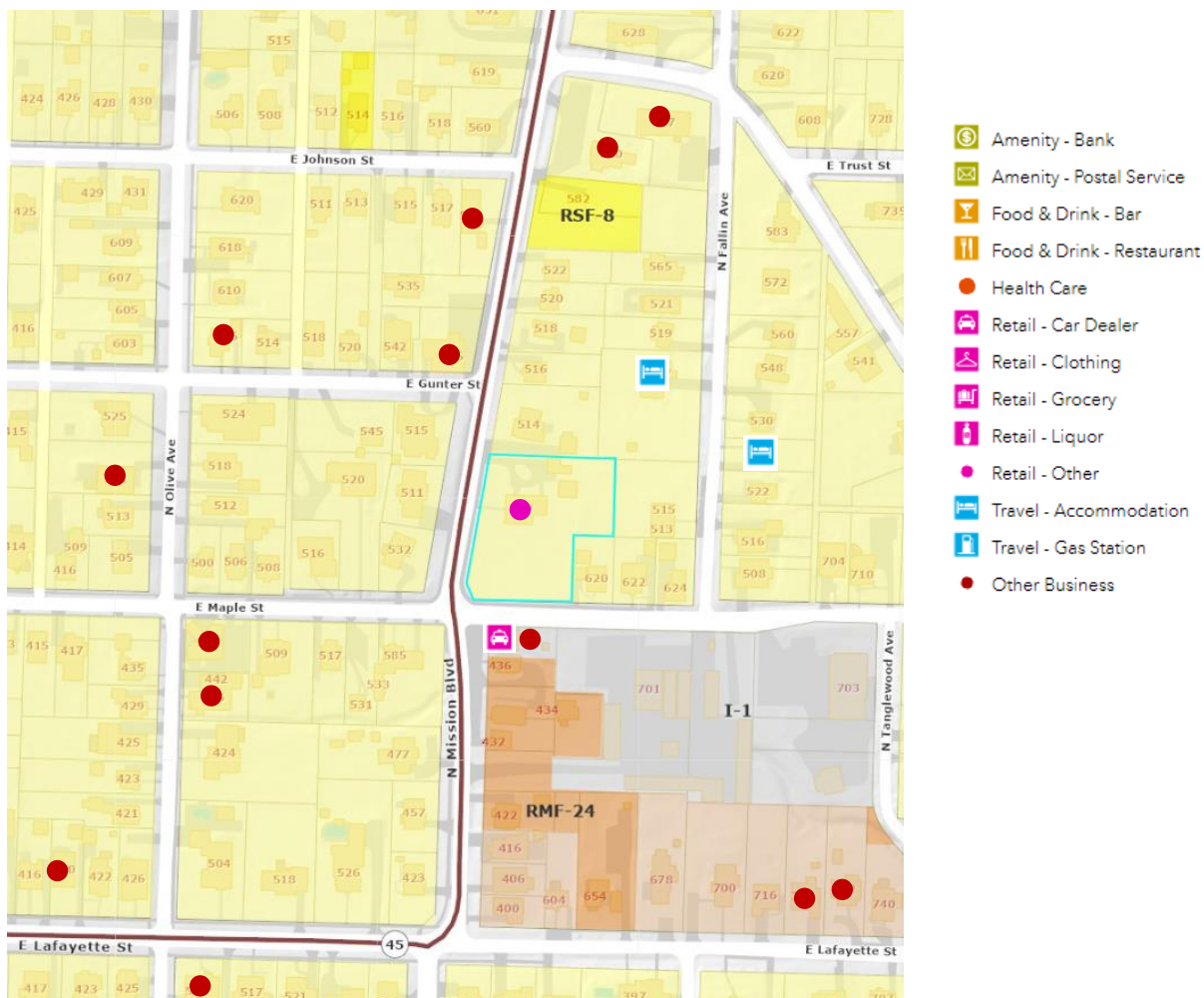
TO: The Fayetteville City Planning Commission & The Fayetteville City Council

Flintlock Ltd Co, on behalf of Mark + Sonyalea Zweig, requests that the zoning designation of the following lot be changed from Residential Single-Family – 4 units/acre to Neighborhood Services - General:

- 512 N Mission Blvd (765-02218-000): Part of Ambrose Addition

REASON FOR ZONING CHANGE REQUEST / STATEMENT OF NEED:

The zoning change request will allow this historic 1870 home to be utilized as professional offices. With a square footage of 3,720 SF, the building is too big to be considered for NS-L and use unit 12a; thus, NS-G is the least intensive zone that would allow this use by right. Per Fayetteville code, NS-G “is designed to serve as a mixed use area of medium intensity. Neighborhood Services, General promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses.”



528 N College Ave
Fayetteville, AR 72701

As seen above, this parcel is located directly adjacent to Industrial and Multifamily zoning to the south and fronts Mission Boulevard, designated in the Master Street Plan as a Neighborhood Link. The dots in this graphic pulled from City GIS denote the numerous existing professional offices and light retail both along this stretch of Mission and in the surrounding streets, including at this property.

Our intention is to maintain this historic structure and preserve its contribution to Fayetteville's unique character of place. The structure is in good condition and requires only minimal interior finish work to provide suitable office space; as such, no significant work is expected beyond the careful maintenance required to steward this aging building well into the future. Notably, our design firm has a proven track record of restoring or stabilizing historic structures in multiple Fayetteville neighborhoods, and the opportunity to utilize older structures for professional offices has been a key strategy to ensuring adequate investment towards their historically considerate upkeep. This investment allows for high quality preservation practices so that the structures may again become single-family homes in the future.

On a larger scale, this proposed rezoning supports the City's 2040 plans by encouraging revitalization of historic structures and contributing to complete neighborhoods with sensitive mixed use for a more walkable and livable community.

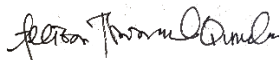
IMPACT ON NEIGHBORS & CITY:

The requested zoning change will minimally impact the surrounding properties in terms of land use, traffic, appearance, and signage. It is not expected to increase traffic danger or congestion, and no appearance changes are planned. For noise control, NS-G is considered a residential zone and naturally delimits any use that might be disruptive to the surrounding residential area. NS-G uses will not negatively impact the Industrial and Multifamily uses directly to the south. The proposed zoning is the least intensive change that will allow the building to operate with this light commercial use and retains the potential of future use as single-family residential.

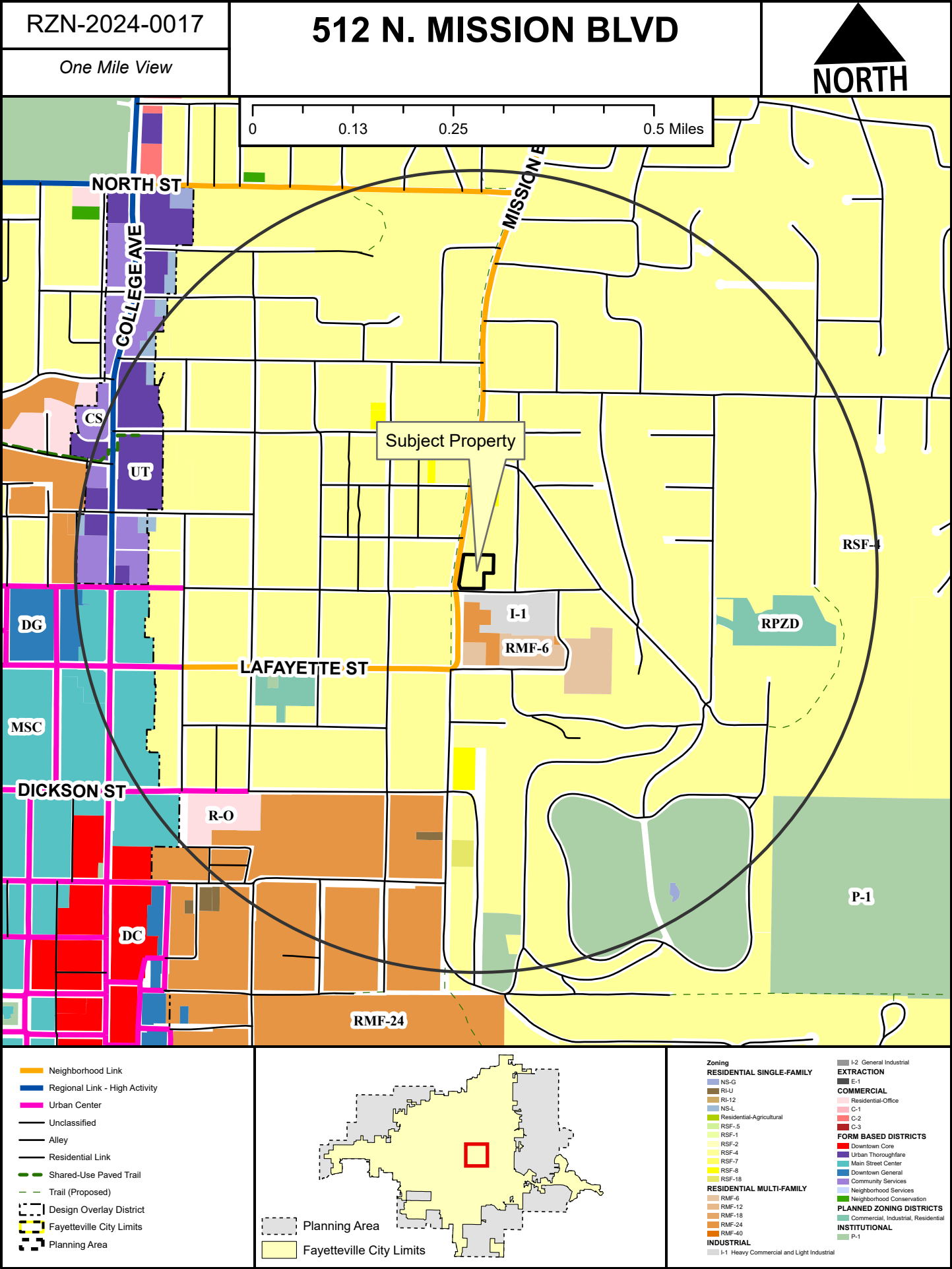
CONSISTENT WITH LAND USE PLANS:

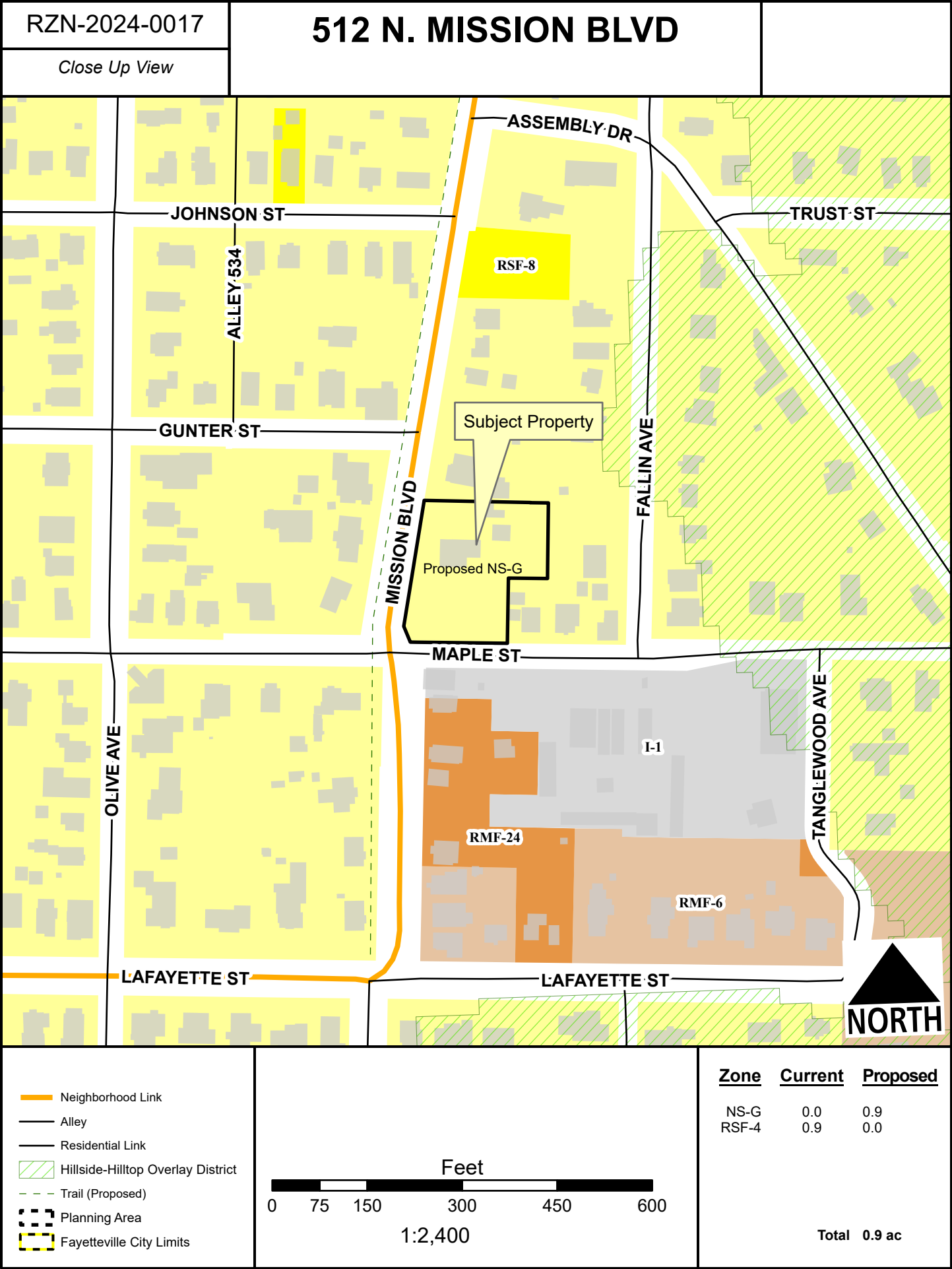
It is our opinion that the proposed zoning change is entirely consistent with both land use planning objectives, principles, and policies and is consistent with the history of the building and neighborhood. The rezoning will allow the property to be a low-intensity commercial use, directly in line with the City's 2040 goal to "make traditional town form the standard: with neighborhoods that include not just houses, but a mix of uses that can adapt over time and allow residents to live, work, and play without relying on vehicles."

Respectfully,
FLINTLOCK LTD CO

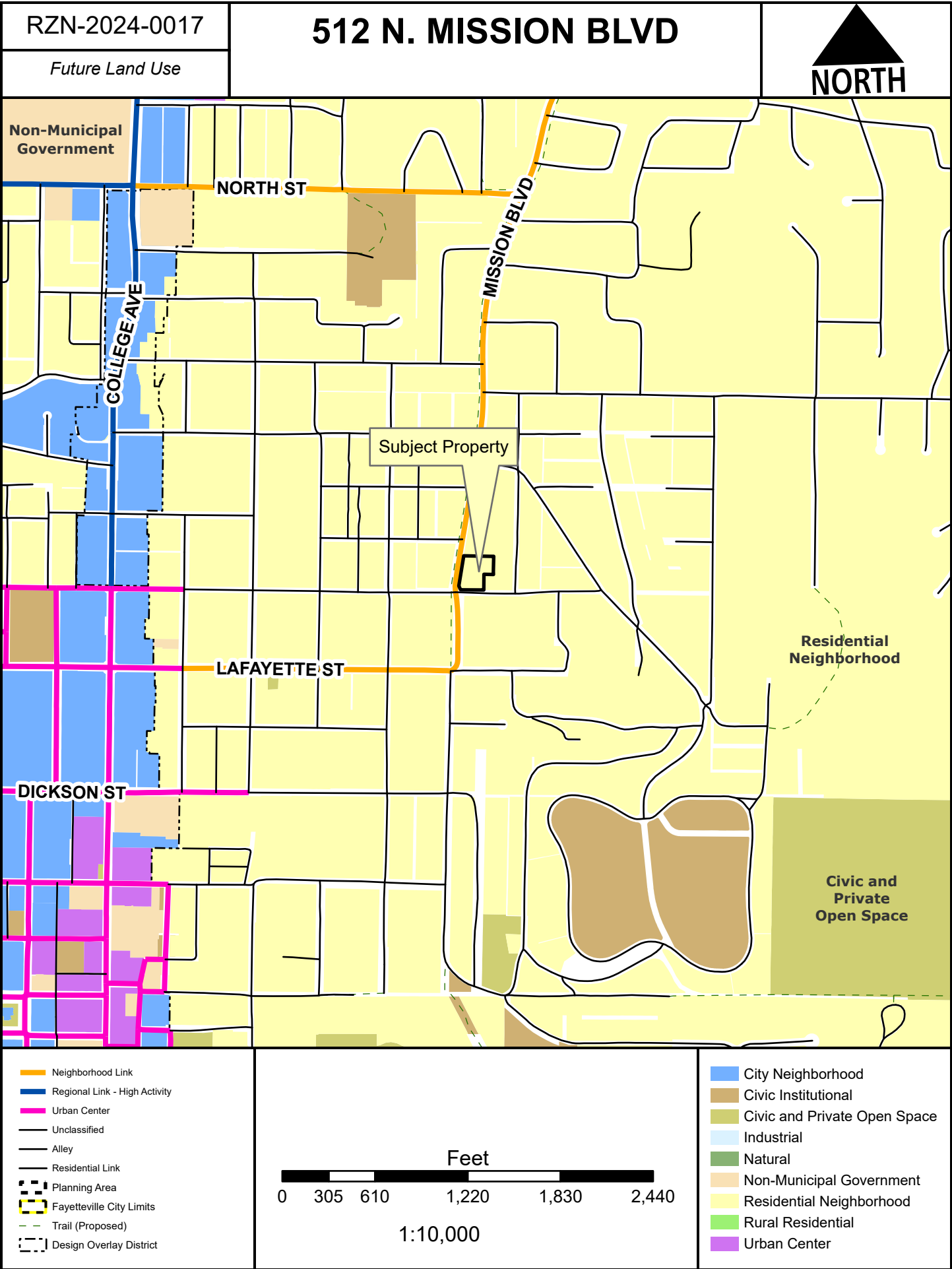


Allison Thurmond Quinlan
AIA RLA LEED AP
Principal Architect











MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

SUBJECT: **RZN-2024-0018: Rezoning (SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE./SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO, 522): Submitted by SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO for property located at SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE in WARD 2. The property is zoned RMF-40, RESIDENTIAL MULTIFAMILY, 40 UNITS PER ACRE and contains approximately 2.9 acres. The request is to rezone the property to MSC, MAIN STREET CENTER subject to a bill of assurance.**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B', and with the associated Bill of Assurance as shown in Exhibit 'C'.

BACKGROUND:

The subject area is in central Fayetteville, approximately 300 feet east of Fayetteville Public Schools' Harmon Field and 900 feet northeast of Fayetteville High School. Multiple parcels are included in the area, totaling approximately 2.9 acres and bound by W. Treadwell St. to the north, S. Hill Ave. to the east, W. Putnam St. to the south, and S. Duncan Ave. to the west. Zoning on the property is currently RMF-40, Residential Multifamily, 40 Units per Acre, with development that ranges from apartments and single-family dwellings, to a largely undeveloped parcel with off-site parking. The existing structures were built between 1931 and 1964. The property does not fall within any overlay districts or Master Plan Areas.

Request: The request is to rezone the property from RMF-40, Residential Multifamily, 40 Units per Acre to MSC, Main Street Center.

Public Comment: Staff has received multiple public comments. Two members of the public requested additional information, one of whom expressed general concerns about city-wide parking requirements and ensuring that any future development here is adequately parked. One member of the public sent two separate emails expressing their opposition, citing the potential destruction of affordable rental housing units with existing, long-term residents who will likely be displaced out of the city, the need for protections for existing residents and dwellings, increased housing costs for any new luxury units, out-of-state developers, potential development adjacent to the property by additional developers, the age of the existing apartments on the site, the need for the university to manage its student population and associated housing needs, and lack of mailed public notification documents to current residents of the affected property. The second email also included

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

questions related to some of the stated goals of the 2040 Plan.

Land Use Compatibility: On the balance of considerations, staff finds the request to be compatible with the surrounding context. The property is primarily surrounded by large-size apartments with single-family dwellings located to the west adjacent to the Fayetteville High School campus. Additionally, the parcels within the subject area are currently developed with primarily multifamily dwellings. Based on a review of addresses, there are a total of 53 residential dwelling units currently within the subject area. The existing RMF-40 district would permit a maximum of 116 dwelling units on the 2.9-acre subject area with a maximum building height of five stories, while the proposed MSC district has no density limitations and a maximum building height of seven stories when located greater than 15 feet from the right-of-way. Staff finds that the existing buildings are between 60–93 years old and that no building permits aside from two HVAC renovations were found for the subject area that indicate renovations since completion. No buildings within the subject area are listed on either the Federal or Arkansas Register of Historic Places. An analysis of each parcel's current development is included in a staff exhibit.

The subject area is bordered by properties zoned DG, Downtown General to the north and east, which permits a mix of commercial and residential uses and structures up to five stories. The Atmosphere multi-family structure to the north is constructed to five stories. Eco Modern Flats to the east is constructed with three stories, though staff notes that the ground floor is located below street grade. Additional apartments to the south were constructed to a two story height. Staff finds that the greater height permitted by MSC is not likely to negatively affect the surroundings given the abutting multi-story apartments and the MSC district's limit of building height to 5 stories when within 0'-15' of the property line and 7 stories permitted further from the front property line. Further, a large block of MSC is located approximately 500 feet to the east.

While rezoning from RMF-40 to MSC will remove the current density limitation of 40 units per acre, staff finds that the request is not likely to create development that is incompatible with the surroundings given that the other city requirements such as parking lot design standards and ratios, tree preservation, and drainage. A bill of assurance has been provided with the rezone to limit potentially incompatible uses, including Use Unit 17: Transportation Trades and Services, Use Unit 34: Liquor Stores, and Use Unit 45: Small Scale Production. Staff finds that rezoning to a mixed-use district would create the possibility of compatible development and that additional commercial uses could also serve the high density of existing, nearby residents as well as students and faculty of the adjacent high school.

Land Use Plan Analysis: On the balance of considerations, staff finds that the request is consistent with adopted land use policies, the Future Land Use Map designation, and goals of City Plan 2040. Given the walkable location of the request and potential for mixed-use development, staff finds the request to be consistent with the following City Plan 2040 Goals: Goal 1: We will make appropriate infill and revitalization our highest priority; Goal 2: We will discourage suburban sprawl; Goal 3: We will make compact, complete, and connected development the standard; Goal 4: We will grow a livable transportation network; and mixed consistency for Goal 6: We will create opportunities for affordable housing.

The Fayetteville Housing Assessment completed by City staff in October 2023 discusses the preservation of affordable housing and notes that "new supply should be carefully balanced with preserving existing affordable housing – housing that can be in prime areas for redevelopment due to growing land values compared to the declining value of aging structures." While staff acknowledges that any redevelopment of the subject area and associated demolitions would remove naturally occurring affordable housing units within the subject area, staff also acknowledges that the property owners are legally able to redevelop the subject area with new multifamily dwellings by right under the existing RMF-40 zoning district and that any redevelopment including uses permitted by right is not subject to discretionary approval by either the Planning Commission or City Council provided that all applicable city ordinances and development standards are met.

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The area is designated as a City Neighborhood Area, which envisions a mixture of residential nonresidential uses of varying size, variety, and intensity. As noted, the subject area is approximately 900 feet northeast of the Fayetteville High School campus and approximately ¼ mile southeast of the University of Arkansas campus, which is designated as a special district by the 2040 growth map and described as “portions of the city that are historically or currently intended for more intensive commerce.” The closest Tier Centers are located just over half a mile east at the historic downtown square (Tier 1) and approximately half a mile southeast at the intersection of W. Martin Luther King Jr. Blvd. and S. Nelson Hackett Blvd (Tier 3).

The infill score for this parcel is high, indicating the property could likely support a wide range of uses and additional density, particularly given the proximity of both the Fayetteville High School and the University of Arkansas campus. Staff also finds that allowing additional residential in proximity to major activity centers and close to both ORT and Razorback transit stops allows potential residents to use alternative transportation, helping to mitigate or reduce potential traffic impacts. Given that denying the rezoning request would not necessarily prevent redevelopment of the property by the new owners, staff finds that approval of the rezoning to MSC may lead to results that are more compatible with city goals than could be met under the existing zoning by allowing a greater number of additional residential units to be constructed while providing potential for a mix of commercial and residential uses.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040’s Infill Matrix indicates a ranging score of 12 for this site. The following elements of the matrix contribute to the score:

- 4 Minute Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (8” Sewer Mains: W. Treadwell St., W. Putman St., and S. Duncan Ave.)
- Near Water Main (8” Water Main, W. Treadwell St. | 6” Water Main, W. Putman St and S. Duncan Ave. | 4” Water Main, S. Hill Ave.)
- Near Grocery Store (Walmart Neighborhood Market)
- Near Public School (Fayetteville High School)
- Near U of A Campus
- Near City Park (Lower Ramble)
- Near Paved Trail (Oakridge Trail, Razorback Greenway)
- Near ORT Bus Stop (Hillcrest Towers)
- Near Razorback Transit Bus Stop (S. Hill Ave on subject property)
- Appropriate Future Land Use
- Sufficient Intersection Density

DISCUSSION:

At the April 22, 2024, Planning Commission meeting, a vote of 8-1-0 forwarded the revised request of MSC, Main Street Center to City Council with a recommendation of approval. Commissioner Payne made the motion and Commissioner Cabe seconded. Commissioner Werner voted against the proposed rezoning, citing the removal of affordable housing units and potential displacement of residents. Commissioners voting in favor of the request cited the ability of the current property owners to redevelop the parcels by right under the existing RMF-40 zoning, proximity to campus, existing transit routes located on the property, and the provided Bill of Assurance. Several commissioners questioned what actions the city is legally able to take regarding protection for existing affordable housing units. Senior Assistant City Attorney Blake Pennington affirmed that cities in Arkansas are preempted by the state from passing ordinances regarding rent control or other tenant protections that exceed state standards. There was also discussion relating to potential improvements associated with the project, which staff confirmed would be determined with future development plans.

Five members of the public spoke at the meeting. One individual spoke in favor of the request, citing

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compatibility with the adjacent neighborhoods. One individual questioned potential traffic impacts and improvements, whether the development would be fully student housing and if the existing residents could be provided housing within the new units. Staff affirmed that potential traffic impacts would be reviewed during development plans and that the city cannot require affordable housing units or provision of residential units for the existing residents. Another individual asked if a lower intensity district would still get the developer what they need. The applicant team noted the presence of a large transmission line on the south side of the block and the need to fully park the development on site. Two additional members of the public expressed opposition to the request, citing demolition of existing affordable units and dislocation of existing residents.

BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Exhibit C (#6), Planning Commission Staff Report (#7)

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113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-57

RZN-2024-0018: Rezoning (SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE./SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO, 522): Submitted by SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO for property located at SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE in WARD 2. The property is zoned RMF-40, RESIDENTIAL MULTIFAMILY, 40 UNITS PER ACRE and contains approximately 2.9 acres. The request is to rezone the property to MSC, MAIN STREET CENTER subject to a bill of assurance.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-18 FOR APPROXIMATELY 2.9 ACRES LOCATED SOUTHWEST OF WEST TREADWELL STREET AND SOUTH HILL AVENUE IN WARD 2 FROM RMF-40, RESIDENTIAL MULTIFAMILY, 40 UNITS PER ACRE TO MSC, MAIN STREET CENTER, SUBJECT TO A BILL OF ASSURANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from RMF-40, Residential Multifamily, 40 Units per Acre to MSC, Main Street Center, subject to a bill of assurance.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2024-57

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

5/3/2024

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2024-0018: Rezoning (SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE./SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO, 522): Submitted by SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO for property located at SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE in WARD 2. The property is zoned RMF-40, RESIDENTIAL MULTIFAMILY, 40 UNITS PER ACRE and contains approximately 2.9 acres. The request is to rezone the property to MSC, MAIN STREET CENTER.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

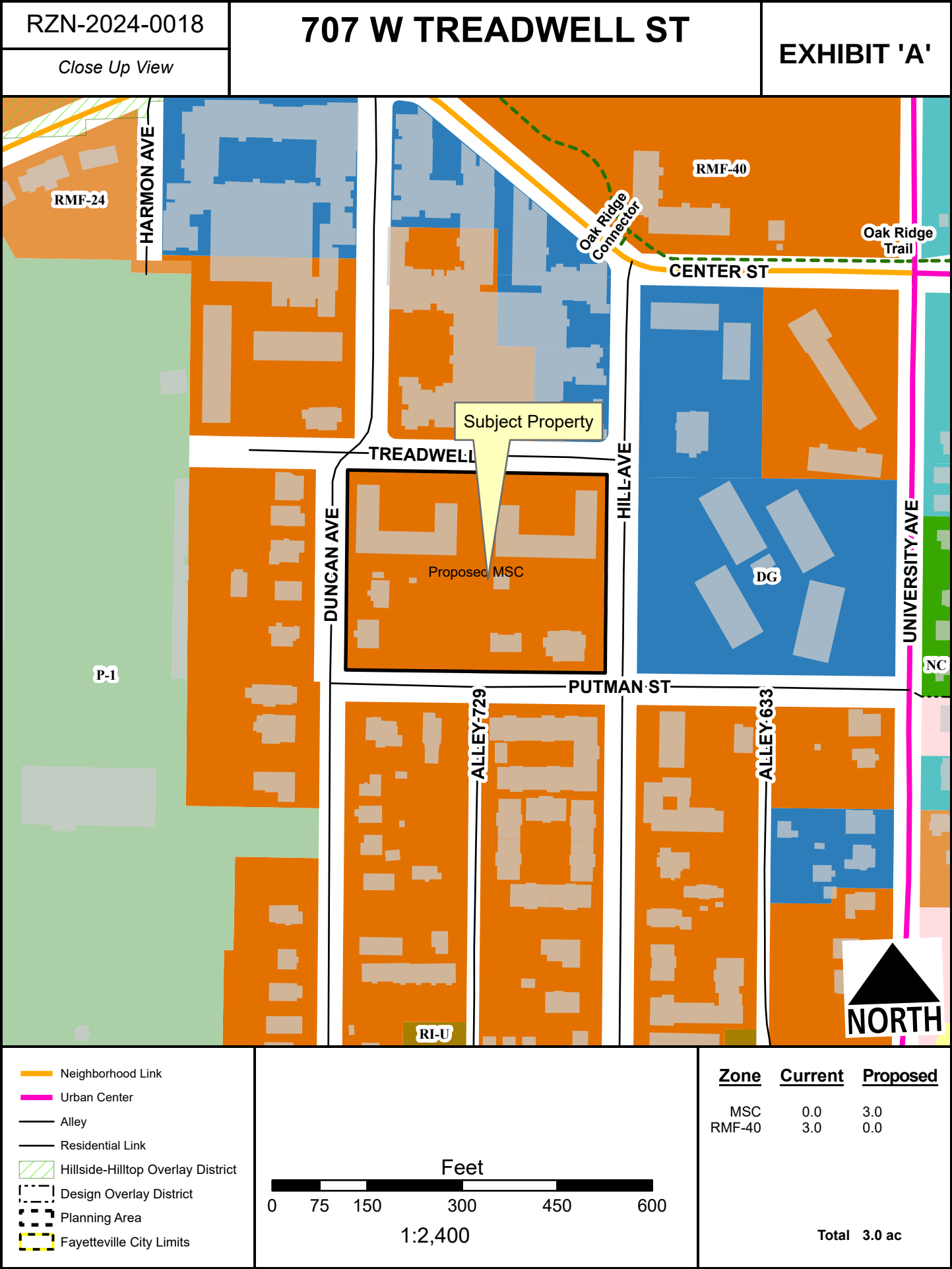
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF WASHINGTON, STATE OF ARKANSAS, AND IS DESCRIBED AS FOLLOWS:

PARCEL 765-04804-000:

LOTS 1, 2, 3, 10, 11, 12 AND THE NORTH FIVE (5) FEET OF LOT 4, ALL IN BLOCK 5 OF I. W. DUNCAN'S ADDITION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

PARCEL 765-04805-000:

FORTY-FIVE (45) FEET OF EQUAL AND UNIFORM WIDTH OFF THE SOUTH SIDE OF LOT 4 AND TEN (10) FEET OF EQUAL AND UNIFORM WIDTH OFF THE NORTH SIDE OF LOT 5 IN BLOCK 5 OF I. W. DUNCAN'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

PARCEL 765-04806-000:

THE SOUTH FORTY (40) FEET OF LOT 5 AND ALL OF LOT 6 IN BLOCK 5 OF I. W. DUNCAN'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

PARCEL 765-04807-000:

ONE HUNDRED TWENTY-SEVEN (127) FEET OFF THE EAST END OF LOTS 7, 8, 9 IN BLOCK 5 OF DUNCAN'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS DESIGNATED UPON THE RECORDED PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

PARCEL 765-04808-000:

THE WEST 81.48 FEET OF LOT 7, AND THE WEST 81.48 FEET OF THE SOUTH 25 FEET OF LOT 8, IN BLOCK 5, DUNCAN'S ADDITION, TO THE CITY OF FAYETTEVILLE, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 4 AT PAGE 192, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS. VD.

PARCEL 765-04809-000:

THE WEST 81.48 FEET OF LOT NINE (9) AND THE WEST 81.48 FEET OF THE NORTH 25 FEET OF LOT EIGHT (8) IN BLOCK FIVE (5) OF DUNCAN'S ADDITION TO THE CITY OF FAYETTEVILLE, ACCORDING TO THE RECORDED PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

NOTE: ANY MENTION OF PARCEL NOS. ARE FOR INFORMATIONAL PURPOSES ONLY.

**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Subtext Acquisitions, LLC, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The following uses shall not be permitted:

Unit 17, Transportation trades and services;

Unit 34, Liquor stores; and

Unit 45, Small scale production

2. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, the undersigned, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

[SIGNATURES TO APPEAR ON FOLLOWING PAGE]

☐
OWNER:

BRAWNER REAL ESTATE, LLC

Keri Brawner
By: K.M. BRAWNER
Title: _____
Date: 4-23-2024
Address: 1687 N. Broadway Dr
Fayetteville, AR, 72703

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

RZN-2024-0018
EXHIBIT C

And now on this the 24 day of April, 2024, appeared before me,
Jami-Lynn Ballou, a Notary Public, and after being placed upon his/her oath swore
or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her
name above.

Jami-Lynn Ballou
NOTARY PUBLIC

My Commission Expires:

3.3.34

OFFICIAL SEAL
JAMI-LYNN BALLOU
NOTARY PUBLIC . ARKANSAS
WASHINGTON COUNTY
COMMISSION # 00000878
COMMISSION EXP 03/03/2034

OWNER:

KERR INVESTMENT COMPANY, LLC

Katherine Kerr Fawcett
By: Katherine Kerr Fawcett
Title: President
Date: 4-25-24

Address: mailing: PO Box 1083, Russellville AR 72811
Registered Agent: URS Agents INC. 9666 Olive Blvd. # 690, St. Louis MO 63132

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 25th day of April, 2024, appeared before me,
Brandi Everette, a Notary Public, and after being placed upon his/her oath
swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and
signed his/her name above.

Brandi Everette
NOTARY PUBLIC

My Commission Expires:

10/25/2027



OWNER:

98 DUNCAN, LLC



By: Marcus Neussary

Title: President

Date: 4/26/2024

Address: 8505 W Pleasant Grove Rd
Bentonville, Ark 72713

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 26 day of April, 2024, appeared before me, Lizbeth Chavez, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.



NOTARY PUBLIC

My Commission Expires:

April 3, 2032





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: April 22, 2024 (UPDATED WITH MEETING RESULTS)

SUBJECT: **RZN-2024-0018: Rezoning (SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE./SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO, 522):** Submitted by SUBTEXT ACQUISITIONS, LLC. AND MODUS STUDIO for property located at SOUTHWEST OF W. TREADWELL ST. AND S. HILL AVE. The property is zoned RMF-40, RESIDENTIAL MULTIFAMILY, 40 UNITS PER ACRE and contains approximately 2.9 acres. The request is to rezone the property to MSC, MAIN STREET CENTER.

RECOMMENDATION:

Staff recommends **RZN-2024-0018** be forwarded to the City Council with a recommendation for approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0018** to the City Council with a recommendation of approval."*

BACKGROUND:

The subject area is in central Fayetteville approximately 300 feet east of Harmon Field and 900 feet northeast of the Fayetteville High Schol. The subject area contains multiple parcels and is bound by W. Treadwell St. to the north, S. Hill Ave. to the west, W. Putnam St. to the south, and S. Duncan Ave. to the west. The subject area contains roughly 2.9 acres and is currently zoned RMF-40, Residential Multifamily, 40 Units per Acre. The property is currently developed with a range of uses, including apartments, single-family dwellings, and a largely undeveloped parcel with off-site parking. The existing structures were built between 1931 -1964. The property does not fall within any overlay districts or Master Plan areas. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Residential Multifamily (Apartments)	RMF-40, Residential Multifamily, 40 Units per Acre DG, Downtown General
South	Residential Multifamily (Apartments) Single-Family Residential	RMF-40, Residential Multifamily, 40 Units per Acre
East	Residential Multifamily (Apartments)	DG, Downtown General
West	Single-Family Residential	RMF-40, Residential Multifamily, 40 Units per Acre

Request: The request is to rezone the property from RMF-40, Residential Multifamily, 40 Units per Acre to MSC, Main Street Center.

Public Comment: Staff has received multiple public comments. One member of the public requested additional information regarding the project and associated public hearing. One member of the public sent two separate emails expressing their opposition, citing potential destruction of affordable rental housing units with existing, long-term residents who will likely be displaced out of the city, the need for protections for existing residents and dwellings, increased housing costs for any new luxury units, out-of-state developers, potential development adjacent to the property by additional developers, the age of the existing apartments on the site, the need for the university to manage its student population and associated housing needs, and lack of mailed public notification documents to current residents of the affected property. The second email also included questions related to some of the stated goals of the 2040 Plan.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along four streets. W. Treadwell St. is a partially improved Residential Link with asphalt paving, curb & gutter, sidewalk along the north side, and no curb and gutter on the south side. S. Hill Ave. is a partially improved Residential Link with asphalt paving, curb & gutter, and sidewalks. W. Putman St. is a partially improved Residential Link with asphalt paving and open ditches. S. Duncan Ave. is a partially improved Residential Link with asphalt paving, partial curb and gutter, and sidewalk along the east side. Any street or drainage 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" water main is present on the north side of W. Treadwell St. Existing 6" water mains are available on the north side of W. Putman St. and the West side of South Duncan Avenue. An existing 4" water main is present on the east side of S. Hill Ave.

Sewer: Sanitary sewer is available to the subject area. Existing 8" sewer mains are present on the south side of W. Treadwell St., the south side of W. Putman St., and the west side of S. Duncan Ave.

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 1, located at 303 W. Center St., protects this site. The property is located approximately 0.5 miles from the fire station with an anticipated drive time of approximately 2 minutes using existing streets. The anticipated response time would be approximately 4.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

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

Drainage: No portion of the property is within a FEMA floodplain, the Hillside-Hilltop Overlay District or includes a protected stream. Additionally, no hydric soils are present.

Tree Preservation:

The proposed zoning district of MSC, Main Street Center requires **10% minimum canopy preservation**. The current zoning district of RMF-40, Residential

Multifamily, 40 Units per Acre requires **20% minimum canopy preservation**.

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

City Neighborhoods are more densely developed than residential neighborhood areas and provide a mix of non-residential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. Non-residential and commercial uses are primarily located at street intersections and along major corridors. Ideally, commercial uses would have a residential component and vary in size, variety and intensity. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Building setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a ranging score of **12** for this site, with a weighted score of **15.5**. The following elements of the matrix contribute to the score:

- 4 Minute Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (8" Sewer Mains: W. Treadwell St., W. Putman St., and S. Duncan Ave.)
- Near Water Main (8" Water Main, W. Treadwell St. | 6" Water Main, W. Putman St and S. Duncan Ave. | 4" Water Main, S. Hill Ave.)
- Near Grocery Store (Walmart Neighborhood Market)
- Near Public School (Fayetteville High School)
- Near U of A Campus
- Near City Park (Lower Ramble)
- Near Paved Trail (Oakridge Trail, Razorback Greenway)
- Near ORT Bus Stop (Hillcrest Towers)
- Near Razorback Transit Bus Stop (S. Hill Ave on subject property)
- Appropriate Future Land Use
- Sufficient Intersection Density

FINDINGS OF THE STAFF

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

Finding: Land Use Compatibility: On the balance of considerations, staff finds the request to be compatible with the surrounding context. The property is primarily surrounded by large-size apartments with single-family dwellings located to the west adjacent to the Fayetteville High School campus. Additionally, the parcels within the subject area are currently developed with primarily multifamily dwellings. Based on a review of addresses, there are a total of 53 residential dwelling units currently within the subject area. The existing RMF-40 district would permit a maximum of 116 dwelling units on the 2.9-acre subject area with a maximum building height of 5 stories, while the proposed DG district has no density limitations with a maximum building height of 7 stories when located greater than 15 feet from the right-of-way. Staff finds that the existing buildings are between 60-93 years old and that no building permits aside from two HVAC renovations were found for the subject area that indicate renovations since

completion. No buildings within the subject area are listed in either the Federal or Arkansas Register of Historic Places. An analysis of each parcel's current development is included in a staff exhibit.

The subject area is partially bound by DG, Downtown General to both the north and east, which permits a mix of commercial and residential uses and structures up to 5 stories. The Atmosphere to the north is constructed with 5 stories. Eco Modern Flats to the east is constructed with three stories, though staff notes that the ground floor is located below street grade. Additional apartments to the south were constructed at two stories. Staff finds that the greater height permitted by MSC is not likely to negatively affect the surroundings given these abutting multi-story apartments and the district's limit of building height to 5 stories when within 0'-15' of the property line with 7 stories only permitted further from the ROW. Further, a large block of MSC is located approximately 500 feet to the east.

While rezoning from RMF-40 to MSC will remove the current density limitation of 40 units per acre, staff finds that the request is not likely to create development that is incompatible with the surroundings given that the other city requirements such as parking lot design standards and ratios, tree preservation, and drainage. A bill of assurances has been provided with the rezone to limit potentially incompatible uses, including Use Unit 17: Transportation Trades and Services, Use Unit 34: Liquor Stores, and Use Unit 45: Small Scale Production. Staff finds that rezoning to a mixed-use district would create the possibility of compatible development and that additional commercial uses could also serve the high density of existing residents within the immediate proximity as well as students and faculty of the adjacent high school.

Land Use Plan Analysis: On the balance of considerations, staff finds that the request is consistent with adopted land use policies, the Future Land Use Map designation, and goals of City Plan 2040. Given the walkable location of the request and potential for mixed-use development, staff finds the request to be consistent with the following City Plan 2040 Goals: Goal 1: We will make appropriate infill and revitalization our highest priority; Goal 2: We will discourage suburban sprawl; Goal 3: We will make compact, complete, and connected development the standard; Goal 4: We will grow a livable transportation network; and Goal 6: We will create opportunities for affordable housing.

The Fayetteville Housing Assessment completed by City staff in October 2023 discusses the preservation of affordable housing and notes that "new supply should be carefully balanced with preserving existing affordable housing – housing that can be in prime areas for redevelopment due to growing land values compared to the declining value of aging structures." While staff acknowledges that any redevelopment of the subject area and associated demolitions would remove naturally occurring affordable housing units within the subject area, staff also acknowledges that the property owners are legally able to redevelop the subject area with new multifamily dwellings by right under the existing Residential Multifamily, 40 Units per Acre (RMF-40) zoning district and that any redevelopment which

includes only uses permitted by right is not subject to discretionary approval by either the Planning Commission or City Council provided that all applicable city ordinances and development standards are met.

The area is designated as a City Neighborhood Area, which recommends that commercial uses would have a residential component and vary in size, variety and intensity. The subject area is approximately 500 feet east of the Fayetteville High School campus and approximately ¼ mile east of the University of Arkansas campus, which is designated as a special district by the 2040 growth map and described as “portions of the city that are historically or currently intended for more intensive commerce.” The closest Tier Centers are located just over half a mile east at the historic downtown square (Tier 1) and approximately half a mile southeast at the intersection of W. Martin Luther King Jr. Blvd. and S. Nelson Hackett Blvd (Tier 3).

The infill score for this parcel is high, with a weighted score of 15.5, indicating the property could likely support a wide range of uses and additional density, particularly given the close proximity of both the Fayetteville High School and University of Arkansas campus. Staff also finds that allowing additional residential in close proximity to major traffic drivers and within close proximity to both ORT and Razorback transit stops could allow for residents to use alternative transportation options such as walking, biking, or utilizing transit to these institutions, helping to mitigate or reduce potential traffic impacts. Given that denying the rezoning request would not necessarily prevent redevelopment of the property by the new owners, staff finds that approval of the rezoning to MSC may lead to results that are more compatible with city goals than could be met under the existing zoning by allowing a greater number of additional residential units to be constructed while providing potential for a mix of commercial and residential uses.

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

Finding: On the balance, staff finds the proposed zoning is justified and necessary at this time. While any redevelopment of these parcels could negatively impact existing affordable housing stock, staff notes that the property owners could legally redevelop the parcels with new multifamily dwellings by right under the existing zoning district. The proposed zoning of MSC could permit a mixed-use development with higher density allowances in an area with a weighted infill score of 15.5 where only residential uses are currently permitted by right under RMF-40.

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

Finding: A rezoning from RMF-40 to MSC has the potential to increase traffic at this location when considering that MSC would allow for more dense development than the existing zoning which has a stated density limitation. The lots under consideration have direct access to public streets and staff finds that given the property’s location on a transit route close to the university and the Fayetteville High School campus, many trips have the

capacity to be completed through alternative transportation such as walking, biking, or transit. Any necessary street improvements and potential traffic impacts would be determined at the time of development.

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

Finding: The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, the property is in close proximity to public streets and existing water and sewer mains. Any necessary upgrades or improvements to existing infrastructure would be determined at the time of development. Fayetteville Public Schools did not comment on this request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2024-0018 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required YES

Date: April 22, 2024

☐ Tabled

☒ Forwarded

☐ Denied

Motion: PAYNE

FORWARD TO CITY COUNCIL WITH A
RECOMMENDATION OF APPROVAL

Second: CABE

Vote: 8-1-0 (BRINK OPPOSED)

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre
 - §161.27 Main Street/Center
- Applicant Request Letter
- Proposed Bill of Assurance
- Staff Exhibit
 - Current Development
 - Fayetteville Housing Assessment Excerpts
 - Active Transportation Plan Excerpts and Map
 - Proximity to Tier Center Exhibit
 - City Plan 2040 Excerpts
 - Climate Action Plan Presentation Excerpts
 - Traffic Accidents Exhibits
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

(E) *Setback Requirements.*

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

(F) *Building Height Regulations.*

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

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

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

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

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

Editor's note(s)—Ord. No. 6710 , §1, adopted November 21, 2023, determines that Ordinance 6427 (Sunset Clause) and Ord. No. 6625 (extending Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2024, unless prior to that date the City Council amends this ordinance to repeal or further amend 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 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)

Editor's note(s)—Ord. No. 6710 , §1, adopted November 21, 2023, determines that Ordinance 6427 (Sunset Clause) and Ord. No. 6625 (extending Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2024, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section.

Submission #2: April 3, 2024

RE: VERVE Fayetteville – Rezoning Application

We are pleased to submit our rezoning application associated with VERVE Fayetteville. The approximately 2.9-acre project site (the "Property") is generally located at W. Treadwell Street and S. Hill Avenue and includes 707 W. Treadwell Street, 191 S. Hill Avenue, and 92 and 98 S. Duncan Avenue (Figure 1 and Figure 2).

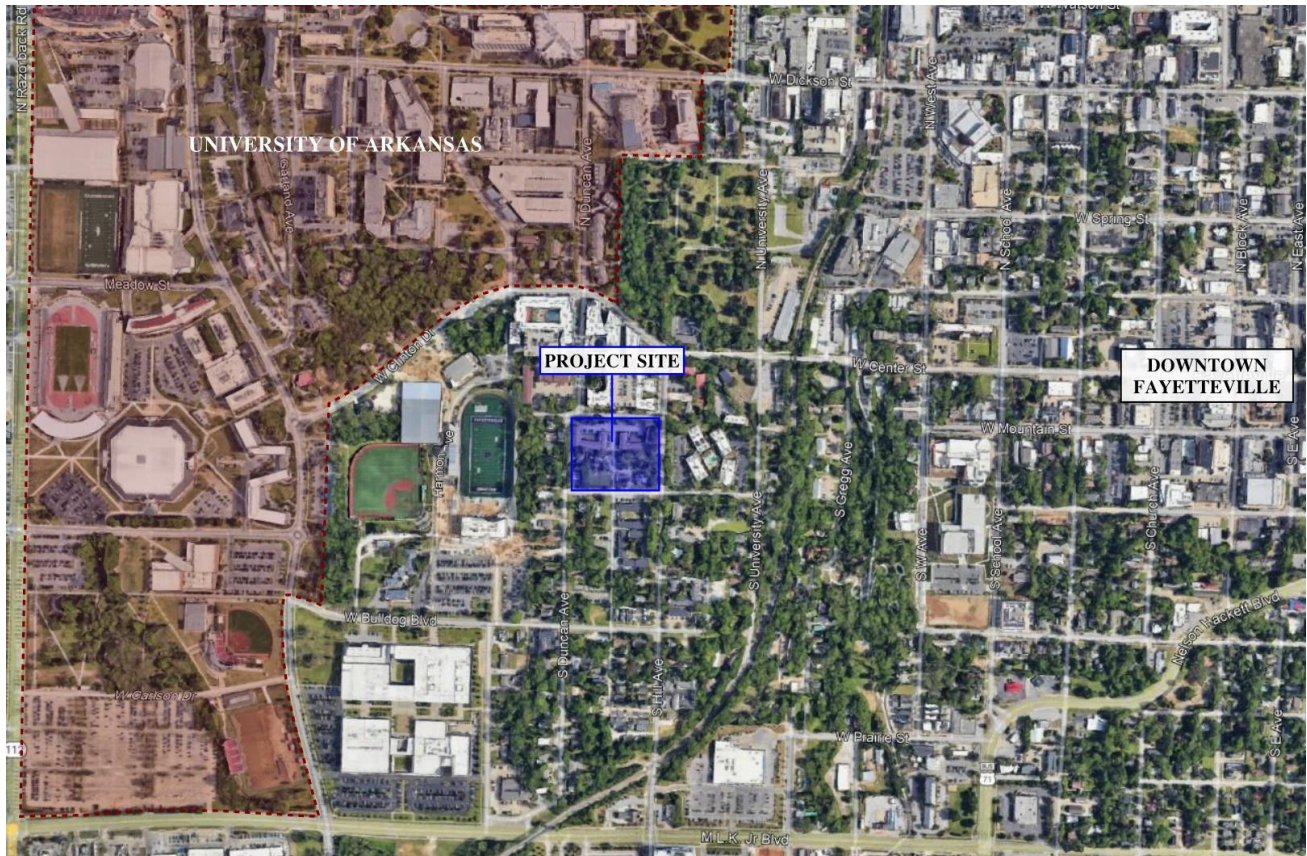


Figure 1, Location Map



Figure 2, Property

The Property is currently zoned RMF-40 (Residential Multi-family – Forty 40 Units per Acre) and is designated by the City Plan 2040 as City Neighborhood Area. The Property is subject to approximately 15-feet of grade change and a significant power transmission line easement that reduces the useable area by approximately 0.28-acres. We are proposing to rezone the Property to MSC (Main Street Center), with a Bill of Assurances, to allow for building forms and densities consistent with the Future Land Use and to further the goals of the City Plan 2040. The additional building height permitted by MSC will allow for some taller portions of the structure, located away from the edge of the right-of-way, to accommodate the needs of the project and which could not be achieved through other districts such as Downtown General.

Compatibility with Neighboring Property.

The neighboring properties are zoned Residential Multi-Family and Downtown General, with Main Street Center and Residential Office zonings located nearby along S. University Avenue. The neighboring properties to the North and East are currently high-density multi-family communities, and the neighboring properties to the South and West are currently multi-family and single-family.

The allowed uses under MSC, as modified by the Bill of Assurances, and building forms generally align with those allowed under the adjacent DG districts (Figure 3). DG would provide all uses being sought for this project except for the allowance of the additional height, therefore this submission is purposefully providing the Bill of Assurances to tailor the compatible development with the stories allowed under MSC. The additional uses that would be permitted on the Property, such as shopping, offices, and cafes, can promote a mixed-use, live-work environment for the neighboring residential uses.

Compatibility with City Plan 2040.

The proposed rezoning will allow for infill development promoting multi-modal transportation, utilization of existing infrastructure, and increased density near Fayetteville's employment and civic hubs. We believe that the proposed rezoning furthers the following City Plan 2040 Goals and Objectives:

Goal 1 – We will make appropriate infill and revitalization our highest priority.

Goal 1 Objective: Recognize the benefits and cost savings of utility and road infrastructure that already exists in the core of the city.

The proposed rezoning will support development that utilizes, and may improve, existing utility and road infrastructure in a core location.

Goal 1 Objective: Promote the densest development around logical future transit stops.

There is currently a Razorback Transit Stop at the Property, and it is within 0.5-miles of a Fayetteville ORT stop (Hillcrest Towers). The proposed rezoning will support density located nearby and promoting alternative transit.

Goal 1 Objective: Encourage new development that supports and compliments the unique characteristics and economic values of employment clusters in and around downtown and the U of A.

The proposed rezoning will support additional housing in a central location, promoting walkability, alternative transit, and convenient access to the businesses and services within Fayetteville's urban core.

Goal 2 – We will discourage suburban sprawl.

The proposed rezoning will support development that is compact and efficient, utilizes and improves existing infrastructure, and promotes walkability and the use of alternative transit methods.

Goal 3 – We will make compact, complete, and connected development the standard.

Goal 3 Objective: Require new growth that results in neighborhoods, districts and corridors that are compact, complete, and connected.

The proposed rezoning will support development which improves pedestrian and bicycle infrastructure and creates an active and engaging streetscape environment.

Goal 3 Objective: Prepare a transit-worthy community: increase density in highly walkable areas along logical future transit routes and anticipate rail, street cars and other alternative transit modes.

The proposed rezoning will support development in a location that is adjacent to alternative transit and is pedestrian to education centers, grocery stores, restaurants, shopping, parks, trails, and more.

Infill Assessment.

The Property has an Infill Prioritization Score of 12 (Figure 3). There are existing water and sewer mains on multiple sides of the Property. It is within 0.5-miles of a grocery store (Walmart Neighborhood Market located on MLK Jr Boulevard). It is directly adjacent to a public school (Fayetteville High School) and one block away from the University of Arkansas campus. It is within 0.5-miles of several parks and trails (Fay Jones Woods, Frisco Trail, Oak Ridge Trail, and more). There is a Razorback Transit Stop at the Property, and it is within 0.5-miles of a Fayetteville ORT stop (Hillcrest Towers).



Figure 3, Infill Assessment

Master Street Plan.

To Property is one block away from streets designated as Neighborhood Link (Center Street) and Downtown/Urban (S. University Avenue). These typologies are intended to promote high-quality and comfortable realms for pedestrians and cyclists through low-speed zones, wider sidewalks, landscape buffer zones, and dedicated bicycle facilities.

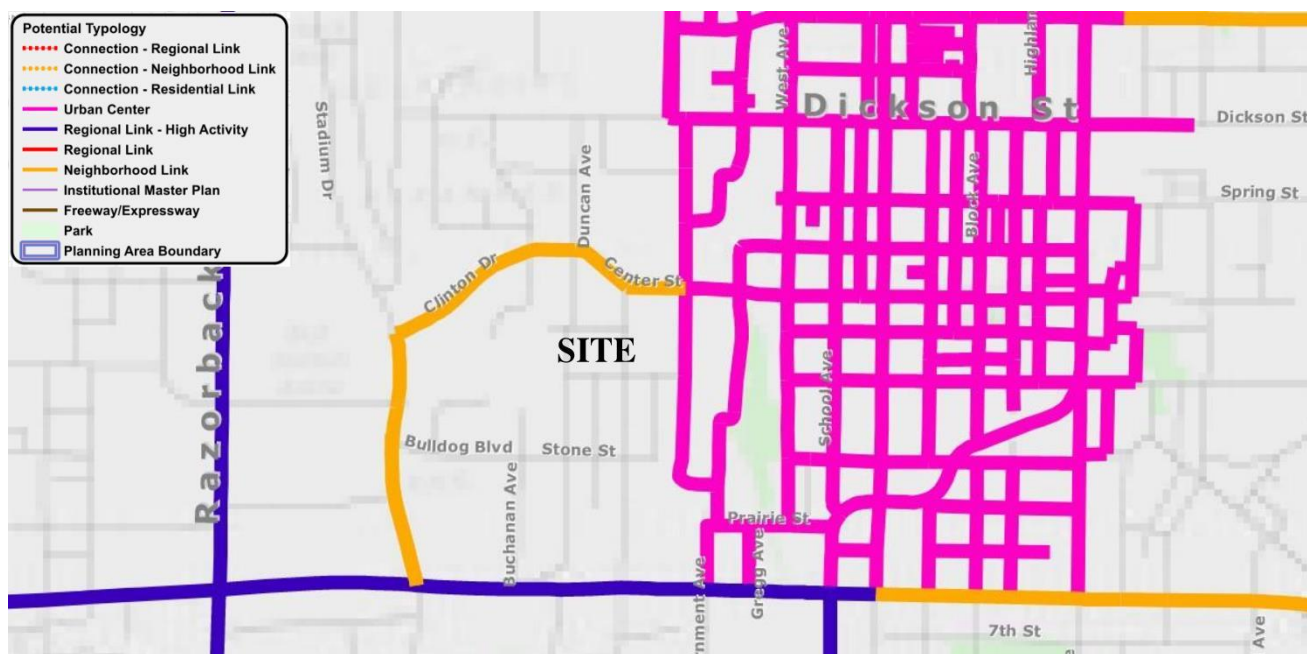


Figure 4, Master Street Plan

Active Transportation Plan.

The Active Transportation Plan proposes a future on-street bicycle facility at the Property. Future development of the Property would allow for an on-street bicycle facility to be constructed for future connection by neighboring properties or the City of Fayetteville.

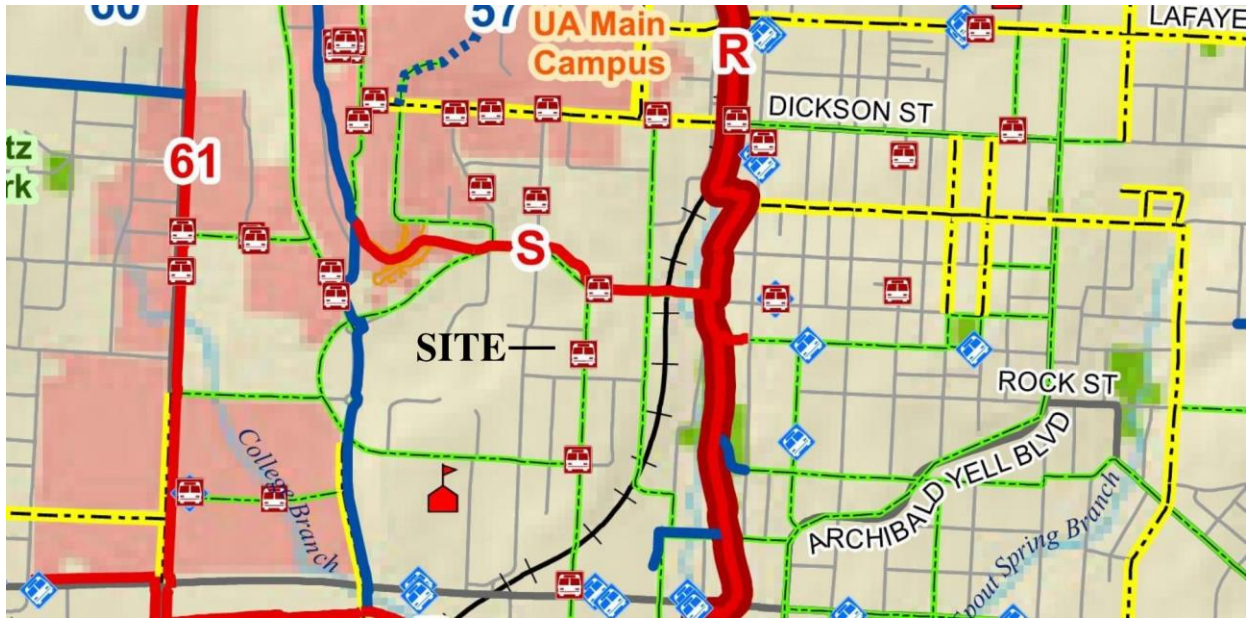


Figure 5, Active Transportation Plan

Thank you in advance for your consideration and support of this compatible rezoning. We look forward to working with the City of Fayetteville to plan a quality project of which we can all be proud and further the smart growth of Fayetteville by densifying in an appropriate location adjacent to the University of Arkansas, to provide quality housing.

Sincerely,

Dylan Lambur

Dylan Lambur

Development Manager

Subtext

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Subtext Acquisitions, LLC, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The following uses shall not be permitted:

Unit 17, Transportation trades and services;

Unit 34, Liquor stores; and

Unit 45, Small scale production

2. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, _____, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

Date

Printed Name

Address

Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the ____ day of _____, 20____, appeared before me, _____, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

NOTARY PUBLIC

My Commission Expires:

**STAFF EXHIBIT
CURRENT DEVELOPMENT**

PID: 765-04804-000: Summit Terrace Apartments. Forty (40) residential units within two buildings constructed in 1964. One permit for HVAC renovation in 2023. No additional building permits found for structures.

PID 765-04089-000: One single-family residence constructed in 1936. Multiple code violations for health and sanitation (Two in 2016, One in 2020).

PID 765-04808-000: Five residential dwellings constructed in 1940. Multiple code violations for health and sanitation (Two in 2009, one in 2010, one in 2020).

PID 765-04807-000: No primary structures.

PID 765-04806-000: Two-family dwelling constructed in 1931. Four-family dwelling constructed in 1951. One permit for HVAC renovation in 2022. No additional building permits found for structures.

PID 765-04805-000: Single-family dwelling constructed prior to 1980 (first year building is visible on aerial). No building listed in Washington County Assessor.



Policy Options for the Future

This assessment does not propose that the solution to housing affordability is to rezone the entirety of Fayetteville to RMF-24 zoning. Similarly, zoning is not the only solution to high and growing housing costs. Policy choices can, however, focus on adding housing density in strategic places to take advantage of existing infrastructure in high intensity areas that don't currently allow for housing. When combined with existing services, infrastructure, and amenities, these housing units can provide a number of benefits, including reducing vehicle trips. Fayetteville's City Plan 2040, the comprehensive plan adopted in 2020, includes several options for additional housing density in core areas that are already high intensity and offer close access to services.

Staff in the City of Fayetteville's Long Range Planning and Sustainability divisions worked with University of Arkansas graduate students in the Master of Public Administration program in the spring semester of 2023 to analyze three scenarios for single-family housing. The students produced a report at the end of the semester that aimed to identify the most effective zoning policy to increase single family residential density in Fayetteville. The three scenarios explored were a baseline analysis of maintaining the zoning status quo; rezoning all residential single-family zones to the RSF-8 zoning district; and allowing duplex, triplex, and fourplex construction by right in all current single-family zoning districts. Based on their analysis, the students recommended the third option, writing, "Increased housing diversity has the greatest net social benefit for Fayetteville. In addition to having the greatest potential for increased housing supply, this policy is the most efficient and equitable. Overall, creating the option for multifamily unit construction by right provides the strongest policy for Fayetteville's future growth." Although the report focused on single-family zoning, the lessons learned and the main point — that creating the option for multi-unit housing by right is the strongest policy for Fayetteville's future growth — align with the planning work and master plan documents/corridor planning that Fayetteville has been engaged in for the last several years.

Prior to the onset of the COVID-19 pandemic the City of Fayetteville was engaged in writing and implementing two key plans that set a priority for both housing and a high-quality urban environment. City Plan 2040 was adopted only months prior to the pandemic-related closure of city offices and the quick adjustment to online meetings and engagement. Several plan implementation steps were paused for about two years while community health and safety were prioritized, and the city is now moving forward again to engage with the community to address the challenges that arose just prior to and during the pandemic that are the impetus to bring the implementation actions from these adopted plans back into the spotlight.

Long Range Plan Implementation

Fayetteville's City Plan 2040 was written to support the city's six goals:

1. **We Will Make Appropriate Infill and Revitalization Our Highest Priority.**
2. **We Will Discourage Suburban Sprawl.**
3. **We Will Make Compact, Complete, and Connected Development the Standard.**
4. **We Will Grow A Livable Transportation Network.**
5. **We Will Assemble An Enduring Green Network.**
6. **We Will Create Opportunities for Attainable Housing.**

All six goals have short-term, long-term, and ongoing "benchmarks," or action items to implement the adopted plan. Page 47 of the plan lists the short-term benchmarks, or action items meant to be accomplished between 2019 and 2025. Although plan implementation has been somewhat delayed by the COVID-19 pandemic, 8 of the 25 short-term benchmarks are not yet underway but are directly related to the city's role in responding to population growth and increasing housing supply, and that the Fayetteville City Council could consider prioritizing (City Plan 2040 associated goals and current status listed in parentheses):

- Develop internal processes to align funding, development and planning of city infrastructure with the goals of City Plan 2040. (Goal 1 & 2; ongoing with streamlined permitting and new software)

- Identify existing properties that are vacant or prime for redevelopment and initiate form-based rezoning discussions with property owners. (Goal 1, 2, & 3; ready to begin with 71B rezoning)
- Evaluate development thresholds based on quantitative metrics such as building form, not building type, and the encouragement of missing middle housing. (Goal 1, 2, 3, and 6; ongoing)
- Evaluate conditional use permit vs. use-by-right for appropriate infill. (Goal 1; ongoing)
- Identify gaps in affordability throughout the city and set numerical targets for housing that is affordable to a variety of households, including workforce, supportive, low income, families with children, and senior housing. (Goal 1, 3, 4, & 6; initiated with this analysis)
- Promote long-term affordability by targeting the use of public funds for the lowest income households, including those who are homeless, at risk of homelessness, or who have other special needs. (Goal 6; ongoing with federal HOME and American Rescue Plan Act funds)
- Examine potential regulatory barriers and policies that impede the provision of household affordability, including: infrastructure costs, the costs and benefits of development ordinances on housing development, and how the City's fees and requirements impact the cost of living for households in Fayetteville. (Goal 1 & 6; development fee study underway)
- Identify opportunities for the creation of affordable housing on publicly-owned land and develop partnerships with developers to provide flexible, affordable work space and housing. (Goal 6; initial discussions and review of potential projects underway)

Long-term benchmarks (more than five years from plan adoption) that are directly related to housing but not yet underway are:

- Evaluate the development and implementation of a tiered impact fee system. (Goals 1 & 2; not yet begun)
- Evaluate existing street design speed, operating speed and posted speed limits, to ensure that each is appropriate based on the roadway design and context of the surrounding environment. (Goal 4; ongoing with speed limit review and traffic calming procedures in residential neighborhoods)
- Create a complete neighborhood or street corridor plan every other year utilizing a charrette process and analyze water and sewer capacity to identify opportunities or limitations for development. (Goal 1, 4, & 6; not yet begun)

Ongoing benchmarks should also be highlighted here given the pause in plan implementation, as some may need to be prioritized for action:

- Support rezoning proposals that result in increased density around logical future transit stops, rail corridors and major transportation corridors. Recommendations should generally align with the Growth Concept Map. (Goal 4)
- Support development and redevelopment opportunities along the existing rail line. (Goal 4)
- Support and implement the goals, strategies and actions of the transformational 71B Corridor plan. (Goal 1, 2, & 4)
- Implement and utilize the Growth Concept Map to strategically incentivize the development of Tier-1, Tier-2, and Tier-3 commercial and mixed-use nodes along major corridors and as neighborhood centers. (Goal 1, 2, 3, 4, 5, & 6)
- Support the creation of a "real-time" database of available affordable housing units, services, resources, and incentives to strengthen the process of connecting qualified buyers and renters with affordable housing to comprehensively lower monthly household expenses. (Goal 6)
- Promote long-term affordability by developing new goals, targets, and strategies to promote the distribution of affordable housing in all parts of the city, including incentives for affordable housing in new developments and for the preservation of existing rental units. (Goal 6)

The remaining benchmarks do not have to be approached separately, but could instead be pulled together in a complete approach to developing housing solutions, particularly in areas of the city that have been identified as best able to support dense housing along major corridors and in places that support a mix of

housing and commercial development, such as Fayetteville's downtown area. As an example of the potential for a cohesive approach to plan implementation, three of the items listed in the ongoing benchmarks are closely tied together and could be approached as a single project. Supporting zoning proposals around major transportation corridors, supporting and implementing the goals, strategies and actions of the 71B Corridor Plan, and implementing and utilizing the Growth Concept Map on pages 13–16 of the plan document could all come together with a city-initiated project to rezone property along the 71B corridor (College Avenue, Nelson Hackett Boulevard, and South School Avenue) to allow for housing on properties that have extensive existing infrastructure, are located along a major transportation corridor that is already scheduled for additional investment to support development and alternative transportation, and that have limited proximity to existing residential neighborhoods. Additionally, there are multiple tier centers along this route that could be incorporated as part of the implementation of the growth concept map, furthering plan implementation in the same project.

Preserve Existing Affordable Housing

Table 3 on page 20 of this assessment showed current average monthly rents for new apartments, with average rent for a two bedroom apartment just over \$1,400 per month. Table 4 on the same page showed that affordable housing costs for the median household income in Fayetteville should not exceed \$1,325 per month, which includes utilities and insurance costs. Current rents for newly constructed housing units are above affordable costs for at least half of Fayetteville households, and building new housing units does not provide a successful solution if the new units are at the cost of losing existing affordable housing.

In 2019 the City of San Antonio, Texas, engaged the firm PlaceEconomics to assess the risks to older and existing affordable housing stock as the city experienced rapid population growth and redevelopment. The results of this assessment, published as the report *Opportunity at Risk*,¹³ were a caution against the assumption that newly constructed housing is the best way to achieve affordable housing goals. Some of the context of the 2019 report presented in the Executive Summary would be familiar to Fayetteville today:

- One in three San Antonio households is spending more than 30 percent of their income on housing and nearly half of all renters meet this “cost burdened” threshold.
- Over the last decade, while median household income increased 1.9% per year, housing prices increased at 4.7% per year.
- While San Antonio is experiencing greater than national average growth in jobs and housing, most of the new homes are large and expensive, and much of the job growth is in lower wage jobs.
- The existing pre-1960 housing stock is providing largely unsubsidized and unprotected affordable housing.
- Single family, renter-occupied structures in fair and poor condition are the most at-risk of demolition.

The main takeaway of the report is clear and succinct: “A city cannot build itself out of a housing crisis — the retention of existing housing stock is critical.” Additionally, the report claimed three demonstrable premises:

1. One cannot build new and rent or sell cheap without subsidy.
2. Almost by definition when a unit of older housing is razed, a unit of affordable housing is lost forever.
3. Existing affordable housing programs — as useful and successful as they may be — must be realigned to address older housing stock.

The conclusion provided a caution to other rapidly growing cities facing housing affordability challenges:

¹³ Report available at sanantonio.gov/Portals/0/Files/HistoricPreservation/CurrentProjects/AffordableHousing/OpportunityAtRisk-Report.pdf

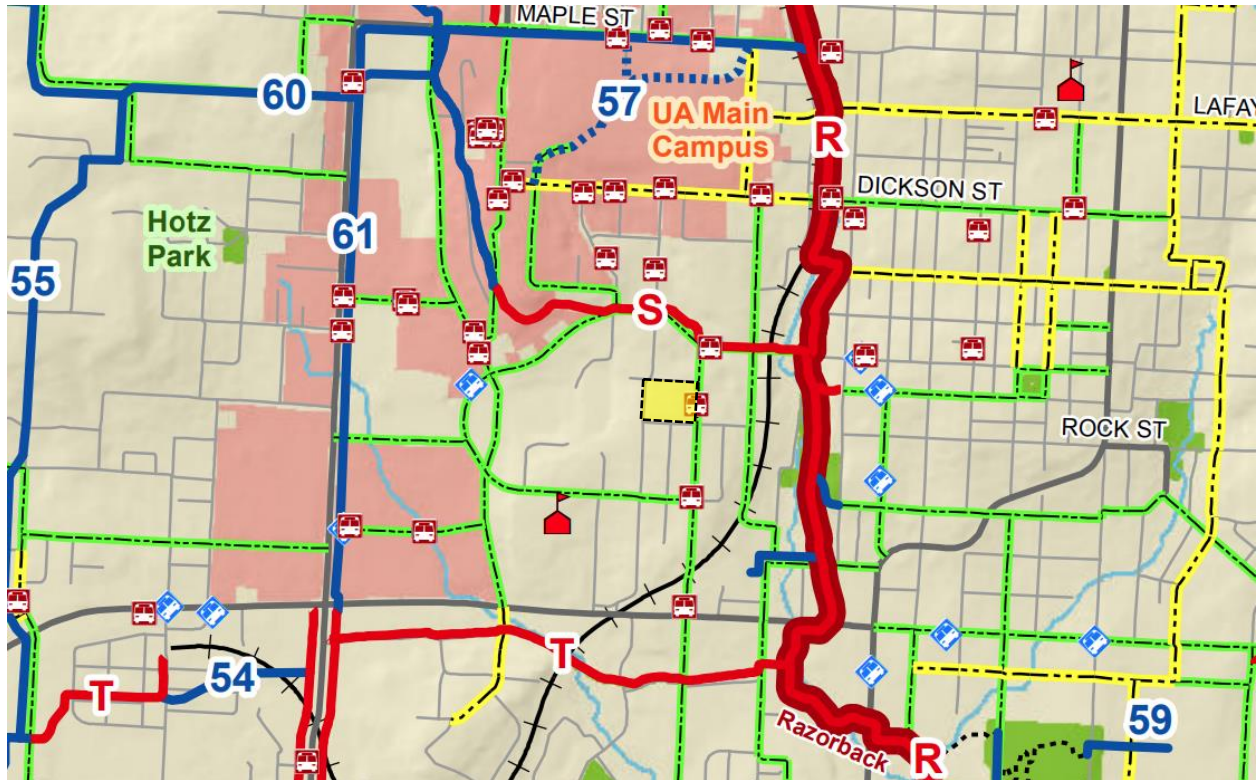
“Until the City of San Antonio can put new programs and policies into place, to reach the goal that the “average San Antonio family can afford to buy a home,” the data illustrates that San Antonio is systematically razing housing that is affordable and building housing that is not.” As Fayetteville looks to add housing units to supply, it is worth noting that new supply should be carefully balanced with preserving existing affordable housing — housing that can be in areas prime for redevelopment due to growing land values compared to declining value of aging structures.

Programs that provide assistance to low income households to help residents stay in their homes are a key part of preserving existing affordable housing. The City of Fayetteville’s Community Resources Department completed home repair and rehabilitation projects for eighteen housing units and thirty-two residents in 2022 with funding from federal Community Development Block Grants (CDBG). The CDBG Program supports community development activities to build stronger and more resilient communities. To support community development, activities are identified through an ongoing process. Activities may address needs such as infrastructure, economic development projects, public facilities installation, community centers, housing rehabilitation, public services, clearance/acquisition, microenterprise assistance, code enforcement, homeowner assistance, etc.¹⁴ The 2022 housing program projects in Fayetteville included roof repair, replacement and installation of heating and cooling equipment, repairs of holes in floors, new plumbing fixtures, new flooring, new windows, and plumbing repairs.

As of this assessment in 2023, the Community Resources Department has supported thirteen projects and eighteen residents with repair work that has included drywall repair, new roofs, new windows, new plumbing fixtures, basement remediation, and new plumbing fixtures. Total project costs for 2023 currently total \$118,365 with an average project cost of \$9,105. Participation in the CDBG program and accessing federal home repair funds will continue to be an important tool for preserving affordable housing for residents and keeping families in their homes.

¹⁴ hudexchange.info/programs/cdbg/

STAFF EXHIBIT: ACTIVE TRANSPORTATION PLAN EXCERPTS



Active Transportation Plan

- Proposed Shared-Use Paved Trail
- Proposed U of A Campus Connections
- Proposed On-Street Bicycle Facility

Existing Trails

- Shared-Use Paved Trail
- Nature Trail
- Neighborhood/Park Trail
- On-Street Bicycle Facility

- | | | | |
|--|--------------------------|--|---------------------------------|
| | Park | | Razorback Transit Bus Stop |
| | Lake | | Ozark Regional Transit Bus Stop |
| | Stream | | Street (Major) |
| | School | | Street |
| | Fayetteville City Limits | | Railroad |

PLAN VISION AND GOALS

ACTIVE TRANSPORTATION PLAN
plan vision and goals

PLAN VISION

The Active Transportation Plan (ATP) has been developed through numerous planning and visioning exercises both locally and region wide. The ATP proposes to consolidate and summarize all of the various alternative transportation planning processes, policies and programs with the following vision statement: "Fayetteville endeavors to develop and promote an interconnected and universally accessible network of sidewalks, trails and on-street bicycle facilities that encourage citizens to use active/non-motorized modes of transportation to safely and efficiently reach any destination."

- 1 ENDEAVOR TO CREATE AN INCLUSIVE MULTI-MODAL TRANSPORTATION SYSTEM.
- 2 WORK TO BUILD A TRAIL CONNECTION WITHIN ONE HALF MILE OF EVERY RESIDENCE.
- 3 INCREASE THE ACTIVE TRANSPORTATION COMMUTING MODE SHARE FROM 7.5% TO 15% BY 2020.
- 4 IDENTIFY AND CORRECT MISSING BICYCLE AND PEDESTRIAN LINKAGES.
- 5 PARTNER WITH ADVOCATES TO ADDRESS BICYCLE AND PEDESTRIAN NEEDS.
- 6 EARN BICYCLE FRIENDLY COMMUNITY DESIGNATION OF SILVER BY 2017.

STAFF EXHIBIT: PROXIMITY TO TIER CENTERS (CITY PLAN 2040)

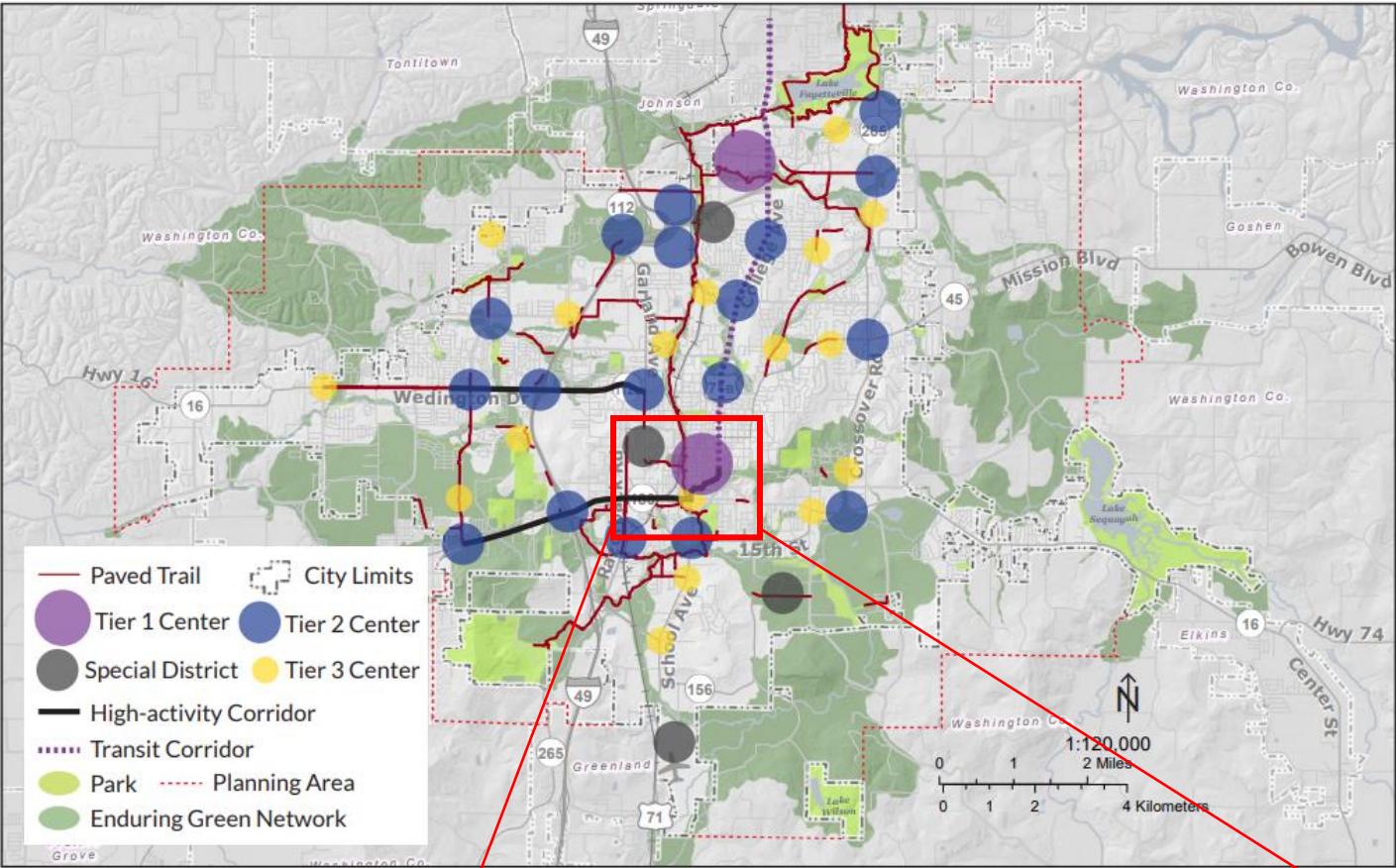
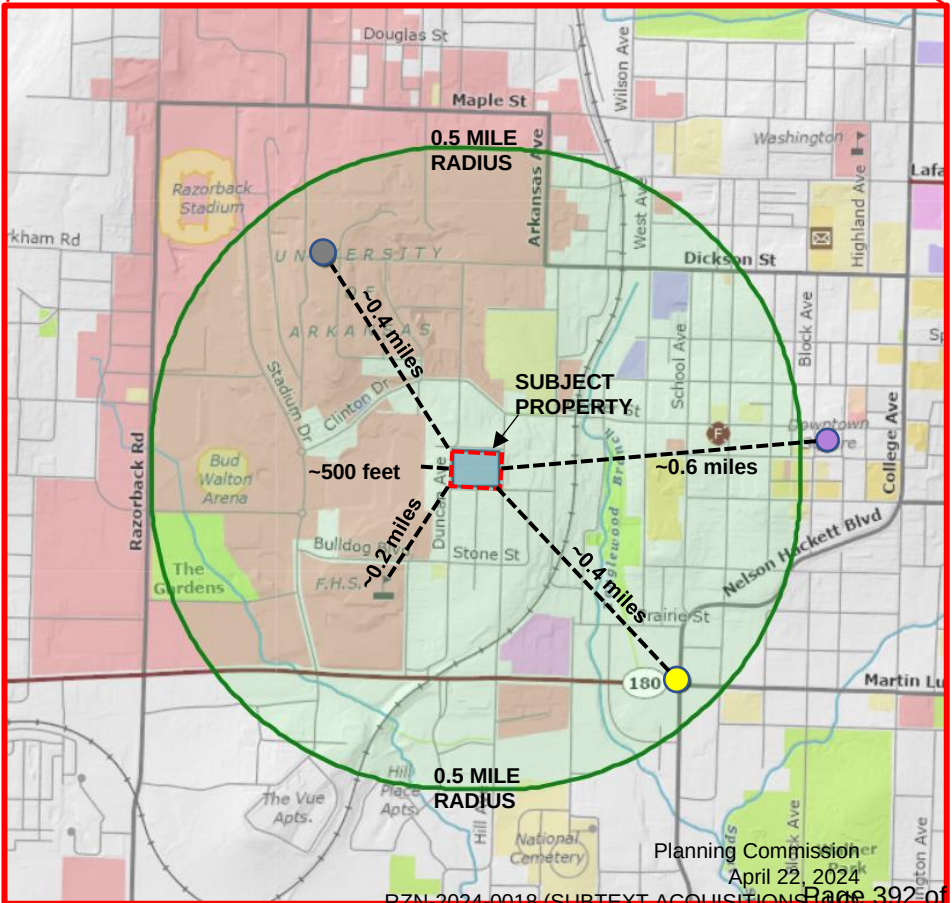


Figure 2.0 - Growth Concept Map



STAFF EXHIBIT: CITY PLAN 2040 EXCERPTS

Introduction

3.1.4 Promote the densest development around logical future transit stops.

For transit to be utilized and cost effective requires density; density of residences, jobs, commercial areas and other destinations. The University of Arkansas Razorback Transit is well used in areas of the city close to campus where many students live and study. On the other hand, Ozark Regional Transit serves areas of Northwest Arkansas that may not be particularly dense or have high employment numbers. The lack of density challenges the cost effectiveness of transit and the real or perceived convenience of utilizing transit for commuting and day-to-day transportation needs for residents. One of the things that the City can do is to encourage redevelopment of College Avenue to increase residential density and commercial intensity. The 71B College Avenue Corridor Plan envisions this arterial roadway to transform incrementally over time into a mixed-use urban thoroughfare that would provide transit operators with more “capture”, thereby becoming more cost effective and increasing customer convenience with more frequent buses. Logical transit stops city-wide should be planned and developed in accordance with the tiered activity centers identified on the Growth Concept Map. Ultimately, transit can make housing more affordable for Fayetteville residents by freeing up money typically encumbered by transportation expenses in household budgets.



Photo 3.4 - Walker-Stone House



Photo 3.5 - Former Public library

3.1.5 Reinvest in parks, streets, and civic buildings within the heart of the city.

The tree-lined streets, parks, and historic civic buildings found in Fayetteville's older neighborhoods greatly contribute to the unique community character and high quality of life that residents treasure. Preservation of our tree-lined streets and parks and adaptive reuse of our historic civic buildings will maintain the community cultural identity. The City should continue to utilize the Enduring Green Network map to identify and preserve high-value open spaces that help to create an interconnected green network throughout the community.



Photo 3.6 - Historic County Courthouse and Center Street

3.1.6 Encourage historic preservation and adaptive re-use of buildings.

Historic preservation is crucial in retaining a community's character, identity, and evolutions. Preservation and restoration can be an effective tool for economic development and revitalization, achieving urban sustainability through reducing waste and emissions, and maintaining property values. Recent calculations indicate that it takes 35 to 50 years for a new energy efficient building to save the amount of energy lost in demolishing an existing building (National Trust for Historic Preservation).



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Introduction

3.1.8 Encourage new development that supports and complements the unique characteristics and economic values of employment clusters in and around downtown, the U of A, the north end, the rail corridor, Drake Field and the Industrial Park.

There are two emerging central places in Fayetteville that contain a mixture of residential and commercial land uses, alternative transportation linkages, and employment centers in proximity to each other. At a neighborhood scale, this mixture of uses is often described as a “complete, compact and connected” place. The downtown/university area of the central city is rapidly redeveloping with residential and commercial activities and the uptown area is filling-in with medium-density residential to complement some of the existing commercial and office uses. Both districts have street network needs that should be addressed to encourage the efficient use of land and transportation improvements for each are described as recommendations in the Fayetteville Mobility Plan.

The Infill Assessment Map tool that staff developed as part of this plan update

provides a general locational framework for identifying parcels and areas that have proximity to existing utilities, infrastructure and services. Undeveloped or underutilized lands that score highly on the Infill Assessment Map should be considered prime candidates for future development with uses and building forms that are complementary to the existing neighborhood.

The Growth Concept Map is also useful for encouraging the development of mixed-use and neighborhood-scaled central places that provide nearby residents with some of their daily needs in proximity.

3.1.9 Determine feasibility of a tiered impact fee system.

A tiered impact fee system requires new development to pay its proportionate share

of the costs to the municipality associated with providing necessary public services to the development based on its location. Tiered impact fees are based on the general acknowledgement that parcels and locations that are near the core of the city would have less impact, and areas on the urban fringe have more impact. Development on the fringe of the city will cost the City more over time to provide street infrastructure, water and sewer, and life-safety services. Therefore, development on the fringe should pay a higher impact fee upfront for these utilities, infrastructure and services. Phoenix, Arizona, Bellevue, Washington, Kansas City, Missouri and Conway, Arkansas have all implemented an impact fee system where the fee varies depending on where the development is proposed.



Photo 3.8 - Construction in Downtown Fayetteville



3.3 Goal 3 - We will make compact, complete, and connected development the standard

Historically, a traditional town form is the concept of creating compact, complete, and connected neighborhoods at a human scale, as opposed to an automotive scale. Much of Fayetteville developed post-World War II is created for the convenience of automobiles. Over the last decade, citizens of Fayetteville clearly indicated through public planning processes that they desire development patterns that place a high priority on human scale development patterns. This means pedestrian-oriented buildings, streets and multi-modal transportation options. This has been reflected in new form-based zoning codes where buildings address the street, construction of multi-use trails and an on-street bicycle network, and public investment in new sidewalk and pedestrian improvements along major corridors. Traditional town form alludes to development patterns prior to World War II that placed an equal priority on humans and automobiles. As a result, this pattern can achieve a much higher level of neighborhood cohesion and land use diversity compared with an auto-oriented development pattern where land uses are rigidly separated. Components that are common to a compact, complete, and connected built environment include: interconnected street networks, build-

"[Infill] makes spaces more walkable. It's frustrating to have to drive through a large, empty parking lot to get to a storefront. It makes one feel exposed as a pedestrian as well. I love the new infill developments because it seems like a better use of space." - Survey Respondent



Figure 3.8 - Dover-Kohl Corridor Development



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Goal 3 Objectives

3.3.1 Require new growth that results in neighborhoods, districts and corridors that are:

- **Compact** – via denser housing; meaningful open spaces and preserves; small blocks
- **Complete** – via housing; mixed uses; civic uses; jobs-housing mix in the neighborhoods
- **Connected** – via street-oriented buildings; interconnected streets; interconnected greenways and trails

3.3.2 Prepare a transit-worthy community: increase density in highly walkable areas along logical future transit routes, and anticipate rail, street cars and other alternative transit modes.

The 71B College Avenue Corridor Plan provides a framework for incrementally re-developing this major thoroughfare into a series of inter-connected and livable mixed-use districts. The City can provide redevelopment catalyst by making capital investments in increased street, sidewalk and trail connectivity.

3.3.3 Increase the viability of businesses by leveraging the economic performance of appealing environments that are mixed-use, walkable, and integrated with green space.

The Razorback Regional Greenway illustrates the ability of the City to leverage capital investments in trail infrastructure to drive economic development. The City created the Fayetteville Alternative Transportation and Trail Plan in 2003 and began building the Scull Creek Trail with \$2.1 million in funding provided by a bond issue passage. Additional yearly Capital Improvement Project funding of \$1.3 million annually was used to build-out the remainder of the trail. The economic development catalyst that the trail provided is evidenced by the residential and commercial development occurring in nodes along the trail spine in south Fayetteville, throughout downtown/Dickson Street, in mid-town around Poplar Street, and throughout the uptown district along Mud Creek.



Figure 3.10 - Example Development Layout



Figure 3.11 - Example Development Layout



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Climate Action Plan

① Overall Goals

62%
GHG
reduction
by 2030

Net zero
emissions by
2050

Aligns with Science Based Target Network

- Based on IPCC goal of 50% global GHG reduction by 2030, equitably adjusted for U.S. development and climate contributions
- Used by cities across the country

Aligns with Paris Climate Accord & Science Based Target Network

- Recognizes necessity of reducing all greenhouse gases, not just carbon dioxide



9

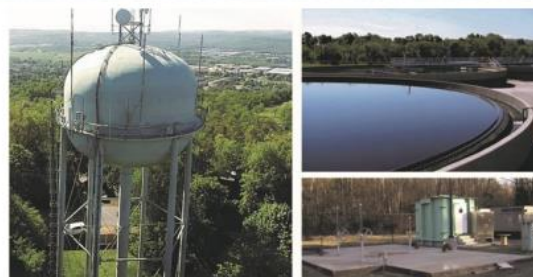
Climate Action Plan: Emissions Reduction Sector Goals

TRANSPORTATION:

- Reduce per capita transportation emissions year over year
- Create an equitable and sustainable multimodal transportation system for all ages and abilities
- Reduce city government fleet emissions year over year

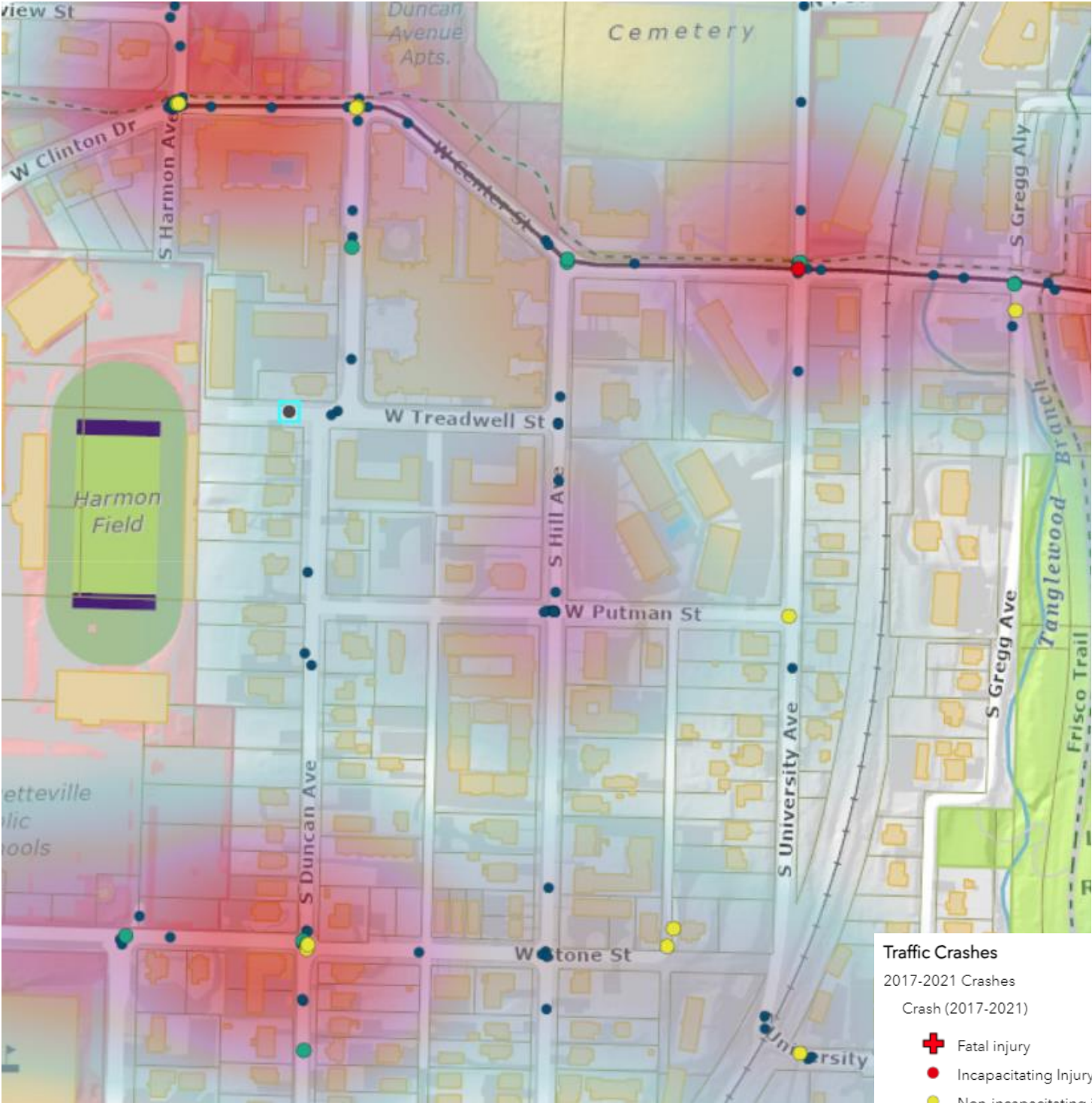
WATER:

- Prepare, plan, and develop community response strategies and contingencies for extreme weather events such as, heatwaves, droughts, and floods.
- Achieve per capita water consumption reductions year over year.
- Identify and prioritize the repair and installation of water system infrastructure to alleviate water leakage and accommodate growing system demands.



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STAFF EXHIBIT: ENERGY ACTION PLAN EXCERPTS
STAFF EXHIBIT: TRAFFIC ACCIDENTS



Wonsower, Donna

From: Scott and Jasmine 104 Duncan <hoghouse104@gmail.com>
Sent: Monday, April 8, 2024 8:45 AM
To: Planning Shared
Cc: Wonsower, Donna
Subject: Re: project inquiries for my neighborhood

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

Thank you so much for the information!

On Mon, Apr 8, 2024 at 8:23 AM Planning Shared <planning@fayetteville-ar.gov> wrote:

RZN-2024-0002 Was denied at the 3/11/2024 Planning Commission Meeting

RZN-2024-0018 Is scheduled for the 4/22/2024 Planning Commission Meeting.

Attached is all the information we currently have. If you have any further questions, the planner assigned to RZN-2024-0018, Donna Wonsower, should be able to answer them.

Thank you

Mirinda Hopkins

Development Coordinator

Planning Division

City of Fayetteville

479-575-8267

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



From: Scott and Jasmine 104 Duncan <hoghouse104@gmail.com>
Sent: Friday, April 5, 2024 5:02 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: project inquiries for my neighborhood

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

Hi! I own the property at [104 S. Duncan Ave.](#) and was hoping to find out more information about the plans for the following rezoning projects in my neighborhood:

- RZN-2024-0002 ([740 W Stone St.](#))
- RZN-2024-0018 (Treadwell - Putman 3.10 acre block)

I plan to attend the hearings if I can, but I was hoping to find out some information before then. Do you know what type of development they are considering? My major concerns have to do with traffic congestion, parking issues in this area, and property values.

Thank you for taking the time to respond to my inquiry.

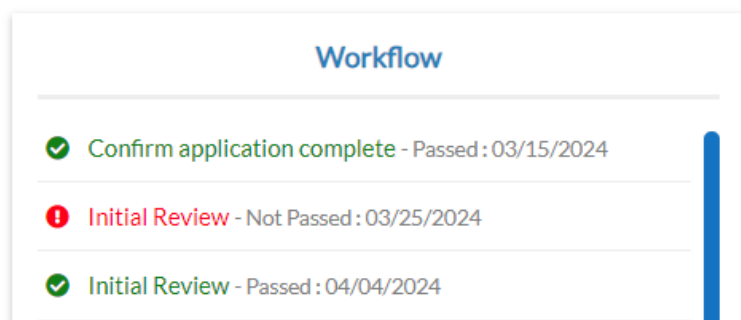
Jasmine Nile

Wonsower, Donna

From: Wonsower, Donna
Sent: Wednesday, April 10, 2024 2:18 PM
To: kat.a.cook3@gmail.com
Cc: Planning Shared
Subject: RE: S Duncan Rezoning

Good Afternoon,

The proposed rezoning (RZN-2024-0018) has not been approved yet. If you are looking on the Citizen Self Service portal and see a “passed” as shown below, that indicates only that staff has approved the submittal documents and that no additional revisions are required for the document to be heard at planning commission.



This rezoning is not scheduled to be heard until the April 22 Planning Commission meeting, which begins on the second floor of City Hall at 5:30. As the public notice letters were delivered to the post office late last week, it is likely that those letters are still in transit through the post office and will be arriving shortly. All property owners and residents within 200 feet must be notified per city ordinances, and staff confirmed that all required parties were included in the applicant’s certificate of mailing.

The Planning Commission meeting on April 22 is open to the public, and any member of the public who wishes to speak will have up to three minutes to speak at that meeting. If the Planning Commission does forward the request to City Council, there is also opportunity to speak at that meeting as the City Council makes the final determination on any proposed rezoning. Both meetings also have an option to attend virtually.

Staff is currently working on the staff report for this item, which should be posted to the city’s website around the end of next week. Any public comments we receive by next Thursday, April 18 will be incorporated into the packet for the Planning Commission’s consideration. Anyone may also provide an email to the planning department for inclusion within the Planning Commission packet, and I will make sure to include this email when compiling the document. I can also incorporate verbal comments given over the phone or in-person. Any verbal comments received are summarized in the public comment section of the report, while written comments are included in the packet as a whole. If anyone submits a comment after the packet is finalized, staff will forward the email to the commissioners and update the presentation to account for the additional comment.

I’m happy to discuss further if you have any additional questions.

Best Regards,
Donna Wonsower (she/her)
Planner, Development Services

479-575-8358

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



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

Sent: Wednesday, April 10, 2024 1:52 PM

To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>; kat.a.cook3@gmail.com

Subject: FW: S Duncan Rezoning

Kathryn,

Donna Wonsower is the planner assigned to this project.

Donna, please read below.

Thank you

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

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



From: Kathryn Cook <kat.a.cook3@gmail.com>

Sent: Wednesday, April 10, 2024 11:41 AM

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

Subject: Fwd: S Duncan Rezoning

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

I am forwarding an email I just sent to my City Council representative about the rezoning of my neighborhood for more large scale housing "luxury" apartments, or student housing. None of us were aware of this, of course, and now we have no way of fighting. Please read these concerns. I've spoken to many who live in this neighborhood and I currently live at 98 S Duncan and have for 12 years. I implore you to rethink this decision that will put an entire block of affordable housing renters onto the streets of Fayetteville.

Thank you for your time,
Kathryn Cook

----- Forwarded message -----

From: **Kathryn Cook** <kat.a.cook3@gmail.com>

Date: Wed, Apr 10, 2024, 11:35 AM
Subject: S Duncan Rezoning
To: <sarah.bunch@fayetteville-ar.gov>

Good morning,

I'm reaching out because I live at 98 S Duncan Ave and have for 12 years. We recently just found out that our apartment is being sold for a large development, possible student housing. I just looked online and apparently the rezoning went through, even though none of us knew it was happening and could not speak up.

I'm trying to understand our options. This development is going to destroy an entire block of affordable rental housing. No one in this neighborhood wants this. Furthermore, we will all be left homeless because there is no rent in this town that's as affordable as ours and we're still fighting to make ends meet.

I'm an Architect and I love where I live, the community, the neighborhood, and the affordability. Do we as residents have any say in more of our housing being destroyed for overpriced student housing and "luxury" apartments? My neighbors across the street bought the house next door to prevent more of this egregious development that has constantly been destroying our neighborhoods, our town, and the ability for the people who actually work here to enjoy it. It's absolutely disgusting.

I was kicked out of my last apartment, with one months notice for student housing and now it's happening again. How can this rezone be allowed and this destruction of our actual affordable housing? Especially when it's outside developers coming in. I had to beg my landlord to let us know what was possibly going on but we're still in the dark.

Absolutely no one that actually lives in this area wants this. Does the city plan on helping all of these people find new housing that's affordable and also safe? Most of these people don't have cars and live in this location for the walk ability, as well. If I, an architect with a second job can't even afford to live in a leaky basement apartment, how can we expect others to who actually work in hospitality and keep this city running?

Chad Kahana is my neighbor and suggested I reach out because we're all at such a loss. On top of it, our apartment building is about 100 years old and most likely the oldest original apartment building in our city. Families live in this neighborhood. People stay here because it's beautiful, affordable, and a wonderful location. We don't deserve to be pushed out of Fayetteville because some college can't control its student population and created a space for greedy developers from out of state to come in and tear apart our lives.

I appreciate any and all help we can get and any information. We've all been in a constant state of anxiety, depression, and stress over this. I'm going to have to either get a third job, or completely leave my company of ten years to move away because of this. We are humans and these are our homes. We should not be punished and left on the streets.

Thank you for your time,
Kathryn Cook

479-567-9355
Architect
Two term Historic District Commission

Wonsower, Donna

From: Kathryn Cook <kat.a.cook3@gmail.com>
Sent: Wednesday, April 17, 2024 1:18 PM
To: Bunch, Sarah; Bostick, Britin; Wonsower, Donna
Subject: Plan Number: RZN-2024-0018
Attachments: Picsart_24-04-17_13-16-37-314.jpg

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

Good morning,

Is like to include this in the packet for the Planning Commission meeting on Monday, April 22.

I wanted to email a little more input and information on this possible destructive precedent that's about to be set for viable neighborhoods in Fayetteville. I hope you will each take the time to drive this area before voting through and allowing its demise.

We have a viable neighborhood full of multiple types of housing and people. We have renters, we owners. We have families, college students, young professionals, and elders. Some of our residents have lived here for decades and some just a few years. Myself, I've lived at 98 S Duncan for over 12 years. It's home. All of our tenants, except one, have been in our building over five years.

Everyone loves this neighborhood, the trees, the wildlife, the walkability, and most importantly the community. We sit on our stoop and porches and talk. We stand in each other's front yards and talk about how beautiful the lawn is. We take care of one another's pets, we help with groceries, we check on those who don't have family and community outside of our neighborhood.

This is a fully residential neighborhood that also still offers places to live that are actually affordable. If this rezone is allowed, our apartment will be sold and torn down (our homes) along with everyone else who will lose their home. We have one of the oldest, if not the oldest, apartment building in Fayetteville. These are all healthy, viable places to live however, once we lose these, most of us will have to relocate out of Fayetteville (along with having to find new jobs elsewhere).

Tearing down this neighborhood does not bring community, does not bring better quality of life, it only brings overpriced student housing and overpriced apartments (about \$1,200/month for a micro studio) and it does not bring money to Fayetteville. It does not help the citizens.

This proposal does not adhere to the existing neighborhood context, it absolutely destroys it, just like The Cardinal and Atmosphere have done. Not one person that lives there wants this yet we have absolutely no say anymore.

Rezoning this sets the rest of the city up for more out of state developers to come in, kick everyone out of there housing that's actually still affordable, completely demolish everything in its path, and building MORE student housing and luxury apartments. It only helps stuff the pockets of a just a few hurts

everyone else. We should not continue to be punished because the University took the cap off of it's yearly acceptance.

Along with this, another developer is buying all of the houses on the opposite side of the street of Duncan (Putnam to the Cardinal) and is planning on tearing everything out along there for additional student housing. My neighbors across the street bought the house next to them to try to prevent any of this and yet it's happening. Their arms are being twisted and they will most likely sell because they don't think they're healthy can handle all of this construction. Along with this, these developers show up once a week harassing people about buying their homes.

If any of this is allowed, this neighborhood and community will be a thing of the past, yet again. It's truly the ideal Fayetteville neighborhood and should be kept and protected.

We need zoning that prevents viable housing from being destroyed and NEIGHBOR PROTECTION ACTS. We care about where we live and the people that love there. These are our Homes. We work day and night to make ends meet yet it's not enough. There are plenty of lots that have sat empty for years, and decades in this neighborhood that could actually be used for REAL INFILL. The argument that this is a way for them to create appropriate infill for this area (by tearing everything down) is just not correct. That is not infill. There is still land to make use and this does none of the things that were stated in the "Goals" of this project.

I'm also still confused about the city promoting "employment clusters" and "promoting economic values of employment clusters". This sounds like a way to drive out low income citizens from the actual city and confide us into an area that never sees tax money or better infrastructure. It sounds pretty disgusting, honestly. Especially when it's being used to take out housing that works so the rich can build luxury housing for their friends.

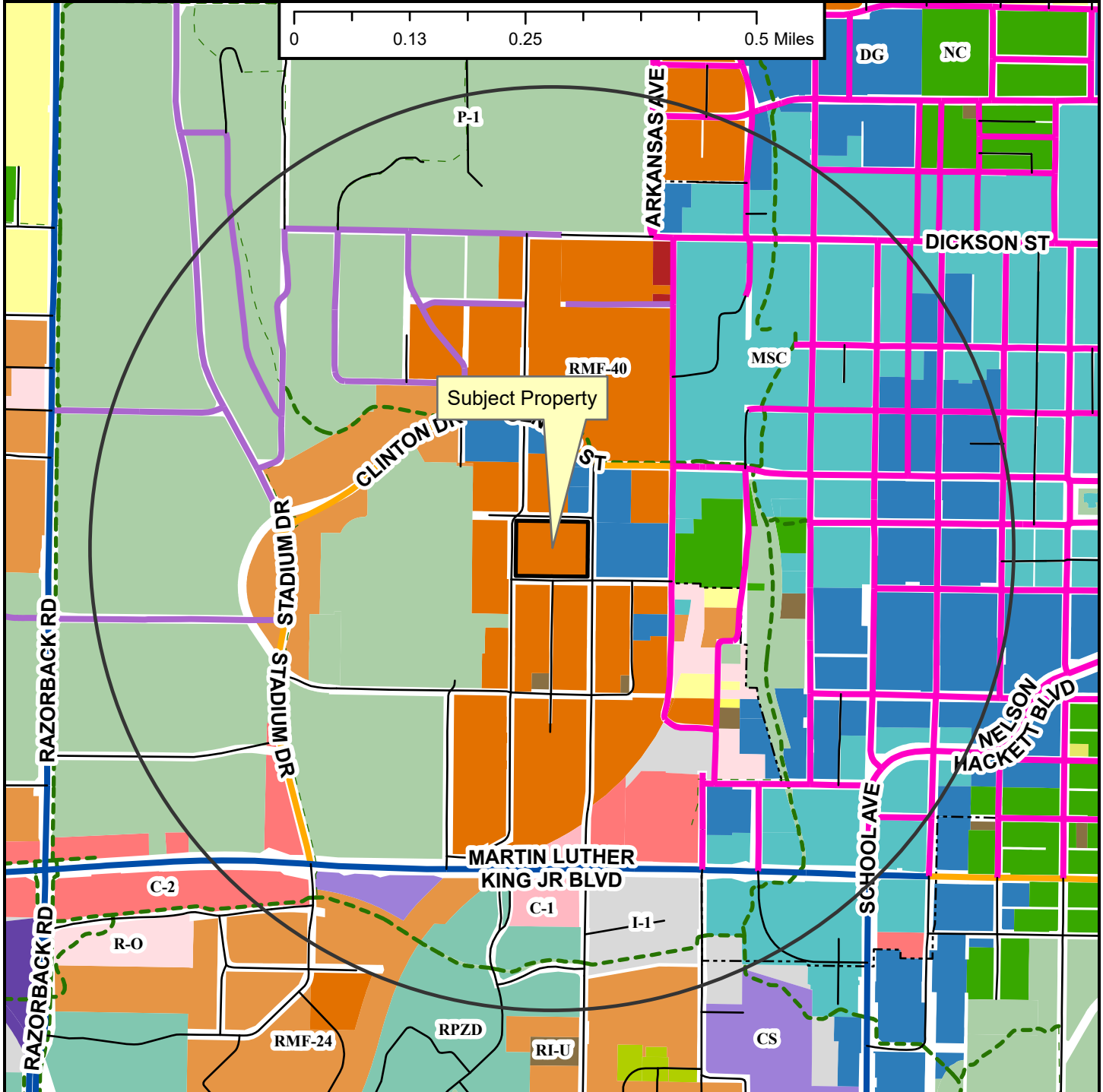
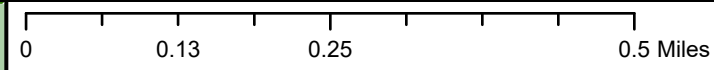
Along with this, my apartment building and another on our street, were conveniently left off of the mailing list for the information for any of this. I only found out because I spoke with a surveyor. Please truly consider what precedent you're setting and how much destruction, homeless, and forced existing of the community this will cause. See the whole picture.

I appreciate your time,
Kathryn Cook
AIA Architect

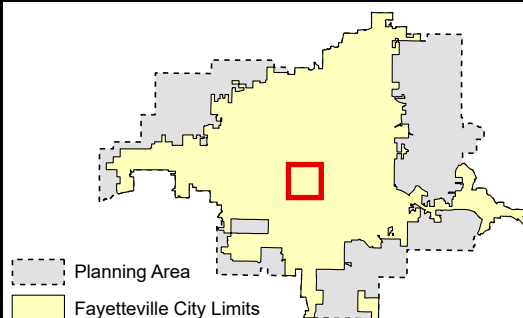
RZN-2024-0018

One Mile View

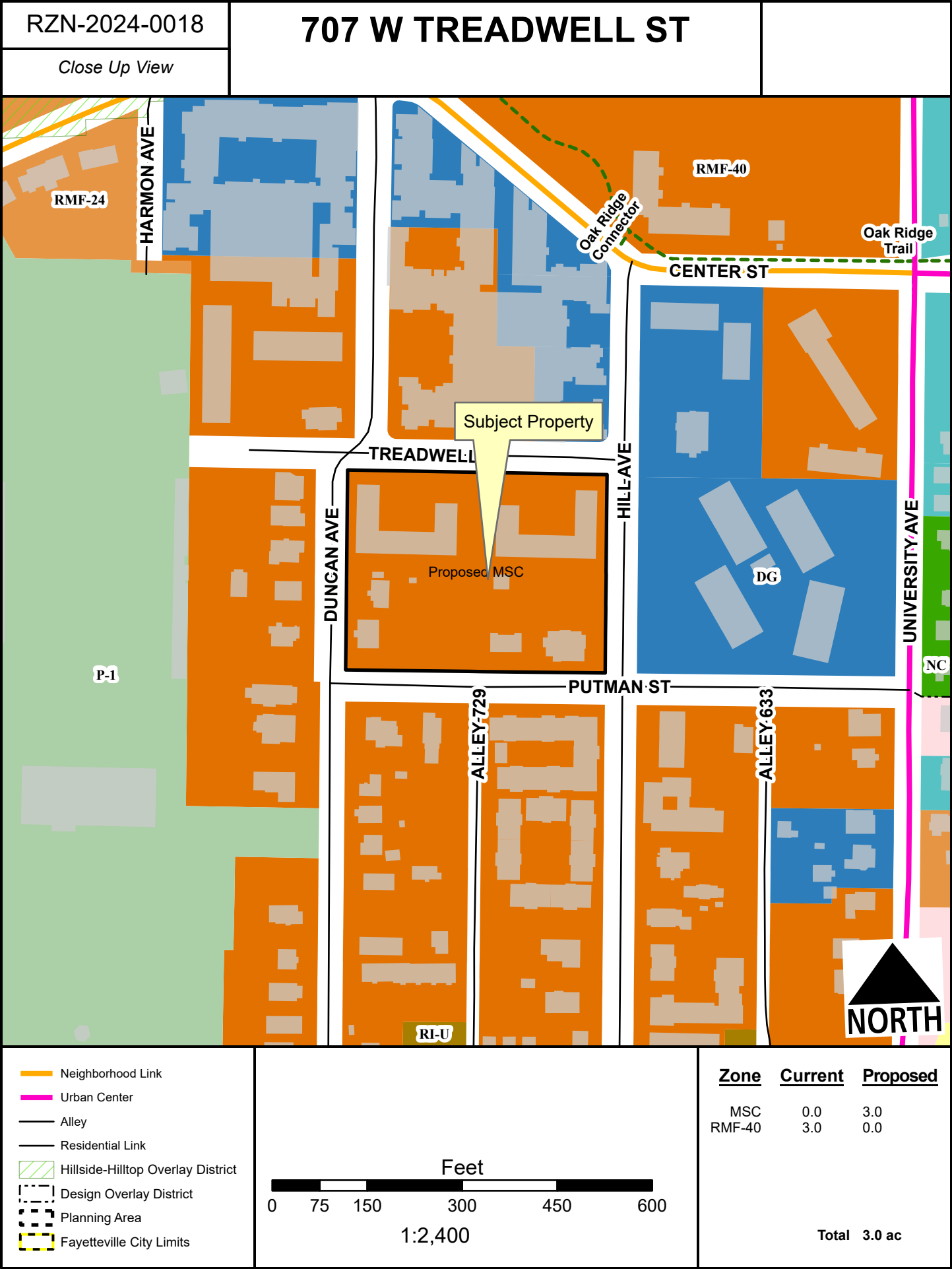
707 W TREADWELL ST

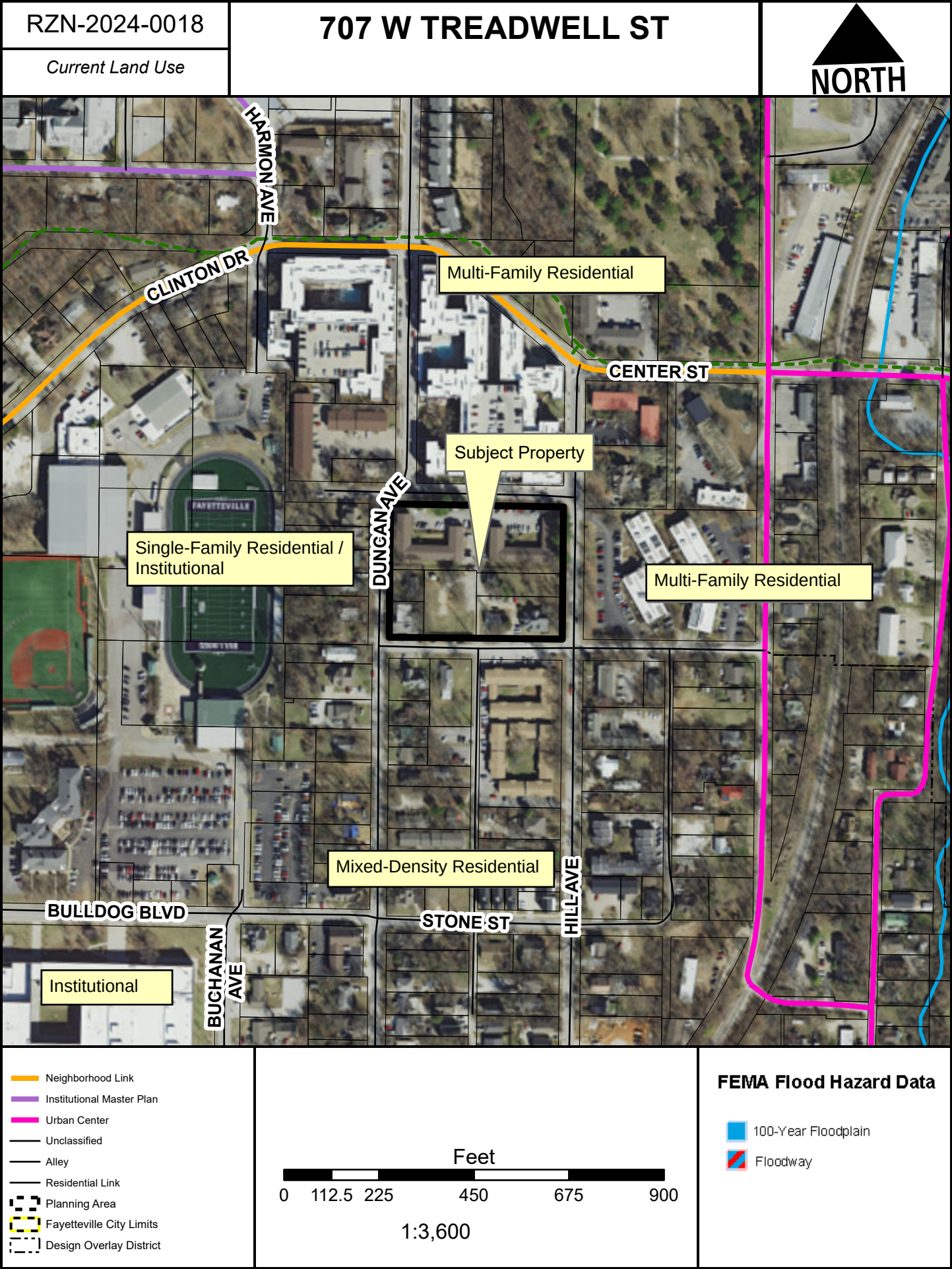


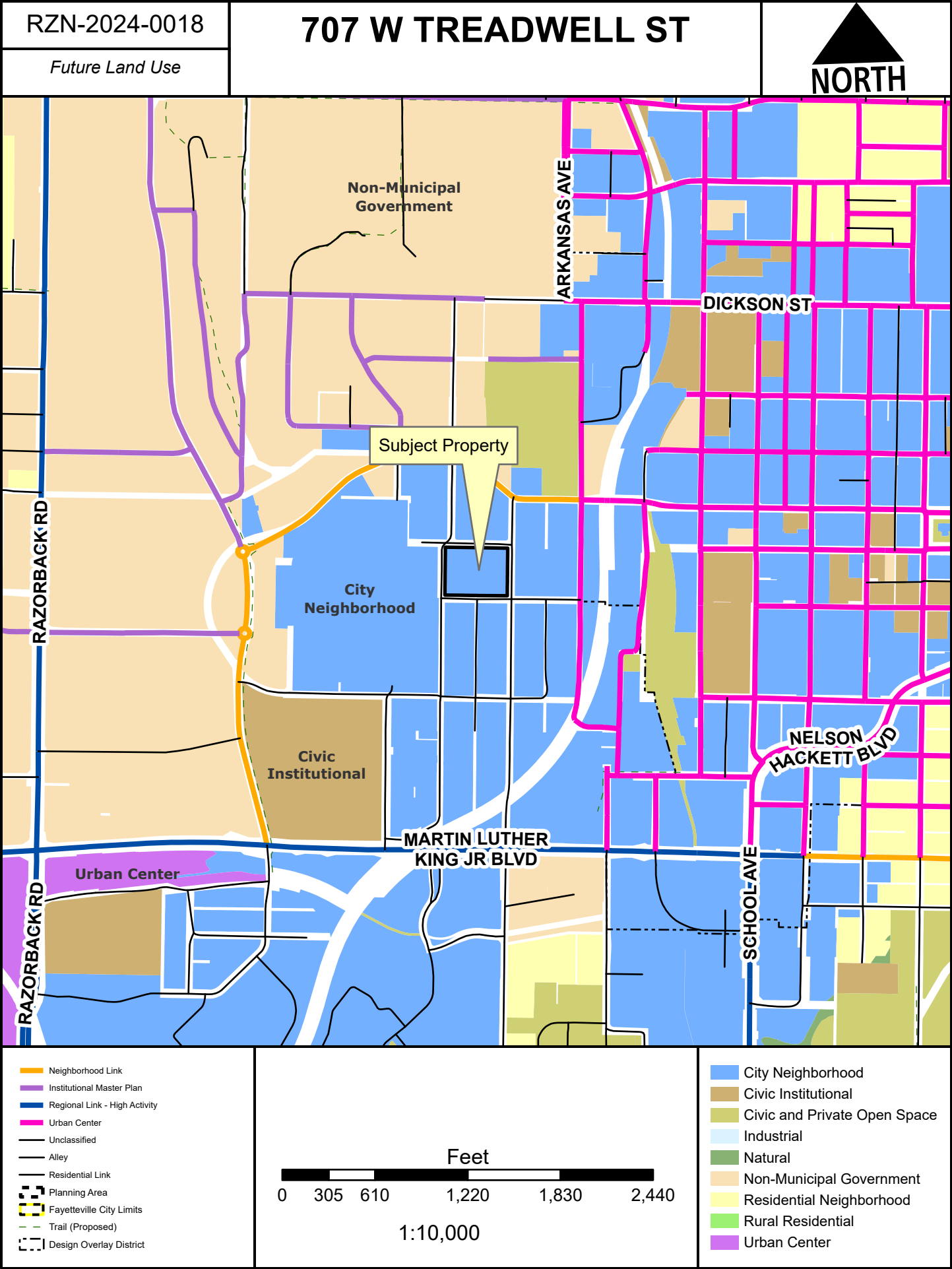
-  Neighborhood Link
-  Institutional Master Plan
-  Regional Link - High Activity
-  Urban Center
-  Unclassified
-  Alley
-  Residential Link
-  Shared-Use Paved Trail
-  Trail (Proposed)
-  Design Overlay District
-  Fayetteville City Limits
-  Planning Area



-
- Zoning**
- I-2 General Industrial
 - E-1
 - COMMERCIAL**
- 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-2 General Industrial
 - E-1
 - COMMERCIAL**
- 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









MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council
THRU: Blake Pennington, Assistant City Attorney
FROM: Council Member Scott Berna
SUBJECT: N/A

RECOMMENDATION:

Council Member Berna is sponsoring a resolution to express the City Council's intention to approve an extension of water and sewer service to a proposed development outside city limits.

BACKGROUND:

§ 51.112 **Water Service and Extension Policy** of the City Code provides that the Utilities Director may extend water service outside of the City upon the agreement of the property owner to comply with all city ordinances and requirements. § 51.113 **Sewer Service and Extension Policy** of the City Code provides that sewer service may be extended outside the city only with the express approval of the City Council. City staff recommends that the property owner/developer provide documentation of the development's utility needs, the capacity of nearby water and sewer mains to serve the development, and the cost of any extension and upsizing necessary to provide utility services, and provide a proposed development agreement for the project.

DISCUSSION:

Staff recommends that the City Council require the developer/property owner provides studies, estimates, or other documentation sufficient to establish the actual water and sewer needs of the property, the capacity of the system and any upsizing necessary to serve the development, the costs associated with the extension of these utility services to the development; and provide a proposed development agreement for the project demonstrating how the project will comply with the city's standards and requiring payment of all development impact fees.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: Agenda Request - Berna (#3)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-98

N/A

A RESOLUTION TO EXPRESS THE CITY COUNCIL'S INTENTION TO APPROVE AN EXTENSION OF WATER AND SEWER SERVICE TO A PROPOSED DEVELOPMENT OUTSIDE OF THE CITY LIMITS AT 1011 SOUTH MALLY WAGNON ROAD AT THE OWNER/DEVELOPER'S EXPENSE

WHEREAS, City staff was contacted by John McGowan about extending City of Fayetteville water and sewer services to a proposed development outside of the city at 1011 South Mally Wagon Road; and

WHEREAS, § 51.112 **Water Service and Extension Policy** of the City Code provides that the Utilities Director may extend water service outside of the City upon the agreement of the property owner to comply with all city ordinances and requirements; and

WHEREAS, § 51.113 **Sewer Service and Extension Policy** of the City Code provides that sewer service may be extended outside the city only with the express approval of the City Council; and

WHEREAS, Utilities staff has determined that the City likely has sufficient capacity to provide sewer service but upsizing of a water main near the property will probably be required to ensure fire flow capacities; and

WHEREAS, City staff recommends that the property owner/developer provide documentation of the development's utility needs, the capacity of nearby water and sewer mains to serve the development, and the cost of any extension and upsizing necessary to provide utility services, and provide a proposed development agreement for the project.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intention to allow the property owner/developer, at its own expense, to extend water and sewer services to a proposed development outside the city at 1011 South Mally Wagon Road.

Section 2: That the City Council of the City of Fayetteville, Arkansas shall require the developer/property owner provides studies, estimates, or other documentation sufficient to establish the actual water and sewer needs of the property, the capacity of the system and any upsizing necessary to serve the development, the costs associated with the extension of these utility services to the development; and shall provide a proposed development agreement for the project demonstrating how

the project will comply with the city's standards and requiring payment of all development impact fees.

AGENDA REQUEST FORM

FOR: Council Meeting of May 21, 2024

FROM: Council Member Scott Berna

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A RESOLUTION TO EXPRESS THE CITY COUNCIL'S INTENTION TO APPROVE AN EXTENSION OF WATER AND SEWER SERVICE TO A PROPOSED DEVELOPMENT OUTSIDE OF THE CITY LIMITS AT 1011 SOUTH MALLY WAGNON ROAD AT THE OWNER/DEVELOPER'S EXPENSE

APPROVED FOR AGENDA:



Scott Berna
City Council Member

5-7-2024
Date



Blake Pennington
Senior Assistant City Attorney
Approved as to form

5/7/24
Date



MEETING OF MAY 14, 2024

TO: Mayor Jordan and City Council

THRU:

FROM: Council Member Sarah Moore

SUBJECT: **Resolution to appropriate \$1,000,000 in general fund revenue to implement early recommendations of the Housing Crisis Task Force**

RECOMMENDATION:

Council Member Moore is sponsoring a resolution to appropriate \$1,000,000 in general fund revenue to rapidly implement early recommendations of the Housing Crisis Task Force.

BACKGROUND:

DISCUSSION:

BUDGET/STAFF IMPACT:

This resolution will designate \$1,000,000.00 in the general fund for projects identified by the Housing Crisis Task Force is being able to immediately begin addressing the housing crisis.

ATTACHMENTS: Agenda Request Packet - CM Moore - Appropriate General Fund Revenue Loss Funds to Housing Crisis Task Force Projects (#3)



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-69

Resolution to appropriate \$1,000,000 in general fund revenue to implement early recommendations of the Housing Crisis Task Force

A RESOLUTION TO APPROPRIATE \$1,000,000.00 IN GENERAL FUND REVENUE RECEIVED AS ARPA GENERAL REVENUE LOSS TO FUND THE HOUSING CRISIS TASK FORCE EARLY RECOMMENDATIONS IN RESPONSE TO THE DECLARED HOUSING CRISIS

WHEREAS, on April 2, 2024, the City Council adopted Resolution 117-24 recognizing the existence of a housing crisis, underscoring the urgency of implementing comprehensive measures to improve housing stock, affordability, accessibility, and quality for all residents; and

WHEREAS, the City Council authorized the establishment of an ad hoc Housing Crisis Task Force, with membership appointments by the Mayor expected in the coming weeks, to identify specific strategies to achieve those goals; and

WHEREAS, the City Council anticipates that implementation of the Housing Crisis Task Force's recommendations will likely require substantial public investment; and

WHEREAS, on December 6, 2022, the City Council passed Resolution # 285-22 approving a reimbursement to the City from American Rescue Plan Act funds to offset revenue losses incurred in 2021 and transferring \$5,095,114.00 of that reimbursement to the General Fund, of which just over \$1,000,000.00 remains unallocated.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the appropriation of general fund revenues in the amount of \$1,000,000.00 for the purpose of rapidly implementing early recommendations of the Housing Crisis Task Force, and further requests that specific projects be identified and included in the 2025 budget.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests that the Housing Crisis Task Force return recommendations within three months of first convening for appropriate and immediate use of these funds to begin addressing the housing crisis.

AGENDA REQUEST FORM

FOR: Council Meeting of May 21, 2024

FROM: Council Member Sarah Moore

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A RESOLUTION TO APPROPRIATE \$1,000,000.00 IN GENERAL FUND REVENUE RECEIVED AS ARPA GENERAL REVENUE LOSS TO FUND THE HOUSING CRISIS TASK FORCE EARLY RECOMMENDATIONS IN RESPONSE TO THE DECLARED HOUSING CRISIS

APPROVED FOR AGENDA:

Approved by email _____
Sarah Moore
City Council Member

5/7/2024
Date

Blake Pennington
Blake Pennington
Senior Assistant City Attorney
Approved as to form

5/7/2024
Date

A RESOLUTION TO APPROPRIATE \$1,000,000.00 IN GENERAL FUND REVENUE RECEIVED AS ARPA GENERAL REVENUE LOSS TO FUND THE HOUSING CRISIS TASK FORCE EARLY RECOMMENDATIONS IN RESPONSE TO THE DECLARED HOUSING CRISIS

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WHEREAS, the City Council authorized the establishment of an ad hoc Housing Crisis Task Force, with membership appointments by the Mayor expected in the coming weeks, to identify specific strategies to achieve those goals; and

WHEREAS, the City Council anticipates that implementation of the Housing Crisis Task Force's recommendations will likely require substantial public investment; and

WHEREAS, on December 6, 2022, the City Council passed Resolution # 285-22 approving a reimbursement to the City from American Rescue Plan Act funds to offset revenue losses incurred in 2021 and transferring \$5,095,114.00 of that reimbursement to the General Fund, of which just over \$1,000,000.00 remains unallocated.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the appropriation of general fund revenues in the amount of \$1,000.000.00 for the purpose of rapidly implementing early recommendations of the Housing Crisis Task Force, and further requests that specific projects be identified and included in the 2025 budget.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests that the Housing Crisis Task Force return recommendations within three months of first convening for appropriate and immediate use of these funds to begin addressing the housing crisis.

Pennington, Blake

From: Moore, Sarah
Sent: Tuesday, May 7, 2024 4:44 PM
To: Pennington, Blake
Subject: Re: Revise UDC

This works-it's good to go. Thank you again

--

Sarah Moore
Fayetteville City Council, Ward 2
sarah.moore@fayetteville-ar.gov
479.263.6629



Report a concern with SeeClickFix:
<https://www.fayetteville-ar.gov/4233/Report-a-Concern-with-SeeClickFix>
Speak up on City projects:
<https://speakup.fayetteville-ar.gov/>
Voice your feedback to the entire Council and Mayor by emailing:
agendaitemcomment@fayetteville-ar.gov

From: Pennington, Blake <bpennington@fayetteville-ar.gov>
Date: Tuesday, May 7, 2024 at 4:33 PM
To: Moore, Sarah <sarah.moore@fayetteville-ar.gov>
Subject: RE: Revise UDC

Glad to help! I am attaching the final draft with that change to Section 2 for your review. If you will please respond confirming your approval we'll get it on the next agenda.

Thanks,

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov



From: Moore, Sarah <sarah.moore@fayetteville-ar.gov>
Sent: Tuesday, May 7, 2024 4:25 PM

AGENDA REQUEST FORM

FOR: Council Meeting of May 21, 2024

FROM: Council Member Sarah Moore

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO AMEND § 157.03 ANNEXATIONS, ZONING MAP AMENDMENTS, AND REZONINGS OF THE UNIFIED DEVELOPMENT CODE TO REQUIRE APPLICANTS TO NOTIFY RESIDENTS OF PROPERTY PROPOSED FOR ANNEXATION OR REZONING, AND TO DECLARE AN EMERGENCY

APPROVED FOR AGENDA:

Approved by email
Sarah Moore
City Council Member

5/9/24
Date


Blake Pennington
Senior Assistant City Attorney
Approved as to form

5/10/24
Date

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 157.03 ANNEXATIONS, ZONING MAP AMENDMENTS, AND REZONINGS OF THE UNIFIED DEVELOPMENT CODE TO REQUIRE APPLICANTS TO NOTIFY RESIDENTS OF PROPERTY PROPOSED FOR ANNEXATION OR REZONING, AND TO DECLARE AN EMERGENCY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 157.03(B)(1) of the *Unified Development Code* regarding who receives notice of private party petitions for annexations, zoning map amendments, and rezonings and enacts a replacement § 157.03(B)(1) as follows:

“(1) Who Gets Notice. Notice of the proposed action shall be given to all landowners and residents with separate addresses on the property and within 200 feet of the boundary line of the property on which the use is proposed. Residents with separate addresses shall be notified by first class letter addressed to the 'current resident' to each address found in the city's address point file. “

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance should become effective without delay because residents of property subject to private party annexation or rezoning petitions should be given the same opportunity as their neighbors to hear about and offer comment on City proceedings that could affect their homes or force them to move, which is necessary for the public peace as well as the health and safety of Fayetteville residents. Therefore, the City Council hereby declares an emergency exists such that this ordinance shall become effective immediately upon its passage and approval

PASSED and APPROVED this 21st day of May, 2024.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer

157.03 Annexations, Zoning Map Amendments, And Rezonings

Notification of public hearings on private party petitions for annexations, zoning map amendments and rezonings shall occur as follows:

- (A) *Public Hearing Required.* Upon receipt of a private party petition for an annexation, an amendment to the zoning map, or a rezoning, the Planning Commission shall hold a public hearing on the proposed amendment.
- (B) *Notice of Public Hearing.* The applicant shall provide the following notice:
 - (1) *Who Gets Notice.* Notice of the proposed action shall be given to all landowners and residents with separate addresses on the property and within 200 feet of the boundary line of the property on which the use is proposed. Residents with separate addresses shall be notified by first class letter addressed to the 'current resident' to each address found in the city's address point file.
 - (2) *Methods of Notice.* Notice shall be provided by the following methods, as required by this chapter:
 - (a) *Written Notice.* Written notice shall be provided at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (b) *Posted Notice.* The applicant shall post notice at least fifteen (15) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.
 - (c) *Published Notice.* Notice of public hearing shall be given by the city by publishing a notice in a newspaper of general circulation in the city, at least one time, at least fifteen (15) days prior to Planning Commission.
 - (3) *Appeal of Planning Commission Denial of Rezoning Request.* Applicants for a rezoning with zoning map amendment denied by the Planning Commission must give both the written and posted notice of the appeal to the City Council as specified in this section at least fifteen (15) days prior to the City Council meeting. Proof of notice shall be provided as required by this chapter.

(Code 1965, App. A., Art. 12(1); Ord. No. 1747, 6-29-70; Ord. No. 2538, 7-3-79; Code 1991, §160.156; Ord. No. 3716, §1, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5183, 10-7-08; Ord. No. 5920, §1, 10-18-16; Ord. No. 6212, §2, 8-6-19; Ord. No. 6417 §1, 3-2-21; Ord. No. 6459, §§1—3, 7-20-21)