

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, June 20, 2024

4:30 PM

City Hall Room 111

Planning Commission Members

Andrew Brink, Chair

Mary McGetrick, Vice Chair

Brad Payne, Secretary

Matthew Cabe

Nick Castin

Jimm Garlock

Fred Gulley

Mary Madden

Nick Werner

Senior Assistant City Attorney Blake Pennington

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

Approval of the minutes from the June 10, 2024 Planning Commission. - Mirinda Hopkins, Development Coordinator

2. CCP-2024-0004: Concurrent Plat (3373 N. COLLEGE AVE/WOOD CAPITAL GROUP, 213):

Submitted by OLSSON for property located at 3373 N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and UT, URBAN THOROUGHFARE and contains approximately 7.26 acres. The request is for the concurrent plat of three commercial lots. - Donna Wonsower, Planner

3. CCP-2024-0006: Concurrent Plat (436 E. MARTIN LUTHER KING JR BLVD/MTC TRUST, 524):

Submitted by BATES & ASSOCIATES for property located at 436 E. MARTIN LUTHER KING JR BLVD. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.43 acres. The request is for the concurrent plat of seven residential lots. - Kylee Cole, Planner

Unfinished Business**4. ADM-2024-0025: Administrative Item (Amend UDC Chapters 170.02, 170.06, 170.08 And 170.09 Stormwater Management And Drainage):**

Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 170.02, 170.06, 170.08 and 170.09 Stormwater Management and Drainage. The proposed code changes would clarify the maintenance responsibility of private and public drainage systems as well as illicit discharges into the drainage system.

THIS ITEM WAS TABLED AT THE JUNE 10, 2024 PLANNING COMMISSION MEETING. - Alan Pugh, Staff Engineer

5. VAR-2024-0023: Planning Commission Variance (1469 & 1501 N. STARR DR/PARKER INVESTMENTS, LLC, 412):

Submitted by ALAN REID & ASSOCIATES for property located at 1469 & 1501 N. STARR DR. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and in the FAYETTEVILLE PLANNING AREA and contains eight lots with approximately 22.45, 1.31, 1.33, 0.65, 1.19, 2.63, 1.76 and 0.71 acres. The

request is for a variance to street frontage requirements.

THIS ITEM WAS TABLED AT THE JUNE 10, 2024 PLANNING COMMISSION MEETING. - Donna Wonsower, Planner

6. CUP-2024-0018: Conditional Use Permit (1607 N. COLLEGE AVE/BRASS POLE PROPERTIES LLC, 407):

Submitted by HALL ESTILL ATTORNEY AT LAW for property located at 1607 N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.74 acres. The request is for a wireless communications facility.

THIS ITEM WAS TABLED AT MAY 28, 2024 PLANNING COMMISSION MEETING.

APPLICANT HAS REQUESTED TO TABLE UNTIL THE JULY 8, 2024 PLANNING COMMISSION MEETING. - Jessica Masters, Development Review Manager

New Business

7. VAR-2024-0027: Planning Commission Variance (1585 S. WEST AVE/STERLING HOLDINGS LLC, 601):

Submitted by BLEW & ASSOCIATES for property located at 1585 S. WEST AVE. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 2.70 acres. The request is for a variance to parking lot standards and streamside protection zone requirements. - Kylee Cole, Planner

8. VAR-2024-0028: Planning Commission Variance (634 S. HAPPY HOLLOW RD/GERLT VENTURES INC, 526):

Submitted by DEVELOPMENT CONSULTANTS INC for property located at 634 S. HAPPY HOLLOW RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.12 acres. The request is for a variance to the flood damage protection ordinance. - Alan Pugh, Staff Engineer

9. ADM-2024-0028: Administrative Item (Amend UDC Chapters 155, Appeals, 166.02, Development Review Process, 166.23, Urban Residential Design Standards, 167.04 Tree Preservation And Protection):

Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 155, 166.02, 166.23, and 167.04. The proposed code changes would modify development requirements associated with appeals, architectural design standards, and tree preservation requirements. - Jessica Masters, Development Review Manager

10. VAR-2024-0026: Planning Commission Variance (241 W. SPRING ST/FAYETTEVILLE OFFICE PORTFOLIO LLC, 484):

Submitted by MBL PLANNING for property located at 241 W. SPRING ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.08 acres. The request is for variances for ground floor opacity requirement, access management, driveway throat length, and urban residential design standards. - Jessica Masters, Development Review Manager

11. VAC-2024-0009: Vacation (241 W. SPRING ST/FAYETTEVILLE PORTFOLIO LLC, 484):

Submitted by MBL PLANNING for property located at 241 W. SPRING ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.08 acres. The request is to vacate 0.017 acres of street right-of-way. - Jessica Masters, Development Review Manager

12. LSD-2024-0010: Large Scale Development (1629 N. CROSSOVER RD/SMYTH, 410):

Submitted by COMMUNITY BY DESIGN for property located at 1629 N. CROSSOVER RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.93 acres. The request is for a cluster housing development with 14 single-family dwellings, six accessory dwelling units, and associated parking. - Kylee Cole, Planner

13. CUP-2024-0023: Conditional Use Permit (4621 W. WEDINGTON DR/G&C FIREWORKS, 438):

Submitted by G&C JOHNSON LLC for property located at 4621 W. WEDINGTON DR. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 5.60 acres. The request is for a fireworks sales tent. - Gretchen Harrison, Senior Planner

14. RZN-2024-0030: Rezoning (N. FUTRALL DR BETWEEN WEDINGTON DR & MLK BLVD/WATSON, 480):

Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located on N. FUTRALL DR BETWEEN WEDINGTON DR & MLK BLVD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 6.62 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

APPLICANT HAS REQUESTED TO TABLE UNTIL THE JULY 8, 2024 PLANNING COMMISSION MEETING. - Jessica Masters, Development Review Manager

15. RZN-2024-0026: Rezoning (WEST OF 2916 N. OLD WIRE RD/LIVINGSTON SUBDIVISION, 254):

Submitted by JORGENSEN & ASSOCIATES for property located WEST OF 2916 N. OLD WIRE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.87 acres. The request is to rezone the property to RSF-18, RESIDENTIAL SINGLE-FAMILY, 18 UNITS PER ACRE. - Donna Wonsower, Planner

16. RZN-2024-0027: Rezoning (1440 S. CURTIS AVE/BURT HANNA LLC, 565):

Submitted by MOSES TUCKER PARTNERS for property located at 1440 S. CURTIS AVE. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 6.43 acres. The request is to rezone the property to UT, URBAN THOROUGHFARE. - Gretchen Harrison, Senior Planner

17. RZN-2024-0028: Rezoning (EAST OF HARMON FIELD ON S. DUNCAN AVE/MODUS STUDIO, 522):

Submitted by MODUS STUDIO for property located EAST OF HARMON FIELD ON S. DUNCAN AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and contains approximately 3.70 acres. The request is to rezone the property to MSC, MAIN STREET CENTER. - Donna Wonsower, Planner

18. RZN-2024-0029: Rezoning (3179 N. OLD WIRE RD/LUTHER, 216):

Submitted by CRAFTON TULL for property located at 3179 N. OLD WIRE RD. The property is zoned R-A, RESIDENTIAL – AGRICULTURAL and contains approximately 13.65 acres. The request is to rezone the property to RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE. - Kylee Cole, Planner

Items Administratively Approved by Staff

19. LSP-2023-0063: Lot Split (5855 W. DOT TIPTON RD/MARTINEZ, 475):

Submitted by BATES & ASSOCIATES for property located at 5855 W. DOT TIPTON RD. The property is zoned RSF-2, RESIDENTIAL SINGLE-FAMILY, TWO UNITS PER ACRE and contains three lots with approximately 1.81, 1.71 and 1.75 acres. The request is to subdivide the property into five lots containing 1.07, 1.14, 1.00, 1.03, and 1.03 acres. - Gretchen Harrison, Senior Planner

20. LSP-2024-0007: Lot Split (2843 S. LEO AMMONS RD/DAVENPORT, 698):

Submitted by BATES & ASSOCIATES for property located at 2843 S. LEO AMMONS RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 4.72 acres. The request is to divide the property into two lots containing approximately 2.36 and 2.36 acres. - Donna Wonsower, Planner

21. FPL-2024-0003: Final Plat (S. BENCHMARK LN/TOWNE WEST PH 6, 516 & 517):

Submitted by ENGINEERING SERVICES INC for property located on S. BENCHMARK LN. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 13.21 acres. The request is for the final plat of 19 single-family lots. - Kylee Cole, Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

(pg. 1) Planning Commission		Monday, 06/10/2024				
Time:	5:30 PM					
Staff :	⌘ Melissa Evans □ John Scott ⌘ Jessie Masters ⌘ Gretchen Harrison ⌘ Donna Wonsower ⌘ Kylee Cole					
	□ Britin Bostick ⌘ Josh Boccaccio □ Melissa Boyd ⌘ Fire Marshal/Andrew Horton □ Chris Brown ⌘ Alan Pugh					
	Roll Call	1) Minutes (05/28/2024)	2) ADM-2024-0026 (SAM'S CLUB RECYCLING CONTAINER)	3) VAR-2024-0022 (SAINT JOSEPH CATHOLIC CHURCH)	4) CUP-2024-0022 (RIVERSIDE VILLAGE PH 2)	5) VAR-2024-0025 (MENOTTI)
Cabe	1	Recuse	1	1		
Werner	1	1	1	1		
Garlock	1	1	1	1		
Madden	1	1	1	1		
McGetrick	1	1	1	1		
Brink	1	1	1	1		
Payne	1	1	1	1		
Castin	1	1	1	1		
Gulley	1	1	1	1		
Agenda		Consent	Consent	Consent	New	New
Motion By		Garlock	Garlock	Garlock		
Motion 2nd		Payne	Payne	Payne		
Vote		8-0-1	8-0-1	8-0-1		
Action		Approve	Approve	Approve	Withdrawn	Withdrawn
Time		5:33 PM	5:33 PM	5:33 PM		
Motion Detail						
Public Comment		0	0	0		

(pg. 2) Planning Commission		Monday, 06/10/2024				
	6) ADM-2024-0025 (AMEND UDC/STORMWATER MANAGEMENT & DRAINAGE)	7) ADM-2024-0023 (RIVERSIDE VILLAGE PH 2)	8) VAR-2024-0021 (1155 PROPERTIES LLC)	9) VAR-2024-0023 (PARKER INVESTMENTS LLC)	10) VAR-2024-0024 (HOME2 SUITES)	11) CUP-2024-0021 (WASHINGTON MASONIC LODGE #1)
Cabe	1	Recuse	1	1	Recuse	1
Werner	1	1	1	1	1	1
Garlock	1	1	1	1	1	1
Madden	1	1	1	1	1	1
McGetrick	1	1	1	1	1	1
Brink	1	1	1	1	1	1
Payne	1	1	1	1	1	1
Castin	1	1	1	1	1	1
Gulley	1	1	1	1	1	1
Agenda	New	New	New	New	New	New
Motion By	Garlock	Castin	Werner	Garlock	Payne	Garlock
Motion 2nd	Castin	Payne	Brink	Werner	McGetrick	Werner
Vote	9-0-0	8-0-1	9-0-0	9-0-0	8-0-1	9-0-0
Action	Table	Approve	Approve	Table	Approve	Table
Time	5:36 PM	5:46 PM	6:36 PM	6:38 PM	6:45 PM	7:10 PM
Motion Detail	Until June 24th Planning Commission meeting.	With all conditions as recommended by staff.	With conditions as recommended by staff. - With a condition that the applicant shall install a pedestrian crossing across either Gregg Avenue or Drake Street, with location and appropriate safety devices as determined by the city engineer after analysis of public safety impacts - With a condition that the applicant and city engineer, in consultation with active transportation staff, shall make a best use determination regarding whether a "Right-in, Right Out Only" driveway or extended turn land would be best suited for the proposed development and associated impacts	Until June 24th Planning Commission meeting.	With all conditions as recommended by staff.	Until July 8th Planning Commission meeting.
Public Comment	0	0		0	0	0

(pg. 3) Planning Commission			Monday, 06/10/2024			
	12) RZN-2024-0024 (FAYETTEVILLE PUBLIC SCHOOLS)	13) RZN-2024-0025 (CLUB CAR WASH)				
Cabe	1	1				
Werner	1	1				
Garlock	1	1				
Madden	1	1				
McGetrick	1	1				
Brink	1	1				
Payne						
Castin	1	1				
Gulley	1	1				
Agenda	New	New				
Motion By	McGetrick	Cabe				
Motion 2nd	Garlock	Castin				
Vote	8-0-0	8-0-0				
Action	Forward	Forward				
Time	7:17 PM	7:25 PM				
Motion Detail	With a recommendation of approval.	With a recommendation of approval.				
Public Comment	0	0				



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forester

MEETING: June 24, 2024

SUBJECT: **CCP-2024-0004: Concurrent Plat (3373 N. COLLEGE AVE/WOOD CAPITAL GROUP, 213):** Submitted by OLSSON for property located at 3373 N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMERCIAL AND UT, URBAN THOROUGHFARE and contains approximately 7.26 acres. The request is for the concurrent plat of three commercial lots.

RECOMMENDATION:

Staff recommends approval of **CCP-2024-0004** with conditions.

RECOMMENDED MOTION: *"I move to approve **CCP-2024-0004**, recommending:*

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

BACKGROUND:

The subject property is in north Fayetteville off N. College Ave. and is the former site of the Lewis Ford Car Dealership. A 26,564 square foot commercial building constructed in 1970 and a 666 square foot car wash on-site are both to be removed per a demolition permit issued on May 7, 2024 (DEMO-2024-0022). The subject area is part of the 71B Corridor Plan boundaries but is not subject to any overlay district. Additionally, no floodplain, streamside protection zones or other natural features apply. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1: Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	College Marketplace Black Hills Energy	C-2, Thoroughfare Commercial
South	Warehousing Vehicle Maintenance and Repair	UT, Urban Thoroughfare, C-2, Thoroughfare Commercial
East	Restaurants Car Dealership	C-2, Thoroughfare Commercial
West	Fire Station Undeveloped	UT, Urban Thoroughfare P-1, Institutional

Proposal: The applicant intends to plat three commercial lots. The applicant has exceeded the number of available administrative lot splits, requiring a concurrent plat for the creation of additional lots. No variances are being requested with this proposal.

Water and Sewer System: Existing water mains are available in each lot to provide necessary domestic water and fire protection for the subdivision. Existing drainage is located along both N. College Ave. and N. Plainview Ave. Any associated infrastructure improvements will be reviewed as each parcel develops. An 8" sewer main is proposed as part of an associated grading permit (GRD-2024-0003) to provide sewer access to lot 2. This utility installation must be completed prior to engineering approval of the concurrent plat.

Right-of-way to be dedicated:

N. College Ave: N. College Ave. is designated as a Regional Link – High Activity Street per the Master Street Plan. Staff recommends right-of-way dedication in the amount of forty-eight feet (48') from street centerline to accommodate this street classification. Approximately forty feet (40') of right-of-way currently exists.

N. Plainview Ave. Staff recommends no additional right-of-way dedication. Sixty-five feet (65') of right-of-way currently exists, which is in excess of the typical Master Street Plan Residential Link Street requirements of fifty-two feet (52'). No additional ROW dedication is necessary.

Street Improvements: Staff does not recommend any additional street improvements in association with this request. Necessary street improvements will be reviewed as each parcel develops.

Tree Preservation: N/A; no tree removal is proposed with the concurrent plat. Preservation requirements will be reviewed with development plans for each parcel.

Parkland Fees: N/A; parkland dedication requirements are not applicable for nonresidential developments.

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

RECOMMENDATION: Staff recommends approval of CCP-2024-0004 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication in the amount of 48 feet along N. College Ave. No additional right-of-way dedication is recommended for N. Plainview Ave.*

Subdivision Committee recommended approval.

2. **Planning Commission determination of street improvements.** *No additional street improvements required.*

Subdivision Committee recommended approval.

3. All utility infrastructure proposed as part of GRD-2024-0003 must be completed prior to engineering approval of concurrent plat.
4. Plat comments from the Planning Division shall be addressed prior to Planning Commission, including dimensioning of master street plan right-of-way.
5. All remaining comments from City divisions, whether Urban Forestry, Fire, or Engineering shall be addressed prior to Planning Commission.

Standard conditions of approval:

6. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat (if applicable).
7. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his/her representative, and all comments from utility representative: Black Hills Energy, AT&T, Ozarks, SWEPCO, Cox Communication).
8. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements.

Planning Commission Action:

☐ Tabled ☐ Forwarded ☐ Denied ☐ Approved

Meeting Date: June 24, 2024

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Applicant Cover Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map



May 10, 2024

City of Fayetteville

Attn: Planning Division
113 W. Mountain St.
Fayetteville, AR 72701

RE: City Center North – Concurrent Plat
3373 N College Ave.
Cover Letter

Staff,

On behalf of Wood Capital Group, Olsson Associates hereby submits plat documents to facilitate the approval of a Concurrent Plat proposed at 3373 N College Ave (parcel number 765-15767-000). A Property Line Adjustment (PLA) submittal was recently made on January 26th, 2024 under PLA-2024-0004 for this same property, but after discussions with staff, the submittal was withdrawn as we were advised to submit for a Concurrent Plat instead. This concurrent plat has been revised to provide for the split of one parcel into three separate parcels.

Infrastructure Improvements

The improvements shown on the plat shall be associated with GRD-2024-0003 which include 410 linear feet of domestic water main, and 412 linear feet of sanitary sewer main extension with associated manholes. These improvements are intended to serve the future development within the proposed lots. Site improvement documents for these future lots will be provided at a later date.

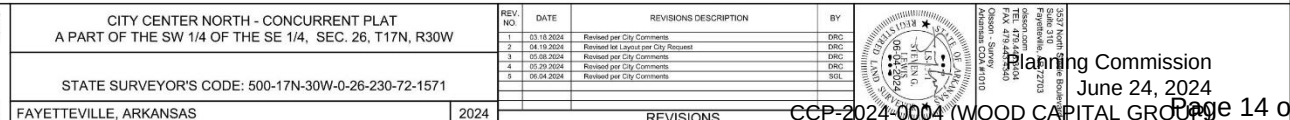
Should you have any questions, please contact me at 501.733.2240 or at mloos@olsson.com.

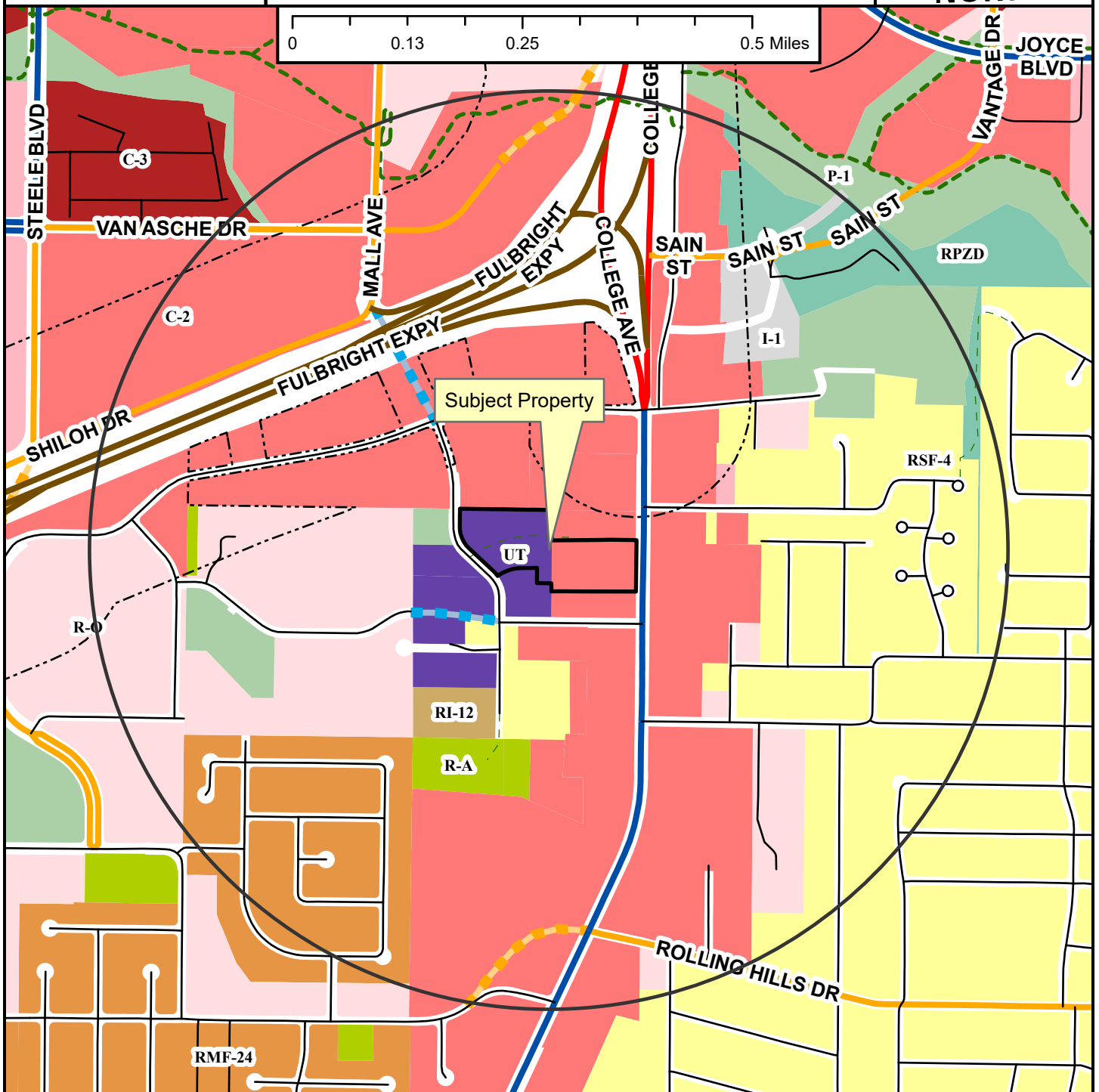
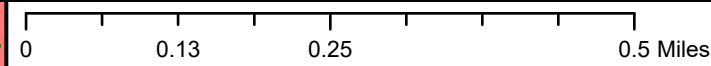
Sincerely,

Matthew Loos, P.E.

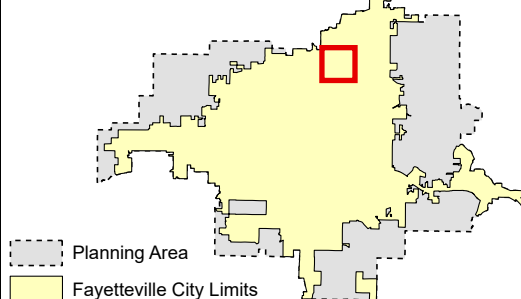
Olsson

A handwritten signature in blue ink that reads "Matt Loos". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

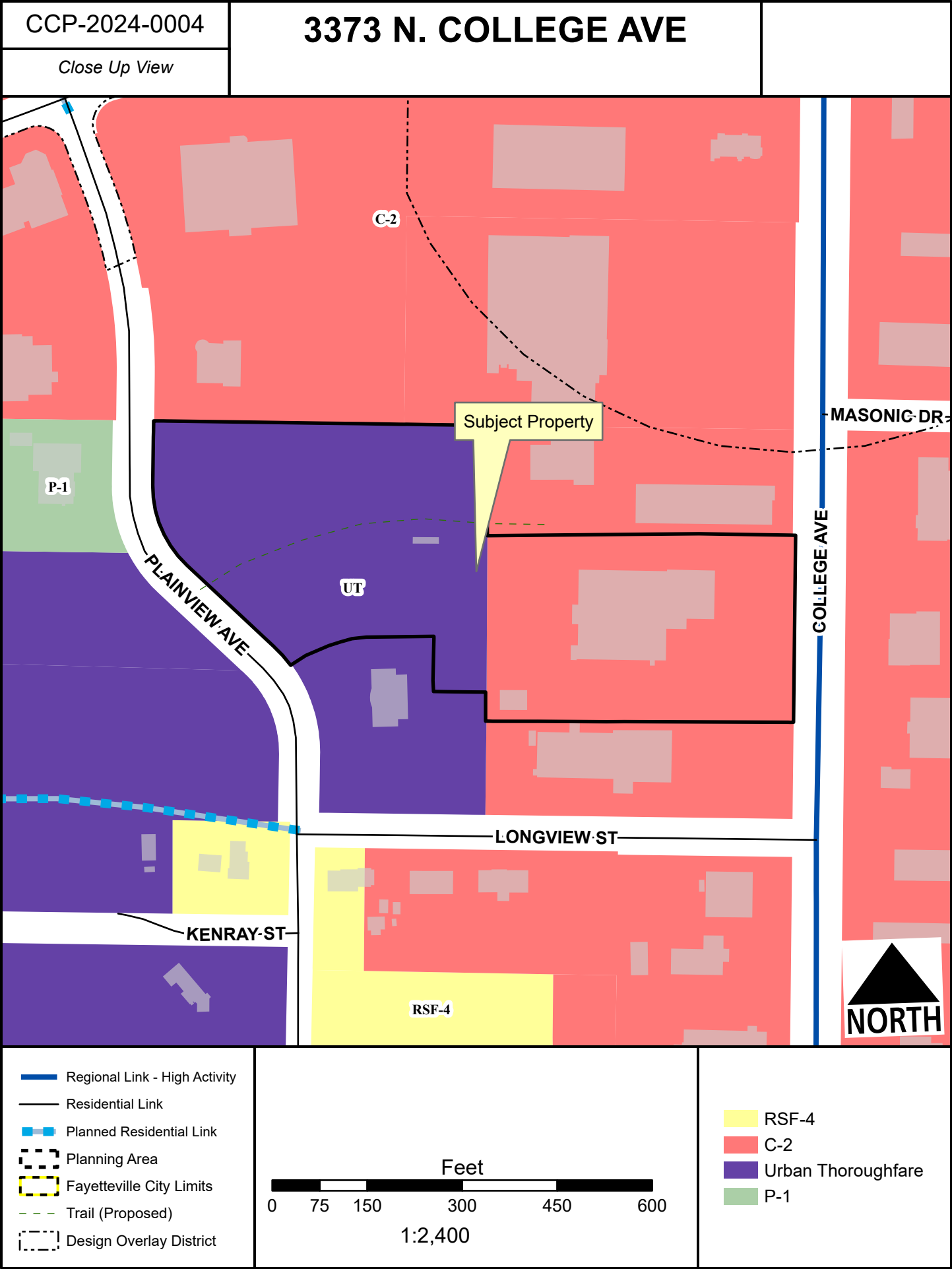




- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



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



CCP-2024-0004

3373 N. COLLEGE AVE

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner
Melissa Evans, Urban Forestry

MEETING: June 24, 2024

SUBJECT: **CCP-2024-0006: Concurrent Plat (436 E. MARTIN LUTHER KING JR. BLVD./MTC TRUST, 524):** Submitted by BATES & ASSOCIATES for property located at 436 E. MARTIN LUTHER KING JR BLVD. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.41 acres. The request is for the concurrent plat of seven residential lots.

RECOMMENDATION:

Staff recommends approval of **CCP-2024-0006** with conditions.

RECOMMENDED MOTION: *"I move to approve CCP-2024-0006, recommending:*

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

BACKGROUND:

The subject property is in central Fayetteville at the northwest corner of S. Wood Ave and E. Martin Luther King Jr. Blvd. The parcel is about 0.43 acres and is currently undeveloped, but building permits for the development of two buildings each with six townhomes are currently under review by City staff. The property is zoned DG, Downtown General and lies within the Walker Park Neighborhood Master Plan area. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1: Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	NC, Neighborhood Conservation
South	Single-Family Residential	RI-U, Residential Intermediate – Urban; NC, Neighborhood Conservation
West	Single-Family Residential	DG, Downtown General
East	Single-Family Residential	DG, Downtown General

Proposal: The applicant intends to plat seven residential lots. No variances are being requested with this proposal.

Water and Sewer System: An 8-inch water line is available along E. Martin Luther King Jr. Blvd. to serve the development. A 6-inch sewer line is available along S. Wood Ave to serve the development. No additional water or sewer infrastructure is required to be extended to this site at this time.

Right-of-way to be dedicated:

E. Martin Luther King Jr. Blvd.: E. Martin Luther King Jr. Blvd. is designated as a Neighborhood Link Street per the Master Street Plan. Staff recommends right-of-way dedication in the amount of 33.5 feet from street centerline to accommodate this street classification. Approximately 11.5 feet of right-of-way currently exists.

S. Wood Ave.: S. Wood Ave. is designated as a Residential Link Street per the Master Street Plan. Staff recommends right-of-way dedication in the amount of 26 feet from street centerline to accommodate this street classification. Approximately 19 feet of right-of-way currently exists.

Street Improvements: Staff recommends standard Residential Link street improvements along S. Wood Ave including 6-foot sidewalk, 6-foot greenspace, and 1.5-foot curb and gutter. Along E. Martin Luther King Jr. Blvd., the Development Review Manager issued an approval for a 6-foot sidewalk, 8.25-foot greenspace, and typical 1.5-foot gutter.

Tree Preservation:

Canopy minimum requirement: 10%

Existing canopy: 53.3%

Preserved canopy: 35%

Mitigation required: None.

Parkland Fees: Parkland fees in the amount of \$10,472 for the creation of 11 new multi-family residential units is required before building permit issuance.

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

RECOMMENDATION: Staff recommends approval of CCP-2024-0006, with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication in the amount of 33.5 feet along E. Martin Luther King Jr. Blvd. and 26 feet along S. Wood Avenue.*
2. **Planning Commission determination of street improvements.** *Staff recommends standard Residential Link street improvements along S. Wood Ave including 6-foot sidewalk, 6-foot greenspace, and 1.5-foot curb and gutter and a 6-foot sidewalk, 8.25-foot greenspace, and typical 1.5-foot gutter along E. Martin Luther King Jr. Blvd. in accordance with the administrative determination issued October 31, 2023. Improvements will occur with development of the property.*
3. Parkland fee-in-lieu in the amount of \$10,472 for the creation of 11 new multi-family units must be received prior to building permit issuance;
4. All remaining comments from City divisions, whether Urban Forestry, Fire, or Engineering shall be addressed prior to Planning Commission.

Standard conditions of approval:

5. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat (if applicable).

6. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his/her representative, and all comments from utility representative: Black Hills Energy, AT&T, Ozarks, SWEPCO, Cox Communication).
7. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements.

PLANNING COMMISSION ACTION

☐ Tabled ☐ Denied ☐ Approved

Meeting Date: June 24, 2024

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

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



URBAN FORESTRY
TREE PRESERVATION COMMENTS

To: Allison Thurmond Quinlan, Flintlock LTD CO
From: Melissa Evans, Urban Forestry
CC: Kylee Cole, Planner
Meeting Date: June 13, 2024
Subject: CCP-2024-0006: MTC Trust: 436 E. Martin Luther King Jr. Blvd., 524

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

Tree Preservation Calculations		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	15,623	100%
Zoning Designation * Select Below with drop down arrow		
DG, Downtown General	1,562	10%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	1,562	10.0%
Existing Tree Canopy * Minus Right of Way and Easements	8,320	53.3%
Tree Canopy Preserved	5,465	35.0%
Tree Canopy Removed *On Site	2,855	18.3%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	2,855	18.3%
Removed Below Minimum	0	
Mitigation Requirements	0	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
----------------------------	--------------------------	--

High Priority

Low Priority

Total Mitigation Trees Required*

0

0

4. Mitigation Type

Yes

No

N/A

On-Site Mitigation

X

Off-Site Mitigation

X

Tree Escrow (See Conditions of Approval)

X

5. Tree Preservation Plan Checklist

**Tech
Plat**

**Subdivision
Committee**

**Planning
Commission**

UDC Chapter 167.04H1

- a. 5 year Aerial Check on Existing Trees
- b. Property Boundary
- c. Natural Features (100ft beyond limits of disturbance)
- d. Existing Topography and Proposed Grading
- e. Soil Types
- f. Significant Trees
- g. Groupings of Trees
- h. Table Inventory List (species, size, health, priority)
- i. All Existing and Proposed Utilities
- j. All Existing and Proposed Utility Easements and ROW's
- k. All Streams (with approximate center line)
- l. Floodplains and floodways
- m. Existing Street, Sidewalk or Bike Path ROW
- n. Submitted Site Analysis Plan (if required)
- o. Shows ALL Proposed Site Improvements
- p. Delineates trees/canopy to be preserved and removed

Yes

Yes

No

Yes

Yes

No

Yes

Yes

Yes

Yes

N/A

N/A

Yes

N/A

Yes

Yes

Tree Protection Methods

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

Yes

Yes

N/A

No

No

Yes

6. Site Analysis Report (if required)		Yes	No	N/A
UDC Chapter 167.04H4				
a.	Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b.	Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.			X
7. Review Status (See Comments)		Tech Plat	Subdivision Committee	Planning Commission
	Conditionally Approved	5-29-24	6-12-24	
	Approved			
	Tabled	5-15-24		
	Denied			
Comments				
1.	Address items above marked “No” and all Redlines provided.			
2.	Thank you for providing a tree preservation plan.			



URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Allison Thurmond Quinlan, Flintlock LTD CO
From: Melissa Evans, Urban Forestry
CC: Kylee Cole, Planner
Meeting Date: June 13, 2024
Subject: CCP-2024-0006: MTC Trust: 436 E. Martin Luther King Jr. Blvd., 524

1. General Landscape Plan Checklist		Yes	No	N/A
a.	Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03A7g, 177.04B3a</i>	X		
b.	Species of plant material identified <i>UDC Chapter 177.03A7d,e</i>	X		
c.	Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03A7b,c</i>	X		
d.	Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e.	Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f.	LSD and Subdivisions plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>			X
g.	Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h.	Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>		X	
i.	Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2e</i>	X		
2. Parking Lot Requirements		Yes	No	N/A
1 Tree : 12 Parking Spaces				
a.	Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>	X		
b.	Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>			X

c. Tree Island (8' min. width, 18.7' min length OR 150 square feet)
UDC Chapter 177.04C X

d. Placement of Trees (either side at entrances and exits)
UDC Chapter 177.04C2 X

3. Perimeter Landscaping Requirements

Yes No N/A

a. Side and Rear Property Lines (5' wide landscaped area)
UDC Chapter 177.04D2a X

b. Front Property Line (15' wide landscape)
UDC Chapter 177.04C2a X

c. Shade trees planted on south and west sides of parking lots
UDC Chapter 177.04D2e X

d. 50% Evergreen shrubs if parking lot adjacent to ROW
UDC Chapter 177.04D4a X

4. Street Tree Planting Requirements

Yes No N/A

a. Residential Subdivisions
1 Large Shade Species Tree per Lot
UDC Chapter 177.05 X

b. Non-Residential Subdivisions
1 Large Species Shade Tree every 30' (planted in greenspace)
UDC Chapter 177.05 X

c. Urban Tree Well – Urban Streetscapes
Trees every 30' (8' sidewalk)
UDC Chapter 177.05B3a-f X

d. Structural Soil – Urban Tree Wells
Include a note and/or detail of structural soil on Landscape Plan
UDC Chapter 177.05B3a-f X

e. Residential Subdivisions
Timing of planting indicated on plans
UDC Chapter 177.05A4 X

f. Residential Subdivisions
Written description for method of tracking planting
UDC Chapter 177.05A4e X

5. Landscape Requirement Totals	Amount
Mitigation Trees	0
Parking Lot Trees	0
Street Trees	10
Detention Pond – Large Trees (1 Tree/3,000 square feet)	0
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	0
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	0

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	5/29/2024	06-12-24	
Approved			
Tabled	5/15/2024		
Denied			

Comments
- Address items above marked “No” and all Redlines provided. - Please include the landscape plan with your next submittal. - The Eagleston Holly street trees may impede site distances as people are turning in and out of the driveway. Please specify a deciduous tree.



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: June 20, 2024

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: PRAB not required

Project Title: 436 W MLK

Project Number: CCP-2024-0006

Project Location: 436 E Martin Luther King Jr Ave

Plat Page: 524

Park Quadrant: SE

Billing Name & Address: MTC Trust, 632 Bella Vista Rd, Bentonville, AR 72712

☐ Land Dedication ☒ Fee-in-Lieu ☐ Combination

FEE-IN-LIEU					TOTAL Fees	
Single Family:	_____	units	x	\$1,089 per unit =	\$ 0	
Multi Family:	11	units	x	\$952 per unit =	\$10,472	\$10,472

- SUMMARY:
- Project will develop 1 existing tract into 12 MF units, creating 11 new residential units.
 - Fees are assessed for the additional lot(s) created and are due upon project's approval.
 - Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB. All fees must be paid prior to final receipt by the city.
 - Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.



May 1, 2024

To the City of Fayetteville Planning Staff and Planning Commission:

On behalf of Zara Neiderman – Trustee of MTC Trust, we would like to submit a concurrent plat that creates 7 total lots located at the corner of South Wood Avenue and Martin Luther King JR. Boulevard. The intent of the tract split is to create new lots for residential use.

The reason that this submittal is a concurrent plat is because the proposed tract split would exceed the number of splits that can be approved administratively.

The subject property is parcel #765-12865-000 and contains 0.41 acres. The new lots would contain 0.03 acres, 0.03 acres, 0.03 acres, 0.03 acres, 0.03 acres, 0.05 acres and 0.22 acres.

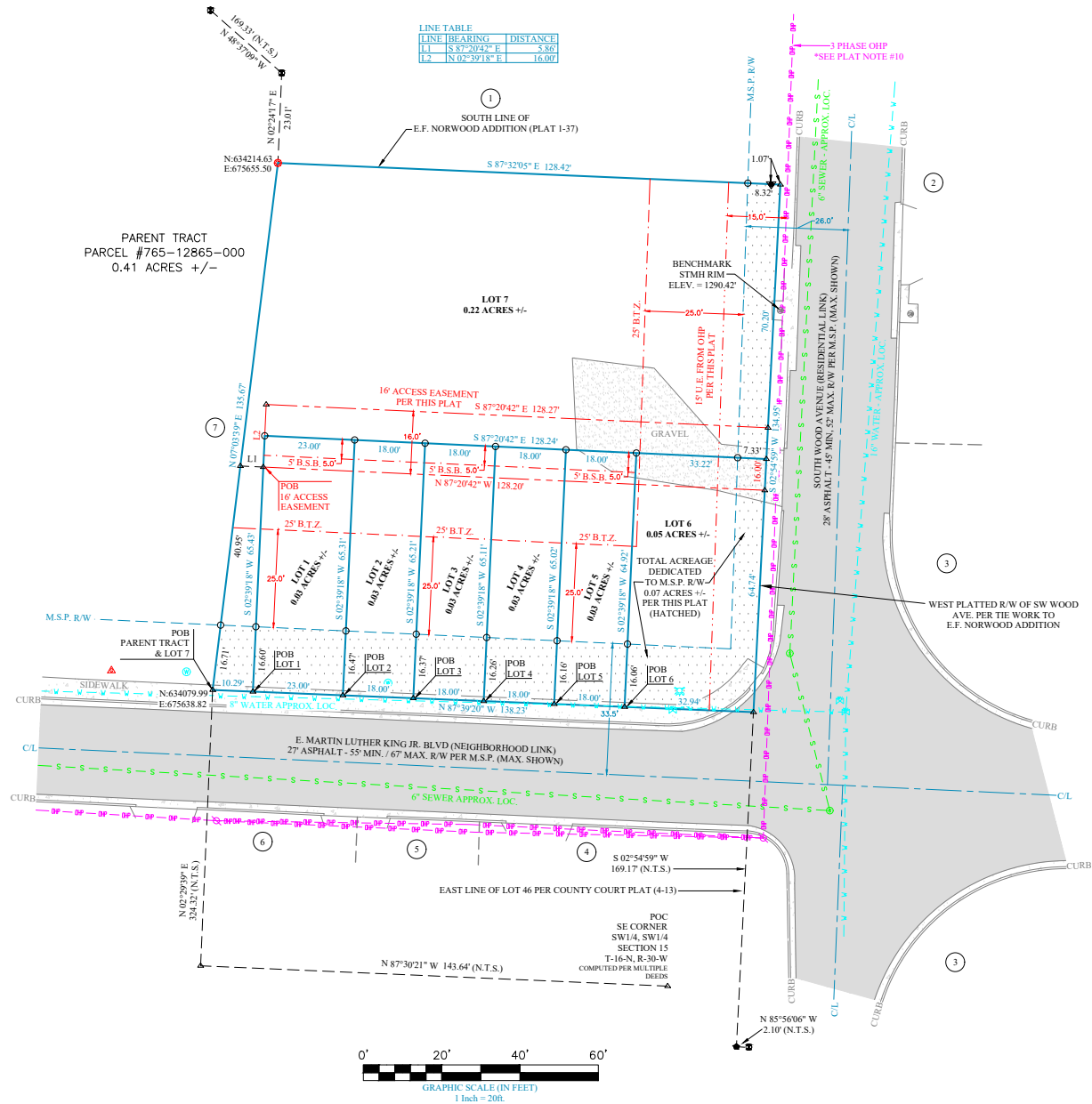
Flintlock Architect and Landscape has submitted a site plan that contains grading, erosion and landscape plan for this project to the City of Fayetteville for review.

Feel free to reach out with any questions or comments.

Thank You,

Andy Hooper – Project Manager
Bates & Associates
479-442-9350
andy@batesnwa.com

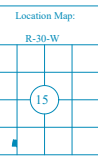
MTC TRUST CONCURRENT PLAT (PAGE 2 OF 2)



STREET TABLE PER M.S.P.					
STREET	DESIGNATION	RIGHT-OF-WAY	SIDEWALK	GREENSPACE	ASPHALT
E. MARTIN LUTHER KING JR. BLVD	NEIGHBORHOOD LINK	55' MIN / 67' MAX	8 FEET	10 FEET	30 FEET
S. WOOD AVENUE	RESIDENTIAL LINK	45' MIN / 52' MAX	6 FEET	5 FEET	27 FEET

FOR USE AND BENEFIT OF:
ZARA NEIDERMAN
ADDRESS: 383 SOUTH WOOD AVENUE
FAYETTEVILLE, ARKANSAS
DATE: 05/20/24
SECTION: 15
TOWNSHIP: 16 NORTH
RANGE: 30 WEST

BATES
Engineers - Surveyors
7230 S. Pleasant Ridge Dr. • Fayetteville, Arkansas 72704 • 479.442.5350
BATES & ASSOCIATES, INC. - Copyright 2024
This survey was conducted for the person or persons whose name(s) appear on this plat. This plat is provided for copyright. No part including the person(s) named may reproduce this plat without the express written consent of Bates & Associates, Inc. Surveyor has made an independent investigation for accuracy of record measurements, boundary corners, surrounding title evidence, or any other fact which a complete and accurate title search may disclose. Any third party's interest in the property is not shown on this plat. Bates & Associates, Inc. assumes no liability for the correctness of the survey data shown. Subsequent to the date, consent does not represent the opinion of Bates & Associates, Inc. of the probability of flooding.



LEGEND:
THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

- BOUNDARY LINE (MEASURED)
- BOUNDARY LINE (EXISTING)
- FOURTY LINE TIE LINE
- CENTERLINE OF ROAD
- RIGHT-OF-WAY
- OVERHEAD POWER LINE
- SEWER LINE
- WATER LINE
- BUILDING SETBACK
- INGRESS & EGRESS EASEMENT



RECORDING NUMBER/DATE

Planning Commission

June 24, 2024

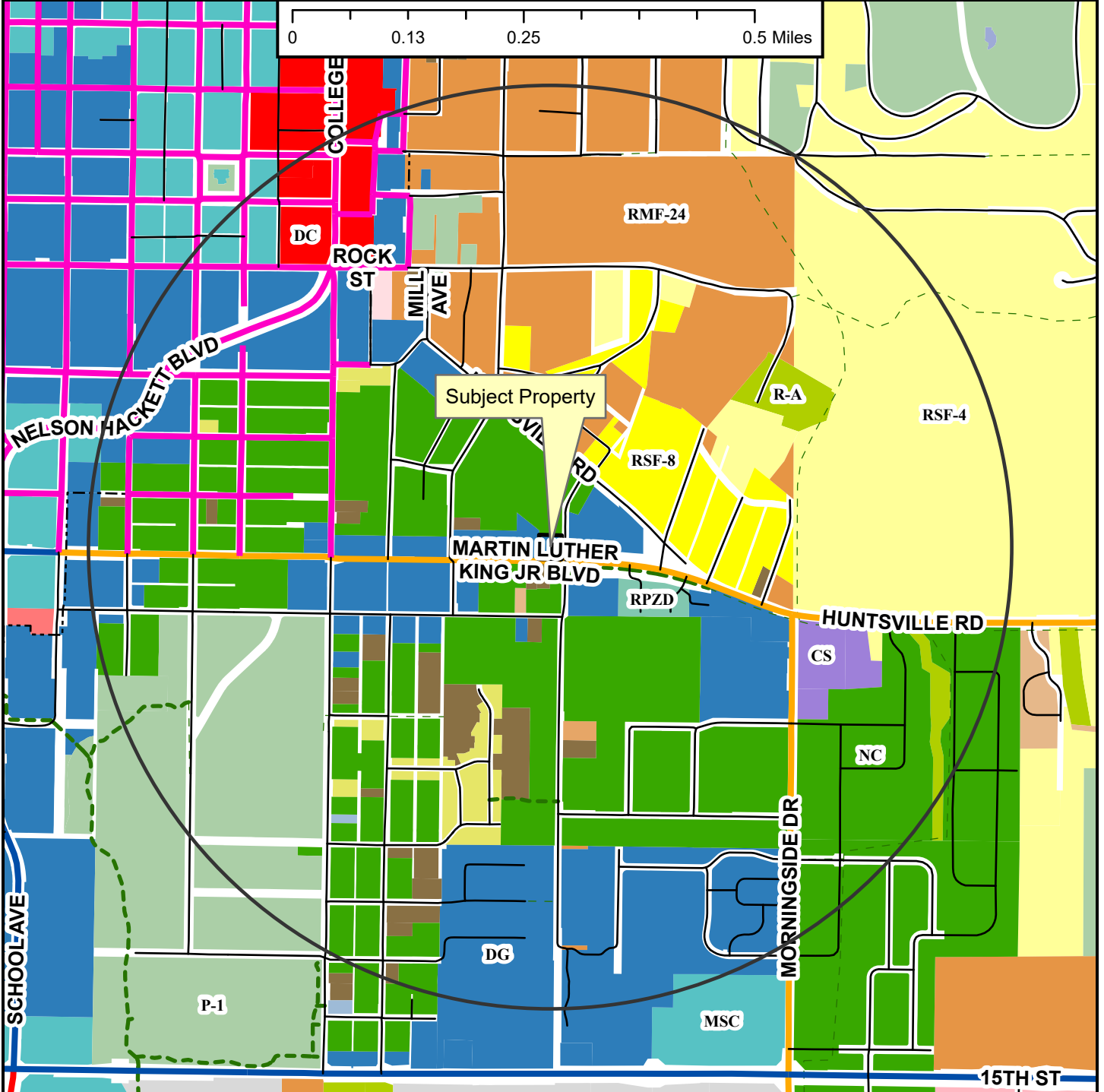
CCP-2024-0006

436 E. MARTIN LUTHER KING JR BLVD

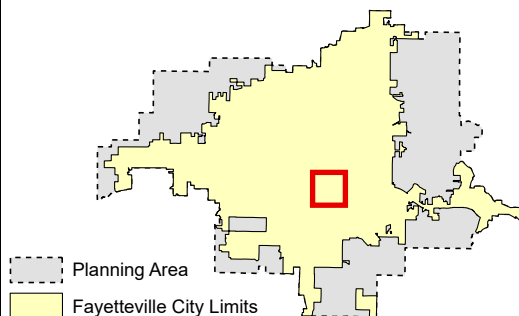
One Mile View



0 0.13 0.25 0.5 Miles



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

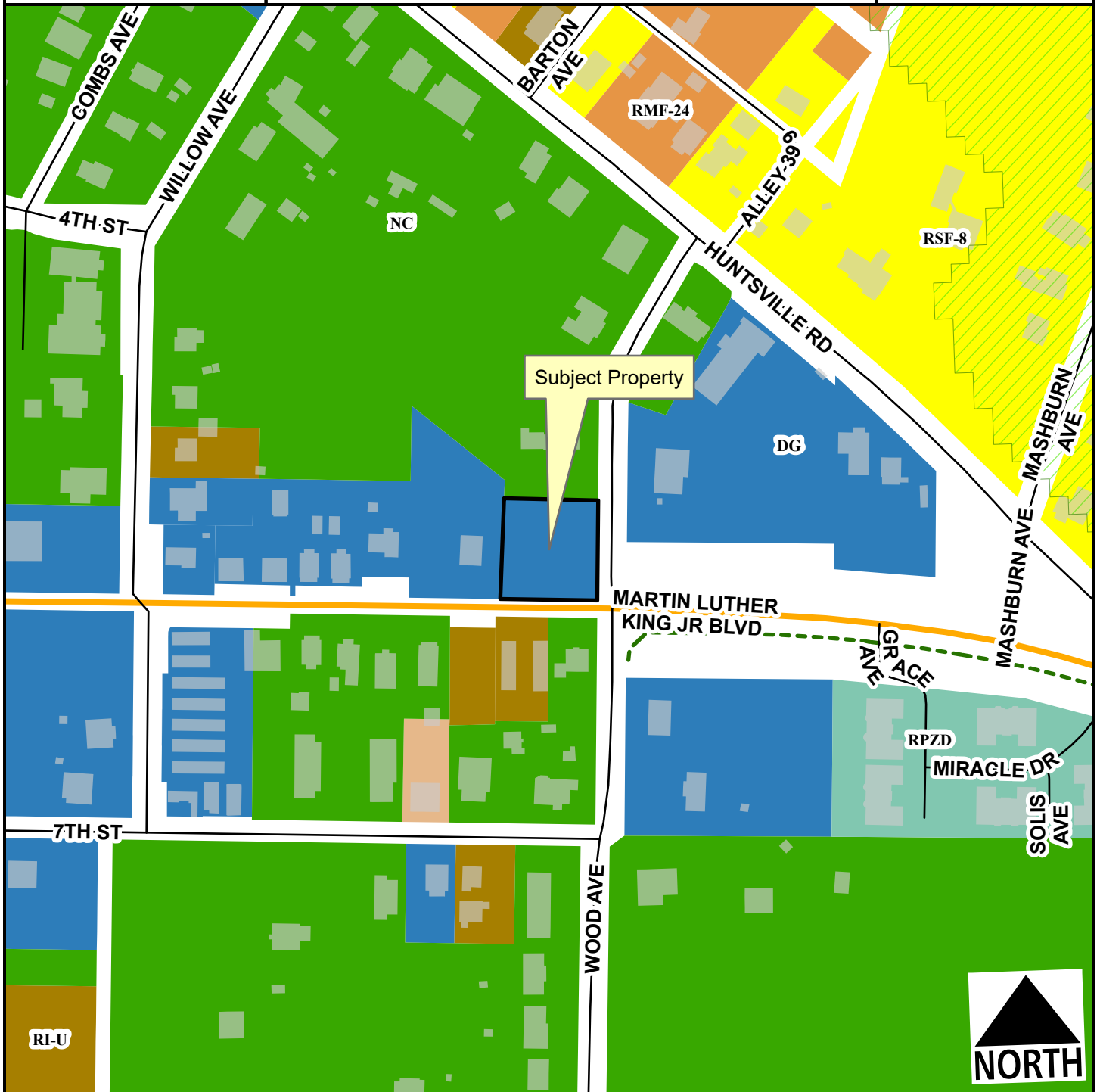


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial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

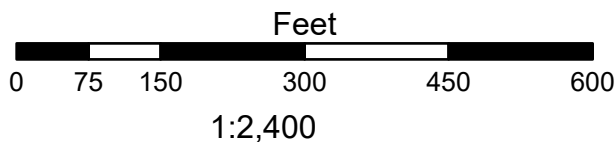
CCP-2024-0006

436 E. MARTIN LUTHER KING JR BLVD

Close Up View



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

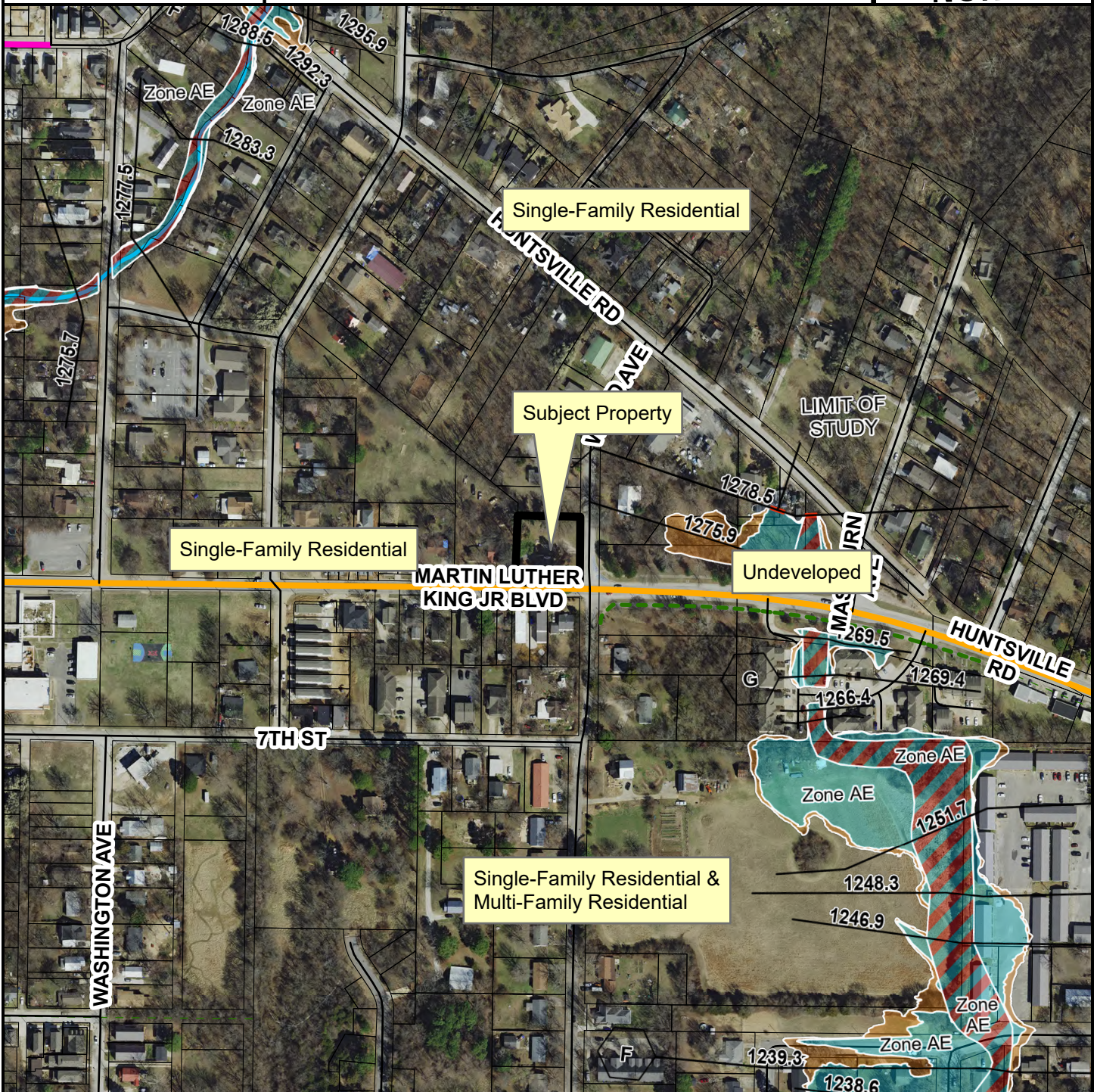


- RSF-8
- RI-U
- RMF-12
- RMF-24
- Downtown General
- Neighborhood Conservation
- Commercial, Industrial, Residential

CCP-2024-0006

436 E. MARTIN LUTHER KING JR BLVD

Current Land Use



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



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

FROM: Alan Pugh, Staff Engineer

MEETING DATE: June 24, 2024

SUBJECT: **ADM-2024-0025: Administrative Item (Amend UDC Chapters 170.02, 170.06, 170.08 and 170.09 Stormwater Management and Drainage):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 170.02, 170.06, 170.08 and 170.09 Stormwater Management and Drainage. The proposed code changes would clarify the maintenance responsibility of private and public drainage systems as well as illicit discharges into the drainage system.

RECOMMENDATION:

Staff recommend forwarding **ADM-2024-0025** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **ADM-2024-0025** to the City Council with a recommendation of approval."*

JUNE 10, 2024 PLANNING COMMISSION MEETING:

At the previous Planning Commission meeting, the item was tabled to allow additional time for staff and the City Attorney's office to convene and finalize the proposed ordinance amendments. Staff and the City Attorney met, and the information provided is in line with their office's recommendation.

BACKGROUND:

Historically, the Unified Development Code (UDC) has defined public drainage systems as those systems within the public right-of-way or public drainage easement. Public systems are to be owned and maintained by the City of Fayetteville. All drainage systems outside of these areas are considered to be private drainage according to the UDC and the maintenance responsibility would fall to the owner of the property.

DISCUSSION:

While no revisions to these definitions are proposed, staff and the City Attorney discovered potential ambiguity in the code regarding the maintenance responsibilities of these different systems. Specifically, section 170.06 of the current UDC could be interpreted to apply only to those systems that have been dedicated to the City due to the dedication clause under 170.06(A), Dedication. While staff does not feel this is the intent of the ordinance based on the enforcement mechanisms included, it is best to remove these potential interpretations to avoid future questions regarding maintenance responsibility. It will also make clear the City's ability to enforce those maintenance requirements. Working with the City Attorney's office, this section has been partially re-written to clearly define the maintenance responsibilities of each system and the City's enforcement action should a property owner fail to maintain their system.

Additional revisions included moving many of the provisions of 170.08 into 170.09 as they dealt with illicit (illegal) discharges into the drainage system, not just private drainage system maintenance. This again makes clear the City's regulations regarding illicit discharges as well as the enforcement mechanism associated with these discharges.

RECOMMENDATION: Staff recommend forwarding ADM-2024-0025 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- UDC §170 – Stormwater Management and Drainage - Current Regulations
- Proposed Ordinance, Clean
 - §170 – Stormwater Management and Drainage
- Proposed Ordinance, Strike-through
 - §170 – Stormwater Management and Drainage

CHAPTER 170: STORMWATER MANAGEMENT AND DRAINAGE¹

170.01 Intent

- (A) *Intent.* It is the intent of this chapter to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City of Fayetteville by:
- (1) Preventing increases in the magnitude and frequency of stormwater runoff to prevent increases in flood flows and associated hazards and costs.
 - (2) Controlling soil erosion and sedimentation to minimize soil deposition in streams and other receiving water bodies and storm drainage systems.
 - (3) Requiring surface and stormwater management practices that comply with requirements of this chapter.
 - (4) Promoting the development of stormwater facilities that are aesthetically desirable.
- (B) *Findings of Fact.* The City Council finds that uncontrolled stormwater runoff from developed land adversely affects the public health, safety, and welfare because:
- (1) *Impervious Surfaces/Runoff.* Impervious surfaces increase the quantity and velocity of surface runoff, which reduces percolation of water through soil and increases erosion and flooding.
 - (2) *Collection and Conveyance of Stormwater.* Improper stormwater collection and conveyance adversely affects property and increases the incidence and severity of flooding, which can endanger property and human life.
 - (3) *Erosion.* Increased erosion leads to sedimentation in stormwater management systems, which decreases the system's capacity.
 - (4) *Future Problems.* Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.
 - (5) *Limited Jurisdiction.* As a non-traditional, or regulated, MS4, the University of Arkansas' Fayetteville campus is permitted by ADEQ to administer its own stormwater management program upstream and physically inter connected to the city's MS4.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.02 Adoption of Drainage Criteria Manual

- (A) The City Council hereby adopts by reference the Drainage Control Manual with the exception that its Chapter 1, Minimum Stormwater Standards and Submittal Requirements, Section 1.1 General list of "Exceptions

¹Ord. No. 6446 , §13(Exh. H), adopted June 15, 2021, repealed the former Ch. 170, §§ 170.01—170.11, and enacted a new Ch. 170 as set out herein. The former Ch. 170 pertained to stormwater management, drainage and erosion control and derived from Code 1991, §§ 163.03—163.10; Ord. No. 3895, adopted June 20, 1995; Ord. No. 4100, §2 (Ex. A), adopted June 16, 1998; Ord. No. 4314, adopted May 15, 2001; Ord. No. 4855, adopted April 18, 2006; Ord. No. 4920, adopted Sept. 5, 2006; Ord. No. 5336, adopted Aug. 3, 2010; Ord. No. 5431, adopted Aug. 16, 2011; and Ord. No. 5702, adopted Aug. 5, 2014.

when no drainage permit is required are as follows:" which are all deleted and replaced with a reference to §170.03(C) and (E).

- (B) The Drainage Control Manual may be amended from time to time by the City Engineer who shall promptly inform the City Council of the amendments. All technical procedures and design standards contained in the Drainage Control Manual shall have the same force and effect as if printed word for word in this chapter except that no provision may directly conflict with the chapter's Code sections.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.03 Permits Required

- (A) *Applicability.* This chapter shall apply to all land within the corporate limits of the City of Fayetteville. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, or change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") from the city, except as specified in §170.03(C) and §170.03(E) below.
- (B) *Permit Application.* Any application for a drainage permit shall be submitted to the City Engineer using appropriate forms as provided by the city for review, processing, and approval. The drainage permit application shall be submitted as part of the application for a grading permit, if such grading permit is required by §169.03. A permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with the requirements of this chapter. The specific items to be submitted for a permit application shall be in the form and follow the procedures as described in the *Drainage Criteria Manual*, Section 1.4, Drainage Report Template and Checklist. The City Engineer shall make the final determination regarding detention.
- (1) *Fee.* A nonrefundable permit application fee shall be paid when the application is submitted to help cover the cost of the plan review, administration and management of the permitting process and inspection of project implementation and operation (separate from the Physical Alteration of Land fee).
- (2) *Issuance.* If the City Engineer determines that the permit application submittal is in compliance with all provisions of this chapter, a permit may be issued. If the City Engineer determines that the permit submittal does not conform with all provisions of this chapter, permit issuance may be denied and a written statement as to the reasons for the denial shall be provided to the applicant.
- (C) *Project not Requiring Detention.* Any project that requires a drainage permit that does not require detention must submit documentation to this effect to the City Engineer. After review and approval of the City Engineer, a grading permit may be issued prior to issuance of the drainage permit.
- (D) Any grading permit and/or drainage permit issued shall be subject to the following:
- (1) *Insufficient or Incomplete Drainage Permit Application.* If the drainage permit application, including the required calculations, is determined by the City Engineer to be insufficient or incomplete, it shall be revised and resubmitted by the applicant within four (4) weeks of receipt of written notice of insufficiency or incompleteness.
- (2) *Deadline for the Revised Application or Insufficient or Incomplete Revisions.* If a revised application is not submitted within four (4) weeks of receipt by applicant of the written notice of insufficiency or incompleteness a stop work order for all grading on the project shall be issued by the City Engineer. A stop work order for all grading on the project shall be issued by the City Engineer if the revised application is determined by the City Engineer to be still insufficient or incomplete. However, the City Engineer may delay issuance of the stop work order if the City Engineer determines that the applicant

- has demonstrated prior to the deadline that circumstances not reasonably foreseeable and beyond the applicant's reasonable control prevented his timely resubmission of a sufficient and complete revised drainage permit application.
- (3) *Stabilization and Revegetation After Stop Work Order.* If a stop work order is issued pursuant to §170.03(C)(2), the applicant shall stabilize and revegetate all graded and otherwise disturbed areas as set forth in the *Drainage Criteria Manual*.
 - (4) *Termination of Stop Work Order.* Any stop work order issued pursuant to §170.03(C)(2) shall expire upon the issuance of a drainage permit and compliance with any conditions contained in the drainage permit.
- (E) *Exceptions Where No Drainage Permit is Required.* Drainage Permits are not required for the following activities unless the project is otherwise covered under the U.D.C. or occurs upstream of a known public flooding problem which is when the city knows that serious flooding involving repeated flood damage to residences, buildings or infrastructure in an area has occurred and will likely recur without remedial measures:
- (1) New developments, redevelopments or additions that create less or equal to 10,000 square feet of new impervious area. See Section 170.09 for building permit submittal requirements.
 - (2) *Lots That Are Part of a Larger Development.* One (1) project built on an individual lot that is part of a larger development that has received an approved drainage control permit when the proposed project is in compliance with this overall subdivision drainage control permit. The Engineering Division may require development projects upstream of a known public flooding problem to also follow current best practices and current drainage regulations and also participate with the City in cost-share projects to reduce the known public flooding problem.
 - (3) *Existing Non-Residential.* Existing nonresidential structure where the additional impervious area is less than 10,000 square feet. See §170.09 for building permit submittal requirements.
 - (4) *Maintenance.* Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site, or runoff from the site.
 - (5) *Agriculture.* Bona fide agricultural pursuits, for which a soil conservation plan has been approved by the local Soil and Water Conservation District.
 - (6) *Emergency.* Action taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards when determined to be necessary by the City Engineer.
- (F) *Compliance with Chapter Provisions.* Although a specific permit is not required for these particular circumstances, this exception does not exempt the owner/developer/builder from complying with the provisions of Chapter 169, Physical Alteration of Land.
- (Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.04 Off-Site Stormwater Management Improvements

- (A) *Off-Site Improvements.* If it is determined that offsite drainage improvements are required, and that such specific off-site drainage improvements are consistent with the city's current and established priorities, then cost sharing will be in accordance with "Required Off-site Improvements." If the city is unable, or unwilling, to contribute its share of the off-site costs, the developer shall have the option of:
- (1) *Developer's Expense.* Building the off-site improvements at their own expense;

- (2) *Detention*. Providing detention so as to match downstream capacities; or
- (3) *Delay Project*. Delaying the project until the city is able, or willing, to share in the off-site costs.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.05 Performance Criteria

- (A) *Drainage Criteria Manual*. The technical procedures and design standards contained in the *Drainage Criteria Manual*, adopted by §170.02 of this chapter and as may be amended from time to time by the City Engineer, shall be used to determine compliance with the performance criteria established by this chapter.
- (B) *Performance Criteria*. Except as otherwise provided in this chapter, a development must be designed, constructed, operated, and maintained to comply with the following stormwater sizing performance criteria. Each minimum standard is intended to be used in conjunction with the others to address the overall stormwater impacts from a development site. Supporting technical detail can be found in the Section 2.1 of the *Drainage Criteria Manual* (DCM):
 - (1) *Minimum Standard #1 — Water Quality*. Reduce the average annual post-development total suspended solids (TSS) loadings from increased impervious areas either by TSS Reduction Method or the Runoff Reduction Method (RRM).
 - (2) *Minimum Standard #2 — Channel Protection*. Provide extended detention to reduce flows and protect downstream channels from erosive velocities and unstable conditions. Post-development flows shall not exceed the predevelopment flows.
 - (3) *Minimum Standard #3 — Overbank Flood Protection*. Provide peak discharge control of the storm events noted in the DCM such that the post-development peak rate does not exceed the predevelopment rate.
 - (4) *Minimum Standard #4 — Extreme Flood Protection*. Provide peak discharge control such that the post-development peak rate does not exceed the predevelopment rate.
 - (5) *Better Site Design and Green Stormwater Practices*, as described in the *Drainage Criteria Manual*, to attenuate lesser storms and more closely mimic predevelopment hydrology are encouraged.
 - (6) *Direct Discharge*. Direct discharge of a pipe into streams and/or floodways is not allowed. A stilling basin or other structure that will collect sediment, trash, etc., and that will reduce the likelihood of erosion in the receiving stream due to discharge from the pipe shall be installed at pipe discharges into streams and/or floodways.
 - (7) *Erosion and Channel Stability*. All stormwater management systems shall be evaluated based on their ability to prevent erosion and sedimentation of the receiving waters and adverse impacts on the site's natural systems. The design engineer shall consider the on-site and downstream effects of the peak discharges and shall design both the permanent and the construction phase of the stormwater management system in a manner that will not increase flooding, channel instability, or erosion downstream when considered in aggregate with other developed properties and downstream drainage capacities.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.06 Maintenance Responsibility

- (A) *Dedication.* Those stormwater management systems approved in compliance with this chapter that will function as a part of the stormwater management conveyance system shall be dedicated to the city. All areas and/or structures to be dedicated to the city must be accompanied by a drainage easement, dedicated by plat or separate instrument and accepted by the City Engineer.
- (B) *Maintain Stormwater Systems and Structures.* The owner of the property on which stormwater systems and structures have been installed shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sedimentation controls, and other protective devices.
- (C) *Right-of-Entry for Inspection.* The owner shall provide for the City Engineer or designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspecting stormwater systems and structures.
- (D) *Failure to Maintain.* If a responsible person fails or refuses to meet the maintenance requirements the city may give written notice requesting corrective action. If the conditions described in the failure to maintain notice are not corrected within ten (10) days after such notice is given, the Mayor, or his duly authorized representative, is hereby authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for such costs.
 - (1) *Enforcement of the Lien.* The lien herein provided for may be enforced and collected in either one of the following manners:
 - (a) The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in circuit court; or
 - (b) The amount of the lien herein provided may be determined at a hearing before the City Council held after thirty (30) days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in Washington County for one (1) insertion per week for four (4) consecutive weeks; the determination of the City Council shall be subject to appeal by the property owner in circuit court; and the amount so determined at said hearing, plus 10% penalty for collection, shall be by the City Council certified to the tax collector of the county, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less 3% thereof, when so collected shall be paid to the city by the county tax collector.
 - (c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or he is a nonresident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts or non-residence, and thereupon service of the publication as now provided for by law against nonresident defendants may be had, and an attorney ad litem may be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.
- (E) *Removal and Modification of Stormwater Systems and Structures.* Stormwater systems and structures may only be modified or removed with the approval of the City Engineer, who shall determine whether the stormwater system or structure does not function as a part of the stormwater management system. The

applicant may be required to provide supporting data and calculations that justify the removal of the stormwater systems or structures.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.07 Preliminary Plat, Lot Requirements

- (A) *Preliminary Plats.* Preliminary Plats shall include a master drainage plan for each lot related to the proposed infrastructure and adjacent lots.
- (B) *Preliminary Plats for Residential Subdivisions.* Preliminary Plats for residential subdivisions shall provide drainage information meeting the Arkansas Fire Prevention Code for building safety regulations for positive drainage of each lot.
 - (1) The applicant shall prepare a master grading plan to be followed during individual lot development to convey runoff to a public drainage easement or right-of-way.
 - (2) Right-of-way, utility easements and drainage easements shall be graded and shaped in accordance with the master build out grading plan during preliminary plat construction.
- (C) *Rear Lot Drainage Easements.* Rear lot drainage easements for nonstructural grassed swales shall not overlap utility easements with above ground structures, i.e., electric transformers, gas meters, communication junctions, etc.
- (D) *Final Plat.* The final plat shall include the approved master drainage plan to be filed as a supplemental document. The scale shall be legible and approved by the City Engineer.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.08 Private Drainage Systems

- (A) *Private Drainage Systems.*
 - (1) *Private Drainage System Maintenance.* A private drainage system includes groundwater, drainage pipes or channels, and any flowing or standing water not within a right-of-way or drainage easement. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
 - (2) *Minimization of Irrigation Runoff.* Concentrated flow of irrigation water to the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
 - (3) *Cleaning of Paved Surfaces Required.* The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this chapter. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. Material shall not be swept or washed into the storm drainage system. This section does not apply to pollutants discharged from construction activities.
 - (4) *Maintenance of Equipment.* Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.

- (5) *Materials Storage.* In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
 - (6) *Pesticides, Herbicides and Fertilizers.* Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
 - (7) *Open Drainage Channel Maintenance.* Every person owning or occupying property through which an open drainage channel passes shall prevent trash, debris, excessive vegetation, and other obstacles from their property from entering the drainage channel or obstructing flow.
 - (B) *Authorization to Adopt and Impose Best Management Practices.* The city may adopt and impose a *Drainage Criteria Manual* and requirements identifying Best Management Practices for any private activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.
- (Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.09 Illicit Discharge Detection and Elimination

- (A) *Purpose.*
 - (1) The purpose of this section is to provide for the health, safety, and general welfare of the citizens of Fayetteville through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.
 - (2) It establishes methods for controlling the introduction of pollutants into its municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
 - (3) The University of Arkansas, Fayetteville campus is a separate small MS4 NPDES permit holder and responsible for Illicit Discharge Detection and Elimination (IDDE) within its service area.
- (B) *Prohibition of Illegal Discharges and Illicit Connections.*
 - (1) Illegal discharges are prohibited. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water. Common stormwater contaminants include trash, yard waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
 - (2) Illicit connections are prohibited. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.
- (C) *Exemptions.* The following non-stormwater discharges are acceptable and not a violation of this chapter provided that ADEQ has not determined and notified the city in writing that these sources are substantial contributors of pollutants:
 - (1) Uncontaminated waterline flushing;

- (2) Landscape irrigation;
 - (3) Rising ground waters;
 - (4) Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.);
 - (5) Uncontaminated pumped ground water;
 - (6) Discharges from potable water sources;
 - (7) Uncontaminated foundation drains;
 - (8) Uncontaminated air conditioning condensate;
 - (9) Irrigation water;
 - (10) Springs;
 - (11) Water from crawl space pumps;
 - (12) Uncontaminated footing drains;
 - (13) Lawn watering;
 - (14) Individual residential car washing;
 - (15) Flows from riparian habitats and wetlands;
 - (16) Dechlorinated swimming pool discharges;
 - (17) Uncontaminated street wash water;
 - (18) Discharges or flows from emergency firefighting activities; and
 - (19) Unless otherwise permitted or regulated by ADEQ, discharges of gray water from municipal splash pads (also known as spray ponds or spray grounds), as defined in Part 6.35 of this permit, provided the discharges comply with all applicable municipal or county ordinances enacted or pursuant to law. Discharges from recirculating systems shall be de-chlorinated prior to discharge.
- (D) *Release Reporting and Cleanup.* Any person responsible for a release of materials which are or may result in illicit discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. Failure to address an illicit discharge will result in enforcement action per Chapter 153.
- (Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.10—170.99 Reserved

CHAPTER 170: STORMWATER MANAGEMENT AND DRAINAGE¹

170.01 Intent

- (A) *Intent.* It is the intent of this chapter to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City of Fayetteville by:
- (1) Preventing increases in the magnitude and frequency of stormwater runoff to prevent increases in flood flows and associated hazards and costs.
 - (2) Controlling soil erosion and sedimentation to minimize soil deposition in streams and other receiving water bodies and storm drainage systems.
 - (3) Requiring surface and stormwater management practices that comply with requirements of this chapter.
 - (4) Promoting the development of stormwater facilities that are aesthetically desirable.
- (B) *Findings of Fact.* The City Council finds that uncontrolled stormwater runoff from developed land adversely affects the public health, safety, and welfare because:
- (1) *Impervious Surfaces/Runoff.* Impervious surfaces increase the quantity and velocity of surface runoff, which reduces percolation of water through soil and increases erosion and flooding.
 - (2) *Collection and Conveyance of Stormwater.* Improper stormwater collection and conveyance adversely affects property and increases the incidence and severity of flooding, which can endanger property and human life.
 - (3) *Erosion.* Increased erosion leads to sedimentation in stormwater management systems, which decreases the system's capacity.
 - (4) *Future Problems.* Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.
 - (5) *Limited Jurisdiction.* As a non-traditional, or regulated, MS4, the University of Arkansas' Fayetteville campus is permitted by ADEQ to administer its own stormwater management program upstream and physically interconnected to the city's MS4.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.02 Adoption of Drainage Criteria Manual and Best Management Practices

The City Council hereby adopts by reference the Drainage Criteria Manual and requirements identifying Best Management Practices for any private activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such

¹Ord. No. 6446 , §13(Exh. H), adopted June 15, 2021, repealed the former Ch. 170, §§ 170.01—170.11, and enacted a new Ch. 170 as set out herein. The former Ch. 170 pertained to stormwater management, drainage and erosion control and derived from Code 1991, §§ 163.03—163.10; Ord. No. 3895, adopted June 20, 1995; Ord. No. 4100, §2 (Ex. A), adopted June 16, 1998; Ord. No. 4314, adopted May 15, 2001; Ord. No. 4855, adopted April 18, 2006; Ord. No. 4920, adopted Sept. 5, 2006; Ord. No. 5336, adopted Aug. 3, 2010; Ord. No. 5431, adopted Aug. 16, 2011; and Ord. No. 5702, adopted Aug. 5, 2014.

activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.03 Permits Required

- (A) *Applicability.* This chapter shall apply to all land within the corporate limits of the City of Fayetteville. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, or change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") from the city, except as specified in §170.03(C) and §170.03(E) below.
- (B) *Permit Application.* Any application for a drainage permit shall be submitted to the City Engineer using appropriate forms as provided by the city for review, processing, and approval. The drainage permit application shall be submitted as part of the application for a grading permit, if such grading permit is required by §169.03. A permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with the requirements of this chapter. The specific items to be submitted for a permit application shall be in the form and follow the procedures as described in the *Drainage Criteria Manual*, Section 1.4, Drainage Report Template and Checklist. The City Engineer shall make the final determination regarding detention.
 - (1) *Fee.* A nonrefundable permit application fee shall be paid when the application is submitted to help cover the cost of the plan review, administration and management of the permitting process and inspection of project implementation and operation (separate from the Physical Alteration of Land fee).
 - (2) *Issuance.* If the City Engineer determines that the permit application submittal is in compliance with all provisions of this chapter, a permit may be issued. If the City Engineer determines that the permit submittal does not conform with all provisions of this chapter, permit issuance may be denied and a written statement as to the reasons for the denial shall be provided to the applicant.
- (C) *Project not Requiring Detention.* Any project that requires a drainage permit that does not require detention must submit documentation to this effect to the City Engineer. After review and approval of the City Engineer, a grading permit may be issued prior to issuance of the drainage permit.
- (D) Any grading permit and/or drainage permit issued shall be subject to the following:
 - (1) *Insufficient or Incomplete Drainage Permit Application.* If the drainage permit application, including the required calculations, is determined by the City Engineer to be insufficient or incomplete, it shall be revised and resubmitted by the applicant within four (4) weeks of receipt of written notice of insufficiency or incompleteness.
 - (2) *Deadline for the Revised Application or Insufficient or Incomplete Revisions.* If a revised application is not submitted within four (4) weeks of receipt by applicant of the written notice of insufficiency or incompleteness a stop work order for all grading on the project shall be issued by the City Engineer. A stop work order for all grading on the project shall be issued by the City Engineer if the revised application is determined by the City Engineer to be still insufficient or incomplete. However, the City Engineer may delay issuance of the stop work order if the City Engineer determines that the applicant has demonstrated prior to the deadline that circumstances not reasonably foreseeable and beyond the applicant's reasonable control prevented his timely resubmission of a sufficient and complete revised drainage permit application.

- (3) *Stabilization and Revegetation After Stop Work Order.* If a stop work order is issued pursuant to §170.03(C)(2), the applicant shall stabilize and revegetate all graded and otherwise disturbed areas as set forth in the *Drainage Criteria Manual*.
 - (4) *Termination of Stop Work Order.* Any stop work order issued pursuant to §170.03(C)(2) shall expire upon the issuance of a drainage permit and compliance with any conditions contained in the drainage permit.
- (E) *Exceptions Where No Drainage Permit is Required.* Drainage Permits are not required for the following activities unless the project is otherwise covered under the U.D.C. or occurs upstream of a known public flooding problem which is when the city knows that serious flooding involving repeated flood damage to residences, buildings or infrastructure in an area has occurred and will likely recur without remedial measures:
- (1) New developments, redevelopments or additions that create less or equal to 10,000 square feet of new impervious area. See Section 170.09 for building permit submittal requirements.
 - (2) *Lots That Are Part of a Larger Development.* One (1) project built on an individual lot that is part of a larger development that has received an approved drainage control permit when the proposed project is in compliance with this overall subdivision drainage control permit. The Engineering Division may require development projects upstream of a known public flooding problem to also follow current best practices and current drainage regulations and also participate with the City in cost-share projects to reduce the known public flooding problem.
 - (3) *Existing Non-Residential.* Existing nonresidential structure where the additional impervious area is less than 10,000 square feet. See §170.09 for building permit submittal requirements.
 - (4) *Maintenance.* Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site, or runoff from the site.
 - (5) *Agriculture.* Bona fide agricultural pursuits, for which a soil conservation plan has been approved by the local Soil and Water Conservation District.
 - (6) *Emergency.* Action taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards when determined to be necessary by the City Engineer.
- (F) *Compliance with Chapter Provisions.* Although a specific permit is not required for these particular circumstances, this exception does not exempt the owner/developer/builder from complying with the provisions of Chapter 169, Physical Alteration of Land.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.04 Off-Site Stormwater Management Improvements

- (A) *Off-Site Improvements.* If it is determined that offsite drainage improvements are required, and that such specific off-site drainage improvements are consistent with the city's current and established priorities, then cost sharing will be in accordance with "Required Off-site Improvements." If the city is unable, or unwilling, to contribute its share of the off-site costs, the developer shall have the option of:
- (1) *Developer's Expense.* Building the off-site improvements at their own expense;
 - (2) *Detention.* Providing detention so as to match downstream capacities; or
 - (3) *Delay Project.* Delaying the project until the city is able, or willing, to share in the off-site costs.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.05 Performance Criteria

- (A) *Drainage Criteria Manual*. The technical procedures and design standards contained in the *Drainage Criteria Manual*, adopted by §170.02 of this chapter and as may be amended from time to time by the City Engineer, shall be used to determine compliance with the performance criteria established by this chapter.
- (B) *Performance Criteria*. Except as otherwise provided in this chapter, a development must be designed, constructed, operated, and maintained to comply with the following stormwater sizing performance criteria. Each minimum standard is intended to be used in conjunction with the others to address the overall stormwater impacts from a development site. Supporting technical detail can be found in the Section 2.1 of the *Drainage Criteria Manual* (DCM):
 - (1) *Minimum Standard #1 — Water Quality*. Reduce the average annual post-development total suspended solids (TSS) loadings from increased impervious areas either by TSS Reduction Method or the Runoff Reduction Method (RRM).
 - (2) *Minimum Standard #2 — Channel Protection*. Provide extended detention to reduce flows and protect downstream channels from erosive velocities and unstable conditions. Post-development flows shall not exceed the predevelopment flows.
 - (3) *Minimum Standard #3 — Overbank Flood Protection*. Provide peak discharge control of the storm events noted in the DCM such that the post-development peak rate does not exceed the predevelopment rate.
 - (4) *Minimum Standard #4 — Extreme Flood Protection*. Provide peak discharge control such that the post-development peak rate does not exceed the predevelopment rate.
 - (5) *Better Site Design and Green Stormwater Practices*, as described in the *Drainage Criteria Manual*, to attenuate lesser storms and more closely mimic predevelopment hydrology are encouraged.
 - (6) *Direct Discharge*. Direct discharge of a pipe into streams and/or floodways is not allowed. A stilling basin or other structure that will collect sediment, trash, etc., and that will reduce the likelihood of erosion in the receiving stream due to discharge from the pipe shall be installed at pipe discharges into streams and/or floodways.
 - (7) *Erosion and Channel Stability*. All stormwater management systems shall be evaluated based on their ability to prevent erosion and sedimentation of the receiving waters and adverse impacts on the site's natural systems. The design engineer shall consider the on-site and downstream effects of the peak discharges and shall design both the permanent and the construction phase of the stormwater management system in a manner that will not increase flooding, channel instability, or erosion downstream when considered in aggregate with other developed properties and downstream drainage capacities.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.06 Maintenance Responsibility

- (A) *Public and Private Drainage Systems*. Those stormwater management systems within a public right-of-way or public drainage easement as of July 31, 2024 or later accepted by the City shall be considered public drainage systems. The City is authorized to work to maintain the proper function of these facilities through maintenance as necessary except for detention/retention facilities, green stormwater facilities approved as a

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(Supp. No. 32)

portion of the development and any exceptions noted in 170.09 which will remain the responsibility of the property owner. Any public drainage easement dedicated subsequent to August 1, 2024 must be dedicated to the city by plat or separate instrument and accepted by the City Engineer or designee before being considered a part of the public drainage system. All other systems shall be considered private systems and will be the responsibility of the owner of the property on which the systems are located.

(B) *Maintenance of Stormwater Systems and Structures.*

- (1) Private Systems: Unless otherwise stated in 170.06(A), the owner of the property on which private stormwater systems and structures have been installed shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, culverts, dams, structures, vegetation, erosion and sedimentation controls, and other protective devices to their proper working condition. Proper working condition is defined as the condition in which the system or portion of the system was operating or designed to operate when originally installed.
- (2) All Systems: Whether public or private, the owner of the property on which the stormwater system is located shall clear open channels of excessive vegetation, trash, debris, and other obstacles obstructing flow to the extent deemed feasible by the City Engineer or designee.

(C) *Right-of-Entry for Inspection.* The owner shall provide for the City Engineer or designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspecting stormwater systems and structures.

(D) *Failure to Maintain.* If a responsible person fails or refuses to meet the maintenance requirements the city may give written notice requesting corrective action. If the conditions described in the failure to maintain notice are not corrected within ten (10) days after such notice is given, the Mayor, or his duly authorized representative, is hereby authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for such costs.

(1) *Enforcement of the Lien.* The lien herein provided for may be enforced and collected in either one of the following manners:

- (a) The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in circuit court; or
- (b) The amount of the lien herein provided may be determined at a hearing before the City Council held after thirty (30) days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in Washington County for one (1) insertion per week for four (4) consecutive weeks; the determination of the City Council shall be subject to appeal by the property owner in circuit court; and the amount so determined at said hearing, plus 10% penalty for collection, shall be by the City Council certified to the tax collector of the county, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less 3% thereof, when so collected shall be paid to the city by the county tax collector.
- (c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or he is a nonresident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts or non-residence, and thereupon service of the publication as now provided for by law against nonresident defendants may be had, and an attorney ad litem may be appointed to notify the

defendant by registered letter addressed to his last known place of residence if same can be found.

- (E) *Removal and Modification of Stormwater Systems and Structures.* Stormwater systems and structures may only be modified or removed with the approval of the City Engineer, who shall determine whether the stormwater system or structure does not function as a part of the stormwater management system. The applicant may be required to provide supporting data and calculations that justify the removal of the stormwater systems or structures.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.07 Preliminary Plat, Lot Requirements

- (A) *Preliminary Plats.* Preliminary Plats shall include a master drainage plan for each lot related to the proposed infrastructure and adjacent lots.
- (B) *Preliminary Plats for Residential Subdivisions.* Preliminary Plats for residential subdivisions shall provide drainage information meeting the Arkansas Fire Prevention Code for building safety regulations for positive drainage of each lot.
- (1) The applicant shall prepare a master grading plan to be followed during individual lot development to convey runoff to a public drainage easement or right-of-way.
- (2) Right-of-way, utility easements and drainage easements shall be graded and shaped in accordance with the master build out grading plan during preliminary plat construction.
- (C) *Rear Lot Drainage Easements.* Rear lot drainage easements for nonstructural grassed swales shall not overlap utility easements with above ground structures, i.e., electric transformers, gas meters, communication junctions, etc.
- (D) *Final Plat.* The final plat shall include the approved master drainage plan to be filed as a supplemental document. The scale shall be legible and approved by the City Engineer.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.08 Reserved

170.09 Illicit Discharge Detection and Elimination

- (A) *Purpose.*
- (1) The purpose of this section is to provide for the health, safety, and general welfare of the citizens of Fayetteville through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.
- (2) It establishes methods for controlling the introduction of pollutants into its municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
- (3) The University of Arkansas, Fayetteville campus is a separate small MS4 NPDES permit holder and responsible for Illicit Discharge Detection and Elimination (IDDE) within its service area.
- (B) *Prohibition of Illegal Discharges and Illicit Connections.*

- (1) Illegal discharges are prohibited. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water. Common stormwater contaminants include trash, yard waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
 - (2) Illicit connections are prohibited. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.
 - (4) *Private Drainage System Maintenance.* The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.
 - (5) *Cleaning of Paved Surfaces Required.* The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this chapter. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. Material shall not be swept or washed into the storm drainage system. This section does not apply to pollutants discharged from construction activities.
 - (6) *Maintenance of Equipment.* Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
 - (7) *Materials Storage.* In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
 - (8) *Pesticides, Herbicides and Fertilizers.* Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
 - (9) *Minimization of Irrigation Runoff.* Concentrated flow of irrigation water to the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
- (C) *Exemptions.* The following non-stormwater discharges are acceptable and not a violation of this chapter provided that ADEQ has not determined and notified the city in writing that these sources are substantial contributors of pollutants:
- (1) Uncontaminated waterline flushing;
 - (2) Landscape irrigation;
 - (3) Rising ground waters;
 - (4) Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.);
 - (5) Uncontaminated pumped ground water;

- (6) Discharges from potable water sources;
 - (7) Uncontaminated foundation drains;
 - (8) Uncontaminated air conditioning condensate;
 - (9) Irrigation water;
 - (10) Springs;
 - (11) Water from crawl space pumps;
 - (12) Uncontaminated footing drains;
 - (13) Lawn watering;
 - (14) Individual residential car washing;
 - (15) Flows from riparian habitats and wetlands;
 - (16) Dechlorinated swimming pool discharges;
 - (17) Uncontaminated street wash water;
 - (18) Discharges or flows from emergency firefighting activities; and
 - (19) Unless otherwise permitted or regulated by ADEQ, discharges of gray water from municipal splash pads (also known as spray ponds or spray grounds), as defined in Part 6.35 of this permit, provided the discharges comply with all applicable municipal or county ordinances enacted or pursuant to law. Discharges from recirculating systems shall be de-chlorinated prior to discharge.
- (D) *Release Reporting and Cleanup.* Any person responsible for a release of materials which are or may result in illicit discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. Failure to address an illicit discharge will result in enforcement action per Chapter 153.
- (Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.10—170.99 Reserved

CHAPTER 170: STORMWATER MANAGEMENT AND DRAINAGE¹

170.01 Intent

- (A) *Intent*. It is the intent of this chapter to protect, maintain, and enhance the health, safety, and general welfare of the citizens of the City of Fayetteville by:
- (1) Preventing increases in the magnitude and frequency of stormwater runoff to prevent increases in flood flows and associated hazards and costs.
 - (2) Controlling soil erosion and sedimentation to minimize soil deposition in streams and other receiving water bodies and storm drainage systems.
 - (3) Requiring surface and stormwater management practices that comply with requirements of this chapter.
 - (4) Promoting the development of stormwater facilities that are aesthetically desirable.
- (B) *Findings of Fact*. The City Council finds that uncontrolled stormwater runoff from developed land adversely affects the public health, safety, and welfare because:
- (1) *Impervious Surfaces/Runoff*. Impervious surfaces increase the quantity and velocity of surface runoff, which reduces percolation of water through soil and increases erosion and flooding.
 - (2) *Collection and Conveyance of Stormwater*. Improper stormwater collection and conveyance adversely affects property and increases the incidence and severity of flooding, which can endanger property and human life.
 - (3) *Erosion*. Increased erosion leads to sedimentation in stormwater management systems, which decreases the system's capacity.
 - (4) *Future Problems*. Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.
 - (5) *Limited Jurisdiction*. As a non-traditional, or regulated, MS4, the University of Arkansas' Fayetteville campus is permitted by ADEQ to administer its own stormwater management program upstream and physically ~~inter-connected~~ interconnected to the city's MS4.

~~(Ord. No. 6446 , §13(Exh. H), 6-15-21)~~

170.02 Adoption of Drainage Criteria Manual and Best Management Practices

~~(A) The City Council hereby adopts by reference the Drainage Control Criteria Manual with the exception that its Chapter 1, Minimum Stormwater Standards and Submittal Requirements, Section 1.1 General list of "Exceptions when no drainage permit is required are as follows:" which are all deleted and replaced with a~~

¹Ord. No. 6446 , §13(Exh. H), adopted June 15, 2021, repealed the former Ch. 170, §§ 170.01—170.11, and enacted a new Ch. 170 as set out herein. The former Ch. 170 pertained to stormwater management, drainage and erosion control and derived from Code 1991, §§ 163.03—163.10; Ord. No. 3895, adopted June 20, 1995; Ord. No. 4100, §2 (Ex. A), adopted June 16, 1998; Ord. No. 4314, adopted May 15, 2001; Ord. No. 4855, adopted April 18, 2006; Ord. No. 4920, adopted Sept. 5, 2006; Ord. No. 5336, adopted Aug. 3, 2010; Ord. No. 5431, adopted Aug. 16, 2011; and Ord. No. 5702, adopted Aug. 5, 2014.

~~reference to §170.03(C) and (E). and requirements identifying Best Management Practices for any private activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.~~

~~(B) The Drainage Control Manual may be amended from time to time by the City Engineer who shall promptly inform the City Council of the amendments. All technical procedures and design standards contained in the Drainage Control Manual shall have the same force and effect as if printed word for word in this chapter except that no provision may directly conflict with the chapter's Code sections.~~

~~Best Management Practices may be amended by the City Engineer as needed to prevent pollutants from entering the public drainage system.~~

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.03 Permits Required

- (A) *Applicability.* This chapter shall apply to all land within the corporate limits of the City of Fayetteville. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, or change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") from the city, except as specified in §170.03(C) and §170.03(E) below.
- (B) *Permit Application.* Any application for a drainage permit shall be submitted to the City Engineer using appropriate forms as provided by the city for review, processing, and approval. The drainage permit application shall be submitted as part of the application for a grading permit, if such grading permit is required by §169.03. A permit application shall contain sufficient information and plans to allow the City Engineer to determine whether the project complies with the requirements of this chapter. The specific items to be submitted for a permit application shall be in the form and follow the procedures as described in the *Drainage Criteria Manual*, Section 1.4, Drainage Report Template and Checklist. The City Engineer shall make the final determination regarding detention.
- (1) *Fee.* A nonrefundable permit application fee shall be paid when the application is submitted to help cover the cost of the plan review, administration and management of the permitting process and inspection of project implementation and operation (separate from the Physical Alteration of Land fee).
- (2) *Issuance.* If the City Engineer determines that the permit application submittal is in compliance with all provisions of this chapter, a permit may be issued. If the City Engineer determines that the permit submittal does not conform with all provisions of this chapter, permit issuance may be denied and a written statement as to the reasons for the denial shall be provided to the applicant.
- (C) *Project not Requiring Detention.* Any project that requires a drainage permit that does not require detention must submit documentation to this effect to the City Engineer. After review and approval of the City Engineer, a grading permit may be issued prior to issuance of the drainage permit.
- (D) Any grading permit and/or drainage permit issued shall be subject to the following:
- (1) *Insufficient or Incomplete Drainage Permit Application.* If the drainage permit application, including the required calculations, is determined by the City Engineer to be insufficient or incomplete, it shall be revised and resubmitted by the applicant within four (4) weeks of receipt of written notice of insufficiency or incompleteness.
- (2) *Deadline for the Revised Application or Insufficient or Incomplete Revisions.* If a revised application is not submitted within four (4) weeks of receipt by applicant of the written notice of insufficiency or

- incompleteness a stop work order for all grading on the project shall be issued by the City Engineer. A stop work order for all grading on the project shall be issued by the City Engineer if the revised application is determined by the City Engineer to be still insufficient or incomplete. However, the City Engineer may delay issuance of the stop work order if the City Engineer determines that the applicant has demonstrated prior to the deadline that circumstances not reasonably foreseeable and beyond the applicant's reasonable control prevented his timely resubmission of a sufficient and complete revised drainage permit application.
- (3) *Stabilization and Revegetation After Stop Work Order.* If a stop work order is issued pursuant to §170.03(C)(2), the applicant shall stabilize and revegetate all graded and otherwise disturbed areas as set forth in the *Drainage Criteria Manual*.
- (4) *Termination of Stop Work Order.* Any stop work order issued pursuant to §170.03(C)(2) shall expire upon the issuance of a drainage permit and compliance with any conditions contained in the drainage permit.
- (E) *Exceptions Where No Drainage Permit is Required.* Drainage Permits are not required for the following activities unless the project is otherwise covered under the U.D.C. or occurs upstream of a known public flooding problem which is when the city knows that serious flooding involving repeated flood damage to residences, buildings or infrastructure in an area has occurred and will likely recur without remedial measures:
- (1) New developments, redevelopments or additions that create less or equal to 10,000 square feet of new impervious area. See Section 170.09 for building permit submittal requirements.
- (2) *Lots That Are Part of a Larger Development.* One (1) project built on an individual lot that is part of a larger development that has received an approved drainage control permit when the proposed project is in compliance with this overall subdivision drainage control permit. The Engineering Division may require development projects upstream of a known public flooding problem to also follow current best practices and current drainage regulations and also participate with the City in cost-share projects to reduce the known public flooding problem.
- (3) *Existing Non-Residential.* Existing nonresidential structure where the additional impervious area is less than 10,000 square feet. See §170.09 for building permit submittal requirements.
- (4) *Maintenance.* Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site, or runoff from the site.
- (5) *Agriculture.* Bona fide agricultural pursuits, for which a soil conservation plan has been approved by the local Soil and Water Conservation District.
- (6) *Emergency.* Action taken under emergency conditions, either to prevent imminent harm or danger to persons, or to protect property from imminent danger of fire, violent storms, or other hazards when determined to be necessary by the City Engineer.
- (F) *Compliance with Chapter Provisions.* Although a specific permit is not required for these particular circumstances, this exception does not exempt the owner/developer/builder from complying with the provisions of Chapter 169, Physical Alteration of Land.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.04 Off-Site Stormwater Management Improvements

- (A) *Off-Site Improvements.* If it is determined that offsite drainage improvements are required, and that such specific off-site drainage improvements are consistent with the city's current and established priorities, then

cost sharing will be in accordance with "Required Off-site Improvements." If the city is unable, or unwilling, to contribute its share of the off-site costs, the developer shall have the option of:

- (1) *Developer's Expense.* Building the off-site improvements at their own expense;
- (2) *Detention.* Providing detention so as to match downstream capacities; or
- (3) *Delay Project.* Delaying the project until the city is able, or willing, to share in the off-site costs.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.05 Performance Criteria

- (A) *Drainage Criteria Manual.* The technical procedures and design standards contained in the *Drainage Criteria Manual*, adopted by §170.02 of this chapter and as may be amended from time to time by the City Engineer, shall be used to determine compliance with the performance criteria established by this chapter.
- (B) *Performance Criteria.* Except as otherwise provided in this chapter, a development must be designed, constructed, operated, and maintained to comply with the following stormwater sizing performance criteria. Each minimum standard is intended to be used in conjunction with the others to address the overall stormwater impacts from a development site. Supporting technical detail can be found in the Section 2.1 of the *Drainage Criteria Manual* (DCM):
 - (1) *Minimum Standard #1 — Water Quality.* Reduce the average annual post-development total suspended solids (TSS) loadings from increased impervious areas either by TSS Reduction Method or the Runoff Reduction Method (RRM).
 - (2) *Minimum Standard #2 — Channel Protection.* Provide extended detention to reduce flows and protect downstream channels from erosive velocities and unstable conditions. Post-development flows shall not exceed the predevelopment flows.
 - (3) *Minimum Standard #3 — Overbank Flood Protection.* Provide peak discharge control of the storm events noted in the DCM such that the post-development peak rate does not exceed the predevelopment rate.
 - (4) *Minimum Standard #4 — Extreme Flood Protection.* Provide peak discharge control such that the post-development peak rate does not exceed the predevelopment rate.
 - (5) *Better Site Design and Green Stormwater Practices,* as described in the *Drainage Criteria Manual*, to attenuate lesser storms and more closely mimic predevelopment hydrology are encouraged.
 - (6) *Direct Discharge.* Direct discharge of a pipe into streams and/or floodways is not allowed. A stilling basin or other structure that will collect sediment, trash, etc., and that will reduce the likelihood of erosion in the receiving stream due to discharge from the pipe shall be installed at pipe discharges into streams and/or floodways.
 - (7) *Erosion and Channel Stability.* All stormwater management systems shall be evaluated based on their ability to prevent erosion and sedimentation of the receiving waters and adverse impacts on the site's natural systems. The design engineer shall consider the on-site and downstream effects of the peak discharges and shall design both the permanent and the construction phase of the stormwater management system in a manner that will not increase flooding, channel instability, or erosion downstream when considered in aggregate with other developed properties and downstream drainage capacities.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.06 Maintenance Responsibility

- (A) ~~—Dedication~~Public and Private Drainage Systems. Those stormwater management systems ~~approved in compliance with this chapter within a public right-of-way or public drainage easement as of July 31, 2024 or later accepted by the City that will function as a part of the stormwater management conveyance system~~ shall be ~~dedicated to the city and be considered a public drainage system.~~ The City is authorized to work to maintain the proper function of these facilities through maintenance as necessary except for detention/retention facilities, green stormwater facilities approved as a portion of the development and any exceptions noted in 170.09 which will remain the responsibility of the property owner. Any public drainage easement dedicated subsequent to August 1, 2024 must be dedicated to the city by plat or separate instrument and accepted by the City Engineer or designee before being considered a part of the public drainage system. All other systems shall be considered private systems and will be the responsibility of the property owner of the property on which the systems are located. All areas and/or structures to be dedicated to the city must be accompanied by a drainage easement, dedicated by plat or separate instrument and accepted by the City Engineer.
- (B) ~~Maintain~~Maintenance of Stormwater Systems and Structures.
- (1) Private Systems: Unless otherwise stated in 170.06(A), the owner of the property on which private stormwater systems and structures have been installed shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, culverts, dams, and structures, vegetation, erosion and sedimentation controls, and other protective devices to their proper working condition. Proper working condition is defined as the condition in which the system or portion of the system was operating or designed to operate when originally installed.
- ~~(1)(2)~~ All Systems: Whether public or private, the owner of the property on which the stormwater system is located shall clear open channels of excessive vegetation, trash, debris, and other obstacles obstructing flow to the extent deemed feasible by the City Engineer or designee.
- (C) *Right-of-Entry for Inspection.* The owner shall provide for the City Engineer or designee to enter the property at reasonable times and in a reasonable manner for the purpose of inspecting stormwater systems and structures.
- (D) *Failure to Maintain.* If a responsible person fails or refuses to meet the maintenance requirements the city may give written notice requesting corrective action. If the conditions described in the failure to maintain notice are not corrected within ten (10) days after such notice is given, the Mayor, or his duly authorized representative, is hereby authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described, in the notice. The costs of correcting said conditions shall be charged to the owner or owners of the property and the city shall have a lien against such property for such costs.
- (1) *Enforcement of the Lien.* The lien herein provided for may be enforced and collected in either one of the following manners:
- (a) The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in circuit court; or
- (b) The amount of the lien herein provided may be determined at a hearing before the City Council held after thirty (30) days written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in Washington County for one (1) insertion per week for four (4) consecutive weeks; the determination of the City Council shall be subject to appeal by the property owner in circuit court; and the amount so determined at said hearing, plus 10%

penalty for collection, shall be by the City Council certified to the tax collector of the county, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less 3% thereof, when so collected shall be paid to the city by the county tax collector.

- (c) In case the owner of any lot or other real property is unknown or his whereabouts is not known or he is a nonresident of this state, then a copy of the written notice hereinabove referred to shall be posted upon the premises and before any action to enforce such lien shall be had, the City Clerk shall make an affidavit setting out the facts as to unknown address or whereabouts or non-residence, and thereupon service of the publication as now provided for by law against nonresident defendants may be had, and an attorney ad litem may be appointed to notify the defendant by registered letter addressed to his last known place of residence if same can be found.
- (E) *Removal and Modification of Stormwater Systems and Structures.* Stormwater systems and structures may only be modified or removed with the approval of the City Engineer, who shall determine whether the stormwater system or structure does not function as a part of the stormwater management system. The applicant may be required to provide supporting data and calculations that justify the removal of the stormwater systems or structures.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.07 Preliminary Plat, Lot Requirements

- (A) *Preliminary Plats.* Preliminary Plats shall include a master drainage plan for each lot related to the proposed infrastructure and adjacent lots.
- (B) *Preliminary Plats for Residential Subdivisions.* Preliminary Plats for residential subdivisions shall provide drainage information meeting the Arkansas Fire Prevention Code for building safety regulations for positive drainage of each lot.
- (1) The applicant shall prepare a master grading plan to be followed during individual lot development to convey runoff to a public drainage easement or right-of-way.
- (2) Right-of-way, utility easements and drainage easements shall be graded and shaped in accordance with the master build out grading plan during preliminary plat construction.
- (C) *Rear Lot Drainage Easements.* Rear lot drainage easements for nonstructural grassed swales shall not overlap utility easements with above ground structures, i.e., electric transformers, gas meters, communication junctions, etc.
- (D) *Final Plat.* The final plat shall include the approved master drainage plan to be filed as a supplemental document. The scale shall be legible and approved by the City Engineer.

(Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.08 ~~Private Drainage Systems~~Reserved

~~(A) Private Drainage Systems.~~

~~(1) Private Drainage System Maintenance. A private drainage system includes groundwater, drainage pipes or channels, and any flowing or standing water not within a right of way or drainage easement. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.~~

- ~~(2) *Minimization of Irrigation Runoff.* Concentrated flow of irrigation water to the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.~~
- ~~(3) *Cleaning of Paved Surfaces Required.* The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this chapter. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. Material shall not be swept or washed into the storm drainage system. This section does not apply to pollutants discharged from construction activities.~~
- ~~(4) *Maintenance of Equipment.* Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.~~
- ~~(5) *Materials Storage.* In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.~~
- ~~(6) *Pesticides, Herbicides and Fertilizers.* Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.~~
- ~~(7) *Open Drainage Channel Maintenance.* Every person owning or occupying property through which an open drainage channel passes shall prevent trash, debris, excessive vegetation, and other obstacles from their property from entering the drainage channel or obstructing flow.~~
- ~~(B) *Authorization to Adopt and Impose Best Management Practices.* The city may adopt and impose a *Drainage Criteria Manual* and requirements identifying Best Management Practices for any private activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.~~
- ~~(Ord. No. 6446, §13(Exh. H), 6-15-21)~~

170.09 Illicit Discharge Detection and Elimination

(A) Purpose.

- (1) ~~(1)~~ — The purpose of this section is to provide for the health, safety, and general welfare of the citizens of Fayetteville through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.
- (2) ~~(2)~~ — It establishes methods for controlling the introduction of pollutants into its municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
- (3) ~~(3)~~ — The University of Arkansas, Fayetteville campus is a separate small MS4 NPDES permit holder and responsible for Illicit Discharge Detection and Elimination (IDDE) within its service area.

(B) Prohibition of Illegal Discharges and Illicit Connections.

- (1) ~~(1)~~ — Illegal discharges are prohibited. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water. Common stormwater contaminants include trash, yard waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.

(2) ~~(2)~~—Illicit connections are prohibited. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) ~~(3)~~—No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.

(4) *Private Drainage System Maintenance.* The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.

(5) ~~(3)~~—*Cleaning of Paved Surfaces Required.* The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the buildup and discharge of pollutants. The visible buildup of mechanical fluid, waste materials, sediment or debris is a violation of this chapter. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Code. Material shall not be swept or washed into the storm drainage system. This section does not apply to pollutants discharged from construction activities.

(6) ~~(4)~~—*Maintenance of Equipment.* Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.

(7) ~~(5)~~—*Materials Storage.* In addition to other requirements of this Code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.

(8) ~~(6)~~—*Pesticides, Herbicides and Fertilizers.* Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.

(9) *Minimization of Irrigation Runoff.* Concentrated flow of irrigation water to the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.

~~(7) *Open Drainage Channel Maintenance.* Every person owning or occupying property through which an open drainage channel passes shall prevent trash, debris, excessive vegetation, and other obstacles from their property from entering the drainage channel or obstructing flow.~~

(C) *Exemptions.* The following non-stormwater discharges are acceptable and not a violation of this chapter provided that ADEQ has not determined and notified the city in writing that these sources are substantial contributors of pollutants:

- (1) Uncontaminated waterline flushing;
- (2) Landscape irrigation;
- (3) Rising ground waters;
- (4) Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.);
- (5) Uncontaminated pumped ground water;

- (6) Discharges from potable water sources;
 - (7) Uncontaminated foundation drains;
 - (8) Uncontaminated air conditioning condensate;
 - (9) Irrigation water;
 - (10) Springs;
 - (11) Water from crawl space pumps;
 - (12) Uncontaminated footing drains;
 - (13) Lawn watering;
 - (14) Individual residential car washing;
 - (15) Flows from riparian habitats and wetlands;
 - (16) Dechlorinated swimming pool discharges;
 - (17) Uncontaminated street wash water;
 - (18) Discharges or flows from emergency firefighting activities; and
 - (19) Unless otherwise permitted or regulated by ADEQ, discharges of gray water from municipal splash pads (also known as spray ponds or spray grounds), as defined in Part 6.35 of this permit, provided the discharges comply with all applicable municipal or county ordinances enacted or pursuant to law. Discharges from recirculating systems shall be de-chlorinated prior to discharge.
- (D) *Release Reporting and Cleanup.* Any person responsible for a release of materials which are or may result in illicit discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. Failure to address an illicit discharge will result in enforcement action per Chapter 153.
- (Ord. No. 6446 , §13(Exh. H), 6-15-21)

170.10—170.99 Reserved



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: June 24, 2024

SUBJECT: **VAR-2024-0023: Variance (1469 & 1501 N. STARR DR/PARKER INVESTMENTS LLC, 441):** Submitted by ALAN REID & ASSOCIATES for property located at 1469 & 1501 N. STARR DR. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and FAYETTEVILLE PLANNING AREA and contains eight lots with approximately 22.45, 1.31, 1.33, 0.65, 1.19, 2.63, 1.76 and 0.71 acres. The request is for a variance to street frontage requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0023** based on the findings herein.

RECOMMENDED MOTION:

*"I move to approve **VAR-2024-0023**, determining:*

- In favor of a variance to §166.05(A)(3), and*
- In favor of all other conditions as recommended by staff."*

JUNE 10, 2024, PLANNING COMMISSION MEETING:

At the June 10, 2024, Planning Commission meeting, the item was tabled to provide additional time for staff to review a revised plat received after the Board of Adjustments meeting. Since then, the plat has been revised so that a Board of Adjustments variance is no longer required. The previous plat included seven tracts; this has been updated to eight in the new submittal.

BACKGROUND:

The subject property is in far east Fayetteville approximately 3/4 miles southeast of E. Mission Blvd. and N. Crossover Rd. The subject area contains eight lots with approximately 22.45, 1.31, 1.33, 0.65, 1.19, 2.63, 1.76 and 0.71 acres. A property line adjustment has been submitted to adjust the lots to contain 6.92, 3.00, 3.03, 3.01, 3.03, 3.01, 2.53 and 7.52 acres. The parcels are split between the Fayetteville Planning Area and R-A, Residential Agricultural. The subject area has been minimally developed with agricultural structures such as barns and an existing nonconforming kennel. Approximately ½ an acre in the southwest corner of the subject area is within the Hillside Hilltop Overlay District. A Board of Adjustments request was heard on Monday, June 3, 2024, regarding a proposed tract within city limits that did not meet the street frontage requirements for the R-A, Residential Agricultural zoning district. That request was tabled to the July 1, 2024, BOA meeting in order to provide time for the applicant to work through outstanding comments with staff. Surrounding land uses and zoning are listed in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Agricultural	R-A, Residential-Agricultural
South	Rural Residential	R-A, Residential-Agricultural
East	Rural Residential	Fayetteville Planning Area
West	Rural Residential	Fayetteville Planning Area

Request: The applicant is requesting a variance from minimum lot width requirements as part of an associated property line adjustment of eight tracts. Of these proposed tracts, six are fully within Fayetteville's Planning Area and are subject to UDC §166.05(A)(3), which requires all lots in the Fayetteville Planning Area to have direct street frontage pursuant to residential lot and block standards set by Washington County. Proposed Tracts 2, 4, 5, and 6 include no street frontage and are intended to be accessed through proposed access easements. The requested lot adjustment and associated variances are described below in *Table 2*.

Table 2:
Variance Request

Tract Number	Variance Issue	Requirement	Existing Lot Width	Proposed Lot Width	Variance	Approving Body
1	Lot Width (County)	75 feet	442 feet	367 feet	NA	NA
2	Lot Width (County)	75 feet	212.06 feet	0 feet	75 feet	Planning Commission
3	Lot Width (County)	75 feet	208.28 feet	75 feet	NA	NA
4	Lot Width (County)	75 feet	66.71 feet	0 feet	75 feet	Planning Commission
5	Lot Width (County)	75 feet	75.42 feet	0 feet	75 feet	Planning Commission
6	Lot Width (City/County)	200 feet	163.03 feet	0 feet	36.97 feet	Planning Commission
7	Lot Width (City/County)	200 feet	0 feet	163.03 feet	NA	NA
8	Lot Width (City/County)	200 feet	0 feet	779.88 feet	NA	NA

S

Public Comment: Staff has received multiple requests for additional information on the proposal. Two callers expressed concern regarding potential development plans, drainage, and poor suitability for septic systems in the area.

DISCUSSION:

Staff is supportive of the variance request. The subject property currently contains two tracts with no street frontage along public right-of-way, which would increase to four based on the proposed alignment. The applicant cites the long depth of the parcel, lack of increase in the number of parcels, and the common use of tandem lots in the area as a hardship. Many of the parcels currently cross existing buildings or are substantially limited by existing easements, limiting their potential for further development. The proposed alignment resolves multiple setback non-conformities of the existing buildings and creates lots which generally meet or exceed three acres in size. City ordinances require all structures to have access to a public street in order to "ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements" and to "provide safe and convenient access for servicing, fire protection, and required off-street parking." While staff has some concerns about proposed driveways exceeding 1,000 linear feet, staff notes that the proposed parcels are generally

accessed by an existing driveway and that the applicant intends to dedicate an access easement via a separate document and pave the existing driveway to ensure continued safe access. As such, staff finds that the lots without street frontage still meet the intent of the ordinance. Additionally, the proposed alignment indicates access to water for all parcels. The nearest sewer is more than 300 feet to the west and would not be accessible unless and until the parcels currently within Washington County are annexed into city limits.

RECOMMENDATION: Staff recommends approval of VAR-2024-0023 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.05(A)(3), requiring all lots in the Fayetteville Planning Area to have direct street frontage pursuant to residential lot and block standards set by Washington County. Staff recommends approval of this request based on the findings herein,**
2. Thirty-foot (30') access easements and any required utility easements necessary to serve the adjusted property lines must be dedicated via a separate document. These easements shall be shown on the plat and labeled as "Dedicated via Separate Document."
3. Approval of this variance does not constitute approval of the associated property line adjustment application. Review and approval of the property line adjustment shall be required in accordance with city code.

Planning Commission Action:	☐ Approved	☐ Tabled	☐ Denied
Meeting Date: <u>June 24, 2024</u>			
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- UDC §166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area
- Applicant Exhibits
 - Request Letter
 - Site Plan
- Staff Exhibits
 - Proposed Lot Alignment
 - Lots without Street Frontage
 - Existing and Proposed Access Easements
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area

(A) *Required Infrastructure Improvements and Subdivision Regulations Outside the City.*

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

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

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



Alan Reid
& ASSOCIATES
PROFESSIONAL
LAND
SURVEYORS

June 17th, 2024

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

Re: Planning Commission-Variance from road frontage requirements (VAR-2024-0023)
Address 1473 N. Starr Drive, Fayetteville, AR 72701
Owner, Parker Investments LLC
ARA job 23154-IV (with revision date 06/11/2024)
2nd Revised Letter of Request in Conjunction with Discussion with Fayetteville and Client 06/11/2024

Dear Planners / Planning Commission.

On behalf of my client, Parker Investments LLC., I am submitting a request for a variance on public road frontage requirement in conjunction with a property line adjustment project which involves eight (8) parcels: 001-11184-006, 001-11184-002, 001-11184-001, 765-14226-000, 765-14226-001, 765-14223-000, 001-11184-003, and 001-11184-004. The parcels are located predominately in Fayetteville's Growth/ Planning Area which is zoned Agri./SF (1 acre min.); however, some of the proposed adjusted tracts are partially located within the city limits of Fayetteville, which is zoned R-A. The property line adjustment and Planning Commission variance request are being submitted to the City of Fayetteville at the same time for review / approval request.

Below are the proposed adjusted tracts and corresponding acreages with additional notes which outline which tracts are shy of the Fayetteville Growth Area road frontage. As per Fayetteville Planning staff comments on previous job in Fayetteville Growth Area, "UDC 166.05 (A)(3) *"All lots in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot block standards."* While the lot block standard for Washington County is 75' of road frontage, they do allow for 30' ingress/egress from subject property to a public road when appropriate.

Adjusted Tract 1 = 6.92 +/- Ac., 430.96 ft. of road frontage onto N. Starr Dr. The subject property is located within the Fayetteville Growth Area.

Adjusted Tract 2 = 3.03 +/- Ac., tandem tract to Tract 1. A Fayetteville Planning Commission variance on road frontage requested (VAR-2024-0023); it is connected to N. Starr Dr. via an ingress/ egress easement. The subject property is located within the Fayetteville Growth Area.

Adjusted Tract 3 = 3.00 +/- Ac., 75ft of road frontage onto N. Starr Dr. The subject property is located within the Fayetteville Growth Area.

Adjusted Tract 4 = 3.01 +/- Ac., tandem tract to Tract 3. A Fayetteville Planning Commission variance on road frontage is requested (VAR-2024-0023); it is connected to N. Starr Dr. via an ingress/ egress easement. The subject property is located within the Fayetteville Growth Area.

Adjusted Tract 5 = 3.03 +/- Ac., tandem tract to Tract 6 and Tract 7. A Fayetteville Planning Commission variance on road frontage is requested (VAR-2024-0023); it is connected to N. Starr Dr. via an ingress/ egress easement. The subject property is located within the Fayetteville Growth Area.

Adjusted Tract 6 = 3.01 +/- Ac., tandem to tract 7. A Fayetteville Planning Commission variance on road frontage is requested (VAR-2024-0023); The subject property is located within the Fayetteville Growth Area.

Adjusted Tract 7 = 2.53 +/- Ac., tract maintains 163ft of road frontage onto N. Starr Dr. (WC #350) which is predominately composed of existing parcel 765-14223-000 (within Fayetteville city limits. additional 163ft of road front onto N. Starr Dr. (WC #350) which runs North/ South along the east side of the tract.

Adjusted Tract 8 = 7.52 +/- Ac., 567.58 ft. of road frontage onto N. Starr Dr. (WC #350) which runs East/ West.

Granting a variance would allow the owner of the property to proceed with the property line adjustment as proposed (ARA job #23154-IV, revision 06/11/2024), bringing the acreages up to County zoning acreage minimums, and access would be accommodated via ingress/ egress easements. Precedents to access tracts in the Fayetteville Growth Area via 30 foot ingress/ egress easement through variances by the Fayetteville Planning Commission has taken place repeatedly over the years. The property, as a whole (all parcels combined), runs 1,659.05' in the North/ South directions, which is quite deep and unique to this property. It is a hardship when it comes to utilizing the property efficiently. In order to access some of the south proposed Adjusted Tracts 2, 4, 5, and 6 considerations for variances are needed. No new lots are being created. The owner/ developer is working with the parcels at hand to reconfigure the lines in a more usable fashion. Tandem lots, when not done in excess, are an efficient means of providing buildable tracts while connecting properties to a public road with efficient access. These tandem lots with ingress/ egress easements connecting them to public roads are rights that other property owners in the surrounding area currently use. This is a situation that is unique to this property. Thank you for your consideration.

**Refer to drafted plat (ARA job 23154-IV with revision date 06/11/2024) for further details.*

Best regards,



Alan Reid & Associates

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

1. THE SURVEY DOES NOT INCLUDE ANY OF THE FOLLOWING:

EXAMINERS' AND/OR POSSIBLE EXAMINERS' WHICH WERE NOT AT THE DESCRIPTIONS OF OTHER LAND USE REGULATIONS AND OTHER FACTS WHICH AN ACQUIRER THIS SURVEY MAY DISCLOSE.

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

THIS SURVEY WENTS ON EXEMPTS THE CURRENT "MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AND PLATS."

DECLARATION IS MADE TO THE OWNER, PURCHASER OF THE SURVEY, IT IS NOT TRANSFERABLE TO ADJACENT INSTITUTIONS OR SUBSEQUENT OWNERS.

SUBSEQUENT AND ENVIRONMENTAL CONDITIONS WERE NOT PAIRED OR CONSIDERED AS A PART OF THIS SURVEY.

A PROPERTY INVOLVED IN THIS PROPERTY LINE ADJUSTMENT LIES PARTIALLY WITHIN THE HUNTERD/HUNTERD CEMETARY DISTRICT.

PHYSICAL ADDRESS: 1485 & 1473 N. STAR DR (WC 350),
FAIRFAXVILLE, AR 72701
PARCEL NO. 001-11184-005,
001-11184-002, 001-11184-003,
001-11184-004, 001-11184-001,
765-14226-000, 765-14226-001, &
765-14223-000

11/20/2011 11:07:11 AM

ZONED: AG/SF RES. 1 UNIT/AC. & R-A

FRONT...25 FEET + UTILITY EASEMENT
SIDE...10 FEET

R-A SETBACKS:

REAR...35 FEET

COORDINATE SYSTEM
(NORTH ZONE) MAPSTATE LAND SURVEYOR FILE CODE
500-16N-30W-0-12-100-72-1005

BEARING	DISTANCE
209° 38' 04" N	0.6381

582°04'52"E	79.20'
N09°51'51"E	83.43'

N62°01'50"W	41.51'
S12°47'51"W	44.57'

29° 10' 00" N	7.50
54° 15' 27" N	10.10

515°07'07"E	10.62'
506°08'08"E	10.63'

N18°51'12"E	44.51'
N67°18'14"E	85.76'

515°21'20"W	116.51°
503°36'09"W	115.57°

S001920 E	189.93°
S031518 W	188.05°

571°37'16"E	33.07'
58°40'03"W	33.00'

514°01'02"W	56.23'
NAT 4A 79"W	1A 98'

502°31'50"W	45.00'
587°08'39"E	30.01'

5103.12 m	43.79
S0540°07'N	86.76°

N 74° 36' 45" W	30.05'
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N76°59'34"W	191.11'
S02°35'04"W	294.60'

RADIUS	ARC LENGTH	CHORD LENGTH
476.91'	36.76'	36.75'

134.73	40.20	40.05
245.37	141.33	139.38

506.91'	38.57'	38.56'
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VAR-2024-0023 (PARKER INVESTMENTS)



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

CERTIFICATE OF OWNERSHIP & DEDICATION

[illegible]

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2100	...

CERTIFICATE OF OWNERSHIP & DELEGATION

[illegible]

DATE _____	OWNER _____
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LINE	FROM	TO	DATE	BY
1	100	101	10/10/10	101
2	101	102	10/10/10	102
3	102	103	10/10/10	103
4	103	104	10/10/10	104
5	104	105	10/10/10	105
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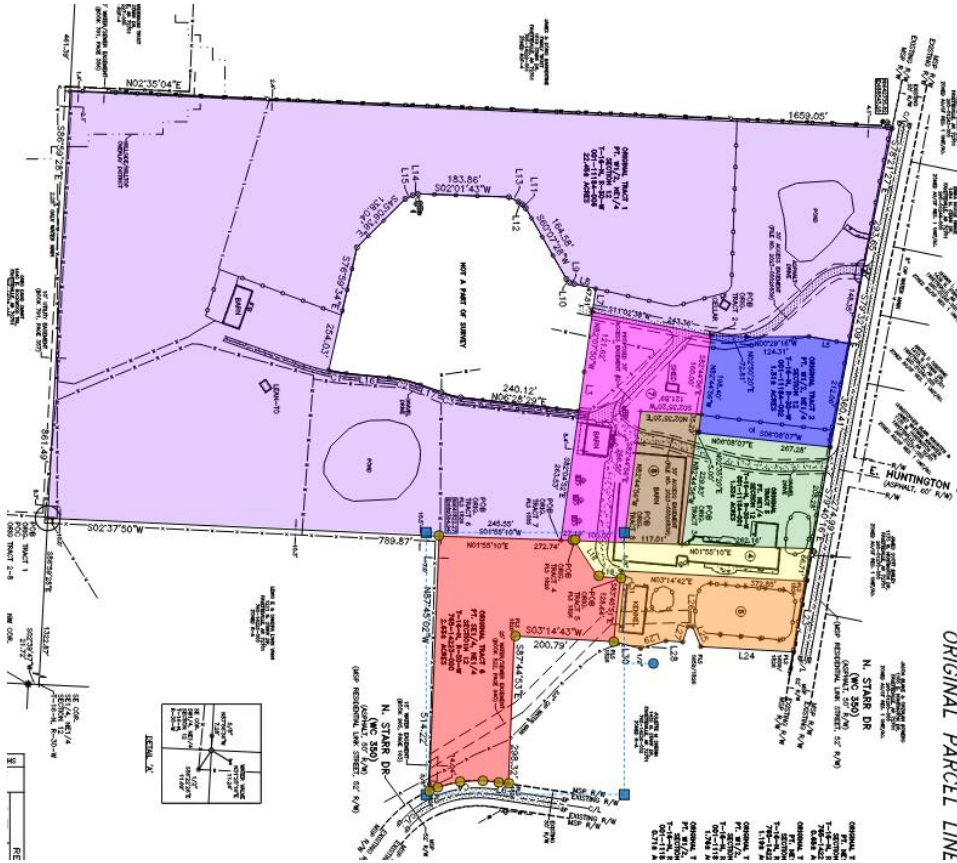


FLOOD DESIGNATION
THIS PROPERTY DOES NOT LIE IN ZONE "A/AE" (SPECIAL FLOOD HAZARD
AREAS INUNDAED BY 100-YEAR FLOOD) AS DETERMINED FROM THE F.I.R.M.
MAP OF WASHINGTON COUNTY, ARKANSAS, AND INCORPORATED AREAS.
MAP NUMBERS 051430302306, WITH AN EFFECTIVE DATE OF JANUARY 25, 2024

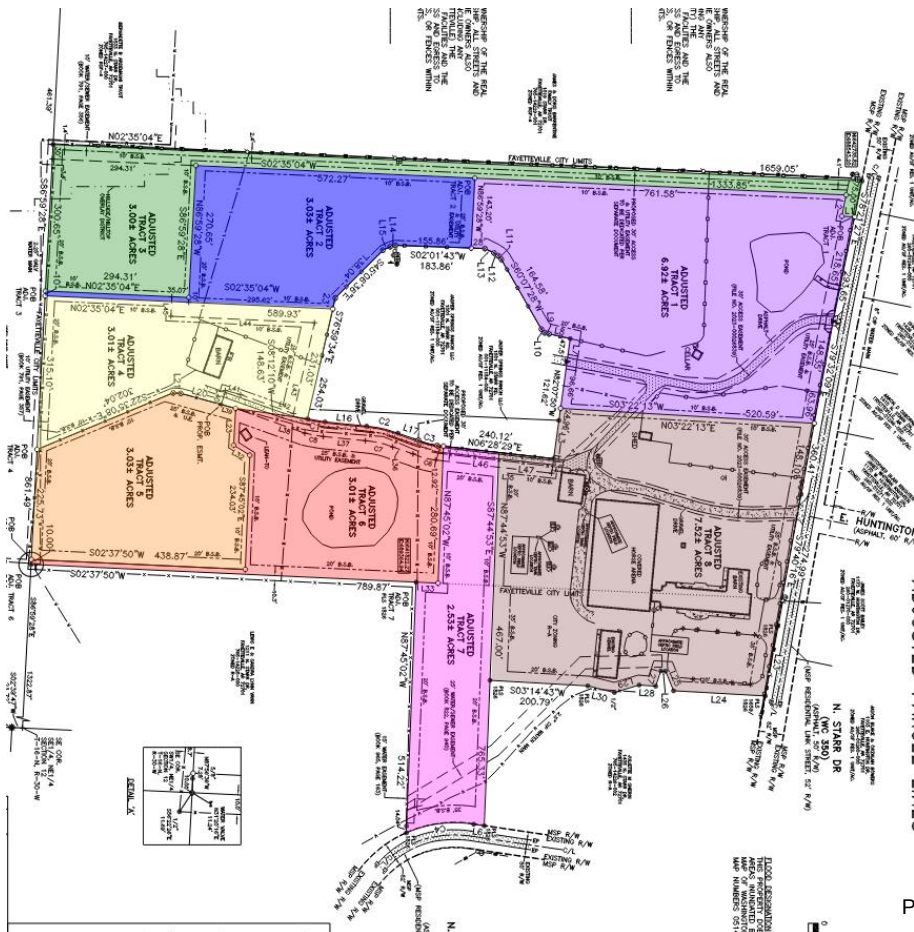
VAR-2024-0023 (PARKER INVESTMENTS)

STAFF EXHIBIT: PROPOSED LOT ADJUSTMENTS

CURRENT ALIGNMENT

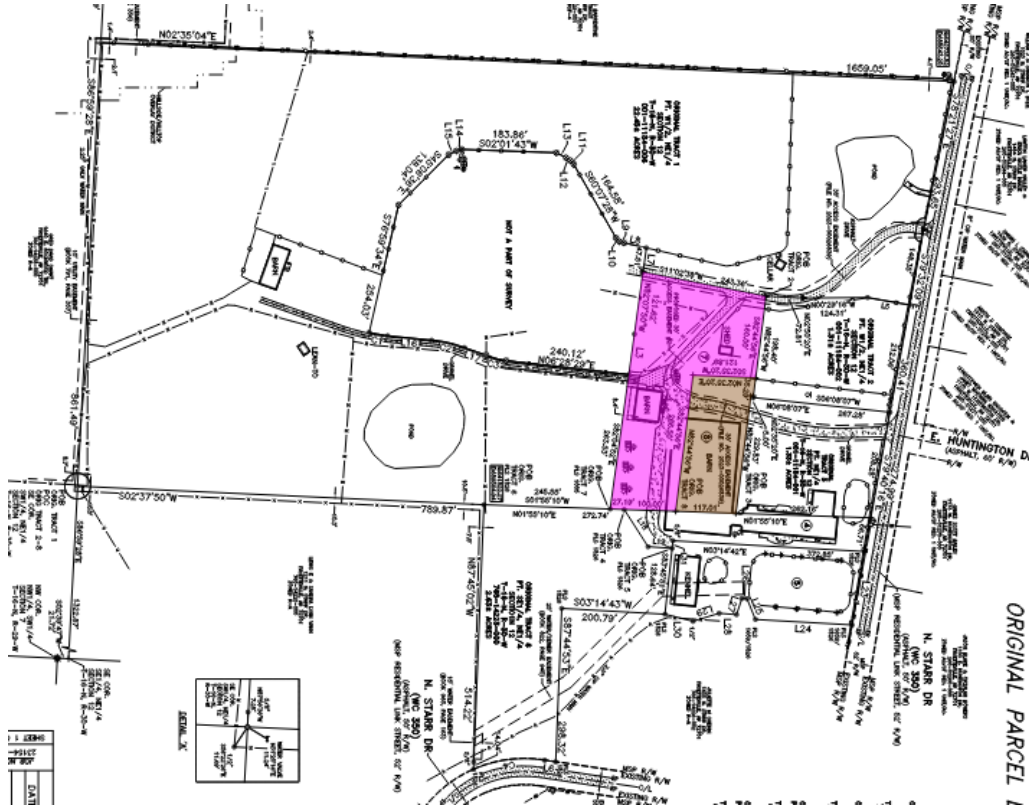


PROPOSED ALIGNMENT

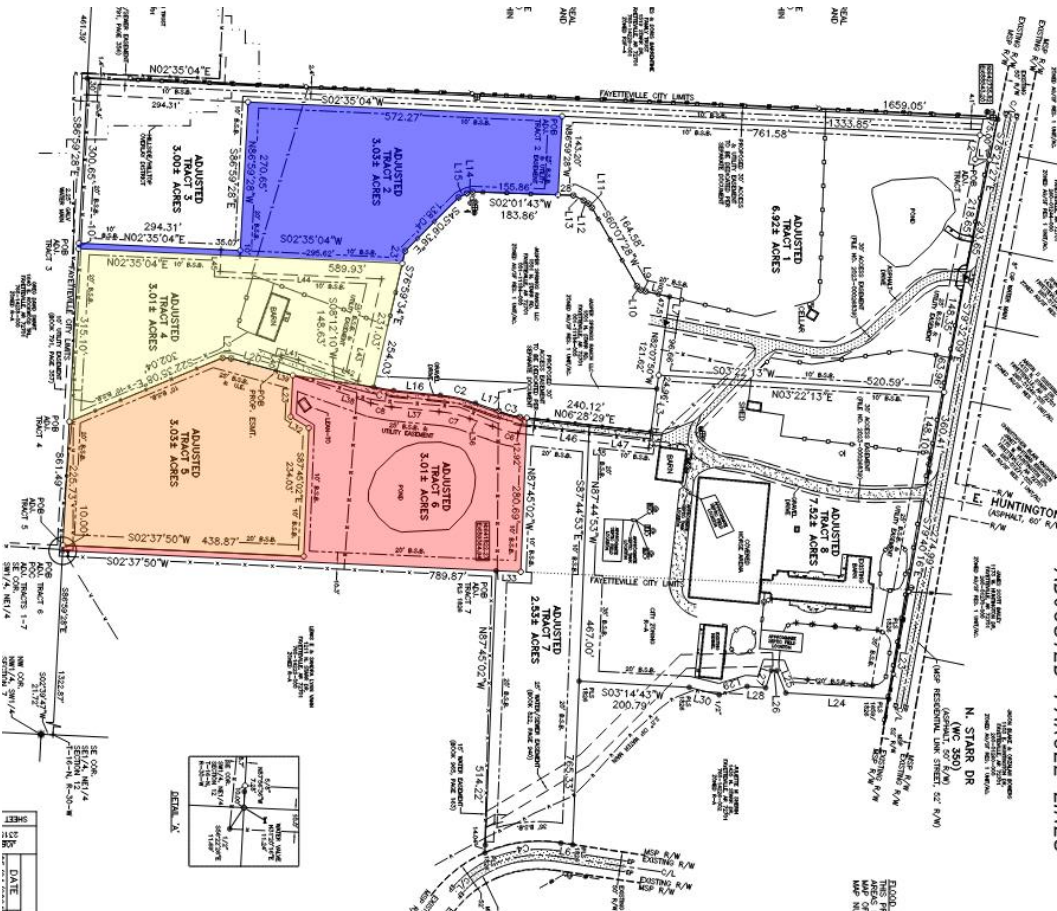


STAFF EXHIBIT: LOTS WITHOUT STREET FRONTAGE

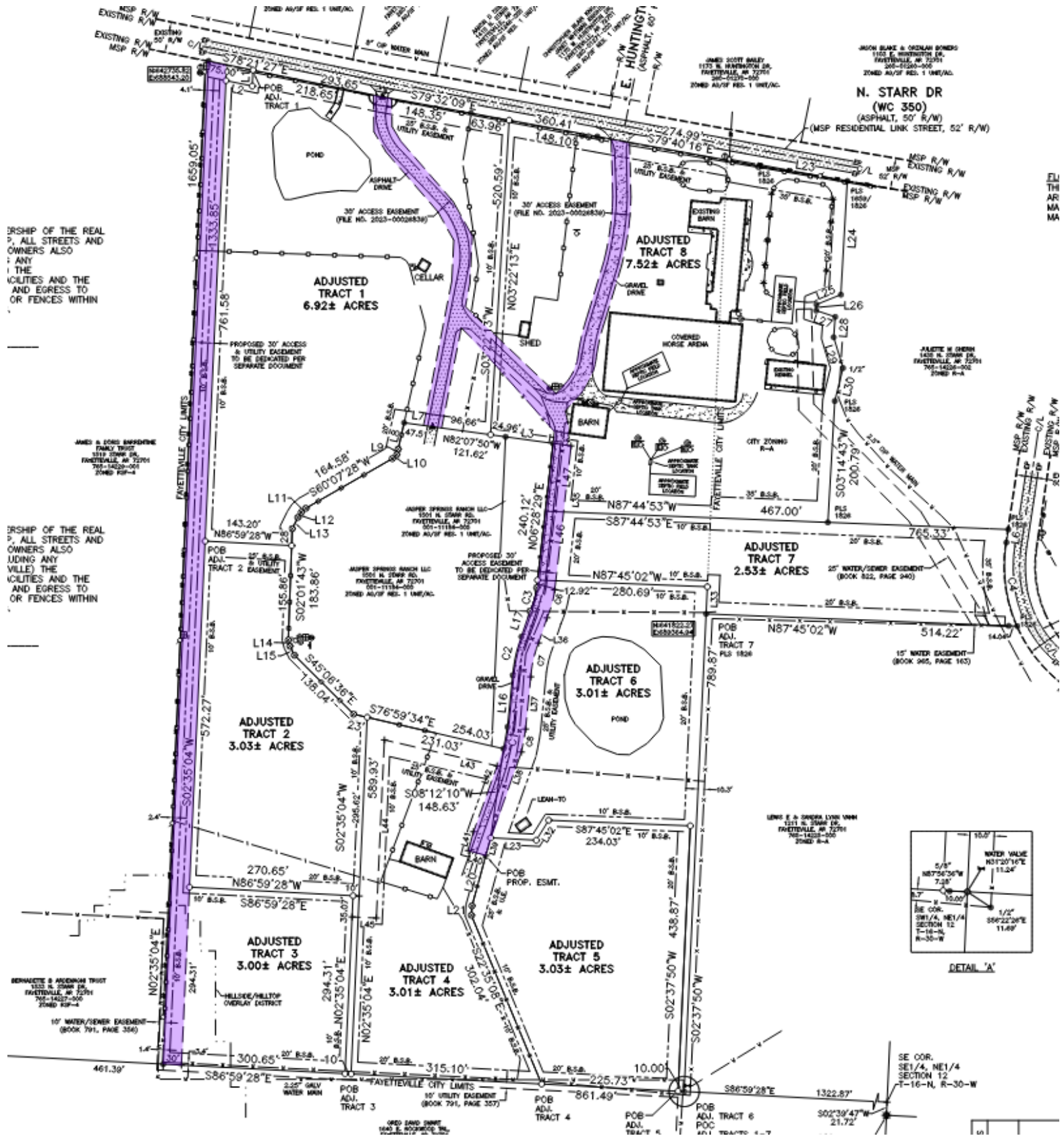
CURRENT ALIGNMENT

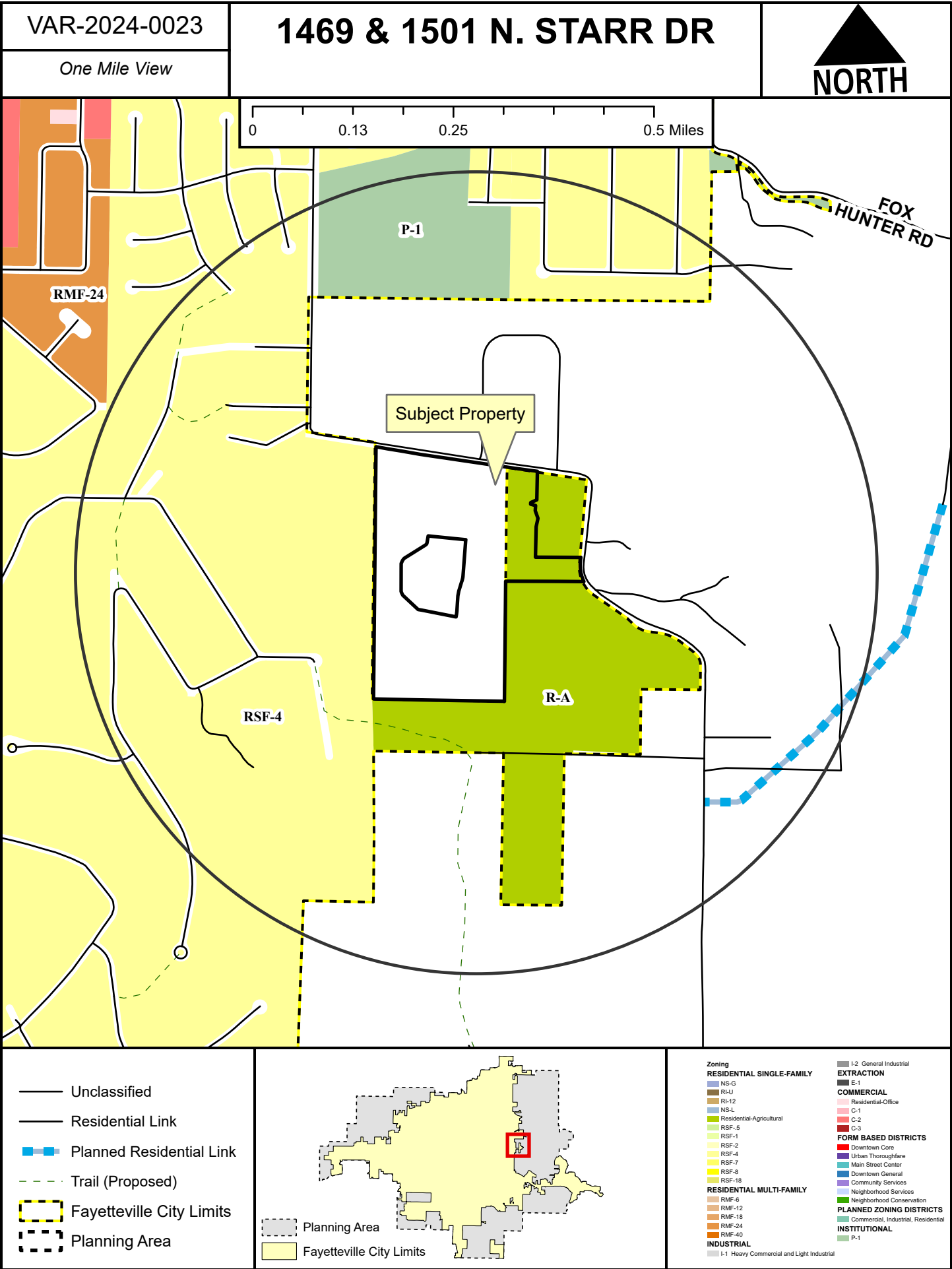


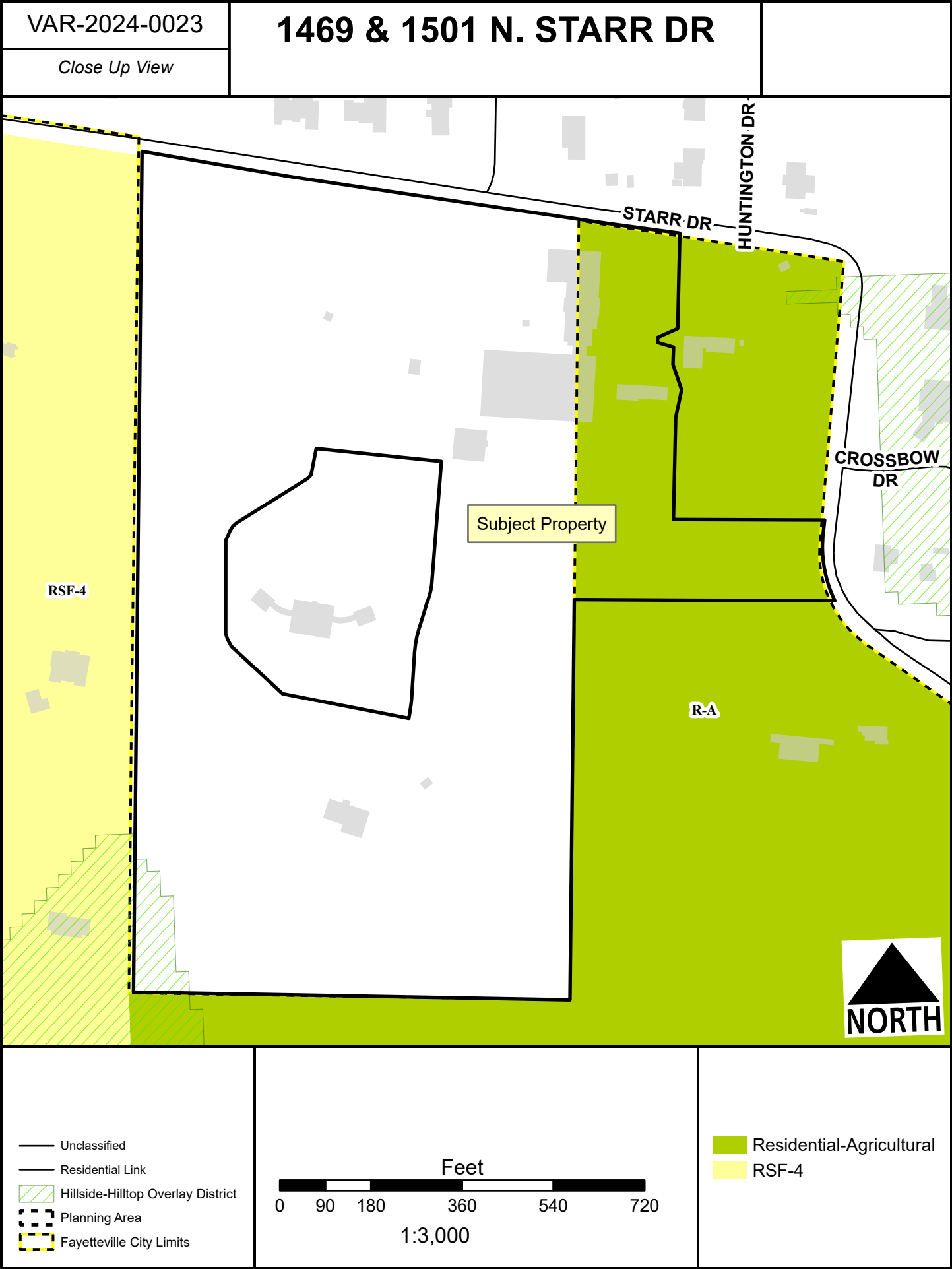
PROPOSED ALIGNMENT

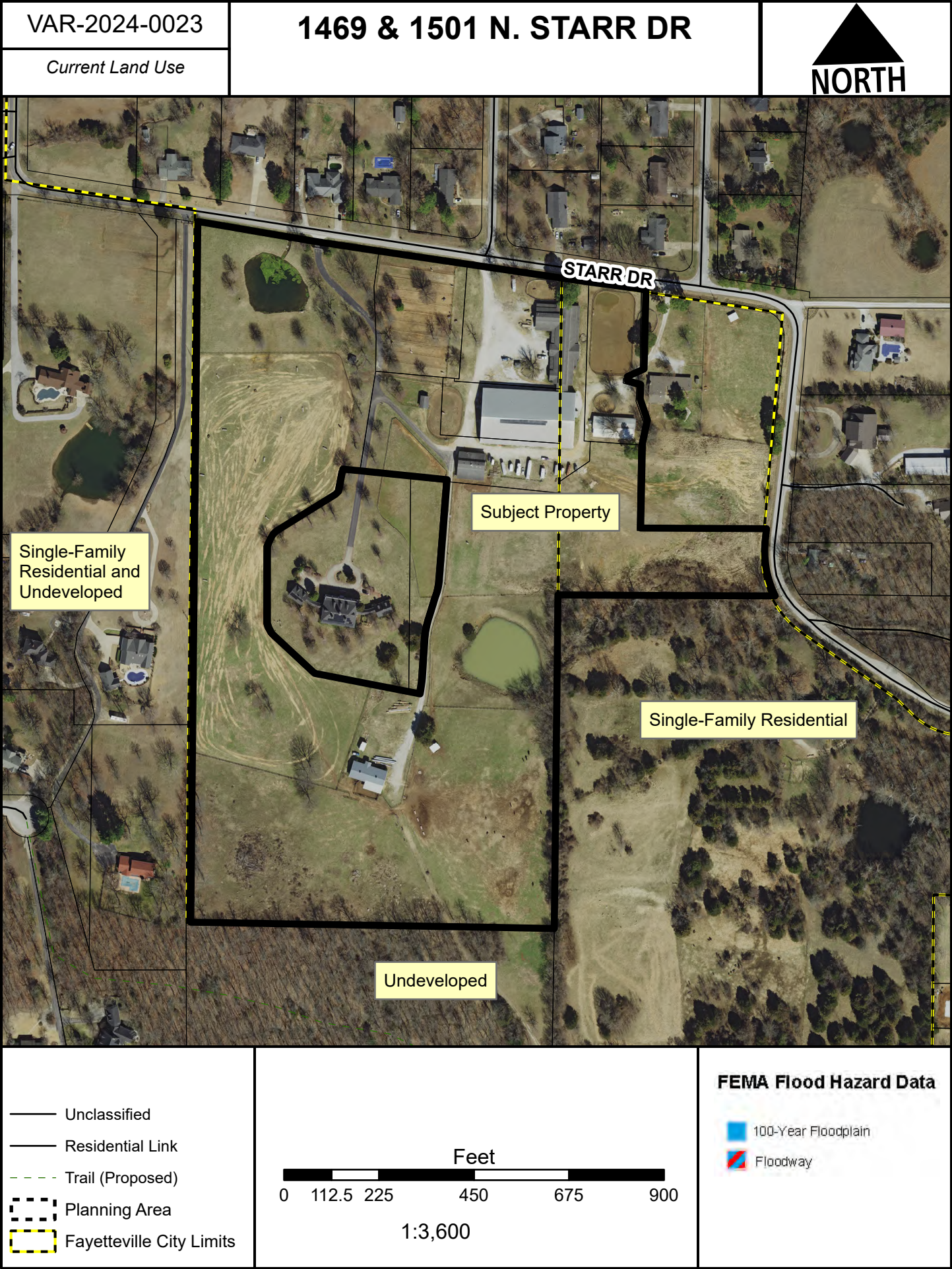


EXISTING AND PROPOSED ACCESS EASEMENTS











TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: June 24, 2024

SUBJECT: **CUP-2024-0018: Conditional Use Permit (1607 N. COLLEGE AVE/BRASS POLE PROPERTIES LLC, 407):** Submitted by HALL ESTILL ATTORNEY AT LAW for property located at 1607 N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.74 acres. The request is for a wireless communications facility.

RECOMMENDATION:

Staff recommends tabling **CUP-2024-0018** until the July 8 Planning Commission meeting at the applicant's request.

May 28, 2024 PLANNING COMMISSION MEETING

At the May 28, 2024 Planning Commission meeting, the applicant requested to table themselves for one month while still collecting necessary information to complete the application. In the interim, the applicant has been working with staff to ensure the correct documentation is provided, but the applicant requests one more tabling to finalize documents and present final recommendations.

RECOMMENDED MOTION:

*"I move to table **CUP-2024-0018** until the July 8, 2024 Planning Commission meeting."*

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					



TO: City of Fayetteville Planning Commission

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

FROM: Kylee Cole, Planner
Alan Pugh, Staff Engineer

MEETING DATE: June 24, 2024

SUBJECT: **VAR-2024-0027: Variance (1585 S. WEST AVE./STERLING HOLDINGS LLC, 601):** Submitted by BLEW & ASSOCIATES for property located at 1585 S. WEST AVE. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 2.70 acres. The request is for a variance to parking lot standards and streamside protection requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0027** with conditions.

RECOMMENDED MOTION:

"I move to approve **VAR-2024-0027** with conditions, determining:

- In favor of a variance to §168.12 (E);
- In favor of a variance to §172.04(E);
- In favor of the requested streamside protection variance; and
- In favor of all other conditions as recommended by staff.

BACKGROUND:

The subject property is in south Fayetteville, approximately 0.15-mile west of the intersection of S. School Ave. and W. 15th St. The property is 2.70 acres and is currently developed with two warehouses totaling approximately 38,000 square feet constructed in 1968, according to Washington County Assessor records. The property is zoned I-1, Heavy Commercial and Light Industrial and is part of the Fayette Junction Neighborhood overlay and the 71B Corridor Plan. College Branch flows generally north to south across the western portion of the property. The creek is on the list of protected streams as identified in the Streamside Protection map adopted in 2011 along with the Streamside Protection Ordinance. The current building and improvements are located partially within the adopted streamside zones as the site was developed prior to the ordinance becoming effective. The property is also the site of a proposed 9,700-square-foot warehouse. Surrounding land use and zoning is depicted in Table 1.

Table 1: Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Church	I-1, Heavy Commercial and Light Industrial
South	Storage Facility	I-1, Heavy Commercial and Light Industrial
West	Undeveloped	CS, Community Services
East	Laundromat/Commercial/Undeveloped	MSC, Main Street Center

Request: The applicant is requesting a variance to parking lot design standards and streamside protection requirements in association with a grading permit application to construct a 9,700-square-foot warehouse and associated parking (GRD-2024-0029).

DISCUSSION:

Variance #1: §168.12 (E) Regulated Uses, Structures and Activities Within the Streamside Protection Zones. Uses and structures within Zone 1: Waterside Zone are limited passive uses, landscaping, and impervious surfaces not exceeding 12 feet in width. Uses and structures within Zone 2: Management Zone include all those permitted in Zone 1 as well as small accessory structures and active recreational uses. The applicant is requesting a variance to construct a commercial driveway within the Waterside and Management Zone of College Branch.

- *Staff recommendation: As shown on the attachment and noted within the request letter, the applicant proposes to construct an additional warehouse at this location. While the new building is proposed outside of the streamside zones, it was determined through the process that the existing driveway into the facility was located partially on adjacent property. In an effort to resolve that issue, a new drive is proposed that will be located entirely on the owner's property. However, this will require portions of the drive to be moved closer to the stream. As shown on the exhibit, the area in which to work is small and avoidance of the streamside zones in their entirety is not possible. The applicant has proposed the new drive as far as possible from the stream while remaining functional for the truck traffic into and out of the site. Given the layout of the property and the need for the drive to be entirely on the owners property, staff is in support of the request for variance from the streamside provisions.*

Variance #2: §172.04(E) Dimensional Requirements. Two-way drive aisles with 90-degree parking spaces should be 24 feet wide. The applicant is requesting a variance for a drive aisle measuring 51.64 feet wide.

- *Staff recommendation: Typically, for parking lots containing nine (9) or more parking spaces, all parking lots with 90-degree parking are required to have two-way aisle widths of 24 feet unless additional width is required for fire apparatus access. The applicant is proposing a two-way drive aisle measuring approximately 51.64 feet wide, citing the need for additional width to accommodate commercial truck deliveries for the existing and proposed structures. Further, due to the site's existing features and proposed parking spaces, additional space is required to facilitate fire apparatus turn around within the proposed parking lot. Staff is supportive of the variance request, finding that the use as a warehouse with numerous delivery bays warrants the larger than typical drive aisle to accommodate the turning radius of large delivery trucks.*

Public Comment: Staff has received one general inquiry about the request, but no public comment on this item.

RECOMMENDATION: Staff recommends approval of **VAR-2024-0027**, subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to §168.12 (E) Regulated Uses, Structures and Activities Within the Streamside Protection Zones.** *Staff recommends in favor of the variance for the reasons outlined above and with the following conditions:*

- a. The applicant shall preserve the streamside zones outside of the areas of proposed encroachment shown on the attached exhibit.
2. **Planning Commission determination of a variance to §172.04(E) Dimensional Requirements.** *Staff recommends in favor of the variance for the reasons outlined above and with the following conditions:*
 - a. All truck bays shall be striped as no parking/loading zone.
3. Approval of this variance does not constitute approval of the associated grading permit, any associated building permits, or other variances that may not have been reviewed for at this stage.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>June 24, 2024</u>	☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

Section 156.03 Development Variances

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

(C) Consideration by the Planning Commission

(9) Streamside Protection Zones

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

As stated, the area of encroachment appears to be the minimum possible while remaining on the applicant's property. However, the commission would determine if an undue hardship exists.

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

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

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

See staff conditions listed above.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §168.12 Streamside Protection Zones
 - §172.04 Parking Lot Design Standards
- Applicant Exhibits
 - Request letter
 - Driveway exhibit
- Streamside Protection Zone Exhibit
- One Mile Map
- Close Up Map
- Current Land Use Map

168.12 Streamside Protection Zones

(...)

(D) *Streamside Protection Requirements.* The streamside protection zones shall be established as follows:

- (1) **Zone 1: Waterside Zone.** The waterside zone shall extend a minimum of 25 feet landward from the top of bank in each direction, measured horizontally on a line perpendicular to the top of bank and includes the surface water.

(...)

- (2) **Zone 2: Management Zone.** The management zone shall begin at the outer edge of the Waterside Zone and extend landward 25 feet as measured horizontally on a line perpendicular to Zone 1. The combined width of Zones 1 and 2 shall be no less than 50 feet from the top of bank on all sides of the surface water.

(...)

(E) *Regulated Uses, Structures and Activities Within the Streamside Protection Zones.*

- (1) The following are permitted within the designated streamside zone, subject to the requirements of this section, the Flood Damage Prevention Code, and all applicable requirements of the City of Fayetteville. Where a use is not listed, but is similar to a permitted use and is in keeping with the purpose of the streamside protection zones, the City Engineer may determine the use to be allowed. All other uses shall be prohibited.

- (a) **Zone 1: Waterside Zone.** The following may be permitted in the waterside zone, provided the standards of the *Streamside Best Management Practices Manual* shall be followed where applicable and that these uses and any necessary construction is designed and built to minimize the impact upon streamside areas and minimize any excavation or filling that will only be allowed by express authorization of the City Engineer. All construction, grading, excavation or filling must also fully comply with all necessary local, state and federal permits.

- (i) Open space uses that are primarily passive in character including: preserves, fishing areas and docks, parkland, and natural trails.
- (ii) Streambank restoration or stabilization.
- (iii) Water quality monitoring, education and scientific studies.
- (iv) Revegetation and reforestation.
- (v) Dam maintenance.
- (vi) Paved trails or other impervious surfaces not exceeding 12 feet in width when the City Engineer determines that there is no practical and feasible alternative. Such area may not be used to park vehicles.
- (vii) Stream crossings, including driveways, roadways, trails, or railroads when the City Engineer determines there is no practical and feasible alternative.
- (viii) Maintenance and upgrades of existing utility facilities.
- (ix) New utility facilities when the City Engineer determines there is no practical and feasible alternative.
- (x) Management of lawns and gardens.
- (xi) Removal of dead vegetation, pruning for reasons of public safety, removal of invasive species.
- (xii) Application of any fertilizer, herbicide, pesticide, or insecticide shall be allowed only if their harmful effect on water quality is prevented by ensuring no over-application or misapplication occurs.
- (xiii) Maintenance of drainage capacity in the channel including tree and sediment removal.
- (xiv) New stormwater conveyances when the City Engineer determines that there is no practical and feasible alternative.

- (b) **Zone 2: Management Zone.**

- (i) New stormwater conveyances when the City Engineer determines that there is no practical and feasible alternative and provided the standards of the *Streamside Best Management Practices Manual* shall be followed.
 - (ii) All uses within the waterside zone with the exception of stormwater conveyances, provided that compliance with the standards of the *Streamside Best Management Practices Manual* are not required but encouraged.
 - (iii) Accessory structures without a foundation and no larger than 150 square feet, including storage sheds, playground equipment, gazebos, decks, etc.
 - (iv) Active recreational uses.
- (2) Establishment of the following uses/activities after the effective date of this ordinance shall be prohibited in both streamside protection zones, except where necessary to allow an activity permitted by subsection (E)(1).
- (a) Grading, dredging, dumping, filling, or similar construction activities.
 - (b) Landfills, junkyards, salvage yards.
 - (c) Clearing of non-invasive woody vegetation.
 - (d) Storage of hazardous materials or chemicals unless within waterproof containers and within a structure.
 - (e) Parking lots.
 - (f) Buildings and accessory structures with a building footprint larger than 150 square feet.
 - (g) Parking or storage of motor vehicles.
 - (h) Septic systems and/or lateral lines.
 - (i) In-ground pools.
 - (j) Animal feedlots or kennels.
 - (k) Housing, grazing or other maintenance of livestock.
 - (l) Land application of biosolids.

172.04 Parking Lot Design Standards

(...)

(E) *Dimensional Requirements.* (See Table 1)

TABLE 1
DIMENSIONAL REQUIREMENTS

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



Surveying | Engineering
Environmental

May 15, 2024

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

SUBJECT: Design Variance - GRD-2024-0029

To Whom It May Concern:

The property owner / developer for the proposed SoFay Warehouse at 583 W 15th St, per Grading Permit # GRD-2024-0029, is requesting two design variances. The variances pertain to commercial drive aisle widths and entry drives located within a streamside protection zone as noted below.

172.04(E) Parking Lot Design Standards – Drive Aisle Width Exceed 24'

Variance Request & Hardship:

Commercial Drive Aisle widths are not to exceed 24' in width. In the Case of the SoFay Warehouse, the drive aisle between parking stalls is meant to accommodate commercial truck deliveries for both the existing and proposed structures. An increase in the drive aisle width is necessary to allow for truck deliveries to the existing buildings, while also providing parking that meets current city code in an area that is currently used for parking in its existing condition.

168.12(E) Streamside Protection Zones - Entry Drive in Streamside Protection Zone

Variance Request & Hardship:

Driveways are not to be constructed within the Streamside protection Zones. In the Case of the SoFay Warehouse, the existing entry drive onto the site encroaches into the adjoining property by over 13' in some areas. To bring the entry drive up to current city code, while not encroaching on the adjacent property, the new entry drive will need to be constructed within the Streamside Protection Zone. The site and entry drive have been designed to avoid the streamside protection zone as much as possible, while also providing a 5' buffer to ensure site work does not encroach upon the adjoining property.

Sincerely,

Preston Thibodaux
Blew & Associates, P.A.



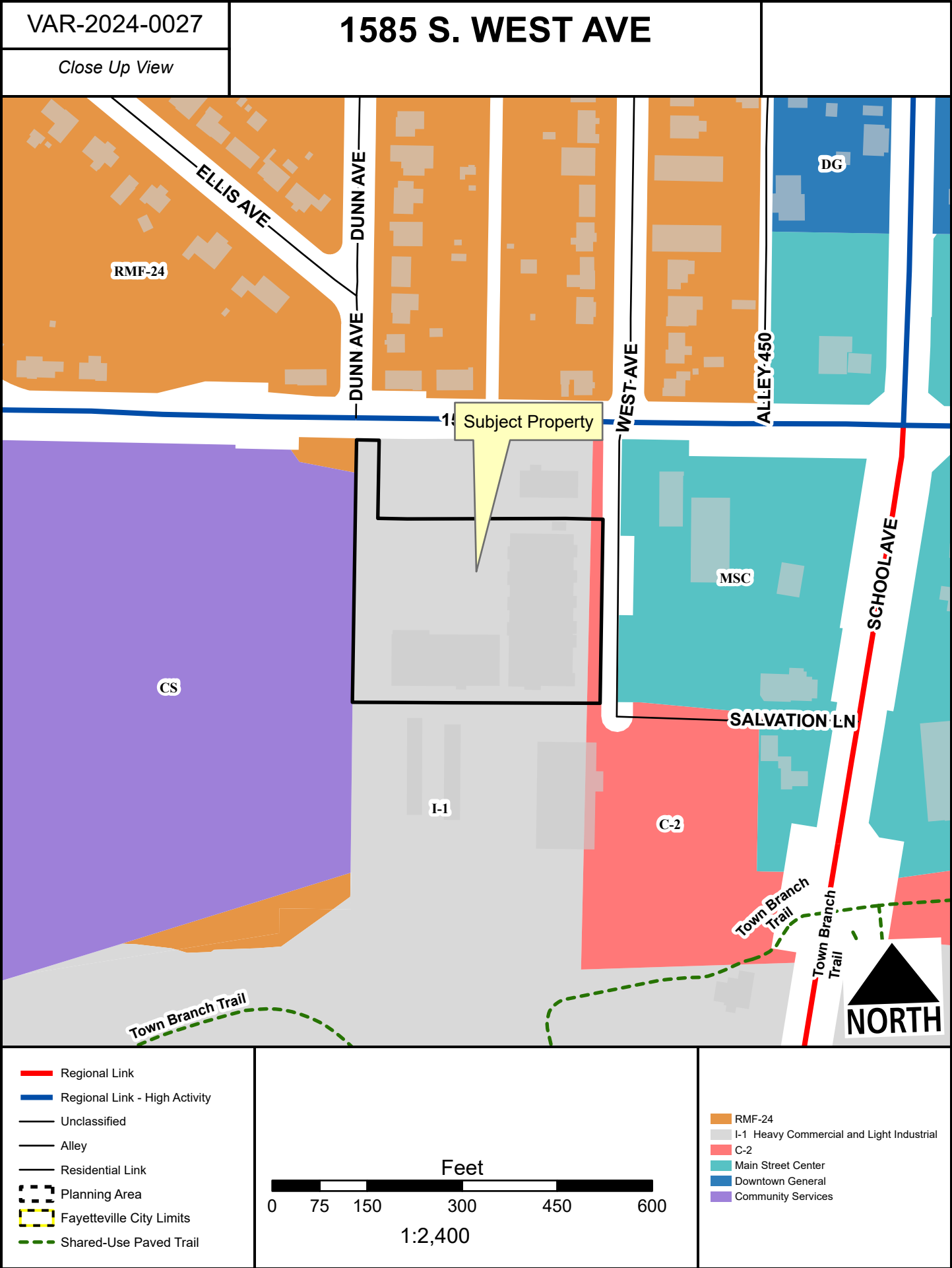
479-443-4506



blewinc.com



Planning 1626 Pineapple Hills Pkwy
Rogers, Arkansas 72758
June 28, 2024



VAR-2024-0027
<i>Current Land Use</i>

1585 S. WEST AVE



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

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

-  100-Year Floodplain
 Floodway

Feet

0 112.5 225 450 675 900

1:3,600

Feet

0 112.5 225 450 675 900

1:3,600

Feet

0 112.5 225 450 675 900

1:3,600



TO: City of Fayetteville Planning Commission

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

FROM: Alan Pugh, Staff Engineer
Donna Wonsower, Planner

MEETING DATE: June 24, 2024

SUBJECT: **VAR-2024-0028: Planning Commission Variance (634 S. HAPPY HOLLOW RD/ GERLT VENTURES INC, 526):** Submitted by DEVELOPMENT CONSULTANTS INC for property located at 634 S. HAPPY HOLLOW RD. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY-FOUR UNITS PER ACRE and contains approximately 0.17 acres. The request is for a variance to the flood hazard reduction ordinance.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0028**, based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **VAR-2024-0028** with conditions, determining:*

- In favor of a variance to §168.10, Provisions for Flood Hazard Reduction; and*
- In favor of all conditions as recommended by staff."*

BACKGROUND:

The subject property is located just north of the intersection of E. Huntsville Road and S. Happy Hollow Road. The property totals approximately 0.17 acres and, while previously occupied by a single-family home, is currently vacant. The previous home was demolished in 2023. A tributary to the West Fork White River runs generally north to south across the eastern side of the property. This creek is currently indicated as Zone A, base flood elevation undetermined, according to the 2024 Flood Insurance Study (FIS). The creek at this location is not on the list of protected streams as identified in the streamside protection map adopted in 2011 along with the streamside protection ordinance. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Residential	RSF-4, C-2 and P-1, see attached project maps
South	Residential, Commercial	
East	Residential	
West	Residential	

Request: The applicant is requesting a variance from §168.10, which requires a flood study be approved by FEMA prior to the development moving forward, the requirement to utilize the latest

Flood Insurance Rate Map (FIRM) and the requirement for compensatory storage.

Public Comment: Staff have received several questions from the public regarding the request. One individual had questions regarded

DISCUSSION:

The presence of the Zone A floodplain on the property triggers the requirement for a flood study per Chapter 168 of the Unified Development Code. It would also require that the study be approved by the Federal Emergency Management Agency (FEMA) before the development can be approved. This process is referred to as a Conditional Letter of Map Revision (CLOMR) and is typically very time consuming and expensive. This portion of the code was passed after several instances of major revisions to Zone A floodplain areas were not submitted and approved by FEMA prior to a development moving forward as it was not previously required. However, in this instance, staff feels this step may be overly burdensome to the applicant given the nature of the work and the amount of fill proposed within the floodplain as shown on the request letter.

In general, FEMA defines Zone A areas using LiDAR contour data and simplistic models that may or may not take all the nuances of individual properties into account. In this case, staff agrees with the applicant that a more detailed study focusing specifically on the property in question and immediate surrounding properties is likely more accurate than the Zone A approximations published by FEMA and agrees with the applicant regarding their use. However, the use is strictly limited to compliance with local ordinances in relation to this variance. In all other instances, FEMA adopted mapping will govern.

Lastly, a very small amount of net fill is proposed by the applicant without the use of compensatory storage. The net fill proposed is just over 4 cy of fill within the Special Flood Hazard Area. Due to the layout of the lot being very flat, the creation of floodplain area on such a small lot that will have positive drainage to the creek is difficult. Given the small amount of net change and the constraints of the site, staff agrees with this request.

RECOMMENDATION: Staff recommends approval of **VAR-2024-0028** with the following conditions of approval:

Conditions of Approval:

Planning Commission determination of a variance to §168.10, Provisions for Flood Hazard Reduction. *Staff recommends in favor of the request for the reasons outlined in this report with the following conditions:*

1. The applicant shall obtain appropriate permits prior to proceeding with construction.
2. Construction documents shall adhere with the approved variance including the amount and location of fill and location/size of structures.
3. No additional structures or fill will be approved on the site now or in the future without additional engineering analysis. That analysis shall use the vacant lot as the existing condition rather than the developed lot to accurately reflect the impact of the improvements.

4. Solid wood privacy fencing which may further block floodplain flow is not allowed within floodplain areas.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

Section 156.03 Development Variances: Certain variances of the development regulations may be applied for as follows:

(7) Flood Damage Prevention Code. The Planning Commission shall hear and decide requests for variances from the requirement of this ordinance.

(a) In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this ordinance.

(b) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places, without regard to the procedures identified in the remainder of this ordinance. Variances may only be issued for such repair, or rehabilitation if strict enforcement of the ordinance would preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items listed in [§168.05\(B\)\(4\)](#) have been fully considered. As the lot size increases beyond half acre, the technical justification required for issuing the variance increases.

(d) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(f) Floodplain variances shall only be issued if:

(i) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property, which do not apply generally to other property in the same flood zone;

As stated, staff has reviewed the flood study provided by the applicant but feels the additional step of submitting a CLOMR may be overly burdensome given the scope fo the improvement.

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

As stated, staff has reviewed the flood study provided by the applicant but feels the additional step of submitting a CLOMR may be overly burdensome given the scope of the improvement.

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with the other provisions of the Code of Fayetteville.

The provided flood study indicates that there will be no increase in base flood elevations on this or surrounding properties.

(g) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of [§168.05\(B\)\(4\)](#) are considered and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Not applicable to this project

(h) Upon consideration of the factors in this section, and the purpose of this ordinance, the Planning Commission may impose conditions to the granting of floodplain variances as it deems necessary to further the purpose of this ordinance.

See staff recommended conditions listed above

(i) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation surcharge and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the floodplain administrator in the office of the Washington County Clerk and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

Not applicable to this project

Attachments:

- Applicant Request Letter
- Proposed variance request exhibit
- Draft FEMA Mapping
- Public Comment
- One Mile Map
- Close Up Map
- Current Land Use Map

14 May 2024

City of Fayetteville

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

Permit Number: RESI-2024-0287
Project Address: 634 S Happy Hollow Rd
Owner: Gerlt Ventures, Inc.
 PO Box 1739
 Farmington, AR 72730
Subject: Variance Request §168 Flood Damage Prevention Code

Project Narrative:

The owner of the subject property located at 634 S Happy Hollow Road is proposing removal of the existing residential structure and construction of a new residential structure with access and drainage improvements. The lot is approximately 0.17 acres on the east side of S Happy Hollow Road and is bordered by West Fork White River Tributary 8 to the east. The existing residential structure is approximately 610 square feet with a finish floor elevation of 1222.00'. The site is accessible by a gravel drive and has a drainage ditch running north to south in the right-of-way. The proposed residential structure is two stories with a footprint of approximately 1600 square feet at elevation 1223.40. A 16 foot wide concrete driveway will be installed and the ditch will be regraded to meet City of Fayetteville Minimum Street Standards. Portions of this parcel are in Special Flood Hazard Area (SFHA) Zone A per Flood Insurance Rate Map panel 0502160217G effective 01/25/2024.

To place the finish floor elevation of the structure two feet above the 1% annual chance flood water surface elevation, fill in the SFHA will be required. Volumes for the cut and fill for the proposed improvements are listed in the table below. The cut and fill have been calculated for the limits of the entire disturbed area as well as the limits of disturbed areas within the adjusted SFHA base flood elevation boundary from the flood study. The fill has been broken down by elevation limit to show the fill up to the base flood elevation and the total fill for the indicated areas.

Area	Elevation Boundary	Cut (CY)	Fill (CY)	Net (CY)
Full Site Improvements	No limit	23.12	139.54	116.42 (Fill)
Full Site Improvements	Up to 100 YR WSE	23.12	27.58	4.46 (Fill)
Within Adjusted SFHA Boundary	No limit	17.85	105.81	87.96 (Fill)
Within Adjusted SFHA Boundary	Up to 100 YR WSE	17.85	21.94	4.09 (Fill)

Engineering • Planning • Land Surveying • Landscape Architecture

Variance Request:

On the owner's behalf, Development Consultants, Inc. (DCI) requests variances to the following sections of the Unified Development Code.

1. Variance to UDC Section 168.10(T)(5)(a) requiring a flood study to be approved by FEMA. The flood study was performed and found the improvements to cause a no rise. Per 44 CFR §66.12 no conditional letter of map revision is necessary if conditions in §60.3 paragraphs (c)(10) are met. This condition states improvements will not increase the water surface elevation of the base flood more than one foot for areas designated as special flood hazard areas without base flood elevations, but not identified as a regulatory floodway. The owner would like to a variance to FEMA approval of this flood study as it meets the Code of Federal Regulations requirements.
2. Variance to UDC Section 168.10 (T)(5)(b) requires the current FEMA Flood Insurance Rate Map be utilized when evaluating the limits of the SFHA on a subject property. The current map does not reflect existing conditions in the field on the subject property. DCI has updated the HECRAS model used to develop the SFHA to represent existing conditions on the site. The owner would like to utilize this model to determine the extents of the SFHA and the impact of improvements on the 1% annual chance flood water surface elevation. In lieu of submitting a letter of map revision, it is requested the SFHA Administrator interpret the exact location of the special flood hazard areas when mapped boundaries appear different for actual field conditions as stated in UDC §168.04(B)(5).
3. Variance to UDC Section 168.10(U)(3) compensatory storage for any measurable loss of flood storage capacity. A flood study was performed to find the fill necessary for the proposed improvements to not adversely affect the base flood water surface elevation and no adverse effects downstream. No property areas can be excavated without additional excavations outside the property lines for positive drainage.

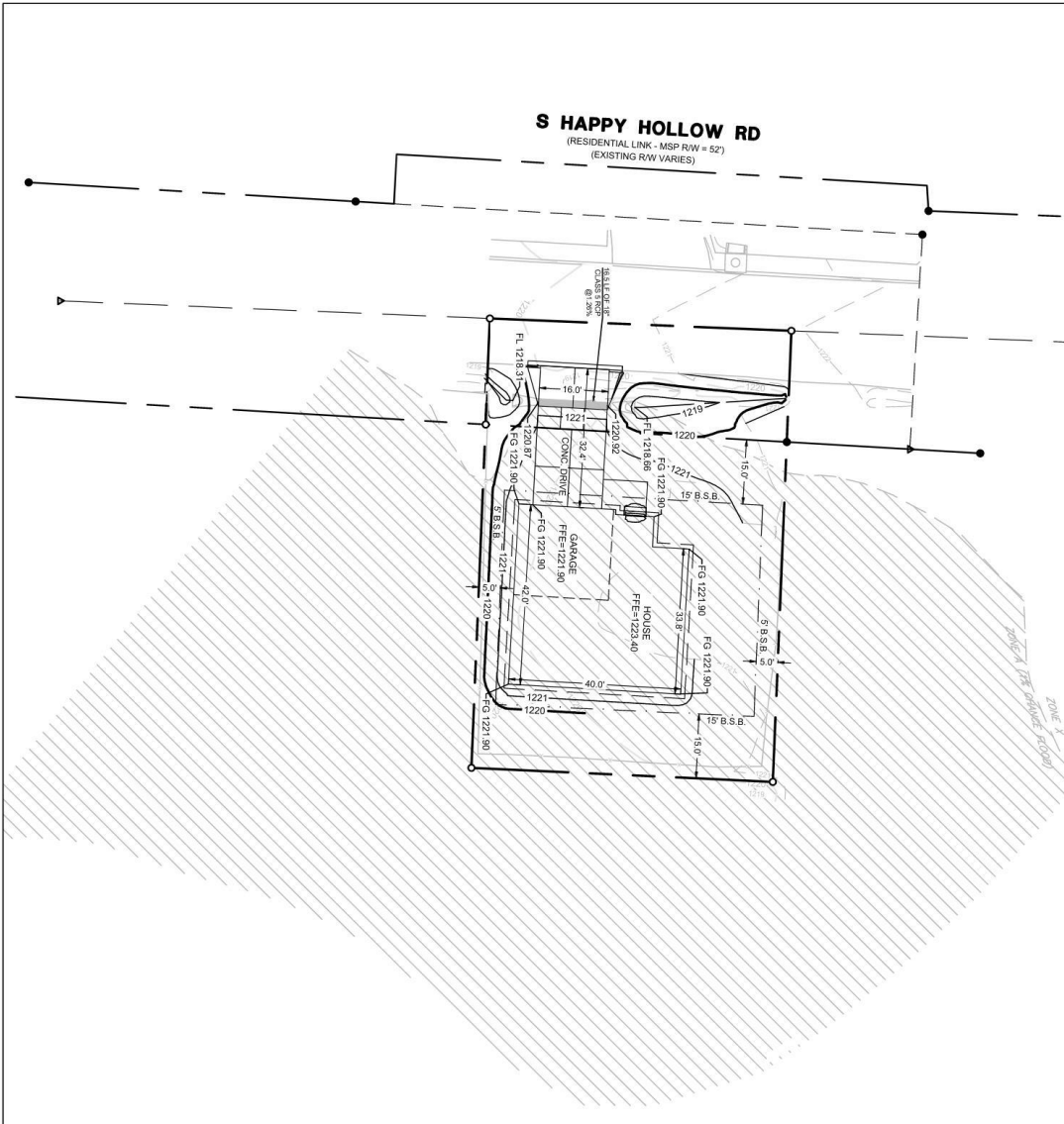
Sincerely,



Caroline Fox, P.E.
carolinf@dcius.pro
479.444.7880
Development Consultants, Inc.

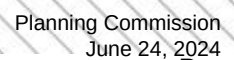
Attachments: Flood Study Summary

CITY OF FAYETTEVILLE ZONING	
BUILDING SETBACKS	
Front	RSF-4
Side	5'
Rear	15'
Max Height	3 stories



LEGEND	
●	FOUND MONUMENT
○	SET MONUMENT
△	CALCULATED POINT
▽	WATER VALVE
⊙	WATER METER
⊗	GAS METER
⊠	TELEPHONE PEDESTAL
⊞	ELECTRIC METER
⊡	ELECTRIC BOX
⊞	CABLE BOX
⊠	TELEPHONE BOX
⊞	SEWERY SINK MANHOLE
—WA—	WATER LINE
—GA—	GAS LINE
—OE—	OVERHEAD ELECTRIC
—OH—	OVERHEAD TELEPHONE
—UG—	UNDERGROUND TELEPHONE
—UGFO—	UNDERGROUND FIBER OPTIC
M.P.S.	MASTER STREET PLAN
F.V.	FIBER VALVE
S. # P.B.	SET (SIZE) REBAR (P.S. #1411)
F. # P.B.	FOUND (SIZE) REBAR
F.C.P.	FOUND CUMPE PIPE
B.B.B.	BUILDING SETBACK

(RESIDENTIAL LINK - MSP R/W = 52')
(EXISTING R/W VARIES)



Flood Study Summary

634 S Happy Hollow Road
RESI-2024-0287

May 14, 2024

Prepared By:

Development Consultants, Inc,
1 E Center Street, Suite 290
Fayetteville, AR 72701



Hydraulic Certification

Development Consultants, Inc. has reviewed the subject project and found that portions are located within Special Flood Hazard Areas (SFHA) as identified on the community's Flood Insurance Rate Map. This project falls with Zone A per panel 0502160217G effective 01/25/2024.

We certify that the design of those portions of the embankment and other obstructions will not cause base flood elevation increases in excess of those permitted under 44 CFR §60.3 paragraphs (c)(10). This compliance is based on the project design drawings and according to any additional calculations or information submitted by Development Consultants, Inc. for review as of the date of this memorandum.

Any subsequent changes to those portions of the project within the SFHA(s) could result in the project being out of compliance with the local flood damage prevention ordinance and/or City of Fayetteville drainage design criteria.



A. PROJECT SUMMARY

This summary contains the hydrologic analysis of the impacts of the proposed improvements to the lot located at 634 S Happy Hollow Road, Parcel 765-14330-000. A portion of the approximately 0.17 acre lot is located within Zone A Special Flood Hazard Areas.

The proposed improvements are the removal of the existing approximately 610 square foot house at finish floor elevation 1222.00' and construction of a two story house with a 1600 square foot footprint at finish floor elevation of 1223.40'. The garage elevation and surrounding finish ground elevation are 1221.90'. A 16' wide concrete driveway will be installed and the drainage ditch in the right-of-way will be re-graded to meet requirements of the Minimum City Street Standards.

B. ANALYSIS METHOD

HEC-RAS 6.5 was used to perform the analysis. The HEC-RAS model for West Fork White River Tributary 8 was provided by the City of Fayetteville. Based on this model, the 1% annual flood elevation for this site is 1221.40'. A new geometry file was created with a cross section added at river station 3411 and elevations for the section were obtained from a merged terrain of the existing lot survey and USGS DEM 1/3 Arc Second n37w095 20230613. The DEM did not contain an accurate representation of the stream channel, so points and elevations were estimated by interpolating between the stream shape at adjacent cross sections upstream and downstream, river stations 3475.866 and 3249.83, respectively. The existing structure was added to the model as an obstruction.

A proposed geometry was created with the same cross section at river station 3411. The overbank station and elevations of the cross section were updated with a merge of the above-mentioned terrain and the proposed surface developed in AutoCAD Civil 3D 2024. The proposed structure was added to the model as an obstruction.

The existing conditions rendered a more accurate area for the SFHA and can be seen in the images below.

SFHA per FIRM panel 0502160217G



SFHA per adjusted model



C. RESULTS

The proposed fill, structure, and ditch excavation will not cause a rise in water surface elevation nor channel velocity of the 100 year flood event. Based on these findings it can be concluded that the proposed improvements will have not have adverse impacts on the SFHA or downstream areas.

River Sta	Profile	Plan	Q Total (cfs)	Min Ch El (ft)	W.S. Elev (ft)	Crit W.S. (ft)	E.G. Elev (ft)	E.G. Slope (ft/ft)	Vel Chnl (ft/s)	Flow Area (sq ft)	Top Width (ft)	Froude # Chl
3475.866	100 Year	PROP	370	1219.93	1222.41	1222.41	1222.64	0.014188	5.76	130.19	270.21	0.91
3475.866	100 Year	EXIST	370	1219.93	1222.41	1222.41	1222.64	0.014188	5.76	130.19	270.21	0.91
3411	100 Year	PROP	370	1218.85	1220.49	1220.49	1220.71	0.022784	5.06	122.24	234.94	1.05
3411	100 Year	EXIST	370	1218.85	1220.50	1220.50	1220.70	0.03183	6.00	118.78	253.53	1.24
3249.83	100 Year	PROP	370	1214.28	1216.69	1216.69	1216.90	0.013979	5.69	138.32	283.26	0.90
3249.83	100 Year	EXIST	370	1214.28	1216.69	1216.69	1216.90	0.013979	5.69	138.32	283.26	0.90

Wonsower, Donna

From: Wonsower, Donna
Sent: Thursday, June 20, 2024 10:40 AM
To: Wonsower, Donna
Subject: RE: VAR-2024-0028 - Document Request

From: Pugh, Alan <apugh@fayetteville-ar.gov>
Sent: Thursday, June 13, 2024 1:48 PM
To: Susanna Brannon <susanna.brannon@gmail.com>
Cc: Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>; Masters, Jessica <jmasters@fayetteville-ar.gov>; Turk, Teresa <teresa.turk@fayetteville-ar.gov>
Subject: RE: VAR-2024-0028 - Document Request

I am reviewing that submittal in detail hopefully today. Let me get that done and I can respond.

Thank you.

Alan

From: Susanna Brannon <susanna.brannon@gmail.com>
Sent: Monday, June 10, 2024 4:23 PM
To: Pugh, Alan <apugh@fayetteville-ar.gov>
Cc: Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>; Masters, Jessica <jmasters@fayetteville-ar.gov>; Turk, Teresa <teresa.turk@fayetteville-ar.gov>
Subject: Re: VAR-2024-0028 - Document Request

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

Alan,

I've received the DCI waiver request from Miranda, and am waiting for the flood study plan. I must say, I'm finding the language difficult to understand. I'm trying to figure if this issue should be of concern to our neighborhood. It seems to me that building in a flood plain should have a review. Can you tell me more or less in layperson's terms why they want this waiver?

Thank you so much.
Susanna Brannon
528 Happy Hollow Rd

On Mon, Jun 10, 2024 at 2:03 PM Masters, Jessica <jmasters@fayetteville-ar.gov> wrote:

Mirinda,

At your earliest convenience, could you please forward all of the documents in a dropbox link regarding the subject request to Ms. Susanna Brannon, copied on this email?

Ms. Brinnon, thank you again for calling City staff today. Alan Pugh, the Floodplain administrator is really the best person to answer your questions about this request, since it appears to be a request to our typical floodplain requirements. Please feel free to keep us in the loop regarding any questions or comments you may have, and if you would like to submit written public comment, you can forward that directly to myself and/or Mr. Pugh and we will get it documented in the staff report.

This item is going to the Planning Commission on Monday, June 24 beginning at 5:30 PM. Members of the public are welcome to attend that meeting either in-person in room 219 in City Hall or virtually through zoom. Information about how to attend virtually can be found [here](#).

Thank you,

Jessie

Jessie Masters, AICP

Development Review Manager

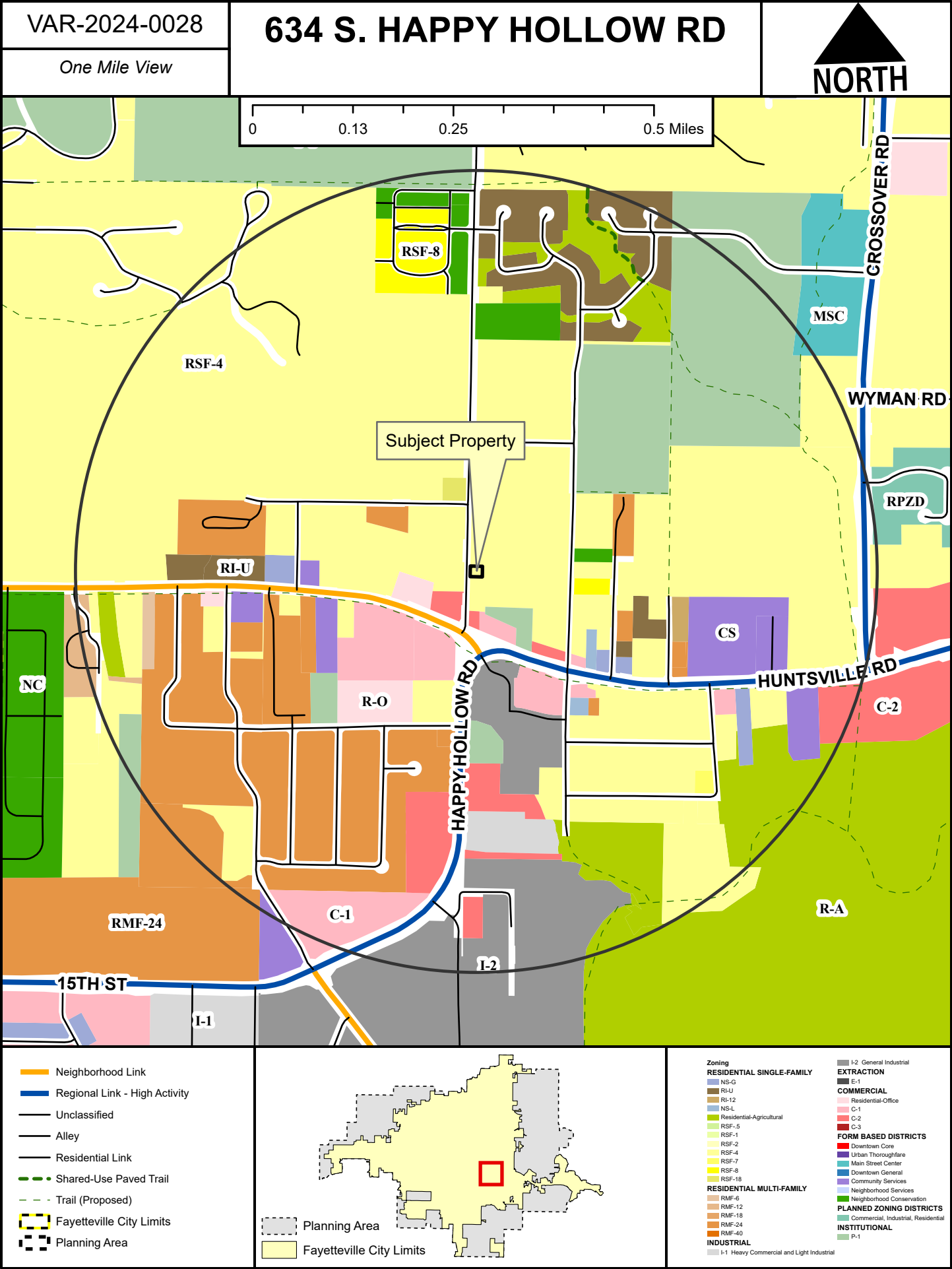
City of Fayetteville, Arkansas

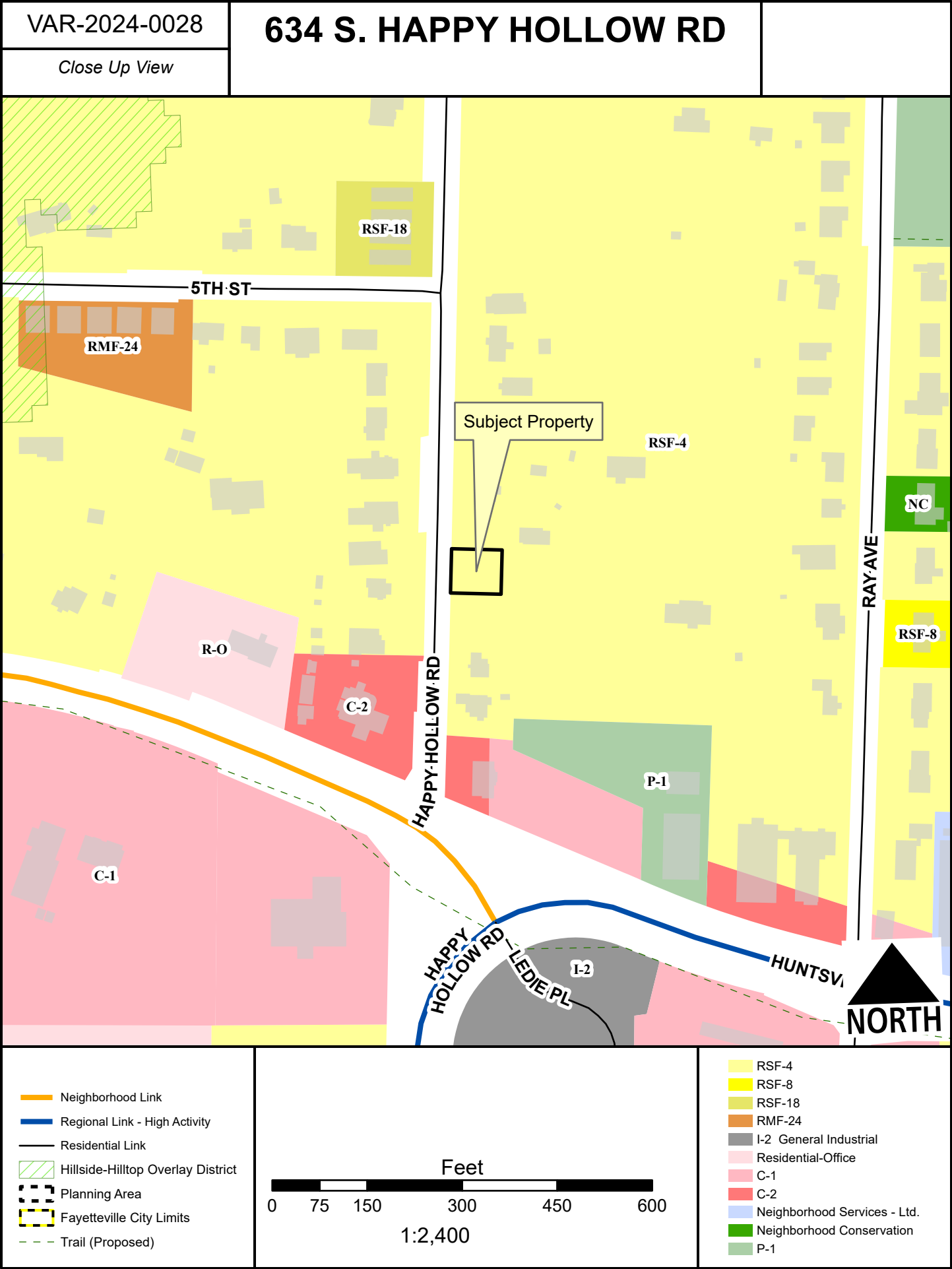
(479) 575-8239

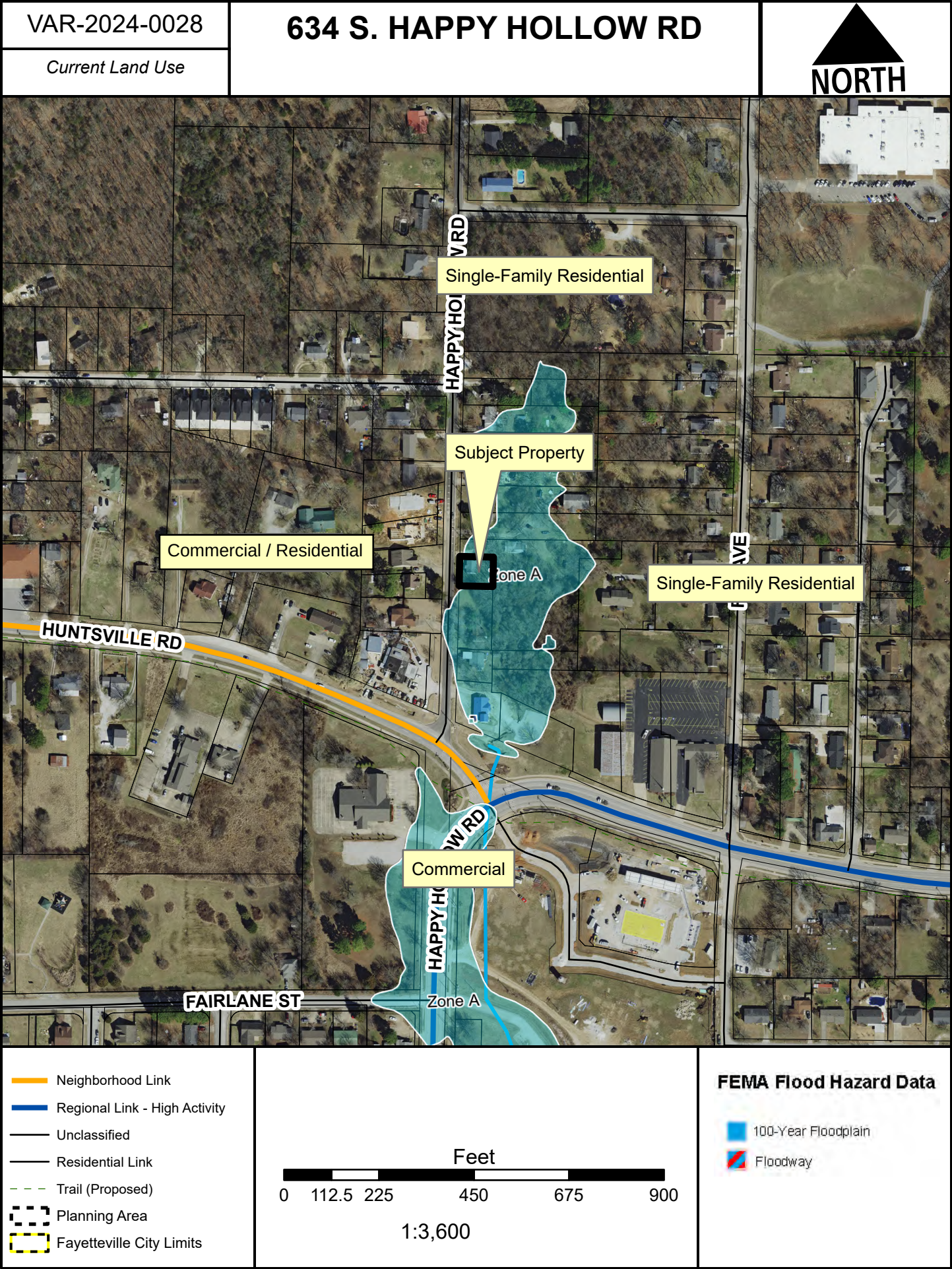
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TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
City of Fayetteville Long Range Planning Committee

MEETING DATE: June 24, 2024

SUBJECT: **ADM-2024-0028: Administrative Item (Amend UDC Chapters 155, Appeals, 166.02, Development Review Process, 166.23, Urban Residential Design Standards, 167.04 Tree Preservation and Protection):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 155, 166.02, 166.23, and 167.04. The proposed code changes would modify development requirements associated with appeals, architectural design standards, and tree preservation requirements.

RECOMMENDATION:

Staff recommend forwarding **ADM-2024-0028** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **ADM-2024-0028** to the City Council with a recommendation of approval."*

BACKGROUND:

In 2021, major ordinance changes were approved by City Council to revamp drainage and development standards, with a secondary goal of incentivizing infill. The changes that were approved required new green stormwater practices on a sliding scale of added impervious surface, and decoupled certain requirements from a question of use and tied those requirements instead to the overall impact to stormwater. This introduced three new levels of development threshold and shifted the requirement of a large-scale development plan or a site improvement plan to be triggered only after the addition of 10,000 sq. ft. of added, new impervious surface. In the intervening period since 2021, staff audited the outcomes of these changes, and identified several areas that require revision and clarification.

- **Parkland Dedication**
 - Certain project types were no longer subject to parkland dedication, even though the impact of added units is significant.
- **Project Classification**
 - Projects adding less than 10,000 sq. ft. still often require a coordinated, cross-divisional round of review/comment leading to delays unforeseen issues at permitting.
- **Application of Tree Preservation standards**
 - Certain projects are no longer subject to tree preservation requirements.
- **Timeliness of Variances and Appeals**
 - Variances are only permitted to be appealed with an overall project, rather than piecemeal. This becomes an issue when certain development types are no longer subject to large-scale development or site improvement plan.

Recognizing immediate financial implications, staff proposed changes to the parkland dedication ordinance already, which were forwarded by the Planning Commission to the City Council. Those changes were approved by the City Council on May 21, 2024. At the May 13, 2024 Planning Commission, additional proposed changes to the remaining sections were brought forward by staff for the Commission's consideration, where they were tabled indefinitely with a vote of 5-2-0 in order to keep working on the item and understand the full context of the changes. Staff brought the items back to the Long-Range Planning Committee on May 23, 2024. At that meeting, the Long-Range Planning Committee agreed to bring forward proposed changes to the appeals section, the application of tree preservation standards, and text changes in the Urban Residential Design standards, which are presented for consideration here. Since the items have been separated out, staff is bringing forward a new item with just those pieces for the Commission's consideration.

DISCUSSION:

To address tree preservation concerns, staff and the Long-Range Planning Committee propose requiring an abbreviated tree preservation plan to projects adding between 1,200 and 6,000 sq. ft. of impervious surface. Urban Forestry staff have found that larger, multi-unit structures on smaller infill sites are no longer required to perform any tree preservation, mitigation, or even escrow, even if the impact to the canopy is significant. To help alleviate concerns about requiring additional tree preservation to smaller sites, staff also recommends an option for projects within this threshold to be evaluated for a tree escrow contribution.

The City Attorney's office also recommends changes to the appeals section of code. Variances, as currently written in the appeals portion of code, can only be appealed with the overall project, such as an SIP, LSIP, or LSD. As certain projects no longer require these preliminary project approvals before permitting, variances can only be appealed once a permit is issued. Staff is recommending that variances can be appealed independently from an overall project, in those instances where an SIP, LSIP, or LSD, or other preliminary development entitlement approval is not required.

Public Comment: Staff distributed the larger ordinance changes to key stakeholders within the development community. Feedback was received in relation to vested interest of projects that may already be in the pipeline, and feedback was received in relation to parkland dedication requirements. The City Attorney's office confirmed that vested interest in this or is any ordinance change happens at the time of an approved or issued permit. One Planning Commissioner suggested that the threshold could be shifted to the overall size of a structure rather than the amount of impervious surface. No additional written comment was offered, or alternative code changes suggested at this time. Public comment was also provided at the May 13, 2024 Planning Commission. Members of the public who spoke were more concerned about the proposed changes to the impervious surface thresholds, which are not under consideration at this time. No additional public comment has been received by staff.

RECOMMENDATION: Staff recommend forwarding ADM-2024-0028 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- **Proposed Ordinance (Clean):**
 - UDC §155, Appeals
 - UDC §166.02, Development Review Process
 - UDC §166.23, Urban Residential Design Standards
 - UDC §167.04, Tree Preservation and Protection
- **Proposed Ordinance (Strikethrough):**
 - UDC §155, Appeals
 - UDC §166.02, Development Review Process
 - UDC §166.23, Urban Residential Design Standards
 - UDC §167.04, Tree Preservation and Protection

CHAPTER 155: APPEALS

155.01 Circuit Court

Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Adjustment, Construction Board of Adjustment and Appeals, and the Zoning and Development Administrator shall be taken to the Circuit Court of Washington County.

(Code 1965, App. A., Art. 9(6); Ord. No. 1747, 6-29-70; Ord. No. 2323, 4-5-77; Ord. No. 2538, 7-3-79; Code 1991, §160.175; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04))

155.02 Form/Time/Place

Unless an appeal is filed with the court, the following requirements shall be met:

- (A) *Form.* All appeals shall be submitted in writing referencing the applicable UDC section(s) and setting out the reasons the applicant contends the decision was in error and how the applicant is adversely impacted.
- (B) *Time.*
 - (1) *Appeals.* Appeals shall be submitted within ten (10) working days from the date of the final action taken.
 - (2) *Hearings.* The entity hearing the appeal shall fix a reasonable time for hearing an appeal.
- (C) *Place.* Appeals shall be filed with the following:
 - (1) *City Clerk.* Appeals made to the City Council shall be filed with the City Clerk.
 - (2) *Zoning and Development Administrator.* Appeals made to the Planning Commission or Board of Adjustment shall be filed with the Zoning and Development Administrator.
 - (3) *Building Safety Division Director.* Appeals made to the Construction Board of Adjustment and Appeals , [for inspecting purposes] shall be filed with the Building Safety Division Director.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04)

155.03 Stay

An appeal shall stay all proceedings in furtherance of the action appealed from unless the person in charge of administration of the chapter certified that a stay would, in their opinion cause imminent peril to life or property.

(Code 1965, App. A., Art. 13(3); Ord. No. 1747, 6-29-70; Code 1991, §160.173; Ord. No. 4100, §2 (Ex. A), 6-16-98)

155.04 Council Member Appeal On Behalf Of Resident

A Council Member may bring an appeal on behalf of any resident of the city of a decision by the Planning Commission to approve subdivision requests (plats, lot splits), and development requests (large scale developments and large or small site improvement plans). Variances, compliance with applicable design standards, tree preservation plans and conditions of approval for any development shall be appealed as part of the approval or denial of a development proposal. Variances, compliance with applicable design standards, tree preservation

plans and conditions of approval for any development not requiring approval by the Planning Commission or administrative approval by the Planning Division may be appealed independently.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5296, 12-15-09; Ord. No. 6342 , §1, 8-4-20)

155.05 Appeals From Planning Commission Decisions

(A) *Appeals to City Council*

- (1) Owners of record of the property being considered may appeal a decision by the Planning Commission to deny the following requests in accordance with the procedure set forth in §155.02:
 - (a) Annexation;
 - (b) Rezoning;
 - (c) Required dedication and improvements of §155.06(C);
 - (d) Subdivision (plats, lot splits, lot line adjustments);
 - (e) Development (large scale development, large and small site improvement plans);
 - (f) Vacations of street right-of-way.
- (2) *Conditions of Approval/Variances, etc.* An owner of record may appeal the conditions of approval determined by the Planning Commission and any adverse decision by the Planning Commission concerning applicable design standards, tree preservation requirements, streamside protection requirements and variance requests as part of the conditions of an approved development request or the denial of such development request. Variances, compliance with applicable design standards, tree preservation plans and conditions of approval for any development not requiring approval by the Planning Commission or administrative approval by the Planning Division may be appealed independently.
- (3) *Conditional Use Request.* Three Council Members may in unison appeal a decision of the Planning Commission approving or denying a conditional use request.

(Code 1965, §13A-40, App. C., Art. II, Art. V., §B; Ord. No. 1509, 8-8-66; Ord. No. 1750, 7-6-70; Code 1991, §§156.017, 159.12, 159.54(F)(1), (2), 159.66; Ord. No. 3781, §1, 4-19-94; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4334, 9-4-01; Ord. No. 4340, 10-2-01; Ord. No. 6342 , §2, 8-4-20)

155.06 Appeals From Staff Interpretations And Actions

(A) *Appeals to City Council.*

- (1) The City Engineer's decision to issue a violation notice or stop work order may be appealed to the City Council by an owner of record of the property in question or a council member on behalf of a resident of the city.
- (2) The Zoning and Development Administrator's decision to deny a vacation of any public easement (whether constructed or not) or portion thereof may be appealed by the owner of record of the property.

(B) *Appeals to the Board of Adjustment.* The following interpretations and decisions may be appealed by an owner of record of the property in question or a council member on behalf of a resident of the city to the Board of Adjustment:

- (1) *Zoning and Development Administrator.* An interpretation or decision regarding zoning matters.

- (2) *Building Safety Officer—Airport Zone.* Any person aggrieved, or any taxpayer affected by any decision of the Building Safety Officer, made in the administration of Airport Zone, Chapter 165.
- (C) *Appeals to the Planning Commission.*
- (1) *Zoning and Development Administrator's Required Dedications and Improvements.*
- (a) An owner or developer who is aggrieved by the requirements of the Unified Development Code for land, right-of-way or easement dedications, construction of on-site or off-site improvements, or payments in lieu of any dedication or improvement, which are in excess of the "rough proportionality" of the impact of the development upon the city's infrastructure or services may appeal such requirement to the Planning Commission as a part of the submission of the preliminary plat, large scale development, subdivision, building permit, lot split, grading permit, floodplain development permit, or otherwise within ten (10) days of notification of such development requirements. The appeal must be presented to the Planning Division in writing and state the grounds, or reasons for the appeal.
- (b) The Planning Commission shall determine after public hearing whether the required dedications, improvements, and fees meet the "rough proportionality" of the impact of the development on city infrastructure and services. If the requirements are in excess of the "rough proportionality," the Planning Commission is empowered to modify or reduce such requirements to achieve "rough proportionality."
- (c) Any potential reduction of impact fees must be approved by the City Council.
- (2) *Administrative Approvals and Interpretations by Zoning and Development Administrator.*
- (a) A resident of the city or an owner/developer who is aggrieved by a decision of the Zoning and Development Administrator regarding development matters that are approved administratively (as required by Chapter 166.02(C)) may appeal the final development approval decision affected by this matter to the Planning Commission. The appeal shall be submitted in writing to the Planning Division within ten (10) working days of the final decision. The appeal shall be limited to the applicable approval or denial criteria as follows:
- (i) The development plan is not submitted in accordance with the requirements of Chapter 166 of the Fayetteville Unified Development Code.
- (ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.
- (iii) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by Chapter 166 of the Fayetteville Unified Development Code.
- (iv) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
- (v) City water and sewer is not readily available to the property within the large scale development or preliminary plat and the developer has made no provision for extending such service to the development.
- (vi) The developer refused to comply with UDC Ch. 166 pertaining to required on-site and off-site improvements.
- (b) The appellant must include in the letter of appeal the specific code section with which the development application does not comply.

- (c) The Planning Commission shall determine after public hearing whether the interpretation or discretionary decision should be upheld or modified in part or in whole.
 - (d) Any staff recommendation to approve or deny some or all of a requested street right-of-way vacation shall be considered by the Planning commission with recommendations to the City Council.
 - (3) *City Engineer and Flood Plain Administrator.*
 - (a) *Development Matters.* An interpretation or decision of the City Engineer or Floodplain Administrator regarding development matters, including grading, drainage, water and sanitary sewer systems, and storm drainage systems.
 - (b) *Floodplain Regulations.* The decision of the Floodplain Administrator, provided that the Planning Commission shall hear and decide an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of Chapter 168.
 - (c) *Streamside Protection Zones.* An interpretation or decision of the City Engineer concerning the regulated uses, structures and activities, streamside boundary location or land use exemptions.
 - (4) *Zoning and Development Administrator's Interpretation or Decision of Other Development Matters.* An interpretation or decision of the Zoning and Development Administrator regarding development matters including subdivisions, large scale developments, parking and loading, outdoor lighting, compliance with applicable design standards, or any other development matters.
 - (5) *Urban Forester—Landscape and Tree Preservation and Protection requirements.* Decisions of the Urban Forester related to landscape and tree preservation and protection requirements.
 - (D) *Appeals to the Construction Board of Adjustment and Appeals.* When the administrative authority under Chapter 173 shall disapprove an application, or the applicant is aggrieved by the interpretation of the administrative authority, the applicant may appeal the decision to the Construction Board of Adjustment and Appeals.
- (Code 1965, §17B-11.2(d), (e), App. A., Art. 10(6), 19(2), App. B, §III, App. C., Art. 10(6), 19(2), App. B, §III, App. C., Art. V, §A; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 2109, 6-375; Ord. No. 2252, 7-6-76; Ord. No. 2538, 7-3-79; Ord. No. 2585, 12-4-79; Ord. No. 2697, 1-20-81; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-14-88; Code 1991, §§150.03, 158.67(B), 158.68(A), (B), 159.65, 160.048, 160.172, 160.176(A), (B), 161.11, 162.03(B), (C), 163.10(D); Ord. No. 3551, 6-4-91; Ord. No. 3587, §1, 1-7-92; Ord. No. 3699, §3, 4-20-93; Ord. No. 3716, §2, 6-15-93; Ord. No. 3806, §1, 6-28-94; Ord. No. 3895, §1, 6-20-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3925, §7, 10-3-95; Ord. No. 3963, §9, 4-16-96; Ord. No. 4100, §2 (Exh. A), 6-16-98; Ord. No. 4368, §2, 2-5-02; Ord. No. 4377, §§1, 2, 3-5-02; Ord. No. 4652, 12-07-04; Ord. No. 5206, 12-16-08; Ord. No. 5296, 12-15-09; Ord. 5390, 3-1-11; Ord. No. 6343, §1(Exh. A), 8-4-20; Ord. No. 6446, §5, 6-15-21)

155.07 Appeals To The Housing Board—Mobile Homes And Mobile Home Parks

- (A) *Permit Denied.* Any person whose application for a permit under Chapter 175 has been denied may request and shall be granted a hearing on the matter before the Housing Board.
- (B) *Permit Suspended.* Any person whose permit has been suspended, or who has received notice from the enforcement officer that his permit will be suspended unless certain conditions or practices at the mobile home park are corrected, may request and be granted a hearing on the matter before the Housing Board.

- (C) *Petition Deadline.* When no petition for hearing shall have been filed within ten (10) days following the day on which notice of suspension was served, such permit shall be deemed to have been automatically revoked at the expiration of such ten (10) days.

(Code 1965, §17B11.2(e); Ord. No. 2109, 6-3-75; Ord. No. 2583, 12-4-79; Ord. No. 3152, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-15-88; Code 1991, §158.67; Ord. No. 4100, §2 (Exh. A), 6-16-98)

(Code 1965, §§13A-40, 13A-43; Ord. No. 1509, 8-8-66; Code 1991, §§156.017, 156.029; Ord. No. 4100, §2 (Exh. A), 6-16-98; Ord. No. 4652, 12-07-04).

155.08 Appeals From The Construction Board Of Adjustments And Appeals

If the Construction Board of Adjustments and Appeals refuses to extend a building permit pursuant to §173.02 (B)(8) or to issue a new building permit for property for which a building permit has expired pursuant to §173.02 (B)(8), the owner may appeal to the City Council.

(Ord. No. 5019, 5-15-07)

155.09—155.99 Reserved

166.02 Development Review Process

(A) *Application Submittal*

- (1) *Submittal.* All development applications shall be submitted to the Planning Division and will be processed for review in accordance with Planning Division operating procedures.

(B) *Public Meetings.* Development applications are required to be processed through the Technical Plat Review Committee, Subdivision Committee, and Planning Commission as follows:

- (1) *Technical Plat Review Committee.* The following development applications are required to be reviewed by the Technical Plat Review Committee: Lot split, small site improvement plans, large site improvement plans, large scale development, planned zoning district, preliminary plat, final plat, and concurrent plat. After the Technical Plat Review Committee meeting staff may administratively approve lot splits, final plats, small site improvement plans, and large site improvement plans after review for compliance with all applicable codes subject to UDC 166.02(C).
- (2) *Subdivision Committee.* The following development applications are required to be reviewed by the Subdivision Committee: Large scale development, planned zoning district with development, preliminary plat, and concurrent plat. From these applications, the Subdivision Committee may approve only large scale developments. Large scale development applications that are subject to administrative approval shall not be required to be reviewed by the Subdivision Committee.
- (3) *Planning Commission.* The following development applications are required to be reviewed by the Planning Commission. Preliminary plat, concurrent plat, and planned zoning district with development. The Planning Commission may approve, deny, table, or approve development applications with conditions. A planned zoning district cannot be approved by the Planning Commission, but may be forwarded to City Council. Large scale development applications that are subject to administrative approval shall not be required to be reviewed by the Planning Commission.

(C) *Approval and Denial Criteria*

- (1) *Administrative Approval.* The following applications shall be approved administratively by the Planning Division as long as the proposal meets all requirements of the Unified Development Code: Property line adjustment, lot split, final plat, small site improvement plan, and large site improvement plan. Approval by the Planning Commission for these applications is not required unless an appeal is filed in accordance with Ch. 156 of the UDC.
 - (a) *Reasons for Denial.* The Planning Division may refuse administrative approval based on the following criteria:
 - (i) *Property Line Adjustment; Lot Split.* The application does not comply with zoning and development requirements including, but not limited to: Lot width, lot area, setback requirements, buildable area, required parking, impervious surface, dedication of required right-of-way or easements, etc., or the requested action would make an existing non-conforming property or structure more non-conforming.
 - (ii) *Final Plat.* The conditions of approval of the preliminary plat have not been met, the proposed plat does not meet the zoning and development requirements of the UDC, and/or the required improvements have not been completed or guaranteed in accordance with Fayetteville Unified Development Code Chapter 158.
 - (iii) *Small or Large Site Improvement Plans.* The Planning Division may refuse to approve a small or large site improvement plan for any of the following reasons:

- (a) The development plan is not submitted in accordance with the requirements of this chapter.
 - (b) The proposed development would violate a city ordinance, a state statute, or a federal statute.
 - (c) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.
 - (d) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factor such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
 - (e) City water and sewer is not readily available to the property within the site improvement plat area and the developer has made no provision for extending such service to the development.
 - (f) The developer refused to comply with ordinance requirements or condition of approval for on-site and off-site improvements.
- (2) *Subdivision Committee and Planning Commission Approval.* The following applications shall be approved by the Subdivision Committee or Planning Commission, subject to the criteria listed below: Large scale development, preliminary plat and concurrent plat.
 - (a) *Reasons For Denial.* The Subdivision Committee or Planning Commission may refuse to approve a large scale development, preliminary plat or concurrent plat for any of the following reasons:
 - (i) The plat or development plan is not submitted in accordance with the requirements of this chapter.
 - (ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.
 - (iii) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.
 - (iv) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
 - (v) City water and sewer is not readily available to the property within the large scale development, preliminary plat, or concurrent plat and the developer has made no provision for extending such service to the development.
 - (vi) The developer refused to comply with ordinance requirements or conditions of approval for on-site and off-site improvements.
- (D) *Plat Recordation or Construction Plan Approval.* After obtaining approval by the appropriate governing body, the applicant shall follow the procedures set forth below in order to record the plat or obtain construction plan approval.
 - (1) *Property Line Adjustment, Lot Split, Building Permit, Final Plat, Concurrent Plat.* The applicant shall submit copies of the approved plats containing all required signatures to the Planning Division for final

approval. The plats shall be recorded by the applicant and copies of the recorded plats provided to the Planning Division as required.

- (2) *Preliminary Plat, Large Scale Development and Small or Large Site Improvement Plan.* Receipt of the approval authorizes the applicant to proceed with:

- (a) The preparation of plans, reports and specifications in accordance with City Engineering requirements including but not limited to:
 - (i) Street plans, profiles and specification accompanied by soil analyses and design calculations;
 - (ii) Storm drainage plans, profiles and specifications accompanied by soil analyses and design calculations; and
 - (iii) Water and sewer plans, profiles and specifications, accompanied by design calculations, to be reviewed and approved by City Engineering.
 - (iv) Final site plans, landscape plans, and other plans, reports and specifications required by the city to obtain approval.
- (b) Once all approvals that are required have been obtained, the applicant may proceed with site preparation and construction in accordance with the permitted plans.

(E) *Building Permits.*

- (1) Before a building permit is issued the developer shall:
 - (a) Dedication of Right-of-Way. Dedicate right-of-way in compliance with the city's Master Street Plan, and in compliance with the requirements for on or off-site improvements.
 - (b) Dedicate all easements necessary to serve the development as required by the utility providers and the city. This may be completed by easement plat or separate easement document(s), with approval of the Planning Division.
 - (c) Comply with all applicable zoning and development codes.
 - (d) In addition, for small site improvement plans, large site improvement plans and large scale developments, the developer shall:
 - (i) Obtain approval from the appropriate governing body.
 - (ii) On and Off-Site Improvements. Construct or guarantee required on- and off-site improvements in accordance with UDC Chapter 158.
 - (iii) Complete applicable conditions of approval.
- (2) In addition to §166.02(E), before a building permit is issued for site that creates between 1,201 and 10,000 square feet of new impervious area, where a corresponding subdivision of land is not proposed, the developer shall complete, and receive approval of, appropriate grading and drainage documentation demonstrating compliance with UDC Chapters 169 and 170 as well as the current City Drainage Criteria Manual per the table below. Impervious areas will be considered as existing only if they are in place on March 3, 2021 which corresponds with the City of Fayetteville 2021 imagery.

Required Mitigation Measures and Documentation by Development Threshold			
Development Threshold	City-wide Standard	Grading and Drainage/ Stormwater Documentation	Water Quality, Flood, and Tree Mitigation Measures

Level 1	< or = 1,200 sf of IA	Exempt from Grading and Drainage provisions except for those still associated with the Building Permit process such as HHOD	Exempt
Level 2	1,201— 6,000 sf of IA	- Completed Green Stormwater Practice (GSP) Worksheet, demonstrating Runoff Reduction via Better Site Design. - GSP Operation & Maintenance (O & M) Agreement to ensure the long-term functionality of these practices.	2 or more measures from Step 1 of Table 2 that Reduce Runoff via Better Site Design 1 or more Green Stormwater Practices (GSPs) measures from Step 2 of Table 2 as required to treat 100% of the proposed additional impervious and gravel areas. - Abbreviated Tree Preservation Plan
Level 3	6,001— 10,000 sf of IA	Same as Level 2.	- Same as Level 2. - As needed GSP measures from Step 3 to further reduce runoff referred to as extended detention - Abbreviated Tree Preservation Plan

(F) *Completion of Development/Certificate of Occupancy.* No certificate of occupancy for a large-scale development, large site improvement plan, or small site improvement plan shall be issued, and no final plat or concurrent plat shall be signed for recordation until the following have been completed:

- (1) The requirements for on and off-site improvements have been completed, and maintenance bonds/guarantees deposited to city specifications.
- (2) An "as built" plot plan has been approved by the City Engineer (where applicable) showing:
 - (a) The location of all buildings and the setback distance for said buildings from street right-of-way and adjoining property lines;
 - (b) The location of any freestanding signs and the setback distance of said signs from street right-of-way and adjoining property lines;
 - (c) The location, number, dimensions, and surfacing of all parking spaces and of all screens or fences;
 - (d) The location and size of all water, sewer, gas, electric, telephone, and television cable lines;
 - (e) The location and size of all stormwater features with associated drainage easements demarcated, where applicable; and
 - (f) The location and quantity of existing and new impervious area on the property.
- (3) The development has been inspected and approved by all applicable city divisions.
- (4) All applicable conditions of approval have been completed.

(Code 1965, App. C., Art. II, §§F—H; Ord. No. 2581, 12-4-79; Code 1991, §§159.16—159.18; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5296, 12-15-09; Ord. No. 5653, 01-21-14; Ord. No. 6061, §2, 4-17-18; Ord. No. 6446, §8(Exh. C), 6-15-21; Ord. No. 6539, §5(Exh. A), 3-1-22)

166.23 Urban Residential Design Standards

(A) *Purposes.*

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To create appealing street scenes so that development enhances the image of the city and provides safe, pedestrian-friendly neighborhood environments.
- (3) To minimize service and parking impacts in order to preserve surrounding property values and scenic resources that contribute to the city's economic development.
- (4) To compose attractive residential facades that enhance the economic viability of and provide compatibility with surrounding property.

(B) *Applicability.* All references to urban residential design standards shall include the following uses as permitted by right or conditional use in all zoning districts:

- (1) Two (2) family dwellings
- (2) Three (3) and four (4) family dwellings
- (3) Multi-family dwellings

(C) *Site Development Standards.* The following site development standards shall apply for all urban residential development.

- (1) *Intent.* The intent of these site development standards is to create a pedestrian-friendly streetscape.
- (2) *Vehicular Access/Circulation/Parking.*
 - (a) Site access and internal circulation should promote pedestrian safety, efficiency, and convenience and minimize conflicts between vehicles and pedestrians. Continuous circulation shall be provided throughout the site to the greatest extent possible creating a complete, compact, and connected transportation network both within the development and to the surrounding neighborhood. The visual impact of parking areas should be minimized by locating parking behind buildings and internal to the site.
 - (i) Garage entries and carports shall not protrude forward from the principal facade. Driveways shall extend at least 18 feet into the property from the Master Street Plan right-of-way to allow parking to occur without encroaching into the right-of-way.
 - (ii) Parking areas should be accessed by mid-block alleys whenever possible. Developments should minimize multiple driveways and should utilize a shared access to reduce the number of vehicle conflicts at the street.
 - (iii) On-street parallel parking may be provided on at least one (1) side of the street in front of all multi-family buildings where feasible. Each on-street parking space provided along the project frontage shall count toward the total required spaces for the development.
- (3) *[Reserved.]*
- (4) *Pedestrian Circulation.*
 - (a) Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The connection shall match the sidewalk in material type and shall be at least 3 feet in width unless otherwise approved by the Zoning and Development Administrator in writing. The

entry may be gated and shared but must occur at a spacing of no fewer than one (1) entrance for every two (2) street level dwellings. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk.

- (b) Urban residential projects shall incorporate pedestrian connections to adjacent residential and commercial properties where sidewalks exist unless this requirement is otherwise waived by the Planning Commission.
- (5) *Screening Requirements if Visible from the Highway/Street Right-of-Way.*
 - (a) *Mechanical and Utility Equipment.* All mechanical and utility equipment located on the wall and/or on the ground shall be screened, except for air conditioning window units. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks, unless located in a utility easement.
 - (b) *Recycling and Trash Containers.* Adequate space and screening shall be provided for the placement of recycling and trash containers in urban residential developments.
 - (i) Urban residential developments are required to provide adequate space to provide both recycling and trash services for residents. The Recycling and Trash Collection Division Director may exercise discretion in approving the dimensional size of the required enclosure or dedicated space for servicing recycling and trash containers. Large multi-family urban residential developments typically will be required to provide adequate space for the placement of two (2) front-end load dumpsters that are easily accessible with a minimum enclosure dimension of 24 feet wide and 12 feet deep.
 - (ii) Recycling and trash containers shall be screened by enclosures with materials that are complementary to the principal structure, with access to the refuse containers not visible from the public right-of-way.
 - (c) *Screening.* Screening shall mean a view obscuring fence, berm, vegetation, architectural treatment consistent with the residential architecture, or a combination of the four of sufficient height to prevent the view of the screened items from the public right-of-way. Vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting.
- (6) *Fencing.* The following types, height, and location of fences shall be prohibited:
 - (a) *Razor and/or Barbed Wire.* Razor and/or barbed wire fences are prohibited, unless and except barbed wire fences are used for agricultural purposes.
 - (b) *Chain Link.* Chain link fence is prohibited if closer to the street than the front of the building.
 - (c) *Height of Fences in Front of Buildings.* Fences in the front yard area shall have a maximum height of 42 inches subject to visibility requirements in Chapter 164.09 and 164.17.
- (D) *Architectural Design Standards.*
 - (1) *Intent.* The intent of these building design standards is:
 - (a) To ensure that urban residential buildings add to the character and quality of the community, offer a sense of security, and make a positive contribution to the life of the street.
 - (b) To maximize the quality, value and longevity of urban residential neighborhoods.
 - (c) To make housing appealing and comfortable for its inhabitants.

(2) *Construction and Appearance Design Standards for Urban Residential Development.*(a) *Building Form and Design.*

- (i) In order to provide a variety in form and design, one (1) building type may not be utilized more than three (3) times in a development. Each building type shall be differentiated by variations in materials, colors and roof forms.
- (ii) Ancillary structures such as carports, garages, recreational buildings and storage structures shall be designed as an integral part of the project architecture.
- (iii) The following architectural elements shall be required of all principal façades that are greater than 48 feet wide along the street frontage:
 - (a) Variations in materials;
 - (b) Insets or other relief in the wall plane;
 - (c) Incorporation of two or more of the following:
 - (1) Balconies;
 - (2) Bays or bay windows;
 - (3) Porches;
 - (4) Dormers;
 - (5) Porticoes;
 - (6) Turrets; or
 - (7) Other architectural feature approved by the Zoning Development Administrator that meets the intent of the code.
- (iv) One (1) or more of the following architectural elements shall be required of all principal façades that are 48 feet wide or less along the street frontage:
 - (a) Balconies;
 - (b) Bays or bay windows;
 - (c) Porches;
 - (d) Dormers;
 - (e) Porticos;
 - (f) Turrets; or
 - (g) Other architectural feature approved by the Zoning and Development Administrator that meets the intent of the Code.

- (E) *Planning Commission Approval.* An applicant may request approval from the Planning Commission of a variance from the maximum requirements where unique circumstances exist and the effect will not adversely impact adjoining or neighboring property owners. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.

(Ord. No. 5118, 3-18-08; Ord. No. 5262, 8-4-09; Ord. No. 5679, 4-15-14; Ord. No. 6170 , §1, 4-2-19; Ord. No. 6357 , §§1, 2, 9-15-20; Ord. No. 6508 , §1, 11-16-21; Ord. No. 6658 , §10, 5-2-23)

167.04 Tree Preservation And Protection During Development

- (A) *Applicability.* The provisions of this section shall apply to proposed developments as defined by the Unified Development Code as follows:
- (1) *Large Scale Developments.*
 - (2) *Large Site Improvement Plan.*
 - (3) *Small Site Improvement Plan.*
 - (4) *Preliminary Plat.*
 - (5) *Final Plat.*
 - (6) *Concurrent Plat.*
 - (7) *Planned Zoning Districts.*
 - (8) *Parking Lots.* Tree preservation requirements apply to all permit applications for the construction of parking lots with five (5) or more spaces. An abbreviated tree preservation plan, as set forth in §167.04(H)(3), shall be submitted with the application for permits on projects that are required to go through the subdivision or large scale development process.
 - (9) *Hillside/Hilltop Overlay District.* Undeveloped land located within the Hillside/Hilltop Overlay District shall submit a tree preservation plan with the preliminary plat or site plan. Single and two (2) family residential development shall submit an abbreviated tree preservation and site plan at the time of applying for a building permit.
 - (10) *Grading Permit.* A tree preservation plan or an abbreviated tree preservation plan, as set forth in §167.04(H)(3), shall be submitted with the application for grading permits on projects that are not required to go through the development process.
 - (11) *Building Permits.* Tree preservation requirements apply to all permit applications for developments of greater than 1,200 square feet of impervious area. An abbreviated tree preservation plan, as set forth in §167.04(H)(3), shall be submitted with the application for building permits on projects that are not required to go through the subdivision, large scale development, or site improvement plan process. There shall be no land disturbance, grading, or tree removal until an abbreviated tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.
 - (12) *Exemptions.* Projects not listed above or not impacting tree canopy are not required to submit a tree preservation plan or review from Urban Forestry.
 - (a) Persons seeking to construct 1,200square feet or less of impervious area are specifically exempt from the provisions of this section except when the land is located within the Hillside/Hilltop Overlay District; then all the provisions of this ordinance shall apply.
 - (b) Structural changes to buildings located in the Hillside/Hilltop Overlay District that do not result in an enlargement of the building footprint or roof dripline shall not require an abbreviated tree preservation plan.
- (B) *Tree Preservation Criteria.* The Urban Forester shall consider the following factors, and any other relevant information, when evaluating tree preservation plans:
- (1) The desirability of preserving a tree or group of trees by reason of age, location, size, or species.
 - (2) Whether the design incorporates the required tree preservation priorities.

- (3) The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
- (4) The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.
- (5) Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
- (6) Whether the size or shape of the lot reduces the flexibility of the design.
- (7) The general health and condition of the tree or group of trees, or the presence of any disease, injury, or hazard.
- (8) The placement of the tree or group of trees in relation to utilities, structures, and the use of the property.
- (9) The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
- (10) Whether proposed roads and proposed utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
- (11) Construction requirements of on-site and off-site drainage.
- (12) The effects of proposed on-site mitigation or off-site alternatives.
- (13) The effect other chapters of the Unified Development Code, or city policies have on the development design.
- (14) The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations.
- (15) The impact a substantial modification or rejection of the application would have on the applicant.

***Note**—The above items are not presented in any particular order of importance. The weight each is given will depend in large part on the individual characteristics of each project.

- (C) *Canopy Area.* In all proposed developments that are required to submit a tree preservation plan or abbreviated tree preservation plan, trees shall be preserved as outlined in Table 1 under Percent Minimum Canopy, unless the applicant has been approved for on-site mitigation or off-site alternatives as set forth in §167.04(I) and (J) below. The square foot percentage of canopy area required for preservation in new development is based on the total area of the property for which the applicant is seeking approval, less the right-of-way and park land dedications. An applicant shall not be required to plant trees in order to reach the percent minimum canopy requirement on land where less than the minimum exists prior to development.

Table 1 Minimum Canopy Requirements	
ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
R-A, Residential — Agricultural (nonagricultural uses)	25%
RSF-.5, Single-family Residential — One-Half Unit per Acre	25%
RSF-1, Single-family Residential — One Unit per Acre	25%
RSF-2, Single-family Residential — Two Units per Acre	20%
RSF-4, Single-family Residential — Four Units per Acre	25%
RSF-7, Single-family Residential — Seven Units per Acre	20%

RSF-8, Single-family Residential — Eight Units per Acre	20%
RSF-18, Single-family Residential — Eighteen Units per Acre	20%
R-O, Residential — Office	20%
RI-12, Residential Intermediate — Twelve Units Per Acre	20%
RI-U, Residential Intermediate — Urban	15%
RMF-6, Multi-family Residential — Six Units per Acre	20%
RMF-12, Multi-family Residential — Twelve Units per Acre	20%
RMF-18, Multi-family Residential — Eighteen Units per Acre	20%
RMF-24, Multi-family Residential — Twenty-Four Units per Acre	20%
RMF-40, Multi-family Residential — Forty Units per Acre	20%
NS-L, Neighborhood Services — Limited	20%
NS-G, Neighborhood Services — General	20%
C-1, Neighborhood Commercial	20%
CS, Community Services	20%
C-2, Thoroughfare Commercial	15%
UT, Urban Thoroughfare	15%
C-3, Central Business Commercial	15%
DC, Downtown Core	10%
MSC, Main Street Center	10%
DG, Downtown General	10%
NC, Neighborhood Conservation	20%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
P-1, Institutional	25%
PZD, Planned Zoning District (HHOD)	25% (30%)

All residential zoning districts and C-1 districts within the Hillside/Hilltop Overlay District shall have their percent minimum canopy requirements increased by 5% to a total requirement of either 30% or 25%.

(D) *Prior Tree Removal.*

- (1) If trees have been removed below the required percent minimum canopy within the five (5) years preceding application for a development, the site must be forested to meet the Percent Minimum Canopy requirements set forth in Table 1, plus an additional 10% of the total area of the property for which the applicant is seeking approval, less the right-of-way and park land dedications. The number of trees required to be planted shall be calculated using the base density for high priority trees.
- (2) *Waiver.* If an applicant is able to demonstrate to the Planning Commission's satisfaction that the trees were removed for a bona fide agricultural purpose, and not with the intent to thwart enforcement of this chapter, the additional 10% reforestation requirement shall be waived.

(E) *Tree Preservation Priorities.*

- (1) *Percent Minimum Canopy.* Proposed designs must meet the percent minimum canopy requirements for the particular zoning designation, emphasizing the preservation and protection of high priority trees on the site. Trees in existing and not to be vacated utility easements shall not be counted toward the percent minimum canopy requirement and such utilities shall be routed, wherever possible, to avoid existing canopy.

- (2) *Existing Natural Features.* Each design shall consider the existing natural features of the site, the preservation priorities for the trees, and the impact their proposed removal may have both on and off-site.
- (3) *Priority Trees.* The preservation and protection of high priority trees shall be enforced most stringently to meet the minimum percentage of canopy preservation. High priority trees are alive, healthy, greater than or equal to an 8-inch diameter at breast height for large and medium species of trees. High priority for small species of trees is greater than or equal to a 4-inch diameter. Low priority trees are invasive species or unhealthy as determined by a tree care professional pursuant to §167.07. Low priority trees are less than an 8-inch diameter at breast height for larger and medium species and less than a 4-inch diameter at breast height for smaller trees species.
- (F) *Tree Preservation Requirements for Proposed Residential and Non-Residential Developments.*
- (1) *Residential Developments.* The percent minimum canopy in residential developments shall be located in areas that have the least possibility of impact as public infrastructure and proposed utilities are installed and homes built. The intent is to leave undisturbed as many existing trees as possible for the use and enjoyment of prospective lot owners. Residential developments requesting tree removal below the percent minimum canopy requirement may choose either residential on-site mitigation, or to contribute to the Tree Escrow Account as set forth in §167.04(J)(4)(a). Trees in existing and not to be vacated utility easements shall not be counted toward the percent minimum canopy requirement, and such proposed utilities shall be routed to avoid existing canopy and shall count toward the percent minimum canopy requirement.
- (2) *Nonresidential Developments.* Two (2) options are available for establishing a tree preservation plan for the development of nonresidential developments. The Urban Forester shall recommend to the Planning Commission the option that will potentially preserve the largest amount of high priority canopy based upon the tree preservation criteria set forth in §167.04(B) above.
- (a) *Preservation Plan for Entire Development.* The developer may choose to preserve the percent minimum canopy required for the entire development. With this option, the preserved canopy shall be located in areas that will not be impacted by future development of the individual lots. Canopy to be preserved shall be noted on the final plat, and shall be protected as set forth in §167.04(L) below. Should the entire percent minimum canopy requirement for the site be so protected, the preserved canopy shall be placed in a tree preservation easement and the final plat shall include a statement that the individual lots, as represented thereon, shall not require separate tree preservation plans.
- (b) *Preservation Plan for Infrastructure Only.* The developer, in consultation with city staff, shall delineate the area required for the construction of the infrastructure and improvements for the development. This area should include street rights-of-way, and utility and drainage easements. Proposed lot lines, streets, and easements shall be located to avoid placing a disproportionate percentage of existing canopy in any one (1) proposed lot. This option shall not allow the removal of trees during the grading of individual lots, unless shown by the developer to be essential to the project's engineering design. The developer will be required to compensate for the canopy removed from defined individual lots by making the appropriate payment into the Tree Escrow Account. On all other areas of the development, the developer shall protect the existing canopy during the construction phase in accordance with §167.05 below. The final plat shall include a statement that the individual lots shall require separate tree preservation plans.
- (3) *Hillside/Hilltop Overlay District.* Individual parcels or lots located within the Hillside/Hilltop Overlay District boundary shall submit a tree preservation plan or an abbreviated tree preservation plan as set forth in §167.04(H)(3) indicating the location of the structure and the preservation of the minimum tree canopy requirement.

- (4) Developers have the option of creating cluster development, such as a Planned Zoning District, which would encourage more open space and tree preservation. In this pattern of development, the trees preserved or open space on each lot can be transferred to a larger Tree Preservation Easement instead of individual lots required to meet minimum percent requirements. The Tree Preservation Easements shall be clearly depicted on easement plats or final plats.
- (G) *Initial Review.*
- (1) *Meeting with the Urban Forester.* It is strongly recommended that prospective applicants meet with the Urban Forester for an initial review of the proposed tree preservation plan for the site prior to submitting a proposed development to the city. During the initial review, the Urban Forester shall make recommendations to ensure the proposed subdivision or development complies with the requirements of this chapter. These recommendations shall be nonbinding. However, applicants proceed at the risk of higher costs and longer approval times due to changes required by a noncompliant submittal should they choose not to have the initial review or to disregard the recommendations of the Urban Forester.
- (2) *Confirmation.* The Urban Forester shall document whether the applicant participated in the initial review meeting in the Tree Preservation and Protection staff report given to applicants going through the development review process. If the applicant chooses to attend an initial review meeting, the staff report shall also document any recommendations made. The Urban Forester shall ensure that a copy of the report or email becomes part of the permanent file for the project.
- (H) *Submittal of Plans.* Applicants should bear in mind that all plans will be evaluated according to the tree preservation criteria and percent minimum canopy requirements as set forth under §167.04(B) and (C).
- (1) *Tree Preservation Plan.* On sites with existing tree canopy, the applicant shall conduct a tree preservation analysis to determine the approximate age, health, size and species distribution of the trees, noting each on a tree preservation plan, and clearly showing the locations and types of all natural features on a site, including features 100 feet beyond the property lines. The tree preservation plan shall also specifically depict the applicable preservation priority level for each tree or group of trees on the site. The plan should include, but not be limited to, delineation of the following features as they exist on the site:
- (a) The existing topography of the site highlighting slopes of 15% or greater, and indicating the natural drainage patterns;
 - (b) The property line boundaries of the site;
 - (c) Soils identified according to the Unified Soil Classification System;
 - (d) Any significant trees, as defined in the City of Fayetteville's Tree Preservation, Protection and Landscape Manual, existing on the site, and the location of trunks, spread of the canopy, species, diameter at breast height (DBH), and the overall health of each significant tree;
 - (e) Groupings of trees, delineating the edges of the overall canopy, noting the predominate species, average height, diameter at breast height (DBH), and general health of the trees.
 - (f) All existing utilities and utility easements;
 - (g) All features, including trees, buildings, perennial and intermittent streams and creeks that exist on the site or within 100 feet of the limits of disturbance;
 - (h) Floodplains and floodways on the site;
 - (i) All existing rights-of-way within and surrounding the project site, including any designated trails or bike paths; and,

- (j) Any other factors that may impact the design of the site.
- (2) *Additional Tree Preservation Plan Content.* The applicant shall indicate all proposed site improvements, and delineate in the tree preservation plan the trees to be retained on-site, and the measures to be implemented for their protection. These measures shall include, but need not be limited to, fencing, limits of root pruning, as well as restrictions on traffic and material storage. The plan shall also clearly depict the limits of soil disturbance to include all areas to be graded both on and off-site, as well as the proposed location of utilities. The applicant should consult the City of Fayetteville Tree Preservation, Protection and Landscape Manual for details, examples and specific checklists. Examples can be provided upon request to the Urban Forester.
- (3) *Abbreviated Tree Preservation Plan.* Applicants requesting approval of development projects for between 1,201 to 10,000 square feet of impervious area that require building permits, grading, or parking lot permits, but that do not fall under the requirements for developments required to go through the development review process of Technical Plat Review Committee, Subdivision Committee and/or Planning Commission, shall prepare and submit an abbreviated tree preservation plan. The information for an abbreviated tree preservation plan may be combined with the site plan, plat drawing, or grading plan. The applicant is expected to show the general location of all existing groups of trees, individual significant trees, and to clearly depict the limits of soil disturbance to include all areas to be graded, both on and off-site, as well as the proposed location of utilities. Protective measures such as fencing, limits of root pruning, restriction on traffic and materials storage shall be depicted on the plan. A preliminary site visit with the Urban Forester is highly recommended before applying for any of the above-mentioned permits. The applicant should consult the City of Fayetteville Tree Preservation, Protection, and Landscape Manual for details, and specific checklists. Applicants submitting abbreviated tree preservation plans shall not be required to submit an analysis report, nor shall they be required to hire architects, engineers, or landscape architects to prepare the abbreviated tree preservation plan.
- (4) *Analysis Report.* The applicant shall submit an analysis report when minimum percent canopy is not met. The report shall detail the design approaches used to minimize damage to or removal of existing canopy that were considered in arriving at the proposed design. Written justification shall be presented as to why individual trees or canopy must be removed. The report shall also detail proposed on-site mitigation options or off-site alternatives, as detailed below.
- (5) *Grading and Utility Plans.* All subsequent grading and utility plans shall depict Tree Preservation Areas, preserved trees, and the physical limits of all protective measures on site required during construction.
- (6) *Submittal Requirements.* The applicant shall submit a tree preservation plan. Development plans with removal of tree canopy below percent minimum canopy shall submit an analysis report to the Urban Forester, concurrently with their tree preservation plan. Applicants submitting abbreviated tree preservation plans shall not be required to submit analysis report.
- (7) *Tree Preservation Easements.* The City of Fayetteville shall encourage the use of Tree Preservation Easements for the added protection of trees preserved to meet percent minimum canopy requirements or trees planted, in those instances where such would be of mutual benefit to the applicant and the City of Fayetteville.
- (i) *Request for On-Site Mitigation.*
- (1) *Timing of Request for On-Site Mitigation.* Requests to remove trees below the percent minimum canopy requirement must be incorporated with the applicant's tree preservation plan.
- (2) *Plan Requirements.* The tree preservation plan must graphically represent the species and location for all existing trees on-site. It shall also include a chart clearly stating the following information:
- (a) The number of trees requested for removal;

- (b) The percentage below the percent minimum canopy requirement they represent; and
 - (c) The species and number of trees to be planted based on the forestation requirements below.
- (3) *Planting Details and Notes.* Planting details and notes shall be included on the tree preservation plan or landscape plan as set forth in the City of Fayetteville Tree Preservation, Protection, and Landscape Manual.
- (4) *Forestation Requirements.* The number and species of trees required for forestation shall be based upon the quality of the canopy lost:
 - (a) *High Priority Canopy.* When removing high priority canopy below the percent minimum canopy required, the canopy square footage removed shall be forested at a base density of two hundred (200), 2-inch caliper trees per acre removed.
 - (b) *Low Priority Canopy.* When removing low priority canopy below the percent minimum required, the canopy square footage removed shall be forested at a base density of one hundred (100), 2-inch caliper trees per acre removed.
- (5) *Base Density.* Compensating for the environmental damage caused by removing tree canopy shall be accomplished by forestation on a per acre basis. The base density formula used above is based on 2-inch caliper trees. However, the urban forester may approve the use of trees with less than 2-inch caliper for the planting of smaller tree species required by spatial constraints on the site. In such cases, the number of trees to be planted may be adjusted in accordance with the species table to be found in the City of Fayetteville Tree Preservation, Protection, and Landscape Manual.
- (6) *Preferred Species.* All trees to be planted shall be species native to the Ozark region or native cultivars, when available, or selected from the list of preferred tree species set forth in the City of Fayetteville Tree Preservation, Protection and Landscape Manual. Species selection shall be based upon the amount of space available for proper growth on the site, and must be approved by the Urban Forester.
- (7) *Placement of Trees.* The applicant is expected to plant trees in locations on the site where the environmental benefits of canopy cover are most likely to offset the impact of development. Trees shall not be placed within utility easements, or in other locations where their future protection cannot be assured.
- (8) *Residential On-Site Mitigation.* Applicants requesting on-site mitigation for residential developments shall comply with all the provisions of §167.04(I), as well as the following:
 - (a) The applicant's mitigation plan shall meet or exceed the required number of mitigation trees based on the forestation requirements as set forth at §167.04(I)(4).
 - (b) All plans requesting residential on-site mitigation shall include a binding three (3) year maintenance and monitoring plan, which shall hold the applicant responsible for the health of all planted trees.
 - (i) Approval of a plan requesting residential on-site mitigation shall be contingent upon the applicant depositing with the city an irrevocable letter of credit in an amount equal to the estimated cost of materials and labor for all trees at the time of planting. The irrevocable letter of credit must cover the entire three (3) year maintenance and monitoring period. Applicant shall submit cost estimates to the Urban Forester for approval.
 - (ii) Upon completion of the three (3) year landscape establishment period, the Urban Forester shall inspect the site and determine whether 90% of the trees are healthy and have a reasonable chance of surviving to maturity. Upon such a finding, the city shall release the letter of credit.

- (iii) In the absence of such a finding, the applicant shall be notified to replace any unhealthy or dead trees, or take other appropriate action as approved by the Urban Forester. If the applicant does not take remedial steps to bring the property into compliance, the city shall use the necessary moneys from the landscape establishment guarantee to do so.
 - (iv) In the event trees are injured or destroyed by natural disasters, including but not limited to, tornadoes, straight-line winds, ice storms, fire, floods, hail, or lightning strikes, or through the independent actions of third parties, the applicant shall be relieved of the responsibility of replanting the tree or trees so affected.
- (c) Developers requesting mitigation trees be planted along the street right-of-way of residential developments shall submit a landscape plan that complies with the standards outlined in the City of Fayetteville Tree Preservation, Protection, and Landscape Manual in order to ensure that new trees planted are of the highest quality, require low maintenance, and do not interfere with public safety. The species of trees to be planted shall be selected from the approved street tree species list, or be otherwise specifically approved by the Urban Forester. The applicant's mitigation plan for planting street trees shall describe in detail the method for tracking the development of the individual lots, which shall best ensure that required number and species of mitigation trees are planted.
- (9) *Request for On-Site Mitigation Alternatives (Green Roofs or Green Façades).*
 - (a) *Intent.* The intent is to allow previously developed sites with at least 50% existing impervious area and limited space for planting trees to use on-site mitigation alternatives to meet the mitigation requirements and still contribute beneficial plant materials that provide positive ecosystem services.
 - (b) *Applicability.* On-Site Mitigation Alternatives shall only be allowed as alternatives to planting trees in form-based zoning districts that allow for mixed-use and do not have a building area maximum requirement. On-Site Mitigation Alternatives may not be utilized on sites that have adequate space to meet landscape requirements.
 - (c) *Timing of Request for On-Site Mitigation Alternatives.* Requests for on-site alternatives must be incorporated and submitted concurrently with the applicant's tree preservation plan.
 - (d) *Intensive Green Roof.* A green roof with 6 inches or great soil medium that can sustain plant species with deeper root systems.
 - (e) *Extensive Green Roof.* A green roof with 2 to 5 inches of soil medium that can sustain plant species with shallow root systems.
 - (f) *Green Façade.* A green façade is created by growing climbing plants up and across the façade of a building, either from plants grown directly in the ground or a large container of at least 12 inches of soil medium. Plants can attach directly to the building or be supported with a 12-inch by 12-inch trellis system connected to the building.
 - (g) *Mitigation Alternative Calculations.* The applicant's plan to install an extensive green roof, intensive green roof, and green façade in lieu of a mitigation tree shall be based from square footage of tree canopy.
 - (i) The calculation for an extensive green roof shall be based from a ratio of 1 square foot of tree canopy to 2.5 square feet of extensive green roof.
 - (ii) The calculation for an intensive green roof shall be based from a ratio of 1 square foot of tree canopy to 1.4 square feet of intensive green roof.

- (iii) The calculation for a green façade shall be done based from a ratio of 1 square foot of tree canopy to 2.5 square feet of green façade.

(J) *Request for Off-Site Alternatives.*

- (1) *Timing of Request for Off-Site Alternatives.* Requests for off-site alternatives must be incorporated in, and submitted concurrently with the applicant's tree preservation plan.
- (2) *Off-Site Preservation.* The applicant may seek approval of the Urban Forester to preserve an equal or greater amount of canopy cover at a site within the city limits.
- (3) *Off-Site Forestation.*
 - (a) If off-site preservation cannot be achieved, the applicant may seek approval from the Urban Forester to plant the required number of trees on another site owned by the applicant and located within the city limits. A tree preservation easement must be conveyed concurrently with or prior to submission of a final plat by the applicant to the city to protect any off-site preservation or forestation and the legal description of the tree preservation easement shall also appear on the final plat.
 - (b) An applicant may plant and maintain mitigation trees needed for the applicant's development as to fulfill the obligation set forth in Chapter 167, Tree Preservation and Protection, in a nearby city park or public right-of-way if expressly approved by City Council resolution. The City Council shall seek advice from the Urban Forester, Parks and Recreation Department staff and citizens about the advisability of forestation of the nearby city park and may apply express conditions including requiring irrigation to be installed and regular maintenance to be performed by the applicant.
- (4) *Tree Escrow Account.* Tree preservation on-site is always the preferred option, with on-site mitigation, off-site preservation, off-site forestation, and on-site mitigation alternatives to be considered in descending order only if the more preferred option cannot be fully achieved. If none of these options can completely fulfill a developer's obligation under this Tree Preservation and Protection Chapter, the developer shall pay into the City Tree Escrow Account \$250.00 for each tree required to meet the Base Density requirements which fairly represents the costs of material and labor to plant a tree. The developer shall also pay into the Tree Escrow Fund \$425.00 as three (3) years of maintenance costs to ensure each tree survives for that period of time. Tree planting and maintenance costs should be reviewed at least every four (4) years to ensure it remains the fair market costs for tree planting and maintenance for three (3) years.
 - (a) Developments proposed as building permits creating between 1,201 – 6000 square feet of impervious surface under Level 2 as outlined in §166.02(E)(2) are eligible for contribution to the tree escrow account as an option.
 - (b) Residential developments which cannot achieve the base density tree requirements through preservation or mitigation shall contribute to the Tree Escrow Account. The city shall use the money paid into the Tree Escrow Account to plant trees within the development along rights-of-way, detention ponds, common areas or other areas where trees can be protected and have a high probability of survival to a mature tree. This shall be accomplished once the development is built out or as approved by the Urban Forester.
 - (c) Money contributed in lieu of on-site mitigation or off-site forestation shall be paid prior to issuance of a building permit on all commercial, industrial, or multi-family residential buildings and prior to final plat acceptance for all residential and non-residential subdivisions.
 - (d) Money contributed under this section:
 - (i) May be used for canopy mitigation, including planting site identification, tree acquisition, planting, and maintenance, utilizing either city staff or contract labor;

- (ii) Shall not revert to the general fund for ongoing operations.
 - (e) If it is not possible to plant trees within the development, planting locations will be sought in appropriate sites within a 1 mile radius of where the original project is located, but if this cannot be achieved, the moneys shall be used to plant the trees in the park quadrant in which the development took place, or pursuant to §167.04(J)(2) and (3). Data extracted from the urban forest analysis should be consulted when identifying appropriate locations to plant escrow funded trees.
 - (f) The City of Fayetteville shall refund the portion of the money contributed under this section, including the accrued interest that has not been expended seven (7) years from the date of the contribution. Interest shall be based on a 4% annual rate.
 - (g) Refunds shall be paid to the present owner of the property that was the subject of new development and against which the fee was assessed and collected.
 - (h) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the applicant no later than thirty (30) days after the date which the refund becomes due. The sending by regular mail of the notices to the applicant shall be sufficient to satisfy the requirement of notice.
 - (i) The refund shall be made on a pro rata basis, and shall be paid in full no later than ninety (90) days after the date certain upon which the refund becomes due.
 - (j) At the time of the contribution to the Tree Escrow Account, the Urban Forester shall provide the applicant with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any contribution to the Tree Escrow Account under this ordinance.
- (K) *Tree Preservation Plan Review Form.* The Urban Forester shall use a standardized form for all recommendations or administrative determinations made regarding an applicant's tree preservation plan.
- (1) The form shall clearly indicate whether the Urban Forester is making a final administrative determination, or a recommendation to the Planning Commission or City Council.
 - (2) The form shall also clearly indicate the applicant's plan is "APPROVED," "DISAPPROVED," or "CONDITIONALLY APPROVED," and explain the reasoning therefore.
 - (3) A statement shall appear on the form explaining the process by which a final administrative determination may be appealed in accordance with Chapter 155 of the Unified Development Code.
 - (4) The Urban Forester shall sign and date the form, and ensure that a copy becomes part of the permanent file for the project.
- (L) *Continuing Preservation and Protection Under Approved Tree Preservation Plans and Tree Preservation Easements.*
- (1) Large scale developments, large site improvements, and commercial preliminary plats are required to dedicate a tree preservation easement, if any existing tree are to be preserved. The tree preservation easement shall be the size of the minimum canopy preservation requirement, if possible. If the minimum tree preservation canopy is not available, the applicant will not be required to dedicate the minimum canopy preservation. The applicant will have to dedicate a tree preservation easement that is agreed upon with The Urban Forester. In order to ensure that an applicant's heirs, successors, assigns, or any subsequent purchasers of the subject property are put on notice as to the existence and extent of approved tree preservation easements which shall be clearly depicted and noted on the easement plats for large scale developments, large and small site improvements, commercial final plats, and any plats with a tree preservation easement. This shall be accompanied by a narrative statement describing

the nature of the protection afforded, and bearing the signature of the Urban Forester. If it is impractical to include the actual depiction of the canopy in a tree preservation easement on the easement plat, or final plat itself, a note cross referencing an accompanying document shall suffice.

- (2) The geographic extent and location of tree preservation easements, once recorded, may only be modified, or abolished with the express approval of the City Council. Applicants requesting such action shall bear the burden of proving to the City Council's satisfaction that such modification or abolition is in the best interest of the City of Fayetteville. Such requests shall be submitted to the urban forester, who shall ask the City Clerk to place it on the agenda of the next regularly scheduled City Council meeting.
- (3) Property owners wishing to remove diseased or dead trees from within a recorded tree preservation easement shall seek prior approval from the Urban Forester, who shall determine if such removal is consistent with sound arboricultural and horticultural practices, as well as the intent of this chapter. Any tree so removed shall be replaced with a tree of like or similar species, unless the Urban Forester determines that natural replacements of sufficient health and vigor are already present in the tree preservation easement.

(Code 1991, §162.10; Ord. No. 2699, §10, 4-20-93; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §6, 4-16-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01; Ord. No. 4539 02-03-04; Ord. No. 4855, 4-18-06; Ord. No. 4930, 10-03-06; Ord. No. 5308, 3-16-10; Ord. No. 5312, 4-20-10; Ord. No. 5427, 8-2-11; Ord. No. 5513, 7-17-12; Ord. No. 5773, 5-19-15; Ord. No. 5818, 10-20-15; Ord. No. 5824, §3, 11-17-15; Ord. No. 5945, §17, 1-17-17; Ord. No. 5986, §§4(Exh. A), 5—35, 7-6-17; Ord. No. 6442, §§1(Exh. A1), 2(Exh. B), 5(Exh. E), 6(Exh. F), 6-1-21; Ord. No. 6446, §9(Exh. D), 6-15-21)

CHAPTER 155: APPEALS

155.01 Circuit Court

Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Adjustment, Construction Board of Adjustment and Appeals, and the Zoning and Development Administrator shall be taken to the Circuit Court of Washington County.

(Code 1965, App. A., Art. 9(6); Ord. No. 1747, 6-29-70; Ord. No. 2323, 4-5-77; Ord. No. 2538, 7-3-79; Code 1991, §160.175; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04))

155.02 Form/Time/Place

Unless an appeal is filed with the court, the following requirements shall be met:

- (A) *Form.* All appeals shall be submitted in writing referencing the applicable UDC section(s) and setting out the reasons the applicant contends the decision was in error and how the applicant is adversely impacted.
- (B) *Time.*
 - (1) *Appeals.* Appeals shall be submitted within ten (10) working days from the date of the final action taken.
 - (2) *Hearings.* The entity hearing the appeal shall fix a reasonable time for hearing an appeal.
- (C) *Place.* Appeals shall be filed with the following:
 - (1) *City Clerk.* Appeals made to the City Council shall be filed with the City Clerk.
 - (2) *Zoning and Development Administrator.* Appeals made to the Planning Commission or Board of Adjustment shall be filed with the Zoning and Development Administrator.
 - (3) *Building Safety Division Director.* Appeals made to the ~~Construction Board of Adjustment and Appeals Board of Adjustment~~, [for inspecting purposes] shall be filed with the Building Safety Division Director.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04)

155.03 Stay

An appeal shall stay all proceedings in furtherance of the action appealed from unless the person in charge of administration of the chapter certified that a stay would, in their opinion cause imminent peril to life or property.

(Code 1965, App. A., Art. 13(3); Ord. No. 1747, 6-29-70; Code 1991, §160.173; Ord. No. 4100, §2 (Ex. A), 6-16-98)

155.04 Council Member Appeal On Behalf Of Resident

A Council Member may bring an appeal on behalf of any resident of the city of a decision by the Planning Commission to approve subdivision requests (plats, lot splits), and development requests (large scale developments and large or small site improvement plans). Variances, compliance with applicable design standards, tree preservation plans and conditions of approval for any development shall be appealed as part of the approval or denial of a development proposal. Variances, compliance with applicable design standards, tree preservation

plans and conditions of approval for any development not requiring approval by the Planning Commission or administrative approval by the Planning Division may be appealed independently.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5296, 12-15-09; Ord. No. 6342, §1, 8-4-20)

155.05 Appeals From Planning Commission Decisions

(A) Appeals to City Council

- (1) Owners of record of the property being considered may appeal a decision by the Planning Commission to deny the following requests in accordance with the procedure set forth in §155.02:
 - (a) Annexation;
 - (b) Rezoning;
 - (c) Required dedication and improvements of §155.06(C);
 - (d) Subdivision (plats, lot splits, lot line adjustments);
 - (e) Development (large scale development, large and small site improvement plans);
 - (f) Vacations of street right-of-way.
- (2) *Conditions of Approval/Variances, etc.* An owner of record may appeal the conditions of approval determined by the Planning Commission and any adverse decision by the Planning Commission concerning applicable design standards, tree preservation requirements, streamside protection requirements and variance requests as part of the conditions of an approved development request or the denial of such development request. Variations, compliance with applicable design standards, tree preservation plans and conditions of approval for any development not requiring approval by the Planning Commission or administrative approval by the Planning Division may be appealed independently.
- (3) *Conditional Use Request.* Three Council Members may in unison appeal a decision of the Planning Commission approving or denying a conditional use request.

(Code 1965, §13A-40, App. C., Art. II, Art. V., §B; Ord. No. 1509, 8-8-66; Ord. No. 1750, 7-6-70; Code 1991, §§156.017, 159.12, 159.54(F)(1), (2), 159.66; Ord. No. 3781, §1, 4-19-94; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4334, 9-4-01; Ord. No. 4340, 10-2-01; Ord. No. 6342, §2, 8-4-20)

155.06 Appeals From Staff Interpretations And Actions

(A) Appeals to City Council.

- (1) The City Engineer's decision to issue a violation notice or stop work order may be appealed to the City Council by an owner of record of the property in question or a council member on behalf of a resident of the city.
- (2) The ~~Development Review Manager's~~Zoning and Development Administrator's decision to deny a vacation of any public easement (whether constructed or not) or portion thereof may be appealed by the owner of record of the property.

- (B) *Appeals to the Board of Adjustment.* The following interpretations and decisions may be appealed by an owner of record of the property in question or a council member on behalf of a resident of the city to the Board of Adjustment:

- (1) ~~Development Review Manager—Zoning~~Zoning and Development Administrator. An interpretation or decision regarding zoning matters.
- (2) *Building Safety Officer—Airport Zone*. Any person aggrieved, or any taxpayer affected by any decision of the Building Safety Officer, made in the administration of Airport Zone, Chapter 165.
- (C) *Appeals to the Planning Commission*.
- (1) ~~Development Review Manager's~~Zoning and Development Administrator's *Required Dedications and Improvements*.
- (a) An owner or developer who is aggrieved by the requirements of the Unified Development Code for land, right-of-way or easement dedications, construction of on-site or off-site improvements, or payments in lieu of any dedication or improvement, which are in excess of the "rough proportionality" of the impact of the development upon the city's infrastructure or services may appeal such requirement to the Planning Commission as a part of the submission of the preliminary plat, large scale development, subdivision, building permit, lot split, grading permit, floodplain development permit, or otherwise within ten (10) days of notification of such development requirements. The appeal must be presented to the Planning Division in writing and state the grounds, or reasons for the appeal.
- (b) The Planning Commission shall determine after public hearing whether the required dedications, improvements, and fees meet the "rough proportionality" of the impact of the development on city infrastructure and services. If the requirements are in excess of the "rough proportionality," the Planning Commission is empowered to modify or reduce such requirements to achieve "rough proportionality."
- (c) Any potential reduction of impact fees must be approved by the City Council.
- (2) *Administrative Approvals and Interpretations by* ~~Development Review Manager~~Zoning and Development Administrator.
- (a) A resident of the city or an owner/developer who is aggrieved by a decision of the ~~Development Review Manager~~Zoning and Development Administrator regarding development matters that are approved administratively (as required by Chapter 166.02(C)) may appeal the final development approval decision affected by this matter to the Planning Commission. The appeal shall be submitted in writing to the Planning Division within ten (10) working days of the final decision. The appeal shall be limited to the applicable approval or denial criteria as follows:
- (i) The development plan is not submitted in accordance with the requirements of Chapter 166 of the Fayetteville Unified Development Code.
- (ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.
- (iii) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by Chapter 166 of the Fayetteville Unified Development Code.
- (iv) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
- (v) City water and sewer is not readily available to the property within the large scale development or preliminary plat and the developer has made no provision for extending such service to the development.

- (vi) The developer refused to comply with UDC Ch. 166 pertaining to required on-site and off-site improvements.
 - (b) The appellant must include in the letter of appeal the specific code section with which the development application does not comply.
 - (c) The Planning Commission shall determine after public hearing whether the interpretation or discretionary decision should be upheld or modified in part or in whole.
 - (d) Any staff recommendation to approve or deny some or all of a requested street right-of-way vacation shall be considered by the Planning commission with recommendations to the City Council.
 - (3) *City Engineer and Flood Plain Administrator.*
 - (a) *Development Matters.* An interpretation or decision of the City Engineer or Floodplain Administrator regarding development matters, including grading, drainage, water and sanitary sewer systems, and storm drainage systems.
 - (b) *Floodplain Regulations.* The decision of the Floodplain Administrator, provided that the Planning Commission shall hear and decide an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of Chapter 168.
 - (c) *Streamside Protection Zones.* An interpretation or decision of the City Engineer concerning the regulated uses, structures and activities, streamside boundary location or land use exemptions.
 - (4) ~~*Development Review Manager's Zoning and Development Administrator's Interpretation or Decision of Other Development Matters.*~~ An interpretation or decision of the ~~Development Review Manager Zoning and Development Administrator~~ regarding development matters including subdivisions, large scale developments, parking and loading, outdoor lighting, compliance with applicable design standards, or any other development matters.
 - (5) *Urban Forester—Landscape and Tree Preservation and Protection requirements.* Decisions of the Urban Forester related to landscape and tree preservation and protection requirements.
 - (D) *Appeals to the Construction Board of Adjustment and Appeals.* When the administrative authority under Chapter 173 shall disapprove an application, or the applicant is aggrieved by the interpretation of the administrative authority, the applicant may appeal the decision to the Construction Board of Adjustment and Appeals.
- (Code 1965, §17B-11.2(d), (e), App. A., Art. 10(6), 19(2), App. B, §III, App. C., Art. 10(6), 19(2), App. B, §III, App. C., Art. V, §A; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 2109, 6-375; Ord. No. 2252, 7-6-76; Ord. No. 2538, 7-3-79; Ord. No. 2585, 12-4-79; Ord. No. 2697, 1-20-81; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-14-88; Code 1991, §§150.03, 158.67(B), 158.68(A), (B), 159.65, 160.048, 160.172, 160.176(A), (B), 161.11, 162.03(B), (C), 163.10(D); Ord. No. 3551, 6-4-91; Ord. No. 3587, §1, 1-7-92; Ord. No. 3699, §3, 4-20-93; Ord. No. 3716, §2, 6-15-93; Ord. No. 3806, §1, 6-28-94; Ord. No. 3895, §1, 6-20-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3925, §7, 10-3-95; Ord. No. 3963, §9, 4-16-96; Ord. No. 4100, §2 (Exh. A), 6-16-98; Ord. No. 4368, §2, 2-5-02; Ord. No. 4377, §§1, 2, 3-5-02; Ord. No. 4652, 12-07-04; Ord. No. 5206, 12-16-08; Ord. No. 5296, 12-15-09; Ord. 5390, 3-1-11; Ord. No. 6343, §1(Exh. A), 8-4-20; Ord. No. 6446, §5, 6-15-21)

155.07 Appeals To The Housing Board—Mobile Homes And Mobile Home Parks

- (A) *Permit Denied.* Any person whose application for a permit under Chapter 175 has been denied may request and shall be granted a hearing on the matter before the Housing Board.

- (B) *Permit Suspended.* Any person whose permit has been suspended, or who has received notice from the enforcement officer that his permit will be suspended unless certain conditions or practices at the mobile home park are corrected, may request and be granted a hearing on the matter before the Housing Board.
- (C) *Petition Deadline.* When no petition for hearing shall have been filed within ten (10) days following the day on which notice of suspension was served, such permit shall be deemed to have been automatically revoked at the expiration of such ten (10) days.

(Code 1965, §17B11.2(e); Ord. No. 2109, 6-3-75; Ord. No. 2583, 12-4-79; Ord. No. 3152, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-15-88; Code 1991, §158.67; Ord. No. 4100, §2 (Exh. A), 6-16-98)

(Code 1965, §§13A-40, 13A-43; Ord. No. 1509, 8-8-66; Code 1991, §§156.017, 156.029; Ord. No. 4100, §2 (Exh. A), 6-16-98; Ord. No. 4652, 12-07-04).

155.08 Appeals From The Construction Board Of Adjustments And Appeals

If the Construction Board of Adjustments and Appeals refuses to extend a building permit pursuant to §173.02 (B)(8) or to issue a new building permit for property for which a building permit has expired pursuant to §173.02 (B)(8), the owner may appeal to the City Council.

(Ord. No. 5019, 5-15-07)

155.09—155.99 Reserved

166.02 Development Review Process

(A) *Application Submittal*

- (1) *Submittal.* All development applications shall be submitted to the Planning Division and will be processed for review in accordance with Planning Division operating procedures.

(B) *Public Meetings.* Development applications are required to be processed through the Technical Plat Review Committee, Subdivision Committee, and Planning Commission as follows:

- (1) *Technical Plat Review Committee.* The following development applications are required to be reviewed by the Technical Plat Review Committee: Lot split, small site improvement plans, large site improvement plans, large scale development, planned zoning district, preliminary plat, final plat, and concurrent plat. After the Technical Plat Review Committee meeting staff may administratively approve lot splits, final plats, small site improvement plans, and large site improvement plans after review for compliance with all applicable codes subject to UDC 166.02(C).
- (2) *Subdivision Committee.* The following development applications are required to be reviewed by the Subdivision Committee: Large scale development, planned zoning district with development, preliminary plat, and concurrent plat. From these applications, the Subdivision Committee may approve only large scale developments. Large scale development applications that are subject to administrative approval shall not be required to be reviewed by the Subdivision Committee.
- (3) *Planning Commission.* The following development applications are required to be reviewed by the Planning Commission. Preliminary plat, concurrent plat, and planned zoning district with development. The Planning Commission may approve, deny, table, or approve development applications with conditions. A planned zoning district cannot be approved by the Planning Commission, but may be forwarded to City Council. Large scale development applications that are subject to administrative approval shall not be required to be reviewed by the Planning Commission.

(C) *Approval and Denial Criteria*

- (1) *Administrative Approval.* The following applications shall be approved administratively by the Planning Division as long as the proposal meets all requirements of the Unified Development Code: Property line adjustment, lot split, final plat, small site improvement plan, and large site improvement plan. Approval by the Planning Commission for these applications is not required unless an appeal is filed in accordance with Ch. 156 of the UDC.
 - (a) *Reasons for Denial.* The Planning Division may refuse administrative approval based on the following criteria:
 - (i) *Property Line Adjustment; Lot Split.* The application does not comply with zoning and development requirements including, but not limited to: Lot width, lot area, setback requirements, buildable area, required parking, impervious surface, dedication of required right-of-way or easements, etc., or the requested action would make an existing non-conforming property or structure more non-conforming.
 - (ii) *Final Plat.* The conditions of approval of the preliminary plat have not been met, the proposed plat does not meet the zoning and development requirements of the UDC, and/or the required improvements have not been completed or guaranteed in accordance with Fayetteville Unified Development Code Chapter 158.
 - (iii) *Small or Large Site Improvement Plans.* The Planning Division may refuse to approve a small or large site improvement plan for any of the following reasons:

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- (a) The development plan is not submitted in accordance with the requirements of this chapter.
 - (b) The proposed development would violate a city ordinance, a state statute, or a federal statute.
 - (c) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.
 - (d) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factor such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
 - (e) City water and sewer is not readily available to the property within the site improvement plat area and the developer has made no provision for extending such service to the development.
 - (f) The developer refused to comply with ordinance requirements or condition of approval for on-site and off-site improvements.
- (2) *Subdivision Committee and Planning Commission Approval.* The following applications shall be approved by the Subdivision Committee or Planning Commission, subject to the criteria listed below: Large scale development, preliminary plat and concurrent plat.
- (a) *Reasons For Denial.* The Subdivision Committee or Planning Commission may refuse to approve a large scale development, preliminary plat or concurrent plat for any of the following reasons:
 - (i) The plat or development plan is not submitted in accordance with the requirements of this chapter.
 - (ii) The proposed development would violate a city ordinance, a state statute, or a federal statute.
 - (iii) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.
 - (iv) The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
 - (v) City water and sewer is not readily available to the property within the large scale development, preliminary plat, or concurrent plat and the developer has made no provision for extending such service to the development.
 - (vi) The developer refused to comply with ordinance requirements or conditions of approval for on-site and off-site improvements.
- (D) *Plat Recordation or Construction Plan Approval.* After obtaining approval by the appropriate governing body, the applicant shall follow the procedures set forth below in order to record the plat or obtain construction plan approval.
- (1) *Property Line Adjustment, Lot Split, Building Permit, Final Plat, Concurrent Plat.* The applicant shall submit copies of the approved plats containing all required signatures to the Planning Division for final

approval. The plats shall be recorded by the applicant and copies of the recorded plats provided to the Planning Division as required.

- (2) *Preliminary Plat, Large Scale Development and Small or Large Site Improvement Plan.* Receipt of the approval authorizes the applicant to proceed with:

- (a) The preparation of plans, reports and specifications in accordance with City Engineering requirements including but not limited to:
 - (i) Street plans, profiles and specification accompanied by soil analyses and design calculations;
 - (ii) Storm drainage plans, profiles and specifications accompanied by soil analyses and design calculations; and
 - (iii) Water and sewer plans, profiles and specifications, accompanied by design calculations, to be reviewed and approved by City Engineering.
 - (iv) Final site plans, landscape plans, and other plans, reports and specifications required by the city to obtain approval.
- (b) Once all approvals that are required have been obtained, the applicant may proceed with site preparation and construction in accordance with the permitted plans.

(E) *Building Permits.*

- (1) Before a building permit is issued the developer shall:
 - (a) Dedication of Right-of-Way. Dedicate right-of-way in compliance with the city's Master Street Plan, and in compliance with the requirements for on or off-site improvements.
 - (b) Dedicate all easements necessary to serve the development as required by the utility providers and the city. This may be completed by easement plat or separate easement document(s), with approval of the Planning Division.
 - (c) Comply with all applicable zoning and development codes.
 - (d) In addition, for small site improvement plans, large site improvement plans and large scale developments, the developer shall:
 - (i) Obtain approval from the appropriate governing body.
 - (ii) On and Off-Site Improvements. Construct or guarantee required on- and off-site improvements in accordance with UDC Chapter 158.
 - (iii) Complete applicable conditions of approval.
- (2) In addition to §166.02(E), before a building permit is issued for site that creates between 1,201 and 10,000 square feet of new impervious area, where a corresponding subdivision of land is not proposed, the developer shall complete, and receive approval of, appropriate grading and drainage documentation demonstrating compliance with UDC Chapters 169 and 170 as well as the current City Drainage Criteria Manual per the table below. Impervious areas will be considered as existing only if they are in place on March 3, 2021 which corresponds with the City of Fayetteville 2021 imagery.

Required Mitigation Measures and Documentation by Development Threshold			
Development Threshold	City-wide Standard	Grading and Drainage/ Stormwater Documentation	Water Quality, Flood, and Tree Mitigation Measures

Level 1	< or = 1,200 sf of IA	Exempt from Grading and Drainage provisions except for those still associated with the Building Permit process such as HHOD	Exempt
Level 2	1,201— 6,000 sf of IA	- Completed Green Stormwater Practice (GSP) Worksheet, demonstrating Runoff Reduction via Better Site Design. - GSP Operation & Maintenance (O & M) Agreement to ensure the long-term functionality of these practices.	2 or more measures from Step 1 of Table 2 that Reduce Runoff via Better Site Design 1 or more Green Stormwater Practices (GSPs) measures from Step 2 of Table 2 as required to treat 100% of the proposed additional impervious and gravel areas. Abbreviated Tree Preservation Plan
Level 3	6,001— 10,000 sf of IA	Same as Level 2.	- Same as Level 2. - As needed GSP measures from Step 3 to further reduce runoff referred to as extended detention - Abbreviated Tree Preservation Plan

(F) *Completion of Development/Certificate of Occupancy.* No certificate of occupancy for a large-scale development, large site improvement plan, or small site improvement plan shall be issued, and no final plat or concurrent plat shall be signed for recordation until the following have been completed:

- (1) The requirements for on and off-site improvements have been completed, and maintenance bonds/guarantees deposited to city specifications.
- (2) An "as built" plot plan has been approved by the City Engineer (where applicable) showing:
 - (a) The location of all buildings and the setback distance for said buildings from street right-of-way and adjoining property lines;
 - (b) The location of any freestanding signs and the setback distance of said signs from street right-of-way and adjoining property lines;
 - (c) The location, number, dimensions, and surfacing of all parking spaces and of all screens or fences;
 - (d) The location and size of all water, sewer, gas, electric, telephone, and television cable lines;
 - (e) The location and size of all stormwater features with associated drainage easements demarcated, where applicable; and
 - (f) The location and quantity of existing and new impervious area on the property.
- (3) The development has been inspected and approved by all applicable city divisions.
- (4) All applicable conditions of approval have been completed.

(Code 1965, App. C., Art. II, §§F—H; Ord. No. 2581, 12-4-79; Code 1991, §§159.16—159.18; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 5296, 12-15-09; Ord. No. 5653, 01-21-14; Ord. No. 6061, §2, 4-17-18; Ord. No. 6446, §8(Exh. C), 6-15-21; Ord. No. 6539, §5(Exh. A), 3-1-22)

166.23 Urban Residential Design Standards

(A) *Purposes.*

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To create appealing street scenes so that development enhances the image of the city and provides safe, pedestrian-friendly neighborhood environments.
- (3) To minimize service and parking impacts in order to preserve surrounding property values and scenic resources that contribute to the city's economic development.
- (4) To compose attractive residential facades that enhance the economic viability of and provide compatibility with surrounding property.

(B) *Applicability.* All references to urban residential design standards shall include the following uses as permitted by right or conditional use in all zoning districts:

- (1) Two (2) family dwellings
- (2) Three (3) and four (4) family dwellings
- (3) Multi-family dwellings

(C) *Site Development Standards.* The following site development standards shall apply for all urban residential development.

- (1) *Intent.* The intent of these site development standards is to create a pedestrian-friendly streetscape.
- (2) *Vehicular Access/Circulation/Parking.*
 - (a) Site access and internal circulation should promote pedestrian safety, efficiency, and convenience and minimize conflicts between vehicles and pedestrians. Continuous circulation shall be provided throughout the site to the greatest extent possible creating a complete, compact, and connected transportation network both within the development and to the surrounding neighborhood. The visual impact of parking areas should be minimized by locating parking behind buildings and internal to the site.
 - (i) Garage entries and carports shall not protrude forward from the principal facade. Driveways shall extend at least 18 feet into the property from the Master Street Plan right-of-way to allow parking to occur without encroaching into the right-of-way.
 - (ii) Parking areas should be accessed by mid-block alleys whenever possible. Developments should minimize multiple driveways and should utilize a shared access to reduce the number of vehicle conflicts at the street.
 - (iii) On-street parallel parking may be provided on at least one (1) side of the street in front of all multi-family buildings where feasible. Each on-street parking space provided along the project frontage shall count toward the total required spaces for the development.
- (3) *[Reserved.]*
- (4) *Pedestrian Circulation.*
 - (a) Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The connection shall match the sidewalk in material type and shall be at least 3 feet in width unless otherwise approved by the Zoning and Development Administrator in writing. The

entry may be gated and shared but must occur at a spacing of no fewer than one (1) entrance for every two (2) street level dwellings. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk.

- (b) Urban residential projects shall incorporate pedestrian connections to adjacent residential and commercial properties where sidewalks exist unless this requirement is otherwise waived by the Planning Commission.
- (5) *Screening Requirements if Visible from the Highway/Street Right-of-Way.*
 - (a) *Mechanical and Utility Equipment.* All mechanical and utility equipment located on the wall and/or on the ground shall be screened, except for air conditioning window units. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting building. Mechanical and utility equipment over 30 inches in height shall meet building setbacks, unless located in a utility easement.
 - (b) *Recycling and Trash Containers.* Adequate space and screening shall be provided for the placement of recycling and trash containers in urban residential developments.
 - (i) Urban residential developments are required to provide adequate space to provide both recycling and trash services for residents. The Recycling and Trash Collection Division Director may exercise discretion in approving the dimensional size of the required enclosure or dedicated space for servicing recycling and trash containers. Large multi-family urban residential developments typically will be required to provide adequate space for the placement of two (2) front-end load dumpsters that are easily accessible with a minimum enclosure dimension of 24 feet wide and 12 feet deep.
 - (ii) Recycling and trash containers shall be screened by enclosures with materials that are complementary to the principal structure, with access to the refuse containers not visible from the public right-of-way.
 - (c) *Screening.* Screening shall mean a view obscuring fence, berm, vegetation, architectural treatment consistent with the residential architecture, or a combination of the four of sufficient height to prevent the view of the screened items from the public right-of-way. Vegetation shall be planted at a density sufficient to become view obscuring within two years from the date of planting.
- (6) *Fencing.* The following types, height, and location of fences shall be prohibited:
 - (a) *Razor and/or Barbed Wire.* Razor and/or barbed wire fences are prohibited, unless and except barbed wire fences are used for agricultural purposes.
 - (b) *Chain Link.* Chain link fence is prohibited if closer to the street than the front of the building.
 - (c) *Height of Fences in Front of Buildings.* Fences in the front yard area shall have a maximum height of 42 inches subject to visibility requirements in Chapter 164.09 and 164.17.
- (D) *Architectural Design Standards.*
 - (1) *Intent.* The intent of these building design standards is:
 - (a) To ensure that urban residential buildings add to the character and quality of the community, offer a sense of security, and make a positive contribution to the life of the street.
 - (b) To maximize the quality, value and longevity of urban residential neighborhoods.
 - (c) To make housing appealing and comfortable for its inhabitants.

(2) *Construction and Appearance Design Standards for Urban Residential Development.*(a) *Building Form and Design.*

- (i) In order to provide a variety in form and design, one (1) building type may not be utilized more than three (3) times in a development. Each building type shall be differentiated by variations in materials, colors and roof forms.
- (ii) Ancillary structures such as carports, garages, recreational buildings and storage structures shall be designed as an integral part of the project architecture.
- (iii) The following architectural elements shall be required of all principal façades that are greater than 48 feet wide along the street frontage:
 - (a) Variations in materials;
 - (b) Insets or other relief in the wall plane;
 - (c) Incorporation of two or more of the following:
 - (1) Balconies;
 - (2) Bays or bay windows;
 - (3) Porches;
 - (4) Dormers;
 - (5) Porticoes;
 - (6) Turrets; or
 - (7) Other architectural feature approved by the Zoning Development Administrator that meets the intent of the code.
- (iv) One (1) or more of the following architectural elements shall be required of all principal façades that are 48 feet wide or less along the street frontage:
 - (a) Balconies;
 - (b) Bays or bay windows;
 - (c) Porches;
 - (d) Dormers;
 - (e) Porticos;
 - (f) Turrets; or
 - (g) Other architectural feature approved by the ~~Development Review Manager~~ Zoning and Development Administrator that meets the intent of the Code.

- (E) *Planning Commission Approval.* An applicant may request approval from the Planning Commission of a variance from the maximum requirements where unique circumstances exist and the effect will not adversely impact adjoining or neighboring property owners. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.

(Ord. No. 5118, 3-18-08; Ord. No. 5262, 8-4-09; Ord. No. 5679, 4-15-14; Ord. No. 6170 , §1, 4-2-19; Ord. No. 6357 , §§1, 2, 9-15-20; Ord. No. 6508 , §1, 11-16-21; Ord. No. 6658 , §10, 5-2-23)

167.04 Tree Preservation And Protection During Development

- (A) *Applicability.* The provisions of this section shall apply to proposed developments as defined by the Unified Development Code as follows:
- (1) *Large Scale Developments.*
 - (2) *Large Site Improvement Plan.*
 - (3) *Small Site Improvement Plan.*
 - (4) *Preliminary Plat.*
 - (5) *Final Plat.*
 - (6) *Concurrent Plat.*
 - (7) *Planned Zoning Districts.*
 - (8) *Parking Lots.* Tree preservation requirements apply to all permit applications for the construction of parking lots with five (5) or more spaces. An abbreviated tree preservation plan, as set forth in §167.04(H)(3), shall be submitted with the application for permits on projects that are required to go through the subdivision or large scale development process.
 - (9) *Hillside/Hilltop Overlay District.* Undeveloped land located within the Hillside/Hilltop Overlay District shall submit a tree preservation plan with the preliminary plat or site plan. Single and two (2) family residential development shall submit an abbreviated tree preservation and site plan at the time of applying for a building permit.
 - (10) *Grading Permit.* A tree preservation plan or an abbreviated tree preservation plan, as set forth in §167.04(H)(3), shall be submitted with the application for grading permits on projects that are not required to go through the development process.
 - (11) *Building Permits.* Tree preservation requirements apply to all permit applications for developments of greater than ~~6,000~~ 1,200 square feet of impervious area. An abbreviated tree preservation plan, as set forth in §167.04(H)(3), shall be submitted with the application for building permits on projects that are not required to go through the subdivision, ~~or~~ large scale development, or site improvement plan process. There shall be no land disturbance, grading, or tree removal until an abbreviated tree preservation plan has been submitted and approved, and the tree protection measures at the site inspected and approved.
 - (12) *Exemptions.* Projects not listed above or not impacting tree canopy are not required to submit a tree preservation plan or review from Urban Forestry.
 - (a) Persons seeking to construct ~~6,000~~ 1,200-square feet or less of impervious area are specifically exempt from the provisions of this section except when the land is located within the Hillside/Hilltop Overlay District; then all the provisions of this ordinance shall apply.
 - (b) Structural changes to buildings located in the Hillside/Hilltop Overlay District that do not result in an enlargement of the building footprint or roof dripline shall not require an abbreviated tree preservation plan.
- (B) *Tree Preservation Criteria.* The Urban Forester shall consider the following factors, and any other relevant information, when evaluating tree preservation plans:
- (1) The desirability of preserving a tree or group of trees by reason of age, location, size, or species.
 - (2) Whether the design incorporates the required tree preservation priorities.

- (3) The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
- (4) The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.
- (5) Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
- (6) Whether the size or shape of the lot reduces the flexibility of the design.
- (7) The general health and condition of the tree or group of trees, or the presence of any disease, injury, or hazard.
- (8) The placement of the tree or group of trees in relation to utilities, structures, and the use of the property.
- (9) The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
- (10) Whether proposed roads and proposed utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
- (11) Construction requirements of on-site and off-site drainage.
- (12) The effects of proposed on-site mitigation or off-site alternatives.
- (13) The effect other chapters of the Unified Development Code, or city policies have on the development design.
- (14) The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations.
- (15) The impact a substantial modification or rejection of the application would have on the applicant.

***Note**—The above items are not presented in any particular order of importance. The weight each is given will depend in large part on the individual characteristics of each project.

- (C) *Canopy Area*. In all proposed developments that are required to submit a tree preservation plan or abbreviated tree preservation plan, trees shall be preserved as outlined in Table 1 under Percent Minimum Canopy, unless the applicant has been approved for on-site mitigation or off-site alternatives as set forth in §167.04(I) and (J) below. The square foot percentage of canopy area required for preservation in new development is based on the total area of the property for which the applicant is seeking approval, less the right-of-way and park land dedications. An applicant shall not be required to plant trees in order to reach the percent minimum canopy requirement on land where less than the minimum exists prior to development.

Table 1 Minimum Canopy Requirements	
ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
R-A, Residential — Agricultural (nonagricultural uses)	25%
RSF-.5, Single-family Residential — One-Half Unit per Acre	25%
RSF-1, Single-family Residential — One Unit per Acre	25%
RSF-2, Single-family Residential — Two Units per Acre	20%
RSF-4, Single-family Residential — Four Units per Acre	25%
RSF-7, Single-family Residential — Seven Units per Acre	20%

RSF-8, Single-family Residential — Eight Units per Acre	20%
RSF-18, Single-family Residential — Eighteen Units per Acre	20%
R-O, Residential — Office	20%
RI-12, Residential Intermediate — Twelve Units Per Acre	20%
RI-U, Residential Intermediate — Urban	15%
RMF-6, Multi-family Residential — Six Units per Acre	20%
RMF-12, Multi-family Residential — Twelve Units per Acre	20%
RMF-18, Multi-family Residential — Eighteen Units per Acre	20%
RMF-24, Multi-family Residential — Twenty-Four Units per Acre	20%
RMF-40, Multi-family Residential — Forty Units per Acre	20%
NS-L, Neighborhood Services — Limited	20%
NS-G, Neighborhood Services — General	20%
C-1, Neighborhood Commercial	20%
CS, Community Services	20%
C-2, Thoroughfare Commercial	15%
UT, Urban Thoroughfare	15%
C-3, Central Business Commercial	15%
DC, Downtown Core	10%
MSC, Main Street Center	10%
DG, Downtown General	10%
NC, Neighborhood Conservation	20%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
P-1, Institutional	25%
PZD, Planned Zoning District (HHOD)	25% (30%)

All residential zoning districts and C-1 districts within the Hillside/Hilltop Overlay District shall have their percent minimum canopy requirements increased by 5% to a total requirement of either 30% or 25%.

(D) *Prior Tree Removal.*

- (1) If trees have been removed below the required percent minimum canopy within the five (5) years preceding application for a development, the site must be forested to meet the Percent Minimum Canopy requirements set forth in Table 1, plus an additional 10% of the total area of the property for which the applicant is seeking approval, less the right-of-way and park land dedications. The number of trees required to be planted shall be calculated using the base density for high priority trees.
- (2) *Waiver.* If an applicant is able to demonstrate to the Planning Commission's satisfaction that the trees were removed for a bona fide agricultural purpose, and not with the intent to thwart enforcement of this chapter, the additional 10% reforestation requirement shall be waived.

(E) *Tree Preservation Priorities.*

- (1) *Percent Minimum Canopy.* Proposed designs must meet the percent minimum canopy requirements for the particular zoning designation, emphasizing the preservation and protection of high priority trees on the site. Trees in existing and not to be vacated utility easements shall not be counted toward the percent minimum canopy requirement and such utilities shall be routed, wherever possible, to avoid existing canopy.

- (2) *Existing Natural Features.* Each design shall consider the existing natural features of the site, the preservation priorities for the trees, and the impact their proposed removal may have both on and off-site.
- (3) *Priority Trees.* The preservation and protection of high priority trees shall be enforced most stringently to meet the minimum percentage of canopy preservation. High priority trees are alive, healthy, greater than or equal to an 8-inch diameter at breast height for large and medium species of trees. High priority for small species of trees is greater than or equal to a 4-inch diameter. Low priority trees are invasive species or unhealthy as determined by a tree care professional pursuant to §167.07. Low priority trees are less than an 8-inch diameter at breast height for larger and medium species and less than a 4-inch diameter at breast height for smaller trees species.
- (F) *Tree Preservation Requirements for Proposed Residential and Non-Residential Developments.*
- (1) *Residential Developments.* The percent minimum canopy in residential developments shall be located in areas that have the least possibility of impact as public infrastructure and proposed utilities are installed and homes built. The intent is to leave undisturbed as many existing trees as possible for the use and enjoyment of prospective lot owners. Residential developments requesting tree removal below the percent minimum canopy requirement may choose either residential on-site mitigation, or to contribute to the Tree Escrow Account as set forth in §167.04(J)(4)(a). Trees in existing and not to be vacated utility easements shall not be counted toward the percent minimum canopy requirement, and such proposed utilities shall be routed to avoid existing canopy and shall count toward the percent minimum canopy requirement.
- (2) *Nonresidential Developments.* Two (2) options are available for establishing a tree preservation plan for the development of nonresidential developments. The Urban Forester shall recommend to the Planning Commission the option that will potentially preserve the largest amount of high priority canopy based upon the tree preservation criteria set forth in §167.04(B) above.
- (a) *Preservation Plan for Entire Development.* The developer may choose to preserve the percent minimum canopy required for the entire development. With this option, the preserved canopy shall be located in areas that will not be impacted by future development of the individual lots. Canopy to be preserved shall be noted on the final plat, and shall be protected as set forth in §167.04(L) below. Should the entire percent minimum canopy requirement for the site be so protected, the preserved canopy shall be placed in a tree preservation easement and the final plat shall include a statement that the individual lots, as represented thereon, shall not require separate tree preservation plans.
- (b) *Preservation Plan for Infrastructure Only.* The developer, in consultation with city staff, shall delineate the area required for the construction of the infrastructure and improvements for the development. This area should include street rights-of-way, and utility and drainage easements. Proposed lot lines, streets, and easements shall be located to avoid placing a disproportionate percentage of existing canopy in any one (1) proposed lot. This option shall not allow the removal of trees during the grading of individual lots, unless shown by the developer to be essential to the project's engineering design. The developer will be required to compensate for the canopy removed from defined individual lots by making the appropriate payment into the Tree Escrow Account. On all other areas of the development, the developer shall protect the existing canopy during the construction phase in accordance with §167.05 below. The final plat shall include a statement that the individual lots shall require separate tree preservation plans.
- (3) *Hillside/Hilltop Overlay District.* Individual parcels or lots located within the Hillside/Hilltop Overlay District boundary shall submit a tree preservation plan or an abbreviated tree preservation plan as set forth in §167.04(H)(3) indicating the location of the structure and the preservation of the minimum tree canopy requirement.

- (4) Developers have the option of creating cluster development, such as a Planned Zoning District, which would encourage more open space and tree preservation. In this pattern of development, the trees preserved or open space on each lot can be transferred to a larger Tree Preservation Easement instead of individual lots required to meet minimum percent requirements. The Tree Preservation Easements shall be clearly depicted on easement plats or final plats.
- (G) *Initial Review.*
- (1) *Meeting with the Urban Forester.* It is strongly recommended that prospective applicants meet with the Urban Forester for an initial review of the proposed tree preservation plan for the site prior to submitting a proposed development to the city. During the initial review, the Urban Forester shall make recommendations to ensure the proposed subdivision or development complies with the requirements of this chapter. These recommendations shall be nonbinding. However, applicants proceed at the risk of higher costs and longer approval times due to changes required by a noncompliant submittal should they choose not to have the initial review or to disregard the recommendations of the Urban Forester.
- (2) *Confirmation.* The Urban Forester shall document whether the applicant participated in the initial review meeting in the Tree Preservation and Protection staff report given to applicants going through the development review process. If the applicant chooses to attend an initial review meeting, the staff report shall also document any recommendations made. The Urban Forester shall ensure that a copy of the report or email becomes part of the permanent file for the project.
- (H) *Submittal of Plans.* Applicants should bear in mind that all plans will be evaluated according to the tree preservation criteria and percent minimum canopy requirements as set forth under §167.04(B) and (C).
- (1) *Tree Preservation Plan.* On sites with existing tree canopy, the applicant shall conduct a tree preservation analysis to determine the approximate age, health, size and species distribution of the trees, noting each on a tree preservation plan, and clearly showing the locations and types of all natural features on a site, including features 100 feet beyond the property lines. The tree preservation plan shall also specifically depict the applicable preservation priority level for each tree or group of trees on the site. The plan should include, but not be limited to, delineation of the following features as they exist on the site:
- (a) The existing topography of the site highlighting slopes of 15% or greater, and indicating the natural drainage patterns;
 - (b) The property line boundaries of the site;
 - (c) Soils identified according to the Unified Soil Classification System;
 - (d) Any significant trees, as defined in the City of Fayetteville's Tree Preservation, Protection and Landscape Manual, existing on the site, and the location of trunks, spread of the canopy, species, diameter at breast height (DBH), and the overall health of each significant tree;
 - (e) Groupings of trees, delineating the edges of the overall canopy, noting the predominate species, average height, diameter at breast height (DBH), and general health of the trees.
 - (f) All existing utilities and utility easements;
 - (g) All features, including trees, buildings, perennial and intermittent streams and creeks that exist on the site or within 100 feet of the limits of disturbance;
 - (h) Floodplains and floodways on the site;
 - (i) All existing rights-of-way within and surrounding the project site, including any designated trails or bike paths; and,

- (j) Any other factors that may impact the design of the site.
- (2) *Additional Tree Preservation Plan Content.* The applicant shall indicate all proposed site improvements, and delineate in the tree preservation plan the trees to be retained on-site, and the measures to be implemented for their protection. These measures shall include, but need not be limited to, fencing, limits of root pruning, as well as restrictions on traffic and material storage. The plan shall also clearly depict the limits of soil disturbance to include all areas to be graded both on and off-site, as well as the proposed location of utilities. The applicant should consult the City of Fayetteville Tree Preservation, Protection and Landscape Manual for details, examples and specific checklists. Examples can be provided upon request to the Urban Forester.
- (3) *Abbreviated Tree Preservation Plan.* Applicants requesting approval of development projects for between ~~6,001~~ 1,201 to 10,000 square feet of impervious area that require building permits, grading, or parking lot permits, but that do not fall under the requirements for developments required to go through the development review process of Technical Plat Review Committee, Subdivision Committee and or Planning Commission, shall prepare and submit an abbreviated tree preservation plan. The information for an abbreviated tree preservation plan may be combined with the site plan, plat drawing, or grading plan. The applicant is expected to show the general location of all existing groups of trees, individual significant trees, and to clearly depict the limits of soil disturbance to include all areas to be graded, both on and off-site, as well as the proposed location of utilities. Protective measures such as fencing, limits of root pruning, restriction on traffic and materials storage shall be depicted on the plan. A preliminary site visit with the Urban Forester is highly recommended before applying for any of the above-mentioned permits. The applicant should consult the City of Fayetteville Tree Preservation, Protection, and Landscape Manual for details, and specific checklists. Applicants submitting abbreviated tree preservation plans shall not be required to submit an analysis report, nor shall they be required to hire architects, engineers, or landscape architects to prepare the abbreviated tree preservation plan.
- (4) *Analysis Report.* The applicant shall submit an analysis report when minimum percent canopy is not met. The report shall detail the design approaches used to minimize damage to or removal of existing canopy that were considered in arriving at the proposed design. Written justification shall be presented as to why individual trees or canopy must be removed. The report shall also detail proposed on-site mitigation options or off-site alternatives, as detailed below.
- (5) *Grading and Utility Plans.* All subsequent grading and utility plans shall depict Tree Preservation Areas, preserved trees, and the physical limits of all protective measures on site required during construction.
- (6) *Submittal Requirements.* The applicant shall submit a tree preservation plan. Development plans with removal of tree canopy below percent minimum canopy shall submit an analysis report to the Urban Forester, concurrently with their tree preservation plan. Applicants submitting abbreviated tree preservation plans shall not be required to submit analysis report.
- (7) *Tree Preservation Easements.* The City of Fayetteville shall encourage the use of Tree Preservation Easements for the added protection of trees preserved to meet percent minimum canopy requirements or trees planted, in those instances where such would be of mutual benefit to the applicant and the City of Fayetteville.
- (i) *Request for On-Site Mitigation.*
- (1) *Timing of Request for On-Site Mitigation.* Requests to remove trees below the percent minimum canopy requirement must be incorporated with the applicant's tree preservation plan.
- (2) *Plan Requirements.* The tree preservation plan must graphically represent the species and location for all existing trees on-site. It shall also include a chart clearly stating the following information:
- (a) The number of trees requested for removal;

- (b) The percentage below the percent minimum canopy requirement they represent; and
 - (c) The species and number of trees to be planted based on the forestation requirements below.
- (3) *Planting Details and Notes.* Planting details and notes shall be included on the tree preservation plan or landscape plan as set forth in the City of Fayetteville Tree Preservation, Protection, and Landscape Manual.
- (4) *Forestation Requirements.* The number and species of trees required for forestation shall be based upon the quality of the canopy lost:
 - (a) *High Priority Canopy.* When removing high priority canopy below the percent minimum canopy required, the canopy square footage removed shall be forested at a base density of two hundred (200), 2-inch caliper trees per acre removed.
 - (b) *Low Priority Canopy.* When removing low priority canopy below the percent minimum required, the canopy square footage removed shall be forested at a base density of one hundred (100), 2-inch caliper trees per acre removed.
- (5) *Base Density.* Compensating for the environmental damage caused by removing tree canopy shall be accomplished by forestation on a per acre basis. The base density formula used above is based on 2-inch caliper trees. However, the urban forester may approve the use of trees with less than 2-inch caliper for the planting of smaller tree species required by spatial constraints on the site. In such cases, the number of trees to be planted may be adjusted in accordance with the species table to be found in the City of Fayetteville Tree Preservation, Protection, and Landscape Manual.
- (6) *Preferred Species.* All trees to be planted shall be species native to the Ozark region or native cultivars, when available, or selected from the list of preferred tree species set forth in the City of Fayetteville Tree Preservation, Protection and Landscape Manual. Species selection shall be based upon the amount of space available for proper growth on the site, and must be approved by the Urban Forester.
- (7) *Placement of Trees.* The applicant is expected to plant trees in locations on the site where the environmental benefits of canopy cover are most likely to offset the impact of development. Trees shall not be placed within utility easements, or in other locations where their future protection cannot be assured.
- (8) *Residential On-Site Mitigation.* Applicants requesting on-site mitigation for residential developments shall comply with all the provisions of §167.04(I), as well as the following:
 - (a) The applicant's mitigation plan shall meet or exceed the required number of mitigation trees based on the forestation requirements as set forth at §167.04(I)(4).
 - (b) All plans requesting residential on-site mitigation shall include a binding three (3) year maintenance and monitoring plan, which shall hold the applicant responsible for the health of all planted trees.
 - (i) Approval of a plan requesting residential on-site mitigation shall be contingent upon the applicant depositing with the city an irrevocable letter of credit in an amount equal to the estimated cost of materials and labor for all trees at the time of planting. The irrevocable letter of credit must cover the entire three (3) year maintenance and monitoring period. Applicant shall submit cost estimates to the Urban Forester for approval.
 - (ii) Upon completion of the three (3) year landscape establishment period, the Urban Forester shall inspect the site and determine whether 90% of the trees are healthy and have a reasonable chance of surviving to maturity. Upon such a finding, the city shall release the letter of credit.

- (iii) In the absence of such a finding, the applicant shall be notified to replace any unhealthy or dead trees, or take other appropriate action as approved by the Urban Forester. If the applicant does not take remedial steps to bring the property into compliance, the city shall use the necessary moneys from the landscape establishment guarantee to do so.
 - (iv) In the event trees are injured or destroyed by natural disasters, including but not limited to, tornadoes, straight-line winds, ice storms, fire, floods, hail, or lightning strikes, or through the independent actions of third parties, the applicant shall be relieved of the responsibility of replanting the tree or trees so affected.
- (c) Developers requesting mitigation trees be planted along the street right-of-way of residential developments shall submit a landscape plan that complies with the standards outlined in the City of Fayetteville Tree Preservation, Protection, and Landscape Manual in order to ensure that new trees planted are of the highest quality, require low maintenance, and do not interfere with public safety. The species of trees to be planted shall be selected from the approved street tree species list, or be otherwise specifically approved by the Urban Forester. The applicant's mitigation plan for planting street trees shall describe in detail the method for tracking the development of the individual lots, which shall best ensure that required number and species of mitigation trees are planted.
- (9) *Request for On-Site Mitigation Alternatives (Green Roofs or Green Façades).*
 - (a) *Intent.* The intent is to allow previously developed sites with at least 50% existing impervious area and limited space for planting trees to use on-site mitigation alternatives to meet the mitigation requirements and still contribute beneficial plant materials that provide positive ecosystem services.
 - (b) *Applicability.* On-Site Mitigation Alternatives shall only be allowed as alternatives to planting trees in form-based zoning districts that allow for mixed-use and do not have a building area maximum requirement. On-Site Mitigation Alternatives may not be utilized on sites that have adequate space to meet landscape requirements.
 - (c) *Timing of Request for On-Site Mitigation Alternatives.* Requests for on-site alternatives must be incorporated and submitted concurrently with the applicant's tree preservation plan.
 - (d) *Intensive Green Roof.* A green roof with 6 inches or great soil medium that can sustain plant species with deeper root systems.
 - (e) *Extensive Green Roof.* A green roof with 2 to 5 inches of soil medium that can sustain plant species with shallow root systems.
 - (f) *Green Façade.* A green façade is created by growing climbing plants up and across the façade of a building, either from plants grown directly in the ground or a large container of at least 12 inches of soil medium. Plants can attach directly to the building or be supported with a 12-inch by 12-inch trellis system connected to the building.
 - (g) *Mitigation Alternative Calculations.* The applicant's plan to install an extensive green roof, intensive green roof, and green façade in lieu of a mitigation tree shall be based from square footage of tree canopy.
 - (i) The calculation for an extensive green roof shall be based from a ratio of 1 square foot of tree canopy to 2.5 square feet of extensive green roof.
 - (ii) The calculation for an intensive green roof shall be based from a ratio of 1 square foot of tree canopy to 1.4 square feet of intensive green roof.

- (iii) The calculation for a green façade shall be done based from a ratio of 1 square foot of tree canopy to 2.5 square feet of green façade.

(J) *Request for Off-Site Alternatives.*

- (1) *Timing of Request for Off-Site Alternatives.* Requests for off-site alternatives must be incorporated in, and submitted concurrently with the applicant's tree preservation plan.
- (2) *Off-Site Preservation.* The applicant may seek approval of the Urban Forester to preserve an equal or greater amount of canopy cover at a site within the city limits.
- (3) *Off-Site Forestation.*
 - (a) If off-site preservation cannot be achieved, the applicant may seek approval from the Urban Forester to plant the required number of trees on another site owned by the applicant and located within the city limits. A tree preservation easement must be conveyed concurrently with or prior to submission of a final plat by the applicant to the city to protect any off-site preservation or forestation and the legal description of the tree preservation easement shall also appear on the final plat.
 - (b) An applicant may plant and maintain mitigation trees needed for the applicant's development as to fulfill the obligation set forth in Chapter 167, Tree Preservation and Protection, in a nearby city park or public right-of-way if expressly approved by City Council resolution. The City Council shall seek advice from the Urban Forester, Parks and Recreation Department staff and citizens about the advisability of forestation of the nearby city park and may apply express conditions including requiring irrigation to be installed and regular maintenance to be performed by the applicant.
- (4) *Tree Escrow Account.* Tree preservation on-site is always the preferred option, with on-site mitigation, off-site preservation, off-site forestation, and on-site mitigation alternatives to be considered in descending order only if the more preferred option cannot be fully achieved. If none of these options can completely fulfill a developer's obligation under this Tree Preservation and Protection Chapter, the developer shall pay into the City Tree Escrow Account \$250.00 for each tree required to meet the Base Density requirements which fairly represents the costs of material and labor to plant a tree. The developer shall also pay into the Tree Escrow Fund \$425.00 as three (3) years of maintenance costs to ensure each tree survives for that period of time. Tree planting and maintenance costs should be reviewed at least every four (4) years to ensure it remains the fair market costs for tree planting and maintenance for three (3) years.
 - (a) Developments proposed as building permits under Level 2 as outlined in §166.02(E)(2) are eligible for contribution to the tree escrow account as an option.
 - ~~(ba)~~ Residential developments which cannot achieve the base density tree requirements through preservation or mitigation shall contribute to the Tree Escrow Account. The city shall use the money paid into the Tree Escrow Account to plant trees within the development along rights-of-way, detention ponds, common areas or other areas where trees can be protected and have a high probability of survival to a mature tree. This shall be accomplished once the development is built out or as approved by the Urban Forester.
 - ~~(cb)~~ Money contributed in lieu of on-site mitigation or off-site forestation shall be paid prior to issuance of a building permit on all commercial, industrial, or multi-family residential buildings and prior to final plat acceptance for all residential and non-residential subdivisions.
 - ~~(de)~~ Money contributed under this section:
 - (i) May be used for canopy mitigation, including planting site identification, tree acquisition, planting, and maintenance, utilizing either city staff or contract labor;

- (ii) Shall not revert to the general fund for ongoing operations.
- (~~ed~~) If it is not possible to plant trees within the development, planting locations will be sought in appropriate sites within a 1 mile radius of where the original project is located, but if this cannot be achieved, the moneys shall be used to plant the trees in the park quadrant in which the development took place, or pursuant to §167.04(J)(2) and (3). Data extracted from the urban forest analysis should be consulted when identifying appropriate locations to plant escrow funded trees.
- (~~fe~~) The City of Fayetteville shall refund the portion of the money contributed under this section, including the accrued interest that has not been expended seven (7) years from the date of the contribution. Interest shall be based on a 4% annual rate.
- (~~gf~~) Refunds shall be paid to ~~the applicant who made the original contribution~~ the present owner of the property that was the subject of new development and against which the fee was assessed and collected.
- (~~hg~~) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the applicant no later than thirty (30) days after the date which the refund becomes due. The sending by regular mail of the notices to the applicant shall be sufficient to satisfy the requirement of notice.
- (~~ih~~) The refund shall be made on a pro rata basis, and shall be paid in full no later than ninety (90) days after the date certain upon which the refund becomes due.
- (~~ii~~) At the time of the contribution to the Tree Escrow Account, the Urban Forester shall provide the applicant with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any contribution to the Tree Escrow Account under this ordinance.
- (K) *Tree Preservation Plan Review Form.* The Urban Forester shall use a standardized form for all recommendations or administrative determinations made regarding an applicant's tree preservation plan.
- (1) The form shall clearly indicate whether the Urban Forester is making a final administrative determination, or a recommendation to the Planning Commission or City Council.
 - (2) The form shall also clearly indicate the applicant's plan is "APPROVED," "DISAPPROVED," or "CONDITIONALLY APPROVED," and explain the reasoning therefore.
 - (3) A statement shall appear on the form explaining the process by which a final administrative determination may be appealed in accordance with Chapter 155 of the Unified Development Code.
 - (4) The Urban Forester shall sign and date the form, and ensure that a copy becomes part of the permanent file for the project.
- (L) *Continuing Preservation and Protection Under Approved Tree Preservation Plans and Tree Preservation Easements.*
- (1) Large scale developments, large ~~scale~~ site improvements, and commercial preliminary plats are required to dedicate a tree preservation easement, if any existing tree are to be preserved. The tree preservation easement shall be the size of the minimum canopy preservation requirement, if possible. If the minimum tree preservation canopy is not available, the applicant will not be required to dedicate the minimum canopy preservation. The applicant will have to dedicate a tree preservation easement that is agreed upon with The Urban Forester. In order to ensure that an applicant's heirs, successors, assigns, or any subsequent purchasers of the subject property are put on notice as to the existence and extent of approved tree preservation easements which shall be clearly depicted and noted on the easement plats for large scale developments, large ~~scale~~ and small site improvements, commercial

final plats, and any plats with a tree preservation easement. This shall be accompanied by a narrative statement describing the nature of the protection afforded, and bearing the signature of the Urban Forester. If it is impractical to include the actual depiction of the canopy in a tree preservation easement on the easement plat, or final plat itself, a note cross referencing an accompanying document shall suffice.

- (2) The geographic extent and location of tree preservation easements, once recorded, may only be modified, or abolished with the express approval of the City Council. Applicants requesting such action shall bear the burden of proving to the City Council's satisfaction that such modification or abolition is in the best interest of the City of Fayetteville. Such requests shall be submitted to the urban forester, who shall ask the City Clerk to place it on the agenda of the next regularly scheduled City Council meeting.
- (3) Property owners wishing to remove diseased or dead trees from within a recorded tree preservation easement shall seek prior approval from the Urban Forester, who shall determine if such removal is consistent with sound arboricultural and horticultural practices, as well as the intent of this chapter. Any tree so removed shall be replaced with a tree of like or similar species, unless the Urban Forester determines that natural replacements of sufficient health and vigor are already present in the tree preservation easement.

(Code 1991, §162.10; Ord. No. 2699, §10, 4-20-93; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §6, 4-16-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01; Ord. No. 4539 02-03-04; Ord. No. 4855, 4-18-06; Ord. No. 4930, 10-03-06; Ord. No. 5308, 3-16-10; Ord. No. 5312, 4-20-10; Ord. No. 5427, 8-2-11; Ord. No. 5513, 7-17-12; Ord. No. 5773, 5-19-15; Ord. No. 5818, 10-20-15; Ord. No. 5824, §3, 11-17-15; Ord. No. 5945, §17, 1-17-17; Ord. No. 5986, §§4(Exh. A), 5—35, 7-6-17; Ord. No. 6442, §§1(Exh. A1), 2(Exh. B), 5(Exh. E), 6(Exh. F), 6-1-21; Ord. No. 6446, §9(Exh. D), 6-15-21)



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: June 24, 2024

SUBJECT: **VAR-2024-0026: Planning Commission Variance (241 W. SPRING ST/FAYETTEVILLE OFFICE PORTFOLIO LLC, 484):** Submitted by MBL PLANNING for property located at 241 W. SPRING ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.08 acres. The request is for variances for ground floor opacity requirement, access management, driveway throat length, and urban residential design standards.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0026** based on the findings herein.

RECOMMENDED MOTION:

*"I move to approve **VAR-2024-0026**, determining:*

- In favor of a variance to UDC §166.21(7)(b), Minimum opacity requirement for glazing;*
- In favor of a variance to UDC §166.23(C)(2)(a), Vehicular access, circulation, parking;*
- In favor of a variance to UDC §166.08(F), Access management;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in downtown Fayetteville on the southeast corner of W. Spring Street and N. Locust Avenue. The property is zoned MSC, Main Street Center and contains approximately 1.08 acres and was previously developed with an approximately 10,000 sq. ft commercial structure that was destroyed in a fire in December of 2022. An additional 3800 sq. ft. commercial structure still stands on the property. In January 2024, a conditional use permit was approved to use the property as a temporary off-site parking lot while redevelopment plans were evaluated by the property owner. That conditional use permit will expire in January 2025. An associated right-of-way vacation request is also being considered by the Planning Commission for right-of-way on the property's western border (VAC-2024-0009). Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

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

Request: The applicant is requesting three variances from the Unified Development Code in association with a planned multi-family residential development with approximately 75 units with

a total of 92 bedrooms. Given the amount of impervious surface on the site, the project is not required to be reviewed through the large-scale development process and is entitled to go straight to permitting. Each variance is described further below alongside staff's recommendations.

Public Comment: To date, staff have received inquiries about the request and one comment with no objections for the proposal. Staff received one comment with concerns about the amount of parking that is being provided for the overall site based on the conceptual drawings. Written comment is attached to this report.

DISCUSSION:

Variance #1: UDC §166.21(7)(b), Downtown Design Overlay District Standards – Glazing. Multi-family residential space shall have a minimum of 40% glass on the first or ground floor. The applicant is requesting to vary from this standard to reduce the glazing requirement to roughly 23.7% opacity on the west elevation, and to 21.5% opacity on the north elevation.

Staff recommendation: Staff supports the applicant's request to reduce this percentage requirements. The intent of the glazing requirement is to create a proportion of solids to voids and encourage pedestrian interest at the street level for downtown projects. Staff finds that there is adequate articulation on the principal façade, through shifts in wall plane depth, modification in materials and window types and the addition of architectural features such as stoops, and covered pedestrian walkways, to meet the general intent of the glazing requirement if this variance is granted.

Variance #2: UDC §166.23(C)(2)(a), Urban Residential Design Standards – Vehicular access/circulation/parking. Continuous circulation shall be provided throughout the site to the greatest extent possible creating a complete, compact, and connected transportation network both within the development and to the surrounding neighborhood. The applicant is requesting a variance to provide discontinuous pedestrian access through the site through the proposed structure.

Staff recommendation: Staff is supportive of the applicant's request. The intent of the ordinance is to provide for safe, efficient, and convenient pedestrian and vehicular access throughout the site. While a separate sidewalk or pedestrian path is not provided for throughout the parking lot, staff finds that a continuous path is provided throughout the site by incorporating the structure's proposed breezeways. Further, the applicant is providing necessary fire access and landscape buffer along the property's southern side, and conflict with other existing ordinances has removed available space to provide a sidewalk at the rear of the structure. With multiple, accessible pedestrian entry points available, staff finds that the applicant is meeting the intent of the ordinance.

Variance #3: UDC §166.08(F), Access management. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification. The applicant is requesting to provide two full access driveways to the site with one continuous drive aisle, one onto W. Spring Street and the other onto N. Locust Avenue.

Staff recommendation: Staff is supportive of the applicant's request. The applicant is required to provide aerial apparatus access to the proposed structure, and will be providing that access at the rear of the structure. In order to meet Fire Code requirements, the applicant is required to provide a continuous drive throughout the site. Staff also finds that the applicant is significantly reducing the size of the existing curb cut along N. Locust Avenue, and is generally creating a safer and more predictable condition at this site.

The applicant is also requesting a variance to the throat length requirements as outlined in 172.04(F)(1). Throat length is typically required to be between 40-60 feet for unsignalized driveways, and along Spring Street, the applicant is requesting a throat length of approximately 100 feet. The Zoning and Development Administrator and City Engineer have reviewed this request and have found no concerns with the applicant's request, and have therefore approved it.

RECOMMENDATION: Staff recommends approval of VAR-2024-0026 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.21(7)(b), Downtown Design Overlay District Standards – Glazing. Multi-family residential space shall have a minimum of 40% glass on the first or ground floor. Staff recommends approval of this request for the reasons stated above.**
2. **Planning Commission determination of a variance to UDC §166.23(C)(2)(a), Urban Residential Design Standards – Vehicular access/circulation/parking. Staff recommends approval of this request for the reasons stated above.**
3. **Planning Commission determination of a variance to UDC §166.08(F), Access management. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification. Staff recommends approval of this request for the reasons stated above.**
4. Approval of this item does not constitute approval of any associated permits, including grading permits or building permits, nor does it constitute approval for any variances that may not have been requested or reviewed for at this stage. Review and approval of the overall project shall be required in accordance with city code.

Planning Commission Action: ☐ Approved ☐ Tabled ☐ Denied

Meeting Date: June 24, 2024

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §166.08 Street Design And Access Management Standards
 - §166.21 Downtown Design Overlay District
 - §166.23 Urban Residential Design Standards
- Applicant Request Letter
- Site Plan

- Elevations
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.08 Street Design And Access Management Standards

- (A) *Intent.* These standards are intended to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements.
- ...
- (F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. **Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification,** e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.
- (1) *Curb Cut Separation.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.
- (2) Separation for two (2) family, three (3) and four (4) family, multi-family and nonresidential development.
- (a) *Regional and Regional High Activity Links.* Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along regional links shall be shared between two (2) or more lots. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway.
- (b) *Neighborhood Links.* Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along neighborhood links shall be shared between two (2) or more lots.
- (c) *Residential Links.* Curb cuts shall be located a minimum of 50 feet from an intersection or driveway. In no case shall a curb cut be located within the radius return of an adjacent curb cut or intersection.
- ...

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

166.21 Downtown Design Overlay District

- (A) *Purpose.* The intent of this ordinance is to encourage good architectural form through the use of quality design and materials. The goal of the code is to promote functional architecture that creates attractive and usable space. Downtown Fayetteville has a rich architectural history spanning many decades and styles; therefore, architecture should be respectful of the existing built environment and should strive to enhance the public realm. A strong emphasis shall be placed upon designing and implementing sustainable and green architecture practices.
- ...

(7) *Opacity and Facades.*

(a) *General Requirements.*

- (i) Each floor of any principal building façade above the first floor facing a park, square or street shall contain windows covering from 15% to 60% of the principal façade area.
- (ii) The permitted percentage of glass may be increased to 80% for any two floors above the fourth floor provided that there is a minimum setback of 15 feet from the principal façade.
- (iii) A minimum of 10% of the window area per floor shall be operable with the exception of the first or ground floor.
- (iv) All glass shall have a Low-E coating.
- (v) Glass used above the first or ground floor shall have a visible transmittance rating of 0.4 or higher.

(b) *First or Ground Floor Requirements of Any Principal Façade.*

- (i) Glass on the first or ground floor shall have a visible transmittance rating of 0.6 or higher.
- (ii) Commercial space and storefronts shall have a minimum of 75% glass on the first or ground floor.
- (iii) Office, institutional, and other non-residential space shall have a minimum of 50% glass on the first or ground floor.
- (iv) Multi-family residential space shall have a minimum of 40% glass on the first or ground floor.
- (v) Single family and two (2) family residential space shall have a minimum of 5% glass on the first or ground floor.
- (vi) The measurement for glass percentage on the first or ground floor shall be calculated at the pedestrian level between 2—12 feet above the sidewalk. For a building façade located outside of a build-to zone the measurement for glass percentage on the first or ground floor shall be at the pedestrian level between 2 and 12 feet above the finished floor elevation (FFE).
- (vii) Doors or entrances for pedestrian access shall be provided at intervals no greater than 50 ft. apart along the principal façade.

(Ord. No. 5056, 9-04-07; Ord. No. 5679, 4-15-14; Ord. No. 6017, §1, 12-5-17)

166.23 Urban Residential Design Standards

(A) *Purposes.*

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To create appealing street scenes so that development enhances the image of the city and provides safe, pedestrian-friendly neighborhood environments.
- (3) To minimize service and parking impacts in order to preserve surrounding property values and scenic resources that contribute to the city's economic development.
- (4) To compose attractive residential facades that enhance the economic viability of and provide compatibility with surrounding property.

...

(C) *Site Development Standards.* The following site development standards shall apply for all urban residential development.

- (1) *Intent.* The intent of these site development standards is to create a pedestrian-friendly streetscape.
- (2) *Vehicular Access/Circulation/Parking.*
 - (a) Site access and internal circulation should promote pedestrian safety, efficiency, and convenience and minimize conflicts between vehicles and pedestrians. Continuous circulation shall be provided throughout the site to the greatest extent possible creating a complete, compact, and connected transportation network both within the development and to the surrounding neighborhood. The visual impact of parking areas should be minimized by locating parking behind buildings and internal to the site.
 - (i) Garage entries and carports shall not protrude forward from the principal facade. Driveways shall extend at least 18 feet into the property from the Master Street Plan right-of-way to allow parking to occur without encroaching into the right-of-way.
 - (ii) Parking areas should be accessed by mid-block alleys whenever possible. Developments should minimize multiple driveways and should utilize a shared access to reduce the number of vehicle conflicts at the street.
 - (iii) On-street parallel parking may be provided on at least one (1) side of the street in front of all multi-family buildings where feasible. Each on-street parking space provided along the project frontage shall count toward the total required spaces for the development.

- (E) *Planning Commission Approval.* An applicant may request approval from the Planning Commission of a variance from the maximum requirements where unique circumstances exist and the effect will not adversely impact adjoining or neighboring property owners. The applicant shall provide notification to adjacent property owners prior to the date of the meeting.

(Ord. No. 5118, 3-18-08; Ord. No. 5262, 8-4-09; Ord. No. 5679, 4-15-14; Ord. No. 6170, §1, 4-2-19; Ord. No. 6357, §§1, 2, 9-15-20; Ord. No. 6508, §1, 11-16-21; Ord. No. 6658, §10, 5-2-23)



City Administration Building
Attn: Fayetteville Planning Commission Chair
113 West Mountain Street
Fayetteville, AR 72701

RE: Request for relief from the Downtown Design Overlay District opacity requirement, continuous pedestrian circulation requirement, driveway throat length requirement, and the multiple street access requirement.

Mr. Chairman,

On behalf of our client, MBL Planning is requesting the following variances:

1. Chapter 166.21.7.b: Relief from the 40% minimum opacity requirement for multi-family residential development located within the Downtown Design Overlay District.
2. Chapter 166.23.c.2.a: Relief from the requirement for continuous internal pedestrian circulation.
3. Chapter 172.04.f.4.a: Relief from the minimum driveway throat length requirement.
4. Chapter 166.08.f: Relief from the multiple street access requirement.

We have designed a project which respects both the intent of the code, and best practices in residential urban design. Our proposed elevations are context sensitive, reflecting the interwar modern character of nearby historic structures such as the Highroller Cyclery building on Spring, and the bakery building on Dickson Street. The proposed building is appropriately scaled and includes a number of architectural features such as entry stoops, Juliet balconies, and stone dressings that provide exactly the kind of interest and variety towards the pedestrian experience the design code intends.

While we believe the design code is well intentioned and functions adequately in many cases, we find the requirement for 40% openness at the ground level incompatible with the land use and historic style we see as appropriate for this location.

We have designed a safe and compliant project regarding internal pedestrian circulation and driveway length and location. This project has experienced hardship through conflicting ordinances that have constricted the available area for extensive pedestrian facilities. Despite this, the intent of the ordinance is being met via our circulation plan which allows pedestrians to circulate safely and adequately through the project site. The project has been designed with two driveways accessing both West Spring Street and North Locust Avenue to promote the safest flow of vehicles while locating the parking and on-site fire access to the rear of the proposed structure.

We greatly respect the intent and value of the Fayetteville Code of Ordinances and understand how well these regulations work in most development situations. Due to the aforementioned hardships and high-quality design of this development meeting the intent of the ordinances, we respectfully request relief from these specified requirements.

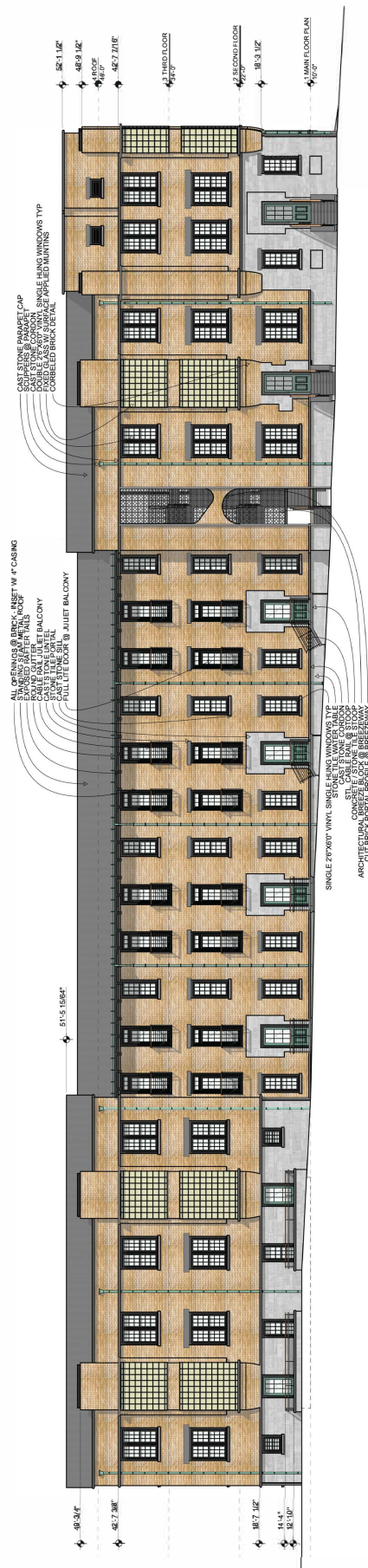
Best Regards,

Lindsay Hackett

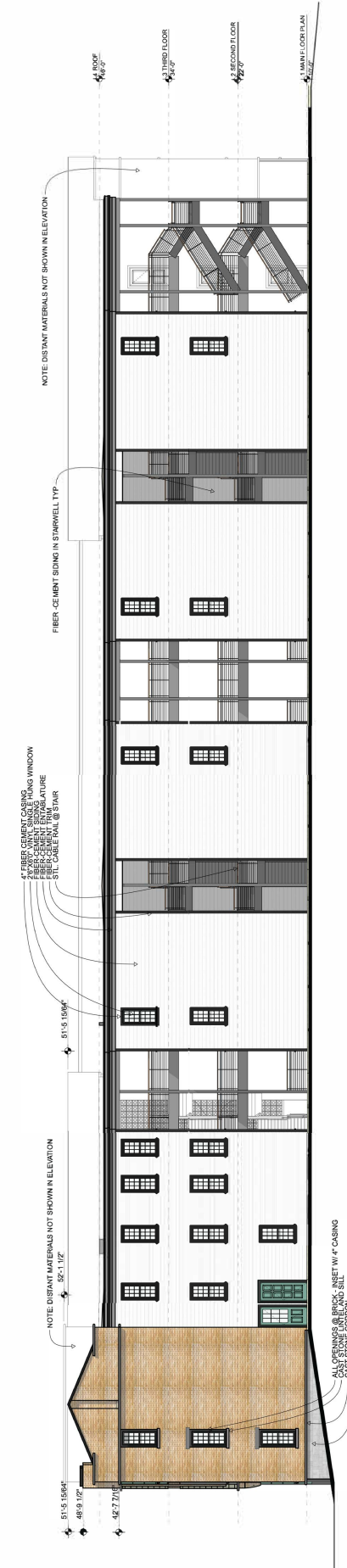
Lindsay Hackett, AICP

Project Manager

MBL Planning



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



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

05.15.24
COLOR ELEVATIONS
X0.01
SPRING + LOCUST

MBL PLANNING



1 WEST ELEVATION
SCALE: 1/8" = 1'-0"

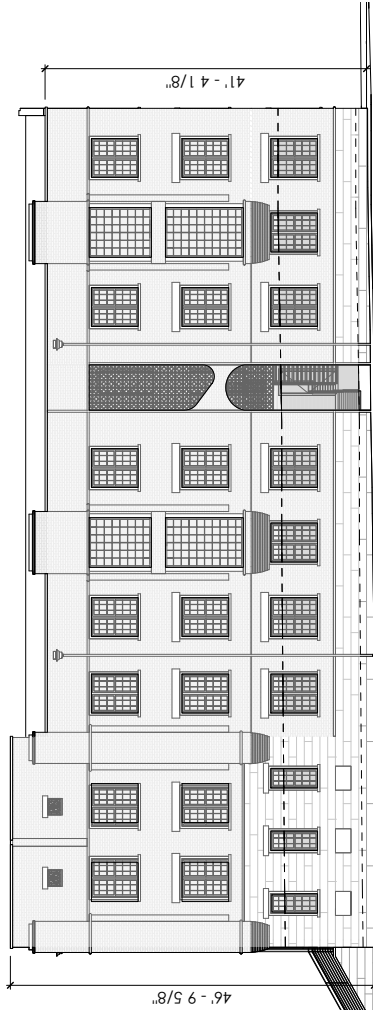


2 EAST ELEVATION
SCALE: 1/8" = 1'-0"

05.15.24
COLOR ELEVATIONS
X0.02
SPRING + LOCUST

MBL PLANNING

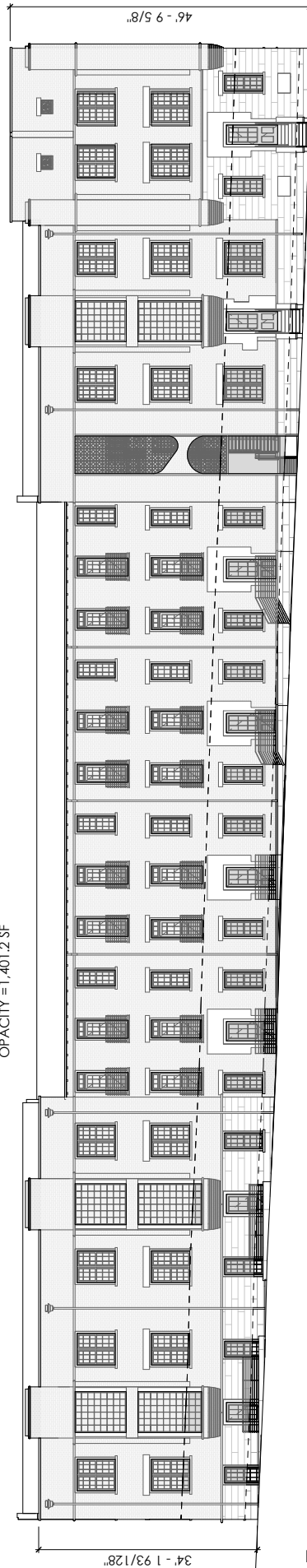
ABOVE GROUND FLOOR
24.6% OPACITY
 AREA = 3,372.0 SF
 OPACITY = 832.2 SF



GROUND FLOOR
23.7% OPACITY
 AREA = 1,079.0 SF
 OPACITY = 256.3 SF

2 WEST ELEVATION - GLAZING DIAGRAM
 SCALE: 1/16" = 1'-0"

ABOVE GROUND FLOOR
24.2% OPACITY
 AREA = 5,779.5 SF
 OPACITY = 1,401.2 SF

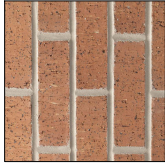


GROUND FLOOR
21.5% OPACITY
 AREA = 2,299.8 SF
 OPACITY = 495.0 SF

1 NORTH ELEVATION - GLAZING DIAGRAM
 SCALE: 1/16" = 1'-0"

05.15.24
GLAZING DIAGRAMS
X1.01
 SPRING + LOCUST

MBL PLANNING



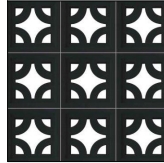
B-1
ACME BRICK
CINNEBAR, BRICK TYPE A



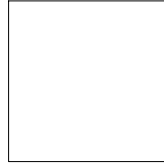
LB-1
LIMESTONE BLOCK
STANDARD BUFF



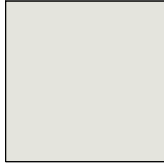
S-1
CAST STONE INTEL
BANDING, SILLS, AND
CAP STONES



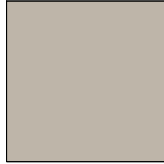
BB-1
BREEZE BLOCK
COAL BLACK



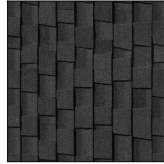
P-1
TRIM, RAILINGS,
WINDOWS AND DOORS
SHERWIN WILLIAMS
BLACK MAGIC SW6991



P-2
LAP SIDING
SHERWIN WILLIAMS
SPARE WHITE SW6203



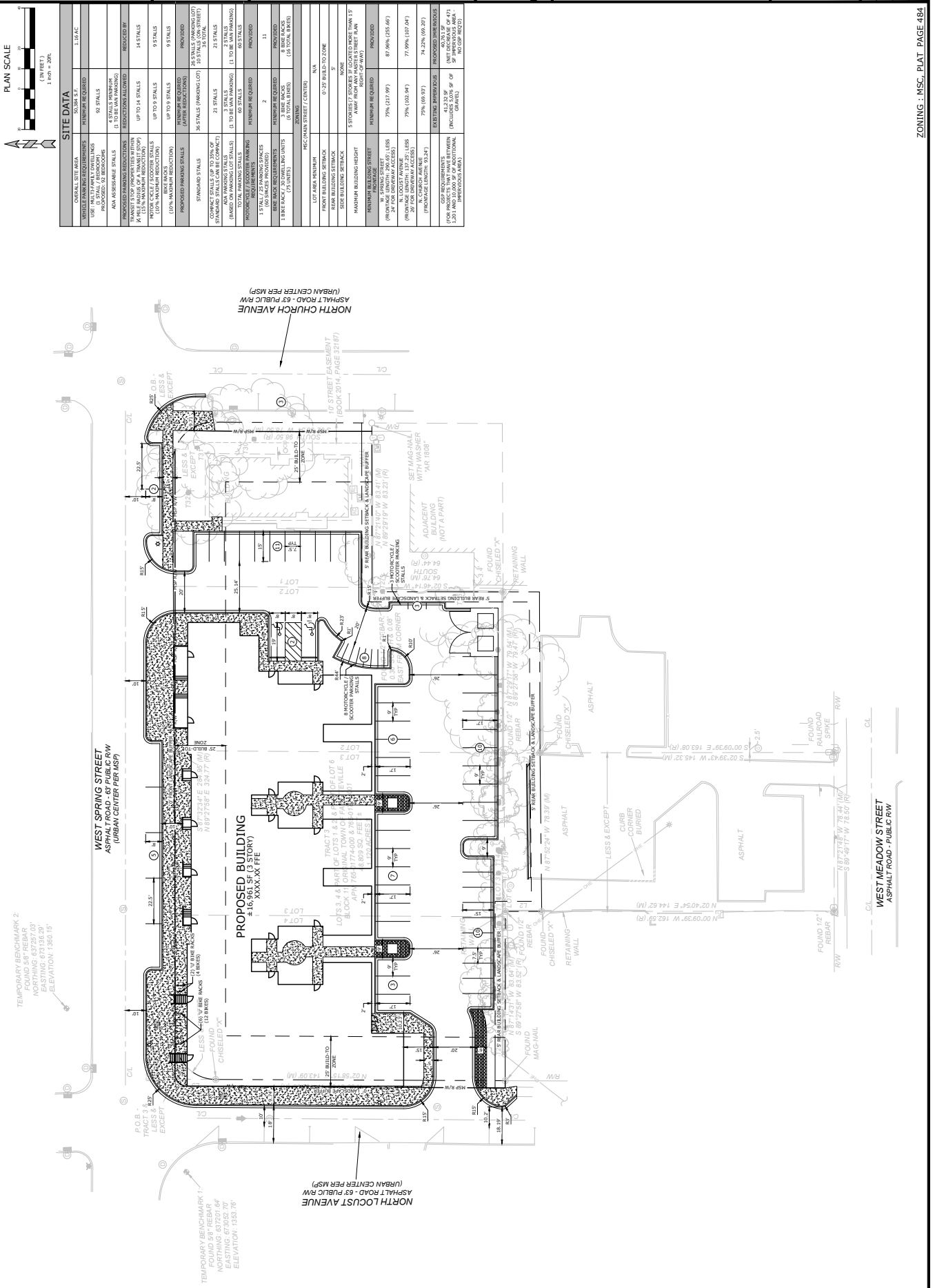
P-3
TRIM, SOFFITS
GUTTERS, DOWNSPOUTS
SHERWIN WILLIAMS
AMAZING GRAY SW7044



AS-1
ASPHALT SHINGLE
ROOFING

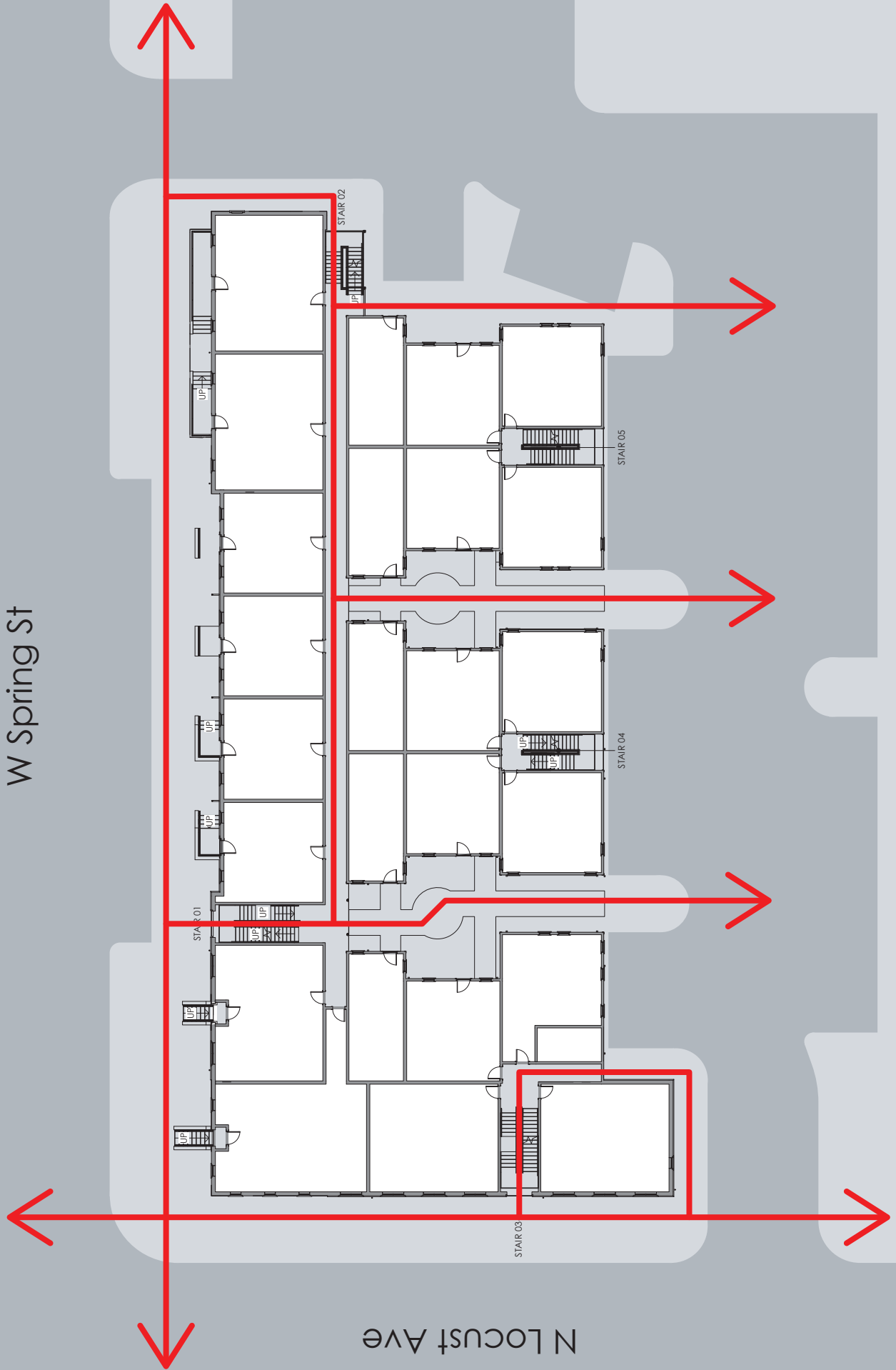


CG-1
COPPER COLLECTOR BOX
GUTTER AND DOWNSPOUT



W Spring St

N Locust Ave



VAC-2024-0009
Compiled Public Comment

From: Neal Pendergraft <zippy@33st.com>
Sent: Tuesday, June 11, 2024 12:32 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: MBL Planning

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.

We have no objections to either the proposed variance or proposal to vacate ROW. Neal R. Pendergraft, Manager Thirty Third Street, LLC.

--

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

From: Planning Shared <planning@fayetteville-ar.gov>
Sent: Tuesday, June 18, 2024 10:43 AM
To: Kenton Ross <kr.rossdmd@gmail.com>; Planning Shared <planning@fayetteville-ar.gov>
Cc: Jennifer Ross ICE <jr.rossdmd@gmail.com>; Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: RE: Requesting information for Fayetteville Office Portfolio represented by MLB Planning project

Below are the link to the dropbox files as requested for 41 W. Spring St. Jessie Masters id the planner assigned to this project and should be able to answer any questions you may have.

VAC-2024-0009
<https://www.dropbox.com/scl/fo/jfc302lpuaxcd6vpx7bjk/AFLNKfdy8we3R0fQTLj6nnl?rlkey=vxzpdfxdaje5q4aevkhshyvys&st=pcm08c7t&dl=0>

VAR-2024-0026
<https://www.dropbox.com/scl/fo/n5mbs6006ja7gz1joyhrm/AB6zNpzwDfdkLX3lgnEZexo?rlkey=ao mjhxwiok4kpgq2b97rrmmv6&st=laew9ist&dl=0>

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville

479-575-8267

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



From: Kenton Ross <kr.rossdmd@gmail.com>

Sent: Tuesday, June 18, 2024 9:28 AM

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

Cc: Jennifer Ross ICE <jr.rossdmd@gmail.com>

Subject: Requesting information for Fayetteville Office Portfolio represented by MLB Planning project

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.

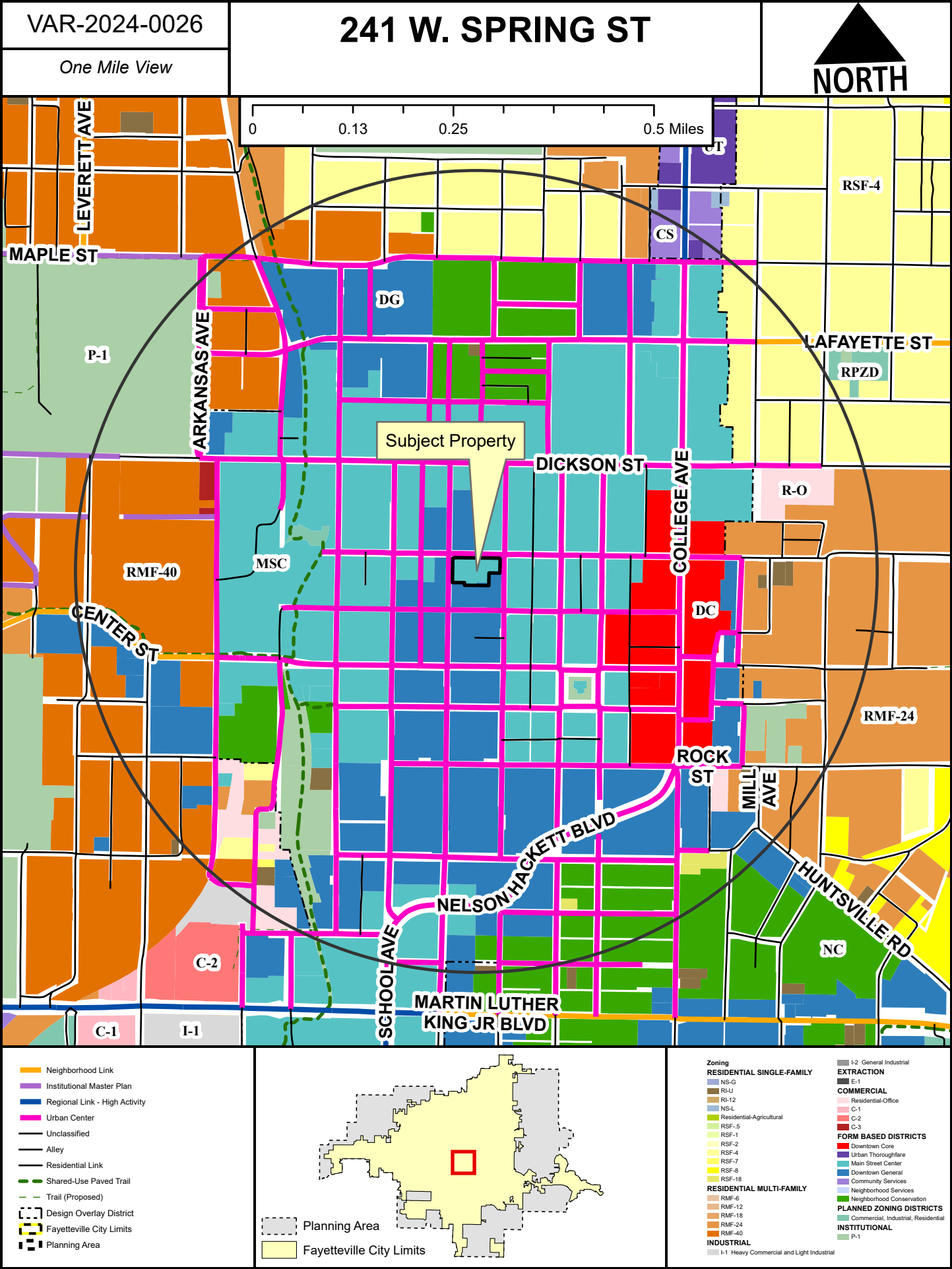
City Planning,

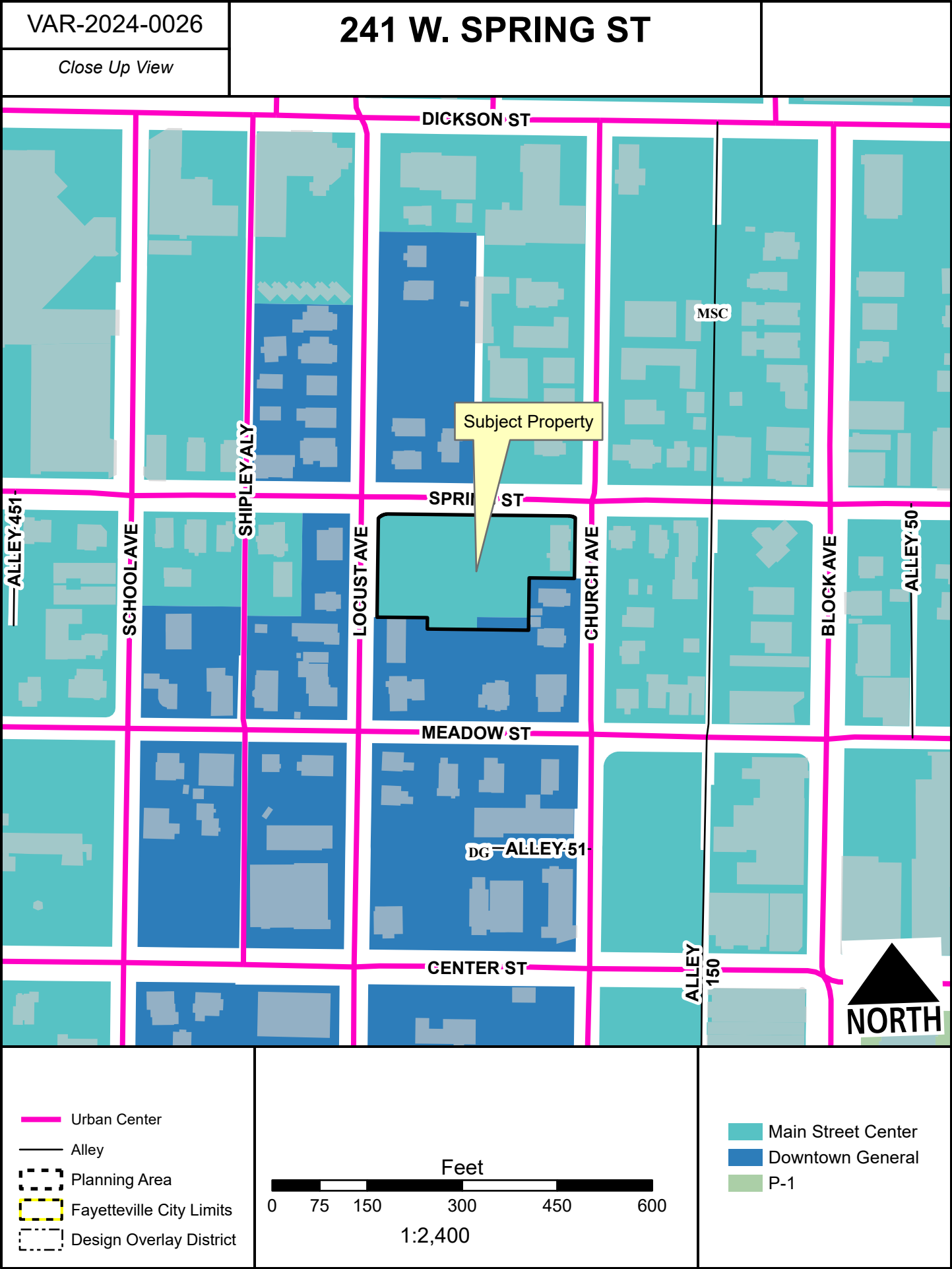
Per the city's written notification of a meeting to hear multiple variance requests by **MLB planning** on behalf of **Fayetteville Office Portfolio LLC** on June 24th, at 5:30 pm 2024, please send project information mentioned in the official notice.

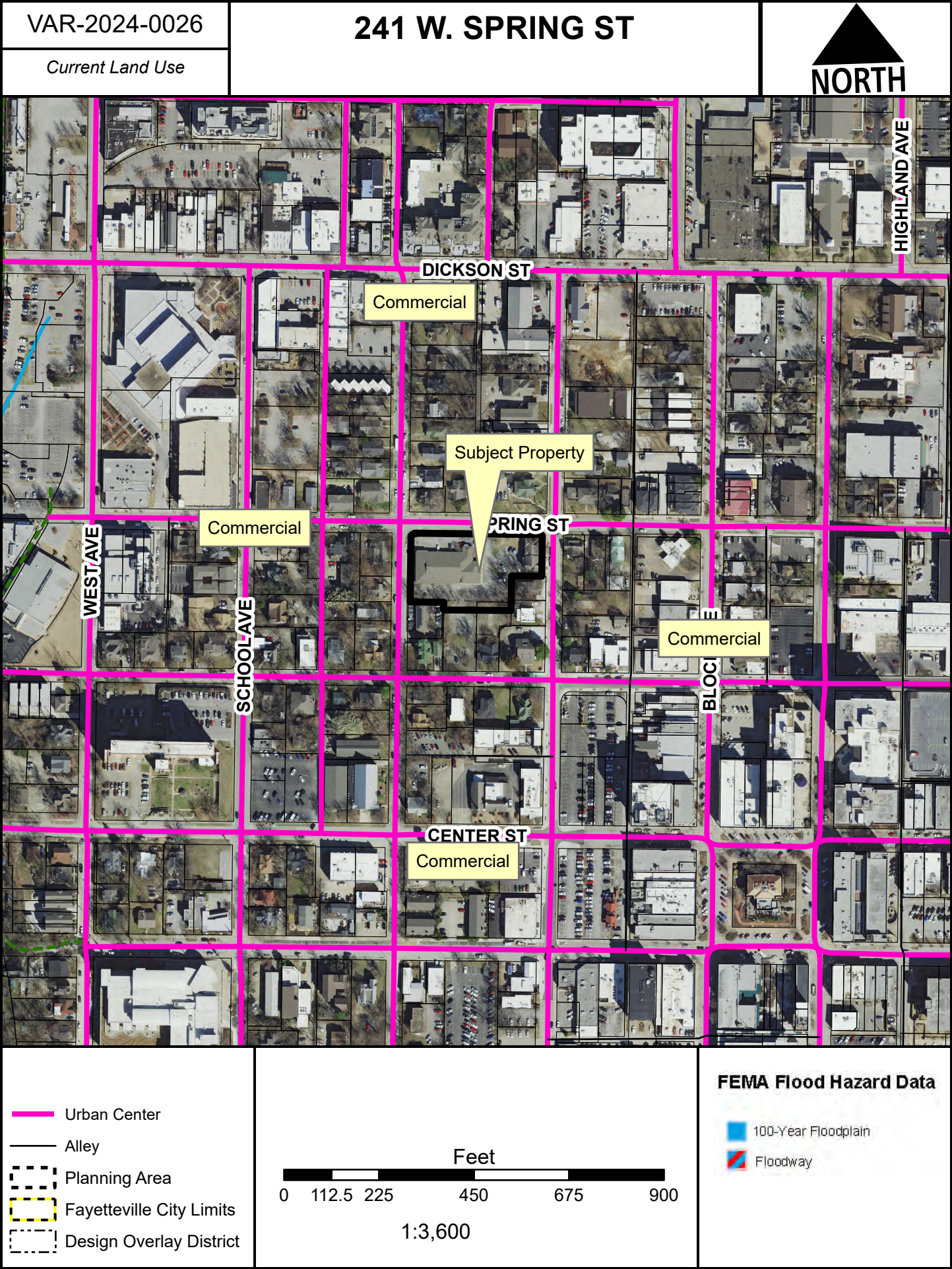
As adjacent property owners, we have serious concerns about the available parking planned for this project. 52 spaces for 75 units of apartments **AND** the existing 2 story building owned by Greg House that is not shown in at least two of the conceptual project drawings is woefully insufficient.

Best,

Kenton and Jennifer Ross









TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: June 24, 2024

SUBJECT: **VAC-2024-0009: Vacation (241 W. SPRING ST/FAYETTEVILLE PORTFOLIO LLC, 484):** Submitted by MBL PLANNING for property located 241 W. SPRING ST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 1.08 acres. The request is to vacate 0.017 acres of street right-of-way.

RECOMMENDATION:

Staff recommends forwarding **VAC-2024-0009** to City Council with a recommendation of approval and with conditions.

RECOMMENDED MOTION:

*"I move to forward **VAC-2024-0009** to City Council with a recommendation of approval and with conditions as recommended by staff."*

BACKGROUND:

The subject property is in downtown Fayetteville on the southeast corner of W. Spring Street and N. Locust Avenue. The property is zoned MSC, Main Street Center, contains approximately 1.08 acres, and was previously developed with an approximately 10,000 sq. ft commercial structure that was destroyed in a fire in December of 2022; an additional 3,800 sq. ft. commercial structure still stands on the property. In January 2024, a conditional use permit was approved to use the property as a temporary off-site parking lot while redevelopment plans were evaluated by the property owner. That conditional use permit will expire in January 2025. Development-related variances associated with a proposed multi-family structure on the site are also being considered in a separate item (VAR-2024-0026). Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Use and Zoning

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

Proposal: The applicant proposes to vacate a 5-foot-wide portion of street right-of-way adjacent to the west side of the subject property which totals approximately 0.017 acres. The applicant intends to redevelop the site with a multi-family housing development.

DISCUSSION:

Staff supports the applicant's request to vacate a portion of the street right-of-way. The right-of-way is 761-square-feet along the property's western border at a maximum width of 5 feet. Staff finds the removal of the right-of-way is not likely to impact the existing service of the associated

streets, nor will it negatively affect the existing downtown gridded street network. Any necessary street improvements will be fully determined at the time of the development proposal and would be required to be accommodated within the remaining right-of-way not affected by this vacation.

Vacation Approval: The applicant has submitted the required vacation approval forms to relevant city departments and franchise utility companies with the following responses. One adjacent property owner to the south also acknowledged receipt of the request with no comments and no objections.

<u>Utility</u>	<u>Response</u>
Cox Communications	No objections, provided that any damage or relocation of existing facilities will be at the applicant's expense.
AEP/SWEPCO	No objections, provided that a 15-foot utility easement is dedicated for existing powerlines along the property's southern boundary.
Black Hills Energy	No objections and no comments.
AT&T	No objections and no comments.
Ozarks Electric	No objections and no comments.

<u>City of Fayetteville</u>	<u>Response</u>
Water/Sewer	No objections, provided existing water service on the west side of the property is removed and appropriately disconnected at the tap. All expenses shall be the owner's responsibility.
Solid Waste & Recycling	No objections and no comments.
Transportation	No objections and no comments.

Public Comment: Staff received one comment from a member of the public issuing no objections to the request. Written comment is attached to this report.

RECOMMENDATION: Staff recommends forwarding **VAC-2024-0009** with the following conditions:

Conditions of Approval:

1. Any damage or relocation of existing facilities will be at the property owner/developer's expense;
2. A 15-foot utility easement is dedicated for existing powerlines along the property's southern boundary;
3. Existing water service on the west side of the property is removed and appropriately disconnected at the tap at the property owner/developer's expense.

PLANNING COMMISSION ACTION: Required YES

Date: June 24, 2024

☐ Tabled

☐ Forwarded

☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Applicant Request Letter
- Applicant Petition to Vacate
- Survey
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map



City Administration Building
Attn: Fayetteville Planning Commission & City Council
113 West Mountain Street
Fayetteville, AR 72701

RE: Petition to vacate a former street & utility easement (now considered right-of-way) located in part of Lot 4, Block 11 of the Original Town of Fayetteville, City of Fayetteville, Arkansas

Along with our application, please consider the following description of the scope, nature, and intent of our petition request.

1. The scope of this request includes a 5' wide right-of-way, formerly a street and utility easement, located along the western side of Lot 4, Block 11 of the Original Town of Fayetteville. The filing number for this easement is Book 2014, Page 32187.
2. The location of this portion of right-of-way is preventing the highest and best use of the lot in which the former easement/current right-of-way is located. Removal of this right-of-way will in no way negatively impact the public, nor will it cause nuisance of any type in the public realm.
3. The intent of this request is to vacate said portion of right-of-way to allow for complete and orderly use of Lot 4, Block 11 of the Original Town of Fayetteville.

This request to vacate the 5' wide right-of-way located on a part of Lot 4, Block 11 of the Original Town of Fayetteville may be seen as appropriate and in alignment with goals and values of the Fayetteville Planning Commission and City Council.

Sincerely,

Lindsay Hackett

Lindsay Hackett, AICP
Project Manager
MBL Planning

PETITION TO VACATE

PETITION TO VACATE A street EASEMENT LOCATED IN (PART OF LOT 4, BLOCK 11 OF THE ORIGINAL TOWN OF FAYETTEVILLE), CITY OF FAYETTEVILLE, ARKANSAS

TO: 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 4, BLOCK 11 OF THE ORIGINAL TOWN OF FAYETTEVILLE), City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

A PORTION OF LAND BEING PART OF LOT 4, BLOCK 11 OF THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 11;

THENCE ALONG THE WEST LINE OF SAID BLOCK 11 AND THE EAST RIGHT-OF-WAY LINE OF LOCUST AVENUE SOUTH 02°58'15" WEST, 19.84 FEET TO A FOUND CHISELED X FOR THE POINT OF BEGINNING;

THENCE DEPARTING FROM THE WEST LINE OF SAID BLOCK 11 AND SAID EAST RIGHT-OF-WAY LINE AND ALONG THE SOUTH RIGHT-OF-WAY LINE OF SPRING STREET, ALONG A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND ARC LENGTH OF 14.47 FEET WITH A CHORD BEARING AND DISTANCE OF NORTH 23°38'57" EAST, 14.16 FEET TO A FOUND CHISELED X;

THENCE DEPARTING FROM SAID SOUTH RIGHT-OF-WAY LINE SOUTH 02°58'15" WEST, 156.32 FEET;

THENCE NORTH 87°14'31" WEST, 5.00 FEET TO A POINT LOCATED ON THE WEST LINE OF SAID BLOCK 11 AND SAID EAST RIGHT-OF-WAY LINE OF LOCUST AVENUE;

THENCE ALONG SAID WEST LINE AND SAID EAST RIGHT-OF-WAY LINE NORTH 02°58'15" EAST 143.09 FEET TO THE POINT OF BEGINNING, AND CONTAINING 0.017 ACRES (761 SQ. FT.), MORE OR LESS.

That the abutting real estate affected by said abandonment of the street easement are LOT 4, BLOCK 11 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 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 4th day of June, 2024.

Beverly Block

Printed Name

Beverly Block

Signature

BOUNDARY TOPOGRAPHIC SURVEY

LOCATED IN: SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST
241 WEST SPRING STREET, WASHINGTON COUNTY, FAYETTEVILLE, ARKANSAS 72701

TITLE DESCRIPTION

FIDELITY NATIONAL TITLE INSURANCE COMPANY, COMMITMENT NUMBER 23-2183-1 WITH AN EFFECTIVE DATE OF FEBRUARY 21, 2024 AT 7:00 AM.

THE LAND IS DESCRIBED AS FOLLOWS:

LOTS 3, 4, AND A PART OF LOTS 1 AND 2, AND A PART OF LOT 6, ALL IN BLOCK 11 OF THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: TO-WIT: BEGINNING AT THE SW CORNER OF SAID LOT 7 AND RUNNING THENCE NORTH 84.5 FEET; THENCE S07°40'E 107.84 FEET; THENCE WEST 83.3 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT: A PART OF THE NORTH 95 FEET OF LOTS 1 AND 2 IN BLOCK 11 IN THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH AND EAST PROPERTY LINES OF THE ABOVE DESCRIBED PROPERTY; THENCE SOUTH ALONG SAID EAST PROPERTY LINE A DISTANCE OF 50 FEET TO A POINT; THENCE S07°40'E 107.84 FEET TO THE POINT OF BEGINNING.

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RECORD DESCRIPTION

WARRANTY DEED BOOK 2014 AT PAGE 32182.

LOTS 3, 4, AND A PART OF LOTS 1 AND 2, AND A PART OF LOT 6, ALL IN BLOCK 11 OF THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: TO-WIT: BEGINNING AT THE SW CORNER OF SAID LOT 7 AND RUNNING THENCE NORTH 84.5 FEET; THENCE S07°40'E 107.84 FEET; THENCE WEST 83.3 FEET TO THE POINT OF BEGINNING.

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MISCELLANEOUS NOTES

STATE RECORDING NUMBER: 300-180-0009-016-2017-2-3808

COMPLETED FIELD WORK:

JANUARY 17, 2024

REFERENCE DOCUMENTS:

1. WARRANTY DEED FILED IN DEED BOOK 2014 AT PAGE 32182.

BASIS OF BEARING:

THE BASIS OF BEARING OF THIS SURVEY IS GRID NORTH, BASED ON ARKANSAS STATE PLANE COORDINATE SYSTEM, NORTH ZONE 14083.

SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY.

DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF.

UNLESS OTHERWISE NOTED, MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

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

THE TERM "CERTIFY" OR "CERTIFICATION" AND "CORRECT" AS NOTED HEREON AND AS IT PERTAINS TO LAND SURVEYING SERVICES AS SHOWN ON THIS DOCUMENT IS LIMITED TO THE FACTS AND KNOWLEDGE KNOWN TO THE PROFESSIONAL LAND SURVEYOR AT THE TIME OF THE SURVEY AND IS NOT A GUARANTEE OR WARRANTY, EITHER IMPLIED OR EXPRESSED.

ELEVATIONS ESTABLISHED WITH GPS OBSERVATIONS UTILIZING THE CITY OF FAYETTEVILLE NETWORK WITH ORIGINATING BENCHMARK MTN 1, VERTICAL DATUM NAD83, SHOW ARE 1 FOOT INTERVALS.

BENCHMARK ID: MTN 1

PUBLISHED ELEVATION: 1332.28'

MONUMENT DESCRIPTION: 2" ALUMINUM DISC "PS 1514 2017"

WATERLINES ARE APPROXIMATELY SHOWN HEREON PER THE CITY OF FAYETTEVILLE ARKANSAS GIS.

VICINITY MAP



I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS 30TH DAY OF MAY, 2024.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL, AND NOT IN BLUE INK, IT SHOULD BE ASSURED THAT THE SIGNATURE IS A COPY OF THE ORIGINAL. THE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

Surveying
Engineering
Mapping

3023 N. WEST SPRING STREET, SUITE 100, FAYETTEVILLE, AR 72703
OFFICE: 479-570-1515 FAX: 479-582-1883
SURVEY@BLEWINC.COM
WWW.BLEWINC.COM

SURVEYOR JOB NUMBER:
24-0241

SURVEY REVIEWED BY:
JPN

FOR THE USE AND BENEFIT OF:
GHSH, LLC

ZONING INFORMATION

CURRENT ZONING: MSC, MAIN STREET CENTER

SETBACK REQUIREMENTS:

FRONT - A BUILD-TO ZONE THAT IS LOCATED BETWEEN THE FRONT PROPERTY LINE AND A LINE 25' FROM THE FRONT PROPERTY LINE

SIDE - NONE

REAR - 5', 12' FROM CENTERLINE OF AN ALLEY

CURRENT ZONING: D0, DOWNTOWN GENERAL

SETBACK REQUIREMENTS:

FRONT - A BUILD-TO ZONE THAT IS LOCATED BETWEEN THE FRONT PROPERTY LINE AND A LINE 25' FROM THE FRONT PROPERTY LINE

SIDE - NONE

REAR - 5', 12' FROM CENTERLINE OF AN ALLEY

UTILITY INFORMATION

THE UTILITIES SHOWN ON THIS DRAWING HEREON HAVE BEEN LOCATED BY FIELD MEASUREMENTS. UTILITY MAP DRAWINGS, AND ARKANSAS BLDG UTILITY LOCATE REQUIREMENTS, ARE THE BASIS FOR THE LOCATION OF THE UTILITIES SHOWN ON THIS DRAWING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION OF THE UTILITIES PRIOR TO CONSTRUCTION. TICKET NUMBER: 240131-0781

CONTACT:

844-570-1515
479-521-1259
479-521-1259
888-215-3523
844-332-4438
479-879-3564
479-879-3564
888-316-4249
972-972-7200
888-593-2757
1-800-289-1300

COMPANY:

CITY OF FAYETTEVILLE
WASHINGTON COUNTY
SWPCO, FAYETTEVILLE
COX COMMUNICATIONS
LOU FAYETTEVILLE
TRANSPORTATION
RITTER COMMUNICATIONS
EXTENET SYSTEMS, LLC
OZARKSCO
WINDSTREAM ENTERPRISE

LAND AREA

80,274 ± SQUARE FEET
1,164 ± ACRES

FLOOD ZONE INFORMATION

BY GRAPHIC FLOODING ONLY. NO PORTION OF THIS PROPERTY IS IN ZONE "A" OR "AE" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY 01020204 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

Planning Commission

June 24, 2024

VAC-2024-0009
Compiled Public Comment

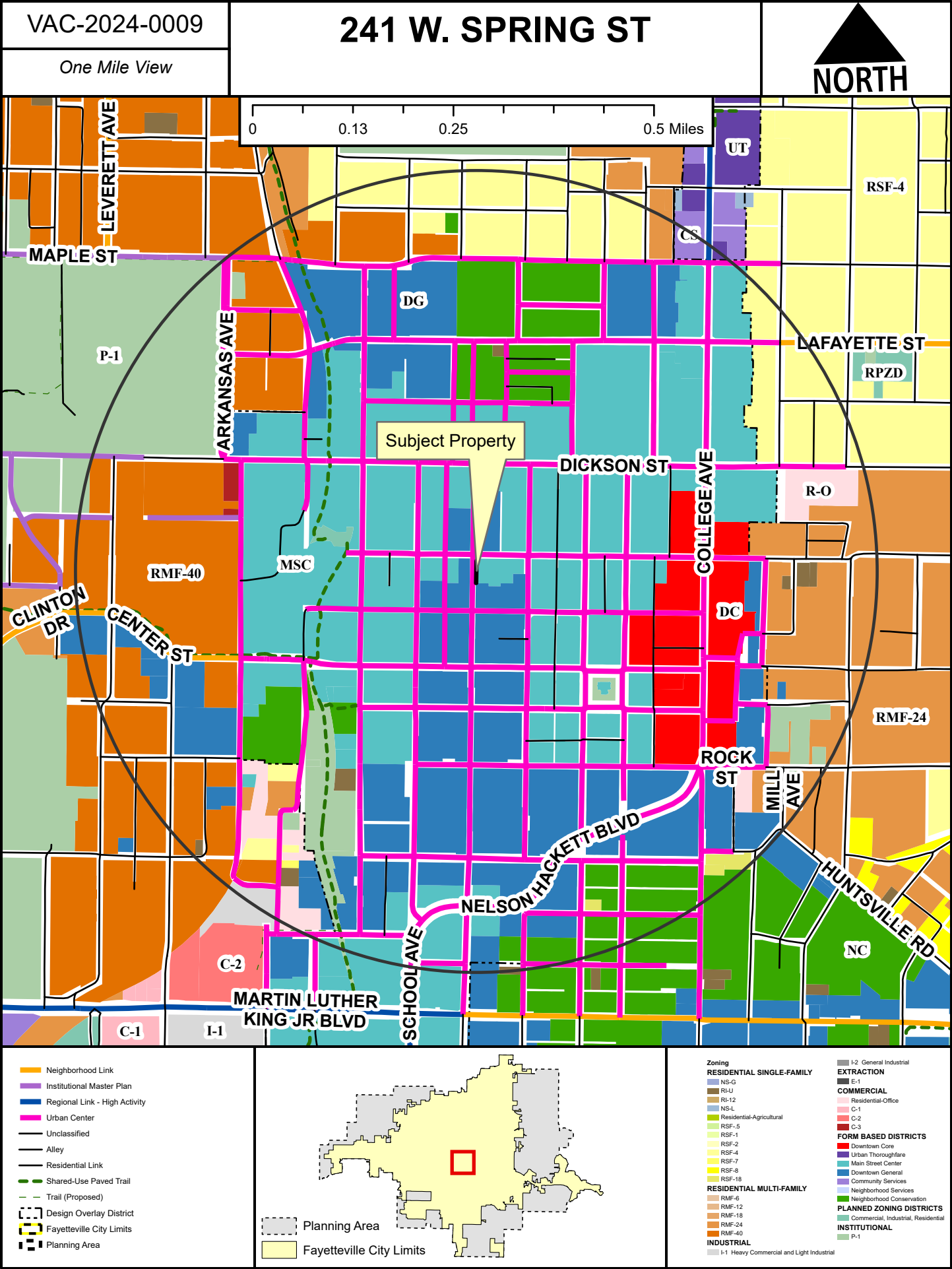
From: Neal Pendergraft <zippy@33st.com>
Sent: Tuesday, June 11, 2024 12:32 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: MBL Planning

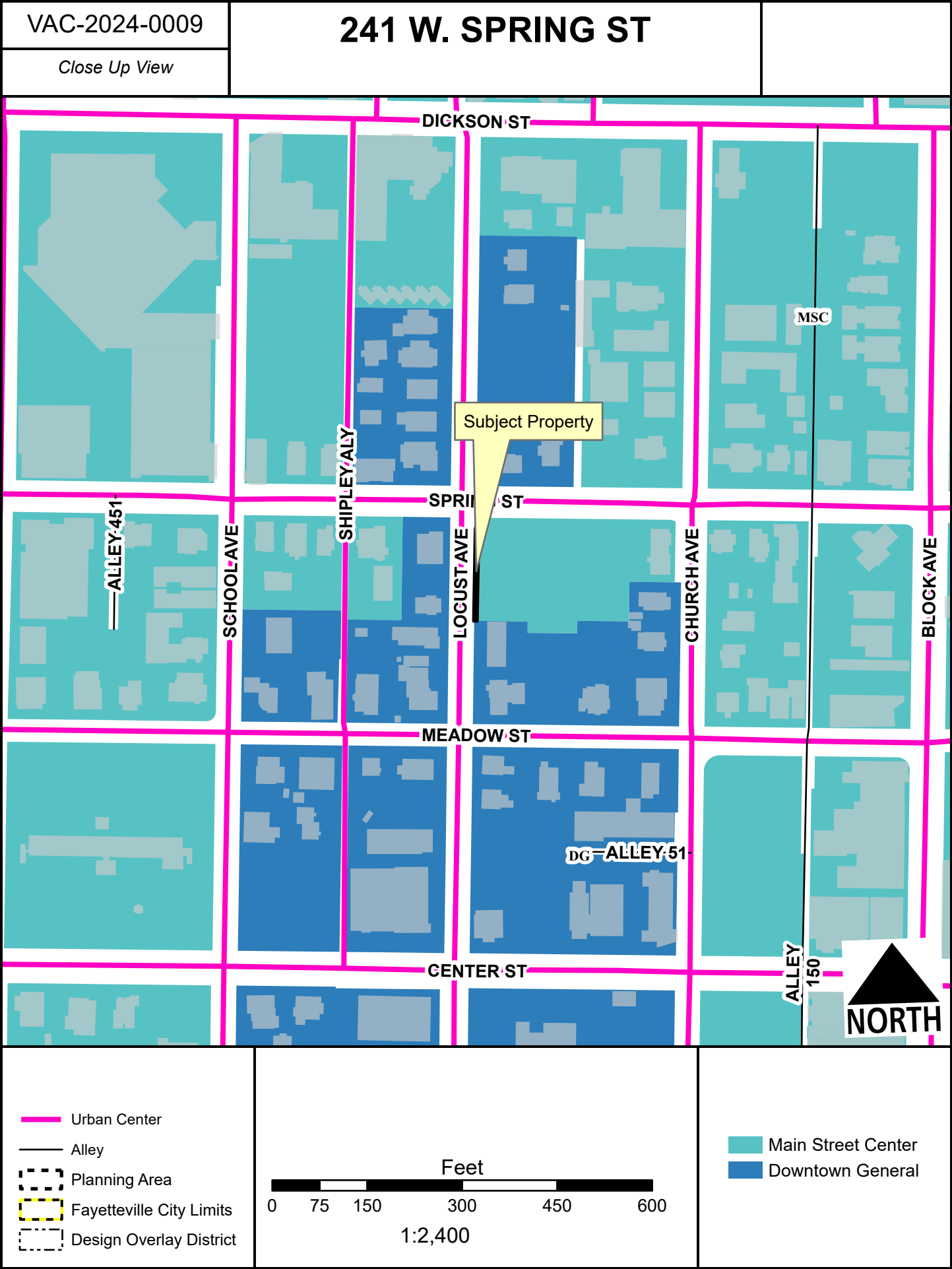
CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

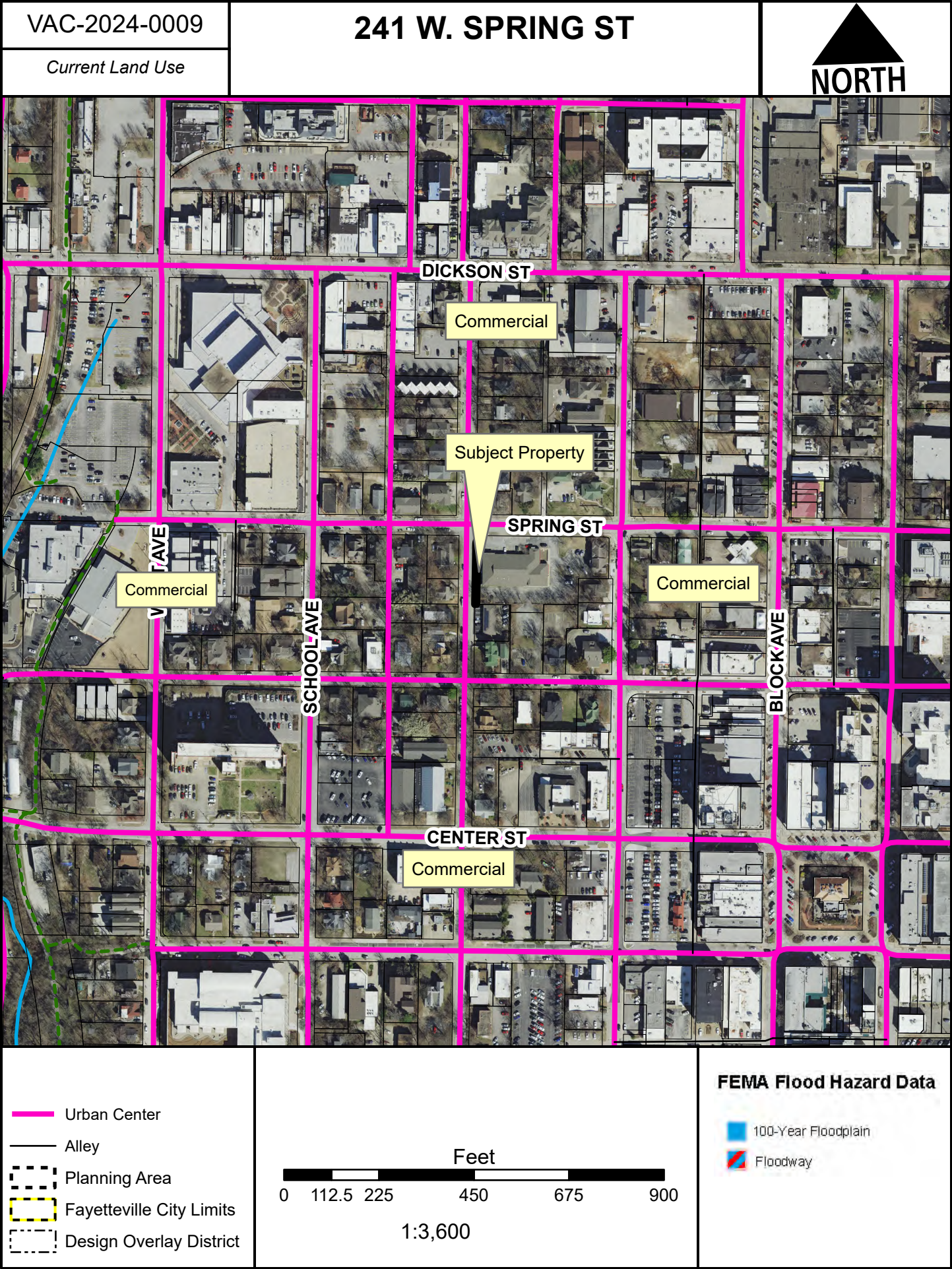
We have no objections to either the proposed variance or proposal to vacate ROW. Neal R. Pendergraft, Manager Thirty Third Street, LLC.

--

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









TO: Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner
Melissa Evans, Urban Forester

MEETING: June 24, 2024

SUBJECT: **LSD-2024-0010: Large Scale Development (1629 N. CROSSOVER RD./ SMYTH CLUSTER HOUSING, 410):** Submitted by COMMUNITY BY DESIGN for property located at 1629 N. CROSSOVER RD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 1.93 acres. The request is for a cluster housing development with 14 dwelling units, six accessory dwelling units, and associated parking.

RECOMMENDATION:

Staff recommends approval of **LSD-2024-0010** with conditions.

RECOMMENDED MOTION:

*"I move to approve **LSD-2024-0010** with conditions:*

- In favor of recommended right-of-way dedication and street improvements;*
- In favor of variance to UDC §164.22(G)(2) Building Orientation;*
- In favor of variance to UDC §164.22(G)(8) Pedestrian Connectivity;*
- In favor of variance to UDC §172.04(E) Parking Lot Dimensional Requirements; and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in east Fayetteville, on the west side of N. Crossover Road about 1/3 mile south of the intersection of N. Crossover Road and E. Mission Boulevard. The site totals approximately 1.93 acres and is zoned RSF-4, Residential Single-family, Four Units per Acre. The property is the site of the ca. 1886 Peter Smyth House, a residence listed in the National Register of Historic Places (architecturally significant as an example of sandstone construction with Greek Revival detailing). A conditional use permit for 14 single-family units (a variance to §166.22(D) for 14 units was approved) and 6 accessory dwelling units was approved by the Planning Commission at the May 13, 2024 meeting. Existing land uses and zoning surrounding the property are depicted in *Table 1*.

Table 1: Surrounding Land Uses and Zoning

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

Proposal: The applicant requests large-scale development approval to develop the property with a cluster housing development containing 14 single-family dwellings, 6 accessory dwelling units,

and associated parking. Three variances from the Unified Development Code have been requested as part of this proposal.

Variance #1: §164.22(G)(2) Building Orientation. A minimum of 75% of the dwelling units shall be oriented around and face the common open space, a public trail or towards the street, having pedestrian access to the common open space and the street. The applicant is requesting a variance to this standard to orient 50% of the dwellings to common open spaces or a public street.

- *Staff recommendation: Staff is supportive of this request finding that the applicant's proposal for a Woonerf-style circulation system creates a shared pedestrian and vehicular space that, while private, largely meets the intent of this requirement.¹ Typically, 75% of cluster housing units, or 11 of the 14 total homes, should face the common open space, but the applicant is proposing 50%, or 7 of the 14 homes face common space or a public street. Staff finds that this number of homes facing the common open space meets the intent of this portion of code. Further, all dwellings face either the shared open space or the shared circulation system, which could facilitate interaction among neighbors as intended in cluster housing developments.²*

Variance #2: §164.22(G)(8) Pedestrian Connectivity. All buildings and common spaces shall be served by a pedestrian circulation system that connects to an existing or planned sidewalk or trail system. The applicant is requesting a variance to this standard to provide a Woonerf-style shared circulation system instead of typical sidewalks.

- *Staff recommendation: As discussed above, staff is supportive of this request finding that the applicant's proposal for a Woonerf-style circulation system provides a pedestrian connection to the public right-of-way without the use of typical sidewalks.*

Variance #3: UDC §172.04(E) Dimensional Requirements. Two-way aisles with parallel parking should be 24-feet in width. The applicant is requesting a variance to this standard for a two-way drive aisle that is 20-feet in width.

- *Staff recommendation: Staff is supportive of this request finding that the applicant's proposal for a Woonerf-style street system necessitates narrower drive-aisles to reduce traffic speeds and increase pedestrian safety along a shared corridor. The Fire Department has indicated that this width is appropriate for required fire access.*

Right-of-Way to be Dedicated: Right-of-way along N. Crossover Rd. is variable, between 52.51 and 54.89 feet from the centerline. N. Crossover Rd. is a Regional Link street and the existing right-of-way meets or exceeds the Master Street Plan standards. Accordingly, staff does not recommend additional right-of-way be dedicated.

Street Improvements: Staff recommend that the property's N. Crossover Rd. frontage be improved to meet the typical requirements for a Regional Link Street, including a ten-foot greenspace and 1.5-foot curb and gutter. Staff recommends a 10-foot-wide paved trail instead of the typical 8-foot sidewalk to meet the Future Trail Plan for this location. These improvements are reflected in the applicant's civil plans.

¹ Planetizen, "What is a Woonerf?" Planopedia, accessed June 3, 2024, <https://www.planetizen.com/definition/woonerf>.

² Ross Chapin, *Pocket Neighborhoods: Creating Small-Scale Community in a Large-Scale World* (Newtown, CT: The Taunton Press, 2011), 8. Chapin elaborates on the importance of shared outdoor space, describing it as "neither private (home, yard) nor public (a busy street, park), but rather a defined space between the private and public realms." The shared investment and care of this common space between neighbors enhances feelings of "felt and actual security and identity." Further, the location and design of the shared outdoor space, namely its centralized and accessible nature, fosters interaction between neighbors.

Access Management/Connectivity: Staff has determined that the proposed development is compliant with the City's access management and connectivity standards.

Design Standards: Staff finds that the project meets UDC §164.22(H), Cluster Housing Building Design Standards by providing variations in color and location of exterior windows and doors. The proposed designs with detached accessory dwelling units also meet the design requirements outlined in UDC §164.19.

Water and Sewer System: A 6-inch water main is in an easement along the western side of the property. An 8-inch sewer main is located at the northwest corner of the site. Appropriate extensions will need to be provided throughout the site to support development.

Parkland dedication or fee in-lieu: Fee-in-lieu of parkland dedication totaling \$15,246 for the creation of 14 units of single-family housing is required.

Tree Preservation:

Canopy minimum requirement: 25%

Existing canopy: 27.1%

Preserved canopy: 2.2%

Mitigation required: 80 2-inch caliper trees

Public Comment: Staff has received public comment related to this request and the approved conditional use permit. At the May 13 Planning Commission meeting five members of the public spoke in opposition of the request for cluster housing and ADUs, citing concerns the site's retaining wall, detention pond location, privacy of neighboring properties, and the addition of accessory dwelling units in this proposal. Since then, staff has fielded one general inquiry from the public and written comment is attached.

RECOMMENDATION: Staff recommends approval of **LSD-2024-0010** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff does not recommend right-of-way dedication.*
2. **Planning Commission determination of street improvements.** *Staff recommends that N. Crossover Rd. be improved to meet typical standards for a Regional Link street including an 8-foot sidewalk, 10-foot greenspace, and 1.5-foot curb and gutter.*

Subdivision Committee recommended in favor.

3. **Planning Commission determination of a variance to UDC §164.22(G)(2) Building Orientation.** *Staff recommends approval of the request as detailed above, with the following conditions:*
 - a. The site plan and building orientations shall be substantially similar to the plan submitted with this request, including at least 50% of the dwellings facing the common open space or public street; and
 - b. All single-family dwellings shall face either the shared open space, public street, or shared circulation system.

Subdivision Committee recommended in favor.

4. **Planning Commission determination of a variance to UDC §164.22(G)(8) Pedestrian Connectivity.** *Staff recommends approval of the request as detailed above, with the following condition:*

- a. At least one sidewalk from the sidewalk adjacent to N. Crossover Rd. into the development will be provided.

Subdivision Committee recommended in favor.

5. **Planning Commission determination of a variance to UDC §172.04(E) Dimensional Requirements.** *Staff recommends approval of the request as detailed above, with the following conditions:*

- a. The applicant shall provide planters or additional landscaping along the full extent of the 20-foot-wide two-way drive aisle to act as traffic calming devices in accordance with Woonerf concept; and
b. The design and placement of planters or landscaping are subject to additional review by Fire, Planning, and Urban forestry and must meet applicable Fire code requirements; and
c. These planters or additional landscaping shall be maintained by the property owner association to ensure they remain in place and well maintained.

Subdivision Committee recommended in favor.

6. Parkland fee-in-lieu in the amount of \$15,246 for the creation of 14 single-family units must be received prior to building permit issuance;
7. All remaining comments from City division, whether Urban Forestry, Fire, or Engineering shall be addressed.

Standard Conditions of Approval:

8. Impact fees for fire, police, water, and sewer shall be paid in accordance with city ordinance;
9. Technical Plat Review and Subdivision Committee comments (to include written staff comments provided to the applicant or their representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks Electric, SWEPCO, and Cox Communications);
10. All mechanical and utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
11. Trash containers must be stored out of public view and may be screened by the principal structure or vegetation. Container locations for trash pick-up will be submitted to the Planning and Recycling & Trash Collection divisions for review prior to building permit;
12. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;

13. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements;
14. All exterior lighting shall comply with city ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
15. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation;
16. Large scale development approval shall be valid for one year;
17. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
18. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and
19. Prior to the issuance of a building permit, the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include any tree preservation areas and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance; and
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission action:	☐ Denied	☐ Tabled	☐ Approved
Meeting Date: <u>June 24, 2024</u>			
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:
None

ATTACHMENTS:

- Unified Development Code
 - §166.22 Cluster Housing Development
 - §172.04(E) Parking Lot Design Standards
- Urban Forestry Comments
- Parks Memo
- Applicant Exhibits
 - Request Letter
 - Conceptual Plan
 - Site Plan
 - Tree Preservation Plan
 - Utility Plan
 - Elevations
- Public Comment
- One Mile Map
- Close-Up Map
- Current Land Use Map

164.22 Cluster Housing Development

(...)

(G) *Development Standards.* All cluster housing developments are subject to the following standards:

(...)

- (2) **Building Orientation.** A minimum of 75% of dwelling units in a cluster housing development shall be oriented around and face the common open space, a public trail or towards the street, having pedestrian access to the common open space and the street. Where a cluster housing unit fronts onto a public trail, the façade facing the public trail shall be considered a principal façade for the purposes of meeting design standards.

(...)

- (8) **Pedestrian Connectivity.** All buildings and common spaces shall be served by a pedestrian circulation system that connects to an existing or planned sidewalk or trail system.

172.04 Parking Lot Design Standards

(...)

(E) **Dimensional Requirements.** (See Table 1)

TABLE 1 DIMENSIONAL REQUIREMENTS

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



URBAN FORESTRY
TREE PRESERVATION COMMENTS

To: Brian Teague, Community By Design
From: Melissa Evans, Urban Forester
CC: Kylee Cole, Planner
Meeting Date: May 29, 2024
Subject: LSD-2024-0010: Smyth: 1629 N. Crossover Rd., 410

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

2. Tree Preservation Calculations

Tree Preservation Calculations Square Feet		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	81,901	100%
Zoning Designation * Select Below with drop down arrow		
RSF-4 Single-Family Residential, Four Units Per Acre	20,475	25%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	20,475	25.0%
Existing Tree Canopy * Minus Right of Way and Easements	22,163	27.1%
Tree Canopy Preserved	1,773	2.2%
Tree Canopy Removed *On Site	20,390	24.9%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	20,390	24.9%
Removed Below Minimum	18,702	
Mitigation Requirements	18,702	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	15,850	73
Low Priority	2,852	7
Total Mitigation Trees Required	18,702	80

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

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

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

6. Site Analysis Report (if required) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy		X	

- b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy. **X**

7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	5-29-24		
Approved			
Tabled	5-14-24		
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided. 2. Thank you for providing a site analysis report. 3. Please note that foot traffic may be detrimental to the preserved Walnut tree in the common space. Thank you for noting that you will work with an arborist to ensure the health of the tree.



URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Brian Teague, Community By Design
From: Melissa Evans, Urban Forester
CC: Kylee Cole, Planner
Meeting Date: May 29, 2024
Subject: LSD-2024-0010: Smyth: 1629 N. Crossover Rd., 410

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

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

5. Landscape Requirement Totals		Amount
Mitigation Trees		80 required, 84 provided
Parking Lot Trees		14?
Street Trees		7
Detention Pond – Large Trees (1 Tree/3,000 square feet)		3
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		12
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		18

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved			
Approved			
Tabled	5-14-24		
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided.
2. X* = One tree per lot is required (16 lots) and the 10 extra parking and 4 extra mitigation trees can count toward that requirement. Please add two more trees to meet the requirement.



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division

FROM: Zach Foster, Parks Planning

DATE: May 9, 2024

SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: March 7, 2022

Project Title: 1629 N Crossover Cluster Development

Project Number: LSD-2024-0010

Project Location: 1629 N Crossover Rd

Plat Page: 410

Park Quadrant: SE

Billing Name & Address: Smyth Revival, LLC, 609 W Dickson, STE 206
Fayetteville, AR 72701

☐ Land Dedication

☒ Fee-in-Lieu

☐ Combination

FEE-IN-LIEU

Single Family: 14 units x \$1,089 per unit = \$15,246

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

**TOTAL
Fees**

\$15,246

SUMMARY:

- Project proposes 14 SF units and 0 MF units.
- The final amount of fee-in-lieu and/or land dedication needed to satisfy Parkland Dedication requirements will be determined after Planning Commission's approval of this project.
- Current fee-in-lieu and/or land dedication rates will be applied regardless of when project was approved by PRAB.
- Prior to final receipt by the city, all fees must be paid and any deeds for parkland dedication property must be:
 - Approved by the City's Land Agent in the Engineering Division.
 - Recorded at the Washington County Courthouse.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation system. The money collected as part of this project will be used to fund future park acquisitions and improvements for this park quadrant.

May 1, 2024

Via Email: kcole@fayetteville-ar.gov

Ms. Kylee Cole
Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **LSD 2024 0010 – 1629 N. Crossover Road Cluster Development**

Ms. Cole,

As a representative of the owner of Washington County Parcels 765-14186-000 and 765-14186-001, please find the attached Large Scale Development (LSD) Application for a cluster housing development containing 14 new single-family residential units. A previous Conditional Use Permit was approved by the City of Fayetteville Planning Commission on January 10, 2022, CUP 2021 000053, which was very similar in plan. CUP 2021 000053 has expired and approval of CUP 2024 0016 is under review as a part of a separate request. Similarly and in association, a previous Large Scale Development was approved by the City of Fayetteville Planning Commission on August 8, 2022, LSD 2022 0021, which has also expired. Approval of LSD 2024 0010 is requested at this time due to the expiration of LSD 2022 0021.

This request and application includes the following supporting documents attached to this letter:

- One (1) pdf copy of a written submittal letter
- One (1) pdf copy of revised site, utility, grading, tree preservation, and landscape plans
- One (1) pdf copy of a revised drainage report
- One (1) pdf copy of revised floor plans and elevations for each of the proposed 14 houses
- One (1) pdf copy of the completed fire department technical plat form
- One (1) pdf copy of the owner authorization form

The revised request is summarized as follows:

General - The property is zoned RSF4 and contains approximately 1.93 acres. The property contains the Peter Smyth House which was constructed in 1886 and has been placed on the National Register of Historic Places. The plan is to renovate the Smyth House for use by the neighborhood as a common and develop the remainder of the property with a cluster development plan that contains 14 total single-family houses and 46 parking spaces.

Fire, Solid Waste, Vehicular Access and Parking – Fire, solid waste, and vehicular access is proposed along a new looped shared street or private drive. The concept is for the shared private street or drive to incorporate the principles of a “woonerf”, which is a shared space for use of pedestrians and vehicles. The shared drive will maintain a minimum clear width of 20’ to meet requirements for fire and solid waste access. In addition to the “off-street” parking spaces planned, other parking spaces are also planned along the shared drive to accommodate more parking.

Architectural Floor Plans and Elevations – Each of the houses that are proposed range in size between 1,860 - 2,500 square feet and contain between 3 and 5 bedrooms each. Floor plans and elevations for each of the 14 proposed houses are provided with this submittal. The houses have been designed using massing and detailing that is characteristic of traditional Ozark vernacular farmhouse. As proposed, each house has a large front porch and also a private courtyard. Common open space is also provided in two locations, the central green and the common area around the Smyth House.

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Fayetteville, AR 72701

479.790.6775
Planning Commission

June 24, 2024

May 1, 2024

Elevation variation for each house is provided focusing on roof structure massing or projected gables, window and door placement, window trim detailing, porch column and beam detailing, paint color, and roof shingle color.

Compatibility and Traffic Impact -

The proposal is compatible with adjacent properties and the neighborhood primarily by maintaining a detached single-family house type when single family, two and three family or townhomes, and commercial retail exists nearby and within the neighborhood. By incorporating Ozark farmhouse vernacular architecture into the house designs, the proposal adds to the formerly rural character of this neighborhood.

The proposal will not have a measurable impact on vehicular traffic in the area. The proposal utilizes an existing curb cut onto Crossover Road. Proximity to everyday shopping is also less than a 5 minute walk away with retail shops and restaurants along Crossover Road and Mission Boulevard to the north of the property.

General Changes From the Original Approved CUP / LSD –

To work better with the changing development economy and create a more feasible project, the following general changes have been made to the original approved CUP / LSD plans:

- 1 house has been removed while additional bedrooms and parking have been added to proposed houses 1-10.
- Pavement has been changed to impermeable and a detention pond is now proposed in the northwest corner of the site.
- The proposed sanitary sewer main alignment has shifted in the northwest corner of the site.
- A public water main is now proposed.

Proposed fire and solid waste access has not changed except that the proposed fire hydrant has been moved to a more central location. Proposed tree preservation has not changed.

Development Variances

Development variances that were approved per LSD 2022 0021 will also be requested with LSD 2024 0010 which include the following:

1. Cluster Housing Development Ordinance Pedestrian Circulation System (UDC 164.22(G)(8))
2. Cluster Housing Development Ordinance Building Orientation (UDC 164.22(G)(2))
3. Parking Lot Design Standards Dimensions (UDC 172.04(E))

The variance requests associated with the above are currently being updated and will be provided soon.

Thank you for your consideration of this request. Please let me know if you have any questions or if you need additional information.

Sincerely,



Brian Teague
Community By Design

June 12, 2024

Via Email: kcole@fayetteville-ar.gov

Ms. Kylee Cole
Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: 1629 N. Crossover Road Large Scale Development – LSD 2024 0010 – Variance Requests – Cluster Housing Development Ordinance Pedestrian Circulation System (UDC 164.22(G)(8)), Cluster Housing Development Ordinance Building Orientation (UDC 164.22(G)(2)), and Parking Lot Design Standards Dimensions (UDC 172.04(E))

Ms. Cole,

Please allow this letter to serve as a variance request from both the City of Fayetteville's Cluster Housing Development Ordinance and the Parking Lot Design Standards. Please refer to latest revision of the site plans, site views and perspectives, and the approved conditional use permit master plan. Also included with the submittal is a publication from the National Association of City Transportation Officials entitled "The Woonerf Concept – Rethinking a Residential Street in Somerville". This publication was used for guidance in the design of the proposed shared space at 1629 N. Crossover Road.

The requested development variances were all approved with the original LSD, LSD 2022 0021.

Cluster Housing Development Ordinance Pedestrian Circulation System (UDC 164.22(G)(8)) - The primary variance request is to allow the required pedestrian circulation system to be constructed so that the space is shared among pedestrians, bicyclist, and motor vehicles in way that gives priority to pedestrians over the cars that will use the space for access to parking. The proposed shared space is intentionally designed without a clear distinction between pedestrian and vehicular space so that cars are forced to slow down and use caution. Average vehicular speeds of 10 mph or less are expected. Limiting vehicular speed will not only increase safety but will also increase the use of the space by pedestrians. This shared space concept will create more opportunity for landscape, trees, and seating areas and will significantly expand upon the proposed common open space and its features in a way that will increase social interaction among the residents.

The proposed houses line the perimeter of the shared space with front doors and porches facing inward towards the space creating one large outdoor room. Interior to the proposed shared space is the central common open space, which will be specifically programmed on grading permit drawings and include the preservation of a large black walnut tree. A secondary common open space is also proposed in the northwest corner of the site plan where the historic Smyth House is located. The secondary common open space will also be specifically programmed on the grading permit drawings. The shared circulation system and both common open spaces are well connected and have been designed to encourage social interaction, and will be an amenity to the residents. The shared space design balances the requirement to give vehicles access to parking with other pedestrian uses and activities. This efficiency in use of the space will ultimately will make the common open spaces larger and more frequented by pedestrians.

Cluster Housing Development Ordinance Building Orientation (UDC 164.22(G)(2)) - A secondary variance is requested from the building orientation requirements of the Cluster Housing Development Ordinance. The specific requirement calls for the front of 75% the houses to orient to either the common open space, a trail, or towards the public street. While not a

100 West Center Street Suite 300
Fayetteville, AR 72701

479.790.6775
Planning Commission

June 24, 2024

public street, the shared circulation system has been designed in form and function to be a shared street and not resemble a parking lot in any way. All of the houses are front oriented to the shared space or Crossover Road while 7 of the houses specifically face towards the common open spaces or public street. The specific request is to allow house 1 to face towards Crossover Road, for houses 4 and 5 to face towards the secondary common open space, for houses 8,9,13, and 14 to face the primary common open space, for houses 2,6,7,10, and 12 to face the shared space with views from the front porch of the primary common open space, for house 3 to face the shared space with views from the front porch of the secondary common open space, and for house 11 to face the shared space.

Parking Lot Design Standards Dimensions (UDC 172.04(E)) - A third variance is requested from the dimensional requirements of the parking lot design standards that would allow for a 20' wide drive aisle along the shared space while 24' is required in parking lots. The 24' requirement is typically needed for 90-degree parking but 90-degree parking is not proposed in the shared space, only parallel parking. The 20' wide drive aisle meets fire department access requirements. All together with a 20' wide drive aisle and 8' wide parallel parking on one side of the drive aisle, dimensionally the shared space is very similar to most lesser traveled, residential streets.

Thank you for considering this request. Please let me know if you have questions or if additional information is needed.

Sincerely,

A handwritten signature in blue ink, reading "Brian Teague", with a long horizontal flourish extending to the right.

Brian Teague
Community By Design



Master Plan Key

- Ⓐ Smyth House
- Ⓑ Bent House
- Ⓒ Prow House
- Ⓓ Carriage House
- Ⓔ Stormwater Retention
- Ⓕ Woonert or Shared Space
- ⓐ Vehicular Access
- ⓑ Private Parking Courts
- ⓒ Private Courtyards / Patios
- ⓓ Pinwheel Central Green
- ⓔ Tree Preservation

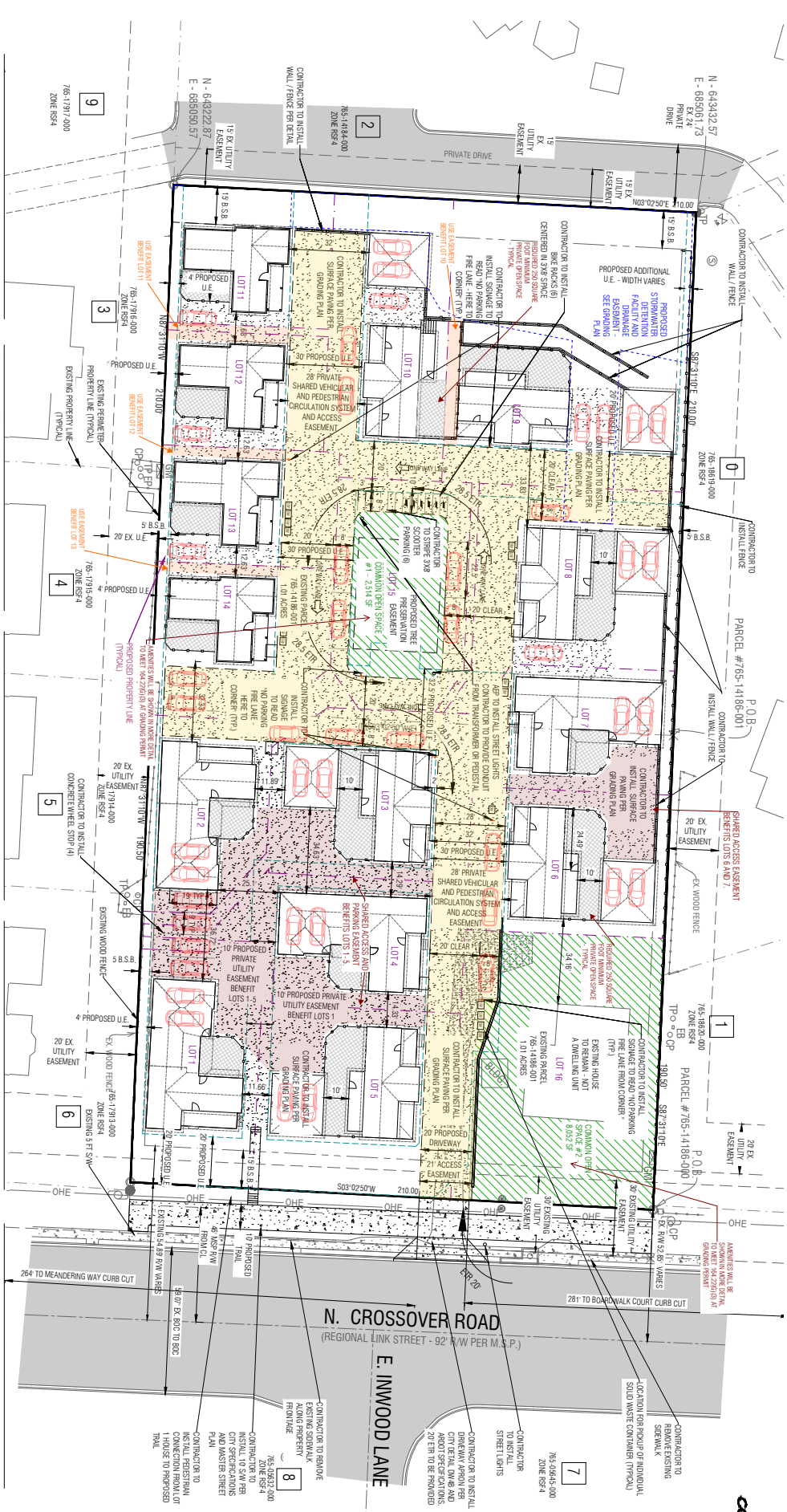
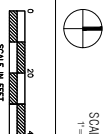
Master Development Plan

Revised 4/3/24

Smyth House

Crossover Road





Case	Age	Height	Weight	Weight at 10th birthday	Weight at 15th birthday	Weight at 20th birthday	Weight at 25th birthday	Weight at 30th birthday	Weight at 35th birthday	Weight at 40th birthday	Weight at 45th birthday	Weight at 50th birthday	Weight at 55th birthday	Weight at 60th birthday	Weight at 65th birthday	Weight at 70th birthday	Weight at 75th birthday	Weight at 80th birthday	Weight at 85th birthday	Weight at 90th birthday	Weight at 95th birthday	Weight at 100th birthday
141	14	160	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0	0
142	14	160	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0	0
143	14	160	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0	0
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197	14	160	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0	0
198	14	160	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0	0
199	14	160	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0	0
200	14	160	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0	0

[illegible]

Open Space Required / Open Space Provided	Open Space Requirement (Square Feet)	Open Space Provided (Square Feet)
Greater than 2,000	750 Per House	7,500
2,000	2,000	2,000
Less than 2,000	500 Per House	3,500
4		10,996

*APPLICANT IS RESPONSIBLE TO ADDRESS THE BIKES PLACEMENT REQUIREMENT WITH ACCOMMODATIONS FOR BIKES STORAGE IN THE PRIVATE CONVEYORS OF EACH HOME. MORE INFORMATION WILL BE PROVIDED ON THE BUILDING PERMIT DRAWINGS.

[illegible]



REVISION 0

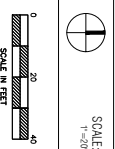
1629 NORTH
CROSSOVER RD.
LSD 2024 0010

FAYETTEVILLE,
WASHINGTON COUNTY,
ARKANSAS

CITY PLAIN PAGE 410
ISSUED FOR REVIEW

SHEET 6

ENGINEER: BT
DRAWN BY: AH
DATE: 6/17/2024



LANDSCAPE PLAN

SHEET 6



Mitigation Requirements		
Category	Below Requirements	50 ft
15,850	preference on Priority Type	Forestation Base Density/Acre
2,832	High Priority	200
	Low Priority	100
		Number of 2" Caliper Trees to be Planted
		71
		7

LANDSCAPE NOTES

- [illegible]

1. THE LEAVING SKIN
 1/2 IN. THICK, NON-ELASTIC, IMPERVIOUS TO WATER

2. CAMBIUM
 1/16 IN. THICK, PRODUCES NEW XYLEM AND PHLOEM

3. XYLEM
 1/4 IN. THICK, TRANSPORTS WATER AND MINERALS FROM THE SOIL TO THE LEAVES

4. PHLOEM
 1/16 IN. THICK, TRANSPORTS SUGAR AND OTHER ORGANIC COMPOUNDS FROM THE LEAVES TO THE REST OF THE TREE

5. PITH
 1/4 IN. THICK, STORES FOOD AND WATER

6. BARK
 1/4 IN. THICK, PROTECTS THE TREE FROM INJURY AND DISEASE

7. LEAVES
 1/4 IN. THICK, CAPTURE SUNLIGHT AND CARBON DIOXIDE TO PRODUCE SUGAR

8. ROOTS
 1/4 IN. THICK, ANCHOR THE TREE AND ABSORB WATER AND MINERALS FROM THE SOIL

9. STEM
 1/4 IN. THICK, SUPPORTS THE TREE AND TRANSPORTS WATER AND MINERALS

10. BRANCHES
 1/4 IN. THICK, BRANCH OUT TO CAPTURE MORE SUNLIGHT AND CARBON DIOXIDE

11. TWIG
 1/4 IN. THICK, GROWS FROM THE BRANCHES AND SUPPORTS THE LEAVES

12. BUD
 1/4 IN. THICK, DEVELOPS INTO A NEW LEAF OR BRANCH

13. SEED
 1/4 IN. THICK, GROWS INTO A NEW TREE

14. FRUIT
 1/4 IN. THICK, CONTAINS SEEDS AND IS EATEN BY ANIMALS

15. LEAF
 1/4 IN. THICK, CAPTURES SUNLIGHT AND CARBON DIOXIDE TO PRODUCE SUGAR

16. PETIOLE
 1/4 IN. THICK, ATTACHES THE LEAF TO THE STEM

17. VEIN
 1/4 IN. THICK, TRANSPORTS WATER AND MINERALS TO THE LEAF

18. MIDRIB
 1/4 IN. THICK, SUPPORTS THE LEAF

19. LAMINA
 1/4 IN. THICK, CAPTURES SUNLIGHT AND CARBON DIOXIDE TO PRODUCE SUGAR

20. STOMA
 1/4 IN. THICK, REGULATE THE EXCHANGE OF GASES BETWEEN THE LEAF AND THE AIR

21. CUTICLE
 1/4 IN. THICK, PROTECTS THE LEAF FROM DRYING OUT

22. EPIDERMIS
 1/4 IN. THICK, PROTECTS THE LEAF FROM INJURY AND DISEASE

23. MESOPHYLL
 1/4 IN. THICK, CAPTURES SUNLIGHT AND CARBON DIOXIDE TO PRODUCE SUGAR

24. PALMATE
 1/4 IN. THICK, CAPTURES SUNLIGHT AND CARBON DIOXIDE TO PRODUCE SUGAR

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84. QUINATE
 1/4 IN. THICK, CAPTURES SUNLIGHT AND CARBON DIOXIDE TO

DETENTION		KEY	NAME	SIZE	OTT
			HOOVER / CELTS OCCIDENTALS	27 CAL	3
			WITCH HOLL / HAWKES VIKINGMA	1 CAL	6
			HERMID / CHOCOMAGNERS	17 CAL	6
			SPYRBLASH / UNDER REIGN		3
			ELDERBERY / SAMBOIS CHAMBERS	1 CAL	3
			BLOTTING / DOLLAR AMERICAS	1 CAL	3
			WILSON / HAWKES VIKINGMA	1 CAL	3
			INBAR / PHYSICIAN OPTICUS	1 CAL	3
			APPOWOD / PHYSICIAN OPTICUS	1 CAL	3

LANDSCAPE SCHEDULE		QTY.	SIZE
NAME			
1	1" HONEYCREEPER DOGSLIP / ALBERTA BIRCHINGS	25	2' CULVER
2	AMERICAN B&W / LINDAS AMERICA	20	2' CULVER
3	BLACK GUM / WASH STATE	18	2' CULVER
4	DOUGLASS PINE / S. COCONUTUS	20	2' CULVER
5	DOUGLASS PINE / S. COCONUTUS	18	2' CULVER
6	AMERICAN HAWK / LIES OPTICA	16	2' CULVER
7	SCANDIAN P. / AMNIS COOPERFLS	16	2' CULVER
8	DOUGLASS PINE / S. COCONUTUS	10	2' CULVER
9	DOUGLASS PINE / S. COCONUTUS	10	2' CULVER
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50	DOUGLASS PINE / S. COCONUTUS	10	2' CULVER

[illegible]

Elevation and Color Summary

SW 9144

Moonmist

SW 7007

Ceiling Bright White



BENT HOUSE ELEVATION 2

SMYTH DEVELOPMENT LOT 1

38-FT WIDE PLAN

SW 6450

Easy Green

SW 7007

Ceiling Bright White



BENT HOUSE ELEVATION 1

SMYTH DEVELOPMENT LOT 2

38-FT WIDE PLAN

SW 6680

Friendly Yellow

SW 7007

Ceiling Bright White



PROW HOUSE ELEVATION 1

SMYTH DEVELOPMENT LOT 3

PRICING SET

SW 6450

Easy Green

SW 7007

Ceiling Bright White



BENT HOUSE ELEVATION 4

SMYTH DEVELOPMENT LOT 4

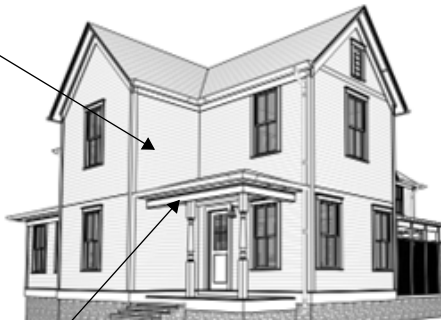
38-FT WIDE PLAN

SW 6680

Friendly Yellow

SW 7007

Ceiling Bright White



PROW HOUSE ELEVATION 2

SMYTH DEVELOPMENT LOT 5

PRICING SET

SW 7008

Alabaster



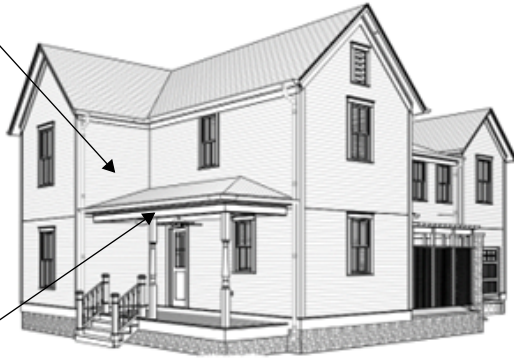
PROW HOUSE ELEVATION 3

SMYTH DEVELOPMENT LOT 6

PRICING SET

SW 9144

Moonmist



SW 7007

Ceiling Bright White

BENT HOUSE ELEVATION 3

SMYTH DEVELOPMENT LOT 7

38-FT WIDE PLAN

SW 9144

Moonmist



SW 7007

Ceiling Bright White

PROW HOUSE ELEVATION 4

SMYTH DEVELOPMENT LOT 8

PRICING SET

SW 6450

Easy Green



SW 7007

Ceiling Bright White

PROW HOUSE ELEVATION 5

SMYTH DEVELOPMENT LOT 9

PRICING SET

SW 7008

Alabaster



PROW HOUSE ELEVATION 6

SMYTH DEVELOPMENT LOT 10

PRICING SET

SW 6450

Easy Green



SW 7007

Ceiling Bright White

BENT HOUSE - ELEVATION 1

SMYTH DEVELOPMENT - LOT 11

34-FT WIDE PLAN

SW 6680

Friendly Yellow



SW 7007

Ceiling Bright White

BENT HOUSE - ELEVATION 2

SMYTH DEVELOPMENT - LOT 12

34-FT WIDE PLAN

SW 9144

Moonmist



SW 7007

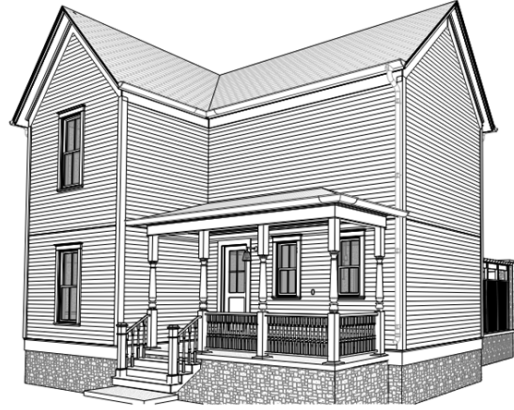
Ceiling Bright White

BENT HOUSE - ELEVATION 3

SMYTH DEVELOPMENT - LOT 13
34-FT WIDE PLAN

SW 7008

Alabaster



BENT HOUSE - ELEVATION 4

SMYTH DEVELOPMENT - LOT 14
34-FT WIDE PLAN

Cole, Kylee

From: Kim Petrone <kkpetrone@yahoo.com>
Sent: Wednesday, May 8, 2024 11:31 AM
To: Cole, Kylee
Cc: Jill Dickerson; Lou Petrone
Subject: CUP 2024-0016

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 respect the Beldens and Old Buildings. I appreciated their efforts with the initial CUP two years ago. I appreciate their communication with the present CUP request. However, I believe the current CUP proposal is not suited to this site or environment.

This is an unusual lot. It is not walkable to any businesses as it is adjacent to a five-laned state highway with cars often exceeding the stated 45 mph speed limit. It is a narrow, sloped peninsula surrounded on three sides by Boardwalk POA homeowners and property. On the west side (downhill) are amenities that Boardwalk POA has invested hundreds of thousands of dollars in maintaining through the decades: a pool, tennis court, playground, pond. All of these structures are aging and require significant upkeep.

Is the CUP, as amended, suitable for this specific site? I think not for the following reasons:

1. the CUP must consider the current situation—vulnerable and costly neighborhood amenities, sloped lot, homes built in the 1990 (or earlier).
2. the new, dramatic engineering (dozens of meters of retaining wall, some reaching 6 or more feet) spotlights the high risk of flooding—can it truly be engineered out of the picture? should such a risk be taken?

The original CUP respected the lot and worked with the unique features of the lot. The new CUP shoehorns in a partially elevated plateau surrounded on three sides by homes more than 30 years old. The old CUP was a more gentle neighbor easing the transition between traditional RSF-4 neighborhood and cluster housing with one-story structures on the perimeter. The new CUP is an imposing giant with two story structures built on top of tall retaining walls as close to the edges of property as possible.

Please reject this CUP and give time for a new CUP to be created which more equitably balances the needs of the developer and the existing environment (both land and neighbors).

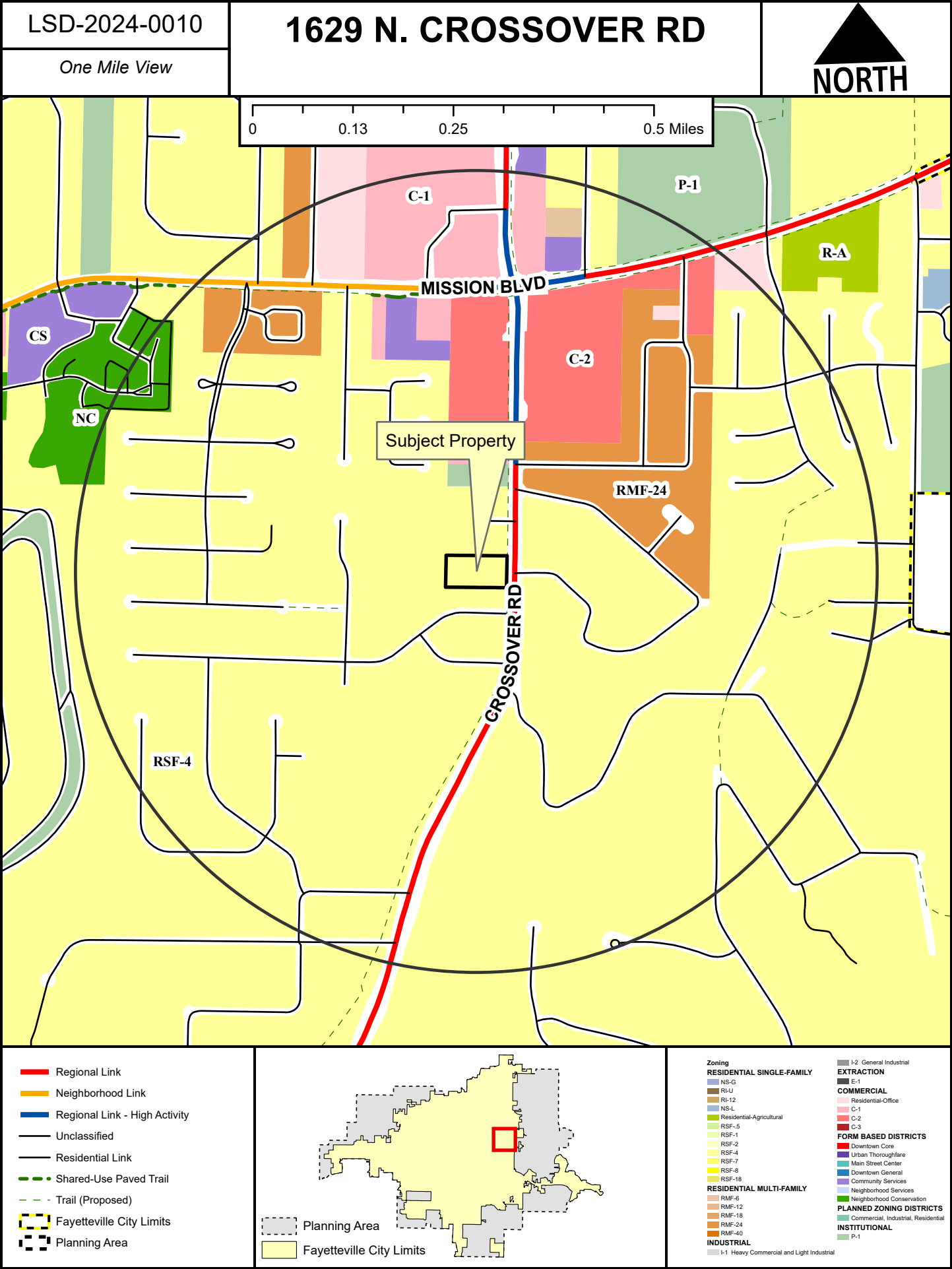
Thank you for your consideration.
Kim Petrone

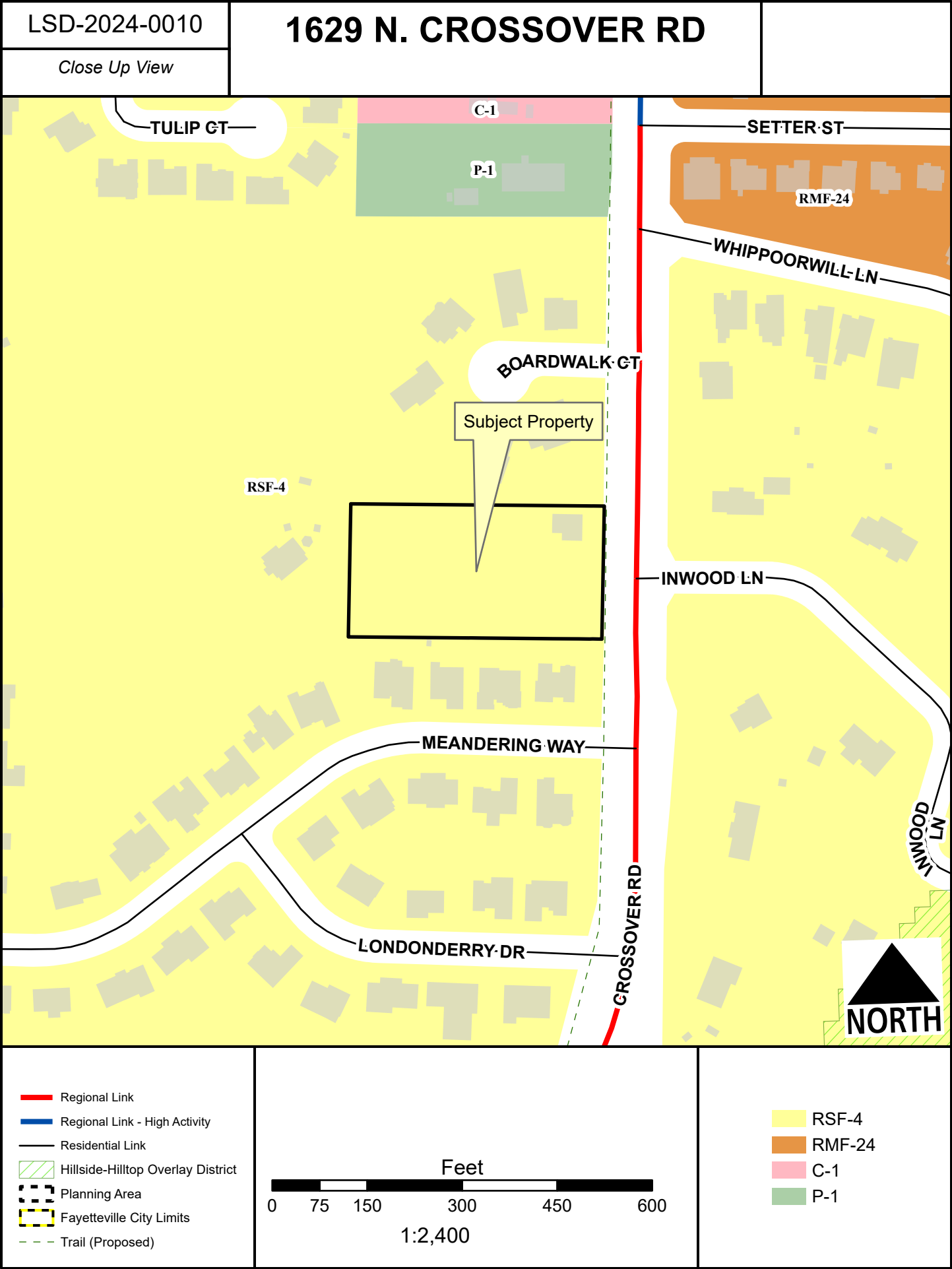
As we are impressed with the idea for the property and the work they've done around Fayetteville, we still have questions.

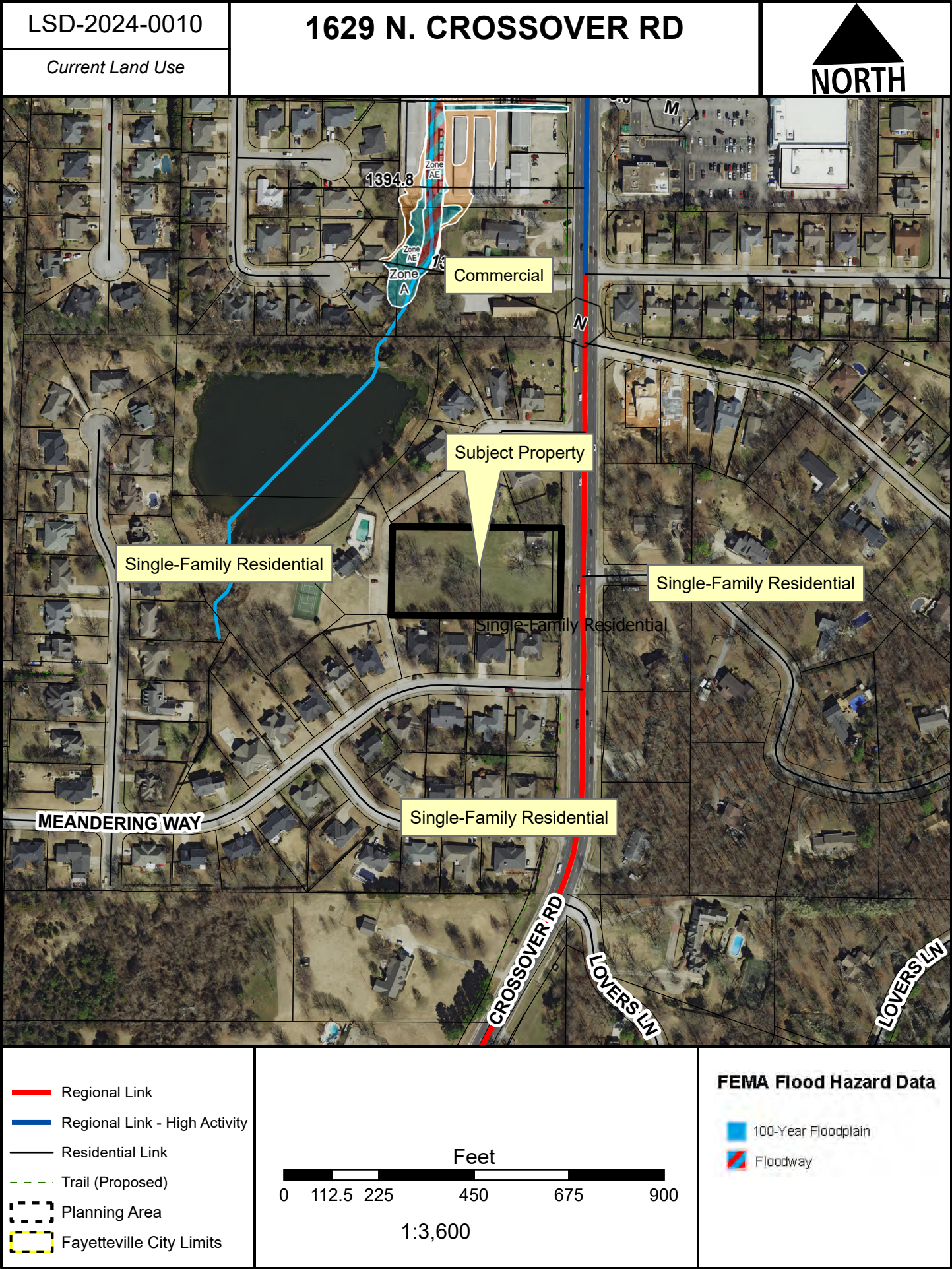
- ☐ How will elevating the property affect the southern and northern border of the property? Both these sides are Boardwalk properties. How will it affect the current homes and their yards? How will the pond be maintained and if it will be able to hold all the water from that entire property? Where does the water go when it overflows? How will it flow into our pond without causing damage to our property? How does it drain out?
- ☐ How is the number of housing or units equal to single-family homes when they have apartments over the garages? 14 units have turned into 20.
- ☐ We are against their community having access to our private drive or our boardwalk amenities and facilities. Our neighborhood has a POA and each homeowner pays \$750 annually for these amenities and facilities. We have had trouble with trespassing and violence in the past, and we still have trouble with trespassing even given all this money we have spent on signage.

We greatly appreciate you reading and understanding our communities concerns.

Thank you,
The Boardwalk community









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: June 24, 2024

SUBJECT: **CUP-2024-0023: Conditional Use Permit (4621 W. WEDINGTON DR./G & C FIREWORKS, 438):** Submitted by G & C JOHNSON LLC for property located at 4621 W. WEDINGTON DR. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 5.60 acres. The request is for a firework sales tent.

RECOMMENDATION:

Staff recommends approval of **CUP-2024-0023** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2024-0023**, determining:*

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

BACKGROUND:

The subject property is located at the southwest corner of Wedington Drive and 46th Avenue. The property contains one parcel totaling 5.60 acres which is developed with an abandoned single-family dwelling and some associated outbuildings. The property received its current zoning designation of R-O, Residential Office, as a result of a rezoning in 2012 (Ord. 5510). Surrounding land use and zoning is depicted on *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 RI-12, Residential Intermediate - 12 Units per Acre
South	Undeveloped	RSF-4, Residential Single-Family - Four Units per Acre RMF-12, Residential Multi-Family - 12 Units per Acre
East	Rural Residential	R-A, Residential Agricultural R-O, Residential Office
West	Rural Residential	R-O, Residential Office

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

Proposal: The applicant requests a conditional use permit to allow a seasonal firework sales tent in R-O zoning. This use is allowed by right in any zoning district that allows Use Unit 15: Neighborhood Shopping Goods or Use Unit 16: Shopping Goods. The applicant is requesting a conditional use permit for temporary firework sales in R-O zoning, a district which permits Use Unit 15 as a conditional use.

The applicant has described the business as follows:

- 900-square-foot tent
- Number of employees: 2
- Number of customers: 50 per day, 10 during peak hours
- Off-street parking: 15-20 spaces
- Hours of operation: 10:00 a.m. to 10:00 p.m. from June 28, 2024 to July 4, 2024

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

RECOMMENDATION: Staff recommends approval of **CUP-2024-0023** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds that the proposed use is compatible based on the findings contained herein;*
2. Hours of operation are limited from 10:00 a.m. to 10:00 p.m. as indicated in the applicant's request letter;
3. Prior to the placement of a firework sales tent, the applicant must apply for and receive a Fireworks Permit from the City and meet all associated requirements other than the requirement that the property must be zoned commercial (C-1, C-2, C-3, I-1, I-2, MSC, or DC). This conditional use permit does not grant approval of firework sales by the City's Fire Marshal; and
4. Firework sales shall be limited to the period outlined in §94.09 from June 28th to July 5th of each year, rather than the seven days proposed by the applicant.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

Finding: The applicant has submitted a written application requesting conditional use approval for firework sales (Use Unit 15) at 4621 W. Wedington Dr.

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

Finding: The applicant has paid the required filing fee.

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

Finding: The Planning Commission is empowered under Unified Development Code §161.20 to grant the requested conditional use permit.

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

Finding: Staff finds that granting the requested conditional use permit is not likely to adversely affect the public interest. The subject property is located along a major commercial corridor which is lined with a variety of land uses, and the request is for a temporary use which will operate for one week.

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: As proposed, the applicant's site plan will comply with the City's fireworks permitting process. The tent's location allows for a 20-foot fire lane on all sides, and it is located more than 20 feet away from side property lines and buildings, 240 feet from any fuel dispensing facility, and at least 50 feet from the public right-of-way.

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:
 - (a.) Ingress and egress to property and proposed

structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The applicant has indicated that there will be one point of ingress/egress to the property from 46th Avenue which appears to be unimproved. Since the proposed use is temporary, staff does not recommend any permanent improvements to the site.

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

Finding: Parking areas on site are unimproved. The applicant has indicated that there is space to park approximately 15-20 vehicles in the area between the tent and adjacent public streets. Since adjacent properties to the west, south, and east are undeveloped, staff finds that the proposed temporary use and associated parking areas are not likely to adversely impact adjacent properties.

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

Finding: The applicant has indicated that they will have their own trash cans in the tent and will dispose of all trash each day with their truck. Staff recommends that the applicant coordinate solid waste disposal with the City's Solid Waste Division.

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

Finding: The property currently has access to public water and sewer and the use of the property as a temporary firework sales tent is not expected to impact the provision of utilities.

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

Finding: The subject property is located along an arterial street and is surrounded by undeveloped properties. Staff is not recommending additional screening for the proposed conditional use since it is not likely to adversely impact surrounding properties.

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

Finding: Any proposed signage will be subject to permitting and compliance with Unified Development Code Chapter 174, Signs.

(g.) Required yards and other open space;

Finding: In addition to zoning setbacks, the Fire Marshal has numerous requirements for the distance between a firework sales tent and adjacent properties, structures, or hazards. These must be met to be granted a permit for the sale of fireworks.

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

Finding: Staff finds the proposed firework sales tent to be compatible with adjacent properties and others in the vicinity. All nearby residences appear to be at least 250 feet away from the tent and the property is located along a major roadway with access limited to a lower classification street.

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

Finding: Staff finds that the requested conditional use is not clearly aligned with the goals and intent of the City's adopted land use, transportation, and other strategic plans. However, given the limited nature of the proposed use, staff finds that approval of this conditional use is not likely to adversely affect the City's ability to meet those goals.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.20 District R-O, Residential Office
 - §162.01(P) Unit 15. Neighborhood Shopping Goods
- Request Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.20 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 25	Offices, studios, and related services
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies
Unit 45	Small scale production

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.* (Per dwelling unit for residential structures)

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	60 feet
Two (2) family	60 feet
Three (3) or more	90 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouses:	
Development	10,000 square feet
Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	6,500 square feet
Three (3) or more	8,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured home	3,000 square feet
Townhouses & apartments:	
No bedroom	1,000 square feet
One bedroom	1,000 square feet
Two (2) or more bedrooms	1,200 square feet
Fraternity or Sorority	500 square feet per resident

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Front, in the Hillside Overlay District	15 feet
Side	10 feet
Side, when contiguous to a residential district	15 feet
Side, in the Hillside Overlay District	8 feet
Rear, without easement or alley	25 feet
Rear, from center line of public alley	10 feet
Rear, in the Hillside Overlay District	15 feet

Urban Form Setback Regulations:

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line
Side	5 feet
Side-zero lot line*	A setback of less than 5 feet (zero lot line) is permitted on one (1) interior side, provided a maintenance agreement is filed.** The remaining side setback(s) shall be 10 feet
Rear	None
Rear when contiguous to a single family residential district	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any 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.* 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 No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4726, 7-19-05; Ord. No. 4943, 11-07-06; Ord. No. 5079, 11-20-07; Ord. No. 5195, 11-6-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; 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. 6164, §§1, 2, 3, 4-2-19; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

162.01 Establishment/Listing

(P) Unit 15. Neighborhood Shopping Goods.

- (1) *Description.* Unit 15 includes a variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential districts. All uses classified under Use Unit 15 must be within a building containing 25,000 square feet or less excluding areas dedicated to residential uses.

(2) *Included Uses.*

Personal services	• Barber/Salon
	• Dry cleaning
	• Laundry facility
	• Tailoring
Retail	• Apparel and accessory
	• Bakery, pastry shops
	• Bicycle shop
	• Bookstores
	• Coffee shop
	• Delicatessen
	• Drugstore
	• Electronics
	• Florists
	• Food specialty stores
	• Furniture and Home Decor
	• Grocery
	• Hardware store
	• Health food store
	• Hobby/craft shop
	• Ice cream
	• Jewelry/watch sales and repair
	• Meat market
	• Music instruments
	• News and magazine stand
	• Optical goods
	• Pet shop
	• Photography Studio
	• Picture framing
	• Shoe store
	• Sporting goods
	• Stationary store
	• Toy store
	• Video rental
Vehicular Sales (interior display only)	• Automobile
	• ATV/Motorcycle
	• Boat/Personal Watercraft (PWC)

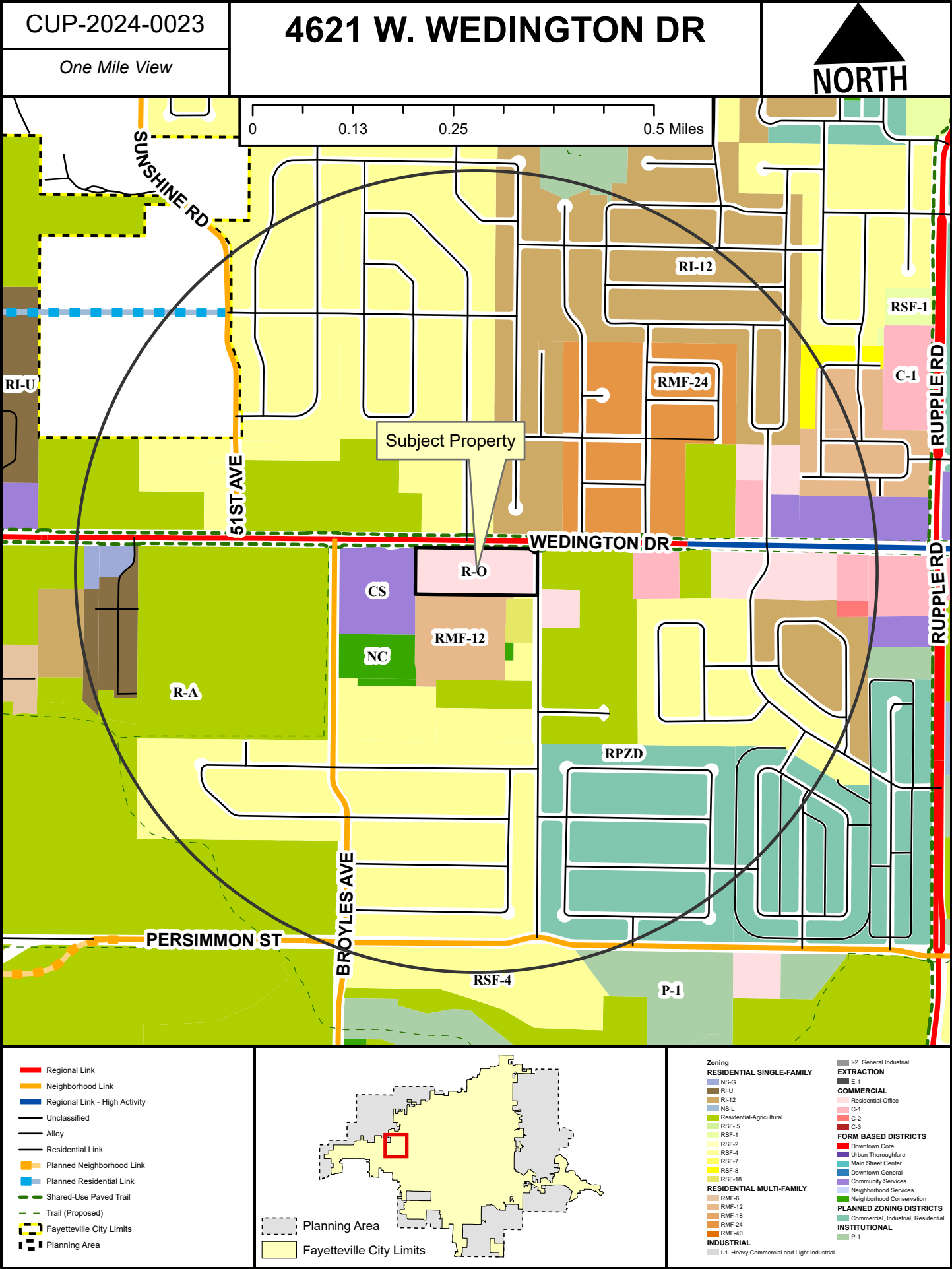
To: Fayetteville Planning Commission:

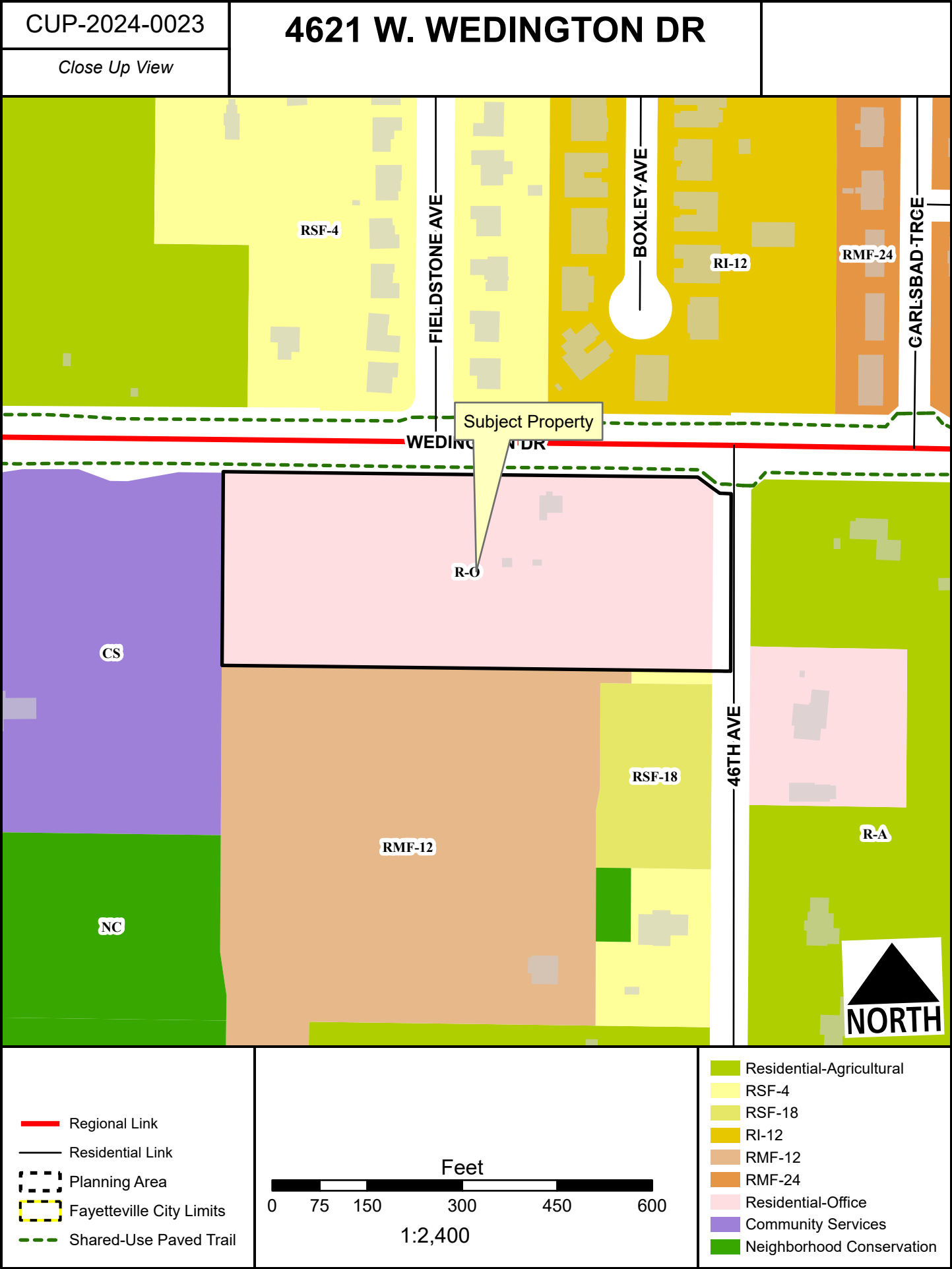
We are Greg and Carolyn Johnson, owners of G&C Fireworks. We are requesting a conditional use permit to sell fireworks at 4621 W. Wedington Dr. in Fayetteville, AR. We have received written and verbal permission from the owner of the property and all info regarding this location and requested use information are as follows:

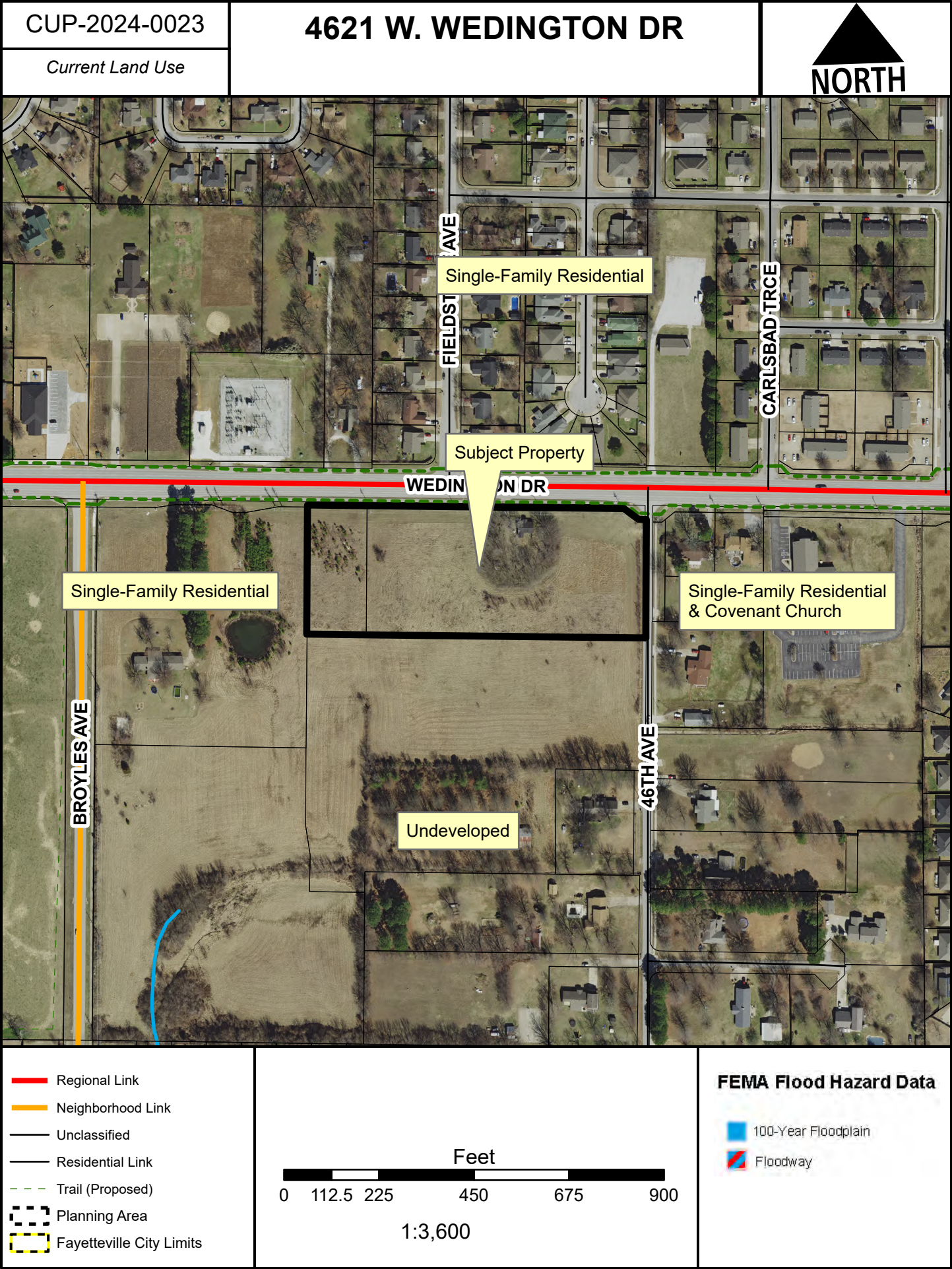
- a) Tent is 900 square feet
- b) Tent is white on top and all side walls are white as well
- c) Parking spaces are located at front and side of property, facing Wedington and N 46th Ave. There are approximately a total number of 15-20 spaces. The entrance for the property is located on N 46th Ave
- d) Hours of operation – 10:00am-10:00pm from 6/28/24 to 7/4/24. Numbers of employees – 2. Anticipated number of patrons average per day – 50/during peak hours - 10
- e) No outdoor lighting. Lighting will be inside tent only
- f) Noise – N/A
- g) Screening or buffering from adjacent properties – N/A
- h) Trash – We will have our own trash cans in the tent and dispose of all trash each day with our truck.
- i) This location will be accessible by vehicles on the N 46th Ave side of the street. There is a pull in or driveway located on that side of the property. If anyone is on foot, they can enter the property from Wedington or N 46th Ave by walking.
- j) This lot is currently vacant. We have done fireworks in years past and have not had any issues of noise, traffic problems or property issues at any location we have been at. This particular lot is located in between other vacant lots and homes nearby are not facing this property but rather facing opposite direction.

Thank you,

Greg and Carolyn Johnson









TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: June 24, 2024

SUBJECT: **RZN-2024-0030: Rezoning (N. FUTRALL DR BETWEEN WEDINGTON DR & MLK BLVD/WATSON, 480):** Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located on N. FUTRALL DR BETWEEN WEDINGTON DR & MLK BLVD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 6.62 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

RECOMMENDATION:

Staff recommends tabling of RZN-2024-0030 until the July 8, 2024 Planning Commission meeting at the applicant's request.

RECOMMENDED MOTION:

"I move to table RZN-2024-0030 until the July 8, 2024 Planning Commission meeting."

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: June 24, 2024

SUBJECT: **RZN-2024-0026: Rezoning (WEST OF 2910 N. OLD WIRE RD/LIVINGSTON SUBDIVISION, 254):** Submitted by JORGENSEN AND ASSOCIATES for property located WEST OF 2910 N. OLD WIRE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 1.87 acres. The request is to rezone the property to RSF-18, RESIDENTIAL SINGLE FAMILY, EIGHTEEN UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2024-0026** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2024-0026** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is located in east Fayetteville, roughly 700 feet west of the intersection of N Crossover Rd. and N Old Wire Rd. While the overall property was rezoned from RSF-4, Residential Single-Family, Four Units per Acre to a split zoning of NC, Neighborhood Conservation on the western half and R-A, Residential Agricultural over the eastern half on April 18, 2023 (RZN-2023-0004), the current request only applies to a 1.87-acre portion adjacent to N. Old Wire Rd. A preliminary plat was approved by Planning Commission on July 10, 2023 (PPL-2023-0003) and an associated grading permit was issued on January 18, 2024. The infrastructure for this project, including water, sewer, and interior roads is currently under construction. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

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

Request: The request is to rezone 1.87 acres from NC, Neighborhood Conservation to RSF-18, Residential Single-Family, Eighteen Units per Acre.

Public Comment: Two members of the public offered comment in opposition of the item during the initial rezoning request in 2023, citing potential increase in traffic, environmental concerns, negative impact to home values and neighborhood character, and lacking existing infrastructure including schools. Since then, staff has received a general inquiry concerning the updated request but no comments specifically in favor or opposed.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along N. Old Wire Rd., a partially improved neighborhood link with asphalt paving and open. Any street or drainage improvements required in these areas would be determined at the time of the development proposal.

Water: Public water is available. An existing 8-inch water main is present on the southeast side of the subject property.

Sewer: Sanitary sewer is available. An existing 12-inch sewer main is present on the subject property and an existing 6-inch sewer main is present on the north side of N. Old Wire Rd.

Fire: Station 5, located at 2979 N. Crossover Rd., protects this site. The property is located approximately 0.3 miles from the fire station with an anticipated drive time of approximately 1 minute using existing streets. The anticipated response time would be approximately 3.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

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

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District. The subject area does not include FEMA floodplain, streamside protection, or hydric soils.

Tree Preservation:

The proposed zoning district of RSF-18, Residential Single-Family, Eighteen Units per Acre requires **20% minimum canopy preservation**. The current zoning district of NC, Neighborhood Conservation 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 a **Residential Neighborhood** and **Natural Area**.

Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context: single-family, duplexes, rowhouses, multifamily and accessory dwelling units. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features

of the natural environment. Building setbacks may vary depending on the context of the existing neighborhood.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a ranged score of 4-6 for this site, with a weighted score of 6. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #5, 2979 N Old Wire Rd.)
- Near Sewer Main (8" sewer main, N Old Wire Rd.)
- Near Water Main (6" water main, N Old Wire Rd.)
- Near Public School (Butterfield Trail Elementary School)
- Near City Park (Gulley Park)
- Near Paved Trail (Niokaska Creek Trail)

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. Residential uses and densities located near the subject property vary substantially, though with large areas of RSF-4, Residential Single-Family, Four Units per Acre. Neighboring properties are of a variety of sizes but generally follow a cul-de-sac development pattern. When the overall property was rezoned in 2023, the applicant downzoned 5.75 acres from RSF-4 to R-A, Residential Agricultural to limit development potential in an area with both FEMA floodplain and streamside protection zones. This downzoning was paired with higher density in the remainder of the site, allowing the site to increase density while minimizing negative impact within sensitive ecological areas. Staff notes that further increasing development intensity further along N. Old Wire Rd. is likely to have minimal impact on surrounding low density neighborhoods a sizeable portion of the proposed rezoning area will still have NC, Neighborhood Conservation as a transitional area.

The existing and proposed zoning districts both include an urban form build-to-zone of 0-25 feet. When compared to NC, rezoning to RSF-18 will decrease the minimum lot size for single and two-family uses from 4,000 sf to variable widths based on uses (1,250 square feet for townhouses and 2,500 square feet for one- and two-family dwellings). Minimum lot widths would also be reduced from 40 feet to 30 feet. Both NC and RSF-18 include a three-story height limit. Since the subject property contains roughly 1.87 acres of NC, a maximum of eighteen (18) units are permitted under current entitlements, where the proposed rezoning to RSF-18 would increase the density cap to thirty-three (33) units. That said, any future development would be subject to, and limited by, minimum parking requirements, tree preservation, drainage, and access management standards. While the area could benefit from a mixed-use district such as NS-L, Neighborhood Services Limited given the lack of commercial services in the area, staff notes that the narrow width of the rezoning request may not lend itself to commercial development

and that additional residential density could support future commercial uses in the area.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from NC to RSF-18 serves to contribute towards City Plan 2040 Goals #1 – Appropriate Infill, Goal #2 – We will discourage suburban sprawl, Goal #4 – Growing a Livable Transportation Network, and Goal #6 – Create Opportunities for Attainable Housing. The site scores relatively low on the Infill Scoring Matrix due to water/sewer access, public parks and trails, and the proximity of fire station #5 and Butterfield Trail Elementary School. The existing and proposed zoning districts have identical uses by right and similar conditional uses. The Future Land Use Map designates this portion of the site as “Residential Neighborhood Area” – a designation which supports support a wide variety of housing types of appropriate scale and context including single-family, duplexes, rowhouses, multifamily and accessory dwelling units. The existing NC zoning would create a transition area between the denser development adjacent to N. Old Wire Rd. and larger lots further away from the corridor, and the creation of smaller lots could encourage smaller residential units which could be more affordable.

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

Finding: Staff finds that rezoning to RSF-18 is justified. Because rezoning will better support infill redevelopment of the property, staff finds the proposed zoning to be consistent with the City’s future land use goals and therefore needed at this time.

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

Finding: Rezoning to RSF-18 has an associated potential to increase traffic at this location. RSF-18 permits development at 18 units per acre where it is currently limited to 10 units per acre. Staff finds potential to increase the number of residential units above what is currently allowed by right subject to constraints such as steep slopes, tree preservation requirements, and other design requirements. Staff finds the increase in density is unlikely to result in increased traffic danger or congestion, particularly given the small size and narrow width of the requested rezoning area. The subject property has access to N. Old Wire Rd., an improved Neighborhood Link and future development would be required to meet the City’s applicable access management and parking standards.

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

Finding: Rezoning the property to RSF-18 may increase the load on public services, but the impact is not expected to be detrimental. The size of the property and access to existing water and sewer infrastructure means future development

will likely avoid the need for costly extensions to services. Fayetteville Public Schools did not comment on this request.

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

Finding: N/A

RECOMMENDATION: Planning staff recommends approval of RZN-2024-0026.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.29 NC, Neighborhood Conservation
 - §161.10 RSF-18, Residential Single-Family, Eighteen (18) Units per Acre
- Applicant Request Letter
- Site Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.29 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(E) *Setback Regulations.*

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

Rear, from center line of an alley	12 feet
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(F) *Building Height Regulations.*

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

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

161.10 District RSF-18, Residential Single-Family - Eighteen (18) Units Per Acre

(A) *Purpose.* The RSF-18 Single-family Residential District is designed to promote and encourage the efficient development of single-family detached residences in a variety of densities.

(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.*

Units per acre	Eighteen (18) or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	30 feet
Two (2) family	30 feet

(2) *Lot Area Minimum.*

Townhouses: individual lot	1,250 square feet
Single-family	2,500 square feet
Two-family	2,000 square feet

(E) *Setback Requirements.*

Front	Side	Side-Zero Lot Line*	Rear
A build-to zone that is located between the front property line and a line 25	5 feet on both sides	A setback of less than five feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is	5 feet

ft. from the front property line.		filed**. The remaining side setback(s) shall be 10 feet.	
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* A zero lot line is an alternative to the 5 foot building setback. Applicants should consult the International Building Code when locating a structure in close proximity to property lines and/or adjacent structures.

** At least 5 feet of maintenance area shall be provided along a structure that is within 5 feet of a property line. This may be provided through a perpetual maintenance easement on the adjacent property, or through a combination of a maintenance easement and private property. Walls, fences and customary yard accessories are permitted in the maintenance area.

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* The area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width for two-family dwellings.

(Ord. No. 5800, §2(Exh. B), 10-6-15; Ord. No. 5824, §2, 11-17-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 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.



June 4, 2024

City of Fayetteville
Development Services
113 West Mountain Street
Fayetteville, AR 72701

Re: Rezoning at 2910 N Old Wire Road (Livingston Subdivision)

Dear City Staff;

On Behalf of the Owner and their representatives, we are submitting a rezoning request for property located along 2910 N Old Wire, Fayetteville, AR 72703.

- A. The current owner of this site is as follows: J&M Capital Ventures (Parcel Numbers 765-16047-000, 765-13287-000. 765-16043-000.
- B. Currently this property is zoned NC
- C. This property is surrounded by RSF-4 on the north and west, a portion of P-1 to the south and north, and section of R-O to the east.
- D. Existing adequate water and sewer are already at this site.
- E. We feel the requested rezoning is in line with the goals of the City Plan 2040 where the future land use calls for a portion of Residential Neighborhood and Natural.

Statement of Compatibility:

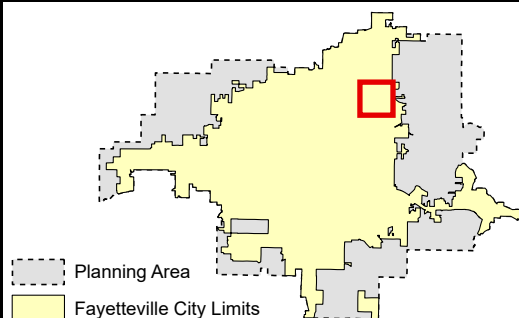
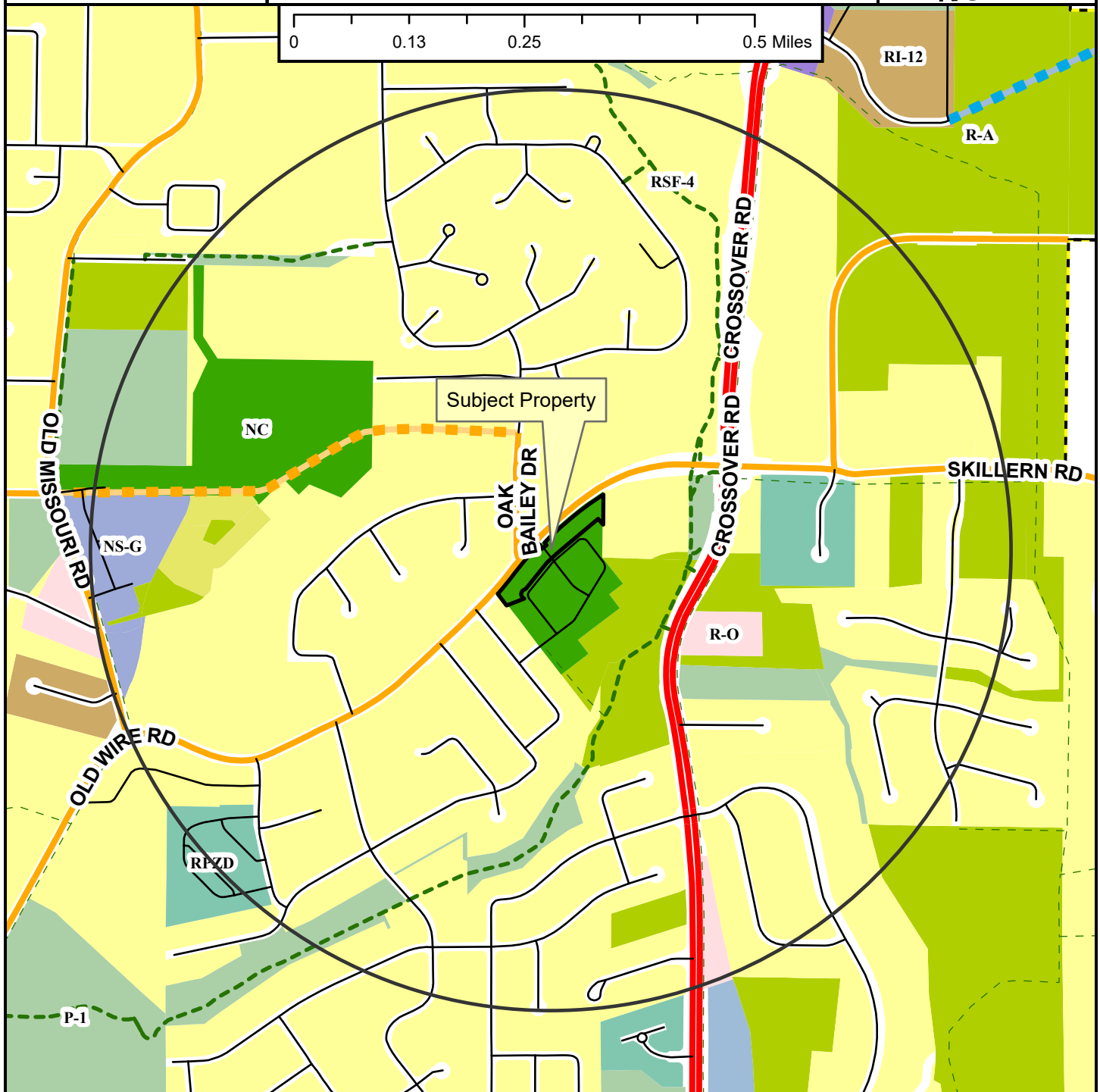
This request to rezone a portion of the NC to RSF-18 along Old Wire Road, will create a transitional zoning boundary that will allow for a more diverse type of housing within this neighborhood and help in addressing some of the housing issues within the City. Within reasonable proximity, our firm recently requested a rezoning of a portion of the property south of Butterfield Elementary (known as Stage Station) to RSF-18. The City Council passed this request and thus set a precedence for similar development patterns that serve to promote and protect the neighborhood character. This being said, we believe that this rezoning is compatible with the current surrounding uses.

RZN-2024-0026

2910 N. OLD WIRE RD

One Mile View

NORTH



Zoning

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

RESIDENTIAL SINGLE-FAMILY

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

COMMERCIAL

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

FORM BASED DISTRICTS

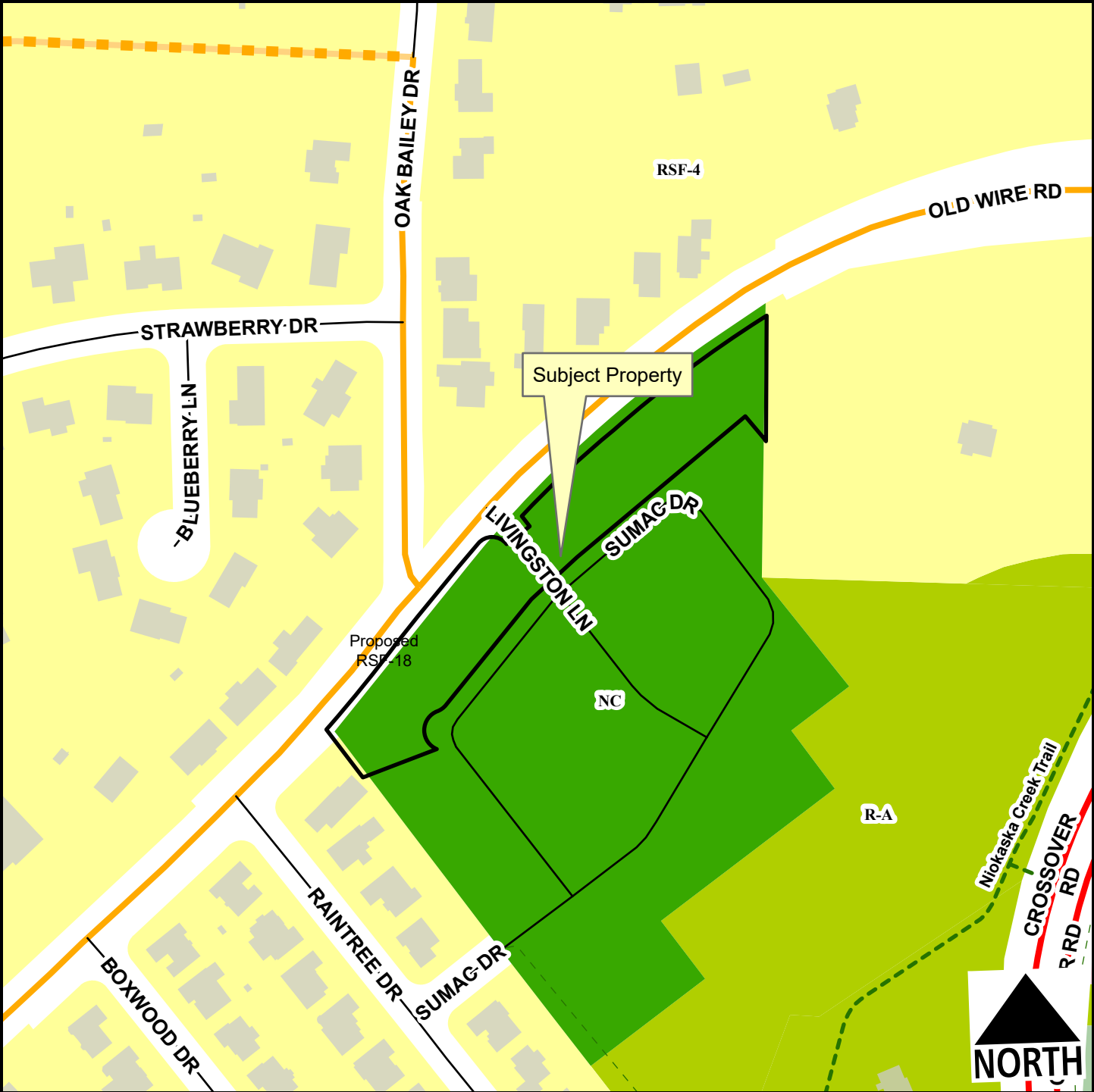
- Downtown Core
- Urban Thoroughfare
- Main Street Center
- Downtown General
- Community Services
- Neighborhood Services
- Neighborhood Conservation

PLANNED ZONING DISTRICTS

- Commercial, Industrial, Residential

INSTITUTIONAL

- P-1



Regional Link

Neighborhood Link

Residential Link

Planned Neighborhood Link

Trail (Proposed)

Planning Area

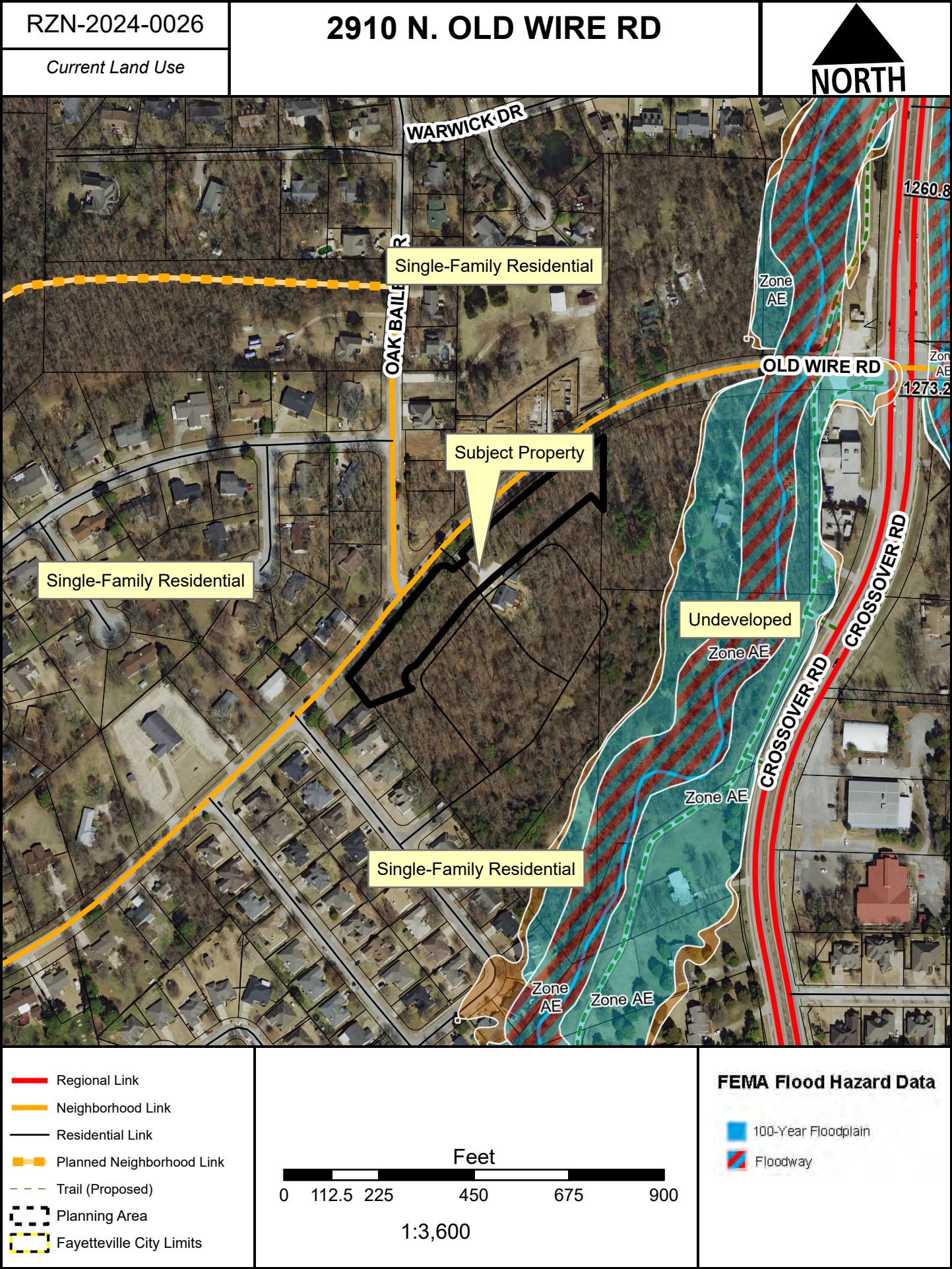
Fayetteville City Limits

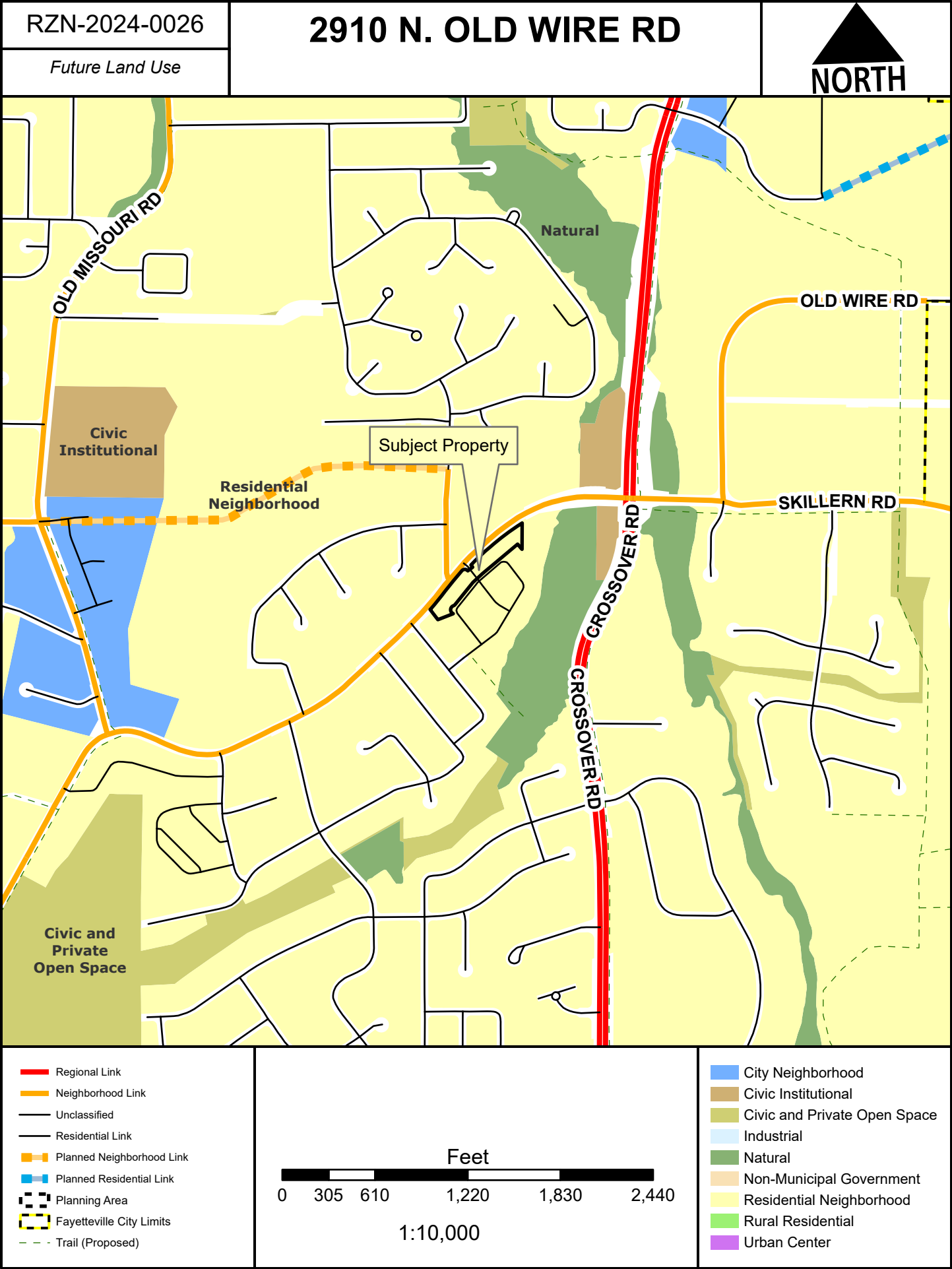
Feet

0 75 150 300 450 600

1:2,400

Zone	Current	Proposed
NC	1.8	0.0
RSF-18	0.0	1.9
RSF-4	0.0	0.0
Total 1.9 ac		







TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: June 24, 2024

SUBJECT: **RZN-2024-0027: Rezoning (1440 S. CURTIS AVE./MOSES TUCKER PARTNERS, 565):** Submitted by PAYNE PHILLIPS for property located at 1440 S. CURTIS AVE. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 6.43 acres. The request is to rezone the property to UT, URBAN THOROUGHFARE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2024-0027** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0027** to the City Council with a recommendation of approval."*

BACKGROUND:

The subject property is located at the northeast corner of 15th Street and Curtis Avenue. The property contains one parcel totaling approximately 6.43 acres which is undeveloped and zoned C-1, Neighborhood Commercial. Surrounding land uses and zoning are depicted below in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	C-2, Thoroughfare Commercial RMF-24, Residential Multi-Family, 24 Units per Acre
South	Industrial	I-2, General Industrial
East	Industrial	C-2, Thoroughfare Commercial I-2, General Industrial
West	Gas Station	CS, Community Services

Request: The request is to rezone the subject property from C-1, Neighborhood Commercial, to UT, Urban Thoroughfare.

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

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

Streets: The subject property has frontage along Curtis Avenue and 15th Street. Curtis Avenue is a partially improved Residential Link Street with asphalt paving, curb and gutter, and sidewalk along the west side of the street. 15th Street is a fully

improved Regional High-Activity Link Street with asphalt paving, curb and gutter, and sidewalks. 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 12-inch water main is present at the southeast corner of Curtis Avenue.

Sewer: Sanitary sewer is available to the subject property. An existing 12-inch sewer main is present on the east side of 15th Street.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District or a FEMA-designated floodplain and no protected streams are present. Hydric soils are present though which are known indicators of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits are issued for the property, a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal. Any improvements or requirements for drainage will be determined at the time of development submittal.

Fire: Station 3, located at 1050 S. Happy Hollow Rd., protects this site. The property is located approximately 0.4 miles from the fire station with an anticipated drive time of approximately one minute using existing streets. The anticipated response time would be approximately 3.2 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, UT, Urban Thoroughfare, requires **15% minimum canopy preservation**. The current zoning district, C-1, Neighborhood Commercial, 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 Area**.

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a mix of non-residential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single-family to multi-family. Non-residential and commercial uses are primarily located at street intersections and along major corridors. Ideally, commercial uses would have a residential component and vary in size, variety

and intensity. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Building setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of 4-6 for this site with a weighted score of 7 at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 3, located at 1050 S. Happy Hollow Rd.)
- Near Sewer Main (12-inch main, Curtis Avenue)
- Near Water Main (12-inch main, 15th Street)
- Near City Park (Doc Mashburn Park)
- Near ORT Bus Stop (Route 20)
- Appropriate Future Land Use (City Neighborhood Area)

FINDINGS OF THE STAFF

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

Finding: ***Land Use Compatibility:*** Staff finds the requested rezoning to be compatible with surrounding land uses. The property is located along a portion of 15th Street which is maintained by the Arkansas Department of Transportation and classified as a Regional High-Activity Link Street in the City's 2040 Master Street Plan. The property is surrounded by the industrial park to the south and east, residential and commercial uses to the north, and a gas station to the west. Its current zoning, C-1, Neighborhood Commercial, is designed to provide convenience goods and services for persons living in surrounding residential areas. While it provides an urban form setback option, development in C-1 zoning typically follows a more traditional auto-oriented setback requirement with parking in front of structures. A rezoning to UT, Urban Thoroughfare, would require urban form setbacks and encourage commercial and mixed use development. Urban Thoroughfare would allow residential uses and a wider variety of nonresidential uses, including cultural and recreational facilities, transportation trades and services, hotels, and liquor stores, by right. A rezoning from C-1 to UT would also increase the maximum building height on the property from five stories to seven stories.

Land Use Plan Analysis: Staff finds the applicant's request to be consistent with the City's adopted land use plans. City Plan 2040's Future Land Use Map designates the property as City Neighborhood Area. Those areas are intended to support the widest spectrum of nonresidential and residential uses, and staff finds that a rezoning to UT would support that designation. A rezoning from C-1 to UT could also support Goals 1 and 2 of City Plan 2040, encouraging infill and discouraging sprawl, by allowing for dense mixed-use development along a major thoroughfare in an area that has access to existing city services.

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 C-1 to UT since the proposed rezoning would be consistent with the property's future land use designation as City Neighborhood Area and support 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 C-1 to UT has the potential to increase vehicular traffic in the area when considering that UT would allow for more dense residential development. However, staff finds that the property's proximity to nonresidential uses and bus routes may help reduce the number of vehicle trips generated by future development and limit impacts on vehicular traffic congestion and danger.

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

Finding: Rezoning the property from C-1 to UT has the potential to alter the population density since UT would allow for increased residential development. Given the property's proximity to public streets, water, and sewer, staff finds that the proposed rezoning is not likely to undesirably increase the load on 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-2024-0027 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.21 District C-1, Neighborhood Commercial
 - §161.24 Urban Thoroughfare
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.21 District C-1, Neighborhood Commercial

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.* None.

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

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None
Side, when contiguous to a residential district	10 feet
Rear	20 feet

Urban Form Setback Regulations:

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

(F) *Building Height Regulations.*

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

- (G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.
- (H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 4, 5, 4-2-19; Ord. No. 6223, §1, 9-3-19; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §4, 1-18-22)

161.24 Urban Thoroughfare

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

(B) *Uses.*

(1) *Permitted Uses.*

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

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

(2) *Conditional Uses.*

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

(C) *Density.* None

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family dwelling	18 feet
All other dwellings	None

Non-residential	None
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(2) *Lot area minimum.* None

(E) *Setback regulations.*

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

(F) *Building Height Regulations.*

Building Height Maximum	5 stories/7 stories*
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* A building or a portion of a building that is located between 10 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of seven (7) stories.

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

(G) *Minimum buildable street frontage.* 50% of the lot width.

(Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 7, 8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6223, §1, 9-3-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

May 9, 2024

City of Fayetteville
Planning and Zoning Department
113 West Mountain Street
Fayetteville, AR 72701

RE: Rezoning Application for 1440 S Curtis Ave. Fayetteville, AR 72701

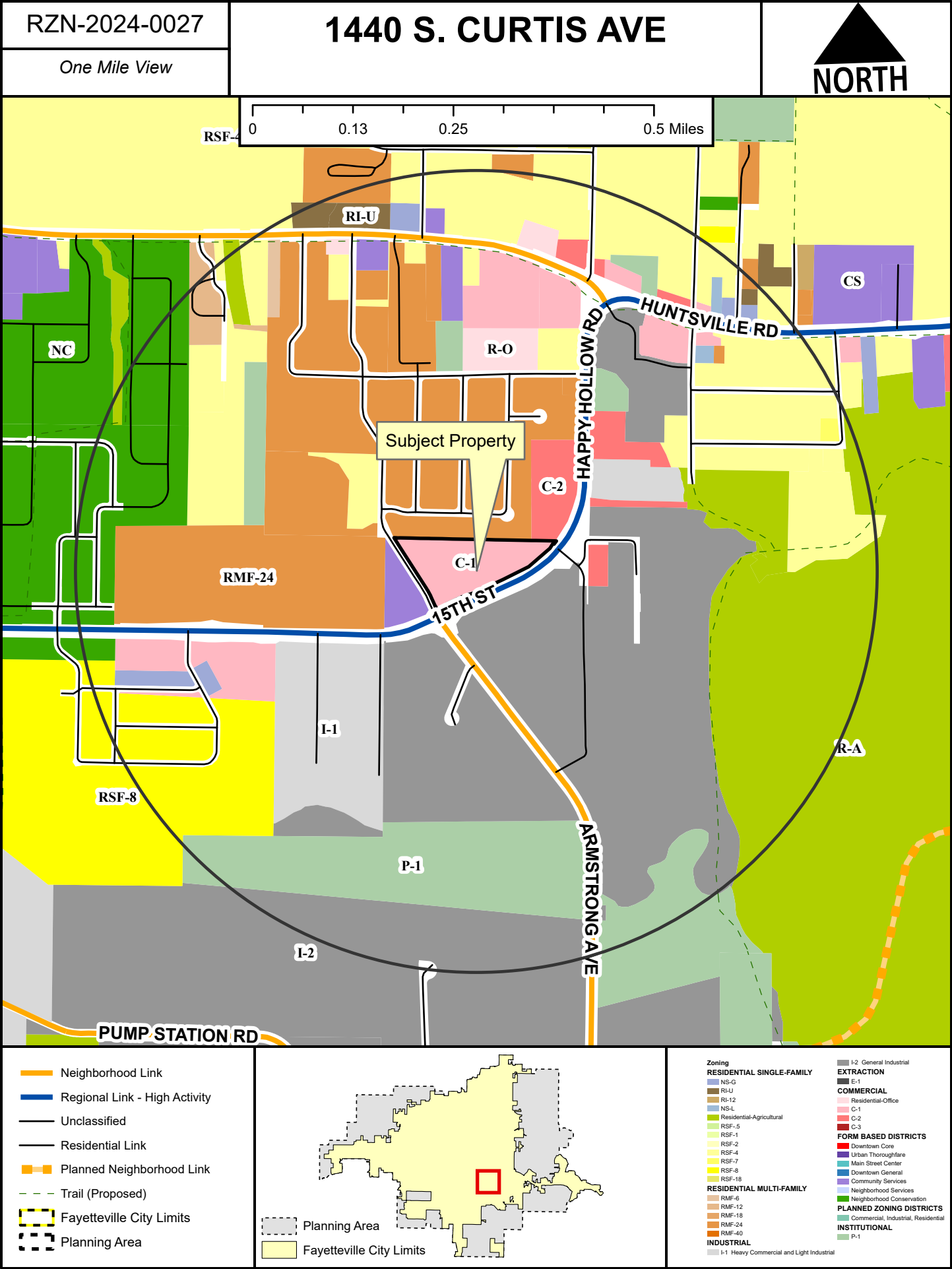
To whom it may concern,

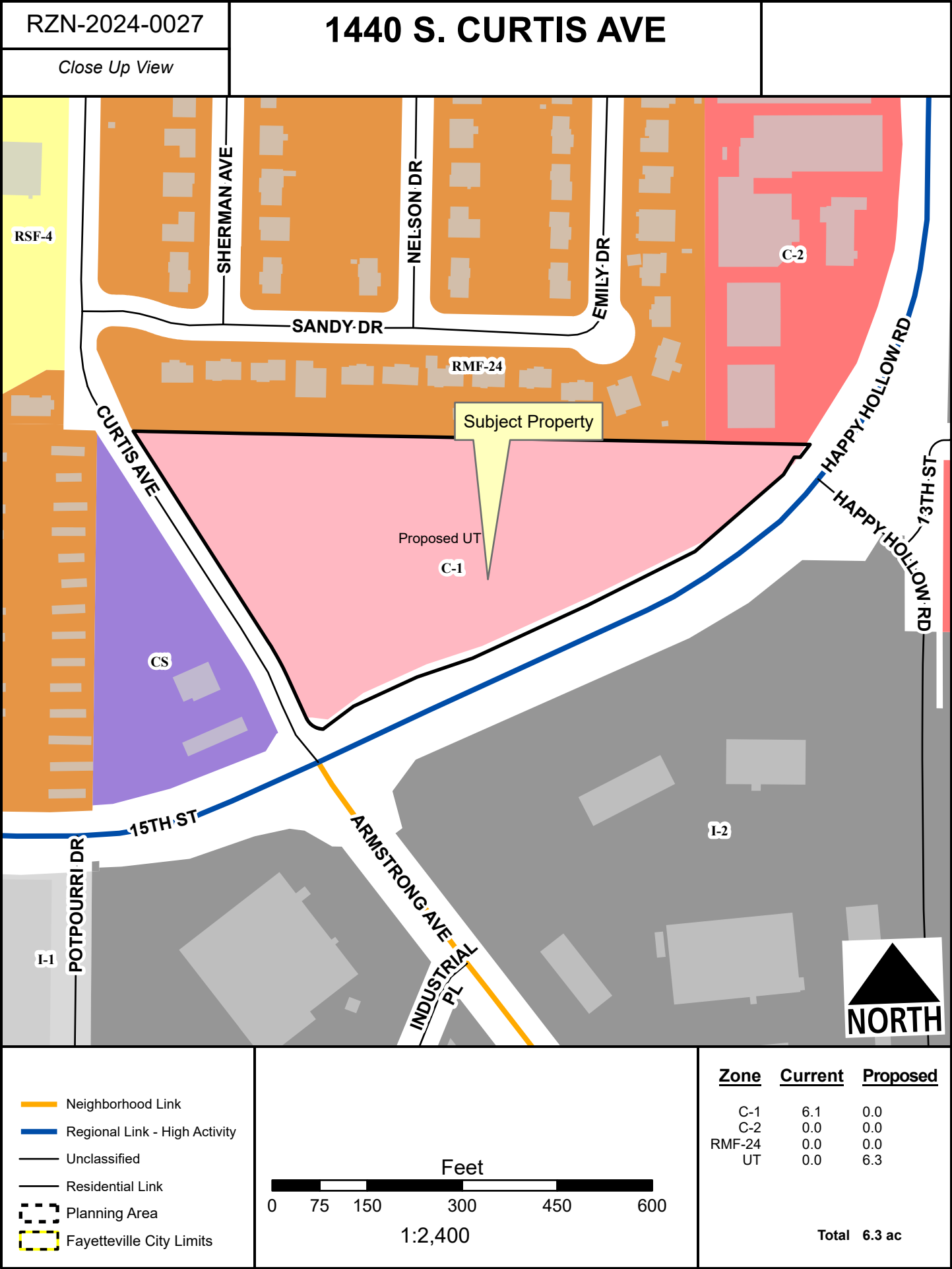
I am writing this letter as part of the rezoning application for 1440 S Curtis Avenue in Fayetteville, Arkansas 72701. The property is currently zoned C-2 and I am requesting the city change the zoning classification to Urban Throughfare (UT). The proposed zoning is compatible with existing land uses, particularly to the northeast, west and south of the property. The adjacent zonings in those directions allow for commercial, mixed-use and industrial uses. This property would make for a great site to provide goods and services for the existing and future people living in that area, who don't seem to currently have many options. The Future Land Use map shows this property as "City Neighborhood" with the other adjacent properties shown as Industrial and Civic Institutional. I feel that changing the zoning classification will conform to the surrounding zoning and use plans and should not adversely affect or conflict with surrounding properties.

I appreciate your assistance.

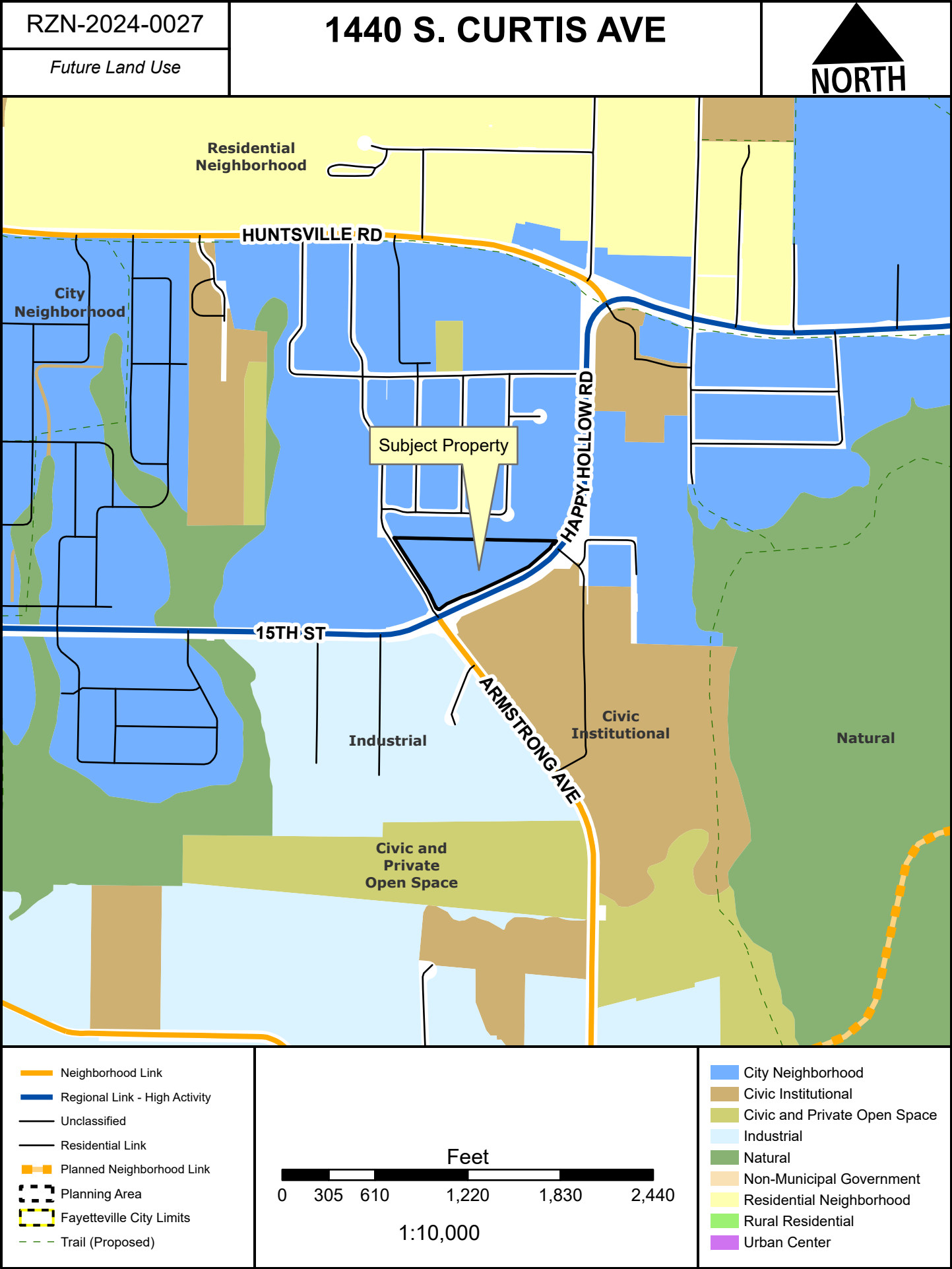
Sincerely,

Payne Phillips











TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: June 24, 2024

SUBJECT: **RZN-2024-0028: Rezoning (EAST OF HARMON FIELD ON S. DUNCAN AVE./MODUS STUDIO, 522):** Submitted by MODUS STUDIO for property located EAST OF HARMON FIELD ON S. DUNCAN AVE. The property is zoned RMF-40, RESIDENTIAL MULTIFAMILY, 40 UNITS PER ACRE and contains approximately 3.7 acres. The request is to rezone the property to MSC, MAIN STREET CENTER.

RECOMMENDATION:

Staff recommends **RZN-2024-0028** be forwarded to the City Council with a recommendation for approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0028** to the City Council with a recommendation of approval."*

BACKGROUND:

The subject area is in central Fayetteville directly east of Harmon Field and 600 feet northeast of the Fayetteville High School building. The subject area contains ten parcels along S. Duncan Ave. containing a total of 3.7 acres split between two areas (1 acre and 2.7 acres) which have been developed with a range of uses from single-, two-, three-and four-family dwellings and larger apartment buildings. The existing structures were built between 1926 -1986. Additional details on each parcel is included in a staff attachment. The subject area is currently zoned RMF-40, Residential Multifamily, 40 Units per Acre and 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–	RMF-40, Residential Multifamily, 40 Units per Acre DG, Downtown General
South	Fayetteville High School Campus (Parking Lot / Driveway)	P-1, Institutional
East	Mixed-Density Residential	RMF-40, Residential Multifamily, 40 Units per Acre (Pending MSC, Main Street Center)
West	Harmon Field	P-1, Institutional

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. An additional commenter sent an email discussing both this rezoning and the rezoning across the street (RZN-2024-0018) and their potential impacts to the existing neighborhood fabric and residents, potential removal of affordable housing, environmental concerns, and concern about the developer trying to acquire properties for this rezoning.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

- Streets:** The subject area has frontage along S. Duncan Ave., a fully improved residential link street with asphalt paving, curb and gutter, and sidewalks. The subject area also has frontage along W. Treadwell St., a partially improved residential link street with asphalt and curb and gutter. 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 12-inch water main is present on the west side of S. Duncan Ave.
- Sewer:** Sanitary sewer is available to the subject area. An existing 6-inch sewer main is present on the west side of the subject property.
- 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 0.6 miles from the fire station with an anticipated drive time of approximately 3 minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.
- Police:** The Police Department 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 11-12 for this site, with a weighted score of 17. The following elements of the matrix contribute to the score:

- 4 Minute Fire Response (Station #1, 303 W. Center St.)
- Near Sewer Main (6" Sewer Main, S. Duncan Ave.)
- Near Water Main (12" Water Main, S. Duncan 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)
- 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 either large apartment structures or the Fayetteville High School campus, with mixed-density residential located to the east. The parcels within the subject area are currently developed with primarily single-family dwellings. Staff notes that since there is a gap in the proposed rezoning area occupied by an existing single-family dwelling, any development adjacent to this parcel would be subject to the additional setbacks of UDC 164.11(C) Home Protection Requirements.

Based on a review of addresses, there are a total of 42 residential dwelling units currently within the subject area. The existing RMF-40 district would permit a maximum of 148 dwelling units on the overall 3.7-acre subject area with a maximum building height of 5 stories, while the proposed MSC 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 38-98 years old with an average age of 71.5 years old. No completed permits aside from one electrical permit for the replacement of meter packs 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, and the subject area is not within a city historic district. An analysis of each parcel's current development is included in a staff exhibit.

The subject area is bound by RMF-40 to both the north and east, which permits multifamily developments and building heights of up to 5 stories. The Cardinal Apartments to the north and the Atmosphere Apartments to the east are both constructed at 5 stories including a parking garage. Harmon

Field, a major sports venue for Fayetteville Schools, is located to the west and the school intends to construct a parking lot extension directly south of the subject area. Additionally, a full city block adjacent to the property to the east was successfully rezoned to MSC with a bill of assurances at the June 18 City Council agenda. This area will likely be developed with a large mixed-use student housing complex. Other structures in direct proximity to the proposed rezoning area include a three-family dwelling and single-family residence south of the intersection of W. Putnam St. and S. Duncan Ave. Staff finds that the greater height permitted by MSC is not likely to negatively affect the surroundings given abutting multi-story apartments and the large school complex, particularly as any development would be limited to 5 stories when within 0'-15' of the front property line.

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.

Staff finds the rezoning both positively and negatively contributes to 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 could 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 greater density 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. Further, cities in Arkansas are prohibited from enacting rent control ordinances per Arkansas Statute.

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 directly east of the Fayetteville High School campus and approximately 600 feet 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 very high, with a weighted score of 17, 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 17 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 a public street and staff finds that given the property’s location near 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-2024-0028 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied		
Motion:					
Second:					
Vote:					

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
 - Proximity to Tier Center Exhibit
 - 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*
-------------------------	----------------------

* 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.

**STAFF EXHIBIT
CURRENT DEVELOPMENT**

Individual Property Findings

65 S. Duncan Avenue (PID: 765-04823-001 & PID 765-04824-000)

- Current Owner: Pryor Properties LLC
- Two-story multifamily apartments (28 units) constructed in 1986 per Washington County Assessor (38 years old).
- Electrical Permit issues 9/23/2020 to replace four gang meter packs

77 S. Duncan Avenue (PID 765-04825-000)

- Current Owner: John E. Adam
- Single-family dwelling constructed in 1928 per Washington County Assessor (96 years old).

89 S. Duncan Avenue (PID 765-04810-000)

- Current Owner: Internation Student Christian
- Two-family dwelling constructed in 1926 per Washington County Assessor (98 years old).

93 S. Duncan Avenue (PID 765-04812-000)

- Current Owner" Lynch Family Trust:
- Three-family dwelling constructed in 1936 per Washington County Assessor (88 years old).

95 S. Duncan Ave (PID 765-04813-000)

- Current Owner: Well-Placed Inc.
- Single-family dwelling constructed in 1926 per Washington County Assessor (98 years old).
- One expired electrical permit (2019) and one voided mechanical permit.

99 S. Duncan Avenue (PID 765-04814-000)

- Current Owner: Samuel O. Donelson, Edward Mick, and Elizabeth S. Mick):
- Single-family dwelling constructed in 1926 per Washington County Assessor (98 years old).

101 S. Duncan Avenue (PID 765-14436-000)

- Current Owner: Edward Mick & Elizabeth S. Mick
- Single-family dwelling constructed in 1931 per Washington County Assessor (93 years old).

103 & 107 S. Duncan Avenue (PID 765-14441-000 and 765-14440-000)

- Current Owner: DFP LLC
- Four-family dwelling constructed in 1936 per Washington County Assessor. Single-family dwelling constructed in 1956 per Washington County Assessor (68 years old).

Statistics:

Total Existing Structures: Ten (10)

Total Existing Residential Units: Forty-two (42)

Average Age of Structures: 71.5 years



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: PROXIMITY TO TIER CENTERS (CITY PLAN 2040)

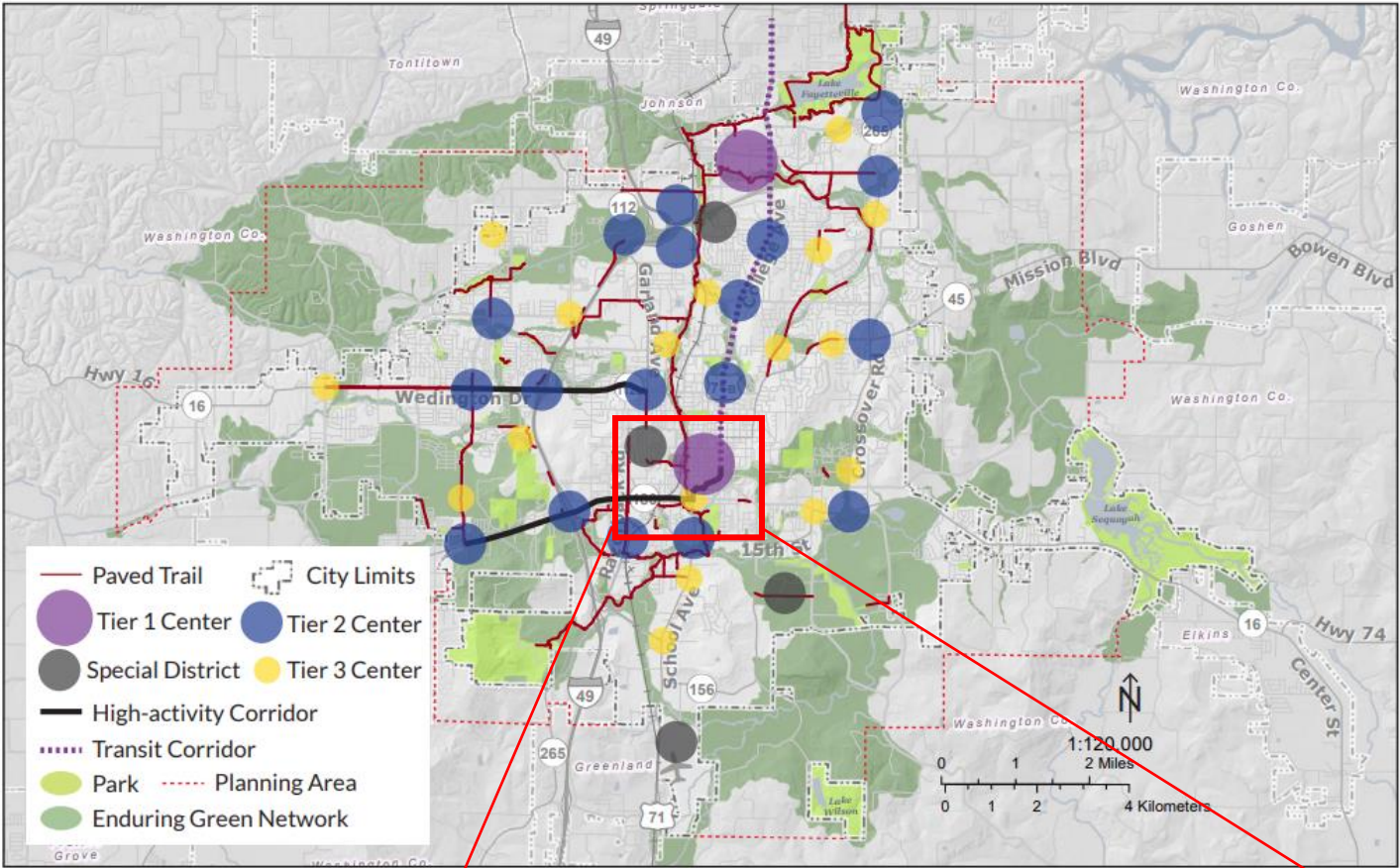
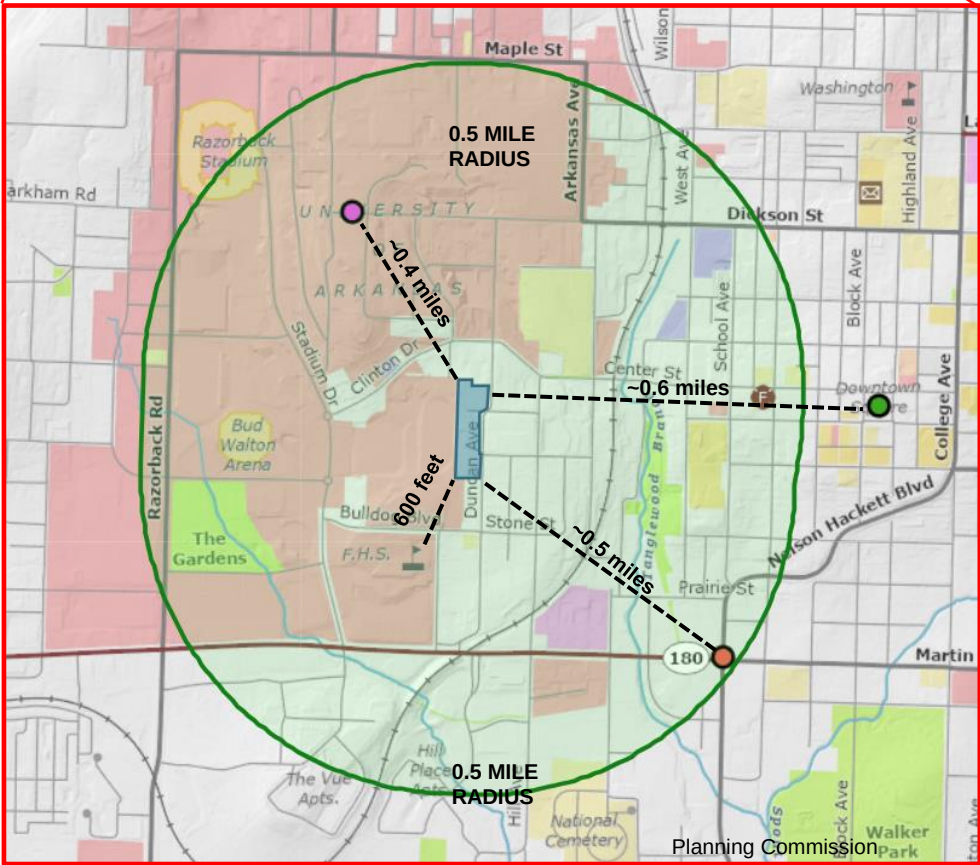


Figure 2.0 - Growth Concept Map



STAFF EXHIBIT: ENERGY ACTION PLAN EXCERPTS
STAFF EXHIBIT: TRAFFIC ACCIDENTS



Wonsower, Donna

From: Planning Shared
Sent: Tuesday, June 11, 2024 2:00 PM
To: Wonsower, Donna
Subject: FW: Treadwell/Hill/Duncan rezone & rzn2024-0028

For you

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: Tuesday, June 11, 2024 1:44 PM
To: Moore, Sarah <sarah.moore@fayetteville-ar.gov>; Wiederkehr, Mike <mike.wiederkehr@fayetteville-ar.gov>; Planning Shared <planning@fayetteville-ar.gov>
Subject: Treadwell/Hill/Duncan rezone & rzn2024-0028

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

Good afternoon,

I'm still asking you vote "No" on this rezone. I understand the UofA needs more student housing but they need to put a cap back on their acceptance until they get caught up or they need to at least, build some student housing themselves, on their campus. They have plenty of parking lots they can make into parking decks with forms above. They have not built any new housing themselves since this mess started.

The City 2040 plan discusses pockets of neighborhood rezone to save certain neighborhoods, this should fall directly in that category. It's such a true neighborhood. It's all about the correct zoning for this area, and a seven story "Marshall" type building is not what needs to be here. When did we start letting developers run the city zoning and decide to turn our city into a faceless, overpriced metropolis?

It's so expensive to build that we can't build cheap enough to create new housing that's this affordable - we have to depend on the existing housing for that. Once it's gone, it's gone.

There is also one person, who owns one lot, across the street from us on Duncan and he is trying to also rezone that entire side of the neighborhood. He's posturing to the city, and the neighbors like he owns

more than he does and has agreed to more than he actually has. He is twisting some neighbor's arms into selling because he's fronting like he's definitely putting a huge seven story development across the street (between Duncan and the High School football field. One landlord in the rezone told me he has no plans to sell, another owner is on some sort of Estate ownership so nothing can be done or purchased until he passed away (and if he magically was forced to move, it'd kill him like other elderly friends I've had), and one lot is even excluded.

If both of these rezoned go through, the entire top of this hill will be stripped, not only of the housing but of the community, ALL OF THE TREES, the birds, foxes, racoons, opossum, deer, etc, the public green space, not to mention all of the transformers and infrastructure updates they would need to deal with all of the water runoff since 90% of the existing green space/previous surface (which is a lot) would be gone.

The attached photo is of the other rezoned, the yellow lot is the only lot he owns.

Please stop all of this madness and vote no, please don't let these developers come in here and lie and scare people into selling their homes for greed. It's all purely about money and it shouldn't be.

Thank you for your time,

Kathryn Cook

Wonsower, Donna

From: Wonsower, Donna
Sent: Thursday, June 6, 2024 8:21 AM
To: hoghouse104@gmail.com
Cc: Curth, Jonathan
Subject: RE: FW: RZN-2024-0018; Request to Table
Attachments: 03 - rezoning request letter_v1.pdf; 04 - bill of assurance_v2.pdf

Good Morning,

See attached for the request letter and proposed bill of assurances for RZN-2024-0028. This item is scheduled to be heard at the June 24 Planning Commission meeting, and I will save your email for inclusion in the Planning Commission packet. Please let me know if you have any further comments you would like to see included.

Please note that the "Approved" stamp on the drawings is only an indication that the document is ready to be heard at the commission and is not an indication of overall project approval.

Best Regards,
Donna Wonsower, AICP Candidate (she/her)
Planner, Development Services

479-575-8358

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



From: Curth, Jonathan <jcurth@fayetteville-ar.gov>
Sent: Thursday, June 6, 2024 8:09 AM
To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>
Subject: FW: FW: RZN-2024-0018; Request to Table

Donna,

During the back-and-forth keeping the public apprised about the Treadwell zoning's tabling at this week's Council, I received the request below for information about the rezoning west of Duncan. It appears you are considering this one as well, right? If so, please accommodate the request below for information on RZN-2024-0028.

Thanks in advance,

Jonathan Curth, AICP
Development Services Director
Development Services Department
City of Fayetteville, Arkansas
jcurth@fayetteville-ar.gov
479.575.8308

From: Scott and Jasmine 104 Duncan <hoghouse104@gmail.com>
Sent: Wednesday, June 5, 2024 6:08 PM
To: Curth, Jonathan <jcurth@fayetteville-ar.gov>
Subject: Re: FW: RZN-2024-0018; Request to Table

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, Jonathan! Do you mind sending me the information about the rezoning request for RZN-2024-0028 when it's available? It looks like this is a similar request for MSG. I don't see how the infrastructure in this area could handle this large of an increase in density. We'll be submitting comments in objection for this one too.

Jasmine Nile

On Wed, Jun 5, 2024 at 8:29 AM Curth, Jonathan <jcurth@fayetteville-ar.gov> wrote:

Certainly, and to confirm, the item was indeed tabled to the next Council meeting on June 18th.

Thanks,

Jonathan Curth, AICP

Development Services Director

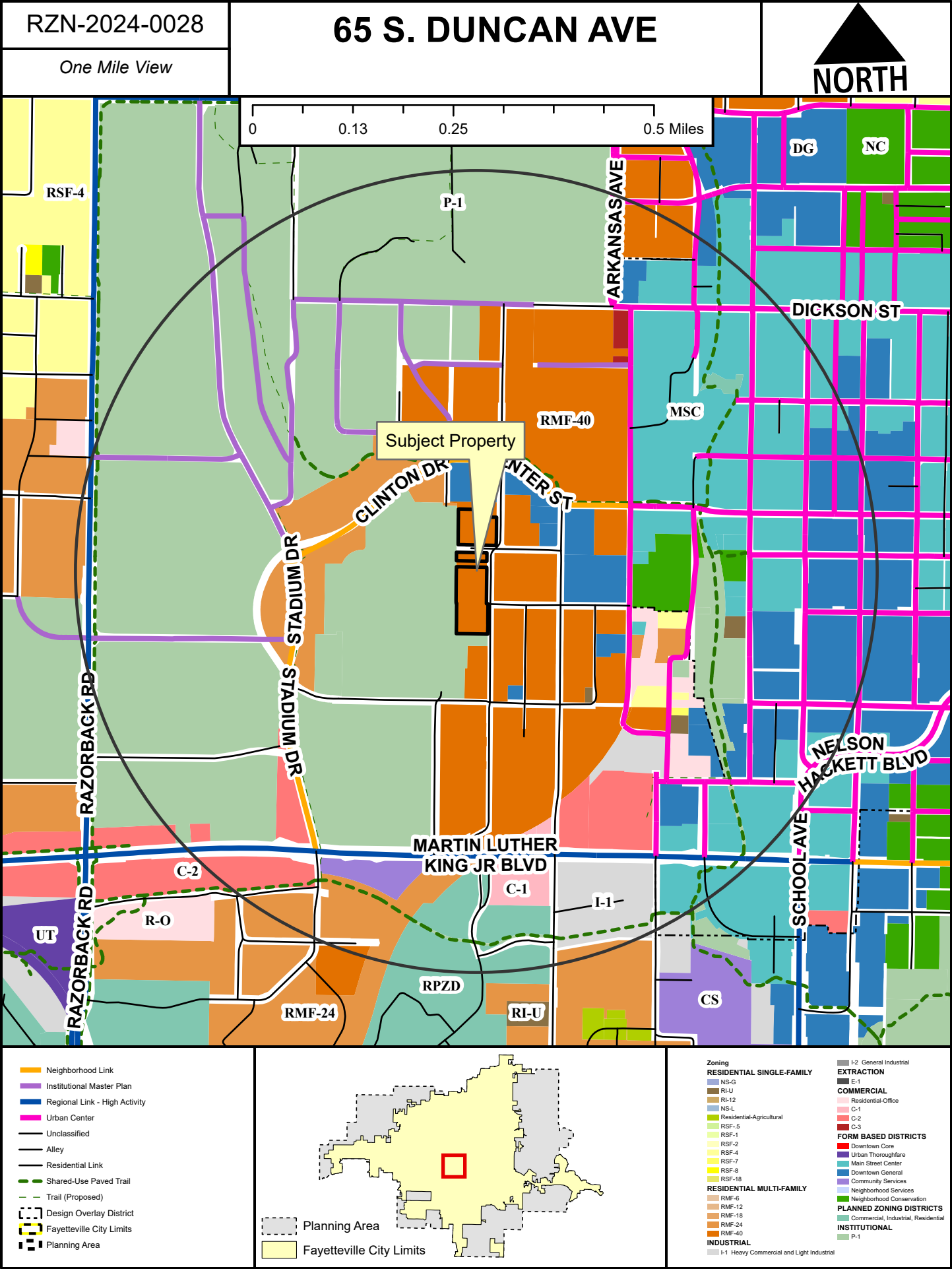
Development Services Department

City of Fayetteville, Arkansas

jcurth@fayetteville-ar.gov

479.575.8308

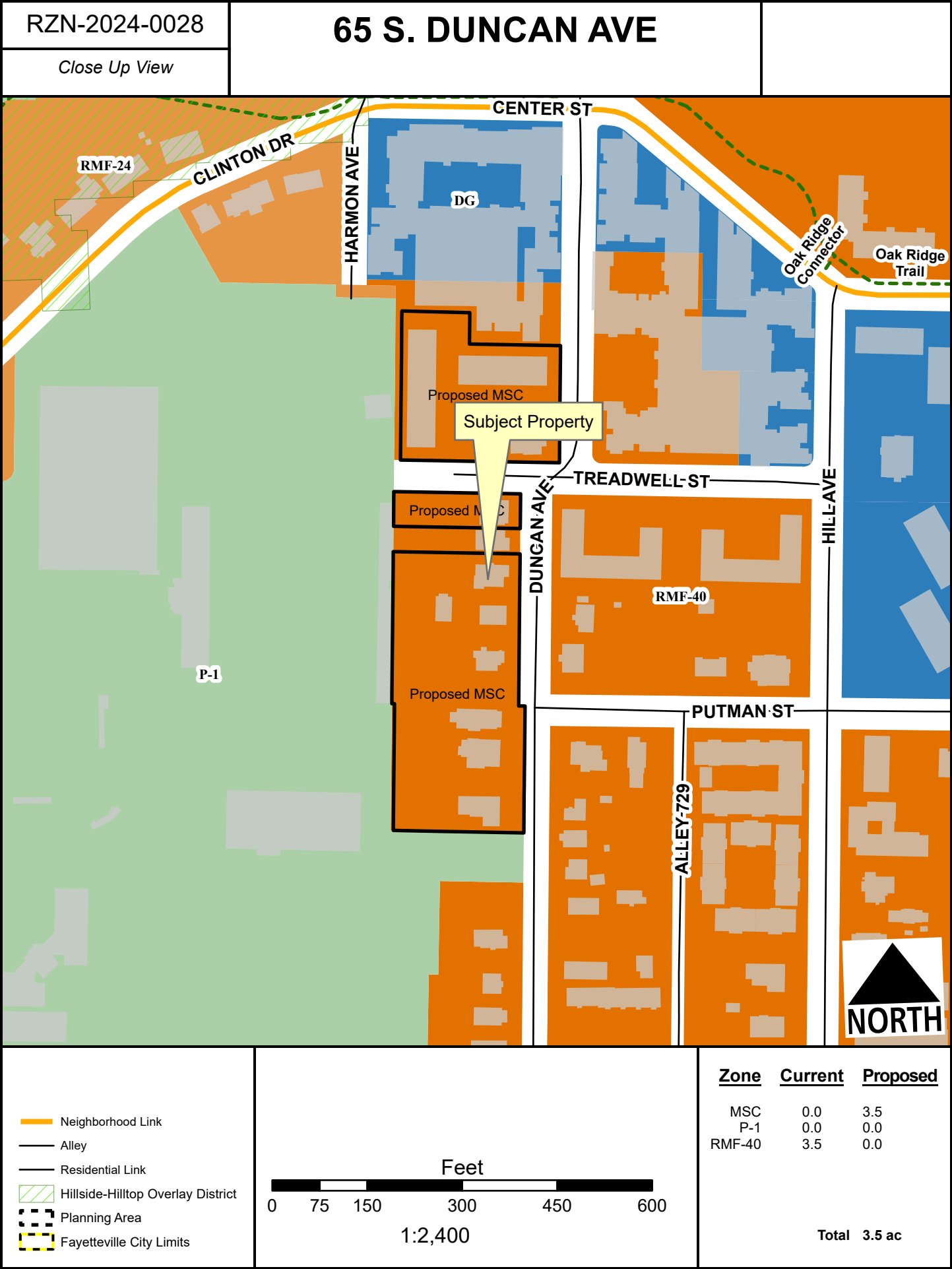
From: Scott and Jasmine 104 Duncan <hoghouse104@gmail.com>
Sent: Tuesday, June 4, 2024 4:05 PM
To: Curth, Jonathan <jcurth@fayetteville-ar.gov>
Subject: Re: FW: RZN-2024-0018; Request to Table

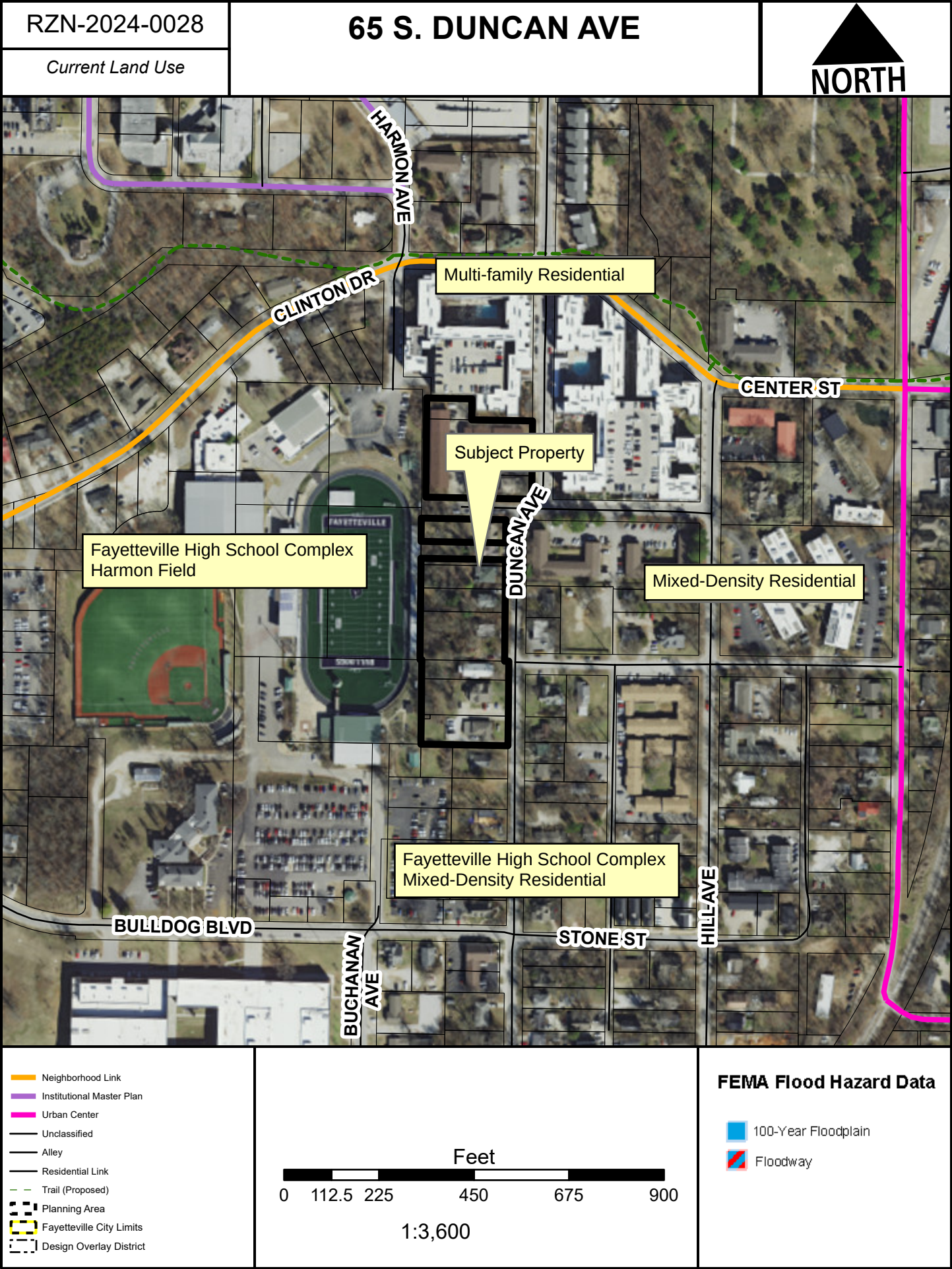


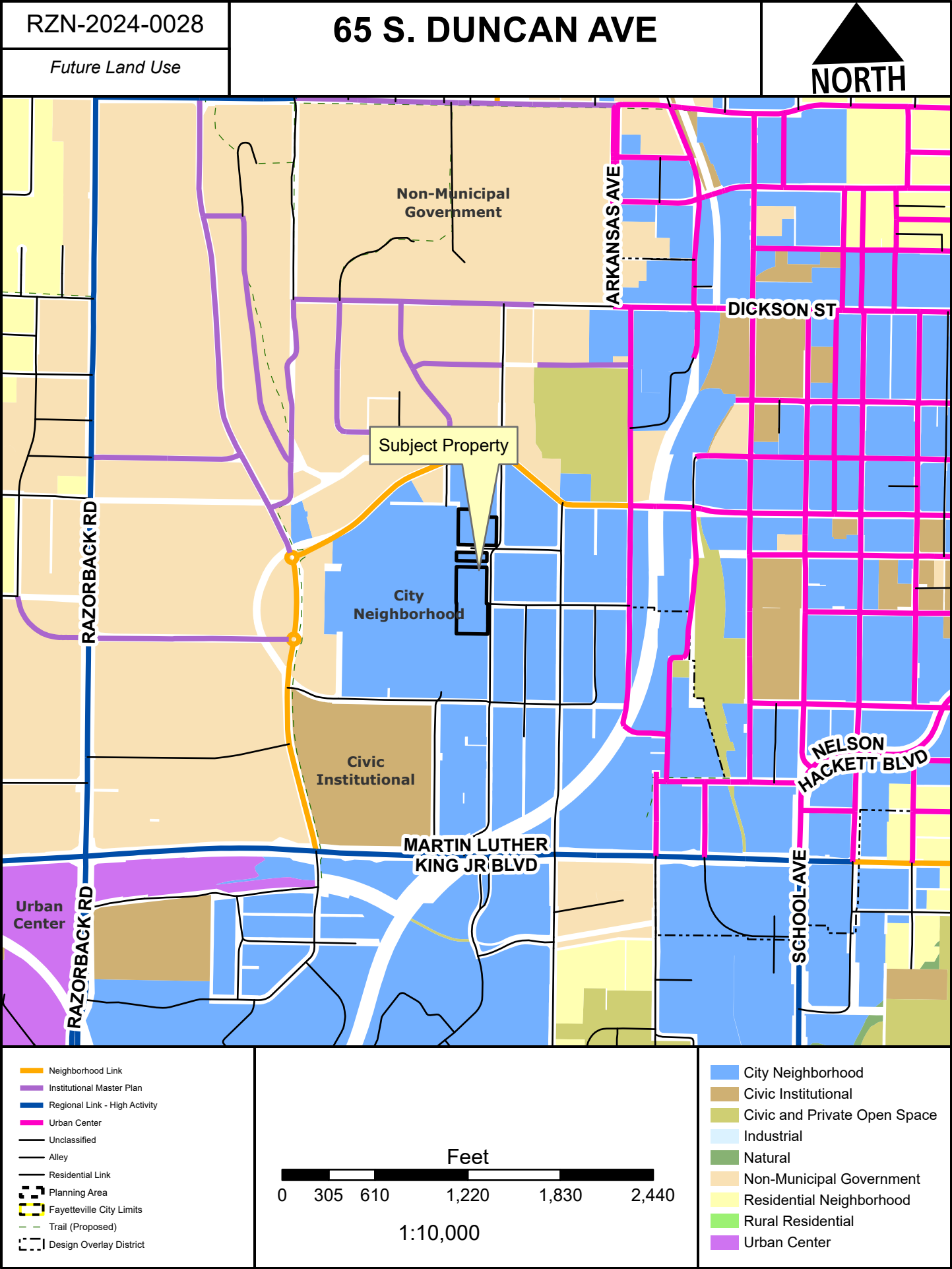
Planning Commission

June 24, 2024

RZN-2024-0028 (MODUS STUDIO) Page 25 of 28









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: Jun 24, 2024

SUBJECT: **RZN-2024-0029: Rezoning (3179 N. OLD WIRE RD./PLEASANT HAVEN SUBDIVISION, 216):** Submitted by CRAFTON TULL for property located at 3179 N. OLD WIRE RD. The property is zoned R-A, RESIDENTIAL – AGRICULTURAL and contains approximately 13.65 acres. The request is to rezone the property to RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE.

RECOMMENDATION:

Staff recommend forwarding **RZN-2024-0029** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0029** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in northeast Fayetteville approximately 0.47 miles northeast of the intersection of N. Old Wire Rd. and N. Crossover Rd. The property contains approximately 13.65 acres and is developed with a single-family dwelling constructed in 1967. 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	Agricultural/Undeveloped	R-A, Residential-Agricultural
South	Single-Family Residential	R-A, Residential-Agricultural
East	Agricultural/Undeveloped	R-A, Residential-Agricultural
West	Two- and Three-Family Residential/Undeveloped	RI-12, Residential Intermediate, 12 Units per Acre; R-A, Residential-Agricultural

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RSF-8, Residential Single-Family, Eight Units per Acre.

Public Comment: To date, staff have received eight written comments in opposition to the request, citing additional traffic, water capacity issues, welfare of nearby farm animals, and overall loss of rural, natural character. These comments are attached.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

- Streets:** The property has frontage along N. Old Wire Rd., a partially improved Neighborhood Link Street with asphalt paving and open ditches. The property also has access to E. Glory Dr., a fully improved Residential Link Street with asphalt paving, curb and gutter, and sidewalk. Any street improvements required in these areas would be determined at the time of development proposal.
- Water:** Public water is available to the subject area. An existing 8-inch water main is present at the end of E. Glory Dr. and an existing 4-inch water main is present along the south side of N. Old Wire Rd.
- Sewer:** Sanitary sewer is available to the subject area. An existing 8-inch sewer main is present at the end of E. Glory Dr.
- 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 0.6 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 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-8, Residential Single-Family, Eight 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 **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 **3-5** for this site with a weighted score of **3.5**. 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, E. Glory Dr.)
- Near Water Main (8-inch, E. Glory Dr.; 4-inch, south side of N. Old Wire Rd.)
- Near City Park (Sweetbriar Park; Rocky Branch 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:*** On the balance of considerations, staff finds the proposed rezoning to be compatible with the surrounding area. The subject property is adjacent to RI-12-zoned two-and three-family senior-living facility north of E. Glory Dr to the northwest. To the north, east, and south are agricultural, undeveloped, and single-family properties. A rezoning to RSF-8 would allow for the by-right development of single-family dwellings with a density of up to eight units per acre. At the highest level, this 13.65 acre property could be developed with a maximum of 109 units. Once right-of-way, tree preservation, and drainage requirements are considered this number is likely significantly lower. Additional housing options providing increased density are available through conditional use, such as two-family dwellings and cluster housing. Although the proposed rezoning on its face may appear somewhat incompatible, it would provide a logical transition in density from the higher density development to the northwest and lower density to the south and east. R-A and RSF-8 have significantly different bulk and area requirements. Lot width minimum in R-A is 200 feet, but in RSF-8 is only 50 feet for single-family development. Lot area in R-A is a minimum of two acres, but in RSF-8 is 5,000 square feet (.11 acres). Staff finds the requested rezoning to be compatible with surrounding land uses providing a logical density transition and potential 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-8 could allow for the creation of residential properties with reduced lot sizes and offer some flexibility in housing types. A Master Street Plan planned street connection bisects the property from east to west, connecting to E. Glory Drive at the west. Staff finds that the requested rezoning could allow for the creation of missing middle housing that meets City Goals 3 (compact, complete and connected development) and 6 (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-8 since the 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-8 does have the potential to increase traffic danger and congestion due to increased density. Potential development could connect to both N. Old Wire Rd. and E. Glory Dr., which would disperse traffic. 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 sewer, 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-2024-0029 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>June 24, 2024</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.03 District R-A, Residential-Agricultural
 - §161.09 District RSF-8, Residential Single-Family, Eight (8) Units Per Acre
- Request Letter

- Public Comment
- 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.

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

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

(2) *Lot Area Minimum.*

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

(3) *Land Area Per Dwelling Unit.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

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



May 15, 2024

City of Fayetteville
Planning Department
113 W Mountain Street
Fayetteville, AR 72701

Re: Rezoning Request for Parcel 765-13255-000 and 765-13254-000
Attn: Planning Staff

Planning Staff,

On behalf of our client, Thomas and Nina Luther, we are submitting the attached application to rezone the above referenced parcel from R-A to RSF-8. Rezoning this parcel to RSF-8 aligns with Fayetteville's Future Land Use designation as Residential Neighborhood. RSF-8 zoning will promote more efficient use of urban space by allowing denser development, thus contributing to Fayetteville's infill goals and addressing the housing crisis. Additionally, RSF-8 zoning will serve as a good transitional zone between the commercial, institutional and residential intermediate zoning located west/northwest of the property and less dense residential location east.

All infrastructure is readily available to the site.

Thank you for your consideration in this matter.

Sincerely,

Caroline Gardner, P.E.
Project Engineer
Crafton Tull

To Whom it May Concern:

I would like to officially state my opposition to the rezoning of the property located at 3179 N Old Wire Rd, Fayetteville, AR 72703. Currently zoned RA; I object to rezoning it to RSF8 – or any other future proposed rezoning. Reasons for my objection fall under the consideration for infrastructure, safety, animal (domestic) welfare and an overall interruption of existing zoning usages.

Development of this magnitude would not be supported by the current roadways in and out of the area. We understand development and progress will take place, but it needs to be done so in a responsible and timely manner. Growth in Fayetteville has far outpaced its ability to allow for safe and reasonable commute throughout it. This is evidenced by an influx in traffic accidents due to roadways that haven't adapted to the increase of traffic caused by the increase in dwellings. Changing the zoning to allow for 8 dwellings per acre will only increase the infrastructural load that isn't currently being met. Old Wire Rd and contributory/distributary roads are not yet ready to handle the increase. Consider also, a new Jr High is going in which will add a significant amount of extra morning and afternoon traffic in this specific neighborhood.

Another consideration is safety and the existing zoning usages. Properties all around are zoned RA. On either side of this property is agriculture production. There is a breeding horse operation to the north, and cattle farms on the east and west. Additionally, there are hay operations, sod farms and small homesteads within the vicinity. A neighborhood in this area presents a potential danger; especially for people moving into a subdivision-type setting that have no knowledge of animal husbandry – what would they do when cows and horses get out? While it's the responsibility of the owners to keep and maintain proper fencing, risk of animal escape is still present. This leads directly into animal welfare.

The presence of neighborhood people adds stress to the animals. We understand people like to approach the fence “to see and pet the animals.” While this seems harmless it triggers animals' flight responses. Dogs present a problem as well when they get out to chase the livestock. Again, the owner has a responsibility to keep their pets enclosed, but escape remains a risk and dog like to chase animals or bark at them as they try to graze on adjacent fields creating unwanted stress. Horses and cattle being raise for a specific purpose have very specific dietary requirements and while it may seem harmless to feed the animals treats it may be averse or even harmful/toxic to their diet potentially harming the animals. Further people may be harming themselves from being kicked, bucked, or bitten by animals that are unpredictable. This is why subdivisions exist where they do, and agriculture areas are separate – as it should remain.

Thank you for concern and consideration,

Ryan Siebenmorgen

To Whom it May Concern,

I hope this letter finds you well. I am writing to share my concerns regarding the proposed rezoning of the property at 3179 N Old Wire Rd, Fayetteville, AR 72703. This property is currently zoned as Residential Agricultural (RA), and I strongly believe it should remain zoned the way it is currently.

Our current road simply cannot support a development of this scale. While I recognize the importance of growth and progress, it must be done responsibly and thoughtfully. Our beautiful city of Fayetteville has been growing rapidly, and unfortunately, our infrastructure has its opportunities. Rezoning to allow for eight homes per acre will only put more strain on our already overburdened roads, particularly on Old Wire Rd and its connecting streets. The amount of investment in the development from the city could be significant. Old Wire Road would have to be expanded and widened for entry, a light would have to be put in place at the current stop sign on Old Wire as it intersects Skillern road, and it would be impossible to exit onto HWY 265 without a significant wait.

Thank you for taking the time to consider my concerns. I believe that keeping this property zoned as RA is in the best interest of our community.

Thank you for your consideration.

Dwight & Debbie Power

3212 N. Old Wire Rd.

Fayetteville, AR 72703

Cole, Kylee

From: Planning Shared
Sent: Thursday, June 13, 2024 2:51 PM
To: Cole, Kylee
Subject: FW: RZN-2024-0029 (3179 N. Old Wire Rd.)

Please advise.

Thank you

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

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



From: Andrew Garner <andrewgarner1@yahoo.com>
Sent: Thursday, June 13, 2024 2:39 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: RZN-2024-0029 (3179 N. Old Wire Rd.)

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 City of Fayetteville Staff, Elected and Appointed Officials,

Thank you for the opportunity to comment on the subject rezoning. I am a nearby property owner and have a few thoughts I would like to share. Given the high growth rates in Northwest Arkansas, it is inevitable that rural and low-density areas near the cities will be filled in with more dense growth, the subject property included. The primary concern with this rezoning is timing. The public infrastructure in this area and along this section of Old Wire Road is not yet suitable for 8 dwelling units per acre. The area is rural residential and agricultural with the incremental filling in of parcels with low density residences and small businesses. A jump to the subject rezoning would put too much strain on the City water and street system at this time.

The streets are generally two-lane rural roads with open ditch and no sidewalks. The nearby intersection of Old Wire and Skillern Roads is dangerous with a blind curve that needs to be re-aligned and is congested at peak hours. The Skillern Road bridge over Flynn Creek does not have guardrails, and pedestrian and bicycle connections have large gaps. These issues are typical and acceptable in low-density areas where risk to public is low. The public safety and welfare become challenged when more intense development patterns are introduced before infrastructure and community character is ready.

The water system in east Fayetteville and the Goshen vicinity does not appear equipped for increased growth. A major loop to the system is needed and the area has received water shortage notices during summer months.

Over the past 5 years City water has been completely shut off to this area numerous times because of leaks or other issues. The water line in Old Wire Road adjacent to this location is one of the repeat maintenance issues. Water to my residence has been shut off two times in last month because of some sort of maintenance issue in this area. The bigger issue is pressure and redundancy of the water system that is lacking in this area.

The regional growth and development pressure supports higher density. However, if this property is rezoned to RSF-8, the public infrastructure issues described above may put the City in a position of having to deny or impose an unreasonable amount of public improvements for development. Thank you for your service to the community and for taking time to consider these issues.

Sincerely,

Andrew Garner
3110 N. Lancaster Lane
Fayetteville, AR 72703

To Fayetteville City Planning Commission:

I recently received correspondence regarding rezoning of the property located at 3179 N Old Wire Road. I am writing to officially state my opposition to the rezoning of that property from R-A to RSF-8. Succinctly, the proposed rezoning of this property will cause it to “stick out like a sore thumb” (it is not in keeping with the general “feel” of the neighborhood), will cause overload to the roadways leading to unsafe conditions, and will create danger to people and livestock.

While most of the area is zoned R-A, which allows 1 single family home per every 2 acres, the actual usage of the land is much less than that on average (i.e. much less dense than 0.5 house per acre). This is in keeping with the rural nature of these properties. This proposed rezoning completely changes that. Suddenly, there would be a much greater concentration of homes/people in a small area. With this brings many dynamics that are in direct opposition to the condition that most of the surrounding property owners cherish.

Besides being completely out of place, the proposed subdivision would immensely increase congestion to roads that are already congested at certain times of day. This would invariably cause unsafe conditions.

I raise cattle on properties that I own immediately adjacent to the subject property and within a quarter mile of it. The property owner to the north has breeding horses. Other properties in the vicinity have livestock as well. Introduction of this type of “non-rural” densely populated subdivision introduces risks to both the people and the livestock.

Thank you for allowing me to express my opposition to this rezoning request. I hope that you will give consideration to the irreversible harm this would cause.



Patty Siebenmorgen

To whom it may concern,

In this letter I would like to formally state my opposition to the rezoning of 3179 N. Old Wire rd. for the following reasons:

I believe that Fayetteville is yet another example of how the natural state is transitioning into an unnatural state. The clearing of land at areas such as Old Missouri Rd., Rolling Hills Dr. and Old Wire Rd. west of Crossover are all examples of a newly found disregard for those natural environs and the beauty which they contain. A once thriving and healthy ecosystem of mature trees and diverse wildlife has been replaced by a multitude of cheap houses that only serve a developer's goal of a quick buck.

I must ask: What is happening to this town? The infrastructure and area in general are not prepared for the massive influx of people and vehicles that will further degrade our local natural resources. It seems like these changes that should occur over decades are happening over a span of a few years, and because of this every opportunist around the country is piling on top of each other to get their cut of the hog. This excessive growth is exemplified by the quarter mile traffic back ups on small side roads like Joyce St. or Old Wire Rd. while school is in session. Rezoning at 3179 N. Old Wire Rd. will further exacerbate this issue immensely as this sector of the city has not had the supporting infrastructure or proper DoT research to unclog the bottlenecks that happen multiple times a day, every day.

I am fully aware that growth is inevitable, but it should be done responsibly and should not come at the cost of the mores that have defined our city for over 100 years. Simply put, Fayetteville, in my mind, has always strived for coexistence and respect for the natural world. As a farmer, I hold these values very dear, and it certainly would be a great disrespect not only to me, but all of the other agriculturists in this area to have this projected subdivision as a neighbor. I do not shun development in general, as it is a necessary reaction to a growing population. However, after reviewing the plans for this project it seems that the ideals of sustainable and responsible growth are an after thought for Pleasant Haven, LLC. Can you, as a collective, honestly look at these plans and argue that they are an appropriate addition to this area? If you could imagine it, would you appreciate this being built up against your home of 40 years?

As taxpayers, we in this area have provided funding for parks, bike paths and trails- all elements of a societal respect for nature and the citizens appreciate thereof. These efforts, I believe, are being actively negated by the stacks and rows of cheap and inefficient housing emerging all around the city. The only ones that "win" outright in these deals are the faceless out of state corporate developers. They have no remorse for the negative changes they imbue our city with, because they have no connection to the area, flagrant disregard for the natural world, and are guided by greed and impatience.

Therefore I, as a decades-long member of this city, do not feel as though this rezoning is justified. I appreciate the time you have spent reading my humble opinions, and I trust that your decisions are reflective of the will of the citizens which you represent.

Thank you,

Cynthia J. Amram Knox

Cole, Kylee

From: Andrew Taylor <aotreux@gmail.com>
Sent: Friday, June 14, 2024 8:11 AM
To: Cole, Kylee
Subject: Opposition to RZN-2024-0029

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

Hello Kylee,

I would like to officially express my opposition to the rezoning of the property located at 3179 N Old Wire Rd, Fayetteville, AR 72703. The current roadway infrastructure does not, in my mind, support such a rezoning with the proposed conceptual neighborhood in play and associated population increase. I respectfully request that my opposition be included in your staff report to the Commissioners or presented at the hearing on 6/24 to ensure my voice is heard. Thank you.

Andrew Taylor
3886 E. Natchez Trce
Fayetteville, AR 72703

Cole, Kylee

From: Larryoyd <larryfloyd417@gmail.com>
Sent: Sunday, June 16, 2024 1:26 PM
To: Cole, Kylee
Subject: Reasoning request 3179 N Old Wire Rd

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 live at 3162 N Rom Orchard Rd- Fayetteville. All the farms here are 5-20 acres. The traffic around the corner going to Skillern rd is horrendous Now! The curve stays completely tree covered and the dump trucks FLY around it Now. More traffic coming on that road would be horrible. We can't get the city to cut the trees and it is almost impassable now. Several years of construction would stop traffic on Old Wire Rd. All properties are single family and most have quiet farms for their animals and guests. The mornings at skillern and old wire rd are very congested already during the school years. Please deny this request-,this is rural property not dense. Property values would also be affected .
Sent from my iPhone

Christopher and Jessica Elmore
3184 N Old Wire Road
Fayetteville, AR 72703
jessicaelmoredesign@gmail.com
405.628.9464

June 17, 2024

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

Dear Fayetteville City Council/Planning Division Members,

I am writing to express my strong opposition to the proposed residential rezoning of the property located at 3179 N Old Wire Road Fayetteville, AR 72703. As a concerned resident living directly across the street from this property, I believe that this rezoning initiative (from R-A to RSF-8) would have significant negative impacts on our community.

The proposed rezoning from R-A (Residential Agricultural) to RSF-8 (Residential allowing for 8 homes per acre) raises several concerns that I would like to highlight:

1. **Impact on Traffic and Safety:** Increasing the residential density in this area will undoubtedly lead to higher traffic volumes on our already congested streets. Old Wire Road is already a dangerous street, with zero room for error around several twists, turns and blind corners. Adding an additional 48 homes with approximately 2 cars per home would increase the traffic dramatically, posing a heightened risk to the safety of pedestrians, cyclists, and drivers. We have a son that is nearing driving years and this is of utmost concern for us!!!
2. **Strain on Infrastructure:** Our community's infrastructure, including roads, sewage systems, and public services, is not equipped to handle the increased demand that will come with higher population density. This could lead to degradation in the quality of essential services.
3. **Environmental Concerns:** Rezoning for higher density residential use often leads to greater environmental degradation, including loss of green space, increased pollution, and strain on local water resources. Preserving our environment is crucial for maintaining the quality of life in our community.

4. **Community Character:** The proposed rezoning threatens to alter the character and cohesion of our sweet neighborhood. We purchased our home 4 years ago this month – and we chose this home given the character of the areas around us. East Fayetteville is known for its sprawling yards, country roads, larger lots and the valuation of the properties. It is a sought after area, and adding in a single street neighborhood with 48 homes on ZERO lot lines will certainly undermine these qualities and negatively impact the residents who cherish them.
5. **Property Values:** The introduction of high-density housing can adversely affect property values in the surrounding area. Many residents, including myself, have invested in this community with the expectation of stability and gradual, thoughtful development. We have recently invested a significant amount of money to put in a pool and pool house on our property, and we are wildly concerned that this proposed neighborhood will devalue our property and therefore not hold for the money we've invested.

I urge you to consider these points and the long-term implications of rezoning this area. Maintaining the current zoning designation is essential to preserving the safety, integrity, and quality of life that our community currently enjoys.

Thank you for considering my concerns. I am hopeful that the City Council/Planning Department will prioritize the well-being of its residents and reject the proposed rezoning of 3179 N Old Wire Road Fayetteville, AR 72703. I am open to discussing this matter further and would appreciate any updates on the status of this proposal.

Sincerely,

Chris and Jessica Elmore, along with our children (Maddox, 14; Grady, 10 and Murray 6)

