

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, July 18, 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 July 8, 2024 Planning Commission. - Mirinda Hopkins, Development Coordinator

2. PPL-2024-0005: Preliminary Plat (340 N. DOUBLE SPRINGS RD/IRISH BEND, 474):

Submitted by ENGINEERING SERVICES INC for property located at 340 N. DOUBLE SPRINGS RD. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 9.80 acres. The request is for the preliminary plat of 38 residential lots and two non-buildable lots. - Gretchen Harrison, Senior Planner

Unfinished Business**3. LSD-2024-0005: Large Scale Development (NORTH OF N. TRUCKERS DR/THE LENNON, 208):**

Submitted by ENGINEERING SERVICES INC for property located NORTH OF N. TRUCKERS DR. The property is zoned RMF-18, RESIDENTIAL MULTI-FAMILY, 18 UNITS PER ACRE and contains approximately 20.23 acres. The request is for a 324-unit multi-family residential development and associated parking and for an addition to the Fellowship Bible Church parking lot.

THIS ITEM WAS TABLED AT THE JULY 8, 2024 PLANNING COMMISSION MEETING. - Donna Wonsower, Planner

4. 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 NS-G, NEIGHBORHOOD SERVICES - GENERAL.

THIS ITEM WAS TABLED AT THE JUNE 24, 2024 AND JULY 8, 2024 PLANNING COMMISSION MEETINGS. - Jessica Masters, Development Review Manager

New Business

5. **ADM-2024-0036: Administrative Item (Amend UDC Chapters 166.01, Development Categories, 166.02, Development Review Process, 167.04, Tree Preservation And Protection During Development, 169.03, Review And Or Permits Required, Exceptions):**

The request is an amendment to 166.01, 166.02, 167.04, and 169.03. The proposed code changes would modify development process requirements. - Jessica Masters, Development Review Manager

6. **VAR-2024-0029: Planning Commission Variance (4392 N. WATERSIDE CT/MYERS & WOODS LAW FIRM, 139):**

Submitted by JORGENSEN & ASSOCIATES for property located at 4392 N. WATERSIDE CT. The property is zoned R-O, RESIDENTIAL – OFFICE and contains approximately 0.45 acres. The request is for a variance to the Commercial, Office and Mixed Use Design And Development Standards. - Kylee Cole, Planner

7. **VAR-2024-0030: Planning Commission Variance (435 E. MILLSAP RD/BIO LIFE PLASMA SERVICES, 212):**

Submitted by ONYX CREATIVE for property located at 435 E. MILLSAP RD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.65 acres. The request is for a variance to parking lot requirements.

THIS ITEM HAS BEEN WITHDRAWN BY STAFF FOR LACK OF PUBLIC NOTIFICATION. - Donna Wonsower, Planner

8. **VAR-2024-0031: Planning Commission Variance (572 W. MARTIN LUTHER KING JR BLVD/THE BELGIAN ADDITION, 522):**

Submitted by NOTRE MAISON LLC for property located at 572 W. MARTIN LUTHER KING JR BLVD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.27 acres. The request is for a variance to ground floor opacity requirements. - Kylee Cole, Planner

9. **CUP-2024-0025: Conditional Use Permit (1156 E. LAKEFRONT DR/BUTLER, 407):**

Submitted by APPLE BLOSSOM HOLDINGS LLC for property located at 1156 E. LAKEFRONT DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the property as a short-term rental. - Kylee Cole, Planner

10. **CUP-2024-0026: Conditional Use Permit (4090 N. HILLSIDE TER/GETZENDANER, 138):**

Submitted by LEAHY CONSTRUCTION for property located at 4090 N. HILLSIDE TER. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 4.66 acres. The request is for an accessory structure greater than 50% the size of a principal structure. - Gretchen Harrison, Senior Planner

Items Administratively Approved by Staff

11. LSP-2024-0014: Lot Split (267 E. 11TH ST/11TH ST COTTAGES LLC, 563):

Submitted by BATES & ASSOCIATES for property located at 267 E. 11TH ST. The property is zoned RI-U, RESIDENTIAL INTERMEDIATE-URBAN and contains approximately 0.56 acres. The request is to divide the property into 10 single-family cluster housing lots containing approximately 0.04, 0.04, 0.06, 0.06, 0.06, 0.06, 0.06, 0.06, 0.04 and 0.08 acres. - Jessica Masters, Development Review Manager

12. LSP-2024-0015: Lot Split (839 N. OAKLAND AVE/REALTY PARTNERS LLC, 444):

Submitted by BATES & ASSOCIATES for property located at 839 N. OAKLAND AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and consists of two lots with approximately 0.16 and 0.32 acres. The request is to divide the property into four lots containing approximately 0.11, 0.13, 0.13 and 0.13 acres. - Kylee Cole, Planner

13. LSP-2024-0016: Lot Split (837 N. GREGG AVE/SHELTERING SKY LLC, 444):

Submitted by SWOPE CONSULTING LLC for property located at 837 N. GREGG AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.22 acres. The request is to divide the property into two lots containing approximately 0.13 and 0.09 acres. - Kylee Cole, Planner

14. FPL-2024-0001: Final Plat (4890 N. CASTLEWOOD LN/CADENCE RIDGE SUBDIVISION, 060):

Submitted by ENGINEERING SERVICES INC for property located at 4890 N. CASTLEWOOD LN. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 3.32 acres. The request is for the final plat of 15 residential lots. - Gretchen Harrison, Senior Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

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

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

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

(pg. 1) Planning Commission								
Monday, 07/08/2024								
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 (06/24/2024)	2) CUP-2024-0018 (BRASS POLE PROPERTIES)	3) CUP-2024-0021 (WASHINGTON MASONIC LODGE #1)			4) RZN-2024-0030 (WATSON)	5) ADM-2024-0031 (ALIGHT FAYETTEVILLE)
Garlock	1	1	1	1	1	0	1	1
Madden	0							
McGetrick	1	1	1	1	1	0	1	1
Brink	1	1	1	1	1	0	1	1
Payne	1	1	1	1	1	0	0	1
Castin	1	1	1	1	1	0	1	1
Gulley	1	1	1	1	1	0	1	1
Cabe	1	1	1	1	1	0	1	1
Werner	1	1	1	1	1	0	1	1
Agenda		Consent	Old	Old	Motion 2	Motion 3	Old	New
Motion By		Werner	Payne	Brink	Werner	Garlock	Brink	Payne
Motion 2nd		Garlock	Werner	Garlock	Garlock	Cabe	Werner	Brink
Vote		8-0-0	8-0-0	8-0-0	8-0-0	0-8-0	7-1-0	8-0-0
Action		Approve	Table	Approve	Approve	Approve	Table	Table
Time		5:32 PM	5:35 PM	5:51 PM			6:33 PM	6:59 PM
Motion Detail			Until the August 12, 2024 Planning Commission Meeting.	Without findings on variances. With a determination of compatibility. And with all other conditions as recommended by staff.			Until the July 22, 2024 Planning Commission Meeting.	Until the August 12, 2024 Planning Commission Meeting.
Public Comment		0	0	0			0	3

(pg. 2) Planning Commission		Monday, 07/08/2024				
	6) LSD-2024-0005 (THE LENNON)	7) VAC-2024-0012 (TRAILS ON THE CREEKS APARTMENTS)	8) RZN-2024-0035 (NWARECO LLC)	9) RZN-2024-0031 (TAYLOR)	10) RZN-2024-0032 (PBS PROPERTIES)	11) RZN-2024-0033 (ARNOLD)
Garlock	1	1	1	1	1	1
Madden						
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
Cabe	1	1	1	1	1	Recuse
Werner	1	1	1	1	1	1
Agenda	New	New	New	New	New	New
Motion By	Garlock	Garlock	Brink	Payne	Garlock	Werner
Motion 2nd	Werner	Werner	Cabe	Cabe	McGetrick	McGetrick
Vote	8-0-0	8-0-0	8-0-0	8-0-0	8-0-0	7-0-1
Action	Table	Forward	Forward	Forward	Forward	Forward
Time	7:08 PM	7:14 PM	7:20 PM	7:30 PM	7:40 PM	7:53 PM
Motion Detail	Until the July 22, 2024 Planning Commission Meeting.	With a recommendation of approval.	With a recommendation of approval.	With a recommendation of approval.	With a recommendation of approval.	With a recommendation of approval.
Public Comment	0	0	0	1	0	1

(pg. 3) Planning Commission		Monday, 07/08/2024			
	12) RZN-2024-0034 (ARNOLD)				
Garlock	1				
Madden					
McGetrick	1				
Brink	1				
Payne	1				
Castin	1				
Gulley	1				
Cabe	Recuse				
Werner	1				
Agenda	New				
Motion By	Werner				
Motion 2nd	McGetrick				
Vote	7-0-1				
Action	Forward				
Time	8:07 PM				
Motion Detail	With a recommendation of approval.				
Public Comment	3				



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

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

MEETING: July 22, 2024

SUBJECT: **PPL-2024-0005: Preliminary Plat (340 N. DOUBLE SPRINGS RD./IRISH BEND, 474):** Submitted by ENGINEERING SERVICES INC for property located at 340 N. DOUBLE SPRINGS RD. The property is zoned RSF-8, RESIDENTIAL SINGLE-FAMILY, EIGHT UNITS PER ACRE and contains approximately 9.80 acres. The request is for the preliminary plat of 38 residential lots and two non-buildable lots.

RECOMMENDATION:

Staff recommends approval of **PPL-2024-0005** with conditions.

RECOMMENDED MOTION:

*"I move to approve **PPL-2024-0005**, recommending:*

- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements, and*
- In favor of all other conditions as outlined by staff."*

BACKGROUND:

The subject property is in west Fayetteville on the east side of Double Springs Road about three quarters of a mile south of Wedington Drive. The property encompasses three parcels totaling 9.80 acres, is zoned RSF-8, Residential Single-Family, Eight Units per Acre, and is developed with two single-family dwellings. The property is relatively flat with minimal tree canopy and hydric soils present in the far southeast corner of the site. A preliminary plat of a 40-lot residential subdivision was approved by the Planning Commission in May 2022 (PPL-2022-0001) which expired after one year. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-6, Residential Multi-Family, Six Units per Acre
South	Rural Residential	RSF-1, Residential Single-Family, One Unit per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre

Proposal: The applicant is proposing a subdivision with 38 residential lots and two unbuildable lots reserved for detention. No variances from the Unified Development Code have been requested.

Right-of-Way to be Dedicated: The subject property has frontage along Double Springs Road, a partially improved Neighborhood Link Street with 30 feet of existing right-of-way from the centerline of the road. Staff recommends that additional right-of-way be dedicated in the amount of 33.5 feet from centerline along Double Springs Road pursuant to the typical requirements for a Neighborhood Link Street. All internal streets in the subdivision are proposed to be Residential Link Streets, and staff recommends 52-foot-wide right-of-way along those streets pursuant to the typical requirements for a Residential Link Street.

Street Improvements:

Double Springs Road: The portion of Double Springs Road adjacent to the property is classified as a Neighborhood Link Street and partially improved with asphalt paving and open ditches. Staff is recommending that the property's Double Springs Road frontage be improved with an eight-foot sidewalk, 10-foot greenspace, curb, gutter, and asphalt as shown on the provided site plan.

Irish Bend Drive, Galway Lane, and Torc Lane: All internal streets are extensions of existing streets that are currently classified as Residential Link Streets. Staff recommends that each street in the subdivision be improved to meet the typical standards for a Residential Link Street with six-foot sidewalks, six-foot greenspace, curb, gutter, and asphalt as shown on the provided site plan.

Block Length/Connectivity: Staff finds that the proposed preliminary plat complies with the City of Fayetteville's block length and connectivity standards. The applicant proposes to extend three existing streets and provide stub-outs to the adjacent property to the south.

Water and Sewer System: The applicant is proposing to install eight-inch water mains throughout the subdivision to provide domestic water service and fire hydrants. The applicant is also proposing to install eight-inch sewer mains within the subdivision to provide sanitary sewer service to each lot.

Tree Preservation:

Canopy minimum requirement: 20%

Existing canopy: 10.1%

Preserved canopy: 5.2%

Mitigation required: 105 two-inch caliper trees

Parks: The Parks and Recreation Advisory Board (PRAB) reviewed this proposal at a meeting held on February 7, 2022. The Parks and Recreation Advisory Board recommended fee-in-lieu for this development in the amount of \$43,560 based on the number of proposed single-family lots. Park fees are due prior to building permit issuance.

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

RECOMMENDATION: Staff recommends approval of **PPL-2024-0005** 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 from centerline along Double Springs*

Road and in the full amount of 52 feet along Irish Bend Drive, Galway Lane, and Torc Drive.

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

2. **Planning Commission determination of street improvements.** *Staff recommends street improvements as follows:*
 - a. Double Springs Road: *Staff recommends that the property's Double Springs Road frontage be improved with an eight-foot sidewalk, 10-foot greenspace, curb, gutter, and asphalt.*
 - b. Irish Bend Drive, Galway Lane, and Torc Drive: *Staff recommends that these streets be improved to meet the typical standards for a Residential Link Street with six-foot sidewalks, six-foot greenspace, curb, gutter, and asphalt.*

Subdivision Committee recommended in favor of street improvements.

3. Fee-in-lieu of parkland dedication is required in the amount of \$43,560 based on the number of proposed single-family lots;
4. Streetlights shall be installed in accordance with code at all street intersections and at intervals of no more than every 300 feet;
5. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval;

Standard Conditions of Approval:

6. All existing overhead utility lines 12kV and under shall be relocated underground. All proposed utilities shall be located underground;
7. Sidewalk along all commonly owned lots (detention ponds, etc.) shall be constructed prior to final plat. All other sidewalks shall be constructed or guaranteed prior to final plat;
8. All street names shall be approved by the 911 Coordinator and indicated on the final plat. All streets require naming for final addresses. Contact the addressing office at (479) 575-8380 for more details;
9. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat;
10. A floodplain development permit is required prior to construction for any grading or structures in the flood zone;
11. 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);
12. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat

review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements; and

13. Preliminary Plat approval shall be valid for one year.

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

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

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



TO: Gretchen Harrison, Senior Planner

FROM: Melissa Boyd, Staff Engineer

DATE: July 16, 2024

SUBJECT: **Planning Commission Engineering Comments for
PPL-2024-0005 IRISH BEND SUBDIVISION**

Water: The applicant is proposing to install new 8" water mains throughout the subdivision to provide domestic water service and fire hydrants.

Sewer: The applicant is proposing to install new 8" sewer mains within the subdivision to provide sanitary sewer service to each lot.

Streets: The applicant is proposing to install public streets based on the City's residential link street section. The southern street stub outs must be graded such that connection will be feasible with future development to the south.

Drainage: The applicant is proposing to meet Fayetteville's minimum drainage standards by installing two detention ponds and an AquaSwirl hydrodynamic separator. The AquaSwirl will be used to meet water quality requirements. Channel protection will be met for Pond B1 by detaining and releasing runoff from the 1-year, 24 hour storm over 40 hours, and is met for Pond B2 with the peak flow for the 1-year, 24 hour storm being less than 2.0 cfs. Overbank flood protection and extreme flood protection will be met by sizing the outlet structure for peak flows post-development to not exceed pre-development conditions.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense
3. All public sidewalks, curb ramps, curb & gutter, and driveway aprons along this project frontage must meet ADA guidelines and be free of damage. Any existing infrastructure that does not conform to ADA guidelines or is otherwise damaged must be removed and replaced to correct the issue. Coordinate with the engineering department for inspection of existing facilities to determine compliance.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.

5. Note, the following portions of all projects will typically not be reviewed by the Engineering Division until time of construction-level review (unless specifically requested at plat review):
- Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
 - Sanitary Sewer pipe sizing, profiles, or utility conflicts
 - Waterline fittings, callouts, or utility conflicts
 - Street profiles
 - Fine grading/spot elevations



URBAN FORESTRY
LANDSCAPE PLAN COMMENTS

To: Engineering Services, Inc.

From: Melissa Evans, Urban Forester

CC: Gretchen Harrison, Senior Planner

Meeting Date: July 22, 2024

Subject: PPL-2024-0005 Irish Bend Subdivision (Hometown Land, LLC & Homestead Inc.) 474

1. General Landscape Plan Checklist		Yes	No	N/A
a.	Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03C7g, 177.04B3a</i>	X		
b.	Species of plant material identified <i>UDC Chapter 177.03C7d,e</i>	X		
c.	Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03C7b,c</i>	X		
d.	Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e.	Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f.	LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>	X		
g.	Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h.	Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>	X		
i.	Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2g</i>	X		
2. Parking Lot Requirements		Yes	No	N/A
a.	Side and Rear Property Lines (5' Wide Landscape Area) <i>UDC Chapter 177D1</i>			X
b.	Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>	NA		

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

3. Perimeter Landscaping Requirements

Yes No N/A

- | | |
|---|---|
| a. Front Property Line (15' wide landscape) and 5' on sides and rear.
<i>UDC Chapter 177.04D2a</i> | X |
| b. Shade trees planted on south and west sides of parking lots
<i>UDC Chapter 177.04D2e</i> | X |
| c. Screening of parking lot from adjacent residential properties. | X |

4. Street Tree Planting Requirements

Yes No N/A

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

5. Landscape Requirement Totals

Amount

Mitigation Trees	105 Required, 105 Provided
Parking Lot Trees	0
Street Trees See Comments	62 Required, 62 Provided

Detention Pond – Large Trees (1 Tree/3,000 square feet)	6 Required, 6 Provided
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	25 Required ? Provided
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	37 Required ? Provided

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	6/26/2024	7/11/2024	7/17/24
Approved			
Tabled			
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided. 2. Check lot/ street tree locations for possible utility conflicts. Several are shown on a lateral line or storm sewer main. Trees must maintain at least 5 feet of separation from any utility lines or storm sewer needs to be at least 3’ deep. 3. Unless conflicting with a utility line, street/lot trees should be located between the sidewalk and curb. 4. Please show the required detention shrubs on the plan.



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Engineering Services, Inc.

From: Melissa Evans, Urban Forester

CC: Gretchen Harrison, Senior Planner

Meeting Date: July 22, 2024

Subject: PPL-2024-0005 Irish Bend Subdivision (Hometown Land, LLC & Homestead Inc.) 474

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	426,923	100%
Zoning Designation * Select Below with drop down arrow		
RSF-8 Single-Family Residential, Eight Units Per Acre	85,385	20%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	85,385	20.0%
Existing Tree Canopy * Minus Right of Way and Easements	43,322	10.1%
Tree Canopy Preserved	22,306	5.2%
Tree Canopy Removed *On Site	22,807	5.3%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	22,807	5.3%
Removed Below Minimum	63,079	
Mitigation Requirements	22,807	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	22,807	105
Low Priority		
Total Mitigation Trees Required	22,807	105

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

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1 and 167.04L1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes
d. Existing Topography and Proposed Grading	Yes	Yes	Yes
e. Soil Types	Yes	Yes	Yes
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	Yes	Yes	Yes
i. All Existing and Proposed Utilities	Yes	Yes	Yes
j. All Existing and Proposed Utility Easements and ROW's	Yes	Yes	Yes
k. All Streams (with approximate center line)	N/A	N/A	N/A
l. Floodplains and floodways	N/A	N/A	N/A
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan (if required)	N/A	Yes	Yes
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	N/A	N/A	N/A

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

6. Site Analysis Report (if required) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.	X		
7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	6/26/24	7/11/24	7/17/24
Approved			
Tabled			
Denied			

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

Comments
1. Address items above marked “No” and all Redlines provided.
2. Thank you for noting that the tree south of building footprint on lot 38 could likely be preserved if root pruning can be minimized. Please revise from “root pruning” to “root and crown disturbance” (my apologies for getting the wording incorrect previously).

June 11, 2024

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

RE: Overall Narrative
Irish Bend Subdivision
Fayetteville, AR

To whom it may concern,

Please let this letter serve as a narrative to accompany the complete submittal for Irish Bend Subdivision. The proposed subdivision is located along Double Springs Road, just north of Dot Tipton Road. It is Washington County Parcel Numbers 765-24089-300, 765-24089-400, and 765-16224-600. All three of these property are owned by different entities, but the final product will be owned by one entity. All three property owners have signed off on the property owner authorization form. These properties are currently zoned RSF-8 and no change in zoning is requested. There are 38 proposed houses in this subdivision, and one unbuildable POA-owned detention pond lot. Lots 1 and 39 both currently have existing residential structures on them, which are proposed to remain.

Pre-Application Meeting

A pre-application meeting was held with Fayetteville Planning, Engineering, and Urban Forestry. All discussion at the meeting has been utilized in the design of the plans.

Parks and Recreation Advisory Board Meeting

Fee in lieu was requested and approved by the Fayetteville Parks and Recreation Advisory Board.

Utilities

This site has access to public water and sewer. For Water, the existing 8" water mains along N Galway Lane and N Torc lane will be extended and utilized for services. For sewer, there is an existing 8" sewer main on the eastern property line that this proposed development will connect into.

Traffic

It is not anticipated that this development will cause any traffic issues, as there are only 39 lots proposed. All streets shall be designed per the master street plan, including improving Double Springs Road.

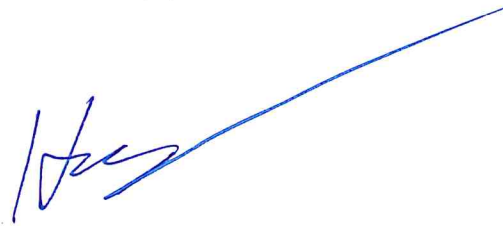
This submittal includes the following items:

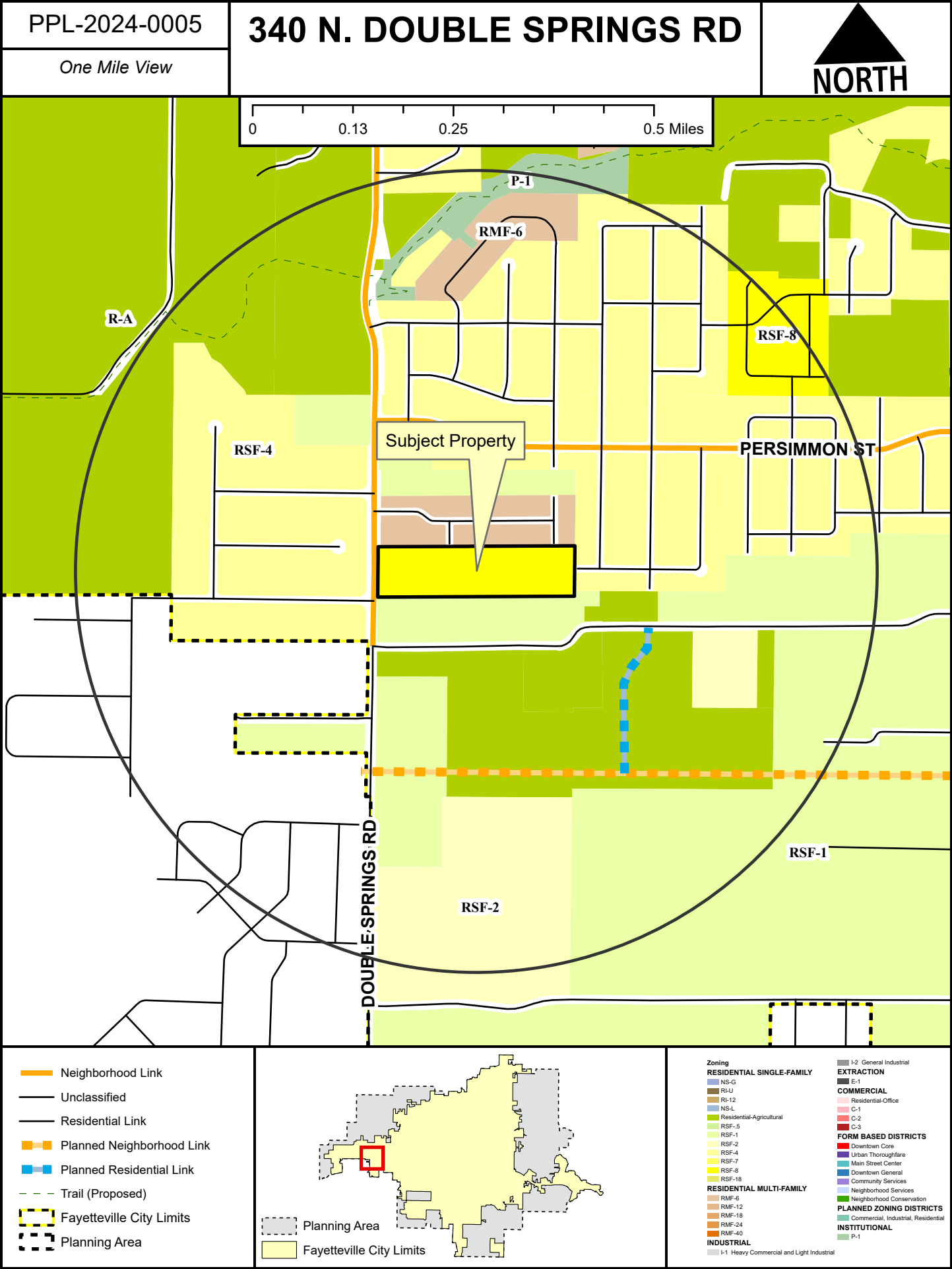
- No submittal fee is included. Once the invoice is generated, this will be paid by the developer.
- Preliminary Plat Plans
- Preliminary Drainage Report
- Warranty Deed
- Legal Description
- Consent of Owner Form
- Certificate of Authenticity (for property owners)

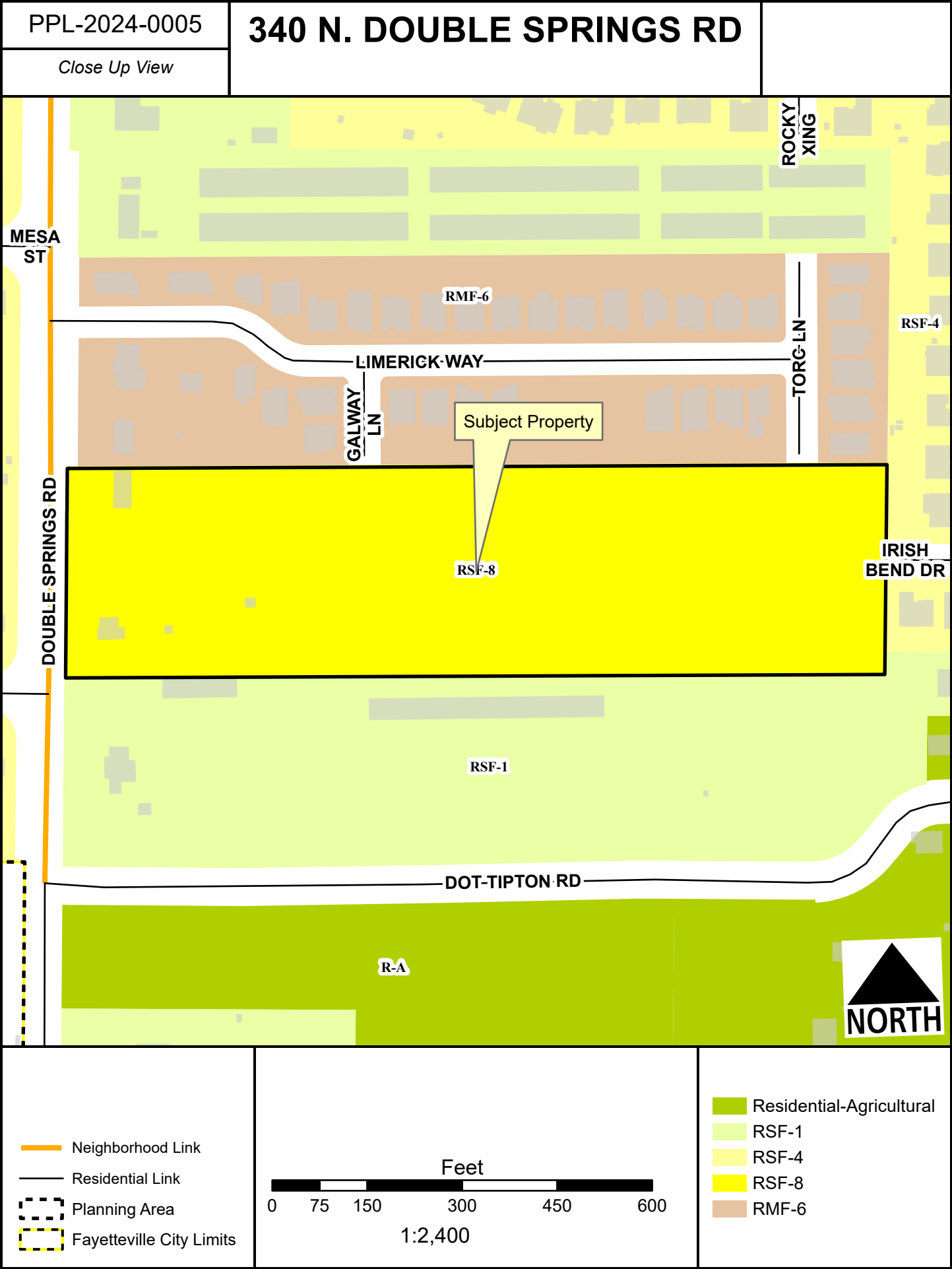
Please let me know if I can answer any questions.

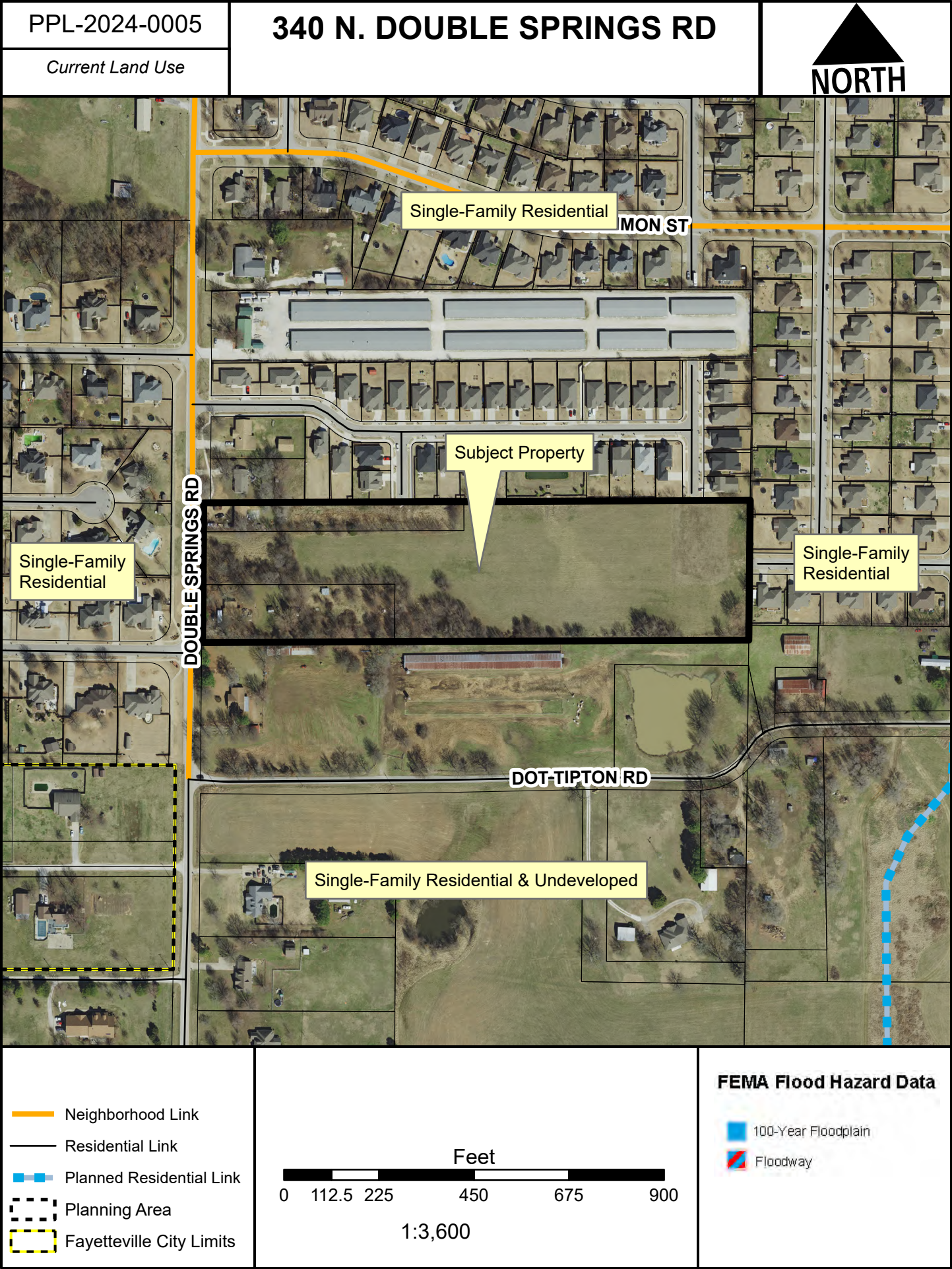


Josh Haley, E.I.
Project Engineer











TO: Planning Commission

THRU: Jessie Masters, Development Review Manager

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

MEETING: July 22, 2024

SUBJECT: **LSD-2024-0005: Large Scale Development (NORTH OF N. TRUCKERS DR/THE LENNON, 208):** Submitted by ENGINEERING SERVICES INC for property located NORTH OF N. TRUCKERS DR. The property is zoned RMF-18, RESIDENTIAL MULTI-FAMILY, EIGHTEEN UNITS PER ACRE and contains approximately 20.23 acres. The request is for a 324-unit multi-family residential development and associated parking and for an addition to the Fellowship Bible Church parking lot.

RECOMMENDATION:

Staff recommends approval of **LSD-2024-0005** with conditions.

RECOMMENDED MOTION:

*"I move to approve **LSD-2024-0005**, finding:*

- In favor of requested variance to §166.11(A), Conformance to Plans and Regulations,*
- In favor of requested variance to §166.23(C)(4), Pedestrian Connections,*
- In favor of requested variance to §168.21(E): Regulated Uses, Structures and Activities Within the Streamside Protection Zones,*
- In favor of requested variance to §177.03(D)(2)(a), Landscape Area Required for Property Lines Adjacent to Street Right-of-Way,*
- In favor of recommended right-of-way dedication,*
- In favor of recommended street improvements, and*
- In favor of all other conditions as recommended by staff."*

JULY 8, 2023 PLANNING COMMISSION MEETING:

At the July 8, 2024 Planning Commission meeting, staff recommended that the item be tabled until the July 22, 2023 Planning Commission meeting to give the applicant time to acquire outstanding consent of owner signatures. In the intervening weeks, an updated consent of owner form was provided.

BACKGROUND:

The subject property is located in north Fayetteville between Hwy 112 and Deane Solomon Road and contains one 20.23-acre parcel that was originally part of the mixed-use Park West RPZD, Residential Planned Zoning District approved by the City Council in 2006 (ORD 4820). The RPZD zoning expired in 2011 without development and the property was successfully rezoned from RPZD, Residential Planned Zoning District to RMF-18, Residential Multi-Family, 18 Units per Acre in late 2023. A protected stream bisects the property approximately 275 feet from the western property line. Surrounding land uses and zoning are depicted in *Table 1*.

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

Direction	Land Use	Zoning
North	Religious Facility	CS, Community Services
South	Assisted Living Facility	RMF-12, Residential Multi-Family, 12 Units per Acre
East	Undeveloped	RPZD, Residential Planned Zoning District
West	Undeveloped Single-family Residential	R-A, Residential Agricultural

Proposal: The applicant requests large scale development approval to develop the subject property with nine multifamily structures totaling 324 residential units. Also proposed are a clubhouse and six garage structures, with various off-site improvements proposed to properties directly north and east. Four variances have been requested with the proposal, though staff notes that additional variances may be required as discussed in the report.

Variance #1: §166.11(A), Conformance to Plans and Regulations. All projects shall conform to the official plans and regulations that make up the City's Master Street Plan.

N. Salem Rd. and N. Truckers Dr. are partially improved Residential Link streets, which typically includes a six-foot greenspace. The existing portion of N. Salem Rd. includes approximately sixteen feet of green space between the proposed sidewalk and existing asphalt road.

Staff recommendation: Staff recommends in favor of the variance. The variance request is needed solely where the development abuts an existing portion of N. Salem Rd. as the existing green space exceeds that which is required by a typical Residential Link. Given the amount of required infrastructure improvements required on this property given the presence of two planned street connections, staff finds that requiring the existing portion of N. Salem Dr. to be widened to meet master street plan could exceed the impact of the proposed development.

Variance #2: §166.23(C)(4), 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. The proposal includes three pedestrian crossings to the public sidewalk along W. Salem Rd. with separations of approximately 141 feet, 308 feet, and 308 feet. The applicant states that their intent is to minimize crossings of the 48" water main to be installed by the city.

Staff recommendation: Staff recommends in favor of the variance with an added condition. While these distances are significantly greater than those permitted by ordinance, staff finds that minimizing impact to the 48" water main by large numbers of pedestrian crossings also serves a public benefit. A parallel sidewalk is located between nineteen feet to forty feet (19'-40') from the public sidewalk, which can also serve as open space for the residents. Staff recommends a condition that the grading permit plans shall include this parallel sidewalk.

Variance #3: §168.21(E): Regulated Uses, Structures and Activities Within the Streamside Protection Zones. The proposal includes two retention ponds located to the east and west of the streamside protection zone as well as a private street crossing. Proposed grading impacts both the streamside protection and streamside management zones. The applicant states that their intent is to install drainage improvements to permit flow between detention ponds.

Staff recommendation: Staff recommends in favor of the variance with the added condition that the applicant provide a revegetation plan for staff to review and approve during the grading permit process. The revegetation plan shall include native plants and shrubs typically seen in a riparian area as outlined in the Streamside Protection Best Management Practices Manual.

Variance #4: §177.03(D)(2)(a), Landscape Area Required for Property Lines Adjacent to Street Right-of-Way. Residential developments are required to be landscaped for a uniform width of fifteen feet (15') parallel to and adjacent to the right-of-way with the exception of permitted entry drives. The southeast corner of Building 1 includes 10'-9" of green space between the building and the right-of-way. The applicant has indicated that the site is constrained by tying into the existing road with a smooth transition creating the pinch point for greenspace.

Staff recommendation: Staff recommends approval of the variance. The area requiring a variance is located where the curvature of the road and the building configuration create a pinch point of 10'-9" between the building corner and ROW, rather than the required 15' to accommodate all of the greenspace. Street trees are not located in that area and there is an additional twelve feet (12') of greenspace located interior to the sidewalk. Staff finds the request meets the intent of the ordinance.

Right-of-Way to be Dedicated: The subject property currently has partial street frontage along N. Truckers Dr. and N. Salem Rd., both of which are Residential Links requiring fifty-two feet (52') of total right-of-way. The master street plan calls for extensions to both streets, which the applicant proposes to coordinate with adjacent property owners along the northern and eastern property boundaries in line with Residential Link typical standards.

Street Improvements: N. Salem Rd. is a partially constructed public street currently being used as a private driveway for the Fellowship Baptist Church, with gated access from N. Deane Solomon Rd. As the applicant proposes to extend both N. Salem Rd. and N. Truckers Dr., this gate must be removed to enable full use of the public right-of-way.

N. Salem Road:

- **Existing Street:** The applicant intends to install a 6-foot sidewalk at the back of the right-of-way, streetlights and street trees in line with typical requirements for a Residential Link. The proposed green space exceeds the typical 6-foot requirement, requiring a variance as discussed above. An existing headwall shall be relocated south of the proposed sidewalk.
- **Extension per Master Street Plan:** The applicant proposes to extend N. Salem Rd. from the existing pavement to the northeast corner of the property where it will intersect with the extension of N. Truckers Dr. The applicant proposes a 6-foot sidewalk, 6-foot green space, street trees, and streetlights in line with typical requirements for a Residential Link. A 20-foot drive area with curb and gutter on both sides is proposed.

N. Truckers Drive: The existing portion of N. Truckers Dr. ends at the southern boundary of the property. The applicant proposes a street extension to the north in line with master street plan requirements, including a 6-foot sidewalk, 6-foot green space, streetlights, and street trees in line with typical requirements for a Residential Link. Two ten-foot drive lanes and one seven-foot parallel parking lane are proposed.

Access Management/Connectivity: Staff has determined that the proposed development is compliant with the City's access management and connectivity standards. Access is proposed via one driveway onto N. Truckers Dr. and one driveway onto N. Salem Rd. The existing driveway for Fellowship Bible Church is being relocated along N. Salem Rd.

Design Standards: Staff finds that one of the driveways off of N. Truckers Dr. exceeds the required aerial apparatus access. Either this driveway must be reduced to 26 feet or a variance to §172.04

Parking Lot Design Standards must be requested. Additionally, multiple locations within the development exceed the permitted runs of 12 spaces permitted between parking lot trees per §177.04(C)(1)(b). Proposed off-site improvements to the Fellowship Bible Church parking lot substantially comply with applicable parking standards.

Color elevations were provided in the most recent resubmittal; however, these elevations do not include information on proposed building materials or specific colors. Based on the elevations, the same color palette appears to be proposed for all structures but staff is unable to confirm without additional information. Staff does find that §166.23(D)(2)(a)(i) Architectural Design Standards, including architectural variation standards are not being met for the proposed eleven-car garages as no change in material is indicated between the four structures. Either material changes must be proposed or a variance to these design standards must be requested.

Of note, a variance request for minimum buildable street frontage was included within one of the Planning Commission variance requests. This request is subject to administrative approval; thus, no Planning Commission determination is needed.

Water and Sewer System: The applicant is proposing to install 8" sewer lines and an 8" water line through the development to provide sewer access, domestic water service and fire protection. This water line only has one point of connection to the overall water distribution system. With the addition of 324 units across nine buildings and multiple accessory structures, Engineering recommends the developer install an offsite water line to add a second point of connection to the overall water distribution system. This second connection will maintain water quality and service in the event of a water line break.

The Water and Sewer Division is currently working on a major capital improvement project that will see a 48" water line installed across a 50' easement near the northern property line of this development. No water connections to this transmission main will be permitted from the pump station to its connection to the existing distribution system.

Parkland dedication or fee in-lieu: The Parks and Recreation Advisory Board (PRAB) reviewed this proposal at a meeting held on March 11, 2024. The Parks and Recreation Advisory Board recommended a fee-in-lieu of parkland dedication. Based on current information, fees for 324 multifamily residential units would be required in the amount of \$308,448, with final fees to be determined and paid prior to the issuance of any building permits.

Tree Preservation:

PID 765-15830-007 (Lennon Property)

Canopy minimum requirement: 20.0%

Existing Canopy: 6.9%

Preserved canopy: 4.6%

Mitigation required: 98 two-inch caliper trees

PID 765-15830-004 (Fellowship Bible Church of Northwest Arkansas)

Canopy minimum requirement: 25.0%

Existing Canopy: 13.4%

Preserved canopy: 12.8%

Mitigation required: 12 two-inch caliper trees

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

RECOMMENDATION: Staff recommends approval of **LSD-2024-0005** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of variance to §166.11(A), Conformance to Plans and Regulations.** *Staff recommends approval of the requested variance with no added conditions:*

Subdivision Committee recommended in favor.

2. **Planning Commission determination of variance to §166.23(C)(4), Pedestrian Connections.** *Staff recommends approval of the requested variance with one added conditions:*
 - a. The grading permit plans shall include parallel sidewalk along N. Salem Dr as shown in the large-scale-development plans.

Subdivision Committee had no recommendation.

3. **Planning Commission determination of variance to §168.21(E): Regulated Uses, Structures and Activities Within the Streamside Protection Zones.** *Staff recommends approval of the requested variance with the following conditions:*
 - a. The applicant shall provide a revegetation plan for staff to review and approve during the grading permit process. The revegetation plan shall include native plants and shrubs typically seen in a riparian area as outlined in the Streamside Protection Best Management Practices Manual.

Subdivision Committee recommended in favor.

4. **Planning Commission determination of variance to §177.03(D)(2)(a), Landscape Area Required for Property Lines Adjacent to Street Right-of-Way.** *Staff recommends approval of the requested variance with no added conditions.*

Subdivision Committee had no recommendation.

5. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication in the following amounts.:*
 - a. Fifty-two feet (52') of right-of-way dedication for N. Salem Rd.
 - b. Fifty-two feet (52') of right-of-way dedication for N. Truckers Dr.

Subdivision Committee recommended in favor.

6. **Planning Commission determination of street improvements.** *Staff recommends street improvements as described below:*
 - a. N. Salem Rd. (existing): 6-foot sidewalk and variable width greenspace.
 - b. N. Salem Rd. (extension): 6-foot sidewalk and 6-foot green space per typical Residential Link section. Twenty-foot asphalt paving with curb and gutter.
 - c. N. Truckers Dr.: 6-foot sidewalk and 6-foot green space per typical Residential Link section. Twenty-foot-wide street with 7-foot parallel parking lane.
 - d. The existing gate across N. Salem Rd. adjacent to N. Deane Solomon shall be removed to enable full use of the public right-of-way.
 - e. Existing headwall on N. Salem Rd. shall be relocated south to the sidewalk.

- f. The developer shall install an offsite water line to add a second point of connection to the overall water distribution system to maintain water quality and maintain water service in the event of a water line break.
- g. Streetlights and street trees are required for all public streets.

Subdivision Committee recommended in favor.

- 7. Parks fees shall be determined and paid prior to building permit issuance. Based on current information, fees for 324 multifamily residential units would be required in the amount of \$308,448.
- 8. Remaining comments from Planning shall be addressed, including:
 - a. Address remaining plan comments
 - b. Driveway exceeding aerial apparatus required width must be reduced to 26 feet of a variance must be requested to §172.04 Parking Lot Design Standards or a variance must be requested. This shall be required prior to grading permit approval.
 - c. Update garage elevations to provide required material, color, and roof form elevation or request variance to §166.23 Urban Residential Design Standards. This shall be required prior to building permit approval.
- 9. Conditions of approval from Engineering, Fire, and Urban Forestry are included in the official conditions of approval, attached hereto;
 - a. Address remaining plan comments
 - b. The geometry of the Truckers Dr. connection to the south shall be required to meet minimum street standards. The transition from the previous section to the current should be smooth and consistent.
 - c. Sidewalk along Salem Rd currently shown below street grade must be installed per the City's standard detail. If this is desired an administrative variance must be submitted and the City Engineer will evaluate the request.
 - d. Applicant shall provide verification of coordination with adjacent property owner regarding potential impact to off-site trees.
 - e. Parking lot trees must be installed where parking space runs exceed 12 or more spaces.

Standard Conditions of Approval:

- 10. Impact fees for fire, police, water, and sewer shall be paid in accordance with city ordinance;
- 11. 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);
- 12. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements;
- 13. Large scale development approval shall be valid for one year;

14. Prior to the issuance of a building permit, the following is required:

- a. Grading and drainage permits;
- b. Separate easement plat for this project that shall include any tree preservation areas and all utility and access easements;
- c. Exterior lighting package must be provided to the Planning Division;
- d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
- e. A cost estimate for all required landscaping shall be submitted to the Landscape Administrator. 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 which will be held until the improvements are installed and inspected; and
- f. Project Disk with all final revisions; and
- g. 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: ☐ **Approved** ☐ **Tabled** ☐ **Denied**

Meeting Date: July 22, 2024

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Memos
 - Engineering Memo
 - Urban Forestry Memos
 - Fire Marshal's Office Memo
 - Parks Memo
- Applicant Exhibits
 - Cover Letter
 - Planning Variance Request Letters #1 and #2
 - Streamside Variance Request Letter
 - Site Plans
 - Architectural Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Donna Wonsower, Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: July 17, 2024

SUBJECT: **Planning Commission Engineering Comments for
LSD-2024-0005 The Lennon**

Water: The applicant is proposing to extend an 8" water line through the development to provide domestic service and fire protection. This water line only has one point of connection to the overall water distribution system. There have been 2 developments that have occurred along Truckers over the past 15 years that did not have to make a second connection. However, the most recent development, Grand Village was approved with an offsite water connection to Warbler. That connection appears to not have been made with the first phase of construction. The second phase was approved with LSD-2021-000017 and a grading permit submitted in 2022. The permit eventually expired having only gone through one review.

With the addition of 324 units, across 10 buildings, Engineering staff is recommending the developer install an offsite water line to add a second point of connection to the overall water distribution system to maintain water quality and maintain water service in the event of a water line break.

The Water and Sewer Division is currently working on a major capital improvement project that will see a 48" water line installed from Hwy 112, across a 50' easement near the northern property line of this development and ultimately tying into a new Beaver Water District pump station. There will be no water connections made to this transmission main from the pump station to its connection to the existing distribution system.

Sewer: The applicant is proposing to install 8" sewer lines to provide sanitary sewer to the development.

Natural Features: The property is located in an area where hydric soils appear to be present. Based on this, a wetland delineation will have to be provided at or before grading permit submittal to determine if there may be wetlands on-site. If there appear to be wetlands on-site a wetland determination will have to be made by the US Army Corps of Engineers.

There is a protected stream that runs through the western portion of the site. A variance to grade within the streamside protection zones (SPZ) in order to provide an outflow of the 2 ponds has been received. Staff is supportive of this variance with the following condition:

1. The applicant provide a revegetation plan for staff to review and approve during the grading permit process. The revegetation plan shall include native plants and shrubs

typically seen in a riparian area as outlined in the Streamside Protection Best Management Practices Manual.

A “no feasible alternative” determination was made by the City Engineer for the proposed crossing of the stream. A 3-side box is proposed for use to span the stream and allow for some dry ground or an artificial ledge beneath the structure. Staff is agreeable to this type of crossing based on the Streamside Protection Best Management Practices Manual.

Drainage: The proposed development is increasing impervious area by more than 10,000 square feet and must meet the 4 minimum standards outlined in the Drainage Criteria Manual. The applicant has proposed 2 ponds to meet these standards. The east pond will be a wet pond which will provide water quality through its permanent pool. The west pond will use a proprietary device to meet water quality. There is an additional study point that will also use a proprietary device for water quality. Channel protection and peak flow attenuation are proposed to be met through the sizing of the outlet structures for the ponds and the change in drainage area for the southeastern study point.

Plan Comments:

1. Sidewalk along Salem Rd must be installed per the City’s standard detail. Currently it is shown below street grade. If this is desired an administrative variance must be submitted and the City Engineer will evaluate the request.
2. Walls over 4’ in height must be designed, inspected, and certified by an Arkansas licensed professional engineer.
3. Update headwall details and culvert to be consistent with the 3-sided box culvert that is proposed for use in the “Streamside Protection Zone – Waiver Request” letter, dated July 1, 2024.

Standard Comments:

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



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Jonathan Schmitz, Engineering Services, Inc.

From: Melissa Evans, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: July 22, 2024

Subject: LSD-2024-0005 Lennon Apartments (North of N. Truckers Dr., 208)

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		
The Lennon Property	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	839,723	100%
Zoning Designation * Select Below with drop down arrow		
RMF-18 Multi-Family Residential-Eighteen Units Per Acre	167,945	20%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	167,945	20.0%
Existing Tree Canopy * Minus Right of Way and Easements	57,830	6.9%
Tree Canopy Preserved	38,595	4.6%
Tree Canopy Removed *On Site	19,798	2.4%
Tree Canopy Removed *Off Site	5,602	
Tree Canopy Removed Total	24,907	3.0%
Removed Below Minimum	129,350	
Mitigation Requirements	25,400	

Tree Preservation Calculations		
Fellowship Church Parking Lot	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	514,297	100%
Zoning Designation * Select Below with drop down arrow		
P-1, Institutional	128,574	25%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	128,574	25.0%
Existing Tree Canopy * Minus Right of Way and Easements	68,740	13.4%
Tree Canopy Preserved	66,080	12.8%
Tree Canopy Removed *On Site	2,660	0.5%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	2,660	0.5%
Removed Below Minimum	62,494	
Mitigation Requirements	2,660	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	20,677	79
Low Priority	8,124	19
Total Mitigation Trees Required	28,801	98

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 UDC Chapter 167.04H1 and 167.04L1	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	No	Yes	Yes
d. Existing Topography and Proposed Grading	Yes	Yes	Yes
e. Soil Types	Yes	Yes	Yes
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	Yes	Yes	Yes
i. All Existing and Proposed Utilities	Yes	Yes	Yes

j. All Existing and Proposed Utility Easements and ROW's	Yes	Yes	Yes
k. All Streams (with approximate center line)	Yes	Yes	?
l. Floodplains and floodways	N/A	N/A	N/A
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan (if required)	Yes	Yes	Yes
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	No	Yes	Yes

Tree Protection Methods

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

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

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

7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	03-13-24	06-25-24	07/08/2024
	05-29-24		07/22/2024
Approved			
Tabled	04/17/24		
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. Have adjacent property owners will need to be notified about potential impacts to trees on their lots?
3. Why is group E2 now shown to be removed?
4. Why has streamside protection boundary changed between submittals?



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Jonathan Schmitz, Engineering Services, Inc.

From: Melissa Evans, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: July 22, 2024

Subject: LSD-2024-0005 Lennon Apartments (North of N. Truckers Dr., 208)

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>	X		

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

3. Perimeter Landscaping Requirements

Yes No N/A

- | | | | | |
|---|---|--|--|--|
| a. Front Property Line (15' wide landscape) and 5' on sides and rear.
<i>UDC Chapter 177.04D2a</i> | X | | | |
| b. Shade trees planted on south and west sides of parking lots
<i>UDC Chapter 177.04D2e</i> | X | | | |
| c. Screening of parking lot from adjacent residential properties. | X | | | |

4. Street Tree Planting Requirements

Yes No N/A

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

5. Landscape Requirement Totals	Amount
Mitigation Trees	98 required, 98 provided
Parking Lot Trees	39 required, 45 provided
Street Trees	61 required, 61 provided
Detention Pond – Large Trees (1 Tree/3,000 square feet)	36 required, 36 provided
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	142 required, 142 provided
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	212 required, 212 provided

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	5-29-24	6-25-24	7-08-2024 07-22-2024
Approved			
Tabled	03-12-24 04-17-24		
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. Please specify understory trees for any required aerial apparatus routes. Trees shall not be taller than a mature height of 15' there. Indicate aerial apparatus route in plans. 3. Verify tree counts. 4. One (1) tree shall be planted for every twelve (12) parking spaces with this option, <u>with a maximum run of twelve (12) parking spaces permitted without a tree island.</u> Several runs exceed this maximum allowance. Additionally, required parking lot trees may not be double-counted as mitigation trees. 5. Tree island shown northwest of building 6 does not meet minimum size requirements.



Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Donna Wonsower, Planner

FROM: Melissa Evans, Urban Forester

MEETING DATE: July 22, 2024

SUBJECT: **LSD-2024-0005: Variance (The Lennon Apartments, North of N. Truckers Drive):** Submitted by ESI for property located North of N. Truckers Dr. The property is zoned RMF-18, Multi-family Residential, and contains approximately 20.2 acres. The request is for a variance to the perimeter landscaping requirement along property lines adjoining street right-of-way.

RECOMMENDATION:

Urban Forestry Staff recommends approval of VAR-2022-0042 which would allow the property owner to have less than the required 15' of greenspace along the property line adjacent N. Truckers Drive. Per Chapter 177.04(D)(2)(a) of the UDC, Property Lines Adjoining Street Right-of-Way, "A 15-foot wide landscape area shall be provided along the front property line exclusive of and adjacent to the Master Street Plan right-of-way. Points of access (entrance drives, exit drives) and sidewalks area allowed to cross the 15' landscaped area provided the integrity of the landscaped area is maintained." This is located in an area where the curvature of the road and the building configuration create a pinch point of 10'-9" between the building corner and ROW, rather than the required 15' to accommodate all of the greenspace, and no trees are required to be planted directly in that area.

BACKGROUND:

The southeast corner of Building 1 at the southeast corner of the site has 10'-9" to the ROW line which is greenspace. From that point there is a 6' sidewalk and almost 12' of greenspace from the sidewalk to street curb that is in the ROW. The applicant has indicated that the site is constrained by tying into the existing road with a smooth transition creating the pinch point for greenspace. Street trees are not located in that area as they have been located north between the sidewalk and street curb so there is no conflict, hence Staff supports the variance request.

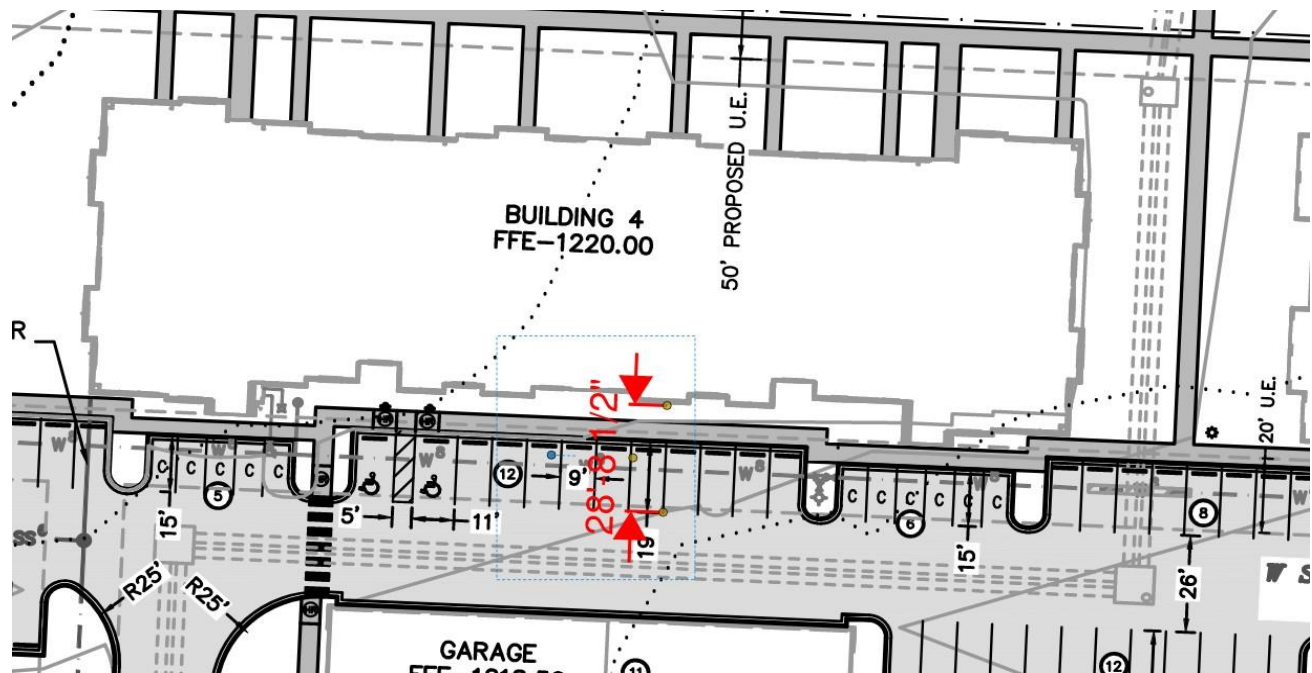
June 25, 2024

Project: The Lennon; Review #: LSD-2024-0005

Reviewed by: Division Chief J. Ashley

During the 5/29/2024 Tech Plat meeting the Fayetteville Fire Marshals Office commented on two items relating to the project that needed additional information.

1. Building 4 did not meet the setbacks required for the aerial apparatus access. This item was addressed by moving the building towards the parking lot to meet the required setbacks. See attachment below.



2. Designer was requested to indicate the aerial apparatus accesses on the plans for **all buildings**. Comments received back from designer stated that they were on page 25, however aerial apparatus accesses were not found and we were not able to discern which accesses were intended to be the designated aerial accesses. Please mark on a site plan the required aerial apparatus access for each building that is in excess of 30ft in height and verify that each of those buildings meet the required setbacks for an aerial apparatus access.



CITY OF
FAYETTEVILLE
ARKANSAS

TO: Planning Division
FROM: Zach Foster, Parks Planning
DATE: March 11, 2024
SUBJECT: Parks & Recreation Technical Plat Review Comments

PRAB Meeting Date: March 4, 2024
Project Title: The Lennon
Project Number: LSD-2024-0005
Project Location: North of N Truckers Dr and S of Fellowship Bible Church
Plat Page: 208
Park Quadrant: NW
Billing Name & Address: Willow Bend Optionco LLC
1207 S Old Missouri Rd, Springdale, AR 72762

☐ Land Dedication ☒ Fee-in-Lieu ☐ Combination

LAND DEDICATION

Single Family: _____ units x 0.023 acres per unit = 0.00 acres
Multi Family: _____ units x 0.020 acres per unit = 0.00 acres

TOTAL Acres
0.0

FEE-IN-LIEU

Single Family: _____ units x \$1,089 per unit = \$ 0
Multi Family: 522 units x \$952 per unit = \$496,944

TOTAL Fees
\$496,944

SUMMARY:

- Project proposes 0 SF units and 522 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.

April 2, 2024

**APPLICANT EXHIBIT
COVER LETTER**

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

RE: Overall Narrative
The Lennon
Fayetteville, AR

To whom it may concern,

Please let this letter serve as a narrative to accompany the complete submittal for The Lennon. The proposed development is located just south of Fayetteville's Fellowship Church and north of Grand Retirement Village. It is Washington County Parcel Number 765-15830-007. This property is owned by Willow Bend Optionco LLC and is currently zoned RMF-18. No change in zoning is requested. There are 9 apartment buildings, 1 management building, and a mix of multifamily family units, totaling up to 324 residential units, and two retention pond areas. In addition, an extension to Fayetteville's Fellowship church's parking lot is being proposed in tandem with the multi-family development. This extension will include an additional 70 parking spaces, including all street and storm improvements.

Utilities

This site has access to public 8" water main and access to 10" and 12" sewer mains.

Traffic

It is not anticipated that this development will cause any traffic issues as ArDOT is improving Highway 112 to have additional lanes and roundabouts. This project will also provide street improvements to N Trunkers Drive and connect to the existing drive on the north of the property, thus providing access to N Deane Solomon Rd.

This submittal includes the following items:

- No submittal fee is included. Once the invoice is generated, this will be paid by the developer.
- Preliminary Plat Plans
- Preliminary Drainage Report
- Warranty Deed
- Legal Description

Please let me know if I can answer any questions.



Keren Ramirez

Project Engineer

July 1, 2024

**APPLICANT EXHIBIT
VARIANCE REQUEST LETTER #1**

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

RE: Variance Requests
The Lennon – LSD 2024-0005
Fayetteville, AR

To whom it may concern,

Please let this letter serve as a variance request to serve The Lennon, given the Large Scale Development identifier LSD 2024-0005, which is an approximately 20.23 acre residential development on parcel number 765-15830-007. The development is located west of Arkansas highway 112, off Truckers Lane, in Fayetteville.

Variance

With the revised plans, a variance is needed for greater open space along W Salem Rd. UDC, Chapter 166.23 – Urban Residential Design Standards, Paragraph (C) Site Development Standards, (4) Pedestrian Circulation – states that, “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.”

This variance is requested for the following reason:

1. There is a proposed 50-foot utility easement for the City of Fayetteville’s watermain improvement which does not allow our development to meet with the maximum 12 feet of pedestrian connection to the public sidewalk. In discussion with the City’s Utility Department, we are trying to limit the amount of sidewalk crossings over the proposed 48” watermain.

Variance

With the revised plans, a variance is needed for the landscaped area along the public Right-of-Way along N Truckers Dr. UDC, Chapter 177.04 – Site Development and Parking Lot Landscape Standards, Paragraph (D) Perimeter Landscaping Requirement, (2) Property Lines Adjoining Street Right-of-Way, (a) Landscape Area Required – states that, “A 15-foot wide landscaped area shall be provided along the front property line exclusive of and adjacent to the Master Street Plan right-of-way. Points of access (entrance drives, exit drives) and sidewalks are allowed to cross the 15-foot landscaped area provided the integrity of the landscaped area is maintained.”

This variance is requested for the following reason:

1. N Truckers Drive has an existing Right-of-Way of 59-feet (24A-168), with the proposed improvements we are meeting the current MSP requirements for a residential link street section, which requires 52-feet of Right-of-Way. Based on this, the street layout has been modified to provide a smooth transition to tie into the existing road and thus limit the available greenspace area along the southeast corner of Building 1.

Please let me know if I can answer any questions.



Jason Appel, P.E.

Secretary / Treasurer

June 5, 2024

**APPLICANT EXHIBIT
VARIANCE REQUEST LETTER #2**

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

RE: Variance Requests
The Lennon – LSD 2024-0005
Fayetteville, AR

To whom it may concern,

Please let this letter serve as a variance request to serve The Lennon, given the Large Scale Development identifier LSD 2024-0005, which is an approximately 20.23 acre residential development on parcel number 765-15830-007. The development is located west of Arkansas highway 112, off Truckers Lane, in Fayetteville.

Variance

With the revised plans, a variance is needed for greater open space along W Salem Rd. UDC, Chapter 166.11 – Conformance to Plans and Regulations, Paragraph (A) – states that, “The subdivision shall conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Future Land Use Plan, the Master Street Plan, access control, setback ordinances, the Community Facilities Plan and Zoning, Chapters 160 through 164.”

This variance is requested for the following reason:

1. Per the MSP’s Residential Link Street section cannot be met as our project is tying into an existing street with an existing R.O.W of 62’ (BK & PG 2018-27931) and is constrained by the existing pond on Fellowship Church. Our development is proposing the 52’ R.O.W, as stated on the MSP street section, and extending the existing street to the east along our property line. We are also providing the necessary improvements to the existing street, drainage infrastructure and sidewalks within the north boundary line of our property.

Variance

With the revised plans, a variance is needed for the reduction and supplemental elements along a build-to-zone. UDC, Chapter 164.06 – Minimum Buildable Street Frontage, Paragraph (D) Corner Lot, (1)-(3).

This variance is requested for the following reason:

1. The 718’ of frontage along W. Salem Rd is unable to be located within the 25’ B.T.Z due to a 50’

proposed utility easement required by the City of Fayetteville for their watermain improvements.

Please let me know if I can answer any questions.



Jason Appel, P.E.

Secretary / Treasurer

June 5, 2024

**APPLICANT EXHIBIT
VARIANCE REQUEST LETTER
STREAMSIDE PROTECTION**

Mr. Josh Boccaccio, P.E.
City Engineer, City of Fayetteville
Development Services Building
125 W. Mountain Street
Fayetteville, AR 72701

RE: Graded Channel within Streamside Protection Zone
The Lennon – LSD 2024-0005

Dear Mr. Boccaccio,

On behalf of our client, we are submitting revised plans for a proposed Large Scale Development on Washington County Parcel Number 765-15830-007, which is a 20.23 acre tract located north of Truckers Lane in north Fayetteville, west of Arkansas Highway 112.

A stream qualifying for streamside protection zone regulations runs north to south through the subject property. The proposed development will include a streamside protection zone buffer area along this stream, as well as numerous other features, such as bio retention ponds, intended to ensure stormwater quality meets the requirements set forth in the City of Fayetteville's ordinances. However, in order to discharge the water from the ponds we are requesting authorization from you to install small channels within the streamside protection zone to allow for discharge into the stream at 1 foot above its flowline. The proposed grading will be around the 36" flared end section that discharges from the east retention pond and an 18" flared end section that discharges from the west pond. Without installation of these small channels, or installation of pipe in the same alignment which would also require your authorization, it would be necessary to raise the grade of much of the subject property by several feet.

By ordinance, these improvements can not be installed unless it is determined that there is no practical and feasible alternative. Although there are alternatives to the precise design/configuration of the channel shown (grass-lined, concrete-lined, underground pipe, etc.), all would qualify as new stormwater conveyances within the streamside protection zone and require your authorization.

If possible, I would like to meet with you to discuss this request and answer any questions you may have regarding the proposed project and the need to install the proposed conveyances within the streamside protection zone.

Please do not hesitate to contact me if you have any questions regarding this application or need anything further.

Thank you,



Jason Appel, P.E.
Project Engineer

July 1, 2024

**APPLICANT EXHIBIT
APPEAL LETTER**

Mr. Josh Boccaccio, P.E.
City Engineer, City of Fayetteville
Development Services Building
125 W. Mountain Street
Fayetteville, AR 72701

RE: Streamside Protection Zone - Waiver Request
The Lennon
LSD 2024-0005
Fayetteville, AR

Dear Mr. Boccaccio,

Willow Bend Optionco, LLC would like to request a waiver of the Streamside Protection Zone to install a Reinforced Box Culvert Crossing and provide minimal grading to a tributary of Clabber Creek, as shown on the development LSD 2024-0005. The said tributary runs north and south across the full width of the multifamily development's property; therefore, a crossing is required to make the connection.

The proposed box culvert crossing is designed to be 1 - 12'X3' (3-sided box culvert), we are proposing this culvert to be a bottomless pipe to represent a natural channel bottom.

The alternative option is to install a free span bridge at crossing spanning the protection zone. This option would create undue hardship to The Lennon by increasing the cost of the total crossing cost by approximately 50% to install the bridge structure.

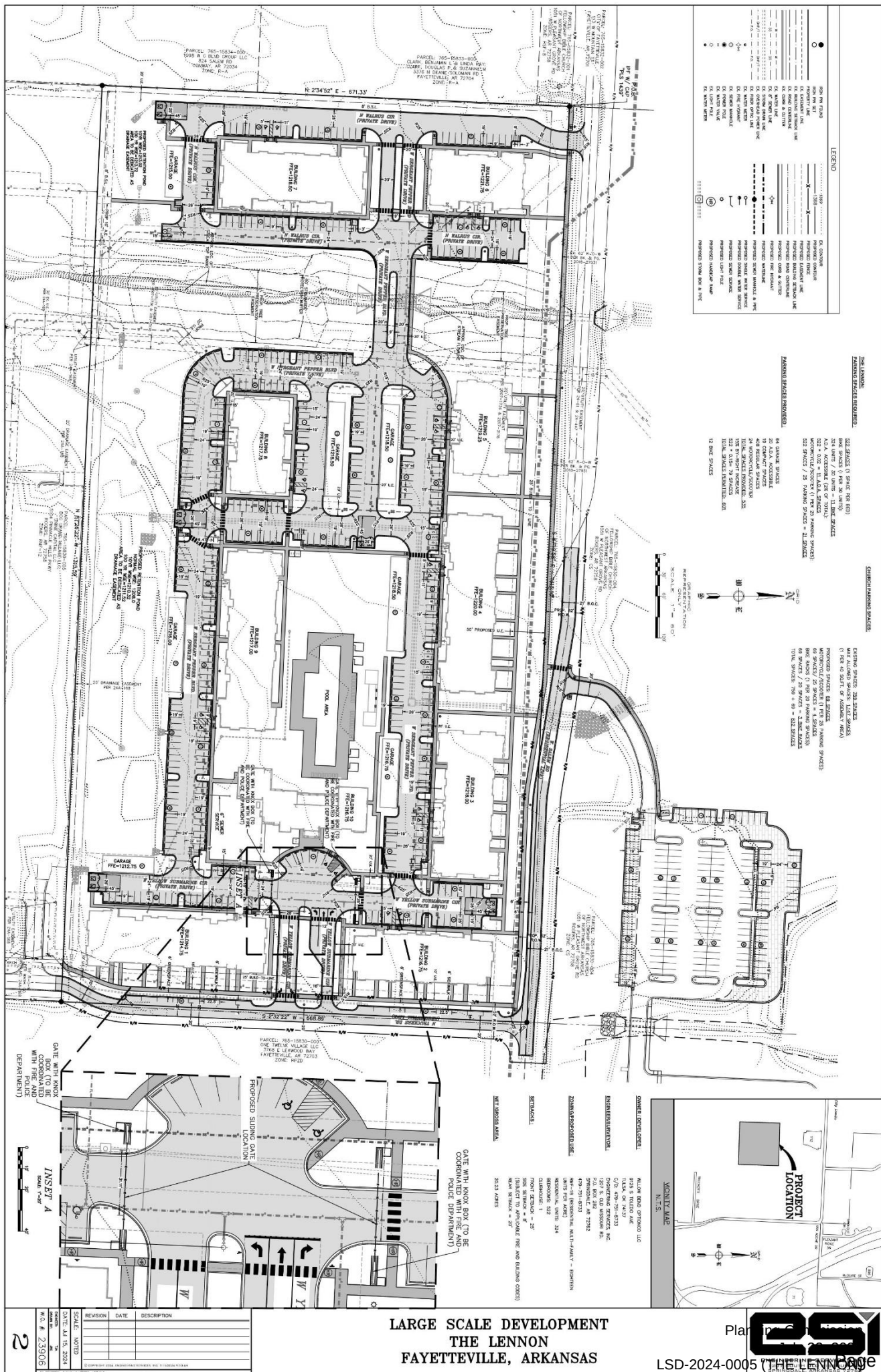
We respectfully request a waiver to the Streamside Protection Zone Ordinance to install the pre-cast box culvert because there is no other feasible alternative.

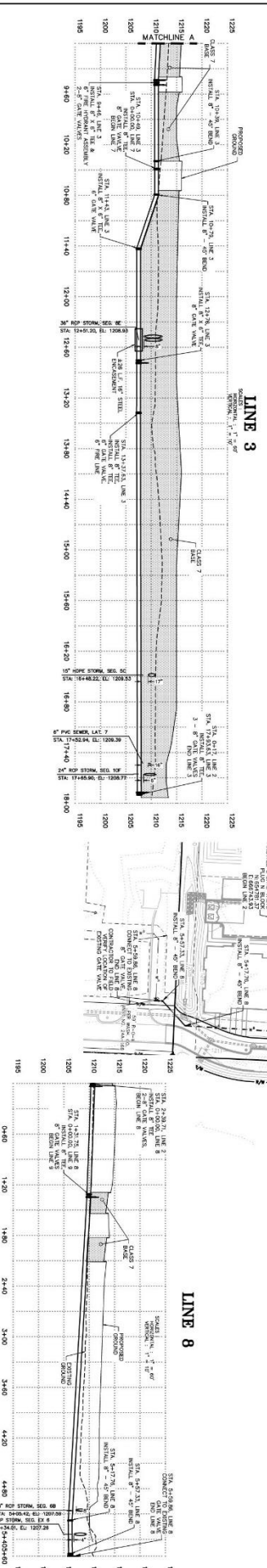
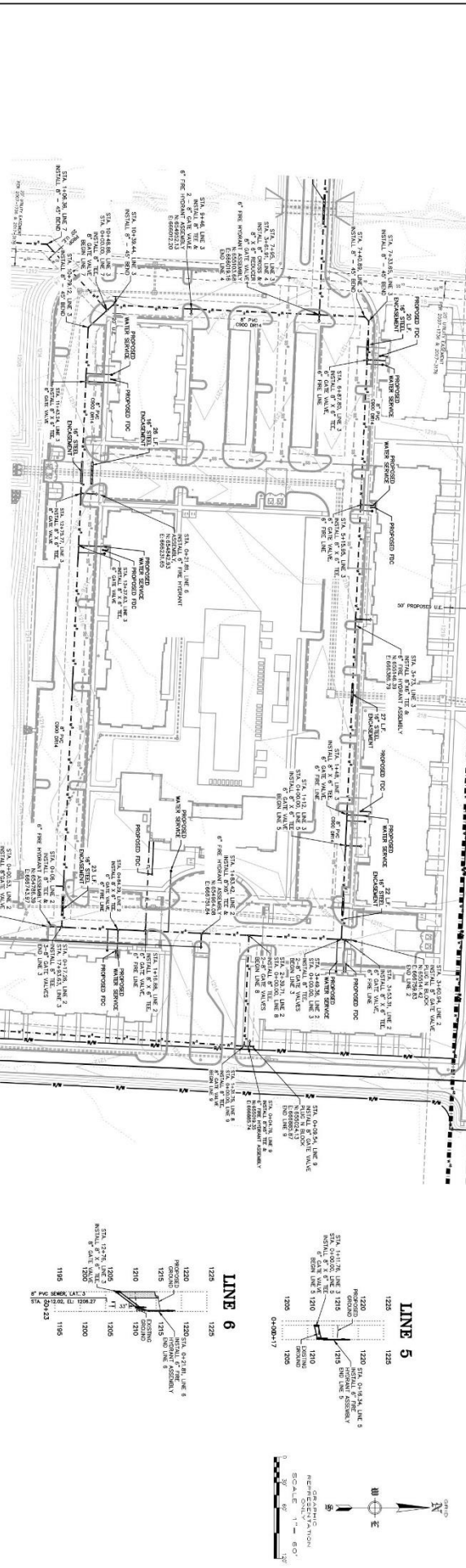
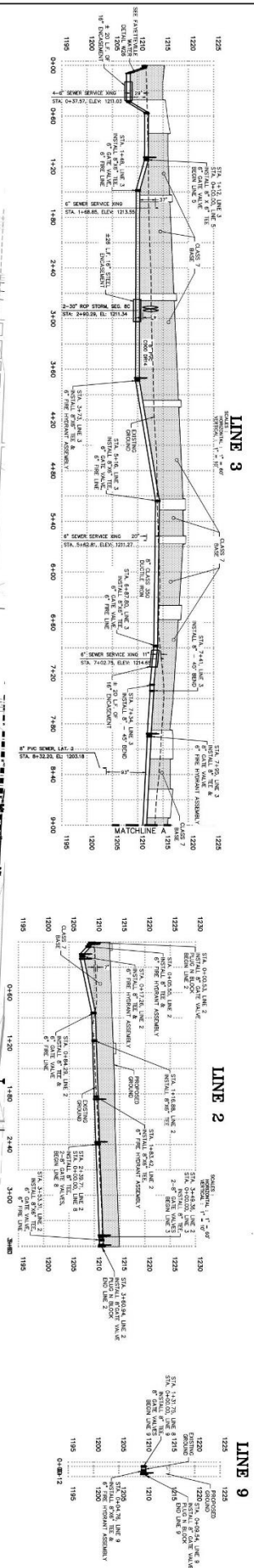
If you have any questions, please let me know.

Sincerely,



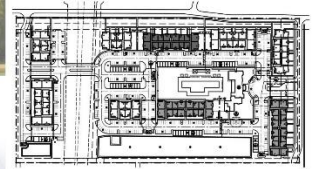
Jason Appel, P.E.
Secretary/Treasurer







REAR ELEVATION



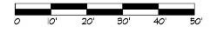
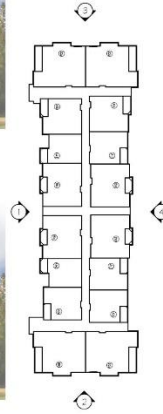
LEFT ELEVATION



RIGHT ELEVATION



FRONT ELEVATION



EXTERIOR ELEVATIONS
BUILDING #1, 4, 9 - TYPE I

THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

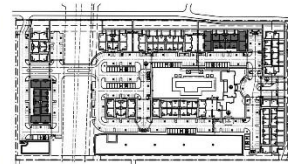
TCWG | THE CLERKLEY WATKINS GROUP
ARCHITECTURE | PLANNING | INTERIOR DESIGN

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REAR ELEVATION

④



LEFT ELEVATION

③



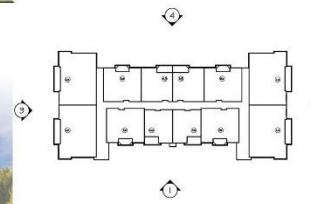
RIGHT ELEVATION

②



FRONT ELEVATION

①



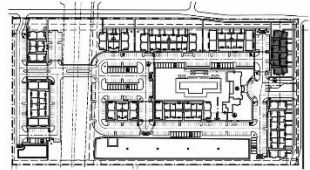
EXTERIOR ELEVATIONS
BUILDING #3, 7 - TYPE 2

THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

TCWG | THE CLERKLEY WATKINS GROUP
Planning Commission
July 22, 2024
ARCHITECTURE | PLANNING | INTERIOR DESIGN



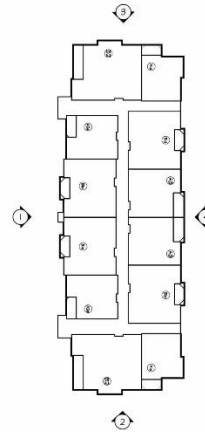
REAR ELEVATION ④



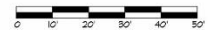
LEFT ELEVATION ⑤



RIGHT ELEVATION ②



FRONT ELEVATION ①



EXTERIOR ELEVATIONS
BUILDING #2 - TYPE 3

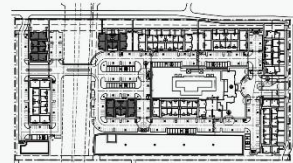
THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

TCWG THE CLERKLEY WATKINS GROUP

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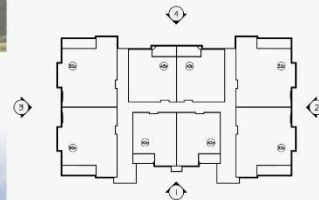
REAR ELEVATION ④



LEFT ELEVATION ⑤



RIGHT ELEVATION ②



FRONT ELEVATION ①



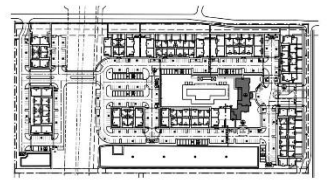
EXTERIOR ELEVATIONS
BUILDING #5, 6, 8 - TYPE 4

THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

TCWG THE CLERKLEY WATKINS GROUP
Planning Commission
July 22, 2024
ARCHITECTURE | PLANNING | INTERIOR DESIGN



REAR ELEVATION



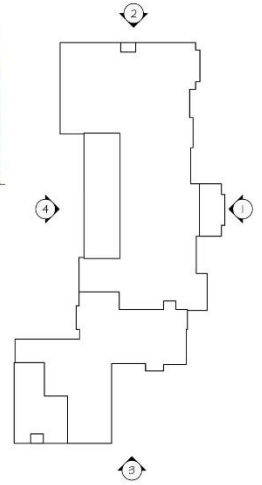
LEFT ELEVATION



RIGHT ELEVATION



FRONT ELEVATION



EXTERIOR ELEVATIONS
BUILDING #10 - CLUBHOUSE

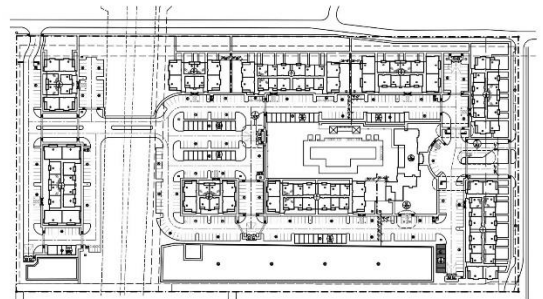
THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

TCWG THE CLERKLEY WATKINS GROUP
ARCHITECTURE | PLANNING | INTERIOR DESIGN

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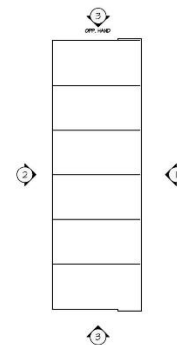
SIDE ELEVATION



REAR ELEVATION



FRONT ELEVATION



EXTERIOR ELEVATIONS
BUILDING #11 - 6 CAR GARAGE

THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

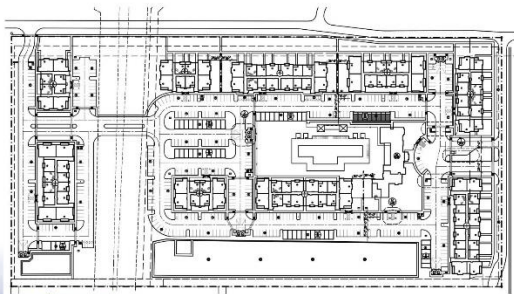
TCWG THE CLERKLEY WATKINS GROUP
ARCHITECTURE | PLANNING | INTERIOR DESIGN

Planning Commission
July 22, 2024



SIDE ELEVATION

⑨



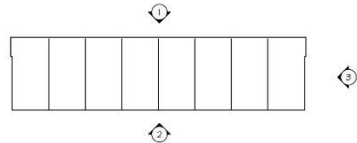
REAR ELEVATION

②



FRONT ELEVATION

①



EXTERIOR ELEVATIONS
BUILDING #12 - 8 CAR GARAGE

THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

TCWG THE CLERKLEY WATKINS GROUP
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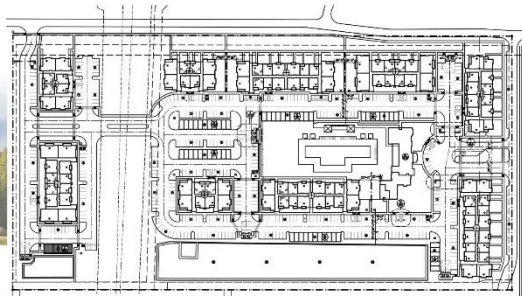
LEFT ELEVATION

④



RIGHT ELEVATION

⑤



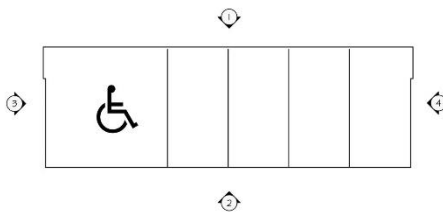
REAR ELEVATION

②



FRONT ELEVATION

①



EXTERIOR ELEVATIONS
BUILDING #17 - 6 CAR GARAGE W/ HC

THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

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SIDE ELEVATIONS

③

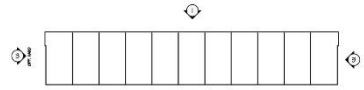
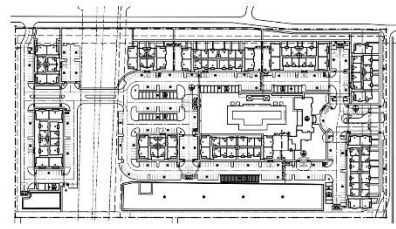


REAR ELEVATION



FRONT ELEVATION

①



EXTERIOR ELEVATIONS
BUILDING #16 - 11 CAR GARAGE

THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

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WATKINS
GROUP
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SIDE ELEVATIONS

③

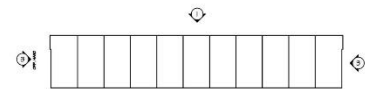
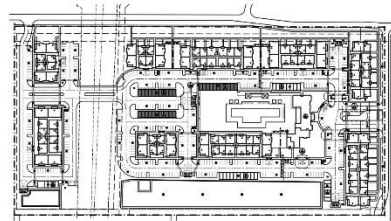


REAR ELEVATION



FRONT ELEVATION

①



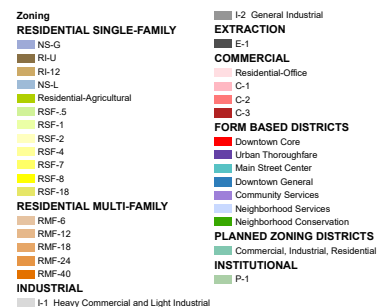
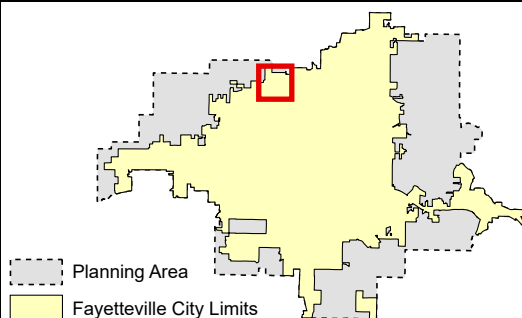
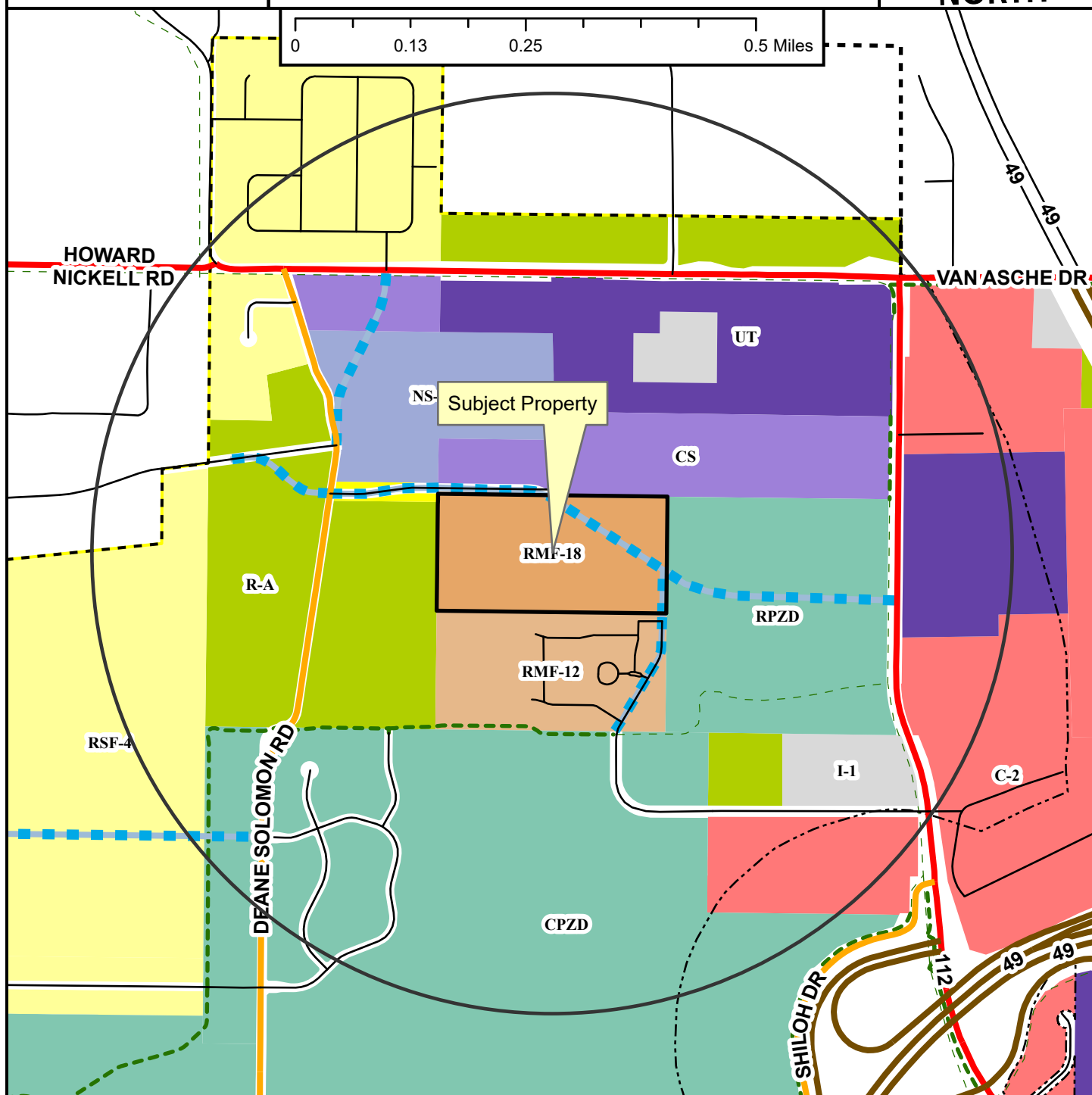
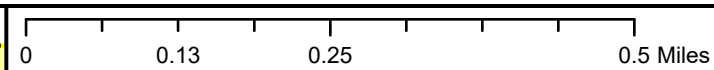
EXTERIOR ELEVATIONS
BUILDING #13, 14, 15 - 11 CAR GARAGE

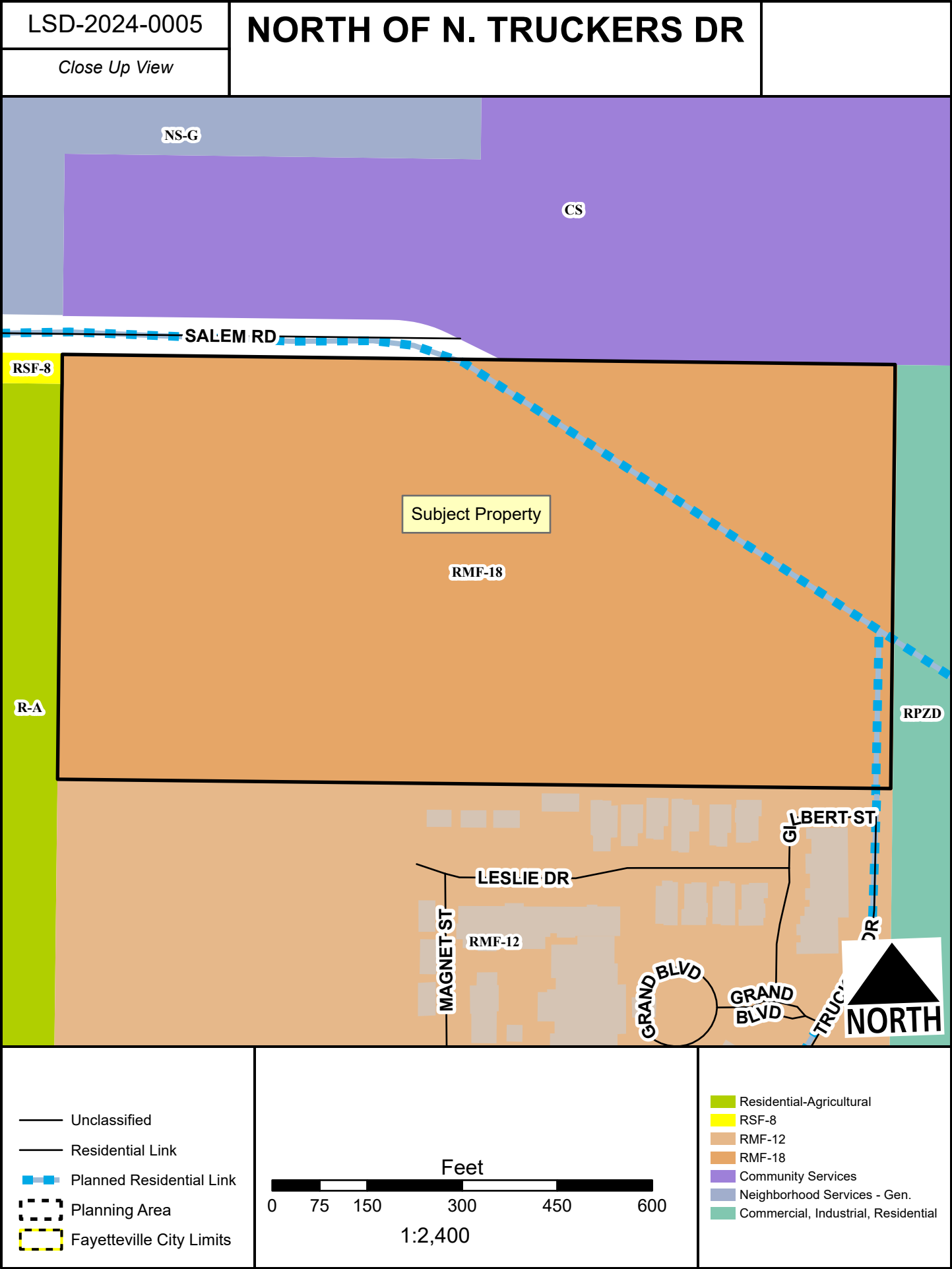
THE LENNON
THE GILCO GROUP LLC
FAYETTEVILLE, ARKANSAS

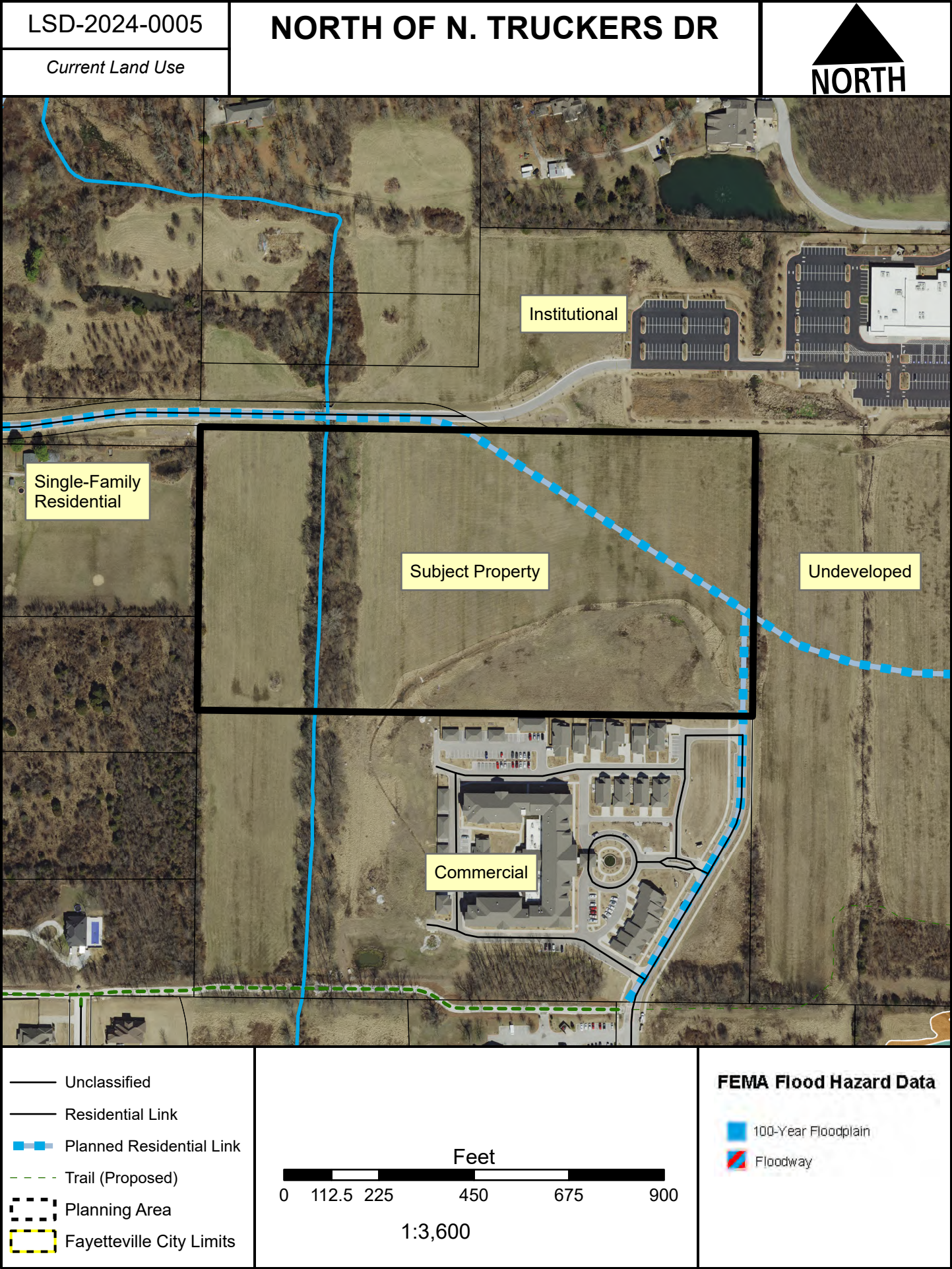
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NORTH OF N. TRUCKERS DR

One Mile View









TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: July 22, 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 NS-G, NEIGHBORHOOD SERVICES - GENERAL.

RECOMMENDATION:
Staff recommends approval of RZN-2024-0030.

RECOMMENDED MOTION:
"I move to forward RZN-2024-0030 to City Council with a recommendation of approval."

JUNE 24 AND JULY 8 PLANNING COMMISSION MEETINGS

Due to scheduling unavailability, the applicant requested to table themselves until the July 8 Planning Commission meeting in order to be present. At the July 8 meeting, the Planning Commission recommended tabling the item to re-evaluate the applicant's request, and see if there was a lower-intensity zoning district such as NS-L or NS-G that the applicant was willing to consider. The applicant has since updated the request to NS-G, Neighborhood Services - General.

BACKGROUND:

The subject property, parcel 765-14601-000, is immediately east of I-49 and approximately ¾ mile north of the intersection with E. Martin Luther King Jr. Blvd. The property has frontage along N. Futrall Drive, which is a one-way street heading north and is ARDOT right-of-way. The parcel contains 6.62 acres, and is currently zoned RSF-4, Residential Single-Family, 4 Units per Acre. The site is currently undeveloped and has almost 100% tree canopy coverage. The property is located within the I-540 Overlay District and a small portion of the site is within the Hillside-Hilltop Overlay District. An identical rezoning request was submitted to the Planning Commission in January 2022, where it was denied. No appeal was heard by the City Council following the denial. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre
South	Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre
East	Undeveloped	R-A, Residential Agricultural; (Bill of Assurance requiring zero homes to be built)
West	Interstate (I-49)	R-A, Residential-Agricultural (across the interstate)

Request: The request is to rezone the property to NS-G, Neighborhood Services, General. The applicant has not submitted any additional development plans, though has modified their original request from CS, Community Services.

Public Comment: Staff received one written comment against the request to rezone the property to CS, and it is attached to this report. The member of the public was concerned about tree preservation on the property.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

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

Water: Public water is not available to the subject area.

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

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 6, located at 900 S. Hollywood Ave., protects this site. The property is located approximately 1.2 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: Any additional improvements or requirements for drainage will be determined at time of development. No portion of the site falls within a FEMA floodplain, nor is there a protected stream in the area. There are also no hydric soils on the property.

A small portion of the southeast corner of the property falls within the Hillside-Hilltop Overlay District. Additional restrictions will apply at the time of development. Engineered footing designs will be required at the time of building permit submittal, as well as grading, erosion control and abbreviated tree preservation plans.

Tree Preservation:

The proposed zoning district of NS-G, Neighborhood Services - General requires **20% minimum canopy preservation**. The current zoning district of RSF-4, Residential Single-Family, 4 Units per Acre, requires **25% minimum canopy preservation**.

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

Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context: single-family, duplexes, rowhouses, multifamily and accessory dwelling units. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment. Building setbacks may vary depending on the context of the existing neighborhood.

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

- Adequate Fire Response (Station 6, 990 S. Hollywood)
- Near City Park (Markham Hill Woods)
- Near Paved Trail (Shiloh Trail, across I-49, Fayetteville Traverse (unpaved)
- Near Razorback Bus Stop (Route 44)

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 updated request from RSF-4, Residential Single-Family, 4 Units per Acre to NS-G to be compatible at this location. Much of the surrounding property is undeveloped in nature, and the site lacks basic utility and infrastructure access such as public water and public sewer. The property currently has the entitlement to develop 4 units per acre; given the property's size, this may allow for the development of up to 26 single-family dwellings, though would likely result in fewer given the steep topography and any necessary right-of-way dedication, tree preservation, and drainage requirements. Staff recognizes that strictly single-family uses may not be the highest and most efficient use of the property at this location and may still negatively affect traffic flow along Futtrall Drive. NS-G is a less intense zoning district than CS, and allows for minimal non-residential uses, and allows for up to 4-family dwellings by-right; larger multi-family structures (5 connected units or more) would require a conditional use permit approval. NS-G also allows for buildings up to 3 stories tall as opposed to the 5 stories permitted under CS. A future trail is planned along Futtrall Drive that could eventually provide bike and pedestrian connectivity to and from this site and proposed developments closer to Wedington Drive, and existing developments closer to Martin Luther King Jr. Boulevard. A rezoning to NS-G could allow for non-residential uses that may be of use to nearby developments.

Land Use Plan Analysis: Staff finds that generally a request to upzone this property is not consistent with adopted land use policies, the Future Land Use Map designation, and goals of City Plan 2040. While there is not a stated neighborhood or comprehensive plan for this specific area, recent policy

decisions in the surrounding area indicate an intention for this area to remain zoned as-is; a previous rezoning request to CS was denied by the Planning Commission in 2022. To the east of the property, a Bill of Assurance was granted with a downzoning to R-A in 2018 to conserve the area with no allowable home construction associated with that rezoning. To the north, the City of Fayetteville acquired approximately 61 acres of land from the University of Arkansas for the preservation of the Markham Hill Woods. The site has a low infill score and is called out as a Residential Neighborhood Area, with the implication that any development at this location is intended to be primarily residential, rather than commercial uses. Staff finds that NS-G does get closer to meeting long-term land use plans for the area than CS, since it is still categorized as a primarily residential zone, with allowances for the insertion of smaller-scale non-residential uses.

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

Finding: A rezone from RSF-4 is justified, since a strictly single-family residential zoning district may not be the most appropriate zoning for the area with steep topography, large individual lot size requirements, and proximity to the interstate. NS-G is a reasonable request that opens up additional uses without being out of scale, reduces required lot sizes, and allows for more creative development opportunities such as cluster housing that may make better use of the property and its given constraints.

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

Finding: Rezoning the property from RSF-4 to NS-G does have the potential to increase traffic at this site, with most of the traffic pressure being circulated to Wedington Drive. S. Futrall is currently a one-way street and does not have direct access to the interstate. Under its current entitlement, the 6.62-acre property could be developed with a maximum density of 4 units per acre; NS-G zoning has a density maximum of 18 units per acre, though given necessary right-of-way dedication, drainage, tree preservation, and other requirements, the maximum is not likely to be met. Future connectivity to the east would also be nearly impossible at this point, given the undevelopable area immediately adjacent and steep terrain. The benefit of NS-G zoning, however, over RSF-4 zoning, is the potential for a mix of uses, which could potentially contribute to a decrease in need for auto-oriented trips, though without connectivity to surrounding areas, may still not be walkable to surrounding areas.

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 RSF-4 to NS-G would have the potential to alter the population density at this location and could potentially place an undesirable burden on public services. The property does not currently have direct access to water or sewer, so extensions to those services would be

required prior to any redevelopment of the site; those initial costs would be borne by the developer. Fayetteville Public Schools did not comment on the 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-2024-0030.

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre
 - §161.19 NS-G, Neighborhood Services - General
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

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

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

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

Editor's note(s)—Ord. No. 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."

161.19 NS-G, Neighborhood Services - General

- (A) *Purpose.* The Neighborhood Services, General district is designed to serve as a mixed use area of medium intensity. Neighborhood Services, General promotes a walkable, pedestrian-oriented neighborhood development form with sustainable and complementary neighborhood businesses that are compatible in scale, aesthetics, and use with surrounding land uses. For the purpose of Chapter 96: Noise Control the Neighborhood Services district is a residential zone.

- (B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12b	General business
Unit 24	Home occupations
Unit 40	Sidewalk cafes
Unit 41	Accessory dwelling units
Unit 44	Cluster housing development
Unit 46	Short-term rentals

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

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 13	Eating places
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 36	Wireless communication facilities
Unit 45	Small scale production

- (C) *Density.* Eighteen (18) or less per acre.

- (D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwellings	35 feet
All other uses	None

(2) *Lot Area Minimum.*

Single-family	4,000 square feet
Two (2) family or more	3,000 square feet per dwelling unit
All other uses	None

(E) *Setback regulations.*

Front	Side	Side-Zero Lot Line*	Rear	Rear when contiguous to a single-family residential district
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	5 feet	A setback of less than 5 feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed**. The remaining side setback(s) shall be 10 feet.	None	15 feet

(F) *Building Height Regulations.*

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

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

(Ord. No. 5945, §7(Exh. A), 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.

WATKINS, BOYER, GRAY & CURRY, PLLC

ATTORNEYS AT LAW

WILLIAM P. WATKINS, III, P.A.
RONALD L. BOYER (OF COUNSEL)
JENNIFER E. GRAY, P.A.*
ANDREW T. CURRY, P.A.
WILLIAM A. KELLSTROM
* ALSO LICENSED IN MISSOURI

WRITER'S DIRECT E-MAIL
wkellstrom@watkinslawoffice.com

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

July 9, 2024

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

RE: Rezoning Parcel No. 765-14601-000 from RSF-4, Residential Single-Family - Four Units Per Acres, to NS-G, Neighborhood Services, General

Dear Planning Staff:

My firm has been retained to represent the applicant, Winfred E. Watson Family Trust, with respect to this rezoning request. The applicant is requesting that Parcel No. 765-14601-000 (hereinafter "the Property"), be rezoned from RSF-4, Residential Single-Family - Four Units Per Acre, to NS-G, Neighborhood Services, General.

The proposed rezoning will not unreasonably or adversely conflict or affect the surrounding land uses. Currently, the property is bordered by RSF-4 and R-4 zonings to the North, East and South, and is bordered by Interstate 49 and N. Futrall Drive to the West. However, along the broader corridor of I-49 in this area, there are a large mix of zones, such as R-A, P-1, RSF-4, RMF-18, RMF-24, C-2, CS, UT.

Granted that this property is more or less adjacent to I-49, it is ripe for a higher intensity zoning, and in particular, one that allows for a mix of uses. This is exemplified by the fact that several properties along I-49 have already been zoned to CS or the similar UT, or to multi-family or commercial designations. The property is also adjacent to the East to the area frequently referred to as "Markham Hill." Notably, however, the topography of the property, the build-to and tree preservation requirements of CS, and the Hillside-Hilltop Overlay make it such that the any development on the property under a CS zoning would almost necessarily have to be shifted towards I-49, and leave a buffer of trees on the East side, which is adjacent to Markham Hill.

Lastly, this property should be rezoned because RSF-4 simply is not a proper zoning for this Property, for a variety of reasons. RSF-4 zoning allows, more or less, for exclusively single family homes, at a max density of four (4) units per acre. As mentioned earlier, the Property is adjacent to a busy interstate, and is not a desirable parcel for building single family homes, nor

would doing so be the best or most efficient use of the Property. The cost of site work and the density cap would make it such that any single family homes that were to be built on the site would have to be large, custom, and expensive, single family homes in order for an investor to recoup their up front costs. This type of product would not help to provide attainable housing, and would not be appropriate for a site so centrally located within the City. Accordingly, *any* zoning other than RSF-4 would be an improvement—and with the recent trends along this corridor of I-49, along with recent suggestions by Planning Staff, NS-G seems to be the most appropriate.

Thank you for considering this request for rezoning. If you have any questions, please contact me at 479-636-2168 or at wkellstrom@watkinslawoffice.com.

Sincerely,

WATKINS, BOYER,
GRAY & CURRY, PLLC

/s/ *Will A. Kellstrom*

Will A. Kellstrom

WK:
pc:

Compiled Public Comment
RZN-2024-0030

From: Werner, Nick <nick.werner@fayetteville-ar.gov>
Sent: Monday, July 8, 2024 6:09 PM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: Fwd: RZN-2024-0030: Rezoning N Futrall, Between Wedington & MLK

Didn't realize you weren't already cc'ed on this until just now

From: Nick Thorn <nt@nickjthorn.com>
Sent: Monday, July 8, 2024 10:26:08 AM
To: Brink, Andrew <andrew.brink@fayetteville-ar.gov>; Payne, Brad <brad.payne@fayetteville-ar.gov>; Gulley, Fred <fred.gulley@fayetteville-ar.gov>; Garlock, Jimm <jimm.garlock@fayetteville-ar.gov>; Cabe, Matthew <matthew.cabe@fayetteville-ar.gov>; Madden, Mary <mary.madden@fayetteville-ar.gov>; McGetrick, Mary <mary.mcgetrick@fayetteville-ar.gov>; Castin, Nick <nick.castin@fayetteville-ar.gov>; Werner, Nick <nick.werner@fayetteville-ar.gov>
Subject: RZN-2024-0030: Rezoning N Futrall, Between Wedington & MLK

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 Planning Commission,

I am writing in opposition to the rezoning request for this property. I ask that the planning commission deny the rezoning request as recommended by staff.

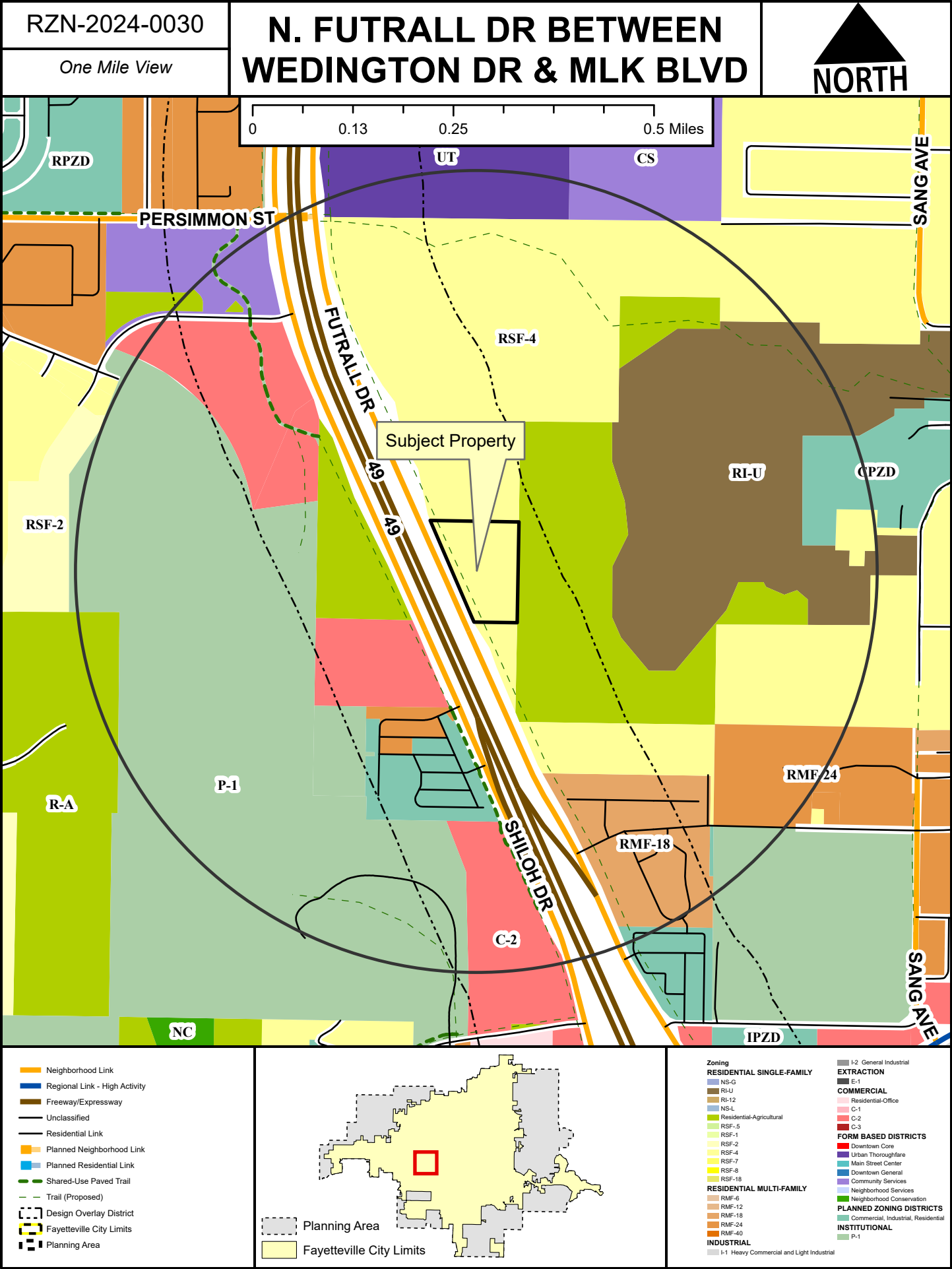
In addition to the reasons for denial given by staff, this is a highly-visible piece of forested land at the base of Markham Hill and the city must do everything in their power to maintain as much of this urban forest canopy as possible. Maintaining a mere 20% (as defined by the requested CS zoning district) of the existing 6.62 acres of tree canopy would result in the removal of more than 5 acres of mature forest. To meet the goals set forth in the adopted Climate Action Plan, we need to be preserving key portions of the city's tree canopy.

In closing, please deny this request.

Thank you for your service to our great city,

Nick Thorn

629 N Gray Avenue



RZN-2024-0030

Current Land Use

N. FUTRALL DR BETWEEN WEDINGTON DR & MLK BLVD

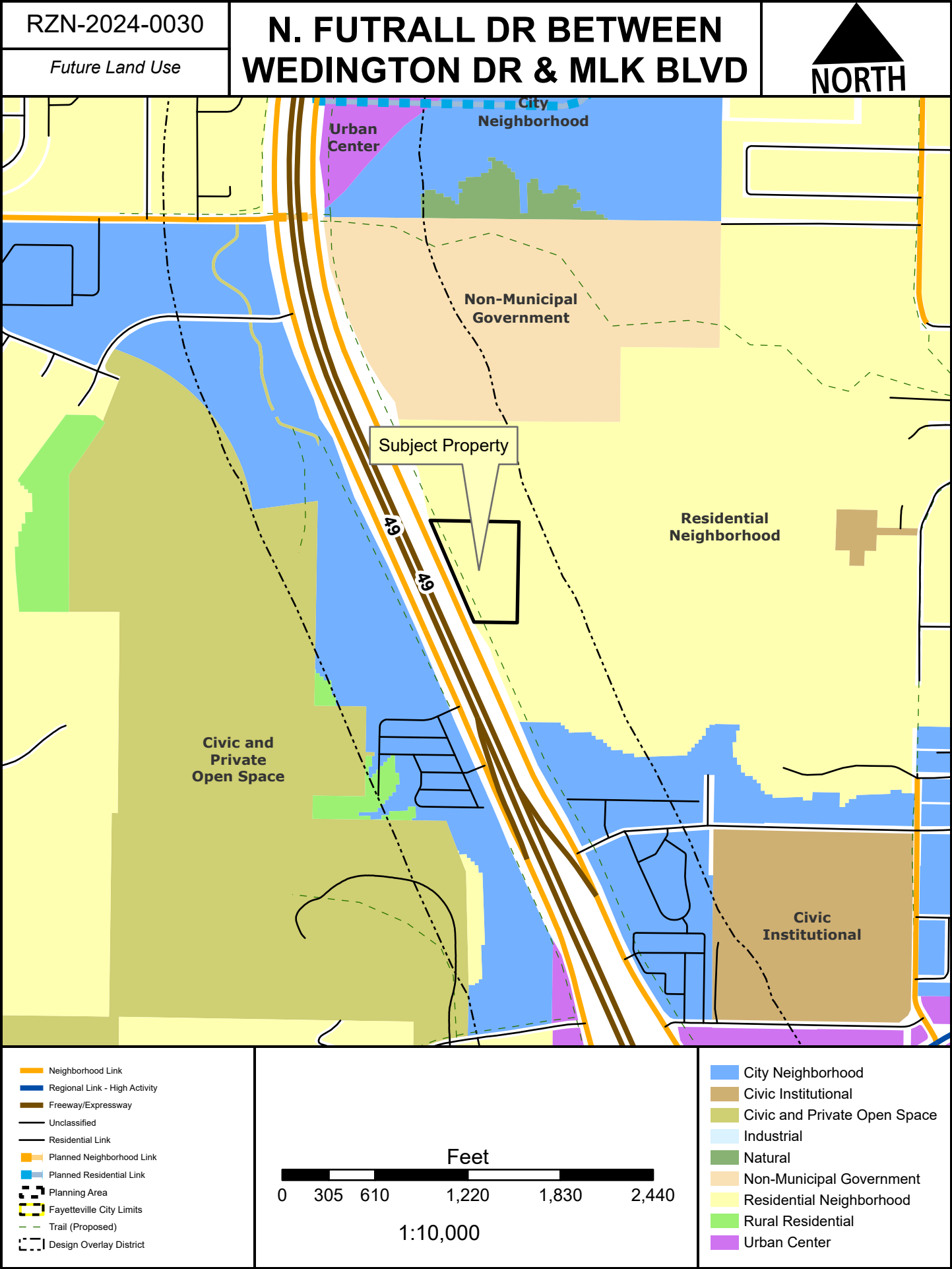


- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





TO: Fayetteville Planning Commission

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

MEETING DATE: July 22, 2024

SUBJECT: **ADM-2024-0036: Administrative Item (Amend UDC Chapters 166.01, Development Categories, 166.02, Development Review Process, 169.03, Review and or Permits Required, Exceptions):** Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 166.01, 166.02, and 169.03. The proposed code changes would modify development process requirements.

RECOMMENDATION:

Staff recommend forwarding **ADM-2024-0036** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **ADM-2024-0036** 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.

Staff, Planning Commission, and Council have evaluated three of the four areas, and ordinance changes have been brought forward throughout 2024.

Status:

- **Parkland Dedication:**
 - May 21, 2024: City Council approves changes to Parkland Dedication requirements, tying those requirements to added residential units and decoupling from project type. (Ordinance 6751)
- **Application of Tree Preservation Standards:**
 - July 16, 2024: City Council heard the proposed changes to Tree Preservation requirements, which would require an abbreviated tree preservation plan for projects adding between 1,201 – 6,000 square feet of impervious surface. An option for escrow is also permitted to be considered. The item was left on the first reading for additional consideration.
- **Timeliness of Variances and Appeals:**
 - July 16, 2024: City Council approved proposed changes to the appeals process, which will allow variances associated with administratively-approved projects to be appealed to City Council in their own right, without the need to be tied to an overall project.

The changes presented with this application are to overarching project classification requirements, and they are outlined below. These changes were forwarded by the Long-Range Planning Committee on June 20, 2024.

DISCUSSION:

After deliberation at the Long-Range Planning Commission meeting, Planning Commissioners voted to move forward the proposed changes to the project classifications

- Reclassifying a large-scale development, large site improvement plan, and small site improvement plan to be tied to the amount of development and/or redevelopment of *total* impervious surface area being proposed, rather than being tied solely to the addition of *new* impervious surface. The intent of this change is for this development or redevelopment area to be considered as the overall limits of construction for a proposal and is not intended to be triggered by interior remodels or renovations that do not propose or require any additional exterior work.
- Requiring a concept plan when a project proposes to develop and/or redevelop greater than *total* 6,000 square feet and less than 10,000 square feet of impervious surface area.
- Clarifying that grading permits are required when a project is developing and/or redeveloping more than 10,000 square feet of impervious surface area.

Staff is also incorporating some text clean-up with this proposal, including clarification about public meeting and hearing requirements for certain project types (large-scale developments and planned zoning districts, in particular).

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 in any ordinance happens at the time of an approved or issued permit. Public comment was also provided at the

May 13, 2024 Planning Commission meeting as well as at the June 24 Planning Commission meeting. Members of the public who spoke were concerned about the originally proposed changes to the impervious surface thresholds and to the additional tree preservation requirements. Additional public comment was received by City staff ahead of the July 16 City Council meeting, with concerns regarding added cost to development with proposed changes, specifically with regards to additional tree preservation requirements.

RECOMMENDATION: Staff recommend forwarding ADM-2024-0036 to City Council with a recommendation of approval.

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

BUDGET/STAFF IMPACT:

None

Attachments:

- **Proposed Ordinance (Clean):**
 - UDC §166.01. Development Categories
 - UDC §166.02, Development Review Process
 - UDC §169.03, Review and/or Permits Required; Exceptions
- **Proposed Ordinance (Strikethrough):**
 - UDC §166.01. Development Categories
 - UDC §166.02, Development Review Process
 - UDC §169.03, Review and/or Permits Required; Exceptions

166.01 Development Categories

- (A) *Property Line Adjustment.* A property line adjustment is a transfer or adjustment of a property line or lines between adjoining property owners which does not create a separate, new lot. A property line adjustment cannot dedicate new easements or right-of-way.
- (B) *Subdivision of Land.*
- (1) *Lot Split.* When a property is to be subdivided into two (2), three (3) or four (4) lots, parcels the application may be processed as a lot split. Except for lot splits created pursuant §164.22 Cluster Housing Development, (C) *Development Review Process*, after the creation of more than four (4) lots from an original parent tract as established under Washington County's countywide 1985 reappraisal. Any subsequent subdivision of the parent or resulting tracts is required to be processed as a preliminary/final plat or concurrent plat. A lot split may dedicate new easements or right-of-way and may be combined with an easement plat.
 - (2) *Preliminary Plat.* When a property is to be subdivided into more than four (4) lots or when a parent or resulting tract has been subdivided three (3) or more times and is proposed to be further subdivided, the application shall be processed as preliminary plat. A preliminary plat establishes the preliminary location of lot lines, streets, and utility infrastructure, and allows for the applicant to request construction plan approval and install required improvements.
 - (3) *Final Plat.* After completion of the required infrastructure (water, sewer, storm drainage, utilities, street improvements, etc.) for a preliminary plat, the entity subdividing may submit an application for approval of the final plat. The final plat application may not be submitted until the final inspection for the required infrastructure has been scheduled with City Engineering staff.
 - (4) *Concurrent Plat.* A concurrent plat combines the preliminary and final plat into one (1) step. A concurrent plat is permitted when a property is to be subdivided into more than four (4) lots, or when a parent or resulting tract has been subdivided three (3) or more times and is proposed to be further subdivided, and the existing and new parcels do not require construction of new infrastructure.
- (C) *Site Plan.*
- (1) *Large Scale Development.* A large scale development is generally intended for development on a site of 1 acre or greater in size and proposes to a development and/or redevelopment area of more than 10,000 square feet of impervious surface and where a corresponding subdivision of land is not proposed.
 - (a) *Requirement.* The development of the following must be processed in accordance with the requirements for a large-scale development:
 - (i) A site 1 acre or greater in size and developing and/or redeveloping an area of more than 10,000 square feet of impervious surface;
 - (ii) Facilities emitting odors or handling explosives; and
 - (b) *Excluded Developments.* Proposals developing and/or redeveloping an area of 10,000 square feet or less of impervious area or a development on a site in a zoning district subject to administrative approval.
 - (2) *Large Site Improvement Plan.* A large site improvement plan review is intended for a large scale development that is located on a site within a zoning district that permits administrative approval. A large site improvement plan is subject to the requirements and excluded developments for a large scale development listed in Fayetteville Unified Development Code §166.01(C)(1).

- (3) *Small Site Improvement Plan.* A small site improvement plan review is intended for development on a site that is less than 1 acre in size and proposes a development and/or redevelopment area of more than 10,000 square feet of impervious surface. .
- (a) *Requirement.* The development of the following must be processed in accordance with the requirements for a small site improvement plan:
- (i) A development that is excluded from large scale development or large site improvement plan review and requires review by multiple city divisions;
- (ii) A development and/or redevelopment area of more than 10,000 square feet of impervious surface on site of less than 1 acre within any zoning district.
- (b) *Excluded Developments.* Proposals developing and/or redeveloping an area of 10,000 square feet or less of impervious surface and shall be submitted in accordance with the requirements of §166.02(E) and §166.15.
- (4) *Concept Plan.* When a developer intends to develop or redevelop greater than 6,000 square feet and less than 10,000 square feet of total impervious area within the city limits, they shall submit a concept plan to obtain feedback and recommendations from city staff prior to submitting a fully engineered development plan for review. Developments below or above this threshold, or in the city's planning area boundary, may submit a concept plan to obtain feedback and recommendations prior to submitting a fully engineered development plan for review. .
- (D) *Modifications.*
- (1) *Minor Modifications.* The Zoning and Development Administrator may authorize minor modifications in an approved subdivision of land or site plan. Minor modifications shall include, but are not limited to, substitutions of one approved structural type for another, minor variations in placement of buildings in such a way that the overall limits of approved floor area, open space, or rooms per acre are not increased, and minor shifts in property line locations.
- (2) *Major Modifications.* In the event that a developer wishes to make major modifications to an approved development, such modifications shall be submitted to the approving body of the subdivision or site plan, whether staff, Subdivision Committee, or the Planning Commission. After submission, the approving body shall approve or disapprove the requested modification.
- (Code 1965, App. C., Art. II, §§A—D; Ord. No. 1750, 7-6-70; Ord. No. 2581, 12-4-79; Ord. No. 2789, 1-18-82; Code 1991, §§159.010; 159.11(C), 159.12, 159.13; 159.14; Ord. No. 3781, §1, 4-19-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4350, §1, 11-20-01; Ord. No. 5296, 12-15-09; Ord. No. 5653, 01-21-14; Ord. No. 5945, §16, 1-17-17; Ord. No. 6067, §1, 5-1-18; Ord. No. 6446, §8(Exh. C), 6-15-21)

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 with or without concurrent development, preliminary plat, final plat, concurrent plat, and concept plan. 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). No approval is necessary for concept plans.
- (2) *Subdivision Committee.* The following development applications are required to be reviewed by the Subdivision Committee: Large scale development, planned zoning district with concurrent development, preliminary plat, and concurrent plat. From these applications, the Subdivision Committee may approve only large scale developments..
- (3) *Planning Commission.* The following development applications are required to be reviewed by the Planning Commission. Large scale development forwarded by the Subdivision Committee, preliminary plat, concurrent plat, and planned zoning district with or without concurrent 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.

(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. Concept plans are not subject to approval or denial.
 - (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 develops and/or redevelops between 1,201 and 10,000 square feet of 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

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(Supp. No. 33)

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.
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)

169.03 Review And/Or Permits Required; Exceptions

- (A) *Grading Review Required.* (Reference §166.02(E).)
- (1) When located within the Hillside/Hilltop Overlay District boundaries. Parcels of land divided by the Hillside/Hilltop Overlay District boundary shall only be subject to the requirements of this chapter on that portion of land lying within the boundary;
 - (2) Construction of greater than 1,200 square feet of impervious area on a single site;
- (B) *Grading Permit Required.* Unless exempted by §169.03(C), all grading, clearing, filling, excavation, or land alteration of any kind shall require:
- (1) Prior development approval as specified in Chapter 166, except for general grading to an existing developed site that does not impact trees or floodplains and does not significantly alter the natural landform;
 - (2) Development and/or redevelopment of an area of more than 10,000 square feet of impervious surface;
 - (3) A grading permit pursuant to this chapter; and
 - (4) An Arkansas Department of Environmental Quality Stormwater Construction Permit and incorporated Stormwater Pollution Prevention Plan, if required by state law.
- (C) *Exceptions to Permit Requirements.* Grading permits are not required for the following however the Minimum Erosion Control Requirements in §169.04 still apply:
- (1) *Excavation Below Finish Grade.* Excavations below finished grade for basements, swimming pools, hot tubs, septic systems, retaining walls under 4 feet in height, and like structures authorized by a valid building permit.
 - (2) *Cemetery Graves.* Cemetery graves.
 - (3) *Refuse Disposal.* Refuse disposal sites controlled by other regulations.
 - (4) Other minor fill, clearing or grading for maintenance purposes such as landscaping that do not require the use of heavy construction equipment, French drains, yard grading, maintenance, farming, gardens, and similar activities.
- (D) *Grading Permit Application and Approval.* No grading permit shall be issued until the Grading and Erosion & Sediment Control Plan, endorsed by an architect, landscape architect, or engineer licensed in the state of Arkansas, is approved by the City Engineer. A separate permit shall be required for each site. Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion. Any application for a required grading permit under this chapter shall be submitted concurrently with the application and calculations for a drainage permit if such a drainage permit is required by §170.03. Tree Preservation and Protection is required in accordance with Chapter 167.
- (E) *Permit Posted.* A copy of the grading permit cover page shall be posted at or near the street right-of-way line and shall be clearly visible from the street.

(Code 1991, §161.03; Ord. No. 3551, 6-5-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. No. 4313, 5-15-01; Ord. No. 4855, 4-18-06; Ord. No. 5336, 8-3-10; Ord. No. 5702, Repealed & Replaced Chp. 169, 8-5-14; Ord. No. 5945, §18, 1-17-17; Ord. No. 6061, §4, 4-17-18; Ord. No. 6446, §11(Exh. F), 6-15-21)

166.01 Development Categories

- (A) *Property Line Adjustment.* A property line adjustment is a transfer or adjustment of a property line or lines between adjoining property owners which does not create a separate, new lot. A property line adjustment cannot dedicate new easements or right-of-way.
- (B) *Subdivision of Land.*
- (1) *Lot Split.* When a property is to be subdivided into two (2), three (3) or four (4) lots, parcels the application may be processed as a lot split. Except for lot splits created pursuant §164.22 Cluster Housing Development, (C) *Development Review Process*, after the creation of more than four (4) lots from an original parent tract as established under Washington County's countywide 1985 reappraisal. Any subsequent subdivision of the parent or resulting tracts is required to be processed as a preliminary/final plat or concurrent plat. A lot split may dedicate new easements or right-of-way and may be combined with an easement plat.
 - (2) *Preliminary Plat.* When a property is to be subdivided into more than four (4) lots or when a parent or resulting tract has been subdivided three (3) or more times and is proposed to be further subdivided, the application shall be processed as preliminary plat. A preliminary plat establishes the preliminary location of lot lines, streets, and utility infrastructure, and allows for the applicant to request construction plan approval and install required improvements.
 - (3) *Final Plat.* After completion of the required infrastructure (water, sewer, storm drainage, utilities, street improvements, etc.) for a preliminary plat, the entity subdividing may submit an application for approval of the final plat. The final plat application may not be submitted until the final inspection for the required infrastructure has been scheduled with City Engineering staff.
 - (4) *Concurrent Plat.* A concurrent plat combines the preliminary and final plat into one (1) step. A concurrent plat is permitted when a property is to be subdivided into more than four (4) lots, or when a parent or resulting tract has been subdivided three (3) or more times and is proposed to be further subdivided, and the existing and new parcels do not require construction of new infrastructure.
- (C) *Site Plan.*
- (1) *Large Scale Development.* A large scale development is generally intended for development on a site of 1 acre or greater in size and proposes to ~~create more than 10,000 square feet of impervious area a development and/or redevelopment area of more than 10,000 square feet of impervious surface~~ and where a corresponding subdivision of land is not proposed.
 - (a) *Requirement.* The development of the following must be processed in accordance with the requirements for a large-scale development:
 - (i) A site 1 acre or greater in size and ~~creating more than 10,000 square feet of new impervious area~~ developing and/or redeveloping an area of more than 10,000 square feet of impervious surface;
 - (ii) Facilities emitting odors or handling explosives; and
 - (b) *Excluded Developments.* ~~Developments creating less than 10,000 square feet of new impervious area or a development on a lot or parcel~~ Proposals developing and/or redeveloping an area of 10,000 square feet or less of impervious area or a development on a site in a zoning district subject to administrative approval.
 - (2) *Large Site Improvement Plan.* A large site improvement plan review is intended for a large scale development that is located on a site within a zoning district that permits administrative approval. A

large site improvement plan is subject to the requirements and excluded developments for a large scale development listed in Fayetteville Unified Development Code §166.01(C)(1).

- (3) *Small Site Improvement Plan.* A small site improvement plan review is intended for development on a site that is less than 1 acre in size ~~and proposes a development and/or redevelopment area of more than 10,000 square feet of impervious surface. with greater than 10,000 square feet of new impervious area.~~
- (a) *Requirement.* The development of the following must be processed in accordance with the requirements for a small site improvement plan:
- (i) A development that is excluded from large scale development or large site improvement plan review and requires review by multiple city divisions;
- (ii) ~~A development and/or redevelopment area of more than 10,000 square feet of impervious surface. The creation of more than 10,000 square feet of impervious area for a development~~ on site of less than 1 acre within any zoning district.
- (b) *Excluded Developments.* ~~The construction of less than or equal to 10,000 square feet of new impervious area shall be exempt from the site improvement plan requirements. Proposals developing and/or redeveloping an area of 10,000 square feet or less of impervious surface~~ and shall be submitted in accordance with the requirements of §166.02(E) and §166.15.
- (4) *Concept Plan.* ~~When a developer intends to develop or redevelop greater than 6,000 square feet and less than 10,000 square feet of total impervious area within the city limits, they shall submit a concept plan to obtain feedback and recommendations from city staff prior to submitting a fully engineered development plan for review. Developments below or above this threshold, or in the city's planning area boundary, may submit a concept plan to obtain feedback and recommendations prior to submitting a fully engineered development plan for review. When a developer intends to subdivide property within the city or city's planning area boundary, he/she shall submit a concept plan to obtain feedback and recommendations from city staff prior and the Planning Commission to submitting a fully engineered development plan for review. When a developer intends to develop greater than 10,000 square feet of new impervious area within the city or city's planning area boundary, they may submit a concept plan to obtain feedback and recommendations from city staff prior to submitting a fully engineered development plan for review.~~

(D) *Modifications.*

- (1) *Minor Modifications.* The Zoning and Development Administrator may authorize minor modifications in an approved subdivision of land or site plan. Minor modifications shall include, but are not limited to, substitutions of one approved structural type for another, minor variations in placement of buildings in such a way that the overall limits of approved floor area, open space, or rooms per acre are not increased, and minor shifts in property line locations.
- (2) *Major Modifications.* In the event that a developer wishes to make major modifications to an approved development, such modifications shall be submitted to the approving body of the subdivision or site plan, whether staff, Subdivision Committee, or the Planning Commission. After submission, the approving body shall approve or disapprove the requested modification.

(Code 1965, App. C., Art. II, §§A—D; Ord. No. 1750, 7-6-70; Ord. No. 2581, 12-4-79; Ord. No. 2789, 1-18-82; Code 1991, §§159.010; 159.11(C), 159.12, 159.13; 159.14; Ord. No. 3781, §1, 4-19-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4350, §1, 11-20-01; Ord. No. 5296, 12-15-09; Ord. No. 5653, 01-21-14; Ord. No. 5945, §16, 1-17-17; Ord. No. 6067, §1, 5-1-18; Ord. No. 6446, §8(Exh. C), 6-15-21)

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 with or without concurrent development, preliminary plat, final plat, ~~and concurrent plat, and concept plan~~. 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). No approval is necessary for concept plans.
- (2) *Subdivision Committee.* The following development applications are required to be reviewed by the Subdivision Committee: Large scale development, planned zoning district with concurrent 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. Large scale development forwarded by the Subdivision Committee, Preliminary plat, concurrent plat, and planned zoning district with or without concurrent 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. Concept plans are not subject to approval or denial.
 - (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~~ ~~develops and/or redevelops~~ 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.
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)

169.03 Review And/Or Permits Required; Exceptions

- (A) *Grading Review Required.* (Reference §166.02(E).)
- (1) When located within the Hillside/Hilltop Overlay District boundaries. Parcels of land divided by the Hillside/Hilltop Overlay District boundary shall only be subject to the requirements of this chapter on that portion of land lying within the boundary;
 - (2) Construction of greater than 1,200 square feet of impervious area on a single site;
- (B) *Grading Permit Required.* Unless exempted by §169.03(C), all grading, clearing, filling, excavation, or land alteration of any kind shall require:
- (1) Prior development approval as specified in Chapter 166, except for general grading to an existing developed site that does not impact trees or floodplains and does not significantly alter the natural landform;
 - (2) ~~Development and/or redevelopment of an area of more than 10,000 square feet of impervious surface; Construction of new impervious area greater than 10,000 square feet;~~
 - (3) A grading permit pursuant to this chapter; and
 - (4) An Arkansas Department of Environmental Quality Stormwater Construction Permit and incorporated Stormwater Pollution Prevention Plan, if required by state law.
- (C) *Exceptions to Permit Requirements.* Grading permits are not required for the following however the Minimum Erosion Control Requirements in §169.04 still apply:
- (1) *Excavation Below Finish Grade.* Excavations below finished grade for basements, swimming pools, hot tubs, septic systems, retaining walls under 4 feet in height, and like structures authorized by a valid building permit.
 - (2) *Cemetery Graves.* Cemetery graves.
 - (3) *Refuse Disposal.* Refuse disposal sites controlled by other regulations.
 - (4) Other minor fill, clearing or grading for maintenance purposes such as landscaping that do not require the use of heavy construction equipment, French drains, yard grading, maintenance, farming, gardens, and similar activities.
- (D) *Grading Permit Application and Approval.* No grading permit shall be issued until the Grading and Erosion & Sediment Control Plan, endorsed by an architect, landscape architect, or engineer licensed in the state of Arkansas, is approved by the City Engineer. A separate permit shall be required for each site. Grading permits may be issued jointly for parcels of land that are contiguous, so long as erosion control measures are in place until project completion. Any application for a required grading permit under this chapter shall be submitted concurrently with the application and calculations for a drainage permit if such a drainage permit is required by §170.03. Tree Preservation and Protection is required in accordance with Chapter 167.
- (E) *Permit Posted.* A copy of the grading permit cover page shall be posted at or near the street right-of-way line and shall be clearly visible from the street.

(Code 1991, §161.03; Ord. No. 3551, 6-5-91; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4113, §1, 8-18-98; Ord. No. 4313, 5-15-01; Ord. No. 4855, 4-18-06; Ord. No. 5336, 8-3-10; Ord. No. 5702, Repealed & Replaced Chp. 169, 8-5-14; Ord. No. 5945, §18, 1-17-17; Ord. No. 6061, §4, 4-17-18; Ord. No. 6446, §11(Exh. F), 6-15-21)



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: July 22, 2024

SUBJECT: **VAR-2024-0029: Planning Commission Variance (4392 N. WATERSIDE CT./MYERS WOODS LAW FIRM, 135):** Submitted by JORGENSEN AND ASSOCIATES for property located at 4392 N. WATERSIDE CT. The property is zoned R-O, Residential-Office and contains approximately 0.45 acres. The request is for a variance to cross access requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0029** with conditions.

RECOMMENDED MOTION:

"I move to approve VAR-2024-0029, recommending:

- In favor of the requested variance to §166.25(D)(2) Cross Access; and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in north Fayetteville, southeast of Lake Fayetteville. The parcel (765-27677-000) is about 0.45 acres and is currently undeveloped. The property received its current zoning, R-O, Residential-Office in 2003 with the adoption of the new city-wide zoning map. The applicant submitted a site improvement plan for the construction of an approximately 4,300-square-foot office building with associated parking. During staff review, it was determined that a variance was needed. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	R-O, Residential-Office
South	Medical Office	R-O, Residential-Office
West	Undeveloped	R-O, Residential-Office
East	Undeveloped	R-A, Residential-Agricultural

Request: The applicant requests a variance to §166.25(D)(2), Cross Access to not provide cross access to adjacent undeveloped properties to the north and east.

DISCUSSION

Variance: §166.25(D)(2), Cross Access. This component of the Commercial, Office, and Mixed Use Design and Development standards requires that cross access is provided to adjacent

developed and undeveloped properties. The applicant is proposing no cross access to adjacent undeveloped properties to the north and east.

Staff recommendation: Staff supports the variance request finding that the applicant is meeting the intent of this portion of code by providing cross access to the south and a pedestrian connection to the north. There is a pattern of shared access drives between two properties on this side of N. Waterside Ct. and this request is in keeping with that pattern. Further, the subject property is located on a dead-end street, so high-volume traffic is unlikely, and vehicles could safely exit and access adjacent properties via N. Waterside Ct. As proposed, there is not an adequate location for cross access or an access easement due to existing utility easements, required setbacks, and the location of the dumpster enclosure.

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

RECOMMENDATION: Staff recommend approval of VAR-2024-0029 with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.25(D)(2) Cross Access.**
Staff recommends approval of the requested variance for the reasons outlined above and subject to the following condition:
 - a. The applicant shall provide a 6' sidewalk along the street frontage to facilitate pedestrian connectivity to the north.
2. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.

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

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Developed Code:
 - §166.25, Commercial, Office and Mixed Use Design and Development Standards
- Applicant Exhibits
 - Request Letter
 - Site Plan
- One Mile Map
- Close-up Map

- Current Land Use Map

166.25 Commercial, Office and Mixed Use Design And Development Standards

(...)

(D) Site Development and Design Standards.

- (1) *Site Coverage.* A maximum of 80% of the development site may be covered by the ground floor of any structure, parking lots, sidewalks, and private streets and drives or any other impermeable surface. Properties located within the Downtown Master Plan boundary are exempt from this requirement.
- (2) **Cross Access.** Cross access shall be required to adjacent developed and undeveloped properties.



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Established 1985

City of Fayetteville
Planning and Development Services
113 W Mountain Street
Fayetteville, AR 72701

J+A Job #2024030
COF Job # SIP-2024-0001

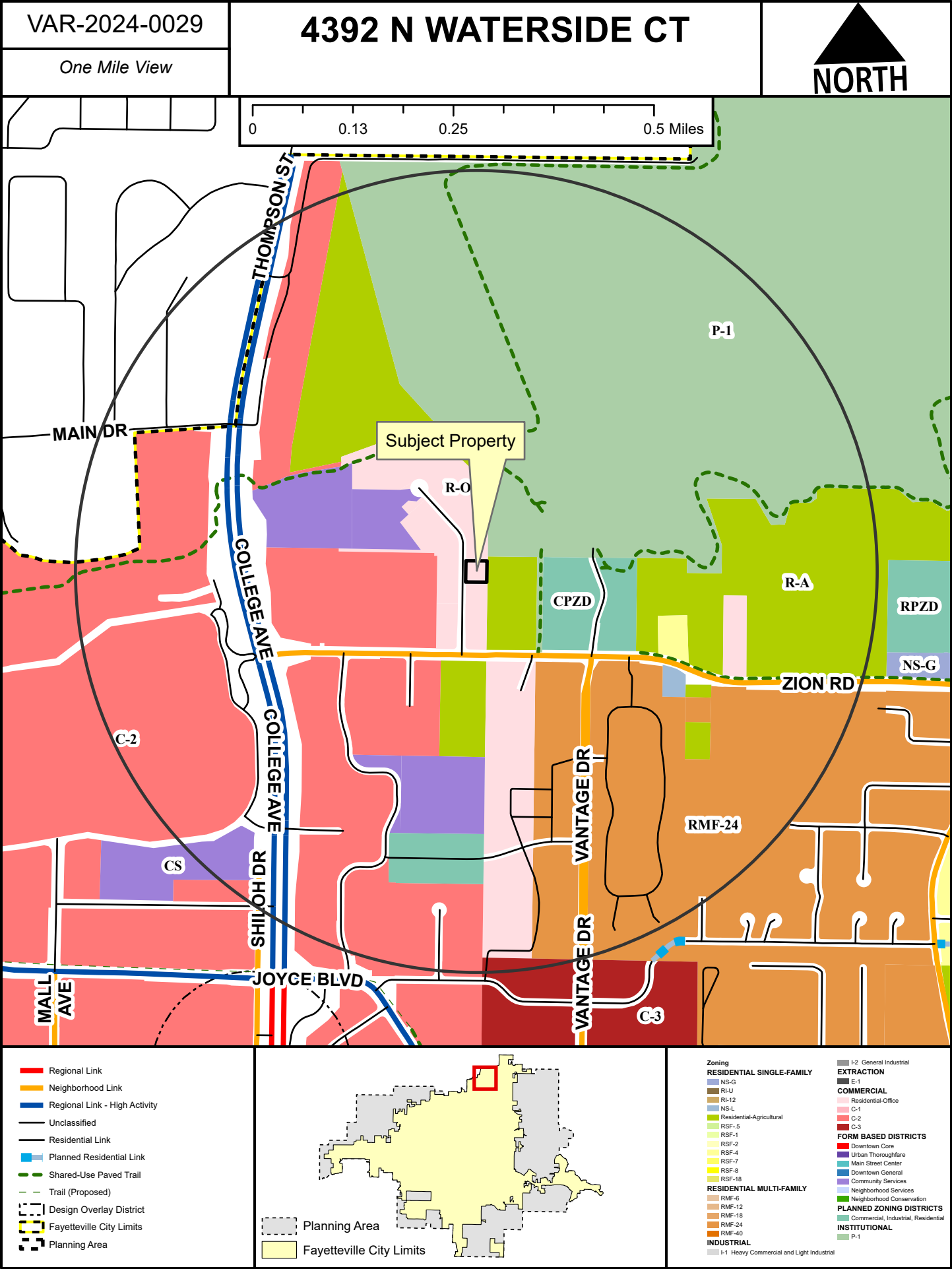
Re: Myers + Woods Law Firm

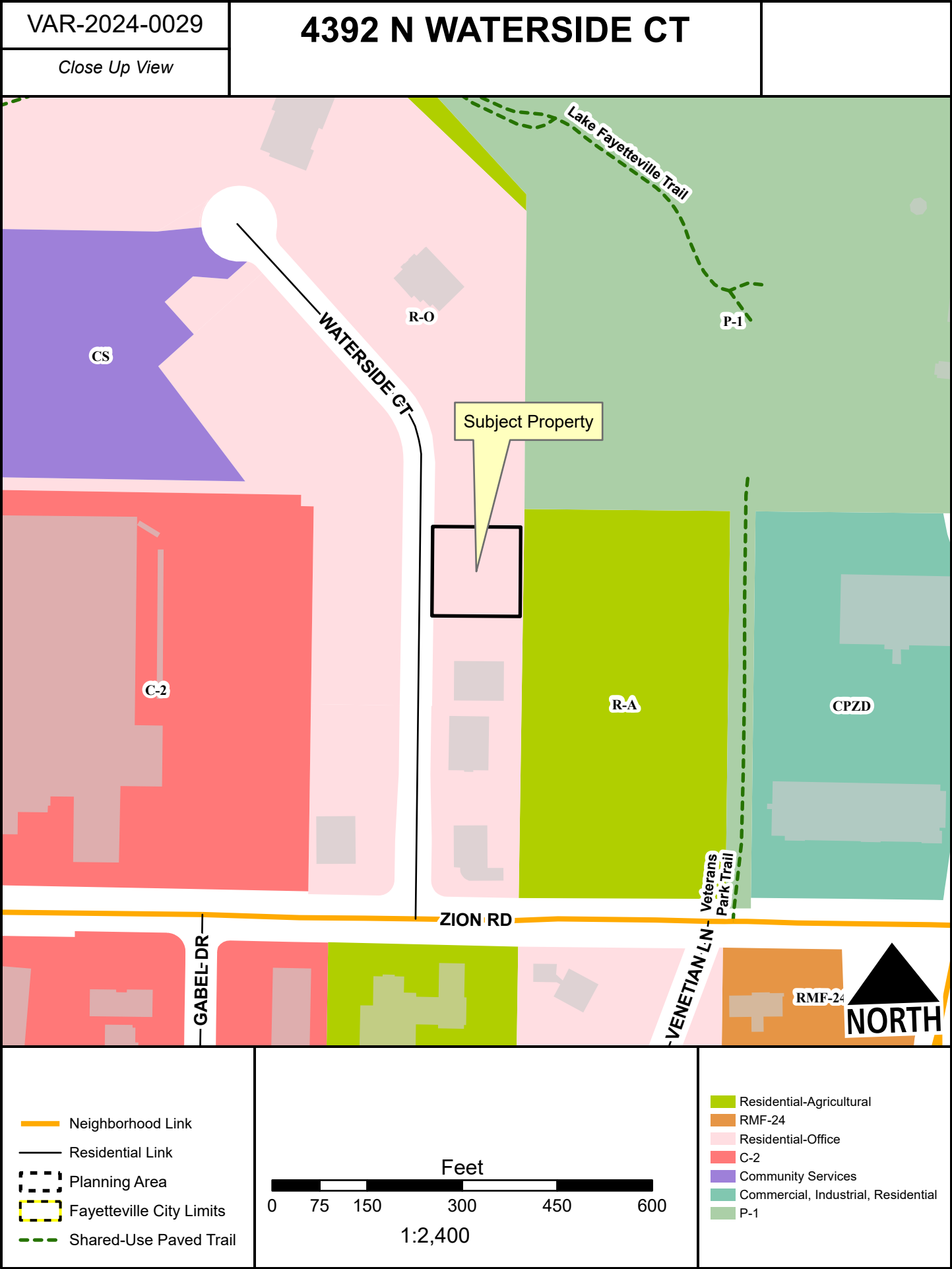
Please accept this request for a variance to section code 166.25(D)(2). While we are utilizing the shared access easement along the Waterside Court, we aren't providing connectivity to the North or East. Connectivity to the north is being encumbered by the fact that the lot size is fairly small and the building is best fit into the northern side of the development. Connectivity to the east is being blocked by the dumpster location. We hope that these reasons are sufficient for Planning Commission to grant a variance.

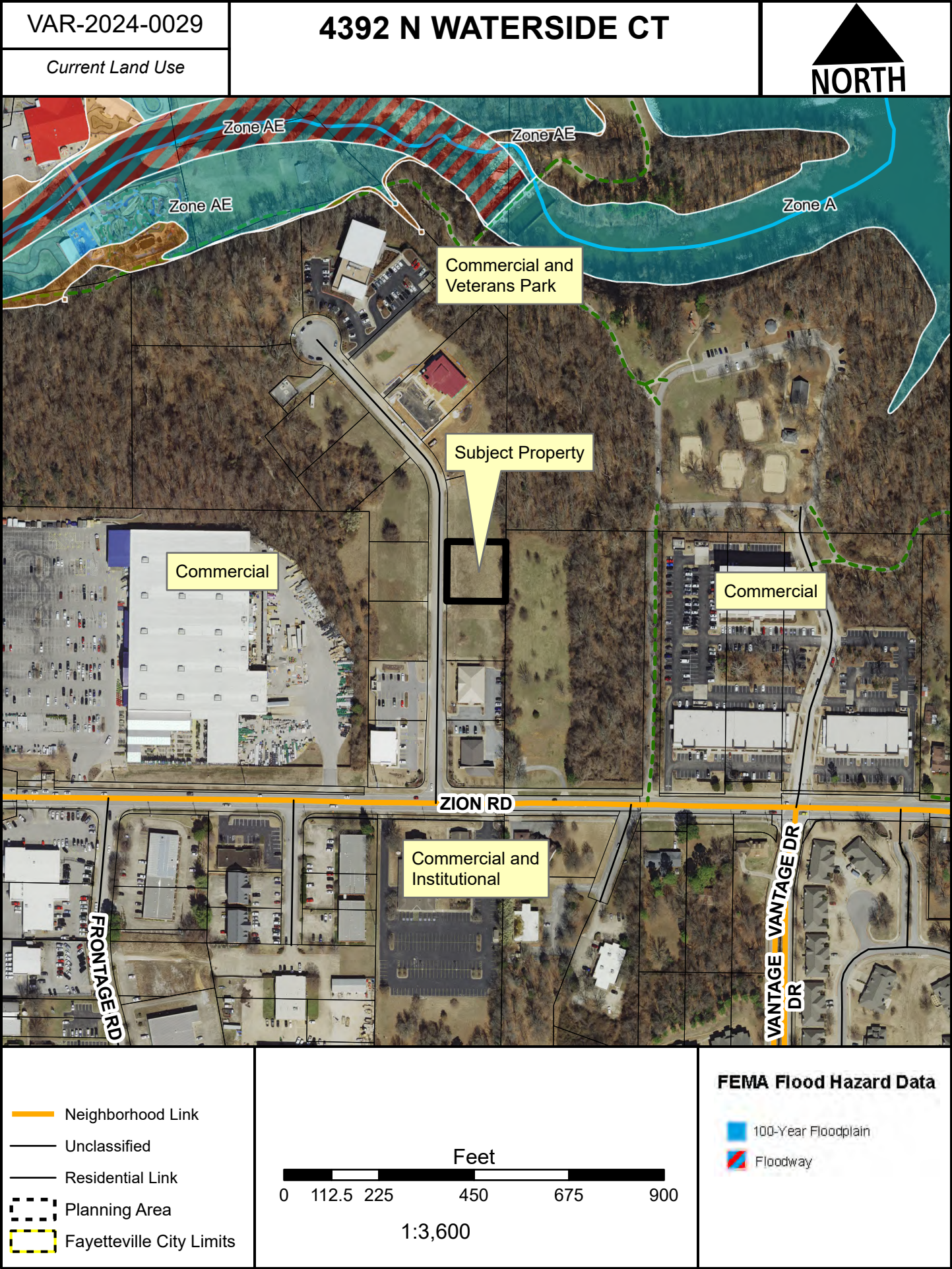
Thanks for your time and thoughts on this matter



Blake Jorgensen, PE









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: July 22, 2024

SUBJECT: **VAR-2024-0031: Planning Commission Variance (572 W. MARTIN LUTHER KING JR. BLVD./THE BELGIAN, 522):** Submitted by NOTRE MAISON LLC for property located at 572 W. MARTIN LUTHER KING JR BLVD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.27 acres. The request is for a variance to ground floor opacity requirements.

RECOMMENDATION:

Staff recommends approval of **VAR-2024-0031** based on the findings herein.

RECOMMENDED MOTION:

*"I move to approve **VAR-2024-0031**, determining:*

- In favor of a variance to UDC §166.21(E)(7)(b), Minimum opacity requirement for glazing;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property south of downtown Fayetteville on the northeast corner of S. Government Ave. and W. Martin Luther King Jr. Blvd. The property is zoned MSC, Main Street Center and contains approximately 0.27 acres and is currently developed with multiple commercial buildings. In May 2024, an application for a commercial building permit was submitted to renovate the buildings and construct an addition that would connect 572 W. Martin Luther King Jr. Blvd. and 428 S. Government Ave. During staff review, it was determined that a variance to ground floor opacity requirements is needed. 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 one variance from the Unified Development Code in association with a planned commercial addition.

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

DISCUSSION:

Variance #1: UDC §166.21(E)(7)(b), Downtown Design Overlay District Standards – Glazing. Commercial space and storefronts shall have a minimum of 75% glass on the first or ground floor. The applicant is requesting to vary from this standard to reduce the glazing requirement to roughly 9.45% opacity on the west elevation, and to 20.97% opacity on the south 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 west and south façades, through shifts in wall plane depth, modification in materials and window types and the addition of architectural features such awnings and faux shutters, to meet the general intent of the glazing requirement if this variance is granted. There does appear to be an opportunity to increase the opacity with doors with glazing on both the south and west and through the addition of a window on the west, which staff recommends as a condition of approval. As currently proposed, one window on the west is to be removed to make the gabled section symmetrical. Staff finds that there is an opportunity to add a window that will keep this section symmetrical and not interfere with interior design.

RECOMMENDATION: Staff recommends approval of VAR-2024-0031 with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to §166.21(E)(7)(b), Downtown Design Overlay District Standards – Glazing. Commercial space and storefronts shall have a minimum of 75% glass on the first or ground floor.** *Staff recommends approval of this request for the reasons stated above and with the following conditions of approval:*
 - a. Entry doors on the west and south shall have glazing.
 - b. An additional window will be added to the gabled section of the west elevation and the existing glazing will not be reduced.
2. 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: July 22, 2024

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §166.21 Downtown Design Overlay District
 - Applicant Request Letter
 - Site Plan
 - Elevations
 - Staff Exhibit: Opacity Calculations
 - Staff Exhibit: Recommended Opacity
 - One Mile Map
 - Close-Up Map
 - Current Land Use Map
-

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.

- (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.

June 24, 2024

Dear Planning Commission,

This letter requests a variance in complying with the Downtown Design Overlay District façade opacity requirements as outlined in section 166.21(E)(7)(b). The south principal façade of the building is existing and window locations were to remain to keep the existing character. The west façade is the kitchen addition and windows along this elevation would have equipment pushed up against them and would not enhance the public realm. Please reference the attached elevation sheet A4.1 and equipment plan on A2.3 for your reference.

Thank you for your consideration.

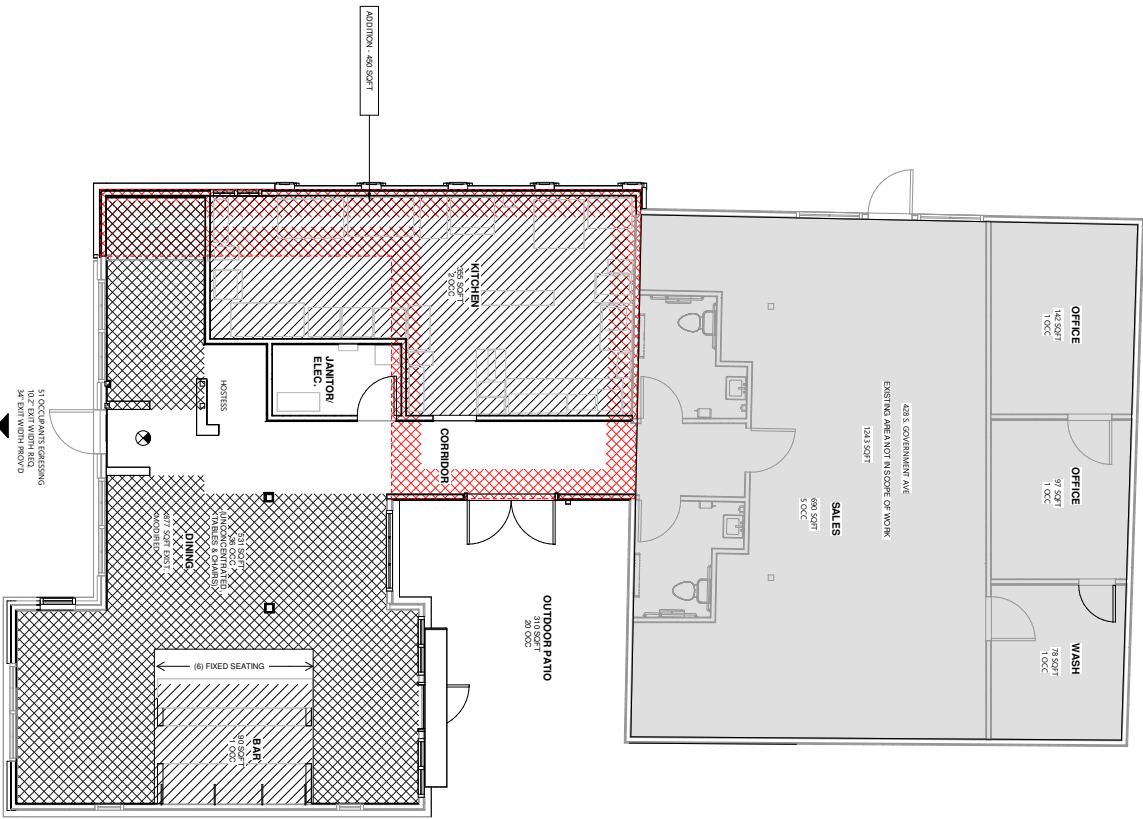
Sincerely,



Tim Schmidt
Architect
TS Design

0 2 4 8 12
SCALE 1/4" = 1'-0"

1/4" = 1'-0" 1
LIFE SAFETY PLAN



TYPE OF CONSTRUCTION: 1B

FACILITY NAME:

THE BELGIAN ADDITION

FACILITY LOCATION:

426 S GOVERNMENT AVE E

527 W M.L.K. JR. BLVD

FAVETTEVILLE, AR 72701

COUNTY: ARKANSAS

LOCAL FIRE DEPARTMENT:

FAVETTEVILLE FIRE DEPARTMENT

WATER SUPPLY:

WATER MAIN IN BUILDING

LOCAL BUILDING INSPECTION DEPARTMENT:

APPLICABLE CODES AND REGULATIONS:

2018 ARKANSAS STATE BUILDING CODE

2018 ARKANSAS STATE FIRE & ALARM CODE

2017 ARKANSAS STATE ELECTRICAL CODE

2017 ARKANSAS STATE MECHANICAL CODE

2017 ARKANSAS STATE PLUMBING CODE

2017 ARKANSAS STATE PUEBLS CODE

2017 ARKANSAS STATE FIRE PREVENTION CODE

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2017 ARKANSAS STATE FIRE PREVENTION CODE

OWNER:

Planning Commission
July 22, 2024

NOTRE DAME

Page 5 of 12

ARCHITECT:

TS DESIGN

1807 SW HAYFIELD AVE.
BENTONVILLE, AR 72715



The Belgian Addition

527 W M.L.K. Jr. Blvd, Fayetteville, AR 72701

PROJECT NUMBER:

2301

DRAWN BY:

TS

APPROVED BY:

TS

ISSUE DATE:

06/30/2024

REVISIONS

1. 10/1/2024

2. 10/1/2024

3. 10/1/2024

4. 10/1/2024

5. 10/1/2024

6. 10/1/2024

7. 10/1/2024

8. 10/1/2024

9. 10/1/2024

10. 10/1/2024

11. 10/1/2024

12. 10/1/2024

13. 10/1/2024

14. 10/1/2024

15. 10/1/2024

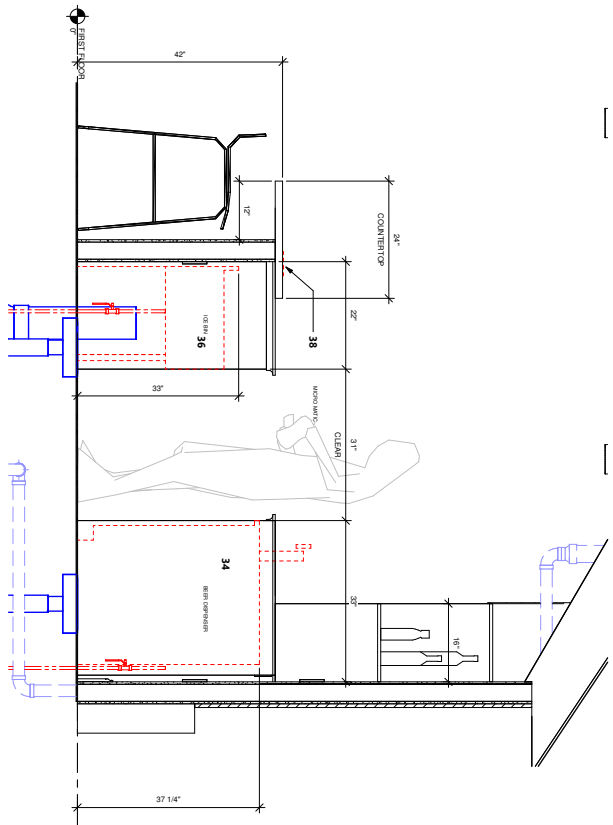
16. 10/1/2024

17. 10/1/2024

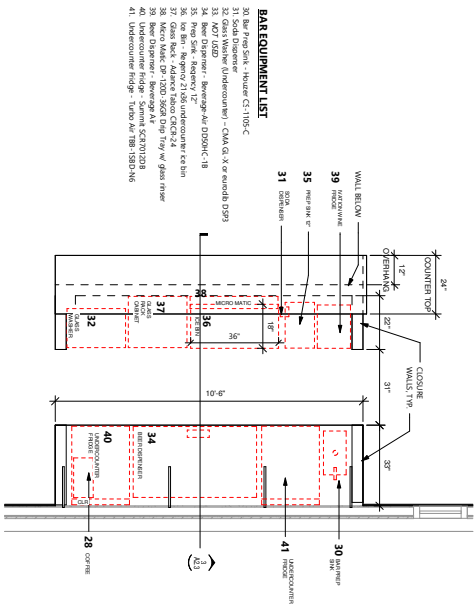
A1.1

CODE PLAN

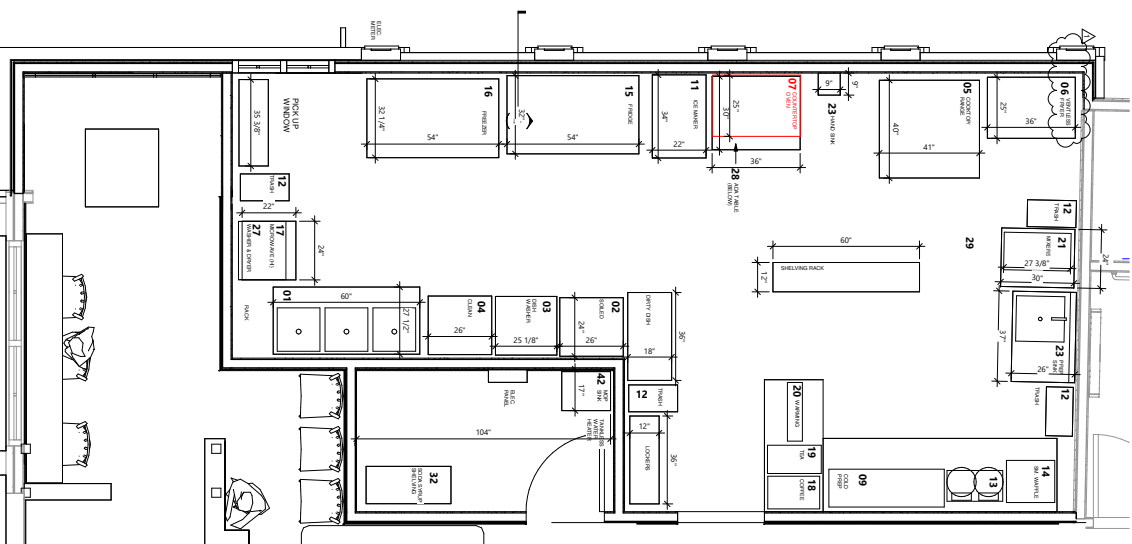
SHEET COMMENTS



3 BAR SECTION



⊕ 2 EQUIPMENT PLAN - BAR
1/2" = 1'-0"



1 EQUIPMENT PLAN - KITCHEN
1/2" = 1'-0"

KITCHEN/STORAGE EQUIPMENT LIST

- [illegible]

NOT ON EQUIP. LIST

- LOCKERS
- BAR THREE COMPARTMENT SINK
- PICK UP TABLE
- RACK BY 3 COMPARTMENT SINK
- DIRTY DISH

VIEW FOR VISUAL REFERENCE ONLY,
REFER TO ARCHITECTURAL ELEVATIONS
FOR BUILD TO ELEVATIONS

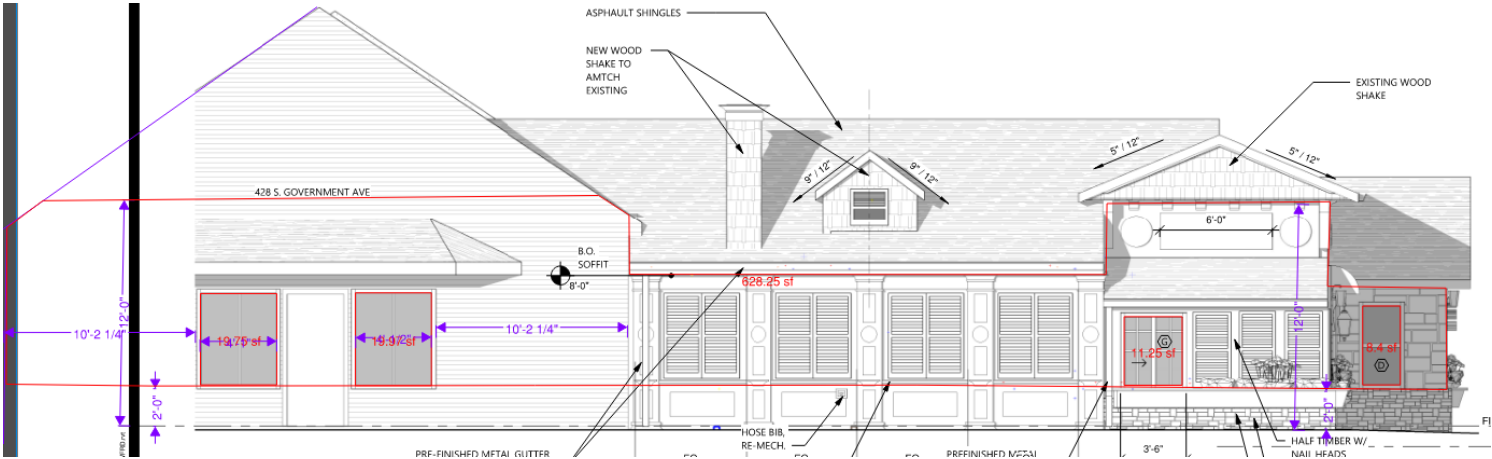


Architectural drawing of the rear elevation of a building. The drawing shows a stone-clad wall on the left with three windows. A "KITCHEN ADDITION" is indicated on the right. The roof is labeled "EXISTING ROOF" and "TO STUD". A "CANVAS AWNING" is shown above the kitchen addition. Dimensions include "12'-0"

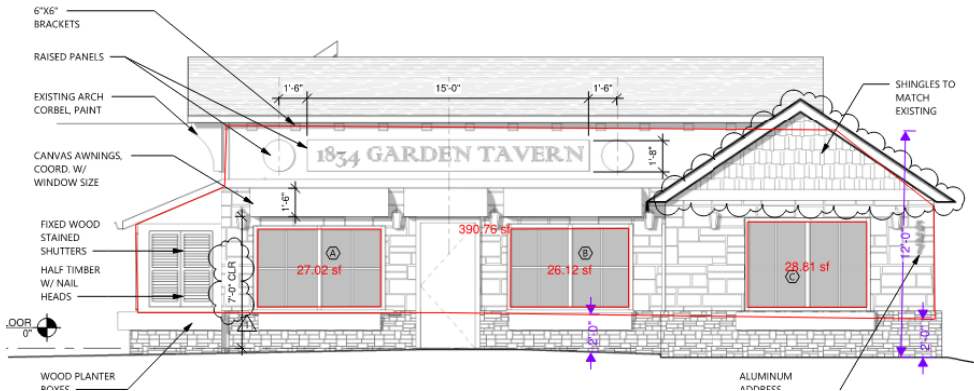
[illegible][illegible]

10.5% OF CAPACITY
39.1 SF TOTAL
26% OF FACADE CONTAINS WINDOWS PER 166.2 IEV7

Staff Exhibit: Opacity Calculations



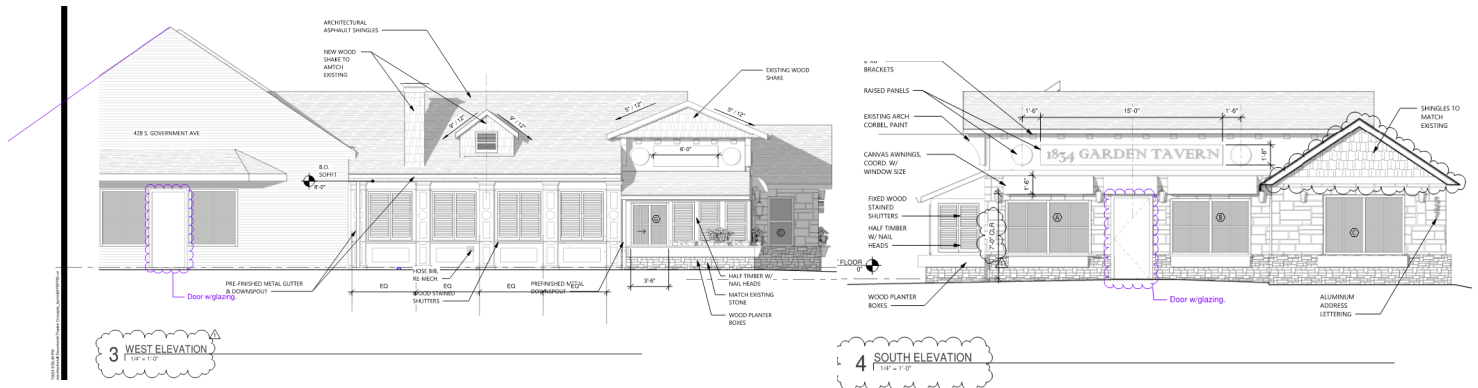
West (above); South (below)



West:
59 SF Opacity
628 SF Total
59/628 = 9%
South:
82 SF Opacity
391 SF Total
82/391 = 21%

Staff Exhibit: Recommended Opacity

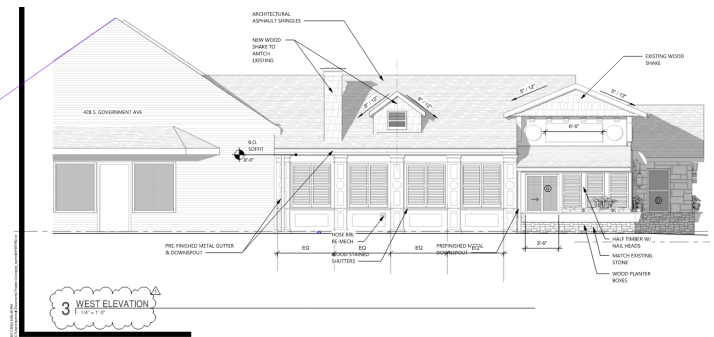
As a condition of approval, staff recommends that the doors on the west and south be glazed to increase the opacity.



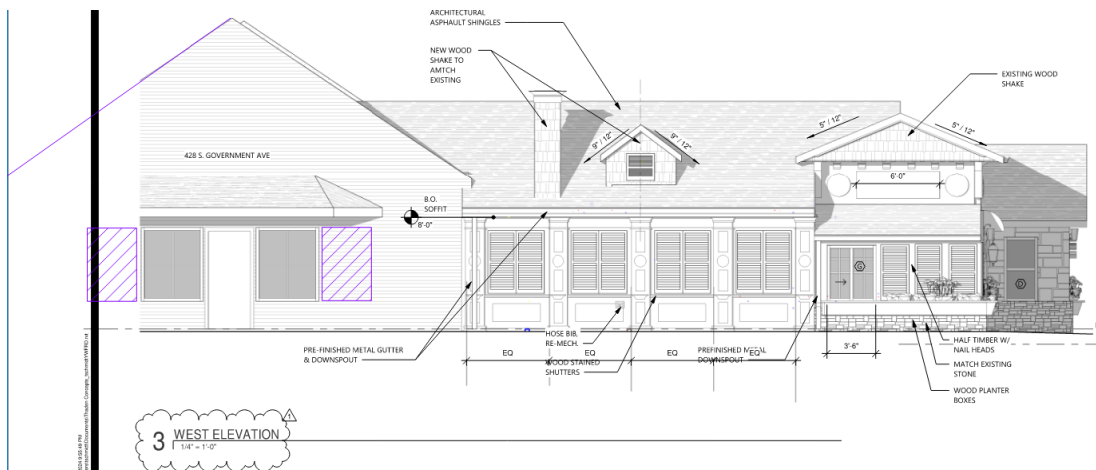
Staff also recommends against the removal of one of the window sets on the gabled portion of the west elevation and instead recommends the addition of another window set to increase opacity and maintain symmetry.



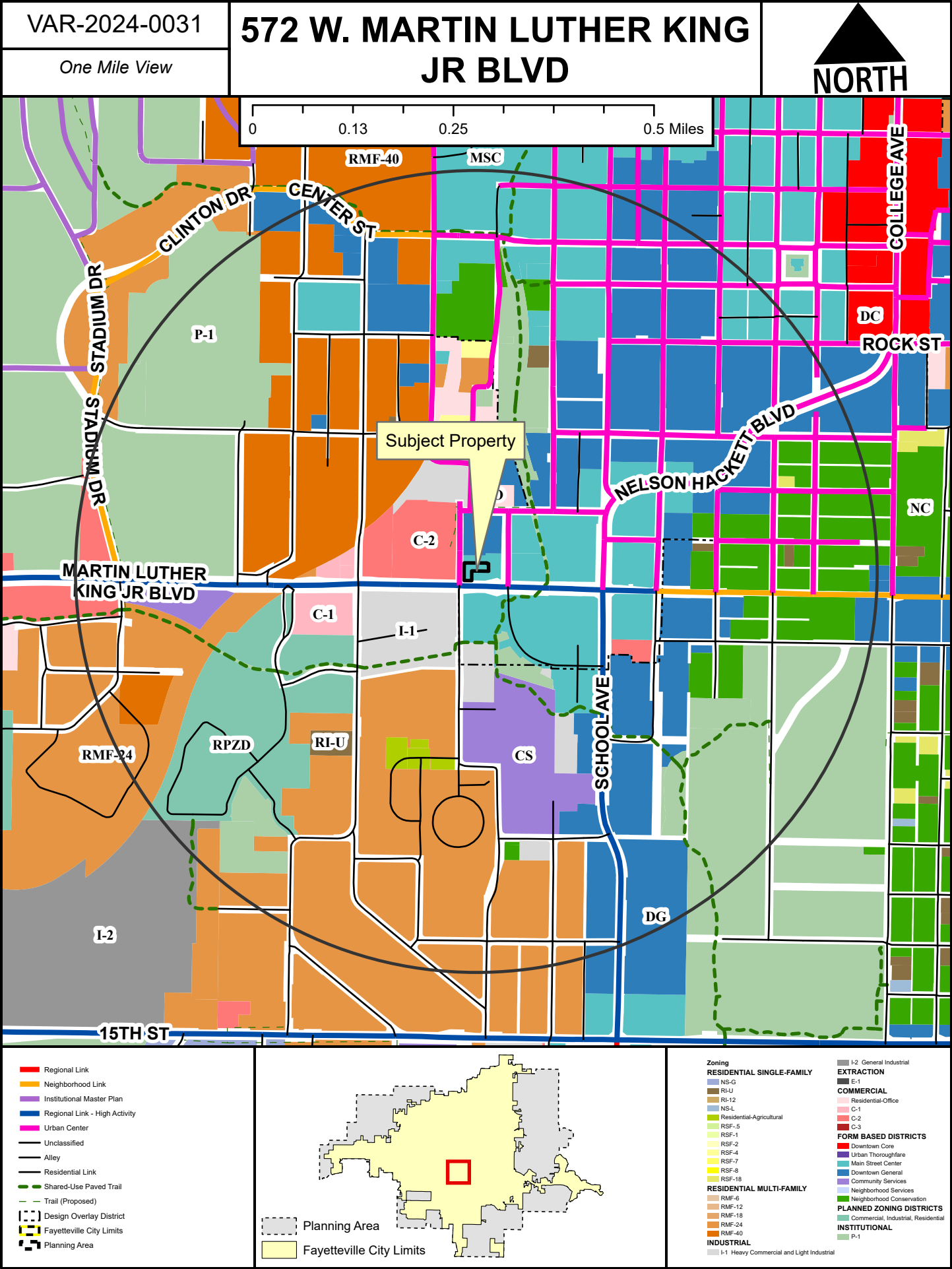
Window proposed to be removed.

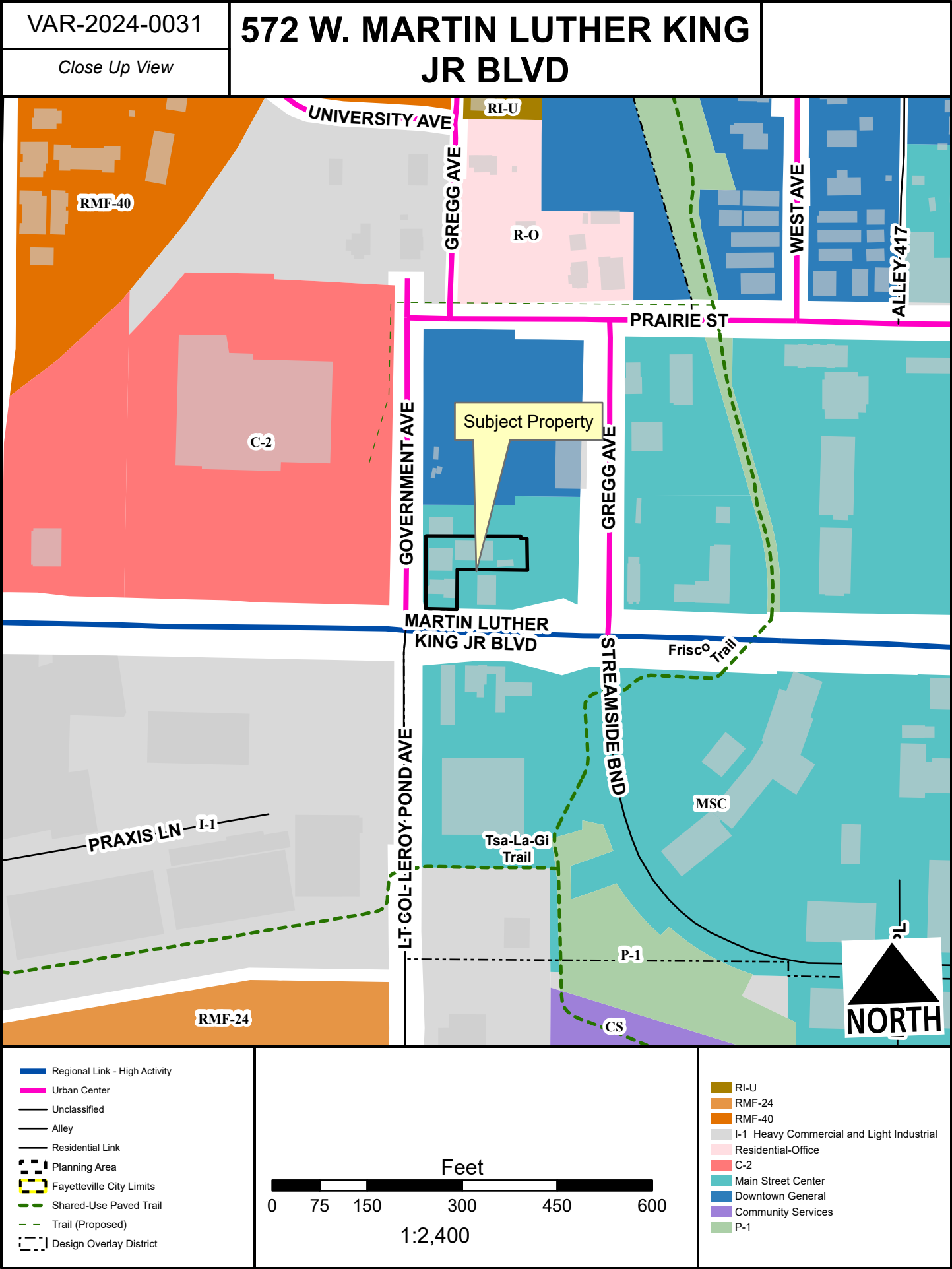


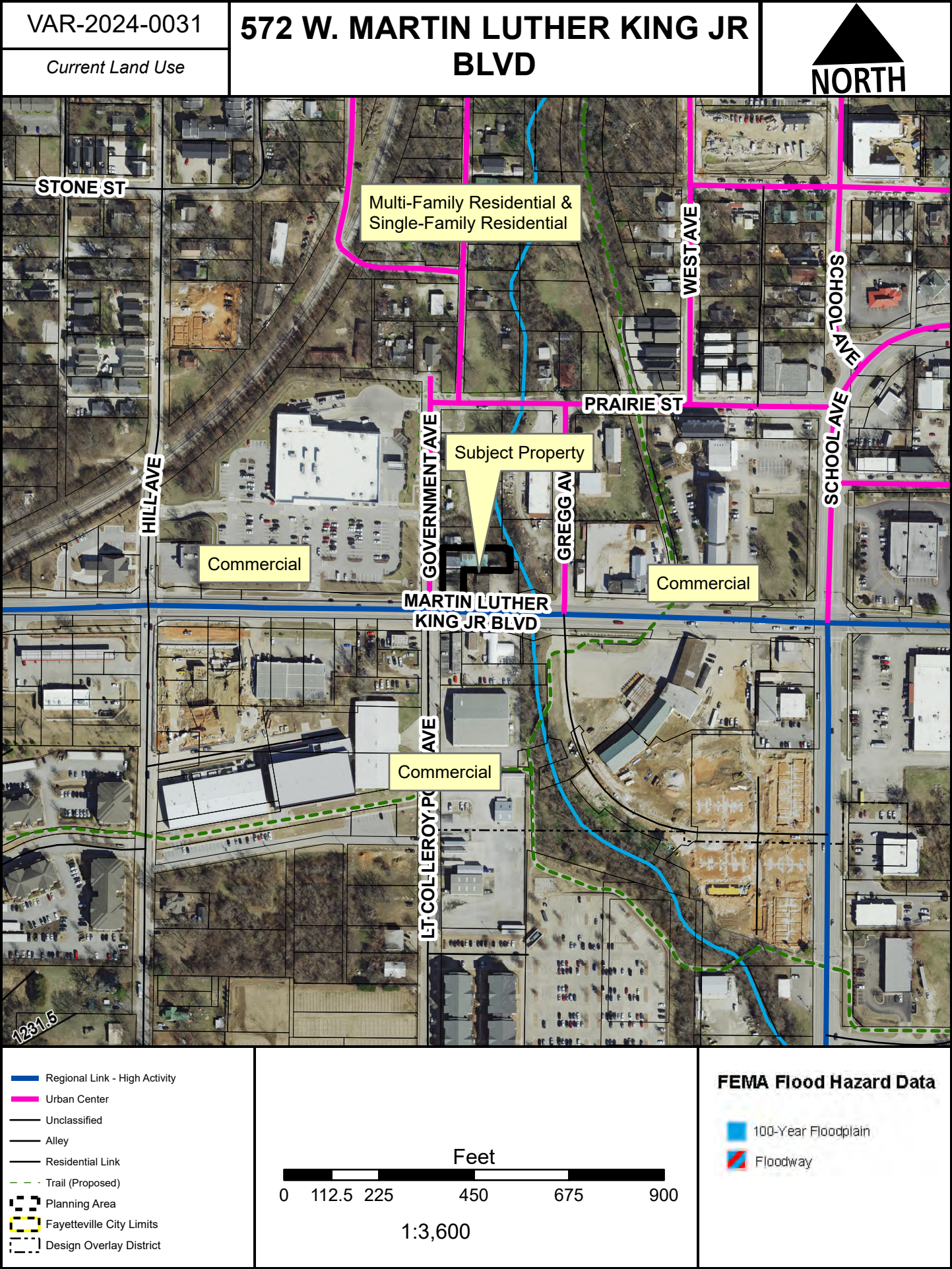
Proposed by applicant.



Recommended by staff.









TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Cole, Planner

MEETING DATE: July 22, 2024

SUBJECT: **CUP-2024-0025: Conditional Use Permit (1156 E. LAKEFRONT DR./BUTLER, 407):** Submitted by APPLE BLOSSOM HOLDINGS LLC for property located at 1156 E. LAKEFRONT DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the property as a short-term rental..

RECOMMENDATION:

Staff recommends approval of **CUP-2024-0025** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2024-0025**, determining:*

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

BACKGROUND:

The subject property is in east Fayetteville, approximately 0.11 miles west of the intersection of E. North St. and E. Mission Blvd. The property contains approximately 0.30 acres and is developed with a 1,886 square-foot single-family dwelling constructed around 1965. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from two percent of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
East	Undeveloped/POA Property	RSF-4, Residential Single-Family, Four Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre

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

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

Public Comment: To date, staff has received four letters and one phone call, all in opposition to the request. The letters are attached to this report.

RECOMMENDATION: Staff recommends approval of **CUP-2024-0025** with the following conditions:

Conditions of Approval:

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

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

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

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

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

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

Finding: The applicant has paid the required filing fee.

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

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

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

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

- (c.) The Planning Commission shall certify:

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

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

§163.18. SHORT-TERM RENTALS.

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

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

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

Finding: The property contains a total of four bedrooms which would limit occupancy to a maximum of ten guests per ordinance. However, the applicant has chosen to self-limit to a maximum of eight guests.

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

Finding: Parking for single-family homes is required to be provided at a rate of two spaces per unit. The applicant indicated in their submittal that there is space to park up to four vehicles on the property's paved driveway.

- D.** Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The applicant's request letter suggests that the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

- E.** Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 1156 E. Lakefront Dr. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

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

Finding: **Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of July 15, 2024, the City had issued 468 Type 2 short-term rental licenses, and 6 remain in the queue for processing. An additional 32 are on the waitlist. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.**

- G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: **This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.**

- H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;
2. Adequate adjoining or nearby streets for on-street parking;
3. Frequency or concentration of nearby licensed Type 2 short-term rentals;
4. Prior zoning or code violations; and
5. Proximity to public or private K-12 schools when the proposed property is within 1,000 feet of the school boundary line.

Finding: **There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. Four off-street parking spaces will be available for guests on site. City records indicate that four other units within a quarter-mile radius of the property have an active Type 2 short-term rental business license. There are no zoning or code violations for this property. The property is not within 1000 feet of a public or private K-12 school.**

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

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

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

Finding: A driveway with access onto E. Lakefront Dr. is available to accommodate vehicular ingress and egress to the subject property. E. Lakefront Dr. is a does not have sidewalks to facilitate pedestrian access. Staff finds that the proposal to use the property as a short-term rental will not adversely affect vehicular traffic flows considering the use of the property would be limited to a maximum of eight guests which would not be out of character with the use of the property for residential purposes.

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

Finding: Four off-street parking spaces are available in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

Finding: The applicant proposes to utilize residential trash service.

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

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

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

Finding: No recommendation.

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

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

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

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

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

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by single-family residential dwellings. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

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

Finding: Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans since it does not clearly support any of the stated goals in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a city-wide density cap of 475 units and restrictions on the number guests and vehicles.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.29 Neighborhood Conservation
- Applicant Request Letter
 - Building Elevations
 - Site Plan
 - Building Floor Plans
- Public Comment
- Exhibit: School Proximity
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

(E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.

- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
- (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
- (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:

- (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
- (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
- (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
- (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
- (5) Any change in ownership requires a new or amended business license.
- (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
- (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
- (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
- (9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
- (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
- (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
- (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
- (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and

remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.

- (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
- (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
- (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
- (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

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

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

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

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

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals;
 - 4) Prior zoning or code violations; and
 - 5) Proximity to public or private K-12 schools when the proposed property is within 1,000 feet of the school boundary line.

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

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

(B) *Uses.*

(1) *Permitted Uses.*

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

(2) *Conditional Uses.*

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

(C) *Density.*

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

(D) *Bulk and Area Regulations.*

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

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

Todd Butler
163 County Road 177
Leander, TX 78641
June 24, 2024

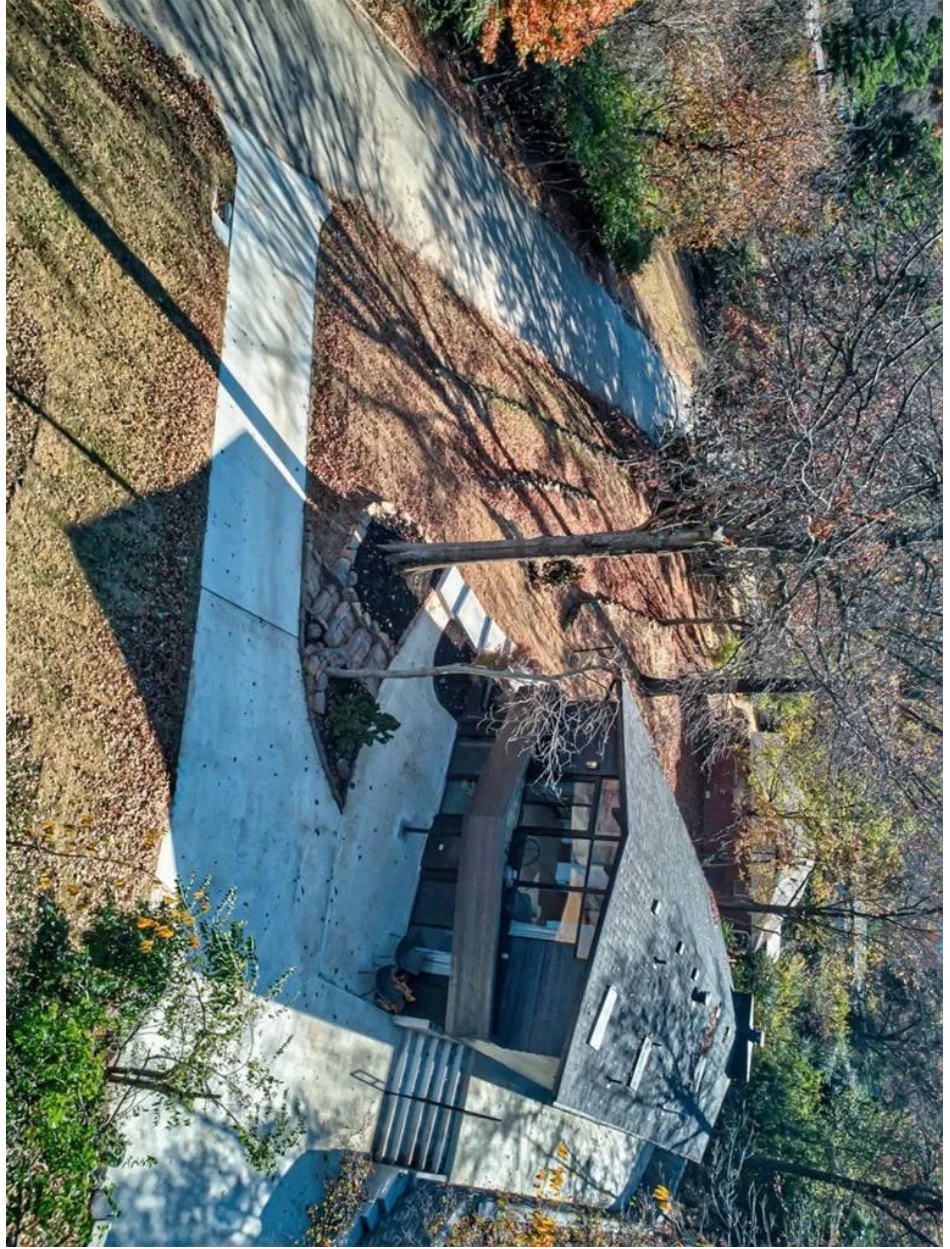
Donna Wonsower
125 W Mountain Street
Fayetteville, AR 72701

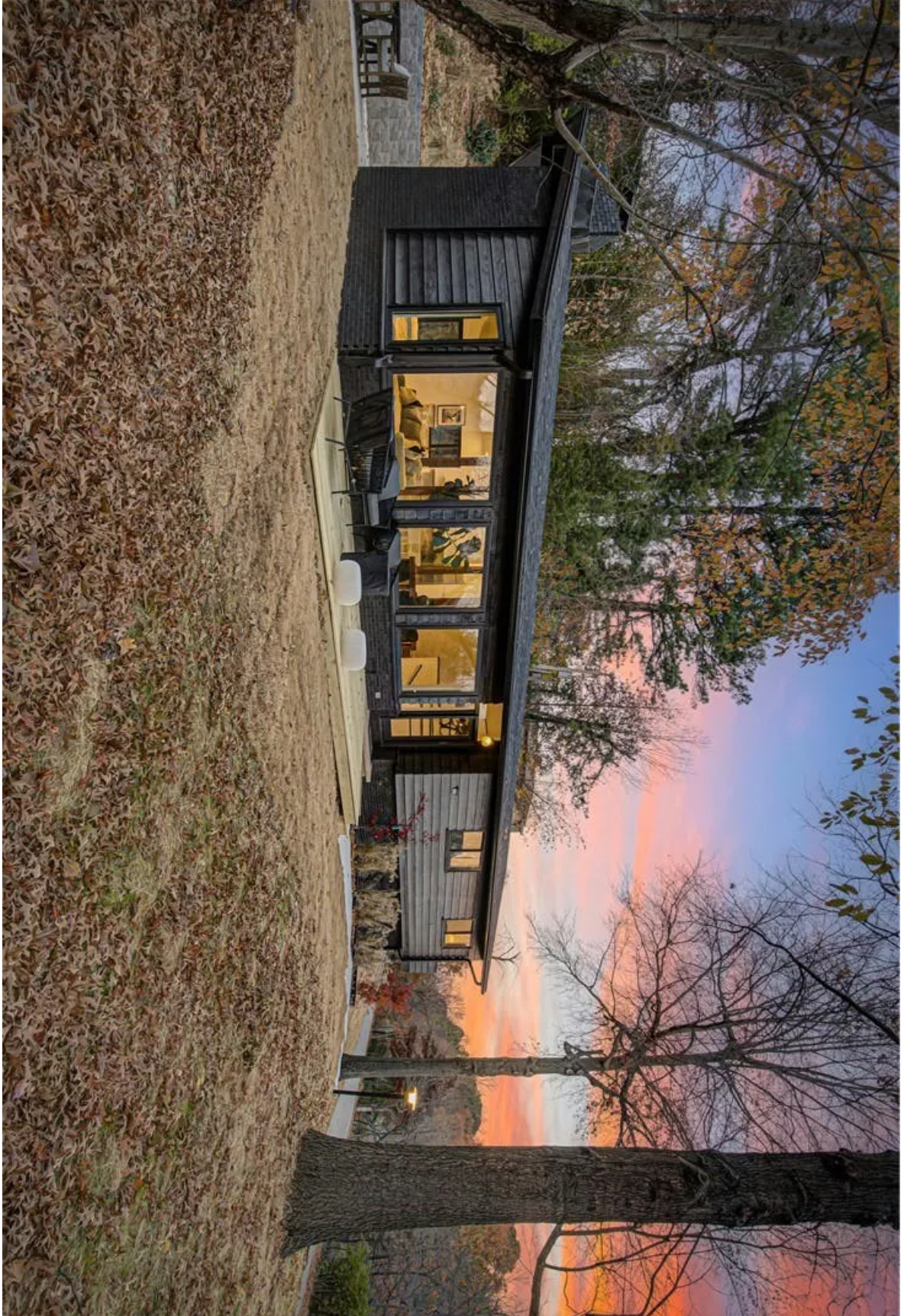
Subject: Conditional Use Permit Application– 1156 E Lakefront Dr

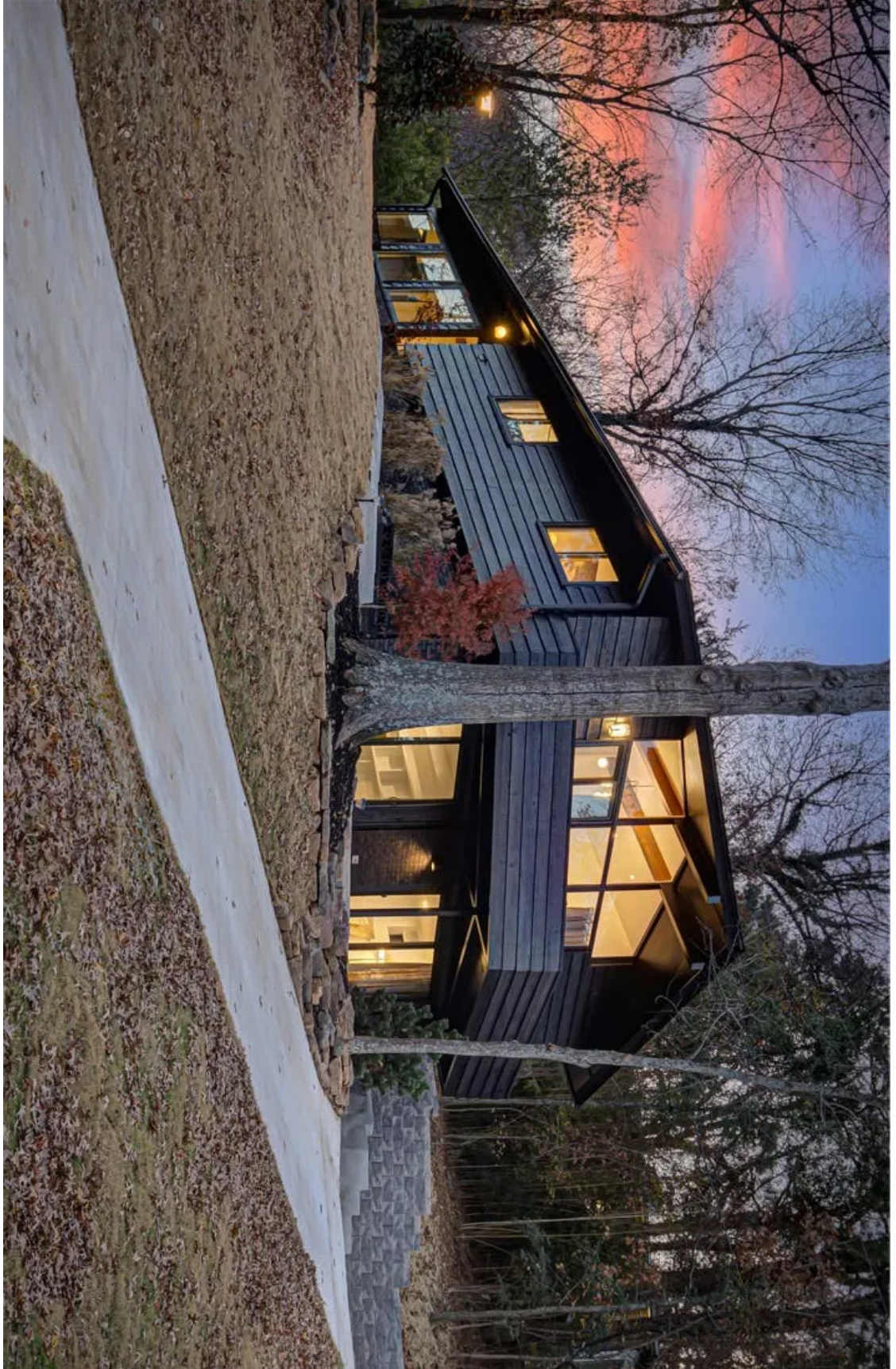
Dear Donna Wonsower:

We are applying for a conditional use permit from the city of Fayetteville for a property we purchased to obtain a short-term rental Type 2 permit. We will not reside in the residence; the property will be used for a nightly rental.

- a) **Building Size:** The house is 1,444 square feet.
- b) **Color Elevations:** Attached
- c) **Floor Plan:** (See attached) The house has two floors. The top floor has the kitchen, living space, and three bedrooms. The bottom floor has a bedroom, game area, and washer and dryer.
- d) **Parking Spaces:** There are 4 off-street parking spaces on the long driveway; see site plan.
- e) The house will not have operating hours or employees. It will be in use whenever it is rented. A cleaning provider will come in before and after bookings to clean the unit. The property will be managed by Cohobnb Properties, LLC (d/b/a Cohova Properties). The unit has 4 bedrooms, so the number of guests will be up to 8.
- f) **Outdoor Lighting:** There is an exterior light at the front of the door and exterior lights that illuminate the entrance walkway.
- g) **Noise:** The property will be managed according to the rules and regulations for Short Term rentals as passed by the City of Fayetteville, see “Short-Term Rental Business License Requirements”. Special events will not be permitted. Noise restrictions for the neighborhood will be outlined in the rental contract with each renter and enforced by the rental management company, Cohova. Quiet hours will be in effect according to City of Fayetteville ordinance 96.04 – All residential zones 11:00 pm to 7:00 am maximum noise level allowed is 55 dB(A). Parties that result in disturbances will incur a fine of \$1000.
- h) **Screening:** The property has landscaping and is on a single-family residential lot, with appropriate spacing from other properties.
- i) **Trash Service:** The City of Fayetteville will provide trash service. The bins will be stored on the porch; see site plan. The trash pick-up location is curbside near the driveway.
- j) **Ingress/Egress/Traffic Impact:** The driveway accesses a public road in the neighborhood, so there should be minimal traffic impact.
- k) The property will be used for short stays of 1-8 people and should have a minimal effect on the adjacent properties.



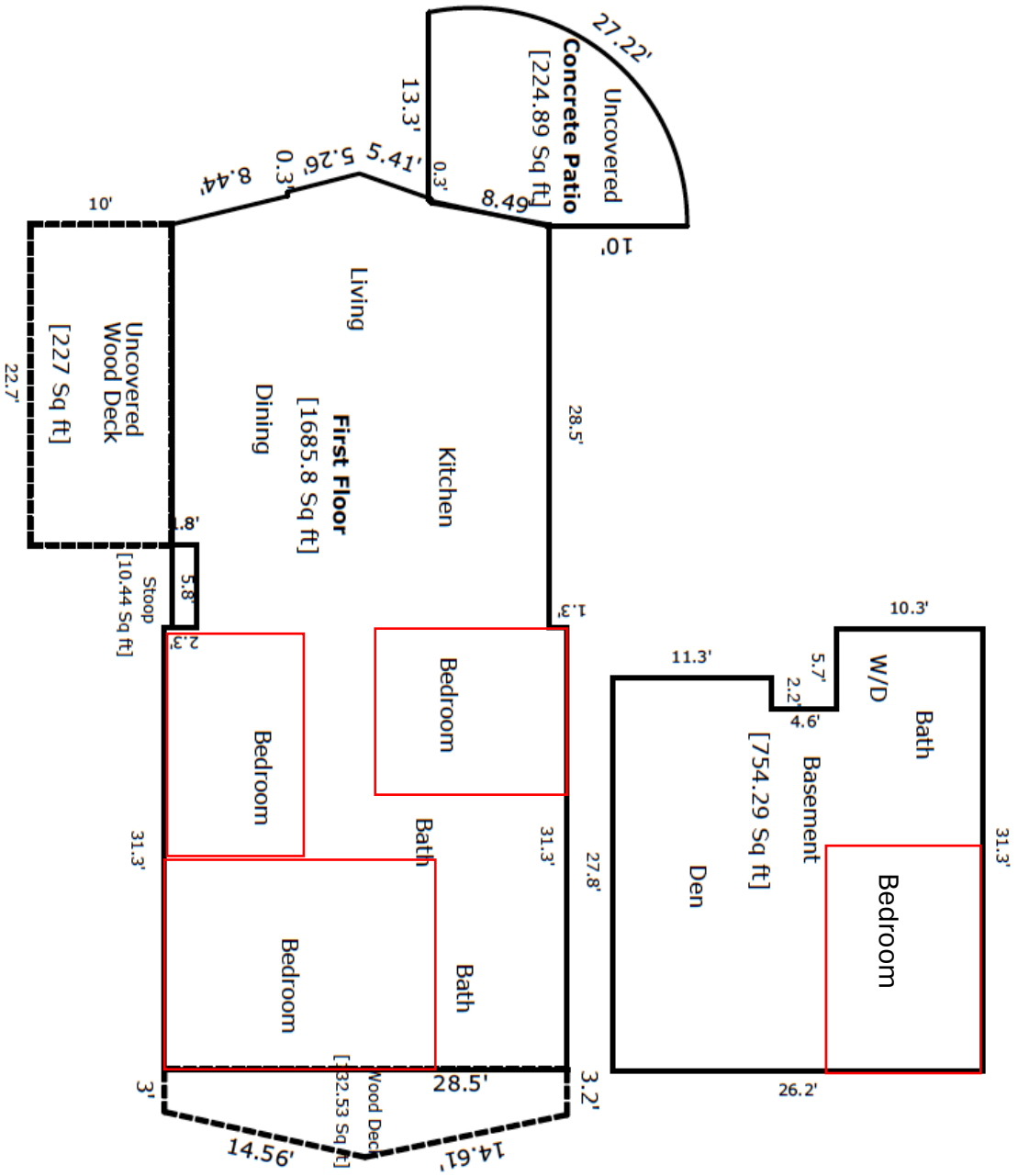








Floor Plan – 1156 E Lakefront



Cole, Kylee

From: Planning Shared
Sent: Monday, July 8, 2024 12:04 PM
To: Cole, Kylee
Subject: FW: Heck No
Attachments: IMG_0387.heic

Concerning CUP-2024-0025

Thank you

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

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



From: Connor Gaydos <connorgaydos@gmail.com>
Sent: Monday, July 8, 2024 10:37 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Heck No

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

Good morning, we received this letter in the mail today and I just have to say, heck no. This neighborhood has elderly and hard working people who definitely do not want the constant disruption that a short term rental brings. Having lived in a neighborhood previously with an Airbnb next door, it's a complete nightmare. I am definitely opposed to the owners turning this home into one and think it would be a real shame to start this trend now. Airbnb's are a stain on what it means to live in a well functioning urban area. I am vehemently opposed to this.

Charles Gaydos
565 E North St

Cole, Kylee

From: CHERYL SHORTER <rshorter@cox.net>
Sent: Tuesday, July 16, 2024 11:26 AM
To: Cole, Kylee
Subject: Short Term Rental License 1156 Lakefront Dr

Follow Up Flag: Follow up
Flag Status: Flagged

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.

Kylee,

This is Roy and Cheryl Shorter, owners and occupants of 1140 E Lakefront Dr, Fayetteville, AR. Our property is next to and adjacent to 1156 E Lakefront Dr, Fayetteville, AR that has applied for the Short Term Rental License and we do have some comments and concerns.

The owners of this property live in Texas and do not visit here very often. They told us they purchased the property here because they had two daughters that attend the University of Arkansas. Since they are infrequently here, they leave the trash can at the curb. In fact, the trash can and recycling bins are at the curb right now. I have moved them back for them previously trying to be a good neighbor. And have cleared the driveway of newspapers that have been left there and were never brought in.

Also a big concern of ours is the property line between our residences is very close to their driveway. Only a foot next to the driveway is their property, so people that park on the street are always walking through our yard to get to their house. The previous owners of that property had to replace the sod in that area because they tore it up so badly with the remodel of the house and driveway. We would like for the new sod to be preserved and not walked on frequently.

We feel that a Short Term Rental occupant is not going to care about property lines or taking care of an adjacent property.

There are also the concerns of noise, more frequent traffic and the use of the Lake Lucille. We would appreciate your consideration.

Thank you,
Roy and Cheryl Shorter

Cole, Kylee

From: Elizabeth Fickle <epfickle@gmail.com>
Sent: Tuesday, July 16, 2024 5:35 PM
To: Cole, Kylee
Subject: Short Term Rental proposal at 1156 E Lakefront Drive

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 Ms. Cole,

I'm writing this in response to the proposal that the house at 1156 E. Lakefront Drive become a Short Term Rental. This house is next door to me on the north side. I have lived at 1160 E. Lakefront drive since 1980. I appreciate that Fayetteville has taken some steps to control STRs but am disheartened that peaceful, family neighborhoods do not have enough protection from them. These are my specific concerns.

1. There is a lack of privacy because the STR is angled toward the south and has a very narrow backyard. My bedroom window is about 12 feet from the STR's front door and thoroughly-windowed living room. The widest part of their patio is less than 6 feet from my backyard. I was assuming that the owner would add a privacy fence or plantings, but, as far as I know, the lot has not been surveyed.

2. The acoustics in this neighborhood are unique (loud) because our homes are on a slope facing a small body of water - Lake Lucille. The noise travels. I'm concerned that renters who have no vested interest in our neighborhood will create unwelcome or unnecessary noise.

3. We are fortunate to have a variety of wildlife in our neighborhood - ducks, geese, and deer etc. Will numerous renters respect and protect the wildlife?

4. The house has a steep driveway and no garage. We do not have sidewalks in our neighborhood, and the street isn't wide. Multiple vehicles parking on the street pose safety, aesthetic, and convenience concerns.

5. I will no longer feel safe in my own home. Instead of getting to know one family in one dwelling as was intended by residential zoning, I will be exposed to a constant turnover of strangers.

Thank you for your time.

Sincerely,

Elizabeth Fickle

Elizabeth Fickle
1160 E Lakefront Dr
Fayetteville, Arkansas 72703

Cole, Kylee

From: Michael Taylor <mctay11@gmail.com>
Sent: Wednesday, July 17, 2024 11:12 PM
To: Cole, Kylee
Subject: Re: Short term rental license request for 1156 E. Lakefront Dr. Fayetteville, AR 72703

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.

To whom it may concern,

We are writing to the Commission regarding the short term rental license request for the property located at 1156 E. Lakefront Dr. in Fayetteville, AR.

My wife, Mary Elise Alexander, and I have lived in the home located directly above this property, at 1124 W. Lakefront Dr., since 2008.

Lakefront Drive is very unique for Fayetteville, in that there are only 5 homes on the entire street. Due to the topography, and the fact that the street is located adjacent to Lake Lucille (a private lake only accessible to the homes on Lakefront and Lakeridge Drives), the five homes on Lakefront Dr. are situated in a horseshoe, and are very close to each other. Each of the other four yards are within twenty feet of the backyard, patio and outdoor dining area of the home requesting the STR license.

I have attached three pictures for your review. You will note that the home that is requesting the STR license is situated in the middle of, and actually touches each of the four other homes on the street. The four homeowners have all lived here for more than ten years. It's a very secluded neighborhood, without much traffic. In fact, we have a significant number of deer who use the path directly next to this house as their navigation route to and from the lake to water, on a daily basis.

We are concerned that the increase in activity and noise, especially on Razorback game weekends, will be a detriment to the homeowners, as well as the animals in this quiet neighborhood in the heart of Fayetteville. Because of these unique circumstances, we respectfully request that the Commission consider denying this pending request.

Regards-

Michael Taylor
Mary Elise Alexander
1124 W. Lakefront Dr.

Michael Taylor
214-236-1270

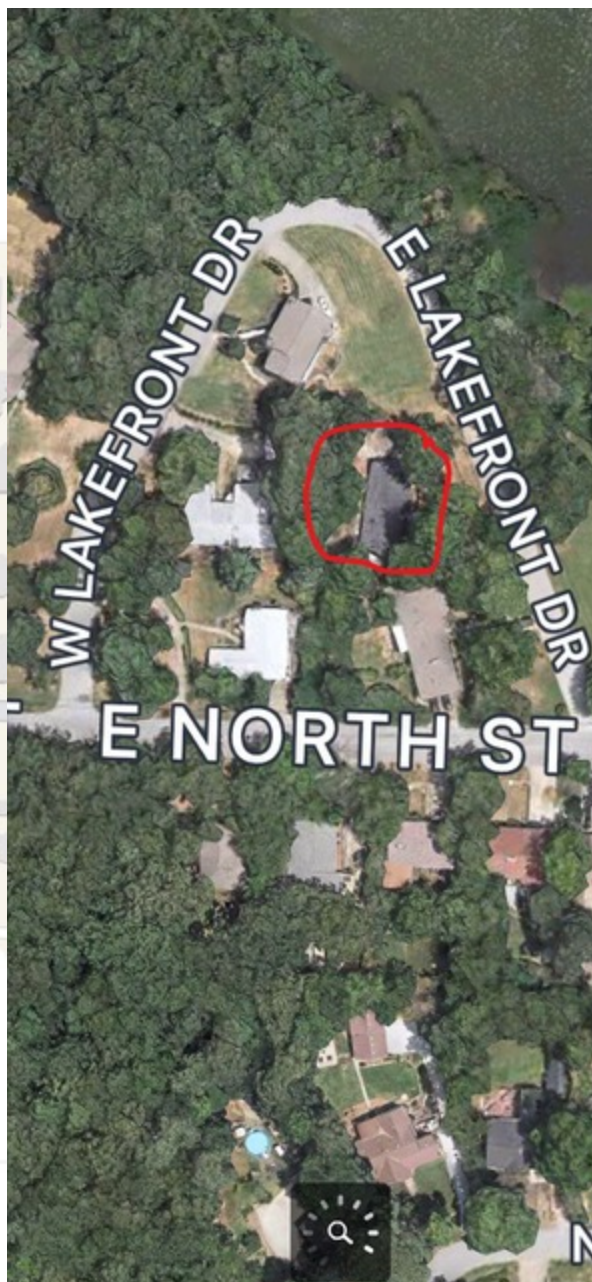
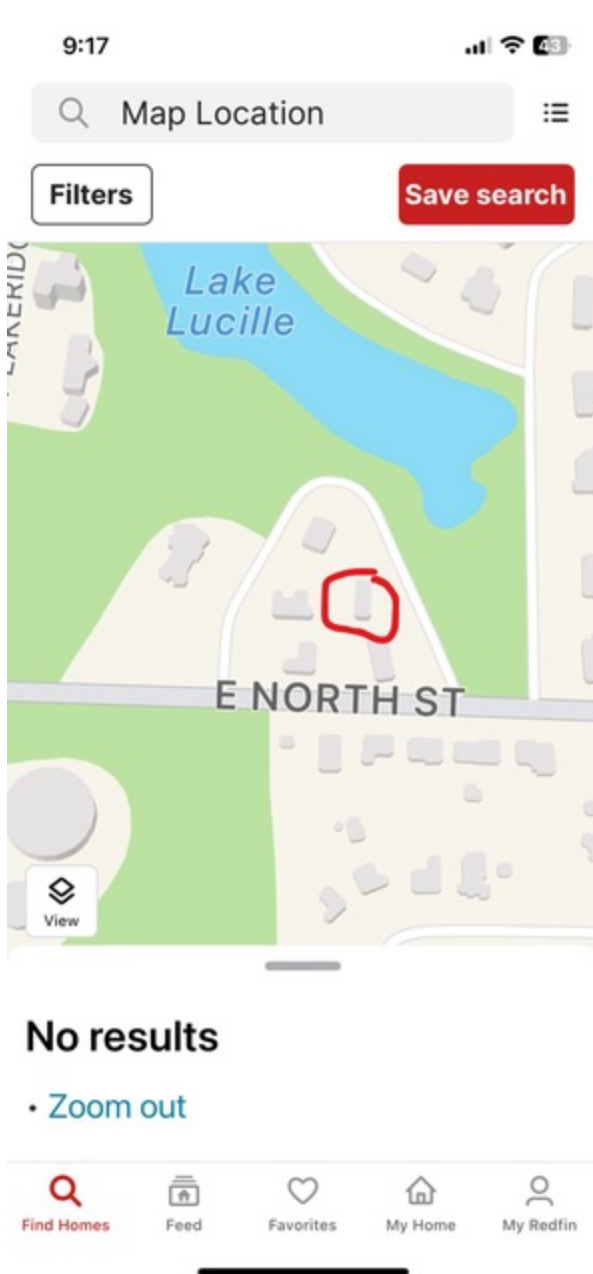
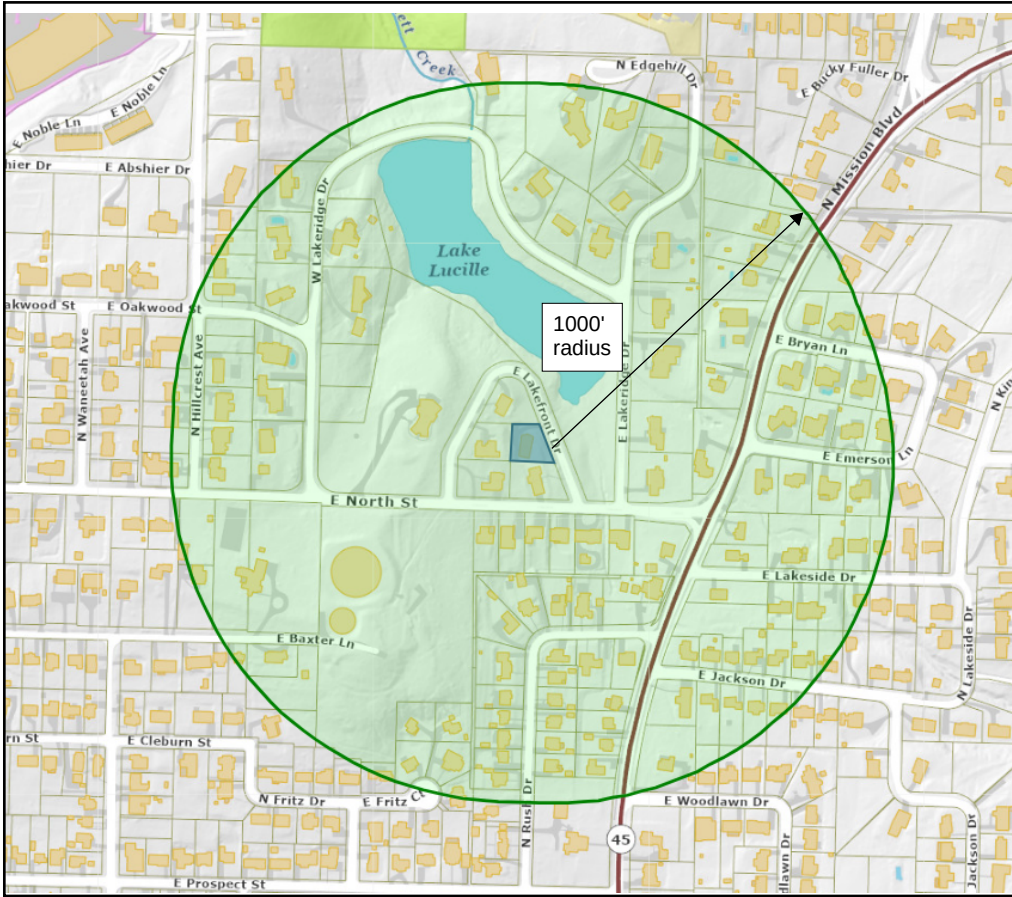
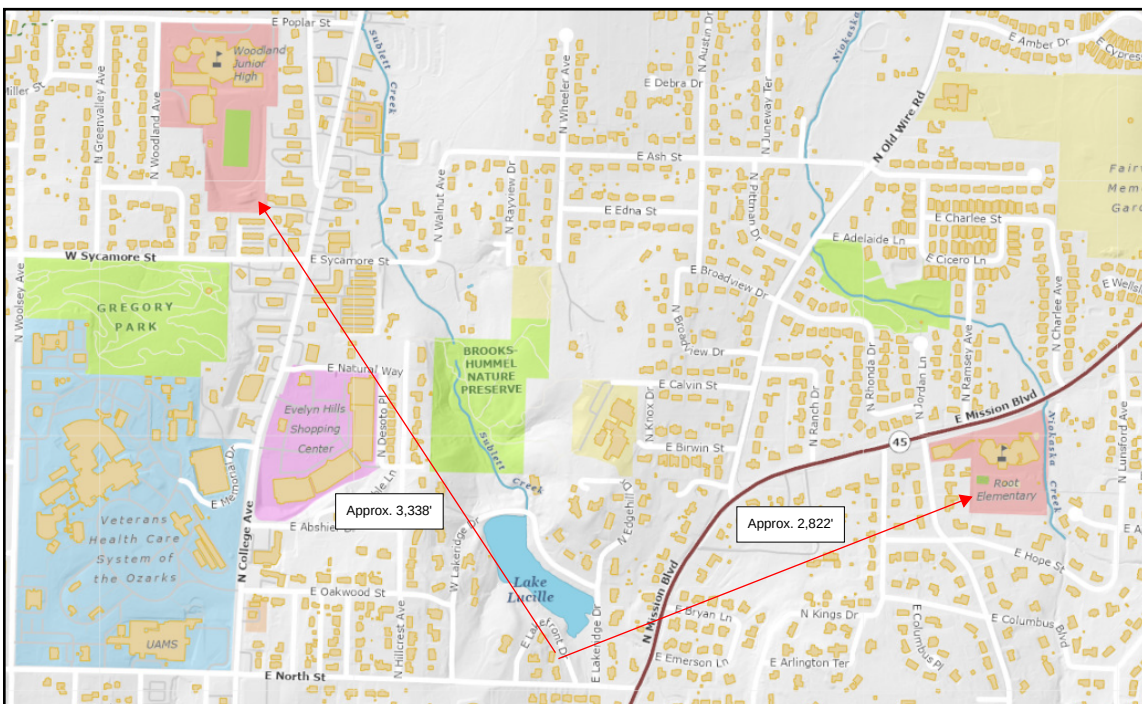




Exhibit: School Proximity



Above: No public or private schools within 1000' radius of the subject property.
Below: Approximate distances to nearest public or private schools.



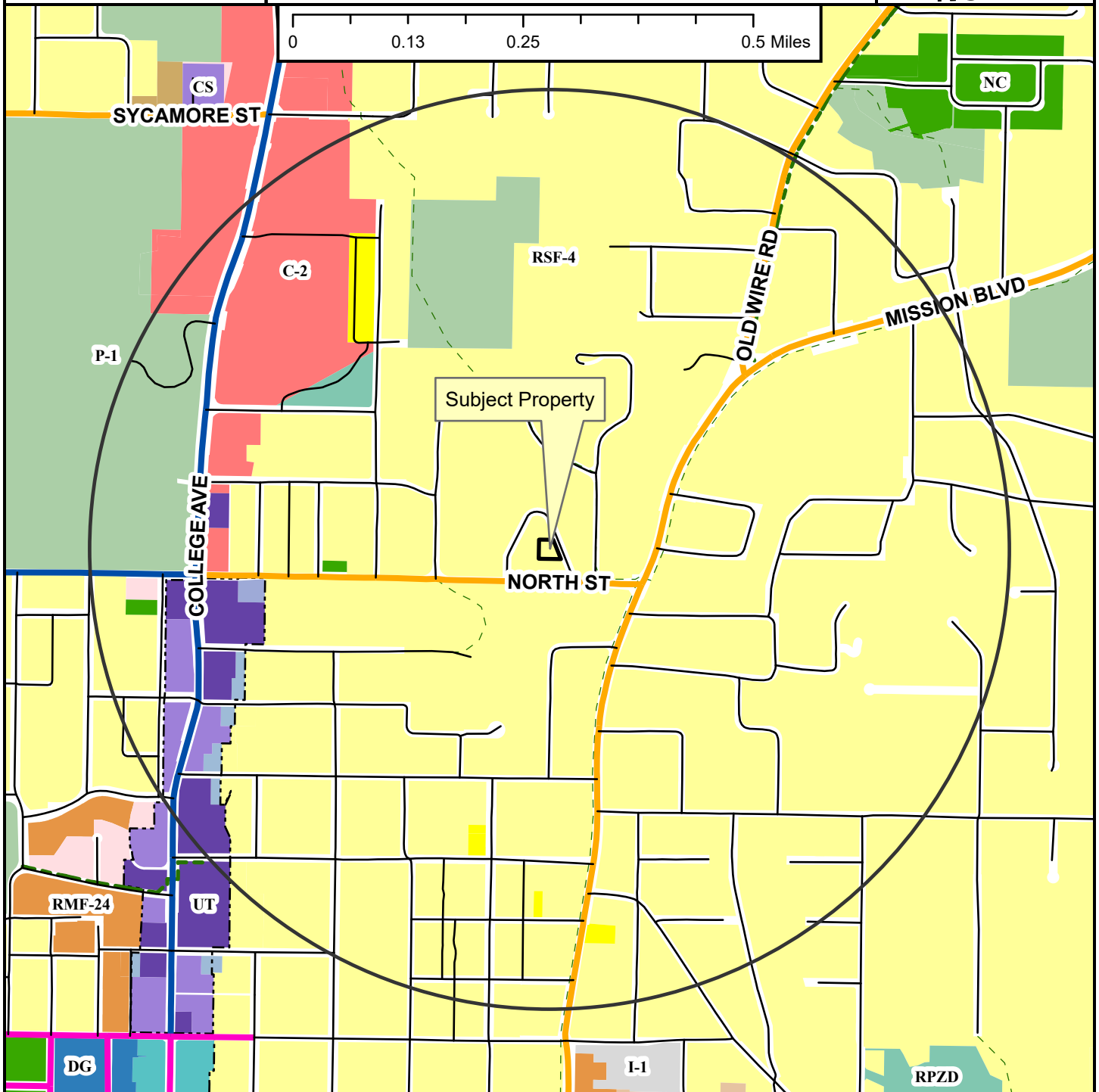
CUP-2024-0025

1156 E. LAKEFRONT DR

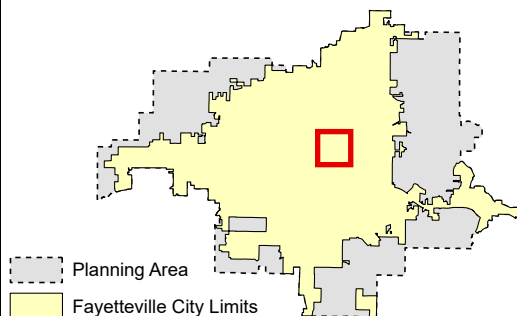
One Mile View



0 0.13 0.25 0.5 Miles



- 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

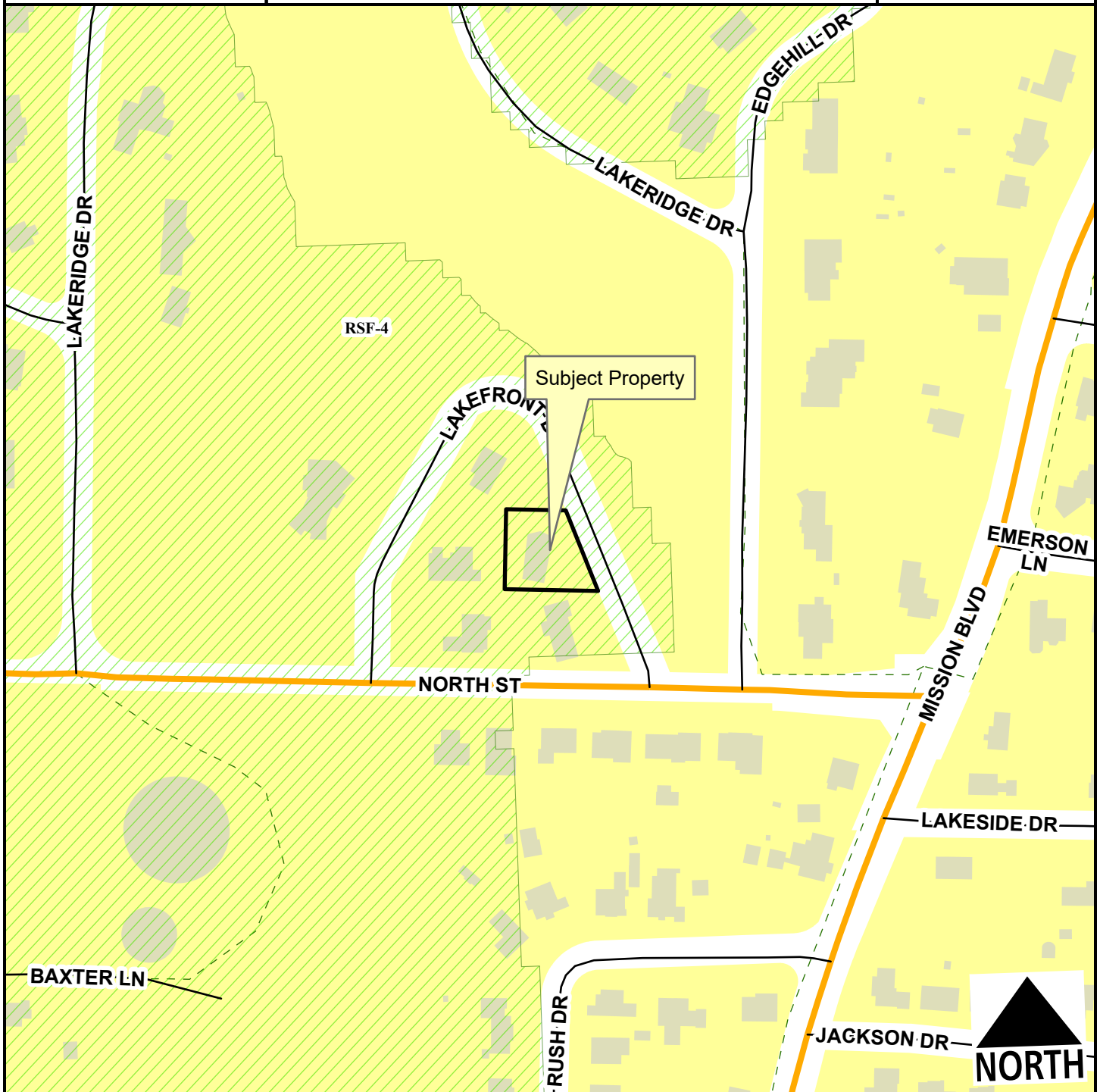


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial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

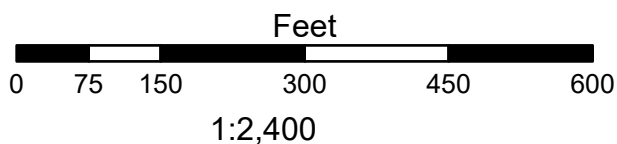
CUP-2024-0025

1156 E. LAKEFRONT DR

Close Up View



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



RSF-4

CUP-2024-0025

1156 E. LAKEFRONT DR

Current Land Use



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



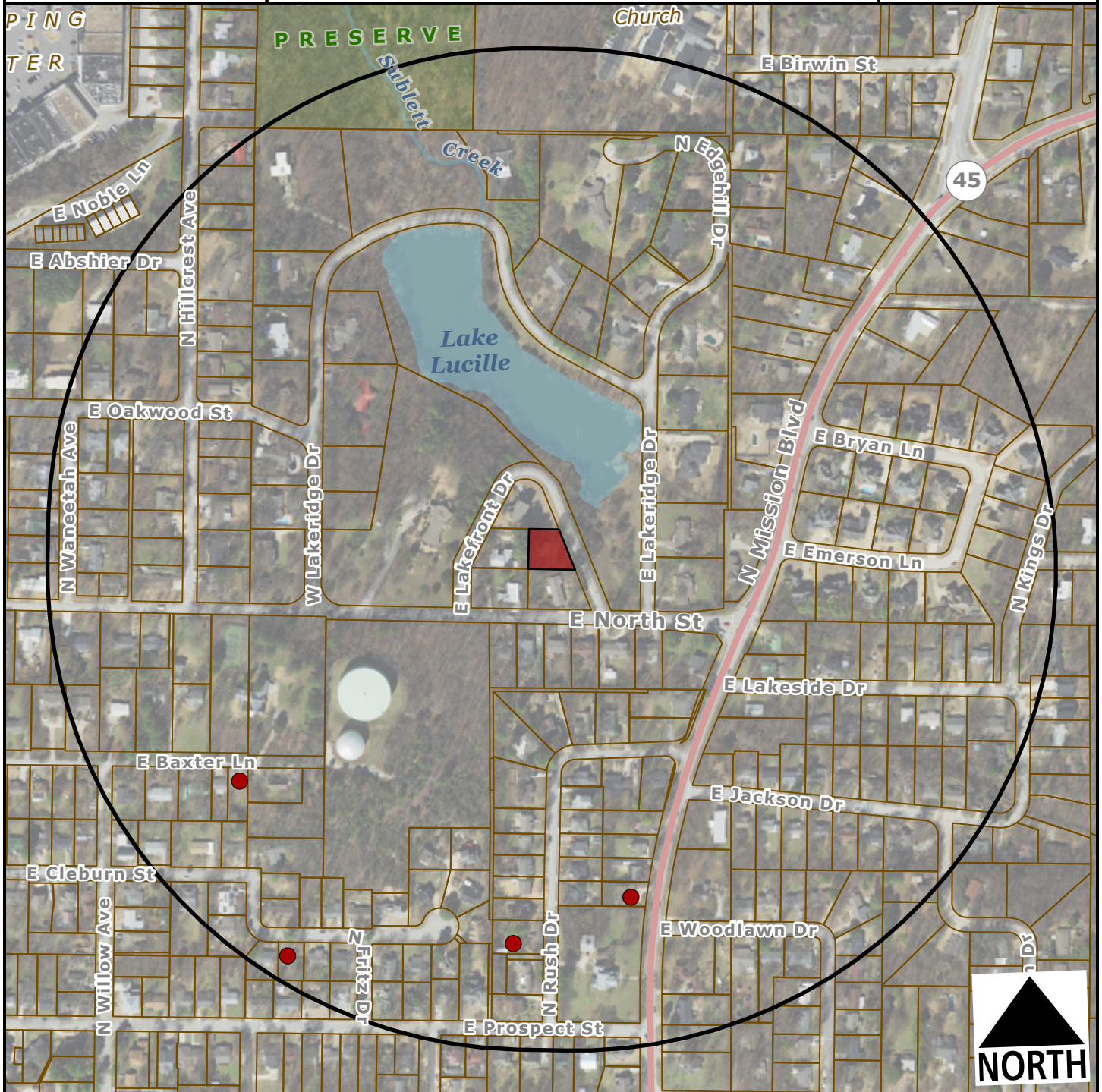
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2024-0025

1156 E. LAKEFRONT DR

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 4

Occupiable
Residential
Addresses
(Estimated
Housing Units): 223



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: July 22, 2024

SUBJECT: **CUP-2024-0026: Conditional Use Permit (4090 N. HILLSIDE TER./GETZENDANER, 138):** Submitted by LEAHY CONSTRUCTION for property located at 4090 N. HILLSIDE TER. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 4.66 acres. The request is for an accessory structure greater than 50% the size of a principal structure.

RECOMMENDATION:

Staff recommends approval of **CUP-2024-0026** with conditions, based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **CUP-2024-0026**, 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 in northeast Fayetteville about one third of a mile northeast of the intersection of Zion Road and Crossover Road. The property includes one parcel totaling 4.66 acres which is a through lot with frontage along Hillside Terrace to the west and Valerie Drive to the east. Building permits were recently approved to allow for the development of a 3,112-square-foot single-family dwelling with a pool and 1,171-square-foot pool house. Another building permit is in review for a 2,720-square-foot detached garage. Surrounding land use and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Rural Residential	R-A, Residential-Agricultural RSF-4, Residential Single-Family, Four Units per Acre
South	Rural Residential	R-A, Residential-Agricultural
East	Rural Residential	R-A, Residential-Agricultural RSF-4, Residential Single-Family, Four Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre

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

Request: The applicant requests approval to construct a 2,720-square-foot garage on a property where permits were recently granted for the construction of a 3,112-square-foot single-family

dwelling and 1,171-square-foot pool house. Fayetteville's Unified Development Code, under §164.02, Accessory Structures, limits the permitted size of accessory structure(s) to no more than 50% of the size of the principal structure. With the construction of the proposed garage, the applicant is requesting permission to have accessory structures that total 125% of the size of the principal structure. Accessory structures of that size may only be allowed with conditional use permit approval from the Planning Commission.

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

RECOMMENDATION: Staff recommends approval of **CUP-2024-0026**, subject to the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility for an accessory building without a primary structure with which it is associated.** *Staff finds the accessory structure to be compatible with, and unlikely to have a negative impact on, adjacent properties;*
2. Conditional use permit approval does not constitute building permit approval for the associated structure. A building permit shall be applied for and reviewed for compliance with all city codes.

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

FINDINGS OF THE STAFF

Section 163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for accessory structures that exceed 50% of the size of the principal structure on a property, as outlined in UDC §164.02(A)(5).

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 §164.02(A)(5) 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. Limits on the size of accessory structures are intended to ensure that those structures remain subordinate to and compatible with the principal structure that they serve. Staff finds that the accessory structures associated with the applicant's request will remain compatible with the principal structure, even though their combined square footage exceeds the total size of it. The applicant indicated that the site was designed with a smaller house and detached garage in order to protect existing trees and work with the topography of the site. All proposed structures are one story tall and appear to be constructed in the same architectural style with similar materials.

(c.) The Planning Commission shall certify:

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

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

(2.) That satisfactory provisions and arrangements have been

made concerning the following, where applicable:

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

Finding: Ingress and egress to the property is proposed through a 15-foot-wide driveway with access onto Hillside Terrace, a partially improved Residential Link Street with asphalt paving. The proposed driveway meets separation requirements (at least five feet from side property lines) and maximum width requirements (no wider than 24 feet).

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

Finding: The City of Fayetteville requires single-family dwellings to provide enough off-street parking for two vehicles with a maximum of four vehicles permitted to be parked outside. The applicant's proposal will provide enough space for five vehicles to park indoors, with three spaces in the detached garage and two spaces in an attached carport. Additional parking is available outdoors along the driveway. Landscaping and a fence are proposed between the garage and south property line, and existing vegetation is present along the north and west sides of the property, to screen parking areas from adjacent properties.

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

Finding: Residential trash cart service is available for the residence and refuse containers should be screened from view of the right-of-way when not placed at the curb for pick up.

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

Finding: The subject property has direct access to city water lines along Hillside Terrace and Valerie Drive but it does not have direct access to city sewer. The residence is proposed to be on a septic system.

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

Finding: Landscaping and a fence are proposed between the garage and south property line, and existing vegetation is present along the north and west sides of the property, to screen parking areas from adjacent properties. Staff does not recommend any additional screening or buffering.

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

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

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

Finding: The R-A zoning district has a front setback of 35 feet, a side setback of 20 feet, and a rear setback of 35 feet. Since the subject property is a through lot, it has two front setbacks and two side setbacks. All structures included in the proposed development appear to be meeting required setbacks.

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

Finding: Staff finds the proposal to be generally compatible with adjacent properties, which are primarily large lots developed with one or two story single-family residences. Staff finds that granting the requested conditional use permit would allow for the development of a single-family residence with accessory structures that are not likely to adversely affect surrounding properties.

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

Finding: City Plan 2040's Future Land Use Plan designates the subject property as Residential Neighborhood Area, and its infill matrix indicates a score range of 3-5 for this site. Staff finds the applicant's request to be generally aligned with the City's land use plans since it would allow for the development of a large single-family residence in an area that may not be a suitable location for infill at this time.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §164.02, Accessory Structures and Uses
- Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map

164.02 - Accessory Structures And Uses

Accessory Structures and Uses. Accessory structures and uses shall be subject to the applicable use conditions set forth in Zoning, Chapters 160 through 165, and to the following general conditions:

(A) Accessory Structures.

- (1) *When Erected.* No accessory structure shall be erected on any property prior to the construction of the principal structure, unless such accessory structure shall have been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.
- (2) *Integral Part of Principal Structure.* An accessory structure erected as an integral part of the principal structure shall be made structurally a part thereof, shall have a common wall therewith, and shall comply in all respects with the requirements of the building code applicable to the principal structure.
- (3) *Height and Setback Restrictions.* Accessory structures 10 feet or less in height shall maintain a minimum side setback of 3 feet and a minimum rear setback of 5 feet from the property lines. Accessory structures greater than 10 feet in height shall meet the setback requirements of the zoning district in which it is located. All accessory structures shall conform to the front setbacks of the zoning district in which it is located.
- (4) *Build-to Zones.* Accessory structures shall be exempt from meeting the requirements of the build-to zone in any zoning district.
- (5) *Size of Accessory Structure(s).* Any accessory structure(s) shall be 50% or less of the size of the principal structure, except for accessory roof mounted solar energy systems and accessory ground mounted solar energy systems. Any accessory structure(s) requested that is greater than 50% the size of the principal structure shall be allowed only as a conditional use and shall be granted in accordance with §163, governing applications of conditional use procedures; and upon the finding that the requested structure is designed to be compatible with the principal structure on the property and those on surrounding properties. Accessory structures that exceed 50% of the size of the principal structure shall meet the setback requirements of the zoning district in which it is located.
- (6) *Shared Accessory Structures.* Shared accessory structures may be constructed across common property lines, subject to all building and fire codes. Building setbacks for shared accessory structures may be administratively varied to permit zero lot line development. Easements for driveway access and maintenance of the structure and driveway shall be provided prior to the issuance of a building permit. For purposes of calculating size of shared accessory structures, only that portion of the shared accessory structure on the lot with the principal structure shall count toward the maximum allowable size.
- (7) *Accessory Ground Mounted Solar Energy Systems.* An accessory ground mounted solar energy system shall be considered an accessory structure and shall be subject to applicable accessory structure requirements.
- (8) *Electric Vehicle Charging Stations.* Electric vehicle charging stations that are publicly accessible shall be considered an accessory use in all commercial, mixed-use, industrial, and institutional zoning districts. Publicly accessible electric vehicle charging stations shall be reserved for the parking and charging of electric vehicles only and information shall be posted indicating that the space is reserved for electric vehicle charging purposes only. Electric vehicle charging equipment must be designed and located to not impede pedestrian, bicycle or wheelchair movement. Property owners may collect a service fee for the use of an electric vehicle charging station. Information shall be posted identifying voltage and amperage levels and any type of use, fee, or safety information related the electric vehicle charging station. Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment. A phone number, email address, or some other contact information must be provided on the charging equipment for reporting when it is not functioning, or for when other problems are encountered.

(B) Swimming Pools. Swimming pools shall not be located in any required front setback.

(Code 1965, App. A., Art. 7 (1); Ord. No. 1747, 6-29-70; Ord. No. 2177, 12-16-75; Ord. No. 3131, 10-1-85; Code 1991, §160.076; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4817, 1-3-06; Ord. No. 5239, 5-5-09; Ord. No. 5592, 06-18-13; Ord. No. [5950](#), §1, 2-7-17; [Ord. No. 6245](#), §§4, 5, 10-15-19; [Ord. No. 6407](#) §2, 1-19-21)

Conditional Use Permit Application: 4090 N Hillside Terrace, Fayetteville AR 72703

- (1) Payment in full of applicable fees: CUP \$200.00 Public Notification Sign Fee (per sign) \$5.00
- (2) Legal description of property

Partial Legal

PT SE SW 4.58 AC FURTHER DESCRIBED FROM 2019-39132 AS: Part of the SE/4 of the SW/4 of Section Nineteen (19), in Township Seventeen (17) North of Range Twenty-nine (29) West, and being more particularly described as follows, to wit: Beginning at a point South 89 degrees 42 minutes West 642.10 feet and North 382 feet from the Southeast corner of said forty (40) acre tract, and running thence North 127.41 feet, thence East 342.10 feet, thence North 180.00 feet, thence West 1000.90 feet, thence South 163.00 feet, thence South 89 degrees 45 minutes East 240.95 feet, thence South 71 degrees 04 minutes East 441.75 feet to the point of beginning, containing 4.58 acres, more or less.

Source: Washington County property records via Data Scout Map

See attached survey.

- (3) Description of this request:

Application is for a three bay garage with recreation room, home office, and half bath for personal use with family and friends. A goal of the overall project is to protect specimen trees and design with topography of site which required minimizing the house size. Therefore, the garage is detached and some private space incorporated.

- (a) Building size in square feet; existing and proposed: **Proposed 2,720 Square feet new construction**
- (b) Color elevations of all exterior sides of the structure.

See attached color elevations.

- (c) Number of off-street parking spaces to be provided number required: **Not applicable (residential accessory building)**

(d) When request applies to a business or non-residential use: -Hours of operation -Number of employees -Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour): **Not applicable (residential accessory building)**

- (e) Outdoor lighting:

Recessed lighting in exterior soffit (dark sky compliant lighting) and wall mount down light over garage doors

- (f) Noise – **N/A (residential accessory building)**

(g) Screening or buffering from adjacent properties.

See site plan: new buffer landscape and fence between garage and south property line, existing vegetation at north and west property line to remain, limited visibility to east adjacent properties given house and downhill topography

(h) Trash and refuse service (with particular reference to visibility from the street and adjacent properties). **N/A applicable (residential accessory building, grouped with house service)**

(i) Ingress and egress to the property; traffic impacts.

Driveway entry is from N Hillside Terrace; Traffic impacts are not applicable (residential accessory building)

(j) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood:

Garage for a single family residence is compatible with neighborhood location. The proposed accessory building is in scale with large lot.

(4) Site plan drawn to scale (if applicable), based on the deed or survey, showing all proposed structures dimensioned from the overhang to the property line, parking, driveways, Master Street Plan right-of-way, required setbacks.

See attached site plan.

(5) Preliminary floor plans drawn to scale showing: (a) Location of walls, doors, windows (b) Identification of activity areas.

See attached floor plan.

(6) A copy of the county parcel map from the Washington County Assessor's office website (www.co.washington.ar.us) or the Fayetteville Address Point File (website instructions). The subject property and all parcels within 200 feet should be identified on this parcel map. (Applications for special conditional uses that require notification within 500 feet should show all properties within 500 feet of the **project site**. See the notification requirements section of this application.)

See attached parcel map including parcels within 200 feet.

(7) Signature by current property owner of record on consent of owner form or written verification signed by such owner designating a project representative.

Owner: Ian Getzندانer

Project Representatives: Joel Walker, Owner Representative; Gabe Leahy, General Contractor; Skiles Architect, PA

(8) The applicant is responsible for meeting the public notification requirements for a conditional use permit listed on the Notification Requirements pages in this application. This is required at a later date after initial submittal of request.



VICINITY MAP



BATES
Engineers • Surveyors

7230 S. Pleasant Ridge Dr. • Fayetteville, Arkansas 72704 • 479.442.9350

T-17-N

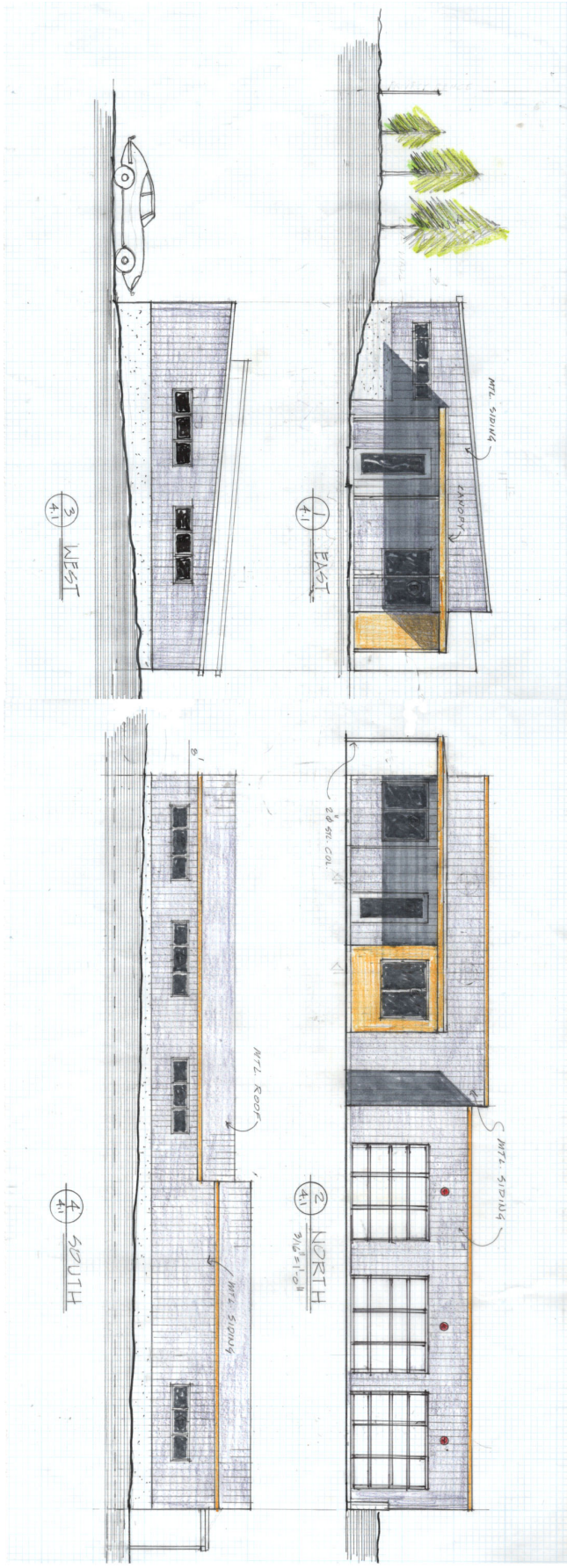
THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

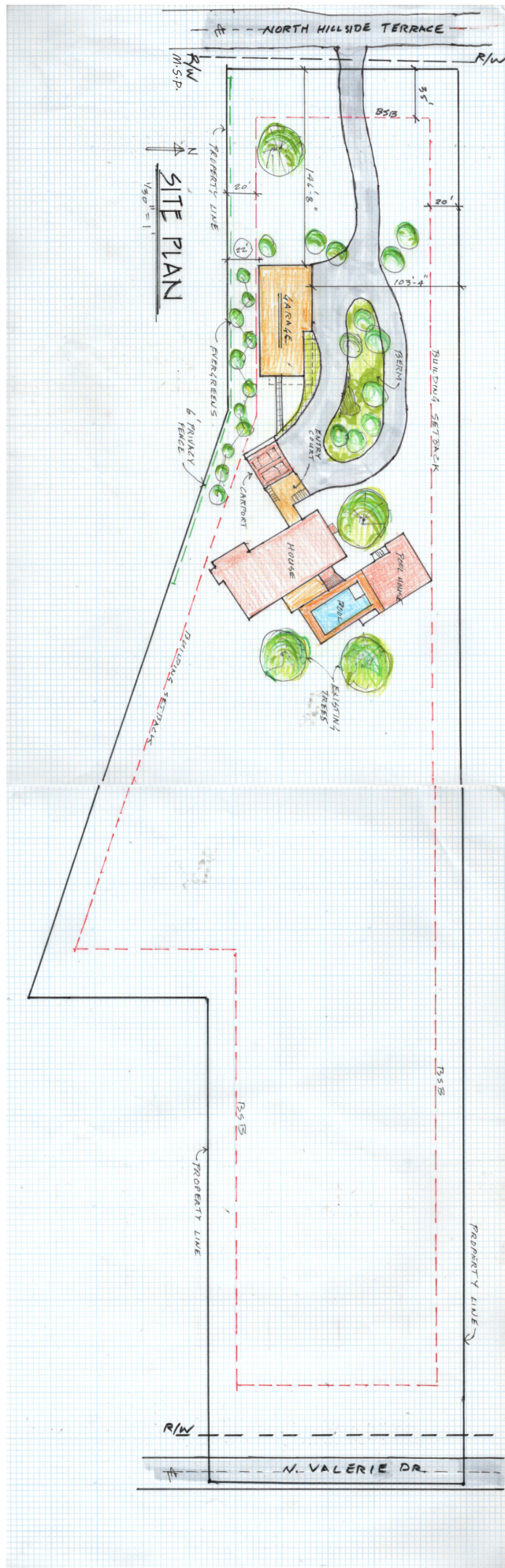
(R) RECORD BEARING & DISTANCE
(M) MEASURED BEARING & DISTANCE
● FOUND CONC. MONUMENT
⊙ FOUND 5/8" REBAR
⊖ FOUND PIPE
⊞ FOUND NAIL
△ COMPUTED POINT
⊗ SPOT ELEVATION
○ SET 5/8" REBAR/CAP

	BOUNDARY LINE (MEASURED)
	BOUNDARY LINE (EXISTING)
	FORTY LINE/ TIE LINE
	CENTERLINE OF ROAD
	RIGHT-OF-WAY
	WATER LINE
	OVERHEAD POWER LINE
	FENCE

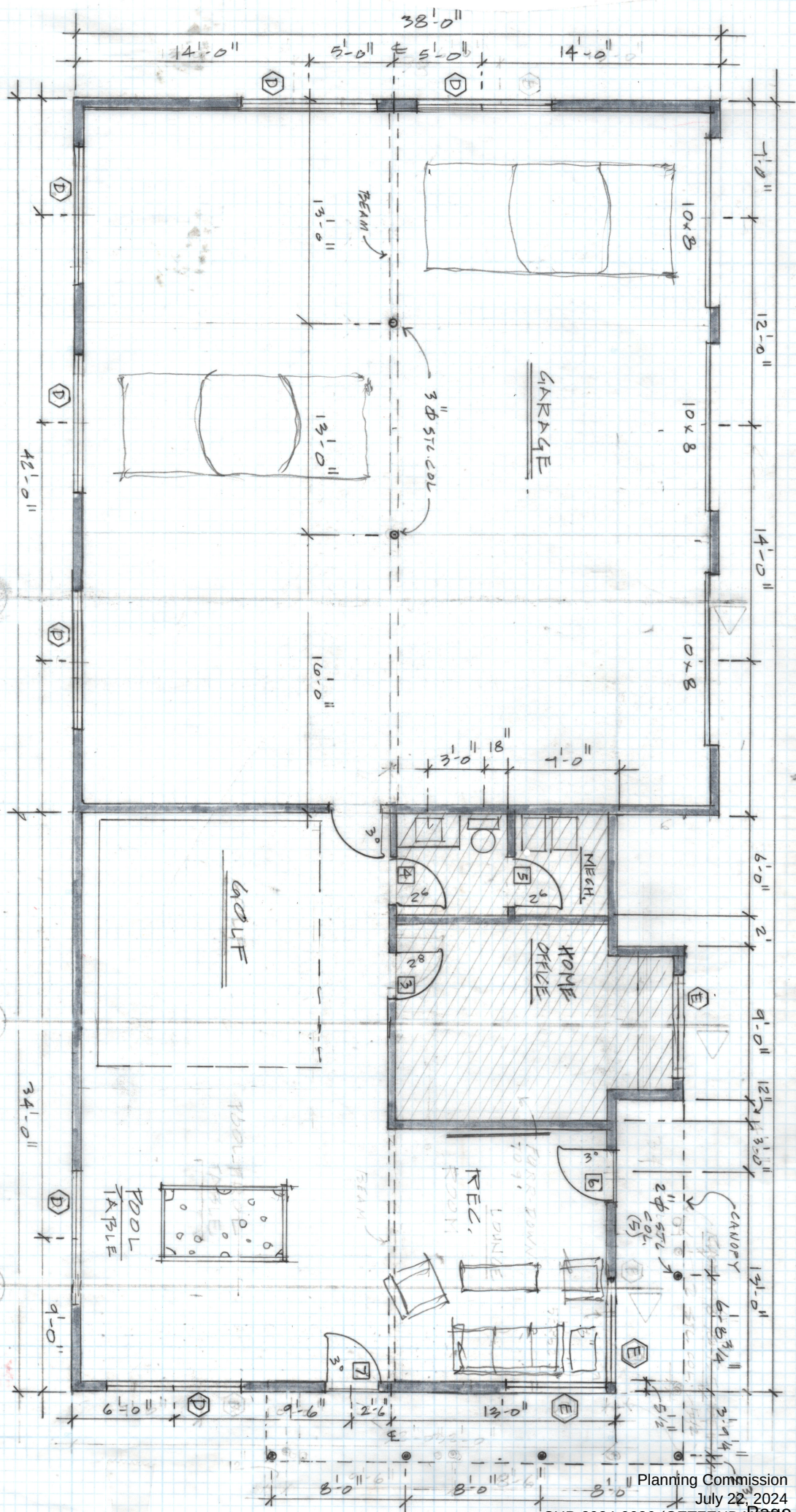
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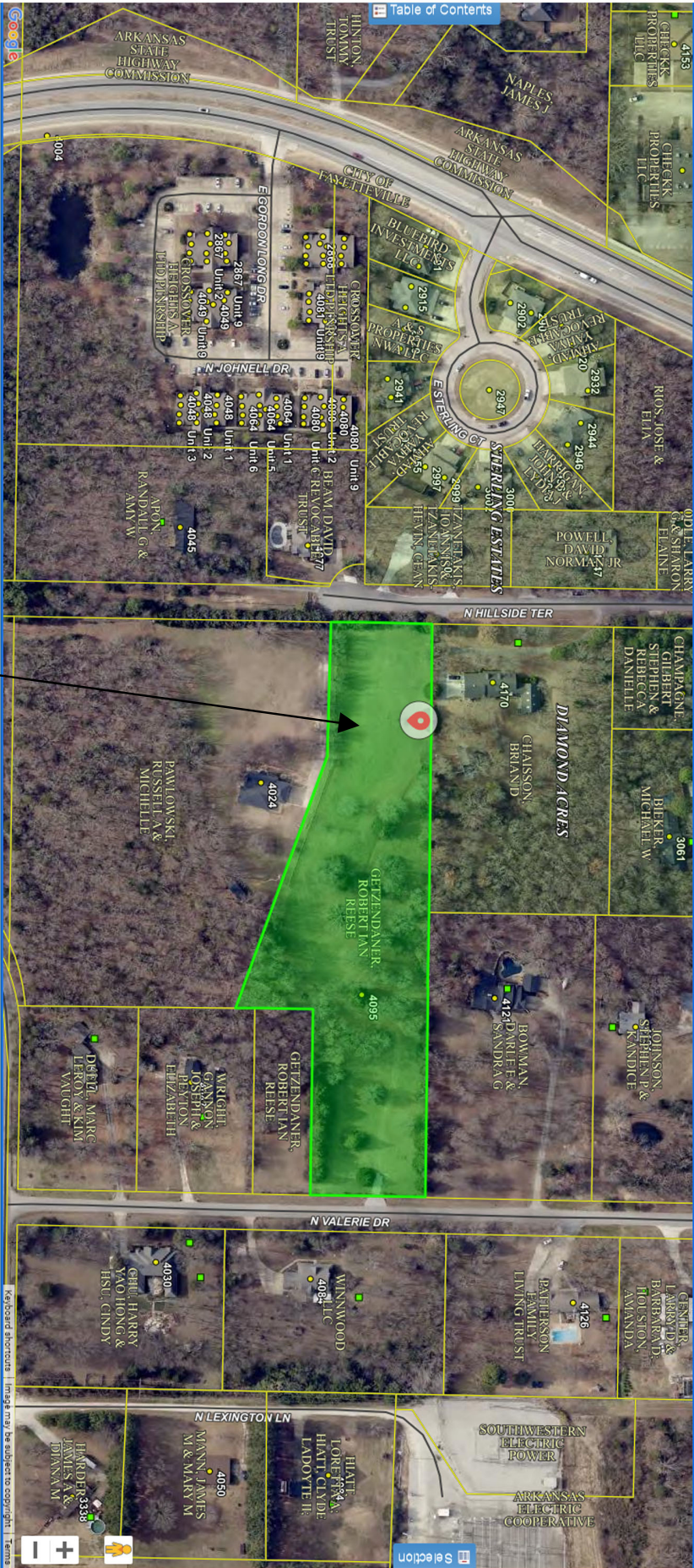
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↑
FLOOR PLAN
3/16" = 1'-0"





Parcel ID
765-13233-000

Real Estate Parcels
765-13233-000

RPID
765-13233-000

Owner
48323

Owner
GETZENDANER, ROBERT IAN

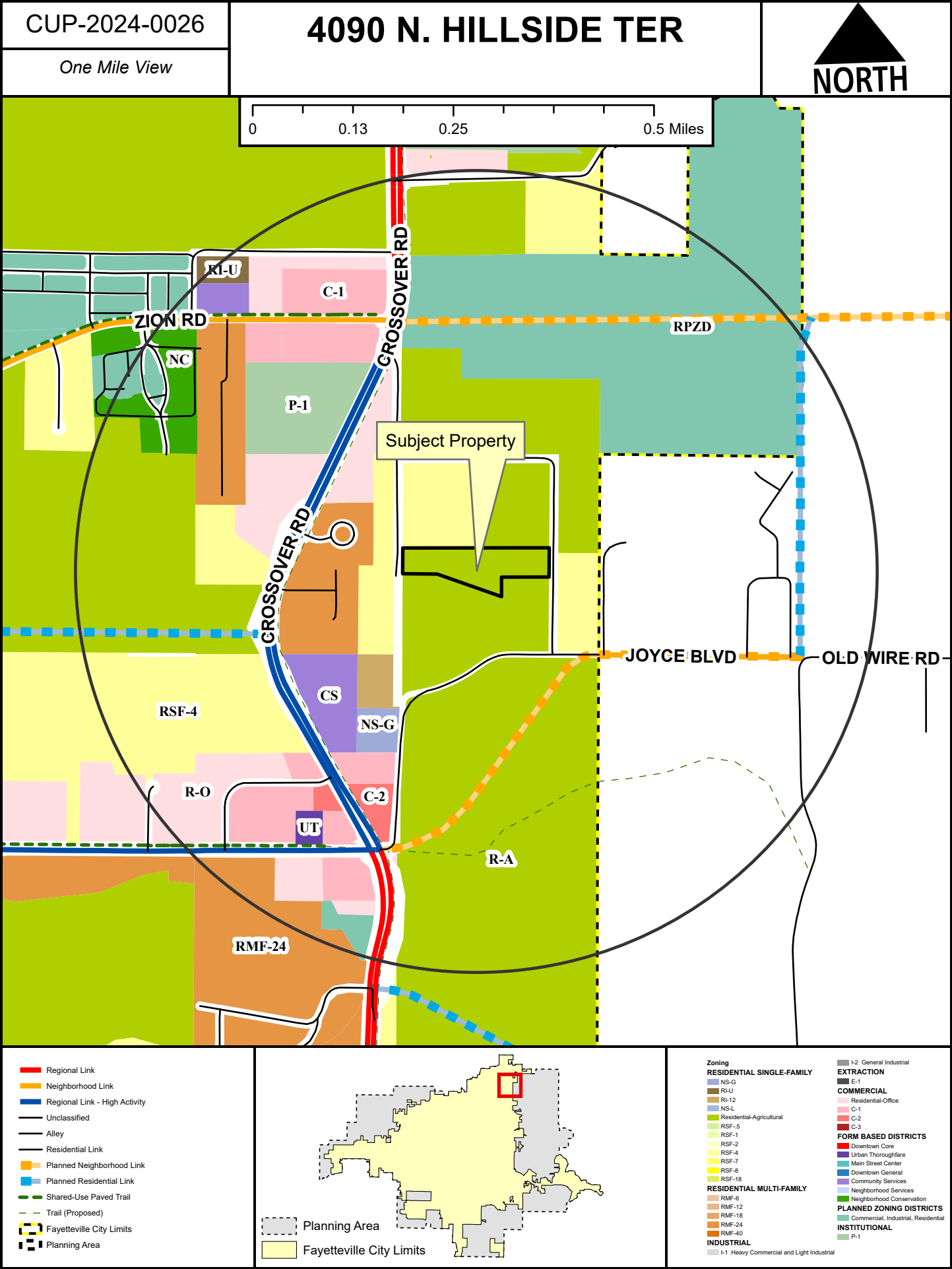
Owner
REESE

Owner Address
1462 N HUNTER DR
FAYETTEVILLE AR 72701-2961

CAAMA Acreage
4.58

Partial Legal
PT SE SW 4.58 AC FURTHER
DESCRIBED FROM 2019-39132
AS: Part of the SE/4 of the SW/4
of Section Nineteen (19), in
Township Seventeen (17) North of
Range Twenty-nine (29) West,
and being more particularly
described as follows, to wit:
Beginning at a point South 89
degrees 42 minutes West 642.10
feet and North 382 feet from the

Southeast corner of said forty (40)
acre tract, and running thence
North 127.41 feet, thence East
342.10 feet, thence North 180.00
feet, thence West 1000.90 feet,
thence South 163.00 feet, thence
South 89 degrees 45 minutes
East 240.95 feet, thence South 71
degrees 04 minutes East 441.75
feet to the point of beginning,
containing 4.58 acres, more or
less.



Regional Link

Neighborhood Link

Regional Link - High Activity

Unclassified

Alley

Residential Link

Planned Neighborhood Link

Planned Residential Link

Shared-Use Paved Trail

Trail (Proposed)

Fayetteville City Limits

Planning Area

Planning Area

Fayetteville City Limits

Zoning

RESIDENTIAL SINGLE-FAMILY

NS-G

RI-U

RI-12

NS-L

Residential-Agricultural

RSF-5

RSF-1

RSF-2

RSF-4

RSF-7

RSF-8

RSF-18

RESIDENTIAL MULTI-FAMILY

RMF-6

RMF-12

RMF-13

RMF-24

RMF-40

INDUSTRIAL

I-1 Heavy Commercial and Light Industrial

EXTRACTION

E-1

COMMERCIAL

Residential-Office

C-1

C-2

C-3

FORM BASED DISTRICTS

Downtown Core

Urban Thoroughfare

Main Street Center

Downtown General

Community Services

Neighborhood Services

Neighborhood Conservation

PLANNED ZONING DISTRICTS

Commercial, Industrial, Residential

INSTITUTIONAL

P-1

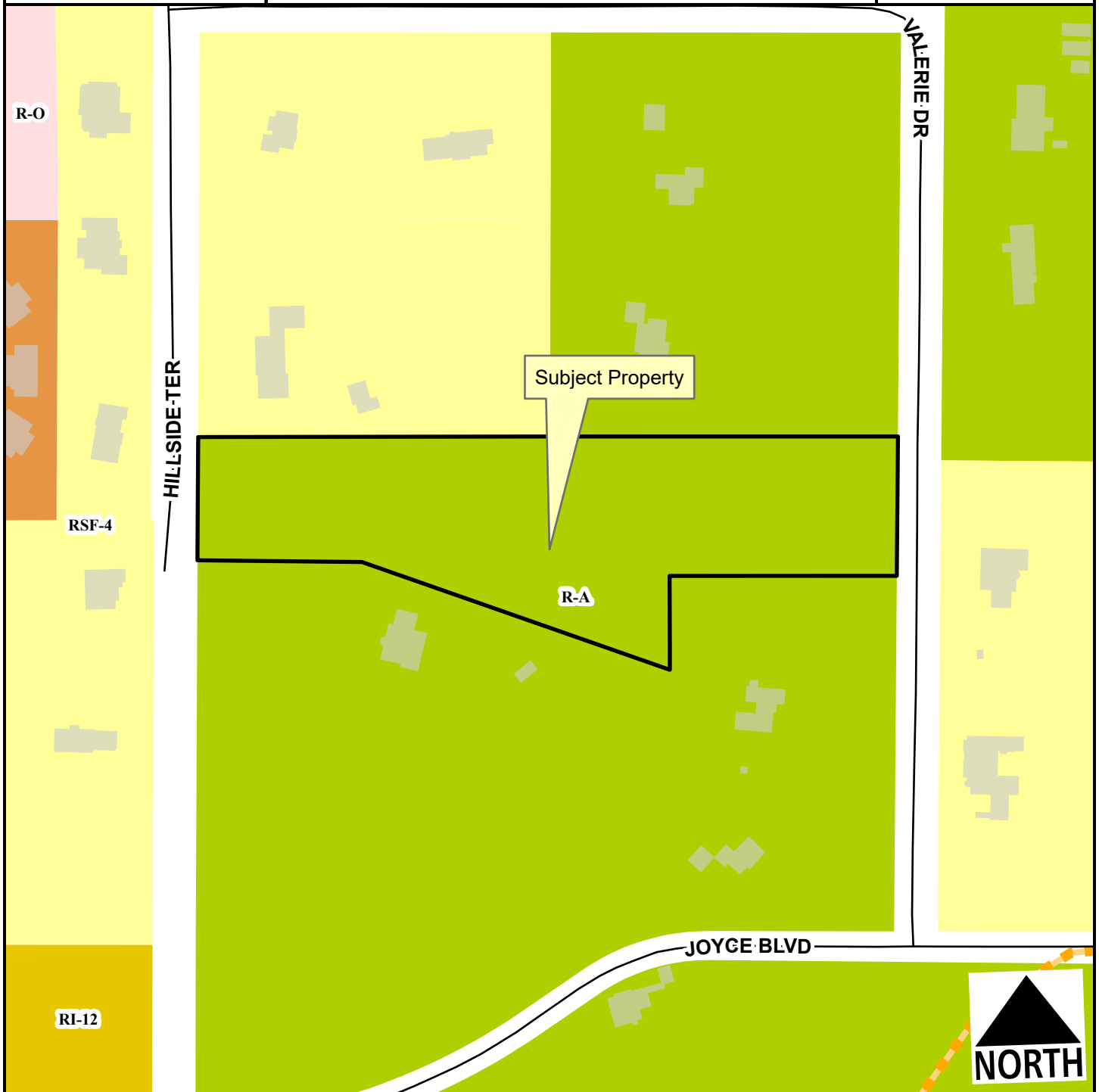
Planning Commission

July 22, 2024

CUP-2024-0026 (GETZENDANER)

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



- Residential-Agricultural
- RSF-4
- RI-12
- RMF-24
- Residential-Office

