

City Council Agenda Items
and
Contracts, Leases or Agreements

11/8/2012

City Council Meeting Date
Agenda Items Only

Jesse Fulcher
Submitted By

Planning
Division

Development Services
Department

Action Required:


ADM 12-4254: Administrative Item (R-PZD 12-4079 PROJECT CLEVELAND, 443): Submitted by SPECIALIZED REAL ESTATE GROUP for property located at the northwest corner of RAZORBACK ROAD AND HALL AVENUE. The request is for an extension of the approval for R-PZD 12-4079 Project Cleveland.

| | | | |
|----------------------|------|---------------------------|---------------------------------|
| Cost of this request | \$ - | Category / Project Budget | Program Category / Project Name |
| Account Number | \$ - | Funds Used to Date | Program / Project Category Name |
| Project Number | \$ - | Remaining Balance | Fund Name |


Budgeted Item

Budget Adjustment Attached


Department Director 10-19-2012 Date Previous Ordinance or Resolution # _____


City Attorney 10-19-2012 Date Original Contract Date: _____
Original Contract Number: _____


Finance and Internal Services Director 10-22-2012 Date

Received in City Clerk's Office 10-19-12 P02:05 RCVD



Chief of Staff 10-22-12 Date

Received in Mayor's Office



Mayor 10/23/12 Date

Comments:

Empty box for comments.

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director &

From: Jesse Fulcher, Current Planner

Date: October 19, 2012

Subject: ADM 12-4254 - Extension to R-PZD 12-4079 Project Cleveland

RECOMMENDATION

Staff recommends approval of an ordinance extending the phasing plan for R-PZD 12-4079 Project Cleveland by one additional year, to expire on December 19, 2014.

BACKGROUND

The subject property contains approximately 2.71 acres located at the northwest corner of the Cleveland Street and Hall Avenue. A Residential Planned Zoning District containing 122 units and 450 bedrooms was approved by the City Council on June 19, 2012 by Ordinance 5507.

All development projects are approved with a phasing schedule that provides a maximum amount of time to obtain the necessary permits to begin construction and to complete the project. Project Cleveland was approved with an 18-month schedule to obtain all permits from the date of the City Council's approval of the Planned Zoning District, and an additional 44 months from building permit approval to complete the project and receive final inspections.

Proposal: The applicant is requesting a 12-month extension to the time allowed to obtain the construction permits. Currently the deadline to obtain these permits is December 19, 2013. The requested extension will extend the date until December 19, 2014, and thereby extend the time to complete construction.

DISCUSSION

The City Council approved R-PZD 12-4079 Project Cleveland on June 19, 2012.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING A RESIDENTIAL PLANNED ZONING DISTRICT ENTITLED R-PZD 12-4079, PROJECT CLEVELAND, LOCATED AT THE NORTHWEST CORNER OF RAZORBACK ROAD AND HALL AVENUE, CONTAINING APPROXIMATELY 2.71 ACRES, EXTENDING THE TIME FRAME TO OBTAIN ALL NECESSARY PERMITS TO BEGIN CONSTRUCTION BY DECEMBER 19, 2014.

WHEREAS, the City Council of the City of Fayetteville approved a Residential Planned Zoning District known as Project Cleveland (R-PZD 12-4079) on June 19, 2012 with Ordinance No. 5505; and

WHEREAS, the applicant is permitted until December 19, 2013 to obtain all necessary permits to begin construction; and

WHEREAS, litigation concerning the validity of this project continues to delay construction plan development and project permitting.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an extension of R-PZD 12-4079 (Project Cleveland), requiring the applicant to obtain all permits necessary to begin construction by December 19, 2014.

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



CC Meeting of November 8, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville City Council
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: October 19, 2012

ADM 12-4254: Administrative Item (R-PZD 12-4079 PROJECT CLEVELAND, 443):
Submitted by SPECIALIZED REAL ESTATE GROUP for property located at the northwest corner of RAZORBACK ROAD AND HALL AVENUE. The request is for an extension of the approval for R-PZD 12-4079 Project Cleveland. Planner: Jesse Fulcher

Findings:

Property and background: The subject property contains approximately 2.71 acres located at the northwest corner of the Cleveland Street and Hall Avenue. A Residential Planned Zoning District containing 122 units and 450 bedrooms was approved by the City Council on June 19, 2012 by Ordinance 5507.

All development projects are approved with a phasing schedule that provides a maximum amount of time to obtain the necessary permits to begin construction and to complete the project. Project Cleveland was approved with an 18-month schedule to obtain all permits from the date of the City Council's approval of the Planned Zoning District, and an additional 44 months from building permit approval to complete the project and receive final inspections.

Proposal: The applicant is requesting a 12-month extension to the time allowed to obtain the construction permits. Currently the deadline to obtain these permits is December 19, 2013. The requested extension will extend the date until December 19, 2014, and thereby extend the time to complete construction.

Recommended Motion:

Staff recommends approval of ADM 12-4254, the requested extension to R-PZD 12-4079 Project Cleveland. Pursuant to Unified Development Code 166.20, when considering an extension, an applicant has the burden to show good cause why the tasks could not reasonably be completed within the time limit provided. The ongoing litigation has and may continue to delay the project from moving forward to construction review and therefore an extension to the original phasing schedule is warranted.

Condition of Approval:

1. The applicant shall be allowed until December 19, 2014 to obtain all permits necessary to begin construction. The 44-month schedule to complete construction shall begin on the date that the building permit is approved.

City Council Action: Approved Denied Tabled

Motion:

Second:

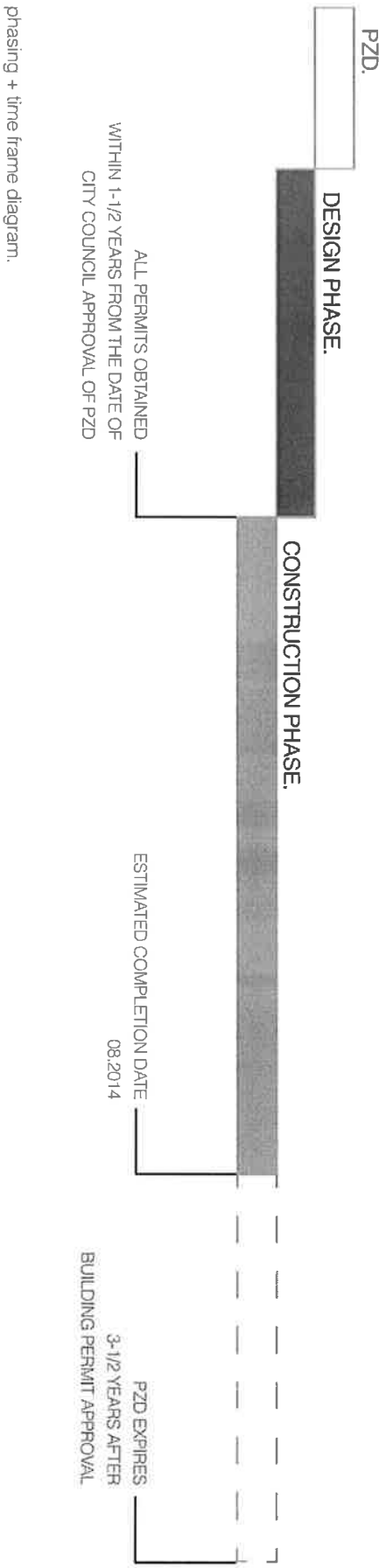
Vote:

Meeting Date: November 8, 2012

d: proposed development phasing + time frame.



Since this is essentially a single-building proposal, this project will consist of one phase. The project will be constructed in totality through the estimated time frame of the proposal. All permits necessary to begin construction shall be obtained within one-and-a-half years from the date of city council approval of the PZD. A final certificate of occupancy shall be obtained within three-and-a-half years from the building permit approval.





October 17, 2012

Jeremy Pate
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Regarding: Permit extensions on Project Cleveland PZD

Mr. Pate,

I am writing to ask you to forward the following request to the city council;

Seth Mims of Specialized Real Estate Group hereby requests that the city council amend the approved project Cleveland PZD 12-4079 booklet on page 17 in order to allow the necessary permits to be pulled up to one year later than originally stated. The original phasing indicated in the PZD booklet would have allowed for all necessary permits to be pulled up to 18 months after the approval of the PZD which would be 12/19/13. Approval of this amendment to the project Cleveland PZD 12-4079 would allow the necessary permits to be pulled up to one year later or as late as December 19th of 2014.

On June 19th, 2012, the Fayetteville city council voted 6-2 in favor of adopting ordinance #5505 which would establish the project Cleveland PZD 12-4079. Three weeks after the vote by city council, two residents filed a lawsuit against the city claiming that their decision to approve project Cleveland 12-4079 was "arbitrary and capricious". Mediation between the two parties on 9/24/12 did not result in any kind of settlement and the matter is scheduled to be heard by Judge Chad Mason on 10/25/12. I am confident that the city will win in this matter as I was present during all proceedings related to project Cleveland and witnessed firsthand the city council's thoughtful and careful discussions of the pros and cons of the development. I watched the city council listen to every person that wanted to speak about project Cleveland.

A victory in court on that date would put the project a little over 4 months behind schedule as we have not been able to move forward at all pending this litigation. The reason that I am requesting this amendment is because the plaintiffs may appeal the court's decision in the city's favor. My attorney has advised me that the appeals process can easily take 12 to 18 months from the date that the appeal is filed. If that is indeed the case, I will need the extra 12 months hereby requested in order to see the lawsuit and its possible appeal through to a conclusion before pulling the permits and beginning construction of the project. We intend to move forward with this important collegiate development adjacent to the University of Arkansas campus as soon as the pending lawsuit is settled. By approving this slight change to the PZD booklet, you are enabling us to clarify our intention to proceed with this development and giving us the necessary time to do so.

Thank you very much,

A handwritten signature in blue ink, appearing to read "Seth Mims", with a long horizontal flourish extending to the right.

Seth Mims

ORDINANCE NO. 5507

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 12-4079, PROJECT CLEVELAND, LOCATED AT THE NORTHWEST CORNER OF WEST CLEVELAND STREET AND HALL AVENUE; CONTAINING APPROXIMATELY 2.71 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RSF-4, Residential Single Family, 4 units per acre and RMF-40, Residential Multi-Family, 40 units per acre to R-PZD 12-4079 as shown in Exhibit "A" and "B" attached hereto and made a part hereof

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

PASSED and APPROVED this 19th day of June, 2012.

APPROVED:

ATTEST:

By:


LIONELD JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer

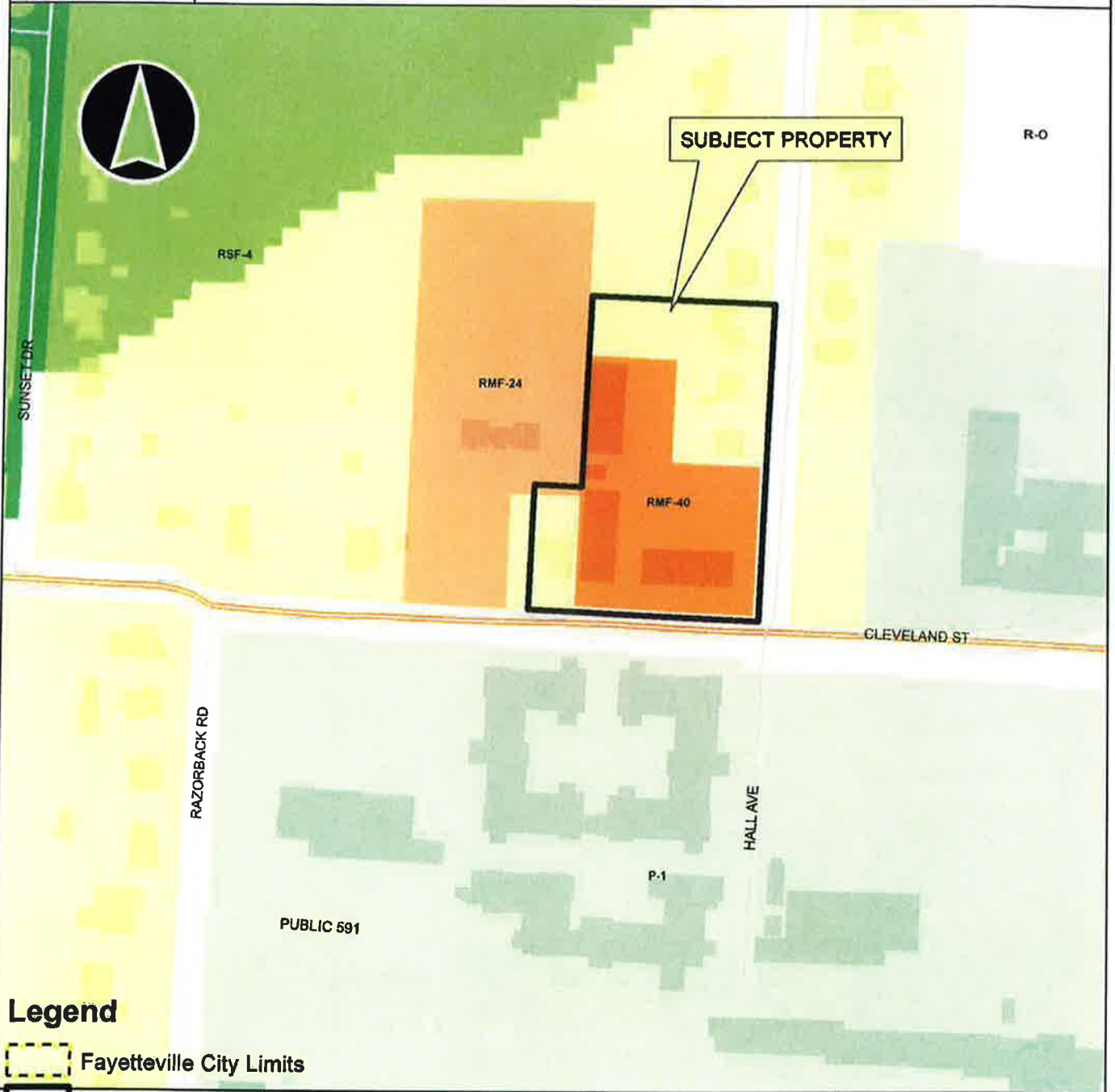


EXHIBIT "A"

RPZD12-4079

PROJECT CLEVELAND

Close Up View



Legend

Fayetteville City Limits

RPZD12-4079

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

Planning Area



EXHIBIT "B"
R-PZD 12-4079

METES AND BOUNDS PROPERTY DESCRIPTION
(WASHINGTON COUNTY PARCEL NUMBERS 765-02584-000,
765-02589-000, 765-02573-000, 765-02587-000,
765-02581-000, 765-02591-000)

PART OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 8, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF THE NE 1/4 OF SAID SE 1/4, THENCE SOUTH 87 DEGREES 12 MINUTES 06 SECONDS EAST A DISTANCE OF 430.00 FEET TO THE POINT OF BEGINNING (P.O.B.); THENCE NORTH 02 DEGREES 48 MINUTES 36 SECONDS EAST A DISTANCE OF 170.07 FEET; THENCE SOUTH 87 DEGREES 09 MINUTES 27 SECONDS EAST A DISTANCE OF 64.75 FEET; THENCE NORTH 02 DEGREES 47 MINUTES 20 SECONDS EAST A DISTANCE OF 261.53 FEET; THENCE SOUTH 87 DEGREES 19 MINUTES 22 SECONDS EAST A DISTANCE OF 247.50 FEET; THENCE SOUTH 02 DEGREES 45 MINUTES 49 SECONDS WEST A DISTANCE OF 432.07 FEET; THENCE NORTH 87 DEGREES 12 MINUTES 06 SECONDS WEST A DISTANCE OF 312.50 FEET; THE POINT OF BEGINNING (P.O.B.), CONTAINING 117928 SQUARE FEET OR, 2.71 ACRES AND BEING SUBJECT TO THE RIGHT OF WAY OF CLEVELAND STREET ALONG THE SOUTH BOUNDARY AND HALL STREET ALONG THE EAST BOUNDARY THEREOF.

**R-PZD 12-4079 PROJECT CLEVELAND
CONDITIONS OF APPROVAL, AS AMENDED AND
APPROVED BY THE CITY COUNCIL**

1. City Council determination of compatibility with existing land uses and compliance with adopted land use policies and goals including City Plan 2030 and the Planned Zoning District for R-PZD 12-4079 Project Cleveland. *As described herein, staff recommends in favor of the project.*
2. City Council determination of street improvements. *Staff recommends the following:*
 - a. Cleveland Street shall be improved along the project frontage to include two 13 foot travel lanes (26 feet total required for fire aerial apparatus access) and on-street parallel parking on the north side of the street.
 - b. Travel lanes shall also be shared cyclist lanes, requiring the installation of sharrows/chevron symbols in the north and south travel lanes for Cleveland Street. Symbols shall be installed from Garland Avenue to Oliver Street.
 - c. An 8' sidewalk shall be constructed along the entire property frontage and connect to the existing 5' sidewalk in front of the Theta Tau property. The existing sidewalk between Theta Tau and Razorback shall be removed and replaced with a 5' sidewalk that is ADA compliant.
 - d. A raised intersection shall be constructed at Cleveland Street and Hall Avenue with a patterned concrete/asphalt and embedded lighting, as indicated on page 21 of the traffic study.
 - e. A raised crosswalk shall be installed on Hall Avenue near the school's parking lot entrance. The final location shall be determined based on ADA access requirements and input from the Fayetteville School District.
 - f. A crosswalk shall be installed on Hall Avenue at the north end of the project to connect the sidewalks on the east and west side of Hall.
 - g. In coordination with the Fayetteville School District, one of the existing crosswalks on Cleveland Street shall be removed.
 - h. Due to the extensive utility improvements required and resulting trenching on Hall Avenue and Cleveland Street, the developer shall also be required to mill and overlay Hall Avenue along the property frontage. The remaining areas shall be inspected after construction with the city reserving the right to require either street patching or a similar milling and overlay in these areas.
 - i. (Offered by applicant) A separated climbing lane shall be installed on the south side of Cleveland from Sang to Oliver, with sharrows provided on the north side of the street. The bike lane will be separated from the east-bound travel lane by a 6" curb, with openings provided at existing driveways and streets, and for drainage. The existing centerline shall be removed and relocated based on the adjusted centerline of the travel lanes.
3. City Council determination of compliance with Urban Residential Design Standards. *Staff finds that the proposed building elevations meet the requirements for multi-family design standards. The applicant has committed through the PZD process to comply with the requirements of the Downtown Design Overlay District (DDOD), which are stricter design standards. The current building design also complies with these design standards. Additional construction level information is always necessary to fully review for compliance with*

**R-PZD 12-4079 PROJECT CLEVELAND
CONDITIONS OF APPROVAL, AS AMENDED AND
APPROVED BY THE CITY COUNCIL**

DDOD standards.

4. Heavy construction vehicles shall not be permitted to use Cleveland Street west of the project or Hall Avenue north of the project. Construction traffic, other than passenger vehicles, shall use Garland as the primary point of access.
5. All off-site utility upgrades and extensions determined necessary by the City of Fayetteville to serve this development shall be completed at the time of development, prior to certificate of occupancy permits.
6. Parks fees in the amount of \$38,320 shall be paid prior to building permit approval.
7. Pursuant to the phasing schedule provided in the project booklet, all permits necessary to begin construction shall be obtained within 18 months from the date of City Council approval of the PZD. A final certificate of occupancy shall be obtained within 42 months from the date of building permit approval.
8. Any proposed fencing shall be indicated on construction plans to ensure compliance with applicable development and design standards.
9. All tree preservation, landscape, engineering and fire department conditions included herein shall apply.

Standard conditions of approval:

10. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
11. If applicable, a business license shall be obtained prior to opening the business to the public.
12. Street signs are required to be installed on each private street where buildings are addressed. These signs shall be installed at the owner's expense and should meet MUTCD requirements. Please contact the City's Address Coordinator, Susan Pierce at 479-575-8391. Address numbers shall also be required on both sides of each structure, or as determined appropriate by the Fire Department.
13. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
14. 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.

**R-PZD 12-4079 PROJECT CLEVELAND
CONDITIONS OF APPROVAL, AS AMENDED AND
APPROVED BY THE CITY COUNCIL**

15. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.
 16. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
 17. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principal structure. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
 18. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
 19. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the Design Overlay District.
 20. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
 21. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Urban Forester of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - d. Project Disk with all final revisions
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Urban Forester.
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.
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**R-PZD 12-4079 PROJECT CLEVELAND
CONDITIONS OF APPROVAL, AS AMENDED AND
APPROVED BY THE CITY COUNCIL**

Added conditions of approval:

22. Egress from the parking structure onto Hall Avenue shall be constructed in a manner to limit turning movements to right-out only, subject to final approval by the Planning Division.
23. As offered by the applicant and accepted by the City Council, the south-facing Cleveland Street building façade shall be further articulated to enhance pedestrian connectivity and interaction at the street/sidewalk level. The architect shall work to create depth changes in the building plane, add stoops, doors, and enhanced fenestration prior to obtaining approval of a building permit.

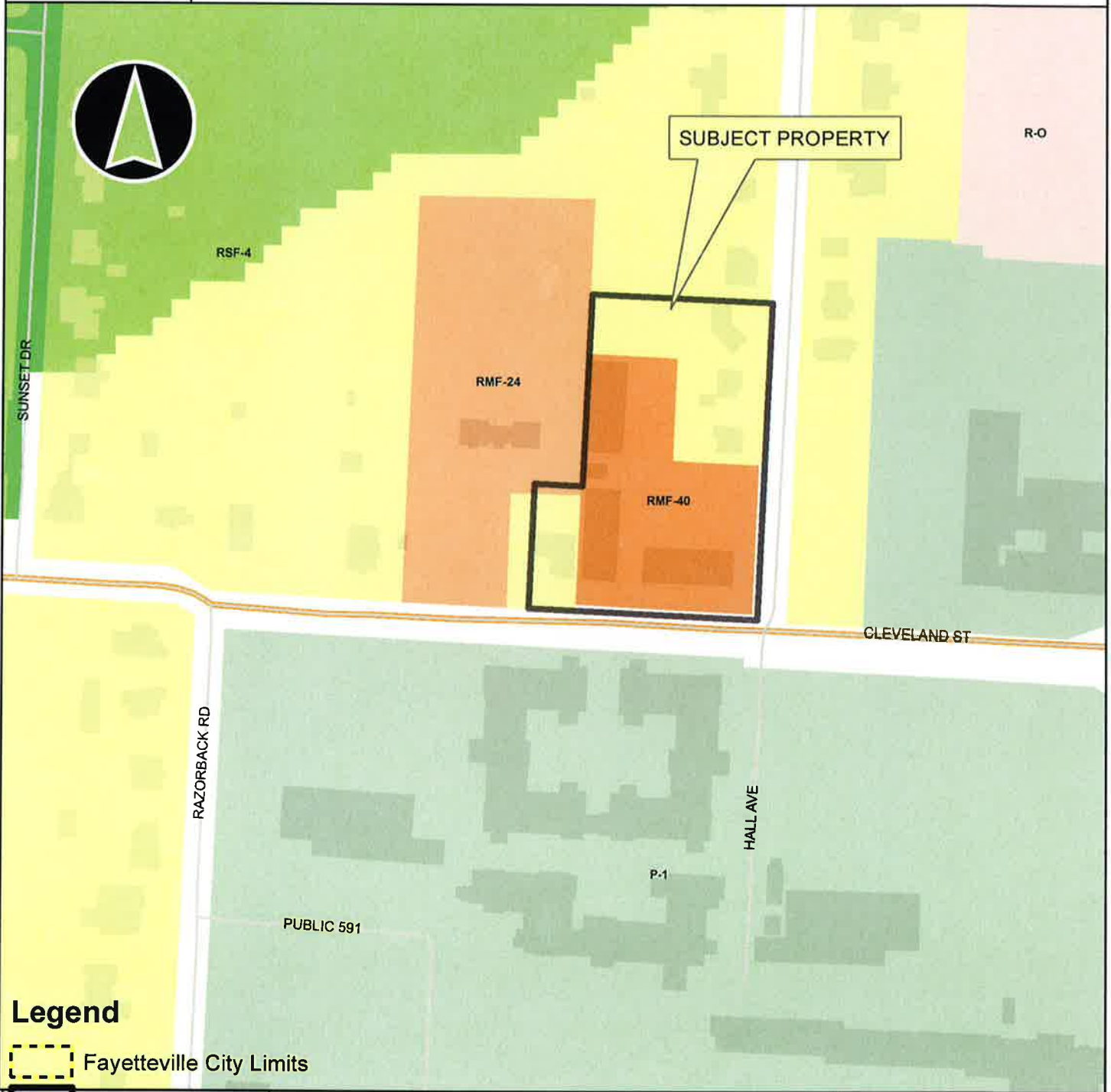


site plan

RPZD12-4079

PROJECT CLEVELAND

Close Up View



Legend

Fayetteville City Limits

Overview RPZD12-4079

Footprints 2010

Hillside-Hilltop Overlay District

Design Overlay District

Design Overlay District

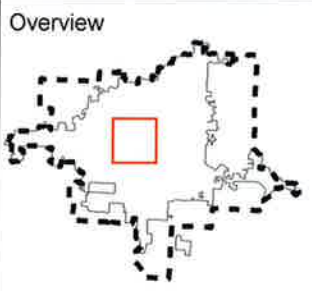
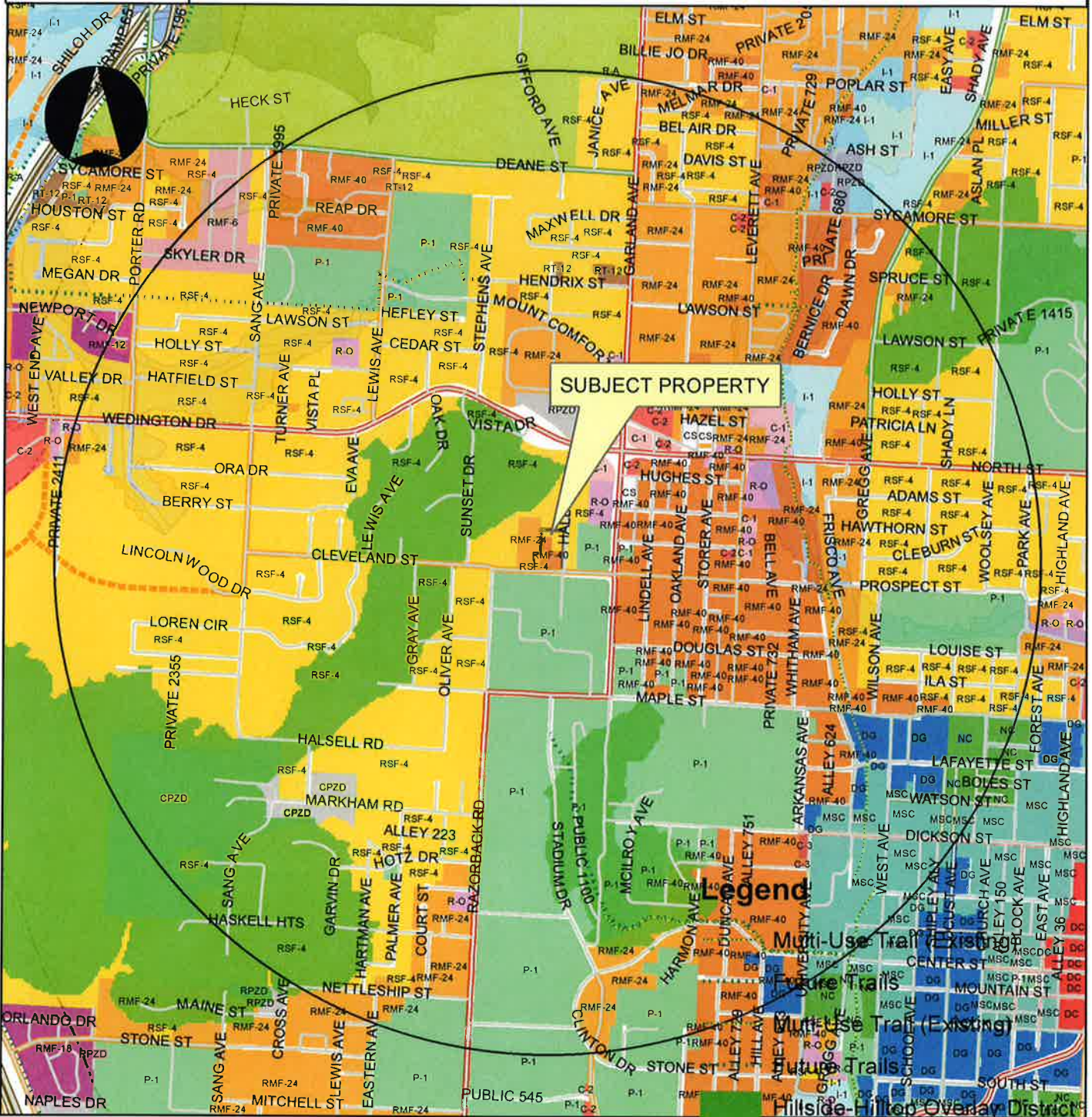
Planning Area



RPZD12-4079

PROJECT CLEVELAND

One Mile View



Legend

- Subject Property
- RPZD12-4079
- Boundary
- RPZD12-4079
- Design Overlay District
- Planning Area
- Fayetteville
- RPZD12-4079
- Design Overlay District
- Planning Area
- Fayetteville

0 0.25 0.5 1
 Miles

