

**Planning Commission
Officers**

Craig Honchell, Chair
Kyle Cook, Vice-Chair
Sarah Bunch, Secretary



Planning Commissioners

Blake Pennington
William Chesser
Ron Autry
Ryan Noble
Porter Winston
Tracy Hoskins

**Tentative Agenda
City of Fayetteville, Arkansas
Planning Commission Meeting
April 22, 2013**

A meeting of the Fayetteville Planning Commission will be held on April 22, 2013 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Agenda Session Presentations, Reports and Discussion Items

- **Working session on the Form-based Code Revisions ADM 13-4353** Planning Staff

Consent:

1. Approval of the minutes from the April 8, 2013 meeting.
2. **VAC 13-4346: Vacation (902 S. SCHOOL ST./FERGUSON'S ADDITION, 562):** Submitted by CITY STAFF for properties located around 902 SOUTH SCHOOL STREET. The property is zoned DG, DOWNTOWN GENERAL. The request is to vacate a 60 foot right-of-way. Planner: Andrew Garner

Old Business:

3. **ADM 13-4330: Administrative Item (SW CORNER 15TH STREET AND RAZORBACK ROAD, 599):** Submitted by Crafton & Tull for property located at the SW CORNER OF 15TH STREET AND RAZORBACK ROAD. The property is zoned Urban Thoroughfare and contains approximately 4.42 acres. The request is for a variance of the Streamside Protection Zones. Floodplain Administrator: Sarah Wrede Planner: Andrew Garner
STAFF AND THE APPLICANT REQUEST THIS ITEM TO BE TABLED UNTIL MAY 13, 2013.
4. **ADM 13-4344: Administrative Item (617 N. COLLEGE AVE./NOW AND THEN BOUTIQUE, 445):** Submitted by CLARA PETERS for property located at 617 NORTH COLLEGE AVENUE. The property contains approximately 0.25 acre and is zoned C-2, THOROUGHFARE COMMERCIAL. The request is a variance allow for a temporary retail structure (airstream trailer) to remain on the property for longer than 90 days. Planner: Andrew Garner

New Business:

5. **ADM 13-4357: Administrative Item (617 N. COLLEGE AVE./PARKS PURITY PIE CO., 445):** Submitted by SHANNON STRICKLAND for property located at 617 NORTH COLLEGE AVENUE. The property contains approximately 0.25 acre and is zoned C-2, THOROUGHFARE COMMERCIAL. The request is a variance to allow for a temporary retail structure (airstream trailer) to remain on the property for longer than 90 days. Planner: Andrew Garner

6. LSD 13-4352: Large Scale Development (NW CORNER OF SPRING ST. & SCHOOL AVE./FAYETTEVILLE PARKING DECK, 484): Submitted by GARVER ENGINEERING for property located at the NORTHWEST CORNER OF SPRING STREET AND SCHOOL AVENUE. The property is zoned MSC, MAIN STREET/CENTER and contains approximately 4.13 acres. The request is for a parking deck and two liner buildings. Planner: Jesse Fulcher

7. RZN 13-4348: Rezone (1035 N. GREGG AVE./SMITH, 444): Submitted by JORGENSEN AND ASSOCIATES for property located at 1035 NORTH GREGG AVENUE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.44 acres. The request is to rezone the property to NC, NEIGHBORHOOD CONSERVATION. Planner: Jesse Fulcher

8. RZN 13-4359: Rezone (1851 E. HUNTSVILLE RD. /KUM & GO, 565): Submitted by CITY STAFF for property located at 1851 EAST HUNTSVILLE ROAD. The property is zoned I-2, GENERAL INDUSTRIAL and contains 1.93 acres. The request is to rezone the property to C-1, NEIGHBORHOOD COMMERCIAL. Planner: Jesse Fulcher

Old Business:

9. ADM 13-4353: (FORM BASED CODE AMENDMENTS): Submitted by CITY PLANNING STAFF. The request is to amend Chapters 151, 161, 164 and 172 to clarify build-to zone requirements, modify building height in certain zoning districts, and provide design requirements for auto-oriented commercial facilities. Planning Staff

The following item has been approved administratively by City staff:

LSP 13-4323: Lot Split (727 N. STORER AVE./MISSION PROPERTIES, 444): Submitted by BATES AND ASSOCIATES for property located at 727 NORTH STORER AVENUE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE and contain one lot totaling 0.17 acres. The request is for a lot split resulting into two tracts of approximately 0.07 and 0.10 acres. Planner: Andrew Garner

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 or TDD, Telecommunication 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.

A copy of the Planning Commission agenda and other pertinent data are open and available for inspection in the office of City Planning (575-8267), 125 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to review the petitions.

**MINUTES OF A MEETING OF THE
PLANNING COMMISSION**

A regular meeting of the Fayetteville Planning Commission was held on April 8, 2013 at 5:30 p.m. in Room 219, City Administration Building in Fayetteville, Arkansas.

ITEMS DISCUSSED

ACTION TAKEN

Consent:

**MINUTES: March 25, 2013
Page 3**

Approved

**ADM 13-4356: Administrative Item (INTERSECTION OF N. HUGHMOUNT RD. & W. MT. COMFORT RD./HUGHMOUNT VILLAGE, 282):
Page 3**

Approved

**ADM 13-4355: Administrative Item (11 N. COLLEGE AVE./FIRST SECURITY BANK, 484):
Page 3**

Approved

**ADM 13-4358: Administrative Item (830 N. PEMBROKE RD./WALKER, 448):
Page 3**

Approved

Old Business:

ADM 13-4330: Administrative Item (SW CORNER 15TH STREET AND RAZORBACK ROAD, 599): Page 4

Tabled

New Business:

**ADM 13-4344: Administrative Item (617 N. COLLEGE AVE./NOW AND THEN BOUTIQUE, 445):
Page 5**

Tabled

**RZN 13-4334: Rezone (2925 OLD MISSOURI RD./GOOD SHEPHERD, 253):
Page 6**

Forwarded

**ADM 13-4353: (FORM BASED CODE AMENDMENTS):
Page 7**

Tabled

MEMBERS PRESENT

Tracy Hoskins
Kyle Cook
Craig Honchell
William Chesser
Blake Pennington
Sarah Bunch
Ron Autry
Ryan Noble

MEMBERS ABSENT

Porter Winston

STAFF PRESENT

Andrew Garner

CITY ATTORNEY

Kit Williams, City Attorney

5:30 PM - Planning Commission Chairman Craig Honchell called the meeting to order.

Chairman Honchell requested all cell phones to be turned off and informed the audience that listening devices were available.

Upon roll call all members except Winston were present.

Consent:

Approval of the minutes from the March 25, 2013 meeting.

ADM 13-4356: Administrative Item (INTERSECTION OF N. HUGHMOUNT RD. & W. MT. COMFORT RD./HUGHMOUNT VILLAGE, 282): Submitted by ENGINEERING DESIGN ASSOCIATES for property located on NORTH HUGHMOUNT ROAD, NORTH OF WHEELER ROAD (FORMERLY CHERRY HILLS SUBDIVISION). The property is in the PLANNING AREA and contains approximately 54.13 acres. The request is for a major modification to the approved Preliminary Plat 13-4304 Hughmount Village, increasing the number of single family lots from 129 to 132.

ADM 13-4355: Administrative Item (11 N. COLLEGE AVE./FIRST SECURITY BANK, 484): Submitted by ENGINEERING SERVICES, INC. for property located at 11 NORTH COLLEGE AVENUE. The property is zoned DC, DOWNTOWN CORE and contains approximately 0.55 acres. The request is for a variance of the Downtown Design Overlay District.

ADM 13-4358: Administrative Item (830 N. PEMBROKE RD./WALKER, 448): Submitted by TIM WALKER for property located at 830 NORTH PEMBROKE ROAD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 0.37 acres. The request is for an access management variance for a new single family residence to access a Collector Street when the property also has street frontage onto a Local Street.

Motion:

Commissioner Cook made a motion to approve the consent agenda. **Commissioner Chesser** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

Old Business:

ADM 13-4330: Administrative Item (SW CORNER 15TH STREET AND RAZORBACK ROAD, 599):

Submitted by Crafton & Tull for property located at the SW CORNER OF 15TH STREET AND RAZORBACK ROAD. The property is zoned Urban Thoroughfare and contains approximately 4.42 acres. The request is for a variance of the Streamside Protection Zones.

Staff and the applicant requested that this item be tabled until the April 22nd Planning Commission meeting. No public comment was presented.

Motion:

Commissioner Cook made a motion to table ADM13-4330. **Commissioner Chesser** seconded the motion. Upon roll call the motion passed with a vote of 8-0-0.

New Business:

ADM 13-4344: Administrative Item (617 N. COLLEGE AVE./NOW AND THEN BOUTIQUE, 445): Submitted by CLARA PETERS for property located at 617 NORTH COLLEGE AVENUE. The property contains approximately 0.25 acre and is zoned C-2, THOROUGHFARE COMMERCIAL. The request is a variance allow for a temporary retail structure (airstream trailer) to remain on the property for longer than 90 days.

THIS ITEM IS REQUIRED TO BE TABLED UNTIL THE APRIL 22, 2013 MEETING IN ORDER TO MEET PUBLIC NOTIFICATION REQUIREMENTS

No public comment was presented.

Motion:

Commissioner Cook made a motion to table **ADM13-4344**. **Commissioner Chesser** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

RZN 13-4334: Rezone (2925 OLD MISSOURI RD./GOOD SHEPHERD, 253): Submitted by DEMX ARCHITECTURE for property located at 2925 OLD MISSOURI ROAD. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 1.38 acres. The request is to rezone the property to P-1, INSTITUTIONAL.

Andrew Garner, Senior Planner, read the staff report.

Tim Maddox, applicant, stated that the church would like to erect a new sign. They also would prefer not to have to obtain a CUP every time the church property is improved. These are the two biggest reasons they are requesting rezoning.

No public comment was presented.

Motion:

Commissioner Cook made a motion to forward **RZN13-4334 to City Council with a recommendation for approval. Commissioner Chesser** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

ADM 13-4353: (FORM BASED CODE AMENDMENTS): Submitted by CITY PLANNING STAFF. The request is to amend Chapters 151, 161, 164 and 172 to clarify build-to zone requirements, modify building height in certain zoning districts, and provide design requirements for auto-oriented commercial facilities.

Andrew Garner, Senior Planner, read the staff report.

No public comment was presented.

Commissioner Hoskins stated that side building setbacks should be looked at. He expressed concern about side building setbacks next to residential zoning being so prohibitively large that it would defeat the purpose of form-based zoning.

Commissioner Chesser asked where the maximum height in DC zoning of 168 feet had come from.

Andrew Garner stated it had originally been 12 stories and they changed it to 168 feet to avoid confusion.

Chesser expressed concerns about the height restrictions next to residentially zoned property, and how it would affect future development.

Hoskins expressed concern about whether this form-based zoning would limit infill and redevelopment of existing properties, because of the height restrictions. He stated the City wants to encourage density and responsible use of land, and this means building up instead of out.

Chesser stated that in addition to looking at changes to the Code, we should also be looking at the map of the City, to see where the single family residential zoning is.

Garner stated that complete neighborhood plans are a good way to solve some of these concerns.

Kit Williams, City Attorney stated that it looks like some of the examples shown in Chapter 164.04 would actually not be allowed in the zoning districts. He discussed allowing hedges instead of masonry walls in the accessory element section dealing with minimum street frontage requirements. He stated that the section dealing with design standards for convenience stores/gas stations needs to be examined further.

Commissioner Honchell stated he would like to read a before and after version, to compare the two.

Williams stated that a lot of the changes to the Code were addressing issues that had not come up before, so it would be hard to make a comparison in some sections.

Garner stated that the proposed changes are shown in yellow, and the existing Code is shown in strike-out, so you can make a comparison.

Hoskins stated that some of this material belonged in Commercial Design Standards.

Garner stated that if the Commissioners wanted more time to examine some of the elements, staff could provide more examples.

Chesser stated that hedges are not very urban.

Honchell suggested that everyone study the proposed changes and be ready with comments/ideas at the next agenda session. He felt more clarification was needed.

Motion #1:

Commissioner Chesser made a motion to forward **ADM13-4353**. **Commissioner Cook** seconded the motion. **This motion was withdrawn.**

Motion #2:

Commissioner Chesser made a motion to table **ADM13-4353**. **Commissioner Hoskins** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

There being no further business, the meeting was adjourned at 6:40PM.



PC Meeting of April 22, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: April 15, 2013

VAC 13-4346: Vacation (902 S. SCHOOL ST./FERGUSON'S ADDITION, 562):
Submitted by CITY STAFF for properties located around 902 SOUTH SCHOOL STREET. The property is zoned DG, DOWNTOWN GENERAL. The request is to vacate a 60 foot right-of-way. Planner: Andrew Garner

Findings:

Property: The subject property is undeveloped right-of-way for Locust Street, between Seventh Street and Ninth Street, east of South School Avenue. The right-of-way is 60 feet wide and approximately 600 in length. The property contains the confluence of two creeks, Spout Spring Branch and Tanglewood Branch, and is almost entirely within floodplain of those creeks. Surrounding land use and zoning is depicted in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Single family residence	DG, Downtown General
South	Undeveloped alley/City Lumber	DG, Downtown General
East	Undeveloped floodplain/Walker Park	P-1, Institutional; DG, Downtown General
West	Undeveloped property/used car sales	DG, Downtown General

Background: The City is in the design and construction of a multi-use trail connection from the existing Frisco Trail, which ends at Martin Luther King Boulevard, south to Walker Park. The property is in the vicinity of the trail connection and the City proposes to vacate this undeveloped right-of-way for the two adjacent private property owners in an effort to facilitate the trail connection through a portion of their property.

Request: The applicant's request is to vacate the undeveloped right-of-way for Locust Avenue as indicated on the submitted exhibit.

Easement Vacation Approval: The applicant has submitted the required right-of-way vacation

forms to the City Utilities Department, franchise utilities, and the two adjacent private property owners with no objections.

UTILITIES

RESPONSE

Ozarks Electric	No objections
Cox Communications	No objections
Southwestern Electric Power Company	No objections
Source Gas	No objections
AT&T	No objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer	No objections
Transportation	No objections
Solid Waste	No objections

ADJACENT PROPERTY OWNER:

RESPONSE

Pinwheel Properties, LLC	No objections
Joe Stevens and Angela Stevens	No objections

Public Comment: No public comment has been received.

Recommendation: The undeveloped right-of-way for Locust Street is encompassed with creeks and floodplain. A street connection is not feasible in this location and it is appropriate to vacate this right-of-way and let it revert to the adjacent property owners. Staff recommends forwarding **VAC 13-4346** to the City Council with a recommendation for approval subject to the following conditions:

1. The City shall retain a water and sewer easement for the entire 60-foot right-of-way width for the entire length of the property that is being vacated.
2. A formal Petition to Vacate the right-of-way and an Abstractor's Certificate of Ownership shall be provided in accordance with UDC Section 171.05.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: Forwarded Denied Tabled

Date: April 22, 2013

Motion: _____

Second: _____

Vote: _____

Notes: _____

April 17, 2013

City of Fayetteville Planning Commission
113 W. Mountain St.
Fayetteville, AR 72701

Re: 13-4346 VAC Ferguson's Addition (Locust Street)

Dear Planning Commissioners:

The City of Fayetteville is in the final steps to proceed with construction of the Frisco Trail Southern Extension connecting Frisco Trail south to Walker Park. Near the trail connection to Walker Park south of Ninth Street, there is an undeveloped 60 foot wide right of way for Locust Avenue that is not planned to be extended. The new trail will cross two properties adjacent to the undeveloped right of way and the owners have requested the City vacate the right of way in exchange for the multi-use trail easements. The multi-use trail easements have been signed by the property owners and letters of support have been included. All utility companies have been contacted and the only comment was from the City Water/Sewer department to request a Water/Sewer easement to remain over the entire 60 foot right of way.

Sincerely,



Matt Mihalevich
Trails Coordinator


EXHIBIT "A"



Scale: 1" = 100'

Property Description:

That portion of a undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unamed and undeveloped) as per the Revised Plot of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

-  Reverts Ownership to Stevens, Joe & Angela
-  Reverts Ownership to Pinwheel Properties, LLC





Frisco Trail Southern Extension
Stevens Property Exhibit



UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 2-25-2013

UTILITY COMPANY: AT&T / SWBT

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 479-444-3416
REQUESTED VACATION (*applicant must check all that apply*):

- Landscape (sidewalk) Easement
- Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- Alley
- Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

902 & 1020 S. School Ave. – Locust Avenue south of Ninth Street

That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

RELOCATION OF ANY EXISTING AT&T/SWBT FACILITIES WILL
BE @ THE PROPERTY OWNER'S EXPENSE

Susan K Clouser
Signature of Utility Company Representative
OSP DESIGN ENGINEER
Title

**UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

DATE: 2-25-2013

UTILITY COMPANY: Ozarks Electric

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 479-444-3416
REQUESTED VACATION (*applicant must check all that apply*):

Landscape (sidewalk) Easement

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

Alley

X Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

902 & 1020 S. School Ave. - Locust Avenue south of Ninth Street


That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

UTILITY COMPANY COMMENTS:

No objections to the vacation(s) described above.

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:


Signature of Utility Company Representative
Lead Staking Tech
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 2-25-2013

UTILITY COMPANY: Cox Communications

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 479-444-3416

REQUESTED VACATION (*applicant must check all that apply*):

Landscape (sidewalk) Easement

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

Alley

X Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

902 & 1020 S. School Ave. – Locust Avenue south of Ninth Street

That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

UTILITY COMPANY COMMENTS:

X No objections to the vacation(s) described above.

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:



Signature of Utility Company Representative

Construction Planner III NWA

Title

UTILITY APPROVAL FORM

**FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

DATE: 2-25-2013

UTILITY COMPANY: Solid Waste + Recycling

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 479-444-3416

REQUESTED VACATION (*applicant must check all that apply*):

Landscape (sidewalk) Easement

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

Alley

X Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

902 & 1020 S. School Ave. – Locust Avenue south of Ninth Street

That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

UTILITY COMPANY COMMENTS:

No objections to the vacation(s) described above.

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

Ben Puff
Signature of Utility Company Representative
Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 2-25-2013

UTILITY COMPANY: SourceGas

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 479-444-3416
REQUESTED VACATION (*applicant must check all that apply*):

- Landscape (sidewalk) Easement
- Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- Alley
- Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

902 & 1020 S. School Ave. – Locust Avenue south of Ninth Street

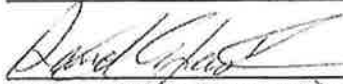
That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

UTILITY COMPANY COMMENTS:

No objections to the vacation(s) described above.

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:



Signature of Utility Company Representative

Field Coordinator

Title

UTILITY APPROVAL FORM

**FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

DATE: 2-25-2013

UTILITY COMPANY: CITY OF FAYETTEVILLE - TRANSPORTATION

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 479-444-3416

REQUESTED VACATION (*applicant must check all that apply*):

Landscape (sidewalk) Easement

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

Alley

Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

902 & 1020 S. School Ave. – Locust Avenue south of Ninth Street

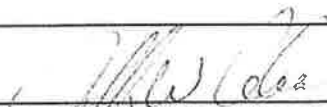
That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

UTILITY COMPANY COMMENTS:

No objections to the vacation(s) described above.

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:


Signature of Utility Company Representative
ASSI-TRANSPORTATION MANAGER
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 2-25-2013

UTILITY COMPANY: AEP-SWEPCO

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 479-444-3416
REQUESTED VACATION (applicant must check all that apply):

- Landscape (sidewalk) Easement
- Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- Alley

X Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

902 & 1020 S. School Ave. – Locust Avenue south of Ninth Street

That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

UTILITY COMPANY COMMENTS:

No objections to the vacation(s) described above.

No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

John Bayon
Signature of Utility Company Representative
Dist. Engineer
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 2-25-2013

UTILITY COMPANY: City of Fayetteville Water and Sewer

APPLICANT NAME: City of Fayetteville APPLICANT PHONE: 479-444-3416

REQUESTED VACATION (*applicant must check all that apply*):

Landscape (sidewalk) Easement

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

Alley

X Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

902 & 1020 S. School Ave. – Locust Avenue south of Ninth Street

That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

UTILITY COMPANY COMMENTS:

No objections to the vacation(s) described above.

X No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

The City shall retain a water and sewer easement for the entire 60' right of way width for the entire length.

No objections provided the following conditions are met:

Manana Jones
Signature of Utility Company Representative

Utilities Engineer
Title

ADJACENT PROPERTY OWNER NOTIFICATION FORM

**FOR RIGHT- OF- WAY, ALLEY, AND
EASEMENT VACATION REQUESTS**

Date: 3-6-2013

Address / location of vacation: Locust Ave. and Ninth Street

Adjacent property address: 902 S. School Ave.

Lot: 1-23 & 1-12 Block: 5 & 6 Subdivision: Ferguson's Addition

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

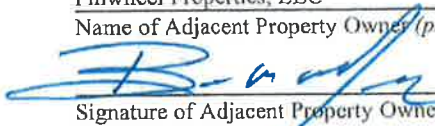
That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

ADJACENT PROPERTY OWNERS COMMENTS:

- I have been notified of the requested vacation and decline to comment.
- I do not object to the vacation described above.
- I do object to the requested vacation because:

Frisco Trail Southern Extension
Project Name

Pinwheel Properties, LLC
Name of Adjacent Property Owner (*printed*)


Signature of Adjacent Property Owner

City of Fayetteville
Applicant Name

ADJACENT PROPERTY OWNER NOTIFICATION FORM

**FOR RIGHT- OF- WAY, ALLEY, AND
EASEMENT VACATION REQUESTS**

Date: 3-6-2013

Address / location of vacation: Locust Ave. and Ninth Street

Adjacent property address: 1020 S. School Ave.

Lot: 1-23 & 1-12 Block: 5 & 6 Subdivision: Ferguson's Addition

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

ADJACENT PROPERTY OWNERS COMMENTS:

I have been notified of the requested vacation and decline to comment.

I do not object to the vacation described above. ✓

I do object to the requested vacation because:

Frisco Trail Southern Extension
Project Name

Joe Stevens and Angela Stevens Angela Stevens
Name of Adjacent Property Owner (*printed*)

[Signature]
Signature of Adjacent Property Owner

City of Fayetteville
Applicant Name



Legend

- Multi-Use Trail (Existing)
- Future Trails

Project Area

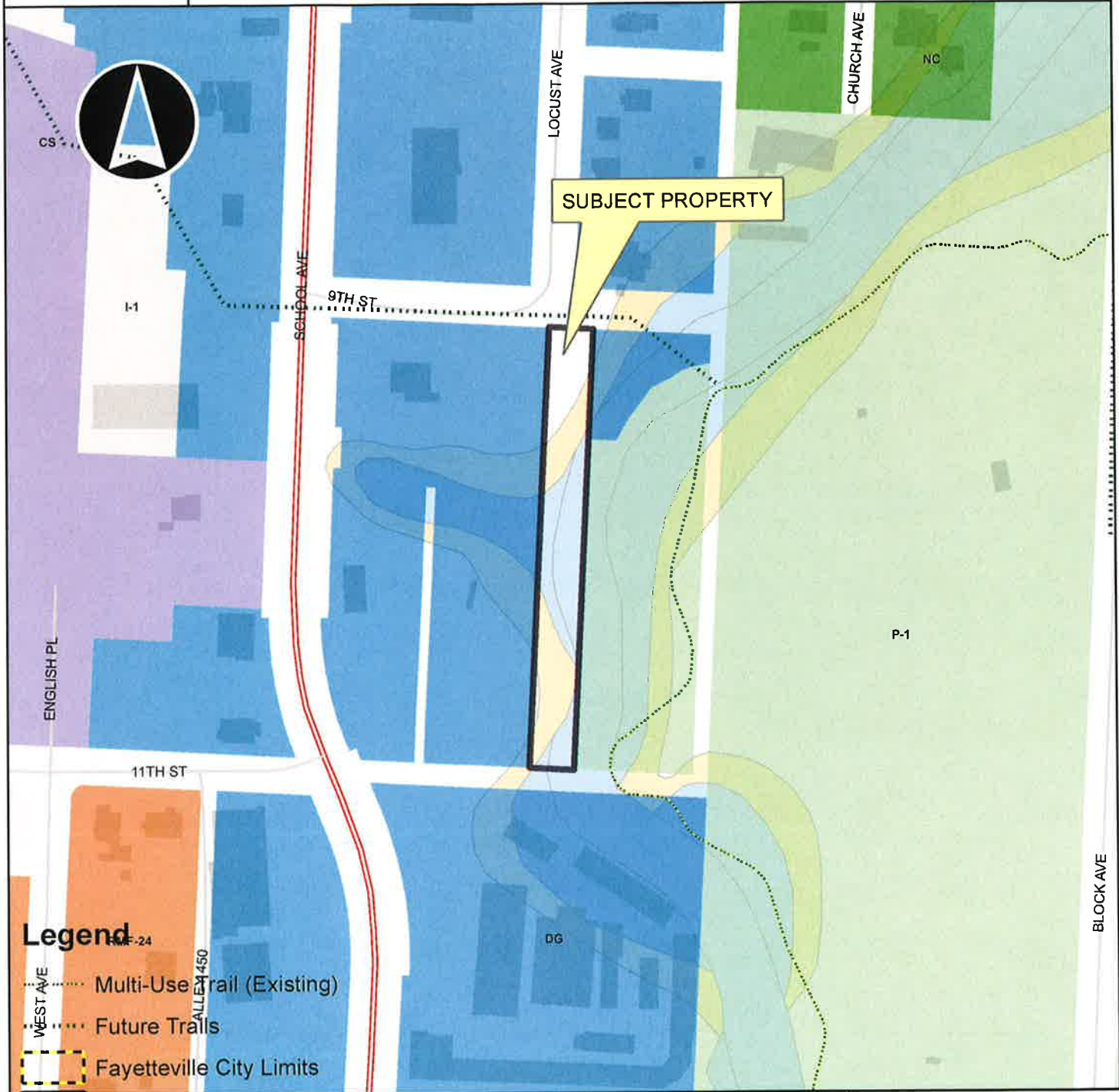


1 inch = 500 feet
 0 125 250 375 500 Feet

VAC13-4346

FERGUSON'S ADDITION

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview

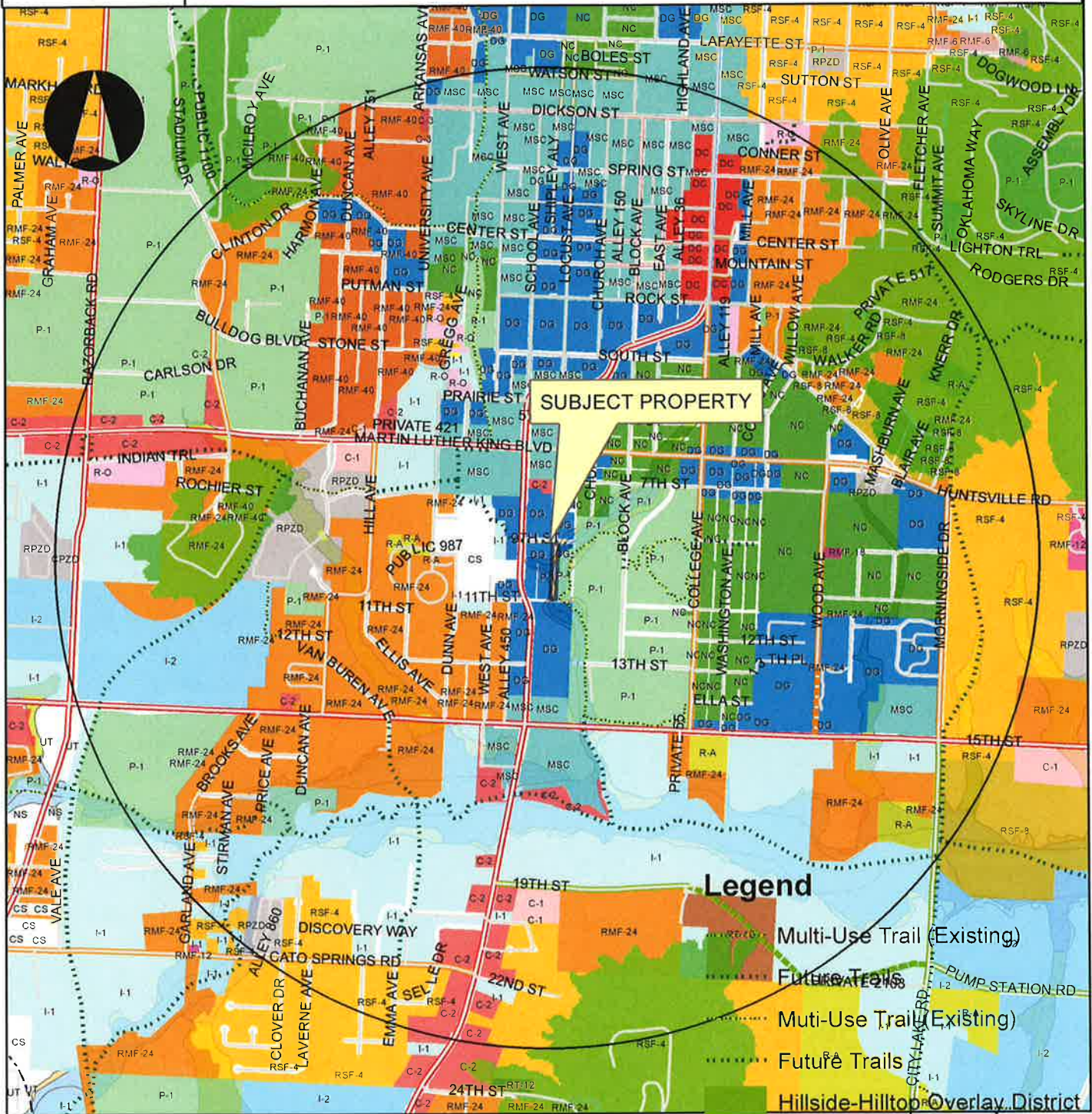
- VAC13-4346
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



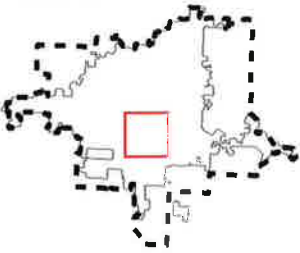
VAC13-4346

FERGUSON'S ADDITION

One Mile View



Overview



Legend

Subject Property
 VAC13-4346

Boundary

-  VAC13-4346
-  Design Overlay District
-  Planning Area
-  Fayetteville

0 0.25 0.5

 Miles



PC Meeting of April 22, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Sarah Wrede, Flood Plain Administrator
THRU: Jeremy Pate, Development Services Director
Chris Brown, City Engineer
DATE: April 16, 2013

ADM 13-4330: Administrative Item (SW CORNER 15TH STREET AND RAZORBACK ROAD, 599): Submitted by Crafton & Tull for property located at the SW CORNER OF 15TH STREET AND RAZORBACK ROAD. The property is zoned UT, URBAN THOROUGHFARE COMMERCIAL, and contains approximately 4.42 acres. The request is for a variance of the Streamside Protection Zones.

Planner: Andrew Garner
Floodplain Administrator: Sarah Wrede

STAFF AND THE APPLICANT REQUEST THIS ITEM TO BE TABLED UNTIL MAY 13, 2013.



THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: April 15, 2013

ADM 13-4344: Administrative Item (617 N. COLLEGE AVE./NOW AND THEN BOUTIQUE, 445): Submitted by CLARA PETERS for property located at 617 NORTH COLLEGE AVENUE. The property contains approximately 0.25 acre and is zoned C-2, THOROUGHFARE COMMERCIAL. The request is a variance to allow for a temporary retail structure (airstream trailer) to remain on the property for longer than 90 days. Planner: Andrew Garner

Findings:

Property Description: The subject property is located at the southwest corner of the intersection of Trenton Boulevard and College Avenue, at the eastern border of the Wilson Park Neighborhood. The site was originally developed with a commercial structure and associated parking. According to Washington County property records, the structure was removed in 1988; however, the parking lot remains on the property. Over the past three years there have been a continual number of outdoor mobile vendors on this property, primarily operating out of airstream trailers that the property owner leases. The surrounding land use and zoning is depicted in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Motel/apartments	R-O, Residential Office
South	Commercial	C-2, Thoroughfare Commercial
West	Single-family house	RMF-24, Residential Multi-family, 24 du/acre
East	Skating rink	C-2, Thoroughfare Commercial

Proposal: The applicant (Now and Then Boutique) obtained an outdoor mobile vending permit to operate a retail clothing store out of an airstream trailer on the property on January 3, 2013. The permit was valid for 90 days and expired on April 3, 2013. The applicant requests a variance of Fayetteville Unified Development Code Section 178.04(C) to allow for their Outdoor Mobile Vendor Permit to be granted for one year, when the maximum by right is 90 days. The vending trailer location is indicated on the attached site plan.

Public Comment: The applicant notified all adjacent property owners in writing and posted a public

G:\ETC\Development Services Review\2013\Development Review\13-4344 ADM 617 N. College Ave. (Now and Then Boutique)\03 Planning Commission\04-08-2013\Comments and Redlines

notice sign on the property. Although not required by ordinance, City staff also hand delivered notification letters to several similar boutique clothing stores that located within approximately one half mile of the subject property, and in permanent buildings. Staff has not received any objections to the applicant's request.

RECOMMENDATION: Staff recommends in favor of the requested variance with the following conditions of approval:

Conditions of Approval:

- 1. The vendor shall be permitted for total of one year from the date of issuance of the original outdoor mobile vending permit, which will expire on January 3, 2014.**
- 2. This property has been utilized continually for a number of mobile vendors over the past three years, including multiple variances for individual vendors to remain in one location longer than 90 days, and the continual storage of airstream trailers on the site for future vendors. Because mobile vending is a permanent or semi-permanent use on the site, the property owner shall complete the following improvements to start bringing the property into compliance with development regulations. The improvements recommended below will aid the City's upcoming improvements to College Avenue from downtown to North Street (including this project site) with sidewalk, trees, and streetlights, in the upcoming round of bond projects:
 - a. The property owner shall dedicate right-of-way to the City along College Avenue and Trenton Boulevard in conformance with the Master Street Plan. College Avenue is a Principal Arterial requiring 43.5 feet from centerline and Trenton Boulevard is a Local Street requiring 25 feet from centerline. The right-of-way shall be dedicated by warranty deed prepared by the applicant and submitted to the City for review.**
 - b. The warranty deed for right-of-way dedication shall include a note indicating that the owner agrees to limit the access to this property to one curb cut on College Avenue, the exact location and dimensions of which to be determined at a later date with consultation of City staff and the property owner.****

If these requirements are not completed within 30 days of the Planning Commission approval of this variance, the vendor shall not be permitted to operate until the warranty deed with right-of-way dedication and access limitation is completed.

- 3. If other variances for other mobile vendors on this site are requested staff may likely recommend more extensive improvements typical of a permanent business such as parking lot improvements, greenspace, sidewalk, landscaping, and/or other pedestrian improvements (some of which are indicated on the concept site plan prepared by staff and attached to this report).**

Additional Conditions/Comments:

PLANNING COMMISSION ACTION: yes Required
 Approved Denied Tabled

Motion:

Second:

Vote:

Date: April 22, 2013

FINDINGS:

City of Fayetteville Unified Development Code 178.04

(C) *Variances.* Outdoor Vendors may request a variance from the Planning Commission to operate for an extended period of time, not to exceed twelve consecutive months, in the same location subject to the following standards:

- (1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.

Finding: The applicant is requesting a variance to operate for a total of twelve months, the maximum permitted under the ordinance.

- (2) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

Finding: The applicant has notified all adjacent property owners and posted a public notice sign in compliance with section 157.05 of the UDC.

- (3) A variance may be granted by the Planning Commission when the following findings have been met:

- (a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

Finding: The retail clothing store does not create or worsen a dangerous traffic condition. Mobile vendors have operated safely in this parking lot for several years. The property is accessed by an existing curb cut onto College Avenue. While this curb cut does not comply with the City's current access management ordinance, staff finds that the existing access is acceptable and will not create a dangerous traffic situation or be detrimental to nearby properties.

The property owner has voluntarily completed improvements to the site over the past few years including installation of water and electrical hook-ups for the trailers, clearing brush, painting stripes on the parking lot, installation of a portable toilet (porta potty) for customers, and seasonal landscaping in large stainless steel planter boxes. These improvements and the general maintenance of the site by the owner and its vendors, including having a consistent style among the vendors with primarily stainless steel airstream style trailers, has fostered an aesthetically pleasing streetscape.

- (b) That the outdoor mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.

Finding: Over the past three years this vicinity of College Avenue has grown into a destination for local boutique clothing stores. There are approximately six brick-and-mortar¹ and two airstream trailer² boutique clothing stores within a half-mile radius of the subject property. A permanent brick-and-mortar building is required to meet many development regulations that a temporary vending trailer does not. However, given the unique niche of boutique clothing retailers in this vicinity, staff's observation is that a limited number of these retailers operating out of mobile vending locations, for limited timeframes, benefit the brick-and-mortar businesses. These temporary vendors help achieve a critical mass that draw more customers into the area as a destination. This type of business benefits from multiple retailers as customers are able to shop at several stores in one trip. This is different from the restaurant industry where customers typically eat only at one restaurant per outing.

Because of the continual use of this site for mobile vendors over a period of multiple years, and because this applicant is requesting a variance to be in this location for one year, staff recommends the property owner dedicate right-of-way to the city along both street frontages and agree to limit the vehicular access point in anticipation of a City sidewalk project along this site in the near future. These are improvements required of larger permanent developments, and help to level the playing field amongst these similar businesses.

1 Maude's; Grey Dog; Whit n Whimsy; Brits & Turks; Skye On the Town; Black Cherry Vintage

2 Flannel Shack; Now and Then Boutique (applicant for ADM 13-4344)

G:\ETC\Development Services Review\2013\Development Review\13-4344 ADM 617 N. College Ave. (Now and Then Boutique)\03 Planning Commission\04-08-2013\Comments and Redlines

Fayetteville Unified Development Code
178.04 Outdoor Mobile Vendors Located On Private Property

- (A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape, and does not create or worsen a dangerous traffic condition.
- (B) *Requirements.* Outdoor Mobile Vendors located on private property shall meet the following requirements and submittals prior to approval:
- (1) Permit Application. Each application for a permit to conduct an Outdoor Mobile Vendor business shall be accompanied by a \$50 permit review and processing fee.
 - (2) Application for a permit to conduct an Outdoor Mobile Vendor business shall include the following items in a format acceptable to the Zoning and Development Administrator:
 - (a) Name, address and contact information.
 - (b) Type of items sold or services rendered. A change in product or service will require a new permit to be issued.
 - (c) A valid copy of all necessary permits required by State and County health authorities.
 - (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
 - (e) Means to be used in conducting business including but not limited to a description of any mobile device to be used for transport or to display approved items or services.
 - (f) A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.
 - (g) Written authorization, signed by the property owner or legal representative of record, stating that the transient merchant business is permitted to operate on the subject property.
 - (3) The permit issued shall not be transferable in any manner.
 - (4) The permit is valid for one mobile vendor location only.
 - (5) The proposed use must be a permitted use-by-right within the underlying zoning district in order to be permitted.
 - (6) An Outdoor Mobile Vendor business may be approved by the Planning Division after making the following determinations:
 - (a) All of the requirements of 178.04(B)(2) have been met.
 - (b) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
 - (7) Outdoor mobile vendors are allowed on a temporary basis (90 days), by nature of their temporary occupancy, in one location over a one-year (twelve month) timeframe. Outdoor mobile vendors may move to a different location at least one half mile from the original location after this 90-day period has expired. However, a new Outdoor Mobile Vendor Application will have to be reviewed and approved

by the Planning Division for a new location.

- (8) Outdoor mobile vendors shall be in compliance with parking lot requirements for any existing and the proposed business. The number of required parking spaces is determined by the use and size of the proposed transient merchant business, and by the use and size of the existing business. Parking spaces on the property where the outdoor mobile vendor is located shall be paved and striped in order to be utilized. The use of parking for an out door mobile vendor may not reduce the number of spaces necessary for other uses occurring on the property. An adequate number of parking spaces for the existing businesses and the outdoor mobile vendor must be provided onsite. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.
- (C) *Variances.* Outdoor Vendors may request a variance from the Planning Commission to operate for an extended period of time, not to exceed twelve consecutive months, in the same location subject to the following standards:
- (1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.
 - (2) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.
 - (3) A variance may be granted by the Planning Commission when the following findings have been met:
 - (a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
 - (b) That the outdoor mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.
 - (4) In granting the variance, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance.

(Ord. 5185, 10-7-08; Ord. 5425, 8-2-11; Ord. No. 5498 05-01-12)

FROM: Now and Then Boutique
TO: Chair of Planning Commission

March 5, 2013

I am requesting an additional amount of time (12 months) to continue selling my new and used clothing from the mobile vending unit located at 617 North College Ave. I opened the doors to the Now and Then Boutique about 5 weeks ago and it seems to be going well, but I am not to the point of committing to invest in a brick and mortar shop. More time is needed to grow the business and become a part of the Fayetteville retail industry.

I appreciate any consideration you can give me in the above matter.

Thank You.



Rebecca Peters

APPLICANT'S SITE PLAN



Parking Table
 All Parking Stalls: 9.5x19'
 Minimum Drive Aisle Width: 24'
 Total Parking Spaces: 26
 Required Parking Stalls: --

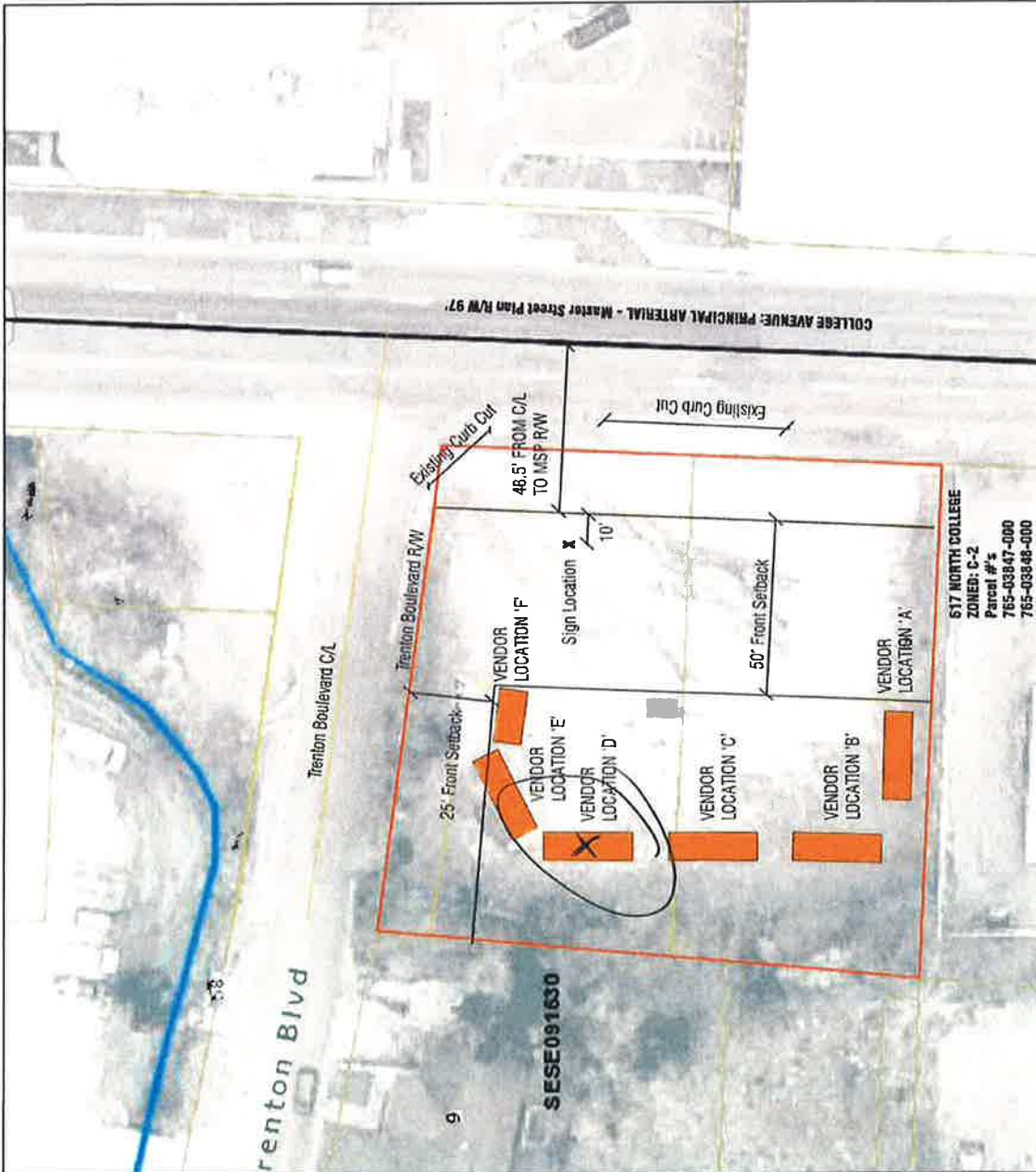
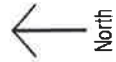
Parking Table
 Existing Parking Spaces
 SCALE: n/s

Legal Description

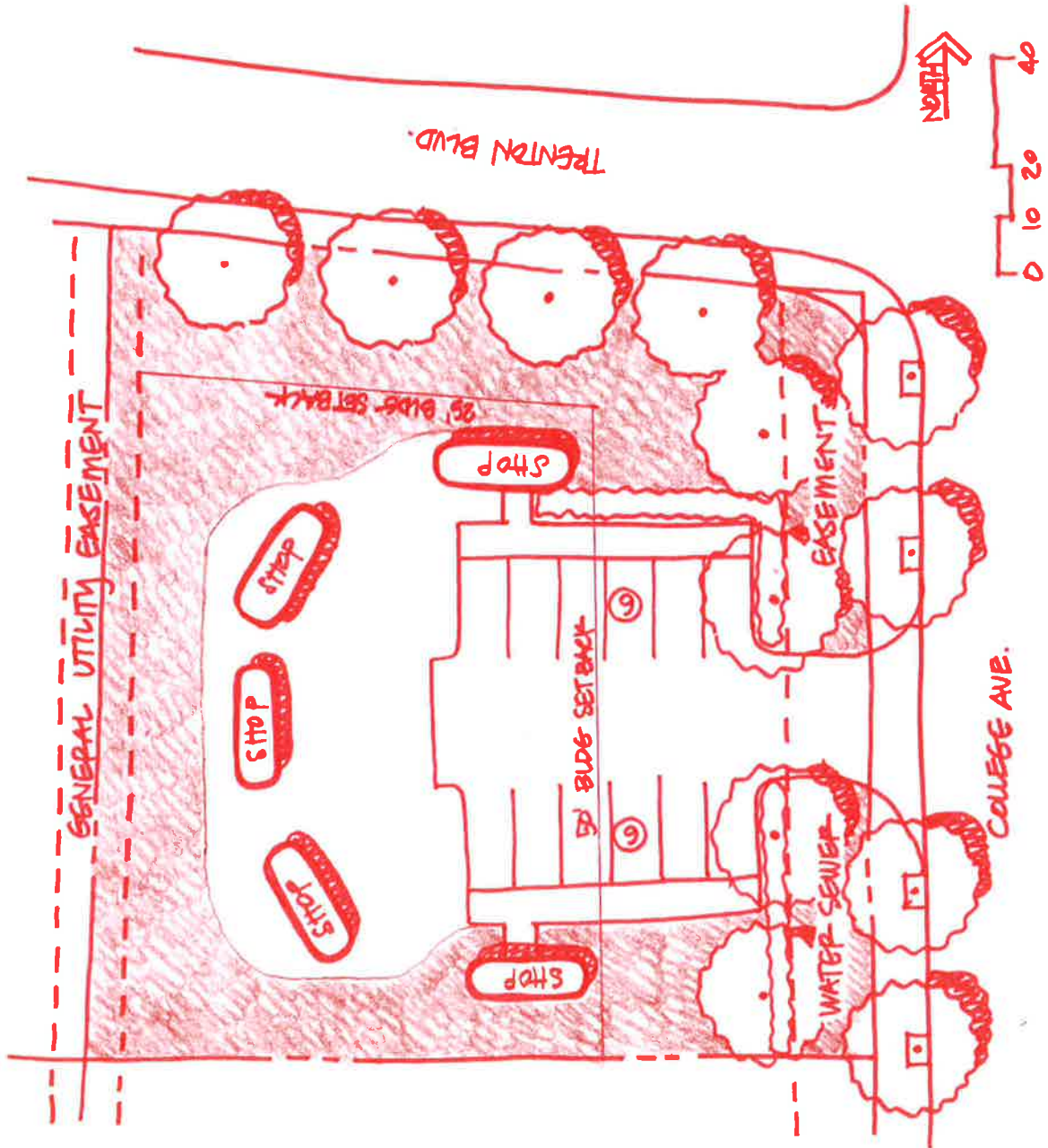
Lots 1&2, Block 14, Replat of Blocks 14&15, A.L. Trent's Revised Plat of City Park Addition, Fayetteville, Arkansas, as per plat of said addition on file at plat Book 1, Page 17 in the office of the Circuit Clerk of Washington County, Arkansas, being described by metes and bounds as follows:

Commencing at a chiseled "X" in the concrete at the SE corner of said Lot2; thence N 87° 33' 43" W along the South line of said Lot 2, a distance of 146.37 feet to a 24" Sycamore Tree at the SW corner of said Lot 2 at the centerline of an alley that was abandoned by ordinance # 466 and filed for record at BK 672, Pg 136; Thence N 04° 23' 03" E along the said centerline of the abandoned alley being the east line of Lots 1&2 a distance of 160.14 feet to a 1/2" rebar with plastic cap marked PLS 852 at the NW corner of said Lot 1; Thence S 02° 28' 08" E along the East line of said Lots 1&2 (and along the westerly R/W of N. College Ave.), a distance of 138.75 feet to the Point of Beginning, containing 0.484 acres (21,500 sq ft), more or less.

Yacht Club
617 North College
MASTER SITE PLAN
 SCALE: @11x17: 1" = 30'
 SCALE: @8.5x11: 1" = 60'

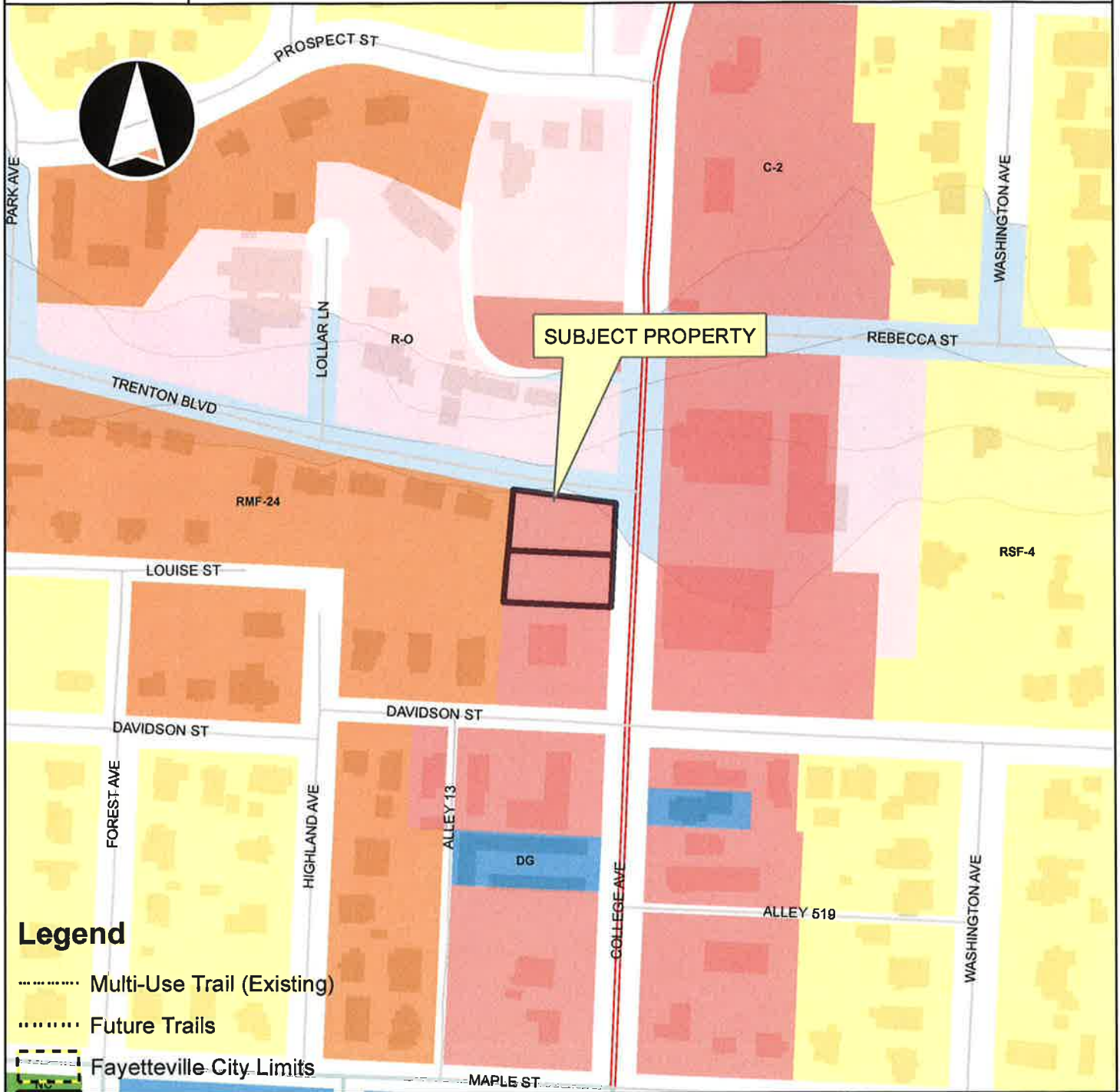


CITY STAFF'S CONCEPT SITE PLAN WITH IMPROVEMENTS



NOW AND THEN BOUTIQUE

Close Up View



Legend

..... Multi-Use Trail (Existing)

..... Future Trails

----- Fayetteville City Limits

Overview ADM13-4344

■ Footprints 2010

■ Hillside-Hilltop Overlay District

□ Design Overlay District

□ Design Overlay District

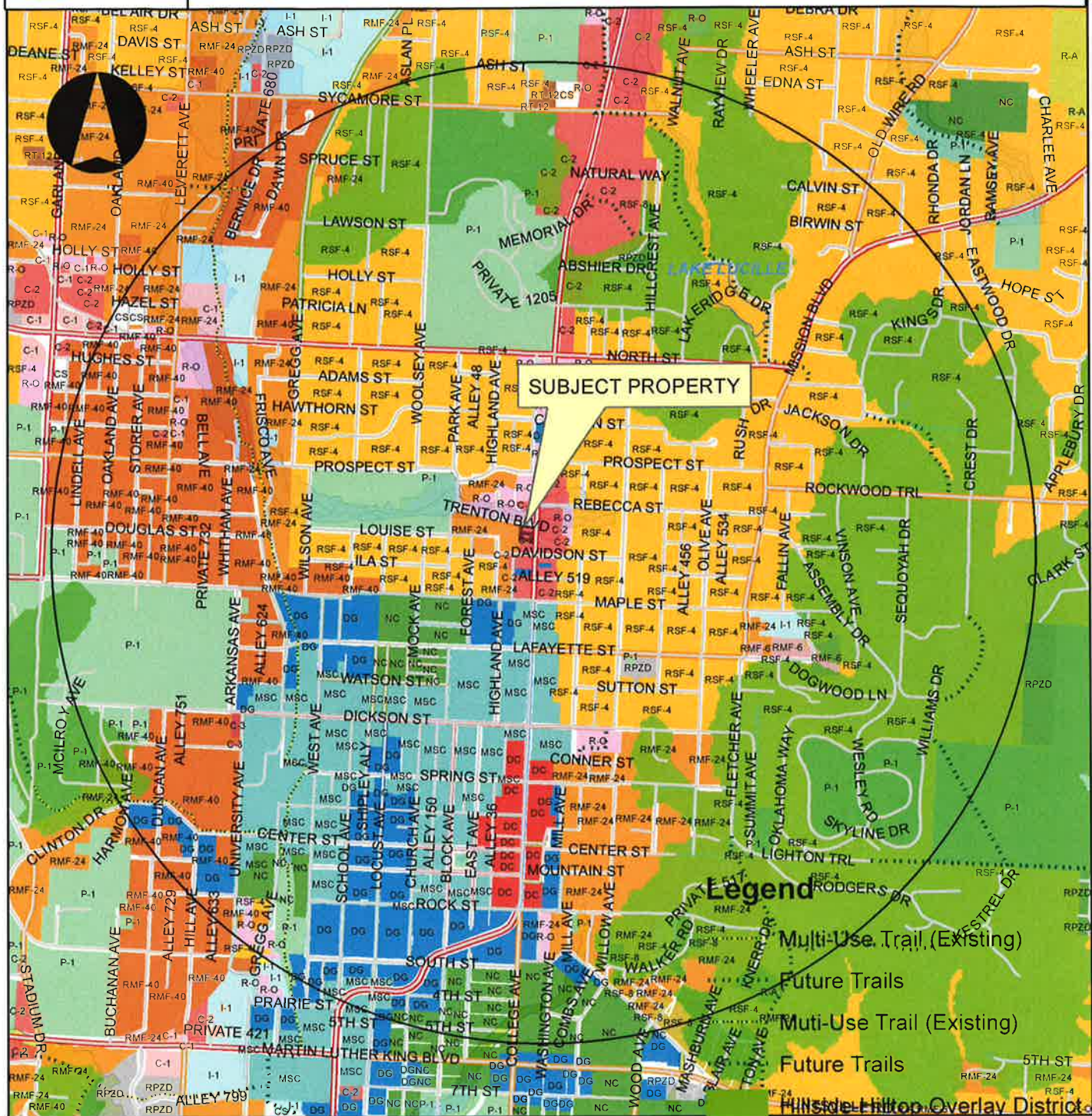
----- Planning Area



ADM13-4344

NOW AND THEN BOUTIQUE

One Mile View

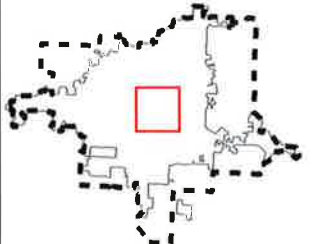


SUBJECT PROPERTY

Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails
- Hillside Hilltop Overlay District

Overview



Legend

- Subject Property
- ADM13-4344

Boundary

- ADM13-4344
- Design Overlay District
- Planning Area
- Fayetteville

0 0.25 0.5

Miles



PC Meeting of April 22, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Development Services Director
DATE: April 15, 2013

ADM 13-4357: Administrative Item (617 N. COLLEGE AVE./PARKS PURITY PIE CO., 445): Submitted by SHANNON STRICKLAND for property located at 617 NORTH COLLEGE AVENUE. The property contains approximately 0.25 acre and is zoned C-2, THOROUGHFARE COMMERCIAL. The request is a variance to allow for a temporary retail structure (airstream trailer) to remain on the property for longer than 90 days. Planner: Andrew Garner

Findings:

Property Description: The subject property is located at the southwest corner of the intersection of Trenton Boulevard and College Avenue, at the eastern border of the Wilson Park Neighborhood. The site was originally developed with a commercial structure and associated parking. According to Washington County property records, the structure was removed in 1988; however, the parking lot remains on the property. Over the past three years there have been a continual number of outdoor mobile vendors on this property, primarily operating out of airstream trailers that the property owner leases. The surrounding land use and zoning is depicted in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Motel/apartments	R-O, Residential Office
South	Commercial	C-2, Thoroughfare Commercial
West	Single-family house	RMF-24, Residential Multi-family, 24 du/acre
East	Skating rink	C-2, Thoroughfare Commercial

Proposal: The applicant (Purity Pie Company) obtained an outdoor mobile vending permit to operate a retail pie shop out of an airstream trailer on the property on January 24, 2013. The permit was valid for 90 days and will expire on April 24, 2013. The applicant requests a variance of Fayetteville Unified Development Code Section 178.04(C) to allow for their Outdoor Mobile Vendor Permit to be granted for one year, when the maximum by right is 90 days. The vending trailer location is indicated on the attached site plan.

Public Comment: The applicant notified all adjacent property owners in writing and posted a public notice sign on the property. Staff has not received any objections to the applicant's request.

G:\ETC\Development Services Review\2013\Development Review\13-4344 ADM 617 N. College Ave. (Now and Then Boutique)\03 Planning Commission\04-08-2013\Comments and Redlines

RECOMMENDATION: Staff recommends in favor of the requested variance with the following conditions of approval:

Conditions of Approval:

1. The vendor shall be permitted for total of one year from the date of issuance of the original outdoor mobile vending permit, which will expire on January 24, 2014.
2. This property has been utilized continually for a number of mobile vendors over the past three years, including multiple variances for individual vendors to remain in one location longer than 90 days, and the continual storage of airstream trailers on the site for future vendors. Because mobile vending is a permanent or semi-permanent use on the site, the property owner shall complete the following improvements to start bringing the property into compliance with development regulations. The improvements recommended below will aid the City's upcoming improvements to College Avenue from downtown to North Street (including this project site) with sidewalk, trees, and streetlights, in the upcoming round of bond projects:
 - a. The property owner shall dedicate right-of-way to the City along College Avenue and Trenton Boulevard in conformance with the Master Street Plan. College Avenue is a Principal Arterial requiring 43.5 feet from centerline and Trenton Boulevard is a Local Street requiring 25 feet from centerline. The right-of-way shall be dedicated by warranty deed prepared by the applicant and submitted to the City for review.
 - b. The warranty deed for right-of-way dedication shall include a note indicating that the owner agrees to limit the access to this property to one curb cut on College Avenue, the exact location and dimensions of which to be determined at a later date with consultation of City staff and the property owner.

If these requirements are not completed within 30 days of the Planning Commission approval of this variance, the vendor shall not be permitted to operate until the warranty deed with right-of-way dedication and access limitation is completed.

3. If other variances for other mobile vendors on this site are requested staff may likely recommend more extensive improvements typical of a permanent business such as parking lot improvements, greenspace, sidewalk, landscaping, and/or other pedestrian improvements (some of which are indicated on the concept site plan prepared by staff and attached to this report).

Additional Conditions/Comments:

PLANNING COMMISSION ACTION: yes Required
_____ Approved _____ Denied _____ Tabled

Motion: _____

Second: _____

Vote: _____

Date: April 22, 2013

FINDINGS:

City of Fayetteville Unified Development Code 178.04

(C) *Variances.* Outdoor Vendors may request a variance from the Planning Commission to operate for an extended period of time, not to exceed twelve consecutive months, in the same location subject to the following standards:

(1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.

Finding: The applicant is requesting a variance to operate for a total of twelve months, the maximum permitted under the ordinance.

(2) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.

Finding: The applicant has notified all adjacent property owners and posted a public notice sign in compliance with section 157.05 of the UDC.

(3) A variance may be granted by the Planning Commission when the following findings have been met:

(a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.

Finding: The retail pie shop does not create or worsen a dangerous traffic condition. Mobile vendors have operated safely in this parking lot for several years. The property is accessed by an existing curb cut onto College Avenue. While this curb cut does not comply with the City's current access management ordinance, staff finds that the existing access is acceptable and will not create a dangerous traffic situation or be detrimental to nearby properties.

The property owner has voluntarily completed improvements to the site over the past few years including installation of water and electrical hook-ups for the trailers, clearing brush, painting stripes on the parking lot, installation of a

G:\ETC\Development Services Review\2013\Development Review\13-4344 ADM 617 N. College Ave. (Now and Then Boutique)\03 Planning Commission\04-08-2013\Comments and Redlines

portable toilet (porta potty) for customers, and seasonal landscaping in large stainless steel planter boxes. These improvements and the general maintenance of the site by the owner and its vendors, including having a consistent style among the vendors with primarily stainless steel airstream style trailers, has fostered an aesthetically pleasing streetscape.

- (b) That the outdoor mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.

Finding: Staff is not aware of any similar and nearby permanent businesses that would be at an unfair advantage because of this variance. The vendor primarily sells desert pies by the slice, which is unique to this area of the City.

Because of the continual use of this site for mobile vendors over a period of multiple years, and because this applicant is requesting a variance to be in this location for one year, staff recommends the property owner dedicate right-of-way to the city along both street frontages and agree to limit the vehicular access point in anticipation of a City sidewalk project along this site in the near future. These are improvements required of larger permanent developments, and help to level the playing field amongst the temporary businesses in this location and permanent businesses nearby and throughout the City.

Fayetteville Unified Development Code
178.04 Outdoor Mobile Vendors Located On Private Property

- (A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing streetscape, and does not create or worsen a dangerous traffic condition.
- (B) *Requirements.* Outdoor Mobile Vendors located on private property shall meet the following requirements and submittals prior to approval:
- (1) Permit Application. Each application for a permit to conduct an Outdoor Mobile Vendor business shall be accompanied by a \$50 permit review and processing fee.
 - (2) Application for a permit to conduct an Outdoor Mobile Vendor business shall include the following items in a format acceptable to the Zoning and Development Administrator:
 - (a) Name, address and contact information.
 - (b) Type of items sold or services rendered. A change in product or service will require a new permit to be issued.
 - (c) A valid copy of all necessary permits required by State and County health authorities.
 - (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
 - (e) Means to be used in conducting business including but not limited to a description of any mobile device to be used for transport or to display approved items or services.
 - (f) A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.
 - (g) Written authorization, signed by the property owner or legal representative of record, stating that the transient merchant business is permitted to operate on the subject property.
 - (3) The permit issued shall not be transferable in any manner.
 - (4) The permit is valid for one mobile vendor location only.
 - (5) The proposed use must be a permitted use-by-right within the underlying zoning district in order to be permitted.
 - (6) An Outdoor Mobile Vendor business may be approved by the Planning Division after making the following determinations:
 - (a) All of the requirements of 178.04(B)(2) have been met.
 - (b) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
 - (7) Outdoor mobile vendors are allowed on a temporary basis (90 days), by nature of their temporary occupancy, in one location over a one-year (twelve month) timeframe. Outdoor mobile vendors may move to a different location at least one half mile from the original location after this 90-day period has expired. However, a new Outdoor Mobile Vendor Application will have to be reviewed and approved

by the Planning Division for a new location.

- (8) Outdoor mobile vendors shall be in compliance with parking lot requirements for any existing and the proposed business. The number of required parking spaces is determined by the use and size of the proposed transient merchant business, and by the use and size of the existing business. Parking spaces on the property where the outdoor mobile vendor is located shall be paved and striped in order to be utilized. The use of parking for an out door mobile vendor may not reduce the number of spaces necessary for other uses occurring on the property. An adequate number of parking spaces for the existing businesses and the outdoor mobile vendor must be provided onsite. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.
- (C) *Variances.* Outdoor Vendors may request a variance from the Planning Commission to operate for an extended period of time, not to exceed twelve consecutive months, in the same location subject to the following standards:
- (1) A vendor may request a variance from the 90 day location requirement to operate for an extended period of time. The maximum time period that the Planning Commission may grant this variance is limited to no more than twelve consecutive months.
 - (2) The applicant shall comply with the notification requirements of section 157.05 of the Unified Development Code.
 - (3) A variance may be granted by the Planning Commission when the following findings have been met:
 - (a) The applicant has established that the operation of the outdoor mobile vendor will be compatible with and not detrimental to nearby properties, will not adversely affect nearby businesses, will foster an aesthetically appealing streetscape and will not create or worsen a dangerous traffic condition.
 - (b) That the outdoor mobile vendors' presence for an extended period of time at one location will not create an unfair advantage over similar and nearby permanent businesses.
 - (4) In granting the variance, the Planning Commission may require appropriate conditions and safeguards, including semi-permanent or permanent improvements to the property to secure the substantial objectives of the ordinance.

(Ord. 5185, 10-7-08; Ord. 5425, 8-2-11; Ord. No. 5498 05-01-12)

Parks Purity Pie Company

617 N College Ave Fayetteville, AR 72701

Letter to planning Division.

Please find this letter as a formal request to apply for a variance for a 9 months extension of the temporary vendor's license.

Parks Purity Pie Company is currently doing business at the Yacht Club at 617 N College Avenue. We are operating out of a redesigned Airstream trailer in a lot being occupied by various other temporary vendors. Since our grand opening of January 23rd we have been a hit with the local community and are very excited about the support and feedback we have received. We are proud to be the newest member of the Fayetteville community and have already begun supporting many local charities and organizations.

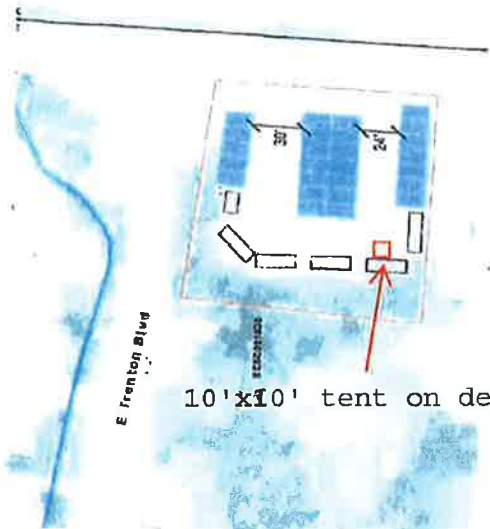
While the location of the vendors lot we occupy is very convenient our long term goals and business plan is to move into a brick and mortar location as soon as possible. Unfortunately the banks we have spoken with about financing such a move are requiring 6 to 9 months of financials before any small business loans are made available. We would also like to take advantage of the low cost of being a temporary vendor increase client base and build up support.

For that reason we would at this time like to ask that the commission grant a variance to extend our temporary vendors permit to allow us to continue doing business out of the Yacht Club and grow our client base to support the exciting next step of Parks Purity Pie Company.

Sincerely,

Shannon Parks Strickland
Owner

APPLICANT'S SITE PLAN



10'x10' tent on deck

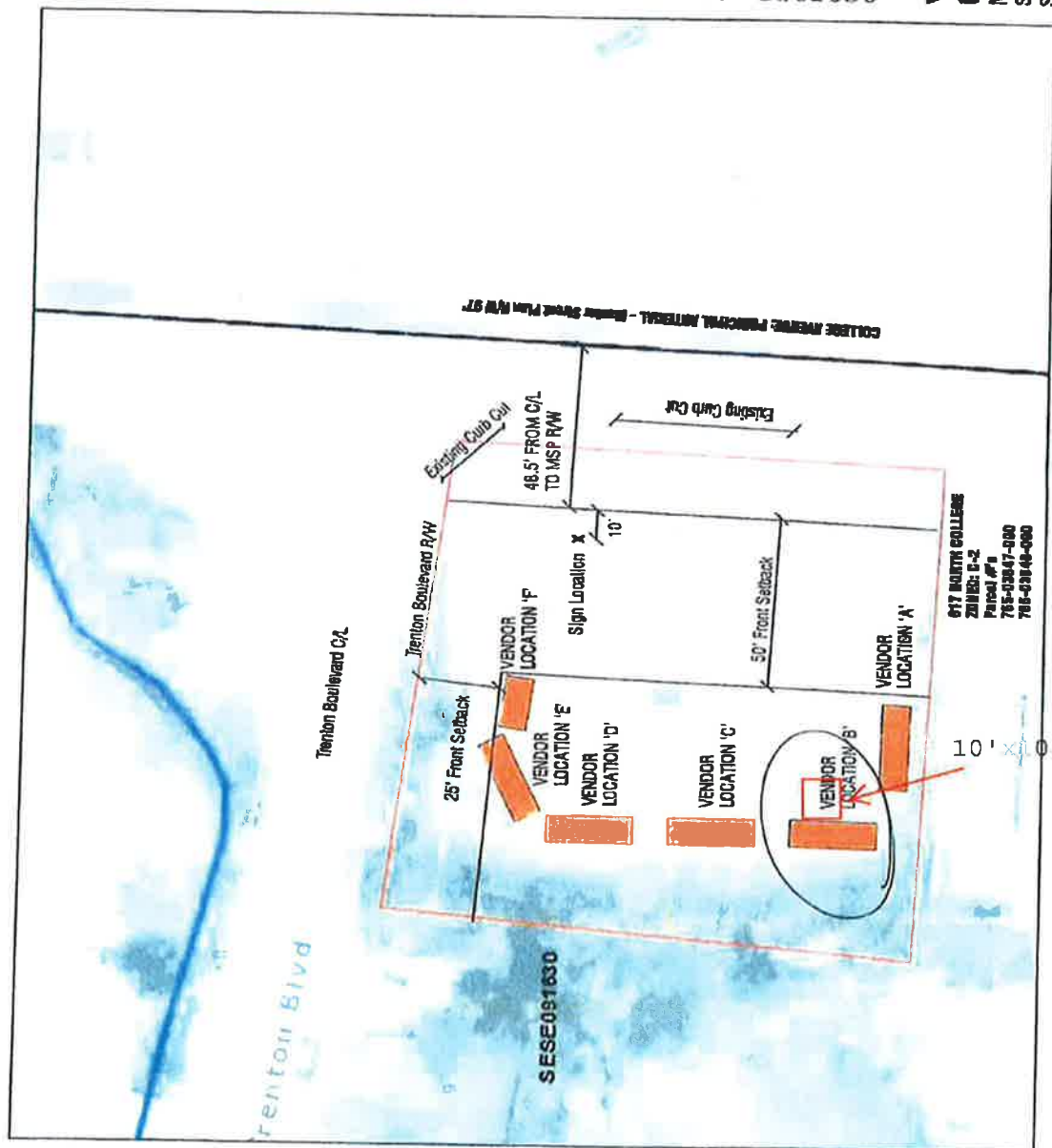
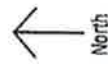
Parking Table
 All Parking Stalls: 9.5'x19'
 Minimum Drive Aisle Width: 24'
 Total Parking Spaces: 26
 SCALE: n/s

Level Description

Lot 182, Block 14, Tract of Blocks 14&15, A.L. Tract's Revised Plat of City Park Addition, Fayetteville & Athens, as per plat of said addition on file at plat Book 1, Page 17 in the office of the Circuit Clerk of Washington County, Arkansas, being described by notes and bounds as follows:

Commencing at a stake 'X' in the corner of the SE corner of said Lot 2; thence N 87° 35' 43" W along the South line of said Lot 2, a distance of 146.37 feet to a 24" Symptom Tree at the SW corner of said Lot 2 at the centerline of an alley that was abandoned by ordinance # 1486 and filed for record at Bk 572, Pg. 156; Thence N 04° 23' 03" E along the said centerline of the abandoned alley being the east line of Lots 182, a distance of 160.14 feet to a 12" meter with plastic cap marked PLUS 552 at the NW corner of said Lot 1; Thence S 02° 29' 00" E along the East line of said Lot 182 (and along the westerly SW of N. College Ave.), a distance of 138.75 feet to the Point of Beginning, containing 0.494 acres (21,500 sq ft), more or less.

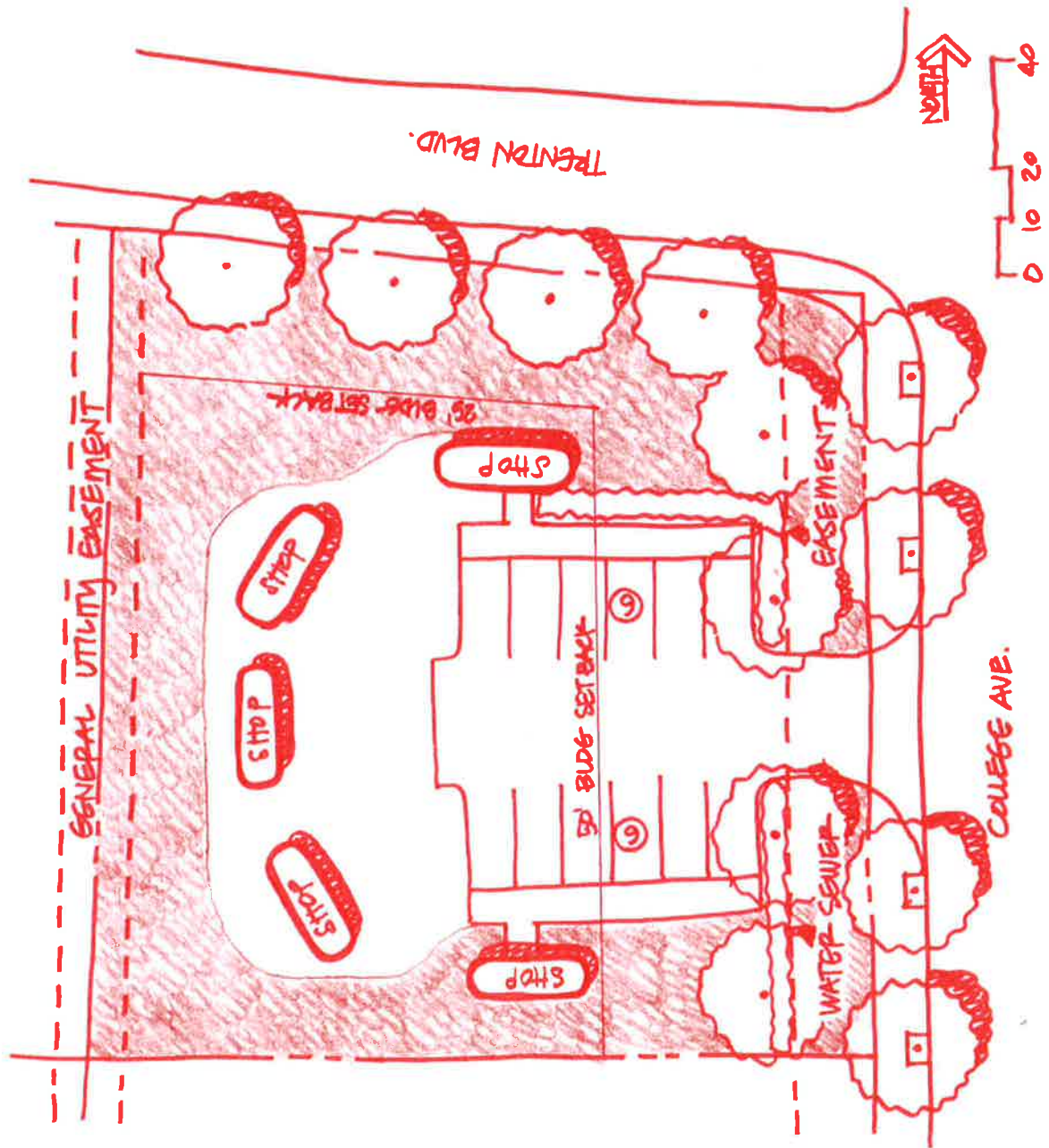
Yacht Club
617 North College
MASTER SITE PLAN
 SCALE: @1:17: 1"=30'
 SCALE: @8.5:1: 1"=60'



617 NORTH COLLEGE
 ZONING: C-2
 Parcel #/s
 765-43847-000
 765-43848-000

10'x10' tent on deck

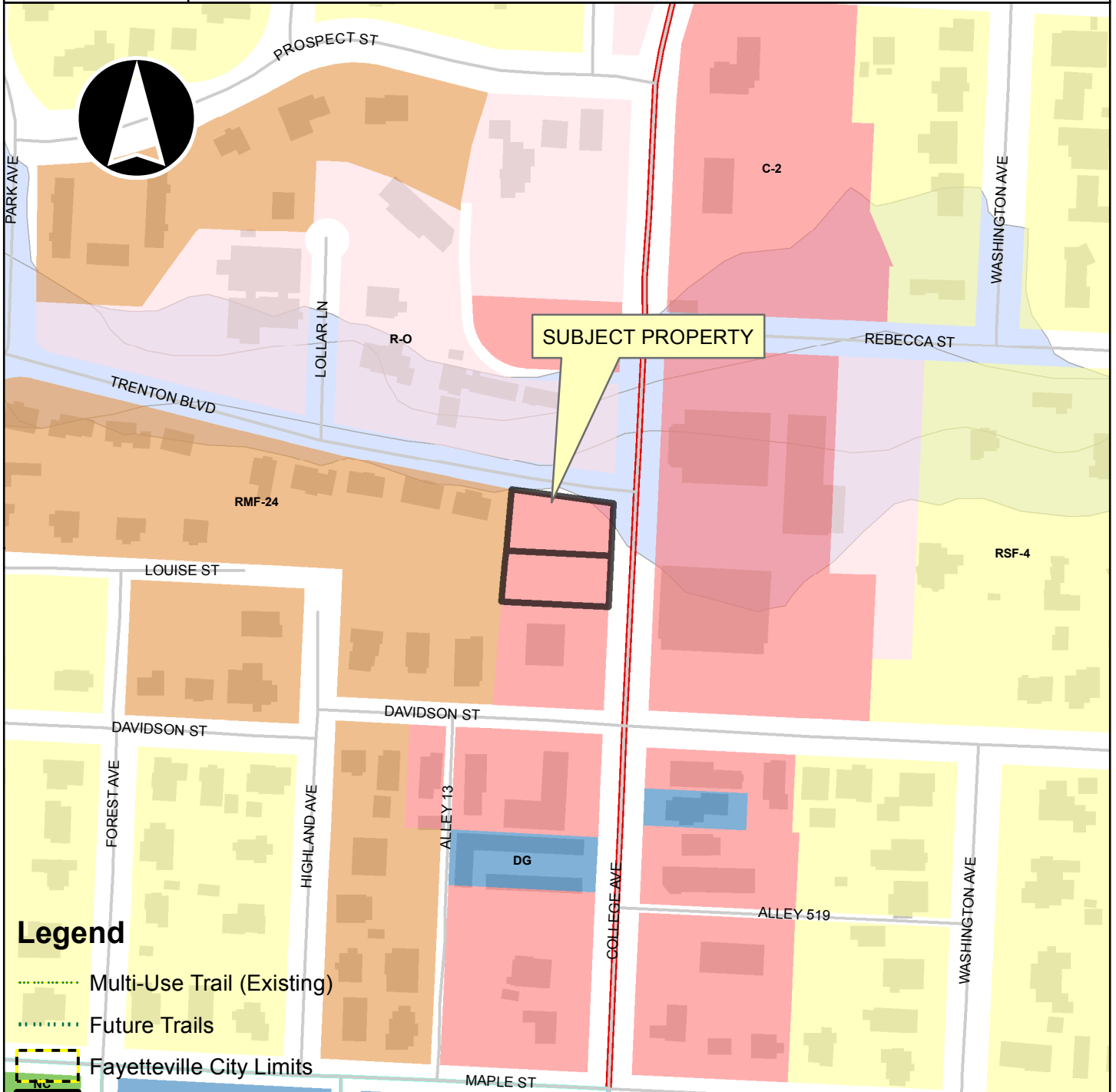
CITY STAFF'S CONCEPT SITE PLAN WITH IMPROVEMENTS



ADM13-4357

PARKS PURITY PIE CO.

Close Up View



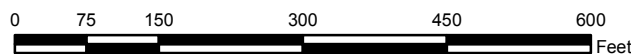
Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview

ADM13-4357

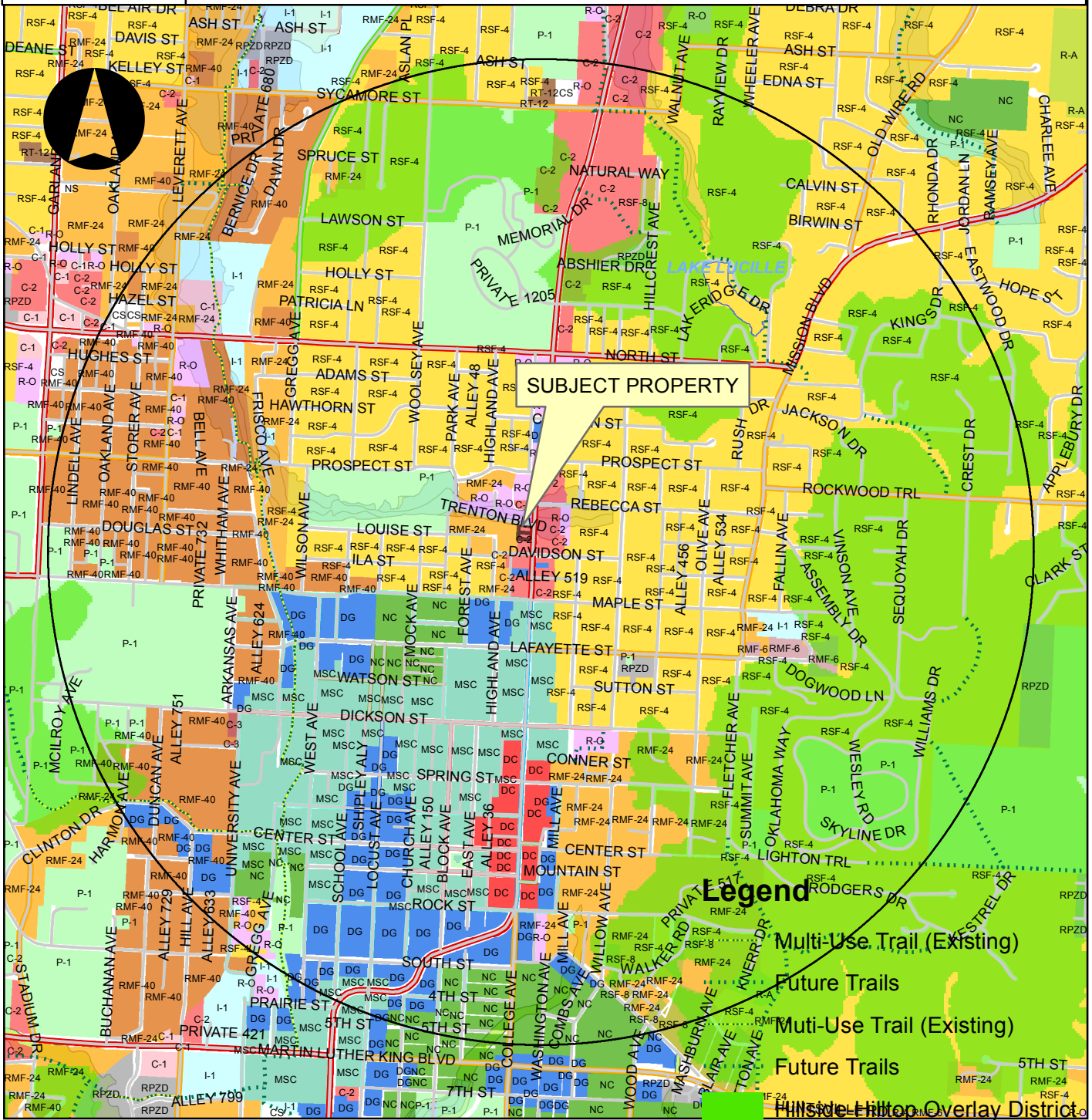
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



ADM13-4357

PARKS PURITY PIE CO.

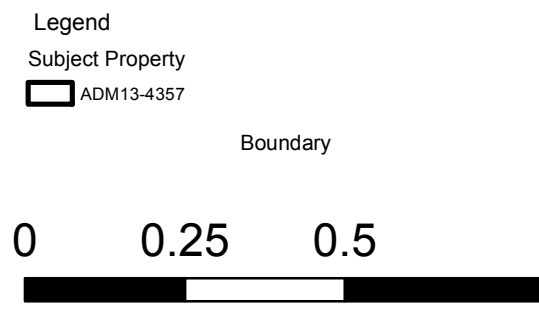
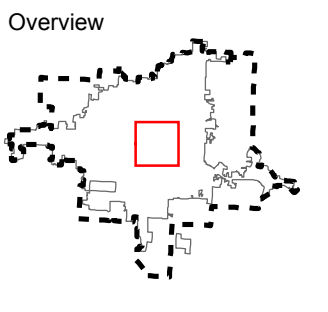
One Mile View



SUBJECT PROPERTY

Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails
- Hillsdale Hilltop Overlay District



- ADM13-4357
- Design Overlay District
- Planning Area
- Fayetteville



PC Meeting of April 22, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Subdivision Committee
 FROM: Jesse Fulcher, Current Planner
 Glenn Newman, Staff Engineer
 THRU: Jeremy Pate, Development Services Director
 DATE: April 16, 2013

LSD 13-4352: Large Scale Development (NW CORNER OF SPRING ST. & SCHOOL AVE./FAYETTEVILLE PARKING DECK, 484): Submitted by GARVER ENGINEERING for property located at the NORTHWEST CORNER OF SPRING STREET AND SCHOOL AVENUE. The property is zoned MSC, MAIN STREET/CENTER and contains approximately 4.13 acres. The request is for a parking deck, liner building and office space.

Planner: Jesse Fulcher

Findings:

Property description: The development site is located at the northwest corner of School Avenue and Spring Street and is part of the overall Walton Arts Center property. The approximately four (4) acre site is co-owned by the City of Fayetteville and the University of Arkansas and is developed with arts center facility, arts center administrative offices, the Grub’s building and the Porter building. Surrounding land use and zoning is depicted on *Table 1*.

SURROUNDING LAND USE AND ZONING:

Direction from Site	Land Use	Zoning
North	Walton Arts Center	Main Street Center, MSC
South	Parking lot/Office	Main Street Center, MSC
East	Parking lot/Commercial	Main Street Center, MSC
West	Grub’s/Porter Buildings	Main Street Center, MSC

Request: The City of Fayetteville is proposing a three level, 246-space parking garage with two single-story liner buildings containing approximately 3,100 square feet total, and an approximately 16,000 square foot, three-story administrative office building. The existing Walton Arts Center administration building will be demolished and rebuilt as a part of the new parking garage with one story below ground and two above. The basement level of the administration building will connect into the existing loading dock area of the Walton Arts Center.

Water and Sewer System: The property has access to existing public water and sewer services. The City of Fayetteville is planning to upgrade an existing water line along Spring Street with this project.

Adjacent streets and right-of-way: This parking garage is adjacent to School Avenue, a ST-45 Street and Spring Street, a local street. Access to both streets, though on different levels, will be provided.

Street Improvements: Both of the adjacent streets are improved and contain on-street parking. The existing sidewalks on the north side of Spring Street and adjacent to the development site along School Avenue will be replaced with 8-10 foot sidewalks, including brick inlay, tree wells and street trees.

Tree Preservation:

Existing Canopy: 14.50%	Preserved Canopy: 10.00%	Required Canopy: 10.00%
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166.21 Downtown Design Overlay District: These building design standards apply to property located within the Downtown Master Plan area. For this project they apply to the liner building and administration office. Buildings that strictly comply with these standards are to be considered approved for matters of aesthetics and shall not require further discretionary review for architectural character or appearance. The proposed design requires one variance of Chapter 166.21(E)(7)(b), which requires doors or entrances at intervals no greater than 50 feet apart along the principal façade. *The east façade of the liner building is approximately 56 feet long, which only requires one entrance, as long as it is not placed on the far end of the building. However, due to the grade change between the north and south ends of the building façade, the entrance must be located at the far north end of the building. This results in a 56 foot interval, which requires a variance.*

166.22 Parking Garages in the Downtown Core, Main Street Center, and Downtown General Zoning Districts: Parking garages by their nature tend to overwhelm the built environment due to their scale and repetitious construction. Accordingly, three distinct design options are permitted when a parking garage is located adjacent to the street. The first is to utilize *liner buildings* on the first floor; the second is to utilize *display windows* on the first floor; and the third is to utilize a *green façade* with landscaping on all floors. These standards only apply to the principal façade, which is the front side of the building adjacent to a street.

Recommendation: Staff recommends approval of **LSD 12-4352** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of parking garage design elements. Chapter 166.22 states that a parking garage shall meet *at least one* of the permitted design criteria noted above. The proposal does not use *at least one design completely*, but rather a combination of several elements. The first floor of the building is a combination of two permitted design elements, liner buildings and a green façade. The upper floors are covered with a cementitious panel instead of a green facade. *Staff recommends in favor of the combined design elements for several reasons. The ability to have a continuous liner building along School Avenue is very difficult due to a considerable grade change between the south side of the facility along Spring and north side along School Avenue. Additionally, the deck ramp beyond the liner building is sloping down to the north (see east elevation).*

Extending the liner building further north along School will require going under the ramp and below street grade, resulting in insufficient depth to create a functional interior space. Further, extending the liner building will require the removal of parking spaces that will then have to be relocated to the top floor of the deck, increasing overall development costs. The City Council, development team and city staff evaluated a deck design that utilized a green façade on the upper levels of the deck and it was determined that this was not a desirable design option for two primary reasons. First, this amount of vertical landscape area creates long-term maintenance issue and does not actually provide adequate screening during the winter months. Secondly, it would require several years for the plants to begin screening the upper floors of the garage. The cementitious panel that is being proposed, though not a recognized design option, provides a durable and attractive screening material, with lower maintenance costs than the green screen, and immediate, year-round screening.

4/11/13: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE PARKING GARAGE DESIGN.

2. Planning Commission determination of a variance from Chapter 166.21(E)(7)(b), which requires doors or entrances with a maximum separation of 50 feet along the principal façade. *Staff recommends in favor of the request due to the elevation change between the north and south ends of the liner building on School. This requires the entrance to be located at the far north end of the building, creating a 56 foot interval.*

4/11/13: THE SUBDIVISION COMMITTEE MADE NO RECOMMENDATION ON THE VARIANCE. THE COMMISSION REQUESTED THAT THE APPLICANT LOOK AT THE ABILITY TO ADD A DOOR ALONG SPRING STREET IN THE FUTURE AND TO CREATE A UNIQUE PEDESTRIAN ZONE ALONG THIS BUILDING FRONT.

STAFF HAS EVALUATED THE CODE REQUIREMENTS AND ONLY ONE DOOR IS REQUIRED ALONG SPRING STREET, WHICH IS BEING PROVIDED. TECHNICALLY, A SECOND DOOR IS REQUIRED ON SCHOOL. HOWEVER, STAFF IS RECOMMENDING THAT A VARIANCE BE GRANTED DUE SINCE THE DOOR CAN'T BE SHIFTED FURTHER SOUTH AND A SECOND DOOR CAN'T BE ADDED.

3. Planning Commission determination of a variance of Chapter 166.22(A)(1)(a) to allow a 55 foot opening along Spring Street when 30 feet is the maximum allowed. When utilizing a liner building the code sets a maximum interruption in the habitable area of 30 feet for vehicle and pedestrian access. The intent of this code section is to ensure that the liner building is a predominant feature of the ground floor, and interruptions are the minimum necessary for access to the parking facility. *Staff finds that an opening larger than 30 feet is appropriate in this instance, since the vehicle and pedestrian access points are contiguous. A distance of 25-30 feet is necessary to provide two-way vehicle access when you include equipment that will be installed in this area, such as gates and payment equipment. To accommodate adequate separation from the building wall and a visible and functional pedestrian access to the stairwell, 30 feet is insufficient and a variance is warranted, in staff's opinion.*

4/11/13: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE VARIANCE.

4. Planning Commission determination of street improvements. *Staff recommends that the following improvements:*
- a. *The existing sidewalk along the north side of Spring Street and the west side of School Avenue shall be replaced with a minimum 8 foot sidewalk, including brick inlay, tree wells and street trees. Sidewalk replacement along Spring Street shall extend to the intersection of West Avenue.*
 - b. *Street lights shall be installed at each intersection and with a maximum separation of 300 feet.*
 - c. *Access ramps shall be installed to connect to existing access ramps on the opposite side of the street.*
 - d. *All of the existing overhead power lines along the property boundary are over 12kV and are therefore allowed to remain in place. The City of Fayetteville is, however, planning to relocate the existing overhead power and cable lines on the west side of School Avenue below ground in front of the parking deck facility. This is an expected improvement, but not required by ordinance.*

4/11/13: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE RECOMMENDED IMPROVEMENTS.

5. As required by Chapter 166.22, and proposed with this design, a cistern shall be installed to harvest storm water for reuse on the property.
6. All existing easements that conflict with the building location shall be vacated prior to building permit approval.
7. Right-of-way for all adjacent streets shall be dedicated in accordance with the Master Street Plan prior to building permit.
8. The storefront entrance along Spring Street shall be positioned nearer the middle of the building to eliminate a 50 separation from the corner of the building.
9. All signs shall be reviewed and approved by the Planning Department prior to installation. Wall signs must be attached to the vertical surface of a building, or to the face of a awning or canopy.
10. All tree preservation, landscape, and fire department conditions included herein shall apply. All revisions shall be addressed prior to construction plan approval.

Standard conditions of approval:

11. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
12. If applicable, a business license shall be obtained prior to opening the business to the public.

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.
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 principle structure. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit.
18. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the Design Overlay District.
19. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
20. Large scale development shall be valid for one calendar year.
21. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
22. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator 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 Landscape Administrator.
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.
-

Planning Commission Action: **Approved** **Tabled** **Forwarded**

Meeting Date: April 22, 2013

Motion:

Second:

Vote:



LANDSCAPE REGULATIONS – Chapter 177

To: Garver, Jeffrey Webb
 CC: Jesse Fulcher, Current Planner
 From: Megan Dale, Urban Forester/Landscape Administrator
 Date: 22 April 2013
 Subject: LSD 13-4352: Fayetteville Parking Deck Planning Commission Review Comments

Applicable Requirements:

Y	Site Development & Parking Lot Standards
Y	Street Tree Planting Standards
N/A	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant
 N=required by City Code but not included on submitted plan
 NA= not applicable

Tech Plat	SC	PC	All Landscape Plans
Y	Y	Y	Irrigation notes either automatic or hose bib 100' o.c. (177.03A.7.g & 177.04.B.3.a)
Y	Y	Y	Species of plant material identified (177.03.A.7.d & e)
N	N	Y	Size of plant material at time of installation indicated minimum size 2" caliper for trees and 3 gal. shrubs (177.03.A.7.b & c)
Y	Y	Y	Soil amendments notes include that soil is amended and sod removed (177.03.C.6.b)
N	N	N	Mulch notes indicate organic mulching around trees and within landscape beds (177.03.C.6.c & d)
N	N	N	LSD and Subdivisions plans stamped by a licensed Landscape Architect, others by Landscape Designer (177.03.B)
Y	Y	Y	Planting bed contained by edging (177.03.C.6.f)
N	Y	Y	Planting details according to Fayetteville's Landscape Manual (177.03.C.6.g)

Tech Plat	SC	PC	Site Development & Parking Lot Standards
NA	NA	NA	Wheel stops/ curbs (177.04.B.1)
NA	NA	NA	Interior landscaping (177.04.C) <i>Narrow tree lawn (8' min width, 37.5' min length/ 1 tree per 12 spaces) OR Tree island (8' min. width, 18.7' min. length/1 tree per 12 spaces) All parking lot trees must be deciduous (177.04.C.3)</i>
Y	Y	Y	Placement of Trees (177.04.C.2) <i>Either side at points of access (entrance/exit)</i>
NA	NA	NA	Perimeter landscaping (177.04.D) <i>Side and rear property lines (5' wide landscaped) Front property line (15' wide landscape) (177.04.D.2.a) Shade trees planted on south and west sides of parking lots (177.04.D.2.e) Parking lot adjacent to R.O.W.- continuous row planting of shrubs - 50% evergreen. Remaining landscaping to be ground cover and / or turf.) (177.04.D.4a) NOTE: Shade trees are described in street tree planting standards</i>
			Street Tree Planting Standards (time of F.P. or permit) (177.05)
NA	NA	NA	Residential Subdivisions- 1 large species shade tree/ lot tree planted within R.O.W. if possible
Y	Y	Y	Nonresidential Subdivision- 1 large species shade tree/30 L.F. tree planted within 15-25' greenspace
N	Y	Y	Urban Tree Wells-urban streetscape only- 8' sidewalk , trees every 30 L.F. (177.05.B.3.a-f)
N	Y	Y	Structural Soil-if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan
NA	NA	NA	Timing of planting indicated on plans (subdivisions only) (177.05.A.4)
NA	NA	NA	Written description of the method for tracking plantings (177.05.A.4.e)
N	Y	Y	Plan contains 3-year Maintenance and Monitoring Agreement. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. (177.05.A.2.e)
Tech Plat	SC	PC	Stormwater Facilities (time of F.P. or permit) (177.06.A – C)
NA	NA	NA	1 deciduous or evergreen tree/ 3000 square feet
NA	NA	NA	4 large shrubs or small trees (3 gal) / 3000 square feet
NA	NA	NA	6 shrubs or grasses (1 gal) / 3000 square feet
NA	NA	NA	Ground cover unless seed or sod is specified
NA	NA	NA	50% of facility planted with grass or grass like plants

Landscape Requirements Table		
6	Mitigation Trees (Phase 2)	3-year bond required
12	Street Trees	3-year bond required
0	Parking Trees	
0	Detention Large Trees	
0	Detention Small Trees / Large Shrubs	
0	Detention Small Shrubs	

Conditions of Approval:

1. Address all items above marked with "N" and redlines.
2. Mitigation trees are currently placed 4' off building. Trees shall be a minimum of 10' from building.
3. Regarding mitigation tree planting space, shift underground detention west to create a bigger space for the root zones. Minimum 8' wide and 150sf per tree.
4. Propose a different Mitigation tree species.
5. No multi-leader Amur Maple. Branching structure interferes with pedestrian traffic.
6. Specify an organic mulch different than pine bark. It floats.
7. Landscape Architect of record shall inspect site and direct Contractor to make changes to meet Approved plans and details prior to Urban Forester Certificate of Occupancy inspection. No changes to the approved landscape plan may be made without Urban Forester approval.



TREE PRESERVATION AND PROTECTION – Chapter 167

To: Garver, Jeffrey Webb
 CC: Jesse Fulcher, Current Planner
 From: Megan Dale, Urban Forester/Landscape Administrator
 Date: 22 April 2013
 Subject: LSD 13-4352: Fayetteville Parking Deck Planning Commission Review Comments

Requirements Submitted:

N	Initial Review with the Urban Forester
N/A	Site Analysis Map Submitted
N/A	Site Analysis Written Report Submitted
Y	Complete Tree Preservation Plan Submitted
N/A	Tree Mitigation Form Submitted
N/A	Tree Preservation Wavier Submitted

Canopy Measurements:

Phase 1: WAC admin relocation, parking deck, liner buildings

Total Site Area (minus Master Street Plan ROW, existing easements, and Dedicated Parkland)	
acres	3.98
square feet	173,276
Existing Tree Canopy (minus existing easements)	
acres	0.58
square feet	25,137
percent of site area	14.5%
Tree Canopy Preserved	
acres	0.40
square feet	17,291
percent of total site area	10.0%
Tree Canopy Removed (including off-site canopy)	
square feet	7,846
percent of total site area	4.5%
Site Percent Min. Canopy Required – Zoning MSC	
	10%

Canopy Measurements:

Phase 1 and 2: WAC future expansion

Total Site Area (minus Master Street Plan ROW, existing easements, and Dedicated Parkland)	
acres	3.98
square feet	173,276
Existing Tree Canopy (minus existing easements)	
acres	0.58
square feet	25,137
percent of site area	14.5%
Tree Canopy Preserved	
acres	0.40
square feet	16,107
percent of total site area	9.3%
Tree Canopy Removed (including off-site canopy)	
square feet	9,030
percent of total site area	5.2%
Site Percent Min. Canopy Required – Zoning MSC	
	10%

Mitigation: Required -

Canopy Below Required	Preservation Priority/Type	Forestation Base Density (ft2)	Number of 2" caliper trees to be planted
1,184 ft2	High Priority	218	6
ft2	Mid Priority	290	
ft2	Low Priority	436	
Total Mitigation			6

Tree Escrow (at \$675 per tree) equivalent of \$4,050

Mitigation Type Requested:

On-Site Off-Site Tree Escrow Not Requested Yet

Mitigation Type Requested Approved: YES NO

TREE PROTECTION PLAN CHECKLISTS AND COMMENTS:

Plan Checklist:

NA = not applicable

Yes = submitted by applicant

No = required by City Code but not included on submitted plan

The Site Analysis Plan [167.04(H)(1)]

Tech Plat	SD	PC	Site Analysis Plan Components
Y	Y	Y	5 year aerial check on existing trees
Y	Y	Y	Property Boundary
Y	Y	Y	Natural Features 100ft beyond property line shown

Y	Y	Y	Existing Topography with slopes ≤ 15% highlighted
Y	Y	Y	Soils
Y	Y	Y	Significant Tree(s): 24", 18" and 8" DBH
Y	Y	Y	Table listing Sig. Trees with species, size, health, priority
Y	Y	Y	Grouping of Trees: all other trees that do not meet significant requirements
Y	Y	Y	Table listing Grouped Trees with average species, size, health, priority
Y	Y	Y	All existing utilities
N/A	N/A	N/A	All perennial and intermittent streams with approximate center line
N/A	N/A	N/A	Floodplains/Floodways
Y	Y	Y	Existing street, sidewalk or bike path ROW
N/A	N/A	N/A	Submitted Site Analysis Plan

The Analysis Plan Report [167.04(H)(4)]

Tech Plat	SD	PC	Analysis Plan Report Components
Y	Y	Y	Detail Design Approaches used to minimize damage to OR removal of existing canopy
Y	Y	Y	Justification for removal of individual or groupings of trees/canopy
Y	Y	Y	Details providing information on on-site mitigation OR off-site alternatives
N/A	N/A	N/A	Submitted Analysis Report

Tree Preservation Plan [167.04(H)(2)]

Tech Plat	SD	PC	Tree Preservation Plan Components
Y	Y	Y	Shows ALL Proposed Site Improvements
Y	Y	Y	Delineates trees/canopy to be preserved and removed
Y	Y	Y	Delineates existing and proposed grading
Y	Y	Y	Depict limits of soil disturbance
			Detail methods that will be used to protect trees during construction:
N	Y	Y	1. Tree Protection Fencing
N	Y	Y	2. Limits of Root Pruning
N	Y	Y	3. Traffic flow on work site
N	Y	Y	4. Location of material storage
N	Y	Y	5. Location of concrete wash out
N	Y	Y	6. Location of construction entrance/exit
Y	Y	Y	Location of ALL existing and new utility/drainage easements

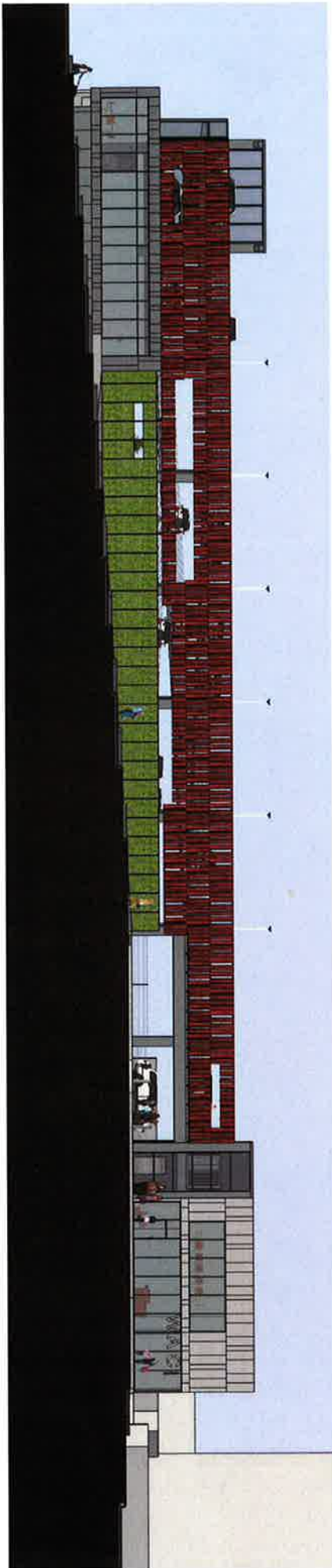
Parking Deck Timeline

**Note: This is a tentative schedule. Dates are subject to change.*

MAJOR MILESTONES:

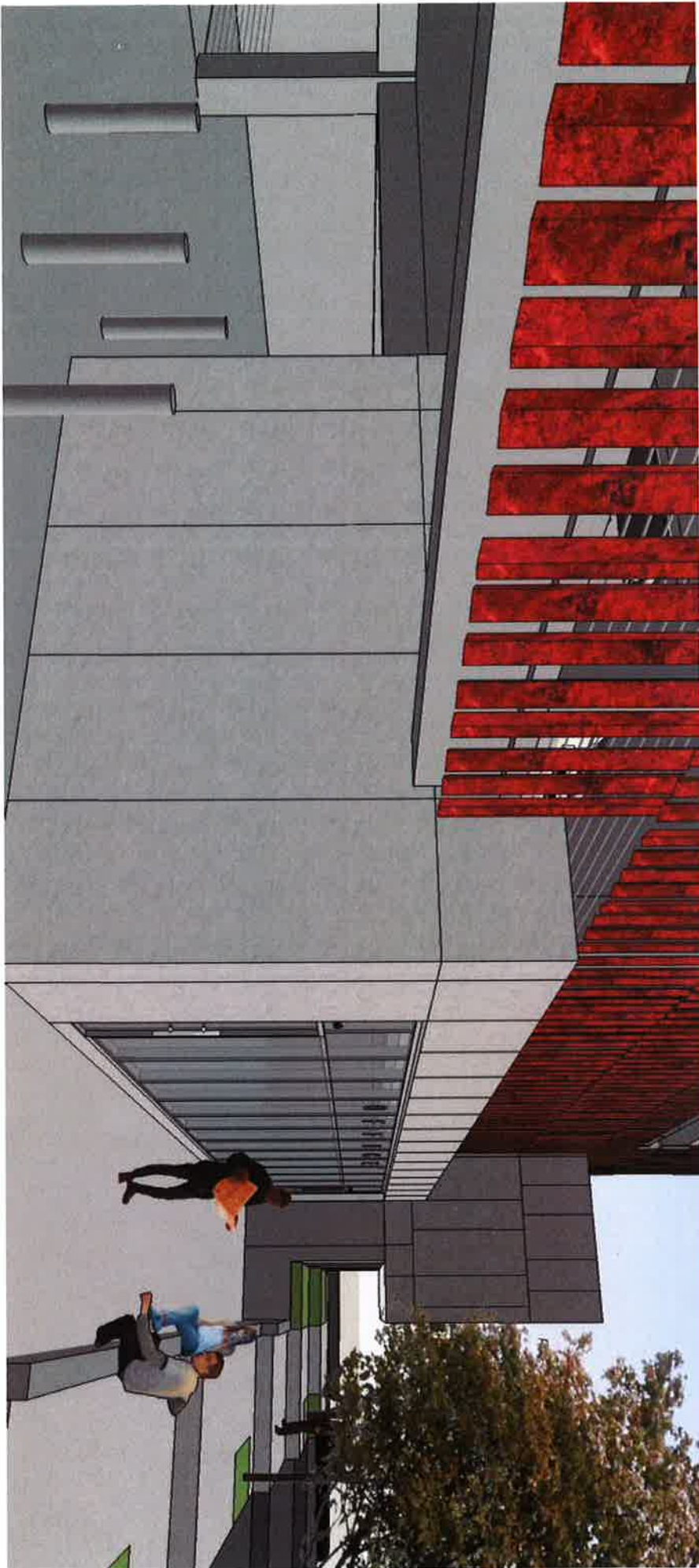
- November 15, 2011 - **Ordinance No. 5457** authorizing the issuance and sale of not to exceed \$6,500,500 of parking revenue improvement bonds for the purpose of financing all or a portion of the costs of acquisition, construction and equipping of a parking deck facility is approved by City Council.
- December 16, 2011 - **Request for Qualifications** (RFQ) for the design of a Entertainment District Parking Deck are due.
- February 21, 2012 - City Council approves **Resolution No. 42-12**, a contract with Garver, LLC for preliminary site evaluation, design, and construction administration of the Entertainment District Parking Deck.
- March 19, 2012 - Geotech work begins on four **potential deck locations**.
- April 4, 2012 - Public input sessions regarding the parking deck site selection were held at the Walton Arts Center. Click **here** to view the press release.
- April 19, 2012 - City Council Tour: Prospective Entertainment District Parking Deck Tour was held as an additional opportunity to gain public input regarding the location for the proposed parking deck. Click **here** to view the news item.
- July 26, 2012 - Walton Arts Center Board meeting referencing WAC expansion.
- September 25, 2012 - Walton Arts Center Board meeting adopting WAC resolutions.
- November 27, 2012 - A presentation was made by the Parking Deck Team (including both City staff and consultants) at the City Council Agenda Session to discuss their findings regarding the four potential deck locations. To view this presentation, click **here**.
- December 4, 2012 - City Council approves **Resolution 238-12** to select the site of the Entertainment District Parking Deck and to express the City Council's intent to replace administrative office and parking spaces lost through this project.
- December 18, 2012 - City Council approves **Resolution 252-12**, a contract amendment with Garver, LLC for the design of the Entertainment District Parking Deck.
- December 19, 2012 - Parking revenue improvement bonds are issued.
- March 12, 2013 - A public input session regarding the deck's design took place after the City Council's Agenda Session. To view the presentation, click **here**.

East Elevation along School Avenue

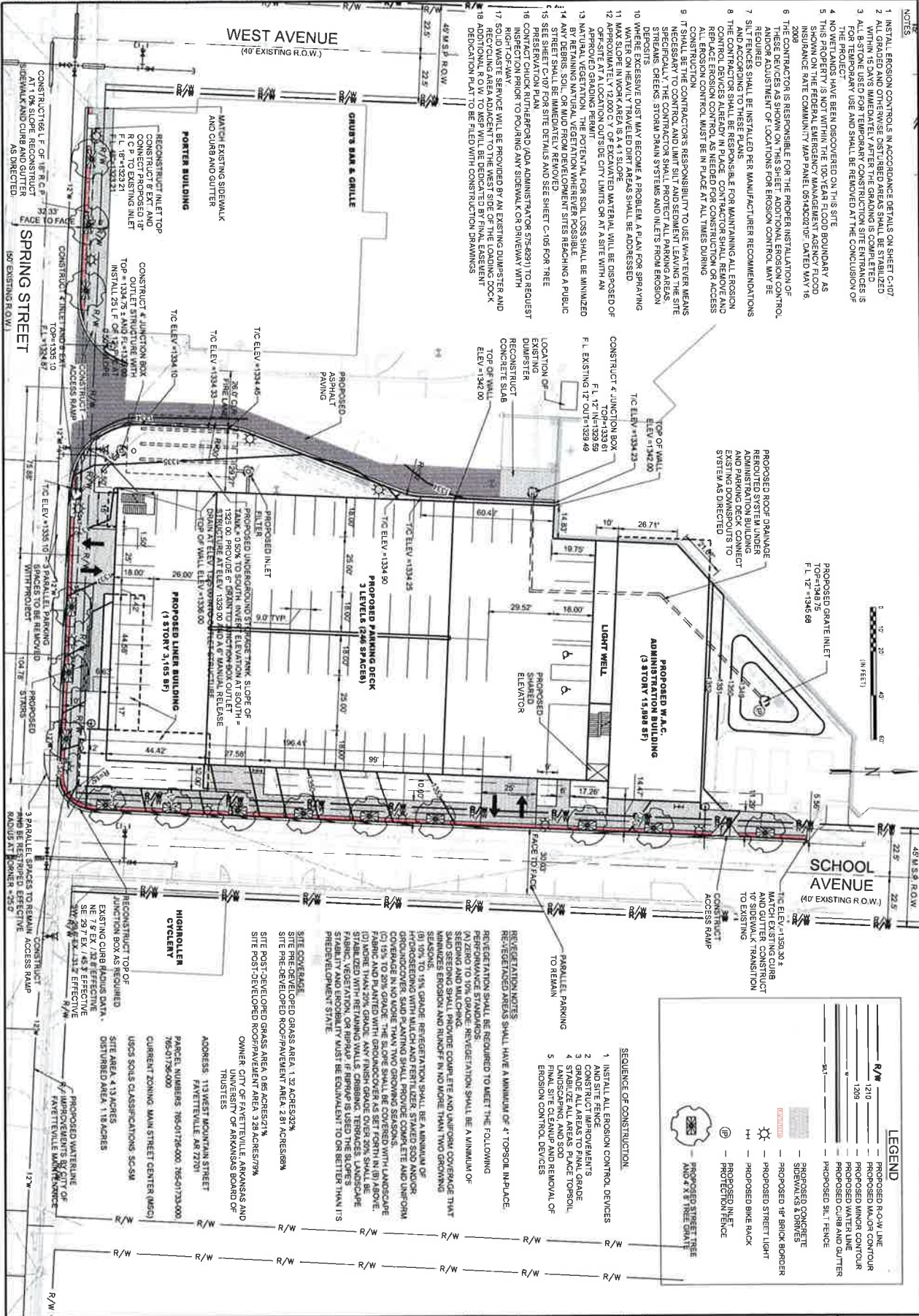




Southeast corner looking north/northwest



South facade seating area - looking east down Spring.



- NOTES**
1. INSTALL EROSION CONTROLS IN ACCORDANCE WITH SHEET C-107.
 2. ALL GRADING SHALL BE COMPLETED IMMEDIATELY AFTER THE GRADING IS COMPLETED.
 3. ALL B-STONE USED FOR TEMPORARY CONSTRUCTION SITE ENTRANCES IS FOR TEMPORARY USE AND SHALL BE REMOVED AT THE CONCLUSION OF THE PROJECT.
 4. NO PROPOSED CONSTRUCTION SHALL BE LOCATED ON THE 100-YEAR FLOOD BOUNDARY AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE COMMUNITY MAP PANEL 05460207F DATED MAY 16, 2008.
 5. THE CONTRACTOR IS RESPONSIBLE FOR THE PROPER INSTALLATION OF AND/OR ADJUSTMENT OF LOCATIONS FOR EROSION CONTROL. ANY BE REQUIRED.
 6. SILT FENCES SHALL BE INSTALLED PER MANUFACTURER'S RECOMMENDATIONS.
 7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL EROSION CONTROL DEVICES ALREADY IN PLACE. CONTRACTOR SHALL REMOVE AND REPLACE EROSION CONTROL AS NEEDED FOR CONSTRUCTION OR ACCESS AND ALL EROSION CONTROL MUST BE IN PLACE AT ALL TIMES DURING CONSTRUCTION.
 8. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO USE WHATEVER MEANS NECESSARY TO CONTROL AND LIMIT SILT AND SEDIMENT LEAVING THE SITE SPECIFICALLY, THE CONTRACTOR SHALL PROTECT ALL PARKING AREAS, STREAMS, CREEKS, STORM DRAIN SYSTEMS AND INLETS FROM EROSION WHERE EXCESSIVE DUST MAY BECOME A PROBLEM. A PLAN FOR SPRAYING WATER ON HEAVILY TRAVELED DIRTY AREAS SHALL BE ADDRESSED.
 9. MAXIMUM SLOPE IN WORK AREAS IS A 4:1 SLOPE.
 10. APPROXIMATELY 12,000 CY OF EXCAVATED MATERIAL WILL BE DISPOSED OF AT AN APPROVED LANDFILL. THE CONTRACTOR SHALL MAINTAIN A SITE WITH AN APPROVED GRADING PERMIT.
 11. NATURAL VEGETATION SHALL BE REMOVED WHERE NECESSARY TO ALLOW FOR CONSTRUCTION. THE POTENTIAL FOR SOIL LOSS SHALL BE MINIMIZED BY RETAINING NATURAL VEGETATION WHEREVER POSSIBLE.
 12. ANY REMOVED NATURAL VEGETATION SHALL BE REPLANTED WITH EQUIVARIANT SPECIES IMMEDIATELY AFTER CONSTRUCTION.
 13. SEE SHEET C-107 FOR SITE DETAILS AND SEE SHEET C-106 FOR TREE PRESERVATION PLAN.
 14. CONTRACTOR RUPHERROD (VIA ADMINISTRATOR 575-8291) TO REQUEST RIGHT OF WAY FOR POLYMER AND SIDEWALK ON DOWNTOWN 1 WITH RECYCLING AREA ADJACENT TO THE WEST SIDE OF THE LOADING DOCK AND RECYCLING AREA ADJACENT TO THE WEST SIDE OF THE LOADING DOCK. ADDITIONAL ROW TO MFR WILL BE DEDICATED BY FINAL EASEMENT DEDICATION PLAN TO BE FILED WITH CONSTRUCTION DRAWINGS.

PROPOSED ROOF DRAINAGE
 REROUTED SYSTEM UNDER
 ADMINISTRATION BUILDING
 AND PARKING DECK. CONNECT
 TO EXISTING 18" DIA. 15' TO
 SYSTEMS DIRECTED

PROPOSED GRATE INLET
 TOP=1348.75
 F.L. 12'-1345.98

PROPOSED M.A.C.
ADMINISTRATION BUILDING
 (3 STORY 15,989 SF)

CONSTRUCT 4" JUNCTION BOX
 TOP=1339.61
 F.L. 12'-1329.59
CONSTRUCT 12" OUTLET
 F.L. 12'-1329.49

PROPOSED PARKING DECK
 3 LEVELS (248 SPACES)

REGENERATION NOTES
 RE-VEGETATED AREAS SHALL HAVE A MINIMUM OF 4" TOPSOIL IN PLACE.
 RE-VEGETATION SHALL MEET THE FOLLOWING PERFORMANCE STANDARDS:
 (A) ZERO TO 10% GRADE. REVEGETATION SHALL BE A MINIMUM OF SEEDING AND MULCHING TO PROTECT EROSION AND UNIFORM GROWTH. MINIMIZE EROSION AND RUNOFF IN NO MORE THAN TWO GROWING SEASONS.
 (B) 10% TO 15% GRADE. REVEGETATION SHALL BE A MINIMUM OF SEEDING AND MULCHING TO PROTECT EROSION AND UNIFORM GROWTH. MINIMIZE EROSION AND RUNOFF IN NO MORE THAN TWO GROWING SEASONS.
 (C) 15% TO 20% GRADE. THE SLOPE SHALL BE COVERED WITH LANDSCAPE FABRIC AND PLANTED WITH GROUNDCOVER AS SET FORTH IN 80 ABOVE.
 (D) 20% TO 30% GRADE. THE SLOPE SHALL BE COVERED WITH LANDSCAPE FABRIC, VEGETATION, OR BRPAP. IF BRPAP IS USED THE SLOPE'S STABILITY AND UPROBABILITY MUST BE EQUIVALENT TO OR BETTER THAN ITS PREDEVELOPMENT STATE.

SEQUENCE OF CONSTRUCTION

1. INSTALL ALL EROSION CONTROL DEVICES
2. AND SITE FENCE
3. GRADE ALL AREAS TO FINAL GRADE
4. STABILIZE ALL AREAS PLACE TOPSOIL
5. LANDSCAPING AND SOO
6. FINAL SITE CLEANUP AND REMOVAL OF EROSION CONTROL DEVICES

LEGEND

- R/W PROPOSED ROW LINE
- 1210 PROPOSED MAJOR CONTROL
- 1220 PROPOSED MINOR CONTROL
- 1230 PROPOSED WATER LINE
- 1240 PROPOSED CURB AND GUTTER
- 1250 PROPOSED SILT FENCE
- PROPOSED CONCRETE SIDEWALKS & DRIVES
- PROPOSED 18" BRICK BORDER
- PROPOSED STREET LIGHT
- PROPOSED BIKE RACK
- PROPOSED INLET PROTECTION FENCE
- PROPOSED STREET TREE AND 4" X 8" TREE GRATE

CITY OF FAYETTEVILLE
 FAYETTEVILLE AR
ENTERTAINMENT DISTRICT PARKING DECK

GRAZING, DRAINAGE, AND EROSION CONTROL

PROJECT INFORMATION

JOB NO. 11047150
 DATE MARCH 2013
 DESIGNED BY DJC
 DRAWN BY TMM

DRAWING NUMBER
C-104

SHEET NUMBER
05

PRELIMINARY DRAWINGS
 FOR REVIEW ONLY - NOT
 FOR CONSTRUCTION

City of Fayetteville
 Planning Commission
 April 22, 2013
 Agenda Item 6



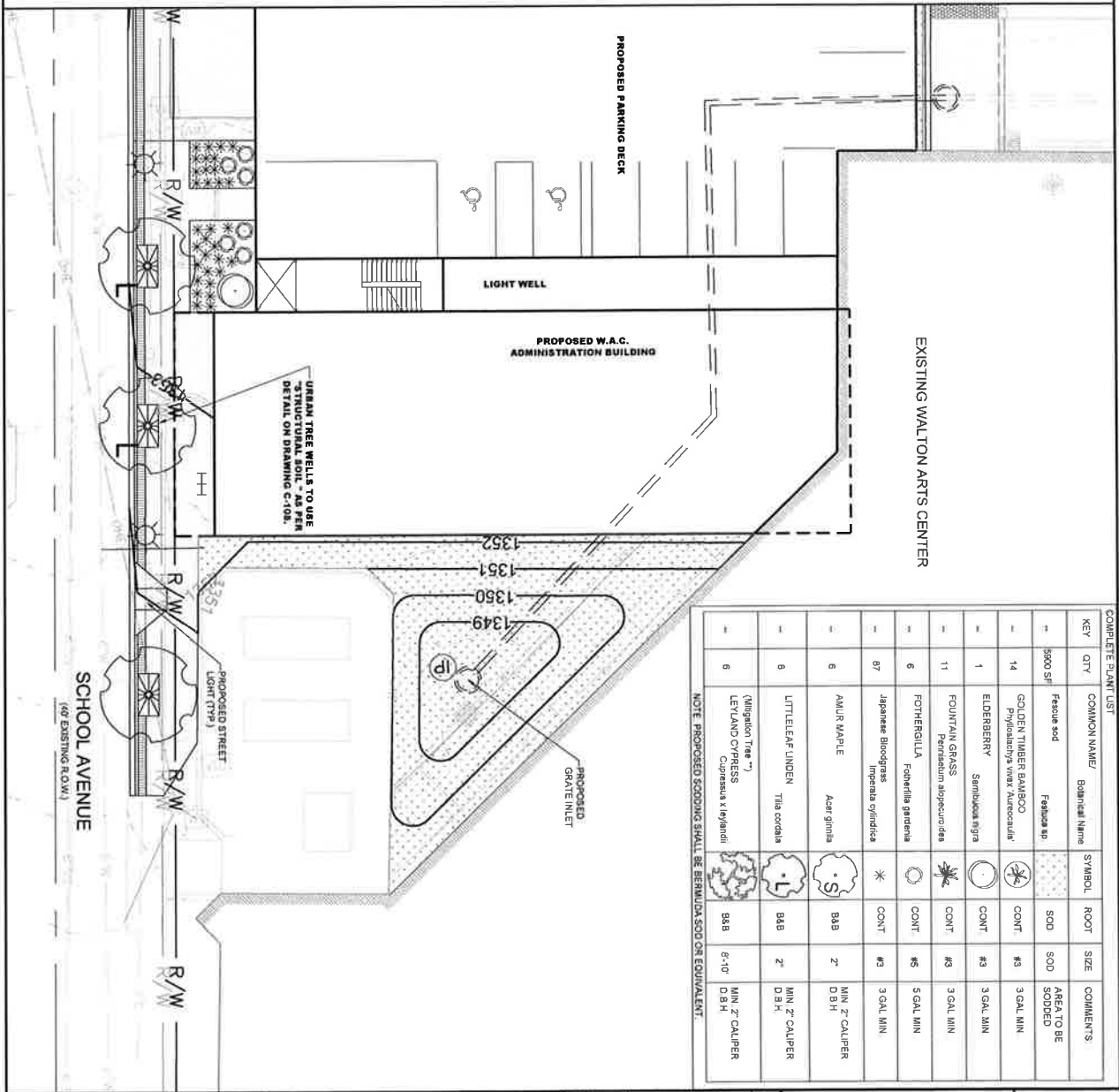
- LANDSCAPE GENERAL NOTES:**
1. ALL SOIL USED FOR PROPOSED PLANTINGS SHALL BE AMENDED PRIOR TO PLANTING.
 2. PINE BARK MULCH SHALL RECEIVE A 3" LAYER OF SHREDED MULCH OVER A 10" LAYER OF WEED BARRIER.
 3. ALL DISTURBED AREAS NOT RECEIVING PLANTINGS (INCLUDING RIGHT-OF-WAY) SHALL BE SOODED.
 4. PROPOSED PLANTINGS FOR ALL LANDSCAPE WORK SHALL BE INSTALLED PRIOR TO ANY PLANTING LOCATIONS OF ANY LAYOUT DISCREPANCIES PRIOR TO ANY PLANTING LOCATIONS.
 5. ALL UTILITIES AND SITE LIGHTING CONDUITS BEFORE LANDSCAPE CONSTRUCTION BEING DISTURBED BY CONSTRUCTION, EXCEPT THOSE OCCUPIED BY BUILDINGS, STRUCTURES, OR PAVING SHALL BE GRADED SMOOTH AND FOUR INCHES (4") OF TOPSOIL APPLIED IF ADEQUATE TOPSOIL IS NOT AVAILABLE ON SITE. THE CONTRACTOR SHALL PROVIDE COARSE SAND TO BE SEEDED OR SOODED, FERTILIZED, MULCHED, WATERED AND MAINTAINED UNTIL HARDY GRASS GROWTH IS ESTABLISHED IN ALL AREAS. ANY AREAS DISTURBED FOR ANY REASON PRIOR TO FINAL ACCEPTANCE OF THE PROJECT SHALL BE REPAIRED TO ORIGINAL CONDITION AT THE CONTRACTOR'S COST TO THE OWNER.
 6. SEE GRADING PLAN FOR APPLICATION OF TOPSOIL AND MAINTENANCE OF SEEDED AREAS.
 7. ALL TREES AND SHRUBS SHALL BE INSTALLED PER PLANTING PERMITS AND PLANTS AT THE TIME OF PLANTING WITH 10-0-10 TIME RELEASE FERTILIZER.
 8. ALL STREET TREES AND LANDSCAPED AREAS SURROUNDING THE PARKING DECK SHOWN ON THESE PLANS SHALL RECEIVE DRAINAGE WATER FROM THE ROADSIDE DRAINAGE SYSTEM. THE WATER FOR THIS PAVEMENT SHALL BE THE UNDERGROUND TANK LOCATED ON THE SOUTHWEST SIDE OF THE PARKING DECK DURING THE YEAR WHEN IT IS NOTABLY DRY. THE WATER SOURCE FOR IRRIGATION SHALL BE THE CITY OF FAYETTEVILLE.
 9. ORGANIC MULCH SHALL BE CEDAR OR APPROVED EQUAL (PINE AND CYPRESS MULCH WILL NOT BE ACCEPTED).
 10. MULCH AROUND ALL PLANTINGS, AND IN ALL BEDS SHALL BE A MINIMUM OF 3" THICK IN ALL AREAS.
 11. ALL PLANTINGS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF FAYETTEVILLE LANDSCAPE MANUAL. DETAILS FOR PLANTING ARE LOCATED ON DRAWING C-108.
 12. ALL PLANTED STREET TREES SHALL BE 2" MINIMUM CALIPER WITH A SINGLE DOMINANT CENTRAL LEADER. MULTILEADERED TREES SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF FAYETTEVILLE LANDSCAPE MANUAL. DETAILS FOR PLANTING ARE LOCATED ON DRAWING C-108.
 13. ALL PLANTINGS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF FAYETTEVILLE LANDSCAPE MANUAL. DETAILS FOR PLANTING ARE LOCATED ON DRAWING C-108.
 14. ALL PLANTED STREET TREES SHALL BE 2" MINIMUM CALIPER WITH A SINGLE DOMINANT CENTRAL LEADER. MULTILEADERED TREES SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF FAYETTEVILLE LANDSCAPE MANUAL. DETAILS FOR PLANTING ARE LOCATED ON DRAWING C-108.
 15. OWNER SHALL MAINTAIN REQUIRED PLANTING FOR A MINIMUM OF 9 YEARS AND PROVIDE SURETY WITH THE CITY OF FAYETTEVILLE.

LANDSCAPE REQUIREMENTS TABLE

6	Mitigation Trees ** see note below.	3-year bond required
15	Street Trees	3-year bond required
0	Parking Trees	
0	Retention Large Trees	
0	Retention Small Trees/Large Shrubs	
0	Retention Small Shrubs	

** 6 Mitigation Trees (Leyland Cypress) provided for Future W.A.C. Expansion. See Tree Preservation Plan for more information.

MATCHLINE SEE SHEET C-106

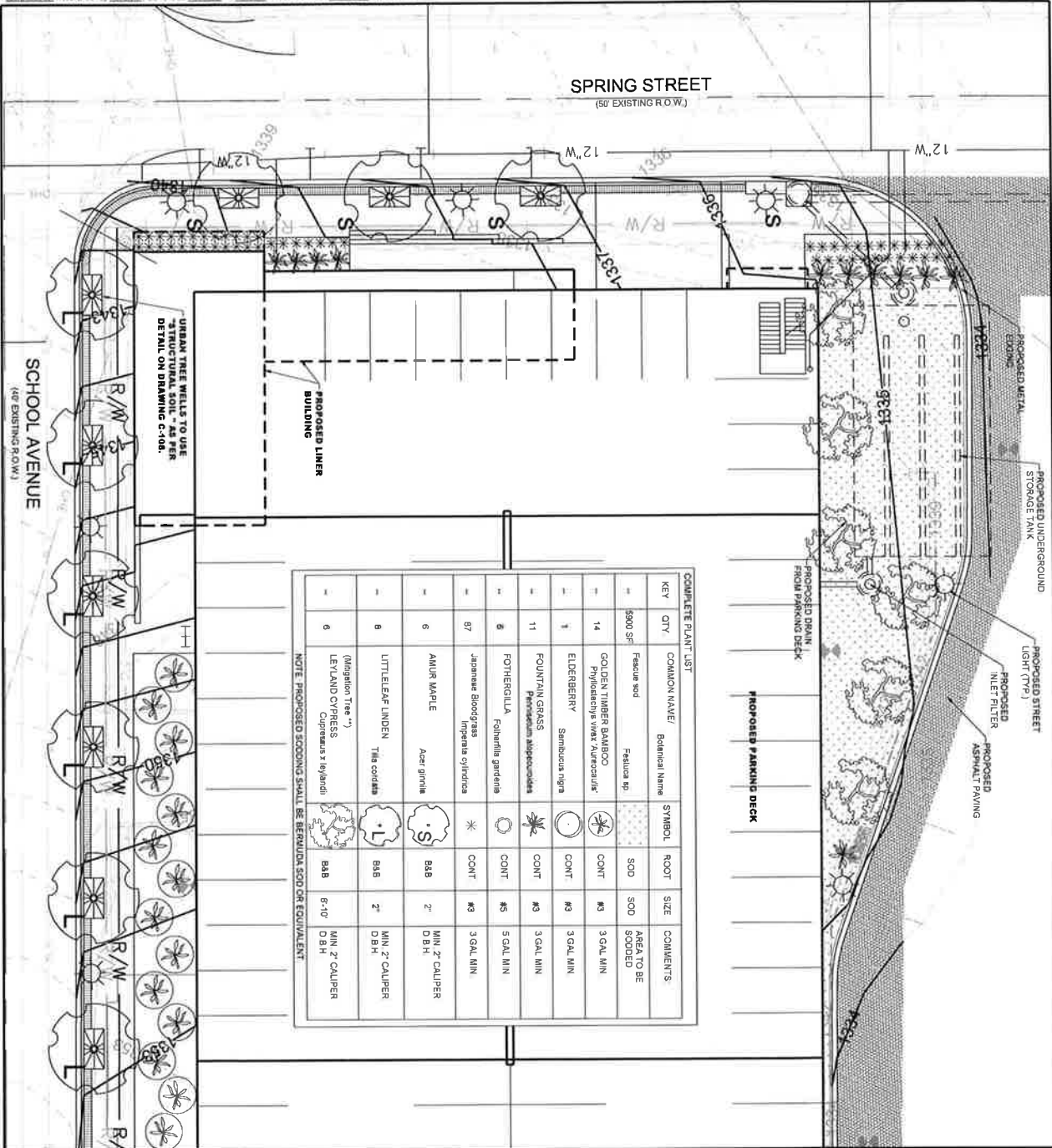


COMPLETE PLANT LIST

KEY	QTY	COMMON NAME	Botanical Name	SYMBOL	ROOT	SIZE	COMMENTS
-	3500 SF	Fescue sod	Festuca sp.	[Symbol]	SOD	SOD	AREA TO BE SOODED
-	14	GOLDEN TIMBER BAMBOO	Phyllostachys nana 'Nuremculm'	[Symbol]	CONT	#3	3 GAL. MIN
-	1	ELDERBERRY	Sambucus nigra	[Symbol]	CONT	#3	3 GAL. MIN
-	11	FOUNTAIN GRASS	Pennisetum alopecuroides	[Symbol]	CONT	#3	3 GAL. MIN
-	6	FOTHERGILLA	Fothergilla gardenii	[Symbol]	CONT	#5	5 GAL. MIN
-	87	Japanese Bloodgrass	Imperata cylindrica	[Symbol]	CONT	#3	3 GAL. MIN
-	6	AMUR MARLE	Acer ginnia	[Symbol]	B&B	Z'	MIN. Z' CALIPER D.B.H.
-	6	LITTLELEAF LINDEN	Tilia cordata	[Symbol]	B&B	Z'	MIN. Z' CALIPER D.B.H.
-	6	(Mitigation Tree **) LEYLAND CYPRESS	Cupressus x leylandii	[Symbol]	B&B	6'-10"	MIN. Z' CALIPER D.B.H.

NOTE: PROPOSED SOODING SHALL BE BENJAMIN SOD OR EQUIVALENT.

JOB NO.: 11041780 DATE: MARCH 2013 DESIGNED BY: DJC DRAWN BY: TWK	CITY OF FAYETTEVILLE FAYETTEVILLE, AR ENTERTAINMENT DISTRICT PARKING DECK	LANDSCAPING PLAN NORTH	PRELIMINARY DRAWINGS FOR REVIEW ONLY - NOT FOR CONSTRUCTION	



KEY	QTY	COMMON NAME/ Botanical Name	SYMBOL	ROOT	SIZE	COMMENTS
-	3500 SF	Fescue sod		SCD	SCD	AREA TO BE SOODED
-	14	GOLDEN TIMBER BAMBOO <i>Phyllostachys nana, Aureocaulis</i>		CONT	#3	3 GAL. MIN
-	1	ELDERBERRY <i>Sambucus nigra</i>		CONT	#3	3 GAL. MIN
-	11	FOUNTAIN GRASS <i>Pennisetum alopecuroides</i>		CONT	#3	3 GAL. MIN
-	6	FOHBERGILLA <i>Fothergilla gardenii</i>		CONT	#5	5 GAL. MIN
-	87	Japanese Dogwood <i>Impatiens cylindrica</i>		CONT	#3	3 GAL. MIN
-	6	AMUR MAPLE <i>Acer ginnia</i>		BBB	2'	MIN. 2" CALIPER DBH
-	8	LITTLELEAF LINDEN <i>Tilia cordata</i>		BBB	2'	MIN. 2" CALIPER DBH
-	6	(Mitigation Tree -) LEYLAND CYPRESS <i>Cupressus n. leylandii</i>		BBB	8'-10'	MIN. 2" CALIPER DBH

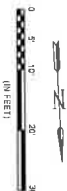
NOTE: PROPOSED SOODING SHALL BE BERTRUDA SOD OR EQUIVALENT

MATCHLINE SEE SHEET C-107

Item	Requirement	Notes
6	Mitigation Trees	3-year bond required
15	Street Trees	3-year bond required
0	Parking Trees	
0	Detention Large Trees	
0	Detention Small Trees/Large Shrubs	
0	Detention Small Shrubs	

** 6 Mitigation Trees (Leyland Cypress) provided for Future W.A.C. Expansion. See Tree Preservation Plan for more information.

- LANDSCAPE GENERAL NOTES:
- ALL SOODING FOR PROPOSED PLANTINGS SHALL BE AMENDED PRIOR TO PLANTING.
 - ALL PLANTED AREAS SHALL RECEIVE A 3" LAYER OF SHREDED FINE BARK MULCH OVER A 10" LAYER OF EQUAL TO 10" OF FERTILIZER. ALL DISTURBED AREAS NOT RECEIVING PLANTINGS INCLUDING RIGHT-OF-WAYS SHALL BE SOODED.
 - REFER TO SITEWORK SPECIFICATIONS FOR ALL LANDSCAPE WORK.
 - NOTIFY LANDSCAPE ARCHITECT OR DESIGNATED REPRESENTATIVE OF ALL UTILITIES AND SITE LIGHTING CONDUITS BEFORE LANDSCAPE CONSTRUCTION BEGINS.
 - ALL SLOPES AND AREAS DISTURBED BY CONSTRUCTION, EXCEPT THOSE OCCUPIED BY BUILDINGS, STRUCTURES, OR PAVEMENT, SHALL BE RESEED OR REVEGETATED WITH SEED OR PLANTS. IF ADEQUATE TOPSOIL IS NOT AVAILABLE ON SITE, THE CONTRACTOR SHALL PROVIDE TOPSOIL, APPROVED BY THE OWNER, AS NEEDED. THE AREA SHALL THEN BE RESEED OR SOODED, FERTILIZED, MULCHED AND WATERED UNTIL SUFFICIENT GRASS OR PLANTS ARE ESTABLISHED IN ALL AREAS. ANY AREAS DISTURBED FOR ANY REASON PRIOR TO FINAL ACCEPTANCE OF THE PROJECT SHALL BE CORRECTED BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE OWNER.
 - SEE GRADING PLAN FOR ELEVATION OF TOPSOIL AND MINIMUM COVER OVER AREAS.
 - ALL TREES AND SHRUBS SHALL BE INSTALLED PER PLANTING DETAILS. (SEE SITE DETAIL SHEET C-108)
 - FERTILIZE ALL PLANTS AT THE TIME OF PLANTING WITH 10-10-10 FERTILIZER.
 - ALL PLANTS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF FAYETTEVILLE LANDSCAPE MANUAL. DETAILS FOR PLANTING ARE FAYETTEVILLE LANDSCAPE MANUAL. DETAILS FOR PLANTING ARE FAYETTEVILLE LANDSCAPE MANUAL.
 - ALL PLANTED STREET TREES SHALL BE 2" MINIMUM CALIPER WITH A SINGLE DOMINATE CENTRAL LEADER. MULTI-LEADERED TREES WILL NOT BE ACCEPTED.
 - OWNER SHALL MAINTAIN REQUIRED PLANTING FOR A MINIMUM OF 3 YEARS, AND PROVIDE SURETY WITH THE CITY OF FAYETTEVILLE.
 - ORGANIC MULCH SHALL BE CEDAR OR APPROVED EQUAL (FINE ORGANOIC MULCH SHALL BE 3" THICK IN ALL AREAS).
 - MINIMUM OF 3" THICK IN ALL AREAS.
 - ALL PLANTINGS SHALL BE IN ACCORDANCE WITH THE CITY OF FAYETTEVILLE LANDSCAPE MANUAL. DETAILS FOR PLANTING ARE FAYETTEVILLE LANDSCAPE MANUAL.
 - ALL PLANTED STREET TREES SHALL BE 2" MINIMUM CALIPER WITH A SINGLE DOMINATE CENTRAL LEADER. MULTI-LEADERED TREES WILL NOT BE ACCEPTED.
 - OWNER SHALL MAINTAIN REQUIRED PLANTING FOR A MINIMUM OF 3 YEARS, AND PROVIDE SURETY WITH THE CITY OF FAYETTEVILLE.



LANDSCAPING PLAN
SOUTH

CITY OF FAYETTEVILLE
FAYETTEVILLE, AR

ENTERTAINMENT DISTRICT PARKING DECK

JOB NO. 1104102
DATE: MARCH 2013
DESIGNED BY: DMC
DRAWN BY: TMM

11/14/2013
L&L Engineering, Inc.
2010 2013, All Rights Reserved.
525-221-2222

DRAWING NUMBER
C-106

SHEET NUMBER
07

PRELIMINARY DRAWINGS
-FOR REVIEW ONLY- NOT
FOR CONSTRUCTION

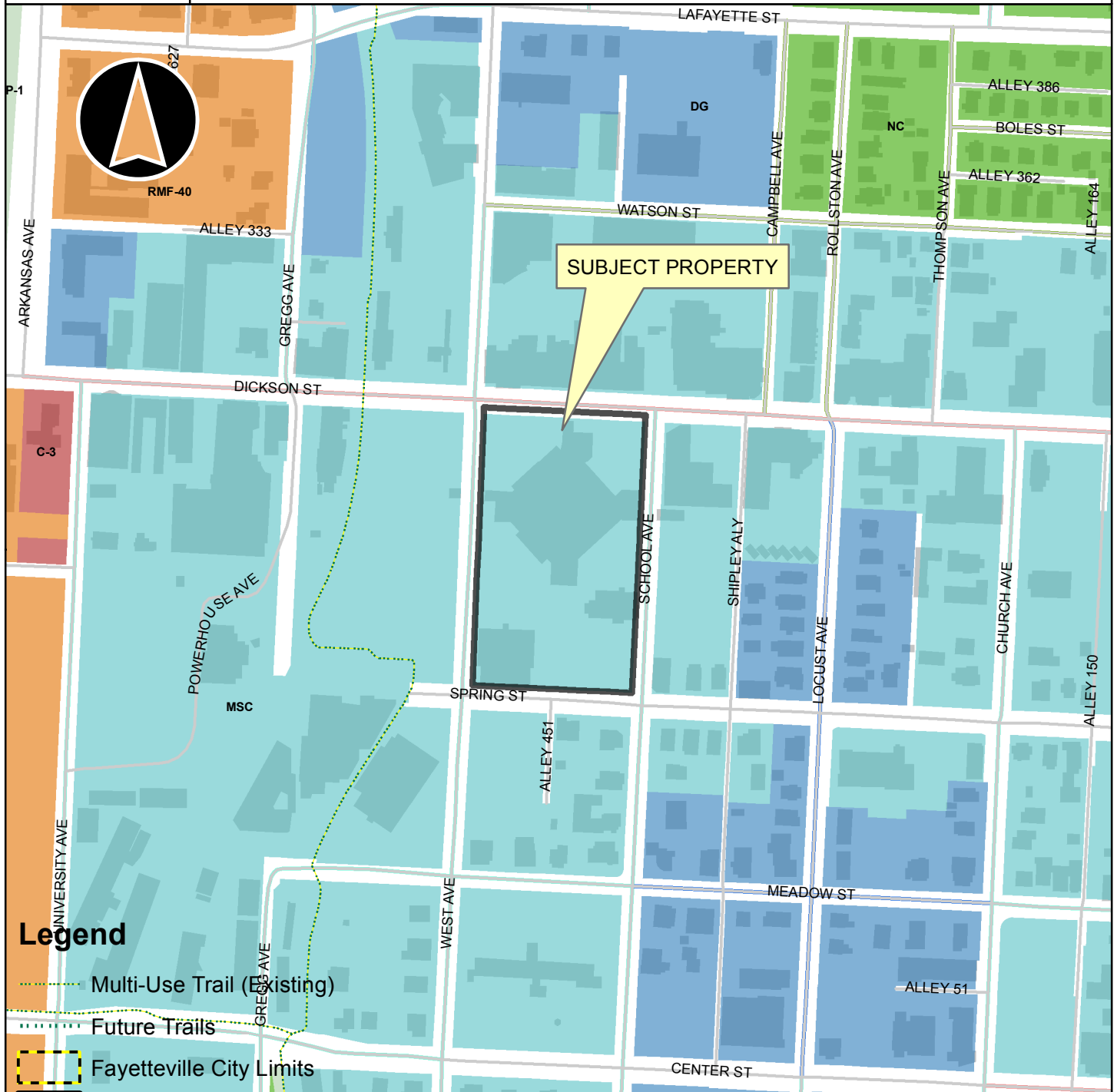
City of Fayetteville logo

11/14/2013
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525-221-2222

LSD13-4352

FAYETTEVILLE PARKING DECK

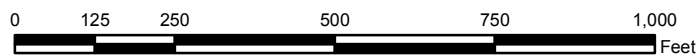
Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits
- Overview** LSD13-4352

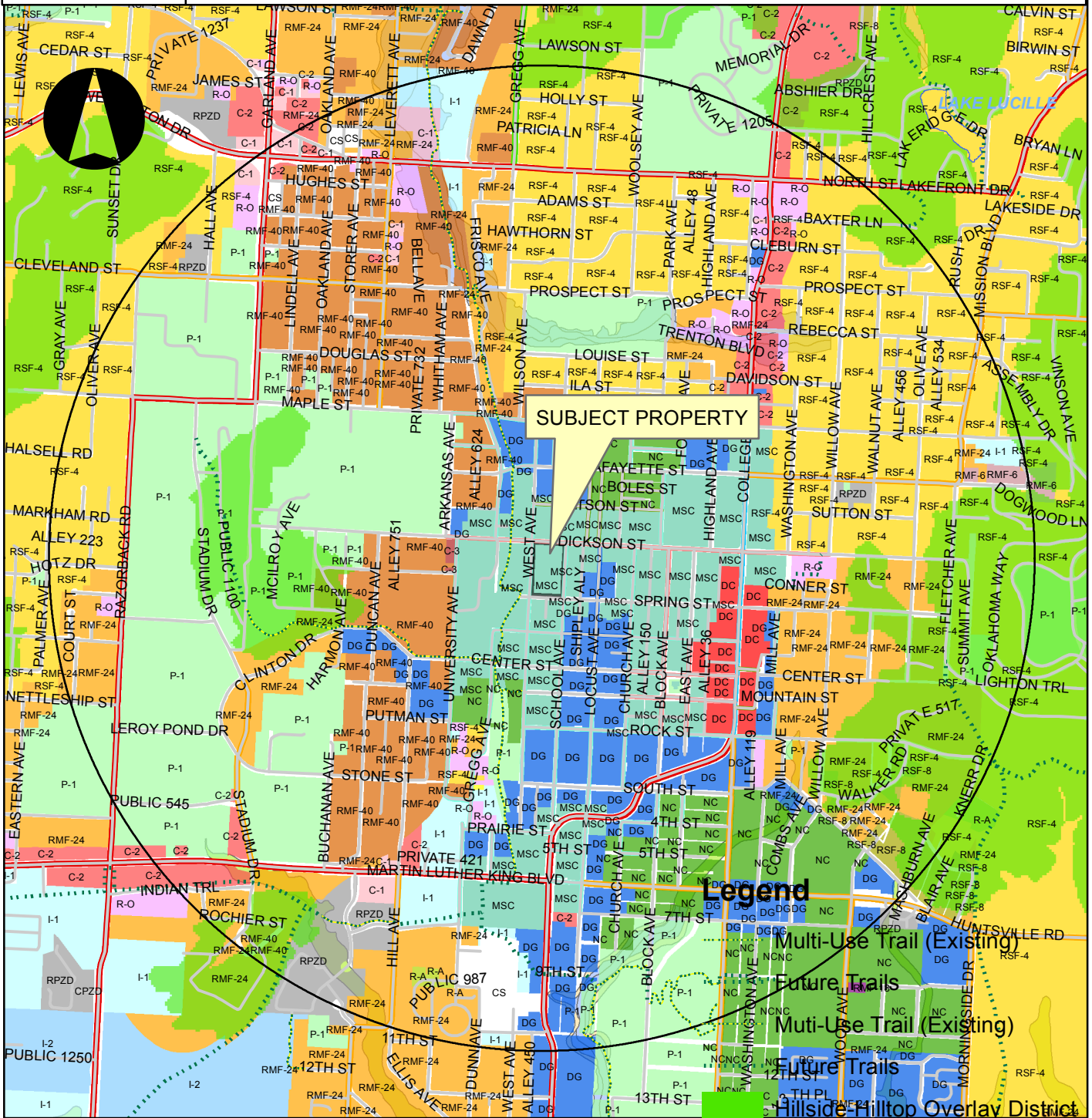
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



LSD13-4352

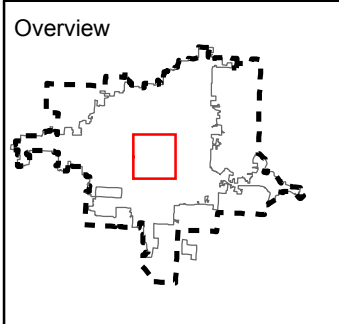
FAYETTEVILLE PARKING DECK

One Mile View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails
- Hillside-Hilltop Overlay District



Legend

- Subject Property
- LSD13-4352
- Boundary
- LSD13-4352
- Design Overlay District
- Planning Area
- Fayetteville

0 0.25 0.5 1 Miles



PC Meeting of April 22, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Subdivision Committee
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: April 15, 2013

RZN 13-4348: Rezone (1035 N. GREGG AVE./SMITH, 444): Submitted by JORGENSEN AND ASSOCIATES for property located at 1035 NORTH GREGG AVENUE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.44 acres. The request is to rezone the property to NC, NEIGHBORHOOD CONSERVATION. Planner: Jesse Fulcher

BACKGROUND:

Property and Background: The subject property is located at the southwest corner of N. Gregg Avenue and W. North Street and is zoned RMF-24. Gregg Avenue is a two-lane, local street in this location and continues south two blocks to Wilson Park. This area north and west of Wilson Park is comprised of single-family homes, duplexes and small-scale apartment buildings. Surrounding land use and zoning is depicted on *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Multi-family residential	RMF-40, Residential Multi-Family 40 Units Per Acre
South	Single family residential	RMF-24, Residential Multi-Family 24 Units Per Acre
East	Single family residential	RSF-4, Residential Single Family 4 Units Per Acre
West	Two-family and Multi-family residential	RMF-24, Residential Multi-Family 24 Units Per Acre

Request: The applicant requests to rezone the property from RMF-24, Residential Multi-family 24 Units/Acre to NC, Neighborhood Conservation. The purpose of the rezoning is to allow a higher density development of single-family homes than what is currently allowed. The RMF-24 zoning district requires 60 feet of street frontage and 6,000 square feet per single-family home. The NC zoning district only requires 40 feet of street frontage and 4,000 square feet.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding the rezoning request (RZN 13-4348 1035 N. GREGG AVE./SMITH) to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>April 22, 2013</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Forwarded	<input type="checkbox"/> Denied
Motion:	Second:	Vote:	
CITY COUNCIL ACTION: Required <u>YES</u>			
	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	
Date:			

INFRASTRUCTURE:

Streets: The site fronts North Street, an improved four-lane Principal Arterial and Gregg Avenue, an improved two-lane local street. Street improvements within the property will be evaluated at the time of development.

Water: Public water is available to the property. There is a 12” and 2” along North Street and an 8” water main along Gregg Avenue. Public water main improvements may be necessary to provide fire flow for domestic service for any proposed development.

Sewer: Sanitary sewer is not directly available to the site. There is an 8” main to the south of this property and a 6” line south on Gregg Avenue. The developer will be responsible for extending public mains to serve any future development.

Drainage: Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain or the Streamside Protection Zones.

Fire: The Fire Department did not express any concerns with this request.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **City Neighborhood Area**. This designation provides a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single-family to multi-family.*

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: The subject property is located at the north end of the Wilson Park Neighborhood along a local street that leads residents to the park area. This block is comprised of a variety of residential uses and densities, including single-family, two-family and small-scale multi-family. The Future Land Use map designates the property as City Neighborhood Area, which encourages density in all housing types. This designation typifies this area south of North Street. The intent of the rezoning application is to develop single-family homes, a use by right in the RMF-24 zoning district, but at a higher density than currently allowed. The proposed NC zoning would be both compatible with the surrounding mix of residential dwelling types and consistent with the land use plan of the City.

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

Finding: The zoning request is justified and needed at this time. The owner desires to construct single-family homes on the property, a use by right in the RMF-24 zoning district, and a use that is compatible in this area. However, the current zoning will only permit two single-family homes to be constructed. Rezoning the property to Neighborhood Conservation will allow at least one more single-family unit to be constructed, increasing the density from 4.5 units/acre to 6.8 units/acre.

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

Finding: In staff's opinion, the proposed rezoning will not create or appreciably increase traffic danger. The access management ordinance requires any new development on this property to access Gregg Avenue and utilize the signalized intersection to access North Street. The down-zone from RMF-24 to NC would allow the owner to develop three single-family homes that will have very little impact on the surrounding street system.

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: Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.

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: Not applicable. Staff recommends in favor of the requested zoning.

161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12	Limited business
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses: Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.

Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments: No bedroom	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two bedroom	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.	8 ft.	25 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Building height regulations.*

Building Height Maximum	60ft.
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Height regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line of an adjacent single family district, an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(H) *Minimum buildable street frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5079, 11-20-07; Ord. 5224, 3-3-09; Ord. 5262, 8-4-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11; Ord. 5495, 4-17-12)

TITLE XV UNIFIED DEVELOPMENT CODE

161.26 Neighborhood Conservation

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

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 41	Accessory dwellings

(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 10	Three-family dwellings
Unit 12	Limited Business *
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cottage Housing Development

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

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single Family	40 ft.
Two Family	80 ft.
Three Family	90 ft.

(2) *Lot area minimum.* 4,000 Sq. Ft.

(E) *Setback regulations.*

Front	The principal façade of a building shall be built within a build-to zone that is located between the front property line and a line 25 ft. from the front property line.
Side	5 ft.
Rear	5 ft.

Rear, from center line of an alley	12 ft.
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(F) *Minimum buildable street frontage.* 40% of lot width.

(G) *Height regulations.* Maximum height is 3 stories or 45 feet which ever is less.

(Ord. 5128, 4-15-08; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
JUSTIN L. JORGENSEN, P.E.
BLAKE E. JORGENSEN, P.E.

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: Rezoning Request

Please accept this request to rezone the following parcel located off of North Street & Gregg:
765-08500-000.

- A. The current owner of this site is: 765-08500-000 Penzo Group LLC.
- B. Currently this property is zoned RMF-24. The reason for the requested NC (Neighborhood Conservation) zoning is to give the applicant the ability to create two new lots allowing the right to build three detached single family units therefore maximizing the use of his property and creating a much similar density to the surrounding area.
- C. This proposed rezoning will mesh well with surrounding uses; currently to the north it is zoned RMF-40, to the west and south it is zoned RMF-24 and to the east, across Gregg, it is zoned RSF-4
- D. Currently there is an existing manhole in the southwest corner of the property and an existing 12' water line on the north side along North Street
- E. Rezoning this property to Neighborhood Conservation is actually a down zoning in this area but still fits within the City's Future Land Use Map allowing for an infill project.
- F. We feel this is a needed zoning at this time to allow for better use of the property.
- G. This rezoning will not increase or have a negative impact to surrounding area due to traffic.
- H. This requested zoning will not undesirably increase the load on public services.
- I. The current zoning of RMF-40 only allows for one residential unit on the property due to the zoning limitations. Under the requested NC zoning the applicant can split the lot and build three houses by right therefore utilizing the property much more efficiently

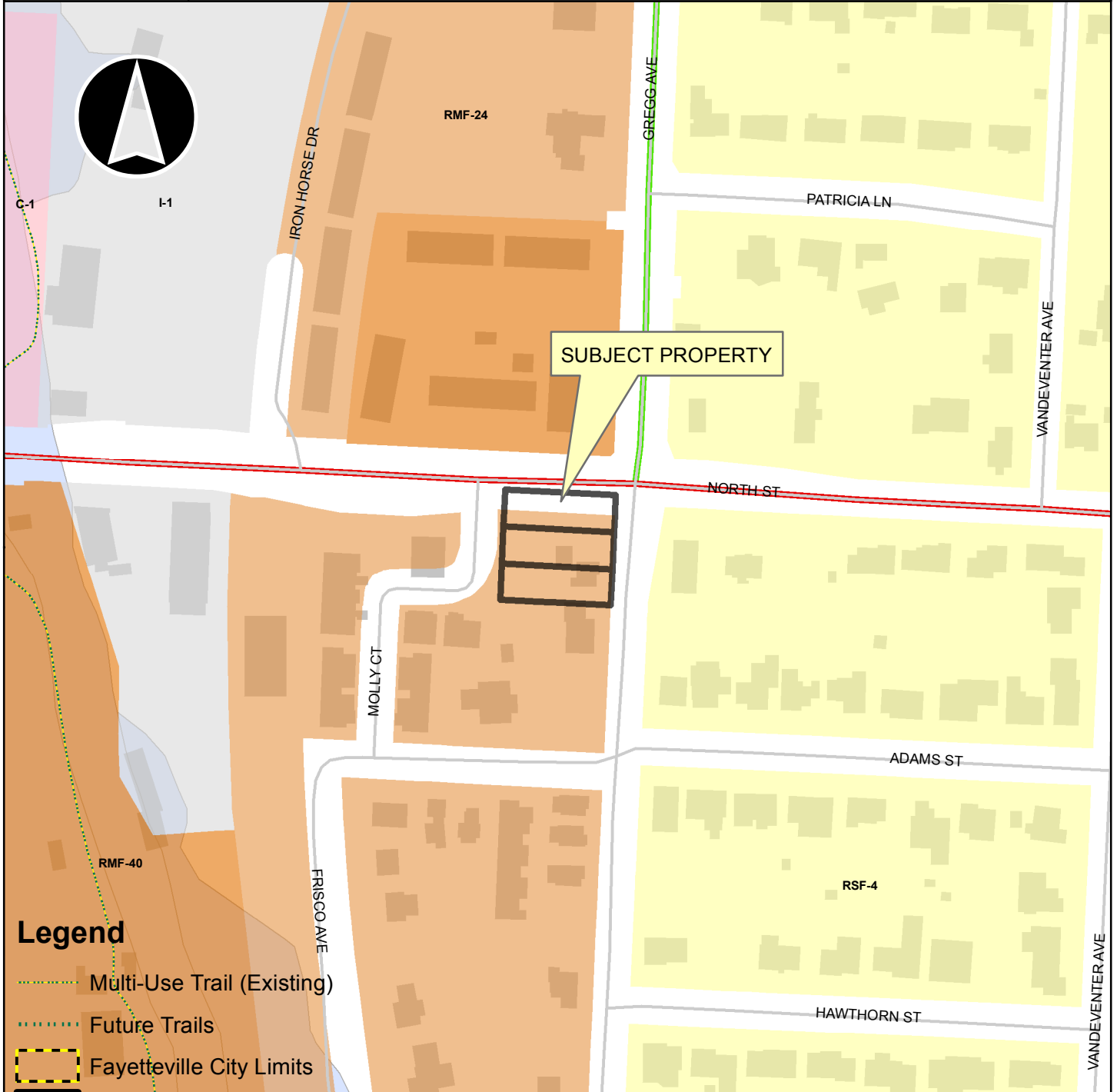
Sincerely;

Jorgensen & Associates

RZN13-4348

SMITH

Close Up View

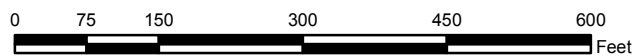


Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview RZN13-4348

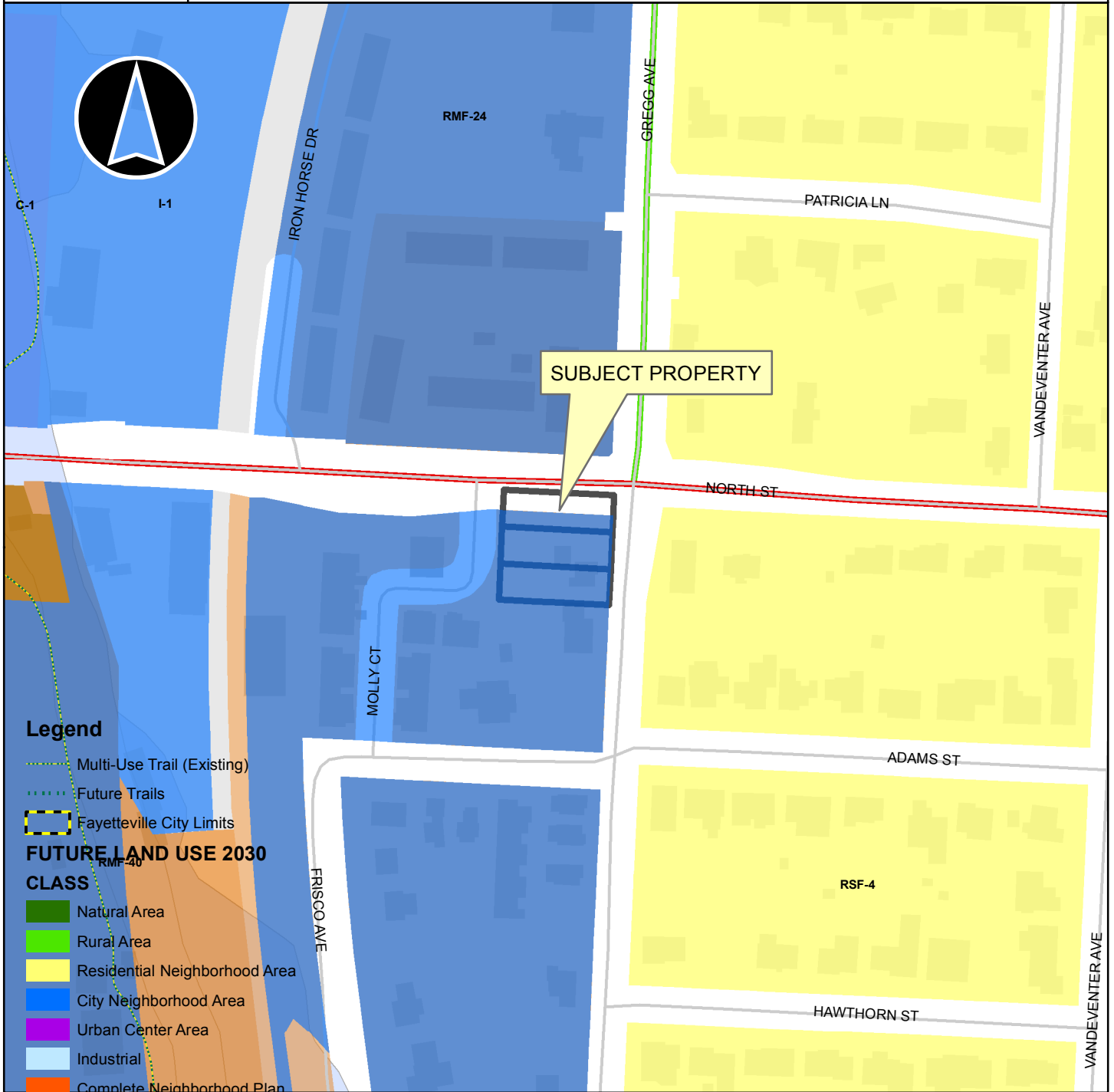
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



RZN13-4348

SMITH

Future Land Use



Legend

Multi-Use Trail (Existing)

Future Trails

Fayetteville City Limits

FUTURE LAND USE 2030

CLASS

Natural Area

Rural Area

Residential Neighborhood Area

City Neighborhood Area

Urban Center Area

Industrial

Complete Neighborhood Plan

Civic and Private Open Space/Parks

Civic Institutional

Non-Municipal Government

ROW

RZN13-4348

Design Overlay District

Design Overlay District

Planning Area



Planning Commission

April 22, 2013

Agenda Item 7

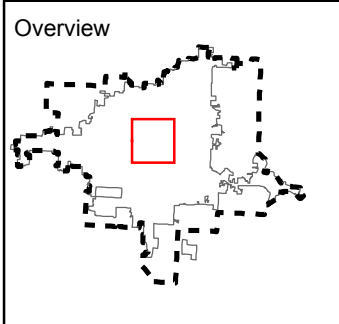
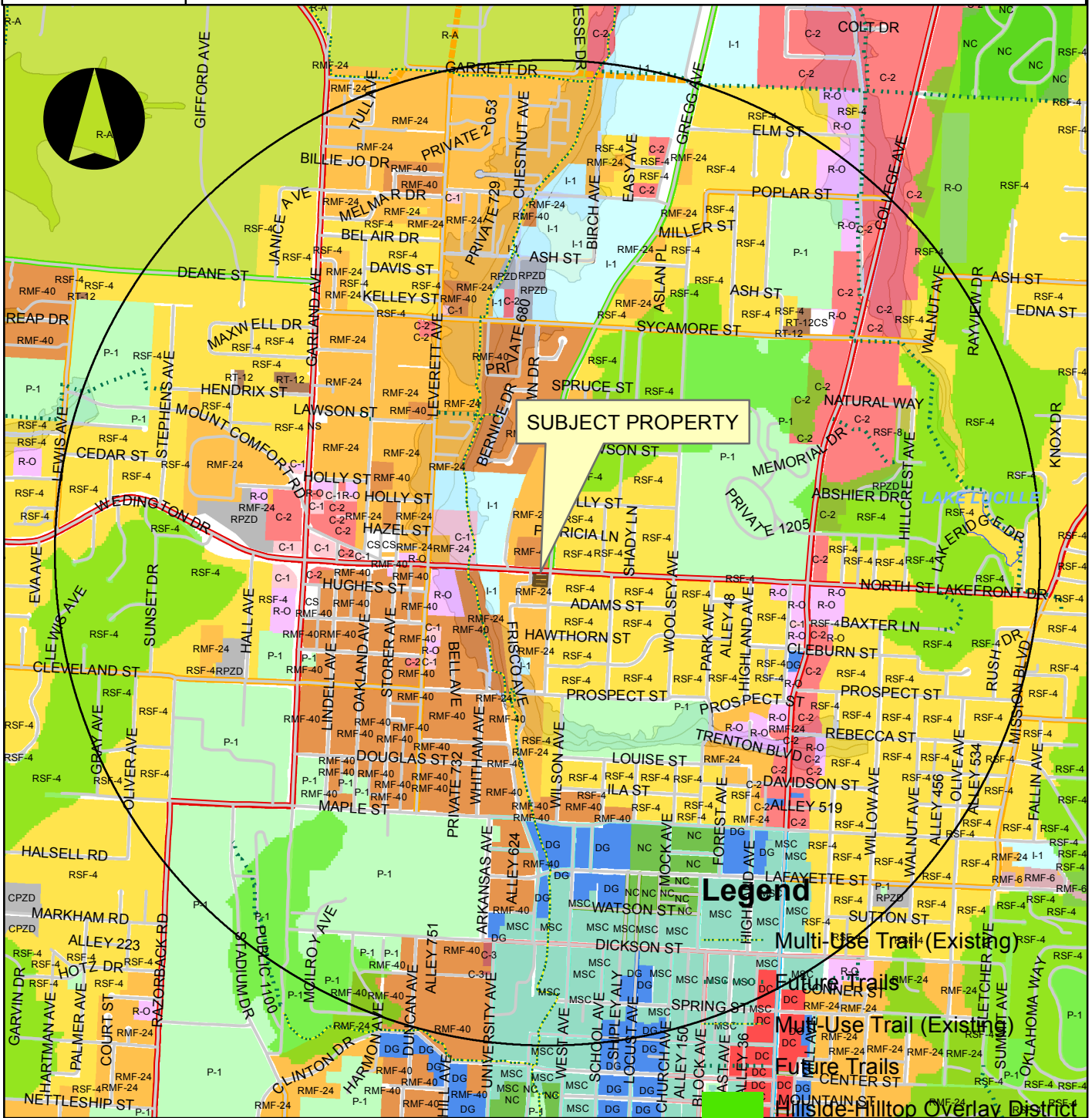
RZN13-4348 Smith

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RZN13-4348

One Mile View

SMITH



Legend

- Subject Property: RZN13-4348
- Design Overlay District:
- Planning Area:
- Fayetteville:

Boundary

0 0.25 0.5 1 Miles

Planning Commission
April 22, 2013
Agenda Item 7
RZN13-4348 Smith
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PC Meeting of April 22, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Subdivision Committee
 FROM: Jesse Fulcher, Current Planner
 THRU: Jeremy Pate, Development Services Director
 DATE: April 15, 2013

RZN 13-4359: Rezone (1851 E. HUNTSVILLE RD. /KUM & GO, 565): Submitted by CITY STAFF for property located at 1851 EAST HUNTSVILLE ROAD. The property is zoned I-2, GENERAL INDUSTRIAL and contains 1.93 acres. The request is to rezone the property to C-1, NEIGHBORHOOD COMMERCIAL. Planner: Jesse Fulcher

BACKGROUND:

Property and Background: The subject property is located at the southeast corner of Huntsville Road and Happy Hollow Road and is zoned I-2, General Industrial. In 2005, the City of Fayetteville acquired approximately 11.5 acres and a dilapidated 124,000 square foot building formerly used as a Tyson’s Mexican Original operation. Since then the City has split off 1.31 acres and constructed a new fire station. The building has remained vacant and the condition is continually declining.

On February 5, 2013, the City Council approved Resolution No. 26-13, authorizing Mayor Jordan to sell approximately two (2) acres of the Tyson property to Kum & Go, L.C. The agreement includes a cost share with the City of Fayetteville for new roads/driveways within the property and the demolition of the factory building. Further, the City Council determined that for the purposes of the proposed sale to Kum & Go, L.C., “the parcel should be rezoned to Neighborhood Commercial or other zoning district agreeable to Kum & Go, L.C.” prior to its conveyance. A representative of Kum and Go has submitted an e-mail stating their desire for the property to be rezoned to C-1, Neighborhood Commercial. Surrounding land use and zoning is depicted on *Table 1*.

**Table 1
 Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Church	C-1, Neighborhood Commercial, C-2, Thoroughfare Commercial and P-1, Institutional
South	Fire Station, Warehouse and Single-family home	P-1, Institutional, C-2, Thoroughfare Commercial, RSF-4, Residential Single-family
East	Residential	C-1, Neighborhood Commercial, RMF-24, Residential Multi-family and RSF-4, Residential Single-family
West	Funeral Home	C-1, Neighborhood Commercial and RSF-4

Request: The City of Fayetteville, as owner of the property, requests to rezone the property from I-2, General Industrial to C-1, Neighborhood Commercial. The purpose of the rezoning is to complete a land scale agreement with Kum & Go, L.C.

Public Comment: Staff has not received public comment.

RECOMMENDATION:

Staff recommends forwarding the rezoning request (RZN 13-4359 1851 E. HUNTSVILLE RD. /KUM & GO) to the City Council with a recommendation of approval based on findings stated herein.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	
Date: <u>April 22, 2013</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Forwarded	<input type="checkbox"/> Denied
Motion:	Second:	Vote:	
CITY COUNCIL ACTION:	Required	<u>YES</u>	
	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	
Date:			

INFRASTRUCTURE:

Streets: The site fronts Huntsville Road/Happy Hollow Road, an unimproved two-lane Principal Arterial and state highway. Both streets are currently being widened to a four-lane cross section between Armstrong Avenue and Stonebridge Road. Street improvements within and adjacent to the property will be evaluated at the time of development.

Water: Public water is available to the property. There is a 12", 8" and several 2" mains along and within the property. Public water main improvements may be necessary to provide fire flow for domestic service for any proposed development. Older, smaller lines may be removed during development as well.

Sewer: Sanitary sewer is available to the site. There is an 8" and 6" main adjacent to the property. Capacity of each line will be evaluated at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for any development. This property is not affected by the 100-year floodplain or the Streamside Protection Zones.

Fire: The Fire Department did not express any concerns with this request.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **Civic Institutional**. This designation is for buildings/properties generally operated by not-for-profit organizations.*

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: Goal 1 of City Plan 2030 is to make infill and revitalization our highest priority. This particular property is to some degree an infill site. However, it is most obviously a redevelopment site. Kum & Go, L.C. has agreed to assist with demolition of the existing building, construction of internal streets and/or driveways that will serve future development lots, and develop approximately 2 acres of the property with a Kum & Go gas station and convenience store. The redevelopment of this site, in any form, will be significant and positive change in this neighborhood.

The site design typified by recent Kum & Go developments and prescribed by the C-1 zoning district is not the traditional form recommended by Goal 3 of City Plan 2030, which states “we will make traditional town form the standard.” The sites tend to have very wide drive aisles, expansive fuel canopies and a pavement to building ratio of approximately 10:1. This is not a compact, pedestrian oriented development form. It is a business for vehicles. The proposed C-1 zoning requires a suburban form and does not allow a traditional town form.

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

Finding: Rezoning the property out of the I-2, General Industrial classification is justified at this time. Though the property was used for many decades as an industrial complex, the predominant land use in this area has remained residential and light commercial. The uses currently allowed in the I-2 zoning district are incompatible with most every nearby property, especially the single-family neighborhood to the east. In addition, rezoning the property as requested by Kum & Go and recommended by the City Council, will allow redevelopment of the property as outlined above.

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

Finding: The site has been vacant for several years, so any redevelopment will increase traffic in the vicinity of the site. The zoning change, as planned, will result in approximately two acres being developed with a convenience store and gas station. Approximately eight acres will be reserved for future development. The site has access to an existing traffic signal and will eventually have three separate accesses distribute traffic loads. In addition, Happy Hollow/Huntsville Roads are being widened to four-lanes along this property, which will increase the road capacity and level of service. In staff's opinion, the increase in traffic will not appreciably increase traffic danger or congestion once the road widening project is completed.

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

Finding: The proposed rezoning should not increase population density and thereby undesirably increase the load on public services, in staff's opinion.

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: In some recent cases staff has not recommended in favor of conventional zoning districts such as C-1, Neighborhood Commercial. Many times the request has been an up-zone of a property in close proximity to urban and residential land uses, or of rural properties along highway corridors. In staff's opinion, up-zoning property to conventional suburban zoning districts in these types of circumstances may either erode the established fabric of a neighborhood, or introduce high-speed, strip commercial development among rural land uses, neither of which is supported by the City's adopted land use plans or policies. Similar arguments could be made for this property. However, in staff's opinion, rezoning the property to C-1 is justified, even though a conventional zoning district is not completely consistent with adopted land use polices.

The City of Fayetteville has owned this property for approximately eight years, over which time the former Tyson building has become essentially unusable. Estimates to demolish the building in 2009 were approximately a half a million dollars. The land sale agreement between the City of

Fayetteville and Kum & Go, L.C. will generate over \$1.1 million dollars for the City of Fayetteville and provide up to 25% of the demolition costs of the building. The provisions of the land deal are extenuating circumstances and provide an opportunity for a public/private partnership that will remove a 124,000 square foot structure, establish a new commercial business, improve public infrastructure and a introduce a substantial amount of greenspace and landscaping on a site that is predominately hard-scape. Redevelopment will substantially improve the aesthetics of this site and the economic potential of surrounding properties.

161.18 District C-1, Neighborhood Commercial

§2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11)

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government Facilities
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 25	Offices, studios, and related services
Unit 44	Cottage Housing Development

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 16	Shopping goods
Unit 34	Liquor stores
Unit 35	Outdoor music establishments*
Unit 36	Wireless communications facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100,

TITLE XV UNIFIED DEVELOPMENT CODE

161.28 District I-2, General Industrial

any residential district a distance of one foot for each foot of height in excess of 25 feet.

(A) *Purpose.* The General Industrial District is designed to provide areas for manufacturing and industrial activities which may give rise to substantial environment nuisances, which are objectionable to residential and business use.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(IX); Ord. No. 2351, 6-21-77; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.040; Ord. No. 3971, §2, 5-21-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07; Ord. 5195, 11-6-08; Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5353, 9-7-10)

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 31	Facilities emitting odors and facilities handling explosives.
Unit 36	Wireless communications facilities
Unit 38	Mini-storage Units
Unit 39	Auto salvage and junk yards

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	100 ft.
Front, when adjoining C, I or P districts	50 ft.
Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I or P districts	25 ft.
Rear	25 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-2 Districts, provided, however, that any building which exceeds the height of 25 feet shall be setback from any boundary line of



www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
CITY PLANNING DIVISION
125 West Mountain
Fayetteville, AR 72701
Phone (479) 444-3443

April 1, 2013

City of Fayetteville, Development Services
Fayetteville, AR 72701

Craig Honchell, Chair
Planning Commission
City of Fayetteville, Arkansas
113 W. Mountain St
Fayetteville, AR 72701

Re: Rezone Request
SE Corner of Happy Hollow and Huntsville Roads

Dear Planning Commission Chair,

Please accept this letter as a formal request to allow the rezoning of property located near the southeast corner of Happy Hollow and Huntsville Roads, a portion of the former site of Mexican Original (Tyson Foods), from I-2, General Industrial to C-1, Neighborhood Commercial. The current zoning is a legacy from the period when the property was in industrial use under the previous ownership.

The property is currently owned by the City of Fayetteville. The property is for sale and under contract.

The current industrial zoning is no longer appropriate in this area of mixed residential and commercial properties, as it is designed for agricultural, manufacturing, and other heavy industrial uses.

While both the current zoning and proposed zoning allow for the intended use (Use Unit 18, gasoline service station), the current zoning requires a 100 foot front setback which is reduced to 50 feet under the C-1 zoning. The 100 foot setback is designed to provide neighbors with protection from sounds and odors associated with industrial uses that is not necessary or appropriate for a gas station use.

Craig Honchell, Chair

Page 2

April 1

The appearance of the proposed business and related signage will be in keeping with any and all applicable City of Fayetteville code requirements.

While additional traffic can be expected due to the nature of the intended use, the impacted sections of Happy Hollow and Huntsville roads are either fully updated or currently undergoing significant improvements and have adequate capacity to any additional traffic impacts created by a gas station.

Water and sanitary sewer services are available to the site. Sewer service is via an 8" line from Happy Hollow Road. Water service is provided via a 12" line along the western property line adjacent to Happy Hollow Road.

The Future Land Use Plan designates this property and surrounding properties contained within the former Mexican Original site as CI, Civic Institutional.

Should any additional information be required to process this request, please do not hesitate to contact me.

Sincerely, 

Quin Thompson
Associate Planner
City of Fayetteville Development Services
gthompson@ci.fayetteville.ar.us
479-575-8327

Enc: 3
Cc: Jeremy Pate
Kit Williams

Jesse Fulcher - Re: Kum & Go - Tyson site

From: Jesse Fulcher
To: NStreett@ceieng.com
Subject: Re: Kum & Go - Tyson site

Jesse, Kum & Go would like to rezone the property to Neighborhood Commercial as this is the zoning classification we have designed our site for.

Please let me know if you have any questions about this matter.

Thanks.

Nathan Streett, RLA
Project Manager

CEI
3108 S.W. Regency Parkway, Suite 2
Bentonville, AR 72712

Phone: 479-273-9472
Cell: 479-965-5506
Direct: 479-254-1565

"We will continually set the national standard for land development services, and we are committed to the growth and success of each other."

CEIENG.COM

Arkansas | California | Georgia | Louisiana | Minnesota | Pennsylvania | Texas

This message could contain confidential information. Unless you are the addressee (or authorized to receive for the addressee), you may not copy, use, or distribute this information. If you have received this message in error, please advise Nathan Streett, RLA immediately at 1-479-273-9472 or return it promptly by mail.

RESOLUTION NO. 26-13

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SELL ABOUT TWO ACRES OF THE TYSON FACTORY PROPERTY ON HUNTSVILLE ROAD FOR \$1,115,001.00 TO KUM & GO, L.C., TO AGREE TO COST SHARE WITH KUM & GO FOR ROADS OR DRIVEWAYS WITHIN THE TYSON PROPERTY ADJOINING THIS TWO ACRE PARCEL AND THE DEMOLITION OF THE FACTORY AND ALL OTHER TERMS OF THE LAND SALE AGREEMENT AND ITS ADDENDUM, AND TO RECOMMEND REZONING THIS PARCEL TO NEIGHBORHOOD COMMERCIAL OR OTHER ZONING DISTRICT SATISFACTORY TO KUM & GO, L.C.

WHEREAS, the City of Fayetteville used portions of the Tyson factory's lot obtained in 2004 for Highway 16 East right-of-way needs and for the construction of a new fire station; and

WHEREAS, now Kum & Go, L.C. has offered to purchase about two acres of the remaining ten acres to be used for a Kum & Go gas station/convenience store; and

WHEREAS, Kum & Go, L.C. has proposed a Land Sale Agreement with Addendum in which Kum & Go, L.C. would pay \$1,115,001.00 for this two acre parcel and the City and Kum & Go would cost share 50/50 for the streets or driveways within the ten acre parcel on the west and south sides of the two acre parcel, Kum & Go would cost share 25% (up to \$100,000.00) for the demolition of the old factory and both parties would agree to the broad terms of the Concept Plat submitted by Kum & Go, L.C.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby has determined that for the purposes of this proposed sale to Kum & Go, L.C., the parcel of about two acres should be rezoned to Neighborhood Commercial or other zoning district agreeable to Kum & Go, L.C. prior to its conveyance.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign the attached Land Sale Agreement and Addendum with Kum & Go, L.C. for the parcel shown on the concept plat (about two acres) for \$1,115,001.00 plus all additional considerations and terms therein and to sign the deed conveying such parcel to Kum & Go, L.C.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby agrees: to cost share 50/50 with Kum & Go, L.C. for streets or driveways running from the intersection of Happy Hollow and Huntsville through the property (on the west side of the two acre lot) and along the southern border of this parcel to Ray Avenue; to cost share 75/25 (up to \$100,000.00)

for the demolition and removal of the Tyson factory; to agree not to sell any other city-owned property within one mile of this parcel for use of another convenience store/gas station, liquor store or tobacco store; and to agree to the development of this parcel in the general form shown in the Concept Plat attached to the Land Sale Agreement.

PASSED and **APPROVED** this 5th day of February, 2013.

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



FIRST AMENDMENT TO LAND SALE AGREEMENT

THIS FIRST AMENDMENT TO LAND SALE AGREEMENT (hereinafter, the "Amendment") is made and entered into effective the 4th day of February, 2013, by and between the CITY OF FAYETTEVILLE, AR, a municipal corporation ("City" or "Fayetteville"), and KUM & GO, L.C., an Iowa limited liability company ("A&E Leasing"), WITNESSETH:

WHEREAS, Kum & Go and City have entered into that certain Purchase Agreement (the "Agreement") whereby City has agreed to sell and Kum & Go has agreed to buy certain real estate situated in Fayetteville, Arkansas; and

WHEREAS, Kum & Go and City desire to amend said agreement to as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, it is agreed as follows:

1. Definitions. Capitalized terms not otherwise defined herein shall have the same meanings ascribed to them as in the Agreement.
2. Amendment – Purchase Price. The Agreement is hereby modified such that the total consideration paid by Kum & Go for the Development Site referenced in the Agreement shall be \$1,115,001.00.
3. Amendment – LEED Certification. The Agreement is hereby modified such that Kum & Go agrees to design, construct, and submit the proposed improvements to the property such that they meet the requirements for Leadership in Energy and Environmental Design ("LEED") Certification.
4. Ratification. Except as modified by this Amendment, the Agreement is ratified and confirmed by the parties.
5. Counterparts, Facsimile. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement. For purposes of executing this Amendment, a facsimile signature shall be as effective as an actual signature.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed all on or as of the day and year first above written.

KUM & GO, L.C.

By: Niki DePhillips
Name: Niki DePhillips
Its: SVP, Store Development

CITY OF FAYETTEVILLE, AR

By: Lionel Jordan
Lionel Jordan, Mayor

Attest:

By: Sondra E. Smith
Sondra E. Smith, City Clerk



LAND SALE AGREEMENT

This Land Sale Agreement is made and entered into by and between the City of Fayetteville, Arkansas, a municipal corporation of the State of Arkansas (hereinafter "City" or "Fayetteville") and Kum & Go, L.C., an Iowa limited liability company authorized to do business in Arkansas (hereinafter "Kum & Go").

The City of Fayetteville agrees to sell about a 1.96 acre parcel it owns which is a northeastern portion of the about 10 acre parcel of the old Tyson factory site at 1851 East Huntsville Road, Fayetteville, Arkansas to Kum & Go, L.C. for \$1,000,000.00 and to perform the other terms and conditions of this Agreement for this \$1,000,000.00 and Kum & Go's performance of all of the terms and promises set forth later in this Agreement.

Kum & Go, L.C. agrees to pay to the City of Fayetteville \$1,000,000.00 for this 1.96 acre parcel and to perform all of the terms set forth later in this Agreement for the City's performance of all of its required terms and conditions.

TERMS AND CONDITIONS

1. Sale

Subject to existing easements and rights of way and subject to the terms and conditions, mutual promises and covenants of this Agreement, the City of Fayetteville agrees to sell a northeastern parcel of about 1.96 acres (hereinafter "**Development Site**") of the 10.05 acre parcel located at 1851 East Huntsville Road, Fayetteville, Arkansas (after it has been split or subdivided from the larger tract) by warranty deed to Kum & Go, L.C. for the amount of One Million Dollars (\$1,000,000.00). This Development Site of about 1.96 acres shall be as shown on the plat attached at Exhibit A and as more particularly described on Exhibit B (to be provided).

The parties agree that a new metes and bounds legal description of the Development Site will be determined and created pursuant to a survey and a lot split procedure for the Development Site. Kum & Go shall be responsible for the cost of any required survey of the Development Site.

2. Purchase

Subject to the terms and conditions, mutual promises and covenants of this Agreement, Kum & Go, L.C. agrees to buy the Development Site for \$1,000,000.00 to be paid to the City of Fayetteville on or before the Closing Date.

3. Demolition Of Tyson Factory

A. The City of Fayetteville agrees to demolish or pay a reputable contractor to demolish and remove unsalvageable debris of the old Tyson Factory to include removing its foundation, footings and slab within four months of both parties' execution of this Agreement.

B. In addition to the purchase price, Kum & Go, L.C. agrees to reimburse the City the lesser of 25% of the demolition and removal costs of the factory or \$100,000.00 within thirty (30) days after the City notifies Kum & Go that the demolition is complete. Such payment is not refundable unless the City materially breaches this Agreement.

4. Cost Shares for Streets/Driveways

The City of Fayetteville and Kum & Go agree to cost share 50/50 (both to pay equal amounts) of the design and construction expenses (including the reasonable value of City professional or construction activities) of a street or driveway from the intersection of Happy Hollow and Huntsville Road to the southwest corner of the Development Site and from that point to Ray Avenue along the southern border of the Development Site. The City will not charge Kum & Go for the property used for the roadway and the roadway shall remain City property, but the City shall grant Kum & Go and the public a full access easement to use these streets/driveways. Such street construction and cost share shall not occur until the Development Site has received formal development approval and actual construction by Kum & Go has commenced.

5. Landscaped Area

The area northwest of the Development Site and east of the road from the Happy Hollow intersection with Huntsville Road to the southwest corner of the Development Site shall be retained as City property. Kum & Go shall pay to have this property landscaped with a sufficient and prominent space left for a City

sculpture, monument, sign or piece of art as determined appropriate by the City Council. Kum & Go and the City shall jointly work on the landscaping plan which will not include items that would unduly block the view of Kum & Go's store from the Happy Hollow/Huntsville intersection. Kum & Go will pay for installation of necessary irrigation, but the City will be responsible for maintenance of this landscaped area once fully and properly installed. Parts of this area may be used for future Highway 16 right-of-way needs, including a possible roundabout to replace the current intersection.

6. Escrow Deposit

Within ten days after the execution of this Land Sale Agreement, Kum & Go will deposit with Waco Title Company, Fayetteville, Arkansas ("Escrow Agent") the sum of Fifteen Thousand Dollars (\$15,000.00) as the escrow deposit to be held, administered and disbursed in accordance with the terms of this Agreement.

7. Closing Date and Place

Closing shall occur within 180 days following the date this Agreement has been executed by both parties. The Closing shall occur at 113 West Mountain Street, Fayetteville, Arkansas in a room supplied by the City of Fayetteville. Kum & Go shall have the option to extend the Closing date by up two (2) consecutive sixty (60) day periods by notifying the City of Kum & Go's exercise of each such extension option. Upon the exercise of the first such extension option, \$5,000.00 of the Escrow Deposit shall become non-refundable to Kum & Go but applicable to the purchase price at Closing. Upon the exercise of the second such extension option, \$5,000.00 of the Escrow Deposit shall become non-refundable to Kum & Go, but applicable to the purchase price at Closing.

8. Date of Possession

Possession of the Development Site shall be delivered to Kum & Go on the Closing date free of any tenancies or other third party possessory rights.

9. Title Insurance

The City of Fayetteville shall order a title commitment on the Development Site, as soon a practicable following the full execution of this Agreement, through a title insurance company selected by the City and acceptable to Kum & Go, for an ALTA Form B owner's policy, with extended coverage, or a comparable form,

from a title insurance company in the amount of the purchase price, covering the date of this Agreement, and said title insurance company shall provide to Kum & Go the basic owner's title insurance commitment within twenty (20) days of the effective date. If the report on title, binder or commitment discloses any defects in title (other than liens or encumbrances of a definite or ascertainable amount which may be paid at closing from the proceeds due the City), the City shall have thirty (30) days from the date of Kum & Go's notice of such defects to make a good faith effort to cure such defects and to furnish a report showing the defects cured or removed. If such defects are not cured within thirty (30) days, Kum & Go may terminate this agreement or may, at its election, take title subject to any such defects. The cost of the title commitment and the cost of the owner's title policy shall be borne by the City of Fayetteville. The cost of any lender's title policy and extended owner's title insurance coverage shall be borne by Kum & Go.

10. Deed and Other Documents

On the Closing date, the City of Fayetteville shall convey marketable and insurable title to the premises by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in this Agreement, subject only to current real estate taxes (to be apportioned between the parties) and existing easements. Kum & Go and the City of Fayetteville shall equally share the cost a reasonable closing fee imposed by the closing agent employed by parties provided however that Kum and Go shall be responsible for any revenue stamps resulting from this transaction and all recordings fees for the deed and other documents that need to be filed.

11. Use Restriction

At Closing the City of Fayetteville shall restrict the use when sold to a third party of any and all real estate owned by the City of Fayetteville within one mile of the Development Site for a period of twenty (20) years by placing within any deed conveying such City owned property to a third party during the next 20 years a prohibition of the use of such property until 2033 for a gas station, convenience store, tobacco store, or business that generates more than 50% of its revenue from the sale of alcoholic beverages for off-premises consumption.

12. Real Estate Taxes

Real estate taxes shall be prorated in customary fashion to date of possession.

13. *Risk of Loss*

Risk of loss as to the Development Site shall remain with the City of Fayetteville until the Closing date.

14. *Environmental Matters*

The City warrants to the best of its knowledge and belief that (i) there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the Development Site, (ii) the Development Site does not contain levels of radon gas, asbestos, or urea-formaldehyde foam insulation which require remediation under current governmental standards, and (iii) the City had done nothing to contaminate the Development Site with hazardous wastes or substances. The City warrants that the Development Site is not subject to any local, state, or federal judicial or administrative action, investigation or other, regarding wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks. Kum & Go shall be responsible for the costs of any Phase I or Phase II environmental site assessment for the Development Site, and for the costs of other customary third party due diligence reports.

15. *Kum & Go's Due Diligence*

Kum & Go may enter upon the Development Site to conduct any surveying, testing or inspection it deems necessary to ensure the Development Site will be appropriate for the construction and use for a Kum & Go gas station/convenience store. If Kum & Go discovers any problems that would adversely impact its development and use of the Development Site for its store, Kum & Go shall notify the City which is granted sixty (60) days to remediate any problem. The City may also terminate this Agreement without penalty rather than remediating any problem or issue discovered by Kum & Go.

16. *Large Scale Development Approval*

Kum & Go shall, at its sole cost and expense, prepare a Large Scale Development plat of the Development Site and obtain any and all approvals necessary for Kum & Go's intended use of the Development Site as a gas station/convenience store. The City shall reasonably cooperate with Kum & Go in Kum & Go's request for development approval of a gas station and convenience

store. Kum & Go must present its development proposal through the normal City process and follow the Unified Development Code requirements.

17. *Kum & Go's Conditions Precedent*

Kum & Go's obligation to close this transaction is expressly conditioned upon each of the following:

- (a) City shall have performed and complied in all material respects with all agreements, terms, and conditions required by this agreement to be performed by and complied with by City on or before the Closing date.
- (b) All representations, warranties and covenants of City contained in this Agreement shall be true and correct in all material respects as of the Closing date.
- (c) Kum & Go has obtained final approval of its Large Scale Development proposal to construct a gas station/convenience store on the Development Site.

If any of Kum & Go's conditions precedent have not been satisfied or complied with prior to the Closing date, Kum & Go may, by written notice to City within seven (7) days of the Closing date cancel and terminate this Agreement. In the event that this Agreement is terminated by Kum & Go as permitted by this Section, neither party shall retain any rights or obligations under this Agreement, except that the Escrow Deposit shall be returned to Kum & Go, except any portion thereof that has become non-refundable to Kum & Go and the 25% of demolition costs up to \$100,000.00 must still be paid to the City and not be refundable to Kum & Go unless the City has refused to grant reasonable development rights to Kum & Go after its good faith application for such development rights. Notwithstanding the foregoing, Kum & Go, in its sole discretion, may waive any conditions precedent in its favor and elect to proceed with the closing by the Closing date.

18. *Broker*

Kum & Go has been represented by David Erstine of CBRE | NW Arkansas during this sale and will be responsible to pay his brokerage fee.

19. Notices

Notices required by this Agreement shall be in writing and shall be delivered to:

Kum & Go, L.C.

ATTN: Real Estate Development
c/o Rob Wadle (or successor)
6400 Westown Parkway
W. Des Moines, Iowa 50266

or by FAX (515) 226-1595

or to:

City of Fayetteville

ATTN: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701 72701-6083

or by FAX (479) 575-8257.

20. Authority

Each of the undersigned individuals represent and warrant that they are authorized to enter into this Agreement on behalf of their respective entities and that execution hereof will bind the entities to this Agreement.

21. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

22. Facsimile

For purposes of executing this Agreement, a facsimile signature shall be as effective as an actual signature.

23. *Applicable Law*

This Agreement shall be construed and enforced in accordance with the laws and public policies of the State of Arkansas.

24. *Survival*

The representations, warranties, and agreements of the parties contained herein shall survive the closing date.

25. *No Waivers*

The waiver by either party hereto of any condition or the breach of any term, covenant or conditions herein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained.

26. *Time of Essence*

Time is of the essence in this Agreement.

27. *Invalidity*

If for any reason any term or provision of this Agreement shall be declared void and unenforceable by any court of law or equity it shall only affect such particular term or provision of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

28. *Complete Agreement*

All understandings and agreements heretofore existing between the parties are merged into this Agreement that alone fully and completely expresses their agreement. This Agreement may be changed only in writing signed by both of the parties hereto and shall apply to and bind the successors and assigns of each of the parties hereto and shall not merge with the deed delivered to Kum & Go at closing.

Date: 11/15/2013

Date: 02/05/2013

KUM & GO, L.C.

CITY OF FAYETTEVILLE,
ARKANSAS

By: Niki DePhillips

By: Lionel Jordan
LIONEL JORDAN
Mayor

Title: SVP, Store Development

Witness:

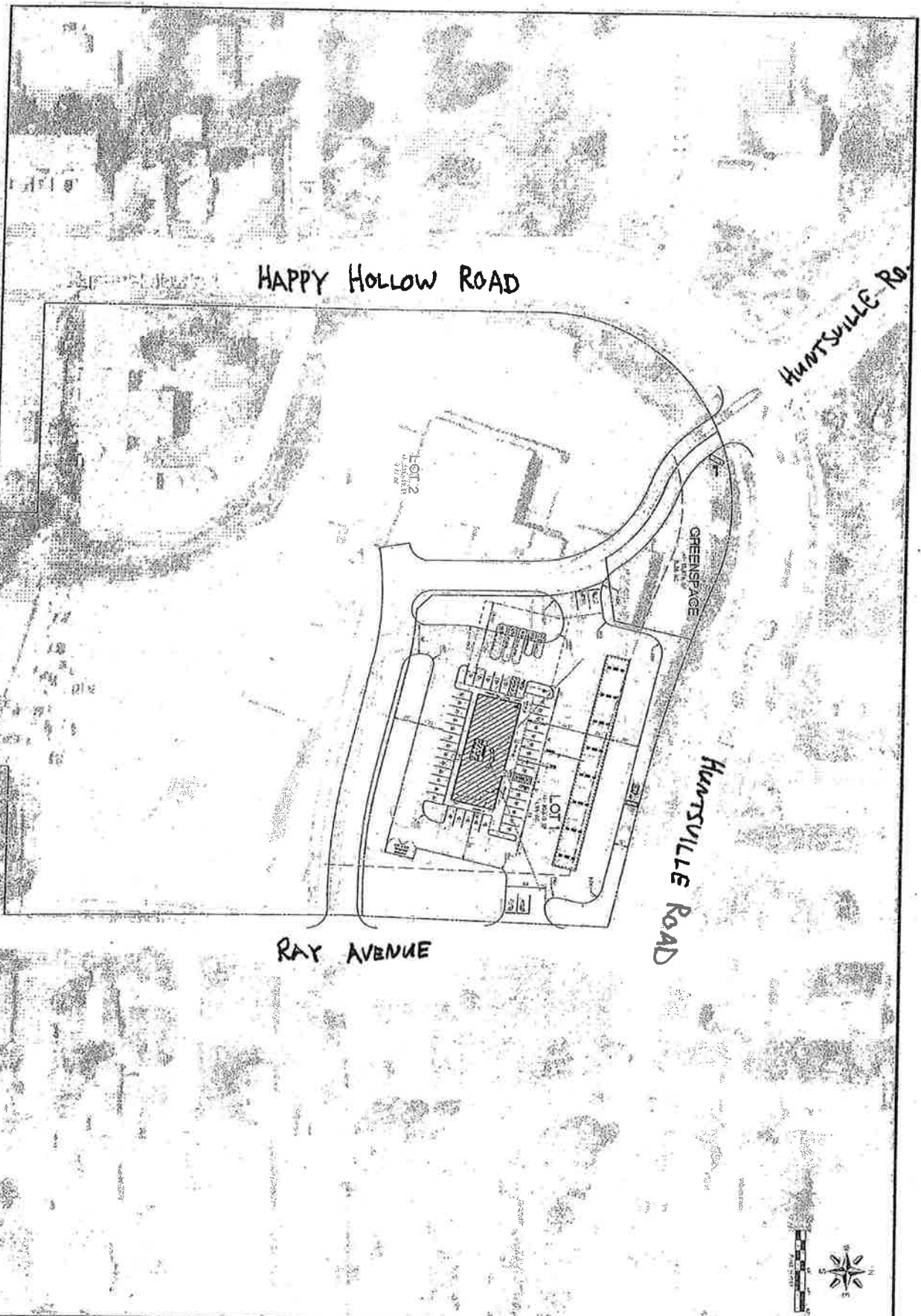
ATTEST:

By: Stacie Hatch

By: Sondra E. Smith
Sondra E. Smith, City Clerk

Fed. I.D. No.: 42-1352663
FAX No.: (515) 457-6179
Address: 6400 Westown Parkway, West
Des Moines, IA 50266





HAPPY HOLLOW ROAD

HUNTSVILLE RO.

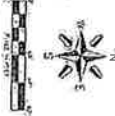
HUNTSVILLE ROAD

RAY AVENUE

LOT 2

GREENSPACE

LOT 1



NO.	DATE	REVISION DESCRIPTION
1	1/28/12	
REVISIONS		

STORE XXX, FAYETTEVILLE, AR
HAPPY HOLLOW
CONCEPT 5-A

2000 Mountain Avenue
West Fayetteville, AR
72787
P: 479-255-0170
F: 479-255-0170





HUNTSVILLE RD.

RAY AVE.

GREENSPACE
± 5,876 SF
0.136 AC

LOT 1
± 84,799 SF
1.94 AC

LOT 2
± 338,439 SF
7.77 AC

City of Fayetteville Staff Review Form

**City Council Agenda Items
and
Contracts, Leases or Agreements**

1/15/2013

City Council Meeting Date
Agenda Items Only

Paul A Becker Finance and Internal Services Finance and Internal Services
Submitted By **Division** **Department**

Action Required:

The City has received an offer for the purchase 1.87 acres of City Property known as the old Tyson Property at 1851 E. Huntsville Road. Kum & Go L.C. has made an offer to purchase said property for \$900,000 .They also have agreed to reimburse the City for the costs of demolition of the existing structure including the foundation, footings and pavement removal. Kum & Go L.C. proposes to construct a convenience store that sells petroleum on the property. The City administration recommends acceptance of this offer.

<u>N/A</u>	\$	
Cost of this request	Category / Project Budget	Program Category / Project Name
<u>Account Number</u>	\$	
Account Number	Funds Used to Date	Program / Project Category Name
<u>Project Number</u>	\$	
Project Number	Remaining Balance	Fund Name

Budgeted Item Budget Adjustment Attached

<u>Paul a. Becker</u>	<u>1-2-2012</u>	Previous Ordinance or Resolution #	_____
Department Director	Date	Original Contract Date:	_____
<u>K. Jefferson</u>	<u>1-2-13</u>	Original Contract Number:	_____
City Attorney	Date		
<u>Paul a. Becker</u>	<u>1-2-2013</u>	Received in City Clerk's Office	01-02-13 P12:36 RCVD <i>Kum g.</i>
Finance and Internal Services Director	Date	Received in Mayor's Office	ENTERED <u>1/2/13</u> <i>PH</i>
<u>Dr. Man</u>	<u>1-2-13</u>		
Chief of Staff	Date		
<u>Lionel Jordan</u>	<u>1/2/13</u>		
Mayor	Date		

Comments: _____

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr Chief of Staff

From: Paul A Becker

Date: January 2, 2013

Subject: Sale of 1.87 acres of the former Tyson Property to Kum & Go L.C.

PROPOSAL: The Tyson Property was purchased by the City in 2004 for \$1.1 million. The total parcel was 11.17 acres. In addition to property required for right of way for Highway 16 widening, the City constructed a fire station on a portion of the property.

The City has received an offer to purchase 1.87 acres of the remaining property from Kum & Go L.C. for \$900,000 and 25% (up to \$100,000) of the costs of demolition of the existing structure including the foundation, footings and pavement removal.

If the City Council chooses to accept this offer, the City would receive enough to tear down and remove a hazardous structure. Still retain in excess of 8 acres of the property and after road improvement costs still have some cash for future appropriation. An additional benefit would be a new business on the tax rolls.

RECOMMENDATION: The City administration recommends the City Council accept the purchase offer from Kum & Go.

BUDGET IMPACT: The City would receive sufficient funds to remove the old Tyson building and hopefully has some left over for future appropriation..



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

**TO: Mayor Jordan
City Council**

**CC: Don Marr, Chief of Staff
Paul Becker, Finance Director
Jeremy Pate, Development Services Director**

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read "Kit Williams", with a long horizontal line extending to the right.

DATE: December 18, 2012

RE: Tyson Property Purchase and Proposed Sale of 2 Acres

On November 16, 2004, Mayor Coody and Finance Director Steve Davis presented an Offer and Acceptance Contract and a Donation Contract to purchase 11.17 acres on Highway 16 East and Happy Hollow Road for \$1,100,000.00 to the Fayetteville City Council. I could find no memo from the administration supporting this purchase in the City Clerk's Agenda packet file, but have attached the City Council minutes in which the purchase was partially justified as a potential savings of \$100,000.00 in right-of-way costs for the widening of Highway 16 East, as well as to eliminate the land costs for a new fire station. There was some talk about being able to use the Tyson Mexican Original taco/corn chip factory building for fire, police or other city services, but that later proved not feasible. I believe that the only thing that factory was put to use for was warehousing of Hurricane Katrina donations.

The City Council voted almost unanimously to purchase this 11 acres and later built Fire Station Five on a western portion of this land. After reductions for the land to build the fire station and right-of-way dedications slightly more than ten acres remains. However, the

Tyson/Mexican Original Factory became an eyesore and has been vandalized and stripped of its valuable metals by thieves. Our police frequently have been called to the site for ongoing problems and safety issues. Mayor Jordan and many aldermen have expressed the need to demolish the building so the site could eventually be attractively developed. Strategic Planning even presented scenarios for site development on this ten acres. One major problem was always money - full building and foundation demolition and all pavement removal cost was roughly estimated at \$475,000.00 by the contractor who built our Courts/Prosecutor building. With the City Budget cut over Two Million Dollars, wages frozen and more than twenty previously budgeted city positions left vacant, there was no extra money for a demolition project.

A few months ago, Kum & Go, L.C. representatives spoke to Mayor Jordan and senior staff about acquiring a building site for one of their convenience store/gas stations on the Tyson Property. Kum & Go, L.C. has rapidly expanded into Washington and Benton Counties opening or constructing more than a dozen new and attractive stores the last few years. Mayor Jordan said he would certainly entertain such proposal which could help Fayetteville demolish the old factory.

Kum & Go, L.C. initially proposed to buy the entire remaining 10 acres for \$985,000.00 which would be reduced by about \$40,000.00 for their realtor's fee. All required rights-of-way, green space, etc. would further reduce the amount paid to the City for all of our property. There were other terms in this initial offer that the City could not accept.

Rather than simply rejecting this first proposal, the Mayor authorized me to develop a counterproposal for his approval. I obtained the actual amounts Kum & Go, L.C. had paid for its many new acquisitions for its new stores in Washington and Benton Counties. I analyzed these acquisition costs on a per square foot, per acre, and per store basis. This data showed that we had been offered much less per acre than what had been paid to every other seller. I do not fault or criticize Kum & Go, L.C. for this. Businesses always seek to get the best deal possible. It is **our** responsibility to ensure our taxpayers get fair value for their assets.

Mayor Jordan, in consultation with Chief of Staff Don Marr and Finance Director Paul Becker then authorized me to convey a counterproposal to Kum & Go, L.C. in which we would sell them either a single two acre lot or both two acre lots (at a less per acre cost) that front Highway 16 East, cost share the demolition expense of the Tyson factory, and cost share a street entry into this 10 acre parcel from the signaled intersection.

Kum & Go, L.C. graciously worked with us and chose to purchase the two acre lot on the East side of the property. After further negotiation, Kum & Go, L.C. agreed to pay \$900,000.00 for this 1.87 acre lot, cost share 50/50 with the City to build the center street from the signaled intersection to the intersection with the street running along the southern portion of this lot to Ray Avenue. We hope these streets when completed will help the neighborhood served by Ray to more easily go East on Martin Luther King or Highway 16 during the morning rush hour.

Kum & Go L.C. also agreed to pay 25% of the costs (to be capped at \$100,000.00) for the demolition of the old Tyson factory, its foundation and footings and all pavement removal. I believe the Mayor and many Aldermen will be glad that we can finally remove the unattractive hulk and return some of this property into productive use.

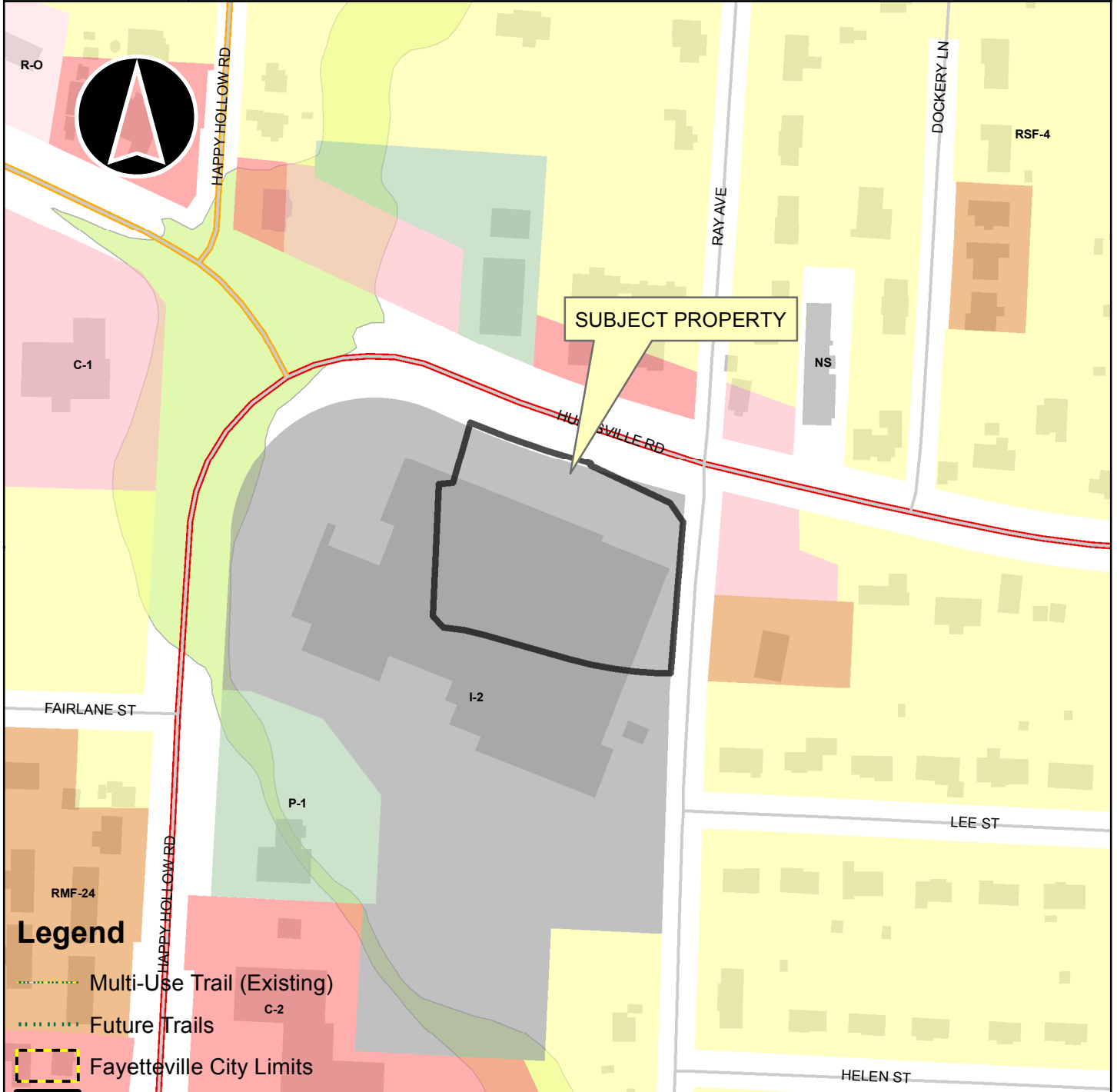
If the City Council agrees to this sale, then the City will be able to demolish the factory, build needed streets, net several hundred thousand dollars, be able to sell a very commercially viable two acre lot fronting Highway 16 East and keep a 4.7 acre lot on the South side of the lot for City uses (Police, Parks and Recreation HQ, Transportation, etc.).

I want to thank Mayor Jordan for his leadership and determination during this negotiation. He has ensured that our citizens will receive fair value for their property while remaining fair and friendly to Kum & Go.

RZN13-4359

KUM AND GO

Close Up View

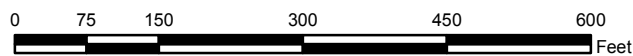


Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview RZN13-4359

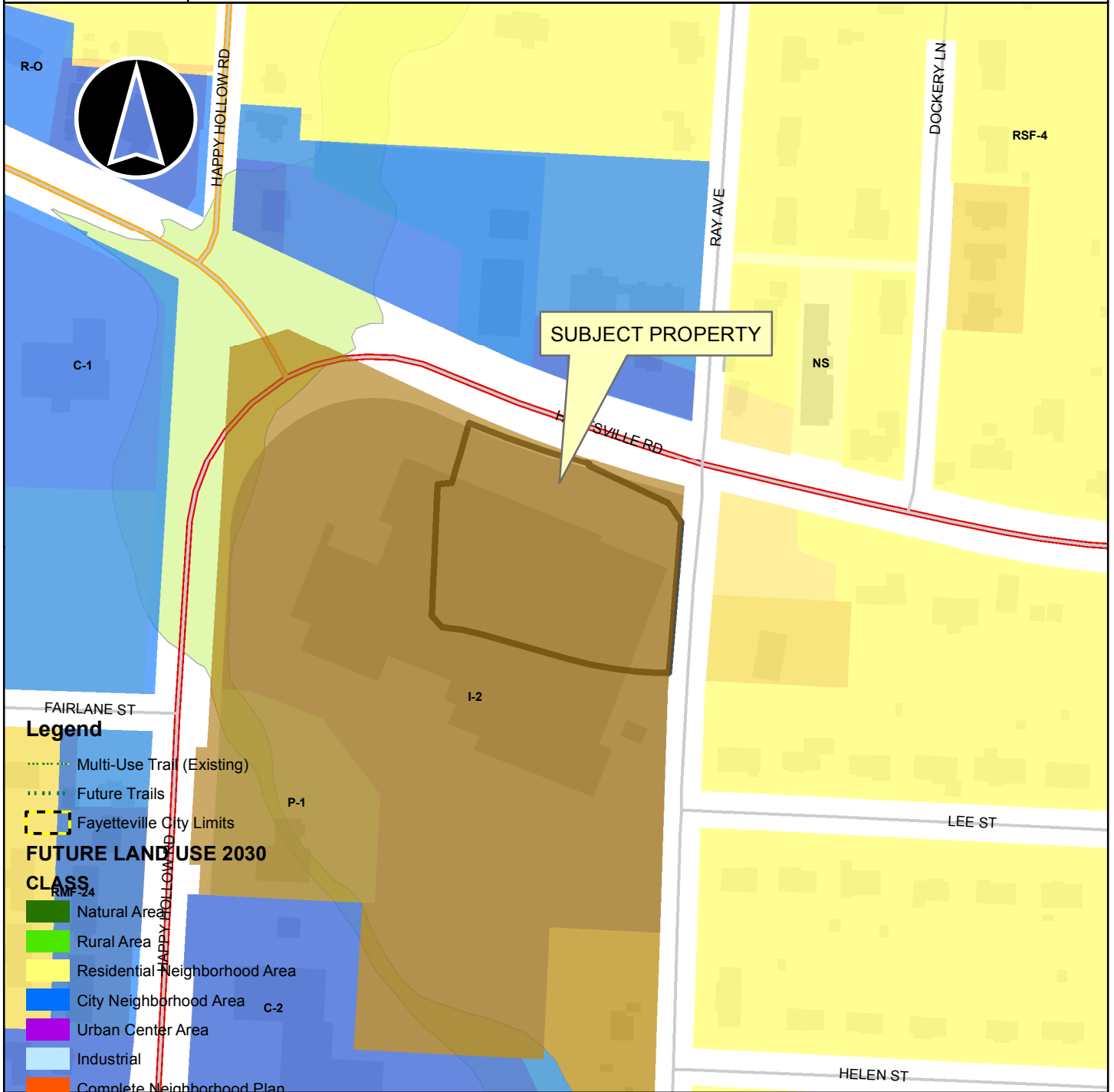
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



RZN13-4359

KUM AND GO

Future Land Use



Legend

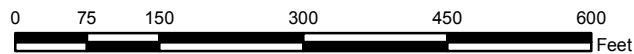
- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

FUTURE LAND USE 2030

CLASS

- Natural Area
- Rural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Urban Center Area
- Industrial
- Complete Neighborhood Plan

- Civic and Private Open Space/Parks
- Civic Institutional
- Non-Municipal Government
- ROW
- RZN13-4359
- Design Overlay District
- Design Overlay District
- Planning Area

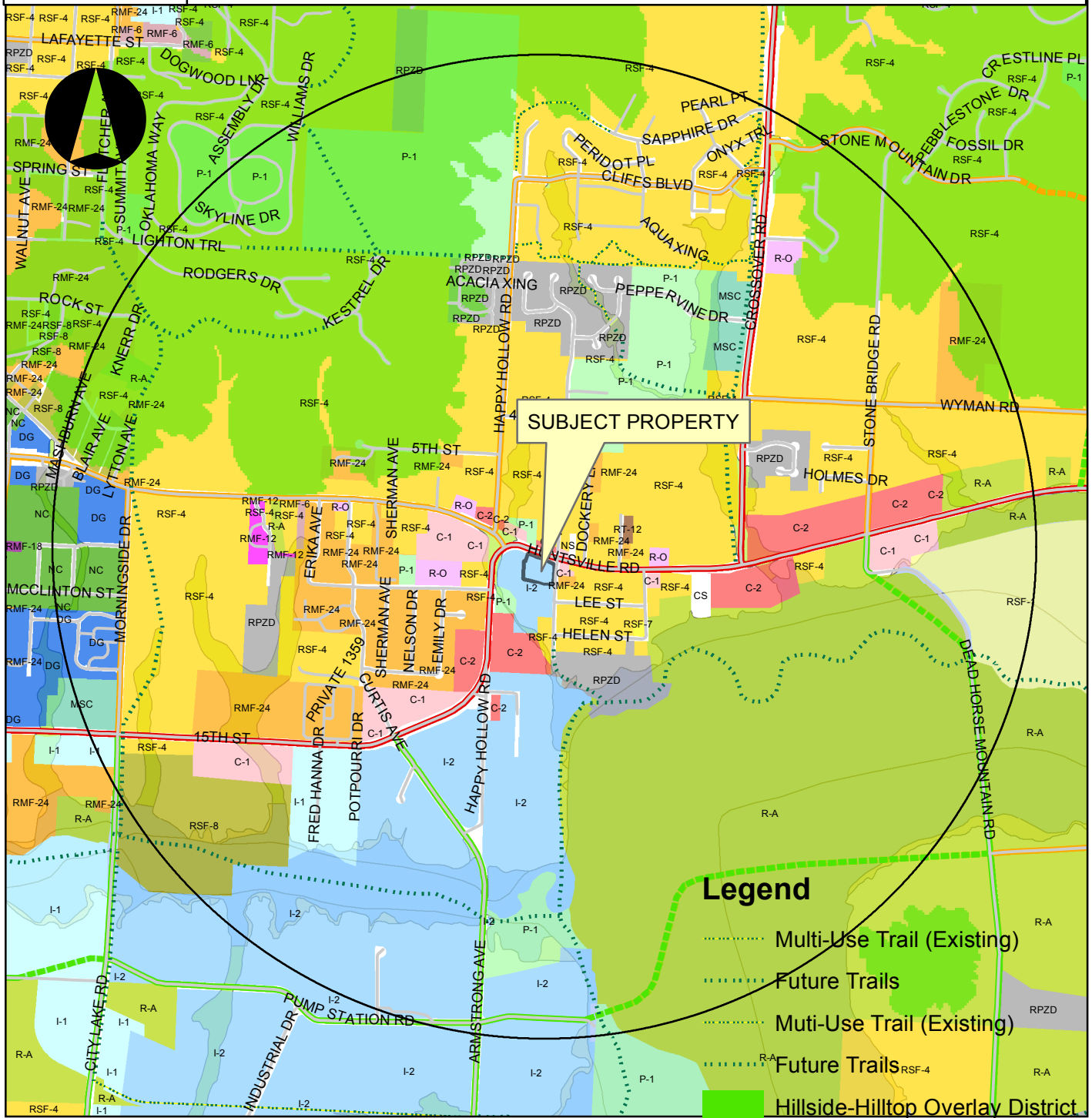


Planning Commission
 April 22, 2013
 Agenda Item 8

RZN13-4359

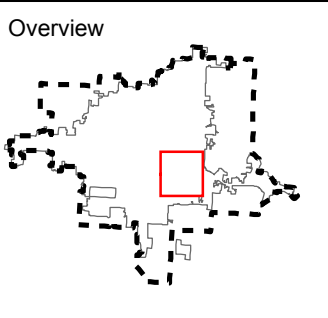
KUM AND GO

One Mile View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails
- Hillside-Hilltop Overlay District



Legend

- Subject Property
- RZN13-4359
- Boundary
- RZN13-4359
- Design Overlay District
- Planning Area
- Fayetteville

0 0.25 0.5 1
 Miles

