

**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
May 28, 2013**

A meeting of the Fayetteville Planning Commission will be held on May 28, 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

Consent:

1. Approval of the minutes from the May 13, 2013 meeting.
2. **ADM 13-4383: Administrative Item (1252 S. ADMIRAL AVE./NANTUCKET PH. IV, 563):** Submitted by CIVIL DESIGN ENGINEERING for property located at 1252 SOUTH ADMIRAL AVENUE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 3.76 acres. The request is for a 1 yr. extension on the LSD 11-4009 that was granted on April 12, 2012. 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, Parking Lot Landscaping, and Parking in the Build-to zone. Floodplain Administrator: Sarah Wrede Planner: Andrew Garner Urban Forester: Megan Dale
STAFF RECOMMENDS THIS ITEM BE TABLED INDEFINITELY.

4. **CUP 13-4365: Conditional Use Permit (1720 E. ZION RD./TRICON, 136):** Submitted by TCM ENTERPRISES for property located at 1720 EAST ZION ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.15 acres. The request is for a conditional use permit for a wireless communications facility (Use Unit 36). Planner: Jesse Fulcher
THE APPLICANT HAS REQUESTED TO TABLE THE ITEM UNTIL JUNE 10, 2013.

New Business:

5. **ADM 13-4374: Administrative Item (617 N. COLLEGE AVE./PIGMINT, 445):** Submitted by CHELSEA HERMEZ 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. ADM 13-4394: Administrative Item (NORTHEAST CORNER OF COLLEGE AVE./TOWNSHIP ST. (CVS PHARMACY, 246): Submitted by BOOS DEVELOPMENT for the property located at the NORTHEAST CORNER OF COLLEGE AVE./TOWNSHIP ST. (DAYS INN SITE). The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains a total of 4.09 acres. The request is for a curb cut variance on College Avenue with the redevelopment of a portion of the site for a CVS Pharmacy.
Planner: Andrew Garner

7. CUP 13-4375: Conditional Use Permit (1815 N. GREEN ACRES DR./FOGHORN'S, 287): Submitted by JEFF HODGES for property located at 1815 NORTH GREEN ACRES DRIVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.57 acres. The request is to allow outdoor music, Use Unit 35, in a C-2 zoning district.
Planner: Quin Thompson

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 May 13, 2013 at 5:30 p.m. in Room 219, City Administration Building in Fayetteville, Arkansas.

ITEMS DISCUSSED

ACTION TAKEN

Consent:

**MINUTES: April 22, 2013
Page 3**

Approved

**ADM 13-4377: Administrative Item (11 N. COLLEGE AVE./FIRST SECURITY BANK, 484):
Page 3**

Approved

Discussion Item:

**ADM 13-4344: Administrative Item (617 N. COLLEGE AVE./NOW AND THEN BOUTIQUE, 445):
Page 4**

**Reconsidered and
Re-Approved**

Old Business:

**ADM 13-4330: Administrative Item (SW CORNER 15TH STREET AND RAZORBACK ROAD, 599):
Page 5**

Tabled

New Business:

**ADM 13-4364: Administrative Item (423 W. HAWTHORN ST./SYLVESTER, 445):
Page 6**

Approved

**ADM 13-4370: Administrative Item (AMENDMENT TO NORTH STREET RECYCLING CENTER,
444): Page 7**

Approved

**CUP 13-4365: Conditional Use Permit (1720 E. ZION RD./TRICON, 136):
Page 8**

Tabled

**RZN 13-4363: Rezone (2269 N. HENBEST RD./NELMS, 325):
Page 9**

Forwarded

**RZN 13-4369: Rezone (4253 N. CROSSOVER RD./VISTA HEALTH, 138):
Page 10**

Forwarded

**RZN 13-4360: Rezone (693 W. NORTH ST./RANDLE, 444):
Page 11**

Forwarded

MEMBERS PRESENT

Tracy Hoskins
Kyle Cook
Craig Honchell
William Chesser
Porter Winston
Blake Pennington
Ron Autry
Ryan Noble

MEMBERS ABSENT

Sarah Bunch

STAFF PRESENT

Quin Thompson
Andrew Garner
Jesse Fulcher

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 Chesser and Bunch were present.

Consent:

Approval of the minutes from the April 22, 2013 meeting.

ADM 13-4377: Administrative Item (11 N. COLLEGE AVE./FIRST SECURITY BANK, 484): Submitted by SCM ARCHITECTS 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.

Motion:

Commissioner Winston made a motion to approve the consent agenda. **Commissioner Cook** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

Discussion Item:

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

Motion #1:

Commissioner Winston made a motion to reconsider **ADM 13-4344 Now and Then Boutique** that was approved at the previous Planning Commission meeting. **Commissioner Pennington** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

Andrew Garner, Senior Planner, gave the staff report discussing that the right-of-way dedication amount on College Avenue was determined to be less than originally approved, requiring dedication in the amount of 10 feet.

Motion #2:

Commissioner Winston made a motion to approve **ADM 13-4344, modifying condition #2 to change the right-of-way dedication amount along College Avenue to 10 feet.** **Commissioner Pennington** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

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, Parking Lot Landscaping, and Parking in the Build-to zone.

Staff and the applicant requested that this item be tabled until the May 28th Planning Commission meeting.

Commissioner Hoskins asked staff if the applicant and staff were making any progress.

Garner discussed that meetings with the applicant have taken place and that progress was being made.

Motion:

Commissioner Winston made a motion to table **ADM 13-4330** until the May 28th meeting. **Commissioner Hoskins** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

New Business:

ADM 13-4364: Administrative Item (423 W. HAWTHORN ST./SYLVESTER, 445): Submitted by DAVID STITT for property located at 423 WEST HAWTHORN STREET. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 0.27 acres. The owner proposes to add an accessory dwelling unit to the existing single family dwelling. The request is a variance to allow the accessory dwelling unit to be 1,171 square feet when the maximum allowed by right is 600 square feet.

Andrew Garner, Senior Planner, gave the staff report.

David Stitt, applicant's representative, was present for any questions.

No public comment was presented.

Commissioner Cook asked about the difference between the applicant's request and a duplex.

Garner discussed the differences between a duplex and an accessory dwelling unit.

Commissioner Cook discussed that he felt this request was different than the previous accessory dwelling unit variance the commission had seen because this unit was all in the same structure and it feels more like one single family dwelling.

Commissioner Honchell asked about the requirement for separate utilities for the accessory dwelling unit.

Garner discussed that the accessory dwelling unit would have to be connected directly to the public water and sewer system, and be metered separately from the principal dwelling.

Motion:

Commissioner Winston made a motion to approve **ADM 13-4364**. **Commissioner Cook** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

ADM 13-4370: Administrative Item (AMENDMENT TO NORTH STREET RECYCLING CENTER, 444): THE CITY OF FAYETTEVILLE is requesting approval to amend the approved conditional use permit (CUP 12-4241) for the recycling drop-off facility, to include a small office and restroom for the on-site employee.

Jesse Fulcher, Current Planner, read the staff report.

No public comment.

Motion:

Commissioner Cook made a motion to approve **ADM13-4370**. **Commissioner Autry** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

CUP 13-4365: Conditional Use Permit (1720 E. ZION RD./TRICON, 136): Submitted by TCM ENTERPRISES for property located at 1720 EAST ZION ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.15 acres. The request is for a conditional use permit for a wireless communications facility (Use Unit 36).

THE APPLICANT HAS REQUESTED TO TABLE THE ITEM UNTIL THE MAY 28, 2013 MEETING.

No public comment was presented.

Motion:

Commissioner Cook made a motion to table **CUP13-4365** until the **May 28, 2013** meeting . **Commissioner Winston** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

Commissioner Chesser arrived.

RZN 13-4363: Rezone (2269 N. HENBEST RD./NELMS, 325): Submitted by JORGENSEN AND ASSOCIATES for property located at 2269 NORTH HENBEST ROAD. The properties are zoned R-A, RESIDENTIAL-AGRICULTURAL, RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE, and C-2, THOROUGHFARE COMMERCIAL and contain approximately 5.77 acres. The request is to rezone these properties to CS, COMMUNITY SERVICES and C-2, THOROUGHFARE COMMERCIAL.

Jesse Fulcher, Current Planner, read the staff report.

David Nelms, applicant, discussed the unexpected sales increases that have driven the need to expand and that the old store on College is being used to store cars currently. There are no set plans for the remainder of the property, but it will be some type of accessible commercial uses.

Commissioner Autry stated that the applicant noted in his letter that storing the cars on College was a challenge and required them to move cars between locations.

Commissioner Cook stated that he remembered the Mount Comfort road project and the zoning discussions at that time – it was just a matter of time before zoning requests were made.

Motion:

Commissioner Cook made a motion to forward **RZN13-4363 to City Council**. **Commissioner Autry** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

RZN 13-4369: Rezone (4253 N. CROSSOVER RD./VISTA HEALTH, 138): Submitted by COOVER CONSULTANTS for property located at 4253 NORTH CROSSOVER ROAD. The property is zoned R-O, RESIDENTIAL OFFICE and C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 9.94 acres. The request is to rezone the property to P-1, Institutional.

Quin Thompson read the staff report.

Gary Coover, applicant, was present to answer questions.

Motion:

Commissioner Winston made a motion to forward **RZN 13-4369 to City Council**. **Commissioner Cook** seconded the motion. **Upon roll call the motion passed with a vote of 8-0-0.**

RZN 13-4360: Rezone (693 W. NORTH ST./RANDLE, 444): Submitted by BLEW AND ASSOCIATES for property located at 693 WEST NORTH STREET. The property is zoned I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL and contains approximately 2.44 acres. The request is to rezone the property to CS, COMMUNITY SERVICES.

Quin Thompson read the staff report.

David Randle, applicant, stated that his goal in seeking a new zoning designation was to be able to lease his existing buildings to a wider variety of uses than is allowed under the current zoning.

Motion:

Commissioner Chesser made a motion to forward **RZN 13-4360 to City Council**. **Commissioner Winston** 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 6:15PM.



PC Meeting of May 28, 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: May 20, 2013

ADM 13-4383: Administrative Item (1252 S. ADMIRAL AVE./NANTUCKET PH. IV, 563):
Submitted by CIVIL DESIGN ENGINEERING for property located at 1252 SOUTH ADMIRAL AVENUE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 3.76 acres. The request is for a one year extension on the LSD 11-4009 that was approved on April 12, 2012.
Planner: Andrew Garner

BACKGROUND

Property Description: subject property contains approximately 2.36 acres on the west side of Morningside Drive and north of Chesapeake Way, adjacent to the existing Nantucket Phases I-III project which is a senior living development. Surrounding land use and zoning is depicted in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North, South, West	Nantucket Senior Living Complex	DG, Downtown General
East	Undeveloped pasture	RSF-4

Background: The original Large Scale Development request was approved by the Subdivision Committee on April 12, 2012 for Phase IV of the Nantucket senior living complex with 47 new multi-family dwellings, parking lots, chapel, and pavilion. The multi-family dwellings were approved in four one-story buildings and one three-story building.

The applicant has started and completed construction on a majority of the project, including grading for the entire site. However, the applicant has not obtained building permits for two buildings on the southern portion of the site facing Chesapeake Way and some of the accessory structures. The applicant indicated that the building construction for these buildings was postponed partly because of the need for construction staging areas on a site with limited available space. The large scale has now expired as it has been over a year since the original approval and building permits are not able to be issued for the remaining buildings.

Proposal: The applicant requests an extension for the approval of the Large Scale Development for one year, to expire on April 12, 2014. The Planning Division received the applicant's extension

G:\ETC\Development Services Review\2013\Development Review\13-4383 ADM 1252 S. Admiral Ave. (Nantucket Ph 4)\03 Planning Commission\05-28-2013\Comments and Redlines

request on April 30, 2013, within the required eighteen month time limit to request an extension from the Planning Commission. Should this extension be granted, all permits necessary for construction are required to be issued before the one-year extended deadline. If the permits are not issued prior to April 12, 2014, all of the approved plans for the project shall be rendered null and void.

RECOMMENDATION

Staff recommends approval of **ADM 13-4383**, the requested extension to LSD 11-4009 (Nantucket IV), with the following conditions:

1. The applicant shall be allowed until April 12, 2014 to receive all permits and approvals required to complete construction of the development or project. If all permits have not been received by this time, the Large Scale Development approval shall be revoked.
2. All other conditions of approval LSD 11-4009 shall remain applicable.

DISCUSSION

The City of Fayetteville Unified Development Code (UDC) Section 166.20(B)(3) gives the Planning Commission authority to extend approval of a large scale development up to one additional year from the original date of approval. In order to extend this approval, the applicant must: (1) request the extension prior to the eighteen months from the original approval; and (2) show good cause why the tasks could not reasonably be completed within the normal one year. If the one year extension is granted, it is within this time that the applicant shall receive all permits and approvals as required by City, State, and Federal regulations to start construction of the development or project. Extensions beyond three years from the original date of approval shall not be permitted.

- (1) The applicant has submitted the extension request to the Planning Division on April 30, 2013, within eighteen months of the original large scale development approval.
 - (2) The applicant has discussed that the area on the property for the last two buildings was needed for staging for construction of the other portions of the site. The applicant is now in a position in the overall construction of the project to begin construction on the final two buildings.
-

PLANNING COMMISSION ACTION:

Approved **Denied** **Tabled**

Motion: _____

Second: _____

Vote: _____

Meeting Date: May 28, 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: Andrew Garner, Senior Planner
Glenn Newman, Staff Engineer
THRU: Jeremy Pate, Development Services Director
DATE: ~~April 6, 2012~~ Updated April 19, 2012

LSD 11-4009: Large Scale Development (1201 S. MORNINGSIDE DR./NANTUCKET PH 4, 563): Submitted by CIVIL DESIGN ENGINEERS, INC. for property located at 1201 SOUTH MORNINGSIDE DRIVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 2.36 acres. The request is for development of 47 multi-family dwellings.

Planner: Andrew Garner

Findings:

March 29, 2012 Subdivision Committee: This item was tabled at the March 29, 2012 Subdivision Committee meeting as the tree preservation plat was incomplete. The applicant has revised the tree preservation plan to meet ordinance and staff is now recommending approval of the project.

Background: The subject property contains approximately 2.36 acres on the west side of Morningside Drive and north of Chesapeake Way, adjacent to the existing Nantucket Phases I-III project which is a senior living development. Surrounding land use and zoning is depicted in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North, South, West	Nantucket Senior Living Complex	DG, Downtown General
East	Undeveloped pasture	RSF-4

Proposal: The applicant proposes to construct Phase IV of the Nantucket senior living complex with 47 new multi-family dwellings, parking lots, chapel, and pavilion. The multi-family dwellings are proposed in four one-story buildings and one three-story building.

Water and Sewer System: The property has access to existing public water and sewer services.

Adjacent streets and right-of-way: The site is accessed off of Morningside Drive to the east, a Collector Street, and Chesapeake Way and Nantucket Drive to the north and south, both Residential Streets. Right-of-way in the amount of 29.5 feet from centerline is required along Morningside and 21.5 feet from centerline is required along Chesapeake.

Street Improvements: Sidewalk has been recently constructed along Morningside Drive. However, Due to impacts of the proposed development the five-foot sidewalk will need to be removed and reconstructed at the Master Street Plan right-of-way. A five-foot sidewalk will need to be constructed along the project's Chesapeake Way right-of-way. Streetlights shall be installed at intersections and spaced every 300 feet in accordance with ordinance, where they do not already exist.

Tree Preservation:

Existing Tree Canopy:	5.2%
Tree Canopy Preserved:	2.3%
Minimum Canopy Required:	10%
Mitigation Required:	20 two-inch caliper trees

Public Comment: Staff has not received public comment.

Recommendation: Staff recommends **LSD 12-4009** be approved with the following conditions of approval:

Conditions of Approval:

1. Subdivision Committee determination of street improvements. *Staff recommends the following on-site improvements. Sidewalk has been recently constructed along Morningside Drive. However, due to impacts of the proposed development the five-foot sidewalk will need to be removed and reconstructed at the Master Street Plan right-of-way. A five-foot sidewalk will need to be constructed at the Chesapeake Way Master Street Plan right-of-way. Streetlights shall be installed at intersections and spaced every 300 feet in accordance with ordinance, where they do not already exist.*

SUBDIVISION COMMITTEE DETERMINED IN FAVOR OF THIS CONDITION (04-12-12).

2. Subdivision Committee determination of compliance with Urban Residential Design Standards. *Staff finds that the project meets the minimum requirements for Urban Residential Design standards. There is no building type repeated more than three times, and all principal facades (facades in the build-to zone) have variation in materials, insets/relief, at least one primary entry, and a variety of elements such as dormers, and consistent fenestration patterns.*

SUBDIVISION COMMITTEE DETERMINED IN FAVOR OF THIS CONDITION (04-12-12).

3. If adequate right-of-way does not currently exist in accordance with the Master Street Plan it will be required to be dedicated prior to building permit. Right-of-way shall be dedicated in the amount of 29.5 feet from centerline along Morningside and 21.5 feet from centerline along Chesapeake.
4. Parks fees in lieu of land dedication in the amount of \$31,960.00 for the proposed 47 multi-family units shall be paid prior to building permit approval.
5. Street signs are required to be installed on each private street where buildings are addressed. These signs shall be installed at the owner's expense and should meet MUTCD requirements. Please contact the City's Address Coordinator, Ross

Wiseman at 479-575-8391. Address numbers shall also be required on both sides of each structure, or as determined appropriate by the Fire Department.

6. Any proposed fencing shall be indicated on construction plans to ensure compliance with applicable development and design standards.
7. All tree preservation, landscape, engineering and fire department conditions included herein shall apply.
8. The plans shall be revised as follows:
 - a. Revise the site plan to show the new 5-foot sidewalk on Chesapeake Way within and at the back of the Master Street Plan right-of-way.
 - b. Add the bicycle rack requirements to the parking chart and locate them on the site plan. Two bike racks are required.
 - c. Two points should be added to the plat in State Plane Coordinates.

Standard conditions of approval:

9. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
10. If applicable, a business license shall be obtained prior to opening the business to the public.
11. 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).
12. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
13. 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.
14. 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.**
15. 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. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**

16. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
 17. 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.
 18. Large scale development shall be valid for one calendar year.
 19. 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.
 20. 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.
-

Subdivision Committee Action: **Approved** **Tabled** **Forwarded**

Meeting Date: April 12, 2012

Motion: Cabe

Second: Pennington

Vote: 3-0-0

April 30, 2013
City of Fayetteville Planning Commission
125 W. Mountain Street
Fayetteville, AR 72701
Phone (479) 575-8267
Fax (479) 575-8202

**Re: Extension of Large Scale Development Approval
Nantucket Senior Citizen Residential Homes – Phase 4
Fayetteville, AR
CDE Project No. 1036**

Dear Planning Commission,

The Large Scale Development approval for Nantucket Phase 4 (**LSD 12-4009**) was approved on April 12, 2012. This Large Scale Development included five buildings at the site. Following this approval, building permits for only Buildings 1, 2 and 3 were obtained, and they are currently under construction. Although the pad grading for Buildings 4 and 5 were completed, the actual building construction was postponed partly because of the need for construction staging areas on a site with limited available space.

Recently building permits for Buildings 4 and 5 were submitted, however since it has been slightly more than one year since the original Large Scale Development approval, a request is made for the extension of the original Large Scale Development (**LSD 12-4009**) to allow for the construction of Buildings 4 and 5.

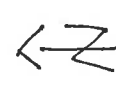
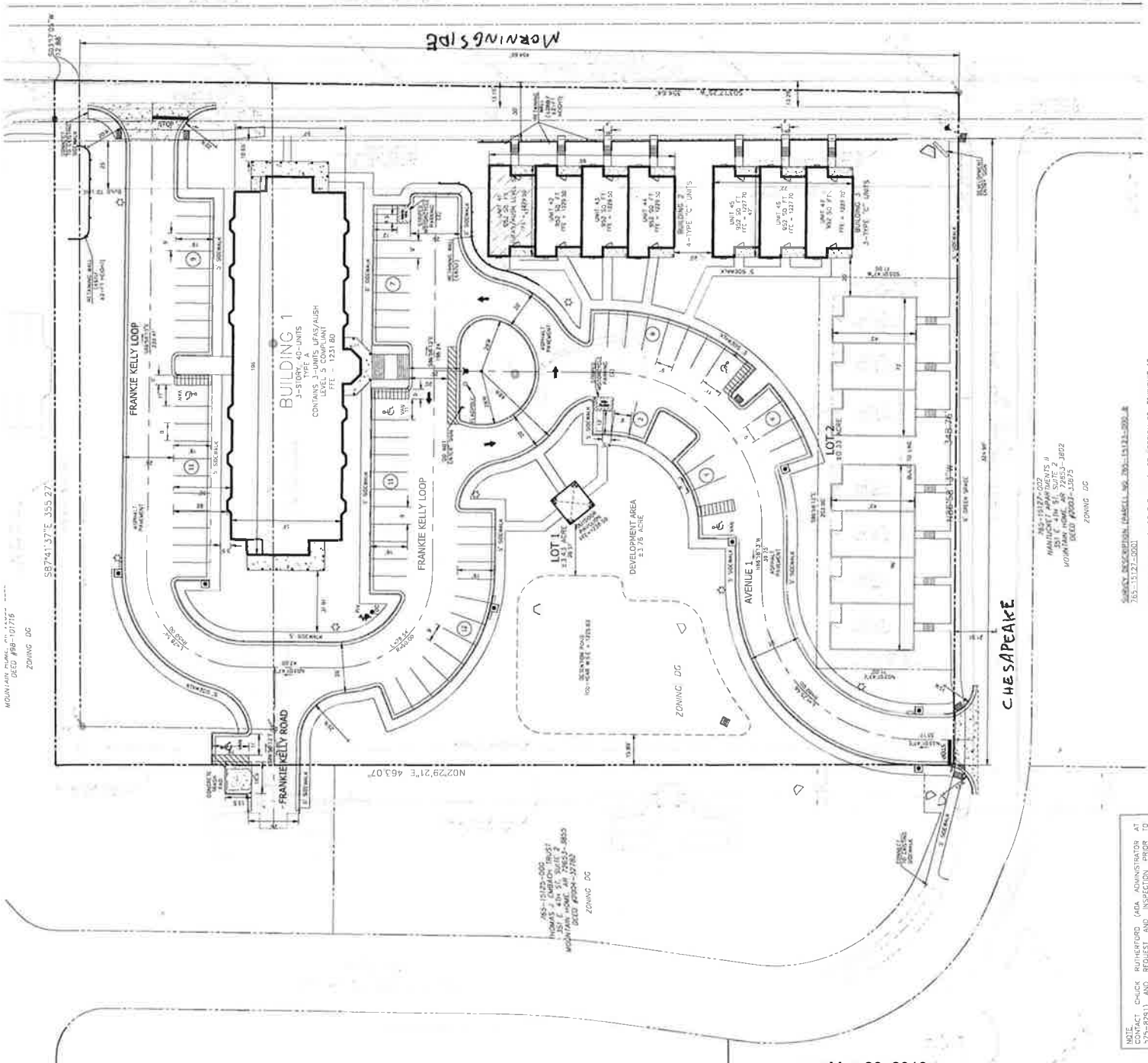
Please let me know if you have any questions.

Sincerely,



Ferdi Fourie, P.E.
Project Engineer
FF/FF

MOUNTAIN VIEW SEC'D #88-10778
ZONING DG



COVERAGE			
SITE	IMPERVIOUS AREA	PERVIOUS AREA	COVERAGE
MANICURED GRASS	1.00	0.00	0.00%
ASPHALT DRIVE	0.00	0.00	0.00%
CONCRETE DRIVE	0.00	0.00	0.00%
TOTAL	1.00	0.00	0.00%

FRONTAGE SUMMARY			
STREET	FRONTAGE	PERCENT WITHIN BUILDING	PERCENT WITHIN BUILDING
FRONTAGE	100	100	100
FRONTAGE	100	100	100
TOTAL	200	200	200

BUILDING	PARKING SPACES (COMPLETE BUILDOUT)	
	CITY REQUIRED	UNIVERSAL DESIGN PROVIDED
BUILDING TYPE A	40	40
BUILDING TYPE B	30	30
TOTAL	70	70
MOTORCYCLE	3	3
	0	0

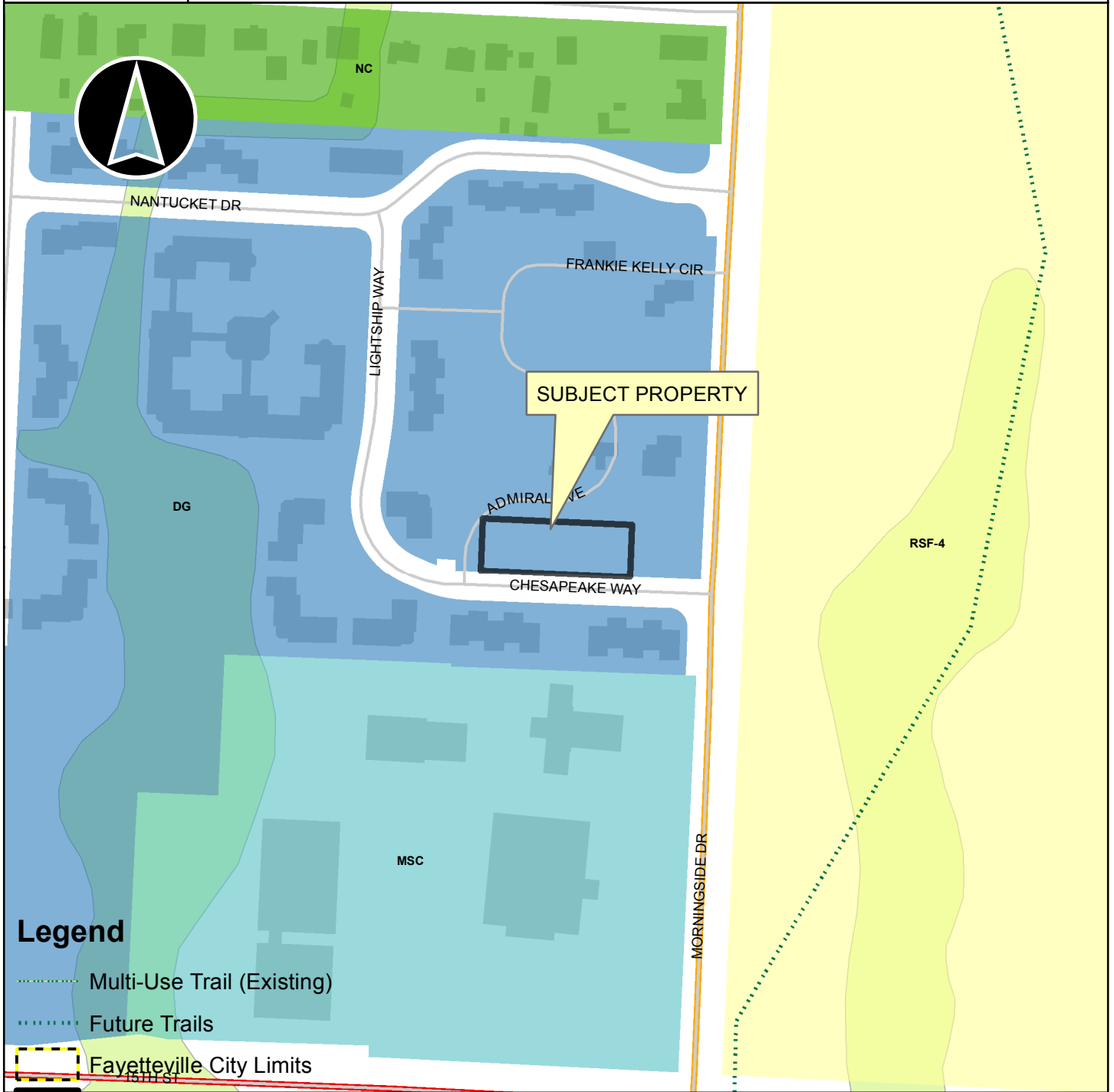
* CITY REQ. 1 SPACE/ROOM
** MOTORCYCLE SPACES AT 1 FOR EVERY 25 PARKING SPACES

AS-1518-000
MOUNTAIN VIEW SEC'D #88-10778
ZONING DG

ADM13-4383

NANTUCKET PHASE IV

Close Up View



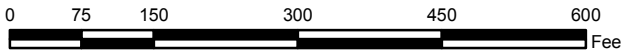
Legend

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

Overview

ADM13-4383

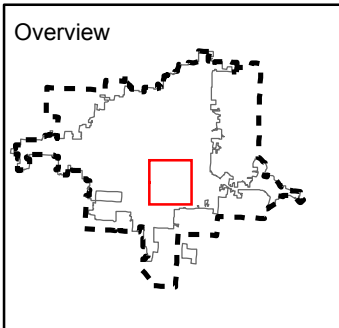
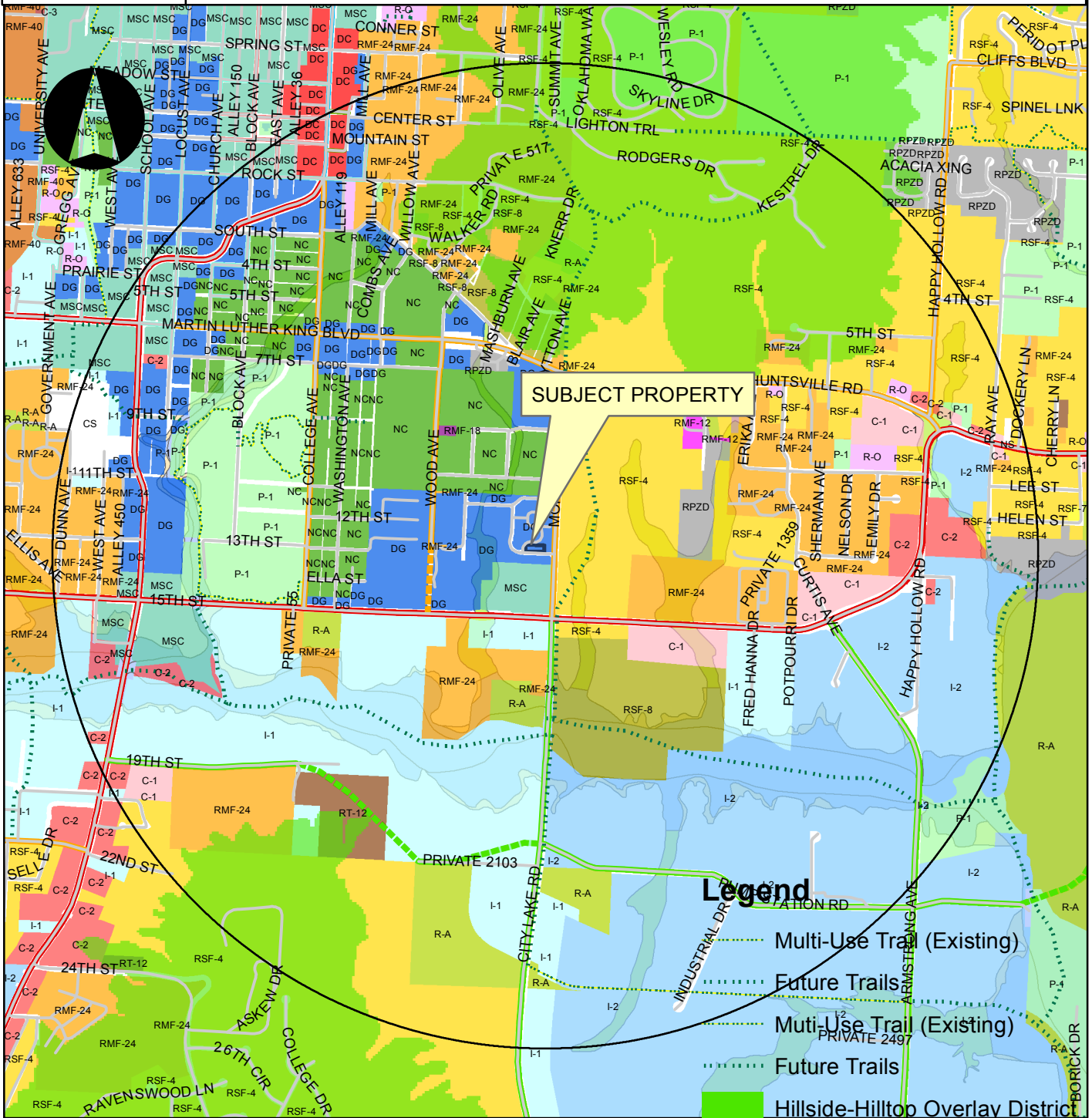
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area















ADM13-4383

NANTUCKET PHASE IV

One Mile View



Legend

-  Subject Property
-  ADM13-4383
-  Boundary
-  ADM13-4383
-  Design Overlay District
-  Planning Area
-  Fayetteville
-  Hillside-Hilltop Overlay District
-  Multi-Use Trail (Existing)
-  Future Trails
-  Multi-Use Trail (Existing)
-  Future Trails

0 0.25 0.5 1 Miles



PC Meeting of May 28, 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
Megan Dale, Urban Forester
THRU: Jeremy Pate, Development Services Director
Chris Brown, City Engineer
DATE: May 22, 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 Urban Thoroughfare and contains approximately 4.42 acres. The request is for variances of the Streamside Protection Zones, Parking Lot Landscaping, Access Management, and to permit Parking in the Build-to zone.
Floodplain Administrator: Sarah Wrede Planner: Andrew Garner
Urban Forester: Megan Dale

STAFF RECOMMENDS THIS ITEM BE TABLED INDEFINITELY.

STAFF AND THE APPLICANT HAVE HAD AN ADDITIONAL TWO MEETINGS SINCE MAY 13TH AND ARE MAKING PROGRESS TOWARDS A SOLUTION. THE APPLICANT IS IN THE PROCESS OF REVISING PLANS.



THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 28, 2013

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: May 28, 2013

CUP 13-4365: Conditional Use Permit (1720 E. ZION RD./TRICON, 136): Submitted by TCM ENTERPRISES for property located at 1720 EAST ZION ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.15 acres. The request is for a conditional use permit for a wireless communications facility (Use Unit 36).

Planner: Jesse Fulcher

THE APPLICANT HAS REQUESTED TO TABLE THE ITEM UNTIL THE JUNE 10, 2013 PLANNING COMMISSION MEETING.



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: May 20, 2013

ADM 13-4374: Administrative Item (617 N. COLLEGE AVE./PIGMINT, 445): Submitted by CHELSEA HERMEZ 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 (Pigmint) obtained an outdoor mobile vending permit to operate a floral studio/event planning business out of an airstream trailer on the property on December 17, 2013. The permit was valid for 90 days and expired on March 17, 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. Although not required by ordinance, staff hand-delivered letters to

G:\ETC\Development Services Review\2013\Development Review\13-4374 ADM 617 N. College Ave (Pigmint)\03 Planning Commission\05-13-2013\Comments and Redlines

several florist shops in the vicinity notifying them of the applicant's request. Some of the stores were not open at the time the letters were delivered. Staff has received one objection to the request from a local floral shop (see attached).

RECOMMENDATION: There is the potential for this florist business to adversely affect several florists located within the general proximity of this site, as they sell similar products and services. Because a mobile vendor operating out of a trailer is not subject to many of the same requirements as a permanent business, staff finds that the variance would create an unfair advantage that could adversely impact these other florists. For these reasons staff recommends denial of the variance. These findings are discussed in more detail in the report.

Should the Planning Commission determine in favor of the variance, staff would recommend 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 December 17, 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 to accommodate the upcoming street improvements to this area by the City. College Avenue requires 10 feet of right-of-way dedication, 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 and one curb cut on Trenton Boulevard, 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).
- 4. Wooden decks, stairways, and stoops to ease entry into the mobile vendors trailers are permitted, but clear plastic coverings are not allowed. Awnings for the trailers should be made of fabric, rubberized, or other similar material and attached to the trailers. The final approval of these types of structures shall be made by staff.

Additional Conditions/Comments:

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

Motion: _____

Second: _____

Vote: _____

Date: May 28, 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 floral studio 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: There are several florists in this general vicinity of the City. Staff has included an exhibit attached to this report that shows four florists¹ within less than a mile of this site. There is one florist (Jules Design) that is only about 300 feet to the south of Pigmint.

The development and utilization of permanent buildings for a florist are required to meet many regulations that a mobile trailer is not. Per square foot, the lease or mortgage for a brick and mortar building is, in theory, substantially greater than the lease or mortgage for a trailer. Therefore the cost of similar products and services from a trailer could be substantially cheaper than from a brick and mortar business. This results in an unequal playing field and an unfair advantage to Pigment over similar and nearby permanent floral shops.

1 Jules Design (528 N. College Ave.); Zu Zu Petals (1206 N. College Ave.); Showcase Florist (1382 N. College Ave.); Flora (7 East Mountain St.)

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

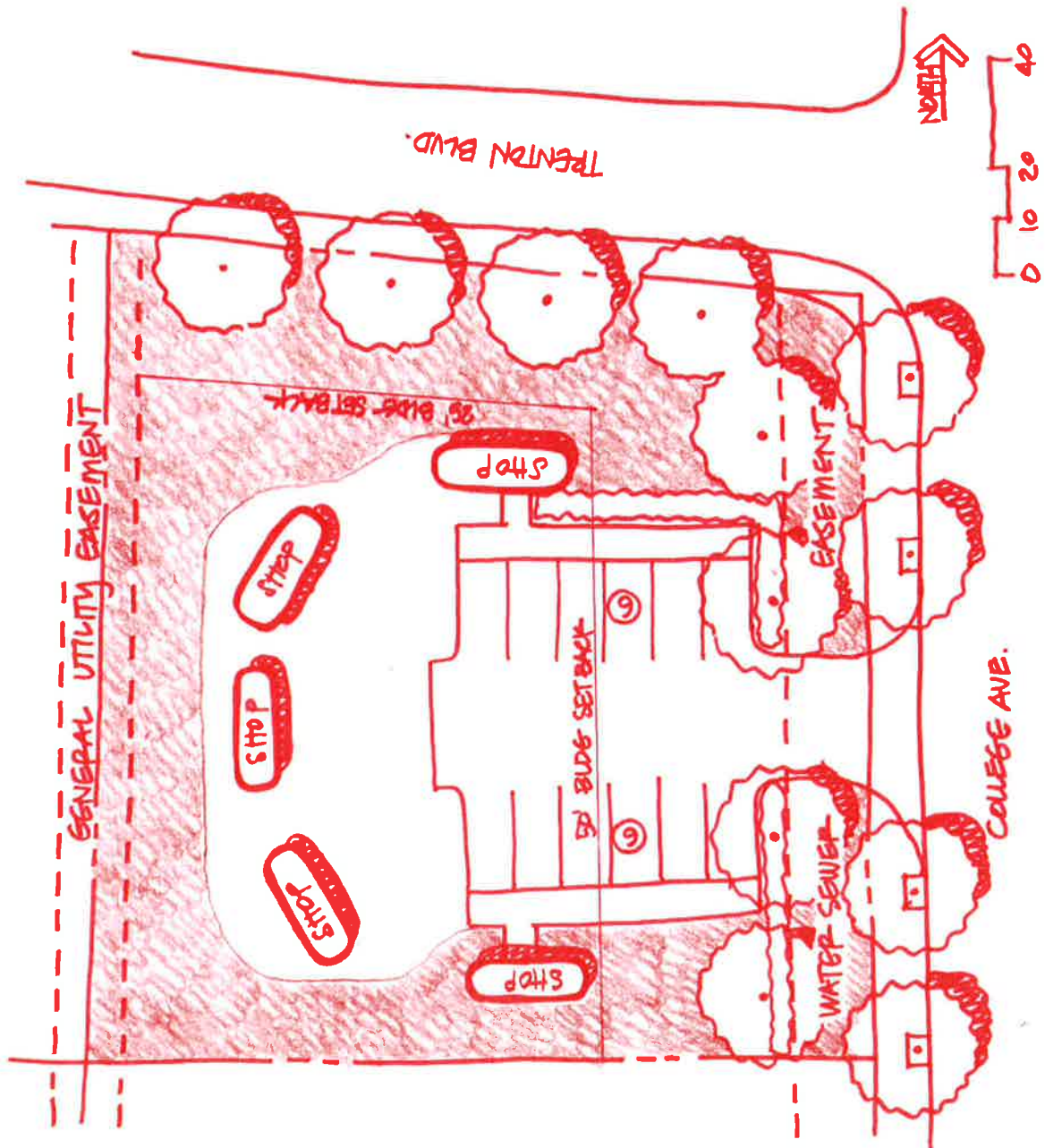
- (A) *Purpose.* This section's purpose is to facilitate and control the ability of outdoor vendors to temporarily operate on private property while ensuring such use is compatible with and not detrimental to nearby properties, does not adversely affect nearby businesses, fosters an aesthetically appealing 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)

EXAMPLE LANDSCAPE PLAN BY CITY STAFF





April 11, 2013

Dear Planning Commission Chair:

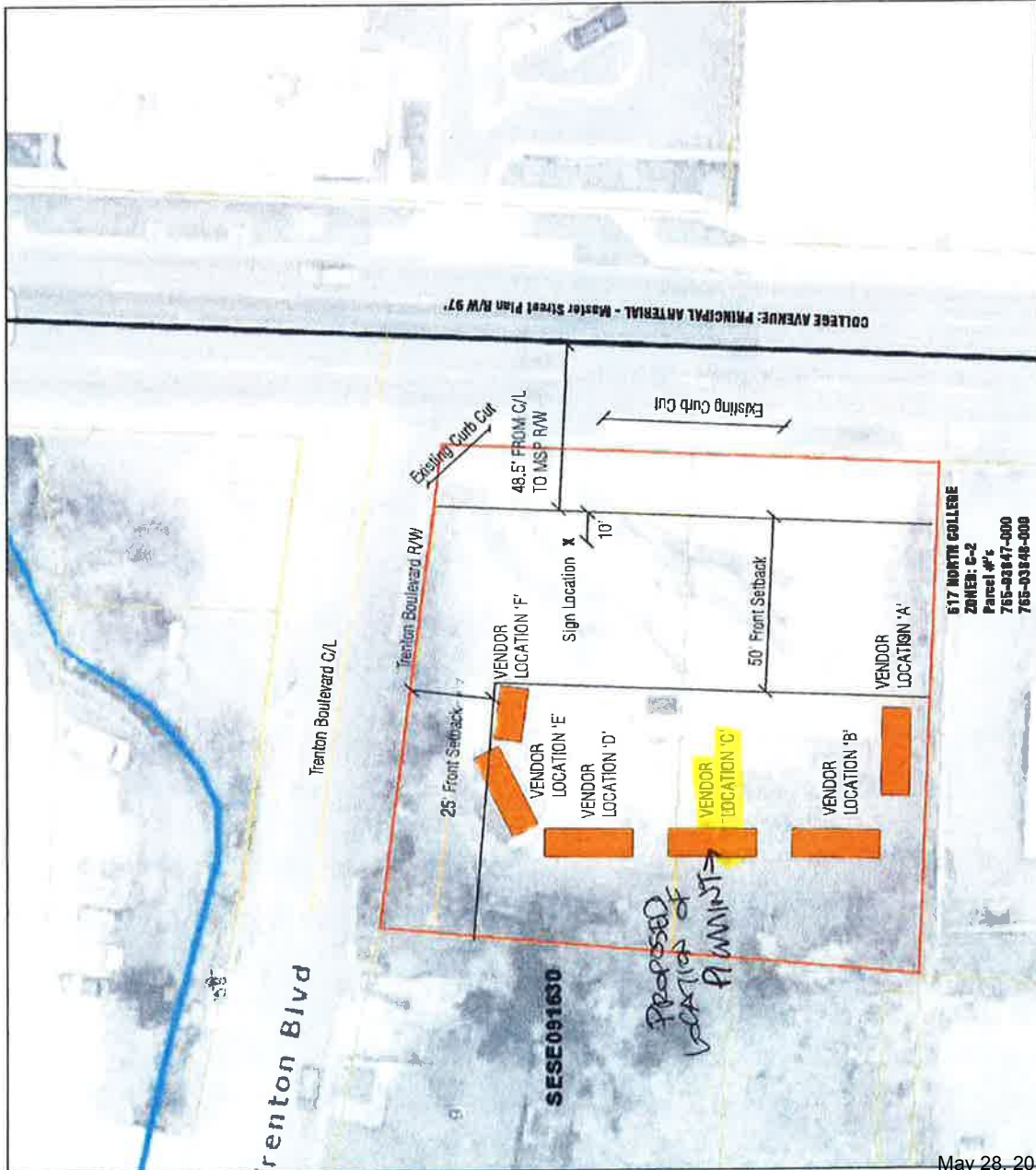
My name is Chelsea Hermez, co-owner of PIGMINT. PIGMINT is a floral studio located at the Yacht Club at 617 N. College Avenue. We have been at this location since February 1st, and officially opened to the public February 12th. Our business hours are Monday through Friday 10-6 and Saturday 10-4. We do not sell food or beverage of any kind.

I am writing today to request an extension on our Outdoor Mobile Vendor Permit. We feel that over the course of our first few months that we have been in business, we have provided a unique, quality product to our community. We hope that we can continue to grow in our current location. Relocation would cause a financial burden on our small business that we could not survive at this time.

I am available anytime to speak with you should you have questions or comments. I can be reached at 479-599-9792 or on my cell phone 479-841-8378. Thank you for your time and consideration.

Sincerely,

Chelsea Hermez



Parking Table
 Existing Parking Spaces
 SCALE: nts

Legal Description

Lots 1&2 Block 14, Parcel of Blocks 14&15, A.L., Then'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 Lot 2, thence N. 87° 33' 43" W along the South line of said Lot 2, a distance of 145.97 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 # 1456 and filed for record at 8x 672, Pg 139, Thence N. 04° 23' 03" E along the said centerline of the abandoned alley being the east line of Lot 1, a distance of 160.14 feet to a 1/2" rebar with plastic cap marked P.L.S. 852 at the NW corner of said Lot 1, Thence S 02° 29' 06" E along the East line of said Lots 1&2 (and along the westerly R/W of A. College Ave.), a distance of 133.75 feet to the Point of Beginning, containing 0.464 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'



From: "Jackie Hall Weiland" <showcase_creations@sbcglobal.net>
To: <agarner@ci.fayetteville.ar.us>
Date: 5/20/2013 3:44 PM
Subject: pigment (a florist)

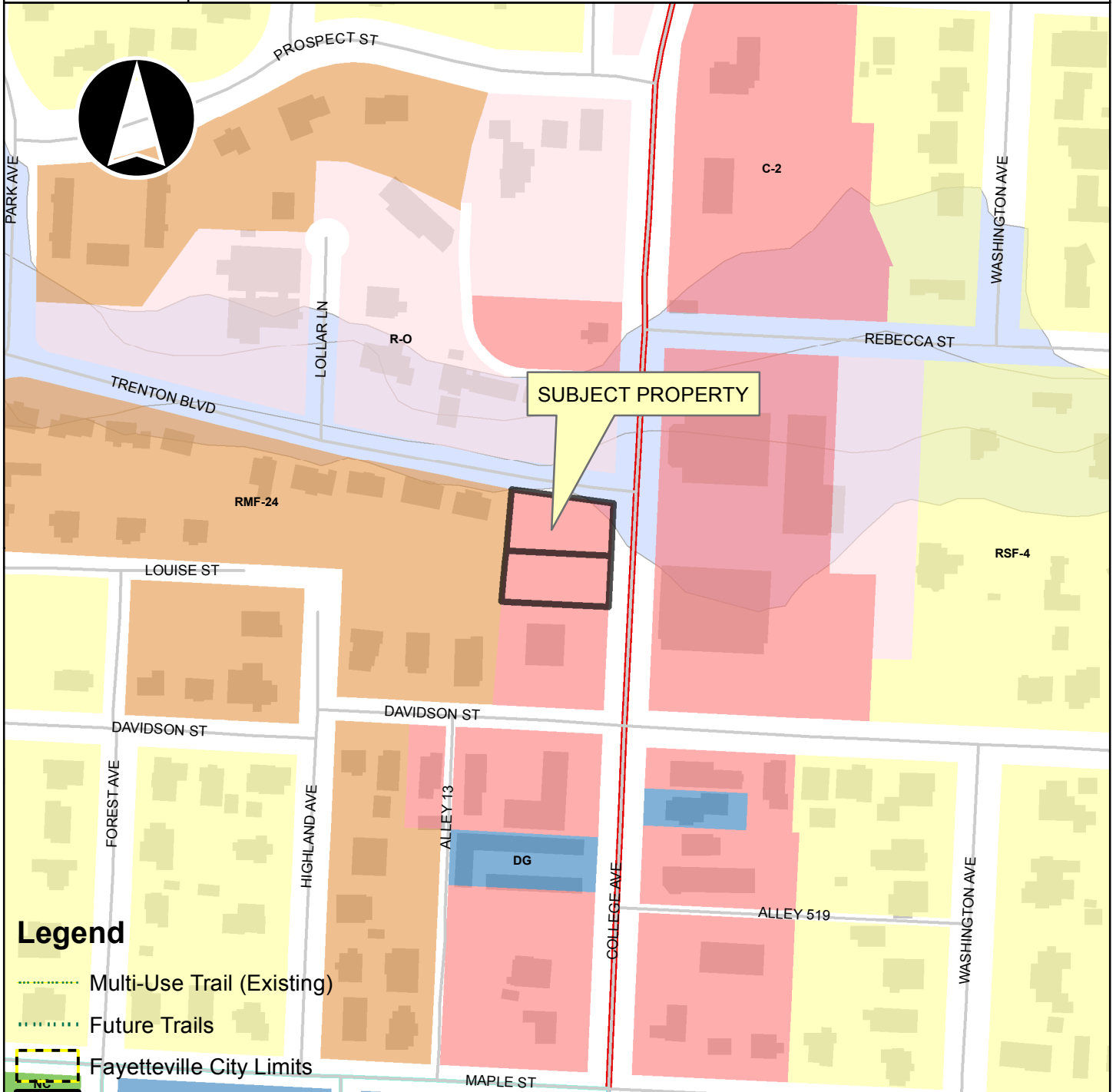
To whom it may concern; In response to the notification of a Public Hearing for Pigment Florist, we, hear at Showcase Florist feel we already have an abundance of Florists here in N.W. AR. We have been paying high rent, for years, and the Fayetteville Business Tax. There are more than enough Florists already located on College Ave. Thankyou, Showcase Florist Inc.
1382 N. College Ave.
Fayetteville, AR, 72703



ADM13-4374

PIGMINT

Close Up View



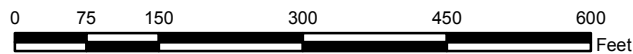
Legend

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

Overview

ADM13-4374

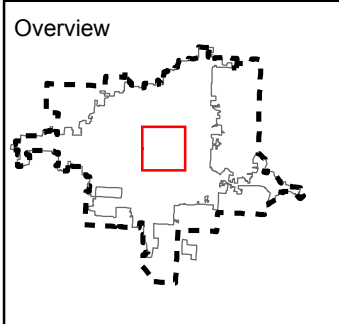
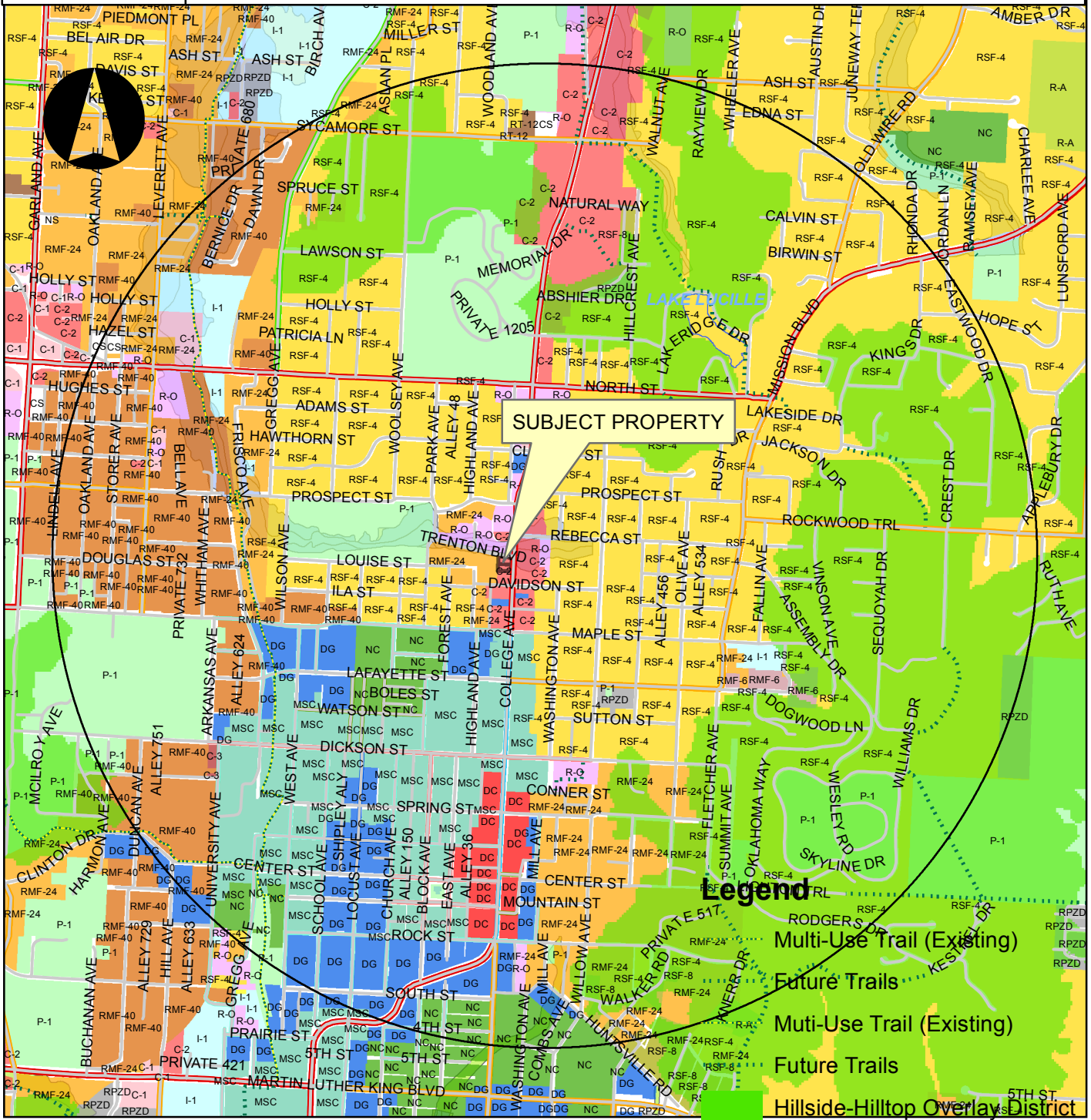
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



ADM13-4374

PIGMINT

One Mile View



Legend

- ADM13-4374
- Design Overlay District
- Planning Area
- Fayetteville
- Boundary

0 0.25 0.5 1 Miles

May 28, 2013
Planning Commission
ADM 13-4374 Pigmint
Agenda Item 5
Page 13 of 14



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
Glenn Newman, Staff Engineer
THRU: Jeremy Pate, Development Services Director
DATE: May 20, 2013

ADM 13-4394: (NORTHEAST CORNER OF COLLEGE AVE./TOWNSHIP ST. (CVS PHARMACY, 246): Submitted by BOOS DEVELOPMENT for the property located at the NORTHEAST CORNER OF COLLEGE AVE./TOWNSHIP ST. (DAYS INN SITE). The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains a total of 4.09 acres. The request is for a curb cut variance on College Avenue with the redevelopment of a portion of the site for a CVS Pharmacy.

Findings:

Background: The property is located at the northeast corner of College Avenue (a Principal Arterial), and Township Street (a Collector Street). The overall property contains the Days Inn site (4.09 acres) and the Suds carwash (0.47 acres). The Days Inn was developed in the mid-1960's and the Suds car wash was developed in the early 2000's, according to the Washington County Assessor's office. The property is zoned C-2, Thoroughfare Commercial and consists of four separate parcels.

The overall 4.56-acre property has approximately 420 feet of frontage on Township Street and 500 feet of frontage on College Avenue. The site is accessed by one nonconforming curb cut onto Township that meets the separation requirements but is wider than permitted, and five nonconforming curb cuts on College Avenue that do not meet the separation or curb cut width requirements. Cross access between the Suds car wash and the northern Days Inn driveway is provided, and a shared access easement is platted over this driveway and extends to the eastern property line (see attached survey).

Proposal: According to conversations between staff and the applicant (Boos Development, Inc.), the applicant is in the process of purchasing the entire Days Inn and Suds car wash sites (4.56 acres) with the intent to redevelop the entire site with new commercial businesses. The first phase of their project is to demolish a portion of the existing Days Inn and redevelop the southwest 1.79 acres of the site for a new CVS Pharmacy.

As indicated on the conceptual plan, the applicant proposes to close the southern curb cut on College Avenue and utilize one existing curb cut on College Avenue and one existing curb cut on Township for the new pharmacy. They are not proposing to modify the two curb cuts for the Suds car wash or

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the northernmost curb cut for Days Inn. These curb cuts would remain open and the northern one would be available for the new pharmacy.

Access Management Ordinance and Variance Request: The Access Management Ordinance requires a site that is being redeveloped to fully comply with the ordinance. The existing curb cuts are not “grandfathered in”. The Access Management standards were adopted so that access to new development and redevelopment would not create or contribute to unsafe or congested conditions, especially along arterial roadways. As new access points are created and as sites are redeveloped, the potential for vehicle conflicts between through traffic and traffic using the access increases. In addition to decreased safety, poorly designed access points increase congestion and traffic delays.

The proposed curb cut on College Avenue would require a variance of the City’s Access Management Ordinance (Fayetteville Unified Development Code 166.08 F.1) for the following reasons:

- The curb cut is proposed onto a Principal Arterial Street (College Avenue) when the property also has access onto a lower classification Collector Street, Township Street, and a curb cut on College (northern curb cut for Days Inn);
- The curb cut is 223 feet from the intersection of Township Street/College Avenue and 49 feet from the adjacent curb cut to the north for the existing Suds Carwash. When a curb cut is required on an arterial the minimum curb cut/intersection separation is 250 feet.

Discussion: Staff finds that the request to permit a curb cut on College Avenue is warranted and justified with the redevelopment of this entire 4.56-acre site. This is a large property being developed for a business that will generate a relatively high volume of vehicles, a pharmacy with a drive-thru. If a curb cut were not granted onto College Avenue it would force all traffic into and out of Township Street. Township is a busy Collector Street and traffic will at times stack all the way across this parcel, and the proposed driveway. A driveway on College Avenue will give drivers another option and potentially avoid a congested and dangerous curb cut on Township at peak hours. While staff feels that a curb cut onto College Avenue is warranted there are several concerns with the applicant’s proposal:

- The curb cut on College is approximately 49 feet from the adjacent curb cut to the north for the car wash. The close proximity of these curb cuts on a high speed arterial creates opportunity for multiple turning conflicts into and out of the site.
- The throat length for the driveways on both College and Township is less than the minimum and because of the high volume of traffic traveling into and out of this site and relatively high speeds, the proposed narrow throat length may cause vehicles to stack into the parking lot drive aisles or delay pulling into the site off the public street which causes traffic safety problems.
- Stacking for the traffic signal will block the driveway on Township. This may cause delays pulling into and out of the site and encourage drivers to stop and let other vehicles to cross multiple lanes of traffic.

Recommended Motion: Staff recommends approval of the proposed variance from Chapter 166.08(F) for the curb cut onto College Avenue based on the findings herein, subject to the following conditions:

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Conditions of Approval:

1. To reduce turning movement conflicts as a result of two curb cuts within 50 feet of one another on a principal arterial, the proposed curb cut and existing curb cut for the adjacent car wash to the north shall be combined into one shared curb cut. The exact location of this curb cut to be determined at the time of development, but shall be at least as far north from the intersection of Township/College as currently shown on the concept site plan. This is consistent with the ordinance that states that when curb cuts are required along an arterial they shall be shared between property owners, when feasible. The car wash's northern curb cut and the Days Inn northern curb cut may remain at this time, but will be re-evaluated with future redevelopment of those sites. If for some reason the applicant does not purchase the car wash site, and cannot obtain permission from that property owner for a shared curb cut, the applicant still has access to College Avenue through the northernmost curb cut for Days Inn.
2. To reduce turning conflicts as a result of vehicles turning left out of the site onto College Avenue, the curb cut shall be a full access in, right-out only. The design of the curb cut shall be modified from the current proposal and submitted for review with the large scale development. The curb cut design shall aggressively restrict left turning movements out of the site, as much as will be permitted by the Arkansas State Highway Department. It is understood that some drivers will break the law and attempt to turn left out of this type of driveway, however, this design will discourage many drivers from turning left resulting in increased safety, and should therefore be required.
3. The throat length of the driveway entrances on both College Avenue and Township Street shall be increased to at least 60 feet, as measured from the inside of the curb line on the public street to the inside curb line of the parking lot drive aisle. The Code requirement is variable dependant on the type and size of development and determination from the Zoning Development Administrator and City Engineer (UDC 172.04.F). For an un-signalized driveway with the redevelopment of this site recommends at least 60 feet.
4. Cross access easements shall be platted on both the Township and College driveways, continuing on the drive aisle around the east and north of the building, allowing cross access through the parking lot and to the adjacent property to the north and east (see Cross Access Exhibit).
5. Drive aisle stub-outs and/or connections to the adjacent property to the north and east shall be provided and indicated on the plans submitted for large scale development (see Cross Access Exhibit).
6. Approval of this variance does not grant approval of variances for drive aisle width or curb cut width. Theses design details will be reviewed at the time of large scale development for compliance with all Fayetteville Unified Development Code requirements.

PLANNING COMMISSION ACTION: yes Required
 Approved Denied Tabled

Motion: _____

Second: _____

Vote: _____

Date: May 28, 2013

Fayetteville Unified Development Code
166.08 Street Design And Access Management Standards

(F) Access Management. Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto two public streets shall place a higher priority on accessing the street with the lower functional classification, ex. Local and Collector.

(1) *Curb cut minimum distance from intersection or driveway.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb.

(a) **Principal and Minor Arterial Streets.** Where a street with a lower functional classification exists that can be accessed, curb cuts shall access onto those streets. When necessary, curb cuts along arterial streets shall be shared between two or more lots. Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection or driveway.

Number of Curb Cuts Permitted	
Length of Street Frontage	Maximum Number of Curb Cuts
0-500 ft.	1
501-1000 ft.	2
1001-1500 ft.	3
More than 1500 ft.	4

(b) Collector Streets. Curb cuts shall be located a minimum of 100 feet from an intersection or driveway. When necessary, curb cuts along collector streets shall be shared between two or more lots.

Number of Curb Cuts Permitted	
Length of Street Frontage	Maximum Number of Curb Cuts
0-100 ft.	1
101-250 ft.	2
251-500 ft.	3
More than 500 ft.	4

(e) Variance. In order to protect the ingress and egress access rights to a street of an abutting property owner, a variance to the curb cut minimums shall be granted by the Planning Commission to allow an ingress/egress curb cut at the safest functional location along the property. Such a curb cut may be required to be shared with an adjoining parcel if feasible. If a parcel on the corner of an arterial or collector street provides such short frontage along a major street that there is no safe ingress/egress functional location on that street, the Planning Commission may deny the curb cut or may limit such curb cut to ingress or egress only.



LINFIELD, HUNTER & JUNIUS, INC.
PROFESSIONAL ENGINEERS, ARCHITECTS
AND SURVEYORS

3608 18th Street / Suite 200
Metairie, Louisiana 70002
(504) 833-5300 / (504) 833-5350 fax

Ralph W. Junius, Jr., P.E.
Frank C. Newell, P.E., P.L.S.
Anthony F. Goodgion, P.E.
Sergio J. Girau, P.E.
Nathan J. Junius, P.E., P.L.S.
Stephen R. Braquet, AIA, NCARB
Luis F. Sosa, P.E.
Charles T. Knight, P.E.
Robert E. Nockton, P.E.
Wesley R. Eustis, P.E.
Casey M. Genovese, P.E.

April 30, 2013

Mr. Craig Honchell
Chairman
Fayetteville Planning Commission
113 West Mountain Street
Fayetteville, AR 72701

Re: CVS CS No. 73604
NEC – N. College Ave. & E. Township Rd.
2402 N. College Ave.
Fayetteville, AR
Our File #: 12-70E

Dear Mr. Honchell,

This letter is to request a variance from Sections 166.08.F and 166.08.F.1.a of the Unified Development Code. Section 166.08.F states "Property that fronts on two public streets shall place a higher priority on accessing the street with the lower functional classification, ex. Local and Collector." Section 166.08.F.1.a states "Where a curb cut must access the arterial street, it shall be located a minimum of 250 feet from an intersection or driveway."

The subject site is a corner parcel and we are requesting to have access on both N. College Ave. and E. Township Rd. Both accesses are deemed vital to the functionality and future success of the development. For example, due to site constraints, the large delivery truck does not have the maneuverability to enter and exit the site from the lone E. Township Rd. access. The N. College Ave. access is required to physically allow the delivery truck the ability to enter and exit the site.

The current access on E. Township Rd. will remain largely intact. The access on N. College Avenue closest to the intersection will be closed. The second existing access on N. College Ave. will be modified slightly but remain largely in the same location. This access will be located approximately 225 ft. from the intersection and thus will require a variance from Section 166.08.F.1.a. Due to the location of an adjacent carwash, which is not part of this development, this driveway cannot be moved any further north away from the intersection.

If you have any questions, please feel free to contact us.

Very truly yours,

LINFIELD, HUNTER & JUNIUS, INC.

Wesley R. Eustis, P.E.

**PROPOSED DRIVEWAY AT PLANNED CVS PHARMACY SITE
NORTH COLLEGE AVENUE (US 71) @ EAST TOWNSHIP ROAD
FAYETTEVILLE, ARKANSAS**

A new CVS drive-through pharmacy development is currently planned for a land parcel adjoining the northeast quadrant of the intersection of North College Avenue (US 71) and East Township Road in Fayetteville, Arkansas. In connection with this project, the site plan proposes a singular vehicular access point to and from each of those roadways. The purpose of this document is to examine the US 71 unit with respect to safety considerations, operational characteristics, and potential external and internal circulation conflicts.

As a design feature to minimize its impact upon the primary East Township Road intersection, the access opening from the proposed CVS facility to North College Avenue (US 71) will lie at the extreme northern end of the property's western frontage. As such, turning movements into and out of the complex can occur independently of the routine daily circulation at that point.

In addition, it should be noted that the sight distance for the US 71 location is unimpeded by any fixed object, and is virtually unlimited in either direction for both motorists exiting the driveway to points north and south, as well as for those traversing US 71 and approaching the CVS location. Moreover, with the filtering benefit of traffic signal control at East Township Road 220 feet to the south, and at East Sunbridge Drive 850 feet to the north, exit movements from the driveway should occur without undue congestion or delay.

Inasmuch as the CVS parcel lies to the east of US 71, the driveway will be downstream of the signal for approaching traffic on the adjacent northbound lanes. Vehicle queues produced by the signal operation on that movement will therefore not be a factor. Queuing on the southbound approach will be of minor consequence. Right turn exits from the driveway will be unaffected by stacking in that area and, should the queue length on that intersection approach extend beyond the driveway location, motorists executing a left turn departure can seek temporary refuge in the bi-directional left turn lane which separates the opposing directions of flow.

Even from a superficial examination of the proposed CVS site plan, it is clear that, without the presence of an access point to North College Avenue (US 71), the configuration of the various parking stalls, aisles, drive-through accommodations, and trash pick-up point lacks balance and functionality. With arrival and departure available only from East Township Road, a significant number of additional turning movements will be forced into the already heavily travelled US 71-Township intersection. Of particular concern is the high-demand southbound left turn component.

Within the CVS site plan itself, the efficiency of circulation to and from the available parking stalls and drive-through facility is contingent upon the presence of the North College Avenue (US 71) driveway. With that unit in place, the non-debarking drive-through patrons and larger service vehicles which necessarily utilize that one-way aisle to the east and north of the building will remain segregated from the vast majority of the "park and walk" activities. Without US

71 access, such vehicles would be forced to traverse the entire length of the primary parking aisle with some vehicles such as the delivery truck completely unable to make this maneuver. Service vehicles that did make this maneuver would create numerous unnecessary trips in an area in which significant numbers of pedestrians will be moving between the store entrance and their vehicles.

The orientation of the primary parking stalls, themselves, further exacerbates this situation. Thirty (30) such stalls lie between the western face of the building and North College Avenue (US 71), while only 21 are positioned along the southern frontage, adjacent to East Township Road. With both driveways present and functional, arriving and departing vehicles from each roadway will tend to move in and out of the lot within their own exclusive areas with few crossing in front of the store entrance where pedestrian movement within the aisle is heaviest. Without the availability of the US 71 driveway, all vehicular access to and from the 30 stalls to the west must necessarily traverse that critical area twice.

It is noteworthy that the previous land use upon the CVS target site, a Days Inn Motel, operated a full-access driveway at a similar location for many years. Research of the ITE Trip Generation Manual indicates that the CVS project will produce approximately the same number of trip ends in the evening peak period, but substantially lower numbers in the morning commuter hour. It is therefore apparent that the proposed US 71 driveway, as a design component of the CVS site circulation, is a viable and effective unit which, at a lower volume demand than its previous counterpart, will function at a lesser impact upon the adjacent street flow pattern than did that entity.

It is also apparent that the CVS site plan, without the benefit of the US 71 access point, will be subject to poor internal circulation trends which give rise to a greater number of vehicular-pedestrian and vehicular-vehicular conflicts, thus creating an unsafe and congestion-prone environment within the complex. In view of these factors, it is evident that the US 71 driveway is an essential component of the CVS site plan and will play a vital role in the minimization of extraneous turning movements within the primary intersection, and the optimization of internal circulation efficiency and pedestrian safety.



LINFIELD, HUNTER &
ASSOCIATES, INC.
PROFESSIONAL ENGINEERS
2608 16th Street, Suite 200
Montreal, Louisiana 70002

04/11

CONSULTANT:

DEVELOPER:

BOX
DEVELOPMENT
8055 OBERVANT ST
2700 ROGERS DR SU
BIRMINGHAM, AL 352
TEL (205) 769-8

SEAL:

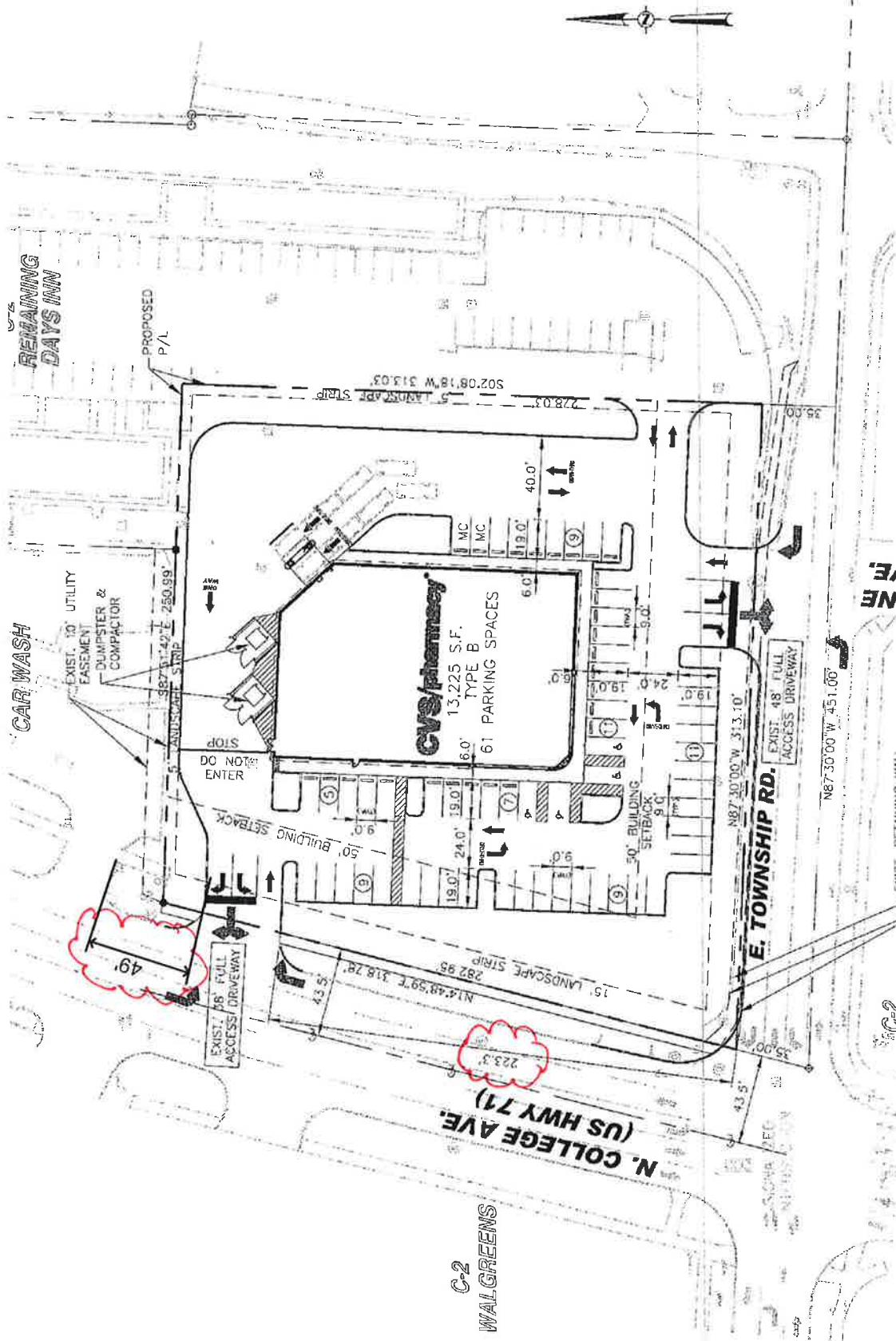
REVISIONS:
1) 5/3/13 GENERAL

DRAWING BY:

DATE: 30

JOB NUMBER:

TITLE:



CVS pharmacy
 SOUTHERN 13,225-LEFT
 CHAMBER DRIVE THRU
 STORE NUMBER 00000
 NEC N. COLLEGE AVE (US HWY 71)
 & E. TOWNSHIP RD
 FARGO, ND
 PROJECT TYPE
 DEAL TYPE
 CS PROJECT NUMBER 73604

UNFIELD HUNTER & JONES, INC.
 CIVIL ENGINEERS
 1000 UNIVERSITY BLVD
 SUITE 300
 NORTHEAST LAKOTA 58042

CONSULTANT:

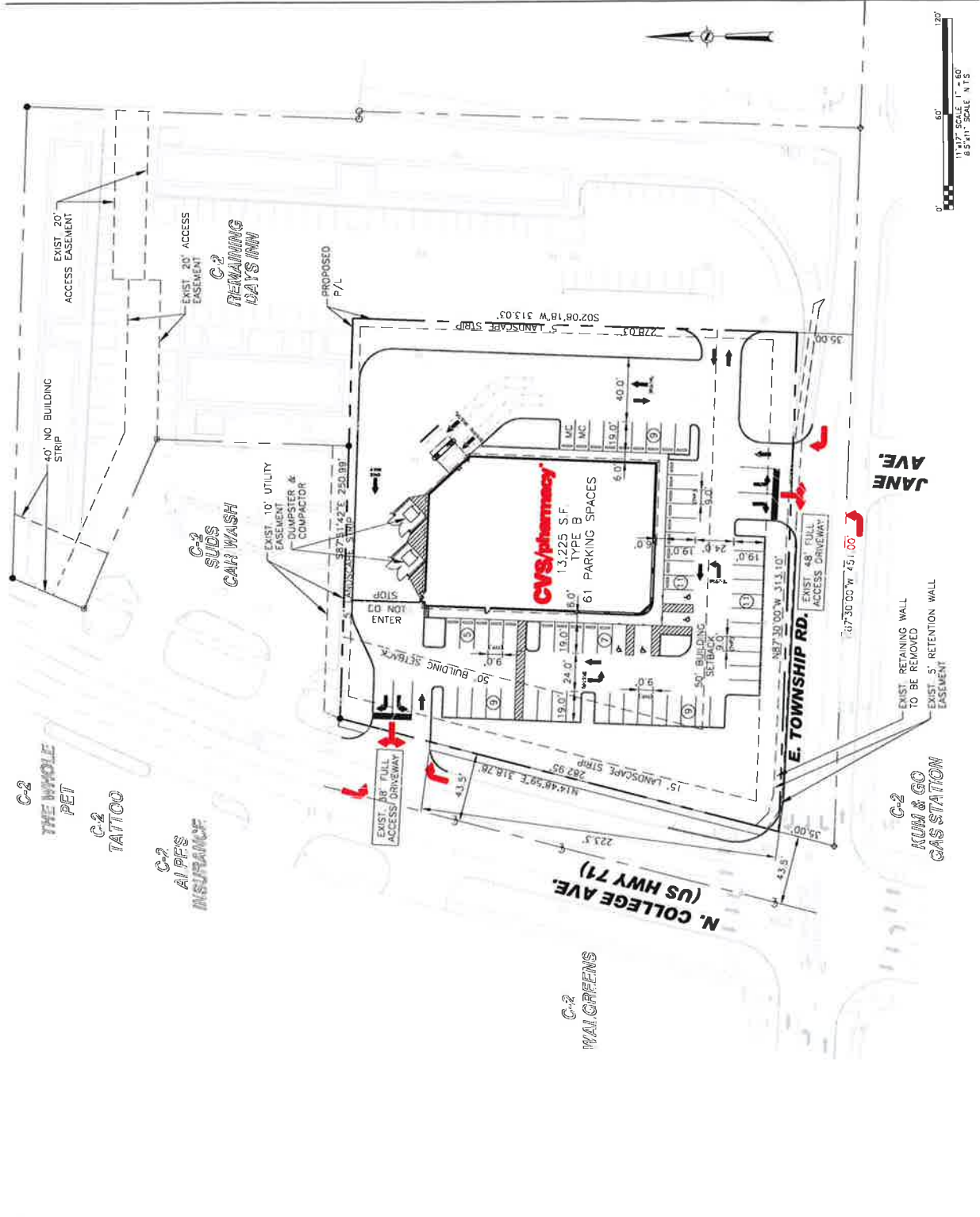
DEVELOPER:
BOOS
 DEVELOPMENT GROUP, INC
 2700 ROSS RD, SUITE 200
 FARGO, ND 58103
 TEL: 701.781.8218

SEAL:

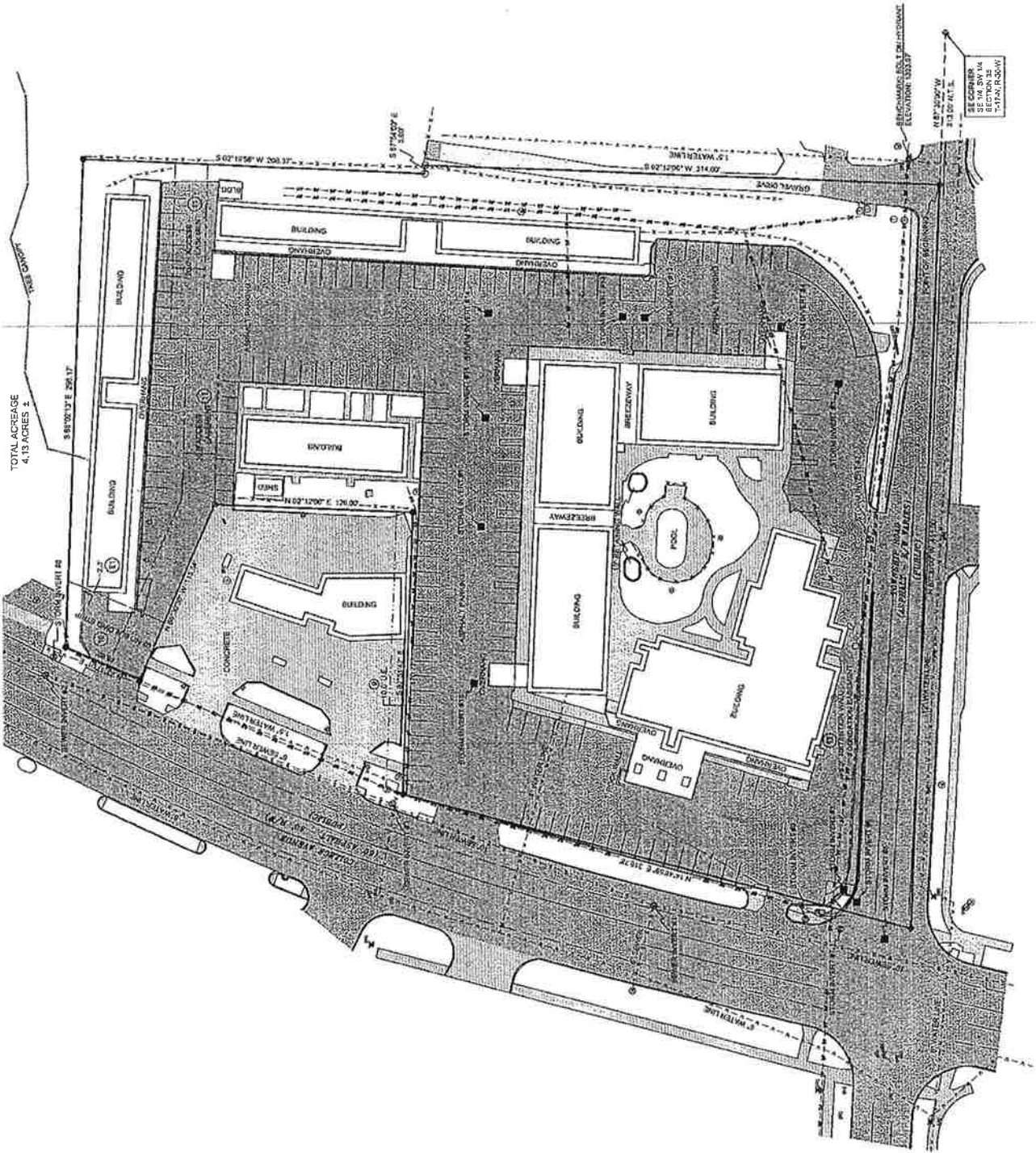
REVISIONS
 1) 5/27/13 GENERAL REVISIONS
 2) 5/13/13 TRUCK ROUTE ADDED

DRAWING BY LHJ
 DATE 30 APRIL 2013
 JOB NUMBER 12-70E
 TITLE

SHEET NUMBER
SITE PLAN FOR VARIANCE
COMMENTS



NEC N. COLLEGE AVE (US HWY 71) & E. TOWNSHIP RD
 SITE DATA
 SITE AREA = 1.79 ACRES (78,100 SF)
 BUILDING DATA
 CVS RETAIL BUILDING AREA = 13,225 SF
 PARKING DATA
 PARKING SPACES = 61 SPACES
 PARKING RECORD = 31 SPACES



TOTAL ACREAGE
4.13 ACRES ±

- STORM INVERT #2
RIM-127.45
NORTH-128.54
WEST-128.66
- STORM INVERT #3
RIM-128.01
NORTH-128.01
SOUTH-128.55
- STORM INVERT #4
RIM-128.27
NORTH-128.27
SOUTH-128.42
- STORM INVERT #5
RIM-128.51
NORTH-128.51
WEST-128.66
- SEWER INVERT #1
EAST-127.647
SOUTH-127.117
- STORM INVERT #6
RIM-128.35
NORTH-128.35
WEST-128.42
- STORM INVERT #7
RIM-128.39
NORTH-128.39
WEST-128.42
- STORM INVERT #8
RIM-128.42
NORTH-128.42
WEST-128.42
- STORM INVERT #9
RIM-128.42
NORTH-128.42
WEST-128.42
- STORM INVERT #10
RIM-128.42
NORTH-128.42
WEST-128.42
- STORM INVERT #11
RIM-128.42
NORTH-128.42
WEST-128.42
- STORM INVERT #12
RIM-128.42
NORTH-128.42
WEST-128.42
- STORM INVERT #13
RIM-128.42
NORTH-128.42
WEST-128.42
- STORM INVERT #14
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WEST-128.42
- STORM INVERT #15
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NORTH-128.42
WEST-128.42

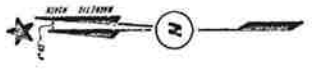
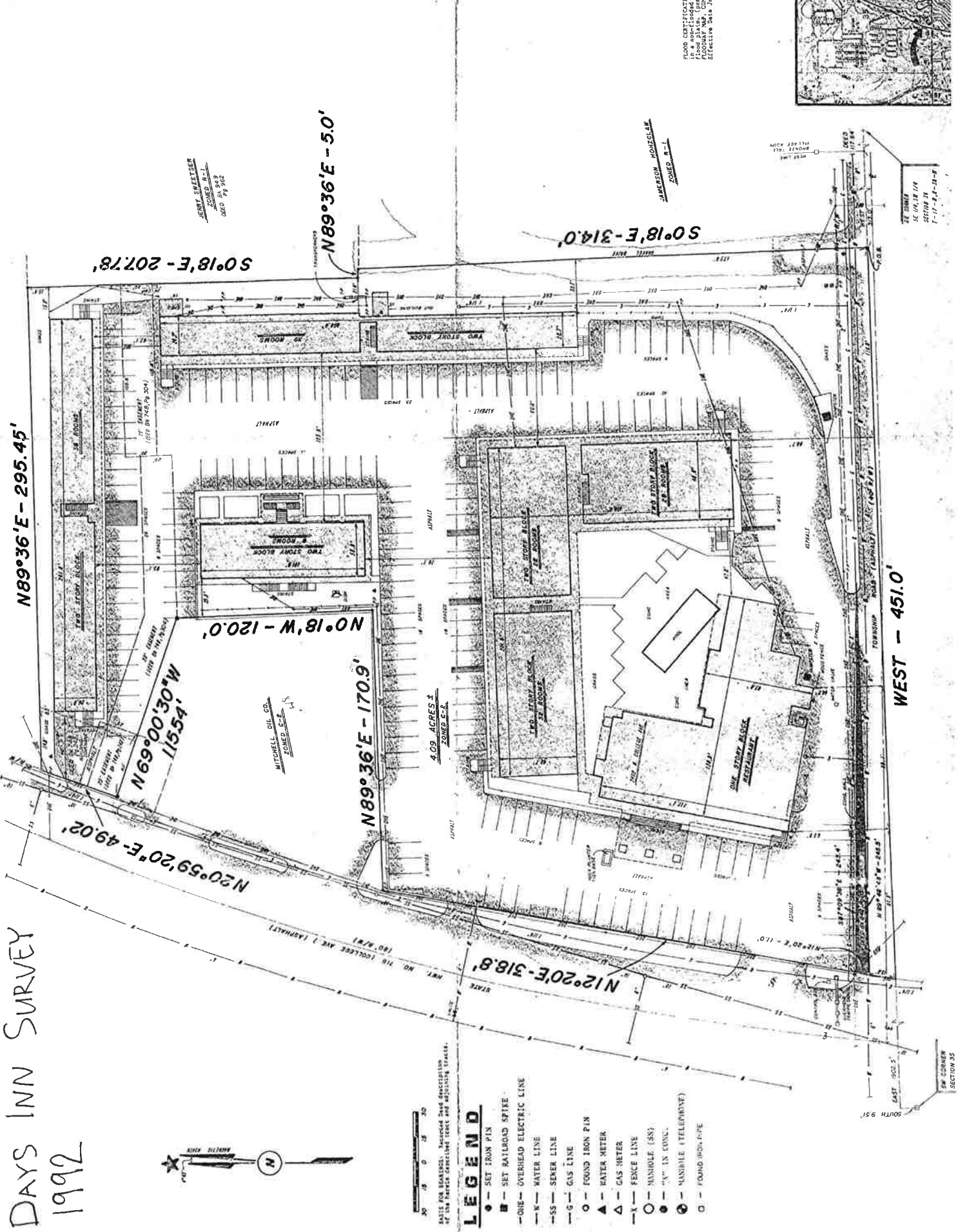
SCHEDULE B - SECTION II

- BASEMENT IN FAVOR OF S & H INCORPORATED, FILED FOR RECORD MAY 21, 1993 PHAS BEEN RECORDED BOOK 384 AT PAGE 41 AND CONNECTED IN THE RECORDS OF WASHINGTON COUNTY, AR. - PLATTED
- BASEMENT IN FAVOR OF S & H INCORPORATED, FILED FOR RECORD MAY 21, 1993 PHAS BEEN RECORDED BOOK 384 AT PAGE 41 AND CONNECTED IN THE RECORDS OF WASHINGTON COUNTY, AR. - PLATTED
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- BASEMENT IN FAVOR OF S & H INCORPORATED, FILED FOR RECORD MAY 21, 1993 PHAS BEEN RECORDED BOOK 384 AT PAGE 41 AND CONNECTED IN THE RECORDS OF WASHINGTON COUNTY, AR. - PLATTED
- MEMORANDUM OF ENERGY SERVICES AGREEMENT BY AND BETWEEN HILTON HOTELS, FILED JANUARY 26, 1987 IN DEED LAND RECORD BOOK 1210 AT PAGE 947 - BLANKET
- RETENTION WALL UNDERGROUND FOUNDATION BASEMENT IN FAVOR OF THE CITY OF FAYETTEVILLE, ARKANSAS, A MUNICIPAL CORPORATION, DATED SEPTEMBER 25, 1987 AND FILED FOR RECORD SEPTEMBER 26, 1987 IN DEED LAND RECORDS OF WASHINGTON COUNTY, AR. - PLATTED
- MEMORANDUM OF AGREEMENT BY AND BETWEEN J.M.U. INC., DRILLING AND ARKANSAS CORPORATION AND TO CABLE PARTNERS SIBA COX COMMUNICATIONS, A DELAWARE GENERAL PARTNERSHIP, FILED APRIL 14, 2004 IN LAND DOCUMENT #2004-12881 - BLANKET

ADJACENT LAND OWNERS

- 1. GOTTSCHE LOWMEYER INVESTMENT CO. LLC
PO BOX 1090 FAYETTEVILLE, AR 72702-1090
PARCEL #755-1020000
- 2. SWEETSER, JERRY D
700 N. LEVETT AVE. FAYETTEVILLE, AR 72701
PARCEL #755-1071800
- 3. SWEETSER FAMILY LIMITED PARTNERSHIP
700 N. LEVETT AVE. FAYETTEVILLE, AR 72701-3228
PARCEL #755-1071800
- 4. SWEETSER FAMILY LIMITED PARTNERSHIP
700 N. LEVETT AVE. FAYETTEVILLE, AR 72701-3228
PARCEL #755-1071800
- 5. SWEETSER FAMILY LIMITED PARTNERSHIP
700 N. LEVETT AVE. FAYETTEVILLE, AR 72701-3228
PARCEL #755-1071800
- 6. SWEETSER FAMILY LIMITED PARTNERSHIP
700 N. LEVETT AVE. FAYETTEVILLE, AR 72701-3228
PARCEL #755-1071800
- 7. SWEETSER FAMILY LIMITED PARTNERSHIP
700 N. LEVETT AVE. FAYETTEVILLE, AR 72701-3228
PARCEL #755-1071800
- 8. SWEETSER FAMILY LIMITED PARTNERSHIP
700 N. LEVETT AVE. FAYETTEVILLE, AR 72701-3228
PARCEL #755-1071800
- 9. KG STORE 409 LLC
640 WEST TOWN PHONY WEST DES MOINES, IA 50315
PARCEL #755-1041000
- 10. KG STORE 409 LLC
640 WEST TOWN PHONY WEST DES MOINES, IA 50315
PARCEL #755-1041000
- 11. KG STORE 409 LLC
640 WEST TOWN PHONY WEST DES MOINES, IA 50315
PARCEL #755-1041000
- 12. KG STORE 409 LLC
640 WEST TOWN PHONY WEST DES MOINES, IA 50315
PARCEL #755-1041000

DAYS INN SURVEY
1992



NOTE FOR READERS: Increased Detail Direction of the Survey (Including LEGAL AND ADJACENT PLATS).

LEGEND

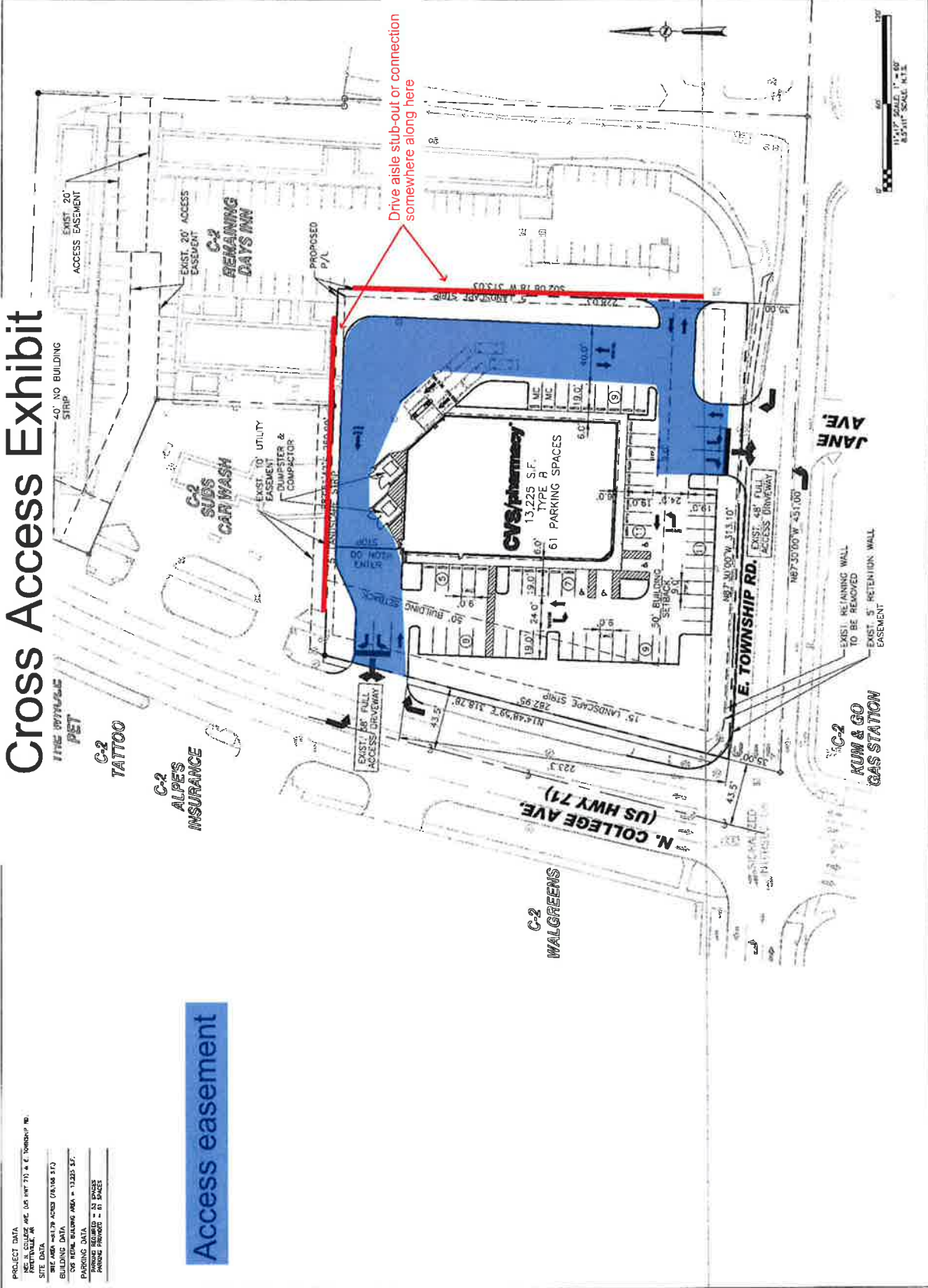
- SET IRON PIN
- SET RAILROAD SPIKE
- OH— OVERHEAD ELECTRIC LINE
- W— WATER LINE
- SS— SEWER LINE
- G— GAS LINE
- FOUND IRON PIN
- ▲ WATER METER
- △ GAS METER
- X— FENCE LINE
- MANHOLE (GS)
- "N" IN CONC.
- MANHOLE (TELEPHONE)
- FOUND IRON PIPE

Cross Access Exhibit

PROJECT DATA
 N. COLLEGE AVE (US HWY 71) & E. TOWNSHIP RD.
 PROJECT NO. 13-000
 SITE DATA
 SITE AREA = 13,225 S.F.
 BUILDING AREA = 13,225 S.F.
 PARKING DATA
 PARKING REQUIRED = 61 SPACES
 PARKING PROVIDED = 61 SPACES

Access easement

<p>CVS Pharmacy SOUTHERN 13,225-LEFT CHAMBER DRIVE THRU STORE NUMBER 00000 100 N. COLLIER AVE (US HWY 71) FAYETTEVILLE, AR PROJECT TYPE CS PROJECT NUMBER 75604</p>	<p>LINFIELD HUNTER & JUNTLE, INC. 1405 S. UNIVERSITY SUITE 200 MEMPHIS, TENNESSEE 38102 CONSULTANT</p>	<p>DEVELOPER BOOS DEVELOPMENT GROUP, INC. 2700 WOODBRIDGE BLVD, SUITE 200 MEMPHIS, TN 38114 TEL: (901) 748-0018</p>	REVISIONS: 1) 5/3/13 GENERAL REVISIONS
			DRAWING BY: LJM DATE: 30 APRIL 2013 JOB NUMBER: 12-70C TITLE:
COMMENTS: NOT ALLOWED FOR CONSTRUCTION			SHEET NUMBER: SITE PLAN FOR VARIANCE



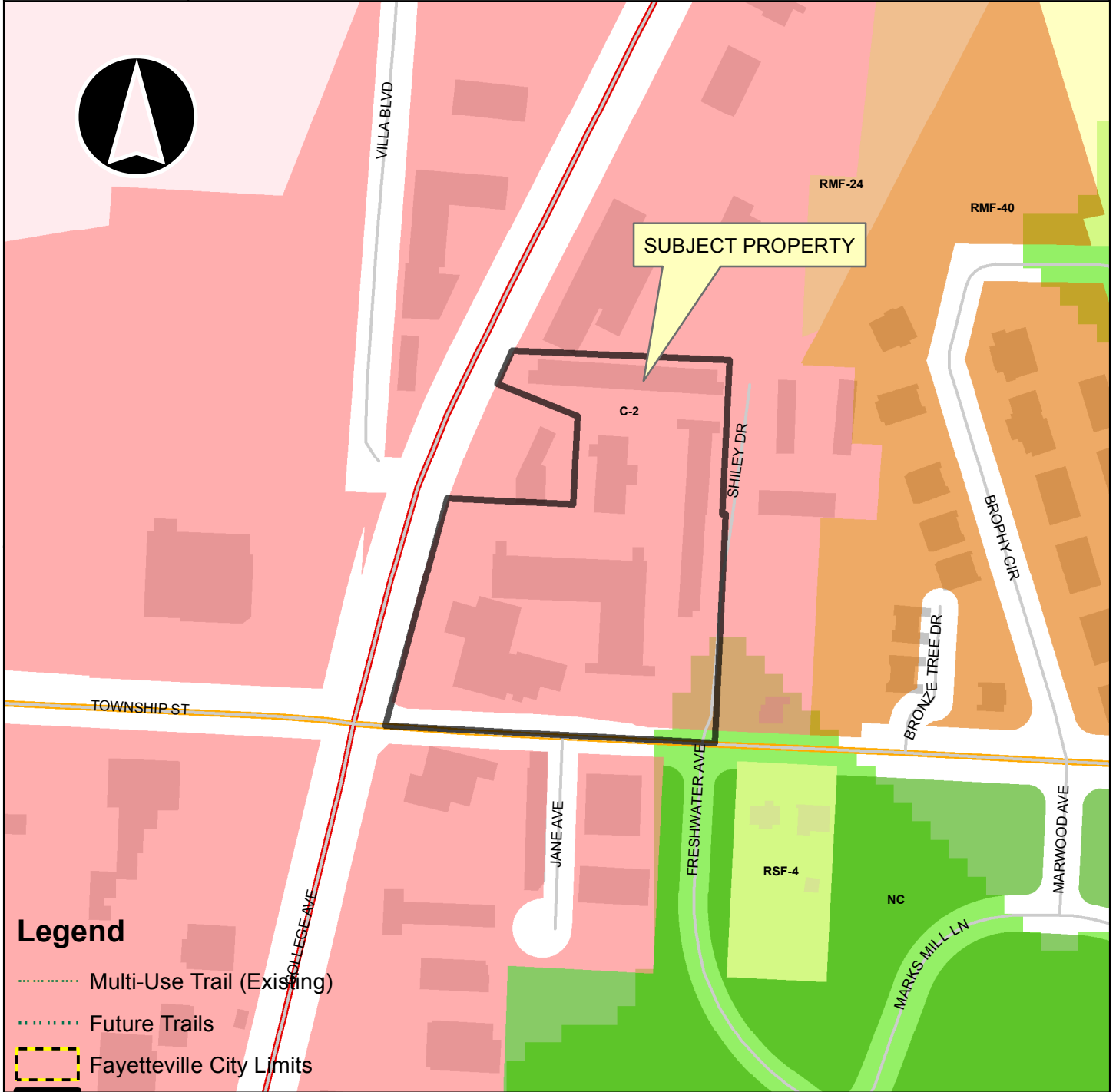


Existing Access and Cross Access Proposed to Remain

Existing Access to be removed

CVS PHARMACY

Close Up View

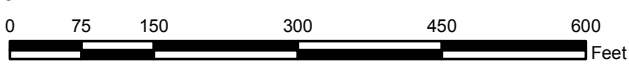


Legend

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

Overview ADM13-4394

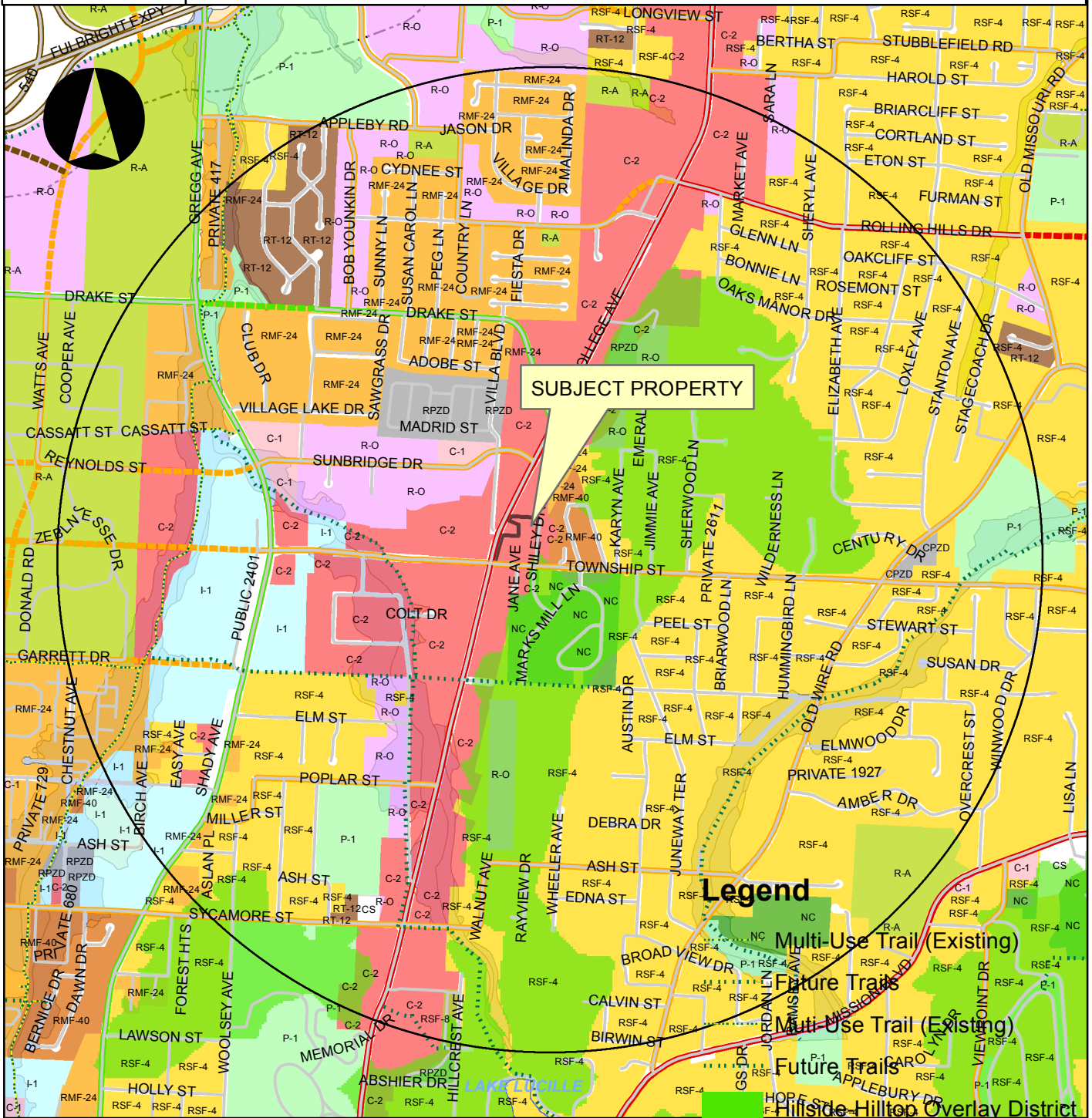
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



ADM13-4394

One Mile View

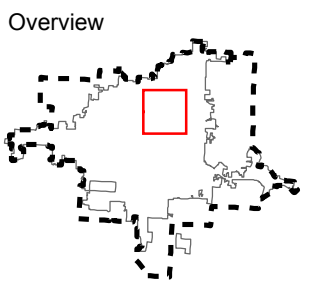
CVS PHARMACY



SUBJECT PROPERTY

Legend

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



Legend

- Subject Property
- ADM13-4394

Boundary

- ADM13-4394
- Design Overlay District
- Planning Area
- Fayetteville

0 0.25 0.5 1

Miles



PC Meeting of May 28, 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: Quin Thompson, Current Planner
THRU: Jeremy Pate, Development Services Director
DATE: May 20, 2013

CUP 13-4375: Conditional Use Permit (1815 N. GREEN ACRES DR./FOGHORN'S, 287): Submitted by JEFF HODGES for property located at 1815 NORTH GREEN ACRES DRIVE. The property is zoned C-2, and contains approximately 0.57 acres. The request is to allow outdoor music, Use Unit 35, in a C-2 zoning district.

Planner: Quin Thompson

BACKGROUND:

Property Description: The subject property contains 0.57 acres is located at 1815 N. Green Acres Drive. The property is zoned C-2, Thoroughfare Commercial and contains a 3,000 square foot building, formerly Mermaids restaurant. The surrounding land use and zoning is indicated in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction	Land Use	Zoning
North	Unoccupied Office	C-2, Thoroughfare Commercial
South	Insurance Office	C-2, Thoroughfare Commercial
East	Parker Automotive	C-2, Thoroughfare Commercial
West	Woodland School	P-1, Institutional

Proposal: The applicant proposes to provide outdoor music on a 1200 square foot patio on the east side of the restaurant, as shown on the site plan. Speakers will be directed to the building front. Music will be played from 7pm to 10pm Wednesday through Saturday.

Request: The applicant requests approval of a conditional use permit for outdoor music (Use Unit 35) in the C-2 zoning district, at 1815 N Green Acres Drive.

Public Comment: Staff received no public comment.

RECOMMENDED MOTION:

Staff recommends approval of CUP 13-4375 based on the findings herein with the following conditions:

Conditions of Approval:

1. As requested by the applicant, music will be limited to the hours between 7pm and 10pm Wednesday through Saturday. The location of the speakers shall be limited to that as indicated in the submitted materials.
2. Prior to the operation of outdoor music on the subject property, a final Certificate of Occupancy (if applicable) and a Business License, indicating all conditions have been met for this Conditional Use Permit, shall be obtained by the applicant from the Planning Division to validate this approval.
3. This conditional use shall be brought back to the Planning Commission for review for further action or revocation should the City receive valid complaints as a result of the outdoor music establishment. Determination of a subsequent review shall be made by the Zoning and Development Administrator.
4. If the establishment or any band or any person operating at such establishment is convicted of violating the Fayetteville noise ordinance (§96.06 of the *Code of Fayetteville*), such violation may constitute grounds for revocation of this conditional use to operate an outdoor music establishment.
5. Signage shall comply with the City's sign ordinance and shall require review through a separate sign permit application.
6. The applicant shall comply with the Alcoholic Beverage Control District's permit for serving alcohol and associated restrictions on outdoor music.
7. All events shall be compliant with the City's noise ordinance, as enforced by the Police Department. All music (acoustic or electronically amplified) shall be subject to the regulations as follows:

(A) No person shall operate or cause to be operated, or permit, contract or allow to be operated on premises on public or private property any identifiable source of sound in such a manner as to create a sound level within the use districts in Table 1 below which exceeds the maximum noise levels as set forth in Table 1 as measured at any point on the boundary of the property from which the sound or noise was emanating. Except between the hours of 10:00 p.m. and 1:00 a.m., a complaint under this section must be brought by a property owner or leaseholder affected by excessive noise on their property.

TABLE 1

Use Districts	Maximum Time	Noise Levels
All residential zones	7:00 a.m. to 11:00 p.m.	60 dB(A)

All residential zones	11:00 p.m. to 7:00 a.m.	55 dB(A)
All commercial zones	7:00 a.m. to 11:00 p.m.	75 dB(A)
All commercial zones	11:00 p.m. to 7:00 a.m.	70 dB(A)
All industrial zones	7:00 a.m. to 11:00 p.m.	80 dB(A)
All industrial zones	11:00 p.m. to 7:00 a.m.	75 dB(A)

All measurements shall be taken with a sound level meter in its fast or peak level setting.

PLANNING COMMISSION ACTION: Required YES

Planning Commission Action: **Approved** **Denied** **Tabled**

Motion: _____

Second: _____

Vote: _____

Meeting Date: May 28, 2013

The “CONDITIONS OF APPROVAL” listed in this report are accepted in total without exception by the entity requesting approval of this conditional use.

Name: _____

Date: _____

City Plan 2030 designation: *Urban Center Area*

Section 163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for an Outdoor Music Establishment within the C-2 zoning district.

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

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under §161.20 to grant the requested conditional use permit.

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

Finding: The subject property is located in an area that is surrounded by commercial and institutional uses. The hours of outdoor music and the hours of operation of the surrounding [school, commercial, and office] uses are not likely to conflict. The nearest residences are approximately 550 feet to the southwest of the proposed outdoor music, and will be shielded from the music by multiple buildings and the background noise of traffic along North College Avenue.

(c.) The Planning Commission shall certify:

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

Finding: The applicant has complied with specific rules governing this individual conditional use request per Section 163.10: (A) A site plan has been submitted indicating the location of the proposed stage and musicians. Additionally, the applicant has provided information regarding the operation of the outdoor music events.

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

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

Finding: Currently, the property has safe access to Green Acres Drive via a paved driveway. The proposed venue would utilize this existing access point. There is no sidewalk in the vicinity. Outdoor music should not cause significant impacts to vehicular or pedestrian traffic, in staff opinion.

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

Finding: The site has adequate parking to accommodate the patrons of the restaurant and patio. The subject property is located in an area that is surrounded by commercial and educational uses and the hours of outdoor music and surrounding businesses are not likely to conflict.

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

Finding: The dumpster will be required to be screened from the street, and will be located behind the restaurant on the south side.

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

Finding: All necessary utilities are available to serve the proposed use.

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

Finding: No Requirement

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

Finding: All signage shall be reviewed for compliance with the underlying zoning districts, and shall be permitted by a separate sign permit document prior to installation.

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

Finding: No new structures or uses are proposed that would be required to meet setbacks or other open space requirements.

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

Finding: As discussed earlier in this report, this site is generally in commercial use, with Woodland Junior High school to the west. Outdoor music will be consistent and compatible with the nature of these surrounding uses. Cf: Finding 3(b) regarding compatibility of outdoor music with the nearest residential neighbors.

Unified Development Code Data

161.20 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar

Unit 34	Liquor store
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 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

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

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05; 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; 5353, 9-7-10; Ord. 5462, 12-6-11)

(II) Unit 35. Outdoor music establishments. *

(1) *Description.* Unit 35 includes any business or establishment that has a garden, patio, rooftop or premises not wholly enclosed by solid walls and fully roofed in which amplified or loud music is played that could be audible at nearby residences or businesses.

(2) *Included uses.*

Outdoor music establishments *

163.10 Outdoor Music Establishments

Outdoor music establishments operating during May or June of 2002 may continue to operate at the same location without this conditional use even if the ownership or name of the outdoor music establishment changes in the future as long as the establishment does not terminate its outdoor music for 12 consecutive months or longer. All other outdoor music establishments may be allowed as conditional uses where they are permitted subject to the following additional conditions:

- (A) *Site plan.* A site plan showing the proposed location and size of the outdoor music area; location and direction of the speakers; noise absorbing walls, structures or devices; proposed days and hours of operation of the outdoor music area; and measures proposed to lessen or eliminate any adverse affects upon nearby residences and businesses.
- (B) *Planning Commission review.* In addition to all normal considerations for a conditional use, the Planning Commission may require noise reducing measures and structures be incorporated into an outdoor music area, may limit the size, power, number and direction of speakers, and may limit the hours of outdoor music generation from the establishment.
- (C) *Fayetteville noise ordinance violation.* If the establishment or any band or any person operating at such establishment is convicted of violating the Fayetteville noise ordinance (§96.06 of the *Code of Fayetteville*), such violation may constitute grounds for revocation of this conditional use to operate an outdoor music establishment.
- (D) *Fayetteville entertainment district.* The City Council's policy is to encourage outdoor music establishments along Dickson Street from Block Avenue to Arkansas Avenue and on West Avenue from Spring Street to Lafayette Street as long as such establishments are reasonably compatible with adjoining neighborhoods.

3

Fayetteville Planning Commission

Outdoor Music request, Foghorn's 1815 Green Acres Road Location

- A. 3,000 square feet inside, 1200 square foot patio
- B. We require 42 parking spaces, but have 30 with a shared parking agreement and will have over 20 more in our space, so that gives us 50, plus I purchased the building next door and can utilize that parking also.
- C. Our hours of operation are 7 days a week, 11am to 11pm, we employ about 20 people at that location, and will expect around 100 customers during a peak hour. We are proposing outdoor acoustical music from 7 to 10 pm, Wed-Sat nights. We have done outdoor music for the last 9 years in our current location with zero complaints, and are only moving ½ mile down the road.
- D. Outdoor lighting will include the building can lights on the patio and pole lighting from AEP that are on the telephone poles.
- E. Noise will be within the city noise ordinance and usually is quieter than the traffic driving by on college avenue.
- F. The music will face the building, so the building will act as a sound buffer.
- G. We will have normal City of Fayetteville trash service.
- H. No additional traffic impact expected
- I. The compatibility should not be an issue since all the directly surrounding businesses are closed during these proposed times.

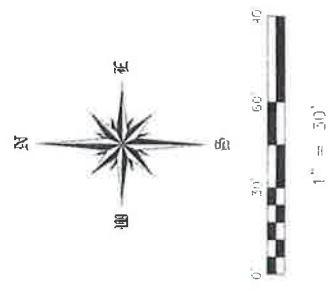
2-405

DRAFTSMAN	JGC
DATE	10/29/2012
CHECKED	
SCALE	1" = 30'
SHEET SIZE	18" x 24"

LINDSEY & ASSOCIATES
 1815 GREEN ACRES ROAD
 FACETTEVILLE, ARKANSAS
 PROPERTY SURVEY

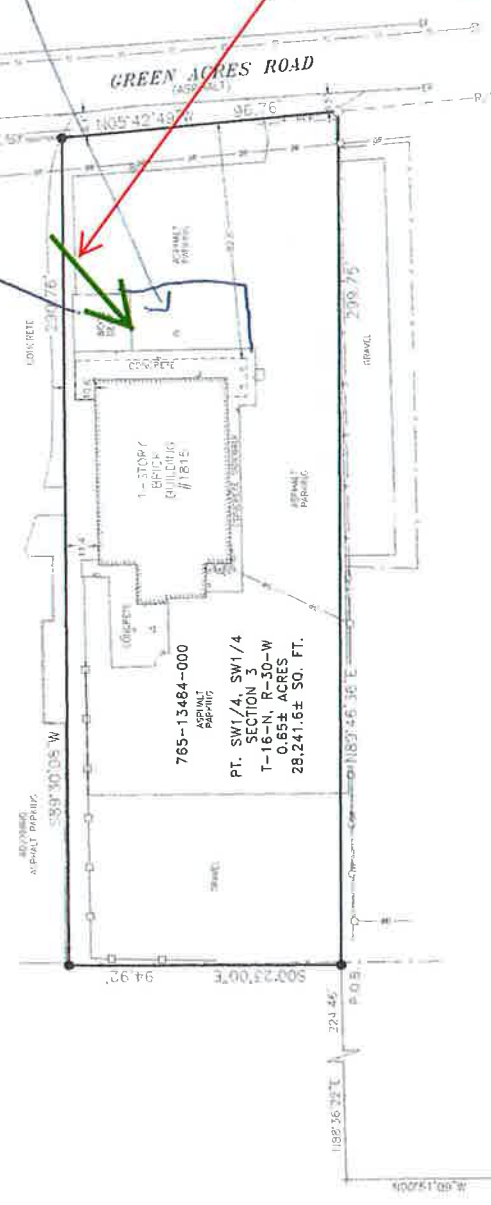
Alan Reid & ASSOCIATES
 PROFESSIONAL SURVEYORS
 1224 S. GARDNER AVENUE
 FACETTEVILLE, ARKANSAS 72522
 (501) 925-4444
 FAX (501) 925-4444
 www.alanreid.com

REVISIONS	DATE	DESCRIPTION
	10/29/12	
	12/22/12	



speaker direction as described in request letter

Mutualities will
 part



SURVEY DESCRIPTION:
 A PART OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION THREE (3) TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE 100°51'59" W 532.98 FEET; THENCE S88°56'32" E 224.46 FEET (BEARING 216.24 FEET TO 41 EATON IRON IN A NORTH/SOUTH FENCELINE FOR THE TRUE POINT OF BEGINNING; THENCE 119°34'36" E 299.75 FEET TO A SET 1 1/2" IRON REBAR ON THE WEST RIGHT-OF-WAY OF GREEN ACRES ROAD; THENCE 305°43'49" W ALONG SAID RIGHT-OF-WAY 76.76 FEET TO AN EXISTING IRON THRUCE LEAVING SAID RIGHT-OF-WAY 299.30 FEET TO THE EXISTING IRON; THENCE 309°23'00" E 94.92 FEET TO THE POINT OF BEGINNING; CONTAINING 0.65 ACRES, MORE OR LESS, FACETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

LEGEND

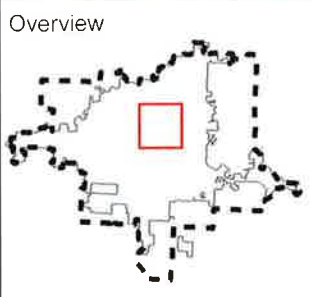
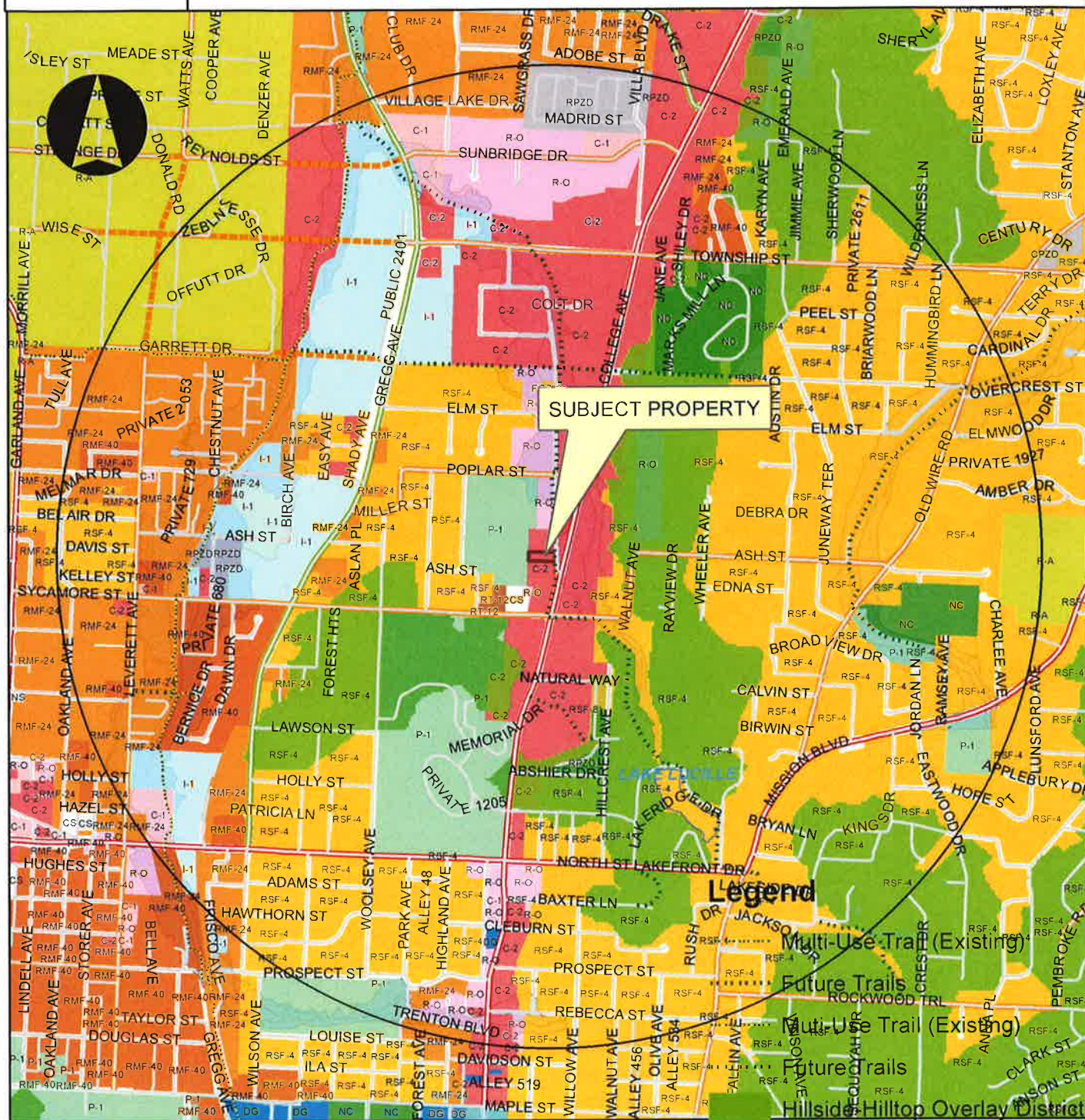
- These standard symbols will be found in the drawing.
- X CHISEL "X"
 - EXISTING IRON REBAR
 - SET 1 1/2" IRON REBAR
 - ⊗ SANITARY SEWER MANHOLE
 - ⊕ WATER METER
 - ⊙ GAS METER
 - ⊖ SANITARY SEWER CLEANOUT
 - ⊕ ELECTRIC METER
 - ⊖ COMPUTED POINT
 - RIGHT-OF-WAY LINE
 - WOOD-RAIL FENCE
 - WOOD PRIVACY FENCE
 - CHAIN-LINKED FENCE
 - OVERHEAD ELECTRIC LINE
 - SANITARY SEWER LINE
 - OVERHEAD TELEPHONE LINE
 - PROPERTY LINE

EXCEPT AS SPECIFICALLY NOTED, NO RECORD OF SURVEY, THIS SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1907 AND THE SURVEYING ACT OF 1933, AND THE SURVEYOR HAS BEEN DULY SWORN TO THE ACCURACY OF THE SAME. THE SURVEYOR HAS BEEN DULY SWORN TO THE ACCURACY OF THE SAME. THE SURVEYOR HAS BEEN DULY SWORN TO THE ACCURACY OF THE SAME. THE SURVEYOR HAS BEEN DULY SWORN TO THE ACCURACY OF THE SAME.

CUP13-4375

FOGHORN'S

One Mile View

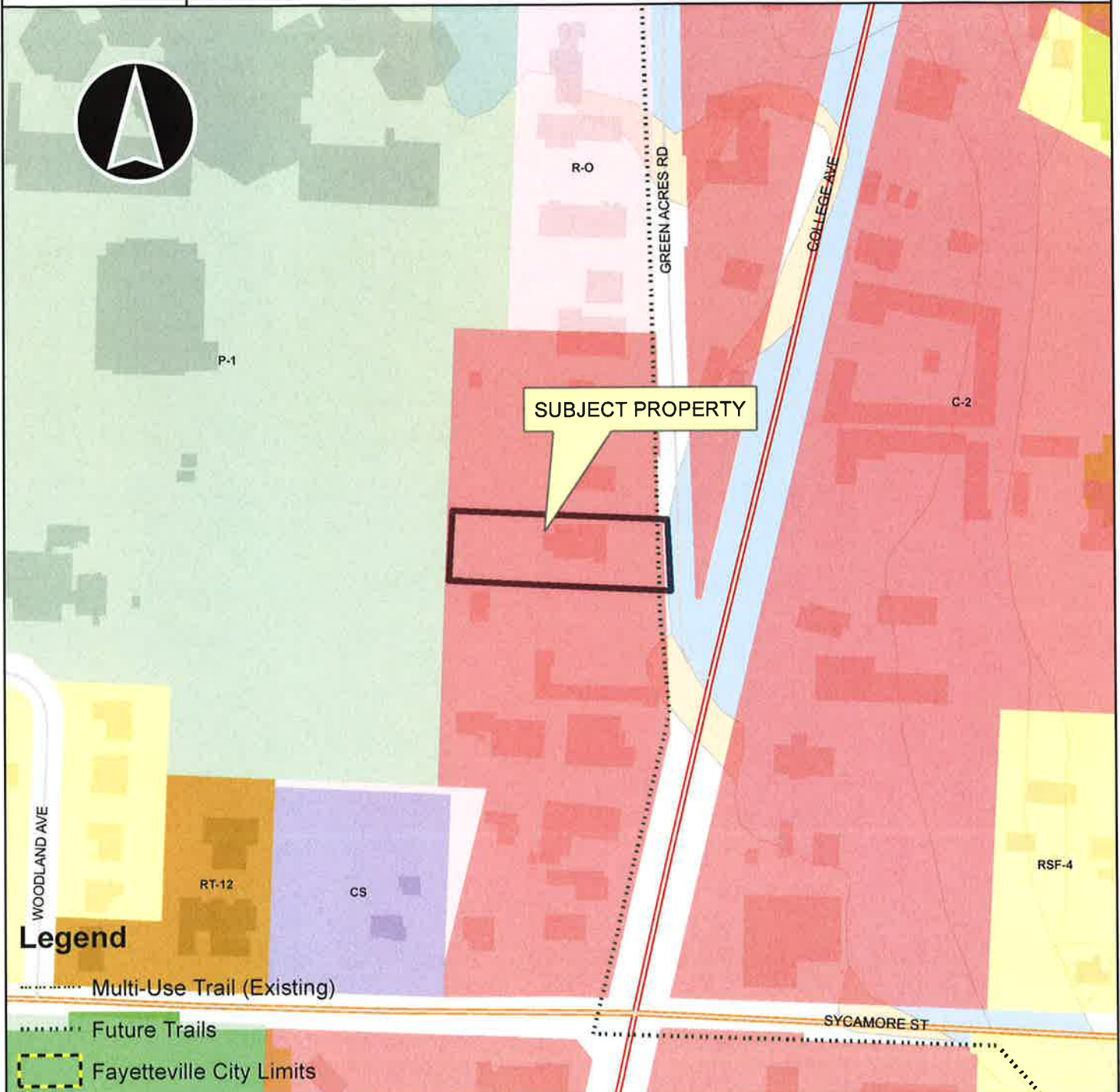


<p>Legend</p> <p>Subject Property</p> <p>CUP13-4375</p> <p>Boundary</p>	<p>0 0.25 0.5 1</p> <p>Miles</p>	<p>CUP13-4375</p> <p>Design Overlay District</p> <p>Planning Area</p> <p>Fayetteville</p>
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CUP13-4375

FOGHORN'S

Close Up View



Legend

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

----- Future Trails

----- Fayetteville City Limits

Overview CUP13-4375

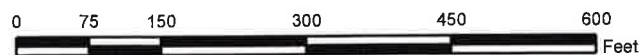
■ Footprints 2010

■ Hillside-Hilltop Overlay District

□ Design Overlay District

□ Design Overlay District

----- Planning Area



CUP13-4375

FOGHORN'S

Current Land Use



Legend

- Multi-Use Trail (Existing)
- Future Trails

- Fayetteville City Limits
- CUP13-4375
- Footprints 2010
- Design Overlay District
- Design Overlay District
- Planning Area

