

CHARLES E. HALBERT III
KNIGHT LAW PA
PO Box 1272
FAYETTEVILLE AR 72702

KARA PAXTON
CITY CLERK
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

KNIGHT LAW FIRM
ATTORNEYS AT LAW
PO BOX 1272
FAYETTEVILLE, AR 72702
PHONE (479) 571-0014
FAX (877) 450-0781
tripp@knightlaw.net

August 9, 2021

ATTN: Kara Paxton
Fayetteville City Clerk
City of Fayetteville, Arkansas
cityclerk@fayetteville-ar.gov
(479) 575-8327

NOTICE OF APPEAL

Notice is hereby given that Wes & Lisa Vaughn (“Petitioners”) appeal the decision regarding Vaughn Recycling, LLC (“Vaughn Recycling”) from the Fayetteville City Planning Commission (“The Commission”) to Fayetteville City Council Pursuant to the *Unified Development Code §155.01-§155.09*.

I. FACTUAL BACKGROUND

- 1.) Vaughn Recycling has served the City of Fayetteville at 1246 S. School Ave. for more than 13 years; fulfilling a need in the community, while providing a valuable service to this City’s residents.
- 2.) Beginning in March 2020, Vaughn Recycling received unexpected influx of inventory and goods during the COVID 19 pandemic.
- 3.) Over the last 18 months, the prices of recycled metals nearly tripled.

4.) During this period, these prices drove voluminous amounts of metals to Vaughn Recycling with no means to process or transport the goods due to the lack of commercial truck drivers related to the COVID 19 pandemic.

5.) Vaughn Recycling was forced to utilize the Petitioners' contiguous property on 1236 S. School Ave. to store the influx of inventory.

6.) On April 28, 2021, a notice was sent from the Commission advising that Vaughn Recycling was in violation of its conditional use permit and citing the tracking of mud and dirt into the public right-of-way. Staff advised the Petitioners that expansion of their conditional use permit would be an option to remedy the violation. The Petitioners applied requesting an amendment to their conditional use permit on June 1, 2021.

7.) On July 26, 2021, The Commission entered a final action, following a four to four (4-4) split-vote, resulting in a denial of *ADM-21-000045*.

8.) On August 9, 2021, Vaughn Recycling timely filed this notice of appeal with the City Clerk's office for an opportunity to be heard in front of the Fayetteville City Council.

II. FORM, TIME, & PLACE

9.) The property in question is located on South School Avenue, south of City Lumber, west of Walker Park, and north of The Attic, a thrift store, in Fayetteville, Arkansas.

10.) To be valid, all municipal appeals must conform to the time, place, and form requirements provided in UDC §155.02.

11.) This requires that all appeals be submitted in writing, within ten (10) working days from the date of the final action taken, and appeals made to the City Council be filed with the City Clerk. *See UDC §155.02(B)*.

12.) Additionally, three (3) Council Members must in unison appeal the decision of the Planning Commission approving or denying a conditional use request.

13.) Here, Petitioners had a final hearing on July 26, 2021, and submitted this timely written request with the support of three (3) council members to City Clerk.

14.) Thus, Petitioners' request for an appeal is timely and appropriate.

15.) Petitioners reserve the right to provide additional evidence, exhibits, and images to the City Council/this Notice to Appeal as it becomes available to Petitioners.

III. COMMISSION'S CONCERNS

16.) During the July 26 hearing, the Commission's concerns with the approval of *ADM-21-0000045* were focused on: a.) notice of violation that had been issued for the mud/dirt tracked into the street; b.) the incompatibility of the expansion with surrounding property; and c.) Vaughn Recycling's ability to comply with original terms of its Conditional Use Permit.

a.) Mud/Dirt Tracked in the Public Right-of-way

17.) Petitioners acknowledge there was trackage on the public right-of-way on or around February 1, 2021, caused by commercial and customer vehicles exiting their premises.

18.) The mud and dirt were instigated by the uncommonly wet spring coupled with the drastic uptick in commercial and individual traffic during the pandemic.

19.) Vaughn Recycling immediately remedied the tracking issue by pouring numerous tons of gravel in their back loading areas on the 1246 and 1236 properties to prohibit mud from being tracked onto South School Ave.

20.) This first-time violation should not be held over Vaughn Recycling when the livelihood of the business is at stake, and it was corrected immediately.

b.) The Incompatibility of the Expansion with Surrounding Property

21.) Commission's position of incompatibility of the expansion of *ADM-21-000045* is misplaced. The properties surrounding Vaughn Recycling to the North, South, and West are all retail/commercial or industrial zoned properties.

22.) The only property not being used as commercial is Walker Park, located to the East of Vaughn Recycling. However, Walker Park and Vaughn Recycling are divided by a fifty (50) yard wide timberline, preventing any view of the neighboring commercial properties from Walker Park.

23.) Vaughn Recycling has spent ample time and resources ensuring it is compliant with all Environmental Protection Agency's requirements. Vaughn Recycling will supplement this information at request of the Council.

c.) Vaughn Recycling's Ability to Comply with Original Terms of its CUP.

24.) Vaughn Recycling concedes that it will need additional time to be compliant with terms of *ADM 08-3128*.

25.) *ADM 08-3128* revised condition reads, “Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and *long-term storage* of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/processing for shipping shall be permitted outside provided that a wood board fence is extended.”

26.) With the massive amounts of recycled metals currently on both 1246 and 1236 properties, Petitioners have been forced to store goods outside longer than planned. Petitioners are hopeful that as transportation logistics normalize, they will be able to be compliant with *ADM 08-3128*.

27.) With approval of *ADM-21-0000045* Vaughn Recycling will be able to store trailers on the back of 1236 property and load and process inventory as it is received (contingent on commercial truck being available to move inventory). This process will eliminate the long-term storage of materials outside.

IV. PUBLIC INTEREST FOR APPROVAL

28.) The Commission shall make the findings that the granting of a conditional use will not adversely affect the public interest. *UDC §163.02(C)(3)*.

29.) Vaughn Recycling employs approximately ten (10) blue-collar workers throughout the year and pays local taxes bolstering the City’s revenue available for improvements to roads, schools, and area green spaces.

30.) Twenty percent (20%) of Vaughn Recycling’s business consists of walk-in business. These customers are generally individuals who typically struggle to maintain regular employment that can collect recyclable goods around town to earn a livelihood.

31.) The other eighty percent (80%) of Vaughn Recycling business is made up of local small businesses and large-scale corporations trying to reduce the amount of waste sent to local landfills.

32.) Furthermore, by utilizing Vaughn Recycling, the City is saving valuable raw materials, minimizing the area's carbon-footprint, and helping businesses satisfy escalating recycling industry standards.

33.) For reasons stated above, the approval of *ADM 21-00045* is in public's interest to allow Vaughn Recycling the ability to expand their operations onto the 1236 South School Ave.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioners pray the Council approve *ADM-21-000045* in its entirety and enter a decision in Petitioners' favor to allow Vaughn Recycling, LLC, to continue to operate and provide its service to the City of Fayetteville and any other relief to which Petitioners might be entitled. If *ADM-21-0000045* is denied, Vaughn Recycling may be forced to close its facility.

Dated: August 9, 2021

Respectfully Submitted,

Knight Law Firm



Charles E. Halbert III

CEH
cc : Vaughn Recycling, LLC



MEETING OF SEPTEMBER 7, 2021

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

DATE: August 20, 2021

SUBJECT: ADM-2021-000045: Administrative Item (1236 S. SCHOOL AVE./VAUGHN RECYCLING, 562): Submitted by DON & LISA VAUGHN for property located at 1236 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 1.50 acres. The request is to amend CUP 08-2908, a conditional use permit allowing a center for collecting recyclable materials, to be expanded to include the subject property.

RECOMMENDATION:

The Planning Commission and City Planning staff recommend denial of a request for an amendment to the Vaughn Recycling conditional use permit associated with CUP 08-2908 as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is located on S. School Avenue, south of City Lumber, west of Walker Park, and north of The Attic, a thrift store. The subject properties total approximately 1.50 acres and are the site of a recycling facility. The property contains a metal structure which previously operated as Bud's Import Auto Parts. The paved parking area and backyard previously served as vehicle storage.

In March of 2008, a conditional use permit (CUP 08-2908) was issued to operate a center for the collection of recyclable materials, Use Unit 28, in C-2, Thoroughfare Commercial zoning. Later that year the property was rezoned to DG, Downtown General as a part of the Walker Park Neighborhood Plan. Use Unit 28 is also a conditional use in DG zoned properties. In October 2008, a request to amend the conditions of approval of CUP 08-2908 was approved (ADM 08-3128). Specifically, the request amended condition #1 which states, "All materials shall be sorted, processed, packed, and stored inside the building. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited." ADM 08-3128 revised condition #1 to read:

"Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to

storage/processing for shipping shall be permitted outside provided that a woodboard fence is extended, as shown on the site plan. Materials shall not be visible above the woodboard fence and/or from the public right of way.”

More recently, in February of 2021, staff received a complaint that the recycling business was storing multiple trailers in front of the property and that the operation had expanded to 1236 S. School Avenue without a permit (CVZD-2021-000262). A separate complaint was submitted to the Transportation Division due to dirt and mud being tracked onto S. School Avenue. Multiple inspections confirmed the presence of the trailers and expanded footprint of the business. A violation letter was issued on April 28, 2021, to the subject property’s owner, advising that the business is in violation of its conditional use permit.

Request: The applicant requests to expand their conditional use permit (CUP 08-2908) to include a property, at 1236 S. School Avenue for the Vaughn Recycling Center operation. The applicant suggests that their business has grown in recent years due to rising metal prices and they have found it difficult to store their inventory and vehicles without overflowing onto the neighboring property.

Findings: Staff finds that expanding the recycling center to the property at 1236 S. School Avenue is not inherently incompatible with the surrounding uses. As it currently exists, the corridor is characterized by bulk or auto-oriented businesses. City Lumber to the north, a used auto repair shop to the west, and other intense commercial and retail uses in the vicinity are unlikely to be negatively affected by the expansion. Further, staff acknowledges that the applicant has been cooperative in correcting the violation and is following staff’s instruction for an alternative to remedy the issue. However, with due consideration to the current operation and its inability to meet certain conditions set out in the original permit and amendment, staff finds that expansion is not appropriate in this instance.

The applicant cites logistical issues, largely brought on by the Covid-19 health crisis, have contributed to the violation being reported. The applicant says that increased prices for recycled metals brought an influx of material to the site and the facility did not have the means to process the goods. Compounding the situation, Vaughn Recycling had difficulty finding trucks to haul metal from the site which has left them with an abundance of material. Staff finds, however, that it is not apparent the business has operated within the bounds of its conditional use permit and amendment since they were granted. The applicant does not appear to be compliant with conditions 1 (as amended), 2, 8, or 13. Condition #1 requires materials to not be visible above the woodboard fence or from public right-of-way. Staff finds the condition is not being met as materials are evident in pictures provided during inspection and continue to be visible as of a site visit on July 21st. Condition #2 requires trailers to be parked only at the rear of the building. This condition was not being met and was the impetus behind the violation being issued. Trailers are no longer present in front of 1236, or 1246 S. School Avenue. Condition #8 requires curb stops or curbing to be installed along any parking or maneuvering areas adjacent to greenspace. Curb stops appear to have been installed accordingly in 2008 but either no longer remain or have been buried under recyclable materials that encroach on an area designated for greenspace along the east property line. Condition #13 states that any future expansion of the proposed use or

redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a Site Improvement Plan or a Large Scale Development request. A plan has not been submitted and historic aerial imagery suggests that materials have been stored on the property at 1236 S. School Avenue dating back to 2012. Should the Planning Commission choose to approve the request staff recommends a condition that the expanded development is reviewed through the appropriate development review.

Staff finds that expanding the recycling facility's operational area would undoubtedly assist with maneuverability of trucks and storage of trailers behind the building at 1246 S. School Avenue. However, expansion is unlikely to improve the facility's ability to process the scale of recyclable materials coming to the business in accord with the conditions of approval. Staff recommends that the scale of the existing business should be compliant with the existing conditional use permit before seeking entitlements to expand. Should the Planning Commission choose to approve the request, staff recommends a condition be added that all materials are sorted, process, packed and stored inside the existing building or an expanded facility.

Public Comment: Staff has received no public comment regarding this request.

DISCUSSION:

At the July 26, 2021 Planning Commission meeting, a vote to approve the item as requested with a one-year expiration failed with a vote of 4-4-0; Commissioner Winston made the motion, with Commissioner Paxton seconding. Commissioners in favor of the request found that by granting approval of the expansion with a one-year expiration the business could transition its practices in a fashion that would meet the requirements of the conditional use permit. Commissioners Canada, Garlock, Sparkman, and Wiederkehr voted against the request. Those opposed suggested they were unable to reconcile approving an expansion of the business when there were outstanding violations of the existing conditional use permit. There were no comments from the public at the meeting.

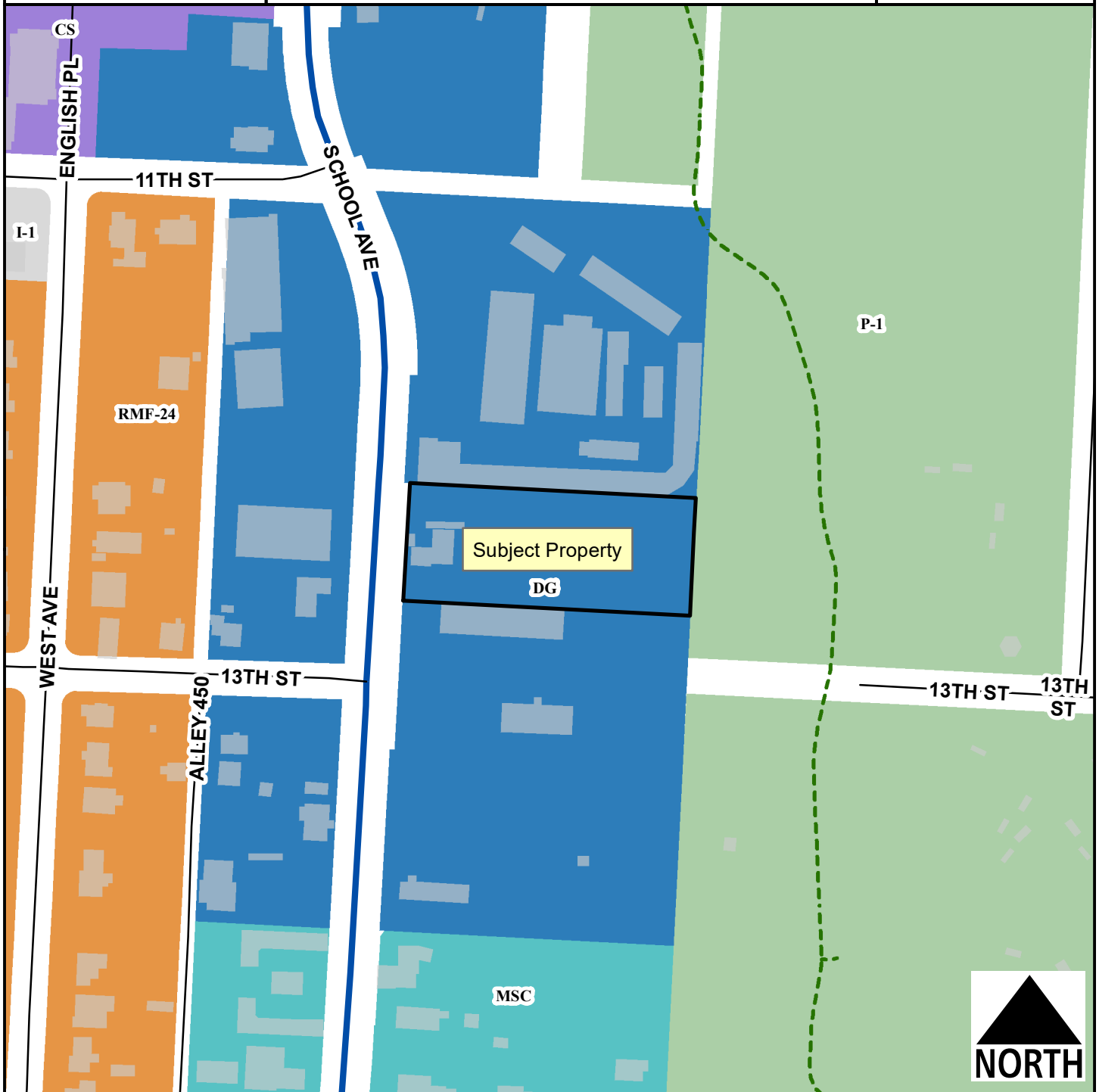
BUDGET/STAFF IMPACT:





N/A

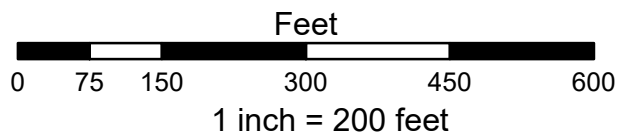
Attachments:





- Exhibit A
- Exhibit B
- Planning Commission Staff Report


Close Up View



-  Regional Link - High Activity
-  Planning Area
-  Fayetteville City Limits
-  Shared-Use Paved Trail



-  RMF-24
-  I-1 Heavy Commercial and Light Industrial
-  Main Street Center
-  Downtown General
-  Community Services
-  P-1

 = Area requested to be included in the CUP .





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: July 26, 2021 (Updated with Planning Commission Results)

SUBJECT: **ADM-2021-000045: Administrative Item (1236 S. SCHOOL AVE./VAUGHN RECYCLING, 562):** Submitted by DON & LISA VAUGHN for property located at 1236 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 1.50 acres. The request is to amend CUP 08-2908, a conditional use permit allowing a center for collecting recyclable materials, to be expanded to include the subject property.

RECOMMENDATION:

Staff recommends denial of **ADM-2021-000045**.

RECOMMENDED MOTION:

"I move to deny **ADM-2021-000045**."

June 28, 2021 PLANNING COMMISSION MEETING:

On June 28th, the Planning Commission voted to table the item until the meeting scheduled for July 26th at the request of the applicant. In the intervening weeks staff received a revised request letter indicating that Vaughn Recycling has removed all trailers parked in front of the property and gravel has been poured in the loading area to mitigate mud and dirt from being tracked onto S. School Avenue. Staff visited the site on Wednesday, July 21st and confirmed that the work occurred.

BACKGROUND:

The subject property is located on S. School Avenue, south of City Lumber, west of Walker Park, and north of The Attic, a thrift store. The subject properties total approximately 1.50 acres and is the site of a recycling facility. The property contains a metal structure which previously operated as Bud's Import Auto Parts. The paved parking area and backyard previously served as vehicle storage.

In March of 2008, a conditional use permit (CUP 08-2908) was issued to operate a center for the collection of recyclable materials, Use Unit 28, in C-2, Thoroughfare Commercial zoning. Later that year the property was rezoned to DG, Downtown General as a part of the Walker Park Neighborhood Plan. Use Unit 28 is also a conditional use in DG zoned properties. In October 2008, a request to amend the conditions of approval of CUP 08-2908 was approved (ADM 08-3128). Specifically, the request amended condition #1 which states, "All materials shall be sorted, processed, packed, and stored inside the building. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited." ADM 08-3128 revised condition

#1 to read, “Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/processing for shipping shall be permitted outside provided that a woodboard fence is extended, as shown on the site plan. Materials shall not be visible above the woodboard fence and/or from the public right of way.” Surrounding land uses and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Commercial/Retail	DG, Downtown General
South	Commercial/Retail	DG, Downtown General
East	Walker Park	P-1, Institutional
West	Commercial/Retail	DG, Downtown General

Request: As noted above, the property owner holds an approved conditional use permit (CUP 08-2908) to use a portion of the property, at 1246 S. School Avenue as Vaughn Recycling Center. The applicant requests to expand their conditional use permit to include the adjoining property to the north, 1236 S. School Avenue. The applicant suggests that their business has grown in recent years due to rising metal prices and they have found it difficult to store their inventory and vehicles without overflowing onto the neighboring property.

Public Comment: Staff has received no public comment regarding this request.

DISCUSSION:

In February of 2021 staff received a complaint that the recycling business was storing multiple trailers in front of the property and that the operation had expanded to 1236 S. School Avenue without a permit (CVZD-2021-000262). A separate complaint was submitted to the Transportation Division due to dirt and mud being tracked onto S. School Avenue. Multiple inspections confirmed the presence of the trailers and expanded footprint of the business. A violation letter was issued on April 28, 2021, to the subject property’s owner, advising that the business is in violation of its conditional use permit. Staff advised the applicant that expansion of their conditional use permit would be an option to remedy the violation. The property owner applied requesting an amendment to their conditional use permit on June 1, 2021

Staff finds that expanding the recycling center to the property at 1236 S. School Avenue is not inherently incompatible with the surrounding uses. As it currently exists, the corridor is characterized by bulk or auto-oriented businesses. City Lumber to the north, a used auto repair shop to the west, and other intense commercial and retail uses in the vicinity are unlikely to be negatively affected by the expansion. Further, staff acknowledges that the applicant has been cooperative in correcting the violation and is following staff’s instruction for an alternative to remedy the issue. However, with due consideration to the current operation and its inability to meet certain conditions set out in the original permit and amendment, staff finds that expansion is not appropriate in this instance.

The applicant cites logistical issues, largely brought on by the Covid-19 health crisis, have contributed to the violation being reported. The applicant says that increased prices for recycled metals brought an influx of material to the site and the facility did not have the means to process the goods. Compounding the situation, Vaughn Recycling had difficulty finding trucks to haul metal from the site which has left them with an abundance of material. Staff finds, however, that it is not apparent the business has operated within the bounds of its conditional use permit and amendment since they were granted. The applicant does not appear to be compliant with conditions 1 (as amended), 2, 8, or 13. Condition #1 requires materials to not be visible above

the woodboard fence or from public right-of-way. Staff finds the condition is not being met as materials are evident in pictures provided during inspection and continue to be visible as of a site visit on July 21st. Condition #2 requires trailers to be parked only at the rear of the building. This condition was not being met and was the impetus behind the violation being issued. Trailers are no longer present in front of 1236, or 1246 S. School Avenue. Condition #8 requires curb stops or curbing to be installed along any parking or maneuvering areas adjacent to greenspace. Curb stops appear to have been installed accordingly in 2008 but either no longer remain or have been buried under recyclable materials that encroach on an area designated for greenspace along the east property line. Condition #13 states that any future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a Site Improvement Plan or a Large Scale Development request. A plan has not been submitted and historic aerial imagery suggests that materials have been stored on the property at 1236 S. School Avenue dating back to 2012. Should the Planning Commission choose to approve the request staff recommends a condition that the expanded development is reviewed through the appropriate development review.

Staff finds that expanding the recycling facility's operational area would undoubtedly assist with maneuverability of trucks and storage of trailers behind the building at 1246 S. School Avenue. However, expansion is unlikely to improve the facility's ability to process the scale of recyclable materials coming to the business in accord with the conditions of approval. Staff recommends that the scale of the existing business should be compliant with the existing conditional use permit before seeking entitlements to expand. Should the Planning Commission choose to approve the request, staff recommends a condition be added that all materials are sorted, process, packed and stored inside the existing building or an expanded facility.

RECOMMENDATION: Staff recommends denial of ADM-2021-000045. Should the Commission recommend in favor of the request, staff recommends the expansion of the recycling facility be allowed with the following conditions:

Conditions of Approval:

- 1. Planning Commission determination of compatibility with adjacent properties.**
- 2. All conditions of approval of the associated conditional use permit (CUP 08-2908, attached) will remain in effect. The requested area shall be subject to the same conditions of approval including master street plan dedication and approval of a site improvement plan or large scale development.**
- 3. All materials shall be sorted, processed, packed, and stored inside the existing building or an expanded facility. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited.**
- 4. Large trailers shall be utilized for loading and removal of materials from the site and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the building, as indicated on the site plan, and shall not be visible from the public right-of-way, until the time of shipping materials. Any one trailer may be parked at the site for a maximum of five (5) days.**
- 5. The applicant shall include a bioswale, east of the paved maneuvering area, for drainage purposes, to be approved by the Engineering Division.**
- 6. Hours of operation shall be limited to Monday through Friday, 7:30 AM – 5:30 PM,**

and Saturday, 8:00 AM – 2:00 PM.

7. Staff recommends that a wood board fence, no less than six (6) feet in height, be constructed along the length of the north property line to screen the use from the adjoining properties. Additionally, staff recommends that the applicant plant a continuous row of evergreen vegetation along the north property line, south of the recommended wood board fence. Staff also recommends that the applicant screen any newly proposed maneuvering areas with evergreen trees.
8. As part of the development entitlements, the applicant shall submit a site improvement plan or large scale development, landscape and tree preservation plan for approval pursuant to City ordinances and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.
9. Parking in areas identified in the original site plan as “loading” or “unloading” areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Should the proposed use require more than the maximum allowable parking on the subject property (8 parking spaces), the applicant shall submit an additional conditional use request for supplementary parking.
10. Curb stops or curbing shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.
11. Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a building permit. All new signs shall be permitted according to City codes.
12. 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.
13. Vehicles that access the site must enter and exit in a forward manner, in accordance with City regulations.
14. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.
15. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a site improvement plan or a large scale development request.

PLANNING COMMISSION ACTION: Required YES

Date: July 26, 2021 Tabled Approved Denied

Motion:

Motion to deny:

¹Sparkman

²Garlock

4-4-0

Second:

Vote:

Motion to approve with expiration after 1 year and all other conditions, as recommended by staff with an added condition that the permit is subject to revocation should further complaints of debris being tracked into the public right-of-way occur

¹Winston

²Paxton

4-4-0

BUDGET/STAFF IMPACT:

None

Attachments:

- Previously-approved Conditions (CUP 08-2908)
- Amended Conditions (ADM 08-3128)
- Request Letter
 - 5/28/2021 Request
 - 7/19/2021 Request
- Violation Letter
- Exhibit
- Site Photos
- One Mile Map
- Close-up Map
- Current Land Use Map

maneuvering of large semi-trucks. As the site does not currently meet City site development regulations, the applicant proposes to improve portions of the subject property to include landscaping, green space, screening, and an updated parking lot.

Several revisions have been made to the proposed site plan since the conditional use request was discussed at the Planning Commission meeting on February 28, 2008. The revised proposal includes a decrease in paved area resulting in an increase in greenspace, an increase in the proposed landscaping, significant screening and buffering between the proposed use and the adjacent child care facility, and a proposed drive aisle that meets the requirements of Chapter 177.

Request: The applicant requests approval of a conditional use permit to operate a center for the collection of recyclable materials (Use Unit 28) in the C-2 zoning district, at 1246 S. School Avenue.

Public Comment: Staff has received public comment from the adjacent property owner to the south, which contains a child care facility. She has expressed safety concern with the proposed use that would be directly adjacent to the designated play area for the facility, between the proposed drive aisle for the recycling center and the existing child care building. She has stated that she does not oppose the use if adequate screening and buffering between the two properties is provided for safety purposes and to obscure the view of the proposed use. The applicant proposes to screen and buffer the use at the south property line with a wood board fence and vegetation to provide screening.

RECOMMENDED MOTION:

Staff recommends approval of CUP 08-2908 with the following conditions:

1. All materials shall be sorted, processed, packed, and stored inside the building. Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited.
2. Large trailers shall be utilized only for loading and removal of materials from the site, and may not be utilized for storage. Large trailers shall be parked for loading only at the rear of the building, as indicated on the site plan, and shall not be visible from the public right-of-way, until the time of shipping of materials. Any one trailer may be parked at the site for a maximum of five (5) days.
3. The paved maneuvering area shall be extended 12 feet to the east to ensure maneuverability. The applicant shall include a bioswale, east of the paved maneuvering area, for drainage purposes, to be approved by the Engineering Division.

PLANNING COMMISSION CONDITION OF APPROVAL

4. Hours of operation shall be limited to Monday through Friday, 7:30 AM - 5:30 PM, and Saturday, 8:00 AM – 2:00 PM.

5. Staff recommends that a wood board fence, no less than six feet in height, be constructed along a portion of the south property line, as indicated on the site plan, to screen the use from the property to the south. Additionally, staff recommends that the applicant plant a continuous row of evergreen vegetation along the south property line, west of the recommended wood board fence. Staff also recommends that the applicant screen the east side of the proposed maneuvering area located at the eastern portion of the subject property with evergreen trees.
6. As part of the building permit, the applicant shall submit a Site Improvement Plan, Landscape and Tree Preservation Plan for approval pursuant to City Ordinance and in addition to any other plans deemed necessary as part of said review. Adequate vegetative screening shall be provided as required by ordinance or as deemed appropriate by the City Planning Division.
7. Parking in areas identified on the proposed site plan as “loading” or “unloading” areas shall be for day-to-day customer unloading/loading and enforced by the applicant. Should the proposed use require more than the maximum allowable parking on the subject property (8 parking spaces), the applicant shall submit a conditional use request for additional parking.
8. Curb stops or curbing shall be installed along any parking or maneuvering areas adjacent to greenspace, to protect the plants therein.
9. Any existing non-conforming signage shall be removed, together with its supporting structure prior to issuance of a building permit. All new signs shall be permitted according to City codes.
10. 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.
11. Vehicles that access the site must enter and exit in a forward manner, in accordance with city regulations.
12. In compliance with City ordinance, any dumpsters shall be screened with materials compatible with, and complementary to, the principal structure with access not visible from the street.
- * 13. Future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a Site Improvement Plan or a Large Scale Development request.

PLANNING COMMISSION ACTION: Required YES

condition of approval #5) approximately 30 feet to the west then north to connect with the existing structure, with a wood board gate to provide access to the eastern portion of the site.

With a better understanding of the demand for the recycling and the way the site works in relation to the operation of sorting, packing, and storing recyclable materials, the applicant has stated his intent to expand the business to the adjacent lot to the north, 1236 South School Avenue, and construct a building large enough to accommodate the operation. This expansion is not being reviewed at this time and will be require additional approvals.

DISCUSSION

Staff finds in favor of the applicant’s request. The City of Fayetteville places a high priority on recycling, and Vaughn Recycling provides a recycling service that the City is not able to provide – recycling of aluminum, brass, copper, radiators, stainless and short steel, computers, and cell phones. Staff finds that the importance of vehicular safety, specifically prevention of stacking on South School Avenue, preceeds immediate transfer or materials inside for sorting. The nature of sorting the above referenced materials outdoors is not dangerous or detrimental to adjacent properties, considering that a woodboard fence, no less than six feet in height, will contain the operation and obscure visibility from the public right-of-way and adjacent properties.

Condition of approval #13 states that “future expansion of the proposed use or redevelopment of the site shall require Planning Commission approval of a separate conditional use request, Master Street Plan right-of-way dedication, and a Site Improvement Plan or a Large Scale Development request”. Should the applicant utilize the property to the north as stated in the attached letter, staff will likely recommend a condition of approval that all materials shall be sorted, processed, packed, and stored inside the building.

RECOMMENDATION

As a result of a site visit and analysis of the operation, staff finds that the applicant’s request is justified and will not be detrimental to the surrounding area. Therefore, staff recommends approval of **ADM 08-3128** with the following conditions:

1. Condition of Approval #1 of CUP 08-2908 shall be revised to the following: Storage or processing of potentially explosive or combustible materials and/or chemicals shall be prohibited. Indoor processing and long-term storage of all materials shall be required. Customer drop-off and preliminary sorting of materials prior to storage/processing for shipping shall be permitted outside provided that a wood board fence is extended, as shown on the site plan. Materials shall not be visible above the woodboard fence and/or from the public right-of-way.
2. All other conditions of approval from conditional use application (CUP 08-2908) shall remain in force.

Planning Commission Action: **Approved** **Tabled** **Denied**
Motion: Lack
Second: Graves
Vote: 6-0-1 (Trumbo)
Meeting Date: October 13, 2008

RE: Amending current CUP at 1246 S. School Ave to include neighboring 1236 S. School Ave. property, both owned by the applicants Donald and Lisa Vaughn.

We have operated our recycling center from 1246 S. School Ave. for approx. 13 years. Over the years our business has grown due to rising metal prices. As of the last few months we have expanded as far as we can on the current property. We have had to use our connecting property at 1236 S School Ave for parking trailers or storing certain equipment. Currently, due to the covid-19 crisis, we have found it difficult to get trucks in to haul off our metals, this has created a problem with space as well. We have done our best to keep within 1246 S. School property lines but due to the above referenced issues have not been able to do so at all times.

Nothing about the operation of our business has changed, we are still operating the same way and for the same reasons as we were 13 years ago.

We are requesting that the property at 1236 S. School Ave. be added into the current CUP for 1246 S. School Ave. this will help us to better serve our customers and the city as we perform an invaluable service to this community.

I ask that you take our request into consideration as the future of our business depends on it.

Donald Vaughn

Vaughn Recycling LLC

Owner

Lisa Vaughn

Vaughn Recycling LLC

KNIGHT LAW FIRM
ATTORNEYS AT LAW
PO BOX 1272
FAYETTEVILLE, AR 72702
PHONE (479) 571-0014
FAX (877) 450-0781
tripp@knightlaw.net

July 19, 2021

ATTN: Ryan Umberger
Senior Planner
City of Fayetteville, Arkansas
rumberger@fayetteville-ar.gov
(479) 575-8327

Re: ADM-21-000045 (Vaughn Recycling, LLC)

Mr. Ryan Umberger,

I hope this letter finds you well. I am writing this on behalf of my client, Vaughn Recycling, LLC, (“**Vaughn Recycling**”) regarding their conditional use permit and amendment in the matter listed above. Any additional, information that the City of Fayetteville needs or clarity on an issue please do not hesitate to reach out.

Vaughn Recycling has served the City of Fayetteville at 1245 S. School Ave. (“**1245 Property**”) for more than 13 years. Fulfilling a need in the community, while providing a valuable service to the City’s residents. Vaughn Recycling does business with a wide range of both individual and commercial customers. By approving the ADM-21-0045, Vaughn Recycling will be able to meet the conditions of both the CUP and ADM keep up with the large demand of its customers. Vaughn Recycling would be allowed to expand their loading area/process in the back of the 1236 S. School Avenue (“**1236 Property**”). Once approved, Vaughn Recycling would be able to improve how it loads and processes inventory as it is received. Moving forward, Vaughn Recycling will be able to load metals into an enclosed trailer and ship the trailer daily (contingent on the availability of truck drivers). This would avoid having the inventory placed outside, for any length of time, to be processed and stored (complying with CUP 08-2908 storage of all materials).

Furthermore, Vaughn Recycling has made great strides to remedy any and all concerns or issues that the City has brought to its attention. First, Vaughn Recycling has remedied the dirt and mud issue, addressed in the June 8, 2021, letter (please find enclosed herein), by

pouring numerous tons of gravel in their loading area on the 1245 Property to prohibit mud from being tracked onto South School Ave. This mud and dirt were instigated by the uncommonly wet Spring coupled with the uptick in customer and commercial traffic during the pandemic. Vaughn Recycling had gravel laid but these factors caused the preexisting gravel to compact and settle.

Next, Vaughn Recycling has removed all trailers parked in front of 1236 Property and 1245 Property. These commercial trailers were the initial issue that triggered the violation of the CUP. This violation was directly connected to the unexpected influx of inventory and goods Vaughn Recycling received during the COVID 19 pandemic. Over the last 18 months, the prices of recycled metals nearly tripled across the board. Increased prices drove massive amounts of metals to Vaughn Recycling with no means to process or transport the goods due to the lack of commercial truck drivers during these uncertain times. Due to this increase in metals, Vaughn Recycling was forced to move these commercial trailers from behind its facility on 1245 Property to the frontage of the 1236 Property to keep up with the demand. With the approval of both the CUP and ADM, Vaughn Recycling can guarantee that these trailers will never be parked on the road frontage again.

We request the staff to reconsider revising its recommendation to the City's Planning Commission. I urge a staff member to examine the work that has been done at both the 1236 Property and 1245 Property over the course of the last few weeks. Vaughn Recycling will continue to strive to work with the City's requests. This past year has been a challenging and difficult time for all of us. Vaughn Recycling is no exception. We understand the weight and deference the Commission gives to the staffer's recommendation. It is our position that the approval of ADM-21-000045 is vital to the success and future of Vaughn Recycling.

Best,

Knight Law Firm

Tripp Halbert

Charles E. Halbert III

CEH

cc : Vaughn Recycling, LLC



CITY OF
FAYETTEVILLE
ARKANSAS

VIOLATION NOTICE

April 28, 2021

VAUGHN REVOCABLE TRUST
13553 OWL HOLLOW RD
WEST FORK, AR 72774

Re: Zoning Violation

Dear Property Owner:

City Staff received a complaint and it appears that your property, located at 1246 S. School Ave. Fayetteville, AR 72701, contains a violation of the Conditional Use Permit that was obtained for this property. It is our goal to notify and assist property owners to correct violations of Conditional Use Permits before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479) 444-3443.

Violation:

In violation of "CUP 08-2908 1246 S. School Avenue (Vaughn Recycling Center)"

Remedial Action(s) needed for compliance:

- Amend the existing CUP permit above to include any and all expansion of the business by applying for the "Amendments to Conditional Use Permits" application online at: https://egov.fayetteville-ar.gov/EnerGov_Prod/SelfService#/home
- Setup a meeting with City Planner to determine if a Site Improvement Plan or a Large-Scale Development will be needed also and then apply for that permit; 479-575-8267.
- Resolve the violation of the trailers parking along the School Ave side that are being used for the recycle business as that is not allowed.

Penalty:

If the remedial actions above are not completed within thirty (30) days from the service of this notice, this notice and all documents related to this case shall be turned over to the City Prosecutor's Office. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to an appeal. Please see Chapter 155 of the Unified Development Code.

It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479) 444-3443.

Sincerely,

Drew Richmond
Planning Technician



= Area requested to be included in the CUP .









07-21-2021 09:58 AM



07-21-2021 10:00 AM

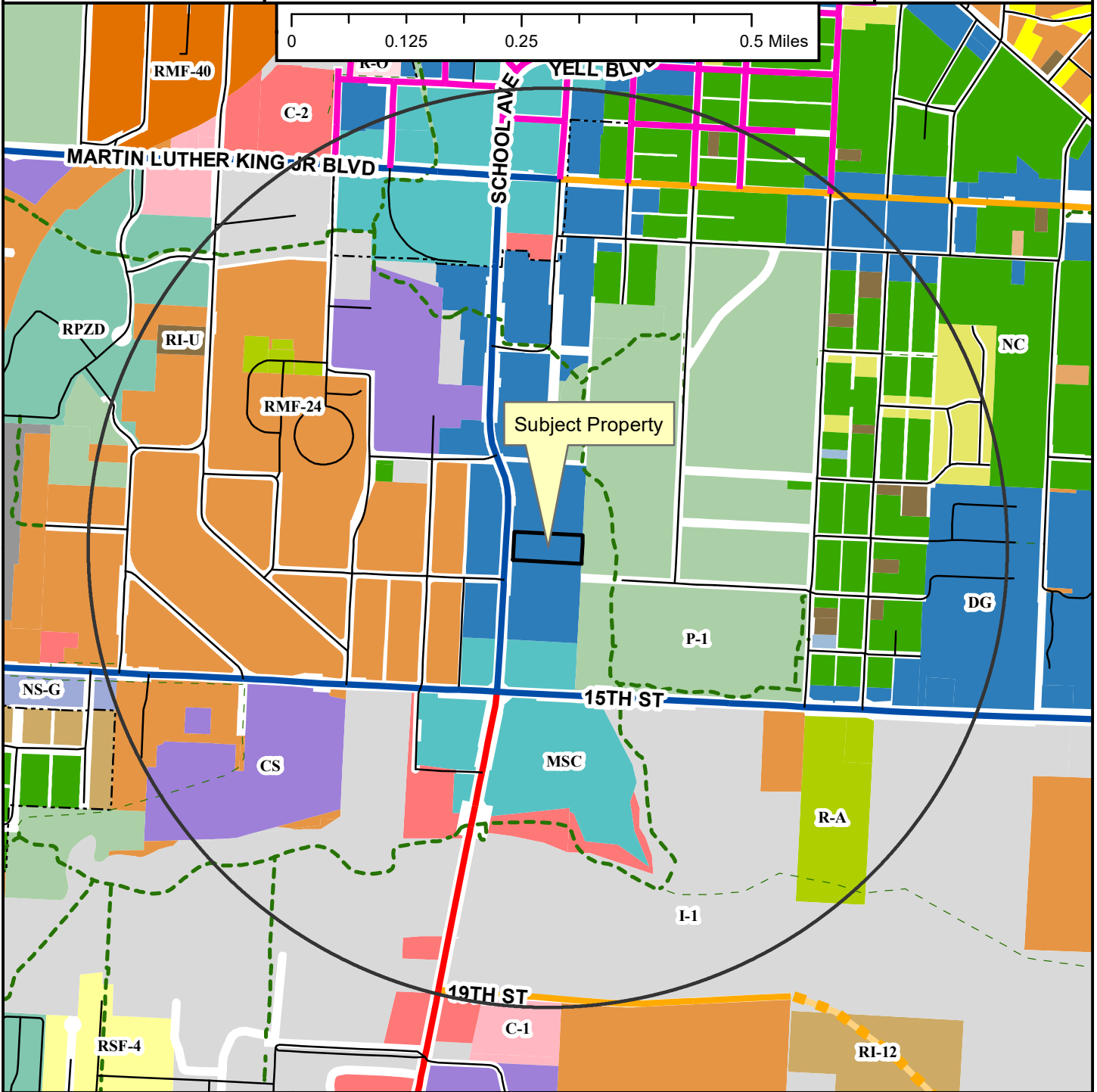
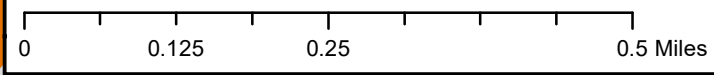


07-21-2021 10:00 AM

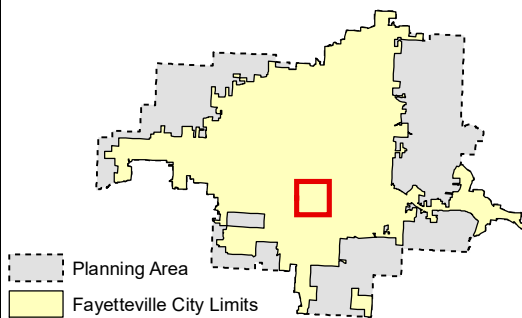
ADM-2021-000045

Vaughn Recycling

One Mile View



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

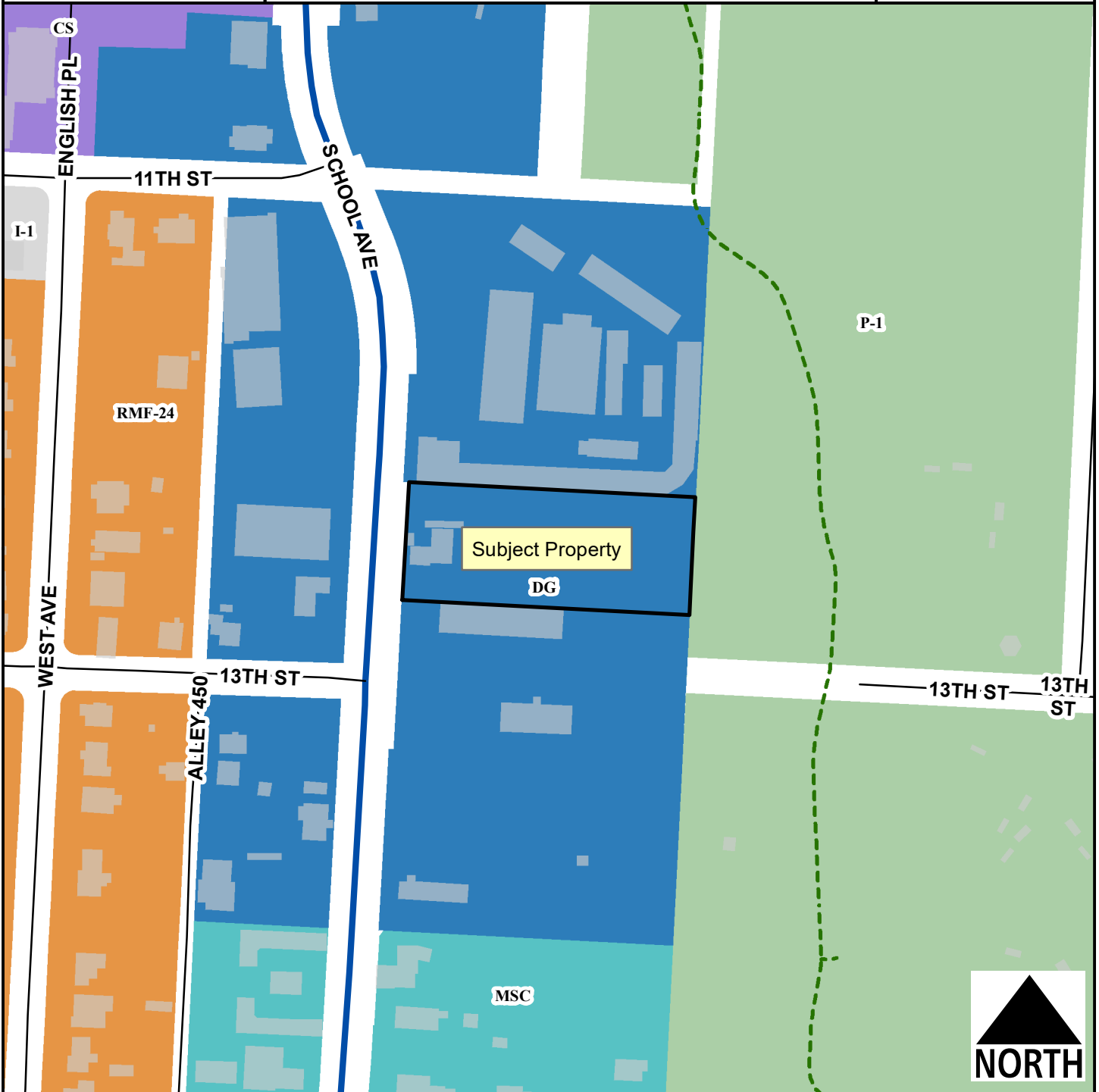






- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - I-2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

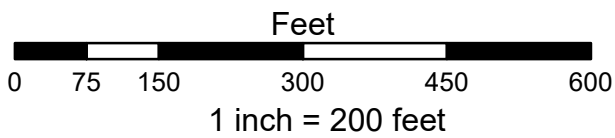
ADM-2021-000045







Vaughn Recycling

Close Up View



-  Regional Link - High Activity
-  Planning Area
-  Fayetteville City Limits
-  Shared-Use Paved Trail



-  RMF-24
-  I-1 Heavy Commercial and Light Industrial
-  Main Street Center
-  Downtown General
-  Community Services
-  P-1

ADM-2021-000045

Vaughn Recycling



Current Land Use



Commercial

Industrial

Subject Property




Walker Park

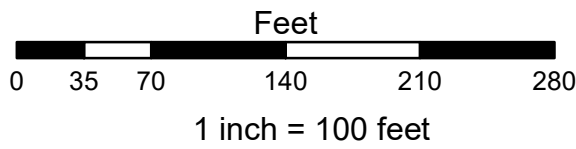
Industrial

13TH ST



SCHOOL AVE

Frisco Trail

-  Regional Link - High Activity
-  Planning Area
-  Fayetteville City Limits



FEMA Flood Hazard Data

-  100-Year Floodplain
-  Floodway