



MEETING OF MAY 16, 2023

TO: Mayor Jordan and City Council

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

FROM: Ryan Umberger, Senior Planner

DATE:

SUBJECT: **Appeal: LSD-2023-0004: Large Scale Development (SOUTH OF N. SHILOH DR/THE JUNCTION AT SHILOH, 363): Submitted by CRAFTON TULL for property located SOUTH OF N. SHILOH DR in WARD 4. The property is split zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY-FOUR UNITS PER ACRE and CS, COMMUNITY SERVICES and contains approximately 11.73 acres. The request is for a multi-family development with 177 units and associated parking.**

RECOMMENDATION:

City staff and the Planning Commission recommend approval of a request for a multi-family residential development as described and shown below.

BACKGROUND:

The subject property is located south of W. Mount Comfort Road and west of I-49, where N. Shiloh Drive dead-ends. The property is split-zoned RMF-24, Residential Multi-Family, Twenty-Four Units Per Acre and CS, Community Services. A portion of the site totaling 9.11 acres was rezoned from I-1, Heavy Commercial and Light Industrial to CS by the City Council on February 15, 2022. The undeveloped site totals approximately 11.73 acres and is covered by vegetation throughout. A branch of the Hamestring Creek runs through the center of the property and roughly 22% of the site lies within a floodplain.

Request: The applicant requests large scale development approval to develop the subject property with a 177-unit multi-family development. The proposed development is composed of four structures with studio, one-, two-, and three-bedroom units and associated parking. As a part of their street improvements, the applicant intends to build out a portion of N. Shiloh Drive which appears as a Planned Neighborhood Link Street on the 2040 Master Street Plan. Planning Commission determined street improvements including build-out of N. Shiloh Drive with a two-foot frontage zone, 12-foot trail and 10-foot greenspace on the east side of the street, two drive lanes totaling 19-feet in width, 1.5-foot curb and gutter, and a 12-foot greenspace along the west side of the street. Three variances to the Unified Development Code were requested and approved with the application. Each variance is described in detail alongside staff's recommendations in the attached Planning Commission staff report.

Public Comment: Staff has received public comment opposing the development. A neighbor spoke at the Subdivision Committee meeting on March 30th suggesting the development would exacerbate flooding and

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identified issues with proposed building heights, the singular access to the site through the proposed Shiloh Drive extension, and removal of wildlife habitat. They also requested a vegetative buffer be maintained for the residential properties to the west. Another member of the public commented in opposition to the requested variance to the Provisions for Flood Hazard Reduction. They oppose allowing increases in flood flows, heights, and/or channel velocities on adjacent properties because it would increase flood risk. The individual also complained that they had not received notification specific to the proposed changes to the base flood elevation. At the April 10th Planning Commission meeting, several members of the public spoke in opposition to the request. Comments are summarized in the Discussion section below.

DISCUSSION:

At the April 10, 2023 Planning Commission meeting, a vote to approve the item passed with a vote of 6-2-1; Commissioner Winston made the motion with Commissioner Brink seconding. Commissioners Sparkman, Brink, McGetrick, Madden, Holcomb, and Winston voted to approve the large scale development. Commissioners Garlock and Gulley voted to deny. Commissioner Payne recused. Commissioners discussed street and trail access to the site. Those in favor expressed concerns about the number of available housing units in northwest Arkansas and suggested the development would contribute toward meeting housing demand. Those in opposition were concerned about the impact the development would have on traffic, particularly because of its singular access onto N. Shiloh Drive. Several members of the public spoke during the meeting. Their concerns included the location of parking lots and structures, height of structures, ecological sensitivity of the Hamestring Creek riparian corridor, increased traffic volumes, existing condition of N. Shiloh Drive, and the impact the development would have on flooding in the area. The approval of the large scale development was appealed by neighbors on Thursday, April 20th. In the intervening time, the applicant has provided a traffic study which is included in this report as Exhibit C.

Conditions of Approval:

1. Planning Commission determination of right-of-way dedication. Staff recommends right-of-way dedication in the amount of 58 feet from the centerline of the proposed extension of N. Shiloh Drive.
2. Planning Commission determination of street improvements. Staff recommends N. Shiloh Drive is constructed with a 12-foot trail and 10-foot greenspace on the east side of the street, two drive lanes totaling 19-feet in width, 1.5-foot curb and gutter, and a 12-foot greenspace along the west side of the street;
3. Planning Commission determination of a variance to UDC §166.08(E)(b): Block Layout/Connectivity. Staff recommends approval of the variance for the reasons stated in the attached Planning Commission staff report;
4. Planning Commission determination of a variance to UDC §166.23(C): Site Development Standards. Staff recommends denial of the variance for the reasons stated in the attached Planning Commission staff report;
5. Planning Commission determination of a variance to UDC §168.10(U): Provisions For Flood Hazard Reduction. Staff recommends approval of the variance for the reasons stated in the attached Planning Commission staff report;
6. Vacation of an existing 25-foot utility easement is subject to separate application and approval. The easement shall be vacated prior to building permit approval.
7. Parkland dedication of 1.72 acres and fees in the amount of \$86,632 based on a total of 177 multi-family residential units;
8. Streetlights must be installed at intersections and at a linear spacing distance of no more than 300 feet;
9. A determination from the Zoning and Development Administrator must be on file prior to grading permit to exempt the project from the minimum buildable street frontage requirement in the CS zoning district; alternatively, a Board of Adjustment variance shall be granted;
10. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of

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approval, attached hereto;

11. All comments from Planning staff must be addressed including:
 - a. Vacation of easements where structures and the pool are proposed is subject to separate approval. No portion of any building or pool shall be built within a public utility easement.
 - b. Parking table shall be revised to include 12 studio apartments into the overall bedroom calculation.
 - c. Please show the bay windows on the building footprints where they are proposed.
 - d. If the amenity area on the floor plan for Building 1 is intended to be used for commercial leasing purposes, it will be subject to UDC 166.24 & 166.25.
 - e. Revise the sidewalk parallel to southernmost driveway on the west side to be as close to the driveway as possible so that the amount of fill in the easement and over the 36" waterline is kept to the minimum necessary to achieve this crossing.

Standard Conditions of Approval:

1. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
2. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);
3. 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;
4. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
5. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
6. 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;
7. 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;
8. 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 I-540 Design Overlay District;
9. Large scale development shall be valid for one calendar year;
10. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
11. 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; and
12. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to

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- any land disturbance;
- e. Project Disk with all final revisions; and
- 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.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: Appeal Letter, Exhibit A, Exhibit B, Exhibit C, Planning Commission Staff Report

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Umberger, Ryan

To: Masters, Jessica; Pennington, Blake; Shelton, Jackson
Cc: Turk, Teresa; Williams, Kit; Paxton, Kara; Martha Clark; Curth, Jonathan
Subject: RE: Sponsoring Appeal of LSD-2023-004

From: Pennington, Blake <bpennington@fayetteville-ar.gov>
Sent: Thursday, April 20, 2023 10:13 AM
To: Shelton, Jackson <jshelton@fayetteville-ar.gov>
Cc: Turk, Teresa <teresa.turk@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>; Paxton, Kara <kapaxton@fayetteville-ar.gov>; Martha Clark <m3clark@yahoo.com>; Curth, Jonathan <jcurth@fayetteville-ar.gov>; Masters, Jessica <jmasters@fayetteville-ar.gov>
Subject: Re: Sponsoring Appeal of LSD-2023-004

This appeal meets the form, time, and place requirements of Section 155.02 of the Unified Development Code. Staff will need time to prepare the agenda packet so I will defer to them on the meeting date.

Thanks,

Blake

Blake E. Pennington
Assistant City Attorney
113 W. Mountain St.
Fayetteville, AR 72701
Tele: (479) 575-8313
Fax: (479) 575-8315

Sent from my iPhone

On Apr 20, 2023, at 10:25 AM, Shelton, Jackson <jshelton@fayetteville-ar.gov> wrote:

Mr. Pennington,

When you have the availability could you verify that this appeal meets all requirements to move forward and be heard by City Council.

Thank you for your time and attention on this matter sir.

Jackson Shelton

Office of the City Clerk Treasurer

Senior Deputy Clerk

City of Fayetteville, Arkansas

113 West Mountain St

Fayetteville, AR 72701

jshelton@fayetteville-ar.gov

Office Phone – 479-575-8310

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From: Turk, Teresa <teresa.turk@fayetteville-ar.gov>

Sent: Thursday, April 20, 2023 9:10 AM

To: Pennington, Blake <bpennington@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>; CityClerk <cityclerk@fayetteville-ar.gov>

Cc: Martha Clark <m3clark@yahoo.com>

Subject: Sponsoring Appeal of LSD-2023-004

Good Morning Kara, Blake and Kit,

I am submitting on behalf of Ms. Martha Clark the following appeal of the Planning Commission's approval of LSD-2023-0004. Please let me know if you require additional information to comply with the requirements of the LSD appeal process.

Thank you very much,

Teresa Turk

Ward 4 Position 1, Fayetteville City Council

I am asking you, as a city council member, to sponsor our appeal to the Planning Commission's approval of LSD-2023-0004 Shiloh Junction.

We challenge approval of the project and it's allowed variances based on the following:

1. The proposed development would violate a city ordinance, state statute or a federal statute, specifically under UDC 168 - Flood Damage Prevention. The FEMA map info for the proposed area is 15 years old. Without a Flood Study made with this year's data, we feel the Planning Commission's approval to a variance from Section 168.10(U) was made prematurely. The impact of storm runoff from the new Fayetteville police station and improved intersection of Stephen Carr Blvd, Porter Road and Deane Street is yet to be determined. Stormwater from this newly developed area feeds the floodplain of the proposed LDS project and downstream residential property along the Middle Fork, as well as the

Hamestring Creek Trail corridor. A review of UDC 170 - Stormwater Management and Drainage could apply here as well. FEMA regulations regarding floodplain development may also come into play when updated maps become available from the agency possibly later this year.

2. The proposed development would create or compound a dangerous traffic condition. It was noted during the Planning Commission meeting in which approval to the project was given, that a Traffic Study was not done. This is needed in order to measure the potential impact that 177 residential units and their implied vehicles will have on the current Pine Valley neighborhood and warehouse/commercial traffic currently using the single entry/exit point at N. Shiloh and Mount Comfort Road. We feel that a reduction in the number of units, say down to 50 or less, would be advisable.
3. Additionally the project would greatly impact the eastern end of the Hamestring Creek Trail corridor. We would like this project designed around the points named in UDC 179.01 - Low Impact Development. The "wildness" nature of this end of the trail needs to be preserved for not only the enjoyment of the trail users, but for the wildlife who frequent this area.

Thank you for your time and consideration on behalf of the residents of Pine Valley.

Sincerely,

Martha M.M. Clark

2843 W. Riverridge Dr.

479-422-0336

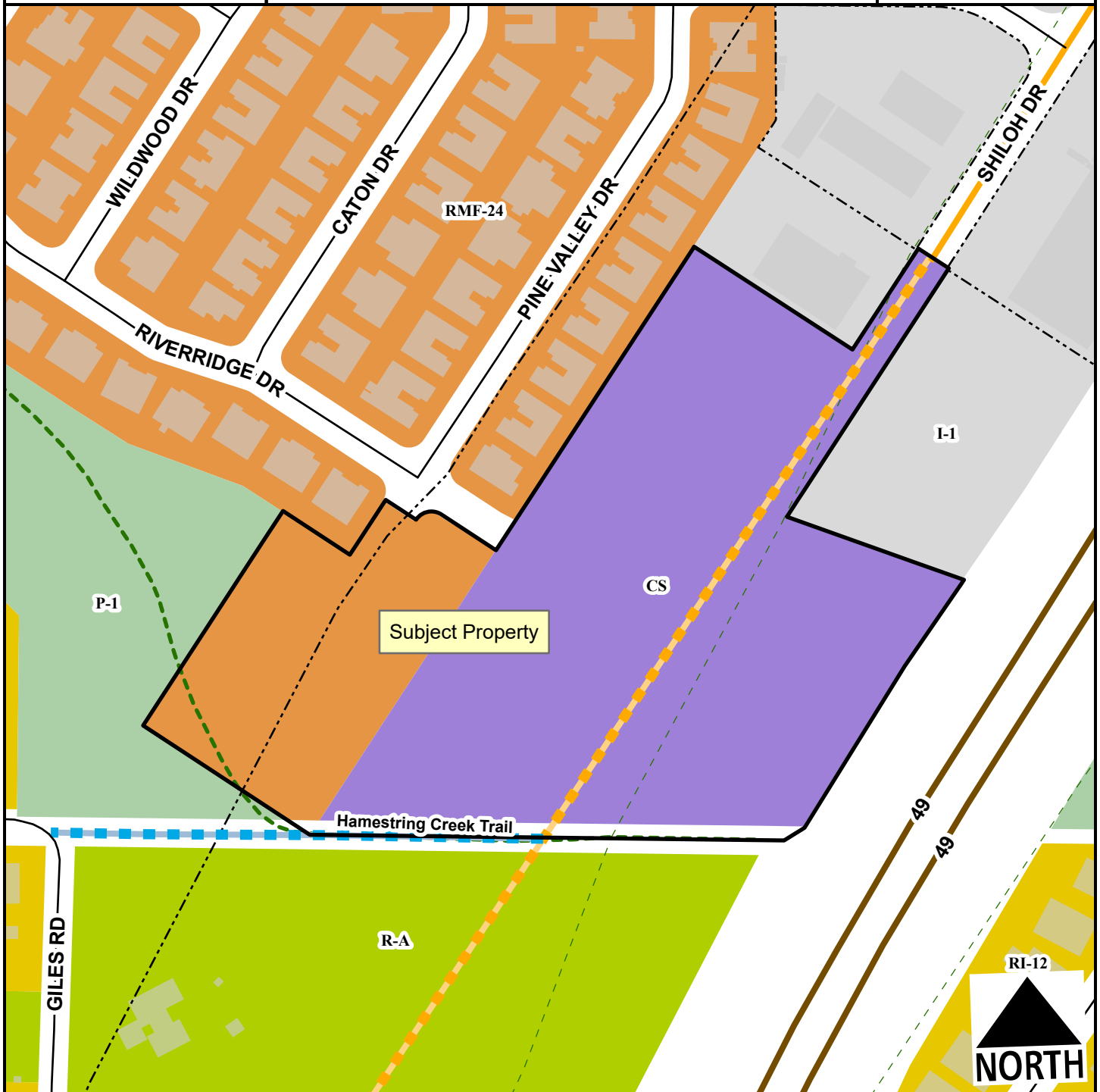
Teresa Turk
City Council Member
Ward 4 Position 1
Fayetteville, AR 72701
ward4_pos1@fayetteville-ar.gov
206.713.2265

LSD-2023-0004

SOUTH OF N. SHILOH DR

LSD-2023-0004
EXHIBIT 'A'

Close Up View



- Neighborhood Link
- Freeway/Expressway
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District

Feet

0 75 150 300 450 600

1:2,400

- Residential-Agricultural
- RI-12
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Community Services
- P-1