



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-1635

RZN-2023-0035: Rezoning (NW OF N. SHILOH DR. AND W. CHICORY PL./SPRINGWOODS INVESTMENTS LLC, 248): Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NW OF N. SHILOH DR. AND W. CHICORY PL. in WARD 2. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.44 acres. The request is to rezone the property to UT, URBAN THOROUGHFARE.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2023-0035 FOR APPROXIMATELY 2.44 ACRES LOCATED NORTHWEST OF NORTH SHILOH DRIVE AND WEST CHICORY PLACE IN WARD 2 FROM CPZD, COMMERCIAL PLANNED ZONING DISTRICT TO UT, URBAN THOROUGHFARE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from CPZD, Commercial Planned Zoning District to UT, Urban Thoroughfare.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.



MEETING OF FEBRUARY 20, 2024

TO: Mayor Jordan and City Council

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

FROM: Kylee Hevrdejs, Planner

SUBJECT: **RZN-2023-0035: Rezoning (NW OF N. SHILOH DR. AND W. CHICORY PL./SPRINGWOODS INVESTMENTS LLC, 248): Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located NW OF N. SHILOH DR. AND W. CHICORY PL. in WARD 2. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.44 acres. The request is to rezone the property to UT, URBAN THOROUGHFARE.**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is in north Fayetteville, just west of I-49 and approximately 0.33 miles south of the intersection of N. Shiloh Dr. and N. Hwy 112. It is south of the Wilson Springs Preserve. The property received its current zoning in 2003, when it was rezoned to Springwoods CPZD (Ord. 4523, October 21, 2003) from I-1 – Heavy Commercial/Light Industrial. Specifically, the subject property was platted as lot #10 of area #1 (Audubon Society) in the Springwoods CPZD, which is now outdated, having expired in 2006. The property is currently undeveloped.

Request: The request is to rezone the subject property from CPZD, Commercial Planned Zoning District, to UT, Urban Thoroughfare.

Public Comment: To date, staff have received no public comment on this item.

Land Use Compatibility:

On the balance of considerations, staff finds that the proposed zoning is compatible with existing land uses. The Springwoods CPZD set aside the subject property for the Audubon Society to develop an environmental education center and permits only Use Unit 4. The subject property borders the Wilson Springs Preserve but does not abut public access points or trails. A large optometrist's office is located southwest of the subject property along N. Shiloh Drive. Further south along N. Shiloh Drive, are several automotive sales and service businesses. North along N. Shiloh Drive, the Sam's Club property offers large retail, a gas station, and a liquor store.

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Staff also finds the proposed zoning to be compatible overall with uses permitted in the larger CPZD area and in alignment with the spirit and intent of the CPZD. For example, rezoning to UT would permit by-right single and multi-family development. Although these uses weren't originally permitted on the subject property, single and multi-family dwellings were permitted in other areas of the Springwoods CPZD. Commercial uses are also permitted under both the existing and proposed zoning districts.

Zoning regulations for each lot in the CPZD were to be determined during large-scale development review or subdivision approval. Requirements for the CPZD appear to have expired so rezoning is necessary.

Land Use Plan Analysis: Staff finds that the proposal is largely in line with the goals in City Plan 2040 and adopted land use policies. The infill score for this site is moderate, which appears to somewhat align with the City's stated goal towards making infill development a priority. Several important infrastructure elements contribute to that score, including access to water, sewer, trails, and transit. In terms of Future Land Use Map designation for the property, it is classed as a City Neighborhood Area. This designation supports a wide spectrum of residential and nonresidential uses, which are permitted in the UT, Urban Thoroughfare district.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates an infill score of **6-7** for this site. The following elements of the matrix contribute to the score, at varying points:

- Near Sewer Main (W. Chicory Pl.)
- Near Water Main (N. Shiloh Dr. and W. Chicory Pl.)
- Near Paved Trail (Shiloh Trail)
- Near City Park (Underwood Park)
- Near Grocery Store (Sam's Club)
- Near Razorback Bud Stop (this stop is across I-49, and is not reasonably accessible from the site)
- Appropriate Future Land Use (City Neighborhood)

DISCUSSION:

At the January 8, 2024 Planning Commission meeting, a vote of 6-2-0 forwarded the request to City Council with a recommendation of approval. The commissioners cited the necessity of rezoning, future land use compatibility, and staff recommendations as noted in the report as reasons for approval. There was no public comment at the meeting. Commissioners Madden and Garlock were not favorable to the rezone, citing undesirable uses permitted by UT zoning in the "gateway" to the city. It was implied that the first thing visitors entering Fayetteville via I-49 see could be unattractive developments like gas stations. Other commissioners disagreed, stating that the area is already heavily developed by car dealerships and the Sam's Club property which has a gas station. There was further disagreement about what constituted the "gateway" to the city.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Planning Commission Staff Report (#6)

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MITO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Kylee Hevrdejs, Planner

MEETING DATE: January 8, 2024

SUBJECT: **RZN-2023-0035: Rezoning (NW OF N. SHILOH DR. AND W. CHICORY PL./SPRINGWOODS INVESTMENTS LLC, 248):** Submitted by WATKINS, BOYER, GRAY & CURRY PLLC for property located on W. CHICORY PL. The property is zoned CPZD, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 2.44 acres. The request is to rezone the property to UT, URBAN THOROUGHFARE.

RECOMMENDATION:
Staff recommend forwarding **RZN-2023-0035** to City Council with a recommendation of approval.

RECOMMENDED MOTION:
*“I move to forward **RZN-2023-0014** to City Council with a recommendation of approval.”*

BACKGROUND:
The subject property is in north Fayetteville, just west of I-49 and approximately 0.33 miles south of the intersection of N. Shiloh Dr. and N. Hwy 112. It is south of the Wilson Springs Preserve. The property received its current zoning in 2003, when it was rezoned to Springwoods CPZD (Ord. 4523, October 21, 2003) from I-1 – Heavy Commercial/Light Industrial. Specifically, the subject property was platted as lot #10 of area #1 (Audubon Society) in the Springwoods CPZD, which is now outdated, having expired in 2006. The property is currently undeveloped. The Shiloh Trail runs along the property’s southeastern side. It is included in the Enduring Green Network and the I-540 Overlay District. Surrounding land uses and zoning are listed in *Table 1*.

**Table 1:
Surrounding Land Uses and Zoning**

Direction	Land Use	Zoning
North	Wilson Springs Preserve	Springwoods CPZD
South	Commercial/Interstate	Springwoods CPZD
East	Interstate	Arkansas DOT
West	Commercial/Wilson Springs Preserve	Springwoods CPZD

Request: The request is to rezone the 2.44-acre property to UT, Urban Thoroughfare. This request is associated with a development proposal for a mixed-use mini-storage and office building. A conditional use permit for UU-38 Mini-storage units has been submitted simultaneously (CUP-2023-0175) with this application.

Public Comment: To date, staff has received no public comment on this item.

INFRASTRUCTURE:

Streets: The subject area has frontage along N. Shiloh Dr., which is a fully improved Neighborhood Link Street with asphalt paving, curb and gutter, and the Shiloh Trail along its eastern side. The subject area also has frontage along W. Chicory Pl. which is a fully improved Residential Link Street with asphalt paving, curb and gutter, 6-foot greenspace, and 6-foot sidewalks. Any street improvements will be determined at the time of development proposal.

Water: Public water is available to the subject area. An existing 12-inch water main is present on the west side of N. Shiloh Dr. An existing 8-inch water main is present on the south side of W. Chicory Pl.

Sewer: Sanitary sewer is available to the subject area. An existing 8-inch sewer main is present on the southwest corner of the subject property.

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District, or within a FEMA floodplain. However, the property is largely encumbered by hydric soils. Hydric soils are known indicators of wetlands, though for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric soil can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits are issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal.

Any additional improvements or requirements for drainage will be determined at the time of development.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. There is an existing fire hydrant at the northeast of the site. Station 8, located at 2266 W. Deane St., protects this site. The property is located approximately 1.5 miles from the fire station with an anticipated drive time of approximately 3 minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

Police: The Police Department did not comment on this request.

Tree Preservation:

The current zoning district of CPZD, Commercial Planned Zoning District requires **25% minimum canopy preservation**. The proposed zoning district of UT, Urban Thoroughfare requires **15% minimum canopy preservation**.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **City Neighborhood**.

City Neighborhood areas provide a dense mix of non-residential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single-family to multi-family. Non-residential and commercial uses are primarily located at street intersections and along major corridors. Ideally, commercial uses would have a residential component and vary in size, variety, and intensity. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Building setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates an infill score of **6-7** for this site, with a weighted score of 8. The following elements of the matrix contribute to the score, at varying points:

- Near Sewer Main (W. Chicory Pl.)
- Near Water Main (N. Shiloh Dr. and W. Chicory Pl.)
- Near Paved Trail (Shiloh Trail)
- Near Grocery Store (Sam's Club)
- Near Razorback Bud Stop (this stop is across I-49, and is not reasonably accessible from the site)
- Appropriate Future Land Use (City Neighborhood)

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: *Land Use Compatibility:*

On the balance of considerations, staff finds that the proposed zoning is compatible with existing land uses. The Springwoods CPZD set aside the subject property for the Audubon Society to develop an environmental education center and permits only Use Unit 4. The subject property borders the Wilson Springs Preserve but does not abut public access points or trails. A large optometrist's office is located southwest of the subject property along N. Shiloh Drive. Further south along N. Shiloh Drive, are several automotive sales and service businesses. North along N. Shiloh Drive, the Sam's Club property offers large retail, a gas station, and a liquor store.

Staff also finds the proposed zoning to be compatible overall with uses permitted in the larger CPZD area and in alignment with the spirit and intent of the CPZD. For example, rezoning to UT would permit by-right residential development ranging from single to multifamily dwellings. Although these uses weren't originally permitted on the subject property, single and multi-family dwellings were permitted in other areas of the Springwoods CPZD. Commercial uses are also permitted under both the existing and proposed zoning districts.

Zoning regulations for each lot in the CPZD were to be determined during large-scale development review or subdivision approval. Requirements for the CPZD appear to have expired so rezoning is necessary.

Land Use Plan Analysis: Staff finds that the proposal is largely in line with the goals in City Plan 2040 and adopted land use policies. The infill score for this site is moderate, which appears to somewhat align with the City's stated goal towards making infill development a priority. The area is designated as a City Neighborhood Area. This designation supports a wide spectrum of uses, which are permitted in the UT, Urban Thoroughfare district.

The applicant has also submitted a conditional use permit application (CUP-2023-0175) for use unit 38: mini-storage units in the UT, Urban Thoroughfare zoning district. Support of this rezoning does not reflect approval or support of the applicant's proposed use. The conditional use permit will be evaluated separately, provided the City Council approves this rezoning.

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

Finding: Staff finds that the proposed rezoning to UT, Urban Thoroughfare is justified. A rezoning of this nature, scale, and intensity aligns with City Plan 2040's designation of the site's future land use as a high density, mixed-use City Neighborhood area. Further, the subject property's current zoning designation as part of the Springwoods CPZD is outdated, having been originally approved in 2003, but not following the projected phasing plan. As a condition of approval of the CPZD, it was outlined that zoning regulations such as setbacks, height, and building area would be determined at the time of large-scale development or subdivision of the property, but this tract has never been developed and restrictive covenants and zoning regulations were never created. The CPZD expired in 2006. Any future development on this site would require rezoning first to establish zoning regulations.

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

Finding: The proposed zoning may increase traffic, particularly along N. Shiloh Dr. With the addition of potential high-density residential use (although not currently proposed), traffic along N. Shiloh Dr. could increase significantly. However, there are alternative transportation options such as pedestrian and bike access via the Shiloh Trail. That said, with the addition of potential walkable services in the area through the UT zoning request, staff finds that this somewhat alleviates this concern. However, staff recognizes that the relatively small size of the property, at 2.44 acres, would provide some limits on residential density and potential traffic impacts.

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

Finding: Rezoning the property from its current zoning designation may alter the potential population density in the area. Initial Engineering Division review indicates that utility extensions or upgrades are likely not required, but any modification to utility provision would be evaluated at the time of a development proposal. No comments were received from the Fayetteville Public School district.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommends forwarding RZN-2023-0035 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>
Date: <u>January 8, 2024</u> <input type="checkbox"/> Tabled <input type="checkbox"/> Forwarded <input type="checkbox"/> Denied
Motion:
Second:
Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code:
 - §161.24 Urban Thoroughfare
 - §161.35 Planned Zoning District
- Springwoods CPZD Ordinance
- Springwoods CPZD Plans
- Request Letter
- Applicant Exhibit
- Close Up Map
- One Mile Map
- Current Land Use Map
- Future Land Use Map

161.24 Urban Thoroughfare

(A) *Purpose.* The Urban Thoroughfare District is designed to provide goods and services for persons living in the surrounding communities. This district encourages a concentration of commercial and mixed use development that enhances function and appearance along major thoroughfares. Automobile-oriented development is prevalent within this district and a wide range of commercial uses is permitted. For the purposes of Chapter 96: Noise Control, the Urban Thoroughfare district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 13	Eating places
Unit 14	Hotel, motel and amusement services
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 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 26	Multi-family dwellings
Unit 34	Liquor store
Unit 40	Sidewalk cafes
Unit 41	Accessory Dwellings
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 33	Adult live entertainment club or bar
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities
Unit 38	Mini-storage units
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family dwelling	18 feet
All other dwellings	None
Non-residential	None

(2) *Lot area minimum.* None

(E) *Setback regulations.*

Front:	A build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a single-family residential district:	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	5 stories/7 stories*
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* A building or a portion of a building that is located between 10 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of five (5) stories. A building or portion of a building that is located greater than 15 feet from the master street plan right-of-way shall have a maximum height of seven (7) stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

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

(Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7, 8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6223 , §1, 9-3-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625 , §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

161.35 Planned Zoning District

- (A) *Applicability.* To be considered for a Planned Zoning District, the applicant shall meet all of the following criteria:
- (1) *Location.* Any property located within the city limits is eligible for a Planned Zoning District. Upon City Council approval, an owner or developer of a specific piece of property located within the City's designated planning area may be authorized to submit a Planned Zoning District application in conjunction with an annexation request, but final approval of the PZD will not be effective until said property is annexed into the City of Fayetteville.
 - (2) *Size.* There shall be no minimum or maximum tract size for a PZD application.
- (B) *Purpose.* The intent of the Planned Zoning District is to permit and encourage comprehensively planned zoning and development whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the concurrent processing of zoning and development. The City Council may consider any of the following factors in review of a Planned Zoning District application.
- (1) *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
 - (2) *Compatibility.* Providing for compatibility with the surrounding land uses.
 - (3) *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
 - (4) *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
 - (5) *No Negative Impact.* Does not have a negative effect upon the future development of the area;
 - (6) *Coordination.* Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
 - (7) *Open Space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
 - (8) *Natural Features.* Maximum enhancement and minimal disruption of existing natural features and amenities.
 - (9) *Future Land Use Plan.* Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the Future Land Use Plan.
 - (10) *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.
 - (11) *Recognized Zoning Consideration.* Whether any other recognized zoning consideration would be violated in this PZD.
- (C) *Rezoning.* Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 154, Amendments.
- (1) Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and zoning standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of zoning standards and a specific master plan.
 - (2) All uses identified within §162 Use Units of the Unified Development Code may be allowed as permissible uses or conditional uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
 - (3) *Residential Density.* Residential densities shall be determined on the basis of the following considerations:
 - (a) The densities of surrounding development;
 - (b) The densities allowed under the current zoning;
 - (c) The urban development goals and other policies of the city's Future Land Use Plan;

- (d) The topography and character of the natural environment; and
- (e) The impact of a given density on the specific site and adjacent properties.
- (4) **Building Setback.** There shall be no minimum building setback except as may be determined by the Planning Commission and City Council during review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. Greater setbacks may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate separation from adjacent properties.
- (5) **Building Height.** There shall be no maximum building height except as may be determined by the Planning Commission and City Council during the review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.
- (6) **Building Area.** The Planning Commission and City Council shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

(Ord. No. 4434, §1 (Ex. A), 11-19-02; Ord. No. 4717, 7-5-05; Ord. No. 4764, 09-20-05; Ord. No. 4783, 10-18-05; Ord. No. 5312, 4-20-10; Ord. No. 5675, 4-1-14; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5945 , §§5, 7, 1-17-17)

ORDINANCE NO. 4523

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED SPRINGWOODS (C-PZD 03-08.00) LOCATED SOUTH OF HWY. 112 AND WEST OF I-540, CONTAINING 289.28 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED COMMERCIAL DEVELOPMENT PROJECT AS APPROVED BY THE PLANNING COMMISSION

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

Section 1. That the zone classification of the following described property is hereby changed as follows:

From I-1, Heavy Commercial/Light Industrial to C-PZD 03-08.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan and development standards as shown on the preliminary plat for springwoods and approved by the Planning Commission on October 13, 2003.

Section 3. That this ordinance shall not take affect and be in full force until approval of the final plat for the subdivision.

Section 4. That all conditions of approval of the subdivision as approved by the Planning Commission shall be satisfied prior to the issuance of a final plat.

Section 5. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this the 21st day of October, 2003.



APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

By: *Sondra Smith*
SONDRA SMITH, City Clerk



EXHIBIT "A"
C-PZD 03-08.00

A PART OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NW CORNER OF SAID SECTION 33, THENCE SOUTH 87°19'24"EAST-2637.40 FEET TO THE NE CORNER OF THE NE ¼ OF THE NW ¼ OF SAID SECTION 33; THENCE SOUTH 87°14'56" EAST - 247.50 FEET; THENCE SOUTH 2°26'17" WEST-1030.76 FEET; THENCE SOUTH 87°17'25" EAST - 1100.15 FEET TO THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 BYPASS; THENCE ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING BEARINGS AND DISTANCES, SOUTH 26°01'09" WEST - 74.14 FEET; THENCE SOUTH 74°59'16" WEST - 100.11 FEET; THENCE SOUTH 75°15'02" WEST - 117.54 FEET; THENCE SOUTH 66°53'26" WEST - 127.62 FEET; THENCE SOUTH 50°13'36" WEST - 191.34 FEET; THENCE SOUTH 31°34'48" WEST - 190.36 FEET; THENCE SOUTH 16°24'53" WEST - 126.58 FEET; THENCE SOUTH 4°16'48" WEST - 188.26 FEET; THENCE SOUTH 16°36'56" EAST - 57.67 FEET; THENCE SOUTH 12°48'23" EAST 100.11 FEET; THENCE SOUTH 5°19'10" EAST - 280.77 FEET; THENCE SOUTH 7°15'05" WEST 170.41 FEET; THENCE SOUTH 27°10'09" WEST - 171.37 FEET; THENCE SOUTH 34° 22'25" WEST 949.12 FEET; THENCE SOUTH 38°27'59" WEST - 150.76 FEET; THENCE SOUTH 34°22'18" WEST - 922.60 FEET; THENCE LEAVING THE WEST RIGHT OF WAY OF HIGHWAY 71 BY PASS NORTH 87°11'53" WEST - 631.86 FEET; THENCE SOUTH 2°25'44" WEST - 329.87 FEET; THENCE NORTH 87°21'18" WEST - 660.00 FEET; THENCE NORTH 2°25'44" EAST 330.00 FEET; THENCE NORTH 87°21'18" WEST - 660.23 FEET; THENCE NORTH 2°28'11" EAST - 2480.65 FEET; THENCE NORTH 87°19'24" WEST - 330.00 FEET; THENCE NORTH 2°28'11" EAST—1816.06 FEET TO THE POINT OF BEGINNING, CONTAINING 289.28 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of October 13, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner *REVISED FOR CITY COUNCIL JP*
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: October 08, 2003

Project: C-PZD 03-08.00: Planned Zoning District (springwoods, pp 248) was submitted by Joe Tarvin, P.E. of EGIS Engineering, Inc. on behalf of Collins Haynes for property located on the southwest side of I-540 and Arkansas Highway 112. The property is zoned I-1, Heavy Commercial/Light Industrial, in the Design Overlay District and contains approximately 289.26 acres. The request is to rezone the property to a Planned Zoning District to allow for development of Residential and Commercial sites.

Findings: The 289-acre subject property is being reviewed as a proposal for a Commercial Planned Zoning District. The applicant requests a rezoning and preliminary plat approval for a large lot subdivision within the Design Overlay District. The rezoning request, in conjunction with a development proposal, requires Planning Commission consideration and City Council approval pursuant to the requirements for a PZD. The proposed nine (9) lots have been assigned Use Units and/or specific uses that are legally binding to each lot. Each of the larger lots will require further review in the form of a preliminary and final plat and/or large scale development review. More detailed comments regarding vehicular and pedestrian circulation, street improvements, buffers and screening, commercial design standards, and other typical review items will be provided with the future submittals for each of these lots.

Numerous environmental concerns have been raised with the history of this particular site. The developer of the springwoods subdivision has indicated that the Audubon Society has particular interest in utilizing and preserving Lot #8, comprising approximately 124 acres, or 43% of the entire site. This particular lot is required to be preserved (or enhanced) in large part in its natural state, thereby retaining the wetlands, tree canopy, and grasslands currently existing. Any future development on this lot, as with the others, through Audubon or any other entity, is bound to these restrictions and must be reviewed for Code compliance through the City of Fayetteville.

Proposed Use Units:

(D) C-PZD, Commercial Planned Zoning District

Lot No.	Land Use	Use Units	Density	Acreage
1	Commercial	12,13,14,15,16,17,25	n/a	47.73
2	Multi-Family	26	18 DU/AC	26.36
3	Single Family	8	2 DU/AC	25.53
4	Multi Family	26	4 DU/AC	10.70
5	Single Family	8	2 DU/AC	32.28
6	Commercial	12,13,14,15,16,17,25	n/a	18.04
7	Commercial	12,13,14,15,16,17,25	n/a	5.17
8	Preservation Area	1*	n/a	123.45
9	Lift Station	3**	n/a	0.02

*Lot 8 (Audubon) Uses shall be further restricted as described in proposed uses of the "Wilson Spring Site" as stated by Audubon.

**Lot 9 to be retained by the City of Fayetteville for the existing lift station. Necessary utility and access easements shall be provided to this lot with the Final Plat.

(A) Unit 1. City-wide uses by right.

(1) *Description.* Unit 1 consists of public uses, essential services, agricultural uses, open land uses, and similar uses which are subject to other public controls or which do not have significantly adverse effects on other permitted uses and are, therefore, permitted as uses of right in all districts.

(2) *Included uses.* Public facilities of the types embraced within the recommendations of the General Plan.

Agricultural, forestry, and fishery:	<ul style="list-style-type: none"> •Field crop farms •Fishery •Forest •Fruit, tree, and vegetable farm
Essential services located in public right-of-way:	<ul style="list-style-type: none"> •Fire alarm box •Fire hydrant •Passenger stop for bus •Police alarm box •Sidewalk •Street, highway, and other thoroughfare •Street signs, traffic signs, and signals •Utility mainline, local transformer and station, and similar facilities customarily located in public right-of-way
Recreation and related use:	<ul style="list-style-type: none"> •Arboretum

	<ul style="list-style-type: none"> •Historical marker •Park area •Parkway •Wildlife preserve
Water facilities:	<ul style="list-style-type: none"> •Reservoir, open •Watershed •Conservation or flood control project

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Vacant pasture	R-A, Residential Agricultural
South	Single family homes, horse farm, commercial lots	R-A, Residential Agricultural C-2, Thoroughfare Commercial
East	I-540, Landers Autopark	C-2, Thoroughfare Commercial
West	Single family lots, agricultural land	RSF-4, Res. Single Family, 4 DU/acre RMF-24, Res. Multifamily 24 DU/acre Planning Area

Right-of-way being dedicated:

- Deane Solomon, Collector: 70 feet total, 35 feet from centerline
- Shiloh Drive, Collector: 35 feet from centerline
- Moore Lane, Local: 25 feet from centerline
- Truckers Dr/Gypsum Dr, Collector: To be considered for a Master Street Plan Amendment by City Council as indicated
- Technology Blvd, Collector: To be considered for a Master Street Plan Amendment by City Council as indicated

Requests for Master Street Plan amendments will be considered as individual items on the agenda for City Council

Street Improvements: No street improvements are proposed with the C-PZD and associated Preliminary Plat under review. Staff has made preliminary recommendations for street improvements to coincide with the development of each of the lots.

Tree Preservation:

It is the Landscape Administrator’s understanding that most of the trees throughout the site will be preserved, and that as development occurs individual Tree Preservation Plans will be submitted for each large scale and residential subdivision.

Background:

The subject property was purchased by the City of Fayetteville in 1988. In the years following, water and sewer lines, a lift station and fiber optic cable were installed, in anticipation of a high-technology development site, which never occurred.

The site contains a number of environmentally sensitive areas, including delineated wetlands,

grasslands, stream corridors and associated floodplain, and habitat for the Arkansas Darter and numerous other wildlife species. These factors have presented both a challenge and an ecological asset to the development potential of the site.

A total of 165 acres of the property is proposed to be developed in mixed-use residential and commercial uses, with the remaining 124 acres (43%) to be set aside permanently for greenspace. The Audubon Society has expressed interest in the conservation of this property and its significant wildlife habitat for the past two years, as potential for an environmental education center for northwest Arkansas (see attached).

Responses from adjoining property owners all reflect “no objection” to the project as described, with one exception, which states “not enough commercial development.”

The proposed C-PZD was heard at Technical Plat Review on August 27, 2003 and at Subdivision Committee on October 02, 2003. Discussion at the Subdivision Committee meeting included: traffic circulation and connectivity, proposed use and compatibility, buffering and screening, and wildlife interface with residential uses.

Recommendation:

Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed development subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district C-PZD 03-8.00 with all conditions of approval as determined by the Planning Commission.
2. An ordinance creating this C-PZD shall be approved by City Council.
3. A Final Plat is required to legalize the lot configuration and allow for the sale and/or development review of lots.
4. Requests for Master Street Plan amendments to Truckers Lane and Technology Blvd. require Planning Commission recommendation and City Council approval prior to final approval of the C-PZD. *Staff is in favor of these amendments.*
5. On- and off-site street improvements shall be coordinated with lot development. Staff has provided preliminary recommendations with Technical Plat Review comments, which remain applicable.
6. Each respective lot designated in the C-PZD shall be reviewed by Preliminary Plat and/or Large Scale Development in accordance with City Code for future development,

- requiring Planning Commission approval.
7. Covenants to be filed with the final plat creating the springwoods subdivision shall address the uses and restrictions associated with these lots.
 8. Draft covenants shall be further refined to include information required by §166.06 and to address residential as well as commercial development standards at the time of final plat. Draft covenants for the springwoods C-PZD zoning district shall address the overall master plan and shall be filed with the final plat creating this 9 lot subdivision.
 9. Setbacks, Height, and Building Area shall be determined and approved by the Fayetteville Planning Commission at the time of large scale development and/or subdivision approval. These standards shall apply to all lots and development within the individual tracts as shown on this plat.
 10. All requirements as stated within Chapter 166 Development of the Unified Development Code shall apply to all future large scale developments and/or subdivisions within the springwoods C-PZD zoning district.
 11. Flexibility provided within the PZD guidelines shall be applied to each development tract (large scale development and/or subdivision) as determined appropriate by the Planning Commission to allow alternative methods of design where it is consistent with the objectives of the springwoods C-PZD zoning district.

Standard Conditions of Approval:

12. All utilities shall be placed underground. Any existing overhead electric lines under 12 kv shall be relocated underground at the developer's expense.
13. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
14. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
15. Tree Preservation Plans shall be required with the development of each individual lot.
16. Parks fees shall be assessed with the development of each individual residential lot. Coordination with Parks staff will be necessary to determine appropriate trail connections, corridors, and parkland dedication.
17. Sidewalk construction in accordance with current standards shall be required with the

development of each individual lot.

- 18. No construction will be authorized without a floodplain development permit where required.

PLANNING COMMISSION ACTION: yes Required _____ Approved _____ Denied

Date: October 13, 2003

Comments:

The "CONDITIONS OF APPROVAL", beginning on page one of this report, are accepted in total without exception by the entity requesting approval of this development item.

By

Title

Date

Findings associated with R-PZD 03-4.00

Sec. 166.06. Planned Zoning Districts (PZD).

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposal includes residential development and commercial development

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that provide compatible uses with surrounding development. The General Plan 2020 designates the surrounding area as Multi-Use, Residential and Regional Commercial, which are compatible uses with those proposed. The Master Development Plan proposal sets aside 124 acres, 43% of the total 289 acres for permanent conservation to preserve the unique natural amenities of wetlands, wildlife habitat, grasslands and tree canopy. The proposed Audubon lot will provide a buffer along Clabber Creek and the tributary which run through the site from erosion and siltation. All lots are required to submit large scale development plans and/or preliminary plats for future development, providing a venue for more detailed review of pedestrian and vehicular circulation, screening, parking and landscaping requirements. All proposals will be required to comply with City ordinances, along with the covenants as proposed and filed of record for this PZD.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: A detailed landscaping and screening plan, where appropriate, will be required with each development plan submitted, in accordance with current City Ordinances.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Internal street circulation systems are to be designed to safely and adequately carry traffic into and out of the proposed planned zoning district, as well as be sensitive to safety, convenience, separation of vehicular and pedestrian traffic and proper relationship of different land uses. Truckers Drive, a proposed Master Street Plan Collector, is proposed to be eliminated from crossing the wetland area, and instead stub out to the north property line, to connect to a future East-West Collector. Access from Truckers Drive to Lot 7 is also proposed. Technology Boulevard, an east-west future Collector is proposed to be removed from crossing the site to provide contiguous corridors of land for wildlife movement on Lot 8. Sidewalks and trails as designated on the Master Street Plan and Alternative Transportation and Trails Plan will be coordinated with the developer of each lot to carry out the goals and policies of connectivity as adopted by City Council.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: All proposed development within the PZD shall comply with Chapter 172 Parking and Loading where applicable.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: All proposed development within the PZD shall be reviewed and comply as necessary with the greenspace and buffer requirements as set forth by the Unified Development Code. Particular treatment of the interface between wildlife and human activity will be investigated. For those lots within the Design Overlay District boundary, all applicable ordinances within this boundary shall apply.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks are to be constructed in conformance with current standards.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be installed in conformance with current standards.

- (8) *Water.* As required by §166.03.

FINDING: Water service is to be provided in conformance with current standards

(9) *Sewer*. As required by §166.03.

FINDING: Sewer service is to be provided in conformance with current standards

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

(a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and

any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: Public and private streets within this PZD shall be reviewed by staff and comply with all city ordinances at the time of development. Improvements to streets adjacent to the development has been recommended; specific recommendations by City staff will occur at the time of development review.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The

location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant is to comply with the requirements of Chapter 167, as determined by the Landscape Administrator, for all development within the PZD.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: For all proposed office and commercial structures within the C-PZD, the developer shall comply with appropriate ordinances with reference to Commercial Design Standards. Where applicable, commercial and office structures shall also comply with Design Overlay District requirements. The submitted draft of covenants addresses these structures to some degree, and a final draft shall be filed at the time of Final Plat.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: N/A

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open

spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
 - (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.

- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant has submitted a draft of covenants for the proposed PZD describing the responsibilities and maintenance of future open space and street systems.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposal is for mixed-use planned development comprised of multifamily residential, single family residential, office and commercial uses with 43% of the site, at minimum, to be preserved as greenspace. The rezoning of the property to a planned zoning district may be deemed appropriate due to the provision of flexibility by providing a number of housing types and opportunities; compatibility with existing and planned surrounding land uses; harmony in creating a mixture of land uses that serve one another; variety in providing housing, employment and recreational/educational activities to achieve an integration of economic and development opportunities; no negative impact on future land development in the area; provision of contiguous open space potentially providing educational and recreational activities at the community and regional levels; a maximum enhancement of existing natural features with the preservation of 124 acres of ecologically sensitive habitat; and a planning approach that incorporates mixed, yet harmonious development in the same area, consistent with the guiding policies of the General Plan.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. Covenants provided by the developer will be included in the PZD ordinance. This ordinance will be forwarded to the City Council for approval.*

(D) *C-PZD, Commercial Planned Zoning District*

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to

accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

- (a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.
- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.
- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: The proposal provides an effective relationship of different land uses within a single development, including single family residential, multifamily residential, open space, retail, commercial and office uses. The large lot subdivision identifies areas of potential land use in an orderly manner, encouraging commercial development which is consistent the with city's General Plan. As a PZD, the 289-acre development, currently zoned I-1, Heavy Commercial/Light Industrial, better facilitates more appropriate mixed land uses in a harmonious relationship.

(2) Permitted uses.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping Goods

Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 29	Dance Halls

FINDING: The proposal utilizes Unit 1 City-wide uses by right, Unit 3 Public protection and utility facilities, Unit 8 Single-family dwellings, Unit 12 Offices, studios and related services, Unit 13 Eating places, Unit 14 Hotel, motel and amusement facilities, Unit 15 Neighborhood shopping goods, Unit 16 Shopping Goods, Unit 17 Trades and services, Unit 25 Professional Offices, and Use Unit 26 Multi-family dwellings, which are permitted uses in a C-PZD.

(2) Conditions.

- (a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.
- (b) Residential uses must be appropriate to the design of the project.
- (c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.

FINDING: The proposed PZD is required to meet the minimum 51% commercial use within the development.

***Required Findings for Rezoning Request.**

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

LAND USE PLAN: General Plan 2020 designates this site Industrial. Rezoning this property to C-PZD 03-8.00 is **not** consistent with the land use plan but is compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed zoning is not consistent with the General Plan 2020 which designates the site Industrial, as it is currently zoned. However, immediate surrounding areas are designated Mixed Use, Community Commercial, Regional Commercial and Residential on the General Plan, thereby giving the C-PZD a high degree of consistency with current land use planning objectives, principles and policies and with land use and zoning plans.

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

Finding: The proposed zoning is justified in that the site is currently zoned for industrial purposes, which is generally incompatible within the context of the environmentally sensitive habitat. Surrounding uses are mixed in nature and are compatible with the proposed commercial planned zoning district.

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

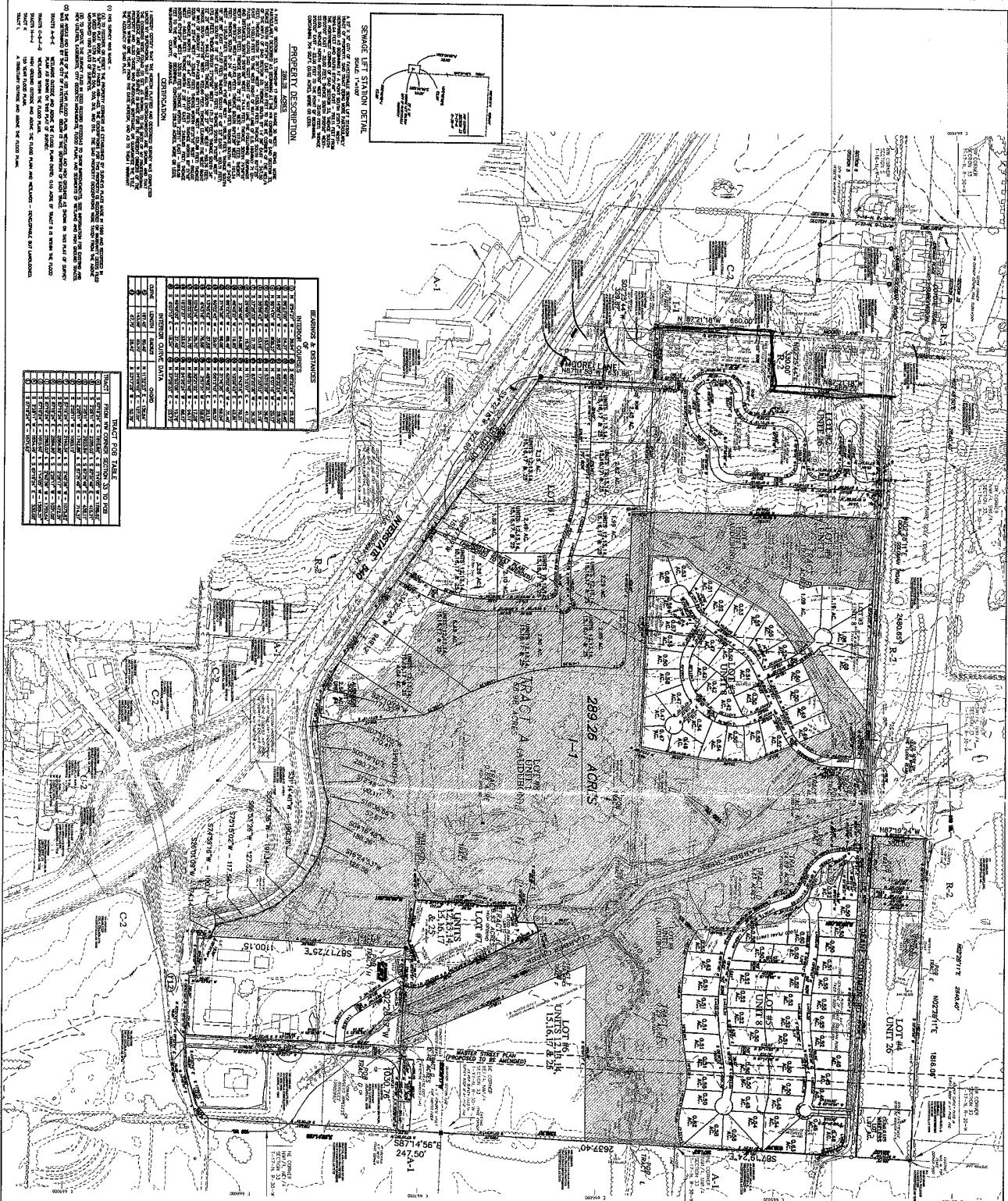
Finding: The proposed zoning will not create or appreciably increase traffic danger and congestion, based on determinations made by the Fayetteville Police Department (see attached). The potential of employment and residential land uses in close proximity allows for increased multimodal transportation opportunities.

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

Finding: Based on Fayetteville Police Department findings, this increase in population will not alter the population density in a manner which undesirably increases the load on public services including schools, water, and sewer facilities (see attached).

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



EXISTING LEGEND

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PROPOSED LEGEND

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FOR APPROVAL

HARRIS ENGINEERING

11475 Luttrell
Rogers, AR 72758
(937) 961-9322

EQUIS ENGINEERING, INC.
Civil & Environmental Engineers
Bismarck, AR 72715
(479) 371-9232

MASTERS DEVELOPMENT PLAN PRELIMINARY PLAT #3

NOTES:

1. THIS PLAT IS SUBJECT TO THE CITY OF ROGERS ZONING ORDINANCES.

2. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.

3. THE BOUNDARIES ARE AS SHOWN ON THE SURVEY.

4. THE AREA IS SUBJECT TO THE CITY OF ROGERS ZONING ORDINANCES.

5. THE AREA IS SUBJECT TO THE CITY OF ROGERS ZONING ORDINANCES.

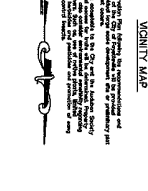
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REVISIONS & DISTANCES

NO.	DATE	BY	DESCRIPTION
1	11/22/23	JDM	ISSUE FOR PERMITTING
2	11/22/23	JDM	ISSUE FOR PERMITTING
3	11/22/23	JDM	ISSUE FOR PERMITTING
4	11/22/23	JDM	ISSUE FOR PERMITTING
5	11/22/23	JDM	ISSUE FOR PERMITTING
6	11/22/23	JDM	ISSUE FOR PERMITTING
7	11/22/23	JDM	ISSUE FOR PERMITTING
8	11/22/23	JDM	ISSUE FOR PERMITTING
9	11/22/23	JDM	ISSUE FOR PERMITTING
10	11/22/23	JDM	ISSUE FOR PERMITTING

PROPERTY DESCRIPTION

APRIL 17, 2024

THIS PLAT IS SUBJECT TO THE CITY OF ROGERS ZONING ORDINANCES.

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**WATKINS, BOYER,
GRAY & CURRY, PLLC**

ATTORNEYS AT LAW



WRITER'S DIRECT E-MAIL
wkellstrom@watkinslawoffice.com

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ANDREW T. CURRY, P.A.
WILLIAM A. KELLSTROM
* ALSO LICENSED IN MISSOURI

DELYNN HALE, SECRETARY
AMY BENSON, PARALEGAL
WHITNEY DUCKER, OFFICE MANAGER

November 27, 2023

City of Fayetteville
Planning Department
125 W. Mountain Street
Fayetteville, AR 72701

**RE: Rezoning Parcel No. 765-25766-000 from PZD–Planned Zoning District to
UT, Urban Thoroughfare**

Dear Planning Staff:

The Applicant, Focal Point Investments, LLC, is seeking approval to rezone approximately 2.44 acres located north of the intersection of W. Chicory Place and N. Shiloh Drive (“the Property”). The request is to rezone from PZD–Planned Zoning District to UT–Urban Thoroughfare. This applicant is being submitted simultaneously with a request for a conditional use permit for Use Unit 38–Mini-Storage Units, which is allowed conditionally under UT zoning.

The Applicant wishes to develop a climate-controlled self-storage complex with a bottom-floor office component on the Property. The intent is that the office component would be leased by companies who could make use of conveniently-located storage within the same building, such as start-ups who require a small amount of storage space.

The adjacent land uses are an optometrist’s office, interstate highway, and nature preserve. The office and storage uses are compatible with the office use next door, and the development will be situated on the Southern end of the Property so as to remove as few trees as possible and create a buffer between the development and the nature preserve. Lastly, UT-zoning is appropriate for parcels which border major arterial roadways. Accordingly, the proposed use and zoning are compatible with the surroundings, and would not adversely impact neighboring properties.

Thank you for considering this request for rezoning. If you need anything further on this application, all communication should be sent to both:

Will A. Kellstrom
Watkins, Boyer, Gray & Curry PLLC
479-636-2168
wkellstrom@watkinslawoffice.com

Kyle Ham
Focal Point Investments, LLC
901-326-3158
kham@sstower.com

Sincerely,

WATKINS, BOYER,
GRAY & CURRY, PLLC

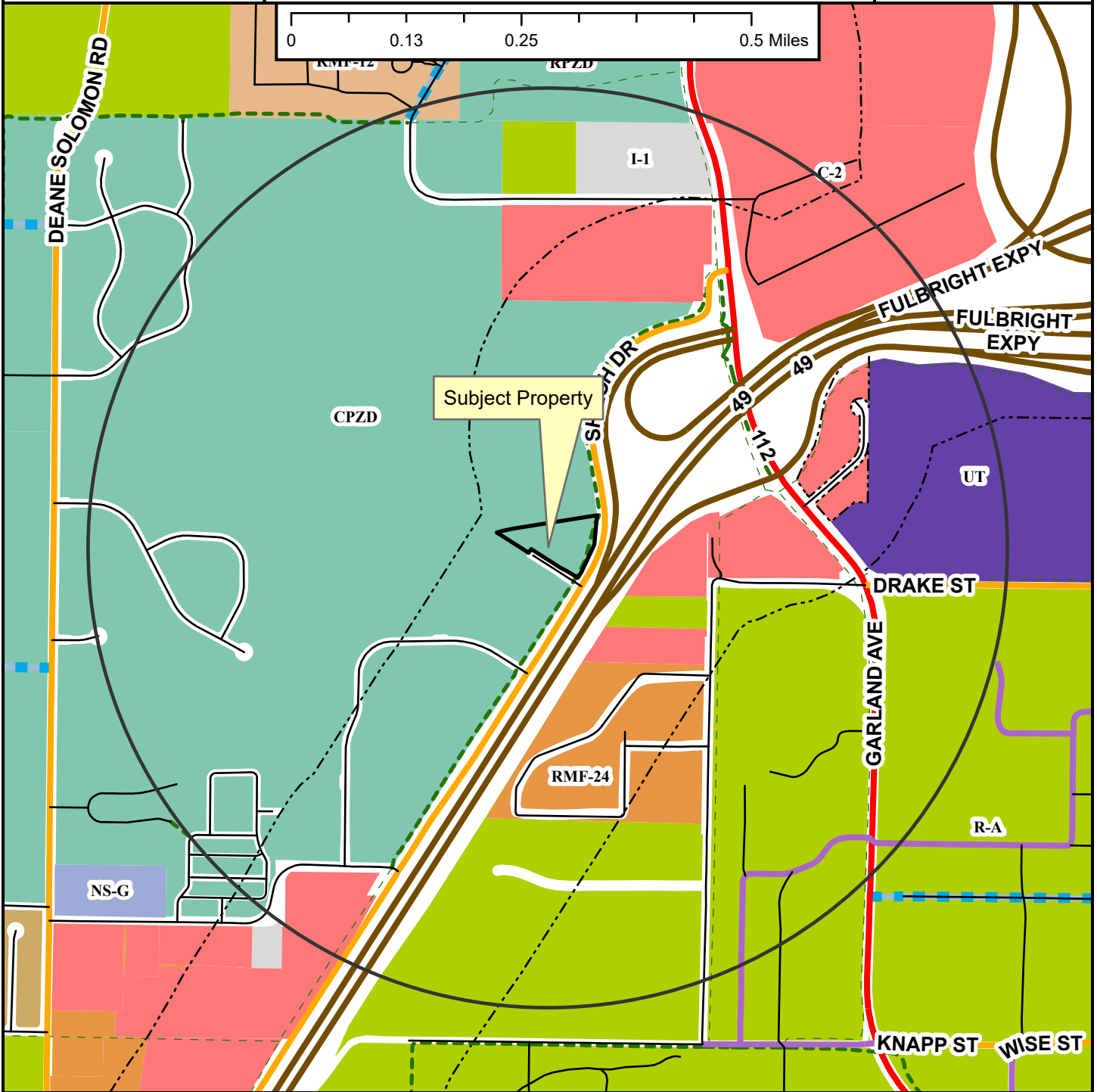
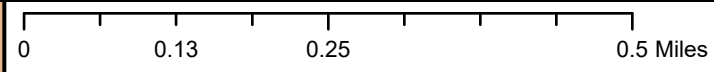
/s/ Will A. Kellstrom

Will A. Kellstrom

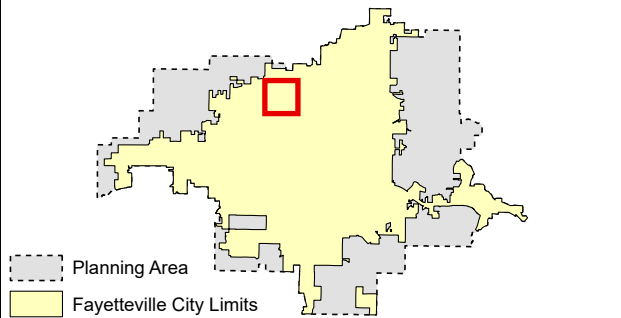
RZN-2023-0035

W. CHICORY PL

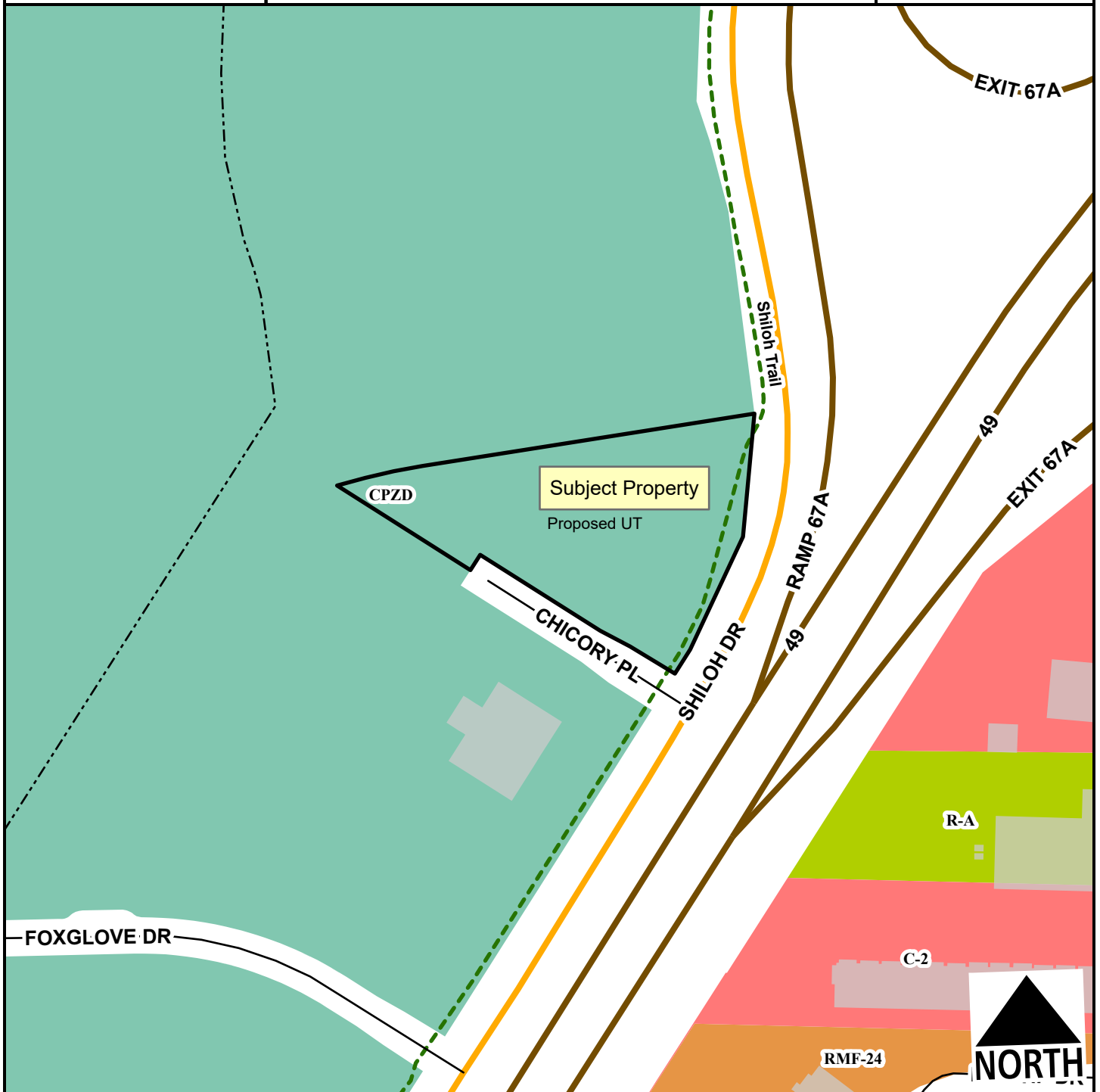
One Mile View



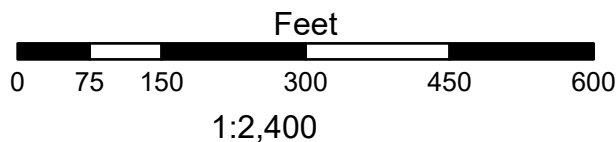
- Regional Link
- Neighborhood Link
- Institutional Master Plan
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - 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
- 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



- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Design Overlay District
- Planning Area
- Fayetteville City Limits



<u>Zone</u>	<u>Current</u>	<u>Proposed</u>
CPZD	2.4	0.0
UT	0.0	2.4
Total		2.4 ac

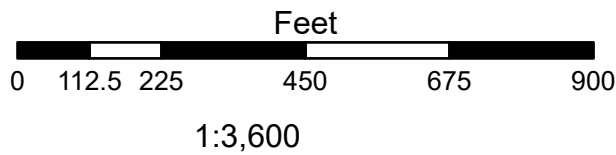
RZN-2023-0035

W. CHICORY PL

Current Land Use



- Regional Link
- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- - - Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District



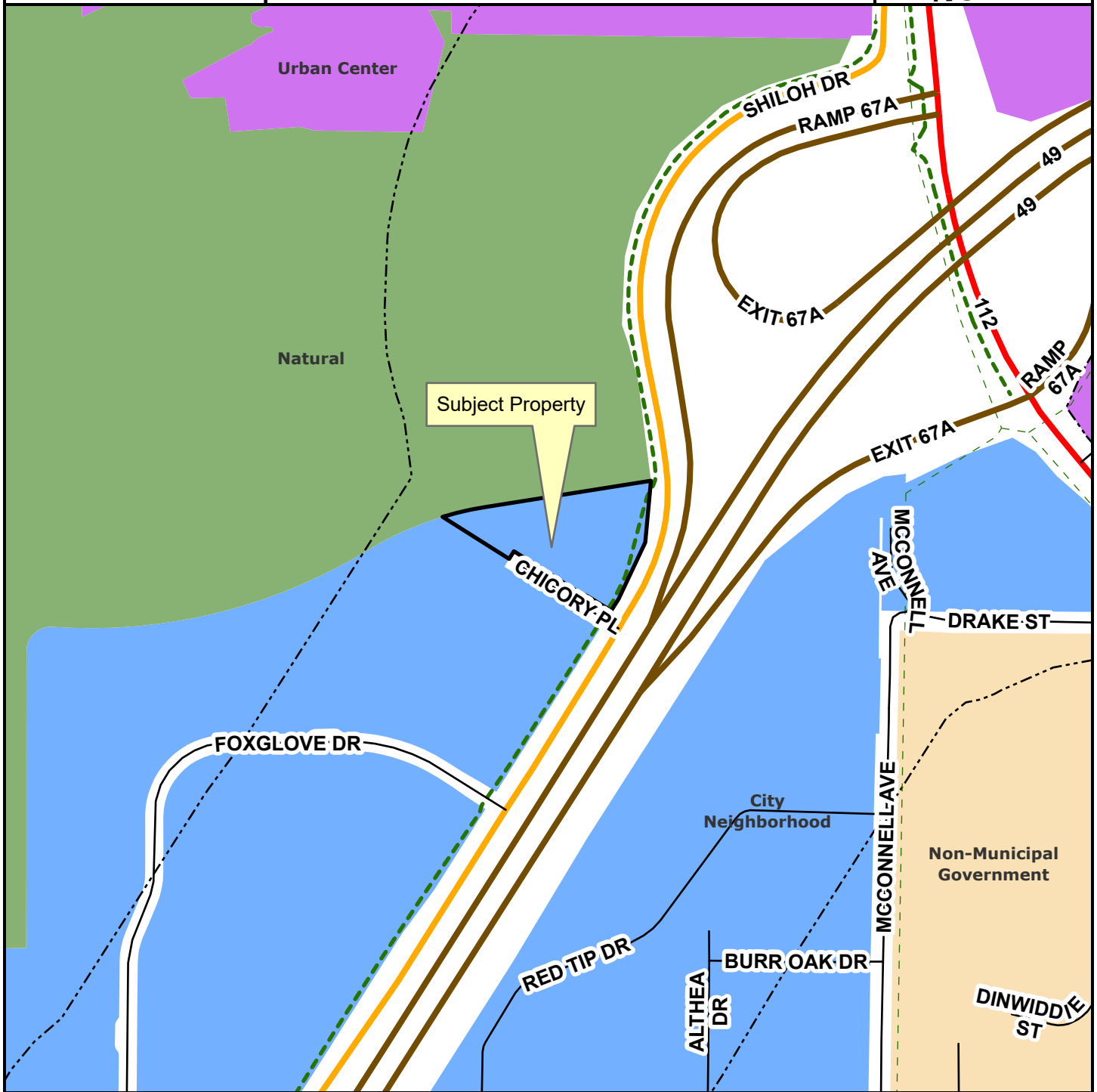
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

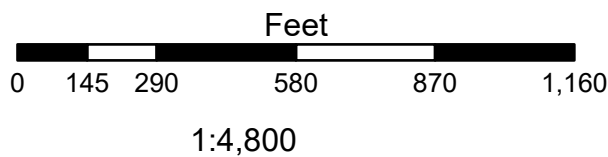
RZN-2023-0035

W. CHICORY PL

Future Land Use



- Regional Link
- Neighborhood Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Design Overlay District



- City Neighborhood
- Civic Institutional
- Civic and Private Open Space
- Industrial
- Natural
- Non-Municipal Government
- Residential Neighborhood
- Rural Residential
- Urban Center