



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2024-1675

CUP-2023-0171: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603): Submitted by GREGORY VAN WINKLE for property located at 1006 E. SPARROW CIR. in WARD 1. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contains approximately 0.10 acres. The request is to reconsider the denial of the residence as a short-term rental.

A RESOLUTION TO GRANT THE APPEAL OF COUNCIL MEMBERS SCOTT BERNA, SARAH BUNCH, AND D'ANDRE JONES AND REFER CONDITIONAL USE PERMIT CUP 2023-171 BACK TO THE PLANNING COMMISSION TO CONSIDER THE APPLICATION FOR A SHORT TERM RENTAL AT 1006 EAST SPARROW CIRCLE IN WARD 1

WHEREAS, on September 25, 2023, the Planning Commission voted to deny a conditional use permit to use the property located at 1006 East Sparrow Circle as a Type-2 short-term rental; and

WHEREAS, an appeal of that denial to the City Council failed due to the applicant not meeting time, form, and place requirements of § 155.02 of the Unified Development Code; and

WHEREAS, pursuant to § 163.02(D) of the Unified Development Code “no application for a conditional use will be considered by the Planning Commission within twelve (12) months from the date of final disapproval of a proposed conditional use unless there is evidence of changed conditions or new circumstances which justify reconsideration submitted to the Planning Commission”; and

WHEREAS, the applicant submitted a new conditional use request for the same property within twelve months of the final disapproval of its previous conditional use request and on January 8, 2024, the Planning Commission voted against hearing the new application; and

WHEREAS, Council Members Scott Berna, Sarah Bunch, and D’Andre Jones properly appealed the Planning Commission denial of the applicant’s request to hear the new conditional use request.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines, pursuant to § 163.02(D) of the Unified Development Code, that the applicant for a proposed short-term rental at 1006 East Sparrow Circle has provided sufficient evidence of changed conditions or new circumstances which justify the consideration of the application prior to the expiration of twelve months; therefore, conditional use permit CUP-2023-171 is hereby referred back to the Planning Commission for consideration of the full application.



MEETING OF FEBRUARY 6, 2024

TO: Mayor Jordan and City Council

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

FROM: Donna Wonsower, Planner

DATE:

SUBJECT: **CUP-2023-0171: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603): Submitted by GREGORY VAN WINKLE for property located at 1006 E. SPARROW CIR. in WARD 1. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contains approximately 0.10 acres. The request is to reconsider the denial of the residence as a short-term rental.**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend denial of a request to reconsider a conditional use permit for a short-term rental as described and shown below.

BACKGROUND:

The subject property is in south Fayetteville southeast of the intersection of S. Morningside Dr. and E. 15th St. The 0.10-acre property is zoned RSF-8, Residential Single-Family, Eight Units per Acre and is not part of any overlay districts. The property is developed with a 1,730 square foot single-family structure built in 2022. On September 25, 2023, the Planning Commission voted 1-7-0 to deny a conditional use permit to use the property as a Type-2 short-term rental. Type-2 short-term rentals are housing units not intended for long-term occupancy by an owner or renter. A subsequent appeal of this denial to the City Council failed due to the applicant not meeting time, form, and place requirements. A zoning violation letter for operating a short-term rental illegally was issued on October 25 and escalated to the city prosecutor on December 5. The applicant has requested that the conditional use request be reconsidered pursuant to §163.02(D), which requires that the Planning Commission make a determination on changed conditions or new circumstances prior to hearing the new request.

Request: The applicant requests reconsideration for the denial of a conditional use permit to use the property as a Type 2 short-term rental. The reconsideration request was denied by the Planning Commission on January 8, 2024.

Findings: Staff does not find evidence of changed conditions or new circumstances that would warrant a reconsideration by the Planning Commission. Of the four items listed in the applicant's letter, three have not changed since the previous application. The applicant states they will limit guests to a maximum of eight; however, an occupancy limit of eight guests was a recommended condition of approval for the previous report and does not constitute a change. Additionally, the applicant states that a maximum of four cars will be

Mailing address:

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Fayetteville, AR 72701

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permitted to park on the property with no on-street parking permitted. The staff report and applicant letter for the previous conditional use request list a maximum of four off-site parking spaces. Further, on-street parking is not legal in close proximity to this location due to the presence of a fire hydrant and associated fire lane. As such, staff does not find the described parking limitations on the property and street to constitute a change of circumstances. The final item that the applicant cites as a change of circumstance is the monitoring of the property via a property manager and cameras. As the monitoring of the property was not discussed in the previous report, staff is unable to determine if this constitutes a change.

DISCUSSION:

At the January 8, 2024, Planning Commission meeting, a vote of 2-6-0 denied the request to reconsider the conditional use request. Commissioner Winston made the motion and Commissioner Sparkman seconded. Staff presented their findings. The applicant's attorney noted that their client had adopted all recommendations for parking and traffic from the previous request and stated other concerns from staff and the commission, such as the density of short-term rentals, are out of his client's control. The attorney also cited staff's previous recommendation of approval. Commissioners voting against the reconsideration cited staff's current recommendation, as well as the inability of any short-term rental property to control the density of other short-term rentals in the area or parking within a neighborhood. Commissioners Brink and Payne voted in favor of the reconsideration request. Commissioner Holcomb was absent, and all other commissioners voted against the reconsideration. No members of the public spoke during the meeting.

BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: Appeal Letter (#3), City Council Member Sponsor: Berna (#4), City Council Member Sponsor: Bunch (#5), City Council Member Sponsor: Jones (#6), City Attorney Memo (#7), Exhibit A (#8), Planning Commission Staff Report (#9), Memo - Kit Williams (#10)

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DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE
CITY ATTORNEY

TO: **Mayor Jordan**
City Council

CC: **Susan Norton**, Chief of Staff
Jonathan Curth, Development Services Director
Jesse Masters, Development Review Manager

FROM: **Kit Williams**, City Attorney

DATE: **January 11, 2024**

RE: **Letter from Attorney Casey Copeland**

Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

Attorney Casey Copeland sent the Mayor and City Council a letter dated January 9, 2024 that needs some clarification. The January 8th Planning Commission decision was not a reconsideration of Planning Commission's decision to deny his client's request for a conditional use permit in September. The Planning Commission did not reconsider whether their September denial was correct or justified. Instead, the Planning Commission simply considered whether the applicant had submitted "evidence of changed conditions or new circumstances which justify reconsideration." §163.02 (D).

The Planning Commission's decision that the applicant failed to submit sufficient evidence of changed conditions or new conditions that would justify a second consideration of their request in less than a year is the only issue that now can be appealed to the City Council by three Council Members.

The City Council enacted *U.D.C. § 155.05 (A)(3) Conditional Use Request* which states that it requires three City Council Members all requesting an appeal of a Planning Commission decision to approve or deny a conditional use request to appeal such decision to the City Council. When Mr. Copeland's clients failed to garner such City Council Member support "within ten (10) working days from the date of the final action taken," *U.D.C. § 155.02 (B)*, potential review by the City Council ends. The City Attorney's Office just noted that fact. We did not reject any repeal. There was no appeal of the Planning Commission decision in

September. The City Council Members just chose not to sponsor their possible appeal of that Planning Commission decision.

That initial decision made last September is not under your review. The only issue that could be a part of a three City Council Member appeal now is an exception to the general rule that a conditional use request must wait for a year before being presented again to the Planning Commission. The Planning Commission ruled on January 8, 2024, that Mr. Copeland's clients failed to submit sufficient evidence of changed conditions or new circumstances to justify a new hearing to avoid the one year waiting period.

This is the same basic *U.D.C.* limitation as for denied rezoning requests. Our Planning Commissioners devote many hours listening and deciding zoning and development issues twice a month. These *Unified Development Code* required limitations of already decided applications were enacted to avoid basically identical requests every few months from unhappy applicants in order to prevent substantial wasted time for our Planning Commissioners.



DEPARTMENTAL CORRESPONDENCE

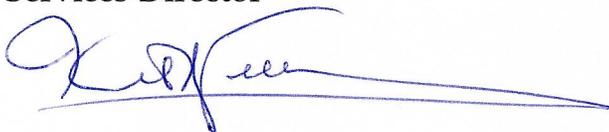


OFFICE OF THE
CITY ATTORNEY

TO: Mayor
City Council
Kara Paxton, City Clerk/Treasurer

Kit Williams
City Attorney
Blake Pennington
Senior Assistant City Attorney
Hannah Hungate
Assistant City Attorney
Stacy Barnes
Paralegal

CC: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Kit Williams, City Attorney 

DATE: January 23, 2024

RE: City Council must follow its enacted rules of appeal procedure until and unless it repeals them

Mr. Casey D. Copeland has written to you requesting that you agree to hear at your next meeting the two Conditional Use Requests for Short-Term Rentals on the merits which had months ago been denied by the Planning Commission with no proper appeal to the City Council. His client recently sought to present them again to the Planning Commission, but failed to satisfy the Planning Commission that there was sufficient evidence of changed circumstances to justify a new hearing before the normal one year had passed to allow submittal of the same conditional use requests. His client properly appealed that denial of a new hearing. That denial of a new hearing is what is before the City Council for your decision. This appeal process is codified in the *Unified Development Code* enacted as law by the City Council.

Mr. Copeland suggests that you use the Agenda Additions subsection of the *Rules of Order and Procedure of the Fayetteville City Council* to get around the **Appeals Chapter** of the *Unified Development Code*. This cannot be done for two reasons. First the enacted *UDC* is City Law which always will control over your procedural rules adopted by Resolution, not by ordinance. Secondly, the agenda additions subsection of your rules of order only allows a proper new item to be placed upon the agenda. Conditional Use requests pursuant to the *UDC* must be heard first by the Planning Commission and only considered upon three City

Council Members' appeal from the Planning Commission to the City Council. Because there was no proper appeal of the Planning Commission's initial denial of the Conditional Use requests, you lack jurisdiction to hear such requested appeal on the merits now. You may only decide whether or not to reverse the recent denial of the Planning Commission to hear a too soon reapplication for conditional uses on the previously rejected applications.

Although the City Council has clear authority to amend the *UDC* to change the **Appeals Chapter** so that the City Council can hear and decide a Conditional Use request without the Planning Commission's currently required first review and decision, until such an amendment occurs you **must** obey the current *Fayetteville Code of Ordinances* which includes the *UDC*. The Arkansas Supreme Court has so explicitly held.

"A city simply cannot pass procedural ordinances they expect to be followed by their residents and then conveniently ignore them themselves. **A legislative body must substantially comply with its own procedural policies.**" *Potocki v. City of Fort Smith*, 279 Ark. 19, 648 S.W. 2d 462, (1983). (emphasis added)

Similarly, the Arkansas Supreme Court agreed with the Pulaski County Chancery Court that the Little Rock Board of Directors had acted arbitrarily, capriciously and unreasonably in a rezoning case.

"(N)or does a city have to create a zoning ordinance or a land use plan or adopt planned use districts or planned commercial districts, but once it has done so **it must follow the ordinance until it is repealed or altered.**" *City of Little Rock v. Pfeifer*, 318 Ark. 679, 887 S.W. 2d 296, 298 (1994). (emphasis added)

Therefore, Mr. Casey Copeland's request that you ignore your **Appeals Chapter** procedure you enacted into the *UDC*, and allow him to present and argue the merits of the conditional use permits rather than whether the Planning Commission was correct or wrong when it denied him his untimely request for a new hearing is not legally within your power. We must comply with our enacted rules for this appeal even if some think it expedient to ignore them. It would be illegal for the Council to try to hear and decide the merits of the conditional use requests at your upcoming meeting.

AUNDREA STONE HANNA, P.L.L.C.

ATTORNEY AT LAW

ATTORNEYS
Aundrea Stone Hanna
Casey D. Copeland

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P.O. Box 163
Fort Smith, Arkansas 72902
Phone: 479.242.5874
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SENDER'S EMAIL:
aundrea@aundreahannalaw.com
caseycopeland@aundreahannalaw.com

January 22, 2024

Fayetteville City Council & Mayor, *Via Email*

RE: GVW Investments, LLC's - February 6, 2024
CUP-2023-0170 & CUP-2023-0171

Dear Members of the City Council and Mayor:

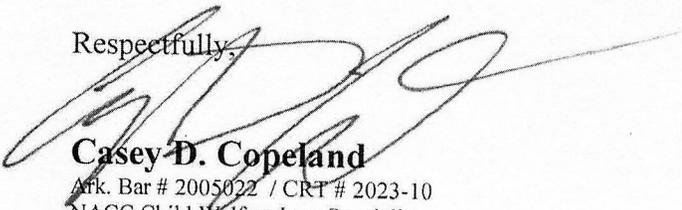
Please accept this letter as a request from my client, GVW Investments, LLC, to have its applications numbered CUP-2023-0170 and CUP-2023-0171 heard and determined on the merits by the City Council at the February 6, 2024 meeting, pursuant to rule A-7-b of the *Rules of Order and Procedure of the Fayetteville City Council*.

To be clear, this request is for the Council to hear and approve the CUP-2023-0170 and CUP-2023-0171 applications in addition to (not instead of) the appeal that is already set to be heard by the Council on February 6, 2024. If the Council determines not to consider the applications under rule A-7-b, then my client would ask that the appeal still be heard.

Finally, GVW Investments, LLC, believes that this request is necessary given the risk of further delay as a result of the currently enforced limitations on the number of short-term rental units, i.e., GVW Investments, LLC believes this request "requires immediate City Council consideration and...the normal agenda setting process is not practical" given the above noted limitations.

Thank you for your consideration.

Respectfully,


Casey D. Copeland

Ark. Bar # 2005022 / CRT # 2023-10
NACC Child Welfare Law Specialist

cdc

cc: client, and City Attorney's office

AUNDREA STONE HANNA, P.L.L.C.

ATTORNEY AT LAW

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January 9, 2024

City of Fayetteville, Arkansas

City Council Members

Mayor & City Clerk

RE: GVW Investments, LLC vs. Fayetteville City Planning Commission
Appeals from CUP-2023-0170 & CUP-2023-0171
Commission action on appeal dated January 8, 2024

Dear Members of the Fayetteville City Council, Mayor, and City Clerk:

The appellant here is GVW Investments, LLC, ("GVW") owned and operated by Greg Van Winkle, who are represented herein by attorney Casey D. Copeland (#2005022), PO Box 163 Ft. Smith, AR 72902.

This appeal is brought pursuant to Section 155.05 of the Uniform Development Code within the Code of Ordinances for the City of Fayetteville (referenced herein as "UDC"). At issue is the Planning Commission's January 8, 2024 denial of GVW's request for reconsideration pursuant to Section 163.02(D) of the UDC. That reconsideration request stems from the previous denial of a conditional use permit application by the Planning Commission at their September 25, 2023 meeting. The September application numbers are CUP-2023-0104 and CUP-2023-0105; and the applications on appeal here are CUP-2023-0170 and CUP-2023-0171.

Attached to this letter are copies of the Planning Commission Memo prepared for the January 8, 2024 meeting, which also include the Planning Commission Memo for the September 25, 2024 meeting.

Pursuant to Section 155.03 of the UDC, we also request a stay of the effect of the Planning Commission so that the application remains within the current cap on short-term rental units until the Council has an opportunity to hear and determine this appeal. Section 155.03 simply reads "*An appeal shall stay all proceedings in furtherance of the action appealed from unless the person in charge of administration of the chapter certified that a stay would, in their opinion cause imminent peril to life or property.*" We believe a reasonable interpretation of this section would mean GVW's applications continue to fall within the current cap, and would request confirmation of this by the Council.

This issue began with the Planning Commission meeting on September 25, 2023, at which GVW Investments presented three (3) conditional use permit applications pursuant to Section 163.02 of the UDC. Two (2) of GVW's original applications (CUP-2023-0104 and CUP-2023-0105) were denied by the Planning Commission, while the third was approved. The recording of the Planning Commission discussion of the two (2) items at issue in this appeal can be found at the 01:12:43 and 1:31:16 time-stamps at the following link:

<http://reflect-fayetteville-ar.cablecast.tv/CablecastPublicSite/show/8000?seekto=4363&site=1>

With regard to the original applications, Planning Department staff recommended approval with conditions. Those conditions included occupancy limitations, and parking restrictions. GVW was accepting of the staff recommendations on September 25, 2023, and those recommendations remained unchanged for January 8, 2024. Regardless, the occupancy and parking issues were not the primary concerns of the Planning commission. Instead members of the Planning Commission primarily focused on the potential impact on first-time homeowners, ignoring the fact that the properties were already subject to long-term rentals, i.e., not homeowners. Concerns about traffic and safety were also raised, without any substantive discussion or presentation of data indicating any negative effects caused by short-term rentals. No public comment was made either to Planning staff or the Planning Commission with regard to the original applications. In short, the Planning Commission discussed and ultimately denied two (2) of GVW's applications for reasons unrelated to real or identifiable facts. The Planning Commission also ignored the fact that the properties, like many others, will likely remain a long-term rental property, and not become the property of the first-time homeowners for whom the Planning Commission expressed concern. Unfortunately, an appeal could not be perfected to the City Council from that September 25, 2023 in time and to form. The attempted appeal was rejected by the City Attorney's office, and thus was never presented for your consideration.

That being the case, and with the short-term rental cap looming, GVW's only viable option was to request reconsideration pursuant to Section 163.03(D) of the UDC, which reads, *"Approval/Reconsideration. No application for a conditional use will be considered by the Planning Commission within twelve (12) months from the date of final disapproval of a proposed conditional use unless there is evidence of changed conditions or new circumstances which justify reconsideration submitted to the Planning Commission."* The terms "changed conditions" and "new circumstances" are not defined in that section of the UDC, nor in "Definitions" section 151.01 of the UDC. Whether or not these undefined "changed conditions" or "new circumstances" existed was the only consideration the Planning Commission gave to GVW's new applications (CUP-2023-0170 and CUP-2023-0171) on January 8, 2024.

In a reversal from their September memo, Planning staff now recommended against GVW's request for reconsideration because staff believed there were no "changed conditions" or "new circumstances". The Planning Commission agreed. However, Planning staff focused primarily on the their own recommendations from September, which are the same as those they recommend to the Planning Commission now. Thus, according to Planning staff, there is no "changed conditions" or "new circumstances". Such a construction of Section 163.03(D) of the UDC logically removes input and control by applicants such as GVW, and in effect provides Planning staff and the Planning Commission with an impenetrable excuse to deny any reconsideration request. Further, given the issues focused on by the Planning Commission on

September 25, 2023, i.e., density, traffic, and impact on first-time homeowners, it's even more unclear how any applicant could satisfy the limited construction of "changed conditions" or "new circumstances" applied in this instance.

As such, meeting the burden of "changed conditions" or "new circumstances" becomes overwhelmingly difficult without knowing what factors, considerations, data, or other matters are or are not relevant. This ambiguity in the Section 163.03(D) of the UDC creates an unfair disadvantage to applicants such as GVW who were denied for nebulous reasons unrelated to the specific properties in question. In the end however, the Planning Commission is not the final authority on the meaning of the UDC. The City Council can take up GVW's request, and determine if there is merit in the reconsideration.

GVW believes that the adoption of the prior recommendations, along with the added provision of monitoring and enforcement of such rules by the owner and manager constitute a change in condition or "new circumstance" which warrants reconsideration by either the Planning Commission or the City Council. GVW also believes the conditions and circumstances are much more changed and new given that the Planning Commission announced at the January 8, 2024 meeting that the short-term rental cap has been met, meaning that GVW's investment in the properties in question will be significantly impacted without swift approval of the applications at issue on appeal.

In conclusion, GVW is asking that three (3) or more members of the City Council give them an opportunity to present this matter to the full council, and that the City Council reverse the decision of the Planning Commission regarding the reconsideration of CUP-2023-0170 and CUP-2023-0171 at the January 8, 2024 meeting.

Please feel free to contact myself or GVW if you have any questions about this request for appeal.

Respectfully,



Casey D. Copeland
Ark. Bar # 2005022 CRT # 2023-10
NACC Child Welfare Law Specialist

GVW Investments, LLC,
Greg Van Winkle,
Applicant

September 25, 2023, i.e., density, traffic, and impact on first-time homeowners, it's even more unclear how any applicant could satisfy the limited construction of "changed conditions" or "new circumstances" applied in this instance.

As such, meeting the burden of "changed conditions" or "new circumstances" becomes overwhelmingly difficult without knowing what factors, considerations, data, or other matters are or are not relevant. This ambiguity in the Section 163.03(D) of the UDC creates an unfair disadvantage to applicants such as GVW who were denied for nebulous reasons unrelated to the specific properties in question. In the end however, the Planning Commission is not the final authority on the meaning of the UDC. The City Council can take up GVW's request, and determine if there is merit in the reconsideration.

GVW believes that the adoption of the prior recommendations, along with the added provision of monitoring and enforcement of such rules by the owner and manager constitute a change in condition or "new circumstance" which warrants reconsideration by either the Planning Commission or the City Council. GVW also believes the conditions and circumstances are much more changed and new given that the Planning Commission announced at the January 8, 2024 meeting that the short-term rental cap has been met, meaning that GVW's investment in the properties in question will be significantly impacted without swift approval of the applications at issue on appeal.

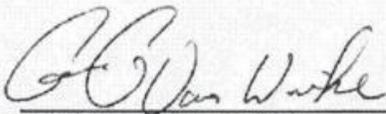
In conclusion, GVW is asking that three (3) or more members of the City Council give them an opportunity to present this matter to the full council, and that the City Counsel reverse the decision of the Planning Commission regarding the reconsideration of CUP-2023-0170 and CUP-2023-0171 at the January 8, 2024 meeting.

Please feel free to contact myself or GVW if you have any questions about this request for appeal.

Respectfully,

Casey D. Copeland

Ark. Bar # 2005022 / CRT # 2023-10
NACC Child Welfare Law Specialist



GVW Investments, LLC,
Greg Van Winkle,
Applicant



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: January 8, 2024 (UPDATED WITH MEETING RESULTS)

SUBJECT: **CUP-2023-0171: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603):** Submitted by GREGORY VAN WINKLE for property located at 1006 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends denial of **CUP-2023-0171.**”

RECOMMENDED MOTION:

*“I move to deny the reconsideration request for **CUP-2023-0171.**”*

If the reconsideration request is heard, staff recommends the below motion:

*“I move to deny **CUP-2023-0171.**”*

BACKGROUND:

The subject property is in south Fayetteville southeast of the intersection of S. Morningside Dr. and E. 15th St. The property is zoned RSF-8, Residential Single-Family, Eight Units per Acre and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,730 square foot single-family structure.

On September 25, 2023, the Planning Commission voted 2-6-0 to deny this item, citing the high density of existing short-term rental units within the Creekside Meadows neighborhood, the difficulty of evaluating potential impacts of short-term rentals in new neighborhoods, potential issues with parking enforcement and associated safety concerns due to the proximity of the fire hydrant. Commissioner Payne voted in favor of the request, stating that the 2% rule is no longer applicable and citing staff’s findings of compatibility. Commissioner McGetrick also voted in favor of the request. A subsequent appeal to the City Council failed due to the applicant not meeting time, form, and place requirements. A zoning violation letter for operating a short-term rental illegally was issued on October 25 and escalated to the city prosecutor on December 5. The applicant has requested that the conditional use request be reconsidered pursuant to §163.02(D), which requires that the Planning Commission make a determination on changed conditions or new circumstances prior to hearing the new request. Additional information regarding the project history and proposed reconsideration are included in the report below and in staff attachments.

On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction	Land Use	Zoning
North	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
South	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
West	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre

City Plan 2040 Future Land Use Designation: City Neighborhood.

Proposal: The applicant requests reconsideration of a conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: No public comment was provided with the previous conditional use permit. Staff has not received any public comment regarding the revised request.

RECOMMENDATION: Staff recommends denial of **CUP-2023-0171**. If approved, staff recommends the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be incompatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. The number of occupants is limited to a maximum of eight for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.

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

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit; however as the request was denied less than one year ago, the application is subject to §163.02(D), which prohibits an application for a conditional use permit from being considered by the Planning Commission within twelve (12) months of final disapproval unless there is sufficient evidence of changed circumstances or new circumstances that justify reconsideration. The applicant has provided a letter describing changed circumstances on the property for Planning Commission consideration.

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

Finding: Staff finds that granting the requested conditional use could negatively affect the public interest given the existing density of short-term rentals within the Creekside neighborhood and potential impacts from illegal on-street parking within a fire lane. The addition of further short-term rentals within the neighborhood could place an undue burden on adjacent long-term residents.

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as described in §163.18 and in the following report.

- D. **Approval/Reconsideration.** No application for a conditional use will be considered by the Planning Commission within twelve (12) months from the date of final disapproval of a proposed conditional use unless there is evidence of changed conditions or new circumstances which justify reconsideration submitted to the Planning Commission.

Finding: Staff does not find evidence of changed conditions or new circumstances that would warrant a reconsideration by the Planning Commission. Of the four items listed in the applicant's letter, three have not changed since the previous application. The applicant states they will limit guests to a maximum of eight; however, an occupancy limit of eight guests was a recommended condition of approval for the previous report and does not

constitute a change. Additionally, the applicant states that a maximum of four cars will be permitted to park on the property with no on-street parking permitted. The staff report for the previous conditional use request listed a maximum of four off-site parking spaces and cited the fire lane and adjacent hydrant when noting that no on-street parking would be permitted. As such, the described parking limitations also do not constitute a change of circumstances. The final item that the applicant cites as a change of circumstance is the monitoring of the property via a property manager and cameras. As the monitoring of the property was not discussed in the previous report, staff is unable to determine if this constitutes a change. Due to lack of cited changed circumstances, staff recommends that the previous denial of the request stand.

§163.18 - SHORT-TERM RENTALS

- A. Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RSF-8 zoning which requires a conditional use permit.

- B. Occupancy.** Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains four bedrooms, occupancy will be limited to a maximum of ten guests. The applicant has stated an intent to limit the total guest count to eight. This limit aligns with previous staff recommendations given the lack of on-street parking on E. Sparrow Cir.

- C. Parking.** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has four bedrooms and four parking spaces within an attached garage and associated driveway. No change has been made from the previous conditional use request.

- D.** Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

- E. Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 1006 E. Sparrow Cir. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

- F. **Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of January 2, 2024, the City had issued 439 Type 2 short-term rental licenses, and 37 remain in the queue for processing. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.

- G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

- H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
 1. Adequate parking infrastructure;
 2. Adequate adjoining or nearby streets for on-street parking;
 3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 4. Prior zoning or code violations.

Finding: Staff finds there is likely adequate parking infrastructure to support the use of the property as a short-term rental with a reduced guest count. The structure has four bedrooms and four parking spaces within an attached garage and driveway. Parking on E. Sparrow Circle is prohibited in order to maintain fire access. The street is wider in front of the subject parcel due a fire hydrant located on the west side of the street, and any vehicles parked in front of the property will likely be impeding access to the hydrant. Staff recommends conditions that guests be limited to eight and that no on-street

parking shall be permitted. No change has been made from the previous conditional use request regarding these conditions.

City records indicate six other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license; however, staff notes that this applicant has also requested reconsideration of the conditional use approval for short-term rentals at 854 E. Sparrow Cir. which was also denied at the September 25 meeting. Within Creekside Meadows, if both 854 and 1006 E. Sparrow Circle are approved, the neighborhood would be approximately 5% short-term rentals, which is over double the previous city-wide cap of 2%. The neighborhood is currently at 4% capacity. Staff finds that approving the additional short-term rentals within Creekside Meadows may be too high of a concentration for the area.

Additionally, the property currently has an active zoning violation for operating without a business license. Staff received the complaint on October 4, issued a violation letter on October 25, and escalated the violation to the city prosecutor on December 5 due to the listing still being active. Additional information on the project history and zoning violation are included in staff exhibits.

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:
 - (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The property has frontage along E. Sparrow Circle, an improved residential link street with sidewalk on both sides. The street widens in front of this property in order to provide adequate space around a fire hydrant on the west side of the street and is designated as a fire lane. With added conditions limiting guests count to eight and prohibiting parking within the fire lane, staff finds the proposal will not adversely affect traffic flows or fire access. No change has been made from the previous conditional use request as on-street parking is not legal in this location.

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

Finding: Four off street parking spaces are available in an attached garage and associated driveway (two each). The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. No change has been made from the previous conditional use request.

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

Finding: The applicant proposes typical residential trash cart service rather than dumpster service, with the trash carts to be stored in the garage. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

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

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

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

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

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

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

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

Finding: Based on the applicant’s submittal, the structure is meeting relevant setbacks.

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

Finding: Staff finds the use to be incompatible with the surrounding properties. Since the previous conditional use request was heard on September 25, an additional two short-term rentals, including one by the applicant, have received type 2 short-term rental business licenses in within ¼ mile of the subject property. Staff finds the addition of further short-term rentals within Creekside Meadows is likely to negatively impact the neighborhood; further the applicant has been operating the short-term rental illegally and has an active zoning violation that has been escalated to the city prosecutor.

- (i.) General compatibility with the goals and intent of the city’s adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
- Applicant Exhibits
 - Reconsideration Request
 - Conditional Use Request Letter
 - Site Plan
 - Building Floor Plan
 - Building Elevations
- Staff Exhibits:
 - CUP-2023-0104 Final PC Report Excerpts (Denied)
 - City Attorney Memo: Failed Appeals of CUP-2023-0104 & CUP-2023-0105
 - CVZD-2023-0661 Zoning Violation Reports
 - Summary
 - Violation History
 - Images and STR Records
 - Short-Term Rentals Neighborhood Analysis
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

PUBLIC COMMENT RECEIVED AFTER PACKET CREATION

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
- (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
- (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
- (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
- (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
- (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
- (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
- (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

(A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.09 District RSF-8, Residential Single-Family - Eight (8) Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	By Right
Single-family dwelling units per acre	8 or less

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	50 feet
Two (2) family	50 feet
Townhouse, no more than two (2) attached	25 feet

(2) *Lot Area Minimum.*

Single-family	5,000 square feet
Two-family	5,000 square feet

(3) *Land Area Per Dwelling Unit.*

Single-family	5,000 square feet
Two-family	5,000 square feet
Townhouse, no more than two (2) attached	2,500 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	5 feet

(F) *Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(Ord. No. 4783, 10-18-05; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; 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."

This letter is to request the Planning Commissions reconsideration of both 854 E Sparrow Circle & 1006 E Sparrow Circle Conditional Use Permit.

Based on the reason for the commission's denial of both homes we have adjusted the number of people allowed to stay as well as the number of cars allowed. We are allowing a maximum of 8 people at any given time as well as 4 cars max. 2 parking inside the garage and 2 parking on driveway. Making it clear that there is to be absolutely no street parking for any reason at any given time.

We will also be monitoring this via property manager and cameras.

We hope that this adjustment will allow us the opportunity to move forward with an appeal.

I will also attach a screenshot of house rules showing changes to rules.

Thank you for your

consideration! Greg Van Winkle

No Other Changes- GVW

recommendations or previous conditions of the site per the previous conditional use permit request. Have any other circumstances changed on the site, property, or neighborhood?

Reviewed by:

Donna Wonsower, Planner Development Services

These align with staff

Conditional Use Permit

Request to apply for a conditional use permit, required to own and operate a single family residence for short term rental use. 4 bdrm/ 2 bath- gwv

(a) Building size in square feet; existing and proposed- 1699

(b) Color elevations of all exterior sides of the structure

Blue/gray siding & mixed brick

(c) Number of off-street parking spaces to be provided / number required- 4- 2 inside garage & 2 in driveway (d)

Outdoor lighting- 2- Garage, 1 Front porch, 1 Back porch (e)

Noise- N/A

(f) Screening or buffering from adjacent properties- N/A (g)

Trash and refuse service (with particular reference to visibility from the street and adjacent properties)- Trash can

kept inside garage

(h) Ingress and egress to the property; traffic impacts- Paved street

(i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood- Based on conversation with neighbors.

Several are University students renting and have no concerns with short term rentals in the area

How many bedrooms are within the residence?

Reviewed by:
Donna Wonsower, Planner
Development Services

APPLICANT EXHIBIT

SITE PLAN

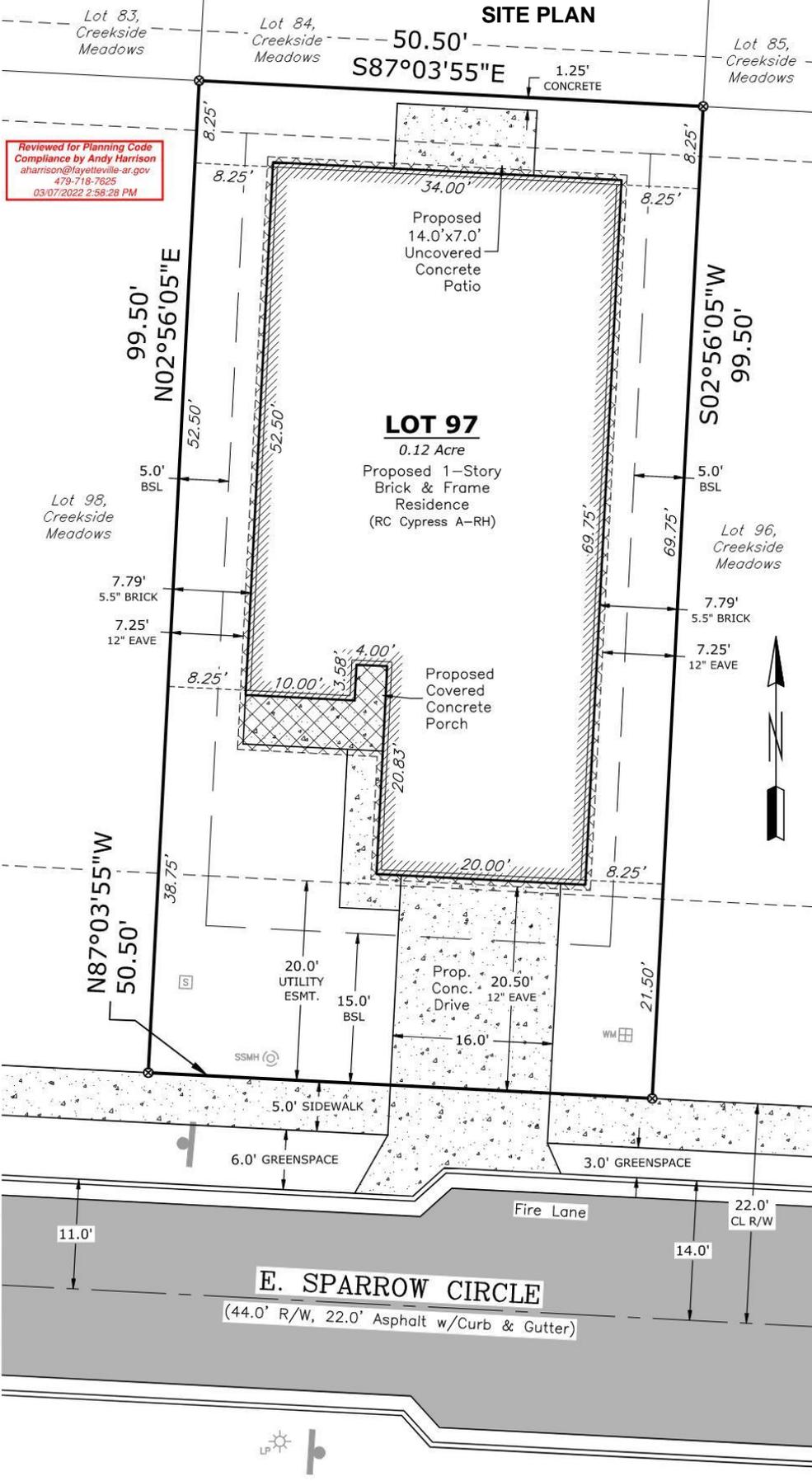


1006 E Sparrow- Ariel View



APPLICANT EXHIBIT

SITE PLAN



Reviewed for Planning Code Compliance by Andy Harrison
aharrison@fayetteville-ar.gov
479-718-7625
03/07/2022 2:58:28 PM

LOT 97

0.12 Acre
Proposed 1-Story Brick & Frame Residence (RC Cypress A-RH)

FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

LOT PLAN OF LOT 97, CREEKSIDE MEADOWS

FOR USE BY:
Rausch Coleman Homes
PROPERTY ADDRESS:
1006 East Sparrow Circle
Fayetteville, AR 72701

DATE: 2-14-2022
JOB NO: 21-08-01
SCALE: 1"=10'

JAKE WORTHINGTON
Residential Plot Plans
P.O. Box 2021
Alma, AR 72921
(479)-226-6400
e-mail: zjakew@gmail.com

NOTES:
ALL DIMENSIONS SHOWN ARE IN DECIMAL FEET FORMAT.
ALL HOUSE DIMENSIONS SHOWN ARE TO OUTSIDE OF FRAME UNLESS OTHERWISE NOTED.
CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
ALL PROPERTY INFORMATION SHOWN IS BASED ON SUBDIVISION PLAT PROVIDED BY DEVELOPER AND MAY BE SUBJECT TO CHANGE.

LEGEND
SUBJECT PROPERTY LINE
ADJACENT PROPERTY LINE
ROAD CENTERLINE
BUILDING SETBACK LINE
EASEMENT LINE
CALCULATED POINT
ABBREVIATIONS
R/W = RIGHT-OF-WAY
BSL = BUILDING SETBACK LINE
PROP. = PROPOSED
ARC L. = ARC LENGTH
CHORD B. = CHORD BEARING
CHORD D. = CHORD DISTANCE

REVISIONS	DATE

Scale in Feet

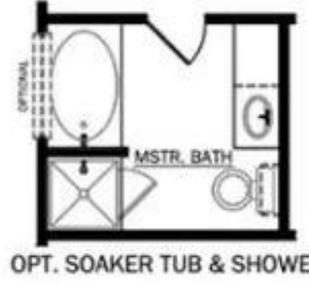
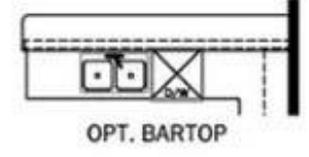
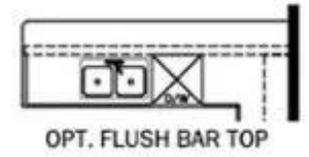
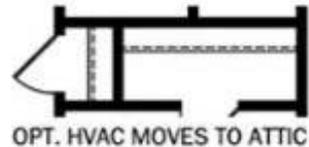
0 10

Planning Commission
January 8, 2022

PLAT INFO:
BASED ON PLAT FILED:
10-29-2021, FILE #0024-00000373,
WASHINGTON COUNTY, ARKANSAS.

SQUARE FOOTAGE:
SOD - 2401.79± SQ. FT.
DRIVE & PATIOS - 535.00± SQ. FT.
LEAD WALK - 72.00± SQ. FT.
SIDEWALK - 252.50± SQ. FT.

APPLICANT EXHIBIT
FLOOR PLAN



APPLICANT EXHIBIT
ELEVATIONS



APPLICANT EXHIBIT
ELEVATIONS



STAFF EXHIBIT: PROJECT HISTORY

After the project denial on September 25, extensive communication has occurred between the applicant and city staff regarding the project status and potential next steps. A short summary of the project history in the interim months is included below:

- **SEPTEMBER 26, 2023:** Email from Donna Wonsower, planner, to applicant explaining appeal process. (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)
- **OCTOBER 3, 2023:** Email from Blake Pennington, senior assistant city attorney, to applicant and city council further clarifying time, form, and place requirements of UDC 155.02 (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)
- **OCTOBER 4, 2023:** Planning staff received complaint that property was operating a short-term rental without a business license. CVZD-2023-0661 opened (see attached zoning violation reports).
- **OCTOBER 5, 2023:** Donna Wonsower sent additional email sent clarifying appeal date and written appeal process with a follow up phone conversation (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)
- **OCTOBER 6, 2023:** Blake Pennington emailed example appeals to applicant, and received email from attorney Beau Wilcox noting appeal was being prepared (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)
- **OCTOBER 8, 2023:** Appeal emailed to mayor, city attorney, and city council. Appeal was not emailed to city clerk per UDC 155.02 (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)
- **OCTOBER 9, 2023:** Appeal deadline.
- **OCTOBER 10, 2023:** Blake Pennington emailed applicant notifying them of appeal failure due to failure to file with the city clerk (see attached memo “Failed Appeal of CUP-2023-0104 & CUP-2023-0105.”)
- **OCTOBER 25, 2023:** Notice of zoning violation sent (see attached zoning violation reports).
- **OCTOBER 28, 2023:** Notice of violation delivered per USPS tracking system.
- **NOVEMBER 15, 2023:** Application received for conditional use permit reconsideration.
- **DECEMBER 5, 2023:** Zoning violation escalated to city prosecutor. Short-term rental listing is still an active listing. Additionally, the applicant has not completed all required remedial actions including the provision of all guest records (see attached zoning violation reports).



PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: September 25, 2023 (UPDATED WITH MEETING RESULTS)

SUBJECT: **CUP-2023-0105: Conditional Use Permit (1006 E. SPARROW CIR/VAN WINKLE, 603):** Submitted by GREGORY VAN WINKLE for property located at 1006 E. SPARROW CIR. The property is zoned RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE and contain approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0105**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0105** with conditions, determining:*

- In favor of compatibility with adjacent properties;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in south Fayetteville southeast of the intersection of S. Morningside Dr. and E. 15th St. The property is zoned RSF-8, Residential Single-Family, Eight Units per Acre and is not part of any overlay districts. The property is approximately 0.10 acres and is developed with a 1,730 square foot single-family structure. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
South	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
East	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre
West	Single-family Residential	RSF-8, Residential Single-family, 8 Units per Acre

City Plan 2040 Future Land Use Designation: City Neighborhood.

STAFF EXHIBIT: PC REPORT (DENIED)

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0105**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. The number of occupants is limited to a maximum of eight for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Any short-term rental guests shall park in either the garage or on-site driveway. No on-street parking shall be permitted.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	
Date: <u>September 25, 2023</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Approved	<input checked="" type="checkbox"/> Denied
Motion: SPARKMAN			MOTION TO APPROVE FAILED
Second: PAYNE			
Vote: 2-6-0 (SPARKMAN, BRINK, GARLOCK, MADDEN, GULLEY, AND WINSTON VOTED AGAINST)			

STAFF EXHIBIT: PC REPORT (DENIED)

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

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

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

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

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RSF-8 zoning district.

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

Finding: The applicant has paid the required filing fee.

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

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

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

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

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

STAFF EXHIBIT: PC REPORT (DENIED)

(c.) The Planning Commission shall certify:

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

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RSF-8 zoning which requires a conditional use permit.

B. Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains four bedrooms, occupancy will be limited to a maximum of ten guests. As on street parking is not available adjacent to the property, staff recommends a condition be added limiting guests to eight.

C. Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Single-family structures are required to provide parking at a rate of two vehicle spaces per dwelling unit. According to the applicant the structure has four bedrooms and four parking spaces within an attached garage and associated driveway.

D. Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

E. Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

STAFF EXHIBIT: PC REPORT (DENIED)

Finding: The application is for use of the property at 1006 E. Sparrow Cir. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

- F. **Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of September 18, 2023, the City had issued 399 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested.

- G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

- H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;
2. Adequate adjoining or nearby streets for on-street parking;
3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4. Prior zoning or code violations.

Finding: Staff finds there is likely adequate parking infrastructure to support the use of the property as a short-term rental with a reduced guest count. The structure has four bedrooms and four parking spaces within an attached garage and driveway. Parking on E. Sparrow Circle is prohibited in order to maintain fire access. The street is wider in front of the subject parcel due a fire hydrant located on the west side of the street, and any vehicles parked in front of the property will likely be impeding access to the hydrant. Staff recommends conditions that guests be limited to eight and that no on-street parking shall be permitted. No zoning or code violations were found for this address.

City records indicate four other units within a quarter-mile radius of the subject property has an active Type 2 short-term rental business license; however, staff notes that this applicant has also requested conditional use approval for short-term rentals at 854 E. Sparrow Cir. and 737 E. Egret Rd. If all three requests are approved, the total number of short-term rentals within ¼ mile would be seven. Within Creekside Meadows, if both 854 and 1006 E.

STAFF EXHIBIT: PC REPORT (DENIED)

Sparrow Circle are approved, the neighborhood would be approximately 4% short-term rentals, which is double the previous city-wide cap of 2%. Staff finds that approving all three short-term rentals may be too high of a concentration for the area, but that approval of a lesser number may be compatible.

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

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

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

Finding: The property has frontage along E. Sparrow Circle, an improved residential link street with sidewalk on both sides. The street widens in front of this property in order to provide adequate space around a fire hydrant on the west side of the street and is designated as a fire lane. With added conditions limiting guests count to eight and prohibiting parking within the fire lane, staff finds the proposal will not adversely affect traffic flows or fire access.

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

Finding: Four off street parking spaces are available in an attached garage and associated driveway (two each). The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

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

Finding: The applicant proposes typical residential trash cart service rather than dumpster service, with the trash carts to be stored in the garage. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

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

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

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

STAFF EXHIBIT: PC REPORT (DENIED)

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

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

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

- (g.)** Required yards and other open space; and

Finding: Based on the applicant’s submittal, the structure is meeting relevant setbacks.

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

Finding: Staff finds the use to be compatible with the surrounding properties. While the residences along E. Sparrow Cir. are all detached single-family dwellings, Creekside Meadows has multiple commercial lots available along E. 15th St. Further, a significant amount of the adjoining area outside of the Creekside Meadows neighborhood is zoned to allow commercial/industrial uses or multi-family dwellings by-right.

- (i.)** General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the City’s adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

STAFF EXHIBIT: PC REPORT (DENIED)

BUDGET/STAFF IMPACT:

None

Attachments:

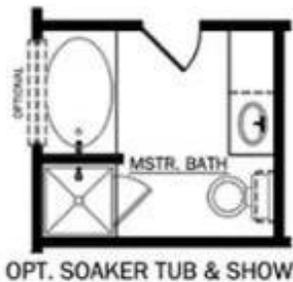
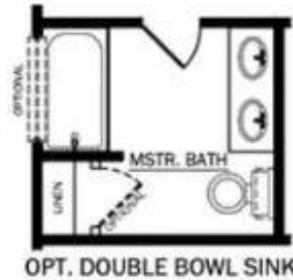
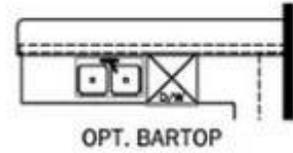
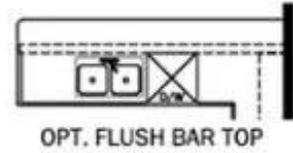
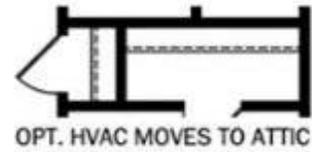
- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.09 District RSF-8, Residential Single-Family – Eight (8) Units Per Acre
- Applicant Request Letter
- Building Floor Plan
- Staff Exhibit: STRs Within ¼ Mile, Including Pending CUPs
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

Conditional Use Permit

Request to apply for a conditional use permit, required to own and operate a single family residence for short term rental use.

- (a) Building size in square feet; existing and proposed- 1699
- (b) Color elevations of all exterior sides of the structure- Blue/gray siding & mixed brick
- (c) Number of off-street parking spaces to be provided / number required- 4- 2 inside garage & 2 in driveway
- (d) Outdoor lighting- 2- Garage, 1 Front porch, 1 Back porch
- (e) Noise- N/A
- (f) Screening or buffering from adjacent properties- N/A
- (g) Trash and refuse service (with particular reference to visibility from the street and adjacent properties)- Trash can kept inside garage
- (h) Ingress and egress to the property; traffic impacts- Paved street
- (i) A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood- Based on conversation with neighbors. Several are University students renting and have no concerns with short term rentals in the area

STAFF EXHIBIT: PC REPORT (DENIED)



STAFF EXHIBIT: PC REPORT (DENIED)



STAFF EXHIBIT: PC REPORT (DENIED)





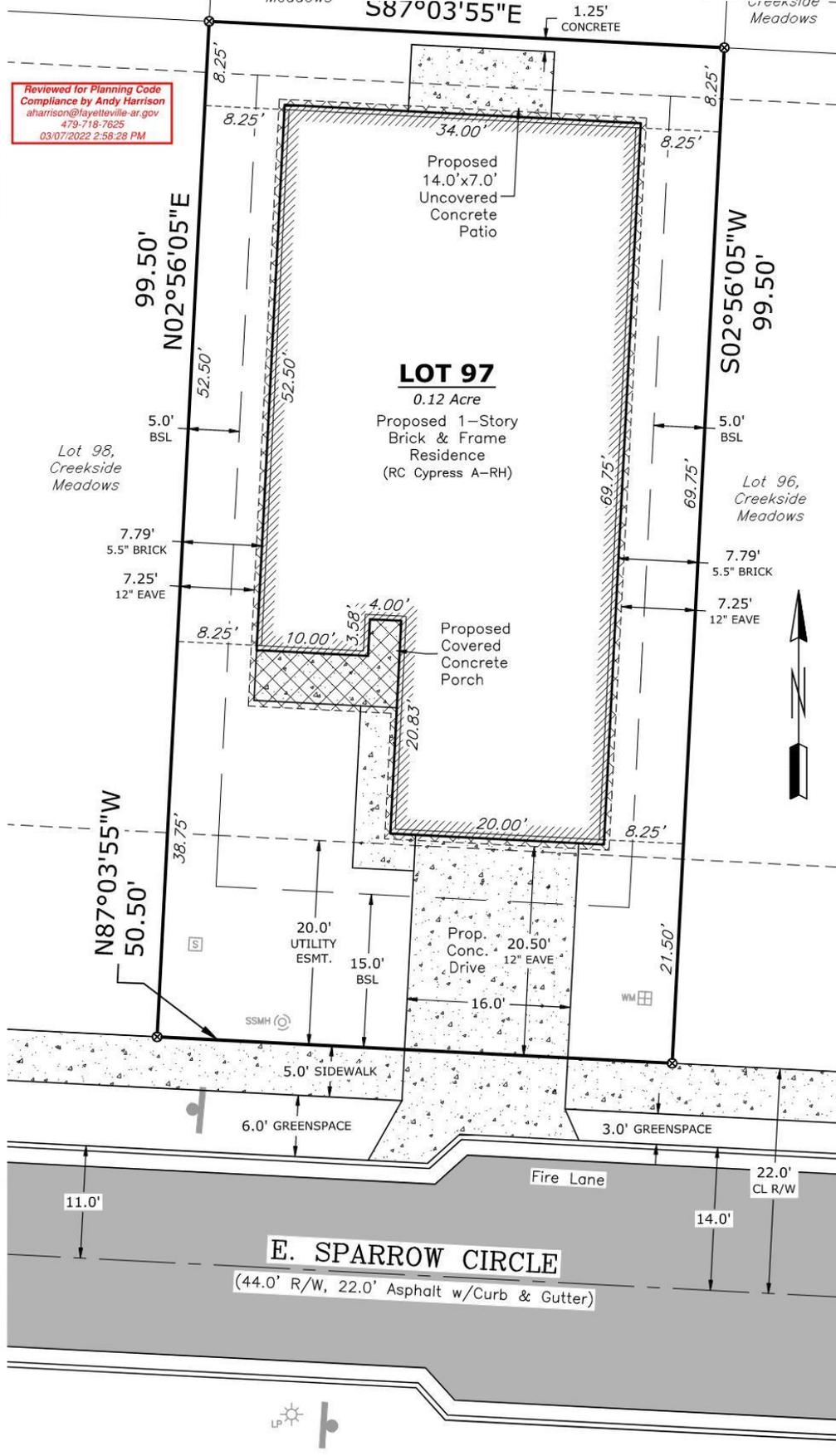
Driveway
32x17
Trash can kept
inside garage

1006 E Sparrow- Ariel View



Reviewed for Planning Code Compliance by Andy Harrison
 aharrison@fayetteville-ar.gov
 479-718-7825
 03/07/2022 2:58:28 PM

STAFF EXHIBIT: PC REPORT (DENIED)



JAKE WORTHINGTON
 Residential Plot Plans
 P.O. Box 2021
 Alma, AR 72921
 (479)-226-6400
 e-mail: zjakew@gmail.com

FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS
 PLOT PLAN OF
 LOT 97,
 CREEKSIDE MEADOWS

FOR USE BY:
 Rausch Coleman Homes
 PROPERTY ADDRESS:
 1006 East Sparrow Circle
 Fayetteville, AR 72701

DATE: 2-14-2022
 JOB NO: 21-08-01
 SCALE: 1"=10'

NOTES:

- ALL DIMENSIONS SHOWN ARE IN DECIMAL FEET FORMAT.
- ALL HOUSE DIMENSIONS SHOWN ARE TO OUTSIDE OF FRAME UNLESS OTHERWISE NOTED.
- CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
- ALL PROPERTY INFORMATION SHOWN IS BASED ON SUBDIVISION PLAT PROVIDED BY DEVELOPER AND MAY BE SUBJECT TO CHANGE.

LEGEND

- SUBJECT PROPERTY LINE
- ADJOINING PROPERTY LINE
- BUILDING SETBACK LINE
- EASEMENT LINE
- CALCULATED POINT

ABBREVIATIONS

- R/W - RIGHT-OF-WAY
- ESMT. - EASEMENT SETBACK LINE
- PROP. - PROPOSED
- ARC L. - ARC LENGTH
- ARC R. - ARC RADIUS
- CHORD D. - CHORD DISTANCE

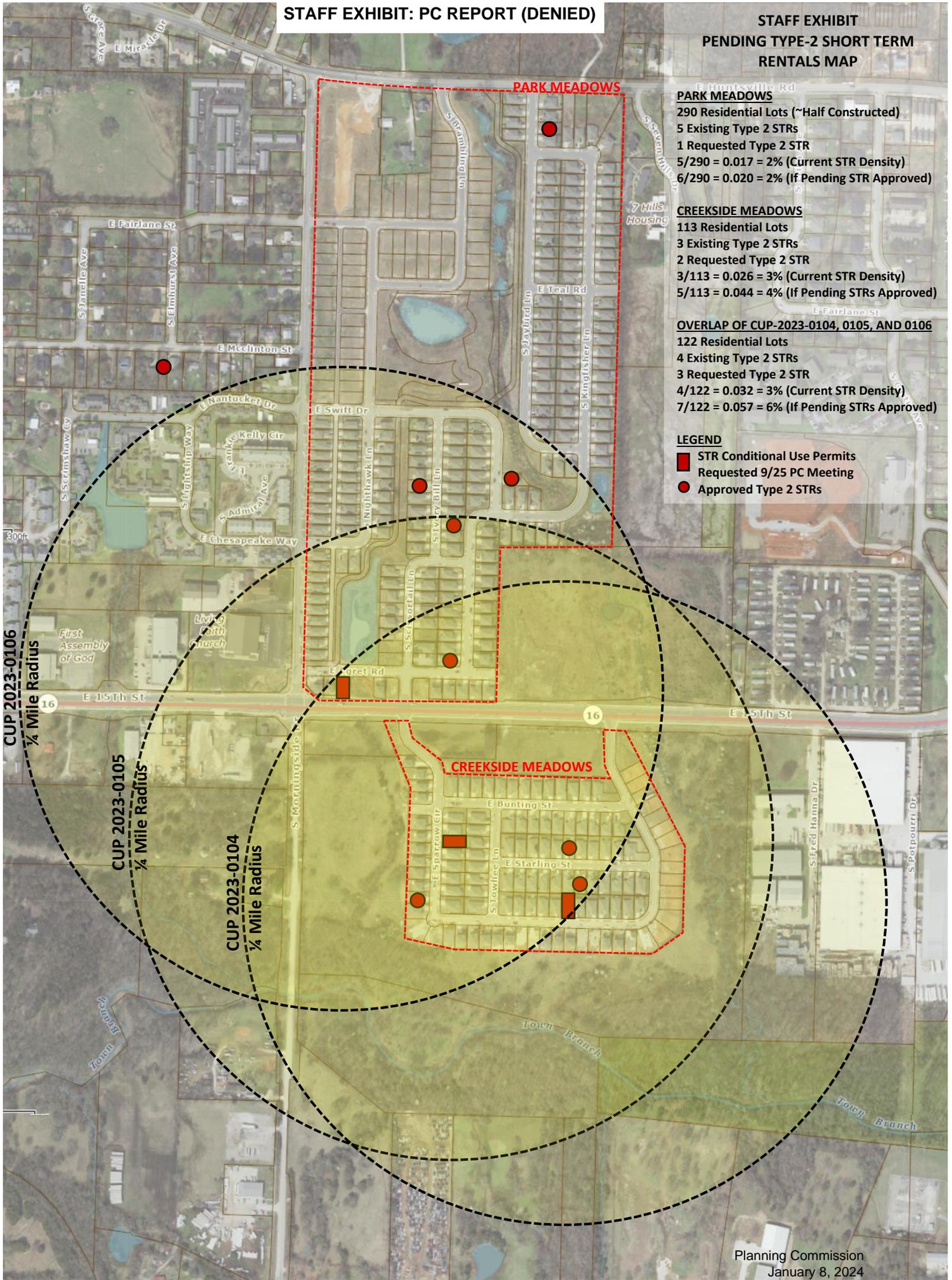
REVISIONS	DATE

Scale in Feet
 0 10

Planning Commission
 January 8, 2024

PLAT INFO:
 BASED ON PLAT FILED:
 10-29-2021, FILE #0024-00000373,
 WASHINGTON COUNTY, ARKANSAS.

SQUARE FOOTAGE:
 SOD - 2401.79± SQ. FT.
 DRIVE & PATIOS - 535.00± SQ. FT.
 LEAD WALK - 72.00± SQ. FT.
 SIDEWALK - 252.50± SQ. FT.



PARK MEADOWS
 290 Residential Lots (~Half Constructed)
 5 Existing Type 2 STRs
 1 Requested Type 2 STR
 $5/290 = 0.017 = 2\%$ (Current STR Density)
 $6/290 = 0.020 = 2\%$ (If Pending STR Approved)

CREEKSIDE MEADOWS
 113 Residential Lots
 3 Existing Type 2 STRs
 2 Requested Type 2 STR
 $3/113 = 0.026 = 3\%$ (Current STR Density)
 $5/113 = 0.044 = 4\%$ (If Pending STRs Approved)

OVERLAP OF CUP-2023-0104, 0105, AND 0106
 122 Residential Lots
 4 Existing Type 2 STRs
 3 Requested Type 2 STR
 $4/122 = 0.032 = 3\%$ (Current STR Density)
 $7/122 = 0.057 = 6\%$ (If Pending STRs Approved)

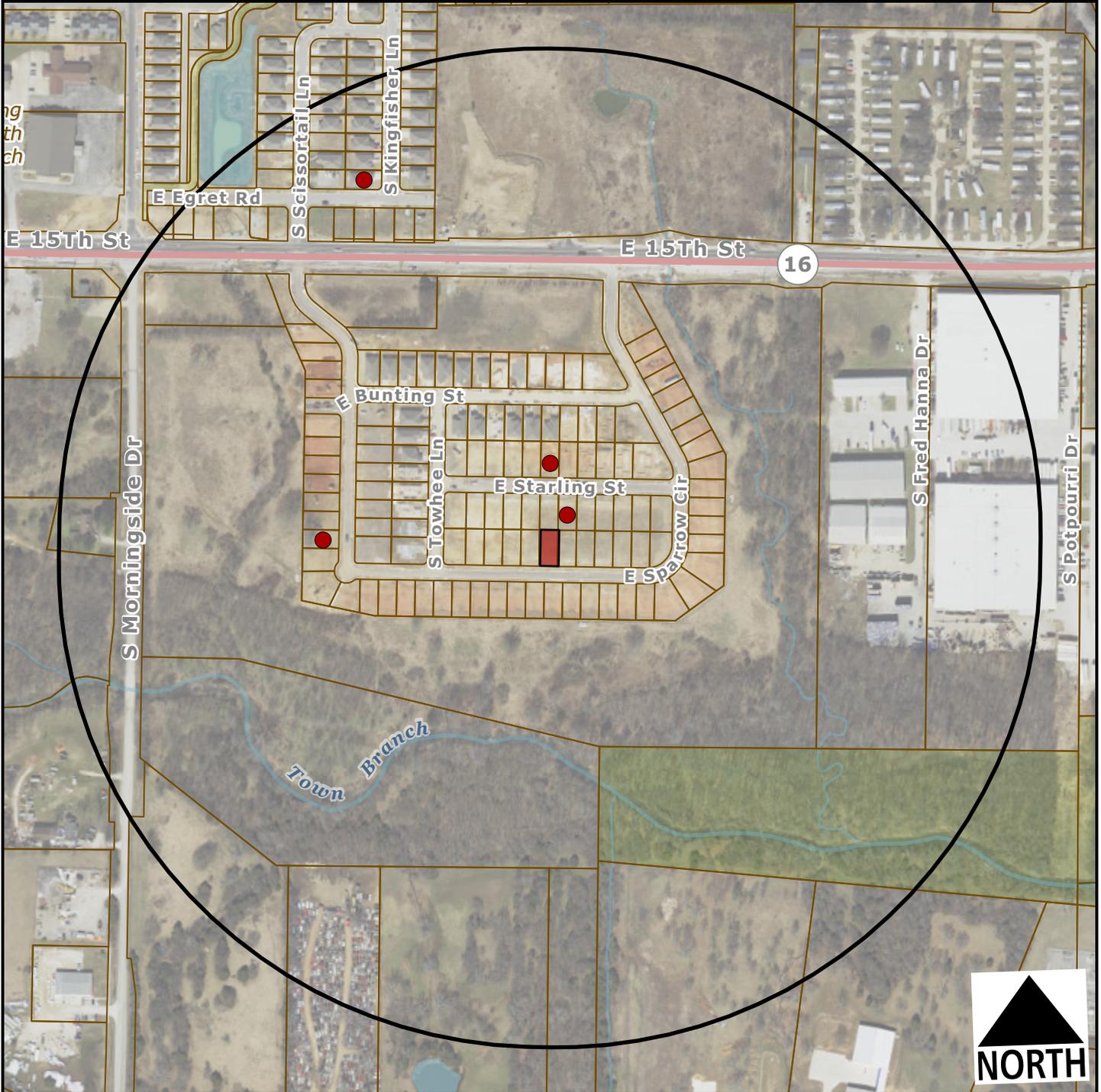
LEGEND
 ■ STR Conditional Use Permits
 ■ Requested 9/25 PC Meeting
 ● Approved Type 2 STRs

CUP-2023-0105

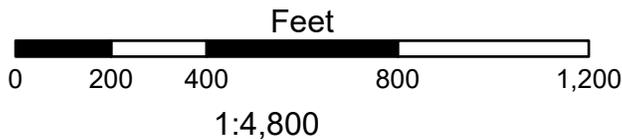
1006 E. SPARROW CIR

STRs Within 1/4 Mile

STAFF EXHIBIT: PC REPORT (DENIED)



- Subject Property
- Short Term Rental, Type 2



Number of STR Licenses

Total 4



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Jonathan Curth**, Development Services Director

FROM: **Blake Pennington**, Senior Assistant City Attorney

A blue ink handwritten signature, appearing to be "BP", written over the name Blake Pennington.

DATE: **October 11, 2023**

RE: **Failed Appeal of CUP-2023-0104 and CUP-2023-0105**

On September 25, the Planning Commission voted 7-1 to deny CUP-2023-0104 for a Type 2 short term rental at 854 E. Sparrow Circle and 6-2 to deny CUP-2023-0105 for a Type 2 short term rental at 1006 E. Sparrow Circle.

In line with the Planning Division's practice, the Planner assigned to these applications sent an email the next morning to the applicant with information about their options. Ms. Wonsower's email chain with the applicant, including some later communications, is attached as Exhibit 1. Ms. Wonsower told the applicant the deadline to appeal was October 9 and that the appeal must be filed with the City Clerk.

On Tuesday, October 3, Council Member Sarah Bunch forwarded an email to the other council members and our office stating that she had been contacted by Greg Van Winkle about appealing those denials. (Exhibit 2)

Also on Tuesday, October 3, I sent an email to the City Council and Mr. Van Winkle that the form, time, and place requirements of § 155.02 of the Unified Development Code had not been met. I explained how those requirements could be met and also attached a copy of § 155.02. (Exhibit 3)

STAFF EXHIBIT: FAILED APPEAL MEMO

On Friday, October 6, I received a call from Stephanie Van Winkle asking how an appeal should be submitted. At her request I emailed two examples of appeals that had been properly submitted in the past on other Type 2 short term rental denials. In my email I advised that "You will need to email that to the City Clerk at cityclerk@fayetteville-ar.gov..." (Exhibit 4)

Later that day I received an email from Attorney Beau Wilcox who said he was preparing a more formal letter "to satisfy the city's requirements concerning the appeal and ensuring that it is properly perfected for the City Council's November 9, 2023 meeting." He also said "I have copied the City Clerk's office on this email as well, and will send the formal letters of appeal to them as well." This email acknowledges the appeal deadline of Monday, October 9. A copy of this email went to his client and to the City Clerk. (Exhibit 5)

On Sunday, October 8, Attorney Wilcox emailed the Mayor, me, and the Council Members who had previously agreed to sponsor the appeal with an appeal letter attached. (Exhibit 6) The letter of appeal (Exhibit 7) is addressed only to me and the Mayor.

I did not have a chance to review this email until yesterday, at which time I saw that the appeal letter was not filed with the City Clerk by October 9 as required by §155.02 of the Unified Development Code. This failure to comply with the appeal requirements is fatal to an appeal and, therefore, the Planning Commission's denials of CUP-2023-0104 and CUP-2023-0105 will stand.

Pennington, Blake

From: Wonsower, Donna
Sent: Wednesday, October 11, 2023 10:29 AM
To: Masters, Jessica; Pennington, Blake
Subject: FW: CUP-2023-0104 and 0105 Appeal Options

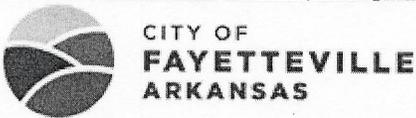
Jessie/ Blake,

I also spoke to Stephanie Van Winkle on the phone shortly after this email, as the Van Winkles were under the impression that the appeal date had already passed and that they would potentially be heard on the next city council meeting in October. I reiterated the deadline was the date that all the documents and notices of support had to be received, and not the date it would be heard by the city council as staff had to have time to prepare the report for the meeting. The email thread below also mentions multiple times (highlighted) that the documents must be sent to the city clerk.

Best Regards,
Donna Wonsower (she/her)
Planner, Development Services

479-575-8358

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Wonsower, Donna
Sent: Thursday, October 5, 2023 8:09 AM
To: Greg VanWinkle <gvwinvestments22@gmail.com>
Subject: RE: CUP-2023-0104 and 0105 Appeal Options

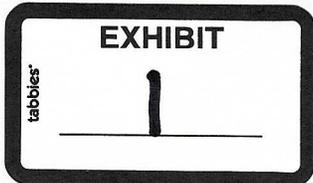
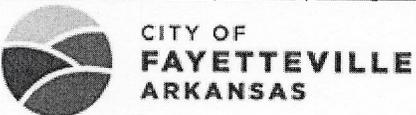
Good Morning,

Yes. Please note that **the city council members must send their support to the city clerk in writing** in order for your appeal to be placed on the agenda.

Best Regards,
Donna Wonsower (she/her)
Planner, Development Services

479-575-8358

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



STAFF EXHIBIT: FAILED APPEAL MEMO

From: Greg VanWinkle <gvwinvestments22@gmail.com>

Sent: Wednesday, October 4, 2023 8:40 PM

To: Wonsower, Donna <dwonsower@fayetteville-ar.gov>

Subject: Re: CUP-2023-0104 and 0105 Appeal Options

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mrs Donna,

We have been diligently working on this appeal. We have received verbal confirmations of 3 City Council members supporting our appeal. If I am reading your previous email correctly... we had 10 "working days" (in our case Oct 9th) to officially submit the appeal. You sent the email on Sept 26th. Backdating 10 business days would have been Sept 25th. Am I correct?

Thank you!

Stephanie Van Winkle

On Tue, Sep 26, 2023 at 9:18 AM Wonsower, Donna <dwonsower@fayetteville-ar.gov> wrote:

Good Morning,

Please see below for the corrected appeal date of October 9. Apologies for any confusion.

Best Regards,

Donna Wonsower (she/her)

Planner, Development Services

479-575-8358

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Wonsower, Donna
Sent: Tuesday, September 26, 2023 8:46 AM
To: Greg VanWinkle <gvwinvestments22@gmail.com>
Subject: CUP-2023-0104 and 0105 Appeal Options

Good morning,

I wanted to make you aware that last night the Planning Commission denied your requests for a conditional use permit to operate an STR at 854 and 1006 E. Sparrow Cir. I've attached staff's final reports on the items.

You may appeal the Planning Commission's decision to deny your CUP to City Council, so long as three council members in unison support your request to appeal (UDC §155.05(A)(3)). Appeal requests must be submitted within 10 working days from the date of the Planning Commission hearing (which in your case would be by October 9), and must be officially filed with the City Clerk within that timeframe. (Our form, time, and place requirements for appeals are described in UDC §155.02.) To request support from Council Members, you will need to reach out to them directly. Contact information for each Council Member can be found on the City's website [here](#). To officially file your appeal with the City Clerk, you will need to forward your appeal request letter and the statements of support from three council members to our City Clerk's office at cityclerk@fayetteville-ar.gov.

Please also note that you will be unable to obtain a business license for a Type 2 STR. Using the property as a short-term rental without a license is a violation of City ordinance. Your associated business license will not be able to be approved

Best Regards,

Donna Wonsower (she/her)

Planner, Development Services

479-575-8358

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



Pennington, Blake

From: Bunch, Sarah
Sent: Tuesday, October 3, 2023 9:01 AM
To: Williams, Kit; Pennington, Blake; Jones, D'Andre; Moore, Sarah; Wiederkehr, Mike; Berna, Scott; Turk, Teresa; Hertzberg, Holly
Subject: Fwd: Statement of Support for Conditional use permit to operate an STR
Attachments: CUP-2023-0105 PC Report_DENIED.pdf; CUP-2023-0104 PC Report_DENIED.pdf

Everyone,

Mr. Van Winkle applied for 2 CUPs and both were denied by Planning Commission. He is now seeking to appeal the Planning Commission decision, and after speaking to him I have decided to back his appeal.

He will need the support of two other council members, and I strongly suggested he reach out to the entire council, but in particular the representatives from the ward where the homes are located.

Sincerely,

Sarah Bunch

Sent from my iPhone

Begin forwarded message:

From: Greg VanWinkle <gvwinvestments22@gmail.com>
Date: September 28, 2023 at 12:13:39 PM CDT
To: "Bunch, Sarah" <sarah.bunch@fayetteville-ar.gov>
Subject: **Statement of Support for Conditional use permit to operate an STR**

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mrs. Bunch,

My name is Greg Van Winkle. I am a business owner of 23 years in Central Arkansas and am currently trying to expand my business to the Fayetteville area. I have 2 daughters that currently attend the U of A and am trying to make the transition to move my family there permanently.

I have invested in 3 new construction properties in the area and have recently gone through the tedious process of meeting all of the compliance requirements to operate them as STR. 1 of the 3 has been approved and the other 2 were denied. Please see attached. It is essential that these homes be approved in order for me to be able to relocate my family and my business. (especially since we have complied with all of the requirements and are willing to adjust what is needed moving forward) The amount of vehicles in the driveway is something that we can easily regulate.

I am reaching out to you specifically to ask if you would be able to provide any assistance at all? We have dedicated so much of our time and finances to make this dream of ours happen. We absolutely love the city of Fayetteville and love the University! Anything you can do to help us would be appreciated!



Pennington, Blake

From: Pennington, Blake
Sent: Tuesday, October 3, 2023 1:02 PM
To: Berna, Scott; Bunch, Sarah; Williams, Kit; Jones, D'Andre; Moore, Sarah; Wiederkehr, Mike; Turk, Teresa; Hertzberg, Holly
Cc: Williams, Kit; Curth, Jonathan; CityClerk; gwwinvestments22@gmail.com
Subject: RE: Statement of Support for Conditional use permit to operate an STR
Attachments: UDC 155.02 Form, Time, and Place.pdf

All,

I am attaching Section 155.02 of the Unified Development Code which sets out the form, time, and place requirements for appeals. Subsection (A) requires that the appeal reference the applicable UDC section(s) and set out the reasons the applicant believes the Planning Commission erroneously denied the application. Mr. Van Winkle's email does not meet this requirement.

Typically on appeals in which a council member must sign on, the applicant will provide a letter or email outlining the argument for why they believe the Planning Commission wrongly denied their application. In this case, the appeal letter can reference Section 163.02, which covers the general authority for conditional use permits and/or Section 163.18, which is more specific to short term rentals.

The applicant will still need to explain why they believe the Planning Commission decision was wrong, and then any three council members wishing to sponsor the appeal can adopt those reasons to meet the requirement of Section 155.04(A)(3).

Please let me know if there are any questions.

Thank you,

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov



From: Berna, Scott <scott.berna@fayetteville-ar.gov>
Sent: Tuesday, October 3, 2023 10:36 AM
To: Bunch, Sarah <sarah.bunch@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>; Jones, D'Andre <dandre.jones@fayetteville-ar.gov>; Moore, Sarah <sarah.moore@fayetteville-ar.gov>; Wiederkehr, Mike <mike.wiederkehr@fayetteville-ar.gov>; Turk, Teresa <teresa.turk@fayetteville-ar.gov>; Hertzberg, Holly <holly.hertzberg@fayetteville-ar.gov>
Subject: Re: Statement of Support for Conditional use permit to operate an STR



Pennington, Blake

From: Pennington, Blake
Sent: Friday, October 6, 2023 10:49 AM
To: gvwinvestments22@gmail.com
Subject: STR Appeal
Attachments: Appeal Letter for CUP 2023-0068.pdf; Walnofer CUP.pdf

Good morning. As discussed, I am attaching a couple of examples of previous appeals from the Planning Commission denial of Type 2 short term rentals.

The easiest thing to do is to prepare your own letter or email explaining the reasons you believe the Planning Commission's denials were incorrect. Because there were two separate applications denied I would recommend a different letter for each one but you can send both letters in a single email. Having separate letters will help us distinguish between the two properties. The letter does not have to be long or detailed – it just needs to explain why you believe the City Council should approve your applications. You'll have 10 minutes at the City Council meeting to make further arguments.

Section 163.02 is the section of the Unified Development Code that discusses compatibility and adverse impact, which are the most important factors for conditional use permits. Section 163.18 has the more specific short term rental factors like parking, density, etc.

You will need to email that to the City Clerk at cityclerk@fayetteville-ar.gov and copy at least the three Council members who have already agreed to sponsor the appeal. You could send it to all 7 councilmembers (we have one seat vacant at the moment).

Feel free to call if you have any further questions.

Thanks,

Blake

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov



Pennington, Blake

From: Beau Wilcox <Beau@beauwilcoxlaw.com>
Sent: Friday, October 6, 2023 4:07 PM
To: Pennington, Blake
Cc: gvwinvestments22@gmail.com; CityClerk
Subject: RE: Greg Van Winkle/GVW Investments, LLC - short term rental appeal (re-sent to correct clerk email)

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Pennington,

Good afternoon and thank you for your helpful correspondence below with my client, Greg Van Winkle, and his affiliated entity, GVW Investments, LLC. I have been retained by these parties with respect to the short-term rental appeal of the Planning Commission’s denials of the petition and conditional use permits for the properties in question.

I am preparing more formal correspondence to satisfy the city’s requirements concerning the appeal and ensuring that it is properly perfected for the City Council’s November 9, 2023 meeting. I will, per your request, also send separate letters for each property/application. To be clear, while we respect the Commission’s decision, we do believe that the parking/occupancy concerns have been addressed by my client to the extent that the Code requires. Also, we certainly assert that no harm or nuisance will occur with respect to surrounding property owners.

I have copied the City Clerk’s office on this email as well, and will send the formal letters of appeal to them as well. We will also transmit such correspondence to the council members.

Please let me know if my client or I need to do anything further. As I understand, the letters are needed by Monday morning, but I will be traveling this weekend so I should have them transmitted by email to all concerned parties by tomorrow (Saturday, Oct. 7, 2023) morning.

Best regards,

Beau Wilcox, Attorney at Law
1315 Main Street
Conway, AR 72034
(501) 327-5708 (telephone)
beau@beauwilcoxlaw.com

----- Forwarded message -----

From: Pennington, Blake <bpennington@fayetteville-ar.gov>
Date: Fri, Oct 6, 2023 at 10:49 AM
Subject: STR Appeal
To: gvwinvestments22@gmail.com <gvwinvestments22@gmail.com>

Good morning. As discussed, I am attaching a couple of examples of previous appeals from the Planning Commission denial of Type 2 short term rentals.



Pennington, Blake

From: Beau Wilcox <Beau@beauwilcoxlaw.com>
Sent: Sunday, October 8, 2023 7:50 PM
To: Mayor; Pennington, Blake; Pennington, Blake
Cc: Bunch, Sarah; Berna, Scott; Jones, D'Andre; Greg VanWinkle
Subject: Appeal of Planning Commission denial of CUP - GVW Investments, LLC / Greg Van Winkle
Attachments: letter of appeal.GVW Investments Van Winkle.10082023.pdf

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good evening to all—I represent Mr. Van Winkle and his LLC, GVW Investments, LLC, regarding a recent denial by the Fayetteville planning commission for his conditional use permit request. Please find attached the letter of appeal for my client, and please let me know if you have any questions.

Best regards,

Beau Wilcox, Attorney at Law
1315 Main Street
Conway, AR 72034
(501) 327-5708 (telephone)
beau@beauwilcoxlaw.com



BEAU WILCOX, ATTORNEY AT LAW

1315 MAIN STREET, CONWAY, AR 72034

(501) 327-5708 (TELEPHONE)

BEAU@BEAUWILCOXLAW.COM

October 8, 2023

City of Fayetteville, Arkansas
ATTN: Blake Pennington, City Attorney
ATTN: Lioneld Jordan, Mayor
113 West Mountain Street
Fayetteville, AR 72701

VIA EMAIL – bpennington@fayetteville-ar.gov

RE: Conditional Use Permit Appeal – GVW Investments, LLC

Dear Mayor Jordan & Mr. Pennington,

I write today on behalf of Greg Van Winkle and GVW Investments, LLC, a limited liability company in good standing which owns certain properties in Fayetteville commonly known as 854 E. Sparrow Circle and 1006 E. Sparrow Circle. The Fayetteville Planning Commission denied my client's request for a conditional use permit ("CUP") for these properties to serve as short-term rentals. This letter is for the purpose of formally appealing this decision to the Fayetteville City Council.

My client has addressed concerns raised by the Planning Commission with respect to maximum occupancy concerns. We believe any issues that elicited objections from the Commission have therefore been rectified, and that the CUP should be granted based upon all applicable zoning, code, and associated city regulations. The proposed CUP would not unreasonably interfere with the use, access, or enjoyment of neighboring properties.

It is my understanding that this letter of appeal will move this matter to consideration by the Council at its November 10, 2023 meeting. I plan to attend on behalf of my client, and he will be present as well to address the Council with respect to this matter, so please confirm its placement on the agenda.

I have copied the Fayetteville City Council members who have agreed to sponsor this appeal on this email. Please do not hesitate to contact me if you have any questions.

Sincerely,



Beau Wilcox, Attorney at Law

cc: Client; Council members (as stated)





**CITY OF
FAYETTEVILLE
ARKANSAS**

VIOLATION NOTICE

October 25, 2023

GREGORY VAN WINKLE
1006 E SPARROW CIRCLE
FAYETTEVILLE, AR 72701

CARLOS SANCHEZ
DESIGNATED AGENT
2104 W OAK STREET
ROGERS, AR 72758

Re: CVZD-2023-0661 Zoning Violation

Dear Property Owner and Designated Agent:

It appears that your property located at 1006 E SPARROW CIRCLE contains violations of the Fayetteville Code of Ordinance. This letter is being sent to the property and the designated agent listed. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct these problems, please call our office at (479) 575-8362 or email ehyke@fayetteville-ar.gov.

Violations:

§118.01, §120.02, §161.02, §163.18 of the City of Fayetteville Unified Development Code.

Remedial Action(s) needed for compliance:

1. Cease use of the property as a short-term rental immediately.
2. Cease all advertising of the property as a short-term rental.
3. Cease use of the property for special events (i.e. parties) as they are not an allowed use for short-term rentals.
4. Provide summary guest registration records for the subject short-term rental property for the twelve (12) months preceding this letter and any future bookings. The records shall contain dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records should be emailed to the provided email address in this letter within upon receiving this request.

Penalty:

If these violations are repeated, or the requested remedial actions are not taken upon receiving this letter, this notice and all documents related to this case shall be turned over to the City Prosecutor's Office. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to an appeal. Please see Chapter 155 of the Unified Development Code.

The City of Fayetteville is a truly beautiful and unique place to live and work and we rely on all our citizens and the business community to help us to maintain the high quality of life we have all come to expect. Thank you for your contributions to that quality of life and for resolving the violation in a timely manner.

Sincerely,

A handwritten signature in blue ink that reads "Bliss Hyke".

Bliss Hyke
Planning Technician



CODE CASE HISTORY REPORT CVZD-2023-0661 FOR CITY OF FAYETTEVILLE

STAFF EXHIBIT: VIOLATION HISTORY

Changed On	User	Description	Before	After	Additional Info
10/04/2023	Bliss Hyke	Code Case added			Code Case (CVZD-2023-0661)
10/04/2023	Bliss Hyke Bliss Hyke	Geo Rules Caller Type Code Case Note added	None	Parcel	Code Case (CVZD-2023-0661) Code case note text: (DENIED DUE TO CUP DENIAL ON 09/25/2023: STR-0799-2023 • GVW Investments (1006 E SPARROW CIR FAYETTEVILLE, AR 72701))
	Bliss Hyke	Code Case Note added			Code case note text: (DENIED 09/25/2023 PC: CUP-2023-0105 (1006 E SPARROW CIR FAYETTEVILLE, AR 72701))
10/04/2023	Bliss Hyke Bliss Hyke	Contact added Contact added			Contact (Gregory Van Winkle) Contact (Gregory Van Winkle)
10/04/2023	Bliss Hyke Bliss Hyke	Attachment added Geo Rules Caller Type	None	Parcel	Attachment (Intial Email Complaint.pdf) Code Case (CVZD-2023-0661)
10/04/2023	Bliss Hyke	Contact added			Contact (Mike Wiederkehr)
10/04/2023	Bliss Hyke	Attachment added			Attachment (Host Profile on AirBnB Screenshot 2023-10-04 114609.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 3.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 2.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 1.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Reserve & Pay.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 6.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 5.png)
	Bliss Hyke	Attachment added			Attachment (1006 E Sparrow Page 4.png)
10/25/2023	Bliss Hyke	Attachment added			Attachment (Failed CUP Appeal Memo E. Sparrow Circle.pdf)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
10/25/2023	Bliss Hyke	Attachment added			Attachment (10.25.23 SparrowE Host AirBnb listings.png)
	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow1006e AirBnb listing.png)
10/25/2023	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow1006e Landlord Registry.png)
	Bliss Hyke	Attachment added			Attachment (10.25.23 Sparrow1006e Property Records.png)
10/25/2023	Bliss Hyke	Attachment added			Attachment (Sparrow1006e - STR (CUP & BL denied but still active).pdf)
	Bliss Hyke	Geo Rules Caller Type	None	Parcel	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Case Workflow Step Start Date	[none]	10/25/2023	Code Case Workflow Step (Notice of Violation)
	Bliss Hyke	Step Workflow Status	Not Started	Started	Code Case Workflow Step (Notice of Violation)
	Bliss Hyke	Code Case Workflow Step Action Start Date	[none]	10/25/2023	Code Case Workflow Step Action (Tracking Notice of Violation)
	Bliss Hyke	Code Enforcement Activity added			Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Not Started	Started	Code Case Workflow Step Action (Tracking Notice of Violation)

CODE CASE HISTORY REPORT CVZD-2023-0661

STAFF EXHIBIT: VIOLATION HISTORY

Changed On	User	Description	Before	After	Additional Info
	Bliss Hyke	Code Case Workflow Step Action added			Code Case Workflow Step Action (Tracking Notice of Violation)
11/08/2023	Bliss Hyke Bliss Hyke	Geo Rules Caller Type Code Case Note added	None	Parcel	Code Case (CVZD-2023-0661) Code case note text: (NOV has not been received yet.)
12/05/2023	Bliss Hyke Bliss Hyke	Geo Rules Caller Type Code Activity Comments	None	Parcel	Code Case (CVZD-2023-0661) Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Started	Passed	Code Case Workflow Step Action (Tracking Notice of Violation)
12/05/2023	Bliss Hyke	Code Case Note added			Code case note text: (Confirmed STR is still listed on AirBnb and VRBO, No one has sent me the guest records or tried to reach out. I am forwarding this case to the prosecutor.)
12/05/2023	Bliss Hyke	Attachment added			Attachment (Host Profile as of Screenshot 2023-12-05 155251.png)
	Bliss Hyke	Attachment added			Attachment (Host Profile reviews as of Screenshot 2023-12-05 155251.png)
	Bliss Hyke	Attachment added			Attachment (Listing removed. Added back 1006 E Sparrow Screenshot 2023-12-05 155151.png)
	Bliss Hyke	Attachment added			Attachment (VRBO 1006 E Sparrow Screenshot 2023-12-05 155342.png)
12/05/2023	Bliss Hyke Bliss Hyke	Date Closed Code Case Status	[none]	12/5/2023	Code Case (CVZD-2023-0661)
	Bliss Hyke Bliss Hyke	Complete Code Case Note added	In Progress	Closed - Escalated to Prosecutor	Code Case (CVZD-2023-0661)
	Bliss Hyke Bliss Hyke	Code Case Note added	No	Yes	Code Case (CVZD-2023-0661) Code case note text: (Have not heard from owner or designated agent, have not received guest records and listing is still active.)
12/05/2023	Bliss Hyke Bliss Hyke	Geo Rules Caller Type Code Case Workflow Step Start Date	None	Parcel	Code Case (CVZD-2023-0661)
	Bliss Hyke	Code Case Workflow Step Start Date	[none]	12/5/2023	Code Case Workflow Step (Status Escalated)
	Bliss Hyke	Step Workflow Status	Not Started	Started	Code Case Workflow Step (Status Escalated)
	Bliss Hyke	Code Case Workflow Step Action Start Date	[none]	12/5/2023	Code Case Workflow Step Action (Escalated to Prosecutor)
	Bliss Hyke	Code Enforcement Activity added			Code Enforcement Activity Additional Info
	Bliss Hyke	Action Workflow Status	Not Started	Started	Code Case Workflow Step Action (Escalated to Prosecutor)

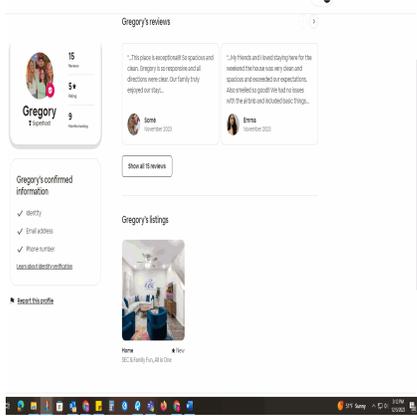
CASE AND INSPECTION(S) DETAILS FOR CASE CVZD-2023-0661

Case Type: Zoning/Development **Open Date:** 10/04/2023 **Address:** 1006 E SPARROW CIR Fayetteville, AR 72701
Status: Closed - Escalated to Prosecutor **Close Date:** 12/05/2023
Description: PZ320, PZ370, PZ340 It appears they are operating without a license. 1006 E Sparrow Circle. These were denied CUPs at the last PC meeting. Donna, copying you since you were the Planner on the items, and I believe they may be trying to appeal.
Contacts: Complainant: Mike Wiederkehr
 Owner: Gregory Van Winkle
 Violator: Gregory Van Winkle

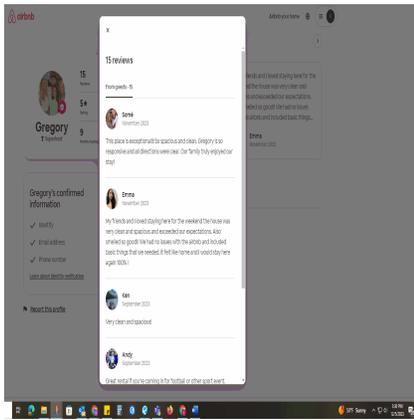
Note	Created By	Date and Time Created
1. DENIED DUE TO CUP DENIAL ON 09/25/2023: STR-0799-2023 • GVW Investments Bliss Hyke (1006 E SPARROW CIR FAYETTEVILLE, AR 72701)		10/4/2023 10:57 am
2. DENIED 09/25/2023 PC: CUP-2023-0105 (1006 E SPARROW CIR FAYETTEVILLE, AR 72701)	Bliss Hyke	10/4/2023 10:58 am
3. NOV has not been received yet.	Bliss Hyke	11/8/2023 3:41 pm
4. Confirmed STR is still listed on AirBnb and VRBO, No one has sent me the guest records or tried to reach out. I am forwarding this case to the prosecutor.	Bliss Hyke	12/5/2023 3:31 pm
5. Have not heard from owner or designated agent, have not received guest records and listing is still active.	Bliss Hyke	12/5/2023 3:55 pm

Activity Type	Activity Number	Activity Name	User	Created On
Notice of Violation Tracking	PRE-1676-2023	DA USPS #7021272000005580531	Bliss Hyke	10/25/2023
	PRE-1675-2023	USPS #7021272000005580517	Bliss Hyke	10/25/2023
Other Activity	ACT-1785-2023		Bliss Hyke	12/05/2023

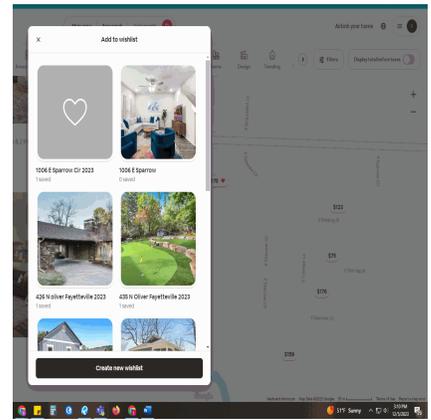
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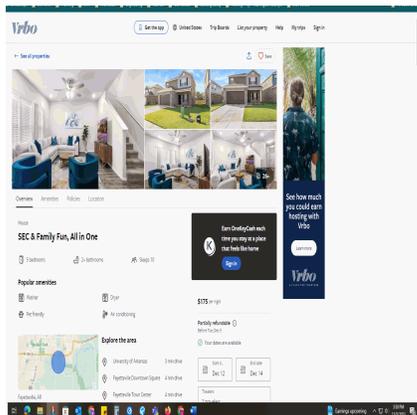
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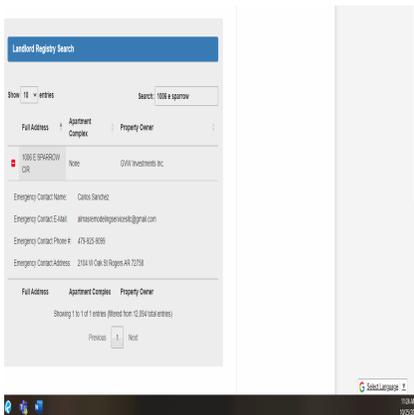
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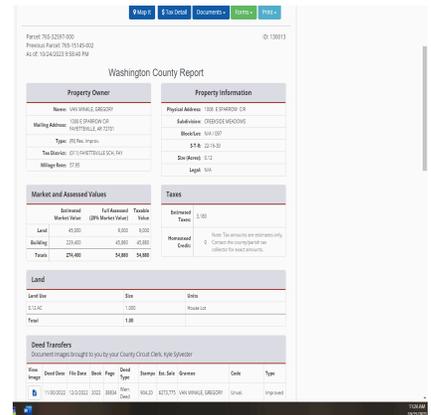
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Added on: 12-05-2023 (Direct Link)

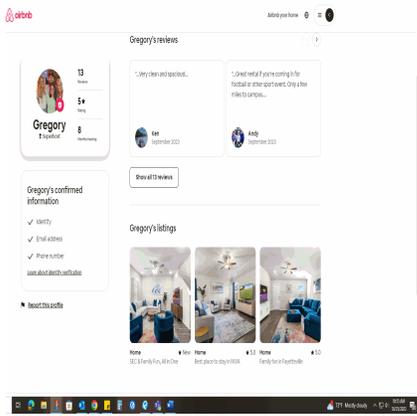


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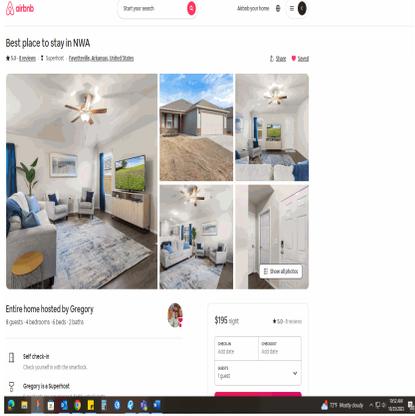


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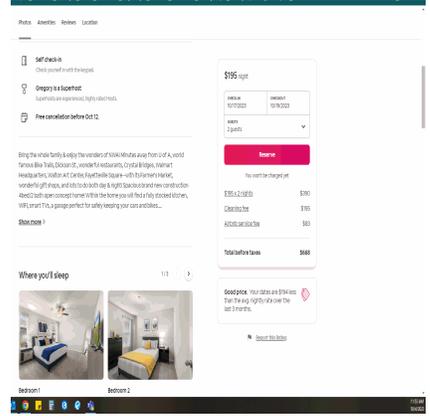
CASE AND INSPECTION(S) DETAILS FOR CASE CVZD-2023-0661



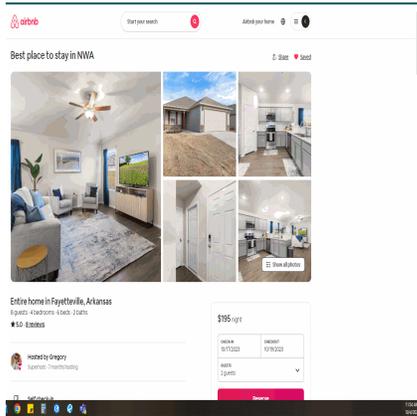
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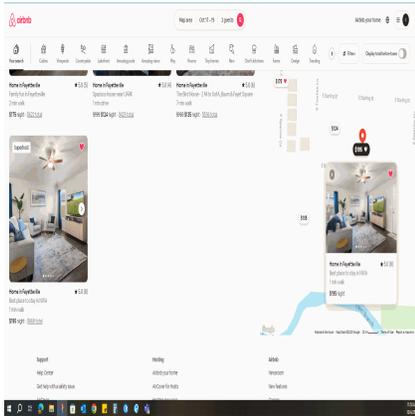
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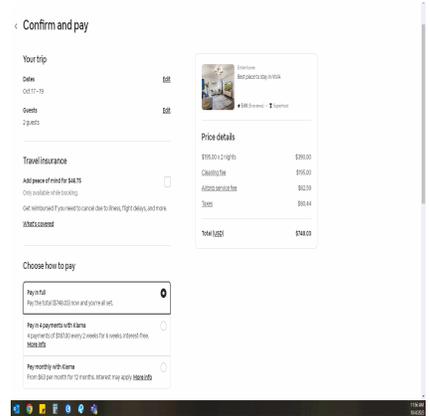
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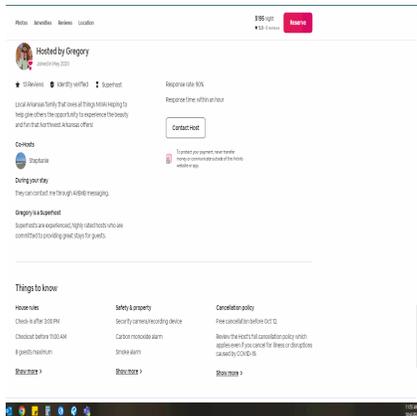
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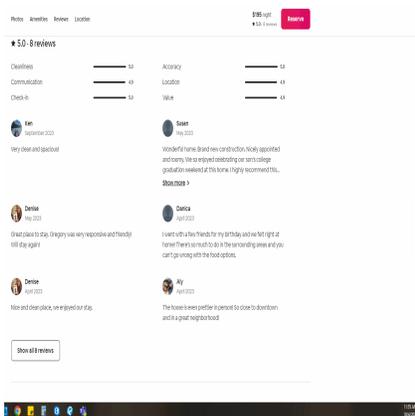
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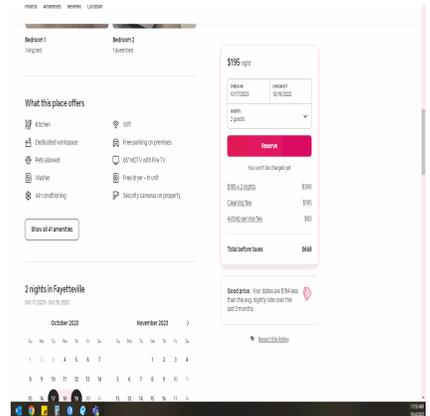
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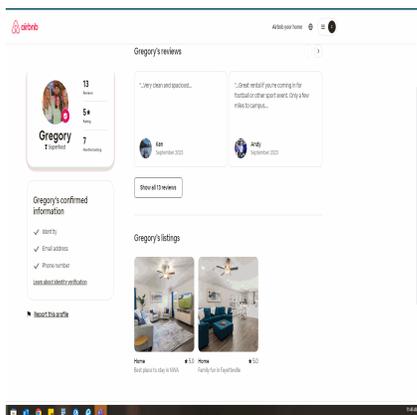
Added on: 10-04-2023 (Direct Link)



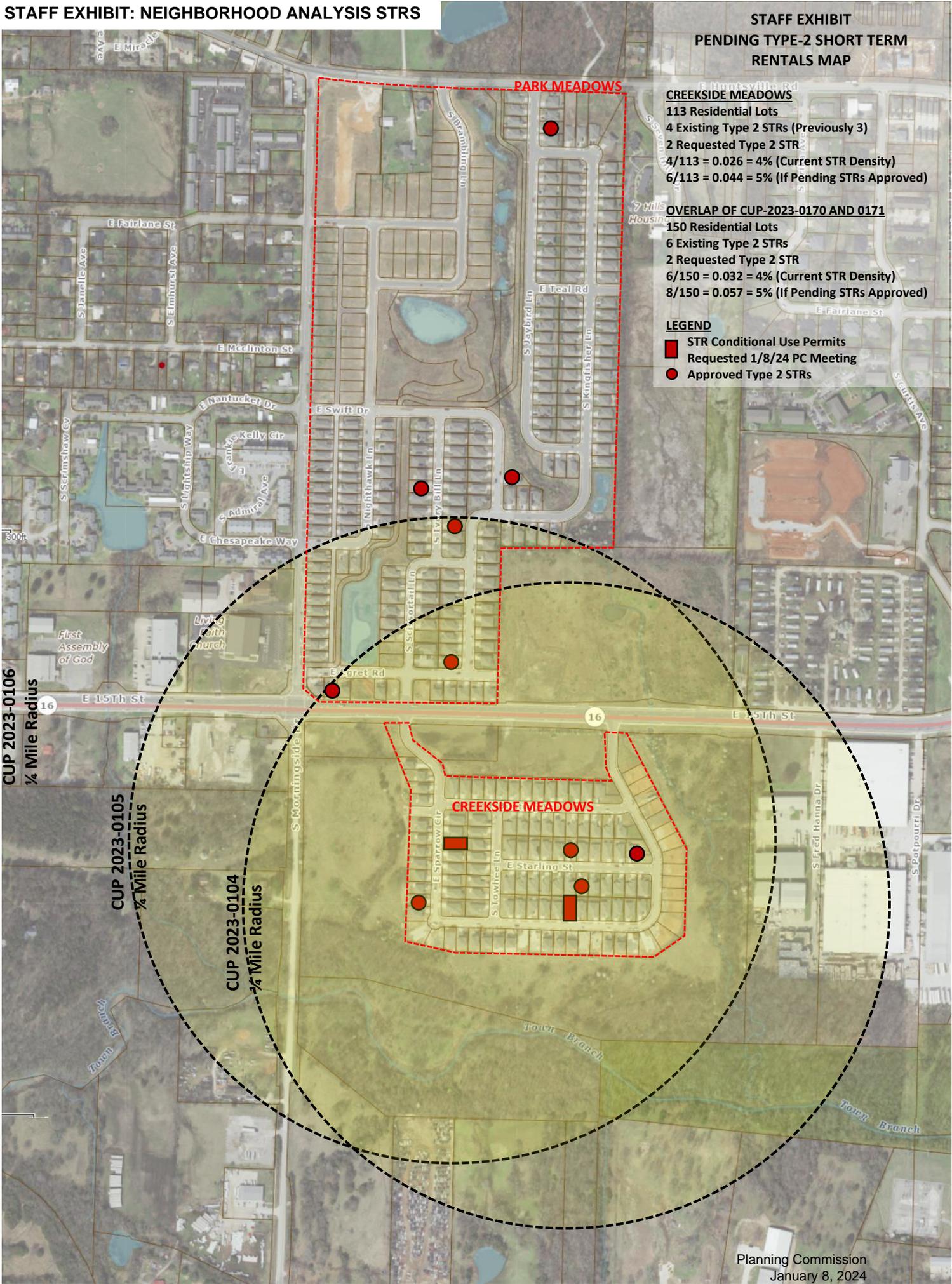
Added on: 10-04-2023 (Direct Link)



Added on: 10-04-2023 (Direct Link)



Added on: 10-04-2023 (Direct Link)



CREEKSIDE MEADOWS
 113 Residential Lots
 4 Existing Type 2 STRs (Previously 3)
 2 Requested Type 2 STR
 $4/113 = 0.026 = 4\%$ (Current STR Density)
 $6/113 = 0.044 = 5\%$ (If Pending STRs Approved)

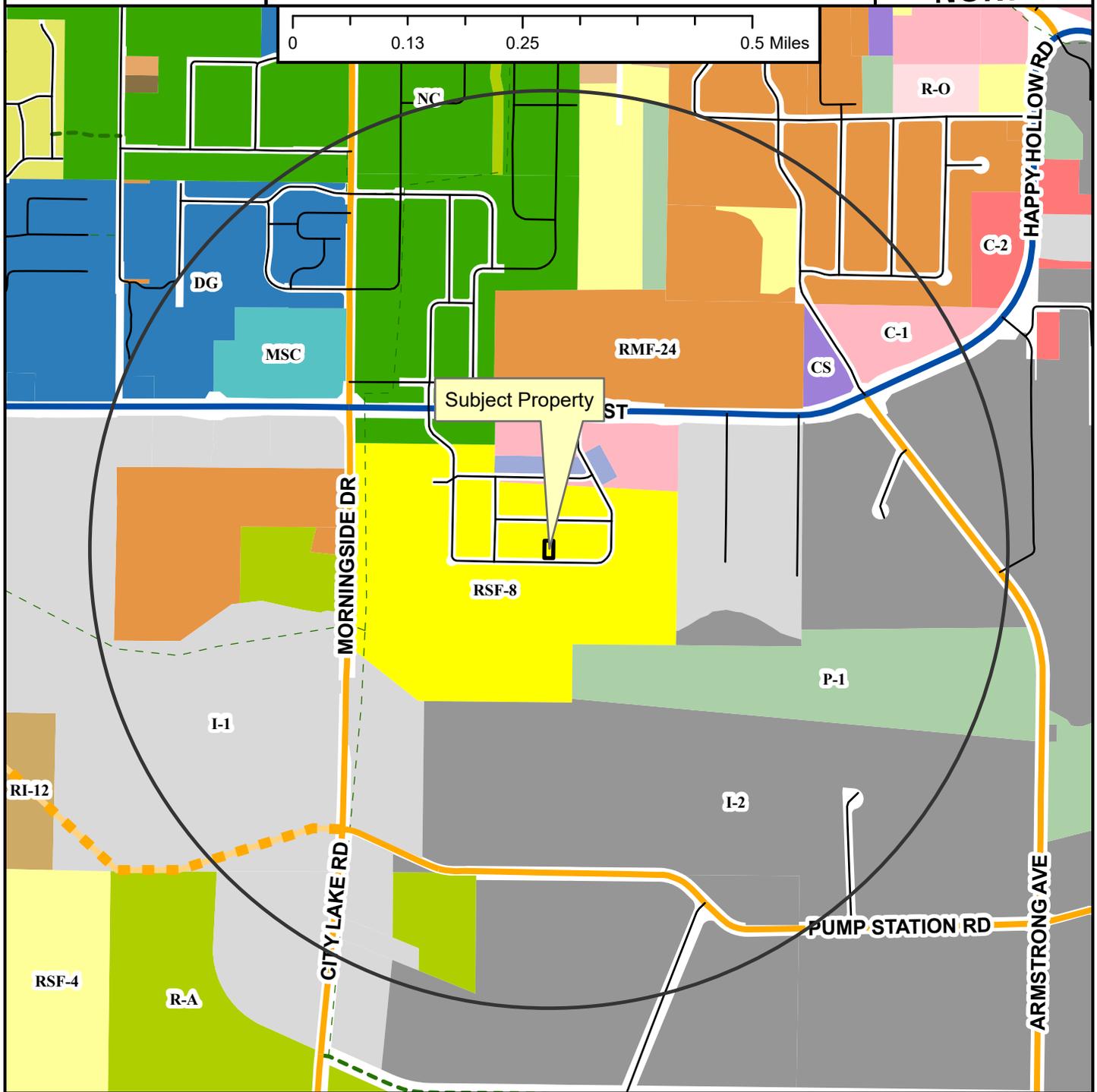
OVERLAP OF CUP-2023-0170 AND 0171
 150 Residential Lots
 6 Existing Type 2 STRs
 2 Requested Type 2 STR
 $6/150 = 0.032 = 4\%$ (Current STR Density)
 $8/150 = 0.057 = 5\%$ (If Pending STRs Approved)

LEGEND
 ■ STR Conditional Use Permits Requested 1/8/24 PC Meeting
 ● Approved Type 2 STRs

CUP 2023-0106
1/4 Mile Radius

CUP 2023-0105
1/4 Mile Radius

CUP 2023-0104
1/4 Mile Radius

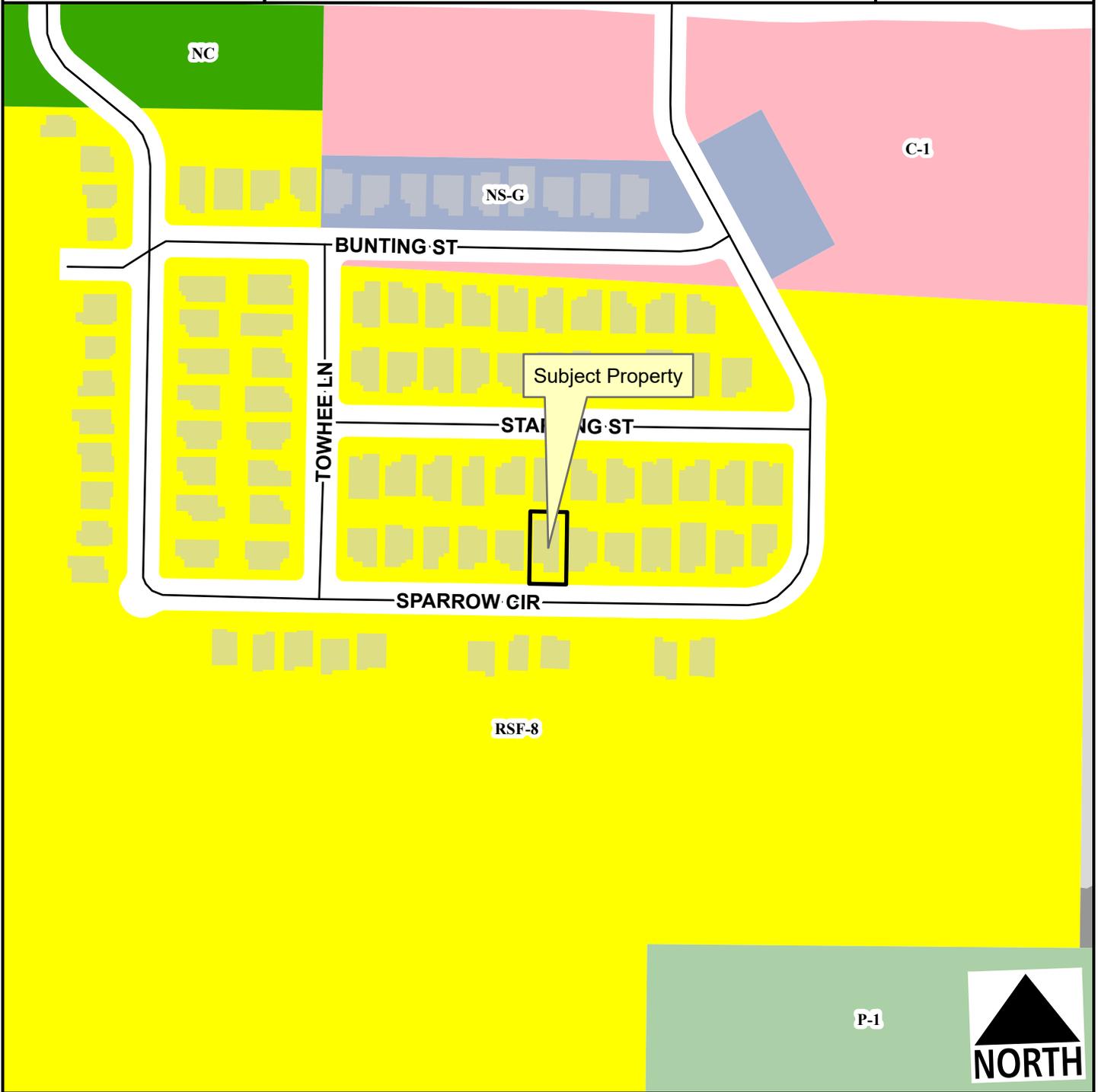


- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area

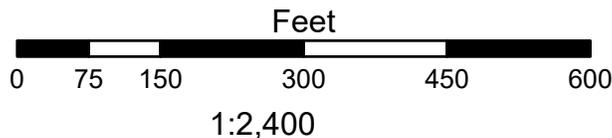


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RH-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial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

Close Up View



- Residential Link
- Planning Area
- Fayetteville City Limits



- RSF-8
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial
- C-1
- Neighborhood Services - Gen.
- Neighborhood Conservation
- P-1



CUP-2023-0171

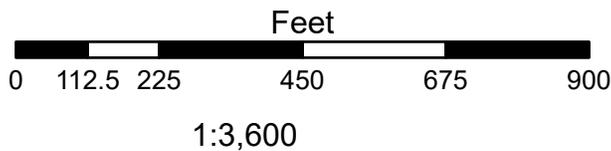
1006 E. SPARROW CIR



Current Land Use



- Regional Link - High Activity
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



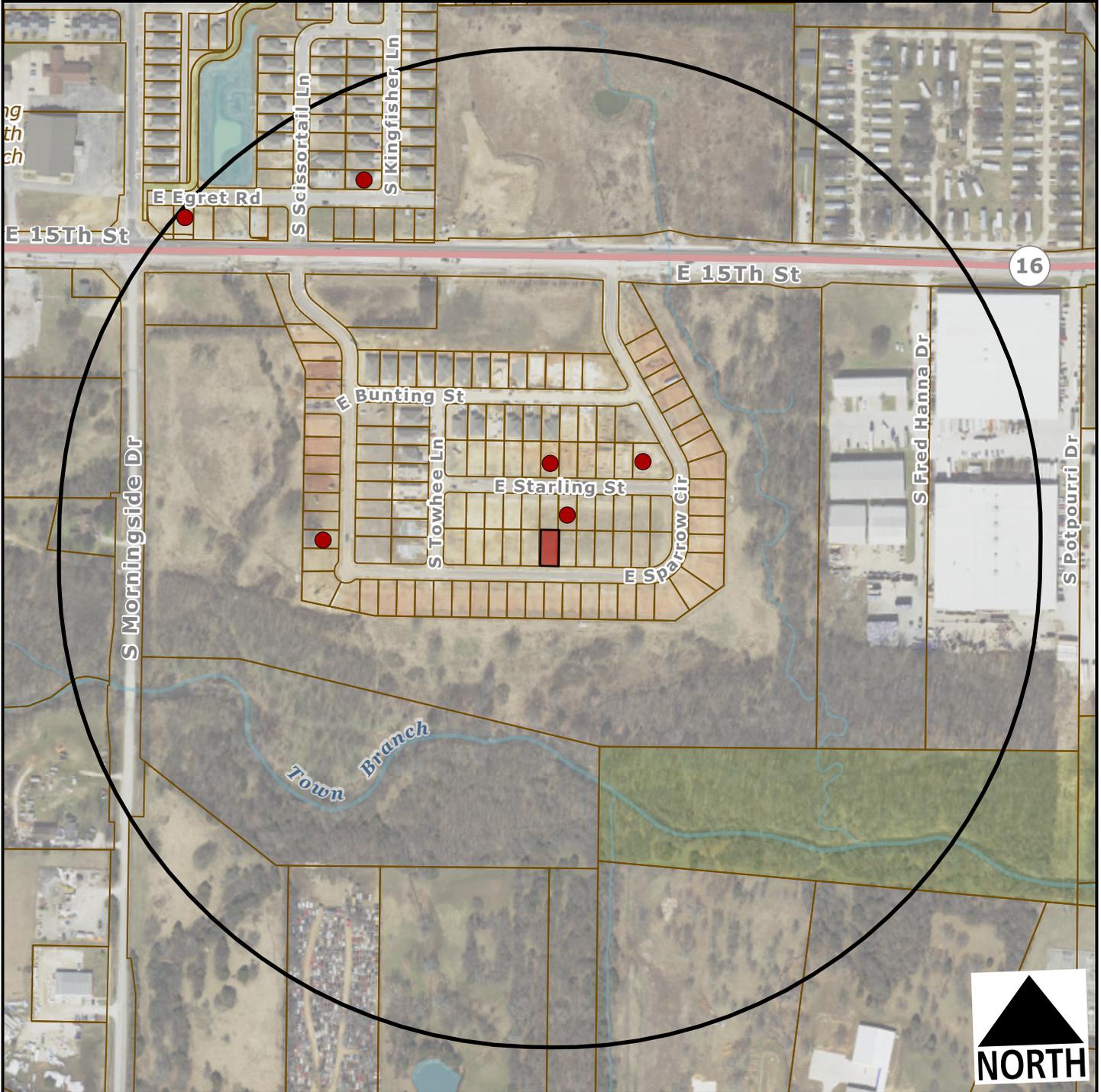
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

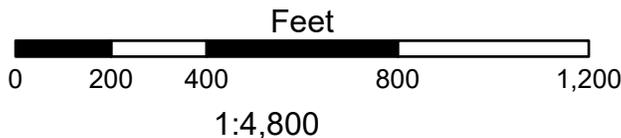
CUP-2023-0171

1006 E. SPARROW CIR

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Within 1/4 Mile

Type 2 STRs: 6

Occupiable Residential Addresses (Estimated Housing Units): 157

PUBLIC COMMENT- PHONE SUMMARY

Tamijani, Zak Yesterday 3:58 PM

Got a comment from a neighbor on CUP-23-0170, they wanted to express disapproval for: the number of STRs in the neighborhood, past negative experiences with STRs in this neighborhood including unattended dogs, noise/parties which are claimed to occur there but not yet reported, narrow streets and the added traffic that is brought in by the existing STRs, the STR tenants are unfamiliar with the etiquette that this space requires for the neighbors to live in harmony, and a concern that STRs diminish the sense of community.
It was stated that someone else of the community intends to speak via zoom on this tonight.

Yesterday 4:11 PM

If you are able to get ahold of the neighbor and they wish to speak to me, feel free to forward them

Tamijani, Zak Yesterday 4:19 PM

Ahh, didn't see this message before. The complainant said that they'd like to apply it to both properties.

👍 1

Yesterday 4:19 PM

I figured that would be the case. Thanks for letting me know!

Tamijani, Zak Yesterday 4:19 PM

There were additional comments and questions on basic procedural stuff .

Sure thing!