



MEETING OF JANUARY 3, 2023

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
FROM: Jessica Masters, Development Review Manager
DATE: December 15, 2022
SUBJECT: **VAC 22-024 (RAZORBACK ROAD, MAPLE STREET, ETC.)**

RECOMMENDATION:

AN ORDINANCE TO APPROVE VAC 22-024 FOR PROPERTY LOCATED ALONG RAZORBACK ROAD, MAPLE STREET, GARLAND AVENUE, CLEVELAND STREET, HILL AVENUE, MARTIN LUTHER KING JUNIOR BOULEVARD AND LT. COLONEL LEROY POND AVENUE IN WARDS 1 AND 2 TO VACATE PORTIONS OF STREET RIGHTS-OF-WAY

BACKGROUND:

The subject property includes 6.54 acres of right-of-way spread along portions of seven public streets adjacent to University of Arkansas Property (see attached survey). Most prominently, the right-of-way includes:

- Arts District: Three separate areas of right-of-way behind street curbs on the north, west, and east borders of the new Arts District, along W. Martin Luther King Jr. Boulevard, S. Hill Avenue, and S. LT. Col. Leroy Pond Avenue.
- Former Highway 112: Multiple areas of right-of-way behind the curb along both the east and west sides of Razorback Road, north and south sides of W. Maple Street, and east and west sides of Garland Avenue.
- Cleveland Street: Two areas of right-of-way along the south side of W. Cleveland Street, between N. Lindell Avenue to the east and N. Razorback Road to the west.

Given the large number of properties associated with the right-of-way, adjacent zoning district information is not provided. All properties adjacent to the request are owned by the University of Arkansas with uses varying from parking and athletic facilities to housing and classrooms. A similar proposal was heard by the Planning Commission in late 2021, but was tabled indefinitely at the applicant's request to allow time to coordinate with the City Attorney's office. The applicant is bringing back a new request, with an additional portion of right-of-way for consideration.

Proposal: The applicant proposes to vacate 18 separate pieces of public right of way totaling 6.54 acres along seven streets. In turn, a dedication of right-of-way totaling 1.43 acres is proposed along Razorback Road and between W. Nolan Richardson Drive to the south and W. Maple Street to the north. With this request, the applicant noted in their letter that existing utilities will be protected through easement dedication. Additionally, the applicant asserts that vacating the right-of-way will remove current and future sections of Senior Walk, landscaping, lights, and trees from the City's responsibility.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

DISCUSSION:

At the December 12, 2022 Planning Commission meeting, Commissioners voted to forward the item to City Council with a recommendation of approval, with a vote of 8-0-0. Commissioner Garlock made the motion, and Commissioner Winston seconded. Finding that the conditions of approval covered previous concerns about pedestrian access and maintenance, Commissioners found the request to vacate the right-of-way to be acceptable. No public comment was offered on the item.

City staff and Planning Commission recommend approval of VAC-2022-0024 as shown in the attached Exhibits 'A' and 'B', and with the following conditions of approval:

1. Easements shall be dedicated for any existing facilities associated with this right-of-way vacation request, with review and coordination by the applicant with the utility provider, including the client properly identifying utilities in the field by means of surveying, pot holing, and coordinating with representatives.
2. Adequate accommodation for pedestrian access must be maintained whether through easement or agreement.
3. The applicant must dedicate right-of-way to the back of curb in any areas where right of way does not currently exist
4. The applicant must dedicate a pedestrian access easement to the existing back of sidewalk or master street plan right of way in areas where sidewalk does not currently exist.
5. Signal poles and appurtenances must remain in the right-of-way, or an easement be dedicated over the areas where poles and appurtenances are located.
6. Drainage easements must be dedicated in areas of existing drainage facilities.
7. An agreement will need to be developed establishing responsibility (or lack thereof) for repairs to non-typical features behind the curb due to maintenance, installation, and repair of any city facilities located within vacated rights of way, including drainage facilities and water/sewer lines. The City will not be responsible for maintenance or repair of anything except a standard sidewalk.
8. Any damage or relocation of existing facilities will be at the property owner/developer's expense.
9. All easements and agreements required as a condition of this vacation shall be reviewed by the City and signed by the Mayor.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF, Exhibit A, Exhibit B, Applicant Request Letter, Petition to vacate, Survey, Planning Commission Staff Report, VAC - 22-024 RAZORBACK-MAPLE-GARLAND-CLEVELAND-HILL -RIGHT OF WAY

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: December 12, 2022

SUBJECT: **VAC-2022-0024: Vacation (RAZORBACK RD., MLK BLVD., MAPLE ST., GARLAND AVE., CLEVELAND ST., HILL AVE., & LT. COL. LEROY POND AVE./UA-ARTS ROW VACATION, 482/521/522):** Submitted by DCI for portions of right-of-way located along Razorback Rd./Maple St./Garland Ave/Cleveland St./Hill Ave./MLK Blvd./Lt. Col. Leroy Pond Ave. The rights-of-way are within or adjacent to property belonging to the University of Arkansas. The request is to vacate portions of existing street rights of way totaling approximately 6.54 acres.

RECOMMENDATION:

Staff recommends forwarding **VAC-2022-0024** to City Council with a recommendation of approval, with conditions.

RECOMMENDED MOTION:

"I move to forward **VAC-2022-0024** with a recommendation of approval, with conditions as recommended by staff."

BACKGROUND:

The subject property includes 6.54 acres of right-of-way spread along portions of seven public streets adjacent to University of Arkansas Property (see attached survey). Most prominently, the right-of-way includes:

- **Arts District:** Three separate areas of right-of-way behind street curbs on the north, west, and east borders of the new Arts District, along W. Martin Luther King Jr. Boulevard, S. Hill Avenue, and S. LT. Col. Leroy Pond Avenue.
- **Former Highway 112:** Multiple areas of right-of-way behind the curb along both the east and west sides of Razorback Road, north and south sides of W. Maple Street, and east and west sides of Garland Avenue.
- **Cleveland Street:** Two areas of right-of-way along the south side of W. Cleveland Street, between N. Lindell Avenue to the east and N. Razorback Road to the west.

Given the large number of properties associated with the right-of-way, adjacent zoning district information is not provided. All properties adjacent to the request are owned by the University of Arkansas with uses varying from parking and athletic facilities to housing and classrooms. A similar proposal was heard by the Planning Commission in late 2021, but was tabled indefinitely at the applicant's request to allow time to coordinate with the City Attorney's office. The applicant is bringing back a new request, with an additional portion of right-of-way for consideration.

Proposal: The applicant proposes to vacate 18 separate pieces of public right of way totaling 6.54 acres along seven streets. In turn, a dedication of right-of-way totaling 1.43 acres is proposed along Razorback Road and between W. Nolan Richardson Drive to the south and W. Maple Street to the north. With this request, the applicant noted in their letter that existing utilities will be protected through easement dedication. Additionally, the applicant asserts that vacating the right-of-way will remove current and future sections of Senior Walk, landscaping, lights, and trees from the City’s responsibility.

DISCUSSION:

For several years, the University of Arkansas expressed interest to City staff in achieving greater flexibility to program their property frontages along public streets. This is with the intent of using the land outside of the street and behind the curb for additional landscaping, alternative paving options, extended areas of Senior Walk, or other opportunities. While this was originally proposed as an agreement, the University ultimately submitted a request to vacate the subject right-of-way. Staff finds that if existing utilities and access are adequately protected, the proposal can promote the University’s interests and remove areas from City maintenance. None of the 18 portions of right-of-way proposed for vacation encroach on driving lanes and all adjoin University property.

Vacation Approval: The applicant has submitted the required vacation forms to the relevant City departments and franchise utility companies with the following responses in 2021; the applicant re-affirmed and made some modifications to the utility providers’ conditions with this request in 2022. As the petitioner and sole landowner adjacent to the subject right-of-way, adjacent property owner consent is not an applicable standard.

<u>Utility</u>	<u>Response</u>
Cox Communications	No objections, provided any damage or relocation of existing Cox facilities will be at the expense of the applicant.
AEP/SWEPCO	No objections, provided easement be dedicated for existing facilities associated with this right-of-way vacation request.
Black Hills Energy AR	No objections, provided that easements along existing lines shall be drafted for Black Hills Energy review, then recorded (retaining same recording position as currently exists, if any).
AT&T	No objections, provided dedicated easements are recorded by client properly identifying ATT utilities in the field by means of surveying, pot holing, and coordinating with ATT representatives. A 10-foot utility easement at ATT existing utility locations a dedicated corridor for backbone placements. Further, ATT requests that any relocation/movement of ATT facilities will be at the cost of the petitioner, and that a permanent TELCO utility easement will be provided to cover all existing ATT facilities along the described route.
Ozarks Electric	No objections and no comment.
<u>City of Fayetteville</u>	<u>Response</u>
Water/Sewer	No objections, provided easements are dedicated as needed for existing water and sewer lines.

Solid Waste & Recycling

No objections and no comment.

Transportation

No objections, provided adequate accommodation is provided for pedestrian access, whether through easement or agreement. Transportation will also require the dedication of Right of Way to the back of curb in any areas where right of way does not currently exist and the dedication of a pedestrian access easement to the existing back of sidewalk or master street plan right of way in areas where sidewalk does not currently exist. Signal poles and appurtenances need to remain in the right of way, or an easement be dedicated over the areas where poles and appurtenances are located. Drainage easements are needed in areas of existing drainage facilities. An agreement will need to be developed establishing responsibility (or lack thereof) for repairs to non-typical features behind the curb due to maintenance, installation, and repair of any city facilities located within vacated rights of way, including drainage facilities and water/sewer lines.

Public Comment: Staff has received inquiries about the request, but no statements of support or opposition. Given the scope of the request, staff required posting of ten public notification signs.

RECOMMENDATION: Staff recommends forwarding **VAC-2022-0024** to City Council with a recommendation of approval, with the following conditions:

Conditions of Approval:

1. Easements shall be dedicated for any existing facilities associated with this right-of-way vacation request, with review and coordination by the applicant with the utility provider, including the client properly identifying utilities in the field by means of surveying, pot holing, and coordinating with representatives.
2. Adequate accommodation for pedestrian access must be maintained whether through easement or agreement.
3. The applicant must dedicate right-of-way to the back of curb in any areas where right of way does not currently exist
4. The applicant must dedicate a pedestrian access easement to the existing back of sidewalk or master street plan right of way in areas where sidewalk does not currently exist.
5. Signal poles and appurtenances must remain in the right-of-way, or an easement be dedicated over the areas where poles and appurtenances are located.
6. Drainage easements must be dedicated in areas of existing drainage facilities.
7. An agreement will need to be developed establishing responsibility (or lack thereof) for repairs to non-typical features behind the curb due to maintenance, installation, and repair of any city facilities located within vacated rights of way, including drainage facilities and water/sewer lines. The City will not be responsible for maintenance or repair of anything except a standard sidewalk.
8. Any damage or relocation of existing facilities will be at the property owner/developer's expense.
9. All easements and agreements required as a condition of this vacation shall be reviewed by the City and signed by the Mayor.

PLANNING COMMISSION ACTION: Required <u>YES</u>
Date: <u>December 12, 2022</u> <input type="checkbox"/> Tabled <input type="checkbox"/> Forwarded <input type="checkbox"/> Denied
Motion:
Second:
Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Applicant Request Letter
- Applicant Petition to Vacate
- Site Exhibit – ROW to be vacated
- Overall Map

**Written request and narrative to accompany Right-of-Way Vacation
University of Arkansas, City of Fayetteville, Arkansas.**

To: The Fayetteville City Planning Commission and
The Fayetteville City Council

On behalf of the landowners, I am petitioning the Fayetteville City Planning Commission and the Fayetteville City Council to vacate/reduce portions of ROW in the areas described below:

Razorback Rd: Vacating ROW west of the west back of curb and east of the east back of curb from MLKJr Blvd to Maple St (and including the bus pull off area on the east side just north of Mitchell St); and east of the east back of curb from Maple St to Cleveland St. Excluding any vacation of the existing ROW along the west side of Razorback Rd, north of Center Street adjacent to the Islamic Center of Northwest Arkansas property.

Maple St: Vacating ROW north of the north back of curb and south of the south back of curb, from Razorback Rd to Garland Ave

Garland Ave: Vacating ROW west of the west back of curb and east of the east back of curb, from Maple St to Cleveland St (and including the bus pull off area on the east side between Douglas St and Cleveland St)

Cleveland St: Vacating ROW south of the south back of curb, from Razorback Rd to Lindell Ave

Hill Ave: Vacating ROW east of the east back of curb, south of MLKJr Blvd to the alley along the north side of the National Cemetery property

Lt Col Leroy Pond: Vacating ROW west of the proposed back of curb, south of MLKJr Blvd to the Railroad ROW containing the City trail

MLKJr Blvd: Vacating the 10' strip of ROW along the south side of MLKJr Blvd in the center of the block between Hill Ave and Lt Col Leroy Pond

The University of Arkansas is the only abutting land owner to the rights of way sought to be vacated/reduced. By granting this vacation request, the current owners would benefit, and no other landowner would be adversely affected.

Pedestrian Access Easements will be dedicated to the City to the back of sidewalks along the streets.


Where storm drainage systems, water mains, and sewer mains exist within the proposed vacated areas: drainage, water, and sewer easements will be dedicated to the City. Other utilities located within the proposed vacated areas will receive written easements for their continued use, maintenance, & repair/replacement.

The public interest and welfare would not be adversely affected by granting this vacation request.

The vacation/reduction of the rights of way described above would benefit the City of Fayetteville by removing the senior sidewalks, sidewalks, side paths, lights, trees, signs, drive aprons, etc from required city maintenance and repair/replacement, thus saving the taxpayers and allowing money allocated for this purpose to be used where needed elsewhere. Those obligations would be conveyed unto the University of Arkansas.

Included in the Petition Packet is:

- 1 Application and Payment of applicable fees for processing the application \$205.00.
- 2 Legal description of areas to be vacated
- 3 Exhibit Maps
- 4 This Letter
- 5 Owner's consent
- 6 Authorization Letter
- 7 County Parcel Map Copies
- 8 Petition to Vacate ROW
- 9 Utility Company Comments


Allen Jay Young, Development Consultants, Inc.

PETITION TO VACATE/REDUCE STREET RIGHTS OF WAY LOCATED IN SECTIONS 8, 9, 16, 17 & 21, T16N, R30W, IN THE CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the street rights of way hereinafter sought to be abandoned/vacated/reduced, lying in sections 8, 9, 16, 17 & 21, T16N, R30W, in the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate the street rights-of-way which are described as follows:

Razorback Rd: Vacating ROW west of the west back of curb and east of the east back of curb from MLKJr Blvd to Maple St (and including the bus pull off area on the east side just north of Mitchell St); and east of the east back of curb from Maple St to Cleveland St. Excluding any vacation of the existing ROW along the west side of Razorback Rd, north of Center Street adjacent to the Islamic Center of Northwest Arkansas property.

Maple St: Vacating ROW north of the north back of curb and south of the south back of curb, from Razorback Rd to Garland Ave

Garland Ave: Vacating ROW west of the west back of curb and east of the east back of curb, from Maple St to Cleveland St (and including the bus pull off area on the east side between Douglas St and Cleveland St)

Cleveland St: Vacating ROW south of the south back of curb, from Razorback Rd to Lindell Ave

Hill Ave: Vacating ROW east of the east back of curb, south of MLKJr Blvd to the alley along the north side of the National Cemetery property

Lt Col Leroy Pond: Vacating ROW west of the proposed back of curb, south of MLKJr Blvd to the Railroad ROW containing the City trail

MLKJr Blvd: Vacating the 10' strip of ROW along the south side of MLKJr Blvd in the center of the block between Hill Ave and Lt Col Leroy Pond

That the abutting real estate affected by said abandonment/vacation/reduction of the street rights of way are various tracts of land owned by the University of Arkansas in the City of Fayetteville, the rights of way are only being abandoned to the extents noted in the description above thus reducing the street rights of way and not eliminating them, that the affected streets will continue to have unaffected vehicular traffic, and that the public interest and welfare would not be adversely affected by the abandonment/vacation/reduction of portions of the above described street rights of way.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing storm drainage easements, water easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

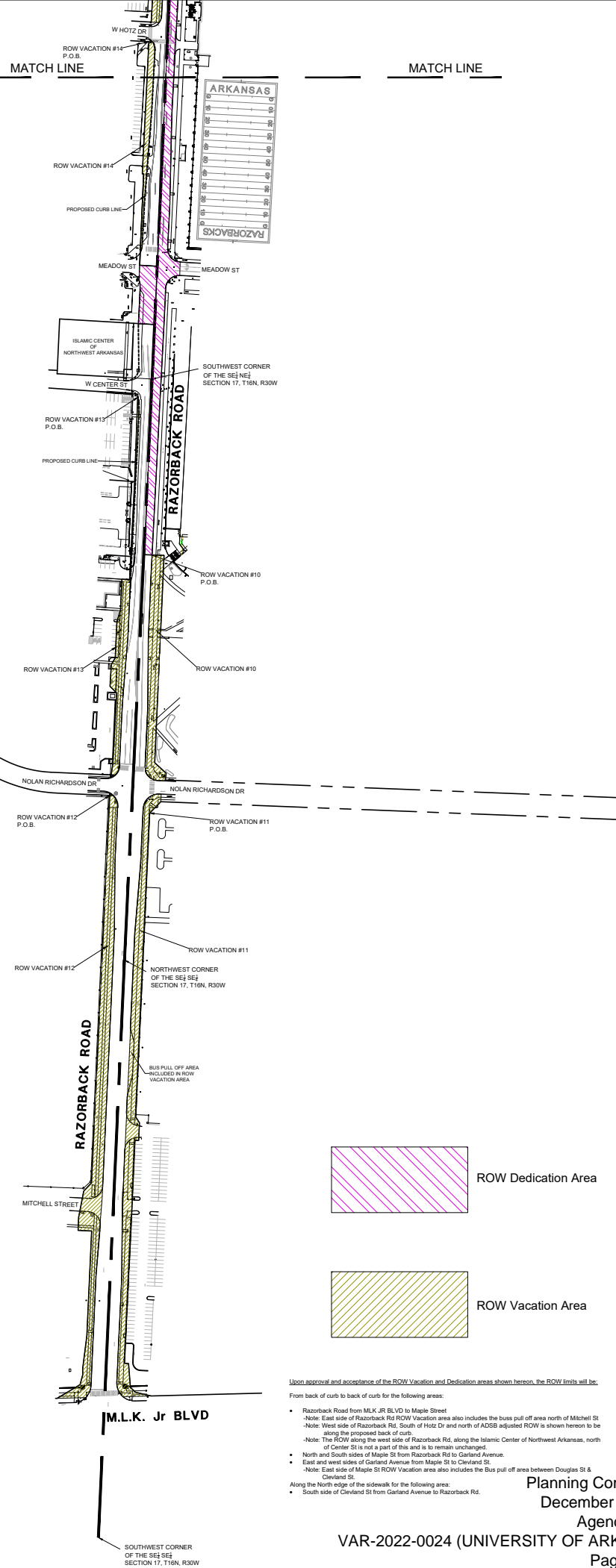
The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said storm drainage easements, water easements and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said right of way.

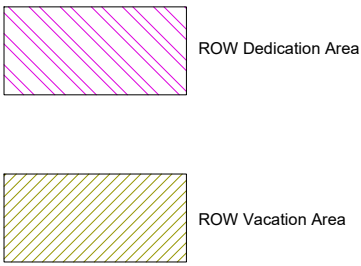
Dated this 1 day of November, 2022.

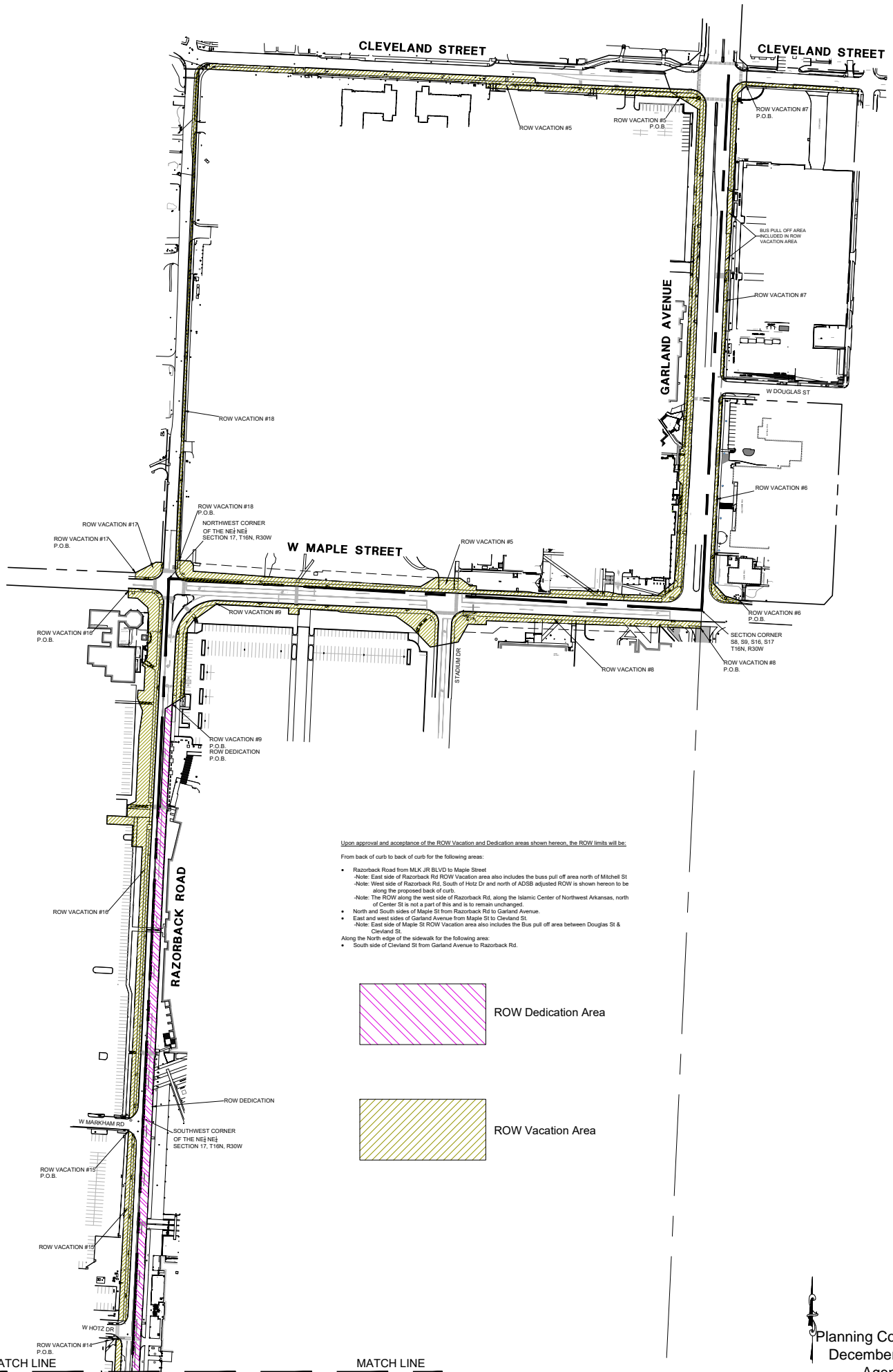
Allen Jay Young
Printed Name


Signature



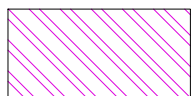
- Upon approval and acceptance of the ROW Vacation and Dedication areas shown hereon, the ROW limits will be:
- From back of curb to back of curbs for the following areas:
- Razorback Road from MLK Jr Blvd to Maple Street
 - East side of Razorback Rd ROW Vacation area also includes the bus pull off area north of Mitchell St
 - West side of Razorback Rd, South of Hotz Dr and north of ADSB adjusted ROW is shown hereon to be along the proposed back of curb.
 - The ROW along the west side of Razorback Rd, along the Islamic Center of Northwest Arkansas, north of Center St is not a part of this and is to remain unchanged.
 - North and South sides of Maple St from Razorback Rd to Garland Avenue.
 - East and west sides of Garland Avenue from Maple St to Cleveland St.
 - East side of Maple St ROW Vacation area also includes the Bus pull off area between Douglas St & Cleveland St.
- Along the North edge of the sidewalk for the following area:
- South side of Cleveland St from Garland Avenue to Razorback Rd.





Upon approval and acceptance of the ROW Vacation and Dedication areas shown herein, the ROW limits will be:

- From back of curb to back of curb for the following areas:
 - Razorback Road from MLK JR BLVD to Maple Street
 - Note: East side of Razorback Rd ROW Vacation area also includes the bus pull off area north of Mitchell St
 - Note: West side of Razorback Rd, South of Hotz Dr and north of ADSB adjusted ROW is shown herein to be along the proposed back of curb.
 - Note: The ROW along the west side of Razorback Rd, along the Islamic Center of Northwest Arkansas, north of Center St is not a part of this and is to remain unchanged.
 - North and South sides of Maple St from Razorback Rd to Garland Avenue.
 - East and west sides of Garland Avenue from Maple St to Cleveland St.
 - Note: East side of Maple St ROW Vacation area also includes the Bus pull off area between Douglas St & Cleveland St.
- Along the North edge of the sidewalk for the following area:
 - South side of Cleveland St from Garland Avenue to Razorback Rd.

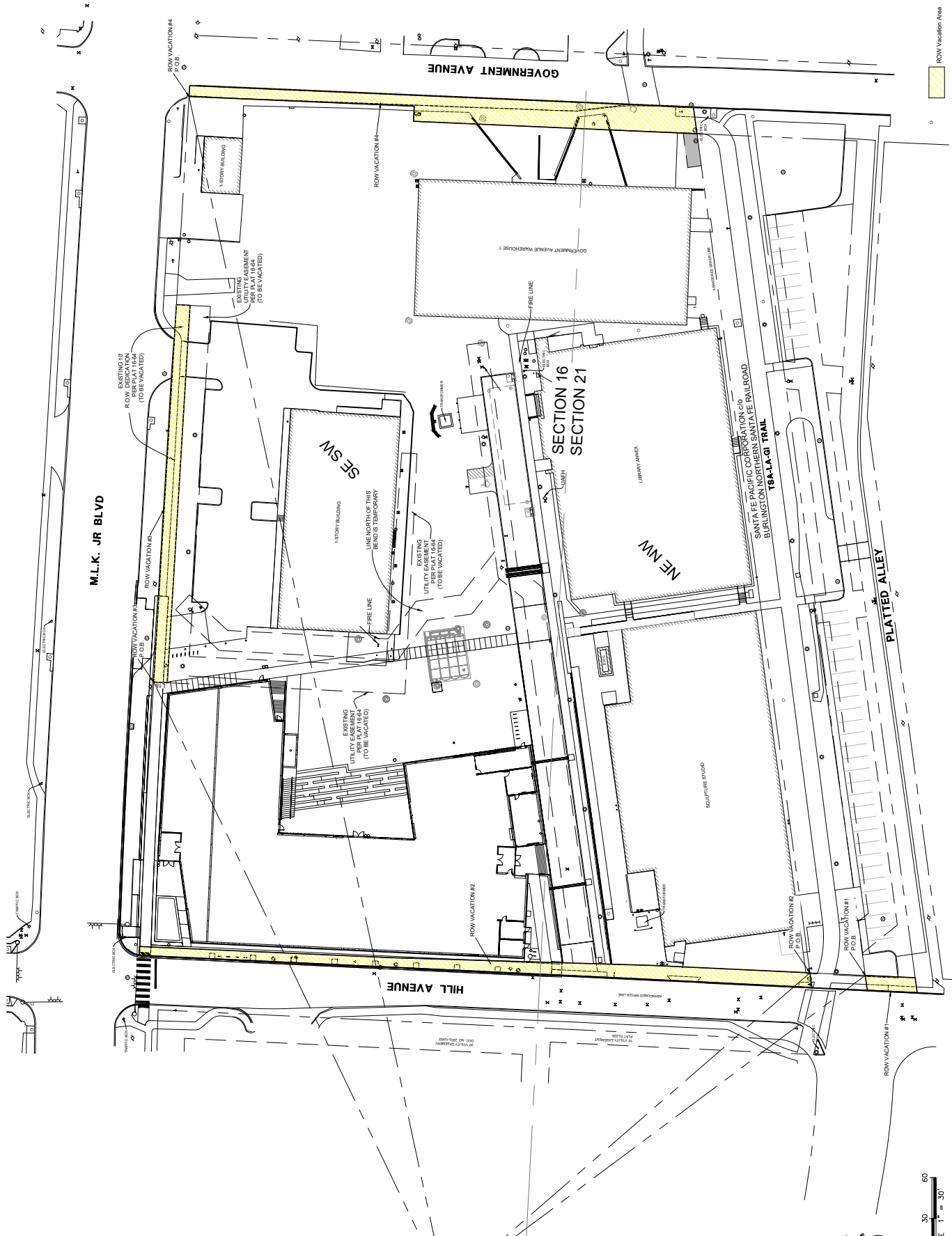


ROW Dedication Area



ROW Vacation Area

Planning Commission
December 12, 2022
Agenda Item 6

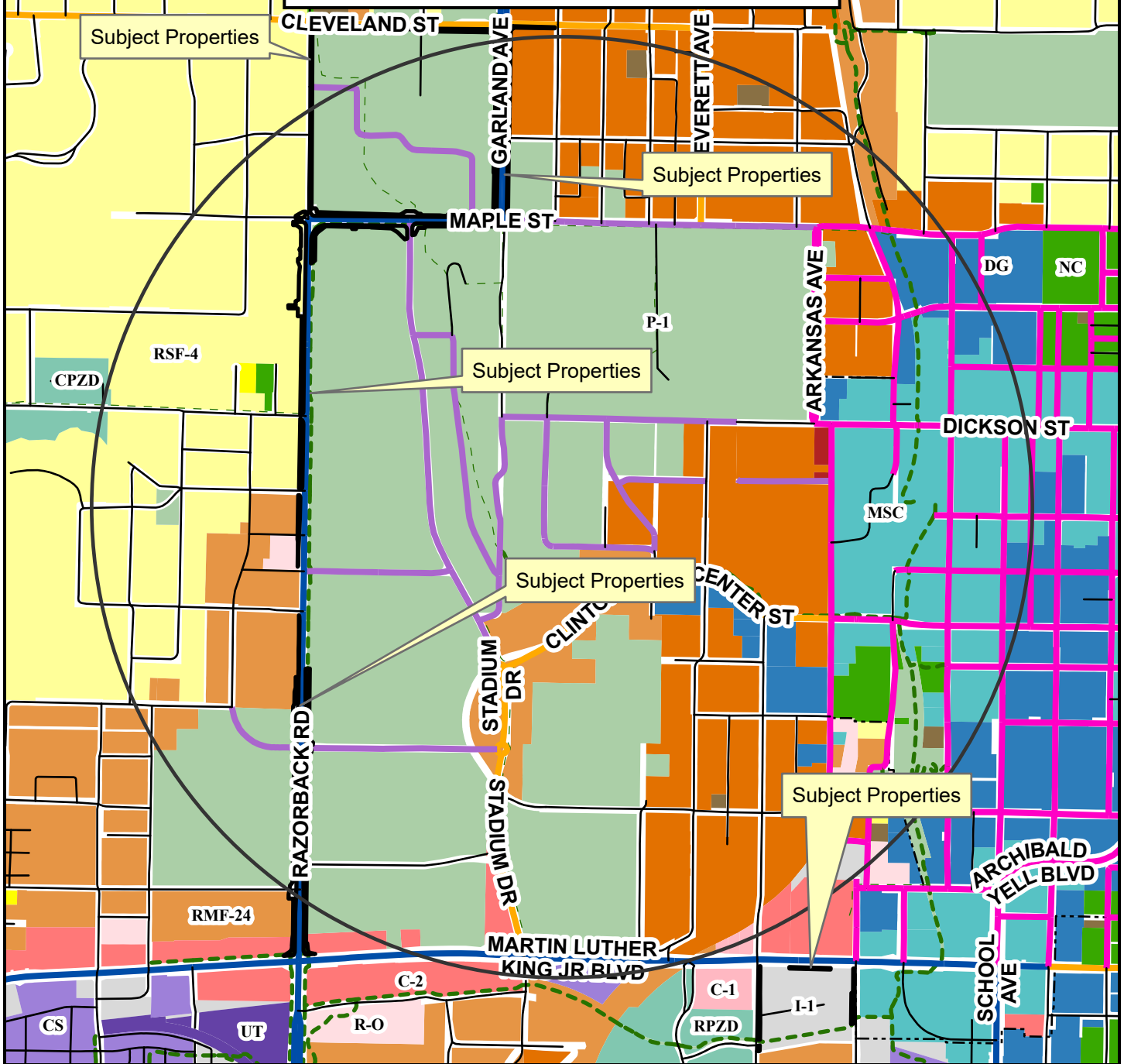


NW CORNER
NE 1/4 NW 1/4
SECTION 21
T16N, R30W

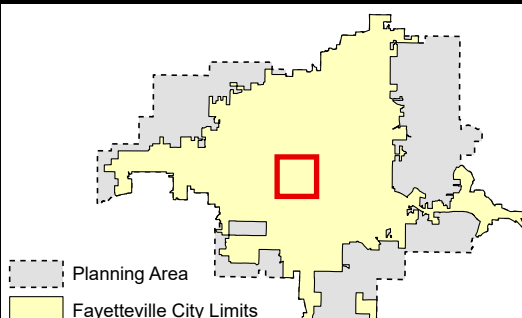
Planning Commission
December 12, 2022



0 0.15 0.3 0.6 Miles



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area



- | | |
|--|--|
| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> NS-G RH-U R-12 NS-L Residential-Agricultural RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RMF-6 RMF-12 RMF-18 RMF-24 RMF-40 <p>INDUSTRIAL</p> <ul style="list-style-type: none"> I-1 Heavy Commercial and Light Industrial I-2 General Industrial | <p>EXTRACTION</p> <ul style="list-style-type: none"> E-1 <p>COMMERCIAL</p> <ul style="list-style-type: none"> C-1 Residential-Office C-2 C-3 <p>FORM BASED DISTRICTS</p> <ul style="list-style-type: none"> Downtown Core Urban Thoroughfare Main Street Center Downtown General Community Services Neighborhood Services Neighborhood Conservation <p>PLANNED ZONING DISTRICTS</p> <ul style="list-style-type: none"> Commercial, Industrial, Residential INSTITUTIONAL P-1 |
|--|--|