



# CITY OF CONWAY, ARKANSAS PLANNING COMMISSION

March 13, 2023 • 6:30pm • 1111 Main Street

Planning Commission meeting procedures (per by-laws adopted July 19, 1993; amended September 20, 2021)

*\*\*Order and conduct for public hearings: Following the announcement of the item by the Chair, Planning Staff will present the report findings. Following Staff presentation the Applicant is granted up to 10 minutes for additional presentation with subsequent favorable public comments limited to 3 minutes per person. If opposed parties are present the initial speaker is then granted up to 10 minutes with each subsequent public comment limited to 3 minutes per person. No person shall address the Planning Commission without first being recognized by the Chair and stating his/her name and address for the public record. All questions/remarks shall be made from the podium and addressed through the Chair to the Commission as a whole. Any group with common interest shall select a speaker to address the Commission on behalf of the group; repetitive comments will be limited.*



# City of Conway PLANNING COMMISSION

March 13, 2023

## PLANNING COMMISSION

Rebekah Fincher, Chair  
Laura King, Vice-Chair  
Drew Spurgers, Secretary  
Alexander Baney  
Adam Bell  
Mark Ferguson  
Latisha Sanders-Jones  
Lori Quinn  
Ethan Reed  
Jensen Thielke

The Conway Planning Commission makes recommendations to the City Council on public hearing items. Items reviewed on this agenda will be considered by the City Council as early as **March 28, 2023**.

Items not approved by the Planning Commission may be appealed to the City Council within 30 days of the date of Planning Commission denial, with exception of decisions made by the Planning Commission acting as the Board of Zoning Adjustment.

**Call to Order and Roll Call.**

**Finding of a Quorum.**

**Approval of Minutes.** February 21, 2023

### I. Appeal

A. Review of Appeal: Interpretation of Article V §9 of the Subdivision Regulations (APP-0223-0016)

### II. Public Hearing\*\*

A. Request for conditional use permit to allow Extermination Service in an O-1 zoning district for property located at 783 Diane Lane (CUP-0223-0020)

B. Consideration to recommend adoption of the Oak Street Ahead Corridor Plan

### III. Announcements/Additional Business

A. Discussion: Planning & Development Newsletter

**Adjournment**

# Appeal: Interpretation of Subdivision Ordinance (#0-00-03 as amended)

2805 - 2860 Harbelle Drive

## APPLICANT

Jacob Longing Construction, LLC  
PO Box 846  
Conway, AR 72033



## SITE DATA

**Location.** 2805-2830 Harbelle Dr, Cresthaven Subdivision Phase 4.

**Site Area.** 15.12 acres ±.

**Current Zoning.** R-1 (One Family Residential).

**Existing Structures.** Two single-family homes, one 4,735 sf and one 4,333 sf.

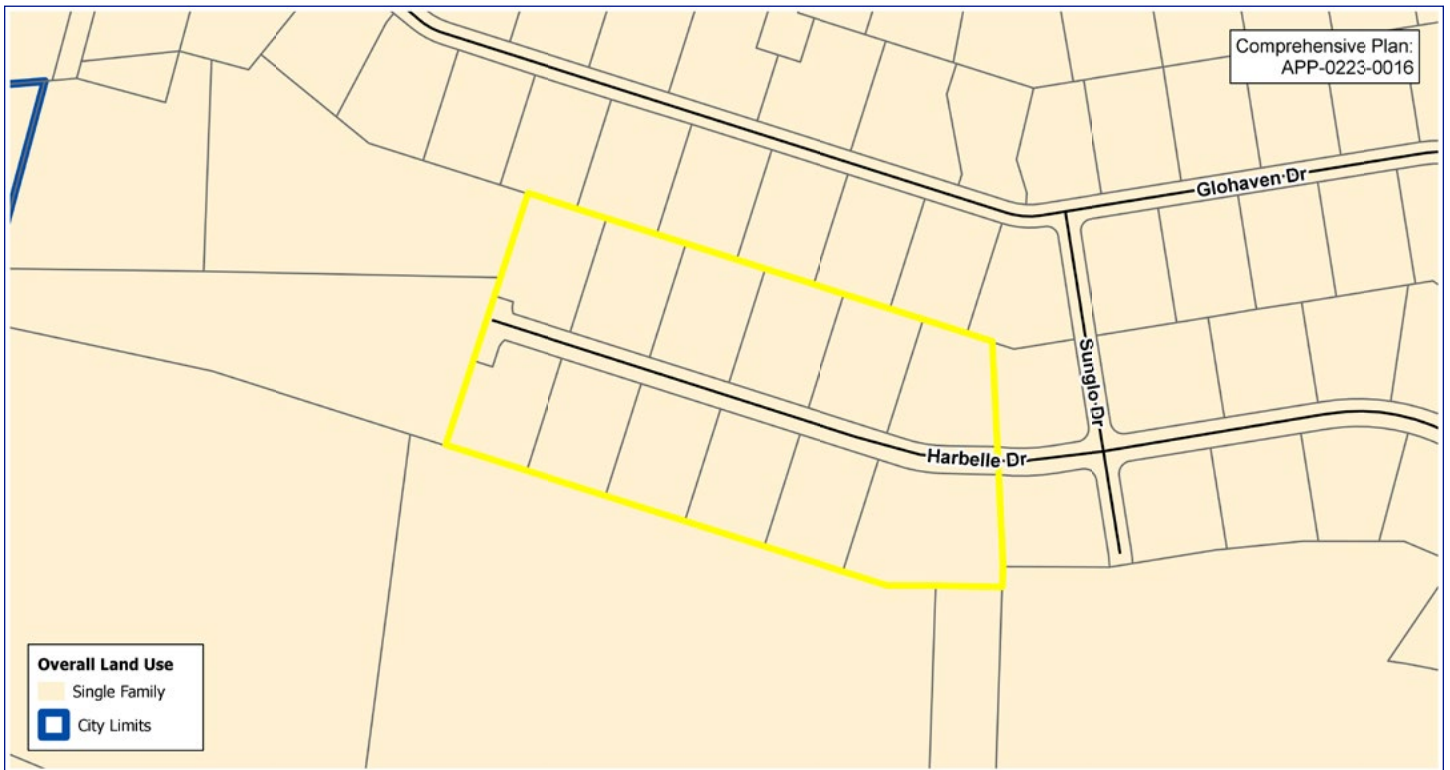
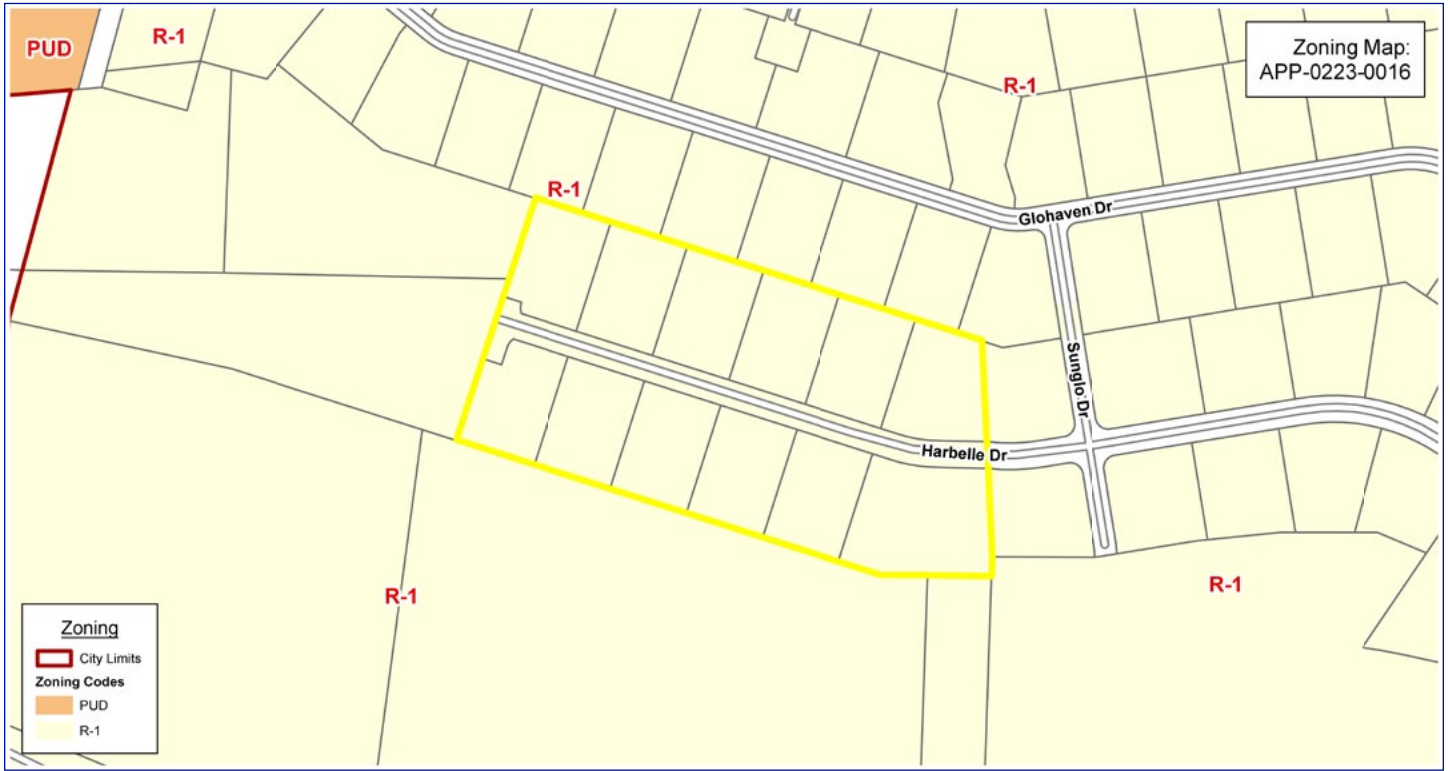
**Overlay.** None.

## REQUEST

The applicant is appealing the interpretation and application of the Subdivision Regulations (#0-00-03 as amended), specifically Article V §9 that applies to the requirement for sidewalks, by the Director of Planning & Development.

# Appeal: Interpretation of Subdivision Ordinance (#0-00-03 as amended)

2805 - 2860 Harbelle Drive



**CODE REQUIREMENTS**

- The Subdivision Regulations (Article V §9) require ADA accessible sidewalks to be constructed on both sides of the street in all zoning districts within city limits and the extraterritorial jurisdiction with a few exceptions:
  - 1) minor replats which create no new lots;
  - 2) new lots created in the I-3 zoning district; or
  - 3) large lot subdivisions outside the city limits, but within the extraterritorial jurisdiction (large lot subdivisions are defined as lots with greater than 150' of street frontage)

The subject property, while containing lots with greater than 150' of street frontage, is located within the city limits.

- Sidewalk construction along residential lots are the responsibility of the builder/property owner and are required to be complete prior to the final building inspection and issuance of a certificate of occupancy.
- The City of Conway Standard Details for Roadway and Drainage Construction includes typical sections for all street classifications, including those constructed as open ditch, such as a Local in a Rural Residential Zone (*refer to J.Walden email on page 6*).
- A developer may request a waiver to the sidewalk construction requirement when unusual circumstances exist. Some factors that are considered in determining if granting the waiver is appropriate include the density of current/future development, pedestrian traffic generators such as schools or parks, and the existence of a sidewalk network in the area.
- If a waiver to sidewalk construction requirements is granted, the developer may elect to pay fees in-lieu of construction at a per linear foot rate equal to a 4-year rolling average of ARDOT's Weighted Average amount for Concrete Walks (for 2022 is was \$31.18/linear foot for 5' sidewalk). Residential fees in-lieu of sidewalk construction are limited to a maximum of 150' of frontage per lot. At the 2022 rates this amount is equal to \$4,677.00 per lot.

The granting of a waiver does not remove all sidewalk responsibility, it simply provides a path of relief when sidewalk construction may be deemed unreasonable.

Personal hardship and financial considerations are not deemed overriding factors for the granting of a variance, exception or waiver (*Subdivision Regulations, Article V §11(3)*).

- In-lieu of sidewalk construction fees collected are deposited to a general sidewalk fund and used solely for the addition of new sidewalks and maintenance of the existing sidewalk network.



**REQUEST DETAILS**

- A portion of the subject property, Cresthaven Subdivision Phase 4, was annexed to the City of Conway on 3/28/1995 (#O-95-19); another portion was part of a 3/8/2007 annexation (#O-07-38), and the remainder was annexed on 9/8/2020 (#O-20-50).
- The final plat for the subdivision was filed on 12/16/2020 (refer to page 8).
- Staff learned of a series of nonconforming instances related to current building projects that might have been avoided with additional levels of review partnership and oversight. In an effort to provide review support to Permitting Staff, a subdivision verification workflow step\*, performed by Planning Staff, was added to the building permit review process in approximately July 2022. This review step ensures that properties with active building permit applications are properly configured in accordance with the Subdivision Regulations and Zoning Code development standards. \*Zoning verification has always been part of the permit review process.
- The approved building permit site plans, for the Harbelle Dr properties in question, did not reflect a sidewalk, therefore Planning Staff inferred that the builder intended to pay the fees in-lieu of sidewalk construction. At that time, Planning Staff reviewed open permit applications for the remaining Cresthaven Phase 4 properties, and finding no proposed sidewalks on the approved site plans, also assessed sidewalk in-lieu fees for those permits. (Fees other the cost of the building permit, such as impact fees and fees in-lieu if applicable, are not due until the completion of the project, prior to the issuance of a certificate of occupancy).
- Following the in-lieu of sidewalk fees being assessed, City Staff from Permitting, Planning, and the Mayor’s Office met and communicated with the applicant in an effort to clarify and resolve the concern.
- It was determined by all City Staff, that the Planning Director’s regulation interpretation and guidance was accurate and the builder would need to either construct sidewalks or pay the fees in-lieu.
- Following this determination, the applicant opted to appeal the Planning Director’s interpretation to the Planning Commission as allowed by the Subdivision Regulations.

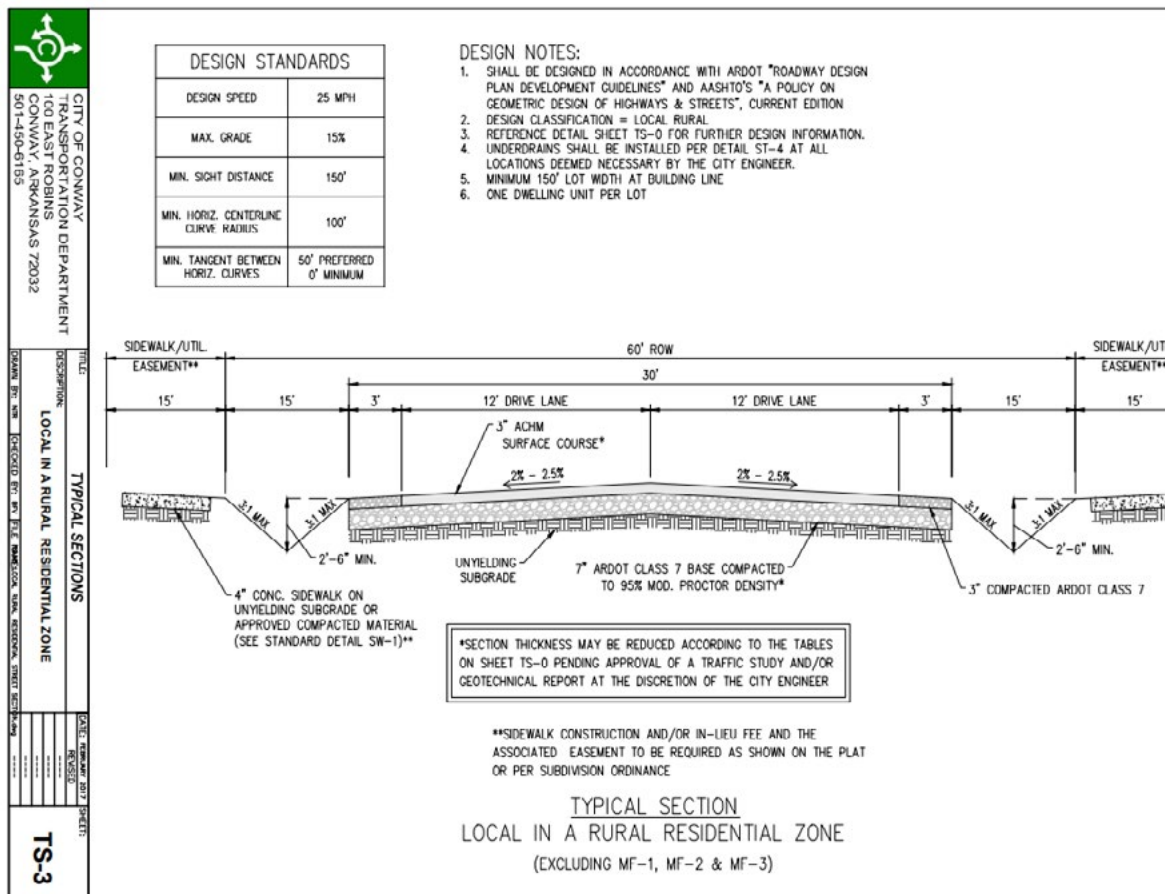
Tuesday, March 7, 2023 at 11:50:42 Central Standard Time

**Subject:** Cresthaven Ph 4 Sidewalks  
**Date:** Friday, December 9, 2022 at 1:59:03 PM Central Standard Time  
**From:** James Walden  
**To:** Jacob Longing  
**Attachments:** image001.png, image002.png

Jacob,

I was made aware of your concern regarding sidewalks in Cresthaven Ph 4. I went back to review comments, communications, and application documents.

1. The sidewalk requirement derives from Article V, Section 9 of the Subdivision Regulations. "Item 1. Sidewalks shall be constructed on both sides of all streets within all zoning districts within Conway city limits and within the Conway Territorial Jurisdiction." This establishes the sidewalk requirement for the subdivision. Item 5 in that Section places the responsibility on the homebuilder with construction occurring prior to issuance of a certificate of occupancy.
2. In reviewing the preliminary plat, your designs indicate an open ditch cross section. In such instances, sidewalks cannot be accommodated within the right-of-way. As such, a comment was added on the October 29, 2019 review of the preliminary plat to reflect a sidewalk/utility easement along the ROW to comply with standard detail TS-3 in the Conway Standard Details. This easement is reflected on the filed plat.





Numbers correspond to submittal checklist.

- #23 Proposed drainage easements with dims
  - #36 Drainage area above points of entry
  - #44 calculations for all drainage improvements
  - #50 dedicated flowage path for 100 yr event with computations
  - #51 100 floodway easement
  - #52 min finish floor elevs
  - #63 Sidewalk/utility easement along ROW(see typ sect)
  - #61 need to see street grades
- Orient Plan and Profile to same direction  
 All work in ROW must conform to City of Conway Standard Details  
 Numbers correspond to Preliminary Plat submittal check list

**REVIEWED**  
By Neil Reed at 11:32 am, Oct 29, 2019

7°50'04" W 51.2 ...

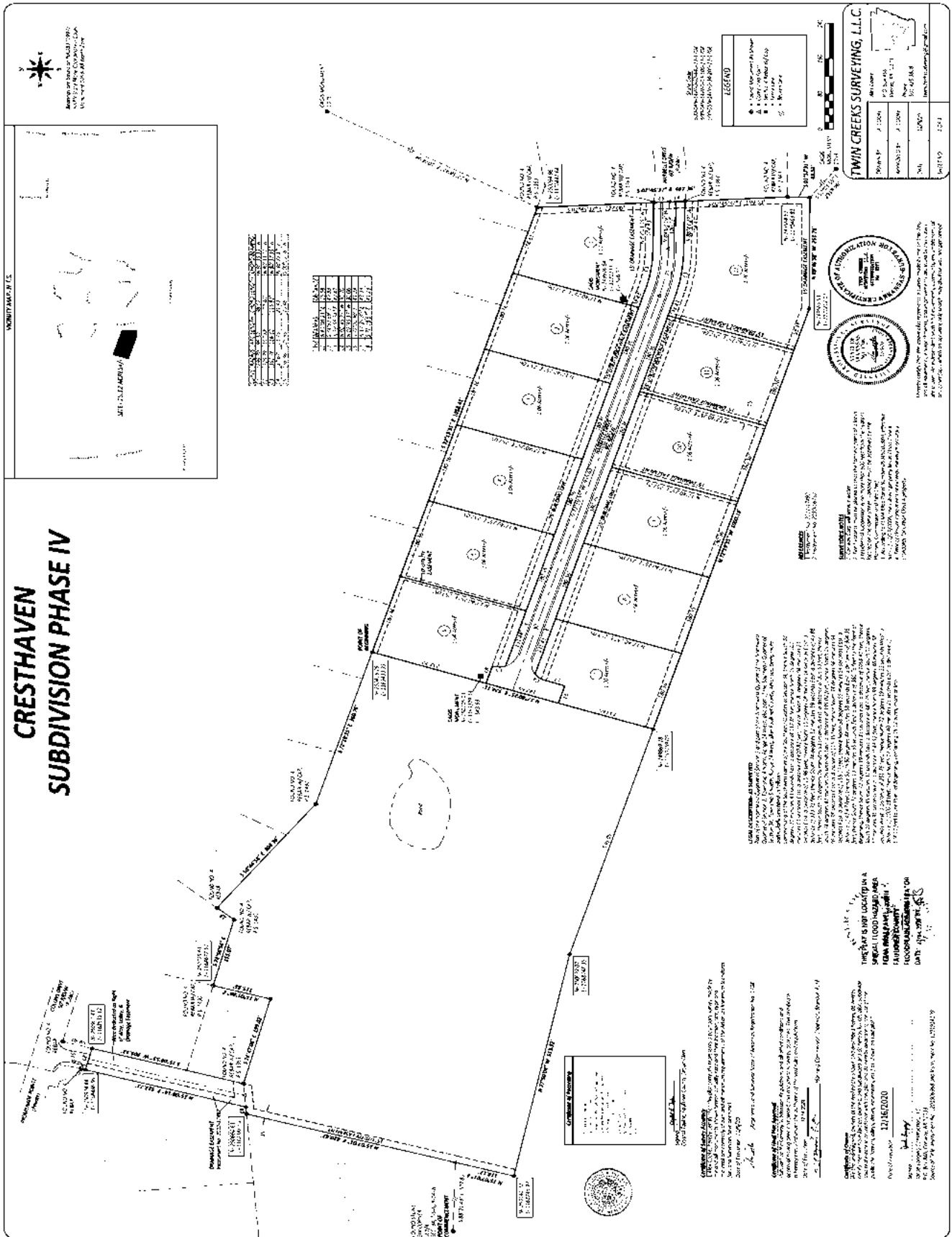
3. Standard detail TS-3 provides for acceptance of fee-in-lieu, as does item 10 of Section 9. It is your option to construct sidewalks or seek the fee-in-lieu option.
4. The Subdivision Regulations do not provide an option other than construction or payment of fee-in-lieu. Unfortunately, you aren't the first person frustrated by this provision in the code. However, it has been strongly enforced.

It is my finding that sidewalk construction is required. You additionally have the option to proceed with seeking a fee-in-lieu of construction. If you believe this determination has been made in error, you can apply for an appeal. Such appeal would go to the Planning Commission. The appeal would be reviewed on the basis of whether or not the plain language of the Subdivision Regulations have been correctly interpreted and applied.

Let me know if you have any questions or concerns.

**James P. Walden, AICP**  
Director of Planning and Development  
501.450.6105

[City of Conway](#)  
1111 Main St.  
Conway, AR 72032



## Jacob Longing Construction, LLC

**P.O. Box 846  
Conway, AR 72033  
501-730-3048**

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February 7, 2023

City of Conway  
Planning & Development Department  
1111 Main St  
Conway, AR 72032

RE: Cresthaven Phase IV

To Whom It May Concern:

Jacob Longing Construction, LLC was recently billed for in-lieu sidewalk fees (\$4,677) for the construction of a new home at 2860 Harbelle Drive. The fee was added, along with impact fees, to the building permit application. Shortly after, two additional invoices were sent for 2850 Harbelle Drive and 2820 Harbelle Drive for the same amount (\$4,677 and \$4,677). These homes were permitted months earlier and nearing completion. Neither were assessed in-lieu sidewalk fees at the time of permitting.

Sidewalks/in-lieu fees were also not required on the first two homes permitted and completed for clients by Jacob Longing Construction, LLC located at 2835 Harbelle Drive and 2815 Harbelle Drive in Cresthaven Phase IV.

Unfortunately, three homes (2820 Harbelle Drive, 2850 Harbelle Drive and 2860 Harbelle Drive) and two others under written contract for construction (2830 Harbelle Drive and 2845 Harbelle Drive) were not quoted with sidewalk in-lieu fee/sidewalks by Jacob Longing Construction, LLC.

Sidewalk/in-lieu fees are not shown or noted on the approved and signed plat (only a utility/sidewalk easement) and not required in similar large lot subdivisions platted during the same time period in the same location (Round Mountain).

In the name of consistency and precedent, Jacob Longing Construction, LLC (developer and building contractor) respectively requests on behalf of the lot owners and Jacob Longing Construction, LLC that sidewalk/sidewalk in-lieu fees be waived on lots 1-12 Cresthaven Phase IV.

# Request for Conditional Use Permit: Extermination Service in O-1

783 Diane Lane

**APPLICANT/AUTHORIZED AGENT**

Wesley Sullins  
The Pest Detective  
PO Box 10862  
Conway, AR 72034

**OWNER**

Bill Brown  
783 Diane Ln  
Conway, AR 72034



**SITE DATA**

**Location.** 783 Diane Ln. Located west of the Dave Ward Dr and Diane Ln intersection.

**Site Area.** 4.40 acres ±.

**Current Zoning.** O-1 (General Office District).

**Abutting Zoning.** West: C-3 (Highway Service and Open Display District); North: O-1; East: A-1 (Agricultural District); South: A-1.

**Existing Structures.** Shop building with smaller outbuilding, single family residence in rear.

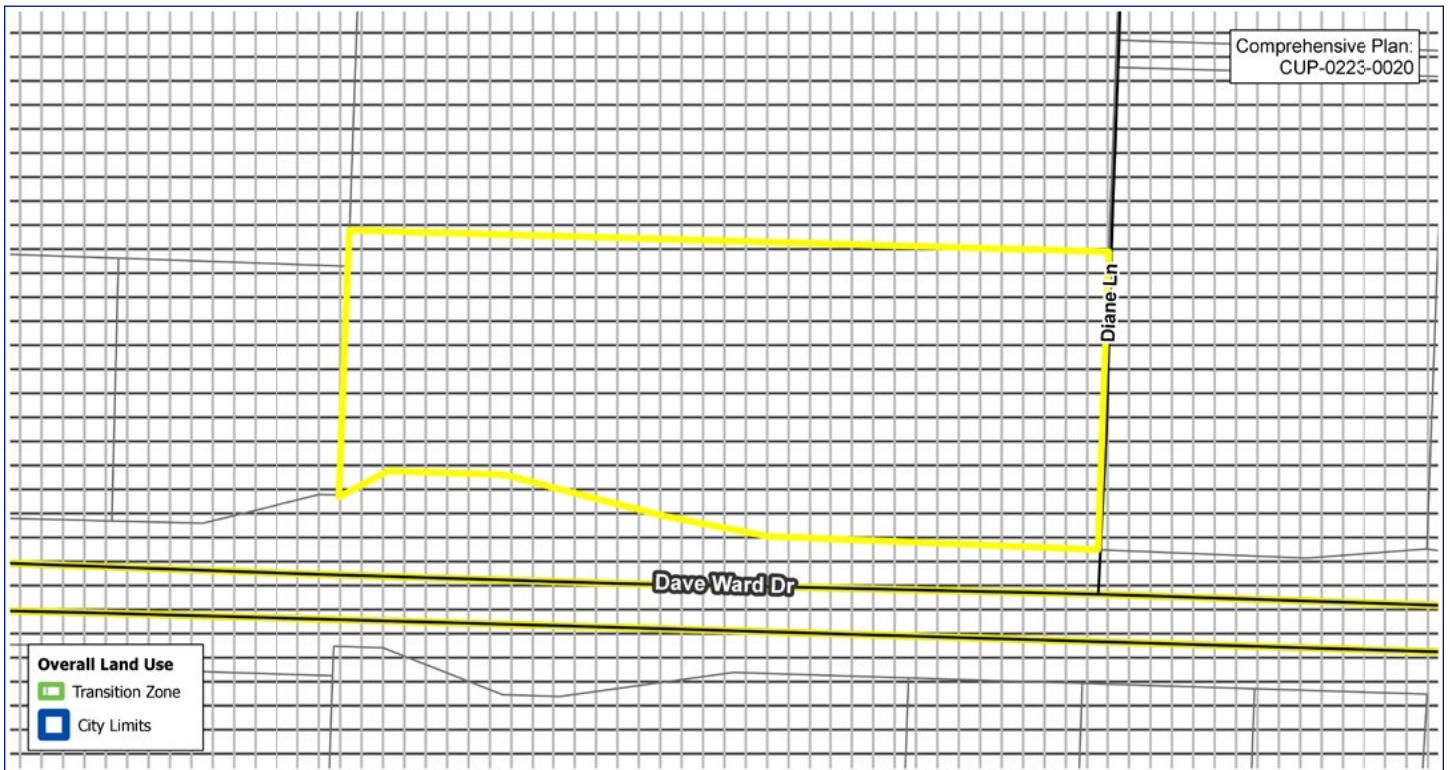
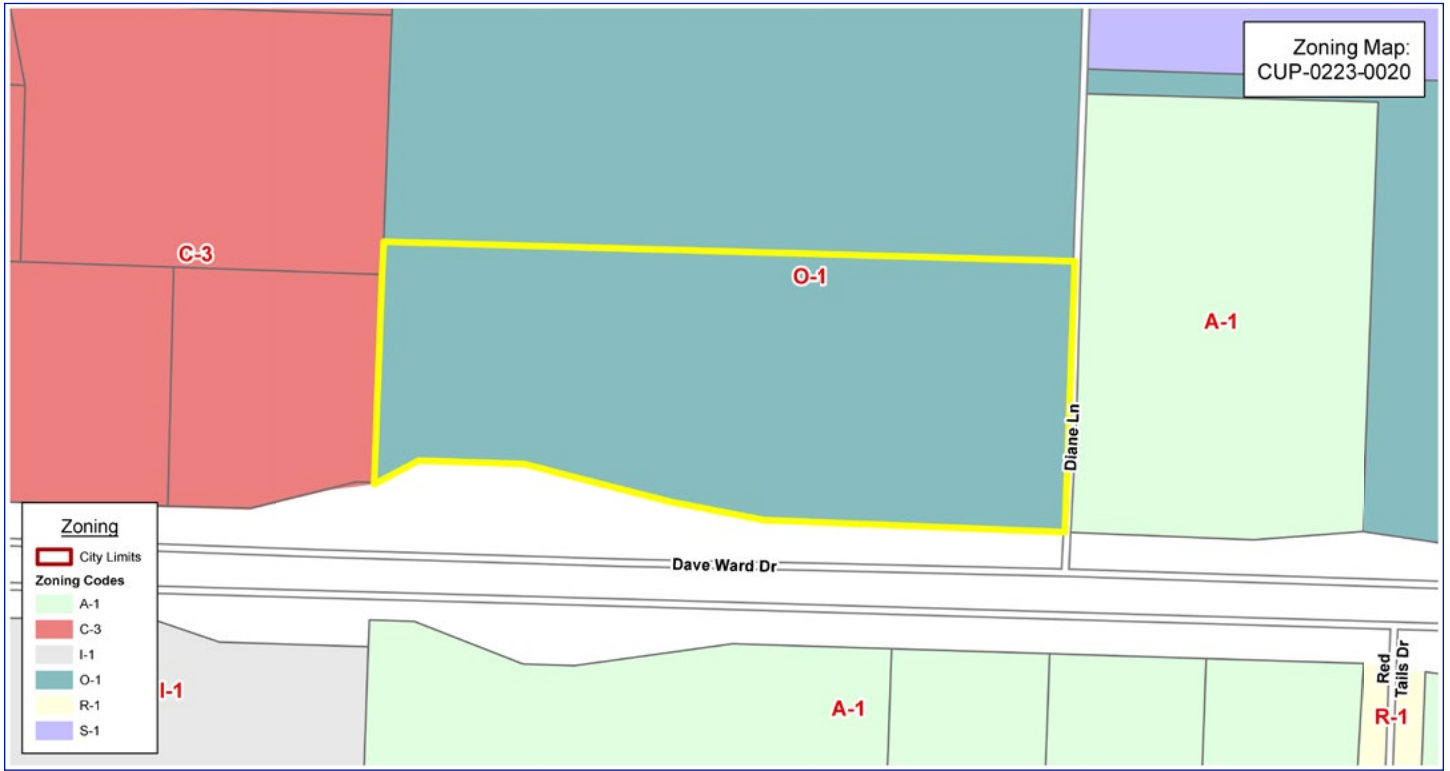
**Overlay.** None.

**Requested Conditional Use.** Exterminating service.

**Comprehensive Plan.** Transition Zone.

**Projected Traffic Impact.** With a conditional use permit allowing an exterminating service, the likely effect on traffic would be minimal. Based on the type of business, it is anticipated this use would generate less than 100 vehicle trips per typical weekday. This is likely less than traffic created by the previous tenant.

783 Diane Lane



783 Diane Lane

**Current Traffic Counts.** McNutt Rd - 4,500 average daily traffic (ADT) near the Dave Ward Dr intersection. No additional data points. Diane Ln is currently a dead-end street off of Dave Ward Dr.

**Flood/Drainage.** The site is not within any regulated floodplains or floodways.

**Utilities.** Utilities are present at the site. Any expansion of utilities will need to be coordinated with Conway Corporation.

**Master Street Plan.** Diane Ln – Local Residential (50' ROW), Dave Ward Dr – Major Arterial (100' ROW).

**Street Improvement.** No current improvement plans.

## **STAFF COMMENTS**

- The applicant intends to open an exterminating service, a use which is not allowed in the current zoning (O-1) but is allowed as a conditional use.
- The Comprehensive Plan designates this area as a Transition Zone. The Transition Zone allows for more intense uses only when sensitivity to adjoining residential areas is considered. This type of use is appropriate for this area. The site is situated at the corner of Dave Ward Dr and should not negatively impact adjacent parcels to the north or east.
- The applicant plans to operate the center from 8:00am – 5:00pm, Monday – Friday.
- The size of the lot should allow for adequate space for operations and equipment.
- This conditional use would not likely result in harm to adjacent property.

## **STAFF RECOMMENDATIONS**

Staff recommends approval of the conditional use permit with the following conditions:

1. Operating hours are limited to Monday – Friday, 8:00am – 5:00pm.
2. Any site improvements shall be subject to development standards as outlined in Article 10 of the Conway Zoning Code, unless otherwise noted in permit conditions.
3. Parking area must be striped and ADA requirements for parking must be met.
4. Tree plantings required along Dave Ward Dr and Diane Ln. A landscape plan must be submitted to Planning Staff for approval.
5. All signage shall be permitted and installed in accordance with Article 12 of the Conway Zoning Code (Sign Ordinance).
6. No zoning variance shall be issued as a result of the commencement of the conditional use.
7. Upon conditional use approval, any expansions or additions to the structures as well as any changes to the use shall require an amended or new conditional use permit.
8. The conditional use shall automatically expire if the approved use ceases for more than 18 consecutive months.

## **SAMPLE MOTION**

I move to accept the staff recommendation to approve the request with the conditions indicated in the staff report on the basis that, as conditioned, the proposed use would not likely negatively impact adjacent property and will allow for appropriate use of the property.

# Request for Conditional Use Permit: Extermination Service in O-1

783 Diane Lane

II.A



View of subject property from Dave Ward Dr looking N



View of subject property from Diane Ln looking S



Property adjacent to the W

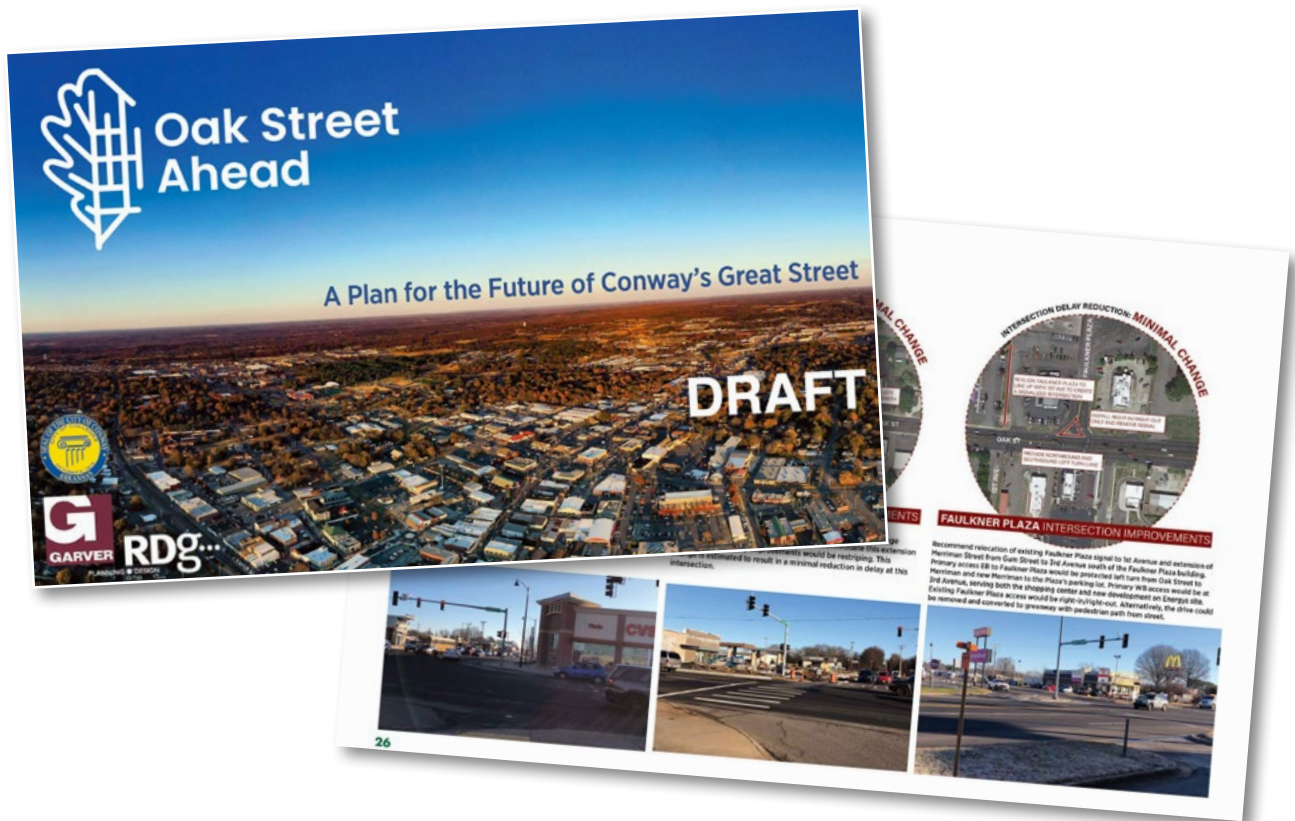


Property adjacent to the S



Property Adjacent to the N

The combined design team of Garver and RDG held an open house at City Hall on February 21<sup>st</sup> at 4:30 pm where they presented the Oak Street Ahead corridor plan to the public and were available to answer questions. The following Tuesday, February 28<sup>th</sup>, the design team presented the completed plan to both City Council and the Planning Commission prior to that evening's City Council meeting. The corridor plan is presented to the Planning Commission for consideration and recommendation to City Council for adoption at the March 28<sup>th</sup> City Council meeting.





## APPENDIX

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*The following items, which do not require public hearings or Planning Commission action, have been reviewed and approved by the Director of Planning & Development and are being reported to the Planning Commission as required by the Zoning Code and Subdivision Ordinance.*

### **Development Review Approvals**

- Don Pepe's (SDR-1022-0368)
- Autozone (SDR-1222-0409)
- Waffle House Post SDR Approval (SDR-0223-0023)

### **Plats filed for record (Lot Splits, Lot Mergers, and Final Plats)**

- Cima Plaza Correction Plat (P2023-00012)
- Sowell and Adcock Replat (P2023-00014)
- Luxe Landing (P2023-00015)