AGENDA

FAYETTEVILLE CITY COUNCIL MEETING
APRIL 21, 1998

A meeting of the Fayetteville City Council will be held on April 21, 1998 at 6:30 p.m. in the City Administration Building, 113 West Mountain Street, Room 219, Fayetteville, Arkansas.

The following items will be considered:

CONSENT

1. MINUTES: Approval of minutes from the April 7, 1998 City Council meeting.

2. BID 98-12: A resolution accepting the Lowest Qualified Bidder for Item #1 Self-propelled broom sweeper for Street Department- Bid # 98-12, with trade in of Item #2. The vender for this purchase is Mitchel Machinery Co., 2218 Industrial Park Road, Van Buren, AR.

3. BID #98-16: A resolution awarding and approving Bid #98-16 for the purchase of curbside recycling bins and accessories from Rehrig Pacific Company, Dallas, TX in the amount of $134,810 for implementation of our curbside sort recycling program and to approve a budget adjustment in the amount of $12,810.

4. RESEARCH AND TECHNOLOGY PARK: A resolution authorizing the City of Fayetteville to apply to the State of Arkansas Department of Finance and Administration for a grant from the Economic Development of Arkansas Fund for construction of water and sewer lines and streets necessary to develop the Research and Technology Park.

5. MAHLER LAND PURCHASE: A resolution authorizing the purchase by the City of 2.6 acres from Alex W. and Lori K. Mahler, located on Happy Hollow Road, for the future expansion needs of the City. Agreed to price is $50,000.00 for the 2.6 acres. Resolution should include purchase price and closing costs, together is estimated at $53,000.00 and to approve a budget adjusment in the amount of $50,000.

OLD BUSINESS

6. WARD BOUNDARIES: An ordinance changing the ward boundaries for the City of Fayetteville. The ordinance was left on the first reading at the April 7, 1998 meeting.

7. RZ 98-6.0: An ordinance rezoning property located at the southeast corner of Cato Springs Road and Razorback Road. The property is zoned I-1, Heavy Commercial-Light Industrial and contains approximately 19.47 acres. The request is to rezone the property R-2, Medium Density Residential. The ordinance was left on the first reading at the April 7, 1998 meeting.

8. AFFIRMING PLANNING COMMISSION FINDINGS: An ordinance requiring the Planning Commission to take a separate vote to affirm findings. The ordinance was left on the first reading at the April 7, 1998 meeting.

9. TOWN CENTER BOND ISSUANCE: An ordinance providing for the execution of documents needed to complete the issuance of the Hotel and Restaurant Gross Receipts Tax Bonds, Series 1998, the proceeds of which will be used to partially finance the construction of the Town Center and Parking Garage on the south side of the downtown square. In addition, the City Council is requested to grant the authority for the Budget Coordinator to execute any budget adjustments necessary to recognize the bond proceeds and bond issuance cost. The ordinance was left on the first reading at the April 7, 1998 meeting.

9A. RAZE AND REMOVAL: Approval for raze and removal of structure at 2173 W. Deane as per Ordinance 3948.

NEW BUSINESS

10. REZONING APPEAL FOR RZ 98-7.00: Appeal of Rezoning request RZ 98-7.00 submitted by Michele Harrington, on behalf of Mark Marquess and Dan Dykema, for property located at the southwest corner of 46th street and Persimmon and contains approximately 60 acres. The request is to rezone the property from A-1, Agricultural to R-1, Low Density Residential.

11. HUMAN DIGNITY POLICY: A resolution declaring the Human Dignity Policy of the City of Fayetteville and establishing the Fayetteville Human Dignity Council.

12. EMINENT DOMAIN: Approval of an offer of $18,000 as full settlement of the eminent domain action against Jerry D. Sweetser on property for the 24th Street Improvements.

13. STREET NAME CHANGE: An ordinance changing the name of a section of Cato Springs Road between U.S. Highway 71 and the junction of Razorback Road, a distance of approximately 0.39 miles to Razorback Road.

14. APPEAL OF A.B.C DECISION: Appeal of A.B.C. decision to license the dispensing of alcoholic beverages within 100 feet of the U.B.C Youth Building.

15. COMMUNITY NON-PROFIT MEETING ROOM: A resolution supporting the use of Capital Improvement Project funds for additional expense to provide a Community Non-Profit Group Meeting Room above the lobby or in another appropriate place within the Fayetteville Town Center.

16. INFORMATIONALS

Only items presented by the City Council or City Staff may be discussed during the meeting. If you have an item you wish to discuss, please contact your alderman to have it presented at the next City Council Agenda Session. For further assistance, please contact Heather Woodruff, City Clerk, at 575-8323.

APRIL 21, 1998

	ROLL				
MILLER	✓				
WILLIAMS	✓				
SCHAPER	✓				
DANIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
PETTUS	✓				
MAYOR HANNA	✓				
CONSENT	SM.				
MILLER	✓				
WILLIAMS	✓				
SCHAPER	✓				
DANIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
PETTUS	✓				
MAYOR HANNA					
WARD BOUND	SUSPEND RULE	left in second reading			
MILLER	✓				
WILLIAMS	✓				
SCHAPER	✓				
DANIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
PETTUS	✓				
MAYOR HANNA					

R298-6.00	T.T. 4m. 5.5. 2ND RD.	to Hold date.	go to second RD.	approved	
MILLER	✓	✓	✓	✓	
WILLIAMS	✓	✓	✓	✓	
SCHAPER	✓	✓	✓	✓	
DANIEL	✓	✓	✓	✓	
YOUNG	✓	✓	✓	✓	
ZURCHER	✓	✓	✓	✓	
TRUMBO	✓	✓	✓	✓	
PETTUS	✓	✓	✓	✓	
MAYOR HANNA					

AFF P.C. FINDINGS	2nd reading.				
MILLER	✓				
WILLIAMS	✓				
SCHAPER	✓				
DANIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
PETTUS	✓				
MAYOR HANNA					

TWN Cnt. BND	1st RD.	Table.			
MILLER	✓	✓			
WILLIAMS	✓	✓			
SCHAPER	✓	✓			
DANIEL	✓	✓			
YOUNG	✓	✓			
ZURCHER	✓	✓			
TRUMBO	✓	✓			
PETTUS	✓	✓			
MAYOR HANNA					

Approved.

RAZE & REMV.	AP. 4-S.				
MILLER	✓				
WILLIAMS	✓				
SCHAPER	✓				
DANIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO	✓				
PETTUS	✓				
MAYOR HANNA					
APPEAL R298-7.00					
MILLER					
WILLIAMS					
SCHAPER					
DANIEL					
YOUNG					
ZURCHER					
TRUMBO					
PETTUS					
MAYOR HANNA					
Human Rig.	Amd.	approved.			
MILLER	✓	✓			
WILLIAMS	✓	✓			
SCHAPER	✓	✓			
DANIEL	✓	✓			
YOUNG	✓	✓			
ZURCHER	✓	✓			
TRUMBO	✓	✓			
PETTUS	✓	✓			
MAYOR HANNA					
	6-2-0.	6-2-0.			

Eminent Dom	KW SM.				
MILLER	✓				
WILLIAMS	✓				
SCHAPER	✓				
DANIEL	✓				
YOUNG	✓				
ZURCHER	—				
TRUMBO	✓				
PETTUS	✓				
MAYOR HANNA	6-0-1				
St. Name Chg					
MILLER	X				
WILLIAMS	Yes				
SCHAPER	Yes				
DANIEL	Yes				
YOUNG	Yes				
ZURCHER	Yes				
TRUMBO	Yes				
PETTUS	Yes				
MAYOR HANNA					
ABC Dec.					
MILLER					
WILLIAMS					
SCHAPER					
DANIEL					
YOUNG					
ZURCHER					
TRUMBO					
PETTUS					
MAYOR HANNA					

mtg rm	Table				
MILLER	✓				
WILLIAMS	✓				
SCHAPER	✓				
DANIEL	✓				
YOUNG	✓				
ZURCHER	✓				
TRUMBO					
PETTUS	✓				
MAYOR HANNA					
	7-0-0	ads	11:50.		
MILLER					
WILLIAMS					
SCHAPER					
DANIEL					
YOUNG					
ZURCHER					
TRUMBO					
PETTUS					
MAYOR HANNA					
MILLER					
WILLIAMS					
SCHAPER					
DANIEL					
YOUNG					
ZURCHER					
TRUMBO					
PETTUS					
MAYOR HANNA					

FINAL AGENDA INFORMATION
for
April 21, 1998, Council Meeting

Handouts and Changes made at agenda session:

- Move Appeal of ABC Decision from consent agenda, pages 4.01-4.08 of tentative agenda, to item 14, regular agenda
  Number this 14.01-14.08

- Add Resolution re Research & Tech Park
  Number this 4.01-4.10 (replaces previous item 4)

- Add Raze & Removal/proper notice
  Number this 9A.01-9A.05

- Remove Town Center A & P, pages 10.01-10.24 of tentative agenda

- Add Appeal/RZ98-7
  Number this 10.01-10.18 (replaces previous item 10)

- Add Resolution re Town Center/public room
  Number this 15.01

Attached here:

- Final Agenda
- Minutes of April 7 meeting
- Information items--#16

RECEIVED
APR 21 1998
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Fayetteville
CHAMBER OF COMMERCE

April 21, 1998

TO: Mayor Fred Hanna and Members of the City Council

FROM: Marilyn Snapp
Director, Convention and Visitor Development

At the request of Advertising and Promotion Commission Chairman Joe Fennel and Chamber of Commerce President and C. E. O Steve Ward, I am requesting that the Council not consider the proposed lease of the Town Center/Exhibit Hall facility with the City at tonight's City Council meeting.

Both Joe Fennel and Steve Ward are out of town and will not be able to be present for the meeting. The Advertising and Promotion Commission have not had sufficient opportunity to discuss the proposed lease and wish to spend more time evaluating it and its implications.

ACCREDITED
CHAMBER OF COMMERCE
123 WEST MOUNTAIN • P.O. Box 4216 • FAYETTEVILLE, ARKANSAS 72702-4216 • (501) 521-1710 • FAX (501) 521-1791

A MEETING OF THE FAYETTEVILLE CITY COUNCIL

A meeting of the Fayetteville City Council was held on Tuesday, April 7, 1998, at 6:30 p.m., in the Council Room of the City Administration Building, 113 W. Mountain, Fayetteville, Arkansas.

PRESENT: **Mayor Fred Hanna; Aldermen Donna Pettus, Stephen Miller, Kit Williams, Len Schaper, Heather Daniel, Cyrus Young, Randy Zurcher, and Trent Trumbo; City Attorney Jerry Rose; City Clerk/Treasurer Heather Woodruff; staff; press; and audience.**

ABSENT: **None**

Mayor Hanna called the meeting to order with eight aldermen present.

NOMINATING COMMITTEE REPORT

Alderman Daniel nominated James Beamis to the Cable Board. Alderman Williams seconded. Upon roll call, the nomination carried on a vote of 8 to 0.

CONSENT AGENDA

Mayor Hanna introduced consideration of items which may be approved by motion or by resolution and which may be grouped together and approved simultaneously under a consent agenda:

A. Minutes of the March 17 regular City Council meeting;

B. MUD CREEK WATER LINE RELOCATION: Approval of the contract for Water Line Relocation for Mud Creek Str. and Apprs. with United Plumbing in the amount of $80,050. Approval of 15% contingency amounting to $12,000. The total funds requested being $92,050;

RESOLUTION 37-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

C. FULTON SANITATION SERVICES, INC.: Review of Amendment 2 of contract with Fulton Sanitation Services, Inc., for processing and marketing of the City's collected curbside recyclables.

RESOLUTION 38-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

D. OLD ANIMAL SHELTER RENOVATION: Approval of a project with Johnson Mech. for installation of plumbing and HVAC systems

in Old Animal Shelter Renovation. Rates per annual plumbing contract (Res. 45-96). Not to exceed $44,500;

RESOLUTION 39-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

E. CHANGE ORDERS 6 AND 7 FOR 24TH STREET: Approval of change orders 6 and 7 to the contract for reconstruction of 24th Street with APAC Arkansas, Inc., McClinton-Anchor Div. in the amount of $61,420.86. Approval of a budget adjustment of $130,000;

RESOLUTION 40-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

F. SUMMIT WATER TANK: Approval of a contract with Avanti Demolition to demolish Summit water tank and water filter building and approval of a budget adjustment.

RESOLUTION 41-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

G. CLEVELAND ST. IMPROVEMENTS: A resolution authorizing the execution of a contract with Crafton, Tull, and Associates for engineering services in connection with the design of improvements to Cleveland Street from Garland Avenue to Gregg Street in the amount of $58,431.83 plus a contingency of $15,000;

RESOLUTION 42-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

H. CONSIDERATION OF 240 E. CENTER STREET: Approval of the offer and acceptance contract with Mary and Barbara Carr for acquisition of the property at 240 E. Center. In addition, staff requests a resolution to donate the property to Habitat for Humanity of Fayetteville, Inc.;

RESOLUTION 43-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

Alderman Miller moved the consent agenda. Alderman Schaper seconded. Upon roll call, the motion carried on a vote of 7-0-1, with Alderman Young abstaining.

OLD BUSINESS

VOLUME BASED GARBAGE COLLECTION

Mayor Hanna introduced consideration of an ordinance approving a change to our garbage collection program and approving a budget

adjustment.

Alderman Young moved to suspend the rules and go to the next reading. Alderman Miller seconded.

City Attorney Rose confirmed for Alderman Miller that the Council could table this at anytime before the final vote.

Upon roll call the motion carried on a vote of 8 to 0.

City Attorney Rose read the ordinance for the third time.

Alderman Miller has received many phone calls about this and there seems to be a lot of confusion. Staff has told him this is not something that has to be done in the next couple of months. As chairman of the Environmental Concerns Committee, he would be willing to send this to that committee for their May meeting. He stated he thinks this is a good system but, because of the confusion and other good suggestions that have been made, he is amenable to having a public hearing on this in May.

Alderman Daniel reported a citizen's concern about animals getting in the garbage bags.

Cheryl Zotti, Environmental Affairs Director, responded that the purple bags can be placed in garbage cans.

Alderman Williams stated he has worked out something to send in the water bills that explains the options. He encouraged giving citizens plenty of time to respond with their preferences.

John Lindsey, citizen, stated he has talked to 30 or 40 people and the real issues are landfill problems and recycling. Two bags won't change the flow of trash. People will use a dumpster somewhere. We can't forget about the citizens and what they want. People should have options.

Larry Ash, Park Place, does not appreciate the city government micro-managing his life. The government is a servant of the people. It is not the citizen's job to make life easy for the people in the Public Works Department. Public input is a good idea. The right approach is for proponents and opponents to discuss the issue fully. Citizens should have the option to participate or not participate. It disturbs him that this would not be implemented until after the next election.

Alderman Schaper responded that the bag system does give options. You can throw out a lot of trash, but you have to pay for it.

Alderman Williams stated his insert discusses all the options, including the rate increase if we change nothing, and it encourages the public to call the Solid Waste Division with their opinions and ideas.

Wayne Brewster, citizen, asked what would be done with items larger than the bags but not necessarily big enough to send a separate truck for. Putting smaller trash bags in a larger one does not make much sense. He asked about smelly bags that are not yet full. He is against tax dollars subsidizing the poor to throw out their trash. In this town, many college students may fit under that. There are many things taxpayers pay for that they may or may not use. Right now $8.75 pays for an average of five or six bags every week. He asked why the rate would not decrease for fewer bags. He saw many disadvantages and no advantages for the citizens. He noted that 65% of the waste comes from the commercial sector. He thought the number of bags to be given each household was not arrived at scientifically.

Lonnie Gibson, citizen, commented on the lack of clarity in the previous public hearing notice that was published in the paper. He hoped the next notice would be more easily understood by the average citizen. He stated there are trash cans on the market that would work. He listed examples of gas and water bills where citizens pay for what they don't use. He stated the best for him would be to go back to picking it up twice a week.

Alderman Miller stated that the City could buy bags for about half what citizens could in the store and the City could specify a certain percentage of post consumer content.

Alderman Zurcher stated he had been ready to pass this but is willing to have more public input. Regarding Alderman Williams' plan, which lets people who recycle throw more trash away, he read portions of a letter from citizen Fran Alexander, which said, "Sorry, Kit, but rewarding recycling by giving extra trash bags for more trash is like rewarding someone trying to quit smoking with a free pack of cigarettes."

Alderman Williams also read from Ms. Alexander's letter, "As far as the half-bag issue goes, I say people have the choice of holding garbage another week and filling the bag up completely, if they choose not to compost their smelly, kitchen waste. If they can't stand it, they have the choice of putting out half a

bag." He stated she also compared education vs. spending, saying education takes ten times more work and we shouldn't educate and should charge more. He stated he does not agree with that.

Alderman Schaper stated the staff has studied this a lot and is not working in a vacuum. This is based on a lot of research of what works in many communities.

Alderman Miller moved to table this to be discussed at a public hearing by the Environmental Concerns Committee in the May meeting.

City Attorney Rose read the definition of lay on the table.

Upon roll call, the motion carried on a vote of 8 to 0.

WARD BOUNDARIES

Mayor Hanna introduced discussion of ward boundaries presented by Alderman Williams and Alderman Zurcher.

Alderman Schaper stated he thought two of the understandings in drawing up the new wards were to try to preserve the existing precinct boundaries as much as possible and to change as little as possible how the wards are laid out. Three aldermen came up with maps like that. Alderman Williams' plan radically changes the configuration of the wards.

Alderman Trumbo did not remember wanting to keep it exactly the same.

Alderman Pettus also did not remember discussing keeping the ward boundaries the same as possible.

Alderman Zurcher stated there needs to be a very good reason for any big changes on a ward map. The people who voted you in should have the opportunity to vote you out.

Alderman Williams felt his map was being misrepresented. He made eight changes in the ward boundaries, but Alderman Zurcher's map has six changes.

Alderman Young stated the radical change is making Ward 2 go almost to the mall. Ward 2 has always been the central ward encompassing the central part of the city. Alderman Williams has combined people in the central part of the city with people who

do not have the same interests. He also spit the votes in other northern wards, watering down the votes so there is no strong constituency in either ward.

Alderman Schaper stated that in terms of population, Ward 1 had to grow in area, Ward 2 had to grow in area, and Ward 3 and Ward 4 had to shrink. Alderman Williams has grown Ward 1 but has eliminated areas that were historically in Ward 1 and given it areas that were historically in Ward 3.

Alderman Williams responded most citizens aren't interested in just one area of town. Most see themselves as Fayetteville residents.

Alderman Schaper suggested using the major north-south and east-west streets of the city to define boundaries, if a major change is to be made.

Alderman Zurcher felt it is inappropriate to add precincts to a ward just to avoid splitting precincts. If a ward needs more people, you need to add that area to the precinct, not take away.

Richard Culver, 2810 Old Farmington Road, said he would like to see each council member represent a broader spectrum of the city's population.

Errol Conner, 333 Cleburn Street, asked if the layout of the wards was arrived at scientifically. He said the University could provide a scientific layout of any type of geography.

There being no further comments from the audience, Mayor Hanna brought the discussion back to the Council.

Alderman Williams moved his configuration, Configuration E. Alderman Daniel seconded. Upon roll call, the motion carried on a vote of 5-4-0, with Mayor Hanna voting yes and Aldermen Miller, Schaper, Young, and Zurcher voting no.

City Attorney Rose read the ordinance for the first time.

The ordinance was left on first reading.

NEW BUSINESS

SEWER USE ORDINANCE AMENDMENT

Mayor Hanna introduced revision of Chapter 51: Water and Sewers, Discharge and Pretreatment Regulations, of The Code of Fayetteville.

Mayor Hanna explained this is to comply with the DPC&E's latest ruling on our permit.

City Attorney Rose read the ordinance for the first time.

Kevin Crosson, Public Works Director, stated that the Council passed in 1996 a new chapter covering discharge and pretreatment regulations. This was submitted to the DPC&E, and these are the modifications they recommend. Most are only to bring it into compliance with their rules and regulations. He asked the Council to approve it at this meeting, so it can be approved before the rules are changed again. He stated each item in the ordinance is the DPC&E's recommendation and is insignificant to the substance of the original Chapter 51.

Alderman Williams moved to suspend the rules and go to the second reading. Alderman Miller seconded. Upon roll call, the motion carried on a vote of 8 to 0.

City Attorney Rose read the ordinance for the second time.

Billy Ammons, OMI, stated these are largely clerical changes to bring the language more in line with what the State recommends. A couple of substantive changes are relaxations in the limits based on the fact that we don't have a technical reason for being more stringent. If we have problems in the future, we can justify more strict limits.

Alderman Schaper noted this has been discussed by the Water & Sewer Committee and these are minor changes.

Alderman Schaper moved to suspend the rules and go to the third reading. Alderman Trumbo seconded. Upon roll call, the motion carried on a vote of 8 to 0.

City Attorney Rose read the ordinance for the third time.

There being no comments from the audience, Mayor Hanna called for the vote.

Upon roll call, the ordinance passed on a vote of 8 to 0.

ORDINANCE 4088 AS RECORDED IN THE CITY CLERK'S OFFICE.

Steve Ward, Chamber of Commerce, was concerned about the impact of this on industries.

Alderman Schaper thought the changes in the local limits would not be a problem for anybody.

RAZE & REMOVAL

Mayor Hanna introduced approval for raze and removal of structure at 2173 W. Deane per Ord. 3948.

Neither the property owner nor the owner's representative was present.

Alderman Daniel stated this has been a concern of hers for a number of months. There have been two fires there. Empty places can harbor criminal activity. There is nothing salvageable about this.

Alderman Williams stated there was a good report from the Inspection Division about how long this has been a problem.

Mayor Hanna stated Mr. Weatherford told him he has made arrangements with architectural students to rehabilitate the property. He stated he called the owner to inform him this was on the agenda. He wants to be certain the owner does not want to be represented before the Council votes.

Alderman Pettus was confused about who the actual owner is.

Mayor Hanna told her it is Mr. Weatherford.

Alderman Pettus asked why Ms. Schuman's name is on the deed and other documents.

Alderman Daniel did not see how architecture students could in any way benefit this house.

Alderman Schaper thought it would be dangerous for them.

Alderman Pettus was still uncertain about the ownership and whether or not the true owner has been notified.

Alderman Young stated the ordinance was meant to apply to a

building like this.

Alderman Trumbo agreed it needs to be razed but was also concerned about the legalities of who actually owns it and who has been signing the notices.

Alderman Daniel agreed the Council needs to be clear on the ownership but did not want to wait more than two more weeks.

Burt Rakes, Inspection Superintendent, stated it is his understanding that Mr. Weatherford represents the owner. There have been no communications with the owner.

Alderman Williams stated we need to notify the owner directly.

Alderman Young moved to table this to the next meeting. Alderman Williams seconded. Upon roll call, the motion carried on a vote of 8 to 0.

GREENSPACE WAIVER FOR DINERSTEIN APARTMENTS

Mayor Hanna introduced a resolution waiving the greenspace land requirement in part and accepting 1.28 acres and $34,800, money in lieu, for the proposed Dinerstein apartment complex.

Harold Heady, representing the Dinerstein Company, stated there are a couple of changes to discuss. One is a little more land in lieu of a little less money. The total land donation would be 1.53 acres, and the dollar value would be about $31,000. This came from conversations with Kathleen Ramsey, who will be the ultimate user of the land. He stated he understands it is all right with the Parks Board to make this minor change, though he has no confirmation in writing. He intends to put the new proposal on paper and forward it to the Parks Board.

Mr. Heady stated another aspect is that part of the original proposal to the Parks Board regarded occupancy of the land, the third codicil on the agreement. The requirement of getting access to the land early on is not an issue. He asked that the proposal be accepted at face value.

Mayor Hanna thought the Council could take care of the changes in land and dollar amounts. He stated vacating the property quicker does not have anything to do with the Parks Board. It affects the Water & Sewer Department. We have been in favor of doing this ever since it was first proposed.

Mr. Heady reiterated that this is not now a requirement of the proposal.

Alderman Williams stated this is a good proposal and he agreed with the Parks Board's recommendation. It is good use of the land and gives Children's House enough room.

Kevin Crosson, Public Works Director, stated there is a possibility that if something can be worked out to relocate the Water & Sewer Department, a temporary lease might be brought to the Council for a facility somewhere else in town.

Alderman Zurcher asked how much park land they would have been required to give.

Alett Little, Planning Director, stated for 180 units, the total amount of acreage is 3.6 acres.

A representative of Children's House stated the land is sufficient for their needs and planned expansion. It will not be park land, but children will play there every day.

Alderman Trumbo moved the resolution. Alderman Miller seconded. Upon roll call, the resolution passed on a vote of 7 to 1, with Alderman Zurcher voting no.

RESOLUTION 44-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

RZ 98-6.00/DINERSTEIN

Mayor Hanna introduced a rezoning request for property located at the southeast corner of Cato Springs Road and Razorback Road. The property is zoned I-1, Heavy Commercial-Light Industrial, and contains approximately 19.47 acres. The request is to rezone the property R-2, Medium Density Residential.

City Attorney Rose read the ordinance for the first time.

Alderman Williams stated this goes along with the 2020 Plan. It is down zoning.

Alderman Schaper stated R-2 zoning would allow 24 units per acre. The R-2 is needed in order to build apartments. 24 units per acre on 18 acres would allow 412 apartments to be built on that parcel. He asked if Mr. Heady would be willing to offer a bill of assurance that all they would build on that property is 180

dwelling units.

Mr. Heady replied their plans are to build 180 units. He stated the best assurance would be that it has to go back through the development process. He stated he would like to have an opportunity to discuss it with the main office.

Alderman Williams thought the City has some protection, as the developer has to come back for another greenspace requirement waiver if they go over 180 units, because their figures are based on 180 units. If they come back with more units, they would have to give more greenspace. Also, he thought the number of units was mentioned in the contract.

Mr. Heady agreed there was a ceiling or an approximate amount of units.

Alderman Schaper noted that land ownership changes but rezoning is permanent; whoever owns it is legally entitled to build that many units. A contract is with the owner, but a bill of assurance runs with the land.

This item was left on first reading.

AD 98-5.00/ADVANCED TOWING/BARBED WIRE

Mayor Hanna introduced a request submitted by Nick Jeffries of Advanced Towing for property located at 331 West Poplar Street. The request is to allow barbed wire on the fence surrounding the impound lot for a towing business.

Mayor Hanna stated there are conflicting regulations.

Nick Jeffries stated he is asking to be allowed to put the barbed wire up. People have been climbing his fence.

Alderman Daniel stated the business is very visible. She asked if Mr. Jeffries plans to expand the fenced area.

Mr. Jeffries replied he is. He has had the business almost 9 months. The Police Department requires the business be in the city limits.

Alderman Pettus stated the towing services used by the police department range from Greenland to Springdale.

Mr. Jeffries stated he needs to be zoned industrial and the

farther out he gets hurts his business.

Alderman Schaper was concerned that if this was granted, the ordinance would be voided.

Alderman Young thought the unique circumstance here is the Police Department's regulations. The fundamental problem is a conflict in regulations.

Little stated the zoning regulations do not permit barbed wire and call for screening. The Police Department adopted the State's operating procedures, which do call for barbed wire. Options for resolution include having the Police Department changed their requirements, having the Planning Commission devise a compromise, and giving the Planning Commission authority to waive requirements or grant variances.

Little stated the reason the discussion has centered on the barbed wire, and not the screening, is because that is the only conflict with the Police Department's regulations. There is no screening conflict, though they would prefer to see into the lot.

Little stated a new business could be required to remove the barbed wire, if this is kept up with.

Mr. Jeffries was aware of the regulations before he moved here but assumed it could be taken care of quickly. He has towed cars for the police at the owner's request.

Alderman Williams could see that Mr. Jeffries is in a bind but did not want to handle this case by case. The City needs to organize itself on what is required.

Alderman Schaper asked if the City allows the barbed wire, could they require screening.

Little replied if the Council does not grant the waiver for that specific part of the ordinance, then that part still stands.

Alderman Schaper stated the goal is if we allow barbed wire, we don't want to look at it.

Little stated an important consideration is whether barbed wire is necessary for protection.

Alderman Miller stated he doesn't like barbed wire, but this is necessary to this citizen's livelihood. There are times when

barbed wire is appropriate. The ordinance should be looked at so people know what they are dealing with.

Alderman Miller moved to grant the variance and to direct staff to look at the ordinance and come up with times barbed wire can be used.

In response to questions from Alderman Zurcher, Mr. Jeffries stated he has been in business 9 months, impounded 1,000 cars, and at least ten have been broken into.

Alderman Pettus seconded. Upon roll call, the motion carried on a vote of 5-3 with Aldermen Schaper, Daniel, and Zurcher voting no.

RESOLUTION 45-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

IMPROVEMENT DISTRICT NO. 4/HAWG HEAVEN

Mayor Hanna introduced a petition to form Fayetteville Municipal Property Owner's Improvement District No. 4--Hawg Heaven Subdivision Project.

City Attorney Rose read the ordinance for the first time.

Jim McCord, attorney, stated the Council is required to determine whether the petition is signed by the record owners of all the property in the improvement district. He stated he filed a certificate certifying the petition is in fact signed by all the record owners of the property to be included. The statute provides if the Council makes that finding, it is their duty to pass the ordinance.

Mr. McCord stated the legal description for the improvement district matches the legal description for the subdivision. There are only three owners: Christopher Adams, Charles Wright, and Linda Wright.

Alderman Williams moved to suspend the rules and go to the second reading. Alderman Young seconded. Upon roll call, the motion carried on a vote of 7-0, with Alderman Pettus voting no.

City Attorney Rose read the ordinance for the second time.

Rose stated the law provides that if the governing body determines that all the owners of the real property to be located

in the district have petitioned for the improvements, it shall be its duty by ordinance to establish and layoff the district as defined in the petition and to appoint the commissioners named in the petition.

Alderman Young noted there are only three owners and they are not challenging this. The abstractor has certified these are the owners.

Alderman Pettus wanted to be sure Mr. McCord has gone through all the statutory procedures.

Alderman Williams moved it to the third reading. Alderman Young seconded. Upon roll call, the motion carried on a vote of 8 to 0.

City Attorney Rose read the ordinance for the third time.

There being no further comments, Mayor Hanna called for the vote.

Upon roll call, the ordinance passed on a vote of 8 to 0.

ORDINANCE 4089 AS RECORDED IN THE CITY CLERK'S OFFICE.

AFFIRMING PLANNING COMMISSION FINDINGS

Mayor Hanna introduced an ordinance requiring the Planning Commission to take a separate vote to affirm findings.

City Attorney Rose read the ordinance for the first time.

Alderman Young stated he would talk to the Planning Commission about this.

This item was left on first reading.

ENTRY PLAZA FOR THE PROPOSED TOWN CENTER

Mayor Hanna introduced a recommendation from the City Council on whether or not to proceed with negotiations of a long-term lease with Mr. F. G. Bradberry for the entry plaza into the proposed town center.

Mayor Hanna explained that City Attorney Rose needs to know if the Council is willing to enter into a lease. He stated when the town center was first conceived at a meeting with of some of the A&P Commission and Chamber of Commerce, we were asked how we would access the town center. At that time, before the architects were involved, one of the thoughts was that we could access the town center and parking deck by the walkway beside Tim's Pizza, in Mr. Bradberry's south side building. Mayor Hanna stated he had called Mr. Bradberry and asked him if he'd be

willing to go along with that. Mayor Hanna stated Mr. Bradberry said not only would he be willing to go along with it, but he would extend that walkway, if we wanted to make a nicer entrance from the square into the town center.

Mayor Hanna stated that as we got into it architecturally, we were shown a beautiful plaza entrance. It was discussed that the plaza would be dug down and leave Mr. Bradberry's parking underneath, which would be covered over with the entryway to the plaza. Before we got to the negotiations, the architect decided that would be too expensive. We could let Mr. Bradberry have parking spaces in the plaza itself. He was willing to negotiate and talk with us about doing it that way, but now we are to the point of talking about using the Bradberry property as the plaza entrance. What we discussed has been changed twice and this is the third suggestion.

Ed Bradberry, owner of property on the south side of the square, stated he supports the town center project, which he understood was conceived to revitalize and support the development of business on the downtown square and to provide much needed additional parking. He stated he was shocked and somewhat bewildered to learn that the City would consider the possibility of condemning his business development and destroying his parking in order to accomplish a project designed to promote the very same thing. This is especially true in light of the fact that he has offered a viable alternative to such drastic and expensive action. He is also concerned about the message this sends to businesses considering investment on the square.

Mr. Bradberry stated it took almost 15 years and 4 separate purchases to put together the land on the south side necessary to complete phase one of his project, which was to bring back the dignity of this property and to provide office, restaurant, and retail leases to businesses. It now exists as a single project known as Executive Square serving over 40 clients representing a wide variety of businesses. The parking spaces serve these businesses. It was absolutely necessary to provide assigned parking spaces adjacent to interior spaces to the majority of the clients in order to attract them to the project. Parking spaces are leased to each client under leases ranging in terms from one year to several years. He listed many clients of statewide or national prominence and many fine local companies. The vast majority have leased individually assigned parking spaces.

Mr. Bradberry showed the Council an artist's rendition of phase two of his project. Phase two of Executive Square was already planned and included an office tower, so badly needed in our town; additional underground parking spaces; and a small plaza surrounded by additional retail space. Proceeding to phase two was being discussed about two years ago, when he was approached by representatives of the City concerning a possible Town Center

behind this.

Mr. Bradberry stated the position stated in a letter sent to the City is not a new or changed position. It has remained the same throughout all discussions with City representatives. He was led to believe that a long-term lease, as proposed by him, would not only be acceptable, but would assist the City with this project financially and in getting it approved by the voters. As a result, he strongly supported the project. He stated he was even presented a draft of the proposed lease prior to the election and was advised certain points could be negotiated if the project was approved by the voters.

Mr. Bradberry stated he hoped the Council would proceed to negotiate a fair lease so they can work together on this worthwhile project. He assured the Council he is only motivated by the desire to protect the property, to serve his clients, and to retain ownership of the property.

In response to a question from an Alderman Trumbo, Mr. Bradberry stated he does not expect free trash pickup. He explained this came up because there has to be a place for a dumpster to serve his building. At the present time, the dumpster is right under where the town center will be. That point has been discussed with his architects and they will have a place for the dumpster.

In response to another question from an Alderman Trumbo, Mr. Bradberry stated he has always wanted to discuss a lease that would be satisfactory to the City, if it would accomplish his purposes. He has a large investment on the south side of the square. He has property on either side of this particular space. It is the heart of the property. He stated he needs ongoing control as to what would happen to the property on either side.

Alderman Schaper stated the town center would be a major public facility. The entrance is critical to its functioning. The City needs to own what becomes the public space. He is not opposed to doing this in a way that would not hurt Mr. Bradberry's businesses. He suggested leasing to Mr. Bradberry what he needs for his businesses.

Alderman Trumbo stated he has a problem with the City taking the land. Mr. Bradberry has invested a lot of money to build a viable, ongoing concern. He did not see a problem with a properly worded, long-term lease.

Alderman Young agreed and added that if it comes down to condemning the land and the devaluing of the other properties is added, the price could get expensive.

Alderman Williams thought the value of the other properties would increase dramatically by having a seven or eight million dollar

project built right next to it. He would like to work out an accommodation, but had a problem with investing half a million dollars on property the City does not own. A jury would say the property value has increased. He stated he does not want to condemn the building, but would rather work with Mr. Bradberry.

Alderman Young asked Mr. Bradberry if he would consider leasing land from the City, after the City purchased it.

Mr. Bradberry replied he would not be interested in that. He stated he does not mind giving up the primary use of the land for the City to use as a town center, but he wants to own the property in order to have some control of what happens on either side of it. It is a single unit they want to keep together. It is there for the City to use and cheaper than if the City bought it. This has been talked about for two years and never seemed to be a problem. Many public facilities are built on leased land.

Alderman Schaper stated he has said from the first that the City needs to own the property under the town center, including the plaza. The public investment is seven-plus million dollars. He stated he is willing to go along and protect Mr. Bradberry's 21 parking spaces in the town center, but the public needs the security of owning the land. He is not sure the plaza needs to be as large as it is drawn. He mentioned Mr. Bradberry had talked about retaining the right to build on the eastern 25' of this space.

Mr. Bradberry stated it was brought up by the Planning Commission that it might be desirable to have little shops on the side of the plaza, next to Mr. Bradberry's building. He stated his point was to be allowed to build them. That could be taken out of the lease.

Alderman Schaper stated that is a plus for Mr. Bradberry, but the public interest has to come first.

Alderman Young stated Mr. Bradberry's position is the same; the land is necessary for his project.

Alderman Pettus stated that over the next 75 years, almost a million dollars would go to Mr. Bradberry's family and the City still would not own the property. There is precedent for taking business land, the Walton Arts Center.

Alderman Williams added this is not a business. It is a parking lot.

Mr. Bradberry responded it is an integral part of his business. They simply could not have leased spaces had they not been able to control those parking spaces to lease spots that are adjacent

to the interior spaces.

Alderman Williams stated there has been no talk of refusing to replace those parking spaces and with more desirable parking spaces, covered spaces. Several on the Council feel the plaza should be City owned and are willing to work out the details to make it a positive for Mr. Bradberry's businesses.

Mr. Bradberry stated that if the City has to pay for the property and pay its value to him, he is not only giving up parking spaces, he is giving up the ability to complete the south side as he has elected to do it. He is giving up a great deal as far as future business is concerned. The money the City would pay for this lot could return a lot more to the City then it would from a small lease.

Alderman Schaper hoped the City would not end up paying a huge amount, as Mr. Bradberry would be getting a 75-year lease on 32 parking spaces, covered garage parking worth a considerable amount of money and is more than he has now.

Alderman Trumbo stated there is a big difference between what is being replaced here and what was replaced by the Walton Arts Center. The Walton Arts Center replaced rundown businesses that were eyesores.

Alderman Pettus stated they were still people's businesses that they got their livelihood from.

Alderman Williams stated the only thing being taken is an asphalt parking lot. We are not talking about taking a single building.

Mr. Bradberry asked if it were cheaper for the City and made more economic sense for them to lease this over 75 years, getting the same benefits they would have if they purchased it outright, wouldn't that be something that the City should consider as a way to save money.

Alderman Daniel stated it is not just a money consideration. It is the flexibility it gives the City.

Alderman Williams added that another consideration is not saddling the generations to come with having to buy this plaza or to negotiate a new lease that might cost a tremendous amount of money.

Mayor Hanna stated it is quit possible a lease could be negotiated and a portion of the money that we would have to pay for the property if we bought it could be invested to make enough money to make the lease payments for the next 75 years. That would save the City money, not spending $900,000. Another option would be for Mr. Bradberry to retain air rights up two or three

stories, so he could still build his tower across those buildings.

Mr. Bradberry stated the tower was going to be phase two of his project. The plans were drawn up several years ago, before the remaining part of the south side property was acquired. The idea was that once it was acquired, they would move towards this. He stated he believes there is a need for office space in downtown Fayetteville. He stated he has preliminary plans, not specific plans.

Alderman Young stated it appears that some do not want to negotiate a lease and Mr. Bradberry is not interested in selling. He asked Mr. Bradberry if he is interested in negotiating the sale of the land. The question before the Council is whether or not to instruct Jerry Rose to continue negotiating a lease or change to negotiating a sale of the property.

Mr. Bradberry reiterated this is the heart of his project and it is not for sale. He stated he is doing his dead level best to come up with a lease that is satisfactory to the City that will last a long time. He stated the City should at least try to negotiate a satisfactory lease. He stated if that is not possible, the only conditions under which he would be interested in discussing a sale would be if the City just bought the whole thing, the whole south side.

Alderman Schaper stated a public project has to be able to stand on its own and not be held hostage.

Mr. Bradberry stated there are many public properties built on leased land.

Alderman Pettus stated the Arkansas legislature has proposed an amendment to the State constitution which would allow state and local governments to enter into long-term leases to lease property or equipment. The state constitution does not now allow that and she asked if the City can legally enter into a lease.

City Attorney Rose replied it is possible to enter into a long-term lease. It may require budgetary approval and be subject to yearly budgetary approval. That risk would be run by Mr. Bradberry more than the City. The City would be secure in the lease as long as the budgetary advances are made. If the City stopped making payments, Mr. Bradberry would still own the land.

Alderman Trumbo asked if this should not have been anticipated and addressed before this all got started.

Alderman Schaper responded it was always anticipated that we would buy this thing. We've always said we need to own the land it is on. That's why we worked out the elaborate deal with the

Downtown Parking District.

Alderman Williams stated he, too, always assumed we would own the property. He was not aware of any lease proposal until he heard from Mr. Bradberry. There was some miscommunication. Evidently, the staff had talked to some extent with Mr. Bradberry about a lease, but it was not presented to the City Council.

Alderman Trumbo stated protracted litigation will not serve anybody in this situation. Interest rates could be 200 bases points higher by the time it is rectified.

Alderman Miller stated this looks like a good deal for Mr. Bradberry. The City has to pay the taxes, the insurance, and all the upkeep. Mr. Bradberry gets access to some of the property. He stated he does not like the lease the way it is. If a better lease can't be negotiated, we should try to do what needs to be done on a friendly basis to expedite this.

Alderman Williams stated condemnation proceedings would not prevent the project from going forward. He stated it would be better to reject the lease concept. He hoped a good sale could be negotiated.

Alderman Williams moved to ask the City Attorney to enter into negotiations to purchase the Bradberry property. Alderman Pettus seconded.

Alderman Trumbo had confirmed that there is no money allocated for this and we are already over budget.

Steve Ward, Fayetteville Chamber of Commerce, stated what the Council is pursuing is out of context with what it started out with. The A & P Commission entered into discussions and negotiations with Mr. Bradberry. Mr. Bradberry assured the A & P Commission that he supports the project and has shown that support all the way through. He stated what is being done at the meeting is unfair to Mr. Bradberry. He hoped to continue to negotiate with Mr. Bradberry to a point that can't be resolved and then to proceed from there. Mr. Bradberry is owed the opportunity to attempt to negotiate a lease.

Mr. Ward stated this project is an A & P Commission project, from beginning to end.

Alderman Williams stated he has been on the A & P Commission for the last year and a half and no lease agreement or negotiation has been brought forward from Mr. Bradberry.

Mr. Ward stated the Mayor made the initial contact with Mr. Bradberry.

Mayor Hanna stated that when this idea was started, we weren't talking about leasing or buying that whole lot. We were talking about an entry way, a sidewalk, an elevated walkway to get to the town center. It is important to have access from the square to the town center. Mr. Bradberry offered that free, to begin with, as a walkway. In the beginning, no one was discussing using that whole piece of property.

Alderman Zurcher hoped no one is under the impression that the A & P Commission could speak for the Council. It sounds like Mr. Bradberry had assurances that we wanted to lease, but it never came to this Council as any kind of a lease agreement.

Mr. Ward stated these are A & P funds and this is an A & P project. Within those guidelines, the A & P Commission was pursuing what it took to make the project come together, including access to the property. Those negotiations were entered into in a business-like manner.

Alderman Trumbo pointed out that the brochure that went out before the city vote says 12,000 sq. ft. of new plaza and landscape areas would span the square gardens. That is what the voters voted on.

Anne Murphy, citizen, underscored that no money has been allocated for the lease or the purchase of this land. This means that whichever way the City goes, additional money will have to go into the project. She reminded the Council that this passed by a small margin of a small percentage of voters. If we are talking about cost overruns, the voters have a place in this discussion. This situation illustrates there is not clear communication. The details have not been covered. She is very concerned about the flawed decision making process. She felt Mr. Bradberry made a good point when he said he has contributed to the enhancement of the Fayetteville square. She wondered if it is not unjust to even suggest condemning the property. In light of what we now know, perhaps the project should be reconsidered.

Diane Boyd, manager of Executive Square, Inc., responded to comments that the Council did not know about a lease. Since 1995, she has been involved in numerous meetings with representatives from the A & P Commission, the City, and the architect to work out the details of the lease. She stated she was presented with a draft of a lease. The entire time this has been dealt with under the representation that the City or the A&P Commission would lease the property, because she has not been interested in selling it.

Ms. Boyd stated that rather than increasing the value of the property, there are some definite problems. The plaza cuts off a big part of their building. It towers over another building. She stated she has spent hours with the architect talking about

what would have to be done in order not to harm the other buildings.

Ms. Boyd stated it is not as though they are suddenly saying they want a lease. They have helped with the town center and want to do it and will do anything to cooperate in working out terms of the lease. The initial lease received from the City did not have some of the protections that were asked for to protect the property. She was told those could be worked out and she was told to draft a lease. She stated they have never negotiated on the lease.

Ben Mayes, Administrative Services Director, stated he drafted the initial lease. He stated staff had brought to the Council the acquisition of a lot owned by the Downtown Parking Improvement District. The Council told staff to stop working on this until after the vote. That is why the lease was started in 1995 and never came forward until after the vote. After the vote, they met one time with Ms. Boyd. The Council could either have done all this work and then voted on it, or it could have voted on the project and then proceeded. The Council and A & P Commission elected to proceed without detailed drawings and without leases and land acquisition. The initial lease was drafted by staff because Mr. Bradberry had been approached and was not interested in selling the land. It was only for the provision of the exact number of parking spaces they were losing. The initial idea of the town center was to have the parking extend under the plaza area, so it made sense to provide them spaces immediately below what they were losing. Once staff was instructed not to go forward, staff did not go forward. This is the first response since that date.

Mayor Hanna stated he thinks it is wrong not to give the lease a chance to be brought forward and worked on.

Alderman Pettus was not in favor of this because it has been shown that initial conversations about a lease have become binding representations in the minds of some people. If we vote to negotiate a lease, it may be perceived to be binding. She stated she wants to buy the property, not lease it.

Mayor Hanna called for a vote on the motion to have the City Attorney enter into negotiations to purchase the property.

Upon roll call, the motion carried on a vote of 5 to 3, with Aldermen Miller, Young, and Trumbo voting no.

PROPOSED CHANGES TO TOWN CENTER

Mayor Hanna introduced proposed changes to the town center from the Advertising and Promotion Commission.

Mayor Hanna stated that staff continues to believe that it is important to provide as much parking as possible and prudent as part of the town center project. As Mayor, he recommended that the Council instruct the architect to proceed with bid plans to include all three complete levels of anticipated parking, approximately 230 spaces, for the following reasons:

> The town center was introduced several years ago as a project that could help the parking situation in the downtown area. The citizens understood during the town center campaign that there would be approximately 230 parking spaces in conjunction with the project. The town center feasibility study on which the bond requirements were based estimated the parking deck to cost $3.3 million to $4 million, for an average of $3.7 million. The latest estimate of the total project cost of $8.5 million includes a parking estimate of $3.7 million for all the approximately 230 spaces. This item is closer to the estimated cost used in the feasibility study and bond sizing estimates than any other construction cost item. The current estimates are just that, estimates. The bids could come in higher or lower than these estimates. When bids are received, the City Council and Advertising & Promotion Commission will make the final decisions, if necessary, on design alterations and additional financing. He proposed having Richard Alderman bid on all three decks.

Alderman Daniel asked if the Council could go with Mr. Alderman to look at the actual model, which was in the foyer.

Richard Alderman, architect, stated that model is for the ultimate project, the $8.5 million. He offered to bring it to the council chamber. The difference in the model has to do with the roof line and the materials on the outside, which were never in any of the preliminary drawings.

Alderman Williams agreed with the Mayor, though one of the ways the A & P Commission looked to save money was a $450,000 saving from eliminating half of the bottom parking deck. If it were bid, it might actually come down and we could afford the full parking deck as originally designed. If not, it could be faced at that time. It would be hard to add that on, if the bids came in lower than expected.

Mr. Alderman pointed out that State law requires having deductive alternates only. Regarding the tower, he stated it is his responsibility to show what the City can afford. He does not think the City can afford a real tower with a point.

Alderman Young asked how much having the full parking deck underneath the town center would cost. He asked if what the Mayor suggested could be done for $6.95 million.

Mr. Alderman did not think the building could be built with that on there, it is worth an estimated $450,000.

Alderman Schaper stated the A & P Commission was happy to delete the parking but didn't budge on the suggestion to trim 20' off the south side of the building, which was over the estimate and would have saved $454,000. The Council needs to set its priorities.

Alderman Young, referring to a conceptual budget dated June 10, 1996, asked if the building, without the parking, would cost roughly $4 million.

Mr. Alderman replied that on June 10, 1996, a preliminary budget was made. The total cost of the building, the exhibition hall and support spaces, was given as $2.6 to $3.4 million. The parking deck was $3.125 million to $3.750 million. The overall budget was $6.1 million to $7.6 million, hard construction numbers at that time. Taking the contingency of $.5 million, it looks like $4 million for the parking deck and $3.3 million for the building itself.

Mr. Alderman stated the March 9, 1998, document is the breakdown of all the numbers, the $7 million budget. The building itself is $3.75 million. The parking deck is $300,000. The plaza is $250,000. The parking deck number includes the basic site work.

Mr. Alderman clarified that he was being asked to bid the project with just the parking and not the other features being discussed, bidding something that is around $7.5 million and hoping it will come in at $7 million.

Mr. Alderman stated they are fine bidding the rest of the parking as a deductive alternative. They have tried to show what they have heard everyone wants the building to be.

Alderman Young stated the people voted for $6.95 million. His vote for the bonds must reflect what the public voted for. If the A & P Commission wants more money, they can ask the people for more. This is between the A & P Commission and the people.

Alderman Trumbo stated he is in favor of bidding this project based on all the material presented to the voters and based on the drawings shown to the public.

Mr. Alderman responded there is no difference other than 40 parking spaces.

Mayor Hanna reiterated he is asking for those parking spaces to be included. Three A & P Commissioners, one or two councilmen, the Downtown Parking District, and a lot of business people got behind this project because of the parking.

Mr. Alderman stated that to bid this out and then change the project afterwards is not cost effective. We need to come up with the best possible project with hopefully one deductive for parking. If we start negotiating, we will get sixty to seventy-five cents on the dollar. He cautioned against trying to change the job later.

Alderman Williams agreed to bidding what the A & P Commission has worked out to meet the budget with at least that one deductive alternate. He did not support using the concept drawing that was done after the election and making cuts from that.

Alderman Zurcher supported taking it back to voters, if it costs more money to give them what they want.

Alderman Williams responded that the A &P Commission has already determined what they can leverage through bonds and through the current tax. We would not have to go to the voters to use capital improvement funds to improve or to build a portion of this project. He hoped we don't have to do this, but he is in favor of building a building that is a true asset and civic improvement.

Alderman Miller stated the voters were presented with a town center and a bond issue. They did not agree to spend capital improvement money on this.

Alderman Schaper asked if one of the deductive alternates could be to decrease the size.

Mr. Alderman responded that much smaller than 14,000 sq. ft. doesn't help us any. That is the breakpoint for handling the bigger conventions and making a difference in attracting people to Fayetteville. This could be done, but the fewer deductive alternates, the better.

Alderman Williams reported that the A & P Commission was unanimous in not wanting to reduce the size. It would cut the available uses of the building dramatically and it would be difficult to enlarge in the future.

Mr. Alderman pointed out the land south of this building needs to be looked at as possible future parking and expansion. The property and view from the back end of the building is very important, too.

Alderman Trumbo asked if the original picture showed the whole plaza on Mr. Bradberry's parking lot.

Mr. Alderman replied it did show the plaza go all the way out. An area was marked off reflecting Mr. Bradberry's desire for some future retail.

Sue Clemons, Friends for Fayetteville, gave written comments to the Council regarding the town center. She stated Friends for Fayetteville likes the idea of a town center to enhance the sense of community on the square and to enhance economic viability. Personally, she is concerned about all the details that need to be worked out. She asked if costs for landscaping and purchasing or leasing the plaza were included. She was told $250,000 has been budgeted to do the plaza. She asked about ownership and operation of the facility. She stated it is a concern that whoever manages the building commits to providing meeting space for non-profit organizations and public bathroom accessibility.

City Attorney Rose replied that the Council has reflected that the City of Fayetteville will be the owner of the building. The management may be anyone the City names. It is logical for that to be the A & P Commission. He stated he would present to the Council at the next meeting a management lease with the A & P Commission.

TOWN CENTER BOND ISSUE

Mayor Hanna introduced an ordinance providing for the execution of documents needed to complete the issuance of the Hotel and Restaurant Gross Receipts Tax Bonds, Series 1998, the proceeds of which will be used to partially finance the construction of the Town Center and Parking Garage on the south side of the downtown square. In addition, the City Council is requested to grant the authority for the Budget Coordinator to execute any budget adjustments necessary to recognize the bond proceeds and bond issuance costs.

City Attorney Rose read the ordinance for the first time.

Ben Mayes, Administrative Services Director, stated staff does not intend to market the bonds until directed but wants the Council to have time to look at it and ask questions. The bond attorney could be present at the next meeting.

David Hausam, of Llama Company, reviewed a handout.

Jeff Erf, citizen, asked why there are two underwriters for the bond issue and if there was a bidding process for the underwriting contract.

Mayes replied there can be any number of underwriters. It was decided to use two because of the size of the issue.

Alderman Schaper added that these two firms are complementary in their strengths and marketing plans. It doesn't cost more money.

This item was left on first reading.

ADJOURNMENT

Alderman Miller announced a household hazardous waste roundup for April 18, 1998.

City Attorney Rose announced he would not be present for the next Council meeting but would be at the next agenda session.

Mayor Hanna adjourned the meeting at 11:00 p.m.

CITY OF FAYETTEVILLE
BID QUOTATIONS #1

Purchase Date	March 26, 1998	
Investment Offered	$1,055,000.00	($1,085,000.00 if T – Bill, $1,020,000.00 it T – Note)
Maturity Date Requested	October 8, 1998	(10/15/98 if T – Note or T – Bill)
Number of Days	196 Days	(203 Days if T – Bill or T – Note)

	NATIONSBANK	MCILROY	BANK OF FAYE	BANK OF ARK
SETTLEMENT DATE	03/26/98	03/26/98	03/26/98	03/26/98
MATURITY DATE	10/08/98	10/08/98	10/08/98	10/08/98
DISCOUNT OR COUPON RATE				
YIELD				
DAYS BID	196	196	196	196
T – BILL BIDS				
CALCULATED YIELD				
FACE VALUE				
BOOK VALUE				
HANDLING FEE	2.00			
T – BILL INTEREST EARNINGS				
T – NOTE/OTHER BIDS				
FACE VALUE				
BOOK VALUE				
HANDLING FEE	2.00			
T – NOTE INTEREST EARNINGS				
CALCULATED YIELD				
DISCOUNT/(PREMIUM)				
PURCHASE INTEREST				
CD BID	No Bid	5.250	NoBid	No Bid
CD INTEREST EARNINGS		30,522.85		
INTEREST ON INTEREST BASIS				
CD EFFECTIVE YIELD		5.388		
T – BILL EFFECTIVE YIELD				
T – NOTE/OTHER EFFECTIVE YIELD				

INVESTMENT NUMBER T-2666

LOGGED ON COMPUTER _____ BY _____

LOGGED OFF COMPUTER _____ BY _____

Bruce Storm 3-28-98

ADMINISTRATIVE SERVICES DIRECTOR
OR DESIGNEE

16.02

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Maturity Date Requested	October 8, 1998	(10/15/98 If T – Note or T – Bill)
Number of Days	196 Days	(203 Days if T – Bill or T – Note)

	A. G. EDWARDS	DEAN WITTER	LLAMA CO.	AWARDED MERRILL LYNCH
SETTLEMENT DATE	03/26/98	03/26/98	03/26/98	03/26/98
MATURITY DATE	10/15/98	10/15/98	10/15/98	10/15/98
DISCOUNT OR COUPON RATE	7.125	4.950	5.030	7.125
YIELD	5.260	5.149	5.235	5.460
DAYS BID	203	203	203	203
T – BILL BIDS				
CALCULATED YIELD		5.163	5.249	
FACE VALUE		1,085,000.00	1,085,000.00	
BOOK VALUE		1,054,714.94	1,054,225.48	
HANDLING FEE		2.35		
T – BILL INTEREST EARNINGS		30,285.06	30,774.52	
T – NOTE/OTHER BIDS				
FACE VALUE	1,020,000.00			1,020,000.00
BOOK VALUE	1,030,200.00			1,029,084.38 ✓
HANDLING FEE		2.35		
T – NOTE INTEREST EARNINGS	40,366.29			40,368.46
CALCULATED YIELD	5.257			5.458
DISCOUNT/(PREMIUM)	(10,200.00)			(9,084.38)
PURCHASE INTEREST	32,344.37			32,344.37 ✓
CD BID				
CD INTEREST EARNINGS INTEREST ON INTEREST BASIS				
CD EFFECTIVE YIELD				
T – BILL EFFECTIVE YIELD		5.162	5.249	
T – NOTE/OTHER EFFECTIVE YIELD	5.257			5.458

INVESTMENT NUMBER T-2666

LOGGED ON COMPUTER _____ BY _____

LOGGED OFF COMPUTER _____ BY _____

Brad Hawkins 3-28-98

ADMINISTRATIVE SERVICES DIRECTOR
OR DESIGNEE

CITY OF FAYETTEVILLE
BID QUOTATIONS #1

Purchase Date April 2, 1998

Investment Offered $965,000.00 ($990,000.00 If T – Bill)

Maturity Date Requested October 1, 1998

Number of Days 182 Days

	NATIONSBANK	**Awarded** MCILROY	BANK OF FAYE	BANK OF ARK
SETTLEMENT DATE	04/02/98	04/02/98	04/02/98	04/02/98
MATURITY DATE	10/01/98	10/01/98	10/01/98	10/01/98
DISCOUNT OR COUPON RATE				
YIELD				
DAYS BID	182	182	182	182
T – BILL BIDS				
CALCULATED YIELD				
FACE VALUE				
BOOK VALUE				
HANDLING FEE	2.00			
T – BILL INTEREST EARNINGS				
T – NOTE/OTHER BIDS				
FACE VALUE				
BOOK VALUE				
HANDLING FEE	2.00			
T – NOTE INTEREST EARNINGS				
CALCULATED YIELD				
DISCOUNT/(PREMIUM)				
PURCHASE INTEREST				
CD BID	No Bid	5.200	No Bid	No Bid
CD INTEREST EARNINGS		25,648.91		
INTEREST ON INTEREST				
BASIS				
CD EFFECTIVE YIELD		5.330		
T – BILL EFFECTIVE YIELD				
T – NOTE/OTHER EFFECTIVE YIELD				

INVESTMENT NUMBER _____

LOGGED ON COMPUTER _____ BY _____

LOGGED OFF COMPUTER _____ BY _____

_____

ADMINISTRATIVE SERVICES DIRECTOR
OR DESIGNEE

16.04

CITY OF FAYETTEVILLE
BID QUOTATIONS #1

Purchase Date: April 2, 1998

Investment Offered: $965,000.00 ($990,000.00 if T-Bill)

Maturity Date Requested: October 1, 1998

Number of Days: 182 Days

	A. G. EDWARDS	DEAN WITTER	LLAMA CO.	MERRILL LYNCH
SETTLEMENT DATE	04/02/98	04/02/98	04/02/98	04/02/98
MATURITY DATE	10/01/98	10/01/98	10/01/98	10/01/98
DISCOUNT OR COUPON RATE		5.000		5.030
YIELD		5.200		5.230
DAYS BID	182	182	182	182
T-BILL BIDS				
CALCULATED YIELD		5.201		5.233
FACE VALUE		990,000.00		990,000.00
BOOK VALUE		964,975.00		964,824.85
HANDLING FEE		2.35		
T-BILL INTEREST EARNINGS		25,025.00		25,175.15
T-NOTE/OTHER BIDS				
FACE VALUE				
BOOK VALUE				
HANDLING FEE		2.35		
T-NOTE INTEREST EARNINGS				
CALCULATED YIELD				
DISCOUNT/(PREMIUM)				
PURCHASE INTEREST				
CD BID	No Bid		No Bid	
CD INTEREST EARNINGS				
INTEREST ON INTEREST				
BASIS				
CD EFFECTIVE YIELD				
T-BILL EFFECTIVE YIELD		5.200		5.233
T-NOTE/OTHER EFFECTIVE YIELD				

INVESTMENT NUMBER _____

LOGGED ON COMPUTER _____ BY _____

LOGGED OFF COMPUTER _____ BY _____

BLM

ADMINISTRATIVE SERVICES DIRECTOR
OR DESIGNEE

CITY OF FAYETTEVILLE
BID QUOTATIONS #2

Purchase Date	April 2, 1998	
Investment Offered	$1,500,000.00	($1,465,000.00 If T-Note)
Maturity Date Requested	June 15 - 30, 1999	(June 24, 1999 If CD)
Number of Days	439 - 454 Days	(448 Days If CD)

Awarded

	NATIONSBANK	MCILROY	BANK OF FAYE	BANK OF ARK
SETTLEMENT DATE	04/02/98	04/02/98	04/02/98	04/02/98
MATURITY DATE	06/24/99	06/24/99	06/24/99	06/24/99
DISCOUNT OR COUPON RATE				
YIELD				
DAYS BID	448	448	448	448
T-BILL BIDS				
CALCULATED YIELD				
FACE VALUE				
BOOK VALUE				
HANDLING FEE	2.00			
T-BILL INTEREST EARNINGS				
T-NOTE/OTHER BIDS				
FACE VALUE				
BOOK VALUE				
HANDLING FEE	2.00			
T-NOTE INTEREST EARNINGS				
CALCULATED YIELD				
DISCOUNT/(PREMIUM)				
PURCHASE INTEREST				
CD BID	No Bid	5.500	No Bid	No Bid
CD INTEREST EARNINGS		106,010.54		
INTEREST ON INTEREST BASIS				
CD EFFECTIVE YIELD		5.758		
T-BILL EFFECTIVE YIELD				
T-NOTE/OTHER EFFECTIVE YIELD				

INVESTMENT NUMBER _____

LOGGED ON COMPUTER _____ BY _____

LOGGED OFF COMPUTER _____ BY _____

_____

ADMINISTRATIVE SERVICES DIRECTOR
OR DESIGNEE

16.06

CITY OF FAYETTEVILLE
BID QUOTATIONS #2

Purchase Date	April 2, 1998	
Investment Offered	$1,500,000.00	($1,465,000.00 if T-Note)
Maturity Date Requested	June 15 – 30, 1999	(June 24, 1999 if CD)
Number of Days	439 – 454 Days	(448 Days if CD)

	A. G. EDWARDS	DEAN WITTER	LLAMA CO.	MERRILL LYNCH
SETTLEMENT DATE	04/02/98	04/02/98	04/02/98	04/02/98
MATURITY DATE	06/30/99	06/30/99	06/30/99	06/30/99
DISCOUNT OR COUPON RATE		6.000		6.000
YIELD		5.465		5.544
DAYS BID	454	454	454	454
T-BILL BIDS				
CALCULATED YIELD				
FACE VALUE				
BOOK VALUE				
HANDLING FEE		2.35		
T-BILL INTEREST EARNINGS				
T-NOTE/OTHER BIDS				
FACE VALUE		1,465,000.00		1,465,000.00
BOOK VALUE		1,474,156.25		1,472,782.81
HANDLING FEE		2.35		
T-NOTE INTEREST EARNINGS		111,250.09		111,282.26
CALCULATED YIELD		5.457		5.535
DISCOUNT/(PREMIUM)		(9,156.25)		(7,782.81)
PURCHASE INTEREST		22,339.23		22,339.23
CD BID	No Bid		No Bid	
CD INTEREST EARNINGS INTEREST ON INTEREST BASIS				
CD EFFECTIVE YIELD				
T-BILL EFFECTIVE YIELD				
T-NOTE/OTHER EFFECTIVE YIELD		5.457		5.535

INVESTMENT NUMBER _____

LOGGED ON COMPUTER _____ BY _____

LOGGED OFF COMPUTER _____ BY _____

_____

ADMINISTRATIVE SERVICES DIRECTOR
OR DESIGNEE

AGENDA SESSION DISTRIBUTION CHECKLIST

DATE: 4/14/98

HANDOUTS:

Mickey Haughton RZ appeal R2 98-7
Resolution - re Town center Public Room
Rent Rules - Deane Street Raze & Remodel
Charter - Museum & Tech Park

DISTRIBUTED TO:

- ✓ Stephen Miller
- ✓ Kit Williams
- ✓ Cyrus Young
- ✓ Randy Zurcher
- ✓ Trent Trumbo
- ✓ Donna Pettus
- ✓ Len Schaper
- ✓ Heather Daniel
- ✓ Mayor Hanna
- ✓ ~~Phyllis Rice~~ Nancy
- ✓ Ben Mayes
- ✓ Kevin Crosson
- ✓ Charlie Venable
- ✓ Jerry Rose
- ✓ Alett Little
- ✓ Steve Davis
- ✓ NWAT
- ✓ M. News
- ✓ KIX
- ✓ Democrat-Gazette
- ✓ Robyn/Lana
- ✓ Jane
- ✓ Amita

NOTES:

STAFF REVIEW FORM

#4.10
Replaces

xxxx Agenda Request
____ Contract Review
____ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF April 21, 1998

FROM:

Charles Venable	Public Works	Public Works
Name	Division	Department

ACTION REQUESTED: Approval of a resolution authorizing the City of Fayetteville to apply to the State of Arkansas' Department of Finance and Administration for a grant from the Economic Development of Arkansas Fund for construction of water and sewer lines and streets necessary to develop the Research and Technology Park

COST TO THE CITY:

Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

____ Budgeted Item ____ Budget Adjustment Attached

Budget Coordinator	Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager	Date	Internal Auditor	Date
City Attorney	13 April 98 Date	ADA Coordinator	Date
Purchasing Officer	4-13-98 Date		

STAFF RECOMMENDATION:

Division Head	Date	**Cross Reference**
Department Director	4-13-98 Date	New Item: Yes No
Administrative Services Director	4-13-98 Date	Prev Ord/Res #: _____
Mayor	4/14/98 Date	Orig. Contract Date: _____

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY OF FAYETTEVILLE TO APPLY TO THE STATE OF ARKANSAS' DEPARTMENT OF FINANCE AND ADMINISTRATION FOR A GRANT FROM THE ECONOMIC DEVELOPMENT OF ARKANSAS FUND FOR CONSTRUCTION OF WATER & SEWER LINES AND STREETS NECESSARY TO DEVELOP THE RESEARCH AND TECHNOLOGY PARK.

WHEREAS, the City of Fayetteville, in conjunction with the University of Arkansas and the Fayetteville Chamber of Commerce, employed the firm of Hammer, Siler, George Associates to develop market potentials, site planning, and costs associated with the Research and Technology Park Development; and

WHEREAS, the study has been completed, and it is now time to improve the Research and Technology Park by constructing the required streets and water and sewer lines necessary for the development of the Park; and

WHEREAS, the costs of these developments are estimated at $9,214,300; and

WHEREAS, the Arkansas Department of Finance and Administration has funds available through the Economic Development of Arkansas Fund Commission, to which we may apply for either a grant or loan; and

WHEREAS, Paragraph 7(a)3 of the Economic Development of Arkansas Fund Commission Regulations requires an ordinance, resolution, or other specific authorizing instrument or action reflecting the applicant's authority for making application to the Commission;

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

Mayor Fred Hanna or his authorized representative is designated as the authority for making application on behalf of the City of Fayetteville, Arkansas, for a grant to aid in the construction of the water and sewer lines and streets at the Research and Technology Park.

PASSED AND APPROVED this _____ day of _____.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

Fayetteville

CHAMBER OF COMMERCE

APR 1 0 1998

CITY C... MAYOR'S OFFICE

MEMORANDUM

DATE: April 10, 1998

TO: Charlie Venable

FROM: Jim Crider

SUBJECT: Economic Development of Arkansas Fund

Contact was made today with Mark Day, AEDC Manager of Industrial Finance, regarding some questions about the Economic Development of Arkansas Fund. I explained that our Research and Technology Advisory Committee raised the following questions:

- **Who makes the final decision as to grant recipient(s) for this program?**

  Answer: A committee chaired by Jim Pledger of the Arkansas State Fair Board (a former administrator with the Arkansas Department of Finance and Administration). Also, serving on this review committee from our region is Eamon Mahoney, Manager of Stephens Gas Company, of Fort Smith.

  What kind of financial "match" would be required of Fayetteville and how long would the city have to spend the funds, once received?

  Answer: No standard answer to that question as of yet. However, the only project to get funds during the last round in March 1998 was the University of Arkansas Medical School ($3 million). UAMS committed up to 50 percent matching funds for facility development. Thus far, Mark Day is unaware of any spending deadlines. I have never seen a program without a prescribed time limit for spending a sum of grant money before it reverts to the funding agency.

NOTE: Mark Day said that a number of other applications were reviewed, but were disallowed for grant moneys. He cited an example of a community that wanted to develop a new industrial park. Their application was denied because they sought funds based on "projected" needs, on a speculative basis, as opposed to answering the question of "who is the company and how many jobs will actually be created?"

He said the next round of applicants would be considered in June. The estimated that about $7-million remains uncommitted through the remainder of the current fiscal year ending June 30th.

ACCREDITED CHAMBER OF COMMERCE

123 WEST MOUNTAIN • P.O. Box 4216 • FAYETTEVILLE, ARKANSAS 72702-4216 • (501) 521-1710 • FAX (501) 521-1791

C

ECONOMIC DEVELOPMENT OF ARKANSAS FUND COMMISSION REGULATIONS ESTABLISHING THE PROCEDURE FOR PROVIDING FINANCIAL ASSISTANCE TO FURTHER THE ECONOMIC DEVELOPMENT OF ARKANSAS AND TO EXTEND NATURAL GAS TO AREAS OF THE STATE NOT PRESENTLY SERVED.

I. GENERAL PROVISIONS.

1. AUTHORITY. These regulations are issued by the Economic Development of Arkansas Fund Commission pursuant to Act 590 of 1993 and Act 1358 of 1997 of the Arkansas General Assembly. These regulations shall supersede and repeal all previous regulations of the Committee.

2. DEFINITIONS.

(a) "Administering Agency" means the Arkansas Department of Finance and Administration.

(b) "Chief Fiscal Officer" means the Director of the Arkansas Department of Finance and Administration.

(c) "Commission" means the Economic Development of Arkansas Fund Commission created pursuant to Ark. Code Ann. § 26-59-122 (Sup. 1995).

(d) "Committee" means the Joint Committee on Energy of the Arkansas General Assembly.

(e) "Disbursing Officer" means the Director of the Arkansas Department of Finance and Administration.

(f) "Financial Assistance" means a loan or grant provided by the Commission.

(g) "Fund" means the Economic Development of Arkansas Fund created pursuant to Ark. Code Ann. § 19-6-472 and § 26-59-122 (Supp. 1995).

(h) "Natural Gas Pipeline" means the land rights, pipe, machinery and materials necessary to extend services from an existing natural gas utility system to an area or potential customers not presently served with natural gas including improvements to an existing natural gas system necessary for such extension of service.

(i) "Plant or Facility" means the land, buildings, machinery, apparatus, and fixtures employed in carrying on an integrated service, or industrial business of an individual site location. "Plant or Facility" does not mean a natural gas pipeline.

(j) "Project" means all activities and costs associated with the construction of a new Plant or Facility; the expansion of an established Plant or Facility by adding to the building or production equipment and/or support infrastructure; the replacement of production or processing equipment and/or support infrastructure of a Plant or Facility; public facilities designed to enhance the economic viability of a community; the extension of natural gas pipelines to areas of the State not presently served;

and providing training or retraining of the work force for new or existing industry. Use of the funds for such training shall be limited to training where no other existing education or training program is capable of meeting the specific training needs necessary to further the goals of economic development and enhancement.

(k) "Reviewing Agency" means the Joint Committee on Energy of the Arkansas General Assembly for natural gas Projects and the Arkansas Department of Economic Development for all other Projects.

3. Final Approval. The Commission will provide final approval of applications financial assistance. For purposes of approving financial assistance, the affirmative vote of four members of the Commission shall be required. Upon approval by the Commission, the financial assistance moneys shall be disbursed as provided in paragraph 10.

4. PURPOSE. The purpose of the Fund is to (1) stimulate business, industrial, and economic growth in all areas of the state by providing assistance to businesses, industries, and communities and by providing incentives to create employment opportunities and (2) extend natural gas service to areas of the state not presently served. It is the purpose of the regulations to provide for distribution of financial assistance for Projects as herein defined.

5. COMPLIANCE WITH THE ARKANSAS ADMINISTRATIVE PROCEDURE ACT. The provisions of the Arkansas Administrative Procedure Act, as amended, Ark. Code Ann. §§ 25-15-201 et seq., shall govern the issuance and administration of these regulations. These regulations shall become effective ten days after the date of filing with the Secretary of State.

6. SEVERABILITY. If any provision of these regulations should be declared to be invalid or to be inapplicable, such determination shall not affect the validity or applicability of the other provisions.

7. GENERAL PROCEDURE. The general procedure to be followed in the Project financial assistance application, review and consideration process is as follows:

(a) Application. Applicant shall initiate application review and consideration by submitting a financial assistance application to the Reviewing Agency. In all instances, applications must be in writing and must include substantive content meeting the requirements of these regulations. The following information must be submitted by applicant within each application:

(1) Applicant's full and correct legal name, office address, mailing address if different from office address, telephone number and fax number, if available.

(2) If applicant is other than a natural person, citation to law under which applicant was created. A public utility which assists an applicant in developing the application is not considered to be the applicant.

(3) Copy of the ordinance, resolution or other specific authorizing instrument or action reflecting applicant's authority for making application to the Commission.

(4) Total amount of financial assistance requested, including a statement of the specific uses and purposes for which such funds are intended to be applied.

(5) A brief but adequate description of the proposed Project for which application is made, including but not limited to the following:

(A) Project location.

(B) Anticipated total Project cost.

(C) Preliminary Project plans and specifications as may be necessary to reflect general engineering feasibility of the project.

(6) Anticipated Project timetable.

(7) A statement reflecting the relevant history and current status of efforts toward obtaining all necessary and incidental rights and privileges needed for Project commencement, completion and operation. This requirement includes, but is not limited to, all necessary legal rights, including licenses, easements or permits, regulatory approvals, and the status of any incidental legal or governmental proceedings.

(8) Other information requested by the Commission or the Reviewing Agency.

(b) Application verification. All financial assistance applications shall contain the following statement signed by the applicant: "To the best of my knowledge, all statements of fact contained herein are true and correct as of the date hereof."

(c) Failure to Recommend. If the Reviewing Agency fails to make a recommendation to the Commission within 60 days after the application is filed with the Reviewing Agency, the Commission may take action on the application without a recommendation from the Reviewing Agency.

8. GENERAL APPROVAL STANDARDS AND CRITERIA. In the review and consideration of financial assistance applications, consideration shall be given to the following general and non-exclusive criteria:

(a) Compliance With Laws. The applicant must possess all legal rights and privileges necessary for Project commencement and operation.

(b) Eligibility. The applicant and proposed Project must be determined to be eligible for the financial assistance.

(c) Local Need. The Project must be found to be

needed in the area to be served and must be found to be sufficient, as proposed, or reflect satisfactory progress toward serving such needs. In no event may funds be used to bypass service currently being provided by the natural gas utility.

(d) Project Feasibility. The proposed Project must appear to be feasible from a technical standpoint. In the case of a natural gas project, the utility's contribution shall not exceed the company's investment criteria or similar policies and/or procedures.

(e) Statewide Needs and Public Interest. Consideration shall be given to the relationship between the proposed Project and the overall development needs within the State of Arkansas as well as to whether the proposed Project, if constructed, will serve the public interest and welfare.

9. CRITERIA APPLICABILITY. The general criteria set forth herein are intended to constitute and shall constitute general guidelines and standards for application review and consideration. Such criteria shall not be deemed appropriate for strict application or interpretation, nor shall such criteria be deemed exclusive. In all instances, each application and Project will be reviewed and considered on its own merits. The criteria and standards set forth herein shall accordingly be interpreted and applied so as to allow sufficient flexibility in the ultimate exercise of the Commission's judgment and discretion.

10. CONDITIONS FOR DISBURSEMENTS.

(a) After an application has been approved by the Commission, the following conditions and requirements shall be met prior to the release and disbursement of any financial assistance funds:

(1) Unless otherwise provided by the Commission, all plans, specifications and engineering reports for the Project must be submitted to the Commission.

(2) Applicant, Commission and all other necessary parties, must have executed all necessary instruments and documents, in form and content acceptable to the Commission.

(3) The applicant must execute financial assistance documents with the Commission setting forth the terms of the financial assistance.

(b) The financial assistance documents will provide the terms and conditions of the financial assistance including, but not limited to, restrictions on the use of funds.

11. INCREASES IN FINANCIAL ASSISTANCE. With respect to approved applications, the chairman of the Commission shall have the discretionary authority to increase the amount of financial assistance to the applicant by the lesser of ten

percent (10%) of the approved financial assistance amount, or $25,000, without returning to the Commission for approval. Any financial assistance increases pursuant to this section shall be immediately reported to the other members of the Commission.

12. DEOBLIGATION.

(a) The chairman of the Commission shall have the discretionary authority to deobligate funds approved by the Commission to an applicant without returning to the Commission for its approval in the following cases:

(1) After the Project is completed, the financial assistance approved by the Commission exceeds applicant's share of the Project cost.

(2) An applicant requests that funds be deobligated.

(3) Failure to receive all necessary regulatory approvals.

(b) Any deobligations pursuant to this section shall be immediately reported to the other members of the Commission and the disbursing officer.

(c) In the event of a deobligation, the natural gas utility may be reimbursed for all or any portion of its costs relating to the Project. In no event, however, shall the natural gas utility receive any reimbursement if the deobligation was caused by the utility.

13. INSPECTION OF WORKS, TECHNICAL AND FINANCIAL RECORDS. By making application to the Commission, the applicant will be deemed to consent and agree to the following:

(a) Facility Inspection. From time of application throughout construction and at all times while any financial assistance from the Commission to the applicant is outstanding, the Commission shall have the right to inspect any and all of the Projects and all incidental areas, facilities and premises otherwise pertaining thereto.

(b) Record Inspection. From time of application throughout construction and at all times while any financial assistance from the Commission to the applicant is outstanding, the Commission, or its designee, shall at all reasonable times have the right to inspect, review, and copy all contracts, documents, records or other information related to the application and the Project, including financial records possessed by the applicant, the natural gas utility, or its contractors, agents, employees or representatives.

(c) Project completion, inspection and audit. Upon completion of a Project, a written notification of completion shall be furnished to the Commission. Upon receipt of the notification, or upon Project completion should notification not be furnished as required herein, the Commission, or its designee or the Division of Legislative

Audit, may conduct a final on-site inspection of the Project and an audit of any and all financial assistance funds furnished under these regulations to the applicant may be required.

14. RETURN OF FUNDS TO COMMISSION.

(a) Financial assistance funds made available to an applicant by the Commission shall be utilized and expended by the applicant solely and exclusively for the payment of authorized and allowable costs and expenses of the Project for which assistance was approved. Any remaining funds shall be promptly returned to the Commission.

(b) In the event funds furnished to an applicant by the Commission are not utilized and expended by the applicant for the specific Project for which such funds were furnished within a reasonable period of time after disbursement to the applicant, or in the event the Commission determines, at any time, that funds furnished were utilized and expended for any unauthorized purpose, the applicant shall upon demand return or otherwise pay or reimburse to the disbursing officer any and all such unused funds or any amounts of funds used and expended for unauthorized purposes.

15. COMBINATION OF ENTITIES. For purposes of qualifying for and obtaining financial assistance, any group of persons and/or entities may combine and join in making the financial assistance application.

16. FORMS OF ASSISTANCE. The Commission, after acting upon an application, may provide financial assistance in any of the following ways:

(a) Grant-in-aid. The Commission may, for those Projects it deems appropriate, make a grant to the applicant for the payment of Project costs.

(b) Loans. The Commission may, for those Projects in need of financing, make loans at low interest rates. The applicant will enter into loan documents with the Commission setting forth the terms of the loan.

(1) The interest rate for loans by the Commission shall not exceed five percent (5%) per annum. If the Commission is convinced that an applicant is financially unable to pay any interest, then the Commission may approve a loan with no interest charge.

(2) The date that interest will begin to accrue on the unpaid balance of a loan will be set by the Commission.

(3) The loan documents will provide the terms and conditions of the loan including, but not limited to, the rate, the principal amount of the loan, and the dates and amounts of payments.

(4) All loan payments shall be made to

the Administering Agency so that those funds will be available to the Commission for future Projects. As to natural gas projects, in no event shall the gas company be responsible for repaying the loan.

II. NATURAL GAS PROJECTS.

(1) Section 20 of Act 1358 of 1997 sets aside for each year of the 1997-99 biennium $5,000,000 of monies in the Economic Development of Arkansas Fund to be used to assist in extending natural gas service to areas of the State not presently served. Section 20 requires the Joint Committee on Energy of the Arkansas General Assembly to review the regulations promulgated by the Commission and all proposals for natural gas Projects. Accordingly, the Joint Committee on Energy will be responsible for accepting and reviewing natural gas Project applications and forwarding those applications to the Commission with their recommendation. The Commission will decide which applications should be approved.

(2) Projects approved under this section shall be eligible for loans only, not grants.

(3) Loans approved by the Commission for natural gas Projects shall be structured as follows: The applicant shall be the natural gas users, group of users, or other type of association of natural gas users, or agents or fiduciaries of natural gas users, seeking the extension of natural gas service pipelines to their area. The loan funds, if approved, will be disbursed to the gas company which will be servicing the area, provided the gas company agrees to be responsible for the construction of the pipeline extension and has received all necessary regulatory approvals. The gas company and the natural gas users must agree that the company will collect a surcharge from the natural gas users in an amount sufficient to repay the loan. The company will remit the surcharge collected from the natural gas users to the Administering Agency.

CHAIR OF ECONOMIC DEVELOPMENT OF ARKANSAS FUND COMMISSION

#10.18

HARRINGTON, MILLER & NEIHOUSE

RECEIVED
APR 14 1998
CITY CLERKS OFFICE

A PROFESSIONAL ASSOCIATION
ATTORNEYS
113 EAST EMMA AVENUE * P.O. BOX 687
SPRINGDALE, ARKANSAS 72765-0687
Telephone (501) 751-6464
Telecopier (501) 751-3715

Michele A. Harrington
Stephen J. Miller
John P. Neihouse, LL.M. (in Taxation) *

E. Wayne Krug **
William F. Mertins, Jr.
Stephen D. Stitt ***

* Also licensed in Texas
** Also licensed in Oklahoma
*** Of Counsel

April 14, 1998

Heather Woodruff, City Clerk
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

RE: Appeal of Rezoning No. RZ 98-7.00.

Dear Heather:

My clients, Mark Marquess and Dan Dykema, wish to appeal the Planning Commission denial (after a 4-4 vote) of a requested R-1 zoning for the 60 acre parcel currently owned by the heirs of the Guisinger Trust, despite the recommendation by the Planning Staff that this rezoning be approved. The zone requested is the City's low density residential zone, R-1, under which the vast majority of single family housing is built in the City. This land is shown on the City's 2020 Plan as residential, not agricultural, which is its present zoning (A-1).

My clients believe the Planning Commission's failure to recommend this rezoning to the City Council to be in error for the following reasons:

(1) Denial of this rezoning request would be arbitrary and capricious, given that the 10 acres immediately adjacent to the north is already zoned R-1, and several R-1 and R-2 subdivisions have quite recently been granted in this growth area of Fayetteville (within a mile of this parcel).

(2) It is error to deny the landowners the use of their property which has already been annexed into the City, is very near the Highway 71 Bypass, and is thus ripe for development. This parcel is currently inside the City boundaries, and the landowners wish to, and have a right to, utilize their property to its highest and

best use, which is residential development. The development of this land into residential homes in large parcels is not feasible due to the price of the land.

It is relevant to note that only three persons were in the audience interested in this rezoning, and only two of them spoke against the rezoning. The widening of Wedington Drive to the west is expected to alleviate any additional traffic which will be generated from this rezoning and subsequent development, as mentioned in the Planning Staff Report attached hereto as Exhibit A.

The development proposed on this parcel will include the environmental protection of Owl Creek which traverses a portion of this land, by way of a nicely developed park and playground of approximately five (5) acres. The development will be less dense than the density allowed in the R-1 zone, and the approximately one-half (½) mile of total frontage along 46th Avenue and Persimmon will be widened and improved by the developer despite the fact that no driveways from this development will open onto either street.

We have attached as Exhibit B hereto a vicinity map showing the parcel proposed for rezoning and the other R-1 subdivisions in the area. An informal market study of available lots indicates that fewer than one year's supply of lots of a similar type are still available on the market in this growth area. This is less than any city in the area, despite Fayetteville's continued growth. Therefore the developer believes that this subdivision will provide needed housing in a nice residential setting, and that this rezoning should be granted by the City Council. A survey of the property is also attached as Exhibit C.

Your favorable consideration of this rezoning will be appreciated for the reasons stated above.

Sincerely,

Michele A. Harrington
Attorney for Mark Marquess and Dan Dykema

MAH/rtv

attachments

MARQUESS / DYKEMA

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
THRU: Charles Venable, Asst. Public Works Director
Alett S. Little, City Planner
FROM: Tim Conklin, Planner
DATE: April 13, 1998

REQUEST:

RZ 98-7.00: Rezoning (Mark Marquess and Dan Dykema, pp 437 & 438) was submitted by Michele A. Harrington on behalf of the applicants for property located at the southwest corner of 46th Street and Persimmon and contains approximately 60 acres. The request is to rezone the property from A-1, Agricultural to R-1, Low Density Residential.

RECOMMENDED MOTION:

RZ 98-7.00: Staff recommends approval of the requested rezoning from A-1 to R-1.

PLANNING COMMISSION ACTION: YES Required
_____Approved _____Denied

Date: April 13, 1998

Comments:

CITY COUNCIL ACTION: YES Required
_____Approved _____Denied

Date: 1 1

IN CITY
Designated Residential in 2020 Plan
R-1 to North

EXHIBIT A

BACKGROUND :

This site is currently undeveloped. Owl Creek crosses the property at the southwest corner and contains areas of 100 year floodplain and floodway. The applicant has requested R-1, Low Density Residential zoning which allows up to four units per acre. The property has approximately 1320' of frontage along 46th and Persimmon Street and the applicant will be responsible for improvements to these streets at the time of subdivision approval. The City and the Arkansas Highway and Transportation Department have agreed to cost share in the upgrade of Highway 16/Wedington Road to four lanes from the 71 Bypass to approximately Meadowlands Drive. At the time of subdivision, development fees of $200 per lot will be assessed for improvements to the Hamstring Lift Station.

ADJACENT LAND USE AND ZONING:

North:	Single Family, Undeveloped; ~~A-1~~ R-1 10 acres = immed adj. 46th St.
South:	Undeveloped, Single Family, County
East:	Undeveloped, Single Family, A-1
West:	Undeveloped, Single Family, A-1

INFRASTRUCTURE:

Streets: The site is adjacent to 46th Street and Persimmon Street, both classified as a Collector.

Water: There is a 6" water line along the east side of 46th Street.

Sewer: There is an 10" sewer line on the property.

LAND USE PLAN:

General Plan 2020 shows this area as Residential.

RZ98-7.00 FINDINGS OF THE STAFF

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

   Staff finding: The proposed rezoning will allow the development of the land for residential purposes as shown on General Plan 2020 Future Land Use Plan.

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

   Staff finding: There are many considerations that determine how property can be developed and at what price an individual is willing to pay for a particular piece of

property. A professional market and feasibility study would be necessary to completely understand the current supply and demand for property zoned R-1.

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

Staff finding: Rezoning this property to R-1 will not create or appreciably increase traffic danger and congestion.

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

Staff finding: Rezoning this property to R-1 would not alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Staff finding: N/A

RZ 98-7.00: REZONING (MARK MARQUESS AND DAN DYKEMA)
SOUTHWEST CORNER OF 46TH STREET AND PERSIMMON

Submitted by Michele A. Harrington on behalf of the applicants for property located at the southwest corner of 46th Street and Persimmon and contains approximately 60 acres. The request is to rezone the property from A-1, Agricultural to R-1, Low Density Residential.

Findings:

1. The proposed rezoning will allow the development of the land for residential purposes as shown on General Plan 2020 Future Land Use Plan.
2. There are many considerations that determine how property can be developed and at what price an individual is willing to pay for a particular piece of property. A professional market and feasibility study would be necessary to completely understand the current supply and demand for property zoned R-1.
3. Rezoning this property to R-1 will not create or appreciably increase traffic danger and congestion.
4. Rezoning this property R-1 would not alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Staff Recommendation:

Staff recommends approval of the requested rezoning from A-1 to R-1.

No conditions of approval.

Michele Harrington, representing applicant, appeared before the commission. She stated this was only 1/4 mile past the 71 bypass which was inside the city limits. She stated the engineers and Mr. Markus were present for any questions.

Public:

Cyrus Kooshesh, who lives on 46th street, appeared before the commission. He stated the property in question was actually 1.3 miles from the bypass. He noted his concerns as follows:

1. The range of the size of houses were presently 1.99 acres, the rest 1.5 to 3 acres. He stated he was not in opposition to selling the lot. However, he stated sometimes the City approves plans, and afterward find problems previous administration did not consider.

2. He stated he understood R-1 could have up to 4 houses per acre which would be 240 houses maximum. When those 240 houses go up you would need to allow for people who would have at least two cars which would cause traffic overflow. He further stated Highway 16 West has worse traffic at the lights. He stated they had asked the City Council to negotiate for either the City or the State for a road to Double Spring Road and bypass.

3. His next item of concern was drainage. He showed the commission two pictures of his backyard which was standing in water at the present time. He stated the City allowed a church to be built and prior to that it would drain, now a dam has been built to contain the water. His house is approximately 1/8 of mile and 1.5 miles from 46th street.

4. He requested for the commission to consider the number of houses and limit per acre. He stated there were currently 2600 to 2700 square foot houses on existing property at the present time.

Bill Giles, who lives on 46th street, appeared before the commission. He stated originally this was an improvement district and were still paying for improvements in this area. He further stated that anyone developing in this area would be getting a free ride. He requested to keep this area and allow enough affordable housing there. He noted a development to the east of 46th had started and were going to build houses and was not able to complete the project and now it was messed up, and stated he would not want anymore of that in this area or location.

He stated his wife currently owns 200 acres which was approximately 1/4 mile from neighbors.

Discussion:

The applicant, Mr. Marquess, appeared before the commission. He wanted to address some of the issues presented before the commission.

Issues: He stated 1/4 north back on Hwy 16 was a subdivision consisting of 190 homes; Fieldstone subdivision was 1/4 of mile; Meadowlands Subdivision and Heritage Village, and therefore, this area was not as remote as it appeared. He stated R-1 maximum was 240 lots and their plans would not contain near that many houses. He further noted plans include dedicating 25 acres for parks and recreation.

As to the drainage issue, Mr. Marquess stated he believed the property was upstream from the proposed property which was south and the water flow went south and west. He further stated commercial expansion was going on out there, and noted they were not requesting R-2 or R1.5, they were requesting R-1.

- Mr. Odom noted his concern zoning should not be R-1 and asked if any consideration had been given to R-E.

Mr. Marquess stated density lots running at least $40,000 to $60,000 minimum. Unfortunately, the only area that could substantiate a R-E designation was on the east side. Traditionally in that area of 2 miles average lot price supports $12,000 to $20,000 lot price.

- Mr. Reynolds noted Salem Street has three subdivisions yet to be built, Crystal Springs has two phases to build, and inquired if R-A or R-L was a consideration.

Mr. Marquess stated a market analysis was prepared on the west side, and nothing supported that issue. He further noted Heritage Village was building its last 45 lots and some are duplex; Magnolia Crossing was down to its last 50 lots; Fieldstone subdivision opened up there last phase, and these were approximately 4-5 miles away from this lot.

- Mr. Reynolds inquired if proposed project was compatible to the neighborhood currently there, and Mr. Marquess stated it would be within 1/4 miles.

Mr. Marquess stated most of the homes in this area were not $300,000+. Mr. Marquess further stated out of the 300 homes were cut down to 3 acre lots, they would find less than 5% of homes over $125 to $150,000.

Another issue of concern was property to the north does touch property already zoned R-1. In reviewing the plat it was noted the majority of the property adjoining was zoned A-1.

- Ms. Harrington addressed the improvements and stated the landowner would also be paying sewer fines, and many issues regarding traffic, drainage, etc. would be addressed at Subdivision Committee. She further stated when bypass came in everyone knew west would be developed and was designated residential on our 20/20 plan.

Mr. Estes stated it appeared zoning was consistent and allowed residential purposes as shown on general plan 20/20. In addition, it would be impractical to use the land for any other uses permitted under its existing zoning classification, and for these reasons he moved to approve this request.

Mr. Ward seconded said motion.

Mr. Odom stated he was in agreement with Mr. Estes' majority of assessment which indicates master plan does indicate it to be residential. However, he was not convinced R-1 should be the correct zoning to be consistent with the surrounding area. And therefore, would not approve this request due to the adjacent landowners concerns.

The roll call was given and motion failed on a vote of 4-4-0. ODOM, tucker, Reynolds & Forney voting nay.

Mr. Odom stated the applicant could appeal to the City Council.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE. ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: **Fayetteville Planning Commission Members**
THRU: **Charles Venable, Asst. Public Works Director**
Alett S. Little, City Planner
FROM: **Tim Conklin, Planner**
DATE: **April 13, 1998**

REQUEST:

RZ 98-7.00: Rezoning (Mark Marquess and Dan Dykema, pp 437 & 438) was submitted by Michele A. Harrington on behalf of the applicants for property located at the southwest corner of 46th Street and Persimmon and contains approximately 60 acres. The request is to rezone the property from A-1, Agricultural to R-1, Low Density Residential.

RECOMMENDED MOTION:

RZ 98-7.00: Staff recommends approval of the requested rezoning from A-1 to R-1.

PLANNING COMMISSION ACTION: YES Required
_____Approved _____Denied

Date: April 13, 1998

Comments:

CITY COUNCIL ACTION: YES Required
_____Approved _____Denied

Date: / /

BACKGROUND :

This site is currently undeveloped. Owl Creek crosses the property at the southwest corner and contains areas of 100 year floodplain and floodway. The applicant has requested R-1, Low Density Residential zoning which allows up to four units per acre. The property has approximately 1320' of frontage along 46th and Persimmon Street and the applicant will be responsible for improvements to these streets at the time of subdivision approval. The City and the Arkansas Highway and Transportation Department have agreed to cost share in the upgrade of Highway 16/Wedington Road to four lanes from the 71 Bypass to approximately Meadowlands Drive. At the time of subdivision, development fees of $200 per lot will be assessed for improvements to the Hamstring Lift Station.

ADJACENT LAND USE AND ZONING:

North:	Single Family, Undeveloped, A-1
South:	Undeveloped, Single Family, County
East:	Undeveloped, Single Family, A-1
West:	Undeveloped, Single Family, A-1

INFRASTRUCTURE:

Streets: The site is adjacent to 46th Street and Persimmon Street, both classified as a Collector.

Water: There is a 6" water line along the east side of 46th Street.

Sewer: There is an 10" sewer line on the property.

LAND USE PLAN:

General Plan 2020 shows this area as Residential.

RZ98-7.00 FINDINGS OF THE STAFF

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

Staff finding: The proposed rezoning will allow the development of the land for residential purposes as shown on General Plan 2020 Future Land Use Plan.

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

Staff finding: There are many considerations that determine how property can be developed and at what price an individual is willing to pay for a particular piece of

property. A professional market and feasibility study would be necessary to completely understand the current supply and demand for property zoned R-1.

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

Staff finding: Rezoning this property to R-1 will not create or appreciably increase traffic danger and congestion.

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

Staff finding: Rezoning this property to R-1 would not alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Staff finding: N/A

Rezoning Application for MARK MARQUESS and DAN DYKEMA, Item #6.

a. The proposed zoning change is from the existing A-1 zone to R-1 zone for the purpose of building single family homes within the restrictions of the R-1 zone.

b. The reason for the requested zoning change is that a single family residence subdivision is not permitted in the A-1 zone.

c. Relation of this property to surrounding properties:

1. This property is bordered on the south and east by a large acreage under one ownership with a single residence, and on the north and west by smaller acreage residential development and pasture land. Fieldstone and Willow Springs Subdivisions are within ¼ mile of this property, with approximately 300 homes, over 80% built and sold. Since all property surrounding this parcel is residential in use, this use proposed is compatible.

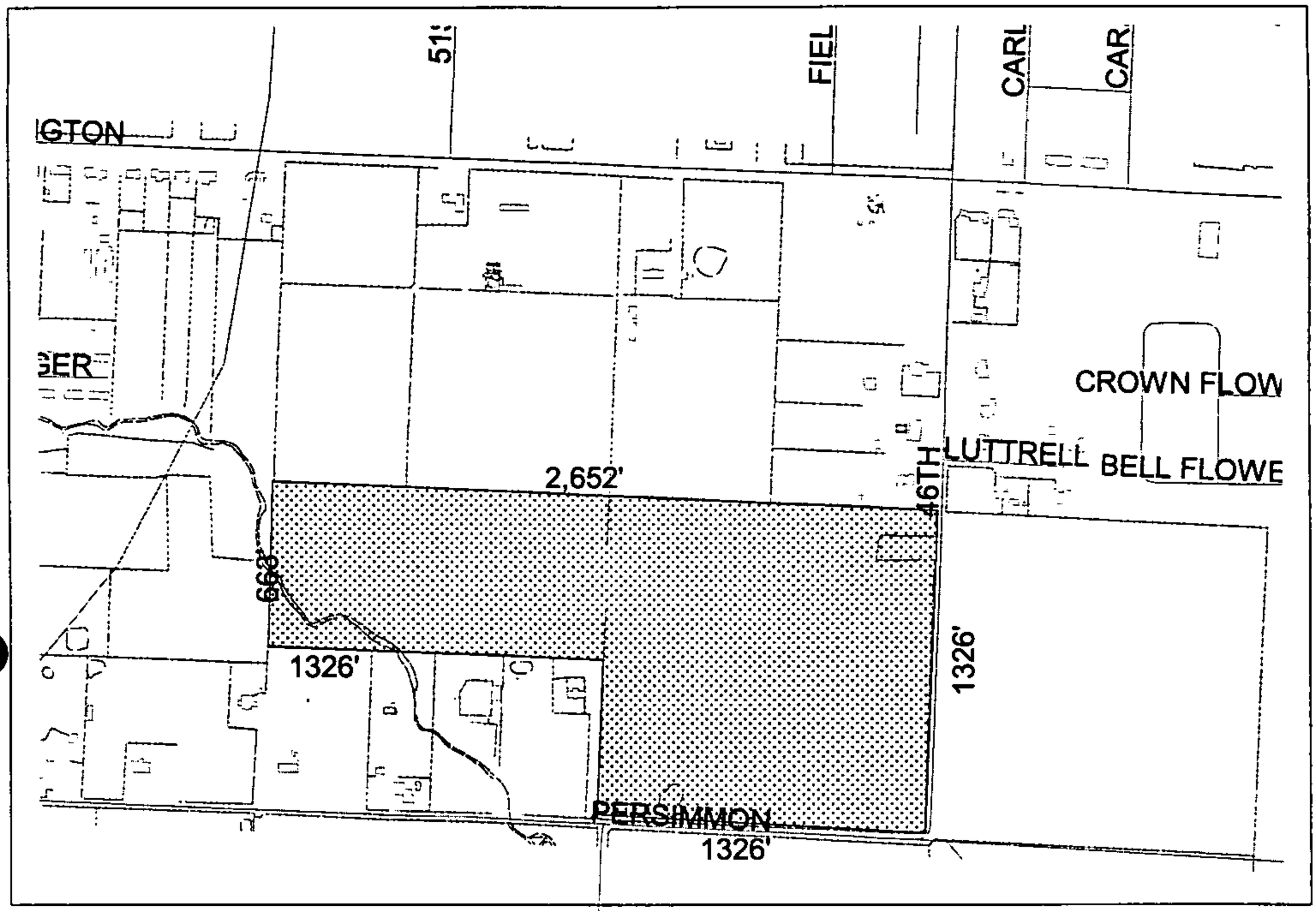
2. This parcel is in the city limits ¼ mile south of Highway 16 West. 46th Street borders this property to the east and Persimmon Street to the south, providing good access to the property,. Neither are heavily traveled streets; 46th street feeds north into Highway 16, a major arterial. The vast majority of morning traffic produced by this subdivision will turn right toward the City center, causing little or no interruption in the flow of Highway 16 traffic due to left turns.

3. Appearance of homes to be built in this residential subdivision will be harmonious in appearance with the development in the area.

4. Signage will involve only the subdivision signs at entrances which will be landscaped attractively.

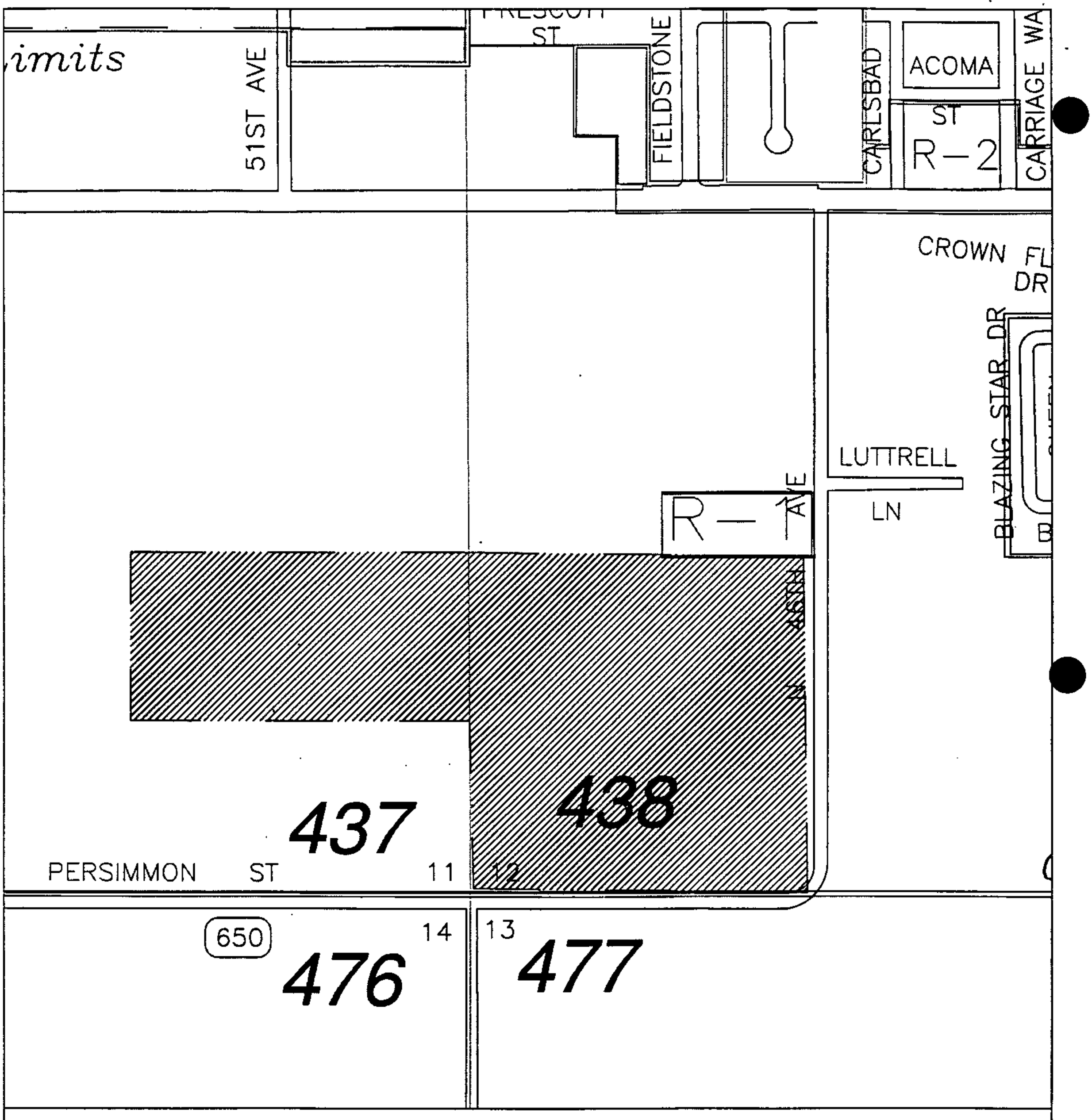
d. A 6" or 8" water line installed by the City (City is uncertain of diameter) is currently available along the east side of 46th Street. A 10" sewer line is in place on the property.

RZ98-7: MARQUESS & DYKEMA



FAYETTEVILLE

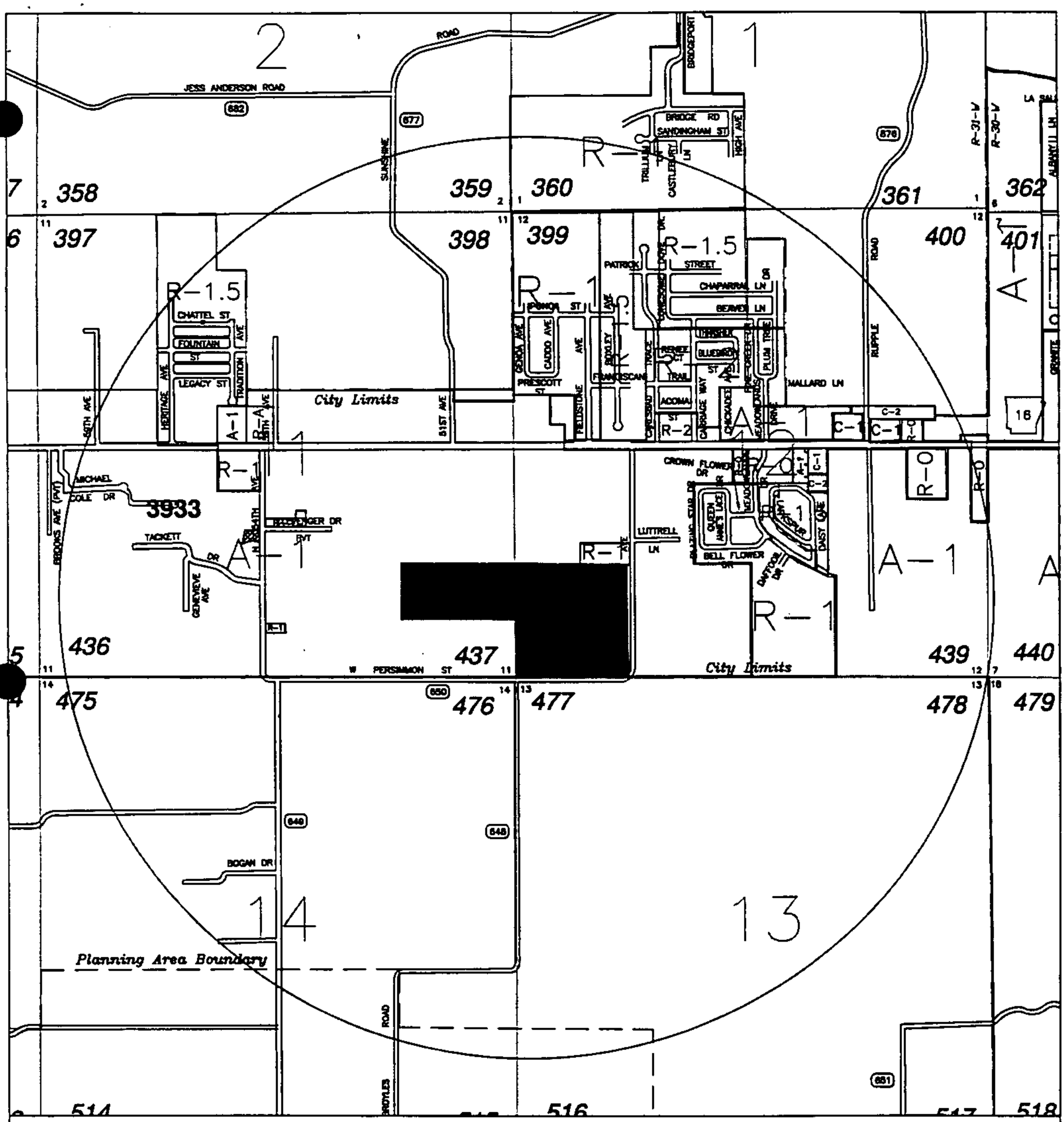
11-16-31 RZ98-7.00 PP437
Mark Marquess & Dan Dykema
Northwest corner of 46th & Persimmon



SCALE: 1" = 500'

5.6

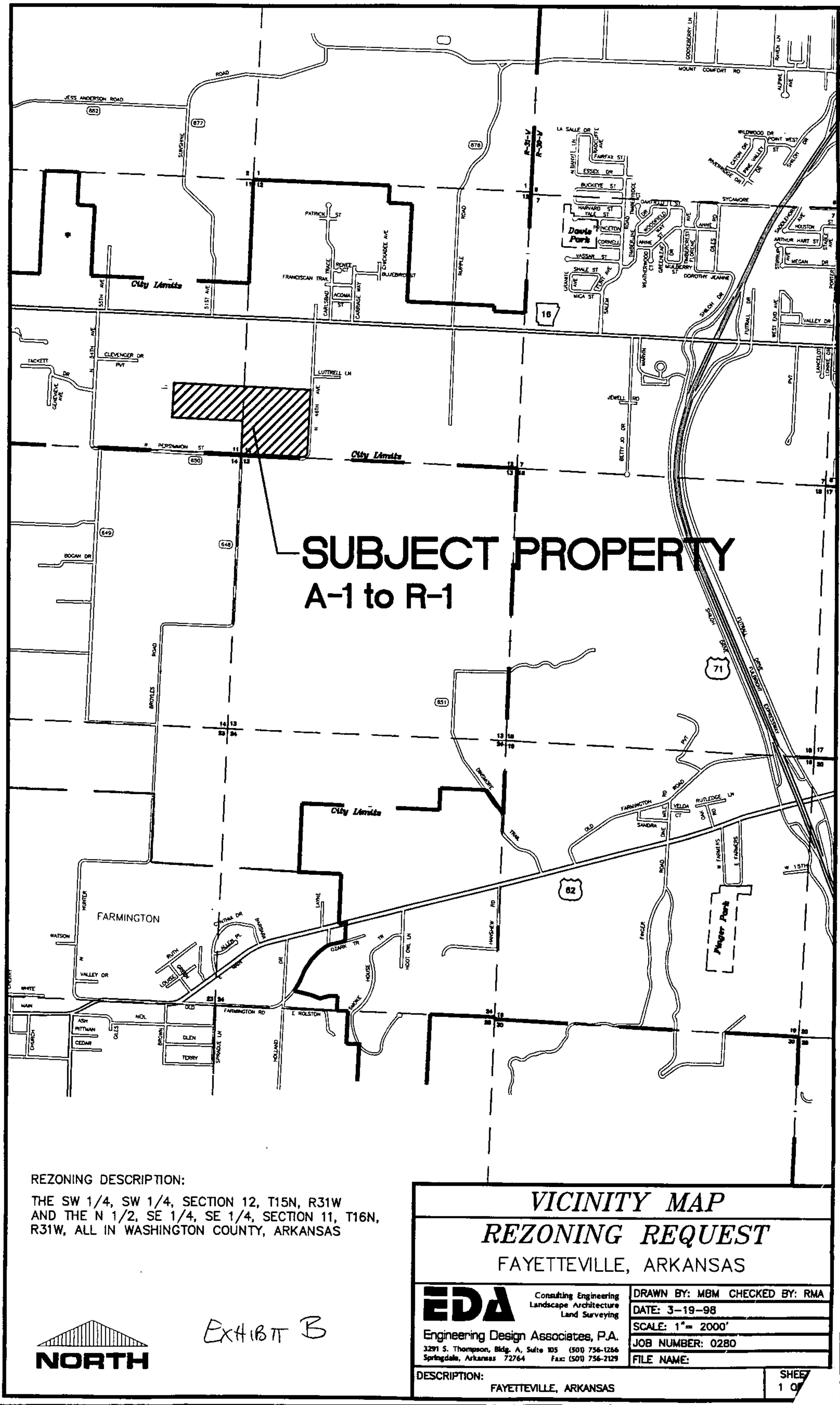
11-16-31 RZ98-7.00 PP437
Mark Marquess & Dan Dykema
Northwest corner of 46th & Persimmon



SCALE: 1" = 1,500'

5.7

11-16-31 RZ98-7.00 PP437
Mark Marquess & Dan Dykema
Northwest corner of 46th & Persimmon



REZONING DESCRIPTION:

THE SW 1/4, SW 1/4, SECTION 12, T15N, R31W AND THE N 1/2, SE 1/4, SE 1/4, SECTION 11, T16N, R31W, ALL IN WASHINGTON COUNTY, ARKANSAS

NORTH

EXHIBIT B

VICINITY MAP

REZONING REQUEST

FAYETTEVILLE, ARKANSAS

EDA
Consulting Engineering
Landscape Architecture
Land Surveying

Engineering Design Associates, P.A.
3291 S. Thompson, Bldg. A, Suite 105 (501) 756-1266
Springdale, Arkansas 72764 Fax: (501) 756-2129

DRAWN BY: MBM CHECKED BY: RMA

DATE: 3-19-98

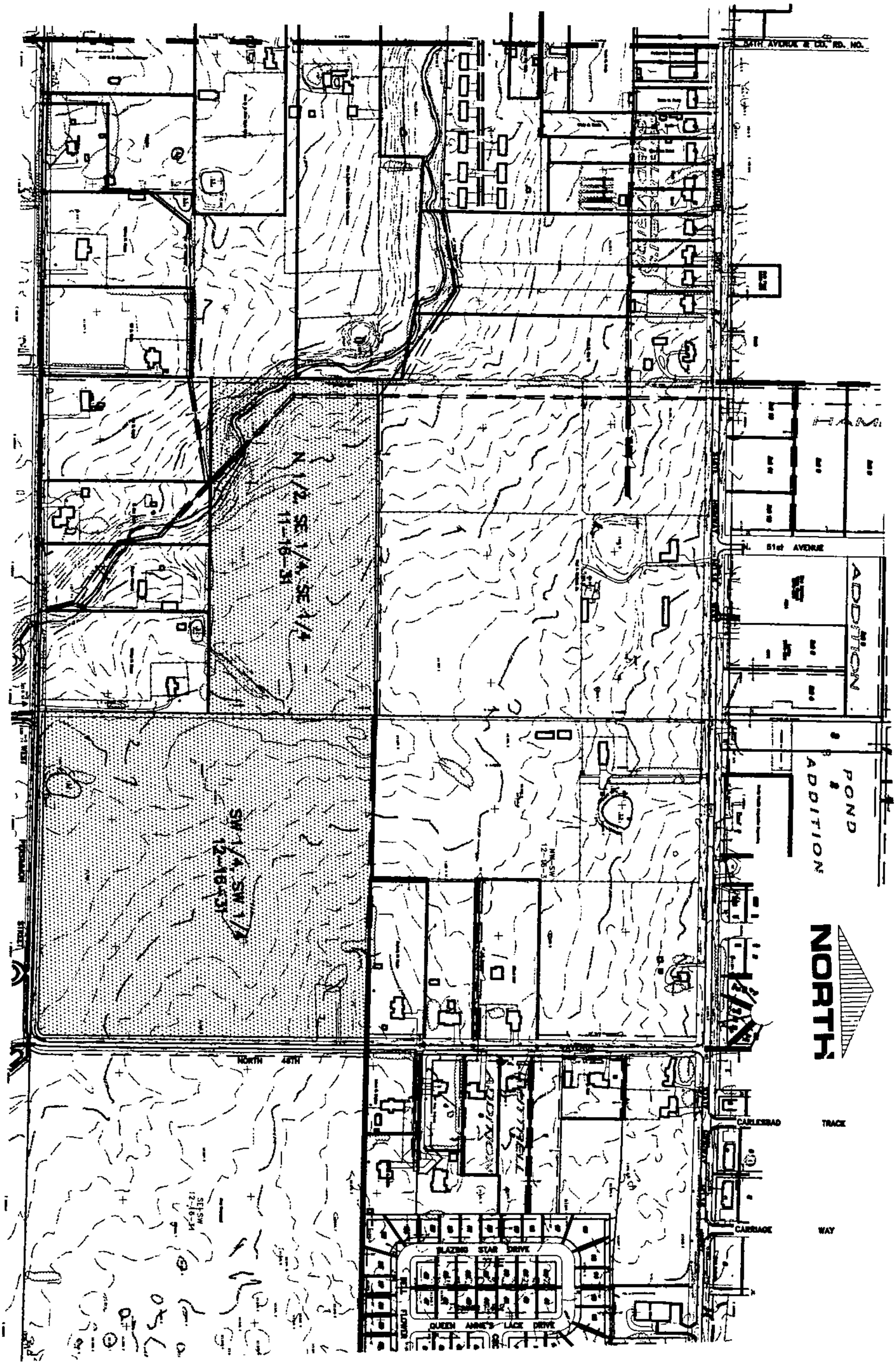
SCALE: 1" = 2000'

JOB NUMBER: 0280

FILE NAME:

DESCRIPTION: FAYETTEVILLE, ARKANSAS

SHEET 1 OF



REZONING DESCRIPTION:

THE SW 1/4, SW 1/4, SECTION 12, T15N, R31W AND THE N 1/2, SE 1/4, SE 1/4, SECTION 11, T16N, R31W, ALL IN WASHINGTON COUNTY, ARKANSAS

EXHIBIT B

LOCATION MAP
REZONING REQUEST
FAYETTEVILLE, ARKANSAS

EDA
Consulting Engineering
Landscape Architecture
Land Surveying

Engineering Design Associates, P.A.
3291 S. Thompson, Bldg. A, Suite 105 (501) 756-1266
Springdale, Arkansas 72764 Fax: (501) 756-2129

DRAWN BY: MBM CHECKED BY: RM
DATE: 3-19-98
SCALE: 1"= 2000'
JOB NUMBER: 0280
FILE NAME:

DESCRIPTION: FAYETTEVILLE, ARKANSAS

SHEET 1 OF

FLOYD COX, JR. GR ASSIGNS

PAUL MARDIGNI, JR. GR ASSIGNS

WILLIAM C. SHERWOOD GR ASSIGNS

CYRUS KOOSHESH GR ASSIGNS

MARCELLA THOMPSON GR ASSIGNS

S87°33'36"E 1333.13'

S87°33'04"E 1322.46'

N87°33'36"W 1306.16'

N87°34'02"W 1306.16'

PEGGY RUTH GUISINGER JONES ET AL

50.00 ACRES (2,598,142 SQ. FT.)

EAST PERSIMMON STREET

BOYET GREENWOOD GR ASSIGNS

LEONARD C. PATTERSON GR ASSIGNS

CALICO FAMILY TRUST GR ASSIGNS

H. DON LEWIS GR ASSIGNS

CLAYTON BOLTON GR ASSIGNS

WILLIAM R. BATES GR ASSIGNS

POINT-OF-BEGINNING
S.W. CORNER
12-16-31

COUNTY ROAD NO. 1

N

LEGEND

GRAPHIC SCALE IN FEET
100 0 100 200

REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF ARKANSAS
No. 1174
RONALD A. KNOX

LEGAL DESCRIPTION:

The North Half (N½) of the Southeast Quarter ("SE¼) of the Southeast Quarter (SE¼) of Section Eleven (11), and the South-east Quarter (SE¼) of the Southwest Quarter (SW¼ of Section Twelve (12), all in Township Sixteen (16) North of Range Thirty-one (31) West of the 5th Principal Meridian, containing sixty acres, and being situated in Washington County, Arkansas.

Subject, however, to all existing leases, easements (recorded or unrecorded) and restrictions appearing of record.

SURVEY DESCRIPTION:

A certain tract of land located within the corporate limits of the City of Fayetteville, being the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section Twelve (12), and the North Half (N½) of the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section Eleven (11), all in Township Sixteen (16) North, Range Thirty-one (31) West of the Fifth (5th) Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit:

Beginning at a railroad spike set at the Southwest corner of said Section 12, thence N02°22'11"E 666.60 feet to a set rebar; thence N87°33'04"E 1322.46 feet to a set rebar; thence N02°19'26"E 666.08 feet to a set rebar; thence S87°32'36"E 1323.13 feet to a set rebar; thence S02°19'14"E 1,331.66 feet to a set railroad spike; thence S87°19'32"W 1322.34 feet to a set railroad spike; thence N87°34'02"W 1306.16 feet to the Point-of-Beginning, containing 58.99 acres (2,569,142 sq. ft.), more or less, subject to all rights-of-way, servitudes, and easements, of record or fact.

VICINITY MAP
NOT TO SCALE

SITE

500-16-31-0-11-220-72-1174
500-16-31-0-12-330-72-1174

BOUNDARY SURVEY

GUISINGER ESTATE
FAYETTEVILLE, ARKANSAS

EDA
Consulting Engineering Land Surveying
Engineering Design Associates, P.A.

DRAWN BY: MBN CHECKED BY: RWA
DATE: 4-03-96
SCALE: 1" = 100'
JOB NUMBER: 0280
FILE NAME: 0280BORY.DWG

DESCRIPTION: N½-SE¼-SE¼, 11-16-31 & SW¼-SW¼, 12-16-31, WASHINGTON COUNTY, ARKANSAS

SHEET 1 OF 1

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Charlie Venable, Assistant Public Works Director

THRU: Bert Rakes, Inspection Division Director

FROM: Mike McKimmey, Property & Sign Inspector

DATE: April 14, 1998

RE: Efforts to ensure proper notice

On April 13th, 1998, the city retained O'Connell Investigative Associates to provide proper notification to Ms. Jenny L. Schuman at the legal tax address. Mr.O'Connell served notice at 1430 Crestwood. Mr.Weatherford indicated Ms. Schuman was not in. Mr. Weatherford signed for receipt at 11:50 A.M.
1430 Crestwood is the residence of the Weatherfords. It is owned by Jennifer Louise Schuman as is 2173 Deane. Mr. Weatherford advised that Ms. Schuman is their daughter.

Inspections believes that proper notification has been made. The house was posted. Two notifications were made to the legal address of the owner.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

April 10, 1998

Jenny L. Schuman
1430 N. Crestwood
Fayetteville, AR

Dear Madam,

On Tuesday, the 21st day of April, the Fayetteville City Council will consider a resolution to determine if the structure at 2173 W. Deane St. is dilapidated, unsafe, unsanitary or detrimental to the public welfare.

In the event that the resolution passes, the City Council may order the structure razed and removed.

The Council meeting will be held April 21st at 6:30 pm in Room 219 of the Fayetteville City Administration Building, 113 W. Mountain St.

Sincerely,

Mike McKimmey

Mike McKimmey, Property Inspector

4/13/98 Jenny L. Schuman is the daughter of William M Weatherford. The original letter was ~~mailed~~ delivered to Mr. Weatherford at 11:50 A.M. this date at 1430 N. Crestwood Fayetteville, Arkansas.

DEANE2ND.NOT

Richard J. O'Connell WPS 93-4

Mr Weatherford

113 WEST MOUNTAIN 72701 501-521-7700
FAX 501-575-8257

Washington County Real Estate Assessment Record

Parcel Number 765-03035-000 Property Type RI

Location Address 1430 CRESTWOOD

Owner SCHUMAN, JENNIFER LOUISE

Mailing Address 1430 CRESTWOOD DR

FAYETTEVILLE AR 72701

Value Information

Current year 1995

	Appraised	Assessed
Land value	16,000	3,200
Imp. value	80,600	16,120
Total value	96,600	19,320

Legal Description

Lot 016 Block 001 Section-Township-Range 11-16-30

Addition BROADVIEW S/D

Legal

Deed				
09/28/88	1288-848	WD	0.00	0

School District FAYETTEVILLE SCHOOLS City description FAYETTEVILLE

Deeds Since 1985

Parcel Number	765-03035-000
Date	09/28/88
Book	1288
Page	848
Deed Type	WD
Revenue	0.00
Sale Amount	0
Grantor	SCHUMAN, JENNIFER LOUISE
Other Grantors	

Notes: NO REV; ALSO 765-13571, 001-5143 & 57

NAME

SCHUMAN, JENNY L.

PARCEL # 765-11585-000
144776-000-00

TAX LEDGER SHEET

Washington County, Arkansas

BOOK: 1102 PAGE:

Tax Desc.	Sec.	Tp.	Rge.	Area	School Dist.
FAY (UNIVERSITY ACRES)					
LOT 10 4.07 ACRES					

2173 Deane

LEGAL DESCRIPTION

S.D.#: 011

VALUE	OWNER	ADDRESS	DATE	BOOK	PAGE

VALUATION	YEAR	AMOUNT OF TAX	Penalty	COST	1st. INST.	2nd. INST.	FINAL INST.	DATE PAID	RECEIPT NO.	COLLECTOR
3,750	1985	141.75						Idid86-C	33196	
3,250	1986	148.50	TR. RECEIPT NO.10573					4-25-88		~
3750	1987	148.50								
3750	1988	171.00	TR. RECEIPT NO 17509					9-10-90		
3750	1989	171.00						10-10-90	55749	
3750	1990	171.00						10-10K-91	43067	
3750	1991	177.38						10-13-92	35670	
3750	1992	177.38						10-12-93	33926	
3750	1993	177.38						10-11-94	35214	
3750	1994	192.38						10/11/95	19469	
6830	1995	350.88	CO Red 9378					9/24/97		
6830	1996	350.38						10-10-97	5841	
	1997									

SOLD TO	REDEEMED BY	STATE DEED NO
	NORTHWEST NATIONAL BANK	
	NORTHWEST NATIONAL BANK	
	95 Jenny Schuman	

15.01

RESOLUTION

WHEREAS the Fayetteville Town Center should have space for the exclusive use of community non-profit groups at free or nominal cost, and

WHEREAS Advertising and Promotion Commission funds cannot be used to build such exclusive community group meeting space, and

WHEREAS, the public was informed prior to the election supporting the issuance of the bonds for the Town Center that a request would be made to provide a community non-profit group meeting room by using City capital improvement project money,

NOW THEREFORE, be it resolved that the Fayetteville City Council supports the use of Capital Improvement Project funds for the additional expense to provide a Community Non-Profit Group Meeting Room above the lobby or in another appropriate place within the Fayetteville Town Center.

TENTATIVE.
AGENDA

FAYETTEVILLE CITY COUNCIL MEETING
APRIL 21, 1998

A meeting of the Fayetteville City Council will be held on April 21, 1998 at 6:30 p.m. in the City Administration Building, 113 West Mountain Street, Room 219, Fayetteville, Arkansas.

The following items will be considered:

CONSENT

1. MINUTES: Approval of minutes from the April 7, 1998 City Council meeting.

2. BID 98-12: A resolution accepting the Lowest Qualified Bidder for Item #1 Self-propelled broom sweeper for Street Department- Bid # 98-12, with trade in of Item #2. The vender for this purchase is Mitchel Machinery Co., 2218 Industrial Park Road, Van Buren, AR.

3. BID #98-16: A resolution awarding and approving Bid #98-16 for the purchase of curbside recycling bins and accessories from Rehrig Pacific Company, Dallas, TX in the amount of $134,810 for implementation of our curbside sort recycling program.

4. APPEAL OF A.B.C DECISION: Appeal of A.B.C. decision to license the dispensing of alcoholic beverages within 100 feet of the U.B.C Youth Building.

5. MAHLER LAND PURCHASE: A resolution authorizing the purchase by the City of 2.6 acres from Alex W. and Lori K. Mahler, located on Happy Hollow Road, for the future expansion needs of the City. Agreed to price is $50,000.00 for the 2.6 acres. Resolution should include purchase price and closing costs, together is estimated at $53,000.00.

OLD BUSINESS

6. WARD BOUNDARIES: An ordinance changing the ward boundaries for the City of Fayetteville. The ordinance was left on the first reading at the April 7, 1998 meeting.

7. RZ 98-6.0: An ordinance rezoning property located at the southeast corner of Cato Springs Road and Razorback Road. The property is zoned I-1, Heavy Commercial-Light Industrial and contains approximately 19.47 acres. The request is to rezone the property R-2, Medium Density Residential. The ordinance was left on the first reading at the April 7, 1998 meeting.

8. AFFIRMING PLANNING COMMISSION FINDINGS: An ordinance requiring the Planning Commission to take a separate vote to affirm findings. The ordinance was left on the first reading at the April 7, 1998 meeting.

9. TOWN CENTER BOND ISSUANCE: An ordinance providing for the execution of documents needed to complete the issuance of the Hotel and Restaurant Gross Receipts Tax Bonds, Series 1998, the proceeds of which will be used to partially finance the construction of the Town Center and Parking Garage on the south side of the downtown square. In addition, the City Council is requested to grant the authority for the Budget Coordinator to execute any budget adjustments necessary to recognize the bond proceeds and bond issuance cost. The ordinance was left on the first reading at the April 7, 1998 meeting.

NEW BUSINESS

10. TOWN CENTER & A&P: Review, comment, and approval of a lease and agreement for the Town Center between the City of Fayetteville, and the Advertising and Promotion Commission.

11. HUMAN DIGNITY POLICY: A resolution declaring the Human Dignity Policy of the city of Fayetteville and establishing the Fayetteville Human Dignity Council.

12. EMINENT DOMAIN: Approval or disapproval of an offer of $18,000 as full settlement of the eminent domain action against Jerry D. Sweetser on property for the 24th Street Improvements.

13. STREET NAME CHANGE: An ordinance changing the name of a section of Cato Springs Road between U.S. Highway 71 and the junction of Razorback Road, a distance of approximately 0.39 miles. To Razorback Road.

Only items presented by the City Council or City Staff may be discussed during the meeting. If you have an item you wish to discuss, please contact your alderman to have it presented at the next City Council Agenda Session. For further assistance, please contact Heather Woodruff, City Clerk, at 575-8323.

STAFF REVIEW FORM

XX AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW
For the Fayetteville City Council meeting of April 21, 1998

FROM:

W.A.Oestreich	Fleet Operations	Administrative Services
Name	Division	Department

ACTION REQUIRED: Self Propelled Sweeper - Shoulph

Acceptance of the Lowest Qualified Bidder for Item #1 - Bid #98-12, with trade in of Item #2. The Vendor for this Purchase is Mitchell Machinery Co., 2218 Industrial Park Road, Van Buren, AR 72956, Vendor #00403.

COST TO CITY:

Cost: $ 31,840.00 Trade Allowance: $7,558.00 Net Cost: $ 24,282.00

$ 24,282.00	$ 225,601.00	Repl/Exp Other Vehicles/Equip.
Cost of this Request	Category/Project Budget	Category/Project Name
9700-1920-5802.00	$ 428.00	Vehicles & Equipment
Account Number	Funds Used To Date	Program Name
98065	$ 225,173.00	Shop
Project Number	Remaining Balance	Fund

BUDGET REVIEW: XX Budgeted Item ____ Budget Adjustment Attached

Ken Sam for SD
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Marilyn J. Cramer — 4-1-98 — Date
Accounting Manager

ADA Coordinator — Date

Rick Clay — 4-1-98 — Date
City Attorney

Yolanda Fields — 4-2-98 — Date
Internal Auditor

P Vice — 4-1-98 — Date
Purchasing Officer

STAFF RECOMMENDATION:

Authorization to Purchase Item #1 with accepance of trade allowance of Item #2 - Bid 98-12.

S.W. Oestreich — 3/31/98 — Date
Division Head

_____ — Date
Department Director

BCM — 4/2/98 — Date
Administrative Services Director

Fred Thomas — 4/3/98 — Date
Mayor

Cross Reference

New Item: **Yes** **No**

Prev Ord/Res #: _____

Orig Contract Date: _____

2.02

CITY OF FAYETTEVILLE

FLEET OPERATIONS

INTER-OFFICE MEMORANDUM

TO: Mayor/City Council

THRU: Ben Mayes, Administrative Services Director

THRU: Peggy Vice, Purchasing Manager

FROM: W. A. Oestreich, Fleet Operations Superintendent

DATE: March 27, 1998

SUBJECT: BID AWARD RECOMMENDATION 98-12 Self Propelled Sweeper – Street Dpt.

Reference the attached Agenda Request for the Award of Bid 98-12, Item #1 with the acceptance of the trade offer for Item #2. The lowest qualified bidder meeting specifications is Mitchell Machinery Co., 2218 Industrial Park Road, Van Buren, AR 72956. (Vendor #00403).

The Bid Tabulation Sheet dated February 25, 1998, is included along with a copy of the formal bid that was sent to each of the vendors on the Bidders List attached.

The item listed has been evaluated for compliance with original specifications and for compatibility with the usage needs of the City. The anticipated Manufacturer and Dealer support necessary to maintain this unit in a proper and efficient manner was also considered. .

It has been with an objective attitude that this bid has been evaluated. This recommendation has been reviewed by the Street Maintenance Division and the Fleet Operations Division prior to submission to the Equipment Committee.

Therefore, the following is submitted for purchase approval by the Council:

ITEM 1. HD Self Propelled Sweeper

** Mitchell Machinery Co.

1998 Broce RJ-300 Sweeper @ $31,840.00 Less Trade Allowance of $7,558.00 for Unit #58, 1982 Broce Mechanical Broom. This Bid was accepted due to the compliance with the original Specifications. This should provide a unit that will be efficient, reliable and compatible to our operations.

SUMMARY

TO BE DELIVERED AS A COMPLETE UNIT:

ITEM 1.	Mitchell Machinery Co. - 1 Unit at	$ 31,840.00
	Less Trade Allowance	<$ 7,558.00>
	Net Cost	$24,282.00

TOTAL BID AWARD: $ 24,282.00

The budgeted amount for items in this Category/Project is $225,601.00 in account 9700-1920-5802.00, Project 98065-001. With the purchase of this item at $24,282.00 we will have a balance remaining of $200,891.00 for the other items scheduled in this Category/Project.

2.04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Bill Oestreich, Fleet Maintenance Superintendent

FROM: Randy Allen, Street Superintendent R.A.

DATE: March 4, 1998

SUBJECT: **Self Propelled Sweeper**

After evaluation of all bids for this equipment and actual demonstrations of bidders units, I can find no advantage that would preclude the City of Fayetteville from accepting the low bid for this piece of equipment.

If I can provide any additional information, please let me know.

001

BID: 98-12
DATE: 2/25/98
TIME: 11:00 AM
CITY OF FAYETTEVILLE

DESCRIPTION: SELF-PROPELLED SWEEPER

Post-it® Fax Note 7671	Date 3/27	# of pages ▶ 1
To Billy O	From Rena W	
Co./Dept. Shop	Co. City	
Phone #	Phone #	
Fax #	Fax #	

BIDDER	ITEM #1		ITEM 2
CULVER TRUCK SALES	N/B		$1,505.00
RIGGS	N/B		N/B
CLARK MACHINERY	$29,078.04 Waldon Sweepmaster	del 8-10 weeks	N/B
MITCHELL MACHINERY	$31,840.00 Broce Broom	del 6-8 weeks	$7,558.00 trade-in
SCOTT CONSTRUCTION	$31,504.25 Waldon Broom	del 120 days	$1,200.00
MIDWESTERN EQUIP	$27,000.00 Rosco RB48	del 60 days	$2,000.00 trade only
GRANT TRUCK	N/B		N/B

Certified by P Vice
P Vice Purch Mgr

R Williams 2/25/98
Witness Date

City of Faye
☎1 501 575 8257
03/27/98 14:43

CITY OF FAYETTEVILLE

113 W. Mountain St.
Fayetteville, AR 72701

FLEET OPERATIONS
501-444-3494
INVITATION TO BID

BID #: 98-12 **DATE ISSUED:** February 5, 1998

DATE & TIME OF OPENING: February 25, 1998 - 11:00 A.M.

BUYER: Peggy Vice, Purchasing Manager, Room 306 - (501) 575-8289

DATE REQUIRED AS COMPLETE UNIT: 120 Days from Date of Order

F.O.B. Fayetteville, AR

***GUARANTEED DELIVERY SCHEDULE:**_____

ITEM:	DESCRIPTION:	QUANTITY:	* PRICE:
1.	Heavy Duty Self Propelled Sweeper per Item #1 of Specifications Attached	1	$_____

ITEM 2 IS OFFERED FOR EITHER SALE OR TRADE

		*PRICE:
2.	1982 Broce Broom S/N: 2198 Unit # 58	$_____

***BIDDER IMPOSED RESTRICTIONS ON ITEM 2**

_____

_____

_____

_____

EXECUTION OF BID - Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated. Unsigned bids will be rejected. Items marked * are mandatory for consideration.

_____

***NAME OF FIRM:**_____

***BUSINESS ADDRESS:**_____

***CITY:**_____ ***STATE:**_____ ***ZIP:**_____

***PHONE:**_____ ***FAX:**_____

***AUTHORIZED SIGNATURE:**_____

***TITLE:**_____

PLEASE NOTE: ALL ITEMS MARKED * ARE CONSIDERED MANDATORY REQUIREMENT FOR CONSIDERATION OF BID. FAILURE TO COMPLETE THESE ITEMS MAY RESULT IN REJECTION OF BID.

BID 98-12
SPECIAL TERMS & CONDITIONS
ITEM #1

THIS REQUEST FOR BID IS NOT TO BE CONSTRUED AS AN OFFER, A CONTRACT, OR A COMMITMENT OF ANY KIND; NOR DOES IT COMMIT THE CITY TO PAY ANY COSTS INCURRED BY THE BIDDER IN THE PREPARATION OF THIS BID.

1. All bids shall be submitted on forms provided by the City with the item bid and the bid number stated on the face of the sealed envelope. Bidders **MUST** provide the City with their bids signed by an employee or officer having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.

2. Bidders shall include all applicable local, state, and federal sales tax in this bid. The responsibility of payment shall remain with the successful bidder. Tax amount **MUST** show as a separate item.

3. Bids received after the date and time set for receiving bids will **NOT** be considered. The City will **NOT** be responsible for misdirected bids. Vendor should call the Purchasing Office at (501) 575-8289 to insure receipt of their bid documents prior to opening date and time listed on the bid form.

4. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds.

5. Each bidder **MUST** state on the face of the bid form the anticipated number of days from the date of receipt of order for delivery of the completed units to the City of Fayetteville, Arkansas.

6. Time is specifically made of the essence of this contract and failure to deliver on or before the time specified in the contract may subject the contractor to the payment of damages.

7. All bid prices shall be FOB Fleet Operations, 1525 S. Happy Hollow Rd., Fayetteville, AR, 72701, and shall include all dealer preparation charges, labor, materials,

overhead, profit, insurance, inspection fees, etc., to cover the furnishing of the unit/units bid.

8. Standard Manufacturers Warranty shall apply to each unit as specified. A copy of the applicable warranty **MUST** accompany the bid with any exception to the warranty clearly noted on the Bid Form. Warranty on accessories/equipment furnished by an after market vendor **MUST** be noted.

9. Any exceptions to the requirements of the City of Fayetteville **MUST** be noted on the Bid Form. If products and/or components other than those described on this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.

10. Installation of Dealership/Distributorship Logo is **PROHIBITED.**

11. The completed unit delivered to the City of Fayetteville shall comply with all accepted commercial standards for materials and supplies which are new and unused except for normal testing and evaluation needed to prior to release for delivery.

11. All items marked **"MANDATORY REQUIREMENT FOR CONSIDERATION OF BID" MUST** be completed and returned with the bid or the bid may be considered as non-responsive and rejected on that basis.

12. Parts and Service Manuals shall be provided to cover the Chassis, Power train, Body and any modifications to production items.

13. A training session shall be provided at a City of Fayetteville Facility to familiarize City Employees with the operational and maintenance needs of any special equipment furnished.

ADDITIONAL TERMS AND CONDITIONS
SALE ITEM ONLY
ITEM # 2

1. All bids shall be submitted on forms provided by the City.

2. Bids received after the date and time set for receiving bids will not be considered.

3. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City.

4. The City assumes no responsibility for the safety of the Bidder during inspection of the item listed herein.

5. The items listed will be sold "AS IS-WHERE IS" with no warranty either express or implied.

6. Arrangements for inspection may be made by appointment with Fayetteville Fleet Operations Division, 1525 S. Happy Hollow Road, Fayetteville, AR., 501-444-3494 & 501-444-3496, between 9:00 A.M. and 4:00 P.M. WEDNESDAY, FEBRUARY 11, 1998 THROUGH FRIDAY, FEBRUARY 13, 1998 AND TUESDAY, FEBRUARY 17, 1998 THROUGH THURSDAY, FEBRUARY 19, 1998.

7. Questions regarding these items may be directed to the Fleet Operations Division, 1525 S. Happy Hollow Road, Fayetteville, AR., 72701 501-444-3494 & 501-444-3496

8. Notification of bid award will not be made prior to proper approval of the acceptance of this bid by the City. Therefore, the following provisions for payment and possession are contingent on required approval by the City of Fayetteville.

   A. Payment for the item/items listed herein shall be made after notification of bid award and prior to release of the item/items awarded.

   B. Removal of the item/items listed herein awarded to the successful bidder shall be the sole responsibility of said successful bidder.

9. The item bid and the bid number shall be stated on the face of the sealed bid envelope.

BID # 98 - 12

BASIC SPECIFICATIONS

HEAVY DUTY SELF PROPELLED SWEEPER

General Specification Requirements are as follows for HEAVY DUTY SELF PROPELLED SWEEPER. These are **MINIMUM SPECIFICATIONS ONLY** and are not limited or restricted to the following.

ALL UPGRADE OR DOWNGRADE VARIATIONS/DEVIATIONS/SUBSTITUTIONS MUST BE CLEARLY ANNOTATED. IN THE ABSENCE OF SUCH STATEMENTS, THE BID SHALL BE ACCEPTED AS IN STRICT COMPLIANCE WITH ALL TERMS, CONDITIONS, AND SPECIFICATIONS AND THE SUPPLIER SHALL BE HELD LIABLE.
Alternates will be considered provided each Supplier clearly states on the face of his proposal exactly what he proposes to furnish and forwards necessary descriptive material which will clearly indicate the character of the article covered by his bid. All Bids are subject to Staff analysis. Fleet standardization requirements, replacement parts availability, warranty service availability and

Manufacturer/Distributor/Dealer Field support of operational units will be considered.

All Units Bid shall show deviations to line item specifications on the "Minimum Specification" attached with referral to each item. Utilizing a copy of these specifications with variations "hi-lited" and specifics noted is suggested.

All equipment shall be new and unused and of the Manufacturers Current Model Year and shall include all standard equipment as advertised by the Manufacturer. All vehicles and equipment listed herein shall comply with applicable Federal and State Safety, Emission and Pollution Control Requirements in effect at time of delivery. Standard Manufacturer's Warranty shall be furnished. Minimum Warranty period shall be no less than 1 year.

Field demonstrations of currently operational units which are offered as a substitute, variation, or deviation may be required as part of Staff analysis at the option of Staff members or other qualified interested parties. Properly documented referrals may be required of vendors which allows field evaluation of units in a comparable operational area.

The City of Fayetteville reserves the right to accept the best bid for the City, and is not required to accept the lowest priced bid.

The City also reserves the right to reject any or all bids and will be the sole judge of what comprises the best and most advantageous unit to meet the needs of the City.

GENERAL PROVISIONS AND REQUIREMENTS

1. GENERAL

It is the intent and purpose of these specifications to secure for the purchaser the necessary equipment and accessories which will be capable of performing in a safe, practical and efficient manner consistent with accepted commercial standards.

2. MATERIALS AND WORKMANSHIP

All equipment, materials and workmanship shall be of the highest grade in accordance with modern practice . The equipment supplied will be new and unused except for the necessary testing, calibration and transportation.

3. WARRANTY

All items furnished in accordance with these specifications shall be covered by the manufacturer's and/or supplier's standard warranty or guarantee on new equipment. The minimum warranty period on new equipment must be one year. Warranty which will be honored by other than the supplier

bidding must be annotated.

4. PARTS AND SERVICE

To best service the requirements of the purchaser, it is the intent of these specifications to secure equipment, which can be properly maintained and serviced without the necessity of stocking an expensive parts inventory or being subjected to long periods of interrupted service due to the lack of spare parts.

All suppliers submitting proposals must have available a parts and service facility within an area to allow 1 day service on any parts or service needs. The facility shall be staffed with full time technical personnel, as well as order and shipping personnel, during regular business hours and days.

A complete set of Parts and Service Manuals are to be provided for both the cab/chassis and the sweeper. A list of recommended spare parts (expendable wear items and filters) is to be included.

ITEM 1. HEAVY DUTY SELF PROPELLED SWEEPER

COMPLIANCE WITH APPLICABLE FMVSS SUPERSEDES REQUIREMENTS AS LISTED BELOW.

MINIMUM SPECIFICATIONS ONLY

WHEELBASE:	130"
OAL:	175"
DIESEL ENGINE:	**MINIMUM ONLY:** 4 Cylinder John Deere 239 C.I.D. 4.0 Liter Displacement, Naturally aspirated 80 H.P. - 195 ft.lb. Torque @ 1400 R.P.M., 1500 Watt Engine Block Heater, Dry Type Air Cleaner (Turbo II) with Restriction Indicator, Automatic Coolant/Oil Warning System with Automatic Shut Down w/Indicator Lights and Buzzer, Spin-On Fuel Filters, Engine compartment doors.

MANDATORY REQUIREMENT FOR CONSIDERATION.

PLEASE STATE:

MANUFACTURER:_____

MODEL DESIGNATION:_____

NO. OF CYLINDERS:_____

C.I.D. DISPLACEMENT:_____
H.P. RATING:_____**@**_____**R.P.M.**
TORQUE RATING:_____**@**_____**R.P.M.**

TRANSMISSION:	Hydraulic Pump and Motor coupled to a 2 Speed Gear Box which allows travel speeds of 12 MPH - Low Range - 25 MPH High Range **OR EQUAL.**
MIN. WEIGHT:	5500 lbs.
REAR AXLE:	Heavy Duty Truck Type
FRONT AXLE:	Full Oscillating 18 Degree Total
ALTERNATOR:	42 AMP.
FUEL SYSTEM:	Minimum Capacity 20 Gal.
COOLING SYSTEM:	Viscous Fan Drive.
STEERING:	Power Assist w/21' outside turn radius/15'4" inside.
WHEELS & TIRES:	LT 235/75R15 6 ply Radial Tires mounted. On H.D. Steel Rims
RADIO:	O.E.M. AM/FM with clock.
FLOOR COVERING:	Non-Skid Vinyl/Rubber
SEAT:	H.D. Vinyl/Cloth High Back Suspended Style Seat w/Seat Belts.
CAB:	Standard Manufacturers Rust Proofed Equipped with O.E.M. Heater and Air Conditioner w/R134a Refrigerant capable of maintaining sufficient temperature control and air flow for operator comfort.
WIPERS:	2 Speed Intermittent w/washer
MIRRORS:	Left & Right, with 5" Convex Spot Mirrors Arm Mounted below the standard mirrors.

GLASS:	Tinted, Maximum Glass area offered by the Manufacturer shall be made available.
BRAKE SYSTEM:	Front & Rear service brakes with mechanical rear parking brake.
SAFETY EQUIPMENT:	Electronic Back-Up Alarm, Sun Visor, Tachometer, Coolant Temperature Gage, Oil Pressure Gage, Fuel Level Gage, Hand Throttle, Manual Reset Circuit Breakers, Hydraulic Oil Temperature Gage, Electric Hour Meter, Ammeter, Hydraulic Sight Gage, Halogen Work Lamps front and rear, Grote 7622 Rotating Beacons mounted front and rear below roofline to allow 360 degree coverage.
BROOM:	Variable Speed Hydraulic driven Poly/Steel Broom, 25 GPM Drive Pump, 20 GPM Drive Motor w/ control for lower/raise - left/right Angle - Rotation. 8' Core w/7'6" sweep Surface, 45 degree angle, Min. 16 ga. Top cover to enclose 160 deg. W/end plates, 2.5" dia Pin Swing Frame Mount.
WATER SYSTEM:	180 Gal. Poly Tank w/sprinkler system.
HYDRAULIC SYSTEM:	20 Gal Reservoir w/10 Micron return filter & 6 Micron Pump filter, Anti Surge Broom Rotation., Swing out Oil Cooler.

BIDDERS LIST

1. Williams Ford Tractor & Equipment Co.
   P.O.Box 1346
   Fayetteville, AR 72702-1346

2. J.A Riggs Tractor Co.
   9125 Interstate 30
   Little Rock, AR 72709

3. Scott Construction Equipment
   4831 N. Thompson
   Springdale, AR 72764

4. E.A.Martin Machinery Co.
   802 E. 264 Hwy
   Springdale, AR 72764

5. Traksan Equipment Co.
   1531 E. Ford Ave
   Springdale, AR 72764

6. Clark Machinery Co.
   P.O.Box 1985
   Fort Smith, AR 72901

7. Mitchell Machinery Co.
   P.O.Box 1267
   Van Buren,AR 72956

8. Arktrac
   2003 South 8th St.
   Rogers, AR 72756

9. Midwestern Equipment Co.
   P.O.Box 3445
   Tulsa, OK 74101
   Attn: Newton Box
   800-324-6144

10. Grant Manufacturing & Equipment Co., Inc.
    1828 Northwest 4th St.
    Oklahoma City, OK 73106
    Attn: Nick Pontikos
    800-259-9892 FAX 405-236-1472

11. Little Rock Equipment Sales
    13001 Interstate 30
    Little Rock, AR 72209

12. Daugherty Equipment
    1507 W. Truckers Lane
    Fayetteville, AR 72701

BIDDERS LIST

SALE ITEMS

1. CULVER TRUCK SALES
P.O.BOX 21
GREENLAND, AR 72737
501-521-2870

2. Harry Lunsford
P.O.Box 13
Leicester, NC 28748
704-683-9252

3. HARI AUTO SALES
5401 E. 84TH TERRACE
KANSAS CITY, MO 64132
ATTN: ABDUL WAHEED
816-333-5794 FAX -SAME-

4. WARFORD AUTO WRECKERS INC.
PUMP STATION ROAD
FAYETTEVILLE, AR 72701

5. DARREL MEREDITH TRUCK SALES
1749 S. SCHOOL
FAYETTEVILLE, AR 72701

6. Auto Wholesalers
P.O.Box 445
Hollidaysburg, PA 16648
814-696-4343 Fax 814-696-1324

7. Meuser Heavy Equipment
4100 S. Hiway 71B
Springdale, AR 72764
501-751-0680

8. CHICAGO MOTORS INC.
2553 WEST CHICAGO AVE.
CHICAGO, ILLINOIS 60622
Attn: ANIS GHANIWALA
312-235-6500 (800-942-0005) FAX 312-235-6532

9. TRI-STATE AUCTIONEERS INC.
RT. 4, BOX 4605 HWY 175 W.
ATHENS, TX 75751
ATTN: RANDY WHATLEY
903-675-9039 FAX 903 675-4557

10. AMI AUTO BROKER
16329 CENTER POINT
GROVER, MO 63040
314-458-1380

11. ATLAS AUTO LEASING
750 E. IRVING BLVD.
IRVING, TEXAS 75060
972-554-1117

12. BILLY THE KID, INC.
111 N. 2ND ST. #303
COEURD'ALENE, IDAHO 83814
208-765-8062

13. DIXIE SURPLUS EQUIPMENT
P.O.BOX 8507
ALEXANDRIA, LOUISIANA 71306
ATTN: KENNETH MCKAY
318-765-3068 FAX:318-765-9312

14. WHITTLE TRUCK SALES
P.O.BOX 7061
SPRINGDALE, AR 72766
ATTN: RICK WHITTLE
501-750-9410

15. CENTRAL OKLAHOMA POLICE SUPPLY
1329 N. HARRISON
SHAWNEE, OK 74810
ATTN: CHRIS HURLEY
800-259-7177 405-275-7177

16. Trucks & Parts of Tampa
1015 S. 50th St.
Tampa, FL 33619
800-488-8889 Attn: Bruce Goldenberg

17. Dale Frederick
6537 Huntsville Rd.
Fayetteville, AR 72701

18. Al Coakley
2761 Boxwood
Fayetteville, AR 72703

19. **Mountain Creek Real Estate Co.**
P.O.Box 520
Huntsville, AR 72740
Attn: Bill G. Cotton
501-456-2547 Fax 501-738-6262

20. **Raymond E. Purser**
P.O.Box 1489
Huntsville, AR 72740
501-738-6420

Allison™

2.19

35 Years of Service to the Industry

STAFF REVIEW FORM

XXX AGENDA REQUEST

_____ CONTRACT REVIEW

_____ GRANT REVIEW

For the Council meeting of April 21, 1998

FROM:

Cheryl Zotti	Solid Waste	Public Works
Name	Division	Department

ACTION REQUESTED:

Award and approval of bid #98-16 for the purchase of curbside recycling bins and accessories from Rehrig Pacific Company, Dallas, TX, in the amount of $134,810 for implementation of our curbside sort recycling program.

COST TO CITY:

$134,810	$122,000	Curbside Collection Bins
Cost of this request	Category/Project Budget	Category/Project Name
5500-5060-5816.00	$ 0	Capital
Account Number	Funds Used to Date	Program Name
97035-001	$122,000	Solid Waste
Project Number	Remaining balance	Fund

BUDGET REVIEW:

X Budgeted Item — Budget Coordinator

X Budget Adjustment Attached — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Marilyn Kramer 4-2-98
Accounting Manager — Date

GRANT AGENCY: _____

4-3-98
City Attorney — Date

_____ _____
ADA Coordinator — Date

PVice 4-3-98
Purchasing Officer — Date

Yolanda Fields 4-2-98
Internal Auditor — Date

STAFF RECOMMENDATION:

Cotti 4-2-98
Division Head — Date

John D. Cross 7APR98
Department Director — Date

BFM 4/7/98
Admin. Services Director — Date

_____ _____
Mayor — Date

Cross Reference

New Item: **Yes** **No**

Prev Ord/Res #: _____

Orig Contract Date: _____

3.02

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

Thru: Fred Hanna, Mayor
Kevin Crosson, Public Works Director

From: Cheryl Zotti, Environmental Affairs Administrator

Date: April 2, 1998

Re: **Approval and Award of Bid # 98-16 for the Purchase of Curbside Recycling Bins**

Staff requests the award and approval of bid 98-16 to the lowest bidder to meet specifications, Rehrig Pacific Company of Dallas, Texas, in the amount of $134,810 for the purchase of recycling bins and accessories. Staff further requests the approval of the attached budget adjustment in the amount of $12,810. The original budget of $122,000 did not include providing lids with each bin; however, bid prices were low enough to allow this additional purchase.

Two bids were submitted that had lower per unit prices; however, these bids did not meet specifications. Tulip Corporation's bid did not meet six bid specifications: 1) they did not bid on the required pull cart; 2) they did not submit required drop-testing certification; 3) they did not submit samples of their lid and cart; 4) their bin dimensions were not in compliance; 5) their lid dimensions were not in compliance; and 6) their lid capacity was not in compliance. Bush System's bid did not meet five bid specifications: 1) their bin's wall and bottom thickness did not meet minimum thickness; 2) their bin dimensions were not in compliance; 3) their lid dimensions were not in compliance; 4) their lid capacity was not in compliance; and 5) they did not submit a sample of their pull cart. For these reasons, staff recommends purchasing all bins and accessories from Rehrig Pacific. Tulip Corporation submitted a per unit price of $3.99 for their bin. Busch Systems submitted a per unit price of $4.02 for their bin. Rehrig Pacific Company, who we are recommending, submitted a per unit price of $4.12 for their bin. The difference in low bid (Tulip) and Rehrig pacific is $0.13 per unit. Cost, however, is not the issue given Tulip and Busch did not meet specifications.

Bid 98-16 specified the City's requirements for recycling bins, lids, and carts to be used in our curbside bin recycling program. These items are necessary for the implementation of this program. The recycling bins will be used by residents to commingle their recyclables in before placing at the curb for collection. Lids will be supplied with each recycling bin to prevent littering caused by wind and animals and to protect paper products during inclement weather. To accommodate residents

who are physically challenged, we will have carts available.

The per unit prices for each specified item are: recycling bin $4.12; lid for recycling bin $2.82; and a pull cart for recycling bin $17.00. Each unit (bin, lid, and cart) has an expected life of seven years, with a five year manufacturer's warranty. The purchase price of $134,810 includes 18,000 recycling bins, 18,000 lids, and 100 pull carts.

Staff recommends the purchase of recycling bins and accessories from Rehrig Pacific Company in the amount of $134,810. Rehrig Pacific Company was the lowest bidder to meet specifications. Staff will be present at the agenda and Council meetings to display samples and answer any questions. If you have questions or comments, please contact me at 444-3498. Thank you.

3.04

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year			Date Requested	Adjustment #
1998	Department:	Public Works	April 1, 1998	
	Division:	Solid Waste		
	Program:	Recycling		

Project or Item Requested:

$12,810 is requested for the Curbside Collection Bins Capital Project.

Project or Item Deleted:

None. Use of Fund Balance.

Justification of this Increase:

Additional expense incurred for the purchase of lids for all recycling bins.

Justification of this Decrease:

Sufficient funds remain in Solid Waste Fund Balance.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number				Project Number
Solid Waste Improvements	12,810	5500	5060		5816	001	97035	1

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number				Project Number
Use of Fund Balance	12,810	5500	0950		4999	99		

Approval Signatures

Requested By — Date 4-2-98

Budget Coordinator — Date

Department Director — Date

Admin. Services Director — Date 4/7/98

Mayor — Date

Budget Office Use Only

Type: A B C (D) E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

D:\DATA\FORMS\BA-ADJ\BADJF241.WK4

03/31/98 17:06 ☎1 501 575 8257 City of Faye 001

BID: 98-16
DATE: 3/11/98
TIME: 2:00 PM
CITY OF FAYETTEVILLE

DESCRIPTION: RECYCLING BINS

BIDDER	ITEM #1	ITEM 2	ITEM 3	SAMPLE Y/N
TULIP CORP	$3.99 $7,820.00	$2.40 $12,000.00	N/B	YES
BUSCH SYSTEMS	$4.02 $72,360.00	$1.92 $9,600.00	$16.95 $16,950.00	YES
SCL PLASTICS	$4.17 $75,060.00	$1.55 $7,750.00	N/B	NO
REHRIG PACIFIC INC	$4.12 $74,160.00	$2.99 $14,950.00	$17.00 $17,000.00	YES

P Vice
P Vice Purch Mgr

R Williams 3/11/98
Witness Date

FAYETTEVILLE

LEGAL DEPARTMENT
CITY ATTORNEY DIVISION

JERRY E. ROSE, CITY ATTORNEY
LAGAYLE D. MCCARTY, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

From: Jerry E. Rose, City Attorney

Date: March 24, 1998

Re: Appeal of A.B.C. decision to license the dispensing of alcoholic beverages within 100 feet of the U.B.C. Youth Building.

At the request of Mayor Hanna, I filed suit this week appealing the decision of the State A.B.C. Board decision to license a private club and beer establishment at 401 Watson Street. I attach a copy of the Board Decision.

It has always been my policy not to file suit on behalf of the City without City Council approval. I have no choice but to file suit since the time for appeal would have run before the council next meets. Please place it on your agenda for the April 7, 1998 meeting to instruct me how or if to proceed.

I believe the Board Decision and petition speak for themselves but If I can provide you with any further information, please don't hesitate to call.

/cbp

4.02

STATE OF ARKANSAS

ALCOHOLIC BEVERAGE CONTROL DIVISION

100 Main Street
Suite 503
Little Rock, Arkansas 72201
Telephone (501) 682-1105

Robert S. Moore, Jr.
Director

Donald R. Bennett
Attorney

Milton R. Lueken
Attorney

BOARD MEMBERS:

Tony Ellis, Chairman
Dr. Carl E. Hyman
Michael Butler
Ronald Fuller
Robert L. Cohee

IN THE MATTER OF:
APPLICATION OF JOHN P. PEARSON
PRIVATE CLUB AND BEER - NEW
DBA: DICKSON STREET LIVE, INC.
401 WATSON STREET
FAYETTEVILLE, ARKANSAS

BOARD DECISION

On the 18th day of February, 1998, the Alcoholic Beverage Control Board did convene at Little Rock, Arkansas, for its regular monthly meeting. In attendance were Tony Ellis, Chairman; together with Dr. Carl Hyman, Michael Butler, Ron Fuller, and Robert Cohee, Members.

There appeared at the hearing the applicant, John Pearson, who was represented by his attorney, Marshall Carlisle. There was one person present in opposition to the application.

After considering all notes, memoranda, and sworn testimony, it is found:

REVIEW OF EVIDENCE OFFERED

1. Tom Pearson, father of the applicant, testified that he owns the building which is the proposed site for the private club and that it contains approximately fifteen thousand square feet. Mr. Pearson stated that the University Baptist Church Youth Building across the street from the proposed location of the private club is not used for church

services. Mr. Pearson stated that the only egress and ingress on the University Baptist Church side of the building was a fire exit, which is very rarely used. Mr. Pearson testified that the restroom facilities will be installed and that in the past this building had been rented to persons who had private parties which had, on occasion, caused problems for the Fayetteville Police Department. Mr. Pearson testified that if his son were granted the private club permit that he would have more control over the patrons at the private club. Mr. Pearson stated that his son owns Play It Again Sam's in Fayetteville which is a restaurant with a mixed drink permit.

2. John Pearson testified in support of the application. Mr. Pearson stated that he has operated Play It Again Sam's for one year without any problems with the Fayetteville Police or with the Alcoholic Beverage Control. Mr. Pearson further stated that he felt that he should not be held responsible for problems which had been caused at the building by other tenants.

3. Sgt. Ron Carroll of the Fayetteville Police Department testified in opposition to the application. Sgt. Carroll testified that Chief Watson objected to the application because the University Baptist Church had complained about private parties that had been held in the building in the past. Sgt. Carroll further testified that there was inadequate parking for all of the outlets with ABC permits in the area and that the Fayetteville Police had arrested drunks in the parking lot who were not only drinking in the parking lot but were urinating in the parking lot as well. Sgt. Carroll also testified that the Chief of Police was concerned because the proposed outlet was located only ninety four feet from the University Baptist Church Youth Center.

FINDINGS OF FACT

The Board finds that John Pearson is a qualified applicant and that he will make an economic investment in the area. The Board finds that the applicant will address the concerns of the Fayetteville Police Department and that he will be able to better control the situation at the proposed location with a private club permit granted by the ABC. The Board further finds that there were no objections to the application from the University Baptist church.

CONCLUSIONS OF LAW

Act 132 of 1969, as amended and now codified, provides that non-profit organizations meeting certain qualifications shall have the privilege of applying for a private club mixed drink license which allows the dispensing of alcoholic beverages within the confines of the club property. The law also provides that the application may be granted by this Board if it is qualified to be received by this agency and if it is in the public interest. It is included as a matter of law that the application is qualified to be received and that the application is in the public interest and that the same should be granted.

WHEREFORE, by motion made, seconded, and passed unanimously by a vote of 5-0, the application shall be and the same is hereby GRANTED conditional upon receipt of bond, health department approval, and final inspection by ABC Enforcement.

DONE AT LITTLE ROCK, ARKANSAS, this 18th day of February, 1998.

ALCOHOLIC BEVERAGE CONTROL BOARD

Tony D. Ellis

TONY ELLIS, CHAIRMAN

TE/ML/kb

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

CITY OF FAYETTEVILLE, ARKANSAS — PETITIONER

vs. Case No. CIV 98-327

STATE OF ARKANSAS, ALCOHOLIC BEVERAGE CONTROL DIVISION/BOARD — RESPONDENT

IN THE MATTER OF: Application of John P. Pearson, Private Club and Beer - New, d/b/a: Dickson Street Live, Inc., 401 Watson Street, Fayetteville, Arkansas

FILED FOR RECORD
98 MAR 24 PM 4 20
WASHINGTON CO ARK
K. HARNESS

PETITION FOR JUDICIAL REVIEW

Comes now the Petitioner, the City of Fayetteville, Arkansas, a Municipal Corporation, ("the City"), by and through its attorney, Jerry E. Rose, City Attorney, and files this its Petition for Judicial Review of the Board Decision of the State of Arkansas Alcoholic Beverage Control Board/Division, ("the Agency"), dated February 18, 1998, In the Matter of: Application of John P. Pearson, Private Club and Beer - New, D/B/A: Dickson Street Live, Inc., 401 Watson Street, Fayetteville, Arkansas, (hereinafter "the Board decision") and in support thereof would allege:

1. This Petition for Review is brought pursuant to A.C.A.§3-2-216 and §25-15-212.

2. The City of Fayetteville believes that the Board Decision is not in the best interests of the public health, safety and welfare of the citizens of Fayetteville and accordingly the City considers itself injured in its person, business and/or property by the Board Decision which constitutes final agency action.

3. The City requests by service of this Petition that the Agency transmit to the Court pursuant to A.C.A.§25-15-212(d)(1) the original or a certified copy of the entire record of the Board Decision.

4. The City requests the Court hear oral argument and receive written briefs of the issues of the Petition of Judicial Review.

5. The City asserts that the Board Decision to permit the dispensing of alcoholic beverages within 100 feet of an existing church building used for a church youth ministry constitutes a violation of statutory provisions and/or city ordinances, was in excess of the agency's statutory authority, was not supported by substantial evidence of record, and/or was arbitrary, capricious or characterized by abuse of discretion on the part of the agency and, accordingly substantial rights of the City have been prejudiced.

6. The City specifically reserves the right to amend its petition.

WHEREFORE, Petitioner respectfully requests the honorable court reverse the Board Decision of the Agency and deny the application of John P. Pearson, d/b/a Dickson Street Live, Inc. to dispense alcoholic beverages on premises at 401 Watson Street and for all other just and proper relief.

RESPECTFULLY SUBMITTED,

CITY OF FAYETTE~~VILLE~~, ARKANSAS
A Municipal Corporation.

By:_____

Jerry E. Rose, #81138
City Attorney
113 West Mountain
Fayetteville, AR 72701
(501)575-8313

CERTIFICATE OF SERVICE

I, Jerry E. Rose, hereby certifies that on this 25th day of March, 1998, I have caused to be deposited in the certified U.S. Mail, postage prepaid a true and correct copy of the above and foregoing Petition for Judicial Review: Milton Lueken, Alcohol Beverage Control Division, 100 Main Street, Little Rock, AR 72201; Marshall Carlisle, 16 N. Spring Street, Fayetteville, AR 72701; and John P. Pearson, 1101 West Ridgeway Drive, Fayetteville, AR 72701.

Jerry E. Rose

STAFF REVIEW FORM

__X__ AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 21, 1998

FROM:

Ed Connell	Engineering	Public Works
Name	Division	Department

ACTION REQUIRED: Approval of a Resolution authorizing the purchase by the City of 2.6 acres from Alex W. & Lori K. Mahler, located on Happy Hollow Road, for future expansion needs of the City. Agreed to price is $50,000.00 for the 2.6 acres. Resolution should include purchase price and closing costs, together is estimated at $53,000.00.

COST TO CITY:

$ 53,000.00	$ 3,000.00	Other Land Acquisition
Cost of this Request	Category/Project Budget	Category/Project Name
4470-9470-5805.00	$ -	
Account Number	Funds Used To Date	Program Name
98078-002	$ 3,000.00	Sales Tax C.I.P.
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item __X__ Budget Adjustment Attached

Ben Brewer for SLD
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Marilyn J. Crosmer — 4-2-98
Accounting Manager — Date

E. Fae — 4-2-'98
City Attorney — Date

D Nee — 4-2-98
Purchasing Officer — Date

GRANTING AGENCY: ____

Yolanda Fields — 4-2-98 ✓
Internal Auditor — Date

ADA Coordinator — Date

STAFF RECOMMENDATION: As this property is adjacent to existing City property (bounded on the west by Happy Hollow Road and on the east by Warford Drive), it would be ideal for future expansion. This purchase is also favorable at this time as we have a willing seller.

Division Head — 4-2-98 — Date

Department Director — 2[illegible]98 — Date

Administrative Services Director — 4/2/98 — Date

Mayor — 4/3/98 — Date

Cross Reference

New Item: Yes __X__ No ____

Prev Ord/Res #: ____

Orig Contract Date: ____

5.02

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

DATE: March 30, 1998

TO: Kevin Crosson, Public Works Director

THRU: Charles Venable, Assistant Public Works Director

FROM: Ed Connell, Land Agent

SUBJECT: Alex Mahler Property
Happy Hollow Road

The City of Fayetteville was planning a relocation of the water/sewer operations center to be located at 15th Street and Happy Hollow Road. These plans have been changed and property within the Industrial Park is now to be used for this purpose. However, it is possible to purchase 2.6 acres (Parcel No. 765-15258-000), located between Happy Hollow Road and Warford Drive, just north of the City shop area. This purchase would allow for future expansion of City facilities.

This property is owned by Alex W. and Lori K. Mahler. In January 1997, the City requested an appraisal of this property to be performed by The Real Estate Consultants. Their market value for the 2.6 acres was $45,000.00. Mr. Mahler contracted with Appraisals, Inc. to have his own appraisal done in July 1997. Their market value for the 2.6 acres came to $55,000.00. The City's second and final offer for this property was $50,000.00 (an 11% increase over our initial offer of $45,000.00), which the Mahlers accepted (as shown by the attached Offer and Acceptance Contract).

The City staff would like this property to be purchased for future expansion needs. One purpose this property is being considered for is a parks maintenance facility. Given the existing lay of the land, this would be a distinct possibility.

Please submit this proposed project for City Council approval. If additional information is required, please give me a call at Ext. 415.

EDC/jsg

Attachment

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department:	Date Requested	Adjustment #
1998	Sales Tax Construction	April 1, 1998	
	Division: Other Capital Improvements		
	Program:		

Project or Item Requested:

$50,000 is additional funding is needed in the Other Land Acquisitions Capital Project.

Project or Item Deleted:

None. $50,000 From The Use Of Fund Balance.

Justification of this Increase:

The funding will be needed to cover the appraisal and other expenses associated with the purchase 2.6 acres of land between Happy Hollow Road and Warford Drive, next to the City Shop Area.

Justification of this Decrease:

There is sufficient funding in fund balance due to the additional $244,423 in Sales Tax Revenue that was added in 1997.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Land Acquisitions	50,000	4470	9470		5805	00	98078	2

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
Use of Fund Balance	50,000	4470	0947		4999	00		

Approval Signatures

Requested By	4-2-98 Date
Budget Coordinator	4-1-98 Date
Department Director	2 Apr 98 Date
Admin. Services Director	4/2/98 Date
Mayor	Date

Budget Office Use Only

Type: A B C (D) E

Date of Approval _____

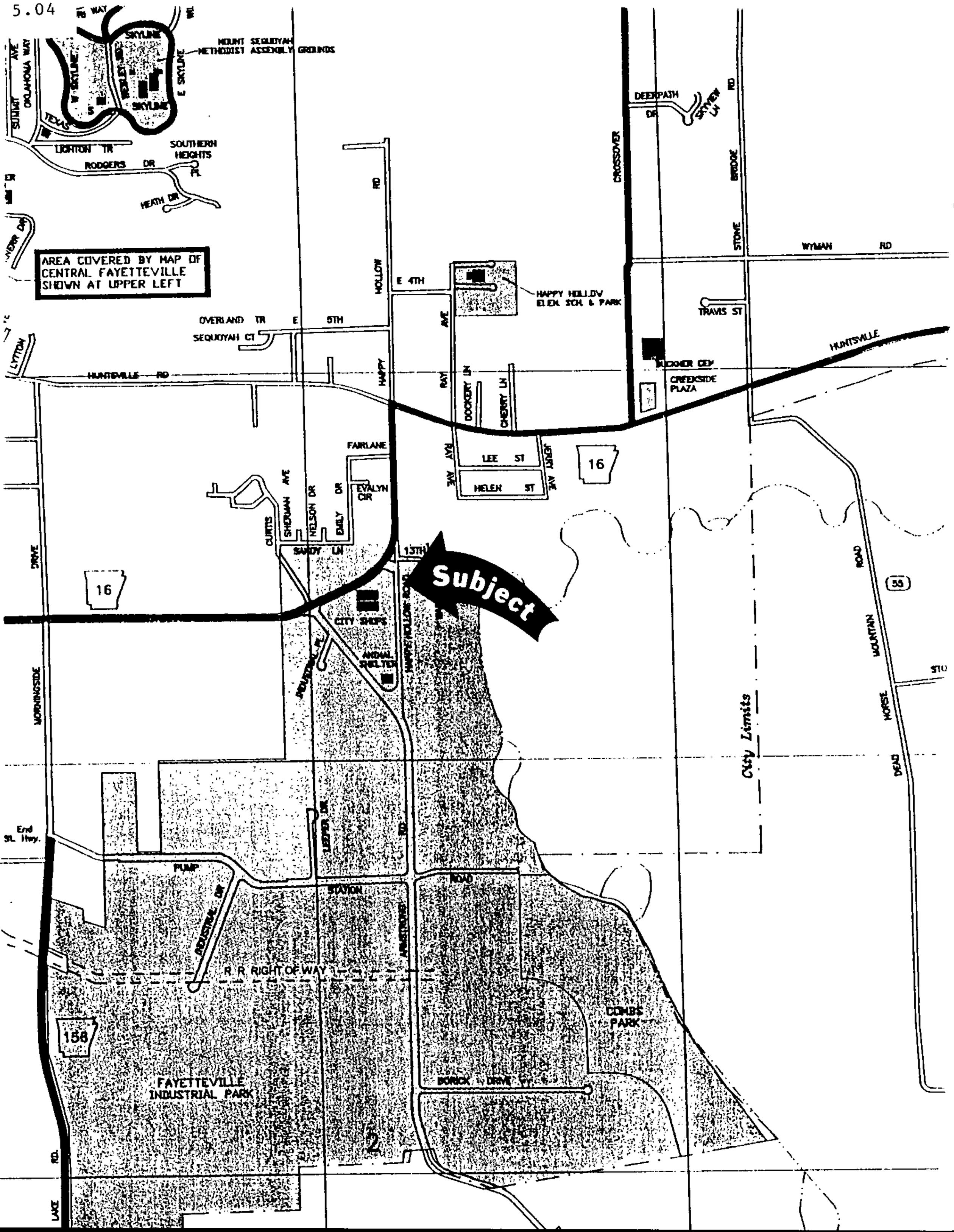
Posted to General Ledger _____ _____

Posted to Project Accounting _____ _____

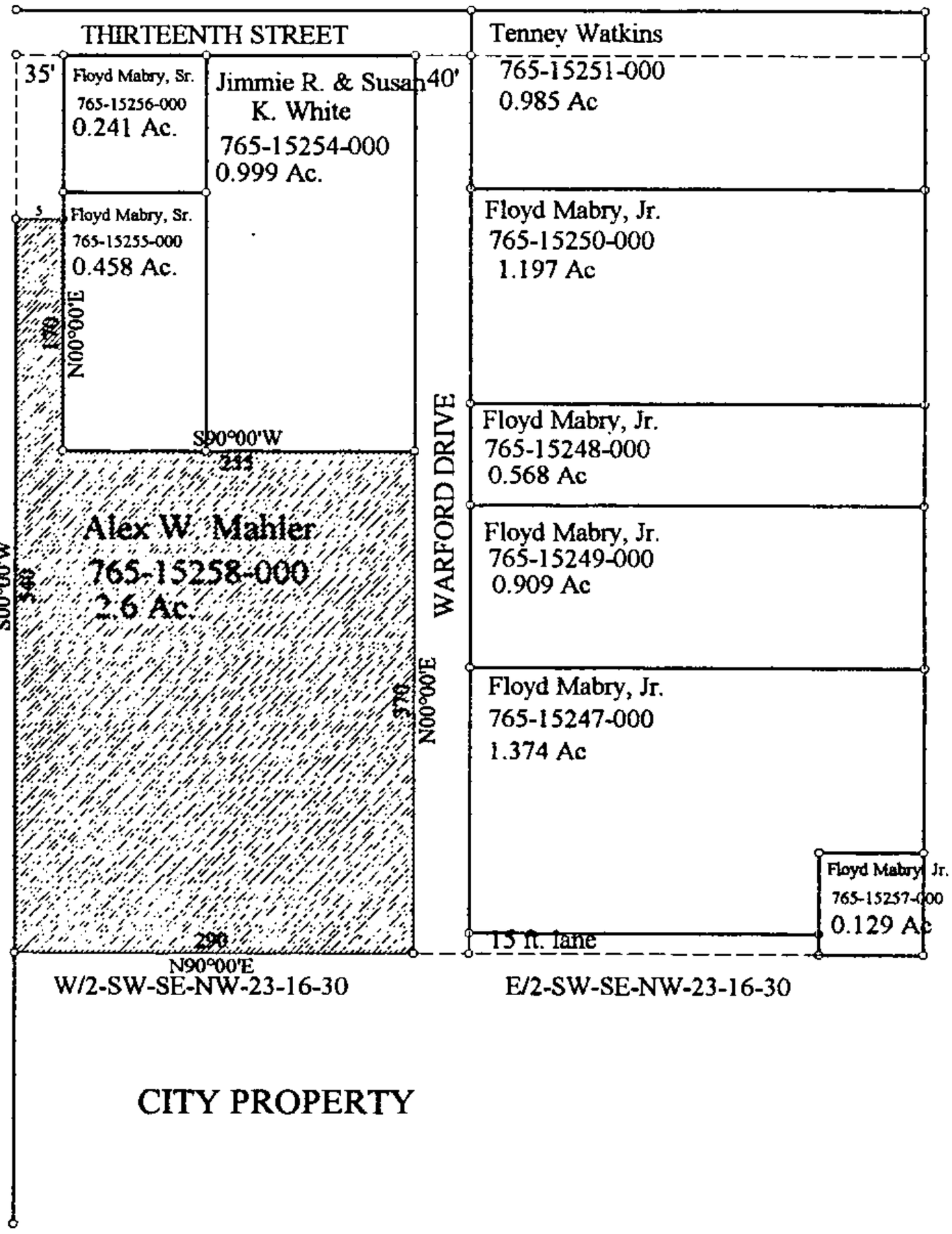
Entered in Category Log _____ _____

Blue Copy: Budget & Research / Yellow Copy: Requester

5.04


SKYLINE
MOUNT SEQUOYAH METHODIST ASSEMBLY GROUNDS
W SKYLINE
E SKYLINE
SUMMIT AVE
OKLAHOMA WAY
TEXAS
LIGHTON TR
SOUTHERN HEIGHTS
RODGERS DR
PL
HEATH DR
AREA COVERED BY MAP OF CENTRAL FAYETTEVILLE SHOWN AT UPPER LEFT
HOLLOW RD
E 4TH
HAPPY HOLLOW ELEM SCH & PARK
OVERLAND TR
E 5TH
SEQUOYAH CT
HAPPY AVE
RAY AVE
DOCKERY LN
CHERRY LN
LYTTON
HUNTSVILLE RD
FAIRLANE
EVALYN CIR
CURTIS
SHERMAN AVE
NELSON DR
EMILY DR
SANDY LN
13TH
CROSSOVER
DEERPATH DR
SKYVIEW LN
BRIDGE RD
STONE
WYMAN RD
TRAVIS ST
HUNTSVILLE
CREEKSIDE PLAZA
LEE ST
HELEN ST
JERRY AVE
16
Subject
CITY SHOPS
ANIMAL SHELTER
ANDERSON PL
HARRIS HOLLOW ROAD
DRIVE
MORNINGSIDE
City Limits
MOUNTAIN ROAD
HORSE
55
End St. Hwy.
PUMP STATION ROAD
INDUSTRIAL DR
LEVER DR
R R RIGHT OF WAY
158
FAYETTEVILLE INDUSTRIAL PARK
COMBS PARK
BORICK DRIVE
LAKE RD

N


THIRTEENTH STREET
Tenney Watkins
765-15251-000
0.985 Ac
35'
Floyd Mabry, Sr.
765-15256-000
0.241 Ac.
Jimmie R. & Susan K. White
765-15254-000
0.999 Ac.
40'
5
Floyd Mabry, Sr.
765-15255-000
0.458 Ac.
Floyd Mabry, Jr.
765-15250-000
1.197 Ac
N00°00'E 198
S00°00'W 211
Floyd Mabry, Jr.
765-15248-000
0.568 Ac
Floyd Mabry, Jr.
765-15249-000
0.909 Ac
WARFORD DRIVE
Alex W. Mahler
765-15258-000
2.6 Ac.
S00°00'W 548
N00°00'E 370
Floyd Mabry, Jr.
765-15247-000
1.374 Ac
Floyd Mabry, Jr.
765-15257-000
0.129 Ac
15 ft. lane
290
N90°00'E
HAPPY HOLLOW ROAD
W/2-SW-SE-NW-23-16-30
E/2-SW-SE-NW-23-16-30
CITY PROPERTY
CITY PROPERTY

5.06

.Vashington County Real Estate Assessment Record

Parcel Number 765-15258-000 **Property Type** RV

Location Address 0

Owner MAHLER, ALEX W.

Mailing Address PO BOX 3582

FAYETTEVILLE AR 72702

Value Information

Current year 1995

	Appraised	Assessed
Land value	16,500	3,300
Imp. value	0	0
Total value	16,500	3,300

Legal Description

Lot **Block** **Section-Township-Range** 23-16-30

Addition 23-16-30 FAYETTEVILLE OUTLOTS

Legal PT W/2 S/2 SE NW 3.30A.

Deed					
	11/11/88	1297-625	WD	22.00	10,000

School District FAYETTEVILLE SCHOOLS **City description** CITY OF FAYETTEVILLE

5.07

WARRANTY DEED

SINGLE PERSON

KNOW ALL MEN BY THESE PRESENTS:

That I, G.R.Mahler, a single person and H.R. Mahler a single person, hereinafter called Grantor, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration to me in hand paid by Alex W. Mahler

hereinafter called Grantee, do hereby grant, bargain and sell unto the said Grantee and Grantee's heirs and assigns, the following described land, situate in

Washington County, State of Arkansas, to-wit:

Part of the West Half of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter of Section Twenty-three in Township Sixteen North of Range Thirty West, more particularly described as follows, to-wit: Commencing at the Southwest corner of said five acre tract and running thence East 290 feet; thence North 370 feet; thence West 255 feet; thence North 170 feet; thence West 35 feet; thence South 540 feet to the point of beginning.

$22.00
025192 8

FILED FOR RECORD
88 DEC 1 AM 10 1h
WASHINGTON CO AR
A. KOLLMEYER

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps ... been placed on this instrument.

Grantee Alex Mahler

Address

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns, forever. And I, the said Grantor, hereby covenant that I am lawfully seized of said land and premises, that the same is unincumbered, and that I will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS my hand and seal on this 11th day of November, 1988.

THIS INSTRUMENT PREPARED BY:

G.R. Mahler (Seal)

H.R. Mahler (Seal)

(Seal)

ACKNOWLEDGMENT

LIBER 1297 PAGE 625

STATE OF ARKANSAS } ss.

County of

On this the 11th day of Nov., 1988, before me, a notary public, personally appeared known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she had executed the same for the purposes therein set forth.

In witness whereof I hereunto set my hand and official seal.

My Commission Expires 6/17/89

Notary Public

WDS

5.08

REDEMPTION DEED NO. 85981A

CHARLIE DANIELS
COMMISSIONER OF STATE LANDS
STATE OF ARKANSAS

* of Redemption Deed
* dated 17-JUL-1992
* filed in Book 92-
* Page 37740
* filed on the
* 24 day of JUL 1992
****

Issued under the provisions of Act 151 of 1891, Act 626 of 1983 and Act 814 of 1987.

THE STATE OF ARKANSAS:

Ck'd 8-1-92

To All to Whom These Presents Shall Come—GREETINGS:
KNOW YE THAT, WHEREAS: The following described lands situated in the County of WASHINGTON in the State of Arkansas, to wit:

PT. W1/2 S1/2 SE1/4 NW1/4

FAYETTEVILLE

23	16N	30W	000003.300

FILED FOR RECORD
'92 AUG 4 PM 2 16
WASHINGTON CO AR
A. KOLLMEYER

Parcel Number 765-15258-000 Year Forfeited 6-2 1986

were certified to the Commissioner of State Lands, by the County Clerk/Collector for the non-payment of taxes for the years hereinbelow set forth; and that the taxes, penalties, interest, and cost outlined below have been paid to the Commissioner of State Lands;

AND WHEREAS ALEX MAHLER

P.O. BOX 3582 FAYETTEVILLE AR 72702

claiming to be the owner(s) of said real property, filed a petition to redeem duly verified according to the law, showing such ownership.

NOW THEREFORE, I, CHARLIE DANIELS, Commissioner of State Lands within and for the State of Arkansas, for and in consideration of $ 683.84 so paid, and by virtue of the authority in me vested by law, do hereby release and quitclaim unto the said ALEX MAHLER and THEIR heirs and assigns forever all right, title and interest the State of Arkansas acquired under any forfeiture, sale or condemnation for taxes.

WITNESS MY HAND AND OFFICIAL SEAL, this 17-Jul-1992.

Taxes 1986 THROUGH 1990	$	470.89
Interest		126.86
Penalty		47.09
County Cost		3.00
Recording Fee		6.00
Deed Fee		5.00
Commissioner Fee		25.00
Total Paid	$	683.84

Charlie Daniels
Commissioner of State Lands

Dawna Kerr
Deputy Commissioner of State Lands

Deed Mailed to:

ALEX MAHLER
P.O. BOX 3582

FAYETTEVILLE, AR 72702

SEAL OF COMMISSIONER OF STATE LANDS

92 39448

OFFER AND ACCEPTANCE CONTRACT

1. The City of Fayetteville, Arkansas, a municipal corporation, hereinafter referred to as the Buyer, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"

FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of **$50,000.00.**

3. **Contingent Earnest Money Deposit:** The Buyer herewith tenders a check for **$1,000.00** to Bronson Abstract Company, Inc., for the account of **Alex W. Mahler** and **Lori K. Mahler** (spouse), hereinafter referred to as the Seller, as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract. The contingent earnest money deposit shall be held in escrow by the office of Bronson Abstract Company, Inc.

4. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.

5. The Seller shall furnish, at the Buyer's cost, a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer.

6. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.

7. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

8. The closing date is designated to be **thirty (30)** days after approval of this offer by the City Council of Fayetteville. If such date of closing falls on a weekend or holiday, it will be held the following working day. Closing shall be held at the offices of Bronson Abstract Company, Inc., 3810 Front Street, Fayetteville, AR 72703.

9. Possession of the property shall be delivered to the Buyer on the date of closing.

10. Seller hereby grants permission for the Buyer or its employees or designates to enter the above described property for the purpose of inspection, surveying and core sampling for environmental hazards or soil bearings.

11. All fixtures, improvements and attached equipment are included in the purchase price.

12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.

13. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Buyer, at Buyers expense, shall have the right to conduct testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Buyer, at Buyer's discretion, may declare such environmental hazard to be unacceptable and therefore this *Offer and Acceptance Contract* shall be considered null and void and the contingent earnest money deposit as provided herewith shall be returned to the Buyer.

14. Any Personal property remaining after closing on the land described herein shall become the property of the Buyer.

15. This agreement shall be governed by the laws of the State of Arkansas.

16. This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

17. This contract expires, if not accepted on or before the **31st** day of **March**, 1998.

18. **NOTICE:** **BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO BUYER OF THE $1,000.00 EARNEST MONEY DEPOSIT.**

SELLER:

Alex W. Mahler

Lori K. Mahler Date: 3/27/98

BUYER:

City of Fayetteville, Arkansas,
a municipal corporation

Fred Hanna, Mayor Date: 3/18/98

Heather Woodruff, City Clerk Date: 3/19/98

OFFER AND ACCEPTANCE CONTRACT
Mahler

EXHIBIT "A"
PROPERTY DESCRIPTION

Part of the West Half of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter of Section Twenty-three in Township Sixteen North of Range Thirty West, more particularly described as follows, to-wit: Commencing at the Southwest corner of said five acre tract and running thence East 290 feet; thence North 370 feet; thence West 255 feet; thence North 170 feet; thence West 35 feet; thence South 540 feet to the point of beginning, containing 2.60 acres, more or less.

SIGNED FOR IDENTIFICATION:

SELLER:

Alex W. Mahler

Lori K. Mahler

BUYER:

The City of Fayetteville, Arkansas,
a municipal corporation

BY:

Fred Hanna, Mayor

ATTEST:

Heather Woodruff, City Clerk

(Seal)

OFFER AND ACCEPTANCE CONTRACT
Mahler

A C K N O W L E D G M E N T

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Alex W. Mahler and Lori K. Mahler**, husband and wife, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that **they** had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 27th day of March, 1998.

Edward D. Connell
Notary Public

MY COMMISSION EXPIRES:

05-01-2000

A C K N O W L E D G M E N T

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Fred Hanna** and **Heather woodruff**, to me well known as the person who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 19th day of March, 1998.

Edward D. Connell
Notary Public

MY COMMISSION EXPIRES:

05-01-2000

5.14

DRAFT

RESOLUTION NO. _____

AN RESOLUTION DECLARING THE HUMAN DIGNITY POLICY OF THE CITY OF FAYETTEVILLE AND ESTABLISHING THE FAYETTEVILLE HUMAN DIGNITY COUNCIL.

WHEREAS, The City of Fayetteville wishes to promote a prevailing climate of fairness, justice and the inherent worth and dignity of all persons; and,

WHEREAS, The City of Fayetteville believes that the quality of life is promoted by equal protection under the law for all citizens; and,

WHEREAS, The City of Fayetteville believes that the human bonds of care and compassion between persons and within families is strengthened when respect and dignity is reflected in our laws; and,

WHEREAS, The City of Fayetteville wishes to promote equal protection under the law, regardless of race, sex, religion, color, national origin, age, ancestry, familial status, sexual orientation, or disability; and,

WHEREAS, the City of Fayetteville aspires to the high standards set by the non-discrimination policies of the University of Arkansas, Fayetteville, and the Fayetteville Public School District.

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

Section 1. Equality in Fayetteville.

The City of Fayetteville shall model for the community, and encourage all other institutions, organizations and businesses in the City to conduct their institutional behavior in a manner that promotes the values represented by the spirit of this resolution.

A. Toward that end, the City shall henceforth, in its hiring practices for all city employees, insure that all qualified applicants for all City positions have equal access to such employment opportunities regardless of race, sex, religion, color, national origin, age, ancestry, familial status, sexual orientation, or disability.

B. Further, in its bidding, contracting and purchasing procedures, the City shall, for the next two years, encourage, in writing, that all bidders, contractors and suppliers adopt a similar pattern of hiring without regard to the enumerated categories. After two years, the City shall require an annual certification of a resolution of compliance with the non-discriminatory hiring policies.

C. In addition, the City shall do everything in its power of persuasion to insure that all of its citizens have access to public accommodations, housing, lending institutions and educational institutions without regard to the enumerated conditions.

Section 2. Human Dignity Council.

A. Creation. In order to effect such education and persuasion, there is hereby created and established a Human Dignity Council (hereinafter "the Council").

B. Membership. The Council shall consist of seven members. Two members will be Fayetteville Aldermen and the other five will be appointed by the City Council through the selection process as set forth in the Rules of Order and Procedure, Fayetteville Mayor-City Council, Revised and Adopted February 3, 1998, Section H. CITIZENS COMMITTEES, and as may from time to time be revised.

C. Term. Membership terms shall be for two year staggered terms.

D. Rules and Regulations. The Council shall establish rules and regulations governing its procedures.

E. Meetings. The Commission shall meet a minimum of 6 times per year.

F. Freedom of Information Act. The Commission's meetings and records shall be subject to the provisions of the Arkansas Freedom of Information Act, A.C.A.§25-19-101 et seq.

G. Purpose. The purpose of the Commission is to:

1. foster, encourage and promote the values inherent in this resolution with the corporate, institutional and educational facilities within the city as well as within neighborhoods and community organizations,

2. to provide a forum in which citizens bring their concerns, grievances and ideas on subjects broadly related to the concerns, values and ideals expressed in this resolution,

3. make recommendations to other city boards and committees and to the City Council on these matters,

4. to monitor the functioning of City government itself to insure that the practices of the City reflect compliance with the intent of this document,

5. to promote a greater understanding among and between people and groups of people.

PASSED AND APPROVED this ____ day of _____, 1998.

APPROVED:

By:_____
Fred Hanna, Mayor

ATTEST:

By:_____
Heather Woodruff, City Clerk

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PASSED AND APPROVED this ____ day of _____, 1998.

APPROVED:

By:_____
Fred Hanna, Mayor

ATTEST:

By:_____
Heather Woodruff, City Clerk

ORDINANCE NO._____

AN ORDINANCE ESTABLISHING NEW WARD BOUNDARIES WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, A.C.A.§14-43-311 states: " (a)(1)(A) City councils in cities of the first class shall have the authority to redistrict the wards in their city when they determine that the people can best be served by adding wards, combining wards, or changing ward boundary lines to equalize the population in the various wards."

WHEREAS, A.C.A.§14-43-311 further states: " (B) It shall be the duty of the council to see that each ward has as nearly an equal population as would best serve the interest of the people of the city.

WHEREAS, recent census data shows that inequalities exist in population within the present four ward boundaries.

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

Section 1. That the City Council hereby divided into new wards and each ward shall include all that part of the city lying within the boundary lines established on the Ward Boundary Map attached hereto marked Exhibit A and made a part hereof.

PASSED AND APPROVED this [illegible] day of [illegible], 1998.

APPROVED:

By:_____
Fred Hanna, Mayor

ATTEST:

By:_____
Heather Woodruff, City Clerk

§14-43-311. Redistricting of wards.

§14-43-311. Redistricting of wards.

(a)(1)(A) City councils in cities of the first class shall have the authority to redistrict the wards in their city when they determine that the people can best be served by adding wards, combining wards, or changing ward boundary lines to equalize the population in the various wards.

(B) It shall be the duty of the council to see that each ward has as nearly an equal population as would best serve the interest of the people of the city.

(2)(A) Within ninety (90) days after redistricting, if one hundred

(100) or more qualified electors in the city are dissatisfied with the redistricting of the city into wards, they shall have the authority to petition the circuit court.

(B) The court, after due hearing, shall have authority to redistrict the city into such wards as the court shall deem best if the court finds that the redistricting action by the council was arbitrary and capricious.

(b) At the next city election held, more than twenty (20) days after the approval of redistricted wards, there shall be elected from each of the new wards two (2) aldermen who shall organize the new city council at the first council meeting in January after their election.

(c)(1)(A) All aldermen elected in the city prior to redistricting of wards shall give up their positions to the new aldermen at the time for the organization of the new council, as provided in subsection (b) of this section.

(B) From that date the terms of office of all previously elected aldermen shall cease and terminate.

(2)(A) It shall be lawful to increase the number of wards or continue the same number of wards without affecting the terms of office of incumbent aldermen of the city.

(B)(i) When the wards are reapportioned so as to increase the number of wards or readjust existing wards 50 that such wards

contain nearly equal population, the aldermen who remain in their old ward, or part thereof, shall continue in office.

(ii) New aldermen shall be elected only for new wards actually formed out of the territory of old wards.

(d)(1) All clerk's costs and other costs incurred in the proceedings authorized in this section shall be paid by the persons at whose instance the services were rendered.

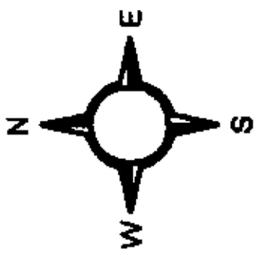
(2)(A) In case these proceedings result in the redistricting of the city into new wards, the compensation of those individuals making the redistricting shall be fixed by the circuit judge, certified to the city council, and paid out of the city treasury.

(B) This compensation shall not exceed the sum of twenty-five dollars ($25.00) each.

History. Acts 1885, No. 67, 6, p. 92; 1905, No. 275, 1, p. 693; C. & M. Dig., 7720-7724, 7726; Pope's Dig., 9890-9894, 9896; Acts 1973, No. 600, 1; 1983, No. 253, 1.
A.S.A. 1947, 19-1005 - 19-1007, 19-1009.

WARD MAP

CITY OF FAYETTEVILLE
ARKANSAS



WARD BOUNDARIES

0 1 2 3 Miles

APRIL, 1998

FAYETTEVILLE

10.01

STAFF REVIEW FORM

xxxxx Agenda Request
_____ Contract Review
_____ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF April 21, 1998

FROM:

Ben Mayes	Administrative Services	Administrative Services
Name	Division	Department

ACTION REQUESTED: Review, comment, and approval of a lease and agreement for the Town Center between the City of Fayetteville and the Advertising and Promotion Commission.

COST TO THE CITY:

$0		
Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

_____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator | Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Marilyn J Cramer	3-27-98	Yolanda Fields	3-29-98 ✓
Accounting Manager	Date	Internal Auditor	Date
[signature]	27 March 98		
City Attorney	Date	ADA Coordinator	Date
P Vice	3-27-98		
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Division Head	Date	**Cross Reference**
Department Director	Date	New Item: Yes No
[signature]	3-30-98	
Administrative Services Director	Date	Prev Ord/Res #:
[signature]	4/3/98	
Mayor	Date	Orig. Contract Date:

10.02

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Mayor Fred Hanna, Fayetteville City Council and A&P Commission Mbrs.

From: Ben R. Mayes, Administrative Services Director BRM

Date: March 25, 1998

Subject: Lease Agreement for Town Center

Attached is a Lease and Agreement for the Town Center between the City of Fayetteville and the Advertising and Promotion Commission for your review, comment and approval.

If you should have any questions, please call Ben Mayes at 575-8330 or Jerry Rose at 575-8313.

113 WEST MOUNTAIN 72701 501-521-7700
FAX 501-575-8257

LEASE AND AGREEMENT

Between

CITY OF FAYETTEVILLE, ARKANSAS

and

ADVERTISING AND PROMOTION COMMISSION
of the CITY OF FAYETTEVILLE, ARKANSAS

Dated as of

LEASE AND AGREEMENT

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LEASE AND AGREEMENT

This LEASE AND AGREEMENT made as of _____, by and between the CITY OF FAYETTEVILLE, ARKANSAS ("Lessor" or "City") and the ADVERTISING AND PROMOTION COMMISSION OF THE CITY OF FAYETTEVILLE, ARKANSAS ("Lessee" or "Commission");

WITNESSETH:

1. WHEREAS, Lessor is a duly organized and existing municipality, a city of the first class, under the laws of the State of Arkansas with full and lawful power and authority to enter into this Lease and Agreement; and

2. WHEREAS, Lessee is authorized under the laws of the State of Arkansas to enter into this Lease and Agreement and to perform all covenants and obligations on its part and to be performed under and pursuant to this Lease and Agreement; and

3. WHEREAS, at a special election held on August 5, 1997 the electors of the City approved the issuance of a $6,950,000 Bond issue to finance the construction of the Fayetteville Town Center as a new, multi-purpose, civic center for meetings, conventions, exhibitions, entertainment events, related uses and parking; and

4. WHEREAS, the Bonds are issued by the City but are largely/primarily to be funded by the Advertising and Promotion Commission through the pledge of the City's one cent Hotel and Restaurant Gross Receipts Tax approved by the voters in 1977; and

5. WHEREAS, upon completion, the Town Center will be owned by the City; and

6. WHEREAS, the Commission is willing to manage the Town Center and to assume the financial burden, if any , incurred in such management for the purpose of fulfilling their

statutory purpose of advertising and promoting the City and for maintaining and operating a convention center and/or tourist promotion facility in the City; and

7. WHEREAS, the City believes it is in the best interests of the citizens of Fayetteville for the Commission to manage the Town Center on behalf of the City,

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged by Lessor and Lessee, and in consideration of the mutual benefits and covenants herein contained, Lessor and Lessee AGREE as follows:

ARTICLE I

DEFINITIONS

Section 101. In addition to the words and terms elsewhere defined in this Lease Agreement, the following words and terms as used in this Lease Agreement shall have the following meanings unless the context clearly indicates a different meaning or intent:

"Bonds" - The City of Fayetteville, Arkansas Hotel and Restaurant Gross Receipts Tax Bonds, Series 1998, issued under and secured by the Indenture, to provide funds to construct and equip the Project.

"Indenture" or "Trust Indenture" - the Trust Indenture and First Supplemental Trust Indenture between the City and the Trustee, which sets forth the details pertaining to the Bonds, the nature and extent of the security and the rights, duties and obligations of the City, the Trustee and the holders and registered owners of the Bonds and the terms under which the Bonds are secured.

"Lease Agreement" - The within Lease and Agreement.

"Lease term" or "Term" - the term of the Lease Agreement set forth in Section 202.

"Leased Premises" - the lands, buildings, improvements, and facilities covered by the Lease Agreement and defined in Section 201 hereof.

"Lessee" - the Advertising and Promotion Commission of the City of Fayetteville, Arkansas.

"Lessor" - The City of Fayetteville, Arkansas, a city of the first class and located in Washington County, Arkansas.

"Project" - The lands, buildings, improvements, facilities constituting a multi-purpose civic center for meetings and conventions, exhibitions, entertainment events and related uses, and related parking facilities, collectively to be known as the Fayetteville Town Center financed out of proceeds of the Bonds and other monies and leased under this Lease Agreement. The lands included in the Project are described as Exhibit A attached hereto.

"Rent" or "Rents" - the Basic Rent (provided for in Section 203(a) hereof) and the Additional Rent (provided for in Section 203(b) hereof), unless the context clearly indicates both are not intended.

"Trustee" - The Trustee for the time being, whether original or successor with the original Trustee being Bank of Oklahoma, N.A., Tulsa, Oklahoma who is a party to the Indenture.

ARTICLE II

DEMISING CLAUSES, DURATION OF LEASE TERM AND RENTAL PROVISIONS

Section 201. Lessor, for and in consideration of the rents, covenants and agreements herein reserved, mentioned and contained, on the part of Lessee to be paid, kept and performed, agrees to and does hereby lease to Lessee, and Lessee agrees to, and does hereby lease, take and hire from Lessor, subject to the terms, conditions and provisions of this Lease Agreement expressed, the following:

(a) The lands situation in Washington County, Arkansas, described in Exhibit A attached hereto (the "lands");

(b) The buildings, structures and other improvements now or at any time hereafter erected and installed on the lands; and

(c) All accretions, easements, rights of way and appurtenances belonging to the lands and/or the improvements described in (a) and (b) above.

The properties described in (a), (b), and (c) above are herein collectively referred to as the "Leased Premises".

TO HAVE AND TO HOLD the Leased Premises unto the Lessee for the term of this Lease Agreement as hereafter set forth.

Section 202. The term of this Lease Agreement shall commence upon substantial completion of the Project and shall run for a period of fifty (50) years.

Section 203. (a) Basic Rent

Lessee covenants to pay to Lessor, Basic Rent of one dollar per year and agrees to contribute $1,000,000 toward the construction of the Project.

(b) Additional Rent. During the term hereof, Lessee shall pay as Additional Rent all expenses, liabilities, obligations and other payments of whatever nature which Lessee has agreed to pay or assume under the provisions of this Lease Agreement.

ARTICLE III

INSURANCE

Section 301. A. Lessee party shall, at Lessee's sole cost and expense, keep the Leased Premises insured:

(i) Against the perils of fire and the hazards ordinarily included under broad form extended coverage endorsements in amounts not less than 90% of the full insurable value thereof within the terms of applicable policies.

(ii) If there are boiler or pressure vessels, from boiler or pressure vessel explosion in an amount customarily carried in the case of similar industrial operations.

The term "full insurable value" means such value as shall be determined from time to time at the request of Lessor, Lessee or Trustee (but not more frequently than once in every forth-eight (48) months) by one of the insurers selected by Lessee.

B. At all times during the term, Lessee shall, at no cost or expense to Lessor, maintain or cause to be maintained:

(i) General Public Liability insurance against claims for bodily injury or death occurring upon, in or about the Leased Premises, with such insurance to afford protection to the limits of not less than $1,000,000 in respect of bodily injury or death to any one person and to the limit of not less than $2,000,000 In respect to any one accident; and

(ii) Property damage insurance against claims for damage to property occurring upon, in or about the Leased Premises with such insurance to afford protection to the limit of not less than $50,000 in respect of damages to the property of any one owner.

C. The insurance required by this Article III shall be maintained in full force and effect at all times during the term of this Lease Agreement;

D. Copies or certificates of the insurance provided for by this Article or elsewhere in this Lease Agreement shall be delivered to the parties. And, in the case of expiring policies throughout the term, copies or certificates of any new or renewal policies shall be delivered to the parties.

E. All insurance required by this Section 301 shall be effected with insurance companies qualified to do business in the State of Arkansas. Appropriate provisions shall be inserted in each insurance policy making each policy noncancellable without at least ten (10) days prior written notice to Lessor, Lessee and the Trustee.

ARTICLE IV

REPAIRS AND MAINTENANCE OF LEASED PREMISES AND ALTERATIONS

Section 401. Lessee shall throughout the term, at no cost and expense to Lessor, maintain, or cause to be maintained, and at the expiration of the term hereof, yield up or cause to be yielded up, in good and tenantable repair, order and condition, reasonable wear and tear excepted, the improvements now or at any time erected on the lands included in the Leased Premises and sidewalks adjoining the Leased Premises; and promptly at no cost and expense to Lessor make or cause to be made all necessary repairs, interior and exterior, structural and non-structural, foreseen as well as unforeseen to such improvements.

Section 402. Lessee shall have the right from time to time to make additions, alterations and changes in or to the improvements constituting part of the Leased

Premises and shall have the right to construct new improvements. It is understood and agreed that in the event the Lessee makes any additions, alterations and changes in or to the improvements constituting part of the Leased Premises as authorized by this Section, the Lessee shall be under no obligation at the expiration of the term to restore the Leased Premises to their original condition prior to such additions, alterations or changes.

Section 403. All structural improvements and alterations made on the Leased Premises by or on behalf of Lessee shall immediately upon completion thereof be and become the property of the Lessor without payment therefor by Lessor but subject to this Lease Agreement. All machinery and equipment, trade fixtures, movable partitions, furniture and furnishings and other property installed at the expense of Lessee shall remain the property of the Lessee with the right of removal, whether or not affixed and/or attached to the real estate, and the Lessee shall, so long as it is not in default hereunder, be entitled but shall not be obligated to remove the same, or any part thereof, during the term, or within a reasonable time thereafter, but Lessee shall at its own cost and expense repair any and all damages to the Leased Premises resulting from or caused by their removal therefrom.

Section 404. Lessee agrees to pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to or for the Lessee upon or in connection with the Leased Premises throughout the term of this Lease Agreement.

ARTICLE V

USE OF LEASED PREMISES - COMPLIANCE WITH ORDERS, ETC.

SECTION 501. Subject to the following provisions of this Section, Lessor and Lessee agree that Lessee shall use the Leased Premises for a multi-purpose civic center for meetings and conventions, exhibitions, entertainment events and related uses and related parking facilities. Lessee shall during the term promptly comply with all valid statutes, laws, and requirements of all federal, state, local and other governments or governmental authorities, including the Bond Indenture and Ordinance, now or hereafter applicable to the Leased Premises. Lessee shall during the term comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease Agreement.

SECTION 502. The Leased Premises and portions thereof shall be made available by Lessee for use by the local groups for such events as civic and private receptions, school activities, community meetings, banquets, etc. during those times when the leased premises is not being utilized for the purposes set forth in Section 501 above. Fees charged by Lessee for use by the local groups shall not exceed the cost to Lessee of custodian, janitorial and other special services (exclusive of utility services) in connection with such use.

Section 503. The Lessee covenants that it will operate or cause to be operated the facilities constituting the Project in a prudent and financially responsible manner, and will fix, charge and collect reasonable rates, fees and charges for the use of the facilities constituting the Project and for services performed by the Lessee in connection

therewith. To the extent that revenues from the facilities constituting the Project are insufficient therefore, all operating costs of the Project will be paid by the Lessee.

Section 504. Lessee covenants that it will at all times operate the Project as a convention center within the requirements of the Advertising and Promotion Commission Act, Ark. Code Ann. Section 26-75-601 through 618 so that the Lessor will qualify under the provisions of the City-County Tourist Meeting and Entertainment Facilities Assistance Law (Ark. Code Ann. Section 14-171-210 through 217) for turnback funds.

Section 505. Lessee covenants for the benefit of the Lessor and the holders of Lessor's outstanding Hotel and Restaurant Gross Receipts Tax Bonds that in operating the Project it will comply with all requirements of the Internal Revenue Code of 1986, as amended, which are required for interest on the Bonds to be excludable from gross income for federal income taxation purposes.

ARTICLE VI

LESSOR MAY PERFORM LESSEE'S OBLIGATIONS

Section 601. If Lessee shall fail to keep or perform any of its obligations as provided in this Lease Agreement in respect of (a) maintenance of insurance; (b) repairs and maintenance of the Leased Premises; (c) compliance with legal or insurance requirements; and (d) making of any other payment or performance of any other obligations, then Lessor may (but shall not be obligated to do so), upon the continuance of such failure on Lessee's part for thirty (30) days after written notice to Lessee, and without waiving or releasing Lessee from any obligation, and as an additional but not exclusive remedy, make any such payment or perform any such obligation (not under circumstances

where such payment or performance would defeat any rights, herein specifically given to Lessee, to withhold such performance or to contest such obligation to the extent herein provided), and all sums so paid by Lessor and all necessary incidental costs and expenses incurred by Lessor in making such payment or performing such obligation shall be deemed Additional Rent and shall be paid to Lessor on demand.

ARTICLE VII

INSPECTION OF LEASED PREMISES BY LESSOR AND TRUSTEE

Section 701. Lessee shall permit Lessor and the Trustee or either of them, by their respective authorized representatives, to enter the Leased Premises at all reasonable times during usual business hours for the purpose of inspection, and for the performance of any work therein made necessary by reason of Lessee's default under any of the provisions of this Lease Agreement.

ARTICLE VIII

DAMAGE AND DESTRUCTION

Section 801. A. Lessee covenants and agrees that in the event of damage to or destruction of the Leased Premises, or any part thereof, by fire or other casualty, the Lessee shall immediately notify the Lessor and the Trustee.

If the Leased Premises sustain "major damage or destruction," (as hereafter defined) either party may terminate this Lease Agreement by written notice to the other party and the Trustee given within 45 days after casualty and Rents shall be paid to the date of the casualty.

If the damage does not constitute major damage or destruction, Lessee shall

proceed to restore, repair, rebuild or replace the Leased Premises as nearly as possible to the condition they were in immediately prior to such damage or destruction.

B. The term "major damage or destruction" as used in this Section is defined to mean any damage or injury to or destruction of the Leased Premises or any part thereof (whether or not resulting from an insured peril) such that the Leased Premises cannot reasonably be restored to its condition immediately preceding such damage, injury or destruction within a period of ninety (90) working days, or which would prevent Lessee from carrying on its operations therein for a period of ninety (90) working days or the restoration cost of which would exceed the total amount of insurance carried on the Leased Premises in accordance with the provisions of Article III hereof.

C. All insurance money paid on account of such damage or destruction shall be paid to the Lessor and applied only to the payment of the cost of the restoration, repairs, replacements or rebuilding, including expenditures made for temporary repairs or for the protection of property pending the completion of permanent restoration, repairs, replacements, or rebuilding or to prevent interference with the business operated thereon (sometimes referred to as the "restoration").

ARTICLE IX

ASSIGNMENT

Section 901. A. Lessee may not assign this Lease Agreement or sublet the Leased premises or part thereof for a period longer than 60 days without the prior written consent of Lessor. No such assignment or subletting and no dealings or transactions between the Lessor and any sublessee or assignee shall relieve the Lessee of any of its

obligations under this Lease Agreement and Lessee shall remain as fully bound as though no assignment or subletting had been made, and performance by any assignee or sublessee shall be considered as performance pro tanto by Lessee.

ARTICLE X

DEFAULT PROVISIONS

Section 1001. The following shall be "events of default" under this Lease Agreement and the terms "event of default" or "default" shall mean, whenever they are used in this Lease Agreement, any one or more of the following events:

(a) Failure by the Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, (i) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the Lessee by the Lessor unless the Lessor shall agree in writing to an extension of such time prior to its expiration or (ii) for such longer period as may be reasonably necessary to remedy such default provided that the Lessee is proceeding with reasonable diligence to remedy the same.

Section 1002. Whenever any event of default shall happen and then be continuing, the Lessor or the Trustee may take any of the following remedial steps:

(a) The Lessor may re-enter and take possession of the Leased Premises without terminating this Lease Agreement, and sublease the Leased Premises for the account of the Lessee, holding the Lessee liable for the difference in the rent and other amounts payable by the Lessee hereunder.

(b) The Lessor may terminate the term, exclude the Lessee from possession of the Leased Premises and use its best efforts to lease the Leased Premises to another for the account of the Lessee, holding the Lessee liable for all rent and other payments due up to the effective date of any such leasing.

(c) The Lessor shall have access to and inspect, examine and make copies of the books and records relating to the Leased Premises.

(d) The Lessor may take whatever action at law or in equity may appear

necessary or desirable to collect the rent and any other amounts payable by Lessee hereunder, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Lease Agreement.

Section 1003. No remedy herein conferred upon or reserved to the Lessor is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time as often as may be deemed expedient.

Section 1004. The foregoing provisions of this Article relating to the receipt of moneys by Lessor as the result of an acceleration, upon a reletting or otherwise are each to be construed as providing that all such payments by Lessee or others shall be handled as provided in this Lease Agreement and in the Indenture.

ARTICLE XI

NOTICES

Section 1101. All notices, demands and requests which may or are required to be given by either party to the other or to the Trustee shall be in writing, and each shall be deemed to have been properly given when served personally on an executive officer of the party to whom such notice is to be given, or when sent postage prepaid by certified mail by deposit thereof in a duly constituted United States Post Office or branch thereof located in one of the present states of the United States of America in a sealed envelope addressed as follows:

If intended for Lessee:

With Copy to:

If intended for Lessor:

Mayor
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

If intended for Trustee:

(To be supplied by Lessor)

Any party or the Trustee may change the address and the name of addressee

to which subsequent notices are to be sent by notice to the other parties given as aforesaid.

ARTICLE XII

GENERAL

Section 1201. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Arkansas.

Section 1202. If any provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable, the remainder of this Lease Agreement and the application of its provisions to persons or circumstances other than those as to which it has been determined to be invalid or unenforceable, shall not be affected thereby, and each provision of this Lease Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

Section 1203. The provisions of this Lease Agreement shall bind and inure to the benefit of the parties hereto and their respective successors, assigns and sublessee

Section 1204. The within Lease Agreement constitutes the entire Agreement between these parties relating to the Leased Premises described herein, and recites the entire consideration given and accepted, paid and to be paid, by the parties, and no representations not expressed herein have been made by either party or their agents, and no representative of either party shall have any authority to bind the party allegedly represented concerning any modifications, additions, amendments or changes in this Agreement in view of the fact that the parties now agree that all amendments shall be in writing as amendments to this document and duly executed by the authorized representatives of both parties in order to have any effectiveness.

Section 1205. Nothing in this Lease Agreement shall be construed to waive the sovereign immunity of the State of Arkansas or any entity thereof and nothing herein shall be construed to waive the statutory tort immunity of Lessor.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be signed in several counterparts, each of which may be considered an original without the presentation of the others, by their duly authorized officials and officers as of the day and year first hereinabove written.

CITY OF FAYETTEVILLE, ARKANSAS
LESSOR

_____
Mayor

ATTEST:

_____
City Clerk

ADVERTISING & PROMOTION COMMISSION OF THE CITY OF FAYETTEVILLE, ARKANSAS, LESSEE

_____
Chairman

ATTEST:

_____

_____ (Title)

(SEAL)

EXHIBIT A

To the LEASE AND AGREEMENT by and between the CITY OF FAYETTEVILLE, ARKANSAS and the ADVERTISING AND PROMOTION COMMISSION OF THE CITY OF FAYETTEVILLE, ARKANSAS:

The following described land situated in the County of Washington, State of Arkansas, to-wit:

Lot Numbered Eight (8), the north seven (7) feet of equal and uniform width of Lot Numbered Nine (9), Lots Numbered Twelve (12), Thirteen (13), Fourteen (14) and Fifteen (15), including the interest in any vacated alley associated with each lot or partial lot, all in Block Numbered Thirty (30) in the Town (now City) of Fayetteville, as designated upon the original plat of said town filed in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

Also any and all interest in "partnership" or common "walls" which were previously conveyed to the Grantor. Said walls and buildings are no longer in existence.

DRAFT
5-31-01

RESOLUTION NO. _____

AN RESOLUTION DECLARING THE HUMAN DIGNITY POLICY OF THE CITY OF FAYETTEVILLE AND ESTABLISHING THE FAYETTEVILLE HUMAN DIGNITY COUNCIL.

WHEREAS, The City of Fayetteville wishes to promote a prevailing climate of fairness, justice and the inherent worth and dignity of all persons; and,

WHEREAS, The City of Fayetteville believes that the quality of life is promoted by equal protection under the law for all citizens; and,

WHEREAS, The City of Fayetteville believes that the human bonds of care and compassion between persons and within families is strengthened when respect and dignity is reflected in our laws; and,

WHEREAS, The City of Fayetteville wishes to promote equal protection under the law, regardless of race, sex, religion, color, national origin, age, ancestry, familial status, sexual orientation, or disability; and,

WHEREAS, the City of Fayetteville aspires to the high standards set by the non-discrimination policies of the University of Arkansas, Fayetteville, and the Fayetteville Public School District.

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

Section 1. Equality in Fayetteville.

The City of Fayetteville shall model for the community, and encourage all other institutions, organizations and businesses in the City to conduct their institutional behavior in a manner that promotes the values represented by the spirit of this resolution.

A. Toward that end, the City shall henceforth, in its hiring practices for all city employees, insure that all qualified applicants for all City positions have equal access to such employment opportunities regardless of race, sex, religion, color, national origin, age, ancestry, familial status, sexual orientation, or disability.

B. Further, in its bidding, contracting and purchasing procedures, the City shall, for the next two years, encourage, in writing, that all bidders, contractors and suppliers adopt a similar pattern of hiring without regard to the enumerated categories. After two years, the City shall require an annual certification of a resolution of compliance with the non-discriminatory hiring policies.

C. In addition, the City shall do everything in its power of persuasion to insure that all of its citizens have access to public accommodations, housing, lending institutions and educational institutions without regard to the enumerated conditions.

Section 2. Human Dignity Council.

A. Creation. In order to effect such education and persuasion, there is hereby created and established a Human Dignity Council (hereinafter "the Council").

B. Membership. The Council shall consist of seven members. Two members will be Fayetteville Aldermen and the other five will be appointed by the City Council through the selection process as set forth in the Rules of Order and Procedure, Fayetteville Mayor-City Council, Revised and Adopted February 3, 1998, Section H. CITIZENS COMMITTEES, and as may from time to time be revised.

C. Term. Membership terms shall be for two year staggered terms.

D. Rules and Regulations. The Council shall establish rules and regulations governing its procedures.

E. Meetings. The Commission shall meet a minimum of 6 times per year.

F. Freedom of Information Act. The Commission's meetings and records shall be subject to the provisions of the Arkansas Freedom of Information Act, A.C.A.§25-19-101 et seq.

G. Purpose. The purpose of the Commission is to:

1. foster, encourage and promote the values inherent in this resolution with the corporate, institutional and educational facilities within the city as well as within neighborhoods and community organizations,

2. to provide a forum in which citizens bring their concerns, grievances and ideas on subjects broadly related to the concerns, values and ideals expressed in this resolution,

3. make recommendations to other city boards and committees and to the City Council on these matters,

4. to monitor the functioning of City government itself to insure that the practices of the City reflect compliance with the intent of this document,

5. to promote a greater understanding among and between people and groups of people.

PASSED AND APPROVED this ____ day of _____, 1998.

APPROVED:

By:_____
Fred Hanna, Mayor

ATTEST:

By:_____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

__X__ AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council meeting of April 21, 1998

FROM:

Jerry E. Rose	City Attorney	Legal
Name	Division	Department

ACTION REQUIRED:

Approval or disapproval of an offer of $18,000 as full settlement of the eminent domain action against Jerry D. Sweetser on property for the 24th Street Improvements.

COST TO CITY:

$ 18,000	$	
Cost of this Request	Category/Project Budget	Category/Project Name
	$	
Account Number	Funds Used To Date	Program Name
	$	
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Coordinator	Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	4-2-98 Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Division Head	Date	Cross Reference
Department Director	Date	New Item: **Yes** **No**
Administrative Services Director	Date	Prev Ord/Res #: _____
Mayor	Date	Orig Contract Date: _____

12.02

F A Y E T T E V I L L E
CITY ATTORNEY DEPARTMENT

Jerry E. Rose
LaGayle D. McCarty
Clarice Buffalohead-Pearman
575-8313

DEPARTMENTAL CORRESPONDENCE

TO: Fred Hanna, Mayor
City Council

FROM: Jerry E. Rose, City Attorney JEB

DATE: March 31, 1998

RE: **Settlement Offer - Sweetser Property Condemnation**

In February of 1997, the City Council authorized court condemnation of two tracts of land owned by Mr. Jerry Sweetser for the improvement of 24th street. Complaints were filed on March 3, 1997 and Orders of Possession were entered. As an estimate of just compensation for the taking of the two parcels, the City deposited $8290.00 and $585.00 into the registry of the court. Because the engineering was modified after the appraisals were complete, the appraisals were used as a basis for figuring compensation, however, they do not reflect the exact amount offered.

Mr. Sweetser submitted a letter dated February 21, 1997 responding to the taking of his property for the 24th street project. By letter dated October 28, 1997, Mr. George Faucet, Representative of Jerry D. and Sharon J. Sweetser, requested the appraisal be reevaluated based upon information he outlined. In response, a review appraisal was ordered; Mr. Schultz stands behind his original appraisal.

An appraisal dated January 5, 1998 was prepared by Mr Stephen C. Cosby and was submitted on behalf of Mr. Sweetser. This appraisal opines just compensation to be in the amount of $22,376.

Finally, after various conversations between Charles Venable, George Faucette and myself, an offer of settlement dated March 23, 1998 was received from Mr. George Faucette as representative for Jerry D. and Sharon J. Sweetser, offering to accept the sum of $18,000.00 in settlement of this matter.

It is my ethical obligation to bring all settlement offers to your attention. The following is submitted for your reference in consideration of the offer of settlement.

Attachments:

Appraisals by Associated Appraisers, Inc.
Letter from Jerry Sweetser dated February 21, 1997
Letter from George Faucette dated October 28, 1997
Review appraisal by Associated Appraisers, Inc., March 7, 1997
Letter from George Faced dated January 18, 1998
Appraisal by Stephen C. Cosby, December 11, 1996
Offer of Settlement dated March 23, 1998

12.04

RECEIVED
MAR 24 1998

COLDWELL BANKER

FAUCETTE
REAL ESTATE

3589 N. COLLEGE AVE. □
FAYETTEVILLE, AR 72703
BUS. (501) 521-0220
TOLL FREE (800) 293-0220
FAX (501) 444-7546

1127 S. GUTENSOHN, STE 101 □
SPRINGDALE, AR 72762
BUS. (501) 751-3030
TOLL FREE (800) 668-3939
FAX (501) 751-3176

2301 W. WALNUT, SUITE 1 □
ROGERS, AR 72756
BUS. (501) 636-8100
TOLL FREE (800) 656-7253
FAX (501) 636-3193

March 23, 1998

Mr. Jerry Rose, Fayetteville City Attorney
113 W. Mountain
Fayetteville, Ar 72701

RE: Sweetser property condemnation, 24th Street

Dear Jerry:

With regard to the above referenced matter, please regard this letter as the formal request from Mr. Jerry Sweetser to arrive at a settlement of Circuit Case #'s CIV 97-267 and CIV 97-268.

As you know, the City had an appraisal of the value of the lands taken. That appraisal was for $8,875.00. Subsequent to that appraisal, Mr. Sweetser engaged State Certified Appraiser Stephen C. Cosby to appraise the subject property. His appraisal report, which you have, valued the lands taken at $22,376.00.

My own analysis, done through the eyes of a licensed real estate broker, was that the taking of the lands caused the Sweetser's to lose two residential lots that cannot be regained by the remaining land. My estimation of the value of those "lost" tracts is from $35,000 to $40,000 total. I have enclosed four copies of my analysis for you and the council members. I believe I have already given you one of these reports.

Mr. and Mrs. Sweetser have agreed to accept the sum of $18,000.00 total (less the amounts already paid) to settle the matter. They and I believe this a very fair offer and one that eliminates the potential for litigation.

An Independently Owned and Operated Member of Coldwell Banker Residential Affiliates, Inc.

I respectfully request that you present this to the council for consideration and acceptance. If necessary, I will be happy to present it to the council at the meeting on April 21, 1998.

Sincerely,

George Faucette, Jr., President
Representative for Jerry D. and Sharon J. Sweetser
encl

12.06

SUMMARY APPRAISAL REPORT -
LIMITED APPRAISAL
Tract #10 - Sweetser
24th Street Improvement Project
City of Fayetteville, Arkansas
24th Street and Country Club Drive
Fayetteville, Arkansas

AS OF

December 11, 1996

PREPARED FOR:

Mr. Jerry Sweetser
1950 Bois De Arc Lane
Fayetteville, Arkansas 72701

PREPARED BY:

Stephen C. Cosby, State Certified
General Appraiser No. CG0197
Cosby & Associates, Inc.
101 W. Mountain, Suite 212
Fayetteville, Arkansas 72701

Cosby & Associates, Inc.

January 5, 1998

Mr. Jerry Sweetser
1950 Bois De Arc Lane
Fayetteville, Arkansas 72701

RE: Sweetser Property
Tract #10
24th Street Improvement Project
City of Fayetteville, Arkansas

Dear Mr. Sweetser:

As you requested, we have conducted the required investigation, gathered the necessary data and made certain analyses that have enabled us to form our opinion of the Just Compensation due the owner for the imposition of the partial taking of a right-of-way easement associated with the realignment and widening of 24th Street and Country Club Drive in Fayetteville, Arkansas. The following Summary Appraisal Report of our limited appraisal contains the legal description of the property as well as data gathered during our investigation and a detailed presentation of the methods of appraisal used in arriving at the final conclusion. This report has been prepared, to the best of our knowledge and ability, in conformity with the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute.

The value opinion reported is qualified by certain definitions, limiting conditions, and certifications which are set forth within the report. Specific identification of the real estate and easement is also given within the body of the report.

We certify that we have made a thorough review of the real property and that all data gathered during our research is believed to be reliable. We further certify that we have no present or contemplated interest in the property concerned and that the fee for providing this study is in no way dependent or contingent upon the value conclusion.

This report was prepared for, and our professional fee billed to, Jerry Sweetser. It is primarily intended only for use in internal management, your auditor, and appropriate regulatory authorities. It is our understanding the appraisal will be used in, first, attempting the settle the issue of just compensation with the City of Fayetteville and, second, potentially used in a court proceeding to determine the just compensation, if any, due the owner from the imposition of the easement. It may not be otherwise distributed to or relied upon by other persons or entities without our written permission.

It is our opinion the just compensation due the owner as a result of the imposition of the both the permanent and temporary construction easements is as follows.

$22,376

THIS LETTER MUST REMAIN ATTACHED TO THE REPORT IN ORDER FOR THE VALUE OPINION SET FORTH TO BE CONSIDERED VALID.

Sincerely,

STATE CERTIFIED GENERAL 03/1/97 STEPHEN C. COSBY

Stephen C. Cosby, State Certified General
Appraiser No. CG0187

101 West Mountain, Suite 212 • Fayetteville, AR 72701 • (501)442-7401 • Fax: (501)442-7806

12.08

CERTIFICATION OF THE APPRAISERS

We certify that, to the best of our knowledge and belief,

1. the statements of fact contained in this report are true and correct.

2. the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, unbiased professional analyses, opinions, and conclusions.

3. we have no present or prospective interest in the property that is the subject of this report, and we have no personal interest or bias with respect to the parties involved.

4. our compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.

5. our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute and the Uniform Standards of Professional Appraisal Practice.

6. the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

7. we have made a personal inspection of the property that is the subject of this report.

8. no one provided significant professional assistance to the persons signing this report.

9. Neither the current or future employment and/or compensation of the appraiser is contingent upon a specific value estimate, a specific value estimate within a given range, or the approval of a loan application.

ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD
STATE CERTIFIED GENERAL
STEPHEN C. COSBY

Stephen C. Cosby
State Certified General Appraiser
No. CG0197

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report has been made with the following general assumptions:

1. This is a Summary Appraisal report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. A Summary Appraisal Report does not provide the depth of data, reasoning, and analyses that would typically be required or present in a Self-Contained Appraisal Report. For a Self-Contained Appraisal Report, the term "describe" is most applicable. For a Summary Appraisal Report, on the other hand, "summary" is the defining term. While the reliability of the appraisal is not impacted by the reporting method, some of the supporting documentation and analysis is retained in the appraiser's files. The information contained in this report is specific to the needs of the client and for the intended user of the report. The appraisers are not responsible for unauthorized use of the report.
2. No responsibility is assumed for the legal description provided or for matters pertaining to legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent management are assumed.
4. The information furnished by others is believed to be reliable, but no warranty is given for its accuracy.
5. All engineering studies are assumed to be correct. The plot plans and illustrative material in this report are included only to help the reader visualize the property.
6. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for obtaining the engineering studies that may be required to discover them.
7. It is assumed that the property is in full compliance with all applicable federal, state, and local environmental regulations and laws unless the lack of compliance is stated, described, and considered in the appraisal report.
8. It is assumed that the property conforms to all applicable zoning and use regulations and restrictions unless a nonconformity has been identified, described, and considered in the appraisal report.
9. It is assumed that all required licenses, certificates of occupancy, consents, and other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
10. It is assumed that the use of the land and improvements is confined within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.
11. Unless otherwise stated in this report, the existence of hazardous materials, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, and other potentially hazardous materials may affect the value of the property. The value estimated is predicated on the assumption that there is no such material on the or in the property that would cause a loss in value. No responsibility is assumed for such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

This appraisal report has been made with the following general limiting conditions:

1. Any allocation of the total value estimated in this report between the land and the improvements applies only under the stated program of utilization. The

ASSUMPTIONS AND LIMITING CONDITIONS

separate values allocated to the land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.

2. Possession of this report, or a copy thereof, does not carry with it the right of publication.
3. The appraiser, by reason of this appraisal, is not required to give further consultations or testimony or to be in attendance in court with reference to the property in question unless arrangements have been previously made. In this case, such arrangements have been made specifically with specific respect to the taking of the easement by the City of Fayetteville.
4. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news, or other media without the prior written consent and approval of the appraiser.
5. The forecasts, projections, or operating estimates contained herein are based on current market conditions, anticipated short-term supply and demand factors, and a continued stable economy. These forecasts are, therefore, subject to changes with future conditions.
6. Any value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division of interests has been set forth in the report.

ACCEPTANCE OF, AND/OR USE OF, THIS APPRAISAL REPORT CONSTITUTES ACCEPTANCE OF THE ABOVE ASSUMPTIONS AND LIMITING CONDITIONS.

PERTINENT DEFINITIONS AND APPRAISAL TERMINOLOGY

Accrued Depreciation The difference between the reproduction or replacement cost of the improvements on the effective date of the appraisal and the market value of the improvements on the same date. (1)

Actual Age The number of years that have elapsed since construction of an improvement; also called historical or chronological age. (1)

Book Depreciation An accounting term that refers to the amount of capital recapture written off on an owner's books. (1)

Consequential Damages Damage to property caused by a taking or construction on other lands. Compensability varies from state to state. (1)

Cost Approach A set of procedures through which a value indications is derived for the fee simple interest in a property by estimating the current cost to construct a reproduction of, or replacement for, the existing structure; deducting accrued depreciation from the reproduction or replacement cost; and adding the estimated land value plus an entrepreneurial profit. Adjustments may then be made to the indicated fee simple value of the subject property to reflect the value of the property interest being appraised. (1)

Curable Functional Obsolescence An element of accrued depreciation; a curable defect caused by a flaw in the structure, materials, or design. (1)

Curable Physical Deterioration An element of accrued depreciation; a curable defect caused by deferred maintenance. (1)

Damages In condemnation, the loss in value to the remainder in a partial taking of property. Generally, the difference between the value of the whole property before the taking and the value of the remainder after the taking is the measure of the value of the part taken and the damages to the remainder. Three types of damages are recognized: consequential, direct, and severance. (1)

Depreciation (1) In appraising, a loss in property value from any cause; the difference between the reproduction or replacement cost of an improvement on the effective date of the appraisal and the market value of the improvement on the same date. (2) In regard to improvements, depreciation encompasses both deterioration and obsolescence. (3) In accounting, an allowance made against the loss in value of an asset for a defined purpose and computed using a specified method. (1)

Discounted Cash Flow (DCF) Analysis The procedure in which a discount rate is applied to a set of projected income streams and a reversion. The analyst specifies the quantity, variability, timing, and duration of the income streams as well as the quantity and timing of the reversion and discounts each to its present value at a specified yield rate. DCF analysis can be applied with any yield capitalization technique and may be performed on either a lease-by-lease or aggregate basis. (1)

Discounting The procedure used to convert periodic incomes, cash flows, and reversions into present value; based on the assumption that benefits received in the future are worth less than the same benefits received now. (1)

Easement An interest in real property that conveys use, but not ownership, of a portion of an owner's property. Access or right-of-way easements may be acquired by private parties or public utilities. Governments dedicate conservation, open space, and preservation easements. (1)

Economic Life The period over which improvements to real property contribute to property value. (1)

PERTINENT DEFINITIONS AND APPRAISAL TERMINOLOGY

Effective Age The age indicated by the condition and utility of a structure. (1)

External Obsolescence An element of accrued depreciation; a defect, usually incurable, caused by negative influences outside a site and generally incurable on the part of the owner, landlord, or tenant. (1)

Fee Simple Estate Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. (1)

Highest and Best Use The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and bust use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability. (1)

Income Capitalization Approach A set of procedures through which an appraiser derives a value indication for an income-producing property by converting its anticipated benefits (cash flows and reversion) into property value. This conversion can be accomplished in two ways. One year's income expectancy can be capitalized at a market-derived capitalization rate or at a capitalization rate that reflects a specified income pattern, return on investment, and change in the value of the investment. Alternatively, the annual cash flows for the holding period and the reversion can be discounted at a specified yield rate. (1)

Incurable Functional Obsolescence An element of accrued depreciation; a defect caused by a deficiency or a superadequacy in the structure, materials, or design, which cannot be practically or economically corrected. (1)

Incurable Physical Deterioration An element of accrued depreciation; a defect caused by physical deterioration that cannot be practically or economically corrected. (1)

Just Compensation In condemnation, the amount of loss for which a property owner is compensated when his or her property is taken. (1)

Leased Fee Estate An ownership interest held by a landlord with the rights of use and occupancy conveyed by lease to others. The rights of lessor (the leased fee owner) and the leased fee are specified by contract terms contained within the lease. (1)

Leasehold Estate The interest held by the lessee (the tenant or renter) through a lease conveying the rights of use and occupancy for stated term under certain conditions. (1)

Leasehold Improvements or additions to leased property that have been made by the lessee. (1)

Market Value The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not effected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and

PERTINENT DEFINITIONS AND APPRAISAL TERMINOLOGY

5. the price represents the normal consideration for property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. (3)

Neighborhood A group of complementary land uses; a congruous grouping of inhabitants, buildings, or business enterprises. (1)

Remaining Economic Life The estimated period during which improvements will continue to contribute to property value; an estimate of the number of years remaining in the economic life of the structure or structural components as of the date of the appraisal. (1)

Replacement Cost The estimated cost to construct, at current prices as of the effective appraisal date, a building with utility equivalent to the building being appraised, using modern materials and current standards, design, and layout. (1)

Reproduction Cost The estimated cost to construct, at current prices as of the effective date of appraisal, an exact duplicate or replica of the building being appraised, using the same materials, construction standards, design, layout, and quality or workmanship and embodying all the deficiencies, superadequacies, and obsolescence of the subject building. (1)

Sales Comparison Approach A set of procedures in which a value indication is derived by comparing the property being appraised to similar properties that have been sold recently, applying appropriate units of comparison, and making adjustments to the sale prices of the comparables based on the elements of comparison. The sales comparison approach may be used to value improved properties, vacant land, or land being considered as though vacant; it is the most common an preferred method of land valuation when comparable sales data are available.(1)

Severance Damages In a partial taking, a decline in the market value of the remainder that arises as a result of the taking and/or the construction of the proposed improvement. (1)

Yield Capitalization The capitalization method used to convert future benefits into present value by discounting each future benefit at an appropriate yield rate or by developing an overall rate that explicitly reflects the investment's income pattern, value change, and yield rate. (1)

Yield Rate (Y) A rate of return on capital, usually expressed as a compound annual percentage rate. A yield rate considers all expected property benefits, including the proceeds from sale at the termination of the investment. Yield rates include the interest rate, discount rate, internal rate of return (IRR), overall yield rate (Y_o and equity yield rate (Y_e). (1)

Sources

(1) The Appraisal Institute. *The Dictionary of Real Estate Appraisal*, Third Edition. Chicago: The Appraisal Institute, 1993

(2) Appraisal Institute. *The Appraisal of Real Estate*, 10th edition. Chicago: American Institute of Real Estate Appraisers, 1992

(3) Uniform Standards of Professional Appraisal Practice, The Appraisal Foundation, 1995 Edition

PREMISES OF THE APPRAISAL

Purpose and Use of the Appraisal

The purpose of this appraisal is to estimate the just compensation due the owner as a result of the imposition of an electric transmission line easement on the property. It is my understanding the appraisal will be used to, first, assist the owner in attempting to settle the issue of just compensation due the owner as a result of the easement and, second (if necessary), for a court proceeding in an effort to determine the amount of just compensation due the owner after the taking of the easement by the City of Fayetteville through an eminent domain procedure.

Definition of Value

The previously provided definition of Market Value is the value sought in this analysis. I am not aware of a definition of value which is required in eminent domain proceedings in Arkansas. Therefore, the currently generally accepted definition of Market Value, as reported previously, is utilized in this case.

Date of Value Estimate

The date of the value estimate in this case is December 11, 1996. It appears this date is similar to the date of condemnation. I was not provided a copy of the actual order of possession.

Property Rights Appraised

The property rights appraised are those of the fee simple estate interest potentially subject to a mortgagee's interest.

Scope of the Appraisal

As part of this appraisal, the appraiser(s) made a number of independent investigations and analyses. Sources of data included data retained in the office files as well as other sources. The general investigations undertaken and the major data sources are listed below.

Area and Neighborhood Analysis

U.S. Census bureau data was examined; Individual city building and land use policies and trends were examined; Growth forecasts and employment data from the U.S. Census bureau and other vendors was examined; Other area data was obtained from various sources including Regional Planning Commissions and other sources; Interviews, both for this assignment and others, have been conducted with various sources including Realtors in the area, lenders in the area, and other individuals knowledgeable of real estate in the area.

Site Description and Analysis

County records were utilized to obtain legal descriptions and tax information; City records were examined for information regarding utilities and zoning restrictions; Regional Planning Commission data was examined for site specific data; An inspection of the site was conducted.

Improvement Description and Analysis

Washington County Assessor data indicates the property is unimproved.

PREMISES OF THE APPRAISAL

Market Data Program

Market data has been obtained from a number of sources. The primary sources included our office files (which are updated as regularly as possible); county ownership records; Multiple Listing Service data files; individual Realtors and other appraisers; and lenders. Copies of deeds and financing instruments were obtained where possible; attempts were made to contact at least one party to each reported transaction in an effort to verify the terms of the transaction and to ensure that the sale was arms-length.

PRESENTATION OF DATA

Identification of the Property and Easement

The subject property of this analysis consists of the areas formerly south of 24th Street and west of Country Club Drive below and the west of the Country Club subdivision in southern Fayetteville, Washington County, Arkansas. The property contains approximately 5.48 acres.

The right-of-way grant/easement which was acquired is known as Tract #10 and essentially provides the site of the realigned County Club Drive. Previously, there was a hairpin turn at the northeast corner of the subject property. The realignment cuts across the subject property making this turn much less severe. The tract acquired contains a total of 1.06 acres.

In addition to the right-of-way grant, an additional 0.25 acre strip along the west side of the right-of-way will be acquired as a part of a permanent water/utility easement. This makes the total acquisition 1.31 acres by the City of Fayetteville.

It should be noted that the proposed easement results in a 0.41 acre parcel which would be located north of the new street. The City has indicated that 0.47 acres of roadway could be vacated but it is also my understanding that access to an adjacent parcel to the north or east must be provided. Therefore, only a portion of this existing road right-of-way could actually be vacated due to the need for a continuing access easement.

Legal Description of Subject Property

The legal description is given on surveys, deeds, and other descriptive drawings of the property which is included in the addenda to this report.

Legal Description of Easement

The easement description is also given on the aforementioned documents in the addenda.

Regional Data

The area of influence described in this report consists of the Fayetteville - Springdale, Arkansas Metropolitan Statistical Area (MSA) as defined by the U.S. Census Bureau. The defined MSA consists of Benton and Washington Counties in the northwest corner of Arkansas. This MSA has experienced the most growth of any MSA in Arkansas and presently holds the lowest unemployment rating (2.4%[1]) of any area in Arkansas. According to the U.S. Census Bureau, the Fayetteville-Springdale-Rogers, Arkansas MSA is the 16th fastest growing MSA in the nation (of 268 defined MSA's accounting for over 2/3 of the nation's population). In terms of size, the MSA ranks as #148 with a 7/1/92 estimated population of 225,734.[2]

The Fayetteville-Springdale MSA has been one of the leading growth areas of the county for many years. Infrastructure appears to be on a corrective course at present having not kept pace with the growth of the area. Completion of the Highway 71 and Highway 412 widening and relocation projects in combination with the construction of a new regional airport should serve to only support and continue the growth of the past 50 years. Most of the industries in the area are expanding and many are not

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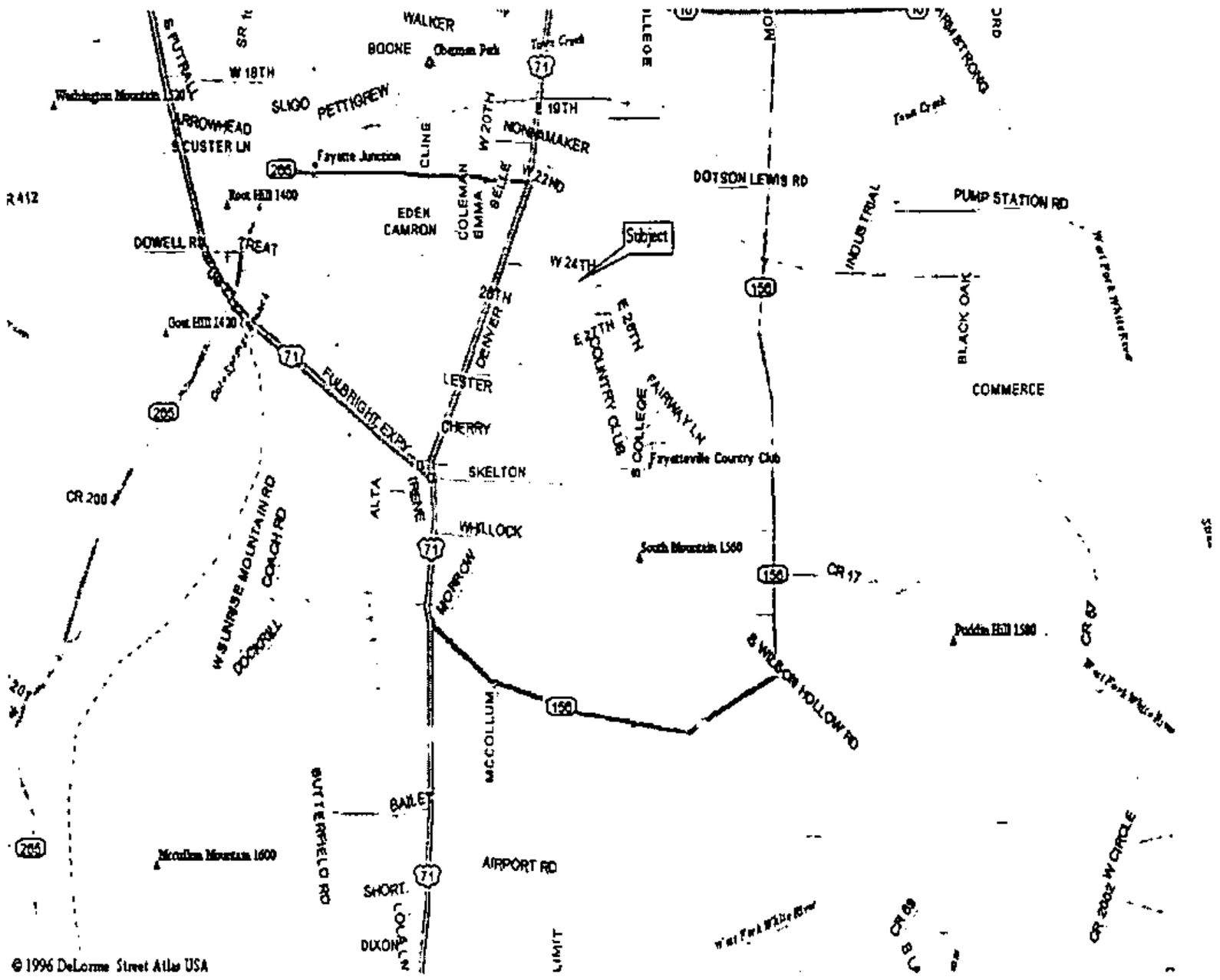
[1]As of September, 1995 as reported by Arkansas Employment Security Division.

[2]Data taken from various Census Bureau statistical releases.

cyclical but are rather consumer necessity oriented. Financial conditions are presently favorable with adequate financing available in the area. Traditionally, the area has tended to be "recession proof" and this trend is expected to continue.

Neighborhood Data

The subject neighborhood is located in the southern portion of Fayetteville, AR, and can best be described as being those properties sharing the same mountain top with the Fayetteville Country Club. The following is a map of the immediate area showing the subject property. Note that the new street alignment is not shown on this map.



Within the aforementioned boundaries of the subject neighborhood, land uses are in transition from vacant land, being held for speculation by investors, to residential uses. The Masters Subdivision, the most recently developed subdivision in the neighborhood, was developed in approximately 1995 with lots price in the $40,000 to $60,000 range. Edgehill was developed in 1992 and 1993 and all lots have been sold and developed at this point.

The topography of the neighborhood is generally level on the hilltop and sloping (ranging from moderate to steep) on the hill sides. The topography of the neighborhood was uniquely suited to residential development as level, flat building sites with views are not numerous. Additionally, the naturally terraced hill sides offer building sites of the type that have proven to be in demand due to the view offered.

Other than vacant land being held for speculation, the majority of the land uses in the neighborhood is confined to residential use (50%) and special purpose, the Fayetteville Country Club. and Golf Course (50%). Most of the single family residences are 5 to 15 years of age.

PRESENTATION OF DATA

Ingress and egress into the subject neighborhood is solely provided from Highway 71B by West 24th Street to Country Club Drive. The improvement to 24th Street and Country Club Drive occurred after the effective date of this report. The southern terminus of Highway U.S. Highway 71 (By-Pass), a controlled access highway, is located to the south of the neighborhood and provides quick access to Rogers, Springdale, Fayetteville, and the rest of Northwest Arkansas.

Utilities in the subject neighborhood include water, sewer, electric, natural gas, telephone, and sewer service. The supply of these services are assumed to be adequate.

The neighborhood has experienced spurts of growth in the past and presently appears to be in another stable period. Because of the golf course proximity and existing higher price range residences, the neighborhood has reasonable demand but the location in southern Fayetteville tends to limit the neighborhood to growth during periods of high growth throughout Northwest Arkansas.

Site Data

Before the taking of the easement, the subject site was defined as the area situated south of 24th Street and west of County Club Drive. The deed for the property included a narrow tract north of 24th Street. That tract is not included in this appraisal in accordance with the City's methodology of acquisition. The subject site then consists of a 5.48 acre parcel.

A map showing elevations on the property prior to the realignment project is provided in the addenda. Elevations change from a high near 1,490 feet near the southeast corner to a low of 1,390 feet at the northwest corner. Most of the areas of the property are steeply sloping. We noted two areas, however, where the slope is not so severe as to be limiting for potential development. The first is situated near the original curve of 24th and County Club and is delineated as Tract #1 on the map showing elevations (labeled as Exhibit "_"). There is actually a fairly wide area of moderate slopes but any residence constructed in that area would have to be setback to the west to avoid car lights pointing directly at the residence. This is acceptable in that the driveway and parking areas of a residence are the components which require more level existing terrain. Residences can be constructed on severe slopes as long as proper access can be provided. This can occur in that area.

The second is near West 28th Street and includes a moderate slope near the street followed by more steep slopes further west. This area is shown as "Tract #2" and includes areas along existing Country Club which were also more level and could reasonably be developed. Basically, the "before" property included two reasonable sites for construction of a residence.

Description of Improvements

The subject property is not improved.

Zoning

According to the City of Fayetteville Zoning Map, the subject property is zoned "R-2 for Medium Density Residential development. This zoning classification provides for four (4) to twenty-four (24) families per acre and is generally the most common apartment zoning designation in Fayetteville.

PRESENTATION OF DATA

Assessment and Taxes

The subject property is currently assessed at $8,190 which equates to a tax amount of $387.39.

History of Ownership

According to Washington County Assessor's Office data, the subject property is owned by Morningside, Inc. who acquired the property on December 31, 1996 as indicated by a warranty deed filed as Instrument No. 96-081397. Morningside, Inc. acquired the property from Jerry D. Sweetser, Inc. which is an affiliated corporation. There were no revenue stamps on the deed.

Mr. Sweetser acquired the property March 8, 1993 for an indicated price of $40,000 as indicated by a deed filed as Instrument No. 93-13520. The property was acquired from E.B. Sparks, Jr. Trust.

The City of Fayetteville has indicated that title research revealed gaps in the chain of title which will need to be addressed. The impact of any such gaps was not addressed in this appraisal.

ANALYSIS OF DATA AND CONCLUSIONS

Highest and Best Use - Before the Taking

Highest and Best Use of the Subject Site as Though Unimproved

The subject property is a 5.48 acre tract and has generally sloping terrain. The zoning of the property is for residential use with densities of 4 to 24 units per acre. Both single- and multi-family dwellings are allowed under this zoning classification. The property would likely be subject to the City of Fayetteville's hillside development regulations but the potential use would not be impacted (only the method of construction).

Because the property has a rather steep slope in most areas, any new construction would require substantial piers and foundation work. The problem that any hillside development faces, however, is getting access to a structure. Basically, this means that driveways and parking areas be more level than the areas which could possible support a structure. As was described previously, there are two such areas on the property.

Neither area would support a high density residential development and it is much more likely to conclude that two single-family residences would be suitable for the property. Both would still require substantial foundation components but the requirement that reasonable access (driveway) be provided would be satisfied. Therefore, the highest and best use of the subject property, prior to the imposition of the partial taking, is for division into two homesites.

Valuation Analysis - Before Taking

As the subject property is unimproved, the traditional Cost, Sales Comparison, and Income Approaches are not developed. Only land valuation is undertaken in this case. The procedure followed in the land valuation is sales comparison, however.

Land Valuation - Before Taking

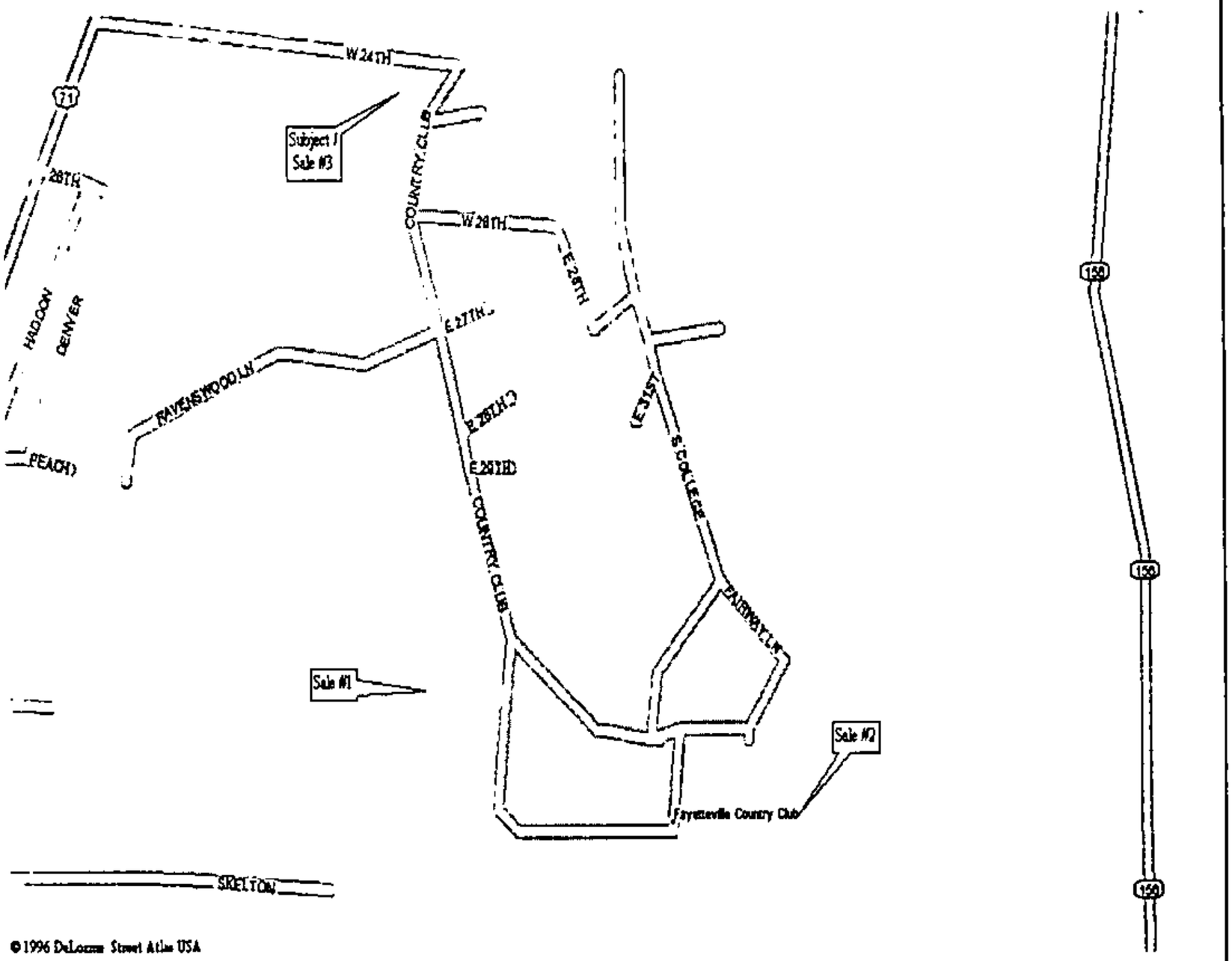
Land value must always be considered in terms of highest and best use. From economics theory, land has first claim to any income generated by the property and priority over return on the improvements. Typically, and in this case, sales comparison is utilized to value land. This procedure involves the selection of comparable sales and, where necessary or possible, current listings. The following page summarizes the sales utilized. A map depicting the location of the subject and the sales follows the summary table.

Land Sales Summary

Sweetser - Tract 10
Fayetteville, Arkansas

Sale #	Seller	Buyer	Date	Deed Ref.	Sale Price	Short Legal	Size (Acres)	Terrain	$/Acre
1	Tayler	Peoples/Foster	Sep-90	1391/723-49	$166,000	Lots 129-167, Country Club	7.55	Level	$21,987
2	Haney	Wright-Pence Corp.	Jun-93	93-31902	$70,000	Pt SW SW S27-T16N-R30W	20.00	Sloping	$3,500
3	Sparks Trust	Sweetser	Mar-92	93-13520	$40,000	Pt Tract A, Country Club (subject)	5.95	Sloping	$6,724

ANALYSIS OF DATA AND CONCLUSIONS



Summary of Adjustments/Adjustment Grid

The following adjustment grid depicts the derivation of the indicated market value of the subject site utilizing the above developed adjustments.

ANALYSIS OF DATA AND CONCLUSIONS

Adjustment Grid
Sweetser - Tract 10
Fayetteville, Arkansas

Element of Comparison	Subject	Sale # 1	Sale # 2	Sale # 3
Sale Price		$166,000	$70,000	$40,000
Real Property Rights Conveyed	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Adjustment		$0	$0	$0
Adjusted Price		**$166,000**	**$70,000**	**$40,000**
Conditions of Sale	Typical	Typical	Typical	Typical
Adjustment		$0	$0	$0
Financing	Cash Equiv.	Cash Equiv.	Cash Equiv.	Cash Equiv.
Adjustment		$0	$0	$0
Adjusted Price		$166,000	$70,000	$40,000
Size	Acre	7.55	20.00	5.95
Adjusted Price per Unit	$/Acre	**$21,987**	**$3,500**	**$6,724**
Market Conditions (time)	12/11/96	09/11/90	06/09/93	03/08/92
Elapsed time to effective date	(Years)	6.3	3.5	4.8
Adjustment	8.0%	$13,594	$1,085	$2,978
Adjusted Price		**$35,581**	**$4,585**	**$9,702**
Location/Access	Average	Similar	Similar	Similar
Adjustment		$0	$0	$0
Topography	Sloping	Level	Sloping	Sloping
Adjustment		($26,525)	$0	$0
Size	5.48	7.55	20.00	5.95
Difference in Size to Subject		2.07	14.52	0.47
Adjustment	$364.20	$754	$5,288	$171
Final Adjusted Sale Price		**$9,810**	**$9,874**	**$9,873**
For Reconciliation:				
Total Adjustment		($12,176)	$6,374	$3,149
Total Adjustment as % of Sale Price		-55.4%	182.1%	46.8%
Average		$9,852		
Minimum		$9,810		
Maximum		$9,874		

ANALYSIS OF DATA AND CONCLUSIONS

Final Conclusion of Site Value - Before Taking

Thus, it is our opinion the indicated market value of the subject site is in the range from $9,810 to $9,874 per acre with an average of $9,852. The estimated market value of the subject site is then as follows.

5.48 acres @ $9,852 per acre = $53,989

$54,000 (rounded)

Analysis and Valuation - After Taking

In the absence of severance damage or enhanced value, the valuation of the subject property after the imposition of the taking is a rather simple undertaking requiring only that the previously developed adjustment grid for land valuation be adjusted for the remaining size of the subject site. The difficulty arises, of course, if there exists some element of severance damage or even enhancements as a result of the easement.

Severance Damage

As was previously discussed, the site prior to the easement acquisition included two potential homesites which could reasonably be developed. With the imposition of the easement, the northern homesite, as described, is shifted west but appears to still be developable. The southern homesite is, however, eliminated completely.

The southern homesite level areas were located along original Country Club Drive. The more level areas extended west but the new right-of-way, with associated utility easement, extends across all of the more level areas. This then eliminates the reasonable access to that area.

Enhancement

As was briefly noted above, there are cases in which the remainder property is actually enhanced. These enhanced values have to be specific to the property itself and, as I understand case law, cannot consist of general benefits which accrue to the property. Therefore, we cannot consider the fact that Country Club Drive will have curbs and gutters although, in this case, the new grade of the road is a concern, at best.

The possible enhancement in this case arises from the fact that at least a portion of the original County Club Drive has been offered to the owner for vacation and, therefore, creation of up to a 1.23 acre parcel on the northeast side of the 24th Street / Country Club Drive curve. However, it is also my understanding that this does not consider the fact that a parcel to the north or east of the subject requires access from the original Country Club Drive. Therefore, at least a portion of the street must remain as an access easement which, in turn, eliminates the benefit from vacation of the original street right-of-way. Therefore, no enhance is considered to exist.

Highest and Best Use - After the Taking

Highest and Best Use of the Subject Site as Though Unimproved

The highest and best use of the subject site before the taking was essentially for division into two homesites. As discussed above, this is no longer possible. Where a substantial change in the potential use of the remainder occurs, this is further evidence that severance damage has occurred.

ANALYSIS OF DATA AND CONCLUSIONS

After the taking, the highest and best use of the subject property is for use as a single homesite. The areas northeast of the newly aligned road will be impacted by the requirement that an access easement be provided.

Land Valuation - After Taking

Typically, the previously developed land valuation would be adjusted for the new size of the subject property with a resulting change in the indicated price per acre (due to size adjustments) and, therefore, a different value indication after the taking. However, the fact that the property can no longer be divided into two homesites requires that the "after" valuation take a different direction.

Specifically, we can look to the "before" value and it is apparent that the net price for the two homesites would be approximately $27,000. That is, the overall market value estimate of $54,000 divided by two lots. This is a net price since subdivision in any manner requires some costs ranging from simple surveys and deeds to extension of utilities. Essentially, the actual sale price of each of the two lots would have to be in excess of $27,000 since the owner would need to recover these expenses. It does appear that all utilities are present or in proximity to the extent that this would not be a significant cost to the seller. Therefore, sales commissions and sale costs including surveying would likely be the only significant costs. It follows that the sale price of the individual lots would likely be $30,000 or less. Basically, this methodology considers the fact that a potential purchaser would consider the highest and best use of the property a pay a price for the whole property that would enable a reasonable return from division and sales of two homesites.

During 1995, three lots in the Masters Subdivision sold for prices ranging from $48,000 to $54,000. These lots have similar terrain / topography to the subject but, in all cases, had golf course views. The subject has a good view to the west but would not overlook a golf course. The lots in Masters Subdivision average approximately 1.2 acres.

Over the past few years, lots in Country Club Estates have reflected sale prices in the approximate range from $23,000 to $27,000 in the 1994 to 1996 period where no golf course was available. A golf course frontage lot sold in 1996 for $45,000 and was 0.538 acres in size. These lots are all level and have typical residential features such as sidewalks, curbs, gutters, etc. The lots in Country Club Estates are typically 0.5 to 0.75 acres in size.

From this data alone, it is difficult to establish a price for the remaining homesite. What can be seen, however, is that the original consideration that the individual homesites before the taking would have a price of approximately $30,000 is reasonable based on the available data. We would expect the golf course frontage lots to have higher sale prices than the subject since the view from the subject would typically be considered as inferior by potential purchasers. Therefore, those sales are considered to represent the upper limit. The Country Club lots without views are level but would still be considered at least somewhat inferior to a homesite on the subject tract. Therefore, those sales would form the lower limit. The approximate price of $30,000 for the individual homesites is then considered supportable.

The valuation of the property after the taking could be considered as simply 50% of the "before" value or $27,000. However, this would likely fail to consider the fact that the property would sell to a single purchaser who would use the entire remainder for a single residence. It appears that it would be more reasonable to consider again the sales data from Masters and Country Club Estates but consider the fact that the remaining property west of Country Club Drive totals approximately 3.76 acres based on the City of Fayetteville calculations.

ANALYSIS OF DATA AND CONCLUSIONS

The upper limit remains established by the Masters Lots and the larger size of the subject is not considered to be capable of overcoming the differences presented by view. Specifically, the Masters Lots require a larger site than the County Club lots due to terrain. Likewise, a residence on the subject site would require a larger overall parcel. This is further complicated by the new road elevation and layout.

The upper limit of Country Club lots appears to be approximately $27,000. This equates to the view that the "after" value of the property is 50% of the "before" value. A small addition would be necessary to account for the additional land area. The addition would be offset somewhat by the layout, elevation, and traffic volume of 324th Street and is estimated at $5,000. This would result in a price which exceeds the typical Country Club lot without views but remain less than the lots with golf course views or frontage. Therefore, the indicated market value of the subject property after the imposition of the taking is $32,000.

It should be noted that the parcel located northeast of relocated Country Club Drive is given no contributory value due to the requirement that an access easement remain in place.

Final Conclusion of Just Compensation - From Partial Taking

Given the estimated market value of the subject property before the taking and the estimated market value of the subject property after the taking, the estimate of just compensation can be developed. The following depicts the values.

Estimated Market Value of Property Before Taking	$54,000
Estimated Market Value of Property After Taking	$32,000
Estimated Just Compensation - Partial Taking	$22,000

Temporary Construction Easement

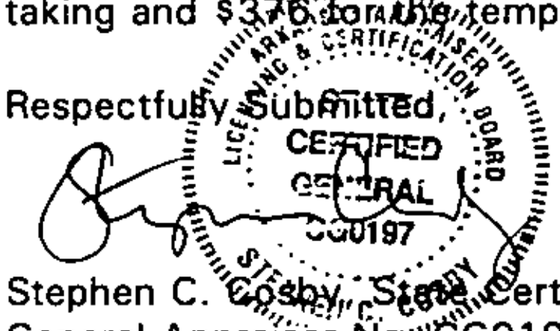
16,341 square feet of the remaining property was to be utilized in a temporary construction easement which should, typically, last approximately one year. The before value of the property was $9,852 per acre or $0.23 per square foot. Based on a required return rate of 10%, the following develops the indicated amount of compensation required for the imposition of the temporary construction easement.

16,341 sq.ft. @ $0.23 per sq.ft. x 10% x 1 year = $376

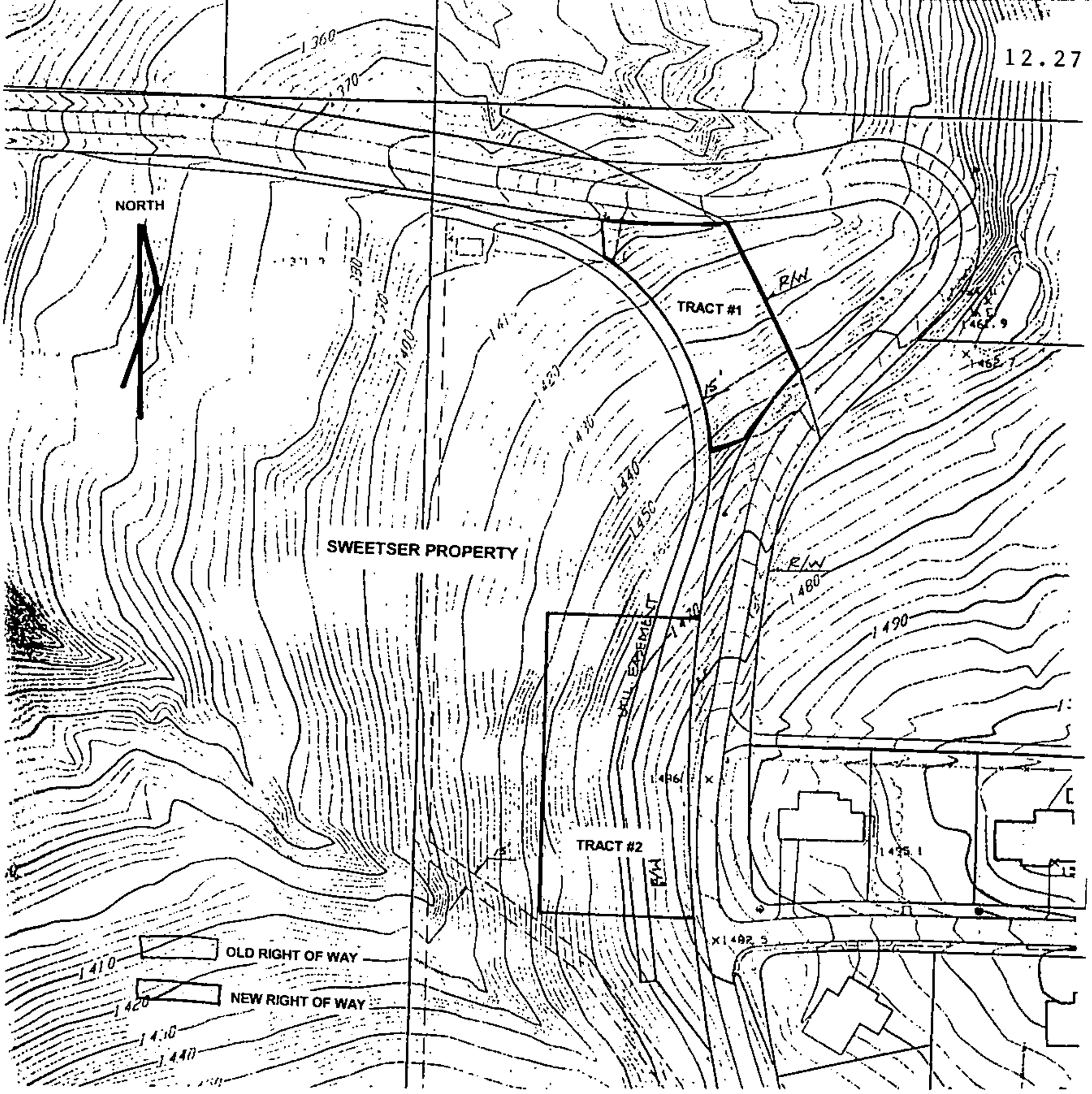
Total Just Compensation

Total just compensation due the owner is then the addition of $22,000 for the partial taking and $376 for the temporary construction easement for a total of **$22,376.**

Respectfully Submitted,



Stephen C. Cosby, State Certified
General Appraiser No. CG0197


12.27
NORTH
SWEETSER PROPERTY
TRACT #1
TRACT #2
R/W
15'
OLD RIGHT OF WAY
NEW RIGHT OF WAY
1360
1370
1380
1400
1410
1420
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JAN 2 0 1999
CITY CLERK

COLDWELL BANKER

FAUCETTE
REAL ESTATE

3589 N. COLLEGE AVE. ☐
FAYETTEVILLE, AR 72703
BUS. (501) 521-0220
TOLL FREE (800) 293-0220
FAX (501) 444-7546

1127 S. GUTENSOHN, STE 101 ☐
SPRINGDALE, AR 72762
BUS. (501) 751-3030
TOLL FREE (800) 668-3939
FAX (501) 751-3176

2301 W. WALNUT, SUITE 1 ☐
ROGERS, AR 72756
BUS. (501) 636-8100
TOLL FREE (800) 656-7253
FAX (501) 636-3193

January 19, 1998

Mr. Jerry Rose
City Attorney
City of Fayetteville
113 W. Mountain
Fayetteville, Ar 72701

RE: Appraisal of Sweetser property, 24th Street, Fayetteville, Ar

Dear Jerry:

Pursuant to our conversations last fall regarding the above reference lands, please find attached an Appraisal Report on the subject lands. Mr. Stephen C. Cosby has appraised the property for $22,376.00, As you may remember, Mr. Keith Mr. Shultz appraised the same property previously for the sum of $8,290.00.

Although I did not arrive at a conclusion in my report I presented to you on October 28, 1997, the data supports a value of the taken from Mr. Sweetser well in excess of $35,000.00, in my opinion. Mr. Cosby could not use my methods, those being of a 30 year real estate practitioner, due to the accepted practice of valuing condemned property "before and after" the taking. However, based on these two reports, I would hope that the City could, in good faith to both Mr. Sweetser and its constituents, further compensate him for the value of his lost land.

I respectfully request that you present both my report and Mr. Cosby's appraisal to the Mayor and City Council, as you deem proper, for consideration. Please call me if you have any questions.

Respectfully submitted,

George Faucette, Jr.
Encl
cc: Mayor Fred Hanna
Mr. Jerry Sweetser

An Independently Owned and Operated Member of Coldwell Banker Residential Affiliates, Inc.

COLDWELL BANKER

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October 28, 1997

Mayor Fred Hanna
Fayetteville City Council Members
City Hall
Fayetteville, Ar 72701

RE: Appeal of purchase price of lands along 24th Street, Fayetteville, Arkansas
Condemnation case: City of Fayetteville vs. Jerry D. Sweetser & Sharon J. Sweetser

Dear Mayor Hanna and Alderpersons:

This letter and the attachments constitute an appeal to you to reconsider the price paid for lands referenced in the above condemnation case. The price paid to the Sweetsers was $8,290.00, based on an appraisal made by Keith Shultz of Associated Appraisers. Mr. Shultz's appraisal was based on the per square foot value for the lands relative to the total lands taken for the relocation of 24th Street.

I do not argue with Mr. Shultz's valuation based on the premise he made; however, I believe there is a more valid premise to look at the real value of those lands taken. This letter and the attached supporting data explain that premise.

On behalf of the Sweetsers, I respectfully request that you reconsider the fair market value for the lands taken. Thank you in advance for considering this request.

Sincerely,

George Faucette, Jr., Representative of Jerry D. & Sharon J. Sweetser

An Independently Owned and Operated Member of Coldwell Banker Residential Affiliates, Inc.

THE PREMISE

The correct valuation of and payment for the lands taken is based on the Highest and Best Use of the land, considering the topography and the value both before and after the "take". The "take", the lands taken by the City of Fayetteville for the improvement of 24th Street, **eliminated two residential building lots. Both of these lots had excellent views, and they cannot be duplicated**. They are lost to the property forever.

PROPERTY DESCRIPTION

The property owned by the Sweetsers, which totals approximately 5.5 acres, lies in two distinct (physical) sections, separated by a steep slope. The upper or easternmost section, which is the subject of this request lies along the east side of the property adjacent to 24th Street. As can be seen from the topographical plat attached, it is a narrow band separated by a steep slope to the west. Beyond this slope to the west, the land again becomes more gentle in slope.

Because of the steep slope, which in places is as much as a 40% grade, there is no physical way to develop the land and connect the lower portion of 24th street (running roughly east and west) with the upper portion of 24th Street (running roughly north and south) by any publicly maintained streets. The grade is just too steep. Therefore, **the land in this narrow eastern band has to "stand on its own" in terms of usability and value.**

Before the taking of the lands, that portion could have been divided into three distinct lots or tracts. Now, after the take, only one viable lot remains, and it is grossly inferior to the lots lost.

THE "LOST" LOTS

1. Tract One: The first lot eliminated by the relocated street lies directly in the path of the relocated street as it curves to the right (south) close to the top of the hill. There is no other portion of the remaining lands that affords the view from this elevation or from the relatively moderate slope from the middle of the tract.

2. Tract Two: The second lot that was eliminated lies across from and between the driveway to the Askew property and 26th Circle. The *usable* portion of this building site was shallow to begin with because of the severe drop in elevation from the top. The taking of from 25-50' across the front of the property eliminates the buildable area of tract.

Note: Please see Exhibit A attached for the exact delineation of the above descriptions.

CONCLUSION

Due to the topography of this property, the lands taken should be evaluated based on its "after acquired value", not just as a small piece of a larger tract of land. In other words, "what is left after the take?".

Applying this premise yields the following conclusions:

1. Two quality residential lots were eliminated

2. The improvements to 24th Street did not signicantly increase the value of the remaining lands.

Data regarding values of comparable residential lots is found in Exhibit B of this report.

12.32

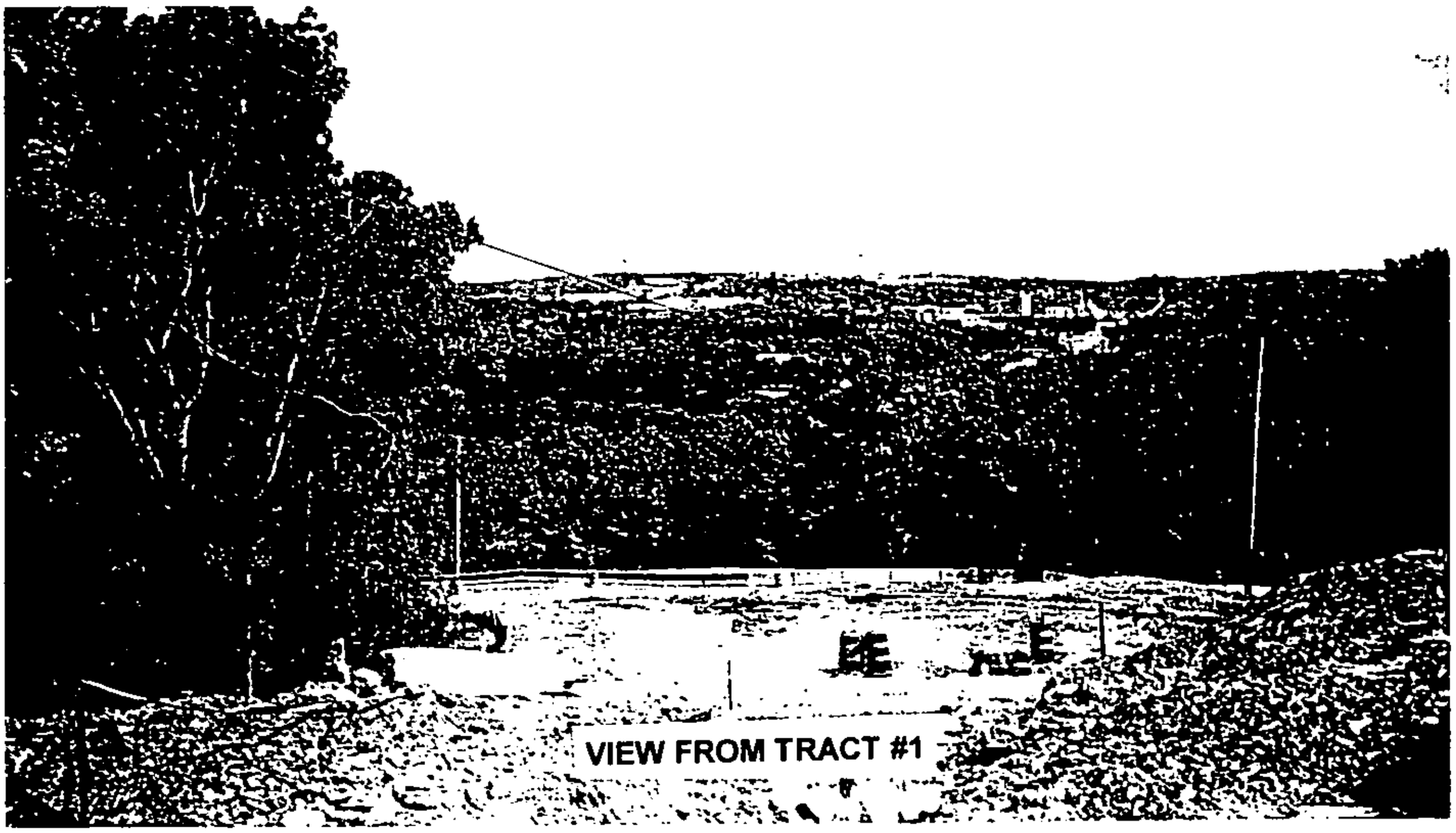

EXHIBIT B - MARKET DATA

LOCATION	SALE DATE	SALE PRICE	SIZE	REMARKS
Sale Properties:				
Porter Road	6/97	$14,700	98X115	Just off Wedington Drive, flat, area of small homes, duplexes, and stores
Giles and Sycamore	6/97	$24,500	½ acre	West of Hwy 71 Freeway, flat, area of small homes and duplexes
Canvas Road	3/97	$27,000	1.5 ac	Outside city. No sewer. Nicely wooded. No view.
Halsell Rd	9/97	$35,000	200X132	Tandem lot. Wooded. Good area with larger homes. No view.
Dogwood	9/97	$38,000	56X170	Nicely wooded. Sloped lot. No view. Good location.

Notes:

1. All of the above comparables were on outlots, older subdivisions, or outside the city limits.

2. None of the comparables:

   -Were onstreets that had curb, gutter, or stormdrains.

   -Had a view.

3. In my opinion, the comparable sales on Porter Road, Giles and Sycamore, and Canvas Mountain, were inferior in location to the subject properties, due primarily to the size and quality of the surrounding home.

4. In my opinion, the comparable sales on Halsell Road and Dogwood Lane were superior to the subject, due primarily to convenience of location and lack of street traffic.

EXHIBIT B - MARKET DATA (CONTINUED)

LOCATION	SALE DATE	SALE PRICE	SIZE	REMARKS
Sale Properties:				
Lot 21, Country Cl	5/97	$40,000	.718 ac	Substantially level. No view.
Lot 91, Country Cl	9/94	$26,000	.507 ac	Substantially level. No view
Lot 126 Country Cl	5/95	$27,000	.57 ac	Substantially level. No view
Lot 128 Country Cl	3/96	$45,000	.538 ac	Substantially level. On gold course
Lot 217, Country Cl	7/96	$23,000	.38 ac	Substantially level. No view.

Notes:

1. All of the above comparables:

   -Were on South Mountain (Country Club Hill) in close proximity to the subject property.

   -Had curb, gutter and sidewalk.

2. Only one comparable had a view.

3. In my opinion, the comparable sales were superior to the subject in terms of street improvments and residential character of the street

4. In my opinion, all of the comparable sales were inferior to the subject in terms of the view.

12.35

RECEIVED
MAR 10 1997
CAP

Associated Appraisers, Inc.
REAL ESTATE APPRAISERS & CONSULTANTS

555 FIRST PLACE
FAYETTEVILLE, AR 72701
501/521-2717
FAX 501/521-2718

KEITH L. SCHULTZ
PRESIDENT

March 7, 1997

Ms. Lagayle McCarty
City Attorney
City of Fayetteville
City Hall
Fayetteville, Arkansas 72701

Re: 24th Street Project/Mr. Jerry Sweetser
Tract # 10

Dear Ms. McCarty

At the request of city staff, I reviewed an appraisal report on the above referenced property dated June 20, 1996. In that report I stated that it was my opinion that the estimated just compensation due the owner of record was approximately **$6.935.00.**

I inspected the property on both March 6, 1997 and March 7, 1997. The reason for the two inspection is that on the earlier date the surveying crew was in the process of placing the right of way markers. On March 7, 1997 the markers were in place. My inspection of the property indicated that almost the entire proposed right of way was encumbered by an overhead transmission line and a city water line easement. While I have not been able to determine the width of the easements from court records, I would assume that the transmission line easement is approximately 30 feet which is standard for lines of this type. It appears that the water line is either within the electric line easement or within the right of way of the existing roadway.

It is my understanding that the owner claims that the area to be acquired is the "best part" of his land and desires compensation in the amount of $25,00.00.

Based on the obvious easements, I don't believe the property owner can build a home on the "best part" of his land. In fact, I don't believe that compensation for right of way takings is based on what the owner "was planning" but rather the highest and best use of the land as of the date of taking.

Associated Appraisers, Inc.

Ms McCarty

Unless there is evidence to the contrary, I cannot, in good faith to the citizens of this city, change my stated opinion of value.

Sincerely,

Keith L. Schultz

3.18 A

12.37

24th Street (Country Club Drive)
R/W Widening Project
Fayetteville, Arkansas

November 5, 1996 ✓
Job No. 962102

Revised Basis

TRACT 6

PROPERTY OWNER

Jerry D. Sweetser (75% Interest)
Paul E. Tunstill (25% Interest)
590 Poplar
P.O. Box 579
Fayetteville, Arkansas 72702

PROPERTY DESCRIPTION (See Attached)

RIGHT OF WAY DESCRIPTION

A part of the SW¼ of the NE¼ of Section 28, T-16-N, R-30-W, being more particularly described as follows: From the NE corner of the SW¼ of the NE¼ of said Section 28, thence South 2°58'20" West - 90.33 feet to the existing South Right of Way line of 24th Street for the POINT OF BEGINNING, thence South 2°58'20" West along the East property line 6.98 feet; thence North 80°30'00" West - 168.22 feet; thence North 84°07'30" West - 145.70 feet ; thence North 76°42'45" West - 50.83 feet to the existing South Right of Way line of 24th Street; thence South 86°46'00" East - 136.20 feet; thence South 79°59'14" East along said existing South Right of Way line 228.17 feet to the POINT OF BEGINNING, containing 3,083 sq. ft. (0.07 acres), more or less, to the City of Fayetteville, Washington County, Arkansas.

The bearings for this description are based on the City of Fayetteville Global Positioning Satellite System, which may vary from the bearing system previously used in describing the subject property.

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement 15 feet in width being parallel with and contiguous to the above described Right of Way Description and to the existing South Right of Way line of 24th Street and situated on the South side thereof. This temporary construction easement contains 7,889 sq. ft. (0.18 acres), more or less, and shall terminate when the hereinbefore referenced project has been completed and accepted by the City of Fayetteville.

96102:6:jm

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Lu Ann Tunstill, surviving spouse of Paul E. Tunstill,** to me well known as the person who executed the foregoing document, and who stated and acknowledged that she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 199__.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

12.38

~~3.25~~

24th Street (Country Club Drive)
R/W Widening Project
Fayetteville, Arkansas

May 10, 1996
Job No. 962102

Appraisal Basis

TRACT 6

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Paul E. Tunstill (25% Interest)
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The bearings for this description are based on the City of Fayetteville Global Positioning Satellite System, which may vary from the bearing system previously used in describing the subject property.

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement 15 feet in width being parallel with and contiguous to the above described Right of Way Description and to the existing South Right of Way line of 24th Street and situated on the South side thereof. This temporary construction easement contains 7,901 sq. ft. (0.18 acres), more or less, and shall terminate when the hereinbefore referenced project has been completed and accepted by the City of Fayetteville.

96102:6:jm

TR#6

INDEPENDENT REAL PROPERTY APPRAISAL REPORT
BY
ASSOCIATED APPRAISERS, INC.
555 E.J. Ball Plaza
Fayetteville, Arkansas
501-521-2717

JOB DESIGNATION: 24th Street Improvement Project
City Project # 96043

APPRAISAL REQUESTED BY: The City of Fayetteville, Arkansas

Name of Owner: Jerry D. Sweetser (75%); Paul Tunstill (25%)

Owner's Address: P.O. Box 579, Fayetteville, AR 72702

Address of Parcel: South 24th Street, Fayetteville, Arkansas

PURPOSE OF APPRAISAL:

The property acquired by the right of eminent domain will be used by City of Fayetteville, Arkansas to widen and improve South 24th Street.

PROPERTY INSPECTION DATA:

Owner Notified: Unknown
Date of Inspection: June 12, 1996
Present at Inspection: None

LEGAL DESCRIPTION OF PARCEL: See attached.

LEGAL DESCRIPTION OF PARTIAL TAKING: See attached.

Area of Parcel: 21.68 acres
Area of Partial Taking: 489 sq. ft. or 0.01 acres
Location of Partial Taking: Northern edge of property
Location and size of Temporary Construction Easement:
7,901 sq. ft. (0.18 acres) on south side of easement

ESTIMATE OF JUST COMPENSATION:

ESTIMATE OF FAIR MARKET VALUE BEFORE TAKING:

Land:	$141,920.00
Improvements:	None
Total:	$141,920.00
Say:	**$142,000.00**

DISCUSSION OF SEVERANCE DAMAGE:

The term "severance damage" is often misunderstood, and it is most important that no confusion exists as to the difference between severance damage and consequential damage. Severance damage is the loss in value of the remaining parcel after the taking as compared to the value of the remaining parcel before the taking, when it was considered as a part of the whole. Severance damage, therefore, can rise only in the case of partial takings -- that is, where there is a taking of a part of a larger parcel.

Where the taking is in easement form, the severance is of property rights only; but just because there is a physical severance, it does not follow, by itself, that severance damages have also been created to the remainder of the land. In this case the widening of South 24th Street will not result in any severance damage to the subject property.

~~3-26~~ TR #6

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BY
ASSOCIATED APPRAISERS, INC.
555 E.J. Ball Plaza
Fayetteville, Arkansas
501-521-2717

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Where the taking is in easement form, the severance is of property rights only; but just because there is a physical severance, it does not follow, by itself, that severance damages have also been created to the remainder of the land. In this case the widening of South 24th Street will not result in any severance damage to the subject property.

DISCUSSION OF ENHANCED VALUE:

Where the public use for which a portion of a person's land is taken so enhances the value of the remainder by local, peculiar and special benefits that the remainder is more valuable than the whole was before the taking, the owner has received just compensation.

CITY OF FAYETTEVILLE V. STONE, 194 Ark. 218, 106 S.W. 2nd. 158.

General benefits should not be considered in assessing damages for the construction of a public improvement because it would be unjust to charge the owner whose property has been taken with benefits he receives in common with the community in general, when other landowners, whose property is not taken, enjoy the benefits equally. The same reason does not apply to special benefits.

LITTLE ROCK & FT.S. RY. V. ALLISTER, 68 Ark. 600, 60 S.W. 953.

Enhanced value then arises when the remainder is more valuable than the whole was before the taking and the just compensation is the enhancement in value. In this case it is our opinion that the subject property will be enhanced. However, we were unable to determine the value of the enhancement from market data.

ESTIMATE OF FAIR MARKET VALUE AFTER THE TAKING

Land:	$141,927.00
Improvements:	None
Total:	$141,927.00
Say:	$141,900.00

ESTIMATE OF JUST COMPENSATION

$100.00

VALUATION OF PARCEL:

MARKET APPROACH

See brochure of sales of comparable properties, submitted with this report.

Based on the listed comparables, as well as an inspection of the subject property, it is my opinion that the estimated Fair Market Value of the subject property is as follows:

Estimate of Value Before Imposition of Taking: $142,000.00

Estimate of Value After Imposition of Taking: $141,900.00

REPLACEMENT COST LESS DEPRECIATION APPROACH

Improvements: None

HISTORY OF OWNERSHIP:

In accordance with the new standards of professional practice of the American Institute of Real Estate Appraisers the appraiser is to provide the lender with a three (3) year history of ownership of the subject property. The history of ownership is also a requirement under Federal Banking regulations. The reader should recognize however, that in some cases substantial changes in the market for a particular parcel of property may occur in a short period of time just as an intervening owner may have improved the property since acquisition or on the other hand allowed the improvements to deteriorate significantly.

Washington County records indicate that the current owner has been the owner of record of the subject property for more than the past three years.

TAX INFORMATION:

The subject property is currently assessed by the Washington County assessor's office as follows:

Land:	$108,400.00
Improvements:	None

Washington County real property,as the rest of the state, is assessed at twenty (20) per cent of market value. The current assessment indicates an annual tax liability of approximately $1,025.46.

It should be noted that the county has recently been reassessed and real property taxes will be increased.

HIGHEST AND BEST USE:

Highest and Best Use[1] - That reasonable and probable use that will support the highest present value, as defined, as of the effective date of the appraisal.

Alternatively, that use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible and which results in highest land value.

The definition above applies specifically to the highest and best use of the land. It is to be recognized that in cases where a site has existing improvements on it, the highest and best use may very well be determined from the existing use. The existing use will continue, however, unless and until land in its highest and best use exceeds the total value of the property in its existing use.

Implied within these definitions is recognition of the contribution of that specific use, to community environment or the community development goals in addition to wealth maximization of individual property owners.

[1]Real Estate Appraisal Terminology, page 107

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Implied within these definitions is recognition of the contribution of that specific use, to community environment or the community development goals in addition to wealth maximization of individual property owners.

[1]Real Estate Appraisal Terminology, page 107

HIGHEST AND BEST USE:

The highest and best use of the subject tract is based on the trends in development in the neighborhood, access to major streets and highway, the local market for similar properties, and overall market trends in the area.

The subject property is currently zoned R-2 (Low Density Residential). A change in zoning is probably not possible when considering the development of the immediate neighborhood.

When considering the location, surrounding land uses, terrain and topography and configuration, it is our opinion that the highest and best use is for development consistent with the zoning regulations.

NEIGHBORHOOD DATA

For appraisal purposes, a neighborhood is considered to be a portion of a larger community, or an entire community, in which there is a homogeneous grouping of inhabitants, buildings, or business enterprises. Inhabitants of a neighborhood usually have a more than casual community of interest and a similarity of economic level or cultural background. Neighborhood boundaries may consist of well-defined natural or man-made barriers or they may be more or less well-defined by a distinct change in land use or in the character of the inhabitants.

The neighborhood in this case can be considered to be those properties located west of South School Street, south of South of 22nd Street, west of City Lake Road, and north of Skelton Street in the southeast quadrant of the City of Fayetteville, Washington County, Arkansas. The neighborhood contains a mixture of land uses with commercial development being predominant along either side of South School Street, a mixture of residential and light industrial development along the western boundary, a mixture of vacant ground and older single family housing along the northern and southern boundaries, a single family residential subdivision of homes in the upper medium and upper price ranges surrounding the Fayetteville Country Club which forms the major portion of the neighborhood, and a medium sized apartment complex of subsidised housing units lying just east of and adjacent to South School Street.

With the exception of the residential development lying in proximity to the Fayetteville Country Club, our inspection of the neighborhood indicated that real property values are essentially stagnant. Property values in the vicinity of the Country Club appear to be increasing.

SITE DATA

The site in this case consists of an irregular shaped parcel of unimproved property located on the south side of South 24th Street and lying east of the Grandview apartment complex and east of South School Street in the southeast quadrant of the City of Fayetteville, Arkansas. According to the legal description provided this office, the parcel has approximately 530 feet of frontage on the south side of South 24th Street. Our inspection of the site indicated that it was on grade with South 24th Street and was a mixture of open and heavily wooded lands. Terrain was gently rolling for a depth of approximately one hundred feet and then sloped steeply upward to the south. Access to the property is only available from South 24th Street.

[1]Real Estate Appraisal Terminology, page 107

SITE DATA

Soil tests have neither been conducted by nor provided to this office and no opinion is expressed regarding the suitability of the soil for intensive development. An inspection of improvements to parcels in proximity to the subject site revealed no adverse conditions. An inspection of the site revealed no apparent adverse easements or encroachments other than what appears to be a sewer lift station on the south side of the street. Drainage appears to be a significant problem for future development. **The subject property does not lie in a H.U.D. identified flood zone.**

In conclusion, the subject property conists of a fairly large parcel of wooded hillside land that is zoned for multifamily housing and is situated adjacent to a medium sized, subsidized housing project. Access to the property appears to be only available from South 24th Street, and drainage appears to be a problem due to the steep slopes of the site.

ANALYSIS OF COMPARABLE SALES

> **Sales Comparison Approach**[1] - Approach through which an appraiser derives a value indication by comparing the property being appraised to similar properties that have sold recently, applying appropriate units of comparison, and making adjustments, based on the elements of comparison, to the sale prices of the comparables.

Unimproved Sales

The appraiser has attempted to locate sales of unimproved property similar to the subject in terms of location, size, terrain, topography, access, utility of use, and with a date of sale as recent in time to the date of the appraisal so as to reflect current market conditions.

Sale #1 is the early 1993 sale of Tract "A" of the Country Club Estates Subdivision and known as Tract 9 and Tract 10 of the subject right of way project. The sale property was zoned R-2 and was steeply wooded hillside. The sale indicated an unadjusted value to the subject of approximately **$7,300.00 per acre.**

Sale #2 is a mid 1993 sale of an 8.53 acre parcel of rolling, wooded hillside land zoned R-2 and located at the southwest corner of the intersection of Old Missouri and Zion Roads to the north of the subject property. The sale property was acquired for development purposes but was resold following engineering studies to another party for $160,000.00. It is our understanding that the purchaser filed for bankruptcy and the property is now being developed. The sale indicated an undjusted value of approximately **$10,000.00 per acre** in the first transaction and approximately **$18,750.00 per acre** in the second transaction.

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1. The Dictionary of Real Estate Appraisal, Second Edition, AIREA, page 268.

[1]Real Estate Appraisal Terminology, page 107

SITE DATA

Soil tests have neither been conducted by nor provided to this office and no opinion is expressed regarding the suitability of the soil for intensive development. An inspection of improvements to parcels in proximity to the subject site revealed no adverse conditions. An inspection of the site revealed no apparent adverse easements or encroachments other than what appears to be a sewer lift station on the south side of the street. Drainage appears to be a significant problem for future development. **The subject property does not lie in a H.U.D. identified flood zone.**

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Sale #2 is a mid 1993 sale of an 8.53 acre parcel of rolling, wooded hillside land zoned R-2 and located at the southwest corner of the intersection of Old Missouri and Zion Roads to the north of the subject property. The sale property was acquired for development purposes but was resold following engineering studies to another party for $160,000.00. It is our understanding that the purchaser filed for bankruptcy and the property is now being developed. The sale indicated an undjusted value of approximately **$10,000.00 per acre** in the first transaction and approximately **$18,750.00 per acre** in the second transaction.

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1. The Dictionary of Real Estate Appraisal, Second Edition, AIREA, page 268.

[1]Real Estate Appraisal Terminology, page 107

ANALYSIS OF COMPARABLE SALES
Continued

Sale #3 is an early 1993 sale of a large (38 acre) parcel of unimproved property located west of Shiloh Drive and south of Mt Comfort Road to the northeast of the subject property. The sale property was zoned R-2 and was essentially open pasture land with good terrain features. The sale property was acquired for duplex lot development and has been developed as Pine Valley Subdivision. The sale property is considered to be quite superior to the subject in terms of terrain and topography. The sale indicated an unadjusted value to the subject of approximately **$6,900.00 per acre.**

Based on the above analysis and taking into consideration the various characteristics of the subject property, as well as a knowledge of the national and local economy and the resulting influence on real property values in the area, it is my opinion that the estimated **market value** of the subject site is as follows:

Site

21.68 acres @ $6,500.00	=	$140,920.00
Say		**$142,000.00**

[1]Real Estate Appraisal Terminology, page 107

Sale # 1 (06192003-920308)

Seller: Esther Taylor et al to Jerry D. Sweetser
Location: Pt Tract A, Country Club Estates
Fayetteville, Washington County, Arkansas
Sale Date: 3/8/92
Size: 5.949 acres
Sale Price: $40,000.00
Improvements: None of contributory value

Book & Page: 93-13520
Remarks: Zoned R-2, steep, wooded hillside with access from
Country Club Drive and South 24th Street

Sale # 2 (00793003-930806)

Seller: First Baptist Church of Farmington Arkansas to R.J.
Merry-ship Property Management Company Inc.
Location: Pt NW SE Section 24, Township 17N, Range 30W
(Zion and Old Missouri Rd, Fayetteville, Arkansas
Sale Date: 8/6/93
Size: 8.53 acres
Sale Price: $86,000.00
Improvements: None of contributory value

Book & Page: 93-45040
Remarks: Partially wooded land zoned R-2 and acquired for use
as a subdivision

Sale # 3 (02693007-930325)

Seller: Anders, Potts and Arkansas Book Inc. to BMP Development
Inc.
Location: SE SW Section 6, Township 16N, Range 30 West
(Sycamore Street west of U.S. Highway 71)
Sale Date: 3/25/93
Size: 38.24 acres
Sale Price: $265,000.00
Improvements: None of contributory value

Book & Page: 93-15303
Remarks: Site of a new duplex subdivison known as Pine Valley

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Improvements: None of contributory value

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Book & Page: 93-15303
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12.46

BARRY BAKER & CARL & ELLA BAKER
9313266 MAR 16, 1993

TRACT 5

TRACT 8

TRACT 7

S87°06'30"E 359.63'
N87°38'22"W 461.98'
S88°12'40"E 100.70'
S87°38'22"E 12.65'
S87°38'22"E 5.00'
S87°38'22"E
S79°36'04"E 101.60'
S84°02'50"E 50.66'
N75°00'13"E 56.30'
N79°59'14"W 224.34'
N87°06'30"W 503.34'
30.00' 30.00' 30.00' 30.00' 30.00' 30.07' 31.93' 30.09' 30.00' 35.00' 60.00' 29.87'
29.89' 30.20' 30.52' 30.83' 31.14' 30.65' 29.80' 31.58' 31.62'
S78°14'08"E 174.83'
S02°58'20"W 90.33'
ALAN REID'S SOUTH R/W OF 24TH STREET
Δ = 08°52'23"
R = 1400.00'
T = 108.62'
L = 216.81'
S79°59'14"E 106.24'
N72°37'16"W 37.35'
N78°14'08"W 70.08'
6.98'
N78°14'08"E 29.92'
N02°58'20"E

ORIGINAL & APPRAISAL BASIS

TRACT 6

JERRY D. SWEETSER (75%)
PAUL E. TUNSTILL (25%)

\\S62102\PROFILD Thu May 9 13 09 51 1996

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3.36

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

* Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; those costs are readily identifiable since the seller pays those costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF LIMITING CONDITIONS AND APPRAISER'S CERTIFICATION

CONTINGENT AND LIMITING CONDITIONS: The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.

3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.

6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

8. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.

9. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that completion of the improvements will be performed in a workmanlike manner.

10. The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower; the mortgagee or its successors and assigns; the mortgage insurer; consultants; professional appraisal organizations; any state or federally approved financial institution; or any department, agency, or instrumentality of the United States or any state or the District of Columbia; except that the lender/client may distribute the property description section of the report only to data collection or reporting service(s) without having to obtain the appraiser's prior written consent. The appraiser's written consent and approval must also be obtained before the appraisal can be conveyed by anyone to the public through advertising, public relations, news, sales, or other media.

~~3.36~~

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2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.

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12.48

~~3.37~~

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.

2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.

3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form.

4. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property.

5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.

6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.

7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.

8. I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.

9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and disclosed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

SUPERVISORY APPRAISER'S CERTIFICATION: If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

ADDRESS OF PROPERTY APPRAISED: South 24 St Widening Project, Fayetteville, AR

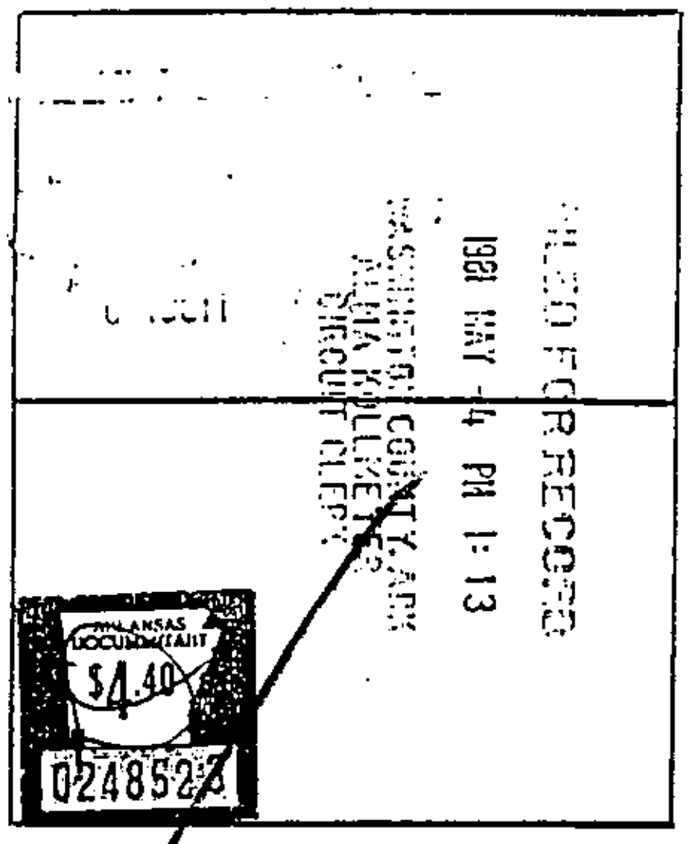
APPRAISER:	SUPERVISORY APPRAISER (only if required):
Signature: Keith L. Schultz	Signature:
Name: Keith L. Schultz	Name:
Date Signed: June 20, 1996	Date Signed:
State Certification #: CGO # 271	State Certification #:
or State License #:	or State License #:
State: Arkansas	State:
Expiration Date of Certification or License: 6/30/96	Expiration Date of Certification or License:

☐ Did ☐ Did Not Inspect Property

3.38

Peter Gallagher, attorney at law

WARRANTY DEED
(CORPORATION)



KNOW ALL MEN BY THESE PRESENTS:

That Jerry D. Sweetser, Inc.---------- a corporation organized under and by virtue of the laws of the State of -----Arkansas-------, by its President and Secretary, duly authorized by proper resolution of its Board of Directors, for the consideration of the sum of $1.00 and other good and valuable consideration---------- ~~DOLLARS~~, in hand paid by Paul E. Tunstill---------- the receipt of which is hereby acknowledged, does grant, bargain, sell and convey unto the said Paul E. Tunstill---------- ---------- and unto -his- heirs and assigns forever, the following described land, situate in the County of -------Washington---------- State of Arkansas, to-wit:

An undivided 25% interest in and to the following described real estate, to-wit:

Part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section Twenty-eight (28) in Township Sixteen (16) North, Range Thirty (30) West, in the City of Fayetteville, Washington County, Arkansas, more particularly described as follows, to-wit: Beginning at a point which lies South 2 degrees 51 minutes 30 seconds West 80 feet from the Northeast Corner of said forty acre tract, said point of beginning being on the East Line of said forty acre tract and on the South Right-of-Way line of 24th Street; thence South 2 degrees 51 minutes 30 seconds West with the East Line of said forty acre tract 930 feet; thence South 72 degrees 04 minutes West 298.45 feet; thence South 2 degrees 51 minutes 30 seconds West 220 feet to the South line of said forty acre tract; thence North 86 degrees 18 minutes West with said South line 1041.5 feet to the Southwest Corner of said forty acre tract; thence North 2 degrees 52 minutes 30 seconds East with the West line of said forty acre tract 224.04 feet; thence North 76 degrees 32 minutes 13 seconds East 270.06 feet; thence North 13 degrees 37 minutes 12 seconds East 151.35 feet; thence North 58 degrees 58 minutes 58 seconds East 628.12 feet; thence North 5 degrees 00 minutes 35 seconds East 415.02 feet to the South Right-of-Way line of 24th Street; thence Easterly with said South Line approximately

(see reverse side)

TO HAVE AND TO HOLD The same unto the said Paul E. Tunstill---------- ---------- and unto --his--------- heirs and assigns forever, with all appurtenances thereunto belonging. And said corporation hereby covenants with the said grantee that it will forever warrant and defend the title to said lands against all lawful claims whatever.

IN TESTIMONY WHEREOF, The name of the grantor is hereunto affixed by its President and its seal affixed by its Secretary, this day of --------May---------- , 1981

JERRY D. SWEETSER, INC.

By JERRY D. SWEETSER, President

By SHARON J. SWEETSER, Secretary

ACKNOWLEDGMENT

BK 1037 960

State of ARKANSAS }
County of Washington } ss.

On this day of ----------May----------, 1981, before undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named ----Jerry D. Sweetser--------- and --------Sharon J. Sweetser-------- to me personally known, who stated that they were the ---President----- and -----Secretary---- of the ----------JERRY D. SWEETSER, INC.---------- a corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 1 day of ----May---------, 1981

Notary Public

My commission expires

NOTARY PUBLIC

~~3.64~~ B

12.49

JUST COMPENSATION DETERMINATION
24TH Street Improvement Project
City Project No. 96043
Tract Nos. 9 & 10

Jerry D. Sweetser and Sharon J. Sweetser

Tract #9:

Land Value (by independent appraiser) $3,500/Ac. or $0.08/ft²

A.	Warranty Deed (Tr#9)	3,666 ft² @ $0.08/ft² =	$	294.00
B.	TCGE (Tr#9)	1,983 ft² @ $0.08/ft² @10% =	$	16.00

Tract #10

Land Value (by independent appraiser) $7,300/Ac. or $0.168/ft²

A.	Warranty Deed (Tr#10)	45,987 ft² @ $0.168/ft² =	$	7726.00
B.	TCGE (Tr#10)	16,341 ft² @ $0.168/ft² @ 10% =	$	275.00
C.	W/S Perm. Easement	10,758 ft² @ $0.15/ft² (City Std.) =	$	1615.00

Tract #9 Vacation Area

A.	Area of Potential Vacation	20,444 ft² @ $0.08/ft² =	(-) $	1636.00

Summation: Tract #9 & Tract #10:

Warranty Deeds (net)	$	6384.00
TCGE	$	291.00
Water/Sewer Easement	$	1615.00
Total Compensation:	$	8290.00

Should you elect to accept these offers, the *Warranty Deeds, Water/Sewer Easement* and the *Temporary Construction and Grading Easements* enclosed herewith should be executed by all parties with current ownership in this particular property. The documents should be notarized and returned to the City of Fayetteville in the envelope provided. Upon receipt of these documents, a check will be requested and you will be compensated the amount indicated in this offer letter. It will take about two weeks, after receipt of the documents, for the City to process and send the check to you.

Should you choose to reject this offer, you have certain legal rights which are outlined hereafter. Upon your final rejection of this offer, and if the City of Fayetteville elects to do so, a condemnation suit may be filed and the amount offered by the City as just compensation for your property and the use of your property for permanent and temporary easements will be deposited with the Registry of the Circuit Court of Washington County, Arkansas. You may, at that time, elect to accept the amount deposited as just compensation and the amount will be paid to you thereby disposing of the condemnation suit.

If you do not elect to accept the amount deposited as just compensation, then you may withdraw the amount placed on deposit without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury in the Circuit Court to determine ;st compensation for your lands condemned. In either event, payment of the estimated just compensation will be made available to you.

We, however, trust that you will accept the offers made herein by executing the attached documents. One reduced copy of each of these documents is attached to this letter for your records. We can also send you a copy of the recorded document upon you request. Please provide us with a Tax Identification Number (Corporations) or Social Security Number and signature of the individual receiving just compensation so that a check can be written. A Vendor Form is provided for this purpose. The form should be completed where marked and returned to the City.

One of our City Land Agents would be glad to meet with you at your convenience. They also would be glad to witness our signatures and discuss any and all of the aspects of this project and the associated documents that are requested herein. Please contact Ed Connell at 444-3415, or in his absence, contact Kitty Dye at (501)-444-3414.

Sincerely yours,

Donald R. Bunn
City Engineer
DRB/kd

Attachments & Enclosures

12.50

~~3.65~~

November 6, 1996 ✓
Job No. 962102

24th Street (Country Club Drive)
R/W Widening Project
Fayetteville, Arkansas

Revised Basis

TRACT 9

PROPERTY OWNER

Jerry D. and Sharon J. Sweetser
590 Poplar
Fayetteville, Arkansas 72703

PROPERTY DESCRIPTION (See Attached)

RIGHT OF WAY DESCRIPTION

A part of the SE¼ of the NE¼ of Section 28, T-16-N, R-30-W, being more particularly described as beginning at the NW corner of the SE¼ of the NE¼ of said Section 28, thence South 87°11'54" East along the North property line 65.00 feet; thence South 2°58'20" West - 11.44 feet; thence South 64°38'14" East - 106.28 feet to a curve on the platted North Right of ~~Way line~~ curve 43.95 feet; thence Northwesterly along the platted North Right of Way line of 24th Street; thence North 78°52'43" West along said platted North Right of Way line 120.80 feet to the West property line; thence North 2°58'20" East along said West property line 29.87 feet, more or less, to the point of beginning, containing 3,666 sq. ft. (0.08 acres), more or less, to the City of Fayetteville, Washington County, Arkansas.

Said platted bearing a deflection angle of 02°08'32" with ~~this~~ the next ~~to~~ course ~~is~~ 43.95 feet

The bearings for this description are based on the City of Fayetteville Global Positioning Satellite System, which may vary from the bearing system previously used in describing the subject property.

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement 15 feet in width being parallel ~~with~~ South and contiguous to the above described Right of Way Description and situated on the ~~North~~ side thereof. This temporary construction easement contains 1,938 sq. ft. (0.04 acres), more or less, and shall terminate when the hereinbefore referenced project has been completed and accepted by the City of Fayetteville.

Revised description to M & B (12-6-96) on information provided by TY Vinson this date - See attached

96102:9:jm

5014439241 DEC-06-1996 11:43

18:40 1996

12/06/1996 11:59 5014439241 MCCLELLAND ENGINEERS PAGE 01

DEC-06-1996 11:43 5014439241

~~3.66~~

NE CORNER
SW1/4, NE1/4
SECTION 28
T-16-N, R-30-W

JOHN D. & NONA B. ASKEW
490-572 JAN 5, 1957

JERRY & SHARON SWEETSER
93-13520 MAR 17,

TRACT 14

TRACT 9

Δ = 13°54'17"
R = 744.35'
T = 90.77'
L = 180.84'

Δ = 03° 42' 18"
R = 684.35'
T = 22.13'
L = 44.25'

Δ = 03°40'47"
R = 684.35'
T = 21.95'
L = 43.95'

PROPERTY LINE

S64°30'14"E 137.86'

TCE

W.D. Road

S78°32'43"E 116.50'

112.20' S78°32'43"E

29.92' N78°41'06"W

S02°58'20"W 29.87'

S87°38'22"E 8.00'

N75°01'15"E 58.30'

224.34'

38.22'

8.98'

515-8816

3,028,620.5

390

ACT 7

18:40 1996

12/06/1996 11:59 5014439241 MCCLELLAND ENGINEERS PAGE 01

12.52

~~3-67~~

24th Street (Country Club Drive)
R/W Widening Project
Fayetteville, Arkansas

May 10, 1996
Job No. 962102

TRACT 9

ORIGINAL BASIS

PROPERTY OWNER

Jerry D. and Sharon J. Sweetser
590 Poplar
Fayetteville, Arkansas 72703

PROPERTY DESCRIPTION (See Attached)

RIGHT OF WAY DESCRIPTION

A part of the SE¼ of the NE¼ of Section 28, T-16-N, R-30-W, being more particularly described as beginning at the NW corner of the SE¼ of the NE¼ of said Section 28, thence South 50°29'40" East - 29.20 feet; thence South 71°58'37" East - 125.83 feet to a curve on the platted North Right of Way line of 24th Street; thence Northwesterly along the platted North Right of Way line 25.60 feet; thence North 78°52'43" West along said platted North Right of Way line 120.80 feet to the West property line; thence North 2°58'20" East along said West property line 29.87 feet, more or less, to the point of beginning, containing 1,520 sq. ft. (0.03 acres), more or less, to the City of Fayetteville, Washington County, Arkansas.

The bearings for this description are based on the City of Fayetteville Global Positioning Satellite System, which may vary from the bearing system previously used in describing the subject property.

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement 15 feet in width being parallel with and contiguous to the above described Right of Way Description and situated on the North side thereof. This temporary construction easement contains 2,702 sq. ft. (0.06 acres), more or less, and shall terminate when the hereinbefore referenced project has been completed and accepted by the City of Fayetteville.

96102:9:jm

3.68

TR #9

INDEPENDENT REAL PROPERTY APPRAISAL REPORT
BY
ASSOCIATED APPRAISERS, INC.
555 E.J. Ball Plaza
Fayetteville, Arkansas
501-521-2717

JOB DESIGNATION: 24th Street Improvement Project
City Project # 96043

APPRAISAL REQUESTED BY: The City of Fayetteville, Arkansas

Name of Owner: Jerry D. and Sharon J. Sweetser

Owner's Address: 590 West Poplar, Fayetteville, AR 72703

Address of Parcel: Country Club Drive, Fayetteville, Arkansas

PURPOSE OF APPRAISAL:

The property acquired by the right of eminent domain will be used by City of Fayetteville, Arkansas to widen and improve South 24th Street.

PROPERTY INSPECTION DATA:

Owner Notified: Unknown
Date of Inspection: June 12, 1996
Present at Inspection: None

LEGAL DESCRIPTION OF PARCEL: See attached.

LEGAL DESCRIPTION OF PARTIAL TAKING: See attached.

Area of Parcel: .42 acres
Area of Partial Taking: 1,520 sq. ft. or 0.03 acres
Location of Partial Taking: Southern edge of property
Location and size of Temporary Construction Easement:
2,702 sq. ft.(0.06 ac) on the north side of easement

$3500/Ac = 0.08 3/Ac
3666 x .08 = 293.28
TCE: 1438 x .08 x .10 = 100.00 min
293.28
RW = $400.00
WO = $300.00
TCE = $100.00

ESTIMATE OF JUST COMPENSATION:

ESTIMATE OF FAIR MARKET VALUE BEFORE TAKING:

Land:	$1,470.00
Improvements:	None
Total:	**$1,470.00**

DISCUSSION OF SEVERANCE DAMAGE:

The term "severance damage" is often misunderstood, and it is most important that no confusion exists as to the difference between severance damage and consequential damage. Severance damage is the loss in value of the remaining parcel after the taking as compared to the value of the remaining parcel before the taking, when it was considered as a part of the whole. Severance damage, therefore, can rise only in the case of partial takings -- that is, where there is a taking of a part of a larger parcel.

Where the taking is in easement form, the severance is of property rights only; but just because there is a physical severance, it does not follow, by itself, that severance damages have also been created to the remainder of the land. In this case the widening of South 24th Street will not result in any severance damage to the subject property.

~~3.68~~ TR#9 12.53

INDEPENDENT REAL PROPERTY APPRAISAL REPORT
BY
ASSOCIATED APPRAISERS, INC.
555 E.J. Ball Plaza
Fayetteville, Arkansas
501-521-2717

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Area of Partial Taking: 1,520 sq. ft. or 0.03 acres
Location of Partial Taking: Southern edge of property
Location and size of Temporary Construction Easement:
2,702 sq. ft.(0.06 ac) on the north side of easement

ESTIMATE OF JUST COMPENSATION:

ESTIMATE OF FAIR MARKET VALUE BEFORE TAKING:

Land:	$1,470.00
Improvements:	None
Total:	**$1,470.00**

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Where the taking is in easement form, the severance is of property rights only; but just because there is a physical severance, it does not follow, by itself, that severance damages have also been created to the remainder of the land. In this case the widening of South 24th Street will not result in any severance damage to the subject property.

DISCUSSION OF ENHANCED VALUE:

Where the public use for which a portion of a person's land is taken so enhances the value of the remainder by local, peculiar and special benefits that the remainder is more valuable than the whole was before the taking, the owner has received just compensation.

CITY OF FAYETTEVILLE V. STONE, 194 Ark. 218, 106 S.W. 2nd. 158.

General benefits should not be considered in assessing damages for the construction of a public improvement because it would be unjust to charge the owner whose property has been taken with benefits he receives in common with the community in general, when other landowners, whose property is not taken, enjoy the benefits equally. The same reason does not apply to special benefits.

LITTLE ROCK & FT.S. RY. V. ALLISTER, 68 Ark. 600, 60 S.W. 953.

Enhanced value then arises when the remainder is more valuable than the whole was before the taking and the just compensation is the enhancement in value. In this case it is our opinion that the subject property will be enhanced. However, we were unable to determine the value of the enhancement from market data.

ESTIMATE OF FAIR MARKET VALUE AFTER THE TAKING

Land:	$1,448.00
Improvements:	None
Total:	**$1,448.00**

ESTIMATE OF JUST COMPENSATION

$22.00

VALUATION OF PARCEL:

MARKET APPROACH

See brochure of sales of comparable properties, submitted with this report.

Based on the listed comparables, as well as an inspection of the subject property, it is my opinion that the estimated Fair Market Value of the subject property is as follows:

Estimate of Value Before Imposition of Taking: $1,470.00

Estimate of Value After Imposition of Taking: $1,448.00

REPLACEMENT COST LESS DEPRECIATION APPROACH

Improvements: None

HISTORY OF OWNERSHIP:

In accordance with the new standards of professional practice of the American Institute of Real Estate Appraisers the appraiser is to provide the lender with a three (3) year history of ownership of the subject property. The history of ownership is also a requirement under Federal Banking regulations. The reader should recognize however, that in some cases substantial changes in the market for a particular parcel of property may occur in a short period of time just as an intervening owner may have improved the property since acquisition or on the other hand allowed the improvements to deteriorate significantly.

Washington County records indicate that the current owner acquired the property from the E.B. Sparks, Jr. Trust by means of a warranty deed dated March 8, 1993 and recorded in Book 93 at Page 13520. Revenue stamps attached to the deed indicated a purchase price of $40,000.00 for the subject property as well as Tract # 10.

TAX INFORMATION:

The subject property is currently assessed by the Washington County assessor's office as follows:

Land:	$40,950.00
Improvements:	None

Washington County real property, as the rest of the state, is assessed at twenty (20) per cent of market value. The current assessment indicates an annual tax liability of approximately $387.39.

It should be noted that the county has recently been reassessed and real property taxes will be increased.

HIGHEST AND BEST USE:

Highest and Best Use[1] - That reasonable and probable use that will support the highest present value, as defined, as of the effective date of the appraisal.

Alternatively, that use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible and which results in highest land value.

The definition above applies specifically to the highest and best use of the land. It is to be recognized that in cases where a site has recognized that in cases where a site has existing improvements on it, the highest and best use may very well be determined from the existing use. The existing use will continue, however, use. The existing use will continue, however, unless and until land in its highest and best use exceeds the total value of the property in its existing use.

Implied within these definitions is recognition of the contribution of that specific use, to community environment or the community development goals in addition to wealth maximization of individual property owners.

[1]Real Estate Appraisal Terminology, page 107

~~3.70~~

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Implied within these definitions is recognition of the contribution of that specific use, to community environment or the community development goals in addition to wealth maximization of individual property owners.

[1]Real Estate Appraisal Terminology, page 107

HIGHEST AND BEST USE:

The highest and best use of the subject tract is based on the trends in development in the neighborhood, access to major streets and highway, the local market for similar properties, and overall market trends in the area.

The subject property is currently zoned R-1 (Single Family Residential). A change in zoning is probably not possible when considering the development of the immediate neighborhood.

When considering the location, surrounding land uses, terrain and topography and configuration, it is our opinion that the highest and best use is for development consistent with the zoning regulations.

NEIGHBORHOOD DATA

For appraisal purposes, a neighborhood is considered to be a portion of a larger community, or an entire community, in which there is a homogeneous grouping of inhabitants, buildings, or business enterprises. Inhabitants of a neighborhood usually have a more than casual community of interest and a similarity of economic level or cultural background. Neighborhood boundaries may consist of well-defined natural or man-made barriers or they may be more or less well-defined by a distinct change in land use or in the character of the inhabitants.

The neighborhood in this case can be considered to be those properties located west of South School Street, south of South of 22nd Street, west of City Lake Road, and north of Skelton Street in the southeast quadrant of the City of Fayetteville, Washington County, Arkansas. The neighborhood contains a mixture of land uses with commercial development being predominant along either side of South School Street, a mixture of residential and light industrial development along the western boundary, a mixture of vacant ground and older single family housing along the northern and southern boundaries, a single family residential subdivision of homes in the upper medium and upper price ranges surrounding the Fayetteville Country Club which forms the major portion of the neighborhood, and a medium sized apartment complex of subsidised housing units lying just east of and adjacent to South School Street.

With the exception of the residential development lying in proximity to the Fayetteville Country Club, our inspection of the neighborhood indicated that real property values are essentially stagnant. Property values in the vicinity of the Country Club appear to be increasing.

[1]Real Estate Appraisal Terminology, page 107

SITE DATA

The site in this case consists of irregular shaped parcel of unimproved property located on the north side of South 24th Street and lying slightly west of that point at which South 24th Street curves to the south in the southeast quadrant of the City of Fayetteville, Arkansas. Our inspection of the site indicated that it was wooded hillside land. Access is only available from South 24th Street. Soil tests have neither been conducted by nor provided to this office and no opinion is expressed regarding the suitability of the soil for intensive development. An inspection of improvements to parcels in proximity to the subject site revealed no adverse conditions.

An inspection of the site revealed no apparent adverse easements or encroachments. Drainage appears to be adequate. **The subject property does not lie in a H.U.D. identified flood zone.**

In conclusion, the site consists of a wooded parcel of land with approximately 294 of frontage on the north side of South 24th Street and being of inadequate depth for the construction of a single family residence.

ANALYSIS OF COMPARABLE SALES

> **Sales Comparison Approach**[1] - Approach through which an appraiser derives a value indication by comparing the property being appraised to similar properties that have sold recently, applying appropriate units of comparison, and making adjustments, based on the elements of comparison, to the sale prices of the comparables.

Unimproved Sales

The appraiser has attempted to locate sales of unimproved property similar to the subject in terms of location, size, terrain, topography, access, utility of use, and with a date of sale as recent in time to the date of the appraisal so as to reflect current market conditions.

Sale #1 is a late 1990 sale of a 7.55 acre parcel of unimproved property located just west of South 24th Street and lying south of the intersection of what is now Ravenswood Drive and South 24th Street. The sale property was essentially open pasture land with some scattered timber along the western boundary. The property had been platted into lots in a phase of Country Club Estates Subdivision but was acquired for subdivision purposes and was replatted into Edgehill Subdivison. The sale indicated an unadjusted value to the subject of approximately **$22,000.00 per acre.**

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1. The Dictionary of Real Estate Appraisal, Second Edition, AIREA, page 268.

[1]Real Estate Appraisal Terminology, page 107

~~3.72~~

SITE DATA

The site in this case consists of irregular shaped parcel of unimproved property located on the north side of South 24th Street and lying slightly west of that point at which South 24th Street curves to the south in the southeast quadrant of the City of Fayetteville, Arkansas. Our inspection of the site indicated that it was wooded hillside land. Access is only available from South 24th Street. Soil tests have neither been conducted by nor provided to this office and no opinion is expressed regarding the suitability of the soil for intensive development. An inspection of improvements to parcels in proximity to the subject site revealed no adverse conditions.

An inspection of the site revealed no apparent adverse easements or encroachments. Drainage appears to be adequate. The subject property does not lie in a H.U.D. identified flood zone.

In conclusion, the site consists of a wooded parcel of land with approximately 294 of frontage on the north side of South 24th Street and being of inadequate depth for the construction of a single family residence.

ANALYSIS OF COMPARABLE SALES

Sales Comparison Approach[1] - Approach through which an appraiser derives a value indication by comparing the property being appraised to similar properties that have sold recently, applying appropriate units of comparison, and making adjustments, based on the elements of comparison, to the sale prices of the comparables.

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The appraiser has attempted to locate sales of unimproved property similar to the subject in terms of location, size, terrain, topography, access, utility of use, and with a date of sale as recent in time to the date of the appraisal so as to reflect current market conditions.

Sale #1 is a late 1990 sale of a 7.55 acre parcel of unimproved property located just west of South 24th Street and lying south of the intersection of what is now Ravenswood Drive and South 24th Street. The sale property was essentially open pasture land with some scattered timber along the western boundary. The property had been platted into lots in a phase of Country Club Estates Subdivision but was acquired for subdivision purposes and was replatted into Edgehill Subdivison. The sale indicated an unadjusted value to the subject of approximately **$22,000.00 per acre.**

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1. The Dictionary of Real Estate Appraisal, Second Edition, AIREA, page 268.

[1]Real Estate Appraisal Terminology, page 107

ANALYSIS OF COMPARABLE SALES
Continued

Sale #2 is an early 1993 sale of a 7.27 acre parcel of unimproved, wooded land located on the north side of South 24th Street and lying approximately 1/8 mile east of the intersection of South 24th and South School. The sale property was heavily wooded and had some adverse terrain features. The sale indicated an unadjusted value to the subject of approximately **$2,200.00 per acre.**

Sale #3 is a mid 1993 sale of a twenty acre parcel of steep, wooded hillside located on the east side of and lying adjacent to the Fayetteville Country Club. The sale property was acquired for residential development purposes and has been developed as a single family residential subdivision. The sale indicated an unadjusted value to the subject of approximately **$3,500.00 per acre.**

Sale #4 is a late 1993 sale of an eighteen acre parcel of rolling, wooded land located on the south side of Skillern Road and lying east of the intersection of Skillern and Old Wire Roads. The sale property was acquired for residential development and has been developed as Savannah Estates. The sale indicated an unadjusted value to the subject of approximately **$7,500.00 per acre.**

Based on the above analysis and taking into consideration the various characteristics of the subject property, as well as a knowledge of the national and local economy and the resulting influence on real property values in the area, it is my opinion that the estimated **market value** of the subject site is as follows:

Site

.42 acres @ $3,500.00 per acre = **$1,470.00**

[1]Real Estate Appraisal Terminology, page 107

3.74

DARLENE M. TAYLOR

1386-191 SEPT 25, 1990

SW1/4, NE1/4
SECTION 28
T-16-N, R-30-W

TRACT 8

TRACT 7

TRACT 9

JERRY & SHARON SWEETSER

NW-NE

NE-NE

SW-NE

SE-NE

40-A LINE

40-A LINE

ORIGINAL BASIS

S87°38'22"E
12.65'

S87°38'22"E

S87°38'22"E
5.00'

S78°56'04"E 101.60'

S84°02'50"E
50.66'

N75°00'13"E
56.30'

N79°59'14"W
224.34'

S78°14'08"E
174.83'

S79°59'14"E
106.24'

N72°37'16"W
37.35'

N78°14'08"W 70.08'

N78°14'08"W
29.92'

N71°42'34"W
44.00'

S50°29'40"E

S71°58'37"E 125.83'

N78°52'43"W
120.80'

S78°52'43"E
116.50'

S78°52'43"E
112.20'

N02°58'20"E

S02°58'20"W

31.93'
29.80'
30.09'
31.58'
30.00'
31.62'
35.00'
35.00'
35.00'
60.00'
29.87'
29.80'
45.50'
35.00'
40.00'
40.00'
40.00'
40.00'
40.00'
40.95'
6.98'

Δ = 02°08'32"
R = 684.35'
T = 12.80'
L = 25.60'

Δ = 11°55'50"
R = 744.35'
T = 77.78'
L = 155.00'

= 08°52'23"
= 1400.00'
= 108.62'
= 216.81'

TRACT 6

ER (75%)

1 (25%)

DARLENE M. TAYLOR

1386-191 SEPT 25, 1990

SW1/4, NE1/4
SECTION 28
T-16-N, R-30-W

TRACT 8

TRACT 7

NW-NE

40-A LINE

NE-NE

JERRY & SHARON SWEETSER

TRACT 9

ORIGINAL BASIS

40-A LINE

S87°38'22"E 12.65'

S87°38'22"E

S87°38'22"E 5.00'

0.70'

S79°56'04"E 101.60'

S84°02'50"E 50.66'

N75°00'13"E 56.30'

N79°59'14"W 224.34'

S78°14'08"E 174.83'

S50°29'40"E 29.87'

S71°58'37"E 125.83'

N78°52'43"W 120.80'

S78°52'43"E 116.50'

S79°59'14"E 106.24'

N72°37'16"W 37.35'

N78°14'08"W 70.08'

S78°52'43"E 112.20'

N78°14'08"W 29.92'

N71°42'34"W 44.00'

N02°58'20"E

S02°58'20"W

31.93' 29.80' 30.09' 31.58' 30.00' 31.62' 35.00' 35.00' 60.00' 6.98' 29.87' 29.80' 45.50' 35.00' 40.00' 40.00' 40.95' 40.00' 40.00' 40.00'

Δ = 02°08'32"
R = 684.35'
T = 12.80'
L = 25.60'

Δ = 11°55'50"
R = 744.35'
T = 77.78'
L = 155.00'

= 08°52'23"
= 1400.00'
= 108.62'
= 216.81'

TRACT 6

ER (75%)

1 (25%)

SW-NE

SE-NE

12.59

12.60

Parcel No.765-04117-000 **Washington County Residential Real Estate Record Card** Card: 01 of 01

Ownership Record and Description

Name : SWEETSER, JERRY D. & SHARON J.
590 W POPLAR
FAYETTEVILLE AR 72703

Type : RV Res.Vac.

Addition: COUNTRY CLUB ESTATES
Lot : Block: Neigh.: 5070
School : 011 Fayetteville
City : Fayetteville
S-T-R : 27-16-30 Acres: 5.459 Timber:
Location:
Old Prcl: 137854-000-00
Legal : PT TRACT A

Appraisal Summary

			20%
Date	1/01/1994	8/15/1995	
Land	18,000	40,950	8,190
Bldgs			
Total	18,000	40,950	8,190

Review Record

Date	By	Reason
8/15/1995	TRS	RV Reval.
1/01/1994		

Assessment Record

Date	8/15/1995
Land	8,190
Bldgs	
Total	8,190
Date	1/01/1994
Land	3,600
Bldgs	
Total	3,600
Date	
Land	
Bldgs	
Total	
Date	
Land	
Bldgs	
Total	
Date	
Land	
Bldgs	
Total	
Date	
Land	
Bldgs	
Total	
Date	
Land	
Bldgs	
Total	
Date	
Land	
Bldgs	
Total	

Trend	Street	Utilities	Topography	Landscaping
X Improving	Concrete	No Water	High	Excellent
Static	X Asphalt	No Sewer	Low	Good
Declining	ChatSeal	No Gas	X Rough	Average
New	Gravel	No Elec	Flat	X Poor
Old	Dirt	No Telep	Sloping	None

Building Permit Record

Date	Amount	Purpose

Ownership Record

Date	Book	Page	Amount	Remarks
3/08/1992	93	13520	40,000	93/13520-541. 93-13522 TI
7/31/1989	1343	127		1343/127-129- 3.37 %.
2/01/1989	1312	175		1312/175-177.
1/01/1985	1132	328		SEE '85 CR #2248 - CHG #:

Land Record and Computation of Value

#	Type	Front/Size	Rear	Front Figure	Depth	Adj.	Rate	Adj 1	Adj 2	Value
	AC	5.459					7,500.00R			40,942
Total										40,950

Arkansas CAMA Technology, Inc., Little Rock

9.75

Sale # 1 (06190007-900911)

Seller: Esther Taylor et al to B.R. Peoples and Mark Foster
Location: Lots 129-167 (proposed) Country Club Estates
Fayetteville, Arkansas
Sale Date: 9/11/90
Size: 7.55 acres
Sale Price: $166,000.00
Improvements: None of contributory value

Book & Page: 1391-723-749
Remarks: Acquired for use as a subdivision and replatted as Edgehill Estates

Sale # 2 (06193002-930315)

Seller: Carl & Barbara Woods to Barry Baker, a single person, and Carl & Ella Baker, husband and wife.
Location: Pt NW NE 28-16-30, Fayetteville, Arkansas
North side of South 24th Street, east of S. School
Sale Date: 3/15/93
Size: 7.27 acres
Sale Price: $16,000.00
Improvements: None of contributory value

Book & Page: 93-13266
Remarks: Wooded hillside land with access from South 24th

Sale # 3 (06193007-930609)

Seller: Franklin L. Haney to Wright-Pence Corporation
Location: Pt SW SW Section 27, Township 16 North, Range 30 W
Fayetteville, Washington County, Arkansas
Sale Date: 6/9/93
Size: 20 acres
Sale Price: $70,000.00
Improvements: None of value

Book & Page: 93-31902
Remarks: Steep, wooded hillside located on the east side of the Fayetteville Country Club. Acquired for subdivision purposes.

Sale # 1 (06190007-900911)

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Location: Lots 129-167 (proposed) Country Club Estates
Fayetteville, Arkansas
Sale Date: 9/11/90
Size: 7.55 acres
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Improvements: None of contributory value

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Location: Pt NW NE 28-16-30, Fayetteville, Arkansas
North side of South 24th Street, east of S. School
Sale Date: 3/15/93
Size: 7.27 acres
Sale Price: $16,000.00
Improvements: None of contributory value

Book & Page: 93-13266
Remarks: Wooded hillside land with access from South 24th

Sale # 3 (06193007-930609)

Seller: Franklin L. Haney to Wright-Pence Corporation
Location: Pt SW SW Section 27, Township 16 North, Range 30 W
Fayetteville, Washington County, Arkansas
Sale Date: 6/9/93
Size: 20 acres
Sale Price: $70,000.00
Improvements: None of value

Book & Page: 93-31902
Remarks: Steep, wooded hillside located on the east side of the Fayetteville Country Club. Acquired for subdivision purposes.

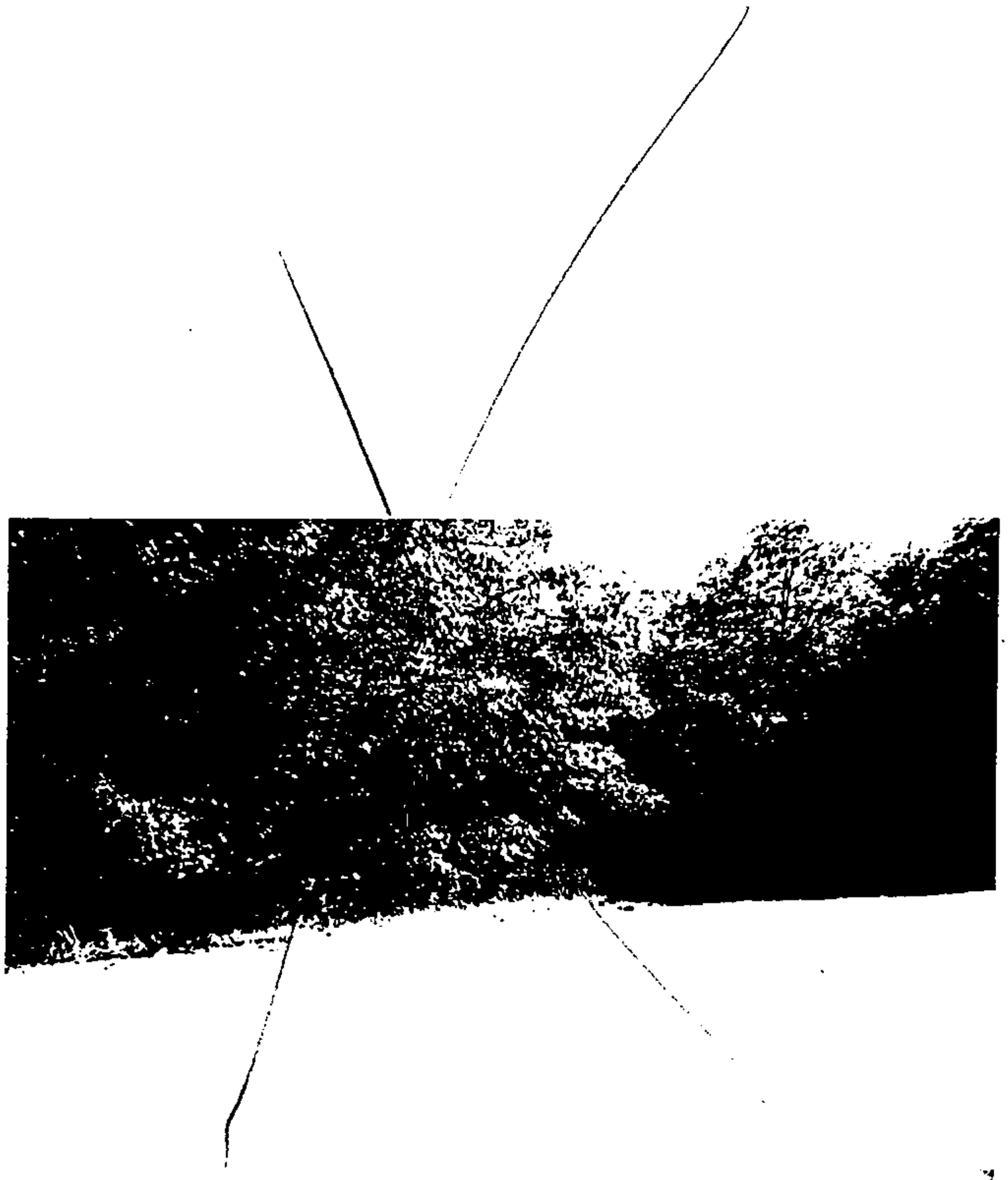
~~3.77~~

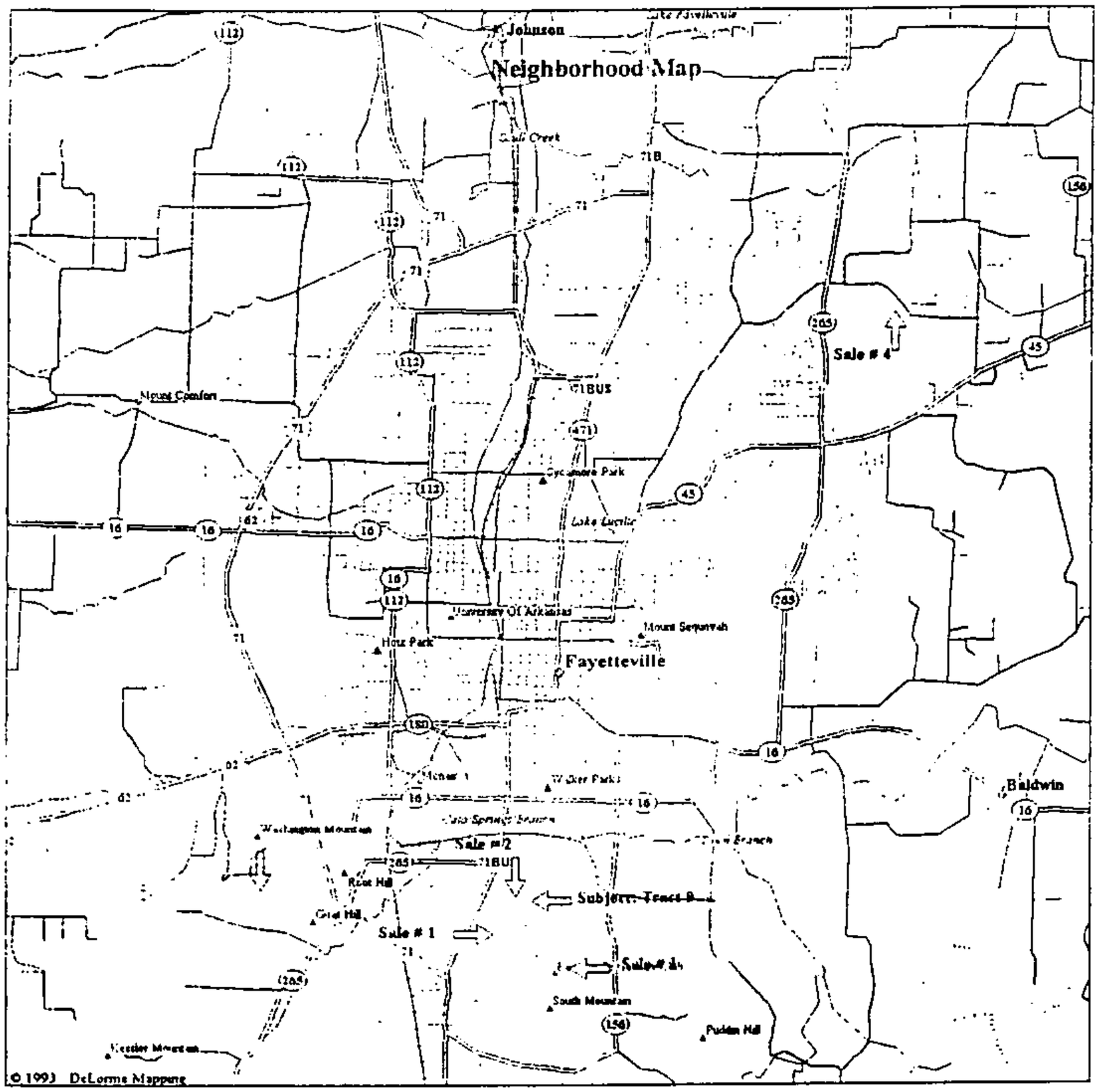
Sale # 4 (02493007-931116)

Seller: James R. Skillern to B.R. Peoples & Mark Foster
Location: Pt N/2 SE and Pt S/2 NE 31-17-29
(Skillern Road north of Savanna Estates I,II)
Sale Date: 11/16/93
Size: 18.08 acres
Sale Price: $137,000.00
Improvements: None

Book & Page: 93-67617
Remarks: Rolling wooded land acquired for Phase III of Savanna Estates. Paved frontage and utilities.

Associated Appraisers, Inc.





LEGEND

- State Route
- Geo Feature
- Town, Small City
- Large City
- Hill
- Park
- US Highway
- Population Center
- Street, Road
- Hwy Ramp
- Major Street/Road
- State Route
- US Highway
- Railroad
- River
- Open Water
- Contours

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF LIMITING CONDITIONS AND APPRAISER'S CERTIFICATION

CONTINGENT AND LIMITING CONDITIONS: The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.

3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.

6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

8. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.

9. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that completion of the improvements will be performed in a workmanlike manner.

10. The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower; the mortgagee or its successors and assigns; the mortgage insurer; consultants; professional appraisal organizations; any state or federally approved financial institution; or any department, agency, or instrumentality of the United States or any state or the District of Columbia; except that the lender/client may distribute the property description section of the report only to data collection or reporting service(s) without having to obtain the appraiser's prior written consent. The appraiser's written consent and approval must also be obtained before the appraisal can be conveyed by anyone to the public through advertising, public relations, news, sales, or other media.

12.64-

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; those costs are readily identifiable since the seller pays those costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

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2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.

3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.

6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

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APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.

2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.

3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form.

4. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property.

5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.

6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.

7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.

8. I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.

9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and disclosed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

SUPERVISORY APPRAISER'S CERTIFICATION: If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

ADDRESS OF PROPERTY APPRAISED: South 24 St Widening Project, Fayetteville, AR

APPRAISER:	SUPERVISORY APPRAISER (only if required):
Signature: Keith L Schultz	Signature:
Name: Keith L. Schultz	Name:
Date Signed: June 20, 1996	Date Signed:
State Certification #: CGO # 271	State Certification #:
or State License #:	or State License #:
State: Arkansas	State:
Expiration Date of Certification or License: 6/30/96	Expiration Date of Certification or License:
	☐ Did ☐ Did Not Inspect Property

3.82 765-0411 TRACT 9 AND 10

FILED FOR RECORD
'93 MAR 17 PM 1 21
WASHINGTON CO AR
CIRCUIT/CHANCERY CLERK

15

FIDUCIARY DEED

The undersigned, First National Bank of Fort Smith, Arkansas, Trustee of the E. B. Sparks, Jr., Trust dated December 28, 1981, (hereinafter referred to as Grantor) for One Dollar ($1.00) and other good and valuable consideration to it in hand paid by Jerry D. Sweetser and Sharon J. Sweetser, husband and wife, as tenants by entirety, (hereinafter referred to as Grantees), the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantees and unto their heirs and assigns forever, all of the Trust's right, title, and interest, in and to the property described in Exhibit "A" hereto and being a part of Reserved Tract "A" in Country Club Estates, Fayetteville, Washington County, Arkansas.

To have and to hold the same unto the Grantees and unto their heirs and assigns forever, together with all appurtenances thereto belonging.

Executed this 8th day of March, 1993.

Please return to:
COLDWELL BANKER
Faucette Real Estate, Inc.
3589 North College
Fayetteville, AR 72703

$82.50
0187611

$5.50
0308349

FIRST NATIONAL BANK OF
FORT SMITH, ARKANSAS, Trustee
of the E. B. Sparks, Jr., Trust,
dated December 28, 1981

By _____
Wayne Swofford
Sr. Vice President and
Trust Officer

ACKNOWLEDGEMENT

STATE OF ARKANSAS
COUNTY OF Washington

On the 8th day of March, 1993, before me personally appeared Wayne Swofford, Sr. Vice President and Trust Officer, to me known to be the person named herein and who executed the foregoing Fiduciary Deed, and acknowledged to me that he voluntarily executed the same.

In testimony whereof, I have hereunto set my hand and official seal this 8th day of March, 1993.

_____
Notary Public

My Commission Expires:
7-17-2002

THIS INSTRUMENT PREPARED BY:
PHILLIP J. TAYLOR, ATTORNEY
P. O. Box 3392 — 501-783-1088
Fort Smith, Arkansas 72913

"I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument."

_____
Grantee or Grantee's Agent

12.66 765-0411 TRACT 9 AND 10

FILED FOR RECORD
'93 MAR 17 PM 1 21
WASHINGTON CO AR
CHRIS HEY CLERK

15

FIDUCIARY DEED

The undersigned, First National Bank of Fort Smith, Arkansas, Trustee of the E. B. Sparks, Jr., Trust dated December 28, 1981, (hereinafter referred to as Grantor) for One Dollar ($1.00) and other good and valuable consideration to it in hand paid by Jerry D. Sweetser and Sharon J. Sweetser, husband and wife, as tenants by entirety, (hereinafter referred to as Grantees), the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantees and unto their heirs and assigns forever, all of the Trust's right, title, and interest, in and to the property described in Exhibit "A" hereto and being a part of Reserved Tract "A" in Country Club Estates, Fayetteville, Washington County, Arkansas.

To have and to hold the same unto the Grantees and unto their heirs and assigns forever, together with all appurtenances thereto belonging.

Executed this 8th day of March, 1993.

Return to:
COLDWELL BANKER
Faucette Real Estate, Inc.
3589 North College
Fayetteville, AR 72703

$82.50
0187611

$5.50
0308349

FIRST NATIONAL BANK OF
FORT SMITH, ARKANSAS, Trustee
of the E. B. Sparks, Jr., Trust,
dated December 28, 1981

By _____
Wayne Swofford
Sr. Vice President and
Trust Officer

ACKNOWLEDGEMENT

STATE OF ARKANSAS
COUNTY OF Washington

On the 9th day of March, 1993, before me personally appeared Wayne Swofford, Sr. Vice President and Trust Officer, to me known to be the person named herein and who executed the foregoing Fiduciary Deed, and acknowledged to me that he voluntarily executed the same.

In testimony whereof, I have hereunto set my hand and official seal this 9th day of March, 1993.

_____
Notary Public

My Commission Expires:
7-17-2002

THIS INSTRUMENT PREPARED BY:
PHILLIP J. TAYLOR, ATTORNEY
P. O. Box 3392 — 501-783-1088
Fort Smith, Arkansas 72913

"I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument."

_____
Grantee or Grantee's Agent

EXHIBIT "A" to Warranty Deed to Jerry D. andSharon J. Sweetser

TRACT 9

LEGAL DESCRIPTION: (NORTH TRACT)

Part of the SE1/4 of the NE1/4 of Section 28, T16N, R30W of the Fifth Principal Meridian in WAshington County, Arkansas and being more particularly described as follows, Beginning at the N.W. Corner of said SE1/4, NE1/4 thence S 86°52'10"E 409.28 Feet, thence S 09°10'44"W 26.17 Feet, to the NORTH R/W of W. 24th Street, thence along said NORTH R/W along a curve to the right 294.62 Feet which has a chord bearing N 89°06'11"W 292.35 Feet, thence N 78°33'43"W 116.33 Feet, thence N 03°33'09"E 29.75 Feet to the P.O.B. Containing 10,094.7 sq.ft. = 0.42 acres.

Subject to all recorded instruments, restrictions and easements, and subject to any law, ordinance or governmental regulation restricting or regulating or prohibiting the occupancy, use and enjoyment of the land, and less and except all oil, gas, minerals and mineral rights, and less and except public roads.

The above described property in also a part of Reserve Tract "A" of the Phase II Development and Replat of Phase I of Country Club Estates, Fayetteville, Arkansas

AND,

NORTH OF 24TH STREET

TRACT 10

LEGAL DESCRIPTION: (SOUTH TRACT)

Part of the SE1/4 of the NE1/4 of Section 28, T16N, R30W of the Fifth Principal Meridian in Washington County, Arkansas and being more particularly described as follows, Commencing at the N.W. Corner of said SE1/4, NE1/4 thence S 03°33'09"W 90.33 Feet to the P.O.B., which is on the SOUTH R/W of W. 24th Street, thence S 78°33'43"E 108.02 Feet, thence along a curve to the left 320.46 Feet which has a chord bearing N 09°06'12"E 317.99 Feet, thence along a curve to the right 107.15 Feet which has a chord bearing S 27°55'05"E 78.06 Feet, thence S 47°23'38"W 142.67 Feet, thence along a curve to the left 190.28 Feet which has a chord bearing S 29°51'01"W 187.32 Feet, thence along a curve to the left 568.06 Feet, which has a chord bearing S 00°42'00"W 564.17 Feet, thence WEST 310.55 Feet, thence N 03°17'20"E 326.77 Feet, thence N 03°33'09"E 504.21 Feet to the P.O.B.; Containing 277,355.6 sq.ft. = 6.37 Acres more or less subject to easement and R/W of record.

Subject to all recorded instruments, restrictions and easements and subject to any law, ordinance or governmental regulation restricting or regulating or prohibiting the occupancy, use and enjoyment of the land, and less and except all oil, gas, minerals and mineral rights and less and except public roads.

The above described property is also a part of Reserve Tract "A" of the Phase II Development and Replat of Phase I of Country Club Estates, Fayetteville, Arkansas.

AND,

SOUTH AND WEST OF 74TH STREET

Booster Pump Sta. Property

Less and except the following described property previously conveyed to the City of Fayetteville, Arkansas, to-wit: Part of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Twenty-eight (28), Township Sixteen (16) North, Range Thirty (30) West, Fayetteville, Washington County, Arkansas, as follows: Commencing at the Northwest corner of said SE¼ of the NE¼; thence South 03° 09' 10" West, 97.0 feet; thence South 86° 50' 50" East 15.0 feet to the point of beginning; thence South 86° 50' 50" East 43.0 feet; thence South 03° 09' 10" West 39.0 feet; thence North 86° 50' 50" West 43.0 feet; thence North 03° 09' 10" East 39.0 feet to the point of beginning.

AND,

LESS AND EXCEPT the following described property which was previously sold to Joe Fred Starr and Wilma Joanne Starr, to-wit: A Part of Tract "A" of Country Club Estates also known as a Part of the SE¼ of the NE¼ of Section 28, T-16-N, R-30-W, Fayetteville, Washington County, Arkansas, more particularly described as follows:

Commencing at the northwest corner of said SE¼ of the NE¼ thence S 03°09'10" W, 655.16 feet; thence S 03°17'20" W, 326.77 feet to the northern most corner of Lot 147 of said Country Club Estates said point also being the Point of Beginning; thence N 90°00'E, 310.4 feet to the westerly right-of-way of Country Club Drive; thence southeasterly along said right-of-way on a curve to the left, having a radius of 1402.13 feet, subtended by a chord having a bearing of S 13°15' E, a distance of 110.2 feet to the northeast corner of Lot 149 of said Country Club Estates; thence S 74°20'20" W, 191.34 feet along the North line of said Lot 149 to the northwest corner thereof; thence N 42°35' 04" W, 226.41 feet along the northerly line of Lots 147 and 148 of said Country Club Estates to the point of beginning. Containing 0.051 acres more or less.

BOOSTER PUMP STA. PROPERTY

SEE DEED 1132 PAGES 328-331

93 13521

3.84

01-29-97

24th Street (Country Club Drive)
R/W Widening Project
Fayetteville, Arkansas

~~November 5, 1996~~
Job No. 962102

Revised Basis

TRACT 10

PROPERTY OWNER

Jerry D. and Sharon J. Sweetser
590 Poplar
Fayetteville, Arkansas 72703

PROPERTY DESCRIPTION (See Attached)

RIGHT OF WAY DESCRIPTION

A part of the SE¼ of the NE¼ of Section 28, T-16-N, R-30-W, being more particularly described as follows: From the NW corner of the SE¼ of the NE¼ of said Section 28, thence South 2°58'20" West - 90.33 feet, more or less, to the platted South Right of Way line of 24th Street for the POINT OF BEGINNING, thence South 78°52'43" East along the platted South Right of Way line 112.20 feet to a curve; thence Southeasterly along the platted South Right of Way line 180.84 feet; thence South 24°16'34" East - 163.67 feet to a curve on the platted West Right of Way line of 24th Street; thence Southwesterly along the platted West Right of Way line 185.76 feet to a second curve; thence continuing Southwesterly along the platted West Right of Way line 517.78 feet; thence North 36°36'15" West - 89.75 feet; thence North 4°50'50" West - 218.00 feet; thence North 16°09'00" East - 155.18 feet; thence North 19°03'10" East - 110.05 feet to a curve; thence along the curve to the left 384.82 feet which has a chord bearing and distance of North 33°30'30" West - 346.90 feet, a radius of 246.48 feet, and a delta angle of 89°27'15" ; thence North 71°42'34" West - 44.00 feet; thence North 78°14'08" West - 29.92 feet to the West property line; thence North 2°58'20" East along said West property line 6.98 feet, more or less, to the POINT OF BEGINNING, containing 45,987 sq. ft. (1.06 acres), more or less, to the City of Fayetteville, Washington County, Arkansas.

The bearings for this description are based on the City of Fayetteville Global Positioning Satellite System, which may vary from the bearing system previously used in describing the subject property.

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement 15 feet in width being parallel with and contiguous to the above described Right of Way Description and situated on the South, East, and West sides thereof. This temporary construction easement contains 16,341 sq. ft. (0.38 acres), more or less, and shall terminate when the hereinbefore referenced project has been completed and accepted by the City of Fayetteville.

96102:10:jm

12.68

01-29-97

24th Street (Country Club Drive)
R/W Widening Project
Fayetteville, Arkansas

~~November 5, 1996~~
Job No. 962102

Revised Basis

TRACT 10

PROPERTY OWNER

Jerry D. and Sharon J. Sweetser
590 Poplar
Fayetteville, Arkansas 72703

PROPERTY DESCRIPTION (See Attached)

RIGHT OF WAY DESCRIPTION

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The bearings for this description are based on the City of Fayetteville Global Positioning Satellite System, which may vary from the bearing system previously used in describing the subject property.

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A temporary construction easement 15 feet in width being parallel with and contiguous to the above described Right of Way Description and situated on the South, East, and West sides thereof. This temporary construction easement contains 16,341 sq. ft. (0.38 acres), more or less, and shall terminate when the hereinbefore referenced project has been completed and accepted by the City of Fayetteville.

96102:10:jm

12.69

24th Street (Country Club Drive)
R/W Widening Project
Fayetteville, Arkansas

May 9, 1996
Job No. 962102

TRACT 10

Appraisal Basis

PROPERTY OWNER

Jerry D. and Sharon J. Sweetser
590 Poplar
Fayetteville, Arkansas 72703

PROPERTY DESCRIPTION (See Attached)

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A part of the SE¼ of the NE¼ of Section 28, T-16-N, R-30-W, being more particularly described as follows: From the NW corner of the SE¼ of the NE¼ of said Section 28, thence South 2°58'20" West - 90.33 feet, more or less, to the platted South Right of Way line of 24th Street for the POINT OF BEGINNING, thence South 78°52'43" East along the platted South Right of Way line 112.20 feet to a curve; thence Southeasterly along the platted South Right of Way line 155.00 feet; thence South 32°20'15" East - 39.38 feet; thence South 31°58'38" East - 135.70 feet to a curve on the platted West Right of Way line of 24th Street; thence Southwesterly along the platted West Right of Way line 185.76 feet to a second curve; thence continuing Southwesterly along the platted West Right of Way line 568.08 feet; thence South 89°41'00" West - 47.53 feet; thence North 17°52'46" West - 12.94 feet; thence North 15°34'56" West - 55.10 feet; thence North 3°13'47" East - 164.45 feet; thence North 2°06'50" West - 106.94 feet; thence North 15°51'37" East - 103.62 feet; thence North 22°31'43" East - 51.00 feet; thence North 11°13'07" East - 50.00 feet; thence North 1°36'08" East - 59.86 feet to a curve; thence along the curve to the left 384.82 feet which has a chord bearing and distance of North 33°30'30" West - 346.90 feet, a radius of 246.48 feet, and a delta angle of 89°27'15" ; thence North 71°42'34" West - 44.00 feet; thence North 78°14'08" West - 29.92 feet to the West property line; thence North 2°58'20" East along said West property line 6.98 feet, more or less, to the POINT OF BEGINNING, containing 41,310 sq. ft. (0.95 acres), more or less, to the City of Fayetteville, Washington County, Arkansas.

The bearings for this description are based on the City of Fayetteville Global Positioning Satellite System, which may vary from the bearing system previously used in describing the subject property.

TEMPORARY CONSTRUCTION EASEMENT

A temporary construction easement 15 feet in width being parallel with and contiguous to the above described Right of Way Description and situated on the South, East, and West sides thereof. This temporary construction easement contains 18,305 sq. ft. (0.42 acres), more or less, and shall terminate when the hereinbefore referenced project has been completed and accepted by the City of Fayetteville.

96102:10:jm

TR #10

INDEPENDENT REAL PROPERTY APPRAISAL REPORT
BY
ASSOCIATED APPRAISERS, INC.
555 E.J. Ball Plaza
Fayetteville, Arkansas
501-521-2717

JOB DESIGNATION: 24th Street Improvement Project
City Project # 96043

APPRAISAL REQUESTED BY: The City of Fayetteville, Arkansas

Name of Owner: Jerry D. and Sharon J. Sweetser

Owner's Address: 590 West Poplar, Fayetteville, AR 72703

Address of Parcel: South 24th Street, Fayetteville, Arkansas

PURPOSE OF APPRAISAL:

The property acquired by the right of eminent domain will be used by City of Fayetteville, Arkansas to widen and improve South 24th Street.

PROPERTY INSPECTION DATA:

Owner Notified: Unknown
Date of Inspection: June 12, 1996
Present at Inspection: None

LEGAL DESCRIPTION OF PARCEL: See attached.

LEGAL DESCRIPTION OF PARTIAL TAKING: See attached.

Area of Parcel: 5.039 acres
Area of Partial Taking: 41,310 sq. ft. or 0.95 acres
Location of Partial Taking: Northern edge of property
Location and size of Temporary Construction Easement:
18,305 sq. ft.(0.42 ac) on the north, east, and west sides thereof easement

ESTIMATE OF JUST COMPENSATION:

ESTIMATE OF FAIR MARKET VALUE BEFORE TAKING:

Land:	$36,785.00
Improvements:	None
Total:	**$36,785.00**

DISCUSSION OF SEVERANCE DAMAGE:

The term "severance damage" is often misunderstood, and it is most important that no confusion exists as to the difference between severance damage and consequential damage. Severance damage is the loss in value of the remaining parcel after the taking as compared to the value of the remaining parcel before the taking, when it was considered as a part of the whole. Severance damage, therefore, can rise only in the case of partial takings -- that is, where there is a taking of a part of a larger parcel.

Where the taking is in easement form, the severance is of property rights only; but just because there is a physical severance, it does not follow, by itself, that severance damages have also been created to the remainder of the land. In this case the widening of South 24th Street will not result in any severance damage to the subject property.

TR #10

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BY
ASSOCIATED APPRAISERS, INC.
555 E.J. Ball Plaza
Fayetteville, Arkansas
501-521-2717

JOB DESIGNATION: 24th Street Improvement Project
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Where the taking is in easement form, the severance is of property rights only; but just because there is a physical severance, it does not follow, by itself, that severance damages have also been created to the remainder of the land. In this case the widening of South 24th Street will not result in any severance damage to the subject property.

DISCUSSION OF ENHANCED VALUE:

Where the public use for which a portion of a person's land is taken so enhances the value of the remainder by local, peculiar and special benefits that the remainder is more valuable than the whole was before the taking, the owner has received just compensation.

CITY OF FAYETTEVILLE V. STONE, 194 Ark. 218, 106 S.W. 2nd. 158.

General benefits should not be considered in assessing damages for the construction of a public improvement because it would be unjust to charge the owner whose property has been taken with benefits he receives in common with the community in general, when other landowners, whose property is not taken, enjoy the benefits equally. The same reason does not apply to special benefits.

LITTLE ROCK & FT.S. RY. V. ALLISTER, 68 Ark. 600, 60 S.W. 953.

Enhanced value then arises when the remainder is more valuable than the whole was before the taking and the just compensation is the enhancement in value. In this case it is our opinion that the subject property will be enhanced. However, we were unable to determine the value of the enhancement from market data.

ESTIMATE OF FAIR MARKET VALUE AFTER THE TAKING

Land:	$29,850.00
Improvements:	None
Total:	**$29,850.00**

ESTIMATE OF JUST COMPENSATION

$6,935.00

VALUATION OF PARCEL:

MARKET APPROACH

See brochure of sales of comparable properties, submitted with this report.

Based on the listed comparables, as well as an inspection of the subject property, it is my opinion that the estimated Fair Market Value of the subject property is as follows:

Estimate of Value Before Imposition of Taking: $36,785.00

Estimate of Value After Imposition of Taking: $29,850.00

REPLACEMENT COST LESS DEPRECIATION APPROACH

Improvements:None

HISTORY OF OWNERSHIP:

In accordance with the new standards of professional practice of the American Institute of Real Estate Appraisers the appraiser is to provide the lender with a three (3) year history of ownership of the subject property. The history of ownership is also a requirement under Federal Banking regulations. The reader should recognize however, that in some cases substantial changes in the market for a particular parcel of property may occur in a short period of time just as an intervening owner may have improved the property since acquisition or on the other hand allowed the improvements to deteriorate significantly.

Washington County records indicate that the current owner acquired the property from Esther Taylor, et al on March 8, 1993. The transaction was by means of a warranty deed recorded in Book 93 at Page 13520. Revenue stamps attached to the deed indicated a purchase price of $40,000.00 for this parcel and Tract 9 (.42 acres).been the owner of record of the subject property for more than the past three years.

TAX INFORMATION:

The subject property is currently assessed by the Washington County assessor's office as follows:

Land:	$40,950.00
Improvements:	None

Washington County real property, as the rest of the state, is assessed at twenty (20) per cent of market value. The current assessment indicates an annual tax liability of approximately $387.39.

It should be noted that the county has recently been reassessed and real property taxes will be increased.

HIGHEST AND BEST USE:

Highest and Best Use[1] - That reasonable and probable use that will support the highest present value, as defined, as of the effective date of the appraisal.

Alternatively, that use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible and which results in highest land value.

The definition above applies specifically to the highest and best use of the land. It is to be recognized that in cases where a site has existing improvements on it, the highest and best use may very well be determined from the existing use. The existing use will continue, however, unless and until land in its highest and best use exceeds the total value of the property in its existing use.

Implied within these definitions is recognition of the contribution of that specific use, to community environment or the community development goals in addition to wealth maximization of individual property owners.

[1]Real Estate Appraisal Terminology, page 107

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[1]Real Estate Appraisal Terminology, page 107

HIGHEST AND BEST USE:

The highest and best use of the subject tract is based on the trends in development in the neighborhood, access to major streets and highway, the local market for similar properties, and overall market trends in the area.

The subject property is currently zoned R-2 (Low Density Residential). A change in zoning is probably not possible when considering the development of the immediate neighborhood.

When considering the location, surrounding land uses, terrain and topography and configuration, it is our opinion that the highest and best use is for development consistent with the zoning regulations.

NEIGHBORHOOD DATA

For appraisal purposes, a neighborhood is considered to be a portion of a larger community, or an entire community, in which there is a homogeneous grouping of inhabitants, buildings, or business enterprises. Inhabitants of a neighborhood usually have a more than casual community of interest and a similarity of economic level or cultural background. Neighborhood boundaries may consist of well-defined natural or man-made barriers or they may be more or less well-defined by a distinct change in land use or in the character of the inhabitants.

The neighborhood in this case can be considered to be those properties located west of South School Street, south of South of 22nd Street, west of City Lake Road, and north of Skelton Street in the southeast quadrant of the City of Fayetteville, Washington County, Arkansas. The neighborhood contains a mixture of land uses with commercial development being predominant along either side of South School Street, a mixture of residential and light industrial development along the western boundary, a mixture of vacant ground and older single family housing along the northern and southern boundaries, a single family residential subdivision of homes in the upper medium and upper price ranges surrounding the Fayetteville Country Club which forms the major portion of the neighborhood, and a medium sized apartment complex of subsidised housing units lying just east of and adjacent to South School Street.

With the exception of the residential development lying in proximity to the Fayetteville Country Club, our inspection of the neighborhood indicated that real property values are essentially stagnant. Property values in the vicinity of the Country Club appear to be increasing.

SITE DATA

The site in this case consists of an irregular shaped parcel of unimproved property lying on the south and west sides of South 24th Street in the southeast quadrant of the City of Fayetteville, Arkansas. Our inspection of the property indicated that it was steep, wooded hillside land that would be extremly difficult to develop. Access is only available from South 24th Street, A sewer lift station is situated on the property. Soil tests have neither been conducted by nor provided to this office and no opinion is expressed regarding the suitability of the soil for intensive development. An inspection of improvements to parcels in proximity to the subject site revealed no adverse conditions.

[1]Real Estate Appraisal Terminology, page 107

SITE DATA

An inspection of the site revealed no apparent adverse easements or encroachments. Drainage appears to be adequate. **The subject property does not lie in a H.U.D. identified flood zone.**

In conclusion, the site is zoned for low density residential development, consists of steep, wooded lands, has extensive frontage on South 24th Street, and is of adequate size for residential development but suffers from adverse terrain characteristics.

ANALYSIS OF COMPARABLE SALES

Sales Comparison Approach[1] - Approach through which an appraiser derives a value indication by comparing the property being appraised to similar properties that have sold recently, applying appropriate units of comparison, and making adjustments, based on the elements of comparison, to the sale prices of the comparables.

Unimproved Sales

The appraiser has attempted to locate sales of unimproved property similar to the subject in terms of location, size, terrain, topography, access, utility of use, and with a date of sale as recent in time to the date of the appraisal so as to reflect current market conditions.

Sale #1 is the early 1993 sale of Tract "A" of the Country Club Estates Subdivision and known as Tract 9 and Tract 10 of the subject right of way project. The sale property was zoned R-2 and was steeply wooded hillside. The sale indicated an unadjusted value to the subject of approximately **$7,300.00 per acre.**

Sale #2 is a mid 1993 sale of an 8.53 acre parcel of rolling, wooded hillside land zoned R-2 and located at the southwest corner of the intersection of Old Missouri and Zion Roads to the north of the subject property. The sale property was acquired for development purposes but was resold following engineering studies to another party for $160,000.00. It is our understanding that the purchaser filed for bankruptcy and the property is now being developed. The sale indicated an undjusted value of approximately **$10,000.00 per acre** in the first transaction and approximately **$18,750.00 per acre** in the second transaction.

Sale #3 is an early 1993 sale of a large (38 acre) parcel of unimproved property located west of Shiloh Drive and south of Mt Comfort Road to the northeast of the subject property. The sale property was zoned R-2 and was essentially open pasture land with good terrain features. The sale property was acquired for duplex lot development and has been developed as Pine Valley Subdivision. The sale property is considered to be quite superior to the subject in terms of terrain and topography. The sale indicated an unadjusted value to the subject of approximately **$6,900.00 per acre.**

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1. The Dictionary of Real Estate Appraisal, Second Edition, AIREA, page 268.

[1]Real Estate Appraisal Terminology, page 107

SITE DATA

An inspection of the site revealed no apparent adverse easements or encroachments. Drainage appears to be adequate. **The subject property does not lie in a H.U.D. identified flood zone.**

In conclusion, the site is zoned for low density residential development, consists of steep, wooded lands, has extensive frontage on South 24th Street, and is of adequate size for residential development but suffers from adverse terrain characteristics.

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Unimproved Sales

The appraiser has attempted to locate sales of unimproved property similar to the subject in terms of location, size, terrain, topography, access, utility of use, and with a date of sale as recent in time to the date of the appraisal so as to reflect current market conditions.

Sale #1 is the early 1993 sale of Tract "A" of the Country Club Estates Subdivision and known as Tract 9 and Tract 10 of the subject right of way project. The sale property was zoned R-2 and was steeply wooded hillside. The sale indicated an unadjusted value to the subject of approximately **$7,300.00 per acre.**

Sale #2 is a mid 1993 sale of an 8.53 acre parcel of rolling, wooded hillside land zoned R-2 and located at the southwest corner of the intersection of Old Missouri and Zion Roads to the north of the subject property. The sale property was acquired for development purposes but was resold following engineering studies to another party for $160,000.00. It is our understanding that the purchaser filed for bankruptcy and the property is now being developed. The sale indicated an undjusted value of approximately **$10,000.00 per acre** in the first transaction and approximately **$18,750.00 per acre** in the second transaction.

Sale #3 is an early 1993 sale of a large (38 acre) parcel of unimproved property located west of Shiloh Drive and south of Mt Comfort Road to the northeast of the subject property. The sale property was zoned R-2 and was essentially open pasture land with good terrain features. The sale property was acquired for duplex lot development and has been developed as Pine Valley Subdivision. The sale property is considered to be quite superior to the subject in terms of terrain and topography. The sale indicated an unadjusted value to the subject of approximately **$6,900.00 per acre.**

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1. The Dictionary of Real Estate Appraisal, Second Edition, AIREA, page 268.

[1]Real Estate Appraisal Terminology, page 107

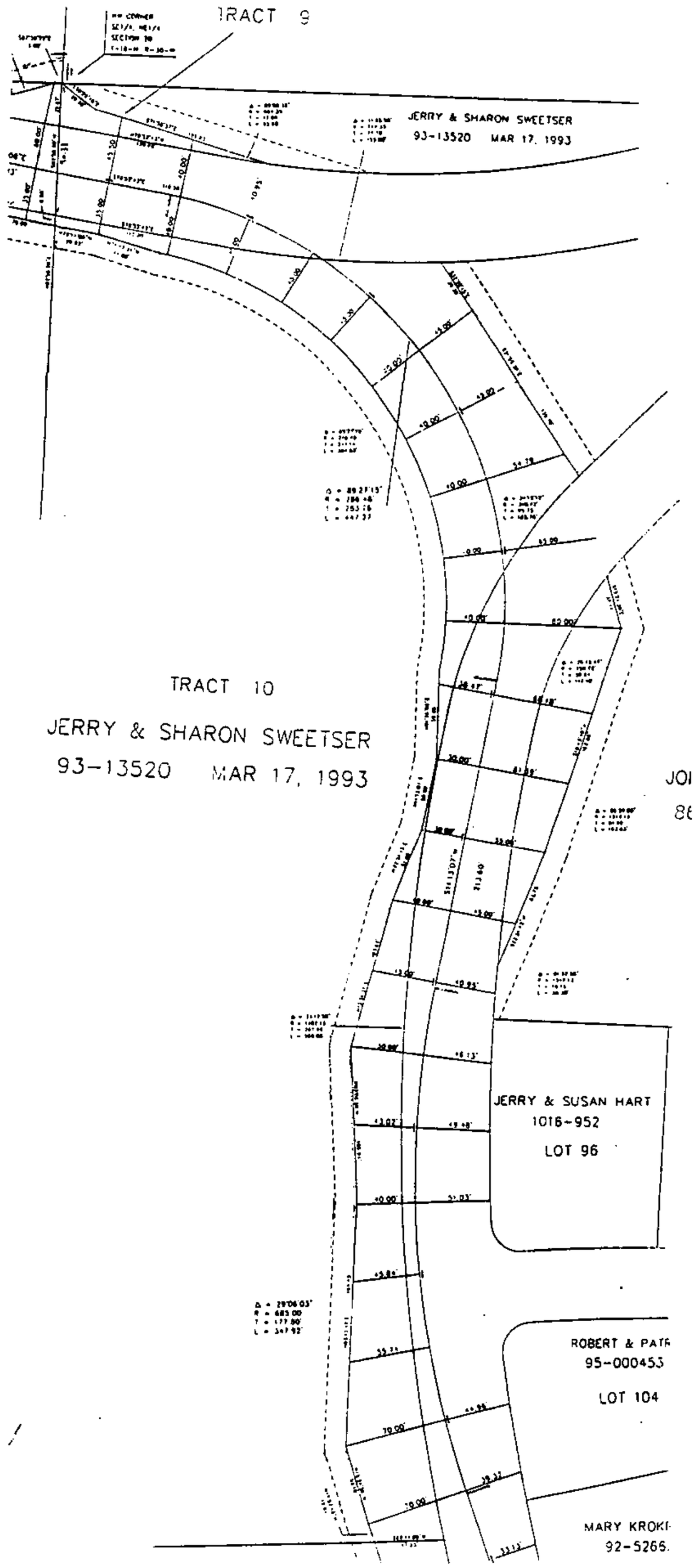
ANALYSIS OF COMPARABLE SALES
Continued

Based on the above analysis and taking into consideration the various characteristics of the subject property, as well as a knowledge of the national and local economy and the resulting influence on real property values in the area, it is my opinion that the estimated **market value** of the subject site is as follows:

Site

5.039 acres @ $7,300.00 per acre = **$36,785.00**

[1]Real Estate Appraisal Terminology, page 107


TRACT 9
JERRY & SHARON SWEETSER
93-13520 MAR 17, 1993
TRACT 10
JERRY & SHARON SWEETSER
93-13520 MAR 17, 1993
JERRY & SUSAN HART
1016-952
LOT 96
ROBERT & PATR
95-000453
LOT 104
MARY KROKI
92-5265

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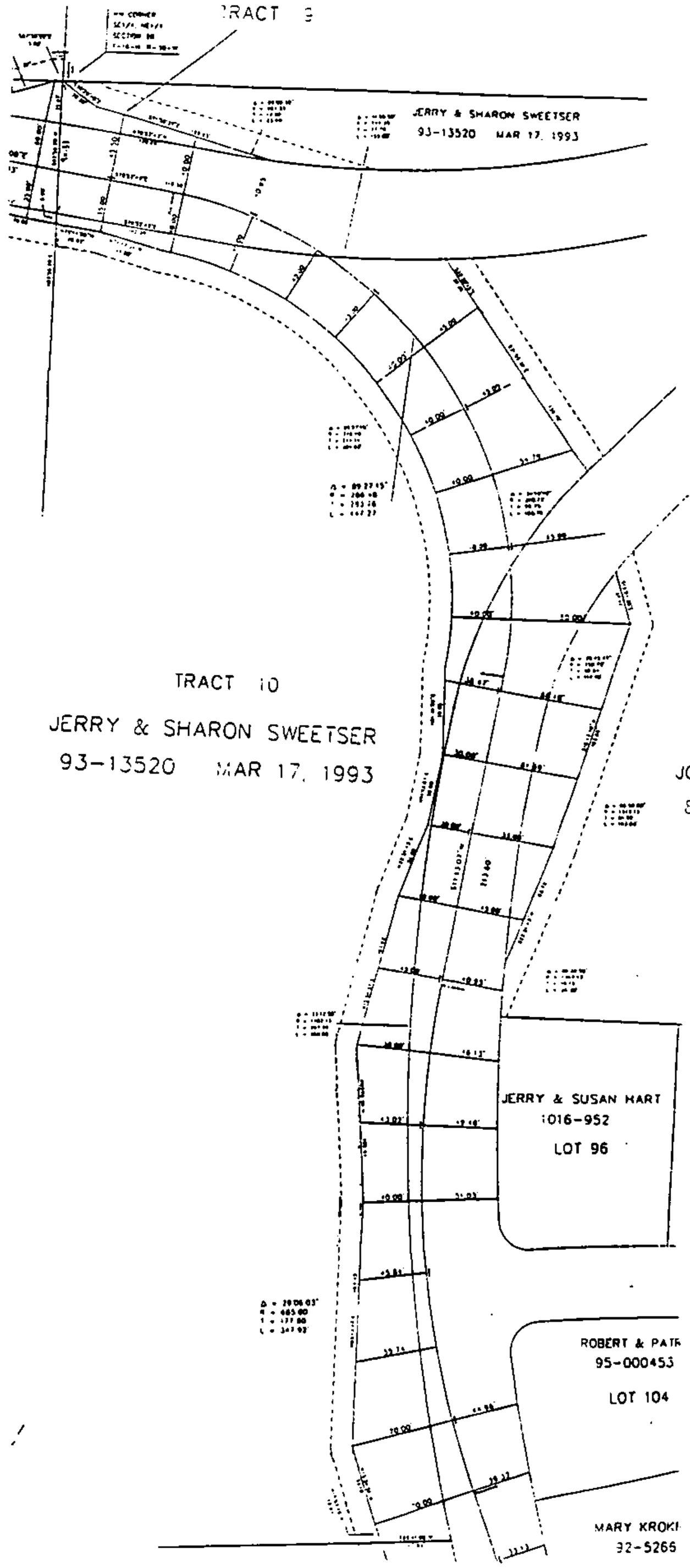
TRACT 9
JERRY & SHARON SWEETSER
93-13520 MAR 17, 1993
TRACT 10
JERRY & SHARON SWEETSER
93-13520 MAR 17, 1993
JERRY & SUSAN HART
1016-952
LOT 96
ROBERT & PATR
95-000453
LOT 104
MARY KROKI
32-5265

Sale # 1 (06192003-920308)

Seller: Esther Taylor et al to Jerry D. Sweetser
Location: Pt Tract A, Country Club Estates
Fayetteville, Washington County, Arkansas
Sale Date: 3/8/92
Size: 5.949 acres
Sale Price: $40,000.00
Improvements: None of contributory value

Book & Page: 93-13520
Remarks: Zoned R-2, steep, wooded hillside with access from
Country Club Drive and South 24th Street

Sale # 2 (00793003-930806)

Seller: First Baptist Church of Farmington Arkansas to R.J.
Merry-ship Property Management Company Inc.
Location: Pt NW SE Section 24, Township 17N, Range 30W
(Zion and Old Missouri Rd, Fayetteville, Arkansas
Sale Date: 8/6/93
Size: 8.53 acres
Sale Price: $86,000.00
Improvements: None of contributory value

Book & Page: 93-45040
Remarks: Partially wooded land zoned R-2 and acquired for use
as a subdivision

Sale # 3 (02693007-930325)

Seller: Anders, Potts and Arkansas Book Inc. to BMP Development
Inc.
Location: SE SW Section 6, Township 16N, Range 30 West
(Sycamore Street west of U.S. Highway 71)
Sale Date: 3/25/93
Size: 38.24 acres
Sale Price: $265,000.00
Improvements: None of contributory value

Book & Page: 93-15303
Remarks: Site of a new duplex subdivison known as Pine Valley

3.100 **DEFINITION OF MARKET VALUE:** The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; those costs are readily identifiable since the seller pays those costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession, but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF LIMITING CONDITIONS AND APPRAISER'S CERTIFICATION

CONTINGENT AND LIMITING CONDITIONS: The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.

2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.

3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.

6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.

8. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.

9. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that completion of the improvements will be performed in a workmanlike manner.

10. The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower; the mortgagee or its successors and assigns; the mortgage insurer; consultants; professional appraisal organizations; any state or federally approved financial institution; or any department, agency, or instrumentality of the United States or any state or the District of Columbia; except that the lender/client may distribute the property description section of the report only to data collection or reporting service(s) without having to obtain the appraiser's prior written consent. The appraiser's written consent and approval must also be obtained before the appraisal can be conveyed by anyone to the public through advertising, public relations, news, sales, or other media.

12.78

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APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.

2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.

3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form.

4. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property.

5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.

6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.

7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.

8. I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.

9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and disclosed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

SUPERVISORY APPRAISER'S CERTIFICATION: If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

ADDRESS OF PROPERTY APPRAISED: South 24 St Widening Project, Fayetteville, AR

APPRAISER:	**SUPERVISORY APPRAISER (only if required):**
Signature: Keith L. Schultz	Signature:
Name: Keith L. Schultz	Name:
Date Signed: June 20, 1996	Date Signed:
State Certification #: CGO # 271	State Certification #:
or State License #:	or State License #:
State: Arkansas	State:
Expiration Date of Certification or License: 6/30/96	Expiration Date of Certification or License:

☐ Did ☐ Did Not Inspect Property

13.01

STAFF REVIEW FORM

xxxxxxx Agenda Request
_____ Contract Review
_____ Grant Review

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF April 21, 1997

FROM:

Charles Venable	Public Works	Public Works
Name	Division	Department

ACTION REQUESTED: Approval of an ordinance changing the name of a section of Cato Springs Road between U.S. Highway 71 and the junction of Razorback Road, a distance of approximately 0.39 miles, to Razorback Road.

COST TO THE CITY:

$0		
Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

_____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator	Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager	Date	Internal Auditor	Date
City Attorney	4-6-'98 Date	ADA Coordinator	Date

Purchasing Officer	Date

STAFF RECOMMENDATION: Staff recommends approval.

Division Head	4-6-98 Date	**Cross Reference**
Department Director	7 APR 98 Date	New Item: Yes No
Administrative Services Director	4-6-98 Date	Prev Ord/Res #: _____
Mayor	4/7/98 Date	Orig. Contract Date: _____

13.02

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

MEMO

To: Mayor Hanna & the Fayetteville City Council

From: Charles Venable C.Ad-

Date: April 3, 1998

Subject: Street Name Change

The State Highway and Transportation Department contacted me this week regarding the names of streets the City would like to have placed on the signs approaching the Cato Springs interchange area on the new freeway scheduled to open early next year.

Since Razorback Road has recently been consructed and leads into the University of Arkansas campus, as well as providing excellent access to the downtown area, I feel that the signage should indicate Razorback Road for the northbound traffic. However, this will require redesignation of approximately 0.39 miles of Cato Springs Road between US Highway 71 and the junction of Razorback Road and Cato Springs Road. (See attached map.) This change would also coincide with State Highway 112. The city street signs that were installed when Razorback Road was constructed already depict this section as Razorback Road.

I have discussed any problems that this name change might cause with Mr. Jim Johnson, the City's 911 Coordinator, and he does not foresee any problems. Mr. Johnson will contact the property owners whose addresses will have to be changed (I believe there are three), as well as the postal service, prior to final action by the City Council.

Attachment

cc: Jerry Rose
Kevin Crosson
Jim Johnson

C:\APP\DATA\WPDATA\CHARLIE\MEMOS\NAMECHG.WPD

113 WEST MOUNTAIN 72701 501-521-7700
FAX 501-575-8257

13.03

ATTACHMENT

13.04

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE NAME CHANGE OF A PORTION OF APPROXIMATELY 0.39 MILES OF A STREET KNOWN AS CATO SPRINGS ROAD.

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

SECTION 1. That the City Council hereby authorizes the name change for a section of a street now called Cato Springs Road to be known as Razorback Road from the north bridge end over present US Highway 71 to the junction of Cato Springs Road and Razorback Road, a distance of approximately 0.39 miles.

SECTION 2. That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the name change of the street provided in Section 1. above.

PASSED AND APPROVED this _____ day of _____.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, Interim City Clerk

FLOYD COX, JR. OR ASSIGNS

PAUL MARINONI, JR. OR ASSIGNS

WILLIAM C. SHERWOOD OR ASSIGNS

CYRUS KOOSHESH OR ASSIGNS

S87°32'28"E 1323.12'

S87°12'16"E 1303.68'

MARCELLA THOMPSON OR ASSIGNS

N02°19'26"E 659.95'

(20.04 acres in NW-SE¼-SE¼ 11-16-31)

N87°33'24"W 1322.48'

PEGGY RUTH GUISINGER JONES ET AL

59.60 ACRES (2,596,142 SQ. FT.)

(39.56 acres in SW¼-SW¼ 12-16-31)

NORTH 46th STREET

S02°16'32"W 1322.34'

HOYET GREENWOOD OR ASSIGNS

LEONARD G. PATTERSON OR ASSIGNS

CALICO FAMILY TRUST OR ASSIGNS

H. DON LEWIS OR ASSIGNS

CLAYTON HOLCOMB OR ASSIGNS

WILLIAM B. HAYES OR ASSIGNS

N02°22'47"E 659.60'

N87°04'03"W 1281.53'

WEST PERSIMMON STREET

N87°04'03"W 1306.10'

POINT-OF-BEGINNING
S.W. CORNER
12-16-31

COUNTY ROAD NO. 646

HOYET GREENWOOD OR ASSIGNS

LEGEND:

- MONUMENT FOUND AS NOTED
- MONUMENT SET AS NOTED
- FOUND STONE MONUMENT
- F'VILLE CITY CONTROL MONUMENT
- NAIL
- COTTON SPINDLE (CPS)
- FIRE HYDRANT
- WATER METER
- VALVE
- WATER FAUCET
- GAS METER
- POWER POLE
- SERVICE POLE
- GUY ANCHOR
- LIGHT
- TELEPHONE PEDESTAL
- TELEPHONE MANHOLE
- TELEVISION PEDISTAL
- SANITARY SEWER MANHOLE
- DRAINAGE MANHOLE
- SHRUB
- SIGN
- MAIL BOX
- TREE

REGISTERED
STATE OF ARKANSAS
No 1174
MICHAEL R. MASSE
PROFESSIONAL LAND SURVEYOR

100 0 100 200
GRAPHIC SCALE IN FEET

LEGAL DESCRIPTION:

The North Half (N½) of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Eleven (11), and the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of Section Twelve (12), all in Township Sixteen (16) North of Range Thirty-one (31) West of the 5th Principal Meridian, containing sixty acres, and being situated in Washington County, Arkansas.

Subject, however, to all existing leases, easements (recorded or unrecorded) and restrictive covenants of record.

SURVEY DESCRIPTION:

A certain tract of land located within the corporate limits of the City of Fayetteville, being the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of Section Twelve (12), and the North Half (N½) of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Eleven (11), all in Township Sixteen (16) North, Range Thirty-one (31) West of the Fifth (5th) Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit;

Beginning at a railroad spike set at the Southwest corner of said Section 12, thence N02°22'47"E 659.60 feet to a set rebar; thence N87°33'24"W 1322.48 feet to a set rebar; thence N02°19'26"E 659.96 feet to a set rebar; thence S87°32'28"E 1323.12 feet to a set rebar; thence S87°12'16"E 1303.68 feet to a set railroad spike; thence S02°16'32"W 1322.34 feet to a set railroad spike; thence N87°04'03"W 1306.10 feet to the Point-of-Beginning, containing 59.60 acres (2,596,142 sq. ft.), more or less, subject to all rights-of-way, servitudes, and easements, of record or fact.

VICINITY MAP
NOT TO SCALE

500-16-31-0-11-220-72-1174
500-16-31-0-12-330-72-1174

BOUNDARY SURVEY

GUISINGER ESTATE
FAYETTEVILLE, ARKANSAS

EDA
Consulting Engineering
Landscape Architecture
Land Surveying
Engineering Design Associates, P.A.
3291 South Thompson, Bldg. A, Suite 105
Springdale, Arkansas 72764
(501) 756-1266
Fax: (501) 756-7129

DRAWN BY: MBM CHECKED BY: RMA	
DATE: 4-03-98	
SCALE: 1" = 100'	
JOB NUMBER: 0280	
FILE NAME: 0280BORY.DWG	
DESCRIPTION: N½-SE¼-SE¼, 11-16-31 & SW¼-SW¼, 12-16-31, WASHINGTON COUNTY, ARKANSAS	SHEET 1 OF 1

file w/ Planda 4/21/98 & Ex Mtg