

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL APRIL 18, 2000

A meeting of the Fayetteville City Council will be held on April 18, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from the April 4, 2000 City Council meeting.
2. **PARKING LOT LEASE:** A resolution approving a contract with Arkansas Teacher Retirement System for the lease of 27 parking spaces in the parking lot located east of Block Avenue and south of Rock Street.
3. **COMMUNITY BLOCK GRANT:** A resolution approving the 2000 Community Development Block Grant agreement and funding approval.
4. **STEARNS STREET:** A resolution approving request AD 99-30.00 submitted by David Bercaw on behalf of Lenk Development for property located south of Zion Road. The property is zoned R-2, Medium Density Residential and contains approximately 5 acres. The request is to guarantee future construction of Stearns Street with a letter of credit.
5. **MASTER STREET PLAN AMENDMENT:** A resolution to amend the Maser Street Plan to remove the north/south collector street that is located east of Crossover Road between Township and Skillern Road.
6. **ADVANTAGE ARKANSAS PROGRAM:** A resolution certifying local government endorsement of Automated Research and Marketing to participate in the Advantage Arkansas Program (Arkansas Enterprise Zone Program Act 947 of 1993).



B. OLD BUSINESS

1. **SENIOR COMMUNITY CENTER:** An ordinance approving a 2 mil tax for one year to fund a Senior Community Center/Services. The ordinance was left on the second reading at the April 4, 2000 meeting.
2. **RZ 00-11.00:** An ordinance approving rezoning request RZ 00-11.00 submitted by Ronald G. Woodruff on behalf of the Joyce M. Ogden Family Trust for property located at 2300 Cato Springs Road. The property is zoned R-2, Medium Density Residential and contains approximately 4.02 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the April 4, 2000 meeting.
3. **RZ 00-12.00:** An ordinance approving rezoning request RZ 00-12.00 submitted by George Faucette on behalf of Butterfield Trail Village for property located at the southwest corner of Joyce Blvd. and Old Missouri Road. The property is zoned A-1, Agricultural and contains approximately 6 acres. The request is to rezone to R-O, Residential Office. The ordinance was left on the second reading at the April 4, 2000 meeting.

C. NEW BUSINESS

1. **RZ 00-13.00:** An ordinance approving rezoning request RZ 00.13.00 submitted by Charles Venable on behalf of the City of Fayetteville for property located at 1020 Harold Street. The property is zoned R-1, Low Density Residential and contains approximately 0.77 acres. The request is to rezone to R-O, Residential Office.
2. **CHARLESTON PLACE:** An appeal of a Planning Commission decision submitted by Greg House for property located in the Charleston Place PUD. The request is for a non-residential structure within 75 feet of an adjacent R-1 zoning district.
3. **LAKE HILLS CHURCH:** An appeal of a Planning Commission decision submitted by Jon Allen on behalf of Lake Hills Church for property located on Hwy 265, south of Williams Dance Studio. The property is zoned A-1, Agricultural and contains approximately 3.58 acres. The request is to rezone to P-1, Institutional.
4. **STEELE CROSSING SHOPPING CENTER:** An appeal of a Planning Commission decision submitted by Kirk Rankin on behalf of Argus Properties for property located on Lot 15 of CMN Business Park. The property is zoned C-2, Thoroughfare Commercial and contains approximately 18.48 acres.

CHECKLIST FOR CITY COUNCIL MEETING: ____/____/2000

AGENDA DUE:	Draft	Tentative	Agenda Session	Final
DATE:		4/7/00	4/11/00	4/14/00.

DISTRIBUTION:	T	A	F	Staff:	T	A	F
Bob Reynolds	/	/		Mayor Hanna	/	/	
Ron Austin	/	/		John Maguire	/	/	
Cyrus Young	/	/		Nancy Hendricks	/		
Kyle Russell	/	/		Charles Venable	/	/	
Trent Trumbo	/	/		Don Bunn	/	/	
Bob Davis	/	/		Marilyn Cramer	/		
Kevin Santos	/	/		Steve Davis	/	/	
Heather Daniel	/	/		Yolanda Fields	/		
				Jerry Rose	/	/	
Northwest AR Times	/	/		Tim Conklin	/	/	
Morning News	/	/		Alett Little	/		
AR Democrat-Gazette	/	/			/		

- ☐ **Draft Agenda**
 - ☒ Check for Additional Items
 - ☒ Mail Notification Letters to Applicants / Property Owners

- ☐ **Tentative Agenda**
 - ☒ Include all contracts
 - ☒ Include budget adjustments
 - ☒ All signatures on Staff Review Form
 - ☒ Page numbers correct
 - ☒ 24 copies of agenda packet distributed to Distribution
 - ☒ 34 copies of agenda cover distributed to general staff
 - ☒ 10 copies of agenda cover placed in City Clerk's office agenda cubbybox
 - ☒ Put minutes cover (items approved) on front of agenda

Continued: CHECKLIST FOR CITY COUNCIL MEETING: ____/____/2000

- ☐ **Agenda Session**
 - ☒ Attendance
 - ☒ Additional Information
 - ☒ New Information
 - ☒ Requested Information
 - ☒ Distribute Agenda Session packet to anyone absent
 - ☒ Make sure Lana / Marilyn have their copies

- ☐ **Final Agenda**
 - ☒ Additional Information
 - ☒ Minutes
 - ☒ All signatures on Staff Review Form and executed contracts (other side)
 - ☒ Include all contracts
 - ☒ Include budget adjustments
 - ☒ 24 copies of agenda packet distributed to Distribution
 - ☒ 34 copies of agenda cover distributed to general staff
 - ☒ 15 copies of agenda cover placed in City Council entry box
 - ☒ Advertisement
 - ☒ Display ad faxed to NWAT, Friday, 11:00 a.m.
 - ☒ Fax proof checked / returned to NWAT by Friday afternoon
 - ☒ Cut out Final Agenda from Monday newspaper
 - ☒ Internet disk: approved minutes, agenda, public meetings to Kevin Springer

- ☐ **City Council**
 - ☒ Roll tally
 - ☒ Assemble and bring full agenda
 - ☐ Resolutions / Ordinances:
 - ☒ Resolutions / Ordinances assembled and signed
 - ☒ Update Resolutions / Ordinances Book
 - ☒ Attach correspondence / conversations to Resolutions / Ordinances
 - ☒ Resolutions / Ordinances indexed and microfilmed
 - ☒ Publish ordinances
 - ☒ File ordinances at Washington County Courthouse
 - ☒ Distribute originals and copies with cover letters
 - ☒ Send ordinances for codification
 - ☐ Thank you letters to speakers
 - ☐ Send notification letters to applicants
 - ☐ Index City Council minutes
 - ☐ Distribute City Council minutes
 - ☐ Planning
 - ☐ Marilyn Cramer
 - ☐ Arthur Andersen
 - ☐ Public Library

CITY COUNCIL April 18, 2000

ROLL					
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
MAYOR HANNA	✓				
<i>Steele</i>	<i>H to amend RAP.C. I.C. Smith ICD Amend. Com. Design.</i>				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
MAYOR HANNA					
	<i>8-0-0.</i>				
	<i>3D H. Consent.</i>				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
MAYOR HANNA					
	<i>7-0-1</i>				

CITY COUNCIL April 18, 2000

ROLL	RZ00-12.00.				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
MAYOR HANNA					
	8-0-0 HD to table SR Center.				
SANTOS		✓			
YOUNG		✓			
RUSSELL	check back of 8-0-0	✓			
REYNOLDS		✓			
AUSTIN		✓			
DAVIS		✓			
TRUMBO					
DANIEL		✓			
MAYOR HANNA					
		8-0-0.			
	RZ 00-11.00.				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
MAYOR HANNA					
	8-0.				

Robert Royce.

CITY COUNCIL April 18, 2000

Janet Salomon.

guy
house

Reed
greenwood

Paula
1511 Amber.

CITY COUNCIL April 18, 2000

ROLL	<i>Lake Hills</i>				
SANTOS					
YOUNG					
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
MAYOR HANNA					
SANTOS					
YOUNG					
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
MAYOR HANNA					
SANTOS					
YOUNG					
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
MAYOR HANNA					

*John
allen.*

Withdrawn

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
APRIL 4, 2000**

A meeting of the Fayetteville City Council was held on April 4, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Fred Hanna; Aldermen Robert Reynolds, Bob Davis, Trent Trumbo, Heather Daniel, Cyrus Young and Kyle Russell; City Attorney Jerry Rose; City Clerk Heather Woodruff; Staff; Press; Audience. Aldermen Ron Austin and Kevin Santos were absent.

CONSENT AGENDA

APPROVAL OF MINUTES

Approval of the minutes of the March 21, 2000 and February 29, 2000 City Council meetings.

SCOTTSDALE INSURANCE

A resolution approving a budget adjustment for \$50,000 to pay the deductible for the claim submitted on the Town Center to Scottsdale Insurance for the deductible for professional liability.

RESOLUTION 42-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK

FAYETTE TREE & TRENCH

A resolution approving a contract with Fayette Tree and Trench in the amount of \$289,416.00 for the Arkansas Research and High Technology Park water and sanitary sewer phase I and a construction contingency of \$28,942.00 (10%).

RESOLUTION 43-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK

BID 00-29

A resolution awarding a construction contract for a new water line at Highway 45 East and Wyman Road to J&L Construction in the amount of \$106,040.00, a construction contract contingency of \$10,000 and approval of a budget adjustment.

RESOLUTION 44-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK

BOTANICAL GARDEN BOARD APPOINTMENTS

A resolution appointing Wade Colwell, PRAB member, Lisa Paschal, Parks and Recreation employee and Yolanda Fields, Community Development Coordinator to the Botanical Garden Board.

RESOLUTION 45-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK

BOND COUNSEL

A resolution approving a letter agreement with Wright, Lindsey, and Jennings LLP of Little Rock, Arkansas to serve as bond counsel for the proposed issuance of library construction and improvement bonds. The cost is not-to-exceed \$35,000, plus disclosure documentation, sale document and continuing disclosure agreement preparation cost not-to-exceed \$5,000, plus out-of-pocket expenses not-to-exceed \$3,500 per series of bonds. These costs will be paid from the bond proceeds. Additionally, to authorize the Budget Manager to execute any budget amendments necessary to implement this bond issue.

RESOLUTION 46-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK

BOND UNDERWRITER

A resolution approving a letter agreement with Stephens, Inc. to serve as the underwriter for the proposed issuance of library construction and improvement bonds. The underwriting fee will not exceed 1.25% of the bond issue. These bond issuance costs will be paid from the bond proceeds. Additionally, to authorize the Budget Manager to execute any budget amendments necessary to implement this bond issue.

RESOLUTION 47-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK

BID 99-22

A resolution authorizing the Mayor to enter into a change order to Ruppel Road Bid No. 99-22 with McClinton-Anchor for the water and sewer improvements including a sewage lift station and approving an agreement for Fayetteville Public Schools to compensate the City for such improvements.

RESOLUTION 48-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK

OFF-STREET PARKING

A resolution approving the renewal of the City's lease of parking lots owned by the Off-Street Parking Development District No. 1.

RESOLUTION 49-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK

Alderman Bob Davis moved to approve the consent agenda. Alderman Trent Trumbo seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

SENIOR COMMUNITY CENTER

An ordinance approving a 2 mil tax for one year to fund a Senior Community Center/Services. The ordinance was left on the first reading at the March 21, 2000 meeting.

Mr. Rose read the ordinance.

Mayor Hanna opened the meeting to the Council for comments.

Alderman Daniel stated that she had received a letter from a Washington County resident, and was sure all the Aldermen did also. They were objecting to the tax. This does not include people in the county. She wanted to reassure people that this is strictly applying to the City of Fayetteville.

Mayor Hanna asked if there were any other comments.

Alderman Davis said he talked with Jerry Rose yesterday. Mr. Davis stated he was concerned about the possible property tax proposals that were administered to the ballot which we would be voting on possibly in November of this year. There are two particular resolutions that are out. One of them is 98-268 which talks about the abolishment of the property tax as it currently is and it is talking about requiring the legislation to replace these lost revenues. The other one is 99-001, and is talking about abolishing property taxes which will allow them to also increase sales taxes which will remove the caps on sales taxes and will require three fourths of the legislative approval to add additional taxes. He questioned what would happen if the council passed the millage, advanced the money to the Senior Center, and then the citizens voted to do away with property taxes. How would the city recover their money?

Mr. Rose answered it all depends on what you do. The council has not made the decision yet on what they were doing. Tonight you are deciding whether or not to levy the two mils. There are at least two options out there that will be voted on by the people that may abolish the sales tax. So sheer logic tells you that if you pass something tonight that is abolished later, it isn't going to be there.

Alderman Davis stated that construction will be starting in July or August.

Mr. Rose stated again, it depends upon what arrangements the council has with the Senior

Center. He explained the council may wait until the money was in hand from this tax before construction started which would mean they would have to wait until the money is collected and that is not until late next year. Secondly, the council could advance the Senior Center the money. If the council advanced the money and the taxes are not collected they would not be reimbursed. So the city would be permanently out the money.

Alderman Russell answered, unless we levy a different tax.

Mr. Rose said, unless you levy a different tax, but he was not sure and he didn't know of any off hand. He didn't know how you would do that. You might pass a sales tax, he supposed, that was possible for a bonded indebtedness, and that is certainly a possibility, he guessed.

Alderman Russell asked, is income tax, a possibility?

Mr. Rose answered that income tax is allowed under the Arkansas Statutes. He did not know of a city in Arkansas who has ever attempted such a thing.

Alderman Young said he knew what the legislature would probably do. They would say the city has to do it. But based on what Mr. Rose was saying about one of them that would require a legislature to pass to bring up the money to replace it, would there be a possibility the legislature would pass some kind of deal to cover things like this?

Mr. Rose replied it did not appear to him that there were any provisions for the cities to have their own sales tax, but it appeared the legislature could change that later.

Mayor Hanna said he really felt like that if one of these proposals were passed, the state was going to have to pass a sales tax to make up for the loss of the revenue that had been generated from the property tax. And he felt like the state would make a provision in there for any bonded indebtedness that cities or school districts may already have at the time it is passed. Otherwise there would be bonds forfeited all over the state. He thought cities and schools both, and possibility some other improvement districts that he was not aware of. He did not believe that they would let that happen.

Alderman Young said they haven't for seventy-five or one hundred years. Knowing the legislature that is one thing they make sure the bonds are paid off.

Mr. Rose said he had not read the proposals in great depth, but he believed it would not abolish the property tax which is committed towards bonded indebtedness.

Mr. Rose stated nobody has suggested that the Senior Citizen's Center is going to be funded by a bonded indebtedness. So it is not really relevant particularly to that issue.

Alderman Reynolds asked if the Policemen and Firemen's Pension Plan was the only one covered under the millage plan in the City of Fayetteville?

Mr. Rose answered that the only current millage that we had right now was .5 mils for the Fire Retirement and .5 for the Police Retirement.

Alderman Reynolds asked if that would be affected also if they vote this down?

Mr. Rose answered that yes it would be affected.

Alderman Russell said that was one of the main reasons, he thought that the Police and Fire fighters were major opponents of the proposal to abolish property tax in 1998. They abandoned their campaign when it got thrown off of the ballot. But he thought if the council passed this millage, then the senior citizens of Northwest Arkansas will also become major opponents of the proposals to remove property taxes. He thought the more opponents of these proposals, the better. So he thought the council should go ahead and pass the millage.

Alderman Trumbo said he thought it was only prudent that they move forward with this.

Alderman Davis suggested that they leave it on the second reading.

Mayor Hanna asked if there was anyone in the audience that had something they would like to say regarding this tax? If not, he said he thought it was the council's desire to let it go to the third and final reading at the next council meeting which meant it will definitely be voted on at that time. This will give anybody that is opposed to the tax the opportunity to come forward. He thought he had probably heard from one person that was opposed to the tax.

Mr. Joe Alexander said he wanted to express himself as being in opposition to this for three reasons. Number one, property taxes are too high already. Number two, this sounds to him like the kind of thing that would be a real fine thing for a church or any kind of private charitable organization to do but not something for the city government to get involved in. He thought the city government should be involved with maintaining, what you would call the critical infrastructure of the city, like streets, water sewer, fire department and things like that, but not for things like this. Number three, it says it is going to be a temporary tax and he said he thought we all knew that it says it is going to be for a year. He said everyone knew and had a good idea of the way temporary taxes turn into permanent taxes. Like for instance during World War II, there would be a temporary tax on your wages to fund the war and it would be repealed as soon as the war was over. He thought it was with us bigger than ever now. So he expected that when the time for this tax to expire somebody will have some nice sounding project that they would like to have some city money for and will propose to extend this tax and give them that money because the people are used to paying it already. So for that reason he would like to ask you all to vote

against that tax. Thank you very much.

The Council thanked Mr. Alexander for his comments.

Mayor Hanna asked if there was anyone else that wanted to make any comments. If not, they would close the discussion on the ordinance. If no one on the Council had any comments they would move on to New Business.

The Senior Community Center was left on the second reading. It will be on the third and final reading at the April 18, 2000 City Council Meeting.

NEW BUSINESS

RZ 00-11.00

An ordinance approved rezoning request RZ 00-11.00 submitted by Ronald G. Woodruff on behalf of the Joyce M. Ogden Family Trust for property located at 2300 Cato Springs Road. The property is zoned R-2, Medium Density Residential and contains approximately 4.02 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Mr. Rose read the ordinance.

Alderman Daniel stated that she thought this was an appropriate zoning for this area. It is on the 20-20 plan and she has not received any objectives from the residents in this area. So she was in favor of this rezoning.

Alderman Davis said it was definitely consistent with the current land use plan in the future and the Planning Commission did pass this 8-0.

Mayor Hanna asked if there was anyone in the audience who would like to speak to this proposed rezoning?

Alderman Trent Trumbo made a motion to suspend the rules and go to the second reading. Alderman Bob Davis seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

RZ 00-11.00 was left on the second reading.

RZ 00-12

An ordinance approving rezoning request RZ 00-12 submitted by George Faucette on behalf of Butterfield Trail Village for property located at the southwest corner of Joyce Blvd and Old

Missouri Road. The property is zoned A-1, Agricultural and contains approximately 6 acres. The request is to rezone to R-O Residential Office.

Mr. Rose read the ordinance.

Alderman Trumbo stated that this was consistent with the zoning out there in that area and Butterfield Trail Village. He had not received any calls on this in opposition.

Alderman Davis said he had not received any calls in opposition and he live really close to this.

Mayor Hanna asked if anyone in the audience would like to address this rezoning?

Alderman Trent Trumbo made a motion to suspend the rules and go to the second reading. Alderman Cyrus Young seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

RZ 00-11.00 was left on the second reading.

TROLLEY PASSENGER BUS

An ordinance approving a bid waiver for the purchase of one used diesel powered passenger bus. This will allow the Mayor to approve for purchase the unit recommended by the Fleet Operations Division, Administrative Services Director, and the Equipment Committee. This unit will be used by City of Fayetteville Trolley Program.

Mr. Rose read the ordinance.

Alderman Daniel thanked the Staff and Equipment Committee for reviewing this which gives her more confidence in these purchases and she is in favor of this because this is not the one who hit her car.

Alderman Reynolds, as Chairman of the Equipment Committee, recommended the purchase of this bus and he would like to hear from Bill Oestreich.

Bill Oestreich, Fleet Operations Superintendent, stated the staff will be recommending purchase of a bus in St. Louis if the ordinance passes. The one we are going to retire was purchased in 1992 and it is still in operation. We are very fortunate to have a reliable broker.

Mayor Hanna said that the one they bought in 1992 is also used. Bill found them at real good prices too. It certainly has been worth it.

Alderman Kyle Russell made a motion to suspend the rules and go to the second reading. Alderman Cyrus Young seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

Alderman Bob Davis made a motion to suspend the rules and go to the third and final reading. Alderman Robert Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

Upon roll call the ordinance passed unanimously.

ORDINANCE 4239 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

YOUTH CENTER BUS

An ordinance approving a bid waiver for the purchase of one used diesel powered forward control passenger bus. This will allow the Mayor to approve for purchase the unit recommended by the Fleet Operations Division, Youth Center Director, and the Equipment Committee. This unit will be used by the City of Fayetteville Youth Center.

Mr. Rose read the ordinance.

Bill Oestreich stated that they had found one in Kentucky for \$39,500.

Alderman Trumbo said just for the general knowledge of the students that are here, and some people watching, this seems like real boring stuff that they are doing, but this is to keep the Government honest because if you find a better piece of machinery or automobile for less price in competitive bids, that is why they do this.

Alderman Reynolds, as Chairman of the Equipment Committee, wanted to thank Bill Oestreich for all of his hard work in finding these pieces of equipment at the price he found them. He did a great job.

Alderman Kyle Russell made a motion to suspend the rules and go to the second reading. Alderman Robert Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

Alderman Cyrus Young made a motion to suspend the rules and go to the third and final reading. Alderman Heather Daniel seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

Upon roll call the ordinance passed.

ORDINANCE 4240 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MOWING MACHINE

An ordinance approving a bid waiver for the purchase of one used Hustler diesel powered mowing machine from Williams Ford Tractor with full new unit factory supported warranty provided. This will allow the Mayor to approve for purchase the unit recommended by the Fleet Operations Division, Parks Maintenance Division, and the Equipment Committee. This unit will be utilized by the City of Fayetteville Parks Maintenance Division.

Mr. Rose read the ordinance.

Alderman Bob Davis made a motion to suspend the rules and go to the second reading. Alderman Heather Daniel seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

Alderman Trent Trumbo made a motion to suspend the rules and go to the third and final reading. Alderman Robert Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

Upon roll call the ordinance passed.

ORDINANCE 4241 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BAUM STADIUM FIREWORKS

An ordinance allowing the University of Arkansas to use Fireworks for the singular occasion of the celebration of the fourth anniversary of the opening of the Baum Baseball Stadium.

Mr. Rose read the ordinance.

Alderman Trent Trumbo made a motion to suspend the rules and go to the second reading. Alderman Heather Daniel seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

Alderman Trent Trumbo made a motion to suspend the rules and go to the third and final reading. Alderman Heather Daniel seconded the motion. Upon roll call the motion passed unanimously.

Mr. Rose read the ordinance.

Upon roll call the ordinance passed.

ORDINANCE 4242 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TOWN CENTER FUND

A resolution approving a budget adjustment transfer to the Town Center Fund from the Sales Tax Capital Improvements fund in the amount of \$450,247 and repealing that portion of Resolution 103-99 which approved such an amount to be transferred from the General Fund.

Mr. Rose addressed the Mayor regarding the resolution that is before you. He said he had explained it on a number of occasions. The idea behind this is that the city has been successful at every attempt that we have made to get a summary judgement from the court. The court has previously granted summary judgements on the issues and has stated that we may in deed spend funds above the \$6,900,000 bond issue for the Town Center project. The court has stated that we may use general funds. The court has stated that we may use A&P financing to the tune of a million dollars that the A&P has given us. The court has already ruled that we may utilize off street parking funds for the Town Center. The court has stated that we are not in violation of any constitutional prohibition of spending more money than we have in our yearly revenues for the project. The only thing that the court has failed to grant a summary judgement on is the issue of whether or not the city may expend their portion that they received from the county sales tax from the project. The judge has not ruled against us on this. She has just simply refused to grant the summary judgement that we asked for and has set a trial date for this issue in July. She has also given some other hearing dates that will provide for class certification. But at the last hearing that we had the judge stated that if we wished to spend some other money other than your portion of the county sales tax for this, it would make this entire issue moot, nonsensical to proceed and we would simply go on and spend money if we could find it from the sources that have already been approved. The resolution that is in front of you simply authorizes us to use \$450,247.00 from the city sales tax. We are going to, as he understands it, simply take what money we get from city sales tax from the state and have that go directly, without going into any

fund at all, into the Town Center Project. Now obviously when you passed, what you are doing, you are repealing a portion of the resolution you passed, which included the transfer to the Town Center fund from the general fund an amount of \$450,247.00. Obviously when you passed that you weren't thinking about what funds were inside that general fund. It is like a big stew, a lot of money goes into that general fund and part of it is city sales tax, part of it is county sales tax, part of it is franchises, part of it is licenses. It is very hard to say. We are doing our best to do that and this is an attempt to make, as the judge gave us the option of doing, of making that issue move by only spending city sales tax. That is what this resolution accomplishes. I think this is a wise thing to do.

Alderman Russell stated, in his opinion that this would allow us to do what we want to do and won't cost the taxpayers any more money, and it should bring the litigation to a swifter end.

Mr. Rose said he thought all of that was accurate and that this is not a decision in which he only advised you of your counsel. Also, Woody Bassett and himself have concurred on this and they are at an agreement that this is the wisest thing for the city to do.

Alderman Trumbo thanked Mr. Rose for his work.

Alderman Kyle Russell made a motion to pass the resolution. Alderman Trent Trumbo seconded the motion.

Mayor Hanna asked if there was anyone in the audience who would like to address this issue. If not, show that the resolution passed.

Upon roll call the resolution passed unanimously.

RESOLUTION 51-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ARKANSAS ATHLETES OUTREACH

A resolution authorizing granting \$10,000 a year for two years to Arkansas Athletes Outreach, Inc.

Mayor Hanna gave a little background regarding this issue. A little over three years ago the Council decided to help fund Arkansas Athletes Outreach for three years, \$10,000 a year for interns and took it before the Juvenile Concerns Committee. It is tied in with our desire to try to help our juvenile problems in this city. At the time we were having a lot of talk about gang activity and graffiti, and things like that. He did not think that Arkansas Athletes Outreach wanted to take full credit for this but those things have certainly abated to some extent. We haven't done away with all of our problems, obviously, and never will, but he thought that

several of our organizations working together in this city have certainly done a good job of working with juveniles. He thought that Brad Friess had a presentation of the program.

Alderman Russell said that this had come through the Juvenile Concerns Committee already. In the March meeting and every member of the committee that was present, including Alderman Austin, who is absent tonight, this request passed at the Juvenile Concerns Committee unanimously. At this meeting they brought materials, which he reviewed, and a short video presentation. He believes that this is a good positive program for the kids. He has only gotten positive input from the school staff and the parents from the last three years. And their request is for us to contribute \$10,000 a year for two years to the Arkansas Athletes Outreach. For the next two years they are shifting their program from what is currently targeted toward 4th and 6th graders, it is now going to be 6th and 7th graders in the new middle schools. The programs are developed each year with the aid of the school principals at the schools where they give presentations. Yes, as you said, there are three members of the Arkansas Athletes Outreach staff here tonight to respond to any questions that you might have.

Mayor Hanna said it was pointed out originally when we did some research into this that if we can keep one teenager at the age of 13 from getting involved in our Juvenile Court system, we would save the city and the county the \$10,000 with just one student that we made a difference on. He guessed that all of you know the problems that we do have with our detention center and the over crowding, and so forth. It behooves us to try to keep as many young people interested in other things as we can.

Alderman Davis said he asked his daughter, who was able to enjoy some of the benefits at her elementary school last year, tonight before he came to the meeting, what she thought of it. She said it was a very worth while program. She said not only do they participate with the students by reading books, they also put on skits and afterwards they discuss the skits with the kids, and reward the kids for good behavior. He thinks it is also a good program.

Mayor Hanna asked if there were any questions for the staff from AAO.

Alderman Daniel said she had done some figuring on this and the city three years ago voted to fund this organization to the tune of \$30,000 and this time it is for two years, which will be \$20,000. She really votes against a recommendation of a committee, but she feels like they have invested in the group and they have gotten established. She did talk to some elementary teachers, and it is a good program, no doubt. She has some testimonies here that she found when she sat down here tonight. But she would like to see this group look for other sources of funding, maybe PTA's, or seek other contributions. For example the city could put in 2-4 blocks of sidewalks for this amount of money and we desperately need sidewalks to protect our pedestrians and school children. It is not that she questions the program, she knows that it is good, but she is going to vote against using our city funds for this. There is so many good non-profits. Where do we

stop?

Alderman Trumbo asked Brad Friess a couple of questions. You know that it is a great program, great people, you do wonderful things for the city. Of the \$10,000 a year that we contribute, what is your total budget a year? Do you know?

Brad Friess stated that over the next years to fund this all in Northwest Arkansas, it will be about \$180,000.

Alderman Trumbo asked how much he received in a year in private donations and how have those increased in the three years since you have started the program?

Brad Friess said that private donations are a majority.

Alderman Trumbo asked if it was about a \$170,000?

Brad Friess answered at least.

Alderman Trumbo asked Brad if he had seen very incremental increases in people once they find out that you are real and the benefits?

Brad Friess said in fact, to address Ms. Daniel's concern about seeking other funding sources, we have done exactly that. One of the things we were commissioned to do with this program was to be a pilot program for the past three years to develop and extend it into other communities. So we have had to, and in doing that, Fayetteville's portion of money will only go to fund the Fayetteville programs in our schools. But they now have had to seek funding in the Springdale and Rogers communities as well. They are supporting it and have very much seen what this council has done with the city and school administration in Fayetteville and looked at it as a model program. They have seen the success of it and now are asking us to come and bring it to their communities.

Alderman Trumbo asked Brad to remind him because he might be mistaken, because it has been a while, wasn't there a match with the AmeriCorp Group or program or something, with the money that we put in? Was there a match coming from the Federal Government or State?

Brad Friess stated they had tried to establish that. The problem with that was with the AmeriCorp which said you had to have a minimum of 5-10 interns and they just didn't think that as they researched it more, and more came in, they thought that would be cost prohibited when the program only required really two. We made a petition to AmeriCorp to try and say a lot of these AmeriCorp things were in urban communities where they are much bigger and they tried to tell them they had a town of 50,000. They would not lower the amount for us.

Mayor Hanna asked if most of their workers were volunteer University athletes, isn't that right?

Brad Friess said that all of the volunteers are University athletes except for those that help for the personnel cost to develop the program.

Mayor Hanna said that we have a real advantage over the city that doesn't have a university like we do.

Brad Friess said they had almost 40 different volunteers from the University working in this program in this year alone.

Mayor Hanna said he had talked with some of them and they were doing a good job.

Alderman Reynolds stated that our Juvenile Detention Center was full to capacity. Our juvenile judge is at capacity with problems and he thought that this would be a cheap price to spend on our kids and he is going to support it.

Mayor Hanna asked if anybody else had any questions for Brad? Are there any motions?

Alderman Bob Davis made a motion to approve the resolution. Alderman Robert Reynolds seconded the motion. The resolution passed with a vote of 5-1 with Alderman Daniel voting nay.

RESOLUTION 50-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Meeting adjourned at 7:25 p.m.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting

April 18, 2000

FROM:

Apryl Okoroafor

Parking Management

Administrative Services

Name

Division

Department

ACTION REQUIRED:

Approval of contract with Arkansas Teacher Retirement System by its agent the Hathaway Group for the lease of a 27 space parking lot previously owned by Argora Properties, L.P. The current contract is with Argora Properties, L. The contract is the same except for the "Lessor" information has been changed to reflect the new ownership and allows lessor to cancel the lease with 60 days notice, if the need for parking spaces for tenants become relevant and the lessor does not agree with the City's substitute parking location.

COST TO CITY:

\$6,075.00	\$8,100.00	Property Lease
Cost of this Request	Category/Project Budget	Category/Project Name
2130-9130-5308-00	\$2,025.00	
Account Number	Funds Used To Date	Program Name
	\$6,075.00	
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

☒ Budgeted Item ☐ Budget Adjustment Attached

[Signature]

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Granting Agency: _____

[Signature]

Accounting Manager

3-29-00

Date

[Signature]

Internal Audi

3-30-00

Date

[Signature]

City Attorney

3-29-00

Date

ADA Coordinat

Date

[Signature]

Purchasing Officer

3-30-00

Date

STAFF RECOMMENDATION:

Staff recommended approval.

[Signature]

Division Head

3-29-00

Date

[Signature]

Department Director

3-30-00

Date

[Signature]

Mayor

3/30/00

Date

Cross Reference

New Item: YES NO

Prev. Ord/Res #: _____

Orig. Contract Date: _____

Page 2

STAFF REVIEW FORM

Description Arkansas Teacher Retirement System Contract Meeting Date 3/29/00

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor



City of Fayetteville, 113 West Mountain, Fayetteville, AR 72701
501- 575- 8206 Fax 501- 575- 8316

DATE: March 29, 2000

TO: Mayor Fred Hanna

FROM: Apryl Okoroafor, Parking Management Coordinator 

RE: Arkansas Teacher Retirement System Lease Contract

Arkansas Teacher Retirement System by its agent The Hathaway Group has purchased the 27 space parking lot located east of Block Avenue and south of Rock Street from Argora Properties, L.P. The City currently holds a contract with Argora Properties, L.P. The request is for approval of the contract for the lease of the 27 space parking lot. The contract is the same except for the "Lessor" information has been changed to reflect the new ownership and allows lessor to cancel the lease with 60 days notice, if the need for parking spaces for tenants become relevant and the lessor does not agree with the City's substitute parking location.

**THE
HATHAWAY
GROUP**

James E. Hathaway, Jr., CRE
Jeffrey R. Hathaway, CCIM, SIO
John C. Kincaid
Ellen S. Koenig
Stuart S. Mackey
John M. Moore, III
William S. Roach, J.D.
L. Carter Burwell III

March 21, 2000

Ms. Apryl Okoroafor
Parking Management
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Apryl:

Thank you for your help in getting this new parking lease completed. Enclosed please find four (4) original copies of the parking agreement between Arkansas Teacher Retirement System and the City of Fayetteville.

Please note that this lease is exactly like the one you forward except that I have corrected the entity name and the lease dates. Also, on page two, we added a provision that the Lessor can cancel the lease with 60 days notice, if, in the event we need the parking spaces for a tenant, the Lessor did not agree with the City's substitute parking location.

Hopefully, this lease will be acceptable. We do not know now of any tenant that would require the spaces the City is using, but we felt that we needed the option to use those spaces for building tenant if the needed arises.

If you have any questions, please call me. Otherwise, please have all four copies executed, retain one copy for your records, and return the other 3 copies to me in the envelope provided. Thanks again for your help.

Sincerely,



Jill R. Bryant
Property Manager

JB

Enclosures

LEASE

This Agreement, made and entered into this ____ day of March 2000, by and between the Arkansas Teacher Retirement System by its Agent, The Hathaway Group, Inc., hereinafter called "Lessor," and the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called "Lessee."

WITNESSETH:

1. Leased Premises. For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas:

27 parking spaces in the parking lot (the "Lot") located east of Block Avenue and south of Rock Street, described more specifically as follows:

Commencing at the Northwest Comer of said Block 4 1; thence along the west line of said Block 41 SOO-30-1 1W 90.00 feet for the Point of Beginning; thence leaving the west line of said Block 41 S89-41-51E 59.00 feet; thence S71-45-02E 35.70 feet; thence S89-41-51E 41.00 feet; thence 500-sO-1 1W 82.15 feet; thence N89-20-27W 134.00 feet to the west line of said Block 41; thence along the west line of said Block 41 NOO-3 1 -1 I E 92.32 feet to the Point of Beginning, containing 11,788 square feet, more or less.

To have and to hold said premises unto the Lessee for and during the term herein stated, subject to the covenants, terms, conditions and liens herein contained.

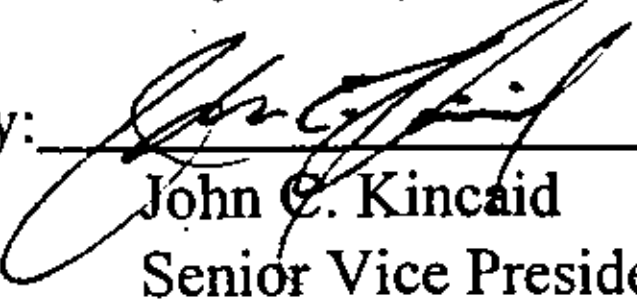
2. Term. This term shall commence on January 1, 2000, and shall extend until December 31, 2000. Thereafter, subject to budget approval, the term shall run from month to month and shall terminate upon 60 days written notice by either party.
3. Rent. Lessee shall pay as rent for said premises the amount of \$25.00 per month for each space. Monthly installments shall be remitted on or before the 15th day of each month for the succeeding monthly rental period.
4. Signage. Lessee may erect signage, at Lessee's cost, on the subject property for the purposes of identification of the property and conveying restrictive uses. Upon termination, Lessee will remove the signs, at Lessee's Cost, and repair all damage.
5. Miscellaneous. Should Arkansas Teacher Retirement System by its agent The Hathaway Group require parking spaces for the purpose of providing parking to tenants of their property located at I East Center, Fayetteville, AR, currently known as Bank of America Plaza, beyond the number of allocable spaces in the Lessor's parking lot immediately north of the subject property, the Lessee agrees to provide, at no cost, parking in the City's parking garage

on Meadow Street or a suitable alternative agreeable to the Lessor. If Lessor, however, for any reasons does not accept Lessee's alternative parking location, Lessor shall have the right to terminate this Lease upon 60 days written notice to Lessee.

6. Indemnification. Lessee shall defend, indemnify and hold harmless Lessor from and against all claims, demands, liabilities, causes of action, suits, judgements, and expenses (including reasonable attorneys' fees) for any injury to or death of any person or persons or the damage to or theft, destruction, loss or loss of any use of any property caused by the casualty or theft arising from the Lessee's operation and use of the Lot. This indemnity shall survive termination of the Agreement. This indemnification in no way waives or abrogates Lessee's right to tort immunity under Arkansas statutes.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date written above.

LESSOR: Arkansas Teacher Retirement
System, By its Agent The Hathaway Group

By:  _____
John C. Kincaid
Senior Vice President

ATTEST:

By: _____

Title: _____

LESSEE: City of Fayetteville, Arkansas

By: _____
Mayor

ATTEST:

By: _____

Title: City Clerk

LEASE

This Agreement, made and entered into this ____ day of March 2000, by and between the Arkansas Teacher Retirement System by its Agent, The Hathaway Group, Inc., hereinafter called "Lessor," and the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called "Lessee."

WITNESSETH:

1. Leased Premises. For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by the Lessee as obligations to the Lessor, the Lessor lets, leases and demises unto Lessee, subject to the terms and conditions contained herein, the following described property situated in Washington County, Arkansas:

27 parking spaces in the parking lot (the "Lot") located east of Block Avenue and south of Rock Street, described more specifically as follows:

Commencing at the Northwest Comer of said Block 4 1; thence along the west line of said Block 41 SOO-30-1 1W 90.00 feet for the Point of Beginning; thence leaving the west line of said Block 41 S89-41-51E 59.00 feet; thence S71-45-02E 35.70 feet; thence S89-41-51E 41.00 feet; thence 500-sO-1 1W 82.15 feet; thence N89-20-27W 134.00 feet to the west line of said Block 41; thence along the west line of said Block 41 NOO-3 1 -1 1 E 92.32 feet to the Point of Beginning, containing 11,788 square feet, more or less.

To have and to hold said premises unto the Lessee for and during the term herein stated, subject to the covenants, terms, conditions and liens herein contained.

2. Term. This term shall commence on January 1, 2000, and shall extend until December 31, 2000. Thereafter, subject to budget approval, the term shall run from month to month and shall terminate upon 60 days written notice by either party.
3. Rent. Lessee shall pay as rent for said premises the amount of \$25.00 per month for each space. Monthly installments shall be remitted on or before the 15th day of each month for the succeeding monthly rental period.
4. Signage. Lessee may erect signage, at Lessee's cost, on the subject property for the purposes of identification of the property and conveying restrictive uses. Upon termination, Lessee will remove the signs, at Lessee's Cost, and repair all damage.
5. Miscellaneous. Should Arkansas Teacher Retirement System by its agent The Hathaway Group require parking spaces for the purpose of providing parking to tenants of their property located at I East Center, Fayetteville, AR, currently known as Bank of America Plaza, beyond the number of allocable spaces in the Lessor's parking lot immediately north of the subject property, the Lessee agrees to provide, at no cost, parking in the City's parking garage

Parking Lot Lease

A. 1. Page 8

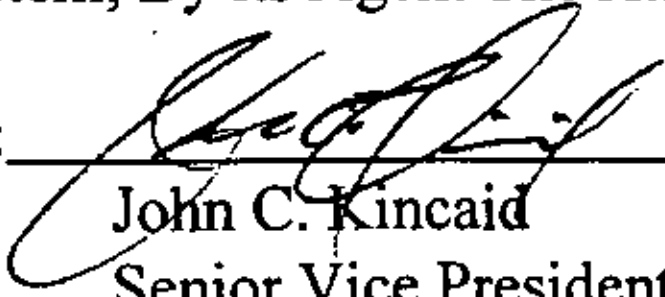
on Meadow Street or a suitable alternative agreeable to the Lessor. If Lessor, however, for any reasons does not accept Lessee's alternative parking location, Lessor shall have the right to terminate this Lease upon 60 days written notice to Lessee.

6. Indemnification. Lessee shall defend, indemnify and hold harmless Lessor from and against all claims, demands, liabilities, causes of action, suits, judgements, and expenses (including reasonable attorneys' fees) for any injury to or death of any person or persons or the damage to or theft, destruction, loss or loss of any use of any property caused by the casualty or theft arising from the Lessee's operation and use of the Lot. This indemnity shall survive termination of the Agreement. This indemnification in no way waives or abrogates Lessee's right to tort immunity under Arkansas statutes.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date written above.

LESSOR: Arkansas Teacher Retirement
System, By its Agent The Hathaway Group

By: _____


John C. Kincaid
Senior Vice President

ATTEST:

By: _____

Title: _____

LESSEE: City of Fayetteville, Arkansas

By: _____

Mayor

ATTEST:

By: _____

Title: City Clerk

For the Fayetteville City Council meeting of April 18, 2000

FROM:

<u>Yolanda Fields</u>	<u>Community Development</u>	<u>Admin Services</u>
Name	Division	Department

ACTION REQUIRED:

Consideration of the 2000 Community Development Block Grant Agreement and Funding Approval.

COST TO CITY:

<u>\$630.000 (revenue)</u>	<u>\$630.000 (revenue)</u>	<u>CDBG Grant</u>
Cost of this Request	Category/Project Budget	Category/Project Name
<u>2180.0918.4910.00</u>	<u>\$ -0-</u>	<u>Grant Funding</u>
Account Number	Funds Used To Date	Program Name
<u> </u>	<u>\$630.000 (revenue)</u>	<u>Community Development</u>
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

<u>X</u>	Budgeted Item	Budget Adjustment Attached


Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

<u>Therese J. Gramer</u>	<u>3-31-00</u>	_____	_____
Accounting Manager	Date	Internal Auditor	Date
<u>L. H. H. H.</u>	<u>3-31-00</u>	_____	_____
City Attorney	Date	ADA Coordinator	Date
<u>P. Vice</u>	<u>3-31-00</u>		
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Request acceptance of Funding Approval and approval of Agreement.

Division Head

3-30-00
Date

Department Director	Date
---------------------	------

Cross Reference

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

Prev Ord/Res #: _____

Orig Contract Date:

Orig Contract Number:_____



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council
From: John McGuire, Administrative Services Director
Date: March 30, 1999
Re: 2000 Community Block Grant Agreement

The U.S. Department of Housing & Urban Development (HUD) recently awarded \$630,000 in Community Development Block Grant (CDBG) funds to the City for 2000. Fayetteville is one of ten cities in Arkansas that is awarded an annual grant as a participant in the CDBG Entitlement Cities Program. Staff requests your consideration of the Agreement and Funding Approval in order to receive this grant.

Fayetteville has been an Entitlement City since 1974. The grants are based on a formula allocation that takes into account such factors as population, percent of low/moderate income persons, and number of housing units. Grant amounts vary each year dependent on funding levels authorized by congress through the annual federal budget process.

The Community Development Division administers these grant funds. Projects planned for 2000 include planning and architectural work for the Sage House transitional living facility, the purchase of land for Abilities Unlimited facility expansion, additional allocation for construction of the Project for Victims of Family Violence shelter facility, capacity building for the South Fayetteville Community Development Corporation, and preliminary planning for expansion of the Yvonne Richardson Community Center. Continuing projects receiving funding include program administration, owner-occupied housing rehabilitation and emergency repair, Elderly Taxi Transportation program, and Yvonne Richardson Community Center personnel costs.

We request your approval of the Agreement and Funding Approval. Please call me or Yolanda Fields if you have questions or if you would like more information.

Attachment: Copy of Agreement and Funding approval

Funding Approval/Agreement

Title I of the Housing and Community Development Act (Public Law 930383)

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

Comm. Block Grant

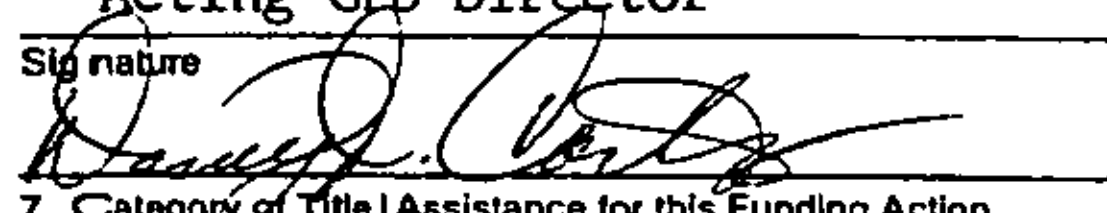
A. 3. Page 3

FILE
COPY

HI-00515R of 20515R

1. Name of Grantee (as shown in item 5 of Standard Form 424) City of Fayetteville		3. Grantee's 9-digit Tax ID Number 71-6018462	4. Date use of funds may begin 01/01/00
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 113 West Mountain Fayetteville, Washington County, AR 72701		5a. Project/Grant No. 1 B-00-MC-05-0001	6a. Amount Approved \$630,000
		5b. Project/Grant No. 2	6b. Amount Approved
		5c. Project/Grant No. 3	6c. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name) Danny J. Carter		Grantee Name Honorable Fred Hanna	
Title Acting CPD Director		Title Mayor	
Signature 		Signature 	
Date FEB 7 2000		Date 4/3/00	
7. Category of Title I Assistance for this Funding Action (check only one) ☒ a. Entitlement, Sec 106(b) ☐ b. State-Administered, Sec 106(d)(1) ☐ c. HUD-Administered Small Cities, Sec 106(d)(2)(B) ☐ d. Indian CDBG Programs, Sec 106(a)(1) ☐ e. Surplus Urban Renewal Funds, Sec 112(b) ☐ f. Special Purpose Grants, Sec 107 ☐ g. Loan Guarantee, Sec 108		8. Special Conditions (check one) ☐ None ☒ Attached	
		9a. Date HUD Received Submission 12/22/99	
		9b. Date Grantee Notified MAR 22 2000	
		9c. Date of Start of Program Year 01/01/00	
		10. check one ☒ a. Orig. Funding Approval ☐ b. Amendment Amendment Number	
		11. Amount of Community Development Block Grant	
		FY	
		FY	
		FY 2000	
		a. Funds Reserved for this Grantee	
		\$630,000	
		b. Funds now being Approved	
		\$630,000	
		c. Reservation to be Cancelled (11a minus 11b)	
		- 0 -	

12a. Amount of Loan Guarantee Commitment now being Approved		12b. Name and complete Address of Public Agency	
Loan Guarantee Acceptance Provisions for Designated Agencies: The public agency hereby accepts the Grant Agreement executed by the Department Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.			
		12c. Name of Authorized Official for Designated Public Agency	
		Title	
		Signature	
		Date (mm/dd/yyyy)	

HUD Accounting use Only												
Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153											
	176											
										Amount		
										Amount		
										Amount		
Date Entered PAS (mm/dd/yyyy)		Date Entered LOCCS (mm/dd/yyyy)		Batch Number		Transaction Code		Entered By		Verified By		

E.O. 12372 - SPECIAL CONTRACT CONDITION

Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of March 21, 2000.

FROM: Tim Conklin
Name
Planning
Division
Public Works
Department

ACTION REQUESTED: To approve a resolution for AD 99-30.00 submitted by David Bercaw of Ball & Mourton, Ltd., PLLC on behalf of Lenk Development for property located south of Zion Road. The property is zoned R-2, Medium Density Residential and contains approximately 5 acres. The request is to guarantee future construction of Stearns Street with a letter of credit.

COST TO CITY:

Category/Project Budget	Category/Project Name
\$0	
Cost of this request	
Account Number	Program Name
Project Number	Fund
Funds used to date	
Remaining balance	

BUDGET REVIEW: Budgeted Item: No budget impact at this time.
Budget Coordinator: Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager	Date
City Attorney	1-19-00
Purchasing Officer	Date

GRANTING AGENCY:

ADA Coordinator	Date
Internal Auditor	Date

STAFF RECOMMENDATION: Staff recommended approval and Planning Commission unanimously voted 8-0-0 to recommend acceptance of a nondiscretionary and annualized letter of credit based on the Engineering News Record, Construction Cost Index to the City Council.

Tim Conklin
Division Head
Charles Venetel
Department Director
John Maguire
Administrative Services Director
Red Sumner
Mayor

1-14-00
Date
1-19-00
Date
Date
1/20/00
Date

Cross Reference

New Item: Yes No

Prev Ord/Res#:

Orig Contract Date:

THE CITY OF FAYETTEVILLE, ARKANSAS

Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

January 10, 2000

AD 99-30.00: Administrative Item (Zion Valley, pp136) was submitted by David Bercaw of Ball & Mourton, Ltd., PLLC on behalf of Lenk Development for property located south of Zion Road. The property is zoned R-2, Medium Density Residential and contains approximately 5 acres. The request is to guarantee future construction of Stearns Street with a letter of credit.

BACKGROUND

The applicant for Zion Valley Planned Unit Development has requested approval to submit a letter of credit in the amount of \$74,364 dollars instead of depositing the same amount of money into an escrow account to guarantee delayed improvements to Stearns Street.

The original preliminary plat was approved on June 10, 1996 with the condition of approval to construct Stearns Street to Vantage. On January 27, 1997, the Planning Commission reconsidered this condition and approved delaying the construction of Stearns Street and placing money in escrow to pay for "the cost of the 31' City street for that part of Stearns entirely within the development of the SE corner and half of the cost of the standard 31' street for the remaining portion to the west.

The ordinance allows either money in escrow or a bill of assurance/performance bond. Both Planning and the City Attorney are in agreement that the letter of credit would be preferred to a bill of assurance/performance bond to guarantee the improvements. The City Council is required under Section 158.05B of the Unified Development Ordinance to approve this method of guaranteeing the improvements.

Staff is recommending accepting the letter of credit instead of requiring the developer to place money into escrow if the letter of credit can be written in a form, approved by the City Attorney and City Council, that will cover anticipated future increased costs of the delayed improvements. Staff is concerned the letter of credit would not keep up with the annual increased costs of constructing the improvement and that the City would incur additional costs at the time of construction. Staff is opposed to allowing the developer to construct the improvements since it would result in the construction of only half of a portion of Stearns Street and would be very difficult to coordinate between two different developers.

PLANNING COMMISSION ACTION: YES Required
 _____ Approved _____ Denied

Comments:

CITY COUNCIL ACTION: NO Required
 Approved Denied

Date: / / **§158.05 OFF-SITE IMPROVEMENTS/DELAYS**

A. Proportionate Share. If the Planning Commission determines that a needed off-site improvement cannot be built until future development occurs, the subdivider shall pay to the City an amount determined by the Planning Commission, in accordance with the standards prescribed in §166.07, to be the developer's proportionate share of the cost of said off-site improvements as of the date of final plat approval.

1. The City shall deposit said money into an interest bearing escrow account until such time as the off-site improvement is constructed and shall provide for payment of interest on said amount at the rate of 10% per annum or the maximum rate allowable under Arkansas law, whichever is lower.

2. If the off-site improvement is not constructed within five years from the date of the first payment into the escrow account by a developer, the Planning Commission shall hold a public hearing, after notification to all affected property owners, to determine the disposition of all money in the escrow account. Following the public hearing, the Planning Commission may:

a. Determine that the off-site improvement is still necessary and feasible and can be built within a reasonable time, in which case the escrow account shall be continued for a period specified by the Planning Commission; or

b. Determine that the off-site improvement is not necessary, or will not be feasible, or that insufficient development has occurred to render the improvement likely in the foreseeable future, in which case the Planning Commission shall either:

(1). Refund the money in the escrow account, with accumulated interest, to the subdivider(s) who made the contribution; or

(2). Distribute the money in the escrow account on a pro rata basis to the property owners who purchased lots in the subdivision(s) and the developer(s); or

c. With the written consent of a majority of the property owners who have purchased lots in the subdivision(s) and the developer(s), direct that money in the escrow account be utilized for a different purpose which will specifically benefit the neighborhood.

B Bill of Assurance/ Performance Bond. The developer may, with approval of the City Council, guarantee payment of said amount so determined by executing a bill of assurance, or performance bond, in a form approved by the City Attorney.

Bills of Assurance and/or Performance Bonds shall meet the following requirements.

1. Bills of assurance shall be filed of record and shall be a covenant running with the land;

2. Bills of assurance, or performance bonds, shall obligate the landowner to pay the City the amount so determined by the Planning Commission within ten days from receipt of written notice from the City.

Stearns Street
A. 4. Page 4

Law Offices of
BALL & MOURTON, LTD., PLLC

A Professional Limited Liability Company
E.J. BALL PLAZA - 112 W. CENTER, SUITE 700
POST OFFICE BOX 1948
FAYETTEVILLE, ARKANSAS 72702
TELEPHONE: 501/442-6213 - FACSIMILE: 501/442-6233

Est. 1950

J. Ball
Kenneth R. Mouton
Neal R. Pendergraft
John T. "Terry" Lee
Rayburn W. Green

James L. Moore, III
David G. Bercaw
J. Michael Threest
Joseph D. Reece
Shannon L. Poore

*Also Licensed In Oklahoma
*Also Licensed In Texas
-Siloam Springs Office
^ Of Counsel

December 29, 1999

Tim Conklin
Planning Director
113 West Mountain
Fayetteville, Arkansas 72701

RE: Final Plat of Zion Valley Estates

Dear Mr. Conklin:

We represent Unique Homes, Inc., which has submitted the Final Plat of Zion Valley Estates for approval by the City of Fayetteville.

At its meeting on January 27, 1997, the Planning Commission of the City of Fayetteville voted to require Zion Valley, LLC, who was then the developer of Zion Valley Estates, to make a deposit into an escrow for "the cost of a thirty-one (31) foot city street for that part of Stearns Street within the development of the southeast corner and half of the cost of the standard thirty-one (31) foot street for the remaining portion to the west" as a requirement for approval of the final plat. At the time of the decision by the Planning Commission, the cost of the extension of the street was not determined.

My understanding is that Stearns Street was considered a collector street when the Planning Commission made this decision. It is also my understanding that Stearns Street is no longer considered a collector street and that the extension of Stearns Street is not presently scheduled and it is not known when, or if, the extension will be constructed.

Pursuant to the requirements of Section 158.05 of the Fayetteville Code of Ordinances, the Planning Commission may require a developer to pay into an escrow, to be held by the City, the amount needed for an off-site improvement which cannot be built until future development occurs. The deposit may be held for a period of at least five (5) years if the improvements are not constructed. This section further provides that the developer may, with the approval of the City Council, guarantee payment of the required amount by executing a bill of assurance or a performance bond. The bill of assurance or the performance bond obligates the developer to pay the City within ten (10) days from receipt of written notice by the City.

The City of Fayetteville's Engineering Division has accepted the estimate of the cost of the extension of Stearns Street made by Crafton, Tull & Associates, in the amount of Seventy-four

Thousand Three Hundred Sixty-four Dollars (\$74,364.00). We believe that the requirement of placing this amount in escrow is unduly burdensome on Unique Homes, Inc., considering that the deposit would be held by the City of Fayetteville for at least five (5) years.

By this letter Unique Homes, Inc., is requesting that the City Council of the City of Fayetteville accept an irrevocable letter of credit, to be issued by McIlroy Bank & Trust, in the amount of Seventy-four Thousand Three Hundred Sixty-four Dollars (\$74,364.00) in lieu of a cash escrow deposit of the same amount for the cost of construction of the extension of Stearns Street within Zion Valley Estates and in fulfillment of this requirement for approval of the final plat. Such irrevocable letter of credit would be in a form normally used by McIlroy Bank & Trust. We have proposed an irrevocable letter of credit as a means of guarantying payment which is more reliable than a bill of assurance or a performance bond since the City only needs to present the letter of credit to McIlroy Bank & Trust for collection of the guaranteed amount. We further request, in the event the City of Fayetteville decides to extend Stearns Street, that Unique Homes, Inc., be given notice of the decision to construct the extension and be given an opportunity to construct the extension before the City of Fayetteville presents the letter of credit to McIlroy Bank & Trust for payment.

You have indicated that this matter is scheduled to be heard by the City Council on January 10, 2000 at 5:30 P.M.

If you have any questions or need additional information, please feel free to call me at any time.

With highest personal regards.

Very truly yours,



David G. Bercaw

xc: Jerry E. Rose, City Attorney, 113 West Mountain Street, Fayetteville, Arkansas 72701

Dale Lenk, Unique Homes, Inc., 860 West 18th Street, Costa Mesa, California 92627

Al Harris, Crafton, Tull & Associates, Inc., 2345 North Green Acres Road, Fayetteville, Arkansas 72703

Stearns Street

A 4 Page 6

Principals

Danny L. Brown, P.E.
Bob H. Crafton, P.E.
Thomas E. Hopper, P.E.
Cline L. Mansur, P.E., R.L.S.
R.E. (Gene) Reece, P.E.
David Swearingen, A.I.A.
James L. Tull, C.D.A.

Principal Emeritus

Lemuel H. Tull, P.E.

Crafton, Tull & Associates, Inc.
Architects, Engineers & Surveyors

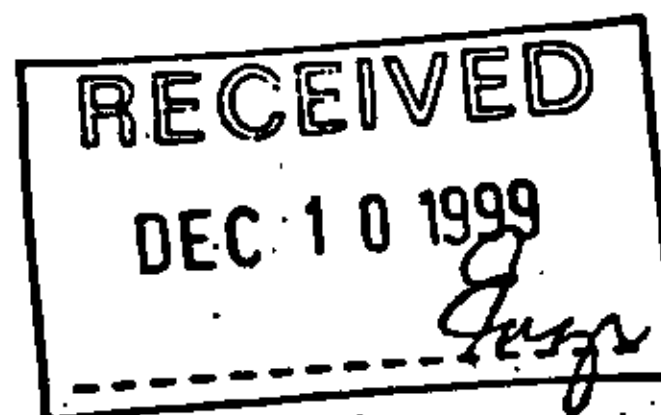
Associates

Everett L. Balk, P.E.
James B. Geurn, P.E.
Al Harris, R.L.S.
Kurtis J. Jones, P.E.
James W. Kooistra, A.I.A.
Jerry J. Kelso, P.E.
Tom Mansur, P.E.
Robert C. Reece, P.E.
Rick G. Rose, P.L.S.
George G. Strella, P.E., D.E.E.
James P. Swearingen, A.I.A.
Richard Wright, R.L.S.

Harry G. Gray, P.E.
(1941-1997)

December 10, 1999

Mr. Jim Beavers
City Engineer
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR



Re: Zion Valley Final Plat
(CTA Project No. 99096.00)

Dear Jim:

One of the requirements for the preliminary plat approval for Zion Valley was that the applicant would pay into escrow the cost of the 31' wide city street for that part of Stearns Road lying entirely within the development at the southeast corner of the site and half of the cost of the standard 31' street for the remaining portion to the west. The Planning Office has asked that our office prepare an estimate of these future construction costs for Stearns Street and submit to your office for review.

Attached is a copy of a probable construction cost estimate for this future Stearns street construction. At this time it is hard to predict how the adjacent property will develop to the south and west, but tried to include enough construction items to cover the future work and used unit prices from similar projects in this area. As shown on the attached work sheet we have estimated a total construction cost for this future work to be approximately \$74,364.00.

Please contact our office if you have any questions on this estimate.

Sincerely,

CRAFTON, TULL & ASSOCIATES, INC.

Al Harris
Al Harris, Project Manager

attachment

PROBABLE CONSTRUCTION COST ESTIMATE FOR FUTURE STEARNS ROADStearns Road Assumptions:

31' back-back curb for approx. 255 lf on east side, 1/2 of 31' street, storm drain, and sidewalk for approx.

450 lf for remaining length of street

DATE: 12/10/99

CTA JOB NO: 99096.00

<u>NO.</u>	<u>ESTIMATED CONSTRUCTION ITEMS</u>	<u>UNIT</u>	<u>QUANT.</u>	<u>UNIT PRICE</u>	<u>COST</u>
1	SITE PREPARATION	LS	1	\$3,000.00	\$3,000.00
2	EARTHWORK	LS	1	\$9,000.00	\$9,000.00
3	HILLSIDE PLACEMENT	CY	1,400	\$8.85	\$12,390.00
4	ASPHALT PAVEMENT (FULL SECTION)	SY	1,600	\$11.00	\$17,600.00
5	CURB & GUTTER	LF	960	\$8.00	\$7,680.00
6	4' CONC SIDEWALK (255' + 1/2 of 450')	LF	480	\$9.50	\$4,560.00
7	FUT. STORM DRAIN X-ING (1/2 of 31 lf)	LF	15.5	\$28.00	\$434.00
8	FUT. STORM DRAIN (1/2 of 320 lf)	LF	160	\$55.00	\$8,800.00
9	FUTURE FES (1/2 of 1 ea)	EA	0.5	\$600.00	\$300.00
10	FUT. STORM DRAIN X-ING (1/2 of 62 lf)	LF	31	\$100.00	\$3,100.00
11	CURB INLET (1/2 of 4 ea)	EA	2	\$1,700.00	\$3,400.00
12	EROSION CONTROL	LS	1	\$1,000.00	\$1,000.00
13	CL.7 BASE BACKFILL (1/2 of 100 tons)	TON	50	\$12.00	\$600.00
14	FUTURE WINGWALLS (1/2 of 2 ea)	EA	1	\$2,500.00	\$2,500.00
SUB-TOTAL:					\$74,364.00

ESTIMATED CONSTRUCTION COST:

\$74,364.00

Planning Commission Meeting

January 27, 1997

Page 18

APPEAL 97-1: ZION VALLEY ADDITION PUD
REQUEST FOR RECONSIDERATION OF CONSTRUCTION OF STEARNS STREET.

The next item on the agenda was submitted by Harry Gray for Zion Valley Addition PUD located south of Zion Road, east of Venetian Land and west of Stearns Street. The request is for reconsideration of the Planning Commission requirements to construct the portion of Stearns Street lying within the control of this developer.

At the Planning Commission meeting of June 10, 1996 the Planning Commission approved the development subject to the construction and connection of Stearns Street to Vantage. This requirement was different from what the staff had recommended which was to "provide a 50' right-of-way at a designed radius at the southeast corner of the property and then provide a 25' right-of-way continuing to the west as generally shown on the concept plat, and provide to the City the funds representing the costs on the standard 31' City street for the segment of Stearns entirely within the development at the SE corner and then 1/2 of the cost of a standard 31' street for the remaining portion to the west."

Mr. Grey, representative of the owner stated he had met with Mr. Beavers and understood he would be required to place the funds for this improvement in escrow or make other assurances to the City, rather than constructing the street at this time.

STAFF RECOMMENDATION:

Staff reiterated the original recommendation to accept money for improvements rather than construction of the street.

Ms. Johnson asked the staff why they supported the appeal.

Mr. Beavers stated they support the request for two reasons: it was physically impossible to construct half a street to City's standards. The property line would be in the middle of the street and would interfere with both the grading, as well as the preparation of the subgrade, and the actual placement of the final pavement. The drainage would also be impacted. The second reason was three City Council members had promised the street would never be built.

Mr. Odom asked when this promise had been made. He added the street was on the Master Street Plan.

Mr. Beavers replied the statement had been made August 15, 1995.

Ms. Johnson did not believe the comments of three City Council members carried any weight unless the Council had voted on something.

Mr. Beavers stated the comment had been made in public.

Mr. Grey stated they were proposing to place the money for the street in an escrow account.

In response to a question from Mr. Allred, Mr. Grey stated they did not want to vacate the right-of-way.

Mr. Harbison asked if they had a problem moving the road to the north.

Mr. Grey replied, if they were to move the road, it would create a jog in the road.

Mr. Reynolds thought they should keep the right-of-way and place the money in escrow.

Mr. Tucker read the motion from June 10 that required the street to be constructed.

Mr. Grey stated they did not own the all of the property required to construct a whole street.

Ms. Little stated Mr. Grey was asking to give the money to the City to provide for the construction of everything he would have been required to construct.

Mr. Forney asked how the City could be sure they were getting the full amount.

Mr. Beavers believed they would receive an accurate estimate from NW Engineers, which the Engineering staff would review. The money could potentially revert back to the developer after five years, but there would be a public hearing.

Mr. Odom stated he would support the staff's recommendation. He advised he supported building Stearn Street noting it was on the Master Street Plan. He thought Stearn Street needed to be built; and they needed to make sure they had the money to do it.

MOTION

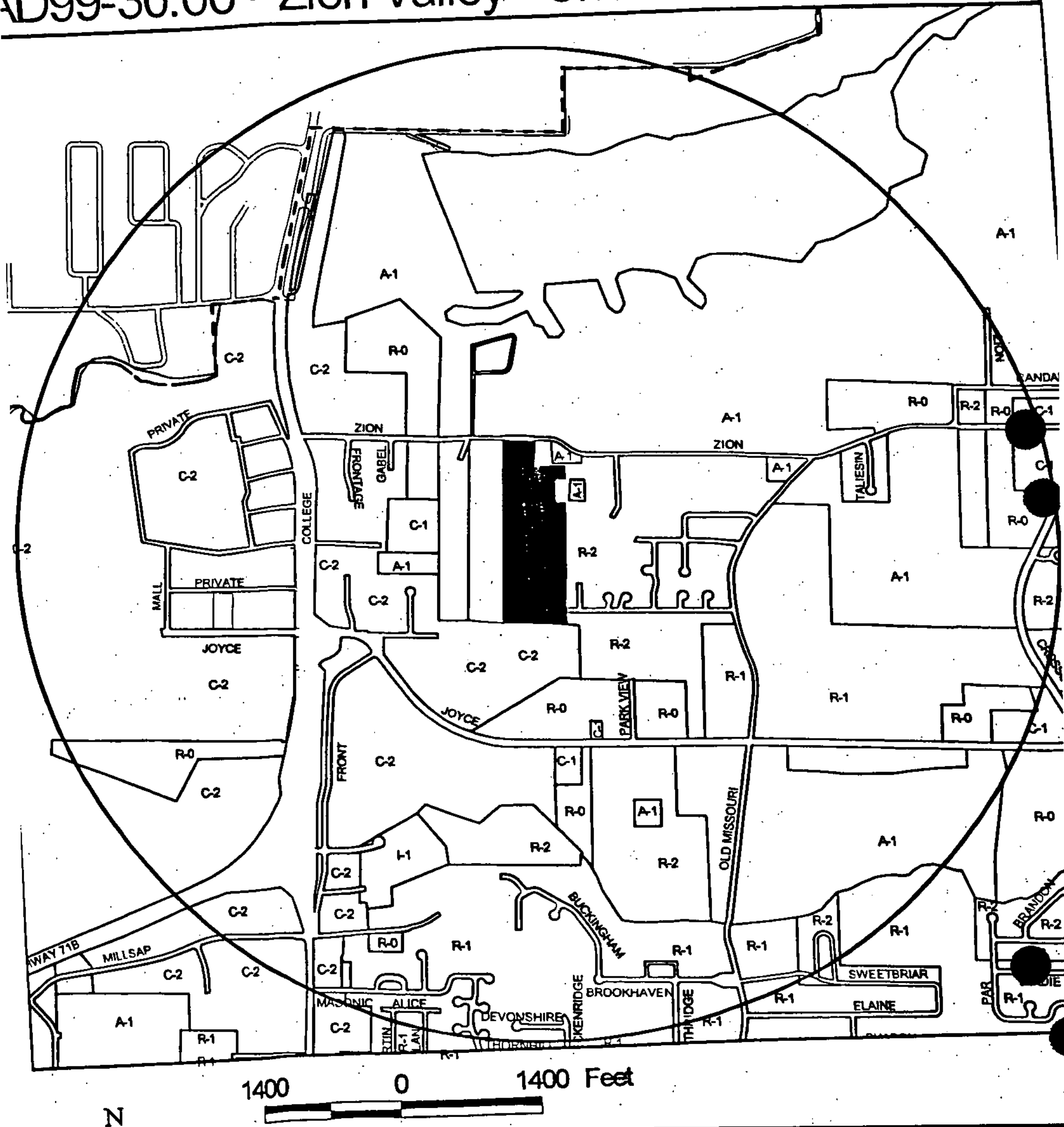
Mr. Odom moved to grant the appeal. The applicant would pay into escrow the cost of the 31' city street for that part of Stearns entirely within the development of the SE corner and half of the cost of the standard 31' street for the remaining portion to the west.

Mr. Allred seconded the motion.

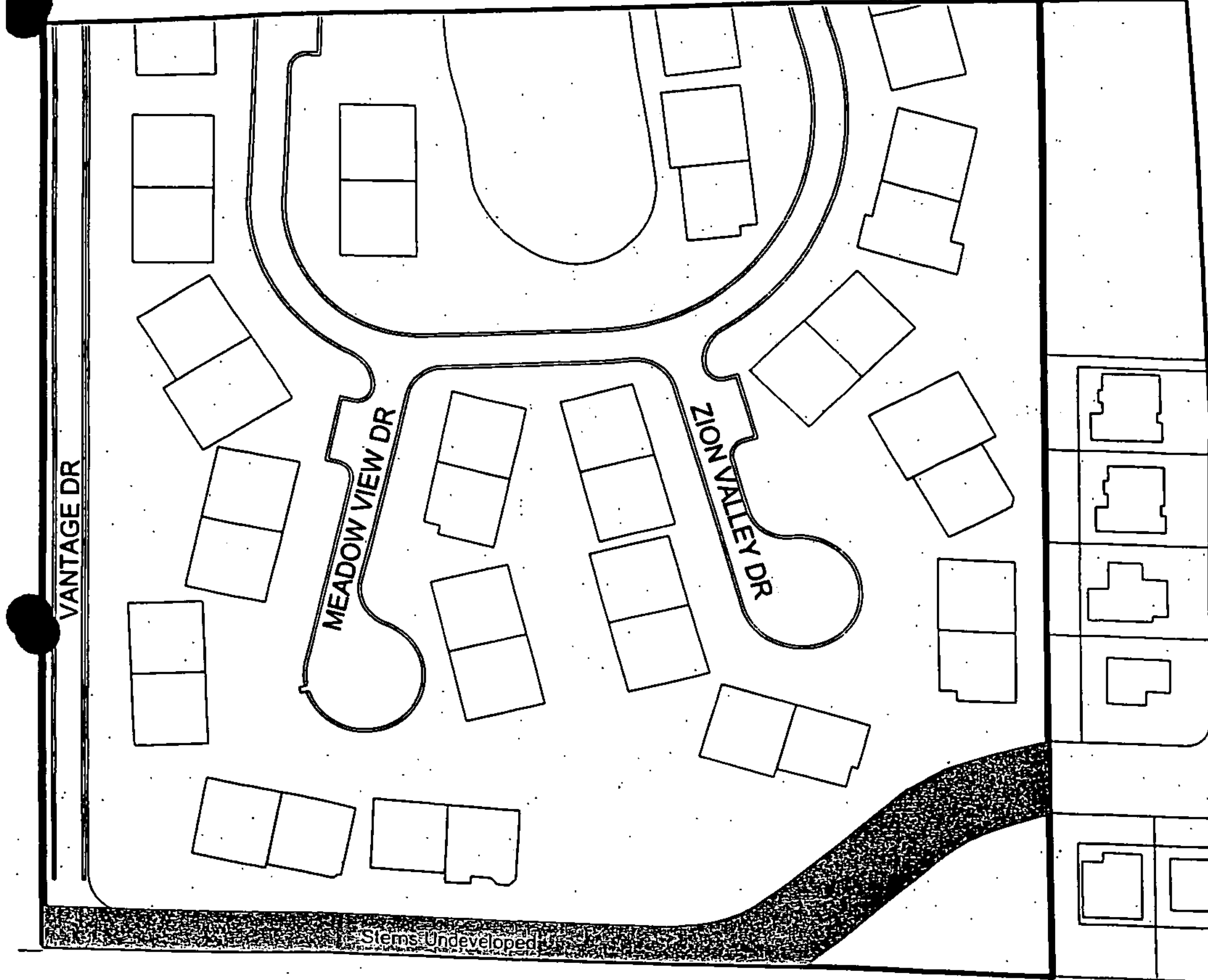
The motion carried by a vote of 8-1-0 with Mr. Tucker voting nay.

The meeting adjourned at 8:15pm.

AD99-30.00 - Zion Valley - One Mile Diameter



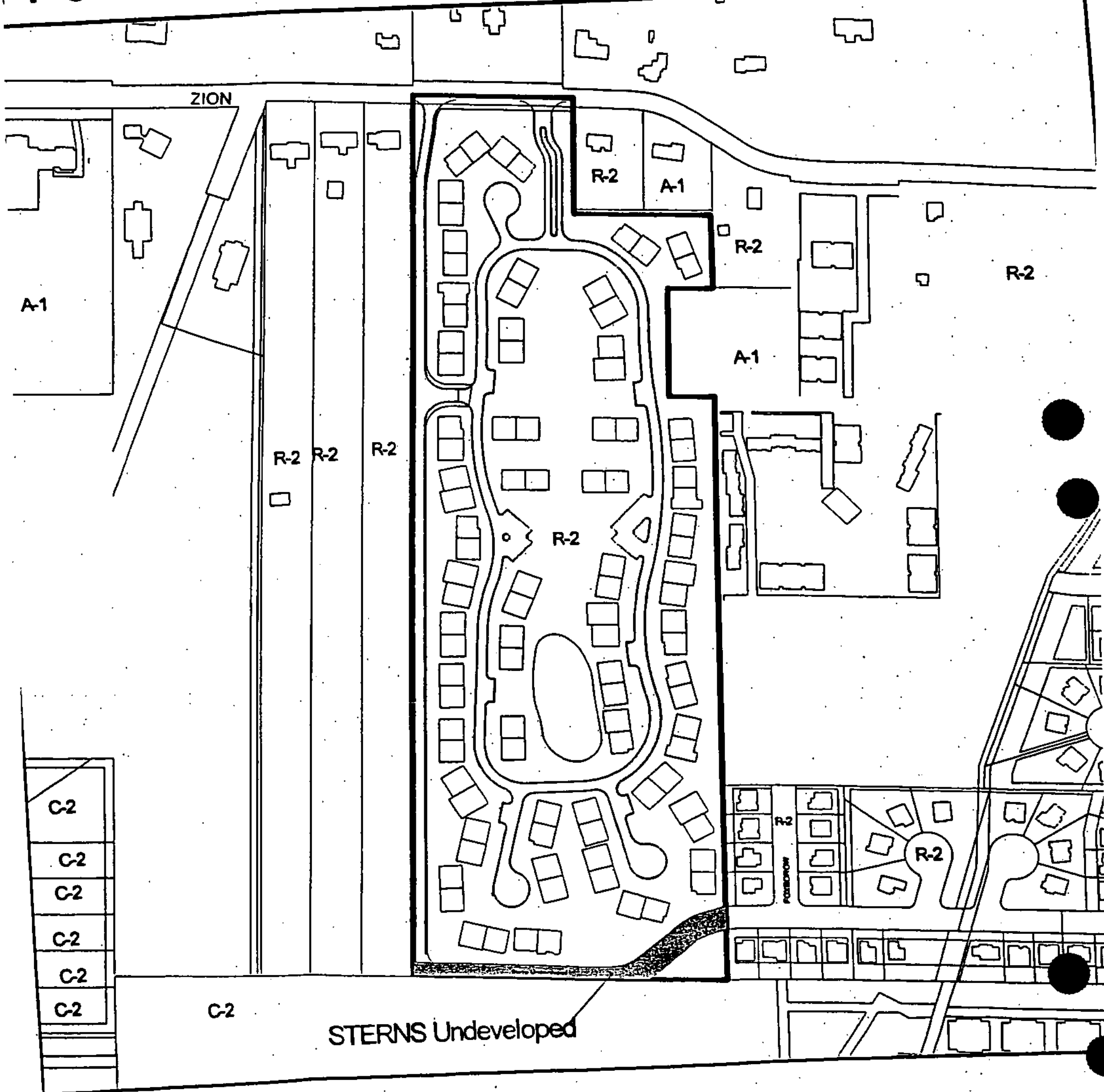
P99-7.00 - Zion Valley - Close Up



200 0 200 Feet



P99-7.00 - Zion Valley - Close Up



Planning Commission Minutes
January 10, 2000
Page 8

**AD99-30: ADMINISTRATIVE ITEM
ZION VALLEY, PP136**

This item was submitted by David Bercaw of Ball & Mourtou, Ltd., PLLC on behalf of Lenk Development for property located south of Zion Road. The property is zoned R-2, Medium Density Residential and contains approximately 5 acres.

David Bercaw was present on behalf of the request.

Committee Discussion

Johnson: Does staff have anything further?

Conklin: I need to call your attention to page 6.2. This matter does need to be reviewed by the City Attorney and approved by the City Council. The letter of credit needs to be tied to the Engineering News Record Construction Cost Index.

Bercaw: I'm with Ball and Mourtou. I did discuss with Mr. Conklin the indexing of the letter of credit. I do think it will have to be an annualized letter of credit and increased each year according to the cost of the construction index. My understanding is it would probably increase around 2 to 3 percent per year. We have no objection to it being a nondiscretionary letter of credit.

Johnson: Give us the definition of what you are using as a nondiscretionary letter of credit.

Estes: Simply stated, with a nondiscretionary letter of credit there can be no conditions based upon the exercise of the letter of credit. If the letter of credit is called, it is called. There are no conditions of any nature placed upon the call of the letter of credit. When called, it is paid.

Conklin: I would like to bring up an issue that was requested by Mr. Bercaw in his letter. They had requested they be given a certain amount of time to construct the improvement and I want to make sure it does not conflict. I'm not sure if that is a condition. They are asking for permission that when the letter of credit is called that they have a certain number of days where they can actually construct this improvement.

Johnson: What is the staff's position on that request?

Conklin: Staff is not opposed to allowing them to construct the improvement as long as the construction meets the city street standards and meets the standards for development in the area.

Planning Commission Minutes
January 10, 2000
Page 9

Johnson: Did the previous Planning Commission action preclude the developer from building the street?

Conklin: The original Planning Commission action required the developer to actually construct the street. They came back a year later and requested to not construct the street and could monies be escrowed. That was approved by the Planning Commission. Now, they have come back and asked if they can use a letter of credit to guarantee the improvement instead of putting the money into escrow.

Johnson: Or build the street themselves?

Conklin: That is correct.

Johnson: I would prefer that the annualization of the letter of credit be submitted to the staff for it's approval rather than to the Commission.

Odom: The agreement allows it to go into escrow. I'm looking at the minutes of the meeting where we agreed to do that on January 27, 1997. Has any money ever been placed in escrow?

Conklin: No money has been placed in escrow.

Odom: Is that unusual?

Conklin: We normally get the money prior to our sign off on the mylar which is recorded at the county. Once that money is placed in escrow, the five year time period begins. If it is not expended within that period, there is a public hearing of the Planning Commission to decide what to do with that money. Typically, we get that after the development is built and prior to sign off of the mylar copy of the final plat.

Odom: We have not signed off on it?

Conklin: We have not done that yet.

Public Comment

None.

MOTION

Commissioner Estes made a motion to approve administrative item 99-30 subject to the

Planning Commission Minutes
January 10, 2000
Page 10

condition that the letter of credit be nondiscretionary, that the cost basis increase be based upon the Engineering News Record Construction Cost Index and that the letter of credit be annualized. By that, I mean, that it be brought back to the staff on an annual basis for review and be increased in accordance with the Engineering News Record Construction Cost Index.

Commissioner Johnson seconded the motion.

Johnson: The motion by Commissioner Estes is to grant the requested administrative item allowing a letter of credit to be posted by the applicant. It would be an annualized letter of credit. It would be nondiscretionary and it would be annualized to the extent that every year the cost would be adjusted by tying it to the Engineering News Record Construction Cost Index.

Shackelford: Clarification, please. This motion states that the letter is nondiscretionary, therefore, we are taking away their ability to build the road themselves. We're strictly saying when the road is going to be built, we'll draw on the letter of credit and do it ourselves. I think we need to resolve what Tim was saying and what Commissioner Estes was saying on the nondiscretionary matter.

Estes: My thinking was that the applicant would have the opportunity to build or complete the construction of Stearns Streets and if they do not do so, then the City calls the letter of credit and the future construction of Stearns Street is paid for with the nondiscretionary letter of credit and is constructed by the city.

Johnson: That was my assumption on the second as well.

Hoffman: I would like to offer a friendly amendment that the final condition be that this letter of credit be in a form finally approved by the City Attorney. I know it's going forward to the City Council but I would like it to be formalized or recorded according to Arkansas State Law. I think it is a little unusual to take so long in figuring out how to do the street. I would like to put in every precaution that we can.

Estes: I accept the amendment.

Johnson: We have five specific conditions. The letter of credit is nondiscretionary. The cost is to be tied to the Engineering News Record Construction Cost Index. The letter of credit amount will be annualized. The applicant will have the opportunity first to construct the street itself before the letter of credit is called and the letter of credit must be approved by the City Attorney.

Odom: Mr. Bercaw, you are a representative of Ball and Mourtou and I guess you are here on behalf of the applicant.

Planning Commission Minutes
January 10, 2000
Page 11

Bercaw: Yes, sir.

Odom: I don't know if you are the right person to answer this question, but we first stated that we wanted the street built. That was approved. You came back and asked us to reconsider that and put the money in escrow. It has now been three years and the money has not been put in escrow and you are asking us now to reconsider that and you are asking to provide a letter of credit. I'm wondering what is next.

Bercaw: I'd like to explain the history on this. The development was originally started by Zion Valley, LLC of which the primary member was Jack Torres. He subsequently died and his daughter took over the operation of it. The development went idle for about a year and a half to two years. My clients, Unique Homes and Lenk Development, purchased the property and now they are starting the development again. The original appeal was in 1997 for the cash escrow and that was granted to Zion Valley LLC and not my clients.

Odom: I'm going to support staff. I grow more leery of this development every time we see it. I know it's had a change of hands. For this development, we waived many of the streets on the Master Street Plan to begin with. I'm tired of seeing it. I'm getting more concerned that as this goes along, we lose control, especially with all the questions about the letter of credit.

Estes: I will vote for the motion. To relieve some anxiety concerning the difference between a cash deposit and a letter of credit, a nondiscretionary letter of credit is cash in the bank. It's just as good as cash money in the bank. It's nondiscretionary. It's going to be indexed. It's going to be annualized. The money is going to be there to build the street if it becomes necessary for the City to take on this task and complete the construction.

Shackelford: A letter of credit is also irrevocable. Once it is in place, it's there through maturity.

Odom: What happens at the end of a letter of credit? Does it have a maturity date?

Shackelford: Correct.

Odom: I know when we put money in escrow, we can vote on it again to see if we want to extend it if the need is going to be there in future. If the maturity date expires and the letter of credit is gone, what happens at that point?

Estes: That is a problem with annualizing this letter of credit. When it expires at the end of one year it will be gone. There is going to be a gap period in which that letter of credit will not be available. If for any reason, this applicant is unable by reason of credit worthiness or desire or intent to replace the letter the credit, then we'll see this again.

Planning Commission Minutes
January 10, 2000
Page 12

Odom: Our safeguard for escrowing monies is that it remains accessible and we can vote on it again if we need to. What is our safeguard in the letter of credit?

Estes: It is possible that there would be a gap period where that letter of credit would not be place and in that case, we would see this again for the fourth time.

Shackelford: It also operates like any loan with an annual balloon. The bank will approach the borrowers prior to the expiration and request to renew it. Theoretically, at that point, they would contact the city and find out the adjustment of the index and letter of credit and get the paperwork started so the second letter of credit would be ready at the time of the first letter of credit's maturity. You have to have annual balloons in place to calculate the index and increase the value over time.

Estes: If we annualize the letter of credit, when it expires it is possible there is a gap period and depending on the credit worthiness of the applicant, that letter of credit may or may not be replaced. I want each Commissioner to understand that. That is the down side of taking a letter of credit in lieu of cash in escrow. Perhaps that is one reason our statute does not specifically provide for a letter of credit but does specifically provide for cash in escrow.

Johnson: What about the possibility of the basic letter of credit not being annualized but rather having whatever term is appropriate and only the increase being annualized? Could that reasonably be done so that the risk is really only tied to the increase in the cost of construction and the risk is not tied to the \$74,000 that we know is the base price?

Hoffman: If we did that, construction costs are totally predictable.

Johnson: It's tied to the Engineering News Record, Construction Cost Index. There would be three letters of credit. One would be a long term letter of credit for however many years we felt like it needed to be to get away from the problem of it being annualized and then the part that would be annualized would only be a portion that is the increased amount due to inflation.

Hoffman: Is that a number that can be arrived at?

Conklin: We know how much it would cost today and that is \$74,364 and theoretically, every year that goes up. The past couple of years it has increased about 2.5 percent. We rely on the City Attorney to make sure that this works.

Johnson: This does go on to the City Council.

Conklin: That is correct and by ordinance, the form has to be approved by the City Attorney so he will review and recommend the final form.

Planning Commission Minutes
January 10, 2000
Page 13

Odom: I'm going to support it then. These minutes will reflect our concerns and if that is a problem they can address it.

Johnson: It seems to me the City Attorney would have the authority to segregate the two elements of the letter of credit and if he felt it was better, there could be two letters of credit. One for the \$74,364 and one for the increase and staff can convey that to him as one idea.

Hoffman: On the conditions of approval, could be add that if a satisfactory decision is not made by the City Attorney that the money be immediately escrowed since it has not been to date.

Johnson: Tim, I understood you to say that the fact that it hasn't been escrowed to date is not atypical. In most projects it would not be escrowed by this date.

Conklin: Normally, those funds are escrowed when they get ready to sell the lots or the homes. To date, we have not signed off on the final plat. There has been no development recorded at Washington County Courthouse.

Johnson: We benefit because the five year period for the escrow doesn't start running until after construction is complete.

Roll Call

Upon roll call, the motion passed with a vote of 8-0-0.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF
A NONDISCRETIONARY AND ANNUALIZED LETTER
OF CREDIT BASED ON THE ENGINEERING NEWS
RECORD, CONSTRUCTION COST INDEX TO
GUARANTEE CONSTRUCTION OF STEARNS
STREET AS SUBMITTED BY DAVID BERCAW OF
BALL AND MOURTON ON BEHALF OF LENK
DEVELOPMENT FOR ZION VALLEY, PUD AS
REQUESTED IN AD99-30.

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

Section 1. That the City Council hereby authorized a nondiscretionary and
annualized letter of credit based on the Engineering News Record, Construction Cost Index for
guarantee for the construction of Stearns Street.

Section 2. An executed copy of said letter of credit is attached hereto and made a part
hereof.

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By _____
Fred Hanna, Mayor

ATTEST:

By _____
Heather Woodruff, City Clerk

enr.com
Engineering News-Record

This week's magazine

- Cover story
- Features and more
- 125 Years in ENR History
- Industry calendar
- Opinion
- People & awards
- Cost indexes

Headline News

- Buildings
- Business & Labor
- Environment
- Finance
- Technology
- Transportation
- Industrial
- Power
- Y2K on construction.com

Career Opportunities

Project Bids and Legal Notices

ENR'S Top Ranked Firms

- Top Design Firms
- Top Contractors
- Top Specialty Contractors
- Top International Contractors
- Top International Design Firms
- Top Environmental Firms
- Top Design Build Firms
- Top CM Firms (fee)
- Top CM Firms (at risk)

Online Directories

- Links to the industry
- Heavy Equipment
- Design and construction firms
- Sourcebook

Products and Services

- How to order additional copies or back issues
- How to order reprints
- Mailing lists

AlumaSystems

Industrial Maintenance and
Concrete Construction Specialists

Construction Cost Index History (1908-1999)

HOW ENR BUILDS THE INDEX: 200 hours of common labor a 20-city average of common labor rates, plus 25 cwt of standard structural steel shapes at the mill price prior to 1996 and the fabricated 20-city price from 1996, plus 1.128 tons of portland cement at the 20-city price, 1,088 board-ft of 2 x 4 lumber at the 20-city price.

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
1977	2494	2505	2513	2514	2515	2541	2579	2611	2644	2675	2659	2660	
1978	2672	2681	2693	2698	2733	2753	2821	2829	2851	2851	2861	2869	
1979	2872	2877	2886	2886	2889	2984	3052	3071	3120	3122	3131	3140	
1980	3132	3134	3159	3143	3139	3198	3260	3304	3319	3327	3355	3376	
1981	3372	3373	3384	3450	3471	3496	3548	3616	3657	3660	3697	3695	
1982	3704	3728	3721	3731	3734	3815	3899	3899	3902	3901	3917	3950	
1983	3960	4001	4006	4001	4003	4073	4108	4132	4142	4127	4133	4110	
1984	4109	4113	4118	4132	4142	4161	4166	4169	4176	4161	4158	4144	
1985	4145	4153	4151	4150	4171	4201	4220	4230	4229	4228	4231	4228	
1986	4218	4230	4231	4242	4275	4303	4332	4334	4335	4344	4342	4351	
1987	4354	4352	4359	4363	4369	4387	4404	4443	4456	4459	4453	4478	
1988	4470	4473	4484	4489	4493	4525	4532	4542	4535	4555	4567	4568	
1989	4580	4573	4574	4577	4578	4599	4608	4618	4658	4658	4668	4685	
1990	4680	4685	4691	4693	4707	4732	4734	4752	4774	4771	4787	4777	
1991	4777	4773	4772	4766	4801	4818	4854	4892	4891	4892	4896	4889	
1992	4888	4884	4927	4946	4965	4973	4992	5032	5042	5052	5058	5059	
1993	5071	5070	5106	5167	5262	5260	5252	5230	5255	5264	5278	5310	4.7%
1994	5336	5371	5381	5405	5405	5408	5409	5424	5437	5437	5439	5439	1.9%
1995	5443	5444	5435	5432	5433	5432	5484	5506	5491	5511	5519	5524	1.5%
1996	5523	5532	5537	5550	5572	5597	5617	5652	5683	5719	5740	5744	4.0%
1997	5765	5769	5759	5799	5837	5860	5863	5854	5851	5848	5838	5858	1.6%
1998	5852	5874	5875	5883	5881	5895	5921	5929	5963	5986	5995	5991	2.4%
1999	6000	5992	5986	6008	6006	6039	6076	6091	6117				2.4%

Base: 1913=100. Indexes revised from September 1996 through January 1997

ANNUAL AVERAGE

1908 97 1931 181 1954 628

5.2% last 2 yrs

Aug 97 > 4.1%
Aug 99

Mailing lists

- How to order plaques
- Directories
- ENR/BNI Bookshelf

About ENR

- Contact us
- Upcoming stories
- Search back issues
- Mission and history
- How to subscribe
- How to advertise
- Online Job Fair Info
- Meet the Staff
- Make enr.com your homepage

Site Map

Home

Search Back Issues of ENR



Search this Site



1909	91	1932	157	1955	660
1910	96	1933	170	1956	692
1911	93	1934	198	1957	724
1912	91	1935	196	1958	759
1913	100	1936	206	1959	797
1914	89	1937	235	1960	824
1915	93	1938	236	1961	847
1916	130	1939	236	1962	872
1917	181	1940	242	1963	901
1918	189	1941	258	1964	936
1919	198	1942	276	1965	971
1920	251	1943	290	1966	1019
1921	202	1944	299	1967	1074
1922	174	1945	308	1968	1155
1923	214	1946	346	1969	1269
1924	215	1947	413	1970	1381
1925	207	1948	461	1971	1581
1926	208	1949	477	1972	1753
1927	206	1950	510	1973	1895
1928	207	1951	543	1974	2020
1929	207	1952	569	1975	2212
1930	203	1953	600	1976	2401

AutoCAD®

.....

Land Development

Desktop



[Letterhead of Unique Homes, Inc.]

March 14, 2000

Mayor Fred Hanna
City of Fayetteville, Arkansas
113 West Mountain
Fayetteville, Arkansas 72701

RE: Letter of Credit from McIlroy Bank & Trust for Unique Homes, Inc.
regarding Zion Valley Estates

Dear Mayor Hanna:

This letter agreement is to confirm the understanding of Unique Homes, Inc. ("Unique Homes"), and the City of Fayetteville, Arkansas, regarding the irrevocable letter of credit issued by McIlroy Bank & Trust to the City of Fayetteville on behalf of Unique Homes.

At its meeting on January 10, 2000, the Planning and Zoning Commission approved recommending to the City Council acceptance of an irrevocable letter of credit in the amount of Seventy-four Thousand Three Hundred Sixty-four Dollars (\$74,364.00) to be issued by McIlroy Bank & Trust on behalf of Unique Homes in lieu of a cash escrow deposit of the same amount for the cost of construction of a possible future extension of Stearns Street within Zion Valley Estates and in fulfillment of such requirement for approval of the final plat. As a condition of acceptance by the City Council, the letter of credit is to be renewed each year. At renewal, the amount of the letter of credit is to be increased in the same percentage amount as the percentage increase of the Engineering News Record Construction Cost Index.

On January 26, 2000, McIlroy Bank & Trust issued an irrevocable letter of credit in the amount of Seventy-four Thousand Three Hundred Sixty-four Dollars (\$74,364.00) on behalf of Unique Homes naming the City of Fayetteville as beneficiary of the letter of credit. The expiration date of the letter of credit is January 26, 2001. The letter of credit provides that the City of Fayetteville may draw upon the letter of credit if Unique Homes fails to honor its contractual obligations with the City of Fayetteville.

By execution of this letter agreement, Unique Homes agrees, represents, and covenants that each year, at least thirty (30) days prior to the expiration of the letter of credit then on deposit with the City of Fayetteville, Unique Homes shall submit to the City of Fayetteville a new letter of credit with an expiration date one year beyond the expiration date of the letter of credit then on deposit, and that the amount of the new letter of credit shall be increased in the same percentage amount as the percentage increase of the Engineering News Record Construction Cost Index. Unique Homes

Mayor Fred Hanna
City of Fayetteville, Arkansas
March 14, 2000
Page 2

further agrees, represents, and covenants that should it not present such new letter of credit at least thirty (30) days prior to the expiration of the letter of credit then on deposit with the City of Fayetteville, that such failure to present a new letter of credit shall be considered a failure by Unique Homes to honor its contractual obligations with the City of Fayetteville. Unique Homes, by such failure to present a new letter of credit, authorizes and directs the City of Fayetteville to present the letter of credit to McIlroy Bank & Trust for payment and to deposit such payment into a cash escrow account for the cost of any future construction of the extension of Stearns Street within Zion Valley Estates. Unique Homes further authorizes and directs McIlroy Bank & Trust to pay to the City of Fayetteville the amount of the letter of credit upon presentment of such letter of credit and under the condition set forth above.

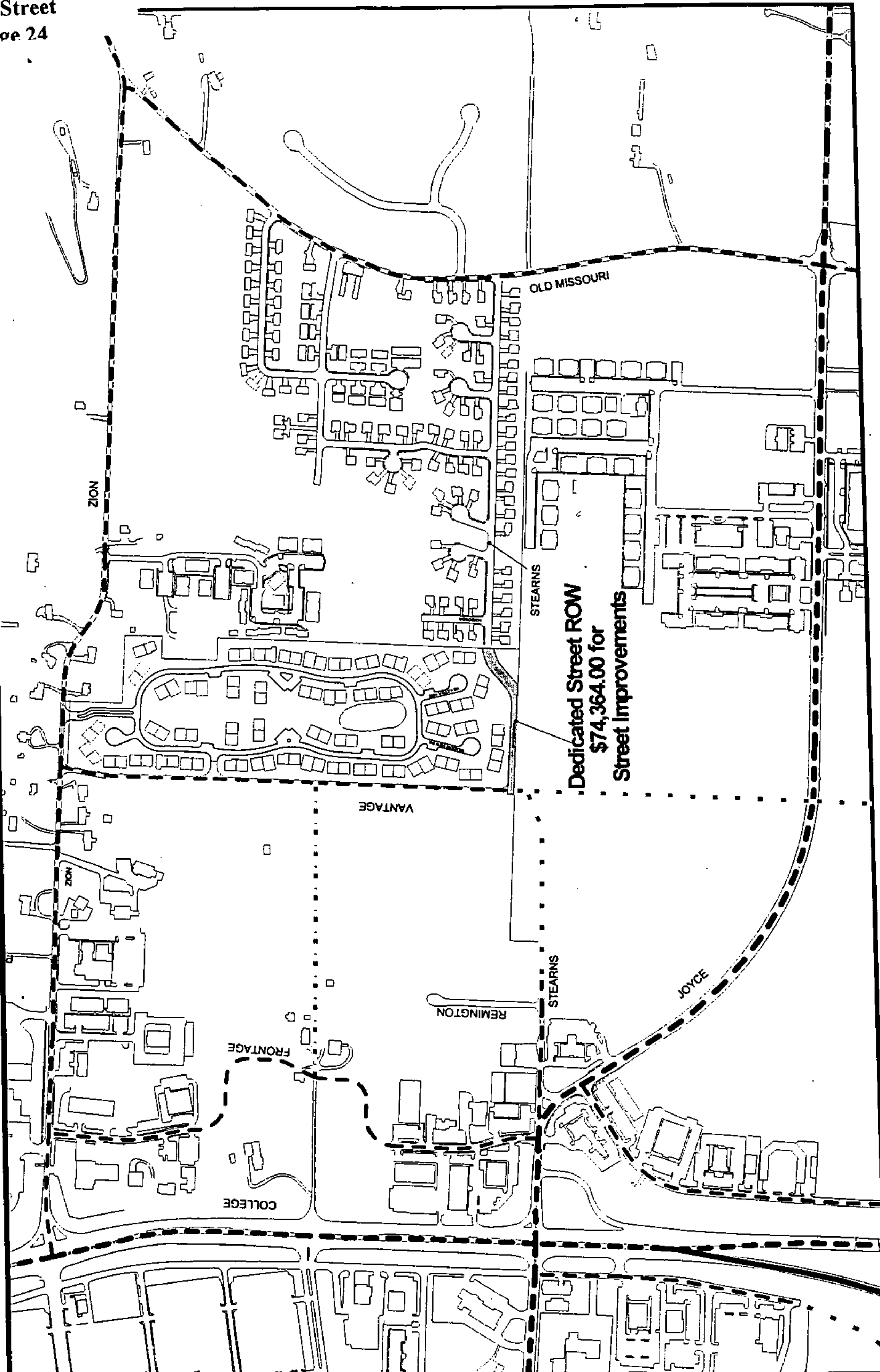
UNIQUE HOMES, INC.

By: _____
Name: Dale Lenk
Title: President

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Name: Fred Hanna
Title: Mayor

AD99-30.00 - Zion Valley



600 0 600 Feet

N

- Freeway
- Principal Arterial
- Minor Arterial
- Proposed Street

RECEIVED

APR 04 2000

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

STAFF REVIEW FORM

Agenda Request
Contract Review
Grant Review

For the Fayetteville City Council meeting of April 18, 2000.

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUESTED: To approve a resolution to amend the Master Street Plan to remove the north/south collector street that is located east of Crossover Road between Township Street and Skillern Road.

COST TO 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 4-3-00

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommends approval of the Master Street Plan Amendment. The Street Committee met on March 28, 2000 and voted to recommend approval the amendment as presented by staff.

Division Head

3-31-00

Date

Department Director

4-3-00

Date

Administrative Services

4-3-00

Date

Director

4/3/00

Date

Mayor

Cross Reference

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

Prev Ord/Res#: _____

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone:

501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, City Planner
DATE: March 31, 2000
SUBJECT: Master Street Plan Amendment

A proposed lot split was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Kirby and Cathy Walker for property located on Skillern Road at lot 40 of Brookbury Woods Subdivision. The property is zoned R-1, Low Density Residential and contains approximately 1.86 acres. The request is to split the property into two tracts of approximately 1.07 and 0.79 acres.

At the March 16, 2000 Subdivision Committee, the lot split was approved subject to the Master Street Plan being amended (please see attached minutes). The property is divided by a proposed Master Street Plan Collector Street. Staff did not recommend any dedication of right-of-way due the fact that the street is located between two existing platted subdivisions which would place the street in the back yards of the existing houses.

At the March 28, 2000 City Council Street Committee, the Committee recommended approval of the proposed Master Street Plan Amendment as presented by staff.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Subdivision Committee Members
FROM: Sara Edwards, Development Coordinator
THRU: Tim Conklin, Planning Director
Ron Petrie, Staff Engineer
DATE: March 16, 2000

Project: LS 00-2.00: Lot Split (Walker, pp 256) was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Kirby and Cathy Walker for property located on Skillern Road at lot 40 of Brookbury Woods Subdivision. The property is zoned R-1, Low Density Residential and contains approximately 1.86 acres. The request is to split the property into two tracts of approximately 1.07 and 0.79 acres.

Findings: The proposed lot split meets all of our zoning requirements. There was an issue at plat review regarding the lot width. The revision submitted has satisfied that issue. All other requirements have been met.

Recommendation: Forward to full Planning Commission

Conditions to Address / Discuss:

1. The applicant has obtained approval for a lot split from the Property Owners Association. However, we are waiting for a letter to substantiate the approval.
-  2. The property does adjoin a Master Street Plan Street. Staff is not recommending any dedication of right-of-way due the fact that the street can not feasibly be built. Any lesser dedication of right of way requires city council approval.

Standard Conditions of Approval:

3. Plat Review and Subdivision comments (to include written staff comments mailed to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, TCA Cable)
4. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review

process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

5. Payment of parks fees in the amount of \$470.00
6. Sidewalk construction in accordance with current standards to include a 10 foot greenspace with a 6 foot sidewalk.
7. Additional conditions:
 - a. Subject to City Council amending the Master Street Plan
 - b. SWEPCO to have exclusive use of sewer easement and easement returned to natural state.
 - c. Letter from property owners association permitting lot split

Subdivision Committee Action:
Meeting Date: March 16, 2000

☒ Approval

☐ Forwarded to P.C.

Comments: Motion made by Hoover to approve subject to comments Johnson seconded
motion. Hoffman concurred. Motion passed 3-0.

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Subdivision Minutes
March 16, 2000
Page 7

**LS00-2: LOT SPLIT
WALKER, PP256**

This item was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Kirby and Cathy Walker for property located on Skillern Road at lot 40 of Brookbury Woods Subdivision. The property is zoned R-1, Low Density Residential and contains approximately 1.86 acres. The request is to split the property into two tracts of approximately 1.07 and 0.79 acres.

Commission Discussion

Hoffman: This is a lot split which can be approved at this level.

Conklin: This does meet our zoning requirements for minimum lot width and lot area. The applicant has obtained approval for the lot split from the property owner's association. We have asked to have a letter from them for our file. We need to deal with the issue of amending the Master Street Plan. There is a collector street shown on the Master Street Plan that goes between Savannah and Brookbury and the lots back up to it. I do not believe this street can be built because these two subdivisions were constructed prior to the Master Street Plan street. You're dealing with numerous lot owners and it is physically in their back yard. It's my opinion that would not happen. We have Brookbury Crossing that have future stubouts that would connect over to Township. There is a proposed street that would connect Skillern Road to Highway 45 and Township. You would have to deal with 20 to 30 property owners, individually to acquire the right of way.

Hoffman: Why was this put in after this was platted?

Conklin: At the time, when these subdivisions were going, we had 26 public meetings to adopt the Master Street Plan and think it was a timing issue.

Hoffman: Since this is not needed, we can make a recommendation to abandon this.

Conklin: The City Council will have to amend the Master Street Plan. In my opinion, it would be difficult now to take that right of way from the backyards of the residents of Savannah and Brookbury Woods. The houses have been built. The question on this lot split was whether to require the right of way. My opinion is that we look at amending our Master Street Plan.

Hoffman: Can we show the potential right of way to be removed pending the Master Street Plan amendment? That would cover us either way.

Subdivision Minutes
March 16, 2000
Page 8

- Conklin: I would include the right of way to be deleted pending the City Council's amendment to the Master Street Plan. I will take that forward.
- Petrie: They need to add a note to the plat requiring the sewer line easement to be shared with SWEPCO and that easement should be returned to a natural state.
- Jorgensen: Okay.
- Conklin: We do own that property as park land area immediately to the west of this lot split. That is why they are concerned about the sewer easement being returned to a natural state.
- Rutherford: Skillern Road is a minor arterial. The requirement is a minimum 10 foot green space with a 6 foot sidewalk. The sidewalk will be required at the time of development.
- Hoffman: Is the applicant in agreement with these things?
- Jorgensen: Yes.
- Hoffman: I would like for the minutes to reflect that we are in concurrence with amending the street plan.

Public Comment

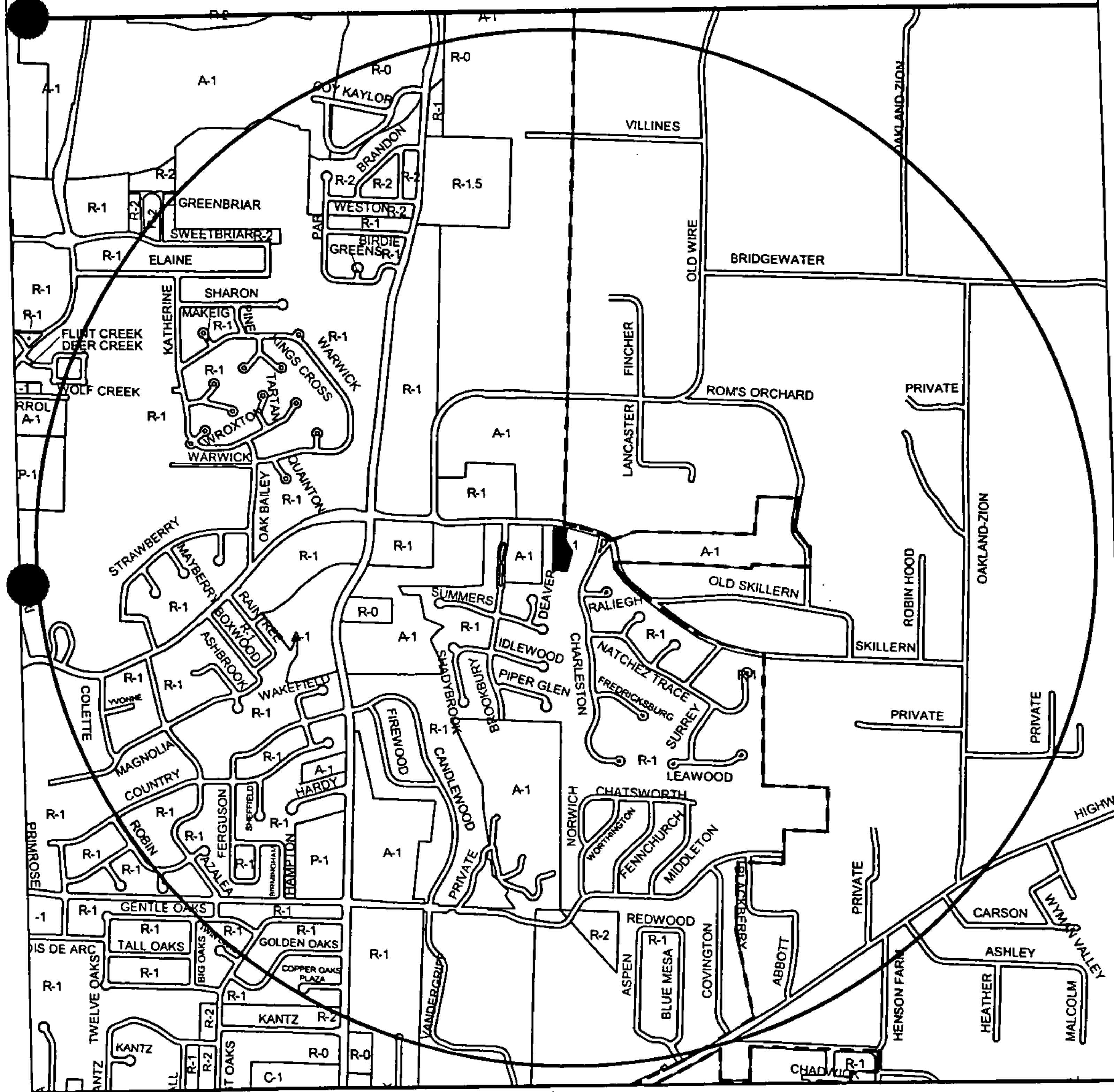
None

- Hoover: Let's read the conditions into the record: the lot split shall be approved subject to a letter from the POA approving the lot split; an amendment to the Master Street Plan to be approved by the City Council; that for SWEPCO's exclusive use of the easement it will be returned to a natural state for the park land; and, that the sidewalk be developed at the time of construction.

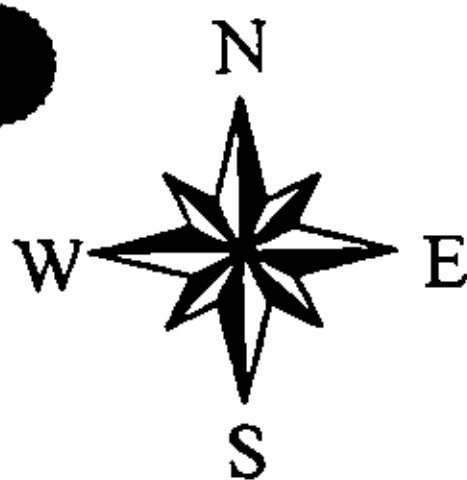
MOTION

- Commissioner Johnson made a motion to approve LS00-2 subject to the conditions.
- Commissioner Hoover seconded the motion.
- Commissioner Hoffman concurred.

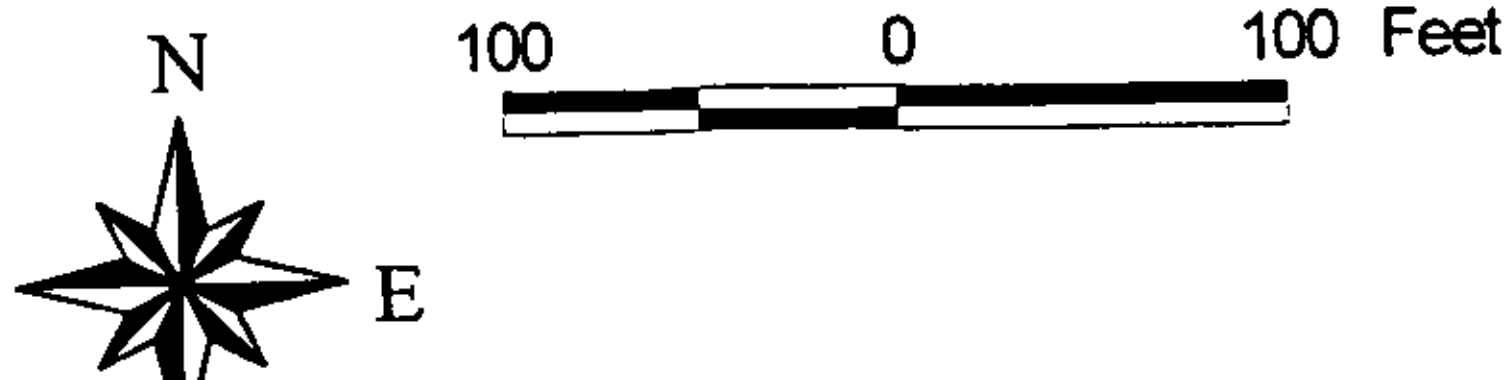
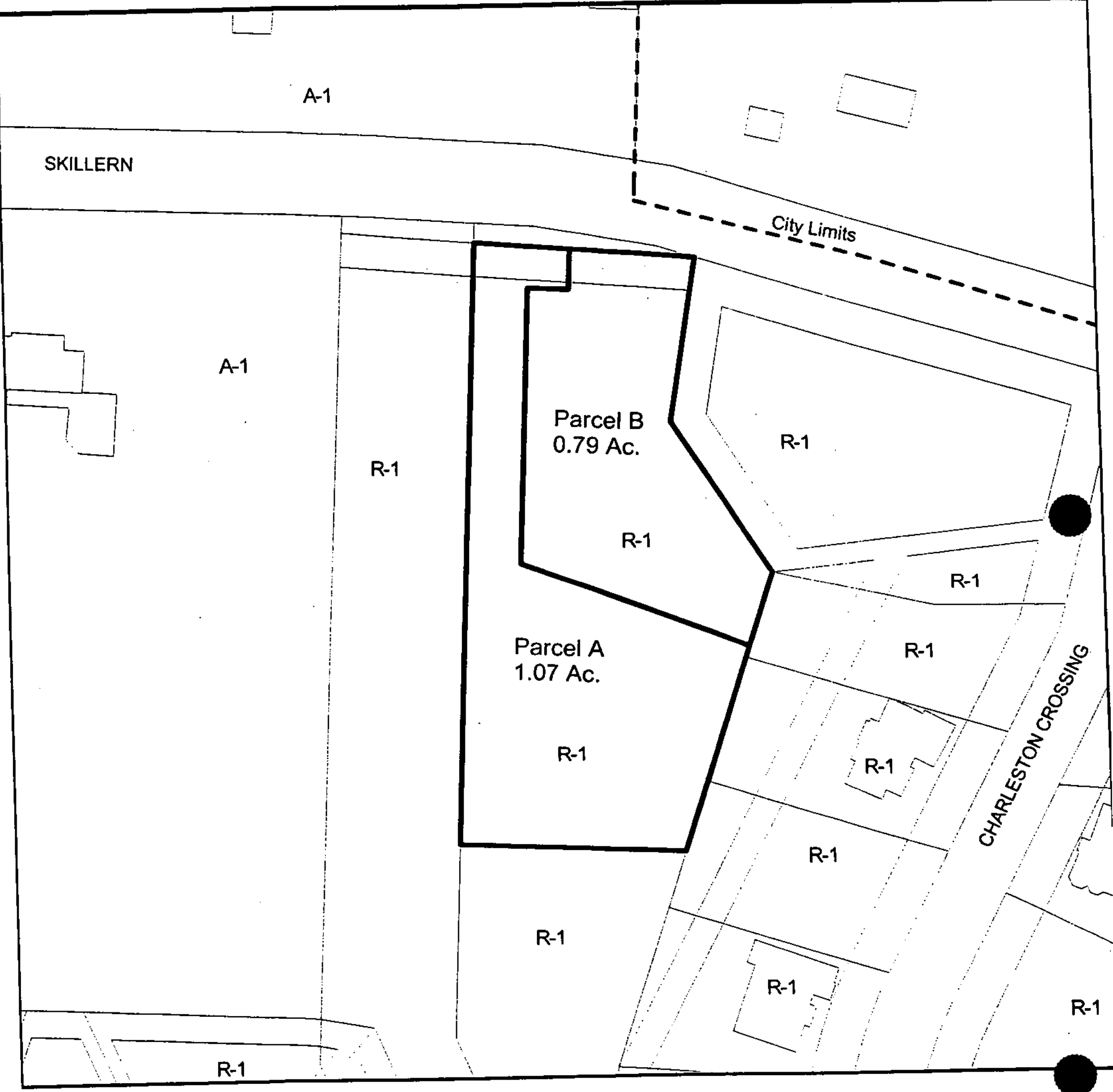
LS00-2.00 - Walker - One Mile Diameter

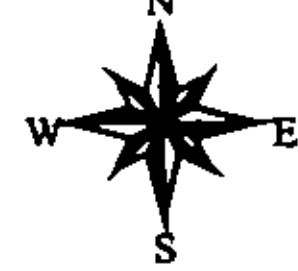


1400 0 1400 Feet



LS00-2.00 - Walker - Close Up

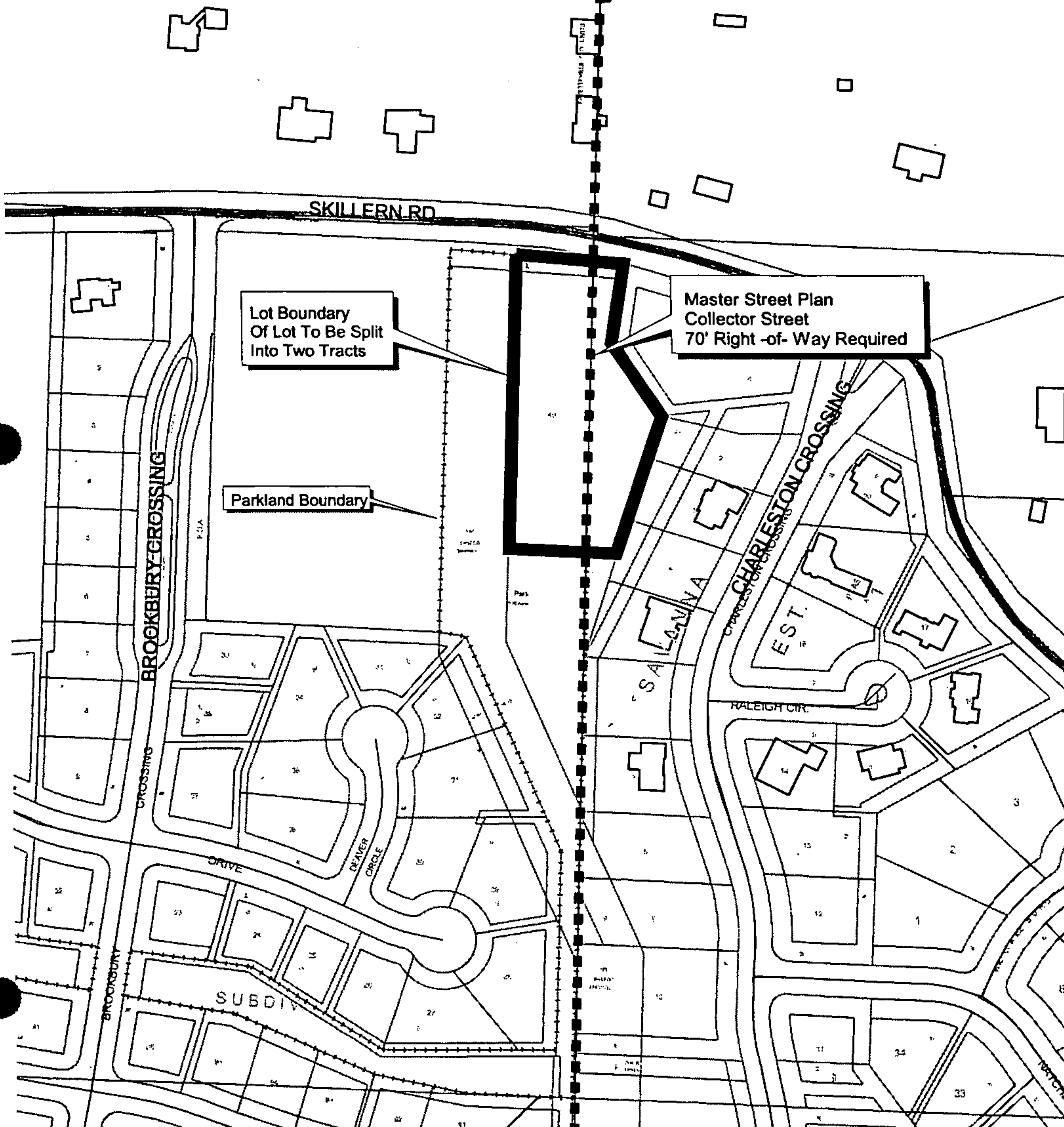




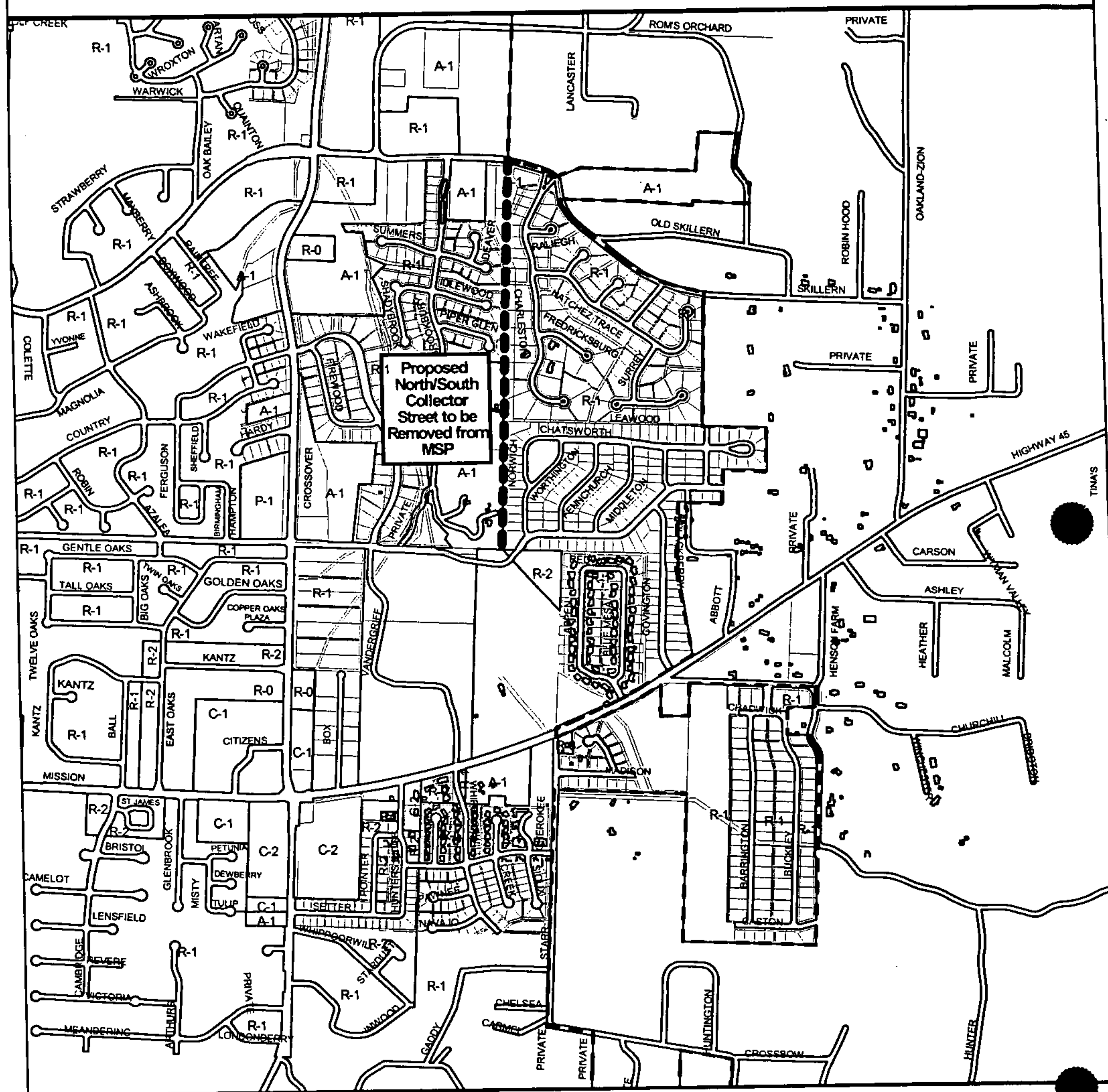
NW-NE
31-17-29

200 0 200 Feet

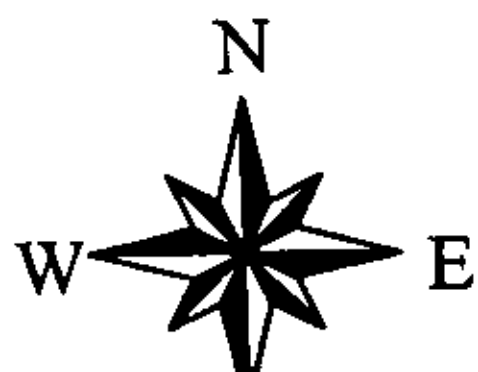
Master Street Plan Amendment "Lot Split For Kirby Walker"



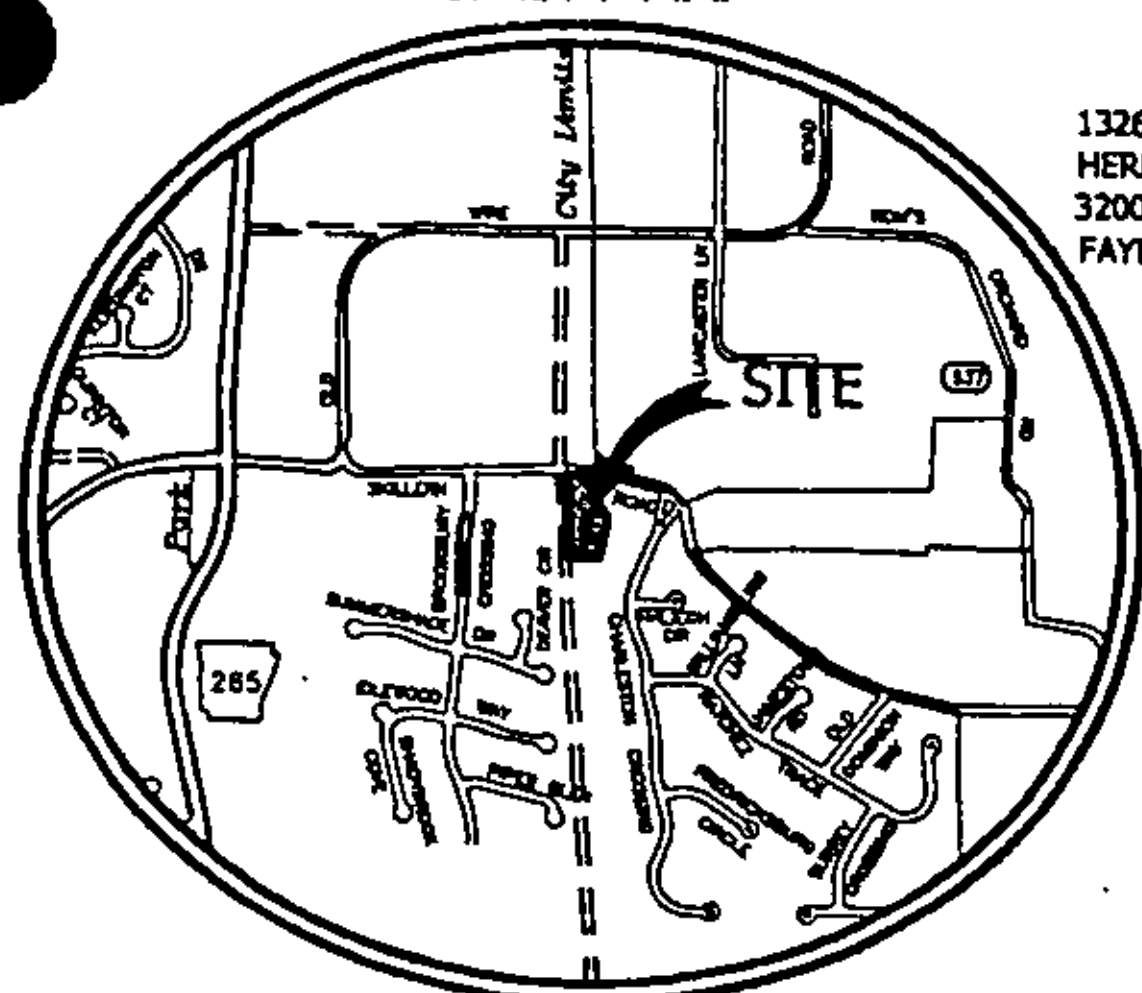
Master Street Plan Amendment



1400 0 1400 Feet



VICINITY MAP



FAYETTEVILLE, ARKANSAS

ZONING = R-1

LEGAL DESCRIPTION: (ORIGINAL TRACT)

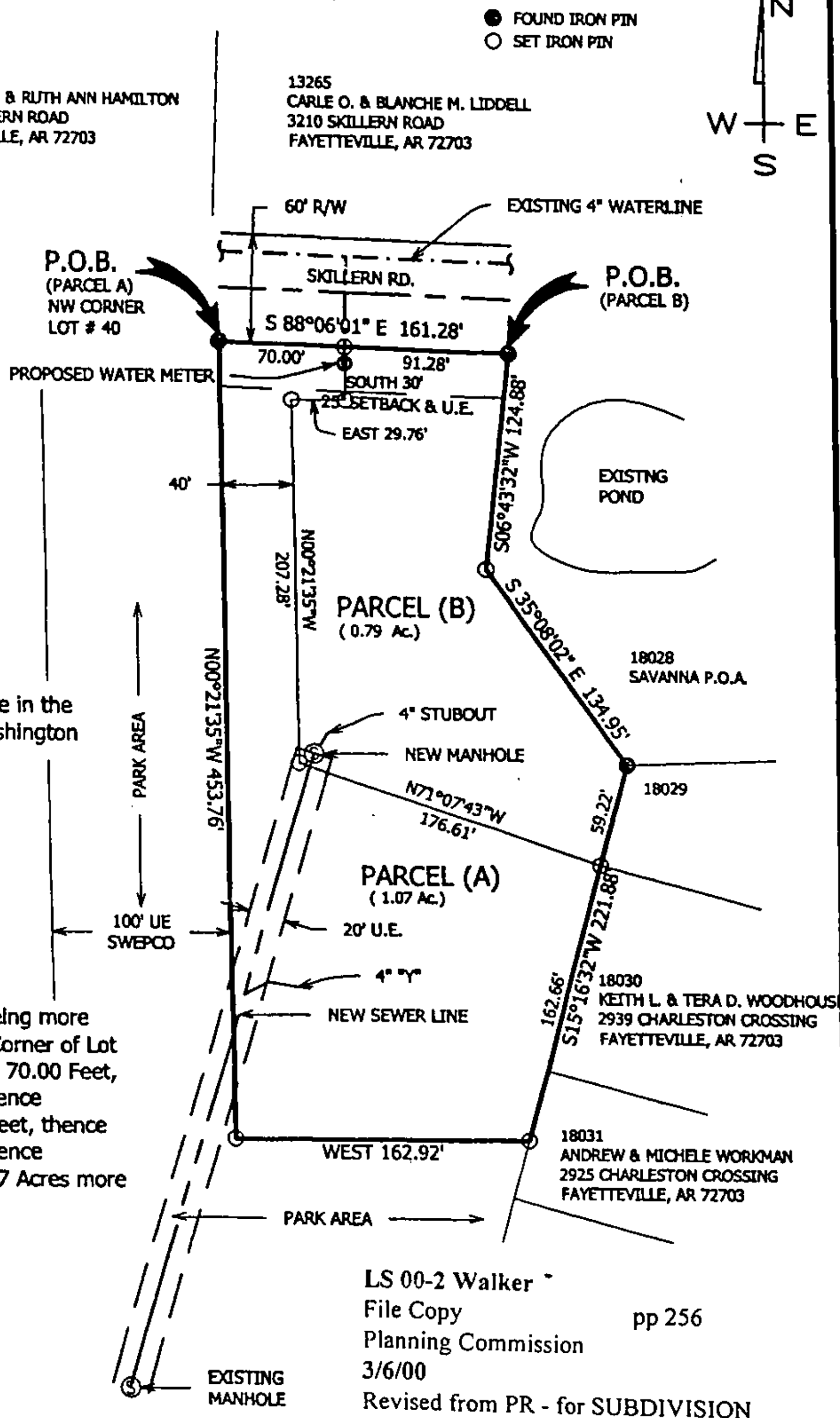
Lot 40 of Brookbury Woods Subdivision as per plat on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

LEGAL DESCRIPTION: (PARCEL A)

A part of Lot 40 of Brookbury Woods Subdivision and being more particularly described as follows: Beginning at the NW Corner of Lot 40 of Brookbury Woods Subdivision thence S88°06'01"E 70.00 Feet, thence SOUTH 30.00 Feet, thence WEST 29.76 Feet, thence S00°21'35"E 207.28 Feet, thence S71°07'43"E 176.61 Feet, thence S15°16'32"W 162.66 Feet, thence West 162.92 Feet, thence N00°21'35"W 453.76 Feet to the P.O.B. Containing 1.07 Acres more or less.

LEGAL DESCRIPTION: (PARCEL B)

A part of Lot 40 of Brookbury Woods Subdivision and being more particularly described as follows: Commencing at the NW Corner of Lot 40 of Brookbury Woods Subdivision thence S88°06'01"E 161.28 Feet to the P.O.B., thence S06°43'32"W 124.88 Feet, thence S35°08'02"E 134.95 Feet, thence S15°16'32"W 59.22 Feet, thence N71°07'43"W 176.61 Feet, thence N00°21'35"W 207.28 Feet, thence EAST 29.76 Feet, thence NORTH 30.00 Feet, thence S88°06'01"E 91.28 Feet to the P.O.B. Containing 0.79 Acres more or less.



THIS IS TO CERTIFY THAT THE ABOVE SURVEY
WAS PERFORMED UNDER MY SUPERVISION AND
ALL CORNERS WERE SET AS SHOWN ON THE
ABOVE PLAT AND TO THE BEST OF MY
KNOWLEDGE ARE CORRECT.

DAVID L. JORGENSEN, ARLS 1118 DATE

RESOLUTION NO. _____

A RESOLUTION AMENDING THE MASTER STREET PLAN
TO REMOVE THE PROPOSED NORTH/SOUTH COLLECTOR STREET
LOCATED EAST OF CROSSOVER ROAD BETWEEN TOWNSHIP STREET
AND SKILLERN ROAD.

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

Section 1. That the City Council hereby amends the Master Street Plan to remove the
proposed north/south collector street located east of Crossover Road
between Township Street and Skillern Road.

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By _____
Heather Woodruff, City Clerk

Fayetteville

CHAMBER OF COMMERCE

April 10, 2000
Our 111th Year

Honorable Fred Hanna
Mayor
CITY OF FAYETTEVILLE
113 West Mountain Street
Fayetteville, AR 72701

SUBJECT: Advantage Arkansas Program

Dear Mayor Hanna:

The Fayetteville Chamber of Commerce is working to help Automated Research & Marketing (a local company) expand in our community, thereby creating upwards of 60 new jobs. A copy of their application to the Advantage Arkansas Program is attached. Also known as the Arkansas Enterprise Zone Program, Act 947 of 1993, the incentives include:

- A refund of sales and use taxes on the purchase of materials used in construction of a new facility or expansion of an existing facility; and,
- A refund of sales and use taxes on machinery and equipment to be used in connection with the business.

The Arkansas Department of Finance and Administration monitors and administers the program. Essentially, credit for the sales and use taxes are accumulated during the first year. Beginning in year two, Automated Research & Marketing can either call for reimbursement of the accumulated tax credits in their entirety, or spread the sum over a four-year period. Further questions can be directed to Ms. Stephanie Johnson at the Arkansas Department of Economic Development (501.682.7684).

Sincerely,



**James V. Crider, Director
Economic Development**



RESOLUTION NO. _____

RESOLUTION OF THE CITY OF FAYETTEVILLE OF WASHINGTON COUNTY, ARKANSAS CERTIFYING LOCAL GOVERNMENT ENDORSEMENT OF AUTOMATED RESEARCH & MARKETING TO PARTICIPATE IN THE ADVANTAGE ARKANSAS PROGRAM (ALSO KNOWN AS THE ARKANSAS ENTERPRISE ZONE PROGRAM – ACT 947 OF 1993.

WHEREAS, the local government must endorse a business to participate in the Advantage Arkansas Program and benefit from the refunds/tax credits as provided in the Arkansas Enterprise Zone Program Regulations of 1993; and

WHEREAS, said endorsement must be made on specific form available from the Arkansas Department of Economic Development; and

WHEREAS, Automated Research & Marketing located at 34 West Colt Square in Fayetteville, Arkansas has sought to participate in the program and more specifically has requested benefits accruing from expanding into a larger facility; and

WHEREAS, Automated Research & Marketing has agreed to furnish the local government all necessary information for compliance.

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

- 1. Automated Research & Marketing be endorsed by the City of Fayetteville of Washington County, Arkansas for benefits from the refunds/tax credits as provided in the Arkansas Enterprise Zone Program Regulations of 1993, through June 30, 2001.**
- 2. the Department of Finance and Administration be authorized to refund local sales and use taxes to Automated Research & Marketing.**
- 3. this resolution shall take effect immediately.**

Fred Hanna, Mayor

Date Passed: _____

Attest: _____
City Clerk



CONFIDENTIAL

Mike Huckabee
Governor

Barbara I. Pardue
Director

Arkansas Department of Economic Development

March 15, 2000

Darwin Baker
National Accounts Systems
P.O. Box 3678
Fayetteville, AR 72702

Dear Mr. Baker:

It was a pleasure to speak with you about the expansion of your operations. We are always happy to hear that Arkansas companies are adding new employees.

One of the premier incentives administered by the Department is the Advantage Arkansas Program. It provides an Arkansas income tax credit equal to the average hourly wage of each net new full-time permanent employee times the number of new employees times a multiplier of 100, with a \$3,000 cap per employee.

An additional benefit of the Advantage Arkansas Program is your company's eligibility for a refund of the state's sales and use tax on building materials and all taxable purchases of machinery and equipment connected with the project, excluding licensed motor vehicles.

Enclosed you will find a proposal outlining the benefits of Advantage Arkansas, the Departments Whatajob.com web site and Customized Training Program. Again, we wish you the utmost success with the growth of your business. Please don't hesitate to contact me at (501) 682 - 7684 if there is anything we can do to assist you further.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Johnson".

Stephanie Johnson
Community & Business Development

One Capitol Mall
Little Rock, Arkansas 72201

501.682.1121

FAX 501.682.7341

www.1-800-ARKANSAS.com

ARKANSAS
A natural for business



**Proposal
for
National Accounts System
March 8, 2000**

Project Assumptions

All incentives offered are contingent upon National Accounts System expanding its operations in Fayetteville, Arkansas. Incentives are good for six months from the date of this proposal and are based on the following assumptions:

- \$ 600,000 estimated project investment
- 60 new full-time permanent employees hired within 24 months
- \$8.50 per hour starting wage

Advantage Arkansas Program

The Advantage Arkansas Program is a job tax credit program for qualifying new and expanding companies. The program provides Arkansas income tax credits and sales and use tax refunds. Companies are eligible for benefits upon location anywhere in the state.

Arkansas Income Tax Credit

The Advantage Arkansas Program provides a credit on income taxes equal to the average hourly wage of each new employee times 100, with a \$3,000 cap per employee.

Employees must be taxpayers of Arkansas to qualify for the credit. The income tax credit begins in the year in which the new employees are hired. Any unused portion of the credit may be applied against the income tax for the succeeding nine years.

The Advantage Arkansas income tax credits are calculated as follows:

$$\begin{array}{ccccccc} \text{Number of} & & \text{Average} & & & & \\ \text{New Employees} & \times & \text{Hourly Wage} & \times & \text{Multiplier} & = & \text{Total Credits} \end{array}$$

Based on the salaries and employee numbers provided, the Advantage Arkansas income tax credits are estimated to be \$ 51,000.

<i>Number of New Employees</i>	<i>x</i>	<i>Average Hourly Wage</i>	<i>x</i>	<i>Multiplier</i>	<i>= Total Credits</i>
60	x	\$8.50	x	100	= \$ 51,000

Sales and Use Tax Refunds

The Advantage Arkansas Program also provides a refund on state sales and use taxes on building materials and on all taxable purchases of machinery and equipment, excluding licensed motor vehicles, connected with the expansion project.

The Advantage Arkansas Program gives local taxing authorities the option of refunding their gross receipts taxes to participating companies.

Recruiting

The Arkansas Department of Economic Development is committed to assisting existing and new companies in recruiting the skilled workforce necessary for success in today's competitive business world. In an effort to address the recruitment needs of existing businesses, the Department established whatajob.com in December 1998. This state-sponsored website is the first and only one of its kind in the United States. Whatajob.com allows any Arkansas business or industry to list all available jobs free of charge. With nationwide promotion, the website has resulted in over 2.5 million hits since its inception. Whatajob.com has helped Arkansas companies in all sectors attract qualified workers and supplements the recruiting assistance offered through Customized Training Incentives.

Customized Training Incentives

The Arkansas Department of Economic Development Customized Training Team provides comprehensive training assistance to meet the employment needs of new and expanding businesses in the state. Intensive client coordination ensures that comprehensive new hire training is conducted during the project start-up phase. The Customized Training Team's flexibility permits both on and off-site training so that each program is custom-designed to meet the specific needs of each client. Specialized training project managers are assigned to work directly with clients to initiate training.

CONFIDENTIAL

The goal of the Department is to ensure a turnkey training program that will provide the company with an employee that is ready to begin working at the new facility. Specific examples of training assistance include:

- Develop curriculum with company personnel, local training providers, special vendors, adjunct resources, and the Customized Training Team.
- Participate in bringing the company instructors to the Arkansas site for in-depth training. Send appropriate Arkansas personnel for training in other plants and with vendors.
- Provide financial assistance for training, raw materials, videos, off-site training facility, including utilities, and most functions common to operating a job specific training program.
- Advertise for and direct potential trainees to the company for final selection to participate in the training project.

Application Advantage Arkansas Program

OFFICE USE ONLY

Project Number

Applicant

AUTOMATED RESEARCH & MARKETING

Name of Company/Corporation

PO BOX 4560

FAYETTEVILLE, AR 72702

Principal Mailing Address

City/State/Zip

34 WEST COLT SQUARE

FAYETTEVILLE, AR 72703

Physical Location

City/State/Zip

DARWIN BAKER

501-444-9728

Name and Title of Company Contact

Phone

If company is filing for tax credit under a different name, please give complete name.

Taxpayer

Name of Individual or Company/Firm

Phone

Consultant

Mailing Address

City/State/Zip

Name of Contact Person

Phone

(Please list 800 number if available)

Project Cost Estimat

This application MUST include a project plan.

Date Received

Land	\$	
Buildings.....	\$	219,000
Equipment	\$	500,000
* Other	\$	35,000

TOTAL.....\$ 754,000

* Please include description of Other in Project Plan

Employers Federal I.D. Number

6	2	-	1	6	7	9	7	4	7					
---	---	---	---	---	---	---	---	---	---	--	--	--	--	--

Arkansas Sales or Consumer Use Tax Number

11-11-11

Employment

Present employment 35 Projected number of net new permanent employee(s) after completion 115.
Note: To qualify for the sales and use tax refunds and income tax credits, business MUST hire the requisite number of new permanent employees within a 24 month period.

SIC CLASSIFICATION (Must be included)

7389

SIC Classification is subject to audit by the Department of Finance & Administration (DF&A). If SIC Classification or any other portion of this application is found to be inaccurate and does not qualify, the business will be decertified and shall not receive any benefits under the program.

Description of principal business activity, products manufactured, etc.

TELEPHONE MARKETING. INCLUDING SALES AND SURVEY TO BUSINESSES AND INDIVIDUAL CONSUMERS.

Application Advantage Arkansas Program

Page 2 of 2

Information for Income Tax Exemption:

Ownership of your business: (please check all appropriate boxes)

☐ Individual☐ Fiduciary☐ Partnership☒ Taxable Corporation☐ Small Business Corporation☐ LLC

Owner's Name(s)	Percent Ownership	Social Security Number or Corporate Tax I.D. Number
STEVEN K BAKER	60	507-78-6925
DARWIN J BAKER	40	496-44-5435

When does your tax year end?

1	2	3	1	0	0
---	---	---	---	---	---

CERTIFICATION

BEFORE ME, the undersigned authority, DARWIN J BAKER
 (Name of Company Official)

personally came and appeared and being duly sworn did depose and say that he/she is

SECRETARY/TREASURER
 (Title)

of AUTOMATED RESEARCH & MARKETING
 (Company Name)

This affidavit is made for the specific purpose of verifying that the information contained in these two pages is true and correct.

Darwin J Baker
 Signature of Company Official

Sworn to and subscribed before me this 16 day of March, 2000

Chris Stauder
 Notary
 My Commission expires 7-6-2003



March 15, 2000

Ms. Stephanie Johnson
One Capital Mall
Little Rock, AR. 72201

Dear Stephanie;

In 1998 Automated Research & Marketing began utilizing state of the art technology to gather and compile data for clients in the area of market research. We have planned to expand our scope of business to include offering products and services to the businesses and consumers our clients have selected. This expansion is not without forethought and certainly not without obstacles. Over the past couple of years we have employed only an average of 4 employees and just one of those was full time. We have been planning our growth very carefully and feel that the time has come to implement that plan. Automated Research & Marketing has aligned itself with several fortune 500 companies to accomplish this plan. Companies such as First USA Bank N.A., Prodigy and BMG music club are just a few of the business partners that have signed contracts with Automated Research & Marketing. Our expansion is already underway with a lease on 16,000 square feet that will become our new call center. This new facility will accommodate over 150 new employees and toward this end we have already added 35 employees that are working in our current location. We will be increasing our annual payroll to approximately \$1,500,000 (*yielding about 5 million in revenue*).

In addition to the physical move to a larger facility, Automated Research & Marketing will be investing in new equipment to handle to increased technical requirements.

The aforementioned and other business partnerships will allow us to create an organization with revenue projections nearing 10 million dollars annually by the year 2005.

The cost breakdown for the physical move and additional expense for technical upgrades are as follows:

- | | |
|--|-----------|
| 1. Tenant improvements on the 16,000 square feet new lease | \$219,000 |
| 2. Hardware / Software additions and upgrades | \$500,000 |
| 3. Production furnishings and workstations | \$ 35,000 |

34 West Colt Square
P.O. Box 4560
Fayetteville, AR 72702
(501) 444-9728
FAX (501) 443-9159

Below you will find some facts on the industry that may be of interest to you.

Telephone marketing is the leader in the direct marketing labor force accounting for more than 1 million employees each year and creating 8.3 million jobs nationwide. Outbound telemarketing represents 38 percent of direct marketing media spending that totals an estimated 68.1 billion dollars last year (for comparison direct mail is the closest at about 37.4 billion).

American business has begun to realize that every dollar spent on outbound telemarketing resulted in a \$7.15 return on investment. This has led to growth projections for the industry to be forecast at 9.5 percent annually for each of the next 10 years.

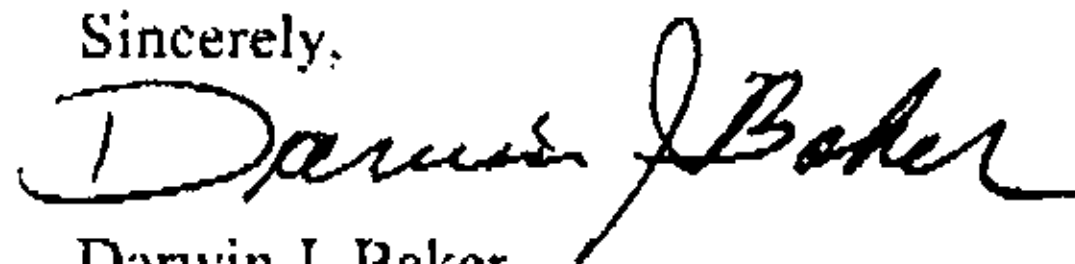
Call centers are being sought out by almost every state in the country with incentives from state and local administrative offices. The financial impact is phenomenal.

Automated Research & Marketing is secure in our future, but are asking for assistance from both the Advantage Arkansas Program and the Create Rebate Program that are administered by the state. We are also asking for assistance in the area of Training.

The current clients noted above and others like Texaco, J.C. Penney's, and Provident National Bank are just months away. It is imperative that we have the support of state and local administrations such as yours.

Please contact me at your earliest convenience to discuss our opportunities in the programs listed above. Thank you in advance for your assistance.

Sincerely,



Darwin J. Baker

Automated Research & Marketing - Owner

RECEIVED

APR 04 2000

STAFF REVIEW FORM

FAYETTEVILLE
CITY CLERK'S OFFICE

_____ Agenda Request
 _____ Contract Review
 _____ Grant Review

For the Fayetteville City Council meeting of April 18, 2000.

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUESTED: To approve an ordinance for RZ 00-13.00 submitted by Charles Venable on behalf of the City of Fayetteville for property located at 1020 Harold Street. The property is zoned R-1, Low Density Residential and contains approximately 0.77 acres. The request is to rezone to R-O, Residential Office.

COST TO 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

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval of C-1, Neighborhood Commercial, the original rezoning request. Planning Commission voted 7-2-0 to recommend that the property be rezoned R-O, Residential Office and to forward the rezoning to the City Council.

Division Head

3-31-00

Date

Department Director

4-3-00

Date

Administrative Services
Director

4/3/00

Date

Mayor

4/3/00

Date

Cross Reference

New Item: Yes No

Prev Ord/Res#:

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Associate Planner
THRU: Tim Conklin, City Planner
DATE: March 27, 2000

RZ 00-13.00: Rezoning (City of Fayetteville Fire Station, pp 213) was submitted by Charles Venable on behalf of the City of Fayetteville for property located at 1020 Harold Street. The property is zoned R-1, Low Density Residential and contains approximately 0.77 acres. The request is to change the zone to C-1, Neighborhood Commercial.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: March 27, 2000

CITY COUNCIL ACTION:

Required YES

☐ Approved

☐ Denied

Date: _____

Comments: _____

BACKGROUND:

The City of Fayetteville is requesting that this property be rezoned. At this time, the fire station located here is vacant. A new station has been constructed and is in operation on Plainview Ave. which replaces this older station.

Surrounding land uses include both residential and commercial as noted below. A designation of C-1, Neighborhood Commercial would enable this location to redevelop as a use that would serve the surrounding residential areas and also fit in with the commercial uses to the south and the west.

SURROUNDING LAND USE AND ZONING

North:	Single family home (R-1)
South:	Market Court Development (C-2)
East:	Single family home (R-1)
West:	Saturn Car Dealership (C-2)

INFRASTRUCTURE:

Streets: Harold Street to the south intersects College Ave. on the west within approximately one block of this site. To the east, Harold Street intersects Stubblefield Rd. which extends to Old Missouri Rd. Harold / Stubblefield is classified as a collector on the Master Street Plan requiring a total of 70' of right of way.

Water: 2" line along Harold St. (south) and Lee St. (east)

Sewer: 10" line along Harold St. (south) and 8" line along Lee St. (east)

LAND USE PLAN: General Plan 2020 designates this site Community Commercial. Rezoning this property to C-1, Neighborhood Commercial is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is consistent with the land use plan which designates

this area as Community Commercial.

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

Finding: The proposed rezoning is justified at this time since the fire station has ceased operation and the building is currently available for redevelopment.

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

Finding: The proposed rezoning will not create or appreciably increase traffic danger and congestion. The location of this property provides easy access to College Ave., a principal arterial, as well as Harold Street, a master street plan collector street.

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

Finding: The proposed rezoning would not alter population density.

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

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

§161.13 DISTRICT C-1 NEIGHBORHOOD COMMERCIAL.

A. Purpose. The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 12	Offices, Studios and Related Services
Unit 13	Eating Places
Unit 15	Neighborhood Shopping
Unit 18	Gasoline Service Stations and Drive-In Restaurants
Unit 25	Professional Offices

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities

C. Bulk and Area Regulations/Setbacks. Setback lines shall meet the following minimum requirements:

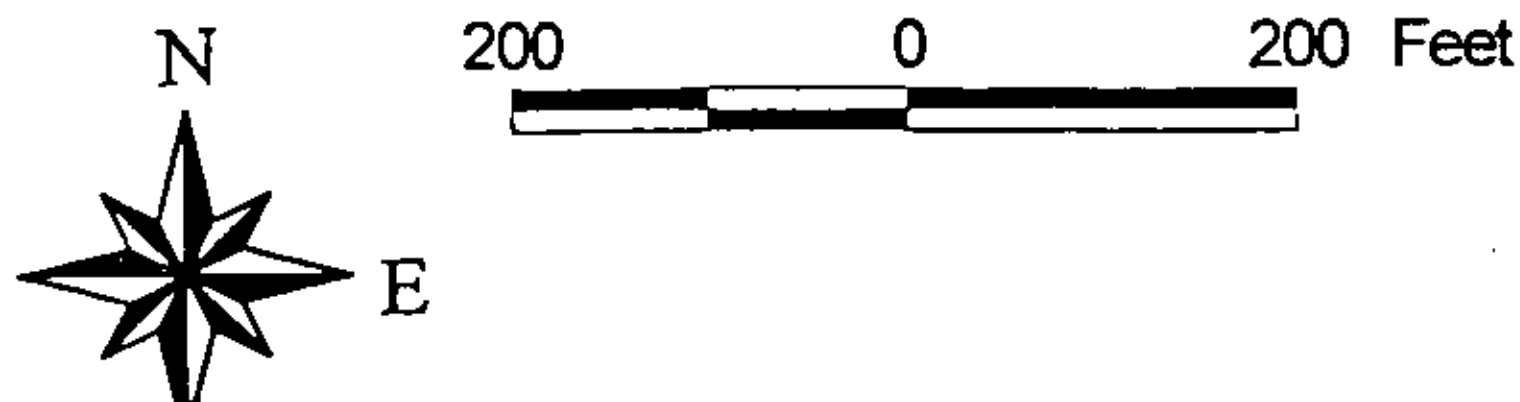
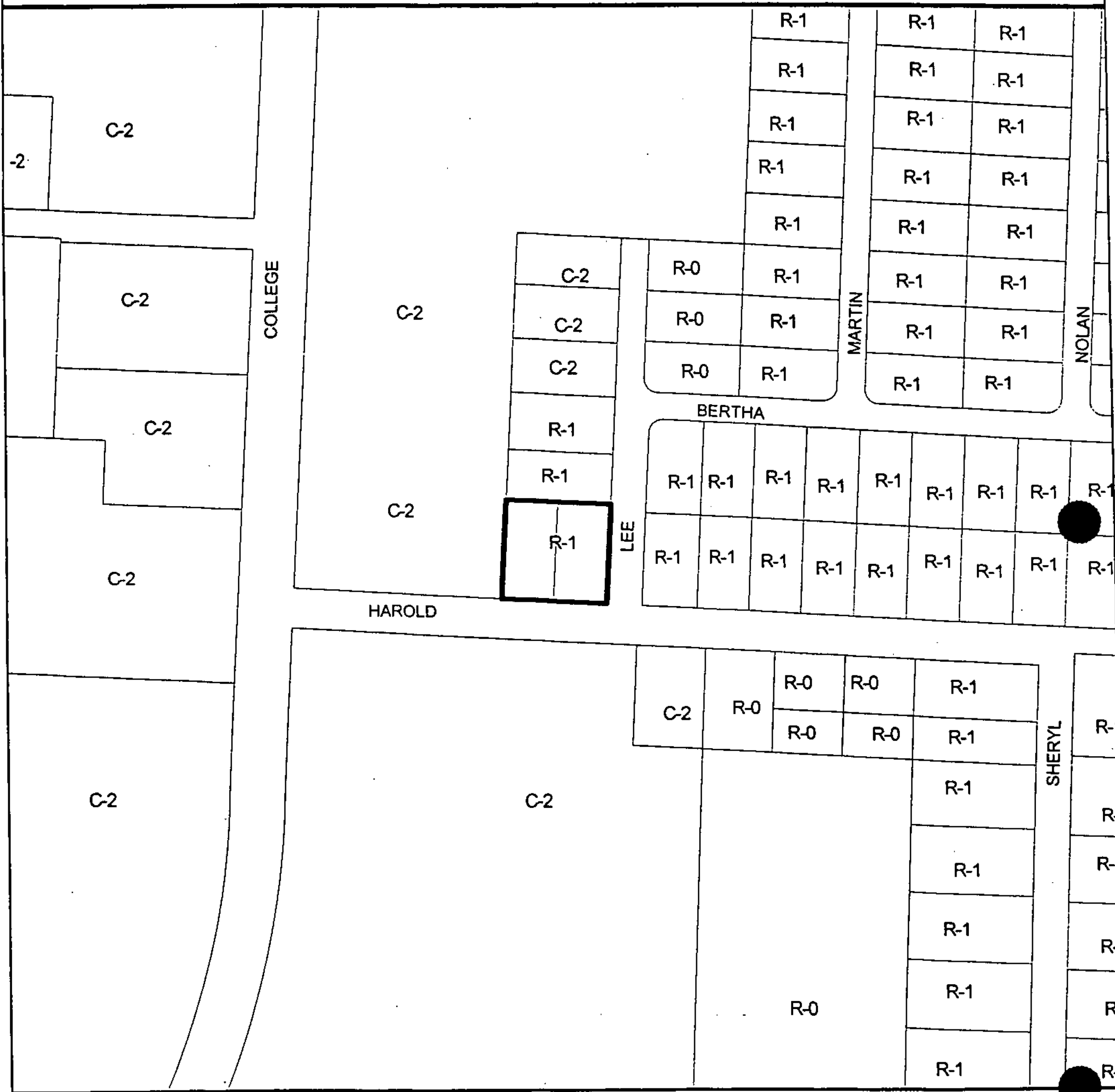
From Street ROW	50 ft.
From Side Property Line	None
From Side Property Line When Contiguous to a Residential District	10 ft.
From Back Property Line	20 ft.

D. Building Area. On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

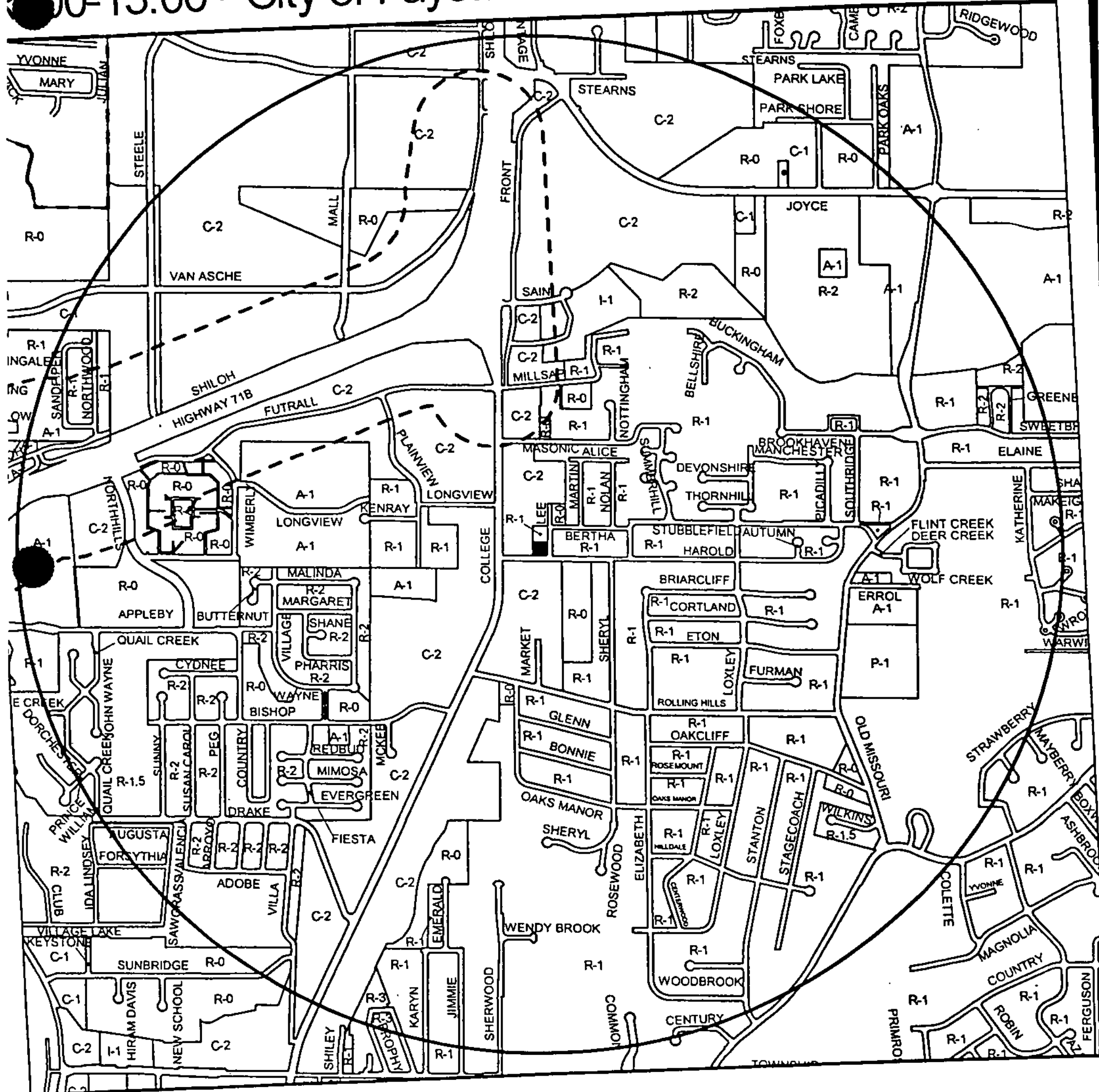
E. Height Regulations. There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of ten feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of ten feet.

(Code 1991, §160.035; Code 1965, App. A, Art. 5(V); Ord. No. 1747, 6-29-89; Ord. No. 2603, 2-19-80)

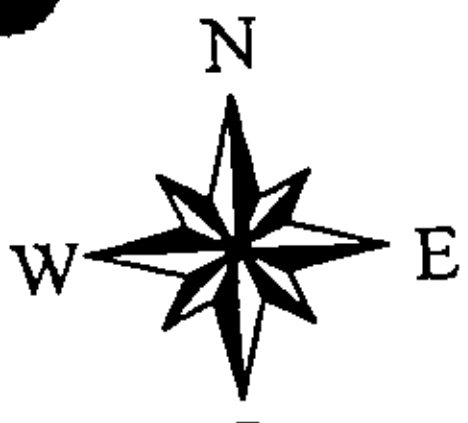
RZ00-13.00 - City of Fayetteville - Close Up



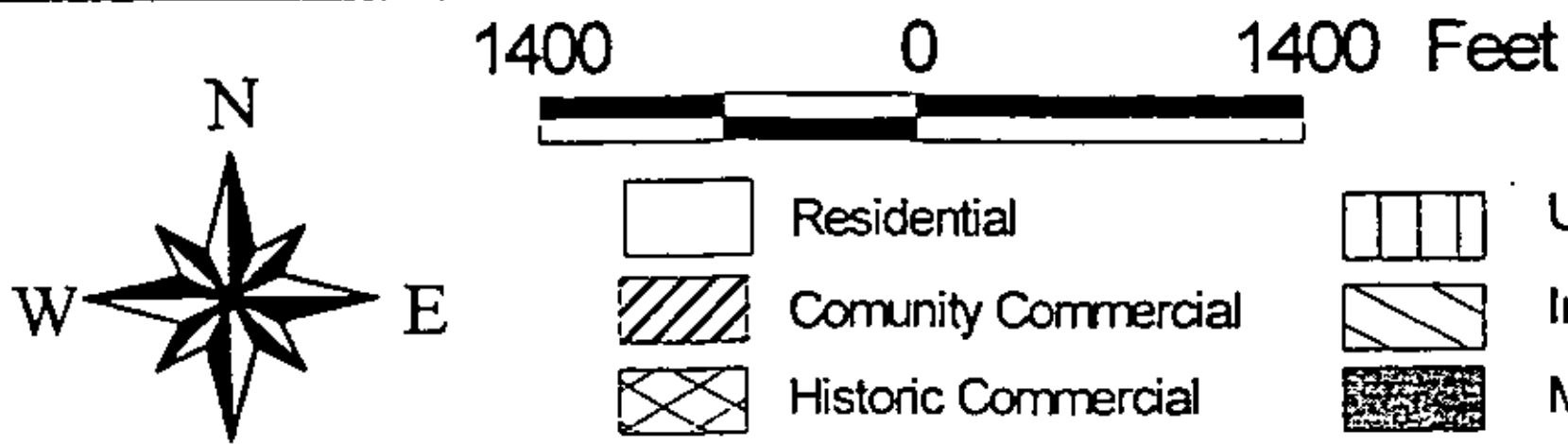
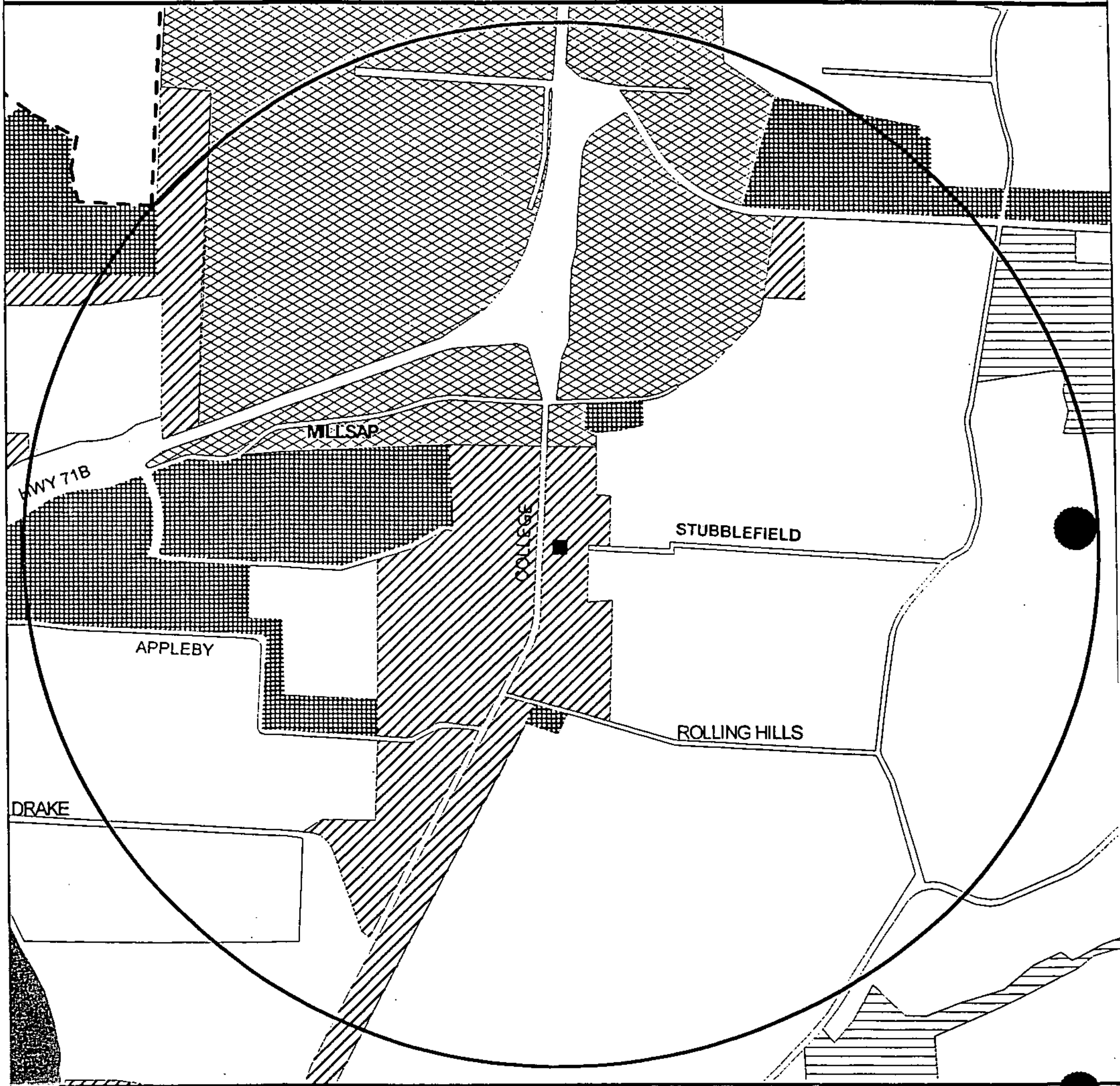
00-13.00 - City of Fayetteville - One Mile Diameter

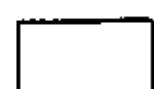
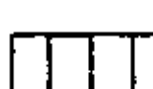
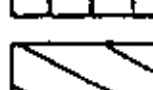
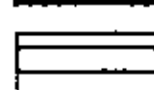


1400 0 1400 Feet



RZ00-13.00 - City of Fayetteville Fire Station - 2020 Plan



- | | | |
|--|--|---|
|  Residential |  University |  Office |
|  Community Commercial |  Industrial |  Open / Space Recreational |
|  Historic Commercial |  Mixed Use | |

Planning Commission Minutes
March 27, 2000
Page 25

**RZ00-13: REZONING
CITY OF FAYETTEVILLE FIRE STATION, PP213**

This item was submitted by Charles Venable on behalf of the City of Fayetteville for property located at 1020 Harold Street. The property is zoned R-1, Low Density Residential and contains approximately 0.77 acres. The request is to rezone to C-1, Neighborhood Commercial.

Staff Recommendation

Staff recommends approval of the requested rezoning based on the findings included a part of the staff report.

Commission Discussion

Johnson: This is the City's former fire station located just off of North College on Harold Street. It is by the Saturn car dealership there east of Business 71.

Conklin: This is the site of the fire station which was relocated to a new facility on Plainview Dr. It contains .77 acres. It's currently developed with the fire station and is vacant. To the west is the Saturn car dealership. To the east, is a single family home and to the south the Market Court development. That is where Atlanta Bread Company is located. To the north is a single family home zoned R-1. On the Planning Commission tour, you did request who the property owner to the north was and according to the county tax recorders, that is owned by Jim Wheeler. Mr. Wheeler also appears to have some interest in the Saturn car dealership. This is being requested by the City. We're trying to sell the fire station and it's really not a residential type structure on the property and a commercial use would be more appropriate. It is consistent with our 2020 General Plan and we are recommending approval.

Public Comment

Janet Gallman-Ricker, residing at 3255 Lee Avenue was present.

Gallman-Ricker: My husband and I reside at lot 4 and the north part of lot 5. I need two points of clarification. At one point there was confusion regarding the ownership of lot 5 and tonight you have said that it is Jim Bob Wheeler's or his trust's property. This rezoning request does or does not include lot 5 or the south 75 feet of it?

Conklin: It does not include lot 5. The City of Fayetteville sold that property in 1985.

Planning Commission Minutes
March 27, 2000
Page 26

Gallman-Ricker: Dawn, have there been any additions or changes to your report since we discussed it in your office?

Warrick: No.

Gallman-Ricker: That area out there is residential. My appeal to you tonight is don't rezone this property C-1. There are limited neighborhood commercial uses which can be allowed to an applicant as a conditional use on appeal in an R-1 district. The reason why you should do that is the residents need protection. We need the lighting shielded. It's one thing to look at the firemen playing basketball or horseshoes and it's another thing to have a used car dealership outside your kitchen window. By rezoning, you cannot put as many conditions upon it if it's zoned C-1. There are conditions that need to be imposed upon the use of that property since it is contiguous to residential on two sides. Harold Street is referred to as a collector street. I do believe there are back sides of buildings facing Harold Street. For example, the rental business and the dry cleaners. Those building backs face Harold Street and there is no screening. We are not policing the limited commercial uses that are there. Don't give the City carte blanche to have C-1 without being able to attach to it the proper limitations. I don't have a problem with neighborhood commercial in a residential district if the people are willing to be considerate of the residents of the neighborhood. You're going to have a tree problem on that lot. Those trees are greater than 24 inches in diameter. It was fortuitous that I was present for the previous discussion of rare and landmark trees. There are 75 lots in that residential subdivision. There are protective covenants that prohibit anything but residential structures. Those covenants are still in effect and have not been changed. The City has ceased to use the property as a nonresidential structure. I submit that this request is improper because the City has city-wide uses by right in any zone. There is no reason for the City to rezone this property. Their motivation is monetary. If that is a legitimate reason, I don't think the end justifies the means. Why doesn't the City explore other and better uses for that property. I want to hear the same kinds of things as I heard on the tree preservation issue. It's the residents that generate the sales tax dollars, vote for elected officials and also help run the city. We need consideration of the residents. That structure couldn't be altered to meet the protective covenants. This board is merely recommending zoning. I will be present for the meeting of the City Council. I want to give my appreciation for the work that you as volunteers do and for staff's assistance.

Planning Commission Minutes
March 27, 2000
Page 27

Further Commission Discussion

Odom: Staff, if this is C-1 it would not come back for review because it's only .77 acres.

Conklin: That is correct.

Odom: So there wouldn't be a way to provide for screening and so forth.

Conklin: We would review their plans and make sure the ordinance for buffering between zones would be complied with. They are required to provide vegetation or fencing. Used car sales are not allowed in C-1. C-1 would allow for a bookstore, a bakery, grocery store, deli, health food store, drug store, florist, hardware, furniture store, barbers, etc.

Hoffman: Given that there is no imminent need to rezone this to C-1, what would be the affect of zoning to R-O.

Conklin: They would be able to get similar uses. The limited neighborhood commercial use ordinance strives to ensure a residential appearance.

MOTION

Commissioner Hoffman made a motion to rezone the .77 acres to R-O.

Commissioner Hoover seconded the motion.

Roll Call

Upon roll call, the motion passed with a vote of 7-2-0. Commissioners Johnson and Shackelford voted against the motion.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZ 00-13.00 FOR A PARCEL
CONTAINING APPROXIMATELY 0.77 ACRES LOCATED AT
1020 HAROLD STREET REQUESTED BY CHARLES VENABLE,
PUBLIC WORKS DIRECTOR ON BEHALF OF THE CITY OF
FAYETTEVILLE.

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

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

From R-1, Low Density Residential District to R-O, Residential Office District for
the real property described in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby
amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION FOR RZ 00-13.00

Lots 6 and 7 of the Maple Crest Addition, Washington County, Arkansas.

BOOK 592 PAGE 164
WARRANTY DEED

Single Person

KNOW ALL MEN BY THESE PRESENTS:

That I, Jerry J. Simpson, a single man, - -

for and in consideration of the sum of \$1.00 and other
 valuable considerations, - - -
 to me - - in hand -- paid by City of Fayetteville,
 Arkansas, - - -

do hereby grant, bargain and sell unto the said City of
 Fayetteville, Arkansas, and unto its successors,
 heirs and assigns, the following described land, situate in - - -
 Washington - - - - - County, State of Arkansas, to-wit:

All of Lots Numbered Five (5), Six (6) and Seven (7) of Maple Crest Addition
 to the City of Fayetteville, Arkansas, as per plat of said Addition on file
 in the office of the Circuit Clerk and Ex-Officio Recorder of Washington
 County, Arkansas, less and except Five (5) feet of equal and uniform width
 off the North side of Lot Numbered Five (5):

*1963 - City
 purchased lots
 6, 7 - part of 5*

TO HAVE AND
 Fayetteville,
 heirs and assigns, to
 hereby covenant that
 will forever warrant

ing unto the said City of
 e man, - - -
 he same is unincumbered, and I

WITNESS my hand and seal on this - - - 8th - - - day of - - April - - - -19 63.

NOTARY, INC.

[Seal]

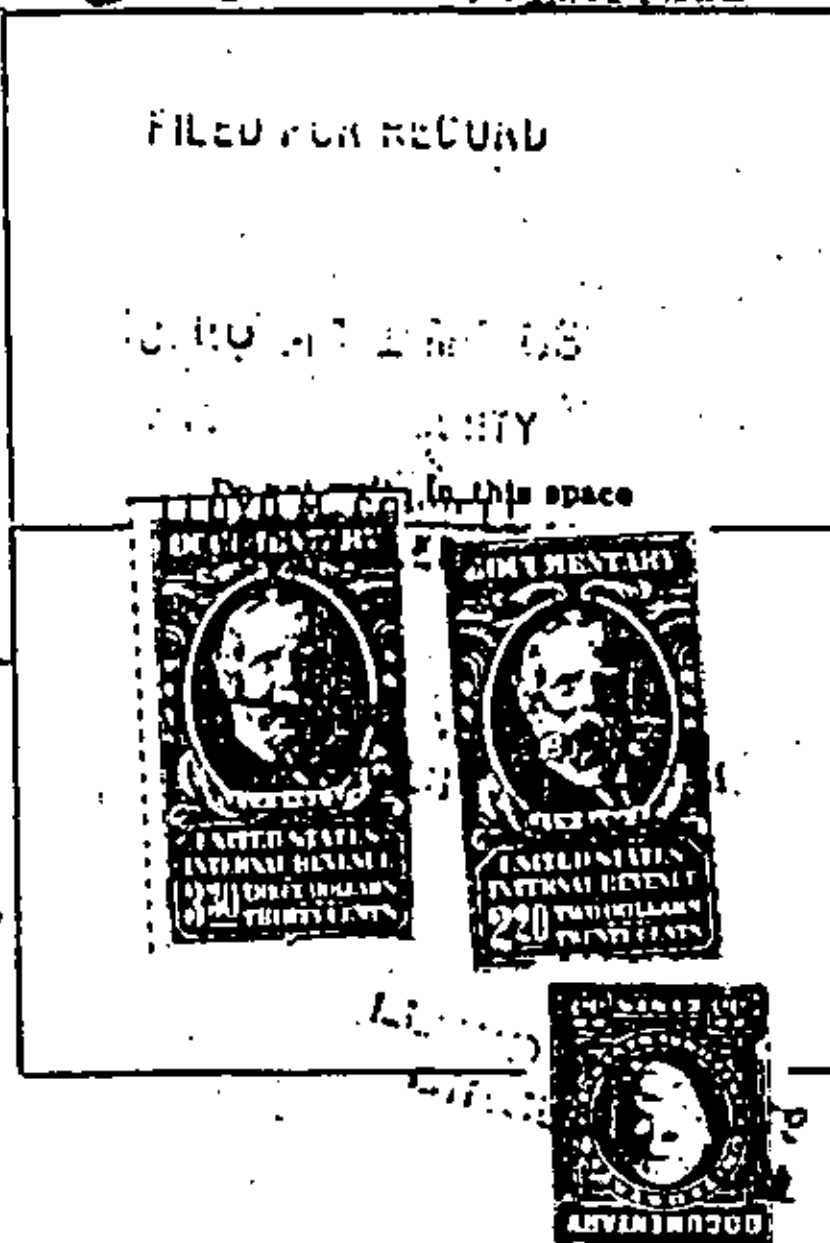
ACKNOWLEDGMENT

STATE OF ARKANSAS

County of Washington, } ss.

BE IT REMEMBERED, That on this day came before the undersigned, a - - - Notary Public - - -
 within and for the County aforesaid, duly commissioned and act-
 ing, Jerry J. Simpson, a single man, - - -
 to me well known as the Grantor in the foregoing Deed, and stated that he had executed the same for the
 consideration and purposes therein mentioned and set forth.

Witness my hand and seal as such - - - Notary Public - - - this - - - 8th - - - day of
 - - April - - - -1963 .
 My Commission expires



DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

DATE: October 7, 1993
TO: Kevin Crosson, Director of Public Works
FROM: Ed Connell, Land Agent
SUBJECT: Wheeler Motor
Replacement W
Part of Lot No

On April 8, 1963, the City purchased
Hwy. 71) from Jerry J. Simpson

Construction of the Fire Station
City took bids on the sale of
and bought the City owned property

Mr. Wheeler did not record
issued by the City.

Thanks to a lot of effort on the part of
minutes approving sale and 2,

*Part of lot 5
sold to Wheeler*

*(see copy of deed -
attached)*

*Remaining city
property = lots 6 & 7*

ition (on Harold Street, off of North
this location.

ree lots (5, 6, & 7) purchased and the
successful bidder, was issued a Deed
e attached.

I am requesting a replacement deed be

were able to come up with 1) Council

Further investigation indicates that:

- 1) County records still show Lot 5 (South 75') as being owned by the City of Fayetteville.
- 2) Lot 5 (South 75') has been tax exempt since 1964.
- 3) Wheeler has not paid any taxes on this property since he purchased it in 1967.

We believe it proper to issue a replacement Warranty Deed to Wheeler Motor Company on this property, however, our transmittal to Mr. Wheeler should clearly state that Wheeler Motor Company shall be responsible for the following:

- a) The purchase of all Revenue Stamps associated with the transaction, and
- b) All taxes, if any, since 1967 or currently due.

If you have any comments or questions, please give me a call at 415.

EDC/kd
Attachment

WARRANTY DEED

MUNICIPAL CORPORATION

BE IT KNOWN BY THESE PRESENTS:

THAT the CITY OF FAYETTEVILLE, ARKANSAS, a municipal corporation, hereinafter called GRANTOR, for and in consideration of the sum of Twelve Hundred Sixty Dollars (\$1,260.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto WHEELER MOTOR COMPANY, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land, situate in Washington County, State of Arkansas, to-wit:

Lot number Five (5) of Maple Crest Addition to the City of Fayetteville, Arkansas, as per plat of said Addition on file in of the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, LESS AND EXCEPT five (5) feet of equal and uniform width off the North side of said Lot Number Five (5).

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

WITNESS our hands and seals on this _____ day of _____, 199_____.

CITY OF FAYETTEVILLE

BY:

Fred Hanna, Mayor

ATTEST:

Sherry Thomas, City Clerk

(Seal)

ACKNOWLEDGMENT

STATE OF ARKANSAS

)

)

ss

COUNTY OF WASHINGTON

)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, within and for the County and State aforesaid, duly commissioned and acting, personally appeared, Fred Hanna and Sherry Thomas to me well known, who stated 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 _____ day of _____, 199_____.

Notary Public

MY COMMISSION EXPIRES:

agenda

APPRAISAL REPORT
City of Fayetteville Property
City Fire Station #4
Harold St.
Fayetteville, AR

By
The Real Estate Consultants
118 N. East Ave. By
Fayetteville, AR 72701

(c) Copyright 2000 by The Real Estate Consultants

THE REAL ESTATE CONSULTANTS

118 N. East Ave.
P.O. Box 726
Fayetteville, AR 72702

• REALTORS • APPRAISERS • CONSULTANTS •

Phone (501) 442-0762

February 24, 2000

Mr. Ed Connell
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: Appraisal Services - City of Fayetteville Property
Fire Station #4, Harold St., Fayetteville, AR

Dear Mr. Connell:

In compliance with your request, and for the purpose of estimating the Market Value of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The intended use of this appraisal is for *sale evaluation purposes of the City of Fayetteville*.

I further certify that I have no interest, present or contemplated, in the property under appraisal, and that the fee was not contingent upon the value estimate reported, nor based upon a percentage of the appraised value.

The following narrative appraisal report contains the data gathered in the investigation, and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This is considered a *Complete Summary* appraisal report.

Based upon the inspection of the subject property and the investigation and analysis carried out in this report, it is the considered opinion of the appraiser that the Market Value of the property as of *February 9, 2000* and subject to the assumptions and limiting conditions set forth within the body of this report, is as follows:

**ONE HUNDRED TWENTY THOUSAND DOLLARS
(\$120,000)**

Respectfully Submitted,

Mark E. Risk, GAA

State Certified General Appraiser #CG0202



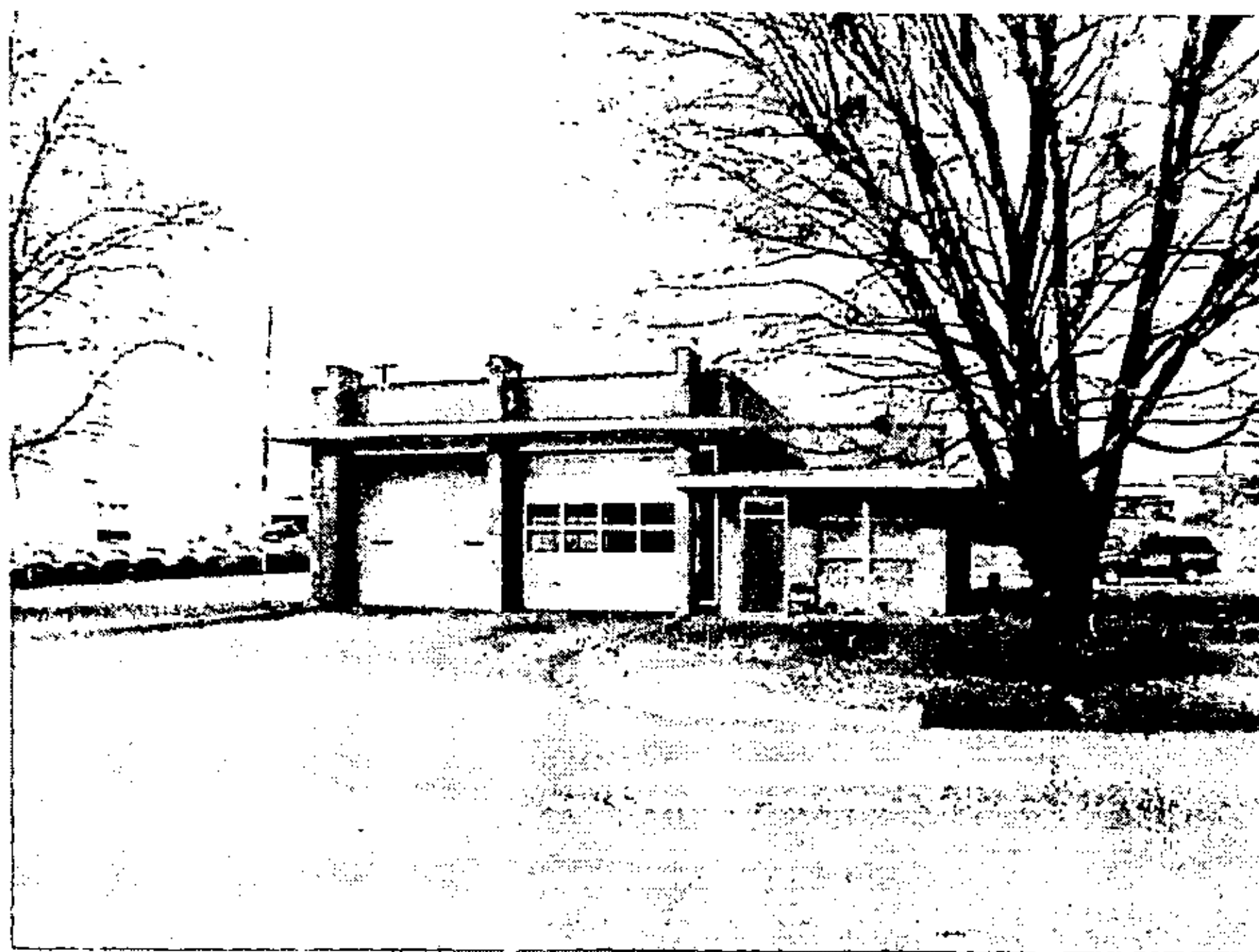
SUMMARY OF SALIENT FACTS & CONCLUSIONS

Property Type:	Small Neighborhood Fire Station	
Location:	1020 Harold St., Fayetteville, AR	
Effective Date of the Appraisal:	The effective date of the appraisal is the date of inspection, which was February 9, 2000. The opinions set forth in this report are stated as of February 24, 2000.	
Zoning:	Single Family Residential (R-1)	
Site:	Appx. 150' x 150'	
Improvements:	Masonry Structure, Appx. 2,254 sq. ft., 35 yrs. old.	
Utilities:	All municipal utilities available	
Highest and Best Use:	Service Garage/Detail Shop/Body Shop	
Flood Data:	Zone X, FEMA Map #05143C0103 D	
Value Indications:		
	Market Data Approach	\$124,000
	Cost Approach	\$119,000
	Income Approach	NA
Final Estimate of Market Value	\$120,000*	

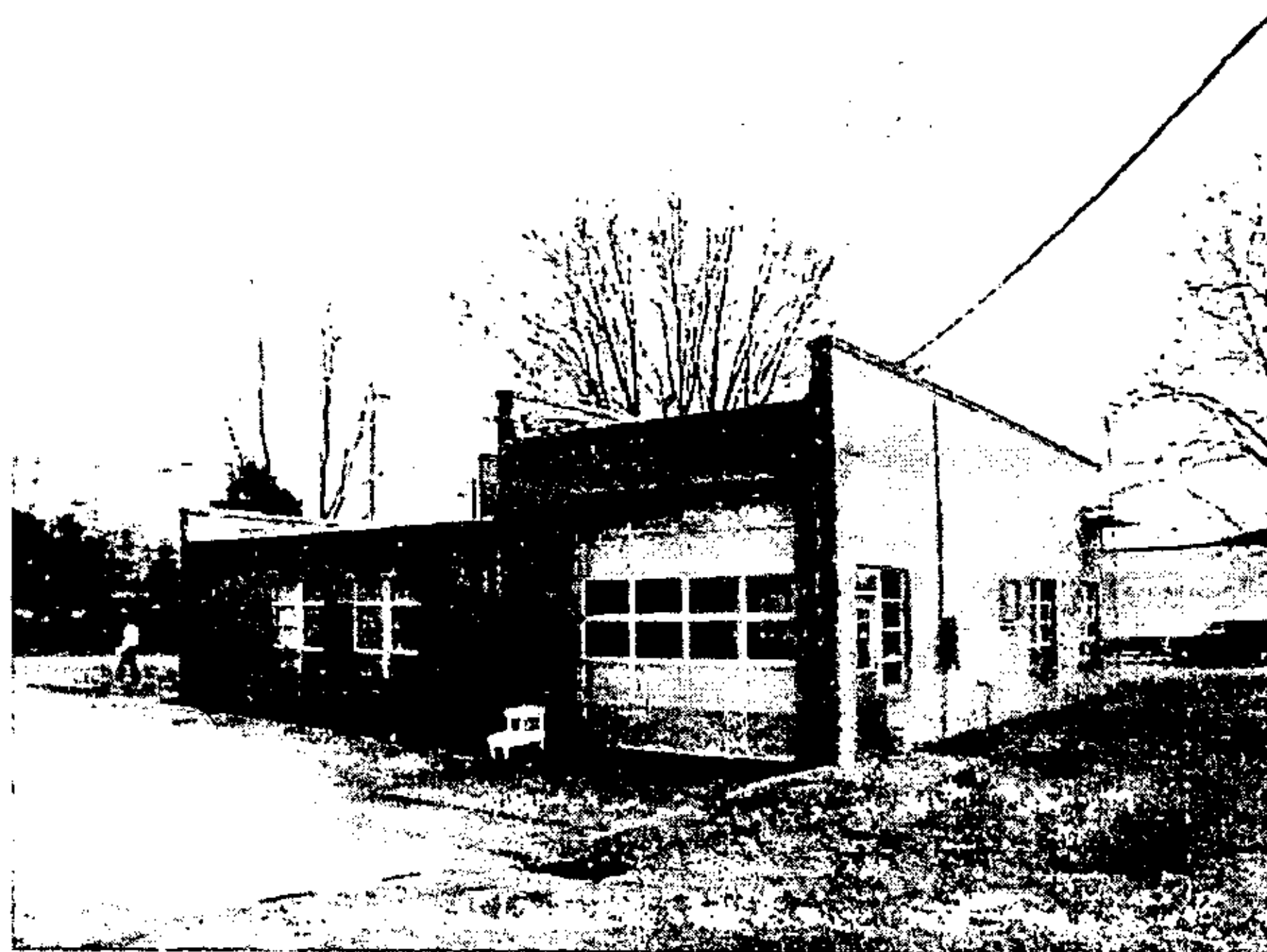
* The appraised value stated in this report is contingent upon the assumption made by the appraiser that the subject property can be rezoned to a commercial use.

Note: This appraisal report has been prepared for the exclusive benefit of *The City of Fayetteville*. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report, without the perjuror's written permission, does so at their own risk. This report is considered *a complete summary appraisal*.

PICTURES



Front View of Subject Property



Rear View of Subject Property

Comparison of Use Units Available in Selected Zoning Districts				
Use Unit	Description	R-1	R-0	C-1
1	City-Wide Uses by Right	✓ ¹	✓	✓
2	City-Wide Use by Conditional Use	PC ²	PC	PC
3	Public Protection & Utility Facilities	PC	PC	PC
4	Cultural & Recreational Facilities	PC	PC	PC
5	Government Facilities (i.e., <i>Fire Station</i>)	× ³	✓	×
8	Single-Family, Duplexes, and Townhouse Dwellings	PC	✓	×
9	Multifamily Dwellings - Medium Density	×	PC	×
10	Multifamily Dwellings - High Density	×	PC	×
12	Offices, Studios and Related Services	Ltd C-1 ⁴	✓	✓
13	Eating Places (other than drive-ins)	Ltd C-1	PC & Ltd C-1	✓
15	Neighborhood Shopping Goods (includes service stations in C-1, not in Ltd. C-1)	Ltd C-1	Ltd C-1	✓
16	Shopping Goods	Ltd C-1	Ltd C-1	×
17	Trades & Services (automotive sales, used car lot, self-serve car wash)	×	×	×
18	Gasoline Service Stations & Drive-In Restaurants	×	×	✓ ☹
25	Professional Offices	Home Occupations & Ltd C-1	✓	✓
26	Single Family Dwellings	✓	See, Unit 8	accessory use

1.✓ = Use permitted as a matter of right.

2.PC = Use permissible on appeal to the Planning Commission.

3.X = Use Unit not available in Zoning District.

4. §160.098 Limited Neighborhood Commercial Uses Within Residential Districts — provides for certain commercial uses falling within Use Units 4, 14, 15, 16, 17, & 25.

Personal Services:

- Hair Salons & Barber Shops with 3 or fewer licensed operators (15, 16, & 17)
- Tailoring (16)
- Shoe Repair (16)
- Dry Cleaning (15, 16, & 17)
- Day Care (4)
-

Specialized Retail: (≤ 3,000 ft² gross floor area)

- Antique Shops (16)
- Bicycle Shops (16)
- Gift Stores (~15)
- Flower Shops (15)
- Book Stores (16)
- Craft & Hobby Stores (16)
- Stationery (~15)
- Bakeries (15)
- Delicatessen (15)
- Grocery Stores (15)
- Owner occupied "Mom & Pop" Shops (~??)
- Small appliance repair shops (~17)
- Hardware Stores (16)
- Coffee Shops (15)
- Restaurants (13)
- Drug Stores (15)

Professional Offices: (≤ 4 professionals; ≤ 3,000 ft² gross floor area) (all Use Unit 25)

- Doctors office
- Dentists
- Insurance Sales
- Welfare Agency
- Architect
- Engineer
- Attorney
- Accountant
- Business or Management Consultant
- Realtor
- Broker
- Interior Decorator
- Veterinary small animal out-patient clinic

Studios: (≤ 3,000 ft² gross floor area)

- Art
- Dance
- Music
- Photography

Similar Uses: as determined by the City Planner.

M.T.M. OF EL DORADO
A LIMITED LIABILITY CORPORATION

TELEPHONE
(501)521-9155

March 17, 2000

FAX
(501)521-6199

Heather Woodruff
Fayetteville City Clerk

Re; Planning Commission Meeting of 3/13/2000, AD 00-6: Administrative (Charleston Place
PUD, pp370)

Dear Ms. Woodruff,

I am writing this letter on behalf of MTM of El Dorado, L.L.C., owner of the Charleston Place PUD, to request an appeal of the Planning Commission's denial at the above referred meeting of our request to include the following improvements in the common areas of Charleston Place:

- 1) The construction of an entrance pillar and mock stationary gate system;
- 2) The construction of a picnic pavilion;
- 3) Approval of the dock, which covers the ugly drainage inlet in the spring-fed pond.

We are appealing this decision for the following reasons:

- The dock was built with the permission of Allet Little (Former City Planner). Said permission was granted verbally in an informal meeting during a discussion regarding several aspects of the project. Section §160.121H states that minor changes....may be authorized by Planning Administrator without Planning Commission approval;
- This wood pier meets the 75 foot activity setback requirement;
- The wood pier is not much larger than a king size bed, so it couldn't possibly invite such disturbing activity as the one complaining neighbor states, and;
- The pier and dock cover an unsightly drainage inlet structure.

The activities that will take place in the Green space will not be exacerbated by the requested improvements as some level of activity in this space is already contemplated, due to the fact that it is going to be a landscaped, park-like setting with an attractive spring-fed pond, old stone dam and existing spring house, all tied to a trail system.

- The proposed pavilion is sighted on an existing stone barn structure which can be designed to meet the 100 foot setback requirement from the adjacent R-1 district, and can be unlighted;
- The entrance structures can be modified to eliminate the mock gates and scaled down;
- Also, the east gate pillar system can move to the west along the island divider, inline with the existing bridge, to satisfy the adjacent neighbor's concern.

Many of the neighbors and property owners have expressed support for our proposal and in an effort to contact them, I would like this appeal to be heard on April 18, 2000.

Respectfully Submitted,


Gregory T. House for
MTM of El Dorado, L.L.C.

RECEIVED
MAR 21 2000
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Associate Planner
THRU: Tim Conklin, City Planner
DATE: March 13, 2000

AD 00-6: Administrative (Charleston Place PUD, pp 370) was submitted by Greg House for property located at Charleston Place PUD. The property is zoned R-1, Low Density Residential and contains approximately 12.84 acres. The request is for a non-residential structures within 75' of an adjacent R-1 zoning district.

RECOMMENDED MOTION:

Staff recommends approval of the administrative request subject to the following conditions:

1. Planning Commission approval of entrance structures which encroach City right of way for Amber Drive.
(From Fayetteville Minimum Street Standards: Section 1-14)
Where a subdivision sign or ornamental structure is proposed to be located on City right of way, the exact location and size shall be approved by the Planning Commission. The maintenance of such signs and structures shall be by a properly established property owner's association and provision for maintenance shall be included in the covenants of the subdivision.

Any relocation of such signs and structures necessitated by street widening, utility installation, or any other authorized use of the right of way shall be the financial responsibility of the property owner's association and shall be done at the call of the City.
2. All outdoor facilities allowed by Planning Commission shall comply with §162.23 "Non-residential uses in R districts" with regard to setbacks from adjacent R districts (see attached code section).
- The applicant is proposing to site a picnic pavilion in the approximate location of an existing barn. This location does not meet the required 100' setback from an adjacent R district (it would be approx. 89' from the west property line). A setback reduction of approximately 11' is requested for this structure based on the enclosed site plan.

3. Appropriate permits must be obtained through the Inspections Division where necessary. A *detailed* site plan will be required for any structure which must be permitted.

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: March 13, 2000

Comments: _____

The "CONDITIONS OF APPROVAL" listed in this report are accepted in total without exception by the entity requesting approval of this administrative request.

Name: _____ Date: _____

BACKGROUND:

The Charleston Place Planned Unit Development is under construction. The subdivision has been completed and the final plat approved. In December, the Planning Division received a complaint from an adjoining property owner questioning whether the "dock" structure which was built on top of a detention pond outlet structure was permitted to be that close to adjoining R-1 properties.

Staff researched this complaint and determined that the structure was not approved as a part of the subdivision at the time of Planning Commission approval.

At this time, the applicant is requesting approval of the existing dock structure. The addition of this structure constitutes a major addition to the previously approved P.U.D. and requires Planning Commission approval. The dock is sited approximately 100' from the north and east property lines. The required setback for an outdoor activity area (§162.23 - see attached) is 75'. This structure would comply with this setback requirement.

The applicant also wishes to construct entrance structures, including stationary gates, at each of the two entrances to the development, and a picnic pavilion in the greenspace near the detention pond (with dock) in the north central portion of the development. These additions also constitute major additions to the P.U.D and require Planning Commission approval. The picnic pavilion is another outdoor facility. This picnic area must be set back from adjoining R-1 property at least 100 ft. if it is not lighted, if the structure is lighted, the setback requirement is 200 ft.

The existing barn building is approximately 97.47 ft. from the west property line (the proposed pavilion appears to be about 8 ft. closet to that property line). The Planning Commission will have to determine whether to reduce the required 100 ft. setback, as allowed under §163.23, if the pavilion is to be placed in the proposed location.

SURROUNDING LAND USE AND ZONING

North:	Single family homes (R-1)
South:	Cemetery (A-1)
East:	Single family homes (R-1)
West:	Single family homes (R-1)

GENERAL PLAN DESIGNATION	Residential
---------------------------------	-------------

Planning Commission Minutes
March 13, 2000
Page 20

**AD00-6: ADMINISTRATIVE
CHARLESTON PLACE PUD, PP370**

This item was submitted by Greg House for property located at Charleston Place PUD. The property is zoned R-1, Low Density Residential and contains approximately 12.84 acres. The request is for a non-residential structure within 75 feet of an adjacent R-1 zoning district.

Greg House was present on behalf of the request.

Staff Recommendation

Staff recommends approval subject to the following conditions:

1. Planning Commission approval of entrance structures which encroach City right of way for Amber Drive.
2. All outdoor facilities allowed by Planning Commission shall comply with §162.23 Non-residential uses in R districts, with regard to setbacks from adjacent R districts.
3. Appropriate permits must be obtained through the Inspections Division where necessary. A detailed site plan will be required for any structure which must be permitted.

Commission Discussion

Johnson: I think there are three items that make us the administrative items before us. One has to do with the approval of entrance structure which encroach on city right of way for Amber Drive and this is at both side of the subdivision on Amber Drive. The proposal is to build a permanent gate which doesn't close and I think there are a close of columns as well. Secondly, there is an outdoor facility to be allowed which is in the detention pond and the third is for a recreation facility for what I think was a spring house or something.

Conklin: Planning staff has received a complaint from an adjoining property owner regarding a wood dock that has been built over the detention. That wood dock is approximately 100 feet from the north and east property lines. I did review with the planning and development ordinance which stated that anytime you have recreational facilities, those must be shown on the preliminary and final plans for a planned unit development. I interpreted that recreational facilities was a major change and if Mr. House wanted the wood dock to remain over the detention pond that the Planning Commission would have to approve it. That wood dock is meeting the setback requirements for nonresidential uses in residential district.

Planning Commission Minutes
March 13, 2000
Page 21

The requirement is 75 feet. This dock is built over an existing spring fed pond and there is water in it at all times. During storm events, the water does rise and holds within the concrete structure that allows water to exist the pond and travel northward in a channel. That is the first request and whether or not that wood dock can remain on this property. The second request is to install entryway features or ornamental structures. These would be located in the city right of way which requires the Planning Commission's approval. The entryway feature enclosed a fixed 12 foot long gate which is stationary and is not intended to block the street. They are proposing this on each end of the subdivision. The last item that Mr. House has requested approval on is what is referred to an old barn on the property. They would like to use the rock structure and put a porch around it and allow public use of that location. That is approximately 89 feet from the west property line. If the structure is not lighted, the requirement is 100 feet and if it is lighted the requirement is 200 feet. Those are the three item the Commission needs to address this evening.

Estes: With reference to the stone barn, what is the setback from the adjoining property?

Conklin: Currently it 97.47 feet. However, if the porch wraps around it would add about 10 feet to the structure making the setback 87.47 feet from the west property line.

Bunch: On the issue of lighting, it that interior or exterior lighting?

Conklin: That is not stated in the ordinance but I would interpret that as interior lighting.

Odom: Is the structure proposed to be lighted or not?

Conklin: I did speak to the applicant this afternoon and he would prefer the structure to be lighted.

Johnson: The required setback for a lighted structure is 200 feet.

House: I would like to clarify a couple of things. The porch would only be on three sides of the building which would be the north, the east, and south sides. The idea was to create an outdoor area for people to enjoy. As far as lighting, it was designed to make it safer even if we restricted the use to day light hours only. We have alleys in this subdivision and some of the residents were requesting that those have lights. We aren't requesting that today but we would like to have your consideration on that issue at some other time. With respect to the dock, our idea was to camouflage the drainage inlet and maintain it by the home owners association in a park setting. We thought a dock was an attractive feature to hide

Planning Commission Minutes
March 13, 2000
Page 22

the concrete structure and could be used to fish from. It's not finished. If the neighbors are concerned about the semipublic use of these structures, we would put something in the home owner's association that the space couldn't be used after certain hours. We came up with the idea of the pillars and gate for the subdivision is so people can tell when they've reached Charleston Place. We have to have a sign as part of the ordinance. We were struggling with how to make that a tasteful identification point. This neighborhood is different. We felt the gate features would distinguish it.

Public Comment

Reed Greenwood, residing at 1601 Elmwood was present.

Greenwood: I live just north of the Charleston Place development. I am the one who filed the complaint about the pier since I understood this developer had no prior approval for any structures in that green space between our property and the homes on the north side of the project. We've been coming to meetings since 1996 when this was first approved. Many of us in the neighborhood have followed this development closely since it was proposed. We attended several Planning Commission meetings and commented on it and have kept up with it because it is adjacent to our property and it is somewhat of a different kind of development. I'm here to ask that you deny this latest request from the developer. There are several things that I would like to refer to in the copy of the PUD ordinance that was provided to me by city staff in June of 1996. First, "A final PUD plan shall be submitted following the procedures and requirements of the subdivision regulations Chapter 159. In addition to the requirements of the subdivision regulations, the following information shall be submitted. A. Location of Recreational Facilities.

Johnson: Let me interrupt you. We have this set out before us on page 7.6.

Greenwood: That is a requirement for the final plat and any recreational facility is required to be shown on that at the time the plat is submitted by the developer. In a review of that plat in the Planning Commission office last Thursday, I found that neither of the two structures in the green space north of the driveways at the back of the houses is shown on that plat. We have been working on this since 1996. It's time to get finished with it. The developer has had a long enough time to do that. They have filed their plan. That plan even used covenants agreeing to go forward with the plan as presented. I also understand that those kinds of things shouldn't be changed unless there is compelling reason to make changes. Compelling reasons as I understand the planning and zoning code concern issues such as

Planning Commission Minutes
March 13, 2000
Page 23

health, safety, good drainage. Not recreation or ugliness. Next regarding setbacks in PUD's, there is some variance in interpretation. "When a PUD has a common perimeter with an R-1 district, any use of land within the R-1 PUD other than a single family detached dwelling shall be setback at least 250 feet from the common perimeter." 250 feet is what the ordinance says. This seems very clearly written. I assume the setback requirement was included in the code so that structures that serve as many as 51 families are not nuisances to the adjoining property owners. The proposed structures requested are not setback 250 feet. When this project was originally proposed, there was a pavilion very close to our property in the north side of the project. We were very concerned about the noise and other nuisances that might originate from a pavilion on this site. We researched the PUD requirements and found the 250 foot setback requirement. The pavilion was dropped from that plan. Here the developer comes again with a similar proposal which should be denied again. We continue to have the same concerns we had with the first pavilion. Also, the final plat does not show the barn which actually was a garage. There is only the block walls remaining from the garage. We assumed the garage would be torn down along with the house. The only thing shown on the plan is the spring house. The code requires that prior to issuance of more than eight building permits for any residential PUD, all approved non residential facilities shall be constructed. There are twelve houses under construction in this development. We have requirements that the structures be proposed and shown on the final plat which was not done. The developer built one of the structures without proper review and permits. There is a requirement for a 250 foot setback which is not being observed. There is a requirement that the structure must be in place prior to the issuance of no more than eight building permits. I'm not sure why were here. Also, in review of the final plat, they were required to provide screening and buffering. Several neighbors have been concerned about that. We thought we were through with this after the final round but sewer lines were run beside our house which was not in the original proposal. That is something that had to be done. We learned about this when we saw the person spray painting the ground for the sewer lines. We called the city and did not receive notification from the developer that a major sewer line was going to go by our house. We had a meeting with officials at the city and the developers and their engineers. We lost a 30 foot pine tree which was within six feet of the digging. We understood that the top soil would be restored to the former level and it wasn't. We understood that grass sod and not seeding was going to be used. I requested through the engineer of the project for the developer to take of the items and he refused to take care of any of it. I can sum up our position and the position of many of our neighbors. We ask that you require the developer to leave a green space area truly as green space without any structures of any kind. We ask that you require the developer to remove the pier that was built without

Planning Commission Minutes
March 13, 2000
Page 24

seeking appropriate approvals and public input. We ask you to require the developer to tear down the rock walls remaining from the old garage. That was never in the plan as approved. Many of us in the neighborhood have an nagging concern. If you approve this what will he be back for next? Swimming pool? Lighted tennis court? A tower like the one off of Old Wire Road. We are looking at the substantial loss of the tree canopy and water shed on the top of this hill primarily because the houses are built on minimal lots and the houses occupy nearly all the lot. Most of the trees will be remove. We would welcome the planting of additional trees in the open space to replace those that have to be removed.

Chuck Chalfant residing at 1961 Overcrest was present.

Chalfant: Our house is directly adjacent to Charleston Place. I'd like to address the pylons to the entryway gates. The gate on the east side specifically is directly adjacent to our property.

Johnson: What are you calling the pylon?

Chalfant: The pillars are 10 to 15 feet from our property. The gate extends to the end of the median and that would extend into the nature barrier of the creek. Two years ago it was approved that the markings would be placed adjacent to the creek and not in it. If you have to approve this, please make them move it back. I am opposed to the entry gate. It is not necessary to show that you are entering a new neighborhood. There is a creek and a tree line and the houses are significantly different. A gate is not necessary. I was hoping the new subdivision would be more inclusive but we have seen several things that indicate it is not that way. For example, the rock walls that are in front of the detention ponds. They are beautiful from the front but the back is concrete blocks and that is about 10 to 15 feet from my property.

Further Commission Discussion

House: In response to Chuck's comment, we don't have a problem moving the entry system farther to the west if that is suitable. We just want to define the neighborhood. It's interesting that when we first proposed this development four years ago, everyone was worried it would cheapen the value of their property and that it would low rent, multi family housing. Now they are complaining that it is too exclusive. We are in the process of applying stucco to the block wall and it's just not finished yet. We have not eliminated any trees. We have planted grass to prevent erosion in the areas we have disturbed. I don't how the Greenwood

Planning Commission Minutes
March 13, 2000
Page 25

thought they would get a sodded yard in their easement area. The reason for the entry system is to define the neighborhood and create a feeling that relates to the architecture of the development. I hope you can see that when you're out there.

Johnson: This final plat was approved at the Subdivision Committee. I see that condition number eleven provided landscape screening around detention areas. When does that have to be done?

Conklin: Landscaping is one of the items that we allow the developer to delay. I will get with the Landscape Administrator and help get that finished up.

Johnson: If no trees have been removed between the northmost detention pond of the adjacent property, then it sure has a different look from when we toured with site before any development. It was really a very thick, overgrown area. Maybe there weren't trees but there was something back there.)

Hoffman: I was involved with this process from the beginning. I recall that in the layout of the streets and the development that there is a central green space area that was going to be devoted for a gazebo for community events and the barn and garage would remain in more of a natural state and we a buffer to the neighbors. I think that idea has totally flown out the window. Apparently, the landscaping has not been installed around the detention areas to screen the neighbor's view of this development. The housekeeping is atrocious. There is debris on site and it doesn't appear to have been policed at all. With regard to the entry gate, I find they are large and out of scale.

MOTION

Commissioner Hoffman made a motion to deny all three requests for the entry features, the recreation facility at the old garage, and allowing the wood dock in the detention area.

Commissioner Estes seconded the motion.

Johnson: Are you proposing removal of the wood dock that was built without consent?

Hoffman: Yes, that is my motion.

Johnson: I have a question about the distance such recreational structures have to have from the adjacent property. You have stated that the setback is 100 to 200 feet and Mr. Greenwood has stated that it is 250 feet. Can you explain this ordinance? It appears to me it must be 250 feet. I'm looking at 166.06 which is the PUD

Planning Commission Minutes
March 13, 2000
Page 26

ordinance.

- Conklin: In the original violation notice that we sent Mr. House, I used that section. Mr. House questioned whether or not that was appropriate. Within the Unified Development Ordinance, we also have a section on nonresidential uses in R districts. In referencing that, it talks charitable, cultural, educational, recreational and similar nonresidential facilities were permitted and the requirements could be reduced after receiving a plan for development and this section could be substituted for the Planned Unit Development ordinance. My interpretation was it must apply to the Planned Unit Development ordinance somehow. It states in there an outdoor facility or use. We have land use on perimeters discussing things other than single family homes and we also have a section in our ordinances that talks about nonresidential uses in R districts. Therefore, if it doesn't apply to a wood dock or picnic area or outdoor activity area, where it specifically states 166.06, I don't know of any area where it could be applied.
- Shackelford: Due to my relationship with this applicant, I will be abstaining from this vote.
- Hoover: Does the ordinance require signage for this neighborhood?
- Conklin: There is no requirement that a subdivision has to have a sign.
- Hoover: Were there originally plans for columns at the entries?
- Conklin: I was not aware of any entry way feature being planned.
- Estes: I have not been on board from the beginning. I am fresh to this and perhaps that is an advantage. I see they have done some downstream channel diversion. There has been relocation and loss of a watershed. There is rip rap stone as a dissipater and all that has been approved by our City Engineer. What remains is the screening and buffering and the green space. I understand that can be delayed until a later time. The setback requirements for lighted or unlighted nonresidential structures are not being met under any part of our code. It has been noted that the preliminary plat was suppose to locate any and all proposed nonresidential structures including gates and monument signs and that was not done. The plat has the final approval and has been filed of record in the courthouse and it is a done deal. If this process means anything, then we need to consider that once the process is completed it is completed. I understand the concept of change orders and design changes and so on but those are normally contemplated in building contained units and not in redesigning subdivisions. I am troubled by this idea that you can approve a final plat then come back with all

Planning Commission Minutes
March 13, 2000
Page 27

these changes without notification and hearing from the public.

Johnson: At the time this PUD came through, one of the selling points was it would have a lot of space in the buffer zone and the idea was to be good neighbors. The idea was not to encroach or impose on the neighbors with recreation facilities. When we site a PUD and back it up to an existing neighborhood, we have a duty to stand buy our decision to not allow recreational facilities near the boundary lines.

Roll Call

Upon roll call, the motion passed with a unanimous vote of 7-0-1. Commissioner Shackelford abstained.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

February 10, 2000

Mr. Greg House
Houses, Inc.
217 North East Ave.
Fayetteville, AR 72701

Dear Mr. House:

The City received a complaint regarding the placement of a wood pier over an existing spring fed pond in Charleston Place Planned Unit Development. The wood pier is approximately 100' from the north and east property boundaries.

This wood pier was not approved as part of the preliminary or final planned unit development. You did mention to me that you discussed placing the wood pier at this location with the former City Planner. I contacted Alett Little and she did recall this conversation but stated that she never approved the request.

The violation notice that was sent to you stated that any use of land other than a single family dwelling requires a 250' setback from the common perimeter of an R-1 zone.

You have questioned whether this section of the code applies to the wood pier since the ordinance refers to land use and not recreational facilities associated with a land use.

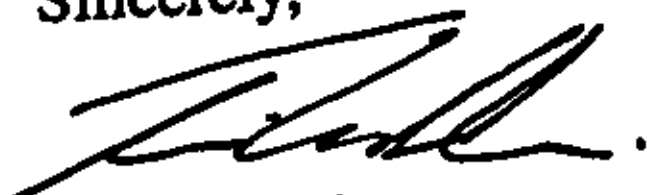
I have researched Section 166.06 Planned Unit Development Ordinance regarding which regulations are applicable to this situation. I have found in the Unified Development Ordinance references to both permitted land uses and non-residential facilities that are associated with planned unit developments. Because the Unified Development Ordinance does make a distinction between land use and non-residential facilities associated with a land use, it's my interpretation that you are required to comply with the non-residential ordinance requirements (please see attached). Furthermore, it's my opinion that this change in the approved Planned Unit Development is considered a major change and must be approved by the Planning Commission.

Therefore, the Planning Commission will need to approve a request to allow the wood pier to remain. Under Section 163.23, the setback required for the pier is 75' using the outdoor activity requirement. I have placed this item on the March 13, 2000 Planning Commission agenda.

*Planning Commission
March 13, 2000
AD00-6 Charleston Place HUD
Page 7.4*

Please provide to the Planning Division mailing labels of all adjoining property owners by Tuesday, February 22, 2000. I also request that you notify the adjoining property owners by certified mail of your request and the date and time of the Planning Commission meeting. Please contact me if you have any questions or need any additional information.

Sincerely,



Tim Conklin
City Planner

SECTION 166.06(C)(11) PLANNED UNIT DEVELOPMENT

11. Changes Within a PUD. Minor changes caused by conditions unforeseen at the times of initial approval may be authorized by the City Planner without Planning Commission approval. *These changes include, but are not limited to: structure location, structure character, location of sidewalks, trails, street lighting, parking, and changes in landscaping. All other changes which in the opinion of the City Planner or Planning Commission are major changes must be approved by the Planning Commission.*

14. Preliminary PUD Plan. A preliminary PUD plan shall be submitted to the Planning Commission following the same procedures and requirements outlined in this chapter. In addition to the requirements of the subdivision regulations, the following information shall be submitted:

- a. An estimate of the number of units for sale and lease;
- b. Identification and size (acres or square feet) of all open space and proof that the developer has the capacity to maintain the open space until accepted by the City or assumed by the property owners association (POA);
- c. *Identification and location of all nonresidential structures proposed in the PUD;*
- d. All information relating to the establishment, operation, and perpetuation of the POA;
- e. Proposed protective covenants;
- f. Natural features;
- g. Written request for any desired variances from the zoning or subdivision regulations; and

15. Final PUD Plan. A final PUD plan shall be submitted following the procedures and requirements outlined in this chapter. In addition to the requirements of the subdivision regulations, the following information shall be submitted.

- a. *Location of recreation facilities;*
- b. Proposed treatment and ownership of open spaces;
- c. *Relationship of dwelling units, recreation facilities, and open space;*
- d. *Proposed trails, walks, waterbodies, and other special features;*
- e. Final protective covenants and property owners association agreement.

Any property owners association agreement shall apply to all property owners within the PUD and the protective covenants shall so provide; and

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

§163.23 NONRESIDENTIAL USES IN R DISTRICTS. The following requirements apply to charitable, cultural, educational, recreational, health, institutional, religious, social, and similar nonresidential facilities where permitted in or abutting an R district. The Planning Commission may reduce these requirements after receiving and reviewing a development plan under the provisions of §166.05 or §166.06. Separation of structures of areas for uses listed above shall be as follows:

Type of Structure or Element of the Facility	Minimum Separation (ft.)
Outdoor Facility or Use:	
Eating or Picnic Area	100 ft.
Entrance Driveway	20 ft.
Outdoor Activity Area	75 ft.
Outdoor Lighted Area	200 ft.
Outdoor Spectator Facilities	50 ft.
Outdoor Sports Area Without Spectator Facilities	100 ft.
Tool or Equipment Storage	200 ft.

MTM OF EL DORADO

March 1, 2000

Re: Charleston Place
Via: certified mail

Dear Neighbors:

First, I want to express my appreciation for your patience with any inconvenience that the construction of Charleston Place has caused you. Hopefully, when this project is completed you will consider it an asset to your neighborhood.

Secondly, this is to inform you that MTM of El Dorado, LLC. has requested that the Fayetteville Planning Commission approve the following improvements to the common areas of the Charleston Place planned unit development:

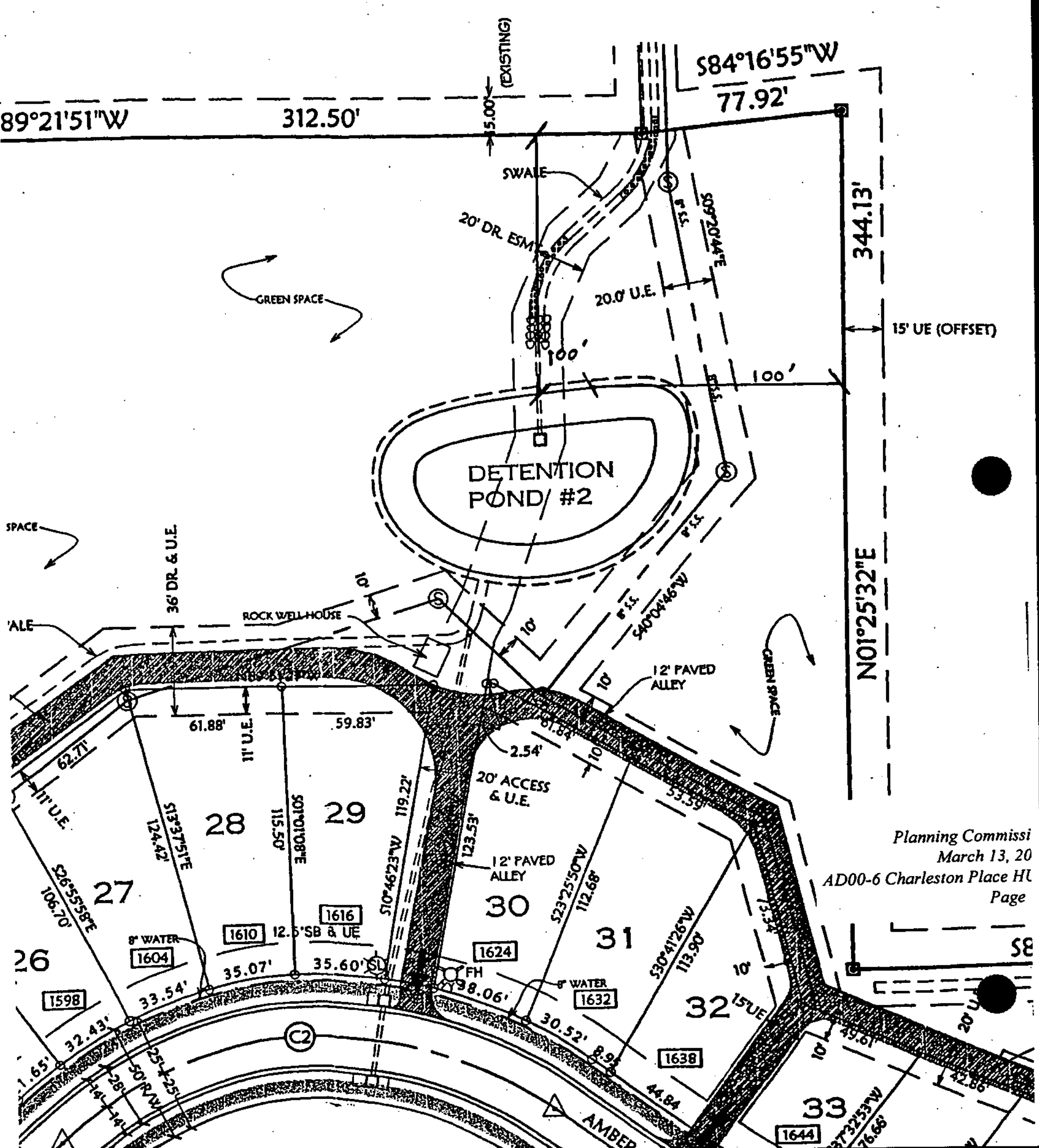
1. The construction of an entrance pillar and mock stationary gate system as per the attached drawings;
2. The construction of a picnic pavilion as illustrated on the attached drawings; and,
3. Approval of the dock, which covers the ugly drainage inlet in the spring-fed pond.

A meeting will be held March 13 at the Planning Commission in room 219 at City Hall, 5:30pm regarding our request should you be interested.

Sincerely,

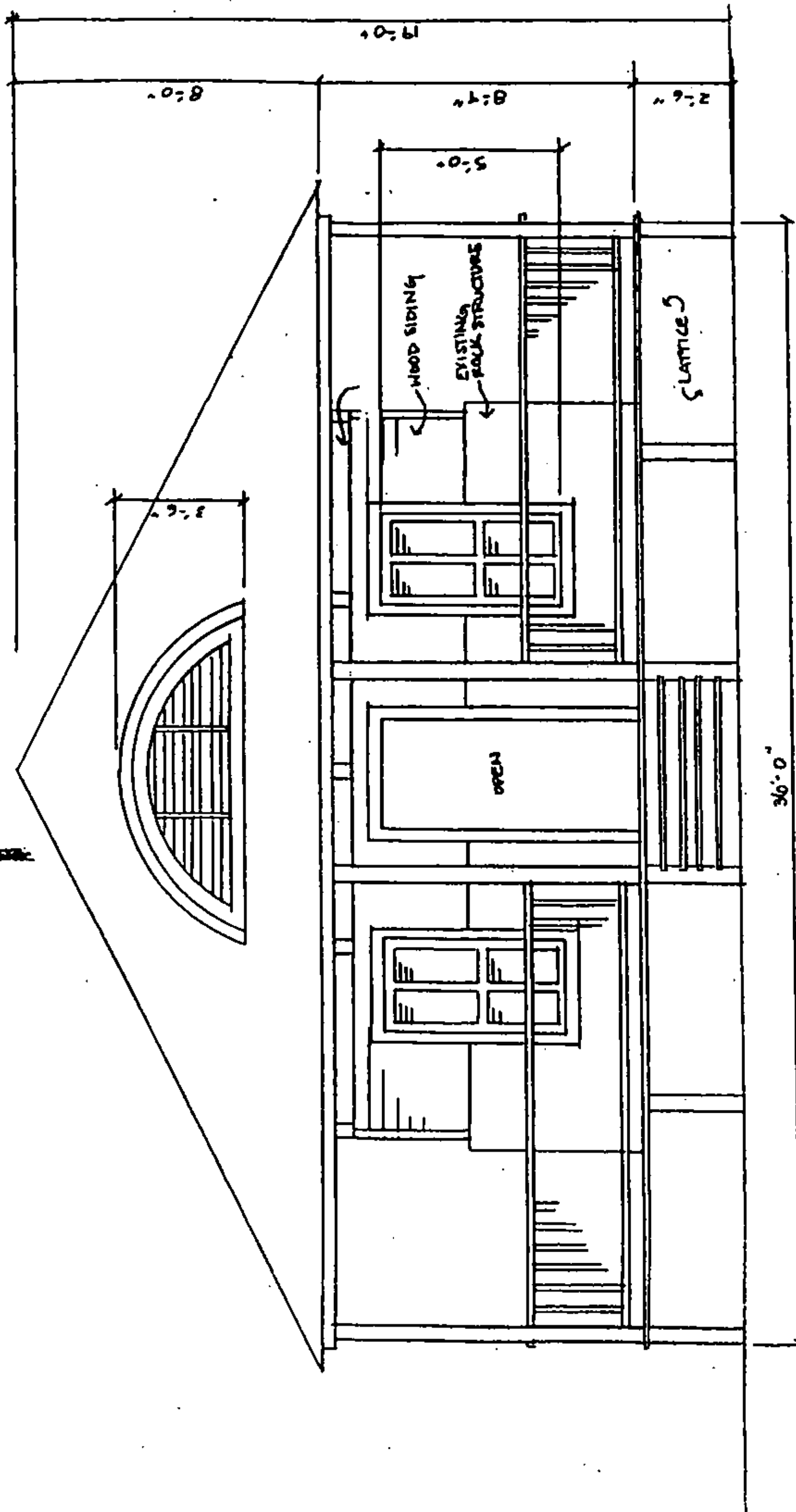


Gregory T. House
For MTM of El Dorado



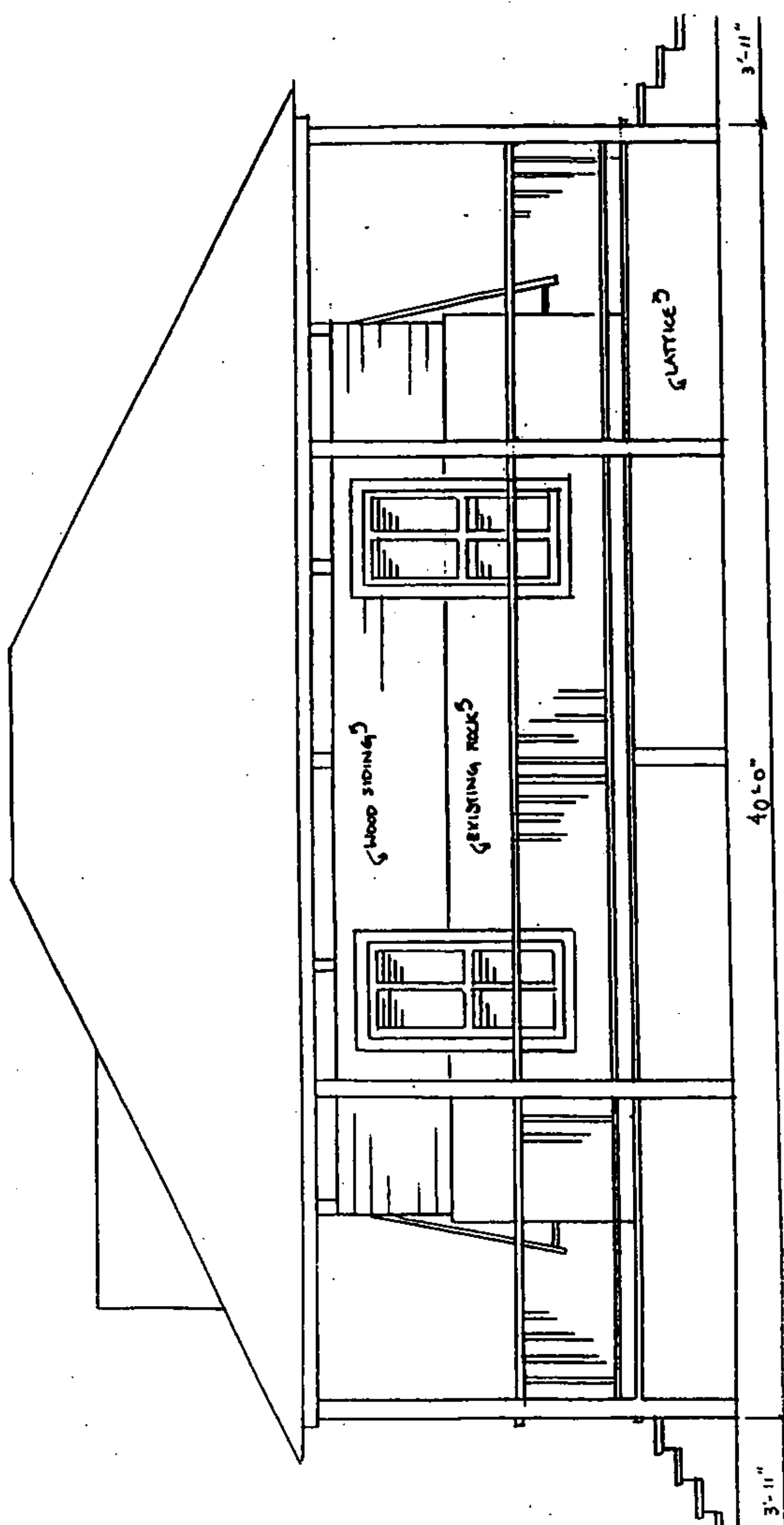
Planning Commission
March 13, 20
AD00-6 Charleston Place HL
Page

PP-1



PICNIC PAVILLION EAST ELEVATION
NOT TO SCALE

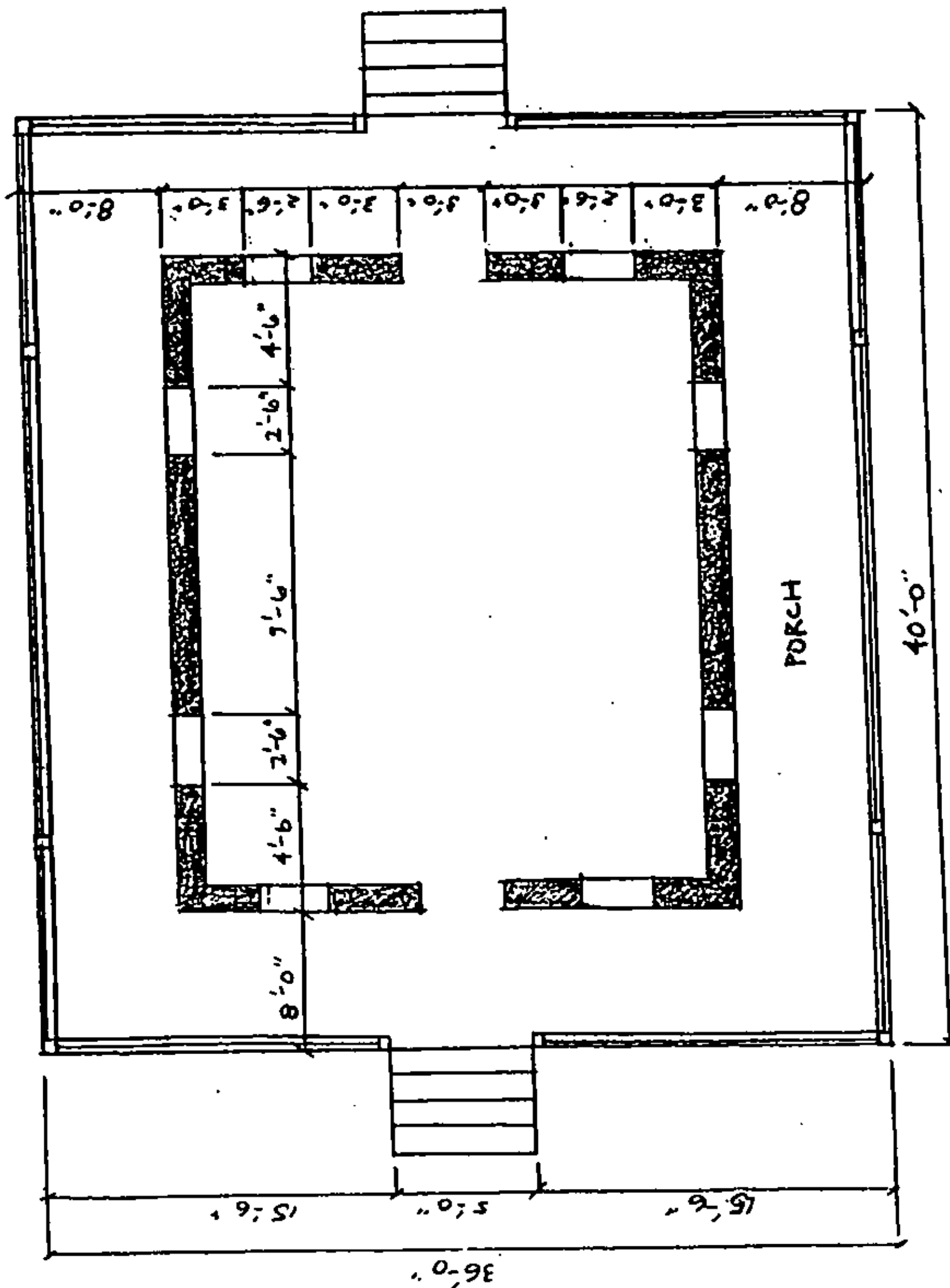
28-3



PICNIC PAVILLION WEST ELEVATION

NOTE TO SCALE

PP-3



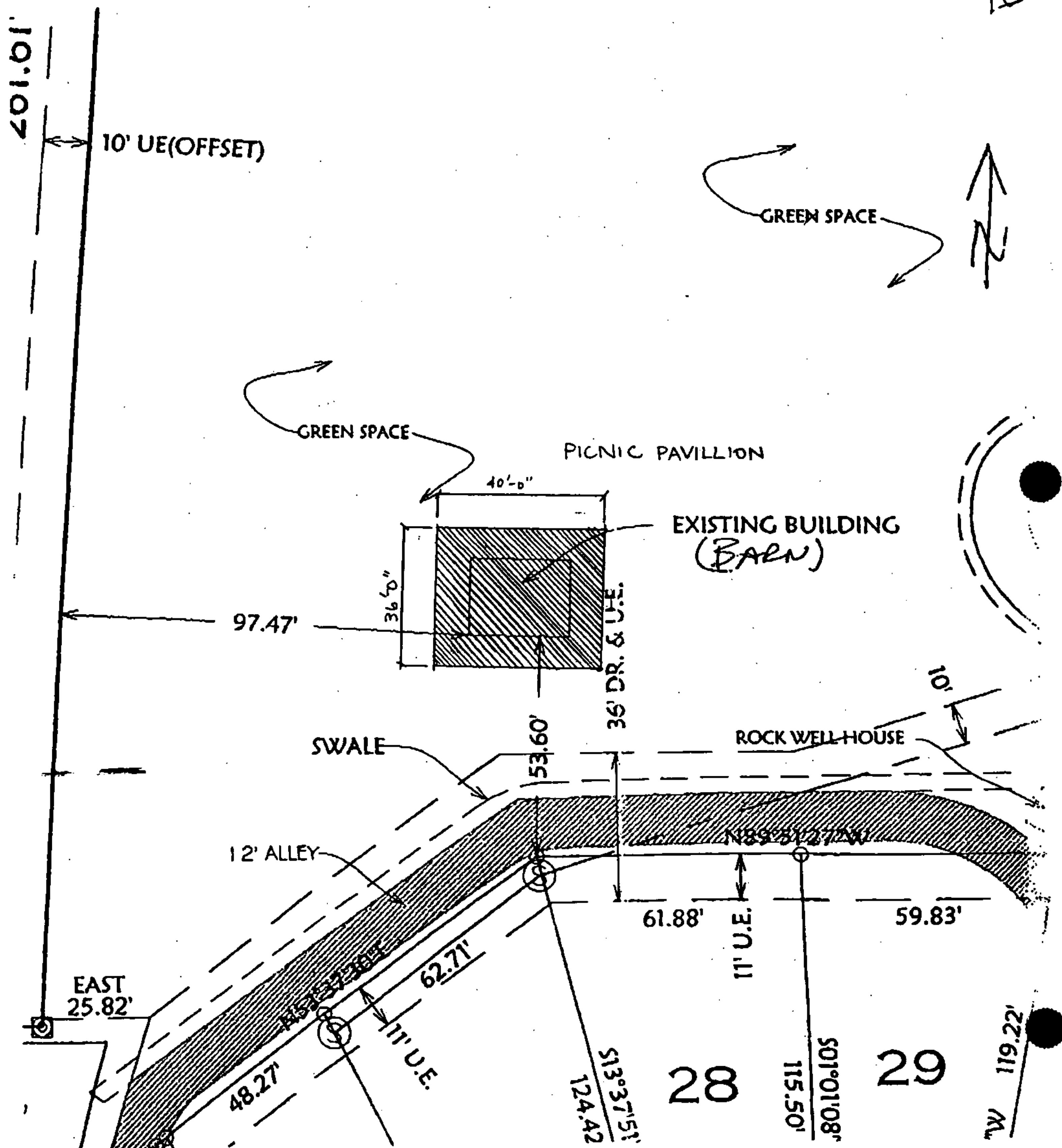
PAVILLION FLOOR PLAN

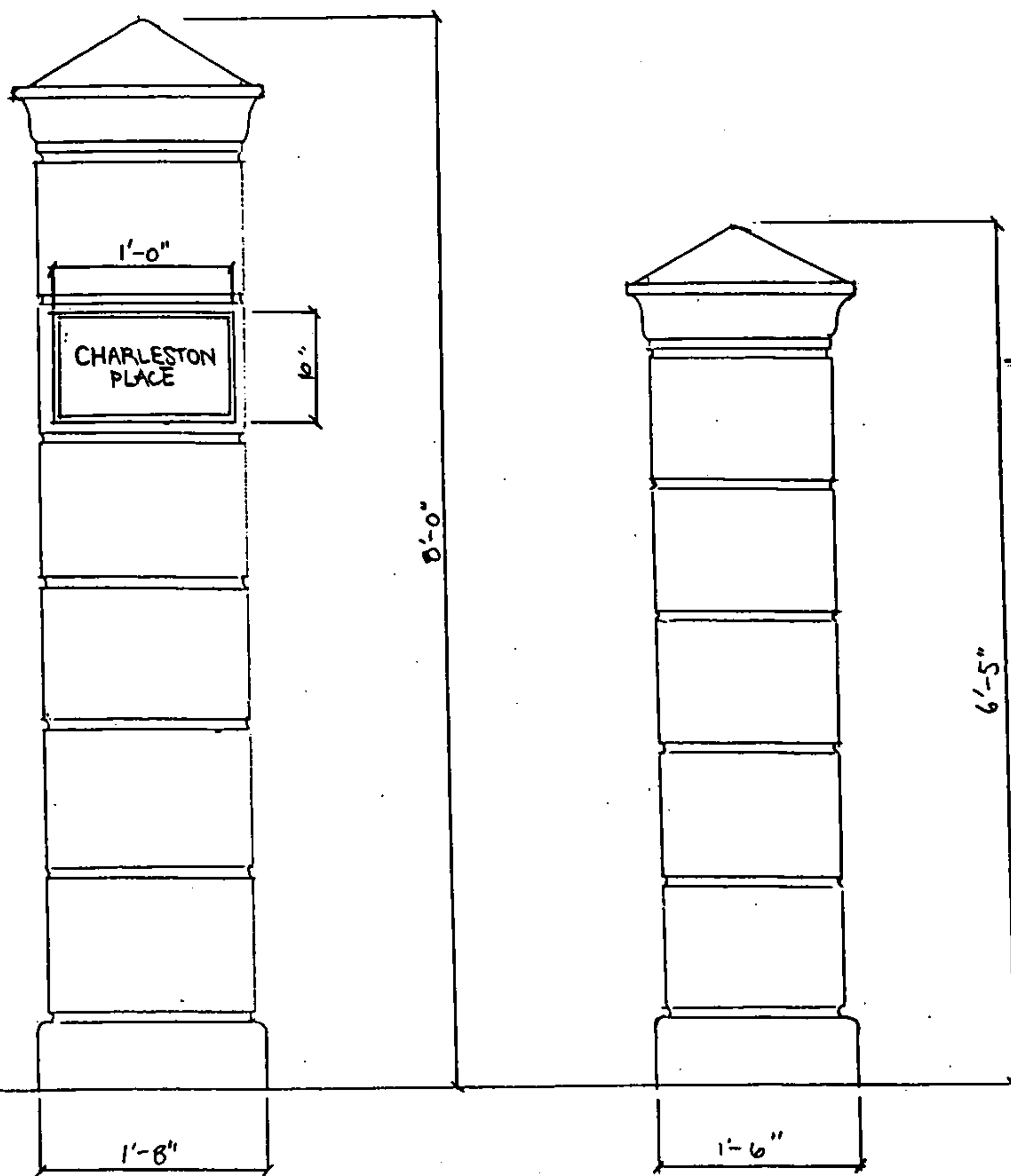
NOT TO SCALE

PICNIC PAVILLION - PLAN VIEW

GREG.

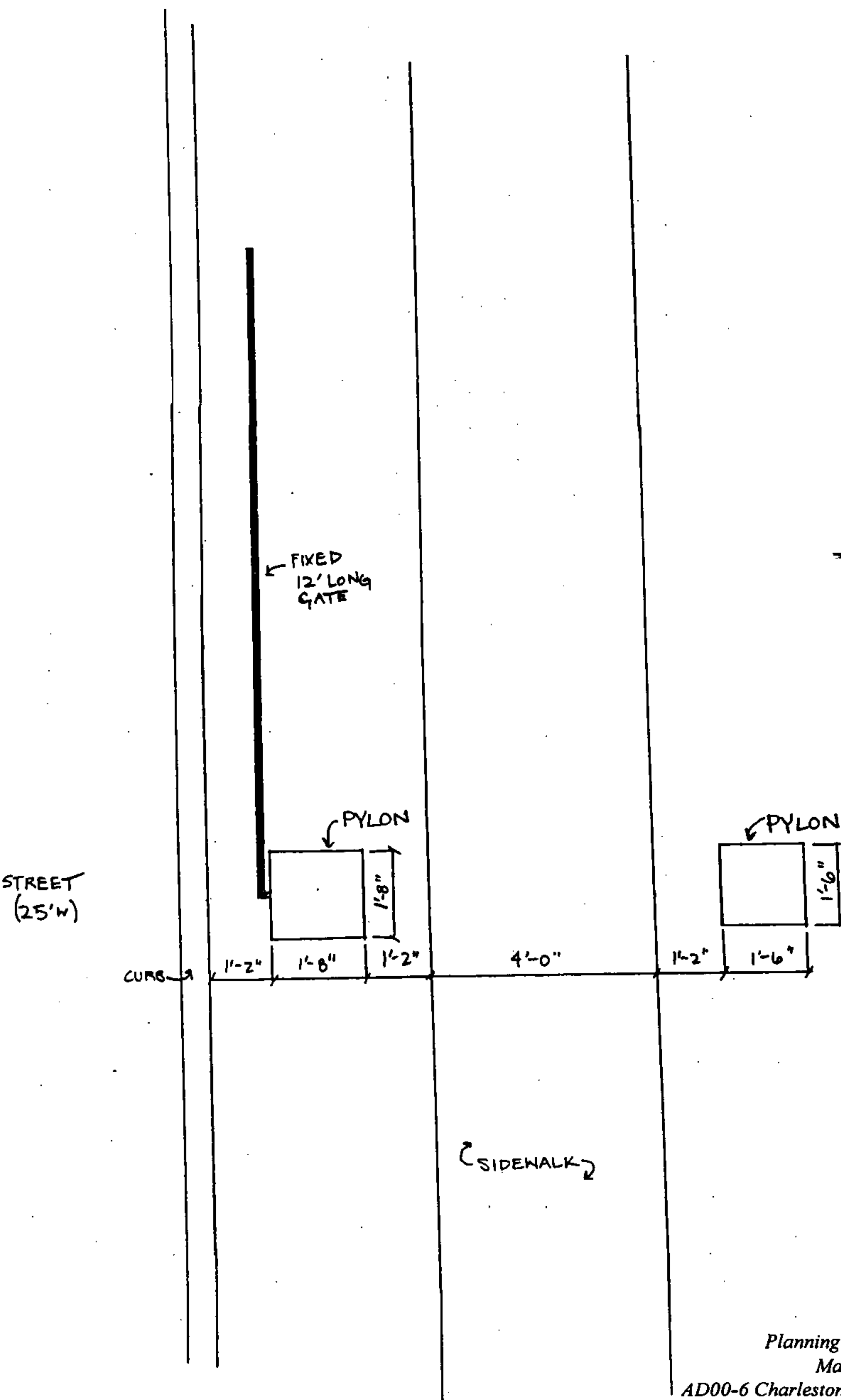
HA



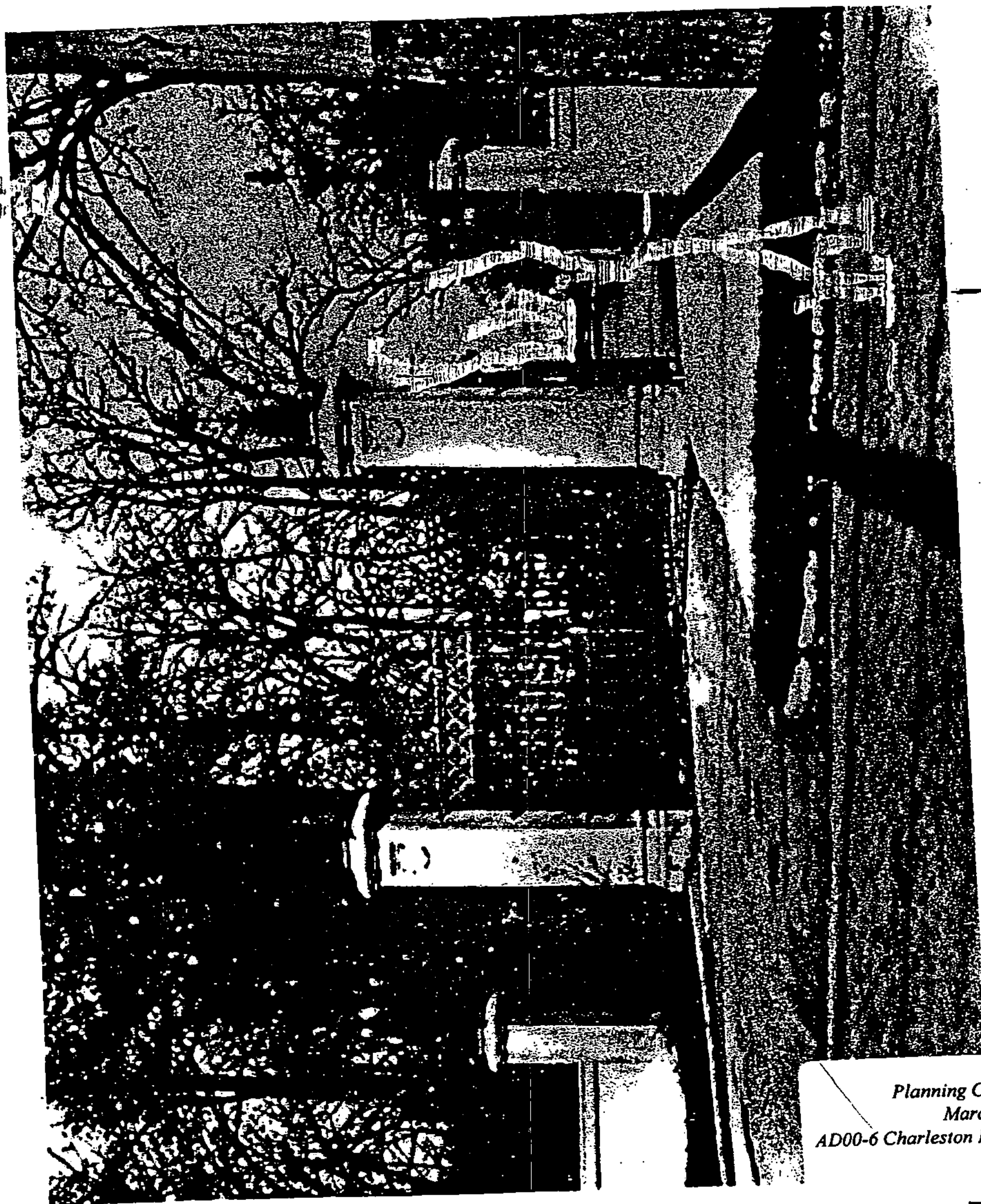


PYLON ELEVATION

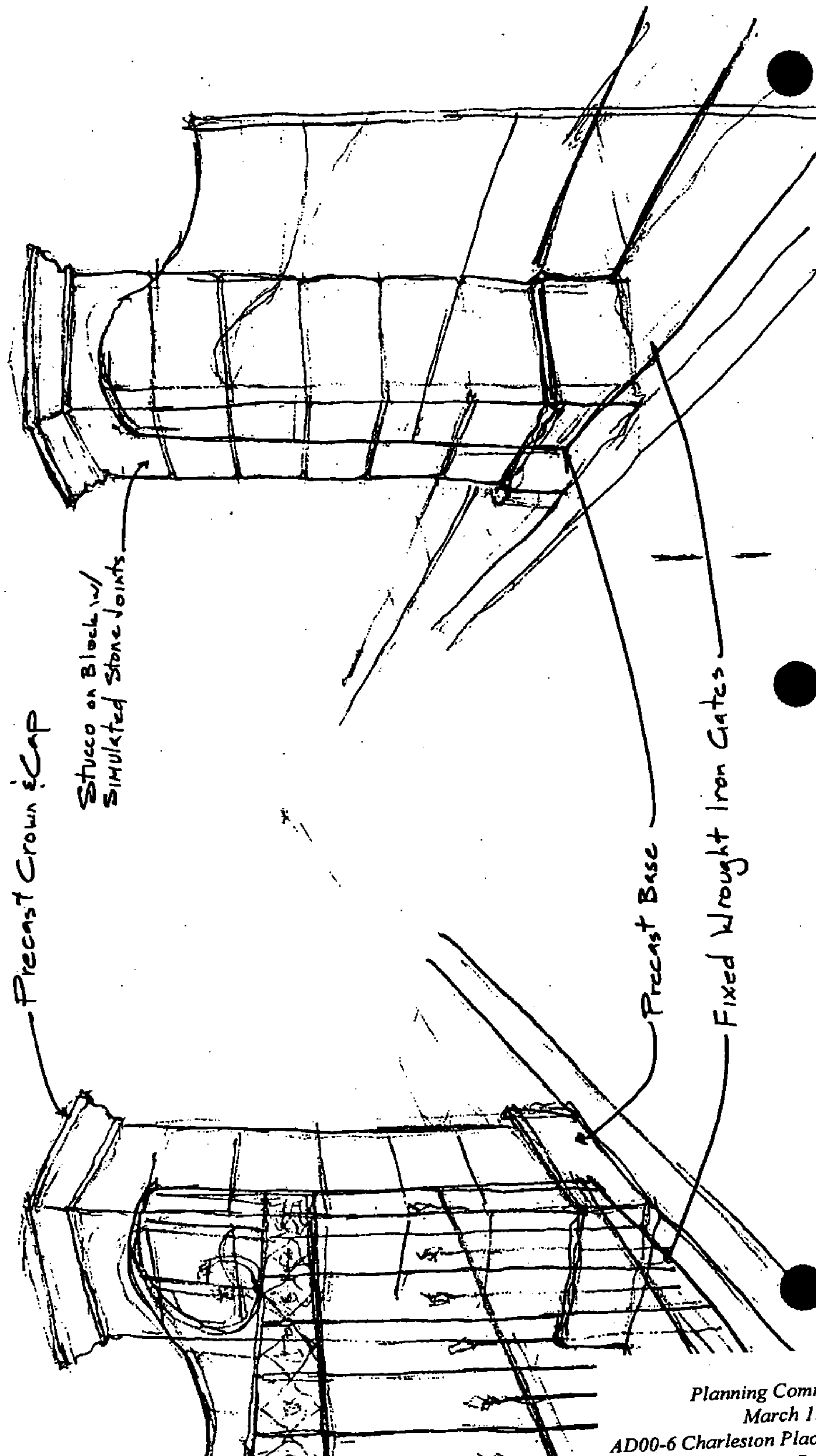
SCALE: 3/4" = 1'-0"



PLAN VIEW ENTRY PYLONS



TO CHECK ROTHERFORD



AD00-6 CHARLESTON PLACE H

1708

SOUTH

WEST

33.76'

34.33

VVL 31

7-5

0.00
PCOR



8" WATER
FIXED GATE

SIGN

FIXED GATE

ENTRY PYLONS

PYLON

PYLON

20.00
U/E

C4

0°34'54"E
196.42'

S13°42'06"W
41.88'

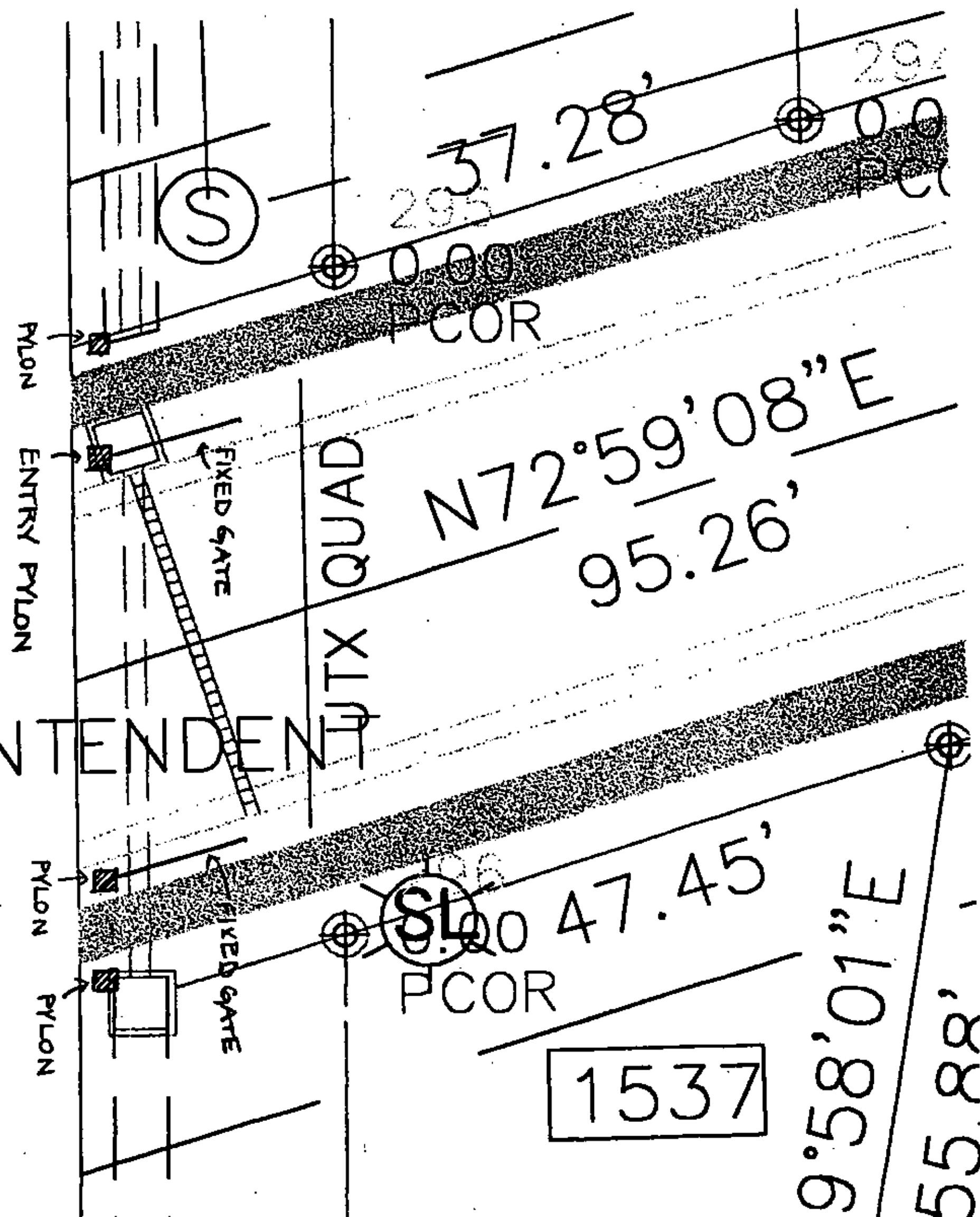
26.96'

0.00
PCOR

EXISTING SPLIT RAIL FENCE

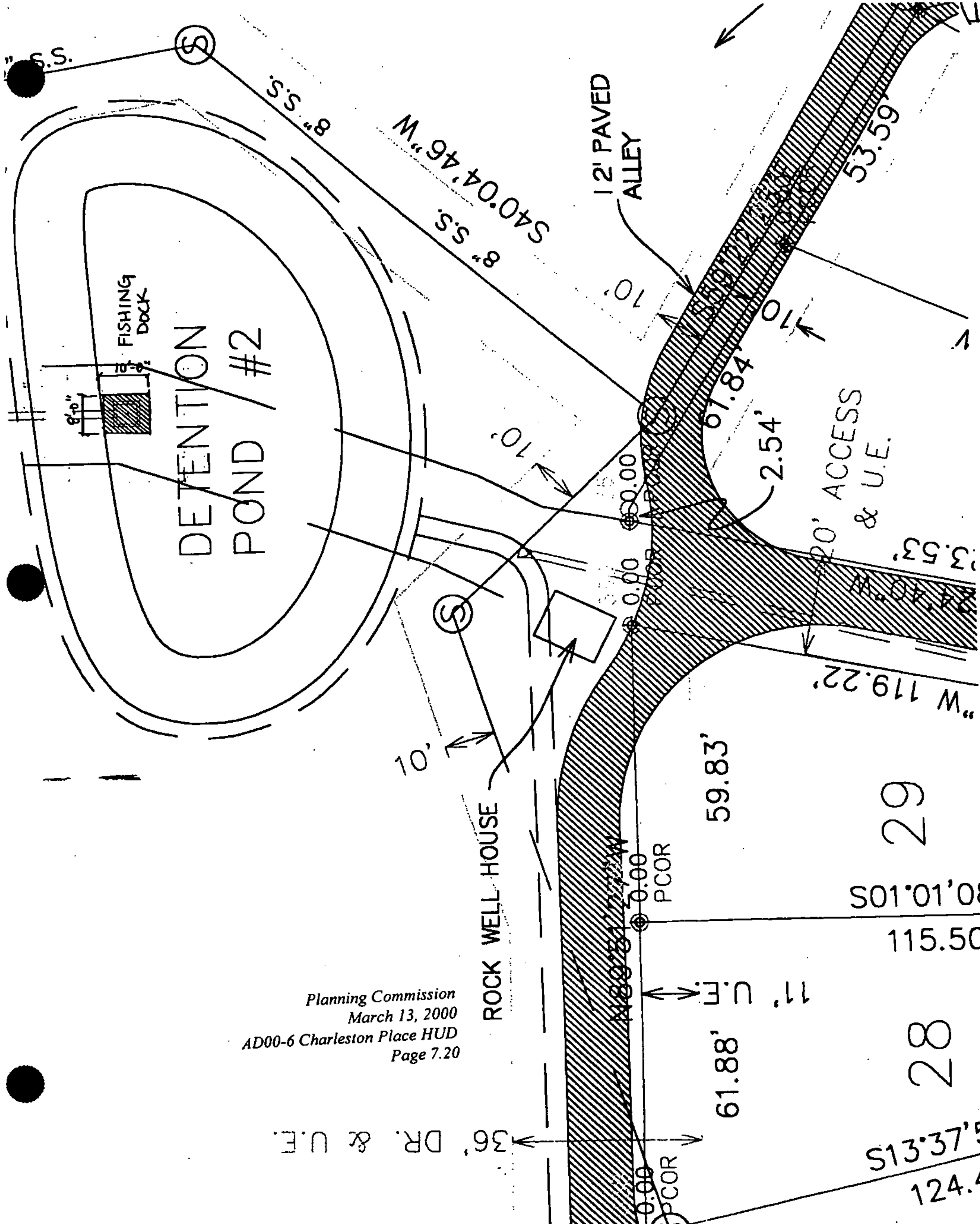
EAST
ENTRANCE

WEST ENTRANCE



I SUPERINTENDENT

W



Planning Commission
March 13, 2000
AD00-6 Charleston Place HUD
Page 7.20

FAYETTEVILLE MINIMUM STREET STANDARDS

1-14 Subdivision Signs and Ornamental Structures:

Subdivision signs proposed for installation by the Developer/Owner for the benefit of his development shall be shown on the Plans and be sized and located to meet the provisions of the City's Sign Ordinance.

The location and size of all ornamental structures constructed by the Developer/Owner shall be approved by the City's Traffic Superintendent and by the City Engineer. In addition, the need to conform to zoning regulations shall be determined by the Planning Department. Generally, all structures over 30 inches high must meet applicable setback requirements.

Where a subdivision sign or ornamental structure is proposed to be located on City right of way, the exact location and size shall be approved by the Planning Commission. The maintenance of such signs and structures shall be by a properly established property owner's association and provision for maintenance shall be included in the covenants of the subdivision.

Any relocation of such signs and structures necessitated by street widening, utility installation, or any other authorized use of the right of way shall be the financial responsibility of the property owner's association and shall be done at the call of the City.

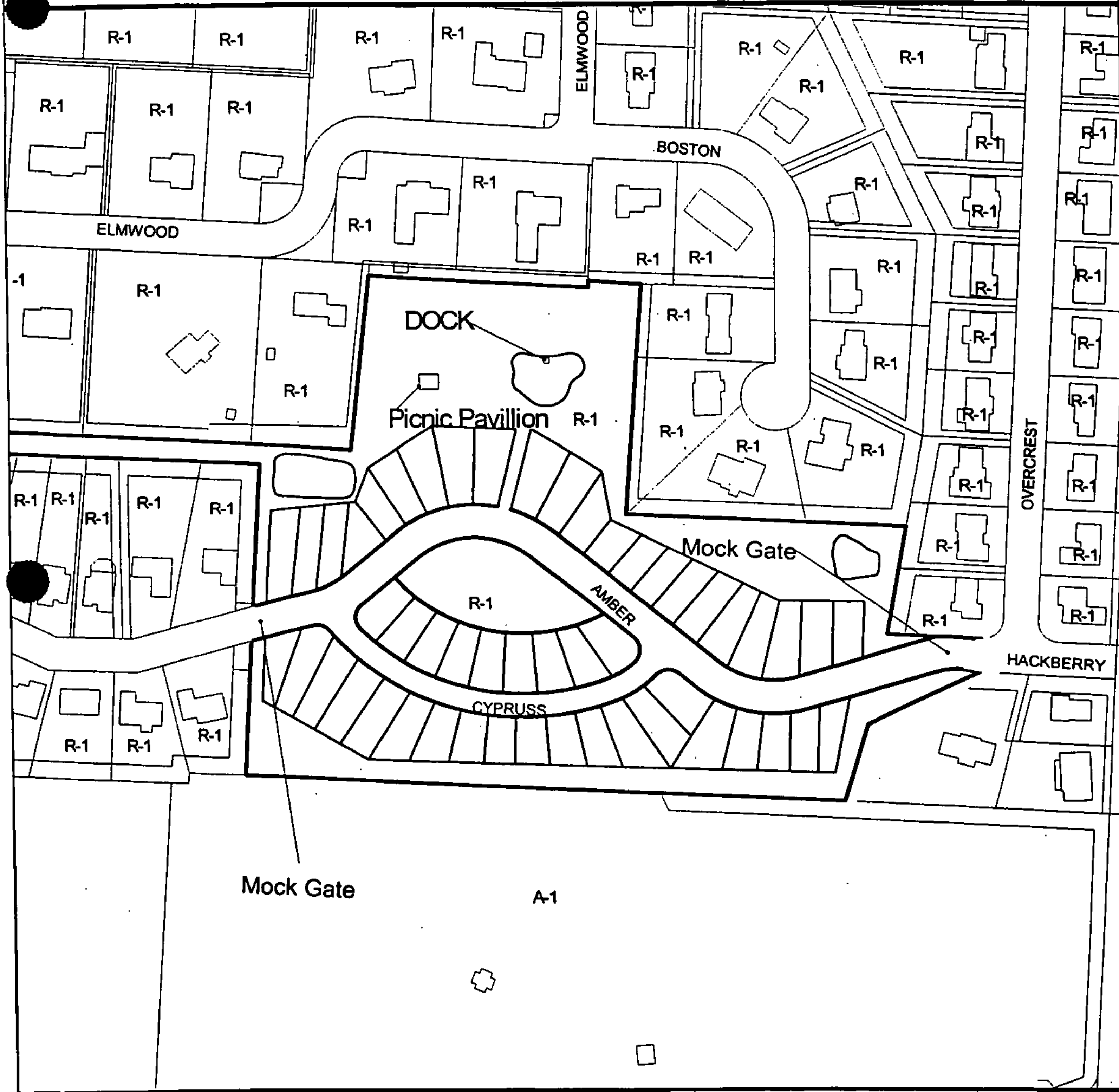
All permanent street and traffic signs shall be furnished and installed by the City at no cost to the Developer/Owner.

1-15 Sidewalks and/or Trails:

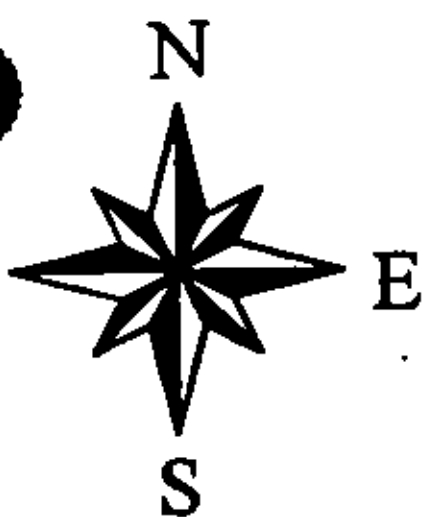
Sidewalks and/or trails, where required shall be engineered and shown as part of the street plans and specifications to be approved by the City Engineer. The sidewalks and/or trails shall then be constructed as part of the development improvements as required by City Ordinance.

The necessary grading and subgrade preparation for sidewalks and/or trails shall be done as part of the street construction even if the installation of the actual sidewalks and/or trails are delayed. Sidewalks and/or trails are required in accordance with the City's Master Street Plan as adopted or as may be amended from time to time.

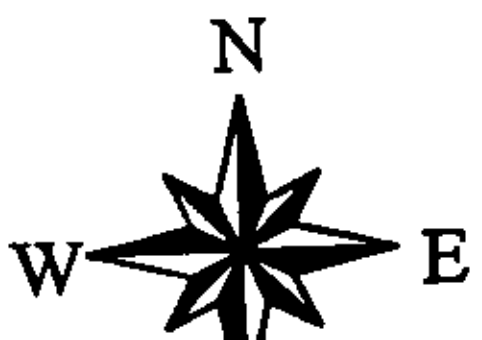
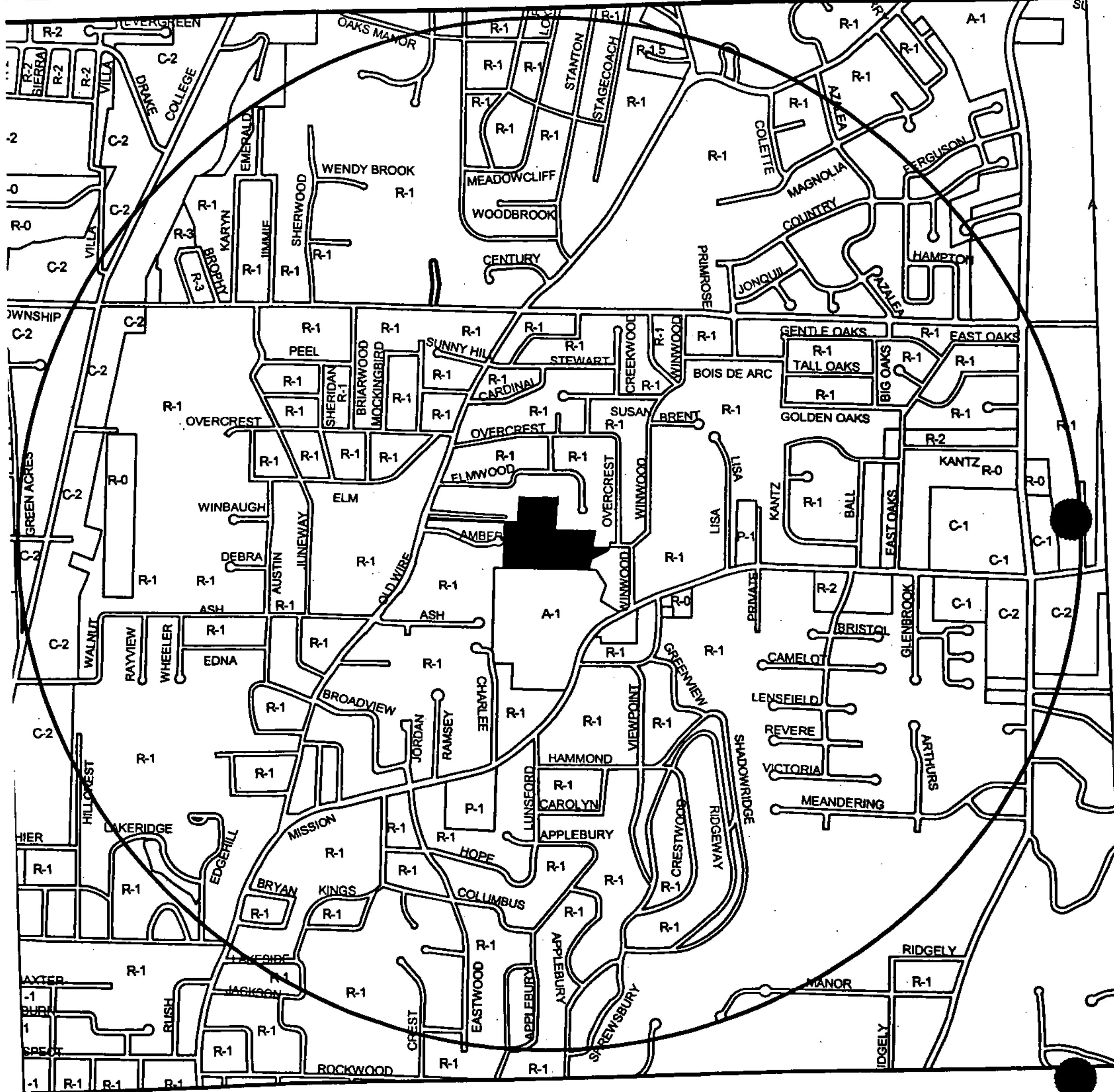
AD00-6.00 - Charleston Place - Close Up



200 0 200 Feet



AD00-6.00 - Charleston Place - One Mile Diameter



Subdivision Meeting
April 3, 1997
Page 8

**PRELIMINARY PLAT FOR CHARLESTON PLACE P.U.D.
GREG HOUSE- N. OF MISSION BLVD & E. OF OLD WIRE RD. pp 177**

The preliminary plat was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of MTM of El Dorado, L.L.C., for property located north of Mission Blvd. and east of Old Wire Road. The property is zoned R-1 (Low Density Residential) and contains approximately 12.84 acres with 51 lots proposed.

Recommendation: Consideration of this project based on staff findings and recommended conditions of approval. This item is a preliminary plat and therefore must continue in the development process to be heard by the full Planning Commission.

Findings: This is the fourth submittal of this subdivision. Revisions include a new street layout - the previous layout had sight distance problems. A one-way loop street on the south side to the project is proposed in this newest submittal. Density remains at 51 lots. All streets and drainage areas (including detention ponds) are proposed by the applicant as public facilities.

There was much discussion at the Plat Review level concerning access to manholes serving the lots on the north side of the main street. Maintenance of the drainage system / detention ponds was also a concern.

Conditions of Approval

1. Plat Review and Subdivision comments.
2. All improvements shall comply with City's current requirements.
3. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval.
4. Payment of parks fees of \$15,300.00 (51 lots @ \$300.00 each), payable within 30 days of Final Plat approval.
5. Sidewalk construction in accordance with current standards to include a 4' sidewalk with 6' greenspace on both sides of Amber Dr., and a 4' sidewalk with 4' greenspace on one side of Cypress Lane.
6. Correct street names according to Plat Review comments.

Subdivision Meeting
April 3, 1997
Page 9

7. A letter from the developer requesting that the Planning Commission allow the proposed 12.5' front building setbacks.
8. Additional conditions:

Ms. Little stated the staff had received a plat and a chart illustrating the green space. The developer had provided 4.14 acres if they included the greenspace near the entry. If they did not include the area the green space would be 3.47 acres.

Mr. Jorgensen, project engineer, stated Jim Johnson had called him and the name of the street through the subdivision was changed back to Amber. He was not sure Mr. Franklin was aware of the change.

Ms. Little replied they would have to have the name issue resolved before he submitted his revisions.

She stated the normal front setback in an R-1, subdivision was 25'. Mr. House was requesting a waiver from the front setback to 12.5 feet. The Planning Commission had the authority to do that under the PUD ordinance to grant the request. Mr. House had submitted house plans for lots 44, 45, 25, 24, 23, 22, and 1, in response to concerns about the lots being buildable.

Mr. Beavers stated the Public Works Department would review maintenance of streets and drainage on a case by case basis. They would not accept Cypress as a public street. It would have to be a private street. The property owners association would have to maintain it. The City would not accept the maintenance of the three detention ponds. A property owners association would have to be setup to maintain those. The City would not maintain any open channels or swales that went into the ponds.

Mr. House asked Mr. Beavers to repeat his reasoning for not maintaining the streets and ponds.

Mr. Beavers stated they were going to look at subdivisions on a case by case basis. They did not have a firm written policy for when they would accept something for maintenance and when they would not.

Mr. Forney thought they should offer a suggestion on how the developer could change his design so the City would be willing to accept the streets.

Mr. Odom questioned if the City was going to require a detention pond for floodways, why was the City not willing to maintain them.

Subdivision Meeting
April 3, 1997
Page 10

Mr. House stated it was discrimination when they could choose one development over another and not have a firm policy for all developers.

Mr. Beavers replied the City was not set up to maintain the ponds. They did not have many detention ponds yet. The decision was going to have to be made by administration, if they were going to set up a storm water utility or expand the street department in order to maintain the ponds.

Mr. Forney asked if there were any ponds the city had agreed to maintain.

Mr. Beavers stated there were a few ponds they had agreed to maintain. Most of the ponds were on commercial developments. There were very few ponds in the residential areas. None of them were maintained by the City. He added he would be happy to meet with Mr. House and the public works directors.

Mr. House asked why the one-way street would not be maintained by the City. He added this was the first time the issue had been mentioned.

Mr. Beavers did not believe he could give Mr. House an adequate answer. He thought it went back to the item being a PUD. The opinion was if they were going to have a private unit development, then everything in it should be private that could be.

Mr. Odom stated his understanding of the Planned Unit Developments were private streets as long as they did not hook up with another street.

Ms. Little stated they could be private if they did not meet the City's standard. If they met the City's standard then they could be public streets.

Mr. Forney stated they had have problems with PUD ordinances and definitions. He thought PUD's were a good thing, because they potentially gave them higher densities, which gave them less infrastructure to maintain per more residents.

Mr. Odom thought the City would want to maintain the street because it gave them less of a street to maintain than a standard subdivision.

Mr. Forney believed this developer would be doing something that would be making the City's burden less.

Ms. Little noted the street width on the one-way would be less than on a two way. She asked what they needed to do, because these issues could not be solved today.

Subdivision Meeting
April 3, 1997
Page 11

Mr. Beavers stated he had expressed the Public Works position.

Mr. Reynolds asked if Mr. House would still build the subdivision if the city did not assume maintenance.

Mr. House stated part of their original agreement was to lessen the number of lots from their original request to meet the City's standards so the City would maintain the streets. This was a small development to have an entire maintenance program. Part of the reason for going through all the layouts was to accommodate the layout from the City's stand point.

Mr. Reynolds asked Mr. Beavers if his answer came from the third floor.

Mr. Beavers replied yes.

Ms. Hoffman asked how wide the streets were.

Mr. House replied the pavement was 18 feet, the right-of-way was 35 feet.

Ms. Hoffman asked if it met the City's standard for a one-way street.

Mr. Beavers stated there was not a one-way street defined in the ordinance.

Ms. Hoffman asked if the original plat submitted had private streets.

Mr. House stated in the beginning they had proposed private streets, however they could justify taking care of them because they had more lots to pay for them.

Ms. Little stated the standard for a private street in a PUD was 14' for 1-20 dwelling units. For 21+ dwelling units it was 14' for one-way. For on-street parking 6' must be added to each side where parking is intended. She added they were asking for a 20' one-way. The minimum for two-way was 24' and parking was allowed. The residential street standard was 24' from back of curb- parking was allowed. She suggested making the streets 24' wide with a 40' right-of-way to meet City standards.

Mr. Beavers stated Mr. House's engineers had done everything they could have to accommodate what the City had asked for, however, the access to the sewer manholes/ gravel trail would have to be paved and then maintained.

Ms. Hoffman asked why the sewer access was not in the front.

Mr. Beavers stated they would prefer the sewers to be in the front, but if the developer wanted to

Subdivision Meeting
April 3, 1997
Page 12

have the sewer in the rear then he would have to provide truck access to every manhole.

Mr. Jorgensen stated the property went down hill. If the sewer line was placed out front then the houses could not be serviced. A pump would have to be placed in the basement of the house. He added the health department would not approve individual pump units.

Mr. Beavers agreed the City and the Health department were crosswise on their policies.

Mr. Jorgensen stated they had placed the sewers in the rear to provide service. They had tried to provide adequate access to the manholes. The EPA had mandated that the sewer lines be cleaned out every year or two, so they had provided the 10' access.

Mr. Forney asked if this was the first subdivision in which the lots were lower than the streets.

Mr. Reynolds believed there were things going on that they were not used to seeing. He asked where the decisions were coming from that was changing things, that it was not in staff comments. He thought they needed to postpone the item until Mr. House could get together with whoever it was. And get these things worked out.

Mr. House commented the process was not working well. He should be able to sit down and decide whether or not it worked and not decide the day of the meeting that they would not take the street or there had to be additional paving.

Mr. Reynolds stated he had no way of answering his questions.

Ms. Little stated there were problems that needed to be worked out. There was a week and a half before the Planning Commission meeting. She was not sure the planning commission had anything to do with the maintenance. The city staff needed to get back together.

Mr. House suggested continuing through the meeting to see if there are any additional issues, he needed to be aware of, then make a decision on whether or not to proceed. He asked to hear all the other comments.

Mr. Beavers stated Mr. Jurgens had to service the sewer lines with trucks. He would have to be able to pull from one manhole to the next.

PUBLIC

Mr. Reed Greenwood, 1601 Elmwood, commented the layout looked better than the other plans that had been presented. He stated one of the requirements for a PUD was that it had to save the City money. He assumed that was why they would have private streets and property owners

Subdivision Meeting
April 3, 1997
Page 13

associations to pick up the maintenance. He did not believe this would project would save the City money. It seemed to him the Commission was more concerned with the green space and the density. There were other places more appropriate places for dense development, such as areas zoned for apartments.

Mr. Chuck Charlton, 1961 Overcrest Street, asked what the sign would look like and if the trees would be preserved.

Mr. House stated the sign had not been designed, but it would be the name of the subdivision.

Mr. Forney asked a sign and island would be allowable on a public street.

Ms. Little replied the island would not be public, it would be privately owned. The land area between the curbs would also be owned and maintained by Home Owners Associations.

Mr. Charlton stated he did not like the sign being located there because it would be in his sight.

Ms. Little stated it was on Mr. House's property and he was allowed the same property rights as everyone else.

Mr. Charlton also expressed concern about the trees along the creek and in the detention pond area.

Mr. Jorgensen stated they were going to try and retain the trees as best they could, but in some situations they would not be able too. They would preserve the trees along the creek.

Mr. House stated they would preserve all the trees they could. He asked if the developer or the Property Owners Association maintained the ponds would there be any City objection to leaving the trees in the pond area.

In response to concerns voiced by Mr. Beavers and Ms. Hoffman, Mr. House stated they could build to the west on lot 17 of the easement line. Lot 49 could be built on north of the easement line. Another option might be to move the sewer line.

Mr. Beavers stated it was not possible to move the sewer line. The line could not handle the increased friction.

Ms. Little asked them to submit drawings illustrating how they planned to fit a house on lots 17 and 49. If they could not fit a house on the lot, they would note on the plat that they were unbuildable lots.

Subdivision Meeting
April 3, 1997
Page 14

Ms. Jane Gailbreath suggested working on the PUD ordinance.

Mr. Forney believed the PUD was an opportunity to negotiate a solution to address the property owners best intention and the City's needs. The PUD was intended to be more flexible.

Mr. Ralph Truman, an area resident, did not believe this was a good area for a PUD. He did not believe there was a large enough demand for housing. He expressed sympathy for Mr. House for the number of times he had to come back for revisions. He expressed his frustration with the current ordinances.

Mr. House stated they wanted to create a more traditional feeling neighborhood by placing the buildings closer to the street. They had provided a wide right-of-way between the curb and property line. Rather than having a home sitting 35-40 feet back from the curb, they wanted the builders to come out closer to the street with porches and sidewalks. The PUD ordinance did not address leaving out utility easements as part of the green space requirements. In order to accommodate the staff recommendations and request. They had not calculated any of the utility easements in the green space and still had enough green space to meet the PUD requirement. They were using an odd piece of the property for the green space.

Ms. Little replied the ordinance did not tell them they could not count easements, but it had normally been one of the staff requirements. When the utility were put in and the utilities were put in; people did not consider it green space. They had made that a standing rule.

In response to a comment from Mr. Greenwood, Mr. House stated there was less street footage per lot. The city would have more tax payers to pay for less street. He asked to think about the maintenance and talk to the people on the third floor. He asked for the Subdivision Committees recommendation to carry on, subject to them working out the problems before the Planning Commission.

Mr. Odom asked how Mr. House would design garages into his concept.

Mr. House replied the garages would be in the back of the house, as it had been presented in all their other submittals. The basic tenor style had remained the same throughout the process. He could not comment to having covered parking for all the homes. Some of the homes might not have garages to make them more affordable. They wanted to keep the traditional feel. The parking would be in the rear. There would be some shared driveways.

In response to a question from Mr. Odom, Mr. House stated he would have restrictive covenants, which would be the same as those submitted in the past.

In response to a question from Mr. Forney, Mr. House stated they had always planned to

Subdivision Meeting
April 3, 1997
Page 15

maintain the green space.

Mr. Forney stated he would support the 12.5 feet setback request. He also support the strip of land going out toward Old Wire as green space. He felt it would benefit the neighbors to the north and south of it.

Mr. Reynolds commented he liked this plat better than any of the previous submittal.

MOTION

Mr. Fern moved to forward the item to the Planning Commission.

Mr. Reynolds second the motion.

The motion carried on a vote of 3-0-0.

Planning Commission
April 14, 1997
Page 6

**PP96-6.40: PRELIMINARY PLAT FOR CHARLESTON PLACE
MTM OF EL DORADO- N. OF MISSION BLVD. & E. OF OLD WIRE RD.**

The preliminary plat was submitted by Dave Jorgensen of Jorgensen and Associates on behalf of MTM of El dorado, L.L.C., for property located north of Mission Blvd. And east of Old Wire Road. The property is zoned R-1, Low Density Residential, and contains approximately 12.84 acres with 51 lots proposed.

Staff recommended consideration of the requested PUD preliminary plat. If the preliminary plat is approved then staff request that the approval be conditioned upon the following:

CONDITIONS OF APPROVAL

1. Payment of Parks fees of \$15,300.00 at the time of final plat approval.
2. Planning Commission approval of the 12.5 feet front setback.
3. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets, sidewalks and tree preservation. The information submitted for the plat review process was reviewed for general concept only.

All improvements shall comply with the City's current requirements and subject to additional review and approval.

Fire protection shall meet the requirements of the Fire Chief.

Minimum easements widths (or combination of right-of-way and easement) shall be 20'. Wider easements shall be required for sewer lines over 10' in depth and must also allow for trenching at a 1:1 slope within the easement.

4. Cypress Lane will be 20 feet from back-to-back of curb and will be one-way from the west to the east as shown. Cypress Lane will be a public street, publicly maintained and will allow parking on one side of the street only. The right-of-way requirements for Cypress Lane will be 35 feet as shown on the plat.

5. All underground drainage including the inlets and head walls and all drainage within street right-of-way will be publicly maintained.

All open channel drainage, all swales and all detention ponds shall be privately maintained by the Developer, the POA or another private entity in accordance with the Stormwater Management (Drainage) Ordinance.

Planning Commission
April 14, 1997
Page 7

6. The 10 foot trail shall be used as an access to the sanitary sewer and privately maintained by the POA. The surface may be gravel as shown or any other surface desired by the developer which also allows the City to traverse the trail with trucks and equipment. All other trails shall also be privately maintained.
 7. The covenants shall provide for the private maintenance of the detention ponds, open channel (swales), trails and island and must name the City as the a third party to theses covenants. The covenants must be approved by Planning, the City Engineer, and the City Attorney.
 8. The conversion of the existing cul-de-sac on Amber to standard street width and replacing the northern and southern segments of the cul-de-sac with lawns shall be the developer's responsibility and the design included with the overall street design.
 9. The extension of the new water line to the west along Amber and to the east alone Hackberry as necessary to connect tot he existing water lines shall be the developers responsibility.
 10. Sidewalk construction in accordance with the current standards to include a 4 foot sidewalk and 4 foot greenspace along one side of Cypress and 4 foot sidewalks with 6 foot greenspaces along both sides of Amber.
 11. The street names are subject to final staff approval.
 12. The island and sign at the east entrance will be private and privately maintained.
 13. Plat review and Subdivision committee comments which are not superseded by the above conditions. These comments include the written plat comments mailed to the applicant and comments from the Public Utilities (AWG, SWEPCO, OZARKS, TCA, SWBELL).
- Mr. Odom noted the only condition that required Planning Commission action was the variance for the 12.5 feet front setback.
- Ms. Johnson questioned the construction of the barrier fence.
- Mr. House stated they were required to place a barrier fence for the tree preservation during construction. After the construction was complete, the fence would be removed.
- Ms. Hoffman asked if the tagged trees would be removed or preserved.
- Mr. Tom Hinley, Jorgensen & Associate, explained the trees had been flagged for the surveyors purpose to note which tree, had been shot. The trees marked on the plat as being preserved and leaving the barrier fence around them would remain.

Planning Commission
April 14, 1997
Page 8

Mr. House stated he intended to keep every tree possible although there were three or four right in the right-of-way. In response to a question from Ms. Hoffman, Mr. House stated since they were responsible for the maintenance of the ponds they were going to leave the trees as long as they could agree with the City's Engineering Department that they were not displacing too much water. He was going to try and preserve them.

Mr. House explained they had planned to have a traditional neighborhood feel. The way they had tried to accomplish this feeling was by bring the homes closer to the street. He believed the 12.5 feet setback in combination with the road right-of-way the homes would be 25-30 feet back from the curb. This would help create a traditional feel in combination with porches. This would also create more of a buffer in the back to screen the neighbors to the north. He added all parking would be placed in the back of the homes. There might be some curved driveways, possibly on a corner lot. His intention was to have all additional structures in the rear and all driveways to provide off street parking in the rear.

Mr. Sugg asked if Mr. House was requiring the builders to build to the 12.5 setback.

Mr. House stated he had not placed that requirement in the covenant. They had not intended it to be for every lot. Some lots were too narrow in the front or had easements across the front where the home would have to be moved back some. But by enlarge they wanted the homes to be close to the front.

Mr. Odom stated he would hear public comment on the variance request, before discussion on the preliminary plat.

PUBLIC COMMENT FOR THE 12.5 FEET SETBACK

Mr. Reed Greenwood, 1601 Elmwood, commented he did not know where the 12 1/2 feet front setback was traditional in Fayetteville. He believed they were in large cities.

There was no other public comment.

Mr. Forney stated he would support the 12 1/2 setback, because the project was attempting to preserve more greenspace by having smaller lots. Adding smaller lots would need to be more compact.

Ms. Little asked Mr. House if there would be any garages facing the street or would all the parking and garages be located in the rear.

Mr. House stated a garage door may face the street, but it would be in the back of the house

Planning Commission
April 14, 1997
Page 9

Ms. Johnson noted there would not be any driveways were there would be traditional 20' driveway.

Ms. Little noted there would be shared driveways to the rear.

Mr. House stated they intended to keep the driveways narrow.

Ms. Johnson asked how many lots would be serviced by one driveway.

Mr. House did not believe more than 25% of the driveways would be shared. There had been some support for shared driveways as well as contention. Some people were concerned with sharing a driveway.

Ms. Hoffman expressed concerns about a pull off in front of the house with a 12½ foot setback.

Mr. House replied some of the homes might be set back further where a circular drive could be used effectively and tastefully. He believed it would give some variety to the development.

Mr. Sugg asked if the covenants would prohibit someone from building one house on two lots.

Mr. House thought it might be an attractive option. He added the covenants were strict concerning the types of finish, the amount of landscaping and brick, to help control the size of the homes.

Ms. Johnson questioned the number of lots the shared driveways would service.

Mr. House responded he was planning one driveway per two homes, some of the wider lots would probably have a single drive.

Ms. Johnson asked him to justify his request for the 12½ front setback when the lots were so deep.

Mr. House stated there were two reasons: to maintain the traditional feel, by pulling the homes closer to the street. Secondly, by pulling the homes closer they were allowing more green space to the rear for the neighbors.

Mr. Odom like the idea of having the parking in the rear.

Mr. Ward questioned the price range of the homes in the development.

Mr. House replied the cost would be around \$100,000 to \$150,000. They were wanting them to

Planning Commission
April 14, 1997
Page 10

be high end, but smaller homes. There were not many developers targeting that market in town. They could use quality materials with less square footage.

MOTION

Mr. Forney moved to approve the variance for the setback requirement to 12.5 feet for the front.

Mr. Sugg seconded the motion.

The motion passed by unanimously by a vote of 8-0-0.

Planning Commission
April 14, 1997
Page 11

PUBLIC COMMENT ON PRELIMINARY PLAT

Mr. Reed Greenwood, an area resident, believed people moved to this area because it was not like the other large cities. Fayetteville did not have to build homes close together. He did not believe this development met the intent of the PUD ordinance. He did not believe the land set aside as open space could be more useable than if it was in the lots. He did not believe the preservation of the natural features would be maintained. He added the development was out of character with the rest of the neighborhood. He did not believe the development provide for the needs of families and children. He noted some of the lots had 1,755 square feet. He felt approval of this item would be setting a president of Fayetteville as favoring high density developments in an area where such developments were not needed or in keeping with established building practices.

Mr. Terry Terpin, 1423 Amber Drive, presented copies to the commissioners, Section 10 article 8, buffer strips and screening, stated article 812 required a buffer strip with landscaping and a fence or wall. He thought the project was about profit. The main reason Houses Inc. Wanted to do a PUD was because it was the only way to have 51 lots onto 12 acres. He felt they could be a maximum of 36 lots on the property. He did not believe there was housing shortage in Fayetteville. He did not believe that fill would discourage urban sprawl. He felt the ordinance was for the developer to make more profit, without consideration of the surrounding citizens.

Mr. Mike Limons, 1645 Boston Place, asked how long the barrier fence would be left up? He expressed concern about the traffic noise inside the new homes. He added this would effect the property values of the surrounding properties.

Jane Treat, 1633 Boston Place, stated there had been reported cases of kidnaping in the area. She did not believe people would let their children play a block or two away. She added in the first 6 month of 1997 there had only been 50 homes sold in Fayetteville in the \$90,000 to \$100,000 price range. She added she had a large porch, but they had only had a few people stop to visit. People buying these homes would be too busy to stop and visit their neighbors.

There were no other public comments.

Mr. House stated more homes on less land was a more efficient use of land. It removed less trees and provided more green space. It also was a more efficient use of public facilities. Infill developments by their nature were more efficient use of public facilities because the City did not have to build more road, sewer systems or infrastructure to service the development. He add there were a variety of people buying homes that did not have families. He had conducted studies and analysis and felt there was a demand for this type of development. Mr. Greenwood had misquoted the square footage on the plats. The lots he quoted were the smallest lots in the area. The square footage he quoted was the buildable area. It did not take into consideration the

Planning Commission
April 14, 1997
Page 12

setbacks on both the front and rear or the easements. Some people liked the idea of having a large open space rather than having to maintain a large lot. They were trying to meet a market. He added the homes would be a minimum of 24 feet from the street because of the street right-of-way plus the set back area.

Mr. Sugg questioned how this compared with other developments such as Harbor Meadows.

Mr. House stated most of Harbor Meadows lots that were designed in this character were only 35 feet wide with only 3,000 square feet. His average lot was 40 or more feet and larger than 4,000 square feet.

Mr. Forney questioned if buffering and screening would be required.

Ms. Little stated when a PUD had a common boundary with an R-1 district any use of land within the R-1 PUD other than a single family detached dwelling was required to be set back at least 250 feet from the common perimeter. This PUD did have a common boundary with a R-1 boundary, but all the uses were single family homes so that condition would not apply. Two family dwellings would be a conditional use, but it had not been requested and was not a consideration. She added under Planned Unit Development certain findings needed to be made and one of those was screen and buffering with reference to type, dimensions, and character. If the Commission found there was a need for screening a buffering then they had the ability to require it.

Mr. Odom suggested going through the specific findings one by one.

1. Ingress and egress to the property and proposed structures there on with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

In response to a question from Mr. Odom, Ms. Little stated the Fire Chief had signed off on the development.

Ms. Hoffman asked if there had been further discussion on the stop sign on Hackberry.

Ms. Little stated the street would be named Amber to the intersection with Overcrest a stop sign would be required prior to the incision of construction. The street would be roughed in and the stop sign would be installed.

Mr. Harbison expressed concerns about Cypress being one way. He asked if Mr. House had given any thought to making the street two-way.

Planning Commission
April 14, 1997
Page 13

Mr. Beavers stated they could go to a 24 feet two way street.

Mr. House stated they had widened the street to 20 feet to allow for on street parking. He added all the City departments had looked at the street and had not had any problems with the width. He added there were a lot of one way streets in the downtown area. He added if they could keep the narrow one way street would keep the speeding traffic to minimum and provide the closer and tighter feel they were trying to obtain.

Mr. Odom noted there were walking trails and sidewalks for the pedestrians.

The commissioners agreed the development met the condition.

2. Off-street parking and loading areas where required, with particular attention to the item in subsection 1 above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Mr. Odom though this condition would apply more in a commercial setting than in a residential. He noted the City required the one-way street be wider than was originally requested.

The commissioners agreed the item met the condition.

3. Refuse and service ares, with particular reference to the items in subsection 1 and 2 above;

In response to a question from Mr. Odom, Mr. House stated they would be picking the trash along the front.

4. Utilities, with reference to locations, availability, and compatibility;

Mr. Odom noted most of the sewer and utilities were located in the back yards.

Ms. Hoffman asked what type of surface the 10 access road would have.

Mr. House stated he would like to use wood chips.

Ms. Hoffman stated she would not be in favor of paved easement.

Mr. Odom noted the easements would have to be privately maintained.

5. Screening and buffering with reference to type, dimensions, and character;

Mr. Odom did not believe this condition was applicable, since the property was adjoining R-1.

Planning Commission
April 14, 1997
Page 14

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

Mr. Odom believed most of these referred to commercial uses, but he noted Mr. House would be placing a sign in the median.

Mr. House replied he would be placing a sign in the median if it was permitted. He added he would conform to ordinances. He believed he was required to place a sign for the PUD.

Ms. Little stated the median would have to be privately owned and could not be part of the right-of-way.

7. Required yards and other open spaces.

Ms. Little stated the required open space was 30%. There was a chart on the plat showing 4.13 acres, if the access to Old Wire is included and 3.47 acres if the access to Old Wire Road was not included. She added neither of the acreage included utility easements or ponds.

- - Ms. Hoffman noted the plats indicated 50% of the ponds had been subtracted out.

Ms. Warrick stated the ponds had not been calculated in the green space.

The commissioner agreed the item met the conditions.

Mr. Forney thought the project met the goals of the Planned Unit Development: more efficient use of land, public facility, more open space, and the preservation of natural features. He thought the project had a lot of merits. Adding the development would not be a good if it were under the Subdivision Regulations. The City would have more roads and wider roads to maintain with fewer taxpayers to help maintain the facilities.

MOTION

Mr. Forney moved to approve the item.

Mr. Tucker seconded the motion.

The motion carried unanimously by a vote of 8-0-0.

Minutes of Subdivision Committee
June 3, 1999
Page 2

**FP99-3: FINAL PLAT
CHARLESTON PLACE SUBDIVISION, PP370**

This item was submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Greg House for property located east of Old Wire Road and south of Elmwood Drive. The property is zoned R-1, Low Density Residential, and contains approximately 12.84 acres with 51 lots proposed.

Dave Jorgensen and Greg House were present on behalf of the project.

Staff Recommendations

1. City Council approval of sewer easement vacation.
2. A street name change needs to be presented to City Council in order to change the short section of Hackberry to Amber Drive. This requires the applicant to submit a letter requesting the change and staff will process an agenda request.
3. Protective covenants for this Planned Unit Development shall be filed of record with the final plat. These covenants shall provide for the private maintenance of detention ponds, open channels (swales), and islands and must name the City as a third party.
4. Applicant shall work with staff to finalize the easements prior to engineering sign off on the final plat.
5. Payment of parks fees in the amount of \$19,125 (⁵¹/~~15~~ lots @ \$375.00.)
6. Sidewalk construction in accordance with current standards to include a 4 foot sidewalk with a 4 foot green space along both sides of Amber Drive and one side of Cypress Lane.
7. All Plat Review and Subdivision comments.
8. Staff approval of final detailed plans, specifications and calculations for grading, drainage, water, sewer, fire protection, streets, sidewalks, parking lots and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements.
9. All green space shall be maintained by the Property Owner's Association including the island and sign at the east entrance to the development.

Minutes of Subdivision Committee
June 3, 1999
Page 3

10. Completion of all punch list items prior to staff approval of final plat.
11. Installation of landscaped screening around detention areas.

Committee Discussion

Due to technical difficulty a transcript of the proceedings was not available. Following is a synopsis of the discussion.

Petrie inquired as to whether the alleys would be constructed or bonded. Jorgensen replied that a portion of the alleys might have to be bonded.

There was discussion regarding the purpose of the alleys being for rear access to the dwelling units and not for service vehicles.

There was a question regarding setbacks from detention areas. Only water features such as lakes that continuously hold water require setbacks.

Hoffman requested landscaped screening of the detention areas.

MOTION

Mr. Estes made a motion to approve FP99-3 subject to all staff comments.

Ms. Hoover seconded the motion.

Ms. Hoffman concurred.

M.T.M. OF EL DORADO
A LIMITED LIABILITY CORPORATION

TELEPHONE
(501)521-9155

FAX
(501)521-6199

April 11, 2000

To: Members of Fayetteville City Board

Re: Planning Commission Meeting of 3/13/2000, AD 00-6: Administrative
(Charleston Place PUD, pp370)

Dear Board Members,

MTM of El Dorado, L.L.C. (MTM) is appealing the Planning Commission's denial of MTM's request to make certain improvements in the common areas of the Charleston Place PUD. MTM is appealing the Planning Commission's decision for the reasons stated in the letter of 3/17/2000 to Heather Woodruff, Fayetteville City Clerk. In further support of our appeal, we would submit the following:

None of the requested improvements will violate city code or necessitate a variance.

- The dock is built more than 75 feet from an adjacent R1 district and therefore meets the requirements of Section 163.23 of the zoning ordinance. This interpretation is supported by City Planner, Tim Conklin, in his letter of 2/10/2000;
- The proposed picnic pavilion can be constructed outside the 100 foot setback requirement stipulated in Section 163.23, and;
- The entrance structures will meet the Fayetteville Minimum Street Standard Section 1-14. There is ample precedence for the type of entrance structure proposed as can be seen at the entrances of Savannah Estates, Brookbury, Fox Run and Ridgemont to name a few. The proposed entrance structures will not separate the development from the surrounding neighborhoods but will merely provide an identity to Charleston Place. These improvements should also serve as a visual reminder to those speeding through the addition that they are still in a residential area.

Some history with respect to the dock is that during the course of the approval process and construction of this development, our relationship with Alett Little was on often less than a formal basis and changes were approved informally without evidence of writing or submission to the Planning Commission. For example, after construction was well under way, Alett and I discussed serving the residences with a rear access alley system. She approved these changes to the plat without requiring MTM to go before the Planning Commission. In a subsequent discussion about many details of this project and others we were involved in, I brought up the fact that we had an idea about covering the ugly drainage inlet in the spring-fed pond with a dock and her response was "that's a

great idea". Considering our previous dealings we believed that we would be permitted to build such a structure.

It has always been our plan to turn this greenspace into a park-like setting with a sprinkled lawn area, jogging trail, enhanced by the sound of a running spring and an area for people to picnic. The spring-house and stone barn structure may date back to Civil War. We had hoped to preserve some history of the parcel in this common area. MTM has done everything possible to maintain the park-like setting of the greenspaces and have only removed trees that we were required to by the plan as dictated by City Code and the City's engineers, for example, drainage ponds, swales, etc.

In short, we had hoped to enhance the project by providing some sort of picnic area and entrance system, but had not settled on their design and location during the platting process. We felt that these additions were minor and would only enhance the project.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Gregory T. House", written over the printed name.

Gregory T. House
MTM of El Dorado, LLC

RECEIVED
MAR 06 1990

March 2, 2000

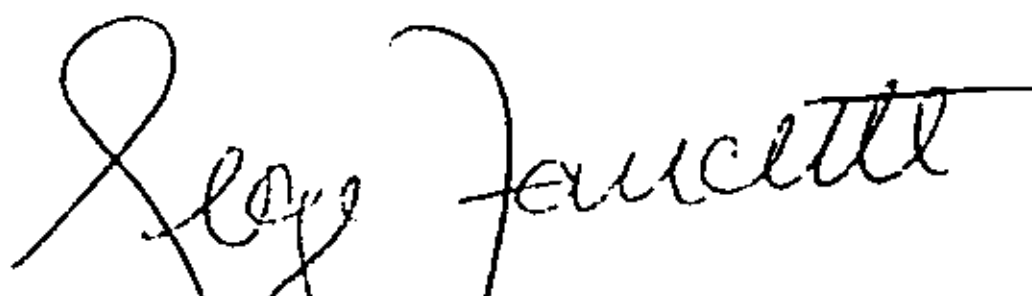
Mr. Greg House
217 North East Street
Fayetteville, AR 72703

RE: Requested improvements to Charleston Place

Dear Greg:

I received your package of information on the above referenced request, and I appreciate the information. As an adjoining neighbor, I do not oppose those improvements. The development is very well done, and I believe those improvements will further enhance the quality of same.

Sincerely,


George Faucette
encl

March 31, 2000

Fayetteville City Aldermen

Re: Charleston Place PUD Common Area Improvements

Dear Aldermen,

We, the neighbors and residents of Charleston Place, approve of and support the following improvements in the Common Area of Charleston Place:

- 1) The construction of an entrance pillar and mock stationary gate system;
- 2) The construction of a picnic pavilion;
- 3) Approval of the dock, covering the unsightly drainage inlet in the spring fed pond.

We realize that some level of activity has already been contemplated in the Green Space, due to the fact that it is going to be a landscaped, park-like setting with an attractive spring-fed pond, old stone dam and existing spring house, all tied to a trail system.

These improvements will only enhance the area, creating a park-like setting for the enjoyment of the neighborhood.

In approval and support of the Common Area Improvements are our signatures below.

Name

Address

Gordon Jones

1386 Amber Drive

Bethie Linder

1393 Amber Drive

Ann Linder

1393 Amber Dr.

To: Fayetteville City Aldermen
Subject: Charleston Place

Dear Aldermen,

As a citizen of Fayetteville looking forward to moving into what I consider to be a truly distinctive and attractive subdivision, I encourage you to approve the improvements Greg House proposes for Charleston Place. If you were to visit Charleston Place I have no doubt that you would consider the "dock", or "pier" constructed atop the drainage inlet in the small pond to greatly improve the appearance of the area. Further, it is far too small for the wild parties some apparently fear will be held there (by, I assume, the retired University of Arkansas professor and wife, the Obstetrician, or the retired Army Colonel who will be living in Charleston Place). The picnic pavilion, which preserves an historic stone foundation, will be a quiet, restful place to enjoy. The entrance treatments and lighted alleyways will bother no-one, and will help define another exceptional housing area in our jewel of a town called Fayetteville.

In brief, I truly believe that if you visit the area and observe what is being done at Charleston Place, you will see that it will be a real addition to our city. It is distinctive and of real quality. I believe developers such as Greg House, who truly have a gift for the aesthetics of what they do, should be encouraged rather than having their work "dumbed down". Just go look- the development speaks for itself! Thank you for your consideration.


Dale Green
695 Gray Avenue
Fayetteville, AR
(moving to 1624 Amber, in Charleston Place)

MTM

OF EL DORADO

PHONE (501)521-9155

FAX (501)521-6199

March 31, 2000

Fayetteville City Aldermen

Re: Charleston Place PUD Common Area Improvements

Dear Aldermen,

We, the neighbors and residents of Charleston Place, approve of and support the following improvements in the Common Area of Charleston Place:

- 1) The construction of an entrance pillar and mock stationary gate system;
- 2) The construction of a picnic pavilion;
- 3) Approval of the dock, covering the unsightly drainage inlet in the spring fed pond, and
- 4) Lighted alleyways

We realize that some level of activity has already been contemplated in the Green Space, due to the fact that it is going to be a landscaped, park-like setting with an attractive spring-fed pond, old stone dam and existing spring house, all tied to a trail system.

These improvements will only enhance the area, creating a park-like setting for the enjoyment of the neighborhood.

In approval and support of the Common Area Improvements are our signatures below.

Name

Address

Dale Green

1624 Amber, Fayetteville

Marilyn Green

1624 Amber, Fayetteville

MTM

OF EL DORADO

PHONE (501)521-9155

FAX (501)521-6199

March 31, 2000

Fayetteville City Aldermen

Re: Charleston Place PUD Common Area Improvements

Dear Aldermen,

We, the neighbors and residents of Charleston Place, approve of and support the following improvements in the Common Area of Charleston Place:

- 1) The construction of an entrance pillar and mock stationary gate system;
- 2) The construction of a picnic pavilion;
- 3) Approval of the dock, covering the unsightly drainage inlet in the spring fed pond, and
- 4) Lighted alleyways

We realize that some level of activity has already been contemplated in the Green Space, due to the fact that it is going to be a landscaped, park-like setting with an attractive spring-fed pond, old stone dam and existing spring house, all tied to a trail system.

These improvements will only enhance the area, creating a park-like setting for the enjoyment of the neighborhood.

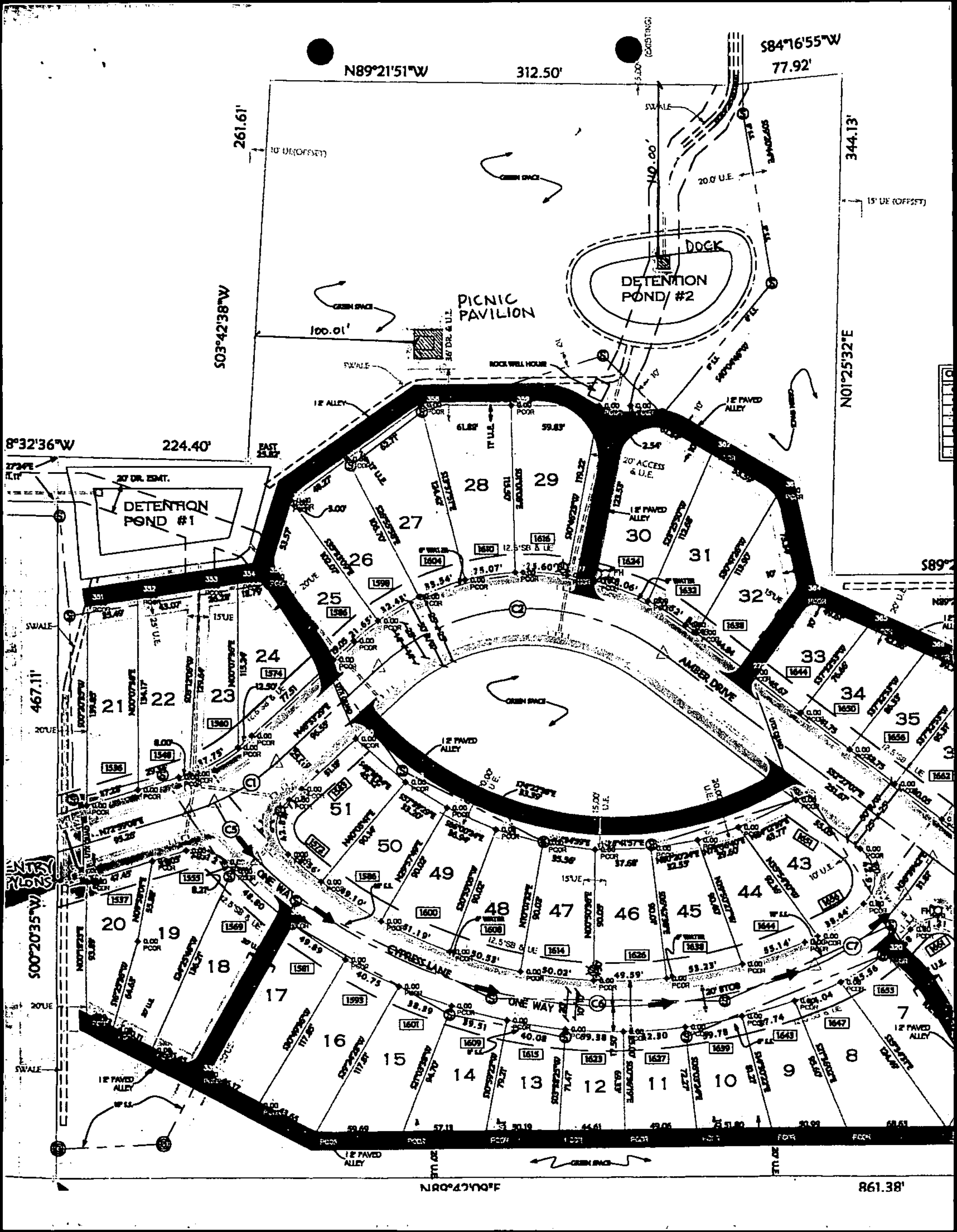
In approval and support of the Common Area Improvements are our signatures below.

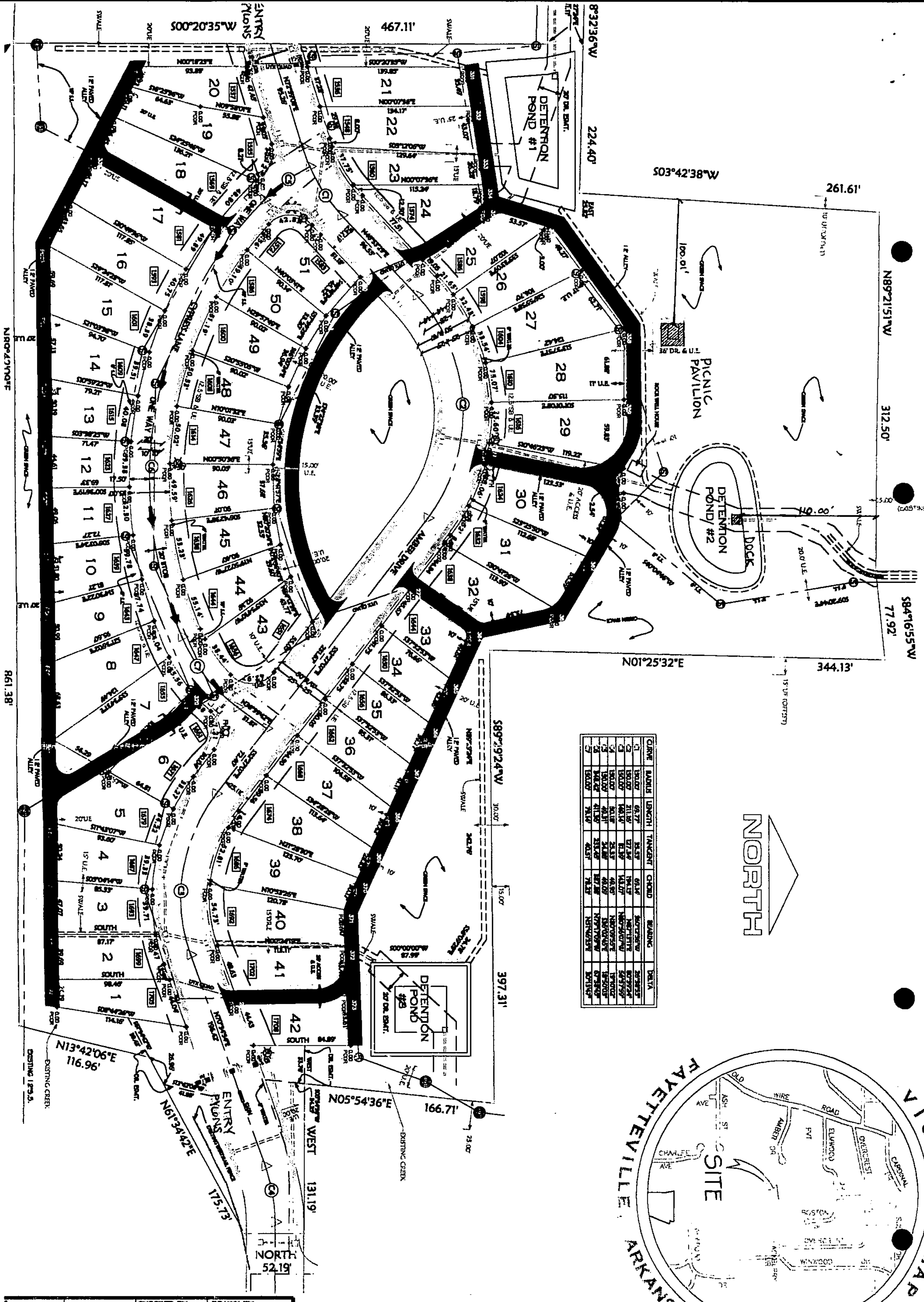
Name

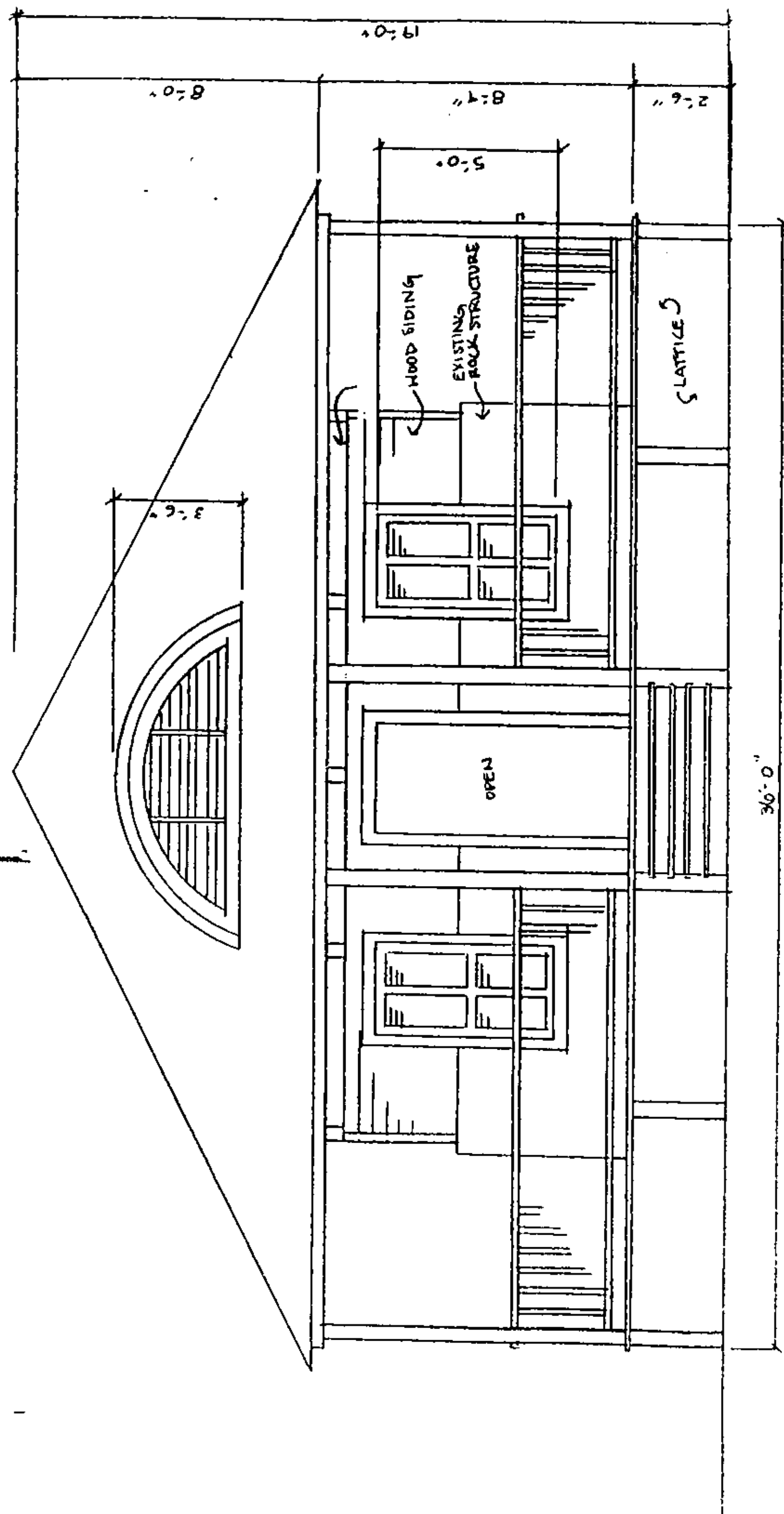
Address

James Madrithe
Lionel Madrithe
James Harris
Mike Harris
Sam Favoit
Austin A. Favoit
Bob A. Hall

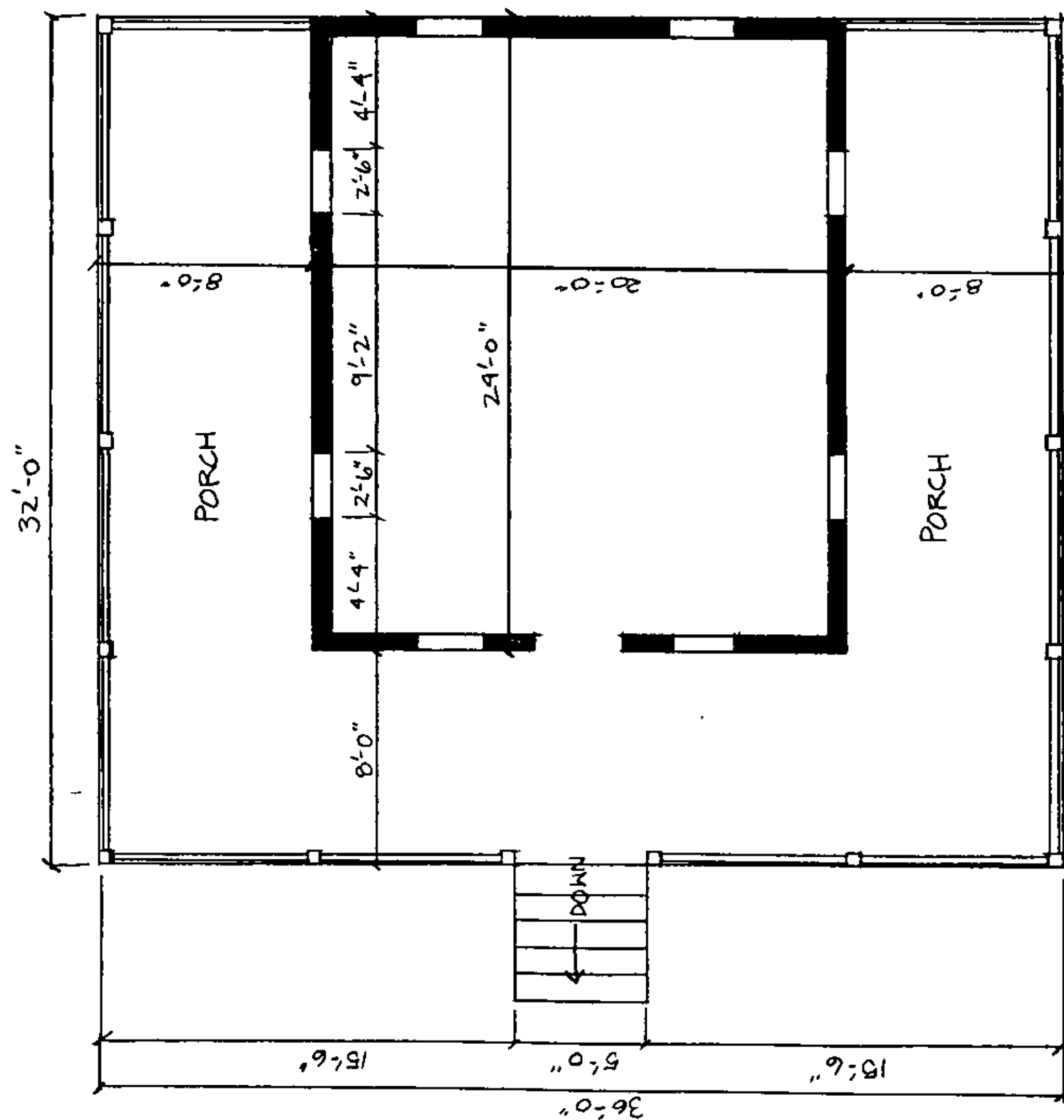
1581 Cypress Lane
1581 Cypress Lane
1555 Amber Drive
1535 Amber Drive
1593 Cypress Ln
1593 Cypress Lane
1548 Amber







PICNIC PAVILLION EAST ELEVATION
NOT TO SCALE



PICNIC PAVILLION - FLOOR PLAN

SCALE: 1/8" = 1'-0"

19.107

10' UE (OFFSET)

GREEN SPACE

GREEN SPACE

32'-0"

36'-0"

EXISTING BUILDING (BARN)

100.10'

36' DR. & U.E.

PICNIC PAVILLION

SWALE

12' ALLEY

53.60'

ROCK WELL-HOUSE

10'

61.88'

59.83'

11' U.E.

11' U.E.

48.27'

62.71'

EAST 25.82'

124.42'

513°37'51"

28

29

115.50'

501°01'08"

119.611'

127.611'

N89°51'27"W

3' U. 11'

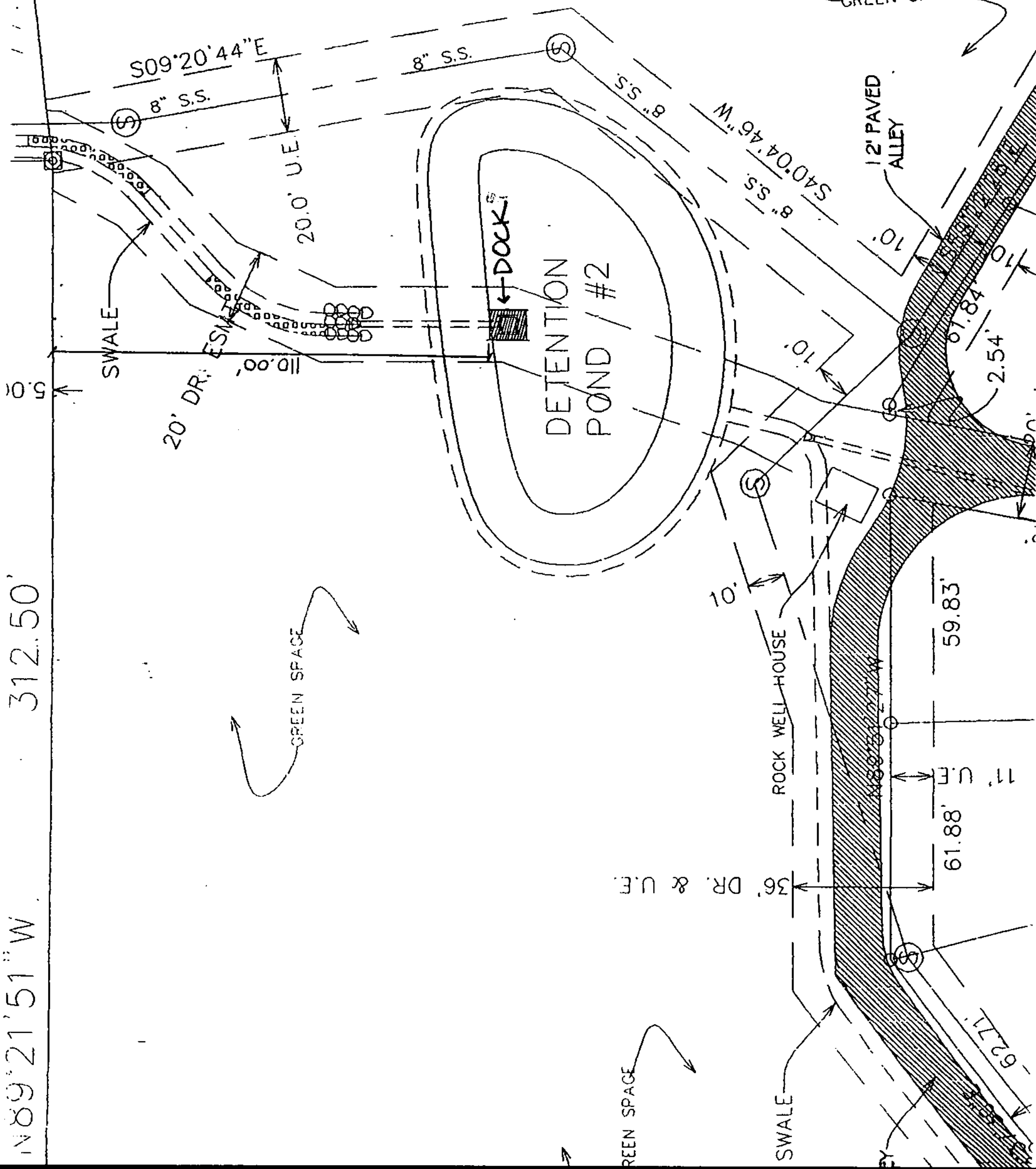
N 89° 21' 51" W

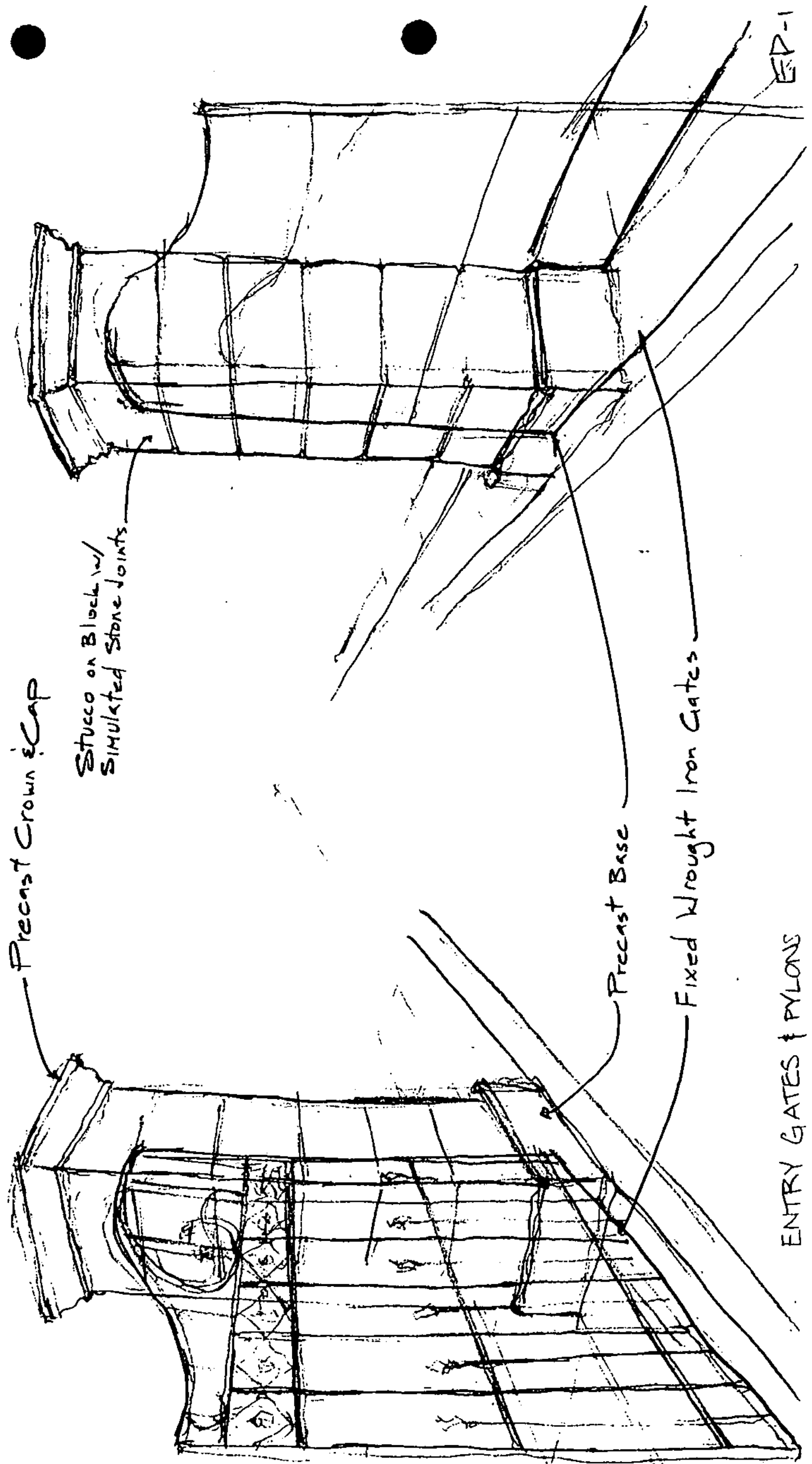
312.50'

5.0'

344 13'

N 01° 25' 32" E





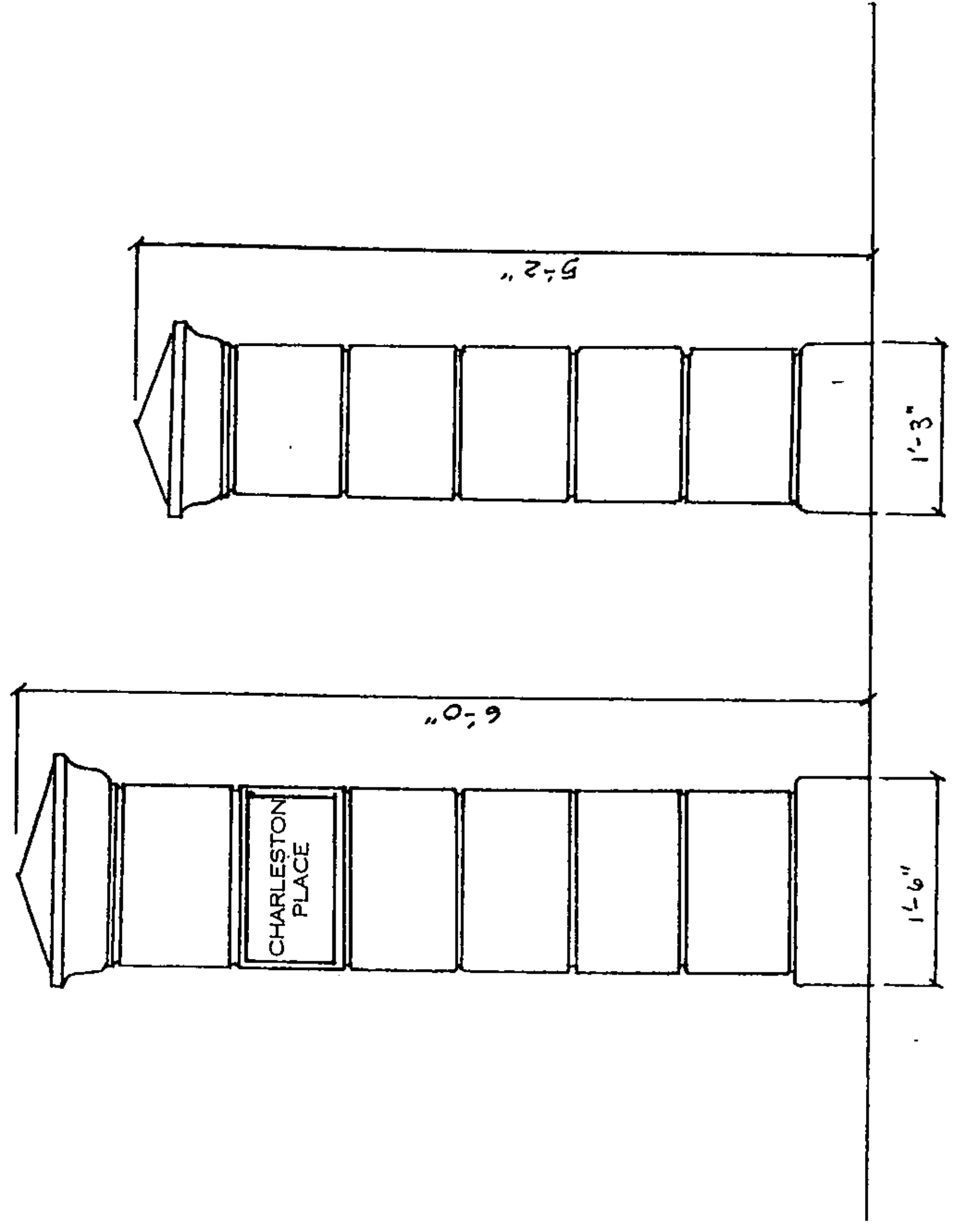
Precast Crown & Cap

Stucco on Block w/
Simulated Stone Joints

Precast Base

Fixed Wrought Iron Gates

ENTRY GATES & PYLONS



ENTRY PYLON ELEVATION

SCALE: 3/4" = 1'-0"

1708

44.43

N70°34'54"E

196.42'

SL

STATIONARY GATE

PYLON

STATIONARY GATE

PYLON

26.96'

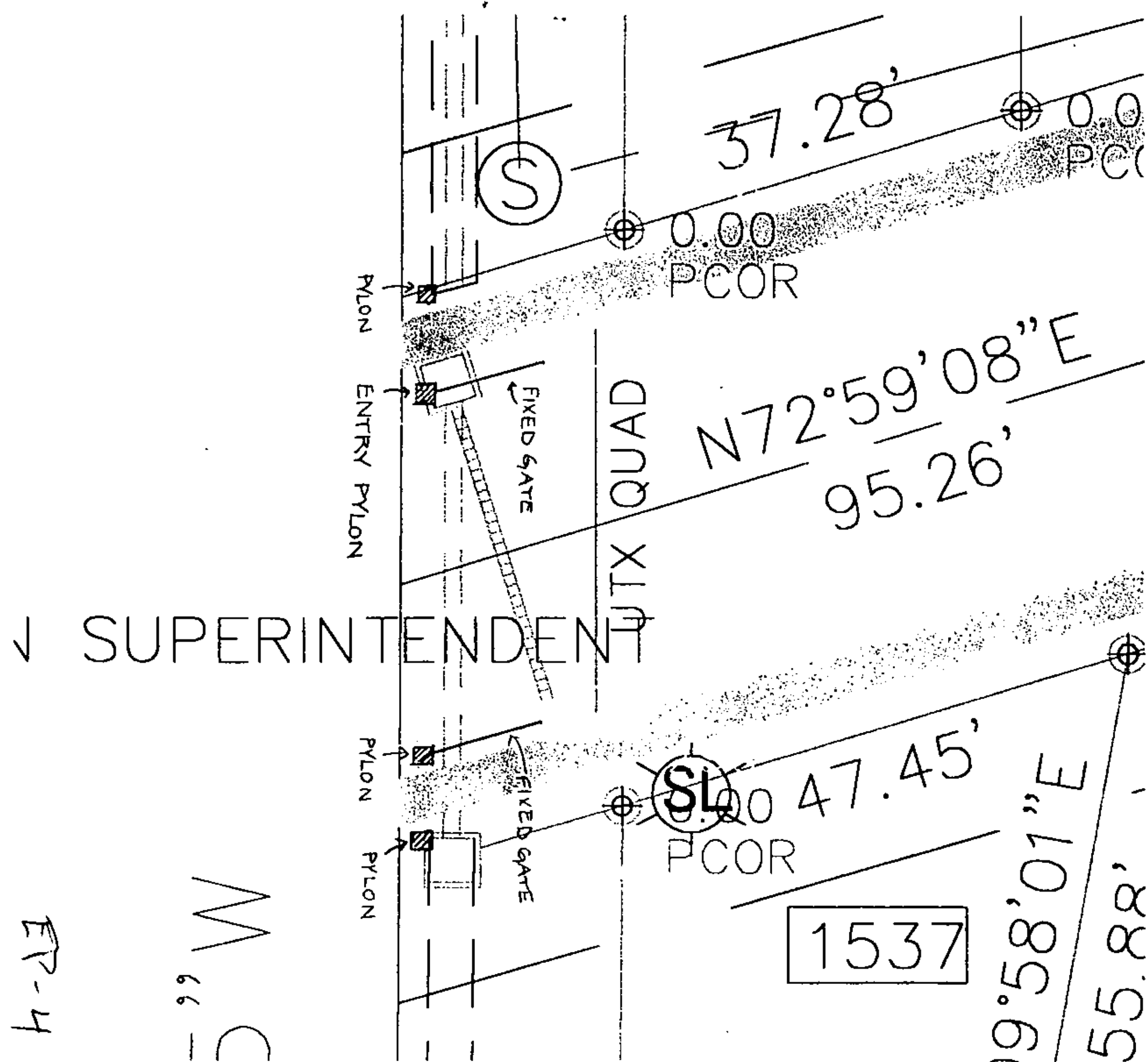
S73°42'06"W
47.88'

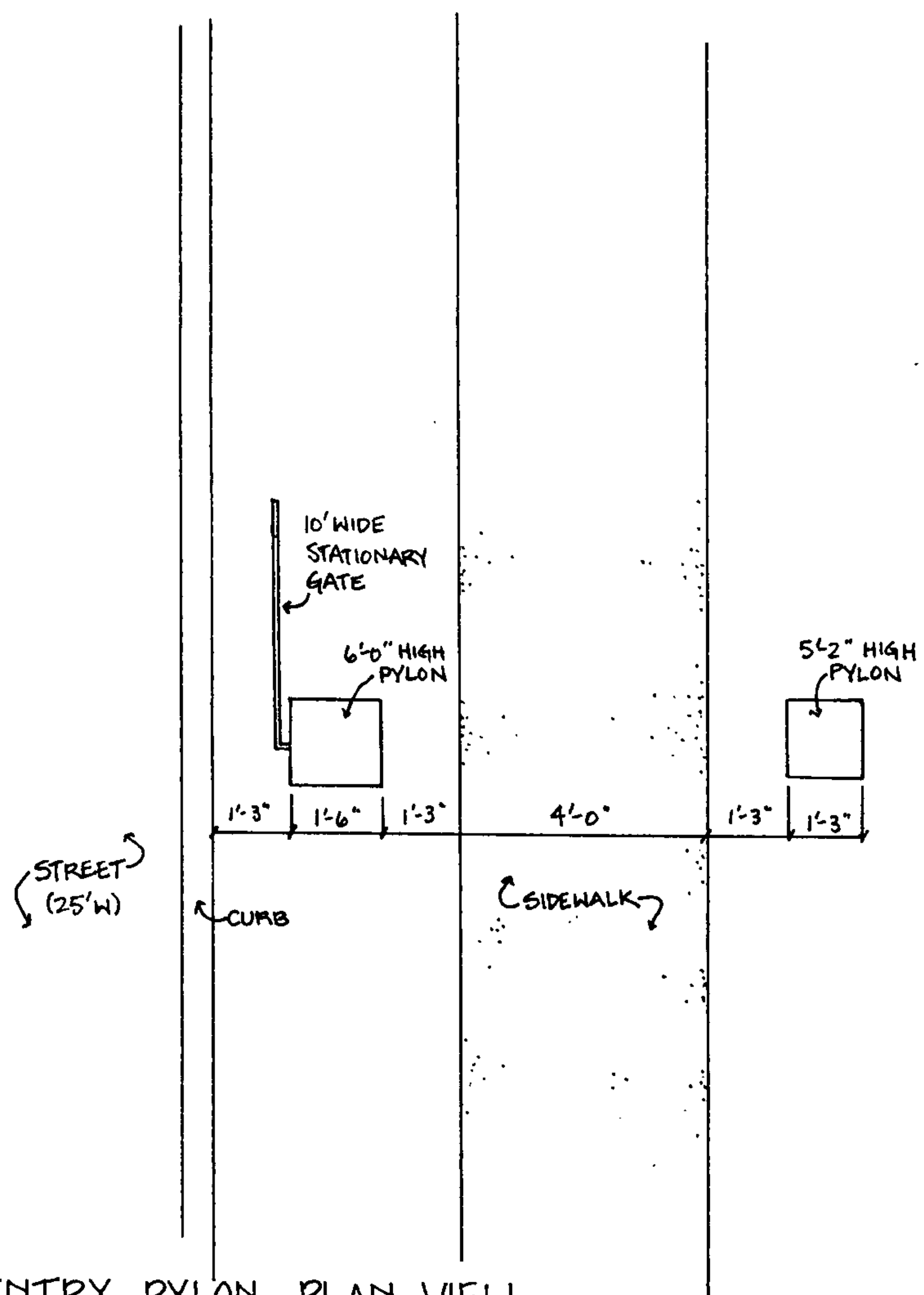
24°42"W

N61°3

EAST ENTRANCE

WEST ENTRANCE





ENTRY PYLON PLAN VIEW
SCALE: 3/8" = 1'-0"

Charleston Place
cc. 4/18/00

Subj: Charleston Place Entry
Date: 4/14/00 4:11:54 PM Central Daylight Time
From: cchalfant@spacephotonics.com (Chuck Chalfant)
To: ghouse@housesinc.com

Greg,

Thanks for the information you provided on the entry-ways to Charleston Place. It was very informative and allowed me to understand the issue more clearly regarding the neighborhood and the entry next to our house on the Overcrest/Hackberry corner. The new scaled down pillar designs and revised location at the creek's bridge, shown on your fax, is acceptable. It is my sincere hope that this will enhance the attractiveness of the neighborhood.

The houses look great and I wish you luck in sales this year.

Chuck Chalfant
1961 Overcrest St.
Fayetteville, AR 72701

begin: vcard
fn: Chuck Chalfant
n: Chalfant;Chuck
org: Space Photonics, Inc.
adr;dom: 700 Research Center Blvd., MS-22;;;Fayetteville;Arkansas;72701;
email;internet: cchalfant@spacephotonics.com
tel;work: 501-575-5316
tel;fax: 501-575-7446
x-mozilla-cpt: ;2
x-mozilla-html: FALSE
version: 2.1
end: vcard

----- Headers -----

Return-Path: <cchalfant@spacephotonics.com>
Received: from rly-za01.mx.aol.com (rly-za01.mail.aol.com [172.31.36.97]) by air-za02.mail.aol.com (v70.20) with ESMTP; Fri, 14 Apr 2000 17:11:54 -0400
Received: from nwark.nwark.com (nwark.nwark.com [206.97.227.1]) by rly-za01.mx.aol.com (v71.10) with ESMTP; Fri, 14 Apr 2000 17:11:40 -0400
Received: from antipater.hosting.swbell.net (antipater.hosting.swbell.net [216.100.99.6]) by nwark.nwark.com (Postfix) with ESMTP id C91834D842 for <ghouse@housesinc.com>; Fri, 14 Apr 2000 16:05:11 -0500 (CDT)
Received: from spacephotonics.com ([130.184.172.201]) by antipater.hosting.swbell.net id RAA06930; Fri, 14 Apr 2000 17:11:36 -0400 (EDT) [ConcentricHost SMTP Relay 1.7]
Errors-To: <cchalfant@spacephotonics.com>
Message-ID: <38F78B46.6841DC87@spacephotonics.com>
Date: Fri, 14 Apr 2000 16:19:02 -0500
From: Chuck Chalfant <cchalfant@spacephotonics.com>
Organization: Space Photonics, Inc.
X-Mailer: Mozilla 4.06 [en]C-compaq (Win98; I)

1609 N. Boston Place
Fayetteville, AR 72703
April 18, 2000

To Mr. Greg House:

Regarding the pier/dock that was built at Charleston Place to cover the water intake on the spring-fed pond, I'm in favor of allowing it to remain. I think it is an attractive solution to the concrete "eyesore." Any decision to have it removed would surely not be founded on reason. The design contributes to the park-like feel your greenspace will project at completion. Please feel free to share this letter of support with the city council and the planning commission.

Best wishes from a neighbor,

Jane Dalbraich

521-0688

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
FRED B. HANNA, MAYOR

Heather Windsor

4500 S. School Ave., Ste. A
Fayetteville, AR 72701
Telephone: 501-575-8301
Fax: 501-575-8304

Economic Development Department
Alett S. Little, Director

TO: Fayetteville City Council

FROM: Alett Little, Econ. Dev. Dir.

DATE: April 17, 2000

SUBJECT: Charleston Place - Greg House memo of April 11, 2000

I read with interest the memo from Greg House of the date above, especially the part which reads, "Some history with respect to the dock is that during the coarse [sic] pf the approval process and construction of this development, our relationship with Alett Little was on often less than a formal basis and changes were approved informally without evidence of writing or submission to the Planning Commission. For example, after construction was well under way, Alett and I discussed serving the residences with a rear access alley system. She approved these changes to the plat without requiring MTM to go before the Planning Commission. In a subsequent discussion about many details of this project and others we were involved in, I brought up the fact that we had an idea about covering the ugly drainage inlet in the spring-fed pond with a dock and here response was "that's a great idea". Considering our previous dealing we believed that we would be permitted to build such a structure."

In the interest of being precise and factual, Greg House met with Charles Venable, Jim Beavers and me at 1:30 p.m. on January 21, 1999 in room 111 of City Hall. The reason for the meeting was that Mr. House had submitted a plat to Planning with alleys to the rear of structures which had not been approved as a part of the Planning Commission process. A gravel trail had been approved and as we learned at the meeting, Mr. House planned to pave the trail and make the trail into a rear alley. The primary issue was whether Mr. House should be allowed to pave over the gravel trail because it contained city sewer. Permission was granted for Mr. House to pave the trails, cover the sewer with asphalt, and convert the trails into alleys. Staff notes from the meeting keyed on the fact that the agreement was made subject to all parts of the alley being private for homeowner association maintenance.

Subsequent to that meeting, Mr. House dropped by the Planning Office with the idea of the covering the drainage structure. I did, in fact, endorse the idea because Mr. House described the opening as being hazardous. There are no notes on the meeting, however, my notes from February 23, 1999 indicate that I discussed the issue with Charles Venable, and we agreed that Engineering would also have to approve any modifications to drainage structures. To my knowledge no plans were ever submitted which described the planned modifications, and I am not sure whether Mr. House requested or received a building permit for the project.

I am writing because I believe that Mr. House may be overstating the level of permission he received and I feel that the directions which Mr. House received from me were cautionary in nature. I scheduled the meeting with my supervisor and the City Engineer at which Mr. House says I gave permission for the alleys to be created. It is true that I was there and it is also true that I was a part of the decision making process, but it is not true that I alone gave that permission - nor would I call a scheduled meeting with my supervisor and the Engineering Division supervisor informal. Also, as far as the covering of the drainage structure, I endorsed that idea, but referred Mr. House to Engineering as drainage is a function of Engineering rather than Planning. I hope that this information is helpful to you.

To: Fayetteville City Council

Re: Appeal of Planning Commission Action of February 14, 2000.

Property owner: Lake Hills Church 444-7797

Contact Person: Dr. Jon H Allen, Pastor 634-3434

1. We were offered a 3.5 acre parcel of property before it was on the open market. We were concerned about building on the property which was only 180' wide, so we approached Alette Little. She looked at our plans and said, "I don't see a problem." Based on her "unofficial" review, we purchased the property.

3. We secured the services of the Benham Group for design, engineering, and architectural work.

4. Before we could submit plans to the planning department, Alette Little left for another position. We worked with the new planning staff, and on April 26, 1999, submitted our plans to the Planning Commission for a rezoning to R-0 and a conditional use permit to build a church facility based on that R-0. Our request met all the required findings and, like Alette Little before, the planning staff recommended approval of our plans.

a. We requested R-0 because we wanted to make multiple use of the parcel by including three rental offices in a wing of our church building. We had master planned the maximum size for a building that could fit on this property and still have adequate space for parking, driveways, green space, etc. However, such a building would be larger than our current needs. By including offices we would be able to receive rental income until our congregation grew to the point that we needed to use the office space for our own needs. All this had been explained to Alette Little and the subsequent planning staff in the above mentioned conversations.

b. This property is joined on the north side by the Williams Center which is zoned R-1. A church facility would serve as an appropriate buffer between the Williams Center and the property to the south which, according to the owner, will be developed in the future.

5. The minutes of the April 26, 1999, Planning Commission meeting will indicate that they spent considerable time reviewing our request and considering options including rezoning only the front half of the property. Finally, assuming a negative vote, they recommended that we withdraw our request to avoid a year wait for another rezoning request and that we work with planning staff and return with a rezoning request that would be appropriate for the church plans.

6. At that April 26 meeting, the Planning Commission granted us a conditional use permit to build on the present A-1 zoning if we so chose.

That conditional use permit was inadequate since our original design called for a 10,400 square foot building based on the ten foot setbacks of the requested R-1 zoning. The present zoning A-1 requires 20 foot setbacks. The property is 180' wide. Denial of the rezoning request had the

effect of reducing the north-south footprint of our building by approximately 20%. Thus, we would have had to increase the size of the building by approximately 20% on its east-west axis. This is an impossible size to build unless the side of the hill is excavated, much like the Williams Center. This would leave a huge "ugly" scar on the hill and the removal of much of the natural habitat including many very large, very old trees. Or, the building could be relocated on top of the hill, a flatter area, making it further from Crossover and requiring removal of much of the woodland habitat.

7. We spent considerable time and money on more engineering and architectural studies, including aerial photography, and in cooperation with the planning staff, we submitted a new request for the parcel to be rezoned P-1. Our request met all the required findings and the planning staff recommended approval of the rezoning request.

Benefit: Rezoning to P-1 (with ten foot setbacks) would allow us to build close to Crossover rather than on top of the hill, and we would not have to do the enormous excavations. Rezoning to P-1 (with ten foot setbacks) would allow us preserve the natural beauty of much of the woodlands.

8. The Planning Commission denied our P-1 request. They seemed concerned that they would lose control of the property by removing the present A-1 zoning. Despite the facts of the unique character of this parcel, and despite the fact that we had done, at considerable expense, what they had asked us to do (outlined in 5 above), they felt that since we already had received a conditional use permit, they denied our P-1 request.

9. We are basing our appeal to the City Council on the basis of the above and that

a. P-1 is the appropriate zoning for a church according to the zoning code. (In fact, a quick review of the zoning map shows that most churches in Fayetteville are on P-1 zoned property. Although some churches have been built on A-1 with a conditional use permit, we could find no occasion when a church was denied a P-1 request and required to retain an A-1 zoning.)

b. A-1 is designed to "protect" agricultural land until such time as "an orderly transition to urban development has been accomplished." Since this parcel will not be used for agricultural purposes it does not need such protection. Should not A-1 zoning be used to safe guard truly agricultural land rather than as a means to control nonagricultural usage?

10. We are aware that we are required to submit our plans as a Large Scale Development. This should satisfy anyone's concerns that the city will somehow lose control of the property.

11. Two of the owners of adjoining land have expressed their concerns that if this property is rezoned P-1 (or R-1) we might suddenly decide to build a detention home, golf course, zoo, or some such thing. Of course, the large scale development review should preclude any of these concerns. Although we realize that we should not be required to do this, we will gladly make appropriate performance guarantees with the city that we will, in fact, use this property to build our church facility.

B. Nonconforming Use/Structure.

No nonconforming structure or use shall be renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the City Planner. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter. The City Planner shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

(Code 1991, §160.192; Code 1965, App. A, Art. 9(3); Ord. No. 1747, 6-29-70)

C. Authorized Construction/Use.

Certificates of zoning compliance issued on the basis of plans and applications approved by the City Planner authorize only the use, arrangements, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

(Code 1991, §160.194; Code 1965, App. A, Art. 9(5); Ord. No. 1747, 6-19-70)

Cross Reference: Enforcement, Chapter 153.

§161.03 DISTRICT A-1 AGRICULTURAL.

A. Purposes. The regulations of the Agricultural District are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; prevent unsightly development, increase scenic attractiveness; and conserve open space.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities
Unit 6	Agriculture
Unit 7	Animal Husbandry
Unit 8	Single-Family and Two-Family Dwellings

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 4	Cultural and Recreational Facilities
Unit 20	Commercial Recreation; Large Sites

C. Bulk and Area Regulations.

Lot Width Minimum	200 ft.
Lot Area Minimum: Residential Nonresidential	2 acre 2 acre
Lot Area Per Dwelling Unit	2 acre

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

E. Height Requirements. There shall be no maximum height limits in the A-1 District, provided, however, that any building

Lake Hills Church

C. 4. Page 4

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

April 30, 1999

Lake Hills Church
3065 N. College #187
Fayetteville, AR 72703

Gentlemen:

Enclosed please find a copy of minutes from the Planning Commission meeting of April 26, 1999. This is your official notification that your conditional use was approved subject to certain conditions as outlined in the minutes. Should you have any questions, please contact the Planning Division at 575-8264.

Congratulations and Good Luck,



Janet Johns
Sr. Secretary
Planning Department.

Planning Commission Minutes
April 26, 1999
Page 28

**CU99-8: CONDITIONAL USE
LAKE HILLS CHURCH, pp255**

This item was submitted by Jon Allen on behalf of Lake Hills Church for property located south of Skillern Road and east of Crossover Road. The property is currently zoned A-1, Agricultural, and contains approximately 3.58 acres. The request is for a church.

Jon Allen was present on behalf of the project.

Conditions of Approval

1. The applicant will dedicate 55 feet of right of way along the front (west side) of the property.
2. A 6 foot wide sidewalk shall be provided along Highway 265 to be coordinated with the City Trail and Sidewalk Coordinator.
3. A dumpster pad and dumpster shall be provided and be coordinated with the Solid Waste Division.
4. The applicant shall make a concentrated effort to preserve the natural character of the property, especially behind the facility. This includes leaving and preserving as many trees as possible and provide landscaping around the facility in coordination with the Landscape Coordinator.
5. All parking lot light fixtures shall be shielded and directed downward to prevent unnecessary light pollution.
6. The church shall be built in the location as shown on the site plan on page 8.3 of the information packet.
7. The building shall not exceed 10,300 square feet.
8. The applicant will request the Planning Commission to approve shared parking with the Williams Gymnastic and Dance Center at large scale development.

Commission Discussion

Conklin: I would like to add three conditions. I want to make sure that the location of the church and where it's built is what is shown on your agenda packet. When the large scale development comes through that will be the location of the church. I want to limit the size of the

Planning Commission Minutes
April 26, 1999
Page 29

church and make sure that what you approve tonight as a conditional use will be what we see at large scale development is not something larger. Regarding the shared parking, we do not have the site plan showing which spaces are to be shared and at what times and days.

Allen: I think you do have the agreement on the parking and we agreed to share all of the parking. I believe they had 69 spots and we had 60.

Conklin: Yes. You did supply the shared parking agreement to staff this evening, however, the ordinance does require that a site plan be provided showing which spaces are to be shared and at what time and who they are being shared with. We need that as part of our record.

Allen: We were faxed that and told to fill that out and that would be adequate. That's why we did it that way. I'm sorry.

Conklin: On the shared parking agreement, it does say, "Individual spaces identified on a site plan for shared users."

Allen: I'm not comfortable with limiting this to 10,300 square feet because if we're not going to have office space, we may reconsider the footprint. It may be generally the same but we may make some changes. This will have to be reconfigured and we may want to come back and make better use of that site.

Public Comment

None.

Further Commission Discussion

MOTION

Mr. Odom made a motion to approve conditional use 99-8 subject to all staff comments and requirements.

Mr. Ward seconded the motion.

Johnson: Does that include that the building will not exceed 10,300 square feet?

Odom: I don't think there is anything that will prevent them from asking --

Conklin: I just wanted to make it clear that what is being proposed this evening is what the applicant plans to build. If there are future additions for the church they will need to bring that

Planning Commission Minutes
April 26, 1999
Page 30

back to the Planning Commission as conditional use.

Johnson: At the large scale development stage, we would ask for all the specifics on the shared parking to be worked out in detail.

Roll Call

Upon roll call the motion passed with a unanimous vote of 8-0-0.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Associate Planner
THRU: Tim Conklin, City Planner
DATE: February 14, 2000

RZ 00-4.00: Rezoning (Lake Hills Church, pp 255) was submitted by Joseph S. Rogers of The Benham Group on behalf of Lake Hills Church for property located on Hwy 265, south of Williams Dance Studio. The property is zoned A-1, Agricultural and contains approximately 3.58 acres. The request is to rezone to P-1, Institutional.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: February 14, 2000

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: _____	

Comments: _____

BACKGROUND:

A conditional use permit was approved by Planning Commission on April 26, 1999 for a church on this A-1 property. At this time, the applicant is requesting that the property be rezoned to P-1, Institutional so the use of the property as a church campus would be allowable by right. This would eliminate the need for the previously approved conditional use.

This 3.58 acre tract is currently undeveloped. Surrounding land uses include single family homes, vacant property and the Williams Dance and Gymnastics facility. Uses permitted by right within the P-1, Institutional zoning district, such as cultural and recreational facilities are compatible with the area.

SURROUNDING LAND USE AND ZONING

North:	Williams Dance and Gymnastics (R-O)
South:	Vacant (A-1)
East:	Brookbury Subdivision, Single family homes (R-1)
West:	Single family homes (A-1)

INFRASTRUCTURE:

Streets: Crossover Road (Hwy 265) runs along the west property line providing access to this property. Crossover Rd. is classified as a principle arterial on the Master Street Plan with a total right of way of 110' necessary (55' from centerline).

Water: 12" line along Crossover Rd.

Sewer: 18" force main along the far east property line (western side of Brookbury subdivision)

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to P-1, Institutional, is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The Land Use Plan (General Plan 2020) designates this area as residential. The zoning of P-1, Institutional, is consistent with the plan.

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

Finding: The proposed zoning is justified at this time.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger and congestion. The traffic signal at the intersection of Crossover Rd. and Skillern to the north allows for some breaks in traffic for turning movements. Crossover is classified as a principle arterial on the City's Master Street Plan and is projected to carry 17,600 vehicles per day once it is improved to meet the street standard for a principle arterial.

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

Finding: The proposed zoning will not alter the population density and will not 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.

Finding: N/A

**§161.19 DISTRICT P-1
INSTITUTIONAL.**

A. Purpose. The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 4	Cultural and Recreational Facilities

**2. Uses Permissible on
Appeal to the Planning Commission,**

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 10	Multi-Family Dwelling - High Density

C. Bulk and Area Regulations/Setbacks. Setback lines shall meet the following minimum requirements:

From Street ROW	30 ft.
From Street ROW if Parking is Allowed between the ROW and the Building	50 ft.
From Side Property Line	20 ft.
From Side Property Line When Contiguous to a Residential District	25 ft.
From Back Property Line	25ft.

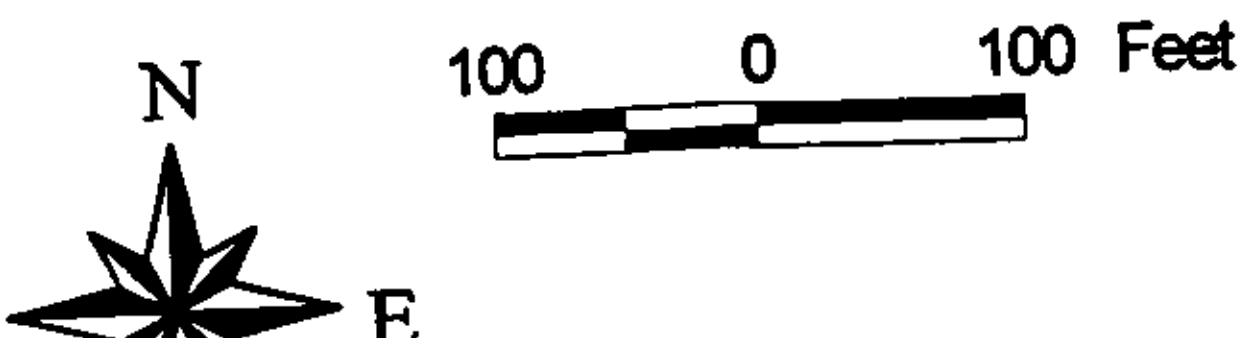
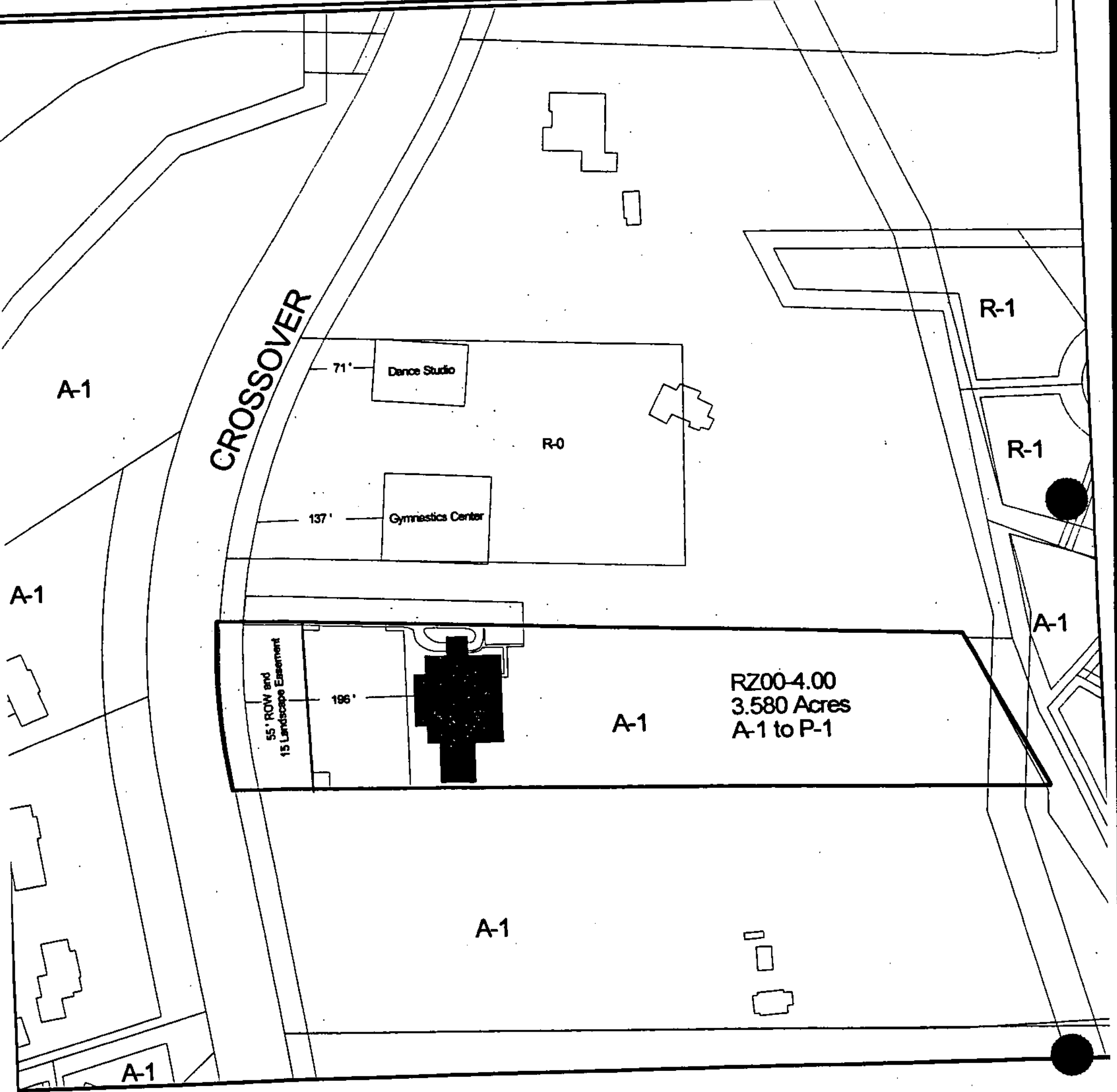
From Center Line of Public Alley	10 ft.
----------------------------------	--------

D. Height Regulations. There shall be no maximum height limits in P-1 District, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

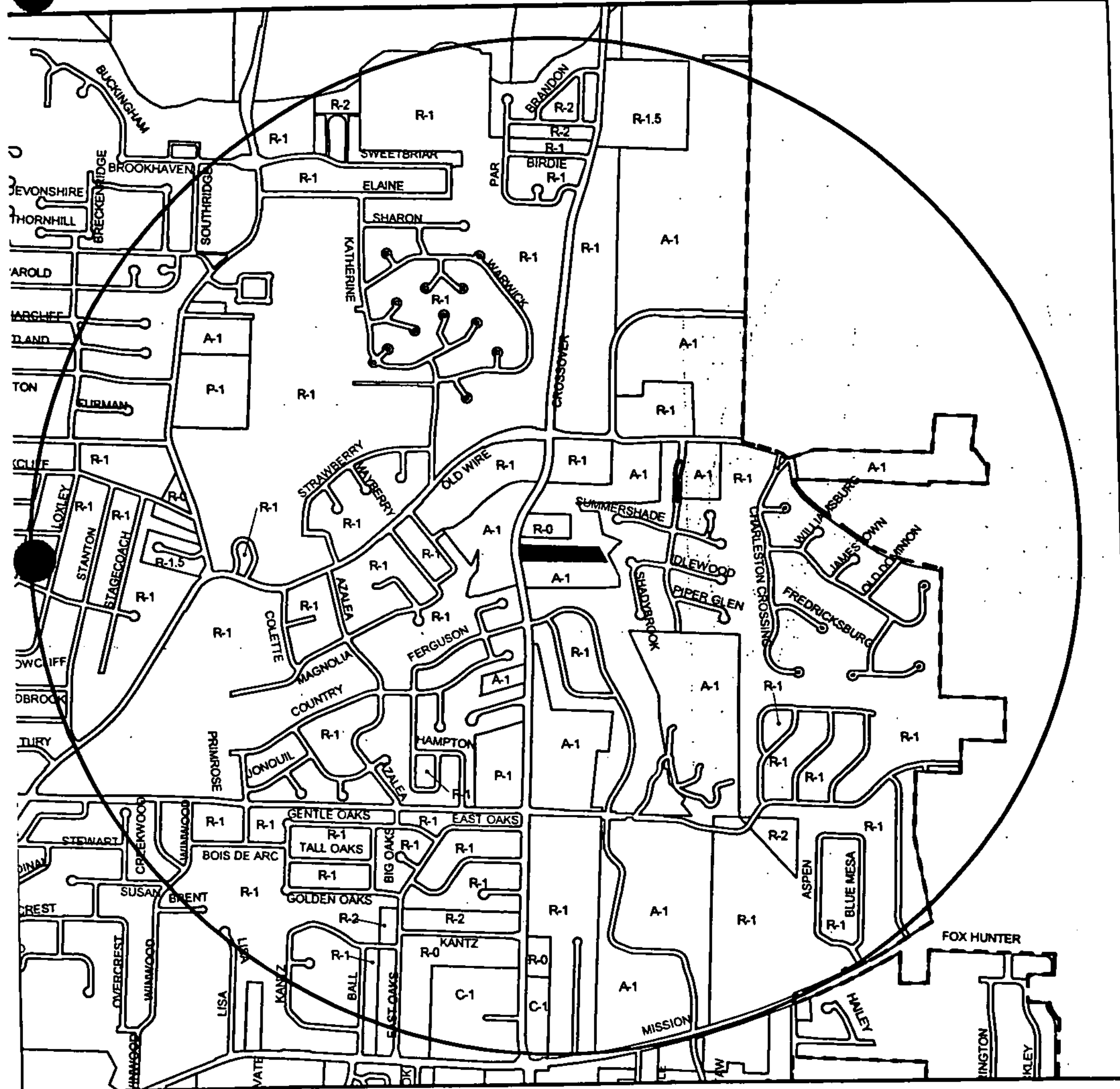
E. Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1991, §160.042; Code 1965, App. A, Art. 5(XI); Ord. No. 1747, 6-29-89; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80)

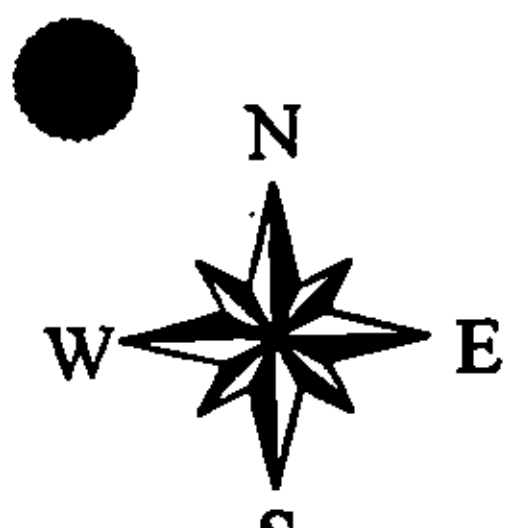
RZ00-4.00 - Lake Hills Church - Close Up



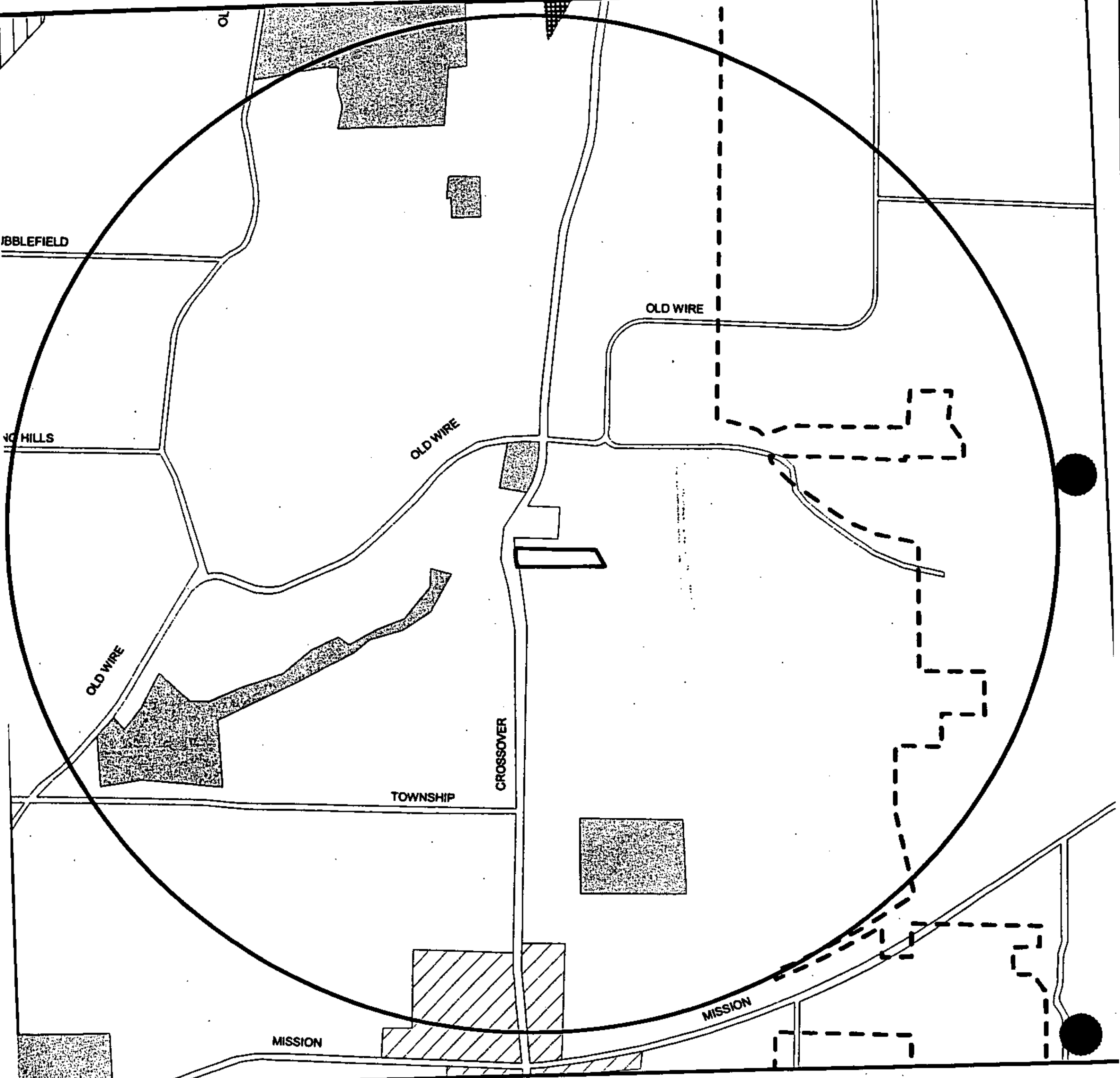
PZ00-4.00 - Lake Hills Church- One Mile Radius



1400 0 1400 Feet



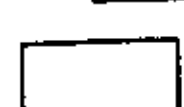
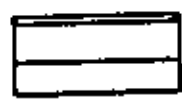
RZ00-4.00 - Lake Hills Church- 2020 Plan



1400 0 1400 Feet

Planning Commission
February 14, 2000
RZ 00-4 Lake Hills Church
Page 4.7



- | | | | |
|---|----------------------|---|------------|
|  | Residential |  | University |
|  | Community Commercial |  | Industrial |
| | |  | Office |

Planning Commission Minutes
February 14, 2000
Page 28

**RZ00-4: REZONING
LAKE HILLS CHURCH, PP255**

This item was submitted by Joseph S. Rogers of The Benham Group on behalf of Lake Hills Church for property located on Hwy 265, south of Williams Dance Studio. The property is zoned A-1, Agricultural and contains approximately 3.58 acres. The request is to rezone to P-1, Institutional.

Joe Rogers and Jon Allen were present on behalf of the request.

Staff Recommendation

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

Commission Discussion

Johnson: The next item on our agenda is a rezoning. This is immediately south of Williams Dance Studio. You'll recall, Commissioners, that this item was before us last year for a conditional use which was approved but the applicant now prefers a rezoning. The adjacent uses other than the dance studio include A-1 property to the south and west. There is Brookbury Subdivision with single family homes to the east. Tim, do you have additional information for us on this proposed rezoning.

Conklin: The applicant did approach the City and ask what zoning would be appropriate for a church. P-1 zoning does allow a church as a use by right. Last April, the Planning Commission did approve a conditional use for a church on this property. We did limit that conditional use to a certain size and location. They have now requested this P-1 zoning which would allow the church as a use by right. That's all staff has at this time.

Johnson: Initial questions that the Commissioners have of the staff or applicant?

Hoffman: I remember there was some office proposal from the last go round. Is that still a part of this proposal?

Conklin: Last April, we did have a rezoning request for R-O zoning that was withdrawn by the applicant. If there are any offices, they will be church related.

Hoffman: Thank you very much.

Bunch: Would P-1 zoning allow a school?

Planning Commission Minutes
February 14, 2000
Page 29

Conklin: P-1 zoning does allow child care center, schools, art galleries, libraries, museums, and all cultural and recreational type facilities.

Johnson: Those uses are found on page 4.4 of our packet. Other questions initially? The applicant is here. Do you have any presentation or are you here for our questions?

Rogers: I'm Joe Rogers with The Benham Group and I'm really just here for questions.

Johnson: All right. Anything before I turn to the public?

Public Comment

James Renby, residing at 2870 Crossover Road, was present.

Renby: I'll be as brief as I can. I also want to be clear. One thing I want to clear up is something that was perhaps misunderstood the last time this came before the Commission. The area surrounding the property in question is zoned A-1. It is all agricultural. However, in the context of the City's vernacular, it is also a residential district. By that I mean that the properties surrounding the property in question are all lived in by individuals with the exception of the Williams Center. The Williams Center itself is only one half of one of the boundaries of the property in question. To the south is the Tu family's property with a house on it. To the west are the properties on the other side of Crossover Road which are houses that can be seen as you drive by. My property is on the north side to the east and to the east of us is the Brookbury Subdivision. We're dealing with a residential area even though it's zoned A-1. The only property that does not have a structure on it now is the property in question. The second thing that I would like to talk about is the word "church." What are we talking about? One of the things under P-1 zoning is build a church by right. They can build other things as well. We'll talk about them in a minute. In April, a rezoning was requested for residential office which was defeated. They were given A-1 zoning with a conditional use for a church. They can build a church now. What they have done is gone back to the architects, recast the plans to fit something that was not within the conditional use. They are not only coming before this body for rezoning, they are also before the Board of Adjustments seeking adjustments in terms of setbacks and that kind of thing. In their own words, the land is not suitable for the structure that they want to put on it. If the zoning is changed, the City is going to give up control dictating the size of what is put on the property. In P-1 zoning, they can cover up to 60% of the land area. There is no longer control over the size of the structure they have built. There is no longer control over the siting of the structure that is built. There were other standard conditions including the natural woods area behind the studio which protects certain residents including the people in Brookbury. You alluded to some of the things that could go into the property if the church fails. I want to talk about two things for just a time. The time line and the future and the present. This is by right. This is not by application for conditional use. By right, they can build an art gallery, library,

Planning Commission Minutes
February 14, 2000
Page 30

museum, child care center or nursery school. When the Williams Center inquired about that very use, they were told that it was not appropriate for the area. Stand alone church, college or university. That may sound a little strange but Remington College, now Webster University, is an installation like that which could go into the property. A dormitory could go on the property. We could have borders at the university. An auditorium or stadium. Community center. Detention home. Golf course. That sounds a little silly but if you throw the word miniature in front of it, we could have a miniature golf course there. Hospital. Park. Play field and playground. Gulley Park is near by and I enjoy recreation and playgrounds and play fields but not in a residential district where we have one right across the street. A private club or lodge could go in there. Lord knows what that means. Riding stables. A school. Swimming pool. Tennis courts. Zoo. That's what could go in the future if the church were to fail. In passing the P-1 zoning, the church could do anyone of these things now. The minute you vote P-1 in there, they could do any one of these things by right as soon as it is approved by the City Council. Remember this is the church that wanted rental income property space included in the R-O proposal. Voting P-1 gives them the right to do this now without any future review by the city. There is no control except the city wide restrictions. What Lake Hills is asking the neighbors and the city to do is bear the risk of their project. The pastor has told us that he has come here from California. He sold his church in California. He has come here and purchased or obtained this property without the zoning for the church. Now, he's seeking to get zoning for a church which he has conditional use approval to build. He was given approval for the church last April. I'm fearing that what we're trying to do is shoe horn another project into that piece of property that was obtained for the church. I strongly and vehemently am against giving up control and the protection of this property through P-1 zoning. This is a conditional use that belongs conditional use. Thank you.

Johnson: Are there others in the audience that would address us on this issue?

Amy Tu, one of the adjoining property owners to the south, was present.

Tu: Just for a short description and to add onto to what Mr. Renby said, there are 3.85 acres and it's about 100 to 180 feet wide. What we're talking about is piece of property that is natural and undeveloped right now. However, there is a concern for control and controlled, planned development. On April 26, 1999, when the conditional use was granted to the applicant, the three concerns that Tim Conklin had were the size of the church, the location of the church, the shared parking with the Williams Center as well as the preservation of the aesthetic nature of the land. If this P-1 is given then you are losing the ability to have planned development of this development. Currently, along Hwy 265, you have a considerable amount of development occurring. Candlewood Addition sits on the south side of our property. You have the Brookbury and the Savannah areas to the east. To the north is the Renby's property. I think what we're looking at is an ability to plan and control the development of the property to the north of us. As Mr. Renby stated, P-1 is divided into two categories of uses. The first one is uses by right which

Planning Commission Minutes

February 14, 2000

Page 31

is agricultural and essential services. It is also allows cultural and recreation facilities. As Mr. Renby said, art galleries, child care, nursery school, church, college, private club, lodges, and schools. These are all concerns from a present stand point but also a future stand point. If the concerns raised by Mr. Conklin were size, location, and shared parking in the April, 1999 meeting these should still remain concerns of the city. Therefore, if the P-1 is granted and you have cultural and recreation facilities that are allowable on this property at the current time, those particular concerns raised by Mr. Conklin are basically nullified and negated. As an adjacent landowner, I want to make the following points which are fundamental to the character of this property and this application in question. Number one, the church has the ability currently to build its church. April 26, 1999, a 10,300 square foot church was allowed on the property according to the size and specifications that were given to Mr. Conklin and were approved by the Commission. Number two, the land is narrow. It's 3.85 acres. You're putting a large scale development on this property. Therefore, you should have a concern about exercising some control over development of this property presently and also in the future. Thirdly, as for the granting of the P-1 in the present, we are concerned about where the church is located, how it rests on the property and also the shared parking. Obviously, if you have a nursery school or a child care center, you're going to have an increased traffic flow which will be of concern to the adjacent landowners. In the future, it's hard to tell what will happen to the church. Whether they fail because financial instability or a sale of the property because the church's congregation has increased and they need to look for more property this is certainly of concern. Therefore, future landowners will be able to use this for a large variety of uses under P-1. My family and I have owned that property for over 20 years. We are unclear as to what we will do with the property given the fact that there is development on the south side with Candlewood and the fact that there is potential development on the north side with the church. We are concerned about the planned development of Fayetteville and we are in opposition and cannot support the application that is currently at the Planning Commission's table.

Further Discussion

Allen: My name is Jon Allen and I am the pastor of the church. To be brief, this property is owned by Lake Hills Church. It is not owned by me despite what Mr. Renby said. I didn't own the church in California and neither did I sell it. We were not defeated for R-O. We withdrew our request. At that time, we were asked to speak with the planner and seek a rezoning accommodation that would work with the Planning Division and come back here. That's what we did. As I understand the application here from the Planning Division, all of the conditions have been met and there are certainly no objections from them. I emotionally disagree with all this reference about the church failing. This church has grown and we have every intention to make use of that land for a church facility and we're not going to put a prison or a library or whatever else. We have come back with this at your behest from the last time we were here to try and work an accommodation that will meet our needs. This was recommended by the Planning Division. I think there were six, seven, or eight conditions that came in the report to

Planning Commission Minutes
February 14, 2000
Page 32

you as staff's recommendation. I certainly would like to see this pass so we can get on with our building and not be delayed any further.

Johnson: Thanks, Mr. Allen.

Estes: This is a rezoning request. Staff recommends approval based on the findings included in their report. Our decision is advisory only to the City Council.

MOTION

Commissioner Estes made a motion to approve RZ00-4.

Commissioner Ward seconded.

Johnson: We have the motion by Commissioner Estes and the second by Commissioner Ward that we approve rezoning 00-4. Is there discussion?

Hoffman: I will vote against the motion for similar reasons as the last time. When the church applied for the R-O zoning, we had considerable discussion about leaving basically the back half of the property in a more appropriate zoning buffer to the adjoining residential uses. Therefore, I cannot support a motion to rezone the entire tract of land P-1. I would be more than willing to consider rezoning approximately one-half of it to accommodate the church and go with a more conducive buffer situation in the rear.

Hoover: I am in agreement with Commissioner Hoffman. I'm sorry I missed agenda but I have a question for staff. I don't understand why they are coming back for the rezoning. Is the building larger than it was when we gave the conditional use? Is that reason or have I missed something?

Conklin: The applicant approached staff and asked what zoning would be appropriate for a church as a use by right. P-1 zoning allows a church as a use by right. We have other churches and schools zoned P-1 in this community. With regard to the conditional use, it was approved with a 10,300 square foot church and that was what was submitted to staff by the applicant. Sure, the Commission could amend that condition to allow for a larger church if they wanted to in the future and the applicant has been made aware of that also.

Hoover: So that is an option. Thank you.

Johnson: You'll recall that on rezonings, the action of the Commission is merely a recommendation to the Council. However, for this to go forward automatically to the Council the action must get five positive votes.

Planning Commission Minutes
February 14, 2000
Page 33

Marr: I feel that we have, based on some of the things that we heard tonight, more control on the types of uses in the future. As we voted earlier this evening about ballroom dancing versus any dancing, I think a conditional use gives us more control to determine what is on the property. Therefore, I would not support the rezoning.

Shackelford: If this rezoning is not approved, the conditional use is still in effect. Is that correct?

Conklin: They have had approval since last April to build a church.

Shackelford: What you're saying is that the conditional use in effect will not allow them to build what they are wanting to build right now.

Conklin: That is correct. They would have to come back. We've carried the large scale development with a conditional use together when they've come through the process and approved them at the same time. That's how we have handled other churches. That way when they change square footage or the parking areas, we can handle those at the same time.

Shackelford: So, in affect we could have them come back with an amendment for the additional square footage and consider the LSD at the same time.

Conklin: That is correct.

Marr: Was there any investigation of that option outside of this request? Any discussion on doing it that way versus a rezoning?

Conklin: Just recently in the past couple of weeks, I have met with Mr. Allen and informed him of what options are available for him to get his church built at this location.

Ward: I would be persuaded to vote P-1 for the first 300 feet and leave the balance of that which is basically woods as A-1. The whole thing is zoned A-1 now.

Estes: There would have to be consideration given to the footprint of the building and parking if Commissioner Ward's suggestion were done. We would have to have considerable input from the applicant regarding the footprint of the building and parking. That would be my concern.

Ward: My understanding is that the church is going to try to save all the trees and keep the buffer back there. That would be good for everyone. It looks to me like from what we have on the drawings, the church lines up with the gymnastics center. 300 feet deep would be more than enough to take care of parking and build the church meeting the setbacks.

Planning Commission Minutes
February 14, 2000
Page 34

Johnson: If a church is built on this site, does it have to come back before the Commission as an LSD?

Conklin: Yes, it would come back before the Commission as a large scale development.

Johnson: Lee, I don't think that your second to the motion binds you to the vote. We have before us to approve rezoning 00-4.

Roll Call

Upon roll call, the motion failed with a vote of 2-6-0. Commissioners Bunch, Hoffman, Hoover, Marr, Shackelford, and Ward voted against the motion.

Johnson: The action of this Commission can be appealed. It will not automatically go before the Council.

Conklin: The applicant would have to appeal within ten days of this action.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZ 00-4.00 FOR A PARCEL
CONTAINING APPROXIMATELY 3.58 ACRES LOCATED ON
HWY 265 SOUTH OF WILLIAMS DANCE STUDIO
REQUESTED BY JOSEPH S. ROGERS OF THE BENHAM
GROUP ON BEHALF OF LAKE HILLS CHURCH.

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

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

From A-1, Agricultural District to P-1, Institutional District for the real property
described in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby
amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION FOR RZ 00-4.00

A part of the SW 1/4 of the NW 1/4 of Section 31, Township 17 North, Range 29 West described as commencing at a point S 87°29'23" E 411.71 feet from the W 1/4 corner of said Section 31; said point being the intersection of the easterly, right-of-way of Arkansas 265 Highway and the south boundary of said 40 acre tract; thence along said Highway right-of-way on a curve to the right with a radius of 768.93 feet, a delta angle of 14°30'09" and an arc length of 194.63 feet to a found iron pin; with a chord bearing N 01°59'17" W 194.11 feet; thence leaving said Highway right-of-way S 86°01'44" E 405.28 feet to a found iron pin; thence S 86°19'34" E 406.39 feet to the west boundary of Brookberry Woods Subdivision; thence along said subdivision boundary S 24°54'59" E 195.00 feet to a found iron pin, and south 1.85 feet to a point on the south boundary of said 40 acre tract; thence N 87°29'23" W 886.12 feet to the point of beginning, containing 3.580 acres, more or less, Fayetteville, Washington County, Arkansas.

WARRANTY DEED
UNMARRIED PERSON

certify that this document is a true &
correct copy to the best of my knowledge.

KNOW ALL MEN BY THESE PRESENTS:

THAT Beverly Jeanne Skillern, an unmarried person, hereinafter called
GRANTOR, for and in consideration of the sum of One (\$1.00) and other valuable consideration
DOLLARS, paid by Lake Hills Baptist Church, Fayetteville, Arkansas
the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto
Lake Hills Baptist Church, Fayetteville, Arkansas
hereinafter called GRANTEE, and unto his heirs and assigns forever, the following lands lying in
Washington County, Arkansas, to-wit:

A part of the SW 1/4 of the NW 1/4 of Section 31, T-17-N, R-29-W described as
commencing at a point S87°29'23"E 411.71 feet from the W 1/4 corner of said
Section 31; Said point being the intersection of the Easterly, Right-of-Way of
Arkansas 265 Highway and the South boundary of said 40-Acre tract; Thence
along said Highway Right-of-way on a curve to the Right with a radius of
768.93 feet, a Delta angle of 14°30'09" and an arc length of 194.63 feet to a
Found Iron Pin, with a Chord bearing N01°59'17"W 194.11 feet; Thence leaving
said Highway Right-of-Way S86°01'44"E 405.28 feet to a Found Iron pin; Thence
S86°19'34"E 406.39 feet to the West boundary of Brookberry Woods; Thence
along said Subdivision boundary S24°54'59"E 195.00 feet to a Found Iron pin,
and South 1.85 feet to a point on the South boundary of said 40-Acre tract;
Thence N87°29'23"W 886.12 feet to the Point of Beginning, containing 3.580
Acres, more or less, Fayetteville, Washington County, Arkansas.

TO HAVE AND TO HOLD the same unto the said GRANTEE , and unto his heirs and
assigns forever, with all appurtenances thereunto belonging.

And I hereby covenant with said Lake Hills Baptist Church, Fayetteville,
Arkansas, that I will forever warrant and defend the title to said
lands against all lawful claims whatever.

WITNESS my hand and seal on this 10th day of October, 19 97.

Beverly Jeanne Skillern (SEAL)
Beverly Jeanne Skillern

Prepared under the direction
of the Grantor/Grantee.

(SEAL)

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

Grantee

ACKNOWLEDGMENT



League of Women Voters Washington Co.

P.O. Box 4 • Fayetteville, AR 72702 • 501-575-1841

RECEIVED

APR 18 2000

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

4/18/00
CITY
COUNCIL

April 18, 2000

The Honorable Mayor Fred Hanna
Members of the City council
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Dear Mayor Hanna and Members of the City Council,

The League of Women Voters of Washington County has worked for many years for an adequate tree preservation ordinance in Fayetteville. Following a formalized study of the issues involved as well as a review of ordinances in other cities, the League arrived at a consensus to support the Fayetteville Tree Protection and Preservation Ordinance and the hiring of a landscape administrator.

The Planning Commission reviewed the current proposed development in the CMN business park and wisely voted to enforce and thereby respect the current Fayetteville Tree Protection and Preservation Ordinance as well as the expertise of the landscape administrator. Lack of enforcement of the tree preservation ordinance would be a clear violation and set a precedent for future disregard of this ordinance that is well established and supported by the League.

Please enforce the Fayetteville Tree Protection and Preservation Ordinance.

Yours truly,

A handwritten signature in cursive script, reading 'Mary Alice Serafini'.

Mary Alice Serafini
President, League of Women Voters of Washington County



Steele Crossing

C. 5. Page 1

4/18/00

CITY COUNCIL

RECEIVED

APR 07 2000

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

April 6, 2000

City Council
C/o Ms. Heather Woodruff – Clerk
The City of Fayetteville, Arkansas
113 West Mountain St.
Fayetteville, AR 72701

VIA FAX/FED EX
(501) 575-8257

Re: LSD: 00-05.00
Steele Crossing Shopping Center

Argus Properties hereby appeals the decision of the Planning Commission rendered March 27, 2000, on the above referenced Large Scale Development ("LSD"), to City Council.

There were several waivers/variances requested as a part of the submission to the Planning Commission. We believe three of these issues were non-controversial and acceptable to the Planning Commission, but there was no formal vote to indicate approval. By way of clarification, those issues are as follows:

1. Variance to allow a 60' truck entrance with no islands off of Van Ashe Drive. This is requested to permit adequate turning movements for the delivery trucks providing stock to the planned stores.
2. Variance to allow two (2) ground mounted signs; one for Kohl's and one for Major Tenant "A" with shops. Each of the signs will be monument signs built in accordance with the design standards for size and height of the Design Overlay District. The signs are to be constructed from the same material as the buildings within the proposed development.
3. Request to permit a portion of the total greenspace located on Lot 15 be utilized as greenspace for Lot 7. The plan is to develop Lots 15 and 7 as a unified retail development which will meet the total greenspace requirement of the land within and outside of the Design Overlay District. The site plan layout as submitted is based on a number of factors. The configuration proposed was given careful consideration and is based on



Ms. Heather Woodruff
April 6, 2000
Page 3

The Landscape Administrator has presented two plans as "reasonable" alternatives for development. The first plan is attached hereto as Exhibit "A". This plan does not work for Kohl's or Major Tenant A. Parking and visibility are major issues. The Kohl's parking provided is approximately 190 spaces for this 86,000 SF Tenant. Their standard requirements are 510 spaces which they have already reluctantly reduced to 416 spaces to be in compliance with Fayetteville's parking requirements. Kohl's will not accept this level of reduced parking because it would reduce their potential sales well below the feasible level. Major Tenant A has turned down this site based on this layout because the front of their store is hidden from eastbound traffic on Shiloh Drive and Fulbright Expressway and is totally invisible from Steele Blvd.

The second plan presented is attached as Exhibit "B". All of the major Tenants and Kohl's have stressed their beliefs, based on store operations in multi-store centers, in similar markets, that pedestrian (customer) connectivity between stores is essential of a market/trade area like Fayetteville. This plan, while addressing parking and visibility, effectively eliminates the desired connectivity. In addition, the Exhibit "B" plan would be in violation of other sections city ordinances. The total greenspace requirements are not met with this layout. Plus, based on estimates received, the costs of adding the two (2), seven foot (7') high walls for the 600' boundary with the imported fill are approximately \$350,000. The last item of concern with this conceptual layout is the placement of a retaining wall so close to the required stream buffer that this channelizes the Mudd Creek tributary. While this may be permissible, it violates the spirit of the previous representations made to the City and the Corps. of Engineers.

With respect to the Tree Preservation issue, it is requested that the City Council consider the plans as submitted to include Lot 7 as well as Lot 15. The same issues exist on Lot 7 and the consideration by Council at this time will ultimately save time and money for all involved parties. This combination will also allow time for economic viability of the entire proposed development to be determined. The submitted plans show the building locations on Lot 7 and the sketches by the City's Tree Administrator include Lot 7. There is no good reason for having to revisit this identical issue for the next phase of this unified retail development planned on two (2) contiguous lots.



Ms. Heather Woodruff
April 6, 2000
Page 2

input obtained during the overall CMN subdivision approval by the City Council and the Corps. of Engineers. The site plan aggregates greenspace and avoids channelization of existing waterways. The eastern boundary of Lot 15 is an unnamed tributary of Mudd Creek which has a 40' undisturbed buffer zone (by deed restriction). The plan locates a significant portion of the project's greenspace contiguous to the buffer, thereby creating a natural area over 220' wide and 600' long. This large greenspace will mitigate the run-off concerns associated with large development while maintaining and enhancing the overall water quality of the entire stream system. The wide greenspace also enhances the appearance of not only Lots 15 and 7, but of the entire development. In addition to the above benefits the location of this area provides connectivity of enhanced greenspaces throughout the overall CMN development and along the waterways.

4. The last and controversial issue is a variance on the Tree Protection and Preservation Ordinance. A variance/waiver of this ordinance was not formerly requested at the time the plans were turned in because it was believed that the submittal was in compliance with the ordinance. None of the trees on this property are listed in the Tree Registry. However, it has now been pointed out that in some other subsection of the Fayetteville ordinances, the definition of "landmark trees" subjects much of the site to the preservation sections of Chapter 167. Notwithstanding the above confusion, the plan presented complies with the replacement canopy sections of Chapter 167. Furthermore, at the Planning Commission meeting and as an accommodation, the replacement canopy area of an additional ten percent (10%) of total canopy was offered and is still being offered.

There are many factors considered in undertaking a development of this size and scope. While the overall project costs as related to what the retailers and/or will pay based on projected sales for a given market is extremely important, costs are not the sole determining factor for creation of a siteplan. Each Tenant has its requirements for the operation of a proposed store, and the ease with which its customers can access the location are extremely important. Many of these rules are a matter of corporate policy derived from years of experience in operating hundreds of stores.



Ms. Heather Woodruff
April 6, 2000
Page 4

At this time, given the requirements of the Design Overlay District greenspace and those of the Corps. of Engineers, we have not been able to find a reasonable way for the property to be developed and meet the preservation provisions of Chapter 167. However, the submitted plans do meet the replacement provisions. In addition, compliance with the "penalty" provisions have been offered even though not required under the ordinance. Therefore we request removal and replacement of landmark and rare trees to be permitted as contemplated by 167.05B6 of the ordinance.

The reasonable saving of existing trees is a benefit to any development because it enhances the appearance of a project. Other alternatives are still being considered by us and the Tenants involved. The process will be ongoing up until the time of the City Council's meeting. If a revised plan can be designed which meets more of the Tree Preservation criteria yet still permits the center to be functionally and economically feasible, it will be presented for discussion as soon as possible.

Yours truly,

ARGUS PROPERTIES

J. Kirk Rankin
JKR/em

EXHIBIT A

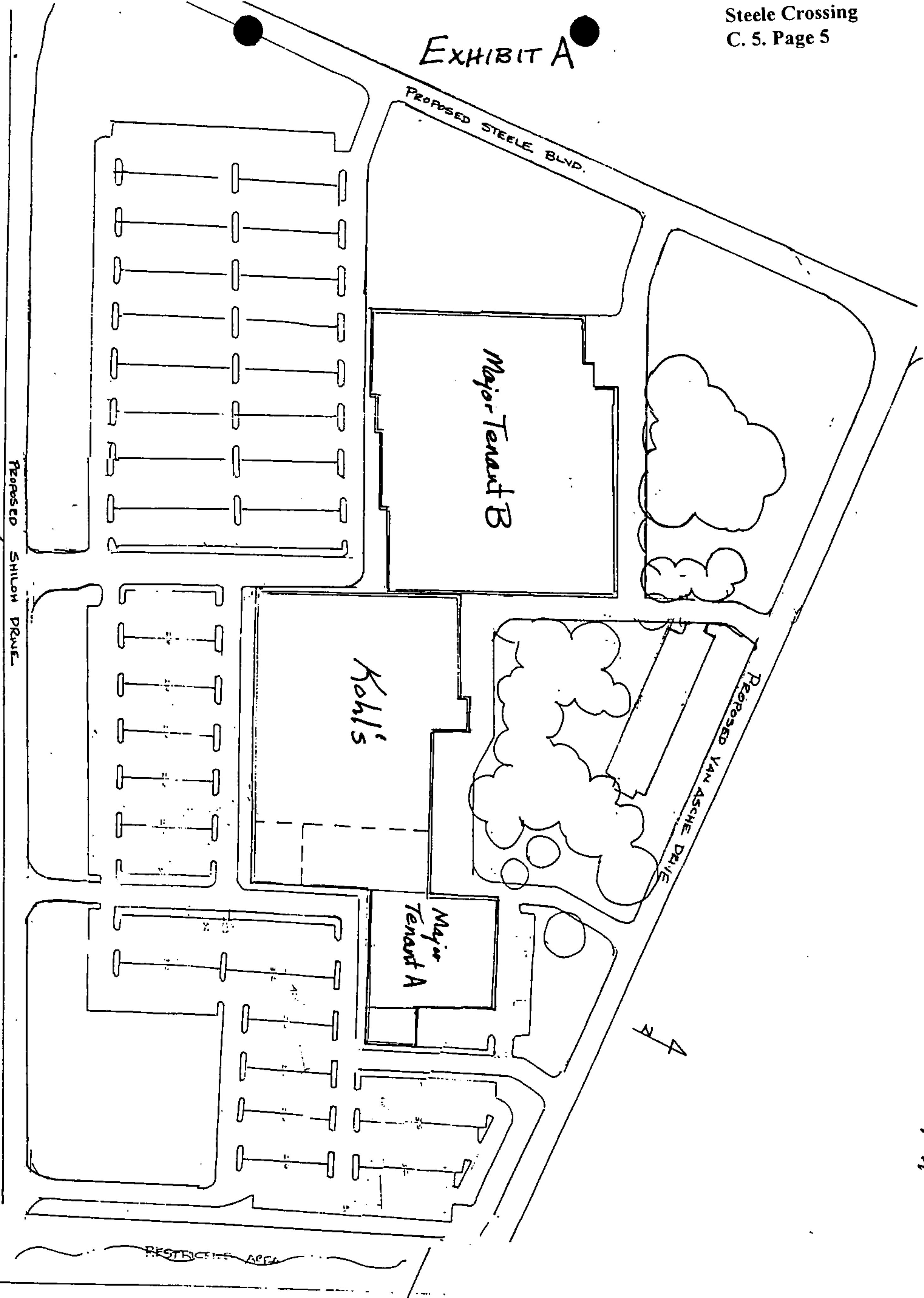
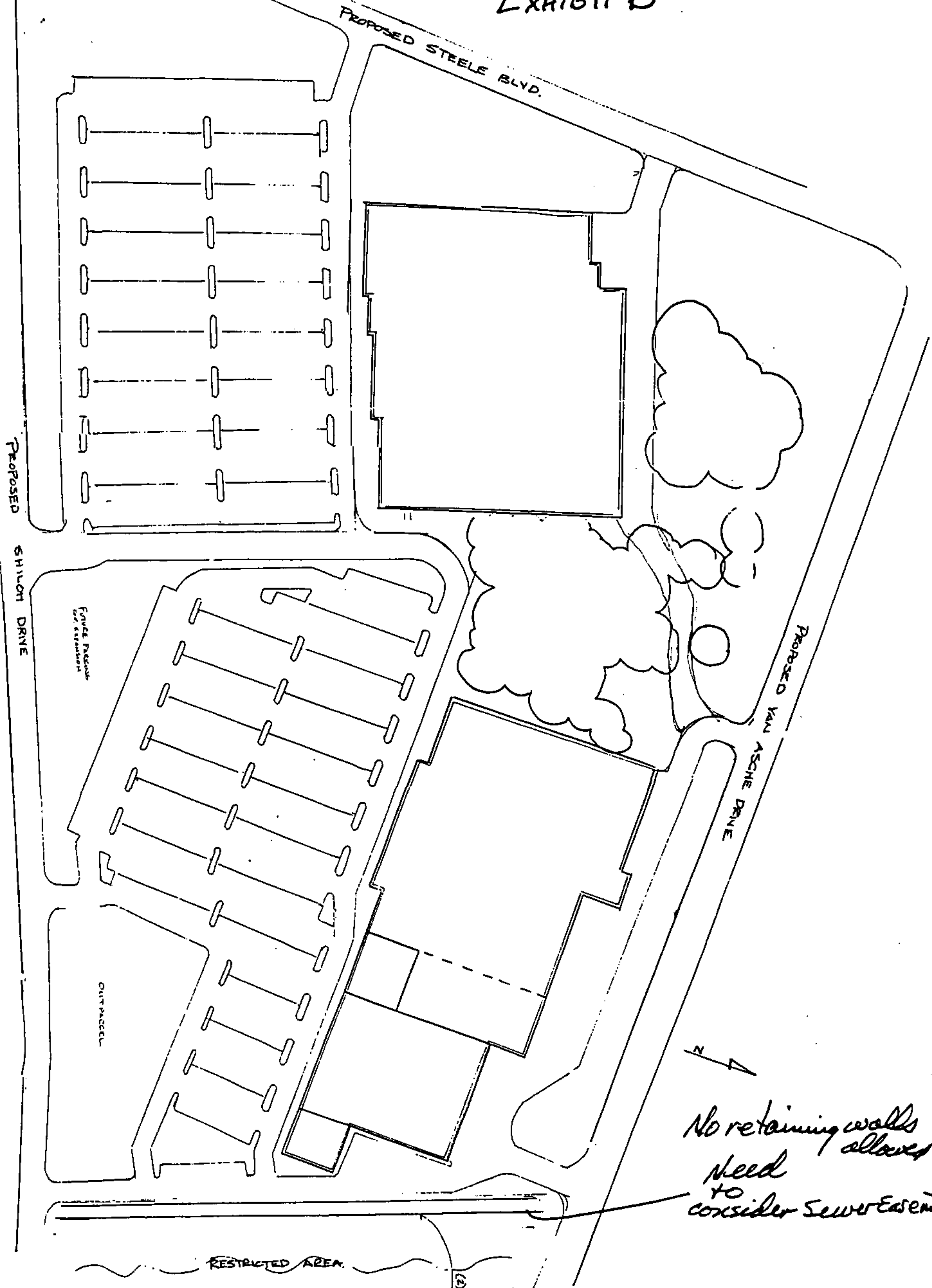


EXHIBIT B



3/27/00

PC Meeting of 27 March 00

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701

Steele Crossing, LSD

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
FROM: Sara Edwards, Ron Petrie P.E.
DATE: March 23, 2000

Project: LSD 00-5.00: Large Scale Development (Steele Crossing, pp 212) was submitted by Mel Milholland of Milholland Engineering on behalf of Argus Properties for property located on lot 15 of CMN Business Park. The property is zoned C-2, Thoroughfare Commercial and contains approximately 18.48 acres.

Findings: This project is located in phase II of CMN Business Park. The building is adjacent to both Shiloh and Van Asche Drives. Development includes 9 tenant spaces if developed as shown with a total of 128,384 square feet and 617 parking spaces. The developer proposes future developments and additions/ phases of this project. The Subdivision Committee was not able to achieve a consensus on Tree Preservation and Commercial Design Standards.

Recommendation: Due to the outstanding issues of this project, staff does not have a recommendation at this time. However, if the Planning Commission chooses to approve this development, staff recommends that approval be subject to the thirteen conditions listed below.

Conditions of Approval:

1. Planning Commission determination of compliance with Design Overlay District and Commercial Design Standards including signage. This development will have street frontage on both Shiloh and Van Asche Drive.
2. Planning Commission determination of a waiver request to allow two (2) ground mounted monument signs. Applicant is requesting one sign for each major tenant. *Staff supports this request with the condition that both signs be in compliance with the monument signage area requirements of the sign ordinance.*
3. Planning Commission determination of compliance with the Tree Preservation Ordinance. See the attached memo from Kim Hesse, Landscape Administrator, and the Tree Preservation Plan that was submitted by Milholland Engineering.
4. Planning Commission determination of a waiver request to allow a 60' truck entrance with no islands off Van Asche Drive. *Staff supports this waiver due to the fact that a*

large radius will be needed by the delivery trucks. This will be the only drive for this development along the Van Asche frontage, which measures 1,042 feet.

5. Planning Commission determination of whether to allow the 25% greenspace requirement of the Design Overlay District regulations to be met for a future adjoining development with this large scale development. This project has a large greenbelt running along the east side totaling 130,686 square feet. The future phase would be on the west side with an area of 11.52 acres. Please see attached letter from the City Planner regarding this issue.
6. The Final Plat for Phases I & II of the CMN Business Park II must be filed prior to obtaining signatures for Occupancy Permits for these buildings.
7. All drainage outside of the street right-of-way to be privately owned and maintained.
8. Plat Review and Subdivision comments (to include written staff comments mailed to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
9. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
10. Sidewalk construction in accordance with current standards to include a 10 foot minimum greenspace with a 6 foot minimum sidewalk along Shiloh Drive and Van Asche Drive. The driveway approaches to be Portland Cement Concrete.
11. Subject to all conditions of approval for CMN Business Park Phase II.
12. Large Scale Development approval to be valid for one calendar year.
13. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project
 - c. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Background:

The proposed Large Scale Development was reviewed at the March 1, 2000 Technical Plat review and at the March 16, 2000 Subdivision Committee meeting.

Discussion at the Subdivision Committee meeting included Commercial Design Standards, Tree Preservation, signage, and future phases of construction.

The Subdivision Committee forwarded the Large Scale Development to the full Planning Commission “subject to staff determination of the necessity of a special Subdivision Committee meeting if plans are submitted with substantial redesign.” Staff determined that a special Subdivision Committee meeting was not needed due to no substantial changes being made with regard to the design of this project. The Subdivision Committee did not achieve consensus on Tree Preservation or Commercial Design Standards.

INFRASTRUCTURE:

- a) Water will be provided in conjunction with the CMN Business Park. Fire protection will be provided by this developer.
- b) Sanitary sewer will be provided by the CMN Business Park. Extensions will be necessary.
- c) Streets will be constructed in conjunction with the CMN Business Park. No public streets will be constructed with this project.
- d) Grading and Drainage. A preliminary plan and report has been received. A final plan and report will be required prior to construction.

PLANNING COMMISSION ACTION: yes Required
 Approved Denied

Date: _____

Comments:

CITY COUNCIL ACTION: no Required
 Approved Denied

Date: / /

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

by

title

date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Subdivision Committee

FROM: Kim J. Hesse, Landscape Administrator

DATE: March 8, 2000

SUBJECT: Steele Crossing Development

As administrator of the Tree Protection and Preservation ordinance, I recommend that the current configuration of the Steel Crossing development be redesigned to meet the ordinance. The intent of the ordinance is to design proposed developments in such a ways as to preserve a percentage of the existing canopy. In the event that preservation is proven to not be possible due to site limitations, then, and only then is tree replacement an option. It is clear that tree preservation was not seriously considered with this current design. I have personally designed a conceptual site plan for this development to determine the feasibility of preserving the existing trees on the site. I feel that it is possible to preserve 15% of the existing canopy while maintaining the same number of parking spaces and the same amount of building square footage as the original design. The existing trees on the site are mostly made up of oaks that are larger than 24" in diameter. Most of these trees are healthy and provide a pristine example of the natural resources we allow to be removed on a daily basis. Please keep in mind that the original intent of the Tree Protection ordinance was to encourage development to be built in consort with our natural resources. Also keep in mind one of the purposes of the Overlay District is "To protect and enhance the distinctive scenic quality of the U.S. 71 Highway Corridor by providing for non-residential developments which will maximize preservation and enhancement of the natural, rural, and open character of the terrain and foliage".



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

December 2, 1999

Mr. Mel Milholland
Milholland Engineering and Surveying
205 W. Center Street
Fayetteville, AR 72701

Re: Design Overlay District Requirement of 161.21(D)(11) Site Coverage

Dear Mr. Milholland:

I am writing in regard to your question about meeting the 25% open space requirement when combining lots 7 and 15 in CMN Phase 2 into one overall development.

If both lots are brought through as one large scale development, staff would calculate the 25% open space requirement by combining areas designated as open space throughout the entire project. The intent of the ordinance is to provide 25% open space on the site. Staff would interpret the word "site" to include both lots if they are part of one unified development.

I hope this interpretation clarifies this regulation and helps all parties involved to reach a solution regarding the issue of site coverage.

Sincerely,



Tim Conklin
City Planner

Miltholland Company
Engineering & Surveying
Melvin L. Miltholland, Owner

REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

March 15, 2000

Fayetteville Planning Commission
Attention: Mrs. Phyllis Johnson, Chairperson
City Administration Building
113 West Mountain Street
Fayetteville Arkansas 72701

PROJECT: STEELE CROSSING I
DEVELOPER: ARGUS PROPERTIES
RE: VARIANCE REQUEST

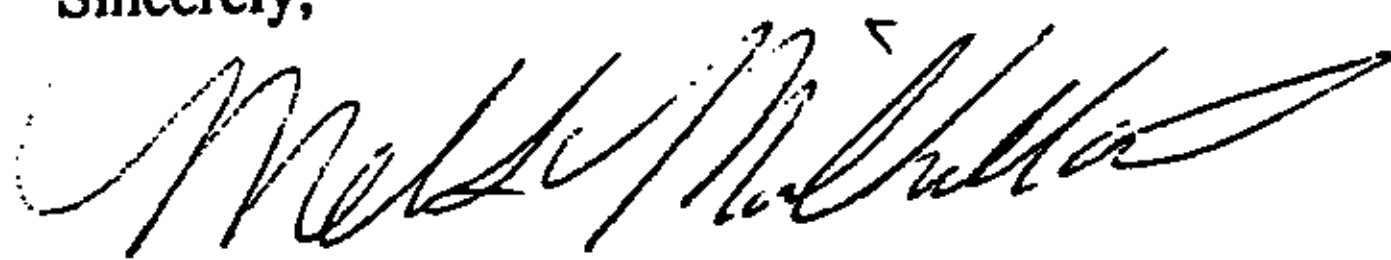
Mrs. Johnson and Planning Commission Members:

The Developer of said Large Scale Development respectfully request the Planning Commission approve the following variances:

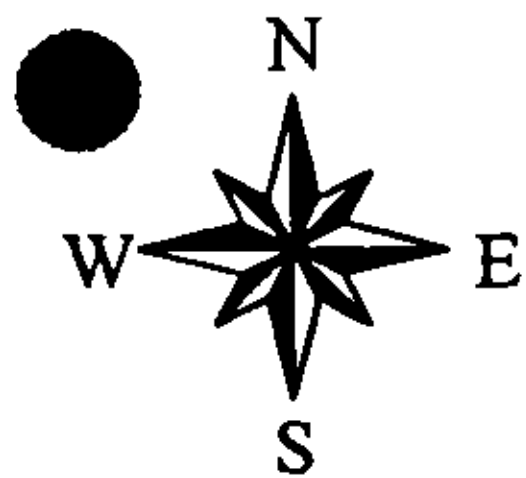
1. OFF Van Asche Drive, allow an entrance 60 LF from the curb to curb with no islands for delivery trucks access.
2. Adjacent to Shiloh Drive, allow two (2) ground mounted signs; one (1) for the large retailer "KOHL'S," 86,584 SF floor space at the Southwest entrance and one (1) for the MAJOR TENANT "A," 32,000 SF floor space.

Your favorable consideration and approval is appreciated!

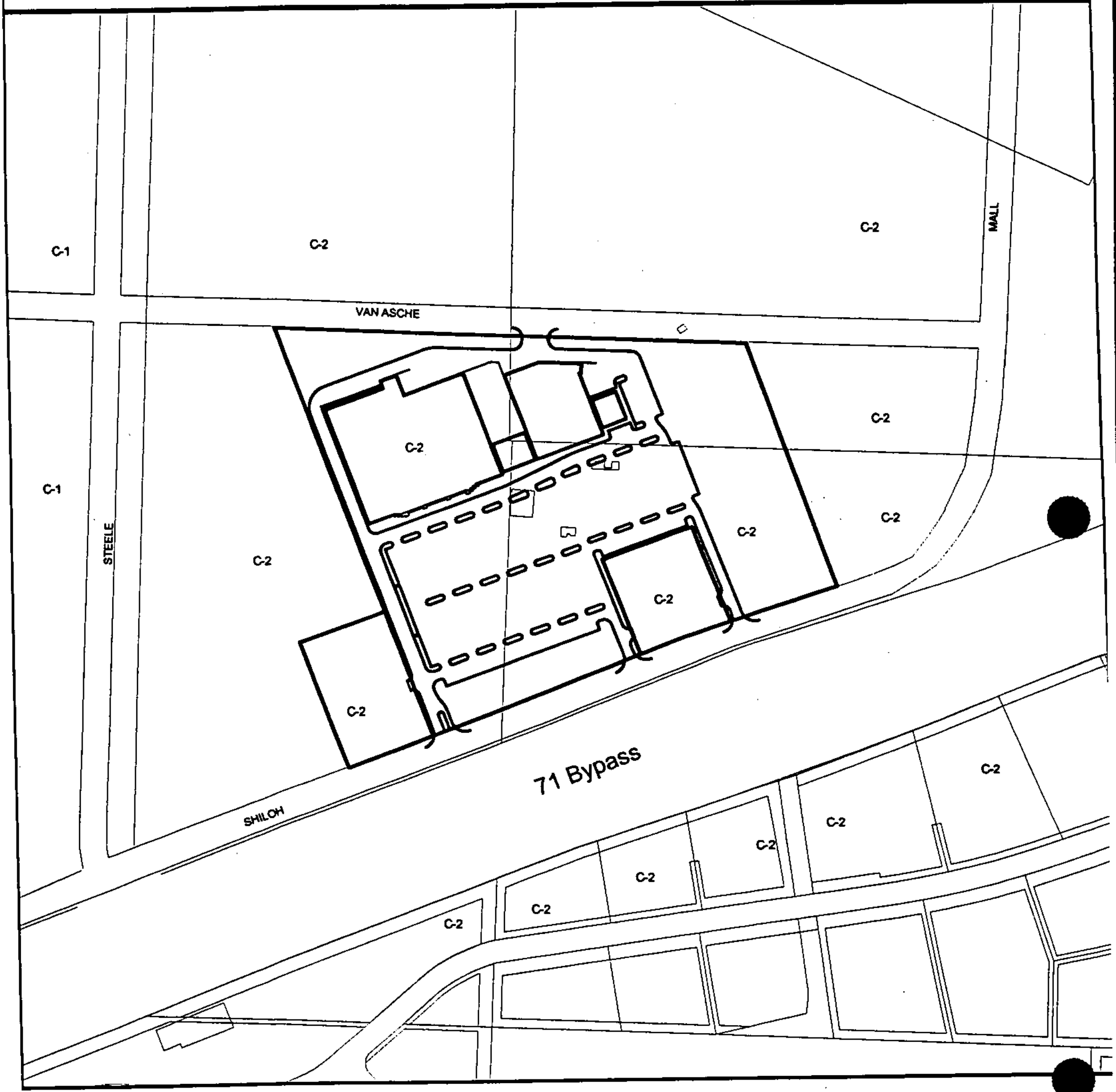
Sincerely,



Melvin L. Miltholland, PE



LSD00-5.00 - Steele Crossing - CClose Up





FAYETTEVILLE

LEGAL DEPARTMENT
CITY ATTORNEY DIVISION

Steele Crossing
C. 5. Page 17

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

DEPARTMENTAL CORRESPONDENCE

To: Tim Conklin, City Planner

From: Jerry E. Rose, City Attorney 1. B

Date: March 22, 2000

Re: Tree Protection and Preservation Ordinance

This memo is in response to your request for an interpretation of Fayetteville's Tree Protection and Preservation Ordinance. Your request asks for an interpretation as to when tree replacements may be authorized as part or all of the canopy area required.

Section 167.05(B) of the Unified Development Ordinance provides that a tree preservation plan be submitted and approved by the Planning Commission as a portion of the preliminary plat or site plan. The plan is to be reviewed and recommendations made to the Planning Commission by the Landscape Administrator. Section 167.05(B)(4) is specific as to what must be contained in the plan, i.e. tree preservation areas, including all landmark and rare trees, existing tree located within the rights-of-way, easement areas, or on other public grounds, or trees preserved for the required canopy shall be designated in the tree preservation plan and shall be protected during land development.

Section 167.05(B)(6) specifically states that no landmark or rare tree shall be removed from land to be developed unless the Landscape Administrator determines there is no reasonable way the property can be otherwise developed, improved, or properly maintained and the tree saved.

Section 167.05(C) provides for a percent minimum canopy to be maintained in various zoning designations. In the event a tree cannot be preserved as required, tree replacements, to be determined by the Landscape Administrator may be required in lieu of the tree designated for preservation.

Accordingly, the Landscape Administrator is involved with the development process in three specific areas; (1) to review and make recommendations to the Planning Commission regarding the Tree

Planning Commission
March 27, 2000
LSD00-5 Steele Crossing
Page 3.11

Preservation Plan submitted with the preliminary plat or site plan; (2) to make a decision as to whether or not landmark or rare trees shall be removed from the land developed (which requires a determination that there's no reasonable development alternatives; and (3) what type of tree replacement is required in the event a tree cannot be preserved as required. Only the first two decisions are relevant to our discussion.

The Landscape Administrators decisions regarding a tree preservation plan are merely review and recommendation. The decision as to whether or not plat approval and/or large scale development approval is granted rests with the Planning Commission. The Landscape Administrators decision as to whether or not to allow the removal of landmark or rare trees is appealable under §155.06(D)(4) of the Unified Development Ordinance to the Planning Commission.

I am reluctant to substitute my judgment on these appealable issues for those of the Planning Commission or Landscape Administrator. The City Council by ordinance has chosen not to place the discretion for these decisions in the hands of the City Attorney. The administrator's interpretation and enforcement of the tree protection and preservation sections of the Unified Development Ordinance are left to the Landscape Administrator. (Chapter 152 of the U.D.O.)

If I may provide anything further within the parameters of our ordinances, you have only to ask. I hope the above is of some assistance to the Planning Commission and staff in their difficult decisions.

/cbp

Planning Commission Minutes
March 27, 2000
Page 10

**LSD0-5: LARGE SCALE DEVELOPMENT
STEELE CROSSING, PP212**

This item was submitted by Mel Milholland of Milholland Engineering on behalf of Argus Properties for property located on lot 15 of CMN Business Park. The property is zoned C-2, Thoroughfare Commercial and contains approximately 18.48 acres.

Mel Milholland, Guy Washburn, Kirk Rankin, Micki Harrington, and Jim Irwin were present on behalf of the request.

Staff Recommendation

Due to the outstanding issues of this project, staff does not have a recommendation at this time. However, if the Planning Commission chooses to approve this development, staff recommends that approval be subject to the following:

1. Planning Commission determination of compliance with Design Overlay District and Commercial Design Standards including signage. This development will have street frontage on both Shiloh Drive and Van Asche Drive.
2. Planning Commission determination of a waiver request to allow 2 ground mounted monument signs. The applicant is requesting one sign for each major tenant. Staff supports this request with the condition that both signs be in compliance with the monument signage requirements of the sign ordinance.
3. Planning Commission determination of compliance with the Tree Preservation Ordinance.
4. Planning Commission determination of waiver request to allow a 60 foot truck entrance with no islands off Van Asche Drive. Staff supports this waiver due to the fact that a large radius will be needed by the delivery trucks. This will be the only drive for this development along the Van Asche frontage which measures 1,042 feet.
5. Planning Commission determination of whether to allow the 25% green space requirement of the Design Overlay District regulations to be met for a future adjoining development with this large scale development. This project has a large green belt running along the east side totaling 130,686 square feet. The future phase would be on the west side with an area of 11.52 acres.
6. The Final Plat for Phase I and II of the CMN Business Park II must be filed prior to obtaining signatures for Occupancy Permits for these buildings.

Planning Commission Minutes

March 27, 2000

Page 11

7. All drainage outside of the street right of way is privately owned and maintained.
8. All Plat Review and Subdivision comments.
9. Staff approval of final detailed plans, specifications, and calculations for grading, drainage, water, sewer, fire protection, streets, sidewalks, parking lots, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements.
10. Sidewalk construction in accordance with current standards to include a 10 foot minimum green space with a 6 foot minimum sidewalk along Shiloh Drive and Van Asche Drive. The driveway approaches are to be Portland Cement Concrete.
11. Approval is subject to all the conditions of approval for CMN Business Park, Phase II.
12. Large Scale Development approval is valid for one calendar year.
13. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project
 - c. Completion of all required improvements or the placement of a surety with the City as required by §158.01. Further, all improvements necessary to serve the site and protect the public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Commission Discussion

Johnson: This building is adjacent and between Shiloh and Van Asche Drive just south of the mall. Staff has not made a recommendation. We have various conditions of approval. The Commission must make a determination on Commercial Design Standards and Design Overlay District issues. We have two waiver requests that we must address. One is to allow 2 ground mounted monument signs and the other is to allow a 60 foot truck entrance with no island off Van Asche. Staff supports both of the waivers. We must determine compliance with the Tree Preservation Ordinance. We must determine whether to allow the 25% green space requirement of Design Overlay to be met on this site for this and a future adjoining development.

Conklin: The Planning Division has received 3 phone calls from people unable to be here

Planning Commission Minutes
March 27, 2000
Page 12

this evening. Stacy Issinghoff stated that if the tree preservation ordinance isn't enforced now, we will not be able to enforce it with other developments. James Knuzleman residing at #2 Mount Nord is in support of the tree ordinance and wants it to be enforced with this development. Brett Park residing at 230 W. Center did not want to see the resources of trees unnecessarily squandered and companies locating in Fayetteville should respect our tree ordinance. David Bugue residing at 1158 N. Maxwell Drive wanted to preserve the trees and move the project some other place. This is a large scale development containing approximately 128,000 square feet. Staff has provided a staff report without a recommendation but setting forth conditions of approval. We toured this site at agenda session. The main issue tonight that we need to address is the Landscape Administrator's interpretation of the ordinance and her recommendation. In preparing this report prior to the agenda session, we did not make a recommendation because it was our understanding that through additional meetings some compromise could be worked out. The Landscape Administrator has made a recommendation that the proposed development could be redesigned to meet the ordinance requirements. The Landscape Administrator's position was created in 1995 and administration of the Tree Protection and Preservation Ordinance was removed from the Planning Division at that time. This position was created in order to hire a professional with knowledge and experience with regard to tree protection and preservation. The interpretation and recommendation regarding the Tree Protection and Preservation Ordinance rests with the Landscape Administrator. Through the development review process, the Planning Division obtains comments and recommendations from the various departments and divisions on proposed development. I, personally, give great importance to these recommendations by other city staff members who are responsible for ensuring proposed projects comply with our city ordinances and as we go through the development review process, we have comments from our fire chief, traffic superintendent, city engineer, etc. We take those very seriously and make sure that when they are reviewing a proposed development that it does comply with our ordinances. I personally support and trust that the Landscape Administrator's interpretation and recommendation that has been made regarding this project is accurate and correct and therefore, I cannot recommend approval of this project as it is currently designed. Finally, the applicant is in disagreement with the Landscape Administrator's interpretation and recommendation and has requested that the Planning Commission decide on this issue. This determination is allowed under Chapter 155.06(D)(4) which is an appeal of the interpretation of the Landscape Administrator to the Planning Commission. The decision this evening with regard to approval or denial of this project rests with the Planning Commission. I wanted to clarify staff's recommendation for denial of this project. Overall, the project is complying with the Parking Lot Ordinance with

Planning Commission Minutes

March 27, 2000

Page 13

regard to landscaping. It is complying with our zoning provisions including setbacks. They are proposing to meet the 25 foot landscape requirement along public streets. It is complying in all areas except tree preservation as interpreted by the Landscape Administrator. I am unable to support this project as currently designed.

Hesse:

Basically, I am going to present my findings in support of my recommendation. I will discuss the particulars of this 18.48 acre project plus the entire CMN Business Park II and the mitigation effort there. I would like to briefly discuss the ordinance and how I interpret the ordinance and end with why my recommendation is for denial of this development as proposed. As you are aware, this site is encompassed in lot 15 of the CMN Business Park II. Lot 7 which adjoins this is intended to be developed with lot 15 as one development. The applicant has asked that we combine the green space requirements of the Overlay District and I believe it would work best if they could also combine their tree preservation for the two lots together as one. The combined site equals 30 acres. To the north, lots 15 and 7 are bordered by Van Asche and to the south is the extension of Shiloh and to the west would be Steele Avenue. All of these three roads are proposed and are under construction at this time. To the east of lot 15 is the unnamed tributary that flows into Mud Creek. The north central part of the two lots is a grove of oak trees. These oak trees consist of approximately 98 rare, landmark trees. The definition of a rare tree is a tree which is 24 inches in diameter or larger. Three of these trees are dead and about 6 are in declining health but that leaves us with 89 trees that are rare. This grove of trees is predominantly post oak trees with some red oaks, hickories, elms, and green ashes included. It's a good example of what your native Ozark forest consists of. The post oaks are in the majority. They are slow growing. It's a rough oak. It's shorter and broader oak with a broad canopy. It is a very tough oak and survives in Ozark clay, rocky soils and it does well in our periods of drought. It's very reminiscent of what survives in our Ozark's forests. It is, however, temperamental to new development. They do not transplant well. It's difficult to recreate a grove of post oak trees. It would be almost impossible to find a post oak in the nursery trade. Typically these trees grow where they grow naturally. They support wildlife. They support nesting habitats. They clean the air and clean the ground water and provide all the attributes that trees provide for our environment. These trees do not do well under the stressed conditions of construction. The only successful way to preserve this grove would be to leave them undisturbed in a group. From the information that I have, this existing grove covers 3.5 acres of the two lots. That number could be different from recent findings. Using the 3.5 acres, it averages 20% of the entire site. That is what is existing out there today. Regarding the entire development, there is an unnamed tributary that borders the

Planning Commission Minutes
March 27, 2000
Page 14

east side of this lot. It is protected in a deed restricted area. The deed restricted area is a part of the overall effort to mitigate the wetlands that protect the water quality of Mud Creek. In order for the entire CMN Business Park II to be developed, it had to have permits from the Corps of Engineers. These permits are required through the Clean Waters Act. In speaking with the environmental consultant for the site, approximately 14 to 15 acres of wetland were identified on the site. Some of those areas will be impacted. Some of it will be preserved as is. Approximately 8 acres of new wetlands are being recreated along with what they consider as a riparian buffer system. What that does is provide an additional tree buffer to further clean the waters of Mud Creek. Part of the mitigation effort and their ability to obtain permits for development requires them to plant 1,043 trees on the overall 305 acre business park. Four hundred twenty five of these trees are to be containerized trees meaning they are in a pot maybe one gallon in size with a minimum caliper of 5/8th inch. The remaining 618 trees are to be bare root trees with a minimum height of 36 inches. We're talking about small trees. Typically that would be appropriate considering they are putting them in a native habitat where they are going to be maintained. It's much more difficult for larger trees to make it. Smaller trees will have a better opportunity. This is in a deed restricted area which requires that these trees be monitored over a 5 year period. Those trees will have to be replaced in kind if they die within a 5 year period. When CMN Business Park II was submitted for review as a commercial subdivision, a tree preservation plan was submitted which represented a total canopy of 17% of the entire 300 acres site. We factored in clearing of the utility easements, required grading, and road construction and we were left with 13% canopy coverage of the entire site. Our ordinance requirements for C-2 requires 15% canopy preservation. They are very close to that requirement. I would like to state that the 3.5 acres on these lots is a part of the 13% preservation for the entire 300 acre site. I think that should be considered. The Tree Protection and Preservation ordinance was adopted by City Council in 1992. This ordinance, just like any of our city's development ordinances must be met prior to Planning Commission approval. The Tree Preservation Ordinance carries the same weight as the Overlay District, Commercial Design Standards, Parking Lot Standards, the Land Disturbance Ordinance and I'm simply requesting that this development meet the minimum standards of the Tree Preservation Ordinance. The ordinance clearly states that: "...proposed developments are to be designed to maximize preservation of rare and landmark trees. All new subdivisions, large scale developments, and commercial developments shall preserve existing trees by percentage minimum canopy." What that means is that the canopy area required for preservation is based on the total area of the site and not a percentage of the existing tree canopy which has created some confusion. When I state that in C-2, you are to preserve 15% of the existing site's canopy, that 15% is factored from

Planning Commission Minutes
March 27, 2000
Page 15

the entire 18.48 acres. Fifteen percent of the 18.48 acres would constitute a 2.7 acre area of trees to be preserved. The main controversy of this ordinance is replacement versus preservation. The ordinance states that: "In the event a tree cannot be preserved as required, tree replacement may be an option." This option keeps the ordinance from rendering a piece of property undevelopable due to existing trees. It leaves an option for pieces of property with great relief in them with major grading issues or there are a various number of things that could affect the ability to preserve trees on a site. In the spirit of the ordinance, I want to state that tree replacement is only an option and it is an option if all else fails. The main reason behind this is that planting young trees with a 4 or 6 inch caliper is no substitute to the older, established trees that exist on a site. These older, native trees are well established and they can handle a lot more of the rigors of the urban environment. There are 2 facts to consider. One is that a young tree planted in a highly commercialized area has a life expectancy of only 10 years. In a lower density residential area, a young tree has a life expectancy of 30 years. When you start with a large, established tree and it a lot more energy. A tree grows off it's roots, the system within the trunk and it's foliage. These trees already have established root systems. They have established canopies. They can pull in and reserve energy much easier than younger trees. That is why they are much more valuable and replacement is only a minimal option in my viewpoint. Two, you consider the energy consumed to get a young tree to grow to the size of an older tree. There is the planting time. The watering time. Fertilizing. The constant care it takes to get a young tree to be the size of these rare 24 inch or larger trees. Basically, I look at replacement in the event that a piece of property cannot be developed and the trees saved. I am passing around 2 options that I've come up with. The first option is the site layout that I showed the Subdivision Committee last week. We basically pushed the development south and spread the parking area to the side. This saves about 11% of site area with existing tree canopy. We're still under the 15% but we're preserving a lot of wonderful trees. I understand that this development has it's criteria for development and it was very clear that they wanted all their parking in the front. The second site layout provides the parking in the front. It provides the same square footage and approximately the same amount of parking. The out lots are reconfigured. Your out lots are probably not as valuable but they are still existing there and the trees are preserved. It seems obvious to me that this site can be designed and the trees preserved and that is why it's difficult for me to except replacement in this situation. Kohl's Department Store, like most chains, has standards and site layouts that traditionally work for their best success. Visibility must be the highest and they achieve that from Fulbright Expressway. Parking must be in front and in this particular case, the adjoining retailer that may come to lot 7 works very well with this development and in typical situations these 2 retailer's

Planning Commission Minutes
March 27, 2000
Page 16

buildings will touch allowing consumers to walk from one store to the other. The squared off building and parking lot is the most economical to develop utilizing the required green space that is required through the Overlay District, by utilizing the tributary banks, that is the most economical because that is where most of your grade change is. Our ordinances, however, were not written to tailor to the optimum development conditions. They were written to meet the purposes of the ordinance. Trees play a role in energy consumption, pollution abatement, and storm water control. The purposes of this tree preservation are varied and they include economic, environmental, and social considerations. Our ordinances were not written to discourage development but to encourage development to coexist with the needs of this community. Trees are a natural resource that we as a community can invest in. Trees are a resource that will serve us for decades to come and that will reflect the community's interest in retaining its local heritage, its beauty, and its natural resources. I would like to recognize that this development rests on a very valuable piece of land. I understand that as land costs rise, it becomes more and more difficult to swallow the cost of tree preservation. However, I feel that the cost of the preservation is relative to the cost of land. In other words, developers that can only afford less expensive acreage will feel the tax of tree preservation just as much as the developers of higher valued land. I see this development approval as setting a precedent for future development of this area. If these developers are not required to meet the ordinance by preserving healthy, heritage trees such as this oak grove, what argument do we have for future developments that do not want to be flexible with their design. It is my hope that these developers will be aware of the activities of their competition and hopefully they can see that by adopting new approaches such as tree preservation, that their business and their success will be enhanced. We must be consistent with our ordinances. We must uphold them or get rid of them. Tonight you are deciding on a preservation of a prime example of oak/hickory Ozark forest. This is a pristine example of why the Tree Preservation Ordinance was created. It was written to protect some of our community's heritage and our natural resources. It's an ordinance that can preserve these resources not only for the present community but for the grandchildren of our present community. After speaking with the developers today, we discussed things that are amiss in our ordinance and I think one very basic thing that is remiss is that we do not really have mitigation options. Developments that do have very pristine tracks of land have basically a very pristine ecosystem that exists there. I think in the future, we need to consider creating other environments and maybe putting them in restricted easements where they will always be there and we can depend on them being there 20 years in the future. I hate to see this development turned down. However, I think there are options out there. I think the site can be flexible and I think the tree preservation requirements can be met. The optimum solution is to preserve the

Planning Commission Minutes
March 27, 2000
Page 17

trees but bring the development in and have everything coexist. I think in the future, we need to consider mitigation efforts for situations like this.

(Applause from the public)

- Johnson: This is a business meeting. I would ask that you please conduct yourselves according to the rules of Commission and we don't have applause, we don't boo people or cheer people. We listen. Kim, I have a couple of questions. Under each of the layouts that you have provided to us, what percentage of this grove of trees would be saved in your drawings?
- Hesse: The first drawing, I believe, it's about 11% of the entire site and probably half of the existing trees. The second layout is probably more. I didn't have instruments to calculate area.
- Ward: When we rezoned this property, were you aware of all of the groves of trees? Is there something we should done before this was rezoned?
- Hesse: I wasn't employed by the city at that time. However, I believe the tree ordinance was taken into account because a tree preservation plan was submitted.
- Ward: How many acres are in this grove of trees?
- Hesse: 3.5 acres.
- Ward: If the layout is changed, could we save 40 to 50 of the trees for sure?
- Hesse: It's going to take additional design work and looking at this very specifically. I would guess that we can save a good percentage of them in a group.
- Ward: Do we have other lots in the CMN park with this situation?
- Hesse: There is one lot with a small grove of trees between it and the expressway which will become a visibility problem in the future possibly. There was a large grove of trees on the far northern lot which is actually just west of the mall. We lost a large percentage of those trees due to grading. Basically, that lot had a large ravine through the very center of it and it's a huge lot. We could have divided that lot at the ravine and saved the trees but to market that piece it was filled. The remainder of that forested area is on a very steep slope. I would guess that are protected based on the nature of where they exist.

Planning Commission Minutes
March 27, 2000
Page 18

Estes: Our tree ordinance provides that the proposed development should be designed to maximize the preservation of rare and landmark trees and where rare and landmark trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities should be pursued in order to save them. You have done that and have provided us with these two layouts. Commissioners Johnson and Ward have both asked what can be preserved. Can the ordinance be complied with by adjustments to the lot layout and placement of the buildings and paved surfaces? I understand you are not an architect and this is a home cooked effort on your part.

Hesse: Yes. It can be done.

Milholland: We appreciate this opportunity to present our plan for this development on lot 7 and lot 15. I am the engineer for this project as well as the overall CMN project. We have worked with the Corps of Engineers and provided a deed restricted area. When CMN was developed, I discussed this with the previous tree preservation administrator. My concern for replanting of trees destroyed for streets and utilities was delayed until each lot was developed. My purpose was not to delay the action of the tree preservation ordinance but the fact that we did not know where the buildings were going to be laid out on those lots. If you do a residential subdivision, you do a tree preservation plan for the whole tract as we did for CMN Business Park II Phases I and II. If someone builds a house on it, I'm assuming they don't have to bring it back to the Planning Commission to move trees off their lot to build a house. I'm assuming that same scenario goes for any development. If I'm wrong in that, I need to be corrected. That was my understanding when CMN was brought before you. You have a letter where we have summarized the total acreage of tree preservation in the CMN Business Park II originally approved. The total canopy of the 305 acres was 52.49 or 17.22% of the total properties. Whenever the streets are totally complete and the utilities are in, we end up with a sellable area with a canopy of 14.39%. If you look at the mitigation plan that is already in place with the Corps that added back 6.2% which is 20.59% total canopy on the 305 acres. If you take out lot 7 and 15, it still leaves 18.07% acres of mature canopy coverage including the existing trees left plus our mitigation area with the Corps. Trees have been the only issue so far. I would like for the representative of Argus Properties to present to you their scenario of a commercial development. They gave us their guidelines for their clients and that is what we used. We assumed that the tree preservation guidelines were the same for both residential and commercial development.

Rankin: I'm with Argus Properties out of Charlotte, North Carolina. We got involved with this property on behalf of tenants and investors and had several conversations with

Planning Commission Minutes
March 27, 2000
Page 19

the planning staff, Mr. Conklin and Ms. Warrick. They sent information to us. I worked with the owners of CMN to acquire these tracts. I hired a local professionals to determine and understand what was required to be able to develop this property. The primary issue we are dealing with is the trees. I think we have accomplished everything by modifying our plans to meet the Commercial Design Standards and Design Overlay District requirements. We made a lot of adjustments and we worked very hard with staff to get to this point. The critical nature of the tree preservation ordinance was never disclosed to us until after we purchased the lots. Our plan is to develop lot 15 and follow up with a development on lot 7. I believe you have the concept plan for the whole development. We went to great lengths to comply with the Overlay District green space requirements particularly on the front portion of this lot. The critical items we were aware of was green space and water quality. We were familiar with those. In general, the efforts made by CMN on the overall subdivision and in dealing with the Corps of Engineers and so on. We tried to keep the bulk of our green space on the east side of the property. There is slope in that area. We tried to minimize channelization of the unnamed tributary. We desired to expand the actual area which was restricted by the Corps in terms of a green space. In addition to our role as a developer, we must consider the needs of the tenant and the needs of the City. We're the middle man. Kohl's typical parking requirements are 6 spaces per 1,000 square feet. We have negotiated with them to meet the city's requirements of 4.8 per 1,000 square feet. They feel like they have made a lot of concessions in this process to make this work. Our thoughts were to keep a green space bulked up on one side of the lot adjacent to the unnamed tributary to help provide connectivity of the green space required with the Corps of Engineers along Mud Creek. We are confused about the language used regarding preservation and replacement. I don't understand Ms. Hesse's percentages. We are not preserving 11% of what is there, I believe she is referring to 11% of the total canopy. It is our position that this plan not only meets but exceeds the 15% mature canopy requirements. It does not preserve more than 2% of the total site. Total site on that plan with replacement comes up to 16%. That is the plan we have submitted and we would like your action on what is before you. Until last week, I thought we were meeting the requirements. In an attempt at compromise, we would like to come up with an additional 2 acres of canopy area perhaps adjoining a deed restricted area which over time would replace and provide this grove type of effect. Additionally, please remember that we are meeting the necessary requirements for replacement. I think that is beneficial. These 2 lots have almost 7 acres of existing trees. They happen to be all clumped together. That makes it much tougher to deal with and less flexible. Had they been spread out, we would have had a better chance to save them.

Planning Commission Minutes
March 27, 2000
Page 20

Harrington: I represent the CMN group who sold this property to Argus Properties. I would like to address the question about how clear is this to people who are looking at what they are required to do when they come into your city. Of course, we have had a lot of encouragement in the course of the CMN project to try to bring in high quality, national level type of retailers because it would be good for the city. They are going to mostly be coming in from out of town and they are not going to be familiar with your local ways of doing things. One of the things I have learned in trying to understand how this has sort of come about is to try and understand how your ordinance works from a developer's perspective where I sit. It took me a long time to figure out that Ms. Hesse was regarding this grove of trees as rare and landmark trees. I'm not sure if there is tree registry being followed and kept. I should have asked that. It seems like a tree registry would serve as notice for developers that a parcel they are considering buying has trees on it that are going to be subject to the provisions for rare and landmark trees. This past week or two, I have been laboring under the impression that these are not in this category because nowhere in your ordinance does it say 24 inch trees are rare or landmark trees that I could find. It's my understanding it is actually on an internal checklist that goes to the engineers. I know for a fact they looked over every possible thing regarding developing this property. It was a 6 week process and Mr. Conklin was extremely helpful as was Dawn Warrick in describing the kind of things they could expect in bringing forward this project. There was never any discussion regarding preservation of this grove of trees. That is not to fault Mr. Conklin or Ms. Warrick. It is not their department and therefore, landscape administration is left in an altogether different spot in the city. If you come in from out of town and talk to the Planning Department about everything you can anticipate then it should cover everything. The sellers, the buyers, and perhaps even the Planning Department understood that replacement would probably be a viable option. Then, an entirely different Department who was probably not even looking at this until a couple of weeks ago, has come to the conclusion that these trees should be preserved. What it amounts to is a total surprise. That is difficult to deal with since this development has been underway for a solid 5 years. If CMN had known that the City was taking the position this grove of trees needed to be preserved, the alignment of the streets which has been changed in the course of the years usually at the request of the city would have been different so that the lot configuration could be different. There's no cohesion with the City's requirements to develop this park. My clients have made every effort to follow all environmental and conservation requirements of the City, the Corps of Engineers, and everyone's requirements. The owners of CMN are very concerned about doing this right. They have hired the best environmental consulting firm in the area and that is why they are doing all that they can with the mitigation plan working with the Corps. The Corps has been giving very positive reviews about

Planning Commission Minutes
March 27, 2000
Page 21

this group and working with them. There has been no effort to avoid this ordinance. We just weren't made aware of it until too late. It is our opinion that the tree ordinance is difficult to understand what category they are under and whether these are trees rare trees or regular trees. Whether replacement is allowed. Throughout the ordinance it mentions replacement. The 24 inch diameter indicating rare trees is not in the ordinance. By the time you are done with it, it's hard for anybody to tell what they are looking at. I know the attorneys for Argus Properties reviewed all these things ahead of time and believed that replacement would meet the spirit of the ordinance. The surprise is very disturbing. I ask that the city, regardless of the outcome of this situation, really give a hard look to trying to give enough public notice to buyers as to what will be required. When you are working with a long range, long term development, if the city makes a decision about preserving a group a trees like this, lets do it before streets are constructed and utilities are located. I think Kim's interpretation is entirely new and has not been previously administered in this manner. I ask this because we don't want to run into this problem repeatedly. People from out of town can't tell what they are required to do. CMN is happy to work with Argus Properties to provide acreage off site to provide a mitigation plan for these tree issues. The ordinance is clearly ambiguous and the process is not defined on how to get from one section to the next. That has caused a lot of confusion. CMN is doing all they can to assist this effort. If denied, we will forward this to council. We don't want to drag this out but we will be glad to arrange meetings to work this out. Ms. Hesse feels the developers are not meeting the ordinances but the developers feel that they are meeting the ordinances. No one is against the trees in any of these projects.

- Irwin: I have been working on this property since June of 1995. Ms. Hesse has been very helpful and wants to work with us. We've met together a couple of times and we've had numerous conversations. She's trying to come up with middle ground. These buyers are sophisticated and are from out of town. They buy property all over the country and they felt confident their interpretation of the way this thing works and they have bought the land. The landowners want to do what is best for the City of Fayetteville. They have another 250 acres out there.
- Johnson: Ms. Harrington has indicated there was considerable surprise on the part of the developer regarding the interpretation of the tree ordinances. Can you respond to that comment?
- Conklin: In 1998, we adopted the *Unified Development Ordinance*. It includes all the ordinances related to development including zoning, subdivisions, tree ordinance, grading, and signs. We have this book available for developers. It includes

Planning Commission Minutes
March 27, 2000
Page 22

definitions of what a rare or landmark tree is. I want to correct that. A rare tree is over 24 inches in diameter. When a developer comes to the Planning Division or talks to us on the phone, our office tries to make them aware that there are other divisions they need to talk with including Engineering, the Sidewalk and Trails Coordinator, and the Landscape Administrator because they deal with ordinances that we do not interpret or enforce through the Planning Division. It would be impossible to identify every issue through a couple of phone conversations. Typically the detailed site plans submitted for review process is when we are looking at the trees and site layout. When the developer submits their plans and gets into the process is when we review the plans and make our recommendations about site specifications.

Johnson: I think Mr. Milholland and Ms. Harrington indicated they were surprised when they learned they might be required to save a large portion of this stand of trees. Do you have reason to challenge their statement to us?

Conklin: That they were surprised?

Milholland: My comment at Subdivision Committee was that 100% of the percentage of the trees required for canopy be existing trees and I disagree with that. I don't think the ordinance ever was intended to mean that 100% of the canopy be from existing trees. I was surprised to hear that.

Conklin: In 1995, the Landscape Administrator's position was created and Ms. Hesse now administers this ordinance. I have seen projects in the past where they have not been held to the 15% and that tree replacement has been allowed. It is the Landscape Administrator's call. It is irrelevant whether I think the trees can be saved or should be saved. I will rely on the expert, Kim Hesse, to make our recommendation.

Hoffman: At Subdivision Commission, we tried to stress that we were looking for a compromise. I don't recall Kim saying that 100% of the existing canopy must be saved. Both of her options presented tonight actually removed some of that grove of trees to accommodate the buildings. The plan submitted tonight is the exact one before the Subdivision Committee and there has been no alterations to that plan. Has the applicant considered an alternate plan?

Milholland: I have met with Mr. Venable, Guy Washburn, and Kim Hesse. It has taken a lot of time to come up with this plan where the drainage and parking would work for the buildings we had. I don't think Ms. Hesse's plans consider the drainage. It is my understanding Kohl's has a feasibility program for their development that

Planning Commission Minutes
March 27, 2000
Page 23

works for them. Even if the drainage worked on Ms. Hesse's plan, it would not produce the unity needed to develop lot 7 and meet their feasibility plan.

Shackelford: I would like for Mr. Rankin to address their concerns about our requirements and meeting their feasibility plan.

Rankin: We have seen Ms. Hesse's plans. We have explored things similar to these. It won't work for us. This is where we are and we want you to consider our plan.

Harrington: We have attempted compromise. Mr. Rankin in offering to plant in excess of 2 acres of trees in a grove type of manner in the required green space there. Actually, we are willing to fulfill the penalty clause of the ordinance and plant over the 10%. We have also offer to provide an offsite area and plant trees. Those are our attempts of compromise. Staff is talking about moving the building and we're talking about providing additional trees.

Estes: I noted that Mr. Rankin claims they are saving 16% of the existing trees.

Rankin: I'm going to rely on Mr. Washburns' numbers.

Washburn: The 16% combines the 2% preserved and 14% replacement.

Estes: Are the replacement trees mandated by the Corps of Engineers?

Washburn: No, sir.

Estes: Are these trees already in the ground?

Washburn: No. They will be put in planters and they will be 2 inch caliper and be placed in the parking area and in front of the buildings and along the right of ways.

Rankin: I have also offered to provide an area off site to plant an additional two acres in the green space area on the east side of the property between the parking lot and the unnamed tributary which is our eastern boundary. This area is adjacent to the Corps of Engineers. They have a 40 foot strip adjacent to the unnamed tributary.

Estes: Replacement trees bother me. We see the pencil size saplings that have been put in the Corps of Engineers area. Is that what you're talking about?

Rankin: No. We're talking about medium canopy trees and large canopy trees at probably 50 percent each.

Planning Commission Minutes
March 27, 2000
Page 24

- Marr: The 16% coverage is 2 acres of replacement trees?
- Estes: No, it's the parking lot trees.
- Marr: So, those are trees that we would have as a result of our parking lot ordinance regardless of whether we preserve trees or not.
- Milholland: They will be new trees with a 2 inch caliper. There is 15% minimum canopy required. We are going to try and save existing trees plus trees required in the parking area and right of way of the road, we have 16%. That meets the requirement. That does not include the green belt plantings which adjoin the Corps' deed restricted area.

Public Comment

- Johnson: It has been clearly brought before us that we have a tree protection and preservation ordinance and we have a landscape administrator who believes that the plan before us does not comply with that. We have seen a show of support for the landscape coordinator's position. There is the opinion that if we do not enforce the tree preservation ordinance that we would be violating that ordinance and that this would set a bad precedent for the future. We have been urged to enforce the tree protection and preservation ordinance. I would request that you inform us of things which we have not heard. Something new.

Randy Zurcher was present.

- Zurcher: Ask yourself a few questions. Why is it so good for the City of Fayetteville for the sophisticated, out of town developers to come in and set up business? They will send their money back to Mississippi, Louisiana, or back where ever. This isn't local business we're talking about. If Ms. Harrington was a good ambassador, she would have updated them on our laws and ordinance and had them prepared.

- Johnson: Please refrain from engaging in personalities, if you would.

Tom McKinney, the conservation chair for the Ozark Headwaters Group of the Sierra Club was present.

- McKinney: We have 175 members. I appreciate the good work this Commission and Ms. Johnson has done as the chair. I feel sure that there is a reference in the ordinance of what constitutes a landmark tree. The oak and hickory trees down there are a

Planning Commission Minutes
March 27, 2000
Page 25

good representation of the Ozark forest. This is also a remnant of the Oak Savannah ecosystem that used to constitute this area. Please follow the tree preservation ordinance and ask these folks to redesign their store to save as many of the trees as possible. The Planning Commission did not approve this rezoning. It was approved by a vote of the City Council on appeal. One of the objections at that time was it was a large rezoning with no plan in place for lot configuration. If this area had been identified years ago, we would not be in this situation.

Kathy Marsh was present.

Marsh: Business and the community should be able to get along. Our surroundings are important but I am a consumer and I want business. These trees provide a valuable habitat. I commend Ms. Hesse.

Jim Wilson, chairman of the Tree and Landscape Advisory Committee, was present.

Wilson: We work very closely with Kim and we wholly support Kim Hesse in this matter. We feel it is a watershed. As goes the Commission's decisions, so goes Fayetteville.

Dan Coody was present.

Coody: There was an article about the future economic development of this city. The core issue was developing Fayetteville as a retail hub for the region. We make Fayetteville this retail hub, we have to do something more attractive than just reproduce the same types of buildings done everywhere else. Environmental concerns must be taken into consideration. They have done a good job with banks of the creeks. I feel they are missing a great marketing opportunity to design these trees into their project. I think Ms. Hesse's comments about coexistence between the environment and business were on target.

Janice Ryan was present.

Ryan: I live on a wooded lot in a wooded town and I love it. Anyone who comes to Fayetteville should honor our culture and our regulations. We want good citizens in our town. I saw a quote from Henry David Thoreau, "The trees indeed have hearts." My hope is that we have hearts as big as these trees and that we will stand behind people who have worked to make the regulations.

Josh Richards from Fayetteville High School was present.

Planning Commission Minutes
March 27, 2000
Page 26

Richards: I got an email about this. I feel we should preserve the trees.

Fran Alexander was present.

Alexander: Historically since this ordinance passed in 1992, there has been a constant battle of the definition of preservation and replacement being okay. If the site was not able to be developed any other way, replacement would be an option. It took the citizens a year and half of meetings. Then it was debated and it came down in pieces. Finally, after great struggle, the citizens managed to put this ordinance together. The horticulturist position was dropped and it was turned over to the Planning Commission to enforce. We continue to go around about preservation and replacement. When the landscape administrator was hired to enforce the ordinance, it became a workable ordinance. A 100 year old tree cannot be replaced.

Patricia Mickelson was present.

Mickelson: My four year old daughter is sad that people are hurting mother earth by cutting down the trees. My 10 year old son wanted to come to the meeting to show he can make a difference. He asked that I tell you he wants his children to have the trees.

Rex Dufour was present.

Dufour: I've heard the terms replacement and mitigation. Canopy is discussed in the ordinance. 15% canopy implies that 15% of the sky will be shaded by leaves. If you're planting new trees, the 15% of shaded sky will not be achieved in my life time. I'm 46 years old. The ordinance should address a time frame to achieve canopy replacement.

Rick McKinney was present.

McKinney: We have seen many trees taken out for development. We should consider the value of old growth trees. We are partners with the CMN development and the City Council approved \$1 million to pave their roads out there and they should work with the city to preserve these trees.

Marquette Myque was present.

Myque: I would like to Fayetteville to be married to economic growth and ecological growth the focus with laser clarity and not grow at any prices. Friendly growth

Planning Commission Minutes
March 27, 2000
Page 27

has been modeled for us. Sedona, Arizona. Ashville. Carmell. San Antonio. Austin. The list goes on. It is possible to grow in harmony with our Ozark natural state spirit. How far can we get with a slogan of concrete, vinyl, asphalt state? We must protect it and grow it.

Further Commission Discussion

- Johnson: We did receive a letter from the League of Women voters. Thank you.
- Estes: In the materials provide by the staff, there is no recommendation. Would the City Planner please opine as to whether or not this project complies with the tree ordinance.
- Conklin: I gave a recommendation earlier. We rely on the landscape administrator to make the determination on the tree ordinance. We rely on engineering to administer the grading and drainage ordinances. As the City Planner, I can not support this project.
- Estes: Regarding commercial design standards and the overlay district, do I understand correctly that the back of this building faces a collector street.
- Conklin: That is correct. Based on the elevations provided tonight, I believe the commercial design standards and the overlay district ordinances have met. They have split face block and a banding scheme with color to break up the expanse of the wall facing Van Asche. I am comfortable that this meets our design standards. They have incorporated columns into their design.
- Hoover: I agree with Kim Hesse and I appreciate her. The tree ordinance is equal to our grading ordinance and drainage ordinance so I will not be voting for this. I still have problems with the design. I was studying the design standards and I see that a development should provide compatibility and transitions between adjoining developments. Because this is such a piece meal development, I don't see how this relates to any adjacent developments. This has a strip center appearance and it leads me to assume this entire area will development in the same manner. No connecting walks are provided for pedestrians. Will I have to go along the boulevard? This doesn't encourage pedestrian traffic. Will all the back doors be facing Van Asche making it an alley? Will all the parking be in the fronts of buildings? I want to picture this whole thing as a unit. Last Friday, I took a training program for Commissioners. We learned some interesting things. I learned that every with City zoning must have a comprehensive plan. We have the 2020 Plan. Within that plan, we can have special area plans or system plans

Planning Commission Minutes
March 27, 2000
Page 28

that take an area and actually do a suggested development for that smaller area to solve some of these issues and also to provide a guideline for the developers and a opportunity to identify and work out some of the problems ahead of time so the developer knows what we are going to expect. I am for preplanning and mass planning since I come from an architectural background. I have received calls from the Community Design Center at the University of Arkansas. This is a unique organization that is a nonprofit design center with some funding from the state. What they provide is advice to city and community organizations to help them do master plans when they see that there is a problem area. They have helped with the Downtown and Dickson Street areas. They have helped the City of Hot Springs. They helped with the parking plan by going to Washington, D.C. to get funds. They are instrumental in implementing good overlay planning. They have offered to assist the city in developing master plan scenarios for this 300 acres. It would not be one plan but they would do scenarios worked out with staff. This could be used when the developer is marketing property to the buyers would know what the city is expecting. It would help everyone in the long run.

Shackelford: If this project does not pass tonight, what is the appeal procedure?

Conklin: They can appeal to the City Council.

MOTION

Commissioner Bunch made a motion to table the item for further study and to go back to the Subdivision Committee after contacting the design center.

Commissioner Marr seconded the motion.

Conklin: I would like to point out that staff has requested further study and alternative designs and it is our understanding that the developer wants a determination on what is presented here tonight.

Johnson: This motion is in the spirit of compromise. I will oppose the motion because I think it has the effect of staff and Subdivision Committee designing the project. Procedurally, this is not a good way to go.

Hoffman: Subdivision Committee would be willing to call special meetings but I will be voting against the motion because we have tried to work this out.

Roll Call

Planning Commission Minutes

March 27, 2000

Page 29

Upon roll call, the motion failed with a vote of 3-6-0. Commissioners Estes, Hoffman, Johnson, Odom, Shackelford, and Ward voted against the motion.

Further Commission Discussion

- Ward: At this point, I think the developers have the right to our decision on the issues in front of us. We need to get on the record about the design standards and whether we approve of them or disapprove of them. Personally, I feel they are meeting the design standards by using the split block and articulating with colors. The City of Fayetteville needs projects like this.
- Johnson: Assuming this Commission does not approve this project and it goes forward on appeal, we should vote separately on design standards.
- Hoffman: I object because the trees are an overriding issue. The project should be approved on that basis and the overall design would have to approved subject to that and it would be totally different if they were to redesign and I wouldn't want our comments on design standards of this project to be representative of a totally different design. I can't see the forest for the trees.
- Estes: I would not want to vote on the commercial design standard and then vote of the tree ordinance. The applicant is entitled to know our thoughts on commercial design standards. I am troubled. I do not believe that it does comply with the commercial design standards. The reason is that the commercial design standards very plainly states that a back of a building cannot face a collector street. I am not aware of that any place in Fayetteville.
- Johnson: I agree with Tim that this project meets the commercial design standards.
- Hoffman: The signage is also an issue. They are asking for additional signs because of the numbers of lots. I have no problem with that because of the size of the lots and the fact that there are streets on both sides.
- Johnson: They're asking for two signs on lot 15.
- Conklin: We are supporting two monument signs.
- Rankin: We would want another sign for lot 7.
- Conklin: They would be allowed one sign on lot 7.

Planning Commission Minutes
March 27, 2000
Page 30

Johnson: There is a 60 foot truck entrance waiver and staff does support that.

Conklin: Condition number five regards the green space requirement as part of the design overlay district. They have requested that the 25% requirement be met with the green space mitigation they provided on lot 15. In December, the applicant contacted staff and I wrote a letter stating that I would support that if this project was presented as a unified development including shared drives and parking. They have shown a future phase two and I am not opposed to allowing that request.

Marr: Regarding Commercial Design Standards, I am comfortable with this.

MOTION

Commissioner Marr made a motion deny this large scale development.

Commissioner Estes seconded the motion.

Roll Call

Upon roll call, the motion passed with a vote of 8-1-0. Commission Shackelford voted against the motion.

CHAPTER 167: TREE PROTECTION AND PRESERVATION

§167.01 PURPOSE. It is the purpose of this chapter to preserve and enhance the natural beauty of Fayetteville, to protect the health and safety of the residents of Fayetteville, and to protect the environment, by providing for regulation of the planting, maintenance, and removal of trees within the city, in order to accomplish where possible, the following objectives:

A. To create a desirable environment for Fayetteville residents, businesses and industries.

B. To moderate effects of sun, wind and temperature changes.

C. To buffer noise, air and visual pollution.

D. To filter pollutants from the air and release oxygen.

E. To decrease stormwater runoff.

F. To stabilize soil and prevent erosion.

G. To provide habitat for wildlife.

H. To increase property values and protect investment.

I. To preserve desirable trees.

J. To help preserve river and stream beds.

K. To screen incompatible land uses.

L. To establish minimum site management requirements for trees protected by this chapter.

M. To encourage public education about trees and landscaping and their value.

N. To analyze a site before a site's natural state is disturbed.

O. To promote energy conservation.

(Code 1991, §162.01; Ord. No. 3699, § 1, 4-20-93)

§167.02 COMMERCIAL TREE PRUNER/ SERVICE CERTIFICATE AND INSURANCE REQUIRED.

A. Certificate Required. A City issued Commercial Tree Pruner/Service Certificate shall be required for the owner and supervisory personnel of each business performing commercial tree work within the City.

B. Workshop. Each applicant shall attend an educational workshop on basic tree science and the proper techniques of tree pruning; or shall demonstrate sufficient knowledge of basic tree science and the proper techniques of tree pruning by scoring 75% or higher on a test provided by the National Arbor Society.

C. Certificate Issuance. A certificate shall be issued when an individual has successfully completed the workshop or scored adequately on the test.

D. Job Site. The certificate shall be available at each job site.

E. Supervision. All persons engaged in the business of trimming trees shall be under the supervision of a certified tree pruner/service.

F. Workers Compensation. Those individuals performing commercial tree work on public grounds shall comply with all workers compensation requirements as set forth under Arkansas law and shall hold a City issued Commercial Tree Pruner/Service Certificate.

G. Licensure. Those individuals performing tree surgery shall comply with licensure requirements as set forth under Arkansas law.

§167.03 HAZARDOUS TREES.

Pruning. Every owner of any tree overhanging a street or sidewalk within the City is responsible for pruning the branches so that such branches shall not obstruct vehicles or pedestrians.

(Code 1991, §162.09; Ord. No. 3699, §9, 4-20-93)

§167.04 LANDMARK AND RARE TREES; TREE REGISTRY.

A. Tree Registry Established. There shall be established a tree registry which shall be a list of trees or groups of trees registered with the City due to documented historic association, rare tree species or extraordinary value because of their age, size or type. Such tree registry shall be maintained by the Landscape Administrator.

B. Voluntary Registration. Rare and landmark trees which are located on existing individual lots with single-family homes shall be protected if voluntarily registered in the tree registry by the property owner. The owner shall be entitled to consultation with the Tree and Landscape Advisory Committee and/or the Landscape Administrator concerning proper care of the tree and a tree evaluation.

C. Preliminary Plat/Large Scale Development/Site Plans. Rare and landmark trees (including those within 100 feet of a site) shall be shown on all preliminary plats, large scale developments, or site plans. The Landscape Administrator or his/her duly authorized representative may visit the site to determine the accuracy of identification.

D. Approval. Prior to removal or pruning of any registered landmark and/or rare tree, approval shall be received from the Landscape Administrator, who may seek review and recommendation from the Tree and Landscape Advisory Committee.

(Code 1991, §162.10; Ord. No. 3699, § 10, 4-20-93; Ord. No. 3901, § 1, 7-5-95; Ord. No. 3963, §6, 4-16-96)

§167.05 TREE PROTECTION IN NEW SUBDIVISIONS, LARGE SCALE DEVELOPMENTS, COMMERCIAL DEVELOPMENTS AND ON GRADING PERMIT REQUESTS LARGER THAN ONE (1 ACRE).

A. Development Design. Proposed development should be designed to maximize the preservation of rare and landmark trees. Where rare and landmark trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and

location of utilities should be pursued in order to save them.

B. Preservation Plan.

1. When Required.

a. Preliminary Plat/ Site Plan. In proposed subdivisions and large scale developments, a tree preservation plan shall be submitted and approved by the Planning Commission as a portion of the preliminary plat or site plan. The tree preservation plan shall be reviewed, and recommendations shall be made to the Planning Commission by the Landscape Administrator. For commercial developments, a tree preservation plan shall be submitted with the Building Permit for approval by the Landscape Administrator. There shall be no land disturbance or tree removal until the tree preservation plan has been approved.

b. Grading Permit. A tree preservation plan shall be submitted with all grading permit applications on parcels larger than one (1) acre. There shall be no land disturbance, grading or tree removal until the tree preservation plan has been approved.

2. Landscape Design Manual. The plan shall be submitted in compliance with instructions set forth in the City of Fayetteville Landscape Design Manual.

3. Site Inspection. A preliminary site inspection followed by periodic inspections will be conducted by the Landscape Administrator to ensure compliance with the Tree Preservation Plan.

4. Tree Preservation Area Designated. Tree preservation areas, including all landmark and rare trees, existing trees located within the rights-of-way, easement areas, or on other public grounds, or trees preserved for the required canopy shall be designated in the tree preservation plan and

shall be protected during land development as designated in the City of Fayetteville Landscape Design Manual.

5. Tree Preservation. Tree preservation area during development:

a. Designation. All landmark and rare trees or those trees designated for preservation shall be identified and protected before any construction activity.

b. Protection. Tree preservation areas shall be protected from construction activity to prevent impingement of construction vehicles, materials, spoils and equipment into the tree preservation area. A barrier must be adequately constructed and maintained on the site along the tree dripline or ten feet from the trunk, whichever is greater. If tree preservation areas are not adequately maintained and protected during construction, the Landscape Administrator shall prescribe remedial measures. All remedial measures shall be completed within the specified amount of time and shall be considered at the final plat approval or certificate of occupancy.

c. Excavation. No filling, excavating or storage of materials, debris, or equipment shall take place within the tree dripline as shown in the tree preservation plan.

6. Removal. No landmark or rare tree shall be removed from land to be developed unless the Landscape Administrator, who may seek consideration and recommendation from the Tree and Landscape Advisory Committee, determines there is no reasonable way the property can be otherwise developed, improved, or properly maintained and the tree saved.

7. Significant to Site. The saving of a rare or landmark tree or a tree shown to be significant to the site shall be considered upon application for any variance under Chapter 156 of the UDO.

C. Canopy Area. In all new subdivisions, large scale developments, and commercial developments, trees shall be preserved as outlined below under the percent minimum canopy:

1. Canopy Area Required.

The square foot percentage of "canopy area required" for preservation in new development is based on the total area of the property. The percent minimum canopy requirement shall not require the planting of trees to achieve the minimum unless trees were previously removed.

ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
RE Residential Estate	25
RA Residential Acre	25
RL Residential Large Lot	20
RS Residential Small Lot	20
R-1 Low Density Residential	25
R-1.5 Moderate Density Residential	20
R-2 Medium Density Residential	20
R-3 High Density Residential	20
R-O Residential Office	20
C-1 Neighborhood Commercial	20

C-2 Thoroughfare Commercial	15
C-3 Central Business	15
C-4 Downtown Commercial	10
I-1 Light Industrial and Heavy Commercial	15
I-2 Heavy Industrial	15
P-1 Institutional	25

D. Prior Tree Removal. The percentage minimum canopy shall be determined upon the tree canopy existing prior to tree removal. If trees have been removed below the minimum percent canopy within five (5) years of application for development approval, the replacement canopy requirement shall be increased by ten (10) percent of total canopy.

E. Replacement Canopy.

1. Like or Similar Species.

In the event a tree cannot be preserved as required, tree replacements, to be determined by the Landscape Administrator, may be required in lieu of the tree designated for preservation. Tree replacements should be of like or similar species in terms of size and ultimate canopy. Standards, specifications and guidelines are provided in the City of Fayetteville Landscape Manual.

2. Canopy. The chart below is to be utilized to give a general quantification of the canopy for each general tree type. Examples of specific trees are listed in the City of Fayetteville's Landscape Design Manual.

GENERAL TREE TYPE	ULTIMATE CANOPY (Sq. Ft.)
Large Shade Tree or Major Street Tree	800
Medium Street Tree and Most Conifers	500
Small Flowering Trees	300

(Code 1991, §162.11; Ord. No. 3699, §11, 4-20-93; Ord. No. 3925, §8, 10-3-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §7, 4-16-96; Ord. No. 4008, §1, 12-17-96)

§167.06 TREE PLANTING, MAINTENANCE AND REMOVAL ON STREET RIGHTS-OF-WAY AND OTHER PUBLIC GROUNDS.

A. Follow Landscape Manual. All tree planting, maintenance and removal on public grounds shall follow the standards, specifications and guidelines provided in the City of Fayetteville Landscape Manual, which shall be reviewed periodically by the Tree and Landscape Advisory Committee.

B. Tree Planting. Trees may be planted within street rights-of-way or on other public grounds only after notification to the Landscape Administrator; and, providing the selection and location of said trees is in accordance with the guidelines of this chapter.

C. Tree Removal. Trees shall not be removed from a street right-of-way or other public grounds unless approval is received from the Landscape Administrator.

D. Damage to Trees. It shall be a violation of this chapter to damage, destroy or mutilate any tree in a public right-of-way or on other public grounds, or attach or place any rope or wire (other than one to support a young or broken tree), sign, poster, handbill or any other thing to any such tree.

E. Top or Cutback to Stubs. It shall be unlawful for any person to top or cut back to stubs the crown of any tree in street rights-of-way or on other public grounds.

F. Maintenance. The City shall have the right to prune, maintain and remove any tree within the street rights-of-way, alleys, squares, and all public grounds when such interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

G. Line of Sight. Trees shall not be planted to conceal a fire hydrant from the street or impede the line of sight on any street.

H. Storm Damage. Trees severely damaged by storms or other causes where required pruning practices are impractical may be exempted from this chapter.

I. City Employees. City employees performing tree work on public grounds shall attend an educational workshop on basic tree science and the proper techniques of tree pruning. A certificate will be issued when an individual has successfully completed the workshop.

(Code 1991, §162.07; Ord. No. 3699, §6, 4-20-93; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §5, 4-16-96)

§167.07 SUCCESSORS IN INTEREST.

Successors in interest of any person who as a developer of a subdivision (except single-family homeowners), large scale development, commercial development, or conditional uses in other zones which are commercial in nature which have been subject to the requirements of this chapter shall abide by the requirements and conditions to which such developer of a subdivision (except single-family homeowners), large-scale development, commercial development, or conditional uses in other zones which are commercial in nature was subject, including compliance with the tree preservation plan.

(Code 1991, §162.13; Ord. No. 3699, §14, 4-20-93)

Cross Reference: Definitions, Chapter 152; Administration, Chapter 152; Appeals, Chapter 155; Enforcement, Chapter 153; Conflicts, §150.13.

§167.08 LANDSCAPING. The City shall have the right to plant, reserve, prune, maintain and remove trees within all street rights-of-way, alleys, squares and other public grounds, as may be necessary to preserve or enhance the symmetry and beauty of such public grounds. Standards, specifications and guidelines are provided in the City of Fayetteville Landscape Manual.

(Code 1991, §162.06; Ord. No. 3699, §6, 4-20-93; Ord. No. 3963, §4, 4-16-96)



4/18/00
CITY COUNCIL

April 12, 2000

Mayor Hanna
Members of City Council
City of Fayetteville

RE: LSD: 00-05.00
Steele Crossing Shopping Center

Thank you for your input on our project. After listening to comments made and reading the newspapers, There are a few points that I would like to clarify and/or emphasize.

While the ordinance gives the Landscape Administrator the sole power to determine the "reasonable way the property can be developed," there are numerous, critical issues to be considered other than merely sliding the buildings around the site. The outparcels are an essential ingredient in the economic feasibility of the project, as is storefront visibility and adequate, accessible parking. The issues surrounding a guaranteed, acceptable site plan configuration have already caused delays in finalizing an agreement for occupancy of the space shown a major Tenant 'A'.

The proposed tenants have made compromises to get to the revised plan as submitted. All have reduced their standards as to number of parking spaces. Additionally each of the users has agreed to the extra cost of improving the rear elevations of their buildings. The proposed Major Tenant on Lot 7 has agreed to cut the rear corner off of the building in order to allow the building to be shifted to the west to increase the size of the tree save area.

The newspapers have reported that there are 100 rare or landmark trees on the site which are to be removed with our plan. In fact there are 81, live trees in the two lots with 16 (19.7% of the existing trees) being preserved. One of the Tree Administrator's alternative plans, which we have modified slightly, saves approximately 28 trees in the building area, our plan saves 14 trees. These trees are to be replace with 15, six-inch trees which are in addition to the 233 replacement trees already shown on the plans.

It is our goal to create a first class development through the investment of over \$20,000,000 which will augment the existing retail synergy in Fayetteville. This project is a part of the initial return to be generated by the City's investment in CMN's road and infrastructure.

Yours truly,
ARGUS Properties

A handwritten signature in black ink, appearing to read "J. Kirk Rankin".

J. Kirk Rankin

STEELE CROSSING SHOPPING CENTER

POTENTIAL SALES TAX REVENUES

TENANT	SIZE	PROJECTED SALES	TOTAL SALES TAX	STATE TURNBACK	CITY OF COUNTY	CITY SHARE OF COUNTY	TOTAL CITY
			6.250%	4.250%	1.000%	0.3733%	
KOHL'S	86,000	\$ 19,500,000	1,218,750	828,750	195,000	72,794	267,794
Major A	32,000	\$ 6,400,000	400,000	272,000	64,000	23,891	87,891
shops I	9,800	\$ 2,205,000	137,813	93,713	22,050	8,231	30,281
	127,800	\$ 28,105,000					\$ 385,966
MAJOR B	122,500	\$ 24,500,000	1,531,250	1,041,250	245,000	91,459	336,459
SHOPS II	7,600	\$ 1,710,000	106,875	72,675	17,100	6,383	23,483
	130,100	\$ 26,210,000					\$ 359,942
257,900 Square Feet							
Fast Food	O/P A	\$ 3,000,000	187,500	127,500	30,000	11,199	41,199
Restaurant	O/P B	\$ 2,750,000	171,875	116,875	27,500	10,266	37,766
Bank	O/P C		-			-	-
		\$ 5,750,000					\$ 78,966
TOTALS		\$ 60,065,000					\$ 824,873

JOBS

300 TO 400 FULL AND PART TIME JOBS CREATED

TOTAL INVESTMENT

Approximately \$21,500,000

TREE COUNTS

	LOT 15		LOT 7	TOTALS
EXISTING LIVE TREES	62		19	81
- SAVED SALVAGE	11 4		1	16
REPLACEMENT 2"	65 52 11 128	parking lot R/W Kohl island	72 33 105	233
BONUS 6"		15		15

SUMMARY:

TREES REMOVED	65
TREES SAVED	16
TREES REPLACED	248
TOTAL NEW TREES	264

4/18/00
CITY COUNCIL

INTERACTIVE

R E S O U R C E S

FAX TRANSMITTAL
PAGE 1 OF 5
Fax 501-575-8257

Date: April 17, 2000

To: Hon. Fred Hanna, Jr., Mayor, and Members of the City Council
Hon. Cyrus Young, Hon. Ron Austin, Hon. Kyle Russell, Hon. Trent,
Trumbo, Hon. Bob Davis, Hon. Kevin Santos, Hon. Heather A. Daniel,
Hon. Robert Reynolds
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

117 Park Place
Point Richmond
California 94801
510-236-7435
Fax 510-232-5325
www.lntres.com

Architecture
Engineering
Planning
Construction Review
Failure Analysis

From: Thomas K. Butt, FAIA

Subject: Kohl's Department Store

Contract:

Via: ☒ Fax ☒ For Your Information
☐ US Mail ☐ For Your Approval
☐ Overnight Mail ☐ For Your Review and Comment
☐ Courier ☐ As You Requested
☐ Pick-Up ☐ As Indicated

Materials Transmitted: Letter dated today. Please distribute to addressees.

Project ☐Correspondence ☐

The documents accompanying this teletax communication contain confidential information which may be legally privileged. This information is intended only for the use of the intended recipient named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this telecopied information except its direct delivery to the intended recipient named above is strictly prohibited. If you have received this fax in error, please return the original documents to us.

INTERACTIVE

R E S O U R C E S

• • •
Architecture
Engineering
Planning
Construction Review
Failure Analysis

• • •
Principals:

Thomas K. Butt, FATA
Architect

John E. Clinton, SE, AIA
Structural Engineer, Architect

Charles L. Beavers, AIA
Architect

Edward J. Arisman, AIA
Architect

Sharon Waterman, AIA
Architect

• • •
117 Park Place
Point Richmond
California, 94801
510. 236. 7435
Fax 510. 232. 5325
www.intres.com

April 16, 2000

Hon. Fred Hanna, Jr., Mayor, and Members of the City Council
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701
Fax 501-575-8257

Subject: Kohl's Department Store Planing Commission Appeal

Dear Mayor Hanna and Members of the City Council:

Thanks to the internet, I have been following with interest the controversy over the prospective Kohl's Department Store and the cutting of an urban forest of century old oak trees.

Why am I, a Californian, interested in this? I grew up in Fayetteville, spending my first 23 years there, and I still maintain a home and 40 acres on the rural southwest side of Fayetteville on Mt. Kessler. I remember when College Avenue was a two-lane highway with maple and oak trees arching across to touch one another, forming a vaulted canopy of autumn color so unique that it was tourist attraction, drawing visitors from around the state.

Like you, I serve on a city council (Richmond, California) often faced with land use decisions similar to the one you will be considering on April 18. As an architect and an amateur politician, I have come to believe that the quality of development a city gets is largely a function of its own standards.

In considering the appeal, I ask you to pay particular attention to a letter from Scott Greenawalt that is being circulated via email. I have attached the entire letter (which you have probably seen), but a portion of it reads:

For 4 years I was in charge of the Wal-Mart prototype, then for 3 years I did the Sam's prototype. I designed stores all over the country, and worked with planning commissions and review boards. I would take a store design, then modify it to fit each site and restrictions imposed by the local authorities. Wal-Marts in California, Florida, and Colorado looked quite innovative and special than stores seen around here where little is done by local boards. We had to abide by building aesthetic review boards, landscape review boards, EPA reviews, and many other public interest groups. Granted the big boys did not care for changes, but they were made in order for us to be a good neighbor in the community.

Hon. Fred Hanna, Jr., Mayor, and Members of the City Council
April 16, 2000
Page 2

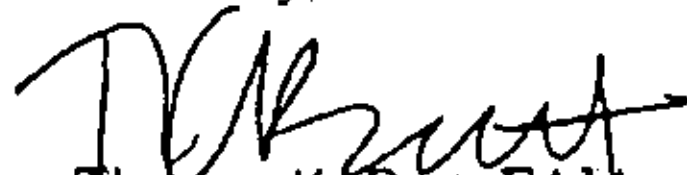
This inside experience with Wal-Mart struck a chord with me, because it happens that my Fayetteville property is on Finger Road, just south of the Wal-Mart Supercenter on Highway 62. On the inside, that particular facility is just like Wal-Mart Supercenters all over the country. On the outside, it's one of the ugliest. It has zero landscaping in the parking lot, and the exterior is concrete block painted gray with garish signage. In other cities, the same store is constructed of much more aesthetically pleasing materials, well-designed signage, and parking lots are lavishly landscaped, including hundreds of trees forming shady canopies. The reason, as Mr. Greenawalt so eloquently explains, lies simply with the motivation of individual communities to set and enforce development standards.

In today's game of making successful cities, the points are going to those that have preserved and enhanced quality of life. In the information age, that is what counts. The health of a city is measured by many things: its economic stability, schools, infrastructure, arts and culture, and the stewardship of the environment and a city's history. I want to see Fayetteville continue to grow and thrive economically, but I do not want to see it eventually lose the ambiance and natural beauty that can never be replaced.

It appears that, in the case of Kohl's, you actually can have your cake and eat it. Apparently, there is a way to conform to the tree ordinance, build the store, and preserve these ancient oaks. I recommend that you draw on the resources of the world-class architecture and landscape architecture schools at the University of Arkansas to show how economic growth and sustainable design can come together successfully, not only on the prospective Kohl's site, but elsewhere in Fayetteville.

Sustain the planning commission's decision, then sit down with Kohl's and find a way to make the project work.

Sincerely,



Thomas K. Butt, FAIA

Letter received via email

Patricia;

My name is Scott Greenawalt. I am on the NW Arkansas Email list, and I feel that I should give you my input on the tree ordinance. I am currently living SW of Bentonville starting up a cattle farm. From 1987 to 1994, I was a staff Architect for Wal-Mart Stores, Inc. in Bentonville. We had 4 Architects each working for a different store type. For 4 years I was in charge of the Wal-Mart prototype, then for 3 years I did the Sam's prototype. I designed stores all over the country, and worked with planning commissions and review boards. I would take a store design, then modify it to fit each site and restrictions imposed by the local authorities. Wal-Marts in California, Florida, and Colorado looked quite innovative and special than stores seen around here where little is done by local boards. We had to abide by building aesthetic review boards, landscape review boards, EPA reviews, and many other public interest groups. Granted the big boys did not care for changes, but they were made in order for us to be a good neighbor in the community. The press was very important to a good relationship as they influenced the higher ups.

Let me say that very rarely did we ever give up on a community if the economics were there. We would always modify our design to accommodate what was required. Even though we protested to the very end, yes, we threatened to pull out, but again it is mostly a bluff. Our real estate people who found the site for us were the ones who advised us on what we could get away with. I seriously would look into who is selling them this particular site, and that will be the culprit who is trying to benefit and influence your review boards. Certainly this real estate firm knows about your landscape ordinance, and has tried to convince the buyer that they could get around it. I would put these people on your "To Watch" list.

What is more, after we would spruce up our design, we would publicize it to show our community support. Again, the publicity is King. Kohl's, I am sure has an architectural and site engineering staff that could provide some alternate solutions to the submitted design. Yes, it will cost them money, but they were gambling on the site without the ordinance. You need to contact Kohl's directly through the Landscape enforcer. Also, check the Civil Engineer to see if they are qualified enough to design a tree friendly atmosphere. Most civils do not carry a landscape Architect on staff. Also, Kohl's is building a store in Rogers. They will use the same engineers and builder probably to do the Fayetteville store. They will not give up building in the Fayetteville market, if one is in Rogers. If this site does not pull through, they will pick another close by. They will not pull out of a lucrative market. Believe me, trees do not kill their presence, if they lose this one battle.

A landscape ordinance is a necessary part of Responsible and Sustainable Development just as a Drainage, Signage and Zoning Ordinances. If they can develop with these last 3, then why would a landscape requirement stop them. Smart thinking can resolve their development woes. Your Mayor, Fred Hanna, has a Son-In-Law, Doug Bryant, that is a Senior Staff Architect with Wal-Mart Stores, Inc. I worked with him on many project designs for Wal-Marts. Doug knows what a corporate structure can do with a store design to fit the requirements. He can inform your mayor that this site is an opportunity, not a problem.

My advice is to keep up with your activities, get more designers and landscape architects involved, contact Kohl's. Your real estate salesman are handling the deal and may not represent the City's needs to them correctly. I am sure Kohls buying the site is totally dependent on the real estate firm obtaining the proper approvals. Wal-Mart never bought a Site until the locals obtained approval.

Finally, this will be a test case for your Ordinance. It is imperative that this case be upheld. If it loses, your ordinance will be useless, and many court cases will follow if others do have to abide by the ordinance and Kohls does not.

I would be glad to give you any input, but I will be out of town next week and will miss your City meeting. By the way, Wal-Mart had to abide by the City of Bentonville's new landscape ordinance when they built their new Distribution Center Southwest of Town. They objected, but by that time

we had alerted the neighbors and city staff what they might pull. Sorry for the long tirade , but this is important!

Scott Greenawalt
Jamesfarms
Sustainable Architecture and Agriculture

Save the Trees for the next Generation.

It takes 100 years to grow those trees. but only an hour to destroy them.



FAYETTEVILLE

LEGAL DEPARTMENT
CITY ATTORNEY DIVISION

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

DEPARTMENTAL CORRESPONDENCE

To: Tim Conklin, City Planner

From: Jerry E. Rose, City Attorney *J.E.R.*

Date: March 22, 2000

Re: **Tree Protection and Preservation Ordinance**

This memo is in response to your request for an interpretation of Fayetteville's Tree Protection and Preservation Ordinance. Your request asks for an interpretation as to when tree replacements may be authorized as part or all of the canopy area required.

Section 167.05(B) of the Unified Development Ordinance provides that a tree preservation plan be submitted and approved by the Planning Commission as a portion of the preliminary plat or site plan. The plan is to be reviewed and recommendations made to the Planning Commission by the Landscape Administrator. Section 167.05(B)(4) is specific as to what must be contained in the plan, i.e. tree preservation areas, including all landmark and rare trees, existing tree located within the rights-of-way, easement areas, or on other public grounds, or trees preserved for the required canopy shall be designated in the tree preservation plan and shall be protected during land development.

Section 167.05(B)(6) specifically states that no landmark or rare tree shall be removed from land to be developed unless the Landscape Administrator determines there is no reasonable way the property can be otherwise developed, improved, or properly maintained and the tree saved.

Section 167.05(C) provides for a percent minimum canopy to be maintained in various zoning designations. In the event a tree cannot be preserved as required, tree replacements, to be determined by the Landscape Administrator may be required in lieu of the tree designated for preservation.

Accordingly, the Landscape Administrator is involved with the development process in three specific areas; (1) to review and make recommendations to the Planning Commission regarding the Tree

Preservation Plan submitted with the preliminary plat or site plan; (2) to make a decision as to whether or not landmark or rare trees shall be removed from the land developed (which requires a determination that there's no reasonable development alternatives; and (3) what type of tree replacement is required in the event a tree cannot be preserved as required. Only the first two decisions are relevant to our discussion.

The Landscape Administrators decisions regarding a tree preservation plan are merely review and recommendation. The decision as to whether or not plat approval and/or large scale development approval is granted rests with the Planning Commission. The Landscape Administrators decision as to whether or not to allow the removal of landmark or rare trees is appealable under §155.06(D)(4) of the Unified Development Ordinance to the Planning Commission.

I am reluctant to substitute my judgment on these appealable issues for those of the Planning Commission or Landscape Administrator. The City Council by ordinance has chosen not to place the discretion for these decisions in the hands of the City Attorney. The administrator's interpretation and enforcement of the tree protection and preservation sections of the Unified Development Ordinance are left to the Landscape Administrator. (Chapter 152 of the U.D.O.)

If I may provide anything further within the parameters of our ordinances, you have only to ask. I hope the above is of some assistance to the Planning Commission and staff in their difficult decisions.

/cbp

**LSD0-5: LARGE SCALE DEVELOPMENT
STEELE CROSSING, PP212**

This item was submitted by Mel Milholland of Milholland Engineering on behalf of Argus Properties for property located on lot 15 of CMN Business Park. The property is zoned C-2, Thoroughfare Commercial and contains approximately 18.48 acres.

Mel Milholland, Guy Washburn, Kirk Rankin, Micki Harrington, and Jim Irwin were present on behalf of the request.

Staff Recommendation

Due to the outstanding issues of this project, staff does not have a recommendation at this time. However, if the Planning Commission chooses to approve this development, staff recommends that approval be subject to the following:

1. Planning Commission determination of compliance with Design Overlay District and Commercial Design Standards including signage. This development will have street frontage on both Shiloh Drive and Van Asche Drive.
2. Planning Commission determination of a waiver request to allow 2 ground mounted monument signs. The applicant is requesting one sign for each major tenant. Staff supports this request with the condition that both signs be in compliance with the monument signage requirements of the sign ordinance.
3. Planning Commission determination of compliance with the Tree Preservation Ordinance.
4. Planning Commission determination of waiver request to allow a 60 foot truck entrance with no islands off Van Asche Drive. Staff supports this waiver due to the fact that a large radius will be needed by the delivery trucks. This will be the only drive for this development along the Van Asche frontage which measures 1,042 feet.
5. Planning Commission determination of whether to allow the 25% green space requirement of the Design Overlay District regulations to be met for a future adjoining development with this large scale development. This project has a large green belt running along the east side totaling 130,686 square feet. The future phase would be on the west side with an area of 11.52 acres.
6. The Final Plat for Phase I and II of the CMN Business Park II must be filed prior to obtaining signatures for Occupancy Permits for these buildings.

Planning Commission Minutes

March 27, 2000

Page 11

7. All drainage outside of the street right of way is privately owned and maintained.
8. All Plat Review and Subdivision comments.
9. Staff approval of final detailed plans, specifications, and calculations for grading, drainage, water, sewer, fire protection, streets, sidewalks, parking lots, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements.
10. Sidewalk construction in accordance with current standards to include a 10 foot minimum green space with a 6 foot minimum sidewalk along Shiloh Drive and Van Asche Drive. The driveway approaches are to be Portland Cement Concrete.
11. Approval is subject to all the conditions of approval for CMN Business Park, Phase II.
12. Large Scale Development approval is valid for one calendar year.
13. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project
 - c. Completion of all required improvements or the placement of a surety with the City as required by §158.01. Further, all improvements necessary to serve the site and protect the public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Commission Discussion

Johnson: This building is adjacent and between Shiloh and Van Asche Drive just south of the mall. Staff has not made a recommendation. We have various conditions of approval. The Commission must make a determination on Commercial Design Standards and Design Overlay District issues. We have two waiver requests that we must address. One is to allow 2 ground mounted monument signs and the other is to allow a 60 foot truck entrance with no island off Van Asche. Staff supports both of the waivers. We must determine compliance with the Tree Preservation Ordinance. We must determine whether to allow the 25% green space requirement of Design Overlay to be met on this site for this and a future adjoining development.

Conklin: The Planning Division has received 3 phone calls from people unable to be here

this evening. Stacy Issinghoff stated that if the tree preservation ordinance isn't enforced now, we will not be able to enforce it with other developments. James Knuzleman residing at #2 Mount Nord is in support of the tree ordinance and wants it to be enforced with this development. Brett Park residing at 230 W. Center did not want to see the resources of trees unnecessarily squandered and companies locating in Fayetteville should respect our tree ordinance. David Bugue residing at 1158 N. Maxwell Drive wanted to preserve the trees and move the project some other place. This is a large scale development containing approximately 128,000 square feet. Staff has provided a staff report without a recommendation but setting forth conditions of approval. We toured this site at agenda session. The main issue tonight that we need to address is the Landscape Administrator's interpretation of the ordinance and her recommendation. In preparing this report prior to the agenda session, we did not make a recommendation because it was our understanding that through additional meetings some compromise could be worked out. The Landscape Administrator has made a recommendation that the proposed development could be redesigned to meet the ordinance requirements. The Landscape Administrator's position was created in 1995 and administration of the Tree Protection and Preservation Ordinance was removed from the Planning Division at that time. This position was created in order to hire a professional with knowledge and experience with regard to tree protection and preservation. The interpretation and recommendation regarding the Tree Protection and Preservation Ordinance rests with the Landscape Administrator. Through the development review process, the Planning Division obtains comments and recommendations from the various departments and divisions on proposed development. I, personally, give great importance to these recommendations by other city staff members who are responsible for ensuring proposed projects comply with our city ordinances and as we go through the development review process, we have comments from our fire chief, traffic superintendent, city engineer, etc. We take those very seriously and make sure that when they are reviewing a proposed development that it does comply with our ordinances. I personally support and trust that the Landscape Administrator's interpretation and recommendation that has been made regarding this project is accurate and correct and therefore, I cannot recommend approval of this project as it is currently designed. Finally, the applicant is in disagreement with the Landscape Administrator's interpretation and recommendation and has requested that the Planning Commission decide on this issue. This determination is allowed under Chapter 155.06(D)(4) which is an appeal of the interpretation of the Landscape Administrator to the Planning Commission. The decision this evening with regard to approval or denial of this project rests with the Planning Commission. I wanted to clarify staff's recommendation for denial of this project. Overall, the project is complying with the Parking Lot Ordinance with

regard to landscaping. It is complying with our zoning provisions including setbacks. They are proposing to meet the 25 foot landscape requirement along public streets. It is complying in all areas except tree preservation as interpreted by the Landscape Administrator. I am unable to support this project as currently designed.

Hesse: Basically, I am going to present my findings in support of my recommendation. I will discuss the particulars of this 18.48 acre project plus the entire CMN Business Park II and the mitigation effort there. I would like to briefly discuss the ordinance and how I interpret the ordinance and end with why my recommendation is for denial of this development as proposed. As you are aware, this site is encompassed in lot 15 of the CMN Business Park II. Lot 7 which adjoins this is intended to be developed with lot 15 as one development. The applicant has asked that we combine the green space requirements of the Overlay District and I believe it would work best if they could also combine their tree preservation for the two lots together as one. The combined site equals 30 acres. To the north, lots 15 and 7 are bordered by Van Asche and to the south is the extension of Shiloh and to the west would be Steele Avenue. All of these three roads are proposed and are under construction at this time. To the east of lot 15 is the unnamed tributary that flows into Mud Creek. The north central part of the two lots is a grove of oak trees. These oak trees consist of approximately 98 rare, landmark trees. The definition of a rare tree is a tree which is 24 inches in diameter or larger. Three of these trees are dead and about 6 are in declining health but that leaves us with 89 trees that are rare. This grove of trees is predominantly post oak trees with some red oaks, hickories, elms, and green ashes included. It's a good example of what your native Ozark forest consists of. The post oaks are in the majority. They are slow growing. It's a rough oak. It's shorter and broader oak with a broad canopy. It is a very tough oak and survives in Ozark clay, rocky soils and it does well in our periods of drought. It's very reminiscent of what survives in our Ozark's forests. It is, however, temperamental to new development. They do not transplant well. It's difficult to recreate a grove of post oak trees. It would be almost impossible to find a post oak in the nursery trade. Typically these trees grow where they grow naturally. They support wildlife. They support nesting habitats. They clean the air and clean the ground water and provide all the attributes that trees provide for our environment. These trees do not do well under the stressed conditions of construction. The only successful way to preserve this grove would be to leave them undisturbed in a group. From the information that I have, this existing grove covers 3.5 acres of the two lots. That number could be different from recent findings. Using the 3.5 acres, it averages 20% of the entire site. That is what is existing out there today. Regarding the entire development, there is an unnamed tributary that borders the

east side of this lot. It is protected in a deed restricted area. The deed restricted area is a part of the overall effort to mitigate the wetlands that protect the water quality of Mud Creek. In order for the entire CMN Business Park II to be developed, it had to have permits from the Corps of Engineers. These permits are required through the Clean Waters Act. In speaking with the environmental consultant for the site, approximately 14 to 15 acres of wetland were identified on the site. Some of those areas will be impacted. Some of it will be preserved as is. Approximately 8 acres of new wetlands are being recreated along with what they consider as a riparian buffer system. What that does is provide an additional tree buffer to further clean the waters of Mud Creek. Part of the mitigation effort and their ability to obtain permits for development requires them to plant 1,043 trees on the overall 305 acre business park. Four hundred twenty five of these trees are to be containerized trees meaning they are in a pot maybe one gallon in size with a minimum caliper of 5/8th inch. The remaining 618 trees are to be bare root trees with a minimum height of 36 inches. We're talking about small trees. Typically that would be appropriate considering they are putting them in a native habitat where they are going to be maintained. It's much more difficult for larger trees to make it. Smaller trees will have a better opportunity. This is in a deed restricted area which requires that these trees be monitored over a 5 year period. Those trees will have to be replaced in kind if they die within a 5 year period. When CMN Business Park II was submitted for review as a commercial subdivision, a tree preservation plan was submitted which represented a total canopy of 17% of the entire 300 acres site. We factored in clearing of the utility easements, required grading, and road construction and we were left with 13% canopy coverage of the entire site. Our ordinance requirements for C-2 requires 15% canopy preservation. They are very close to that requirement. I would like to state that the 3.5 acres on these lots is a part of the 13% preservation for the entire 300 acre site. I think that should be considered. The Tree Protection and Preservation ordinance was adopted by City Council in 1992. This ordinance, just like any of our city's development ordinances must be met prior to Planning Commission approval. The Tree Preservation Ordinance carries the same weight as the Overlay District, Commercial Design Standards, Parking Lot Standards, the Land Disturbance Ordinance and I'm simply requesting that this development meet the minimum standards of the Tree Preservation Ordinance. The ordinance clearly states that: "...proposed developments are to be designed to maximize preservation of rare and landmark trees. All new subdivisions, large scale developments, and commercial developments shall preserve existing trees by percentage minimum canopy." What that means is that the canopy area required for preservation is based on the total area of the site and not a percentage of the existing tree canopy which has created some confusion. When I state that in C-2, you are to preserve 15% of the existing site's canopy, that 15% is factored from

the entire 18.48 acres. Fifteen percent of the 18.48 acres would constitute a 2.7 acre area of trees to be preserved. The main controversy of this ordinance is replacement versus preservation. The ordinance states that: "In the event a tree cannot be preserved as required, tree replacement may be an option." This option keeps the ordinance from rendering a piece of property undevelopable due to existing trees. It leaves an option for pieces of property with great relief in them with major grading issues or there are a various number of things that could affect the ability to preserve trees on a site. In the spirit of the ordinance, I want to state that tree replacement is only an option and it is an option if all else fails. The main reason behind this is that planting young trees with a 4 or 6 inch caliper is no substitute to the older, established trees that exist on a site. These older, native trees are well established and they can handle a lot more of the rigors of the urban environment. There are 2 facts to consider. One is that a young tree planted in a highly commercialized area has a life expectancy of only 10 years. In a lower density residential area, a young tree has a life expectancy of 30 years. When you start with a large, established tree and it a lot more energy. A tree grows off it's roots, the system within the trunk and it's foliage. These trees already have established root systems. They have established canopies. They can pull in and reserve energy much easier than younger trees. That is why they are much more valuable and replacement is only a minimal option in my viewpoint. Two, you consider the energy consumed to get a young tree to grow to the size of an older tree. There is the planting time. The watering time. Fertilizing. The constant care it takes to get a young tree to be the size of these rare 24 inch or larger trees. Basically, I look at replacement in the event that a piece of property cannot be developed and the trees saved. I am passing around 2 options that I've come up with. The first option is the site layout that I showed the Subdivision Committee last week. We basically pushed the development south and spread the parking area to the side. This saves about 11% of site area with existing tree canopy. We're still under the 15% but we're preserving a lot of wonderful trees. I understand that this development has it's criteria for development and it was very clear that they wanted all their parking in the front. The second site layout provides the parking in the front. It provides the same square footage and approximately the same amount of parking. The out lots are reconfigured. Your out lots are probably not as valuable but they are still existing there and the trees are preserved. It seems obvious to me that this site can be designed and the trees preserved and that is why it's difficult for me to except replacement in this situation. Kohl's Department Store, like most chains, has standards and site layouts that traditionally work for their best success. Visibility must be the highest and they achieve that from Fulbright Expressway. Parking must be in front and in this particular case, the adjoining retailer that may come to lot 7 works very well with this development and in typical situations these 2 retailer's

buildings will touch allowing consumers to walk from one store to the other. The squared off building and parking lot is the most economical to develop utilizing the required green space that is required through the Overlay District, by utilizing the tributary banks, that is the most economical because that is where most of your grade change is. Our ordinances, however, were not written to tailor to the optimum development conditions. They were written to meet the purposes of the ordinance. Trees play a role in energy consumption, pollution abatement, and storm water control. The purposes of this tree preservation are varied and they include economic, environmental, and social considerations. Our ordinances were not written to discourage development but to encourage development to coexist with the needs of this community. Trees are a natural resource that we as a community can invest in. Trees are a resource that will serve us for decades to come and that will reflect the community's interest in retaining its local heritage, its beauty, and its natural resources. I would like to recognize that this development rests on a very valuable piece of land. I understand that as land costs rise, it becomes more and more difficult to swallow the cost of tree preservation. However, I feel that the cost of the preservation is relative to the cost of land. In other words, developers that can only afford less expensive acreage will feel the tax of tree preservation just as much as the developers of higher valued land. I see this development approval as setting a precedent for future development of this area. If these developers are not required to meet the ordinance by preserving healthy, heritage trees such as this oak grove, what argument do we have for future developments that do not want to be flexible with their design. It is my hope that these developers will be aware of the activities of their competition and hopefully they can see that by adopting new approaches such as tree preservation, that their business and their success will be enhanced. We must be consistent with our ordinances. We must uphold them or get rid of them. Tonight you are deciding on a preservation of a prime example of oak/hickory Ozark forest. This is a pristine example of why the Tree Preservation Ordinance was created. It was written to protect some of our community's heritage and our natural resources. It's an ordinance that can preserve these resources not only for the present community but for the grandchildren of our present community. After speaking with the developers today, we discussed things that are amiss in our ordinance and I think one very basic thing that is remiss is that we do not really have mitigation options. Developments that do have very pristine tracks of land have basically a very pristine ecosystem that exists there. I think in the future, we need to consider creating other environments and maybe putting them in restricted easements where they will always be there and we can depend on them being there 20 years in the future. I hate to see this development turned down. However, I think there are options out there. I think the site can be flexible and I think the tree preservation requirements can be met. The optimum solution is to preserve the

trees but bring the development in and have everything coexist. I think in the future, we need to consider mitigation efforts for situations like this.

(Applause from the public)

Johnson: This is a business meeting. I would ask that you please conduct yourselves according to the rules of Commission and we don't have applause, we don't boo people or cheer people. We listen. Kim, I have a couple of questions. Under each of the layouts that you have provided to us, what percentage of this grove of trees would be saved in your drawings?

Hesse: The first drawing, I believe, it's about 11% of the entire site and probably half of the existing trees. The second layout is probably more. I didn't have instruments to calculate area.

Ward: When we rezoned this property, were you aware of all of the groves of trees? Is there something we should have done before this was rezoned?

Hesse: I wasn't employed by the city at that time. However, I believe the tree ordinance was taken into account because a tree preservation plan was submitted.

Ward: How many acres are in this grove of trees?

Hesse: 3.5 acres.

Ward: If the layout is changed, could we save 40 to 50 of the trees for sure?

Hesse: It's going to take additional design work and looking at this very specifically. I would guess that we can save a good percentage of them in a group.

Ward: Do we have other lots in the CMN park with this situation?

Hesse: There is one lot with a small grove of trees between it and the expressway which will become a visibility problem in the future possibly. There was a large grove of trees on the far northern lot which is actually just west of the mall. We lost a large percentage of those trees due to grading. Basically, that lot had a large ravine through the very center of it and it's a huge lot. We could have divided that lot at the ravine and saved the trees but to market that piece it was filled. The remainder of that forested area is on a very steep slope. I would guess that are protected based on the nature of where they exist.

Estes: Our tree ordinance provides that the proposed development should be designed to maximize the preservation of rare and landmark trees and where rare and landmark trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities should be pursued in order to save them. You have done that and have provided us with these two layouts. Commissioners Johnson and Ward have both asked what can be preserved. Can the ordinance be complied with by adjustments to the lot layout and placement of the buildings and paved surfaces? I understand you are not an architect and this is a home cooked effort on your part.

Hesse: Yes. It can be done.

Milholland: We appreciate this opportunity to present our plan for this development on lot 7 and lot 15. I am the engineer for this project as well as the overall CMN project. We have worked with the Corps of Engineers and provided a deed restricted area. When CMN was developed, I discussed this with the previous tree preservation administrator. My concern for replanting of trees destroyed for streets and utilities was delayed until each lot was developed. My purpose was not to delay the action of the tree preservation ordinance but the fact that we did not know where the buildings were going to be laid out on those lots. If you do a residential subdivision, you do a tree preservation plan for the whole tract as we did for CMN Business Park II Phases I and II. If someone builds a house on it, I'm assuming they don't have to bring it back to the Planning Commission to move trees off their lot to build a house. I'm assuming that same scenario goes for any development. If I'm wrong in that, I need to be corrected. That was my understanding when CMN was brought before you. You have a letter where we have summarized the total acreage of tree preservation in the CMN Business Park II originally approved. The total canopy of the 305 acres was 52.49 or 17.22% of the total properties. Whenever the streets are totally complete and the utilities are in, we end up with a sellable area with a canopy of 14.39%. If you look at the mitigation plan that is already in place with the Corps that added back 6.2% which is 20.59% total canopy on the 305 acres. If you take out lot 7 and 15, it still leaves 18.07% acres of mature canopy coverage including the existing trees left plus our mitigation area with the Corps. Trees have been the only issue so far. I would like for the representative of Argus Properties to present to you their scenario of a commercial development. They gave us their guidelines for their clients and that is what we used. We assumed that the tree preservation guidelines were the same for both residential and commercial development.

Rankin: I'm with Argus Properties out of Charlotte, North Carolina. We got involved with this property on behalf of tenants and investors and had several conversations with

the planning staff, Mr. Conklin and Ms. Warrick. They sent information to us. I worked with the owners of CMN to acquire these tracts. I hired a local professionals to determine and understand what was required to be able to develop this property. The primary issue we are dealing with is the trees. I think we have accomplished everything by modifying our plans to meet the Commercial Design Standards and Design Overlay District requirements. We made a lot of adjustments and we worked very hard with staff to get to this point. The critical nature of the tree preservation ordinance was never disclosed to us until after we purchased the lots. Our plan is to develop lot 15 and follow up with a development on lot 7. I believe you have the concept plan for the whole development. We went to great lengths to comply with the Overlay District green space requirements particularly on the front portion of this lot. The critical items were aware of was green space and water quality. We were familiar with those. In general, the efforts made by CMN on the overall subdivision and in dealing with the Corps of Engineers and so on. We tried to keep the bulk of our green space on the east side of the property. There is slope in that area. We tried to minimize channelization of the unnamed tributary. We desired to expand the actual area which was restricted by the Corps in terms of a green space. In addition to our role as a developer, we must consider the needs of the tenant and the needs of the City. We're the middle man. Kohl's typical parking requirements are 6 spaces per 1,000 square feet. We have negotiated with them to meet the city's requirements of 4.8 per 1,000 square feet. They feel like they have made a lot of concessions in this process to make this work. Our thoughts were to keep a green space bulked up on one side of the lot adjacent to the unnamed tributary to help provide connectivity of the green space required with the Corps of Engineers along Mud Creek. We are confused about the language used regarding preservation and replacement. I don't understand Ms. Hesse's percentages. We are not preserving 11% of what is there, I believe she is referring to 11% of the total canopy. It is our position that this plan not only meets but exceeds the 15% mature canopy requirements. It does not preserve more than 2% of the total site. Total site on that plan with replacement comes up to 16%. That is the plan we have submitted and we would like your action on what is before you. Until last week, I thought we were meeting the requirements. In an attempt at compromise, we would like to come up with an additional 2 acres of canopy area perhaps adjoining a deed restricted area which over time would replace and provide this grove type of effect. Additionally, please remember that we are meeting the necessary requirements for replacement. I think that is beneficial. These 2 lots have almost 7 acres of existing trees. They happen to be all clumped together. That makes it much tougher to deal with and less flexible. Had they been spread out, we would have had a better chance to save them.

Harrington: I represent the CMN group who sold this property to Argus Properties. I would like to address the question about how clear is this to people who are looking at what they are required to do when they come into your city. Of course, we have had a lot of encouragement in the course of the CMN project to try to bring in high quality, national level type of retailers because it would be good for the city. They are going to mostly be coming in from out of town and they are not going to be familiar with your local ways of doing things. One of the things I have learned in trying to understand how this has sort of come about is to try and understand how your ordinance works from a developer's perspective where I sit. It took me a long time to figure out that Ms. Hesse was regarding this grove of trees as rare and landmark trees. I'm not sure if there is tree registry being followed and kept. I should have asked that. It seems like a tree registry would serve as notice for developers that a parcel they are considering buying has trees on it that are going to be subject to the provisions for rare and landmark trees. This past week or two, I have been laboring under the impression that these are not in this category because nowhere in your ordinance does it say 24 inch trees are rare or landmark trees that I could find. It's my understanding it is actually on an internal checklist that goes to the engineers. I know for a fact they looked over every possible thing regarding developing this property. It was a 6 week process and Mr. Conklin was extremely helpful as was Dawn Warrick in describing the kind of things they could expect in bringing forward this project. There was never any discussion regarding preservation of this grove of trees. That is not to fault Mr. Conklin or Ms. Warrick. It is not their department and therefore, landscape administration is left in an altogether different spot in the city. If you come in from out of town and talk to the Planning Department about everything you can anticipate then it should cover everything. The sellers, the buyers, and perhaps even the Planning Department understood that replacement would probably be a viable option. Then, an entirely different Department who was probably not even looking at this until a couple of weeks ago, has come to the conclusion that these trees should be preserved. What it amounts to is a total surprise. That is difficult to deal with since this development has been underway for a solid 5 years. If CMN had known that the City was taking the position this grove of trees needed to be preserved, the alignment of the streets which has been changed in the course of the years usually at the request of the city would have been different so that the lot configuration could be different. There's no cohesion with the City's requirements to develop this park. My clients have made every effort to follow all environmental and conservation requirements of the City, the Corps of Engineers, and everyone's requirements. The owners of CMN are very concerned about doing this right. They have hired the best environmental consulting firm in the area and that is why they are doing all that they can with the mitigation plan working with the Corps. The Corps has been giving very positive reviews about

this group and working with them. There has been no effort to avoid this ordinance. We just weren't made aware of it until too late. It is our opinion that the tree ordinance is difficult to understand what category they are under and whether these are trees rare trees or regular trees. Whether replacement is allowed. Throughout the ordinance it mentions replacement. The 24 inch diameter indicating rare trees is not in the ordinance. By the time you are done with it, it's hard for anybody to tell what they are looking at. I know the attorneys for Argus Properties reviewed all these things ahead of time and believed that replacement would meet the spirit of the ordinance. The surprise is very disturbing. I ask that the city, regardless of the outcome of this situation, really give a hard look to trying to give enough public notice to buyers as to what will be required. When you are working with a long range, long term development, if the city makes a decision about preserving a group a trees like this, lets do it before streets are constructed and utilities are located. I think Kim's interpretation is entirely new and has not been previously administered in this manner. I ask this because we don't want to run into this problem repeatedly. People from out of town can't tell what they are required to do. CMN is happy to work with Argus Properties to provide acreage off site to provide a mitigation plan for these tree issues. The ordinance is clearly ambiguous and the process is not defined on how to get from one section to the next. That has caused a lot of confusion. CMN is doing all they can to assist this effort. If denied, we will forward this to council. We don't want to drag this out but we will be glad to arrange meetings to work this out. Ms. Hesse feels the developers are not meeting the ordinances but the developers feel that they are meeting the ordinances. No one is against the trees in any of these projects.

Irwin: I have been working on this property since June of 1995. Ms. Hesse has been very helpful and wants to work with us. We've met together a couple of times and we've had numerous conversations. She's trying to come up with middle ground. These buyers are sophisticated and are from out of town. They buy property all over the country and they felt confident their interpretation of the way this thing works and they have bought the land. The landowners want to do what is best for the City of Fayetteville. They have another 250 acres out there.

Johnson: Ms. Harrington has indicated there was considerable surprise on the part of the developer regarding the interpretation of the tree ordinances. Can you respond to that comment?

Conklin: In 1998, we adopted the *Unified Development Ordinance*. It includes all the ordinances related to development including zoning, subdivisions, tree ordinance, grading, and signs. We have this book available for developers. It includes

Planning Commission Minutes

March 27, 2000

Page 22

definitions of what a rare or landmark tree is. I want to correct that. A rare tree is over 24 inches in diameter. When a developer comes to the Planning Division or talks to us on the phone, our office tries to make them aware that there are other divisions they need to talk with including Engineering, the Sidewalk and Trails Coordinator, and the Landscape Administrator because they deal with ordinances that we do not interpret or enforce through the Planning Division. It would be impossible to identify every issue through a couple of phone conversations. Typically the detailed site plans submitted for review process is when we are looking at the trees and site layout. When the developer submits their plans and gets into the process is when we review the plans and make our recommendations about site specifications.

Johnson: I think Mr. Milholland and Ms. Harrington indicated they were surprised when they learned they might be required to save a large portion of this stand of trees. Do you have reason to challenge their statement to us?

Conklin: That they were surprised?

Milholland: My comment at Subdivision Committee was that 100% of the percentage of the trees required for canopy be existing trees and I disagree with that. I don't think the ordinance ever was intended to mean that 100% of the canopy be from existing trees. I was surprised to hear that.

Conklin: In 1995, the Landscape Administrator's position was created and Ms. Hesse now administers this ordinance. I have seen projects in the past where they have not been held to the 15% and that tree replacement has been allowed. It is the Landscape Administrator's call. It is irrelevant whether I think the trees can be saved or should be saved. I will rely on the expert, Kim Hesse, to make our recommendation.

Hoffman: At Subdivision Commission, we tried to stress that we were looking for a compromise. I don't recall Kim saying that 100% of the existing canopy must be saved. Both of her options presented tonight actually removed some of that grove of trees to accommodate the buildings. The plan submitted tonight is the exact one before the Subdivision Committee and there has been no alterations to that plan. Has the applicant considered an alternate plan?

Milholland: I have met with Mr. Venable, Guy Washburn, and Kim Hesse. It has taken a lot of time to come up with this plan where the drainage and parking would work for the buildings we had. I don't think Ms. Hesse's plans consider the drainage. It is my understanding Kohl's has a feasibility program for their development that

Planning Commission Minutes

March 27, 2000

Page 23

works for them. Even if the drainage worked on Ms. Hesse's plan, it would not produce the unity needed to develop lot 7 and meet their feasibility plan.

Shackelford: I would like for Mr. Rankin to address their concerns about our requirements and meeting their feasibility plan.

Rankin: We have seen Ms. Hesse's plans. We have explored things similar to these. It won't work for us. This is where we are and we want you to consider our plan.

Harrington: We have attempted compromise. Mr. Rankin in offering to plant in excess of 2 acres of trees in a grove type of manner in the required green space there. Actually, we are willing to fulfill the penalty clause of the ordinance and plant over the 10%. We have also offer to provide an offsite area and plant trees. Those are our attempts of compromise. Staff is talking about moving the building and we're talking about providing additional trees.

Estes: I noted that Mr. Rankin claims they are saving 16% of the existing trees.

Rankin: I'm going to rely on Mr. Washburns' numbers.

Washburn: The 16% combines the 2% preserved and 14% replacement.

Estes: Are the replacement trees mandated by the Corps of Engineers?

Washburn: No, sir.

Estes: Are these trees already in the ground?

Washburn: No. They will be put in planters and they will be 2 inch caliper and be placed in the parking area and in front of the buildings and along the right of ways.

Rankin: I have also offered to provide an area off site to plant an additional two acres in the green space area on the east side of the property between the parking lot and the unnamed tributary which is our eastern boundary. This area is adjacent to the Corps of Engineers. They have a 40 foot strip adjacent to the unnamed tributary.

Estes: Replacement trees bother me. We see the pencil size saplings that have been put in the Corps of Engineers area. Is that what you're talking about?

Rankin: No. We're talking about medium canopy trees and large canopy trees at probably 50 percent each.

Planning Commission Minutes

March 27, 2000

Page 24

Marr: The 16% coverage is 2 acres of replacement trees?

Estes: No, it's the parking lot trees.

Marr: So, those are trees that we would have as a result of our parking lot ordinance regardless of whether we preserve trees or not.

Milholland: They will be new trees with a 2 inch caliper. There is 15% minimum canopy required. We are going to try and save existing trees plus trees required in the parking area and right of way of the road, we have 16%. That meets the requirement. That does not include the green belt plantings which adjoin the Corps' deed restricted area.

Public Comment

Johnson: It has been clearly brought before us that we have a tree protection and preservation ordinance and we have a landscape administrator who believes that the plan before us does not comply with that. We have seen a show of support for the landscape coordinator's position. There is the opinion that if we do not enforce the tree preservation ordinance that we would be violating that ordinance and that this would set a bad precedent for the future. We have been urged to enforce the tree protection and preservation ordinance. I would request that you inform us of things which we have not heard. Something new.

Randy Zurcher was present.

Zurcher: Ask yourself a few questions. Why is it so good for the City of Fayetteville for the sophisticated, out of town developers to come in and set up business? They will send their money back to Mississippi, Louisiana, or back where ever. This isn't local business we're talking about. If Ms. Harrington was a good ambassador, she would have updated them on our laws and ordinance and had them prepared.

Johnson: Please refrain from engaging in personalities, if you would.

Tom McKinney, the conservation chair for the Ozark Headwaters Group of the Sierra Club was present.

McKinney: We have 175 members. I appreciate the good work this Commission and Ms. Johnson has done as the chair. I feel sure that there is a reference in the ordinance of what constitutes a landmark tree. The oak and hickory trees down there are a

good representation of the Ozark forest. This is also a remnant of the Oak Savannah ecosystem that used to constitute this area. Please follow the tree preservation ordinance and ask these folks to redesign their store to save as many of the trees as possible. The Planning Commission did not approve this rezoning. It was approved by a vote of the City Council on appeal. One of the objections at that time was it was a large rezoning with no plan in place for lot configuration. If this area had been identified years ago, we would not be in this situation.

Kathy Marsh was present.

Marsh: Business and the community should be able to get along. Our surroundings are important but I am a consumer and I want business. These trees provide a valuable habitat. I commend Ms. Hesse.

Jim Wilson, chairman of the Tree and Landscape Advisory Committee, was present.

Wilson: We work very closely with Kim and we wholly support Kim Hesse in this matter. We feel it is a watershed. As goes the Commission's decisions, so goes Fayetteville.

Dan Coody was present.

Coody: There was an article about the future economic development of this city. The core issue was developing Fayetteville as a retail hub for the region. We make Fayetteville this retail hub, we have to do something more attractive than just reproduce the same types of buildings done everywhere else. Environmental concerns must be taken into consideration. They have done a good job with banks of the creeks. I feel they are missing a great marketing opportunity to design these trees into their project. I think Ms. Hesse's comments about coexistence between the environment and business were on target.

Janice Ryan was present.

Ryan: I live on a wooded lot in a wooded town and I love it. Anyone who comes to Fayetteville should honor our culture and our regulations. We want good citizens in our town. I saw a quote from Henry David Thoreau, "The trees indeed have hearts." My hope is that we have hearts as big as these trees and that we will stand behind people who have worked to make the regulations.

Josh Richards from Fayetteville High School was present.

Richards: I got an email about this. I feel we should preserve the trees.

Fran Alexander was present.

Alexander: Historically since this ordinance passed in 1992, there has been a constant battle of the definition of preservation and replacement being okay. If the site was not able to be developed any other way, replacement would be an option. It took the citizens a year and half of meetings. Then it was debated and it came down in pieces. Finally, after great struggle, the citizens managed to put this ordinance together. The horticulturist position was dropped and it was turned over to the Planning Commission to enforce. We continue to go around about preservation and replacement. When the landscape administrator was hired to enforce the ordinance, it became a workable ordinance. A 100 year old tree cannot be replaced.

Patricia Mickelson was present.

Mickelson: My four year old daughter is sad that people are hurting mother earth by cutting down the trees. My 10 year old son wanted to come to the meeting to show he can make a difference. He asked that I tell you he wants his children to have the trees.

Rex Dufour was present.

Dufour: I've heard the terms replacement and mitigation. Canopy is discussed in the ordinance. 15% canopy implies that 15% of the sky will be shaded by leaves. If you're planting new trees, the 15% of shaded sky will not be achieved in my life time. I'm 46 years old. The ordinance should address a time frame to achieve canopy replacement.

Rick McKinney was present.

McKinney: We have seen many trees taken out for development. We should consider the value of old growth trees. We are partners with the CMN development and the City Council approved \$1 million to pave their roads out there and they should work with the city to preserve these trees.

Marquette Myque was present.

Myque: I would like to Fayetteville to be married to economic growth and ecological growth the focus with laser clarity and not grow at any prices. Friendly growth

has been modeled for us. Sedona, Arizona. Ashville. Carmell. San Antonio. Austin. The list goes on. It is possible to grow in harmony with our Ozark natural state spirit. How far can we get with a slogan of concrete, vinyl, asphalt state? We must protect it and grow it.

Further Commission Discussion

Johnson: We did receive a letter from the League of Women voters. Thank you.

Estes: In the materials provide by the staff, there is no recommendation. Would the City Planner please opine as to whether or not this project complies with the tree ordinance.

Conklin: I gave a recommendation earlier. We rely on the landscape administrator to make the determination on the tree ordinance. We rely on engineering to administer the grading and drainage ordinances. As the City Planner, I can not support this project.

Estes: Regarding commercial design standards and the overlay district, do I understand correctly that the back of this building faces a collector street.

Conklin: That is correct. Based on the elevations provided tonight, I believe the commercial design standards and the overlay district ordinances have met. They have split face block and a banding scheme with color to break up the expanse of the wall facing Van Asche. I am comfortable that this meets our design standards. They have incorporated columns into their design.

Hoover: I agree with Kim Hesse and I appreciate her. The tree ordinance is equal to our grading ordinance and drainage ordinance so I will not be voting for this. I still have problems with the design. I was studying the design standards and I see that a development should provide compatibility and transitions between adjoining developments. Because this is such a piece meal development, I don't see how this relates to any adjacent developments. This has a strip center appearance and it leads me to assume this entire area will development in the same manner. No connecting walks are provided for pedestrians. Will I have to go along the boulevard? This doesn't encourage pedestrian traffic. Will all the back doors be facing Van Asche making it an alley? Will all the parking be in the fronts of buildings? I want to picture this whole thing as a unit. Last Friday, I took a training program for Commissioners. We learned some interesting things. I learned that every with City zoning must have a comprehensive plan. We have the 2020 Plan. Within that plan, we can have special area plans or system plans

that take an area and actually do a suggested development for that smaller area to solve some of these issues and also to provide a guideline for the developers and a opportunity to identify and work out some of the problems ahead of time so the developer knows what we are going to expect. I am for preplanning and mass planning since I come from an architectural background. I have received calls from the Community Design Center at the University of Arkansas. This is a unique organization that is a nonprofit design center with some funding from the state. What they provide is advice to city and community organizations to help them do master plans when they see that there is a problem area. They have helped with the Downtown and Dickson Street areas. They have helped the City of Hot Springs. They helped with the parking plan by going to Washington, D.C. to get funds. They are instrumental in implementing good overlay planning. They have offered to assist the city in developing master plan scenarios for this 300 acres. It would not be one plan but they would do scenarios worked out with staff. This could be used when the developer is marketing property to the buyers would know what the city is expecting. It would help everyone in the long run.

Shackelford: If this project does not pass tonight, what is the appeal procedure?

Conklin: They can appeal to the City Council.

MOTION

Commissioner Bunch made a motion to table the item for further study and to go back to the Subdivision Committee after contacting the design center.

Commissioner Marr seconded the motion.

Conklin: I would like to point out that staff has requested further study and alternative designs and it is our understanding that the developer wants a determination on what is presented here tonight.

Johnson: This motion is in the spirit of compromise. I will oppose the motion because I think it has the effect of staff and Subdivision Committee designing the project. Procedurally, this is not a good way to go.

Hoffman: Subdivision Committee would be willing to call special meetings but I will be voting against the motion because we have tried to work this out.

Roll Call

Upon roll call, the motion failed with a vote of 3-6-0. Commissioners Estes, Hoffman, Johnson, Odom, Shackelford, and Ward voted against the motion.

Further Commission Discussion

- Ward: At this point, I think the developers have the right to our decision on the issues in front of us. We need to get on the record about the design standards and whether we approve of them or disapprove of them. Personally, I feel they are meeting the design standards by using the split block and articulating with colors. The City of Fayetteville needs projects like this.
- Johnson: Assuming this Commission does not approve this project and it goes forward on appeal, we should vote separately on design standards.
- Hoffman: I object because the trees are an overriding issue. The project should be approved on that basis and the overall design would have to approved subject to that and it would be totally different if they were to redesign and I wouldn't want our comments on design standards of this project to be representative of a totally different design. I can't see the forest for the trees.
- Estes: I would not want to vote on the commercial design standard and then vote of the tree ordinance. The applicant is entitled to know our thoughts on commercial design standards. I am troubled. I do not believe that it does comply with the commercial design standards. The reason is that the commercial design standards very plainly states that a back of a building cannot face a collector street. I am not aware of that any place in Fayetteville.
- Johnson: I agree with Tim that this project meets the commercial design standards.
- Hoffman: The signage is also an issue. They are asking for additional signs because of the numbers of lots. I have no problem with that because of the size of the lots and the fact that there are streets on both sides.
- Johnson: They're asking for two signs on lot 15.
- Conklin: We are supporting two monument signs.
- Rankin: We would want another sign for lot 7.
- Conklin: They would be allowed one sign on lot 7.

Planning Commission Minutes

March 27, 2000

Page 30

Johnson: There is a 60 foot truck entrance waiver and staff does support that.

Conklin: Condition number five regards the green space requirement as part of the design overlay district. They have requested that the 25% requirement be met with the green space mitigation they provided on lot 15. In December, the applicant contacted staff and I wrote a letter stating that I would support that if this project was presented as a unified development including shared drives and parking. They have shown a future phase two and I am not opposed to allowing that request.

Marr: Regarding Commercial Design Standards, I am comfortable with this.

MOTION

Commissioner Marr made a motion deny this large scale development.

Commissioner Estes seconded the motion.

Roll Call

Upon roll call, the motion passed with a vote of 8-1-0. Commission Shackelford voted against the motion.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

December 2, 1999

Mr. Mel Milholland
Milholland Engineering and Surveying
205 W. Center Street
Fayetteville, AR 72701

Re: Design Overlay District Requirement of 161.21(D)(11) Site Coverage

Dear Mr. Milholland:

I am writing in regard to your question about meeting the 25% open space requirement when combining lots 7 and 15 in CMN Phase 2 into one overall development.

If both lots are brought through as one large scale development, staff would calculate the 25% open space requirement by combining areas designated as open space throughout the entire project. The intent of the ordinance is to provide 25% open space on the site. Staff would interpret the word "site" to include both lots if they are part of one unified development.

I hope this interpretation clarifies this regulation and helps all parties involved to reach a solution regarding the issue of site coverage.

Sincerely,



Tim Conklin
City Planner

Milholland Company
Engineering & Surveying
Melvin L. Milholland, Owner

REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

March 15, 2000

Fayetteville Planning Commission
Attention: Mrs. Phyllis Johnson, Chairperson
City Administration Building
113 West Mountain Street
Fayetteville Arkansas 72701

PROJECT: STEELE CROSSING I
DEVELOPER: ARGUS PROPERTIES
RE: VARIANCE REQUEST

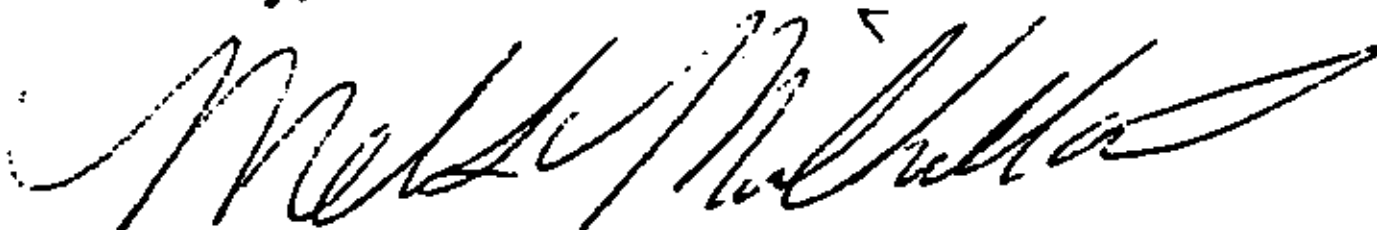
Mrs. Johnson and Planning Commission Members:

The Developer of said Large Scale Development respectfully request the Planning Commission approve the following variances:

1. OFF Van Asche Drive, allow an entrance 60 LF from the curb to curb with no islands for delivery trucks access.
2. Adjacent to Shiloh Drive, allow two (2) ground mounted signs; one (1) for the large retailer "KOHL'S," 86,584 SF floor space at the Southwest entrance and one (1) for the MAJOR TENANT "A," 32,000 SF floor space.

Your favorable consideration and approval is appreciated!

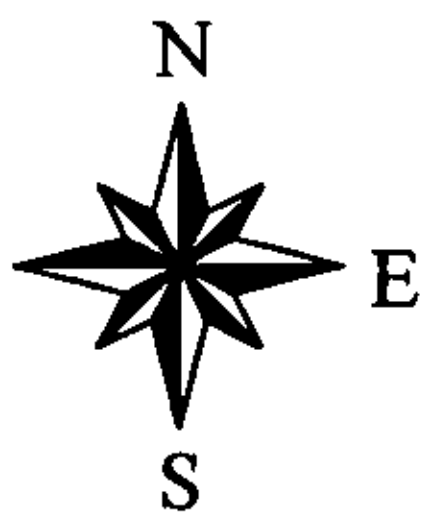
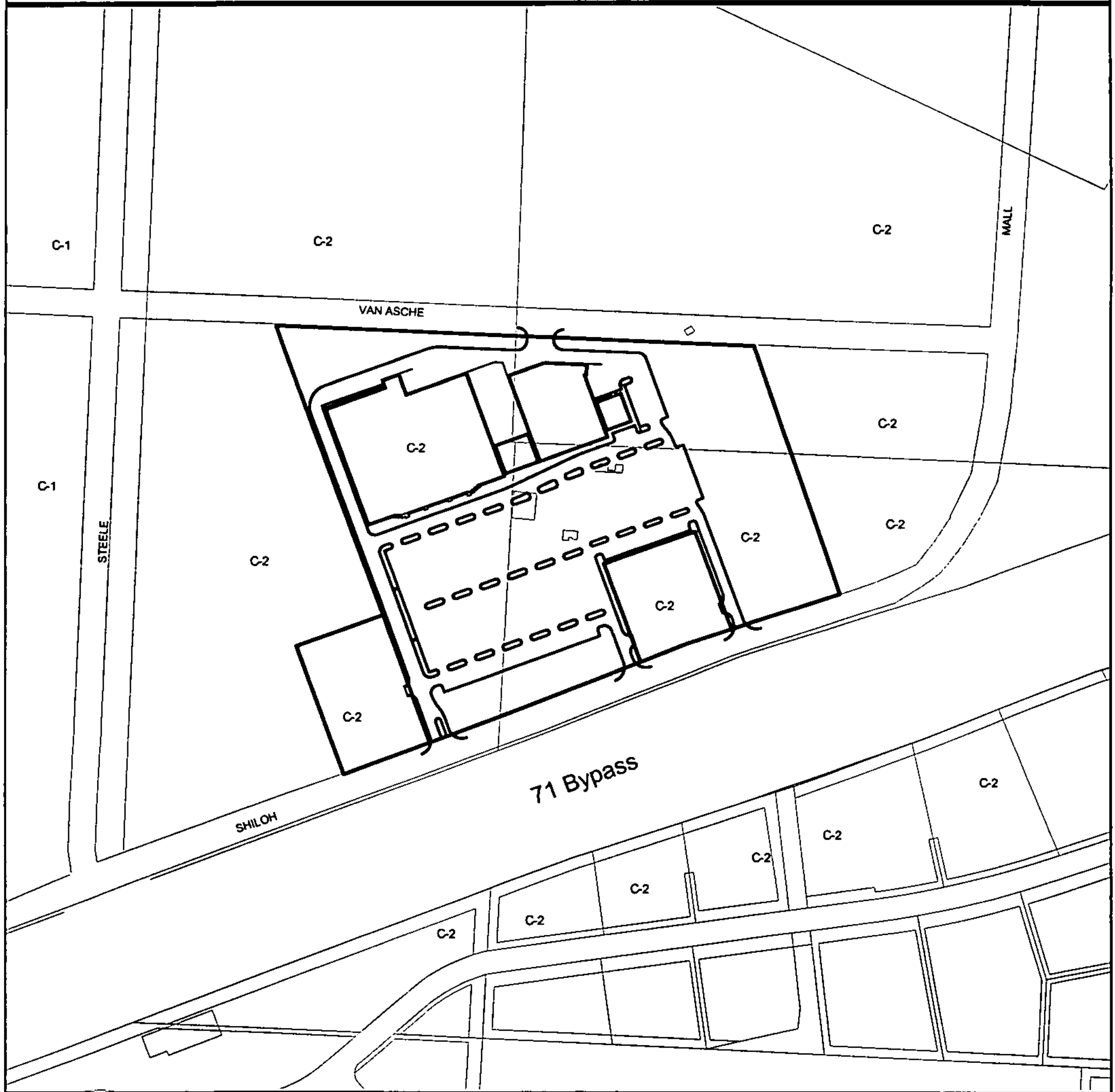
Sincerely,



Melvin L. Milholland, PE

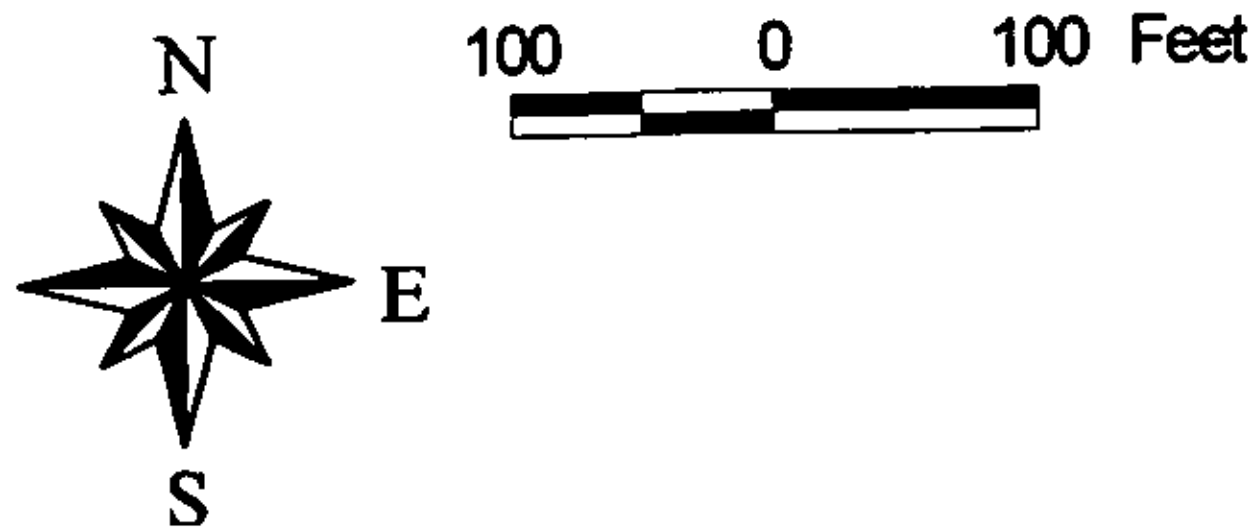
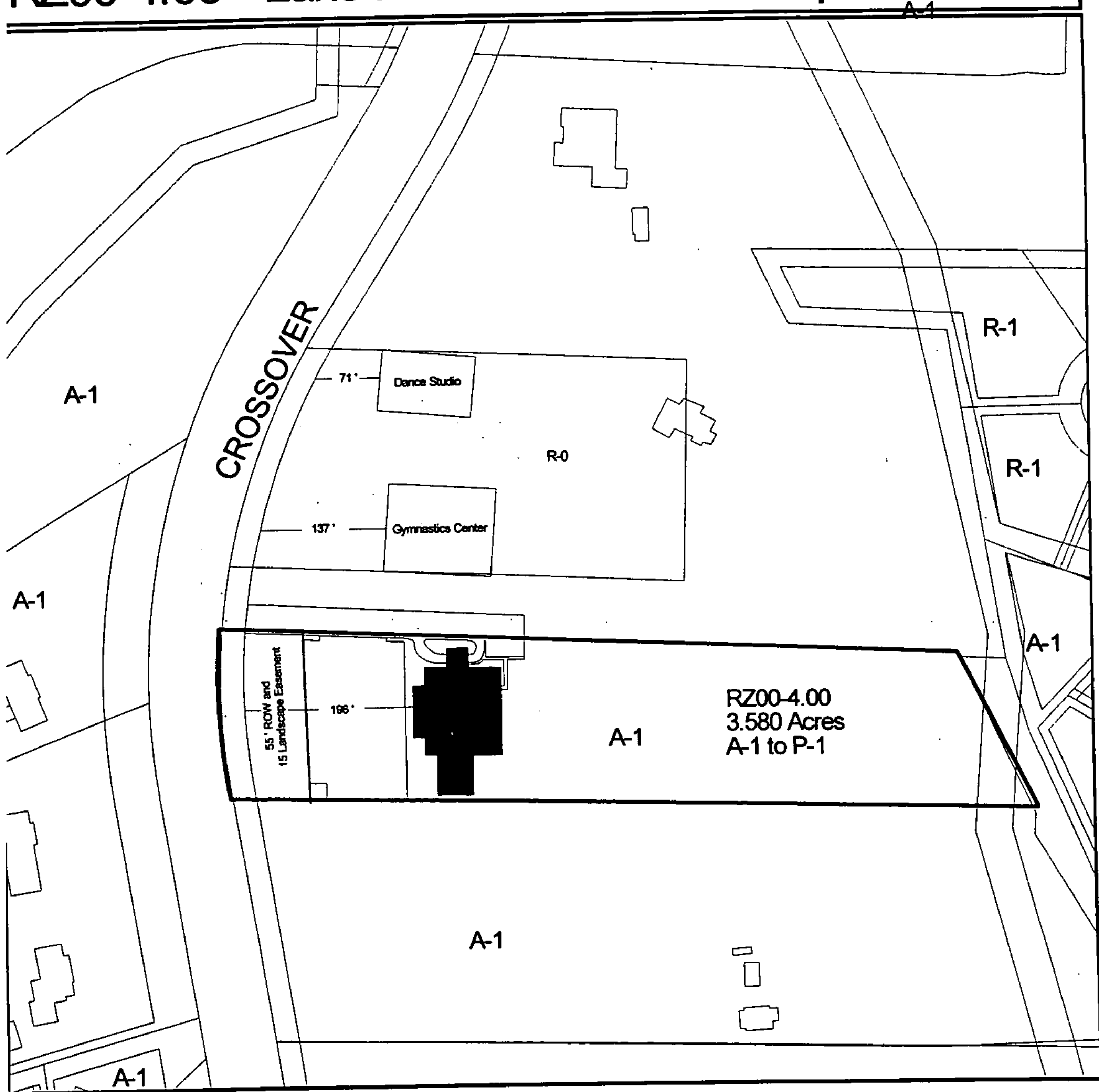
[illegible]

LSD00-5.00 - Steele Crossing - CClose Up



200 0 200 Feet

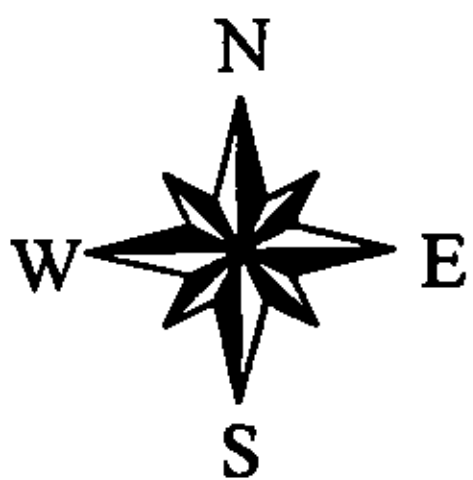
RZ00-4.00 - Lake Hills Church - Close Up



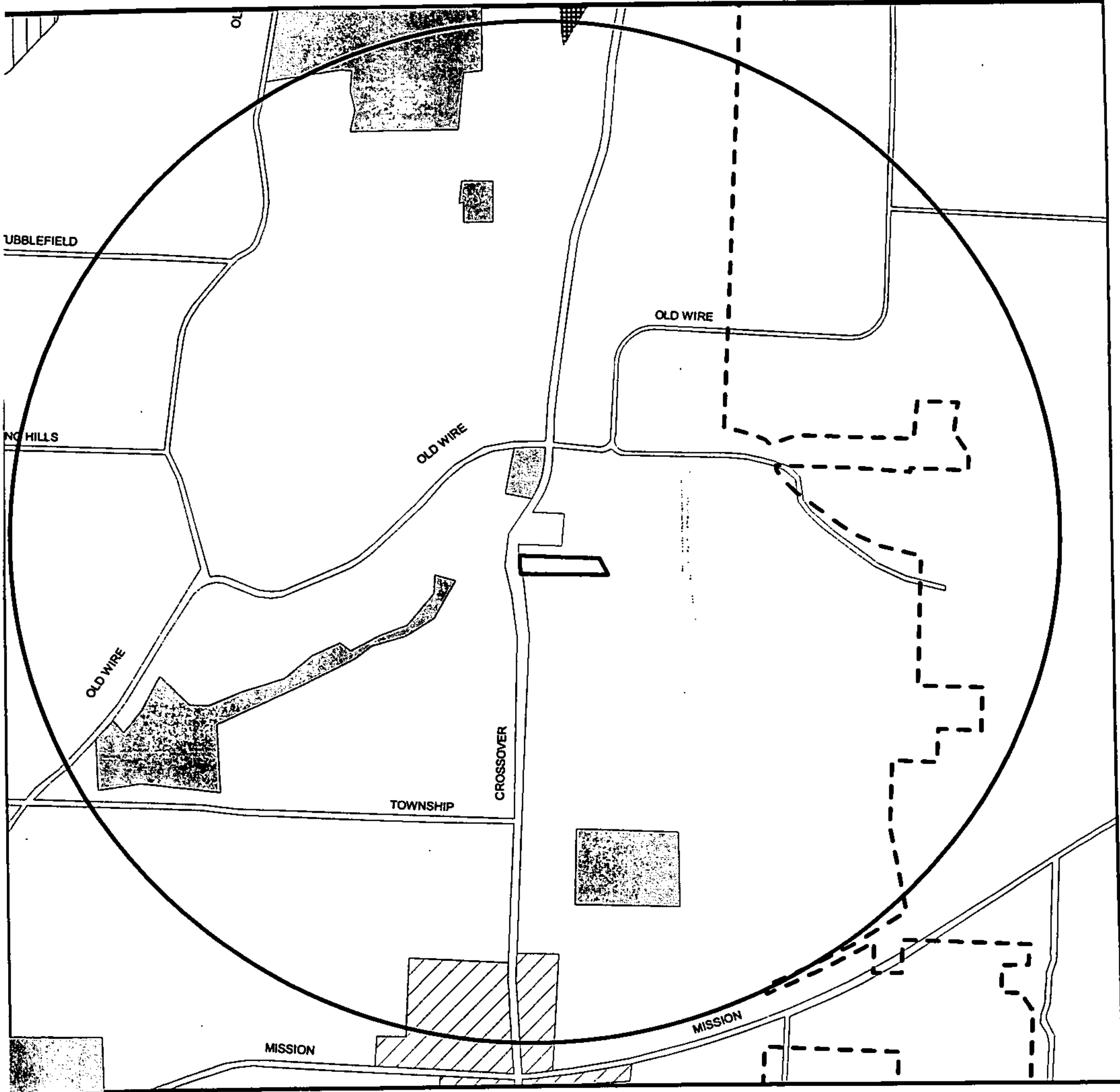
RZ00-4.00 - Lake Hills Church- One Mile Radius



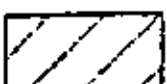
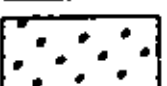
1400 0 1400 Feet

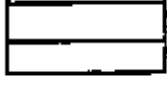


RZ00-4.00 - Lake Hills Church- 2020 Plan



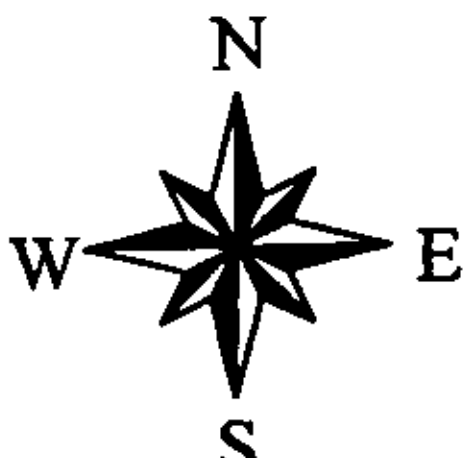
1400 0 1400 Feet

-  Residential
-  Community Commercial
-  Historic Commercial
-  Historic Districts

-  University
-  Industrial
-  Mixed Use
-  Neighborhood Commercial

Planning Commission
February 14, 2000
RZ 00-4 Lake Hills Church
Page 4.7

-  Office
-  Open / Space Recreational
-  Regional Commercial



**RZ00-4: REZONING
LAKE HILLS CHURCH, PP255**

This item was submitted by Joseph S. Rogers of The Benham Group on behalf of Lake Hills Church for property located on Hwy 265, south of Williams Dance Studio. The property is zoned A-1, Agricultural and contains approximately 3.58 acres. The request is to rezone to P-1, Institutional.

Joe Rogers and Jon Allen were present on behalf of the request.

Staff Recommendation

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

Commission Discussion

Johnson: The next item on our agenda is a rezoning. This is immediately south of Williams Dance Studio. You'll recall, Commissioners, that this item was before us last year for a conditional use which was approved but the applicant now prefers a rezoning. The adjacent uses other than the dance studio include A-1 property to the south and west. There is Brookbury Subdivision with single family homes to the east. Tim, do you have additional information for us on this proposed rezoning.

Conklin: The applicant did approach the City and ask what zoning would be appropriate for a church. P-1 zoning does allow a church as a use by right. Last April, the Planning Commission did approve a conditional use for a church on this property. We did limit that conditional use to a certain size and location. They have now requested this P-1 zoning which would allow the church as a use by right. That's all staff has at this time.

Johnson: Initial questions that the Commissioners have of the staff or applicant?

Hoffman: I remember there was some office proposal from the last go round. Is that still a part of this proposal?

Conklin: Last April, we did have a rezoning request for R-O zoning that was withdrawn by the applicant. If there are any offices, they will be church related.

Hoffman: Thank you very much.

Bunch: Would P-1 zoning allow a school?

Conklin: P-1 zoning does allow child care center, schools, art galleries, libraries, museums, and all cultural and recreational type facilities.

Johnson: Those uses are found on page 4.4 of our packet. Other questions initially? The applicant is here. Do you have any presentation or are you here for our questions?

Rogers: I'm Joe Rogers with The Benham Group and I'm really just here for questions.

Johnson: All right. Anything before I turn to the public?

Public Comment

James Renby, residing at 2870 Crossover Road, was present.

Renby: I'll be as brief as I can. I also want to be clear. One thing I want to clear up is something that was perhaps misunderstood the last time this came before the Commission. The area surrounding the property in question is zoned A-1. It is all agricultural. However, in the context of the City's vernacular, it is also a residential district. By that I mean that the properties surrounding the property in question are all lived in by individuals with the exception of the Williams Center. The Williams Center itself is only one half of one of the boundaries of the property in question. To the south is the Tu family's property with a house on it. To the west are the properties on the other side of Crossover Road which are houses that can be seen as you drive by. My property is on the north side to the east and to the east of us is the Brookbury Subdivision. We're dealing with a residential area even though it's zoned A-1. The only property that does not have a structure on it now is the property in question. The second thing that I would like to talk about is the word "church." What are we talking about? One of the things under P-1 zoning is build a church by right. They can build other things as well. We'll talk about them in a minute. In April, a rezoning was requested for residential office which was defeated. They were given A-1 zoning with a conditional use for a church. They can build a church now. What they have done is gone back to the architects, recast the plans to fit something that was not within the conditional use. They are not only coming before this body for rezoning, they are also before the Board of Adjustments seeking adjustments in terms of setbacks and that kind of thing. In their own words, the land is not suitable for the structure that they want to put on it. If the zoning is changed, the City is going to give up control dictating the size of what is put on the property. In P-1 zoning, they can cover up to 60% of the land area. There is no longer control over the size of the structure they have built. There is no longer control over the siting of the structure that is built. There were other standard conditions including the natural woods area behind the studio which protects certain residents including the people in Brookbury. You alluded to some of the things that could go into the property if the church fails. I want to talk about two things for just a time. The time line and the future and the present. This is by right. This is not by application for conditional use. By right, they can build an art gallery, library,

museum, child care center or nursery school. When the Williams Center inquired about that very use, they were told that it was not appropriate for the area. Stand alone church, college or university. That may sound a little strange but Remington College, now Webster University, is an installation like that which could go into the property. A dormitory could go on the property. We could have borders at the university. An auditorium or stadium. Community center. Detention home. Golf course. That sounds a little silly but if you throw the word miniature in front of it, we could have a miniature golf course there. Hospital. Park. Play field and playground. Gulley Park is near by and I enjoy recreation and playgrounds and play fields but not in a residential district where we have one right across the street. A private club or lodge could go in there. Lord knows what that means. Riding stables. A school. Swimming pool. Tennis courts. Zoo. That's what could go in the future if the church were to fail. In passing the P-1 zoning, the church could do anyone of these things now. The minute you vote P-1 in there, they could do any one of these things by right as soon as it is approved by the City Council. Remember this is the church that wanted rental income property space included in the R-O proposal. Voting P-1 gives them the right to do this now without any future review by the city. There is no control except the city wide restrictions. What Lake Hills is asking the neighbors and the city to do is bear the risk of their project. The pastor has told us that he has come here from California. He sold his church in California. He has come here and purchased or obtained this property without the zoning for the church. Now, he's seeking to get zoning for a church which he has conditional use approval to build. He was given approval for the church last April. I'm fearing that what we're trying to do is shoe horn another project into that piece of property that was obtained for the church. I strongly and vehemently am against giving up control and the protection of this property through P-1 zoning. This is a conditional use that belongs conditional use. Thank you.

Johnson: Are there others in the audience that would address us on this issue?

Amy Tu, one of the adjoining property owners to the south, was present.

Tu: Just for a short description and to add onto to what Mr. Renby said, there are 3.85 acres and it's about 100 to 180 feet wide. What we're talking about is piece of property that is natural and undeveloped right now. However, there is a concern for control and controlled, planned development. On April 26, 1999, when the conditional use was granted to the applicant, the three concerns that Tim Conklin had were the size of the church, the location of the church, the shared parking with the Williams Center as well as the preservation of the aesthetic nature of the land. If this P-1 is given then you are losing the ability to have planned development of this development. Currently, along Hwy 265, you have a considerable amount of development occurring. Candlewood Addition sits on the south side of our property. You have the Brookbury and the Savannah areas to the east. To the north is the Renby's property. I think what we're looking at is an ability to plan and control the development of the property to the north of us. As Mr. Renby stated, P-1 is divided into two categories of uses. The first one is uses by right which

is agricultural and essential services. It is also allows cultural and recreation facilities. As Mr. Renby said, art galleries, child care, nursery school, church, college, private club, lodges, and schools. These are all concerns from a present stand point but also a future stand point. If the concerns raised by Mr. Conklin were size, location, and shared parking in the April, 1999 meeting these should still remain concerns of the city. Therefore, if the P-1 is granted and you have cultural and recreation facilities that are allowable on this property at the current time, those particular concerns raised by Mr. Conklin are basically nullified and negated. As an adjacent landowner, I want to make the following points which are fundamental to the character of this property and this application in question. Number one, the church has the ability currently to build its church. April 26, 1999, a 10,300 square foot church was allowed on the property according to the size and specifications that were given to Mr. Conklin and were approved by the Commission. Number two, the land is narrow. It's 3.85 acres. You're putting a large scale development on this property. Therefore, you should have a concern about exercising some control over development of this property presently and also in the future. Thirdly, as for the granting of the P-1 in the present, we are concerned about where the church is located, how it rests on the property and also the shared parking. Obviously, if you have a nursery school or a child care center, you're going to have an increased traffic flow which will be of concern to the adjacent landowners. In the future, it's hard to tell what will happen to the church. Whether they fail because financial instability or a sale of the property because the church's congregation has increased and they need to look for more property this is certainly of concern. Therefore, future landowners will be able to use this for a large variety of uses under P-1. My family and I have owned that property for over 20 years. We are unclear as to what we will do with the property given the fact that there is development on the south side with Candlewood and the fact that there is potential development on the north side with the church. We are concerned about the planned development of Fayetteville and we are in opposition and cannot support the application that is currently at the Planning Commission's table.

Further Discussion

Allen: My name is Jon Allen and I am the pastor of the church. To be brief, this property is owned by Lake Hills Church. It is not owned by me despite what Mr. Renby said. I didn't own the church in California and neither did I sell it. We were not defeated for R-O. We withdrew our request. At that time, we were asked to speak with the planner and seek a rezoning accommodation that would work with the Planning Division and come back here. That's what we did. As I understand the application here from the Planning Division, all of the conditions have been met and there are certainly no objections from them. I emotionally disagree with all this reference about the church failing. This church has grown and we have every intention to make use of that land for a church facility and we're not going to put a prison or a library or whatever else. We have come back with this at your behest from the last time we were here to try and work an accommodation that will meet our needs. This was recommended by the Planning Division. I think there were six, seven, or eight conditions that came in the report to

you as staff's recommendation. I certainly would like to see this pass so we can get on with our building and not be delayed any further.

Johnson: Thanks, Mr. Allen.

Estes: This is a rezoning request. Staff recommends approval based on the findings included in their report. Our decision is advisory only to the City Council.

MOTION

Commissioner Estes made a motion to approve RZ00-4.

Commissioner Ward seconded.

Johnson: We have the motion by Commissioner Estes and the second by Commissioner Ward that we approve rezoning 00-4. Is there discussion?

Hoffman: I will vote against the motion for similar reasons as the last time. When the church applied for the R-O zoning, we had considerable discussion about leaving basically the back half of the property in a more appropriate zoning buffer to the adjoining residential uses. Therefore, I cannot support a motion to rezone the entire tract of land P-1. I would be more than willing to consider rezoning approximately one-half of it to accommodate the church and go with a more conducive buffer situation in the rear.

Hoover: I am in agreement with Commissioner Hoffman. I'm sorry I missed agenda but I have a question for staff. I don't understand why they are coming back for the rezoning. Is the building larger than it was when we gave the conditional use? Is that reason or have I missed something?

Conklin: The applicant approached staff and asked what zoning would be appropriate for a church as a use by right. P-1 zoning allows a church as a use by right. We have other churches and schools zoned P-1 in this community. With regard to the conditional use, it was approved with a 10,300 square foot church and that was what was submitted to staff by the applicant. Sure, the Commission could amend that condition to allow for a larger church if they wanted to in the future and the applicant has been made aware of that also.

Hoover: So that is an option. Thank you.

Johnson: You'll recall that on rezonings, the action of the Commission is merely a recommendation to the Council. However, for this to go forward automatically to the Council the action must get five positive votes.

Planning Commission Minutes

February 14, 2000

Page 33

Marr: I feel that we have, based on some of the things that we heard tonight, more control on the types of uses in the future. As we voted earlier this evening about ballroom dancing versus any dancing, I think a conditional use gives us more control to determine what is on the property. Therefore, I would not support the rezoning.

Shackelford: If this rezoning is not approved, the conditional use is still in effect. Is that correct?

Conklin: They have had approval since last April to build a church.

Shackelford: What you're saying is that the conditional use in effect will not allow them to build what they are wanting to build right now.

Conklin: That is correct. They would have to come back. We've carried the large scale development with a conditional use together when they've come through the process and approved them at the same time. That's how we have handled other churches. That way when they change square footage or the parking areas, we can handle those at the same time.

Shackelford: So, in affect we could have them come back with an amendment for the additional square footage and consider the LSD at the same time.

Conklin: That is correct.

Marr: Was there any investigation of that option outside of this request? Any discussion on doing it that way versus a rezoning?

Conklin: Just recently in the past couple of weeks, I have met with Mr. Allen and informed him of what options are available for him to get his church built at this location.

Ward: I would be persuaded to vote P-1 for the first 300 feet and leave the balance of that which is basically woods as A-1. The whole thing is zoned A-1 now.

Estes: There would have to be consideration given to the footprint of the building and parking if Commissioner Ward's suggestion were done. We would have to have considerable input from the applicant regarding the footprint of the building and parking. That would be my concern.

Ward: My understanding is that the church is going to try to save all the trees and keep the buffer back there. That would be good for everyone. It looks to me like from what we have on the drawings, the church lines up with the gymnastics center. 300 feet deep would be more than enough to take care of parking and build the church meeting the setbacks.

Johnson: If a church is built on this site, does it have to come back before the Commission as an LSD?

Conklin: Yes, it would come back before the Commission as a large scale development.

Johnson: Lee, I don't think that your second to the motion binds you to the vote. We have before us to approve rezoning 00-4.

Roll Call

Upon roll call, the motion failed with a vote of 2-6-0. Commissioners Bunch, Hoffman, Hoover, Marr, Shackelford, and Ward voted against the motion.

Johnson: The action of this Commission can be appealed. It will not automatically go before the Council.

Conklin: The applicant would have to appeal within ten days of this action.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZ 00-4.00 FOR A PARCEL
CONTAINING APPROXIMATELY 3.58 ACRES LOCATED ON
HWY 265 SOUTH OF WILLIAMS DANCE STUDIO
REQUESTED BY JOSEPH S. ROGERS OF THE BENHAM
GROUP ON BEHALF OF LAKE HILLS CHURCH.

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

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

From A-1, Agricultural District to P-1, Institutional District for the real property
described in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is hereby
amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION FOR RZ 00-4.00

A part of the SW 1/4 of the NW 1/4 of Section 31, Township 17 North, Range 29 West described as commencing at a point S 87°29'23" E 411.71 feet from the W 1/4 corner of said Section 31; said point being the intersection of the easterly, right-of-way of Arkansas 265 Highway and the south boundary of said 40 acre tract; thence along said Highway right-of-way on a curve to the right with a radius of 768.93 feet, a delta angle of 14°30'09" and an arc length of 194.63 feet to a found iron pin, with a chord bearing N 01°59'17" W 194.11 feet; thence leaving said Highway right-of-way S 86°01'44" E 405.28 feet to a found iron pin; thence S 86°19'34" E 406.39 feet to the west boundary of Brookberry Woods Subdivision; thence along said subdivision boundary S 24°54'59" E 195.00 feet to a found iron pin, and south 1.85 feet to a point on the south boundary of said 40 acre tract; thence N 87°29'23" W 886.12 feet to the point of beginning, containing 3.580 acres, more or less, Fayetteville, Washington County, Arkansas.

WARRANTY DEED
UNMARRIED PERSON

I certify that this document is a true & correct copy to the best of my knowledge.

KNOW ALL MEN BY THESE PRESENTS:

THAT Beverly Jeanne Skillern, an unmarried person, hereinafter called GRANTOR, for and in consideration of the sum of One (\$1.00) and other valuable consideration DOLLARS, paid by Lake Hills Baptist Church, Fayetteville, Arkansas

the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto

Lake Hills Baptist Church, Fayetteville, Arkansas

hereinafter called GRANTEE, and unto his heirs and assigns forever, the following lands lying in Washington County, Arkansas, to-wit:

A part of the SW 1/4 of the NW 1/4 of Section 31, T-17-N, R-29-W described as commencing at a point S87°29'23"E 411.71 feet from the W 1/4 corner of said Section 31; Said point being the intersection of the Easterly, Right-of-Way of Arkansas 265 Highway and the South boundary of said 40-Acre tract; Thence along said Highway Right-of-way on a curve to the Right with a radius of 768.93 feet, a Delta angle of 14°30'09" and an arc length of 194.63 feet to a Found Iron Pin, with a Chord bearing N01°59'17"W 194.11 feet; Thence leaving said Highway Right-of-Way S86°01'44"E 405.28 feet to a Found Iron pin; Thence S86°19'34"E 406.39 feet to the West boundary of Brookberry Woods; Thence along said Subdivision boundary S24°54'59"E 195.00 feet to a Found Iron pin, and South 1.85 feet to a point on the South boundary of said 40-Acre tract; Thence N87°29'23"W 886.12 feet to the Point of Beginning, containing 3.580 Acres, more or less, Fayetteville, Washington County, Arkansas.

TO HAVE AND TO HOLD the same unto the said GRANTEE , and unto his heirs and assigns forever, with all appurtenances thereunto belonging.

And I hereby covenant with said Lake Hills Baptist Church, Fayetteville, Arkansas, that I will forever warrant and defend the title to said lands against all lawful claims whatever.

WITNESS my hand and seal on this 10th day of October, 1997.

Beverly Jeanne Skillern (SEAL)
Beverly Jeanne Skillern

Prepared under the direction
of the Grantor/Grantee.

(SEAL)

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

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF Washington SS:

Grantee
Address

BE IT REMEMBERED, that on this day came before me, the undersigned, a Notary Public

City Clerk's Office
Work Order

Date: 3-31-00

Name Phyllis O'Hanlon

Dept/Div. Parking Management

Description of Item Approval of contract w/ Arkansas Leasing Co. -
the most system by its agent, Stationary Storage for the lease
of a 270 space parking lot previously owned by Argenta Properties.
To be Done Please see 4-18-00 C.C. Agenda

Due date (if any) _____

Indexed _____ Copies sent to _____

of Originals returned to Originator: _____

Completed by: _____ Date _____

For Office Use Only

When brought to Clerk's Office, Packet included:

Number of Pages 15

Change Order _____

Staff Review Form ☒ Purchase Req. ☒ Ch. Req. _____

Budget Adjustment Form _____ Information Memo ☒

Contracts (signed) 2 (Unsigned) 1 (How many) _____

Other Information: Stationary Storage



April 6, 2000

RECEIVED

APR 07 2000

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

City Council
C/o Ms. Heather Woodruff – Clerk
The City of Fayetteville, Arkansas
113 West Mountain St.
Fayetteville, AR 72701

VIA FAX/FED EX
(501) 575-8257

Re: LSD: 00-05.00
Steele Crossing Shopping Center

Argus Properties hereby appeals the decision of the Planning Commission rendered March 27, 2000, on the above referenced Large Scale Development ("LSD"), to City Council.

There were several waivers/variances requested as a part of the submission to the Planning Commission. We believe three of these issues were non-controversial and acceptable to the Planning Commission, but there was no formal vote to indicate approval. By way of clarification, those issues are as follows:

1. Variance to allow a 60' truck entrance with no islands off of Van Ashe Drive. This is requested to permit adequate turning movements for the delivery trucks providing stock to the planned stores.
2. Variance to allow two (2) ground mounted signs; one for Kohl's and one for Major Tenant "A" with shops. Each of the signs will be monument signs built in accordance with the design standards for size and height of the Design Overlay District. The signs are to be constructed from the same material as the buildings within the proposed development.
3. Request to permit a portion of the total greenspace located on Lot 15 be utilized as greenspace for Lot 7. The plan is to develop Lots 15 and 7 as a unified retail development which will meet the total greenspace requirement of the land within and outside of the Design Overlay District. The site plan layout as submitted is based on a number of factors. The configuration proposed was given careful consideration and is based on



Ms. Heather Woodruff
April 6, 2000
Page 3

The Landscape Administrator has presented two plans as "reasonable" alternatives for development. The first plan is attached hereto as Exhibit "A". This plan does not work for Kohl's or Major Tenant A. Parking and visibility are major issues. The Kohl's parking provided is approximately 190 spaces for this 86,000 SF Tenant. Their standard requirements are 510 spaces which they have already reluctantly reduced to 416 spaces to be in compliance with Fayetteville's parking requirements. Kohl's will not accept this level of reduced parking because it would reduce their potential sales well below the feasible level. Major Tenant A has turned down this site based on this layout because the front of their store is hidden from eastbound traffic on Shiloh Drive and Fulbright Expressway and is totally invisible from Steele Blvd.

The second plan presented is attached as Exhibit "B". All of the major Tenants and Kohl's have stressed their beliefs, based on store operations in multi-store centers, in similar markets, that pedestrian (customer) connectivity between stores is essential of a market/trade area like Fayetteville. This plan, while addressing parking and visibility, effectively eliminates the desired connectivity. In addition, the Exhibit "B" plan would be in violation of other sections city ordinances. The total greenspace requirements are not met with this layout. Plus, based on estimates received, the costs of adding the two (2), seven foot (7') high walls for the 600' boundary with the imported fill are approximately \$350,000. The last item of concern with this conceptual layout is the placement of a retaining wall so close to the required stream buffer that this channelizes the Mudd Creek tributary. While this may be permissible, it violates the spirit of the previous representations made to the City and the Corps. of Engineers.

With respect to the Tree Preservation issue, it is requested that the City Council consider the plans as submitted to include Lot 7 as well as Lot 15. The same issues exist on Lot 7 and the consideration by Council at this time will ultimately save time and money for all involved parties. This combination will also allow time for economic viability of the entire proposed development to be determined. The submitted plans show the building locations on Lot 7 and the sketches by the City's Tree Administrator include Lot 7. There is no good reason for having to revisit this identical issue for the next phase of this unified retail development planned on two (2) contiguous lots.



Ms. Heather Woodruff
April 6, 2000
Page 2

input obtained during the overall CMN subdivision approval by the City Council and the Corps. of Engineers. The site plan aggregates greenspace and avoids channelization of existing waterways. The eastern boundary of Lot 15 is an unnamed tributary of Mudd Creek which has a 40' undisturbed buffer zone (by deed restriction). The plan locates a significant portion of the project's greenspace contiguous to the buffer, thereby creating a natural area over 220' wide and 600' long. This large greenspace will mitigate the run-off concerns associated with large development while maintaining and enhancing the overall water quality of the entire stream system. The wide greenspace also enhances the appearance of not only Lots 15 and 7, but of the entire development. In addition to the above benefits the location of this area provides connectivity of enhanced greenspaces throughout the overall CMN development and along the waterways.

4. The last and controversial issue is a variance on the Tree Protection and Preservation Ordinance. A variance/waiver of this ordinance was not formerly requested at the time the plans were turned in because it was believed that the submittal was in compliance with the ordinance. None of the trees on this property are listed in the Tree Registry. However, it has now been pointed out that in some other subsection of the Fayetteville ordinances, the definition of "landmark trees" subjects much of the site to the preservation sections of Chapter 167. Notwithstanding the above confusion, the plan presented complies with the replacement canopy sections of Chapter 167. Furthermore, at the Planning Commission meeting and as an accommodation, the replacement canopy area of an additional ten percent (10%) of total canopy was offered and is still being offered.

There are many factors considered in undertaking a development of this size and scope. While the overall project costs as related to what the retailers and/or will pay based on projected sales for a given market is extremely important, costs are not the sole determining factor for creation of a siteplan. Each Tenant has its requirements for the operation of a proposed store, and the ease with which its customers can access the location are extremely important. Many of these rules are a matter of corporate policy derived from years of experience in operating hundreds of stores.



Ms. Heather Woodruff

April 6, 2000

Page 4

At this time, given the requirements of the Design Overlay District greenspace and those of the Corps. of Engineers, we have not been able to find a reasonable way for the property to be developed and meet the preservation provisions of Chapter 167. However, the submitted plans do meet the replacement provisions. In addition, compliance with the "penalty" provisions have been offered even though not required under the ordinance. Therefore we request removal and replacement of landmark and rare trees to be permitted as contemplated by 167.05B6 of the ordinance.

The reasonable saving of existing trees is a benefit to any development because it enhances the appearance of a project. Other alternatives are still being considered by us and the Tenants involved. The process will be ongoing up until the time of the City Council's meeting. If a revised plan can be designed which meets more of the Tree Preservation criteria yet still permits the center to be functionally and economically feasible, it will be presented for discussion as soon as possible.

Yours truly,

ARGUS PROPERTIES

J. Kirk Rankin

JKR/em

EXHIBIT A

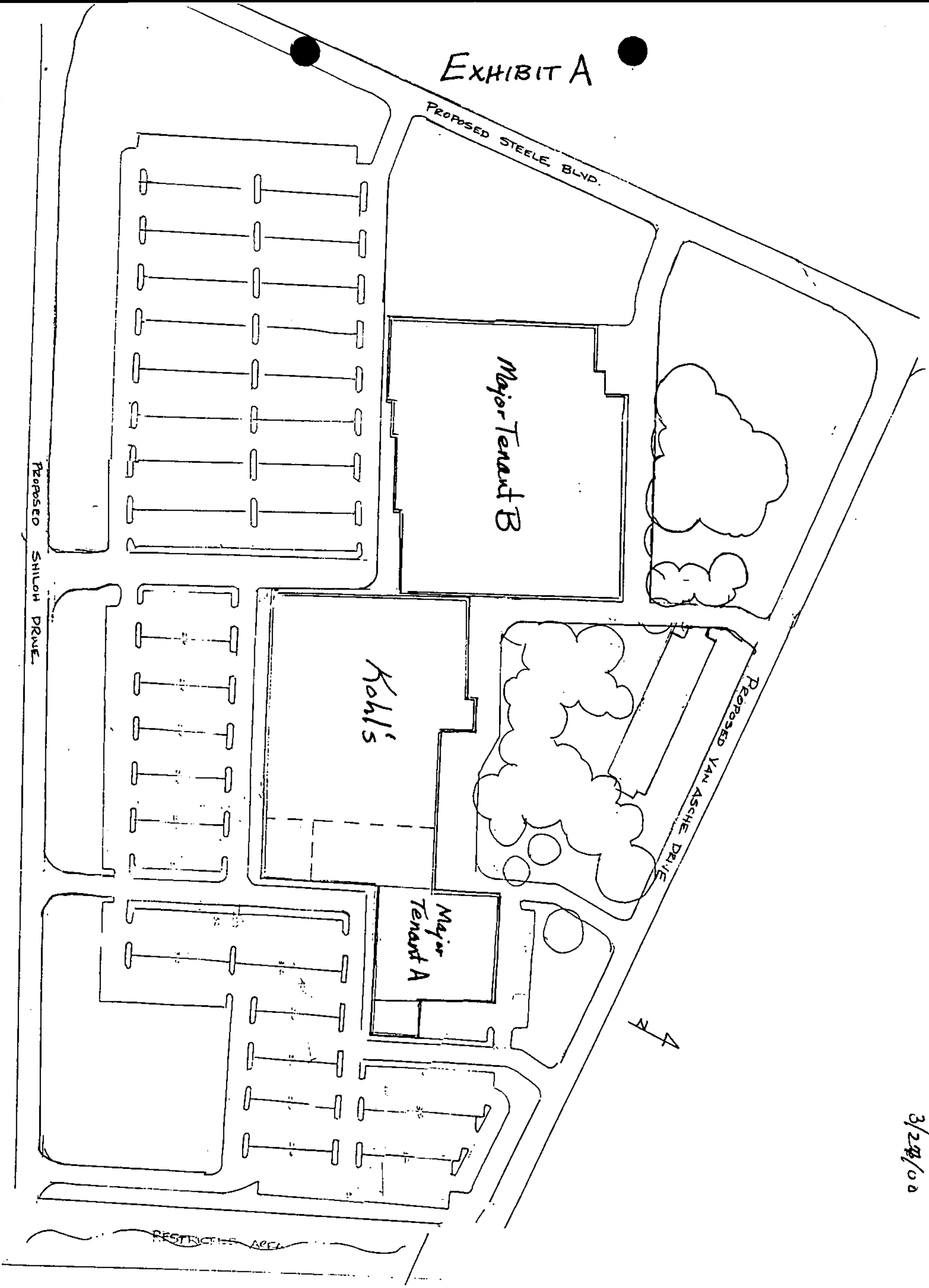


EXHIBIT B

PROPOSED
SHILOH DRIVE

PROPOSED STEELE BLVD.

PROPOSED VAN
ASCHE DRIVE

Future Freeway
100 ft Right-of-Way

OUTPARCEL

No retaining walls
allowed
Need
to
consider Sewer Easement

RESTRICTED AREA

(2) 1' ELEVATION
WALLS

3/22/00

PC Meeting of 27 March 00

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701

Steele Crossing, LSD

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
FROM: Sara Edwards, Ron Petrie P.E.
DATE: March 23, 2000

Project: LSD 00-5.00: Large Scale Development (Steele Crossing, pp 212) was submitted by Mel Milholland of Milholland Engineering on behalf of Argus Properties for property located on lot 15 of CMN Business Park. The property is zoned C-2, Thoroughfare Commercial and contains approximately 18.48 acres.

Findings: This project is located in phase II of CMN Business Park. The building is adjacent to both Shiloh and Van Asche Drives. Development includes 9 tenant spaces if developed as shown with a total of 128,384 square feet and 617 parking spaces. The developer proposes future developments and additions/ phases of this project. The Subdivision Committee was not able to achieve a consensus on Tree Preservation and Commercial Design Standards.

Recommendation: Due to the outstanding issues of this project, staff does not have a recommendation at this time. However, if the Planning Commission chooses to approve this development, staff recommends that approval be subject to the thirteen conditions listed below.

Conditions of Approval:

1. Planning Commission determination of compliance with Design Overlay District and Commercial Design Standards including signage. This development will have street frontage on both Shiloh and Van Asche Drive.
2. Planning Commission determination of a waiver request to allow two (2) ground mounted monument signs. Applicant is requesting one sign for each major tenant. *Staff supports this request with the condition that both signs be in compliance with the monument signage area requirements of the sign ordinance.*
3. Planning Commission determination of compliance with the Tree Preservation Ordinance. See the attached memo from Kim Hesse, Landscape Administrator, and the Tree Preservation Plan that was submitted by Milholland Engineering.
4. Planning Commission determination of a waiver request to allow a 60' truck entrance with no islands off Van Asche Drive. *Staff supports this waiver due to the fact that a*

large radius will be needed by the delivery trucks. This will be the only drive for this development along the Van Asche frontage, which measures 1,042 feet.

5. Planning Commission determination of whether to allow the 25% greenspace requirement of the Design Overlay District regulations to be met for a future adjoining development with this large scale development. This project has a large greenbelt running along the east side totaling 130,686 square feet. The future phase would be on the west side with an area of 11.52 acres. Please see attached letter from the City Planner regarding this issue.
6. The Final Plat for Phases I & II of the CMN Business Park II must be filed prior to obtaining signatures for Occupancy Permits for these buildings.
7. All drainage outside of the street right-of-way to be privately owned and maintained.
8. Plat Review and Subdivision comments (to include written staff comments mailed to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
9. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
10. Sidewalk construction in accordance with current standards to include a 10 foot minimum greenspace with a 6 foot minimum sidewalk along Shiloh Drive and Van Asche Drive. The driveway approaches to be Portland Cement Concrete.
11. Subject to all conditions of approval for CMN Business Park Phase II.
12. Large Scale Development approval to be valid for one calendar year.
13. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project
 - c. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

CITY COUNCIL ACTION: no Required
 Approved Denied

Date: / /

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

by

title

date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Subdivision Committee

FROM: Kim J. Hesse, Landscape Administrator

DATE: March 8, 2000

SUBJECT: Steele Crossing Development

As administrator of the Tree Protection and Preservation ordinance, I recommend that the current configuration of the Steel Crossing development be redesigned to meet the ordinance. The intent of the ordinance is to design proposed developments in such a ways as to preserve a percentage of the existing canopy. In the event that preservation is proven to not be possible due to site limitations, then, and only then is tree replacement an option. It is clear that tree preservation was not seriously considered with this current design. I have personally designed a conceptual site plan for this development to determine the feasibility of preserving the existing trees on the site. I feel that it is possible to preserve 15% of the existing canopy while maintaining the same number of parking spaces and the same amount of building square footage as the original design. The existing trees on the site are mostly made up of oaks that are larger than 24" in diameter. Most of these trees are healthy and provide a pristine example of the natural resources we allow to be removed on a daily basis. Please keep in mind that the original intent of the Tree Protection ordinance was to encourage development to be built in consort with our natural resources. Also keep in mind one of the purposes of the Overlay District is "To protect and enhance the distinctive scenic quality of the U.S. 71 Highway Corridor by providing for non-residential developments which will maximize preservation and enhancement of the natural, rural, and open character of the terrain and foliage".

10. Completion of all punch list items prior to staff approval of final plat.
11. Installation of landscaped screening around detention areas.

Committee Discussion

Due to technical difficulty a transcript of the proceedings was not available. Following is a synopsis of the discussion.

Petrie inquired as to whether the alleys would be constructed or bonded. Jorgensen replied that a portion of the alleys might have to be bonded.

There was discussion regarding the purpose of the alleys being for rear access to the dwelling units and not for service vehicles.

There was a question regarding setbacks from detention areas. Only water features such as lakes that continuously hold water require setbacks.

Hoffman requested landscaped screening of the detention areas.

MOTION

Mr. Estes made a motion to approve FP99-3 subject to all staff comments.

Ms. Hoover seconded the motion.

Ms. Hoffman concurred.

City Clerk's Office
Work Order

Date: 3-21-00

Name CHARLESTON PLACE Dept/Div. _____

Description of Item Planning Commission appeal to

City Council

To be Done There are 4-18-00 C.C. agenda

Call MAINTENANCE FOR BACK

NO INFO

Due date (if any) _____

Indexed _____ Copies sent to _____

of Originals returned to Originator: _____

Completed by: _____ Date _____

For Office Use Only

When brought to Clerk's Office, Packet included:

Number of Pages _____ Change Order _____

Staff Review Form _____ Purchase Req. _____ Ch. Req. _____

Budget Adjustment Form _____ Information Memo _____

Contracts (signed) _____ (Unsigned) _____ (How many) _____

Other Information: _____

To: Fayetteville City Council

Re: Appeal of Planning Commission Action of February 14, 2000.

Property owner: Lake Hills Church 444-7797

Contact Person: Dr. Jon H Allen, Pastor 634-3434

1. We were offered a 3.5 acre parcel of property before it was on the open market. We were concerned about building on the property which was only 180' wide, so we approached Alette Little. She looked at our plans and said, "I don't see a problem." Based on her "unofficial" review, we purchased the property.

3. We secured the services of the Benham Group for design, engineering, and architectural work.

4. Before we could submit plans to the planning department, Alette Little left for another position. We worked with the new planning staff, and on April 26, 1999, submitted our plans to the Planning Commission for a rezoning to R-0 and a conditional use permit to build a church facility based on that R-0. Our request met all the required findings and, like Alette Little before, the planning staff recommended approval of our plans.

a. We requested R-0 because we wanted to make multiple use of the parcel by including three rental offices in a wing of our church building. We had master planned the maximum size for a building that could fit on this property and still have adequate space for parking, driveways, green space, etc. However, such a building would be larger than our current needs. By including offices we would be able to receive rental income until our congregation grew to the point that we needed to use the office space for our own needs. All this had been explained to Alette Little and the subsequent planning staff in the above mentioned conversations.

b. This property is joined on the north side by the Williams Center which is zoned R-1. A church facility would serve as an appropriate buffer between the Williams Center and the property to the south which, according to the owner, will be developed in the future.

5. The minutes of the April 26, 1999, Planning Commission meeting will indicate that they spent considerable time reviewing our request and considering options including rezoning only the front half of the property. Finally, assuming a negative vote, they recommended that we withdraw our request to avoid a year wait for another rezoning request and that we work with planning staff and return with a rezoning request that would be appropriate for the church plans.

6. At that April 26 meeting, the Planning Commission granted us a conditional use permit to build on the present A-1 zoning if we so chose.

That conditional use permit was inadequate since our original design called for a 10,400 square foot building based on the ten foot setbacks of the requested R-1 zoning. The present zoning A-1 requires 20 foot setbacks. The property is 180' wide. Denial of the rezoning request had the

effect of reducing the north-south footprint of our building by approximately 20%. Thus, we would have had to increase the size of the building by approximately 20% on its east-west axis. This is an impossible size to build unless the side of the hill is excavated, much like the Williams Center. This would leave a huge "ugly" scar on the hill and the removal of much of the natural habitat including many very large, very old trees. Or, the building could be relocated on top of the hill, a flatter area, making it further from Crossover and requiring removal of much of the woodland habitat.

7. We spent considerable time and money on more engineering and architectural studies, including aerial photography, and in cooperation with the planning staff, we submitted a new request for the parcel to be rezoned P-1. Our request met all the required findings and the planning staff recommended approval of the rezoning request.

Benefit: Rezoning to P-1 (with ten foot setbacks) would allow us to build close to Crossover rather than on top of the hill, and we would not have to do the enormous excavations. Rezoning to P-1 (with ten foot setbacks) would allow us preserve the natural beauty of much of the woodlands.

8. The Planning Commission denied our P-1 request. They seemed concerned that they would lose control of the property by removing the present A-1 zoning. Despite the facts of the unique character of this parcel, and despite the fact that we had done, at considerable expense, what they had asked us to do (outlined in 5 above), they felt that since we already had received a conditional use permit, they denied our P-1 request.

9. We are basing our appeal to the City Council on the basis of the above and that

a. P-1 is the appropriate zoning for a church according to the zoning code. (In fact, a quick review of the zoning map shows that most churches in Fayetteville are on P-1 zoned property. Although some churches have been built on A-1 with a conditional use permit, we could find no occasion when a church was denied a P-1 request and required to retain an A-1 zoning.)

b. A-1 is designed to "protect" agricultural land until such time as "an orderly transition to urban development has been accomplished." Since this parcel will not be used for agricultural purposes it does not need such protection. Should not A-1 zoning be used to safe guard truly agricultural land rather than as a means to control nonagricultural usage?

10. We are aware that we are required to submit our plans as a Large Scale Development. This should satisfy anyone's concerns that the city will somehow lose control of the property.

11. Two of the owners of adjoining land have expressed their concerns that if this property is rezoned P-1 (or R-1) we might suddenly decide to build a detention home, golf course, zoo, or some such thing. Of course, the large scale development review should preclude any of these concerns. Although we realize that we should not be required to do this, we will gladly make appropriate performance guarantees with the city that we will, in fact, use this property to build our church facility.

B. Nonconforming Use/Structure.

No nonconforming structure or use shall be renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the City Planner. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter. The City Planner shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

(Code 1991, §160.192; Code 1965, App. A, Art. 9(3); Ord. No. 1747, 6-29-70)

C. Authorized Construction/Use.

Certificates of zoning compliance issued on the basis of plans and applications approved by the City Planner authorize only the use, arrangements, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

(Code 1991, §160.194; Code 1965, App. A, Art. 9(5); Ord. No. 1747, 6-19-70)

Cross Reference: Enforcement, Chapter 153.

§61.03 DISTRICT A-1 AGRICULTURAL.

A. Purposes. The regulations of the Agricultural District are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; prevent unsightly development, increase scenic attractiveness; and conserve open space.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities
Unit 6	Agriculture
Unit 7	Animal Husbandry
Unit 8	Single-Family and Two-Family Dwellings

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 4	Cultural and Recreational Facilities
Unit 20	Commercial Recreation; Large Sites

C. Bulk and Area Regulations.

Lot Width Minimum	200 ft.
Lot Area Minimum: Residential Nonresidential	2 acre 2 acre
Lot Area Per Dwelling Unit	2 acre

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

E. Height Requirements. There shall be no maximum height limits in the A-1 District, provided, however, that any building

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

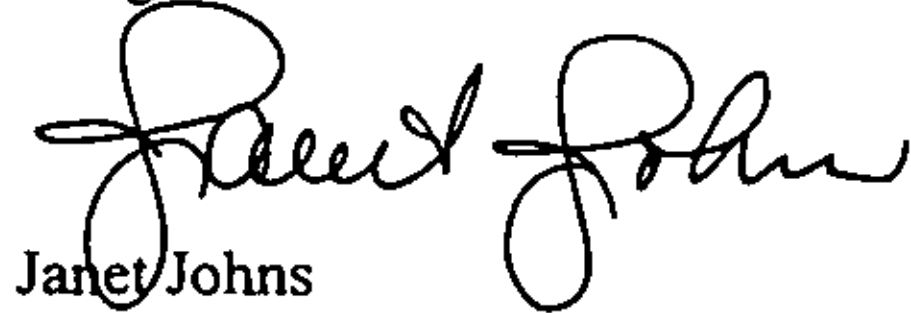
April 30, 1999

Lake Hills Church
3065 N. College #187
Fayetteville, AR 72703

Gentlemen:

Enclosed please find a copy of minutes from the Planning Commission meeting of April 26, 1999. This is your official notification that your conditional use was approved subject to certain conditions as outlined in the minutes. Should you have any questions, please contact the Planning Division at 575-8264.

Congratulations and Good Luck,



Janet Johns
Sr. Secretary
Planning Department.

**CU99-8: CONDITIONAL USE
LAKE HILLS CHURCH, pp255**

This item was submitted by Jon Allen on behalf of Lake Hills Church for property located south of Skillern Road and east of Crossover Road. The property is currently zoned A-1, Agricultural, and contains approximately 3.58 acres. The request is for a church.

Jon Allen was present on behalf of the project.

Conditions of Approval

1. The applicant will dedicate 55 feet of right of way along the front (west side) of the property.
2. A 6 foot wide sidewalk shall be provided along Highway 265 to be coordinated with the City Trail and Sidewalk Coordinator.
3. A dumpster pad and dumpster shall be provided and be coordinated with the Solid Waste Division.
4. The applicant shall make a concentrated effort to preserve the natural character of the property, especially behind the facility. This includes leaving and preserving as many trees as possible and provide landscaping around the facility in coordination with the Landscape Coordinator.
5. All parking lot light fixtures shall be shielded and directed downward to prevent unnecessary light pollution.
6. The church shall built in the location as shown on the site plan on page 8.3 of the information packet.
7. The building shall not exceed 10,300 square feet.
8. The applicant will request the Planning Commission to approve shared parking with the Williams Gymnastic and Dance Center at large scale development.

Commission Discussion

Conklin: I would like to add three conditions. I want to make sure that the location of the church and where it's built is what is shown on your agenda packet. When the large scale development comes through that will be the location of the church. I want to limit the size of the

Planning Commission Minutes

April 26, 1999

Page 29

church and make sure that what you approve tonight as a conditional use will be what we see at large scale development is not something larger. Regarding the shared parking, we do not have the site plan showing which spaces are to be shared and at what times and days.

Allen: I think you do have the agreement on the parking and we agreed to share all of the parking. I believe they had 69 spots and we had 60.

Conklin: Yes. You did supply the shared parking agreement to staff this evening, however, the ordinance does require that a site plan be provided showing which spaces are to be shared and at what time and who they are being shared with. We need that as part of our record.

Allen: We were faxed that and told to fill that out and that would be adequate. That's why we did it that way. I'm sorry.

Conklin: On the shared parking agreement, it does say, "Individual spaces identified on a site plan for shared users."

Allen: I'm not comfortable with limiting this to 10,300 square feet because if we're not going to have office space, we may reconsider the footprint. It may be generally the same but we may make some changes. This will have to be reconfigured and we may want to come back and make better use of that site.

Public Comment

None.

Further Commission Discussion

MOTION

Mr. Odom made a motion to approve conditional use 99-8 subject to all staff comments and requirements.

Mr. Ward seconded the motion.

Johnson: Does that include that the building will not exceed 10,300 square feet?

Odom: I don't think there is anything that will prevent them from asking --

Conklin: I just wanted to make it clear that what is being proposed this evening is what the applicant plans to build. If there are future additions for the church they will need to bring that

Planning Commission Minutes

April 26, 1999

Page 30

back to the Planning Commission as conditional use.

Johnson: At the large scale development stage, we would ask for all the specifics on the shared parking to be worked out in detail.

Roll Call

Upon roll call the motion passed with a unanimous vote of 8-0-0.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Associate Planner
THRU: Tim Conklin, City Planner
DATE: February 14, 2000

RZ 00-4.00: Rezoning (Lake Hills Church, pp 255) was submitted by Joseph S. Rogers of The Benham Group on behalf of Lake Hills Church for property located on Hwy 265, south of Williams Dance Studio. The property is zoned A-1, Agricultural and contains approximately 3.58 acres. The request is to rezone to P-1, Institutional.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: February 14, 2000

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: _____	

Comments: _____

BACKGROUND:

A conditional use permit was approved by Planning Commission on April 26, 1999 for a church on this A-1 property. At this time, the applicant is requesting that the property be rezoned to P-1, Institutional so the use of the property as a church campus would be allowable by right. This would eliminate the need for the previously approved conditional use.

This 3.58 acre tract is currently undeveloped. Surrounding land uses include single family homes, vacant property and the Williams Dance and Gymnastics facility. Uses permitted by right within the P-1, Institutional zoning district, such as cultural and recreational facilities are compatible with the area.

SURROUNDING LAND USE AND ZONING

North:	Williams Dance and Gymnastics (R-O)
South:	Vacant (A-1)
East:	Brookbury Subdivision, Single family homes (R-1)
West:	Single family homes (A-1)

INFRASTRUCTURE:

Streets: Crossover Road (Hwy 265) runs along the west property line providing access to this property. Crossover Rd. is classified as a principle arterial on the Master Street Plan with a total right of way of 110' necessary (55' from centerline).

Water: 12" line along Crossover Rd.

Sewer: 18" force main along the far east property line (western side of Brookbury subdivision)

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to P-1, Institutional, is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **The Land Use Plan (General Plan 2020) designates this area as residential. The zoning of P-1, Institutional, is consistent with the plan.**

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

Finding: **The proposed zoning is justified at this time.**

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

Finding: **The proposed zoning will not create or appreciably increase traffic danger and congestion. The traffic signal at the intersection of Crossover Rd. and Skillern to the north allows for some breaks in traffic for turning movements. Crossover is classified as a principle arterial on the City's Master Street Plan and is projected to carry 17,600 vehicles per day once it is improved to meet the street standard for a principle arterial.**

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

Finding: **The proposed zoning will not alter the population density and will not 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.

Finding: **N/A**

**§161.19 DISTRICT P-1
INSTITUTIONAL.**

A. Purpose. The Institutional District is designed to protect and facilitate use of property owned by larger public institutions and church related organizations.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 4	Cultural and Recreational Facilities

**2. Uses Permissible on
Appeal to the Planning Commission,**

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 10	Multi-Family Dwelling - High Density

C. Bulk and Area Regulations/Setbacks. Setback lines shall meet the following minimum requirements:

From Street ROW	30 ft.
From Street ROW if Parking is Allowed between the ROW and the Building	50 ft.
From Side Property Line	20 ft.
From Side Property Line When Contiguous to a Residential District	25 ft.
From Back Property Line	25ft.

From Center Line of Public Alley	10 ft.
----------------------------------	--------

D. Height Regulations. There shall be no maximum height limits in P-1 District, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

E. Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1991, §160.042; Code 1965, App. A, Art. 5(XI); Ord. No. 1747, 6-29-89; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80)

1-14 Subdivision Signs and Ornamental Structures:

Subdivision signs proposed for installation by the Developer/Owner for the benefit of his development shall be shown on the Plans and be sized and located to meet the provisions of the City's Sign Ordinance.

The location and size of all ornamental structures constructed by the Developer/Owner shall be approved by the City's Traffic Superintendent and by the City Engineer. In addition, the need to conform to zoning regulations shall be determined by the Planning Department. Generally, all structures over 30 inches high must meet applicable setback requirements.

Where a subdivision sign or ornamental structure is proposed to be located on City right of way, the exact location and size shall be approved by the Planning Commission. The maintenance of such signs and structures shall be by a properly established property owner's association and provision for maintenance shall be included in the covenants of the subdivision.

Any relocation of such signs and structures necessitated by street widening, utility installation, or any other authorized use of the right of way shall be the financial responsibility of the property owner's association and shall be done at the call of the City.

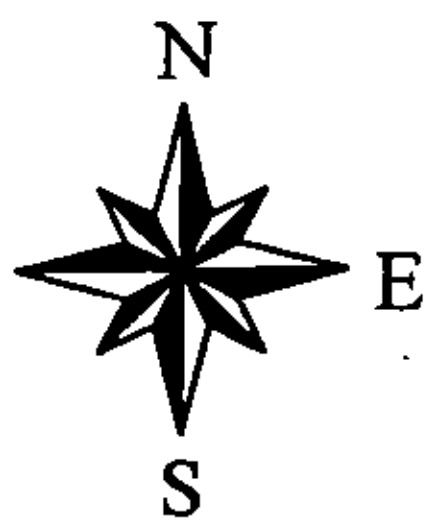
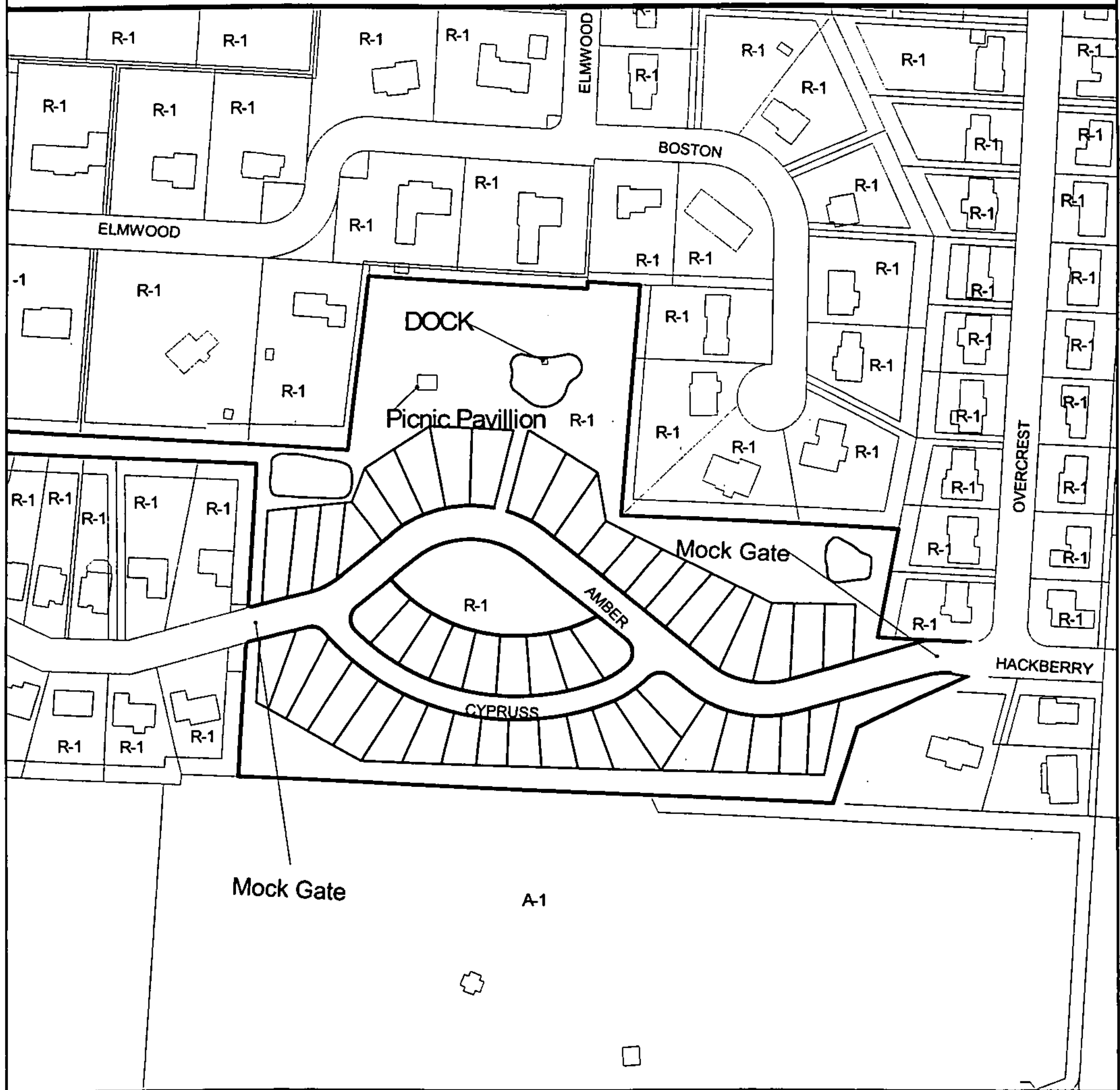
All permanent street and traffic signs shall be furnished and installed by the City at no cost to the Developer/Owner.

1-15 Sidewalks and/or Trails:

Sidewalks and/or trails, where required shall be engineered and shown as part of the street plans and specifications to be approved by the City Engineer. The sidewalks and/or trails shall then be constructed as part of the development improvements as required by City Ordinance.

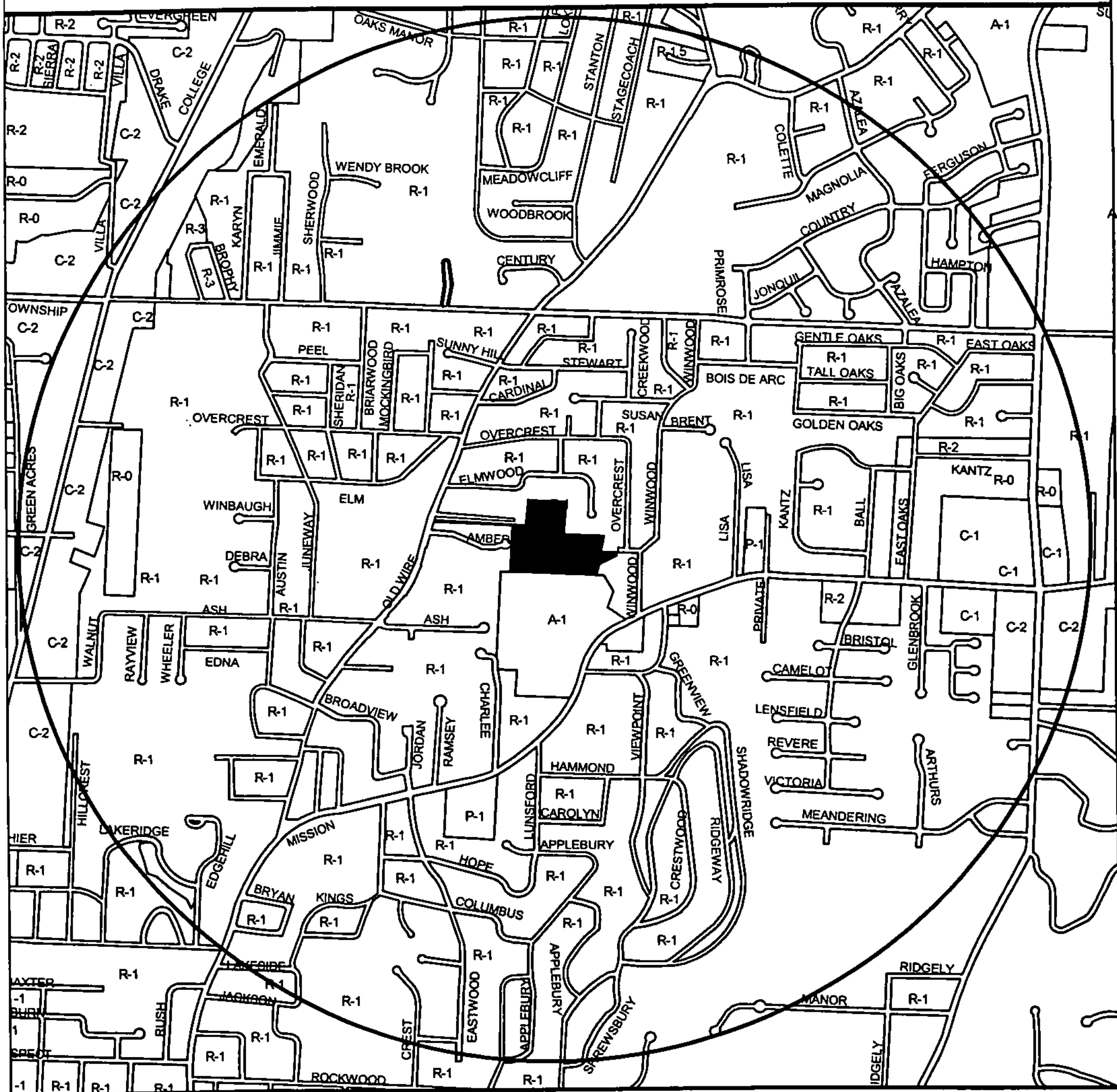
The necessary grading and subgrade preparation for sidewalks and/or trails shall be done as part of the street construction even if the installation of the actual sidewalks and/or trails are delayed. Sidewalks and/or trails are required in accordance with the City's Master Street Plan as adopted or as may be amended from time to time.

AD00-6.00 - Charleston Place - Close Up

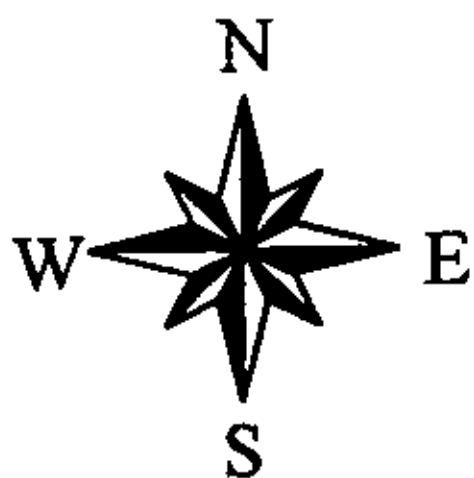


200 0 200 Feet

AD00-6.00 - Charleston Place - One Mile Diameter



1400 0 1400 Feet



**PRELIMINARY PLAT FOR CHARLESTON PLACE P.U.D.
GREG HOUSE- N. OF MISSION BLVD & E. OF OLD WIRE RD. pp 177**

The preliminary plat was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of MTM of El Dorado, L.L.C., for property located north of Mission Blvd. and east of Old Wire Road. The property is zoned R-1 (Low Density Residential) and contains approximately 12.84 acres with 51 lots proposed.

Recommendation: Consideration of this project based on staff findings and recommended conditions of approval. This item is a preliminary plat and therefore must continue in the development process to be heard by the full Planning Commission.

Findings: This is the fourth submittal of this subdivision. Revisions include a new street layout - the previous layout had sight distance problems. A one-way loop street on the south side to the project is proposed in this newest submittal. Density remains at 51 lots. All streets and drainage areas (including detention ponds) are proposed by the applicant as public facilities.

There was much discussion at the Plat Review level concerning access to manholes serving the lots on the north side of the main street. Maintenance of the drainage system / detention ponds was also a concern.

Conditions of Approval

1. Plat Review and Subdivision comments.
2. All improvements shall comply with City's current requirements.
3. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval.
4. Payment of parks fees of \$15,300.00 (51 lots @ \$300.00 each), payable within 30 days of Final Plat approval.
5. Sidewalk construction in accordance with current standards to include a 4' sidewalk with 6' greenspace on both sides of Amber Dr., and a 4' sidewalk with 4' greenspace on one side of Cypress Lane.
6. Correct street names according to Plat Review comments.

Subdivision Meeting

April 3, 1997

Page 9

7. A letter from the developer requesting that the Planning Commission allow the proposed 12.5' front building setbacks.
8. Additional conditions:

Ms. Little stated the staff had received a plat and a chart illustrating the green space. The developer had provided 4.14 acres if they included the greenspace near the entry. If they did not include the area the green space would be 3.47 acres.

Mr. Jorgensen, project engineer, stated Jim Johnson had called him and the name of the street through the subdivision was changed back to Amber. He was not sure Mr. Franklin was aware of the change.

Ms. Little replied they would have to have the name issue resolved before he submitted his revisions.

She stated the normal front setback in an R-1, subdivision was 25'. Mr. House was requesting a waiver from the front setback to 12.5 feet. The Planning Commission had the authority to do that under the PUD ordinance to grant the request. Mr. House had submitted house plans for lots 44, 45, 25, 24, 23, 22, and 1, in response to concerns about the lots being buildable.

Mr. Beavers stated the Public Works Department would review maintenance of streets and drainage on a case by case basis. They would not accept Cypress as a public street. It would have to be a private street. The property owners association would have to maintain it. The City would not accept the maintenance of the three detention ponds. A property owners association would have to be setup to maintain those. The City would not maintain any open channels or swales that went into the ponds.

Mr. House asked Mr. Beavers to repeat his reasoning for not maintaining the streets and ponds.

Mr. Beavers stated they were going to look at subdivisions on a case by case basis. They did not have a firm written policy for when they would accept something for maintenance and when they would not.

Mr. Forney thought they should offer a suggestion on how the developer could change his design so the City would be willing to accept the streets.

Mr. Odom questioned if the City was going to require a detention pond for floodways, why was the City not willing to maintain them.

Subdivision Meeting

April 3, 1997

Page 10

Mr. House stated it was discrimination when they could choose one development over another and not have a firm policy for all developers.

Mr. Beavers replied the City was not set up to maintain the ponds. They did not have many detention ponds yet. The decision was going to have to be made by administration, if they were going to set up a storm water utility or expand the street department in order to maintain the ponds.

Mr. Forney asked if there were any ponds the city had agreed to maintain.

Mr. Beavers stated there were a few ponds they had agreed to maintain. Most of the ponds were on commercial developments. There were very few ponds in the residential areas. None of them were maintained by the City. He added he would be happy to meet with Mr. House and the public works directors.

Mr. House asked why the one-way street would not be maintained by the City. He added this was the first time the issue had been mentioned.

Mr. Beavers did not believe he could give Mr. House an adequate answer. He thought it went back to the item being a PUD. The opinion was if they were going to have a private unit development, then everything in it should be private that could be.

Mr. Odom stated his understanding of the Planned Unit Developments were private streets as long as they did not hook up with another street.

Ms. Little stated they could be private if they did not meet the City's standard. If they met the City's standard then they could be public streets.

Mr. Forney stated they had have problems with PUD ordinances and definitions. He thought PUD's were a good thing, because they potentially gave them higher densities, which gave them less infrastructure to maintain per more residents.

Mr. Odom thought the City would want to maintain the street because it gave them less of a street to maintain than a standard subdivision.

Mr. Forney believed this developer would be doing something that would be making the City's burden less.

Ms. Little noted the street width on the one-way would be less than on a two way. She asked what they needed to do, because these issues could not be solved today.

Subdivision Meeting

April 3, 1997

Page 11

Mr. Beavers stated he had expressed the Public Works position.

Mr. Reynolds asked if Mr. House would still build the subdivision if the city did not assume maintenance.

Mr. House stated part of their original agreement was to lessen the number of lots from their original request to meet the City's standards so the City would maintain the streets. This was a small development to have an entire maintenance program. Part of the reason for going through the all the layouts was to accommodate the layout from the City's stand point.

Mr. Reynolds asked Mr. Beavers if his answer came from the third floor.

Mr. Beavers replied yes.

Ms. Hoffman asked how wide the streets were.

Mr. House replied the pavement was 18 feet, the right-of-way was 35 feet.

Ms. Hoffman asked if it met the City's standard for a one-way street.

Mr. Beavers stated there was not a one-way street defined in the ordinance.

Ms. Hoffman asked if the original plat submitted had private streets.

Mr. House stated in the beginning they had proposed private streets, however they could justify taking care of them because they had more lots to pay for them.

Ms. Little stated the standard for a private street in a PUD was 14' for 1-20 dwelling units. For 21+ dwelling units it was 14' for one-way. For on-street parking 6' must be added to each side where parking is intended. She added they were asking for a 20' one-way. The minimum for two-way was 24' and parking was allowed. The residential street standard was 24' from back of curb- parking was allowed. She suggested making the streets 24' wide with a 40' right-of-way to meet City standards.

Mr. Beavers stated Mr. House's engineers had done everything they could have to accommodate what the City had asked for, however, the access to the sewer manholes/ gravel trail would have to be paved and then maintained.

Ms. Hoffman asked why the sewer access was not in the front.

Mr. Beavers stated they would prefer the sewers to be in the front, but if the developer wanted to

Subdivision Meeting

April 3, 1997

Page 12

have the sewer in the rear then he would have to provide truck access to every manhole.

Mr. Jorgensen stated the property went down hill. If the sewer line was placed out front then the houses could not be serviced. A pump would have to be placed in the basement of the house. He added the health department would not approve individual pump units.

Mr. Beavers agreed the City and the Health department were crosswise on their policies.

Mr. Jorgensen stated they had placed the sewers in the rear to provide service. They had tried to provide adequate access to the manholes. The EPA had mandated that the sewer lines be cleaned out every year or two, so they had provided the 10' access.

Mr. Forney asked if this was the first subdivision in which the lots were lower than the streets.

Mr. Reynolds believed there were things going on that they were not used to seeing. He asked where the decisions were coming from that was changing things, that it was not in staff comments. He thought they needed to postpone the item until Mr. House could get together with whoever it was. And get these things worked out.

Mr. House commented the process was not working well. He should be able to sit down and decide whether or not it worked and not decide the day of the meeting that they would not take the street or there had to be additional paving.

Mr. Reynolds stated he had no way of answering his questions.

Ms. Little stated there were problems that needed to be worked out. There was a week and a half before the Planning Commission meeting. She was not sure the planning commission had anything to do with the maintenance. The city staff needed to get back together.

Mr. House suggested continuing through the meeting to see if there are any additional issues, he needed to be aware of, then make a decision on whether or not to proceed. He asked to hear all the other comments.

Mr. Beavers stated Mr. Jurgens had to service the sewer lines with trucks. He would have to be able to pull from one manhole to the next.

PUBLIC

Mr. Reed Greenwood, 1601 Elmwood, commented the layout looked better than the other plans that had been presented. He stated one of the requirements for a PUD was that it had to save the City money. He assumed that was why they would have private streets and property owners

Subdivision Meeting

April 3, 1997

Page 13

associations to pick up the maintenance. He did not believe this would project would save the City money. It seemed to him the Commission was more concerned with the green space and the density. There were other places more appropriate places for dense development, such as areas zoned for apartments.

Mr. Chuck Charlton, 1961 Overcrest Street, asked what the sign would look like and if the trees would be preserved.

Mr. House stated the sign had not been designed, but it would be the name of the subdivision.

Mr. Forney asked a sign and island would be allowable on a public street.

Ms. Little replied the island would not be public, it would be privately owned. The land area between the curbs would also be owned and maintained by Home Owners Associations.

Mr. Charlton stated he did not like the sign being located there because it would be in his sight.

Ms. Little stated it was on Mr. House's property and he was allowed the same property rights as everyone else.

Mr. Charlton also expressed concern about the trees along the creek and in the detention pond area.

Mr. Jorgensen stated they were going to try and retain the trees as best they could, but in some situations they would not be able too. They would preserve the trees along the creek.

Mr. House stated they would preserve all the trees they could. He asked if the developer or the Property Owners Association maintained the ponds would there be any City objection to leaving the trees in the pond area.

In response to concerns voiced by Mr. Beavers and Ms. Hoffman, Mr. House stated they could build to the west on lot 17 of the easement line. Lot 49 could be built on north of the easement line. Another option might be to move the sewer line.

Mr. Beavers stated it was not possible to move the sewer line. The line could not handle the increased friction.

Ms. Little asked them to submit drawings illustrating how they planned to fit a house on lots 17 and 49. If they could not fit a house on the lot, they would note on the plat that they were unbuildable lots.

Ms. Jane Gailbreath suggested working on the PUD ordinance.

Mr. Forney believed the PUD was an opportunity to negotiate a solution to address the property owners best intention and the City's needs. The PUD was intended to be more flexible.

Mr. Ralph Truman, an area resident, did not believe this was a good area for a PUD. He did not believe there was a large enough demand for housing. He expressed sympathy for Mr. House for the number of times he had to come back for revisions. He expressed his frustration with the current ordinances.

Mr. House stated they wanted to create a more traditional feeling neighborhood by placing the buildings closer to the street. They had provided a wide right-of-way between the curb and property line. Rather than having a home sitting 35-40 feet back from the curb, they wanted the builders to come out closer to the street with porches and sidewalks. The PUD ordinance did not address leaving out utility easements as part of the green space requirements. In order to accommodate the staff recommendations and request. They had not calculated any of the utility easements in the green space and still had enough green space to meet the PUD requirement. They were using an odd piece of the property for the green space.

Ms. Little replied the ordinance did not tell them they could not count easements, but it had normally been one of the staff requirements. When the utility were put in and the utilities were put in; people did not consider it green space. They had made that a standing rule.

In response to a comment from Mr. Greenwood, Mr. House stated there was less street footage per lot. The city would have more tax payers to pay for less street. He asked to think about the maintenance and talk to the people on the third floor. He asked for the Subdivision Committees recommendation to carry on, subject to them working out the problems before the Planning Commission.

Mr. Odom asked how Mr. House would design garages into his concept.

Mr. House replied the garages would be in the back of the house, as it had been presented in all their other submittals. The basic tenor style had remained the same throughout the process. He could not comment to having covered parking for all the homes. Some of the homes might not have garages to make them more affordable. They wanted to keep the traditional feel. The parking would be in the rear. There would be some shared driveways.

In response to a question from Mr. Odom, Mr. House stated he would have restrictive covenants, which would be the same as those submitted in the past.

In response to a question from Mr. Forney, Mr. House stated they had always planned to

Subdivision Meeting
April 3, 1997
Page 15

maintain the green space.

Mr. Forney stated he would support the 12.5 feet setback request. He also support the strip of land going out toward Old Wire as green space. He felt it would benefit the neighbors to the north and south of it.

Mr. Reynolds commented he liked this plat better than any of the previous submittal.

MOTION

Mr. Fern moved to forward the item to the Planning Commission.

Mr. Reynolds second the motion.

The motion carried on a vote of 3-0-0.

**PP96-6.40: PRELIMINARY PLAT FOR CHARLESTON PLACE
MTM OF EL DORADO- N. OF MISSION BLVD. & E. OF OLD WIRE RD.**

The preliminary plat was submitted by Dave Jorgensen of Jorgensen and Associates on behalf of MTM of El dorado, L.L.C., for property located north of Mission Blvd. And east of Old Wire Road. The property is zoned R-1, Low Density Residential, and contains approximately 12.84 acres with 51 lots proposed.

Staff recommended consideration of the requested PUD preliminary plat. If the preliminary plat is approved then staff request that the approval be conditioned upon the following:

CONDITIONS OF APPROVAL

1. Payment of Parks fees of \$15,300.00 at the time of final plat approval.
2. Planning Commission approval of the 12.5 feet front setback.
3. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets, sidewalks and tree preservation. The information submitted for the plat review process was reviewed for general concept only.

All improvements shall comply with the City's current requirements and subject to additional review and approval.

Fire protection shall meet the requirements of the Fire Chief.

Minimum easements widths (or combination of right-of-way and easement) shall be 20'. Wider easements shall be required for sewer lines over 10' in depth and must also allow for trenching at a 1:1 slope within the easement.

4. Cypress Lane will be 20 feet from back-to-back of curb and will be one-way from the west to the east as shown. Cypress Lane will be a public street, publicly maintained and will allow parking on one side of the street only. The right-of-way requirements for Cypress Lane will be 35 feet as shown on the plat.

5. All underground drainage including the inlets and head walls and all drainage within street right-of-way will be publicly maintained.

All open channel drainage, all swales and all detention ponds shall be privately maintained by the Developer, the POA or another private entity in accordance with the Stormwater Management (Drainage) Ordinance.

Planning Commission

April 14, 1997

Page 7

6. The 10 foot trail shall be used as an access to the sanitary sewer and privately maintained by the POA. The surface may be gravel as shown or any other surface desired by the developer which also allows the City to traverse the trail with trucks and equipment. All other trails shall also be privately maintained.
7. The covenants shall provide for the private maintenance of the detention ponds, open channel (swales), trails and island and must name the City as the a third party to theses covenants. The covenants must be approved by Planning, the City Engineer, and the City Attorney.
8. The conversion of the existing cul-de-sac on Amber to standard street width and replacing the northern and southern segments of the cul-de-sac with lawns shall be the developer's responsibility and the design included with the overall street design.
9. The extension of the new water line to the west along Amber and to the east alone Hackberry as necessary to connect tot he existing water lines shall be the developers responsibility.
10. Sidewalk construction in accordance with the current standards to include a 4 foot sidewalk and 4 foot greenspace along one side of Cypress and 4 foot sidewalks with 6 foot greenspaces along both sides of Amber.
11. The street names are subject to final staff approval.
12. The island and sign at the east entrance will be private and privately maintained.
13. Plat review and Subdivision committee comments which are not superseded by the above conditions. These comments include the written plat comments mailed to the applicant and comments from the Public Utilities (AWG, SWEPCO, OZARKS, TCA, SWBELL).

Mr. Odom noted the only condition that required Planning Commission action was the variance for the 12.5 feet front setback.

Ms. Johnson questioned the construction of the barrier fence.

Mr. House stated they were required to place a barrier fence for the tree preservation during construction. After the construction was complete, the fence would be removed.

Ms. Hoffman asked if the tagged trees would be removed or preserved.

Mr. Tom Hinley, Jorgensen & Associate, explained the trees had been flagged for the surveyors purpose to note which tree, had been shot. The trees marked on the plat as being preserved and having the barrier fence around them would remain.

Mr. House stated he intended to keep every tree possible although there were three or four right in the right-of-way. In response to a question from Ms. Hoffman, Mr. House stated since they were responsible for the maintenance of the ponds they were going to leave the trees as long as they could agree with the City's Engineering Department that they were not displacing too much water. He was going to try and preserve them.

Mr. House explained they had planned to have a traditional neighborhood feel. The way they had tried to accomplish this feeling was by bring the homes closer to the street. He believed the 12.5 feet setback in combination with the road right-of-way the homes would be 25-30 feet back from the curb. This would help create a traditional feel in combination with porches. This would also create more of a buffer in the back to screen the neighbors to the north. He added all parking would be placed in the back of the homes. There might be some curved driveways, possibly on a corner lot. His intention was to have all additional structures in the rear and all driveways to provide off street parking in the rear.

Mr. Sugg asked if Mr. House was requiring the builders to build to the 12.5 setback.

Mr. House stated he had not placed that requirement in the covenant. They had not intended it to be for every lot. Some lots were too narrow in the front or had easements across the front where the home would have to be moved back some. But by enlarge they wanted the homes to be close to the front.

Mr. Odom stated he would hear public comment on the variance request, before discussion on the preliminary plat.

PUBLIC COMMENT FOR THE 12.5 FEET SETBACK

Mr. Reed Greenwood, 1601 Elmwood, commented he did not know where the 12 ½ feet front setback was traditional in Fayetteville. He believed they were in large cities.

There was no other public comment.

Mr. Forney stated he would support the 12½ setback, because the project was attempting to preserve more greenspace by having smaller lots. Adding smaller lots would need to be more compact.

Ms. Little asked Mr. House if there would be any garages facing the street or would all the parking and garages be located in the rear.

Mr. House stated a garage door may face the street, but it would be in the back of the house.

Planning Commission

April 14, 1997

Page 9

Ms. Johnson noted there would not be any driveways were there would be traditional 20' driveway.

Ms. Little noted there would be shared driveways to the rear.

Mr. House stated they intended to keep the driveways narrow.

Ms. Johnson asked how many lots would be serviced by one driveway.

Mr. House did not believe more than 25% of the driveways would be shared. There had been some support for shared driveways as well as contention. Some people were concerned with sharing a driveway.

Ms. Hoffman expressed concerns about a pull off in front of the house with a 12½ foot setback.

Mr. House replied some of the homes might be set back further where a circular drive could be used effectively and tastefully. He believed it would give some variety to the development.

Mr. Sugg asked if the covenants would prohibit someone from building one house on two lots.

Mr. House thought it might be an attractive option. He added the covenants were strict concerning the types of finish, the amount of landscaping and brick, to help control the size of the homes.

Ms. Johnson questioned the number of lots the shared driveways would service.

Mr. House responded he was planning one driveway per two homes, some of the wider lots would probably have a single drive.

Ms. Johnson asked him to justify his request for the 12½ front setback when the lots were so deep.

Mr. House stated there were two reasons: to maintain the traditional feel, by pulling the homes closer to the street. Secondly, by pulling the homes closer they were allowing more green space to the rear for the neighbors.

Mr. Odom like the idea of having the parking in the rear.

Mr. Ward questioned the price range of the homes in the development.

Mr. House replied the cost would be around \$100,000 to \$150,000. They were wanting them to

Planning Commission

April 14, 1997

Page 10

be high end, but smaller homes. There were not many developers targeting that market in town. They could use quality materials with less square footage.

MOTION

Mr. Forney moved to approve the variance for the setback requirement to 12.5 feet for the front.

Mr. Sugg seconded the motion.

The motion passed by unanimously by a vote of 8-0-0.

PUBLIC COMMENT ON PRELIMINARY PLAT

Mr. Reed Greenwood, an area resident, believed people moved to this area because it was not like the other large cities. Fayetteville did not have to build homes close together. He did not believe this development met the intent of the PUD ordinance. He did not believe the land set aside as open space could be more useable than if it was in the lots. He did not believe the preservation of the natural features would be maintained. He added the development was out of character with the rest of the neighborhood. He did not believe the development provide for the needs of families and children. He noted some of the lots had 1,755 square feet. He felt approval of this item would be setting a president of Fayetteville as favoring high density developments in an area where such developments were not needed or in keeping with established building practices.

Mr. Terry Terpin, 1423 Amber Drive, presented copies to the commissioners, Section 10 article 8, buffer strips and screening, stated article 812 required a buffer strip with landscaping and a fence or wall. He thought the project was about profit. The main reason Houses Inc. Wanted to do a PUD was because it was the only way to have 51 lots onto 12 acres. He felt they could be a maximum of 36 lots on the property. He did not believe there was housing shortage in Fayetteville. He did not believe that fill would discourage urban sprawl. He felt the ordinance was for the developer to make more profit, without consideration of the surrounding citizens.

Mr. Mike Limons, 1645 Boston Place, asked how long the barrier fence would be left up? He expressed concern about the traffic noise inside the new homes. He added this would effect the property values of the surrounding properties.

Jane Treat, 1633 Boston Place, stated there had been reported cases of kidnaping in the area. She did not believe people would let their children play a block or two away. She added in the first 6 month of 1997 there had only been 50 homes sold in Fayetteville in the \$90,000 to \$100,000 price range. She added she had a large porch, but they had only had a few people stop to visit. People buying these homes would be too busy to stop and visit their neighbors.

There were no other public comments.

Mr. House stated more homes on less land was a more efficient use of land. It removed less trees and provided more green space. It also was a more efficient use of public facilities. Infill developments by their nature were more efficient use of public facilities because the City did not have to build more road, sewer systems or infrastructure to service the development. He add there were a variety of people buying homes that did not have families. He had conducted studies and analysis and felt there was a demand for this type of development. Mr. Greenwood had misquoted the square footage on the plats. The lots he quoted were the smallest lots in the area. The square footage he quoted was the buildable area. It did not take into consideration the

setbacks on both the front and rear or the easements. Some people liked the idea of having a large open space rather than having to maintain a large lot. They were trying to meet a market. He added the homes would be a minimum of 24 feet from the street because of the street right-of-way plus the set back area.

Mr. Sugg questioned how this compared with other developments such as Harbor Meadows.

Mr. House stated most of Harbor Meadows lots that were designed in this character were only 35 feet wide with only 3,000 square feet. His average lot was 40 or more feet and larger than 4,000 square feet.

Mr. Forney questioned if buffering and screening would be required.

Ms. Little stated when a PUD had a common boundary with an R-1 district any use of land within the R-1 PUD other than a single family detached dwelling was required to be set back at least 250 feet from the common perimeter. This PUD did have a common boundary with a R-1 boundary, but all the uses were single family homes so that condition would not apply. Two family dwellings would be a conditional use, but it had not been requested and was not a consideration. She added under Planned Unit Development certain findings needed to be made and one of those was screen and buffering with reference to type, dimensions, and character. If the Commission found there was a need for screening a buffering then they had the ability to require it.

Mr. Odom suggested going through the specific findings one by one.

1. Ingress and egress to the property and proposed structures there on with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

In response to a question from Mr. Odom, Ms. Little stated the Fire Chief had signed off on the development.

Ms. Hoffman asked if there had been further discussion on the stop sign on Hackberry.

Ms. Little stated the street would be named Amber to the intersection with Overcrest a stop sign would be required prior to the incision of construction. The street would be roughed in and the stop sign would be installed.

Mr. Harbison expressed concerns about Cypress being one way. He asked if Mr. House had given any thought to making the street two-way.

Mr. Beavers stated they could go to a 24 feet two way street.

Mr. House stated they had widened the street to 20 feet to allow for on street parking. He added all the City departments had looked at the street and had not had any problems with the width. He added there were a lot of one way streets in the downtown area. He added if they could keep the narrow one way street would keep the speeding traffic to minimum and provide the closer and tighter feel they were trying to obtain.

Mr. Odom noted there were walking trails and sidewalks for the pedestrians.

The commissioners agreed the development met the condition.

2. Off-street parking and loading areas where required, with particular attention to the item in subsection 1 above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Mr. Odom though this condition would apply more in a commercial setting than in a residential. He noted the City required the one-way street be wider than was originally requested.

The commissioners agreed the item met the condition.

3. Refuse and service areas, with particular reference to the items in subsection 1 and 2 above;

In response to a question from Mr. Odom, Mr. House stated they would be picking the trash along the front.

4. Utilities, with reference to locations, availability, and compatibility;

Mr. Odom noted most of the sewer and utilities were located in the back yards.

Ms. Hoffman asked what type of surface the 10 access road would have.

Mr. House stated he would like to use wood chips.

Ms. Hoffman stated she would not be in favor of paved easement.

Mr. Odom noted the easements would have to be privately maintained.

5. Screening and buffering with reference to type, dimensions, and character;

Mr. Odom did not believe this condition was applicable, since the property was adjoining R-1.

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

Mr. Odom believed most of these referred to commercial uses, but he noted Mr. House would be placing a sign in the median.

Mr. House replied he would be placing a sign in the median if it was permitted. He added he would conform to ordinances. He believed he was required to place a sign for the PUD.

Ms. Little stated the median would have to be privately owned and could not be part of the right-of-way.

7. Required yards and other open spaces.

Ms. Little stated the required open space was 30%. There was a chart on the plat showing 4.13 acres, if the access to Old Wire is included and 3.47 acres if the access to Old Wire Road was not included. She added neither of the acreage included utility easements or ponds.

Ms. Hoffman noted the plats indicated 50% of the ponds had been subtracted out.

Ms. Warrick stated the ponds had not been calculated in the green space.

The commissioner agreed the item met the conditions.

Mr. Forney thought the project met the goals of the Planned Unit Development: more efficient use of land, public facility, more open space, and the preservation of natural features. He thought the project had a lot of merits. Adding the development would not be a good if it were under the Subdivision Regulations. The City would have more roads and wider roads to maintain with fewer taxpayers to help maintain the facilities.

MOTION

Mr. Forney moved to approve the item.

Mr. Tucker seconded the motion.

The motion carried unanimously by a vote of 8-0-0.

**FP99-3: FINAL PLAT
CHARLESTON PLACE SUBDIVISION, PP370**

This item was submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Greg House for property located east of Old Wire Road and south of Elmwood Drive. The property is zoned R-1, Low Density Residential, and contains approximately 12.84 acres with 51 lots proposed.

Dave Jorgensen and Greg House were present on behalf of the project.

Staff Recommendations

1. City Council approval of sewer easement vacation.
2. A street name change needs to be presented to City Council in order to change the short section of Hackberry to Amber Drive. This requires the applicant to submit a letter requesting the change and staff will process an agenda request.
3. Protective covenants for this Planned Unit Development shall be filed of record with the final plat. These covenants shall provide for the private maintenance of detention ponds, open channels (swales), and islands and must name the City as a third party.
4. Applicant shall work with staff to finalize the easements prior to engineering sign off on the final plat.
5. Payment of parks fees in the amount of \$19,125 (⁵¹/~~13~~ lots @ \$375.00.)
6. Sidewalk construction in accordance with current standards to include a 4 foot sidewalk with a 4 foot green space along both sides of Amber Drive and one side of Cypress Lane.
7. All Plat Review and Subdivision comments.
8. Staff approval of final detailed plans, specifications and calculations for grading, drainage, water, sewer, fire protection, streets, sidewalks, parking lots and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements.
9. All green space shall be maintained by the Property Owner's Association including the island and sign at the east entrance to the development.

EXHIBIT A

For 4/18/00 minutes

MOTION

A MOTION REFERRING LSD:00-05.00 (STEELE CROSSING SHOPPING CENTER) BACK TO CITY STAFF AND THE PLANNING COMMISSION FOR FURTHER ACTION.

WHEREAS, Argus Properties has appealed to the City Council of the City of Fayetteville the decision of the Planning Commission rendered March 27, 2000 denying Large Scale Development approval to LSD:00-05.00 (Steele Crossing Shopping Center); and

WHEREAS, Argus Properties has agreed to negotiate in good faith with city staff in an effort to resolve the differences between all parties and to submit a revised preliminary plat or site plan to include a tree preservation plan to the Planning Commission; and

WHEREAS, the City Council believes it is in the best interest of the citizens of Fayetteville to attempt to reach an agreement in conformity with the ordinances of the City of Fayetteville.

NOW, THEREFORE, UPON MOTION OF THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS:

Section 1. LSD:00-05.00 (Steele Crossing Shopping Center) is hereby referred back to the Planning Commission upon the following terms and conditions:

- a. Argus Properties and/or their representatives shall meet with the planning staff, the city public works director and the city landscape administrator in an effort to submit a large scale development preliminary plat or site plan including a tree preservation plan to the Planning Commission that is in conformity with all applicable city ordinances. The City Council encourages city staff to work in good faith to reach such an agreement on this development.
- b. Following the aforementioned meeting(s), Argus Properties may submit to the Planning Commission a revised preliminary plat or site plan including a tree preservation plan for the approval of the Planning Commission as set forth in the ordinances of the City of Fayetteville.
- c. The meeting and submission set forth above do not in any way waive or abridge the appellate rights of any party.

PASSED AND APPROVED this 18th day of April, 2000.

APPROVED:

By: _____

Fred Hanna, Mayor

ATTEST:

By: _____

Heather Woodruff, City Clerk



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Tim Conklin, Planning Director
From: Heather Woodruff, City Clerk
Date: April 21, 2000

Attached is a copy of the motion referring LSD 00-55 back to the Planning Commission. The original will be microfilmed and filed with the City Clerk.

217 N. East Avenue
Fayetteville, AR 72701
501-521-9155
Fax 501-521-6199

**MTM of El Dorado,
L.L.C.**

Fax

To: Heather Woodruff, City Clerk

From: Gregory T. House

Fax: 575-8257

Pages: 2

Phone:

Date: 03/17/00

Re: Planning Commission Meeting of
3/13/2000.

CC:

☐ **Urgent**

☐ **For Review**

☐ **Please Comment**

☐ **Please Reply**

☐ **Please Recycle**

RECEIVED

MAR 20 2000

CITY CLERK'S OFFICE

M.T.M. OF EL DORADO
A LIMITED LIABILITY CORPORATION

TELEPHONE
(501)521-9155

March 17, 2000

FAX
(501)521-6199

Heather Woodruff
Fayetteville City Clerk

Re; Planning Commission Meeting of 3/13/2000, AD 00-6: Administrative (Charleston Place
PUD, pp370)

Dear Ms. Woodruff,

I am writing this letter on behalf of MTM of El Dorado, L.L.C., owner of the Charleston Place PUD, to request an appeal of the Planning Commission's denial at the above referred meeting of our request to include the following improvements in the common areas of Charleston Place:

- 1) The construction of an entrance pillar and mock stationary gate system;
- 2) The construction of a picnic pavilion;
- 3) Approval of the dock, which covers the ugly drainage inlet in the spring-fed pond.

We are appealing this decision for the following reasons:

- The dock was built with the permission of Allet Little (Former City Planner). Said permission was granted verbally in an informal meeting during a discussion regarding several aspects of the project. Section §160.121H states that minor changes....may be authorized by Planning Administrator without Planning Commission approval;
- This wood pier meets the 75 foot activity setback requirement;
- The wood pier is not much larger than a king size bed, so it couldn't possibly invite such disturbing activity as the one complaining neighbor states, and;
- The pier and dock cover an unsightly drainage inlet structure.

The activities that will take place in the Green space will not be exacerbated by the requested improvements as some level of activity in this space is already contemplated, due to the fact that it is going to be a landscaped, park-like setting with an attractive spring-fed pond, old stone dam and existing spring house, all tied to a trail system.

- The proposed pavilion is sighted on an existing stone barn structure which can be designed to meet the 100 foot setback requirement from the adjacent R-1 district, and can be unlighted;
- The entrance structures can be modified to eliminate the mock gates and scaled down;
- Also, the east gate pillar system can move to the west along the island divider, inline with the existing bridge, to satisfy the adjacent neighbor's concern.

Many of the neighbors and property owners have expressed support for our proposal and in an effort to contact them, I would like this appeal to be heard on April 18, 2000.

Respectfully Submitted,


Gregory T. House for
MTM of El Dorado, L.L.C.

M.T.M. OF EL DORADO
A LIMITED LIABILITY CORPORATION

TELEPHONE
(501)521-9155

March 17, 2000

FAX
(501)521-6199

Heather Woodruff
Fayetteville City Clerk

Re; Planning Commission Meeting of 3/13/2000, AD 00-6: Administrative (Charleston Place
PUD, pp370)

Dear Ms. Woodruff,

I am writing this letter on behalf of MTM of El Dorado, L.L.C., owner of the Charleston Place
PUD, to request an appeal of the Planning Commission's denial at the above referred meeting of our
request to include the following improvements in the common areas of Charleston Place:

- 1) The construction of an entrance pillar and mock stationary gate system;
- 2) The construction of a picnic pavilion;
- 3) Approval of the dock, which covers the ugly drainage inlet in the spring-fed pond.

We are appealing this decision for the following reasons:

- The dock was built with the permission of Allet Little (Former City Planner). Said permission was granted verbally in an informal meeting during a discussion regarding several aspects of the project. Section §160.121H states that minor changes....may be authorized by Planning Administrator without Planning Commission approval;
- This wood pier meets the 75 foot activity setback requirement;
- The wood pier is not much larger than a king size bed, so it couldn't possibly invite such disturbing activity as the one complaining neighbor states, and;
- The pier and dock cover an unsightly drainage inlet structure.

The activities that will take place in the Green space will not be exacerbated by the requested improvements as some level of activity in this space is already contemplated, due to the fact that it is going to be a landscaped, park-like setting with an attractive spring-fed pond, old stone dam and existing spring house, all tied to a trail system.

- The proposed pavilion is sighted on an existing stone barn structure which can be designed to meet the 100 foot setback requirement from the adjacent R-1 district, and can be unlighted;
- The entrance structures can be modified to eliminate the mock gates and scaled down;
- Also, the east gate pillar system can move to the west along the island divider, inline with the existing bridge, to satisfy the adjacent neighbor's concern.

Many of the neighbors and property owners have expressed support for our proposal and in an effort to contact them, I would like this appeal to be heard on April 18, 2000.

Respectfully Submitted,


Gregory T. House for
MTM of El Dorado, L.L.C.

RECEIVED

MAR 21 2000

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

217 NORTH EAST AVENUE FAYETTEVILLE ARKANSAS 72701

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Associate Planner
THRU: Tim Conklin, City Planner
DATE: March 13, 2000

AD 00-6: Administrative (Charleston Place PUD, pp 370) was submitted by Greg House for property located at Charleston Place PUD. The property is zoned R-1, Low Density Residential and contains approximately 12.84 acres. The request is for a non-residential structures within 75' of an adjacent R-1 zoning district.

RECOMMENDED MOTION:

Staff recommends approval of the administrative request subject to the following conditions:

- 1. Planning Commission approval of entrance structures which encroach City right of way for Amber Drive.**

(From Fayetteville Minimum Street Standards: Section 1-14)

Where a subdivision sign or ornamental structure is proposed to be located on City right of way, the exact location and size shall be approved by the Planning Commission. The maintenance of such signs and structures shall be by a properly established property owner's association and provision for maintenance shall be included in the covenants of the subdivision.

Any relocation of such signs and structures necessitated by street widening, utility installation, or any other authorized use of the right of way shall be the financial responsibility of the property owner's association and shall be done at the call of the City.

- 2. All outdoor facilities allowed by Planning Commission shall comply with §162.23 "Non-residential uses in R districts" with regard to setbacks from adjacent R districts (see attached code section).**

- The applicant is proposing to site a picnic pavilion in the approximate location of an existing barn. This location does not meet the required 100' setback from an adjacent R district (it would be approx. 89' from the west property line). A setback reduction of approximately 11' is requested for this structure based on the enclosed site plan.

3. Appropriate permits must be obtained through the Inspections Division where necessary. A *detailed* site plan will be required for any structure which must be permitted.

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: March 13, 2000

Comments: _____

The "CONDITIONS OF APPROVAL" listed in this report are accepted in total without exception by the entity requesting approval of this administrative request.

Name: _____ Date: _____

BACKGROUND:

The Charleston Place Planned Unit Development is under construction. The subdivision has been completed and the final plat approved. In December, the Planning Division received a complaint from an adjoining property owner questioning whether the "dock" structure which was built on top of a detention pond outlet structure was permitted to be that close to adjoining R-1 properties.

Staff researched this complaint and determined that the structure was not approved as a part of the subdivision at the time of Planning Commission approval.

At this time, the applicant is requesting approval of the existing dock structure. The addition of this structure constitutes a major addition to the previously approved P.U.D. and requires Planning Commission approval. The dock is sited approximately 100' from the north and east property lines. The required setback for an outdoor activity area (§162.23 - see attached) is 75'. This structure would comply with this setback requirement.

The applicant also wishes to construct entrance structures, including stationary gates, at each of the two entrances to the development, and a picnic pavilion in the greenspace near the detention pond (with dock) in the north central portion of the development. These additions also constitute major additions to the P.U.D and require Planning Commission approval. The picnic pavilion is another outdoor facility. This picnic area must be set back from adjoining R-1 property at least 100 ft. if it is not lighted, if the structure is lighted, the setback requirement is 200 ft.

The existing barn building is approximately 97.47 ft. from the west property line (the proposed pavilion appears to be about 8 ft. closet to that property line). The Planning Commission will have to determine whether to reduce the required 100 ft. setback, as allowed under §163.23, if the pavilion is to be placed in the proposed location.

SURROUNDING LAND USE AND ZONING

North:	Single family homes (R-1)
South:	Cemetery (A-1)
East:	Single family homes (R-1)
West:	Single family homes (R-1)

GENERAL PLAN DESIGNATION	Residential
---------------------------------	-------------

**AD00-6: ADMINISTRATIVE
CHARLESTON PLACE PUD, PP370**

This item was submitted by Greg House for property located at Charleston Place PUD. The property is zoned R-1, Low Density Residential and contains approximately 12.84 acres. The request is for a non-residential structure within 75 feet of an adjacent R-1 zoning district.

Greg House was present on behalf of the request.

Staff Recommendation

Staff recommends approval subject to the following conditions:

1. Planning Commission approval of entrance structures which encroach City right of way for Amber Drive.
2. All outdoor facilities allowed by Planning Commission shall comply with §162.23 Non-residential uses in R districts, with regard to setbacks from adjacent R districts.
3. Appropriate permits must be obtained through the Inspections Division where necessary. A detailed site plan will be required for any structure which must be permitted.

Commission Discussion

Johnson: I think there are three items that make us the administrative items before us. One has to do with the approval of entrance structure which encroach on city right of way for Amber Drive and this is at both side of the subdivision on Amber Drive. The proposal is to build a permanent gate which doesn't close and I think there are a close of columns as well. Secondly, there is an outdoor facility to be allowed which is in the detention pond and the third is for a recreation facility for what I think was a spring house or something.

Conklin: Planning staff has received a complaint from an adjoining property owner regarding a wood dock that has been built over the detention. That wood dock is approximately 100 feet from the north and east property lines. I did review with the planning and development ordinance which stated that anytime you have recreational facilities, those must be shown on the preliminary and final plans for a planned unit development. I interpreted that recreational facilities was a major change and if Mr. House wanted the wood dock to remain over the detention pond that the Planning Commission would have to approve it. That wood dock is meeting the setback requirements for nonresidential uses in residential district.

Planning Commission Minutes

March 13, 2000

Page 21

The requirement is 75 feet. This dock is built over an existing spring fed pond and there is water in it at all times. During storm events, the water does rise and holds within the concrete structure that allows water to exist the pond and travel northward in a channel. That is the first request and whether or not that wood dock can remain on this property. The second request is to install entryway features or ornamental structures. These would be located in the city right of way which requires the Planning Commission's approval. The entryway feature enclosed a fixed 12 foot long gate which is stationary and is not intended to block the street. They are proposing this on each end of the subdivision. The last item that Mr. House has requested approval on is what is referred to an old barn on the property. They would like to use the rock structure and put a porch around it and allow public use of that location. That is approximately 89 feet from the west property line. If the structure is not lighted, the requirement is 100 feet and if it is lighted the requirement is 200 feet. Those are the three item the Commission needs to address this evening.

Estes: With reference to the stone barn, what is the setback from the adjoining property?

Conklin: Currently it 97.47 feet. However, if the porch wraps around it would add about 10 feet to the structure making the setback 87.47 feet from the west property line.

Bunch: On the issue of lighting, it that interior or exterior lighting?

Conklin: That is not stated in the ordinance but I would interpret that as interior lighting.

Odom: Is the structure proposed to be lighted or not?

Conklin: I did speak to the applicant this afternoon and he would prefer the structure to be lighted.

Johnson: The required setback for a lighted structure is 200 feet.

House: I would like to clarify a couple of things. The porch would only be on three sides of the building which would be the north, the east, and south sides. The idea was to create an outdoor area for people to enjoy. As far as lighting, it was designed to make it safer even if we restricted the use to day light hours only. We have alleys in this subdivision and some of the residents were requesting that those have lights. We aren't requesting that today but we would like to have your consideration on that issue at some other time. With respect to the dock, our idea was to camouflage the drainage inlet and maintain it by the home owners association in a park setting. We thought a dock was an attractive feature to hide

the concrete structure and could be used to fish from. It's not finished. If the neighbors are concerned about the semipublic use of these structures, we would put something in the home owner's association that the space couldn't be used after certain hours. We came up with the idea of the pillars and gate for the subdivision is so people can tell when they've reached Charleston Place. We have to have a sign as part of the ordinance. We were struggling with how to make that a tasteful identification point. This neighborhood is different. We felt the gate features would distinguish it.

Public Comment

Reed Greenwood, residing at 1601 Elmwood was present.

Greenwood: I live just north of the Charleston Place development. I am the one who filed the complaint about the pier since I understood this developer had no prior approval for any structures in that green space between our property and the homes on the north side of the project. We've been coming to meetings since 1996 when this was first approved. Many of us in the neighborhood have followed this development closely since it was proposed. We attended several Planning Commission meetings and commented on it and have kept up with it because it is adjacent to our property and it is somewhat of a different kind of development. I'm here to ask that you deny this latest request from the developer. There are several things that I would like to refer to in the copy of the PUD ordinance that was provided to me by city staff in June of 1996. First, "A final PUD plan shall be submitted following the procedures and requirements of the subdivision regulations Chapter 159. In addition to the requirements of the subdivision regulations, the following information shall be submitted. A. Location of Recreational Facilities.

Johnson: Let me interrupt you. We have this set out before us on page 7.6.

Greenwood: That is a requirement for the final plat and any recreational facility is required to be shown on that at the time the plat is submitted by the developer. In a review of that plat in the Planning Commission office last Thursday, I found that neither of the two structures in the green space north of the driveways at the back of the houses is shown on that plat. We have been working on this since 1996. It's time to get finished with it. The developer has had a long enough time to do that. They have filed their plan. That plan even used covenants agreeing to go forward with the plan as presented. I also understand that those kinds of things shouldn't be changed unless there is compelling reason to make changes. Compelling reasons as I understand the planning and zoning code concern issues such as

health, safety, good drainage. Not recreation or ugliness. Next regarding setbacks in PUD's, there is some variance in interpretation. "When a PUD has a common perimeter with an R-1 district, any use of land within the R-1 PUD other than a single family detached dwelling shall be setback at least 250 feet from the common perimeter." 250 feet is what the ordinance says. This seems very clearly written. I assume the setback requirement was included in the code so that structures that serve as many as 51 families are not nuisances to the adjoining property owners. The proposed structures requested are not setback 250 feet. When this project was originally proposed, there was a pavilion very close to our property in the north side of the project. We were very concerned about the noise and other nuisances that might originate from a pavilion on this site. We researched the PUD requirements and found the 250 foot setback requirement. The pavilion was dropped from that plan. Here the developer comes again with a similar proposal which should be denied again. We continue to have the same concerns we had with the first pavilion. Also, the final plat does not show the barn which actually was a garage. There is only the block walls remaining from the garage. We assumed the garage would be torn down along with the house. The only thing shown on the plan is the spring house. The code requires that prior to issuance of more than eight building permits for any residential PUD, all approved non residential facilities shall be constructed. There are twelve houses under construction in this development. We have requirements that the structures be proposed and shown on the final plat which was not done. The developer built one of the structures without proper review and permits. There is a requirement for a 250 foot setback which is not being observed. There is a requirement that the structure must be in place prior to the issuance of no more than eight building permits. I'm not sure why we're here. Also, in review of the final plat, they were required to provide screening and buffering. Several neighbors have been concerned about that. We thought we were through with this after the final round but sewer lines were run beside our house which was not in the original proposal. That is something that had to be done. We learned about this when we saw the person spray painting the ground for the sewer lines. We called the city and did not receive notification from the developer that a major sewer line was going to go by our house. We had a meeting with officials at the city and the developers and their engineers. We lost a 30 foot pine tree which was within six feet of the digging. We understood that the top soil would be restored to the former level and it wasn't. We understood that grass sod and not seeding was going to be used. I requested through the engineer of the project for the developer to take of the items and he refused to take care of any of it. I can sum up our position and the position of many of our neighbors. We ask that you require the developer to leave a green space area truly as green space without any structures of any kind. We ask that you require the developer to remove the pier that was built without

seeking appropriate approvals and public input. We ask you to require the developer to tear down the rock walls remaining from the old garage. That was never in the plan as approved. Many of us in the neighborhood have an nagging concern. If you approve this what will he be back for next? Swimming pool? Lighted tennis court? A tower like the one off of Old Wire Road. We are looking at the substantial loss of the tree canopy and water shed on the top of this hill primarily because the houses are built on minimal lots and the houses occupy nearly all the lot. Most of the trees will be remove. We would welcome the planting of additional trees in the open space to replace those that have to be removed.

Chuck Chalfant residing at 1961 Overcrest was present.

Chalfant: Our house is directly adjacent to Charleston Place. I'd like to address the pylons to the entryway gates. The gate on the east side specifically is directly adjacent to our property.

Johnson: What are you calling the pylon?

Chalfant: The pillars are 10 to 15 feet from our property. The gate extends to the end of the median and that would extend into the nature barrier of the creek. Two years ago it was approved that the markings would be placed adjacent to the creek and not in it. If you have to approve this, please make them move it back. I am opposed to the entry gate. It is not necessary to show that you are entering a new neighborhood. There is a creek and a tree line and the houses are significantly different. A gate is not necessary. I was hoping the new subdivision would be more inclusive but we have seen several things that indicate it is not that way. For example, the rock walls that are in front of the detention ponds. They are beautiful from the front but the back is concrete blocks and that is about 10 to 15 feet from my property.

Further Commission Discussion

House: In response to Chuck's comment, we don't have a problem moving the entry system farther to the west if that is suitable. We just want to define the neighborhood. It's interesting that when we first proposed this development four years ago, everyone was worried it would cheapen the value of their property and that it would low rent, multi family housing. Now they are complaining that it is too exclusive. We are in the process of applying stucco to the block wall and it's just not finished yet. We have not eliminated any trees. We have planted grass to prevent erosion in the areas we have disturbed. I don't how the Greenwood

Planning Commission Minutes

March 13, 2000

Page 25

thought they would get a sodded yard in their easement area. The reason for the entry system is to define the neighborhood and create a feeling that relates to the architecture of the development. I hope you can see that when you're out there.

Johnson: This final plat was approved at the Subdivision Committee. I see that condition number eleven provided landscape screening around detention areas. When does that have to be done?

Conklin: Landscaping is one of the items that we allow the developer to delay. I will get with the Landscape Administrator and help get that finished up.

Johnson: If no trees have been removed between the northmost detention pond of the adjacent property, then it sure has a different look from when we toured with site before any development. It was really a very thick, overgrown area. Maybe there weren't trees but there was something back there.

Hoffman: I was involved with this process from the beginning. I recall that in the layout of the streets and the development that there is a central green space area that was going to be devoted for a gazebo for community events and the barn and garage would remain in more of a natural state and we a buffer to the neighbors. I think that idea has totally flown out the window. Apparently, the landscaping has not been installed around the detention areas to screen the neighbor's view of this development. The housekeeping is atrocious. There is debris on site and it doesn't appear to have been policed at all. With regard to the entry gate, I find they are large and out of scale.

MOTION

Commissioner Hoffman made a motion to deny all three requests for the entry features, the recreation facility at the old garage, and allowing the wood dock in the detention area.

Commissioner Estes seconded the motion.

Johnson: Are you proposing removal of the wood dock that was built without consent?

Hoffman: Yes, that is my motion.

Johnson: I have a question about the distance such recreational structures have to have from the adjacent property. You have stated that the setback is 100 to 200 feet and Mr. Greenwood has stated that it is 250 feet. Can you explain this ordinance? It appears to me it must be 250 feet. I'm looking at 166.06 which is the PUD

Planning Commission Minutes

March 13, 2000

Page 26

ordinance.

Conklin: In the original violation notice that we sent Mr. House, I used that section. Mr. House questioned whether or not that was appropriate. Within the Unified Development Ordinance, we also have a section on nonresidential uses in R districts. In referencing that, it talks charitable, cultural, educational, recreational and similar nonresidential facilities were permitted and the requirements could be reduced after receiving a plan for development and this section could be substituted for the Planned Unit Development ordinance. My interpretation was it must apply to the Planned Unit Development ordinance somehow. It states in there an outdoor facility or use. We have land use on perimeters discussing things other than single family homes and we also have a section in our ordinances that talks about nonresidential uses in R districts. Therefore, if it doesn't apply to a wood dock or picnic area or outdoor activity area, where it specifically states 166.06, I don't know of any area where it could be applied.

Shackelford: Due to my relationship with this applicant, I will be abstaining from this vote.

Hoover: Does the ordinance require signage for this neighborhood?

Conklin: There is no requirement that a subdivision has to have a sign.

Hoover: Were there originally plans for columns at the entries?

Conklin: I was not aware of any entry way feature being planned.

Estes: I have not been on board from the beginning. I am fresh to this and perhaps that is an advantage. I see they have done some downstream channel diversion. There has been relocation and loss of a watershed. There is rip rap stone as a dissipater and all that has been approved by our City Engineer. What remains is the screening and buffering and the green space. I understand that can be delayed until a later time. The setback requirements for lighted or unlighted nonresidential structures are not being met under any part of our code. It has been noted that the preliminary plat was suppose to locate any and all proposed nonresidential structures including gates and monument signs and that was not done. The plat has the final approval and has been filed of record in the courthouse and it is a done deal. If this process means anything, then we need to consider that once the process is completed it is completed. I understand the concept of change orders and design changes and so on but those are normally contemplated in building contained units and not in redesigning subdivisions. I am troubled by this idea that you can approve a final plat then come back with all

Planning Commission Minutes

March 13, 2000

Page 27

these changes without notification and hearing from the public.

Johnson: At the time this PUD came through, one of the selling points was it would have a lot of space in the buffer zone and the idea was to be good neighbors. The idea was not to encroach or impose on the neighbors with recreation facilities. When we site a PUD and back it up to an existing neighborhood, we have a duty to stand by our decision to not allow recreational facilities near the boundary lines.

Roll Call

Upon roll call, the motion passed with a unanimous vote of 7-0-1. Commissioner Shackelford abstained.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

February 10, 2000

Mr. Greg House
Houses, Inc.
217 North East Ave.
Fayetteville, AR 72701

Dear Mr. House:

The City received a complaint regarding the placement of a wood pier over an existing spring fed pond in Charleston Place Planned Unit Development. The wood pier is approximately 100' from the north and east property boundaries.

This wood pier was not approved as part of the preliminary or final planned unit development. You did mention to me that you discussed placing the wood pier at this location with the former City Planner. I contacted Alett Little and she did recall this conversation but stated that she never approved the request.

The violation notice that was sent to you stated that any use of land other than a single family dwelling requires a 250' setback from the common perimeter of an R-1 zone.

You have questioned whether this section of the code applies to the wood pier since the ordinance refers to land use and not recreational facilities associated with a land use.

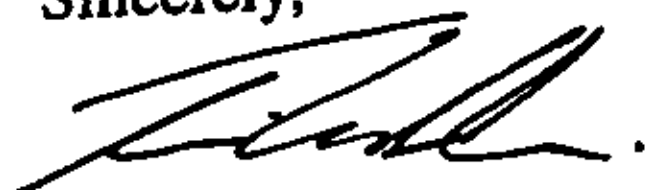
I have researched Section 166.06 Planned Unit Development Ordinance regarding which regulations are applicable to this situation. I have found in the Unified Development Ordinance references to both permitted land uses and non-residential facilities that are associated with planned unit developments. Because the Unified Development Ordinance does make a distinction between land use and non-residential facilities associated with a land use, it's my interpretation that you are required to comply with the non-residential ordinance requirements (please see attached). Furthermore, it's my opinion that this change in the approved Planned Unit Development is considered a major change and must be approved by the Planning Commission.

Therefore, the Planning Commission will need to approve a request to allow the wood pier to remain. Under Section 163.23, the setback required for the pier is 75' using the outdoor activity requirement. I have placed this item on the March 13, 2000 Planning Commission agenda.

*Planning Commission
March 13, 2000
AD00-6 Charleston Place HUD
Page 7.4*

Please provide to the Planning Division mailing labels of all adjoining property owners by Tuesday, February 22, 2000. I also request that you notify the adjoining property owners by certified mail of your request and the date and time of the Planning Commission meeting. Please contact me if you have any questions or need any additional information.

Sincerely,



Tim Conklin
City Planner

SECTION 166.06(C)(11) PLANNED UNIT DEVELOPMENT

11. Changes Within a PUD. Minor changes caused by conditions unforeseen at the times of initial approval may be authorized by the City Planner without Planning Commission approval. *These changes include, but are not limited to: structure location, structure character, location of sidewalks, trails, street lighting, parking, and changes in landscaping. All other changes which in the opinion of the City Planner or Planning Commission are major changes must be approved by the Planning Commission.*

14. Preliminary PUD Plan. A preliminary PUD plan shall be submitted to the Planning Commission following the same procedures and requirements outlined in this chapter. In addition to the requirements of the subdivision regulations, the following information shall be submitted:

- a. An estimate of the number of units for sale and lease;
- b. Identification and size (acres or square feet) of all open space and proof that the developer has the capacity to maintain the open space until accepted by the City or assumed by the property owners association (POA);
- c. *Identification and location of all nonresidential structures proposed in the PUD;*
- d. All information relating to the establishment, operation, and perpetuation of the POA;
- e. Proposed protective covenants;
- f. Natural features;
- g. Written request for any desired variances from the zoning or subdivision regulations; and

15. Final PUD Plan. A final PUD plan shall be submitted following the procedures and requirements outlined in this chapter. In addition to the requirements of the subdivision regulations, the following information shall be submitted.

- a. *Location of recreation facilities;*
- b. Proposed treatment and ownership of open spaces;
- c. *Relationship of dwelling units, recreation facilities, and open space;*
- d. *Proposed trails, walks, waterbodies, and other special features;*
- e. Final protective covenants and property owners association agreement.

Any property owners association agreement shall apply to all property owners within the PUD and the protective covenants shall so provide; and

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

§163.23 NONRESIDENTIAL USES IN R DISTRICTS. The following requirements apply to charitable, cultural, educational, recreational, health, institutional, religious, social, and similar nonresidential facilities where permitted in or abutting an R district. The Planning Commission may reduce these requirements after receiving and reviewing a development plan under the provisions of §166.05 or §166.06. Separation of structures of areas for uses listed above shall be as follows:

Type of Structure or Element of the Facility	Minimum Separation (ft.)
Outdoor Facility or Use:	
Eating or Picnic Area	100 ft.
Entrance Driveway	20 ft.
Outdoor Activity Area	75 ft.
Outdoor Lighted Area	200 ft.
Outdoor Spectator Facilities	50 ft.
Outdoor Sports Area Without Spectator Facilities	100 ft.
Tool or Equipment Storage	200 ft.

MTM OF EL DORADO

March 1, 2000

Re: Charleston Place
Via: certified mail

Dear Neighbors:

First, I want to express my appreciation for your patience with any inconvenience that the construction of Charleston Place has caused you. Hopefully, when this project is completed you will consider it an asset to your neighborhood.

Secondly, this is to inform you that MTM of El Dorado, LLC. has requested that the Fayetteville Planning Commission approve the following improvements to the common areas of the Charleston Place planned unit development:

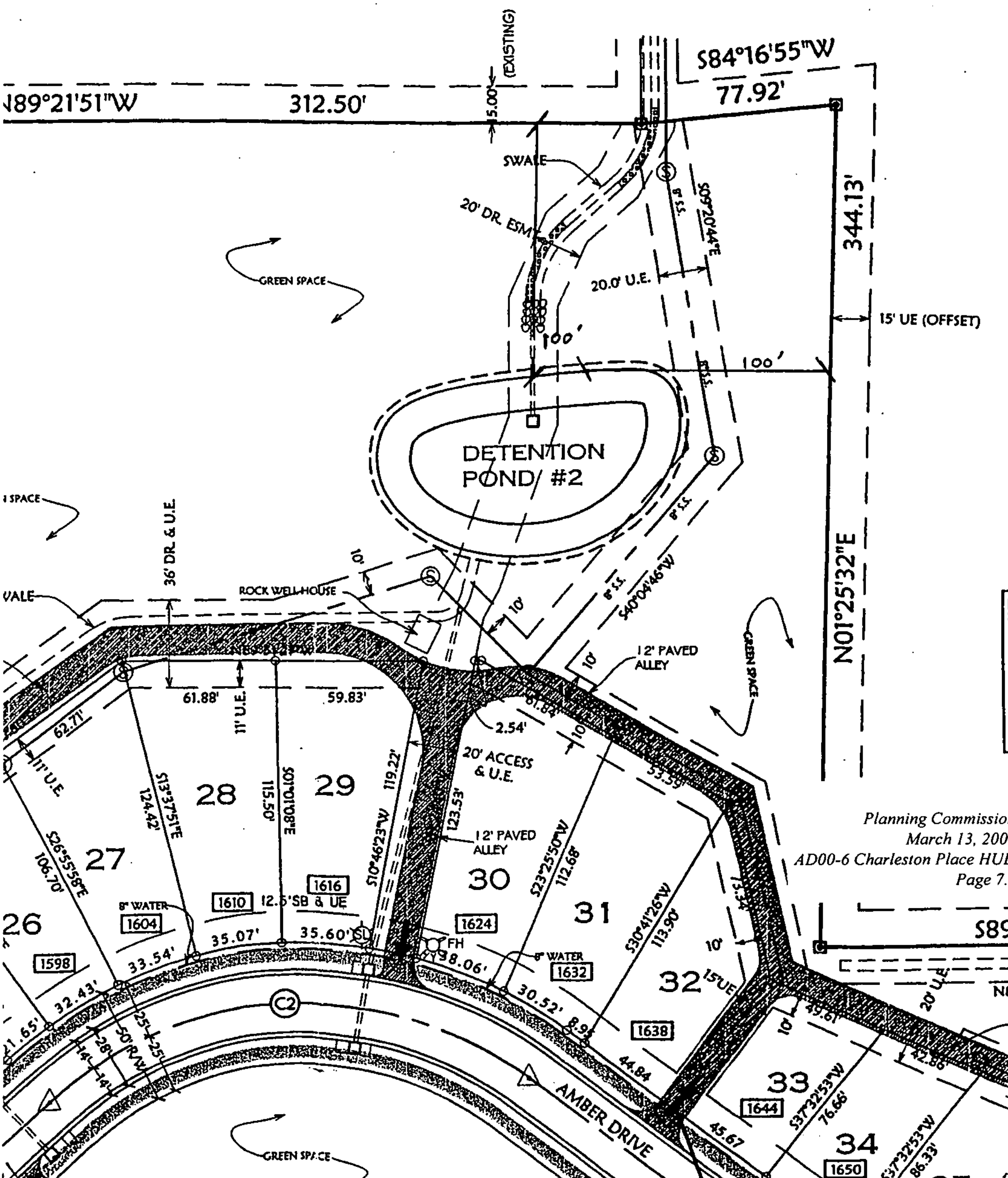
1. The construction of an entrance pillar and mock stationary gate system as per the attached drawings;
2. The construction of a picnic pavilion as illustrated on the attached drawings; and,
3. Approval of the dock, which covers the ugly drainage inlet in the spring-fed pond.

A meeting will be held March 13 at the Planning Commission in room 219 at City Hall, 5:30pm regarding our request should you be interested.

Sincerely,

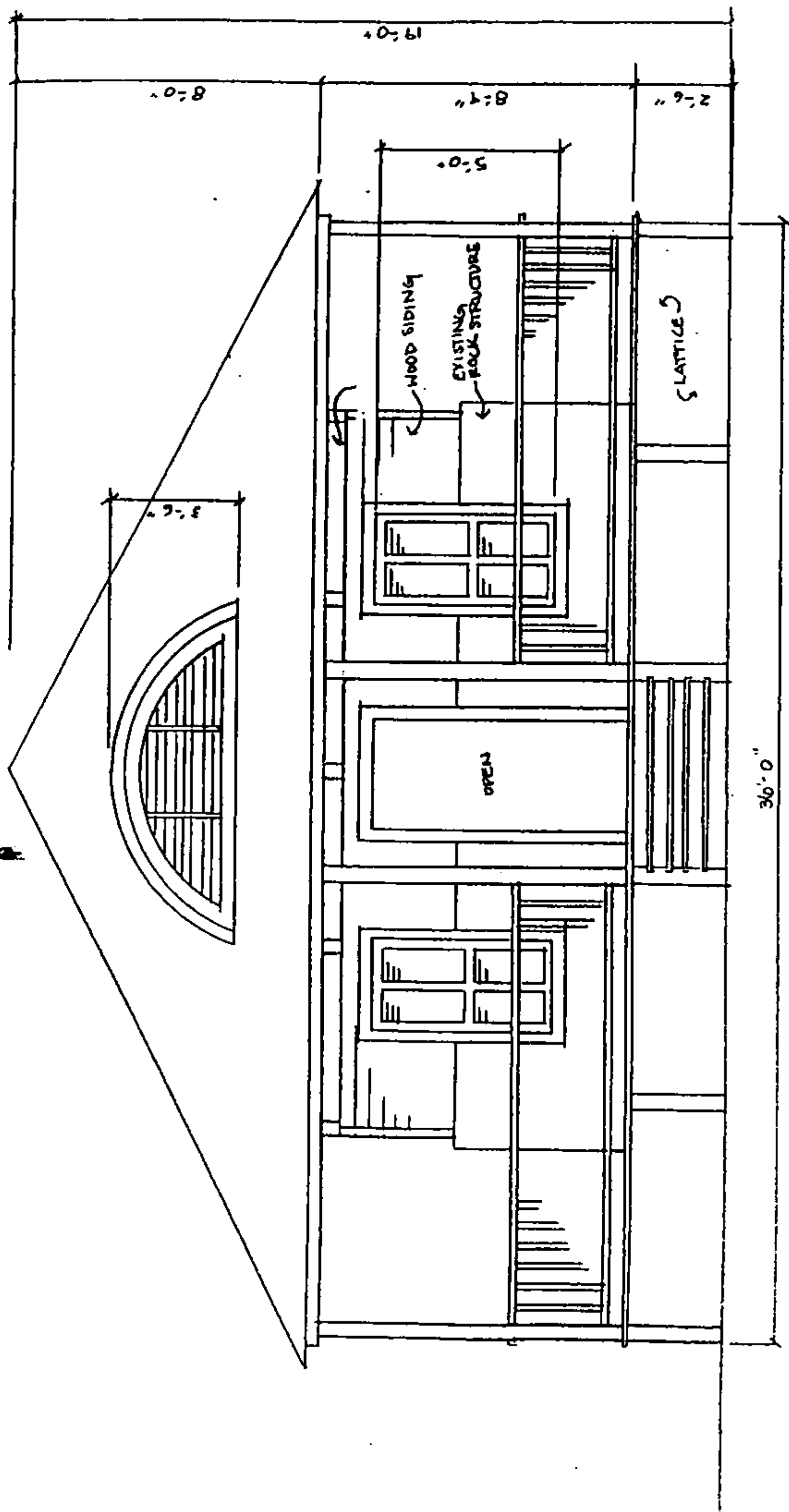


Gregory T. House
For MTM of El Dorado

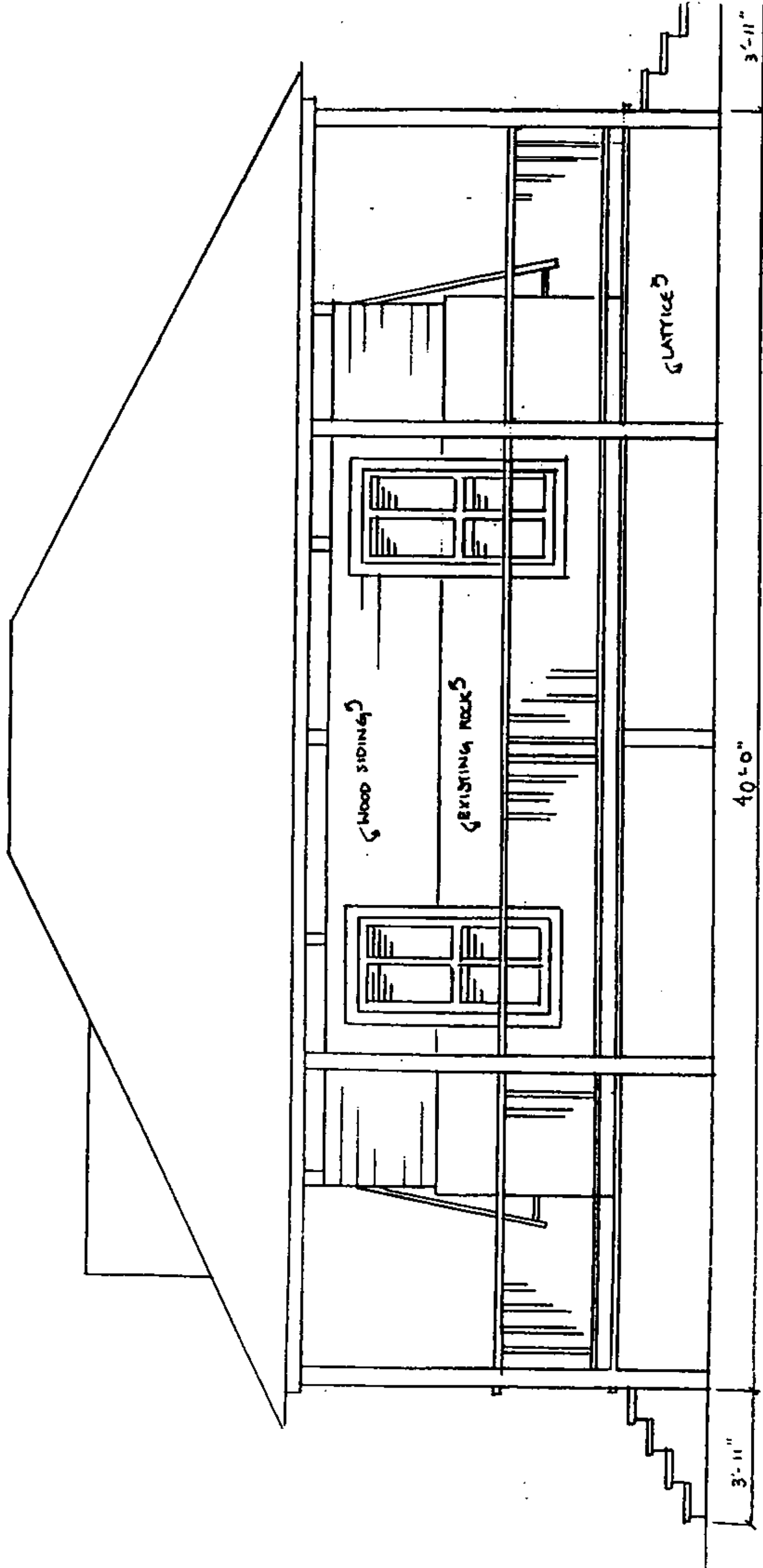


Planning Commission
March 13, 200
AD00-6 Charleston Place HUL
Page 7.

PP-1



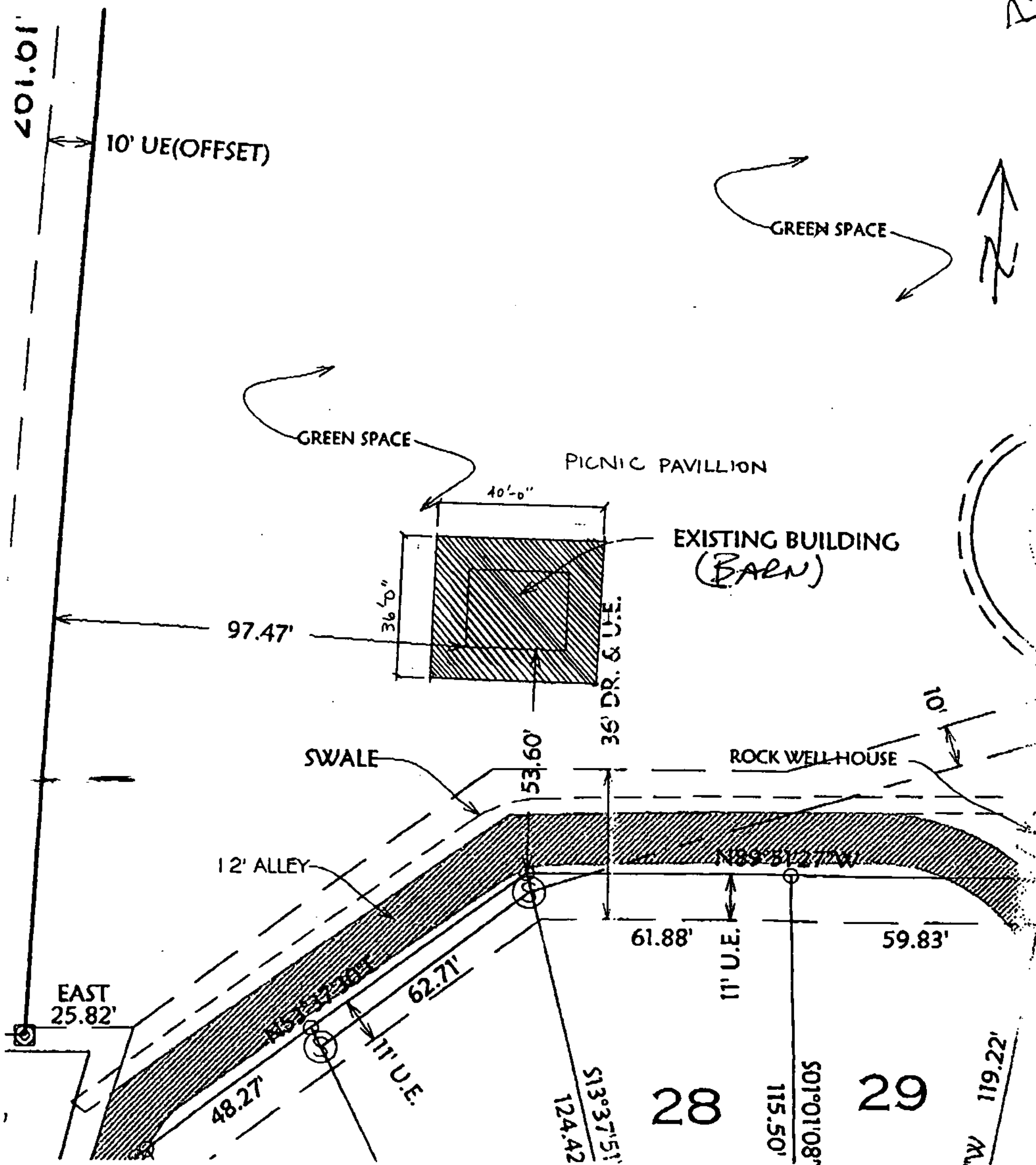
PICNIC PAVILLION EAST ELEVATION
NOT TO SCALE

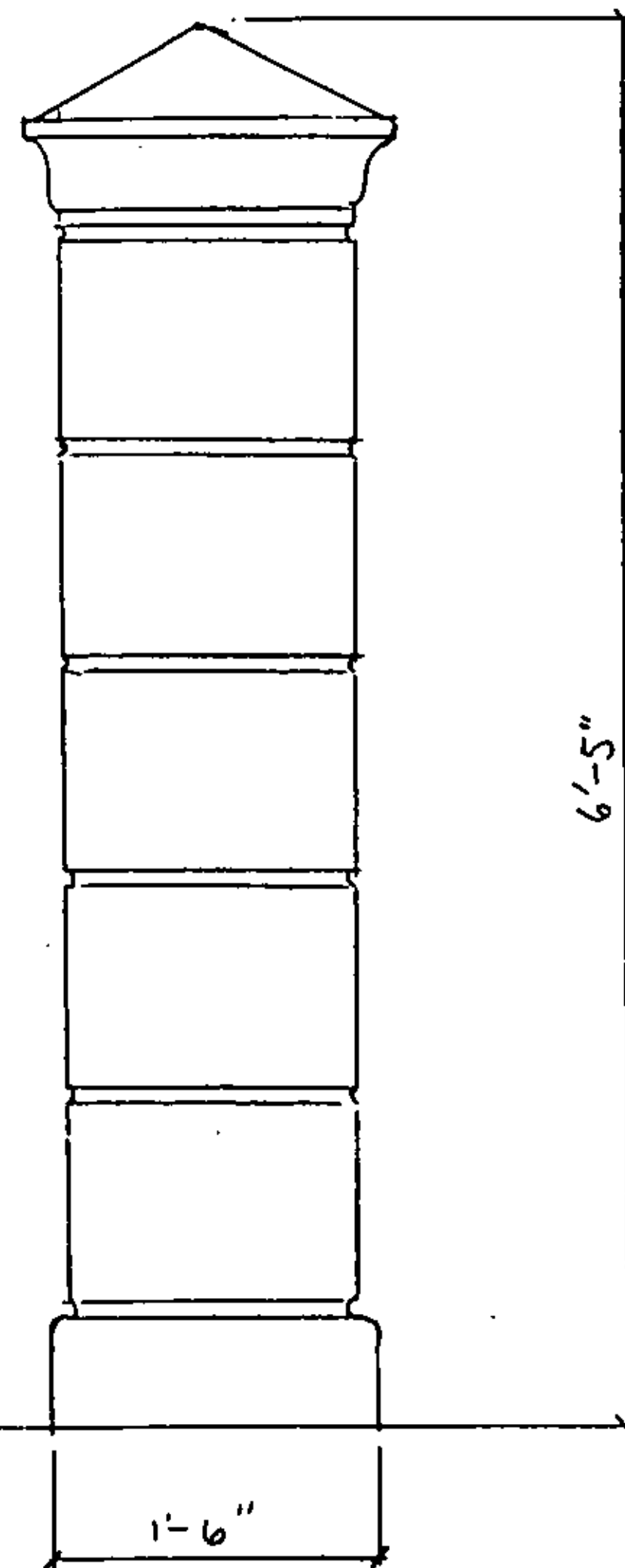
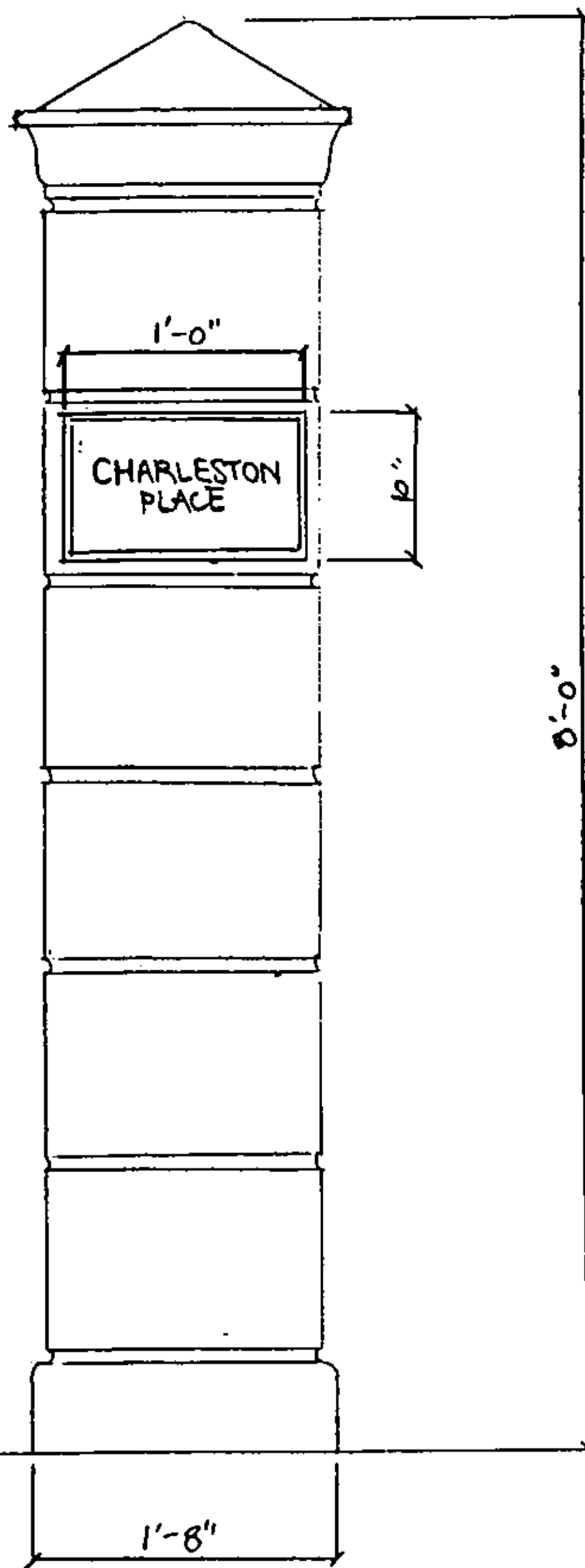


PICNIC PAVILLION WEST ELEVATION
NOTE TO SCALE

GREG.

PR-4





PYLON ELEVATION

SCALE: 3/4" = 1'-0"

STREET
(25'W)

CURB

← FIXED
12' LONG
GATE

← PYLON

← PYLON

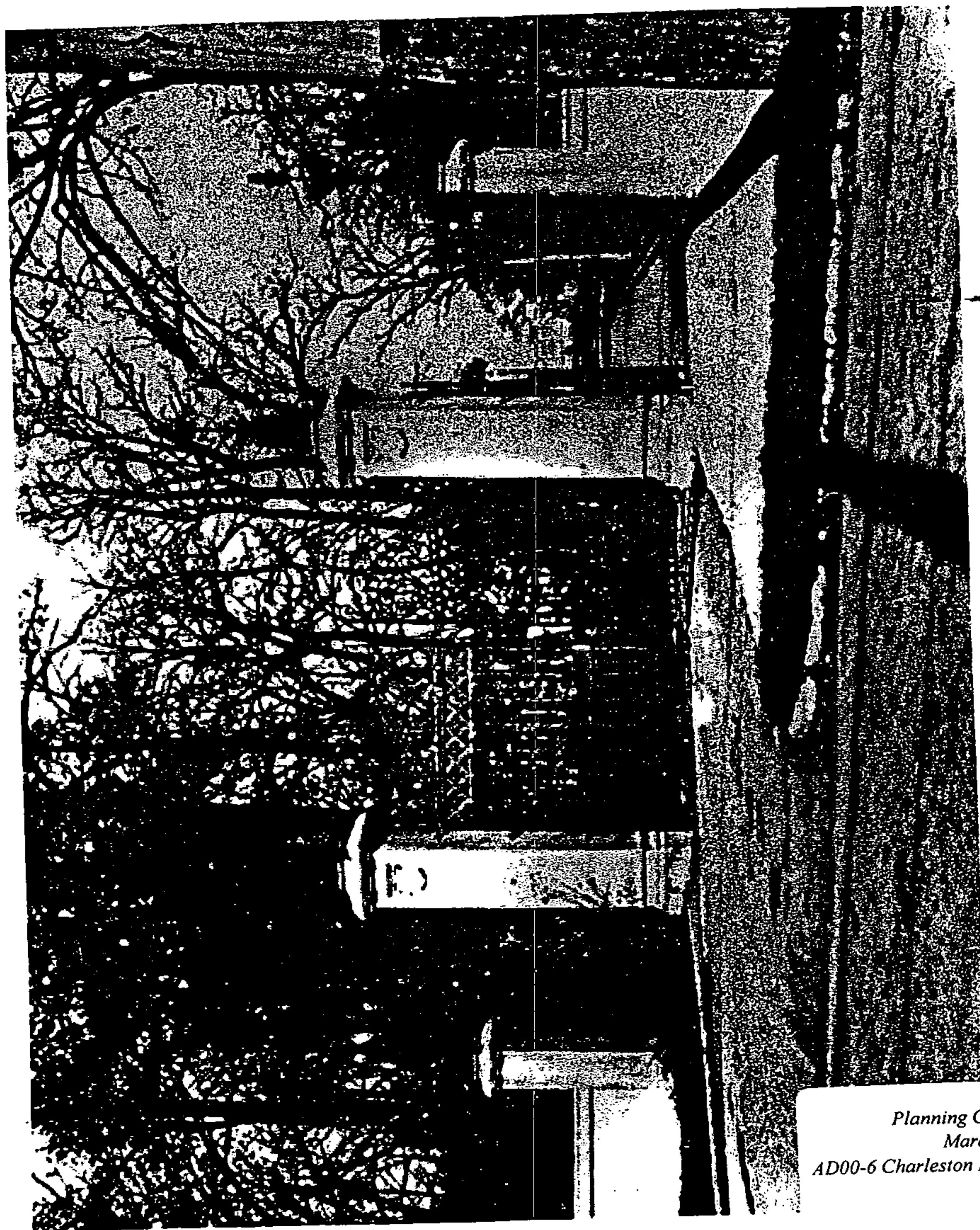
← SIDEWALK →

PLAN VIEW ENTRY PYLONS

SCALE : 3/8" = 1'-0"

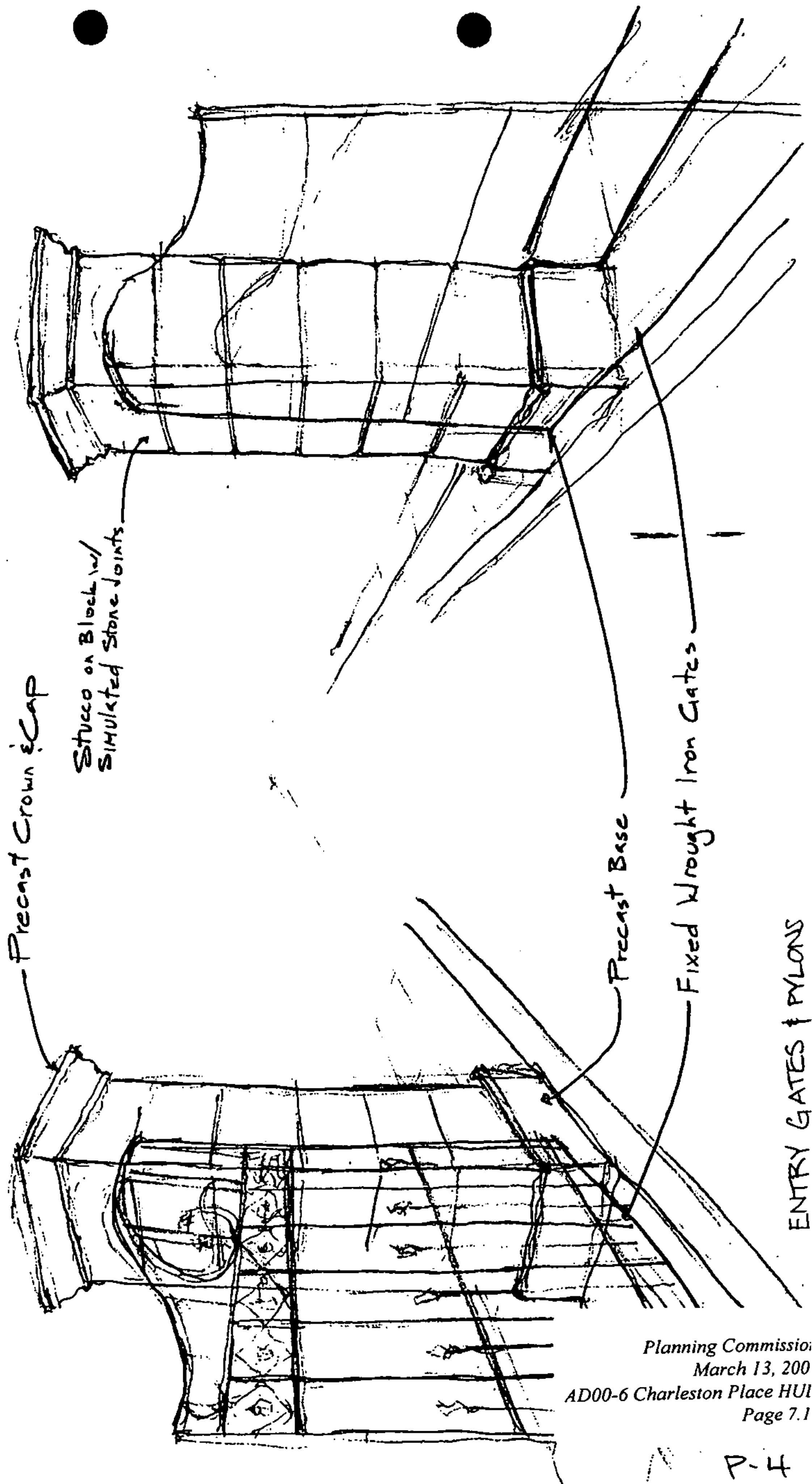
Planning Commission
March 13, 2000
AD00-6 Charleston Place HUD
Page 7.15

P-2



Planning Commission
March 13, 2001
AD00-6 Charleston Place HUL
Page 7.1

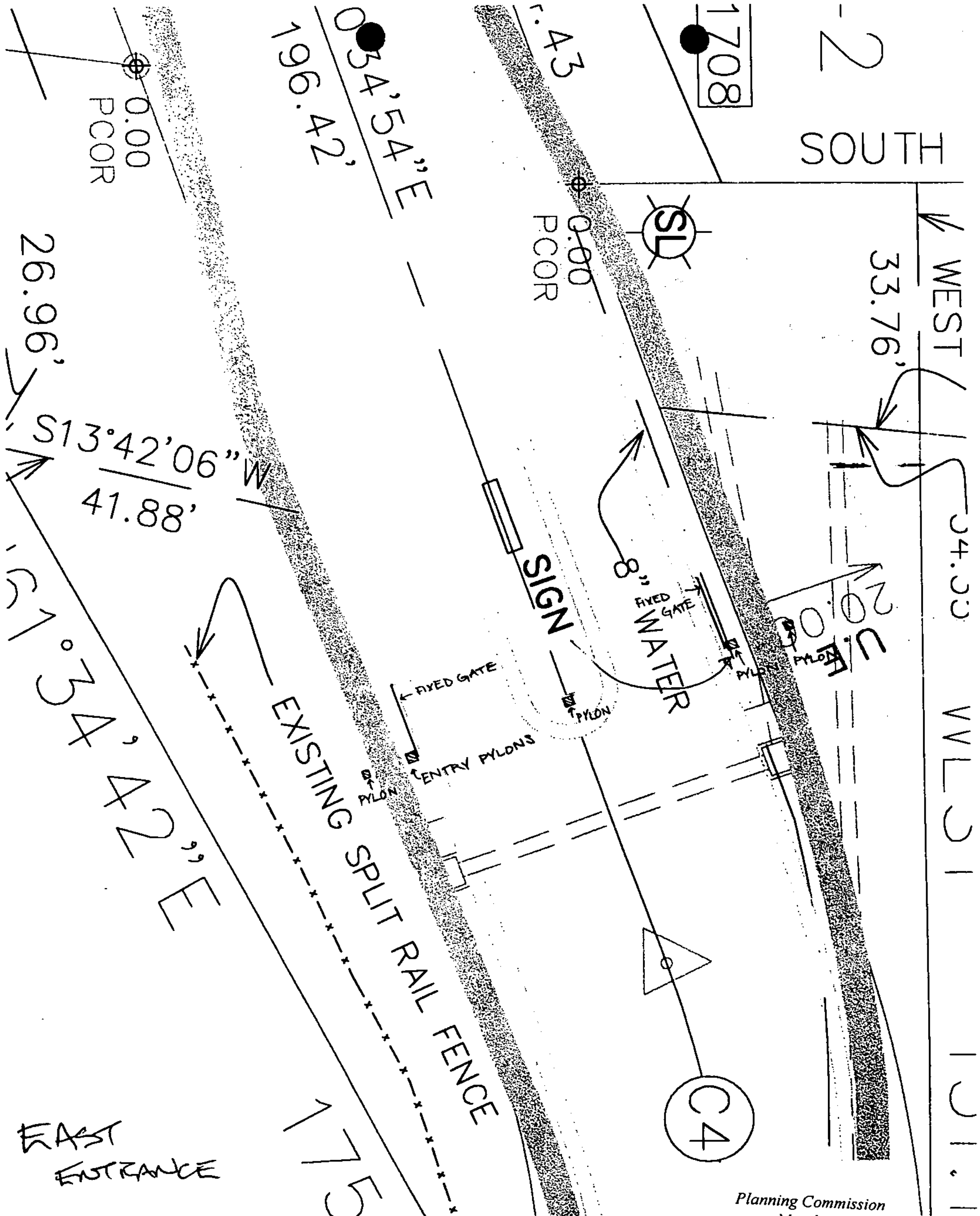
TO CHECK RUTHERFORD



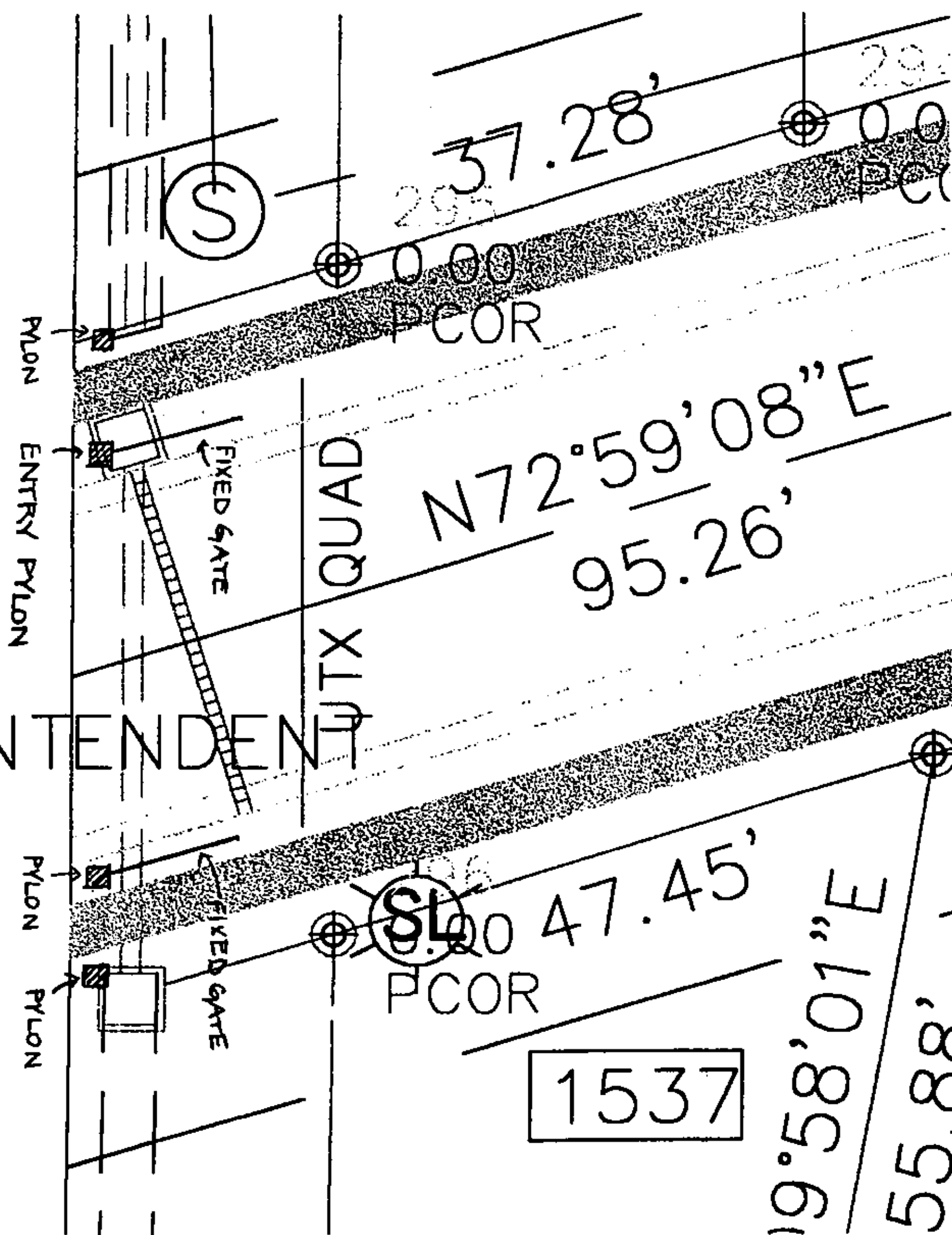
ENTRY GATES & PYLONS

3-5

FAST
ENTRANCE

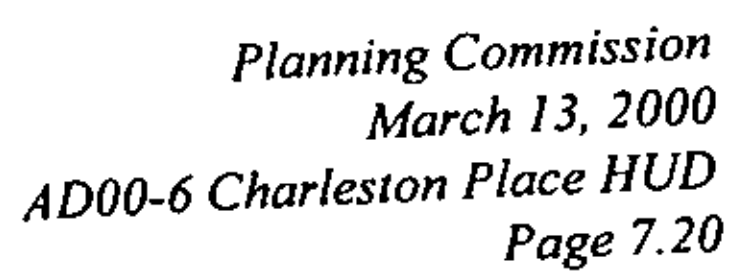


WEST ENTRANCE



J SUPERINTENDENT

56 W C



36' DR. & U.E.



FINAL AGENDA CITY COUNCIL APRIL 18, 2000

A meeting of the Fayetteville City Council will be held on April 18, 2000 at 6:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from the April 4, 2000 City Council meeting.
2. **PARKING LOT LEASE:** A resolution approving a contract with Arkansas Teacher Retirement System for the lease of 27 parking spaces in the parking lot located east of Block Avenue and south on Rock Street
3. **COMMUNITY BLOCK GRANT:** A resolution approving the 2000 Community Development Block Grant agreement and funding approval.
4. **STEARNS STREET:** A resolution approving request AD 99-30.00 submitted by David Bercaw on behalf of Lenk Development for property located south of Zion Road. The property is zoned R-2, Medium Density Residential and contains approximately 5 acres. The request is to guarantee future construction of Stearns Street with a letter of credit.
5. **MASTER STREET PLAN AMENDMENT:** A resolution to amend the Master Street Plan to remove the north/south collector street that is located east of Crossover Road between Township and Skillern Road.
6. **ADVANTAGE ARKANSAS PROGRAM:** A resolution certifying local government endorsement of Automated Research and Marketing to participate in the Advantage Arkansas Program (Arkansas Enterprise Zone Program Act 947 of 1993).

B. OLD BUSINESS

1. **SENIOR COMMUNITY CENTER:** An ordinance approving a 2 mile tax for one year to fund a Senior Community Center/Services. The ordinance was left on the second reading at the April 4, 2000 meeting.
2. **RZ 00-11.00:** An ordinance approving rezoning request RZ 00-11.00 submitted by Ronald G. Woodruff on behalf of the Joyce M. Ogden Family Trust for property located at 2300 Cato Springs Road. The property is zoned R-2, Medium Density Residential and contains approximately 4.02 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the April 4, 2000 meeting.
3. **RZ 00-12.00:** An ordinance approving rezoning request RZ 00-12.00 submitted by George Faucette on behalf of Butterfield Trail Village for property located at the southwest corner of Joyce Blvd. and Old Missouri Road. The property is zoned A-1, Agricultural and contains approximately 6 acres. The request is to rezone to R-O, Residential Office. The ordinance was left on the second reading at the April 4, 2000 meeting.

C. NEW BUSINESS

1. **RZ 00-13.00:** An ordinance approving rezoning request RZ 00.13.00 submitted by Charles Venable on behalf of the City of Fayetteville for property located at 1020 Harold Street. The property is zoned R-1, Low Density Residential and contains approximately 0.77 acres. The request is to rezone to R-O, Residential Office.
2. **CHARLESTON PLACE:** An appeal of a Planning Commission decision submitted by Greg House for property located in the Charleston Place PUD. The request is for non-residential structure within 75 feet of an adjacent R-1 zoning district.
3. **LAKE HILLS CHURCH:** An appeal of a Planning Commission decision submitted by Jon Allen on behalf of Lake Hills Church for property located on Hwy 265, south of Williams Dance Studio. The property is zoned A-1, Agricultural and contains approximately 3.58 acres. The request is to rezone to P-1, Institutional.
4. **STEELE CROSSING SHOPPING CENTER:** An appeal of a Planning Commission decision submitted by Kirk Rankin on behalf of Argus Properties for property located on Lot 15 of CMN Business Park. The property is zoned C-2, Thoroughfare Commercial and contains approximately 18.48 acres.

Northwest Arkansas TIMES
Tuesday,
April 18, 2000

April 11, 2000

**AGENDA SESSION
FOR THE
CITY COUNCIL MEETING
APRIL 18, 2000**

NEW ITEMS

Consent agenda. **ADVANTAGE ARKANSAS PROGRAM:** A resolution certifying Local Government Endorsement of Automated Research and Marketing to participate in the Advantage Arkansas Program (Arkansas Enterprise Zone Program Act 947 of 1993).

ADDITIONAL INFORMATION

1. **RZ 00-13.00:** Appraisal Report for Fire Station No. 4.
2. **CHARLESTON PLACE:** Additional information from developer.
3. **STEELE CROSSING SHOPPING CENTER:** Copy of the City's Tree Protection and Preservation ordinance.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA CITY COUNCIL APRIL 18, 2000

A meeting of the Fayetteville City Council will be held on April 18, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes of the April 4, 2000 City Council minutes. *MEETING*.
2. **PARKING LOT LEASE:** A resolution approving a contract with Arkansas Teacher Retirement System for the lease of 27 parking spaces in the parking lot located east of Block Avenue and south of Rock Street.
3. **COMMUNITY BLOCK GRANT:** A resolution approving the 2000 Community Development Block Grant agreement and funding approval.
4. **STEARNS STREET:** A resolution approving request AD 99-30.00 submitted by David Bercaw on behalf of Lenk Development for property located south of Zion Road. The property is zoned R-2, Medium Density Residential and contains approximately 5 acres. The request is to guarantee future construction of Stearns Street with a letter of credit.

B. OLD BUSINESS

1. **SENIOR COMMUNITY CENTER:** An ordinance approving a 2 mil tax for one year to fund a Senior Community Center/Services. The ordinance was left on the second reading at the April 4, 2000 meeting.
2. **RZ 00-11.00:** An ordinance approving rezoning request RZ 00-11.00 submitted by Ronald G. Woodruff on behalf of Joyce M. Ogden Family Trust for property located at 2300 Cato Springs Road. The property is zoned R-2, Medium Density Residential and contains approximately 4.02 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the April 4, 2000 meeting.

3. **RZ 00-12.00:** An ordinance approving rezoning request RZ 00-12.00 submitted by George Faucette on behalf of Butterfield Trail Village for property located at the southwest corner of Joyce Blvd. and Old Missouri Road. The property is zoned A-1, Agricultural and contains approximately 6 acres. The request is to rezone to R-O, Residential Office. *Left on AND reading.*

C. **NEW BUSINESS**

Consent

1. **MASTER STREET PLAN AMENDMENT:** A resolution to amend the Master Street Plan to remove the north/south collector street that is located east of Crossover Road between Township Street and Skillern Road.

2. **RZ 00-13.00:** An ordinance approving rezoning request RZ 00-13.00 submitted by Charles Venable on behalf of the City of Fayetteville for property located at 1020 Harold Street. The property is zoned R-1, Low Density Residential and contains approximately 0.77 acres. The request is to rezone to R-O, Residential Office. ** Pass out ordinance at agenda session.*

- Town*
3. **CHARLESTON PLACE:** An appeal of a Planning Commission Decision submitted by Greg House for property located in the Charleston Place PUD. The request is for a non-residential structure within 75 feet of an adjacent R-1 zoning district.

4. **LAKE HILLS CHURCH:** An appeal of a Planning Commission Decision submitted by Jon Allen on behalf of Lake Hills Church for property located on Hwy 265, south of Williams Dance Studio. The property is zoned A-1, Agricultural and contains approximately 3.58 acres. The request is to rezone to P-1, Institutional.

5. **STEELE CROSSING SHOPPING CENTER:** An appeal of a Planning Commission Decision submitted by Kirk Rankin on behalf of Argus Properties for property located on Lot 15 of CMN Business Park. The property is zoned C-2, Thoroughfare Commercial and contains approximately 18.48 acres.

** handout tree ordinance.*

(Consent?) 6. Advantage Art. program - Chamber of Commerce.

for final agenda

Revised plan from Argus.

*Prelim. plat. - Enter the CMN phase 1 & 2
or tree preser. plan app. w/
wet land plan
grading & draining plan.
as approved by Eng. dept.*

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL APRIL 18, 2000

A meeting of the Fayetteville City Council will be held on April 18, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT AGENDA

1. ✓ **APPROVAL OF THE MINUTES:** Approval of the minutes from the April 4, 2000 City Council meeting.
- 52-00 2. ✓ **PARKING LOT LEASE:** A resolution approving a contract with Arkansas Teacher Retirement System for the lease of 27 parking spaces in the parking lot located east of Block Avenue and south of Rock Street.
- 53-00 3. ✓ **COMMUNITY BLOCK GRANT:** A resolution approving the 2000 Community Development Block Grant agreement and funding approval.
- 54-00 4. ✓ **STEARNS STREET:** A resolution approving request AD 99-30.00 submitted by David Bercaw on behalf of Lenk Development for property located south of Zion Road. The property is zoned R-2, Medium Density Residential and contains approximately 5 acres. The request is to guarantee future construction of Stearns Street with a letter of credit.
- 55-00 5. ✓ **MASTER STREET PLAN AMENDMENT:** A resolution to amend the Master Street Plan to remove the north/south collector street that is located east of Crossover Road between Township and Skillern Road.
- 56-00 6. ✓ **ADVANTAGE ARKANSAS PROGRAM:** A resolution certifying local government endorsement of Automated Research and Marketing to participate in the Advantage Arkansas Program (Arkansas Enterprise Zone Program Act 947 of 1993).

B. OLD BUSINESS

- 4244
1. ✓ **SENIOR COMMUNITY CENTER:** An ordinance approving a 2 mil tax for one year to fund a Senior Community Center/Services. The ordinance was left on the second reading at the April 4, 2000 meeting.
- PASS
- 4245
2. ✓ **RZ 00-11.00:** An ordinance approving rezoning request RZ 00-11.00 submitted by Ronald G. Woodruff on behalf of the Joyce M. Ogden Family Trust for property located at 2300 Cato Springs Road. The property is zoned R-2, Medium Density Residential and contains approximately 4.02 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the second reading at the April 4, 2000 meeting.
- PASS
- 4243
3. ✓ **RZ 00-12.00:** An ordinance approving rezoning request RZ 00-12.00 submitted by George Faucette on behalf of Butterfield Trail Village for property located at the southwest corner of Joyce Blvd. and Old Missouri Road. The property is zoned A-1, Agricultural and contains approximately 6 acres. The request is to rezone to R-O, Residential Office. The ordinance was left on the second reading at the April 4, 2000 meeting.
- PASS

C. NEW BUSINESS

- left on 1st reading.
1. ✓ **RZ 00-13.00:** An ordinance approving rezoning request RZ 00.13.00 submitted by Charles Venable on behalf of the City of Fayetteville for property located at 1020 Harold Street. The property is zoned R-1, Low Density Residential and contains approximately 0.77 acres. The request is to rezone to R-O, Residential Office.
2. ✓ **CHARLESTON PLACE:** An appeal of a Planning Commission decision submitted by Greg House for property located in the Charleston Place PUD. The request is for a non-residential structure within 75 feet of an adjacent R-1 zoning district.
3. ✓ **LAKE HILLS CHURCH:** An appeal of a Planning Commission decision submitted by Jon Allen on behalf of Lake Hills Church for property located on Hwy 265, south of Williams Dance Studio. The property is zoned A-1, Agricultural and contains approximately 3.58 acres. The request is to rezone to P-1, Institutional.
- withdrawn
4. **STEELE CROSSING SHOPPING CENTER:** An appeal of a Planning Commission decision submitted by Kirk Rankin on behalf of Argus Properties for property located on Lot 15 of CMN Business Park. The property is zoned C-2, Thoroughfare Commercial and contains approximately 18.48 acres.
- withdrawn:
Sent to P.C.
- [motion]
see Gary or Charlie for motion.