

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
APRIL 18, 2000**

A meeting of the Fayetteville City Council was 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.

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

Mayor Hanna opened the meeting by announcing that Agenda Item 4 under New Business had been withdrawn. He asked City Attorney Jerry Rose to explain.

Mr. Rose reminded the Council what their purpose would be in hearing this item to begin with and what his advice to them would be regarding the matter. He stated the Council would be hearing an appeal of the decision of the Planning Commission to deny large scale development approval to Argus Properties. The first question to ask would be, does the City Council have the right to hear that matter under city ordinances. Mr. Rose said that the ordinance appears to be clear. He said that according to the Uniform Development Ordinance passed by the City Council, owners of record or any member of the City Council may appeal a Planning Commission decision to deny or approve a preliminary subdivision plat or large scale development. A letter from Argus Properties has been received stating their desire to appeal such a decision that was primarily concerned with the tree preservation section of the Tree Protection and Preservation Ordinance. The relationship between the Tree Protection and Preservation Ordinance and a large scale development is set out in what is known as the Tree Ordinance. The next question concerns the Landscape Administrator's role in a Tree Preservation Plan submitted to the Planning Commission. The ordinance says that the Tree Preservation Plan submitted by a developer shall be reviewed and recommendations shall be made to the Planning Commission by the Landscape Administrator. Her job is to review and make recommendations to the Planning Commission. No landmark or rare tree can be removed from land to be developed unless the Landscape Administrator, who can seek consideration and recommendation from the Tree and Landscape Advisory Committee, decides there is no reasonable way the property can otherwise be developed, improved or properly maintained and the tree saved. To determine that this paragraph is part of the preservation plan and not an independent duty on the Landscape Administrator's part, we need to look at Section 6 of the UDO, Section B, which is about tree removal.

Mr. Rose said he would be concerned if there were no appellant rights to a decision made by the Landscape Administrator. Basic due process under the Arkansas and the United States Constitutions generally require a hearing and the right to be heard by those effected by administrative decisions. Because of that, he does not know of any city ordinances that do not

have a right to appeal any administrative decision to either Planning Commission or the City Council or both. There would be a question of the constitutionality of any ordinance that did not provide for this process of appeal.

Mr. Rose said that Argus Development had met with Mayor Hanna, Charles Venable, Public Works Director and himself today to discuss a way to agree between the City and themselves that would satisfy the developers and conform with City ordinances. Mr. Rose proposed a possible motion that would allow the developers to dismiss this appeal and return to City Staff and the Planning Division with a plan that would meet with large scale development approval. Meetings would involve Mr. Venable, Public Works Director, and also the Landscape Administrator. The purpose would be to try to work out an agreement in conformity with the city ordinances that would again be presented to the Planning Commission for consideration as required by the city ordinances. Mr. Rose read the proposed motion.

Alderman Santos said that this motion was almost exactly what the Environmental Concerns Committee had recommended, except they had added they would like the City to ask the Community Design Center to help with a local area development plan for the entire three hundred acres of the business park. He asked if this could be added as an amendment to the proposed motion.

Mr. Rose said it could be added if that were the desire of the Council.

Alderman Austin seconded the original motion.

Alderman Russell seconded the amendment.

Alderman Young asked that his opinion be included in the minutes. He asked Mr. Rose if when he read the statement in the motion regarding all applicable ordinances, if that would include all overlay district, parking lot and green space ordinances and all other ordinances of the City of Fayetteville.

Mr. Rose said he would never advise the Council to do anything that is contrary to what the City ordinances require. He said he assumed he could say the same for all City staff and for the Council members also.

Alderman Young said he wanted to know when this proposal goes before the Planning Commission again, they would be discussing not just the tree ordinance but all other ordinances as well.

Mr. Rose answered that large scale development approval requires the consideration of a large variety of ordinances. The Tree Preservation Ordinance is only one piece of that. There are many other things, including setbacks, commercial design standards, etc.

Alderman Russell stated he would find it helpful in the future when the Council hears appeals of Planning Commission decisions if the Commission members would state the reasons why they

made a decision to deny a project. He said the reason for denying this proposal was not clear to him from reading the Planning Commission minutes. Apparently the Tree Preservation Ordinance was a big part of their decision and Commercial Design Standards were mentioned but not everybody weighed in on that.

Mayor Hanna said he was not certain he understood Alderman Santos' amendment but he took it to mean that the Community Design Department would have to be involved in the complete project. He said they had spent a good deal of time today meeting with the developers of this project and they were very amenable in trying to meet the city ordinances, and did not want to cause dissension in the community over this issue, but time is an element to them. He feels like Alderman Santo's proposal is a little bit after the fact. He said he had no objection to using the Community Design Department, if the land owners want to do it. Mayor Hanna does not think the Council should include the provision in this resolution. The petitioners are only asking to withdraw their appeal.

Mr. Rose said that he was concerned that in the same way the Council requires that the developers abide by all city ordinances, the developers should have the assurance from the Council that they are not asking more of them than is required by city ordinances. He was concerned legally about requirements made on one developer that are not made on others.

Alderman Trumbo suggested that Alderman Santos' recommendation might be more appropriately given to the Ordinance Review Committee for study and recommendation.

Alderman Santos said he was not really talking about an ordinance, nor was he talking about this development. He is thinking about a general plan, a guideline like the University's master plan, for future development. It would look at the different lots and the ordinances and see what will fit on there, so when the next potential developer comes in he can look at this plan and pick a lot that fits with his program. Alderman Santos said he did not see this being an ordinance or see it as binding. It would simply be a general guideline explaining the city's requirements in one document so future developers will not be surprised when they encounter the city's ordinances. The ordinances will have been built in to this guideline.

Alderman Russell asked if the Council was going to serve the interests of the property owners, who may not want to work with this group, or if it was going to serve the public interest and take advantage of this wonderful free service that exists in the community.

Mayor Hanna agreed that it is a great service. He said he has much respect for Dr. Glasser who has helped the city a great deal. However he would feel more comfortable with this as a separate resolution rather than as part of this motion.

Alderman Santos said he thought all needed was the consensus of the Council that they would

like to ask Dr. Glasser's group to work on this. Thus, Alderman Santos withdrew his motion. Alderman Russell said he agreed with that and he withdrew his second.

Alderman Young said in Chapter 169 of the grading ordinance it states no grading, filling, excavation or land alteration of any kind shall take place without a grading permit. In the Storm Water Management ordinance it states none of the above can take place without first obtaining a Storm Water Management Drainage and Erosion Control Permit from the City. He said he has found out that this development does not have either one of these permits. He asked why they were allowed to start construction without required permits.

Mayor Hanna said when the staff and Planning Commission address this again he is sure Alderman Young's concerns would also be addressed. But that is not going to be before the Council since it is being sent back to the Planning Commission.

Alderman Young said the question is compliance with the ordinances. If the Council sends it back to the Planning Commission and they uphold the Tree Ordinance, he does not see where that gives any protection to the trees because this is storm water and grading. He said people have come before the Planning Commission concerned about property that is adjacent to a development and are given assurances by the Planning Commission and the staff that they are protected by these ordinances. They are only protected if the ordinances are enforced and he said he does not see anyone in Administration enforcing these ordinances.

Charles Venable asked Alderman Young if he were referring to the work being done with grading of the streets and the drainage structure being installed. He said that the City's Engineering Division has looked at this and compared the work with what the City has approved. He said he was really not sure what Alderman Young was asking. He said each individual lot will also have to meet the grading requirement.

Alderman Young stated he was talking about the preliminary plats that Mel Milholland submitted and approved. They are then required by the ordinances to get a grading and drainage permit before they start construction of the roads and all of this other stuff. It is his understanding that they do not have a final grading permit nor a drainage permit. They are looking at the plans right now but the storm water drainage has not been approved yet.

Mr. Venable said the developers do have a permit to do the grading they are doing now.

Alderman Young stated he did not see how the developers could get a partial or rough permit as was explained to him. The ordinance reads you either have one or you do not.

Mr. Venable said he would not argue this either way. He stated because of the size of the development that each individual lot would have to be looked at separately. They did submit

their plans for the road work and this is what they are working on now. Their storm sewers and everything else will be according to what the City has asked of them and those have been reviewed.

Alderman Young replied that plans are currently being reviewed but have not yet been approved.

Charles Venable said the storm water has not gone in yet along the streets.

Alderman Young said according to the ordinance nothing is to be done until approved, but all kind of dirt is being moved and they are building box structures out there.

Mayor Hanna said that work was being done on the streets.

Alderman Young said it was drainage for the subdivision, preliminary plat.

In response to a question from Mayor Hanna, Alderman Young said that it was for the whole subdivision?

Mayor Hanna reminded the Council that this issue was not directly connected with the motion currently before the Council. He said that this was not really the place for the Council to try to decide to discuss this.

Alderman Russell said he thought that it was the time, if the Council was talking about compliance with city ordinances.

Alderman Young said that was what these people in the audience are concerned with compliance with city ordinances. He spoke directly to the audience, saying that the only thing he can see is that the developers are calling the shots in Fayetteville, because no one is telling them no on these ordinances.

Mayor Hanna said that was not true.

Alderman Young questioned why they allowed to get started before they had the required permits.

Mayor Hanna said he had not checked these particular permits but he said if Alderman Young would look at what has been done to date he would find that the developers have abided by everything that the City has required them to do. The City has required them to do what is set down in the ordinances for development of this type.

Alderman Trumbo suggested the Council ask Mr. Rose to look into this and report back to the

Council later. He did not think this was the forum to argue about this.

Mr. Rose said he would be pleased to ask for an explanation of what work has been done out there regarding drainage and excavation of any kind, and what kind of permit if any, have been obtained and what the rationalization is, and bring that back to the Council.

Alderman Trent Trumbo made a motion to accept the withdrawal. Alderman Ron Austin seconded the motion. Upon roll call the motion passed unanimously. (See Exhibit A for Motion).

Mayor Hanna thanked the people who have been involved with this, the public who made their feelings known and the developers who have shown a willingness to try to cooperate with the Council. He hoped this would be resolved properly and that it will not be back before the Council.

CONSENT AGENDA**APPROVAL OF MINUTES**

Approval of the minutes of the April 4, 2000 City Council meeting.

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.

RESOLUTION 52-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

COMMUNITY BLOCK GRANT

A resolution approving the 2000 Community Development Block Grant agreement and funding approval.

RESOLUTION 53-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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.

RESOLUTION 54-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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.

RESOLUTION 55-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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).

RESOLUTION 56-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Bob Davis made a motion to pass the Consent Agenda as read. Alderman Trent Trumbo seconded the motion. Upon roll call the Consent Agenda passed with a vote 7-0-1 with Alderman Cyrus Young abstaining.

Mayor Hanna stated he had a request from George Faucette on behalf of Butterfield Trail Village to move item No. 3 to first under Old Business because it is not controversial and there will be no presentation. The Council agreed.

OLD BUSINESS

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.

Mr. Rose read the ordinance.

Mayor Hanna asked if there was any discussion from the Council or comment from the audience.

Upon roll call the ordinance passed unanimously.

ORDINANCE 4243 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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.

Mr. Rose read the ordinance.

Alderman Daniel stated she would really like to see this go to a vote of the people. She explained that this had nothing to do with how she feels personally about this project. She said she was concerned about the tax situation and the future effectiveness of this Council. She said the Council is going to be going to the public for help to fund the new sewer treatment plant that is essential and will be very expensive. She is not against property tax or sales tax. But she would like the Council to consider tabling this project at this time and putting it to a vote of the people.

Alderman Trumbo said he respected Alderman Daniel's views on this subject and agreed that increasing taxes is not popular. But he believed that each alderman is elected by the constituents from his ward and their political philosophies should coincide with those of the majority of those constituents. The Council does have the legal authority to impose up to 5 mils in property taxes. He felt this project had gone through several public hearings and the Council had received feedback. Each Council member should now listen to their constituents and vote their conscience.

Alderman Russell says he would have no problem with putting it to a vote of the people, but he personally is ready to go ahead and approve the tax. He said he would be inclined to put it to a public vote if it were a permanent tax rather than just one year. He said he is ready to take responsibility as an alderman and vote on the project now.

Alderman Trumbo also reminded the Council that there is matching grant money for this project allocated and that could conceivably be lost if delays continue to occur.

Alderman Reynolds said he had heard from only one person and he was from the county, not the city. He said he felt the City owes this to the seniors and the pioneers of this city and was ready to vote on it now.

Alderman Davis said he had talked to many people about this and they agreed that the seniors need a quality center and realized this was only a one-year tax. He said he had no problem voting on it now.

Alderman Santos said he agreed with Alderman Daniel and would rather vote on this as a citizen than as an alderman. However, with the overwhelming public support he believed this project has, he felt that a special election would be a waste of time and that the project would be approved by the voters. He felt the Council should go ahead and vote now.

Alderman Austin said he also agreed the Council should vote tonight. He said the determining factor for him was that this is a temporary tax. He wished that every time a tax was passed there was a "sunset" date attached to it.

Alderman Young said he was concerned about this when it first came forward and that his constituents did call him. They were all for passing this tax. He received only one negative call. He said if this was a continuous tax, he would send it to the people in a heart beat, but since it is a one shot deal, he will vote for it.

Alderman Reynolds said he would like to add into the wording of the tax that it will be collected for only one year and cannot be rolled onto any other project.

Mayor Hanna said that was already in the wording.

Alderman Heather Daniel made a motion to table the Senior Community Center.

Mayor Hanna asked if there was a second to this motion. There being none, the motion died for lack of a second. The floor was then opened for public comment.

Robert Reus said he lives in downtown Fayetteville. He said that twelve years ago the City

Board of Fayetteville came up with a sales tax scheme to fund the schools. Mr. Reus denounced it at the time as skating around the law. Board member Ann Henry declared it illegal. It was passed anyway. After much expensive litigation, the court struck down the entire sales tax. When a new sales tax was rededicated, it was with the assurance that capital improvements were to be funded by the sales tax and that the only use for the property tax in the future in this town would be to fund the police and the fire retirements. He said the Council is breaking that promise now. As a homeowner he is not happy. The Council is saying that they need to levy a 2-mil property tax. He thinks the Council is engaging in a shell game and things are getting very, very close to the way they were before we had the change of government. He said he was here to tell the Council that they are doing wrong and that the penalty is going to be that he is going to be here from now on watching every move and nitpicking every detail.

The Council thanked Mr. Reus for his comments.

Upon roll call the ordinance passed unanimously.

ORDINANCE 4244 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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.

Mr. Rose read the ordinance.

Alderman Santos said he felt this ordinance made perfect sense.

Upon roll call the ordinance passed unanimously.

ORDINANCE 4245 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

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.

Mr. Rose read the ordinance.

Mayor Hanna said that the Council had a request from the staff to change this rezoning request from R-O to C-1 because of the usage the property will be sold for and the appraisal was done under the C-1 zoning.

Alderman Trumbo said C-1 zoning was fine with him. There is other C-1 zoning in that area.

Alderman Davis said he believed that the 20-20 Plan showed that C-1 was appropriate for this property. He recommended that the Council leave this on the first reading tonight to give the public enough time to respond.

Mayor Hanna agreed it should be left on the first reading

Alderman Ron Austin made a motion to amend RZ 00-13.00 from R-O zoning to C-1.

Alderman Kevin Santos seconded the motion. Motion/vote was struck on the amendment.

Janet Gallman, a lawyer in Fayetteville said she and her husband, Bill Ricker, live at 3255 Lee Avenue that is also known Lot 4 and part of Lot 5 in Maple Crest Subdivision. There is a lot between them and the back side of this fire station. They have been at this location for twenty years. She said the quality of life there has been wonderful despite commercial properties around them. Although the fire station was there and the guys had calls intermittently, it was still fine. In fact, she was still upset that the fire station was moved. Now there is not a fire station anywhere between Highway 71 and College Avenue and 265. Ms. Gallman said she has become well known to the Planning Commission. She feels ordinances are not enforced and notices are not given. It is mainly through citizen's complaints that ordinances get enforced, even in residential districts.

Ms. Gallman said the problem she has with this property being zoned as C-1 revolves around two things. C-1 allows a use unit 18. A use unit 18 lets them have as a matter of right, without asking anybody, gasoline service stations and drive-in restaurants. R-O would not allow that use unit but R-O would allow certain other limited commercial uses that are available under our limited commercial use section. There is a plethora of C-1 uses available in R-O but the applicant has to comply with certain conditions, which are there for protecting adjoined residential districts. If the Council zones it C-1 not only do they run the risk of a use unit 18 or possibly a use unit 15, they run the risk that there will not be appropriate conditions applied or, if applied, they will not be enforced. For example, within the last year a gravel parking lot was built immediately behind her back fence and she received no notice concerning that. It is an

accessory use to another business further north of there that expanded its business by more than 10-15%, yet she received no notice of that. There is a 30 or 40 foot pole light with two high halo lights on it that light up her back yard all night long until she called SWEPCO last week and asked them to move it. Now they light up the buildings and bounce the light back into her back yard. There have been other similar things change that she received no notice about. When the Auto Magic Car Care Center was built, she did get notice from the applicant themselves and their engineer. She was assured by City Planning Staff of an eight-foot elevation. They raised the property over her and her back yard is now muck. There were going to be trees and vegetation put in but none was done. She was shown a plan that would supposedly preserve storm water run off from their concrete parking lot and on which replacement trees were added according to the tree ordinance. None of that was ever done. She got the city engineer involved and he made them construct a dirt berm on yet another lot between her and the center. Consequently, all of a sudden some parking started happening on that dirt berm. She said she needed to spend that energy on her work and less at City Hall asking the Council to think about what they are doing. She said she understood that the City should zone it C-1 because it looks commercial. It looks commercial because it was a fire station but the City has abandoned its use as a fire station. It is possible that someone could either retro fit it as a residence or could improve it for some sort of limited C-1 or residential office use. She gave the Council some hand outs showing a comparison of the use units that are available under R-1, R-O and C-1. Most of the C-1 uses can be done as R-1 and the change should not significantly alter the amount of money the property would sell for. If it is zoned R-O and the buyer has to come in and is told up front what use unit the property is under and the conditions involved, the Council will eliminate the need for her come back again. She is asking the Council to follow the lead of the Planning Commission and zone the property R-O.

Alderman Davis said he appreciated Ms. Gallman's comments. He wanted to mention that because the City moved the fire station her insurance rates will not go

Mayor Hanna said he thought Ms. Gallman had some very good points. He explained that the City does not have residential and commercial fire stations. The reason that fire station was moved was the rooms the firemen stayed in and the equipment was outdated. The decision was made to move the station to improve that situation. The station is now 60 seconds from Ms. Gallman's neighborhood so fire protection should not be hampered. He also asked Ms. Gallman if she would write down a list of the zoning violations she had mentioned earlier and he would be glad to look into them.

Ms. Gallman said she did not want to be the neighborhood Nazi and her purpose was not to get anyone further in trouble. She said most of the people had corrected the problems brought to their attention. It really has not been a problem.

Alderman Trumbo told Janet that he could concur with Ms. Gallman's reasoning and he asked

for a memorandum from Mr. Conklin regarding the issues Ms. Gallman brought up.

Mayor Hanna asked if the Council wished to withdraw the motion and the second on this item.

Alderman Santos said the handout given by Mrs. Gallman helped him understand the situation better. He withdrew his.

The motion and the second on this item was withdrawn. The Council left Item No. 1 RZ 00-13.00 on the first reading.

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.

Greg House said he was representing the petitioner, MTM of El Dorado regarding this appeal. He also wished to apologize for having a misunderstanding with Alett Little that contributed to having to hear this issue this evening. He began his presentation by saying that none of their proposed improvements would necessitate a variance. All were permitted by City Code, a position supported by Tim Conklin whose department had recommended approval of their improvements. Their proposal also has the support of all the residents in Charleston Place that have purchased homes there as evidenced by the letters that he has submitted. At least seven of the surrounding neighbors, the neighbors on each side of the Greenwoods (who brought this original complaint) have submitted a letter in support of what they are doing there in Charleston Place. They are effected as much as the Greenwoods. He added that Chuck Chalfant who expressed some current concerns in front of the Planning Commission about the proposed entry pylons. Mr. Chalfant and he visited and they agreed to move the pylons a little further to the west so that they would not impact his property. He has also E-mailed him a letter, in which was made available for the Council, in support of all that they have asked for in the development. As to the particular issues, the dock that was built purportedly without permission, and they felt they did have permission. He addressed this issue at length in the letters to the Council, is outside the seventy-five-foot setback range, contrary to what may have been stated which is permitted in Section 163.23 of the zoning ordinance. The proposed picnic pavilion can also be constructed outside the one hundred-foot setback area that would also meet the requirement of Section 163.23. The entrance structures as he stated in his letter, will meet Fayetteville's minimum street standards and there is ample precedence for these entrance structures in many developments in town including Savanna Estates, Brookbury, Fox Run and Ridgemont. We hope they will provide a kind of visual speed break because people tend to go fairly fast through that neighborhood and the site of a structure that designates it as a residential area will remind people that it is a residential area and they will drive a little slower. He brought a plat with him. Most of the Council was able to visit this yesterday. He thought Mr. Santos was the only one that had

not seen this.

Alderman Santos said he drove out there Sunday.

Greg House said it was our hope that by making these planned improvements, we can make it even a nicer place for the residents to use and especially in their green spaces. The impact by agreeing not to use the non-residential structures, as they are called, after dark, will be minimal to the surrounding neighbors concerned. Also he wanted to note that people that are purchasing homes in this neighborhood, most of them are middle age or older and do not have a tendency to party as much as younger folks, and that seems to be one of the concerns that there are going to be wild parties on this huge dock. In conclusion he wanted to state that somebody who has developed these improvements could have been brought into preliminary plats stage, as he mentioned yesterday that the drainage, of which he was not aware of when they were doing the engineering, that they were going to have it in a pond. He thought they were going to have a spill way and so the pond would still be pretty, spring fed and they would not have an ugly structure in the middle of it. They came up with an idea to try to cover it, and he had talked to Alett about it, and she said she thought that it was a good idea and they left it as that. He felt like we should be permitted to make changes in developments, even after the final plat, because sometimes we come up with a better idea. He hopes that the Council will see fit to approve this.

Alderman Daniel said despite a lot of rejections. She was not keen on granting him any slack here because the objection from the people who already live there and so on. She was in a quandary about whether or not to support Mr. House's project but she did. She feels that this really did not follow the procedure it should have although she does not have any problem with it personally but she is thinking about those adjoining residents and so she does not feel like she can support this and override the Planning Commission.

Greg House said he understood and he wanted to point out that and there may be more people here than the Greenwoods that showed up in the last meeting, but they gave notice to all the neighbors and there is a vocal minority that are concerned and there is, he has submitted letters from neighbors that were against their project to be begin with, but or now in support of it, and are in support of even these changes, so apparently he sees that as a vote of confidence with what they have already done and in their ability to continue to do a nice project.

Alderman Daniel said the stone foundation is another matter because it is very interesting. She is not exactly sure what should be done with that but it is very close to the property line, isn't it?

Greg House stated the stone foundation was about ninety-seven feet, he believed to the western property line and as he mentioned in order to comply with the setback requirement, maybe they could eliminate three feet of it. He asked Alderman Daniel if she was talking about the stone structure they want to put in the pavilion?

Alderman Daniel answered that was what she was talking about. She thought that it did have historical significance and thought that needed to be looked at too. She was thinking mainly about the dock that they had constructed.

Greg House said the dock was primarily constructed just for aesthetics. If it is a big concern about the use of it, as he said when they were out there, he will take the walkway that goes to the dock off. They just wanted to cover up the ugliness.

Reed Greenwood, 1601 Elmwood, asked the Council to support the decision of the Planning Commission, to deny the developers request for additional structures in the green space on the north side of the development. He essentially made the same appeal to the Council that he made at the Planning Commission. When they heard the request from the developer to add structures to the development, he thought that was precipitated by a complaint from himself. His understanding was that there was going to be green space, no structures there. That was the understanding that the Planning Commission also had when they approved the final plat for this. The Council would be looking at essentially waiving ordinances that he was about to cite in the PUD ordinance and he read that, and he believed that the Council has access to copies of it, and there are things that are important principles in this process that we are all engaged in here. There are four requirements that he saw was involved in this. One is the PUD ordinance requires that structures of that type presented by the developer be included in the final plat of the development. The developer should show in the final plat what they are going to do in terms of construction of homes and lots and non-residential structures. They were not on the final plat. The developer built one of the structures without securing proper approval procedures from the City. Supposedly he had an informal discussion with the Planning Director at that time and she supposedly gave approval for that which he had not talked with her about it and he did not know for sure what happened in that situation. However, it did not follow what he understood to be the ordinances which you include the structure in the plat, the Planning Commission reviews it and makes approval. As matter of fact the Planning Director, when he filed the complaint, said that was the case. So it needs to go before the Planning Commission. As he reads the PUD ordinance it refers to a 250-foot setback not a 75-foot setback. There was some discussion at the Planning Commission about which ordinance applied. He does not know if anybody has ever ruled on that but it says fairly clearly that there is a 250-foot setback for recreational structures. His final point was that there also is a requirement in the PUD ordinance that these kinds of structures be completed before the issuance of the eighth building permit. There are 12-13 houses going up in that development. That is more than eight. He could refer the Council to the specific sections of the PUD ordinance regarding the final plan that says specifically that plan shall include the right location of recreational facilities in the plan. He went down before the Planning Commission meeting when this was denied and reviewed the plat. They are not on there. The only thing in that green space, in the way of a structure, is an old spring house that is referred to as a well house. They assumed, and he did not know how many letters that Mr. House has from neighbors, and if the Council wanted him to get letters, he could get more letters.

He figured that he had the Planning Commission on his side and there was not much point in going around asking the neighbors to get involved in this again but some of them that he had talked with said they were concerned. He found neither of those structures in the final plat, neither the pie, if you stand up on you look right straight down in his back yard. Or this so-called pavilion that was to be built on top of the so called old barn that probably does have historical significance, so did the house that was torn down, so did the old barn that was immediately behind their property that was torn down. There were a lot of trees out there taken down that are were quote mature trees. But that is sort of beside the point. He thinks it was an interesting aspect of this. The developer had a long time to decide what he wanted to put back there. He still does not have any clearance that the 75-foot setback applies rather than the 250-foot setback. He assumed the 250-foot setback was there just because of the potential nuisance of recreational facilities that close to existing residential neighbors. They are very concerned about the noise. There was a pavilion in the original information that they received on this development. It was very close to the back part of their property. They felt like that was a potential nuisance, whether during the day or after dark, so they complained about that and it was removed from the plans before they went to the Planning Commission. He thought the Council should pay particular attention to the ordinance that concerns the completion in a timely manner of the recreational facilities. They are supposed to be done before the eighth building permit is issued. There are about thirteen houses going on up there. So it was not done in a timely fashion. They understood, and he considered a covenant between the developer and the City, that green space was going to remain a buffer between the two developments, the existing development that has been there for some thirty years and this new development. It seemed to him that if the Council was going to waive those requirements, all the ones that he had cited, that there should be some compelling reason to do that. He did not see recreational facilities of the kind they are talking about as compelling reasons to change the final plat. Had it to do with drainage, a sewer line, safety, these seem to him that those are compelling reasons. He might just mention that on the sewer line that went between his house and the Galbraiths, he still has not been able to get that property restored to the condition that it was in before they started the development. They are missing about a foot of top soil there. They lost a thirty-foot pine tree that died slowly as a result of the digging around the roots. He asked the developer through his engineer if they would move the tree and would they come back and add soil. He informed the engineer that no they would not do that. So he thinks the Council has a number of things to consider. One of which is overruling a unanimous vote of the Planning Commission in regard to waiving these ordinances. We ask that the Council support the Planning Commission's decision that the developer move that pier that directly overlooks our back yard and is certainly an intrusive structure as far as they are concerned. They ask that the Council support the Planning Commission's decision that the developer not be permitted to construct a pavilion in the green space. If the Council allows this what will they be looking at next? They could add a swimming pool, a lighted tennis court, or whatever and come back and then ask for forgiveness. The whole purpose of this planning process is not to have to do that. It is to think through clearly what it is you want to do. With one final comment he wanted to point out that they are looking at substantial loss of tree canopy

up there. Those houses, and he did not want to render a judgment about aesthetics or any that kind of stuff because that is territory that he knows very little about. But those houses are built on very small lots. The fronts of the houses take up almost all of the lot space. What does that do to the trees? Well; the trees that are in the green space are very important as a result of the demise of the trees that are going to be removed and are being removed to build the houses. If the developer were really interested in trying to do something that was going to help that hillside, why not plant some more trees in that green space that would help reflect the water shed and help enhance the beauty of that. What they really do not want is a violation, if you will, of what they consider being the covenants between the developer and the City. They do not want the nuisance of having those recreational facilities back there because of the potential for 51 folks instead of the Faucettes next door of having a party and creating a nuisance for them and the other neighbors. He thanked the Council for allowing him to come and address this. He hopes this is the last time he ever has to talk about it because they would like to get this over and get it aside. But he does think there are some important principles here. First of all, overriding the Planning Commission that does their work conscientiously and seriously and he does not always agree with; they decide. He did not agree with what they decided on this initially because they gave the developer 69 lots up there instead of what he came back with which was 51. So he asked the Council to think carefully about overriding the Planning Commission's decision that was made carefully and judiciously. He is asking the Council carefully to consider the ordinances that are in affect and the fact that you would have to waive those requirements if you approve these particular structures. Thank you very much.

Paula Martucci, 1511 Elmwood Drive, said she has never been given notice of any of the changes that were made. But the gentleman that just spoke, she lives in fear every day. She walks around her yard and wonders what new is going to be on in the addition behind them. Part of the reason that she bought her lot was that it had a beautiful tree lot next to her. And there was not any construction going on but she knew a neighborhood was going in and it was going to be a nice neighborhood. She came down to the Planning Commission and got copies of the plats and had xeroxed copies made of all the changes that had been suggested. This was probably a year ago. She had a blueprint. She paid extra so she could have the blueprint so she would know what was going on. This is the first time she has ever bought and is the biggest investment she has ever made in her life. She is a single mother with a small child. She is very interested in what is going to go on the neighborhood behind her. What really bothers her is this idea of asking for forgiveness rather than permission. And when she comes down and gets copies and she watches for the red signs to go up saying there is a public hearing, she expects to know ahead of time before she walks around in her back yard and see new buildings or new structures going up. And as a mom of a small child she is thinking, gosh, that dock looks like a great attractive nuisance as she gets a little bit bigger and things. Part of what attracted them to that area were the rabbits, squirrels and things, which live in the wooded lot, and she has a beautiful view from an old cathedral ceiling of those trees on the lot next to her. And she is just worried that one day she is going to come home and all of those trees are going to be gone because we thought of

something new that would make that housing addition beautiful. She knew people change their minds as they are developing an addition and might have good ideas but what she would ask is that the Council would support the Planning Commission's decision that the principle that you should ask for permission first. She is an attorney and she knows Mr. House is an attorney by training and they should respect the fact that they have policies and procedures in place so that people can communicate those ideas and people can be heard and then the Council can use their wisdom to make decisions. The only time she has ever been communicated whatsoever about this property was a week ago she had a young lady knock on her door and say, hi, we would like you to sign a petition. She started to show her some papers. And she asked for a copy of the papers. The young lady said, no, but we will mail you some. I have yet to receive any of those copies. So the only time she has been communicated with was one knock on her door. She said she knew the Council has heard a lot of long-winded people today but she would ask that the Council would support the Planning Commission's decision and deny their request.

Mr. House stated he had outlined that pretty thoroughly in his letters, but just in case some of the Council did not have the opportunity to review that, the PUD ordinance Section 166.06 states 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. During the process of their development they did make changes after the Planning Commission approved the lot. One of the major changes was the addition of alleys. They did that in consultation with Alett Little. She agreed. They went through a very lengthy process about what areas would be set aside to make sure the alleys did not impact on the 35% green space and rather a laborious task but it went without Planning Commission approval, a change authorized by the City Planner. And as he mentioned in subsequent discussion, they talked about the dock. Ms. Little said in her opinion that was a great idea and in his opinion that was approval, just like he had gotten approval from her to do the alleys. He did not see the dock as nearly a major a change as the alleys. So in their feeling they had permission. He was not asking forgiveness and he has said that from day one. They were saying they felt that they had permission to build the dock and the ordinance supports what Alett stated. Now Tim Conklin had a different opinion about whether this was a major change or not but this was after the fact. With response to Mr. Greenwood's comments about the improvements and at what point they can be built, Paragraph 21 of the same section states that prior to issuance of more than eight building permits for any residential PUD, all approved non-residential facilities shall be constructed. While they had not even gotten the approval yet for the entry structure or the pavilion, so how could he be outside the law when he was coming there asking for the approval. And he came to the Planning Commission to ask for the approval. Section 163.23 as he stated beforehand, and this is in a letter from Tim Conklin, Planning Department, to him on February 10, 2000, and he assumed the Council had a copy of this, Tim states how they arrived at the setback issues and they are not asking for a waiver of the ordinance but what they are asking for is within the ordinance. Mr. Greenwood acts as if he has approved the first thing and is now being vehemently objecting these

changes. He has objected to everything they have done from day one. In regards to the nuisance issue, the development was already approved for this park like setting with a jogging trail and the alleys, so in their opinion that are not exasperating the nuisance by allowing the people an easier way to use this green space. There are some things that could be done to satisfy the neighbors like Mr. Greenwood and that is perhaps maybe planting an evergreen hedge or cane row or something to cut off his view, which they would be willing to do as a stipulation of part of this if that would be necessary. His other thought he might point out was if for some reason part of this is objectionable but not all of it, we do not have to vote it all or nothing, perhaps some of the issues might be more comfortable to approve than others and might consider splitting the issues of the three different things that we are requiring. Thank you.

Alderman Daniel said to Greg House that she remembered his project when it came before the Council that a big, big issue was the integrity of this buffer and she thought this is what persuaded her and some of the others to vote in favor of this and she remembered that this was stressed. It was really important. And she thinks that the citizens and residents out there feel that this being compromised, and she was amazed that she was even dealing with this so soon after the project was approved.

Greg House said that part of the reason the Council is dealing with so soon is that he knew that these were issues they wanted to bring up and Mr. Conklin suggested that they do them all at once.

Alderman Austin asked Mr. House if this dock was removed, as he said he might remove the approach to the dock rather, it would no longer be a recreational facility but would not the residents of those homes recreate in their back yards like the neighbors, like the eleven neighbors or not? If all the eleven people who face this had a party in their back yard, would not it be more of a nuisance than one small party in the back of this area? He just does not understand the problem with the recreation. If you need to remove it then remove it, or make it less recreational looking or whatever to comply. Being part of a family and living in a residence means you should be able to use your backyard and cook out and have your friends over, have Easter egg hunts, whatever. That's his idea.

Alderman Santos said he thought Mr. House should leave the dock. These are minor changes that improve what is already a very nice development. He thinks Mr. House did and indeed believe that Alett Little gave you permission to do it and he thinks the Planning Commission voting against him was a little bit of reaction to their frustration with Mr. House's continuously pushing the envelope of the regulations. He would like a promise from him that he would try to work with the Planning Commission and not ask for forgiveness instead of permission in the future.

Alderman Russell said he had a few comments. He thought it was a good idea to separate the

three issues and vote on them that way since Mr. House was appealing three separate issues and the reason he would like to do that was because he had some questions. He thought that the entrance pylons are probably the least controversial. He asked Mr. House if it was true that he revised the size of the entrance columns to satisfy any neighbors that were complaining about that?

Greg House answered, yes, which was in response to some comments of the Planning Commissioners.

Alderman Russell said that he would be leaning toward approving those and he would do some further investigation on picnic pavilion personally before approving it, namely he would like Mr. Rose's opinion on the setback requirements with regard to the picnic pavilion, the recreational structure, setback requirements because there is some dispute about which setback requirements would apply to the picnic pavilion, whether it is 75 feet or 250 feet, depending on whether it is lighted. He needs more information on that.

Charles Venable said he thought that what they were referring to was in 166.06 that has to do with the PUD under C7, which has to do with perimeters, and that is where they are coming up with 250 feet, but Tim Conklin's interpretation came from 163.23 that is non-residential uses in R districts that does limit any picnic area to 100 feet and an outdoor activity area is 75 feet.

Alderman Daniel asked Greg House if he would object to someone looking at that stone structure and taking an interest in it from a historic perspective?

Greg House said he did not mind at all. He would be very interested.

Alderman Daniel said something that is not considered recreational could be done but she was not sure. She spoke with someone today especially interested in masonry who would like to look at it.

Alderman Russell said he thought he was with Alderman Santos on the dock. He thinks that it was unfortunate that there was a misunderstanding about the process but consider two things. One, Mr. House believed that he had permission for the dock, and two, that he really thinks that the dock may not be great, but it would be better than they would have without the dock which an ugly concrete thing sticking up in the middle of a pond. He moves to approve the entry pylons the continued existence of the dock and table action on the picnic pavilion pending further investigation regarding the historic significance of the building and the setback requirements.

Alderman Davis said he wanted to ask Alderman Russell a question. Since there have been changes on the entry should that not go back to the Planning Commission and have them look at that since it has been revised.?

Alderman Russell said he thought that would be appropriate. He would not have a problem with that. He did not mind letting the Planning Commission look at it.

Alderman Young said that when Alderman Russell mentioned that was least controversial he wondered about that because he thought that was one of the more controversial but it may be controversial with the people living in that subdivision rather than people outside there. He does not know that.

Mayor Hanna said there was a motion to approve the entry ways and the dock.

Alderman Daniel asked Alderman Russell if he wanted to change his motion.

Alderman Russell said he would the motion to approve the entry ways pending the Planning Commission's approval of the revised plans for the entry ways.

Alderman Russell said he thought the Planning Commission has looked at the dock and he thought the Council had all their information with respect to the dock, so he would go ahead to move to approve the dock and send the rest of it back to the Planning Commission for their further consideration.

Alderman Santos seconded the motion.

Mayor Hanna said there was a motion and a second to approve the dock and send the revised plan on the entry way and send the pavilion plans back to the Planning Commission.

Alderman Russell said if the Council was going to do a historical investigation, he thought they should consider those things.

Alderman Young said he was thinking about supporting the Planning Commission on this and he still was. He would send the other two items back so then it would just come down to the dock.

Alderman Russell said if the Council would like to vote on them separately he would agree to separate his motion.

Alderman Davis said he had no problem with sending the whole thing back to the Planning Commission.

Alderman Russell said the dock is the one thing the Council could go ahead and act upon. He talked about defining the issues earlier, and he thought that it was important for the Council, the developer, the neighbors and the Planning Commission to know what is still open for discussion and what the Council has ruled on.

Mayor Hanna said that there were no changes in the dock. Alderman Russell was right on that. The Council should vote.

Alderman Davis said the only question that he had was the 75 feet or the 250 feet? The Council won't know until Mr. Rose and Mr. Conklin get together and determine which is legally correct.

Mr. Rose asked if the Council could table that part of it. He will bring that information back to the Council. What worried him was that the Council was going to refer things back to the Planning Commission with no particular instructions and they are going to make the same decision they made five weeks before.

Alderman Russell suggested the Council do all three things separately. He withdrew his first motion.

Alderman Santos withdrew his second motion.

Alderman Russell moved to approve the dock as submitted by Mr. Greg House over ridding the decision of the Planning Commission.

Alderman Santos seconded the motion.

Mayor Hanna said there was a motion and a second to approve the dock.

Alderman Kyle Russell made a motion to approve the dock as submitted by Greg House over ridding the decision of the Planning Commission. Alderman Kevin Santos seconded the motion. Upon roll call the motion passed 5-3-0. Aldermen Cyrus Young, Robert Reynolds and Heather Daniel voted nay.

Alderman Russell made a motion to table the issue of the picnic pavilion, suggest that Mr. Rose and Mr. Venable decide about the setback requirement and allow the Planning Commission to consider the setback requirement as interpreted by the City Attorney as well as the historical significance of the structure before making their decision.

Alderman Santos asked if this was something you could get a variance for from the Board of Adjustments if it a matter of three feet or something like that. Is that the route to go?

Alderman Young said that may be something they need to scope out because of the PUD ordinances and all.

Mayor Hanna said they could look at that. Could the Council have a second? There was a

motion and a second.

Alderman Russell asked if that would mean it would come back to Council before it would come back to the Planning Commission? He wants the Planning Commission to look at it.

Alderman Kyle Russell made a motion to table the issue of the picnic pavilion, suggest that Mr. Jerry Rose and Mr. Charles Venable decide about the setback requirement, and allow the Planning Commission to consider the setback requirement as interpreted by the City Attorney as well as historical significance of the structure before making their decision. Alderman Ron Austin seconded the motion. Upon roll call the motion passed unanimously.

Alderman Russell moved to table the issue of the entry pylons with instructions for the Planning Commission to rule on the revised plans by Mr. Greg House.

Alderman Santos seconded the motion.

Alderman Kyle Russell made a motion to table the issue of the entry pylons with instructions for the Planning Commission to rule on the revised plans by Mr. Greg House. Alderman Kevin Santos seconded the motion. Upon roll call the motion passed unanimously.

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.

Jon Allen, founding Pastor of Lake Hills Church, stated they started this church with ten people, his family and two other couples, and they met in homes for approximately a year, and then when they could not find a living room big enough to handle them, they met in hotel suites and conference rooms. Then they met at a Seventh Day Adventist Church for a while, they met on Saturdays, so they rented it on Sunday. Recently they have been meeting at a school. They are very excited about being able to finally build. The Council may be aware that most new churches are anxious to build and so they have a tendency to build too soon and so they build too small, and so they cannot grow and they cannot reach new people and they are stuck with debt. If you look around Northwest Arkansas, you see hundreds of small churches in exactly that situation. So they are concerned about that property because it is narrow, and very deep. It is only 185 feet wide. They wanted to build one time on this property. They did not want to build something then come back later and add to it. They just want to build the master plan, the largest building they could ever put on this property, given the constraints of green space, parking and those kinds of things. The fact was that the building would be too large for their needs and so

they said, well if they had some rental space, office space they could lease out offices until such time their congregation was larger and needed the space and meanwhile the rental would help them pay back the money they had to borrow and so forth. So they contacted an architectural engineering firm and they put together a plan and they took it to the City Planning who was Ms. Little at the time. She looked it over, asked some questions and her exact words were, "You know, I just don't see a problem with it." They went and paid more architectural money, came with a formal plan to the Planning Commission and asked to have a R-O zoning. It is presently zoned A-1. They asked to have it zoned R-O and a conditional use permit to build their church on that with an understanding that the strip of offices that was attached there would be used to rent to low impact use, such as a piano teacher, an architect, and then in the future they would use the whole space but they would never come back and need to build anything else particularly. So they have eight contiguous property owners. Five have never said a word. One was vociferously supportive. And two spoke against it. Their concern was that if this was re-zoned R-O, it was suggested that they sell the property, take the profit, go somewhere else and they would be stuck with an R-O property in their neighborhood. The fact is the property to the north is zoned R-O and they thought that a church would be a good buffer between the Williams Center and the other residential areas. And they had no intention to leave and they offered to give some kind of bill of assurance or whatever was appropriate to do that. The Planning Commission spent some time considering whether to maybe zone just the footprint of the building or maybe just zone the front half of the building or whatever. Finally the Planning Commission suggested that they withdraw their application and go back to the Planning Staff and come up with an appropriate zoning and plan that would allow them to do what they wanted to do. He said he would withdraw their application and after he had done that the Planning Commission said they also have a condition of use permit. And almost in a blink of an eye they were given a condition of use permit. Of course that was for an A-1 property that did not really meet their needs. There was also a factual error. The building plan was actually about 15,000 square feet and part of it was the second story. The footprint of the building was about 10,000 square feet. In fact the condition of use permit was 10,000 feet. It went to the Planning Staff and it was changed. They worked with Mr. Conklin and everybody was very helpful but they said basically unless you get R-O there is really no way you can have offices and have this multiple use, and all that. The Planning Staff asked if he was aware that the less used real estate in Fayetteville was church parking lots, used a couple of hours on Sunday. They thought that would be a good multiple use to have this kind of office arrangement. Anyway, they worked with the City Planning Department and they said that the appropriate zoning for a church is a P-1. They did some research and found out that the church located on the corner of Township and Mission Blvd. Baptist Church is zoned P-1. They have added property twice to their original property and each time it has been zoned P-1. So they thought that would be the appropriate thing. They did not want to be bad neighbors and did not want their neighbors to worry that some day this would be turned into some kind of R-O district or something. And really out of consideration for them they decided to give up on the R-O plan and the rental space and just go

for a P-1 zoning and build the building which would be all church facility even though it would be a stretch for them financially. They spent a lot of money, took aerial photographs, had the place surveyed, did everything they had to do. They came back with what they were told would be a slam dunk and they asked for the P-1 and again five neighbors said nothing. One man was supportive and two people spoke against it. And this time it was not because it was an R-O zone. It was in fact because it was a P-1 zone. It was said that if it was re-zoned P-1 that in fact they might try to build a museum or a zoo or a golf course or any of the other things that could be done on a P-1. Again they offered to do a bill of assurance and all that, but the word that sort of shifted the mood of the Planning Commission was they were told that if you re-zone this property from A-1 to P-1, direct quote, "Only God knows what these people will do with this property." And they said if the Planning Commission re-zones this to a P-1 you give up all control over this property. That word "control" was used about five times, and then finally the vote was taken, and it was against them. Now he is not an attorney, Mr. Rose, but he has read through the ordinance book, and the A-1 zoning which is what their property is now, states the regulation of the Agricultural Districts are designed to protect agricultural land until an orderly transition to urban development has been accomplished; to 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. He submits that there is nothing in there about controlling this operation. It is certainly not an A-1 usage. It is going to be for a church. They have taken great pains to be an asset to the community. It is going to be a beautiful building. They are saving much more of the tree canopy than the ordinance requires. It will be very much like a park setting and will be a nice place. The neighbors will not have to worry that they are "going to try to shoe horn" some other use on the property. They have no intention to do anything except to build a church there. His concern is that somehow, if for instance someone came with X number of acres and wanted to build houses and have it re-zoned R-1. It would be re-zoned R-1 and large scale development would take care of the details and that would be it. But because they are a church and they have asked for a P-1, somehow they are a suspect. There is some doubt about what they really want to do to this property. The people in his congregation have been very upset about this. They have offered, over his objection, they did not do it, to come down here maybe three hundred strong and it would make this crowd tonight look rather small, but they do not want to cause descent. They do not want to cause any kind of aggravation. They just want to build their church and quit using their money for redesign and all the other things they have had to do. Having said all that, they have decided they are going to withdraw their appeal of the Planning Commission's turn down of their last zoning. Given the fact that the condition of use permit A-1 is off by 5,000 feet but other than that, they are going to go ahead and build just the way they are. They do not want cause anxiety to anybody. He gave his word to the two people who had objected to our thing that they would do that and so he is going to do that. He just wanted to be on record because the next time a church comes down this road he would hate for them to have to face these hurdles. You know, people in his congregation have used words like, persecution, unfair, somehow because they are a church they cannot be

trusted to do what they say they are going to do. If everybody came there, they could probably generate three hundred people here. And you know, they are just a cross section of this town. They have school teachers, Wal Mart clerks, physicians, just a little bit of about everybody part of their church. They pay their taxes, they cut their grass, they use these goofy purple bags, they are just good citizens. And somehow they are trying to "shoe horn" some questionable activity on this property. It just seems like an unnecessary hurdle they have had to go through. Anyway, unless the Council has a question or something he is finished. Thank you very much for listening.

The Council thanked Mr. Allen for his comments.

Mayor Hanna asked if anyone had any questions for Pastor Allen. He asked Pastor Allen if he was withdrawing his appeal?

Pastor Jon Allen replied that he was withdrawing his appeal.

Alderman Trumbo announced that Saturday, M & M Augustine Foundation Easter Feed, St. Thomas Catholic Church on the campus of the University of Arkansas. Be there at 10:30 a.m. or at 11:00 a.m. It is open for the general public. The more, the merrier! They need a lot of volunteers to deliver Meals On Wheels.

Alderman Russell announced that not this Saturday, but next Saturday, April 29th is Earth Day, Fayetteville Urban Resources Stream Team is sponsoring a Community Stream Clean Up at Scull Creek from 10:00 a.m. to 3:00 p.m. To get there drive north on Gregg until you pass the White Oaks Station and take the first left.

Mayor Hanna adjourned the meeting at 8:30 p.m.

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

