

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL JULY 18, 2000

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

NOMINATING COMMITTEE REPORT

A. CONSENT AGENDA

1. **APPROVAL OF THE MINUTES:** Approval of the minutes from the June 20, 2000 City Council meeting.
2. **BID 00-13:** A resolution awarding Bid 00-13 to Crash Rescue Equipment Service for the sale of the Airport's 1985 Oshkosh Fire Crash-Rescue Vehicle, Unit #20 in the amount of \$38,500.00.
3. **ERNEST LANCASTER DRIVE:** A resolution approving Amendment #1 to Task Order #1 (Extension of Ernest Lancaster Drive) to the basic agreement with McClelland Engineers, Inc. for engineering services in the amount of \$25,475.00.
4. **PUBLIC TRANSIT:** A resolution authorizing the mayor and his representative to help create and participate in a steering committee to study the feasibility of a publicly owned transit system in Northwest Arkansas.
5. **SOLID WASTE RATE STUDY:** A resolution approving a contract with DMG-Maximus, Inc. in the amount of \$34,600.00 for consulting services for the development of a solid waste cost of service rate study.
6. **BUDGET ADJUSTMENT:** A resolution approving a budget adjustment increasing the budget for fuel expense for various operating divisions, authorizing an additional position in Building Maintenance, increasing the Municipal Judge's salary and increasing overtime for the Police and Fire Departments.

B. OLD BUSINESS



1. **RZ 00-17.00:** An ordinance approving rezoning request RZ 00-17.00 submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density. The ordinance was left on the first reading at the July 5, 2000 meeting.
2. **AD 98-8.00:** An ordinance approving a AD 98-8.00, administrative amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use-Off Street Parking" to revise the required parking for eating places (restaurants). The ordinance was left on the first reading at the July 5, 2000 meeting.
3. **SHILOH DRIVE:** 1) An ordinance approving a bid waiver with McClinton-Anchor, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue; 2) Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction; 3) Approval of a 15% project contingency of \$46,495.00 for material/construction testing and variations in final quantities. The ordinance was left on the first reading at the July 5, 2000 meeting.
4. **SHILOH DRIVE:** A resolution approving a letter contract in the amount of \$5,000.00 with Milholland Company for engineering design, construction staking, construction management, and as-built drawings for the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the CMN property line and the intersection with Northwood Avenue. The resolution was tabled at the last meeting.

C. NEW BUSINESS

1. **LS 00-17.00:** A resolution accepting a lesser dedication of right-of-way than required by the Master Street Plan for the western extension of Howard Nickell Road, a principal arterial, as requested by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road.
2. **FIRE STATION:** A resolution approving the sale of the Old Harold Street Fire Station to Howell Trumbo in the amount of \$115,850.00.
3. **PARK LAND:** An ordinance approving a waiver of Ordinance 3793 to accept money in lieu as the park land requirement of the Cornerstone Apartments Subdivision.

4. **RZ 00-19.00:** An ordinance approving rezoning request RZ 00-19.00, submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and South of West Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential.
5. **AD 00-18.00:** An ordinance for AD 00-18.00, administrative amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision-Public Sanitary Sewer Not Accessible" to allow lots smaller than 1½ acres that are on a septic system.
6. **RZA 00-2.00:** An ordinance approving annexation request RZA 00-2.00 submitted by Candy R. Burton of Phillips Law Firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the Planning Area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville.
7. **PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision which denied rezoning request RZ 00-20.00 for property located at 2416 E. Joyce Street. The request is to rezone the property from A-1 to R-O.

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CITY COUNCIL
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- 96-00 3. **ERNEST LANCASTER DRIVE:** A resolution approving Amendment #1 to Task Order #1 (Extension of Ernest Lancaster Drive) to the basic agreement with McClelland Engineers, Inc. for engineering services in the amount of \$25,475.00.
- 97-00 4. **PUBLIC TRANSIT:** A resolution authorizing the mayor and his representative to help create and participate in a steering committee to study the feasibility of a publicly owned transit system in Northwest Arkansas.
- 98-00 5. **SOLID WASTE RATE STUDY:** A resolution approving a contract with DMG-Maximus, Inc. in the amount of \$34,600.00 for consulting services for the development of a solid waste cost of service rate study.
- 99-00 6. **BUDGET ADJUSTMENT:** A resolution approving a budget adjustment increasing the budget for fuel expense for various operating divisions, authorizing an additional position in Building Maintenance, increasing the Municipal Judge's salary and increasing overtime for the Police and Fire Departments.

B. OLD BUSINESS

*John Scott -
may amend.*
1 ✓✓
*PASS
4258*
2 ✓✓
failed

RZ 00-17.00: An ordinance approving rezoning request RZ 00-17.00 submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density. The ordinance was left on the first reading at the July 5, 2000 meeting.

AD 98-8.00: An ordinance approving a AD 98-8.00, administrative amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use-Off Street Parking" to revise the required parking for eating places (restaurants). The ordinance was left on the first reading at the July 5, 2000 meeting.

*PASS
4259*
3 ✓✓
SHILOH DRIVE: 1) An ordinance approving a bid waiver with McClinton-Anchor, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue; 2) Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction; 3) Approval of a 15% project contingency of \$46,495.00 for material/construction testing and variations in final quantities. The ordinance was left on the first reading at the July 5, 2000 meeting.

*100-00
PASS*
4.
SHILOH DRIVE: A resolution approving a letter contract in the amount of \$5,000.00 with Milholland Company for engineering design, construction staking, construction management, and as-built drawings for the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the CMN property line and the intersection with Northwood Avenue. The resolution was tabled at the last meeting.

C. NEW BUSINESS

*PASS
101-00*
1. ✓
LS 00-17.00: A resolution accepting a lesser dedication of right-of-way than required by the Master Street Plan for the western extension of Howard Nickell Road, a principal arterial, as requested by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road.

102-00 2. ✓
FIRE STATION: A resolution approving the sale of the Old Harold Street Fire Station to Howell Trumbo in the amount of \$115,850.00.

*PASS
4260* 3. ✓✓
PARK LAND: An ordinance approving a waiver of Ordinance 3793 to accept money in lieu as the park land requirement of the Cornerstone Apartments Subdivision.

10

4. ✓ *left on 1st reading* **RZ 00-19.00:** An ordinance approving rezoning request RZ 00-19.00, submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and South of West Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential. *letter from Perry Butcher*

5. ✓ *left on 1st reading* **AD 00-18.00:** An ordinance for AD 00-18.00, administrative amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision-Public Sanitary Sewer Not Accessible" to allow lots smaller than 1½ acres that are on a septic system.

6. ✓ *4261* **RZA 00-2.00:** An ordinance approving annexation request RZA 00-2.00 submitted by Candy R. Burton of Phillips Law Firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the Planning Area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville.

7. ✓ *left on 1st reading* **PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision which denied rezoning request RZ 00-20.00 for property located at 2416 E. Joyce Street. The request is to rezone the property from A-1 to R-O. *get water/sewer labels from Tim*

? Sage House - Resident ?

BOA - Joan
James

CABU Mc Dan
McKen
Stingray

CBA - Campbell
Johnson

JV. Mike

WAC. Stambaugh

WAF Wade

July 18, 2000.

	Roll		HP BD.	Immunity report.	
DANIEL	✓		✓		
SANTOS	✓		✓		
YOUNG	✓		✓		
RUSSELL	✓		✓		
REYNOLDS	✓		✓		
AUSTIN	✓		✓		
DAVIS	✓				
TRUMBO			✓		
MAYOR HANNA	✓				
	BP HD. Consent.		8-0		
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
MAYOR HANNA					
	8-0. HD ER R2 00-17.00	PASS.			
DANIEL	✓	✓			
SANTOS	✓	✓			
YOUNG	✓	✓			
RUSSELL	✓	✓			
REYNOLDS	✓	✓			
AUSTIN	✓	✓			
DAVIS					
TRUMBO	✓	✓			
MAYOR HANNA					
	8-0.	8-00			

	BA 3RD HD A1) 98-800.	PASS			
DANIEL	✓	N			
SANTOS	✓	N			
YOUNG	✓	N			
RUSSELL	✓	N			
REYNOLDS	✓	N			
AUSTIN	✓	N			
DAVIS	✓	N			
TRUMBO	✓	✓			
MAYOR HANNA					
	7-1-0. 4-7-0. H 3D 320 Shut. Drive. PASS				
DANIEL	✓	✓			
SANTOS	✓	✓			
YOUNG	✓	N			
RUSSELL	✓	✓			
REYNOLDS	✓	✓			
AUSTIN	✓	✓			
DAVIS	✓	✓			
TRUMBO	✓	✓			
MAYOR HANNA					
	8-0. 7-1-0. H RR. Shut. Drive.				
DANIEL	✓				
SANTOS	✓				
YOUNG	N				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
MAYOR HANNA					
	7-1-0.				

	3D 22. LS 00-1200.				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
MAYOR HANNA					
	2-0- RA BD FIRE STATION.				
DANIEL	✓				
SANTOS	✓				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	ABSTAIN				
MAYOR HANNA					
	2-0-1. PA 2ND HD. PARK LAND MAINTENANCE.	PA 3RD KS.	PASS		
DANIEL	✓	✓	✓		
SANTOS	✓	✓	✓		
YOUNG	✓	✓	✓		
RUSSELL	✓	✓	✓		
REYNOLDS	✓	✓	✓		
AUSTIN	✓	✓	✓		
DAVIS	✓	✓	✓		
TRUMBO	✓	✓	✓		
MAYOR HANNA					
	2-0.	2-0.	2-0-0.		

	KR amend. BD. RZ 00-19.00.				
DANIEL		✓			
SANTOS		✓			
YOUNG		✓			
RUSSELL		✓			
REYNOLDS		✓			
AUSTIN		✓			
DAVIS		✓			
TRUMBO		✓			
MAYOR HANNA					
		8-0.			
	AD 00-18.00.				
DANIEL					
SANTOS					
YOUNG					
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
MAYOR HANNA					
	2ND H BA 3RD RZA 00-2.00. BD KS. PASS				
DANIEL	✓	✓	✓		
SANTOS	✓	✓	✓		
YOUNG	✓	✓	✓		
RUSSELL	✓	✓	✓		
REYNOLDS	✓	✓	✓		
AUSTIN	✓	✓	✓		
DAVIS	✓				
TRUMBO	✓	✓	✓		
MAYOR HANNA					
	8-0.	8-0	8-0.		

Attn:
Heather
From:
Sherry

PROOF

NORTHWEST ARKANSAS TIMES

Proof Copy Please Approve/Correct
and Fax Back to (501) 442-5477

By 4:30 p.m. Today

Questions (501) 442-1700

Approved by _____ Date _____



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Final Agenda
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	PC. appeal.	RZ 00-2000.			
DANIEL					
SANTOS					
YOUNG					
RUSSELL	left 15 x reaching				
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
MAYOR HANNA					
DANIEL					
SANTOS					
YOUNG					
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
MAYOR HANNA					
DANIEL					
SANTOS					
YOUNG					
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
MAYOR HANNA					

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Fred Hanna
#41 E. 29th Circle
Fayetteville, AR 72701
575-8330

Mayor

Dan Coody
1418 E. Rodgers Drive
Fayetteville, AR 72701
443-6758

Mayor

Paula Marinoni
617 W. Lafayette
Fayetteville, AR 72701
444-6170

Mayor

Mustin
401 W. 24th Street, Suite 118
Fayetteville, AR 72701-6965
442-7948

Mayor

Ron Austin
1227 N. Crestwood
Fayetteville, AR 72701
444-9445

Ward 1 Position 2

Rick Cochran
1724 N. Garland Ave.
Fayetteville, AR 72703-2110
527-9408

Ward 2 Position 2

Butch Green
855 Windy Hill
Fayetteville, AR 72703
521-1028

Ward 2 Position 2

Lioneld Jordan
1600 Arrowhead
Fayetteville, AR 72701
442-5415

Ward 4 Position 2

XX AGENDA REQUEST
 CONTRACT REVIEW
 GRANT REVIEW

FROM:

Division

Admin Services Department
Department

ACTION REQUIRED: Consideration of a resolution authorizing the Mayor and his representative to help create and participate in a steering committee to study the feasibility of a publicly owned transit system in Northwest Arkansas.

COST TO CITY:

\$ - 0 - at this time

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 Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date _____

Internal Auditor

Date _____

City Attorney

Date _____

ADA Coordinator

Date _____

Purchasing Officer

Date _____

Grant Coordinator

Date _____

STAFF RECOMMENDATION: Staff recommends approval of resolution.

Division Head

Date _____

Cross Reference

Department Director

Date _____

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

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date _____

Orig Contract Date: _____

Orig Contract Number:

STAFF REVIEW FORM

failed
1-7-0
7/18/00

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 3, 2000

FROM:

Tim Conklin

Name

Planning

Division

Public Works

Department

ACTION REQUIRED: To approve an ordinance for AD 98-8.00: Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use - Off-street Parking" to revise the required parking for eating places (restaurants).

COST TO CITY:

\$

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used To Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and on June 12, 2000, Planning Commission unanimously voted 9-0-0 to recommend approval and forward the amendment to the City Council.

[Signature]
Division Head

6-16-00
Date

Cross Reference

[Signature]
Department Director

6-24-00
Date

New Item: **Yes**

[Signature]
Administrative Services Director

6-27-00
Date

Prev Ord/Res #: _____

[Signature]
Mayor

6-27-00
Date

Orig Contract Date: _____

Orig Contract Number: _____

AD 98-8.00: Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use - Off-street Parking" to revise the minimum required parking for eating places (restaurants) from 1 space per 200 square feet of floor area to 1 space per 4 seats plus one space per employee on the maximum shift.

Odom: Item number 14, which is the next item on tonight's agenda is an Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, § 172.01 (D)(1) "Standards for the Number of Spaces by Use - Off-street Parking" to revise the minimum required parking for eating places from 1 space per 200 square feet of floor area to 1 space per 4 seats plus one space per employee on the maximum shift. Staff recommends approval of the amendment to revise § 172.01(D)(1) to make the 1 space per 4 seats plus one space per employee on the maximum shift the maximum number of spaces allowed and retain the 1 spaces per 200 square feet of floor area as the minimum number of parking spaces required for eating places. Staff do you have any presentation you would like to make?

Conklin: Commissioner Marr asked about when we could look at our parking lot ordinance with regard to increasing the amount of parking allowed for restaurants. As many of you probably recall we do typically have to grant waivers over and beyond what the maximum number of parking is allowed for restaurants. I went back and looked at our April 13, 1998 Planning Commission meeting where we did discuss this item and it did not pass. The biggest concern at that time was with regard to how this would impact restaurant development in our downtown square and Dickson Street area. Looking at that, I think the solution is to keep our existing parking requirements, which is 1 space for 200 square feet of floor area, and add as a maximum number the 1 space per 4 seats plus 1 space per employee on the maximum shift. That will allow restaurants in our downtown area not to have to meet the higher number of spaces that newer restaurants in our newer commercial areas are requesting. Staff is recommending approval. In approving this item it will have to go to City Council. It is only a recommendation and the City Attorney will prepare an ordinance to amend the current ordinance we have. That's all I have.

PUBLIC COMMENT:

Odom: Let me ask if there is any member of the audience that would like to address us on this issue?

COMMISSION DISCUSSION:

Odom: Seeing none, I'll close the floor to public discussion and bring it back to the Planning Commission. Commissioner Marr, do you want the floor or do you need an ambulance?

MOTION:

Marr: No, I am so excited that we actually are presenting this that I'm all choked up. I'm in full support of this motion to make this change and send it to the City Council. So, I'm going to move approval of AD 98-8.00.

Hoffman: And I'll add a hardy second to that. It sounds like a good plan.

Bunch: For the record, this is the recommended motion as opposed to what is described after AD 98-8?

Conklin: That is correct. Looking through and doing the research for staff report, I did make that change to reflect not to require the additional parking for restaurants that would be in our Dickson Street area or Square area.

Hoover: Mr. Chair, I have a comment. I just want to thank staff for looking carefully at this whole situation. Originally I was not for this when it came in 1998 because of the downtown area and how it would affect all that parking. I think you have done a grand job here of solving problems in the downtown and the new restaurants that are outside that area. So, I am very much in support of this.

Odom: I would just like to comment that we get so many of these waiver requests on restaurants and we routinely grant them that it only makes sense to take care of this by this motion. It also does take care of the concerns that were raised before so I think it is a good motion. Any further discussion? Call the roll.

ROLL CALL:

Upon roll call for the first time in the history of the Planning Commission Don Marr has a motion that passes unanimously 9-0-0.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

501-575-8264

TO: Fayetteville Planning Commissioners
FROM: Tim Conklin, City Planner
DATE: June 8, 2000

AD 98-8.00: Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use - Off-street Parking" to revise the minimum required parking for eating places (restaurants) from 1 space per 200 square feet of floor area to 1 space per 4 seats plus one space per employee on the maximum shift.

RECOMMENDED MOTION

Staff recommends approval of the amendment to revise Section 172.01(D)(1) to make the 1 space per 4 seats plus one space per employee on the maximum shift the maximum number of spaces allowed and retain the 1 spaces per 200 square feet of floor area as the minimum number of parking spaces required for eating places (restaurants).

BACKGROUND

This item was heard at the April 13, 1998 Planning Commission meeting where a motion to approve the new standard was denied by a 3-5-0 vote (please see attached minutes). There was considerable discussion regarding the impact this change in required parking would have on new restaurant construction within the Downtown/Dickson street area. Staff has proposed retaining the 1 space per 200 sf. as the minimum number required and set the maximum at 1 space per 4 seats plus one space per employee on the maximum shift. This change would not penalize restaurants that don't need as much parking by not requiring the additional parking under this proposed change.

Attached you will find a survey, published by the American Planning Association, depicting off-street parking requirements for restaurants in other cities which contains numerous methods of calculating parking requirements. The proposed amendment is comparable to other cities parking requirements.

Residential, Multifamily, Studio

One space per dwelling unit (*Orange Co., Calif.*)

1.2 spaces per unit (*Bellevue, Wash.*)

1.25 per dwelling unit (*Savannah, Ga.*)

Residential, Single-Family, Townhouse

1.5 spaces per dwelling unit (*Clifton Forge, Va.*)

Two spaces per dwelling unit (*Lexington Co., S.C.*)

2.25 spaces for each dwelling unit (*Plano, Tex.*)

Residential, Single-Family

One space per dwelling unit (*Clifton Forge, Va.*)

Two spaces for each dwelling unit (*Northport, Ala.*)

Detached two spaces per dwelling if access to the lot is on to a public street; 2.5 spaces per dwelling if access to the lot is from a private street, common drive, or common parking court (*Leesburg, Va.*)

Comment. Nearly every code examined required two spaces per unit.

Restaurant

One space per 150 sq.ft. (*St. Charles Parish, La.*)

One space per each 100 sq.ft. of floor area (*Glendale, Calif.*)

One space for each 75 sq.ft. of usable floor area or one for each two persons allowed within the maximum occupancy load, whichever is the greater (*Alpena, Mich.*)

Fourteen spaces per 1,000 net sq.ft. (*Bellevue, Wash.*)

Two spaces per 100 sq.ft. of floor area (*Clifton Forge, Va.*)

One parking space for every four seats. (*Salisbury Township, Pa.*)

One space for every three seats, plus two spaces for every three employees on the maximum shift (*St. Louis Co., Mo.*)

One space for each three persons for the first 150 persons, and one for each two persons over 150 as determined by the fire marshal to be the maximum capacity of the establishment (*Bay City, Mich.*)

One space per each three seating accommodations, plus one space per each two employees on shift of greatest employment (*Charlotte-Mecklenburg Co., N.C.*)

One space for each three fixed seats provided for patron use, plus one space for each 200 sq.ft. of floor area provided for patron use but not containing fixed seats (*South Burlington, Vt.*)

Four spaces, plus one space for each three seating accommodations (*Northport, Ala.*)

One space for each 2.5 seats or 40 sq.ft. of dining and/or drinking space or area (*Bozeman, Mont.*)

Restaurant, Fast-Food

One space per 100 sq.ft. of gross floor area (*Norman, Okla.*)

One parking space per each 80 sq.ft. of floor area (*Glendale, Calif.*)

Thirteen spaces per each 1,000 sq.ft. of gross floor area (*Albemarle Co., Va.*)

Sixteen spaces per 1,000 net sq.ft. (*Bellevue, Wash.*)

One space for each 60 sq.ft. of usable floor area with a minimum of four spaces (*Alpena, Mich.*)

One space per 50 sq.ft. of eating area, plus one space for each employee on the largest working shift (*St. Clair Shores, Mich.*)

Fourteen spaces per 1,000 sq.ft. of gross floor area, plus five off-street waiting spaces per drive-in lane (*Lake Co., Ill.*)

Thirty spaces per 1,000 sq.ft. (*Lake Forest, Ill.*)

The greater of one space per 40 sq.ft. of customer service or dining area or one space per 150 sq.ft. of gross building area (*Omaha, Nebr.*)

One space for each 25 sq.ft. of usable floor area (*Alpena, Mich.*)

Ten spaces per 100 sq.ft. gross leasable area, plus one additional space for every four outside seats (*Leesburg, Va.*)

One space for every two seats, plus two spaces for every three employees on the maximum shift (*St. Louis Co., Mo.*)

One space per four seats, plus one space per two employees where seating is at tables, or one space per two seats, plus one space per two employees where seating is at a counter. For a fast-food restaurant with no seating facilities: one space per 60 sq.ft. of net floor area with a minimum of 10 spaces. For a fast-food restaurant with drive-in facilities: in addition to the parking requirements presented above, 11 stacking spaces for the drive-in window, with a minimum of five such spaces designated for the ordering station. Such spaces shall be designed so as not to impede pedestrian or vehicular circulation on the site or on any abutting street. (*Fairfax Co., Va.*)

Five spaces, plus one space per three seats in dining area or 10 per 1,000 sq.ft. gross floor area, whichever is greater (*Long Beach, Calif.*)

Retail, Outdoor

One space per each 1,000 sq.ft. of lot or floor area used for display purposes (*Bozeman, Mont.*)

One space for each 600 sq.ft. of lot area (*Bay City, Mich.*)

One space per 500 sq.ft. of open sales/display area, plus one space per employee (*Fairfax Co., Va.*)

Three spaces per 1,000 sq.ft. of gross floor area (*Hillsborough Co., Fla.*)

One space for each 200 sq.ft. of stall space and customer circulation area (*Albuquerque, N.M.*)

Retail Store

One space per 1,000 net sq.ft.; if more than 15,000 net sq.ft., 1.5 spaces per 1,000 net sq.ft. (*Bellevue, Wash.*)

One space per 300 sq.ft. of gross floor area (*Orange Co., Calif.*)

If less than 5,000 sq.ft. of floor area, one space per

*Planning Commission
June 12, 2000*

AD 98-8 Amendment

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**MINUTES OF THE MEETING
OF THE
FAYETTEVILLE CITY COUNCIL MEETING
JUNE 20, 2000**

A meeting of the Fayetteville City Council was held on June 20, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Hanna, Aldermen Reynolds, Austin, Trumbo, Daniel, Santos, Young and Russell, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Press and Audience.

ABSENT: Alderman Bob Davis.

EMPLOYEE OF THE MONTH

Kevin Springer, Budget and Research, was awarded the employee of the month. His cost saving idea had been to use the Internet and Satellite Training at the Continuing Education Center to save travel expenses.

Mayor Hanna presented Mr. Springer with a certificate and a check for his suggestion.

CONSENT AGENDA

MINUTES

Approval of the minutes from the June 1, 2000 City Council minutes.

TRACT #3X

A resolution authorizing the Mayor to sign a 30-foot easement across property designated as Tract #3X containing approximately 3,000 square feet for 16 inch high pressure gas lines for the Arkansas Western Gas Co.

RESOLUTION 81-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOFTBALL COMPLEX

A resolution approving a budget adjustment in the amount of \$350,557.00 for Gary Hampton Softball Complex parking lot.

RESOLUTION 82-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARKS MASTER PLAN

A resolution approving a contract with Lose and Associates, Inc. in the amount of \$100,000.00 for Parks Master Plan.

RESOLUTION 83-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRST NIGHT FUNDING

A resolution approving funding for First Night in the amount of \$15,000.00.

RESOLUTION 84-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Santos asked for the minutes to be removed from the Consent Agenda since they had not had a chance to review them.

Alderman Austin moved to approve the Consent Agenda with the removal of the minutes. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

RZ 00-15.00

An ordinance approving rezoning request RZ 00-15.00 as submitted by Bill Helmer on behalf of Clifford and Mary Clevenger and Mary Silvis for property located at 831 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.97 acres. The request is to rezone to R-1, Low Density Residential. This ordinance was left on the first reading on the June 6, 2000 meeting.

Mr. Rose read the ordinance for the second time.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Young seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the third and final time.

There was no public comment.

Mayor Hanna called for the vote. Upon roll call the ordinance passed unanimously.

ORDINANCE 4249 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARTIAL PERMIT

An ordinance repealing Section 156.04, Section 169.03 (B)(6), and Section 170.03(A) of the Code of Fayetteville, Unified Development Ordinance, and amending those sections to prohibit nonfinal, partial and/or phased grading and/or stormwater management, drainage and erosion control permits. The ordinance was left on the first reading at the June 6, 2000 meeting.

Alderman Young moved to suspend the rules and move to the second reading. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the second time.

Alderman Austin stated they had discussed this item at the Ordinance Review Committee. The committee's recommendation had been to form an Ad Hoc Committee to address the issue and to hold off on any final action until they had received a report from them.

Alderman Daniel stated she agreed. They should wait because this was a significant change. She was not ready to make a final decision.

Alderman Young stated he would like to leave the item on the agenda and possibly table it at the next meeting. He stated he had concerns that they had appointed people to the Ad Hoc Committee that did not live within the city.

Alderman Daniel stated she had inquired about that. Apparently, it was not mandatory that they live in the city. She had asked around city hall because there had been some confusion about that.

Alderman Young stated that was a general requirement for serving on committees and that had been told to some of the citizens.

Alderman Daniel stated she had spoken with both Charlie Venable and Heather Woodruff. They had stated they had not told anyone that, but there could have been other employees. There was also the possibility that the citizen had not specified they wanted to serve on the Ad Hoc Committee. Other city committees did require them to live in the city.

Alderman Austin stated there had been a number of people who served on his neighborhood committee last year that had not lived inside the city. They had taken every volunteer that wanted to serve and there had been a couple from outside the city.

Alderman Young stated he personally was not that concerned about it. The public could speak to it. He was more concerned about the memo that had been sent out that stated they were not going to take public comment until they had an ordinance put together. He thought they needed to take as much public comment as possible. He suggested Mr. Beavers, City Engineer, get with Mr. Rose to draft an ordinance combining both the grading and drainage ordinance.

Mr. Charles Venable, Public Works Director, stated that was what he thought the Ad Hoc Committee was going to do.

In response to questions, Mr. Rose stated the council had a rule regarding the city's formal committees that required volunteers to be citizens of the City of Fayetteville in order to belong to them. This was an Ad Hoc Committee. It was not an official committee. It could be composed

of whomever they desired. If they wished to have a rule that the Ad Hoc Committee could only be comprised of people from Fayetteville then they could do that.

Alderman Trumbo stated he did not think they needed to do that. However, he did think that they needed public comment.

Alderman Young stated if they had public comment during the committee meetings it would cut down on the comments at Council. He thought they needed something to get started with.

Alderman Russell stated that when the ordinances were looked at individually they were easy to understand, but when they were put together, the process became confusing. He stated he would like to see a flow chart and/or a question and answer format which would go by the letter of the ordinances. It was not clear to him what people were to do at what time. It needed to be clear. He thought they needed to deal with the ordinances as a unit. A step by step process would be easier for the developers to follow and for the public to understand.

Alderman Austin stated the Ordinance Review Committee could take that advice and work it into their final recommendation for the City Council. The Tree Preservation Ordinance was under consideration and they would be receiving a report from them.

Alderman Russell stated currently the process was confusing. The closest thing they had to step-by-step process was the city's development manual, which was not the law. It was a supplement to the law. He had never seen it. Ms. Lorel Hoffman, Planning Commissioner, had pointed out that the manual was not in direct compliance with the law, but that was what the city was giving the developers. He suggested making the ordinance into a step-by-step process which would solve the discrepancy problem between the two documents.

Alderman Young suggested the first step for the Ad Hoc Committee was to decide if they needed a flow chart or exactly what they needed.

Mr. Venable agreed that was what the committee needed to be doing. He stated he would be trying to keep up with the committee. The intent of the first meeting was for the committee to get together and go through everything and decide what changes needed to be made, then when they decided the changes that needed to be made, develop a draft ordinance for public input.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

NEW BUSINESS

URBAN FORESTRY ASSESSMENT

A report presented by Natural Path Forestry Consultants, Inc.

Ms. Kim Hesse, Landscape Administrator, introduced Mark Duntemann with Natural Path Forestry Consultants, Inc. Mr. Duntemann had been contracted to assess the city's forestry program. The contract was funded jointly by the Urban and Community Forestry Assistance Grant and the CIP Forestry Program. What Natural Path had been asked to do in their assessment was to conduct a sample inventory of the trees within the public rights-of-way and public lands in order to determine their maintenance and planting needs, policies, ordinances, and tree protection. He had been observing their current practices. The results of the assessment should bring their program up to a higher level in the future by giving them a program to implement.

Mr. Duntemann stated they had been contracted by the City to conduct an assessment, with recommendations of the City's urban forestry program. Over the course of five months, the assessment had been carried out by interviewing staff, assessing the street tree population health, and reviewing the City's policies. This report was the culmination of that assessment.

The foundation of the assessment and recommendations were developed by using an Urban Forestry Sustainability Model developed by Dr. James Clark and Nelda Methaney. A sustainable system is one which survives or persists. In the context of urban forest, such a system would have continuity over time in a way that provides maximum benefits from functioning of that forest. Clark and Matheny developed a working model that defines nineteen specific criteria to evaluate sustainability. These nineteen criteria are separated into three types of resources: vegetation resource, management resource, and community resource. At the core of understanding the importance of sustainable urban forest is an attachment that the people have for the community. Their recommendations are tempered by what they feel is achievable by the City of Fayetteville within limited and potential resources.

VEGETATION RESOURCE

The improvement in the health of the individual trees and the collective urban forest is the general goal of any sustaining system. To that end the following four criteria were evaluated and recommendations for enhancing the overall vegetation resource were made. The four criteria that they looked at were canopy cover, age distribution of trees, species mix, and native vegetation. The bulk of the information came from a sample inventory that they did of all street trees. They used a model developed by Cornell University. They approximated that there were 42,000 street trees in Fayetteville. They also identified 4,600 planting sites and 73 different species. The overall condition of the street trees was good. The maintenance requirements on most of the trees are high. There was a lot of dead wood. They had noticed a lot of broken limbs. The appraised value of the trees was estimated to be more than seven and half million dollars. Within Arkansas the average street tree value per tree was approximately \$1,800.

Alderman Young asked if the planting sites were in addition to the existing sites.

Mr. Duntemann replied they were additional planting sites that were vacant of trees. What they had looked at in identifying those had been the width of the tree lawn, the distance between the right-of-way and the sidewalk/ curb. Anything less than four feet was considered unplantable. They had also taken into consideration if there were overhead utility lines. It was still possible to plant under utility lines.

Community Framework

The second key element of a sustainable system is the interaction of all of the partners that play a role in maintaining or impacting urban vegetation. The following seven cwriteria were used: public agency cooperation involvement of large landholders, green industry cooperation, neighborhood action, citizen/government business interaction, general awareness of trees, and regional cooperation.

Resource Management

The most difficult element of maintaining a sustainable urban forest is having the resources and tools available to manage. The nine cwriteria listed are citywide management, citywide funding, city staffing, assessment tools, protection of existing trees, species and site selection, standards for tree care, citizen safety, and recycling. They had evaluated these eight cwriteria and the other eleven and had rated them on a scale from low to optimum. The rating given Fayetteville was between "poor" and "fair." The optimum for all nineteen cwriteria was difficult for cities to achieve. The model was use for a spring board to evaluate what was appropriate for the city to implement and the level they wished to achieve.

Natural Path's recommendations:

Vegetation Resource

The population of trees was low compared to the national average around the country. There were approximately a 50% stocking. The average was 80%. He thought there were more planting sites than trees. They recommended the city implement a practice planting of 250 trees per year in new developments and the central core. There were some issues with the core area. There was no incentive for planting trees in public rights-of-way. The second recommendation was to implement a five-year cycle pruning program. Currently, they were reacting to people asking that trees be pruned. The development of a cycle program could reduce the cost of individual tree pruning by half. The benefits of the program were that every tree would get worked on. It would reduce the number of service requests, and the trees would be regularly inspected and would receive care, the assessment of the woodland quality of the undeveloped areas of the city, the identification of areas for the future that have a high value to the town.

Community Framework

There were four recommendations: enhance inter-departmental cooperation, promote and improve pruning skills, promote educational opportunities for private sector contracts and

increase community education outreach, and foster regional cooperation.

Resource Management

He strongly encouraged completing an inventory of public trees. This information would be used for contracting and for removing problem trees and implementing a cycle program. The cost of implementation was approximately \$10,000. He had encouraged the Landscape Advisory Committee to redevelop the preservation ordinance. He was available to provide input when needed. He added when an ordinance was new, they could expect to go through growing pains. He recommended increasing funding for arbor-cultural work. There was quite a bit of work which currently needed to be done. They would need to increase funding for future maintenance and purchase equipment for the crew to work more efficiently. He recommended an on-site chipper and a bucket truck with an extension arm that would reach sixty feet. Currently, the city was not capable of working on the larger trees and the work had to be contracted out. In order to implement an in-house pruning program, they would need to hire one field staff person. A five-year program was impossible with the current staff. The number one thing they could do to reduce risk was to implement a maintenance program.

Alderman Young asked him to elaborate on the risk reduction program.

Mr. Duntemann stated they had identified a few trees that were in public rights-of-way which had a high probability of failing. The inventory would identify the high risk trees. The city, with limited resources, could try and remove those trees out of the system and replace them with a new tree. He encouraged the city to review the plan and to take it under consideration.

In response to questions from Alderman Trumbo, Mr. Duntemann stated their final report would have the total cost of implementing the program. The largest ticket items were the annual maintenance program and contracted maintenance pruning work which would be approximately \$25,000 per year. They did not believe that was available in the current budget for street tree activity.

Alderman Austin questioned what had accounted for the "poor" rating they had received.

Mr. Duntemann stated the maintenance program had been the most negative influence.

Alderman Austin asked if he had conducted an Urban Forestry Assessment in any city and given them a high rating.

Mr. Duntemann replied "good" had been the highest. The assessment was presented as goals. The highest quality town they had done had only rated "good."

In response to questions regarding litigation of failed trees, Mr. Rose stated Arkansas had

municipal tort immunity. Because of that, they did not have the same legal liability as most other states.

In response to questions from Alderman Austin, Mr. Duntemann stated the "national average" in their report had come from the 140 cities they had inventoried, which were all different sizes.

Alderman Austin asked if the city would receive their software "Canopy" to merge with the city's GIS Program.

Mr. Duntemann replied it was not part of this project. A physical inventory of trees would run approximately \$12,000 and the cost of the software ranges between \$3,000-\$6,000.

Alderman Daniel stated the city had implemented a parking lot tree ordinance which had impacted their city. In looking at some of the newly built parking lots, she had noticed a problem with maintenance. The trees were being damaged by weed eaters. She asked if he had any suggestions.

Mr. Duntemann suggested encouraging public education and identifying key issues. He believed in education outreach. He suggested luncheons where they would discuss one topic and informal meetings that were within the profession seemed to work well.

In response to questions and concerns about funding, Mr. Duntemann stated there were some State grants and some national funding sources for these types of programs. Their report would cover some of those items.

Alderman Russell stated he had read in the executive summary that they recommended that the current tree preservation ordinance be enhanced to remove any ambiguity and focus on preservation. He asked what kind of language other cities had used in their ordinances when they wanted to be serious about private development preserving a certain level of canopy.

Mr. Duntemann stated he covered it in his plan. His company did a lot of preservation work. A lot of that work was representing the developer. They had found that being able to go to the site and map the trees and come up a conceptual design evened the playing field. A lot of conflicts could be prevented during preliminary design. Some suggestions were included in the report.

Alderman Young stated Mr. Jurgens, Water and Sewer Superintendent, and Randy Allen, Street Superintendent, had concerns about planting trees in the rights-of-way. Their main concerns had been about roots growing into the pavement.

Mr. Duntemann stated most of the problems were in the older parts of town. The technology for underground utilities has grown by leaps and bounds. Urban Forestry has also advanced at the

same level. They would not recommend some of the species that have been planted. Most of the problems had been with those problem species that they would not recommend planting. The problem with the street pavement could be addressed with the species selection.

Mayor Hanna stated Ms. Hesse would take the report to the Tree and Landscape committee and he hoped they would start prioritizing the things they could afford to do.

Ms. Hesse stated she was on the Urban Forestry Board for the State of Arkansas. Every year they had a conference. This year it would be hosted in Fayetteville. This was a good chance for the citizens to learn about urban forestry, developing land with trees, and design issues. The conference would be in July.

Ms. Fran Alexander, citizen, stated the Neighborwood Commemorative Tree Planting Project, which had planted more than 145 trees in the parks in Fayetteville, and have been growing out approximately 600 seedlings. They had these trees available to neighbors to plant for free. She would like citizens to get together and see about planting trees in their neighborhood or around their block. They had a variety of trees. She asked that they contact Kim Hesse if they wanted trees.

Mayor Hanna stated there was a Federal Program that was trying to purchase and preserve more park land and trees. He thought there was a possibility that they might qualify. He had also had an offer from a business man to furnish and plant a number of trees, if the city could find a location that they would be helpful.

NO ACTION REQUIRED.

BEKKA DEVELOPMENT

Consideration of a claim by Bekka Development for legal expenses and loss of parking space revenue in conjunction with the Town Center.

Ms. Diane Boyd, Secretary for Bekka Development, stated Bekka Development's position was that the lease for the land for the Town Plaza had been intended by all the parties involved that any expenses that they were out of would be covered under the lease. She noted there had been a change in the council since the lease had been signed so she explained that they had drawn up a lease which they had felt was reasonable for the property. Basically, they had agreed on the up-front amount of \$120,000.00 plus one dollar per year. It was an evergreen lease. Bekka had given up the right to ever develop their property (they had planned to construct a building.) They had given up any connection to their two buildings other than what was written in the lease. They were not asking for something they should not have, but they felt they should be compensated for their losses. The lease had been signed in October of 1998. They did not know that there was going to be a law suite. It was their intention with the lease that the money they would be out

during the construction of the Town Center that they would be reimbursed that for parking. They thought there had been a clear understanding with all the parties involved. It was their understanding that they would not be out of any money for parking. They needed to understand that prior to the construction of the Town Center that Bekka had a parking lot between their two buildings and that had it had been rented by their tenants for parking. It was not only full, but they had a waiting list for parking spaces. The city had arranged for parking during construction, but their tenants would not lease it. They had a few people that did. She stated she had tried everything she could to encourage them to lease it. She had made it clear that when they had access to the parking deck between their buildings that they would have first choice in having parking. They had also changed their parking fees from \$35 per month to \$25 per month in effort to maintain some of the people. Basically, everyone was going to give up their parking. Bekka was only asking for what was covered under the lease. Because of the construction they had a lot of vacancies and they were losing money from that. She reminded everyone that the city had sought them out. They had not been looking at leasing the property. They had tried to help the city. They wanted the plaza and the center. They felt it would help the city. They just wanted to be compensated for what they were out of relating to the lease of the parking lot. The estimate that they had was based upon what they had now. If they had tenants, then they would not bill anything they did not lose. Basically they had leased the parking spaces to compensate for the expense of providing the parking lot. It was not a situation where they were making money.

Alderman Reynolds asked when the Town Center was completed how many of the parking spaces were going back to Bekka.

Mayor Hanna replied they would have their own area under the plaza where their plaza once was when the Town Center is complete.

Alderman Reynolds asked if this was a one time problem.

Ms. Boyd stated they were asking to be compensated for the loss of revenue from the beginning of construction (August) until they received their parking back. She suggested billing quarterly from now on for what was lost.

Alderman Daniel noted at the \$6,135.00-covered August 1999 to June 2000 and questioned if it would be prorated from now on.

Ms. Boyd stated they would keep an accounting of it and give a report to the city for the difference. The billing would continue until they got their parking back. The construction was due to be completed in February. They would not have to wait until the Town Center was open, just until their parking was released from Nabholz. She was sure they would not have any problem leasing the parking spaces.

Alderman Trumbo asked if she had tried sending their legal bill to George Williams.

Ms. Boyd stated Bekka had requested that the court have them pay for their legal fees. Judge Gunn had stated that the order was on her desk and was under consideration. There had not been a decision made yet. If they were compensated, then they would reimburse the city.

Mr. Rose stated he had written a memo with his legal opinion. He did not believe the lease required the city to reimburse them. He added, their attorney Mr. Butt had assisted the city in all that he did. He was very capable and had been a benefit to the city and was sure if the case was appealed would continue to be.

Alderman Daniel stated all the businesses on the square had been impacted by the construction. Most of the businesses realized they would benefit in the long run, but they were hurting now.

Mayor Hanna did not think those other business had lost their own parking spaces.

Alderman Daniel asked if in the city's other contracts if they had any liability in the Town Center. If they granted this to Bekka would others are coming forward.

Mr. Rose did not know of anyone was in the same situation as Bekka. He did not know of anyone in which the demand for lost parking revenue or attorney fees could be made.

Mr. Maguire, Administrative Service Director, stated Section 13 of the lease in the first sentence gave the city reason to honor Bekka's request. He understood Mr. Rose's position on this was different from his. It stated that the lessee, which was the city, shall bear all cost and expenses directly or indirectly associated with the lease premises, including and not limited too. This lease was more broad, than any triple lease that he had customarily dealt with.

Alderman Trumbo stated he thought the city should reimburse Bekka because they had been very accommodating since the beginning. It was the right thing to do. He had sat through a number of the hearings and Mr. Butt had been a good addition during the lawsuit.

Alderman Santos agreed that he had been good in the lawsuits, but he did not think the city should have to pay Bekka's attorney fees when they had won the lawsuits. He thought the people who sued Bekka should be held responsible for their fees.

Alderman Santos moved to deny the claim. The motion failed from lack of a second.

Alderman Austin stated they were not required to pay, but it was the right thing to do.

Alderman Santos stated they were opening up the flood gates for anyone who might complain

that the city had displaced the parking for their business, not just the Town Center. He did not think it was a very wise thing to do.

Mayor Hanna stated the city had leased Bekka's operating parking lot and rendered it unuseable for either the city or them during the construction of the Town Center.

Alderman Santos stated he did not see anything which stated the city would pay for any lost income. It stated the city was going to pay for any improvement, maintenance, lighting and utilities, insurances, taxes, fees, assessment, cleaning, snow removal and trash removal.

Alderman Young stated he thought that was what Section 13 was addressing. But, it still went back to doing the right thing. He preferred to hear two motions. One on the legal fees and one on the parking fees.

Alderman Santos moved to deny the claim on the legal fees.

Alderman Daniel stated she had voted against the Town Center because it had gone two million dollars over budget and here they were going to out for another \$14,000. She thought they had already sunk so much money into this thing. She did not think they had much of a choice.

Alderman Russell stated the lawsuits were not completely over yet. Bekka could accumulate more legal fees. The plaintiffs could be forced to pay the cost. He was not prepared to approve paying for their legal cost tonight, but he would like to reserve the right to do that in the future when this was all over, if the plaintiffs did not have to pay. He suggested tabling the request to pay legal cost and to go ahead with the parking cost.

Alderman Santos' motion failed for lack of a second.

Alderman Russell moved to table the issue of legal cost, pending a final determination on the lawsuits and the liability. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

Alderman Austin moved to approve the request for parking cost. Alderman Trumbo seconded the motion. Upon roll call the motion carried by a vote of 7-1-0, Santos voting nay.

Ms. Boyd asked about the future cost of parking from July forward, until they got their parking back.

Alderman Russell suggested that they wait until the end of construction, then come back to the council with an accounting of lost revenue. He would be open to hearing a request for further

reimbursement at a later date.

Alderman Reynolds asked if they had a completion date for the Town Center.

Mayor Hanna stated it should be in April. Some parts might be ready before then.

Mr. Venable stated the contractor had the entire area now. Until he released it and everything was accepted, it was still his. Normally, you did not accept it until they accepted the building because of the liability.

Alderman Santos asked if part of the reason Bekka agreed to the lease was because they were taking their parking spaces which were worth about \$3,000 each and were giving them back decked parking spaces which were worth about \$15,000 each.

Ms. Boyd replied it was not. They had planned to build a commercial building with parking underneath. So they would have had what they were getting back.

Alderman Santos added that the taxpayers were building the decked spaces for Bekka.

Ms. Boyd replied the city was giving them back the spaces that they already had, which was an integral part of their buildings. They had to understand that their parking was a real factor in leasing their spaces.

Alderman Santos stated they were giving Bekka back deck parking spaces in exchange for surface spaces. They were worth about five times what their spaces were worth.

Ms. Boyd replied there were a lot of complications that had occurred with having the Town Center built between their two buildings. They were willing to cope with the problems they have had. They wanted it for the city. The Bradberry Family had done it because they had felt it would be good for the city and not because they felt it would enhance them economically.

Alderman Santos asked how many parking spaces they were talking about total.

Ms. Boyd stated they were talking about thirty-two spaces.

Alderman Santos stated that was a \$384,000 net investment in their property by having the city deck their parking spaces for them.

RESOLUTION 86-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ROLLBACK

Approval of forms regarding the Rollback case Hicks, et al vs. City of Fayetteville, et al, CIV 97-500.

Mr. Rose stated the case they were talking about was commonly called the Rollback Case. It challenged the collection tax under Amendment No. 59, the amendment to the Arkansas Constitution which said they could not increase the tax rate more than 10% percent. He explained there were some triggering mechanisms within Amendment 59 requiring a countywide reappraisal. The judge had divided the case into two parts. The first part being liability and the second part damages. We have lost the first part of that as to liability. The judge had rejected their defenses. As a result of that court order, they were now going to have the second part of the trial which had to do with damages. How much, and when we must rollback, if at all. One of the things which had been filed has been a writ of mandamus, by the plaintiffs. A writ of mandamus was a writ which said they did not have any discretion to do or not to do. They must fill out a form which is contained in the Arkansas Statute at 26-26-404. The writ of mandamus ordered them to complete the form and file it with the County Clerk. He was asking the council to approve the form. The first page stated the County Clerk shall report to the governing body the required data to fill out the forms. They were to take those figures that the county had given them and were putting them in the manner of the form. There was no discretion.

Alderman Young asked Mr. Davis if he had filled the forms out to the best of his ability, correctly.

Mr. Davis replied yes.

Alderman Santos moved to pass the resolution. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 86-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TOWN CENTER PROPOSED RATE SCHEDULE

A resolution approving the proposed rate schedule submitted by the A & P Commission for the Town Center.

Ms. Marilyn Johnson, A&P Commission, stated the lease agreement between the city and the A&P Commission required the city council to approve the nonprofit rates for the Town Center. She explained they had developed these rates believing they were fair and equitable. They were compatible to other facilities that were doing the same things that they were doing.

Alderman Santos stated they looked like fair rates and they could adjust them if they needed to in the future.

Alderman Trumbo noted the rate for nonprofit organization was fourteen cents per square foot which was to cover electrical and overhead expenses.

Alderman Austin moved to approve the resolution. Alderman Santos seconded the motion.

Alderman Russell asked what the process would be to change the rates in the future.

Ms. Johnson replied the lease agreement stated the council would review the operations of the center every year.

Mayor Hanna thought the council could ask the A&P Commission to look at it if they thought there was a problem.

Upon roll call the motion carried by a vote of 6-0-0, Daniel was absent for the vote.

RESOLUTION 87-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Meeting adjourned at 8:30 p.m.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 18, 2000

FROM:

Dale Frederick Airport General GMT.
Name Division Department

ACTION REQUIRED: Staff requests approval to accept the bid of \$38,500.00 from Crash Rescue Equipment Service, Inc. for the sale of the Airport's 1985 Oshkosh Fire Crash-Rescue Vehicle, Unit #20. This 1985 Oshkosh Truck has not been used since the purchase of the 1998 E-One Titan. However, the vehicle has continued to generate costs to the city through regularly scheduled maintenance and repairs. Since this vehicle is the property of the Airport being purchased with a Federal Airport Improvement Program Grant in 1986 from the Federal Aviation Administration, the proceeds from the sale of the fire truck will be processed into the Airport Fund.

COST TO CITY:

<u>\$ 38,500.00</u> Revenue	<u>\$ N/A</u>	<u>Gain/Loss Sale of Asset</u>
Cost of this Request	Category/Project Budget	Category/Project Name
<u>5550-0955-6881.02</u>	<u>\$ N/A</u>	<u>Fixed Asset</u>
Account Number	Funds used to date	Program Name
	<u>\$ N/A</u>	<u>Airport</u>
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

[Signature] Budgeted Item Budget Adjustment Attached
Budget Manager Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

[Signature] 6-30-00
Accounting Manager Date
[Signature] 6-30-00
City Attorney Date
Purchasing Officer Date

GRANTING AGENCY:

[Signature]
Internal Auditor Date
ADA Coordinator Date

STAFF RECOMMENDATION:

Staff recommends approval of this amendment.

[Signature] 6-30-00
Division Head Date
[Signature] 6-30-00
Department Director Date
Administrative Services Director Date
Mayor Date

Cross Reference

New Item: Yes No
Pre. Ord/Res#: _____
Orig Cont. Date: _____
Orig Contract No. _____

STAFF REVIEW FORM

Page 2

Description:

Meeting Date: July 18, 2000

APPROVAL TO ACCEPT THE BID FROM CRASH RESCUE EQUIPMENT SERVICE, INC. FOR THE SALE OF A 1985 OSHKOSH FIRE CRASH-RESCUE VEHICLE FOR \$38,500.00.

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

ADA Coordinator

Reference Comments:

Internal Auditor

Reference Comments:

FAYETTEVILLE

AIRPORT DEPARTMENT
THE CITY OF FAYETTEVILLE, ARKANSAS

Bid 00-13.00
A. 2. Page 3

TO: CITY COUNCIL MEMBERS

THRU: FRED HANNA, MAYOR

THRU: ALETT LITTLE, ECONOMIC DEVELOPMENT DIRECTOR *al*

FROM: DALE FREDERICK, AIRPORT MANAGER *DF*

DATE: June 30, 2000

SUBJECT: APPROVAL TO ACCEPT THE BID FROM CRASH RESCUE
EQUIPMENT SERVICE, INC. FOR THE SALE OF A 1985
OSHKOSH FIRE CRASH-RESCUE VEHICLE

Staff requests approval to accept the bid of \$38,500.00 from Crash Rescue Equipment Service, Inc. for the sale of the Airport's 1985 Oshkosh Fire Crash-Rescue Vehicle, Unit #20. This 1985 Oshkosh Truck has not been used since the purchase of the 1998 E-One Titan. However, the vehicle has continued to generate costs to the city through regularly scheduled maintenance and repairs.

The vehicle was advertised in both local newspapers and national magazines. Invitations to bid were sent to six bidders, but only one bid was received from Crash Rescue Equipment Service, Inc. Since this vehicle is the property of the Airport being purchased with a Federal Airport Improvement Grant in 1986 from the Federal Aviation Administration, the proceeds from the sale of the fire truck will be processed into the Airport Fund.

DF: bjm

Attachments: Review Form
Copy of Invitation to Bid
Copy of the Bid from Crash Rescue Equipment Service, Inc.
Bidders List



CITY OF FAYETTEVILLE

113 W. Mountain St.
Fayetteville, AR 72701

FLEET OPERATIONS
501-444-3494
INVITATION TO BID

COPY

ITEM FOR SALE

BID #: 00-13

DATE ISSUED: March 17, 2000

DATE & TIME OF OPENING: June 14, 2000 - 11:00 A.M.

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

DATE REQUIRED AS COMPLETE UNIT: Not Applicable

F.O.B. Fayetteville, AR

THE FOLLOWING LISTED ITEM HAS BEEN DECLARED SURPLUS TO
THE NEEDS OF THE CITY OF FAYETTEVILLE AND IS TO BE DISPOSED
OF IN ACCORDANCE WITH THE TERMS AND CONDITIONS ATTACHED.

ITEM:	DESCRIPTION:	• PRICE:
1.	Unit # 20 1985 Oshkosh Model P-19 Crash - Rescue Vehicle VIN: 1OT9L5BEXG1027212 (6,XXX Miles)	CREDIT \$ <u>38,500.00</u>

A set of complete specifications utilized for the purchase of this unit is available to interested parties.
Please contact Fayetteville Fleet Operations, 1525 S. Happy Hollow Rd., Fayetteville, AR 72701 -
501.444.3498.

NOTICE: MINIMUM BID -- \$30,000.00

**NOTE: THIS UNIT WILL BE RELEASED IN ACCORDANCE WITH THE PROVISIONS
OF ITEM #8 - PAGE 2.**

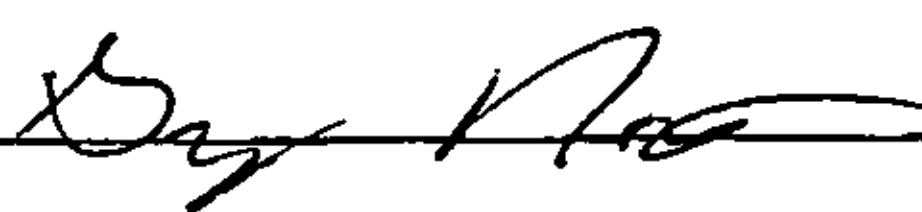
EXECUTION OF BID - Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including terms and standard conditions, and pertinent information regarding the article being bid on. Unsigned bids will be rejected.

*NAME OF FIRM: CRASH RESCUE EQUIPMENT SERVICE, INC.

*BUSINESS ADDRESS: 11122 MORRISON LANE

*CITY: DALLAS *STATE: TX *ZIP: 75229

*PHONE: (972) 243-3307 *FAX: (972) 243-6504

*AUTHORIZED SIGNATURE: 

*TITLE: OPERATIONS MANAGER

SPECIAL TERMS & CONDITIONS

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

1. All bids shall be submitted on forms provided by the City with the item bid and the bid number stated on the face of the sealed envelope. Bidders **MUST** provide the City with their bids signed by an employee or officer having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
2. Bids received after the date and time set for receiving bids will **NOT** be considered. The City will **NOT** be responsible for misdirected bids. Vendor should call the Purchasing Office at (501) 575-8289 to insure receipt of their bid documents prior to opening date and time listed on the bid form.
3. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City.
4. The City assumes no responsibility for the safety of the Bidder during inspection of the item listed herein.
5. The item listed will be sold "AS IS-WHERE IS" with no warranty either express or implied.
6. Arrangements for inspection may be made by appointment with Fayetteville Fire Chief, Mickey Jackson, 303 W. Center St., Fayetteville, AR., 501.575.8385 or Assistant Chief, Marion Doss, 501.575.8386 between the hours of 9:00 A.M. and 4:00 P.M. MONDAY THROUGH FRIDAY UNTIL FRIDAY, JUNE 9, 2000.
7. Questions regarding this item may be directed to the Fleet Operations Division, 1525 S. Happy Hollow Road, Fayetteville, AR., 72701 501-444-3494 & 501-444-3496
8. Notification of bid award will not be made prior to proper approval of the acceptance of this bid by the City. Therefore, the following provisions for payment and possession are contingent on required approval by the City of Fayetteville.
 - A. Payment for the item/items listed herein shall be made after notification of bid award and prior to release of the item/items awarded.
 - B. Payment shall be made with certified funds.
 - C. Removal of the item/items listed herein awarded to the successful bidder shall be the sole responsibility of said successful bidder.
9. The item bid and the bid number shall be stated on the face of the sealed bid envelope.



CITY OF FAYETTEVILLE

*113 W. Mountain St.
Fayetteville, AR 72701*

**FLEET OPERATIONS
501-444-3494
INVITATION TO BID**

COPY

ITEM FOR SALE

BID #: 00-13

DATE ISSUED: March 17, 2000

DATE & TIME OF OPENING: June 14, 2000 - 11:00 A.M.

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

DATE REQUIRED AS COMPLETE UNIT: Not Applicable

F.O.B. Fayetteville, AR

**THE FOLLOWING LISTED ITEM HAS BEEN DECLARED SURPLUS TO
THE NEEDS OF THE CITY OF FAYETTEVILLE AND IS TO BE DISPOSED
OF IN ACCORDANCE WITH THE TERMS AND CONDITIONS ATTACHED.**

ITEM:	DESCRIPTION:	* PRICE:
1.	Unit # 20 1985 Oshkosh Model P-19 Crash - Rescue Vehicle VIN: 1OT9L5BEXG1027212 (6,XXX Miles)	CREDIT \$ _____

A set of complete specifications utilized for the purchase of this unit is available to interested parties.
Please contact Fayetteville Fleet Operations, 1525 S. Happy Hollow Rd., Fayetteville, AR 72701 -
501.444.3496.

NOTICE: MINIMUM BID -- \$30,000.00

**NOTE: THIS UNIT WILL BE RELEASED IN ACCORDANCE WITH THE PROVISIONS
OF ITEM #8 - PAGE 2.**

EXECUTION OF BID - Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including terms and standard conditions, and pertinent information regarding the article being bid on. Unsigned bids will be rejected.

*NAME OF FIRM: _____

*BUSINESS ADDRESS: _____

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

*PHONE: _____ *FAX: _____

*AUTHORIZED SIGNATURE: _____

*TITLE: _____

SPECIAL TERMS & CONDITIONS

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

1. All bids shall be submitted on forms provided by the City with the item bid and the bid number stated on the face of the sealed envelope. Bidders **MUST** provide the City with their bids signed by an employee or officer having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
2. Bids received after the date and time set for receiving bids will **NOT** be considered. The City will **NOT** be responsible for misdirected bids. Vendor should call the Purchasing Office at (501) 575-8289 to insure receipt of their bid documents prior to opening date and time listed on the bid form.
3. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City.
4. The City assumes no responsibility for the safety of the Bidder during inspection of the item listed herein.
5. The item listed will be sold "AS IS-WHERE IS" with no warranty either express or implied.
6. Arrangements for inspection may be made by appointment with Fayetteville Fire Chief, Mickey Jackson, 303 W. Center St., Fayetteville, AR., 501.575.8365 or Assistant Chief, Marion Doss, 501.575.8366 between the hours of 9:00 A.M. and 4:00 P.M. MONDAY THROUGH FRIDAY UNTIL FRIDAY, JUNE 9, 2000.
7. Questions regarding this item may be directed to the Fleet Operations Division, 1525 S. Happy Hollow Road, Fayetteville, AR., 72701 501-444-3494 & 501-444-3496
8. Notification of bid award will not be made prior to proper approval of the acceptance of this bid by the City. Therefore, the following provisions for payment and possession are contingent on required approval by the City of Fayetteville.
 - A. Payment for the item/items listed herein shall be made after notification of bid award and prior to release of the item/items awarded.
 - B. Payment shall be made with certified funds.
 - C. Removal of the item/items listed herein awarded to the successful bidder shall be the sole responsibility of said successful bidder.
9. The item bid and the bid number shall be stated on the face of the sealed bid envelope.

Mail or Deliver Bids To:

City of Fayetteville
Purchasing Office-Rm 306
113 W Mountain
Fayetteville, AR 72701

CITY OF FAYETTEVILLE
BID 00-13
SALE OF CRASH/RESCUE
VEHICLE

ADDENDUM-#1 JUNE 9, 2000

Bid date has been changed to June 19th, 2000, at 11:00 a.m.

h Rescue Equip Service Inc
22 Morrison Lane
las TX 75229

ansas Fire Academy
n: Tom Forbes
Box 3499
nden AR 71701

Bill 00-12

Arkansas Airframe Inc
Holley Met Air Park
PO Box 1699
Clinton AR 72031

Rogers Fire Dept
Attn: Chip Wright
Rogers AR 72756
fax #621-1108

Oshkosh Truck Corp
PO Box 2566
Oshkosh WI 54903-2566

Jefferson County Colo Airport
Attn: Brad Nelson
phone 303/466-2314

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 18, 2000

FROM:

Dale Frederick Airport General GMT.
Name Division Department

ACTION REQUIRED: Staff requests approval of Amendment No. 1 to Task Order No. 1 (Extension of Ernest Lancaster Drive) to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES with McClelland Engineers, Inc. in the amount of \$25,475.00. The Federal Aviation Administration has approved this Land Use Plan as a formulation cost associated with this project and has agreed to fund 90% of the project with Airport Improvement Program Funds. A 5% reimbursement match grant will be requested from the State of Arkansas Department of Aeronautics. The Airport Board has been advised of this project, and the final scope and cost for the Land Use Plan will be discussed at the July 6, 2000, Airport Board Meeting.

COST TO CITY:

<u>\$25,475.00</u>	<u>\$ 121,966.00</u>	<u>Professional Services</u>
Cost of this Request	Category/Project Budget	Category/Project Name
<u>5550-3960-5314.00</u>	<u>\$ 71,283.00</u>	<u>Fixed Asset</u>
Account Number	Funds used to date	Program Name
<u>98054</u>	<u>\$ 50,683.00</u>	<u>Airport</u>
Project Number	Remaining Balance	Fund

BUDGET REVIEW:

[Signature] X Budgeted Item Budget Adjustment Attached
Budget Manager Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

[Signature] 6-29-00
Accounting Manager Date
[Signature] 6-30-00
City Attorney Date

Purchasing Officer Date

GRANTING AGENCY:

Internal Auditor Date

ADA Coordinator Date

STAFF RECOMMENDATION:

Staff recommends approval of this amendment.

[Signature] 6-29-00
Division Head Date
[Signature] 6-29-00
Department Director Date
[Signature] 6/30/00
Administrative Services Director Date
[Signature] 7/1/00
Mayor Date

Cross Reference

New Item: Yes No
Pre. Ord/Res#: 26-00
Orig Cont. Date: 3-7-00
Orig Contract No. 747

STAFF REVIEW FORM

Page 2

Description:

Meeting Date: July 18, 2000

Amendment No. 1 to Task Order No.1 to the contract with McClelland Consulting Engineers for the extension of Ernest Lancaster Drive.

Comments:

Budget Manager

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

ADA Coordinator

Reference Comments:

Internal Auditor

Reference Comments:

FAYETTEVILLE

AIRPORT DEPARTMENT
THE CITY OF FAYETTEVILLE, ARKANSAS

Ernest Lancaster Dr
A. 3. Page 3

TO: CITY COUNCIL MEMBERS

THRU: FRED HANNA, MAYOR

THRU: ALETT LITTLE, ECONOMIC DEVELOPMENT DIRECTOR *pl*

FROM: DALE FREDERICK, AIRPORT MANAGER *DF*

DATE: June 29, 2000

SUBJECT: AMENDMENT NO. 1 TO TASK ORDERS NO. 1 TO THE
CONTRACT WITH MCCLELLAND CONSULTING ENGINEERS

Staff requests approval of Amendment No. 1 to Task Order No. 1 (Extension of Ernest Lancaster Drive) to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES with McClelland Engineers, Inc. in the amount of \$25,475.00. The Federal Aviation Administration has approved this Land Use Plan as part of the formulation costs involved with this project and has agreed to fund 90% of the project with Airport Improvement Program Funds. A 5% reimbursement match grant will be requested from the State of Arkansas Department of Aeronautics.

This Land Use Plan is critical in determining the best location for the pending access road extension in serving the undeveloped land on the east side of the airport property. While the contract is with McClelland Engineers, Inc., Barnard-Dukelberg & Company will be subcontracted to prepare the Land Use Plan.

This project has been described and explained to the Airport Board, and the final scope and cost for the Land Use Plan will be discussed at the July 6, 2000, Airport Board Meeting.

DF/bjm

Attachments: Contract Review Form
Four originals of the Amendment No.1 to Task Order No.1
Copy of Fax received from The Federal Aviation Administration

**AMENDMENT NO. 1
TO
TASK ORDER NO. 1
EXTENSION OF LANCASTER DRIVE**

STATE OF ARKANSAS

COUNTY OF WASHINGTON

Task Order No. 1 to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, is hereby amended. The referenced basic agreement pertains to proposed improvements to Drake Field, Fayetteville's Municipal Airport. This Amendment entered into and executed this _____ day of _____, 2000, by and between the City of Fayetteville (OWNER) and McClelland Consulting Engineers (ENGINEER) amends the project description to include formulation of Land Use Plan for the East Side of Drake Field. It is clearly understood that the ENGINEER will subcontract with Barnard-Dukelberg & Co. to prepare the Land Use Plan.

SECTION I - PROJECT DESCRIPTION

In order to efficiently utilize undeveloped land on the eastern side of the municipal airport property a Land Use Plan is needed. In general, the plan will recommend a layout of needed infrastructure (utilities, aviation access, and ground access) and propose the limits of reasonably-developable real estate. The deliverable product of this study will be a bound document, with a map(s) depicting the recommendations resulting from the Land Use Planning effort.

SECTION III – SCOPE OF SERVICES

Attachment A to this Amendment sets forth the specific tasks included in the scope of work.

SECTION IV – FEES AND PAYMENTS

Attachment B to this Amendment establishes the lump sum fees for the contracted services.

SECTION IV – BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES and Task Order No. 1 shall remain in full force as originally approved and executed.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be duly executed as of the date and year first herein written.

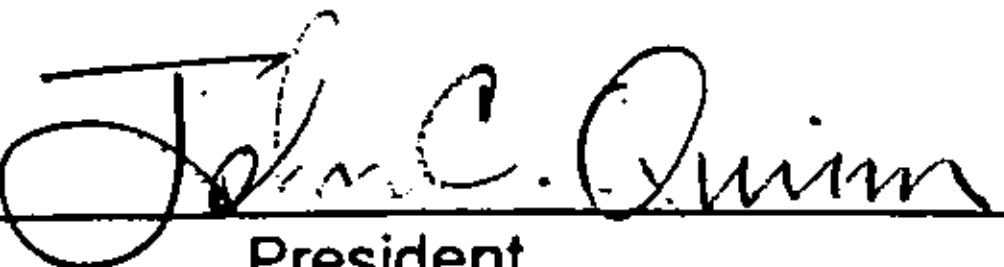
FOR THE CITY OF FAYETTEVILLE:

By: 
Mayor

Attest: _____

Date: 7/1/00

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: 
President

Attest: 

Date: 6/21/00

ATTACHMENT A

Program of Services Drake Field East Side Land Use Plan

Element 1. Project Start Up

Task 1.1. Meet with city staff, airport staff, and Fayetteville Municipal Airport Advisory Board.

The Consultant will meet with members of the City Staff, Airport Staff as well as members of the Fayetteville Municipal Airport Advisory Board to assist in identifying key development issues, conducting background research, and gaining a sense of direction in terms of past efforts and future desires. Strategic goals being formulated by others as a part of corollary efforts will be incorporated into this study effort. Additional meetings are programmed during the course of the study. Up to three meetings are anticipated.

Task 1.2. Collect and Review Previous Studies.

Previous airport and economic development studies and available information and drawings will be collected and reviewed in terms of their relationship with this study effort, the desires of the Board, and the potential for the site(s) under consideration in meeting the goals and objectives of the City, and the Airport.

Task 1.3. Land Reconnaissance.

The subject land will be identified and defined as to the areas that will be included in the study. Information on the area (i.e., location, acreage, topography, utilities availability, soils, wetlands, existing or planned adjacent uses, etc.) will be compiled. Agreement will be gained on the exact boundaries of the study area, but is likely include all existing airport property on the east side of the runway.

Element 2. Preliminary Land Use Plan

Task 2.1. Land Use Influences Determination.

Using City of Fayetteville resources, factors which will influence the proposed land use will be determined. Factors will include such considerations as flooding potential, soil types, wetlands, utilities availability, adjoining land uses, roadway access potential, taxiway access potential, height restrictions related to aeronautical obstruction criteria, and off-airport access points, among others. These factors will be inventoried and described in a written and graphic format.

Task 2.2. Establish Recommendations for Land Use.

Potential and possible land uses will be examined and recommendations established for the area within the study area which are commensurate with the goals and objectives of the City and the Airport. Various alternatives will be explored, with the findings and recommendations being presented in both narrative and graphic form. Consideration will include actual uses of the immediately available land as well as those properties that may be reasonably available in the future.

Task 2.3. Formulate Conceptual Land Use Plan.

A Conceptual Land Use Plan will be developed in consonance with the findings of the foregoing tasks, specifying categories of development zones, tenant types, and generalized lot configurations. A program will be established which allows flexibility in the development process while achieving the inherent goals of the overall development itself.

Task 2.4. Develop Roadway/Taxiway Plan.

A taxiway and roadway plan will be developed, including existing and proposed alignments and proposed widths.

Task 2.5. Environmental Review.

An illustration of the Conceptual Development Plan will be sent to various state and federal agencies. Accompanying the illustration will be a request for input regarding potential environmental affects related to the proposed development. Agency responses will be included in the appendix of the final report and the input received from the agencies will be considered in the formulation of the finalized land use plan.

Element 3. Infrastructure Assessment and Finalized Land Use Plan

Task 3.1. Evaluation of Utility Network

The existing utility network will be evaluated in terms of the condition of the various systems which comprise the utility network and the capacities of those systems to accommodate future development. Recommendations will be made relating to improvements required to the utility network to accommodate the ultimate plan for the development area as well as the short- and intermediate-range needs of the overall facility.

Task 3.2. Prepare Finalized Land Use Plan

A finalized land use plan will be prepared which takes into consideration the utility network evaluation and the responses from the state and federal agencies.

Element 4. Development Strategies

Task 4.1. Development Strategies Recommendations.

Recommendations for the incremental development of the area under consideration in this study effort, including the initial development area and subsequent development areas based on estimated absorption levels will be prepared. Such recommendations will focus on utilities, taxiways, roadways, and potential tract delineations to serve as an impetus for development and to accommodate differing development activities. Revenue generation for the airport will also be an important consideration.

Task 4.2 Implementation Process Definition

The process that will be necessary to enable the implementation of Plan recommendation will be defined. This would include such items as additional planning studies, environmental impact analysis requirements, FAA/airspace considerations, engineering documentation, etc. In addition, the development criteria which will be significant in the implementation process will be defined (e.g. subdivision regulations; building codes; airport minimum standards/rules and regulations; other City, State, or Federal requirements).

Task 4.3. Prepare Final Report.

A final report will be prepared presenting the findings and recommendations of the study in narrative and graphic form. Twenty (20) copies of the report will be prepared in comb-bound report format.

ATTACHMENT B

Fee Breakdown By Task Drake Field East Side Land Use Plan

Task 1.1	Meet With City and Airport Staff	BD&C	\$1,500.00
		MCE	\$150.00
Task 1.2	Collect and Review Previous Studies	BD&C	\$500.00
		MCE	\$150.00
Task 1.3	Land Reconnaissance	BD&C	\$500.00
		MCE	\$0.00
Task 2.1	Land Use Influences Determination	BD&C	\$3,000.00
		MCE	\$0.00
Task 2.2	Establish Recommendations for Land Use	BD&C	\$3,000.00
		MCE	\$0.00
Task 2.3	Formulate Conceptual Land Use Plan	BD&C	\$2,500.00
		MCE	\$0.00
Task 2.4	Develop Roadway/Taxiway Plan	BD&C	\$2,500.00
		MCE	\$450.00
Task 2.5	Environmental Review	BD&C	\$3,000.00
		MCE	0.00
Task 3.1	Evaluation of Utility Network	BD&C	\$500.00
		MCE	\$900.00
Task 3.2	Prepare Finalized Land Use Plan	BD&C	\$2,000.00
		MCE	\$75.00
Task 4.1	Development Strategies Recommendations	BD&C	\$2,000.00
		MCE	\$0.00
Task 4.2	Implementation Process Definition	BD&C	\$500.00
		MCE	\$600.00
Task 4.3	Prepare Final Report	BD&C	\$1,500.00
		MCE	\$150.00
Total BD&C Fees			\$23,000.00
Total MCE Fees			\$2,475.00
Grand Total			\$25,475.00

MEMORANDUM

U. S. Department
of TransportationFederal Aviation
Administration

June 2, 2000

VIA FACSIMILE TRANSMITTAL: 501 / 718-7646

Mr. Dale Frederick, Manager
Fayetteville Municipal Airport
4500 South School Ave, Suite F
Fayetteville, AR 72701

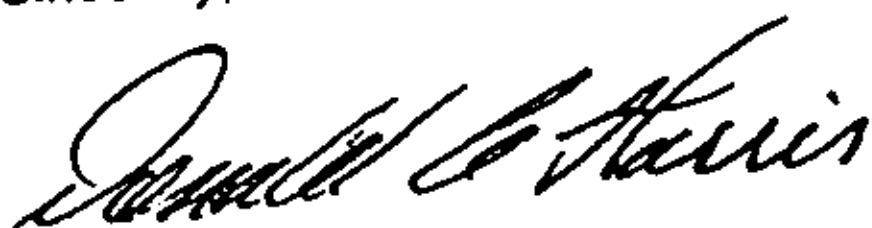
RE: Fayetteville Municipal Airport East Side Land Use Plan Proposal

Dear Mr. Frederick:

We have reviewed your correspondence of May 24, 2000, concerning the subject matter. The proposed scope of work will aid in determining factors and alternatives affecting future development of Fayetteville Municipal Airport's east side. We concur in the preliminary Program of Services and Fee Estimate. Information to be developed in the plan is critical to the pending access road extension project on the east side of the airport. It will be considered as a formulation cost associated with the Ernest Lancaster Drive access road extension project.

Please instruct your consultant to conclude a contract with Barnard Dunkelberg & Company and proceed at the earliest opportunity. Forward a copy of the signed contract and intended schedule for completion of this plan to the undersigned.

Sincerely,

Donald C. Harris
Senior Program Manager
Arkansas/Oklahoma Airports Development Officecc: Mr. John Quinn, McClelland Consulting Engineers, Inc.
Mr. Mark McFarland, Barnard Dunkelberg & Company501 / 443-9241
918 / 585-8857

ASW-631:DCHarris:X5634:060200:fyv/eskdedev

FAYETTEVILLE

FOR NO. 7460

McClelland Consult Engr
Attn: John C Quinn/VP
PO Box 1229
Fayetteville AR 72702

**** CHANGE ORDER ****

PURCHASE ORDER

Each Package Must Be Marked
Exactly As Shown Here
City of Fayetteville, Arkansas

PURCHASE ORDER #

00-0001261-002

DATE

6/16/00

RECEIVED

JUN 19 2000

FOB Fyv

AIRPORT

TERMS

NET 30 DAY

Qty.	Unit of Issue	Qty. Received	Description and Account Number	Unit Price	TOTALS
1.00	EA		a) Engineering Services per Contract Task Order #1 Contract #747 C/O to add project # & correct ship to code 5550.3960.5314.00 98054	71283.00	71283.00
			1	\$71283.00	

Up!
Please increase P.O. to
include amendment
Brenda

SHIP TO: Municipal Airport
CITY OF FAYETTEVILLE
4500 S SCHOOL
FAYETTEVILLE AR 72701

Moss, B

Frederick

Purchase Order Total: 71283.00

DEPARTMENT VERIFICATION

BY

DATE

ADDITIONAL APPROVAL

RECEIVED

MANAGERIAL APPROVAL

AMOUNT TO PAY

\$

VERIFICATION

PURCHASING VERIFICATION

CHANGE VERIFICATION

RETURN CHECK TO

COPY TO

DEPT COPY

CHECK #

DOES NOT MEET PURCHASING POLICY

CONTRACT PAYMENT

OTHER

APPROVED BY

PROJECT #

THIS PAYMENT \$

PREVIOUS PAYMENT(S) \$

TOTAL PYMT(S) \$

BALANCE \$

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of: July 18, 2000

FROM:

<u>Cheryl Zotti</u>	<u>Solid Waste</u>	<u>Public Works</u>
Name	Division	Department

ACTION REQUIRED: Approval of the attached contract with DMG-Maximus, Inc for the purpose of providing consulting services to develop a solid waste cost of service rate study.

COST TO CITY:

<u>\$34,600</u>	<u>\$55,000</u>	<u>Solid Waste Rate Study</u>
Cost of this request	Category/Project Budget	Category/Project Name
<u>5500-5000-5314.00</u>	<u>\$0</u>	<u>O & A</u>
Account Number	Funds Used to Date	Program Name
<u>99037-1</u>	<u>\$55,000</u>	<u>Solid Waste</u>
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

<u><i>Alfred Davis</i></u>	<u>Administrative Services Director</u>
Budget Coordinator	

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

<u><i>Marilyn Cramer</i></u>	<u>7-3-00</u>	<u>ADA Coordinator</u>	<u>_____</u>
Accounting Manager	Date		Date
<u><i>Paula J. [Signature]</i></u>	<u>7-5-00</u>	<u><i>Wanda Fields</i></u>	<u>7-5-00</u>
City Attorney	Date	Internal Auditor	Date
<u><i>P. Vice</i></u>	<u>7-5-00</u>		
Purchasing Officer	Date		

STAFF RECOMMENDATION:

<u><i>C. Zotti</i></u>	<u>7-3-2000</u>	<u>Cross Reference</u>
Division Head	Date	
<u>_____</u>	<u>_____</u>	New Item: YES NO
Department Director	Date	Prev Ord/Res #: _____
<u>_____</u>	<u>_____</u>	Orig. Contract Date: _____
Administrative Services Director	Date	
<u>_____</u>	<u>_____</u>	
Mayor	Date	

FAYETTEVILLE

CITY OF FAYETTEVILLE, ARKANSAS

TO: Fayetteville City Council

THRU: Fred Hanna, Mayor
Charles Venable, Public Works Director *CV*

FROM: Cheryl Zotti, Environmental Affairs Administrator *CZ*

DATE: June 29, 2000

SUBJECT: Contract for Solid Waste Rate Study

Staff request approval of the attached contract between the City and DMG-Maximus, Inc. (hereinafter referred to as DMG) for a comprehensive solid waste utility rate study for the purpose of establishing solid waste rates for the years 2002 through 2006. Staff budgeted \$55,000 for this study, and this contract is in the amount of \$34,600.

The current solid waste rates are scheduled through the year 2001. This study will make recommendations for solid waste rates through the year 2006. The recommendations will include rate structures for residential and commercial services provided by the solid waste division. The solid waste division operates on a self-sustaining basis. Thus, rates must be established to generate sufficient revenue to support the solid waste budget, operations, activities and any planned capital improvements. In addition to making recommendations on commercial and residential rates, DMG will review our volume-based program and make a recommendation on a senior citizen discount.

As identified in the contract, the time frame for completion of the study is (90) ninety calendar days from the date the City fulfills DMG's initial request for supporting data. At such time, the recommendations from the study will be forwarded to the City Council for approval. Should you have any questions in regards to this contract, please call me at 444-3498. Thank you.

**AGREEMENT TO PROVIDE
PROFESSIONAL CONSULTING SERVICES FOR THE
CITY OF FAYETTEVILLE, ARKANSAS**

THIS AGREEMENT, entered into this Day of _____, 2000, and effective immediately by and between DMG-MAXIMUS, INC. (hereinafter called the "Consultant") and City of Fayetteville, Arkansas (hereinafter called the "City"), **WITNESSETH THAT:**

WHEREAS, the City has a need for a comprehensive solid waste utility rate/user fee study for the purpose of establishing solid waste rates by class of customer on a self sustaining basis, and

WHEREAS, the City desires to engage the Consultant to assist in developing a study to accomplish the above objectives, and

WHEREAS, the Consultant is staffed with personnel knowledgeable and experienced in the requirements of developing such studies for the City.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. **Employment of Consultant.** The City agrees to engage the Consultant and the consultant hereby agrees to perform the following services.

2. **Scope of Services.** The Consultant shall do, perform and carry out in a good professional manner the following services. The Consultant will prepare a comprehensive solid waste utility rate/user fee study for the purpose of establishing solid waste utility rates by class of customer on a self sustaining basis.

The study, at a minimum, will include a cost analysis of our current collection method using designated garbage bags, the per bag fee charged to residents for additional bags, the cost of selling garbage bags in retail outlets and use of an automated cart collection system in some sections of Fayetteville. The study will include an in-depth review of the current volume based collection program as well as future changes and provide a detailed cost and revenue analysis and projections on an annual basis, for each of the next five(5) years, 2002-2006.

The study will include a rate recommendation for a senior citizen discount. The City's current rate structure does not include a discounted rate for senior citizens. The study will provide a detailed cost and revenue analysis and projections on an annual basis, for each of the next five (5) years, 2002-2006, for the senior citizen rate.

The study will make recommendations for utility rates by class of customer to insure the Solid Waste Fund generates sufficient cash flows to be self sustaining for operations and capital purposes.

The study should further summarize findings on an annual basis, for each of the next five (5) years. Solid waste operations to be researched in the study include, but is not limited to:

- 1) Collection of:
 - Curbside Recyclables
 - Apartment Recyclables
 - Commercial Recyclables
 - Residential Solid Waste
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- 3) Transfer Station Operation
- 4) Recycling Center Operation
- 5) Disposal of All Waste
- 6) Marketing and Processing of Recyclables
- 7) Composting Program
- 8) Franchise Fees Collection and Administration
- 9) Planned Capital Improvements
- 10) Operations and Administration Program
- 11) Fill-A-Truck Program
- 12) Container Lease Program
- 13) Volume Based Waste Collection

Where applicable, costs of municipal and private support will be identified separately to provide a true basis from which to establish rates for each customer class.

Individual elements shall include, at a minimum, the following:

- 1) Facility Cost Amortization
- 2) Equipment Cost Amortization
- 3) Annual Operating Expenses
- 4) Allotted Departmental and City Overhead Expenses
- 5) Engineering and Permitting
- 6) Development Cost Amortization for programs that provide multi-year benefits

The anticipated impact of population growth, pending and future regulations, and City waste stream reduction strategies will also be considered elements of each program and addressed as such.

The Consultant will make a minimum of four (4) on-site visits with the City's solid waste staff. One of these visits will be an on-site training session for the use of the computer modeling software for the rate study. The Consultant will also make two visits to Fayetteville to make a presentation of the study results before the City Council and/or special interest groups, for a total of six (6) on-site visits.

The Consultant will furnish the City with one (1) full copy of all documents, computer models, and materials prepared, used or developed or are standard for use in the industry, in relation with or as part of the project. The Consultant shall provide a minimum of thirty-five (35) copies of a summary of recommendations to be supplied to special committees, city council, and city staff.

3. **Time of Performance.** The Consultant will submit to the City its request for supporting data within ten business days of contract award by the City Council. A draft copy of the cost/revenue analysis will be completed within (60) sixty calendar days from the date the City fulfills the firms initial request for supporting data. The study will be complete within (90) ninety calendar days from the date the City fulfills the firms initial request for supporting data.

4. **Compensation.** The City agrees to pay the Consultant based on a not-to-exceed fee of \$34,600, based on cost plus a fixed fee and expenses, as defined in Appendix A attached and made part of.

5. **Method of Payment.** The Consultant will invoice the City monthly based on actual hours worked, plus fixed fee and expenses. Final payment will be due upon acceptance of the final report.

6. **Changes.** The City may, from time to time, require changes in the scope of the services of the Consultant to be performed hereunder. Such changes, which are mutually agreed upon by and between the City and the Consultant, shall be incorporated in written amendment to this agreement.

7. **Services and Materials to be Furnished by the City.** The City agrees to furnish the Consultant with all available necessary information, data, and materials pertinent to the execution of this agreement. The City shall cooperate with the Consultant in carrying out the work herein, and shall provide adequate staff for liaison with the Consultant and other agencies of the City government.

8. **Termination of Agreement for Cause.** The City may terminate this Agreement at any time by giving at least ten (10) days prior written notice of termination to the Consultant. If termination is for convenience and not due to a breach of the agreement by the Consultant, the City shall pay the Consultant for the services performed and expenses incurred, if any, by the Consultant in accordance with this Agreement prior to the effective date of termination. The calculation of payment shall be pursuant to the mutual agreement of the parties provided, however, Consultant shall not be entitled to anticipatory profit.

9. **Information and Reports.** Monthly progress reports will be prepared in a format mutually agreed upon by the Consultant and the City. Progress reports will be submitted to the Project Manager, Cheryl Zotti. The Consultant shall furnish additional reports concerning the status of the project, statements, certificates, approvals, and a set of copies of proposed and executed plans and claims and other information relative to the project upon request by the Project Manager.

10. **Records and Inspections.** The Consultant shall maintain full and accurate records with respect to all matters covered under this agreement. The City shall have free access at all proper times to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

11. **Accomplishment of Project.** The Consultant shall commence, carry on, and complete the project with all practicable dispatch, in a sound economical and efficient manner, in accordance with the provisions thereof and all applicable laws. In accomplishing the project, the Consultant shall take such steps as are appropriate to insure that the work involved is properly coordinated with related work being carried on in the City.

12. **Matters to be Disregarded.** The titles of the sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

13. **Completeness of Contract.** This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto.

14. **City Not Obligated to Third Parties.** The City shall not be obligated or liable thereunder to any party other than the Consultant.

15. **Personnel.** The Consultant represents that he has, or will secure at his own expense, all personnel required in performing the services under this agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder will be performed by the Consultant and all personnel engaged in work shall be fully qualified to perform such services.

16. Software or Other Copyrighted Materials. All original workbooks, reports and disk shall convey to the City. The City acknowledges that the report format to be provided by Consultant is copyrighted. Consultant shall ensure that all copies of its report bear the copyright legend. The City agrees that all ownership rights and copyrights thereto lie with Consultant. Consultant acknowledges that all reports and data provided to the City becomes a public record and the City, under law, may not restrict access. The City is authorized to make such additional copies of reports as may be necessary for its official use solely for and on behalf of the City operations.

17. Applicable Laws and Venue. The contract shall be made subject to all applicable Federal and Arkansas State Laws, the Charter and Ordinances of the City of Fayetteville, as amended, and all applicable rules and regulations promulgated by all local, state, and national boards, bureaus, and agencies. The contract shall be enforceable in Fayetteville, Arkansas, and if any legal action is necessary by either party with respect to the enforcement of any or all terms and conditions herein, exclusive venue for same shall lie in Fayetteville, Arkansas. The contract shall be governed and construed in accordance with the laws and Court Decisions of the State of Arkansas.

18. Indemnification. To the fullest extent permitted by law, Consultant will indemnify and hold harmless the City and its agents and employees from and against all claims, liabilities, damages, losses and expenses due to its activities, its agents or its employees actions during the time this contract is in force. This clause is not to be construed in any form or manner to waive that Tort Immunity set forth under Arkansas Law.

19. Notices. Any notices, bills, invoices, or reports required by this agreement shall be sufficient if sent by the parties hereto in the United States mail, postage paid, to the addresses noted below:

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
attn: Cheryl Zotti

DMG-Maximus, Inc.
4438 Centerview Drive, Suite 302
San Antonio, TX 78228
attn: Walter Huelsman

IN WITNESS WHEREOF, the City and the Consultant have executed this agreement as of the date first written above.

DMG- Maximus, Inc.
By: *Walter Huelsman*
Walter Huelsman, Vice President

City of Fayetteville
By:
Fred Hanna, Mayor

ATTEST:

City Clerk

APPENDIX A

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES

Solid Waste Utility/User Fee Study

	<u>Proposed Hours</u>	<u>Quoted Rates**</u>	<u>Hourly Total</u>
Partners	<u>40</u>	\$ <u>160</u>	\$ <u>6,400</u>
Managers	<u>120</u>	\$ <u>110</u>	\$ <u>13,200</u>
Supervisory	<u> </u>	\$ <u> </u>	\$ <u> </u>
Staff	<u>80</u>	\$ <u>90</u>	\$ <u>7,200</u>
Fixed Fee	<u> </u>	\$ <u> </u>	\$ <u>4,000</u>
Other (specify): _____	<u> </u>	\$ <u> </u>	\$ <u> </u>
		Subtotal*	\$ 30,800

Out-of-pocket expenses:

Meals and lodging

\$ 2,000

Transportation

\$ 1,800

Other (specify):

\$ _____

**Total all-inclusive maximum price
for Study**

\$34,600

Note: The rate quoted should not be presented as a general percentage of the standard hourly rate or as a gross deduction from the total all-inclusive maximum price.

*** Total for services described in Scope of Services of the Request for Proposals. Detail on subsequent schedules.**

**** The quoted rates should be actual salary plus overhead.**

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APPENDIX A

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Fixed Fee	<u> </u>	\$ <u> </u>	\$ <u>4,000</u>
Other (specify): <u> </u>	<u> </u>	\$ <u> </u>	\$ <u> </u>
		Subtotal*	\$ <u>30,800</u>

Out-of-pocket expenses:

Meals and lodging	\$ <u>2,000</u>
Transportation	\$ <u>1,800</u>
Other (specify):	
	\$ _____

**Total all-inclusive maximum price
for Study**

\$34,600

Note: The rate quoted should not be presented as a general percentage of the standard hourly rate or as a gross deduction from the total all-inclusive maximum price.

* Total for services described in Scope of Services of the Request for Proposals. Detail on subsequent schedules.

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17. Applicable Laws and Venue. The contract shall be made subject to all applicable Federal and Arkansas State Laws, the Charter and Ordinances of the City of Fayetteville, as amended, and all applicable rules and regulations promulgated by all local, state, and national boards, bureaus, and agencies. The contract shall be enforceable in Fayetteville, Arkansas, and if any legal action is necessary by either party with respect to the enforcement of any or all terms and conditions herein, exclusive venue for same shall lie in Fayetteville, Arkansas. The contract shall be governed and construed in accordance with the laws and Court Decisions of the State of Arkansas.

18. Indemnification. To the fullest extent permitted by law, Consultant will indemnify and hold harmless the City and its agents and employees from and against all claims, liabilities, damages, losses and expenses due to its activities, its agents or its employees actions during the time this contract is in force. This clause is not to be construed in any form or manner to waive that Tort Immunity set forth under Arkansas Law.

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4438 Centerview Drive, Suite 302
San Antonio, TX 78228
attn: Walter Huelsman

IN WITNESS WHEREOF, the City and the Consultant have executed this agreement as of the date first written above.

DMG- Maximus, Inc.
By: *Walter Huelsman*
Walter Huelsman, Vice President

City of Fayetteville
By:
Fred Hanna, Mayor

ATTEST:

City Clerk

STAFF REVIEW FORM

XX AGENDA REQUEST
 _____ CONTRACT REVIEW
 _____ GRANT REVIEW

For the Fayetteville City Council meeting of July 18, 2000

FROM:

<u>Stephen Davis</u>	<u>Budget & Research</u>	<u>Administrative Services</u>
Name	Division	Department

ACTION REQUIRED: Approval of a budget adjustment increasing the budget for fuel expense for various operating divisions, authorizing an additional position in Building Maintenance, increasing the Municipal Judge's salary and increasing overtime for the Police and Fire Departments.

COST TO CITY:

<u>\$ see attachment</u>	<u>see attachment</u>	
Cost of this Request	Category/Project Budget	Category/Project Name
<u>see attachment</u>	<u>see attachment</u>	<u>various</u>
Account Number	Funds Used To Date	Program Name
	<u>see attachment</u>	<u>various</u>
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item X Budget Adjustment Attached

[Signature] 7-3-2000
 Budget Manager

 Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

<u>Marilyn J. Cramer</u>	<u>7-3-00</u>	<u>[Signature]</u>	<u>7-5-00</u>
Accounting Manager	Date	Internal Auditor	Date
<u>[Signature]</u>	<u>7-5-00</u>		
City Attorney	Date	ADA Coordinator	Date
<u>[Signature]</u>	<u>7-5-00</u>		
Purchasing Officer	Date	Grants Coordinator	Date

STAFF RECOMMENDATION: Staff recommends approval.

Division Head	_____	Date
Department Director	_____	Date
Administrative Services Director	_____	Date
Mayor	_____	Date

Cross Reference

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

Prev Ord/Res #: _____

Orig Contract Date: _____

Orig Contract Number: _____

FAYETTEVILLE

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Hanna and City Council

THRU: John Maguire, Administrative Services Director

FROM: Budget & Research 

DATE: June 30, 2000

SUBJECT: Budget Adjustment

Attached is a budget adjustment that will increase funding for fuel for the City's fleet, authorize a janitor position to be used primarily in the Engineering Building (formerly TCA Cable Building), increase the salary for the Municipal Judge, and add funding to the Police and Fire departments for overtime.

Fuel

The adjustment requested is based on the increased cost of both gasoline and diesel fuel as well as an increase in usage. The adjustment is based on actual cost through May 31 and projected cost for the remainder of the year. The City cost of fuel has risen essentially because fuel prices have increased approximately 42% and usage has increased approximately 10% compared to 1999. Staff may need to request an additional budget adjustment for fuel related cost increases later this year. This adjustment is for the following divisions and amounts.

<u>Division/Program</u>	<u>Additional Funding Requested</u>
Fleet Operations	\$ 75,000
Police Patrol	20,000
Miscellaneous/Trolley	6,000
Street Maintenance	11,000
Parks Development	6,000
Meter Operations	7,000
Water & Sewer/Water Distribution	5,000
SW/Commercial Collection	12,000
SW/Residential	7,000
SW/Recycling	<u>13,000</u>
Total Fuel Adjustment Requested	<u>\$162,000</u>

Engineering Building

A janitor position is requested to be used primarily in the Engineering Building. This additional janitor will better enable staff to maintain the new office space but also improve the quality of janitorial service provided to the Prosecutor/Municipal Court and Cable Administration buildings. The cost of this adjustment is approximately \$9,500.

Municipal Judge

The Municipal Judge requested a salary adjustment from \$67,500 to \$70,000. The Municipal Court case load has increased approximately 7% from 1999 to 2000.

Police Patrol

Additional funding is requested for the Police Department to increase the budget for overtime. The additional overtime is attributed to police patrol position vacancies, three Presidential visits and several supervisory police staff leaving or retiring for the Fayetteville Police Department. The cost of this request is \$45,000.

Fire Operations

Additional funding is requested for the Fire Department to increase the budget for overtime. The additional overtime is attributed to several firefighters retiring from the City. The cost of this request is \$ 33,200.

Budget Year 2000	Department: Various Division: Various Program: Various	Date Requested July 18, 2000	Adjustment #
---------------------	--	---------------------------------	--------------

Project or Item Requested: Various increases for vehicle fuel, janitor in the Engineering Building, Municipal Judge Salary Increase, Police Control Overtime, and Fire Operations overtime.	Project or Item Deleted: Funding from various Use of Fund Balance Accounts and the recognition of additional interest revenue received.
--	--

Justification of this Increase: The increases are due to increased fuel costs, additional building constructed in 2000, salary increase, increased Police activity, and increased Fire retirements.	Justification of this Decrease: There is sufficient funding available in the various funds to comply with City Policy.
--	---

Increase Expense (Decrease Revenue)			
Account Name	Amount	Account Number	Project Number
See Attached			

Decrease Expense (Increase Revenue)			
Account Name	Amount	Account Number	Project Number
See Attached			

Approval Signatures		Budget Office Use Only	
Requested By 	Date 7-6-00	Type: A B C <u>D</u> E	
Budget Manager	Date	Date of Approval	
Department Director	Date	Posted to General Ledger	
Admin. Services Director	Date	Posted to Project Accounting	
Mayor	Date	Entered in Category Log	

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number				Project Number	
Unleaded	25,000	9700	1910	5213	00		
Diesel	50,000	9700	1910	5213	01		
Vehicle Maintenance	20,000	1010	2940	5403	00		
Vehicle Maintenance	6,000	1010	6600	5403	00		
Vehicle Maintenance	11,000	2100	4120	5403	00		
Vehicle Maintenance	6,000	2250	9250	5403	00		
Vehicle Maintenance	7,000	5400	1820	5403	00		
Vehicle Maintenance	5,000	5400	4310	5403	00		
Vehicle Maintenance	12,000	5500	5010	5403	00		
Vehicle Maintenance	7,000	5500	5020	5403	00		
Vehicle Maintenance	13,000	5500	5060	5403	00		
Salaries & Wages	7,007	1010	1420	5100	00		
FICA	540	1010	1420	5105	00		
Health Insurance	1,578	1010	1420	5108	00		
Uniforms & Equipment	375	1010	1420	5302	00		
Salaries & Wages	2,500	1010	0400	5100	00		
FICA	193	1010	0400	5105	00		
Overtime - Uniformed	45,000	1010	2940	5104	00		
Overtime - Uniformed	33,200	1010	3020	5104	00		
Use of Fund Balance	(116,393)	1010	0001	4999	99		
Use of Fund Balance	(11,000)	2100	0910	4999	99		
Use of Fund Balance	(6,000)	2250	0925	4999	99		
Interest - Revenue	(12,000)	5400	0940	6708	07		
Use of Fund Balance	(32,000)	5500	0950	4999	99		
Interest - Investments	(75,000)	9700	0970	6708	00		

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

the Fayetteville City Council meeting of July 3, 2000

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve an ordinance for RZ 00-17, submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density Residential.

COST TO CITY:

\$

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used To Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and on June 12, 2000, Planning Commission unanimously voted 9-0-0 to recommend approval and forward the rezoning request with a Bill of Assurance, offered by the applicant's representatives for a total of 14 units on this property, to the City Council.

Division Head

Date

Department Director

Date

Administrative Services Director

Date

Mayor

Date

Cross Reference

New Item: **Yes**

Prev Ord/Res #: _____

Orig Contract Date: _____

Orig Contract Number: _____

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZ 00-17 FOR A PARCEL
CONTAINING APPROXIMATELY 1.47 ACRES LOCATED AT
2323 DEANE STREET REQUESTED BY NORTHSTAR
ENGINEERING ON BEHALF OF EMAD DAMEN.

**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-2, Medium Density Residential
District for the real property described in Exhibit "A" attached hereto and made a
part hereof with a Bill of Assurance limiting the number of units permitted on this
1.47 acre tract to a total of 14 units also 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 00-17

Lots numbered five (5) and six (6) of the re-plat of lots 11-16 inclusive, in University Acres Subdivision to the City of Fayetteville, Arkansas, as per plat on file in the office of the circuit clerk and ex-officio recorder of Washington County, Arkansas.

BILL OF ASSURANCE

This declaration of a Bill of Assurance is made this 19 day of June, 2000, by
Emad Damen, owner of real property located at 2323 Dean Street, Fayetteville, Washington County,
Arkansas, more particularly described as follows, to-wit:

LOTS NUMBERED 5 AND 6 OF THE RE-PLAT OF LOTS 11 - 16 INCLUSIVE,
IN UNIVERSITY ACRES SUBDIVISION TO THE CITY OF FAYETTEVILLE,
ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT
CLERK, AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY,
ARKANSAS.

WHEREAS, Emad Damen applied to the City of Fayetteville for a rezoning of the above
described real property from R-1 to R-2 on or about May 19, 2000; and

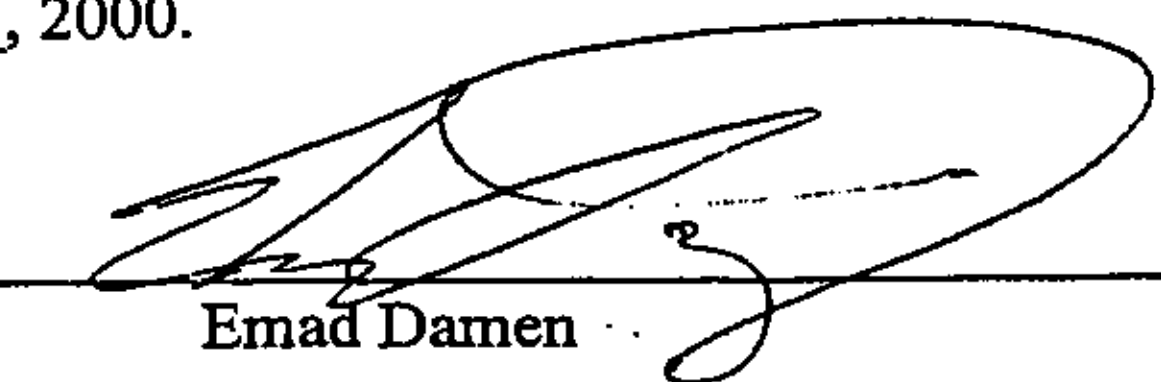
WHEREAS, said rezoning was approved by the City Council by Ordinance _____; and

WHEREAS, Emad Damen desires to restrict the use of the property described hereinabove
to no more than fourteen residential units, to be comprised of a combination of duplex units and/or
single family residences as otherwise allowable in an R-2 zoning.

NOW, THEREFORE, Emad Damen, present owner, hereby declares that the real property
described herein shall be held, developed, transferred, sold, conveyed, and occupied subject to the
restriction that if it is zoned R-2 by the City Council of the City of Fayetteville the use thereof shall
be restricted as set forth above.

Nothing contained herein shall prohibit Emad Damen, or any successor in interest, from
petitioning the City of Fayetteville for the removal of this Bill of Assurance or seeking a different
zoning classification.

Executed this 19 day of June, 2000.


Emad Damen

STATE OF ARKANSAS)
) ss
COUNTY OF WASHINGTON)

BE IT REMEMBERED that on this day came before the undersigned, a Notary Public, duly qualified, commissioned and acting within and for the aforesaid State and County, Emad Damen, and states that he had executed the same .

WITNESS my hand and seal as such Notary Public this 19th day of June, 2000.

Lammy R. Barnes
Notary Public

My Commission Expires:

12-21-2009

Planning Commission Minutes

June 12, 2000

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RZ 00-17.00: Rezoning (Damen, pp 364) was submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density Residential.

Odom: The next item we have on tonight's agenda is RZ 00-17 submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density Residential. Staff's recommendation is for approval of the requested rezoning based on the findings included as a part of this report. Staff, any further conditions?

Conklin: There are no further conditions.

Odom: I would ask the applicant to come forward at this time.

Scott: My name is John Scott. I'm the applicant's attorney actually. He was trying to make his way back from Neosho, Missouri and it appears he has not gotten here yet. We have a representative from Northstar who actually submitted the application so whoever you would prefer to hear from.

Odom: Whoever wishes to give a presentation should you wish to do so.

Scott: We really don't at this point unless there are any questions that we can address.

PUBLIC COMMENT:

Odom: Any member of the audience like to address us on this rezoning request? Please come forward and state your name and address for the record.

Maynard: Hi, My name is Richard Maynard and I live at 1717 Sang Avenue which is near but not adjacent to Mr. Damen's property. I also own the property where I reside. I want to start out by saying I'm not here just as a private citizen this time as I was a year ago when I came before this Commission about another rezoning issue but as President and spokesperson for the Asbell Neighborhood Association which extends from Deane Street to Wedington on the north and south with Lewis on the east and right beyond Porter almost to the bypass on the west. I mentioned this because these are not just arbitrary borders that we decided to set up but because our membership, now 65 members and growing each week, live in all four corners of that area and we came together last fall to object to another rezoning proposition; in fact the same one. Although not the same property, the same

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request of R-1 to R-2, that we felt then and feel now would change the character of our neighborhood into something we could not live with. Out of that we formed this association because we felt we needed to have a more active voice in development zoning decisions that affect our lives and our neighborhood. I did not ask for a lot of people to come tonight, just our officers because I didn't want to waste their time. I want to say right up here, we are not here to necessarily oppose this request only that we are very concerned about it. We ask you to please, please to listen to these concerns. Whatever decision you make about any rezoning petition, no matter how small, affects those of us who live in the neighborhood in visible and, sometimes, not so visible ways. Our first concern is density. Now on the surface this petition, and the one I mentioned from last fall, would seem to be completely different, 11.5 acres as opposed to 1.5 acres, apartment complexes as opposed to a few duplexes. If that were all there was to it I would have to say this is probably a no brainer and you should approve it. Two thin lots sitting next to R-2 duplexes to the west and sitting right on top of a large development of duplexes to the south, Linda Jo Place, who could possibly object to that? But here is the problem. Once the zoning changes it changes for good and there is nothing in this petition that binds the developer or owner to do what he says he intends to do. Under R-2 zoning he can develop this property with far greater density. Far greater than would be possible than would be possible with these duplexes. In other words, he could change his mind or sell it to somebody else and they would have zoning with a lot of freedom to do what they like. Now by saying that, I am not by any means, and I want to make this clear, suggesting that there is any deception going on at all. I have no reason to believe that they are not going to do what they say they are going to do. We usually don't do things on a handshake. There is nothing to prevent them from doing that either. Our point is that certainly, anyone can do what they want with their property. In other words, as long as I meet building codes, I could paint my house pink and black if I wanted to and it would really be nobody else's business. The property is mine but the zoning is not. That is our point. It belongs to all of us and in this case I would argue it belongs primarily to those of us who live in the area. If we are asked to bend on our zoning then we would like to have some assurance that our property and our neighborhood, our homes, our quality of life, whatever, are protected. I think you get my point. This is primarily an R-1 neighborhood. And I'm going to say that because last fall that was really the basis of the argument before the City Council and the City Council agreed with us that the neighborhood was much larger than what the petitioners at that time wanted everyone to believe. That was really the basis of their decision not to grant that rezoning because it would adversely affect too many of the residents and owners. People who have lived in the neighborhood for years, sometimes 30 or 40 years and have an investment in their properties and in their homes. I don't want to

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have to revisit that argument again. I hope we can accept the Council's decision that this is primarily R-1 and what happens in one section of that neighborhood does effect the entire neighborhood. Everything is connected which brings us to our second concern. Where does this stop. Now I think you know what I'm getting at. What we are afraid of is losing the very thing that we fought for and organized ourselves to protect ourselves from incrementally as lot by lot comes up for rezoning each pointing to a prior decision by this Board or by the City Council as the basis of approving their requests. The density getting a little greater each time until we are getting very close to R-3, which we also have in our neighborhood. Each time we as neighbors or as an association bend and try to be reasonable and not be perceived as 'aginnners, we make it harder for ourselves to defend our neighborhood and it slowly becomes what other people who don't live there want it to become. As sure as I am about death and taxes, I'm equally sure that the 11.5 acre question mark right in the middle of our neighborhood is going to come up for rezoning again after November 16, after one year has elapsed. I'll talk to you privately about how I know that. I don't think it would be appropriate for me to say that now. But when that happens you can bet that they will point to your decision tonight and any other zoning decision you make in the interim concerning our neighborhood, as a precedent because they will not recognize the difference between R-2 duplexes or R-2 College Park because they don't have to. It's all the same. That is why we are hesitant to give up a little of our zoning even for something that would seem to be as harmless or even compatible with the immediate area as a few duplexes. Now we do want to be reasonable. We just want some assurance that one, any development is compatible in density with the existing neighborhood and two, this does not start a trend where we see increasing density under R-2 or under R-3 zoning. I don't think what we are asking is unreasonable. What we ask you to do is look at the big picture and all the factors including the rights and welfare of those of us who chose to live and buy the property in the Low Density family oriented R-1 neighborhood. Zoning is one of the few safeguards we have to protect our property and our quality of life. We count too and we depend on you to look out for us. Thank you.

Odom: Thank you. Any other member of the audience like to address us on that issue?

COMMISSION DISCUSSION:

Odom: Seeing none, I'll close the floor to public discussion and bring it back to the applicant and to the staff. I think that Mr. Maynard has given a very eloquent presentation and has raised some concerns with regard to the density. Staff, do you want to just tell us real quickly what the difference in the density is between R-1 and R-2 so we are all clear.

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Conklin: Sure. Under R-1 zoning the density allows 4 units per acre. Under R-2 zoning, Medium Density Residential it's 24 units per acre.

Odom: That is a pretty significant spread. It is my understanding that the person who is doing this property has some conceptional ideas with regard to what they are going to do with it, is that correct?

Conklin: That is correct. They did talk about that in their application to us. They would like to construct six additional duplex units. So twelve additional units plus the two existing houses which would be 14. I have informed the applicant of some of the concerns and questions that were asked at agenda session and did explain to them how bills of assurances do work. However, as staff, we never ask them to offer those as a condition of rezoning.

Bunch: Has R-1.5 been investigated as far as how it is applicable to the conceptional design for this project?

Conklin: One of the things that R-1.5 zoning requires are individual lots that meet the frontage and area requirements similar to the situation that we saw with the Planned Unit Development on Sycamore Street for Atlas Construction. It is going to limit the density and flexibility and design if you go with R-1.5. R-2 with multifamily, if you meet the lot frontage requirement, 90 feet or more, you can go with apartments without going and creating individual lots.

Hoffman: Mr. Chair, I have a question for staff that I forgot to ask at agenda session. Would it be possible to approach this as a conditional use in the existing zoning?

Conklin: No. Under R-1 you are required to have 80 feet of frontage and 12,000 square feet for each duplex so it would not meet the requirements.

Hoffman: That would not be something we could specify as a condition because it's seemingly in conditional use permits those run with the land.

Conklin: It's called out under our zoning ordinance and R-1 with the lot width is and what the lot area is. You would not be able to vary from that.

Hoffman: Thanks.

Estes: Mr. Chairman, Tim, I understand that staff does not routinely or ever recommend a bill of assurance as a condition for rezoning. With that said, would it be acceptable for the Commission to request of the applicant a bill of assurance as a

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condition of approval?

Conklin: No. We are not supposed to ask the applicants to do things in order to obtain rezoning.

Hoover: Mr. Chair, a question for staff. Going back to the conditional use question which was also my question, I don't know the dimensions on these lots. Would you be able to get, if you are saying 80 foot frontage and they are going to have a private street here, so I'm assuming the frontage is not fronting on Deane, could that be considered fronting on the private street then?

Conklin: No. It has to be on a public street. Really, their project that they have drawn on a conceptional format, it does meet the R-2 zoning in my opinion, for them to develop in that manner. Putting those units that close together and using a private drive to access those units meets R-2 zoning.

Estes: Mr. Chairman, I have no disagreement with the applicants proposal that is presented to us for a total of 14 units. I am concerned about the permitted density and that would be my concern and would be a reason that I would at this point and time vote against the rezoning request.

Scott: In what way was the density a problem? Are you saying as far as the proposed plan and how it fits within an R-2?

Estes: The proposed density is 14 units. I have no problem with that but the permitted density is 24 units and that does concern me.

Scott: Sure and I think I can represent on behalf of my client whatever it's going to take to get that across, that it is not the intention to go above 8 units which would be comprised of duplex and single family housing. I think under any scenario we would not be going above 14 on 1.5 acres.

Odom: Mr. Scott, do you understand that as a Planning Commission and a staff we can not recommend that you, on behalf of your client, offer us a bill of assurance for that? That that actually has to come from you the applicant.

Scott: I can tell you my client is willing to execute a bill of assurance and the question I have to some degree is what exactly the contents and who is proposing what the bill of assurance would contain. That is what I'm not exactly certain of.

Odom: Typically, an applicant, you see we can't recommend this because that would be

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an abuse of our power to try to limit your use to that right, but an applicant could offer a bill of assurance not to build more than "blank" units, I guess 14 units in this instance, should the rezoning be allowed.

Scott: I'm going to let the engineer speak as he seems to have something to say.

Al-Madhoun: Mr. Chairman, thank you very much. My name is Shawki Al-Madhoun. The geometrical property really dictates no more than eight units. When I looked at the property I thought about apartments. Being so small it just wouldn't work. The client did not really wish to have apartments. He wanted duplexes to be in line with what he has on the south side of this property. That is why we went to a private road, simply because, if it was to be dedicated as a public street, the property is only 200 foot wide. So if you have a 50 foot right-of-way then there is nothing left. It won't fit. He instructed me as late as last night, he said Shawki, this is what I want. These units that you have in there, the six, and the two existing houses. That is all we want to do. So whatever it takes to assure them we will do it. That is what I'm here on his behalf for, to assure you of that.

Odom: I hear you saying eight units.

Al-Madhoun: That would be the six duplexes and the two existing homes.

Odom: So we are actually talking about, Tim correct me if I'm wrong, 14 units?

Conklin: Fourteen units, yes. You do need to make that clear. It's 14 units on 1.47 acres which I calculate about 10 or 9.5 units per acre. I think for the record, if he is offering a bill of assurance, it's 14 units on 1.47 acres.

Odom: Okay.

Al-Madhoun: That will only fit reasonably on the property. It won't work any other way.

Odom: Okay. So is it my understanding then that the applicant is offering a bill of assurance for 14 units on 1.47 acres?

Scott: Yes sir.

Hoffman: Mr. Chair, the mechanics of the bill of assurance, I would just like to make sure that we understand on both sides what that means. Does this actually get recorded on the county plat in some manner? Tied to the lot so that 50 years from now when everybody is gone away and someone else has purchased this property and

Planning Commission Minutes
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it has this R-2 zoning in 50 years, they will understand when they buy land, the title company will have a way to find out that no more units are permitted.

Conklin: Yes. Once it goes to City Council and they pass the ordinance that gets attached to the ordinance and recorded at the county. We also in our office, make a note on our plat pages of these actions and what bills of assurances we do have and in the future we will be able to manage that better with our computer systems.

Odom: And staff, they run with the land, not the applicant.

Conklin: They run with the land. That is correct.

Hoffman: Okay. That is a major concern. I know I'm not asking for the public comment to reoccur, I think we have closed the floor to public comment, right?

Odom: We have closed public comment.

Hoffman: It appeared to me that the gentleman speaking for the neighborhood organization had heard of the proposed number of units and had no problem with that so...

Odom: Well, so we are clear, this is nothing more than a recommendation to the City Council and therefore, the public will be entitled to give their comment with regard to whether or not they feel that it's acceptable or not at the City Council Meeting.

MOTION:

Hoffman: That being said then, I'll go ahead and make a motion to approve this RZ 00-17 subject to receipt of a bill of assurance limiting development to no more than 14 units total on the two lots and that it be duly recorded. And that all other staff comments would apply.

Ward: I'll second.

Odom: We have a motion by Commissioner Hoffman and a second by Commissioner Ward to approve RZ 00-17 subject to a bill of assurance and all staff comments. Is there any further comments? Would you call the roll.

ROLL CALL:

Upon roll call the motion carries 9-0-0.

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: June 12, 2000

RZ 00-17.00: Rezoning (Damen, pp 364) was submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density Residential.

RECOMMENDATION:

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

Note: Consideration of a rezoning request does not constitute review or approval of development proposals.

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: June 12, 2000

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>July 18, 2000</u>	

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-2, Medium Density Residential, 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) shows this area as residential. The proposed zoning of R-2 (Medium Family Residential) 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 R-2 is justified and needed 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 would not create or appreciably increase traffic danger and congestion in this area. This property is situated very close to I-540 and is located on streets which are called out on the Master Street Plan to carry large volumes of traffic (Deane - minor arterial, Porter minor arterial/collector).

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 would not alter the population density in a manner which would undesirably increase the load on public services including schools, water, and sewer facilities. On-site and off-site improvements including sewer will be required at the time of Large Scale Development and/or Preliminary Plat approval.

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;

Comments: _____

BACKGROUND:

This property is located on Deane Street just south of the University Experimental Farm. It is just east of the intersection of Deane and Porter Road. The applicant is requesting to rezone this 1.47 acre tract to R-2, Medium Density Residential in order to develop six duplexes in addition to the two existing single family homes for a total of 14 units.

The property to the west and to the south is zoned R-2 and is developed into multi-family units. The University of Arkansas experimental farm property is north of this tract and the adjacent land to the east, zoned R-1, is developed with one single family home.

This area is called out on the General Plan 2020 as residential. Any further development of this property would constitute an infill project which would better utilize existing infrastructure and City facilities.

SURROUNDING LAND USE AND ZONING

North:	University experimental farm, not zoned
South:	Multi-family dwellings (duplexes), R-2
East:	Single family dwellings, R-1
West:	Multi-family dwellings, R-2

INFRASTRUCTURE:

Access to this property is provided from Deane Street which runs along the northern property boundary. This part of Deane Street is classified as a minor arterial on the City's Master Street Plan. A minor arterial street is designed to accommodate 12,200 - 14,800 vehicles per day with a total right of way of 90'. At the time of development, this access will be evaluated with regard to the proposed project and the amount of traffic that it is expected to generate. The Planning Commission will then determine any necessary improvements or dedications.

Water: 12" line along Deane St.

Sewer: 6" line along the south property line which appears to serve Linda Jo Place, this line connects to another 6" line located along Porter Rd.

- 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

§161.06 DISTRICT R-2 MEDIUM DENSITY RESIDENTIAL.

A. Purpose. The High Density Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

B. Uses.

1. Uses Permitted.

Unit 1	City-Wide Uses by Right
Unit 8	Single-Family Dwellings
Unit 9	Multifamily Dwellings - Medium Density

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
Unit 11	Mobile Home Park
Unit 25	Professional Offices

C. Density.

Families Per Acre	4 to 24
-------------------	---------

D. Bulk and Area Regulations.

1. Lot Width Minimum.

Mobile Home Park	100 Feet
Lot within a Mobile Home Park	50 Feet
One Family	60 Feet
Two Family	60 Feet
Three or More	90 Feet
Professional Offices	100 Feet

2. Lot Area Minimum.

Mobile Home Park	3 Acres
Lot Within a Mobile Home Park	4,200 Sq. Ft.
Row House: Development Individual Lot	10,000 Sq. Ft. 2,500 Sq. Ft.
Single-Family	6,000 Sq. Ft.
Two-Family	7,000 Sq. Ft.
Three or More	9,000 Sq. Ft.

Mobile Home Park	3 Acres
------------------	---------

Fraternity or Sorority	2 Acres
Professional Offices	1 Acre

3. Land Area Per Dwelling

Unit.

Mobile Home	3,000 Sq. Ft.
Apartments:	
Two or More Bedrooms	2,000 Sq. Ft.
One Bedroom	1,700 Sq. Ft.
No Bedroom	1,700 Sq. Ft.
Fraternity or Sorority	1,000 Sq. Ft. per Resident

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	25

Cross Reference: Variances Chapter 156.

F. Height Regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, § 160.033; Code 1965, App. A, Art. 5(II); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81)

May 19, 2000

Planning Department
City of Fayetteville

Re: Request for rezone lots 5 & 6 of University Acres Subdivision

Dear Sir/Madam:

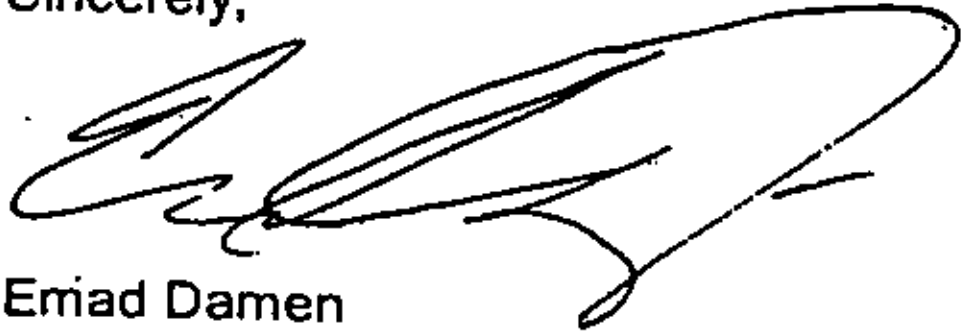
The purpose of this letter is to provide you with additional information as required by the rezoning application:

1. Attached with the rezoning application a cheque for the amount of \$ 325.00 for the application fee.
2. Attached is a copy of the latest mortgage survey prepared by Northstar Engineering Consultants.
3. Enclosed are two sets of typed mailing labels listing the names and addresses of each adjacent property owner. The list of names and addresses were obtained from the Assessors office records at Washington County Court House.
4. The attached copy of the latest mortgage survey shows the adjacent property owners and parcel number for every adjacent property.
5. Discussed below are specific information concerning the property owner:
 - a. Lots 5 & 6 of University Acres Subdivision on Dean Street are owned by Emad Damen. There is no pending sale of this property.
 - b. The rezoning of the property will enable me to construct six duplex units.
 - c. The property will be developed as one lot including a private street. Therefore, no individual duplex units can be sold and I will maintain sole architectural control since I plan to construct all the units. A strict covenant will be in place to maintain a high quality community theme. I plan to construct a fence along the east, west and south boundary of the property. The fence will provide screening and additional landscaping for my property and at the same time maintain compatibility with surrounding properties particularly to the south and east. The duplex units will be served by a dead end private street which connects to Deane Street, therefore, no through traffic will be allowed through adjacent properties. I believe my proposed duplex development will be compatible with existing developments surrounding my property to the east and south. A landscaped entrance including the development name will be constructed off of Deane Street.

- d. Northstar Engineering met with the City engineer on 5/18/2000 and were informed that potable water and sanitary sewer service is available and adequate to serve my development.

I appreciate your assistance in my effort to rezone this property. Please call me at (501) 527-6626 if you have any questions or need additional information.

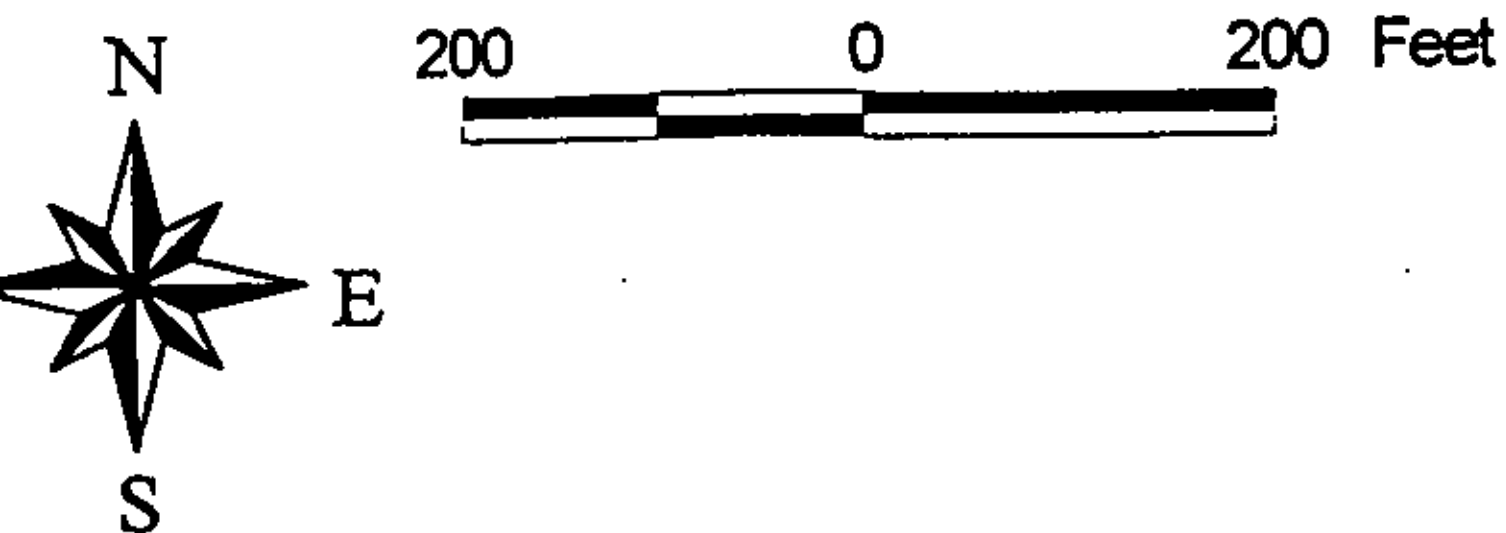
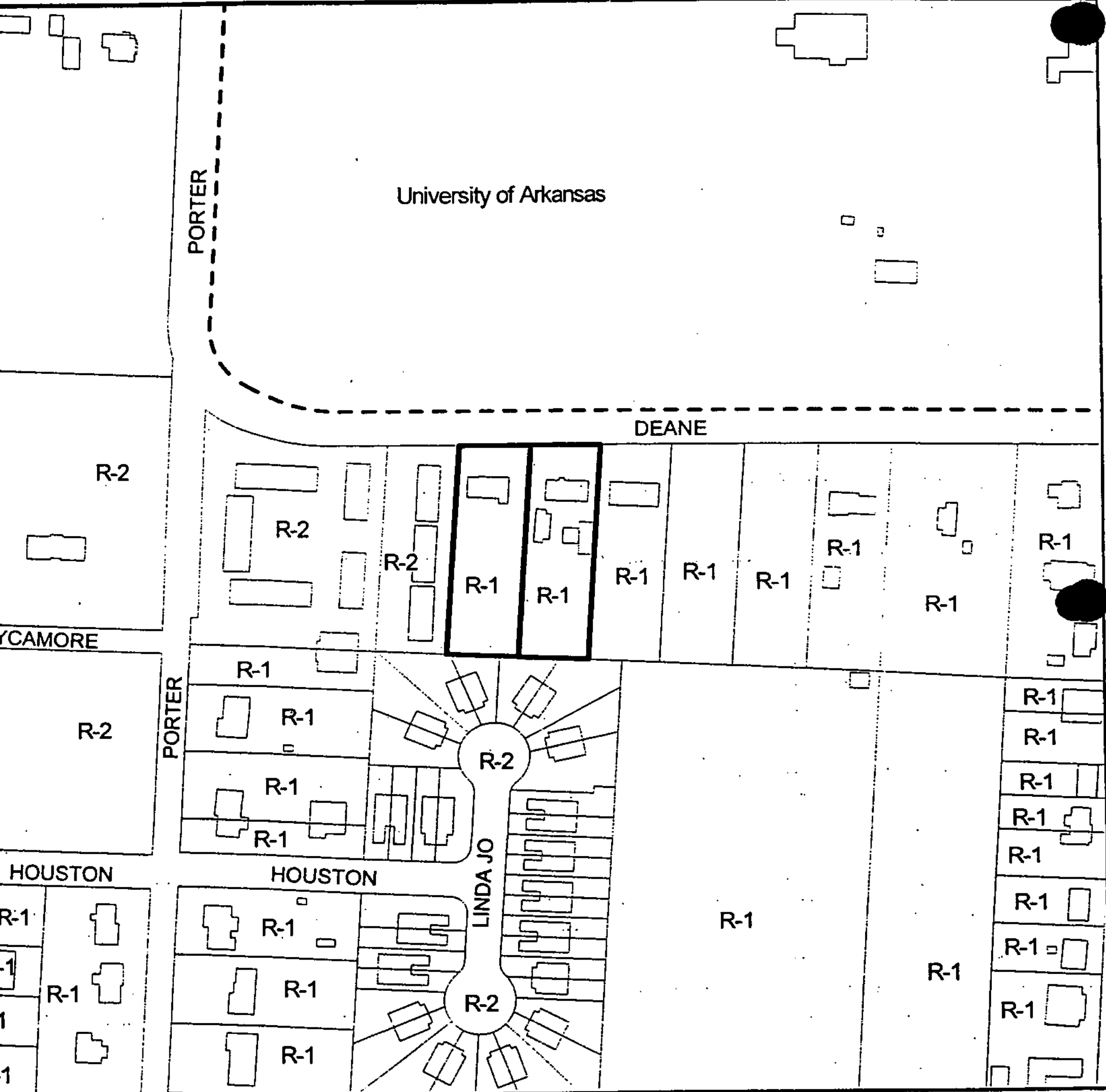
Sincerely,



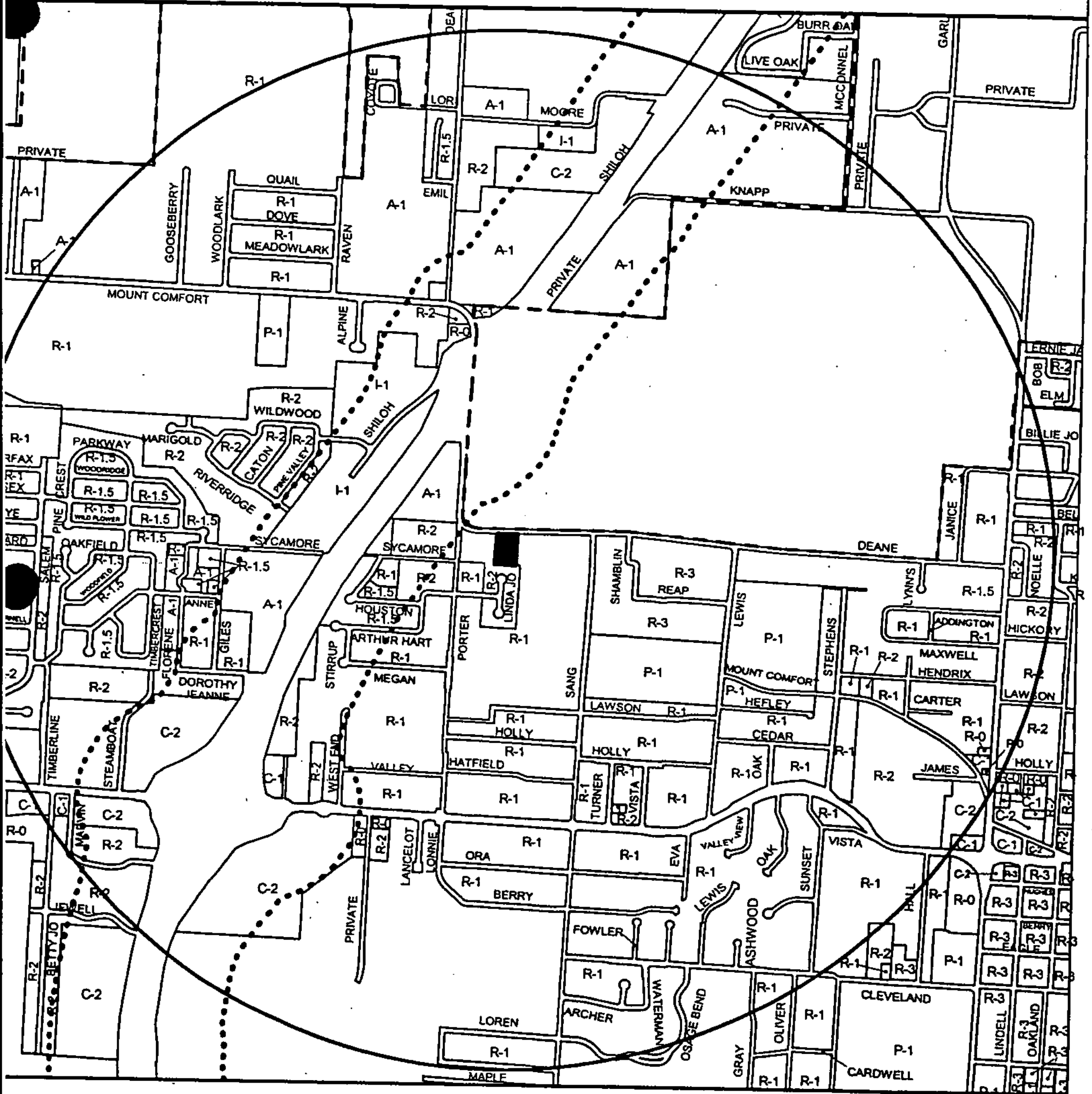
Emiad Damen

Attachments: As stated.

RZ00-17.00 - Damen - Close Up



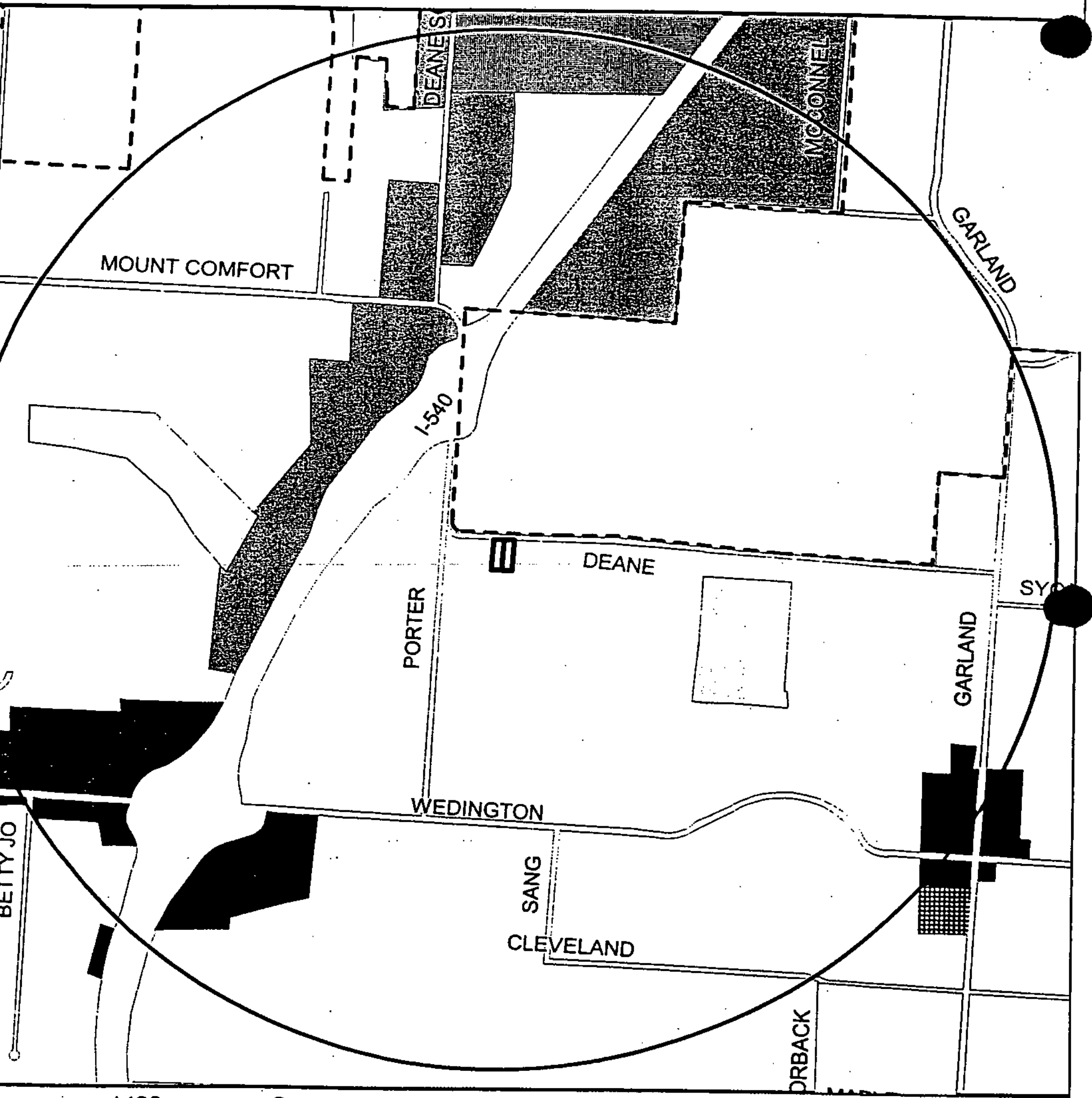
PZ00-17.00 - Damen - One Mile Diameter



1400 0 1400 Feet



Z00-17.00 - Damen - 2020 Plan

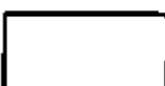
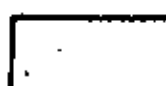
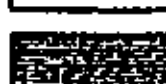
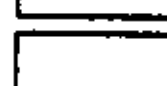




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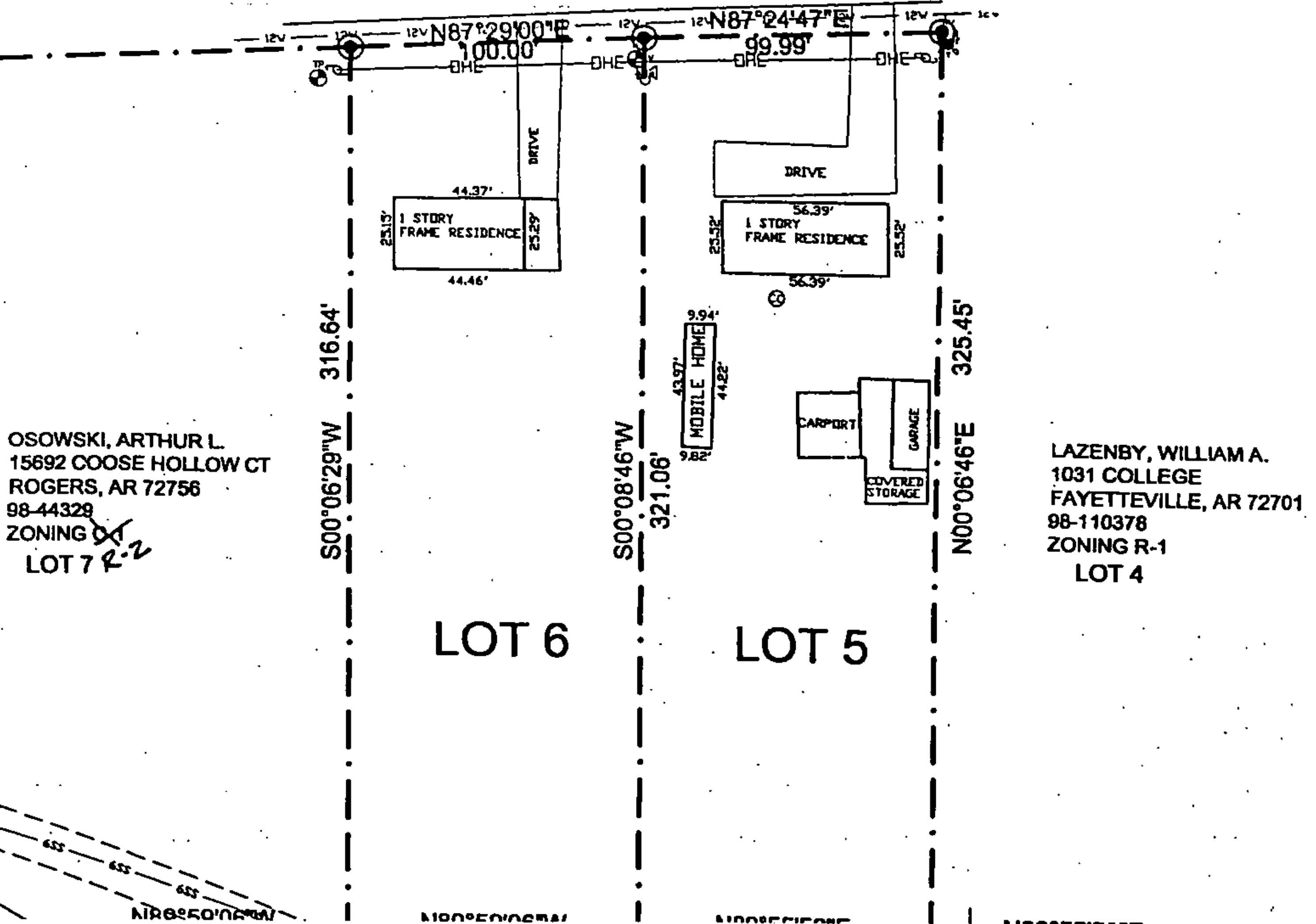
1400 0 1400 Feet



	Residential		University		Office
	Community Commercial		Industrial		Open / Space Recreational
	Historic Commercial		Mixed Use		Regional Commercial
	Historic Districts		Neighborhood Commercial		

UNIVERSITY OF ARKANSAS
205 ADMINISTRATION BLDG
FAYETTEVILLE, AR 72701
0000-00000
ZONING EXEMPT
OUT LOT

Claims -
for legal check



STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 3, 2000

FROM: _____

 Tim Conklin Planning Public Works
 Name Division Department

ACTION REQUIRED: To approve an ordinance for AD 98-8.00: Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use - Off-street Parking" to revise the required parking for eating places (restaurants).

COST TO CITY:
 \$ _____

 Cost of this Request Category/Project Budget Category/Project Name

 Account Number Funds Used To Date Program Name

 Project Number Remaining Balance Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

 _____ Budget Manager Administrative Services Director

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

 Accounting Manager Date Internal Auditor Date

 City Attorney Date ADA Coordinator Date

 Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on June 12, 2000, Planning Commission unanimously voted 9-0-0 to recommend approval and forward the amendment to the City Council.

_____ 6-16-00
 Division Head Date
 _____ 6-24-00
 Department Director Date
 _____ 6-28-00
 Administrative Services Director Date
 _____ 6/24/00
 Mayor Date
 Cross Reference
 New Item: Yes
 Prev Ord/Res #: _____
 Orig Contract Date: _____
 Orig Contract Number: _____

Planning Commission Minutes
June 12, 2000
Page 28

AD 98-8.00: Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use - Off-street Parking" to revise the minimum required parking for eating places (restaurants) from 1 space per 200 square feet of floor area to 1 space per 4 seats plus one space per employee on the maximum shift.

Odom: Item number 14, which is the next item on tonight's agenda is an Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, § 172.01 (D)(1) "Standards for the Number of Spaces by Use - Off-street Parking" to revise the minimum required parking for eating places from 1 space per 200 square feet of floor area to 1 space per 4 seats plus one space per employee on the maximum shift. Staff recommends approval of the amendment to revise § 172.01(D)(1) to make the 1 space per 4 seats plus one space per employee on the maximum shift the maximum number of spaces allowed and retain the 1 spaces per 200 square feet of floor area as the minimum number of parking spaces required for eating places. Staff do you have any presentation you would like to make?

Conklin: Commissioner Marr asked about when we could look at our parking lot ordinance with regard to increasing the amount of parking allowed for restaurants. As many of you probably recall we do typically have to grant waivers over and beyond what the maximum number of parking is allowed for restaurants. I went back and looked at our April 13, 1998 Planning Commission meeting where we did discuss this item and it did not pass. The biggest concern at that time was with regard to how this would impact restaurant development in our downtown square and Dickson Street area. Looking at that, I think the solution is to keep our existing parking requirements, which is 1 space for 200 square feet of floor area, and add as a maximum number the 1 space per 4 seats plus 1 space per employee on the maximum shift. That will allow restaurants in our downtown area not to have to meet the higher number of spaces that newer restaurants in our newer commercial areas are requesting. Staff is recommending approval. In approving this item it will have to go to City Council. It is only a recommendation and the City Attorney will prepare an ordinance to amend the current ordinance we have. That's all I have.

PUBLIC COMMENT:

Odom: Let me ask if there is any member of the audience that would like to address us on this issue?

Planning Commission Minutes
June 12, 2000
Page 29

COMMISSION DISCUSSION:

Odom: Seeing none, I'll close the floor to public discussion and bring it back to the Planning Commission. Commissioner Marr, do you want the floor or do you need an ambulance?

MOTION:

Marr: No, I am so excited that we actually are presenting this that I'm all choked up. I'm in full support of this motion to make this change and send it to the City Council. So, I'm going to move approval of AD 98-8.00.

Hoffman: And I'll add a hardy second to that. It sounds like a good plan.

Bunch: For the record, this is the recommended motion as opposed to what is described after AD 98-8?

Conklin: That is correct. Looking through and doing the research for staff report, I did make that change to reflect not to require the additional parking for restaurants that would be in our Dickson Street area or Square area.

Hoover: Mr. Chair, I have a comment. I just want to thank staff for looking carefully at this whole situation. Originally I was not for this when it came in 1998 because of the downtown area and how it would affect all that parking. I think you have done a grand job here of solving problems in the downtown and the new restaurants that are outside that area. So, I am very much in support of this.

Odom: I would just like to comment that we get so many of these waiver requests on restaurants and we routinely grant them that it only makes sense to take care of this by this motion. It also does take care of the concerns that were raised before so I think it is a good motion. Any further discussion? Call the roll.

ROLL CALL:

Upon roll call for the first time in the history of the Planning Commission Don Marr has a motion that passes unanimously 9-0-0.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

501-575-8264

TO: Fayetteville Planning Commissioners
FROM: Tim Conklin, City Planner
DATE: June 8, 2000

AD 98-8.00: Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use - Off-street Parking" to revise the minimum required parking for eating places (restaurants) from 1 space per 200 square feet of floor area to 1 space per 4 seats plus one space per employee on the maximum shift.

RECOMMENDED MOTION

Staff recommends approval of the amendment to revise Section 172.01(D)(1) to make the 1 space per 4 seats plus one space per employee on the maximum shift the maximum number of spaces allowed and retain the 1 spaces per 200 square feet of floor area as the minimum number of parking spaces required for eating places (restaurants).

BACKGROUND

This item was heard at the April 13, 1998 Planning Commission meeting where a motion to approve the new standard was denied by a 3-5-0 vote (please see attached minutes). There was considerable discussion regarding the impact this change in required parking would have on new restaurant construction within the Downtown/Dickson street area. Staff has proposed retaining the 1 space per 200 sf. as the minimum number required and set the maximum at 1 space per 4 seats plus one space per employee on the maximum shift. This change would not penalize restaurants that don't need as much parking by not requiring the additional parking under this proposed change.

Attached you will find a survey, published by the American Planning Association, depicting off-street parking requirements for restaurants in other cities which contains numerous methods of calculating parking requirements. The proposed amendment is comparable to other cities parking requirements.

idential, Multifamily, Studio
 e space per dwelling unit (Orange Co., Calif.)
 spaces per unit (Bellevue, Wash.)
 dwelling unit (Savannah, Ga.)

idential, Single-Family, Townhouse
 spaces per dwelling unit (Clifton Forge, Va.)
 o spaces per dwelling unit (Lexington Co., S.C.)
 5 spaces for each dwelling unit (Plano, Tex.)

idential, Single-Family
 e space per dwelling unit (Clifton Forge, Va.)
 o spaces for each dwelling unit (Northport, Ala.)
 attached two spaces per dwelling if access to the lot
 on to a public street; 2.5 spaces per dwelling if
 cess to the lot is from a private street, common
 ive, or common parking court (Leesburg, Va.)
 mment. Nearly every code examined required two
 ces per unit.

estaurant
 e space per 150 sq.ft. (St. Charles Parish, La.)
 e space per each 100 sq.ft. of floor area
 lendale, Calif.)
 e space for each 75 sq.ft. of usable floor area or one
 each two persons allowed within the maximum
 ncy load, whichever is the greater
 a, Mich.)

urteen spaces per 1,000 net sq.ft. (Bellevue, Wash.)
 vo spaces per 100 sq.ft. of floor area (Clifton Forge, Va.)
 e parking space for every four seats.
 alisbury Township, Pa.)

e space for every three seats, plus two spaces for
 ery three employees on the maximum shift
 t. Louis Co., Mo.)

e space for each three persons for the first 150
 ersons, and one for each two persons over 150 as
 etermined by the fire marshall to be the maximum
 acity of the establishment (Bay City, Mich.)

e space per each three seating accommodations,
 us one space per each two employees on shift of
 eatest employment (Charlotte-Mecklenburg Co., N.C.)

e space for each three fixed seats provided for
 tron use, plus one space for each 200 sq.ft. of floor
 ea provided for patron use but not containing fixed
 ats (South Burlington, Vt.)

ur spaces, plus one space for each three seating
 accommodations (Northport, Ala.)

e space for each 2.5 seats or 40 sq.ft. of dining and/
 drinking space or area (Bozeman, Mont.)

urant, Fast-Food

space per 100 sq.ft. of gross floor area
 lorman, Okla.)

e parking space per each 80 sq.ft. of floor area
 ilendale, Calif.)

Thirteen spaces per each 1,000 sq.ft. of gross floor area
 (Albemarle Co., Va.)

Sixteen spaces per 1,000 net sq.ft. (Bellevue, Wash.)

One space for each 60 sq.ft. of usable floor area with a
 minimum of four spaces (Alpena, Mich.)

One space per 50 sq.ft. of eating area, plus one space
 for each employee on the largest working shift
 (St. Clair Shores, Mich.)

Fourteen spaces per 1,000 sq.ft. of gross floor area,
 plus five off-street waiting spaces per drive-in lane
 (Lake Co., Ill.)

Thirty spaces per 1,000 sq.ft. (Lake Forest, Ill.)

The greater of one space per 40 sq.ft. of customer
 service or dining area or one space per 150 sq.ft. of
 gross building area (Omaha, Nebr.)

One space for each 25 sq.ft. of usable floor area
 (Alpena, Mich.)

Ten spaces per 100 sq.ft. gross leasable area, plus one
 additional space for every four outside seats
 (Leesburg, Va.)

One space for every two seats, plus two spaces for
 every three employees on the maximum shift
 (St. Louis Co., Mo.)

One space per four seats, plus one space per two
 employees where seating is at tables, or one space per
 two seats, plus one space per two employees where
 seating is at a counter. For a fast-food restaurant with
 no seating facilities: one space per 60 sq.ft. of net floor
 area with a minimum of 10 spaces. For a fast-food
 restaurant with drive-in facilities: in addition to the
 parking requirements presented above, 11 stacking
 spaces for the drive-in window, with a minimum of
 five such spaces designated for the ordering station.
 Such spaces shall be designed so as not to impede
 pedestrian or vehicular circulation on the site or on
 any abutting street. (Fairfax Co., Va.)

Five spaces, plus one space per three seats in dining
 area or 10 per 1,000 sq.ft. gross floor area, whichever
 is greater (Long Beach, Calif.)

Retail, Outdoor

One space per each 1,000 sq.ft. of lot or floor area used
 for display purposes (Bozeman, Mont.)

One space for each 600 sq.ft. of lot area
 (Bay City, Mich.)

One space per 500 sq.ft. of open sales/display area,
 plus one space per employee (Fairfax Co., Va.)

Three spaces per 1,000 sq.ft. of gross floor area
 (Hillsborough Co., Fla.)

One space for each 200 sq.ft. of stall space and cus-
 tomer circulation area (Albuquerque, N.M.)

Retail Store

One space per 1,000 net sq.ft.; if more than 15,000 net
 sq.ft., 1.5 spaces per 1,000 net sq.ft. (Bellevue, Wash.)

One space per 300 sq.ft. of gross floor area
 (Orange Co., Calif.)

If less than 5,000 sq.ft. of floor area, one space per

Planning Commission
 June 12, 2000

AD 98-8 Amendment

Page 14.2

STAFF REVIEW FORM

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 3, 2000

FROM:

Jim Beavers

Engineering

Public Works

Name

Division

Department

ACTION REQUIRED:

1. Approval of a bid waiver with McClinton-Anchor, the contractor at CMN, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue;
2. Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction;
3. Approval of a 15% project contingency of \$6,495.00 for material/construction testing and variations in final quantities.

ST TO CITY:

<u>\$49,795.00</u>	<u>\$276,247</u>	<u>Street/ROW/Intersection</u>
cost of this Request	Project Budget	Cost shares
		Project Name
<u>4470-9470-5809.00</u>	<u>\$167,629</u>	<u>Street Improvements</u>
Account Number	Funds Used To Date	Program Name
<u>98033-20</u>	<u>\$108,618 *</u>	<u>Sales Tax</u>
Project Number	Remaining Balance	Fund

* Prior to this request and prior to the accompanying engineering (\$5000)

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

[Signature]

Budget Coordinator

[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Marilyn J. Cramer
Accounting Manager

6-19-00

Date

ADA Coordinator

Date

[Signature]
City Attorney

6-20-00 Yolanda Gilds
Date Internal Auditor

6-21-00
Date

[Signature]
Purchasing Officer

6-20-00
Date

STAFF RECOMMENDATION: Approval

Jim Beavers
Division Head

6/19/00
Date

Cross Reference

Richard Umale
Department Director

6-21-00
Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res # _____

Mayor

Date

Orig Contract Date: _____

Contract number _____

DEPARTMENTAL CORRESPONDENCE

To: Fred Hanna, Mayor

Thru: Charles Venable, Public Works Director
Contract Review

From: Jim Beavers, City Engineer *JB*

Date: June 15, 2000

Re: Council Meeting July 3, 2000

Proposed improvements to Shiloh Drive between CMN and the AHTD right-of-way
Proposed construction contract with McClinton-Anchor
Proposed bid waiver
Proposed contingency

The section of Shiloh Drive between the AHTD right-of-way and the CMN property near Northwood Avenue (approximately 240 lf) is failing and needs to be replaced prior to the new section of Shiloh Drive on the CMN property being completed and opened to the public. The Traffic Engineer for the development, Peters and Associates, estimates the ultimate future traffic on this section to be approximately 10,000 vehicles per day.

McClinton-Anchor is the contractor for CMN constructing the Shiloh Drive extension, Steel Boulevard, Mall Avenue and Van Asche. Staff recommends a bid waiver and contracting the replacement of Shiloh Drive between the AHTD right-of-way and the CMN property near Northwood Avenue (approximately 240 lf) with McClinton-Anchor. The basis for recommendation of the bid waiver is that the reconstruction is on a segment of street immediately adjacent to the new Shiloh construction and the additional time and costs of bidding the project, including mobilization and earthwork makes a separate design and bid process impractical and unfeasible.

Staff has reviewed the plan drawing by Milholland and the proposed costs from McClinton-Anchor and believe them to be fair and reasonable.

Staff specifically requests approval of two agenda items to include:

Agenda item 1, McClinton- Anchor:

1. Approval of a bid waiver with McClinton-Anchor, the contractor at CMN, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue per the plan by Milholland Engineering (drawing E-526, sheet 17);
2. Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction;
3. Approval of a 15% project contingency of \$6,495.00 for material/construction testing and variations in final quantities.

Agenda item 2, Milholland Engineering:

1. Approval of a letter contract with Milholland Company for engineering design, construction staking, construction management and as-built drawings in the not-to exceed amount of \$5000.00 for the above described street reconstruction;

Enclosures for Agenda Item one:

1. Vicinity Map
2. Project plan (partial)
3. Quote from McClinton-Anchor
4. Proposed letter contract with McClinton-Anchor

Purchase Requisition

(not a purchase order)

P.O. Number:

Expected Date:

ASAP

Vendor Name:

McClinton-Anchor Company, Attn: James Cole

Mail:

Yes No X

Taxable:

Yes No

Division Head Approval:

Jim Beavers

Extension:

208

FOB Point:

Ship To Code:

090

State:

AR

Zip:

72702-1367

Requester's Employee#:

327

Account Number:

4470-9470-5809.00

Extended

Cost

\$43,300.

Unit

Cost

Unit

Cost

Quantity

Description:

1 Construction of Shiloh Drive
approximately 240 LF west of
CMN Property

Project/SubProject
Number:

98033-20

Inventory
#Fixed
Asset #

SHIPPING/HANDLING

Special Instructions:

PLEASE RETURN PURCHASE ORDER TO ENGINEERING

Subtotal:

Tax:

TOTAL: \$43,300.00

Approvals:

Mayor:

(for purchasing office use only)

Department Director:

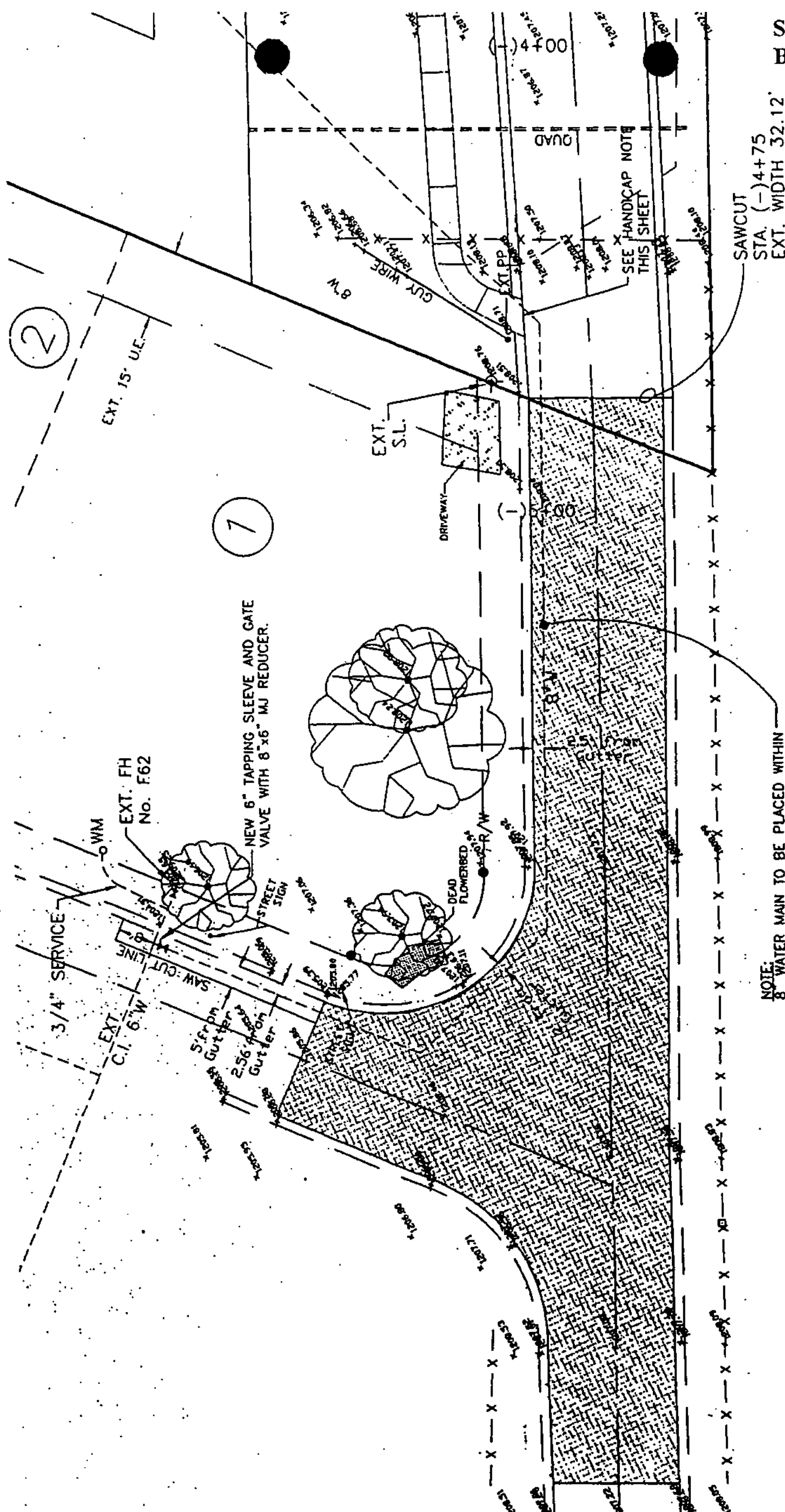
Purchasing Manager:

Admin. Services Director:

Budget Coordinator:

Data Processing Mgr.

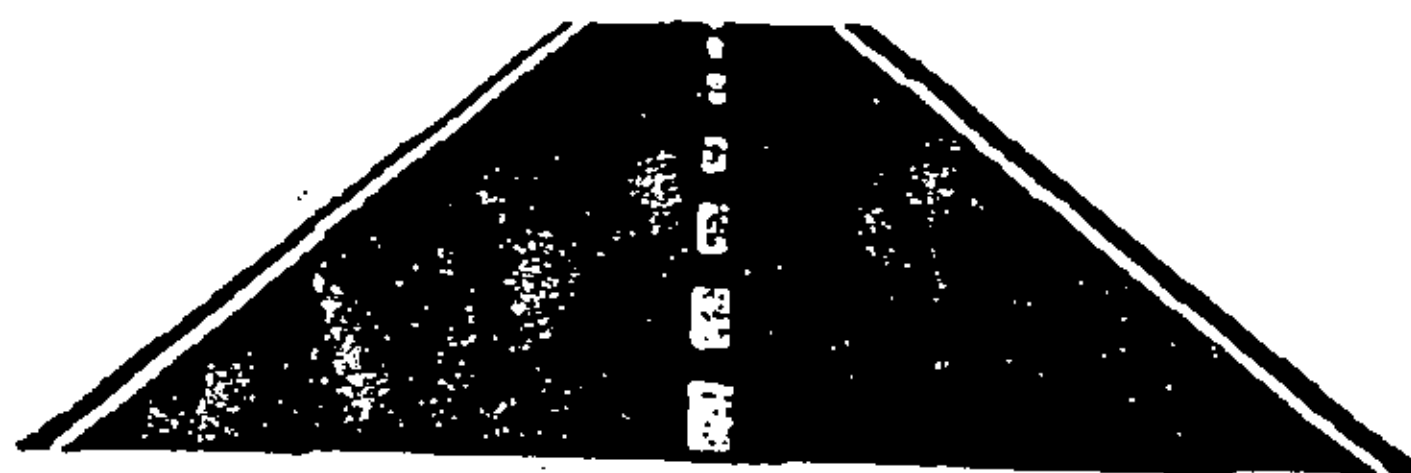




NOTE:
8" WATER MAIN TO BE PLACED WITHIN
EXISTING STREET RIGHT-OF-WAY.
2.5' OFFSET FROM GUTTER LINE IN STREET.
48" MIN. COVER FROM SUBGRADE.

McClinton-Anchor

A Division of APAC-Arkansas, Inc.



COPY

P. O. BOX 1367, 240 NORTH BLOCK
FAYETTEVILLE, ARKANSAS 72702
PHONE: (501) 587-3300 FAX: (501) 521-2826

FAX TRANSMITTAL FORM

DATE: JUNE 12, 2000

TIME: PM

NUMBER OF PAGES INCLUDING COVER SHEET: 1

TO: MEL

COMPANY: MILHOLLAND COMPANY

FAX: 443-4707

FROM: JIM COLE

IF YOU HAVE PROBLEMS WITH THIS TRANSMISSION PLEASE CALL (501) 587-3330.

MESSAGE

RE: CMN II - SHILOH DRIVE REPLACEMENT

REMOVE AND DISPOSE CURB	520 L.F.	@ \$5.00 PER L.F.
REMOVE AND DISPOSE PAVEMENT	1,000 S.Y.	@ \$3.00 PER S.Y.
UNDERCUT	850 C.Y.	@ \$6.50 PER C.Y.
BORROW	750 C.Y.	@ \$8.50 PER C.Y.
PAVING	1,000 S.Y.	@ \$16.60 PER S.Y.
CURB BACKFILL	520 L.F.	@ \$1.50 PER L.F.
CURB AND GUTTER	520 L.F.	@ \$8.50 PER L.F.
SEEDING	1 L.S.	@ \$1,500.00 PER L.S.
MAINTENANCE OF TRAFFIC	1 L.S.	@ \$2,500.00 PER L.S.

TOTAL: \$43,300.00

PAYMENT TO BE BASED ON IN-PLACE MEASUREMENTS AT THE ABOVE STATED UNIT PRICES.

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CITY OF FAYETTEVILLE, ARKANSAS

June 15, 2000

Mr. Jim Cole
McClinton-Anchor Company
P.O. Box 1367
40 North Block
Fayetteville, Arkansas 72702

Re: Proposed reconstruction of approximately 240 lf of Shiloh Drive from the AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line including the radius and intersection of Northwood Avenue.

Dear Sir,

This letter shall serve as the formal agreement to be presented to the City Council for consideration for the City of Fayetteville to:

1. Approval of a bid waiver with McClinton-Anchor, the contractor at CMN, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue per the plan by Milholland Engineering (sheet E-526, sheet 17, received 06/13/00);
2. Approve this letter contract in the estimated amount of \$43,300.00 based upon the quote from McClinton-Anchor dated June 12, 2000 (copy attached).

If the proposed reconstruction of Shiloh Drive as described above is approved by the City Council, the City agrees to pay the actual and verified construction costs to reconstruct approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line west to the AHTD right-of-way, including the radius and intersection of Northwood Avenue per the plans by Milholland Engineering and in compliance with the City's Street Standards. The design, construction staking, construction inspection and as-built drawings will be furnished by Milholland Company. Material/construction testing will be paid by the owner. A separate formal agreement with Milholland will be presented to the City Council for consideration. If the proposed reconstruction of Shiloh Drive as described above is approved by the City Council such reconstruction should be completed no later than the completion of the adjacent Shiloh Drive extension at the CMN II development west property line.

The final costs to the City shall be based upon actual quantities verified by the City's Public Works inspector and invoices/tickets/records furnished by McClinton-Anchor and/or Milholland Engineering. Upon final acceptance by the City of the reconstructed Shiloh Drive and the furnishing of invoices/tickets/records from McClinton-Anchor, the City will strive to make payment to McClinton-Anchor within thirty (30) days but cannot guarantee the thirty day schedule.

Please note: This is a request for approval of a bid waiver and letter contract only. The Mayor and/or City Council will not normally consider a proposed contract for approval without a formal agreement signed in advance by the contracting parties. **Do not** proceed with the proposed street reconstruction unless/until the proposed contract is approved by the City Council and a copy signed by the Mayor is furnished to you.

If you agree with these provisions please sign the three original letters in the space provided and return all three to me. I will proceed to schedule this on the next available City Council Agenda (July 3, 2000). Should you need any additional information please call me at 575-8208.

Thank you,


Jim Beavers, P.E.
City Engineer

Approved City of Fayetteville
Fred Hanna, Mayor

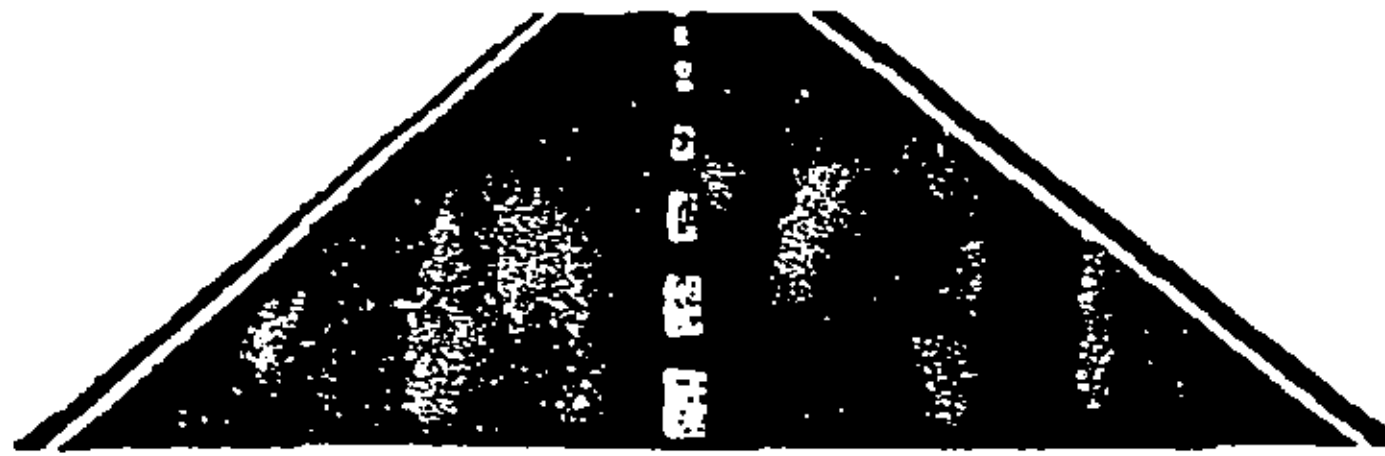
 6/15/00
Jim Cole
McClinton-Anchor

enclosure:

Quote from McClinton-Anchor dated June 12, 2000

McClinton-Anchor

A Division of APAC-Arkansas, Inc.



COPY

P. O. BOX 1367, 240 NORTH BLOCK
FAYETTEVILLE, ARKANSAS 72702
PHONE: (501) 587-3300 FAX: (501) 521-2826

FAX TRANSMITTAL FORM

DATE: JUNE 12, 2000

TIME: PM

NUMBER OF PAGES INCLUDING COVER SHEET: 1

TO: MEL

COMPANY: MILHOLLAND COMPANY

FAX: 443-4707

FROM: JIM COLE

IF YOU HAVE PROBLEMS WITH THIS TRANSMISSION PLEASE CALL (501) 587-3330.

MESSAGE

RE: CMN II - SHILOH DRIVE REPLACEMENT

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CITY OF FAYETTEVILLE, ARKANSAS

June 15, 2000

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Thank you,


Jim Beavers, P.E.
City Engineer

Approved City of Fayetteville
Fred Hanna, Mayor

 6/15/00

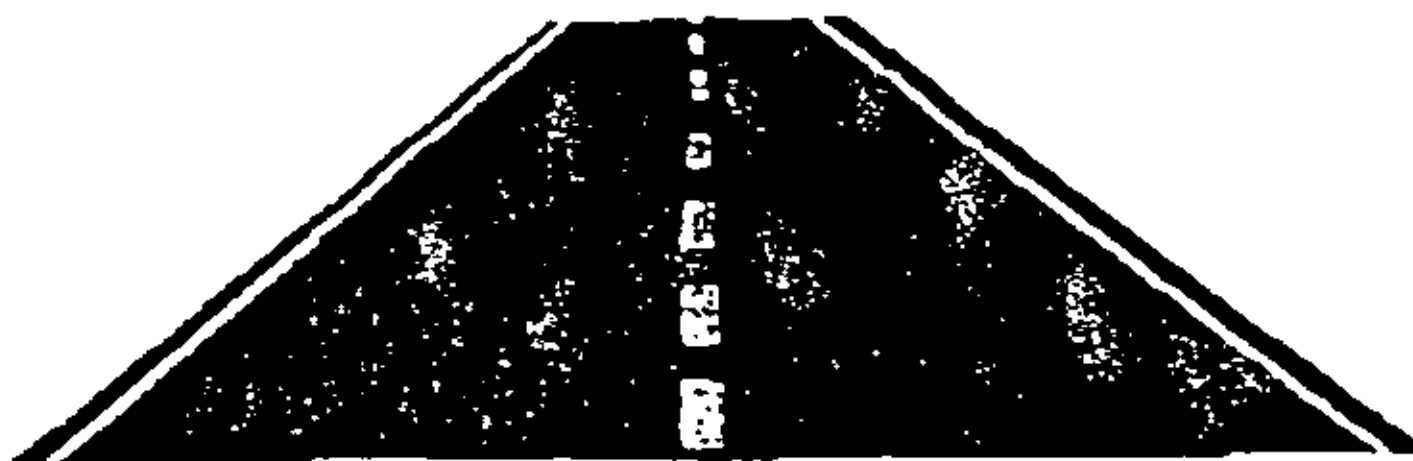
Jim Cole
McClinton-Anchor

enclosure:

Quote from McClinton-Anchor dated June 12, 2000

McClinton-Anchor

A Division of APAC-Arkansas, Inc.



COPY

P. O. BOX 1367, 240 NORTH BLOCK
FAYETTEVILLE, ARKANSAS 72702
PHONE: (501) 587-3300 FAX: (501) 521-2826

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NUMBER OF PAGES INCLUDING COVER SHEET: 1

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FROM: JIM COLE

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STAFF REVIEW FORM

AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council meeting of July 3, 2000

FROM:

Jim Beavers Engineering Public Works
Name Division Department

ACTION REQUIRED:

1. Approval of a letter contract with Milholland Company for engineering design, construction staking, construction management and as-built drawings in the not-to exceed amount of \$5,000.00 for the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the CMN property line and the intersection with Northwood Avenue.

COST TO CITY:

<u>\$5000.00</u> Cost of this Request	<u>\$276.247</u> Project Budget	<u>Street/ROW/Intersection</u> <u>Cost shares</u> Project Name
<u>1470-9470-5809.00</u> Account Number	<u>\$167.629</u> Funds Used To Date	<u>Street Improvements</u> Program Name
<u>33-20</u> Project Number	<u>\$108.618 *</u> Remaining Balance	<u>Sales Tax</u> Fund

* Prior to this request and prior to the accompanying \$49,795 construction

BUDGET REVIEW: X Budgeted Item Budget Adjustment Attached

Steph Dan Administrative Services Director
Budget Coordinator

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

<u>Marilyn J. Cramer</u> Accounting Manager	<u>6-19-00</u> Date	<u> </u> ADA Coordinator	<u> </u> Date
<u> </u> City Attorney	<u>6-20-00</u> Date	<u>Yolanda Fields</u> Internal Auditor	<u>6-21-00</u> Date
<u>PR</u> Purchasing Officer	<u>6-20-00</u> Date		

FF RECOMMENDATION: Approval

Jim Beavers
Division Head

6/19/00
Date

Richard W. W. W.
Department Director

6-21-00
Date

Administrative Services Director

Date

Mayor
Date

Cross Reference

New Item: **Yes**

Prev Ord/Res #

Orig Contract Date:

Contract number

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Fred Hanna, Mayor

Thru: Charles Venable, Public Works Director
Contract Review

From: Jim Beavers, City Engineer *JB*

Date: June 15, 2000

Re: Council Meeting July 3, 2000

Proposed improvements to Shiloh Drive between CMN and the AHTD right-of-way.
Proposed engineering contract with Milholland Company

The section of Shiloh Drive between the AHTD right-of-way and the CMN property near Northwood Avenue (approximately 240 lf) is failing and needs to be replaced prior to the new section of Shiloh Drive on the CMN property being completed and opened to the public. The Traffic Engineer for the development, Peters and Associates, estimates the ultimate future traffic on this section to be approximately 10,000 vehicles per day.

McClinton-Anchor is the contractor for CMN constructing the Shiloh Drive extension, Steel Boulevard, Mall Avenue and Van Asche. Staff recommends a bid waiver and contracting the replacement of Shiloh Drive between the AHTD right-of-way and the CMN property near Northwood Avenue (approximately 240 lf) with McClinton-Anchor. The basis for recommendation of the bid waiver is that the reconstruction is on a segment of street immediately adjacent to the new Shiloh construction and the additional time and costs of bidding the project, including mobilization and earthwork makes a separate design and bid process impractical and unfeasible.

For similar reasons to save time and money, Staff has selected Milholland Company to provide the engineering services for this street reconstruction. Milholland Company will provide the design, construction staking, construction management and as-built drawings for the not-to exceed amount of \$5000.00 for the above described street reconstruction;

Staff has reviewed the plan drawing by Milholland and the proposed costs from McClinton-Anchor and believe them to be fair and reasonable.

Staff specifically requests approval of two agenda items to include:

Agenda item 1, McClinton- Anchor:

1. Approval of a bid waiver with McClinton-Anchor, the contractor at CMN, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue per the plan by Milholland Engineering (drawing E-526, sheet 17);
2. Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction;
3. Approval of a 15% project contingency of \$6,495.00 for material/construction testing and variations in final quantities.

Agenda item 2, Milholland Company (Engineering):

1. Approval of a letter contract with Milholland Company for engineering design, construction staking, construction management and as-built drawings in the not-to exceed amount of \$5000.00 for the above described street reconstruction;

Enclosures for Agenda Item two:

1. Letter proposal from Milholland Company dated June 15, 2000
2. Proposed letter contract with Milholland Company

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

or #: 37580
Address: 205 W. Center

Vendor Name: Milholland Company

FOB Point:

Mail: Yes ☒ No ☐
Taxable: Yes ☐ No ☐

City: Fayetteville

State: AR Zip: 72701

Ship To Code: 090

Division Head Approval:

Requester:

Jlm Beavers

*Requester's Employee#: 327

Extension: 208

Item Description:

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Number

Project/SubProject Number

Inventory #

Fixed Asset #

1 Engineering/Construction Staking on Shiloh Drive, approximately 240 LF west of CMN Property

\$5,000.

4470-9470-5809.00

98033-20

SHIPPING/HANDLING

Special Instructions:

PLEASE RETURN PO TO ENGINEERING

Subtotal:

Tax:

TOTAL: \$5,000.00

Approvals:
Mayor

(for purchasing office use only)

Department Director:

Purchasing Manager:

Date Received Mar

Requisition No.:

Date:

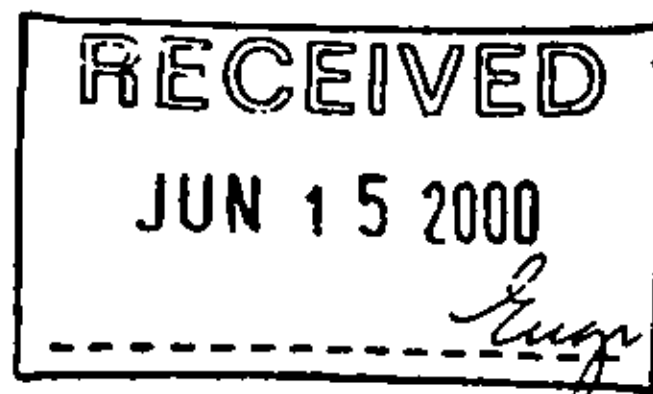
P.O. Number:

Expected Delivery Date:

ASAP

6-19-00

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS



REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

PROPOSAL

DATE: JUNE 15, 2000
PROJECT: SHILOH RECONSTRUCTION
LOCATION: INTERSECT SHILOH & NORTHWOOD
RE: ENGINEERING FEES

Dear Mr. Beavers:

Milholland Company proposes to perform all Engineering Services for the construction of said project for a Maximum-Not-To-Exceed Figure of \$5,000.

Compensation for said services shall be invoiced monthly, based on an hourly rate per attached EXHIBIT "A" with said Maximum-Not-To-Exceed amount of \$5,000.00

The opportunity to be of assistance is appreciated!

Sincerely,

A handwritten signature in cursive script, appearing to read "Melvin L. Milholland".

Melvin L. Milholland, PE

Miltholland Company
Engineering & Surveying
Melvin L. Miltholland, Owner

REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

HOURLY RATE PER CLASSIFICATION

EXHIBIT "A"

Survey Crew	3 men @ \$110.00 per hour
Survey Crew	2 men @ \$86.00 per hour
Professional Land Surveyor	\$70.00 per hour
AutoCAD/Drafting	\$50.00 per hour
Professional Engineer	\$95.00 per hour
Engineer's Aide	\$65.00 per hour
Inspector	\$50.00 per hour
Office Computations	\$45.00 per hour
Research and Compiling Data	\$42.50 per hour
Secretary	\$30.00 per hour
Printing: 8-1/2" X 11":	\$00.25 per sheet
Blueprints (any size)	\$03.50 per sheet
Mylar (any size)	\$15.00 per sheet
Mileage	\$00.30 per mile
Out-of-Pocket Expenses (Long-distance phone calls, etc.)	Actual Cost
All fees for Review by Governmental Agencies ...	Paid by Owner, upon demand

June 15, 2000

Mr. Mel Milholland, P.E.
Milholland Company, Engineering and Surveying
205 West Center Street
Fayetteville, Arkansas 72701

Re: The proposed design and reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue per the plan by Milholland Engineering (sheet E-526, sheet 17, received 06/13/00).

Dear Sir,

This letter shall serve as the formal agreement to be presented to the City Council for consideration for the City of Fayetteville to:

Approve a bid waiver/letter contract with Milholland Company for engineering design, construction staking, construction management and as-built drawings in the not-to exceed amount of \$5,000.00 for the above described street reconstruction.

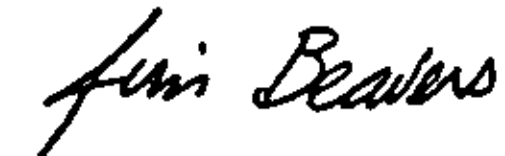
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Milholland Company will provide design services, construction staking, construction inspection and as-built drawings. Material/construction testing will be paid by the owner. A separate formal agreement with McClinton-Anchor will be presented to the City Council for consideration for the reconstruction of the above described segment of Shiloh Drive. If the proposed reconstruction of Shiloh Drive as described above is approved by the City Council such reconstruction should be completed no later than the completion of the adjacent Shiloh Drive extension at the CMN II development west property line.

Please note: This is a request for approval of a bid waiver/letter contract only. The Mayor and/or City Council will not normally consider a proposed contract for approval without a formal agreement signed in advance by the contracting parties. **Do not** proceed with any work for these proposed improvements unless/until the proposed contract is approved by the City Council and a copy signed by the Mayor is furnished to you.

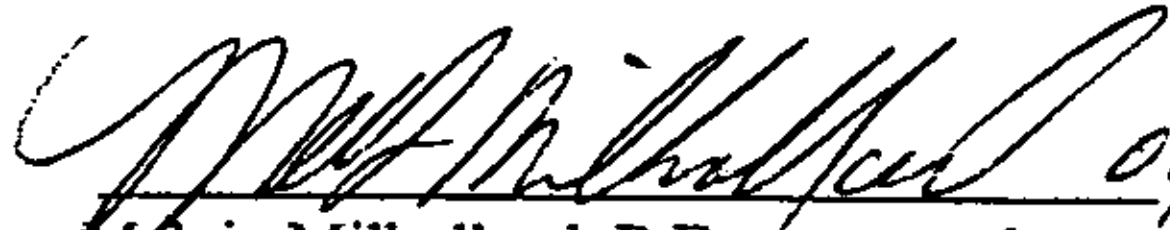
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Thank you,



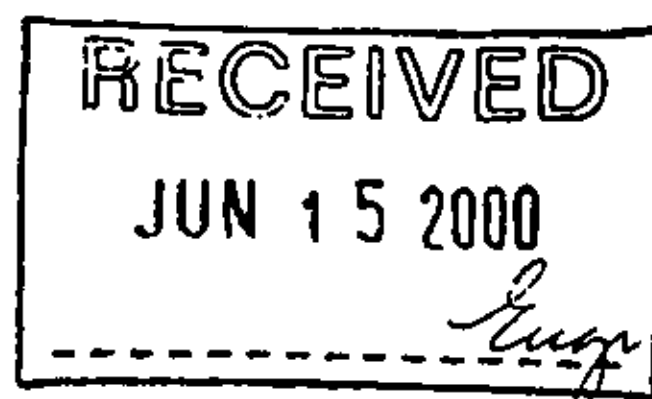
Jim Beavers, P.E.
City Engineer

Approved City of Fayetteville date
Fred Hanna, Mayor



Melvin Milholland, P.E. date
Milholland Company

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS



REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

PROPOSAL

DATE: JUNE 15, 2000
PROJECT: SHILOH RECONSTRUCTION
LOCATION: INTERSECT SHILOH & NORTHWOOD
RE: ENGINEERING FEES

Dear Mr. Beavers:

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Engineering & Surveying

Melvin L. Miltholland, Owner

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Mylar (any size)	\$15.00 per sheet
Mileage	\$00.30 per mile
Out-of-Pocket Expenses (Long-distance phone calls, etc.)	Actual Cost
All fees for Review by Governmental Agencies ...	Paid by Owner, upon demand

STAFF REVIEW FORM

 X Agenda Request
 Contract Review
 Grant Review

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

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUESTED: To approve a resolution with a deed restriction offered by the applicant allowing a lesser dedication of right-of-way than required by the Master Street Plan for LS 00-17.00: Lot Split (Gladden, pp 167), submitted by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road. The property is in the Planning Area and contains approximately 70 acres.

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 that the right-of-way be dedication in compliance with Master Street Plan requirements. Planning Commission voted 6-0-1, with Commissioner Bunch abstaining, to approve the requested lot split contingent upon the City Council accepting a lesser dedication of right-of-way for the future extension of Howard Nickell Rd. through the property (50' instead of 110') with a deed restriction on the entire MSP right-of-way plus 25' on either side to accommodate building setbacks. Planning Commission required that the entire 45' of right-of-way required along the western boundary be dedicated per the Master Street Plan for a future extension of Ruppel Road.

Division Head

6-29-00
Date

Cross Reference

Department Director

Date

Administrative Services
Director

Date

Mayor

Date

New Item: Yes

Prev Ord/Res#: _____

Orig Contract Date: _____

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A LESSER DEDICATION OF RIGHT OF WAY THAN REQUIRED BY THE MASTER STREET PLAN FOR THE WESTERN EXTENSION OF HOWARD NICKELL ROAD, A PRINCIPAL ARTERIAL AS REQUESTED BY GEORGE FAUCETTE ON BEHALF OF JO ANN GLADDEN FOR PROPERTY LOCATED AT HOWARD NICKELL ROAD AND SALEM ROAD.

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

Section 1. That 50' of right of way be dedicated to the City for this principal arterial.

Section 2. That a deed restriction be accepted by the City Council for the balance of the required right of way (60') plus 25' on either side of the right-of-way be included in the deed restriction to accommodate required building setbacks.

Section 3. That the deed restriction prohibit the erection of any structures within the area described in the attached "Exhibit A".

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION FOR LS 00-17
(Area encumbered by attached deed restriction)

Legal description
to be provided by
the applicant -
should be avail.
6/30/00 per Alan Reid

Please compose
deed restriction as
described in
Staff Recommendation &
Request - as discussed by
PC. Thanks! Jhw

Planning Commission Minutes
June 26, 2000
Page 3

LS 00-17.00: Lot Split (Gladden, pp 167) was submitted by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road. The property is in the Planning Area and contains approximately 70 acres. The request is to split into two tracts of 40 acres and 30 acres.

Odom: The first item on tonight's agenda is a lot split submitted by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road. The property is in the Planning Area and contains approximately 70 acres. The request is to split into two tracts of 40 acres and 30 acres. Staff's recommendation is for approval subject to four conditions of approval. The first is dedication of 45 feet of right-of-way along the west boundary of Tract B for the future extension of Salem Road, which is a minor arterial and requires 90 feet of right-of-way and dedication of 110 feet of right of way centered on the lot split line for the extension of Howard Nickell Road, principal arterial, as shown on the Master Street Plan. Please note that the applicant is requesting in lieu of the 45 feet right-of-way dedication for Salem Road, a lesser dedication of 25 feet and is requesting in lieu of the 110 feet of right-of-way dedication on Howard Nickell Road a lesser dedication of 50 feet be accepted with a covenant restriction that prohibits structures within the future Master Street Plan right-of-way. Staff is recommending that the applicant be required to dedicate the right-of-way pursuant to §156D.1.a.(3) of the Unified Development Ordinance requiring Master Street Plan dedication and to be consistent with the dedication that was required of the adjacent property owner to the east of Tract B, which was LS 98-20. Any lesser dedication must be approved by the City Council. The second recommendation is that if a lesser dedication is accepted, Staff recommends that it only apply to this lot split as well as one additional lot split of the 40 acre tract. That all subdivisions and further lot splits shall be viewed independently as to the Master Street Plan requirements. Third, a permit is issued by the Arkansas Department of Health for an individual sewage disposal system. Fourth, proof of the Arkansas Department of Health permit for an individual sewage disposal system shall be provided to the Planning Division prior to the lot split being filed. Fifth, that the Plat Review and Subdivision comments, to include the written staff comments mailed to the applicant or his representative, and all comments from utility representatives. Sixth, staff approval of final detailed plans, specifications and calculations, where applicable, for grading, drainage, water, sewer, fire protection, streets, both public and private, 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. Staff, are there any further conditions of approval?

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Conklin: Chairman Odom, I would like to make one correction with condition 1. It should refer to Ruppel Road extension not Salem Road extension so that does need to be corrected.

Odom: Salem Road needs to be Ruppel Road.

Conklin: One other comment with regard to Mr. Tom Cocker who is referred to in Mr. Faucette's letter, that is Dr. Tom Cocker who is a prospective purchaser of one of these lots. I just wanted to make that one point.

Odom: I would ask the applicant to come forward at this time.

Bunch: Mr. Chairman?

Odom: Yes Commissioner Bunch.

Bunch: Due to a business relationship with one of the prospective purchasers I will be abstaining from this issue. Also, at the Subdivision Committee I was unaware of the potential purchasers and I did participate in a vote there. My vote at that time was to forward this to the full Commission.

Odom: Okay. Thank you Commissioner. Mr. Faucette I will note that there are 2 Commissioners absent and one Commissioner has noted that they are going to abstain and that you need five votes on a lot split or just a majority?

Conklin: Just a majority of those present.

Odom: So, you don't have as many of us as you normally do but you only need four of us.

Faucette: Okay. I'll go ahead. Thank you for advising me of that. Chairman Odom and Commissioners thank you for hearing this request tonight. I know you have my letter of explanation so I promise you to be brief. I'm sensitive to the time you all spend on the Commission. Let me again state my objective of being here and of my request. You know that City Council has to ultimately approve any action you take, at least regarding this dedication. So, my objective in presenting the facts tonight is to have you all recommend favorably to the City Council that they consider not requiring the entire dedication for these two streets. Let me again emphasize what it is not. It is not a request to change the Master Street Plan. It is very simply, as Chairman Odom read in the letter, a wish to reduce the requirement for the 110 foot arterial that would go east to west and the minor

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arterial that would go north to south after it turns south on, I guess, what would be Ruppel Road ultimately. Those 50 foot dedications are consistent with requirements for residential streets, fully improved residential streets in the county and, as a matter of fact, in the City of Fayetteville too. Additionally, as again Chairman Odom suggested, we are offering a bill of assurance or deed restriction that would mandate that no additional buildings could be built in the entire principal or minor arterial as defined by the Master Street Plan. The reason for that is that if the city ever, down the road somewhere, whether it's 10, 40 years, whatever it is, decides that in fact this needs to be what is defined now, that the taking for compensation at that point would not have to include any structures. It would only be the land. Again, the provision would hold true not only for this split but for one more split of the north 40 into tracts that would be no less than 15 acres. In the ordinance in D,1,a,1 (3) it talks about dedication of Master Street Plan. It says very clearly that the City Planner shall not waive the preliminary and final plat requirements of this chapter for a proposed subdivision until the subdivider dedicates sufficient right-of-way etc.... It further says however, provided the Planning Commission may approve a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council. In my opinion the hardship in this case is manifested in three ways. The first has to do with the fairness with regard to notices in the providing of city services to residents in the growth area. When this Master Street Plan was adopted in 1995 absolutely no direct notice was given to any of these landowners affected, as I'm sure none in the Growth Area of the City was. The only way these folks could have learned about it was to have read legal notices and or news stories in the local newspapers. I would suggest to you that even if folks see a news story headline in the Times or the Morning News or whatever that says City of Fayetteville Master Street Plan is going to be discussed at public hearing, there is little chance that people in the county will take notice because they don't consider themselves subject to city regulations. They consider themselves residents of the county and they are not subject to those regulations nor are they the recipients of city services, water, fire, police protection. The historical perspective is that the city business is for the people who live inside the city. So, for all intents and purposes, these folks as well as others in the Growth Area had minimal chance for input into this Master Street Plan when it was adopted, and in this case very dramatically adopted. I'd also submit to you that the situation is grossly different from most of the effects of Master Street Plan definitions within the city. Most of those, not all certainly but many of those, lie on existing developed city streets. So, if the city decides to widen or otherwise improve that street, they can do so and they can take the land but they have to compensate the landowner for it. A second factor has to do with what I think I understand is the theory of nexus. Last week at your meeting I chose to beat

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myself up by watching all five and a half hours if it on TV and I applaud you for your patience in doing that. But during the meeting Commissioner Estes mentioned the theory of nexus when he was, I think, discussing whether all the folks that submitted the appeal had standing to do so, was there a connection between what they were trying to do in the appeal of the Grading Permit. So, as I understand it a nexus is a tie, link or connection from one thing to another and as I interpret nexus as it applies to planning, it is will the requested split create enough additional use or load on infrastructure or other factors to consider the taking, again, without compensation. This particular request is to take a 70 acre parcel and to divide it into three parcels an average of 23 acres per parcel. Again, I would ask does that warrant the taking of the full arterial? And lastly, I mentioned a couple of times, has to do with compensation. This represents about 4.25 acres worth of land as defined and based upon the value of that land under contract and some value for the house that's over \$80,000.00 that is a loss. Secondly, and getting close to lastly, is the dedication even necessary? As you know from the Master Street Plan, from the little map that I included with the packet that you all have, at the point that Howard Nickell Road currently ends Salem Road turns south and is improved either fully or partially all the way to Mount Comfort Road. It is now the traffic route that people take to go to schools or whatever. The Master Street Plan is drawn to contemplate over 1.7 miles of new road from the point that Howard Nickell ends at Salem to the point that it would connect back at Mount Comfort Road presumably Rupple at that point and of that there is .25 mile that is marginally improved gravel road and about .02 that is improved to go to the new school. So that is in excess of 1.25 miles of completely new road that would have to be done if this street went in. Combined with the fact that the city's Growth Area where this proposed Howard Nickell Road ends and turns south, northwest of that point is outside of the Growth Area. So, this is at the extreme northwest corner of the city's defined Growth Area at present. I would ask you why cause a taking when it would cause a road to break new ground when an improved road exists and in all likelihood future street patterns might dictate that that road be the one used. Tim mentioned to you a president in the immediate vicinity, that lot split and I think Chairman Odom read it, and I would submit to you that it is significantly different from this request in that it was a 2.5 acre parcel divided into 2 lots. And in two one acre parcels is grossly different density from 23 acre parcels which is the average that this request would result in. There is a third president I mentioned in my letter. In 1997 almost the exact same situation occurred northeast of the Fayetteville city limits on Gulley Road. It was also in the Growth Area. There was a 90 foot minor arterial that was shown directly through the heart of a 60 acre tract that was being split. In that situation the City Council did not take any lands. They did require the mandate of no structures. They felt like who knows down the road if

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this was fair to take them. I can't tell you what was in their minds exactly, but my guess is that they felt it was not a fair taking given the likelihood of that road being developed. Your recommendation to the Council is not out of, in my opinion and my own experience, the historical character or practice of the Planning Commission. In times past your body has been called to make calls between the lines, so to speak, of things that seem fair and reasonable in light of the request. I would submit to you that this is a reasonable solution and fair solution and no one loses. I believe it's win, win not only for the residents and or future resident of the city in this case but also for the city's need to justly support people's property rights. That's all I'm going to say. I want to thank you for reading my four page letter and for listening to me tonight. I'd be happy to answer any questions and I would like to reserve the right to respond to any comments made by either the public or the Commissioners.

Odom: Mr. Faucette, what we will do at this time is take public comment then come back to questions and you will be given the opportunity to respond.

Faucette: Thank you.

PUBLIC COMMENT:

Odom: Let me ask if there is any member of the audience that would like to address us on this lot split request? Would you please come forward at this time.

Bailey: Yes, my name is Scott Bailey and I just wanted to make sure that, I'm looking at the top 40 acres there and we are not planning to go in there and put 80 half acre lots in there. A friend and I are going to split that, probably 25 and 15 acres each and put an estate on there so we can have some horses and things like that. There won't be a high traffic area from the north 40 of that area for sure. I just wanted to let those intentions be made known.

Odom: Thank you Dr. Bailey.

Bailey: Thank you.

Odom: Any other member of the audience like to address us on this issue?

COMMISSION DISCUSSION:

Odom: Seeing none, I'll bring it back to the applicant and the Planning Commission for questions or comments of the applicant or staff. Staff, I'm just going to go ahead

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and chime in here and ask you if you could give us an understanding of what the applicant is wanting to do and what kind of effect that has. Does it run with the land? How long does it last? What are the practicalities of what they are proposing?

Conklin: With regard to what they are proposing, they have 70 acres of land. They would like to split it into a 40 acre tract and a 30 acre tract. Their proposal is to require or offer a lesser dedication of right-of-way. That's 50 feet of right-of-way through the center of this property and then 25 feet of right-of-way along the western boundary line. They also have offered to place a deed restriction to make sure no homes or structures are built within the remaining area that we would need if we build this principal arterial and minor arterial on this property. What effect that has with regard to the city, if we had the right of way now we would not have to acquire it in the future. With regard to making sure structures are not built on it, as long as we keep up the deed restriction and make sure that any homes or structures built out there are not within this area that can also achieve the same purpose. However, the county does not have building permits and it would be difficult to try to keep up with trying to make sure nothing does get built within this easement area. That is pretty much how I view it. Once again the ordinance requires the City Planner to get the right-of-way at the time of this lot split. Typically you would not see a lot split this size before the Planning Commission. The applicant has requested this lesser dedication be submitted to you and then that will have to go to the City Council for approval.

Odom: Tim, if what Scott Bailey says he wants to do, let's say we do this and he get's killed in a plane crash tomorrow and someone comes and buys the property and puts 1000 duplexes on there, that actually has to come back before us for a large scale development or would it out in the county?

Conklin: Yes. Anything over an acre or if he does a subdivision would have to come back before the Planning Commission. What I'm trying to do is try to make sure we are consistent with what we are requiring of developers. Our ordinances require that anytime they adjoin a Master Street Plan or our Master Street Plan goes through their property that we do get this right of way. So, with regard to if something happens in the future, what we have put as condition 2 in our staff report, if the Commission would like to entertain an option to dedicate just 50 feet of right-of-way, staff has a condition that we recommend that it only apply to this lot split and the one additional lot split on the north 40 acre tract. That way any additional lot splits or subdivisions or large scale developments, we could look at requiring that additional right-of-way that is required under our Master Street Plan. I don't want to give everything up, I don't want the Commission to give

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everything up forever into the future. I would like to make sure that if we do decide to accept something less it only applies to this lot split and the future lot split on that north 40 tract.

Odom: So we would have an opportunity in the future to get this dedication if something else came back before us then?

Conklin: Sure.

Ward: Mr. Chairman?

Odom: Commissioner Ward.

Ward: Tim, how does the structure out there now, as far as the 110 foot right-of-way, how does that effect that?

Conklin: It does impact that structure. With regard to our Master Street Plan we have been flexible in the past with regard to moving it back and forth to avoid structures. I'm not recommending we take the 110 feet of right-of-way through the existing house. It would be pushed further to the south and avoid that structure. That is something that, if we do require the 110 feet of right of way, not keep it directly in that straight line but try to avoid that structure. Even with 50 foot of right of way we need to take a look at where exactly we would want that to avoid that house.

Odom: Mr. Faucette could I ask you to come back to the podium please. What you are essentially doing is saying we are going to agree not to build on what you want but we are only going to give you half of what you are asking for at this time. What is the purpose behind that if you are not going to be building anything on it or using it? What's the purpose in not just going ahead and taking the full dedication at this time?

Faucette: To have the use of the land for one. And two, just the basic feeling that it's not right to take it if you aren't going to need it without paying for it. So, it's a value loss to the people both the buyers and the sellers.

Hoffman: Mr. Chairman:

Odom: Commissioner go ahead.

Hoffman: If I understood, and I'd like to address this to Mr. Faucette, if I understood Tim correctly, further subdivision of the property could be taken at a later date and not,

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if a subdivision came through for an additional part of this tract, that that could be essentially taken at that time. So, it's either, sounds like now or later. I'm not sure that you understand.

Faucette: I do understand that if someone comes back later and wants to take the 30 acres and divide it into a bunch of lots then the Planning Commission has the right at that point to say yes we want the entire right-of-way.

Hoffman: And there is no restitution for that though?

Faucette: No. If they want to get their subdivision approved they dedicate, right. That's correct.

Hoffman: So, I'm having trouble envisioning a scenario, if we do, I'm not terribly opposed to the lesser dedication if we do have a method in place to eventually take that land if it's needed. If this is going to be a low density development for a large estate for horses, we don't need the road at this time. But later on I'd like to have the assurance that if we do have density out there that we get the proper amount of land.

Odom: The only potential problem that I see with it is that if, let's just say that these farms stay out there for 100 years and development continues all around them, what's the status of it at that point in time? Then we don't have the right-of-way for the road to extend through when it's needed. Is that the only drawback of it really?

Conklin: Yes. The city would have to go out and acquire the additional right-of-way.

Faucette: Chairman Odom, that being the case the road might not be needed. If it stayed a large 30, 40, 50 acre farms then maybe there is no need for the principal arterial.

Estes: Mr. Chairman?

Odom: Commissioner Estes.

Estes: If I'm analyzing this correctly what I see is if the proposed extension west of Howard Nickell Road was made today the present owner would require compensation to avoid a 5th amendment regulatory taking. What is before us this evening is that this applicant is proposing a 50 foot street dedication. They are going to dedicate that to the city without cost.

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Faucette: Right.

Estes: Should there be other large scale developments to come before this Commission we would review the need for additional right-of-way at that time. If there was an extension of Howard Nickell Road west today there would be required compensation for the taking to avoid the 5th amendment regulatory taking. What this applicant proposes is to make the 50 foot street dedication. This applicant also is proposing to agree not to build any structures on the additional right-of-way so that in the event it is necessary for there to be a 5th amendment taking, which would be at a cost to the city, it would not include the cost of the structures placed in the right of way. It's for those reasons that I would support the requested lot split.

Ward: Mr. Chair?

Odom: Commissioner Ward.

MOTION:

Ward: I'll go ahead and make a motion and we can go from there. I make a motion that we approve LS 00-17 and that we will keep the 45 feet of right-of-way along the west boundary of tract B and give a variance because of undue hardship for a 50 foot taking of right of way and allowing 60 feet to be left encumbered and with the restrictive covenants placed on it to allow no construction of anything on that property until, forever, and with all other staff comments.

Estes: Mr. Chairman.

Odom: Yes.

Estes: With the addition that all subdivisions and further lot splits will be reviewed independently as to the Master Street Plan requirements, I'll second the motion.

Odom: Isn't that incorporated in Staff's recommendations?

Estes: Yes. I just want to make that very clear that that is there and is a condition of my second.

Odom: We have a motion by Commissioner Ward and a second with clarity by Commissioner Estes.

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Conklin: Mr. Chairman.

Odom: Yes.

Conklin: Does that include that the applicant will be allowed to split the north 40 tract one more time without this issue coming back before the Planning Commission?

Odom: It's my understanding that that was your understanding.

Conklin: Okay. Yes. Just want to make sure that is clear.

Hoffman: Mr. Chair.

Odom: Yes.

Hoffman: One additional question. With regard to building the structures out of the right-of-way, can we include that to incorporate required setbacks so we don't create nonconforming structures? Is there any way to know what the front setback would be? Is it 25 feet typically?

Conklin: The setbacks would differ. We would have to pick a certain zoning district inside the city that we might want to use.

Hoffman: Say R-1.

Conklin: Okay. We can look at that.

Hoffman: Is that something that you would be agreeable to?

Faucette: Sure. That would be fine.

Hoffman: I would like to include that as a friendly amendment to the motion if possible.

Ward: I'll accept that.

Odom: I don't even know what it is that you are asking.

Hoffman: Just in regard to the main motion that, is it item 2 that if a lesser dedication, where is the part about not building in the right of way?

Odom: It's in the first part of the motion.

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- Hoffman: Well, incorporating in that motion then, please just add that no structures would be built in the right-of-way nor within 25 feet of that right-of-way.
- Faucette: Can I clarify, that is 25 feet of the 110.
- Hoffman: Of the 110.
- Odom: Of the 110.
- Faucette: And Lee, if I understand your motion, you are in fact recommending that 50 foot be requested but you want the full 45 on the west side of the south 30 acres?
- Ward: Right.
- Conklin: Mr. Chairman.
- Odom: Yes.
- Conklin: Then we would be looking at an additional 25 feet beyond the 110 for setbacks of any structures.
- Faucette: That's what I understood Commissioner Hoffman to say.
- Hoffman: Yes. If that's agreeable to everybody I'd like to add that.
- Odom: Okay. Is there any further discussion? We typically don't go back on public comment but Scott, real quick, what you got?
- Bailey: I just wanted to make sure, there is an existing house that will be in the 110 that you said that you all would go ahead and go south of, I just wanted to make sure everybody knew there is already a house there. Okay.
- Odom: Staff does typically work with applicants with regard to where the exact right-of-way is going to be and so forth. Any further discussion? Call the roll.

ROLL CALL:

Upon roll call, the motion carries on a vote of 6-0-1 with Commissioner Bunch abstaining.

PC Meeting of 26 June 00

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701

Gladden Lot Split

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
FROM: Sara Edwards, Ron Petrie P.E.
DATE: June 22, 2000

Project: LS 00-17.00: Lot Split (Gladden, pp 167) was submitted by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road. The property is located in the City Growth Area and contains approximately 70 acres. The request is to split the property into two tracts of 40 acres and 30 acres.

Findings: This property is located in the City growth area at the edge of the planning area boundary. Howard Nickell Road presently ends at the existing driveway for the house on Tract A. This existing house will be located within the future right-of-way of Howard Nickell Road as shown on the Master Street Plan. The applicant has met all requested requirements with the exception of conformance with the Master Street Plan.

Recommendation: Approval subject to the six (6) conditions listed below.

Conditions of Approval:

1. Dedication of 45 feet of right-of-way along the west boundary of Tract B for the future extension of Ruppel Road, which is a minor arterial and requires 90 feet of right-of-way and dedication of 110 feet of right-of-way centered on the lot split line for the extension of Howard Nickell Road, a principal arterial, as shown on the Master Street Plan. *The applicant is requesting in lieu of the 45' right-of-way dedication for Ruppel Road, a lesser dedication of 25 feet and is requesting in lieu of the 110' of right-of-way dedication for Howard Nickell Road, a lesser dedication of 50' be accepted with a covenant restriction that prohibits structures within the future Master Street Plan right-of-ways (see applicant's letter). Staff is recommending that the applicant be required to dedicate the right-of-way pursuant to §156 D.1.a.(3) of the Unified Development Ordinance requiring Master Street Plan dedication and to be consistent with the dedication that was required of the adjacent property to the east of Tract B (LS 98-20). Any lesser dedication must be approved by the City Council.*

CHAPTER 156: VARIANCES

D. Consideration by the City Planner

1. Subdivisions creating only one new lot (lot splits).

a. Interference with Future Subdivision.

(3). **Dedication of Right-of-Way.** The City Planner shall not waive the preliminary and final plat requirements of this chapter for a proposed subdivision until the subdivider dedicates sufficient right-of-way to bring those streets which the Master Street Plan shows to abut or intersect the proposed subdivision into conformance with the right-of-way requirements of the Master Street Plan for said streets; provided, the Planning Commission may approve a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.

2. If a lesser dedication is accepted, Staff recommends that it only apply to this lot split as well as one additional lot split of the 40 acre tract. All subdivisions and further lot splits shall be reviewed independently as to the Master Street Plan requirements.
3. A permit is issued by the Arkansas Department of Health for an individual sewage disposal system.
4. Proof of the Arkansas Department of Health permit for an individual sewage disposal system shall be provided to the Planning Division prior to the lot split being filed.
5. 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)
6. 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.

Background:

The proposed Lot Split was reviewed at the May 31, 2000 Technical Plat review and the June 15, 1999 Subdivision Committee meeting.

Discussion at the Subdivision Committee meeting included the Master Street Plan right-of-way dedication requirements.

The Subdivision Committee forwarded the Lot Split to the full Planning Commission without a recommendation.

INFRASTRUCTURE:

-) Water is available.
-) Sanitary sewer is not available.
-) Streets. See the Conditions of Approval.
-) Grading and Drainage. Not applicable.

PLANNING COMMISSION ACTION: yes Required
 Approved Denied

Date: _____

Comments:

CITY COUNCIL ACTION: Required
 Approved Denied

Date: / /

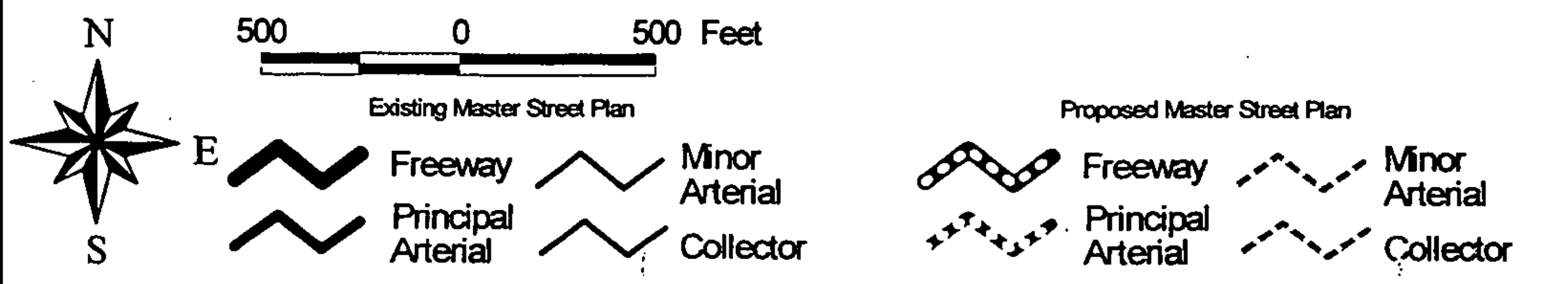
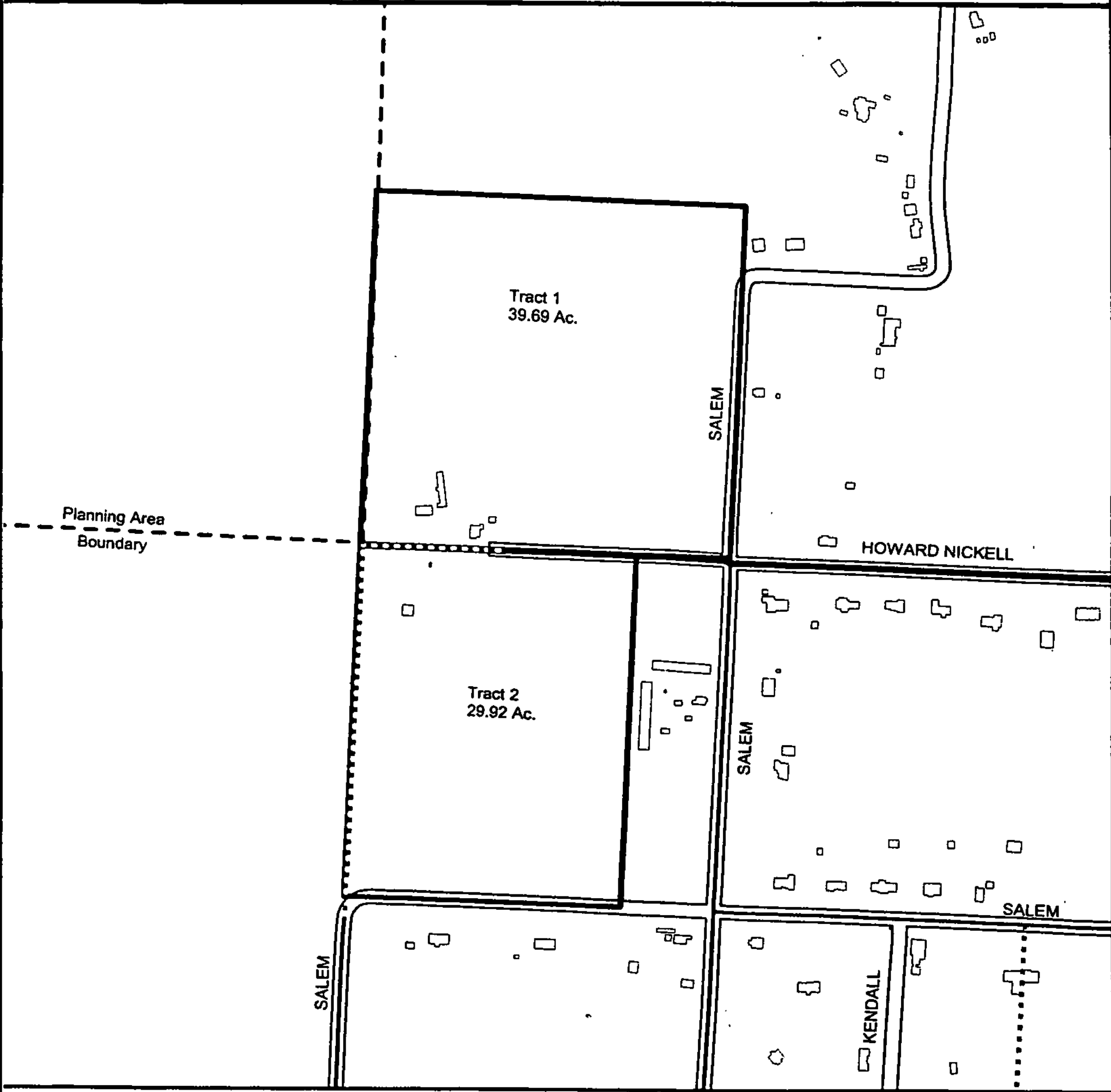
The "CONDITIONS OF APPROVAL", beginning on page one of this report, are accepted in total without exception by the entity requesting approval of this development item.

by

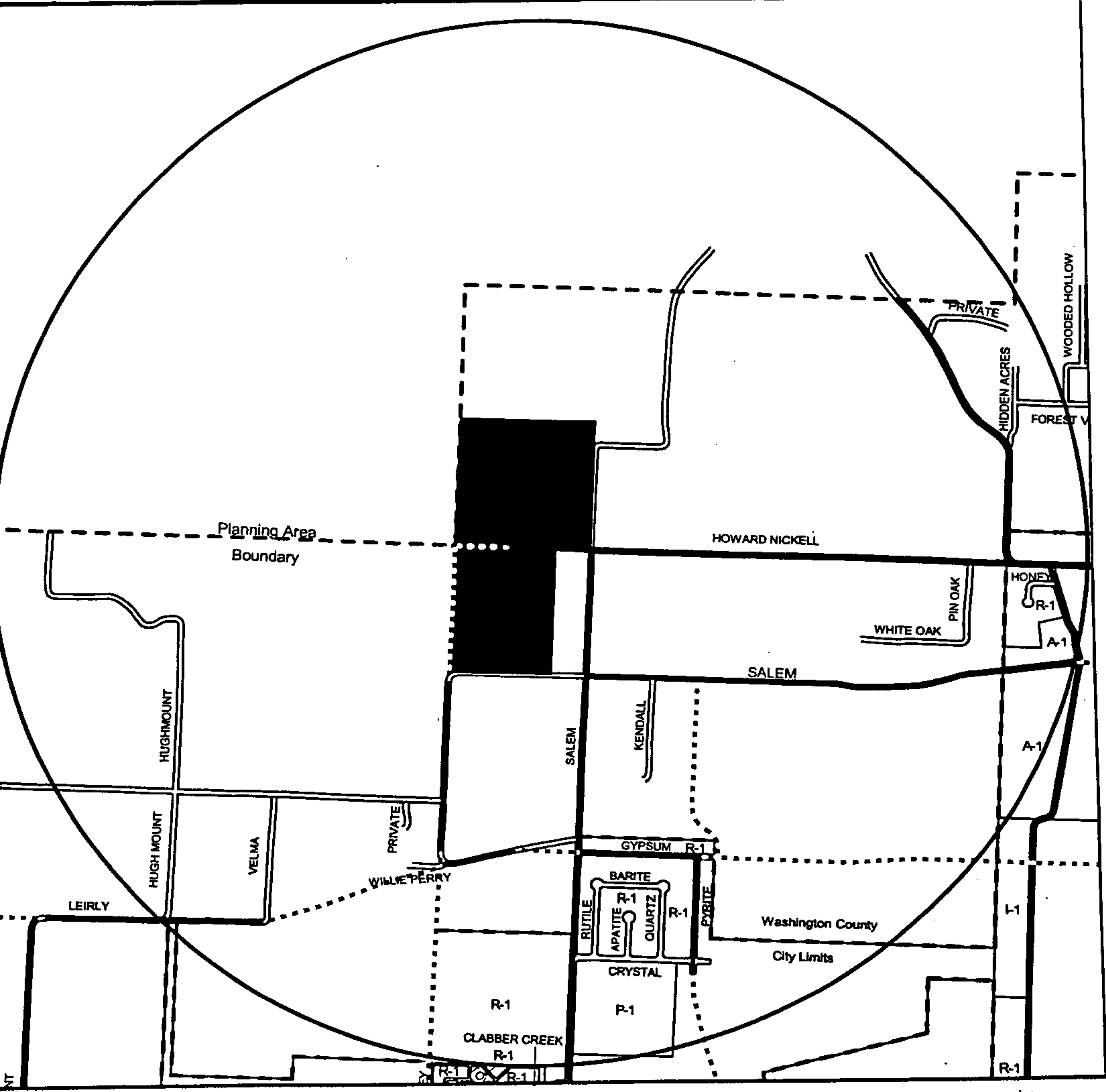
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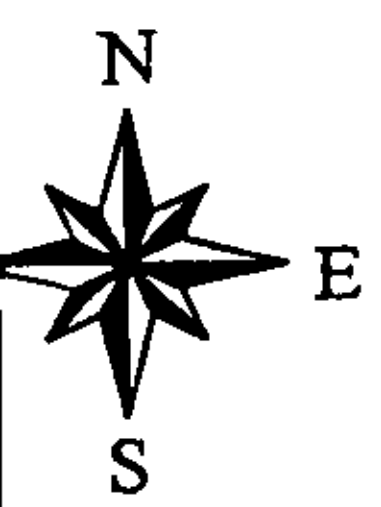
LS00-17.00 - Gladden - Close Up



S00-17.00 - Gladden - One Mile Diameter



1400 0 1400 Feet



Existing Master Street Plan

	Freeway		Minor Arterial
	Principal Arterial		Collector

Proposed Master Street Plan

	Freeway		Minor Arterial
	Principal Arterial		Collector

city limits?

Revised from PR - for SUBDIVISION



FAUCETTE
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June 6, 2000

Tim Conklin, Planning Administrator
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Lot Split Application, Gladden, etal.
Salem Road (outside Fayetteville City Limits), Washington County, AR

Dear Tim:

This letter is submitted with all revisions, except one, required by the City of Fayetteville, as detailed at the Technical Plat Review held May 31, 2000. The purpose of the letter is to request a waiver from the strict requirements of the Master Street Plan by virtue of this lot split request.

Objective of the Proposed Lot Split:

This lot split application is submitted so that two long time Fayetteville families may purchase the north 39.69 acre tract and further divide it one time to provide two large (15-25 acre) homesites for their personal family residences. The result of this application and the additional split will create a total of three lots, those being 30 acres and (approximately) 25 acres and 15 acres. Any further subdivision would require the approval of the City of Fayetteville.

Pursuant to the aforementioned Technical Plat Review, please find attached a plat showing the revisions requested, with the exception of the aforementioned street dedication. It is decision of the property owners that this street dedication is unfair, is possibly unconstitutional, presents an undue hardship on the owners and future owners of the property, and maybe most importantly, is unnecessary. The rationale is as follows:

Is the required street dedication unfair?

The owners of this property are the daughters of Mr. Howard Nickle, who is now deceased. Mr. Nickle purchased the property in 1948 and raised his family and lived out his life there. The master street plan was adopted in 1995, with absolutely no direct notice to the owners, two of

Branch Offices

FAYETTEVILLE	SPRINGDALE	ROGERS	SILAM SPRINGS	BELLA VISTA
N. COLLEGE AVE. FAYETTEVILLE, AR 72703 (501) 521-0220 TOLL FREE (800) 293-0220 (501) 444-7546	1127 S. GUTENSOHN, SUITE 101 SPRINGDALE, AR 72764 BUS. (501) 751-3030 TOLL FREE (800) 668-3939 FAX (501) 751-3176	2010 W. WALNUT ROGERS, AR 72756 BUS. (501) 636-6100 TOLL FREE (800) 656-7253 FAX (501) 636-3193	801 HWY 412 W. SILAM SPRINGS, AR 72761 BUS. (501) 524-9353 TOLL FREE (877) 524-9353 FAX (501) 524-9350	2770 BELLA VISTA WAY BELLA VISTA, AR 72714 BUS. (501) 855-6123 TOLL FREE (800) 877-6123 FAX (501) 855-7427

Each Office Is Independently Owned And Operated.

whom now live out of state. Although I am sure there were news stories and possibly legal notices published in the local newspapers, those stories are meaningless to those persons who live outside the City and, historically, have no need to wonder how city streets and master street plans affect them. After all, they live in the County and do not benefit from such city services as police and fire protection and access to sewer service. To have a street cut through the very "heart" of a beautiful tract of land, with absolutely no input from the property owners and no compensation, is unconscionable.

Could the required street dedication be unconstitutional?

Mr. Don Kendall, an attorney and long-time friend of the property owners, in his letter dated May 10, 2000, to Mr. Jerry Rose, Fayetteville City Attorney, cites three cases and suggests that the City's taking of these lands without compensation is a possible violation of the Fifth Amendment of the United States Constitution. Mr. Rose, in his response dated May 15, 2000, cites state statutes in support of the City's right to demand this type of taking, but states "I would agree with you that none of the above would allow a regulatory taking as prohibited by the U.S. and Arkansas Constitutions," and further states, "I am not unsympathetic to your arguments and I will be pleased to discuss the legal risks with the Planning Commission and/or City Council should you decide to seek to persuade either group that an undue hardship exists in requiring the extensive right-of-way requirements on a simple lot-split".

Does the required street dedication present an Undue Hardship on the property owners?

The right-of-way required east to west through the property and south down the west side constitutes a total of 4.27 acres. That north line of the right-of-way runs through the middle of the existing house, making any renovation or modernization unfeasible. Using the contract value of \$9,250 per acre for the land and \$25.00 per square foot for the house yields a value loss of \$83,020 by virtue of this taking; and the "taking" is all based on a somewhat arbitrary line drawn on a map by an engineer, again with absolutely no formal notice to the property owner.

In addition, the utility companies require that easements for same have to be outside any right-of-way of streets and roads, resulting in an additional 20' on each side of the proposed street. This adds another 2.72 acres of land that cannot be used for building and a 150' "swath" through the property, east to west, and 75' north to south.

Is the required street dedication necessary?

The result of this lot split request, with the additional split on the north 39.69 acres, in and of itself, will result in virtually no additional vehicle traffic. The property remains rural in nature, and therefore, no rational basis exists (I believe the term is nexus) for the requirement of a 110' wide major arterial to be dedicated, based solely on the additional traffic created by this lot split

request. Even if this property were to be developed to its maximum residential density, there is still no basis for a four lane thoroughfare to be constructed.

This property lies at the extreme northwest corner of the City's Planning Growth Area. In fact, where the proposed extension west of Howard Nickle Road ends is at the absolute end of that *Growth Area*. To the northwest lies the Clear Creek drainage area, with some fairly steep slopes down to the creek valley. It is highly unlikely that any growth patterns would result in heavy traffic going all the way to this particular intersection and beyond to the north and west, even if the streets were built, because it is not a logical traffic pattern for ANY through traffic.

Lastly, there is currently an existing, improved road/street that extends from the current end of Howard Nickle Road south to Mt. Comfort Road, that being Salem Road. Because of this, there is no need to extend Howard Nickle Road another 1/4 mile to the west, then turn south for an additional road extension, and extend on south with virtually no currently existing roads to Mt. Comfort Road, when the aforementioned Salem Road currently exists and is in place.

This part of the master street plan contemplates approximately 8,700 feet (1.65 miles) of NEW road to be constructed versus using an already improved road that is in place for this entire distance.

Waiver Request:

The petitioner hereby requests that this lot split request be approved with a 50' street dedication. Essentially, this is sufficient for any normal residential use, even if some of the property is fully developed (later) as a residential subdivision. In exchange for this lesser dedication, the owners are willing to execute a covenant running with the land stating that "no structures will be constructed in the balance of the proposed right-of-way." This arrangement would allow the property owners to have partial use and enjoyment of the lands until such time, if ever, as it needs to be acquired by the City to accommodate future traffic patterns. Please understand that this request is not to change the Master Street Plan, but merely to accept a lesser dedication than the 110' necessary for a principal arterial.

Other Information:

This compromise has a precedent with a similar format. In August, 1997, at the northeast edge of the City's defined growth area, a 90' arterial, running right through the middle of a 60 acre tract was on the master street plan, and a lot split was being requested. Through an agreement with the City Council, evidenced by a document prepared by Mr. Jerry Rose, City Attorney, a deed with a restriction "not to construct" was prepared and executed. The one difference is that this waiver had NO dedication of lands at that time, whereas this current request merely asks for a lesser dedication.

There are two recent precedents of street dedication in the vicinity of this property.

1. One is a 2 ½ acre lot immediately east of the subject property. The lot split request that was granted was for 2 parcels, on which two single family homes have been constructed. The City did require a dedication of 55' off of the north side of this tract; however, the density created by these two tracts was much greater than the subject.
2. The other was for the Woodland Subdivision located on Howard Nickle Road, approximately ½ mile east of the subject property. This property was subdivided into 10 parcels of 4 to 10 acres each. Since the land already had frontage on a (60' right-of-way, paved) Howard Nickle Road, only 25' additional feet was required of this property. This did not have a significant impact on the usability of this land, and this subdivision had three times as many lots (and potential traffic) than the subject property.

Attached to this request are 37 copies of the following documents:

1. Revised survey showing all of the changes required, including a 50' street dedication.
2. Plat of survey showing the results of a full 110' dedication.
3. Map showing parts of the Master Street Plan and the Growth Area affecting this property.
4. Copy of the deed with restrictions from the 1997 grant of waiver that was referenced earlier in this letter.
5. Aerial photograph of the property.

Respectfully submitted,



George Faucette, Representative of the Property Owners
encl

cc: Mr. Don Kendall, Attorney

Madames Jo Ann Gladden, Judy Barker, Sandra Burton, Property Owners

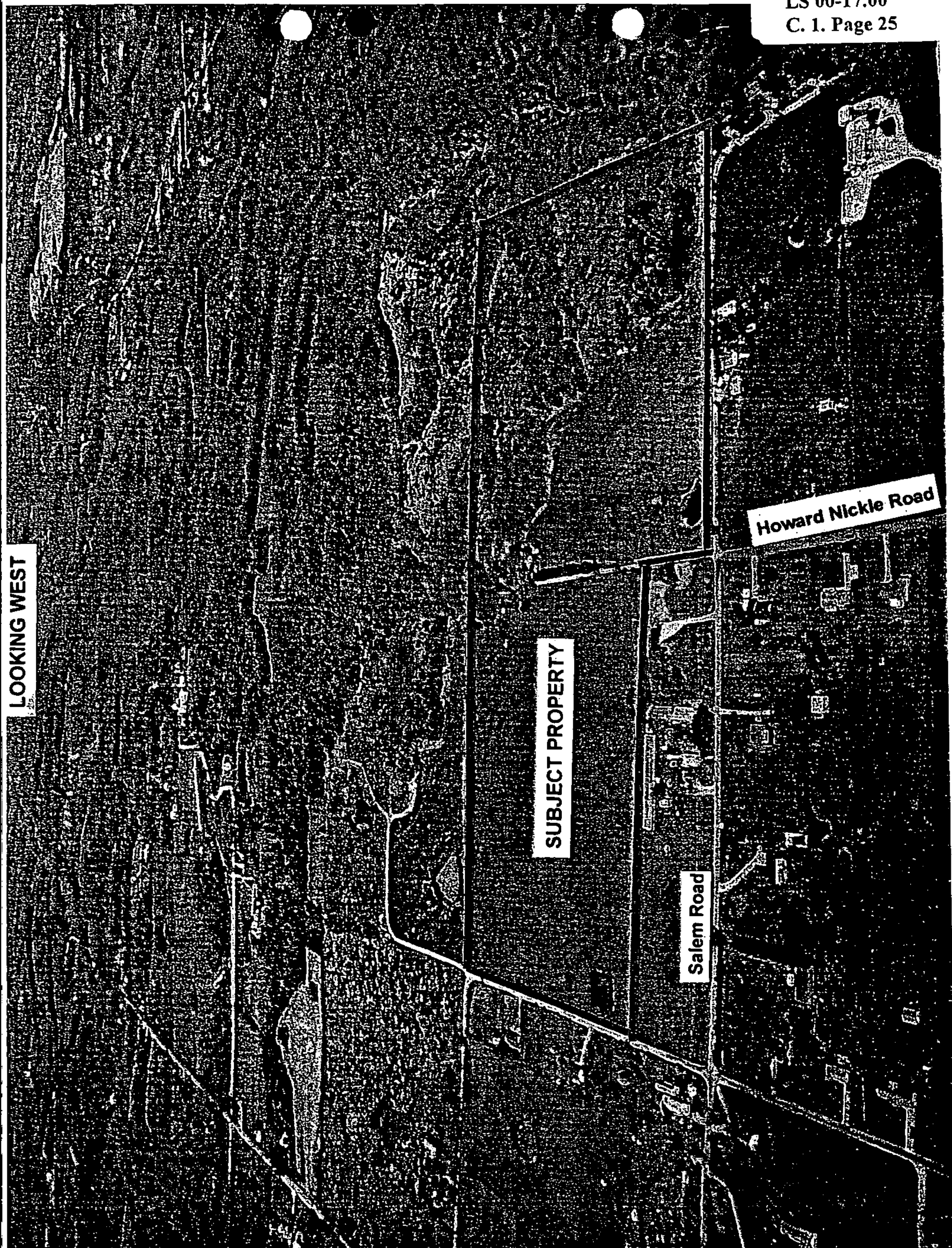
Mr. and Mrs. Scott Bailey & Mr. and Mrs. Tom Coker, Prospective Purchasers

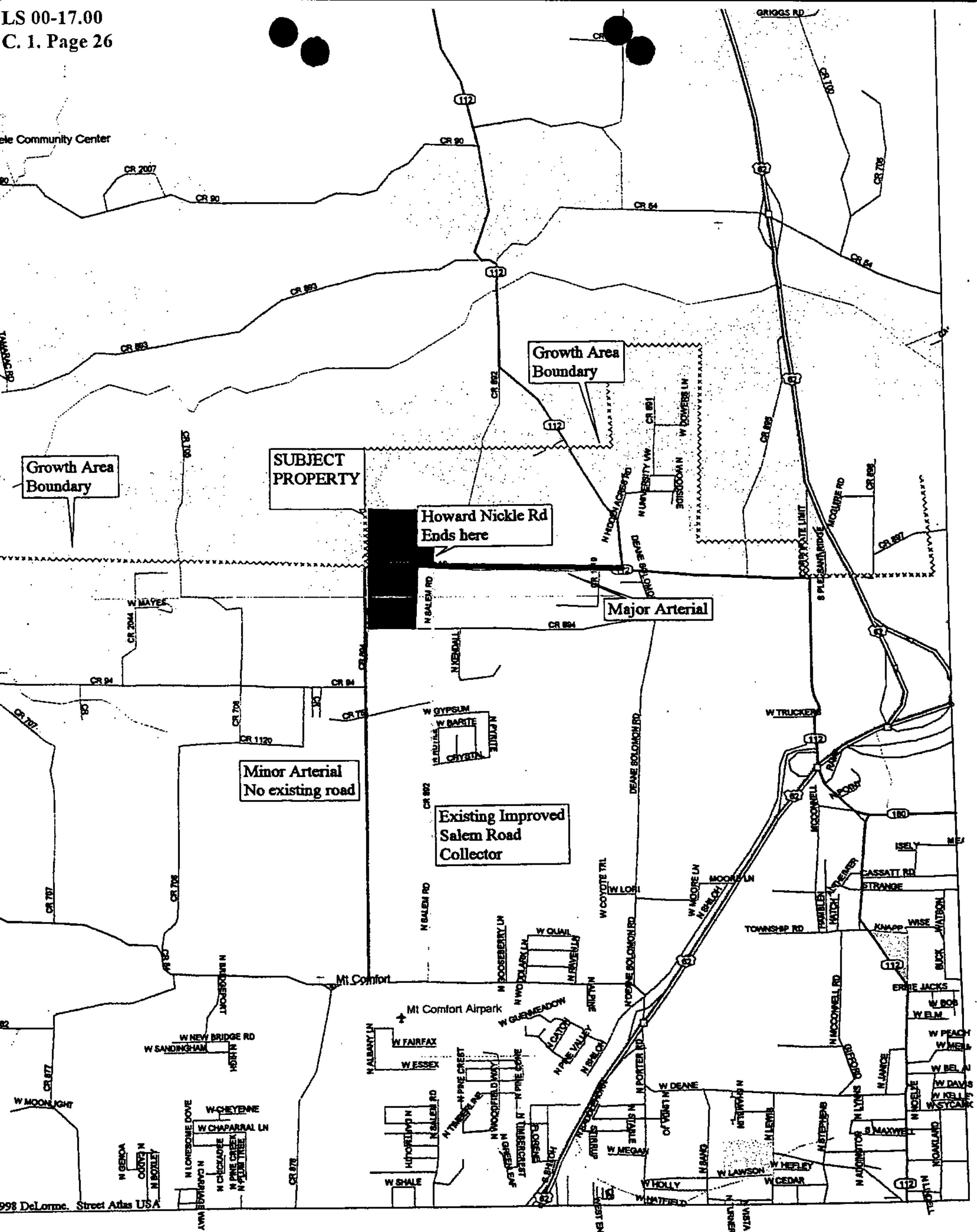
LOOKING WEST

SUBJECT PROPERTY

Salem Road

Howard Nickle Road





DIRECT ENGINEERS
Division of Carlson, Inc., & Assoc., Inc.
R. SYCAMORE STREET
ETHELWELL, AR 72703

JOY BARBER &
JOANN GLADDON, ETAL
J6717

MILLIE F. G.
MARGARET HUTCHINSON
16720

WOLFE V. McCLAR
312-0142-000

STEVEN L. A.
SARAH K. ROBERSON
01442-001

**P.O.B.
TRACT 1**

**PLANNING
COMMISSION**

6/11/95

LEGEND

_____	BUILDING
_____	SETBACK LINE
_____	EASEMENT LINE
_____	PROPERTY LINE
_____	PROPOSED RIGHT-OF-WAY LINE
_____	EXISTING RIGHT-OF-WAY LINE
_____	EXISTING FENCE
_____	EXISTING OVERHEAD ELECTRIC
_____	EXISTING POWER POLE
_____	FOUND DECK PIN
_____	SET IRON PIN
_____	FOUND RAILROAD SPIKE

LOCAL DESCRIPTION OF THE EASED
A part of the E 1/2 of the E 1/2 of the NW 1/4 of the SW 1/4 of Section 24, T-17-N, R-30-E, Washington County, Arkansas, being more particularly described as follows, beginning at a point that is in 0728' W 1024.0 feet from an existing railroad spike at the SE corner of said 10 acre tract, thence S 68° 17' 15" W 100.01 feet to an existing railroad spike, thence S 67° 28' 11" W 224.02 feet, thence N 88° 17' E 100.15 feet to the Point of Beginning, containing 2.0 acres, more or less, and being said part to be hereinafter and right at-ways at record and not at record.

NOTE. This property is not within a Designated Flood Area as shown on FEMA Flood Map #051430000C for Washington County, Arkansas, dated September 18, 1991.

SALEM ROAD
(COLLECTOR)

PROPOSED PRINCIPAL ARTERIAL

FORWARD MODEL ROAD

SALEM ROAD

SITE

06/Oct/98				PER COMMENTS	
DATE				REVISIDG	
PLAT PAGE 208					
				LOT SPLIT	

FOR
MIKE SUMRALL
WASHINGTON COUNTY, ARKANSAS

LS 98-20: Supersat

STAFF REVIEW FORM

Fire Station
C. 2. Page 1

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 18, 2000

FROM:

Ed Connell EC Engineering Public Works
Name Division Department

ACTION REQUIRED: Approval of the sale of the Old Harold Street Fire Station; to Howell Trumbo for assigns for \$115,850.00 with authorization for Mayor and City Clerk to enter into appropriate documentation. Second bid for \$132,750 from Saturn Land LLC was rejected because such bid was contingent upon rezoning to commercial use: see Council meeting of May 2,2000 for rejection.

COST TO CITY:

\$(-) 115,850 Revenue \$ 240,000 Gains/Losses on Sale of Assets
Cost of this Request Category/Project Budget Category/Project Name

1010-0001-4881-02 \$ 74,952
Account Number Funds Used To Date Program Name

NA \$ 165,048 General Fund
Project Number Remaining Balance Fund

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached

Steph Davis Administrative Services Director
Budget Coordinator

CONTRACT/GRANT/LEASE REVIEW:

Marilyn J. Gramer 6-30-00
Accounting Manager Date
[Signature] 6-30-00
City Attorney Date
[Signature] 6-30-00
Purchasing Officer Date

GRANTING AGENCY:

[Signature] 6-30-00
Internal Auditor Date
ADA Coordinator Date

STAFF RECOMMENDATION: Staff recommends approval of sale to Howell Trumbo and assigns for the amount of \$115,850.00.

[Signature] June 30, 2000
Division Head Date

[Signature] 6-30-00
Department Director Date

[Signature] 7/30/00
Administrative Services Director Date

Mayor Date

Cross Reference

New Item: Yes ☒ No ☐

Prev Ord/Res #: _____

Orig Contract Date: _____

STAFF REVIEW FORM

Description Sale of Old Harold St. Fire Station

Meeting Date July 18, 2000

Comments:

Budget Coordinator

Reference Comments:

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

DEPARTMENTAL CORRESPONDENCE

DATE: June 29, 2000

TO: Fayetteville City Council

THRU: Fred Hanna, Mayor
Charles Venable, Director of Public Works *CV*
John Maguire, Director of Administrative Services *JM*

FROM: Ed Connell, Land Agent *EC*

RE: Sale of Old Harold Street Fire Station

Earlier this year, the city constructed a new fire station on Plainview Avenue (just south of Millsap and west of College Ave.) and transferred the equipment from Station No. 4, located east of College Ave. on Harold Street. It was a decision of the administration to sell this property since there was not a need to use it for other city services.

The property, located on the northwest corner of Lee Ave. and Harold St, consists of Lot Nos. 6 & 7 of Maple Crest Addition to the City of Fayetteville. These two lots are platted as 75 feet by 150 feet, giving a total area of 150' x 150' or 22,500 sq. ft., more or less. The city originally purchased Lot No. 5, along with 6 & 7, but later sold Lot 5 to Wheeler Motors. These lots were part of a R-1 zoned subdivision.

The structure on this property is approximately 2,254 square foot masonry (concrete block), built in the mid-1960's. The Planning Commission elected to rezone this property R-0 after the administration requested a C-1 rezoning. At the meeting of May 2, 2000, the Council rejected the appeal of the administration and upheld the R-0 zoning of the Planning Commission. An independent appraisal of the property, based upon the highest and best for R-0 zoning, indicated a market value of \$110,000. Attached, please find appraisal summary information.

The sale of the property was advertised and sealed bids were received by the city on Monday, June 26th, 2000. Of the numerous inquiries (10+) which were made prior to the advertising, only the attached two sealed bids were received. To the best of our knowledge, all previous inquiries were delivered (by mail) specific packages relating to the sealed bids on this property.

BIDDERS:

1. Saturn of Northwest Arkansas; (Saturn Land LLC)
\$132,750.00*

* Contingent upon rezoning for commercial use and EPA review.
Commercial use had been rejected by the City of Fayetteville

2. Howell Trumbo (Real Estate Broker) and assigns;

\$ 115,850.00

No contingencies

Since the Council had already ruled not to rezone this property for commercial use, the bid of Mr. Howell Trumbo for his clients should be accepted by the Council. Attached herewith is the proposed *Offer and Acceptance* contract with Mr. Trumbo. You are herewith asked to approve this sale and authorized the Mayor and City Clerk to enter into appropriate documents for the conveyance of such property. We understand that the clients of Mr. Trumbo intend to locate a restaurant on this property under a conditional use permit in a R-0 zone.

The City will return the \$5,000 earnest money from Saturn Land LLC since their contingency cannot be met. We urge your passage of this ordinance at this sitting so that we can abide with the schedule as outlined in the *Offer and Acceptance* Contract. The proceeds from this sale will be subject to closing costs and fees. The balance will be directed the General Fund under the Gain/Loss of Assets.

BID: 00-51
DATE: 06/26/00
TIME: 2:00 PM
CITY OF FAYETTEVILLE

DESCRIPTION: SALE OF OLD FIRE STATION #4

BIDDER	ITEM #1
--------	---------

SATURN OF NWA
\$132,750.00
Contingency: Rezoning Commercial & EPA Review

TRUMBO & CO
\$115,950.00

Certified by *J. Vice*
P Vice Purch Mgr

R. Williams
Witness
Date 6/26/00



CITY OF FAYETTEVILLE
113 WEST MOUNTAIN STREET
FAYETTEVILLE, AR 72701

DATE: 6/28/2000

RECEIPT NO.: 154434

RECEIPT DESCRIPTION		AMOUNT
Misc Recpt Trumbo-Earnest \$-Fire Sta	Trumbo, Howell	\$ 5,000.00
1010-157400 Thank You!		
RECEIVED FROM	TOTAL	
Trumbo-Earnest \$-Fire Sta	AMOUNT	\$ 5,000.00

ACCTG

RECEIVED BY: _____

ORIGINAL

Old Fire Station #4
Inquiries

1. Earl Holly
Saturn Dealership
3244 N. College Ave.
Fayetteville, AR 72703
2. Richard Bundrick
P. O. Box 329
Tontitown, AR 72740
3. Cartina England *PO Box 1384, Springdale, AR 72765*
501-601-6289
4. Erick Kisor
Auto Magic Car Wash
3274 N. College Ave.
Fayetteville, AR 72703
5. Martha McBride, Realtor
Dykes, Bassett Mix & Associates, Inc.
3263 N. College Ave.
Fayetteville, AR 72703
6. Ethan Yarbrough
2566 "B" Casey St.
Springdale, AR 72764
7. Janet Gallman
P.O. Box 4248
Fayetteville, AR 72702
8. Mike Blais
4353 W. Trillium Ln.
Fayetteville, AR 72704
9. Don Johnston
PO Box 522
Fayetteville, AR 72702-0522
10. Todd Golden
2602 Rosewood
Fayetteville AR 72703

*Y/ed Trumble
(927) 6/22/00*

REAL ESTATE
CONSULTANTS

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

ORS • APPRAISERS • CONSULTANTS •

Phone (501) 442-0762

May 17, 2000

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

RE: Appraisal Services - Update - Fire Station #4
Harold St.
Fayetteville, AR 72703

Dear Mr. Connell:

In compliance with your request, and for the purpose of updating 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. This property was originally appraised by the appraiser as of February 9, 2000. I, Mark E. Risk, reinspected the exterior of the property on May 16, 2000. This letter is an update of the original appraisal whose intended use is to assist the above named client in evaluating the subject property for sale purposes. The original appraisal was based upon the premise that the subject property could be rezoned to a commercial use. Since the time of the original appraisal the subject property has been rezoned to a Residential-Office (R-O) use. This update reflects the new zoning classification.

To the appraiser's knowledge there have been no recent listings, options, or sales agreements involving the subject property, nor have there been any arm's length transactions involving the subject property within the past three years.

This updated appraisal is based upon information gathered by the appraiser from the subject owner, public records, and other reliable sources, and upon an inspection of the subject property and neighborhood. In developing the appraisal approaches used, data was collected from the Real Estate Consultants' office files and courthouse records. The appraiser has applied the Market Data and Cost Approaches to this updated appraisal.

Page 2.

The attached page entitled "Summary of Salient Facts and Conclusions" states the significant data gathered in my investigation and the conclusions rendered. This report is considered a *complete restricted appraisal report*.

This report has been prepared for the exclusive benefit of The City of Fayetteville. This report can only be relied upon by the client and a reader familiar with the original report. This report can not be properly understood without additional information in the original report and the appraiser's workfile.

It is the appraiser's opinion that market conditions have not significantly changed since the date of the original appraisal.

Based upon my inspection of the subject property and the investigation and analysis carried out in this report, it is my considered opinion that the Market Value of the subject property as of *May 16, 2000* and subject to final completion of all improvements and subject to the assumptions and limiting conditions set forth in the body of the original report, is as follows:

ONE HUNDRED TEN THOUSAND DOLLARS

(\$ 110,000)

The term "Market Value" is defined as follows:

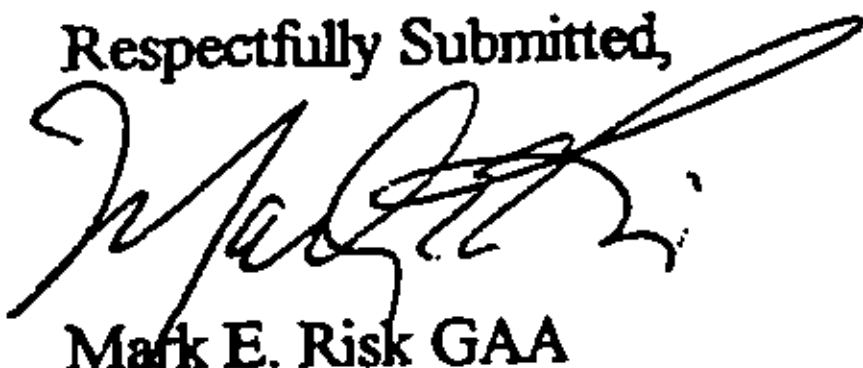
"The most probable price, as of a specific date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified rights should sell after a reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self interest, and assuming neither is under undue duress."

Page 3.

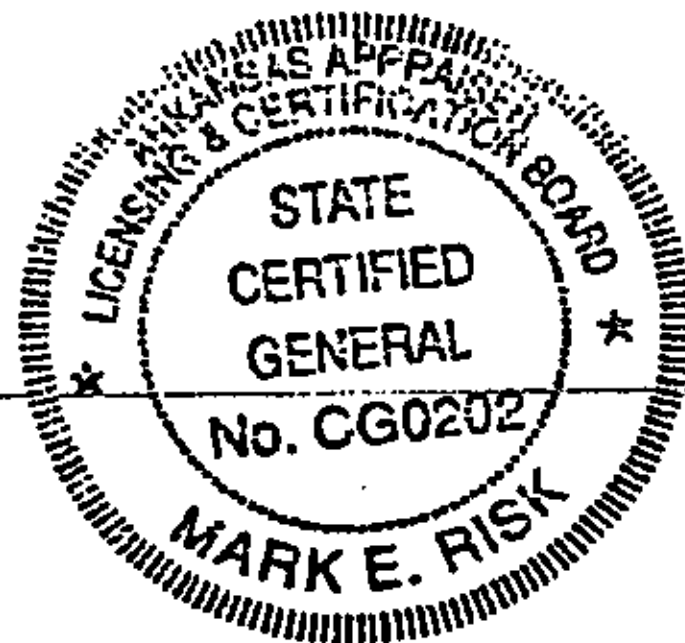
The undersigned hereby certifies that, except as specifically noted,

1. I have no present or contemplated future interest in the real estate or personal interest with respect to the subject matter or parties involved in this appraisal letter, and my employment in this matter is not in any manner contingent upon anything other than the delivery of this report. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment. And, this appraisal assignment was not based on contingent upon developing or reporting predetermined results, such as a requested minimum valuation, a specific valuation, or the approval of a loan.
2. To the best of my knowledge and belief, the statements of fact contained in this appraisal letter, upon which the analysis, opinions, and conclusions expressed herein are based, are true and correct.
3. This letter appraisal and the original appraisal report sets forth all of the limiting conditions imposed by the terms of my assignment or by the undersigned that affect the analysis, opinions, and conclusions contained in this report. Said analysis, opinions and conclusions are my personal, unbiased professional analyses, opinions and conclusions.
4. My analyses, opinions, and conclusions, were developed and this report has been prepared in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. My compensation for completing this assignment is not contingent upon the development or reporting of predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal
5. I alone have prepared the analyses, opinions, and conclusions concerning the subject real estate that are set forth in this appraisal letter. I have made a personal inspection of the property that is the subject of this report.

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 reinspection, which was May 16, 2000. The opinions set forth in this report are stated as of May 17, 2000.

Zoning: Residential Office (R-O)

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: Conversion to Office/Studio

Flood Data: Zone X, FEMA Map #05143C0103 D

Value Indications:

Market Data Approach	\$112,000
Cost Approach	\$105,000
Income Approach	NA

Final Estimate of Market Value **\$110,000**

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 preparer's written permission, does so at their own risk. This report is considered a *complete restricted appraisal*.

INVITATION TO BID

ID # 00-51	DATE ISSUED: June 12, 2000	DATE AND TIME OF OPENING: June 26, 2000, at 2:00 p.m.	
BUYER: City of Fayetteville, AR		DATE REQUIRED: As scheduled by Project Manager	
O. B. Fayetteville, AR		BUYER'S PHONE # (501) 575-8289	GUARANTEED DELIVERY DATE:
ITEM #	DESCRIPTION	QUANTITY	TOTAL
1	SALE OF: Old Fire Station #4 Lots 6 & 7 of Maple Crest Addition to City of Fayetteville, zoned R-O, with improvements as is. Located at corner of Harold St. & Lee Ave., containing 0.52 acre in total with a 2,245 sq ft. building (former 2-bay fire station). Minimum acceptable bid amount of \$110,000.	1	<u>\$115,850.00</u>

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated.

UN SIGNED BIDS WILL BE REJECTED	NAME OF FIRM: Howell Trumbo and/or assigns	PHONE: 521-6800	FEDERAL ID#/SSN# 430-64-6749
	BUSINESS ADDRESS: 3024 Market Ave.	CITY AND STATE: Fayetteville, AR	ZIP: 72703
	AUTHORIZED SIGNATURE: 	TITLE: Proposed buyer	DATE: 6-23-2000

OFFER AND ACCEPTANCE CONTRACT

1. That Howell Trumbo and/or assigns, hereinafter referred to as the Buyer, offers to buy, subject to the terms and conditions set forth herein, the following described property:

Property Description: Lot No. 6 and Lot No. 7 of Maple Crest Addition to the city of Fayetteville, Arkansas, as per final plat on file in the Office of the Circuit Clerk, Washington County, Arkansas, being subject to rights of way and easements of record.

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash of \$115,850.00.
3. **Contingent Earnest Money Deposit:** The Buyer herewith tenders a check for \$ 5,000 to the City of Fayetteville, Arkansas, a municipal corporation, hereinafter referred to as Seller, as earnest money, which shall apply on the purchase price. The acceptance of this offer to purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and if they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract.
4. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
5. The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. Buyer and Seller shall equally share in the cost of such title insurance policy.
6. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
7. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. Seller acknowledges that Buyer offers to purchase the property described in this Contract as outlined in Seller's proposal and Bid Proposal 00-51 Incorporated herein and made a part hereof.

OFFER AND ACCEPTANCE CONTRACT

9. The closing date is designated to be within 30 days days after acceptance by the Fayetteville City Council. The location and time of the closing shall be agreed to by Seller and Buyer. The closing fee for this transaction shall be equally shared by Buyer and Seller.
10. Possession of the property shall be delivered to the Buyer on the date of closing.
11. Seller hereby grants permission for the Buyer or it's employees or designates to enter the above described and improvements for the purpose of inspection and/or surveying.
12. All fixtures, improvements and attached equipment are included in the purchase price.
13. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
14. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance contract, Buyer and Seller shall share equally in the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at Buyer's discretion, if it is determined prior to this closing, Buyer may cure such environmental hazard and Seller shall indemnify Buyer for all costs associated with said cure.
15. This contract expires, if not accepted by Fayetteville City Administration, on or before the 10th day of July, 2000. It is understood that final acceptance of this contract is contingent upon the approval of the Fayetteville City Council, such approval to occur subsequent to the above date.
16. **NOTICE: BUYER ASSERTS AND SELLER ACKNOWLEDGES THAT THE ACCEPTANCE OF THIS OFFER IS EXPRESSLY CONTINGENT UPON THE FAYETTEVILLE CITY COUNCIL'S APPROVAL OF THIS OFFER TO PURCHASE AND THAT THE FAILURE OF THE FAYETTEVILLE CITY COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO BUYER OF THE \$ 5,000 EARNEST MONEY DEPOSIT.**

Buyer



Buyer

City of Fayetteville, Arkansas
a municipal corporation

Fred Hanna, Mayor

Heather Woodruff, City Clerk

OFFER AND ACCEPTANCE CONTRACT

ACKNOWLEDGEMENT

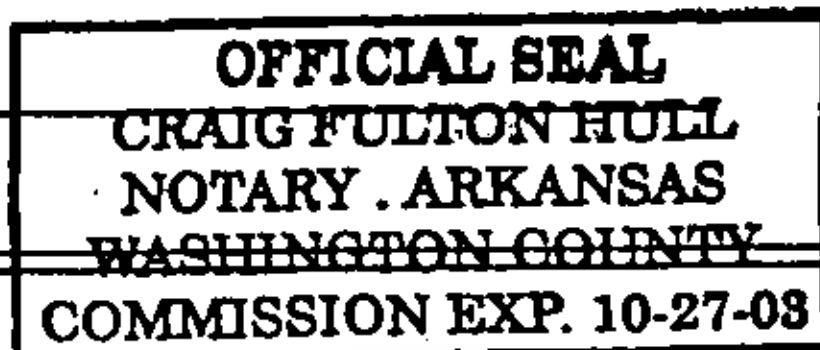
STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Howell Trumbo, to me known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are Howell Trumbo of Fayetteville, AR and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said Howell Trumbo, and further stated and acknowledged that he/she/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 23rd day of June, 2000.

Craig Fulton Hull
Notary Public

MY COMMISSION EXPIRES:



ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

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

WITNESS my hand and seal on this _____ day of _____, 2000.

Notary Public

MY COMMISSION EXPIRES:

Saturn of Greater Little Rock, Inc.

5105 Warden Road
North Little Rock,
Arkansas 72116
(501) 771-1700

Saturn of Northwest Arkansas, Inc.

3244 North College Avenue
Fayetteville,
Arkansas 72703
(501) 582-9300



ATURN. June 23, 2000

City of Fayetteville
Purchasing Office-Rm 306
113 W Mountain
Fayetteville, AR 72701

Gentlemen:

We, Saturn of Northwest Arkansas/Saturn Land LLC do hereby submit
a bid of 132,750.00 for lots 6 & 7 of Maple Crest Addition subject
to rezoning for commercial use by an automobile dealer and subject
to EPA review.

Sincerely,

Earl Holley Jr.
Saturn of Northwest Arkansas/Saturn Land LLC

INVITATION TO BID

BID # 00-51	DATE ISSUED: June 12, 2000	DATE AND TIME OF OPENING: June 26, 2000, at 2:00 p.m.	
BUYER: City of Fayetteville, AR		DATE REQUIRED: As scheduled by Project Manager	
F. O. B. Fayetteville, AR	BUYER'S PHONE # (501) 575-8289	GUARANTEED DELIVERY DATE:	
ITEM #	DESCRIPTION	QUANTITY	TOTAL
1	SALE OF: Old Fire Station #4 Lots 6 & 7 of Maple Crest Addition to City of Fayetteville, zoned R-O, with improvements as is. Located at corner of Harold St. & Lee Ave., containing 0.52 acre in total with a 2,245 sq ft. building (former 2-bay fire station). Minimum acceptable bid amount of \$110,000.	1	

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agree to furnish these articles at the prices stated.

UN SIGNED BIDS WILL BE REJECTED	NAME OF FIRM: SATURN OF NORTHWEST ARKANSAS	PHONE: 582-9300	FEDERAL ID#/SSN# 71-0764769
	BUSINESS ADDRESS: 3244 N COLLEGE AVE	CITY AND STATE: FAYETTEVILLE, AR	ZIP: 72703
	AUTHORIZED SIGNATURE: 	TITLE: General Manager	DATE: 6-23-00

OFFER AND ACCEPTANCE CONTRACT

1. That SATURN LAND LLC, hereinafter referred to as the Buyer, offers to buy, subject to the terms and conditions set forth herein, the following described property:

Property Description: Lot No. 6 and Lot No. 7 of Maple Crest Addition to the city of Fayetteville, Arkansas, as per final plat on file in the Office of the Circuit Clerk, Washington County, Arkansas, being subject to rights of way and easements of record.

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash of \$ 132,750.00.
3. **Contingent Earnest Money Deposit:** The Buyer herewith tenders a check for \$ 5,000 to the City of Fayetteville, Arkansas, a municipal corporation, hereinafter referred to as Seller, as earnest money, which shall apply on the purchase price. The acceptance of this offer to purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and If they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract.
4. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
5. The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. Buyer and Seller shall equally share in the cost of such title insurance policy.
6. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
7. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. Seller acknowledges that Buyer offers to purchase the property described in this Contract as outlined in Seller's proposal and Bid Proposal 00-51 Incorporated herein and made a part hereof.

9. The closing date is designated to be within 30 days days after acceptance by the Fayetteville City Council. The location and time of the closing shall be agreed to by Seller and Buyer. The closing fee for this transaction shall be equally shared by Buyer and Seller.
10. Possession of the property shall be delivered to the Buyer on the date of closing.
11. Seller hereby grants permission for the Buyer or it's employees or designates to enter the above described and improvements for the purpose of inspection and/or surveying.
12. All fixtures, improvements and attached equipment are included in the purchase price.
13. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
14. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance contract, Buyer and Seller shall share equally in the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at Buyer's discretion, if it is determined prior to this closing, Buyer may cure such environmental hazard and Seller shall indemnify Buyer for all costs associated with said cure.
15. This contract expires, if not accepted by Fayetteville City Administration, on or before the 10th day of July, 2000. It is understood that final acceptance of this contract is contingent upon the approval of the Fayetteville City Council, such approval to occur subsequent to the above date.
16. **NOTICE: BUYER ASSERTS AND SELLER ACKNOWLEDGES THAT THE ACCEPTANCE OF THIS OFFER IS EXPRESSLY CONTINGENT UPON THE FAYETTEVILLE CITY COUNCIL'S APPROVAL OF THIS OFFER TO PURCHASE AND THAT THE FAILURE OF THE FAYETTEVILLE CITY COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO BUYER OF THE \$ 5,000 EARNEST MONEY DEPOSIT.**



Buyer

Buyer

City of Fayetteville, Arkansas
a municipal corporation

Fred Hanna, Mayor

Heather Woodruff, City Clerk

OFFER AND ACCEPTANCE CONTRACT

ACKNOWLEDGEMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) ss
)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared EARL HOLLEY JR., to me known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are of FAYETTEVILLE, AR and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said SATURN OF NORTHWEST ARKANSAS/ SATURN LAND LLC, and further stated and acknowledged that he/she/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 23 day of JUNE, 2000.

Rachel Chandler
Notary Public

MY COMMISSION EXPIRES:

3/17/2010

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

)
) ss.
)

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

WITNESS my hand and seal on this _____ day of _____, 2000.

Notary Public

MY COMMISSION EXPIRES:

NOTICE TO BIDDERS

BID NO. 00-51

SALE OF FORMER FIRE STATION #4
LOCATED AT CORNER OF HAROLD & LEE AVENUE

The City of Fayetteville, Arkansas, will receive sealed bids at the City Administration Office, City Hall, Room 306, 113 West Mountain Street, Fayetteville, Arkansas until June 26th, 2000, at 2:00 p.m. for the sale of Lots 6 & 7 of Maple Crest Addition to City of Fayetteville, zoned R-O, with improvements as is. Located at corner of Harold St & Lee Avenue., containing 0.52 acre in total with a 2,245 sq. ft. building (former 2-bay fire station #4). Minimum acceptable bid amount of \$110,000.

Bid forms may be obtained from the Purchasing Office, located in Room 306, 3rd Floor of the City Administration Building.

The City reserves the right to reject any and all bids, and to waive formalities deemed to be in the City's best interest.

Peggy Vice
Purchasing Manager

Publish June 11th & 18th, 2000

Billing refer to P.O.: 00-2105

Attn: Diane -Legal Section

From: Peggy Vice, 575-8289

Please publish in legal section as indicated above.

Thanks

*Diane - please use this
one instead of the
first one & boxed.
Thanks.
Peggy*

Former Fire Station # 4: Located at corner of Harold St. and Lee Avenue:

Legal Description:

Lot No. 6 and Lot No. 7 of Maple Crest Addition to the City of Fayetteville, as per final plat on file in the Office of the Circuit Clerk, Washington County, Arkansas, being subject to rights of way and easements of record.

Advertising Description:

Lots 6 & 7 of Maple Crest Addition to City of Fayetteville, zoned R-O, with improvements as is. Located at corner of Harold St. & Lee Ave., containing 0.52 acre in total with a 2,245 sq. ft. building (former 2-bay fire station). Minimum acceptable amount of \$110,000.

STAFF REVIEW FORM

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

Connie Edmonston	Parks and Recreation	Public Works
Name	Division	Department

ACTION REQUIRED:

Waiver of Ordinance 3793 to accept money in lieu as the park land requirement of the Cornerstone Apartments Subdivision.

COST TO CITY:

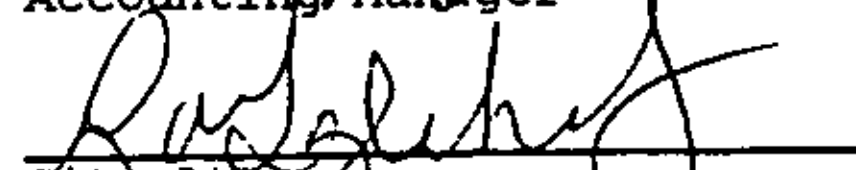
\$n/a	\$	
Cost of this Request	Category/Project Budget	Category/Project Name
	\$	
Account Number	Funds Used To Date	Program Name
	\$	
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

	Administrative Services Director
Budget Manager	

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

	7-12-00		7/12/00
Accounting Manager	Date	Internal Auditor	Date
	7-12-00		
City Attorney	Date	ADA Coordinator	Date
	7-12-00		
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Waiver of Ordinance 3793 and to accept money in lieu as the park land requirement of Cornerstone Apartments

	6-27-00	Cross Reference New Item: ☒ Yes ☐ No Prev Ord/Res #: _____ Orig Contract Date: _____ Orig Contract Number: _____
Division Head	Date	
	7-13-00	
Department Director	Date	
	7-13-00	
Administrative Services Director	Date	
	7/13/00	
Mayor	Date	

STAFF REVIEW FORM

Description Waiver of Ordinance 3793 ,

Meeting Date July 18, 2000

Comments:
Budget Coordinator

Reference Comments:

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Fred Hanna and City Council
THRU: Charles Venable, Public Works Director
FROM: Connie Edmonston, Parks & Recreation Superintendent *C. E.*
DATE: June 30, 2000
SUBJECT: Waiver of the Park Land Dedication Ordinance 3793

Cornerstone Apartments is a proposed subdivision located north of Hank's Discount Furniture which is on Wedington Drive and Futrall Drive. It contains 120 multi-family units on 7.5 acres. The owner of the subdivision is Lindsey Properties and the engineer is Jorgenson and Associates.

The requirement for park land is 2.4 acres and money in lieu is \$45,000. A letter was received from the subdivision owner's requesting consideration of a cash payment in lieu of a land dedication. (See attached letter.) Park staff toured the site and recommended money be accepted as the requirement.

The plat was brought before the Parks and Recreation Advisory Board at their July 12, 2000 meeting. The board recommended to accept money as the park land ordinance requirement for the reasons stated below:

1. The Cornerstone Apartment complex is located within walking distance to Asbell School Park (9.9 acres), Lewis Park Soccer Complex (25.1 acres), and Friendship Park (.04 acres).
2. The apartment complex contains recreational amenities including a swimming pool and basketball court for their residents.
3. The development is located adjacent to Interstate I-540.

In addition, the board strongly recommended for the developer to negotiate with the Sidewalks and Trails Coordinator for an easement access for a future trail along the western boundary of the complex. Because the Cornerstone Apartment complex is over 100 units, Ordinance 3793 regulates the Parks Division to accept a land dedication. The ordinance states:

However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or for further study.

Please review this request to waive the park land dedication requirement and to accept money in lieu as the park land ordinance requirement for Cornerstone Apartments. If you have questions concerning our requests to waive the Park Land Dedication Ordinance and to accept money in lieu, please call me at 444-3473.

Attachments:
PRAB July 10, 2000 Meeting Minutes
Waiver Request Letter
Location Map



JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72702

6-16-00

Att: Connie Edmiston
Re: Cornerstone Apts.

Dear Connie;

As discussed, please place us on the agenda for the Parks meeting on July 10 for the above referenced project. This is for payment of money in leau of land for this project. I have attached 12 copies of the plat for distribution. Also, we would like your assistance in presenting this at the agenda meeting on July 11, which would go to the council on July 18.

Thank you.

Sincerely;


David L Jorgensen, P.E.

**MINUTES OF A SPECIAL MEETING
OF THE
PARKS AND RECREATION ADVISORY BOARD**

JULY 12, 2000

A special meeting of the Fayetteville Parks and Recreation Advisory Board was held July 12, 2000 at 12:00 p.m. at the Parks & Recreation Division, 1455 Happy Hollow Road, Fayetteville, Arkansas.

PRESENT: Parks and Recreation Advisory Board members Ackerman, Colwell, Luttrell, Nickell, and Thiel; City staff Edmonston, Gulley, Nelson, Rogers, Schuldt; Sidewalks & Trails Coordinator, Chuck Rutherford; David Jorgensen, Jorgensen & Associates; Laura Kelly, Mill District LLC.

AGENDA

I. Approval of PRAB June 5, 2000 Meeting Minutes.

MOTION:

Ms. Nickell moved to approve the Parks and Recreation Advisory Board June 5, 2000 meeting minutes.

Mr. Ackerman seconded the motion.

The motion was approved 5-0-0.

II. Park Land Dedication Ordinance

Development Name:	Cornerstone Apartments
Engineer:	Jorgensen & Associates - Tom Henley
Owner:	Lindsey Properties
Location:	Hwy 16 - Wedington & Futrall to 1 st Porter Rd sign off Hwy 540
Park District:	SE
Units:	120 (Multi Units)
Total Acres:	7.5 acres
Land Dedication Requirement:	2.4 acres
Money in Lieu Requirement:	\$45,000
Master Plan Priority:	None
Existing Parks:	Asbell (10), Lewis (5), Friendship (.378)
Owner's Recommendation:	Money in Lieu
Staff Recommendation:	Request a waiver of the Park Land Dedication Ordinance 3793 to accept money in lieu of a land dedication for the following reasons:

PRAB Special Meeting

1. The Cornerstone Apartment complex is located within walking distance to Asbell School Park (9.9 acres), Lewis Park Soccer Complex (25.1 acres), and Friendship Park (.04 acres).
2. The apartment complex contains recreational amenities including a swimming pool and basketball court for their residents.
3. The development is located adjacent to Interstate I-540.

David Jorgensen said existing parks were located within a reasonable distance from this proposed development. The developers are requesting money in lieu of a land dedication. The Trail Committee has requested the possibility of locating a trail along the west boundary of this property. Mr. Jorgensen questioned whether the money in lieu portion could be reduced if a fourteen foot access easement was granted.

Ms. Thiel inquired about the number of existing trees on the property. Mr. Jorgensen said a twenty percent canopy would be maintained and additional trees would be planted.

Mr. Rutherford said a subcommittee of the Sidewalk & Trails Committee is currently comprising a master trail plan to present to the City Council. This corridor along Interstate 540 is included on the trail map.

Ms. Edmonston said the adoption of the master trail plans will make similar situations in the future easier to address. A concern for the Parks & Recreation Division would be future maintenance issues in the event the trail was never constructed.

MOTION:

Ms. Nickell moved to request a waiver of the Park Land Dedication Ordinance and accept money in lieu of a land dedication.

Mr. Colwell seconded the motion.

Mr. Ackerman suggested amending the motion to strongly recommend the developer work with the Trails Committee to negotiate an access easement for future trail development.

Mr. Jorgensen agreed to indicate a fourteen foot access easement on the plat and a legal description for future Sidewalks & Trails trail use.

AMENDED MOTION:

Ms. Nickell moved to request a waiver of the Park Land Dedication Ordinance and accept money in lieu of a land dedication and strongly recommends the developer negotiate an access easement for future trail development with the Trails Committee.

Mr. Luttrell seconded the motion.

Upon roll call, the motion was approved unanimously 5-0-0.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 18, 2000

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve an ordinance for RZ 00-19.00: Rezoning (Sage House, pp 247) as submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and south of west Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential.

COST TO CITY:

\$		
Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used To Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and on June 26, 2000, Planning Commission unanimously voted 7-0-0 to recommend approval and to forward the rezoning to the City Council.

Division Head

6-29-00
Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

Orig Contract Date: _____

Orig Contract Number: _____

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZ 00-19 FOR A PARCEL
CONTAINING APPROXIMATELY 2.715 ACRES LOCATED
WEST OF DEANE SOLOMON ROAD, NORTH OF MOORE
LANE REQUESTED BY THE COMMUNITY DEVELOPMENT
DIVISION 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 A-1, Agricultural District to R-2, Medium Density Residential 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 00-19

A part of the Northwest Quarter (NW ¼) of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said Section 33; thence along the west line of said Section 33, South 02°28'11" West 1072.67 feet, to the Point of Beginning; thence leaving said West line of Section 33, South 87°22'27" East 329.47 feet, to a point on the existing centerline of Deane Solomon Road; thence with said centerline, South 02°29'56" West 395.06 feet, to a PK nail; thence leaving said centerline, North 87°22'27" West 329.27 feet along the proposed north right of way of Crystal Springs Drive, to a set iron pin on the west line of said Section 33; thence along said West line, North 02°28'11" East 395.06 feet, to the Point of Beginning, containing 2.987 acres, more or less. LESS AND EXCEPT thirty (30) feet of equal and uniform width off the East side of the above described property, containing 0.272 acres, more or less, being within the existing west right of way of Deane Solomon Road. Containing a net acreage of 2.715 acres, more or less.

Planning Commission Minutes

June 26, 2000

Page 17

RZ 00-19.00: Rezoning (Sage House, pp 247) was submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and south of west Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential.

Odom: The next item on tonight's agenda is RZ 00-19.00: Rezoning (Sage House, pp 247) submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and south of west Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential. Staff's recommendation is approval of the request for rezoning based upon the findings as a part of their report. Staff, is there anything further?

Conklin: There is nothing further. This is a request for rezoning from I-1, Heavy Commercial/Light Industrial to R-2. The request is to be able to build 15 apartment units on this property. Directly to the north of this, Children's House will be looking at locating on this property also. That is zoned I-1. It's a use by right to have a child care facility, however, I did feel like having this apartment building at this location that it truly was a multi family use and therefore it needed to be rezoned to R-2. That's all I have.

Odom: Thank you. Is there any member of the staff that's going to make a presentation or is that pretty much it?

Conklin: That's pretty much it. I can answer any questions that you have.

PUBLIC COMMENT:

Odom: Let me ask if there is any member of the audience that would like to address us on this rezoning request?

COMMISSION DISCUSSION:

Odom: Seeing none I'll close the floor to public comment and bring it back to the Planning Commission for questions, comments or motions.

MOTION:

Hoffman: Mr. Chair.

Planning Commission Minutes
June 26, 2000
Page 18

Odom: Yes Commissioner. Go ahead.

Hoffman: I'm going to go ahead and move approval of RZ 00-19 for the reasons that this is a down zoning. I believe it will, in the end, not generate as much traffic as possible development in I-1. In addition we had had some concerns that the property might be located in the wetland area. We have been provided with a map by staff that shows the property to be north and outside of that wetland area. In addition when Phase II of the high-tech park is built we will have an additional road to get us out off of Deane Solomon away from Mount Comfort Road in the way of going down Technology to Digital Way and eventually winding your way up to I-540. So for those reasons I'll go ahead and make that motion for approval subject to all staff comments.

Shackelford: I'll second.

Odom: We have a motion by Commissioner Hoffman and a second by Commissioner Shackelford to approve RZ 00-19. Any further discussion?

ROLL CALL:

Upon roll call the motion carries on a vote of 7-0-0.

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: June 26, 2000

RZ 00-19.00: Rezoning (Sage House, pp 247) was submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and south of west Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential.

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: June 26, 2000

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>July 18, 2000</u>	

Comments: _____

BACKGROUND:

This property is owned by the City of Fayetteville, located on the west side of Deane Solomon Rd., north of the Razorback golf course, and is contained within the City's Research and Technology Park. Properties to the north, south and east are all zoned I-1, Heavy Commercial / Light Industrial. Adjoining property to the west is zoned R-1 and has been designated as a future phase of the Crystal Springs subdivision.

The applicant is proposing this rezoning in order to lease this 2.715 acre tract to Sage House. Sage House is a non-profit social service agency which plans to construct a "multi-family residential building of approximately 15 units." This building will serve as a "transitional living facility for low income persons leaving abusive family environments and transitioning to independent living." Additional information is included in the attached memo from Yolanda Fields, Community Development Coordinator.

SURROUNDING LAND USE AND ZONING

North:	Vacant, I-1 (future site of Children's House facility)
South:	Vacant, I-1 (future R&T Park)
East:	Vacant, I-1 (future R&T Park)
West:	Vacant, R-1 (future single family development)

INFRASTRUCTURE:

Access to the 2.715 acre tract is from Deane Solomon Rd. This street is classified as a collector on the Master Street Plan with a connection proposed to the future extension of Trucker's Drive, another collector, to the north. Traffic is currently able to access Highway 112, designated as a principle arterial, to the north and Mt. Comfort Rd., designated as a minor arterial to the south.

Water:	12" line at entrance to Arkansas Research & Technology Park The developer will be responsible for extending necessary services to provide for this project at the time of construction
---------------	---

Sewer:	Not available at this time - sewer availability will have to be reviewed at the time of project proposal
---------------	--

LAND USE PLAN: General Plan 2020 designates this site Mixed Use. Rezoning this property to R-2, Medium Density Residential 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 zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

This proposal is consistent with the General Plan 2020 which designates the area as Mixed Use. The proposed zoning district provides a reasonable buffer between the Arkansas Research & Technology Park and adjacent single family residential areas.

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 and needed 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 current zoning of I-1 permits a very wide range of uses including but not limited to the following: professional office, restaurant, gas station, warehousing, manufacturing. The amount of traffic generated by these uses could vary drastically depending on the size and use of a facility.

Uses permitted by right in the proposed R-2 zoning district are residential in nature and the density is based upon the available land area and parking requirements. These are less intensive, generally less trafficked uses than those which are permitted within the existing zoning district.

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: While the zoning will alter population density, it 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

§161.06 DISTRICT R-2 MEDIUM DENSITY RESIDENTIAL.

A. Purpose. The High Density Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

B. Uses.

1. Uses Permitted.

Unit 1	City-Wide Uses by Right
Unit 8	Single-Family Dwellings
Unit 9	Multifamily Dwellings - Medium Density

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
Unit 11	Mobile Home Park

Unit 25	Professional Offices
---------	----------------------

C. Density.

Families Per Acre	4 to 24
-------------------	---------

D. Bulk and Area Regulations.

1. Lot Width Minimum.

Mobile Home Park	100 Feet
Lot within a Mobile Home Park	50 Feet
One Family	60 Feet
Two Family	60 Feet
Three or More	90 Feet
Professional Offices	100 Feet

2. Lot Area Minimum.

Mobile Home Park	3 Acres
Lot Within a Mobile Home Park	4,200 Sq. Ft.
Row House: Development Individual Lot	10,000 Sq. Ft. 2,500 Sq. Ft.
Single-Family	6,000 Sq. Ft.
Two-Family	7,000 Sq. Ft.
Three or More	9,000 Sq. Ft.
Fraternity or Sorority	2 Acres
Professional Offices	1 Acre

3. Land Area Per Dwelling

Unit.

Mobile Home	3,000 Sq. Ft.
Apartments: Two or More Bedrooms	2,000 Sq. Ft.
One Bedroom	1,700 Sq. Ft.
No Bedroom	1,700 Sq. Ft.
Fraternity or Sorority	1,000 Sq. Ft. per Resident

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	25

Cross Reference: Variances Chapter 156.

F. Height Regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, § 160.033; Code 1965, App. A, Art. 5(III); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81)

DEPARTMENTAL CORRESPONDENCE

To: Dawn Warrick, Associate Planner
From: Yolanda Fields, Community Development Coordinator
Date: June 7, 2000
Re: Sage House rezoning request

The City of Fayetteville Community Development Division is applying to rezone a portion of City-owned property from Industrial-1 to Residential-2, the property legal description, plat location, and property survey are attached.

The purpose of the rezoning is to accommodate a multi-family residential building of approximately 15 units. The City currently owns this property and will lease a portion of the parcel to the non-profit social service agency, Sage House, Inc.. Sage House, Inc. has proposed to build a transitional living facility for low income persons leaving abusive family environments and transitioning to independent living. The proposed facility comprises modest, low cost apartments and includes administrative and activity areas.

The parcel is located at the northwest corner of the proposed Arkansas Research and Technology Park. Surrounding property is mostly undeveloped at this time including the Crystal Springs R-1 subdivision bordering on the west property line. The proposed Sage House project will likely be comparable to multi-family apartment building design styles and will be compatible with future adjacent development. Access is direct from Deane Solomon Rd. Expected traffic is limited to employees and residents of the facility.

Electric service is available at the site. A 12" water main exists at the entrance to the Arkansas Research and Technology Park, approximately 200 ft south of the subject parcel. There is no available sewer service to, or in close proximity to the site at this time.

**Planning Division
Record of Conversation**

Employee: Dawn Warrick Project Ref: RZ 00-19

Date: June 20, 2000 Walk-in: ☐ Telephone: X Plat Page: 247

Name of Client: Mr. Wilson Kimbrough Jr.

Phone Number: _____

Address [site] [client]: 3110 Mt. Comfort Road (Mr. Kimbrough's home)

Nature of Call / Visit: RZ 00-19: Sage House - Traffic concerns

Discussion: _____

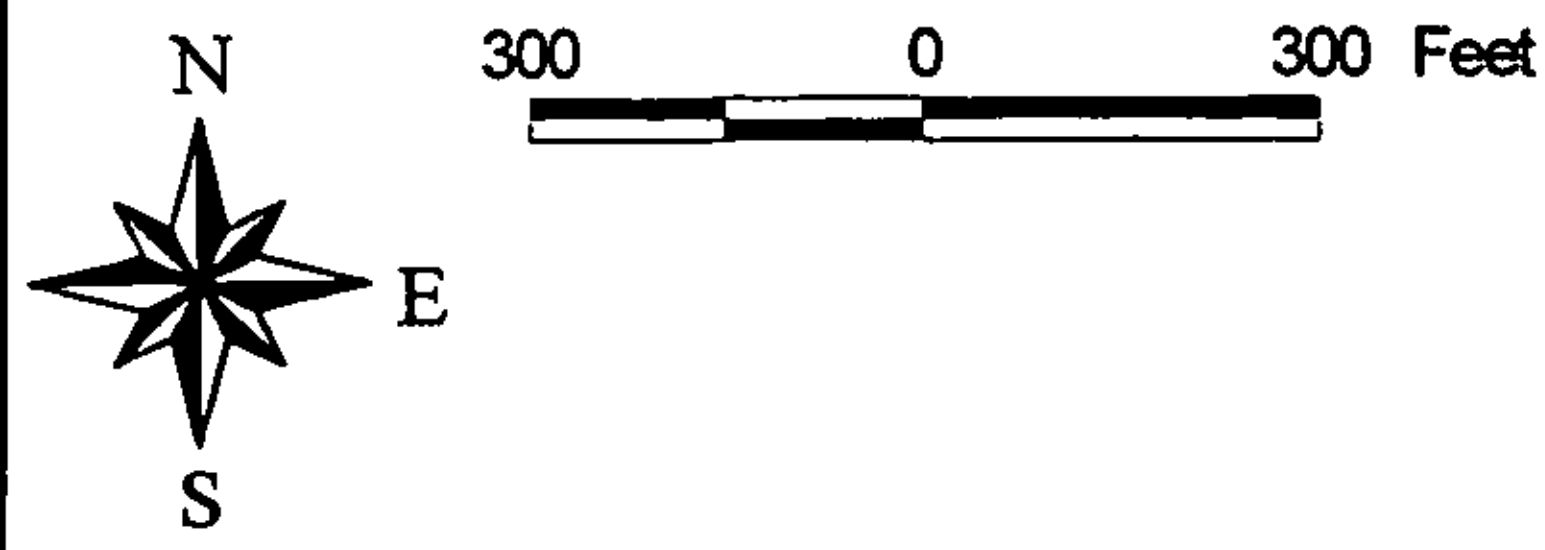
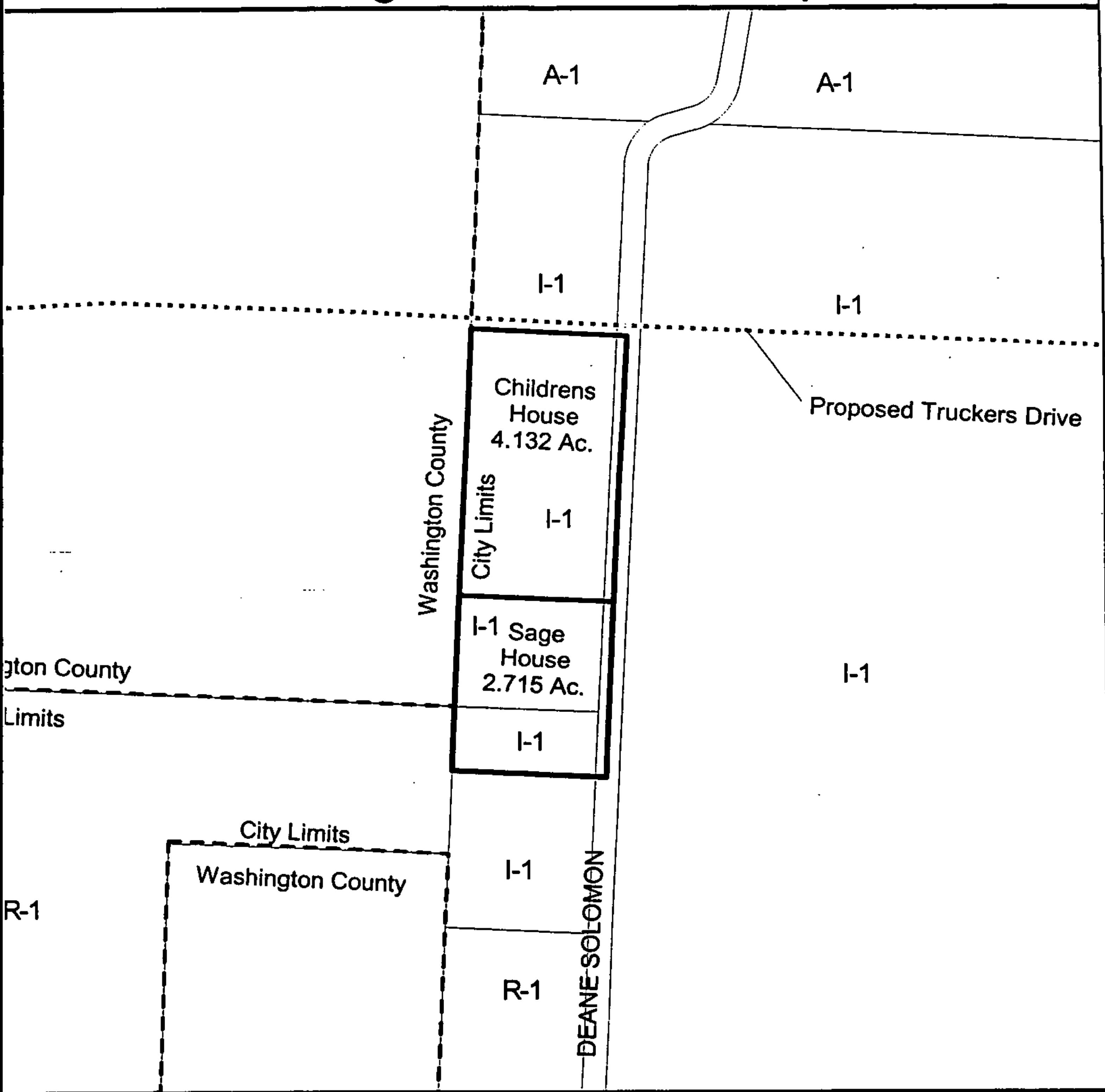
Mr. Kimbrough is very upset with current traffic conditions in the area and with increased traffic which may be generated by this development

"(He has) been a resident since 1956 and was elected from the people in this area for 16 years in County government."

Necessary Follow-up: _____

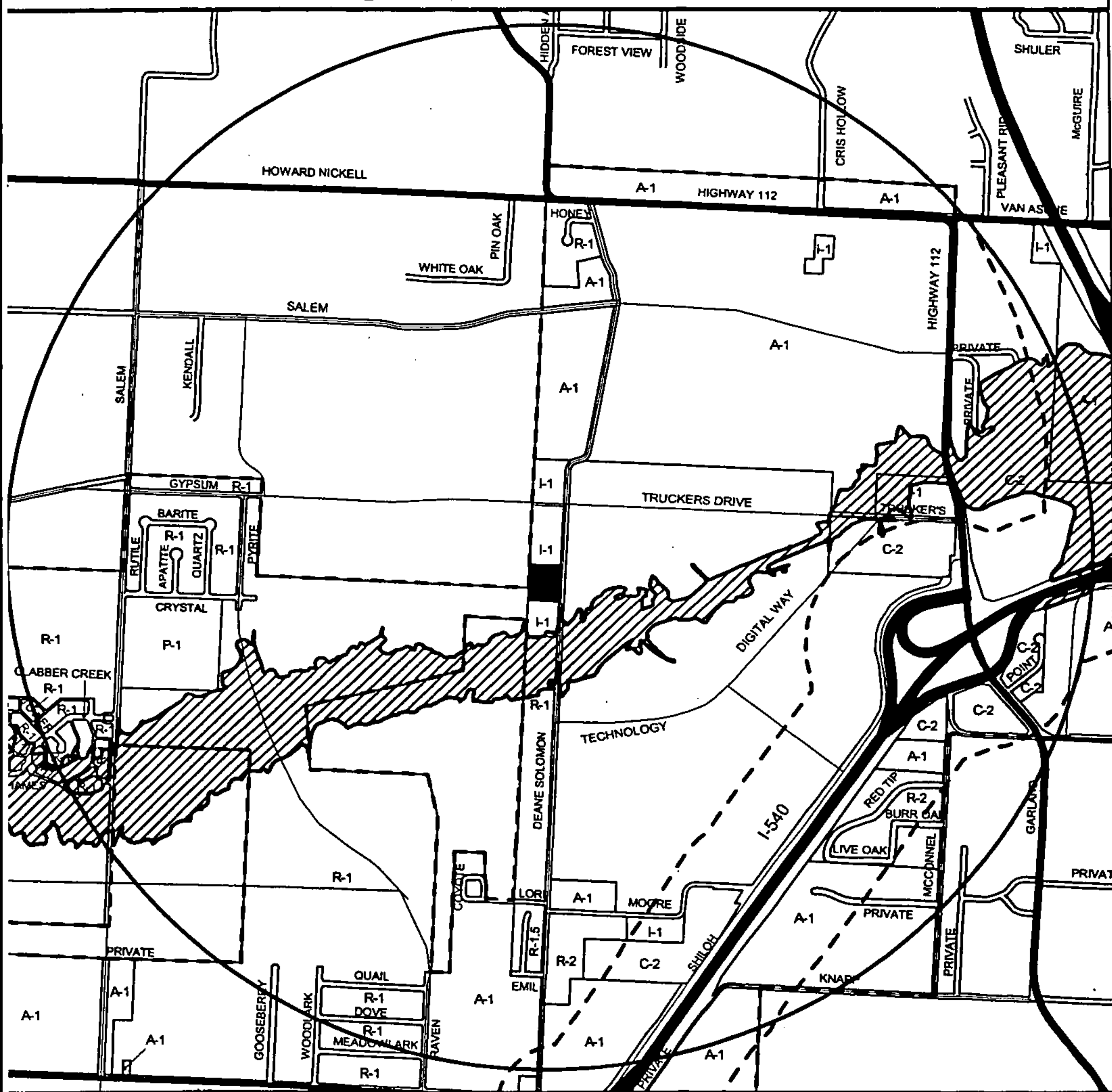
Mr. Kimbrough asked that I include this information in the report that is presented to PC

RZ00-19.00 - Sage House - Close Up

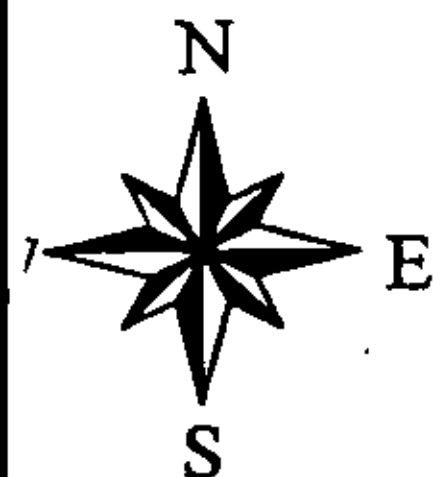




RZ00-19.00 - Sage House - One Mile Diameter

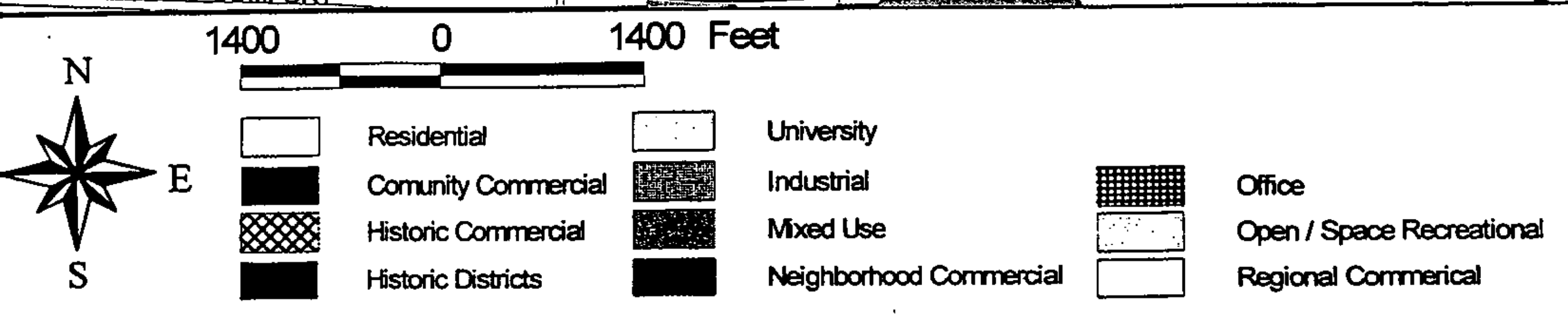
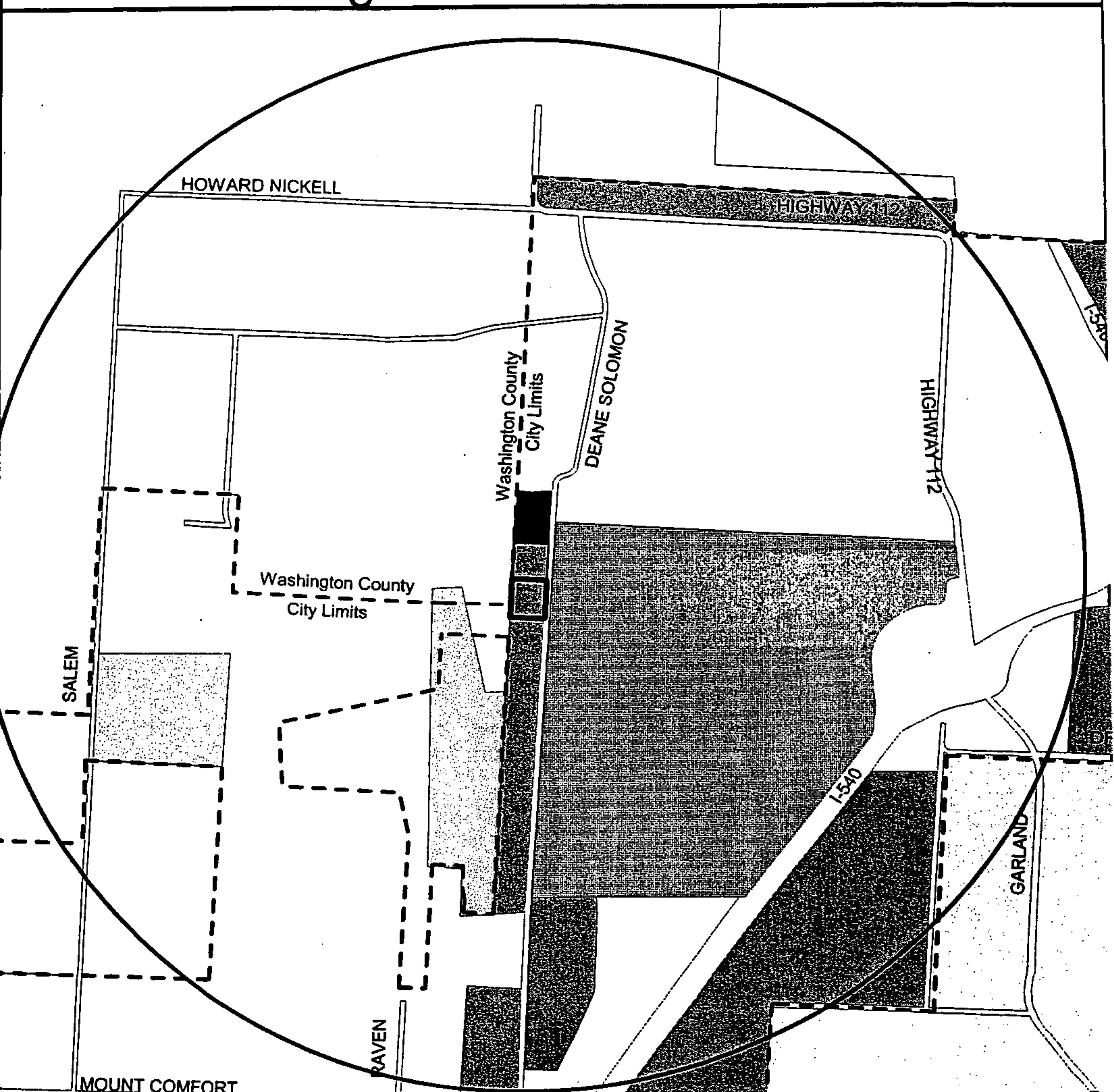


1400 0 1400 Feet



- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- 100 yr Floodplain

RZ00-19.00 - Sage House - 2020 Plan



CHILDREN'S HOUSE
LEGAL DESCRIPTION
LEASE AGREEMENT

A part of the Northwest Quarter (NW¼) of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said Section 33; thence along the west line of said Section 33, South 02° 28' 11" West 472.67 feet, to a set iron pin, said pin also being the Point of Beginning; thence South 87° 04' 43" East 332.64 feet along the proposed south right of way line of Trucker's Drive, to a PK nail on the existing centerline of Deane Solomon Road; thence with said centerline, South 03° 00' 40" West 319.88 feet; thence continuing with said centerline, South 02° 29' 56" West 278.41 feet, to a point; then leaving said centerline, North 87° 22' 27" West 329.47 feet, to a point on the West line along said West line, North 02° 28' 11" East 600.0 feet, containing 4.544 acres, more or less. LESS AND EXCEPT uniform width off the East side of the above described prop more or less, being within the existing west right of way Containing a net acreage of 4.132 acres, more or less.

Legal Check
-Clarice

SAGE HOUSE
LEGAL DESCRIPTION
LEASE AGREEMENT

A part of the Northwest Quarter (NW¼) of Section 33, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said Section 33; thence along the west line of said Section 33, South 02° 28' 11" West 1072.67 feet, to the Point of Beginning; thence leaving said West line of Section 33, South 87° 22' 27" East 329.47 feet, to a point on the existing centerline of Deane Solomon Road; thence with said centerline, South 02° 29' 56" West 395.06 feet, to a PK nail; thence leaving said centerline, North 87° 22' 27" West 329.27 feet along the proposed north right of way of Crystal Springs Drive, to a set iron pin on the west line of said Section 33; thence along said West line, North 02° 28' 11" East 395.06 feet, to the Point of Beginning, containing 2.987 acres, more or less. LESS AND EXCEPT thirty (30) feet of equal and uniform width off the East side of the above described property, containing 0.272 acre, more or less, being within the existing west right of way of Deane Solomon Road. Containing a net acreage of 2.715 acres, more or less.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 18, 2000

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve an ordinance for AD 00-18.00: Administrative Amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision -Public Sanitary Sewer Not Accessible" to allow lots smaller than 1 1/2 acres that are on a septic system.

COST TO CITY:

\$

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used To Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW:

_____ Budgeted Item

_____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and on June 26, 2000, Planning Commission unanimously voted 7-0-0 to recommend approval and to forward the ordinance amendment to City Council.

[Signature]
Division Head

6-29-00
Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

Orig Contract Date: _____

Orig Contract Number: _____

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June 26, 2000
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AD 00-18.00: Administrative Amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision -Public Sanitary Sewer Not Accessible" to allow lots smaller than 1 ½ acres that are on a septic system.

Odom: The next item that we have on tonight's agenda is AD 00-18.00: Administrative Amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision-Public Sanitary Sewer Not Accessible" to allow lots smaller than 1 ½ acres that are on a septic system. This is a proposal set out by the City Staff and so Tim, I'll let you run with it.

Conklin: Sure. Approximately a month ago Washington County Inter-Governmental Council recommended we change the way we review our subdivision and lot splits in Washington County within our Growth Areas. That change has resulted in the City of Fayetteville now reviewing lot splits and subdivisions prior to the county approving them. In the past we always would require that the county approve the lot size and configuration prior to coming to our office and the Planning Commission. Looking at our lot splits that we've received recently and looking at what our ordinances require we do have a 1.5 acre minimum lot size when you are on a septic system inside our Growth Area. In 1992 we had a similar requirement for septic systems inside our city limits. Staff is proposing to change the ordinance to allow something less than 1.5 acres if they do provide a permit for a septic system. What I'm trying to do here is to make sure that we comply with our ordinance and that since the county is no longer approving lot sizes smaller than 1.5 acres prior to coming to us this is something I do need to bring to your attention. On page 6.3 under §166.04 (A)(8)b everything that I've underlined is the new language that I propose to put into this section which applies to our Planning Area where we do review our lot splits and subdivisions. That states, "for lots having a gross area of less than one and one-half acres, an individual sewage disposal system may be used for each individual lot when a permit for a septic system is granted by the Arkansas Department of Health. A copy of the Arkansas Department of Health permit granted for each lot shall be provided at the time the application is submitted for subdivision or lot split approval for all lots less than 1 ½ acres. Existing septic systems, sewage disposal fields (leach fields), alternate disposal fields required by State law, and water wells onsite or offsite within 100 feet shall be shown on all proposed subdivisions and lot splits." Basically I would like to have the actual permit and perc tests completed and submitted along with the lot split application on anything less than an acre and a half. That way I will know for sure that it's meeting our ordinance and also will be able to be built on in the future. That's what I'm trying to accomplish with this ordinance amendment.

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Odom: And, staff, this will also make it consistent with what we do inside of the city.

Conklin: That is correct.

Odom: And that ordinance was passed back in 1992 to allow lots of less than 1.5 within the city to be approved without a waiver?

Conklin: Yes.

PUBLIC COMMENT:

Odom: Any member of the audience like to address us on this issue?

COMMISSION DISCUSSION:

Odom: Seeing none I'll bring it back to the Planning Commission for sewage discussion.

Estes: Mr. Chairman.

Odom: I figured you'd be the first on that one. Commissioner Estes.

Estes: Mr. Conklin, your requirement regarding the perc test, is that included in the sub part of §166.04?

Conklin: Yes. In order to get a permit for a septic system they do have to hire someone to actually do the test and have that approved by the Arkansas Department of Health. So, if I can get a permit in hand I do know that they've dug the hole, they've tested it and that it did pass and you can have a lot that is less than 1.5 acres. So, I'm asking for this permit up front.

Estes: I want to be sure that you get what you are asking for so when the language is in there when a permit for a septic system is granted, are you telling us that when that permit come to your office it will have the perc test with it?

Conklin: Yes.

Estes: And that satisfies your requirement?

Conklin: Yes. In order to get the permit they have to have the perc test already completed.

Hoffman: Mr. Chair.

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Odom: Commissioner Hoffman.

Hoffman: A little bit more on the subject. Were we able to locate, I'm trying to make this a little bit more user friendly since it'll be a different procedure for the folks that are used to doing things with the county first, can we get the soils map available at the city to give them a general idea of the good and bad areas that exist?

Conklin: Sure. I don't have a problem with making that available to the public. Once again, by the time we do get the permit that test will have been completed. It does cost money for a septic system or perc tests do cost around \$300 to \$400 each, however, the ordinance also reads what we currently are doing, anything over 1.5 acres the city is not going to require that that test be completed. So if you don't want to go out and spend the money to make sure that you can have a lot smaller than 1.5 acres, you can propose a 1.5 acre lot and bring that forward without that permit. I think it's important though, when you start going below 1.5 acres to make sure that these lots will be able to have their individual septic systems on them.

Odom: Any further discussions? Motions?

MOTION:

Shackelford: Mr. Chairman.

Odom: Commissioner Shackelford.

Shackelford: I'll make a motion that we approve AD 00-18 subject to staff comments.

Bunch: Second.

Odom: We have a motion by Commission Shackelford and a second by Commissioner Marr to approve AD 00-18.

Bunch: Commissioner Marr is not here.

Odom: Oh well, excuse me Commissioner Bunch. Any further discussion? Call the roll.

ROLL CALL:

Upon roll call the motion carries on a vote of 7-0-0.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

501-575-8264

TO: Fayetteville Planning Commission
FROM: Tim Conklin, City Planner
DATE: June 22, 2000

AD 00-18.00: Administrative Amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision -Public Sanitary Sewer Not Accessible" to allow lots smaller than 1 ½ acres that are on a septic system.

RECOMMENDED MOTION

To approve an amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision -Public Sanitary Sewer Not Accessible" to allow lots smaller than 1 ½ acres that are on a septic system by added the following language:

...for lots having a gross area of less than one and one-half acres, an individual sewage disposal system may be used for each individual lot when a permit for a septic system is granted by the Arkansas Department of Health. A copy of the Arkansas Department of Health permit granted for each lot shall be provided at the time the application is submitted for subdivision or lot split approval for all lots less than 1 ½ acres. Existing septic systems, sewage disposal fields (leach fields), alternate disposal fields required by State law, and water wells onsite or offsite within 100' shall be shown on all proposed subdivisions and lot splits.

BACKGROUND

Last May, the Washington County Intergovernmental Council Members met and proposed changes to the subdivision review process for City Planning Areas. A City Planning Area is the are outside of the corporate limits where under Arkansas State Code the City has the authority regulate subdivision of land.

The proposed change requires that all subdivisions and lot splits in the Planning Area be approved by the City prior to County approval. The previous process required Washington County approval prior to City approval.

The City has in the past relied on Washington County approval with regard to lot size and configuration when dealing with the issue of septic systems. However, the City is now in the

position of having to address the lot size and configuration first regarding septic systems when reviewing subdivisions of land.

The current ordinance requires lots to be 1 ½ acres in size when on a septic system. This requirement was amended in 1992 to allow lots less than 1 ½ acres inside the City when the Arkansas Department of Health grants a permit.

Staff is proposing to make the lot size requirements the same for all subdivisions and lot splits located inside the City or within the Planning Area.

CURRENT REQUIREMENTS FOR SEPTIC SYSTEMS INSIDE THE CITY

Area highlighted refers to lot size

§166.03 URBAN SUBDIVISION. (I)(1)

2. Public Sanitary Sewer Not Accessible. Where a public sanitary sewer is not reasonably accessible, the subdivider shall be required to install a community sewage system, as defined by Act 402 of the 1977 Arkansas General Assembly, in compliance with State Health Department's standards and regulation; provided, if a community sewage system is not reasonably available or economically feasible, and the subdivision has been platted so that each lot has a minimum gross area of one and one-half acres, an individual sewage disposal system for each lot may be used; for lots having a gross area of less than one and one-half acres, an individual sewage disposal system may be used for each individual lot when a permit for a septic system is granted by the Arkansas Department of Health. Individual service lines and connections shall be installed prior to the paving of the street, if possible. The minimum gross area requirement prescribed hereby for an individual sewage disposal system shall not apply to any subdivision for which an approved plat has been filed of record prior to July 5, 1977.

CURRENT REQUIREMENTS FOR SEPTIC SYSTEMS OUTSIDE THE CITY WITHIN THE PLANNING AREA

Area highlighted refers to lot size.

§166.04 SUBURBAN SUBDIVISIONS. (A)(8)

8. Sanitary Sewer System.

a. Public Sanitary Sewer Accessible. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect with such sewer, and each lot within the subdivision shall be provided with a connection thereto. All connections shall be subject to the approval of the City Engineer. Individual service lines shall be installed, and individual connections shall be made prior to the paving of the street, if possible.

b. Public Sanitary Sewer Not Accessible. Where a public sanitary sewer is not reasonably accessible, the subdivider shall be required to install a community sewage system, as defined by Act 402 of the 1977 Arkansas General Assembly, in compliance with State

Health Department standards and regulations; provided, if a community sewage system is not reasonably available or economically feasible, and the subdivision has been platted so that each lot has a minimum gross area of one and one-half acres, an individual sewage disposal system for each lot may be used. Individual service lines and connections shall be installed prior to the paving of the street, if possible. The minimum gross area requirements prescribed hereby for an individual sewage disposal system shall not apply to any subdivision for which an approved plat has been filed of record prior to July 5, 1977.

PROPOSED AMENDMENT FOR ALL SEPTIC SYSTEMS WITHIN THE CITY AND PLANNING AREA

Underlined text is the proposed text amendment by adding additional language. No existing text is being deleted from this section with this amendment.

§166.04(A)(8) b. Public Sanitary Sewer Not Accessible. Where a public sanitary sewer is not reasonably accessible, the subdivider shall be required to install a community sewage system, as defined by Act 402 of the 1977 Arkansas General Assembly, in compliance with State Health Department's standards and regulation; provided, if a community sewage system is not reasonably available or economically feasible, and the subdivision has been platted so that each lot has a minimum gross area of one and one-half acres, an individual sewage disposal system for each lot may be used; for lots having a gross area of less than one and one-half acres, an individual sewage disposal system may be used for each individual lot when a permit for a septic system is granted by the Arkansas Department of Health. A copy of the Arkansas Department of Health permit granted for each lot shall be provided at the time the application is submitted for subdivision or lot split approval for all lots less than 1 1/2 acres. Existing septic systems, sewage disposal fields (leach fields), alternate disposal fields required by State law, and water wells onsite or offsite within 100' shall be shown on all proposed subdivisions and lot splits.

Individual service lines and connections shall be installed prior to the paving of the street, if possible. The minimum gross area requirement prescribed hereby for an individual sewage disposal system shall not apply to any subdivision for which an approved plat has been filed of record prior to July 5, 1977.

FILED FOR RECORD

'92 JUN 18 PM 3 56

ORDINANCE NO. 3615

WASH. CON CO AR
A. A. LMEYER

AN ORDINANCE AMENDING §159.30(I)(2),
FAYETTEVILLE CODE OF ORDINANCES, TO PROVIDE
FOR SEWAGE DISPOSAL SYSTEMS FOR LOTS LESS THAN
ONE AND ONE-HALF ACRES IN SIZE.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF
FAYETTEVILLE, ARKANSAS:

Section 1. That §159.30(I)(2), Fayetteville Code of
Ordinances is hereby repealed in its entirety and the following
shall be inserted in its stead:

REQUIRED IMPROVEMENTS

§159.30 URBAN SUBDIVISION

(I) Sanitary Sewer System

(2) Public sanitary sewer not accessible.- Where a
public sanitary sewer is not reasonably accessible, the subdivider
shall be required to install a community sewage system, as defined
by Act 402 of the 1977 Arkansas General Assembly, in compliance
with State Health Department standards and regulation; provided, if
a community sewage system is not reasonably available or
economically feasible, and the subdivision has been platted so that
each lot has a minimum gross area of one and one-half acres, an
individual sewage disposal system for each lot may be used; for
lots having a gross area of less than one and one-half acres, an
individual sewage disposal system may be used for each individual
lot when a permit for a septic system is granted by the Arkansas
Department of Health. Individual service lines and connections
shall be installed prior to the paving of the street, if possible.
The minimum gross area requirement prescribed hereby for an
individual sewage disposal system shall not apply to any
subdivision for which an approved plat has been filed of record
prior to July 5, 1977.

PASSED AND APPROVED this 2nd day of June, 1992.

APPROVED:

By: *Fred J. Vannoy*
Mayor



By: *W. L. Thomas*
Clerk

92 30949

June 2, 1992

AMENDMENT TO SUBDIVISION REGULATION ORDINANCE

Mayor Vorsanger introduced consideration of an amendment to the Subdivision Regulation Ordinance Section 159.30(i)(2) that would allow lots of less than 1.5 acres when a permit for a septic system is granted by the Arkansas Department of Health.

The Planning Commission voted 8-0-0 to recommend this amendment.

Planning Director Alett Little stated the section of the ordinance being amended refers to those areas where a public sanitary sewer is not reasonably accessible or available for connection and the subdivision has been platted so that each lot has a minimum gross area of 1.5 acres and individual sewage disposal system for each lot may be used. While the area of 1.5 acres is a rather arbitrary figure used, she does not propose to discard that figure in the absence of a permit; however, since the state has the authority to grant a permit for a septic tank system and it is based on a percolation test being performed on the lot, the State will sometimes approve a septic tank system on a lot having an area less than 1.5 acres. Staff is recommending that the City yield to the higher authority of the State when a permit is issued and allow for this in the City's regulations.

The amending ordinance was read for the first time. Coody, seconded by Green, made a motion to suspend the rules and place the ordinance on its second reading. Upon roll call, the motion passed by a vote of 6 to 0. The ordinance was read for the second time. Coody, seconded by Green, made a motion to further suspend the rules and place the ordinance on its third and final reading. Upon roll call, the motion passed by a vote of 6 to 0. The ordinance was read for the third and final time.

Director Henry inquired whether the State Department of Health specifies the times in which "perc" tests are to be performed. Little responded that they do not mainly because development of the lot could occur at any given time of the year, and if the Department of Health believes the results to be unsatisfactory, they have authority to request repeat percolation tests.

Director Coody asked if the Department of Health performs the "perc" test during the driest time of the year which checks out okay, and then later on, the area turns out to be more of a wetland and the septic tank does not meet specifications, what remedy does the City have.

Little responded that the City's main safeguard is that septic tank systems are not allowed unless the public sewer system is not available, and sewer systems are available in most areas throughout the City. Little reiterated her belief that this is not an area in which the City should assume responsibility, rather the City should yield to their authority as to what will be permitted.

June 2, 1992

Director Green stated that even though there may be some "holes" in the percolation test occasionally, he believes that the State Health Department should have the authority and responsibility for administration of the tests.

Upon roll call, the amendment to the ordinance passed by a vote of 6 to 0.

ORDINANCE 3615 APPEARS ON PAGE 141 OF ORDINANCE BOOK XXVII

REZONE R92-17

Mayor Vorsanger introduced an ordinance annexing 70 acres and rezoning 112.83 acres located south of Skillern Road and east of Crossover Road from A-1, Agricultural, to R-1, Low Density Residential, as requested by Truman Yancey on behalf of James Riley Skillern.

The Planning Commission voted unanimously to annex 70 acres and rezone the whole parcel as requested by the petitioner subject to the developer reaching an agreement with the City to accomplish paving to City standards Skillern Road along the front of the property.

The ordinance was read for the first time. Green, seconded by Nash, made a motion to suspend the rules and place the ordinance on its second reading. Upon roll call, the motion passed by a vote of 6 to 0. The ordinance was read for the second time. Green, seconded by Nash, made a motion to further suspend the rules and place the ordinance on its third and final reading.

City Attorney Rose explained that there has been some discrepancy in the acreage, as the original application was for 70 acres and the petition to the Court set forth 80 acres. The 80 acre figure is correct and is the figure before the Board for consideration.

Truman Yancey, attorney on behalf of Mr. Skillern, confirmed that the property contains 80 acres and is properly described in the legal description. He further explained that the change in acreage resulted from the survey for which the description wording is slightly altered, even though it refers to the same area.

Mayor Vorsanger called attention to a letter received by County Judge Johnson indicating that the County will do their share of the road paving.

Little reported that the Planning Commission voted 9-0-0 to annex and rezone the property from "A-1" to "R-1"; however, their approving vote was subject to the developer reaching an agreement with the City to accomplish the paving of Skillern Road to city standards since they would be developing a substantial subdivision of over 100 new lots. Subsequently, the Planning Commission met

AR DEPT OF HEALTH REQUIREMENTS

SECTION II. PLANNING THE LEACHING SYSTEM.

2.1. Public sewage versus individual sewage disposal systems. Every effort should be made to connect to an existing public sewer system. When connection to an existing system is not feasible and a large number of residences are to be built in an area, consideration should be given to the construction of a community sewer system and treatment plant. However, since an improperly operated or inadequately staffed community sewage treatment plant cannot effectively treat wastes, consideration should be given to the size of the proposed system to insure that economically feasible sewer rates are sufficient to insure proper treatment plant operation. As an aid to developers and engineers, the following information is offered to determine the feasibility of a public sewer system or individual disposal system.

POPULATION DENSITY	EQUIVALENT LOT SIZE	SERVICE ECONOMIC JUSTIFICATION
Over 5,000 persons per sq. mi.	Less than 1/2 acre	Public sewerage is justified
2,500-5,000 persons per sq. mi.	1/2 to 1 acre	Public sewerage normally is justified
1,000-2,500 persons per sq. mi.	1 to 2 acres	Public sewerage normally is not justified
Less than 1,000 persons per sq. mi.	Over 2 acres	Public sewerage rarely is justified

2.2 Minimum lot sizes. The following lot sizes are required, when septic tank absorption field systems are proposed:

- A. If an individual water well supply and septic tank system are proposed, the lot size must be such that the well may be located at least 50 feet from any side lot lines, at least 25 feet from the front lot line, at least 100 feet from the rear lot line and at least 100 feet from any part of the septic system site proposed on the same lot and septic system sites proposed on any adjacent lots. Wells should be located up slope from septic systems if possible.

For the purpose of determining minimum lot size, the septic system site proposed on the lot and on any adjacent lots shall be twice the size required for installation of the sewage disposal field. However, in no case shall a septic system be approved regardless of lot size if soils are unacceptable for subsurface disposal.

- B. If a public water supply is proposed and an individual septic tank absorption field system is to be used for sewage disposal, the lot size must be such that the soil absorption system may be located on a suitable sewage system site. For the purpose of determining minimum lot size, the leaching system site shall be twice as large as would be required for installation of the individual sewage disposal field and shall conform to all set back requirements established under Paragraph 2.11. of these Rules and Regulations. However, in no case shall a septic system be approved regardless of lot size if soils are unacceptable for subsurface disposal.

2.3. Existing installation. No individual sewage disposal system in existence on the effective date of these Rules and Regulations nor any individual sewage disposal system installed after the effective date of these Rules and Regulations in a subdivision, wherein individual lots have been developed or sold for use with individual sewage disposal systems, for which a plat has been filed on record prior to the effective date of these Rules and Regulations shall be required to conform to more stringent specifications and requirements as to design, construction, density of improvements, lot size and installation than those standards contained in any applicable duly adopted and published regulations in effect at the time of platting of record of such subdivisions. No individual sewage disposal system to be installed on a residential lot for which the Department or its authorized agent has issued a construction permit on or before the effective date of these Rules and Regulations shall be required to conform to the design, construction and installation provisions of these Rules and Regulations. In a subdivision for which a master plan has been approved by the Department prior to the effective date of these Rules and Regulations or for which the Department has otherwise previously issued its written approval for the installation of individual sewage disposal systems and where individual lots have been developed or sold in reliance upon such prior written approval, individual sewage disposal systems shall not be required to conform to more stringent specifications as to design, construction and installation than those standards in effect at the time of, or referred to, in such prior written approval. Provided, that any individual sewage disposal system which is determined by the Division of Environmental Health Protection of the Department of Health to be a health hazard or which constitutes a nuisance due to odor or unsightly appearance, must conform with the provisions of these Rules and Regulations within 30 working days after notification that such determination has been made.

2.4. Variances. Requested variations from these Rules and Regulations will be considered and must be approved by the Department or its authorized agent. Submission of alternate designs for individual sewage disposal or treatment systems for sites found not suitable for standard systems is encouraged. Submission of an alternate design shall include design data as to the efficiency of operation of the proposed alternate system.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of July 18, 2000

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve an ordinance for RZA 00-2.00: Annexation (St. Joseph's Church, pp 373) as submitted by Candy R. Burton of Phillips Law Firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the Planning Area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville.

COST TO CITY:

\$

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used To Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and on June 26, 2000, Planning Commission unanimously voted 7-0-0 to recommend approval and to forward the annexation to the City Council.

Division Head

Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

Orig Contract Date: _____

Orig Contract Number: _____

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED
IN ANNEXATION PETITION RZA 00-2 FOR A PARCEL
CONTAINING APPROXIMATELY 18.59 ACRES LOCATED ON
STARR DRIVE REQUESTED BY CANDY BURTON OF
PHILLIPS LAW FIRM ON BEHALF OF ST. JOSEPH'S
CATHOLIC CHURCH..

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

Section 1. That the City Council hereby confirms the annexation to the City of
Fayetteville, Arkansas, of the following described property:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That the above described property is hereby assigned to Ward No. _____.

Section 3. That the official zoning map of the City of Fayetteville, Arkansas, is hereby
amended to reflect that the zoning of the property described above shall be A-1, Agricultural.

PASSED AND APPROVED this _____ day of _____, 2000.

APPROVED:

By: _____
Fred Hanna, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION FOR RZA 00-2

A part of the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section One, Township Sixteen North, Range Thirty West, Washington County, Arkansas, being more particularly described as follows: Starting at the Northeast corner of the Southwest Quarter of the Southeast Quarter of said Section One, thence South 0°10'40" East 884.25 feet to the point of beginning; thence continuing South 0°10'40" East 613.54 feet; thence South 89°43'06" West 1,323.61 feet; thence North 0°0'0" East 610.34 feet; thence North 89°35'33" East 1,321.72 feet to the point of beginning and containing 18.59 acres, more or less.

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RZA 00-2.00: Annexation (St. Joseph's Church, pp 373) was submitted by Candy R. Burton of Phillips Law Firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the Planning Area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville.

Odom: The next item we have on tonight's agenda is RZA 00-2.00: Annexation (St. Joseph's Church, pp 373) was submitted by Candy R. Burton of Phillips Law Firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the Planning Area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville. Staff recommends approval of the requested annexation based upon their report. I'd ask the applicant to please come forward at this time. Staff are there any further comments?

Conklin: No further comments.

Burton: I'm Candy Burton and I represent St. Joseph's Church in this annexation. I would just like to point out that most of the property that is contiguous to this property is already annexed into the city and we request that this 18 acres be annexed into the city.

Odom: Let me ask if there is any member of the audience that would like to address us on this annexation request to please come forward at this time.

Israel: I'm Ben Israel and I reside at 1501 Starr Road. We are extremely excited about the church being out there. We think they will make a great neighbor and we are in favor of it happening but I just wanted to point out some things that we feel like are extremely important and vital. As you know you approved the Crossroads Village Shopping Center at about 100,000 square feet, the Kantz Plaza of 100,000 square feet all within a mile of this property. You've approved and built Vandergriff Elementary School which houses 455 students, a new Middle School opens this fall with 600 students and of course the catholic church and school will be out there. We have new housing developments of Barrington Place, Covington Park, Timber Crest and Ridgemont View all of which are within a mile or mile and a half of this property and yet nothing has been done to handle the east-west traffic on Highway 45. If I pull out of Starr Road at 8:00 a.m. it may be 3 light changes before I can get onto Hwy 45. Do you know where Starr Road is? Have you been down Starr Road lately? There is another problem in that Starr Road is half owned by the county and half owned by the city. Half of Starr Road has curb and gutter and the other half has nothing. It's pot holes and shoulder. There is one point of Starr Road right in front of the subject property that's 15 feet wide.

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If I was a developer and wanted to put in a street 15 foot wide you would make me make it one way and yet the city gets by with having a 15 foot wide street. Two cars meeting, in fact I've lost 2 mirrors and 1 telephone antenna because at that point where it's 15 foot wide the trees are grown in so close to the road that if you meet a car you either force them into the ditch or sacrifice the right side of your car. We've lived with this for several years. Mayor Fred Hanna told me when I moved out there five years ago that Starr Road was going to be upgraded real soon. The county in maintaining the road, every 7 years comes by and puts gravel and oil on it and they claim that that's their rejuvenation of the road. Of course they cover by the city road too in doing that and so what we wind up with is a gravel oily mess in our ditches for about six months and then we are back to the same road we had previously. There is also a really dangerous dip just before the subject property. There at the old Indian Spring. If you come through there it's a real low dip and then you immediately climb a hill and just as you crest the hill there's a road that comes in from Sequoyah Woods and there have been numerous wrecks at that intersection. At the end of that drive, right before you approach my farm there is a 90° turn that probably five times a year somebody doesn't make. I've pulled three of them out of the ditch there myself in trying to help them. So, we are thrilled that the church is going to come out there and there is going to be another school there but we think there has got to be some way that we can get out of our drives and out of our parking lots and meet another automobile on that street without the complications that we have. There are no sidewalks there. We believe there has got to be a turn lane into the school. At least do to Starr Road what was done at Hwy 265, that is, provide a turn lane to allow us to bypass the traffic as it's stopped going into the school. I believe the street has to be widened to code, at least 27 to 30 feet. It's only 15 feet in some spots. Right now it's an uneven street. With the county owning half they don't have the same depth of street that the city requires and so the asphalt goes to the middle and then it drops off about an inch and a half so if you happen to hit that particular ridge in the street, your car might jump 2 or 3 inches to the side and you are totally unaware that it's about to happen. I don't know what else to say. We want the church and school but we've got to have a better road if they are going to be there. We can't now exist on the road very easily. I'm surprised that there hasn't been somebody here fussing about it before. I would encourage you to go out and drive it and try to meet a dump truck at some of those intersections. Directly in front of my house if I meet another car, I have to drop off into a ditch in order to get by them. There are some points that mailboxes stick out so far into the street that you have to stop and allow another car to go by before you can get around it. So, I would encourage you to go look at it. I would encourage you to approve all of what they are asking you to do but we have a mess out there. Thank you.

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Odom: Thank you Mr. Israel. Is there any other member of the audience that would like to address us on this request?

COMMISSION DISCUSSION:

Odom: Seeing none I'll close the floor to public comment and bring it back to the Planning Commission. Staff, Mr. Israel has done a very good job of speaking against something that he supports. He makes a very good point in that there are some bad infrastructure problems out there. It's my understanding that the applicant has been made aware of those. Do you want to address that real quickly?

Conklin: I met twice with the applicant. We have made it clear to them that when they do come in with the large scale development and conditional use for a church and school at this site that street improvements will have to be made in order for staff to support this project. We've had some preliminary discussions on what those improvements would entail and we do want to make sure that the street is adequate for two directions of traffic. They are aware of that and as we bring this project to you we will be making recommendations. It is interesting that the improvements that we are asking the church to make will be located in the county and not the city. That's somewhat different from what we have required in the past but we have made it clear that they will have to do improvements outside the city limits going to the north in order to have this project come forward.

Odom: And, of course, this is just a recommendation to the City Council. I encourage those comments, of course, they will have our Planning Commission notes but I'm sure, Mr. Israel, you know the process is to go to the City Council and I would encourage those comments there as well. Commissioner Estes.

Estes: Mr. Chairman I have a question for staff. I fully appreciate and understand that the Planning Commission is not in the business of building streets and roads but looking at our Master Street Plan I see that Starr Drive is designated a collector street. We've got the Barrington Park Subdivision, Sequoyah Woods, and Huntingdon, Tim, is there anything in the Capital Improvement Budget to improve Starr Drive which is designated as a collector? What can we look forward to? What can we anticipate?

Conklin: I'm not aware of anything in our CIP to improve Starr Road. One of the problems has been that half of it is in the county outside of our city limits. This annexation will bring more of it into our city limits. With regard to in front of this annexation we are looking at improvements to meet our city standards with regard to what is

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outside of the city limits to make sure it meets county standards and has adequate width to handle two directions of traffic.

Estes: As we consider the applicant's request do I understand correctly that there is nothing in the Capital Improvement Budget for improvement to Starr Drive?

Conklin: There isn't anything at this time.

Estes: And partially the reason for that is that half of it is in the city and half of it is in the county, is that correct?

Conklin: That's correct and it has been brought up before and I can bring it up again with our Public Works Director and our Street Committee.

Estes: Thank you, Tim.

MOTION:

Hoffman: Mr. Chair.

Odom: Commissioner Hoffman.

Hoffman: I'll move approval of RZA 00-2.00.

Ward: Second.

Odom: We have a motion by Commissioner Hoffman and a second by Commissioner Ward to approve RZA 00-2.00. Any further discussions? Call the roll.

ROLL CALL:

Upon roll call the motion carries on a vote of 7-0-0.

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: June 26, 2000

RZA 00-2.00: Annexation (St. Joseph's Church, pp 373) was submitted by Candy R. Burton of Phillips Law Firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the planning growth area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: June 26, 2000

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>July 18, 2000</u>	

Comments: _____

BACKGROUND:

This 18.59 acre tract is surrounded by the City of Fayetteville on the east and west property boundaries.

An Order of Annexation was signed by County Judge Jerry Hunton May 22, 2000 and filed of record with the County Clerk on May 23, 2000

No rezoning has been requested at this time - the property, if annexed will be designated at A-1, Agricultural.

The applicant proposes to develop this property as a church and school campus. These are uses which are permitted by conditional use within the A-1, Agricultural zoning district under use unit 4, Cultural and Recreational Facilities.

SURROUNDING LAND USE AND ZONING

North:	Vacant, Washington County
South:	Single family home, Washington County
East:	Barrington Parke Subdivision, R-1
West:	Sequoyah Woods Subdivision, R-1

INFRASTRUCTURE:

Access to this property is from Starr Drive which is designated a collector on the Master Street Plan. Arapaho Drive was stubbed out immediately north of the subject property when the second phase of Barrington Parke subdivision was developed providing a possible future connection to the west.

Water: 8" line along Starr Drive, 6" line within Barrington Parke

Sewer: 8" line along Starr Drive, 8" line within Barrington Parke

LAND USE PLAN: General Plan 2020 designates this site as Residential.

§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

which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required yard lines.

(Code 1991, §160.030; Code 1965, App. A, Art. 5(I); Ord. No. 1747, 6-29-89)

FILED

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

'00 MAY 23 PM 2

IN THE MATTER OF:
ANNEXATION OF LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

CASE NO. CC 2000-10

MARILYN EDWARDS
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

J. PETER SARTAIN, BISHOP OF THE ROMAN
CATHOLIC DIOCESE OF LITTLE ROCK

PETITIONER

ORDER OF ANNEXATION

NOW on this 22nd day of May, 2000, the petition for annexation filed herein

came on for hearing before the Washington County Court. From the evidence presented and a review of the complete case file, the Court finds:

1. The Petitioner J. Peter Sartain, Bishop of the Roman Catholic Diocese of Little Rock, is the sole owner of all the real property described in the Petition for Annexation, which real property is described in Exhibit "A" to this Order.
2. Said real property is contiguous to and adjoining the City of Fayetteville, Arkansas.
3. Petitioner has caused a Notice of the hearing on the Petition for Annexation to be published one time a week for three consecutive weeks in the Northwest Arkansas Times, a newspaper of general circulation in Washington County, Arkansas. Said Notice contains the substance of the Petition and states the time and place for the hearing on said Petition. Proof of Publication of said Notice has been filed with the Court.
4. The Court is satisfied that the limits of the territory to be annexed have been accurately described and an accurate map thereof made and filed, and that the prayer of the Petitioner is right and proper.

IT IS, THEREFORE, ORDERED by the County Court of Washington County, Arkansas,
that the Petition for Annexation filed herein is hereby granted and the real property described in
Exhibit "A" attached to this Order is hereby annexed to the City of Fayetteville, Arkansas.

DATED this 22nd day of May, 2000.

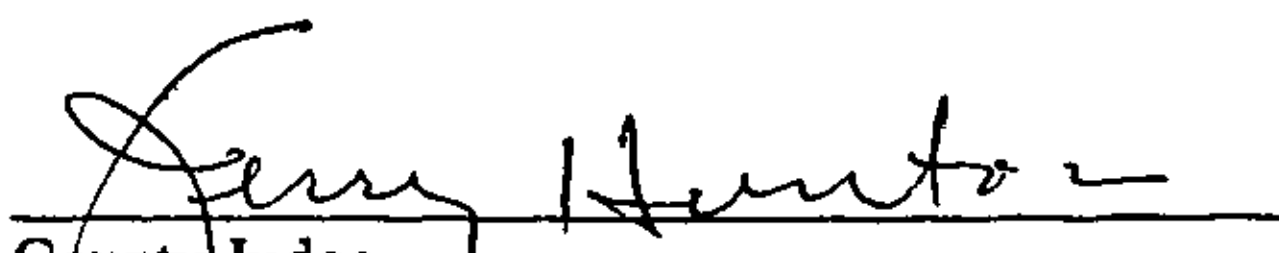
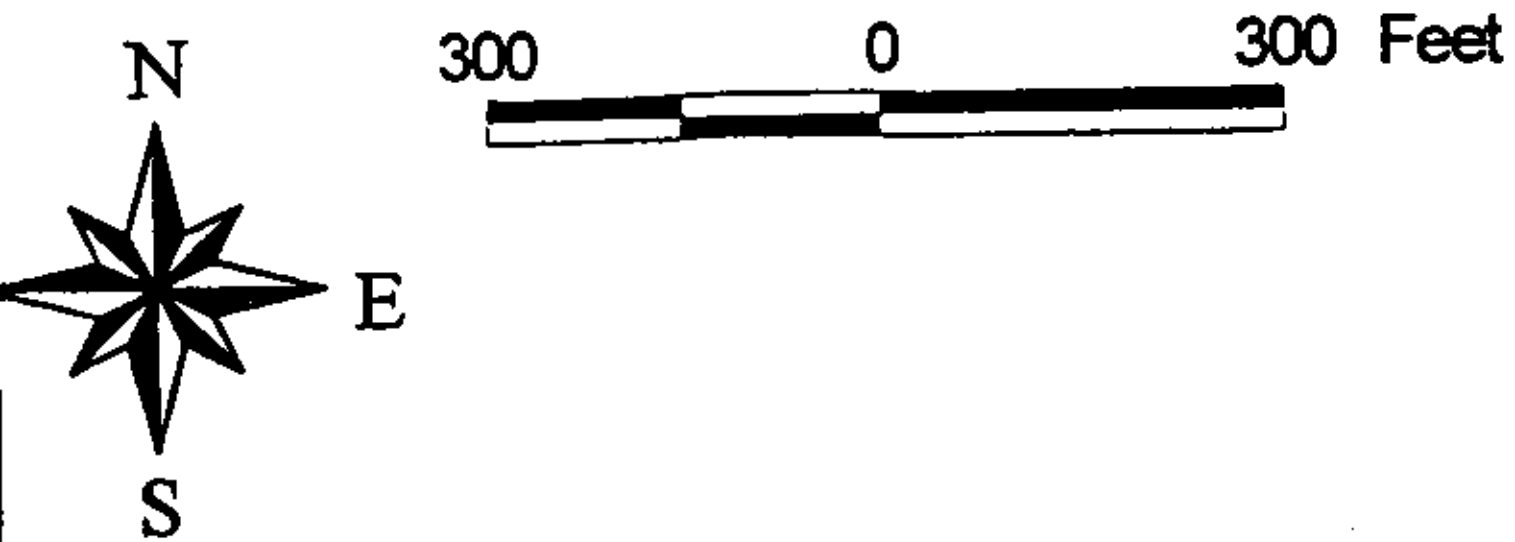
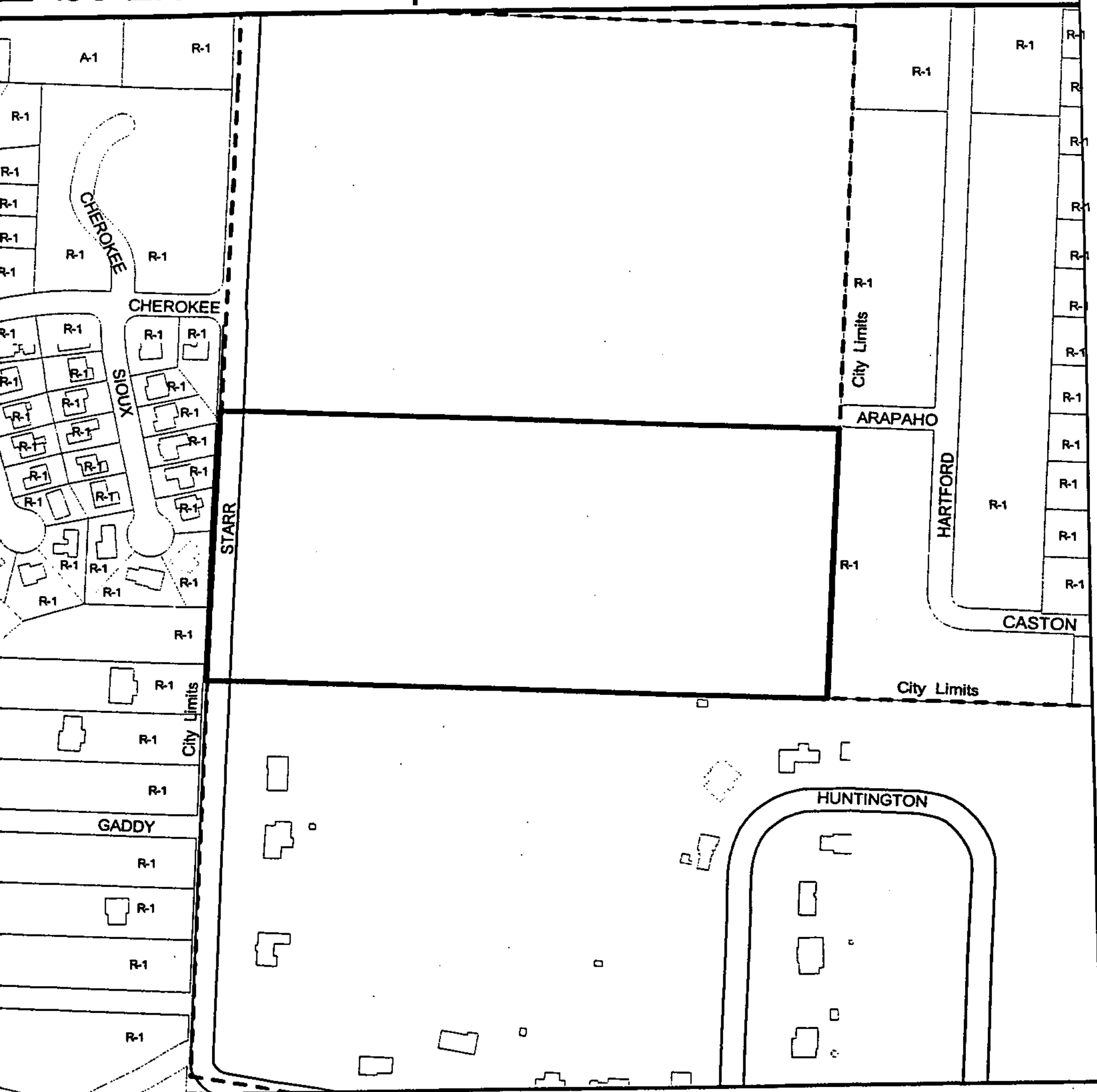

County Judge

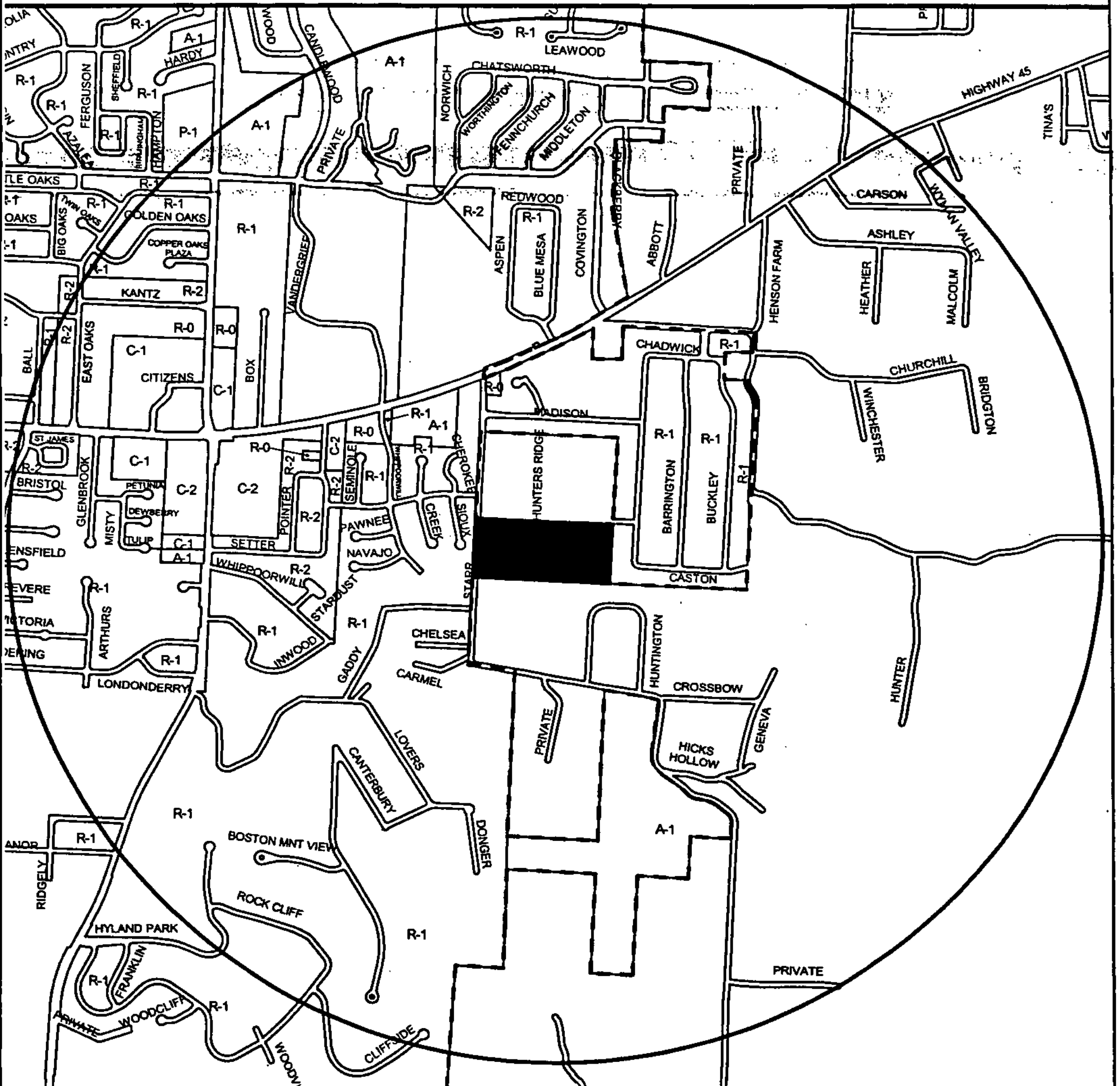
EXHIBIT "A"

A part of the Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section One (1), Township Sixteen (16) North, Range Thirty (30) West, Washington County, Arkansas, being more particularly described as follows: Starting at the Northeast corner of the Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section One (1), thence South 00°10'40" East 884.25 feet to the point of beginning; thence continuing South 00°10'40" East 613.54 feet; thence South 89°43'06" West 1323.61 feet; thence North 00°00'00" East 610.64 feet; thence North 89°35'33" East 1321.72 feet to the point of beginning and containing 18.59 acres, more or less.

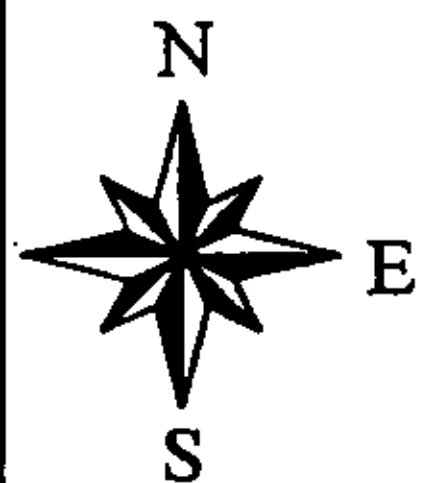
ZA00-2.00 - St Josephs Church - Close Up



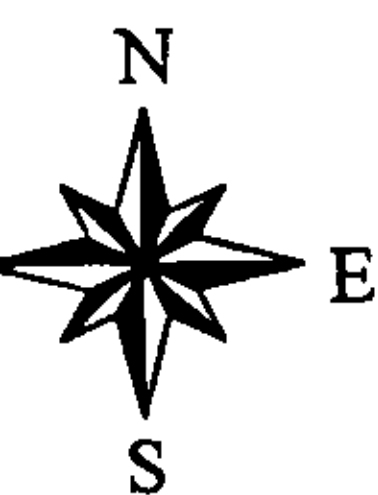
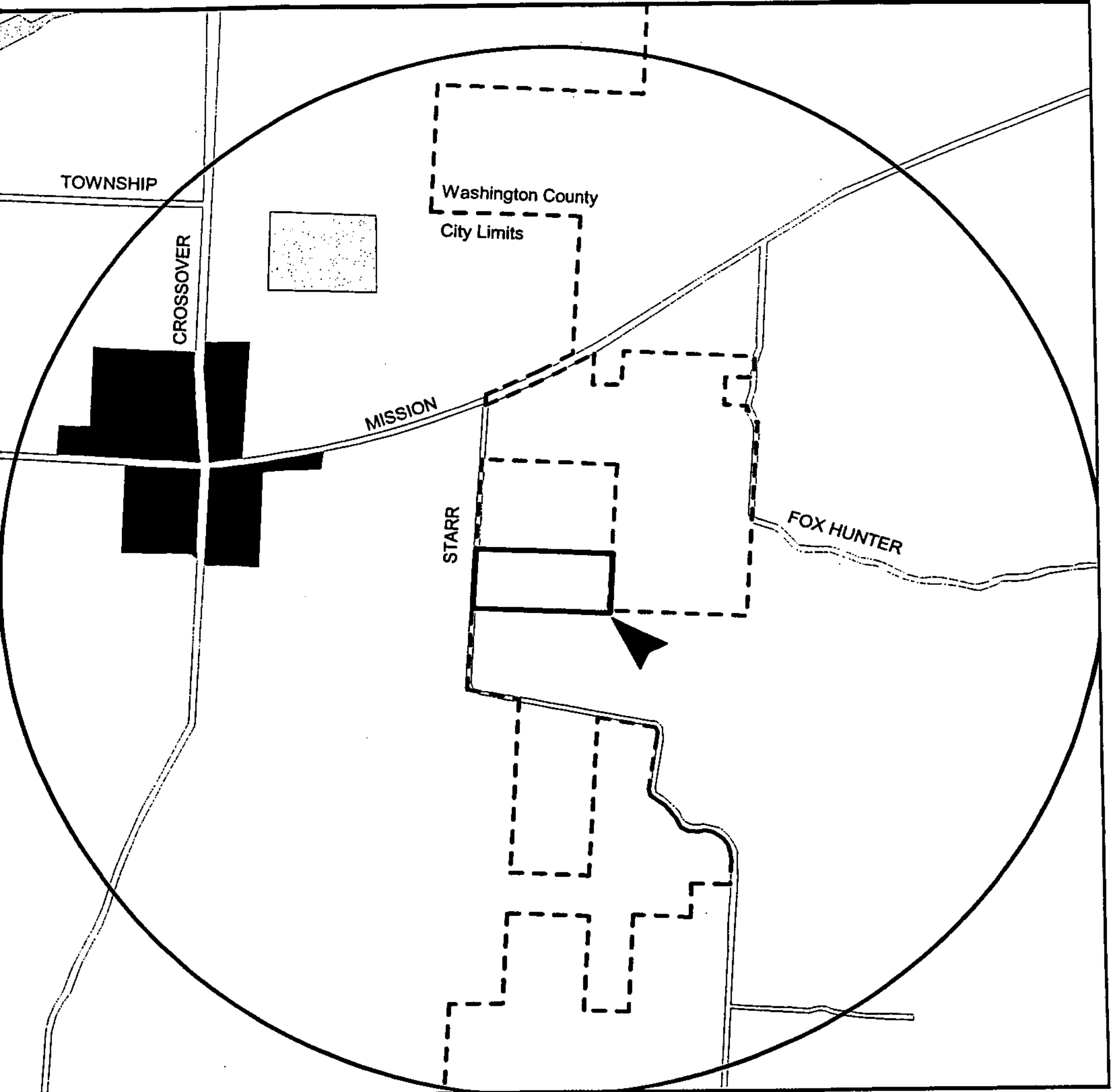
RZA00-2.00 - St. Josephs Church - One Mile Diameter



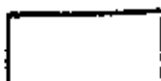
1400 0 1400 Feet



RZA00-2.00 - St. Josephs Church - 2020 Plan



1400 0 1400 Feet

	Residential		University		Office
	Community Commercial		Industrial		Open / Space Recreational
	Historic Commercial		Mixed Use		Regional Commercial
	Historic Districts		Neighborhood Commercial		

WARRANTY DEED

HUSBAND AND WIFE CONVEYING AS TENANTS BY THE ENTIRETY, JOINTLY OR IN COMMON

NOW ALL MEN BY THESE PRESENTS:

That we, ERNEST STANBERRY, JR., & CAROL STANBERRY

husband and wife, hereinafter called Grantors, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to us in hand paid by

ANDREW J. McDONALD, BISHOP OF THE ROMAN CATHOLIC DIOCESE OF LITTLE ROCK

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

WASHINGTON County, State of Arkansas, to-wit:

Part of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) Section One, Township Sixteen North, Range Thirty West, Washington County, Arkansas, being more particularly described as follows: Starting at the Northeast corner of the Southwest Quarter of the Southeast Quarter said Section One, thence South 0 degrees 10 minutes 40 seconds East 1.25 feet to the point of beginning; thence continuing South 0 degrees 10 minutes 40 seconds East 613.54 feet; thence South 89 degrees 43 minutes 06 seconds West 1,323.61 feet; thence North 0 degrees 0 minutes 0 seconds East 610.64 feet; thence North 89 degrees 35 minutes 33 seconds East 21.72 feet to the point of beginning and containing 18.59 acres, more or less.

I certify under penalty of law swearing that the legally correct amount of documentary stamps have been placed on this instrument.
Grantee S. Brian 1997
Address 321 E. Lafayette Fayetteville AR 72701

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

And we, the respective Grantors, hereby release and relinquish unto the said Grantee our respective dower/curtesy and homestead in and to said lands.

WITNESS our hands and seals on this 8th day of May 19 97
THIS INSTRUMENT PREPARED BY: BAC

Ernest Stanberry, Jr. (Seal)
Carol Stanberry (Seal)
CAROL STANBERRY (Seal)

ACKNOWLEDGMENT

STATE OF ARKANSAS

County of WASHINGTON

ss.

On this the 8th day of May 19 97, before me, a notary public, personally appeared

ERNEST STANBERRY, JR.

and CAROL STANBERRY, husband and wife

know to me (or satisfactorily proven) to be the persons whose names subscribed to the foregoing instrument and acknowledged that they had executed the same for the purposes therein set forth.

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

WINFIELD S. BRONSON, JR.
My Commission Expires: ARIZONA
WASHINGTON COUNTY
My Commission Expires: CC - 18 - 9899

Winfield S. Bronson, Jr.
Notary Public

97030908



4700 S. Thompson, Suite B-101
Springdale, AR 72764

July 11, 2000

Heather Woodruff
City Of Fayetteville

Transmitted via fax: 575-8257

On July 10, the Planning Commission turned down a request for re-zoning of a parcel of ground on Joyce St. (RZ 00-20.00) even though the Planning Commission Staff had endorsed the change from A-1 Agriculture to R-O. There was little opposition to the requested change. There was some concern about the part of the property that drains into a wetland area North of the property.

The long range planning for this property is R-O. I have a ready tenant who desires a medical surgical facility to be constructed on the site. The other structures to be developed on the site will be professional office buildings.

A couple who has lived there over thirty years owns the property. The sale of this property is their retirement plan. To sell it for it's highest and best use is in their best interest. It's highest and best use is R-O. The City Planners have agreed that this is the best long-term zoning. To delay the re-zoning is to delay their ability to enjoy the fruits of what they have invested in. To ask them to sell it as A-1 is to lower the price from \$95,000 per acre to \$10,000 or less per acre.

I believe it should not be within the prerogative of the government to decide when a property is ready to be sold for it's highest and best use when that use falls within the long range plans of that government. To do so might be construed to be showing favoritism to that person who already has received re-zoning in the same area or to someone who might be acquiring the property in the near future.

I would like to appeal the decision to the City Counsel.

Sincerely,

Ben Israel

Phone 501.872.0707
Toll Free 877.872.0707
Fax 501.872.0714

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RZ 00-20.00: Rezoning (Dixie Development, pp176) was submitted by Gary Carnahan of the Benham Group on behalf Ben Israel of Dixie Development, Inc. for property located at 2416 E. Joyce Street. The property is zoned A-1, Agricultural and contains approximately 5 acres. The request is to rezone to R-O, Residential Office.

Odom: The next item we have on tonight's agenda is RZ 00-20.00 submitted by Gary Carnahan of the Benham Group on behalf Ben Israel of Dixie Development, Inc. for property located at 2416 E. Joyce Street. The property is zoned A-1, Agricultural and contains approximately 5 acres. The request is to rezone to R-O, Residential Office. Staff's recommendation is for approval of the requested rezoning based on the findings included as part of the report. Staff is there any further information?

Conklin: There is no additional information.

Odom: I would ask the applicant to please come forward at this time. Commissioner Ward?

Ward: It will be necessary for me to recuse from this rezoning.

Odom: Noted as abstained. Anyone else? Go ahead.

Basham: I'm Jerry Basham with Dixie Development. Ben, at the last moment, had to be out of town this evening. I'm not sure exactly what you need to know. You have the plans, I believe before you.

Odom: If you are here only to answer questions and so forth, we will reserve that for the second portion.

Basham: Yes.

PUBLIC COMMENT:

Odom: What we will do now is ask if there are members of the audience that would like to address us on this issue. Please come forward at this time.

Hudson: My name is Lloyd Hudson. I own the property north of this property concerned here tonight. On the surface I have no objection to rezoning this property as such. My concern deals with the environmental issues that are inherent here. North of this property that we are talking about is a wetland that has been designated as an official wetland by the US Army Corps of Engineers. There is a 17 acre property

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there designated as a nature study area that will be maintained in perpetuity as a nature study area. Now the problem here is not a great one but enough of a concern that you ought to consider it before doing anything or developing it. There is probably less than an acre of this five acre lot that drains into this wetland. You know the potential problem here. I think before any effort is made for development or anything for that matter that the principals concerned should sit down and discuss this with the property owners and the trust property which is represented here tonight also and see if we can work out this thing amicably to everybody concerned. My concern is to protect the wetland. Their concern, of course, is to develop it. So, we should be able to come to some agreement but we should approach this problem before we go any further. As you know, these environmental problems are sticky and they should be taken care of before we proceed further.

Odom: Thank you.

Galbraith: Good evening Commissioners. I'm Greg Galbraith with Ozark Regional Land Trust. We are a nonprofit conservation organization that operates throughout Northwest Arkansas and Missouri throughout the Ozarks. We've been very active in Fayetteville. I've been before the Planning Commission and the Council before and worked out very good deals where development and environmental concerns were compatible. Several years ago there was a proposed development next to Dr. Hudson's property. Dr. Hudson, who just addressed you, has made a significant commitment to leaving his property in a conservation, nature education center that would benefit Fayetteville. He's working with our organization, Ozark Regional Land Trust. The last time a development was proposed just to the east of his property there was going to be a significant impact because there is some major drainage into that property and it was settled quite well. We actually bought 4 acres of that property. So the land trust itself is a property owner involved here. We purchased that at a fair market value so we have a significant investment in the future of this property plus the money we have spent on the restoration of that four acres. At that time the city also recommended, before this was all played out, that the developer leave .5 acre of the main drainage site to the city because they didn't want to see this nature center plan disrupted. In the end we ended up buying that 1/2 acre plus 3.5 additional acres. Currently the property that is in question is just south of Dr. Hudson's property. Being on Joyce Boulevard we don't deny that there will probably be development of that property eventually but our concern is how that development is going to impact that property that we are investing considerable time and money into protecting. Like Dr. Hudson mentioned it is immediately adjacent to the drainage and wetland that is integral to this area. We haven't had any discussions with the developer to see how this

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would impact and maybe some ways we could put a conservation easement on the upper strip or to minimize the impact. We would be in favor of some sort of low density, low impact development that would also address our concerns for protecting the property. I would have to come out in opposition to the rezoning from A-1 to R-O because most of the properties around Dr. Hudson are A-1 and as such we feel comfortable with what's happening. Zoned R-O we have no idea what type of impact the development will have on our plans. Although I'm not absolutely opposed to a rezoning, it seems premature to us for that to happen without taking into account both the environmental considerations of the wetland and also the plans that we have been working on for several years. That's my comment on it.

Odom: Thank you. Any other member of the audience like to address us on this request?

Smith: My name is Harvey Smith and I have a home that is adjacent to Dr. Hudson's property that is east and north of the property that is being requested to be rezoned. I just wanted to state that my feelings are that R-O is the best and least obtrusive thing that this could be. I would rather it be that than homes. I think that Dr. Hudson would agree with that if his issues were addressed and his concerns addressed. If those things can be taken care of I certainly would rather it be R-O.

Odom: Thank you Dr. Smith. Any other member of the audience?

COMMISSION DISCUSSION:

Odom: Then I will bring it back to the applicant for questions and comments.

Marr: Mr. Chair I guess my thoughts on this are when I look at number 2 of the findings, determination of whether the zoning is justified or needed I have a real question of whether we need it in this area. There seem to be several vacant parcels undeveloped at this point that are already zoned R-O and a couple of new one that are going in that are just now beginning development. So, from my perspective I have a difficult time finding that there is a justified need.

Hoffman: Mr. Chair, I share the concern of Commissioner Marr and have in past votings on R-O property in this area because by my account there are almost 10 that are not developed within a very close short distance of this request. I do have a question for the applicant. When we went on tour it appeared to me that about 2/3 of this site is pasture land and then there is the house. Behind that there is a grove of trees or forest area. Could you describe that to me and what the plan might be? Is

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there a concept that might help?

Basham: I have not seen the concept. From what Ben Israel said I think the property that he is wanting to develop or put the clinic on is out toward the street and not toward the back.

Hoffman: Right. Is there a slope up that goes up the hill?

Basham: Is there now? Yes.

Hoffman: Yes. It goes uphill from the house I believe or am I completely backwards on that?

Basham: I think that's right.

Hoffman: So the drainage from this property would not be back onto the preserve behind. It would be towards the street.

Basham: I have not walked over the property so I don't know.

Hoffman: Okay. Thank you very much.

Estes: Mr. Chairman, I had a question similar to the one just asked. How does the adjacent watershed drain into the designated wetland if you know?

Basham: I do not know.

Estes: I understand that is not determinative in the rezoning issue but I do concur with Commissioner Marr and Commissioner Hoffman's other comments.

Hoffman: Mr. Chair, I have an idea that I would like to throw out. In a PUD where the zoning would be accomplished at the same time that the project is brought forward, it's more possible for us to answer these types of questions and I might move that to the applicant as a suggestion should this not pass either the Planning Commission's recommendations or the City Council. As I understand it our vote would only be as a recommendation to City Council of whether or not to rezone the property but that a PUD is brought forward at the same time as the rezoning or not. That's how I always think of it.

Conklin: We have not done that in Fayetteville. There are other communities that do have combined site plan review and zoning. I've seen some applicants bring in

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development proposals along with their rezonings and offer a bill of assurance to build it according to their plan but we have not typically done that.

Hoffman: We've done it more in residential. I don't mean to interrupt. On a residential type plan, we've done that for some townhouses recently, I believe, where the buildings are grouped according to where the best location is to preserve environmental features and so forth.

Conklin: Yes. That's allowed under our zoning for residential uses. The non residential uses typically require the rezoning.

Allen: Mr. Chair, other than a yes or no vote then is there anything that we can do as the Commission that helps to waylay Dr. Hudson's concerns about the wetlands?

Odom: Not necessarily at this point. Staff do you want to comment any further on that? It's really more of a development issue than a rezoning issue.

Conklin: The issue of the wetlands and drainage will be addressed during the development.

Odom: ~~And they will be addressed?~~

Conklin: Yes. Either at the Subdivision or at large scale development.

Hoover: Mr. Chair, I especially like Commissioner Hoffman's suggestion of having the site plan come in at the same time. I know other cities are doing this. This is an issue where I'm not necessarily against R-O right here but I am against giving up any leverage we have of not knowing what's going to happen to it. I want more control. I know we can't do zoning with conditions but I would appreciate if the city would look into how other cities are doing this because they are doing this and they are saying, this could be rezoned if you do this particular development and we know you are going to do it this way and there is a bill of assurance. I think here is a perfect example of when we need that.

Hoffman: Mr. Chair, I do have one thing that might help compromise. On another property we have voted not to rezone the entire property but we voted to rezone only portions of the property. In this case I would think that the front portion because it is relatively flat and does not obviously drain towards the wetlands, it faces a major collector street, or whatever Joyce is termed, that the front, say 50 percent of the property could be rezoned R-O with no problem and not impact the trees, wetlands or anything. If anybody on the Commission would be interested in going forward with that I can try to craft a motion to do that and then leave the

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back part of the property A-1. But I'm not sure that will fly. I can run it up the flagpole though.

Odom: Well, you have run it up, let's see if we have anyone that wants to comment on it.

Bunch: Mr. Chair, Commissioner Hoffman would that be primarily from the break in the property? Having looked at it it appears as though the bulk of the property drains towards the south towards Joyce and just the part from the tree line to the north I believe are the parts that might drain towards the wetland. We may want to ask Dr. Hudson.

Hudson: That's essentially true. It's just a small part, maybe an acre that is of concern. Our only concern is not the rezoning but not draining into the wetlands. That's our concern.

Estes: Mr. Chairman, the applicant brings to us a request to rezone the approximate 5 acres. I do not feel that we as a Commission can sua sponte amend the applicants rezoning request. I will not vote for the rezoning request as it now stands but likewise I'm very much concerned about this Commission sua sponte on it's own motion amending this applicant's zoning request. I think that is way outside the scope of our authority. Our granted authority from the City Council.

Hoffman: Mr. Chair. Just to respond to your concern. I certainly understand. I think that we have dealt with other difficult large tracts in that manner. There was a church on Hwy 265 that retains that zoning. They had asked for a larger portion of the property to be rezoned and the Commission took the initiative to say okay, only the front portion could be rezoned. I think that was upheld by City Council so I'm not sure if it is outside the boundaries of our authority.

Estes: My remembrance of that issue is that the applicant acquiesced to that suggestion.

Hoffman: Then I would have that same question to this applicant.

Basham: What was your question?

Hoffman: Would you be interested in acquiescing to an amended type of zoning in order to go forward with this that would leave out a portion of the rear of the property and leave it A-1?

Basham: My position is I can refer that to Mr. Israel and go from there.

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Odom: Well, let's all keep in mind a couple of things. First this is nothing more than a recommendation to the City Council if we approve it. If we deny it then it's up to the applicant whether or not they wish to appeal the denial and so forth. I would caution those members of the Commission not to find against the development because they would like to see it come thorough all at one time. That is not what we are charged with. I think Commissioner Marr has made a point that it is on point because it addresses a specific finding that we must determine whether or not R-O zoning is appropriate or needed at this time by citing number 2. I would encourage those who are going to support it to stick with those findings. In particular and on that issue, I do not agree with Commissioner Marr's assessment. It seems to me that that area of Joyce Street, R-O, which not only is designated on the Land Use Plan as office and residential and is compatible with the General Land Use Plan but the R-O zoning on Joyce Street that I'm familiar with is accurate. I know there was a recent sell of an R-O zoning that we recently rezoned on the corner of Joyce just down the street from this. There is construction on other R-O sites as well. This is an area of town that is growing rapidly and in my opinion, needs more R-O zoning. So, I differ in opinion on that finding. So, I would support a motion for approval of this R-O zoning.

MOTION:

Hoffman: Mr. Chair, I will make a motion to recommend an R-O zoning from the portion of the rear of the house forward to Joyce Street only. The house is shown on page 5.7 of our material, and that the remainder of the property north of the house remain A-1. And that the applicant would submit a revised survey to the staff should this particular motion be seconded and passed.

Odom: Do we have a second to the motion? Going once, going twice, the motion fails for lack of a second.

COMMISSION DISCUSSION:

Conklin: Mr. Chairman, under chapter 154 of our UDO under amendments just to let the Commissioners know what they can and can't do with regard to amendments to our zoning map. The Planning Commission may take one of the following actions. 1) Approval. The proposed amendment may be approved as presented. 2) Approval in Modified Form. Approved in a modified form by a majority of the Planning Commission and recommended for adoption by the City Council with the reasons for such recommendations stated in writing. 3) Disapproval. If the Planning Commission disapproves a proposed amendment the reason for such

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disapproval shall be given in writing to the petitioner. 4) Neither Approve nor Disapprove. There is a time line on here of 45 days you have if you don't act on the item within 45 days it's deemed approved and goes to City Council. I just wanted to go over those items with you.

Odom: I didn't know that.

MOTION:

Shackelford: Mr. Chairman, I guess I concur with most if not all of your statements that there is a need for R-O in this area and probably want to expand on that a little bit further. I'm also in agreement with the comments that Dr. Smith made. I think if you look at the 2020 plan and look at the location of this property it will be rezoned and developed at some point. I think that R-O zoning would have the least impact on this property especially if you started thinking of R-1.5 or R-2 and the density that it could be zoned and built at that point. Projected on this property is a medical building which is going to be very low impact on this property. Personally I think we are not giving up any control. I think we still have control over the runoff and those sorts of situations with the LSD that would have to come back before this panel for approval. So, I'm going to go ahead and make a motion that we approve RZ 00-20 as it is presented and reserve the right to deal with those specific issues as this panel when the LSD comes through.

Odom: We have a motion by Commissioner Shackelford. I will second the motion. Do we have any discussion on the motion?

Hudson: I believe we are making a lot out of this. Really none of us, I don't believe, none of us object to this rezoning per say. The problem is we have just not sat down around a cup of coffee and resolved this. It could be resolved probably very, very quickly. That's all I'm saying. Looks like to me maybe the recommendation that all the parties get together and have a cup and resolve this and it could come back to you. It looks like that could settle the issue.

Allen: Mr. Chair, what was that option of the 45 day thing again? Could you read that one more time?

Conklin: Deemed approved or if everybody agrees, both parties, you can extend that time.

Shackelford: Mr. Chair, I still hold firm to the opinion that we ought to go ahead and approve the rezoning as it is and let the applicant know that prior to the LSD being approved we would like to see the concerns of the neighbors addressed and be

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prepared to present that with the LSD. We still have final say in that LSD approval and a big percentage of that would be whether or not we were satisfied with the runoff and the other situations that we look at with every LSD. So, I'm agreeing with the speaker that I don't think there is a general consensus against this rezoning and I don't think we are giving up any control on this by going ahead and recommending the approval of this rezoning to the City Council.

Marr: Mr. Chair, I want to make sure I'm clear on item number 2. A couple of questions for Tim. We approved a 6 acre tract of R-0 in this area, is that developed currently and filled do we know?

Conklin: That has not been developed at this time.

Marr: And there is a new Millennium Place Subdivision that is R-O and C-1 and that is under development?

Conklin: Yes. Their final plat is almost ready for signatures.

Marr: And then there is R-O property further west on Joyce Boulevard that is undeveloped at this point? By the Post Office?

Conklin: Yes.

Marr: Thank you.

Hoover: Mr. Chair, I have a question for staff. Just out of curiosity, I wanted to compare R-O to R-2 and the amount of concrete for parking needs for the two. Do you have just off the top of your head, which one would require more concrete?

Conklin: It's going to depend on the density they propose. Under R-2 you are allowed to have up to 24 units per acre. If they achieve that density you will probably have a lot more parking based on that density.

Hoover: In an R-2 if you used it to its full capacity?

Conklin: Yes. With R-O professional office at 1 space for 300 square feet of floor area, depending on the size of the office, if it's a multi story office building it could have potentially a lot of parking. That's a difficult question.

Hoover: I understand. I was just comparing notes here. Thank you.

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Hoffman: Mr. Chair, so in R-O zoning there's a maximum percentage of the property that could be covered with pavement which is about 85 percent?

Conklin: That is our Commercial Design Standards, yes, 85 percent.

Hoffman: And if the property is rezoned and a large scale development come through that technically meets all of the ordinance requirements for tree canopy and replacement, drainage, detention and so forth, what is the minimum rear setback that can be from the north property line.

Conklin: From the back property line is 25 feet.

Hoffman: And would any kind of screening or buffering be required between the A-1 and the R-O?

Conklin: Yes. We do require screening between residential, non-residential uses.

Hoffman: Essentially I'm for a rezoning on a property that has a certainty of being developed in an appropriate manner for this street because I do believe that Joyce is headed in that direction. However, because of the proximity to the wetlands and the other issues that remain to be resolved I don't think I can support it at this time. I'm struggling with a way to justify it in my mind when the adjoining property owners seem not to be too worried about it but want to sit down and discuss it, do you understand if the rezoning passes all of these items could come to pass. If a property meets design standards and is not asking for any variances and you have 25 foot setbacks and clear cutting of the treed area in the back, you could have a commercial development pretty close to your preserve. When rezoning has passed this level and City Council then in whatever manner it comes back for a large scale development if no variances are required it seems to me that the Planning Commission is going to be quite likely to pass it. So do you want to have your cup of coffee now or later?

Smith: Won't those things be worked out in large scale development?

Hoffman: If they meet all of these development standards for R-O zoning that can be an intensive use of the property. It allows for quite a bit of coverage of the property. It allows for 85 percent of it to be paved. Drainage could certainly be engineered to where they drain into detention ponds and so on but it doesn't leave much of an area or natural buffer between this development and the preserve behind it. So, for that reason I'm thinking I'm not going to support it if we can't get a little bit clearer picture of what's to occur here.

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- Hoover: Mr. Chair, I have one other question for staff and I'm sorry, I know you have told me this before, in an A-1 are there any conditional uses? Could they do an office complex in an A-1 with a conditional use?
- Conklin: Not in A-1.
- Hoover: What can you do in A-1?
- Conklin: Church, child care, agricultural uses. You need a conditional use for parking lots which serve a use within a different zoning district.
- Bunch: Mr. Chairman, I would offer possibly a friendly amendment to revise the motion by Commissioner Shackelford to exclude that portion of the property that drains into the wetland. To be a little more definitive than just saying from the house to the north. That the rezoning would be to R-O for all of the property with the exclusion of the portion that drains into the wetland and that would remain A-1. Would you accept that as a friendly amendment?
- Shackelford: I struggle with that a little bit to be honest with you. I still think that we can address that without doing divided rezoning in this situation. I think that Commissioner Hoffman has made some good points but just because you have the ability to build to this level there are a lot of times that we don't allow developers to build to the limit. I don't think we are giving anything away at this point. I think we still have final say on the large scale development. I think this situation will be addressed and will be resolved between the applicant and the surrounding people. I'm not necessarily sure that we want to start the trend of dividing rezoning requests. I think I would rather vote on it as it stands and if that's the direction you want to go if this fails, obviously you could make the motion and go forward with that.
- Bunch: Or would the applicant consider withdrawing this and bringing it back to us after they have had the time to talk to the neighboring property owners?
- Basham: Again, I'm not in a real good position to barter on that. I would just leave it as it is right now.
- Petrie: Mr. Chair, if I may. I wanted to read what our regulations are concerning drainage into wetlands. Chapter 170.07 says areas defined as wetlands by the appropriate federal agencies shall be protected from adverse changes in runoff quantity and quality from associated land development. That is an item, of course, we are enforcing.

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Odom: And that is addressed at the large scale development process?

Petrie: Yes sir.

Odom: Is there any further discussion on the motion? Call the roll.

ROLL CALL:

Upon roll call the motion is denied by a vote of 3-5-1 with Commissioners Estes, Hoffman, Hoover, Allen and Marr voting against and Commissioner Ward abstaining.

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: July 10, 2000

RZ 00-20.00: Rezoning (Dixie Development, pp176) was submitted by Gary Carnahan of the Benham Group on behalf Ben Israel of Dixie Development, Inc. for property located at 2416 E. Joyce Street. The property is zoned A-1, Agricultural and contains approximately 5 acres. The request is to rezone to R-O, Residential Office.

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: July 10, 2000

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>August 1, 2000</u>	

Comments: _____

BACKGROUND:

This property is located on the north side of Joyce Blvd. west of Crossover Rd. (Hwy 265) and east of Old Missouri Rd. It contains approximately 5 acres and is currently zoned A-1, Agricultural; there is a single family home in this location. The applicant is seeking R-O, Residential Office zoning in order to construct a development which will include professional office space for lease. (See attached letter from the applicant)

SURROUNDING LAND USE AND ZONING

North:	Single family home, A-1
South:	Paradise Valley Townhomes, R-2
East:	Vacant, A-1 (90' strip) / R-1
West:	Vacant, A-1

INFRASTRUCTURE:

Streets: Access is from Joyce Blvd. which has recently been improved and includes a sidewalk on the south side and a multi-purpose trail on the north side. Joyce Blvd. is classified as a principal arterial on the Master Street Plan, with a total of 110' of right-of-way required. A principal arterial is designed to accommodate 17,600-20,600 vehicle trips per day.

Water: 36" line on north side of Joyce Blvd.
8" line on south side of Joyce Blvd.

Sewer: 8" line on north side of Joyce Blvd. just east of the subject property (extension may be required at the time of development)

LAND USE PLAN: General Plan 2020 designates this site Office and Residential. Rezoning this property to R-O, Residential Office 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 zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. The subject property is designated on the General Plan 2020 as Office (front along Joyce

Blvd.) and Residential (northern portion of the tract).

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

Finding: There are vacant parcels in the area which are zoned R-O currently. The 6.0 acre tract at the northwest corner of Old Missouri and Joyce Blvd. was rezoned earlier this year. East of this property, at the corner of Joyce Blvd. and Crossover Rd. is Millennium Place subdivision which has both R-O and C-1 zoning. This subdivision is currently under construction. There are also undeveloped R-O properties further west on Joyce Blvd. which were platted as a part of the Vantage Square development (adjacent to the new US Post Office building and south of Community Bank).

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. Configuration of specific access points will be reviewed at the time of development approval. Joyce Blvd. is an improved street designed to carry heavy traffic.

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 population density in a manner which would undesirably increase the load on public services including schools, water and sewer facilities. Any utility extensions necessary to serve a development on this property will be determined at the time of development review and approval and will be undertaken at the expense of the developer.

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

§161.12 DISTRICT R-O RESIDENTIAL OFFICE.

A. Purpose. The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

B. Uses.

1. Uses Permitted.

Unit 1	City-Wide Uses by Right
Unit 5	Government Facilities
Unit 8	Single-Family and Two-Family Dwellings
Unit 12	Offices, Studios and Related Services
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
Unit 9	Multi-Family Dwelling - Medium Density
Unit 10	Multi-Family Dwelling - High Density
Unit 13	Eating Places

C. Bulk and Area Regulations. (Per Dwelling Unit for Residential Structures)

Lot Minimum Width:	Mobile Home Park	100 ft.
	Lot Within a Mobile Home Park	50 ft.
	One Family	60 ft.
	Two Family	60 ft.
	Three or More	90 ft.
Lot Area Minimum:	Mobile Home Park	3 acres
	Lot Within a Mobile Home Park	4200 sq. ft.
	Row Houses:	
	Development	10,000 sq. ft.
	Individual Lot	2500 sq. ft.
	Single Family	6000 sq. ft.
	Two Family	6500 sq. ft.
	Three or More	8000 sq. ft.
	Fraternity or Sorority	1 acres

Land Area Per Dwelling Unit:	Mobile Home	3000 sq. ft.
	Row Houses & Apartments:	
	Two or More Bedrooms	1200 sq. ft.
	One Bedroom	1000 sq. ft.
	No Bedroom	1000 sq. ft.
	Fraternity or Sorority	500 sq. ft., per resident

Lot Minimum Width:	Mobile Home Park	100 ft.
From Center Line of Public Alley		10 ft.

E. Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

F. Height Regulations. There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any R-1, R-2, or R-3 District an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, §160.041; Code 1965, App. A, Art. 5(x); Ord. No. 1747, 6-29-89; Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80)

D. 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	10 ft.
From Side Property Line When Contiguous to a R-1, R-2 or R-3 District	15 ft.
From Back Property Line Without Easement or Alley	25 ft.

RECEIVED

JUN 15 2000

PLANNING DIV.



700 S. Thompson, Suite B-101
Springdale, AR 72764

June 14, 2000

City Planning Commission
Administration Building
Fayetteville, AR

I am requesting a change in zoning for property located at 2416 E. Joyce St. in Fayetteville, AR. The property is currently zoned A-1 and I am requesting a change to R-O.

Randall and Barbara Bailey currently own the property. I have a signed offer and acceptance to purchase the property on or before August 15, 2000.

I am requesting the zoning change in order to build office space for lease. There are currently five acres on the site and I desire to build approximately 50,000 sq. feet of office space. There should be minimal traffic congestion since Joyce St. is a five-lane road with stoplights at every major intersection.

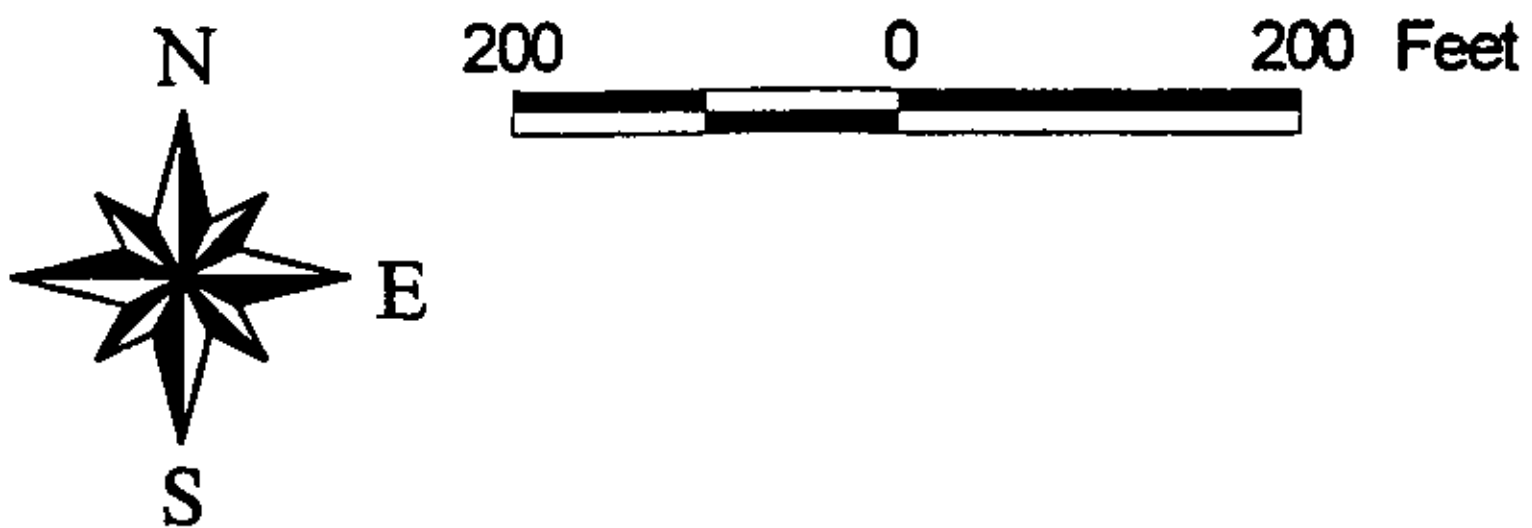
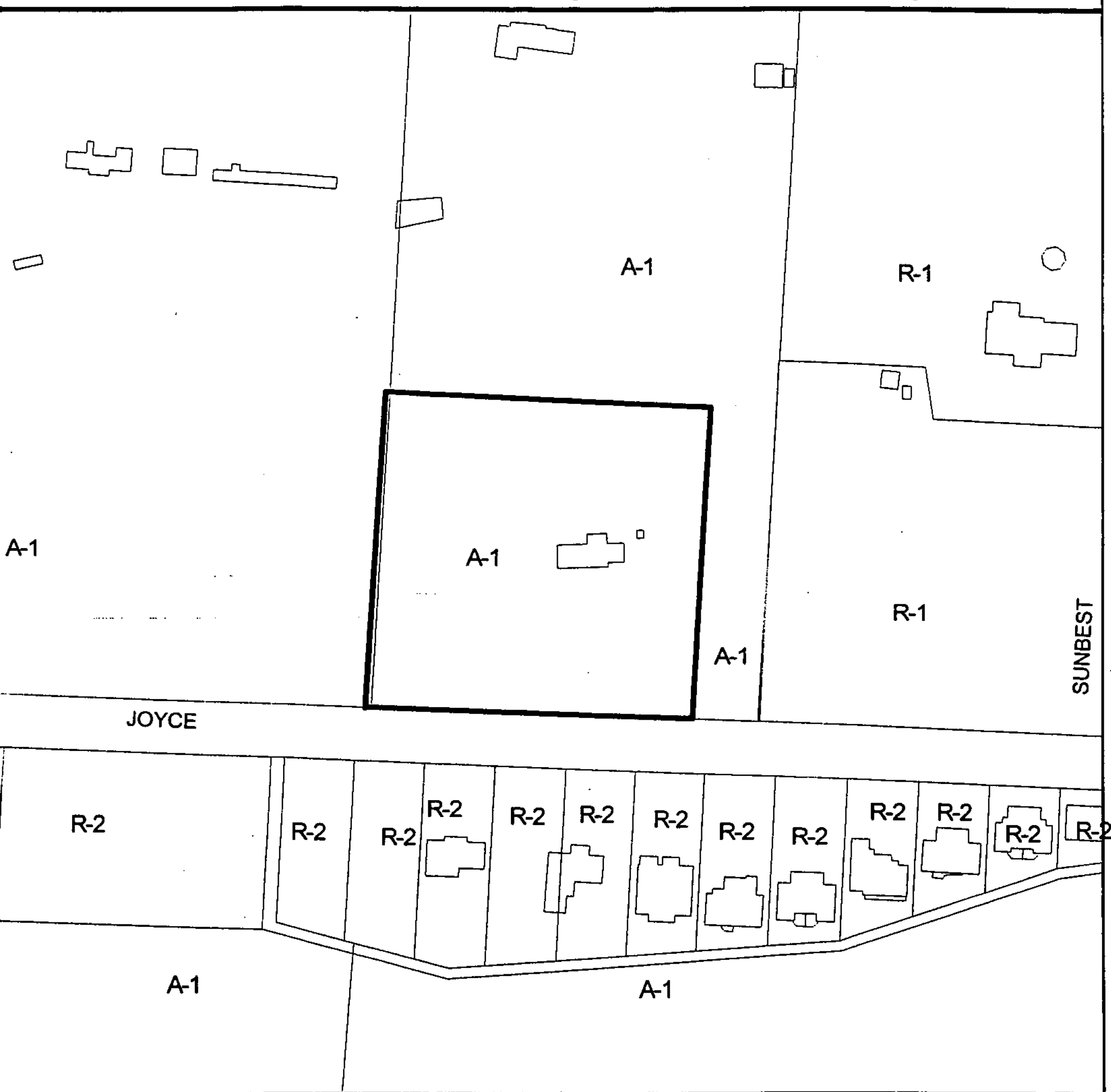
I plan to build class "A" office space with the first tenant being a group of physicians. The appearance of the buildings will be in harmony with the current developments on Joyce. The exterior will be mostly brick, most likely with metal roofs. Signage will be in accordance with the Fayetteville Sign Ordinance.

There is a 2.25-inch water line on the South side of Joyce running the entire length of the property. There is also an 8-inch line South of Joyce across the street from this property.

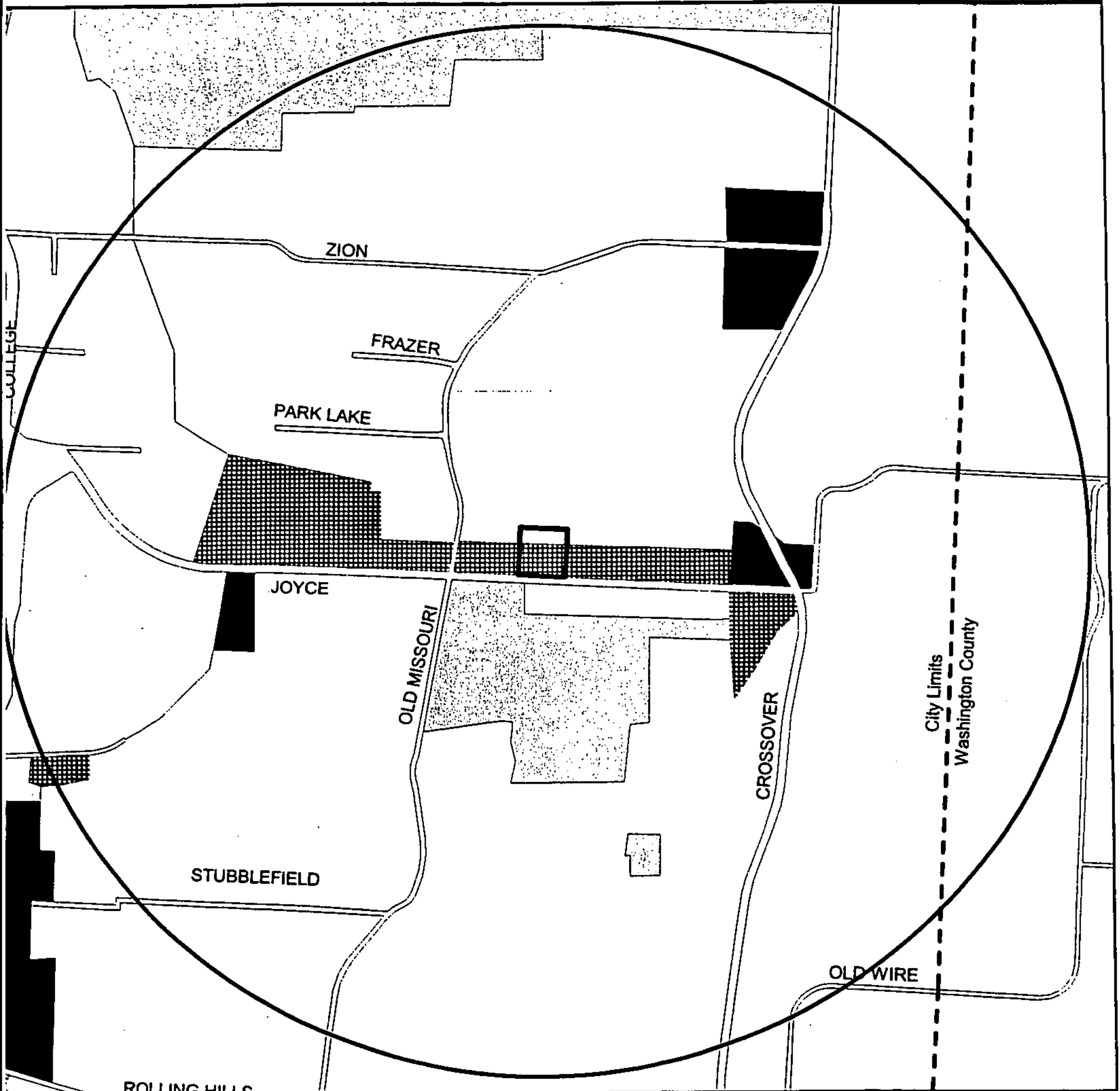
There is an 8-inch Sewer line North of Joyce St that ends at Sunbest Dr. West of Highway 265. There is an eight-inch sewer line South of Joyce St. directly across from the subject property.

Ben Israel
President
Dixie Development, Inc.

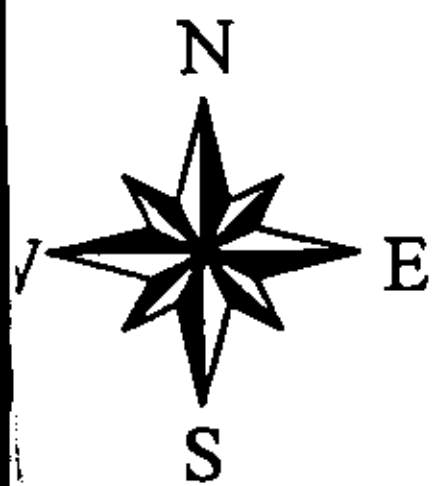
RZ00-20.00 - Dixie Development - Close Up



RZ00-20.00 - Dixie Development - 2020 Plan

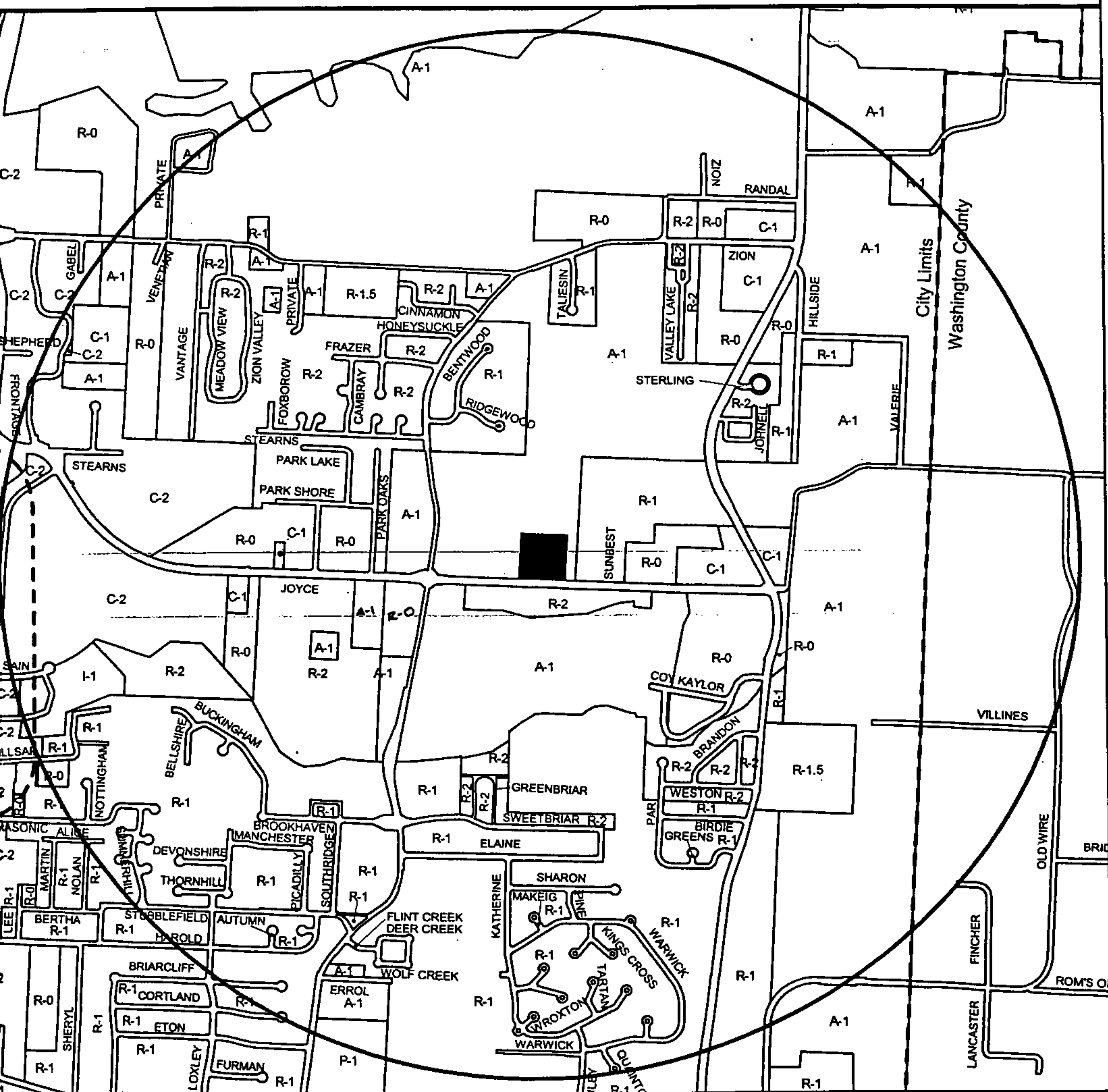


1400 0 1400 Feet

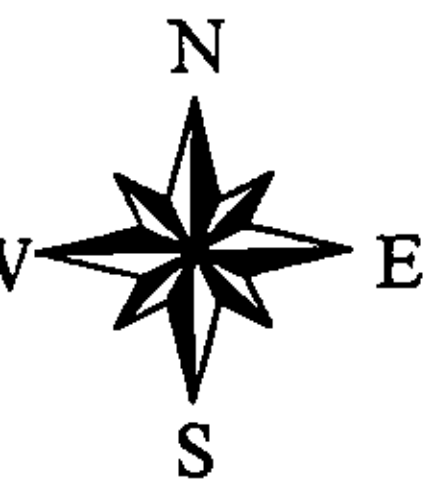


	Residential		University		Office
	Community Commercial		Industrial		Open / Space Recreational
	Historic Commercial		Mixed Use		Regional Commercial
	Historic Districts		Neighborhood Commercial		

'RZ00-20.00 - Dixie Development - One Mile Diameter



1400 0 1400 Feet



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA CITY COUNCIL JULY 18, 2000

A meeting of the Fayetteville City Council will be held on July 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 June 20, 2000 and the July 5, 2000 City Council meetings.
2. **BID 00-13:** A resolution awarding Bid 00-13 to Crash Rescue Equipment Service for the sale of the Airport's 1985 Oshkosh Fire Crash-Rescue Vehicle, Unit #20 in the amount of \$38,500.00.
3. **ERNEST LANCASTER DRIVE:** A resolution approving Amendment #1 to Task Order #1 (Extension of Ernest Landcaster Drive) to the basic agreement with McClelland Engineers, Inc. for engineering services in the amount of \$25,475.00.
4. **LS 00-17.00:** A resolution accepting a lesser dedication of right-of-way than required by the Master Street Plan for the western extension of Howard Nickell Road, a principal arterial, as requested by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road.
5. **SOLID WASTE RATE STUDY:** A resolution approving a contract with DMG-Maximus, Inc. in the amount of \$34,600.00 for consulting services for the development of a solid waste cost of service rate study.
6. **BUDGET ADJUSTMENT:** A resolution approving a budget adjustment increasing the budget for fuel expense for various operating divisions, authorizing an additional position in Building Maintenance, increasing the Municipal Judge's salary and increasing overtime for the Police and Fire Departments.

move to New Business #1

B. OLD BUSINESS

1. **RZ 00-17.00:** An ordinance approving rezoning request RZ 00-17.00 submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density. The ordinance was left on the first reading at the July 5, 2000 meeting.

Delete extra space

2. **AD 98-8.00:** An ordinance approving a AD 98-8.00, Administrative amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use-Off Street Parking" to revise the required parking for eating places (restaurants). The ordinance was left on the first reading at the July 5, 2000 meeting.

3. **SHILOH DRIVE:** 1) An ordinance approving a bid waiver with McClinton-Anchor, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue; 2) Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction; 3) Approval of a 15% project contingency of ~~46,495.00~~ for material/construction testing and variations in final quantities. The ordinance was left on the first reading at the July 5, 2000 meeting.

4. **SHILOH DRIVE:** A resolution approving a letter contract in the amount of \$5,000.00 with Milholland Company for engineering design, construction staking, construction management, and as-built drawings for the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the CMN property line and the intersection with Northwood Avenue. The resolution was tabled at the last meeting.

C. NEW BUSINESS

1. **FIRE STATION:** A resolution approving the sale of the Old Harold Street Fire Station to Howell Trumbo in the amount of \$115,850.00.
2. **PARK LAND:** An ordinance approving a waiver of Ordinance 3793 to accept money in lieu as the park land requirement of the Cornerstone Apartments Subdivision.

*up by
C. H. H.
w/ new*

3. **RZ 00-19.00:** An ordinance approving rezoning request RZ 00-19.00, submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and South of West Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential.
4. **AD 00-18.00:** An ordinance for AD 00-18.00, Administrative Amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision-Public Sanitary Sewer Not Accessible" to allow lots smaller than 1½ acres that are on a septic system.
5. **RZA 00-2.00:** An ordinance approving annexation request RZA 00-2.00 submitted by Candy R. Burton of Phillips Law Firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the Planning Area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville.

7) P. C. Appeal.
8) Public Transit. - (consent)

Nominations Committee. Wed 5:00.

July 11, 2000

**AGENDA SESSION
FOR THE
CITY COUNCIL MEETING
JULY 18, 2000**

New Items:

- New Business*
1. **RZ 00-20.00:** An appeal of a Planning Commission decision which denied rezoning request RZ 00-20.00 for property located at 2416 E. Joyce Street. The request was to rezone the property from A-1 to R-O.
- Consent*
2. **PUBLIC TRANSIT:** Consideration of a resolution authorizing the Mayor and his representative to help create and participate in the steering committee to study the feasibility of a publicly owned transit system in Northwest Arkansas.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA - CITY COUNCIL JULY 18, 2000

A meeting of the Fayetteville City Council will be held on July 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 June 20, 2000 and the July 5, 2000 City Council meetings.
2. **BID 00-13:** A resolution awarding Bid 00-13 to Crash Rescue Equipment Service for the sale of the Airport's 1985 Oshkosh Fire Crash-Rescue Vehicle, Unit #20 in the amount of \$38,500.00.
3. **ERNEST LANCASTER DRIVE:** A resolution approving Amendment #1 to Task Order #1 (Extension of Ernest Landcaster Drive) to the basic agreement with McClelland Engineers, Inc. for engineering services in the amount of \$25,475.00.
4. **LS 00-17.00:** A resolution accepting a lesser dedication of right-of-way than required by the Master Street Plan for the western extension of Howard Nickell Road, a principal arterial, as requested by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road.
5. **SOLID WASTE RATE STUDY:** A resolution approving a contract with DMG-Maximus, Inc. in the amount of \$34,600.00 for consulting services for the development of a solid waste cost of service rate study.
6. **BUDGET ADJUSTMENT:** A resolution approving a budget adjustment increasing the budget for fuel expense for various operating divisions, authorizing an additional position in Building Maintenance, increasing the Municipal Judge's salary and increasing overtime for the Police and Fire Departments.

B. OLD BUSINESS

1. **RZ 00-17.00:** An ordinance approving rezoning request RZ 00-17.00 submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density. The ordinance was left on the first reading at the July 5, 2000 meeting.
2. **AD 98-8.00:** An ordinance approving a AD 98-8.00, Administrative amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use-Off Street Parking" to revise the required parking for eating places (restaurants). The ordinance was left on the first reading at the July 5, 2000 meeting.
3. **SHILOH DRIVE:** 1) An ordinance approving a bid waiver with McClinton-Anchor, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue; 2) Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction; 3) Approval of a 15% project contingency of 46,495.00 for material/construction testing and variations in final quantities. The ordinance was left on the first reading at the July 5, 2000 meeting.
4. **SHILOH DRIVE:** A resolution approving a letter contract in the amount of \$5,000.00 with Milholland Company for engineering design, construction staking, construction management, and as-built drawings for the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the CMN property line and the intersection with Northwood Avenue. The resolution was tabled at the last meeting.

C. NEW BUSINESS

1. **FIRE STATION:** A resolution approving the sale of the Old Harold Street Fire Station to Howell Trumbo in the amount of \$115,850.00.
2. **PARK LAND:** An ordinance approving a waiver of Ordinance 3793 to accept money in lieu as the park land requirement of the Cornerstone Apartments Subdivision.

3. **RZ 00-19.00:** An ordinance approving rezoning request RZ 00-19.00, submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and South of West Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential.
4. **AD 00-18.00:** An ordinance for AD 00-18.00, Administrative Amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision-Public Sanitary Sewer Not Accessible" to allow lots smaller than 1½ acres that are on a septic system.
5. **RZA 00-2.00:** An ordinance approving annexation request RZA 00-2.00 submitted by Candy R. Burton of Phillips Law Firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the Planning Area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville.

NOTICE OF A SPECIAL ELECTION

Notice is hereby given that the City of Fayetteville, Arkansas, will hold a special election on August 15, 2000, at which there will be submitted to the electors of the City the question of the levy of the Sales and Use Tax in substantially the following form:

Vote on each question by placing an "X" in the square opposite the question either "FOR" or "AGAINST":

FOR a one percent (1%) sales and use tax within the City of Fayetteville, Arkansas to be levied for a period for a period of eighteen (18) months and pledged to pay a portion of the costs for the acquisition, design, construction and equipping of a public library, which shall include particularly, without limitation, land, a library building, meeting rooms, furniture, furnishings, fixtures, computers and related equipment and software, books and other library materials, parking facilities, including a multi-level parking deck, landscaping and nay necessary road, drainage and utility improvements therefor.

AGAINST a one percent (1%) sales and use tax within the City of Fayetteville, Arkansas to be levied for a period for a period of eighteen (18) months and pledged to pay a portion of the costs for the acquisition, design, construction and equipping of a public library, which shall include particularly, without limitation, land, a library building, meeting rooms, furniture, furnishings, fixtures, computers and related equipment and software, books and other library materials, parking facilities, including a multi-level parking deck, landscaping and nay necessary road, drainage and utility improvements therefor.

After payment of all of the improvements listed above, any surplus tax collections which may be accumulated shall be transferred to the general funds of the City, and shall be used for payment of maintenance and operation costs of the City's public libraries.



**CITY OF FAYETTEVILLE
Final Agenda
CITY COUNCIL
July 18, 2000**

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

NOMINATING COMMITTEE REPORT

A. CONSENT AGENDA

- 1. APPROVAL OF THE MINUTES:** Approval of the minutes from the June 20, 2000 City Council meeting.
- 2. BID 00-13:** A resolution awarding Bid 00-13 to Crash Rescue Equipment Service for sale of the Airport's 1985 Oshkosh Fire Crash-Rescue Vehicle, Unit #20 in the amount of \$38,500.00.
- 3. ERNEST LANCASTER DRIVE:** A resolution approving Amendment #1 to Task Order #1 (Extension of Ernest Lancaster Drive) to the basic agreement with McClelland Engineers, Inc. for engineering services in the amount of \$25,475.00.
- 4. PUBLIC TRANSIT:** A resolution authorizing the mayor and his representative to help create and participate in a steering committee to study the feasibility of a publicly owned transit system in Northwest Arkansas.
- 5. SOLID WASTE RATE STUDY:** A resolution approving a contract with DMG-Maximus, Inc. in the amount of \$34,600.00 for consulting services for the development of a solid waste cost of service rate study.
- 6. BUDGET ADJUSTMENT:** A resolution approving a budget adjustment increasing the budget for fuel expense for various operating divisions, authorizing an additional position in Building Maintenance, increasing the Municipal Judge's salary and increasing overtime for the Police and Fire Departments.

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- 3. SHILOH DRIVE:** 1) An ordinance approving a bid waiver with McClinton-Anchor, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at CMN property line, including the radius and intersection of Northwood Avenue; 2) Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction; 3) Approval of a 15% project contingency of \$46,495.00 for material/construction and variations in final quantities. The ordinance was left on the first reading at the July 5, 2000 meeting.
- 4. SHILOH DRIVE:** A resolution approving a letter contract in the amount of \$5,000.00 with Milholland Company for engineering design, construction staking, construction management, and as-built drawings for the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the CMN property line and the intersection with Northwood Avenue. The resolution was tabled at the last meeting.

C. NEW BUSINESS

- 1. LS 00-17.00:** A resolution accepting a lesser dedication of right-of-way than required by the Master Street Plan for the western extension of Howard Nickell Road, a principal arterial, as requested by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road.
- 2. FIRE STATION:** A resolution approving the sale of the Old Harold Street Fire Station to Howell Trumbo in the amount of \$115,850.00.
- 3. PARK LAND:** An ordinance approving a waiver of Ordinance 3793 to accept money in lieu as the park land requirement of the Cornerstone Apartments Subdivision.
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- 7. PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision which denied rezoning request RZ 00-20.00 for property located at 2416 E. Joyce Street. The request is to rezone the property from A-1 to R-O.