

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL NOVEMBER 21, 2000

A meeting of the Fayetteville City Council will be held on November 21, 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 October 24, 2000 Special City Council meeting and the November 7, 2000 City Council Meeting.
2. **PROPERTY TRANSFER:** A resolution approving a transfer of property located at 19 E. Fourth from the City of Fayetteville to South Fayetteville Community Development Corp.

B. OLD BUSINESS

1. **RZ 00-22:** An ordinance approving rezoning request RZ 00-22, submitted by James Key on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential. This ordinance was left on the second reading at the November 7, 2000 meeting.
2. **GARVER ENGINEERS:** A resolution approving an engineering agreement with Garver Engineers for the design of a multi-level parking deck to be constructed on the existing parking lot behind the Campbell-Bell Building. This resolution was tabled at the November 7, 2000 meeting.



C. NEW BUSINESS

1. **TELECOMMUNICATION ORDINANCE:** An ordinance approving a Telecommunications Ordinance.
2. **PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision as requested by Dennis Caudle for RZ 00-25 for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.
3. **RZ 00-24.00:** An ordinance approving rezoning request RZ 00-24.00 as submitted by Jerry Martin for property located at 1209 Bailey Street. The property is zoned A-1, Agricultural and contains approximately 2.30 acres. The request is to rezone to R-1, Low Density Residential.
4. **OZARK MOUNTAIN OUTFITTERS:** A resolution approving a Certificate of Public Convenience for a horse carriage as requested by Ray Dobson.
5. **NWA REGIONAL PLANNING COMMISSION:** A resolution approving an amendment to the agreement with Northwest Arkansas Regional Planning Commission

D. INFORMATIONAL ITEM:

1. Informational item to the City Council in accordance with administrative policy.

Meeting of November 21, 2000

	Roll.		#17 39. Consent.		
YOUNG	✓		✓		
RUSSELL	✓		✓		
REYNOLDS	✓		✓		
AUSTIN	✓		✓		
DAVIS	✓		✓		
TRUMBO	✓		✓		
DANIEL	✓		✓		
SANTOS	✓		✓		
HANNA	✓				
			8-0.		

R200-22.	Failed				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
HANNA	✓				
	4-5-0.				

Meeting of November 21, 2000

GARVER, Eng.	KS HD. PASS				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	✓				
SANTOS	✓				
HANNA					
	8-0.				

TELECOMMUNICATIONS	CU CR 2ND	PA BD. 3RD	PASS		
YOUNG	✓	✓	✓		
RUSSELL	✓	✓	✓		
REYNOLDS	✓	✓	✓		
AUSTIN	✓	✓	✓		
DAVIS	✓	✓	✓		
TRUMBO	✓	✓	✓		
DANIEL	ABSENT				
SANTOS	✓	✓	✓		
HANNA					

Meeting of November 21, 2000

22 00-25 *BD 22* *refer back to P.C.*

<i>PC. appeal.</i>					
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL					
SANTOS	✓				
HANNA					
	<i>7-0.</i>				

22 00-24.00

YOUNG					
RUSSELL					
REYNOLDS					
AUSTIN					
DAVIS					
TRUMBO					
DANIEL					
SANTOS					
HANNA					

left on 1st meeting.

Meeting of November 21, 2000

02. mb. out fitting	KS 28	ch KS			
YOUNG		✓			
RUSSELL		✓			
REYNOLDS		✓			
AUSTIN		✓			
DAVIS		✓			
TRUMBO		✓			
DANIEL					
SANTOS		✓			
HANNA					
		6-1-0.			

NWA P.C.	# BD				
YOUNG	✓				
RUSSELL	✓				
REYNOLDS	✓				
AUSTIN	✓				
DAVIS	✓				
TRUMBO	✓				
DANIEL	—				
SANTOS	✓				
HANNA					

adj. 9:20.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL NOVEMBER 21, 2000

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- Pass*
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 2. **PROPERTY TRANSFER:** A resolution approving a transfer of property located at 19 E. Fourth from the City of Fayetteville to South Fayetteville Community Development Corp.
- 157-00*

B. OLD BUSINESS

- Failed*
- X*
- RZ 00-22:** An ordinance approving rezoning request RZ 00-22, submitted by James Key on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential. This ordinance was left on the second reading at the November 7, 2000 meeting.
 2. **GARVER ENGINEERS:** A resolution approving an engineering agreement with Garver Engineers for the design of a multi-level parking deck to be constructed on the existing parking lot behind the Campbell-Bell Building. This resolution was tabled at the November 7, 2000 meeting.
- Passed*
- 158-00*

C. NEW BUSINESS

- PASS 4/2 78*
1. **TELECOMMUNICATION ORDINANCE:** An ordinance approving a Telecommunications Ordinance.
- REFERRED BACK TO PLANNING COMMISSION*
2. **PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision as requested by Dennis Caudle for RZ 00-25 for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.
- LEFT ON 1st READING*
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- PASS 159-00*
4. **OZARK MOUNTAIN OUTFITTERS:** A resolution approving a Certificate of Public Convenience for a horse carriage as requested by Ray Dobson.
- PASS 160-00*
5. **NWA REGIONAL PLANNING COMMISSION:** A resolution approving an amendment to the agreement with Northwest Arkansas Regional Planning Commission

D. INFORMATIONAL ITEM:

1. Informational item to the City Council in accordance with administrative policy.

ADJ. 9:20.

STAFF REVIEW FORM

Failed to C. Council meeting 11/21/00

X **AGENDA REQUEST**
 _____ **CONTRACT REVIEW**
 _____ **GRANT REVIEW**

For the Fayetteville City Council meeting of October 17, 2000

FROM:

<u>Tim Conklin</u> Name	<u>Planning</u> Division	<u>Public Works</u> Department
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ACTION REQUIRED: To approve an ordinance for RZ 00-22.00, submitted by James Key on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential.

COST TO CITY:

\$0.00

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

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

<u>Budget Manager</u>	<u>Administrative Services Director</u>
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CONTRACT/GRANT/LEASE REVIEW: _____ **GRANTING AGENCY:** _____

<u>Accounting Manager</u> <i>[Signature]</i>	<u>Date</u>	<u>Internal Auditor</u>	<u>Date</u>
<u>City Attorney</u> <i>[Signature]</i>	<u>Date</u>	<u>ADA Coordinator</u>	<u>Date</u>
<u>Purchasing Officer</u>	<u>Date</u>		

STAFF RECOMMENDATION: Staff recommended approval and on September 25, 2000, Planning Commission voted 7-0-1 to recommend approval and to forward the rezoning to the City Council.

<u><i>[Signature]</i></u> Division Head	<u>10-2-00</u> Date
<u><i>[Signature]</i></u> Department Director	<u>10-2-00</u> Date
<u><i>[Signature]</i></u> Administrative Services Director	<u>10/2/00</u> Date
<u><i>[Signature]</i></u> Mayor	<u>10/3/00</u> 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 RZ00-22.00 FOR A PARCEL
CONTAINING APPROXIMATELY 0.18 ACRES LOCATED AT
28 S. UNIVERSITY, REQUESTED BY JAMES KEY ON BEHALF
OF JAMES MITCHELL MASSEY.

**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 C-1, Neighborhood Commercial District to R-3, High 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 00-22.00

A PART OF THE NORTHEAST QUARTER (NE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SECTION SIXTEEN (16), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN EXISTING IRON PIPE ON THE EAST RIGHT-OF-WAY OF UNIVERSITY AVENUE, SAID POINT BEING N02°36'10"E 278.50 FEET FROM THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF UNIVERSITY AVENUE AND THE CENTER OF PUTNAM STREET; THENCE N02°36'10"E ALONG SAID RIGHT-OF-WAY 80.00 FEET TO A SET IRON; THENCE LEAVING SAID RIGHT-OF-WAY S87°06'50"E 100.19 FEET TO A SET IRON ON THE WEST RIGHT-OF-WAY OF THE ARKANSAS AND MISSOURI RAILROAD (FORMERLY ST. LOUIS AND SAN FRANCISCO RAILROAD); THENCE S00°43'13"W ALONG SAID RAILROAD RIGHT-OF-WAY 80.06 FEET TO A SET IRON; THENCE LEAVING SAID RAILROAD RIGHT-OF-WAY N87°06'50"W 102.82 FEET TO THE POINT OF BEGINNING, CONTAINING 0.1864 ACRES (8120.7 SQUARE FEET), MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

RZ 00-22.00: Rezoning (Massey, pp 522) was submitted by James Key, Architect on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential.

Odom: The next item that we have on tonight's agenda is a rezoning request RZ 00-22.00 submitted by James Key, Architect on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential. Staff's recommendation is for approval of the request of rezoning based on the findings as included as part of their report. Staff are there any further Conditions of Approval?

Conklin: There are no further Conditions of Approval.

Odom: Mr. Key? Identify yourself for the record and make your presentation.

Key: My name is James Key, architect. I'm here on behalf of the owner Mr. Massey to request rezoning of this partial lot. As was stated it's a .186 acres. It's the south 80 feet of the original lot 13 of the County Court plat. That lot had been split some time in the past with a commercial development on the north 42 feet of it which currently houses the Razorback Laundry and convenience store next to a small computer outlet and Wes' Barbeque. You are all probably familiar with it. This property currently houses a single-family residence which is unoccupied. The owner has recently obtained this property and would like to look at downgrading this zoning from a commercial lot to a R-3 High Density Residential which, in our opinion, is compatible with the neighborhood. I think the staff has agreed. I would be glad to field any questions you might have.

Odom: Before we take questions, Mr. Key, let me ask if there is any member of the audience that would like to address us on this rezoning request. Please come forward at this time.

PUBLIC COMMENT:

Thompson: Hello. My name is Ken Thompson. Two years ago, this time of year, I stopped in and visited with my old bible teacher, Earline Shoemaker who lived at this house and residence. I was doing a little campaigning and I was asking for her vote and she questioned me pretty closely about the candidate I was representing. I took the opportunity to ask her about her house there because I was kind of curious and she said it was built in 1836. It's the remainder of a ten pen house that has been

there. I guess she and her husband came in the forties or fifties and lived there probably fifty years or more. She passed away, I guess, last year at the age of 99. I was thinking that this has stood around for a good many years. I don't know if anybody of note ever lived there but somebody was a neighbor of early notables of Fayetteville. It just seems like a postage stamp size property. It was cared for and looked after by a series of residents. She said it was the second oldest house in Fayetteville, it probably wasn't always in Fayetteville - Fayetteville has grown around it, after the Ridge House. She looked into it and told me what she knew. Sometimes when these things are gone we kind of regret that they have passed away and left for ruin or whatever. Archibald Yell's house or the Waxhaw's Estate. People talked about it until it was no longer salvageable and have moved his law office and use it and it's kind of cherished. I would think that perhaps, it's been a nice little house and perhaps can serve a hundred years more for a retired couple like the Shoemaker's who came from Ohio and settled down here. I guess you could drag it down and grade it and make a parking lot or some more housing for students which is probably needed but it's served well and it's kind of a nice little house. I think it ought to be preserved. That could serve as a family residence for someone. That's all I have to say.

Odom: Thank you Mr. Thompson. Any other member of the audience like to address us on this rezoning request?

COMMISSION DISCUSSION:

Odom: Seeing none, I will close the floor to public discussion and bring it back to the applicant for questions and comments of the Planning Commission.

Shackelford: Mr. Chairman?

Odom: Commissioner Shackelford.

Shackelford: Prior to getting started, I'm going to have a conflict of interest on this so if you would abstain me from the vote.

Odom: Thank you.

Ward: Mr. Chairman?

Odom: Commissioner Ward.

MOTION:

Ward: I looked at down-zoning this from commercial to residential and this seems like a very good area for multi-family and I see next to it C-1 on one side and I-1 on the other side so I will go ahead and recommend approval of RZ 00-22.00.

Allen: I'll second.

Odom: We have a motion by Commissioner Ward, second by Commissioner Allen to approve Rezoning 00-22.00. I'll remind members of audience that the rezoning request is nothing more than a recommendation for City Council. This will now go before the City Council with either our recommendation that we approve this item or if it's denied the applicant has the right to appeal that to the City Council for action there as well. Any further discussion.

Hoffman: Mr. Chairman?

Odom: Commissioner.

Hoffman: I have a question for the applicant. Have you looked into the possibility of saving this house. Even as old as it is, it could be a very significant historical home.

Key: I personally have not been contracted by the owners to look at the restoration potentials of this property although I have toured the property and granted it was a very fine home in it's day. I'm not sure of the history of when it was built and the history since that time but the house is very much in disrepair at the current time. Considering the industrial zoning adjacent to it, the high density residential directly adjacent to it across the street, I don't think it's practical to look at developing this as a fine single-family home. The redevelopment cost would be considerable for a single-family residence which would be, I think in the owners and my opinion, not really desirable considering the location of the site.

Hoffman: Could it be incorporated into the apartment design in some way?

Key: I don't believe that it could due to the proximity of how the house is sited on the site. It's basically centered and pushed to the front. It sits ten to twelve feet within the setbacks. If it were to be developed as it is, with additional development added to it, we would have a problem with parking and access to the site because currently it is not positioned such that a drive access could be obtained around it to get parking to the rear and it's positioned so far to the west, the front of the lot, that there is no potential to get parking to the west of it, in

front of it. I don't think that it's feasible. Granted it could be a nice residence but considering the commercial zoning of the lot and considering the neighborhood, I don't think the owners considered it as a practical measure at this point considering the redevelopment cost and the inherent lot value in the neighborhood.

Hoffman: I take it from your statement then that there is no historical marker attached or any official historic designation attached to the structure?

Key: Not that I or the owners are aware of. I was not aware as the gentleman stated it was potentially the second oldest house in Fayetteville. I have had the pleasure of working on some restorations and historic districts, particularly the Davis Brumfeld house which was dated 1852. I find it hard to believe that this house is older than that. It very well could be, it does have some fine detailing in it. As I stated, it is very much in disrepair. It would probably cost more, at this point, to try to save it and restore it than it would be to tear it down and build a new single-family residence on this lot. However, considering the proximity in the neighborhood and various other things, I don't think it's feasible to even do that at this point. The reason we are here requesting the rezoning also is that it's not practical to be developed as a commercial lot unfortunately. It's too small. It's twelve foot in grade above the adjacent commercial property which had been developed quite some time in the past. I would like, if at all possible Ms. Hoffman, to try to save this house and incorporate it into this development, unfortunately given the circumstances, I don't think that that's practical.

Hoffman: Well knowing that but also knowing that rezoning is not a demolition permit, it does not equal a demolition permit, I will go ahead and support the request for rezoning.

Key: Thank you.

Odom: Any further discussion? Will you call the roll?

ROLL CALL:

Upon roll call RZ 00-22.00 passes upon a vote of 7-0-1 with Commissioner Shackelford 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: September 25, 2000

RZ 00-22.00: Rezoning (Massey, pp 522) was submitted by James Key, Architect on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High 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: September 25, 2000

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: October 17, 2000 (1st reading)

Comments: _____

BACKGROUND:

The subject property, located south of Center Street and east of S. University Ave., is contains one vacant single family residence with an out building. The applicant is requesting that this 0.1864 acre tract be rezoned from C-1, Neighborhood Commercial to R-3, High Density Residential.

The applicant proposes to develop this site with a multi-family dwelling. According to bulk and area restrictions for the R-3 zoning district, a duplex is the highest density that would be achievable without a variance from the Board of Adjustment. Three or more units in the R-3 district require a minimum of 90' of frontage along a City street, this lot has 80' of frontage along University Ave.

Adjoining and surrounding land uses are somewhat mixed. There is a railroad right-of-way to the east of this property which serves to divide the neighborhood. This area is the proposed site for the Prairie-Center St. trail which is in the planning stages currently. To the north, there is a small commercial center which contains a restaurant and laundromat. Just north of that, at the corner of University and Center Streets, there is a six unit apartment building. Across University in this area, there are several apartment developments. Just south of this site and further south on University Ave. there are single family and multi-family homes.

SURROUNDING LAND USE AND ZONING

North:	Commercial center, C-1 / R-3
South:	Single family home, I-1
East:	Railroad right-of-way, I-1 / Single family home, I-1 / Multi-family, R-2
West:	Beverly Manor Apts., R-3 / Glendale Apts., R-3

INFRASTRUCTURE:

Streets: Access to this site is available from University Ave., a residential street adjacent to the west side of the property. Approximately 200' north of the subject property, University Ave. intersects Center Street. Center St. is classified as a collector on the City's Master Street Plan. A collector, when improved, is designed to carry 4,000 - 6,000 vehicles per day with a total right-of-way width of 70'.

Water: 6" line along University Ave.

Sewer: 8" line along University Ave.

LAND USE PLAN: General Plan 2020 designates this site Mixed Use. Rezoning this property to R-3, High 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 area is designated on the future land use map as mixed use.

Mixed Use Areas are described in the General Plan 2020 as follows:

The areas indicated as mixed use on the future land use map are areas where residential, commercial, office, and some industrial uses would be appropriate. Much of south Fayetteville is shown as mixed use area because it is in need of redevelopment and can accommodate future development. Designation of mixed use areas will allow developers a great deal of flexibility in terms of uses, while City regulations will maintain standards for quality mixed development. This part of the plan recognizes that development is market driven and therefore doesn't attempt to designate specific future land uses within these 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 at this time, a down-zone from commercial to residential will further protect surrounding residential properties and will be consistent with existing development patterns in the area.

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.

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 allow for increased population density, however 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**

§161.07 DISTRICT R-3 HIGH DENSITY RESIDENTIAL

A. Purpose. The High Density Residential District is designated to protect existing high density multifamily development and to encourage additional development of this type where it is desirable.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 8	Single-Family Dwellings and Two-Family Dwellings
Unit 9	Multi-Family Dwellings/Medium Density
Unit 10	Multifamily Dwellings-High 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	16 to 40
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D. Bulk and Area Regulations.

Lot Width Minimum:	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.
	Professional Offices	100 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 acre
	Professional Offices	1 acre

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

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	20

Cross Reference: Variance, 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, §160.034; Code 1965, App. A, Art. 5(IV); Ord. No. 1747, 6-29-89; Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81)

James Mitchell Massey & Michael Lambert
P.O. Box 1924
Fayetteville, AR 72702

August 28, 2000

City of Fayetteville Planning Commission
113 W. Mountain Street
Fayetteville, AR 72701

Re: Rezoning Request
28 S. University Ave.

Ladies and Gentlemen:

We have submitted a request to rezone the property located at 28 S. University from C-1 Commercial to R-3 Residential. The .1864 acre lot, comprised of the south 80' of lot 13 of the Rev. Plat for County Plat of the City of Fayetteville and is fronted on the West by South University Avenue and to the East by the A&M Railroad line.

We are submitting this written statement along with our Application & Checklist for a Rezoning as required. We will address the items required under Item No. 5 as follows:

- a. The property currently zoned C-1 Neighborhood Commercial and has a single-story wood framed residential structure and detached garage or out-building and is unoccupied. It is an interior lot, and although it has commercial uses established to the North, this adjacent property is zoned R-3 and also has an apartment development located on it. The property is currently in the name of James M. Massey and we do not intend to sell it upon approval of this rezoning request.
- b. There are some single family occupied residences on this street, but the majority of the development and existing improvements are high density residential in nature. We would like to rezone this property from the current commercial zoning to one that is more compatible with the surrounding neighborhood and construct a small apartment building on it in the near future. Because it is elevated above the adjacent commercial development to the North, is cut off from that lot by this grade change and the backside of the commercial structure, and is a small interior lot, it is not appropriate or desirable for commercial development.
- c. The property will relate to the existing adjacent and surrounding properties by being compatible with the zoning and development in the area.
 1. Use: the entire neighborhood has been developed in recent years to provide high-density rental accommodations, primarily for students attending the nearby University of Arkansas. Though there are some single-family residences in the near vicinity, they consist almost solely of older rundown structures that are rental properties. The majority of the surrounding neighborhood is zoned R-3 High-Density Residential, with the exception of the property directly to the South along S. University and

to the East and Southeast across the railroad ROW which is zoned I-1. There are a couple of spot zoned R-1 and R-2 lots along Gregg Street to the East in addition to the I-1 referred to above.

2. Traffic: with this comprising only .1864 acres and being only 80'x100' more or less in size, the number of dwelling units possible is limited due to setbacks, landscaping requirements, parking requirements and height requirements. We would like to be able to develop approx. ½ dozen units and the increased traffic, considering the existing adjacent residential developments, the proximity to the adjacent intersection, and the limited size of any possible development on this lot would be minimal. We anticipate some residents will likely not be vehicle users, and most will walk or ride UofA transit to the University campus located less than 4 blocks away.
3. Appearance: Although we have not finalized any development documents for a future apartment structure, we believe it will be compatible with any and all surrounding development. Due to zoning restrictions, it will be a maximum of 2 stories in height, have a conventional trussed residential style roof, likely hipped rather than with gables and will have simulated wood siding or other low maintenance exterior finishes. With an estimated 6, 1-bedroom units of less than 500 sf each, this building when planned and constructed will likely be no larger than a modest single family home of less than 3,000 square feet.
4. Signage: Again, although not fully planned to date, pending this request for rezoning, we anticipate a simple apartment facility sign, either wall, pole or pedestal mounted, complying with all requirements and guidelines of the City of Fayetteville Sign Ordinance and in complete harmony with the existing adjacent apartment developments.
- d. There is currently city water and sewer available to this site. An 8" sewer line runs directly adjacent to the site along the east side of South University Avenue within the street ROW, and a 6" water line is located in University Ave., approximately to the East of the center of the ROW.

Hopefully this will satisfy the requirements for the rezoning request and explains adequately why we wish to change this property from its current commercial potential to a residential use in character with the surrounding neighborhood.

Respectfully,

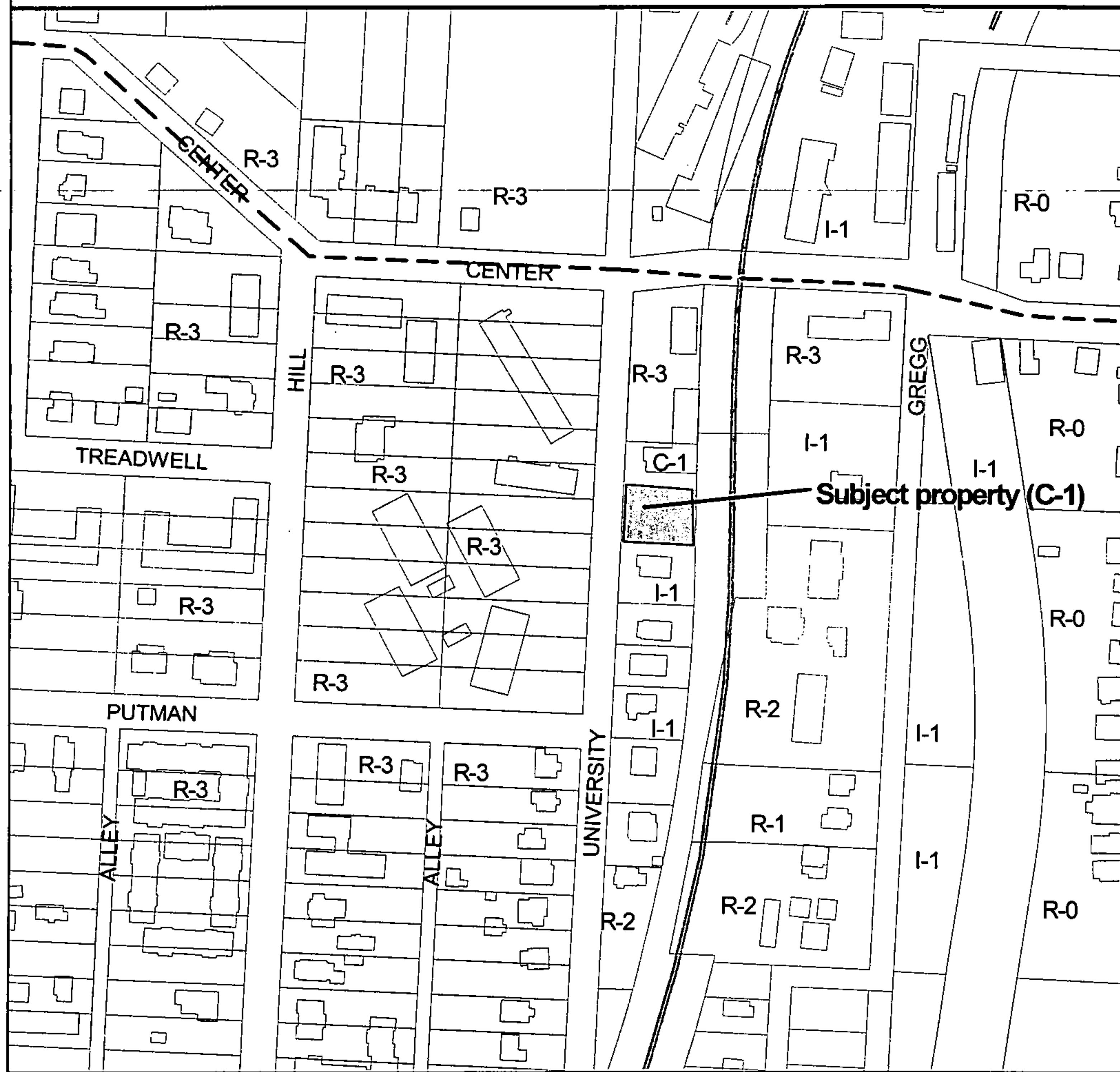


Michael Lambert



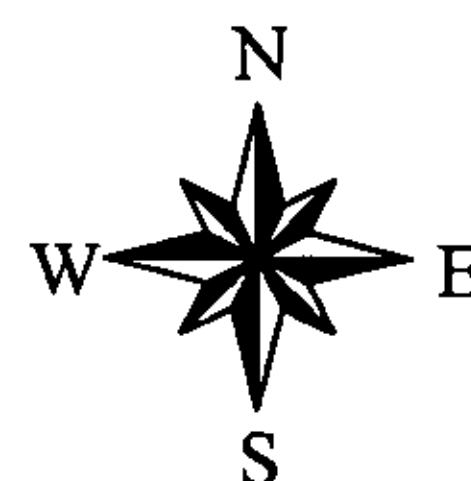
James Mitchell Massey

RZ00-22 - Massey - Close Up

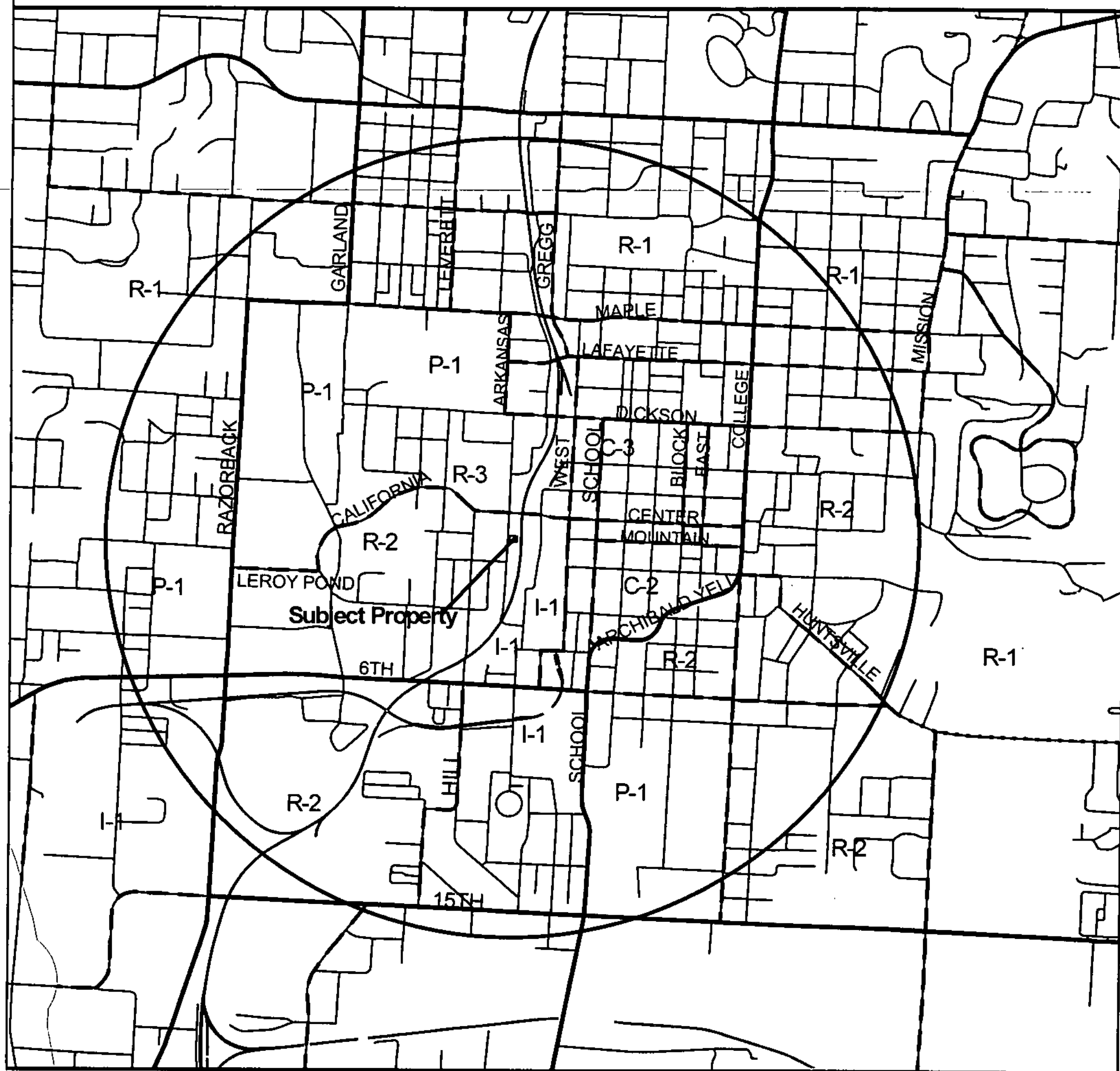


- Railroad.shp
- Structures (1998)
- Streets
- Ddotpoly.shp
- Class**
- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- Nzone.shp

200 0 200 400 Feet

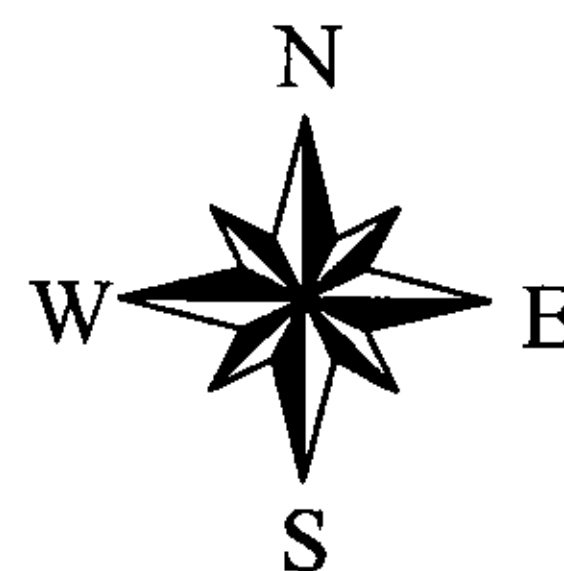


RZ00-22 - Massey - One Mile Radius

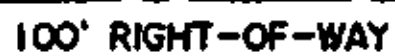


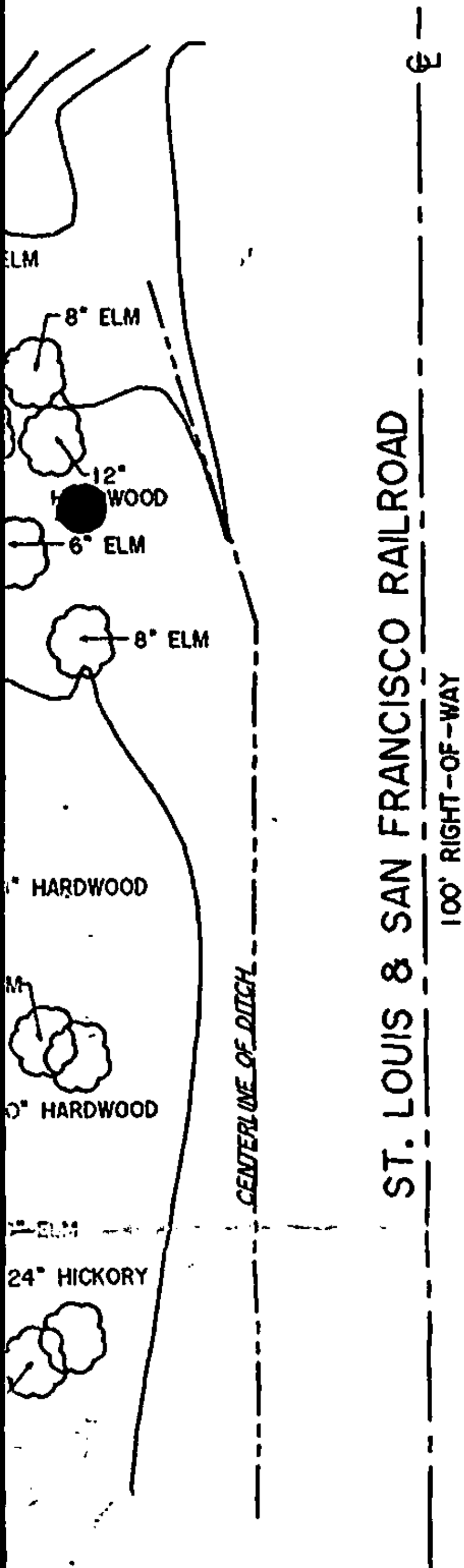
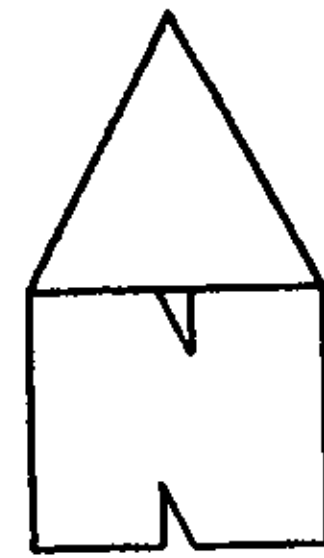
-  Railroad.shp
-  RegZone
-  Streets
-  Dodpoly.shp
- Class**
-  COLLECTOR
-  FREEWAY/EXPRESSWAY
-  MINOR ARTERIAL
-  PRINCIPAL ARTERIAL

0.3 0 0.3 0.6 Miles

⑤





A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION SIXTEEN (16), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT AN EXISTING IRON PIPE ON THE EAST RIGHT-OF-WAY OF UNIVERSITY AVENUE, SAID POINT BEING N02°36'10"E 278.50 FEET FROM THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF UNIVERSITY AVENUE AND THE CENTER OF PUTNAM STREET; THENCE N02°36'10"E ALONG SAID RIGHT-OF-WAY 80.00 FEET TO A SET IRON; THENCE LEAVING SAID RIGHT-OF-WAY S87°06'50"E 100.19 FEET TO A SET IRON ON THE WEST RIGHT-OF-WAY OF THE ARKANSAS AND MISSOURI RAILROAD (FORMERLY ST. LOUIS AND SAN FRANCISCO RAILROAD); THENCE S00°43'13"W ALONG SAID RAILROAD RIGHT-OF-WAY 80.06 FEET TO A SET IRON; THENCE LEAVING SAID RAILROAD RIGHT-OF-WAY N87°06'50"W 102.82 FEET TO THE POINT OF BEGINNING, CONTAINING 0.1864 ACRES (8120.7 SQUARE FEET), MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

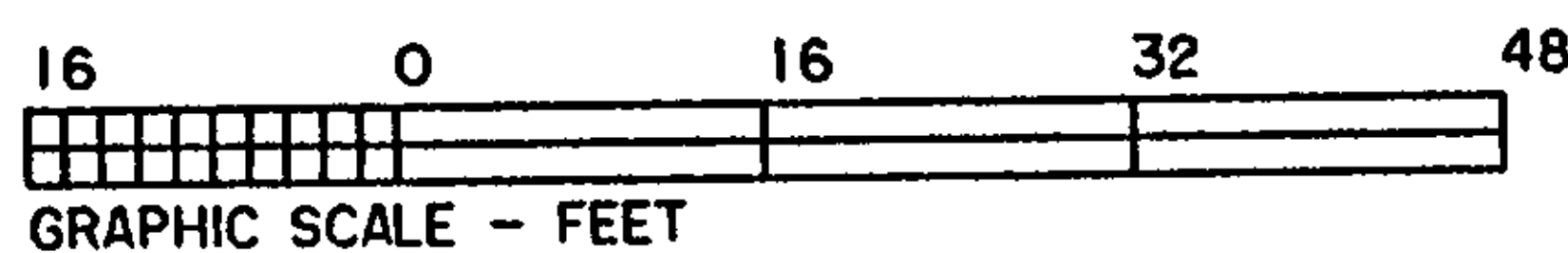
BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM
(NORTH ZONE)
CITY OF FAYETTEVILLE
G.I.S. MONUMENTATION

METHOD OF DETERMINATION: G.P.S. OBSERVATION
TRIMBLE NAVIGATIONAL SYSTEM 4400

BASIS OF ELEVATION: CITY OF FAYETTEVILLE
G.I.S. MONUMENTATION

CONTOUR INTERVAL: ONE (1) FOOT

NOTE: EXISTING 8" SANITARY SEWER ALONG EAST SIDE UNIVERSITY AVENUE AS PER CITY OF FAYETTEVILLE ENGINEERING PLANS.



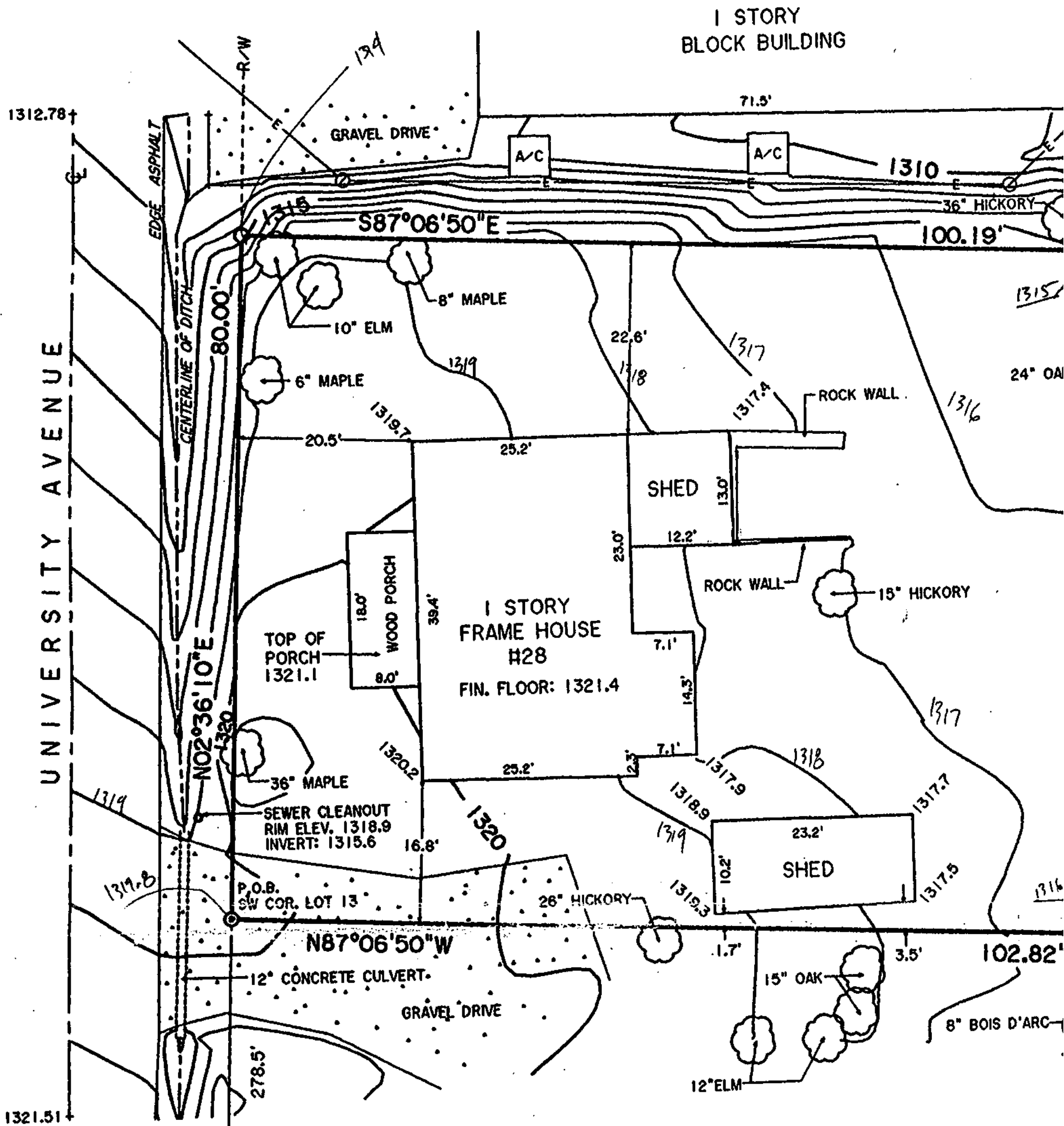
LEGEND

- FOUND IRON PIN
- SET IRON PIN
- ⊙ FOUND PIPE
- CONCRETE MONUMENT
- X CHISELED "X"
- ⊕ STATE MONUMENT
- ⊙ COTTON SPINDLE
- ⊙ RAILROAD SPIKE
- + COMPUTED CORNER
- ⊙ POWER POLE
- ⊙ WATER VALVE
- ⊙ WATER METER
- ⊙ SEWER MANHOLE
- ⊙ GAS METER
- W- WATER LINE
- E- POWER LINE
- S- SEWER LINE
- G- GAS LINE

ARA
118 S. COLLEGE AVE.
FAYETTEVILLE, AR 72701
501 444 8784
Fax 444 0964

Alan Reid
& ASSOCIATES
PROFESSIONAL
LAND
SURVEYORS

NAME	-MIKE-LAMBERTH-		
CITY	FAYETTEVILLE	COUNTY	WASHINGTON
STATE	ARKANSAS	DATE	FEBRUARY 15, 2000
SCALE	1" = 16'	JOB NO.	00064



November 14, 2000

**AGENDA SESSION
FOR THE
NOVEMBER 21, 2000
CITY COUNCIL MEETING**

Additional information:

1. Garver Engineers: Additional information for Item B.
2. Garver Engineers.

CITY OF FAYETTEVILLE, ARKANSAS

2000 - 2004 CAPITAL IMPROVEMENTS PROGRAM

PROJECT DETAIL

PROJECT TITLE:	Parking Garage(s)
REQUESTING DIVISION:	Parking Enforcement
FUNDING SOURCE:	Off-Street Parking Fund
PROJECT CATEGORY:	Off-Street Parking Improvements
INITIAL YEAR PRIORITY:	4
PROJECT TYPE:	REPLACEMENT ☐ EXPANSION ☐

PROJECT COST		
2000	\$	30,000
2001		
2002		2,170,000
2003		
2004		4,115,000
TOTAL PROJECT COST \$		6,315,000

PROJECT DESCRIPTION & JUSTIFICATION :

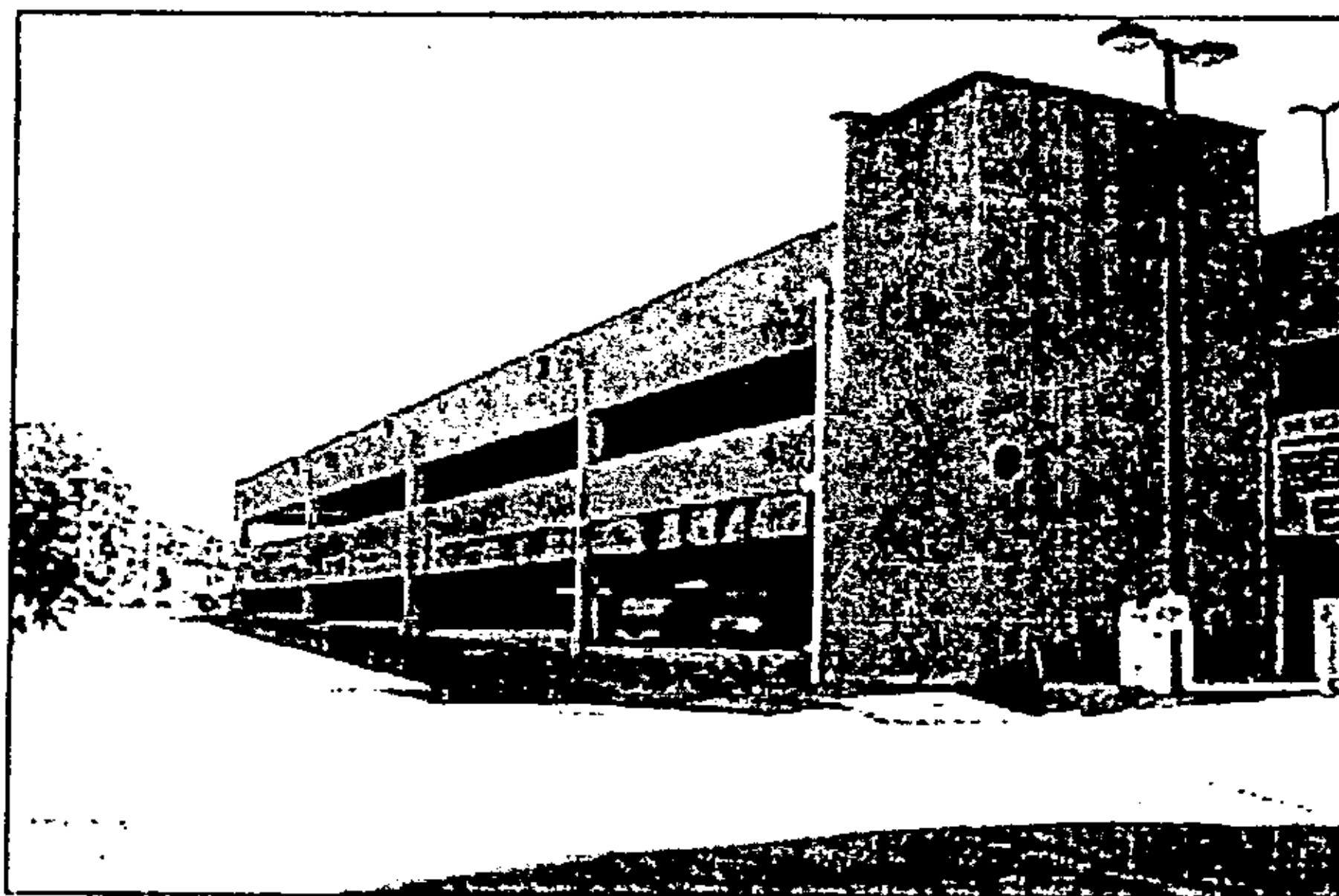
Due to growth and revitalization in the downtown area, there is a growing need to establish additional parking in the southeast part of downtown, where the greatest need currently lies, and in the northeast part of downtown, where an increasing need will become more apparent as the downtown and Dickson Street areas become more inter-connected. A study to determine sizing, cost, and feasibility of these parking structure(s) is recommended. Cost of acquiring, construction, and operation might also be shared through a public/private partnership. Financing of this project may also require the issuance of bonds to be financed by revenues generated from the projects.

PROJECT STATUS (IF IN PROGRESS) :

A study is recommended to determine a course of action. The results of the study will dictate the time frame and the facility size. However, at this point, it is recommended that a facility in southeast downtown Fayetteville be constructed within 3-4 years and accommodate approximately 150 vehicles. A facility in northeast downtown Fayetteville should be constructed in the next 4-6 years that would accommodate approximately 250 vehicles. Costs are difficult to project without knowing the exact size and whether a public/private partnership can be achieved. A cost of \$12,000 per space is being used for planning purposes. This does not include the cost of purchasing the land and/or razing structures.

EFFECT OF THE PROJECT ON ANNUAL OPERATIONS

This area is difficult to project without knowing the fees to be charged and the exact size of the structures. Other factors include whether the facilities are fully automated or require attendants. Available technology at the time of construction will dictate automation/attendants. A break even philosophy is recommended since parking is so vital to keeping the downtown thriving. The major revenue impact will be felt through sales tax and HMR tax growth. It might also be necessary to increase trolley operation hours to assist in shuttling employees from the garages to downtown employment destinations to encourage usage of the garages.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA CITY COUNCIL NOVEMBER 21, 2000

A meeting of the Fayetteville City Council will be held on November 21, 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 October 24, 2000 Special City Council meeting and the November 7, 2000 City Council Meeting.
2. **PROPERTY TRANSFER:** A resolution approving a transfer of property located at 19 E. Fourth from the City of Fayetteville to South Fayetteville Community Development Corp.

B. OLD BUSINESS

1. **RZ 00-22:** An ordinance approving rezoning request RZ 00-22, submitted by James Key on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential. This ordinance was left on the second reading at the November 7, 2000 meeting.
2. **GARVER ENGINEERS:** A resolution approving an engineering agreement with Garver Engineers for the design of a multi-level parking deck to be constructed on the existing parking lot behind the Campbell-Bell Building. This resolution was tabled at the November 7, 2000 meeting.

C. NEW BUSINESS

1. **PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision as requested by Dennis Caudle for RZ 00-25 for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.
2. **RZ 00-24.00:** An ordinance approving rezoning request RZ 00-24.00 as submitted by Jerry Martin for property located at 1209 Bailey Street. The property is zoned A-1, Agricultural and contains approximately 2.30 acres. The request is to rezone to R-1, Low Density Residential.
3. **TELECOMMUNICATION ORDINANCE:** An ordinance approving a Telecommunications Ordinance.
4. **OZARK MOUNTAIN OUTFITTERS:** A resolution approving a Certificate of Public Convenience for a horse carriage as requested by Ray Dotson.
5. **NWA REGIONAL PLANNING COMMISSION:** A resolution approving an amendment to the agreement with Northwest Arkansas Regional Planning Commission

D. INFORMATIONAL ITEM:

1. Informational item to the City Council in accordance with administrative policy.

**DRAFT TENTATIVE AGENDA
CITY COUNCIL
NOVEMBER 21, 2000**

A meeting of the Fayetteville City Council will be held on November 21, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas

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B. OLD BUSINESS

C. NEW BUSINESS

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4. **OZARK MOUNTAIN OUTFITTERS:** A resolution approving a Certificate of Public Convenience for a horse carriage.

**DRAFT TENTATIVE AGENDA
CITY COUNCIL
NOVEMBER 21, 2000**

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C. NEW BUSINESS

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

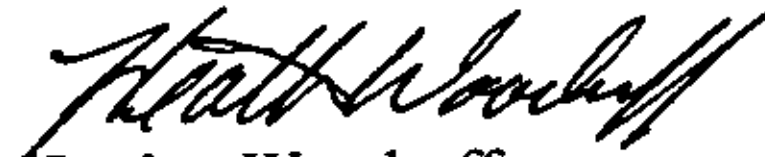
November 14, 2000

Mary Bailey & Dianna Bailey
P. O. Box 12307
El Cajon, CA 92022

Dear Mary & Dianna:

Enclosed you will find an agenda for the next Fayetteville City Council meeting. I have highlighted an item that might be of interest to you. If you have any questions you are welcome to call my office at 501-575-8323.

Sincerely,



Heather Woodruff
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 14, 2000

Shorty Reynolds Family Trust
1268 W. Bailey
Fayetteville, AR 72701

To Whom It May Concern:

Enclosed you will find an agenda for the next Fayetteville City Council meeting. I have highlighted an item that might be of interest to you. If you have any questions you are welcome to call my office at 501-575-8323.

Sincerely,



Heather Woodruff
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

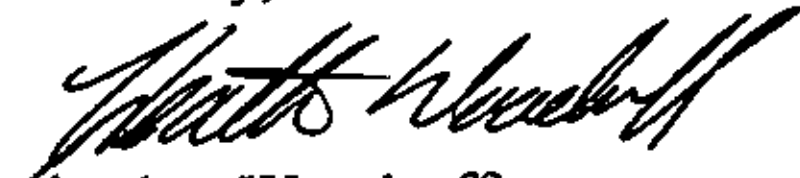
November 14, 2000

Joe Pierce & Carolyn Dickard
c/o: Gene Dickard
1135 Bailey Street
Fayetteville, AR 72701

Dear Mr. Pierce & Ms. Dickard:

Enclosed you will find an agenda for the next Fayetteville City Council meeting. I have highlighted an item that might be of interest to you. If you have any questions you are welcome to call my office at 501-575-8323.

Sincerely,



Heather Woodruff
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 14, 2000

Russell Barber & Ora Mae Barber
1200 W. Bailey Street
Fayetteville, AR 72701

Dear Mr. & Mrs. Barber:

Enclosed you will find an agenda for the next Fayetteville City Council meeting. I have highlighted an item that might be of interest to you. If you have any questions you are welcome to call my office at 501-575-8323.

Sincerely,



Heather Woodruff
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 16, 2000

Traditional Investments LTD PTNR
P. O. Box 4156
Fayetteville, AR 72702

To Whom It May Concern:

Enclosed you will find an agenda for the next Fayetteville City Council meeting. I have highlighted an item that might be of interest to you. If you have any questions you are welcome to call my office at 501-575-8323.

Sincerely,



Heather Woodruff
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 16, 2000

WHM Land Investments, Inc.
1366 Oaks Manor Drive
Fayetteville, AR 72703

To Whom It May Concern:

Enclosed you will find an agenda for the next Fayetteville City Council meeting. I have highlighted an item that might be of interest to you. If you have any questions you are welcome to call my office at 501-575-8323.

Sincerely,


Heather Woodruff
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 16, 2000

Airways Freight Corporation
P. O. Box 1888
Fayetteville, AR 72702

To Whom It May Concern:

Dale

Enclosed you will find an agenda for the next Fayetteville City Council meeting. I have highlighted an item that might be of interest to you. If you have any questions you are welcome to call my office at 501-575-8323.

Sincerely,



Heather Woodruff
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 16, 2000

Gary & Carla Combs
3560 Sassafras Hill Road
Fayetteville, AR 72701

Dear Gary and Carla:

Enclosed you will find an agenda for the next Fayetteville City Council meeting. I have highlighted an item that might be of interest to you. If you have any questions you are welcome to call my office at 501-575-8323.

Sincerely,


Heather Woodruff
City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL NOVEMBER 21, 2000

A meeting of the Fayetteville City Council will be held on November 21, 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

- PASSED*
1. **APPROVAL OF THE MINUTES:** Approval of the minutes from the October 24, 2000 Special City Council meeting and the November 7, 2000 City Council Meeting.
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B. OLD BUSINESS

- FAILED
4-50*
1. *✓✓✓* **RZ 00-22:** An ordinance approving rezoning request RZ 00-22, submitted by James Key on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential. This ordinance was left on the second reading at the November 7, 2000 meeting.
 2. *PASS* **GARVER ENGINEERS:** A resolution approving an engineering agreement with Garver Engineers for the design of a multi-level parking deck to be constructed on the existing parking lot behind the Campbell-Bell Building. This resolution was tabled at the November 7, 2000 meeting.

C. NEW BUSINESS

- pass*
1. ✓ **TELECOMMUNICATION ORDINANCE:** An ordinance approving a Telecommunications Ordinance.
2. ✓ **PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision as requested by Dennis Caudle for RZ 00-25 for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.
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- referred back to Planning Commission*
- left in 1st meeting*
- approved 4.*
- approved 5.*
- OZARK MOUNTAIN OUTFITTERS:** A resolution approving a Certificate of Public Convenience for a horse carriage as requested by Ray Dobson.
- NWA REGIONAL PLANNING COMMISSION:** A resolution approving an amendment to the agreement with Northwest Arkansas Regional Planning Commission

D. INFORMATIONAL ITEM:

1. Informational item to the City Council in accordance with administrative policy.

meeting adjourned!
9:20.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL NOVEMBER 21, 2000

A meeting of the Fayetteville City Council will be held on November 21, 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

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C. NEW BUSINESS

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5. **NWA REGIONAL PLANNING COMMISSION:** A resolution approving an amendment to the agreement with Northwest Arkansas Regional Planning Commission

D. INFORMATIONAL ITEM:

1. Informational item to the City Council in accordance with administrative policy.

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
NOVEMBER 7, 2000**

A meeting of the Fayetteville City Council was held on November 7, 2000 at 4:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

ABSENT: Alderman Reynolds.

CONSENT AGENDA

Item number 7, Garver Engineers was removed from the Consent Agenda.

Alderman Russell moved to approve the Consent Agenda. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

RZ 00-22.00: An ordinance approving rezoning request RZ 00-22.00, submitted by James Key on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density residential. This ordinance was left on the first reading at the October 17, 2000 meeting.

Mr. Rose read the ordinance for the second time.

It was the consensus of the council to leave the ordinance on the second reading.

THE ITEM WAS LEFT ON THE SECOND READING.

NEW BUSINESS

BOTANICAL GARDENS

Botanical Garden Society of the Ozarks, Inc. Annual Report 2000.

Ms. Donna Porter, Botanical Garden, stated a written report had been submitted to each alderman. They were proceeding with the master planning process. They had completed their second meeting with the Portico Group, City staff, neighbors, and others. They had accomplished new conceptual plans. Every thing that they did was based on their educational mission. Estimates were still in the works. The time line for this was contingent upon funding.

They were hoping to have a final master plan presentation in the first quarter of 2001. They started working on the site by cleaning up the most visible areas, planting trees, and building trails. They had requested funding to complete the master plan from the City. They had submitted proposals to other foundations and corporations. They now had a business plan which was projecting that the garden would be open to the public by 2005.

Alderman Austin asked what her major educational objective was.

Ms. Porter replied it was to educate people about plants and how they were important to the environment. Botanical Gardens were plant museums. Their mission was to educate in the essence of preserving and conserving plants. There were a lot of sciences that went along with the study of plants.

A video of the proposed garden was shown.

Alderman Davis stated he could see unlimited potential. He would like for the City to increase what they had done in the pass.

NO ACTION WAS REQUIRED.

SEWER CAMERA

An ordinance approving a bid waiver with Aries Industries for sewer camera system repair in the amount of \$17,055.89, and approving a bid contingency of \$2,000.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

Alderman Santos moved to suspend the rules and move to the third and final time. Alderman Daniel seconded the motion. Upon roll call the motion carried unanimously.

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

Mayor Hanna asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4277 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

YOUTH CENTER

Discussion regarding the use of City Funds for the Fayetteville Youth Center.

Mr. John Benburg, Executive Director of the Boys and Girls Club, presented a status report on the new center. They were in the middle of a revolution as an organization. They wanted to become the best youth development organization in the area. They wanted to have a full continuum of programs, services, and activities. They had re-affiliated with the Boys and Girls Club of America last August to take advantage of their vast program menu. They had a strong sports program. They were continuing to evolve into the non-sport programs by enhancing academic achievement and developing leadership skills, teaching life skills. Preparing young people for employment. While the main focus is on the new facility, it should be specifically stated that they were not waiting on a new building to advance their cause. They have just opened a new branch location of the Boys and Girls Club at Jefferson Elementary School. They were growing. They hoped to create an outreach program to go to subsidized community, to engage young people and their families. They were wanting to engage young people that may not be apart of their organization at this point. They were involved in a project that they refer to as the Youth Report Card Project. It was a report card of all sorts of different measures as it relates to youth in the community. They wanted to be part of the process to make Fayetteville a national model for how a community supported their young people. To do that they needed good information. This would help lay the ground work for decision making.

The new facility has given a lot of momentum to the possibility of new partnerships with the University and other service providers. They felt corporate America would be interested in what they were doing particularly with work force development and preparing young people for employment.

Mr. Benburg presented renderings and schematics of the proposed new facility. Explaining, the competition swimming pools had been omitted by the Reynolds Foundation in their grant award. The project had a finite time frame. They must have the building built by August of 2003. It was a condition of the grant. They envisioned it to be a two year project. They believed time was of the essence. They hoped the City would support them on this project. They wanted to turn dirt next spring. The location was west of I-40 off Wedington Drive. That was a choice made by a site committee selection team. The current location did not have as much foot traffic as it use to. The neighborhood was now largely university students. There were not as many families located within walking distance. They were landlocked at the current location. The vast majority of the people that came to the facility were brought by parents or buses. They had the capability to provide transportation. They would be talking to the University, School systems , Ozark Transit, and others that have the capability to move people and to create a network to get young people out to their facility. They felt this was a true community asset. They felt it was an investment in their future.

Alderman Daniel asked for the cost of running the proposed facility compared to the current facility.

Mr. Benburg replied the projected year one budget in the new facility, including the pool, was approximately \$1,500,000. They were \$1,100,000 now. They would be close to that scale anyway. It was not the quantum leap that some would imagine.

Alderman Trumbo stated he was in favor of tax and spend.

In response to questions from Alderman Trumbo, Mr. Maguire, Administrative Services Director, stated they could not use general funds for this.

Alderman Trumbo stated they would have to look at increasing HMR Tax to allocate for this facility. He was in favor of extending the two mils from the Senior Center for another year.

Alderman Russell stated he remembered one of the objections about the property tax for the Senior Center was that these taxes seem to always be extended. He thought they needed to watch that.

Alderman Davis stated the City needed to show a commitment so they could get this project on the road. He asked if they would add to their form that the Youth Center had scholarships. If they city was looking to give money they needed to make sure that people knew that there were scholarships for children so all the children could participated.

It was the consensus of the council that funding should be discussed at a meeting in near future.

NO ACTION WAS TAKEN.

GARVER ENGINEERING

A resolution approving an engineering agreement with Garver Engineers for the design of a multi-level parking deck to be constructed behind the Campbell Bell Building.

Alderman Russell stated the staff review form and the contract indicated that the cost was \$244,000, but Mr. Maguire had indicated that the tax payer cost would be capped at \$60,000 if the project did not proceed. If it did proceed they expected the project to be funded by revenue from the leases.

Mr. Maguire replied that was correct. They expected the up front engineering money would be paid back by the bond proceeds.

Alderman Russell asked if they would forfeit the \$244,000 until they knew if the project was

going to proceed.

Mr. Venable explained the preliminary design was approximately \$56,000. They would determine at this stage if the project was a go or a no go. They would have to do some surveying and geotechnical work. It may run as much as \$75,000 to \$80,000. They could cut the project off at any time once the decision was made whether to go or not.

Alderman Russell stated if it was determined the parking deck could not be funded by revenue from the leases then they would cut it off at that point. The project would only go forward if it would be funded by the leases. If it went forward would they reimburse the CIP Fund.

Mr. Maguire replied that was correct.

Mr. Jeff Erf, an area resident, asked if this was the first time the public was able to comment on this project and if they would explain the project.

Mr. Venable explained the parking garage would be located across from where the parking lot was now behind the Campbell Bell Building. They did not know how many levels it would be. They would looking at designing for three levels. They may only build two levels depending on the need. The estimate was at \$10,000 per space. They were looking at one hundred spaces per level. It would be designed to blend in with the neighborhood. A lot would depend on the design.

Mr. Erf asked how the City would determine how many spaces were required.

Mr. Maguire stated there were approximately one hundred-sixty people on a waiting list for parking. This would not be a tax payer project. It would be an enterprise fund project. The people that would use it would pay for it or it would not be built. It was not like the Youth Center or a generally used facility. Parking should be paid for by the people who use it. If they could not enter into leases with this group of people to pay for this deck, then they would not construct it. The way it was structured presently the parking deck would generate in excess of \$100,000 per year. They could then go back into that fund and reimburse it if the project failed. In the meantime their choices were to pay it out of the sales tax capital improvement fund.

Mr. Erf asked if they had considered any other areas.

Mr. Venable replied this was one of the few that they owned. They did not own the one across the street. The deck would be owned and managed by the City.

Mr. Morty Newmark, an area resident, stated this had just come to his attention. He was concerned about them spending this money without it being in the CIP. He stated he was not

clear where the money would come from if the project failed.

Mr. Maguire replied they currently had revenue that come in from parking. They did not have enough money in that fund to fund the whole \$244,000. They did not normally go around issuing contracts without knowing where the money was coming from. The Staff and Mayor did not feel the taxpayer should pay for the parking. That was why it was an enterprise fund. If it did not pay for itself they would not build it.

Mr. Newmark stated he felt there needed to be more time for the public to gain understanding. He asked them to table the item for one more meeting.

Mayor Hanna stated when he first came into office, they had requests for more parking. They had conducted a survey. The report showed that they had plenty of parking, but with all that had happened on the square in the last few years, they realized they were going to have to have more parking. They had always planned on building a parking deck with funds generated from parking. He thought it was about time for them to start looking for the same thing for the Dickson Street area. This would probably be the first parking deck. If it was successful they would look at Dickson Street. They would have to do some studies. When they finished the Enhancement Project they were going to need more spaces.

Alderman Russell moved to table the item until the next meeting. Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

Meeting adjourned.

**SPECIAL MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
OCTOBER 24, 2000**

A special meeting of the Fayetteville City Council was held on October 24, 2000 at 4:30 p.m in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Hanna, Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young, and Russell, City Attorney Jerry Rose, Deputy City Clerk Gina Roberts, Staff, Press, Audience.

TCA CABLE

A resolution authorizing the TCA Cable Partners to temporarily operate the Cable Communications System.

Mr. Rose explained the city's cable franchise expired on October 31, 2000. They were not ready to complete the new agreement. He was asking for a couple of months to continue negotiations. It was an extension of the present franchise to December 31, 2000.

Alderman Daniel moved to approve the resolution. Alderman Austin seconded the motion. Upon roll call the motion passed unanimously.

RESOLUTION 148-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TRUSTEE/PAYING AGENT

A resolution to appoint the Bank of Oklahoma as Trustee/ Paying agent for the Variable Rate Demand Bonds.

Mr. Maguire explained they were establishing the trustee to pay out the interest on the principle until they proved they had spent the money properly. This would close the procedure for the variable rate demand bond. This would close the paper work on the bond.

Alderman Russell moved to approve the resolution. Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 149-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Meeting adjourned.

STAFF REVIEW FORM

PROPERTY TRANSFER
A. 2 Page 1

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of Nov. 21, 2000
 FROM:

Yolanda Fields Comm. Dev. Admin. Services
 Name Division Department
 ACTION REQUIRED: Approval of an agreement for the transfer of property located
 at 19 E. Fourth to South Fayetteville Community Development Corp.

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

[Signature] _____
 Budget Manager Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

<u>Marilyn Cramer</u>	<u>11-1-00</u>	<u>Nancy Smith</u>	<u>11/2/00</u>
Accounting Manager	Date	Internal Auditor	Date
<u>[Signature]</u>	<u>11-30-00</u>		
City Attorney	Date	ADA Coordinator	Date
<u>[Signature]</u>	<u>10-30-00</u>		
Purchasing Officer	Date	Grants Compliance	Date

STAFF RECOMMENDATION: Approval of agreement

[Signature] 10-30-00 _____
 Division Head Date Cross Reference

Department Director _____
 Date

[Signature] 11/2/00 _____
 Administrative Services Director Date

[Signature] 11/2/00 _____
 Mayor Date

New Item: Yes No

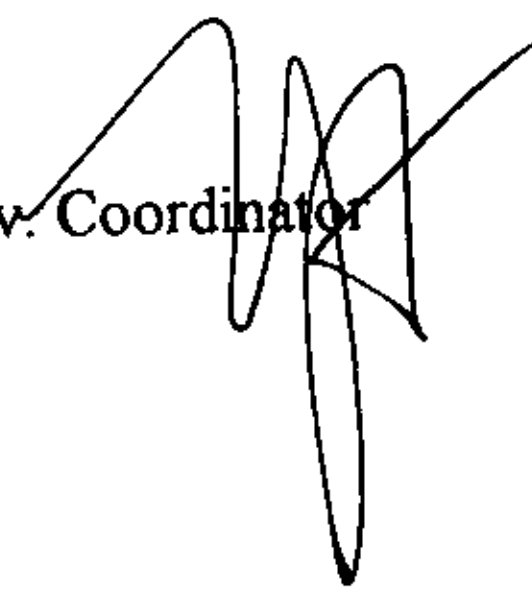
Prev Ord/Res #: _____

Orig Contract Date: _____

Orig Contract Number: _____

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

FROM: Yolanda Fields, Community Dev. Coordinator 

DATE: October 30, 2000

SUBJECT: Property - 19 E. Fourth

The South Fayetteville Community Development Corp. (SFCDC) evolved out of an awareness among South Fayetteville residents of the need to create an organization for neighborhood improvement. The mission of the SFCDC is to mobilize leadership, resources and promote cohesiveness for the purpose of improving the quality of life among residents.

The Community Development Division has purchased and cleared a lot in south Fayetteville. This property is now available for the construction of an affordable home. This joint project will assist in increasing affordable housing and in reducing the number of deteriorating structures.

AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2000 by and between **South Fayetteville Community Development Corporation of Fayetteville, AR** hereinafter called the "Corporation" and the **City of Fayetteville, AR**, a municipal corporation, hereinafter called the "City."

WHEREAS, the Corporation is a private non-profit entity that develops and constructs housing that is affordable to lower income Fayetteville citizens, and

WHEREAS, the City encourages neighborhood revitalization through improvements to housing, infrastructure and associated improvements for Fayetteville citizens.

NOW THEREFORE, in consideration of the benefits to be derived from programs and services described herein, the parties agree as follows.

1. The City, through its Community Development Division, has obtained title to real property generally located at 19 East Fourth Street, Fayetteville, AR and more particularly described as:

See Attachment "A", attached hereto and made a part hereof.

2. The real property described above was acquired by the City with Community Development Block Grant Funds awarded to the city by the U.S. Department of Housing and Urban Development. The purpose of the acquisition was to eliminate slums and blight on a spot basis.
3. The City will convey the real property described above to the Corporation for the sum of One Dollar (\$1.00) and other good and valuable consideration.
4. The City will furnish title insurance in the amount of \$15,500.00.
5. Each party will be responsible for payment of property taxes, if any, on the conveyed property, prorated as of the date of closing.
6. In accordance with U.S. Department of Housing and Urban Development regulations governing the Community Development Block Grant Program, the Corporation specifically agrees to construct housing on the conveyed property that is affordable to persons having low and moderate income. Construction completion date to be one year from the date of this agreement.

Agreement - City of Fayetteville & SFCDC

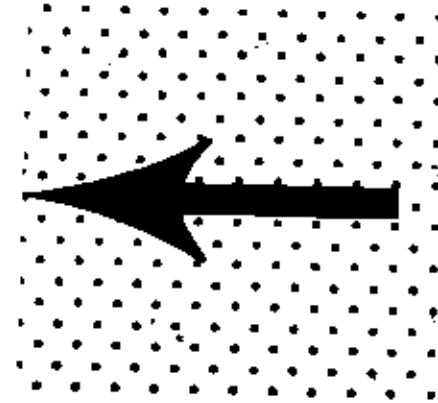
IN WITNESS WHEREOF, the City and the Corporation have executed this agreement on or as of the date first above written.

THE CITY OF FAYETTEVILLE, ARKANSAS

Fred Hanna, Mayor

Attest:

Heather Woodruff, City Clerk



**SIGN
HERE**

South Fayetteville Community Development Corporation (SFCDC)

By: Cherry Pearson
Title: President

Attest:

By: _____

Title: OS Cook

ATTACHMENT A

Lot Three (3) in Block Three (3) in Jennings Addition in the City of Fayetteville, Arkansas, as designated upon the recorded plat of said addition on file with the Circuit Clerk and Ex-Officio Recorder.

STAFF REVIEW FORM

RZ 00-22
B. 1 Page 1

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of October 17, 2000

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve an ordinance for RZ 00-22.00, submitted by James Key on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential.

COST TO CITY:

\$0.00

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 September 25, 2000, Planning Commission voted 7-0-1 to recommend approval and to forward the rezoning to the City Council.

Tim Conklin
Division Head

10-2-00
Date

Cross Reference

James Key
Department Director

10-2-00
Date

New Item: **Yes**

John Manning
Administrative Services Director

10/2/00
Date

Prev Ord/Res #: _____

Tim Conklin
Mayor

10/3/00
Date

Orig Contract Date: _____

Orig Contract Number: _____

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZ00-22.00 FOR A PARCEL
CONTAINING APPROXIMATELY 0.18 ACRES LOCATED AT
28 S. UNIVERSITY, REQUESTED BY JAMES KEY ON BEHALF
OF JAMES MITCHELL MASSEY.

**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 C-1, Neighborhood Commercial District to R-3, High 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 00-22.00

A PART OF THE NORTHEAST QUARTER (NE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SECTION SIXTEEN (16), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT AN EXISTING IRON PIPE ON THE EAST RIGHT-OF-WAY OF UNIVERSITY AVENUE, SAID POINT BEING N02°36'10"E 278.50 FEET FROM THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF UNIVERSITY AVENUE AND THE CENTER OF PUTNAM STREET; THENCE N02°36'10"E ALONG SAID RIGHT-OF-WAY 80.00 FEET TO A SET IRON; THENCE LEAVING SAID RIGHT-OF-WAY S87°06'50"E 100.19 FEET TO A SET IRON ON THE WEST RIGHT-OF-WAY OF THE ARKANSAS AND MISSOURI RAILROAD (FORMERLY ST. LOUIS AND SAN FRANCISCO RAILROAD); THENCE S00°43'13"W ALONG SAID RAILROAD RIGHT-OF-WAY 80.06 FEET TO A SET IRON; THENCE LEAVING SAID RAILROAD RIGHT-OF-WAY N87°06'50"W 102.82 FEET TO THE POINT OF BEGINNING, CONTAINING 0.1864 ACRES (8120.7 SQUARE FEET), MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

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September 25, 2000
Page 10

RZ 00-22.00: Rezoning (Massey, pp 522) was submitted by James Key, Architect on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential.

Odom: The next item that we have on tonight's agenda is a rezoning request RZ 00-22.00 submitted by James Key, Architect on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential. Staff's recommendation is for approval of the request of rezoning based on the findings as included as part of their report. Staff are there any further Conditions of Approval?

Conklin: There are no further Conditions of Approval.

Odom: Mr. Key? Identify yourself for the record and make your presentation.

Key: My name is James Key, architect. I'm here on behalf of the owner Mr. Massey to request rezoning of this partial lot. As was stated it's a .186 acres. It's the south 80 feet of the original lot 13 of the County Court plat. That lot had been split some time in the past with a commercial development on the north 42 feet of it which currently houses the Razorback Laundry and convenience store next to a small computer outlet and Wes' Barbeque. You are all probably familiar with it. This property currently houses a single-family residence which is unoccupied. The owner has recently obtained this property and would like to look at downgrading this zoning from a commercial lot to a R-3 High Density Residential which, in our opinion, is compatible with the neighborhood. I think the staff has agreed. I would be glad to field any questions you might have.

Odom: Before we take questions, Mr. Key, let me ask if there is any member of the audience that would like to address us on this rezoning request. Please come forward at this time.

PUBLIC COMMENT:

Thompson: Hello. My name is Ken Thompson. Two years ago, this time of year, I stopped in and visited with my old bible teacher, Earline Shoemaker who lived at this house and residence. I was doing a little campaigning and I was asking for her vote and she questioned me pretty closely about the candidate I was representing. I took the opportunity to ask her about her house there because I was kind of curious and she said it was built in 1836. It's the remainder of a ten pen house that has been

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there. I guess she and her husband came in the forties or fifties and lived there probably fifty years or more. She passed away, I guess, last year at the age of 99. I was thinking that this has stood around for a good many years. I don't know if anybody of note ever lived there but somebody was a neighbor of early notables of Fayetteville. It just seems like a postage stamp size property. It was cared for and looked after by a series of residents. She said it was the second oldest house in Fayetteville, it probably wasn't always in Fayetteville - Fayetteville has grown around it, after the Ridge House. She looked into it and told me what she knew. Sometimes when these things are gone we kind of regret that they have passed away and left for ruin or whatever. Archibald Yell's house or the Waxhaw's Estate. People talked about it until it was no longer salvageable and have moved his law office and use it and it's kind of cherished. I would think that perhaps, it's been a nice little house and perhaps can serve a hundred years more for a retired couple like the Shoemaker's who came from Ohio and settled down here. I guess you could drag it down and grade it and make a parking lot or some more housing for students which is probably needed but it's served well and it's kind of a nice little house. I think it ought to be preserved. That could serve as a family residence for someone. That's all I have to say.

Odom: Thank you Mr. Thompson. Any other member of the audience like to address us on this rezoning request?

COMMISSION DISCUSSION:

Odom: Seeing none, I will close the floor to public discussion and bring it back to the applicant for questions and comments of the Planning Commission.

Shackelford: Mr. Chairman?

Odom: Commissioner Shackelford.

Shackelford: Prior to getting started, I'm going to have a conflict of interest on this so if you would abstain me from the vote.

Odom: Thank you.

Ward: Mr. Chairman?

Odom: Commissioner Ward.

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MOTION:

Ward: I looked at down-zoning this from commercial to residential and this seems like a very good area for multi-family and I see next to it C-1 on one side and I-1 on the other side so I will go ahead and recommend approval of RZ 00-22.00.

Allen: I'll second.

Odom: We have a motion by Commissioner Ward, second by Commissioner Allen to approve Rezoning 00-22.00. I'll remind members of audience that the rezoning request is nothing more than a recommendation for City Council. This will now go before the City Council with either our recommendation that we approve this item or if it's denied the applicant has the right to appeal that to the City Council for action there as well. Any further discussion.

Hoffman: Mr. Chairman?

Odom: Commissioner.

Hoffman: I have a question for the applicant. Have you looked into the possibility of saving this house. Even as old as it is, it could be a very significant historical home.

Key: I personally have not been contracted by the owners to look at the restoration potentials of this property although I have toured the property and granted it was a very fine home in it's day. I'm not sure of the history of when it was built and the history since that time but the house is very much in disrepair at the current time. Considering the industrial zoning adjacent to it, the high density residential directly adjacent to it across the street, I don't think it's practical to look at developing this as a fine single-family home. The redevelopment cost would be considerable for a single-family residence which would be, I think in the owners and my opinion, not really desirable considering the location of the site.

Hoffman: Could it be incorporated into the apartment design in some way?

Key: I don't believe that it could due to the proximity of how the house is sited on the site. It's basically centered and pushed to the front. It sits ten to twelve feet within the setbacks. If it were to be developed as it is, with additional development added to it, we would have a problem with parking and access to the site because currently it is not positioned such that a drive access could be obtained around it to get parking to the rear and it's positioned so far to the west, the front of the lot, that there is no potential to get parking to the west of it, in

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front of it. I don't think that it's feasible. Granted it could be a nice residence but considering the commercial zoning of the lot and considering the neighborhood, I don't think the owners considered it as a practical measure at this point considering the redevelopment cost and the inherent lot value in the neighborhood.

Hoffman: I take it from your statement then that there is no historical marker attached or any official historic designation attached to the structure?

Key: Not that I or the owners are aware of. I was not aware as the gentleman stated it was potentially the second oldest house in Fayetteville. I have had the pleasure of working on some restorations and historic districts, particularly the Davis Brumfeld house which was dated 1852. I find it hard to believe that this house is older than that. It very well could be, it does have some fine detailing in it. As I stated, it is very much in disrepair. It would probably cost more, at this point, to try to save it and restore it than it would be to tear it down and build a new single-family residence on this lot. However, considering the proximity in the neighborhood and various other things, I don't think it's feasible to even do that at this point. The reason we are here requesting the rezoning also is that it's not practical to be developed as a commercial lot unfortunately. It's too small. It's twelve foot in grade above the adjacent commercial property which had been developed quite some time in the past. I would like, if at all possible Ms. Hoffman, to try to save this house and incorporate it into this development, unfortunately given the circumstances, I don't think that that's practical.

Hoffman: Well knowing that but also knowing that rezoning is not a demolition permit, it does not equal a demolition permit, I will go ahead and support the request for rezoning.

Key: Thank you.

Odom: Any further discussion? Will you call the roll?

ROLL CALL:

Upon roll call RZ 00-22.00 passes upon a vote of 7-0-1 with Commissioner Shackelford 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: September 25, 2000

RZ 00-22.00: Rezoning (Massey, pp 522) was submitted by James Key, Architect on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High 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: September 25, 2000

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>October 17, 2000 (1st reading)</u>	

Comments: _____

BACKGROUND:

The subject property, located south of Center Street and east of S. University Ave., is contains one vacant single family residence with an out building. The applicant is requesting that this 0.1864 acre tract be rezoned from C-1, Neighborhood Commercial to R-3, High Density Residential.

The applicant proposes to develop this site with a multi-family dwelling. According to bulk and area restrictions for the R-3 zoning district, a duplex is the highest density that would be achievable without a variance from the Board of Adjustment. Three or more units in the R-3 district require a minimum of 90' of frontage along a City street, this lot has 80' of frontage along University Ave.

Adjoining and surrounding land uses are somewhat mixed. There is a railroad right-of-way to the east of this property which serves to divide the neighborhood. This area is the proposed site for the Prairie-Center St. trail which is in the planning stages currently. To the north, there is a small commercial center which contains a restaurant and laundromat. Just north of that, at the corner of University and Center Streets, there is a six unit apartment building. Across University in this area, there are several apartment developments. Just south of this site and further south on University Ave. there are single family and multi-family homes.

SURROUNDING LAND USE AND ZONING

North:	Commercial center, C-1 / R-3
South:	Single family home, I-1
East:	Railroad right-of-way, I-1 / Single family home, I-1 / Multi-family, R-2
West:	Beverly Manor Apts., R-3 / Glendale Apts., R-3

INFRASTRUCTURE:

Streets: Access to this site is available from University Ave., a residential street adjacent to the west side of the property. Approximately 200' north of the subject property, University Ave. intersects Center Street. Center St. is classified as a collector on the City's Master Street Plan. A collector, when improved, is designed to carry 4,000 - 6,000 vehicles per day with a total right-of-way width of 70'.

Water: 6" line along University Ave.

Sewer: 8" line along University Ave.

LAND USE PLAN: General Plan 2020 designates this site Mixed Use. Rezoning this property to R-3, High 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 area is designated on the future land use map as mixed use.

Mixed Use Areas are described in the General Plan 2020 as follows:

The areas indicated as mixed use on the future land use map are areas where residential, commercial, office, and some industrial uses would be appropriate. Much of south Fayetteville is shown as mixed use area because it is in need of redevelopment and can accommodate future development. Designation of mixed use areas will allow developers a great deal of flexibility in terms of uses, while City regulations will maintain standards for quality mixed development. This part of the plan recognizes that development is market driven and therefore doesn't attempt to designate specific future land uses within these 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 at this time, a down-zone from commercial to residential will further protect surrounding residential properties and will be consistent with existing development patterns in the area.

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.

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 allow for increased population density, however 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

§161.07 DISTRICT R-3 HIGH DENSITY RESIDENTIAL

A. Purpose. The High Density Residential District is designated to protect existing high density multifamily development and to encourage additional development of this type where it is desirable.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 8	Single-Family Dwellings and Two-Family Dwellings
Unit 9	Multi-Family Dwellings/Medium Density
Unit 10	Multifamily Dwellings-High 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	16 to 40
-------------------	----------

D. Bulk and Area Regulations.

Lot Width Minimum:	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.
	Professional Offices	100 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 acre
	Professional Offices	1 acre

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

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	20

Cross Reference: Variance, 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, §160.034; Code 1965, App. A, Art. 5(IV); Ord. No. 1747, 6-29-89; Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81)

James Mitchell Massey & Michael Lambert
P.O. Box 1924
Fayetteville, AR 72702

August 28, 2000

City of Fayetteville Planning Commission
113 W. Mountain Street
Fayetteville, AR 72701

Re: Rezoning Request
28 S. University Ave.

Ladies and Gentlemen:

We have submitted a request to rezone the property located at 28 S. University from C-1 Commercial to R-3 Residential. The .1864 acre lot, comprised of the south 80' of lot 13 of the Rev. Plat for County Plat of the City of Fayetteville and is fronted on the West by South University Avenue and to the East by the A&M Railroad line.

We are submitting this written statement along with our Application & Checklist for a Rezoning as required. We will address the items required under Item No. 5 as follows:

- a. The property currently zoned C-1 Neighborhood Commercial and has a single-story wood framed residential structure and detached garage or out-building and is unoccupied. It is an interior lot, and although it has commercial uses established to the North, this adjacent property is zoned R-3 and also has an apartment development located on it. The property is currently in the name of James M. Massey and we do not intend to sell it upon approval of this rezoning request.
- b. There are some single family occupied residences on this street, but the majority of the development and existing improvements are high density residential in nature. We would like to rezone this property from the current commercial zoning to one that is more compatible with the surrounding neighborhood and construct a small apartment building on it in the near future. Because it is elevated above the adjacent commercial development to the North, is cut off from that lot by this grade change and the backside of the commercial structure, and is a small interior lot, it is not appropriate or desirable for commercial development.
- c. The property will relate to the existing adjacent and surrounding properties by being compatible with the zoning and development in the area.
 1. Use: the entire neighborhood has been developed in recent years to provide high-density rental accommodations, primarily for students attending the nearby University of Arkansas. Though there are some single-family residences in the near vicinity, they consist almost solely of older rundown structures that are rental properties. The majority of the surrounding neighborhood is zoned R-3 High-Density Residential, with the exception of the property directly to the South along S. University and

to the East and Southeast across the railroad ROW which is zoned I-1. There are a couple of spot zoned R-1 and R-2 lots along Gregg Street to the East in addition to the I-1 referred to above.

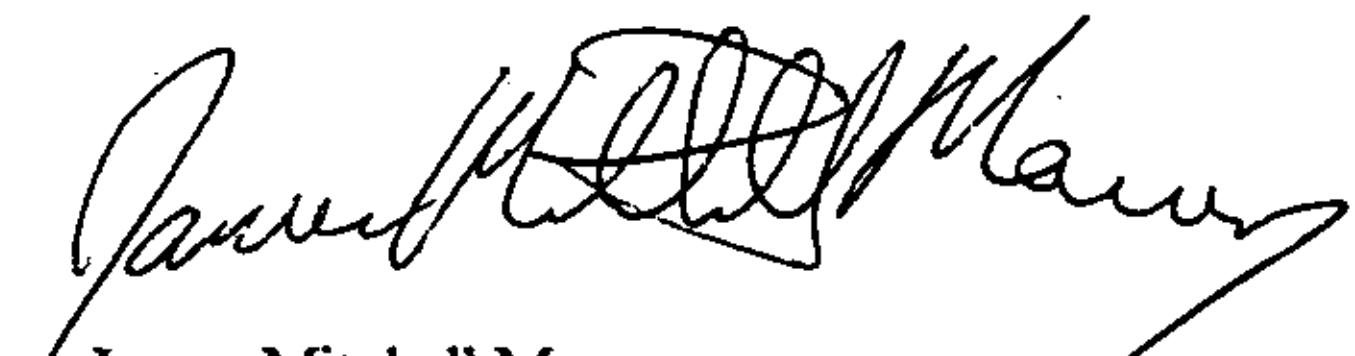
2. Traffic: with this comprising only .1864 acres and being only 80'x100' more or less in size, the number of dwelling units possible is limited due to setbacks, landscaping requirements, parking requirements and height requirements. We would like to be able to develop approx. ½ dozen units and the increased traffic, considering the existing adjacent residential developments, the proximity to the adjacent intersection, and the limited size of any possible development on this lot would be minimal. We anticipate some residents will likely not be vehicle users, and most will walk or ride UofA transit to the University campus located less than 4 blocks away.
 3. Appearance: Although we have not finalized any development documents for a future apartment structure, we believe it will be compatible with any and all surrounding development. Due to zoning restrictions, it will be a maximum of 2 stories in height, have a conventional trussed residential style roof, likely hipped rather than with gables and will have simulated wood siding or other low maintenance exterior finishes. With an estimated 6, 1-bedroom units of less than 500 sf each, this building when planned and constructed will likely be no larger than a modest single family home of less than 3,000 square feet.
 4. Signage: Again, although not fully planned to date, pending this request for rezoning, we anticipate a simple apartment facility sign, either wall, pole or pedestal mounted, complying with all requirements and guidelines of the City of Fayetteville Sign Ordinance and in complete harmony with the existing adjacent apartment developments.
- d. There is currently city water and sewer available to this site. An 8" sewer line runs directly adjacent to the site along the east side of South University Avenue within the street ROW, and a 6" water line is located in University Ave., approximately to the East of the center of the ROW.

Hopefully this will satisfy the requirements for the rezoning request and explains adequately why we wish to change this property from its current commercial potential to a residential use in character with the surrounding neighborhood.

Respectfully,

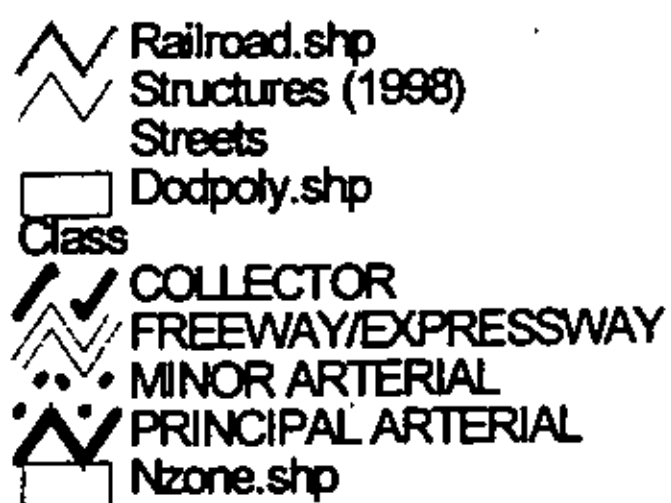
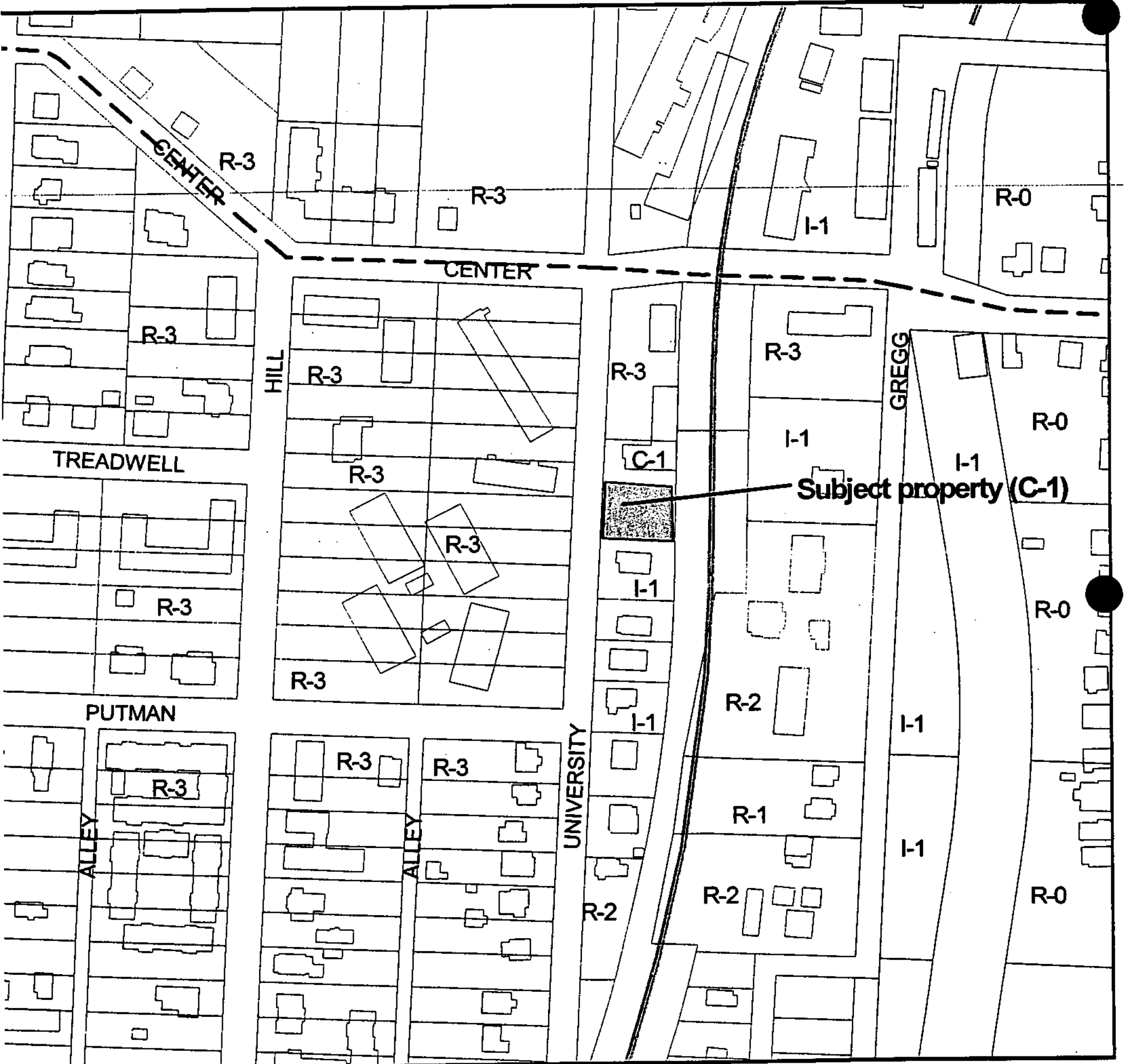


Michael Lambert

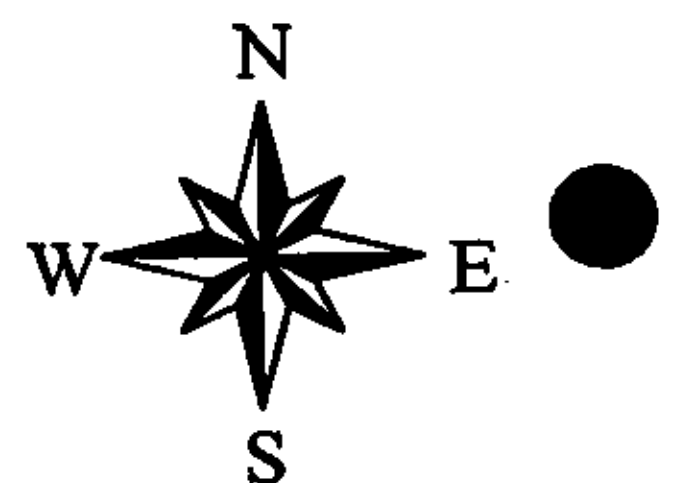


James Mitchell Massey

VUU-22 - Massey - Close Up

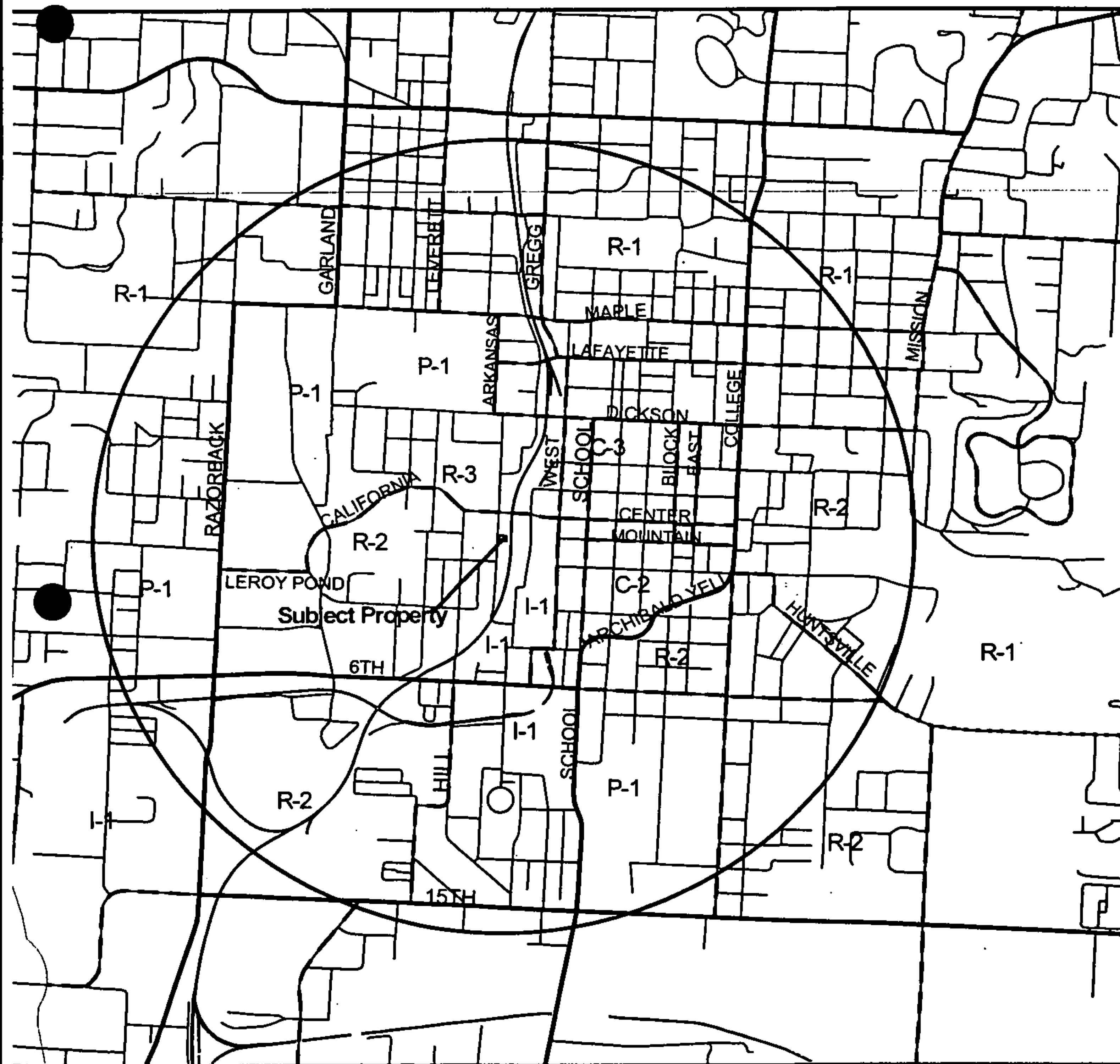


200 0 200 400 Feet



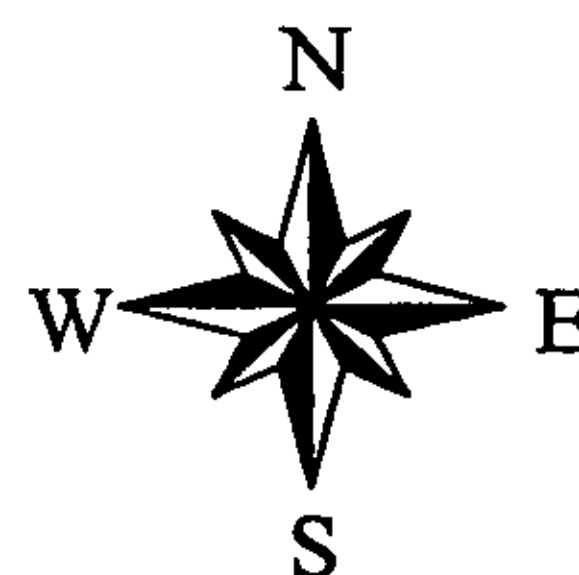
RZ00-22 - Massey - One Mile

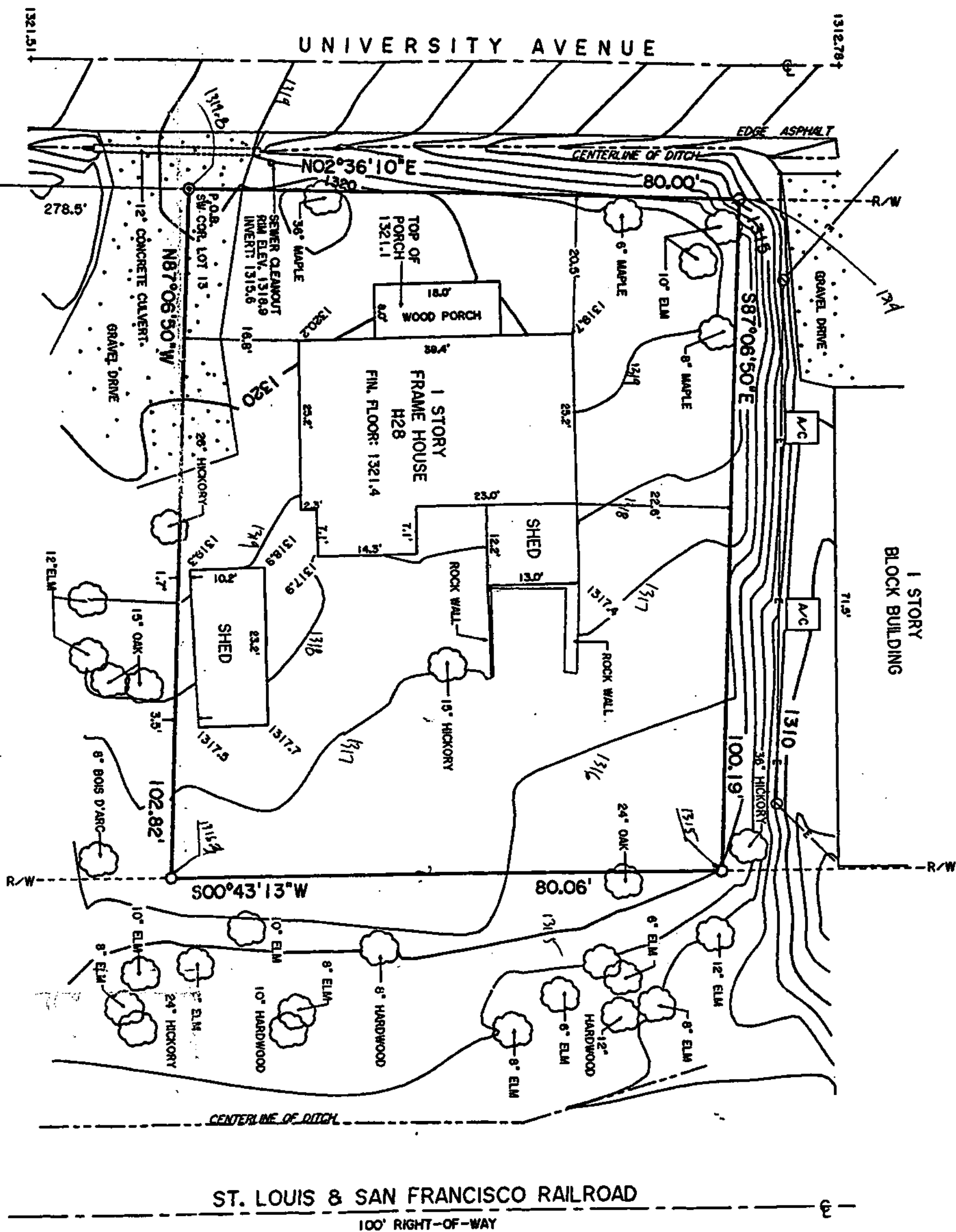
RZ 00-22
B. 1 Page 17



- Railroad.shp
- RegZone
- Streets
- Dodpoly.shp
- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL

0.3 0 0.3 0.6 Miles





October 17th, 2000

I, Wesley Whitmore, am owner of Wes' BBQ located in the commercial center on South University Ave, just north of Hogwash Laundry, also north, down the hill from 28 S. University Ave, the property known as "the Shoemaker House."

It is my opinion that there is not enough parking for a sixplex apartment complex to be built on that small lot and therefore it is my concern that guests, friends, family of the apartment residents will be using my parking lot for their own private use, to which I would object.

It is therefore my opinion that the area on South University Ave be kept as a residential one, including the Shoemaker House.

I respectfully request that the City of Fayetteville decline the developer's request for a rezoning so that apartments can be built.

Wesley Whitmore
signed

phone: 521-5907

Tuesday, October 17th, 2000

I, Anna Inthathirath, am the owner of Hogwash Laundry which is adjacent to the "Shoemaker House", 28 S. University Ave, Fayetteville, Arkansas.

The Hogwash Laundry lies on the north side of the property where apartments might be built.

I am concerned that there is not enough parking space for the apartments, that the friends and guests of the proposed apartment occupants will be parking in my business space, using it for their own private use.

I therefore respectfully request that the City of Fayetteville decline permission to the developer ^{to} have apartments built right above my place of business. I believe that it would be in best interest of the community that this property remain residential due to the lack of adequate parking space.

I do not want to become embroiled in arguments with people who might end up using my lot for their use.

Anna Inthathirath

Phone: 501-575-9274

OCTOBER 3, 2000

DEAR MR. ROBSON,

THANK YOU FOR INFORMING ME OF THE JAMES M. MASSEY PLAN FOR DEVELOPMENT ADJACENT TO PROPERTY WHICH MY WIFE AND I OWN AT 32 SOUTH UNIVERSITY STREET, FAYETTEVILLE. I WAS NOT AWARE OF THE PLAN.

APPROXIMATELY TWO OR THREE MONTHS AGO, I DID RECEIVE AN INQUIRY FROM A SECRETARY IN THE ACCOUNTANT OFFICE OF REGINA YOUNG, WHO WAS CALLING ON BEHALF OF AN UNIDENTIFIED FRIEND; THE FRIEND BEING INTERESTED IN PURCHASING OUR UNIVERSITY PROPERTY. I DID NOT INQUIRE AS TO WHY THERE WAS INTEREST IN A PURCHASE, BUT I DID MAKE IT CLEAR I WAS NOT INTERESTED IN SELLING. IT IS AN ASSUMPTION, ONLY, THAT THE INTERESTED PARTY MAY HAVE BEEN MR. MASSEY. REGARDLESS, I HAVE NEVER BEEN CONTACTED BY MR. MASSEY.

I REMAIN NOT INTERESTED IN SELLING, OR SHARING, EITHER THE PROPERTY, OR A PORTION OF THE PROPERTY IN ORDER TO FACILITATE DEVELOPMENT OF THE AREA.

THANKS FOR CONTACTING ME. YOU ARE WELCOME TO USE INFORMATION IN THIS LETTER IN ORDER TO QUALIFY YOUR OPPOSITION TO THE MASSEY PROPOSAL.

SINCERELY, DONALD ROLLER WILSON

Donald Roller Wilson

122 00-22
10/17/00

October 16th, 2000

I, Alex Mahler, own several of the houses on South University Ave in Fayetteville.

I was in the bidding process for 28 South University Ave.

It was my intention, had I been the successful bidder, to keep the "Shoemaker House" intact, to restore it, to not tear it down.

I believe that it would be in the best interest of the whole neighborhood for the house to not be torn down or removed, but rather to be restored and to be kept in its present location.


Alex Mahler

521-2539 Home
263-2539 ERM
443-1080 VERN PAGER

Petition to the City of Fayetteville

Opposing the Rezoning of 28 S. University Ave.
from C-1 (Neighborhood Commercial)
to R-III (High Density Residential)

We, the undersigned, as residents, owners or occupant/owners of property on So. University Ave, living in single family homes, respectfully request the City Council to oppose the rezoning of 28 So. University Ave to R-3 for the following reasons:

(1) all of the residents on the east side of South University Ave, including the "Shoemaker House" are single family occupants who see this plan to build a sixplex as an invasive intrusion on the character and integrity of the neighborhood. The safety of the street is threatened by more traffic.

(2) that the increase traffic would be a danger to the small children, mothers with babies in strollers and the elderly who walk South University Ave to go to the small commercial store and the Hogwash Laundromat adjacent to the presently commercial zoned Massey property.

(3) that the maps used by the developer inaccurately represented the adjacent north property as R3 instead of the C1 zoning which it is and that the Planning Commission and the Board of Adjustments relied, to some extent, on the accuracy of this map.

(4) that other misrepresentations to the Planning Board and the Board of Adjustments suggested that south adjacent property had no objections and was amenable to a common driveway, which would allow for additional land use space for driving, parking, dumpster, and allow for a larger sixplex unit dwelling. however, this was an additional misrepresentation in that the south adjacent property owner was never contacted by this developer, that he strongly opposes this development, and has no intention of selling or giving the twelve (12) feet of his property for use by this developer. (See attachment.)

(5) that resident neighbors who attempted to read the second sign in order to learn the time and place of the variance meeting were unable to do so because it had been prematurely removed.

(6) that this South University Ave neighborhood is truly a neighborhood where children walk to elementary and high school, and college, and parents walk to work. It is a small, single lane street without sidewalks. People know one another, visit causally up and down the street, across yards, in a warm, supportive, friendly manner, making the neighborhood "home" *in the most profound sense of the word*. Some have lived here for decades and intend to stay throughout their lives. Many who rent here wish to buy to become a permanent part of the neighborhood. The concern is that the proposed sixplex would be the beginning of the end of an entire neighborhood where people care for , support and nurture one another on an intimate and regular basis.

(7) that the "Shoemaker House" (now Massey property) is purportedly a pre Civil War dwelling which should be preseved as an historic site for enhacement of the City of Fayetteville, the State of Arkansas, and indeed the entire nation. Historic neighborhoods greatly add to the commerical value of the city in which they are located. (See attachment)

The undersigned are residents of South University Ave who oppose the rezoning of 28 S. University for the purpose of apartment development.

South University

House Number:

Full Legal Name

Phone Number

<u>101</u>	<u>Richard Hastings</u>	<u>444-0971</u>
<u>109</u>	<u>Nancy Childers</u>	<u>973-0185</u>
<u>109</u>	<u>Ryan Guyton</u>	<u>973-0185</u>
<u>115</u>	<u>Elaine Waters</u>	<u>582-5671</u>
<u>115</u>	<u>Rozlyn Imrie</u>	<u>582-5671</u>
<u>121B</u>	<u>Ben Lobdell</u>	<u>239-2833</u>
<u>123</u>	<u>Tonya Tubbs</u>	<u>443-7552</u>
<u>123</u>	<u>Chris Hicks</u>	<u>443-7552</u>
<u>127</u>	<u>Bruce D. Wexler</u>	<u>521-4940</u>
<u>129</u>	<u>Alicia Johnson</u>	<u>582-9141</u>
<u>129</u>	<u>Maria Wesley</u>	<u>582-9141</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
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These signatures are to be presented with the Petition to the City of Fayetteville (See attachment)

The Undersigned are residents of South University Ave who oppose the rezoning of 28 S. University for the purpose of apartment development.

South University
House Number:

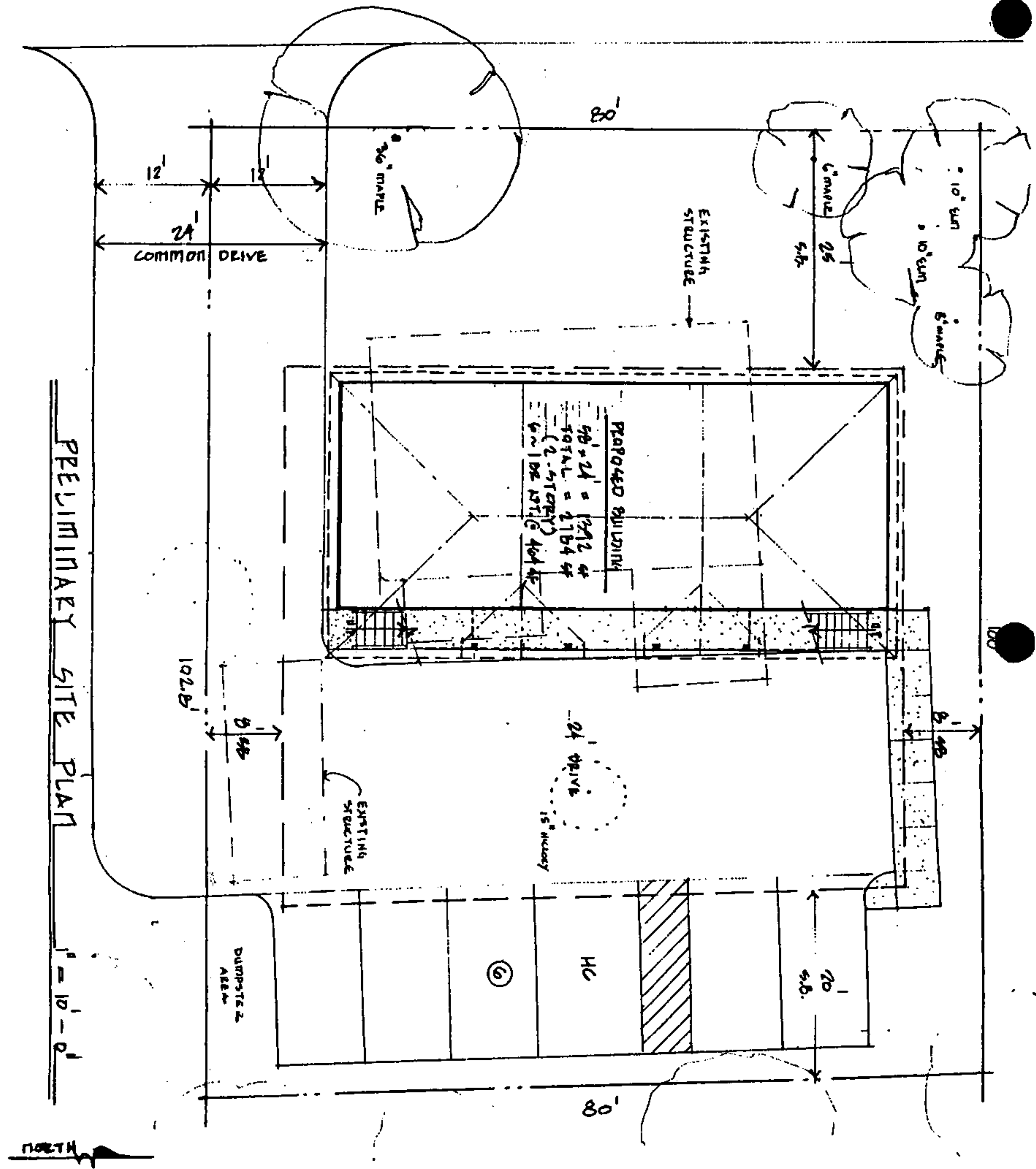
Full Legal Name

Phone Number

28	"Mrs Shoemaker" would not have wanted this	
32	Laurin Wallace	444-7256
32	Irinahibelula Starr	444-7256
38	Marianne Beasley	521-1890
42	presently being remodeled as a single family dwelling	
50	Alexander Chambers	444-6810
102	Sarah Louise Wheat	587-8997
102	Mike Fiorine II	587-8997
110	Joe Robson	443-1805
110	Marion P. Robson	"
110	Tahlia Robson	443-1805
110	Serina Robson	443-1805
110	Shivann Robson	"
112	Chloe Howell	582-0093

These signatures are to be presented with the Petition to the City of Fayetteville (See attachment)

S. UNIVERSITY



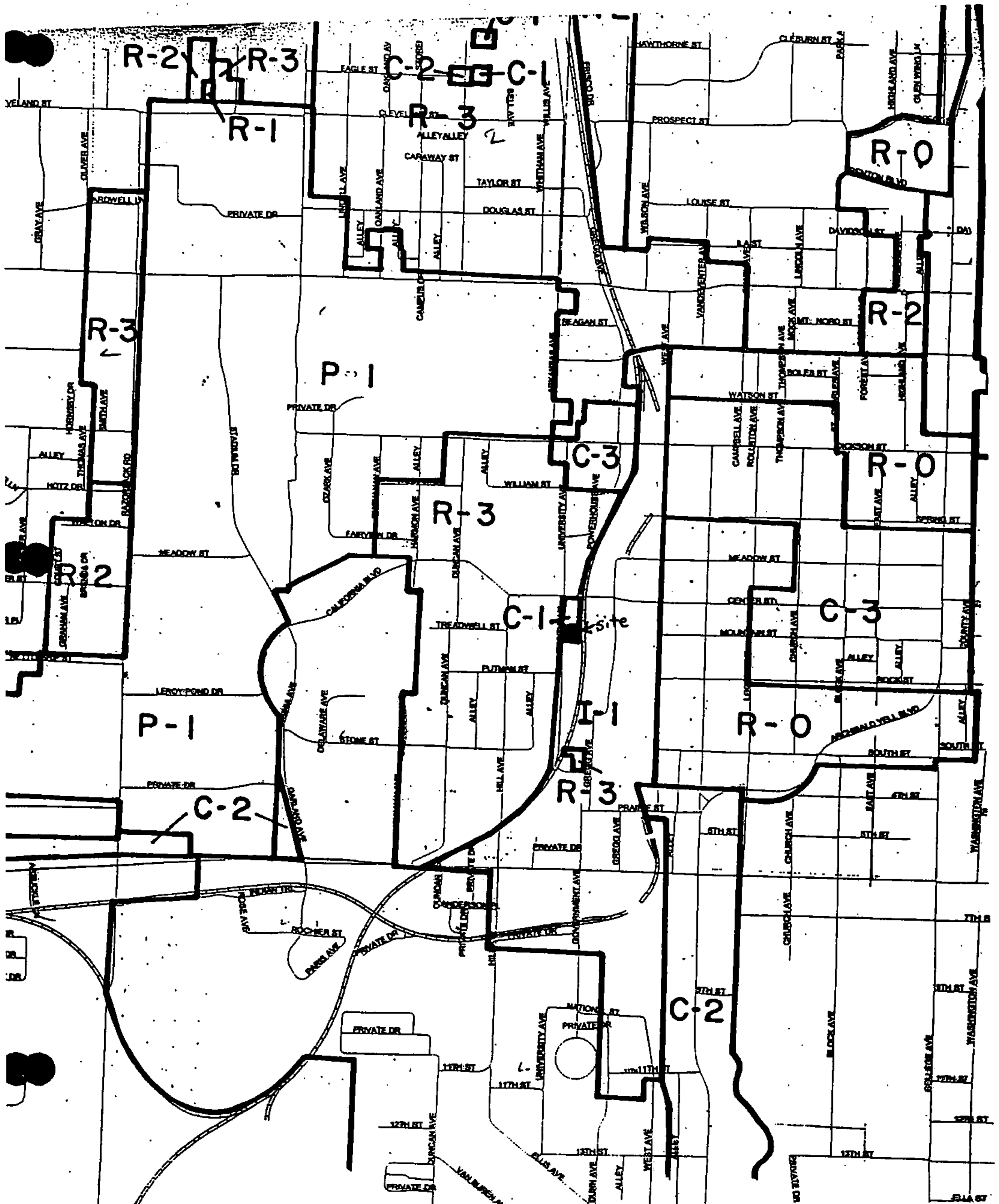
28 S. UNIVERSITY AVE. - VARIANCE REQUEST

ARCHITECTURE • GRAPHIC PLANNING • CONSULTATION • DESIGN
JAMES THOMAS KEY
 P.O. BOX 740 • FAYETTEVILLE, ARKANSAS 72702 • 501-444-8000

KC 00-00
10/17/00

1970 ZONING MAP

RZ 00-22
B. 1 Page 27



ADOPTED BY: **FAYETTEVILLE CITY PLANNING COMMISSION**

DATE: JUNE 29, 1970
CERTIFIED: *Walter C. Moore*

CHAIRMAN

SECRETARY

DATE FILED: _____

WASHINGTON COUNTY CIRCUIT CLERK
& EX-OFFICIO RECORDER



"THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP
REFERRED TO IN SECTION 1 OF ORDINANCE NUMBER 1747 OF
THE CITY OF FAYETTEVILLE"

DATE: JUNE 29, 1970

Walter C. Moore
MAYOR

Walter C. Moore
CITY CLERK

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)

§161.13 DISTRICT C-1 NEIGHBORHOOD COMMERCIAL.

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

B. Uses.

1. Permitted Uses.

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

2. Uses Permissible on Appeal to the Planning Commission.

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

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

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

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

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

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

§161.14 DISTRICT C-2 THOROUGHFARE COMMERCIAL.

A. Purpose. The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

B. Uses.

I. Unit 9. Multifamily Dwellings-Medium Density.

1. Description. Unit 9 consists of units of two or more family dwellings, which have been grouped separately to allow an intermediate residential density of four to 24 families per acre.

2. Included Uses.

Fraternity or Sorority Houses
Home Occupations
Multifamily Dwellings
Townhouse Developments
Two-Family Dwellings

J. Unit 10. Multifamily Dwellings-High Density.

1. Description. Unit 10 includes multifamily dwellings which provide areas for high density of 16 to 40 families per net acre.

2. Included Use.

Convalescent Home
Dormitory
Fraternity or Sorority Houses
Home Occupations
Multifamily Dwelling
Rooming/Boardinghouse
Townhouse Development

K. Unit 11. Mobile Home Park.

1. Description. Unit 11 consists of a separate use of mobile home

parks, in order that they may be located in appropriate residential areas.

2. Included Uses.

Mobile Home Park

Cross Reference: Use Conditions, Chapter 163.

L. Unit 12. Offices, Studios and Related Services.

1. Description. Unit 12 consists of offices, studios, medical and dental labs, and other compatible or supporting services and sales.

2. Included Uses.

Advertising Agency	
Artist's Studio	
Barber and Beauty Shops (with six or fewer chairs)	
Computing Service	
Data Processing Service	
Drafting Service	
Dental Clinic	
Financial Institution	
Funeral Home	
Medical Clinic	
Office Buildings	
Social and Welfare Agencies	

FILED FOR RECORD

'00 AUG 3 PM 2 41

WASHINGTON CO. AR
K. HARNESS

ORDINANCE NO. 4253

AN ORDINANCE AMENDING CHAPTER 162, USE UNITS, SECTION 162.01 O.2. and P.2., OF THE CODE OF FAYETTEVILLE, TO ADD USES TO USE UNIT 15: NEIGHBORHOOD SHOPPING GOODS AND DELETE USES FROM UNIT 16: SHOPPING GOODS.

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

Section 1. That Chapter 162, Use Units, Section 162.01, O.2., of the Code of Fayetteville, is hereby repealed and the following shall be inserted in its stead:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That Chapter 162, Use Units, Section 162.01, P.2., of the Code of Fayetteville, is hereby repealed and the following shall be inserted in its stead:

See Exhibit "B" attached hereto and made a part hereof.

PASSED AND APPROVED this 5th day of July, 2000.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor



By: Heather Woodruff

Heather Woodruff, City Clerk

2000064408



Exhibit "A"

CHAPTER 162: USE UNITS

§162.01 O. Unit 15. Neighborhood Shopping Goods.
2. Included Uses.

Retail Trade:		
	Bookstores	
	Food:	-Bakery -Food specialties store -Dairy products -Grocery -Supermarkets -Delicatessen -Health food store
	Drugstore	
	Florist	
	Hardware Store	
	Home Furniture Store	
	Service Establishment:	-Dry cleaning -Barber and beauty shop -Laundry
	News and Magazine Stand	
	Laundry-Coin Operated	
	Service Station	
	Picture Framing, Retail	
	Antique Shop	
	Apparel and Accessory	
	Clothing	
	Shoe	
	Tailoring	
	Bicycle Shop	
	Camera Shop	
	Hobby Shop	
	Jewelry	
	Leather Goods and Luggage	
	Optical Goods	
	Pet Shop	

2000064409



	Radio and television Store	
	Record and Tape Shop	
	Sporting Goods	
	Stationary Store	
	Toy Shop	

2000064410
⊗⊗⊗

Sale of Supplies and Equipment	-Architects and Artists Supplies -Business Machines -Dental Supplies -Medical and Optical Supplies -Office Furnishing
Scientific Instruments	
Services:	-Auto Parking Garage -Blueprinting -Employment Agency -Photocopying -Printing -Ticket Office, Transportation and Amusement -Travel Agency -Veterinary Small Animal Out-Patient Clinic

M. Unit 13. Eating Places.

1. Description. Unit 13 is established so that eating places can be located as needed without necessarily introducing other commercial uses.

2. Included Uses.

Eating Places, Other Than Drive-Ins, Which Do Not Provide Dancing or Entertainment

N. Unit 14. Hotel, Motel and Amusement Facilities.

1. Description. Unit 14 consists of hotels, motels and certain types of amusement facilities.

2. Included Uses.

Auditorium
Dance Hall

Hotel
Membership Lodge
Motel
Motion Picture Theater
Night Club
Restaurant Providing Dancing and/or Entertainment
Tavern

O. Unit 15. Neighborhood Shopping Goods.

1. Description. Unit 15 includes a variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential areas.

2. Included Uses.

Retail Trade:	Bookstores	
	Food:	-Bakery -Food specialties store -Dairy products -Grocery -Super-markets -Delicatessen -Health food store
	Drugstore	
	Florist	

2. Included Uses.

Service Establishments	-Branch Community Facility -Library -Post Office
Personal Services:	-Auto Rental Agency Office -Barber and Beauty Shops (with more than 4 chairs) -Costume Rental Service -Detective Service -Dry-Cleaning Service -Interior Decorating -Optician/Optometrlist -Photo Finishing -Photographic Studio -Picture Framing -Reading Rooms -Reducing Salon -Sign Painting -Social and Welfare Agency -Gunsmith -Locksmith -Watch and Jewelry Repair
Transportation Service:	-Bus Station -Express Service -Helistop -Railway Terminal -Taxicab Station

Retail Trade Establishments, General	-Automotive Sales, Service and Repair, Including Body Shop -Buses -Mobile Home -Motorcycle, Including Service and Repair -Trucks, Including Service and Repair -Trailers, Camping, Hauling, Travel -Uses Car Lots -Farm Supplies and Equipment, Including Service and Repair -Farm Supplies and Equipment, Including Service and Repair
General Merchandise Establishment	-Direct Selling
Merchandise Vending Machine Operations	
Institutional Furniture and Furnishings	
Marine Craft, Sales & Service	-Boats and Accessories
Medical and Orthopedic Appliances	

Q. Unit 17. Trades and Services.

1. Description. Unit 17 consists of establishments engaged primarily in providing household and automotive maintenance and similar services which fulfill recurrent needs of residents of nearby areas, but are generally incompatible with primary retail districts because they break the continuity of retail frontage.

Personal Help	-Animal Hospital -Auctioneer -Barber and Beauty Shop -Bindery -Cabinetmaker -Frozen Food Locker -Drapery Service -Dry Cleaning -Laundry -Linen Supply and Industrial Laundry -Packing and Crating -Rug Cleaning -Taxidermist -Tool Sharpening
Repair Service	-Armature Rewinding -Auto Repair -Auto Wash -Electrical Repair Service -Furniture -Mattresses -Motors -Radio and Television Repair -Reupholstry -Rug Repair

R. Unit 18. Gasoline Service Station and Drive-In Restaurants.

1. Description. Gasoline service stations and drive-in restaurants can be significantly objectionable to nearby uses, so, therefore, have been allowed only in districts where necessary to provide this use.

2. Included Uses.

Gasoline Service Station
Self-Service Auto Wash (in conjunction with a gasoline service station)
Drive-In Restaurant

S. Unit 19. Commercial Recreation.

1. Description. Unit 19 consists of commercial amusements which

ordinarily do not require large sites and often seek location in or near developed commercial areas.

2. Included Uses.

Billiard and Pool Parlor
Bowling Alley
Domino
Slot Car Track
Skating Rink
Penny Arcade
Indoor Theater

Cross Reference: Parking and Loading, Chapter 172 .

T. Unit 20. Commercial Recreation, Large Sites.

1. Description. Unit 20 consists of commercial recreation facilities which are usually conducted out-of-doors, on large sites, and in undeveloped, outlying parts of the City. Uses in the unit have an adverse effect on certain other uses, in that they are often noisy and are large traffic generators.

2. Included Uses.

Amusement Park
Drag Strip
Drive-In Theater
Fairgrounds
Fishing Dock
Go-Cart Track
Golf Range
Miniature Golf
Race Track

(billboards) on which space is leased or rented by the owners thereof to others for the purpose of conveying a commercial or noncommercial message. Outdoor advertising is set forth as a single use unit in order to provide maximum control over the location of outdoor advertising signs.

2. Included Use.

Outdoor Advertising Signs

Y. Unit 25. Professional Offices.

1. **Description.** Unit 25 consists of small professional offices that are compatible with medium and high density residential areas.

2. Included Uses.

Doctor's Office (no more than four doctors)
Dentist's Office (no more than four dentists)
Insurance Sales
Studio for Teaching Any of the Fine or Liberal Arts
Photography Studio
Welfare Agencies
Architect
Engineer
Attorney
Accountant
Business or Management Consultant
Realtor
Broker
Interior Decorator
Veterinary Small Animal Out-Patient Clinic

Z. Unit 26. Single-Family Dwellings.

1. **Description.** Unit 26 is provided in order that single-family detached dwelling may be located in appropriate residential areas.

2. Included Uses.

Single-Family Detached Dwellings

AA. Unit 27. Wholesale Bulk Petroleum Storage Facilities with Underground Storage Tanks.

1. **Description.** Unit 27 is provided in order that wholesale bulk petroleum storage facilities with underground storage tanks may be located in the appropriate industrial areas.

2. Included Uses.

Wholesale Bulk Petroleum Storage Facilities with Underground Storage Tanks

BB. Unit 28. Center for Collecting Recyclable Materials.

1. **Description.** Unit 28 is provided in order that centers for collecting recyclable material may be located in appropriate commercial and industrial areas.

2. Included Uses.

Center for Collecting Recyclable Materials

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

the Fayetteville City Council meeting of November 7, 2000
FROM:

John Maquire Administration
Name Division Department

ACTION REQUIRED: Approval of an engineering agreement with Garver Engineers, 3810 Front St, Suite 10, Fayetteville, for the design of a multi-level parking deck to be constructed on the existing parking lot bounded by Center St. at the North, Mountain St. on the South, Church Ave. On the West and on the East by the buildings that front Block Ave. Approval of a budget adjustment and contingency is also requested.

COST TO CITY:

<u>\$244,008</u>	<u>-0-</u>	
Cost of this Request	Category/Project Budget	Category/Project Name
<u>4470-9470-5314-02</u>	<u>-0-</u>	
Account Number	Funds Used To Date	Program Name
<u>00064</u>	<u>-0-</u>	<u>Sales Tax Capital</u>
Project Number	Remaining Balance	Fund

BUDGET REVIEW:	Budgeted Item	Budget Adjustment Attached
<u>[Signature]</u>	<u>10/30/00</u>	
Budget Coordinator		Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

<u>[Signature]</u>	<u>10-30-00</u>
Accounting Manager	Date
<u>[Signature]</u>	<u>10-30-00</u>
City Attorney	Date
<u>[Signature]</u>	<u>10-31-00</u>
Purchasing Officer	Date

GRANTING AGENCY:

<u>[Signature]</u>	<u>10/30/00</u>
ADA Coordinator	Date
<u>[Signature]</u>	<u>10/30/00</u>
Internal Auditor	Date
<u>[Signature]</u>	<u>10/30/00</u>
Grant Officer	Date

STAFF RECOMMENDATION:

<u>[Signature]</u>	<u>10/27/00</u>	<u>Cross Reference</u>
Division Head	Date	
<u>[Signature]</u>	<u>10/31/00</u>	New Item: Yes No
Department Director	Date	
<u>[Signature]</u>	<u>10/31/00</u>	Prev Ord/Res #: _____
Admin. Svcs Director	Date	
<u>[Signature]</u>	<u>10/31/00</u>	Orig Contract Date: _____
Mayor	Date	

Description _____ Meeting Date _____

Comments:

Budget Coordinator

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

ADA Coordinator

Reference Comments:

nal Auditor

Reference Comments:

Grants Offcier

Reference Comments:

DEPARTMENTAL CORRESPONDENCE

To: Mayor & City Council

From: John Maguire - Administrative Services Director

Date: October 27, 2000

Subject: Consultant Agreement for the Design of a Mult -Level Parking Deck

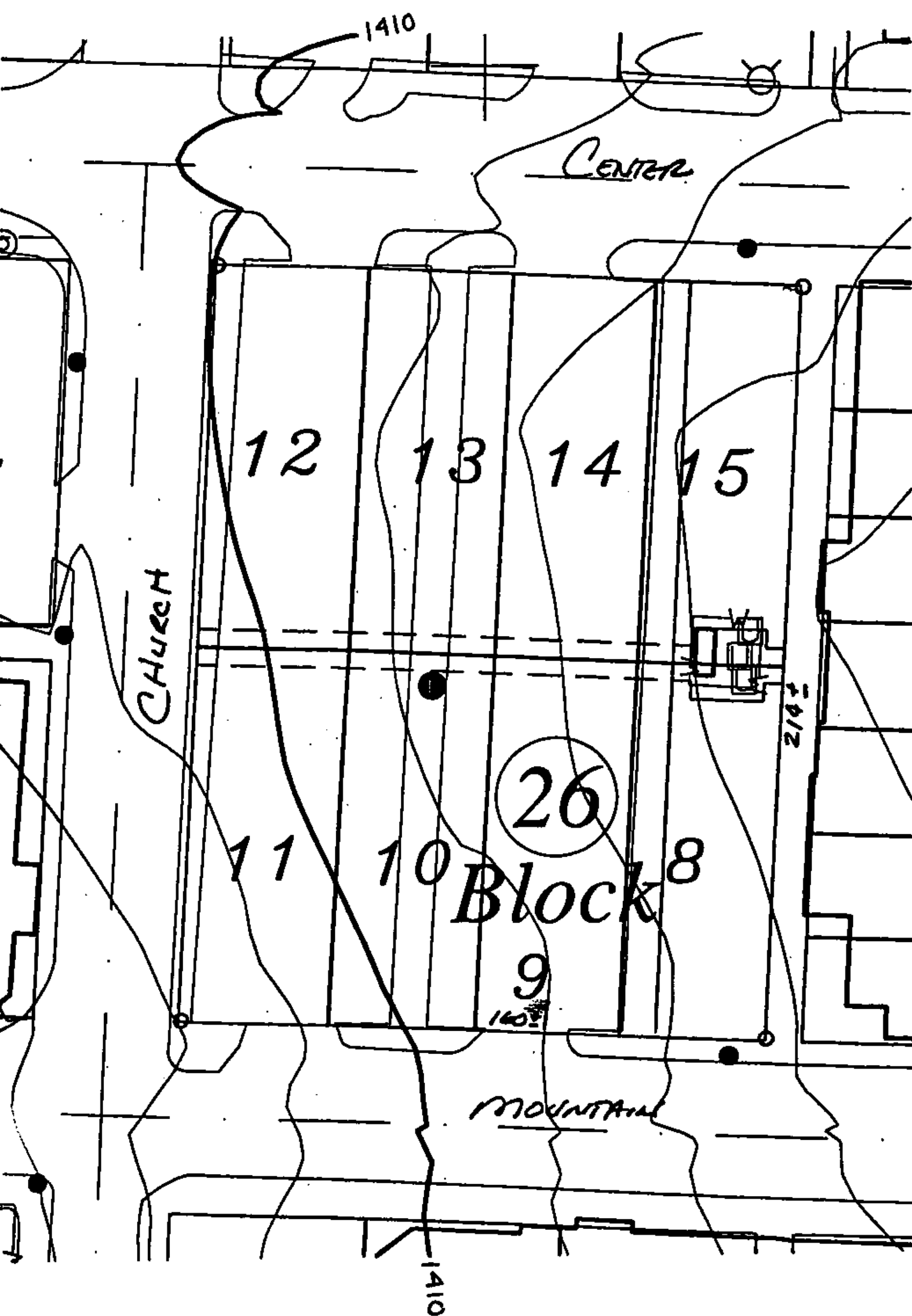
Proposals for the design of a multi-level parking deck to be constructed on the existing city owned parking lot bounded by Center St. on the North, Mountain St. on the South, Church Ave. on the west and the buildings that front Block Ave. on the East were sent to seven architectural and/or engineering firms that had been selected by a committee composed of Alderman Robert Reynolds, Don Bailey, Jim Beavers, Perry Franklin, Charles Venable, and myself.

Five proposals were received from the firms on August 18, 2000. Two of the firms selected had joined with two other firms. Proposals were received from: (1) Cromwell Architects Engineers in association with Walker Parking Consultants, (2) Wittenberg, Delony & Davidson, Inc. Architects in association with McClelland Engineers, (3) Garver Engineers in association with Foster/Witsell, Evans & Rasco Architects, (4) The Benham Group Architects & Engineers and (5) Hailey/Amirmoez Associates Architects in association with Carter & Burgess, Inc. and Walker Parking Consultants.

Four of the firms were selected for interviews, with the Benham Group not being interviewed. Interviews were held on September 14, 2000 and following the interviews the Garver Engineering Firm was selected as the first choice of the Committee.

Negotiations then followed and the attached agreement which includes the preliminary and final design, plans, specifications, bidding service, construction contract administration, and observation, surveys, geotechnical information, and architectural model, landscaping design, maintenance of traffic, revenue control studies and reimbursable expenses.

The total cost of the agreement is not to exceed an amount of \$244,008, including all of the above items. It is expected that the project will be ready for contract by late spring or early summer of 2001, with the construction time estimated to be about 9 months from the time of beginning.



SCALE: 1" = 50'

CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Agreement entered into and executed this ____ day of _____ 2000, by and between the City of Fayetteville acting by and through its Mayor, hereinafter called the "OWNER," and with Garver Engineers, with offices located at 3810 Front Street, Suite #10, Fayetteville, hereinafter called the "ENGINEER".

WITNESSETH:

Whereas, the "OWNER" is planning to design a multi-level parking deck in the City of Fayetteville; and whereas the "OWNER'S" forces are fully employed on other urgent work that prevents their early assignment to the aforementioned work; and whereas the "ENGINEER'S" staff is adequate and well qualified and it has been determined that its current work load will permit completion of the plans for the project on schedule;

Now, therefore, it is considered to be in the best public interest for the "OWNER" to obtain assistance of the "ENGINEER'S" organization in connection with said engineering services. In consideration of the faithful performance of each party of the mutual covenants and agreements set forth hereinafter, it is mutually agreed as follows:

SECTION I - EMPLOYMENT OF ENGINEER

The "OWNER" agrees to employ the "ENGINEER" to perform, and the "ENGINEER" agrees to perform, professional engineering services in connection with the project set forth in the Sections to follow; and the "OWNER" agrees to pay and the "ENGINEER" agrees to accept, as specified in the Sections to follow as full and final compensation for work accomplished in the specified time.

SECTION II - DESCRIPTION OF THE PROJECT

The project generally refers to the planning, design, bidding, and construction support services for a multi-level parking deck to be constructed on the existing municipal parking lot bounded by Mountain Street, Center Street, and Church Avenue and by the alley behind the old Campbell Bell Building. This contract will be based on designing three levels, including the ground level, with the ability to design and construct two or three additional levels in the future. The existing transformers and associated utility lines are to remain in place and the deck layout and configuration are to accommodate this. The deck will have the ability to be attached to a future deck across Center Street by a future skybridge.

SECTION III - INFORMATION & SERVICES

The "OWNER" will furnish any specifications, standards, and other information which may relate to the project including GPS survey data. Aerial mapping data will be provided, free of charge, to the "ENGINEER" on magnetic media. The "OWNER" will also pay for newspaper advertisements, and agency review fees outside of this agreement. Construction materials quality assurance and control testing will be provided by the construction contractor and is not a part of this agreement.

SECTION IV - SERVICES TO BE FURNISHED BY THE "ENGINEER" DURING "DESIGN" PHASE

Preliminary Design

The "ENGINEER" will accomplish the following.

Phase 1:

1. Give brief consideration to different deck layouts and configurations and recommend one deck layout and configuration to the City for review and approval. Preliminary floor plans of the recommended deck layout and configuration will be provided. Building elevations and sections will not be provided.
2. Attend meetings with the City as required.

Phase 2:

1. Provide schematic architectural floor plans, elevations, and building sections for review and approval.
2. Attend meetings with the City as required.

Phase 3:

1. Provide construction plans to approximately 30% completion except for mechanical items. Preliminary mechanical items will be addressed in a narrative included with the 30% construction plans. Plans will be of sufficient detail for submittal to the City for large-scale plan review.
2. Provide submittals and coordination with the City during the large scale development review process. Garver will lead this effort.
3. Provide opinion of probable construction cost.
4. Coordinate with utility owners for possible relocations. Garver will submit copies of the proposed improvements to the utility owners. If any utility conflicts are encountered, design of any utility relocation will be accomplished by the utility owner or, if directed by the City, will be designed as additional work under "Special" Services.

Final Design

Final Design Documents will include the following:

1. Parking deck with three levels including the ground level. Documents will include structural, architectural, electrical, and mechanical components. Design of revenue control, security, surveillance, and communication systems are not a part of this agreement, unless directed by the Owner as Special Services.
2. Perimeter walkways.
3. Driveways for access to and from street.
4. Drainage design. No formal drainage report will be required.
5. Interior and exterior signage.

The "ENGINEER" shall provide all field survey data from field work for designing the project, and this survey shall be tied to the "OWNER'S" GPS control network.

The "ENGINEER" shall be responsible for obtaining, interpreting and evaluating geotechnical data necessary for the design of this project.

The "ENGINEER" shall provide surveying and mapping as required for the "OWNER'S" use in preparing Right-of-Way/Easement documents.

The "ENGINEER" shall furnish plans to all known utility owner's affected by the project and, if necessary, shall conduct a coordination meeting among all known affected utility owners to enable them to coordinate efforts for any necessary utility relocations. This coordination meeting will take place at the City Engineer's office.

During the final "Design" phase of the project, the "ENGINEER" shall conduct final designs to prepare construction plans and specifications including final construction details and quantities, special provisions, opinion of probable cost, make final field inspection with "OWNER", make any needed plan changes as a result of the final field inspection, and all other work required to advertise and receive bids.

Unless the Owner prefers and provides a specific construction contract, the Engineer will furnish an industry standard construction contract form for review by the City Attorney.

Prior to the start of construction, the "ENGINEER" shall establish benchmark for elevation control and tie layout work to Fayetteville's GPS control system.

SECTION V - COORDINATION WITH "OWNER"

The "ENGINEER" shall hold conferences throughout the design of the project with representatives of the "OWNER" to the end that the design, as refined, shall have full benefit of the "OWNER'S" knowledge and be consistent with the current policies and construction practices of the "OWNER". The "OWNER" reserves the right to accept or reject any or all plans, but this stipulation will not relieve the "ENGINEER" of responsibility for the design of the project.

SECTION VI - OFFICE LOCATION FOR REVIEW OF WORK

Review of the work as it progresses under this Agreement shall be made at the "OWNER'S" City Engineers office.

SECTION VII - CONCEPT AND PRELIMINARY SUBMISSION

The "ENGINEER" shall submit two (2) sets of preliminary plans to the "OWNER".

SECTION VIII - FINAL SUBMISSION

The final submission for the construction contract shall consist of the following:

- A. One (1) copy of all design calculations.
- B. Three sets of final plans, contract documents, and specifications.
- C. The originals of all drawings, specifications, and contract documents. All design drawings on magnetic media shall be submitted on disks compatible with AutoCAD Release 14 software.
- D. The estimated cost of construction and a detailed estimate of time in calendar days required for completion of the contract.

SECTION IX - ENGINEER RESPONSIBILITY DURING "BIDDING" AND "CONSTRUCTION CONTRACT ADMINISTRATION" PHASES

During the "Bidding" phase of the project, the "ENGINEER" shall dispense construction contract documents to prospective bidders (at the cost of reproduction and handling), support the contract documents by preparing addenda as appropriate, participate in a pre-bid meeting if necessary, attend the bid opening, prepare bid tabulation, evaluate bids, recommend award, prepare construction contracts, and issue a Notice to Proceed letter to the Contractor.

During the "Construction Contract Administration" phase of work, the "ENGINEER" shall accomplish the following:

1. Review the Contractor's progress payment requests based on the actual quantities of contract items completed and accepted, and shall make a recommendation to the "OWNER" regarding payment.
2. Attend progress/coordination meetings with the City/Contractor.
3. Attend preconstruction meeting.
4. Prepare for and attend utilities coordination meeting.
5. Evaluate and respond to construction material submittals and shop drawings.
6. Prepare record drawings.
7. Provide periodic site visits at intervals appropriate to the stage of construction or as otherwise agreed to in writing by the Engineer and the Owner for the 270-calendar-day construction

contract performance time. The construction contract documents will require the prime construction contractor to hire a consultant to provide quality control and assurance testing and construction observation of the work during construction. As such the Engineer is not responsible for the construction observation duties required to be performed by the construction contractor's consultant.

SECTION X - SUBCONTRACTING

Subcontracting by the "ENGINEER" of any of the services provided herein shall require prior approval by the "OWNER". The Engineer has made agreements with Foster/Witsell, Evans & Rasco for architectural services and with Grubbs, Hoskyn, Barton, & Wyatt for geotechnical investigation. Copies of these subconsultant contracts are attached. Execution of this agreement is evidence of the approval of these two subconsultant contracts.

SECTION XI - TIME OF BEGINNING AND COMPLETION

The "ENGINEER" shall begin work under this Agreement within ten (10) days of notice to proceed and shall complete each phase in accordance with the schedule shown in Section XII.

SECTION XII - FEES AND PAYMENTS

A. "Basic" Services:

For, and in consideration of, the services to be rendered by the "ENGINEER", the "OWNER" shall pay the "ENGINEER" an amount equal to 6.5 percent of the construction cost. The breakdown for each phase is estimated as follows:

Preliminary Design	1.87%
Final Design	2.82%
Bidding Services	0.26%
Construction Support Services	1.55%
	<u>6.50%</u>

The construction cost is defined as the final cost of the work performed by the Contractor and paid by the Owner, or \$3 million, whichever is greater. In addition the Engineer shall be compensated for work designed and specified but not incorporated into the construction or final work. For work for which a bid has been received, the Owner shall use the lowest qualified bid received for that work for adjusting compensation to the Engineer. For work for which no qualified bid was received, the Owner shall use the Engineer's construction cost estimate for that work for adjusting compensation to the Engineer. In either case the compensation adjustment increase shall be based on the sum of the percentage fees above for the Preliminary and Final Design Phases, and Bidding Phases for work bid. No deduction shall be made from the Engineer's compensation for any liquidated damages or other amounts withheld from payments to the Contractor.

The basis of this estimated fee is contained in Appendix "A" attached hereto. Subject to the City

Council's approval, adjustment of the fee may be made should the "ENGINEER" establish and the "OWNER" agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if the "OWNER" decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. The "ENGINEER" may alter the distribution of compensation between individual phases of the work noted herein but shall not exceed the total percent fee unless approved in writing by the "OWNER".

Invoices shall be submitted to the City for payment on a monthly basis in proportion to the amount of work accomplished as estimated by the Engineer. Since the final construction amount, and any appropriate adjustments as discussed above, will be unknown during the Engineer's performance of this contract, invoice amounts will be based on a percentage of the Engineer's estimated construction cost. Once the final construction contract amount is determined, engineering fees will be adjusted to the percentage in this contract.

The City will make every effort to pay such invoices within 30 days of the date the invoice is approved. However, payment within 30 days is not guaranteed, and the City will not be held liable for interest or late fees due to delayed or late payment.

B. "Geotechnical Investigation" Services:

For geotechnical investigative services associated with design, the "OWNER" shall pay the "ENGINEER" the lump sum amount of \$7,000.

C. "Special" Services:

Surveying

The "ENGINEER" will accomplish topographical and boundary surveys to support design of the parking deck. Surveys provided by the City will be used as a reference. Since site conditions will have a direct effect on preliminary deck layout and design, topographic and utility surveys will be performed before start of the Preliminary Design phase. For, and in consideration of, the services to be rendered by the "ENGINEER", the "OWNER" shall pay the "ENGINEER" a lump sum amount of \$10,000 for Surveying Services.

Architectural Model

The "OWNER" has directed the "ENGINEER" to prepare an architectural model of the proposed parking deck for use by the City. This model will be submitted to the City at the time the Preliminary Plans are submitted. The model will be at a 1" = 20' scale and a maximum size of 36" x 36". Adjacent streets and buildings will be shown. The "OWNER" agrees to pay the "ENGINEER" a lump sum fee of \$6,000 for this model.

Landscape Design

The "ENGINEER" shall provide landscape design for the project during the final design phase and will incorporate this design into the construction contract documents. The "OWNER" agrees to pay the "ENGINEER" a lump sum fee of \$6,500 for landscape design.

Maintenance of Traffic and Contractor's Staging Area Plan

The "ENGINEER" shall provide a maintenance of traffic plan for the project during the final design phase and will incorporate this plan into the construction contract documents. This plan will give consideration to the construction sequence and the contractor's staging area. The "OWNER" agrees to pay the "ENGINEER" a lump sum fee of \$3,500 for the maintenance of traffic and contractor's staging area plan.

Revenue Control System Design

If directed by the Owner, the Engineer shall prepare an engineering report of the features of the proposed revenue control system for review and approval by the Owner prior to final design. The design effort shall include the geometry, layout, traffic control and monitoring devices, revenue fee computers, pre-fabricated toll booths, communications, conduit, and wiring for an on-site attended or un-attended system as chosen in the report. The "OWNER" agrees to pay the "ENGINEER" a lump sum fee of \$10,000 for revenue control system design, if requested in writing by the Owner.

Additional Work

For additional "Special" services, not specifically covered by this agreement but requested by the Owner in writing, the "OWNER" shall pay the "ENGINEER" at the rates shown in Appendix B, plus reimbursable expenses. These rates will increase 6% annually with the first increase being effective September 1, 2001.

"Special" Services may include, but are not limited to, the following at the written direction of the "OWNER":

1. Any design, detailing, or coordination required to temporarily or permanently relocate the existing NBC satellite dishes.
2. Any design, detailing, or coordination required to relocate or to accommodate utility operations for the existing transformers, switches, and associated underground utility lines.
3. Any design or detailing required to relocate other existing utilities for the project.
4. Any traffic services other than preparation of the Maintenance of Traffic Plan.
5. Any additional construction support services beyond those describe under Basic Services.

Each phase of the Engineer's services shall be completed in accordance with the following schedule:

<u>Phase Description</u>	<u>Calendar Days</u>
Topographical and Boundary Surveys	20 days from NTP
Geotechnical Engineering	45 days from NTP
Preliminary Design - Phase 1	30 days from NTP
Preliminary Design - Phase 2	25 days from Approval of Preliminary Design - Phase 1
Preliminary Design - Phase 3	30 days from Approval of Preliminary Design - Phase 2
Architectural Model Preparation	30 days from Approval of Preliminary Design - Phase 2
Final Design	60 days from Approval of Preliminary Design - Phase 3
Bidding Services	Estimated at 45 days
Construction Support Services	Estimated at 270 days

D. Reimbursable Expenses:

The "OWNER" will pay the "ENGINEER" for reimbursable expenses during the project such as printing, reproduction, travel, materials, telecommunications costs, etc. Reimbursable expenses will be identified separately on the monthly invoice and will not exceed \$6,000, unless approved in writing by the Owner.

SECTION XIII - CHANGES

The "OWNER" may at any time, by written order, make changes within the general scope of the contract in the work and services to be performed. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this contract, an equitable increase or decrease shall be made in the upper limit contract amount, including fee or time of required performance, or both, and the contract shall be modified in writing accordingly.

Changes, modifications or amendments in scope, price, or fees to this contract shall not be allowed without a formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, price, or fees.

Any claim by the "ENGINEER" for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the "ENGINEER" of the notification of change, provided, however, that the "OWNER" if it decides that the facts justify such action, may receive and act upon any such claim assessed at any time prior to the date of final payment under this contract. Failure to agree to any adjustment shall be cause for a dispute concerning a question of fact within the meaning of the clause of this contract entitled SECTION XVII MISCELLANEOUS PROVISIONS, (1) Dispute Resolutions. However, nothing in this clause shall excuse the "ENGINEER" from proceeding with the contract as changed.

SECTION XIV - OWNERSHIP OF DOCUMENTS

All documents, including original drawings, disks of CADD drawings and cross sections, estimates, specifications, field notes, and data are and remain the property of the "OWNER." However, the Owner agrees that these documents shall be used only in conjunction with the construction and maintenance of the specific project at the specified location as prescribed in this agreement. The "ENGINEER" may retain reproduced copies of drawings and copies of other documents.

SECTION XV - POSTPONEMENT OR CANCELLATION OF THE CONTRACT

It is understood that the "OWNER" will have the right to suspend or cancel the work at any time.

- A. Postponement - Should the "OWNER," for any reason whatsoever, decide to postpone the work at any time, the "OWNER" will notify the "ENGINEER," who will immediately suspend work. Should the "OWNER" decide during such suspension not to resume the work,

or should such suspension not be terminated within a year, the work shall be cancelled as hereinafter provided.

- B Cancellation - Should the "OWNER," for any reason whatsoever, decide to cancel or to terminate the use of the "ENGINEER'S" service, the "OWNER" will give written notice thereof to the "ENGINEER," who will immediately terminate the work. If the "OWNER" so elects, the "ENGINEER" may be instructed to bring a reasonable stage of completion to those items, whose value would otherwise be lost. The "ENGINEER" shall turn over all data, charts, survey notes, figures, drawings and other records or information collected or produced hereunder whether partial or complete. Upon such termination of the "ENGINEER'S" services, the "ENGINEER" shall be paid on a proportional amount of the total fee, less prior partial payments, based on the ratio of work done to the total amount of work to be performed.

SECTION XVII - MISCELLANEOUS PROVISIONS

1. Dispute resolution - Any dispute concerning a question of fact in connection with the work and having a financial value of \$10,000, or less, shall be referred for determination to the Mayor of the City of Fayetteville, whose decisions in the matter shall be final and conclusive. Disputes resulting from claims greater than \$10,000 which cannot be solved by negotiation shall be subject to mediation, arbitration, or litigation as may be appropriate.
2. Responsibility for Claims and Liability - The "ENGINEER" shall save harmless the "OWNER" from all claim and liability due to its (the "ENGINEER'S") activities, or those subcontractors, its agents, or its employees during the time this contract is in force.
3. General Compliance with Laws - The "ENGINEER" shall comply with all federal, state and local laws and ordinances applicable to the work. The "Engineer" shall be a professional engineer, licensed in the State of Arkansas.
4. Engineers Endorsement - The "ENGINEER" shall endorse and recommend all plans, specifications, estimates and engineering data finished by it. All design shall be checked in accordance with accepted engineering practices. All plan quantities shall be checked and verified.

SECTION XVIII - SUCCESSORS AND ASSIGNS

The "OWNER" and the "ENGINEER" each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement, except as above. Neither the "OWNER" nor the "ENGINEER" shall assign, sublet or transfer its interest in this Agreement without written consent of the other. Nothing herein shall be construed as creating any possible personal liability on the part of any officer or agent of any public body which may be party hereto.

SECTION XIX - COVENANT AGAINST CONTINGENT FEES

The "ENGINEER" warrants that it has not employed or retained by company or person, other than a bonafide employee working solely for the "ENGINEER", to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the "ENGINEER", any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract.

For breach or violation of this warranty, the "OWNER" shall have the right to annul this contract without liability.

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

OWNER

CITY OF FAYETTEVILLE

By: _____

Mayor: _____

ATTEST:
City Clerk

ENGINEER

GARVER ENGINEERS

By: 

Title: VICE PRESIDENT
Authorized Representative

ATTEST:

APPENDIX A

CITY OF FAYETTEVILLE PARKING DECK PAGE 1 OF 6

FEE SUMMARY

Basic Services

Preliminary Design	\$56,146	1.87% of \$3 million
Final Design	\$84,530	2.82% of \$3 million
Bidding Services	\$7,890	0.26% of \$3 million
Construction Support Services	\$46,442	1.55% of \$3 million

Basic Services Total	\$195,008	6.50% of \$3 million
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Special Services

Surveys	\$10,000
Geotechnical Services	\$7,000
Landscape Design	\$6,500
Maintenance of Traffic/Staging Area Plan	\$3,500
Architectural Model	\$6,000
Revenue Control System Design	\$10,000
Expenses	\$6,000

\$49,000

Total Estimated Fee	\$244,008
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APPENDIX A

CITY OF FAYETTEVILLE
PARKING DECK
PAGE 2 OF 6

SURVEYS

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Coord	Environmental Scientist	Geologist	Senior Tech./ Draftsman	Tech./ Draftsman	Clerical	Survey Crew	Senior Const Engineer	Const Engineer	Senior Const Observer	Const Observer
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering																		
Topographic Surveys	0	1	0	0	0	0	35	0	0	0	0	0	0	24	0	0	0	0
Boundary Survey	0	0	0	0	0	0	32	0	0	0	0	0	0	16	0	0	0	0
Subtotal - Civil Engineering	0	1	0	0	0	0	70	0	0	0	0	0	0	42	0	0	0	0

Hours

Salary Costs

0	1	0	0	0	0	0	70	0	0	0	0	0	0	42	0	0	0	0
\$0.00	\$92.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$4,760.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$3,040.00	\$0.00	\$0.00	\$0.00	\$0.00
																		\$8,802.00

SUBCONSULTANTS

Foster/Wer
Grubbs, Hoshyn, Barton & Wyatt

\$0.00	\$0.00
--------	--------

DIRECT NON-LABOR COSTS

Reproduction/Printing
Survey Supplies
Aerial Photography
GPS Equipment
Travel Costs

\$0.00	\$25.00	\$0.00	\$0.00	\$25.00	\$50.00
--------	---------	--------	--------	---------	---------

TOTAL COST:

\$8,942.00

APPENDIX A

PRELIMINARY DESIGN

WORK TASK DESCRIPTION																		
Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Project Surveyor	Survey Count	Environmental Schedule	Geologist	Senior Tech./ Draftsman	Tech./ Draftsman	Civilical	Survey Crew	Senior Civil Engineer	Civil Engineer	Senior Civil Observer	Civil Observer	
\$120 Jr	682 Jr	\$17 Jr	\$76 Jr	\$49 Jr	\$60 Jr	\$68 Jr	\$52 Jr	\$88 Jr	\$86 Jr	\$44 Jr	\$45 Jr	\$36 Jr	\$120 Jr	\$64 Jr	\$60 Jr	\$64 Jr	\$60 Jr	
1. Civil Engineering																		
Preliminary Plans - Complete to Approximately 30%																		
		2	8		12						8							
		2	8		12						8							
		1	1		4						6							
		1	1		4						6							
		1	1		4						6							
		1	2		2						4							
		6	4		4													
		2	3		4													
	6	96	6	28	43	0	0	0	0	0	38	0	0	0	0	0	0	
2. Structural Engineering																		
Preliminary Plans - Complete to Approximately 30%																		
		6			16						18							
		6			16						18							
		10			16						18							
		10			16						18							
		10			16						18							
		10			16						18							
		4			16						6							
		16			16													
		12			16													
	6	78	6	0	148	0	0	0	0	0	104	0	0	0	0	0	0	
3. Mechanical Engineering																		
		3		6														
		3		8														
		9	6	12	8	0	0	0	0	0	0	0	0	0	0	0	0	
4. Electrical Engineering																		
Preliminary Plans - Complete to Approximately 30%																		
			3								3							
			3								3							
			3								3							
			3								3							
			3								3							
			3								3							
			4								4							
			6															
	2		6															

1

Salary Costs

<u>ESTIMATED COSTS</u>	
Fieldwork	\$21,000.00
Overhead, Hauling, Station & Wages	\$0.00
<u>ESTIMATED LABOR COSTS</u>	
Reproduction/Printing	\$1,000.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Travel Costs	\$500.00
	\$1,500.00
<u>TOTAL COST:</u>	\$27,500.00

INDEX A
OF FAYETTEVILLE
RING DECK
: 5 OF 6

BIDDING SERVICES

WORK TASK DESCRIPTION	Senior Project Manager \$120 hr	Project Manager \$82 hr	Senior Project Engineer \$87 hr	Project Engineer \$78 hr	Senior Design Engineer \$88 hr	Design Engineer \$80 hr	Project Surveyor \$68 hr	Survey Coord \$52 hr	Environ- mental \$68 hr	Geologist \$98 hr	Senior Tech/ Draftsman \$64 hr	Tech / Draftsman \$48 hr	Cartist \$38 hr	Survey Crew \$120 hr	Senior Corner Engineer \$64 hr	Corner Engineer \$60 hr	Senior Corner Observer \$64 hr	Corner Observer \$60 hr
1. Engineering																		
Dispense plans and specs to prospective bidders		1		3								4	6					
Addendums/Inquiries		2		3														
Pre-Bid Meeting		2																
Bid Opening		2		2									4					
Prepare bid tabulation		1											4					
Evaluate bids and recommend award		2		4														
Prepare construction contracts		1																
Notice to Proceed																		
Subtotal - Civil Engineering	0	11	0	12	0	0	0	0	0	0	0	4	14	0	0	0	0	0
2. Structural Engineering																		
Addendums		4										4						
Pre-Bid Meeting		8											1					
Subtotal - Structural Engineering	0	12	0	0	0	4	0	0	0	0	0	4	1	0	0	0	0	0
3. Mechanical Engineering																		
Addendums		1		2								2						
Subtotal - Mechanical Engineering	0	1	0	2	0	0	0	0	0	0	0	2	0	0	0	0	0	0
4. Electrical Engineering																		
Addendums				3								2						
Subtotal - Electrical Engineering	0	0	0	3	0	0	0	0	0	0	0	2	0	0	0	0	0	0
Subtotal - Bidding Services	0	24	0	17	0	4	0	0	0	0	0	12	18	0	0	0	0	0
Salary Costs	\$0.00	\$2,208.00	\$0.00	\$1,326.00	\$0.00	\$240.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$576.00	\$540.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

SUBCONSULTANTS
Foster/Weir
Grubbs, Hoshorn, Barton & Wyatt
\$1,000.00
\$0.00

DIRECT NON-LABOR COSTS
Reproduction/Printing
Survey Supplies
Aerial Photography
GPS Equipment
Travel Costs
\$1,200.00
\$0.00
\$0.00
\$0.00
\$200.00
\$1,400.00

TOTAL COST:
\$9,280.00

Appendix B
Fayetteville Multi-Level Parking Deck
Garver Engineers
Hourly Rate Schedule

<u>Classification</u>	<u>Regular</u>
Senior Project Manager	\$120.00
Project Manager	\$92.00
Senior Project Engineer	\$87.00
Project Engineer	\$78.00
Senior Design Engineer	\$69.00
Senior Construction Engineer	\$64.00
Construction Engineer	\$60.00
Design Engineer/Designer	\$60.00
Environmental Scientist	\$69.00
Geologist	\$66.00
Senior CADD Technician	\$64.00
CADD Technician	\$48.00
Senior Construction Observer	\$64.00
Construction Observer	\$60.00
Project Surveyor	\$68.00
Survey Coordinator	\$52.00
Survey Crew	\$120.00
Clerical	\$36.00
GPS Equipment (per hour)	\$45.00

October, 2000

Budget Year	Department:	Administrative Services	Date Requested	Adjustment #
2000	Division:	Administrative Services	November 7, 2000	
	Program:	Sales Tax Capital		

Project or Item Requested:	Project or Item Deleted:
To initiate a Multi-Level Parking Deck capital project by adding \$280,609.	To recognize \$280,609 in additional Sales Tax Revenue.

Justification of this Increase:	Justification of this Decrease:
The funding is needed for a engineering agreement with Garver Engineers for the design of a multi-level parking deck to be constructed on the existing parking lot bounded by the streets of Center, Mountain, and Church.	Currently the City has received over \$300,000 in additional Sales Tax Revenue than was budgeted Year to Date.

Increase Expense (Decrease Revenue)							
Account Name	Amount	Account Number				Project Number	
Engineering Services	280,609	4470	9470	5314	02	00064	10

Decrease Expense (Increase Revenue)							
Account Name	Amount	Account Number				Project Number	
Sales Tax Revenue	280,609	4470	0947	4104	00		

Approval Signatures		Budget Office Use Only	
Requested By	Date	Type:	A B C <u>D</u> E
	10-27-00	Date of Approval	
Budget Manager	Date	Posted to General Ledger	
Department Director	Date	Posted to Project Accounting	
	10/31/00	Entered in Category Log	
Admin. Services Director	Date		
	10/31/00		
Mayor	Date		

CITY OF FAYETTEVILLE, ARKANSAS

2000 - 2004 CAPITAL IMPROVEMENTS PROGRAM

PROJECT DETAIL

PROJECT TITLE:	Parking Garage(s)
REQUESTING DIVISION:	Parking Enforcement
FUNDING SOURCE:	Off-Street Parking Fund
PROJECT CATEGORY:	Off-Street Parking Improvements
INITIAL YEAR PRIORITY:	4
PROJECT TYPE:	REPLACEMENT ☐ EXPANSION ☐

PROJECT COST		
2000	\$	30,000
2001		
2002		2,170,000
2003		
2004		4,115,000
TOTAL PROJECT COST \$		6,315,000

PROJECT DESCRIPTION & JUSTIFICATION :

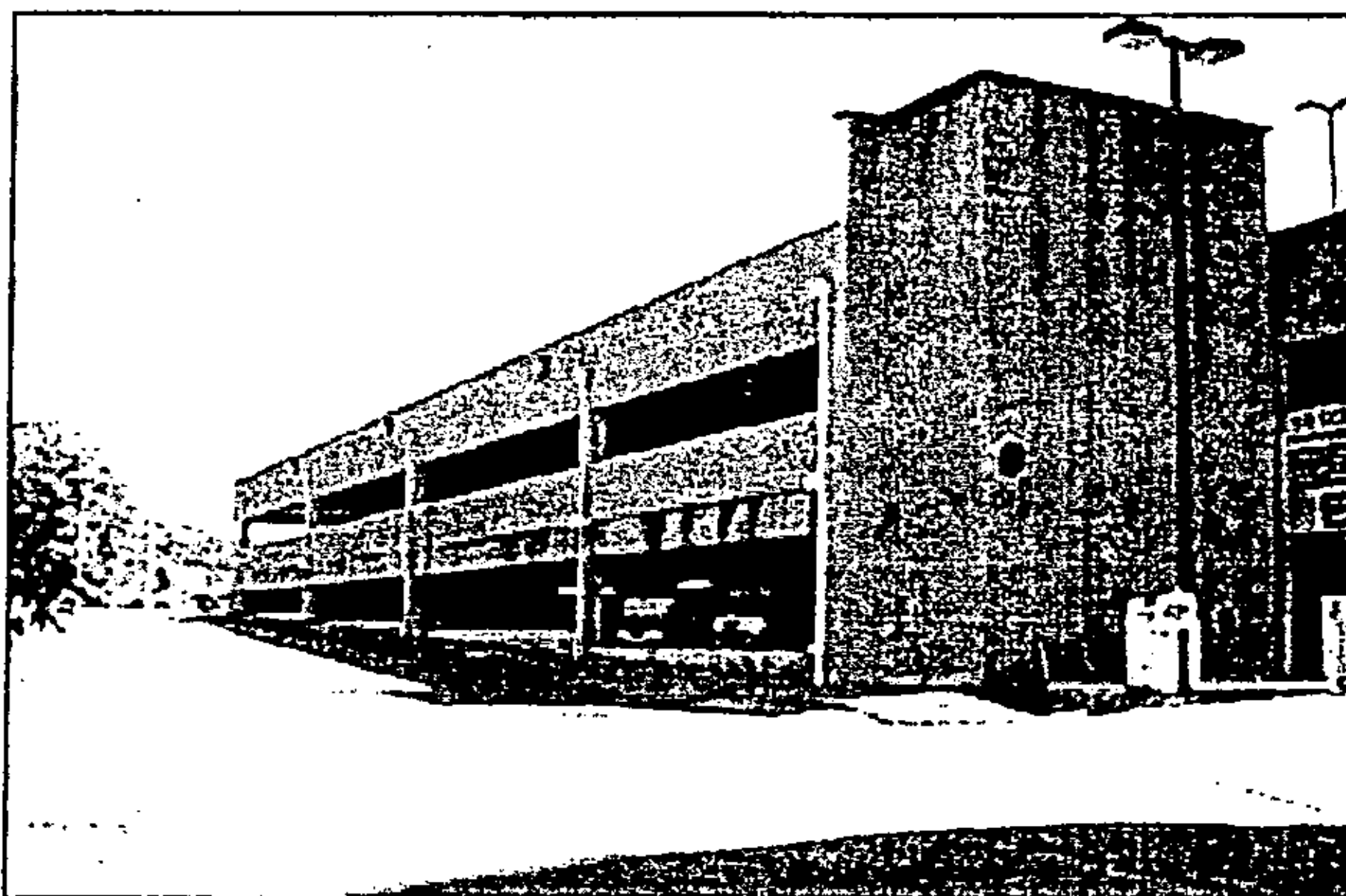
Due to growth and revitalization in the downtown area, there is a growing need to establish additional parking in the southeast part of downtown, where the greatest need currently lies, and in the northeast part of downtown, where an increasing need will become more apparent as the downtown and Dickson Street areas become more inter-connected. A study to determine sizing, cost, and feasibility of these parking structure(s) is recommended. Cost of acquiring, construction, and operation might also be shared through a public/private partnership. Financing of this project may also require the issuance of bonds to be financed by revenues generated from the projects.

PROJECT STATUS (IF IN PROGRESS) :

A study is recommended to determine a course of action. The results of the study will dictate the time frame and the facility size. However, at this point, it is recommended that a facility in southeast downtown Fayetteville be constructed within 3-4 years and accommodate approximately 150 vehicles. A facility in northeast downtown Fayetteville should be constructed in the next 4-6 years that would accommodate approximately 250 vehicles. Costs are difficult to project without knowing the exact size and whether a public/private partnership can be achieved. A cost of \$12,000 per space is being used for planning purposes. This does not include the cost of purchasing the land and/or razing structures.

EFFECT OF THE PROJECT ON ANNUAL OPERATIONS

This area is difficult to project without knowing the fees to be charged and the exact size of the structures. Other factors include whether the facilities are fully automated or require attendants. Available technology at the time of construction will dictate automation/attendants. A break even philosophy is recommended since parking is so vital to keeping the downtown thriving. The major revenue impact will be felt through sales tax and HMR tax growth. It might also be necessary to increase trolley operation hours to assist in shuttling employees from the garages to downtown employment destinations to encourage usage of the garages.



STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF Nov. 7, 2000 MAYOR'S APPROVAL _____

FROM:

Jerry E. Rose City Attorney Legal
Name Division Department

ACTION REQUIRED:

Approval of the Telecommunications Ordinance

COST TO CITY:

<u>0</u> Cost of this Request	<u></u> Category/Project Budget	<u></u> Category/Project Name
<u></u> Account Number	<u></u> Funds Used to Date	<u></u> Program Name
<u></u> Project Number	<u></u> Remaining Balance	<u></u> Fund

BUDGET REVIEW:

Budgeted Item Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION:

CROSS REFERENCE

Division Head

Date

New Item: Yes No

Department Director

Date

Previous Ordinance/Resolution No.: _____

Administrative Services Director

Date

Original Contract Date: _____

Mayor

Date

FAYETTEVILLE

RECEIVED

OCT 31 2000

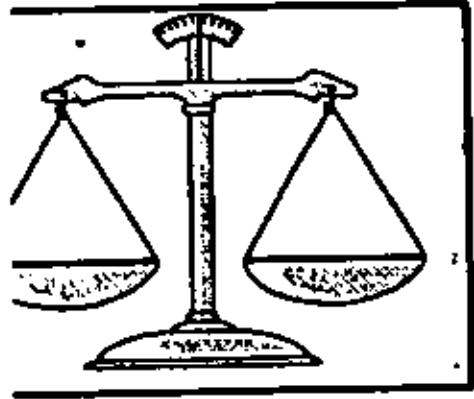
CITY ATTORNEY'S OFFICE

DEPARTMENTAL CORRESPONDENCE

TO: JERRY ROSE, CITY ATTORNEY
FROM: MARVIN HILTON, CABLE ADMINISTRATOR
SUBJECT: TELECOMMUNICATIONS ORDINANCE
DATE: October 30, 2000

MA 10-31-00

I polled the Telecommunications Board members about the revisions listed in your memo of October 26, 2000. It was their opinion that the board does not need to further review the ordinance before it is presented to the City Council.



FAYETTEVILLE

LEGAL DEPARTMENT
CITY ATTORNEY DIVISION

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

DEPARTMENTAL CORRESPONDENCE

To: Marvin Hilton, Cable Administrator

From: Jerry E. Rose, City Attorney *J.E.R.*

Date: October 26, 2000

Re: Telecommunications Ordinance

Attached please find the revised Telecommunications Ordinance that was drafted after seeking to satisfy the concerns of Adelphia and Southwestern Bell over the ordinance that was presented to the city Council last month.

My first reaction is simply to seek to place this on the City Council agenda for the meeting of November 7, 2000. However, if you feel the revisions are such that the Telecommunications Board needs to look at this draft before it goes to City Council, I certainly want to do so. Just let me know before the agenda setting session on October 31, 2000 at 4:30 p.m. Thanks.

/cbp
Attachment(s)

MOSS & BARNETT

A Professional Association

BRIAN T. GROGAN
612.347.0340
GroganB@moss-barnett.com

RECEIVED

OCT 26 2000

CITY ATTORNEY'S OFFICE

4800 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-4129
Telephone 612.347.0300
Facsimile 612.339.6686
www.moss-barnett.com

VIA FEDERAL EXPRESS

October 25, 2000

Jerry Rose, Esq.
City Attorney
113 West Mountain, Room 302
Fayetteville, AR 72701

Re: Telecommunications Ordinance

Dear Jerry:

I have enclosed herewith what I believe to be the final version of the Telecommunications Ordinance for the City Council's review and consideration. The only additional revisions from the previous draft I forwarded to your attention are as follows:

1. Section 4.1, the first line, addition of the words "utilized the Streets to."
2. Section 6.1, change the heading to "Construction Application."
3. Section 10.2, add "or licensee" at the end of this section.
4. Section 13.4, revised to allow additional due process for non-renewal.
5. Section 14.2, changes clarify the timeframe for any planned renovation or restoration.
6. Section 18.5, the phrase "or a federal court of competent jurisdiction" has been added.

I believe the above-referenced changes are rather minor and do not change the substance of the ordinance. While both Adelphia and Southwestern Bell raised other concerns regarding the ordinance, I believe the document adequately addresses the major issues each of the providers have raised while still retaining the necessary regulatory oversight which you desire with respect to the city's rights-of-way.

MOSS & BARNETT

A Professional Association

Jerry Rose, Esq.
October 25, 2000
Page 2

4800 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-4129
Telephone 612.347.0300
Facsimile 612.339.6686
www.moss-barnett.com

As you will note, I have provided a copy of this letter and its attachment to legal counsel for both Adelphia and Southwestern Bell. This document can now be placed on the City Council agenda for review and consideration. If you should have any questions or if I can provide any additional information or assistance, please feel free to contact me.

Very truly yours,



Brian T. Grogan

BTG/tlh

Enclosure

cc: Jeffrey W. Miller (via U.S. Mail and e-mail)
Ron Young (via U.S. Mail and e-mail)

372739/1

CITY OF FAYETTEVILLE

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE MANAGEMENT AND PRESERVATION OF THE CITY'S RIGHTS-OF-WAY AND PUBLIC PLACES WITH RESPECT TO TELECOMMUNICATIONS SERVICES; PROVIDING FOR TERMS AND CONDITIONS UNDER WHICH TELECOMMUNICATIONS PROVIDERS AND LESSEES MAY OCCUPY THE CITY'S RIGHTS-OF-WAY AND PUBLIC PLACES; PROVIDING FOR COMPENSATION TO THE CITY ON A COMPETITIVELY NEUTRAL AND NON-DISCRIMINATORY BASIS; CREATING AN OFFENSE AND PROVIDING PENALTIES.

WHEREAS, the provision of telecommunications services has become an essential part of modern life that can significantly enhance the quality of life for the City's residents, businesses and institutions; and

WHEREAS, the City's rights-of-way and public places are valuable assets to the City and its residents, businesses and institutions; and

WHEREAS, the City has invested and will continue to invest substantial public monies in the acquisition, construction and maintenance of public rights-of-way and public places; and

WHEREAS, the grant of permission to a private entity to use public rights-of-way and public places is a valuable property right that eliminates the necessity for the private entity to invest substantial capital; and

WHEREAS, the City is entitled to fair and reasonable compensation from a telecommunications provider who utilizes the City's public rights-of-way and public places for the delivery of its services; and

WHEREAS, the United States Congress has recently adopted the Telecommunications Act of 1996 (the "Act"), which substantially amended the telecommunications law of the United States; and

WHEREAS, Section 253(a) of the Act provides that no local regulation or legal requirement may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service; and

WHEREAS, Section 253(c) of the Act provides that nothing in the Act affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed; and

WHEREAS, it is in the best interests of the City and its residents, businesses and institutions, to establish rules and regulations that encourage the provision of telecommunications services, encourage telecommunications competition, treat telecommunications providers on a competitively neutral and nondiscriminatory basis, preserve and protect the City's rights-of-way and public places, secure fair and reasonable compensation for the private use of the City's rights-of-way and public places, and take such other necessary steps to responsibly protect the public health, safety and welfare;

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

SECTION 1. TITLE.

This Ordinance shall be known as "The City of Fayetteville Telecommunications Ordinance."

SECTION 2. DEFINITIONS.

As used in this Ordinance, the following terms shall have the meanings set out:

2.1. "Applicant" means a telecommunications provider or telecommunications lessee that applies for a franchise or license pursuant to this Ordinance.

2.2. "Franchise fee" means compensation paid to the City by the telecommunications provider or lessee in exchange for the use of the City's Streets to deliver telecommunications services.

2.3. "Gross revenues" means all revenues from basic local service, excluding, among other things, extension, terminal equipment, toll, access, yellow pages, and other miscellaneous equipment revenues, consistent with Arkansas Code 14-200-101 (a)(1)(E).

2.4. "Person" means any individual, resident, citizen, business, firm, corporation, partnership, governmental agency, or institution.

2.5. "Streets" means all streets, roads, alleys, public rights-of-way, public utility easements, public property, public ways and air space over such streets, roads, alleys, public rights-of-way, public utility easements, public property and public ways located within the geographic limits of the City.

2.6. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received.

2.7. "Telecommunications facilities" or "facilities" means all conduits, manholes, poles, antennas, transceivers, wires, cable (including fiber optic cable) and appurtenances owned or utilized by a telecommunications provider or telecommunications lessee and located in, under or over the Streets of the City and utilized in the provision of telecommunications services.

2.8. "Telecommunications lessee" or "lessee" means any person, firm, corporation, partnership, or other business entity, including "resellers," that provides telecommunications services within the geographic boundaries of the City, including long-distance services that originate or terminate in the City, by utilizing, purchasing or leasing a telecommunications facility of a telecommunications provider or any element thereof, whether through purchase, lease, contract, interconnection agreement, or other business arrangement; provided that a person that owns its own telecommunications facilities in the City and utilizes, purchases or leases telecommunications

facilities or elements thereof of other telecommunications providers in the City shall be classified as a telecommunications provider under the terms of this Ordinance.

2.9. "Telecommunications provider" or "provider" means any person, firm, corporation, partnership or other business entity, other than the City, that provides telecommunications services within or without the geographic boundaries of the City by utilizing its own telecommunications facilities to provide telecommunications services.

2.10. "Telecommunications services" or "services" means any service delivering telecommunications by a telecommunications provider or lessee that the provider or lessee is authorized to provide under federal, state and local law, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S. C. §521 et seq., and the Telecommunications Act of 1996.

2.11. "Transmission line" means a telecommunications facility that is used solely for the purpose of transmitting signals from one point to another point and does not include a line for the purpose of delivering telecommunications services to any person in the City.

SECTION 3. REQUIREMENT OF CITY'S CONSENT.

3.1. Every telecommunications provider and telecommunications lessee that utilizes a telecommunications facility must obtain a franchise or license from the City in accordance with this Ordinance in order to provide telecommunications services. Prior to providing any telecommunications service or utilizing any telecommunications facility, the provider or lessee must agree in writing to comply with the terms and conditions of this Ordinance and enter into a franchise agreement or license agreement.

SECTION 4. APPLICATION PROCESS.

4.1. Any telecommunications provider or lessee seeking to utilize the Streets to provide telecommunications service (the "Applicant") shall complete a brief application form approved by the Department of Public Works. Such application form shall briefly describe the general nature of the service to be provided, the type of construction or use of facilities required, the name, address and telephone number of the person or entity seeking to provide the service, and the name, address and telephone number of an authorized representative of the person or entity.

4.2. The Applicant shall also provide evidence in a form satisfactory to the City that it has the financial, legal and technical qualifications necessary to provide the service for which it seeks a franchise or license. The provision of authorization from the Arkansas Public Service Commission shall be deemed satisfactory evidence of these qualifications.

4.3. In considering whether to grant a franchise or license or impose terms and conditions on the grant of a franchise or license, the City may consider, without limitation, the following factors to the extent not already considered by the Arkansas Public Service Commission:

- (a) the Applicant's financial ability to pay the compensation and fees required by this Ordinance;
- (b) the Applicant's ability to construct and operate the telecommunications facilities it seeks to utilize;
- (c) the Applicant's compliance with the terms and conditions of federal, state and local law including Applicant's compliance in other jurisdictions in which it operates;
- (d) the capacity of the Streets to accommodate the Applicant's proposed facilities;
- (e) (e) the damage or disruption, if any, of public or private facilities, improvements, or landscaping if a franchise or license is granted;

(f) the public interest in minimizing the cost and disruption of construction in, on, under and above the Streets;

(g) the effect on public health, safety or welfare if a franchise or license is granted;

(h) the availability of alternate routes and/or locations for the proposed facilities;

(i) whether the imposition of certain terms and conditions or the failure to grant the requested franchise or license would prohibit or have the effect of prohibiting the ability of the Applicant to provide any interstate or intrastate telecommunications services; and

(j) any other factor relating to whether the grant of a franchise or license impinges on the City's right to manage its Streets.

4.4. An Applicant for a telecommunications franchise or license shall submit with its Application a fee in the amount of \$150.00 in partial compensation to the City for processing the Application.

4.5. If the City approves the Application, the provider or lessee shall reimburse the City for any reasonable costs and expenses, including attorneys' fees, incurred by the City, which are not already covered by the Application fee required in Section 4.4 of this Ordinance, to review and evaluate the Application and prepare and negotiate a franchise agreement or license agreement with the provider or lessee, and including the costs of any publication of an ordinance as provided in Section 5.

4.6 All applications and/or amendments to franchise agreements shall be forwarded by the City to the City of Fayetteville Telecommunications Board for their advice, if any, prior to City approval.

4.7 Fees, costs and expenses imposed by City on a telecommunications provider or lessee shall, only to the extent specifically required by applicable law including the regulations of the Arkansas Public Service Commission, be credited toward the Franchise fee imposed on the telecommunications provider or lessee.

SECTION 5. FRANCHISE OR LICENSE AGREEMENT.

5.1. As a condition of the grant of a franchise or license, the provider or lessee shall enter into a franchise agreement or a license agreement with the City. A telecommunications provider shall enter into a franchise agreement. A telecommunications lessee shall enter into a license agreement.

5.2. The franchise agreement or license agreement shall contain such additional terms and conditions as are not in conflict with the terms of this Ordinance as may be necessary and appropriate for the particular circumstances of the provider or lessee and its delivery of telecommunications services.

5.3. The franchise agreement or license agreement shall be adopted as an Ordinance by the City prior to the initiation of any construction or the delivery of any service.

5.4. A franchise agreement may be amended from time to time upon agreement of the City and the provider or lessee.

5.5 It is not the policy or intention of the City in this Ordinance to prohibit the provision of telecommunications service within the City but rather to protect the City's interests in the Streets.

SECTION 6. CONSTRUCTION AND MAINTENANCE.

6.1. Construction Application. Prior to beginning construction, excluding routine maintenance or emergency repair, of any telecommunications facility, the Applicant shall apply to the Department of Public Works of the City for permission to carry out construction activities in the

City's Streets, and shall comply with all requirements of that department or any other ordinance or code applicable hereto.

6.2. Construction Plan. Prior to beginning construction, as defined above, the Applicant shall submit a plan describing the proposed construction. The plan shall specify:

- (a) The design of any telecommunications facilities to be constructed or utilized;
- (b) A map showing the precise location of any telecommunications facility to be constructed or utilized and any appurtenant facilities such as poles, attachments, guy wires, and the like;
- (c) A description of any agreements that have been reached or are necessary with other telecommunications providers or providers of other utility services regarding use of existing facilities;
- (d) The timetable for completion of construction, including any phases of construction;
- (e) Such other information as will provide the City with pertinent information relating to the construction of the telecommunications facilities, including any pertinent information requested by the City.

6.3. Prior Authority. Prior to beginning construction, the Applicant shall have received all necessary regulatory authority to construct a telecommunications facility or provide telecommunications service from the Arkansas Public Service Commission, the Federal Communications Commission, or other appropriate state or federal agency. Evidence that it has received such regulatory authority shall, upon request, be filed with the City.

6.4. Standards of Construction. The method of construction, workmanship used, and materials utilized in the construction shall conform to all applicable federal, state and local statutes, rules, regulations and ordinances. All work shall be performed in a safe, thorough, and reliable manner using materials of good and durable quality so as not to create a hazard or dangerous condition on the Streets. If, at any time, it is determined by the City or any other agency or authority of competent jurisdiction that any telecommunications facility presents a danger to the public health, safety or welfare, then the telecommunications provider or lessee shall, upon thirty (30) days advance written notice, at its own cost and expense, promptly correct all such conditions.

6.5. Maintenance and Repair. Any telecommunications facility constructed or utilized pursuant to a franchise or license shall be maintained and repaired in accordance with the standards and under the terms and conditions set out in the preceding paragraph and such other terms and conditions as shall appear in this Ordinance or the franchise agreement or license agreement.

6.6. Minimal Disruption. Construction, maintenance and repair of the telecommunications facilities shall be conducted in such a manner as to minimize any interference with or disruption of the City's Streets, traffic, residences, businesses and institutions. The provider shall at all times endeavor to use trenchless technology in appropriate circumstances.

6.7. Restoration. Any disturbance of the City's Streets shall be repaired and restored by the telecommunications provider or lessee at its expense and to a condition as good as that prevailing before the work causing such disturbance was commenced.

6.8. Location of Facilities. New poles and other new facilities shall be located to the extent feasible in such a way as to minimize their effect on the visual landscape and on other aesthetic considerations and so as to minimize inconvenience.

6.9. Burial of Transmission Lines. A telecommunications provider shall place its transmission lines or other facilities underground in certain areas designated by the City Council, but only if existing utility providers maintaining lines or facilities in the same areas have or will be required by the City to place their lines or facilities underground.

6.10. Co-Location; Sharing of Pole Space. To the maximum extent feasible, a telecommunications provider constructing a new transmission line or other facility, or expanding an existing line or facility, shall utilize existing facilities. The owner of any existing facility shall to the extent permitted by law and consistent with any pole attachment regulations of the Public Service Commission, the Federal Communications Commission or other appropriate agency, permit the telecommunications provider to utilize its pole.

6.11. Movement of Facilities. A telecommunications provider shall be required to temporarily disconnect or relocate any of its facilities located in the Streets at its own expense when required by the City by reason of traffic conditions; public safety; or the construction, installation or repair of any public road, highway, building, park or other public project. The provider shall cooperate with any other public utility authorized by the City to provide utility service utilizing the City's Streets. If a private entity is required by City to modify or affect the Streets, that entity shall compensate the provider for its costs for the disconnection or relocation of any of the provider's facilities. Provider shall be notified by said private entity as soon as practical of any plan affecting provider's facilities.

6.12. Tree Trimming. A telecommunications provider is authorized to trim trees in the City's Streets to the extent necessary to properly maintain its transmission line or other facility, but prior to major trimming projects, it shall provide 24 hours' notice to the City. The City, at its option, may choose to supervise such tree trimming. Upon conclusion of the tree trimming, the provider shall immediately clean up and remove all debris.

6.13. Curb Cuts. No provider shall make paving cuts or curb cuts without the written consent of the Director of the Department of Public Works.

SECTION 7. PERFORMANCE BOND.

7.1. Prior to the provision of service, the provider shall post a performance bond, satisfactory to the City, in the City's favor to ensure faithful performance of the terms and provisions of the franchise agreement and any planned construction as designated in the construction plan the provider has filed with the City pursuant to Section 6.2. The bond shall be equivalent to ten percent (10%) of the total cost of the construction as provided in the construction plan, or \$100,000, whichever is greater.

7.2. In the event the provider fails to comply with this Ordinance or the franchise agreement, or to complete the construction in a safe, timely, and competent manner, after notice and a reasonable opportunity to cure, the City may recover, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the provider, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond.

7.3. The City in its sole discretion may waive this requirement of a bond upon provider demonstrating sufficient financial resources or upon good cause shown to the Director of the Department of Public Works.

SECTION 8. TERM OF FRANCHISE FOR PROVIDERS.

8.1. Unless otherwise specified in a franchise agreement, a telecommunications franchise shall be for a term of no less than five (5) years and no more than twenty (20) years.

SECTION 9. TERM OF LICENSE FOR LESSEES OR RESELLERS.

9.1. Unless otherwise specified in a license, a telecommunications license shall be for a term of no less than five (5) years and no more than twenty (20) years.

SECTION 10. FEES.

10.1. Amount. In consideration of the City's grant of authority to utilize the City's Streets for the provision or lease of telecommunications services and for other good and valuable consideration, the telecommunications provider or lessee shall pay a franchise fee or license fee to the City in the following amounts:

(a) A telecommunications provider who provides service to residents, businesses or institutions in the City shall pay an amount equal to four percent (4%) of its annual Gross Revenues within the corporate limits of the City during the preceding year. Payments shall be in equal quarterly installments on or before the last day of March, June, September and December of each year.

(b) A telecommunications provider who provides service solely to persons outside the geographic boundaries of the City by utilizing a transmission line shall pay the City a reasonable annual fee based upon an installation fee and a charge per linear foot of transmission line that traverses the City or based upon such other method as the City deems appropriate. Such a fee may be paid in a lump sum in advance, or in a combination of a lump sum plus annual payment as the City deems fit;

(c) A telecommunications lessee who delivers telecommunications services shall pay the City four percent (4%) of its annual Gross Revenues derived from the delivery of telecommunications service within the City.

10.2. Public Interest Obligations. If, as a condition of the grant of a franchise or a license, the City negotiates with a telecommunications provider or lessee regarding certain conditions or requirements in the public interest as provided in Section 15 of this Ordinance, the City shall, if requested of a telecommunications provider, provide a credit against the fee based upon the percentage of Gross Revenues it would otherwise require in compensation so that the total compensation paid to the City is no more than the equivalent of that which would be required under Section 10.1 hereof. Any such conditions or requirements will be the result of negotiations between the City and a telecommunications provider or licensee.

10.3. Time of Payment. All fees due and owing shall be paid on a quarterly basis on or before the last day of March, June, September and December of each year.

10.4. Late Payment. In the event that any payment is not actually received by the City on or before the date due under this Ordinance, interest thereon shall accrue from such date until received at the rate of ten percent (10%) per annum.

10.5. Calculation of Payments. All payments made to the City shall be accompanied by a statement certified as true by an appropriate employee of the provider or lessee explaining the basis of the calculation on which the payment was made.

10.6. Payments. Payments shall be made by certified check to the City of Fayetteville, c/o City Treasurer, 113 West Mountain, Room 302, Fayetteville, Arkansas 72701 or by wire transfer to an account of the City designated in writing by the City Treasurer.

10.7. Public Disclosure. The payment of any fee under this Section 10 shall be publicly disclosed.

10.8. Audit. Upon reasonable notice, the City shall have the right to inspect and copy the telecommunications providers or lessee's books and records that are reasonably necessary for the City to determine compliance with this Section 10. A telecommunications provider or lessee shall maintain sufficient financial records governing its operation in the City to allow the determination of Gross Revenues and to otherwise document accurate payment of fees. To the extent permitted under the Arkansas Freedom of Information Act, the City shall maintain the confidentiality of such records.

10.9. Fees not a Tax. Unless otherwise inconsistent with applicable law, the fees provided in this Section 10 are not taxes and are separate from, and in addition to, any and all federal, state, local and city taxes as may be levied, imposed or due from a telecommunications provider or lessee, its customers or subscribers, or on account of the lease, sale, delivery or transmission of telecommunications services; provided that no fee imposed by this section shall be imposed in violation of state or federal law.

SECTION 11. INDEMNIFICATION.

11.1. As a condition of the grant of a franchise or license, the telecommunications provider or lessee shall agree to indemnify, defend and hold harmless the City, its officers, boards, commissions, agents and employees (collectively the "Indemnified Parties") from and against any and all lawsuits, claims, causes of action, actions, liabilities, demands, damages, judgments, settlements, disability, losses, expenses (including attorneys' fees and disbursements of counsel) and costs of any nature that any of the Indemnified Parties may at any time suffer, sustain or incur arising out of, based upon or in any way connected with the provider's or lessee's operations, the exercise

of the franchise or license herein granted or the breach by the provider or lessee of its obligations under this Ordinance and the franchise agreement or license and/or based upon or in any way connected with the activities of the provider or lessee, or their subcontractors, employees and agents. The provider or lessee shall be solely responsible for and shall indemnify, defend and hold the Indemnified Parties harmless from and against any and all matters relative to payment of the providers or lessee's employees, including compliance with Social Security and withholdings requirements.

11.2. The indemnification obligations of the provider or lessee set forth in this Ordinance are not limited in any way by the amount or type of damages or compensation payable by or for the provider or lessee under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under any franchise agreement or license, if any, or the terms, applicability or limitations of any insurance held by the provider or lessee.

11.3. The City does not, and shall not, waive any rights against the provider or lessee which it may have by reason of the indemnification provided for in this Ordinance because of the acceptance by the City, or the deposit with the City by provider or lessee, of any of the insurance policies described in this Ordinance.

11.4. The indemnification of the City by a provider or lessee provided for in this Ordinance shall apply to all damages and claims for damages of any kind suffered by reason of any of the provider's or lessee's operations referred to in this Ordinance regardless of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.

11.5. A provider or lessee shall not be required to indemnify the City for negligence or misconduct on the part of the City or its officials, boards, commissions, agents, or employees,

provided that the provider or lessee shall be responsible for its proportionate share, if any, of any damages or claims resulting from any negligent act or omission.

SECTION 12. INSURANCE.

12.1. As a condition of the grant of any franchise under this Ordinance, the provider shall, at its sole expense, take out and maintain during the term of the franchise public liability insurance with a company licensed to do business in the State of Arkansas with a rating by A.M. Best & Co. of not less than "A" that shall protect the provider, the City and their officials, officers, directors, employees and agents from claims which may arise from operations under the franchise, whether such operations be by the provider or a lessee, or its officials, officers, directors, employees and agents or any subcontractors of the provider or a lessee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from provider's or lessee's vehicles, products and operations. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall not be less than Two Million Dollars (\$2,000,000.00). The following endorsements shall be attached to the liability policy:

- (a) The policy shall provide coverage on an "occurrence" basis;
- (b) The policy shall cover personal injury as well as bodily injury;
- (c) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage;
- (d) Broad form property damage liability shall be afforded;
- (e) The City shall be named as an additional insured on the policy;
- (f) An endorsement shall be provided which states that the coverage is primary

insurance and that no other insurance maintained by the City will be called upon to contribute to a loss under this coverage;

(g) Standard form of cross-liability shall be afforded; and

(h) An endorsement stating that the policy shall not be canceled without thirty (30) days notice of such cancellation given to the City.

12.2. In any franchise granted pursuant to this Ordinance, the City shall reserve the right to adjust the insurance limit coverage requirements of the franchise no more often than once every three (3) years. Any such adjustment by the City will be no greater than the increase in the Arkansas Consumer Price Index (all consumers) for such three (3) year period.

12.3. Provider or lessee shall submit to City documentation of the required insurance, including a certificate of insurance signed by the insurance agent and companies named, as well as all properly executed endorsements.

12.4. A telecommunications franchisee or licensee may elect to self insure to provide the insurance coverage required hereunder provided the licensee, upon request, submits to the City copies of its certificates of self-insurance and of its most recent audited financial statements showing self-insurance reserves or other assets sufficient to pay judgments equal to the limits set forth above.

A telecommunications franchisee or licensee shall also provide to the City documentation evidencing its process for reviewing and paying claims. The City shall be protected by such self-insurance to the same extent as an additional insured on a policy issued by an insurance company.

If, during the term of a franchise or license, granted hereunder, a self-insurance program ceases, or a franchisee's or licensee's assets or reserves are no longer sufficient to comply with the above

coverage requirements, the licensee/franchisee shall immediately notify the City of such lapse of coverage and shall obtain commercial insurance in accordance with the above requirements within thirty (30) days following such notice.

SECTION 13. RENEWAL.

13.1. A telecommunications provider or lessee that seeks to renew its franchise or license granted by the City pursuant to this Ordinance shall submit an application of renewal to the City no less than 180 days before expiration of its franchise or license. The Applicant shall provide such necessary information to show that it meets the requirements for renewal set out in this Section 13.2.

13.2. In considering whether to grant a renewal request, the City shall consider whether the telecommunications provider or licensee:

- (a) if applicable, continues to have the financial, legal and technical ability to provide telecommunications services to the City's residents, businesses and institutions;
- (b) has complied with the terms of this Ordinance and its franchise or license agreement;
- (c) has promptly cured any violation of this Ordinance or breach of its franchise or license agreement;
- (d) has fully and promptly paid any franchise fees or other compensation required by the City and any taxes imposed by the State or the City;
- (e) agrees to meet any special needs or interests determined by the City and to be imposed by the City in a competitively neutral and nondiscriminatory way; and
- (f) has cooperated with the City in carrying out the terms and conditions of this Ordinance and the franchise or license agreement and has provided such pertinent information as the City has requested throughout the term of the agreement.

The City shall also consider any other matter that is relevant to the renewal of the franchise or license.

13.3. To the extent not inconsistent with state law, the City reserves the right to refuse to renew any franchise for any reason, provided that the City shall comply with Section 253 of the Telecommunications Act of 1996.

13.4. If it chooses not to renew the franchise or license, the City shall first provide the telecommunications provider or lessee with an opportunity to be heard before the City Council and City shall thereafter issue a written decision stating its reasons for non-renewal.

SECTION 14. REMOVAL.

14.1. Within thirty (30) days following written notice from the City, any telecommunications provider or other person that owns, controls or maintains any obsolete or unusable telecommunications facility or related appurtenances that create a visual blight or nuisance to the public on, in, under or above the Streets shall, at its own expense, remove such facilities and appurtenances from the Streets.

14.2. A telecommunications facility need not be removed if renovation or restoration is planned within a reasonable period of time by the telecommunications franchisee or licensee or if the telecommunications facility is being utilized for telecommunications services. In such case, prompt written notice shall be provided to City specifying why such telecommunications facility should not be removed and the specific timeframe, if applicable, for any planned renovation or restoration.

SECTION 15. PUBLIC INTEREST OBLIGATIONS.

15.1. As a condition of granting a franchise or license under this Ordinance, the City may negotiate with a provider regarding the provisioning of certain payments, in-kind contributions,

provision of capacity for utilization by the City, educational institutions or other public entities, or to undertake other activities or make available other facilities for the purpose of enhancing the health, welfare or safety of the City and its residents, businesses and institutions.

15.2. If the City and provider or lessee agree to some or all of the conditions of this Section 15.1., the City shall disclose such conditions publicly.

SECTION 16. TRANSFER; TRANSFER OF CONTROL.

16.1. A grantee or transferee of a telecommunications provider or licensee shall notify, at the same time it applies to the Arkansas Public Service Commission for a transfer or change of control, the City of: 1) its intent to be a telecommunications provider or licensee; 2) its intent to comply with this Ordinance; 3) to enter into a franchise agreement with the City and shall within twenty (20) days of a request by the City, provide such information pertinent to the proposed transaction as may reasonably be required by the City.

16.2. To the extent not inconsistent with state law, failure to obtain the approval of the City Council as required by this Section 16 may be deemed a forfeiture of the applicable franchise or license by the City Council.

SECTION 17. EXISTING TELECOMMUNICATIONS PROVIDERS

17.1. A telecommunications provider delivering service in the City as of the effective date of this Ordinance who previously has been awarded a franchise or license may continue to operate according to the terms of the franchise or license it has been awarded. Upon completion, expiration or termination of such a franchise or license, the telecommunications provider promptly shall comply with the terms of this Ordinance.

17.2. Any telecommunications provider or lessee who as of the effective date of this Ordinance is delivering service without a franchise or license shall submit an Application pursuant

to Section 4 of this Ordinance within 90 days of the effective date. The provider or lessee shall also submit a written statement indicating that it comply with the terms and conditions of this Ordinance while its Application is pending and that it shall pay all appropriate fees retroactive to the effective date.

SECTION 18. FORFEITURE.

18.1. If, in the City's judgment, a telecommunications provider or lessee is or may be in violation or breach of any term or condition of this Ordinance or franchise or license agreement pursuant hereto, the City shall notify the provider or lessee of the suspected violation or breach. Upon notification, the provider or lessee shall supply to the City within 30 days all information and documentation the City requests with respect to the suspected violation or breach and shall make such statement to the City as it wishes in an effort to explain or mitigate the violation or breach.

18.2. If the City is not satisfied with the information, documentation and explanation of the provider or lessee, it may make a finding of a breach or violation and notify the provider or lessee of such finding. Thereafter, the provider or lessee shall have a reasonable period of time (the "Cure Period") as determined by the City to take such steps as are necessary to cure the violation or breach.

18.3. If, at the conclusion of the Cure Period, the City determines that there remains a breach or violation of this Ordinance or franchise or license agreement pursuant hereto, the City shall schedule a hearing before the City Council or a duly authorized committee or representative of the Council for the purpose of making a final determination as to whether a violation or breach exists.

At the hearing, the provider or lessee, representatives of the City, and the public may present evidence relevant to the alleged violation or breach.

18.4. To the extent not inconsistent with state law, at the conclusion of the hearing, or within 14 days thereafter, the City Council shall takes such steps as it deems appropriate, including one or more of the following:

- (a) pursuing any of the remedies available to it as provided in Section 19 of this Ordinance;
- (b) ordering the provider or lessee to take such steps as are necessary to cure the violation or breach on pain of forfeiture;
- (c) declaring a forfeiture of the franchise or violation of the terms of the license and ordering the provider to take such steps as are consistent with state law.

18.5. If the provider or lessee is dissatisfied with the decision of the City, it may seek relief to the Arkansas Public Service Commission, if applicable, or in Washington County Circuit Court or federal court of competent jurisdiction.

SECTION 19. ENFORCEMENT; PENALTIES.

19.1. A violation of any provision of this Ordinance relating to the health or safety of citizens of the City shall be a misdemeanor, subject to a fine of not more than \$500 for each offense and punishable by not more than 12 months in jail. If the provider or lessee is a corporation and is convicted of a misdemeanor, it shall be subject to a fine as provided in Section 10.99 of the City of Fayetteville, Arkansas Code of Ordinance.

19.2. A violation of any provision of this Ordinance shall be a separate and distinct offense and shall subject the offender to a civil penalty in the amount of \$500 for each day the violation continues. The City may recover such penalty in a civil action in a court of competent jurisdiction if the offender does not pay the penalty within twenty (20) days of the time the offender has been cited for the violation.

19.3. The City may seek injunctive relief or abatement orders in a court of competent jurisdiction to enforce the provisions of this Ordinance.

19.4. The City may pursue any of the remedies in Sections 18 and 19 of this Ordinance separately or in conjunction with one another.

SECTION 20. GENERAL PROVISIONS.

20.1. Captions. The captions to sections throughout this Ordinance are intended solely to facilitate reading and shall not affect the meaning or interpretation of this Ordinance.

20.2. No recourse against the City. Without limiting such immunities as the City or any other person may have under applicable law, a telecommunications provider or lessee awarded a franchise or license under this Ordinance shall have no recourse whatsoever against the City or its officials, members, boards, commissions, agents or employees for any loss, cost, expense, liability or damage arising out of any action undertaken or not undertaken pursuant to any provision or requirement of this Ordinance or because of the enforcement of this Ordinance or the City's exercise of its authority pursuant to this Ordinance, or other applicable law, unless such recourse is expressly authorized by statute, this Ordinance, or other ordinance. Nothing in this Section 20.2 shall limit a telecommunications provider's right to challenge the validity or enforceability of any provisions contained in this Ordinance.

20.3. Force Majeure. In the event a telecommunications providers or lessee's performance of any of the terms, conditions, obligations or requirements of this Ordinance is prevented or impaired due to any cause beyond its reasonable control, such inability to perform shall be deemed to be excused for the period of such inability and no penalties or sanctions shall be imposed as a result thereof, provided that the provider or lessee has notified the City in writing within ten (10) days of its discovery of the occurrence of such an event. Such causes beyond the provider's or

lessee's reasonable control shall include, but shall not be limited to, acts of God, civil emergencies and labor unrest or strikes.

20.4. Non-waiver of remedies. The failure of the City to take any action to enforce any violation or breach of this Ordinance shall not be deemed a waiver of its right to subsequently enforce any identical or similar violation or breach.

20.5. Severability. If any portion of this Ordinance is declared invalid by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion, and such declaration shall not affect the validity of the remaining portions hereof, which remaining portions shall continue in force and effect.

20.6. Notices and Filings. All notices required by this Ordinance to be provided to the City shall be provided in writing to the Fayetteville City Clerk. All filings shall be made with the City Clerk unless otherwise provided in this Ordinance.

PASSED AND APPROVED THIS _____ DAY OF _____, 2000.

APPROVED

By: _____
Fred Hanna, Mayor

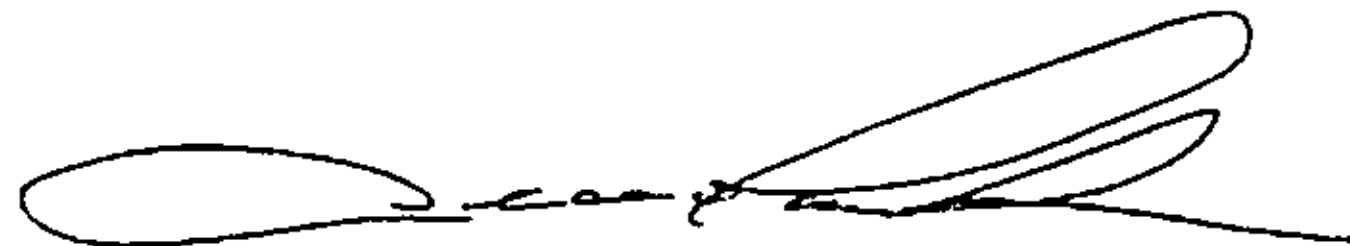
ATTEST:

Heather Woodruff, City Clerk

Mrs Heather Caudle November 3, 2000
City Clerk's Office.

This letter will serve as my intent to appeal the decision of the October 23rd planning commission. I do request to have this matter brought before the City Council at the earliest possible convenience. The reason for this request is I feel that the City planning committee did not give adequate consideration to my request from the earlier meeting.

Sincerely,



Dennis M. Caudle

DMC/cf

RECEIVED

NOV 03 2000

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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: October 23, 2000

RZ 00-25.00: Rezoning (Caudle, pp 400) was submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: October 23, 2000

CITY COUNCIL ACTION:	Required <u>Yes (if recommended by PC)</u>
	☐ Approved ☐ Denied
Date: <u>Nov. 21, 2000 (1st reading)</u>	

Comments: _____

BACKGROUND:

On July 9, 1990, the applicant requested a rezoning from A-1 to C-2 for the subject property and an adjacent tract which is located to the north and extends westward to Ruppel Road. The applicant stated that there were no immediate plans for the property however in the future he may want to develop self-storage units which would require C-2 zoning and a conditional use.

At that time, Planning staff recommended that both tracts be zoned R-O, Residential Office since the property was not within the commercial node designated on the City's adopted general plan. During discussion at the Planning Commission meeting, staff stated "The overall policy of the City over the last few years has been to try to carefully plan what happens on Wedington Drive to ensure that it doesn't become a commercial strip like North College Avenue." The Planning Commission recommended that the subject tract be rezoned to R-O, Residential Office and that the back (northern) tract be rezoned C-2, Thoroughfare Commercial with a Bill of Assurance limiting the type of development on the northern tract to self-storage units and placing certain conditions on the development regarding tree preservation (see attached minutes). On July 17, 1990, the Board of Director's voted to approve the rezoning request as recommended by the Planning Commission (see attached minutes).

On August 13, 1990, the Planning Commission heard a request from the applicant regarding the newly zoned C-2 property which is north of the subject property. The request was to approve a conditional use for mini-storage units (use unit 21) within the C-2 zoning district. At that time, staff stated "As before, the staff isn't in favor of a commercial operation in this location. However, the Bill of Assurance that has been signed by the developers, restricting the use of the land to self-storage units and restricting access to Ruppel Road plus the tree protection plan does resolve many of the staff's concerns." Planning Commission approved the requested conditional use permit (see attached minutes). A large scale development for the self-storage units was approved by Planning Commission October 8, 1990.

At this time, the applicant has brought forward to request that the R-O tract which was originally considered in 1990 be rezoned to C-2, Thoroughfare Commercial. The purpose of this request according to information supplied by the applicant, is for an expansion of the existing self-storage development. If this business were to be expanded, the property must achieve a C-2 zoning and a conditional use or an I-1 zoning designation which would permit the self-storage units by right.

Staff does not recommend the requested rezoning for the reasons stated in 1990 and will not support a conditional use for Mini-storage at this location. The area is designated Residential on the City's adopted General Plan 2020. Maintaining some control over development along Wedington Drive is essential to limiting traffic congestion as well as creating a desirable development pattern in this highly visible, quickly developing corridor of the City.

SURROUNDING LAND USE AND ZONING

North: Mini-storage units, C-2
South: Airways Freight, Inc., R-O / Vacant, C-1
East: Vacant, A-1
West: Vacant, C-1

INFRASTRUCTURE:

Streets: Wedington Drive (Hwy 16W) is located along the south property line. Wedington Dr. is classified as a principal arterial on the City's Master Street Plan and has recently been widened to five lanes between the I-540 Bypass and Ruppel Road which is just west of this site.

Water: Six inch line on Ruppel Road; Eighteen inch line on south side of Highway 16

Sewer: Eight inch line on north side of Highway 16

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to C-2, Thoroughfare Commercial is not consistent with the land use plan. The 2000 revision of the future land use plan will designate the property as office as recommended by the subcommittee updating the plan.

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 not consistent with land use planning objectives, principles, and policies or with land use and zoning plans. While some of the adjacent property is zoned commercially, only that area which is already zoned is designated as a commercial node on the 2020 General Land Use Plan.

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

Finding: The proposed zoning is not justified at this time as it is not consistent with the City's adopted plan for growth and development in this area.

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

Finding: **The proposed zoning may create or appreciably increase traffic danger and congestion. The widely varied uses which are permitted in the C-2 zoning district make it impossible to determine the precise impact of traffic for a new development in this location.**

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.**

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**

§161.14 DISTRICT C-2 THOROUGHFARE COMMERCIAL.

A. Purpose. The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 4	Cultural and Recreational Facilities
Unit 12	Offices, Studios and Related Services
Unit 13	Eating Places
Unit 14	Hotel, Motel and Amusement Facilities
Unit 15	Neighborhood Shopping Goods
Unit 16	Shopping Goods
Unit 17	Trades and Services
Unit 18	Gasoline Service Stations and Drive-In Restaurants
Unit 19	Commercial Recreation
Unit 20	Commercial Recreation, Large Sites
Unit 24	Outdoor Advertising
Unit 33	Adult Live Entertainment Club or Bar

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 21	Warehousing and Wholesale
Unit 28	Center for Collecting Recyclable Materials
Unit 32	Sexually Oriented Business

C. Bulk and Area Regulations.

Setback lines shall meet the following minimum requirements:

From Street ROW	50 ft.
From Side Property Line	None
From Side Property Line When Contiguous to a Residential District	15 ft.
From Back Property Line	20 ft.

D. Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

E. Height Regulations. In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(Code 1991, §160.036; Code 1965, App. A, Art. 5(VI); Ord. No. 1747, 6-29-89; Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-177; Ord. No. 2603, 2-19-80; Ord. No. 4034, §§3,4, 4-15-97)

U. Unit 21. Warehousing and Wholesale.

1. Description. Unit 21 includes warehousing, wholesaling and trucking of the type which is usually located to serve the central business district and is easily serviced by rail and highway transportation.

2. Included Uses.

Warehouses	
Wholesale Establishments	
Trucking Establishments	
Building Material Establishments:	-Air Conditioning -Building Materials -Electrical Supply -Glass -Heating Equipment -Lumber -Paint -Plumbing Supplies -Wallpaper
Fuel and Ice Establishments:	-Bottled Gas -Fuel Dealer -Fuel Oil -Ice House
Ministorage Units	
Monument, Including Processing	
Vending Machines	
Amusement Park	
Service Establishments: Building Services	-Disinfecting and Exterminating Services -Janitorial Service -Window Cleaning Service

Service Establishments:
Contract
Construction Service

- Air Conditioning
- Building Construction
- Carpentry
- Cesspool Cleaning
- Concrete
- Decorating
- Electrical
- Furnace Cleaning
- Heating
- Heavy Construction
- Masonry
- Oil Well Drilling
- Painting
- Paper Hanging
- Plastering
- Plumbing
- Roofing
- Sheet Metal
- Stonework
- Tile Setting
- Water Well Drilling
- Housing for Caretakers

DESCRIPTION FOR ITEM NUMBER FIVE (5)

- A. Westside Storage, Inc.
1192 North Ruppel Road
Fayetteville, AR 72704

There are no proposed or pending sale of this property.

- B. Re-zoning change is necessary for expansion on existing business adjacent to this property.
- C. This property would be expansion of existing business in A, C-2 requirement.
- D. Sewer, water, and all utilities either on property are readily available.

**MINUTES OF A MEETING OF THE
FAYETTEVILLE CITY PLANNING COMMISSION**

A meeting of the Fayetteville Planning Commission was held on Tuesday, July 9, 1990 in the Board of Directors Room on the second floor of the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas.

MEMBERS PRESENT: Jerry Allred, Fred Hanna, J.E. Springborn, Jett Cato, J. David Ozment, and Charles Nickle

MEMBERS ABSENT: Jack Cleghorn, Gerald Klingaman and Joe Tarvin

OTHERS PRESENT: John Merrell, Becky Bryant, Don Bunn, Elaine Cattaneo, members of the press and others

Chairman Hanna advised that they have had a request to table agenda item #5 (Preliminary Plat of Green Meadows Addition) to provide time for the location of the Salem Road extension on this property to be decided. The developer feels that location will have a bearing on two phases of the subdivision. He further stated that they have had a request to table item #10 (lot split for property located on West Avenue) until further information is obtained. He advised that there will be no discussion on these two items from the Planning Commission tonight. However, if anyone in the audience has comments, they will have the opportunity to speak.

 **PUBLIC HEARING - REZONING PETITION #R90-14
DALE & DENNIS CAUDLE - N OF WEDINGTON DR, E OF RUPPLE RD**

The first item on the agenda was a public hearing for rezoning petition #R90-14 submitted by Dennis & Dale Caudle for property located on the north side of Wedington Drive, east of Rupple Road containing 5.05 acres. The request is to rezone from A-1, Agricultural, to C-2, Thoroughfare Commercial.

John Merrell, Planning Management Director, stated that this property has frontage on both Wedington Drive and Rupple Road. As the staff understands it, the Caudles don't have any definite plans for development of this property at this time, except for the possibility of self-service storage units on some portion of the property. That use would require a C-2 zoning and a conditional use permit. The overall policy by the City over the last few years has been to try to carefully plan what happens on Wedington Drive to ensure that it doesn't become a commercial strip like North College Avenue. The City has identified the following three key nodes at which commercial development would be encouraged: a) the intersection of Wedington Drive and the Bypass, b) the intersection of Wedington Drive and Rupple Road, and c) the intersection of Wedington Drive & Double Springs Road. The staff feels that the City's plans have helped stabilize the area, protect property values and minimize traffic

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problems. With respect to the nodes of commercial development, the City has been somewhat lenient about granting certain limited rezonings in the area on Wedington from the Bypass to Ruppel Road. This is an area that is emerging as an office and institutional area with all R-0 uses. The staff's recommendation is to rezone this property to R-0 rather than C-2 to keep it in harmony with the type of growth the City has encouraged out there. This recommendation is subject to a Bill of Assurance on tree preservation which would require the owners to submit a tree preservation plan to preserve 60% of all existing trees with the caliper of 8" or more and protect the trees during the construction paving process with a proviso that, if a few more trees needed to be removed to make a good development, the staff has the administrative discretion to negotiate with the developer to the extent of 15%.

Dale and Dennis Caudle stated that they would like to develop self-storage units on the back 3.5 acres of the property, which isn't visible from the highway. In order to do the mini-storage, they would need a C-2 zoning. He advised that they are environmentally conscientious and will save as many trees as possible. He noted that the front 1.5 acres of property along Wedington Drive could be left as A-1 or zoned to R-0. They are mainly concerned with the back 3.5 acres.

Commissioner Springborn asked if mini-storage in the back half is compatible with the recommendation relative to the preservation of the trees. Mr. Caudle answered yes. Mr. Merrell stated that he would concur with that.

In answer to a question from Mr. Merrell, Dale Caudle stated that their access to the self-storage development would be off of Ruppel Road. Dennis Caudle stated that they feel there is a need for self-storage units on that side of town, but they also realize the buildings aren't usually attractive, so they are planning to place them 300' off of Wedington.

Commissioner Allred stated that they have had prior discussion regarding mini-storage as a use by right in the C-2 zone. He asked if there is anything in the proposed new ordinances to address this situation. Mr. Merrell stated that he doesn't recall how it is addressed in the new ordinance. But, these type of facilities are a fairly good use in a C-2 zone because they tend to generate less traffic than other uses allowed in C-2 and are also relatively quiet. He stated that his opinion is that the mini-warehousing developments should be allowed by right in the C-2 zone.

Mr. Merrell stated that the staff stands by their recommendation. However, if it is the consensus of the Commission to recommend a C-2 zoning for part of this property, the staff would like to recommend that it be subject to a Bill of Assurance limiting the use of that portion of the property to mini-warehousing.

In answer to a question from Commissioner Allred, Mr. Merrell stated that there wouldn't be a screening requirement since this property abuts an A-1 zone on one side and Washington County on the other.

Dale Caudle stated that they would agree to signing a Bill of Assurance to limit the development of that property.

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In answer to a question from Commissioner Nickle, Mr. Caudle stated that they have no development plans for the property fronting on Wedington Drive at this time.

Mr. Merrell stated that the staff would like the Bill of Assurance to also include the access to the back property be limited to Ruppel Road.

There being no one else wanting to speak to this, the public hearing was closed.

Chairman Hanna stated that mini-storage would be a compatible use for that area, and it is too bad they have to have a C-2 zoning for that use. With the Bill of Assurance that was offered, he feels that this is a reasonable request.

MOTION

Commissioner Ozment moved to recommend a rezoning of the north (back) 3.5 acres to C-2 with a Bill of Assurance that it will be limited to mini-storage development and that the access would be from Ruppel Road and to recommend a rezoning of the south (front) 1.5 acres to R-0, Residential-Office subject to staff recommendations, seconded by Cato. The motion passed 6-0-0 with Cleghorn, Tarvin and Klingaman being absent.

PUBLIC HEARING FOR REZONING PETITION #R90-16

GEORGE LEONARD MCCANDLESS - N OF SYCAMORE, W OF COLLEGE AVE

The second item on the agenda was a public hearing for rezoning petition #R90-16 for property submitted by George Leonard McCandless and represented by Steve Gunderson for property located on the north side of Sycamore, west of College Avenue. The request was to rezone from R-1, Low Density Residential, to C-2, Thoroughfare Commercial.

John Merrell, Planning Management Director, stated that this piece of property fronts on Sycamore and adjoins commercial property on College. He stated that it is the feeling of the staff that an R-1 zoning does overly restrict Mr. McCandless, but they feel that C-2 is too intensive for that property for the reasons pointed out in the staff report. There are several R-0 businesses on the south side of Sycamore and the staff's recommendation is to approve a rezoning to R-0.

Steve Gunderson, representing Mr. McCandless, stated that they requested a C-2 zoning, because there is a piece of property on the east side of the subject property zoned C-2. When he initially filed the petition, he wanted to have all of the property zoned in a similar manner. However, after reviewing the staff's recommendation and the city ordinances, the applicant is of the opinion that an R-0 zoning would be amenable.

Charles Richardson, who lives at the corner of Sycamore and Green Valley, stated that this is a very viable neighborhood which is anchored by Woodland School.

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Mayor Martin stated that a vote for this resolution would be to authorize staff to negotiate the best figures for a contract of purchase and a vote against would only be delaying the inevitable steps to a material recovery facility.

Linebaugh asked Rose to read the resolution again.

Director Green asked if there would be time for additional public input for the subject until negotiations stopped, and Director Kelley stated that he felt a vote for location of the site was a definite indicator of where the facility should be located. He stated that discussion regarding the specific type of facility might need further public input but as far as the location of such site was concerned, the vote for or against the resolution should be taken at this meeting presently.

Upon roll call, the resolution passed by a vote of 7 to 0.

RESOLUTION 115-90 APPEARS ON PAGE OF ORDINANCE AND RESOLUTION BOOK

CAUDLE REZONING

Mayor Martin introduced consideration of a request filed in R90-16 by Dennis, Dale and Jeff Caudle for property fronting on Wedington Drive and Ruppel Road.

The parcel consists of 5.05 acres fronting on Wedington Drive and Ruppel Road. The request is to rezone from A-1, Agricultural to C-2, Thoroughfare Commercial. Staff recommended rezoning to R-O, Residential Office, to keep the area in harmony with the type of growth the City has encouraged in that location, subject to a bill of assurance on tree preservation.

The Planning Commission recommended unanimously rezoning the North (back) 3.5 acres to C-2, Thoroughfare Commercial, with a bill of assurance that it will be limited to mini-storage development and that the access would be from Ruppel Road and to recommend a rezoning of the South (front) 1.5 acres to R-O, Residential Office.

The ordinance was read for the first time. Director Marinoni, seconded by Kelley, made a motion to suspend the rules and place the ordinance on its second reading. Upon roll call, the motion passed 7 to 0. The ordinance was read for the second time. Director Marinoni, seconded by Kelley, made a motion to further suspend the rules and place the ordinance on its third and final reading. Upon roll call, the motion passed 7 to 0. The ordinance was read for the third time.

Upon roll call, the ordinance for rezoning passed unanimously.

ORDINANCE NO. APPEARS ON PAGE OF ORDINANCE AND RESOLUTION BOOK

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FINAL PLAT OF BROOKHOLLOW FIRST ADDITION
ERC PROPERTIES - N OF STEARNS ST, W OF OLD MISSOURI RD

The tenth item on the agenda was a final plat of Brookhollow First Addition submitted by ERC Properties and represented by Tom Hopper of Crafton, Tull & Associates for property located on the north side of Stearns Street, west of Old Missouri Road. The property is zoned R-2, Medium Density Residential, containing 7.22 acres with 25 proposed lots.

Don Bunn, City Engineer, advised that this plat went to Plat Review last Thursday, but did not go to a Subdivision Committee meeting. There didn't seem to be any problems associated with any of the easements. The staff recommends approval of this final plat.

Tom Hopper, representing the developers, stated that all the improvements are in place with the exception of jointing some of the concrete streets which will be done on the first dry day.

In answer to a question from Commissioner Klingaman, Mr. Hopper advised that the shaded half was the first phase that was filed and the second half is what is being filed now. He added that they plan to develop the property with single-family dwellings only.

MOTION

Commissioner Ozment moved to approve the final plat subject to the Plat Review comments and staff's comments, seconded by Tarvin. The motion passed 6-0-0.

CONDITIONAL USE FOR SELF-STORAGE UNITS
DALE CAUDLE - E OF RUPPLE RD, N OF WEDINGTON DR

The eleventh item on the agenda was a conditional use for self-storage units submitted by Dale Caudle for property located on the east side of Rupple Road, north of Wedington Drive. The property is zoned C-2, Thoroughfare Commercial, and contains 3.5 acres.

Becky Bryant, Associate Planner, advised that the Planning Commission rezoned this property from A-1 to C-2 on July 9th. As before, the staff isn't in favor of a commercial operation at this location. However, the Bill of Assurance that has been signed by the developers, restricting the use of the land to self-storage units and restricting access to Rupple Road plus the tree-protection plan does resolve many of the staff's concerns.

Jeff Caudle, representing Dale Caudle, stated that they are aware of the restrictions on the property and the tree preservation plan and have no problems with them.

In answer to a question from Commissioner Klingaman, Mr. Caudle stated that they have a firm understanding in regard to the tree preservation plan that a percentage of the number of trees on the property will be maintained.

Becky Bryant advised that a Bill of Assurance was signed as part of the rezoning; it details the tree preservation plan.

MOTION

Commissioner Ozment moved to grant the conditional use, seconded by Klingaman. The motion passed 5-1-0 with Ozment, Cleghorn, Tarvin, Hanna & Klingaman voting "yes" and Springborn voting "no".

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MOTION

Commissioner Tarvin moved to approve the large scale development plan subject to the staff's comments, the Plat Review minutes, and the Subdivision Committee minutes. The motion was seconded by Commissioner Cleghorn. The motion passed 7-0-0.

LARGE SCALE DEVELOPMENT PLAN FOR MINI-STORAGE
DENNIS & DALE CAUDLE - E OF RUPPLE RD, N OF WEDINGTON DR

The fourth item on the agenda was a large scale development plan for Mini-Storage submitted by Dennis & Dale Caudle for property located on the east side of Rupple Road, north of Wedington Drive. The property is zoned C-2, Thoroughfare Commercial.

Don Bunn, City Engineer, stated that the entrance to this development is proposed to be off of Rupple Road. They were granted a conditional use just recently for the purpose of constructing mini-storage. There was a question at the Subdivision Committee meeting regarding the terms of the Bill of Assurance on tree preservation which was a condition of approval. The staff's recommendation is that the developers work with the staff to make sure that all the conditions of the Bill of Assurance are met. Also, the Fire Chief's recommendation of the placement of two fire hydrants within this development was questioned. The State Fire Code, which was adopted by the City of Fayetteville, requires a hydrant within 500' of each unit. A fire hydrant located at the entrance on Rupple Road would satisfy that requirement. However, the Chief has indicated that, because of the construction there and what he considers the unusual conditions, a fire hydrant should be located in the development about half way. It is the staff's recommendation that the large scale development be approved subject to the installation of the fire hydrants as required by the Fire Chief and working with the staff on the Bill of Assurance.

In answer to questions from Chairman Hanna, Mr. Bunn stated that the plat shows two phases of development for which they want approval at this time.

In answer to a question from Chairman Hanna, Ms. Bryant stated that the question of whether one fire hydrant placed in the middle of the development would meet the distance requirement of the ordinance was raised. She noted that the Fire Chief has stated that the ordinance gives him enough discretion to require an additional fire hydrant in certain circumstances regardless of the 500' criteria. And, he felt that there were circumstances on this property that would warrant two fire hydrants. Mr. Bunn stated that the Fire Chief felt that, if only one fire hydrant were placed in the center of the development, a fire at the entrance might preclude them reaching that hydrant.

MOTION

Commissioner Tarvin moved to approve the large scale development subject to the staff's comments, the Plat Review comments, and Subdivision Committee comments including the installation of two fire hydrants. This was followed by discussion.

Dennis Becker, representing the petitioners, stated that they agree with the staff recommendations. He noted that there isn't a fire hydrant at the corner of Rupple Road and Wedington Drive. There was not one installed in connection with the Speedee Mart development at that location. Because of this, the petitioner in this case is required to put in two. Had there been one on the corner, they would only have to install one. He stated that they were told that Speedee Mart didn't go through the large scale development process, so there was

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no chance to look at the overall fire hydrant plan. Therefore, it slipped through. He suggested that in all fairness to developers, they look at this loophole between large scale development, which does its job in looking at utilities and fire hydrantes, and smaller properties that are developed without the same detailed review. Other than that, they are in total agreement with the staff recommendations.

In answer to a question from Commissioner Cleghorn, Ms. Bryant stated that the questions about the percentage of trees to be preserved was resolved to her satisfaction. She believes that they will be able to meet the criteria.

Commissioner Cato seconded the motion. The motion passed 7-0-0.

LARGE SCALE DEVELOPMENT PLAN FOR ADDITIONAL PARKING
TYSON'S FOODS - 2700 SOUTH SCHOOL AVENUE

The fifth item on the agenda was a large scale development plan for additional parking submitted by Skip McCloud on behalf of Tyson's Foods. The property is located at 2700 South School Avenue and zoned I-1, Light Industrial & Heavy Commercial.

Don Bunn, City Engineer, stated that this large scale development consists of the addition of 200 parking spaces at the Tyson's plant. The additional parking is required as a result of some additions inside the plant. Two issues were raised at the Subdivision Committee meeting: 1) the additional drainage that will be created by the new parking lot, and 2) the Planning staff's recommendation that they do some landscaping within the parking lot, although it is not a requirement. The petitioners have agreed to look at their drainage ditches to make sure they are sized to handle the drainage properly. The staff is recommending approval of the large scale development subject to an investigation of the increase in run-off, construction of a sidewalk along South School Avenue, the Plat Review comments, and Subdivision Committee comments.

Skip McCloud, representative for Tyson's, stated that, based upon the Planning staff's recommendation on the landscaping, they have added landscaping in the center islands of the parking lot. They have studied the drainage and feel that it is adequately designed. He noted that the drainage at this time goes to the west and north slightly. The drainage that comes towards the north of the building toward the subdivision property for which the citizens were concerned should not be affected by this parking lot because there is a break in the terrain.

In answer to a question from a member of the audience, Chairman Hanna advised that the new parking lot will be to the south of the building.

MOTION

Commissioner Cato moved to approve the large scale development subject to the staff's comments, seconded by Tarvin. The motion passed 7-0-0.

CONDITIONAL USE FOR TANDEM LOT
JAY BERRYMAN - S OF SYCAMORE ST, E OF COLLEGE AVE

The sixth item on the agenda was a conditional use for a tandem lot in connection with the lot splits requested (the next item on the agenda) by Jay Berryman for property located south of Sycamore Street and east of College Avenue. The property is zoned R-1, Low Density Residential.

Don Bunn, City Engineer, stated that the total property is about 8.8 acres and the proposal is to split the property into three tracts. Tracts 1, 2, & 3 will

30 AUG 8 PM 3 55

BILL OF ASSURANCE
WASHINGTON CO AR
A. KOLLMEYER

This declaration of a Bill of Assurance made this 10th day of July, 1990, by the undersigned owners of the following described real estate located in the City of Fayetteville, Washington County, Arkansas, and more particularly described as follows, to-wit:

SEE ATTACHMENT

WHEREAS, the aforesaid owner of the real property described above has secured the approval of the Fayetteville City Board of Directors to amend the Fayetteville zoning map and rezone the most southern 1.5 acres of the above described property from A-1, Agricultural, to R-O, Residential-Office and the most northern 3.5 acres of the above described property from A-1, Agricultural, to C-2, Thoroughfare Commercial; and

WHEREAS, the owners have promised and agreed to subject the development of said real estate pursuant to certain covenants and restrictions pertaining to same; and

WHEREAS, the owners are desirous of making a declaration of the same in the form of this Bill of Assurance with the intention of guaranteeing the preservation of certain values and amenities in the community and to bind themselves, their successors and assigns and the aforescribed real estate and its subsequent owners with the obligations and restrictions hereinafter set forth for all present and future development and use of said property.

NOW, THEREFORE, the owners declare that the above described real property shall be held, developed, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein set forth:

I.

The use of the most northern 3.5 acres of said property shall be limited to mini-storage development only.

II.

A tree preservation plan shall be submitted prior to any construction or development subject to the following: a) the preservation of 60 percent of all existing trees with a caliper of 8 inches or more, b) the protection of trees to be preserved during the construction and paving process, and c) the understanding that the staff has the administrative authority to reduce by as much as 15 percent the percentage of trees to be preserved if the unforeseen removal of certain trees is deemed necessary during the construction process.

EXHIBIT A

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III.

Access for any development on the most northern 3.5 acres of said property shall be limited to Ruppel Road.

1990 WITNESS my hand and seal this 10th day of July,



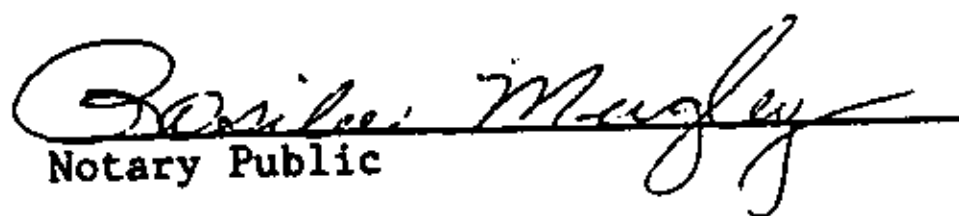
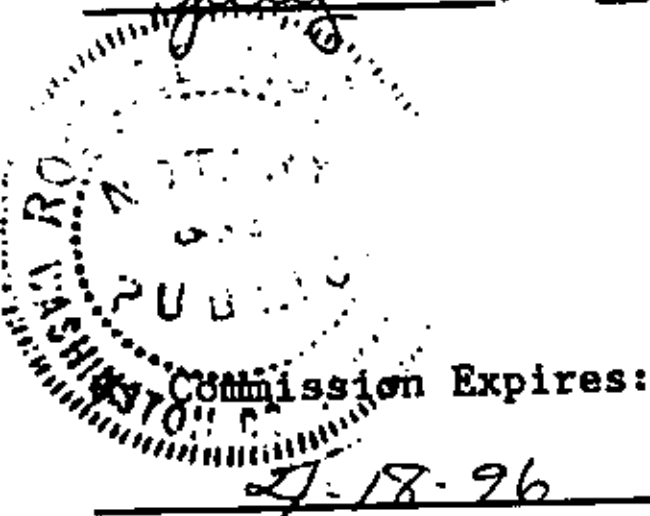
DALE W CAUDLE

ACKNOWLEDGEMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)SS:

BE IT REMEMBERED that on this day came before the undersigned, a Notary Public, within and for the County aforesaid, duly commissioned and action, to me well known, who acknowledged that they had executed the foregoing Bill of Assurance for the consideration and purposes therein mentioned and set forth.

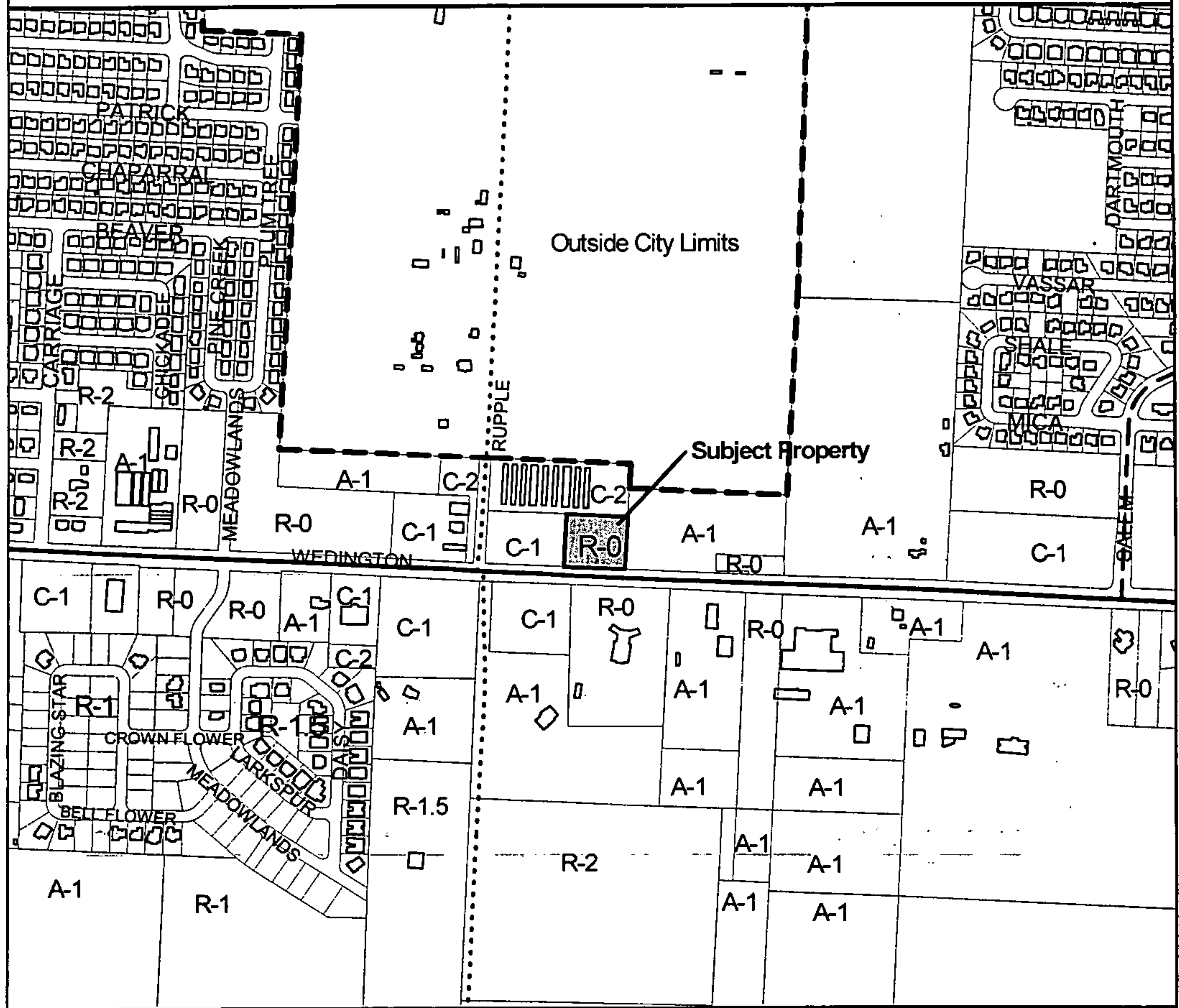
WITNESS my hand and seal as such Notary Public this 10 day of July, 1990


Notary Public

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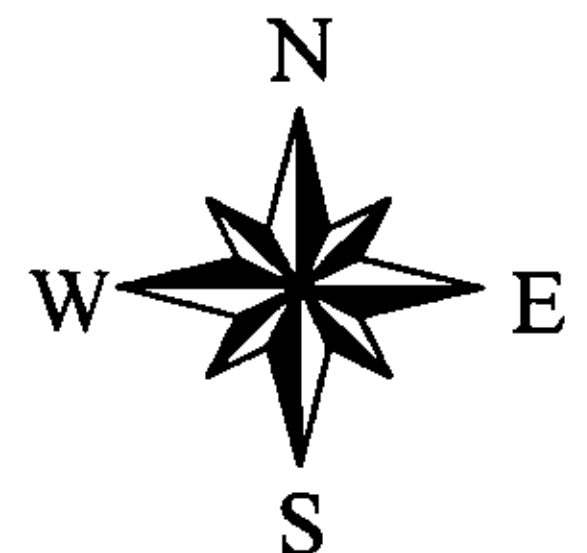
RZ00-23 - Caudle - Crose

PLAN COMM APPEAL
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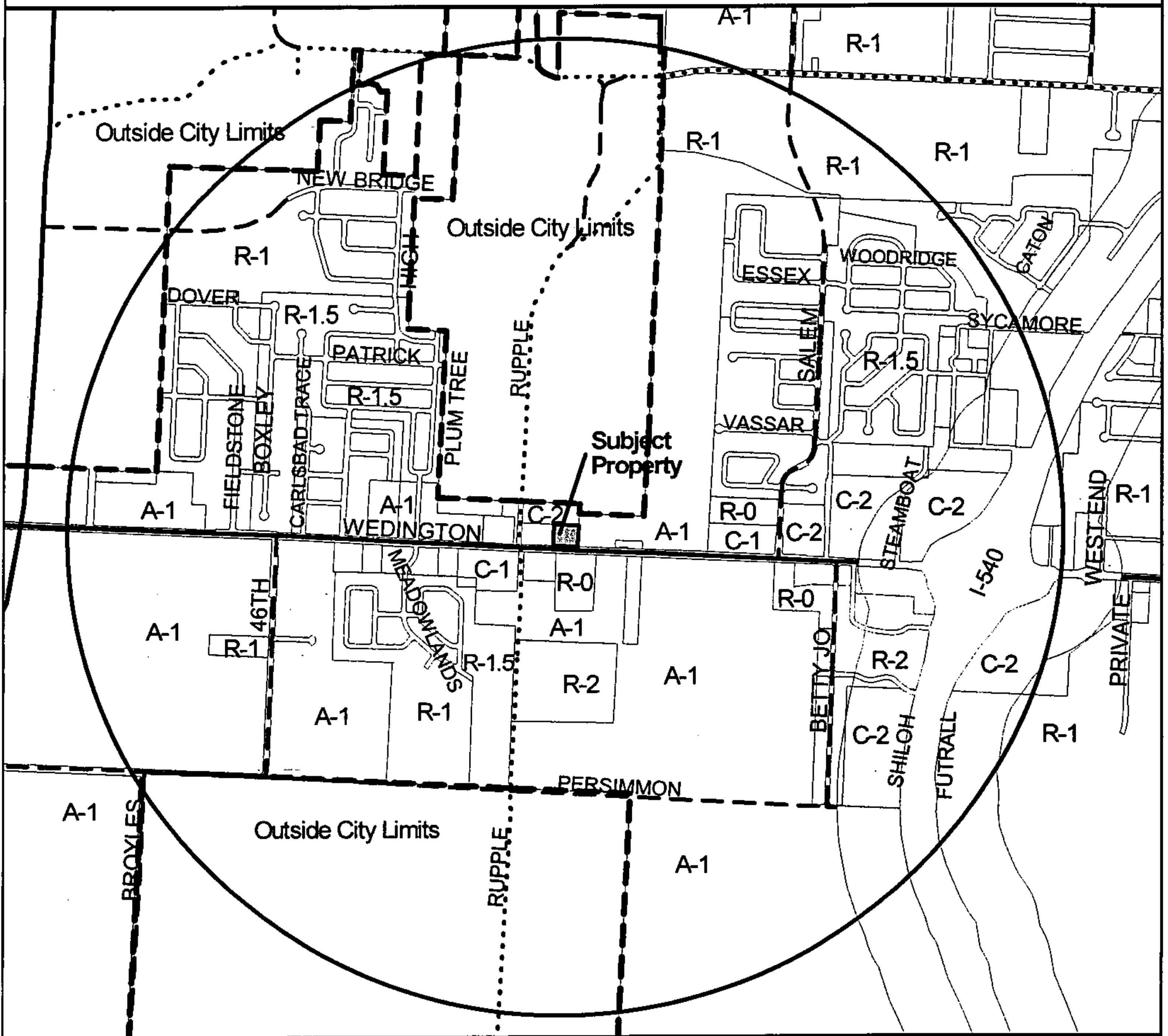


- Streets
- Zoning District
- Master Street Classifications
 - COLLECTOR
 - FREEWAY/EXPRESSWAY
 - MINOR ARTERIAL
 - PRINCIPAL ARTERIAL
- Structures (1998)
- Fayetteville City Limits

500 0 500 1000 Feet

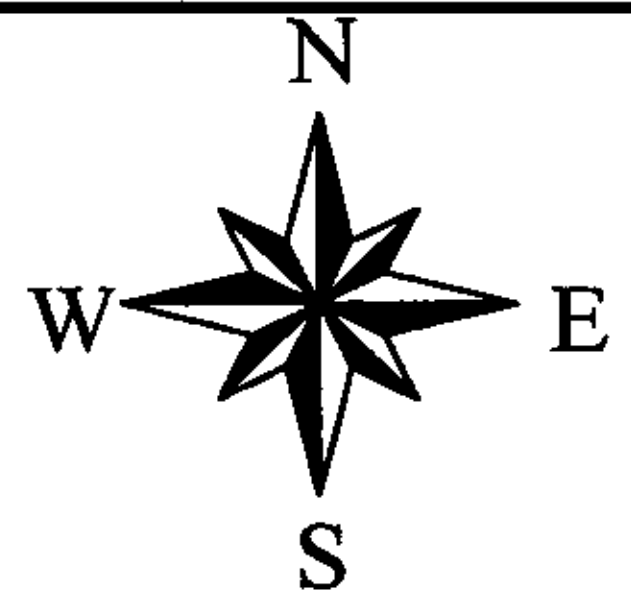


-25 Caudle One Mile Radius



- Streets
- Regional Zoning
- Design Overlay District
- Master Street Classifications
- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- Fayetteville City Limits

0.3 0 0.3 0.6 Miles



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RZ 00-25.00: Rezoning (Caudle, pp 400) was submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Odom: The next item that we have on tonight's agenda is a rezoning RZ 00-25.00 submitted by Dennis Caudle for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial. The recommendation of the staff is for denial of the requested rezoning based on the findings as included as a part of this report. Staff, did you want to go over that or do you have anything further?

Conklin: Sure. Staff is recommending denial of this rezoning. Back in 1999 this tract was included as part of a larger tract for C-2 zoning. At that time, Planning Commission recommended it and the City Council rezoned only the northern part of this property as C-2. That same year the Large Scale Development was processed for a mini storage and a Conditional Use at that time, if you've read the minutes, it talks about keeping this piece of property R-O and developing it with an office type development which is compatible with the neighborhood. Also, at that time, there was a bill of assurance that was offered to save 60% of the trees with eight inch diameter. I have met with the applicant this afternoon and went over that bill of assurance also restricted access from Wedington. Overall this property is near commercial there is a vacant C-1 property to the west staff is not recommending approval of additional commercial property in this area. If the Planning Commission did rezone it to commercial, C-1 zoning would be more appropriate than C-2. C-2 zoning allows used car sales with all type of businesses as conditional use. Dance halls and that type of use. About a month ago we did change our allowable uses in C-1 to provide more neighborhood commercial uses. The purpose of the C-2 zoning request is to be able to come back to the Planning Commissioner with a Conditional Use request for additional storage facilities on this piece of property. Staff is not in favor of additional storage facilities located in this area on this piece of property. If you have any questions, I would be more than happy to answer them.

Odom: Staff you touched on the bill of assurance that was offered. You said 1999, but you meant 1990 when that originally came through. You mentioned the bill of assurance and that 60% of the trees would remain or something to that affect and that there would be restricted access. What is the current status of how well that bill of assurance has been maintained?

Conklin: With regard to 60% of the trees being left on the site, after meeting with the applicant

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today, it is difficult for me to determine whether or not that has been met. There were large pine trees located on the north and south property lines that were saved as part of the large scale development. That was approved by the Planning Commission. Those are existing. There were some trees shown, the number was twelve trees shown up in front of this facility on Ruppel Road. Those have all died in the past ten years according to the applicant. With regard to the existing trees on this property that we are looking at today, I am not sure whether or not that bill of assurance with regard to the 60% of the tree preservation would apply to those trees. The bill of assurance did apply to this piece of property that we are looking at tonight but I'm not sure what the total number of trees that were existing on the site prior to development and what remains out there today. That's going to take additional research. The applicant may be able to give more information on that. With regard to the access off of Wedington, there has been a curb cut that has been installed on Wedington and a gravel drive and gate installed on this facility. According to the applicant that gate is only used three to four times a year to bring in large moving vans onto this site. The bill of assurance is clear. It states that there shall be no access from Wedington. I did talk to the applicant today about this issue and he feels that three to four times year and the gate is locked most of the time, doesn't count as access. A strict interpretation of that bill of assurance means no access to that facility so that would be in violation of that bill of assurance.

Odom: I would ask the applicant to please come forward at this time. Do you have any presentation that you would like to make?

Caudle, Dennis: I'll answer some of the questions that he brought up there. As far as the original bill of assurances that were given. The facility is more than did that on the trees, we kept more like 70%. There is 193 trees right not on a three and a half acre development that is there today. The number of trees was far in excess of the original request. As far as the road that was put in at the same time the new highway was being built out there which was completed the other day, to put access to that property that was the time, speaking with the state, that the road needed to be cut in there because there would be no access to that property if we didn't put in a road. Something will be built on the property sooner or later of some type. The state indicated that would be the proper time to put in the road so a road was put in. As far as use, all the use is off of Ruppel. Just several months ago we put in a we had two gates off of Ruppel and we put in another gate off of Ruppel, both electronic gates for one is a entrance gate and one is an exit gate. There is no access off of Wedington and is not to be used for that purpose. As far as the zoning that we are asking for,

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the Large Scale was approved ten years ago was just completed this year. It was a long term. We put the buildings in as the area grew and as the need was. That was just completed this year. The thing that we are looking at came up with some people that rent there recently. I drove up to Bentonville and Bella Vista and Springdale and looked at the facility there. There are no climate control facilities in the City of Fayetteville of this type. All the residents of the City are forced to go to Springdale or further depending on whether they are full. What we were proposing was to put in a climate controlled facility which is exactly like the same type of building as what is there now except it will be climate controlled with heat and air. It would require going just in front of the existing buildings toward the highway, not even half way to the highway to put in the one building which would be a climate controlled facility. There was a stated by several tenants that recently had to move out because the FDA passed a law that they had to be in climate control. Now they live in Fayetteville and they are forced to go to Springdale. That's why we would like to build another building to serve the people for that purpose which would be the same thing than what is there now. It would look the same and be the same. All it's access would be off of Ruppel with the two gates. That is the purpose of why we would like to do this, it does require a C-2 is what I understand for the storage business. That's why we are asking for C-2. That's the purpose of what we are looking to do.

PUBLIC DISCUSSION:

Odom: Thank you Mr. Caudle. Let me ask now, is there any member of the audience that would like to address us on this rezoning request?

COMMISSION DISCUSSION:

Odom: Seeing none, I will close the floor to public discussion and bring it back to the applicant for questions and comments of the Planning Commission.

Ward: Not that we have much around here but I noticed in Bentonville and Rogers areas that they are putting in a lot of really nice looking office complex on the front of the road with nice looking buildings glass and brick and stone. With the large climate controlled self-storage attached to them behind them for the vendors of Wal-Mart. Those have really been filling up fast I noticed. It's a very nice looking facility from the road because it is office type areas all along the front of the road attached to it, behind it is part climate controlled storage units that these businesses can use or whatnot for

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warehousing that would be something I would consider more towards than I would just a self storage property out there on Wedington Drive.

Caudle: I looked at facilities in Springdale and I've looked at them in Bentonville, I haven't been to Bella Vista or that far north. I've been as far as Bentonville and looked at the facilities. I've been to the ones in Springdale, as far as there is two different type of buildings between the two I have seen and then talking with the builder that built the one in Bentonville, which is also the one that built all the buildings that I've built over the years. That's the one that I looked at and the one he was describing. I did look at the one in Springdale which he did not build but they are a entirely different type.

Hoffman: If everybody is done speaking I have some questions too. Let me start with staff. I understand the need for expanded storage area however, I am quite opposed to having it the front on Wedington. Have you looked at the possibility of instead of rezoning, doing a Conditional Use that carries with it certain guarantees that what is constructed is not visible from Wedington along the lines of Commissioner Ward's statement either by landscaping, screening or by a more attractive office type of building. Is that possible to do instead of just rezoning? I couldn't be comfortable with rezoning it for the storage units to face Wedington. We are really trying to take care with this important corridor because it's just going to continue to grow and you have all the references and cross-references to College Avenue and quite frankly self-storage facilities are not the most attractive buildings in the world but there is a good need for them. That's my question for staff on the Conditional Use, when he has addressed that, I would like to ask if you considered just conditioning the existing buildings? Tim, could you go first?

Conklin: Mini storage or storage units require a Conditional Use in C-2. They are not allowed in C-1 zoning. They are not Neighborhood Commercial use. The Conditional Use part of it you can not apply for unless it's zoned C-2. This issue came up ten years ago and Mr. Caudle walked with a bill of assurance to build a mini storage on the back part that's zoned C-2. We have had what you talked about built in Fayetteville. The Keating's built some mini storage over by Brahm's on College Avenue with office and retail space up front. It's been built on Highway 265 also. I think Mr. Wilkins has built some offices up front, mini storage in the back. Overall, I'm concerned about our Commercial Design Standards and trying make it an attractive commercial area for the residents that live out on Wedington Drive. When you have a storage building it's difficult to have anything other than just a metal building due to the cost involved. I'm all in favor to have that type of mixed use if we could have some type of office or retail up front but just stand alone, I do not support that.

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Hoffman: Back to the applicant, have you considered conditioning your existing buildings?

Caudle: As far as what we are talking about there, like I said I was only coming out a little not even near close to half way to the highway. This new building would only go out a little ways out from the existing fence now. The fence would be moved in front of that building and there is still the large lot, probably close to an acre. Just a fraction under probably for something would be built in the front whether it be an office. As far blocking the view, there is still plenty of room there that something can be built on the front of the property. As far as this building here where all the other, if you are driving down Wedington, you see all the ends of every one of them and you can see up the alleys. This building would face east and west which would block most of the buildings on that end with that one building instead of all the buildings on the end this would be blocked with the one building. As far as the way of prettying it up, if it's possible to do that, I would consider some kind of prettying up that side of the building if that would be something you would be interested in looking at because I just have to talk to the builder and see what could be done. Whether you can put a side on that side of the building that faces the highway that is more attractive, I would be willing to look at that for sure. Definitely something will be built in front of it, facing from this building to the highway in the future. That was one concern ten years ago.

Hoffman: They only thought is for expansion then?

Caudle: The what?

Hoffman: The only request then is for expansion, you had not considered the retro fitting of the conditioned space in the existing buildings?

Caudle: The additional space?

Hoffman: Conditioning the existing space.

Caudle: I talked to the builder, it would almost be impossible to do due to the electricity. These do require air and heat and it's just like your living room as far as humidity what they go by. Climate control factors. As far as asking about reconditioning something that we got and he said it probably could be done but is an impractical item.

Hoffman: Okay. My final question for the applicant, on the east side of the property, it looks like there is an area that is vacant and has no buildings, could that be a location for what you are proposing? On our little site plan on page 4.17, I don't know if you have the same

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sheet or not. --

Conklin: Since this data was received from the City with regard to building footprints, two additional storage buildings have been built. There is no additional room. They built that at the Large Scale Development plan that was approved ten years ago.

Hoffman: That's all the questions I have. Thank you very much.

Conklin: I would like to just to inform you as a Commission and the applicant and public that when I did meet with the applicant today, we did talk about the existing trees on this site. I did encourage Mr. Caudle to get with our Tree and Landscape Administrator with regard to the existing oak trees on this piece of property for consideration of this development and future developments on this piece of property. I will work with Kim Hesse and go over the bill of assurance with her to make sure that it was met in 1990 and today and look at any remedies that we have to take to make sure it's not being violated.

Ward: Mr. Caudle, what is the size of the lot? Do you know what the depth is?

Caudle: From Wedington back to where the C-2 starts is 254 feet, I believe.

Ward: You are planning on using 125 feet of that?

Caudle: Far less than that. The building where the other units are 20 wide or 30 wide and fairly long, the climate control has to be a lot wider building because of they way this is handled as far as the heat and air. This building will be 60 feet wide, twice as wide as any building there facing the other direction, it would be approximately 170 long.

Ward: So you really only need 70 feet?

Caudle: Approximately 70, what I was looking at it would be from the front of the building facing Wedington to where the fence would be re-erected there would be approximately twenty-five feet to drive around the building so you are looking at about 85 to 90 feet probably toward Wedington.

Ward: I'm just trying to work with you, in my case, I would not rezone the frontage on Wedington anything but R-0, which it is right now. We do allow a lot more uses in R-0 than we used to. There is a possibility that, I can't speak for anybody else but I would be maybe interested in helping you. I do think there is a need for some climate control

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warehouse type of buildings out there and we can maybe zone C-2 a small parcel back there for you, 70 or 80 feet of it. As far as changing the whole thing to C-2, it's not going to happen tonight, I know that. Those are some ideas that you might think about.

Caudle: It's zoned half way to the highway to accomplish this building so the climate control could be completed. Again I'm trying to fulfil the need that I've had a lot of requested for. As far as the frontage, I don't intend to put a storage building out on Wedington up against the highway. I never have. When the Large Scale was done there is no more property in the C-2 area and it was just a case of there are times of the year when storage units are hard to find around the City of Fayetteville. This building here was to accomplish that.

Ward: I don't feel like I can support your change to what you need. I think it would be smart to table it or come back with a different proposal than what you have tonight for sure.

Caudle: Not only going part way to the highway?

Ward: We can't.

Odom: Since we are throwing, I'm going to go ahead and let you know, I'm not going to be in favor of that proposal as well. I think a lot of concession were made originally when this property was zoned C-2 with the bill of assurances and the R-0 up front. I think all this negotiation has already taken place and the work has already been done. I think we have plenty of C-2 Commercial inside the city limits of Fayetteville and so if there is a need for this type of facility I think that there are plenty of areas that this type of facility could go. So I'm not going to be in support of any proposal to accommodate this piece of property any further. I think you need to know that up front before you decide to start negotiating or doing anything of that nature. You may want to get the feel of the rest of the members of the Commissioner. Anybody else?

Marr: I agree with you completely.

Allen: As do I.

Bunch: As do I.

Hoffman: In your proposal you said you would have a 60 foot wide building with about a 25 foot drive aisle and you only have 1.5 acres here so that to me implies that would be taking up a greater part of it. In the sixty foot wide building would that be a double loaded

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building with the garage doors facing Wedington and facing the other side? In other words, doors from the north and from the south?

Caudle: The facility I've seen in Bentonville, it's climate control is inside the center. There is an outer border.

Hoffman: Right. So you would have garage doors facing Wedington.

Caudle: Yes. In that facility I've seen up there. That is what I was talking about what to do on the front of it there.

Hoffman: That being the case, I always hate to be negative toward a need but I would suggest you to look elsewhere and find some land that is already zoned appropriately for this because this is an important aesthetic issue to this corridor. It was addressed ten years ago. I too would deny a zoning vote tonight.

Marr: Do we need a motion?

Odom: Yes.

Hoffman: Unless he wants to withdraw the request.

Odom: We can move to approve, we can move to deny or if we don't take any action...

Conklin: You do need to take action on it. I think our ordinance states that if you don't take any action you can deem as approved. I want you to take action on it this evening.

Odom: Not only that, it give the applicant something. We are nothing more than a body that recommends something anyway. Even if we approve it, he's got to go to the City Council. If we deny it, it give him a right to appeal it. For the applicants sake, I think we owe him the courtesy of doing something.

MOTION

Marr: I would like to move to deny RZ00-25.00 based on the comments that you have heard.

Allen: Second

Odom: We have a motion by Commissioner Marr, second by Commissioner Allen, RZ 00-

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25.00.

Caudle: The comment that was made a short time ago as far as possibly tabling it and resubmitting with only partial for this building.

Odom: You can certainly do that if you want to but I'm here to tell you right here, right now, it doesn't sound as though that's even going to fly.

Caudle: You are telling me that's not going to work either.

Odom: That's right. You have only one member even talking in favor of that. I would think you would be better served to go ahead and accept the denial and negotiate with the City Council if they are willing to do that. I don't know if they would be. I wouldn't delay your project any further, if I was you but that is your call. If we deny you tonight, you have the right to appeal that to the City Council.

Hoffman: If the City Council denies his request, is it six months or one year?

Conklin: It's one year.

Hoffman: It would be then another year before you could bring another idea forward.

Odom: No. That's not necessarily true. You could bring another idea forward. You can't C-2 the whole thing.

Conklin: You could modify your request and bring it forward.

Hoffman: I just want to make sure you understand what to expect.

Odom: Any further discussion? Call the roll.

ROLL CALL:

Upon roll call RZ 00-25.00 is denied by an unanimous vote of 6-0-0.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

501-575-8264

TO: Fayetteville City Council

FROM: Tim Conklin, City Planner

DATE: November 17, 2000

SUBJECT: Bill of Assurance @ 1192 N. Ruppel Road

I have met with Mr. Dennis Caudle on November 16, 2000 regarding the access to the mini-storage units at 1192 Ruppel Road. Mr. Caudle stated the Arkansas Highway Transportation Department informed him that the driveway approach/curb cut to Ruppel Road should be installed at the time the highway was widened.

Mr. Caudle also informed me that the driveway hasn't been used and wouldn't be used until there is a need to use it for the lot fronting Wedington Road. The driveway would strictly be used only for emergency use. Based on this information, I feel that the Bill of Assurance hasn't been violated.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: City Council

FROM: Kim J. Hesse, Landscape Administrator *VJ*

DATE: November 16, 2000

SUBJECT: RZ 00-25 Caudle Parcel Rezone

This memo is addressing a Bill of Assurance that was required for the 1990 rezone of Mr. Caudle's 5 acre parcel located near the intersection of Wedington Dr. and Ruppel Rd. That Bill of Assurance stated among other things, that 60% of the trees with a caliper of 8" or more, were to be preserved and protected during the development of the site. The Bill of Assurance also states that the staff, which I assume meant city staff, would have the discretion to reduce the amount of preservation by 15% if unforeseen circumstances during construction deemed this necessary. I understand that to mean reducing the percent of preservation to 45%.

Please be aware that this agreement was established ten years ago and that this agreement does not state the number of trees that existed on site at the time of this rezone. Also, I think it important to mention that the 60% to be preserved did not appear to pertain to canopy coverage but to the number of individual trees. Based off an aerial photo taken in 1989, the site consisted of ~~openly spaced deciduous trees covering most of the 5 acres with closely spaced pine trees~~ along the perimeter of the northern most 3.5 acres. Shortly after the rezone, the planning commission approved the development plans for the storage buildings that are presently built on the site. Those development plans provided for very little tree preservation within the northern most 3.5 acres leaving most if not all of the pines along the perimeter. The southern 1.5 acres that is adjacent to Wedington Drive was not a part of those development plans and none of those trees were affected.

Based off of the aerial photos, there may have been another 100 to 120 individual trees on the site prior to construction although this is very difficult to detect. As of Thursday, November 16, 2000, I counted 188 trees over 8" in diameter existing on the site. These 188 trees do make this development in compliance with the Bill of Assurance. Assuming there may have been 300 trees existing in 1989, the 188 trees that are there today represent 62% of the trees. If the Bill of Assurance addressed the preservation of 60% of the tree canopy existing on site, the development would not be in compliance, however the development is well in compliance of 60% of the number of individual trees existing in 1989 which is what the Bill of Assurance appears to state.

Please contact me at ext. 308 if you have questions, or need additional information.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of November 21, 2000

FROM:

Tim Conklin
Name

Planning
Division

Public Works
Department

ACTION REQUIRED: To approve an ordinance for RZ 00-24.00, submitted by Jerry Martin for property located at 1209 Bailey Street. The property is zoned A-1, Agricultural and contains approximately 2.30 acres. The request is to rezone to R-1, Low Density Residential.

COST TO CITY:

\$0.00

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 October 23, 2000, the Planning Commission voted 6-0-0 to recommend approval and forward the rezoning 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 00-24 FOR A PARCEL CONTAINING
APPROXIMATELY 2.30 ACRES LOCATED AT 1209 BAILEY
STREET SUBMITTED BY JERRY MARTIN.

**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 00-24

A PART OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF SECTION THIRTY-TWO (32) TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING ARKANSAS STATE SURVEY MONUMENT; THENCE N00°47'33"W ALONG THE EAST LINE OF SAID 40 ACRE TRACT 661.00 FEET; THENCE S88°47'00"W 407.00 FEET TO A SET IRON FOR THE POINT OF BEGINNING; THENCE S88°47'00"W 70.00 FEET TO A SET IRON; THENCE N00°47'33"W 150.00 FEET TO A POINT FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT-OF-WAY OF BAILEY STREET BEARS S00°47'33"E 4.44 FEET; THENCE N88°47'00"E 70.00 FEET TO A POINT FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT-OF-WAY OF BAILEY STREET BEARS S00°47'33"E 4.71 FEET; THENCE S00°47'33"E 150.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.24 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 0.24 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF BAILEY STREET ALONG THE ENTIRE NORTH BOUNDARY.

AND

A PART OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF SECTION THIRTY-TWO (32), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING ARKANSAS STATE SURVEY MONUMENT; THENCE N00°47'33"W ALONG THE EAST LINE OF SAID 40 ACRE TRACT 811.00 FEET; THENCE S88°47'00"W 477.00 FEET TO THE TRUE POINT OF BEGINNING AND FROM WHICH A REFERENCE IRON SET ON THE SOUTH RIGHT-OF-WAY OF BAILEY STREET BEARS S00°47'33"E 4.44 FEET; THENCE S88°47'00"W 125.00 FEET; THENCE S00°47'33"E 697.50 FEET; THENCE N88°47'00"E 130.00 FEET; THENCE N00°47'33"W 547.50 FEET; THENCE S88°47'00"W 5.00 FEET TO A SET IRON; THENCE N00°47'33"W 150.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.06 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 2.06 ACRE TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF BAILEY STREET ALONG THE ENTIRE NORTH BOUNDARY.

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: October 23, 2000

RZ 00-24.00: Rezoning (Martin, pp 755) was submitted by Jerry Martin for property located at 1209 Bailey Street. The property is zoned A-1, Agricultural and contains approximately 2.30 acres. The request is to rezone to R-1, Low 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: October 23, 2000

CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>November 21, 2000</u>	

Comments: _____

BACKGROUND:

This property is located off of Hwy 71S on Bailey Road which is west of Drake Field. The property is comprised of two lots that are currently zoned A-1. The combination of these lots meet the bulk and area regulations of the A-1 zoning district, however, as independent tracts, each is non-conforming. The property functions as single family residential with one lot being vacant (a small structure was recently removed) and the other lot contains one single family home with a detached garage and an out-building for storage. The applicant is interested in being able to sell one tract and retain the other. Surrounding this property are large tracts of land used for single family homes. All of the adjoining property is currently zoned A-1, Agricultural.

SURROUNDING LAND USE AND ZONING

North:	Single family homes, A-1
South:	Single family homes, A-1
East:	Single family homes, A-1
West:	Single family homes, A-1

INFRASTRUCTURE:

Streets: This property is located on Bailey Drive. This street intersects Hwy 71S to the east and a portion of it is actually located outside the Fayetteville City Limits. To the west the street dead-ends into Butterfield Trail which is a short north-south street.

Water: Six inch line along Bailey Street

Sewer: Six inch line along Bailey Street

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to R-1, Low 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 the City's adopted General Plan 2020 and the current use of the property and the surrounding areas is residential

in nature, making this request consistent with land use planning objectives, principles, and policies.

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

Finding: The proposed zoning is justified at this time. This action will not increase the density of the lots in question. The proposed zoning is needed in order for the property to exist as two individual lots, both meeting minimum bulk and area requirements for R-1 lots.

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.

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: Density after the proposed rezoning will not exceed the density which is currently allowable on this property. The proposed zoning will not alter the population density in a manner which would 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

§ 161.04 DISTRICT R-1: LOW DENSITY RESIDENTIAL.

A. Purpose. The Low Density Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 26	Single-Family Dwelling

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 8	Single-Family and Two-Family Dwellings

C. Density.

SINGLE-FAMILY DWELLINGS	TWO FAMILY DWELLINGS
4 or Less Families Per Acre	7 or Less Families Per Acre

D. Bulk and Area Regulations.

	Single-Family	Two-Family
Lot Minimum Width	70 ft.	80 ft.
Lot Area Minimum	8,000 sq. ft.	12,000 sq.ft.
Land Area Per Dwelling Unit	8,000 sq. ft.	6,000 sq. ft.

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	20

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

(Code 1991, §160.031)

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RZ 00-24.00: Rezoning (Martin, pp 755) was submitted by Jerry Martin for property located at 1209 Bailey Street. The property is zoned A-1, Agricultural and contains approximately 2.30 acres. The request is to rezone to R-1, Low Density Residential.

Odom: The first item we are going to hear tonight is RZ 00-24.00: Rezoning (Martin, pp 755) was submitted by Jerry Martin for property located at 1209 Bailey Street. The property is zoned A-1, Agricultural and contains approximately 2.30 acres. The request is to rezone to R-1, Low Density Residential. Staff recommends approval of the requested rezoning based upon their findings included in their report. Staff, do you have anything further?

Conklin: Staff has nothing further.

Odom: I ask the applicant to please come forward at this time. Do you have any presentation that you would like to make?

Martin: Not really. My name is Jerry Martin. This rezoning comes about because I bought a parcel of land that contained 2.01 acres that was non-conforming to current zoning. It had two houses on it and did not conform. It's in a part of Fayetteville that the homes were there before the two neighbors. I bought an adjacent lot which increased the total holdings of this one parcel to 2.03. My plans are, if I can get it zoned as requested to R-1 is to move one house from the adjoining two acres to the lot that I bought which is adjacent and then I will have two pieces of property both of which will conform to current zoning both in size and usage. To me it makes good sense. I will be glad to answer any questions.

Odom: Mr. Martin, we'll take questions in just a minute.

PUBLIC COMMENT:

Odom: First what I would like to do is ask if there is any member of the audience that would like to address us on this issue? Anyone here to talk about the rezoning that's before us on the agenda?

COMMISSION DISCUSSION:

Odom: Seeing none, I will close the floor to public discussion and bring it back to the Planning Commission for questions, comment or motions.

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Page 45

Marr: I move for approval of RZ 00-24.00.

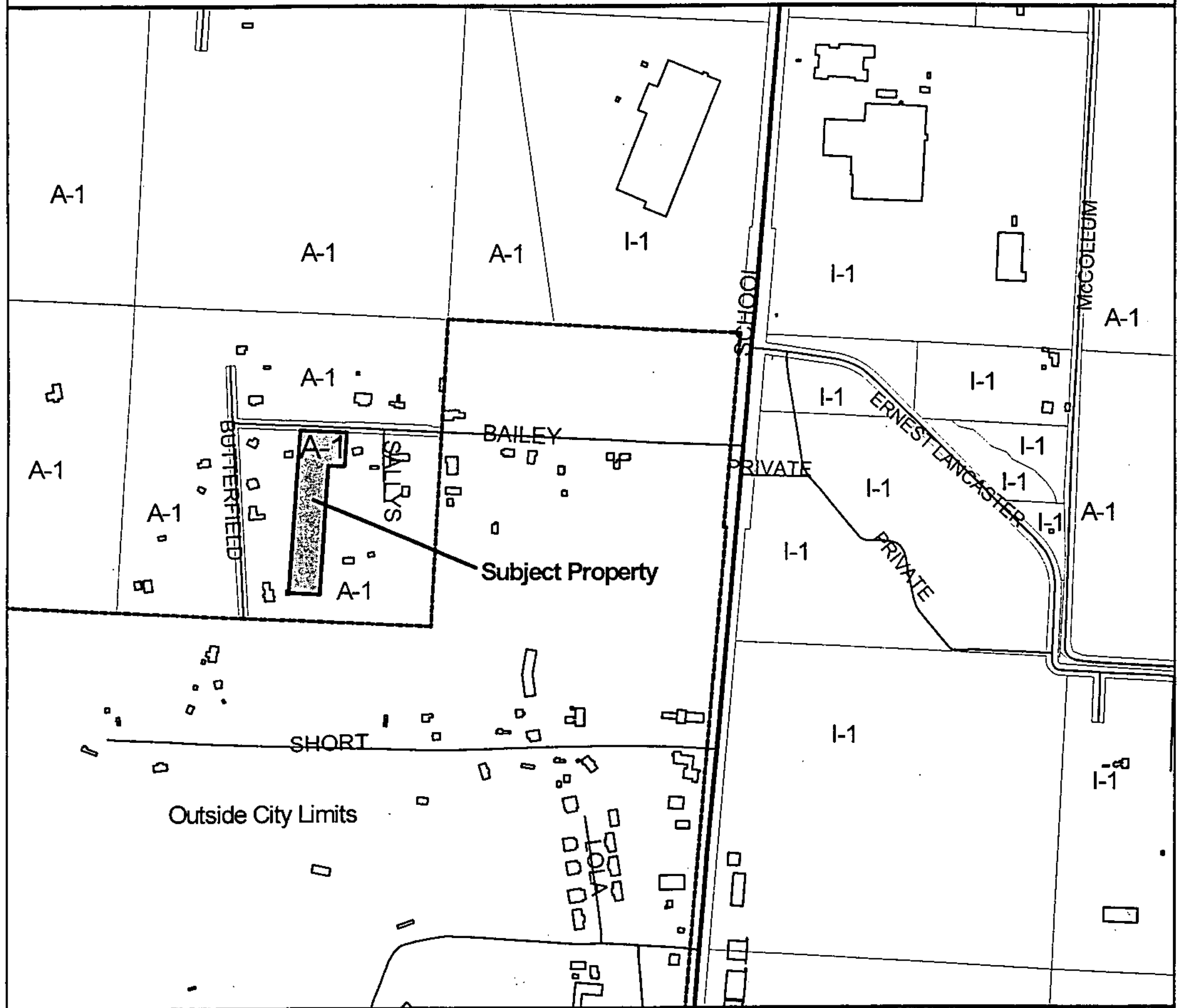
Hoffman: Second.

Odom: We have a motion by Commissioner Marr and second by Commission Hoffman for approval of RZ 00-24.00. Any further discussion? Will you call the roll?

ROLL CALL

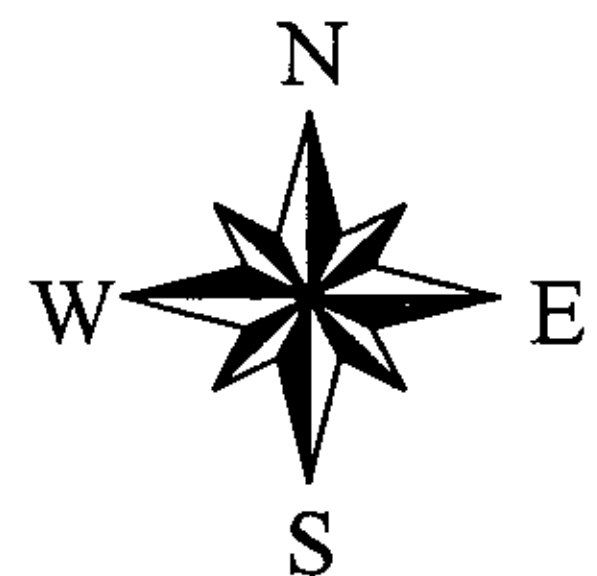
Upon roll call RZ 00-24.00 was approved by a unanimous vote of 6-0-0.

00-24 - Martin - Close Up

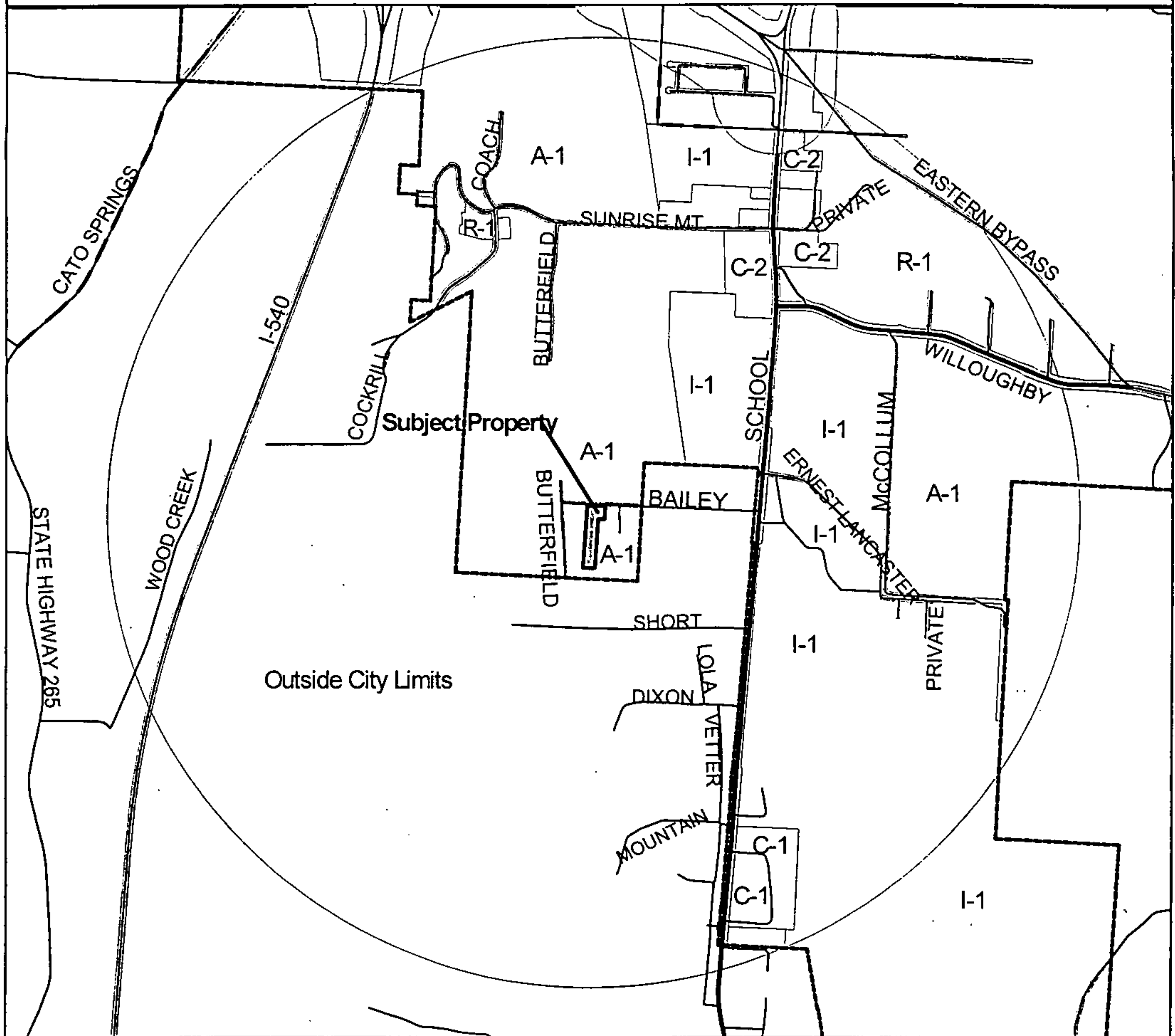


- Streets
- Zoning District
- Master Street Classifications
 - COLLECTOR
 - FREEWAY/EXPRESSWAY
 - MINOR ARTERIAL
 - PRINCIPAL ARTERIAL
- Structures (1998)
- Fayetteville City Limits

400 0 400 800 Feet

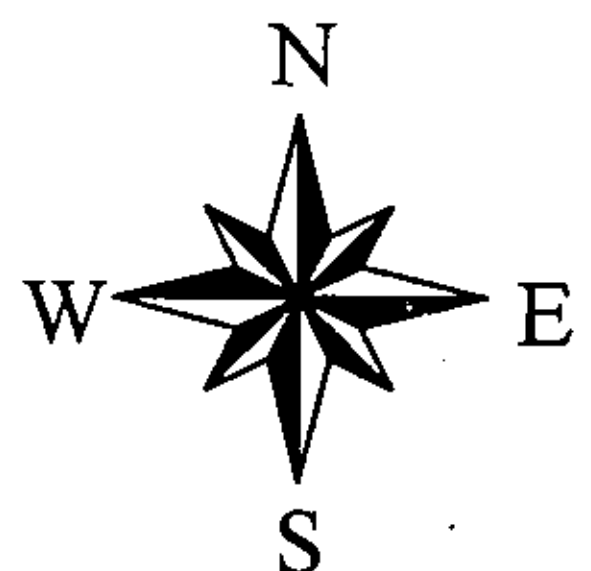


RZ00-24 Martin One Mile Radius

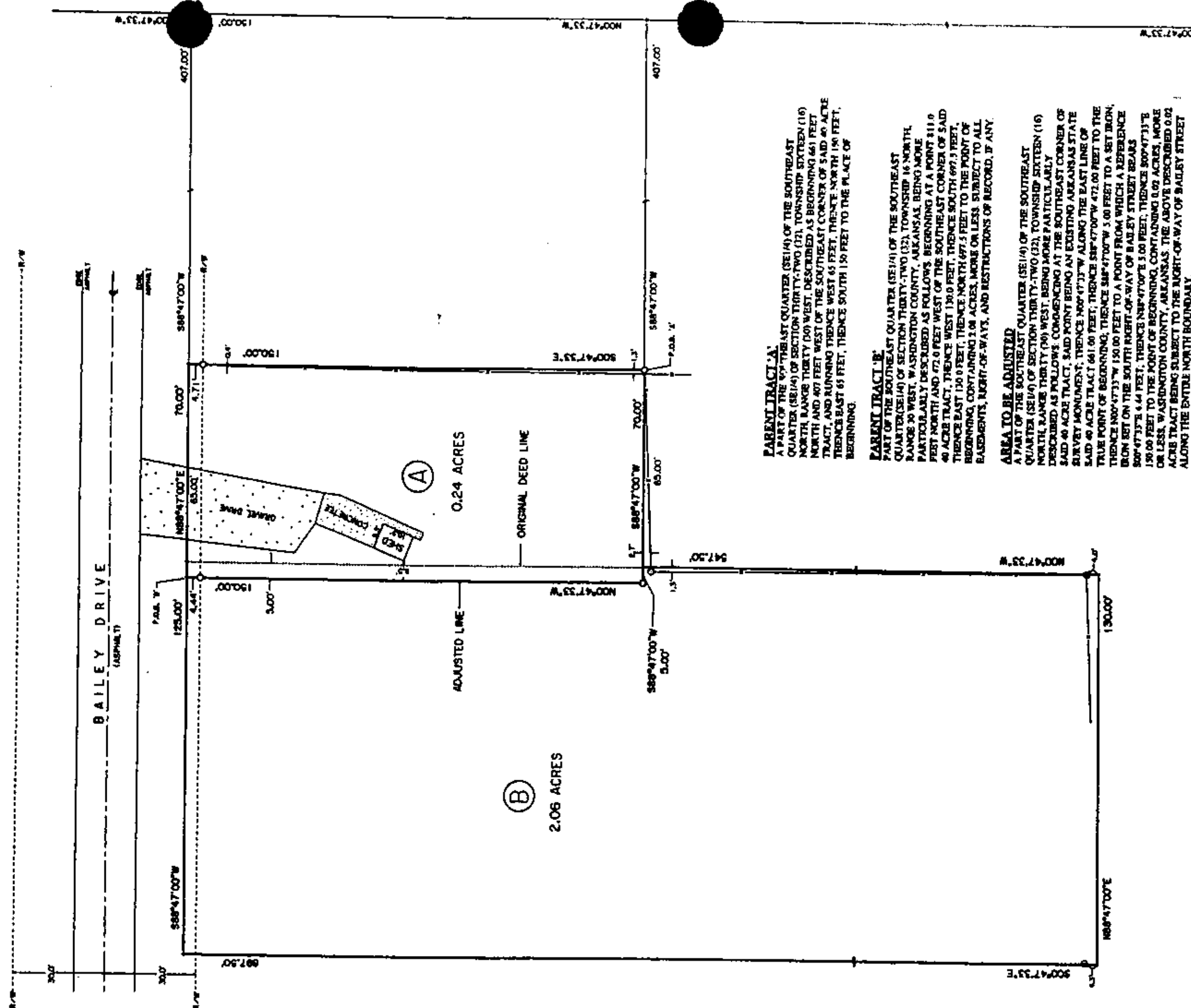


- Streets
- Regional Zoning
- Design Overlay District
- Master Street Classifications
- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- Fayetteville City Limits

0.2 0 0.2 0.4 Miles



BOUNDARY LINE ADJUSTMENT



CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY APPLICATION

As required in § 117.32 of the Fayetteville Code of Ordinances.

***** APPLICANT *****

NAME: Ray & Lesa Dotson
ADDRESS: 419 E. Emma
Springdale, AR. 72764
PHONE: 751-8760

DESCRIBE YOUR EXPERIENCE IN THE TRANSPORTATION OF PASSENGERS.

Ray has had guiding experience on trail rides and was
raised with wagons & horses on grandfathers farm.

LIST YOUR FINANCIAL STATUS, INCLUDING THE AMOUNT OF ALL UNPAID JUDGEMENTS AGAINST YOU AND THE NATURE OF THE TRANSACTION OR ACTS GIVING RISE TO SAID JUDGEMENTS.

have been in business 17 years same location.

***** BUSINESS *****

NAME OF BUSINESS: Ozark Mountain Outfitters
BUSINESS LOCATION: 419 E. Emma
Springdale, AR. 72764
MAILING ADDRESS: _____
PHONE: 751-8760

HOW MANY VEHICLES WILL BE AVAILABLE FOR YOUR OPERATION OR CONTROL ?

3 to 4

LIST THE LOCATION OF PROPOSED DEPOTS AND TERMINALS.

Fayetteville's historical district & trolley stops.
See map attached

DESCRIBE THE COLOR SCHEME OR INSIGNIA TO BE USED TO DESIGNATE YOUR VEHICLES.

Black, white Black Amish buggy 4-passenger
Black and white paint horse

WHAT IS YOUR PROPOSED RATE SCHEDULE ?

15 min. 40.00
30 min. 60.00
45 min. 80.00
60 min. 100.00
Trolley Accommodates 3 passengers

LIST THE HOURS BETWEEN WHICH YOU PROPOSE TO PROVIDE ~~TAXICAB~~ ^{horse trolley} SERVICE TO THE GENERAL PUBLIC, AND THE DAYS, IF ANY, ON WHICH YOU DO NOT PROPOSE TO PROVIDE ~~TAXICAB~~ SERVICE TO THE GENERAL PUBLIC.

horse trolley
Mornings & Weekends

LIST THE NAMES AND ADDRESSES OF ALL OFFICERS AND STOCKHOLDERS OF THE COMPANY IF INCORPORATED.

N/A

DESCRIBE THE EXPERIENCE OF ALL OFFICERS AND STOCKHOLDERS IN THE TRANSPORTATION OF PASSENGERS.

N/A

LIST THE FINANCIAL STATUS OF THE OFFICERS AND STOCKHOLDERS OF THE COMPANY, IF INCORPORATED, INCLUDING THE AMOUNT OF ALL UNPAID JUDGEMENTS AGAINST ANY OF THEM AND THE NATURE OF THE TRANSACTIONS OF ACTS GIVING RISE TO SAID JUDGEMENTS.

N/A

TO WHOM SHOULD COMPLAINTS BE DIRECTED?

Ray Watson

APPLICANT, ON AN ATTACHED SHEET, PLEASE GIVE ANY FACTS WHICH YOU BELIEVE TEND TO PROVE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE GRANTING OF A CERTIFICATE.

OZARK MOUNTAIN OUTFITTERS

419 E. EMMA

SPRINGDALE, AR 72764

501-751-8760

August 25, 2000

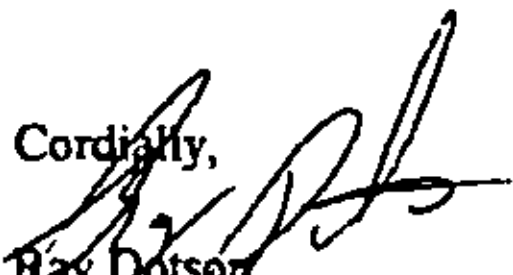
Dear Honorable Mayor Hanna and council,

Fayetteville being a city with lots of history and historical sites along with the new Town Center and Dixon St. enhancement, I feel that the horse drawn trolley would be an asset to downtown Fayetteville. Giving people a chance to enjoy life at a slower pace and see the beauty in this wonderful city in the Ozarks.

I have talked with the Washington County Historical Society and the Fayetteville Chamber they showed great interest in having a horse trolley. Also I have spoken with the Hilton in giving rides to their guest to Dixon Street or around the beautiful downtown square. These rides can last for 10 minutes or up to an hour.

Thank you for your valuable time and I would ask that you please consider this request for application.

Cordially,


Ray Dotson

REA ATTRACTIONS

Il Seasons Trail
23 W. Mountain St.
501-521-1710

Arkansas Air Museum
4290 S. School St.
501-521-4947
10 a.m. - 4:30 p.m. Sat.
11 a.m. - 4:30 p.m. Sun. - Fri.

Bud Walton Arena
UA, Razorback Road
501-575-8618

Clintons' First Home
930 California Blvd.
Not open to public

Confederate Cemetery
500 E. Rock St.

Farmers Market
Downtown Square
Tues./Thurs./Sat.
7 a.m. - noon
April - November

Genealogical Services
Fayetteville Public Library
217 E. Dickson St.
501-442-2242

Headquarters House
118 E. Dickson St.
501-521-2970
Call to arrange tour

Jerry Jones-Jim Lindsey
Hall of Champions
UA, Maple and
Razorback Road
501-575-6533
8 a.m. - 4:30 p.m.
Mon. - Fri.

Lake Fayetteville
E. Lake Fayetteville Road
501-444-3471
Lake closes at sunset

Mt. Sequoyah
150 NW Skyline Drive
501-443-4531

National Cemetery
700 S. Government Ave.
501-444-5051

Old Main/Senior Walk
UA, Arkansas Ave.
501-575-4801

Pea Ridge
National Military Park
Hwy. 62 North
Pea Ridge
501-451-8122
8 a.m. - 5 p.m.

Prairie Grove Battlefield
State Park
Hwy. 62 West
Prairie Grove
501-846-2990
Park: 8 a.m. - 10 p.m.
Museum: 8 a.m. - 5 p.m.

Square Gardens
113 W. Mountain St.
501-575-8307

Stonebridge Meadows
Golf Course
3495 E. Golf Farm Road
501-571-3673

Tommy Boyer
Hall of Champions
UA, Leroy Pond Drive
501-575-8618
8 a.m. - 4:30 p.m.
Mon. - Fri.

University Museum
UA, Garland St.
501-575-3466
9 a.m. - 4:30 p.m.
Mon. - Sat.

Walton Arts Center
495 W. Dickson St.
501-443-5600

SPECIAL EVENTS

Mardi Gras (March)
Hogeye Marathon (April)

Battle of Fayetteville
Civil War Reenactment
(April in even-
numbered years)

Springfest (April)

Joe Martin Memorial
Bike Classic (May)

Old-Fashioned Ice
Cream Social (August)

Washington County Fair
(August)

Fine Arts Concert Series
(August-April)

Bikes, Blues & BBQ
Motorcycle Rally

Fayetteville Fine Arts
Festival (September)

North Arkansas
Symphony
(September-May)

Autumnfest (October)

Chile Pepper Run
Cross-Country Race
(October)

Lights of the Ozarks
(November-January)

Holiday Hoops
Invitational High School
Basketball Tournament
(December)

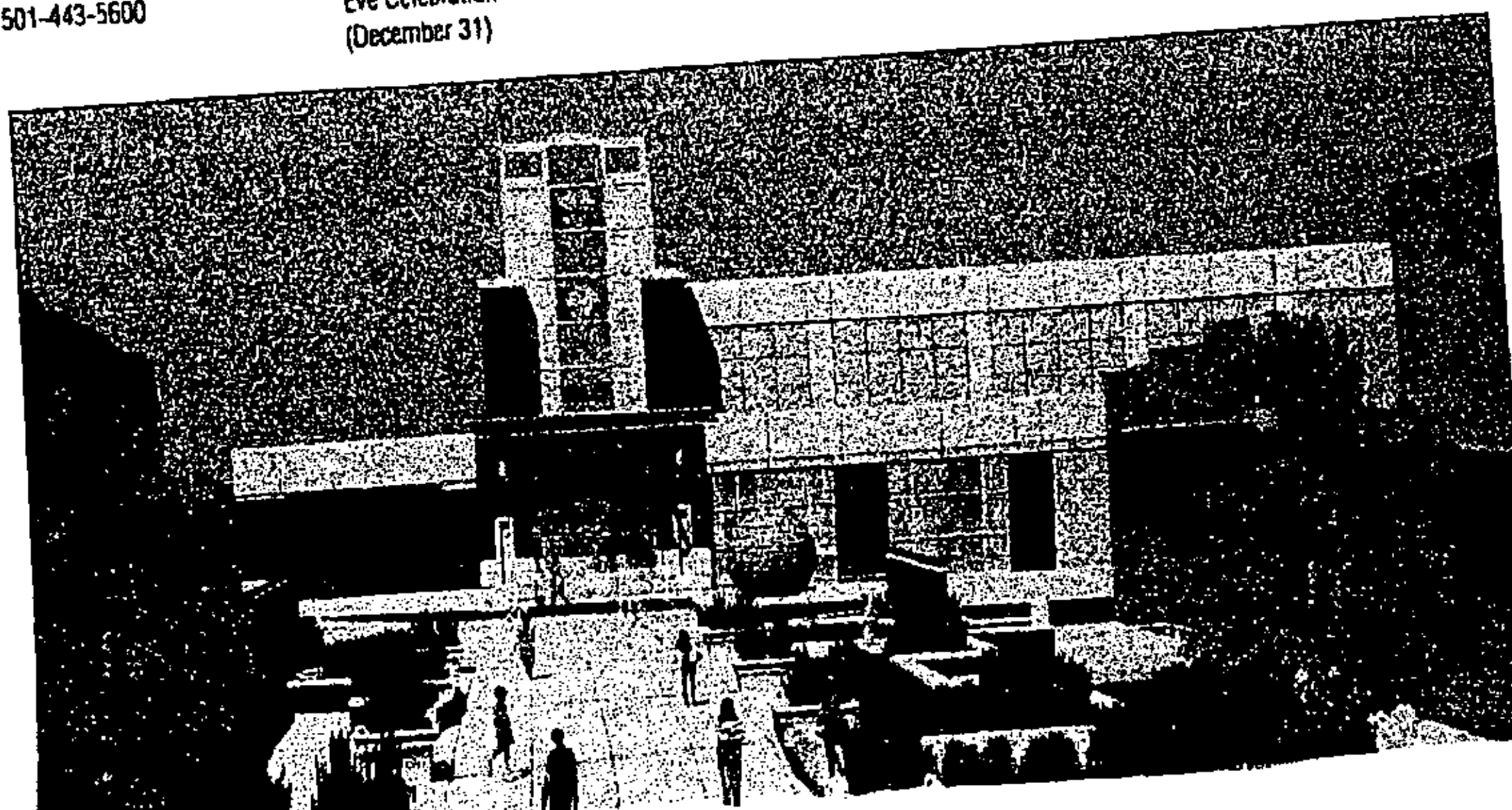
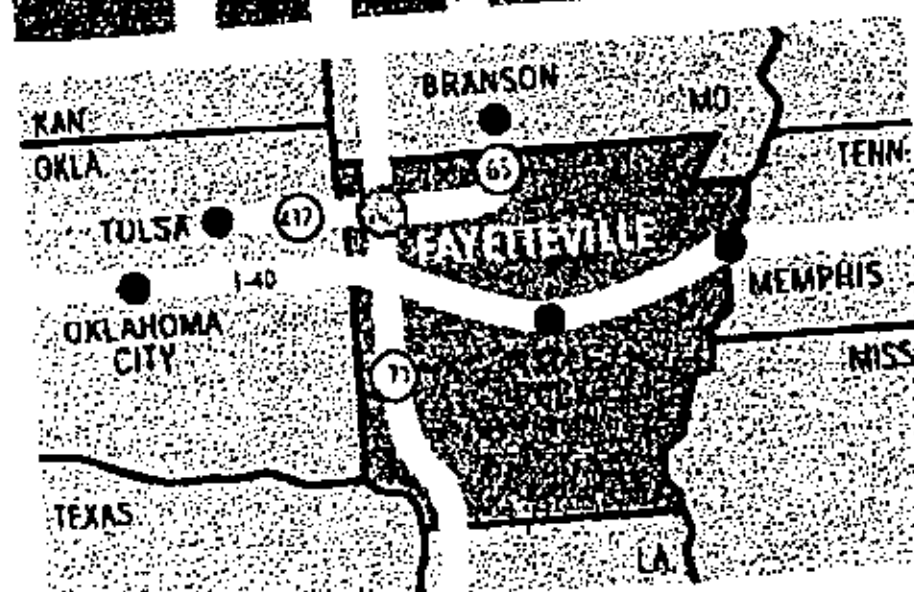
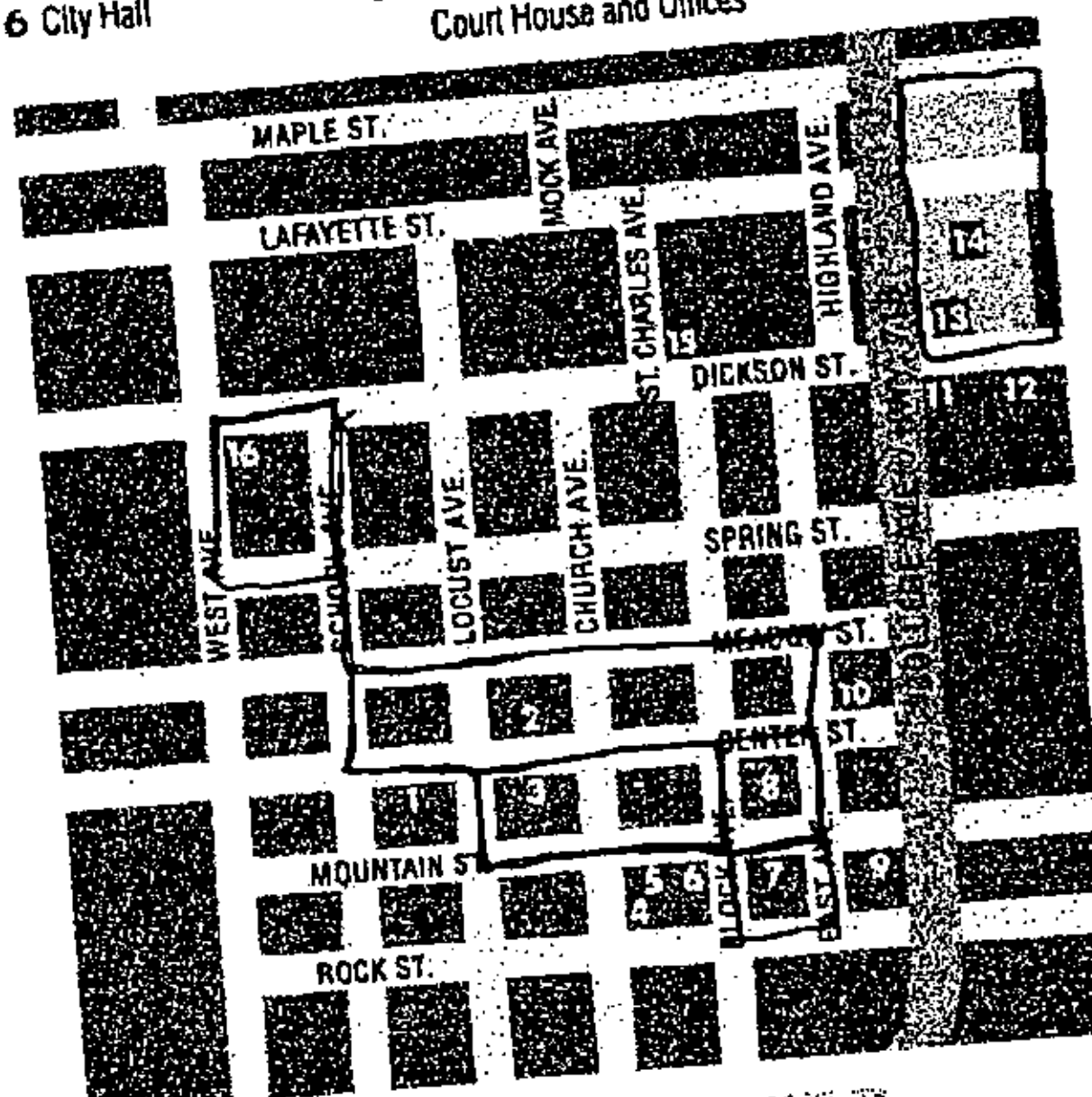
First Night New Year's
Eve Celebration
(December 31)

THE DOWNTOWN AREA

- 1 Central Fire Station
- 2 Ridge House
- 3 Walker Stone House
- 4 Municipal Police
- 5 Chamber of Commerce
- 6 City Hall

- 7 Town Center
- 8 The Square
- 9 Federal Building
- 10 Center for Continuing Education
- 11 Washington County Court House and Offices

- 12 Public Library
- 13 Headquarters House
- 14 Washington-Willow Historic District
- 15 U.S. Post Office
- 16 Walton Arts Center



Town Center
Convention Facility,
opening 2001

FARRIS INSURANCE AGENCY, INC.
1411 A. South Thompson
P.O. Box 345
Springdale, AR 72765-0345
PHONE: (501) 756-6330 FAX: (501) 756-9262

August 29, 2000

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Re: Ray Dotson dba Ozark Mountain Outfitters

To Whom It May Concern:

Please allow this correspondence to serve as notice that Ray Dotson dba Ozark Mountain Outfitters has applied for Commercial General Liability at a limit of \$1,000,000 for his horse drawn trolley and the coverage can be bound through our agency upon request of from Ray Dotson.

Please contact our office if you have any questions or desire additional confirmation.

Regards,

Daphne Stevenson
Customer Service Agent

DEPARTMENT OF AGRICULTURE
PLANT HEALTH INSPECTION SERVICE
EQUINE ANEMIA LABORATORY TEST
(VS Memorandum 555.B)

1. ACCESSION NUMBER

C003769

2. DATE

6/19/00

3. NAME AND ADDRESS OF OWNER (Street, City, State and Zip Code)

Ray Dotson
419 E. Emma 72764
Springdale, AR Tel. No. - AC (501) 751-0013

4. NAME AND ADDRESS WHERE HORSE IS STABLED (Street, City, State and Zip Code)

5. NAME AND ADDRESS OF VETERINARIAN (Street, City, State and Zip Code. Print name and address legibly for window envelope use)

Jim MacLean
Box 308
Huntsville, AR 72740

Tel. No. - AC ()

6. MARKET TEST ☐ YES ☐ NO

7. NAME AND ADDRESS OF AUCTION MARKET (Street, City, State and Zip Code)

Tel. No. - AC ()

8. FEDERALLY ACCREDITED VET.

☒ YES ☐ NO

9. STATE IN WHICH LICENSED

AR

I hereby certify that the blood specimen submitted with this form was drawn by me from the horse described below on the date indicated.

10. SIGNATURE OF VETERINARIAN

Jim MacLean

11. TELEPHONE NO.

738-2100
AC (501)

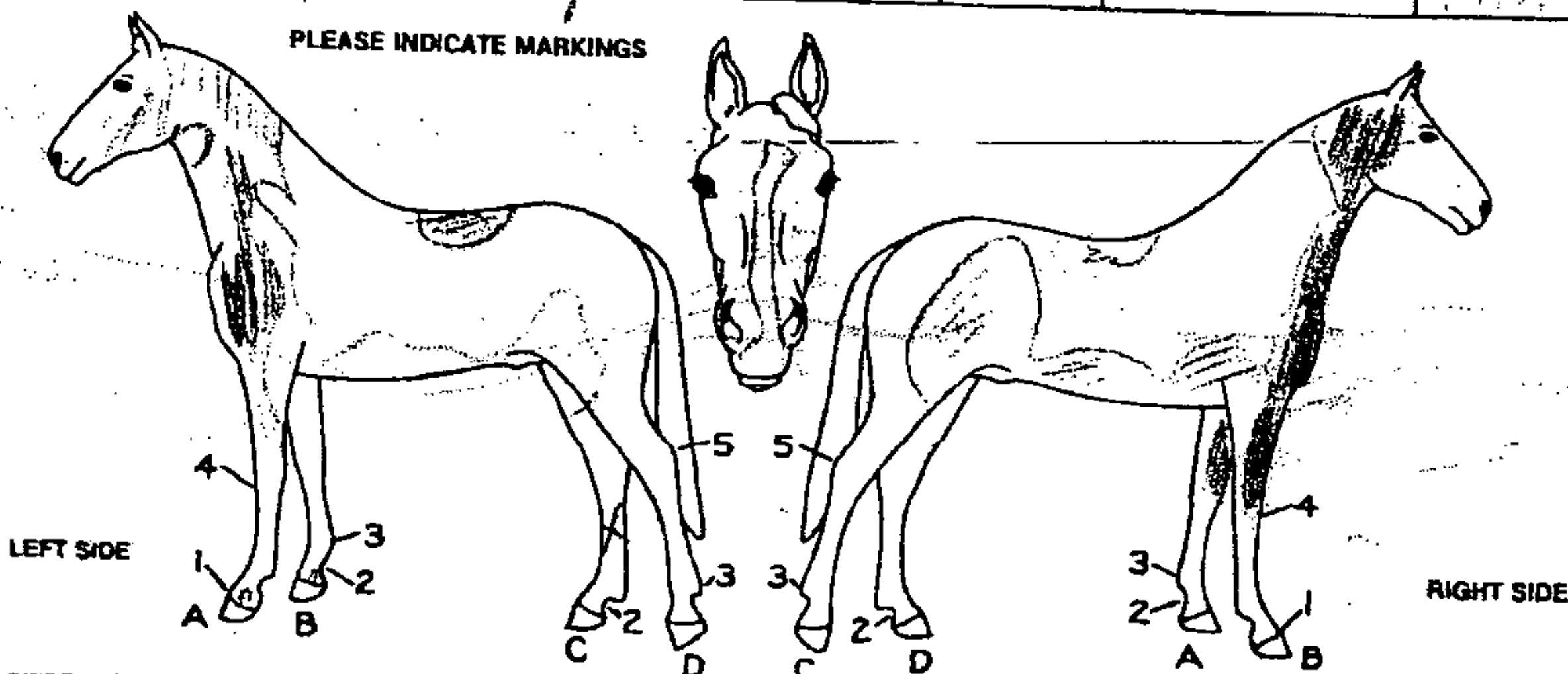
12. DATE SAMPLE DRAWN

6-19-00

IDENTIFICATION DATA

UBE NO.	OFFICIAL TAG NO.	TATTOO/BRAND NO.	NAME OF HORSE	COLOR	REG. NO.	BREED	AGE	SEX
			Desperado	Black on white		Paint	18	G

PLEASE INDICATE MARKINGS



13. DESCRIPTION GUIDE - HORSES, SEE REVERSE SIDE OF PART 1

REASON FOR TESTING (If other than Equine Infectious Anemia)

DESCRIPTION AND REMARKS (Left Side)

- A - LEFT OR NEAR FORE LEG
- B - RIGHT OR OFF FORE LEG
- C - RIGHT OR OFF HIND LEG
- D - LEFT OR NEAR HIND LEG

- 1 - Coronet
- 2 - Pastern
- 3 - Fetlock
- 4 - Knee
- 5 - Hock
- M - Mare
- S - Stallion
- G - Gelding
- N - Neuter

14. DESCRIPTION AND REMARKS (Right Side)

Agar film can't read

FOR LABORATORY USE ONLY

DATE RECEIVED

6/19/00

15. DATE REPORTED

6/20/00

16. TEST RESULT

Negative

20. REMARKS

NAME OF LABORATORY

WHITBECK LABORATORIES

22. SIGNATURE

Leslie Whitbeck

Office Supplies Order Form

**City of Fayetteville
Central Purchasing
Admin. Office - City Hall**

Phone: 575-8330

Fax: 575-8257

e-mail: lbroyles@cl.fayetteville.ar.us

Date: 9-19-00
Division: Animal Services
Account #: 1010 2720 5200 00
Ordered by: M. Rankin
Approved by: R. E...
Order from Office Depot Quill
Other ()

[illegible]

Subtotal	82.97
Tax	
Freight	
Total	

For Office Use Only

Date Ordered _____ From _____
 Filled by: _____ Date Picked up _____
 Billing Info. Submitted to Acct. _____

**NORTHWEST
ARKANSAS
REGIONAL
PLANNING
COMMISSION**

RECEIVED

NOV 07 2000

**CITY OF FAYETTEVILLE
MAYOR'S OFFICE**

P.O. BOX 745 • SPRINGDALE, ARKANSAS 72765-0745

(501) 751-7125

FAX (501) 751-7150

RECEIVED

NOV 07 2000

CITY ATTORNEY'S OFFICE

November 6, 2000

Mayor Fred Hanna
City of Fayetteville
113 W Mountain
Fayetteville, AR 72701

Dear Mayor Hanna:

The original Agreement for the establishment of the Northwest Arkansas Regional Planning Commission was approved by the participating entities in 1966. Since that time many changes have occurred and the time has come for an update of the Agreement.

The Northwest Arkansas Regional Planning Commission met on October 26, 2000 and adopted the enclosed amended Agreement. As a result each participating entity would need to sign off on the amended Agreement and adopt the amended agreement by resolution from their governing body. I have enclosed a resolution that can be used for this purpose. Please return a fully executed copy of the resolution to our office. (P. O. Box 745, Springdale, Arkansas 72765)

If you have any questions please feel free to give us a call.

Sincerely,



Donald L. Grimes
Director

DLG/djm

Enclosures

RESOLUTION NO. _____

**A RESOLUTION APPROVING THE AMENDED
AGREEMENT OF THE NORTHWEST ARKANSAS
REGIONAL PLANNING COMMISSION**

WHEREAS, the City Council for the City of _____, Arkansas, authorized by Resolution the City's membership in the Northwest Arkansas Regional Planning Commission;

WHEREAS, the City Council for the City of _____, Arkansas, endorsed an agreement (hereinafter referred to as "the agreement") for joint planning cooperation between Washington and Benton Counties and all incorporated cities and towns which might wish to become a part of the Northwest Arkansas Regional Planning Commission;

WHEREAS, the Northwest Arkansas Regional Planning Commission has, pursuant to Article 10 of the agreement, passed a proposed amendment to the agreement; and

WHEREAS, Article 10 of the agreement provides that an amendment to the agreement shall be upon approval of all parties to the agreement.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL FOR THE CITY OF _____, ARKANSAS, approves and endorses the amendment agreement set out in Exhibit "A," a copy of which is attached hereto and made a part hereof as though set out herein word for word, and by doing so, the City of _____, reaffirms its participation and membership in the Northwest Arkansas Regional Planning Commission.

PASSED AND APPROVED this _____ day of _____, 2000

Mayor

ATTEST:

City Clerk/Treasurer

APPROVED AS TO FORM:

City Attorney

AGREEMENT

AN AGREEMENT FOR JOINT PLANNING COOPERATION, between Washington and Benton Counties and all incorporated cities and towns which might wish to become a part of the Regional Plan Area.

Article 1. Authorization

Under provisions of Arkansas Code 14-17-301, *et seq.* the agencies listed above, herein called the parties to this Agreement, agree to join cooperatively in area planning and to establish a Regional Planning Commission.

As provided in Arkansas Code 14-17-301, *et seq.*, any other civil jurisdiction, or any public authority or agency operating within, wholly or in part, the area of jurisdiction of the parties to this Agreement, may join in the Agreement, and become parties to the Agreement.

Article 2. Regional Planning Commission

In order to establish and maintain cooperation in area planning, the parties to this Agreement join in the creation of a regional planning agency as provided in Arkansas Code 14-17-301, *et seq.* to be known as the Northwest Arkansas Regional Planning Commission. The Commission shall have the powers, duties and functions as provided in Arkansas Code 14-17-301, *et seq.* for metropolitan area or regional commissions, and as further provided in this Agreement.

Article 3. Membership of the Commission

The Regional Planning Commission shall be constituted as follows:

Appointed Members. The County Judge may serve or shall appoint one member for each 10,000 persons living in rural areas. A rural area is defined as any unincorporated areas.

The Mayor or City Manager of each urban area may serve or shall appoint one member for each 10,000 population living in the urban areas.

Appointed members shall be entitled to vote on all matters. The initial membership shall be as follows: Avoca, Beaver Water District, Bentonville, Bethel Heights, Cave Springs, Centerton, Decatur, Elkins, Elm Springs, Farmington, Fayetteville, Gentry, Gravette, Greenland, Highfill, Johnson, Lincoln, Little Flock, Lowell, Pea Ridge, Prairie Grove, Rogers, Springdale, Sulphur Springs, Tontitown, Washington County, and West Fork.

As soon as the Commission has ascertained that other communities are giving a reasonable amount of financial support to the Regional Planning Commission, the Commission may expand its membership at its discretion by appointing additional

members to represent these communities. A minimum of two-thirds (2/3) of the Commission membership shall be elected officials, or those responsible to elected officials. When such new appointments are added to the Planning Commission, the Commission shall establish such additional appointive membership as may be required to maintain the majority of appointive membership to conform to the requirements of Arkansas Code 14-17-301, *et seq.*.

Terms of Membership. The terms of County Judges or Mayors shall be for the periods that they occupy their city or county offices.

The appointed members shall serve at the pleasure of the County Judge or Mayor.

All members of the Commission shall serve as such without compensation.

Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term by the official appointing the original holder of said membership.

Article 4. Officers, Meetings and Rules

Chairman. The Commission shall elect a Chairman from its appointed members, and such other officers as it may determine. The terms of the Chairman and other officers shall not serve more than two consecutive terms in the same position.

Executive Committee. In the interests of effective functioning of the Commission, there may be an Executive Committee of the Commission, including the Chairman and other officers so designated by the Commission. The members of the Executive Committee other than the officers shall be designated by the Chairman with the approval of the Commission.

Meetings. The Commission as a whole shall meet every other month. The Executive Committee shall meet on alternating months. All meetings shall be open to the public. The Full Commission and Executive Committee meetings can be waived if the Director and Chairman determine 1) business does not warrant and 2) if a quorum will not be present.

Rules. The Commission shall adopt rules for the transaction of business and shall keep a complete record of its functions and activities, which record shall be a public record.

Article 5. Means of Cooperation

The parties to this Agreement shall cooperate on area planning through the Planning Commission, and shall furnish the Commission, on request, any information or documents in their possession or control, and shall aid wherever possible the work of the Commission in the cooperation of their officials, departments, and agencies.

As provided in Arkansas Code 14-17-301, *et seq.*, the Planning Commission may assist the parties to this Agreement in carrying out any area plan or plans developed by the Commission, and may assist any of the parties of this Agreement or other public bodies in the preparation of effectuation of local plans or planning consistent with the program and means of the Commission.

Article 6. Powers, Functions and Duties

The Planning Commission shall have the powers, duties, and functions as provided in Arkansas Code 14-17-301, *et seq.* in connection with the preparation of area-wide studies and plans, in informing the public and promoting public interest and understanding, and in making official planning recommendations to the governing bodies of the parties of this Agreement.

In further particular of the means and methods of operation and functioning, the Commission:

- A. May appoint a Director of Planning and such employees as it deems necessary, and engage consultants as it may require.
- B. Shall prepare an annual report for the parties of this Agreement and prepare and publish studies and reports in connection with its work.
- C. May require property and materials for its use and incur necessary expenses within the limits of its budget as appropriated by the parties of agreement and otherwise provided.
- D. May receive for its own use and purposes any funds or moneys as provided in Arkansas Code 14-17-301, *et seq.*
- E. Shall prepare an annual budget to be submitted for approval to the County Judges and governing bodies of the cooperating cities and agencies; this budget may be prepared to provide both for general funds and expenditures and for special funds and expenditures.
- F. May prepare, under Article 5 above, when requested, carry out and administer uniform regulations for the subdivision of land, prepare standards and make recommendations for zoning and otherwise cooperate in the exercise of planning powers and duties in accord with Arkansas Code 14-17-301, *et seq.*
- G. May determine the area appropriate for the preparation of plans and determine appropriate planning districts within this area.
- H. The primary emphasis of the Commission staff shall be on regional operations and functions. The staff shall not be used to perform detailed

planning for individual communities or sub-areas without the express approval of the Planning Commission.

Article 7. Proportionate Share of Costs

The parties agree to provide funds for the operation and maintenance of the Planning Commission and to carry out the requirements of this Agreement. The proportionate share of costs and expenses shall be as far as possible related to population of the several jurisdictions.

The acceptance of the budget by the parties to this Agreement shall carry with it the authority for the Commission to encumber and expend funds as budgeted during the calendar year.

Whenever any other civil subdivision or public authority, agency or body shall join this Agreement as provided in Arkansas Code 14-17-301, *et seq.*, their share of costs or contribution shall be agreed to at that time of joining.

Any contribution, bequest, gift or grant of funds to the work of the Commission may be designated for special as well as general purposes, and the Commission may make arrangements consistent with its program for special studies or planning work for any public body or appropriate agency, and may receive grants, remuneration or reimbursement for such studies or work.

Article 8. Addition of Other Public Bodies

In accord with the provisions of Arkansas Code 14-17-301, *et seq.*, any other public authority, board, commission, or agency, or body operating within, or adjacent to, the area covered by this joint planning cooperation may join this Agreement through resolution of its governing body, board or commission.

Upon such resolution, this Agreement may be amended, modified or added to, in order to provide for such other public body to become a party to this Agreement without requiring any new action by any of the parties other than approval by resolution, order or other appropriate means.

Upon the joining of any other public body the membership of the Commission may be increased as provided under Article 3 above.

Article 9. Amendments to the Agreement

This Agreement may be modified and amended otherwise than as provided above through the recommendation of any of the parties of the Agreement or through recommendation of the Commission to the parties and upon approval of the parties to the Agreement, and such approval shall be by the same form in which this Agreement is originally approved by the parties.

Article 10. Effective Date of Agreement

This Agreement shall take full effect upon the appropriate action of the governing bodies of the parties to the Agreement whether by ordinance, resolution, rule or order; provided, however, that when any two or more of the parties shall have taken appropriate action, there shall be established the Planning Commission as provided under Arkansas Code 14-17-301, *et seq.*, and the Agreement shall take effect between such two or more of the parties and shall become operative in their behalf.

**NORTHWEST
ARKANSAS
REGIONAL
PLANNING
COMMISSION**

RECEIVED

NOV 13 2000

P.O. BOX 745 • CITY OF FAYETTEVILLE
SPRINGDALE, ARKANSAS 72765-0745

(501) 751-7125

FAX (501) 751-7150

MEMORANDUM

TO: County Judge and Mayors
FROM: Donald L. Grimes, Director
DATE: November 10, 2000
SUBJECT: NWARPC AMENDED AGREEMENT

It has been brought to my attention it would be helpful to have a copy of the original Agreement to compare to the new amended Agreement. I have noted changes and deletions. I have enclosed a copy of the Arkansas Code 14-17-301, et seg. that is referenced in the amended Agreement. If you have further questions please let me know.

For our records we would like to have all the signed Resolutions by the end of January or February.

Page 1 and page 3 have the following changes. Please replace these pages with the ones previous mailed to you.

Page 1 - larger title and added (as amended 10-26-00)

Page 3 - changed the word require to acquire in Article 6. C.

DLG/djm

enclosures

AGREEMENT
(as amended 10-26-00)

AN AGREEMENT FOR JOINT PLANNING COOPERATION, between
Washington and Benton Counties and all incorporated cities and towns which might wish
to become a part of the Regional Plan Area.

Article 1. Authorization

Under provisions of Arkansas Code 14-17-301, *et seq.* the agencies listed above, herein called the parties to this Agreement, agree to join cooperatively in area planning and to establish a Regional Planning Commission.

As provided in Arkansas Code 14-17-301, *et seq.*, any other civil jurisdiction, or any public authority or agency operating within, wholly or in part, the area of jurisdiction of the parties to this Agreement, may join in the Agreement, and become parties to the Agreement.

Article 2. Regional Planning Commission

In order to establish and maintain cooperation in area planning, the parties to this Agreement join in the creation of a regional planning agency as provided in Arkansas Code 14-17-301, *et seq.* to be known as the Northwest Arkansas Regional Planning Commission. The Commission shall have the powers, duties and functions as provided in Arkansas Code 14-17-301, *et seq.* for metropolitan area or regional commissions, and as further provided in this Agreement.

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The Mayor or City Manager of each urban area may serve or shall appoint one member for each 10,000 population living in the urban areas.

Appointed members shall be entitled to vote on all matters. The initial membership shall be as follows: Avoca, Beaver Water District, Bentonville, Bethel Heights, Cave Springs, Centerton, Decatur, Elkins, Elm Springs, Farmington, Fayetteville, Gentry, Gravette, Greenland, Highfill, Johnson, Lincoln, Little Flock, Lowell, Pea Ridge, Prairie Grove, Rogers, Springdale, Sulphur Springs, Tontitown, Washington County, and West Fork.

As soon as the Commission has ascertained that other communities are giving a reasonable amount of financial support to the Regional Planning Commission, the Commission may expand its membership at its discretion by appointing additional

As provided in Arkansas Code 14-17-301, *et seq.*, the Planning Commission may assist the parties to this Agreement in carrying out any area plan or plans developed by the Commission, and may assist any of the parties of this Agreement or other public bodies in the preparation of effectuation of local plans or planning consistent with the program and means of the Commission.

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In further particular of the means and methods of operation and functioning, the Commission:

- A. May appoint a Director of Planning and such employees as it deems necessary, and engage consultants as it may require.
- B. Shall prepare an annual report for the parties of this Agreement and
~~prepare and publish studies and reports in connection with its work.~~
- C. May acquire property and materials for its use and incur necessary expenses within the limits of its budget as appropriated by the parties of agreement and otherwise provided.
- D. May receive for its own use and purposes any funds or moneys as provided in Arkansas Code 14-17-301, *et seq.*
- E. Shall prepare an annual budget to be submitted for approval to the County Judges and governing bodies of the cooperating cities and agencies; this budget may be prepared to provide both for general funds and expenditures and for special funds and expenditures.
- F. May prepare, under Article 5 above, when requested, carry out and administer uniform regulations for the subdivision of land, prepare standards and make recommendations for zoning and otherwise cooperate in the exercise of planning powers and duties in accord with Arkansas Code 14-17-301, *et seq.*
- G. May determine the area appropriate for the preparation of plans and determine appropriate planning districts within this area.
- H. The primary emphasis of the Commission staff shall be on regional operations and functions. The staff shall not be used to perform detailed

EXISTING

AGREEMENT

AN AGREEMENT FOR JOINT PLANNING COOPERATION, between Washington and Benton Counties and all incorporated cities and towns which might wish to become a part of the Regional Plan Area.

Article 1. Authorization

Under provisions of Act 26, Arkansas Acts of 1955, as amended, the agencies listed above, herein called the parties to this agreement, agree to join cooperatively in area planning and to establish a Regional Planning Commission.

As provided in Section 1 of said Act 26, any other civil jurisdiction, or any public authority or agency operating within, wholly or in part, the area of jurisdiction of the parties to this agreement, may join in this agreement, and become parties to the agreement.

Article 2. Regional Planning Commission

In order to establish and maintain cooperation in area planning, the parties to this agreement join in the creation of a regional planning agency as provided under Section 1 of Act 26 to be known as the Northwest Arkansas Regional Planning Commission. The Commission shall have the powers, duties and functions as provided in Act 26 for metropolitan area or regional commissions, and as further provided in this agreement.

Article 3. Membership of the Commission

The Regional Planning Commission shall be constituted as follows:

Ex-Officio Elected Officials. The County Judge of each county signing this agreement shall be an ex-officio member and entitled to vote on all matters.

Appointed Members. Each county judge shall appoint one member for each 10,000 persons living in rural areas. A rural area is defined as any unincorporated area or any incorporated area with less than 5,500 population.

The mayor or city manager of each urban area with the approval of his legislative body shall appoint one member for each 10,000 population living in the urban area. An urban area is defined as any incorporated area with a population over 5,500.

A county judge or a mayor may appoint an additional member when the population of his jurisdiction exceeds a multiple of 10,000 by 5,500.

Updated [Appointed members shall be entitled to vote on all matters. The initial membership shall be as follows: Fayetteville - 3; Springdale - 2; Washington County - 1; Rogers - 1; Bentonville - 1; Siloam Springs - 1; Benton County - 1; total - 10.

As soon as the ten member commission has ascertained that other communities are giving a reasonable amount of financial support to the Regional Planning Commission, the commission may expand its membership at its discretion by appointing additional members to represent these communities. A minimum of two-thirds (2/3) of the commission membership shall be elected officials, or those responsible to elected officials. When such new appointments are added to the Planning Commission, the Commission shall establish such additional appointive membership as may be required to maintain the majority of appointive membership to conform to the requirements of Section 3 of Act 26, as amended by Act 29 of 1967.

Terms of Membership. The terms of ex-officio members shall be for the periods that they occupy their city or county offices.

The terms of appointed members shall be three years, except that the initial appointments shall be staggered in the following manner: Initial appointees shall draw lots for three terms of one year each, three terms of two years each, and four terms of three years each.

All members of the Commission shall serve as such without compensation.

A member of the Commission, once qualified, shall not be removed during his term of office except for cause and after a hearing held before the governing body by which he was appointed.

Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term by the official appointing the original holder of said membership.

Article 4. Officers, Meetings and Rules

3 [Chairman. The Commission shall elect a Chairman from its appointed members, and such other officers as it may determine. The terms of the Chairman and other officers shall be one year. The Commission may create such committees as it deems necessary to the proper exercise of its functions.

Executive Committee. In the interests of effective functioning of the Commission, there may be an Executive Committee of the Commission, including the Chairman and other officers so designated by the Commission. The members of the Executive Committee other than the officers shall be designated by the Chairman with the approval of the Commission.

④ [Meetings. The Commission as a whole shall meet regularly at least once every three months. The Executive Committee shall meet as required, except that the regular meeting of the Committee may coincide at appropriate times with the regular meeting of the Commission as a whole. All meetings shall be open to the public.

Rules. The Commission shall adopt rules for the transaction of business and shall keep a complete record of its functions and activities, which record shall be a public record.

Article 5. Means of Cooperation

The parties to this agreement shall cooperate on area planning through the Planning Commission, and shall furnish the Commission, on request, any information or documents in their possession or control, and shall aid wherever possible the work of the Commission in the cooperation of their officials, departments, and agencies.

As provided in Act 26, the Planning Commission may assist the parties to this agreement in carrying out any area plan or plans developed by the Commission, and may assist any of the parties of this agreement or other public bodies in the preparation or effectuation of local plans or planning consistent with the program and means of the Commission.

Article 6 Powers, Functions and Duties

The Planning Commission shall have the powers, duties, and functions as provided in Act 26 in connection with the preparation of area-wide studies and plans, in informing the public and promoting public interest and understanding, and in making official planning recommendations to the governing bodies of the parties of this agreement.

In further particular of the means and methods of operation and functioning, the Commission

- A. May appoint a Director of Planning and such employees as it deems necessary, and engage consultants as it may require.
- B. Shall prepare an annual report for the parties of this agreement and prepare and publish studies and reports in connection with its work.
- C. May acquire property and materials for its use and incur necessary expenses within the limits of its budget as appropriated by the parties of agreement and otherwise provided.
- D. May receive for its own use and purposes any funds or moneys as provided under Section 4 of Act 26.

- E. Shall prepare an annual budget to be submitted for approval to the county judges and governing bodies of the cooperating cities and agencies; this budget may be prepared to provide both for general funds and expenditures and for special funds and expenditures.
- F. May prepare, under Article 5 above, when requested, carry out and administer uniform regulations for the subdivision of land, prepare standards and make recommendations for zoning and otherwise cooperate in the exercise of planning powers and duties in accord with Act 26.
- G. May determine the area appropriate for the preparation of plans and determine appropriate planning districts within this area.
- H. The primary emphasis of the Commission staff shall be on regional operations and functions. Initially, the staff shall not be used to perform detailed planning for individual communities or sub-areas without the express approval of the Planning Commission.

Article 7. Proportionate Share of Costs

The parties agree to provide funds for the operation and maintenance of the Planning Commission and to carry out the requirements of this agreement. The proportionate share of costs and expenses shall be as far as possible related to population of the several jurisdictions.

The acceptance of the budget by the parties to this agreement shall carry with it the authority for the Commission to encumber and expend funds as budgeted during the calendar year.

Whenever any other civil subdivision or public authority, agency or body shall join this agreement as provided in Act 26, their share of costs or contribution shall be agreed to at that time of joining.

Any contribution, bequest, gift or grant of funds to the work of the Commission may be designated for special as well as general purposes, and the Commission may make arrangements consistent with its program for special studies or planning work for any public body or appropriate agency, and may receive grants, remuneration or reimbursement for such studies or work.

Article 8. Addition of Other Public Bodies

In accord with the provisions on Act 26, any other public authority, board, commission, or agency, or body operating within, or adjacent to,

the area covered by this joint planning cooperation may join this agreement through resolution of its governing body, board or commission.

Upon such resolution, this agreement may be amended, modified or added to, in order to provide for such other public body to become a party to this agreement without requiring any new action by any of the parties other than approval by resolution, order or other appropriate means.

Upon the joining of any other public body the membership of the Commission may be increased as provided under Article 3 above.

Article 9. Commission Planning Committees

Technical Advisory Committees.

The Commission may appoint persons with special technical knowledge to advisory committees to review the programs, work and recommendations of the staff and to give their advice and comment.

Citizens Advisory Committees.

The Commission shall appoint citizens' advisory committees representing any cities, school boards, special districts, or other agencies of government whether local, state, or federal, to review and comment upon programs, work, and recommendations of the Commission which might affect or interest such an agency of government. The Commission may also appoint representatives of civic or private organizations to such advisory committees when the Commission feels that the understanding, information, advice, or reaction of such organizations is desirable and helpful.

Article 10. Amendments to the Agreement

This agreement may be modified and amended otherwise than as provided above through the recommendation of any of the parties of the agreement or through recommendation of the Commission to the parties and upon approval of the parties to the agreement, and such approval shall be by the same form in which this agreement is originally approved by the parties.

Article 11. Effective Date of Agreement

This agreement shall take full effect upon the appropriate action of the governing bodies of the parties to the agreement whether by ordinance, resolution, rule or order; provided, however, that when any two or more of the parties shall have taken appropriate action, there shall be established the Planning Commission as provided under Section 1 of Act 26, and the agreement shall take effect between such two or more of the parties and shall become operative in their behalf.

AGREEMENT
(as amended 10-26-00)

AN AGREEMENT FOR JOINT PLANNING COOPERATION, between Washington and Benton Counties and all incorporated cities and towns which might wish to become a part of the Regional Plan Area.

Article 1. Authorization

Under provisions of Arkansas Code 14-17-301, et seq. the agencies listed above, herein called the parties to this Agreement, agree to join cooperatively in area planning and to establish a Regional Planning Commission.

As provided in Arkansas Code 14-17-301, et seq., any other civil jurisdiction, or any public authority or agency operating within, wholly or in part, the area of jurisdiction of the parties to this Agreement, may join in the Agreement, and become parties to the Agreement.

Article 2. Regional Planning Commission

In order to establish and maintain cooperation in area planning, the parties to this Agreement join in the creation of a regional planning agency as provided in Arkansas Code 14-17-301, et seq. to be known as the Northwest Arkansas Regional Planning Commission. The Commission shall have the powers, duties and functions as provided in Arkansas Code 14-17-301, et seq. for metropolitan area or regional commissions, and as further provided in this Agreement.

Article 3. Membership of the Commission

The Regional Planning Commission shall be constituted as follows:

① Appointed Members. The County Judge may serve or shall appoint one member for each 10,000 persons living in rural areas. A rural area is defined as any unincorporated areas.

The Mayor or City Manager of each urban area may serve or shall appoint one member for each 10,000 population living in the urban areas.

Appointed members shall be entitled to vote on all matters. The initial membership shall be as follows: Avoca, Beaver Water District, Bentonville, Bethel Heights, Cave Springs, Centerton, Decatur, Elkins, Elm Springs, Farmington, Fayetteville, Gentry, Gravette, Greenland, Highfill, Johnson, Lincoln, Little Flock, Lowell, Pea Ridge, Prairie Grove, Rogers, Springdale, Sulphur Springs, Tontitown, Washington County, and West Fork.

As soon as the Commission has ascertained that other communities are giving a reasonable amount of financial support to the Regional Planning Commission, the Commission may expand its membership at its discretion by appointing additional

members to represent these communities. A minimum of two-thirds (2/3) of the Commission membership shall be elected officials, or those responsible to elected officials. When such new appointments are added to the Planning Commission, the Commission shall establish such additional appointive membership as may be required to maintain the majority of appointive membership to conform to the requirements of Arkansas Code 14-17-301, et seq.

② Terms of Membership. The terms of County Judges or Mayors shall be for the periods that they occupy their city or county offices.

The appointed members shall serve at the pleasure of the County Judge or Mayor.

All members of the Commission shall serve as such without compensation.

Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term by the official appointing the original holder of said membership.

Article 4. Officers, Meetings and Rules

③ Chairman. The Commission shall elect a Chairman from its appointed members, and such other officers as it may determine. The terms of the Chairman and other officers shall not serve more than two consecutive terms in the same position.

Executive Committee. In the interests of effective functioning of the Commission, there may be an Executive Committee of the Commission, including the Chairman and other officers so designated by the Commission. The members of the Executive Committee other than the officers shall be designated by the Chairman with the approval of the Commission.

④ Meetings. The Commission as a whole shall meet every other month. The Executive Committee shall meet on alternating months. All meetings shall be open to the public. The Full Commission and Executive Committee meetings can be waived if the Director and Chairman determine 1) business does not warrant and 2) if a quorum will not be present.

Rules. The Commission shall adopt rules for the transaction of business and shall keep a complete record of its functions and activities, which record shall be a public record.

Article 5. Means of Cooperation

The parties to this Agreement shall cooperate on area planning through the Planning Commission, and shall furnish the Commission, on request, any information or documents in their possession or control, and shall aid wherever possible the work of the Commission in the cooperation of their officials, departments, and agencies.

As provided in Arkansas Code 14-17-301, et seq., the Planning Commission may assist the parties to this Agreement in carrying out any area plan or plans developed by the Commission, and may assist any of the parties of this Agreement or other public bodies in the preparation of effectuation of local plans or planning consistent with the program and means of the Commission.

Article 6. Powers, Functions and Duties

The Planning Commission shall have the powers, duties, and functions as provided in Arkansas Code 14-17-301, et seq. in connection with the preparation of area-wide studies and plans, in informing the public and promoting public interest and understanding, and in making official planning recommendations to the governing bodies of the parties of this Agreement.

In further particular of the means and methods of operation and functioning, the Commission:

- A. May appoint a Director of Planning and such employees as it deems necessary, and engage consultants as it may require.
- B. Shall prepare an annual report for the parties of this Agreement and prepare and publish studies and reports in connection with its work.
- C. ^{acquire} May require property and materials for its use and incur necessary expenses within the limits of its budget as appropriated by the parties of agreement and otherwise provided.
- D. May receive for its own use and purposes any funds or moneys as provided in Arkansas Code 14-17-301, et seq.
- E. Shall prepare an annual budget to be submitted for approval to the County Judges and governing bodies of the cooperating cities and agencies; this budget may be prepared to provide both for general funds and expenditures and for special funds and expenditures.
- F. May prepare, under Article 5 above, when requested, carry out and administer uniform regulations for the subdivision of land, prepare standards and make recommendations for zoning and otherwise cooperate in the exercise of planning powers and duties in accord with Arkansas Code 14-17-301, et seq.
- G. May determine the area appropriate for the preparation of plans and determine appropriate planning districts within this area.
- H. The primary emphasis of the Commission staff shall be on regional operations and functions. The staff shall not be used to perform detailed

planning for individual communities or sub-areas without the express approval of the Planning Commission.

Article 7. Proportionate Share of Costs

The parties agree to provide funds for the operation and maintenance of the Planning Commission and to carry out the requirements of this Agreement. The proportionate share of costs and expenses shall be as far as possible related to population of the several jurisdictions.

The acceptance of the budget by the parties to this Agreement shall carry with it the authority for the Commission to encumber and expend funds as budgeted during the calendar year.

Whenever any other civil subdivision or public authority, agency or body shall join this Agreement as provided in Arkansas Code 14-17-301, et seq., their share of costs or contribution shall be agreed to at that time of joining.

Any contribution, bequest, gift or grant of funds to the work of the Commission may be designated for special as well as general purposes, and the Commission may make arrangements consistent with its program for special studies or planning work for any public body or appropriate agency, and may receive grants, remuneration or reimbursement for such studies or work.

Article 8. Addition of Other Public Bodies

In accord with the provisions of Arkansas Code 14-17-301, et seq., any other public authority, board, commission, or agency, or body operating within, or adjacent to, the area covered by this joint planning cooperation may join this Agreement through resolution of its governing body, board or commission.

Upon such resolution, this Agreement may be amended, modified or added to, in order to provide for such other public body to become a party to this Agreement without requiring any new action by any of the parties other than approval by resolution, order or other appropriate means.

Upon the joining of any other public body the membership of the Commission may be increased as provided under Article 3 above.

Article 9. Amendments to the Agreement

This Agreement may be modified and amended otherwise than as provided above through the recommendation of any of the parties of the Agreement or through recommendation of the Commission to the parties and upon approval of the parties to the Agreement, and such approval shall be by the same form in which this Agreement is originally approved by the parties.

Article 10. Effective Date of Agreement

This Agreement shall take full effect upon the appropriate action of the governing bodies of the parties to the Agreement whether by ordinance, resolution, rule or order; provided, however, that when any two or more of the parties shall have taken appropriate action, there shall be established the Planning Commission as provided under Arkansas Code 14-17-301, et seq., and the Agreement shall take effect between such two or more of the parties and shall become operative in their behalf.

Arkansas Code 14-17-301, et seq. for Regional Planning Commissions

14-17-301. Provisions supplemental.

(a) Nothing in this subchapter shall be construed to remove or limit the powers of the cooperating cities and counties as provided by state law.

(b) All legislative power with respect to zoning and other planning legislation shall remain with the governing body of the cooperating cities and counties.

(c) Each participating city or county may continue to have its own planning commission or board but may, under the joint agreement and in the interest of economy and efficiency and in the interest of uniform standards and procedures, request the metropolitan or regional planning commission to assume duties and functions of local planning agencies, in whole or in part.

History. Acts 1955, No. 26, § 5; A.S.A. 1947, § 19-282

14-17-302. Authority generally.

Any two (2) or more cities of the first class, cities of the second class, incorporated towns, or counties, or other civil subdivisions having adjoining planning jurisdictions, or any counties and cities adjacent to or within the county may jointly cooperate in the exercise and performance of planning powers, duties, and functions as provided by state law for cities and counties.

History. Acts 1955, No. 26, § 1; A.S.A. 1947, § 19-2820.

14-17-303. Contents of joint agreement.

(a) The cooperating cities and counties which join to create a metropolitan or regional planning commission shall, through joint agreement, determine the number and qualifications of the members of the commission.

(b) The joint agreement shall also provide for the manner of cooperation and the means

and methods of the operation and functioning of the commission, including the employment of a director of planning and such staff and consultants as it may require, the proportionate share of costs and expenses, and the purchase of property and materials for the use of the commission.

(c) The joint agreement may also allow for the addition of other public bodies to the cooperative arrangement.

History. Acts 1955, No. 26, § 3; 1967, No. 29, § 1; A.S.A. 1947, § 19-2822

a) When two (2) or more cities and counties shall adopt joint planning cooperation by ordinance, resolution, rule or order, there shall be established a joint planning commission for the metropolitan area or region comprising the area coterminous with the areas of planning jurisdiction of the cities or counties cooperating jointly.

(b) A joint planning agency for the metropolitan area or region may be empowered to carry into effect such provisions of state law relating to planning which are authorized for the joining cities or counties and which each may, under existing laws, separately exercise and perform.

(c) Any other public authority or agency which operates within, wholly or in part, the area covered by this joint planning cooperation may likewise join with the cooperating cities or counties in cooperative planning through resolution of its governing board or commission.

History. Acts 1955, No. 26, § 1; A.S.A. 1947, § 19-2820.

14-17-305. Purpose of commission.

The general purpose of a metropolitan or regional planning commission shall be to make those studies and plans for the development of the metropolitan area or region that will:

(1) Guide the unified development of the area;

(2) Eliminate planning duplication;

(3) Promote economy and efficiency in the coordinated development of the area; and

(4) Promote the general welfare and prosperity of its people.

History. Acts 1955, No. 26, § 2; A.S.A. 1947, § 19-2821

14-17-306. Duty of commission.

The metropolitan or regional planning commission shall have the duty and function of promoting public interest and understanding of the economic and social necessity for long-term coordinated planning for the metropolitan or regional area, but its official recommendations shall be made to the governing bodies or the county judges of the cooperating cities or counties.

History. Acts 1955, No. 26, § 5; A.S.A. 1947, § 19-2824.

-307. Plans and recommendations.

(a)(1) The metropolitan or regional commission shall make plans for development for the area. These plans may include, but shall not be limited to, recommendations for principal highways, bridges, airports, parks and recreational areas, schools and public institutions, and public utilities.

(2) Any metropolitan or regional plan so developed shall be based on studies of physical, social, economic, and governmental conditions and trends.

(b) The plans and its recommendations may, in whole or in part, be adopted by the governing bodies of the cooperating cities and counties as the general plans of such cities and counties.

(c)(1) The commission may also assist the cities and counties within its area of jurisdiction in carrying out any regional plans developed by the commission; and

(2) The commission may also assist any planning commission, board, or agency of the cooperating cities or counties in the preparation or effectuation of local plans and planning consistent with the program of the commission.

History. Acts 1955, No. 26, § 2; A.S.A. 1947, § 19-2821.

14-17-308. Receipt of funds.

A metropolitan or regional planning commission established under the provisions of this

subchapter is authorized to receive, for its own uses and purposes, any funds or moneys from any participating city or county, from the state or federal government, and from any other source any other funds, including bequests, gifts, donations, or contributions.

History. Acts 1955, No. 26, § 4; A.S.A. 1947, § 19-2823.

14-17-309. Appropriations.

The participating cities and counties, or other public bodies, are authorized to appropriate funds for the expenses and costs required by the metropolitan or regional planning commission in the performance of its purposes and functions.

History. Acts 1955, No. 26, § 4; A.S.A. 1947, § 19-2823

For the Fayetteville City Council meeting of November 21, 2000

Department

Orig Contract Number: _____

DEPARTMENTAL CORRESPONDENCE

TO: Staff Review Committee

FROM: Yolanda Fields, Community Development Coordinator

DATE: October 24, 2000

SUBJECT: CDBG Annual Action Plan & Grant Request

Description

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

Each year Community Development prepares an annual "Action Plan" and funding request to the U.S. Department of Housing & Urban Development (HUD) for CDBG funding. The Action Plan is published for a 30 day public comment period and submitted to HUD for approval.

Cost Justification

The application for funding represents revenue for the City.

Budget Consideration

The Community Development Division 2001 budget is based on receipt of these funds.

Staff Recommendation

Please review and comment on the Annual Action Plan. A final draft incorporating public comment will be submitted to the Mayor for signature. In accordance with City of Fayetteville administrative policy, this final draft of the plan will be submitted to the City Council as an informational item.

THE CITY OF FAYETTEVILLE, ARKANSAS

November 10, 2000

Ann Golnick, Director
Community Planning and Development
Department of Housing & Urban Development
425 West Capitol Ave, Suite 900
Little Rock, AR 72201

Dear Ms. Golnick,

I am pleased to submit the City of Fayetteville's annual Action Plan for 2001. CDBG has benefitted Fayetteville's low and moderate income citizens, and our city overall since 1974.

We want to continue our successful partnership with HUD by providing the resources and technical assistance made possible through the CDBG Program, to our residents who need them. Affordable decent housing; transportation for our elderly citizens; social services; economic opportunities; and a pleasant community environment in our low and moderate income neighborhoods, are issues we can address with CDBG dollars.

The CDBG Program assists us to maintain our city's vitality, our optimism, and encourages the well-being of our community's low and moderate income neighborhoods, and thereby, the city as a whole.

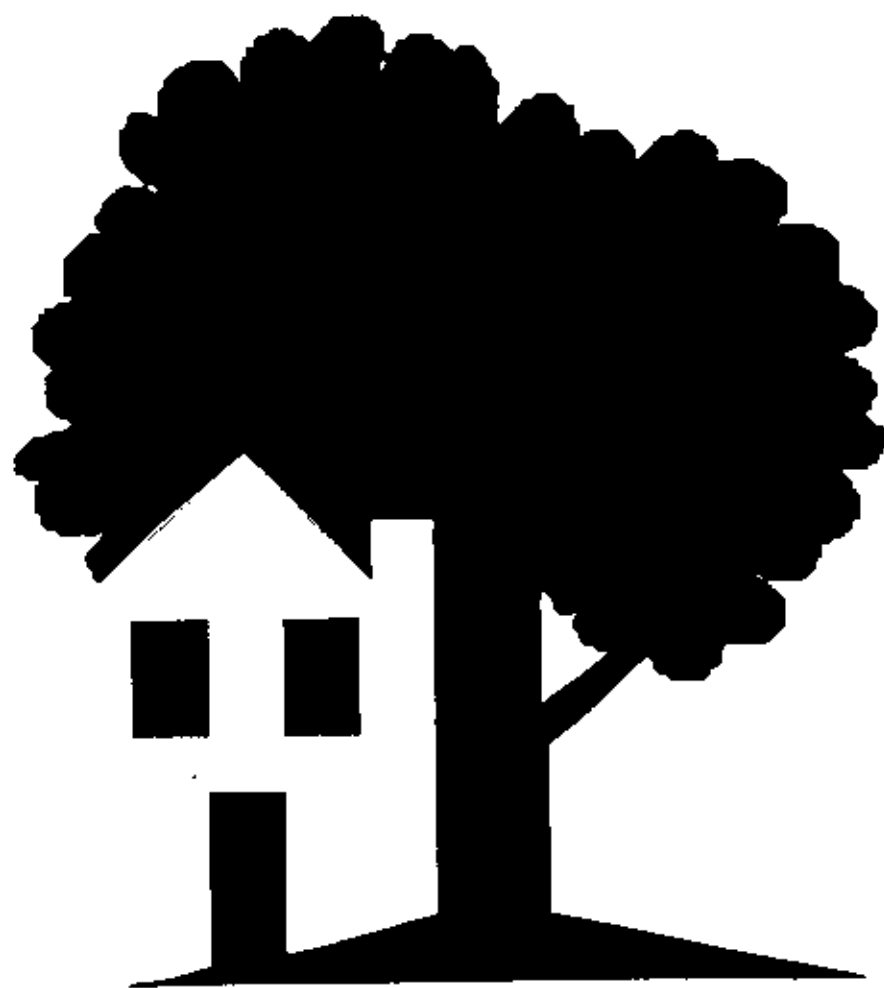
If you have a question or comment about Fayetteville's 2001 Action Plan, you may direct them to Yolanda Fields, Grants Coordinator. 501-575-8290.

Fayetteville appreciates the opportunities CDBG provides for our city.

Sincerely,

Fred Hanna, Mayor

CITY OF FAYETTEVILLE
2001 CONSOLIDATED ACTION PLAN



"Helping to Make a Better Community"

Submitted November 15, 2000

Application for Federal Assistance

		2. Date Submitted 11/15/00		Applicant Identifier B-01-MC-05-0001	
1. Type of Submission: Application: Construction Preapplication: Non - Construction		3. Date Received by State		State Application Identifier	
		4. Date Received by Federal Agency		Federal Identifier	
5. Applicant Information					
Legal Name City of Fayetteville, Arkansas			Organizational Unit Municipal Government		
Address 113 West Mountain Street Fayetteville, AR 72701 Washington			Contact Yolanda Fields, Community Development Co 501-575-8290		
6. Employer Identification Number (EIN): 71-6018462			7. Type of Applicant: Municipal		
8. Type of Application: Type: New					
			9. Name of Federal Agency:		
10. Catalog of Federal Domestic Assistance Number: Catalog Number: 14-218 Assistance Title: Community Development Block Grant			11. Descriptive Title of Applicant's Project: Community Development		
12. Areas Affected by Project: Fayetteville, Arkansas					
13. Proposed Project:		14. Congressional Districts of:			
Start Date 01/01/01	Start Date 12/31/01	a. Applicant 3		b. Project 3	
15. Estimated Funding:		16. Is Application Subject to Review by State Executive Order 12372 Process?			
a. Federal \$635,000		Review Status: Program covered Date::			
b. Applicant \$0					
c. State \$0		17. Is the Applicant Delinquent on Any Federal Debt? No			
d. Local \$0					
e. Other \$0					
f. Program Income \$10,000					
g. Total \$ 645,000					
18. To the best of my knowledge and belief, all data in this application/preapplication are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.					
a. Typed Name of Authorized Representative Fred Hanna		b. Title Mayor		c. Telephone Number 501-575-8330	
d. Signature of Authorized Representative				e. Date Signed 11/15/00	

X

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CONSOLIDATED ACTION PLAN - 2001

INTRODUCTION

The City of Fayetteville is a participant in the Community Development Block Grant (CDBG) Entitlement Cities Program and is awarded funds annually to carry out eligible activities in pursuit of these statutory goals:

- **Provide Decent housing** - - which includes:
assisting homeless persons obtain affordable housing;
assisting persons at risk of becoming homeless;
retention of affordable housing stock;
increase the availability of affordable permanent housing in standard condition to low-income and moderate-income families, particularly to members of disadvantaged minorities without discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability;
increasing the supply of supportive housing which includes structural features and services to enable persons with special needs (including persons with HIV/AIDS) to live in dignity and independence;
and providing affordable housing that is accessible to job opportunities.
- **Provide a suitable living environment** - - which includes:
improving the safety and livability of neighborhoods;
increasing access to quality public and private facilities and services;
reducing the isolation of income groups within areas through spatial deconcentration of housing opportunities for lower income persons and the revitalization of deteriorating neighborhoods;
restoring and preserving properties of special historic, architectural, or aesthetic value; and
conservation of energy resources.
- **Expand economic opportunities** - - which includes:
job creation and retention; establishment, stabilization and expansion of small businesses (including micro businesses);
the provision of public services concerned with employment;
the provision of jobs to low-income persons living in areas affected by those programs and activities, or jobs resulting from carrying out activities under programs covered by the plan;
availability of mortgage financing for low-income persons at reasonable rates using non-discriminatory lending practices;
access to capital and credit for development activities that promote the long-term economic and social viability of the community; and
empowerment and self-sufficiency for low-income persons to reduce generational poverty in federally assisted housing and public housing.

Community Development Focus in 2001

Public Access and Participation: CDBG Activities are designed and carried out based on local needs. Through public meetings, consultation with area public and non-profit service agencies, informal discussion with citizens, studies, city staff, and special purpose committees, input from community stakeholders and resources holders is integrated to designate action priorities.

Two formal public hearings were held to present and discuss proposed CDBG activities for fiscal year 2001. The meetings were well attended by non-profit agency representatives but citizen attendance was low. In response to the perennial difficulty in engaging the general public and particularly the constituency most affected by Community Development programs and activities, the Community Development Division has attempted alternate outreach activities in 2000 that met with some success.

A special proclamation was presented by the Mayor. Presentations, displays, and activities were planned during National Community Development Week which spotlighted CDBG activities and generated notice in the media. Since the City's annual Springfest event coincided with National Community Development Week, staff and volunteers set up a festival booth and spent the day talking with citizens, providing information, and passing out buttons and lemonade.

~~In accordance with Fayetteville's Citizen Participation Plan, the 2001 Consolidated Action Plan~~ is submitted for a 30 day citizen review period. Citizen comments on the plan are encouraged and may be submitted to:

Yolanda Fields, Coordinator
City of Fayetteville Community Development Division
113 West Mountain Street
Fayetteville, AR 72701

Housing Housing rehabilitation and housing issues are a primary focus of Community Development activities. The City is committed to the development of programs which address the need for housing for Low and Moderate Income (LMI) persons and families. In response to priority needs revealed during the development of the City's five year Consolidated Plan in 1999, the City has focused on developing partnerships with outstanding local private non-profit entities with expertise in specialized housing activities. One of these organizations is a resident-led volunteer group comprising citizens residing in the designated Community Development Target Area. Also, as in past years, we continue to work closely with Habitat for Humanity in Fayetteville. This focus on developing partnership will continue in 2001.

Analysis of Impediments to Fair Housing The city is in the process of updating its "Analysis of Impediments to Fair Housing" (AI). CDBG Program regulations require recipient jurisdictions to "affirmatively further fair housing," which flows from HUD's obligation under Section 808 of the Fair Housing Act.

The AI is conceived as an effort to affirmatively further fair housing choice by identifying all

impediments to fair housing choice which presently exist in the community, and to develop strategies and actions designed to reduce or eliminate the identified impediments. Further, the process of developing the AI will foster the collaboration of stakeholders and resource providers in the public, non-profit, and private sectors, thereby promoting relationship-building and consensus on fair housing issues. The AI process will help describe a clearer picture of housing conditions for LMI households in Fayetteville, and aid us in defining current and future housing directions.

Public Services Utilization of CDBG funds for the provision of public services, particularly those which serve LMI groups, has been, and continues to be a focus of the Community Development Division. The Community Development Division has carried out two main service programs in recent years. The Taxi Voucher Elderly Transportation program, and the Yvonne Richardson Community Center. 2001 brings new opportunities for collaboration through an alliance with Fayetteville Boys & Girls Club.

The Taxi Voucher program provides subsidized cab fare for our city's elder citizens, allowing an inexpensive transportation choice for many who would not have transportation available otherwise. This simple, cost effective program receives unwavering support from those who use it to go shopping, to the doctor, post office, church, out to eat, or any number of other destinations. The program is hugely successful in providing our elders opportunity to participate in community life and to live independently.

CDBG funds along with matching grants and private donations were used to build the Yvonne Richardson Community Center (YRCC) in the SE Fayetteville designated Community Development Target Area. CDBG has continued to fund staff salaries and improvements to the Center since 1995. CDBG continues to support YRCC costs in 2001.

In an excellent example of collaborative partnership and innovative programing, Fayetteville Boys & Girls Club has proposed to establish a Boys & Girls Club branch unit at Jefferson Elementary School. Jefferson Elementary is located in the predominately LMI Target Area neighborhood. Boys & Girls Club aims to provide a safe after-school environment comprising recreational and educational activities designed to promote leadership, academic performance, health, self esteem, and life skills education. CDBG dollars will contribute approximately one quarter of the cost of this program.

In addition, CDBG will provide a small amount of funding for an annual Neighborhood Clean-up Day activity in the Target Area, and partially fund costs for the city's Free Trolley.

Public Facilities - Community Needs CDBG has historically supported community services facilities projects in Fayetteville. Through the last decade, CDBG dollars have assisted construction or renovation of facilities for local non-profit organizations such as Youthbridge, Children's House, Head Start, Fayetteville Free Health & Dental Clinic, YRCC, as well as renovations and improvements to City parks, streets, sidewalks and other infrastructure.

Consolidated Plan research and consultation has shown a strong consensus among non-profit service providers that the most important gap in the city's continuum of care network, is for transitional living / life skills training type facilities serving a number of groups characterized as being at risk for poverty and/or homelessness. Due to scale and costs of this type of project, Community Development has chosen to support those projects which are carried out by organizations with vision and expertise in serving the particular unique group. The city's support with CDBG dollars, even in relatively small amount, provides leverage to attract funding from outside public and foundation grants and private funding.

CONSOLIDATED ACTION PLAN - 2001

I. AVAILABLE RESOURCES

A. Resources- Federal / State The City is the recipient of only one formula grant program, the Community Development Block Grant. The Community Development office has been a recipient of an allocation from the State HOME Program administered by the Arkansas Development Finance Authority since 1992; the application process is a competitive one and receipt of funds is not guaranteed. The City also receives a small Title XX grant awarded by the Area Agency on Aging of Northwest Arkansas that is specifically earmarked for the Elderly Taxi Program. Private non-profit organizations in Fayetteville receive no formula allocations and are funded through competitive State allocations administered by the Arkansas Department of Human Services, the local United Way campaign, private foundation grants, other special competitive grants, and private donations including fund-raising activities.

The City anticipates the CDBG formula allocation in 2001 will be approximately \$635,000. The City did not receive a HOME grant allocation in 2000, however currently the city has HOME Grant funds remaining from previous grant years. Due to changes in HOME Grant application procedures in 2000, Fayetteville will apply for further HOME funding in 2001 after existing funding has been expended.

The Area Agency on Aging Elderly Taxi Program grant in 2001 will be \$4,000.

B. Resources - Municipal Government

The City of Fayetteville has earmarked General Revenues for expanding the existing free trolley service, adding a southern route which will include the Low/Mod income Southeast community. Trolley riders can transfer to other transportation from downtown stops.

The City's Street Division has estimated \$80,000 for street overlay and repair of streets located in the designated Community Development Target Area.

The City's Budget Division has budgeted approximately \$10,000 for maintenance of city-owned buildings occupied by area non-profit agencies performing public service activities.

C. Resources - Local

The Southeast Fayetteville resident-led group, facilitated by Consensus Organizing Institute has applied for funding for two years to cooperatively fund activities promoting home ownership by low and moderate income families and to carry out other community development activities:

• Levi Strauss Foundation	\$150,000
• Bank of Fayetteville	315,000
• Resource pool	100,000
• Loans / recoverable grants	533,000
• Technical assistance	21,000
• Development Team	<u>101,720</u>
Total	\$687,720

II. DESCRIPTION OF ACTIVITIES

A. Housing Services

- **Residential Rehabilitation**

This allocation provides forgivable and partially repayable loans to low and moderate income persons for rehabilitation of owner-occupied housing.

The following services are offered:

- Comprehensive rehabilitation up \$20,000
- Emergency Repair up to \$5000
- Mobile Home emergency repair up to \$3500

The program provides labor, materials, project management, Lead Based Paint (LBP) Hazard Control, and other associated costs to bring a home into compliance with City Housing Codes. Emphasis is placed on repairs that improve energy efficiency, those that alleviate deferred maintenance conditions, safety devices, and replacement of principal fixtures and components. \$122,977 is allocated and includes salary and program delivery costs for management and oversight of all housing programs and activities.

Location: Citywide, applicants are prioritized according to established criteria to give preference on the waiting list to those most in need of services. Priority criteria include; Very Low Income, Elderly, Disabled, Single parented household, Located in Target Area, Length of time on waiting list.

- **Pathways to Independence -SOURCES, Inc.**

This is a cooperative program with the non-profit agency, SOURCES for Community Independent Living, Inc. This activity will provide low cost, \$2500 or less, accessibility repairs to homes occupied by disabled/elderly persons. 10 homes will be improved. The improvements will be accomplished without regard to tenancy status (owner or renter). Additionally, SOURCES will compile a resource guide to accessible housing in NWA. \$32,095 CDBG is allocated.

- **Life Styles, Inc.**

\$11,077 is allocated to Life Styles, Inc. for installation of an alarm system, and renovations to two bathrooms in the facility for persons with developmental disabilities. The alarm system will provide "in case of emergency" security to residents of the Life Styles Residential Transitional Program.

- **South Fayetteville Community Development Corporation (SFCDC)**
\$80,000 in CDBG funds will match \$220,000 of cash and in-kind from other sources to develop, market, and sell 4 affordable ownership housing units. The CDBG funds will be used to subsidize the unit development cost for the SFCDC in order to preserve affordability to the buyer. Recaptured funds from the sales will finance future projects, thus extending the capacity of CDBG dollars to impact affordable home ownership in the city.

This project will also promote capacity building of the newly formed, resident-based, non-profit organization. Under controlled conditions, and with technical assistance from community resource holders, SFCDC will gain expertise in housing development. The successful completion of this process will set precedents for future public/private/business cooperative endeavors.

B. Public Services

- **Southeast Fayetteville - Yvonne Richardson Community Center**
A portion of staff and program costs, \$43,538, for the Center. This activity matches CDBG funds with city General Revenues for salaries and maintenance of the facility.

Location: 240 E. Rock
- **Fayetteville Elderly Taxi Program**
This program provides an alternative transportation choice for elderly residents of Fayetteville through subsidized cab fare. \$24,000 CDBG funds are combined with \$4,000 Title III funds awarded to the City by the Area Agency on Aging of Northwest Arkansas.

Location: Citywide
- **Fayetteville Free Trolley**
This allocation will subsidize operation costs of the Fayetteville Free Trolley based on a percentage of riders originating from the Hillcrest Towers public housing apartments. The City has also begun operation of a second Trolley route to the South which encompasses the designated Target Area. \$9,000 is allocated.

Location: Downtown central and South Fayetteville. Target Area.
- **Fayetteville Boys and Girls Club**
This is a new program in 2001 which will provide a positive, structured, after-school environment for 1st - 5th grade students attending Jefferson Elementary school in the designated CD Target Area. The program will provide sports and recreational activities, as well as programs designed to promote self-esteem, healthy lifestyles, good decision-making, and appreciation of cultural diversity. Homework support and tutoring resources

will be developed. This project will match \$16,640 of CDBG funds with \$35,000 from the Bureau of Justice Affairs and \$12,115 in cash and in-kind from the Boys and Girls Club.

C. Public Facilities - Community Needs

- **Project for Victims of Family Violence**

\$87,500 additional funding for women's shelter facilities construction.

Location: Suppressed

- **Sage House**

\$87,500 for construction costs. Transitional housing facility for abused spouses leaving shelters. 15 affordable units, up to 2 years residency.

Location: Suppressed

- **Quality Life Associates - Traumatic Brain Injury Retraining Facility**

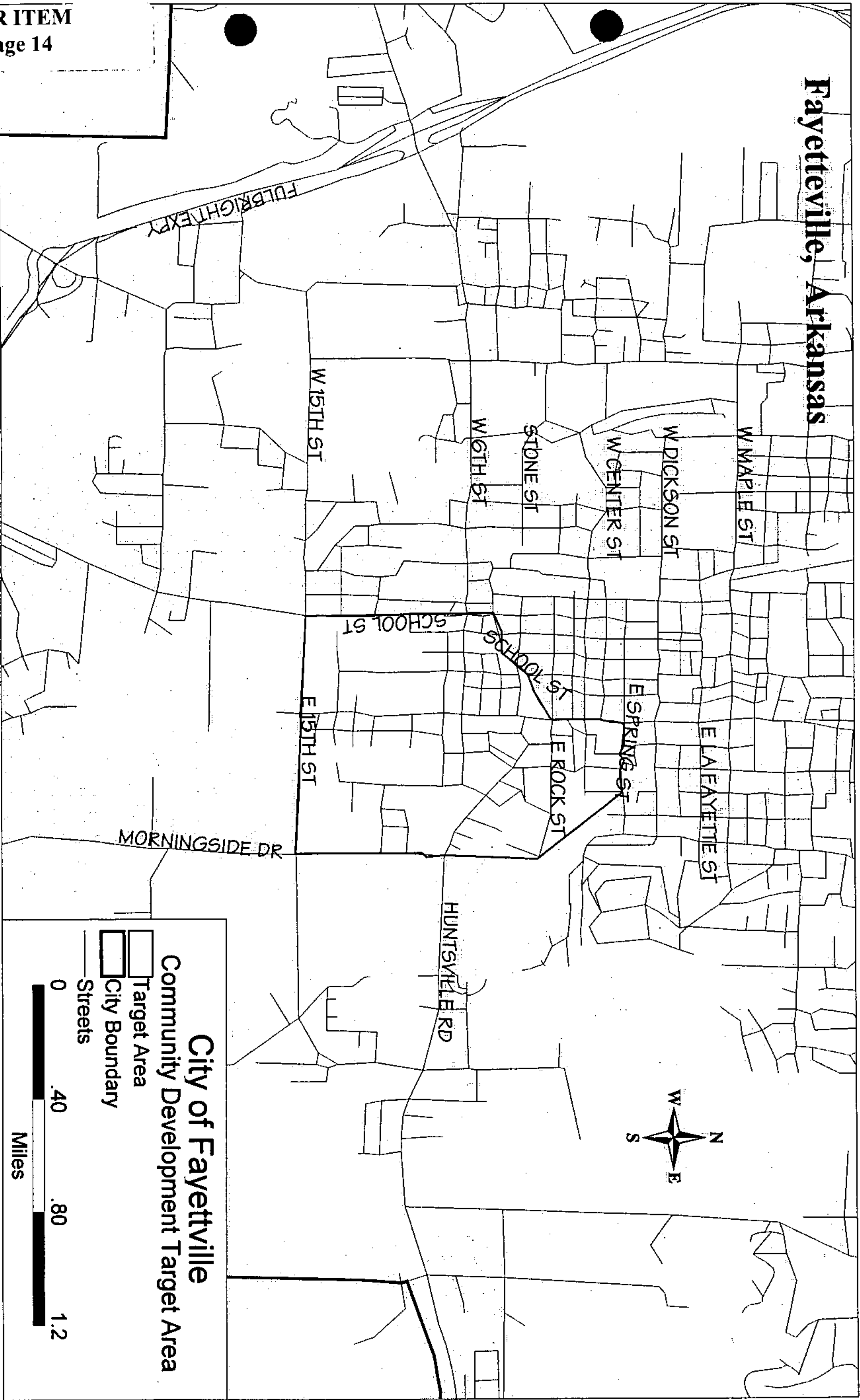
\$100,000 is allocated for facility pre-development costs. The allocation is conditional based on receipt of other grants for construction that are currently under submission. Total facility construction cost is \$1.5 million. QLA has acquired land to site the project.

Location: 6.4 acres in central/northwestern Fayetteville

D. Administration and Indirect Costs

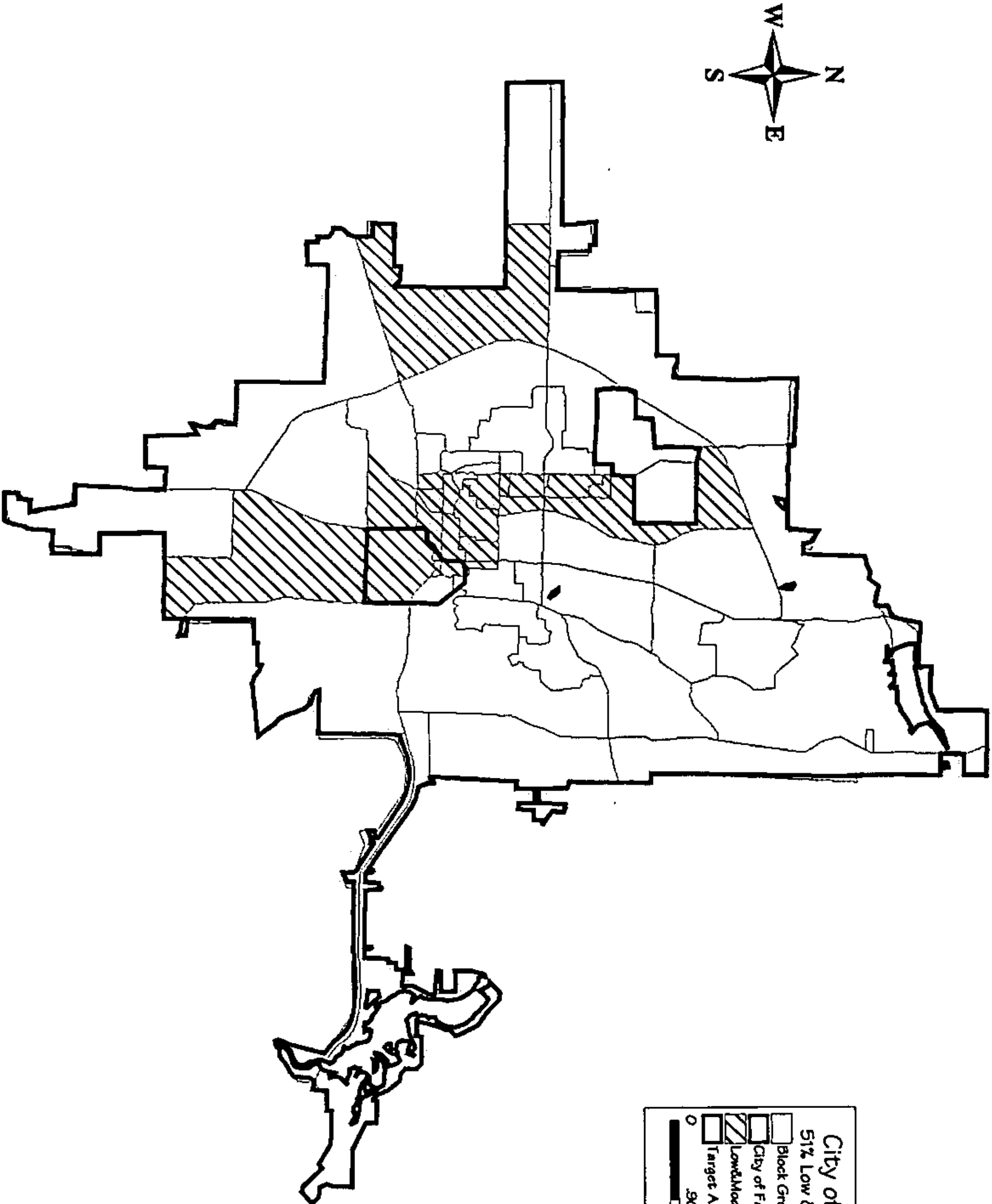
Administration funds are used for the salary and benefits of the Community Development Coordinator, office supplies, travel and training costs, Fair Housing activities, studies, and other costs associated with administration of community development activities. Indirect costs are those charged by the City for office space, maintenance, postage and services provided by other City divisions. \$114,994 is allocated.

Location: City Administration Building, 113 West Mountain Street

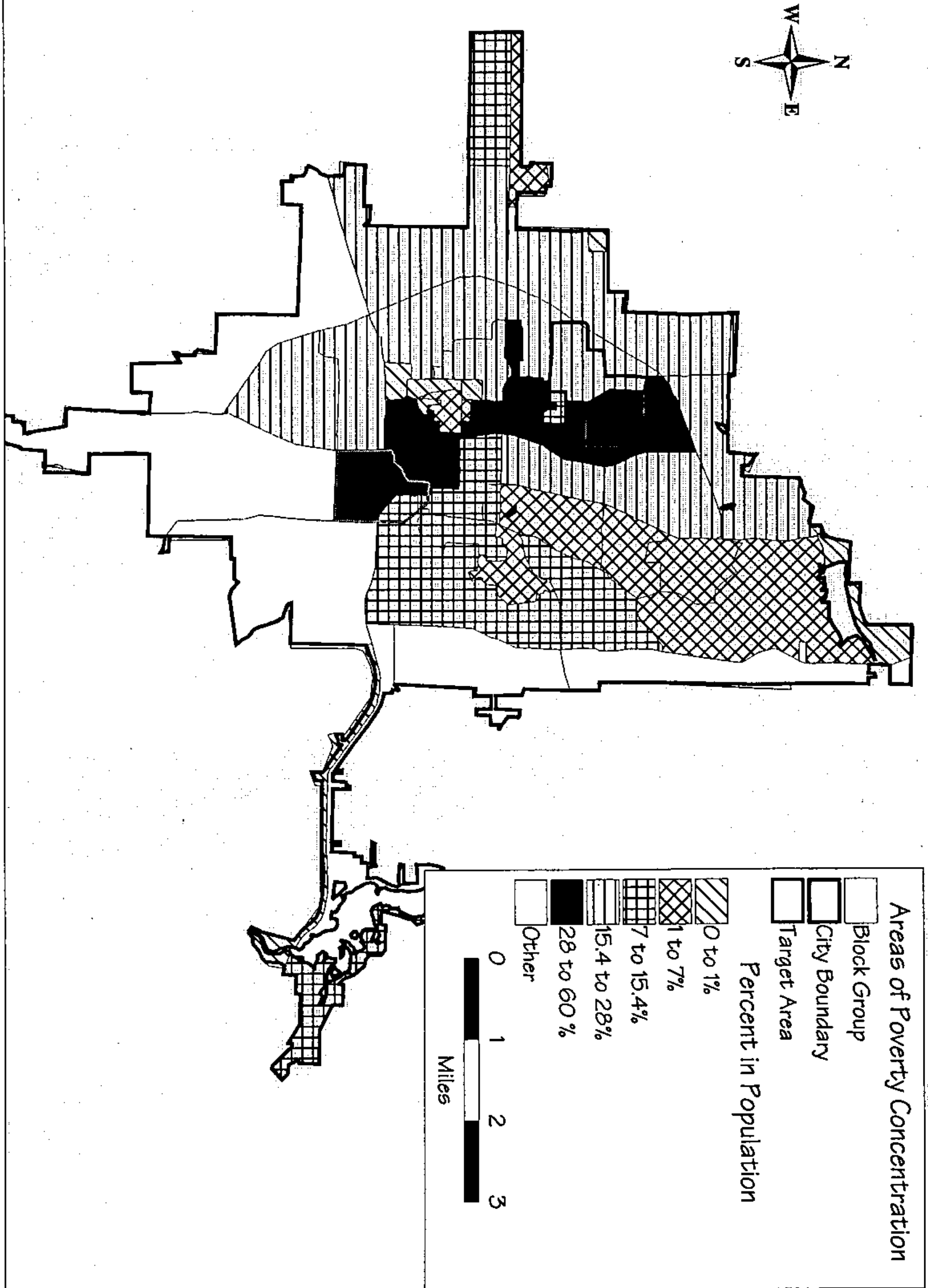


City of Fayetteville

Areas of Low and Moderate Income

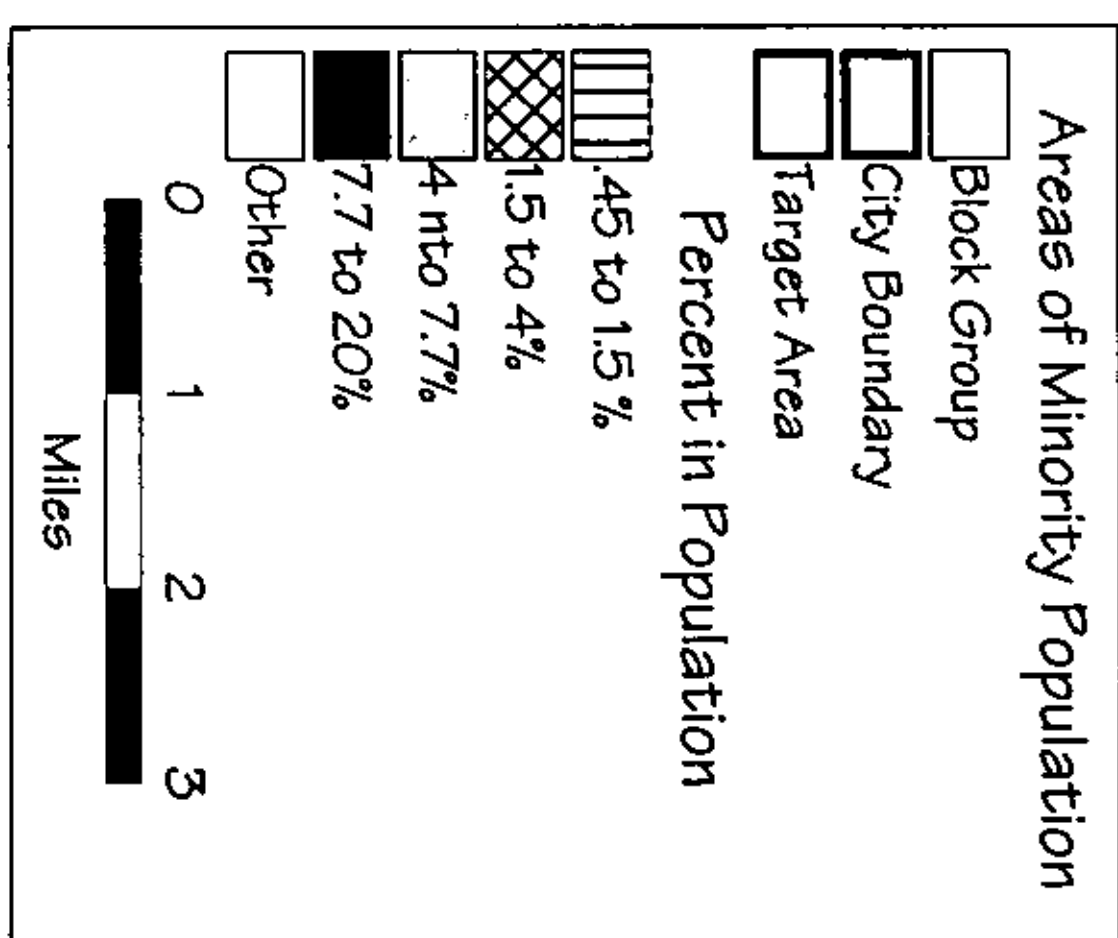
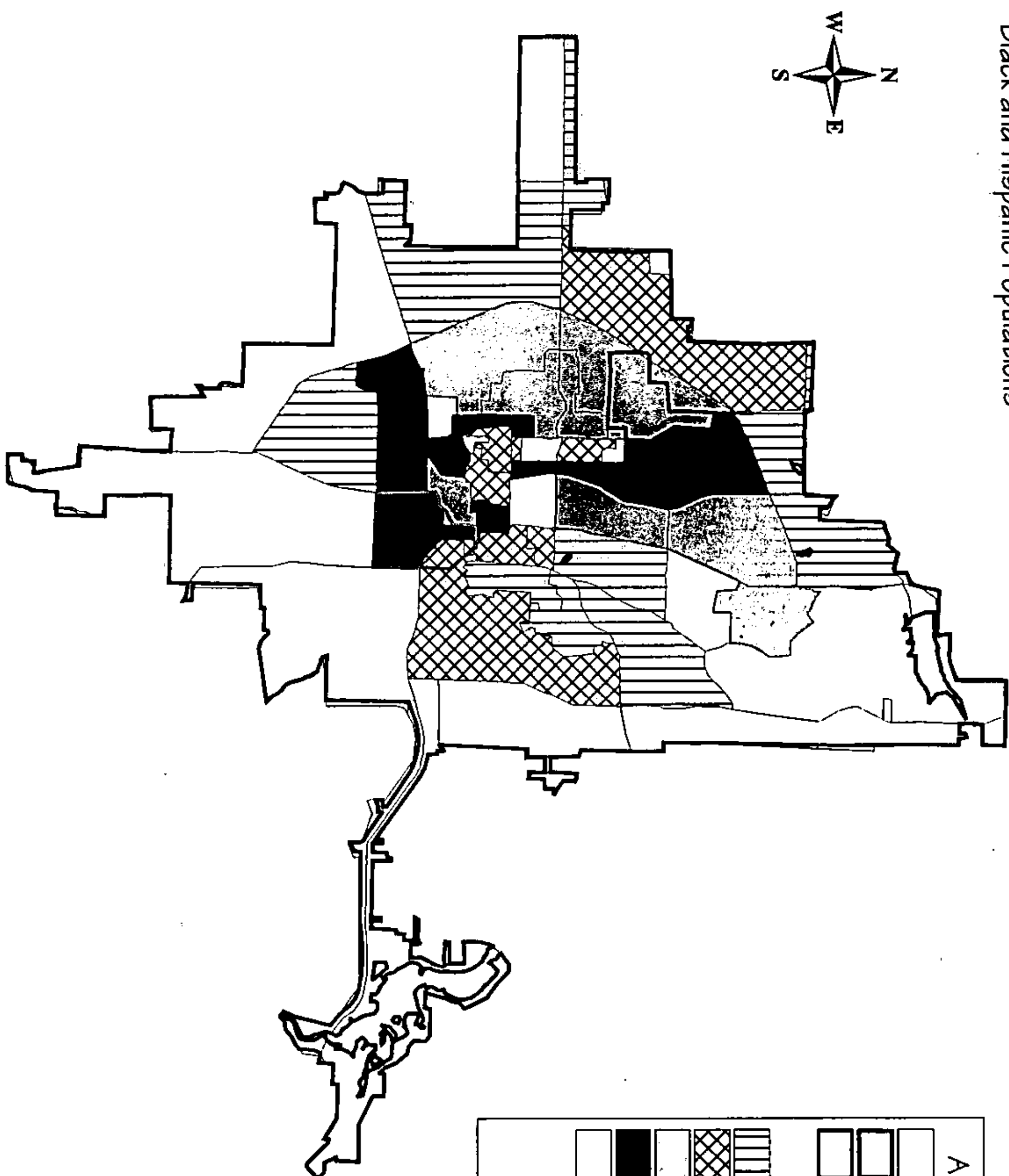


Fayetteville Arkansas, Areas of Poverty Concentration by Block Group



Fayetteville Arkansas, Areas of Minority Concentration by Block Group

Black and Hispanic Populations



Funding Sources

Entitlement Grant (includes reallocated funds)

CDBG	\$635,000
ESG	\$0
HOME	\$0
HOPWA	\$0

Total	\$635,000
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Prior Years' Program Income NOT previously programmed or reported

CDBG	\$0
ESG	\$0
HOME	\$0
HOPWA	\$0

Total	\$0
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Reprogrammed Prior Years' Funds

CDBG	\$87,016
ESG	\$0
HOME	\$0
HOPWA	\$0

Total	\$87,016
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Total Estimated Program Income

Program Income	\$10,000
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Total	\$10,000
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Section 108 Loan Guarantee Fund

\$0

TOTAL FUNDING SOURCES

\$732,016

Other Funds

Area Agency on Aging	\$4,000
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Total	\$4,000
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Submitted Proposed Projects Totals

\$731,821

Un-Submitted Proposed Projects Totals

\$0

U.S. Department of Housing & Urban Development

CPD Consolidated Plan

Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0001	Administration	21A General Program Administration	CDBG \$ 114,994 ESG \$ 0 HOME \$ 0 HOPWA \$ 0 ASSISTED HOUSING \$ 0 PHA \$ 0 TOTAL \$ 114,994
0001	Planning and Administration	570.206	
	General management and oversite of CDBG Program and indirect costs.	1 People (General)	
	Salary and indirect costs, Fair Housing activities, studies, travel & training. Indirect costs are those charged to the division for office space, maintenance, postage, and services provided by other city divisions.		
			Total Prior Funding \$ 0
	Help the Homeless?	No	Start Date: 01/01/01
	Help those with HIV or AIDS?	No	Completion Date: 12/31/01
	Eligibility:	570.208(a)(1) - Low / Mod Area	
	Subrecipient:	Local Government	
	Location(s):	N/A	

U.S. Department of Housing & Urban Development

CPD Consolidated Plan

Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0002	Housing Services	14H Rehabilitation Administration	CDBG \$ 159,972 ESG \$ 0 HOME \$ 0 HOPWA \$ 0 ASSISTED HOUSING \$ 0 PHA \$ 0 TOTAL \$ 159,972
0002	Housing	570.202	
	Address current housing conditions for low and moderate income residents by carrying out the listed in-house activities, as well as enlisting new avenues of cooperation and innovation by partnering with local non-profit housing providers.	20 Households (General)	
	Residential Housing Rehabilitation, Emergency Repair, Mobile Home Repair. Includes salary for Housing Specialist. \$122,997. Lead Based Paint Hazard Control \$25,000. Pathways to Independence - low cost accessibility improvements for persons with disabilities. \$38,647. Life Styles, Inc. - alarm system and bathroom repairs at residential living facility for persons w/developmental disabilities. \$11,077. SFCD-C-4 affordable home ownership units in the Target Area. \$80,000.		

Prior Funding
CDBG \$ 86,177
Total Prior Funding \$ 86,177

Help the Homeless? No Start Date: 01/01/01
Help those with HIV or AIDS? No Completion Date: 12/31/01

Eligibility: 570.208(a)(1) - Low / Mod Area
Subrecipient: Local Government
Location(s): Community Wide

**U.S. Department of Housing & Urban Development
CPD Consolidated Plan
Listing of Proposed Projects**

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
0003	Public Services	05 Public Services (General)	CDBG \$ 95,678 ESG \$ 0 HOME \$ 0 HOPWA \$ 0 ASSISTED HOUSING \$ 0 PHA \$ 0 TOTAL \$ 95,678
003	Public Services	570.201(e) 400 People (General)	
	Expand opportunities for provision of public services for low/mod income persons and neighborhoods in these areas: education, employment training, recreation, child care, transportation. In partnership with outside service provider agencies, CDBG seed dollars will leverage public and private resources in pursuit of priority goals.		
	Elderly transportation / Taxi Voucher program \$24,000. Staff costs for the Yvonne Richardson Community Center \$43,888. Fayetteville Free Trolley - subsidize operation cost \$9,000. Annual Neighborhood Clean-up \$2500. Boys & Girls Club after school programs Jefferson Elementary School \$16,640.		
	Help the Homeless?	No	Start Date: 01/01/01
	Help those with HIV or AIDS?	No	Completion Date: 12/31/01
	Eligibility:	570.208(a)(2) - Low / Mod Limited Clientele	
	Subrecipient:	Local Government	
	Location(s):	Addresses	
	Community Wide		
	Target Area		
	240 E Rock, Fayetteville, AR 72701		
	612 South College Ave, Fayetteville, AR 72701		

CDBG \$ 95,678
ESG \$ 0
HOME \$ 0
HOPWA \$ 0
ASSISTED HOUSING \$ 0
PHA \$ 0
TOTAL \$ 95,678
Total Prior Funding \$ 0

U.S. Department of Housing & Urban Development

CPD Consolidated Plan

Listing of Proposed Projects

Project ID/ Local ID	Project Title/Priority/ Objective/Description	HUD Matrix Code/Title/ Citation/Accomplishments	Funding Sources
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0004	Public Facilities and Improvements	03 Public Facilities and Improvements (General)	CDBG \$ 275,000 ESG \$ 0 HOME \$ 0 HOPWA \$ 0
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0004	Public Facilities	570.201(c) 3 Public Facilities	ASSISTED HOUSING \$ 0 PHA \$ 0 TOTAL \$ 275,000 Total Prior Funding \$ 0
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In cooperation with specialized private non-profit agencies serving specific special needs populations, address the priority need for transitional housing facilities in Fayetteville. The facilities will serve those low income, special needs populations, particularly those at risk for homelessness, in the following categories: Spouses and children leaving abusive home environments; abused children; homeless persons; and persons reintegrating from medical or mental health facilities. The facilities will provide supportive housing in conjunction with life skills / employment development programs designed to promote and increase independent living for special needs clients.

Additional funding - Women's shelter construction \$87,500. Additional funding - Sage House \$87,500. Quality Life Associates, Traumatic Brain Injury Retraining Facility \$100,000.

Help the Homeless?	No	Start Date: 01/01/01
Help those with HIV or AIDS?	No	Completion Date: 12/31/01

Eligibility: 570.208(a)(2) - Low / Mod Limited Clientele
Subrecipient: Local Government
Location(s): Addresses

Suppressed
2623 N Gregg St, Fayetteville, AR 72701
Suppressed

CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing -- The jurisdiction will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential antidisplacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Drug Free Workplace -- It will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about -
 - (a) The dangers of drug abuse in the workplace;
 - (b) The grantee's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will -
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the

workplace no later than five calendar days after such conviction;

5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

Anti-Lobbying -- To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents

for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Authority of Jurisdiction -- The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan -- The housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 -- It will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.

Signature/Authorized Official

Date

Title

*

Specific CDBG Certifications

The Entitlement Community certifies that:

Citizen Participation -- It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.

Community Development Plan -- Its consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that provide decent housing, expand economic opportunities primarily for persons of low and moderate income. (See CFR 24 570.2 and CFR 24 part 570)

Following a Plan -- It is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

Use of Funds -- It has complied with the following criteria:

1. Maximum Feasible Priority. With respect to activities expected to be assisted with CDBG funds, it certifies that it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available);
2. Overall Benefit. The aggregate use of CDBG funds including section 108 guaranteed loans during program year(s) 2001, (a period specified by the grantee consisting of one, two, or three specific consecutive program years), shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period;
3. Special Assessments. It will not attempt to recover any capital costs of public improvements assisted with CDBG funds including Section 108 loan guaranteed funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements.

However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

against the property with respect to the public improvements financed by a source other than CDBG funds.

The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108, unless CDBG funds are used to pay the proportion of fee or assessment attributable to the capital costs of public improvements financed from other revenue sources. In this case, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. Also, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

Excessive Force -- It has adopted and is enforcing:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;

Compliance With Anti-discrimination laws -- The grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 USC 2000d), the Fair Housing Act (42 USC 3601-3619), and implementing regulations.

Lead-Based Paint -- Its notification, inspection, testing and abatement procedures concerning lead-based paint will comply with the requirements of 24 CFR §570.608;

Compliance with Laws -- It will comply with applicable laws.

Signature/Authorized Official

Date

Title

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS:

A. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification.
2. The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).

5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)
City Administration Building, 113 West Mountain Street, Fayetteville,
Arkansas, 72701

Check X if there are workplaces on file that are not identified here.

The certification with regard to the drug-free workplace is required by 24 CFR part 24, subpart F.

7. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This

definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).



FINAL AGENDA CITY COUNCIL NOVEMBER 21, 2000

A meeting of the Fayetteville City Council will be held on November 21, 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 October 24, 2000 Special City Council meeting and the November 7, 2000 City Council Meeting.
2. **PROPERTY TRANSFER:** A resolution approving a transfer of property located at 19 E. Fourth from the City of Fayetteville to South Fayetteville Community Development Corp.

B. OLD BUSINESS

1. **RZ 00-22:** An ordinance approving rezoning request RZ-22, submitted by James Key on Behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential. This ordinance was left on the second reading at the November 7, 2000 meeting.
2. **GARVER ENGINEERS:** A resolution approving an engineering agreement with Garver Engineers for the design of a multi-level parking deck to be constructed on the existing parking lot behind the Cambell-Bell Building. This resolution was tabled at the November 7, 2000 meeting.

C. NEW BUSINESS

1. **TELECOMMUNICATIONS ORDINANCE:**
An ordinance approving a Telecommunications ordinance.
2. **PLANNING COMMISSION APPEAL:**
An appeal of a planning commission decision as requested by Dennis Caudle for RZ 00-25 for property located at 1192 N. Ruppel Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.
3. **RZ 00-24.00:** As submitted by Jerry Martin for property located at 1209 Baily Street. The property is zoned A-1, Agricultural and contains approximately 2.30 acres. The request is to rezone to R-1, Low Density Residential.
4. **OZARK MOUNTAIN OUTFITTERS:** A resolution approving a certificate of public convenience for a horse carriage as requested by Ray Dobson.
5. **NWA REGIONAL PLANNING COMMISSION:** A resolution approving an amendment to the agreement with Norwest Arkansas Regional Planning Commission.

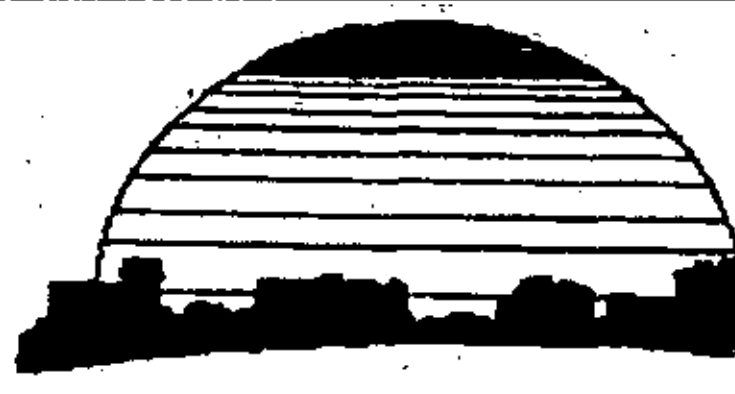
D. INFORMATIONAL ITEM:

1. Informational item to the City Council in accordance with administrative policy.

Northwest Arkansas

Arkansas Democrat & Gazette

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FINAL AGENDA CITY COUNCIL NOVEMBER 21, 2000

A meeting of the Fayetteville City Council will be held on November 21, 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 October 24, 2000 Special City Council meeting and the November 7, 2000 City Council Meeting.
2. **PROPERTY TRANSFER:** A resolution approving a transfer of property located at 19 E. Fourth from the City of Fayetteville to South Fayetteville Community Development Corp.

B. OLD BUSINESS

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4. **OZARK MOUNTAIN OUTFITTERS:** A resolution approving a certificate of public convenience for a horse carriage as requested by Ray Dobson.

5. **NWA REGIONAL PLANNING COMMISSION:** A resolution approving an amendment to the agreement with Northwest Arkansas Regional Planning Commission.

D. INFORMATIONAL ITEM:

1. Informational item to the City Council in accordance with administrative policy.