

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL NOVEMBER 19, 2002

A meeting of the Fayetteville City Council will be held on November 19, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES** *10/15/02*
2. **ELEVATOR:** Resolution awarding Bid 02-66 in the amount of \$26,246 to ThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.
3. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.
4. **CROSSLAND CONSTRUCTION:** A resolution approving Change Order #5 to the contract with Crossland Construction Company, Inc. in the amount of \$402,895.84. to purchase and install exterior cladding for the New Fayetteville Public Library.

B. OLD BUSINESS

1. **MARTIN LUTHER KING, JR. STREET:** A resolution to designate 6th Street as honorary Martin Luther King, Jr. Boulevard. The resolution was tabled at the November 5, 2002 meeting.
2. **CRYSTAL SPRINGS:** A resolution to amend Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road. The resolution was tabled at the November 5, 2002 meeting.
3. **PLANNED ZONING DISTRICT:** An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.

4. **REPLACEMENT FUND:** An ordinance repealing Ordinance No. 1085 and establishing a replacement and disaster recovery fund. The ordinance was left on the 1st reading at the November 5, 2002 meetings.

C. NEW BUSINESS

1. **VA 02-12.00 and 02-13.00:** An ordinance approving vacation request VA 02-12.00 and 02-13.00 as submitted by Greg House for property located at southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement.
2. **RZN 02-34.00:** An ordinance approving rezoning request RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.8 acres. The request is to rezone to R-1, Low Density Residential.
3. **RZN 02-35.00:** An ordinance approving rezoning request RZN 02-35.00 as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone the property to RS, Residential Small Lot.
4. **RZN 02-37.00:** An ordinance approving rezoning request RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.
5. **RZN 02-38.00:** An ordinance approving RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.
6. **LED TRAFFIC SIGNAL BID WAIVER:** An ordinance waiving the requirements of formal competitive bidding for the purchase of LED traffic signal lenses from Temple, Inc. and declaring an emergency.
7. **LED TRAFFIC SIGNAL LENSES:** A resolution approving the purchase of LED traffic signal lenses from Temple, Inc. in the amount of \$58,003.87 and approving a budget adjustment in the amount of \$58,004.00 for same.

8. **IMPACT FEES:** An ordinance enacting impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within the service areas located within Washington County and other incorporated cities.
9. **OLD MISSOURI ROAD:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by JTK Trust, James T. Keenan and James F. Keenan, trustees, to secure the necessary easements and rights-of-way for Old Missouri Road improvements.
10. **YOUTH ADVOCACY COMMITTEE:** An ordinance reorganizing the Youth Advocacy Board.
11. **TOWNSHIP BUILDERS:** A resolution approving Change Order no. 4 to the construction contract with Township Builders for Dickson Street Enhancement Project, in the amount of \$195,300, additional funds for the in-house construction management in the amount of \$74,700; and the related budget adjustment in the amount of \$270,000.
12. **CITY CLERK:** An ordinance repealing and replacing Section 31.30 (E) of the Code of Fayetteville regarding the salary for the City Clerk.
13. **CITY ATTORNEY:** An ordinance repealing and replacing Section 31.45 (G) (1) regarding the salary for the City Attorney.
14. **ELECTION PROCEDURE:** An ordinance repealing Section 32.01, Election Procedure, of the Code of Fayetteville and enacting a new Section 32.01 to provide for the election at large of all Position 1 Aldermen and the election by Closed Ward for all Position 2 Aldermen.

Meeting of November 19, 2002

	2011		Consent BDDM		
Bechard	absent				
Davis	✓		✓		
Santos	✓		✓		
Jordan	✓		✓		
Reynolds	✓		✓		
Thiel	✓		✓		
Young	✓		✓		
Marr	✓		✓		
Coody	✓				

MLK B Street	BT amend P2 on 12/1/02 MLK BDD	(S) to pass LA-12/1/02			
Bechard					
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Thiel	✓	✓			
Young	✓	✓			
Marr	✓	✓			
Coody					

Meeting of November 19, 2002

2/13/03 4:00 PM

BD B7

22

to approve

around Res 153-02. (right-of-way)

entire w/having to

sect. 10

entire area for

sect.

	<i>BD B7</i>	<i>22</i>	<i>BD</i>	<i>B7</i>	<i>22</i>		
Bechard							
Davis	✓		✓	✓			
Santos	✓		✓	✓			
Jordan	✓		✓	✓			
Reynolds	✓		✓	✓			
Thiel	✓		✓	✓			
Young	✓		✓	✓			
Marr	✓		✓	✓			
Coody							

PLANNED ZONING DISTRICT

DM 2ND

DM 320

2002

	<i>DM 2ND</i>	<i>DM 320</i>	<i>2002</i>		
Bechard					
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Marr	✓	✓	✓		
Coody					

Meeting of November 19, 2002

Bechard	BD J ZND	BD amend add Sect 4 KS.	DM 340 KS.	P. 95/2	*
Davis	✓	✓	✓	✓	
Santos	✓	✓	✓	✓	
Jordan	✓	✓	✓	✓	
Reynolds	✓	✓	✓	✓	
Thiel	✓	✓	✓	✓	
Young	✓	✓	✓	✓	
Marr	✓	✓	✓	✓	
Coody					

VA 2-12:00 T 2-13:00	BD ZND DM	CU add Sect 3i DM.	DM		
Bechard					
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Thiel	✓	✓			
Young	✓	✓			
Marr	✓	✓			
Coody					

left on GND as amended.

Meeting of November 19, 2002

RR 02-34-00

Bechard					
Davis					
Santos	<i>[Handwritten signature]</i>				
Jordan					
Reynolds					
Thiel					
Young					
Marr					
Coody					

RR 02-35-00 *2ND* ~~BT~~ DM *RR 3RD* BD *RR 3*

Bechard				*	*	*
Davis	✓	✓	✓			
Santos	✓	✓	✓			
Jordan	✓	✓	✓			
Reynolds	✓	✓	✓			
Thiel	✓	✓	✓			
Young	✓	✓	✓			
Marr	✓	✓	✓			
Coody			✓			

Meeting of November 19, 2002

2210 02-37.00					
Bechard					
Davis					
Santos					
Jordan					
Reynolds					
Thiel					
Young					
Marr					
Coody					

2210 2-37.00					
Bechard					
Davis					
Santos					
Jordan					
Reynolds					
Thiel					
Young					
Marr					
Coody					

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LED <i>Wainwright</i>	<i>KS 2nd DM</i>	<i>BD 2nd R2</i>	<i>2nd</i>	<i>emergency c/ld</i>	<i>BD CS</i>
Bechard					
Davis	✓	✓	✓	✓	
Santos	✓	✓	✓	✓	
Jordan	✓	✓	✓	✓	
Reynolds	✓	✓	✓	✓	
Thiel	✓	✓	✓	✓	
Young	✓	✓	✓	✓	
Marr	✓	✓	✓	✓	
Coody					

LED <i>Lonsdale purchase</i>	<i>DM</i>				
Bechard					
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Thiel	✓				
Young	✓				
Marr	✓				
Coody					

Meeting of November 19, 2002

Impact fees					
Bechard					
Davis					
Santos					
Jordan					
Reynolds					
Thiel					
Young					
Marr					
Coody					

CLD Missouri 22	CLD Missouri 22				
Bechard					
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Thiel	✓				
Young	✓				
Marr	Abstain.				
Coody					

Meeting of November 19, 2002

4/20/02 adv. committee	KS 2nd pm.	RF 3rd BT	PASS		
Beehard	_____	_____	_____		
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Marr	✓	✓	✓		
Coody					

Township Builders.	BD to pm approve 10/20/02				
Beehard					
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	A				
Thiel	✓				
Young	✓				
Marr	✓				
Coody	✓				

PASS

Meeting of November 19, 2002

CITY CLERK ^{2ND}	BD BT	BD ^{3RD} PM	PREST		
Beehard					
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Marr	✓	✓	✓		
Coody					

CITY A Hoewer ^{2ND}	BD BT	BT ^{3RD} LG	PREST		
Beehard					
Davis	✓	✓	✓	*	
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Marr	✓	✓	✓		
Coody					

Meeting of November 19, 2002

Bechard	BT Dm.	cul Dm.	Pass		
Davis	✓	✓	✓		
Santos	✓ BT	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Thiel	✓	✓	✓		
Young	✓	✓	✓		
Marr	✓	✓	✓		
Coody					

Bechard					
Davis					
Santos					
Jordan					
Reynolds					
Thiel					
Young					
Marr					
Coody					

meeting adjourned. 1:15

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4. CROSSLAND CONSTRUCTION: A resolution approving Change Order #5 to the contract with Crossland Construction Company, Inc. in the amount of \$402,895.84. to purchase and install exterior cladding for the New Fayetteville Public Library.

B. OLD BUSINESS

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2. CRYSTAL SPRINGS: A resolution to amend Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road The resolution was tabled at the November 5, 2002 meeting. AS AMENDED.

3. PLANNED ZONING DISTRICT: An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.

- 4435
PASS
4. ✓✓✓ **REPLACEMENT FUND:** An ordinance repealing Ordinance No. 1085 and establishing a replacement and disaster recovery fund. The ordinance was left on the 1st reading at the November 5, 2002 meetings.

8:50 C. **NEW BUSINESS**

- left on 2nd as amended.
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- 4436
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- left on 1st
5. ✓✓ **RZN 02-38.00:** An ordinance approving RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

- 4437
PASS
6. ✓✓✓ **LED TRAFFIC SIGNAL BID WAIVER:** An ordinance, waiving the requirements of formal competitive bidding for the purchase of LED traffic signal lenses from Temple, Inc. and declaring an emergency.

- 180-02
PASS
7. **LED TRAFFIC SIGNAL LENSES:** A resolution approving the purchase of LED traffic signal lenses from Temple, Inc. in the amount of \$58,003.87 and approving a budget adjustment in the amount of \$58,004.00 for same.

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FAILED

Meeting adjourned.

1:15 AM.

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
OCTOBER 15, 2002**

A meeting of the Fayetteville City Council was held on October 15, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Young, Marr, Bechard, Davis, Santos, Jordan, Reynolds, and Thiel, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

CONSENT

APPROVAL OF THE MINUTES

MOBLEY CONSTRUCTION: A resolution awarding a construction contract in the amount of \$148,180.00 to Mobley Contractors for the "City-wide Sidewalk Construction" project.

RESOLUTION 154-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CLEVELAND STREET IMPROVEMENTS: A resolution approving a construction contract in the amount of \$1,090,270.00 with Township Builders for Cleveland Street Improvement Project (Hall to Leverett); a 10% project contingency in the amount of \$109,027.00; and the related budget adjustment.

RESOLUTION 155-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CLEVELAND STREET: A resolution approving Amendment #3 to the engineering contract with Crafton, Tull and Associates, Inc. for Cleveland Street Improvements Project (Hall to Leverett) in the amount of \$71,301.69.

RESOLUTION 156-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RIGHT-OF-WAY PURCHASE: A resolution approving a right-of-way purchase from the Arkansas and Missouri Rail Road Company for right-of-way on the west side of Gregg Avenue from Poplar Street to approximately Spruce Street and the approval of a budget adjustment.

RESOLUTION 157-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD MISSOURI ROAD: A resolution approving an engineering contract amendment number two with Garver Engineers in the amount of \$13,698 to the existing engineering

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services contract for design and construction management for the Old Missouri Road project.

RESOLUTION 158-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SKYLAR PLACE ADDITION: A resolution to accept money in lieu as park land requirement of the Skylar Place Addition.

RESOLUTION 159-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CORNERSTONE APARTMENTS: A resolution to accept money in lieu as the park land requirement of the Cornerstone Apartments Phase II.

RESOLUTION 160-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LOPFI BENEFITS: A resolution authorizing the transfer of the sworn officers of the Fayetteville Fire Department for LOPFI Benefit Plan #1 to LOPFI Benefit Plan #2, effective January 1, 2003.

RESOLUTION 161-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FBO HANGAR: A resolution approving a construction contract in the amount of \$634,000.00 with Crossland Construction, Inc. for construction of FBO Hangar; a 10 % contingency; acceptance of a grant from the Arkansas Aeronautics Commission in the amount of \$200,000.00 and approval of a budget adjustment.

RESOLUTION 162-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOUTH HANGAR APRON: A resolution approving a construction contract in the amount \$616,207.70 with Tomlinson Asphalt, Inc. for construction of Aircraft Hangar Apron Complex; a 10% contingency and approval of a budget adjustment.

RESOLUTION 163-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Jordan moved to approve the consent agenda. Alderman Marr seconded. The motion carried unanimously.

OLD BUSINESS

RZN 02-23.00: An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Kelson of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential. The ordinance was tabled on the first reading at the September 17, 2002 meeting. Left on table at the October 1, 2002 meeting.

Alderman Davis moved to take the item off the table. Alderman Reynolds seconded. The motion carried unanimously.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Young seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Kim Fugitt, Lindsey Management Company, stated the property was east of 540 and north of Old Farmington Road. They were asking for some of the property to be rezoned to Multi-family residential. The rest of the property they want to have remain as commercial. The property had been zoned prior to the service road being changed to a one lane road. This change has had a negative affect on the property becoming commercial. Common planning practices would have a transition zone from commercial areas to residential areas. In this area they had no transition or buffer between the C-1 and the R-1 zone. When this proposal was brought forward they had staff approval as well as an unanimous approval by the Planning Commission. They were wanting to leave six and a half acres commercial in the hopes that the apartments would lend itself to developing it over time. There are still a lot of opportunities for commercial development along Sixth Street.

Alderman Reynolds stated this property had been purchased by National Home Center. They had done a traffic study and could not warrant putting in a home center there with only one-way traffic. He thought that until they got more citizens out there to support more business they were going to have problems in that area. He thought that the area needed more pedestrians and traffic to support better commercial property.

Alderman Thiel stated they were starting to see a major overhaul at the old IGA shopping center and a new Hampton Inn. Development was starting west of the new Walmart. She felt the area was just now starting to become revitalized

ORDINANCE 4424 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

In response to questions, Mr. Conklin stated the 2020 Plan had a policy on Commercial Nodes and did not encourage strip commercial type zoning or arterial corridors. They have created commercial nodes. They have created commercial nodes around the interchanges at I-540. He was surprised at how slow development has been with regard to development of this corridor and north at Wedington Drive. The hotels and restaurants were providing a regional type commercial use for people traveling in and out of Fayetteville. He was not sure that the commercial zoning in this area needed to be preserved. The commercial areas were already going other places in Fayetteville, based on the three existing shopping centers that were having a very difficult time surviving over the last five to eight years.

Alderman Marr stated at first he was not in support of this because he did not want to encourage growth and create a college on Hwy 62, but he did think that it was important

to have mixed use and to bring residential and commercial together to encourage further development. He thought the city needed to be very careful about rezoning very valuable commercial land in their city that could add to their tax base when they really only have three major exchanges off I-540.

Alderman Davis stated Hwy 62 and I-540 was a very large intersection and it was going to have more traffic. I see this area being rejuvenated. The life and blood of this city is sales tax revenue, it is not property tax. They should not look at this day, but they need to look out five, ten or fifteen years into the future. Other cities have one-way traffic next to expressways and it seems to work in those communities. They are looking at three hundred and twelve apartments at this location. Currently, this council has already approved approximately fifteen hundred apartment units this year. He is pro-business, but he is also looking out for what is best for the city. We have a new sewer going in on the west side of town. We could run into problems with the State of Oklahoma, they might not be able to go on line when they need to, which means that they could have problems with sewer hook ups in future. When people look for a city, to locate a business here they do not look at the number of rental units, they look at the number of R-1 residents, with an income base to determine if they want to come to Fayetteville. He did not want to use those sewer hook ups on apartments he would rather use them for residential development, R-1, single family. Those people would have good jobs and be here for years to come because they have an investment in the community. A tenant is only buying time.

Alderman Young asked Mr. Conklin when was it a good time to start diversifying and getting into mixed use.

Mr. Conklin stated this year they had seen a number of rezonings from Light Industrial/Heavy Commercial to residential. Based on that, there seemed to be a need for additional units. He has also been trying to regulate the number of people within single family homes within some neighborhoods and the pressure they faced as a city with the University trying to expand. His staff has been recommended the type of rezonings which would help provide housing close to the University. They did have an opportunity to provide more residential development on the east side of the bypass, he thought that when they had those opportunities and when they looked at the commercial that they had here, they had an opportunity to provide housing closer to the inner city and the university. He thought that this could be a good thing. He was aware of the issue in regard to the sales tax revenue. The City Council has played a big part in making sure that they had a regional commercial center to the north, CMN Business Park. This was a policy of their General Plan. They also had a policy to encourage regional commercial uses. He thought they could do both within Fayetteville. They were seeing a tremendous amount of pressure for residential and where to do appropriate infill development. He thought that this met their general goals and objectives and provides an opportunity to provide some housing on this side of the bypass.

Alderman Bechard stated, as a percentage of the residential area in the City of Fayetteville, we have a significantly high share of apartments in Fayetteville, almost

twice that of Bentonville and other areas. He is concerned about this. He did not think that wanted to base their foundation of their City in that type of balance. From a service point, from a police stand point, the type of residential that cost the most is apartments. They passed a rezoning along Persimmon a couple of weeks ago, and there are not any homes up yet. There will only be three to four homes nine months from now. The impact of that development to the city has not occurred yet. When they approve projects like a three hundred and twelve apartment complex, they would have three hundred sewer hook ups in nine months. The impact to their sewage system and the rest of their city would be a lot sooner, than if they had homes. They needed to look at the impact at least three years from now. The tax base is also a major concern. I-540 is a major artery. They should go out and find how to fill that space to improve their tax base. They may need to seek out the type of businesses that would improve their quality of life and improve their tax base.

Alderman Jordan stated he was concerned about the increased traffic in the area around the existing school. He thought that they had created these nodes for future tax base.

Alderman Santos stated he thought this was a good development. This was an example of the type of good mixed used developments that they need. The people who live there could walk or ride to school and to the University. When they set the commercial nodes, they did not know how big they needed to be. They just knew that this was a major intersection and that this was where commercial developments were going to be attracted by the road access. This area has been a failing commercial area for a long time. It was still failing and under used. If they were to put these units in they might be able to provide some customers for this area.

In response to questions, Mr. Beotcher stated they had a Capital Improvement Project planned which would align Sang and Hollywood. As soon as they completed the right-of-way acquisition they would be ready to bid the project.

Mr. Kim Fugitt stated every establishment they had mentioned was on Sixth Street or on a street that had two way streets. There had been absolutely no new development occurring north of Sixth Street, with the exception of one, but they were developing their own access off Sixth Street. He thought a commercial development would create as much of a traffic problem as a residential development.

Alderman Davis stated he could see this area being a designation type of development. They would love to have a stadium type theater here. He thought the city should go out and look for these types of people to fill this type of land. If they brought in the right type of business, he really thought it would work. Lindsey has apartments at every intersection. The Mayor had stated that he would like to see Fayetteville look like it does in Rogers where they could see a very attractive office complex or other things of that nature.

Ms. Marsha Beard, an area resident, stated she owned seventy-two units in town. To her all of Lindsey's units looked alike. The main comment that she would get from her

tenants was that her apartments did not all look the same. She was concerned about all of the sewer counts. If they were to use all of the hook ups on all of these big projects, what would happen to the people who wanted to build smaller units. She thought they needed to take that into account.

Alderman Santos moved to suspend the rule and go to the third and final reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody stated he was concerned that after they have driven through cities with apartment after apartment on their major thoroughfare, it makes it look like the community is more of a bedroom community than it is a business community. That was one thing he was concerned about how they appeared to the outside world when people drive through. At the same time the other argument was that if their Planning Staff thought this was good planning and the Planning Commission approved this 8-0, that carried strong weight. He would be very disappointed if they were to see their opportunity on 540, which could be a wonderful commercial area, developed with more and more apartments on it, he thought they would be permanently missing the boat.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 5-4, Bechard, Davis, Jordan, and Thiel voting nay, Mayor Coody voting Yea.

ORDINANCE 4424 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TRAFFIC STUDY

A resolution awarding the engineering and planning services contract for the City of Fayetteville's traffic study to the firm of Bucher, Willis, and Ratliff Corporation in the not-to-exceed amount of \$198,408; approval of an engineering contract contingency in the amount of \$20,000 and approval of a budget adjustment. The resolution was tabled at the September 17, 2002 meeting.

Alderman Santos moved to take the item off the table. Alderman Marr seconded. The motion carried unanimously.

Alderman Davis stated he thought they would be looking at mass transit all along. He thought they may be paying for things that they had already included in the original scope.

Mr. Jim Beavers, City Engineer, stated Swinger had only responded to the scope negotiated with the staff. They had not added any additional items. They had only addressed items that they had specifically asked them to.

Alderman Santos moved to pass the resolution with \$222,388 with the \$20,000 contingency. Alderman Marr seconded.

Alderman Bechard stated that while they were doing this study they should look at how to get the money to do the things the study recommended that we do. He asked Mr. Swinger if this was something that they typically do.

Mr. Swinger stated when they put the original scope together it was in response to the Request for Proposal that came out of the City. They have a whole specialized team that deals with transportation issues.

Mr. Steve Davis stated the City had reauthorized three-quarters of a cent of sales tax for the waste water system improvements. They had one quarter of a cent of sales tax that could support a bond issue. If they wanted to go for a public vote they might consider using that quarter of a cent.

Alderman Davis stated on the last study they had everything with highways and city streets put together and they listed the projects from one to thirty five. What he would like to see them do was to list the highways separately from the city streets. That way they would know what they had the ability to do without having to go to the highway department and get their approval.

Alderman Jordan asked what they were going to do with the plan and how they were going to implement the plan. The plan will only be as good as the people that implement the plan. This was one of the first sets in long range strategic planning for this city. If they did not follow the plan there was no one to blame but themselves.

Alderman Marr stated the city will have to have a sound basis for choosing which project will provide the greatest return for the dollars expended. This would give them a method to do that. It would do it without ignoring parts of their city and the University and historic neighborhoods. He believed that they could be disciplined enough to follow this plan.

Mr. Basam Yada, an area resident, stated he thought the study was important. He recommended that they utilize as much existing information as possible.

Mr. Swinger stated they were going to use all of the available data that they could get their hands on rather than duplicate anything.

Upon roll call the motion passed 7-1, Reynolds voting nay.

RESOLUTION 164-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-27.00

An ordinance approving rezoning request RZN 02-27.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Lenwyn Edens for property located southeast of Wedington Drive and Brooke Lane. The property is zoned A-1, Agricultural and

contains approximately 6.10 acres. The request is to rezone to RMF-6, Low Density residential. The ordinance was left on the first reading at the October 1, 2002 meeting.

Alderman Thiel moved to suspend the rules and move to the second reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Jorgensen stated the request was for the lowest rezoning request that they could make. The reason for the request was to bring it into compliance with it's present use. It is being used as duplexes right now. The owner has the potential to sell the property to Marsha Beard who has units on Betty Jo Drive. This would bring the property into compliance and the property would be cleaned up and the units would be remodeled.

Alderman Davis stated he thought they were making a big improvement here. The units out there need a lot of care.

Mr. Jorgensen stated they had met with the Planning department and thought they had some answers to the Council's questions. There was one unit that was partially burned out, the unit could not be rebuilt until the property was rezoned. Ms. Beard was wanting to rebuild the unit and clean up the existing units. The solid waste department had sent them a letter stating that there had not been any problems in the past with the surface of the road or the ability of their vehicles to collect trash. They did not feel that they would have any problems with the surface of the road.

Alderman Jordan stated he did not have a problem with the existing units, but he would have some problems if anything else went in. It took seven to ten minutes for a fire truck to get out there. He was concerned about the fire protection.

Chief Bosh stated they had talked with Ms. Beard about the placement of a hydrant in the area because they were concerned about water source. They do have response times out there.

In response to questions, Mr. Jorgensen stated there were twenty two units there now. They were looking at adding fourteen more units.

Mr. Conklin stated staff makes recommendations and they follow their ordinance on what it is required for development. They had met with the client and discussed those requirements. They had talked about a hard surface and the ability to turn around. They were comfortable with rebuilding the burned out duplex under the existing conditions. However, they will be subject to all standards and regulations when they develop additional units.

Alderman Bechard stated if they passed this tonight, this would allow them to renovate the burnt out one in the existing conditions.

In response to questions Mr. Conklin stated they would be going through the large scale development process when they build the addition units. At that time all the departments are going to review it, and they will apply their ordinances and look at what is required for apartment complexes. Staff would recommend that they meet the ordinances. There was a question on if she would have to build a city street through this development, she would not have to do that. They did not have minimum asphalt standards for parking lots and private developments. The developers design those with their engineers to make sure that they will work. This six acres is one parcel with the eleven units, they are looking at this as multi-family units. In a multi-family development they are not building standard city streets. They were building parking lots with access aisles.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2, Santos and Jordan voting nay.

ORDINANCE 4425 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

VA 02-8.00

An ordinance approving VA 02-8.00 as submitted by Carole Jones of McClelland Engineers, Inc. on behalf of Ted Belden for property located 485 Vinson Avenue. The request is to vacate a portion of a utility easement.

Mr. Williams read the ordinance.

Ms. Carole Jones stated they had completed all of the water line connections and turned the water back on. The water line and the sewer line has already been abandoned. There are no utilities in the easement now. All of the neighbors are satisfied.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4426 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-28.00

An ordinance approving rezoning request RZN 02-28.00 as submitted by Glenn Carter of Carter Consultants on behalf of Dewayne Provence for property located at 1509 Morningside Drive. The property is zoned R-2, Medium Density Residential and contains approximately 3.34 acres. The request is to rezone to I-1, Heavy Commercial/Light Industrial.

Mr. Williams read the ordinance.

Mr. Carter stated this would allow the owner to build an office building for his existing business.

Alderman Reynolds stated this business employed eighty people. He did a good job in keeping the property clean.

In response to questions, Mr. Conklin stated the office building would have to meet their commercial design standards. There will also be trucks on this site. Commercial design standards would also apply to the landscaping out front and would require that trees be planted and the parking lot landscaped.

Alderman Jordan moved to suspend the rules and move to the second reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and move to the third and final reading. Alderman Santos seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

ORDINANCE 4427 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DEVELOPMENT PLANS AND PERMITS

An ordinance amending Title XV, UDO of the Code of Fayetteville, to provide a date certain for the expiration of approved development plans and permits.

Mr. Williams read the ordinance.

Mr. Conklin stated they were trying to establish some provisions for a time period when they had to begin a project after it was approved by the Planning Commission and what type of actions they had to take. They had some projects that went on for many years. They were proposing a three year time limit. The Planning Commission could grant an extension on the time limits when they were under construction, they could issue a two

year extension. Any conditional uses that had been abandoned for a year were discontinued. All the past approvals and premise will now expire. They were trying to address the plans for undeveloped land and large scale developments that were just sitting down in the Planning division files that had been approved by the Planning Commission years ago.

Alderman Reynolds moved to suspend the rules and move to the second reading. Alderman Marr seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

THE ORDINANCE AS LEFT ON THE SECOND READING.

BID QUOTATIONS

An ordinance to amend Section 34.23 and Section 34.24 of the Code of Fayetteville to change the amount above which quotation bids are required.

Mr. Williams read the ordinance.

Mr. Williams stated this ordinance is a house keeping measure. He thought the City's code should reflect what the State Law required.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Bechard seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

ORDINANCE 4428 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

2002 MILLAGE

An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2002 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mils for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas.

Mr. Williams read the ordinance.

Mr. Steve Davis stated this was normally a routine levy that the city passed every year. This millage levy was different for two reasons. The first was that they had added the millage for the city library that replaced the county library. The other reason that this was different was that on the November ballot there was an item, Amendment 3, which would remove sales tax from food and drugs. This levy needed to be to the County on November 8. Staff was recommending postpone approval of this ordinance until after the election. If amendment 3 is approved, the 2003 impact to the city budget will be approximately between 1.3 and 1.7 million dollars. City Council can levy up to five mils. Each mil brings in approximately \$645,000. They would need 2.1 mils to replace the money lost if Amendment 3 passes. The second year would be a full five mils.

Alderman Marr stated they should look at passing this ordinance, if the Amendment passed, then they could have a special meeting and change the ordinance.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Bechard seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and move to the third and final reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4429 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE TRUCK BID WAIVER

An ordinance waiving the requirements of formal competitive bidding for the purchase of a new 75" aerial ladder fire apparatus from Leeco, Inc. and declaring an emergency.

Alderman Young moved to suspend the rules and add the item to the agenda. Alderman Marr seconded. The motion carried unanimously.

Chief Bosh stated the fire departments only ladder truck had broken down. The repair of the truck was estimated to be \$42,500. The equipment was appraised at \$72,000. They had sent out specs for a new truck which was being presented to them tonight.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and move to the second reading. Alderman Santos seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

Alderman Jordan moved to approve the emergency clause. Alderman Santos seconded. The motion carried unanimously.

ORDINANCE 4430 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE TRUCK

An resolution approving the purchase of a new 75' aerial ladder fire apparatus from Leeco, Inc. in the amount of five hundred one thousand four hundred forty-four dollars and eighty cents (\$501,444.80) and approving a budget adjustment in the amount of sixty-four thousand one hundred forty one dollars (\$61,141.00) for same.

Alderman Davis moved to approve the resolution. Alderman Jordan seconded. The motion carried unanimously.

RESOLUTION 165-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

The meeting adjourned.

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
OCTOBER 15, 2002**

A meeting of the Fayetteville City Council was held on October 15, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Young, Marr, Bechard, Davis, Santos, Jordan, Reynolds, and Thiel, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

CONSENT

APPROVAL OF THE MINUTES

MOBLEY CONSTRUCTION: A resolution awarding a construction contract in the amount of \$148,180.00 to Mobley Contractors for the "City-wide Sidewalk Construction" project.

RESOLUTION 154-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CLEVELAND STREET IMPROVEMENTS: A resolution approving a construction contract in the amount of \$1,090,270.00 with Township Builders for Cleveland Street Improvement Project (Hall to Leverett); a 10% project contingency in the amount of \$109,027.00; and the related budget adjustment.

RESOLUTION 155-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CLEVELAND STREET: A resolution approving Amendment #3 to the engineering contract with Crafton, Tull and Associates, Inc. for Cleveland Street Improvements Project (Hall to Leverett) in the amount of \$71,301.69.

RESOLUTION 156-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RIGHT-OF-WAY PURCHASE: A resolution approving a right-of-way purchase from the Arkansas and Missouri Rail Road Company for right-of-way on the west side of Gregg Avenue from Poplar Street to approximately Spruce Street and the approval of a budget adjustment.

RESOLUTION 157-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD MISSOURI ROAD: A resolution approving an engineering contract amendment number two with Garver Engineers in the amount of \$13,698 to the existing engineering

services contract for design and construction management for the Old Missouri Road project.

RESOLUTION 158-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SKYLAR PLACE ADDITION: A resolution to accept money in lieu as park land requirement of the Skylar Place Addition.

RESOLUTION 159-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CORNERSTONE APARTMENTS: A resolution to accept money in lieu as the park land requirement of the Cornerstone Apartments Phase II.

RESOLUTION 160-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LOPFI BENEFITS: A resolution authorizing the transfer of the sworn officers of the Fayetteville Fire Department for LOPFI Benefit Plan #1 to LOPFI Benefit Plan #2, effective January 1, 2003.

RESOLUTION 161-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FBO HANGAR: A resolution approving a construction contract in the amount of \$634,000.00 with Crossland Construction, Inc. for construction of FBO Hangar; a 10 % contingency; acceptance of a grant from the Arkansas Aeronautics Commission in the amount of \$200,000.00 and approval of a budget adjustment.

RESOLUTION 162-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOUTH HANGAR APRON: A resolution approving a construction contract in the amount \$616,207.70 with Tomlinson Asphalt, Inc. for construction of Aircraft Hangar Apron Complex; a 10% contingency and approval of a budget adjustment.

RESOLUTION 163-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Jordan moved to approve the consent agenda. Alderman Marr seconded. The motion carried unanimously.

OLD BUSINESS

RZN 02-23.00: An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Kelson of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential. The ordinance was tabled on the first reading at the September 17, 2002 meeting. Left on table at the October 1, 2002 meeting.

Alderman Davis moved to take the item off the table. Alderman Reynolds seconded. The motion carried unanimously.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Young seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Kim Fugitt, Lindsey Management Company, stated the property was east of 540 and north of Old Farmington Road. They were asking for some of the property to be rezoned to Multi-family residential. The rest of the property they want to have remain as commercial. The property had been zoned prior to the service road being changed to a one lane road. This change has had a negative affect on the property becoming commercial. Common planning practices would have a transition zone from commercial areas to residential areas. In this area they had no transition or buffer between the C-1 and the R-1 zone. When this proposal was brought forward they had staff approval as well as an unanimous approval by the Planning Commission. They were wanting to leave six and a half acres commercial in the hopes that the apartments would lend itself to developing it over time. There are still a lot of opportunities for commercial development along Sixth Street.

Alderman Reynolds stated this property had been purchased by National Home Center. They had done a traffic study and could not warrant putting in a home center there with only one-way traffic. He thought that until they got more citizens out there to support more business they were going to have problems in that area. He thought that the area needed more pedestrians and traffic to support better commercial property.

Alderman Thiel stated they were starting to see a major overhaul at the old IGA shopping center and a new Hampton Inn. Development was starting west of the new Walmart. She felt the area was just now starting to become revitalized

ORDINANCE 4424 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

In response to questions, Mr. Conklin stated the 2020 Plan had a policy on Commercial Nodes and did not encourage strip commercial type zoning or arterial corridors. They have created commercial nodes. They have created commercial nodes around the interchanges at I-540. He was surprised at how slow development has been with regard to development of this corridor and north at Wedington Drive. The hotels and restaurants were providing a regional type commercial use for people traveling in and out of Fayetteville. He was not sure that the commercial zoning in this area needed to be preserved. The commercial areas were already going other places in Fayetteville, based on the three existing shopping centers that were having a very difficult time surviving over the last five to eight years.

Alderman Marr stated at first he was not in support of this because he did not want to encourage growth and create a college on Hwy 62, but he did think that it was important

to have mixed use and to bring residential and commercial together to encourage further development. He thought the city needed to be very careful about rezoning very valuable commercial land in their city that could add to their tax base when they really only have three major exchanges off I-540.

Alderman Davis stated Hwy 62 and I-540 was a very large intersection and it was going to have more traffic. I see this area being rejuvenated. The life and blood of this city is sales tax revenue, it is not property tax. They should not look at this day, but they need to look out five, ten or fifteen years into the future. Other cities have one-way traffic next to expressways and it seems to work in those communities. They are looking at three hundred and twelve apartments at this location. Currently, this council has already approved approximately fifteen hundred apartment units this year. He is pro-business, but he is also looking out for what is best for the city. We have a new sewer going in on the west side of town. We could run into problems with the State of Oklahoma, they might not be able to go on line when they need to, which means that they could have problems with sewer hook ups in future. When people look for a city, to locate a business here they do not look at the number of rental units, they look at the number of R-1 residents, with an income base to determine if they want to come to Fayetteville. He did not want to use those sewer hook ups on apartments he would rather use them for residential development, R-1, single family. Those people would have good jobs and be here for years to come because they have an investment in the community. A tenant is only buying time.

Alderman Young asked Mr. Conklin when was it a good time to start diversifying and getting into mixed use.

Mr. Conklin stated this year they had seen a number of rezonings from Light Industrial/Heavy Commercial to residential. Based on that, there seemed to be a need for additional units. He has also been trying to regulate the number of people within single family homes within some neighborhoods and the pressure they faced as a city with the University trying to expand. His staff has been recommended the type of rezonings which would help provide housing close to the University. They did have an opportunity to provide more residential development on the east side of the bypass, he thought that when they had those opportunities and when they looked at the commercial that they had here, they had an opportunity to provide housing closer to the inner city and the university. He thought that this could be a good thing. He was aware of the issue in regard to the sales tax revenue. The City Council has played a big part in making sure that they had a regional commercial center to the north, CMN Business Park. This was a policy of their General Plan. They also had a policy to encourage regional commercial uses. He thought they could do both within Fayetteville. They were seeing a tremendous amount of pressure for residential and where to do appropriate infill development. He thought that this met their general goals and objectives and provides an opportunity to provide some housing on this side of the bypass.

Alderman Bechard stated, as a percentage of the residential area in the City of Fayetteville, we have a significantly high share of apartments in Fayetteville, almost

twice that of Bentonville and other areas. He is concerned about this. He did not think that wanted to base their foundation of their City in that type of balance. From a service point, from a police stand point, the type of residential that cost the most is apartments. They passed a rezoning along Persimmon a couple of weeks ago, and there are not any homes up yet. There will only be three to four homes nine months from now. The impact of that development to the city has not occurred yet. When they approve projects like a three hundred and twelve apartment complex, they would have three hundred sewer hook ups in nine months. The impact to their sewage system and the rest of their city would be a lot sooner, than if they had homes. They needed to look at the impact at least three years from now. The tax base is also a major concern. I-540 is a major artery. They should go out and find how to fill that space to improve their tax base. They may need to seek out the type of businesses that would improve their quality of life and improve their tax base.

Alderman Jordan stated he was concerned about the increased traffic in the area around the existing school. He thought that they had created these nodes for future tax base.

Alderman Santos stated he thought this was a good development. This was an example of the type of good mixed used developments that they need. The people who live there could walk or ride to school and to the University. When they set the commercial nodes, they did not know how big they needed to be. They just knew that this was a major intersection and that this was where commercial developments were going to be attracted by the road access. This area has been a failing commercial area for a long time. It was still failing and under used. If they were to put these units in they might be able to provide some customers for this area.

In response to questions, Mr. Beotcher stated they had a Capital Improvement Project planned which would align Sang and Hollywood. As soon as they completed the right-of-way acquisition they would be ready to bid the project.

Mr. Kim Fugitt stated every establishment they had mentioned was on Sixth Street or on a street that had two way streets. There had been absolutely no new development occurring north of Sixth Street, with the exception of one, but they were developing their own access off Sixth Street. He thought a commercial development would create as much of a traffic problem as a residential development.

Alderman Davis stated he could see this area being a designation type of development. They would love to have a stadium type theater here. He thought the city should go out and look for these types of people to fill this type of land. If they brought in the right type of business, he really thought it would work. Lindsey has apartments at every intersection. The Mayor had stated that he would like to see Fayetteville look like it does in Rogers where they could see a very attractive office complex or other things of that nature.

Ms. Marsha Beard, an area resident, stated she owned seventy-two units in town. To her all of Lindsey's units looked alike. The main comment that she would get from her

tenants was that her apartments did not all look the same. She was concerned about all of the sewer counts. If they were to use all of the hook ups on all of these big projects, what would happen to the people who wanted to build smaller units. She thought they needed to take that into account.

Alderman Santos moved to suspend the rule and go to the third and final reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody stated he was concerned that after they have driven through cities with apartment after apartment on their major thoroughfare, it makes it look like the community is more of a bedroom community than it is a business community. That was one thing he was concerned about how they appeared to the outside world when people drive through. At the same time the other argument was that if their Planning Staff thought this was good planning and the Planning Commission approved this 8-0, that carried strong weight. He would be very disappointed if they were to see their opportunity on 540, which could be a wonderful commercial area, developed with more and more apartments on it, he thought they would be permanently missing the boat.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 5-4, Bechard, Davis, Jordan, and Thiel voting nay, Mayor Coody voting Yea.

ORDINANCE 4424 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TRAFFIC STUDY

A resolution awarding the engineering and planning services contract for the City of Fayetteville's traffic study to the firm of Bucher, Willis, and Ratliff Corporation in the not-to-exceed amount of \$198,408; approval of an engineering contract contingency in the amount of \$20,000 and approval of a budget adjustment. The resolution was tabled at the September 17, 2002 meeting.

Alderman Santos moved to take the item off the table. Alderman Marr seconded. The motion carried unanimously.

Alderman Davis stated he thought they would be looking at mass transit all along. He thought they may be paying for things that they had already included in the original scope.

Mr. Jim Beavers, City Engineer, stated Swinger had only responded to the scope negotiated with the staff. They had not added any additional items. They had only addressed items that they had specifically asked them to.

Alderman Santos moved to pass the resolution with \$222,388 with the \$20,000 contingency. Alderman Marr seconded.

Alderman Bechard stated that while they were doing this study they should look at how to get the money to do the things the study recommended that we do. He asked Mr. Swinger if this was something that they typically do.

Mr. Swinger stated when they put the original scope together it was in response to the Request for Proposal that came out of the City. They have a whole specialized team that deals with transportation issues.

Mr. Steve Davis stated the City had reauthorized three-quarters of a cent of sales tax for the waste water system improvements. They had one quarter of a cent of sales tax that could support a bond issue. If they wanted to go for a public vote they might consider using that quarter of a cent.

Alderman Davis stated on the last study they had everything with highways and city streets put together and they listed the projects from one to thirty five. What he would like to see them do was to list the highways separately from the city streets. That way they would know what they had the ability to do without having to go to the highway department and get their approval.

Alderman Jordan asked what they were going to do with the plan and how they were going to implement the plan. The plan will only be as good as the people that implement the plan. This was one of the first sets in long range strategic planning for this city. If they did not follow the plan there was no one to blame but themselves.

Alderman Marr stated the city will have to have a sound basis for choosing which project will provide the greatest return for the dollars expended. This would give them a method to do that. It would do it without ignoring parts of their city and the University and historic neighborhoods. He believed that they could be disciplined enough to follow this plan.

Mr. Basam Yada, an area resident, stated he thought the study was important. He recommended that they utilize as much existing information as possible.

Mr. Swinger stated they were going to use all of the available data that they could get their hands on rather than duplicate anything.

Upon roll call the motion passed 7-1, Reynolds voting nay.

RESOLUTION 164-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-27.00

An ordinance approving rezoning request RZN 02-27.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Lenwyn Edens for property located southeast of Wedington Drive and Brooke Lane. The property is zoned A-1, Agricultural and

contains approximately 6.10 acres. The request is to rezone to RMF-6, Low Density residential. The ordinance was left on the first reading at the October 1, 2002 meeting.

Alderman Thiel moved to suspend the rules and move to the second reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Jorgensen stated the request was for the lowest rezoning request that they could make. The reason for the request was to bring it into compliance with it's present use. It is being used as duplexes right now. The owner has the potential to sell the property to Marsha Beard who has units on Betty Jo Drive. This would bring the property into compliance and the property would be cleaned up and the units would be remodeled.

Alderman Davis stated he thought they were making a big improvement here. The units out there need a lot of care.

Mr. Jorgensen stated they had met with the Planning department and thought they had some answers to the Council's questions. There was one unit that was partially burned out, the unit could not be rebuilt until the property was rezoned. Ms. Beard was wanting to rebuild the unit and clean up the existing units. The solid waste department had sent them a letter stating that there had not been any problems in the past with the surface of the road or the ability of their vehicles to collect trash. They did not feel that they would have any problems with the surface of the road.

Alderman Jordan stated he did not have a problem with the existing units, but he would have some problems if anything else went in. It took seven to ten minutes for a fire truck to get out there. He was concerned about the fire protection.

Chief Bosh stated they had talked with Ms. Beard about the placement of a hydrant in the area because they were concerned about water source. They do have response times out there.

In response to questions, Mr. Jorgensen stated there were twenty two units there now. They were looking at adding fourteen more units.

Mr. Conklin stated staff makes recommendations and they follow their ordinance on what it is required for development. They had met with the client and discussed those requirements. They had talked about a hard surface and the ability to turn around. They were comfortable with rebuilding the burned out duplex under the existing conditions. However, they will be subject to all standards and regulations when they develop additional units.

Alderman Bechard stated if they passed this tonight, this would allow them to renovate the burnt out one in the existing conditions.

In response to questions Mr. Conklin stated they would be going through the large scale development process when they build the addition units. At that time all the departments are going to review it, and they will apply their ordinances and look at what is required for apartment complexes. Staff would recommend that they meet the ordinances. There was a question on if she would have to build a city street through this development, she would not have to do that. They did not have minimum asphalt standards for parking lots and private developments. The developers design those with their engineers to make sure that they will work. This six acres is one parcel with the eleven units, they are looking at this as multi-family units. In a multi-family development they are not building standard city streets. They were building parking lots with access aisles.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2, Santos and Jordan voting nay.

ORDINANCE 4425 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

VA 02-8.00

An ordinance approving VA 02-8.00 as submitted by Carole Jones of McClelland Engineers, Inc. on behalf of Ted Belden for property located 485 Vinson Avenue. The request is to vacate a portion of a utility easement.

Mr. Williams read the ordinance.

Ms. Carole Jones stated they had completed all of the water line connections and turned the water back on. The water line and the sewer line has already been abandoned. There are no utilities in the easement now. All of the neighbors are satisfied.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4426 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-28.00

An ordinance approving rezoning request RZN 02-28.00 as submitted by Glenn Carter of Carter Consultants on behalf of Dewayne Provence for property located at 1509 Morningside Drive. The property is zoned R-2, Medium Density Residential and contains approximately 3.34 acres. The request is to rezone to I-1, Heavy Commercial/Light Industrial.

Mr. Williams read the ordinance.

Mr. Carter stated this would allow the owner to build an office building for his existing business.

Alderman Reynolds stated this business employed eighty people. He did a good job in keeping the property clean.

In response to questions, Mr. Conklin stated the office building would have to meet their commercial design standards. There will also be trucks on this site. Commercial design standards would also apply to the landscaping out front and would require that trees be planted and the parking lot landscaped.

Alderman Jordan moved to suspend the rules and move to the second reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and move to the third and final reading. Alderman Santos seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

ORDINANCE 4427 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DEVELOPMENT PLANS AND PERMITS

An ordinance amending Title XV, UDO of the Code of Fayetteville, to provide a date certain for the expiration of approved development plans and permits.

Mr. Williams read the ordinance.

Mr. Conklin stated they were trying to establish some provisions for a time period when they had to begin a project after it was approved by the Planning Commission and what type of actions they had to take. They had some projects that went on for many years. They were proposing a three year time limit. The Planning Commission could grant an extension on the time limits when they were under construction, they could issue a two

year extension. Any conditional uses that had been abandoned for a year were discontinued. All the past approvals and premise will now expire. They were trying to address the plans for undeveloped land and large scale developments that were just sitting down in the Planning division files that had been approved by the Planning Commission years ago.

Alderman Reynolds moved to suspend the rules and move to the second reading. Alderman Marr seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

THE ORDINANCE AS LEFT ON THE SECOND READING.

BID QUOTATIONS

An ordinance to amend Section 34.23 and Section 34.24 of the Code of Fayetteville to change the amount above which quotation bids are required.

Mr. Williams read the ordinance.

Mr. Williams stated this ordinance is a house keeping measure. He thought the City's code should reflect what the State Law required.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Bechard seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

ORDINANCE 4428 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

2002 MILLAGE

An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2002 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mils for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas.

Mr. Williams read the ordinance.

Mr. Steve Davis stated this was normally a routine levy that the city passed every year. This millage levy was different for two reasons. The first was that they had added the millage for the city library that replaced the county library. The other reason that this was different was that on the November ballot there was an item, Amendment 3, which would remove sales tax from food and drugs. This levy needed to be to the County on November 8. Staff was recommending postpone approval of this ordinance until after the election. If amendment 3 is approved, the 2003 impact to the city budget will be approximately between 1.3 and 1.7 million dollars. City Council can levy up to five mils. Each mil brings in approximately \$645,000. They would need 2.1 mils to replace the money lost if Amendment 3 passes. The second year would be a full five mils.

Alderman Marr stated they should look at passing this ordinance, if the Amendment passed, then they could have a special meeting and change the ordinance.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Bechard seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and move to the third and final reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4429 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE TRUCK BID WAIVER

An ordinance waiving the requirements of formal competitive bidding for the purchase of a new 75" aerial ladder fire apparatus from Leeco, Inc. and declaring an emergency.

Alderman Young moved to suspend the rules and add the item to the agenda. Alderman Marr seconded. The motion carried unanimously.

Chief Bosh stated the fire departments only ladder truck had broken down. The repair of the truck was estimated to be \$42,500. The equipment was appraised at \$72,000. They had sent out specs for a new truck which was being presented to them tonight.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and move to the second reading. Alderman Santos seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

Alderman Jordan moved to approve the emergency clause. Alderman Santos seconded. The motion carried unanimously.

ORDINANCE 4430 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE TRUCK

An resolution approving the purchase of a new 75' aerial ladder fire apparatus from Leeco, Inc. in the amount of five hundred one thousand four hundred forty-four dollars and eighty cents (\$501,444.80) and approving a budget adjustment in the amount of sixty-four thousand one hundred forty one dollars (\$61,141.00) for same.

Alderman Davis moved to approve the resolution. Alderman Jordan seconded. The motion carried unanimously.

RESOLUTION 165-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

The meeting adjourned.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL NOVEMBER 19, 2002

A meeting of the Fayetteville City Council will be held on November 19, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES**
2. **ELEVATOR:** Resolution awarding Bid 02-66 in the amount of \$26,246 to ThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.
3. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.
4. **CROSSLAND CONSTRUCTION:** A resolution approving Change Order #5 to the contract with Crossland Construction Company, Inc. in the amount of \$402,895.84. to purchase and install exterior cladding for the New Fayetteville Public Library.

B. OLD BUSINESS

1. **MARTIN LUTHER KING, JR. STREET:** A resolution to designate 6th Street as honorary Martin Luther King, Jr. Boulevard. The resolution was tabled at the November 5, 2002 meeting.
2. **CRYSTAL SPRINGS:** A resolution to amend Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road. The resolution was tabled at the November 5, 2002 meeting.
3. **PLANNED ZONING DISTRICT:** An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.

4. **REPLACEMENT FUND:** An ordinance repealing Ordinance No. 1085 and establishing a replacement and disaster recovery fund. The ordinance was left on the 1st reading at the November 5, 2002 meetings.

C. NEW BUSINESS

1. **VA 02-12.00 and 02-13.00:** An ordinance approving vacation request VA 02-12.00 and 02-13.00 as submitted by Greg House for property located at southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement.
2. **RZN 02-34.00:** An ordinance approving rezoning request RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.8 acres. The request is to rezone to R-1, Low Density Residential.
3. **RZN 02-35.00:** An ordinance approving rezoning request RZN 02-35.00 as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone the property to RS, Residential Small Lot.
4. **RZN 02-37.00:** An ordinance approving rezoning request RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial. *WATER PARK*
5. **RZN 02-38.00:** An ordinance approving RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.
6. **LED TRAFFIC SIGNAL BID WAIVER:** An ordinance waiving the requirements of formal competitive bidding for the purchase of LED traffic signal lenses from Temple, Inc. and declaring an emergency.
7. **LED TRAFFIC SIGNAL LENSES:** A resolution approving the purchase of LED traffic signal lenses from Temple, Inc. in the amount of \$58,003.87 and approving a budget adjustment in the amount of \$58,004.00 for same.

8. **IMPACT FEES:** An ordinance enacting impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within the service areas located within Washington County and other incorporated cities.
9. **OLD MISSOURI ROAD:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by JTK Trust, James T. Keenan and James F. Keenan, trustees, to secure the necessary easements and rights-of-way for Old Missouri Road improvements.
10. **YOUTH ADVOCACY COMMITTEE:** An ordinance reorganizing the Youth Advocacy Board.
11. **TOWNSHIP BUILDERS:** A resolution approving Change Order no. 4 to the construction contract with Township Builders for Dickson Street Enhancement Project, in the amount of \$195,300, additional funds for the in-house construction management in the amount of \$74,700; and the related budget adjustment in the amount of \$270,000.
12. **CITY CLERK:** An ordinance repealing and replacing Section 31.30 (E) of the Code of Fayetteville regarding the salary for the City Clerk.
13. **CITY ATTORNEY:** An ordinance repealing and replacing Section 31.45 (G) (1) regarding the salary for the City Attorney.
14. **ELECTION PROCEDURE:** An ordinance repealing Section 32.01, Election Procedure, of the Code of Fayetteville and enacting a new Section 32.01 to provide for the election at large of all Position 1 Aldermen and the election by Closed Ward for all Position 2 Aldermen.

STAFF REVIEW FORM

Elevator
A. 2. Page 1

XX AGENDA REQUEST
 _____ CONTRACT REVIEW
 _____ GRANT REVIEW

For the Fayetteville City Council meeting of November 19, 2002

FROM:

Coy Hurd

Building Services

General Services

Name

Division

Department

ACTION REQUIRED:

Accept the bid (and a 5% contingency) for the repair of the freight elevator in the Fayetteville Police Building.

+ approve a contract.

COST TO CITY:

\$26,246

192920

Police Building Improvements

Cost of this Request

Category/Project Budget

Category/Project Name

4470 9470 5400.00

\$15,586

Account Number

Funds Used to Date

Program Name

02047.1

\$177,334

Sales Tax Capital

Project Number

Remaining Balance

Fund

BUDGET REVIEW:

XX

Budgeted Item

Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Marsha Farthing
 Accounting Manager

10/28/02
 Date

Nancy Smith
 Internal Auditor

10/29/02
 Date

J.P. Whitaker
 City Attorney

10/29/02
 Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION:

C. Hurd
 Division Head

Oct 28 02
 Date

Department Director

Date

Alpha Dan
 Administrative Services Director

Oct 30, 2002
 Date

Don Coady
 Mayor

10/30/02
 Date

Cross Reference

New Item: Yes No

Prev Ord/Res #: _____

Orig Contract Date: _____

Orig Contract Number: _____

STAFF REVIEW FORM
Page 2

Description: _____

Comments:
Budget Coordinator:

Reference Comments:

Accounting Manager:

City Attorney:

Purchasing Officer:

ADA Coordinator:

Internal Auditor:

Elevator
A. 2. Page 3

12-66
: 10/26/02
: 2:00 PM
OF FAYETTEVILLE

DESCRIPTION: ELEVATOR REPAIR/REBUILD

BIDDER

ITEM ONE

OTIS ELEVATOR CO

\$28,655.00

WISSEN KRUPP ELEVATOR CO

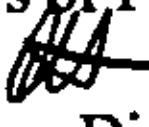
\$24,996.00

Certified by *P. Vico*
P Vico Purch Mgr

Witness *Paul Williams* Date *10/25/02*

THE CITY OF FAYETTEVILLE, ARKANSAS

MEMORANDUM

TO: Mayor Dan Coody, Members of Fayetteville City Council
FROM: Coy Hurd, Project Manager 
THRU: Gary Dumas, General Services Director
RE: Bid for the repair of the freight elevator in the
Fayetteville Police Department Building
DATE: October 28, 2002

On October 25, 2002, a bid was conducted regarding the needed repair of the freight elevator in the Fayetteville Police Building at 100 West Rock Street. Two companies submitted a bid on that date. The bid submitted by the Otis Elevator Company was \$28,655. The low bid was submitted by the ThyssenKrupp Elevator Company. Their bid was \$24,996. This bid price was inclusive of all costs related to the stated scope of work, including all taxes, fees and permits. The bid of \$24,996 was within the expected range of the cost of this work. We should include a five percent contingency amount to address any possible changes or additions ($\$24,996 \times .05 = \$1,250$; $\$24,996 + \$1,250 = \$26,246$).

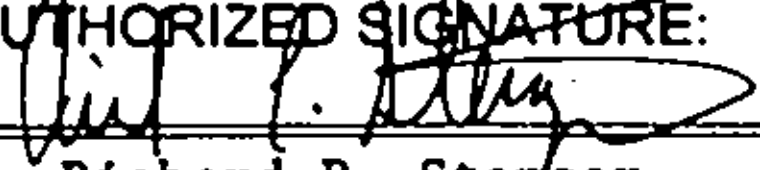
It is my recommendation that ThyssenKrupp's bid be accepted, and, that a *Notice to Proceed* be issued to that company to accomplish this work. I remain available to answer any questions or concerns on this matter.

INVITATION TO BID

BID # 02-66	DATE ISSUED: Oct. 9, 2002	DATE AND TIME OF OPENING: Oct. 25th, 2002, at 2:00 p.m.	
BUYER: City of Fayetteville, AR		DATE REQUIRED: 30 days ARO	
F. O. B. Fayetteville, AR	BUYER'S PHONE # (501) 575-8289	GUARANTEED DELIVERY DATE:	
ITEM #	DESCRIPTION	QUANTITY	TOTAL TURNKEY BID
1	Per attached specifications: Furnishing of All Materials, Labor, and Related Items for the: Elevator Rebuild/Repair TOTAL TURNKEY BID: Schedule: Delivery of Jack Casing from factory after excuted contract, 2-3 weeks. Installation of equipment after delivery of equipment to jobsite, 2 1/2 to 3 weeks. 5% bid bond to be submitted with bid 100% performance bond required with successful contract. Terms & Conditions items 17 through 21 apply. 1. Original certificate of insurance is submitted after award of contract. (specimen enclosed) 2. See attached proposal which includes, specifications, completion Schedule and jack information as requested. Note: See special conditions item #1 on Repair Order dated 10/25/02 for hole clause. 3. Jack warranty form attached. Contractor's License No# <u>0022880103</u> RESTRICIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:	1	(\$24,996.00) <u>\$24,996.00</u>
Subcontractor: <u>ThyssenKrupp Elevator Co.</u>			

EXECUTION OF BID

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

UN SIGNED BIDS WILL BE REJECTED	NAME OF FIRM: ThyssenKrupp Elevator Co.	PHONE: (501) 751-0222	FED ID# 62-1211267
	BUSINESS ADDRESS: 5477 S 108th E Ave.	CITY AND STATE: Tulsa OK	ZIP: 74146
	AUTHORIZED SIGNATURE: 	TITLE: Branch Manager	DATE: 10/25/02
	Richard P. Stenger		

**SPECIFICATIONS FOR THE REPAIR OF THE FREIGHT ELEVATOR IN THE
POLICE BUILDING (CITY OF FAYETTEVILLE)**

The City of Fayetteville Police Department is requesting bids, with the following specifications, for the repair and restoration of the existing freight elevator in the Police Department Building. The return bid documents should contain, at minimum: specifications on equipment to be installed (along with information on equipment's manufacturer), warranty information, a copy of current liability insurance (\$1,000,000 minimum), and, any other pertinent information for the repair and restoration of the unit. Bid price should account for all labor and materials (with any applicable taxes), and any fees needed to perform and warranty (for a period of one year) the following work:

- Disassemble and remove elevator piston.
- Fabricate new jack cylinder out of heavy seamless steel and wrap with corrosion resistant material.
- Surround the new jack cylinder with PVC pipe, and fill the gap between PVC and jack cylinder with anti-electrolysis liquid (Union-Guard).
- Perform full load capacity test and present results of this test to Building Services representative.

Scope of this project shall result in a fully functional and warranted freight elevator, as a turn-key project.

All work must be performed in an approved and workman-like manner. All work must conform to applicable codes and standards of the elevator industry. The bid price must remain in effect for a period of at least sixty days from the date of the bid opening.

The Bidder will be responsible for any pertinent soil testing and any associated removal and disposal. Bid price should be based upon the retention of the existing casing. One lump-sum payment will be made on completion of this work.

Existing elevator and building may be toured by appointment. Telephone City Representative, Coy Hurd at 575-8361 during regular office hours.

CITY OF FAYETTEVILLE, ARKANSAS
Terms and Conditions

1. All bids shall be submitted in a sealed envelope and must be submitted on forms provided by the City.
2. The item bid and the bid number shall be stated on the face of the sealed bid envelope.
3. Bids received after the date and time set for receiving bids will not be considered.
4. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds.
5. The bid price shall remain good and firm until project is completed.
6. All products delivered shall comply with applicable standards of quality.
7. Any exceptions to the requirements of the City of Fayetteville must be noted on the Bid Form.
8. Prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the furnishing of the items bid. Sales tax is not to be included in the bid price. Applicable Arkansas sales tax laws will apply to this bid, but will not be considered in award of the bid.
9. Each bidder shall state on the face of the bid form the anticipated number of days from the date of receipt of an order for delivery of equipment and installation to the City of Fayetteville.
10. Copy of the warranty shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form.
11. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
12. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
13. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.

14. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at (501) 575-8289 to insure receipt of their bid documents prior to opening time and date listed on the bid form.
15. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request.
16. Bids must be hand delivered or received by mail in the Purchasing Office, Room 306, 113 W. Mountain St. Fayetteville, AR 72701, on or before the time of closing listed on the face of the bid.
- *17. Public improvement bids with a total of \$20,000 or more shall submit certificates of insurance within 10 days of notice of bid award. Certificates of insurance are to be addressed to the City of Fayetteville, showing that the contractor carries the following insurance which shall be maintained throughout the term of the bid. Any work sublet, the contractor shall require the subcontractor similarly to provide the same insurance coverage. In case any employee engaged in work on the project is not protected under Workers' Compensation, the Contractor shall provide, and shall cause each subcontractor to provide, adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workers' Compensation:	Statutory Amount
Comprehensive General & Automotive Liability:	\$500,000
Property Damage Liability:	\$100,000

- *18. Public improvement bids with a total of \$20,000 or more require a 5% bid bond and if awarded, a 100% performance and payment bond to be submitted before notice to proceed is given.
- *19. Public improvement bids exceeding \$20,000 or more require a contractor's license.
- *20. The City shall pay Contractor based on unit prices indicated in contractor's bid proposal. Progress payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
- *21. Contractor shall not assign his duties under the terms of this agreement. All work shall be coordinated directly with the Project Manager, or their designee.

*Applies to construction public improvement projects only, unless otherwise noted.



IMPORTANT SAFETY NOTICE

October 25, 2002

Mr. Coy Hurd
Fayetteville Police Courts Building
100 West Rock
Fayetteville, Ark 72701

Re: New Code Affecting Hydraulic Elevators

Dear Mr. Hurd

This letter is to inform you of an IMPORTANT new provision in the National Safety Code for Elevators and Escalators. The new code, based on the American Society of Mechanical Engineers ASME A17.1-2000, requires that all owners of hydraulic elevators with single-bottom cylinders take remedial action to help prevent a potentially dangerous situation.

Our records indicate that you may have a pre-1971 hydraulic elevator that has a single-bottom cylinder.

Background

A hydraulic elevator is built around a large cylinder assembly. The cylinder assembly includes a piston that is attached to the passenger car of the hydraulic elevator. The elevator passenger car movement is accomplished by pumping oil in or out of the cylinder causing the piston (thus the elevator car) to rise or descend. A catastrophic break in the cylinder can cause the hydraulic fluid to rush out and the piston and attached car to unpredictably and uncontrollably descend.

Prior to 1971, most hydraulic elevators were designed with a single-bottom cylinder (attachment fig A.) On January 1, 1971, ASME A17.1 established a recommendation that was adopted into most state and local elevator codes. The change required double-bottom cylinders (attachment fig. B) for all new hydraulic elevator installations. The change in the code to a double-bottom design was intended to help prevent the situation described above from occurring if underground corrosive action caused a breach in the bottom of the cylinder. However, there are still a number of hydraulic elevators in operation today which have single-bottom cylinders. And while there have been a very small number of such incidents over the past 30 years, when they have occurred, passengers were severely injured and in at least one case the injury was fatal. Due to the possibility of such a catastrophic failure on elevators with single-bottom cylinders, the Code authority of the United States and Canada has required the replacement or modification of all single-bottom cylinders.

Page 2

Recommended Action

Although underground hydraulic elevator cylinders cannot be inspected for corrosion, the system can be monitored for oil loss. A loss of oil may indicate a leak due to corrosion of the cylinder. Such an oil loss should be addressed immediately by removing the elevator from service, performing a pressure test to determine the cause of the oil loss, and correcting the problem before returning the elevator to service.

Owners with buildings that have pre-1971 hydraulic elevator in operation should have their hydraulic elevators inspected by a trained elevator technician to help determine if their elevator contains a single-bottom cylinder or shows signs of a potential cylinder leakage problem.

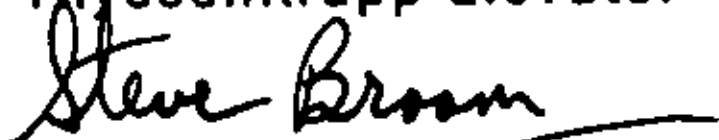
Future Action to Make Your Hydraulic Elevator Code Compliant

The new ASME A17.1-2000 will likely be adopted by your governing authority in the near future, at which time you will be required to bring any single-bottom cylinder elevator in your building into compliance. However, with safety being the heart of the new Code provision, we encourage you to take appropriate steps now to make sure your elevator is Code compliant.

It is our desire to assist all of our hydraulic elevator customers in assessing their equipment and where needed, help them in taking the necessary steps to meet the new Code requirements. ThyssenKrupp Elevator recommends that system oil levels be routinely monitored on all hydraulic elevators, but until the remedial code work is completed on elevators with single-bottom cylinders, special attention should be given to those units. As such, and as part of our existing full maintenance agreement, ThyssenKrupp will provide, at no cost to you, an "oil loss log" in your machine room for our technicians and the elevator. In addition, your account representative will be contacting you for authorization to perform a pressure test every 6 months on your single-bottom cylinder until remediation work is completed. This would be an increase in the annual interval schedule currently observed. The extra pressure test each year will be an additional cost to the existing full maintenance agreement, but will help reduce the risk of a catastrophic cylinder failure prior to completing the work, which the code requires. Only qualified elevator service technicians should do this testing until the proper cylinder remediation work is complete.

ThyssenKrupp Elevator is a member of the Elevator Escalator Safety Foundation, a charitable organization that promotes the safe and proper use of elevators, escalators, and moving walks through information and educational programs.

Sincerely,
ThyssenKrupp Elevator



Steve Broom
Service/Repair Sales

ThyssenKrupp Elevator
5477 South 108th East Ave
Tulsa, OK 74146
Telephone (918) 665-2040
Fax: (918) 665-2063



Repair Order.

Date: October 25, 2002
Attention: Mr. Coy Hurd
Address: 100 W Rock
City: Fayetteville, Ark 72701
Telephone: (479) 575-8361

Building: Fayetteville Police Courts Building
Address: 100 W Rock
City: Fayetteville, Ark 72701
Service contract #: N/A
Elevator serial #: E-26267

Purchaser authorizes ThyssenKrupp Elevator to perform the following described work on the subject elevator(s) in the above building:

Single-bottom cylinder replacement.

ThyssenKrupp Elevator proposes to furnish the necessary labor and materials to replace the existing cylinder(s) on one (1) hydraulic elevators with an ASME A17.1 – 2000 Code compliant cylinder with a sealed cylinder protection liner.

SCOPE OF WORK:

- ✓ Erect safety/sight barricades, lay protective floor covering around work areas.
- ✓ Suspend and secure (two methods) the elevator in the uppermost portion of hoistway.
- ✓ The hydraulic plunger shall be disconnected, landed and removed from the cylinder, then set aside for reuse.
- ✓ Remove the oil line, shutoff valve, pit channels and buffers from pit area.
- ✓ Jackhammer removal of concrete surrounding jack head.
- ✓ Hydraulic fluid shall be removed from the cylinder and stored in approved containers.
- ✓ Remove existing cylinder from the ground and dispose of properly.
- ✓ Remove hazardous debris from inside of present well casing and store in approved containers (See Special conditions).
- ✓ Install protective PVC (polyvinyl chloride) casing that includes a means of monitoring for corrosive moisture.
- ✓ Apply protective coating to new cylinder to aid in protection against corrosion.
- ✓ Thread and weld cylinder sections together, allow cooling and protective wrap at joints.
- ✓ Install new hydraulic cylinder with double bulkhead bottom made of steel pipe compliant with Elevator Safety Code ASME Code A17.1 – 2000 and the same I.D. and O.D. size as existing cylinder with new jack head.
- ✓ Backfill area between new PVC and hydraulic cylinder with unionguard 160.
- ✓ Replace concrete pit floor with appropriate insulation material.
- ✓ Reinstall hydraulic plunger into new cylinder.
- ✓ Reinstall hydraulic piping, shutoff valve, pit channels and buffers.
- ✓ Attach hydraulic plunger to the platen plate on underside of elevator and properly align.
- ✓ Install new jack seal and gasket (new head provided with cylinder)
- ✓ Provide new hydraulic fluid to the elevator hydraulic system and test for normal operation.
- ✓ Readjust valve, if required, to achieve proper operation.
- ✓ Perform Full Load Safety Test in the presence of state approved Elevator Inspector
- ✓ Disassemble and remove materials, tools and supplies and provide general clean up.
- ✓ Return elevator to service.

SCHEDULE

- 1) Delivery of jack casing from factory after receipt of executed contract, 2 – 3 weeks.
- 2) Installation of equipment after delivery to jobsite would be approximately 2 ½ - 3 weeks.

Special conditions:

- 1) The quoted price is based upon the existing jack hole is plumb and cased or jacketed to prevent hole collapse once the existing jack is removed. The jack hole is clear of rock, water, concrete, debris or any other underground condition which hinders us from freely pulling the existing jack or installing the new jack or which alters the method required to complete the project. If we encounter such conditions, we will notify you immediately and upon execution of a change order, it is agreed that all additional work will be performed on a time and material basis, based on standard billing rates, until the conditions which have caused the delay have been overcome.
- 2) Purchaser agrees to provide a safe, accessible storage area for placement of D.O.T. 55 Gallon containers for the purpose of spoils containment. Any spoils or water testing by others or delays due to such testing are not included in this proposal. The hiring of a disposal company is the responsibility of Purchaser, and MUST be discussed prior to any material being ordered or work being scheduled. ThyssenKrupp will provide environmental services ONLY if this is specifically included under the "Scope of Work" section above. ThyssenKrupp assumes no responsibility and/or liability in any way whatsoever for spoils or other contamination that may be present as a result of the cylinder breach and/or other conditions present on the work site.

- 3) For the purpose of providing this estimate, we assume no unusual conditions as outlined in Items #1-2 above. If necessitated by unusual conditions, a proposal for additional labor and materials shall be submitted to Purchaser for approval prior to performance of additional work. ThyssenKrupp shall not be responsible for delays due to such causes.
- 4) Purchaser will be notified immediately of any circumstances that will require more than the allotted time and materials provided in this proposal. Written authorization will be required for any labor or materials required beyond this original proposal amount.
- 5) All labor estimates included herein are based upon work being performed during regular working days and hours of the trade (M-F, 8:00 a.m. to 5:00 p.m.). Work performed at other times will be in addition to the price indicated herein.
- 6) This proposal includes the State Five Year Full Load Test. If the load test discloses any deficiencies in the operation of the equipment tested, an additional proposal will be submitted for your approval for work needed to put the specific equipment in proper condition and in compliance with the above mentioned specifications. ThyssenKrupp Elevator will exercise caution and care in performing this repair and tests, but will not be responsible for damage done to the building and/or equipment while performing this work.
- 7) Welding affecting the building fire protection system may be required on this project. This will be coordinated with Purchaser.
- 8) Purchaser agrees to furnish suitable parking area with standard truck access.
- 9) ThyssenKrupp Elevator's HDPE jack protection system shall be fully warranted for the effective life of the elevator system while being maintained under ThyssenKrupp Elevator's Maintenance Agreement against any leakage failure of the hydraulic cylinder assembly, irrespective of whether failure is due to any defect in material or workmanship, or in the event such failure is due to effects of corrosion, electrolysis, or microbiological action upon the buried cylinder structure, or any other deterioration leading to underground leakage, unless attributable to earthquakes and/or subsurface movement, settling, shifting of soils, or except for the aforementioned, any other circumstances beyond the control of ThyssenKrupp Elevator.

Purchaser agrees to pay the sum of: Twenty Four Thousand Nine Hundred Ninety Six and 00/100 (\$24,996.00) which includes applicable sales tax and shipping. All work is to be performed during regular working days and hours, unless otherwise indicated herein. No permits or inspections by others are included in this work, unless otherwise indicated herein.

Upon receipt of your written authorization and receipt of required materials and/or supplies, we shall proceed with the repair.

Unless otherwise stated, you agree to pay as follows: 50% upon signed acceptance and 50% upon completion.

This Repair Order is submitted for acceptance within 30 days from the date executed by ThyssenKrupp Elevator.

Purchaser's acceptance of this Repair Order together with the terms and conditions printed on subsequent pages hereof and which are expressly made a part of this proposal and agreed to, and its approval by an executive officer of ThyssenKrupp Elevator will constitute exclusively and entirely the agreement for the work herein described. All prior representations or agreements regarding this work, whether written or verbal, will be deemed to be merged herein, and no other changes in or additions to this agreement will be recognized unless made in writing and properly executed by both parties. This Repair Order specifically contemplates work outside the scope of any maintenance contract currently in effect between the parties; any such contract shall be unaffected by this Repair Order.

No agent or employee shall have the authority to waive or modify any of the terms of this agreement without the written approval of an authorized ThyssenKrupp Elevator manager.

Accepted:

FAYETTEVILLE POLICE COURTS BUILDING

By: _____
(Signature of Authorized Individual)

(Printed or Typed Name)

Title: _____ Date: _____

ThyssenKrupp Elevator Corporation:
5206 S 60th Place
Rogers, Ark 72758

By: Steve Broom
(Signature of ThyssenKrupp Elevator Representative)
Steve Broom, Service/Repair Sales
(479) 751-0222

Date: 10/22/02

Approved by: _____

Title: Branch Manager Date: _____

Terms and conditions.

ThyssenKrupp Elevator assumes no responsibility for any part of the elevator equipment except that upon which work has been done under this agreement. No work, service, examination or liability on the part of us other than that specifically mentioned herein is included or intended. It is agreed that we do not assume possession or control of any part of the equipment and that such remains Purchaser's exclusively as the owner, lessor, lessee, possessor, or manager thereof.

Our performance of this contract is contingent upon your furnishing us with any necessary permission or priority required under the terms and conditions of government regulations affecting the acceptance of this order or the manufacture, delivery or installation of the equipment.

We have made no examination of, and assume no responsibility for, any part of the elevator equipment except that necessary to do the work described in this proposal.

It is agreed that ThyssenKrupp Elevator's personnel shall be given a safe place in which to work and we reserve the right to discontinue our work in the building whenever, in our sole opinion, this provision is being violated.

You agree that in the event asbestos material is knowingly or unknowingly removed or disturbed in any manner at the job site by parties other than employees of ThyssenKrupp Elevator or those of our subcontractors, the work place will be monitored, and prior to and during our presence on the job, Purchaser will certify that asbestos in the environment does not exceed .01 fibers per cc as tested by NIOSH 7400. In the event our employees, or those of our subcontractors, are exposed to an asbestos hazard, PCB's or other hazardous substances resulting from work of individuals other than our employees, or those of its subcontractors, you agree to indemnify, defend, and hold ThyssenKrupp Elevator harmless from any and all claims, demands, lawsuits, and proceedings brought against us, or our employees resulting from such exposure. You recognize that your obligation to ThyssenKrupp Elevator under this clause includes payment of all attorneys' fees, court costs, judgments, settlements, interest and any other expenses of litigation arising out of such claims or lawsuits. Removal and disposal of asbestos containing material is your responsibility.

Unless otherwise agreed, it is understood that the work will be performed during regular working hours of the trades involved. If overtime is mutually agreed upon, an additional charge at our usual rates for such work shall be added to the contract price.

In consideration of ThyssenKrupp Elevator performing the services herein specified, you expressly agree to indemnify, defend, save harmless, discharge, release and forever

acquit ThyssenKrupp Elevator, our officers, agents and employees from and against any and all claims, demands, suits, and proceedings brought against us or our employees of any nature whatsoever, including but not limited to loss, damage, injury or death that are alleged to have arisen from or alleged to be in connection with the presence, use, misuse, maintenance, installation, removal, manufacture, design, operation or condition of the equipment covered by this agreement, or the associated areas surrounding such equipment, specifically including claims or losses alleged or proved to have arisen from the joint or sole negligence of ThyssenKrupp Elevator or our employees.

You expressly agree to name ThyssenKrupp Elevator as an additional insured in your liability and any excess (umbrella) liability insurance policy(ies). Such insurance must insure us for those claims or losses referenced in the above paragraph. You hereby waive the right of subrogation.

We shall not be liable for any loss, damages or delay caused by acts of government, strikes, lockouts, fire, explosions, theft, floods, riot, civil commotion, war, malicious mischief, acts of God, or any other cause beyond our control, and in no event shall we be liable for consequential damages.

Should loss of or damage to our material, tools or work occur at the erection site, you shall compensate us therefore, unless such loss or damage results from our own acts or omissions.

You agree that all existing equipment removed by ThyssenKrupp Elevator shall become the exclusive property of ThyssenKrupp Elevator.

We retain title to all equipment supplied by us under this contract, and a security interest therein, (which, it is agreed, can be removed without material injury to the real property) until all payments under the terms of this contract, including deferred payments and any extension is thereof, shall have been made. In the event of any default by you in the payment, under any other provision of this contract, we may take immediate possession of the manner of its attachment to the real estate or the sale, mortgage, or lease of the real estate. Pursuant to the Uniform Commercial Code, at our request, you agree to join with us in executing any financing or continuation statements, which may be appropriate for us to file in public offices in order to perfect our security interest in such equipment.

Certificates of Workmen's Compensation, Bodily Injury and Property Damage Liability Insurance coverage will be furnished to you upon request. The premium for any bonds or insurance beyond our standard coverage and limits will be an addition to the contract price.

If any drawings, illustrations or descriptive matter are furnished with this proposal, they

are approximate and are submitted only to show the general style and arrangement of equipment being offered.

You shall bear all cost(s) for any reinspection of our work due to items outside the scope of this agreement or for any inspection arising from the work of other trades requiring the assistance of ThyssenKrupp Elevator.

All applicable sales and use taxes, permit fees and licenses imposed upon us as of the date of this proposal, are included in the contract price. You agree to pay, as an addition to the contract price, the amount of any additional taxes, fees or other charges exacted from you or ThyssenKrupp Elevator on account thereof, by any law enacted after the date of this proposal.

A service charge of 1 1/2% per month, or the highest legal rate, whichever is less, shall apply to delinquent accounts. In the event of any default of the payment provisions herein, you agree to pay, in addition to any defaulted amount, all attorney fees, collection costs or court costs in connection therewith.

In the event a third party is retained to enforce, construe or defend any of the terms and conditions of this agreement or to collect any monies due hereunder, either with or without litigation, the prevailing party shall be entitled to recover all costs and reasonable attorney's fees.

You hereby waive trial by jury and do further hereby consent that venue of any proceeding or lawsuit under this agreement shall be in Oklahoma City County, Oklahoma.

The rights of ThyssenKrupp Elevator under this agreement shall be cumulative and the failure on the part of the ThyssenKrupp Elevator to exercise any rights given hereunder shall not operate to forfeit or waive any of said rights and any extension, indulgence or change by ThyssenKrupp Elevator in the method, mode or manner of payment or any of its other rights shall not be construed as a waiver of any of its rights under this agreement.

In the event any portion of this agreement is deemed invalid or unenforceable by a court of law, such finding shall not affect the validity or enforceability of any other portion of this agreement.

In the event your acceptance is in the form of a purchase order or other kind of document, the provisions, terms and conditions of this proposal shall govern in the event of conflict.

Federal Insurance Company

BID BOND

Bond No. 81470854-118

Amount \$5% OF TENDER PRICE

Know All Men By These Presents,
That we, **THYSSENKRUPP ELEVATOR CORPORATION**
(hereinafter called the Principal),

as Principal, and the Federal Insurance Company, 15 Mountain View Road, Warren, New Jersey, 07059, a corporation duly organized under the laws of the State of Indiana, (hereinafter called the Surety), as Surety, are held and firmly bound unto

CITY OF FAYETTEVILLE
(hereinafter called the Obligee),

in the sum of FIVE PERCENT OF TENDER PRICE Dollars (\$5% OF TENDER PRICE), for the payment of which we, the said Principal and the Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this October 17, 2002.

WHEREAS, the Principal has submitted a bid, dated October 25, 2002, for REPLACE ONE (1) HYDRAULIC JACK CASING FOR THE CITY OF FAYETTEVILLE

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with such bid and give bond with good and sufficient surety for the faithful performance of such contract, or in the event of the failure of the Principal to enter into such contract and give such bond, if the Principal shall pay to the Obligee the difference, not to exceed the penalty hereof, between the amount specified in said bid and the amount for which the Obligee may legally contract with another party to perform the work covered by said bid, if the latter amount be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect.

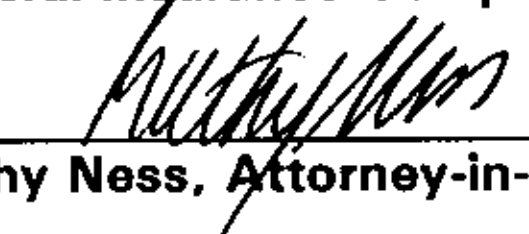
THYSSENKRUPP ELEVATOR CORPORATION

Principal

By: 

Sharmane Morgan
Contract Administrator

Federal Insurance Company

By: 

Kathy Ness, Attorney-in-Fact



**Chubb
Surety**

**POWER
OF
ATTORNEY**

**Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company**

Elevator
Att A. 2. Page 15
15 Mountain View Road
Warren, NJ 07059

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Kelly A. Parker, David Bowcott, Kathy Ness, Janice Oehm and Jacqueline Miller of Toronto, Ontario-----

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 5th day of March, 2002

Sheryl B. Roberts
Sheryl B. Roberts, Assistant Secretary

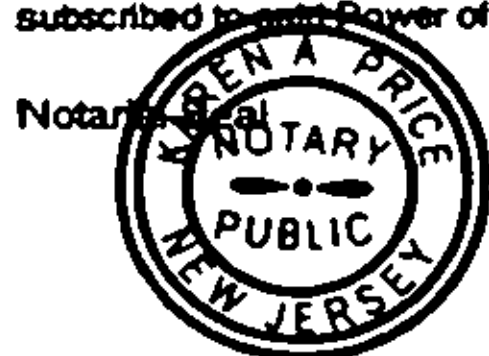
Frank E. Robertson
Frank E. Robertson, Vice President

STATE OF NEW JERSEY

ss.

County of Somerset

On this 5th day of March, 2002, before me, a Notary Public of New Jersey, personally came Sheryl B. Roberts, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Sheryl B. Roberts being by me duly sworn, did depose and say that she is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By-Laws of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Frank E. Robertson, and knows him to be Vice President of said Companies; and that the signature of Frank E. Robertson, subscribed to said Power of Attorney is in the genuine handwriting of Frank E. Robertson, and was thereto subscribed by authority of said By-Laws and in deponent's presence.



Karen A. Price
Notary Public State of New Jersey
No. 2231647
Commission Expires Oct. 28, 2004

Karen A. Price

Notary Public

CERTIFICATION

Extract from the By-Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Sheryl B. Roberts, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing extract of the By-Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U. S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U. S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this 17th day of October, 2002



Sheryl B. Roberts
Sheryl B. Roberts, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY
Telephone (908) 903-3485 Fax (908) 903-3656 e-mail: surety@chubb.com



ThyssenKrupp Elevator

WARRANTY ON JACK CASING REPLACEMENT

PURCHASER CITY OF FAYETTEVILLE, AR

BUILDING LOCATION FAYETTEVILLE POLICE COURTS BUILDING

CONTRACT NO. E-26267

EQUIPMENT SERIAL NO. E-26267

FINAL ACCEPTANCE DATE _____

We warrant the equipment installed by us for a period of ONE YEAR from the acceptance date, in accordance with terms of the contract. We will provide lifetime warranty on the jack casing as long as ThyssenKrupp Elevator Company is the maintenance provider on the elevator.

We thank you for choosing ThyssenKrupp Elevator.

ThyssenKrupp Elevator

BY *David P. Pflieger*
DATE SIGNED 10/25/02

ACORD

CERTIFICATE OF LIABILITY INSURANCE

Elevator
A. 2. Page 17

PRODUCER

NEAR NORTH INSURANCE BROKERAGE INC
SUITE 2000
875 NORTH MICHIGAN AVENUE
CHICAGO IL 60611

Contact: Helen Chen Ph:312-280-5655 Fx:312-202-6170

INSURED

THYSSENKRUPP ELEVATOR CORPORATION

Contact:

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURER A: Lexington Insurance Company

INSURER B: Pacific Employers Insurance Company

INSURER C:

INSURER D:

INSURER E:

SPECIMEN

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR
MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH
POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSURER LETTER	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	1320252 - PRIMARY POLICY	12/31/2001	10/01/2003	EACH OCCURRENCE \$4,000,000
	☒ COMMERCIAL GENERAL LIABILITY	1320253 - EXCESS POLICY			FIRE DAMAGE (Any one fire) \$2,000,000
	☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person) N/A
					PERSONAL & ADV INJURY \$4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER POLICY				PRODUCTS - COMB AGG \$8,000,000
	☒ POLICY				PRODUCTS - COMB AGG Included
B	AUTOMOBILE LIABILITY	ISAH076842	10/01/2002	10/01/2003	COMBINED SINGLE LIMIT \$2,000,000
	☒ ANY AUTO				BODILY INJURY (Per person)
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident)
	☐ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)
	☐ HIRED AUTOS				
	☐ NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT
	☐ ANY AUTO				AUTO ONLY - EA ACC
	EXCESS LIABILITY				AUTO ONLY - AGG
	☐ OCCUR ☐ CLAIMS MADE				CURRENT
	☐ DEDUCTIBLE				AGGREGATE
	RETENTION \$				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WLRC42990346 (AOS) SCFC42990309 (SC, WI)	10/01/2002	10/01/2003	☒ WC STATUTORY LIMITS ☐ OTHER
					EL EACH ACCIDENT \$1,000,000
					EL DISEASE - POLICY LIMIT \$1,000,000
					EL DISEASE - EA EMPLOYEE \$1,000,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
RE: OTHERS SPECIMEN JOB# SPECIMEN

SPECIMEN

CERTIFICATE HOLDER

SPECIMEN

ADDITIONAL INSURED; INSURER LETTER

CANCELLATION

#

SPECIMEN

Should any of the above described policies be cancelled before the
expiration date thereof, the issuing insurer will endeavor to mail
30 days written notice to the certificate holder named to the left,
but failure to mail such notice shall impose no obligation or liability
of any kind upon the company, its agents or representatives.

Authorized Representative

SPECIMEN

License No. 0022880103

State of Arkansas
Contractors Licensing Board

THYSSENKRUPP ELEVATOR CORPORATION
PO BOX 2177
MEMPHIS, TN 38101

THYSSENKRUPP ELEVATOR CORPORATION

This is to Certify That

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended
and is entitled to practice Contracting in the State of Arkansas within the
following classification:

SPECIALTY

Elevators, Escalators, Dumbwaiters,
Chairlifts

with the following suggested bid limit UNLIMITED

from January 25, 2002 until January 31, 2003

when this Certificate expires.

Witness our hands of the Board, dated at Little Rock, Arkansas



Randy McFelly

CHAIRMAN

Ray [Signature]

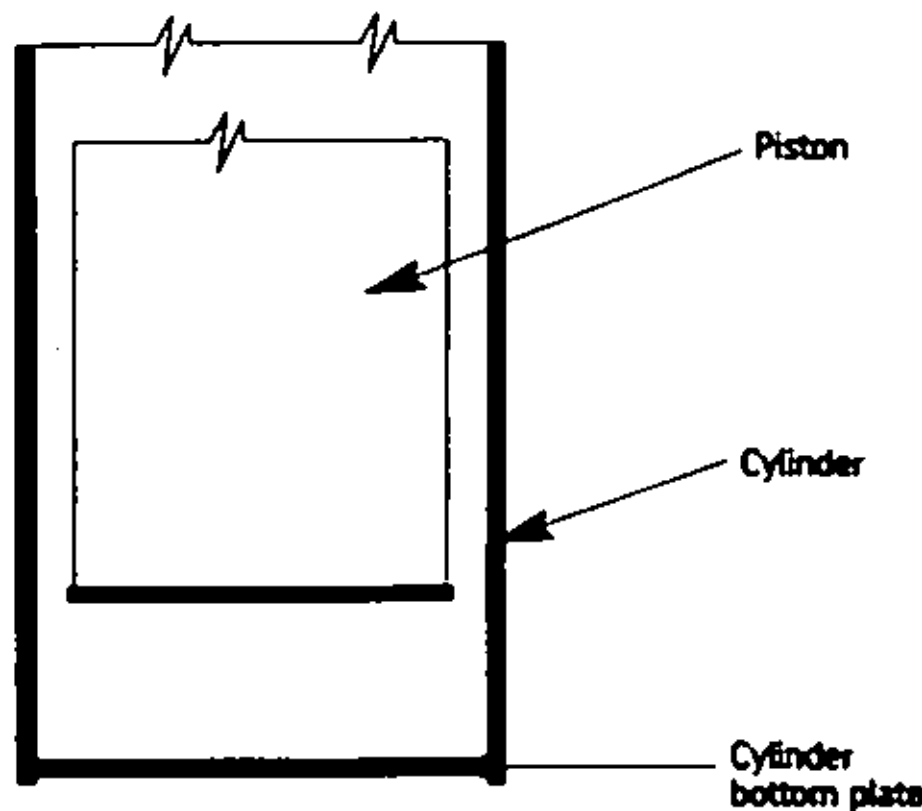
SECRETARY

January 25, 2002

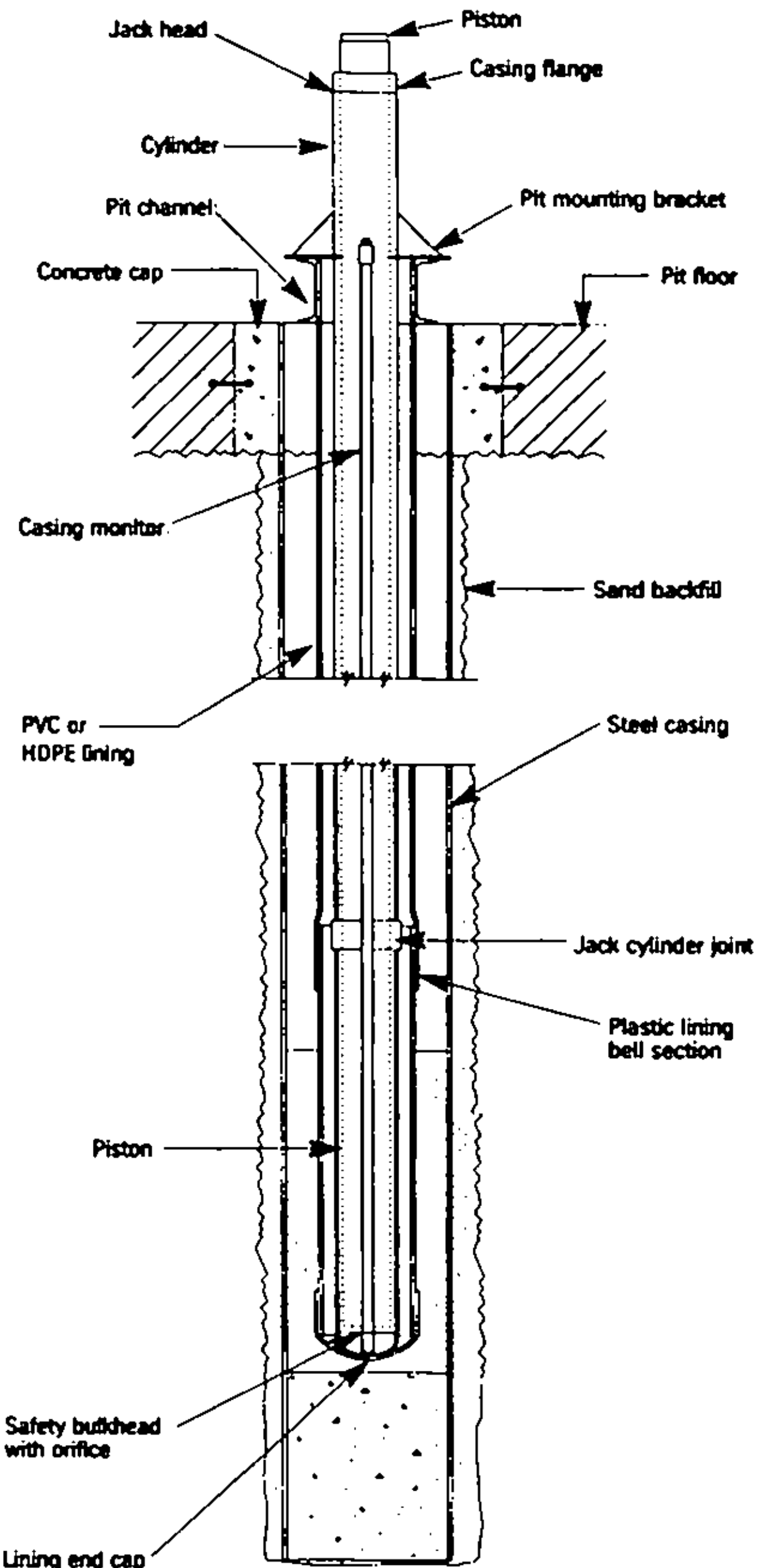
Single-bottom cylinder replacement.

Elevator
A. 2. Page 19

A. Single-bottom cylinder.



B. Double-bottom cylinder.



The National Safety Code for Elevators and Escalators has a new rule that may affect your hydraulic elevator.

Cylinder corrosion.

The cylinder of a typical hydraulic elevator is installed in the ground beneath the elevator car. Unless the cylinder is installed inside a protective covering, it is exposed to the risk of corrosion and electrolysis. Soil often contains elements that cause reactions that damage the metal composition of a cylinder. This can cause a cylinder to leak oil, which creates environmental contamination and puts passenger safety at risk.

Safety issues.

Most hydraulic elevators operate by pumping pressurized oil into the underground cylinder.

As the oil enters the cylinder, the piston rises and forces the elevator car upward. To lower the car, oil is gradually released from the cylinder back into a holding tank. If there is a leak in the cylinder and no way to control the flow of oil escaping, then there is no way to control the speed of elevator descent. Elevators with single-bottom cylinders are especially at risk.

Code revision.

The ASME A17.1-2000, National Elevator Safety Code has a new provision that requires single-bottom cylinders be replaced with double-bottom cylinders or be equipped with code compliant safeties.

ThyssenKrupp Elevator



Single-bottom cylinder.

Prior to 1971, most hydraulic elevators were designed with a single-bottom cylinder. However, should the bottom plate rupture, there is no safety mechanism to prevent the elevator from descending uncontrollably. Though few incidents like this have occurred, when they have, passengers have been injured.

Buried piping and cylinders are not covered by existing elevator preventive maintenance contracts for obvious reasons.

Many of these outdated single-bottom cylinder designs are still in operation.

A code compliant cylinder has a safety bulkhead, referred to as a double-bottom cylinder.

Double-bottom cylinder.

A17.1 elevator code for new installations began requiring the double-bottom cylinder design in 1971 in order to protect against the catastrophic failure of the bottom plate. This cylinder design features a bottom plate plus a safety bulkhead with a relief orifice. Should the bottom plate rupture, the orifice will limit the speed of the elevator's decent by allowing only a small amount of oil to escape at a time. The result is a safer mode of transportation for passengers.

Additional cylinder protection.

Even with the additional safety provided by the double-bottom cylinder, buried cylinders can still be affected by underground conditions. For multi-section jacks, ThyssenKrupp recommends the cylinder be encased in a sealed PVC (polyvinyl chloride) casing that includes a means of monitoring for unwanted moisture. The plastic lining acts as a barrier against corrosive activities, which could cause damage to the metal of the unprotected cylinder.

Monitoring capability for unwanted water or other liquids, allows maintenance personnel

to protect the integrity of your cylinder by making sure corrosive material is not present inside the lining.

HDPE protection.

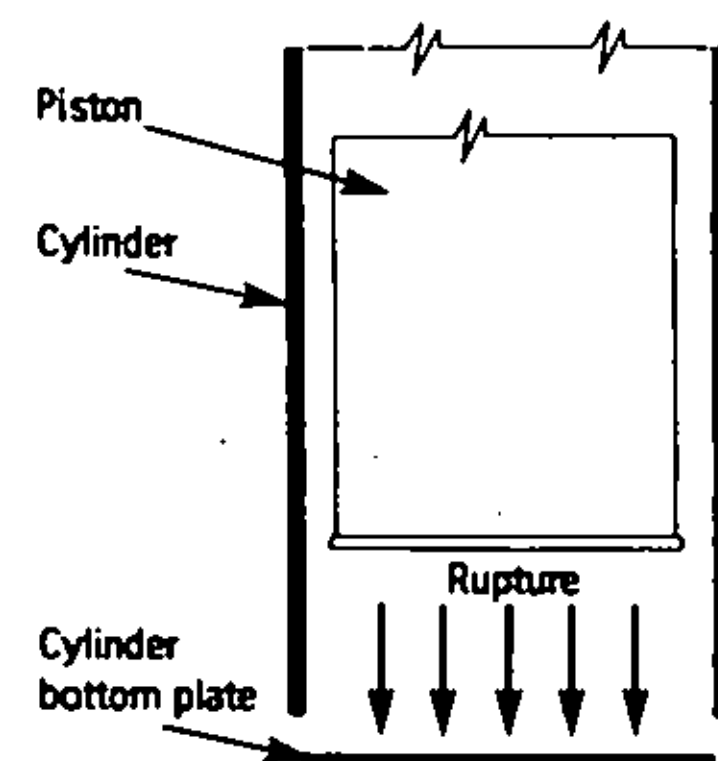
For single-section jacks, ThyssenKrupp's High Density Polyethylene (HDPE) jack protection system is the most advanced corrosion protection system available. HDPE is a high quality, high performance thermoplastic manufactured to meet some of the most stringent quality standards and specifications used in the piping industry.

Our system also includes a bottom cap made of the same HDPE material and is designed to provide an impenetrable seal. An electronic sensor features a miniaturized circuit board, which detects the presence of corrosive material between the HDPE and the cylinder. The end result is a superior product with the durability and flexibility demanded in today's market.

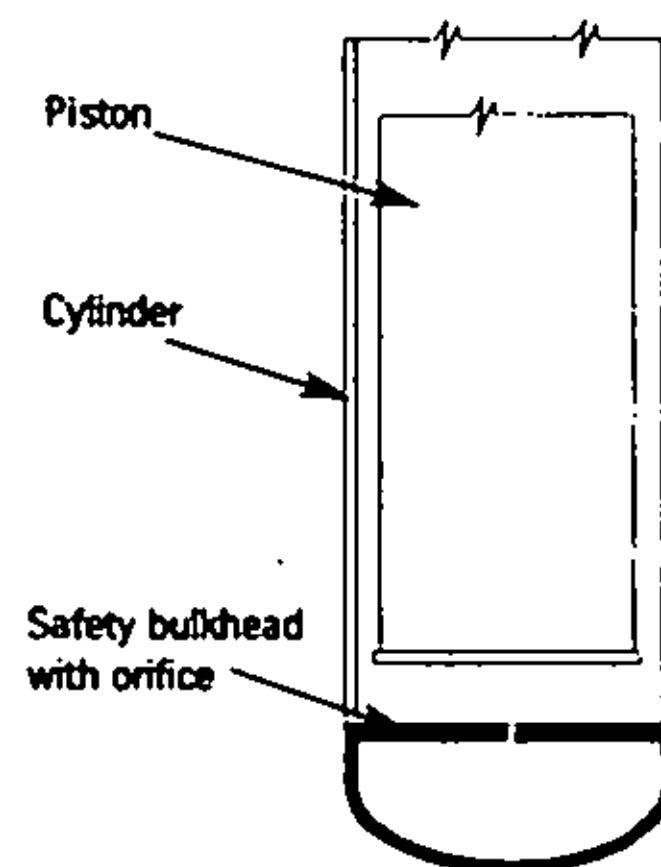
ThyssenKrupp Elevator will warranty the cylinder for the life of the maintenance contract if HDPE is installed.

Our trained professionals are prepared to provide a survey of your elevator to help you determine what corrective actions, if any, may be required to ensure passenger safety and compliance with the code performance requirements.

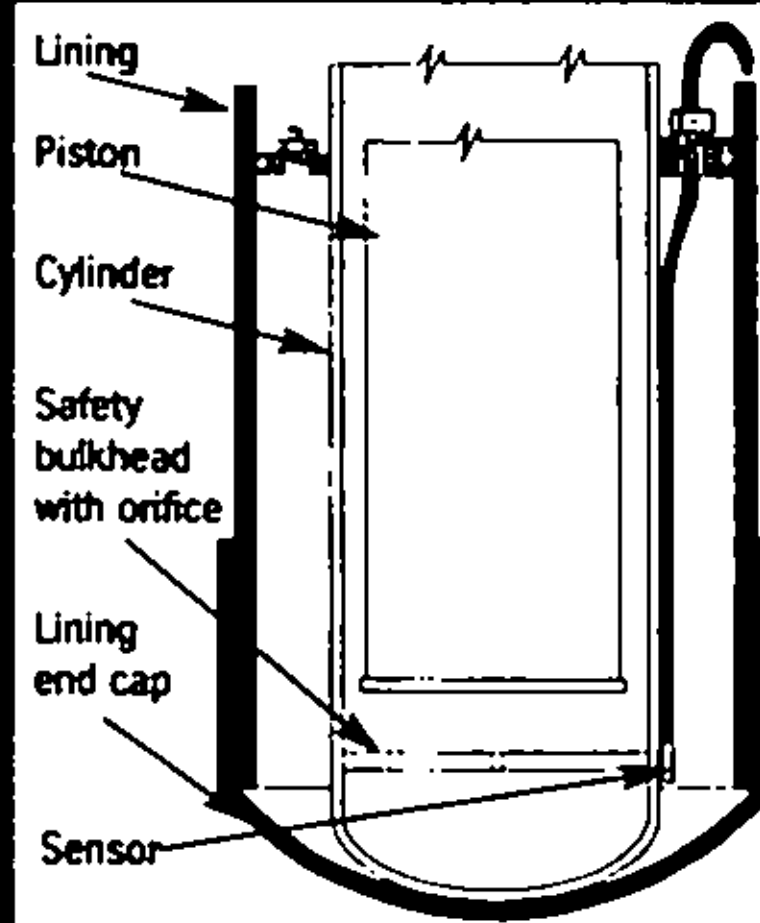
C. Single-bottom cylinder.



D. Double-bottom cylinder.



E. Double-bottom cylinder protection.



All illustrations and specifications are based on information in effect at time of publication approval. ThyssenKrupp Elevator reserves the right to change specifications or design and to discontinue items without prior notice or obligation.

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SBCR 2002
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ThyssenKrupp Elevator
P.O. Box 2177
Memphis, TN 38101
Tel: (662) 393-2110
Fax: (662) 342-4309

thyssenkruppelevator.com

STAFF REVIEW FORM

Offer and Accept
A. 3. Page 1

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council Meeting of November 19, 2002

FROM:

Jill Goddard
Name

Engineering
Division

Public Works
Department

ACTION REQUIRED: Approve the Offer and Acceptance Contract for the acquisition of all of Parcel No. 765-12164-000 (Shake's Frozen Custard, 2050 W. 6th Street) for the relocation of the Sang Avenue intersection with Sixth Street and approve the attached budget adjustment.

COST TO CITY:

\$528,000.00
Cost of this Request

\$410,559.00
Category/Project Number

Hollywood Str - 6th & Sang Ave Inter.
Category/Project Name

4470-9470-5809-00
Account Number

\$56,422.00
Funds Used to Date

Street Improvements
Program Name

00019-0030
Project Number

\$354,137.00
Remaining Balance

Sales Tax Capital Improvements
Fund

BUDGET REVIEW:

☒ Budgeted Item

☒ Budget Adjustment Attached

[Signature]
Budget Manager

[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

[Signature]
Accounting Manager

11/1/02
Date

[Signature]
City Attorney

11/1/02
Date

[Signature]
Purchasing Officer

11/4/02
Date

[Signature]
Internal Auditor

11/1/02
Date

ADA Coordinator

Date

STAFF RECOMMENDATION: Approval of the Offer and Acceptance Contract and Budget Adjustment.

[Signature]
Division Head

11/01/02
Date

[Signature]
Department Director

10/01/02
Date

[Signature]
Administrative Services Director

11-4-02
Date

[Signature]
Mayor

11/5/02
Date

Cross Reference

New Item: ☒ Yes ☐ No

Prev. Ord/Res. #: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

STAFF REVIEW FORM

Description _____ Meeting Date _____

Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Reference Comments:

DEPARTMENTAL CORRESPONDENCE

DATE: October 30, 2002

TO: Fayetteville City Council

THRU: Dan Coody, Mayor
Kit Williams, City Attorney
Greg Boettcher, Public Works Director
Jim Beavers, City Engineer
Paul Libertini, Staff Engineer *PL*

FROM: Jill Goddard, Land Agent *JG*

SUBJECT: Hollywood Street – 6th Street & Sang Avenue Intersection
Project No. 00019
Donald E. & Debra L. Osborne (Shake's Frozen Custard)

The City has been acquiring right-of-way and easements for the relocation of Sang Avenue so that it aligns with Hollywood Avenue to the south and, subsequently, a traffic light can be installed at that intersection with Sixth Street.

The original proposal was to acquire 5,675 square feet (0.13 acre) in right-of-way from Donald E. & Debra L. Osborne, owners of the Shake's Frozen Custard property at 2050 W. Sixth Street (their total parcel being 0.33 acre). The City was then to acquire the portion of Sang Avenue (7,981 square feet or 0.18 acre) to the west of Shake's Frozen Custard from Daybreak Properties, Inc. (the street was initially acquired only in easement, not deed). After this acquisition, that portion of Sang Avenue was to be vacated as a street (with utility easements retained) and ownership transferred to the Osbornes. As they would gain 7,981 square feet and only lose 5,675 square feet plus have new surfacing, curb and gutter, and parking striping, our original offer to them was for an even exchange (zero compensation).

However, Shake's corporate officers were not in favor of an even swap and they were extremely concerned about lost business not just during construction but as a result of no longer having ingress/egress off of Sixth Street. We estimated that severance damages could run as high as \$100,000.00. In addition to that, a counter offer of \$35,000.00 has been received from Daybreak Properties for the portion of Sang Avenue to be vacated and transferred to Osbornes (original offer was \$13,000.00).

Shake's Frozen Custard has offered the City the opportunity to purchase their entire parcel for \$240,000.00. It is staff's recommendation that this is the optimum solution in that we would avoid a settlement made by court action, we wouldn't have to pay severance damages, the contractor wouldn't have to take special precautions to keep access to the business available at all times, we would save the cost of improvements to the property (estimated to be \$50,000.00), we wouldn't have to purchase the portion of Sang Avenue (\$35,000.00 given the counter-offer), and the remaining property not needed for right-of-way could be sold after construction (estimated to be \$100,000.00 as it includes a building).

Right-of-way and easements have already been acquired from the Kenneth W. Lazenby Revocable Trust (\$53,100.00) and William A. Lazenby (\$500.00).

A traffic signal is needed at this intersection for both the school traffic to the north and fire station calls from the Hollywood Avenue station. The master street plan in conjunction with the proposed water park project would divert traffic to Hollywood Avenue and the new traffic signal at Sixth Street.

Presented for your approval is a signed Offer and Acceptance Contract for \$240,000.00 to acquire Parcel No. 765-12164-000 in its entirety. This action would also entail a budget adjustment (attached).

If this purchase is not approved, we stand a good chance of being forced by the courts into buying the entire parcel anyway or essentially paying the equivalent in severance damages and then not having any remainder to sell to recoup costs. This purchase is the deciding point of whether this much-needed project is to be constructed or is to be removed from the C.I.P., keeping in mind that \$53,600.00 has already been paid for right-of-way, plus \$3000.00 in appraisal fees, for a total expenditure to date of \$56,422.00.

HWY 180 & SANG AVE./HOLLYWOOD AVE. INTERSECTION IMPROVEMENTS

ESTIMATED PROJECT BUDGET

Intersection Improvements:	\$483,000	
Contingency 15%:	\$72,000	
<i>Intersection Subtotal:</i>		\$555,000
18" Waterline, 300 feet:	\$30,000	
8" Waterline, 450 feet:	\$45,000	
<i>Waterline Subtotal:</i>		\$75,000
Construction Testing:	\$5,000	
<i>Testing Subtotal:</i>		\$5,000
Right-of-Way:	\$303,000	
<i>R/W Subtotal:</i>		\$303,000
<i>Project Grand Total:</i>		\$938,000
Existing Project Budget:		-\$410,000
<i>Requested Budget Amendment:</i>		\$528,000

**City of Fayetteville, Arkansas
Budget Adjustment Form**

**Offer and Accept
A. 3. Page 5**

Budget Year 2002	Department: Public Works Division: Engineering Program: Sales Tax Capital Improvements	Date Requested 11/19/2002	Adjustment Number
--------------------------------	---	---	--------------------------

Project or Item Requested: \$528,000 is requested in the Hollywood Street - 6th & Sang Ave Intersection capital project.	Project or Item Deleted: \$528,000 from the Mount Sequoyah W&S System Upgrade capital project.
--	--

Justification of this Increase: The additional funds are needed to cover the cost of the right-of-way for the intersection and to replace some of the existing waterline.	Justification of this Decrease: The project is currently on hold.
---	---

Increase Expense (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	528,000	00019	1

Decrease Expense (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Water line improvements	4470	9470	5808	00	528,000	01023	1

Approval Signatures

Requested By	Date
	11-1-02
Budget Manager	Date
Department Director	Date
	11-1-02
Administrative Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	<u>D</u>	E
Date of Approval				Date	Initial
Posted to General Ledger				Date	Initial
Posted to Project Accounting				Date	Initial
Entered in Category Log				Date	Initial

OFFER AND ACCEPTANCE CONTRACT

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

Parcel No. 765-12164-000

All of Block Numbered Two (2) in Westwood Addition, a replat to the City of Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, LESS AND EXCEPT that portion contained in the Right of Way of U.S. Highway Number 62, and being all of that part of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty (20), Township Sixteen (16) North, Range Thirty (30) West, lying North and West of U.S. Highway 62.

(Also known as Shake's Frozen Custard at 2050 W. 6th Street, Fayetteville, AR.)

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of **\$240,000.00**.
3. **Contingent Earnest Money Deposit:** The Buyer will tender a check for **\$4,800.00** to **Donald E. Osborne and Debra L. Osborne**, husband and wife, hereinafter referred to as the Seller, as earnest money, which shall apply on the purchase price.
4. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract. A Vendor Form is attached hereto on which the Seller must provide to the Buyer a Tax Identification Number (corporation) or Social Security Number so that the earnest money check can be written and mailed to the Seller within two weeks of the Seller's acceptance of this contract.
5. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
6. The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. The cost of such title insurance policy shall be equally shared by the Seller and the Buyer.
7. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
8. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 4

9. The closing date is designated to be thirty (30) days after approval of this contract by the Fayetteville City Council. If the last date of such closing falls on a weekend or holiday, it will be held the following working day. The closing agent will be a mutually agreed upon closing firm with Washington County, Arkansas.
10. Possession of the property shall be delivered to the Buyer on the date of closing.
11. Seller hereby grants permission for the Buyer or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
12. All fixtures, improvements and attached equipment are included in the purchase price.
13. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
14. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Buyer and Seller shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at Buyer's discretion, Buyer may cure such environmental hazard, and Seller shall indemnify Buyer for all costs associated with said cure.
15. This agreement shall be governed by the laws of the State of Arkansas.
16. This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
17. This contract expires, if not accepted by the Seller on or before the 8th day of November, 2002.
18. **NOTICE:** BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO BUYER OF THE \$ 4,800.00 EARNEST MONEY DEPOSIT.

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

SELLER:

Donald E. Osborne

Date: _____

Debra L. Osborne

Date: _____

AGENT OR WITNESS:

Date: _____

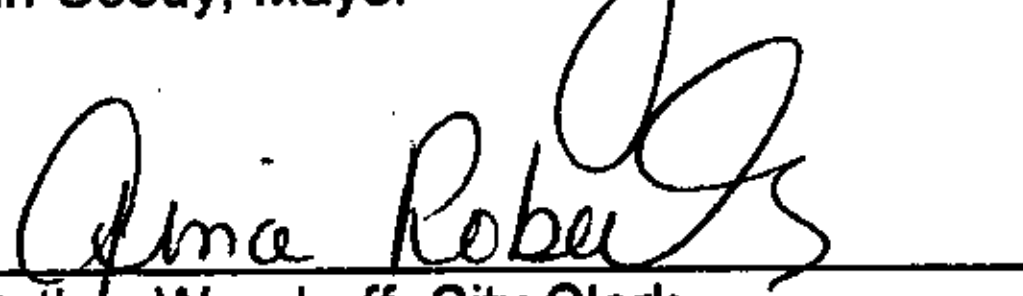
BUYER:

City of Fayetteville, Arkansas,
A municipal corporation



Dan Coody, Mayor

Date: 10/30/02



Heather Woodruff, City Clerk

Date: 10-30-02

Deputy

(SEAL)

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 5

ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss.

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

WITNESS my hand and seal on this _____ day of _____, 2002.

Notary Public

MY COMMISSION EXPIRES:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

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

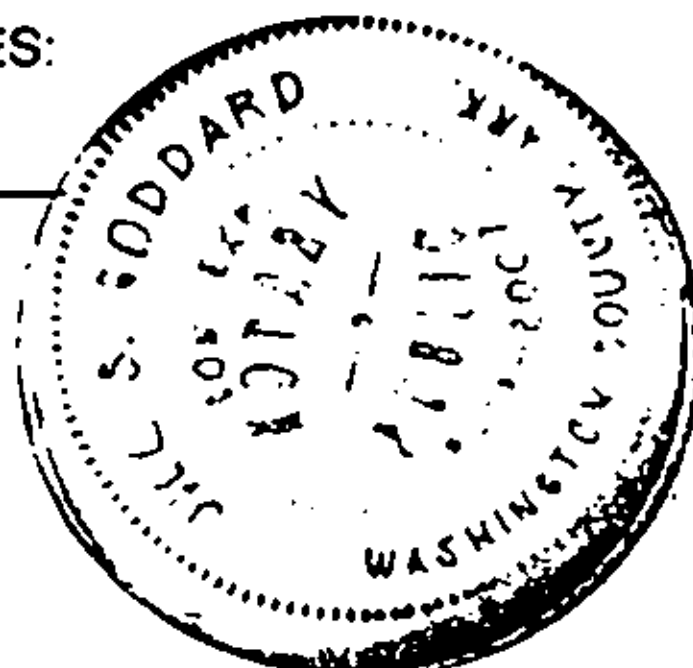
WITNESS my hand and seal on this 30th day of October, 2002.

Gina Roberts

Notary Public

MY COMMISSION EXPIRES:

09-18-2007



SE-SW-17-16-30

SW-SW-17-16-30

Fayetteville School District No. 1

Deed Ref. 646/201

Parcel No. 765-14592-000

Scale: 1" = 50'

SANG AVENUE

**Kenneth W. Lazenby
Revocable Trust**

Deed Ref. 96-4744

Parcel No. 765-07549-000

Kenneth W. Lazenby Revocable Trust

Deed Ref. 96-4744

Parcel No. 765-07548-000

William A. Lazenby

Deed Ref. 1384717

Parcel No. 765-07550-000

**PROPOSED STREET
RIGHT OF WAY**

RIGHT OF WAY

Proposed TCE

OLD FARMINGTON ROAD

**PROPOSED AREA
TO BE VACATED**

~~< proposed water/sewer and drainage easement~~

current use as street via Easement 898/185
legally part of Parcel No. 765-14860-000

SANG AVENUE

NW-NW-20-16-30

Daybreak Properties Inc.

Deed Ref. 99-94023

Parcel No. 765-14860-000

Donald E. & Debra L. Osborne
Deed Ref. 2000-29178
Parcel No. 765-12164-000

Deed Ref. 2000-29178

Parcel No. 765-12164-000

PROPOSED STREET
RIGHT OF WAY

1990

NE-NW-20-16-30

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Offer and Accept
PLEASE RETURN A. 3. Page 11
CITY OF FAYETTEVILLE
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701
(479) 444-3407
FAX: (479) 575-8202

VENDOR FORM

Vendor # _____
(For Office Use Only)

According to the Federal Income Tax Law, the City is required to obtain the information listed below from all individuals and companies with whom we do business. Failure to comply may subject you and/or your company to certain penalties, as well as withholding tax.

Please complete the following:

____ Sole Proprietorship
____ Corporation
____ Partnership
____ Tax-exempt organization under Section 501(a)
____ Foreign Government
☒ Individual
____ Other (please explain)

Tax Identification Number:

_____ Federal employer identification number

OR

_____ Social Security number (for individual or sole proprietors)

I certify that the above information is true and correct.

Donald E. & Debra L. Osborne
Name of Individual or Business

1102 S. Rangeline
Address

Joplin, MO 64801
City, State, Zip Code

Signature

Date

N/A
Title

Please mail or FAX this completed form to the City of Fayetteville at the above address or FAX number.

DEPARTMENTAL CORRESPONDENCE

To: Greg Boettcher, Public Works Director

Thru: Jim Beavers, City Engineer

From: Paul Libertini, Staff Engineer *Paul*

Date: October 17, 2002

Re: Acquisition of Shake's Property
Sang/Hollywood & 6th Street Intersection

Jim Beavers, Jill Goddard and Paul Libertini met with John Harrell and Corey Osborne of Shake's Frozen Custard on October 3rd to discuss their concerns over the proposed construction project and the City's offer letter. The bottom line is that Shake's wants the City to buy their entire parcel at the appraised value of \$240,000 because of their concerns over direct access and potential loss of 20% of their business.

For comparison, I have constructed the attached spreadsheet showing a comparable project and 4 options for the project at hand. The Sunbridge Drive and College Avenue Intersection is similar to this project in that it closed an existing intersection (Villa Blvd.) with College Avenue and constructed a new intersection to line up with the extension of Sunbridge Drive. In 1998, this project acquired 3 parcels for a total of \$346K which included buying 2 existing buildings for \$88K and paying severance damages of \$24K.

The 4 options are listed below with the total cost being the total project cost of land acquisition for 7 properties.

Option 1: Partial Take of Shake's Property – This includes purchasing the old Sang Ave. easement from Daybreak Industries for \$35,000 and constructing Shake's a new driveway and parking area for \$50,000.

Total cost = \$143,200

Option 2: Partial Take of Shake's Property w/ Severance Damages – \$100,000 was added for severance damages for the Shake's property assuming they force the City to a court settlement.

Total cost = \$243,000

Option 3: Buy Whole Parcel of Shake's Property – The attached Shake's letter offers to sell the entire parcel for the appraised value of \$240,000.

Total Cost = \$298,200

Option 4: Buy Whole Parcel & Sell Remnant of Shake's Property – A conservative estimate to sell the remaining parcel including the building is \$100,000.

Total Cost = \$198,200

As it stands now, the City's offer to Shake's is for \$0 (zero dollars) based on the current certified appraisal. This amount is based on the fact that although the City wants to acquire 5,675 square feet from Shake's, they are purchasing 7,979 square feet of property from Daybreak Industries which will be transferred to Shake's, and then the City will construct a new driveway and parking area on this property for Shake's. In the after situation, Shake's access will be restricted to Old Farmington Road, but in the present situation they have direct access from 6th Street and Old Farmington Road. Although, I personally feel that the proposed site plan for Shake's offers good access through the new signalized intersection, Shake's does not agree. In Option 2, I have factored in \$100,000 as severance damages based on the belief that Shake's will never settle for an "even trade".

Option 4 shows the City acquiring the entire parcel and then turning around and selling the remainder which would bring the total R/W cost down to approx. \$200K which is very reasonable comparing this amount to the \$346K paid for the 1998 Sunbridge/College Project. Even if the City sold the remainder just for the land value of \$70K (8,700 sq. ft. x \$8/sq. ft.), the total project land acquisition cost would be \$230K, which is still reasonable.

Based upon the fact that I believe the City will not be able to acquire the Shake's property for the cost shown in Option 1, I recommend that it would be in the City's best interest to move forward to accept Shake's offer, as shown in Option 4. This would alleviate a long drawn out, expensive acquisition phase with attorney involvement, allow the project to move forward now, allow the City to have more flexibility in constructing the sidewalk away from the back of curb, allow more room for City utilities and provide more room to work in during construction.

Attachments: Spreadsheet
 Shake's Letter 10/3/2002

Sunbridge Drive & College Avenue Intersection Realignment - 1998												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Curry	15,794		4,117	\$128,600		\$3,335	\$46,000		\$23,500	\$201,435	\$12.54
2	Fayetteville Partners	9,088		3,092	\$74,000		\$3,190	\$42,000		\$0	\$119,190	\$12.76
3	U of A Foundation	4,596		4,130	\$23,000		\$2,100				\$25,100	\$5.00
	Totals	29,478	0	11,339	\$225,600	\$0	\$8,625	\$88,000	\$0	\$23,500	\$345,725	\$11.44

PARTIAL TAKE OF SHAKES PROPERTY - NO SEVERANCE DAMAGES												
Sang/Hollywood & 6th St (Hwy 180) Intersection Realignment - 2002												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Lazenby Trust	7,981		4,148	\$40,000		\$2,100		\$11,000		\$53,100	\$6.39
5	William Lazenby			513			\$500				\$500	
2	Fay. Public Schools	*2414	4,115		\$0	\$0					\$0	
3	Osborne (Shakes)	5,675	519	978	\$0	\$0	\$0			\$50,000	\$50,000	\$8.81
4	Daybreak Properties	7,979			\$35,000						\$35,000	\$4.39
6	KSK Inv. (Taco Bell)	381			\$1,900						\$1,900	\$4.99
7	McDonalds	777			\$2,700						\$2,700	\$3.47
	Totals	22,793	4,634	5,639	\$79,600	\$0	\$2,600	\$0	\$11,000	\$50,000	\$143,200	\$6.17

* Donated R/W NOT Included in Calculations

NOTES: \$50K shown under Severance Damages is NOT damages, but cost to build Shakes new parking area

PARTIAL TAKE OF SHAKES PROPERTY - SEVERANCE DAMAGES												
Sang/Hollywood & 6th St (Hwy 180) Intersection Realignment - 2002												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Lazenby Trust	7,981		4,148	\$40,000		\$2,100		\$11,000		\$53,100	\$6.39
5	William Lazenby			513			\$500				\$500	
2	Fay. Public Schools	*2414	4,115		\$0	\$0					\$0	
3	Osborne (Shakes)	5,675	519	978	\$0	\$0	\$0			\$150,000	\$150,000	\$26.43
4	Daybreak Properties	7,979			\$35,000						\$35,000	\$4.39
6	KSK Inv. (Taco Bell)	381			\$1,900						\$1,900	\$4.99
7	McDonalds	777			\$2,700						\$2,700	\$3.47
	Totals	22,793	4,634	5,639	\$79,600	\$0	\$2,600	\$0	\$11,000	\$150,000	\$243,200	\$10.56

* Donated R/W NOT Included in Calculations

BUY WHOLE PARCELS SHAKES PROPERTY												
Sang/Hollywood & 6th St (Hwy 180) Intersection Realignment - 2002												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Lazenby Trust	7,981		4,148	\$40,000		\$2,100		\$11,000		\$53,100	\$6.39
5	William Lazenby			513			\$500				\$500	
2	Fay. Public Schools	*2414	4,115		\$0	\$0					\$0	
3	Osborne (Shakes)	14,375			\$240,000						\$240,000	\$16.70
4	Daybreak Properties	0			\$0						\$0	
6	KSK Inv. (Taco Bell)	381			\$1,900						\$1,900	\$4.99
7	McDonalds	777			\$2,700						\$2,700	\$3.47
	Totals	23,514	4,115	4,661	\$284,600	\$0	\$2,600	\$0	\$11,000	\$0	\$298,200	\$12.57

BUY WHOLE PARCELS SHAKES PROPERTY - SELL REMNANT												
Sang/Hollywood & 6th St (Hwy 180) Intersection Realignment - 2002												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Lazenby Trust	7,981		4,148	\$40,000		\$2,100		\$11,000		\$53,100	\$6.39
5	William Lazenby			513			\$500				\$500	
2	Fay. Public Schools	*2414	4,115		\$0	\$0					\$0	
3	Osborne (Shakes)	14,375			\$240,000						\$240,000	\$16.70
4	Daybreak Properties	0			\$0						\$0	
6	KSK Inv. (Taco Bell)	381			\$1,900						\$1,900	\$4.99
7	McDonalds	777			\$2,700						\$2,700	\$3.47
	Sell Shakes Remnant	-8,700			-\$100,000						-\$100,000	\$11.49
	Totals	14,814	4,115	4,661	\$184,600	\$0	\$2,600	\$0	\$11,000	\$0	\$198,200	\$13.20



Shake's Frozen Custard Inc.

244 WEST DICKSON
FAYETTEVILLE, AR 72701

PHONE: (479) 587-9115
E-MAIL: WWW.SHAKESFROZENCUSTARD.COM

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

October 3, 2002

Paul Libertini, PE
Jim Beavers, City Engineer

We appreciate your efforts to improve traffic patterns in the city and particularly appreciate your and Jill's efforts to try to work with us on the access issue, but we have grave concerns regarding how your proposal will effect our business.

Although it may appear to be an even swap as far as land area and parking spaces go, we believe your proposal would devastate our business. We have serious concerns, including but not limited to traffic flow, and the ability to have our product delivered by semi-trailer. Furthermore we are extremely concerned about being taken from three access points down to one and having no direct access off of 6th Street (the people coming off 6th Street will have to turn off 6th Street and then immediately turn against traffic very near a light to get to our store.)

Our business is unique in that 82% is drive-up and access points for vehicles are critical to our success. We frankly question how the appraised value goes up as the access goes down and particularly how the property we would give up with good 6th Street access is worth \$8 a sq. ft. and what we would get with no access to 6th Street and only one entrance point is worth \$10 a sq. ft. Be that as it may, we are proposing to sell our store to the city for your appraised value of \$240,000. We believe this to be the best alternative for the city. Let me elaborate as to how this is beneficial to the city and to Shake's.

Our understanding is that between the land (the to be vacated Sang) and work to restore our parking you would have about \$55 - 60,000 in cost. You have, quite frankly, the ability to "condemn" our property but that includes the responsibility to make us "whole". With so much of our business coming from drive-up and the access problem of one awkward access we believe on a very conservative basis we would lose 20% of our business; but could be much higher. Last year sales were \$337,594 and our marginal (last dollar) profit is about 35%. This would reflect a loss of \$23,631.58 a year or

\$354,473.70 over 15 years (conservative since the 'useful life' of the building far exceeds 15 years).

This figure is not discounted for present value but also includes no assumptions for natural growth in sales. In numerical form:

$$\begin{array}{r} \$337,594 \\ \times .20 \\ \hline 67,518 \times .35 = \$23,631.58 \\ \hline \quad \quad \times 15 \text{ years} \\ \hline \$354,473.70 \end{array}$$

Using this calculation the city's cost would be the \$354,473.70 plus the cost of buying Sang and reworking the property (about \$55,000 or a total cost of \$409,473.70). This doesn't include the effect of disruption of business during construction. In addition to the monetary positive for the city, this proposed transaction would also make the city's construction job easier, make it where the adjacent street wouldn't have to be purchased and certainly saves Shake's a great deal of interruption. We understand the city has budgetary constraints, but we believe this to be in the city's best long-term interest.

Also, frankly it saves us the disruption of business during construction and the ongoing loss of business that would be caused by the loss of access. Please understand, we are willing to forego the cost of a move and what we believe to be an overly conservative appraisal to work with the city to resolve this issue. What we believe to be our very reasonable offer is extended for 30 days (expiring 11-03-02) to help get this situation resolved.

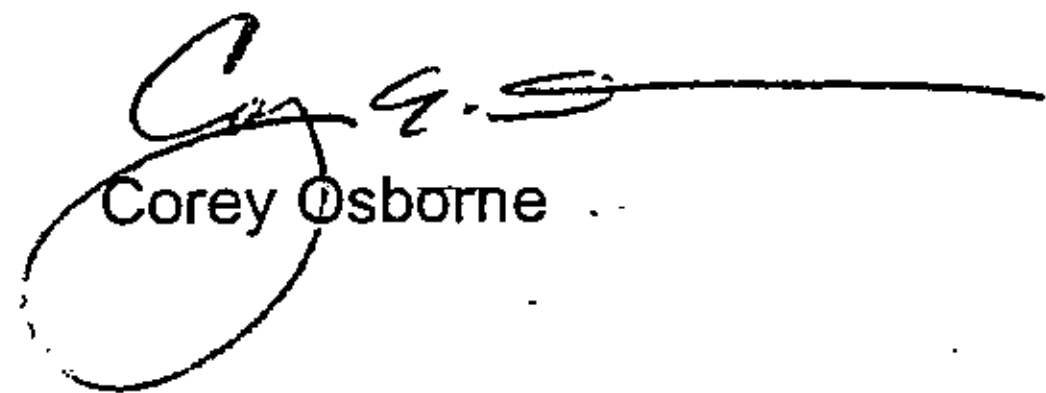
Again, our offer is for \$240,000 (your appraised value) if accepted by 11-03-02. We would ask that the transaction be closed by 1-03-02. We believe this to be a reasonable amount for both sides and would avoid a conflict over the loss of future business.

Thank you for your consideration.

Sincerely,



John Harrell



Corey Osborne

THE CITY OF FAYETTEVILLE, ARKANSAS

June 10, 2002

Donald E. & Debra L. Osborne
1102 S. Rangeline
Joplin, MO 64801

RE: Project No. 00019
Hollywood Street -- Sixth & Sang Avenue Intersection
Offer Letter

Dear Mr. and Mrs. Osborne:

The City of Fayetteville is planning the construction of a new intersection of Sang Avenue at Sixth Street (U.S. Hwy. 62). Acquisition of part of Parcel No. 765-12164-000 located at the current southeast corner of Sang Avenue and Old Farmington Road is necessary for these improvements (see attached drawing). Also necessary for this project is a small permanent water/sewer and drainage easement in the northwest corner of the property and a 10 foot wide temporary construction and grading easement west of the right-of-way acquisition area. The temporary construction easement will terminate upon completion and acceptance of the project by the City.

The City of Fayetteville is in negotiations to acquire and subsequently vacate the 50 foot wide portion of Sang Avenue immediately west of your property. It is then proposed to deed this area back to you in exchange for the right-of-way acquisition. This vacated portion of the street would then become your primary parking area. You will no longer have access directly off of Highway 62; however, new pavement, curb and gutter improvements, and a new traffic flow design are all being worked in as a part of this project (see attached drawing).

Because of the benefits to your property, the signed documentation is being requested without compensation. This is based upon the certified appraisal report on your property as prepared by Mark Risk of the Real Estate Consultants, dated December 21, 2000, and updated April 10, 2002. The front page of the appraisal report is enclosed.

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for acquisition and the temporary easement.

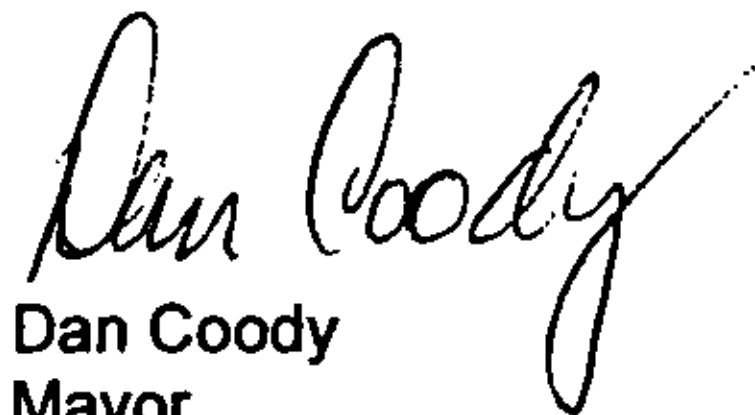
Donald E. & Debra L. Osborne
Page 2 of 2, Offer Letter

Should you elect to accept this offer, the *Warranty Deed, Water/Sewer and Drainage Easement* and the *Temporary Construction and Grading Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The documents should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the documents if you will advise our office accordingly.

Reduced copies of the *Warranty Deed, Water/Sewer and Drainage Easement* and *Temporary Construction and Grading Easement* are included for your records. We can provide copies of the recorded documents upon your request and at the appropriate time.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements. Please contact Jill Goddard at (479) 444-3407, Holly Jones at 444-3414, or Paul Libertini, Project Engineer, can be reached at 444-3419.

Sincerely,



Dan Coody
Mayor

DC/jsg

Enclosures

**UPDATED
APPRAISAL REPORT
FOR
CITY OF FAYETTEVILLE
Limited Restricted Appraisal Report**

PROJECT Hollywood Street - 6th & Sang Avenue Intersection
COUNTY Washington

PARCEL # 765-12164-000

LOCATION 2050 W. 6th St., Fayetteville, AR
FEE OWNER Donald E. & Debra L. Osborne
ADDRESS 1102 S. Rangeline, Joplin, MO 64801

ESTATE APPRAISED Fee Simple

AREA OF WHOLE .33 acres **AREA OF RESIDUAL** .38 acres

AREA OF PERMANENT R-O-W ACQUISITION 5,675 sq.ft. or .13 Ac.
(Descriptions attached)

Water/Sewer and Drainage Easement 519 sq.ft. or .012 ac.

Temporary Construction and Grading Easement 978 sq.ft. or .022 ac.

ESTIMATED FAIR MARKET VALUE OF THE PROPERTY:

Before

Land	\$116,000	
Improvements	\$129,000	
Total		\$245,000

After

Land	\$132,000	
Improvements	\$129,000	
Total		\$261,000

FAIR MARKET VALUE OF PERMANENT R-O-W ACQUISITION \$0

As of 10th day of April 2002

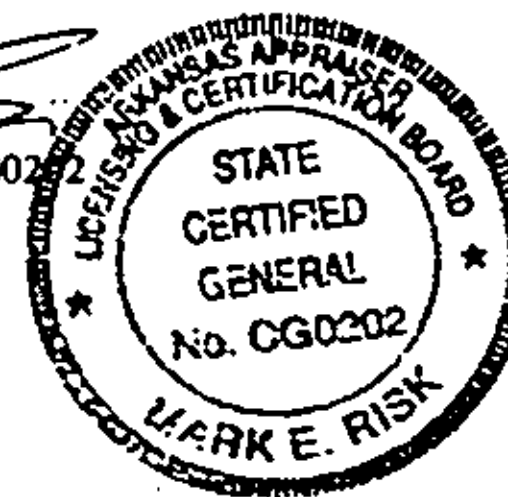
ALLOCATION OF F.M.V. OF TOTAL ACQUISITION

R-O-W	5,675 SF @ \$8.00/SF	= \$45,400	Say	\$ 45,400
Drainage Esmt.	519 SF @ \$8.00/SF	= \$ 4,152	Say	\$ 4,200
T.C.E.*	978 SF @ \$8.00/SF x .10 x 1	= \$ 782	Say	\$ 800
Trees	None			\$ 0
Improvements:	Concrete Parking Area			
	5,675 SF @ \$2.50/S.F.	= \$14,188	Say	\$ 14,200
Total R-O-W, D.E., T.C.E., & Improvements				\$ 64,600
Less Benefits: New Parking Area and Land				
	7,979 SF @ \$10.00/SF	= \$79,790		(\$ 79,800)
Total Compensation				(\$ 15,200)
			Say	\$ 0

ATTACHMENTS:

- ☒ Certificate of Appraiser
- ☒ Photographs
- ☒ Site, Improvement, H&B Use Narrative
- ☒ Legal Descriptions
- ☒ Market Data and Cost Approach
- ☒ Survey
- ☒ Tax Assessment Card

Appraiser, Mark E. Risk GAA, #CG0202



* Water/Sewer and Drainage Easement value is based upon fee simple land value.

** Temporary Construction Easement (T.C.E.) value is based upon the fee simple land value multiplied times the Current Yield on 1 Year CDs for a 1 year period plus a premium for inconvenience.

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: Tim Conklin Planning Urban Development
Name Division Department

ACTION REQUESTED: To approve an ordinance for VA 02-12.00 & 13.00 as submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement.

COST TO CITY:

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

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager Date ADA Coordinator Date
City Attorney Date Internal Auditor Date
Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the vacation be approved by the City Council.

Division Head Date 11-1-02
Department Director Date 10-04-02
Administrative Services Director Date 11-4-02
Mayor Date 11/05/02
Cross Reference
New Item: Yes No
Prev Ord/Res#: _____
Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Dawn Warrick, AICP, Senior Planner
THRU: Hugh Earnest, Urban Development Director
DATE: November 4, 2002

VAC 02-12&13.00: (Houses Development, pp 484) was submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement vacations.

Background:

The subject property, located at the southwest corner of St. Charles Ave. and Watson St., contains two portions of an existing drainage easement. This request is to vacate that easement with the intention of developing the site under its current zoning designation of C-3, Central Commercial. The developer plans to process a project proposal in which the drainage will be relocated and new easements established. New easements and drainage improvements are conditions of approval for this requested vacation.

Utility & Adjoining Property Owner Comments:

No objections from the adjacent property owners have been submitted to the City. The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

- Ozarks Electric - NA
- Southwestern Electric Power Company - NA
- Arkansas Western Gas - NA
- SW Bell - NA
- Cox Communications - NA

- City of Fayetteville:
 - Water/Sewer - NA
 - Street Department - NA
 - Solid Waste - NA
 - Engineering - No objections.

Current Status:

On October 28, 2002 the Planning Commission voted 8-0-0 to forward this request to the City Council with a positive recommendation. The item was considered as a part of the Planning Commission's consent agenda.

Recommendation: Approval of the proposed easement vacations VAC 02-12&3.00

ORDINANCE NO. _____

AN ORDINANCE APPROVING VA02-12.00 and 13.00 TO VACATE AND ABANDON A SECTION OF DRAINAGE EASEMENTS LOCATED AT THE SOUTHWEST CORNER OF WATSON AND ST. CHARLES AVENUE, CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described drainage easements are not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described utility easement:

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

Section 2. That a copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2002.

APPROVED:

DRAFT

By _____
Dan Coody, Mayor

ATTEST:

By _____
Heather Woodruff, City Clerk

EXHIBIT "A"

Easement Description #1:

A fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7 ½) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the northeast corner of lot 8, in Watson's Subdivision of lot numbered 14, block 8, County Court Addition to the City of Fayetteville, Arkansas; thence south 27 degrees 33'22" west 38.08 feet; thence south 74 degrees 44'20" west 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7 ½) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33'22" West 38.08 feet; thence South 74 degrees 44' 20" West 158.18 feet.

PC Meeting of October 28, 2002

FAYETTEVILLE

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

Easement Vacation

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner, A.I.C.P.
FROM: Sara Edwards, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: October 24, 2002

Project: VAC 02-12,13.00: (Houses Development, pp 484) was submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement vacation.

No objections from the adjacent property owners have been submitted to the City.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

Ozarks Electric - NA
Southwestern Electric Power Company - NA
Arkansas Western Gas - NA
SW Bell - NA
Cox Communications - NA

City of Fayetteville:
Water/Sewer - NA
Street Department - NA
Solid Waste - NA
Engineering - No objections.

Recommendation: Approval of the proposed easement vacation 02-12,13.00.

Conditions of Approval:

1. Installation of new storm sewer to route the storm water around this site and the dedication of required associated easements. Vacation of the drainage easement will not be complete until the relocated storm sewer is installed and accepted by the City of Fayetteville.

PETITION TO VACATE DRAINAGE EASEMENTS LOCATED IN LOTS EIGHT (8), NINE (9), AND TEN (10) IN BLOCK NUMBERED ONE (1) IN WATSON'S SUBDIVISION OF LOT FOURTEEN (14), BLOCK EIGHT (8) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AND PART OF LOT THIRTEEN (13), OF BLOCK EIGHT (8) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all owners of the real estate abutting the Drainage Easements hereinafter sought to be abandoned and vacated, lying in Lots Eight (8), Nine (9), and Ten (10) in Block Numbered One (1) in Watson's Subdivision of Lot Fourteen (14), Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and Part of Lot Thirteen (13), of Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate drainage easements which are described as follows:

Easement Description #1:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHEAST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

That the abutting real estate affected by said abandonment of the Drainage Easements are Lots 13 & 14 of Block 9 of the County Court Addition to the City of Fayetteville, Arkansas used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the above described easements.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements and infrastructure to convey drainage through their property as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements and infrastructure to convey drainage through their property as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law, and as to that particular land the owner be free from the easements of the public for the use of said drainage easements.

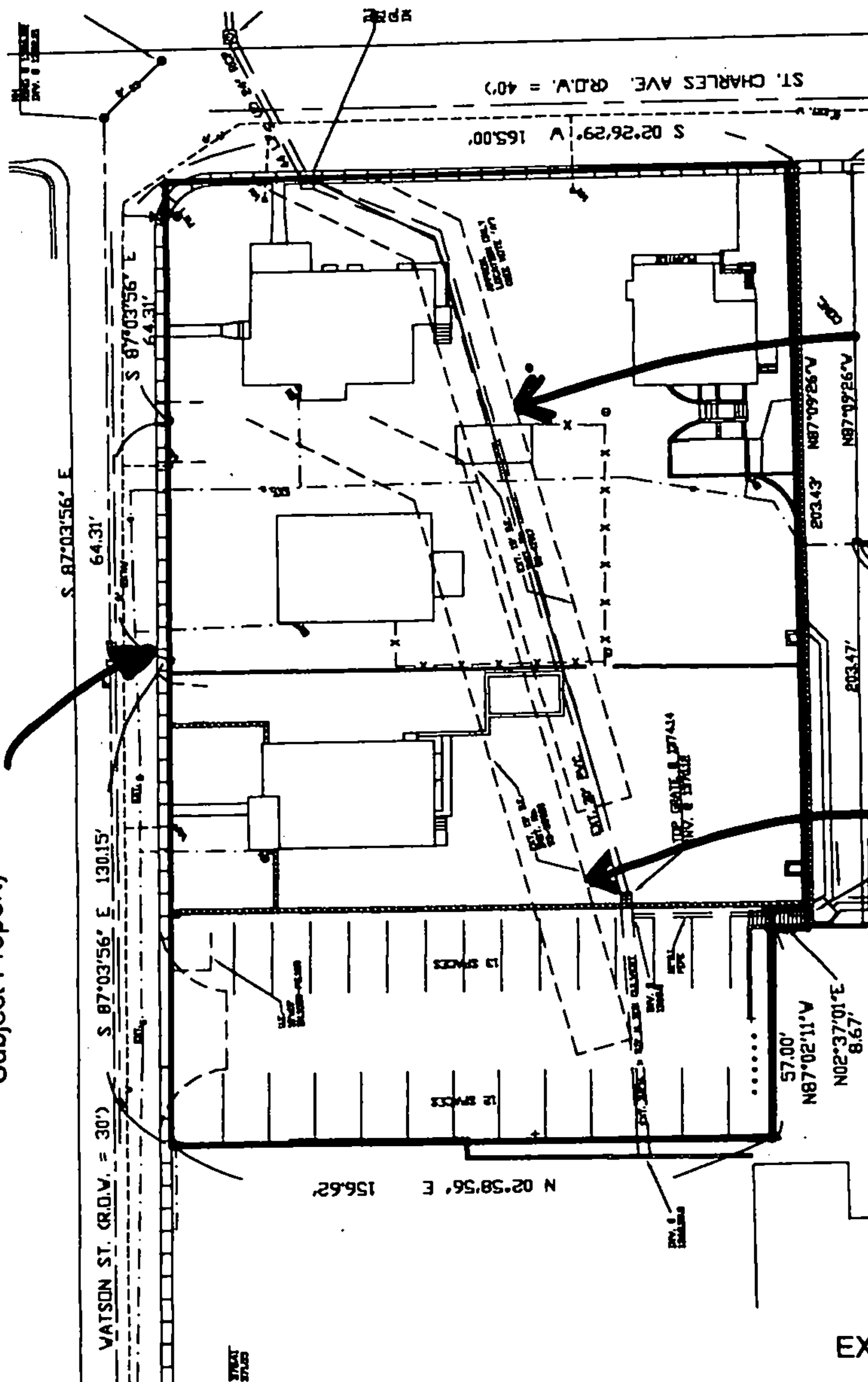
Dated this Seventh (7th) day of October, 2002.

GREG HOUSE
Printed Name


Signature

N
←

Subject Property



Easement
Description #1

Easement
Description #2

EXHIBIT A

LEGAL DESCRIPTION:
Proposed Drainage Easement Vacation

Property Description:

Lots Eight (8), Nine (9), and Ten (10) in Block Numbered One (1) in Watson's Subdivision of Lot Fourteen (14), Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and Part of Lot Thirteen (13), of Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and as per Plat of said addition on file in the office of Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

Easement Description #1:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHEAST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.



LandWorks, Inc.

758 Fowler Avenue

Fayetteville, Arkansas 72701

Voice 501.444.7769

Fax 501.444.7793

October 7, 2002

Mr. Tim Conklin, AICP
Director of Planning
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

RE: Request for Drainage Easement Vacations
Lots 8, 9, & 10 Located in Block 1 of Watson's Subdivision of Lot 14,
Block 8 of County Court Addition
Fayetteville, Arkansas

Dear Mr. Conklin:

The owners of the above referenced real estate wish to vacate existing drainage easements located within their property. The request meeting the City of Fayetteville requirements is attached in its entirety.

There are two easements of record that are attached for your review. It is believed by the petitioner, and concurred through discussions with you and the Assistant City Attorney, that the two documents represent only one easement, but that the easement across Lot 9 contains an error. The erroneous description starts the easement from the Northwest corner of Lot 8 of Watson's Subdivision, rather than the Northeast. When the easement is plotted properly as beginning from the Northeast corner of Lot 8, it encompasses the existing drainage infrastructure as was the purpose of the drainage easement.

It is the intention of the petitioner to relocate the existing drainage to the approval of the City of Fayetteville Engineering Department and to dedicate easements to the City as necessary to accommodate the drainage and develop the property to its fullest extent allowed by the current zoning. The petitioner expects this request to be approved contingent to the these approvals.

Please do not hesitate to call me if you have any questions regarding this request.
Thank you for your consideration.

Best Regards:

Mandy R. Bunch, PE

PC Meeting of October 28, 2002

FAYETTEVILLE

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

Easement Vacation

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner, A.I.C.P.
FROM: Sara Edwards, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: October 24, 2002

Project: VAC 02-12,13.00: (Houses Development, pp 484) was submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement vacation.

No objections from the adjacent property owners have been submitted to the City.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

Ozarks Electric - NA
Southwestern Electric Power Company - NA
Arkansas Western Gas - NA
SW Bell - NA
Cox Communications - NA

City of Fayetteville:
Water/Sewer - NA
Street Department - NA
Solid Waste - NA
Engineering - No objections.

Recommendation: Approval of the proposed easement vacation 02-12,13.00.

Conditions of Approval:

1. Installation of new storm sewer to route the storm water around this site. Vacation of the drainage easement will not be complete until the relocated storm sewer is installed and accepted by the City of Fayetteville.

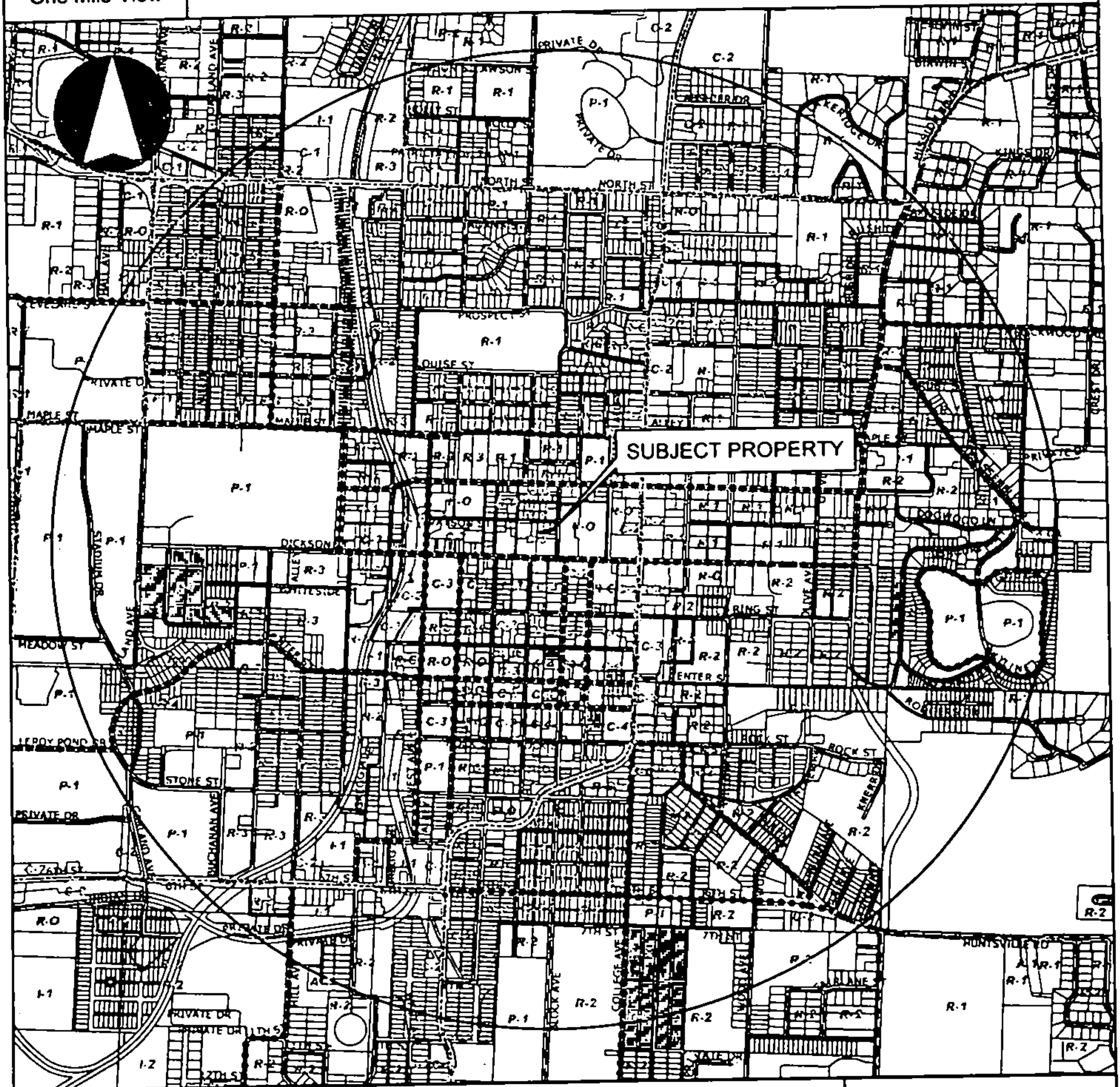
Comments:

Date: / /

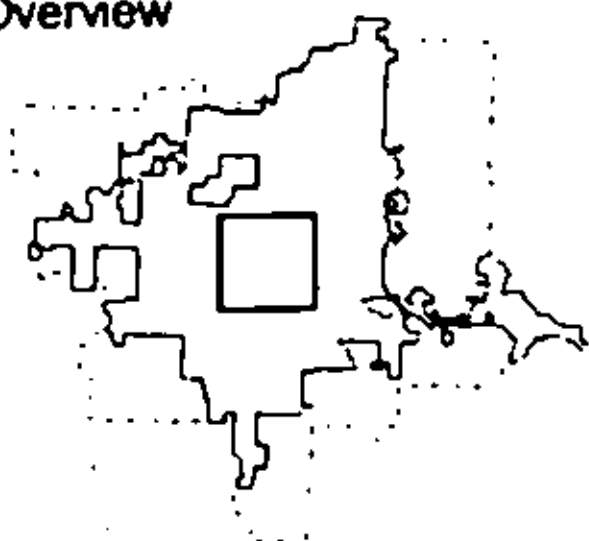
VAC02-12&13.00

One Mile View

HOUSES DEVELOPMENT



Overview



Legend

Subject Property

VAC02-12&13.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

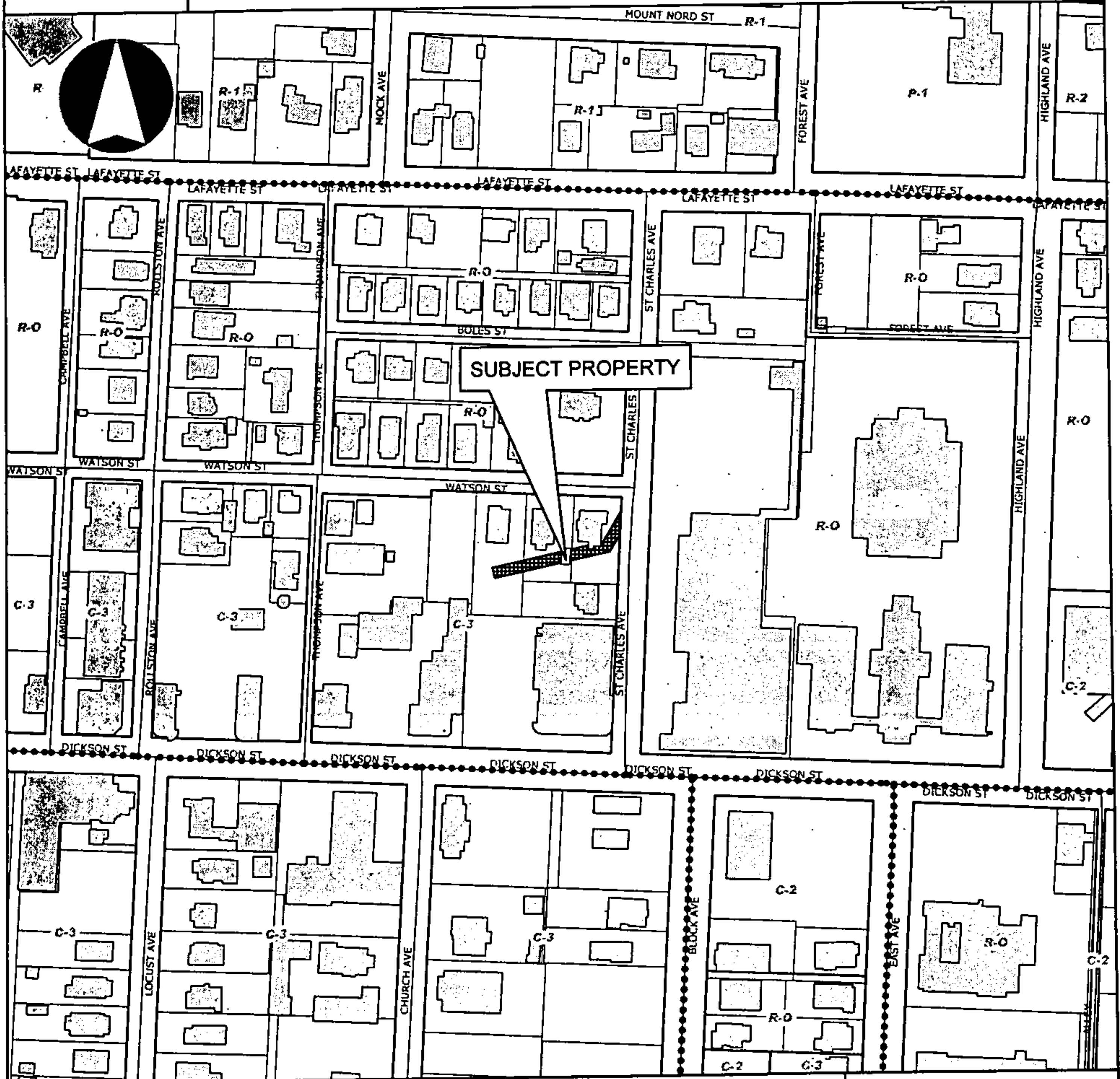
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

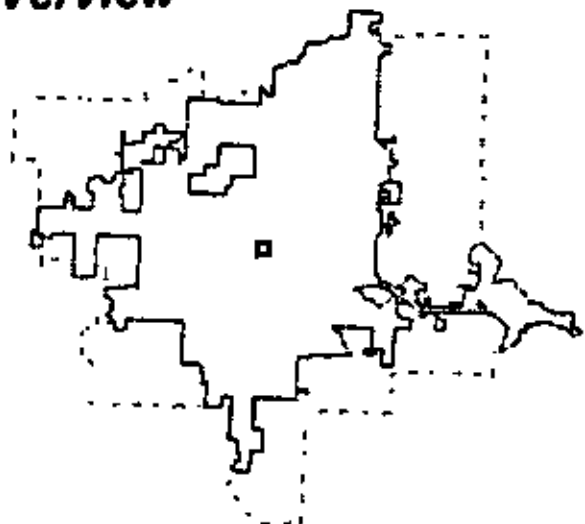
VAC02-12&13.00

Close Up View

HOUSES DEVELOPMENT



Overview



Legend

- | | | | |
|----------------|------------------|--------------------|--------------|
| SPCity | Overlay District | Master Street Plan | City Limits |
| dodpoly | Streets | Freeway/Expressway | Outside City |
| VAC02-12&13.00 | Existing | Principal Arterial | |
| Buildings | Planned | Minor Arterial | |
| Lakes | | Collector | |
| | | Historic Collector | |
| | | Planning Area | |
| | | Zoning | |



STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: Tim Conklin Planning Urban Development
Name Division Department

ACTION REQUESTED: To approve an ordinance for RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-1, Low Density Residential.

COST TO CITY:

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

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:
Accounting Manager Date ADA Coordinator Date
City Attorney Date Internal Auditor Date
Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

[Signature] 11-4-02 Cross Reference
Division Head Date
[Signature] 11-04-02
Department Director Date
[Signature] 11-4-02
Administrative Services Director Date
[Signature] 11-5-02
Mayor Date
New Item: Yes No
Prev Ord/Res#: _____
Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: Nov. 1, 2002

RZN 02-34.00 (1016): Rezoning (Lovell, pp 396) was submitted by Milholland Company on behalf of Roy & Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-2, Medium Density Residential.

BACKGROUND:

Property Characteristics: The subject property is located north of Wedington Drive, between 59th Avenue and Double Springs Road. A single-family house sits on approximately 2.8 acres. Adjacent properties are large lot single family houses and vacant/agricultural land across Wedington.

Proposal: The applicant proposes to split the lot and build a new house. The current zoning classification of A-1 Agricultural has a minimum lot requirement of two acres. Under this zoning classification the applicant cannot split the 2.8 acre lot.

Request: The applicant requested to rezone the property from A-1 Agricultural to R-2 Medium Density Residential.

Findings: Staff recommended denial of the request to rezone to R-2. The requested zoning would permit up to 13 lots and 67 families. The resulting density is inconsistent with the surrounding land use, which is predominantly large lot single-family. R-2 Medium Density Residential is not necessary for this proposal. A zoning of R-1 Low Density Residential is more appropriate and would allow the applicant to split the lot and build a new house.

CURRENT STATUS:

On Oct. 28, 2002, the Planning Commission voted 8-0-0 to forward the request to the City Council to approve a rezoning from A-1 Agricultural to R-1 Low Density Residential. The applicant will accept a rezoning to R-1.

RECOMMENDATION:

Approval of the rezoning to R-1 Low Density Residential.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-34.00 FOR A PARCEL
CONTAINING APPROXIMATELY 2.80 ACRES LOCATED AT 6310 W.
WEDINGTON DRIVE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY
MEL MILHOLLAND OF MILHOLLAND COMPANY ON BEHALF OF ROY
AND STEPHANIE LOVELL.

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 to R-1, Low Density Residential as shown 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 _____, 2002.

APPROVED:

By: **DRAFT**
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZN 02-34.00

A PART OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 10, T-16-N, R-31-W MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTH QUARTER-CORNER [N $\frac{1}{4}$] OF SAID SECTION 10; SAID POINT BEING A FOUND IRON PIN; THENCE S02-29-33W 2628.04 FEET TO THE SOUTHWEST CORNER OF THE SW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$; THENCE S87-46-02E 1322.70 FEET TO THE SOUTHWEST CORNER OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$; THENCE S87-46-02E 470.25 FEET; THENCE N02-21-49E 43.33 FEET TO THE POINT OF BEGINNING; SAID POINT BEING A SET IRON PIN ON THE NORTH RIGHT-OF-WAY OF WEDINGTON DRIVE (AR. HWY 16);

THENCE N02-21-49E 616.67 FEET TO A SET IRON PIN;

THENCE S87-46-02E 198.00 FEET TO A SET IRON PIN;

THENCE S02-21-49W 615.90 FEET TO A SET IRON PIN; SAID POINT BEING ON THE NORTH RIGHT-OF-WAY OF SAID WEDINGTON DRIVE;

THENCE ALONG SAID RIGHT-OF-WAY N87-59-21W 198.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.80 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, ARKANSAS.

RZN 02-34.00 (1016): Rezoning (Lovell, pp 396) was submitted by Milholland Company on behalf of Roy & Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-2, Medium Density Residential.

Aviles: Item six on our agenda is RZN 02-34.00, which is a rezoning request submitted by Milholland Company on behalf of Roy & Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-2, Medium Density Residential. Hi Shelli, would you like to give us the staff report on this?

Rushing: I sure will. This subject property is located north of Wedington Drive. It is between 59th Avenue and Double Springs Road. There is a single-family house that sits on approximately 2.80 acres. The adjacent properties are primarily large lot single-family residential. There is vacant agricultural land across the street. The applicant is proposing to split the lot and build an additional single-family house. The current zoning classification of A-1, Agricultural has a minimum lot requirement of two acres. Under the zoning classification, the applicant would not be able to split the lot. Therefore, the applicant is requesting to rezone the property from A-1, Agricultural to R-2, Medium Density Residential. The R-2, Medium Density Residential district does have a minimum lot requirement of 6,000 sq.ft. which would allow them to split that lot. The General Plan does designate this area as residential. However, the R-2, Medium Density zoning district is not compatible with the existing density in that area. It would allow density of up to 24 families per acre. On this particular property it would be 13 lots or 67 families on this 2.8 acre lot. Therefore, staff is recommending denial of this request primarily because the resulting density is inconsistent with the existing land uses, which are predominantly large lot single-family residential. Also, we find that the R-2 district is not necessary for what the applicant is proposing. They would be able to split the lot, build the additional lot with an R-1 zoning. Therefore, we are recommending denial of the R-2 but are recommending approval of an R-1.

Aviles: Ok, thank you very much Shelli. Is the applicant present?

Jefcoat: I am Tom Jefcoat with Milholland and Company. I did speak with Mr. Lovell today and his intention is to build one additional single-family so he is agreeable to the rezoning to R-1 and would be acceptable to that.

Aviles: Thank you very much.

Shackelford: Just for public record, Stephanie Lovell, who is an applicant, is an employee of Arvest Bank as am I, we don't work directly together, we are in different locations. I was not intending to recuse. I visited with Kit Williams and it was

not recommended that I recuse but I did want to make that part of the public record and will recuse if any Planning Commissioner feels I should.

Aviles: Thanks Commissioner, I don't feel that is necessary from my perspective. Is there anybody else? I will go ahead and take public comment. Is there any member of the public that would like to address us on this rezoning? Seeing no one, I will go ahead and bring it to the Commission and the applicant for discussion and motions.

Bunch: Do we need to deny the R-2 zoning and then make a motion for R-1 or can we go straight forward with an R-1?

Aviles: I think we can just go with the R-1. I believe we have done that in the past. Mr. Williams, is that acceptable?

Williams: I see Tim nodding his head over there. I think you can go directly to make a recommendation to the City Council that they rezone this to R-1.

MOTION:

Bunch: Seeing that the applicant is with the understanding that R-1 is what is necessary to accomplish the job at hand and also that it would give the type densities that staff is recommending. I will move that we forward RZN 02-34.00 to the City Council with our approval.

Aviles: Thank you. I have a motion by Commissioner Bunch, do I hear a second?

Hoover: I will second.

Williams: That was to R-1?

Bunch: Yes, we are recommending R-1 to the City Council.

Aviles: Is there further discussion? Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-34.00 was approved by a vote of 8-0-0.

Aviles: Thank you Renee, the motion carries unanimously. Thank you gentlemen.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of Oct. 28, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 24, 2002

RZN 02-34.00 (1016): Rezoning (Lovell, pp 396) was submitted by Milholland Company on behalf of Roy & Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-2, Medium Density Residential.

RECOMMENDATION:

Staff recommends denial of the requested rezoning based on the findings included as part of this report. A rezoning to R-1 Low Density Residential would be more appropriate for the proposed lot split and construction of an additional single family house.

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: October 28, 2002

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: November 19, 2002 (First reading, if approved)

Comments: _____

BACKGROUND:

Property Characteristics: The subject property is located north of Wedington Drive, between 59th Avenue and Double Springs Road. A single-family house sits on approximately 2.8 acres. Adjacent properties are large lot single family houses and vacant/agricultural land across Wedington.

Proposal: The applicant proposes to split the lot and build a new house. The current zoning classification of A-1 Agricultural has a minimum lot requirement of two acres. Under this zoning classification the applicant cannot split the 2.8 acre lot.

Request: The applicant is requesting to rezone the property from A-1 Agricultural to R-2 Medium Density Residential. R-2 Medium Density Residential has a minimum lot requirement of 6,000 square feet. The proposed zoning designation would permit the owner to split the property as proposed.

Recommendation: Staff is recommending denial of this request. The proposed zoning would permit up to 13 lots and 67 families. The resulting density is inconsistent with the surrounding land use, which is predominantly large lot single-family. R-2 Medium Density Residential is not necessary for this proposal. A zoning of R-1 Low Density Residential is more appropriate and would allow the applicant to split the lot and build a new house.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Vacant	A-1 Agricultural
South	Vacant	C-2 Thoroughfare Commercial
East	Residential	A-1 Agricultural
West	Residential	A-1 Agricultural

INFRASTRUCTURE:

Streets: North: N/A
 South: Wedington Drive (Principal Arterial)
 East: 59th Avenue (Collector)
 West: Double Springs Rd (Minor Arterial)

Water: 8" water line along the southern edge of the property

Sewer: 6" sewer main along the southern edge of the property

LAND USE PLAN: General Plan 2020 designates this site residential. Rezoning this property to R-2 Medium Density Residential is consistent with the land use plan. It is not compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF:

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

Finding: The proposed rezoning is consistent with the Future Land Use Plan, which designates this property as residential. The density of 4 to 24 families per acre permitted in the R-2 Medium Density Residential district is not compatible with surrounding land use, which is predominantly large lot single family residential.

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

Finding: A rezoning is necessary in order for the applicant to proceed with a lot split and construction of a new house. The A-1 Agricultural district requires a 2 acre minimum lot area and will not permit the 2.8 acre property to be split. This can be achieved with the R-1 Low Density Residential district. The R-2 Medium Density Residential district is not justified for the current proposal.

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

Finding: *From Planning:* The proposed zoning could increase traffic danger and congestion. Wedington Dr. is a two lane road at this location. The proposed zoning may permit up to 13 lots on this property (121,968 sq. ft. (2.8 acres) / 9,000 sq. ft. per lot) and up to 67 families (2.8 acres X 24 families permitted per acre). The average weekday two-way volume for 64 units is 422 trips. Traffic counts are not available at this location. Average daily volumes at 59th Ave. and Wedington Dr. in 2001 were 8,300. The addition of 422 trips is a 5% increase.

From Public Works: The proposed rezoning is located on the north side of Wedington Drive (Hwy 16 W.) east of Double Springs Road. At this location Wedington Drive is a two lane highway. The proposed rezoning from A-1 to R-2 may or may not result in additional traffic danger and congestion for this area. The proposed zoning allows a density of 4 to 24 families per acre. That means a development could add 11 to 67 families on this 2.8 acre tract. The access to the developed site and the circulation network within the development shall be reviewed in detail as part of the subdivision or large scale development process. The layout, connectivity, circulation plan, ingress and egress provisions will be reviewed in detail as information becomes available.

From Police: The Police Department states that the rezoning may increase traffic from what it is at present. The rezoning will not impact police functions to the degree that they could not be performed adequately; therefore, the Police Department does not oppose this rezoning request.

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: *From Planning:* The proposed zoning could increase population density and potentially increase the load on public facilities and services. Using an average family size of 2.21 (U.S. Census for the City of Fayetteville) and the potential for up to 67 families, the site could result in 148 additional persons.

From Public Works: The site has access to an existing 8" water line on the south side of the property. A 6" sewer main is also located at the south of this property along Wedington. The proposed rezoning and ultimate development may increase the loading on the existing infrastructure systems. During the development's review and approval process, the adequacy of the existing infrastructure to accommodate the service requirements will be assessed by the developer's consultant and reviewed by city staff. Any inadequacies, lack of availability, need for improvements and determination of responsibility for the infrastructure improvements shall be resolved during the development's review/approval process.

From Fire Department: Fire hydrants will be needed, 20 feet of unobstructed width driving surface. Response time 10-12 minutes.

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

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

§161.03 DISTRICT A-1 AGRICULTURAL

A. Purposes. The regulations of the Agricultural District are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; prevent unsightly development, increase scenic attractiveness; and conserve open space.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities
Unit 6	Agriculture
Unit 7	Animal Husbandry
Unit 8	Single-Family and Two-Family Dwellings

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 4	Cultural and Recreational Facilities
Unit 20	Commercial Recreation; Large Sites

C. Bulk and Area Regulations.

Lot Width Minimum	200 ft.
Lot Area Minimum:	
Residential	2 acre
Nonresidential	2 acre
Lot Area Per Dwelling Unit	2 acre

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

E. Height Requirements. There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required yard lines.

(Code 1991, §160.030; Code 1965, App. A, Art. 5(1); Ord. No. 1747, 6-29-89)

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

§161.06 DISTRICT R-2 MEDIUM DENSITY, RESIDENTIAL

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

B. Uses.

1. Uses Permitted.

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

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 11	Mobile Home Park
Unit 25	Professional Offices

C. Density.

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

D. Bulk and Area Regulations.

1. Lot Width Minimum.

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

2. Lot Area Minimum.

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

Two-Family	7,000 Sq. Ft.
Three or More	9,000 Sq. Ft.
Fraternity or Sorority	2 Acres
Professional Offices	1 Acre

3. Land Area Per Dwelling Unit.

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

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	25

Cross Reference: Variances Chapter 156.

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

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

§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)

Lovell
Summary of Trip Generation Calculation
For 64 Occupied Dwelling Units of Low-Rise Apartment
October 17, 2002

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	6.59	2.84	1.00	422
7-9 AM Peak Hour Enter	0.09	0.00	1.00	6
7-9 AM Peak Hour Exit	0.38	0.00	1.00	24
7-9 AM Peak Hour Total	0.47	0.70	1.00	30
4-6 PM Peak Hour Enter	0.38	0.00	1.00	24
4-6 PM Peak Hour Exit	0.20	0.00	1.00	13
4-6 PM Peak Hour Total	0.58	0.77	1.00	37
Saturday 2-Way Volume	7.16	2.96	1.00	458
Saturday Peak Hour Enter	0.31	0.00	1.00	20
Saturday Peak Hour Exit	0.27	0.00	1.00	17
Saturday Peak Hour Total	0.58	0.77	1.00	37

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS



Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

REGISTRATIONS:

PE: AR, OK, MO

PLS: AR, OK

October 4, 2002

City of Fayetteville

Mr. Tim Conklin, Planner

113 West Mountain Street

Fayetteville, Arkansas 72701

RE: LOVELL REZONING & LOT SPLIT
Project No. S-2304

Dear Tim:

In response to the City of Fayetteville Application for Rezoning, the following is submitted:

5.a. Current ownership and proposed/pending property sales:

Roy V. Lovell, Jr. and Stephanie A. (Easterling) Lovell
6310 Wedington Drive
Fayetteville, AR 72704

No pending sales at this time.

5.b. Reason for requesting zoning change:

Owner wants to split off older home, rebuild new house

5.c. Surrounding properties: land use, traffic, appearance and signage:

To the North: Unimproved, one (1) single family;

To the East: Unimproved with Single Family;

To the South: Arkansas Highway No. 16 and Commercial Development;

To the West: Older Single Family Residential Home and Commercial;

Traffic is low to moderate presently, except school traffic;

Appearance and Signage will be discussed during LSD Review.

5.d. Water and sewer availability, line size:

6" Water and 6" Sewer

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and policies and with land use and zoning plans:

In compliance with City Land Use Map.

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

RZN 02-34.00

C. 2. Page 15

RE.....

PE: AR, OK, MO

PLS: AR, OK

Lovell Rezoning & Lot Split

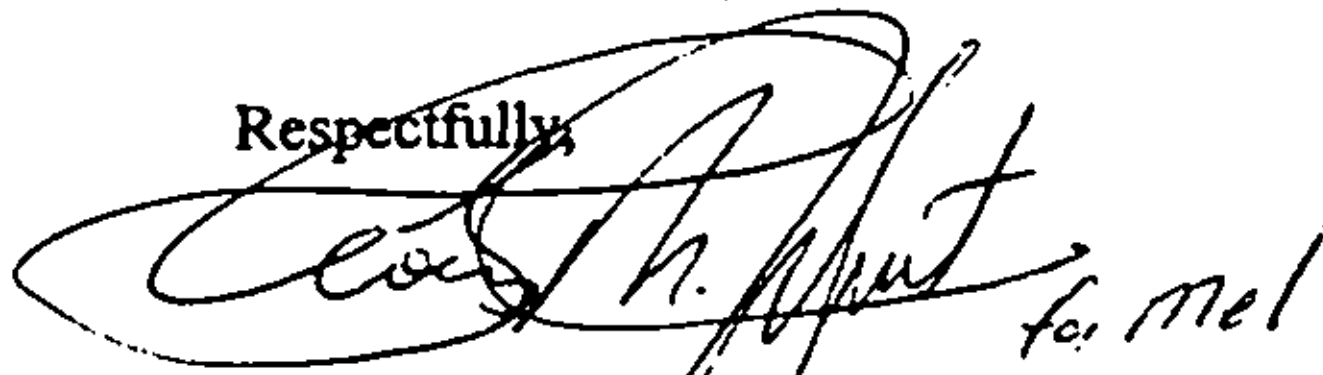
October 2, 2002

Page Two (2)

- 6.b. *Whether the proposed zoning is justified and/or needed at the time of the request:*
Yes, for "Tract Split" (suggested by City Planner)
- 6.c. *Whether the proposed zoning will create or appreciably increase traffic danger and congestion:*
No
- 6.d. *Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities:*
No
- 6.e. *Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:*
Will not allow for additional residential use (in this case, a new house).

Your favorable review is appreciated!

Respectfully,



Melvin L. Milholland, PE, PLS

cc: Roy & Stephanie Lovell
file

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DOUBLE SPRINGS RD

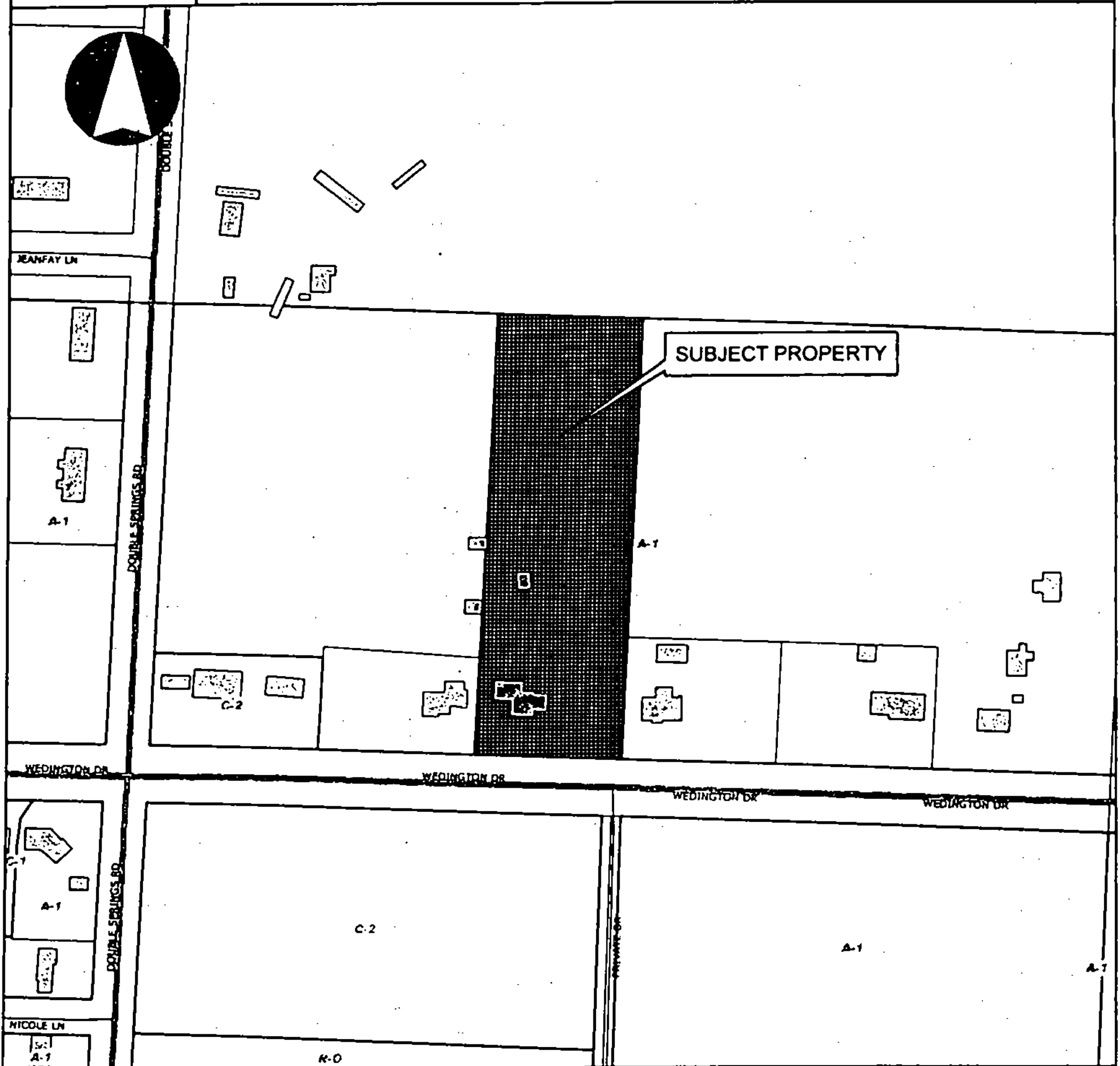
WEDINGTON DR

PRIVATE DR

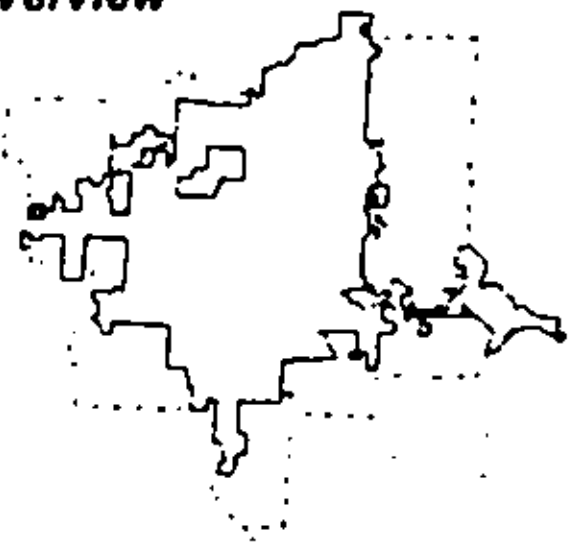
RZN02-34.00

Close Up View

LOVELL



Overview



Legend

Subject Property

RZN02-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

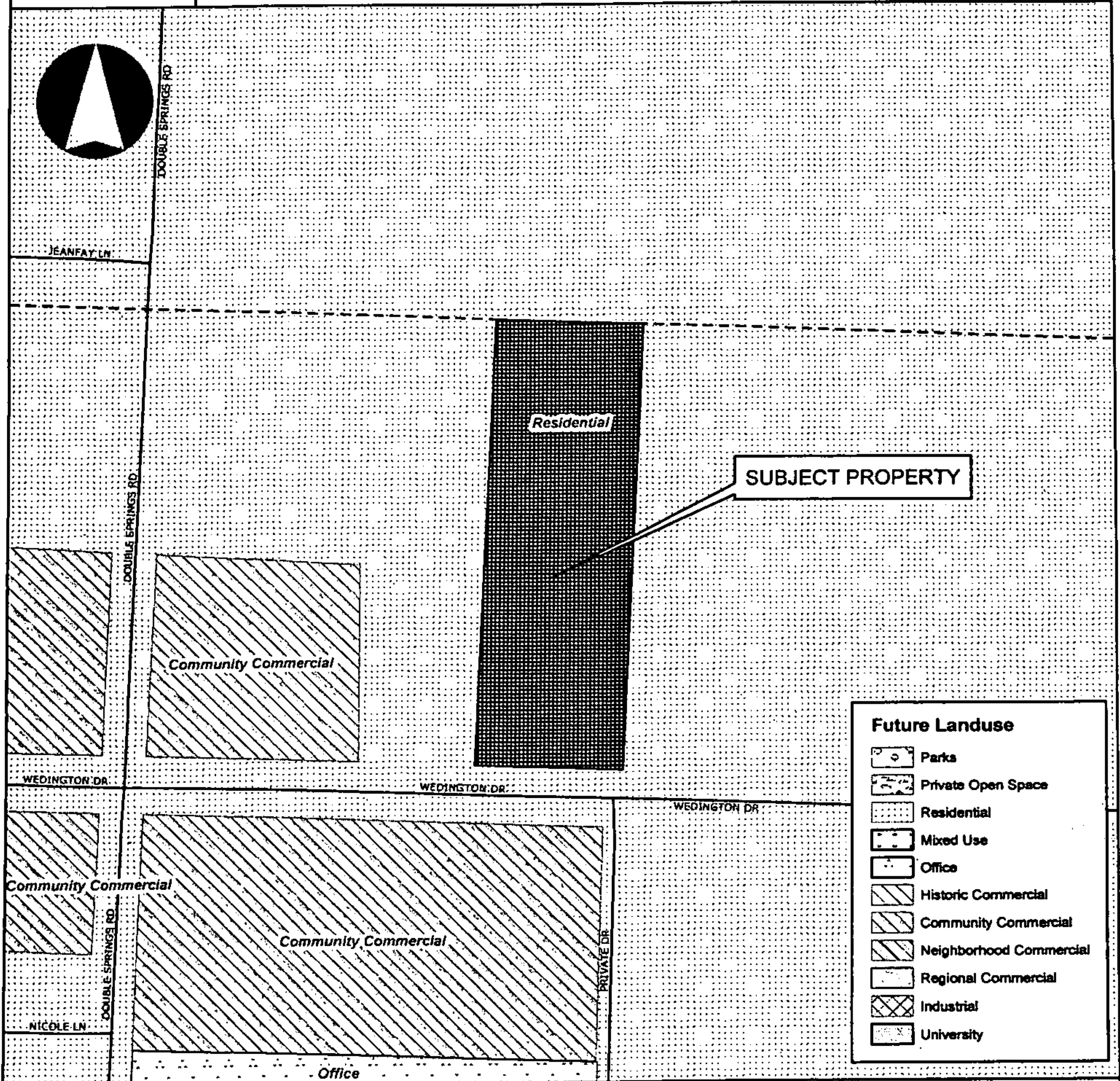
Collector

Historic Collector



LOVELL

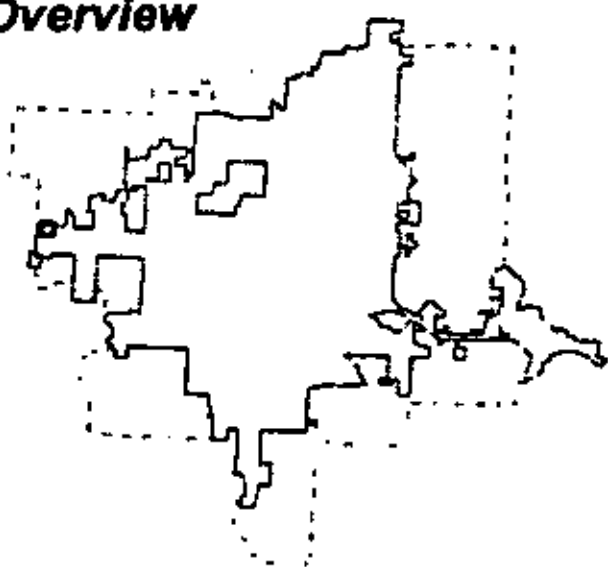
Future Landuse



Future Landuse

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



Legend

Subject Property

RZN02-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

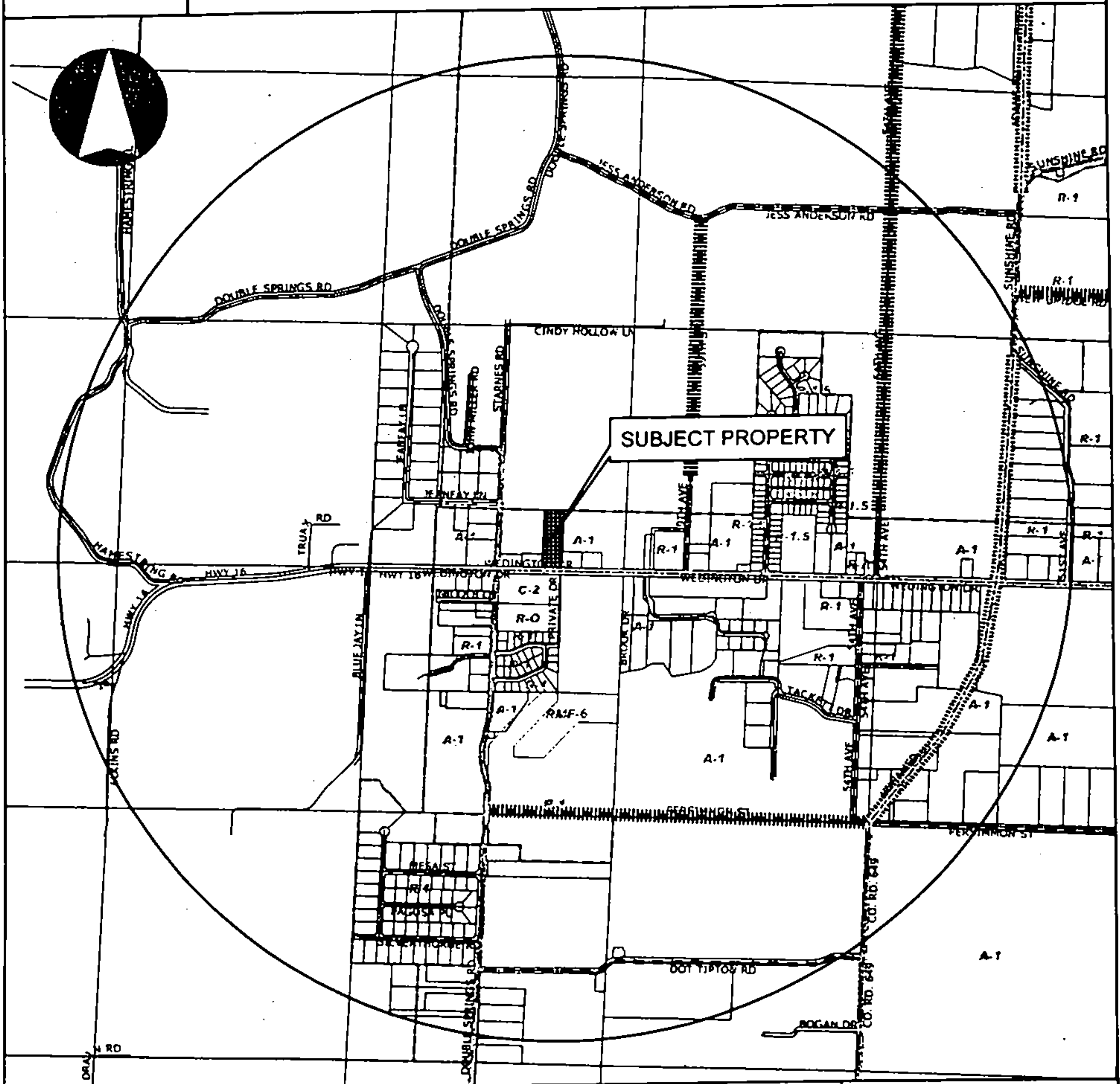
City Limits

0 75 150 300 450 600 Feet

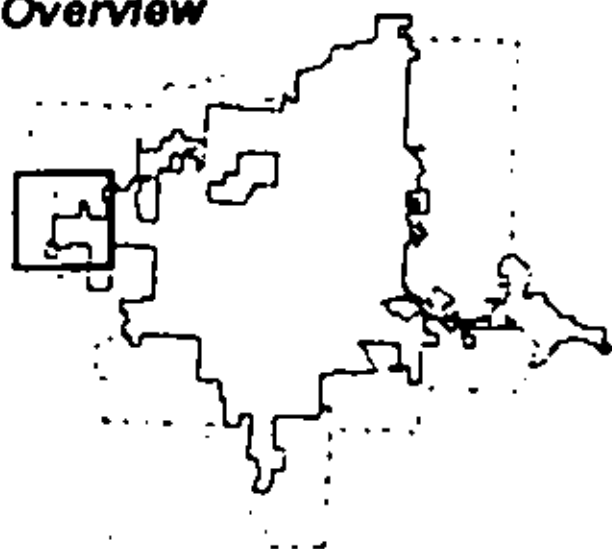
RZN02-34.00

One Mile View

LOVELL



Overview



Legend

Subject Property

RZN02-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: Tim Conklin Planning Urban Development
Name Division Department

ACTION REQUESTED: To approve an ordinance for RZN 02-35.00 as submitted by Patsy Brewer of Habitat For Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to RS, Residential Small Lot.

COST TO CITY:

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

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:
Accounting Manager Date ADA Coordinator Date
City Attorney Date Internal Auditor Date
Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

[Signature] 11-1-02 Cross Reference
Division Head Date
[Signature] 11-04-02
Department Director Date
[Signature] 11-4-02
Administrative Services Director Date
[Signature] 11/5/02
Mayor Date
New Item: Yes No
Prev Ord/Res#: _____
Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264**PLANNING DIVISION CORRESPONDENCE**

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: Nov. 1, 2002

RZN 02-35.00 (1017): Rezoning (Habitat (Jerry Street), pp 566) was submitted by Patsy Brewer on behalf of Habitat for Humanity for property located at 1075 & 1093 S. Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to R-S, Residential Small Lot.

BACKGROUND:

Property Description: The subject property is located on the northwest corner of Jerry Avenue and Helen Street. It is a vacant .35 acre lot. The neighborhood is characterized by one and two family structures. The average lot size in the neighborhood is approximately .30 acres.

Proposal: The applicant proposes to split the lot into two separate lots and build single family structures on each lot. The current zoning of R-1 Low Density Residential requires a minimum lot area of 8,000 square feet, requiring a minimum of 16,000 square feet for two lots. The property has only 15,246 square feet and cannot be split under this zoning district.

Request: The applicant is requesting to rezone the property from R-1 Low Density Residential to RS Residential Small Lot. The RS district has a minimum lot size of 6,000 square feet. The applicant would be able to meet the requirements for a lot split with the proposed zoning.

Findings: The land use remains single family which is compatible with surrounding land use and consistent with the General Plan which designates this area as residential. The lot size is slightly smaller than existing residential lots in the neighborhood, however, several of those lots contain duplexes. Therefore, the proposed density is consistent with the adjacent properties.

CURRENT STATUS:

On Oct. 28, 2002, the Planning Commission voted 8-0-0 to forward the request to the City Council for approval.

RECOMMENDATION:

Approval of the requested rezoning.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-35.00 FOR A PARCEL
CONTAINING APPROXIMATELY 0.35 ACRES LOCATED AT 1075 AND
1093 JERRY STREET, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY
PATSY BREWER ON BEHALF OF HABITAT FOR HUMANITY.

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

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

From R-1, Low Density Residential to RS, Residential Small Lot as shown 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 _____, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZN 02-35.00

LOT 10, BLOCK 3, WATSON ADDITION TO THE CITY OF FAYETTEVILLE,
ARKANSAS, AS PER RECORDED PLAT OF SAID SUBDIVISION IN THE OFFICE OF
THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY,
ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of Oct. 28, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 24, 2002

RZN 02-35.00 (1017): Rezoning (Habitat (Jerry Street), pp 566) was submitted by Patsy Brewer on behalf of Habitat for Humanity for property located at 1075 & 1093 S. Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to R-S, Residential Small Lot.

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 28, 2002

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: November 19, 2002 (If approved, first reading)

Comments: _____

BACKGROUND:

Property Description: The subject property is located on the northwest corner of Jerry Avenue and Helen Street. It is a vacant .35 acre lot. The neighborhood is characterized by one and two family structures. The average lot size in the neighborhood is approximately .30 acres.

Proposal: The applicant proposes to split the lot into two separate lots and build single family structures on each lot. The current zoning of R-1 Low Density Residential requires a minimum lot area of 8,000 square feet, requiring a minimum of 16,000 square feet for two lots. The property has only 15,246 square feet and cannot be split under this zoning district.

Request: The applicant is requesting to rezone the property from R-1 Low Density Residential to RS Residential Small Lot. The RS district has a minimum lot size of 6,000 square feet. The applicant would be able to meet the requirements for a lot split with the proposed zoning.

Recommendation: Staff is recommending approval of the requested rezoning from R-1 Low Density residential to RS Residential Small Lot. The land use remains single family which is compatible with surrounding land use. The lot size is slightly smaller than existing residential lots in the neighborhood, however, several of those lots contain duplexes. Therefore, the proposed density is consistent with the adjacent properties.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Two-family residential	R-1 Low Density Residential
South	Two-family residential	R-1 Low Density Residential
East	Vacant	A-1 Agricultural
West	Single-family residential	R-1 Low Density Residential

INFRASTRUCTURE:

Streets: North: Lee Street (Local)
 South: Helen Street (Local)
 East: Jerry Ave. (Local)
 West: Ray Ave. (Local)

Water: 6" water line located to the south of the site.

Sewer: 6" sewer main located to the south of the site.

LAND USE PLAN: General Plan 2020 designates this site residential. Rezoning this property to R-S Residential Small Lot 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 Future Land Use Plan. Single-family residential is consistent with the surrounding land use.

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 needed in order for the applicant to split the lot and construct two single family structures.

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

Finding: *From Planning:* The proposed zoning should not increase traffic danger and congestion. The RS zoning will permit two families on this property.

From Public Works: The proposed rezoning is located on the northwest corner of Jerry Ave, and Helen St. south of Huntsville Rd. The proposed rezoning from R-1 to R-S may or may not result in additional traffic danger and congestion for this area. The proposed zoning allows a density of up to 7 dwellings per acre. That means this lot could have up to 2 dwellings on this .25 acre tract.

From Police: The Police Department states that the rezoning may increase traffic from what it is at present; the rezoning will not impact police functions to the degree that they could not be performed adequately; therefore, the Police Department does not oppose this rezoning request.

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: *From Planning:* The proposed zoning will not significantly increase population density. The RS zoning will permit two families on this property.

From Public Works: The site has access to an existing 6" water line on the south side and east side of the property. A 6" sewer main is also located along Jerry Ave. and Helen Street. The proposed rezoning and ultimate development is not likely to increase the load on the water and sewer facilities.

From Fire Department: Additional hydrants will be needed with 20 feet of unobstructed width driving surface. Response time is 4-6 minutes.

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

*From Chapter 161 Zoning Regulations
Fayetteville Unified Development Ordinance*

**§ 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)

*From Chapter 161 Zoning Regulations
Fayetteville Unified Development Ordinance*

§161.11 DISTRICT RS RESIDENTIAL SMALL LOT

A. Purpose. The Residential Small Lot District is designed to permit and encourage the development of detached dwellings in suitable environments.

B. Uses.

1. Permitted Uses.

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

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, Two-Family, and Townhouse Dwellings

C. Density.

	By Right	Conditional Use
Single-Family Dwelling Units Per Acre	7 or Less	8.5

Duplex and/or Townhouse	—	Option: 15% of the Lots, Maximum
-------------------------	---	----------------------------------

D. Bulk and Area Regulations.

	Single-Family	Duplex	Townhouse/no more than 2 units attached
Lot Width Minimum	60 ft.	60 ft.	30 ft.
Lot Area Minimum	6,000 sq. ft.	6,000 sq. ft.	3,000 sq. ft.
Land Area Per Dwelling Unit	6,000 sq. ft.	3,000 sq. ft.	3,000 sq. ft.

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	08	20

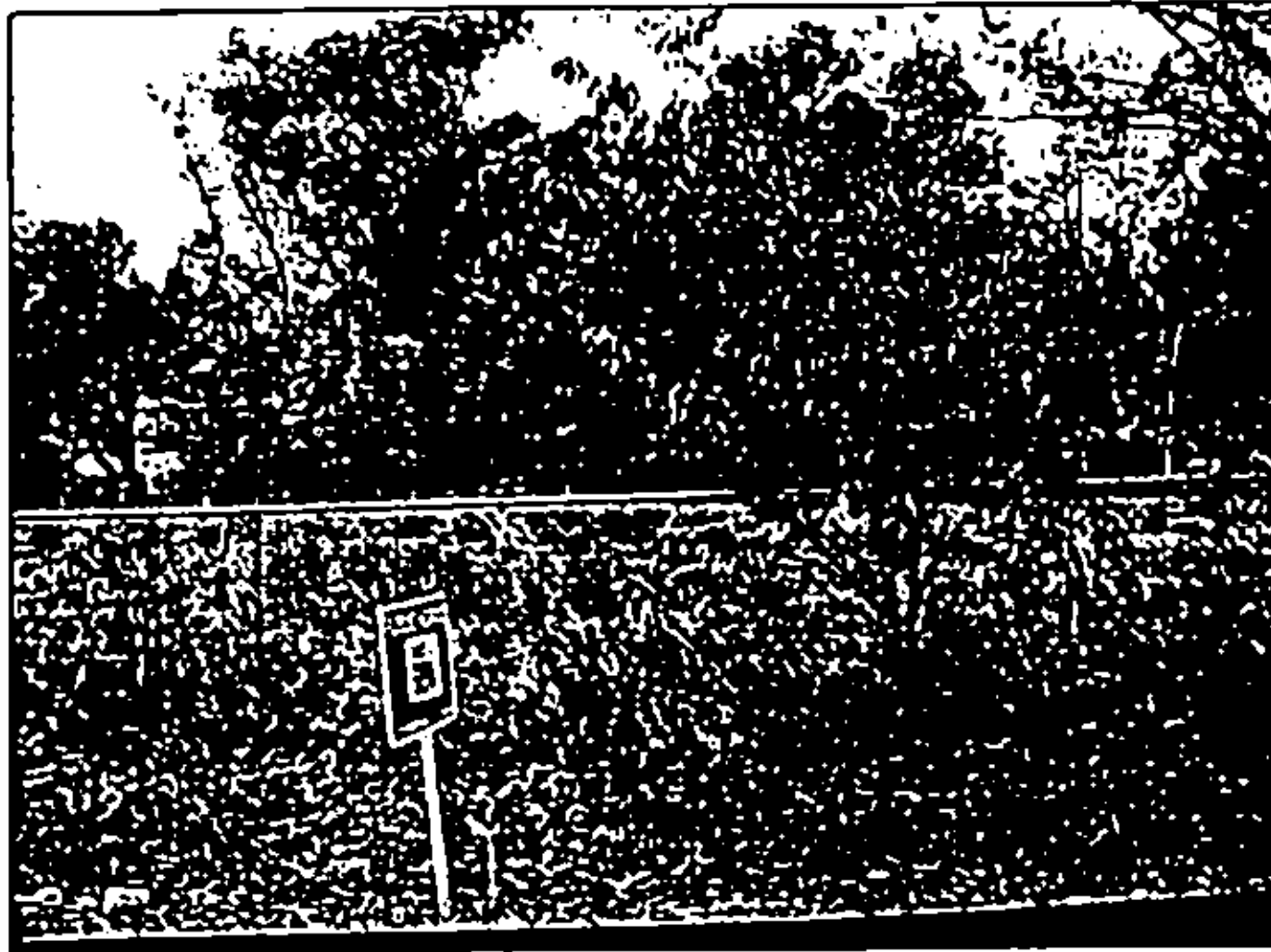
Cross Reference: Variance, Chapter 156.

F. Building Area. The area occupied by all buildings shall not exceed 50% of the total lot area.

G. Height Regulations.

Building Height Maximum	30 ft.
-------------------------	--------

(Code 1991, §160.046; Ord. No. 3792. §4, 5-17-94)



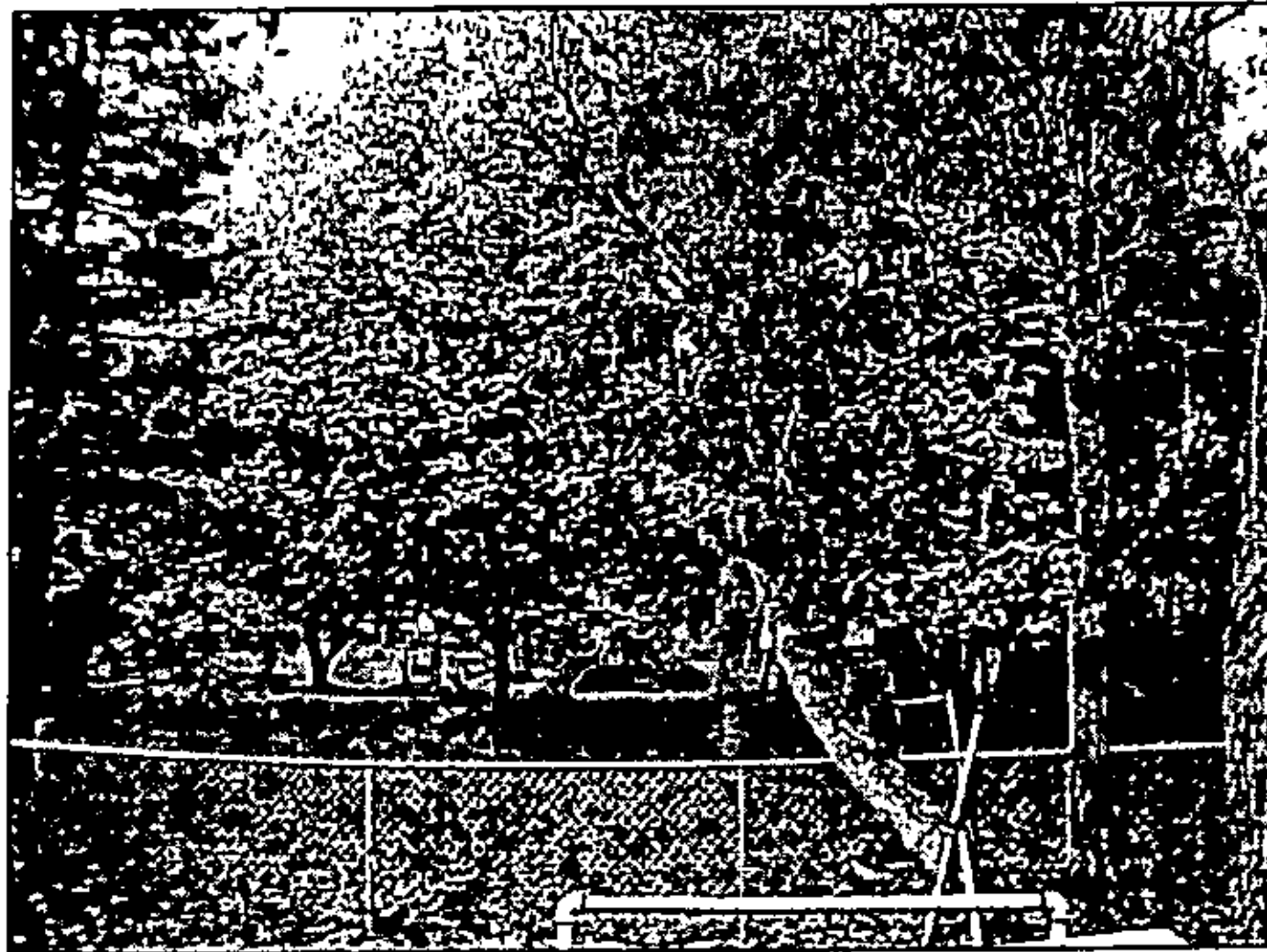
Looking west at site.



Looking north at site.



Looking south of site.



Looking north at the property west of
the site.



Looking east at adjacent property.



Habitat For Humanity
OF FAYETTEVILLE

EXECUTIVE DIRECTOR

Patsy S. Brewer

BOARD OF DIRECTORS

Judy Barrios
Tim deNoble
Keith Dixon
Cheryl Kester
Tommy Lewis
Jim Moore
Mark Moore
Pat O'Brien
Pierce Osborne
Ed Prewitt
Ken Reynolds
Yume Rudzinski
Tom Smith
Kristen Taylor
David Williams

EXHIBIT A:

The lots meet the frontage requirements but do not meet the 8,000 requirement. Thus, we are requesting a R-S certification.

ADVISORY BOARD

Don Baier
Hugh Brewer
Ted Brewer
Myron Brody
George Butler
Jim Foster
Rebecca Garner
Darin Gray
Mary Ann Greenwood
Gary Head
Joan Johnson
Bev Lewis
John Lewis
David Malone
Clark McClinton
Joanna Newman
Kim O'Dell
John Quinn
Larry Simpson
Olivia Sordo
Barbara Taylor
Fred Vorsanger
John White

Our mission is to partner with God and the community to build basic, affordable homes in southern Washington County



Habitat For Humanity
OF FAYETTEVILLE

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Patsy S. Brewer

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John Quinn
Larry Simpson
Olivia Sordo
Barbara Taylor
Fred Vorsanger
John White

EXHIBIT B:

#5. Questions

- a. Current owner: Habitat for Humanity of Fayetteville
- b. Reason for rezoning request: frontage requirements are met but lots do not meet the 8,000 per lot requirement. Tract A is .17 acres and Tract B is .18 acres. Need to build two single-family dwellings on the property.
- c. The neighborhood is single-family dwellings of similar square footage to the Habitat for Humanity homes (1,100 – 1,200 SF). Most of the homes are also one story, ranch style homes. Our two dwellings would have little impact on the neighborhood traffic. There would be no permanent signage.
- d. 6" sewer line in Jerry Street
6" water line on Jerry Street

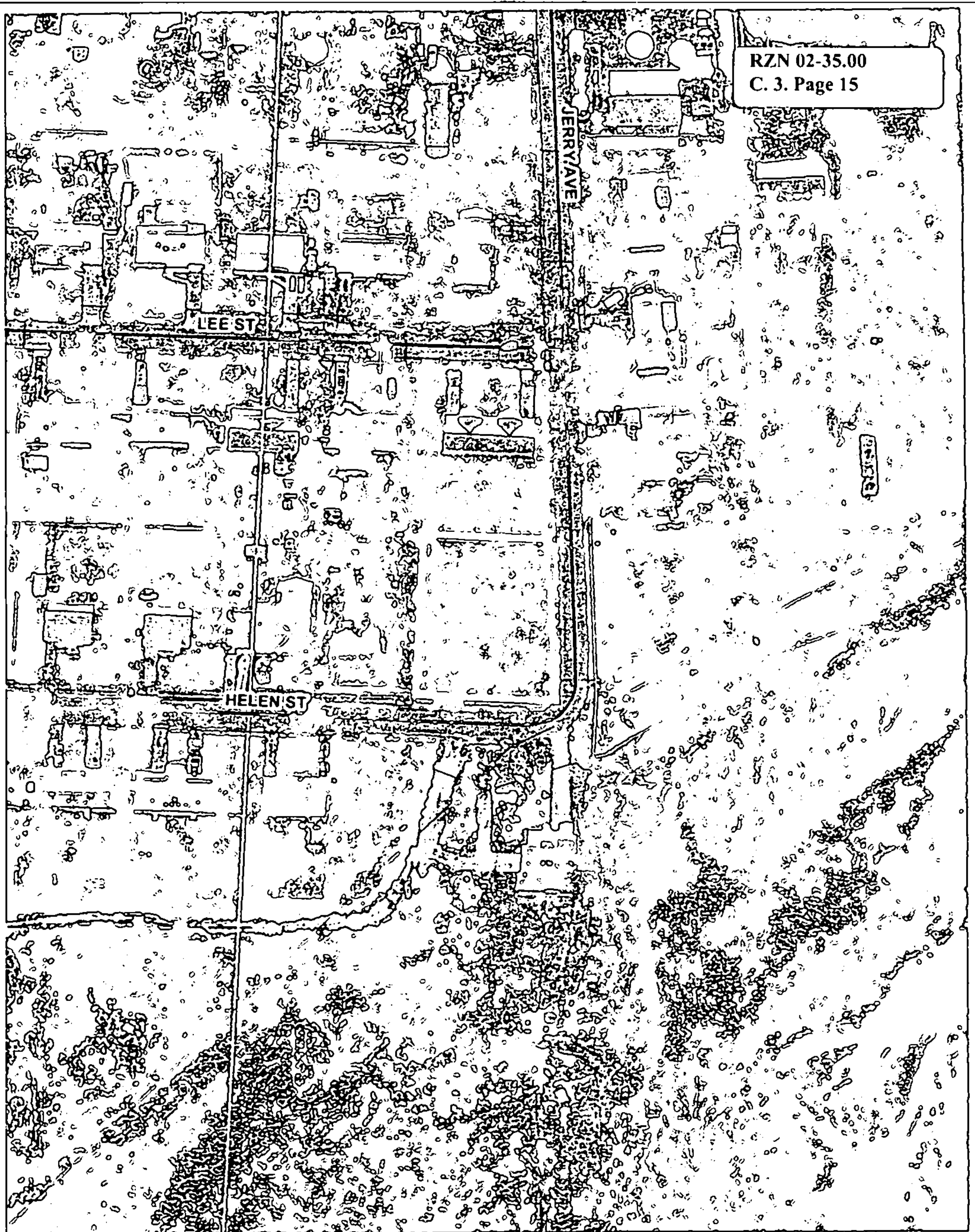
Question 6:

- a. The land use is consistent with Planning objectives, principles and policies and with land use and zoning. The request is for lots of a little less square footage per lot to accommodate two single-family homes.
- b. To better use the property and for the ability to house two Habitat families, the request is necessary prior to the start of construction.
- c. Very little impact on the neighborhood will occur with the addition of one more family in this neighborhood.
- d. Five to six more people will need the services of the city. Possibly four children and two adults. This would have negligible impact on required services.
- e. The land zoning is designated for single-family dwellings. Our use would also be for single-family dwellings.

We have met with the Planning staff to review the application.

Patsy S. Brewer
Executive Director

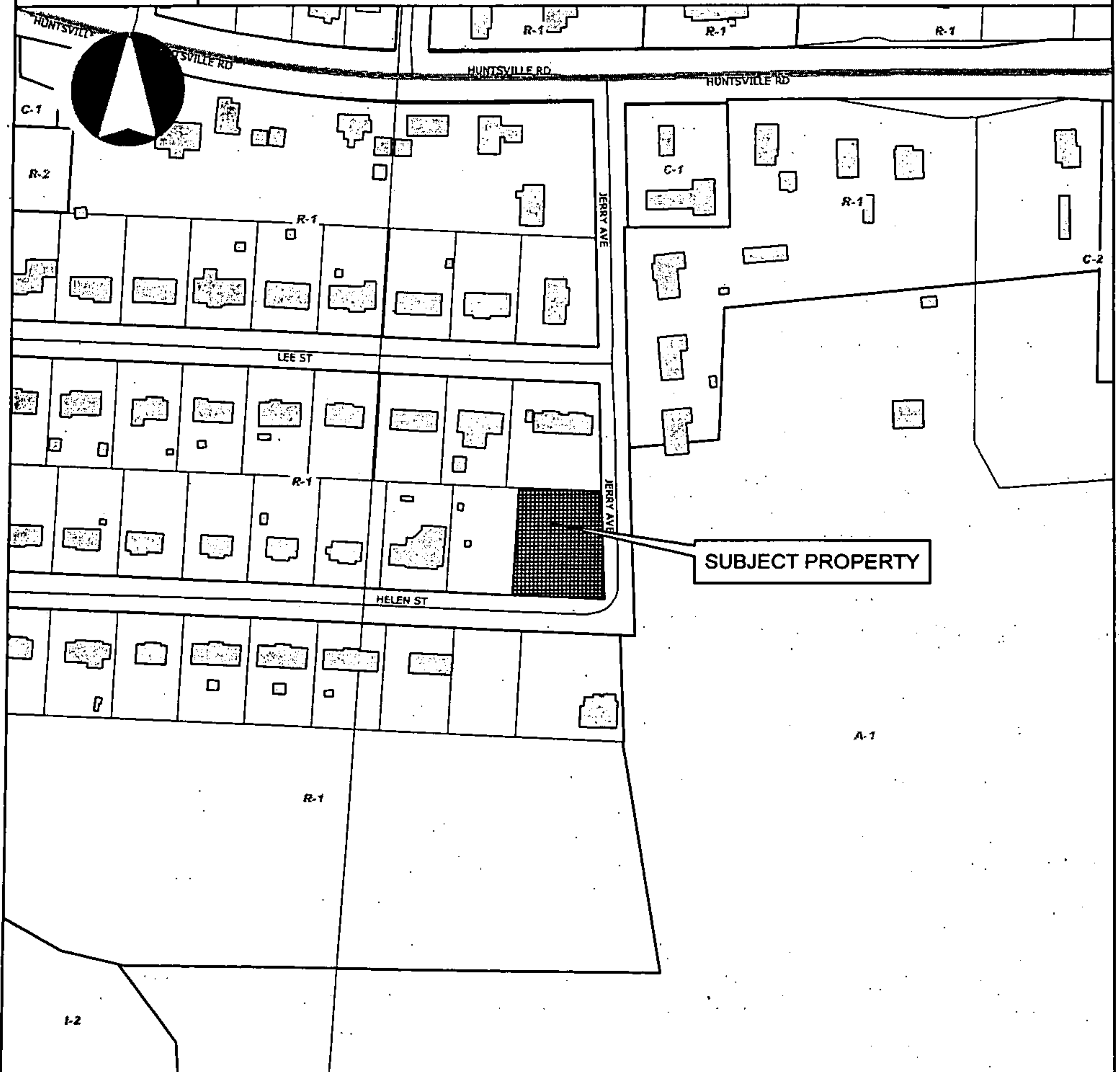
Our mission is to partner with God and the community to build basic, affordable homes in southern Washington County



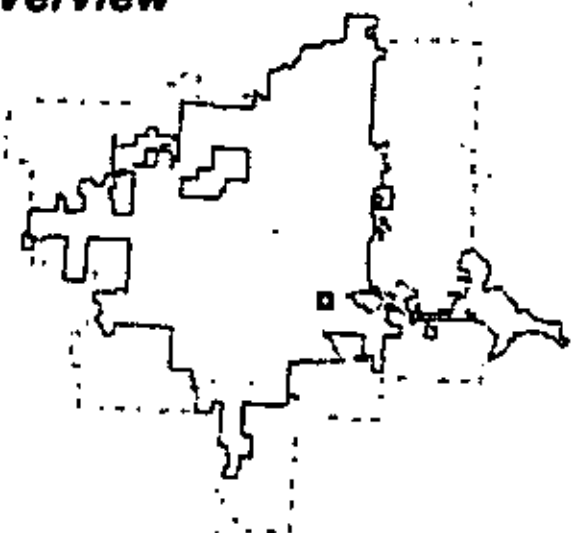
RZN02-35.00

Close Up View

HABITAT



Overview



Legend

Subject Property

RZN02-35.00

Streets

Existing
 Planned

Boundary

Planning Area
 Overlay District
 City Limits
 Outside City

Master Street Plan

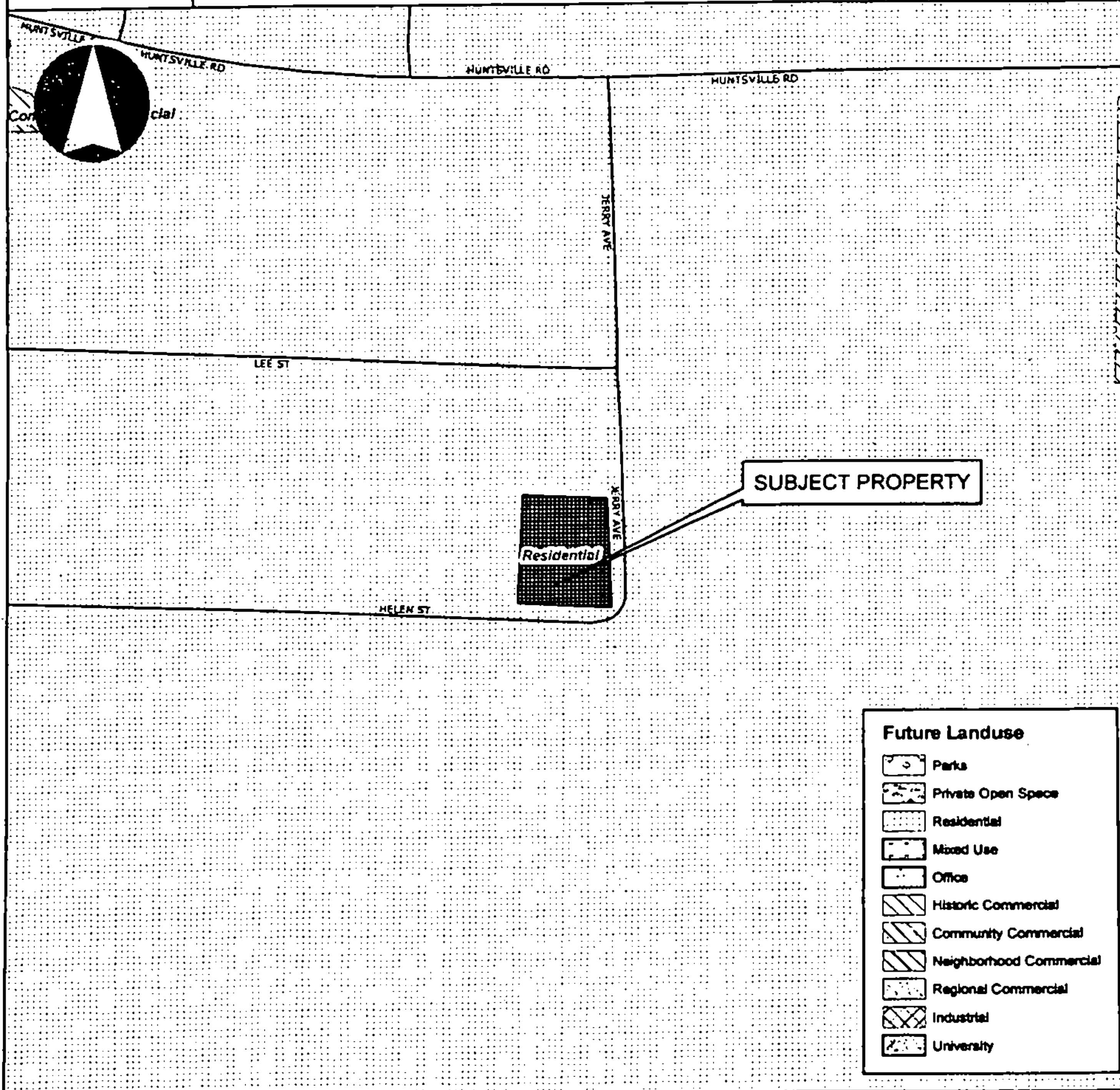
Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

0 75 150 300 450 600 Feet

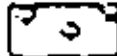
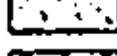
RZN02-35.00

Future Landuse

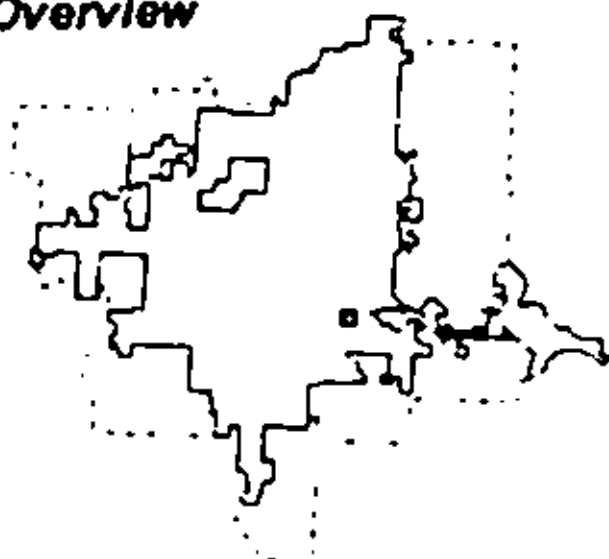
HABITAT



Future Landuse

-  Parks
-  Private Open Space
-  Residential
-  Mixed Use
-  Office
-  Historic Commercial
-  Community Commercial
-  Neighborhood Commercial
-  Regional Commercial
-  Industrial
-  University

Overview



Legend

Subject Property

 RZN02-35.00

Streets

-  Existing
-  Planned

Boundary

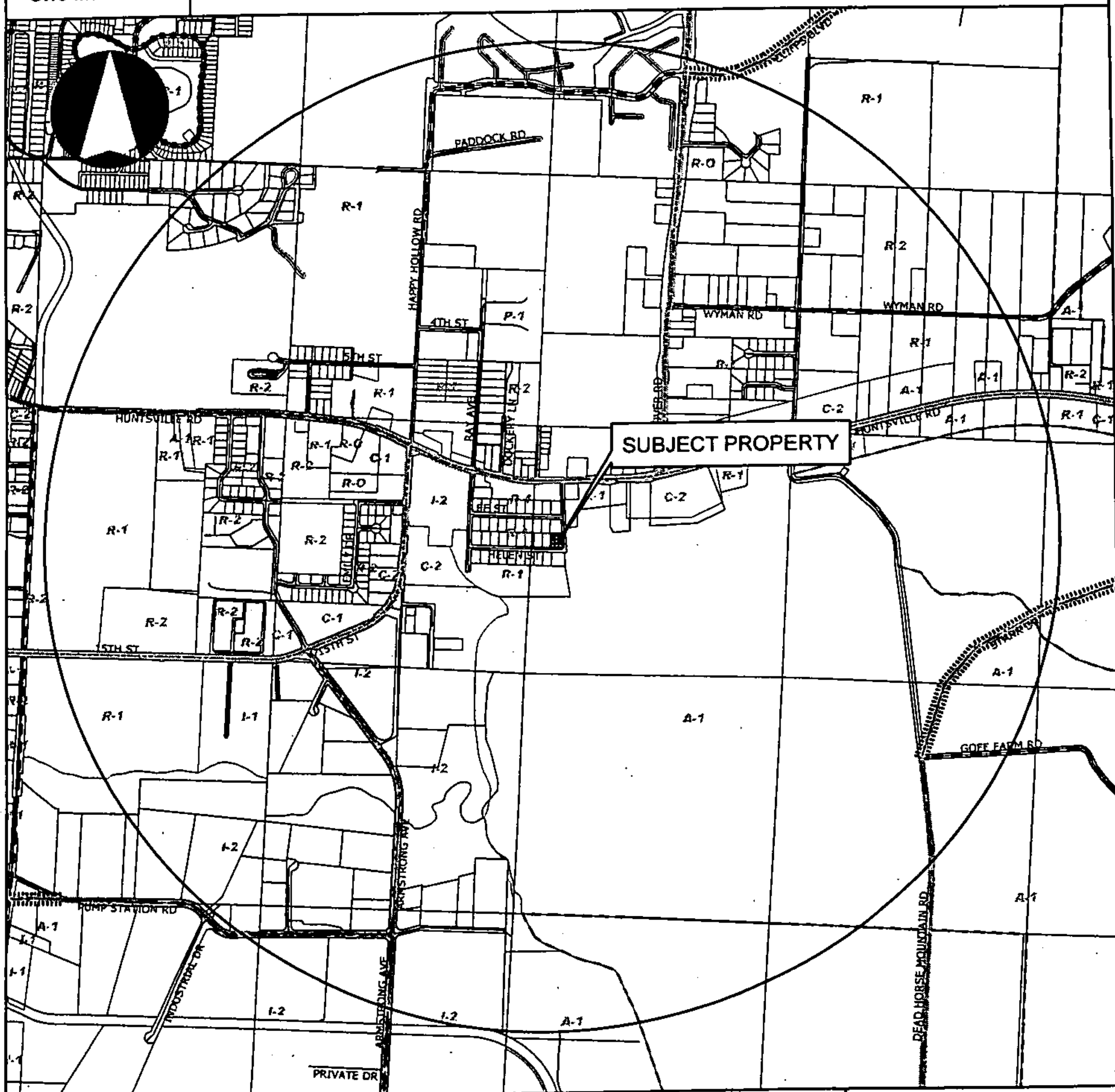
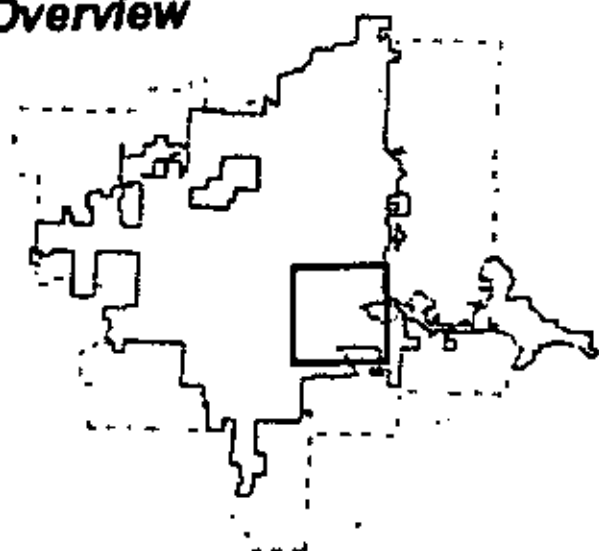
-  Planning Area
-  Overlay District
-  City Limits

0 75 150 300 450 600 Feet

RZN02-35.00

One Mile View

HABITAT

**Overview****Legend****Subject Property**

RZN02-35.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN 02-35.00 (1017): Rezoning (Habitat, Jerry Street, pp 566) was submitted by Patsy Brewer on behalf of Habitat for Humanity for property located at 1075 & 1093 S. Jerry Avenue. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to R-S, Residential Small Lot.

Aviles: Item seven on our agenda is another rezoning, which is RZN 02-35.00. It was submitted by Patsy Brewer on behalf of Habitat for Humanity for property located at 1075 & 1093 S. Jerry Avenue. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to R-S, Residential Small Lot. Shelli?

Rushing: This property is located on the northwest corner of Jerry Avenue and Helen Street. It is south of Huntsville Road. Currently it is vacant. The neighborhood is characterized by one and two family structures. The average lot size in the neighborhood is approximately .30 acres. The applicant is proposing to split the lot and build two single-family structures. Under the current zoning district of R-1 the minimum lot area is 8,000 sq.ft. and the current lot area is 15,246 sq.ft. Therefore, they would not be able to split the lot under the current zoning district. They are requesting to rezone the property from R-1, Low Density Residential to RS, Residential Small Lot. The RS district allows a minimum lot size of 6,000 sq.ft., which would permit them to split the lot and build the two single-family structures. The land use plan, General Plan 2020 does designate this site as residential. It is consistent with the Future Land Use Plan. We don't find that this rezoning would increase traffic or significantly increase the population. Therefore, we are recommending approval of the requested rezoning. We find that the land use does remain single-family. Although the lot size will be smaller than what is in the area, the density is still the same as what is in the area. The property to the north and south and southwest are duplexes on .30 acre lots so the density would remain the same.

Aviles: Thank you Shelli. Is there any member of the public that would wish to address us on this?

Orton: I am Marion Orton, 1641 Halsell. Patsy Brewer is out of town so she has asked me to come and represent Habitat. I am on the Site Search Committee. It is difficult to find not only property that is level and that we can afford so that the price of the houses are not run up because of the expensive lots. Habitat builds small houses. This is like 1,100 square feet. Because of the small houses, we feel that this would not detract at all from the neighborhood and we would appreciate your approving it so that two more families may have houses that they can afford.

Aviles: Thank you very much. Is there anybody else that would wish to address us on this rezoning? I will bring it back to the Commission and to the applicant for further discussion.

MOTION:

Shackelford: Obviously Habitat For Humanity is a very noble cause. Based on the fact that staff is recommending this and that the land will remain single-family and it is compatible with the surrounding land uses. I will make a motion that we approve RZN 02-35.00.

Aviles: I have a motion by Commissioner Shackelford, do I hear a second?

Ostner: I will second.

Aviles: Commissioner Ostner has the second. This is a recommendation to City Council. Is there any further discussion? Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-35.00 to the City Council was approved by a vote of 8-0-0.

Aviles: Thanks Renee. The motion carries unanimously. Thank you very much.

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: Tim Conklin Planning Urban Development
Name Division Department

ACTION REQUESTED: To approve an ordinance for RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

COST TO CITY:

\$0
Cost of this request Category/Project Budget Category/Project Name

Account Number Funds used to date Program Name

Project Number Remaining balance Fund

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager Date ADA Coordinator Date
City Attorney Date Internal Auditor Date
Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head
Department Director
Administrative Services Director
Mayor

11-1-02
Date
11-04-02
Date
11-4-02
Date
11/5/02
Date

Cross Reference

New Item: Yes No

Prev Ord/Res#: _____

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: Nov. 1, 2002

RZN 02-37.00 (1019): Rezoning (Ozark Adventure, LLC, pp 559) was submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

BACKGROUND:

Property Characteristics: The subject property is located south of Sixth Street at the end of Hollywood Ave. These 17.70 acres are vacant on the east side of I-540. The property is surrounded by a mixture of uses, including single-family residential to the north, industrial to the east, and commercial to the west. The 100 year and 500 year floodplain fall 90' along the western portion of the property and approximately 50' of the southern portion of the property.

Proposal and Request: The applicant is proposing to construct a water park at this location. A water park falls under Use Unit 20 Commercial Recreation, Large Sites. The current zoning classification of R-O Residential Office does not permit large commercial recreation sites. The applicant is requesting to rezone the property from R-O Residential Office to C-2 Thoroughfare Commercial. The C-2 district permits Use Unit 20 Commercial Recreation, Large Sites.

Related Issues: On Sept. 17, 2002, the City Council amended the Master Street Plan to relocate the future extension of Hollywood Avenue (south to 18th Street) to the west to connect to Best Way Street. The applicant plans to construct Best Way St. to Hollywood Ave. at the time of large scale development.

Findings: Staff recommended approval of the requested rezoning. The proposed zoning is consistent with the Future Land Use Plan, which designates this area as mixed use and regional commercial, and meets the goals and policies of General Plan 2020. The property is surrounded by a mixture of commercial and industrial uses and limited residential and is an appropriate location for the C-2 zoning district.

CURRENT STATUS:

On October 28, 2002, the Planning Commission voted 8-0-0 to forward the request for approval by City Council.

RECOMMENDATION:

Approval of the requested rezoning.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-37.00 FOR A PARCEL
CONTAINING APPROXIMATELY 17.70 ACRES LOCATED EAST OF
FUTRALL DRIVE, WEST OF BALDWIN PIANO, AND SOUTH OF
HOLLYWOOD DRIVE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED
BY MEL MILHOLLAND OF MILHOLLAND COMPANY ON BEHALF OF
OZARK ADVENTURE.

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

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

From R-O, Residential Office to C-2, Thoroughfare Commercial as shown 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 _____, 2002.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT A
RZN 02-37.00

A PART OF THE SW 1/4 OF THE NW 1/4 AND THE SE 1/4 OF THE NW 1/4 OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID SW 1/4 OF THE NW 1/4; THENCE, ALONG THE NORTH LINE OF SAID SE 1/4 OF THE NW 1/4, S88°56'10"E 199.95 FEET; THENCE S00°00'33"E 1310.49 FEET TO THE SOUTH LINE OF SAID SE 1/4 OF THE NW 1/4; THENCE, ALONG SAID SOUTH LINE, N89°39'41"W 199.91 FEET TO THE SW CORNER OF SAID SE 1/4 OF THE NW 1/4; THENCE, CONTINUING ALONG SAID SOUTH LINE N89°27'52"W 90.97 FEET; THENCE, LEAVING SAID SOUTH LINE, N32°49'01"W 708.70 FEET; THENCE N25°20'59"E 175.17 FEET; THENCE N22°40'01"W 312.00 FEET; THENCE N08°11'59"E 287.76 FEET TO THE NORTH LINE OF SAID SW 1/4 OF THE NW 1/4; THENCE ALONG SAID NORTH LINE S88°16'20"E 479.25 FEET TO THE POINT OF BEGINNING AND CONTAINING 771,317.86 SQUARE FEET OR 17.7069 ACRES, MORE OR LESS, SUBJECT TO ANY AND ALL EASEMENTS OR COVENANTS OF RECORD OR FACT.

RZN 02-37.00 (1019): Rezoning (Ozark Adventure, LLC, pp 559) was submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Aviles: Eighth on our agenda this evening is RZN 02-37.00, a rezoning for Ozark Adventure. It was submitted by the Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial. Shelli, would you like to go over the staff report?

Rushing: Yes. The property is currently vacant. It is on the east side of I-540. It is surrounded by a mixture of land uses. There is some single-family residential to the north, Industrial to the east and Commercial to the west. Portions of the property do lie within the 100 year and 500 year floodplain there along the western and southern portions of the property. The applicant is proposing to construct a water park at this location. The water park falls under Use Unit 20, which is Commercial Recreation Large Site. Under the current zoning classification, which is R-O, Residential Office, that Use Unit is not permitted. Therefore, the applicant is requesting to rezone the property from R-O to C-2, Thoroughfare Commercial. The C-2 District does permit Use Unit 20, which would allow for the proposed water park. Just a couple of related issues, on September 17th of this year the City Council did amend the Master Street Plan to relocate the future extension of Hollywood Avenue. Hollywood Avenue was supposed to extend south to 18th Street and is now relocated and will extend to the west to connect with Best Way Street. The applicant plans to construct Best Way Street to Hollywood Avenue at the time of Large Scale Development. Staff is recommending approval of this request to rezone from R-O to C-2. The proposed zoning is consistent with the future land use plan and meets the goals and objectives of the land use plan and seems to be an appropriate location for C-2. I do want to point out just a couple of items in relation to our General Plan 2020. We have a couple of sections of the plan in regard to regional commercial areas. We have a policy that states "It is equally vital to maintain quality of life in Fayetteville that regional attractions are sited to minimize negative impacts on neighborhoods and the city's transportation network and we find that the proposed location of the water park is with its adjacency to I-540 would limit the amount of internal traffic circulation for this use. Also, guiding policy 9.9(b) from the land use plan states "To encourage continuing improvements and expansion of regional shopping and entertainment attractions." This rezoning would permit the expansion of those entertainment attractions. Finally, the description of Use Unit 20 in the zoning ordinance states that "These types of uses should be developed on large sites in

undeveloped outlying parts of the city." We find that this location is a large vacant site and it is located on the western perimeter of the city.

Aviles: Ok, thank you Shelli. Is the applicant present?

Jefcoat: I am Tom Jefcoat with Milholland Company representing Ozark Ventures. We concur with the rezoning to C-2. Use Unit 20 development, I think is appropriate and I recognize all of the comments that Shelli has made for future planning of this site.

Aviles: Thank you Mr. Jefcoat. Does any member of the public wish to address us regarding this proposed rezoning?

PUBLIC COMMENT:

Vick: Good afternoon, I am Al Vick, a Fayetteville resident. I am a bit concerned about this and I would like to put a different spin. For me, and for some of the people that I have been talking to, this thing is happening very, very quickly. It was just last week that there was a front page article in the paper about this. At this point not everybody that I've talked to has even really figured out where this thing is. I am not even sure that I have yet. According to what the paper said, they are looking to be attracting up to 170,000 visitors for the first year. Now, I want to know what this is going to do to traffic in this area because if we consider, let's break this down, let's say that everybody comes and travels to visit this in a vehicle, four people to a family in a vehicle just on an average, these parks are not going to be open December, January, and February. It is probably only going to be open during the four warmest months of the year, mid-May through mid-September or something like that. If we have a conservative figure and say only 160,000 would be coming and the vehicles that I just described, we are talking about 40,000 vehicles coming to this town. Ok, we already have major traffic problems. People are already moaning and groaning because of the traffic that we have. We have neighborhood associations and people in areas like the historic district who are concerned about the widening of Hwy. 45 and Mission Blvd. going into their neighborhood. Well, when we have so many people coming to the east it is almost a certainty that these roads would have to be widened and traffic is going to flow into this. I am not saying whether this is a good idea or not. What I am proposing is that we slow down on this a little bit because so far the only thing that people have seen or heard about is strictly the propaganda. Nobody has talked about the traffic, nobody has talked about the impact on people's communities and people's neighborhoods that this could potentially have. It is being run through. We only just started hearing about it and it is being run through very, very quickly. What I want to propose is that we slow down on this before they go and buy the land and do all of these things and turn around and say "Wow, we already spent millions of dollars. Now you better approve

this or else we are going to turn around and sue you, the City of Fayetteville." We need to slow it down. Let everyone in the community understand what type of an impact it could potentially have on the City of Fayetteville and then take it from there. If everybody wants to go ahead and have this as an amusement, fine. Please, let's not just run on a lot of propaganda without thinking it through. Thank you.

Aviles: Thanks Mr. Vick. Would anybody else like to address the Planning Commission on this rezoning? Ok, seeing no one, I will go ahead and bring it back to the Commissioners and the applicant for further discussion.

Conklin: You may recall that a couple of meetings ago we did amend our Master Street Plan in order to avoid crossing the creek and causing possible channelization to bridge that creek. The amendment did bring that street for Hollywood back over to Best Way Street, which was constructed as part of the Best Western motel. The applicant is aware that during the development process they will be required to make those street improvements and that connection over to Futrall. With regard to the intersection of Hollywood and Sixth Street, the City of Fayetteville has been working on for a few years now, a capital improvements project to realign that intersection and put a traffic signal there. That is something that the city is working on at this time. I just wanted to bring that up because it is something that city staff has informed the applicant of with regard to traffic and intersection improvements that will be coordinated and made at the intersection of Hollywood and Sixth. Thank you.

Aviles: Tim, just to answer some specific questions about the traffic volume we do have on Page 8.9 of our packet the average weekday and weekend trip general calculations. Could you go over that for us for our benefit and for those that are here and watching on TV?

Conklin: Sure. We used what is called the I.T.E. trip generation software. It is based on studies that they have done in other parts of the country on these type of uses for an amusement park. They are looking at a driveway volume for a 24 hour period of about 1,341 vehicles. I would like to add talking with the developers of this park, their idea is to also attract people that are coming to Fayetteville and staying in the existing motels in Fayetteville. If there is some type of activity going on in town and they are staying in one of the motels in this area, this is some activity that they may go to. I think when you look at the traffic generation rates I don't think it is going to be 100% new traffic being generated to this site. This type of use will also pick up the traffic that is already in the area for different activities and events that are taking place in Fayetteville.

Aviles: Thanks Tim. Did you want to respond to any of these questions?

October 28, 2002

Page 23

Jefcoat: Nothing other than to add to what Tim has said. This is a dual destination use attraction as the developer sees it and as the studies that have been prepared show. The additional internal traffic being located right next to I-540 is access in and on and off of I-540. The additional traffic load on other streets would have a second destination in mind so it would not be just use of the water park.

Conklin: The average weekday two way volume, the Saturday two way volume is 33,190 vehicles so it does increase on the weekends from your average weekday volume. Once again, those streets are shown as collector streets on our Master Street Plan recently amended, including Futrall Avenue as a major intersection of I-540 and Sixth Street. Thank you.

Aviles: Thank you very much.

Shackelford: Tim, I know in past traffic studies that we have seen Sixth Street and I-540 has been one of the higher traffic count areas. Do you have any idea what the current traffic count at that corner is?

Conklin: I don't have those numbers. It would be somewhat of a guess. Those intersections up and down the corridor are experiencing more and more traffic. Sixth Street is a five lane street in this location on both sides and the intersections were recently redone with regard to the off ramps to the north. I think we just recently dealt with that issue on another rezoning. The Highway Department made improvements to help move traffic through this area.

Shackelford: My recollection is that there were several thousand cars that passed this corner on a given day. The point that I am trying to make, I would like to know, we are talking about increasing 1,340 cars a day, I would like to know as a percentage increase of what current traffic is. I don't think that is going to be a tremendous percentage increase over the traffic number that is already there.

Conklin: I think you are probably looking at around 20,000 vehicles a day possibly.

Shackelford: Ok, thank you. You are talking about less than a 5% increase in current traffic a day.

MOTION:

Ward: On that same part of traffic that has been pointed out, most of the traffic would be there and the park would be used during the summer time when we have 10,000 or 12,000 students less in town because of Summer and that would of course be the biggest time it is going to be used. I think this is a fantastic project that is going to be the development or redevelopment of the southwest part of Fayetteville, which is very dearly needed. We have gone out of our way most of the time to try to get anything down in our south part of town so I think

this is a fantastic project and a great idea for our city. With that, I am going to make a motion that we approve RZN 02-37.00 for the rezoning for Ozark Adventure for this 17.7 acres to C-2.

Aviles: I have a motion by Commissioner Ward.

Shackelford: I will second. I would like to concur that I have given a lot of thought to the traffic count in this area as well. I view this as an area where we have made strides to handle the traffic. We have gone to one way provisions on the access roads off of I-540. Obviously, we have had to put infrastructure in place to handle 75,000 people in this corridor for football games on Saturday afternoons as well. I think that as Commissioner Ward has said, this is going to be a great benefit to the city and I think that this is the perfect location for it based specifically on the infrastructure that we have already put in place.

Aviles: Thanks Commissioner.

Church: Just one more comment too, I think that 170,000 number is a very manageable number. I deal with traffic numbers at Northwest Arkansas Mall and our numbers are in the millions every year so 170,000 doesn't sound like something that is not manageable. I think it is very manageable. I think this is a great project for our area and I would be in support of that.

Aviles: I think to address the concerns of the public about the speediness by which this is going or not going, it is going through the same process that any other development would go through. A rezoning first here and then the City Council and then a Large Scale Development. Particularly at the Large Scale Development time, I think Tim has already made the applicant aware that requirements of the Master Street Plan are going to require significant contributions to our streets to improving our infrastructure and so on and so I am not too concerned about the speediness by which this is going. I think there will be plenty of avenue for public comment as it go through the city process. Thank you.

Bunch: A question for staff in a little different vein. Since this is in close proximity to the I-540, there is a good percentage of it that is within the Overlay District. What limitations will that place? I know we don't have a drawing in front of us and a site plan but I would assume that on water parks it may be difficult to satisfy our green space requirements. I just wondered if maybe staff or Mr. Jefcoat could give us a little information on that before this proceeds through the process.

Conklin: They are aware of the Overlay District requirements and we have talked to them about restrictions with regard to the type of sign they can have and they are also aware of the open space requirements and they plan on complying with our

Overlay District standards. I have no indication that they will not be complying with those standards.

Bunch: Thank you.

Aviles: Thanks Tim, is there anybody else? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward RZN 02-37.00 was approved by a vote of 8-0-0

Aviles: Thanks Renee. The motion carries unanimously. Thank you Gentlemen.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of Oct. 28, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 24, 2002

RZN 02-37.00 (1019): Rezoning (Ozark Adventure, LLC, pp 559) was submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	☐ Approved	☐ Denied
Date: October 28, 2002				
CITY COUNCIL ACTION:	Required	<u>YES</u>	☐ Approved	☐ Denied
Date: November 19, 2002 (If recommended, first reading)				

Comments: _____

BACKGROUND:

Property Characteristics: The subject property is located south of Sixth Street at the end of Hollywood Ave. These 17.70 acres are vacant on the east side of I-540. The property is surrounded by a mixture of uses, including single-family residential to the north, industrial to the east, and commercial to the west. The 100 year and 500 year floodplain fall 90' along the western portion of the property and approximately 50' of the southern portion of the property.

Proposal: The applicant is proposing to construct a water park at this location. A water park falls under Use Unit 20 Commercial Recreation, Large Sites. The current zoning classification of R-O Residential Office does not permit large commercial recreation sites.

Request: The applicant is requesting to rezone the property from R-O Residential Office to C-2 Thoroughfare Commercial. The C-2 district permits Use Unit 20 Commercial Recreation, Large Sites. The requested zoning district is needed for the proposed water park.

Related Issues: On Sept. 17, 2002, the City Council amended the Master Street Plan to relocate the future extension of Hollywood Avenue (south to 18th Street) to the west to connect to Best Way Street. The applicant plans to construct Best Way St. to Hollywood Ave. at the time of large scale development.

Recommendation: Staff is recommending approval of the request to rezone from R-O Residential Office to C-2 Thoroughfare Commercial. The proposed zoning is consistent with the Future Land Use Plan map and meets the goals and objectives of the land use plan. The property is surrounded by a mixture of commercial and industrial uses and limited residential and is an appropriate location for the C-2 zoning district.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Commercial shopping center (Northwest) Single-family residential (Northeast)	C-2 Thoroughfare Commercial (Northwest) R-1 Low Density Residential (Northeast)
South	Vacant	I-1 Heavy Commercial and Light Industrial
East	Industrial	I-1 Heavy Commercial and Light Industrial
West	Vacant	C-2 Thoroughfare Commercial

INFRASTRUCTURE:

Streets: North: 6th Street (Principal Arterial)
South: 18th Street (Collector)
East: Beechwood Avenue (Unclassified)
West: I-540 (Freeway / Expressway)

Water: Water line available for extension at the northwest corner of the property.
Sewer: Sewer line runs along the northern and western edge of the property.

LAND USE PLAN: General Plan 2020 designates this site Mixed Use and Regional Commercial. Rezoning this property to C-2 Thoroughfare Commercial is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF:

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

Finding: The proposed zoning is consistent with the Future Land Use Plan which designates this area as mixed use and regional commercial. The C-2 Thoroughfare Commercial permits commercial recreation.

Section 9.9 Regional Commercial Areas of the Land Use Plan states "It is vital to Fayetteville's economy that commercial businesses are accessible to their customers, and it is equally vital to maintaining quality of life in Fayetteville that regional attractions are sited to minimize negative impacts on neighborhoods and the City's transportation network." The proposed location for the water park is adjacent to I-540 and will require little use of the city's internal transportation network.

Guiding Policy 9.9b from the Land Use Plan states "Encourage continuing improvements and expansion of regional shopping and entertainment attractions." The proposed rezoning will permit a water park and expand entertainment attractions with the City.

The description of Use Unit 20 in the Zoning Ordinance states that these type of uses should be developed on large sites in undeveloped outlying parts of the City. This location is a large vacant piece of land on the western perimeter of the City.

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 necessary in order to develop a water park at this location.

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

Finding: *From Planning:* The proposed zoning will increase traffic at this location. Using the Trip Generation data for an amusement park of 17.7 acres, the average weekday two-way volume is 1,341 trips. (A water slide park options was available, but required the number of parking spaces in order to calculate trip

generation. Parking space data is not available at this time. An amusement park is the closest land use available.)

From Police: The Police Department states that the rezoning may increase traffic from what it is at present; the rezoning will not impact police functions to the degree that they could not be performed adequately; therefore, the Police Department does not oppose this rezoning request.

From Public Works: The proposed rezoning is located on the south end of Hollywood Ave. and west of Futrall Drive. The proposed rezoning R-O to C-2 may or may not result in additional traffic danger and congestion for this area. The access to the developed site and the circulation network within the development shall be reviewed in detail as part of the subdivision or large scale development process. The layout, connectivity, circulation plan, ingress and egress provisions will be reviewed in detail as information becomes available.

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: *From Planning:* The proposed zoning will not increase population density.

From Public Works: The site has access to multiple water and sewer lines in this area. The proposed rezoning and ultimate development may increase the loading on the existing infrastructure systems. During the development's review and approval process, the adequacy of the existing infrastructure to accommodate the service requirements will be assessed by the developer's consultant and reviewed by city staff. Any inadequacies, lack of availability, need for improvements and determination of responsibility for the infrastructure improvements shall be resolved during the development's review/approval process.

From Fire Department: Access 20 feet of unobstructed width driving surface. Hydrants will be needed for this area. Response time is 2-3 minutes.

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

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

**§161.12 DISTRICT R-O RESIDENTIAL
OFFICE.**

A. Purpose. The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

B. Uses.

1. Uses Permitted.

<u>Unit 1</u>	<u>City-Wide Uses by Right</u>
<u>Unit 5</u>	<u>Government Facilities</u>
<u>Unit 8</u>	<u>Single-Family and Two-Family Dwellings</u>
<u>Unit 12</u>	<u>Offices, Studios and Related Services</u>
<u>Unit 25</u>	<u>Professional Offices</u>

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 9	Multi-Family Dwelling - Medium Density
Unit 10	Multi-Family Dwelling - High Density
Unit 13	Eating Places

**C. Bulk and Area Regulations.
(Per Dwelling Unit for Residential Structures)**

Lot Minimum Width:	Mobile Home Park	100 ft.
	Lot Within a Mobile Home Park	50 ft.
	One Family	60 ft.
	Two Family	60 ft.
	Three or More	90 ft.

Lot Area Minimum:	Mobile Home Park	3 acres
	Lot Within a Mobile Home Park	4200 sq. ft.
	Row Houses:	
	Development	10,000 sq. ft.
	Individual Lot	2500 sq. ft.
	Single Family	6000 sq. ft.
	Two Family	6500 sq. ft.
	Three or More	8000 sq. ft.
	Fraternity or Sorority	1 acres
Land Area Per Dwelling Unit:	Mobile Home	3000 sq. ft.
	Row Houses & Apartments:	
	Two or More Bedrooms	1200 sq. ft.
	One Bedroom	1000 sq. ft.
	No Bedroom	1000 sq. ft.
	Fraternity or Sorority	500 sq. ft., per resident

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

From Street ROW	30 ft.
From Street ROW if Parking is Allowed Between the ROW and the Building	50 ft.
From Side Property Line	10 ft.
From Side Property Line When Contiguous to a R-1, R-2 or R-3 District	15 ft.
From Back Property Line Without Easement or Alley	25 ft.

From Center Line of Public Alley	10 ft.
----------------------------------	--------

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

F. Height Regulations. There shall be no maximum height limits in R-O Districts, provided,

however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any R-1, R-2, or R-3 District an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, §160.041; Code 1965, App. A, Art. 5(x); Ord. No. 1747, 6-29-89; Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80)

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

**§161.14. DISTRICT C-2 THOROUGH-FARE
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.

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

2. Uses Permissible on Appeal to the Planning Commission.

<u>Unit 2</u>	<u>City-Wide Uses by Conditional Use Permit</u>
<u>Unit 3</u>	<u>Public Protection and Utility Facilities</u>
<u>Unit 21</u>	<u>Warehousing and Wholesale</u>
<u>Unit 28</u>	<u>Center for Collecting Recyclable Materials</u>
<u>Unit 32</u>	<u>Sexually Oriented Business</u>

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)

*From Chapter 162 Use Units
City of Fayetteville Unified Development Ordinance*

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.**

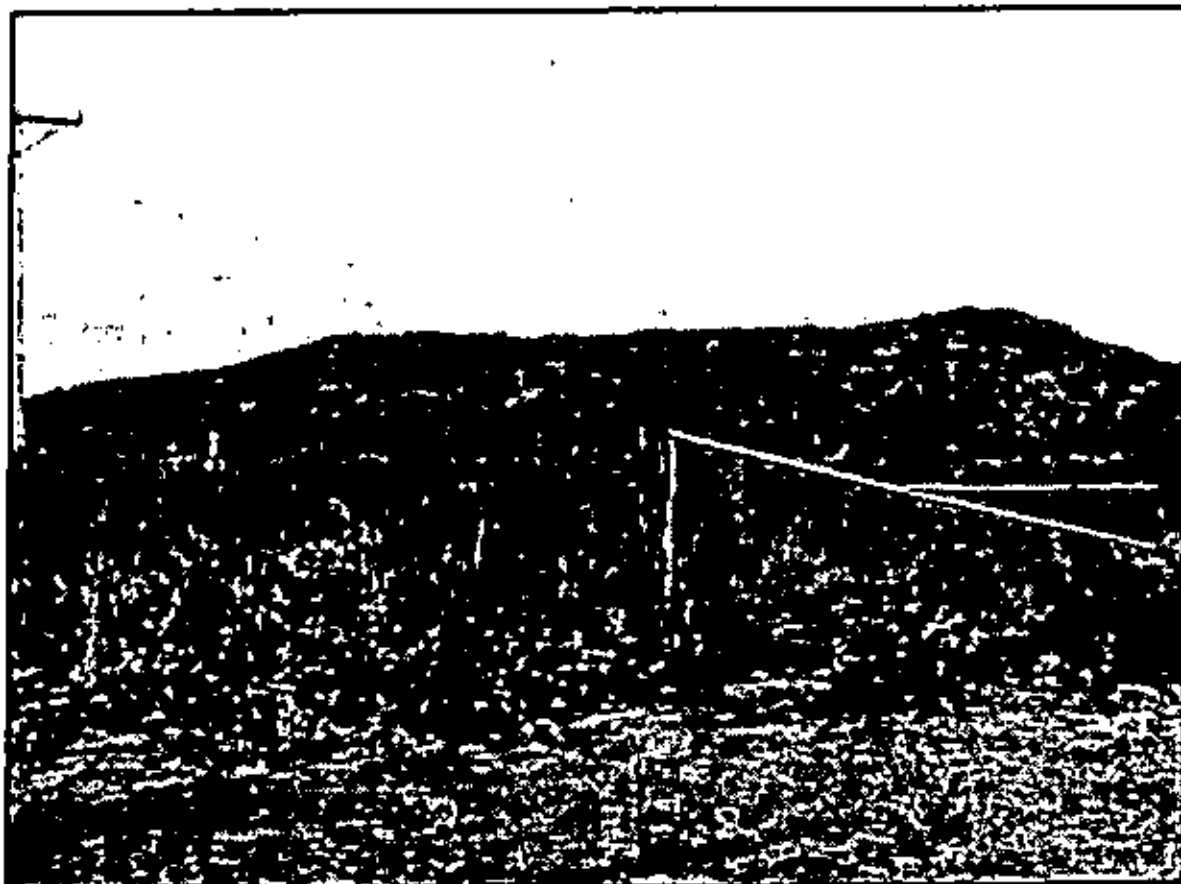
Amusement Park
Drag Strip
Drive-In Theater
Fairgrounds
Fishing Dock
Go-Cart Track
Golf Range
Miniature Golf
Race Track

**Ozark Adventures
Summary of Trip Generation Calculation
For 17.7 Acres of Amusement Park
October 17, 2002**

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	75.76	0.00	1.00	1341
7-9 AM Peak Hour Enter	0.18	0.00	1.00	3
7-9 AM Peak Hour Exit	0.03	0.00	1.00	1
7-9 AM Peak Hour Total	0.21	0.00	1.00	4
4-6 PM Peak Hour Enter	2.41	0.00	1.00	43
4-6 PM Peak Hour Exit	1.54	0.00	1.00	27
4-6 PM Peak Hour Total	3.95	0.00	1.00	70
Saturday 2-Way Volume	180.20	0.00	1.00	3190
Saturday Peak Hour Enter	10.94	0.00	1.00	194
Saturday Peak Hour Exit	7.92	0.00	1.00	140
Saturday Peak Hour Total	18.86	0.00	1.00	334

**Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.**

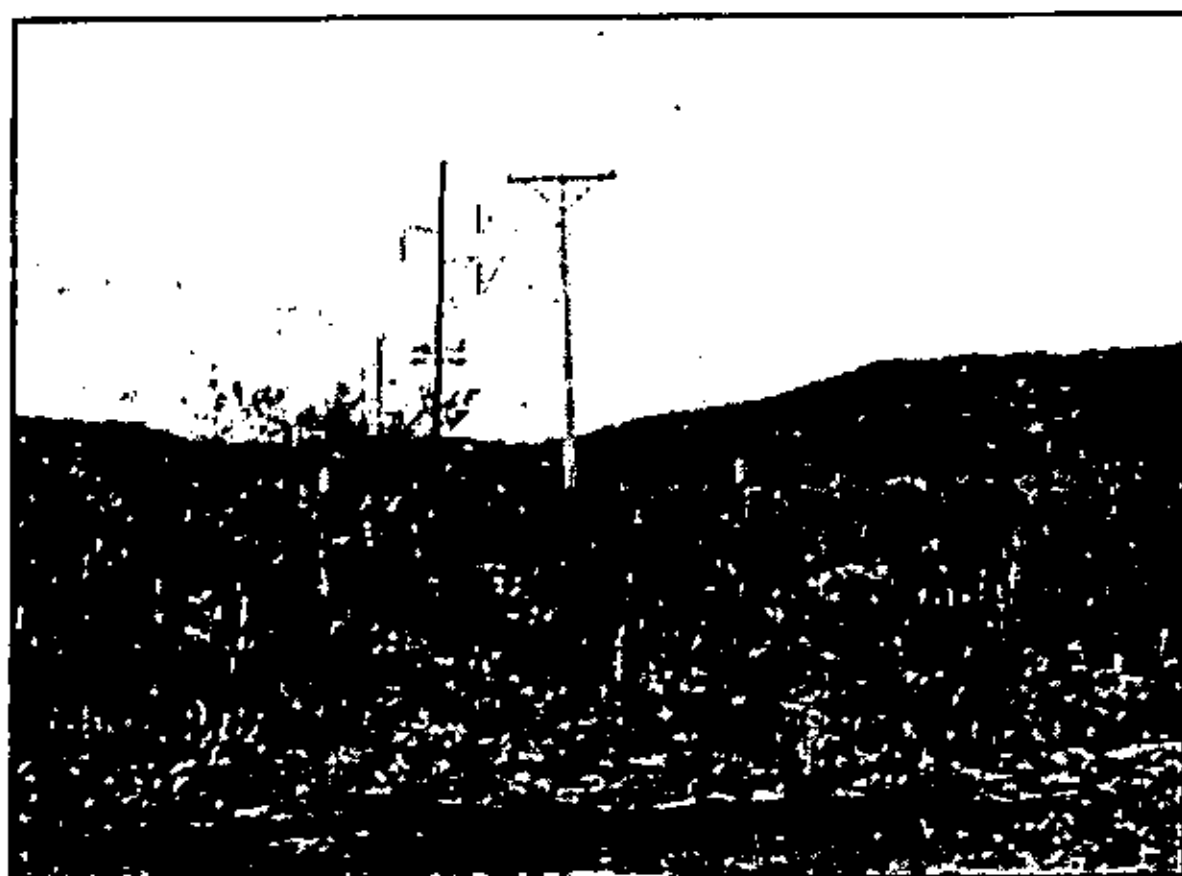
TRIP GENERATION BY MICROTRANS



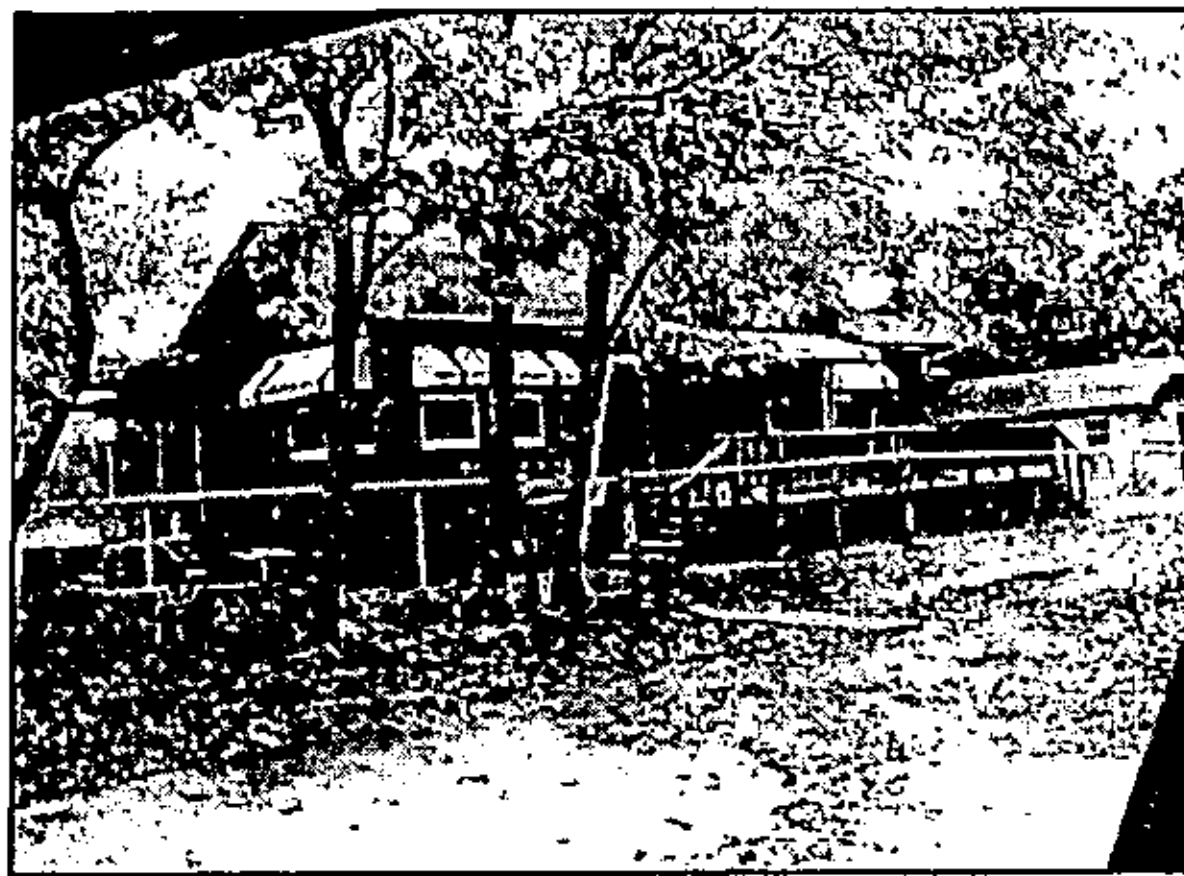
Looking southwest at site from Hollywood.



Adjacent industrial property to the east.



Looking south at site from Hollywood.



Looking north at adjacent residential property.



Looking east at adjacent industrial property.



Looking northeast at adjacent residential property.

October 4, 2002

City of Fayetteville
Mr. Tim Conklin, Planner
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: PROPOSED WATER PARK REZONING
Project No. E-632

Dear Tim:

In response to the City of Fayetteville Application for Rezoning, the following is submitted:

- 5.a. *Current ownership and proposed/pending property sales:*
Tom Bhakha and Hansaben T. Bhakta husband and wife, and Cathy Van Someren,
a married person, and Terry Dill and Sun Dill, husband and wife
c/o Ozark Adventure, LLC
1 West Center Street, Suite #308
Fayetteville, AR 72701
- No pending sale - Proposed Water Park
- 5.b. *Reason for requesting zoning change:*
Owner wants to construct a water park
- 5.c. *Surrounding properties: land use, traffic, appearance and signage:*
Land use in Industrial to East, Commercial to North and West and open, undeveloped to
the South.
Traffic is low to moderate, and served by South Futrall and Hollywood.
Appearance and signage is will be discussed during LSD Review.
- 5.d. *Water and sewer availability, line size:*
8" Water and 8" Sewer
- 6.a. *The degree to which the proposed zoning is consistent with the land use planning
objectives, principles, and policies and with land use and zoning plans:*
Consistent with City Land Use and Zoning Plans

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

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

Ozark Adventure, LLC, Rezoning
October 4, 2002
Page Two (2)

- 6.b. *Whether the proposed zoning is justified and/or needed at the time of the request:*
Yes, for Commercial Water Park
- 6.c. *Whether the proposed zoning will create or appreciably increase traffic danger and congestion:*
Major Traffic Routes have been planned and developed for Commercial Growth in the area, and this should not impact traffic problems above what's planned for area.
- 6.d. *Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities:*
Not a residential plan nor zone and should not impact area services above what has been planned for area.
- 6.e. *Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:*
Land has been undeveloped as exists for 20 years since the infrastructure was planned and provided to the area.

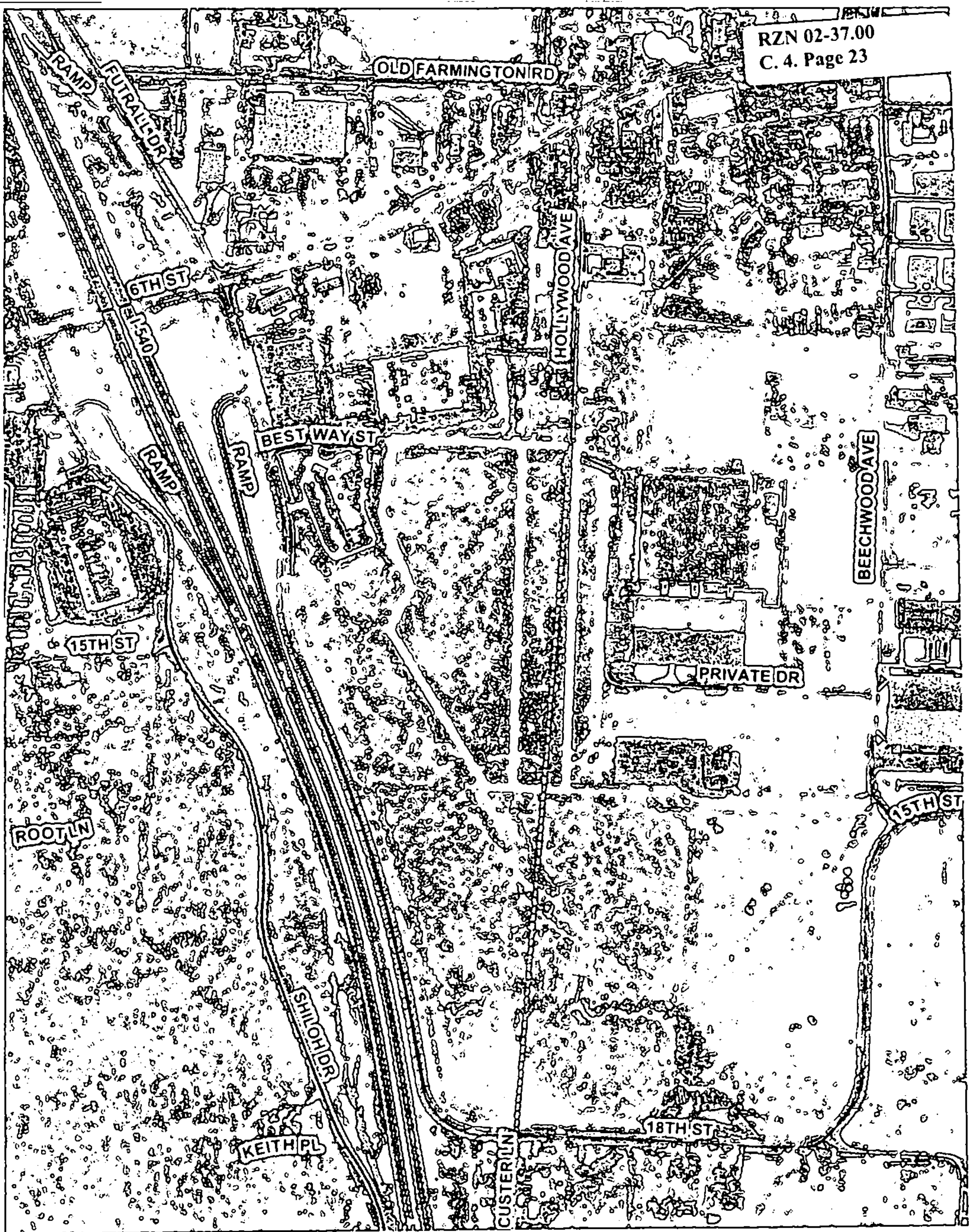
Your favorable review is appreciated!

Respectfully,

for Pat Juma
Melvin L. Milholland, PE, PLS

cc: Ozark Adventure, LLC
file

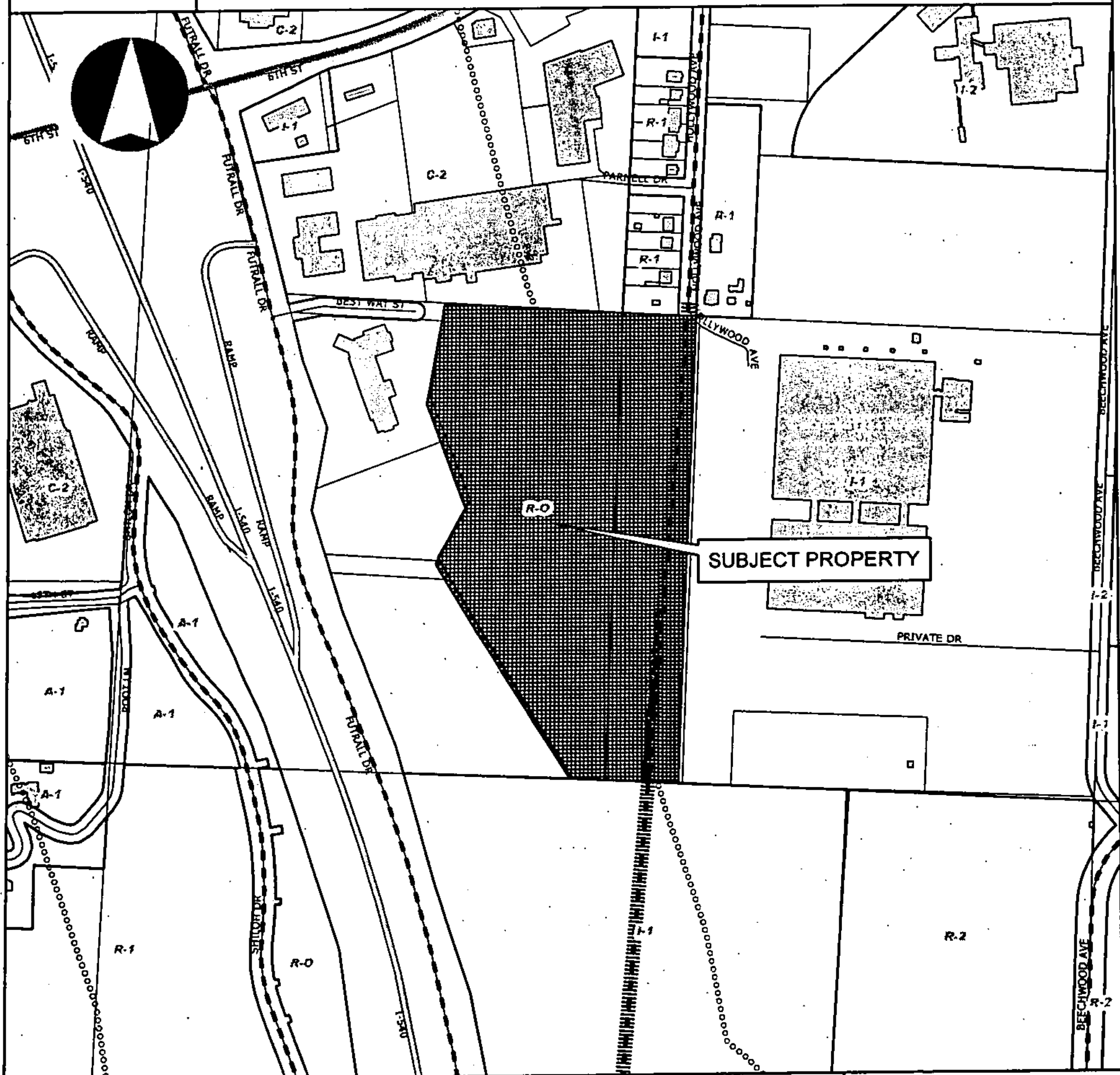
C:\MyFiles\FORMS\Fayetteville\Rezone E-632 Ozark Adv Ltr-Planning.wpd



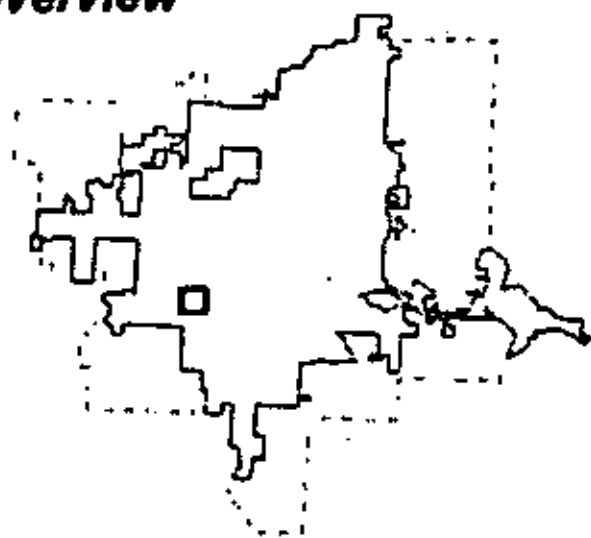
RZN02-37.00

Close Up View

OZARK



Overview



Legend

Subject Property

RZN02-37.00

Streets

Existing
 Planned

Boundary

Planning Area
 Overlay District
 City Limits
 Outside City

Master Street Plan

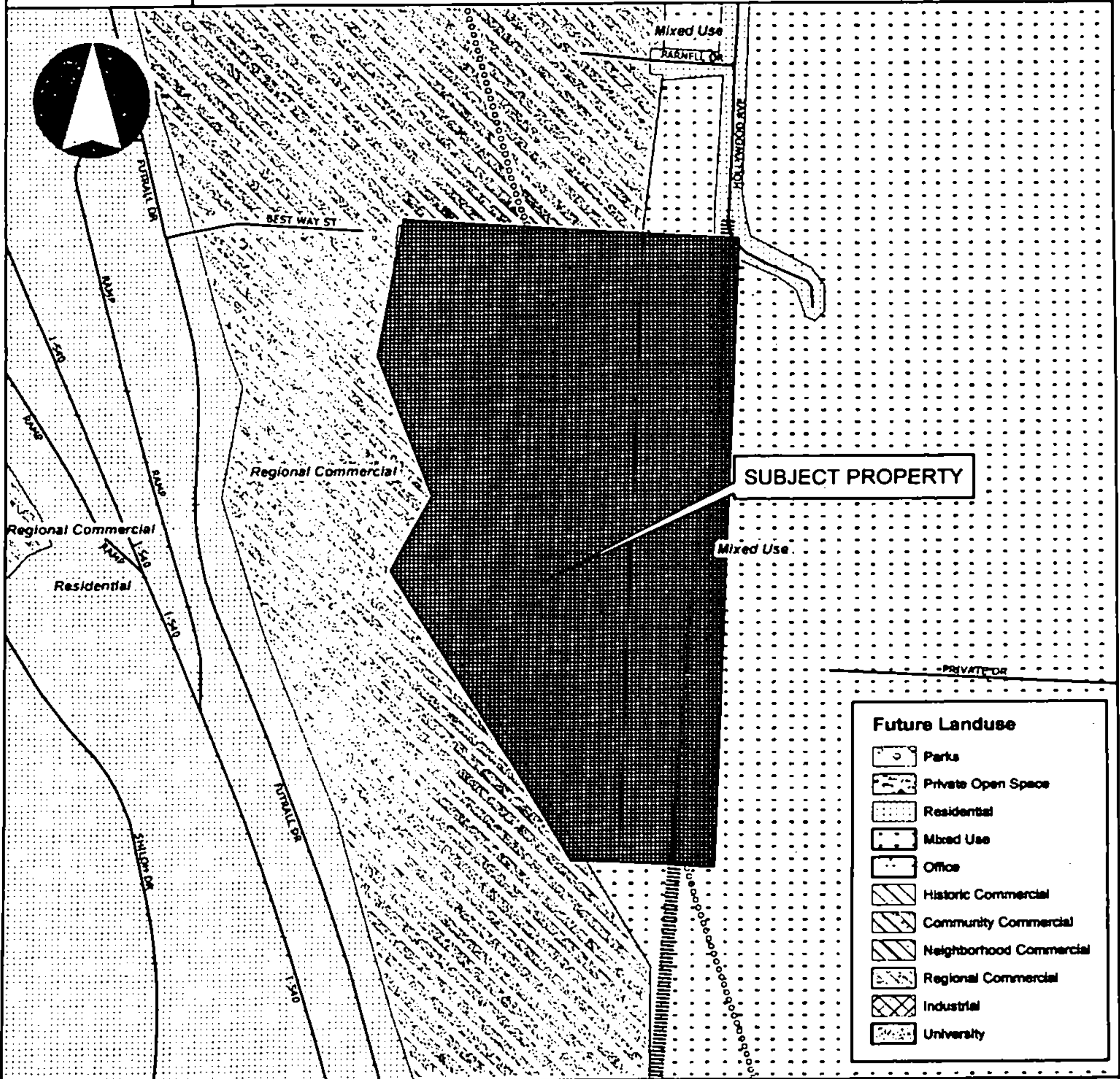
Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

0 125 250 500 750 1,000 Feet

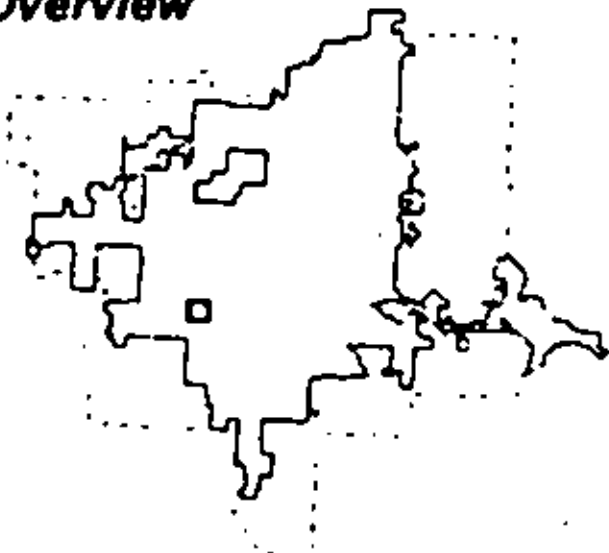
RZN02-37.00

Future Landuse

OZARK



Overview



Legend

Subject Property

RZN02-37.00

Streets

Existing

Planned

Boundary

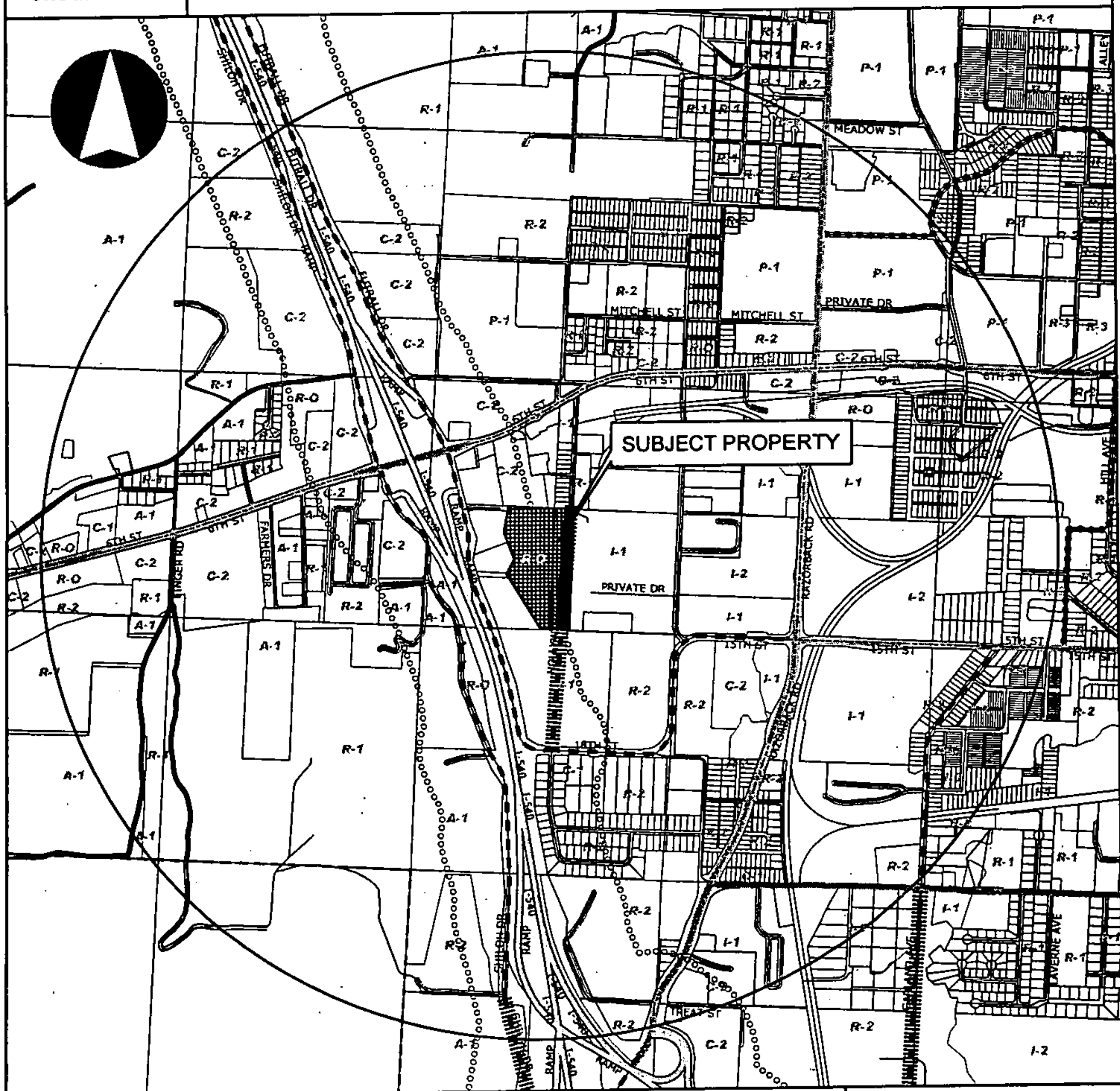
Planning Area

Overlay District

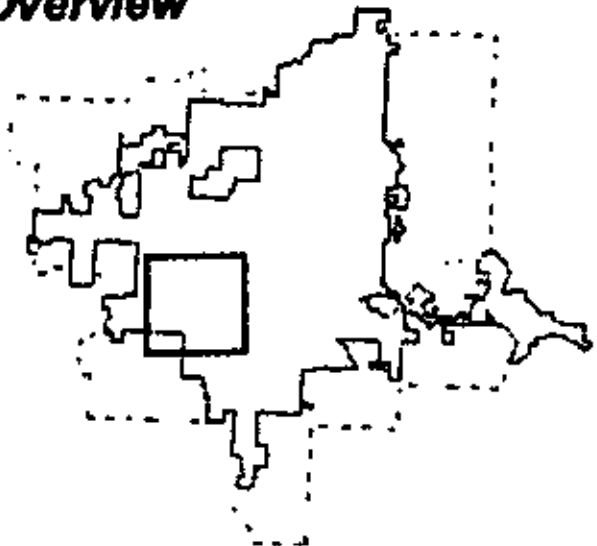
City Limits

0 87.5 175 350 525 700 Feet

OZARK



Overview



Legend

Subject Property

RZN02-37.00

Streets

Existing
Planned

Boundary

Planning Area
Overlay District
City Limits
Outside City

Master Street Plan

Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: Tim Conklin Planning Urban Development
Name Division Department

ACTION REQUESTED: To approve an ordinance for RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

COST TO CITY:

\$0
Cost of this request Category/Project Budget Category/Project Name

Account Number Funds used to date Program Name

Project Number Remaining balance Fund

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached

Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager Date ADA Coordinator Date
City Attorney Date Internal Auditor Date
Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head
Department Director
Administrative Services Director
Mayor

11-1-02
Date
11-04-02
Date
11-4-02
Date
11/5/02
Date

Cross Reference

New Item: Yes No

Prev Ord/Res#: _____

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264**PLANNING DIVISION CORRESPONDENCE**

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: Nov. 1, 2002

RZN 02-38.00(1020): Rezoning (Ruble, pp 436) was submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

BACKGROUND:

Property Characteristics: The subject property is located south of Wedington Drive on the west side of 54th Avenue (Collector). A single family structure sits on approximately 2.12 acres. Surrounding properties are single-family residential and agricultural. The property was annexed November 2, 1982 as A-1 Agricultural. Surrounding areas have recently been rezoned from A-1 to R-1, including:

May 1992	5 acres	SW corner of Wedington and 54 th Ave.
Oct. 19, 1993	1.43 acres	796 N. 54 th Ave.
Oct. 17, 1995	.57 acres	5556 Tackett Dr.
June 20, 2000	2.97 acres	831 N. 54 th Ave.
Jan. 2, 2002	41.9 acres	East of Double Springs Rd, South of Owl Creek Sub.

Proposal: The applicant is proposing to split the lot and build a single family structure on the new lot. The current zoning classification of A-1 Agricultural requires a minimum lot area of 2 acres. The applicant will not be able to split the 2.12 acres under the current zoning district.

Request: The applicant is requesting to rezone the property from A-1 Agriculture to R-1 Low Density Residential. The R-1 Low Density Residential district requires a minimum lot area of 8,000 square feet. The applicant will be able to split the 92,347 square foot lot.

Recommendation: Staff recommended approval of the requested zoning. The proposed zoning meets the Future Land Use Plan, which designates this area as residential, is compatible with surrounding land uses, and is consistent with rezoning requests in the area.

CURRENT STATUS:

On October 28, 2002, the Planning Commission voted 8-0-0 to forward the request for approval by City Council.

RECOMMENDATION:

Approval of the requested rezoning.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-38.00 FOR A PARCEL
CONTAINING APPROXIMATELY 2.12 ACRES LOCATED AT 625 N. 54TH
AVENUE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY ALAN
REID ON BEHALF OF BETTY RUBLE.

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 to R-1, Low Density Residential as shown 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 _____, 2002.

APPROVED:

By: **DRAFT**

DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZN 02-38.00

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION ELEVEN (11), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING RAILROAD SPIKE; THENCE N89°51'10"W ALONG THE SOUTH LINE OF SAID 40 ACRE TRACT 165.00 FEET; THENCE N00°30'13"E 636.96 FEET TO A SET COTTON SPINDLE IN 54TH STREET FOR THE TRUE POINT OF BEGINNING AND FROM WHICH A ½" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT OF WAY OF SAID ROAD BEARS N89°51'10"W 32.63 FEET; THENCE N89°51'10"W 282.21 FEET TO A SET ½" IRON REBAR; THENCE N00°30'13"E 326.48 FEET TO A SET ½" IRON REBAR; THENCE S89°51'10"E 282.21 FEET TO A SET COTTON SPINDLE IN 54TH STREET FROM WHICH A ½" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT OF WAY OF SAID ROAD BEARS N89°51'10"W 32.93 FEET; THENCE S00°30'13"W 326.48 FEET TO THE POINT OF BEGINNING, CONTAINING 2.12 ACRES MORE OR LESS THE ABOVE DESCRIBED 2.12 ACRE TRACT BEING SUBJECT TO THE RIGHT OF WAY OF 54TH STREET ALONG THE ENTIRE EAST BOUNDARY.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of Oct. 28, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 24, 2002

RZN 02-38.00(1020): Rezoning (Ruble, pp 436) was submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 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 28, 2002

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: November 19, 2002 (If approved, first reading)

Comments: _____

BACKGROUND:

Property Characteristics: The subject property is located south of Wedington Drive on the west side of 54th Avenue (Collector). A single family structure sits on approximately 2.12 acres. Surrounding properties are single-family residential and agricultural. The property was annexed November 2, 1982 as A-1 Agricultural. Surrounding areas have recently been rezoned from A-1 to R-1, including:

May 1992	5 acres	SW corner of Wedington and 54 th Ave.
Oct. 19, 1993	1.43 acres	796 N. 54 th Ave.
Oct. 17, 1995	.57 acres	5556 Tackett Dr.
June 20, 2000	2.97 acres	831 N. 54 th Ave.
Jan. 2, 2002	41.9 acres	East of Double Springs Rd, South of Owl Creek Sub.

Proposal: The applicant is proposing to split the lot and build a single family structure on the new lot. The current zoning classification of A-1 Agricultural requires a minimum lot area of 2 acres. The applicant will not be able to split the 2.12 acres under the current zoning district.

Request: The applicant is requesting to rezone the property from A-1 Agriculture to R-1 Low Density Residential. The R-1 Low Density Residential district requires a minimum lot area of 8,000 square feet. The applicant will be able to split the 92,347 square foot lot.

Recommendation: Staff is recommending approval of the requested zoning. The proposed zoning meets the Future Land Use Plan, is compatible with surrounding land uses, and is consistent with rezoning requests in the area.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Large-lot residential	A-1 Agricultural
South	Vacant	A-1 Agricultural
East	Large-lot residential	A-1 Agricultural
West	Vacant	A-1 Agricultural

INFRASTRUCTURE:

Streets: North: Tacket Drive (Local)
South: Persimmon (Proposed on Master Street Plan – not existing)
East: 54th Avenue (Collector)
West: Glenview Avenue (Local)

Water: 8" water line serves the property

Sewer: 6" sewer main serves the property

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 Future Land Use Plan and compatible with adjacent land uses.

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

Finding: The requested rezoning is needed in order for the applicant to split the lot and construct a single-family structure on the new lot.

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

Finding: *From Planning:* The requested rezoning will not create or appreciably increase traffic danger and congestion.

From Police: The Police Department states that the rezoning may increase traffic from what it is at present; the rezoning will not impact police functions to the degree that they could not be performed adequately; therefore, the Police Department does not oppose this rezoning request.

From Public Works: The proposed rezoning is located on the west side of 54th Ave. south of Wedington Drive. The proposed rezoning from A-1 to R-1 may or may not result in additional traffic danger and congestion for this area. The proposed zoning allows a density of up to 4 families per acre. That means a development could add up to 8 families on this 2.12 acre tract. The access to the developed site and the circulation network within the development shall be reviewed in detail as part of the subdivision or large scale development process. The layout, connectivity, circulation plan, ingress and egress provisions will be reviewed in detail as information becomes available.

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: *From Planning:* The proposed zoning will not significantly alter the population density. It could increase density up to eight families.

From Public Works: The site has access to an existing 8" water line on the east side of the property. A 6" sewer main is also located along the east side of the property. The proposed rezoning and ultimate development may increase the loading on the existing infrastructure systems. During the development's review and approval process, the adequacy of the existing infrastructure to accommodate the service requirements will be assessed by the developer's consultant and reviewed by city staff. Any inadequacies, lack of availability, need for improvements and determination of responsibility for the infrastructure improvements shall be resolved during the development's review/approval process.

From Fire Department: Hydrants will be needed access, 20 feet of unobstructed width driving surface. Response time 8-10 minutes.

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

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

§161.03 DISTRICT A-1 AGRICULTURAL

A. Purposes. The regulations of the Agricultural District are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; prevent unsightly development, increase scenic attractiveness; and conserve open space.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities
Unit 6	Agriculture
Unit 7	Animal Husbandry
Unit 8	Single-Family and Two-Family Dwellings

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 4	Cultural and Recreational Facilities
Unit 20	Commercial Recreation; Large Sites

C. Bulk and Area Regulations.

Lot Width Minimum	200 ft.
Lot Area Minimum Residential	2 acre
Nonresidential	2 acre
Lot Area Per Dwelling Unit	2 acre

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

E. Height Requirements. There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required yard lines.

(Code 1991, §160.030; Code 1965, App. A, Art. 5(1); Ord. No. 1747, 6-29-89)

§ 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.

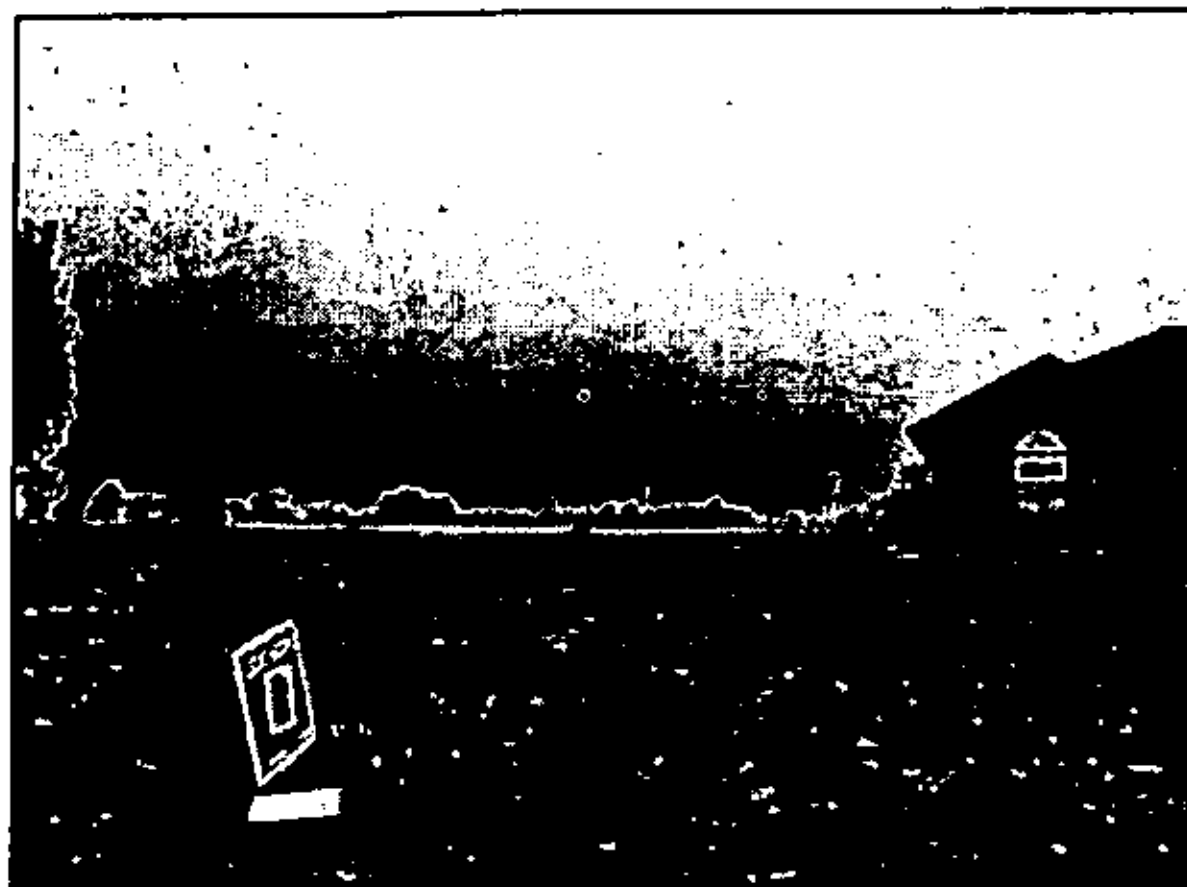
	Single-Family	Two-Family
Lot Minimum Width	70 ft.	80 ft.
Lot Area Minimum	8,000 sq. ft.	12,000 sq. ft.
Land Area Per Dwelling Unit	8,000 sq. ft.	6,000 sq. ft.

E. Yard Requirements (feet).

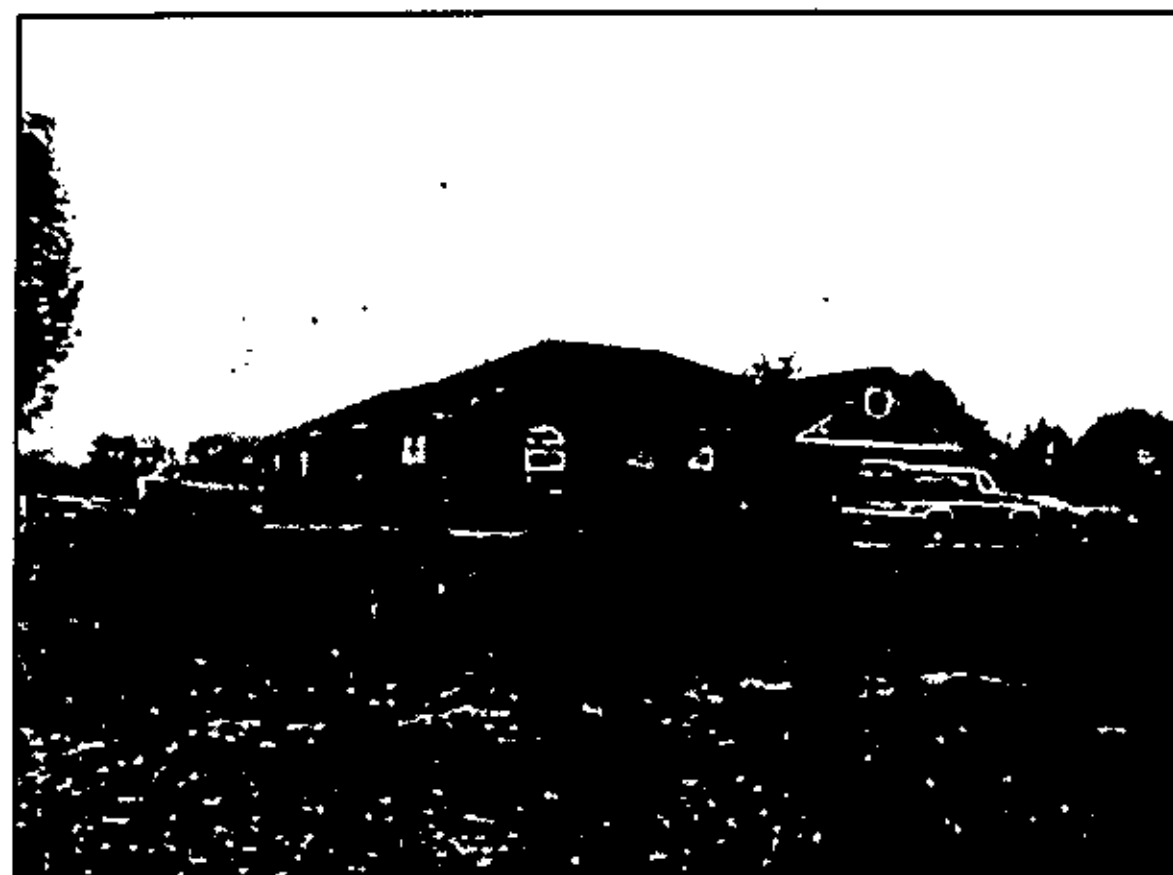
FRONT YARD	SIDE YARD	REAR YARD
25	8	20

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)



Looking west at property.



Looking west at property.



Looking at adjacent property to the east.

RZN 02-38.00(1020): Rezoning (Ruble, pp 436) was submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

Aviles: Ninth on our agenda this evening is RZN 02-38.00 which was submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential. Shelli?

Rushing: This property is located south of Wedington Drive. It is on the west side of 54th Avenue. There is a single family structure that sits on approximately 2.12 acres. It is surrounded by primarily single-family residential, large lot and agricultural uses. This property was annexed in November of 1982. It was annexed in as A-1. I do want to point out that many of the rezonings in the immediate area have been from A-1, Agricultural to R-1 Single-Family Residential. There are five listed in the staff report. The applicant again is proposing to split the lot and build a single-family structure. The A-1 district of course the minimum lot area of two acres. With the property being less than four acres they would not be able to split the property so they are requesting to rezone the property from A-1 to R-1, which would allow them to split their property. We are recommending approval of this rezoning. We find that it is compliant with the Future Land Use Plan, which designates this area as residential. It is compatible with the surrounding land uses and is consistent with many of the rezoning requests in the immediate area.

Aviles: Thank you Shelli. Is the applicant present? I will go ahead and take public comment. Is there anybody here that would wish to address the Commission on this rezoning request? Ok, I will close public discussion and bring it back to the Commission.

MOTION:

Shackelford: Based on the fact that this is in line with adjoining property and staff recommendations, I will make a motion that we recommend RZN 02-38.00 to R-1 to the City Council.

Aviles: Thank you Commissioner. I have a motion by Commissioner Shackelford and just to break things up, I will second it. I notice that the applicant is not present but we did discuss this at length at agenda session and I personally feel quite comfortable with the recommendation. Is there any further discussion? Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-38.00 to the City Council was approved by a vote of 8-0-0.

BETTY RUBLE
PROPERTY REZONING REQUEST

TO: FAYETTEVILLE PLANNING COMMISSION

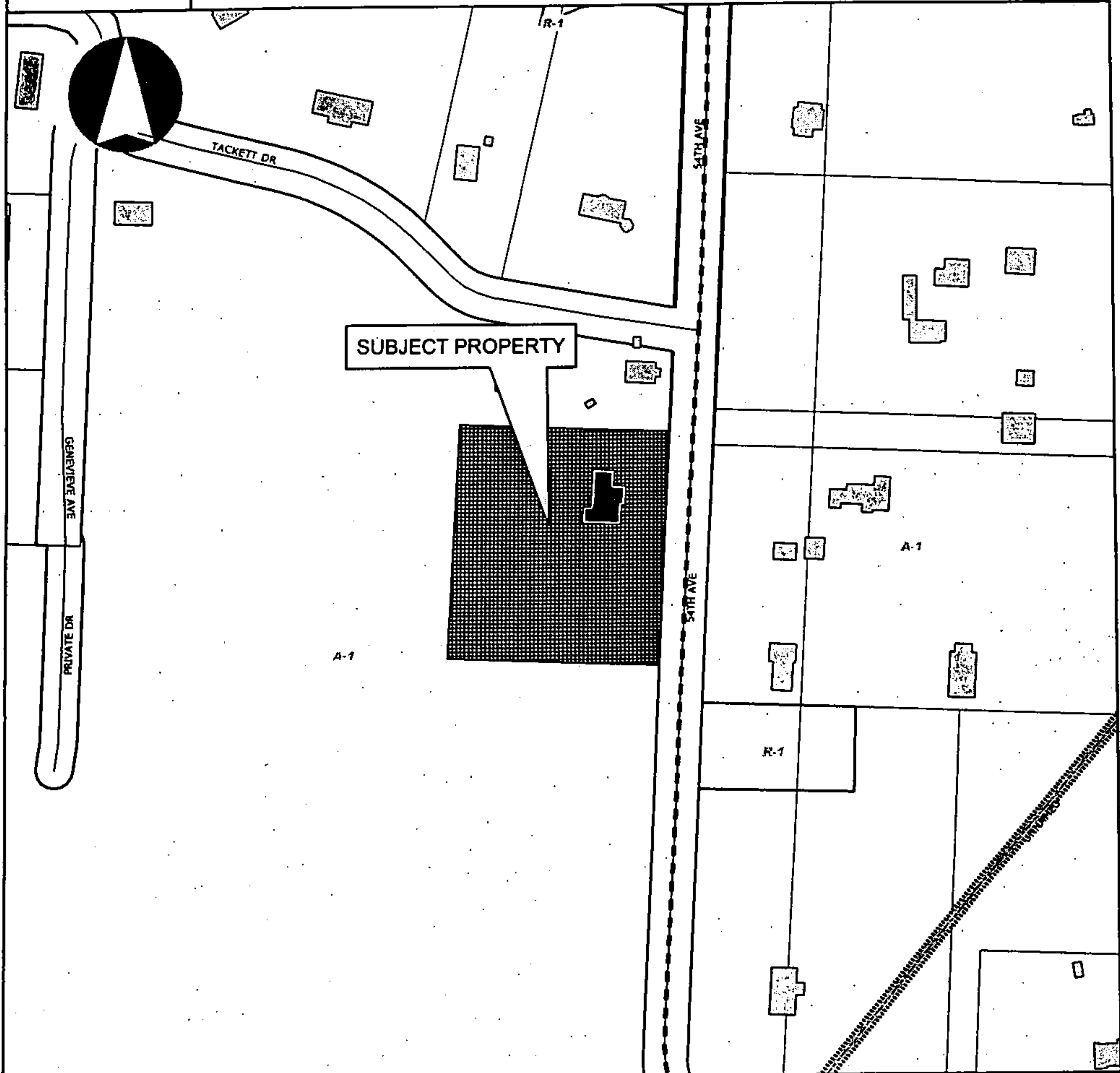
AS OF 10/07/02, BETTY RUBLE IS THE OWNER OF A 2.12 ACRE TRACT OF LAND LOCATED AT 625 N. 54TH AVENUE, FAYETTEVILLE, ARKANSAS. A WARRANTY DEED IS ON FILE IN LAND RECORD 2002-092482 OF THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS. MS. RUBLE IS REQUESTING HER PROPERTY BE REZONED FROM A-1 TO R-1 SO THAT SHE MAY SPLIT THE PROPERTY INTO TWO (2) TRACTS. BECAUSE HER PROPERTY IS ONLY 2.12 ACRES, SHE DOES NOT MEET THE AREA AND FRONTAGE REQUIREMENTS FOR SPLITTING HER TRACT UNDER THE CURRENT A-1 ZONING. THE PROPERTIES ADJOINING 54TH STREET ARE RAPIDLY BECOMING SINGLE FAMILY RESIDENCES. ALL PUBLIC UTILITIES, INCLUDING AN 8" WATER LINE AND A 6" SANITARY SEWER LINE SERVE HER PROPERTY.

MS. RUBLE'S REQUEST FOR REZONING IS BASED UPON HER DESIRE TO HAVE HER DAUGHTER BUILD AND LIVE NEXT DOOR TO HER. IN ORDER TO TRANSFER TITLE, IT WILL REQUIRE THE R-1 ZONING DESIGNATION. BECAUSE ONLY ONE (1) ADDITIONAL TRACT IS BEING CREATED, SHE FEELS THERE WILL NOT BE AN APPRECIABLE INCREASE IN TRAFFIC DANGER. NOR DOES SHE FEEL ONE (1) ADDITIONAL TRACT WILL ADVERSELY AFFECT THE DENSITY OF THE NEIGHBORHOOD. FINALLY, BECAUSE OF IT'S SMALL SIZE, THE PROPERTY SERVES NO REAL USE AS AN AGRICULTURAL SITE AND MS. RUBLE ASK THIS PLANNING COMMISSION TO ALLOW HER TO REZONE HER PROPERTY, THUS MAKING IT ABLE FOR HER TO BOTH MAKE BETTER USE OF THE LAND AND HAVE HER DAUGHTER LIVE NEXT TO HER.

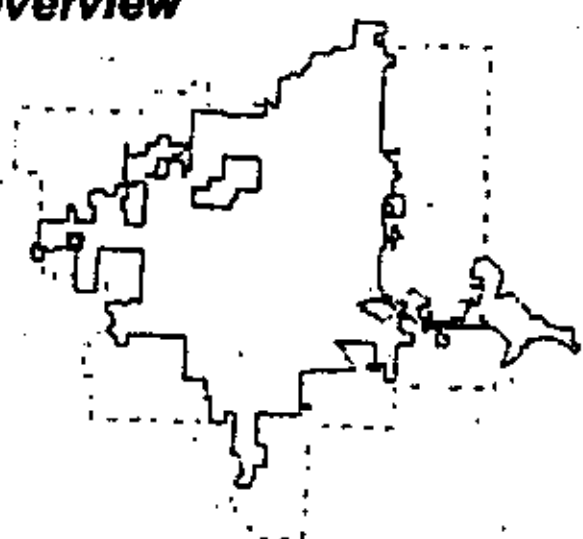


RUBLE

Close Up View



Overview



Legend

Subject Property

RZN02-38.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

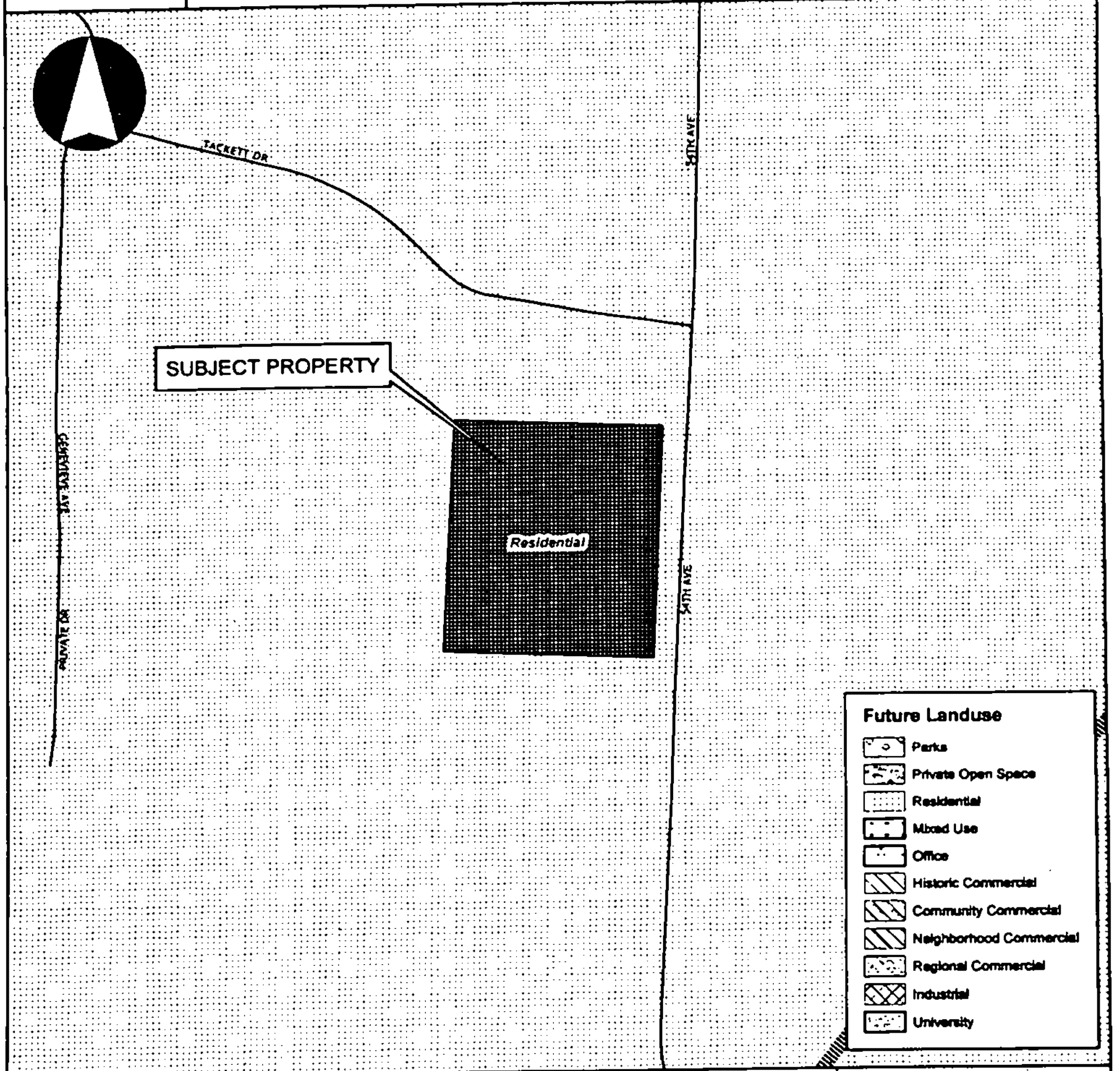
Historic Collector

0 75 150 300 450 600 Feet

RZN02-38.00

Future Landuse

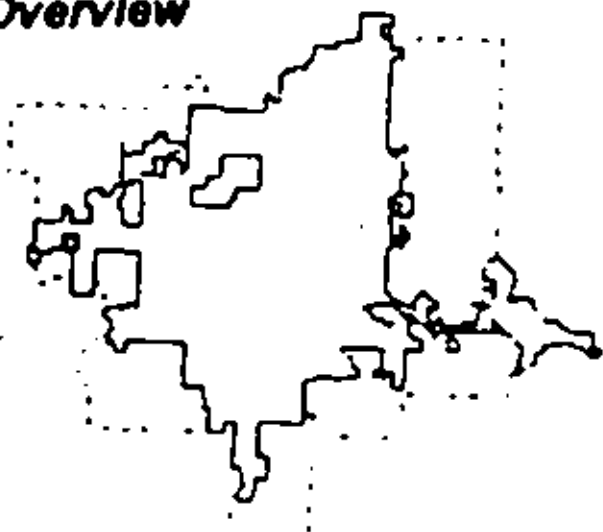
RUBLE



Future Landuse

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



Legend

Subject Property

RZN02-38.00

Streets

- Existing
- Planned

Boundary

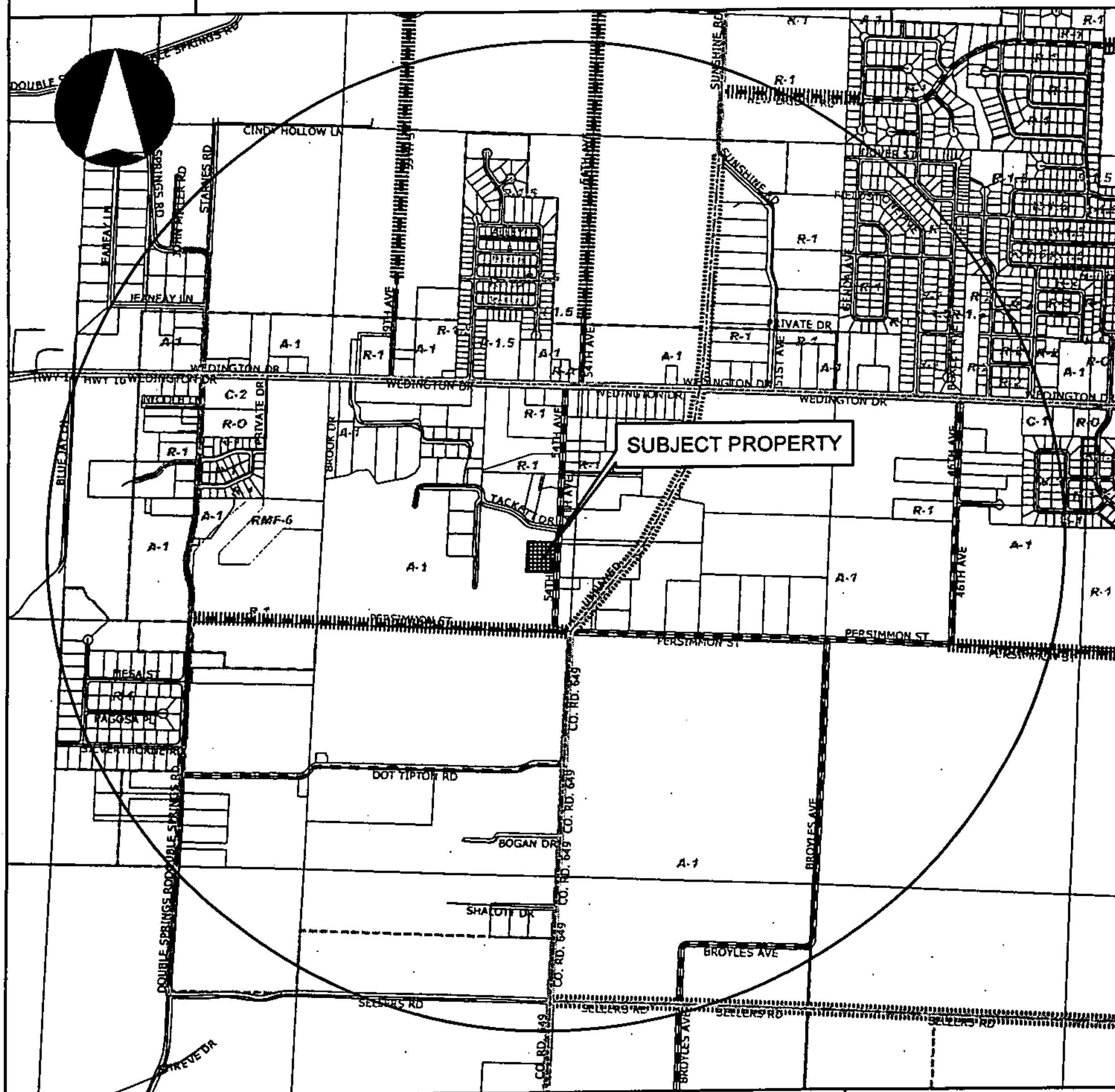
- Planning Area
- Overlay District
- City Limits

0 75 150 300 450 600 Feet

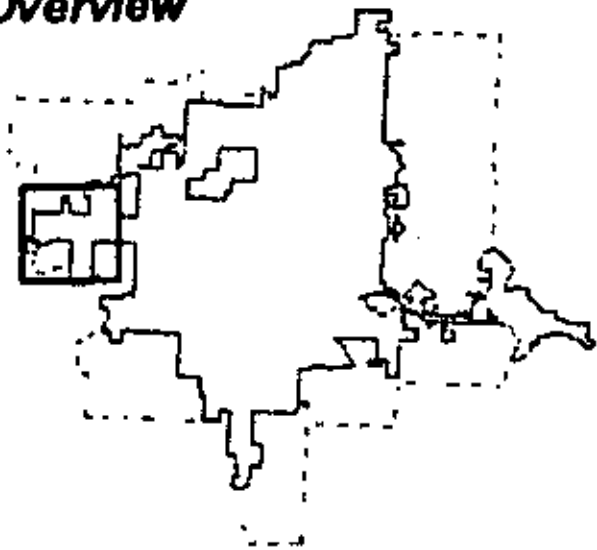
RAN 02-00.00

One Mile View

RUBLE



Overview



Legend

Subject Property

RZN02-38.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM

Traffic Lenses
C. 6. Page 1

X AGENDA REQUEST
 _____ CONTRACT REVIEW
 _____ GRANT REVIEW

For the Fayetteville City Council meeting of November 19, 2002

FROM:

Perry Franklin Traffic Division Public Works
 Name Division Department

ACTION REQUIRED:

Approval of a Bid Waiver, Budget Adjustment and Emergency Clause for the purchase of LED traffic signal lenses Per prices on Bid# 02-40 Res# 109-02 for the period of 10/15/02 through 12/31/03 to finish the new traffic signals added to the LED project and purchase LED lenses for future traffic signal installations. (Confirmation letter from Temple, Inc. attached)

COST TO CITY:

<u>\$ 58,003.87</u> Cost of this Request	<u>\$ 185,079</u> Category/Project Budget	<u>LED Traffic Signals</u> Category/Project Name
<u>4470-9470-5890.00</u> Account Number	<u>\$ 185,079</u> Funds Used To Date	<u>Transportation Imp</u> Program Name
<u>02026</u> Project Number	<u>\$ 0</u> Remaining Balance	<u>Sales Tax Capital</u> Fund

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

[Signature]
Budget Coordinator

[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature]
Accounting Manager

10/31/02
Date

ADA Coordinator

Date

[Signature]
City Attorney

10/31/02
Date

[Signature]
Internal Auditor

10/31/02
Date

[Signature]
Purchasing Officer

11/1/02
Date

STAFF RECOMMENDATION:

[Signature]
Division Head

10/31/02
Date

Cross Reference

[Signature]
Department Director

11/01/02
Date

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

[Signature]
Administrative Services Director

11-1-02
Date

Prev Ord/Res #:

[Signature]
Mayor

11/4/02
Date

Orig Contract Date:

Traffic Lenses
C. 6. Page 2

RESOLUTION NO. 109-02

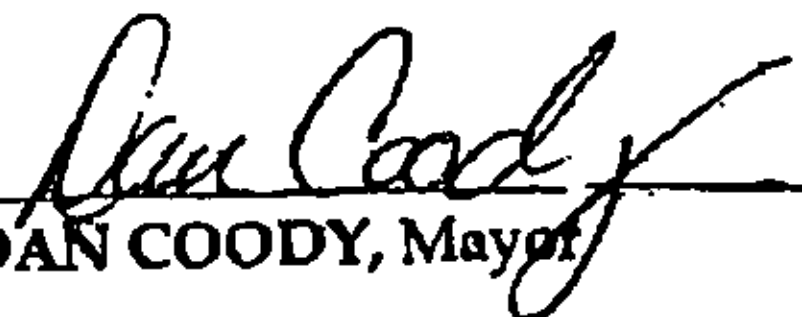
A RESOLUTION AWARDDING BID #02-40 TO TEMPLE INC. OF DECATUR, ALABAMA IN THE AMOUNT OF ONE HUNDRED SEVENTY THOUSAND NINE HUNDRED NINETEEN DOLLARS (\$170,919.00) TO PROVIDE LED TRAFFIC SIGNAL LENSES TO REPLACE ALL 110 VOLT BULBS AND LENSES.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby awards Bid #02-40 to Temple Inc. of Decatur, Alabama in the amount of One Hundred Seventy Thousand Nine Hundred Nineteen Dollars (\$170,919.00) to provide LED traffic signal lenses to replace all 110 volt bulbs and lenses.

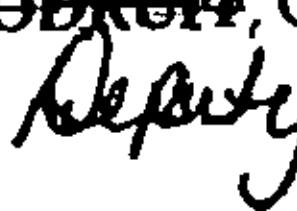
PASSED and APPROVED this 16th day of July 2002.

APPROVED:

By: 
DAN COODY, Mayor




HEATHER WOODRUFF, City Clerk


Deputy

Traffic Lenses
C. 6. Page 3

Temple, Inc.
P.O. Box 2066
Doctur, Alabama 35602-2066
Phone 1-800-633-3221
Fax (205) 353-4578



Serving the South Since 1954!

City of Fayetteville, AR

RE: LED Signal Bid # 02-04

DATE
June 21, 2002
TERMS
NET 30
DELIVERY
30 Days
SALESMAN
Jim Rhodes

CONDITIONS: The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by Temple, Inc. All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control. Prices are based on costs and conditions existing on date of quotation and are subject to change by Temple, Inc. before final acceptance. Freight will be prepaid and allowed unless otherwise noted on this quotation.

Quantity	Description	Price	Amount
600	12"Red RX-11-40 DR6-RTFB-20A-40	\$57.17	\$34,304.35
600	12"Yellow RX-9 DR6-YTFB-23A	\$66.03	\$39,619.57
550	12" Green RX-11 DR6-GCFB-20A-40	\$119.57	\$65,760.87
100	12" Green >>>> DR6-GCAAN-21A	\$83.70	\$8,369.57
130	12" Yellow>>>> DR6-YTAAN-21A	\$66.03	\$8,584.24
50	12" Ped Full Hand/Outline Man Side/Side PS8-CFC5-01A	\$117.39	\$5,869.57

Price includes Shipping. Does not include tax if applicable tax will be added.

Quote Valid For 90 Days.

Jim Rhodes

Temple, Inc.
P.O. Box 2066
Decatur, Alabama 35602-2066
Phone 1-800-633-3221
Fax (205) 353-4578



Serving the South Since 1954!

City of Fayetteville, AR

RE: LED Signal Bid # 02-04 - Revised Ped Quote for 16 x 18

DATE
July 18, 2002
TERMS
NET 30
DELIVERY
30 Days
SALESMAN
Jim Rhodes

CONDITIONS: The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by Temple, Inc. All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control. Prices are based on costs and conditions existing on date of quotation and are subject to change by Temple, Inc. before final acceptance. Freight will be prepaid and allowed unless otherwise noted on this quotation.

Quantity	Description	Price	Amount
Option 1			
50	16" Ped Outline H/M overlap PS7-CFL3-01A	\$134.00	\$6,700.00
Option 2			
50	16" Ped Full Hand/ Outline Man overlap PS7-CFL2-01A	\$138.00	\$6,900.00
Price includes Shipping. Does not include tax if applicable tax will be added.			

Quote Valid For 90 Days.

Jim Rhodes SENT VIA EMAIL

Traffic Lenses
C. 6. Page 5



June 5, 2002

To Whom It May Concern:

Subject: GELcore, GE LED Signals

GELcore is pleased to offer a 5-year warranty on the materials and workmanship of the GELcore, GE LED Signals. Additionally, GELcore will replace or repair LED signal modules that exhibit luminous intensity of less than the minimum values specified in Table 1 of ITE specification VTCSH-Part-2 July 1998, within the first 60 months from the date of delivery.

With the LED Signals backed by the General Electric Company you will be getting quality products. Please don't hesitate to call if you have any questions.

Sincerely,

Matthew Baker
Regional Sales Manager

Southern Regional Office: Phone (321) 633-4050 Fax (321) 633-7033 Email matthew.baker@gelcore.com
GELcore: A joint venture of GE Lighting and Emcore Corporation

**City of Fayetteville, Arkansas
Budget Adjustment Form**

**Traffic Lenses
C. 6. Page 6**

2002	ent: Public Works	Date Requested	Adjustment Number
	Division: Traffic Program: Sales Tax Capital	10/30/2002	

Project or Item Requested:
\$58,004 is requested in the LED Traffic Signal Lens capital project.

Project or Item Deleted:
\$58,004 from the Traffic Signal Improvements capital project.

Justification of this Increase:
The additional funding is needed to cover additional expenses for the purchase of LED Lens to equip the remaining City signals.

Justification of this Decrease:
There is sufficient funding remaining in project to meet 2002 objectives.

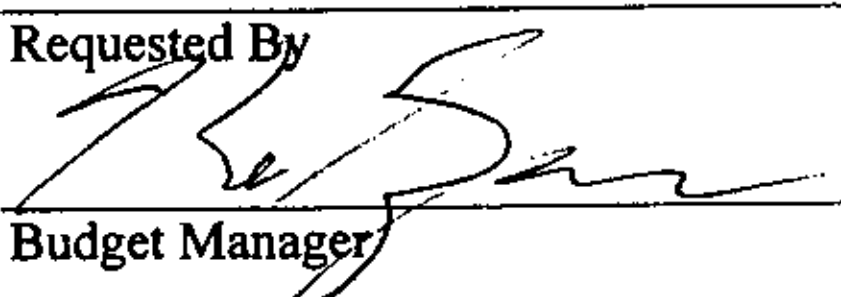
Increase Expense (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Minor equipment	4470	9470	5890	00	58,004	02026	1

Decrease Expense (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Minor equipment	4470	9470	5890	00	58,004	02063	1

Approval Signatures

Requested By	Date
	10-31-02
Budget Manager	Date
Department Director	Date
	11-1-01
Administrative Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval	Date	Initial
Posted to General Ledger	Date	Initial
Posted to Project Accounting	Date	Initial
Entered in Category Log	Date	Initial

Purchase Requisition

(not a purchase order)

Vendor Name

70490

TEMPLE INC

FOB Point:

Fayetteville, AR

Media

Yes No XX

Taxable

Yes ☒ No ☐

Traffic Lenses
C. 6. Page 7

2066

LEUAIUR

Requestor:

Perry Franklin

Requester's Employees
24

Extension	228
-----------	-----

1

Item	Description:	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number:	Project/Sub-Project Number:	Inventory #	Fixed Asset #
1	RED RX-11-40DR6-RFTB-20A-40	168	EA	\$57.17	\$9,604.56	44709470-5890.00	02026.1		
2	YELLOW RX-9DR6-YTFB-23A	168	EA	\$66.03	\$0.00				
3	GREEN RX-11DR6-GCFB-20A-40A	168	EA	\$119.57	\$20,087.76				
4	12" GREEN (ARROW) DR6 GCAAN-21A	56	EA	\$83.70	\$4,687.20				
5	12" YELLOW (ARROW) DR6-YTAAN-21A	56	EA	\$68.03	\$3,809.68				
6	16" PED FULL HAND OUTLINED MAN				\$0.00				
7	PS7-CFL2-01A	112	EA	\$138.00	\$15,456.00				
8					\$0.00				
9	BID # 02-40 (ATTACHED)				\$0.00				
11					\$0.00				
	SHIPPING/HANDLING								

Special Instructions:

COMPLETE THE LED CURRENT PROJECT AND PURCHASE LED'S FOR FUTURE SIGNALS AT BID PRICE

Subtotal: \$53,645.20Tax: \$4,358.67

TOTAL: \$58,003.87

Appendix 21:

RESEARCH DESIGN

Mayor

Department Director

Purchasing Manager:

Admin Services Director

Budget Coordinator

Data Processing Mgr



Temple

Temple, Inc.
P.O. Box 2066
Decatur, Alabama 35602-2066
Phone 1-800-633-3221
Fax (256) 353-4578

10/15/02

City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701
ATTN: Mr. Perry Franklin, Traffic Division

Dear Perry:

As we discussed this morning I am writing to confirm Temple's extension for a period of 14 months effective 10/15/02 through 12/31/03 of the pricing for the GELcore LED's that we bid on your current LED retrofit project.

Per the current bid to the City of Fayetteville, AR Temple, Inc. will honor the pricing as addressed above for the following products:

12" Red RX-11 DR6-RTFB-20A-40: \$57.17
12" Yellow RX-9 DR6-YTFB-23A: \$86.03
12" Green RX-11 DR6-GCFB-20A-40: \$119.57
12" Green >>>> DR6-GCAAN-21A: \$83.70
12" Yellow >>>> DR6-YTAAN-21A: \$66.03
12" PED Full Hand/Outline Man Side/Side PS6-CFC5-01A: \$133.59

If you need any further information do not hesitate to contact me.

Sincerely,

Jim Rhodes

Phone 1-800-633-3221
Cell (256) 508-1572
Fax (256) 353-4578
E-mail: jim.rhodes@temple-inc.com or jrhodes368@aol.com

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM:

Greg Boettcher, Public Works Director *AB*
Tim Conklin, City Planner *T.C.*
Dan Coody, Mayor *D.C.*
Steve Davis, Interim Administrative Services Director *SD*
Hugh Earnest, Urban Development Director *HE*

Name	Division	Department
------	----------	------------

ACTION REQUESTED: To approve an ordinance drafted by Duncan Associates on behalf of the City of Fayetteville to enact impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within service areas located within Washington County and other incorporated cities.

COST TO CITY:

Cost of this request	Category/Project Budget	Category/Project Name
----------------------	-------------------------	-----------------------

Account Number	Funds used to date	Program Name
----------------	--------------------	--------------

Project Number	Remaining balance	Fund
----------------	-------------------	------

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator _____ Administrative Services Director _____

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager	Date	ADA Coordinator	Date
<i>[Signature]</i>	11/1/02		
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommends approval.

[Signature]
Division Head
[Signature]
Department Director
[Signature]
Administrative Services Director
[Signature]
Mayor

11-1-02
Date
11-1-02
Date
11-1-02
Date
11/1/02
Date

Cross Reference

New Item: Yes No

Prev Ord/Res#: _____

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Fayetteville City Council

FROM: Greg Boettcher, Public Works Director *HB*
Tim Conklin, City Planner, AICP *TC*
Steve Davis, Interim Administrative Services Director *SD*
Hugh Earnest, Urban Development Director *HE*
Kit Williams, City Attorney *KW*

DATE: November 1, 2002

SUBJECT: Draft Impact Fee Ordinance for Wastewater and Water Impact Fees

CITY COUNCIL REQUEST FOR DRAFT ORDINANCE

The City Council on August 20, 2002 approved contract amendment No. 2 to hire Duncan Associates to prepare the initial and final drafts of the water and wastewater impact fee ordinance and present the ordinance to the City Council.

SERVICE AREAS WHERE IMPACT FEES WILL BE COLLECTED

Impact Fees, at the rate schedule provided, shall apply to all of the territory within the City's water and wastewater service areas including areas outside the corporate city limits and within service areas located within Washington County and other incorporated cities. However, Fayetteville has current water and/or wastewater contracts with several cities and wholesale customers. The relationship between the City (as service provider) and its customers relative to the assessment of impact fees is as follows:

Type of Customer	Service Provided	Current Ability to Collect Impact Fees	
		<u>Water</u>	<u>Wastewater</u>
Non-Contract Customers (Individual Meter)			
City of Fayetteville	water and sewer	yes	yes
City of Goshen	water	yes	---
City of Johnson	water and sewer	yes	yes
Washington County	water	yes	---
Farmington (water only)	water	yes	---
Greenland (water only)	water	yes	---
City Contract Customers (Individual):			
City of Farmington (sewer only)	sewer	---	no
City of Greenland (sewer only)	sewer	---	no
Wholesale Contract Customers (Master Meter):			
City of Elkins	water and sewer	no	no
Washington Water Authority	water	no	---
City of Westfork	water	no	---
Mount Olive Water Association	water	no	---

WHEN IMPACT FEES WILL BE COLLETED

- Residential.** Water and wastewater impact fees for residential development shall be paid prior to the issuance of a new or larger water meter or connection to the wastewater system, whichever comes first. In the event that no change in water meter or wastewater connection is required, the impact fees shall be paid prior to the issuance of a building permit.
- Nonresidential.** Water and wastewater impact fees for nonresidential development shall be paid prior to the issuance of a new or larger water meter. In the event no water meter is required for a new wastewater customer, the impact fees shall be paid prior to connection to the wastewater system.

WHEN ORDINANCE WILL BECOME EFFECTIVE

This Ordinance shall become effective beginning 180 days after the date and passage of approval.

RECOMMENDATION

Staff recommends approval of the draft ordinance.

IMPACT FEE SCHEDULE

Land Use	Unit	Water	Waste-water	Total
Single-Family (up to 1,300 sq. ft.)	Dwelling	\$229	\$619	\$848
Single-Family (1,301 to 1,700 sq. ft.)	Dwelling	\$290	\$784	\$1,074
Single-Family (1,701 to 2,300 sq. ft.)	Dwelling	\$329	\$891	\$1,220
Single-Family (more than 2,300 sq. ft.)	Dwelling	\$369	\$998	\$1,367
Multi-Family (per dwelling unit)	Dwelling	\$214	\$578	\$792
Mobile Home Park (per dwelling unit)	Space	\$290	\$784	\$1,074
Nonresidential (5/8" x 3/4" meter)	Meter	\$305	\$825	\$1,130
Nonresidential (1" meter)	Meter	\$763	\$2,063	\$2,826
Nonresidential (1-1/2" meter)	Meter	\$1,525	\$4,125	\$5,650
Nonresidential (2" meter)	Meter	\$2,440	\$6,600	\$9,040
Nonresidential (3" meter)	Meter	\$4,880	\$13,200	\$18,080
Nonresidential (4" meter)	Meter	\$7,625	\$20,625	\$28,250
Nonresidential (6" meter)	Meter	\$15,250	\$41,250	\$56,500
Nonresidential (8" meter)	Meter	\$24,400	\$66,000	\$90,400
Nonresidential (10" meter)	Meter	\$35,075	\$94,875	\$129,950

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED
DEVELOPMENT ORDINANCE, OF THE CODE OF
FAYETTEVILLE, REGULATING COLLECTION AND
DISBURSEMENT OF WATER AND WASTEWATER
IMPACT FEES

WHEREAS, the protection of the health, safety, and general welfare of the citizens of the City requires that the water and wastewater systems of the City be expanded and improved to meet the demands of new development; and

WHEREAS, the creation of an equitable impact fee system would enable the City to impose a proportionate share of the costs of required improvements to the water and wastewater systems on those developments that create the need; and

WHEREAS, the Impact Fee Study sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City's water and wastewater systems; and

WHEREAS, the water and wastewater impact fees described in this Ordinance are based on the Impact Fee Study, and do not exceed the costs of acquiring additional land and the costs of acquiring or constructing additional facilities or equipment required to serve the new developments that will pay the fees; and

WHEREAS, the types of improvements to the water and wastewater systems considered in the Impact Fee Study will benefit all new connections to the City's water and wastewater systems, and it is therefore appropriate to treat the City's entire utility service area as a single service area for purposes of calculating, collecting, and spending the impact fees for each type of facility; and

WHEREAS, there is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this Ordinance and the water and wastewater impact fees that such development will be required to pay; and

WHEREAS, this Ordinance creates a system by which impact fees paid by new developments will be used to expand the water and wastewater systems, so

that the new development that pays each fee will receive a corresponding benefit within a reasonable period of time after the fee is paid.

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

Section 1. That Chapter 159, Fees, Unified Development Ordinance of the Code of Fayetteville, is hereby amended to add the following:

§159.02 WATER AND WASTEWATER IMPACT FEES

A. Applicability

1. The following provisions shall apply to all of the territory within the City's water and wastewater service areas, including areas outside the corporate city limits and within service areas located within Washington County and other incorporated cities.
2. The following types of development shall be required to pay a water and/or wastewater impact fee:
 - a. Existing or new development seeking a new connection to the City's water or wastewater system.
 - b. Existing or new development seeking a new connection to the system of a wholesale customer of the City's water or wastewater system, where collection of the City's impact fee is required by the City's contract with the wholesale customer.
 - c. Residential redevelopment involving the construction of one or more additional dwelling units.
 - d. Nonresidential redevelopment seeking a larger capacity water meter.

B. Intent

1. The intent of wastewater and water impact fees is to ensure that new development bears a proportionate share of the cost of improvements to the City's water and wastewater systems; to ensure that the proportionate share does not exceed the cost of providing water and wastewater facilities to the development that paid the fee; and to ensure that funds collected from developments

are used to construct water and wastewater facilities that serve such developments. It is further the intent of this Ordinance to use the impact fees to implement the City's 2020 General Plan and future plan updates and to implement the City's Five Year Capital Improvements Program.

2. It is not the intent of this Ordinance to collect any money from any development in excess of the actual amount necessary to offset demands generated by that development for the water and wastewater facilities for which the fee was paid.
3. It is not the intent of this Ordinance that any monies collected for the water impact fee and the wastewater impact fee ever be commingled or ever be used for a type of facility different from that for which the fee was paid.

C. Time of Collection

1. **Residential.** Water and wastewater impact fees for residential development shall be paid prior to the issuance of a new or larger water meter or connection to the wastewater system, whichever comes first. In the event that no change in water meter or wastewater connection is required, the impact fees shall be paid prior to the issuance of a building permit.
2. **Nonresidential.** Water and wastewater impact fees for nonresidential development shall be paid prior to the issuance of a new or larger water meter. In the event no water meter is required for a new wastewater customer, the impact fees shall be paid prior to connection to the wastewater system.

D. Fee Determination

1. **Schedule of Fees.** The Impact Fee Administrator shall determine the amount of the water and wastewater impact fees for residential uses based on the type or size of the dwelling unit and for nonresidential uses based on the size of the water meter using the following schedule:

Land Use	Unit	Water	Waste- water	Total
Single-Family (up to 1,300 sq. ft.)	Dwelling	\$229	\$619	\$848
Single-Family (1,301 to 1,700 sq. ft.)	Dwelling	\$290	\$784	\$1,074
Single-Family (1,701 to 2,300 sq. ft.)	Dwelling	\$329	\$891	\$1,220
Single-Family (more than 2,300 sq. ft.)	Dwelling	\$369	\$998	\$1,367
Multi-Family (per dwelling unit)	Dwelling	\$214	\$578	\$792
Mobile Home Park (per dwelling unit)	Space	\$290	\$784	\$1,074
Nonresidential (5/8" x 3/4" meter)	Meter	\$305	\$825	\$1,130
Nonresidential (1" meter)	Meter	\$763	\$2,063	\$2,826
Nonresidential (1-1/2" meter)	Meter	\$1,525	\$4,125	\$5,650
Nonresidential (2" meter)	Meter	\$2,440	\$6,600	\$9,040
Nonresidential (3" meter)	Meter	\$4,880	\$13,200	\$18,080
Nonresidential (4" meter)	Meter	\$7,625	\$20,625	\$28,250
Nonresidential (6" meter)	Meter	\$15,250	\$41,250	\$56,500
Nonresidential (8" meter)	Meter	\$24,400	\$66,000	\$90,400
Nonresidential (10" meter)	Meter	\$35,075	\$94,875	\$129,950

2. **Redevelopment, Reconstruction, Change of Use.** In the event of a redevelopment, reconstruction or change of use from an existing development or use, the fee shall be the difference between what the fee would be for the entire redevelopment or reconstruction project and what the fee would have been for the existing development or use.
3. **Mixed Use.** If the proposed development includes a mix of the residential land uses and/or nonresidential meter sizes that are listed in the impact fee schedule, the fee shall be determined by adding up all the water and wastewater impact fees that would be applicable for each residential land use type and/or nonresidential meter size as if it was a freestanding land use type.
4. **Fire Suppression / Low Pressure.** It is the intent of this ordinance to base water and wastewater impact fees on the typical usage in a new building or other facility. Extinguishing of fires is not a part of typical usage; to allow adequate fire flow to sprinklers and internal hydrants at some large and at-risk properties, it may be necessary for fire protection purposes to install a larger water meter than

would be necessary to meet day-to-day needs of that facility. In addition, a larger meter may be required in areas of low water pressure than in areas of normal water pressure for the same type of use. In those cases, it is the policy of the City that the impact fee for water and wastewater should be based on the meter size needed by that facility for its typical usage, without regard to fire-flow or unusual pressure conditions.

5. **Irrigation.** Any separate water meter installed for irrigation purposes only shall not be included in the calculation of the wastewater impact fee.

E. Use of Fees

1. **Establishment of Accounts.** An Impact Fee Fund that is distinct from the General Fund of the City is hereby created, and the impact fees received will be deposited in the following interest-bearing accounts of the Impact Fee Fund:
 - a. Water Impact Fee Account, and
 - b. Wastewater Impact Fee Account.
2. **Water Impact Fee Accounts.** The Water Impact Fee Account shall contain only those water impact fees collected pursuant to this Ordinance plus any interest which may accrue from time to time on such amounts.
3. **Wastewater Impact Fee Account.** The Wastewater Impact Fee Account shall contain only those wastewater impact fees collected pursuant to this Ordinance plus any interest which may accrue from time to time on such amounts.
4. **Order of Use.** Monies in each impact fee account shall be considered to be spent in the order collected, on a first-in/first-out basis.
5. **Use of Fees.** The monies in each impact fee account shall be used only for the following:
 - a. To acquire land for and/or acquire or construct water or wastewater system improvements of the type reflected in the title of the account and as described in the Impact Fee Study as

well as extension of service to new development paying an impact fee.

- b. To pay debt service on any portion of any current or future general obligation bond issue or revenue bond issue used to finance water or wastewater system improvements of the type reflected in the title of the account that created or will create capacity to serve new development.
- c. As described in subsection F, Refunds.

F. Refunds

1. Any monies in the Impact Fee Fund that have not been spent or encumbered within ten (10) years after the date on which such fee was paid shall, upon application to the City by the then current owner of the land for which the fee was paid, be returned to such owner with interest since the date of payment. Interest shall be based on a five percent annual rate. In order to be eligible to receive such refund, the then owner of the land shall be required to submit an application for such refund within thirty-six (36) months after the expiration of such ten (10) year period.
2. After an impact fee has been paid pursuant to this Ordinance, no refund of any part of such fee shall be made due to the fact that the project for which the fee was paid is later demolished, destroyed, or is altered, reconstructed, or reconfigured so as to reduce the number of dwelling units in the project, or the size of the water meter required.
3. At the time of payment of the water or wastewater impact fee under this Ordinance, the Impact Fee Administrator shall provide the applicant paying such fee with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any collection of any impact fee under this Ordinance.

Section 2. That Chapter 151, Definitions, Unified Development Ordinance of the Code of Fayetteville, is hereby amended by inserting Exhibit "A" attached hereto and made a part hereof.

Section 3. Effective Date. This Ordinance shall become effective beginning 180 days after the date and passage of approval.

PASSED and APPROVED this the 3rd day of December, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"

To be inserted at Chapter 151: Definitions, Unified Development Ordinance:

Connection. (Water and Wastewater Impact Fees) The physical tie-in of a private water or wastewater service system to the City of Fayetteville's public water or wastewater system.

Impact Fee Administrator. (Water and Wastewater Impact Fees) The City Planner or his designee.

New Development. (Water and Wastewater Impact Fees) Any construction or expansion of a building, structure, or use, any change in use of a building, structure or land, or any new connection of existing development to the City's water or wastewater services that result in increased demand on water or wastewater facilities.

Wastewater System Improvements. (Water and Wastewater Impact Fees) Capacity-enhancing improvements to the facilities for the transmission, treatment, reclamation and disposal of wastewater. Lift stations, force mains and gravity mains or excluded from the definition of wastewater system improvements.

Water System Improvements. (Water and Wastewater Impact Fees) Capacity-enhancing improvements to the facilities for the supply, storage, transmission and distribution of potable water, excluding water lines less than eight inches in diameter and other lines that are the minimum size needed to serve an individual development project.

Reference Comments:

Internal Auditor

STAFF REVIEW FORM

Old Missouri
C. 8. Page 1

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council Meeting of November 19, 2002

FROM:

Jill Goddard
NameEngineering
DivisionPublic Works
Department

ACTION REQUIRED: Passage of an ordinance authorizing the City Attorney to seek possession of certain lands located along Old Missouri Road in the city of Fayetteville, Arkansas, by the Power of Eminent Domain, in association with the required right-of-way and easements for the Old Missouri Road Improvements. Such property is owned by JTK Trust (part of Parcel No. 765-16065-012).

COST TO CITY:

\$5,825.00
Cost of this Request# 1,387,369
Category/Project NumberOld Missouri Road Improvements
Category/Project Name4470-9470-5809-00
Account Number# 199,591
Funds Used to DateStreet Improvements
Program Name00050-30
Project Number# 1,187,778
Remaining BalanceSales Tax Capital
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: Have been unable to reach agreement with property owners for reasons as explained in the following memorandum. Staff recommends condemnation approval, along with an emergency clause, on this property such that initiation of this project will not be further delayed.

Division Head

Date

Cross Reference

Department Director

Date

New Item: ☒ Yes ☐ No

Administrative Services Director

Date

Prev. Ord/Res. #: _____

Mayor

Date

Orig. Contract Date: _____

Orig. Contract Number: _____

DEPARTMENTAL CORRESPONDENCE

DATE: October 31, 2002

TO: Fayetteville City Council

THRU: Dan Coody, Mayor
Kit Williams, City Attorney
Greg Boettcher, Public Works Director
Jim Beavers, City Engineer

FROM: Jill Goddard, Land Agent

SUBJECT: Old Missouri Road Improvements
Project No. 00050
JTK trust (Parcel No. 765-16065-012)

The City has been acquiring right-of-way and easements along Old Missouri Road for street improvements to be constructed in conjunction with the approved and funded C.I.P. project.

A council agenda item seeking possession through the courts of the proposed right-of-way and easement areas from Parcel No. 765-16065-012 owned by the JTK Trust was initially slated to be on the September 17, 2002, agenda. However, this item was pulled at agenda session on September 10, 2002, to allow the property owner time to have an independent appraisal of his property prepared (at his expense), in an effort that a negotiated agreement could be reached.

We are, as of the date of this memo, in receipt of a counter offer from the JTK Trust (James Keenan, Trustee) through his attorney, Charles Trantham, the amount to be based upon a land value of \$100,000.00 per acre (as per his appraisal as prepared by Mark Risk of the Real Estate Consultants). Our offer amount was based upon an independent appraisal received from Tom Reed of Reed and Associates on April 10, 2002. Using Mr. Reed's values, the offer amount was:

Right-of-way:	11,042 sq. ft. @ \$0.50/sq. ft. (or \$21,780/acre)	=	\$5,525.00
Temp. Esmt.:	5,347 sq. ft @ \$0.50/sq. ft. x 10%	=	<u>300.00</u>
			\$5,825.00

Mr. Keenan's counter offer as based on \$100,000.00 per acre would be:

Right-of-way:	11,042 sq. ft. @ \$100,000/acre	=	\$25,350.00
Temp. Esmt.:	5,347 sq. ft @ \$100,000/acre x 10%	=	<u>1,230.00</u>
			\$26,580.00

Time is of the essence in that there have been many unforeseen delays on this project and this is the final acquisition. (Only one other property owner has yet to sign and that proposal went out today. It is in regard to a relocated driveway that has been coordinated with the property owner and we do not foresee any problem with their agreeing to the proposal. The original driveway relocation idea was rejected by the adjacent property owner whose land would have been crossed by the driveway by his refusing to grant an access easement.)

An order of possession can be obtained by the City Attorney's office for this property so that the project can be put out for bid and construction can subsequently start. A negotiated settlement can then be reached before the actual court date.

OLD MISSOURI ROAD IMPROVEMENTS

CASE HISTORY

JTK Trust
James T. Keenan and James F. Keenan, Trustees
c/o Charles Trantham, Attorney
157 E. Colt Drive
Fayetteville, AR 72703

Parcel No. 765-16065-012

Proposed right-of-way acquisition: 11,042 square feet
(approx. 20' strip along Old Missouri Road)
Proposed temporary construction easement: 5,397 square feet

<u>DATE</u>	<u>COMMENTS</u>
5/21/2001	Letter mailed announcing public meeting on May 29, 2001.
5/29/2001	No representative at meeting.
10/3/2001	Letter mailed announcing public meeting on October 30, 2001.
10/30/2001	No representative at meeting.
4/10/2002	Received appraisal from Reed and Associates for proposed acquisition.
5/15/2002	Received revised exhibit from Garver Engineers. It was decided, in an effort to lower acquisition costs and to limit acquisition to just this phase of construction (and after the appraisal was prepared), to widen right-of-way acquisition slightly (but not acquiring all the way to Old Wire Road: and eliminate the permanent easement.
5/16/2002	Offer letter, packet of information, and documents for execution mailed to P.O. Box 494 (address in county assessor's records).
5/20/2002	Packet returned as not deliverable. Mailed out to Charles Trantham, attorney for the Keenans in the past.
6/21/2002	Jill Goddard called Mr. Trantham to talk about the project. Left message for Mr. Trantham to call.
7/5/2002	Jill Goddard called Mr. Trantham to talk about the project. Left message for Mr. Trantham to call.
7/15/2002	JSG told by City Engineer that Dave Jorgensen was doing some engineering work for the Keenans and that Mr. Jorgensen had some questions regarding Old Missouri Road Improvements.
7/19/2002	Mr. Jorgensen came in to go over plans. Said he is in contact with the Keenans and will recommend that they sign the documents as the project is in their best interest.

CASE HISTORY
JTK Trust
Page 2 of 2

7/23/2002 JSG called Chuck Trantham. He said packet has been given to Keenans. He is to check on progress and call.

7/29/2002 JSG called Dave Jorgensen. He will encourage again.

8/9/2002 Notification letter from Greg Boettcher, Public Works Director, packet of information, and documents for execution mailed in care of Charles Trantham.

8/12/2002 Delivery confirmation (USPS) of notification letter and packet.

8/26/2002 Deadline of response (as outlined in letter dated 8/5/2002 and mailed 8/9/2002). No contact from Keenans at all. No contact from Trantham since 7/23/2002. Verbally have been told that Keenans are not happy about access onto the far east end of Farr Lane from new improvement on their property and will not sign Old Missouri documents accordingly.

8/28/2002 Packet prepared for City Council Meeting on September 17, 2002, to seek possession of right-of-way and easement through the courts.

9/9/2002 JSG talked to James F. Keenan. He is not happy with City's appraised amount and may make counter offer. He said he will also meet with Dave Jorgensen to walk off area involved.

9/10/2002 Mr. Keenan talked to Kit Williams (afternoon of agenda session) and Mr. Williams agreed to pull item from agenda to allow Mr. Keenan time to get an appraisal.

10/25/2002 JSG told to call Keenans and see if they had received appraisal. Item to be placed on November 19, 2002 council meeting agenda to seek possession. JSG talked to Mrs. Keenan, Mr. Keenan to call back.

10/29/2002 Mr. Keenan called. Has received appraisal for land value of \$100,000 per acre. He will have Mr. Trantham draft a counter offer. JSG told Mr. Keenan that item seeking possession is slated to be on November 19 agenda, but could be pulled if agreement reached before meeting or that agreement could be reached after order of possession is obtained and before court date.

10/30/2002 Mr. Trantham called. Will be faxing counter offer (to the attention of Mr. Boettcher) on 10/31/2002. JSG told Mr. Trantham, also, that item will be on November 19 agenda seeking possession.

10/31/2002 Received faxed counter offer. As based on \$100,000 per acre, counter offer would amount to total of \$26,580.00. Original offer was \$5,825.00.

Old Missouri
C. 8. Page 6

STOCKLAND & TRANTHAM, P.A.

THOMAS D. STOCKLAND
CHARLES S. TRANTHAM

ATTORNEYS AT LAW
157 E. COLT SQ., SUITE 1 • P.O. BOX 1723
FAYETTEVILLE, AR 72702-1723
TELEPHONE (479) 521-7130
FAX (479) 521-3608

tom@sandtlaw.comchuck@sandtlaw.com

October 30, 2002

VIA FACSIMILE: 575-8257

Greg Boettcher
Public Works Director
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Project No. 00050
Old Missouri Road Improvements
Tract 33E
Notification Letter of August 5, 2002

Dear Greg:

My client has authorized me to make the following counteroffer in regards to the above-captioned matter. Enclosed, for your convenience is the appraisal prepared by Mark Risk. As you can see from reviewing his appraisal, the real estate is worth \$100,000.00 per acre.

Therefore, my client's offer is to sell only the real estate, which is needed by the city for the street, at \$100,000.00 per acre. The city will put in a sidewalk at its own expense, and the tree-line buffer which will be taken out needs to be replaced with at least no smaller than four-inch diameter trees at 10 yard intervals in a staggered fashion. Moreover, my client would like some kind of defined timeframe in which the project will take.

Once you've had an opportunity to review this offer and consult with other city officials, please give me a call. I await your reply.

Sincerely,


Charles S. Trantham
Attorney at Law

Enclosed
Appraisal

Cc: Client

CST/kgp

UL1-30-2002 11.13

THE REAL ESTATE CONSULTANTS

Old Missouri
C. 8. Page 7

Phone (479) 442-0762

• REALTORS • APPRAISERS • CONSULTANTS •

October 24, 2002

Mr. James Keenan
P.O.Box 909.
Fayetteville, AR 72702

RE: Consulting – City of Fayetteville R-O-W Acquisition
Old Missouri Rd. & Rolling Hills.
Fayetteville, AR

Dear Mr. Keenan:

In compliance with your request, I've conducted an analysis of the contemplated acquisition of a small portion of your property by the City of Fayetteville along Old Missouri Rd.. The intended use of this report is for your evaluation purposes concerning a settlement with the City.

At your request, I have limited this report to a letter format. This consulting is based upon information gathered from the public records, Washington County, MLS data, the consultant's files, other reliable sources, and an inspection of the subject property and neighborhood. Market data and reasoning supporting my analysis, conclusions, and opinions has been retained in my files.

The opinions set forth in this letter are stated as of October 24, 2002. The subject property was inspected on September 26, 2002 and this date is the effective date of the report. Under the scope of this assignment the consultant performed an inspection of the property from the street and on site. Furthermore, under the scope of this assignment the consultant has performed a limited scope analysis utilizing the Market Data or Sales Comparison Approach.

The term "Market Value" is defined as follows:

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

Page 2

The client has provided the appraiser with legal descriptions and a survey of the partial taking performed by Garver Engineers. The partial taking by the City includes 11,042 sq.ft. or .25 acres of right of way and an additional temporary construction easement of 5,397 sq.ft. or .12 acres. The location of the taking is along the existing eastern right of way of Old Missouri Rd.. The entire subject parcel contains approximately 56 acres. The right of way taking is compensable by the City of Fayetteville. In addition, rent should be paid you for the use of the temporary construction easement. It is my opinion that the partial taking will not damage the remaining property; hence, no severance damage would be owed.

I have evaluated the highest and best use of the subject property. The entire subject tract is presently zoned Single Family Residential (R-1). The site has access to all municipal utilities. The majority of the site is cleared with a gentle slope. The site appears to be well suited for development. It is my opinion that the highest and best use of the subject property would be for a mixed use development of professional office space along the Old Missouri Rd. corridor and single family residential housing for the remainder of the site. Such a use would require a zoning change and large scale development approval by the City of Fayetteville. As you may be aware, a zoning change may be difficult to obtain. However, a combination use of professional office (R-O) and single family housing (R-1) would conform with trends in this general area of Fayetteville and result in the highest value of the property.

I have researched and analyzed a number of sales of properties in the North Fayetteville market area. All data and analysis thereof have been retained in my office file. Obviously, the City's right of way taking is coming out of the portion of the site that has the potential for professional office space and would be the most valuable portion of the subject. I have researched sales of (R-O) zoned sites and sites which were rezoned (R-O) either as a condition of the sale or after the sale took place. These sales are located along Appleby Rd. and Joyce Blvd.. Small-developed tracts of land are selling in the \$4-7.00 per sq.ft. price range while larger tracts purchased for development are selling in the \$35,000 to \$104,000 price range. It is my considered opinion, after an analysis of the market data that the value of the portion of the subject site to be acquired by the City if a rezoning could be and/or became likely to be obtained would be as follows:

ONE HUNDRED THOUSAND per ACRE

This report is considered a limited restricted consulting report and has been prepared for the exclusive benefit of Mr. James Keenan. It may not be used or relied upon by any other party. This report may not be understood properly without additional information in the consultant's work file. Any party who uses or relies upon information in this report, without the preparer's written permission does so at their own risk.

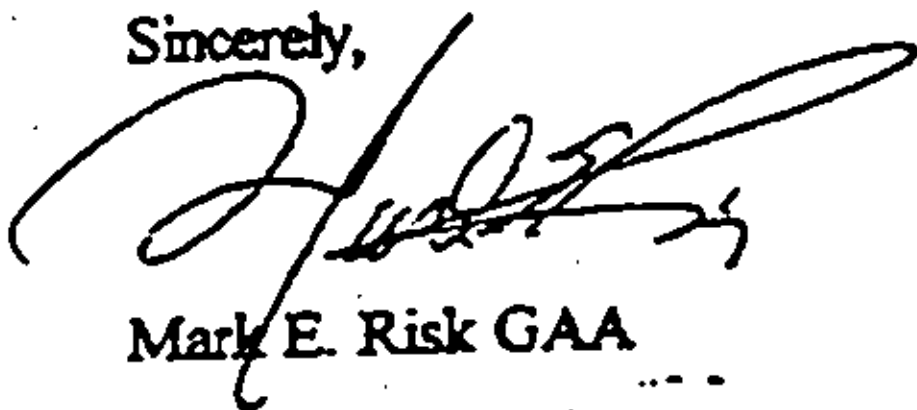
Limited reports are less reliable than complete formal appraisal reports.

Page 3

The undersigned hereby certifies that, except as specifically noted,

1. I have no present or contemplated future interest in the real estate or personal interest with respect to the subject matter or parties involved in this letter, and my employment in this matter is not in any matter contingent upon anything either than the delivery of this report; and, this consulting assignment was not based on a requested minimum valuation, specific valuation, or the approval of a loan.
2. To the best of my knowledge and belief, the statements of fact contained in this letter, upon which the analysis, opinions, and conclusions expressed herein are based, are true and correct. It is assumed that the data provided by the client and researched by the consultant is accurate.
3. This consulting letter sets forth all of the limiting conditions imposed by the terms of my assignment or by the undersigned that affect the analysis, opinions, and conclusions contained in this report.
4. My analyses, opinions, and conclusions were developed and this report has been prepared in conformity with the requirements of the Code of Professional Ethics and the Standards of Professionals Practices of the National Association of Realtors. Furthermore, this report conforms to the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation.
5. I alone have prepared the analyses, opinions, and conclusions concerning the subject real estate that are set forth in this consulting letter.

Sincerely,



Mark E. Risk GAA



Home

Shipping center
Ship
Rates
Supplies
Resource Center
Web Tools

► Track & Confirm
Delivery Confirmation
Signature Confirmation
Track & Confirm FAQs

► Shipping center

Track & Confirm

Shipment History

You entered 0301 0120 0010 3038 0901

Your item was delivered at 11:42 am on August 12, 2002 in FAYETTEVILLE, AR 72703.

Here is what happened earlier:

- NOTICE LEFT, August 10, 2002, 9:42 am, FAYETTEVILLE, AR 72703
- ARRIVAL AT UNIT, August 10, 2002, 7:47 am, FAYETTEVILLE, AR 72703
- ACCEPTANCE, August 09, 2002, 4:41 pm, FAYETTEVILLE, AR 72701

Track & Confirm

Enter number from shipping receipt

Keyword/Search

keyword

search

POSTAL INSPECTORS
Preserving the Trust

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U.S. Postal Service Delivery Confirmation Receipt

Post JTK Trust
Art c/o Charles Trantham
157 E. Colt Drive
Fayetteville, AR 72703

DELIVERY CONFIRMATION NUMBER:
1060 9606 0100 0210 1000

Postmark
AUG 9 2002
FAYETTEVILLE, AR 72701-9998
MAIN OFFICE
USPS

PS Form 182, January 2001

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(See Reverse)

THE CITY OF FAYETTEVILLE, ARKANSAS

August 5, 2002

James T. Keenan & James F. Keenan
JTK Trust
P.O. Box 474
Fayetteville, AR 72702-0474

RE: Project No. 00050
Old Missouri Road Improvements
Tract 33E
Notification Letter

Dear Messrs. Keenan:

The City of Fayetteville's Land Agent Office has forwarded information to you (through your attorney, Charles Trantham on May 16, 2002) regarding needed right-of-way for the Old Missouri Road Improvement Project. Old Missouri Road Improvements has been granted a high priority by the Fayetteville City Council, as evidenced by the formal commitment of funding to this community project. Progress of this construction project is now being hindered by the lack of needed right-of-way; therefore, it is important that your questions be answered and your intentions be known.

Our Land Agents' Office has provided another copy of background information on the right-of-way needed on your property that incorporates the value assigned to this right-of-way by an independent certified land appraiser. This information is enclosed for your review and consideration. Our City Land Agents will gladly meet with you to answer questions or clarify any details regarding this requested land transaction, as well as to resolve concerns over the proposed activities. If necessary for confirmation of the extent of this right-of-way request, city representatives will field mark the needed right-of-way. It is important that we hear from you on this issue, be your decision one of acceptance or rejection. Designated contacts for this project include either Jill Goddard at 479-444-3407 or Holly Jones at 479-444-3414, or in their absence, you may contact City Engineer Jim Beavers at 479-575-8206.

If you should decide to reject this right-of-way purchase offer, either by contacting our land agent to convey your decision or by simply not responding to this communication, the final decision on procuring this right-of-way shall rest with the Fayetteville City Council. Under its powers of eminent domain, the City may elect to file a suit of condemnation in Washington County Circuit Court for this acquisition. This process requires the City to demonstrate that the right-of-way is necessary to serve a public good; whereupon, the Circuit Court of Washington County can allow condemnation of the subject right-of-way. Under such a process, the compensation for the taking must be determined by an independent appraiser (matching the process used to tender the enclosed purchase offer). Once this just compensation is determined, the City may deposit said amount with the Registry of the Circuit Court of Washington County and be granted use of the right-of-way. These funds can be subsequently withdrawn by the property owner regardless of the owner's acceptance of said amount as final compensation. Once the land acquisition has been confirmed by the Circuit Court as an action in the public interest, the only recourse available to property owners is the appeal of the amount of compensation. If the amount of compensation is contested, the subject property owner has entitlement to a trial by jury to determine the just compensation for the condemned right-of-way.

Notification Letter
Page 2 of 2

Obviously the City does not consider condemnation a desired method of acquiring project rights-of-way. The alternatives and processes are outlined for your information only, not as a threat of action. Decisions of this nature are made only by the Fayetteville City Council. To avoid any inequities in our initial land purchase offers, the enclosed compensation is based upon 100% of the value established by an independent land appraiser. Using these principles of fairness and equity, it is believed that any subsequent condemnation appeal would not result in material changes in the compensation. The enclosed offer is believed to represent fair market value for the requested right-of-way.

It is hoped that your review of the enclosed materials will find this offer to purchase acceptable and that you will agree to execute the attached *Warranty Deed* and *Temporary Construction and Grading Easement*. File copies (reduced) are enclosed for your records and a recorded copy can be provided if desired. To allow payment of this offer, the City will also need the enclosed Vendor Form to be completed, with the Tax Identification Number (corporate land owner) or Social Security Number (private land owner) included with such information. For your convenience, a Land Agent can be available to witness and notarize the execution of the land transaction documents, provided you schedule a time and date in advance.

Due to the need for and priority of the Old Missouri Road Improvement Project, a deadline of August 26, 2002 must be established for your response to this offer. Following such date, this matter shall be referred to the Fayetteville City Council.

I urge you to review and consider the enclosed purchase offer, and to not hesitate to contact our Land Agents' Office to discuss any aspect of this matter. (Jill Goddard at 479-444-3407, Holly Jones at 479-444-3414 or, in the alternative, Jim Beavers at 479-575-8206.) We would very much like to hear from you with regard to this issue, even if your decision is to reject our purchase offer.

Your time and consideration on this matter shall be appreciated.

Sincerely,



Greg Boettcher
Public Works Director

GB/jsg

Enclosures

THE CITY OF FAYETTEVILLE, ARKANSAS

May 16, 2002

James T. Keenan & James F. Keenan
JTK Trust
P.O. Box 474
Fayetteville, AR 72702-0474

RE: Project No. 00050
Old Missouri Road Improvements
Tract 33E
Offer Letter

Dear Messrs. Keenan:

The City of Fayetteville is planning improvements along Old Missouri Road from Rolling Hills Drive to Brookhaven Drive, including street, sidewalk/trail, and drainage improvements. Acquisition of a strip of right-of-way along Old Missouri Road is necessary for these improvements (see attached drawing). Also necessary for this project is a 10-foot-wide temporary construction and grading easement adjacent to the right-of-way area. The temporary construction easement will terminate upon completion and acceptance of the project by the City.

The City of Fayetteville hereby offers **\$5,525.00** for the acquisition of street right of way (11,042 square feet) and **\$300.00** for the rental of the property associated with the Temporary Construction and Grading Easement (5,397 square feet), for a total offer amount of **\$5,825.00**.

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for acquisition and the temporary easement.

Should you elect to accept this offer, the *Warranty Deed* and the *Temporary Construction and Grading Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The documents should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the documents if you will advise our office accordingly. Upon receipt of the documents, a check will be requested and you will be paid the amount indicated in this offer letter.

JTK Trust
Page 2 of 2, Offer Letter

If you make a final rejection of this offer, you do have certain legal rights which are outlined hereafter. Upon your final rejection of this offer, and if the City of Fayetteville elects to do so, a suit of condemnation may be filed. The amount of just compensation for the use of this property will be determined by an independent appraisal and deposited with the Registry of the Circuit Court of Washington County. You may, at that time, elect to accept the amount deposited as just compensation and the amount will be paid to you thereby disposing of the condemnation suit.

If you do not elect to accept the amount deposited as just compensation, then you may withdraw the amount placed on deposit without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury in the Circuit court to determine just compensation for your lands condemned. In either event, payment of the estimated just compensation will be made available to you.

We, however, ask that you accept the offer made herein by executing the attached *Warranty Deed* and *Temporary Construction and Grading Easement*. Reduced copies of the documents are included for your records. We can provide copies of the recorded documents upon your request and at the appropriate time. Please provide us with a Tax Identification Number (Corporation) or Social Security Number so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements. Please contact Jill Goddard at (479) 444-3407, Holly Jones at 444-3414, or I can be reached at 575-8206.

Sincerely,

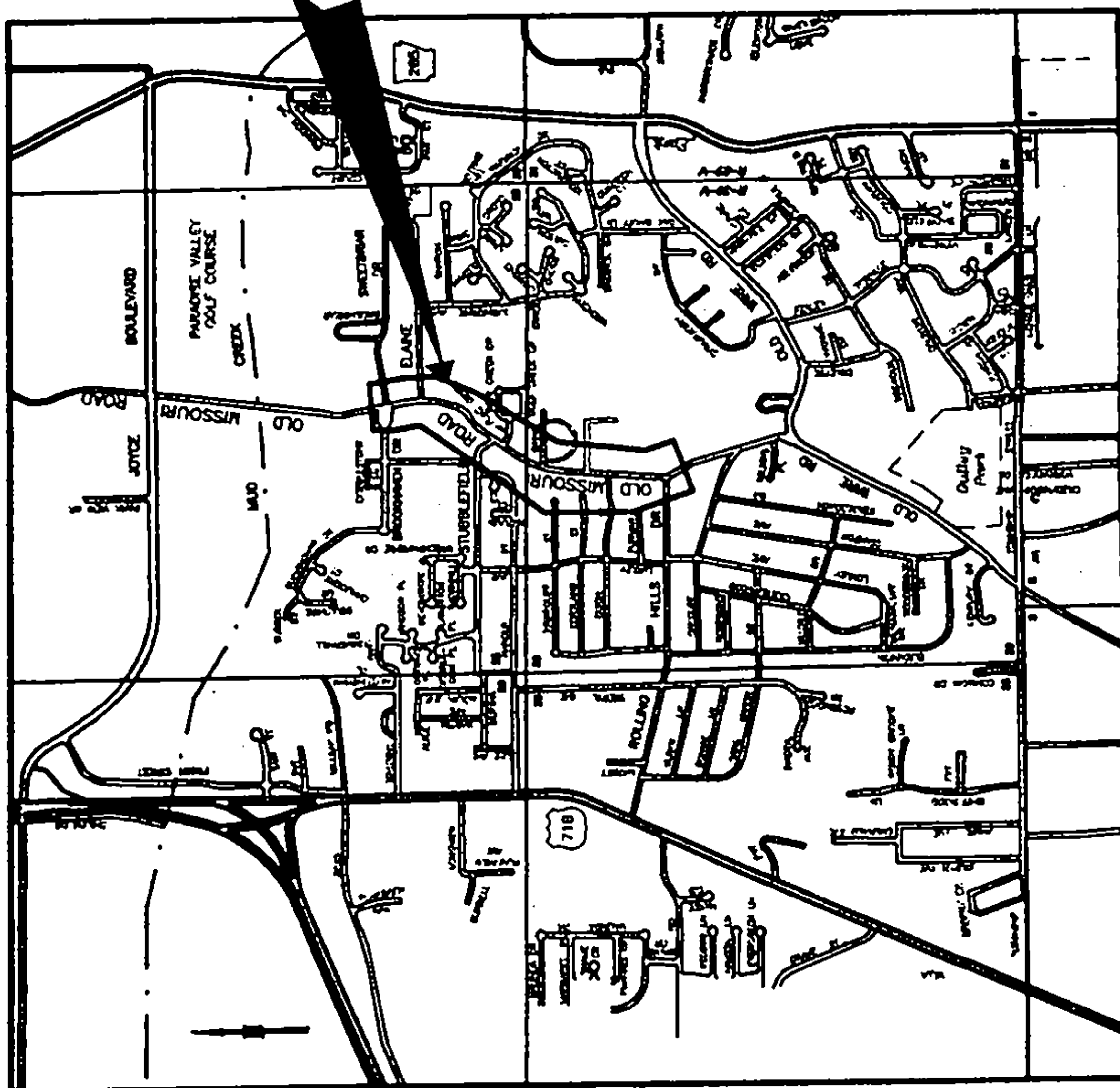


Jim Beavers
City Engineer

JB/jsg

Enclosures

PROJECT LOCATION



**TRUSTEE'S
WARRANTY DEED**

BE IT KNOWN BY THESE PRESENTS:

THAT WE, James T. Keenan and James F. Keenan, Trustees of the JTK Trust u/t/a dated February 11, 1992, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A part of the Southeast Corner (SE¼) of the Northwest Quarter (NW¼) of Section 36, Township 17 North, Range 30 West, being more particularly described as follows: Commencing at the Northeast corner of said SE¼ of the NW¼; thence North 87° 11' 15" West 495.14 feet, to the Point of Beginning; thence with the existing east right-of-way of Old Missouri Road, South 00° 24' 00" East 153.24 feet; thence South 19° 06' 55" East 396.47 feet; thence leaving said east right-of-way, North 70° 53' 05" East 20.00 feet; thence North 19° 06' 55" West 374.42 feet; thence North 09° 45' 27" West 52.11 feet; thence North 02° 47' 30" East 115.12 feet; thence North 87° 11' 15" West 23.99 feet, to the Point of Beginning and containing 11,042 square feet (0.25 acre), more or less.

The bearings for this description are based on the City of Fayetteville GPS Control Network and may vary from the bearing system previously used in describing the subject property.

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And said Trustees, in behalf of the said Trust, hereby covenant with the said Grantee that said Trust is lawfully seized of said lands and premises; that the same is unencumbered, and that the said Trust will forever warrant and defend the title to the said lands against all legal claims whatsoever.

WITNESS the execution hereof on this _____ day of _____, 2002.

JTK Trust u/t/a dated February 11, 1992

James T. Keenan, Trustee

James F. Keenan, Trustee

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

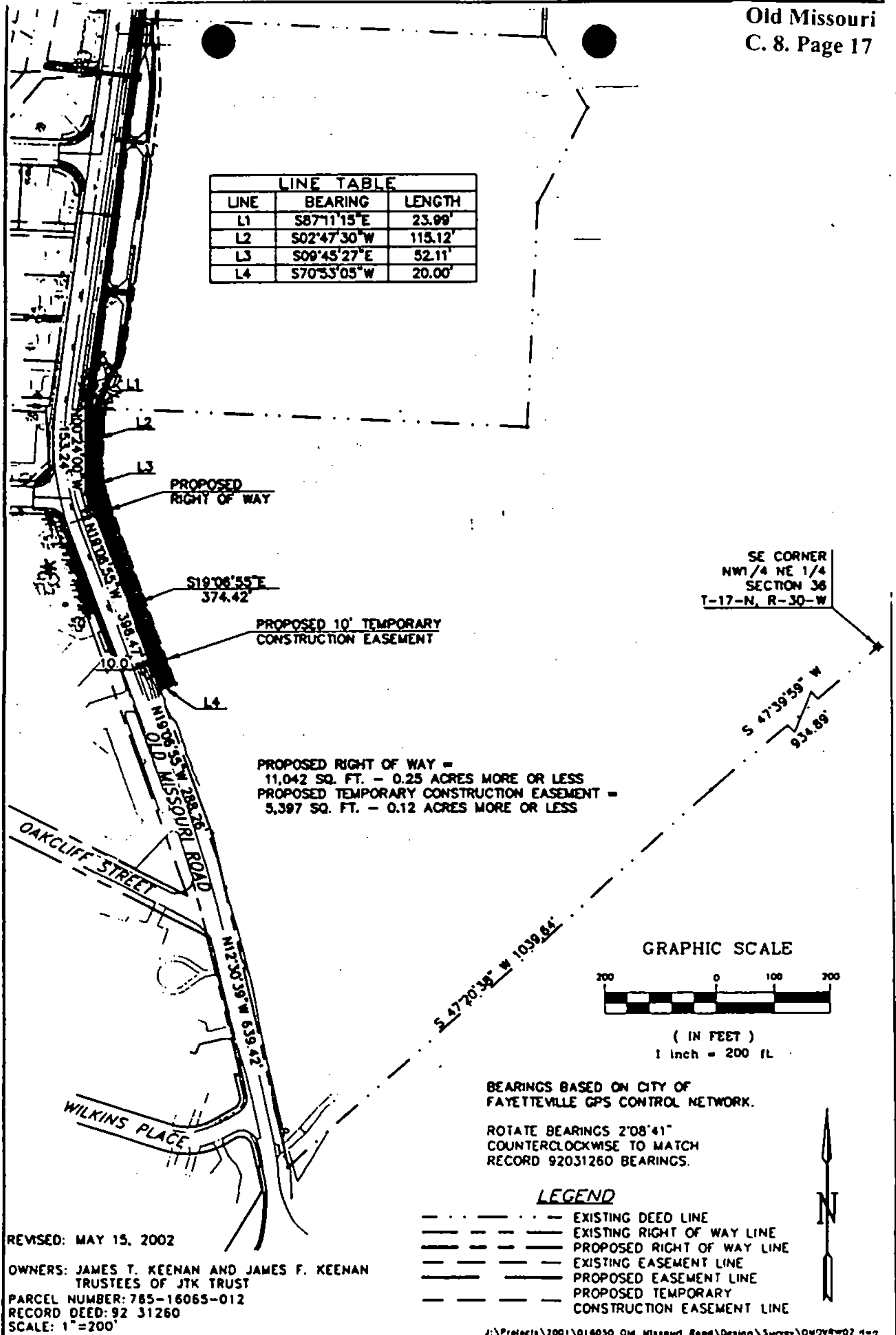
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared James T. Keenan and James F. Keenan, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are Trustees of the JTK Trust u/t/a/ dated February 11, 1992, and that they are duly authorized to execute the foregoing instrument for and in the name and behalf of said Trust, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2002.

Notary Public

MY COMMISSION EXPIRES:

LINE TABLE		
LINE	BEARING	LENGTH
L1	S87°11'15"E	23.99'
L2	S02°47'30"W	115.12'
L3	S09°45'27"E	52.11'
L4	S70°33'05"W	20.00'



Job No. 0108-0000
Date: DECEMBER, 2001

Sheet Number

2

OLD MISSOURI ROAD IMPROVEMENTS
FAYETTEVILLE, ARKANSAS

RIGHT OF WAY
AND
EASEMENT MAP



GARVER ENGINEERS

"Engineers Since 1919"

3810 FRONT STREET, FAYETTEVILLE, ARKANSAS 72703
PHONE: (501) 627-8100 FAX: (501) 627-8101 www.garverinc.com

Project No. 00050
Old Missouri Road Improvements
Parcel No. 765-16085-012
Tract No. 33E

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT James T. Keenan and James F. Keenan, Trustees of the JTK Trust u/t/a dated February 11, 1992, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for Old Missouri Road Improvements, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 92-31260)

Part of the West Half (W $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) and a part of the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 36, Township 17 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Southeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 36, said point being an existing stone; thence S 45 degrees 31' 18" W, 934.89 feet to the Southwest corner of Strawberry Hill Subdivision; thence S 45 degrees 11' 57" W, 1039.64 feet to the east right-of-way of Old Missouri Road; thence along said right-of-way, N 14 degrees 39' 20" W, 639.42 feet; thence N 21 degrees 15' 36" W, 684.73 feet; thence N 2 degrees 32' 41" W, 153.24 feet; thence leaving said right-of-way, S 89 degrees 19' 25" E, 794.96 feet to an existing iron pipe; thence N 0 degrees 36' 39" E, 416.37 feet to an existing large nail; thence N 24 degrees 50' 40" E, 203.53 feet to an existing large nail; thence N 32 degrees 34' 55" W, 152.07 feet to an existing pinch pipe in concrete; thence N 0 degrees 36' 05" E, 475 feet; thence N 89 degrees 13' 13" W, 293.27 feet; thence N 1 degree 02' 24" E 13 feet to an existing angle iron; thence S 89 degrees 06' 52" E 1321.22 feet to an existing iron pin; thence S 0 degrees 40' 49" W, 1213.66 feet to the point of beginning, containing 57.81 acres, more or less.

LESS AND EXCEPT right-of-way for Farr Lane (Deed Ref. 99-078567 and 99-078568): A part of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 36, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Southeast corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 36, said point being an existing stone; thence North 00° 40' 49" East 1213.66 feet, to a found iron pin; thence North 89° 06' 52" West 140.00 feet, to the Point of Beginning; thence South 63° 04' 36" West 139.04 feet; thence North 89° 06' 52" West 764.24 feet; thence North 00° 36' 05" East 52.41 feet; thence North 89° 13' 13" West 293.27 feet, to a found iron pin; thence North 01° 02' 24" East 13.0 feet to a found iron pin; thence South 89° 06' 52" East 1180.72 feet, to the Point of Beginning and containing 57,305 square feet (1.316 acres), more or less.

LESS AND EXCEPT proposed right-of-way for Old Missouri Road: A part of the Southeast Corner (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 36, Township 17 North, Range 30 West, being more particularly described as follows: Commencing at the Northeast corner of said SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence North 87° 11' 15" West 495.14 feet, to the Point of Beginning; thence with the existing east right-of-way of Old Missouri Road, South 00° 24' 00" East 153.24 feet; thence South 19° 06' 55" East 396.47 feet; thence leaving said east right-of-way, North 70° 53' 05" East 20.00 feet; thence North 19° 06' 55" West 374.42 feet; thence North 09° 45' 27" West 52.11 feet; thence North 02° 47' 30" East 115.12 feet; thence North 87° 11' 15" West 23.99 feet, to the Point of Beginning and containing 11,042 square feet (0.25 acre), more or less.

The bearings for this description are based on the City of Fayetteville GPS Control Network and may vary from the bearing system previously used in describing the subject property.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A ten (10) foot wide temporary construction and grading easement across the above described property, being a part of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 36, Township 17 North, Range 30 West and more particularly described as follows: Commencing at the Northeast corner of said SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence North 87° 11' 15" West 471.15 feet, to the Point of Beginning; thence South 02° 47' 30" West 115.12 feet; thence South 09° 45' 27" East 52.11 feet; thence South 19° 06' 55" East 374.42 feet; thence North 70° 53' 05" East 10.00 feet; thence North 19° 06' 55" West 373.60 feet; thence North 09° 45' 27" West 50.19 feet; thence North 02° 47' 30" East 114.02 feet; thence North 87° 11' 15" West 10.00 feet, to the Point of beginning and containing 5,397 square feet (0.12 acre), more or less.

The bearings for this description are based on the City of Fayetteville GPS Control Network and may vary from the bearing system previously used in describing the subject property.

together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the herein above referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2002.

JTK Trust w/t/a dated February 11, 1992

James T. Keenan, Trustee

James F. Keenan, Trustee

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

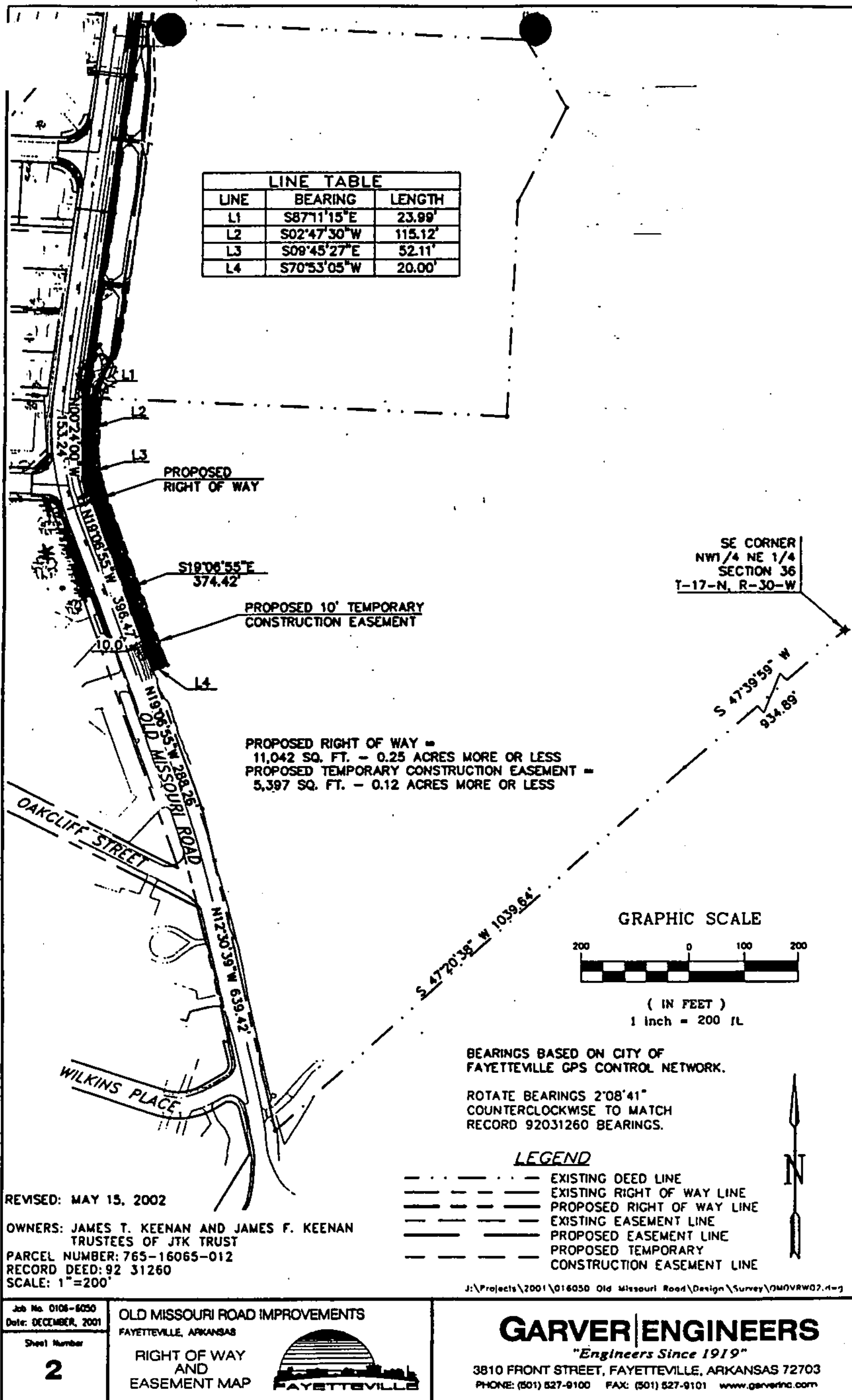
} ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared James T. Keenan and James F. Keenan, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are Trustees of the JTK Trust w/t/a/ dated February 11, 1992, and that they are duly authorized to execute the foregoing instrument for and in the name and behalf of said Trust, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2002.

Notary Public

MY COMMISSION EXPIRES:



Job No. 0106-6050
Date: DECEMBER, 2001

Sheet Number

2

OLD MISSOURI ROAD IMPROVEMENTS
FAYETTEVILLE, ARKANSAS

RIGHT OF WAY
AND
EASEMENT MAP



GARVER ENGINEERS

"Engineers Since 1919"

3810 FRONT STREET, FAYETTEVILLE, ARKANSAS 72703
PHONE: (501) 527-9100 FAX: (501) 527-9101 www.garverinc.com

FAYETTEVILLE

PLEASE RE Old Missouri
CITY OF FAYET C. 8. Page 21
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701
(501) 444-3414
FAX: (501) 575-8316

THE CITY OF FAYETTEVILLE, ARKANSAS

VENDOR FORM

Vendor # _____
(For Office Use Only)

According to the Federal Income Tax Law, the City is required to obtain the information listed below from all individuals and companies with whom we do business. Failure to comply may subject you and/or your company to certain penalties, as well as withholding tax.

Please complete the following:

____ Sole Proprietorship
____ Corporation
____ Partnership
____ Tax-exempt organization under Section 501(a)
____ Foreign Government
____ ☒ Individual
____ Other (please explain)

Tax Identification number:

_____ Federal employer identification number

OR

☒ _____ Social Security number (for individual or sole proprietors)

I certify that the above information is true and correct.

JTK Trust
Name of Individual or Business

P.O. Box 474
Address

Fayetteville, AR 72702-0474
City, State, Zip Code

☒ _____
Signature

☒ _____
Date

☒ _____
Title

Please mail or FAX this completed form to the City of Fayetteville at the above address or FAX number.

[Return to List](#)

[Return to Search](#)

[Parcel Map/Plat](#)

Record 1 of 1

Parcel Number: 765-16065-012 Type: RV
Location Address: 0
Owner name: KEENAN, JAMES T. ET AL, TRUSTEES
Mailing Address: PO BOX 474 FAYETTEVILLE AR 72702
Lot: Block: S-T-R: 36-17-30
Addition: 36-17-30 FAYETTEVILLE OUTLOTS
School District: FAYETTEVILLE SCHOOLS
City: FAYETTEVILLE
Legal: PT W/2 NE & PT SE NW 57.81 A.

Current Year: 1995	Appraised value	Assessed value
Land	289,050	57,810
Improvement	0	0
Total	289,050	57,810

TRUSTEES

Date	Book	Page	Grantee 1	Grantee 2	Deed Type	Sale Amount	Revenue Amount
02/11/92	92	31260	KEENAN, JAMES T. ET AL, TRUSTEES	PO BOX 474	WD	0	0.00

SP WD NO REV

01/01/91	1392	937	KEENAN, JAMES			0	0.00
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[Return to List](#)

[Return to Search](#)

[Parcel Map/Plat](#)

Chuck TRANTER
521-7130

FILED FOR RECORD

SPECIAL WARRANTY DEED

92 JUN 22 PM 2:47

KNOW ALL MEN BY THESE PRESENTS:

WASHINGTON CO AR

THAT James T. Keenan, a single man, hereinafter called "Grantor" for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto James T. Keenan and James F. Keenan, as trustees of the JTK Trust created under a trust agreement dated February 11, 1992, hereinafter called "Grantees", all of Grantor's right, title and interest in and to the following described real property situated in Washington County, State of Arkansas, to-wit:

See Exhibit "A" attached hereto.

This instrument is made without warranty, express or implied, except by, through and under Grantor and subrogated to all prior rights and warranty.

TO HAVE AND TO HOLD the the above-described property with all and singular the rights, privileges and appurtenances thereto or in any way belonging to the said Grantees herein, and their successors and assigns forever.

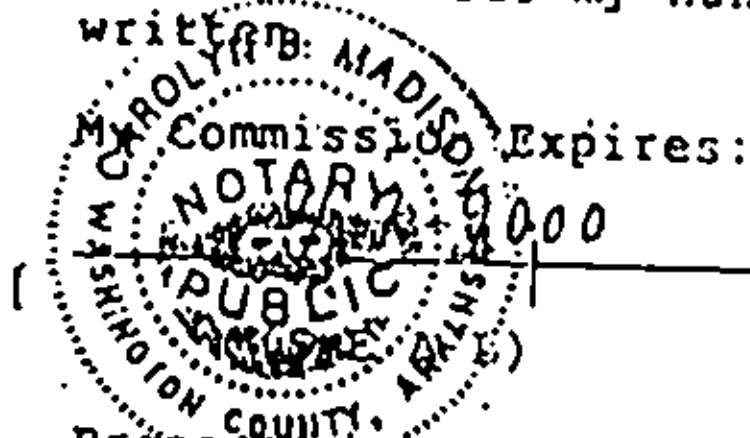
EXECUTED and delivered this 11th day of February, 1992.

[Signature]
James T. Keenan, a single man

STATE OF ARKANSAS)
COUNTY OF PULASKI) ss.

The foregoing instrument was acknowledged before me this 11th day of February, 1992, by James T. Keenan, a single man, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.



[Signature]
Notary Public

Wm. Lee Grace, Jr., Esq.
Giroir & Gregory, P.A.
111 Center Street, Suite 1900
Little Rock, Arkansas 72201
(501) 372-3000

92 31260

GIROIR & GREGORY

TEL: 501-374-2380

Jun 11, 92 11:02 No.005 P.03

EXHIBIT "A"

Part of the West Half (W-1/2) of the Northeast Quarter (NE-1/4) and a part of the Southeast Quarter (SE-1/4) of the Northwest Quarter (NW-1/4) of Section 36, Township 17 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Southeast Corner of the Northwest Quarter (NW-1/4) of the Northeast Quarter (NE-1/4) of said Section 36, said point being an existing stone; thence S 45 degrees 31'18" W, 934.89 feet to the Southwest Corner of Strawberry Hill Subdivision; thence S 45 degrees 11'57" W, 1039.64 feet to the east right-of-way of Old Missouri Road; thence along said right-of-way, N 14 degrees 39'20" W, 639.42 feet; thence N 21 degrees 15'36" W, 684.73 feet; thence N 2 degrees 32'41" W, 153.24 feet; thence leaving said right-of-way, S 09 degrees 19'25" E, 794.96 feet to an existing iron pipe; thence N 0 degrees 36'39" E, 416.37 feet to an existing large nail; thence N 24 degrees 50'40" E, 203.53 feet to an existing large nail; thence N 32 degrees 34'55" W, 152.07 feet to an existing pinch pipe in concrete; thence N 0 degrees 36'05" E, 475 feet; thence N 89 degrees 13'13" W, 293.27 feet; thence N 1 degree 02'24" E, 13 feet to an existing angle iron; thence S 89 degrees 06'52" E, 1321.22 feet to an existing iron pin; thence S 0 degrees 40'49" W, 1213.66 feet to the point of beginning, containing 57.81 acres, more or less.

WARRANTY DEED

FILED FOR RECORD

Old Missouri
C. 8. Page 25

KNOW ALL MEN BY THESE PRESENTS:

99 AUG 27 PM 3 45

That I, James T. Keenan, Trustee of the J.T.K Trust dated February 11, 1992, do hereby grant, bargain, and sell unto the said Grantee and Grantee's heirs and assigns, the following described land situated in Washington County, State of Arkansas, to-wit:

A part of the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of Section 36, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Southeast corner of the NW ¼ of the NE ¼ of said Section 36, said point being an existing stone; thence North 00° 40' 49" East 1213.66 feet, to a found iron pin; thence North 89° 06' 52" West 140.00 feet, to the Point of Beginning; thence South 63° 04' 36" West 139.04 feet; thence North 89° 06' 52" West 764.24 feet; thence North 00° 36' 05" East 52.41 feet; thence North 89° 13' 13" West 293.27 feet, to a found iron pin; thence North 01° 02' 24" East 13.0 feet to a found iron pin; thence South 89° 06' 52" East 1180.72 feet, to the Point of Beginning and containing 57,305 square feet (1.316 acres), more or less.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantees' heirs and assigns, forever. And I, James T. Keenan, Trustee of the J.T.K Trust dated February 11, 1992, the said Grantor, hereby covenants that "I am" lawfully seized of said land and premises, that the same is unencumbered, and that "I" will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS our hands and seals on this 23 day of August, 1999.

THIS INSTRUMENT PREPARED BY:
STOCKLAND & TRANHAM, P.A.,
P.O. BOX 1723,
FAYETTEVILLE, AR 72702
(501) 521-7130

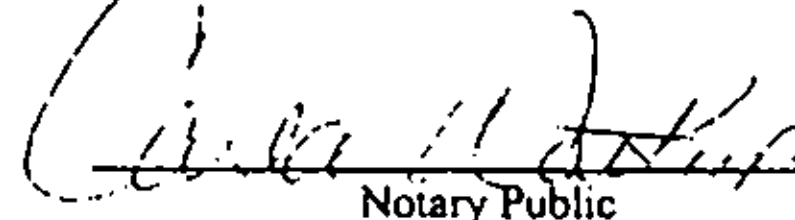
James T. Keenan, Trustee of the J.T.K Trust
dated February 11, 1992

ACKNOWLEDGMENT

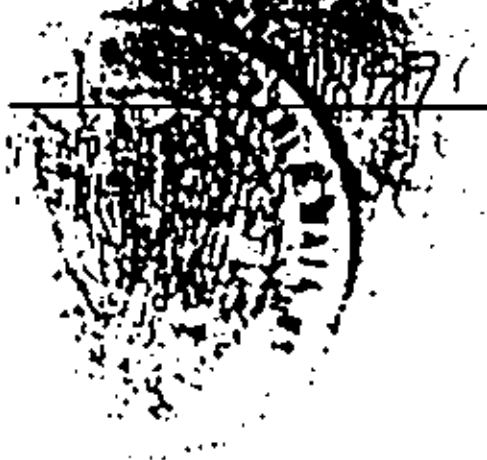
STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss

On this the 23 day of August, 1999, before me, a Notary Public, personally appeared James T. Keenan, Trustee of the J.T.K Trust dated February 11, 1992, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he has executed the same for the purposes therein set forth.

IT WITNESS whereof, I have hereunto set my hand and official seal.


Notary Public

My Commission Expires:



99078567

'99 AUG 27 PM 3 45

WASHINGTON CO AR

K. HARNES

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantees and Grantees' heirs and assigns, forever. And The Raven Foundation, the said Grantor, hereby covenants that "it" is lawfully seized of said land and premises, that the same is unencumbered, and that "it" will forever warrant and defend the title to the said lands against all legal claims whatever.

August, 1999.


James T. Keenan, Director of The Raven
Foundation

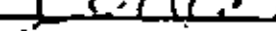
THIS INSTRUMENT PREPARED BY:
STOCKLAND & TRANTHAM, P.A.,
P.O. BOX 1723,
FAYETTEVILLE, AR 72702
(501) 521-7130

STATE OF ARKANSAS)
) ss
COUNTY OF WASHINGTON)

On this the 23 day of August, 1999, before me, a Notary Public, personally appeared James T. Kennan, Director of The Raven Foundation known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he has executed the same for the purposes therein set forth.

IT WITNESS whereof, I have hereunto set my hand and official seal.

Official seal.


Notary Public

Expires: 99

99-78568

on 11/17/74

**COMPLETE APPRAISAL ANALYSIS
REPORTED IN A SUMMARY FORMAT**

FOR THE

CITY OF FAYETTEVILLE, ARKANSAS

BY

**REED & ASSOCIATES, INC.
1494 PLAZA PLACE
SPRINGDALE, AR 72764**

RE: Old Missouri Road Improvements
PROJECT NO: 00050
PARCEL NO: 765-16065-012
TRACT NO: 33E
COUNTY: Washington
FEE OWNER(S): James T. Keenan and James F. Keenan,
Trustees of the JTK Trust w/t/a dated February 11, 1992
OWNERS MAILING ADDRESS: P.O. Box 909, Fayetteville, Arkansas 72702

LOCATION OF SUBJECT

PROPERTY: Subject is located along the east side of Old Missouri Road, directly east/southeast from the intersection of Old Missouri Road and Rolling Hills Drive, in the north central part of Fayetteville, Arkansas. The 2000 population of Fayetteville was 58,047, according to the U.S. Census Bureau. Fayetteville is the County Seat of Washington County.

The subject Market Area appears to consist of an area lying east of U.S. Highway 71 Business (North College Avenue), south of Joyce Street, west of State Highway 265 (Crossover Road) and north of Township Street. Property uses visible in the Market Area include single-family and multi-family residential,

commercial, special-purpose, etc. The primary use appears to be single-family residential.

The Market Area appears to be over 75% built-up, with a high occupancy rate.

The topography of the Market Area is undulating to rolling/moderately sloping to steeply sloping. Soil and subsoil conditions are not generally considered adverse to building construction. Overall, drainage is considered adequate.

Utilities available in the Market Area include public water and sewer, natural gas, electricity, telephone service, and cable T.V.

The Market Area appears to still be in the growth stage of its life cycle. New residential and commercial construction and/or development were noted, primarily in the northern part of the Market Area. In addition, several large tracts of vacant acreage were also noted in the Market Area. In our opinion, the outlook for the immediate future is for continuation of the present Market Area life cycle.

DESCRIPTION OF THE

SUBJECT PROPERTY:

Subject site consists of approximately 2,518,200± square feet (SF), or approximately 57.81± acres, however, approximately 57,305± SF (1.316± acres) are located within the existing right-of-way of Farr Lane. Therefore, the usable size is estimated to be 2,460,895± SF, or 56.494± acres. The site is irregular in shape, and has approximately 1,477± linear feet (LF) of frontage along the east side of Old Missouri Road.

The topography of the site is undulating to rolling/sloping. Soil and subsoil conditions are assumed adequate for building construction. The subject property is not located within the 100-year flood zone.

Typical city utilities are available at, or in close proximity to the site. No adverse easements or encroachments were noted on the inspection.

The subject property is zoned R-1, Low Density Residential.

The estimated 2001 property tax, due by October 10, 2002, was \$3,708.39.

The site is improved with a structure known as the "Kennan Tower House." This structure, based on Assessment Records, contains approximately 1,000± SF. At the date of inspection, the building improvements appeared to be in good condition. Only a cursory inspection of the exterior of the building improvements was performed as, in our opinion, the building improvements are not adversely affected by the proposed acquisition.

Site improvements included gravel drive, farm fencing, etc.

The City of Fayetteville is proposing to acquire approximately 7,507± SF (0.17± acre) of the subject site for the widening of Old Missouri Road. The acquisition is located in the west part of the site. Also, the City of Fayetteville is acquiring a general utility and drainage easement containing 21,996± SF (0.50± acre). The utility-drainage easement will be located adjacent to the east of the right-of-way acquisition. In addition to the right-of-way and utility-drainage easement acquisitions, the City of Fayetteville is also acquiring a temporary construction and grading easement, 10' in width, immediately adjacent to the east of the utility-drainage easement. The size of the temporary construction-grading easement is 5,392± SF (0.12± acre). It appears approximately 60± mature pine trees are located within either the right of way acquisition, utility-drainage easement or temporary construction easement. These trees provide contributory value to the site due to providing screening from traffic and noise along Old Missouri Road. The trees create some privacy for the site. There are additional pine trees located along subject's Old Missouri Road frontage, however, these trees are indicated to be located within the existing right of way.

The remainder property will contain approximately 2,453,388± SF (56.324± acres), of which 21,996± SF (0.50± acre) will be encumbered by a new, permanent utility-drainage easement. The building improvements are located on the remaining property. The remainder is considered to have adequate frontage along Old Missouri Road and access from Farr Lane, and the size and layout are considered adequate development.

AREA OF WHOLE: 2,460,895± SF (56.494± acres)

AREA OF REMAINDER: 2,453,388± SF (56.324± acres) of which 21,996± SF (0.50± acre) will be encumbered by a new, permanent utility-drainage easement.

AREA OF ACQUISITION: 7,507± SF (0.17± acre) in permanent right-of-way, 21,996± SF (0.50± acre) in permanent utility-drainage easement and 5,392± SF (0.12± acre) in temporary construction-grading easement.

LEGAL DESCRIPTION (Property): Attached

LEGAL DESCRIPTION (Acquisition): Attached

BASIS FOR LAND VALUE

ESTIMATE: Land sales in the subject area were utilized in estimating the market value of subject both "before" and "after" the acquisition. These sales are summarized later in this report.

ESTIMATED MARKET VALUE OF THE PROPERTY

AS OF
April 5, 2002

BEFORE:					
Land	-	-	-	-	\$1,230,400
Improvements	-	-	-	-	Not Considered
Total	-	-	-	-	\$1,230,400
AFTER:					
Land	-	-	-	-	\$1,208,200
Improvements	-	-	-	-	Not Considered
Total	-	-	-	-	<u>\$1,208,200</u>
Value of Acquisition (Land)	-	-	-	-	\$ 22,200
Value of Temporary Construction-Grading Easement-	-	-	-	-	<u>300</u>
Total Estimated Damage To Market Value	-	-	-	-	\$ 22,500

The preceding values reflect terms equivalent to cash to the owners and represent that for real property only.

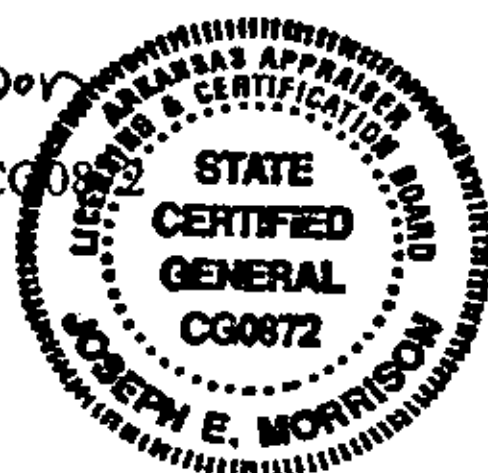
The preceding values are contingent upon the City of Fayetteville, at their expense, putting the land within the general utility-drainage easement and temporary construction-grading easement back to as near original condition as possible.

The reader is referred to additional assumptions and limiting conditions appearing later in this report.

Respectfully submitted,

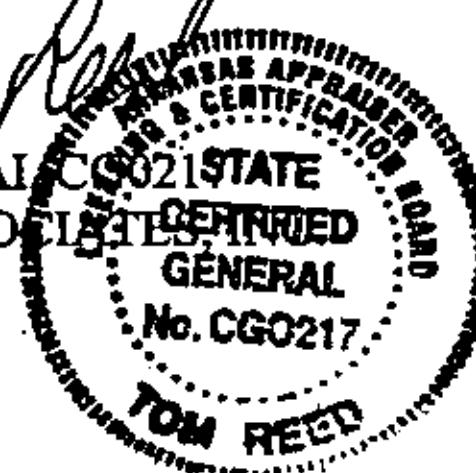
Joe Morrison

Joe Morrison, CG0872



Tom Reed

Tom Reed, MAI, CG0217
REED & ASSOCIATES



SALES COMPARISON APPROACH:

The comparable land sales used in this appraisal are as follows:

Sale No.	1	2	3
Location	N. side of Zion Rd., E. of Hwy. 263 & W. of George Anderson Rd., Fay.	E. side of Hwy. 263, N. of Zion Rd., Fay.	E. side of Hwy. 263 & S. of Albright Rd., Fay.
Grantor/Grantee	Zumberlein/Gary Brandon Enterprises	Parker/Dunnebrook Development, Inc.	Weed/Dunnebrook Development, Inc.
Sale Date	01/14/00	07/15/99	07/15/99
Recorded	#00-04853	#99-064616	#99-064618
Zoning	Rezoned R-1	Rezoned R-O & R-1	Rezoned R-O & R-1
Size	1,512,403± SF	1,619,996± SF	872,942± SF
Utilities	Typical City	Typical City	Typical City
Topography	Undulating to Rolling	Undulating to Rolling	Undulating to Rolling
Sale Price	\$630,000	\$925,000	\$400,000
Price Per SF	\$0.41/SF	\$0.57/SF	\$0.46/SF
Verified	Public Records & Listing Agent	Public Records & Grantee	Public Records & Grantee
Use	Residential	Combination Office & Residential; Small area of Office	Combination Office & Residential; Small area of Office

Based upon the preceding sales, it is our opinion the indicated per square foot (SF) value for subject in the "before" analysis was:

\$0.50*

2,460,895± SF @ \$0.50 = \$1,230,448

Say \$1,230,400

*Reflects pine trees

Utilizing the same sales in the "after" analysis, it is our opinion the indicated value for subject was as follows:

2,453,388± SF @ \$0.50 = \$1,226,694
Less: Trees and Easement (\$7,500 plus = (18,500)
21,996± SF @ \$0.50 & rounded) \$1,208,194

Say \$1,208,200

The remainder property reflects a per SF value of \$0.4925±.

The estimated value of the temporary construction-grading easement was \$300 (5,392± SF @ \$0.50 @ 10% = \$270, say \$300). Ten percent reflects the estimated annual return on the lease of residential land in the subject Market Area for a one-year term.

PURPOSE OF THE APPRAISAL: The purpose of this appraisal is to estimate the "market value" of the subject property, "before" and "after" the acquisition, as of the effective date.

INTENDED USE: The clients intended use of this report is as a basis for determining just compensation due the property owner(s) as a result of the proposed acquisition of a 7,507± SF (0.17± acre) permanent right-of-way easement, 21,996± SF (0.50± acre) permanent utility-drainage easement and a 5,392± SF (0.12± acre) temporary construction-grading easement by the City of Fayetteville, in connection with the widening of Old Missouri Road. The intended-users of this report are the City of Fayetteville, Arkansas, "and/or their assigns."

PROPERTY RIGHTS APPRAISED: Fee Simple Estate; Easement

EFFECTIVE DATE: April 5, 2002

OFFER AND ACCEPTANCE CONTRACT

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

Parcel No. 765-12164-000

All of Block Numbered Two (2) in Westwood Addition, a replat to the City of Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, LESS AND EXCEPT that portion contained in the Right of Way of U.S. Highway Number 62, and being all of that part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section Twenty (20), Township Sixteen (16) North, Range Thirty (30) West, lying North and West of U.S. Highway 62.

(Also known as Shake's Frozen Custard at 2050 W. 6th Street, Fayetteville, AR.)

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of **\$240,000.00**.
3. **Contingent Earnest Money Deposit:** The Buyer will tender a check for **\$4,800.00** to **Donald E. Osborne and Debra L. Osborne**, husband and wife, hereinafter referred to as the Seller, as earnest money, which shall apply on the purchase price.
4. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract. A Vendor Form is attached hereto on which the Seller must provide to the Buyer a Tax Identification Number (corporation) or Social Security Number so that the earnest money check can be written and mailed to the Seller within two weeks of the Seller's acceptance of this contract.
5. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
6. The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. The cost of such title insurance policy shall be equally shared by the Seller and the Buyer.
7. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
8. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

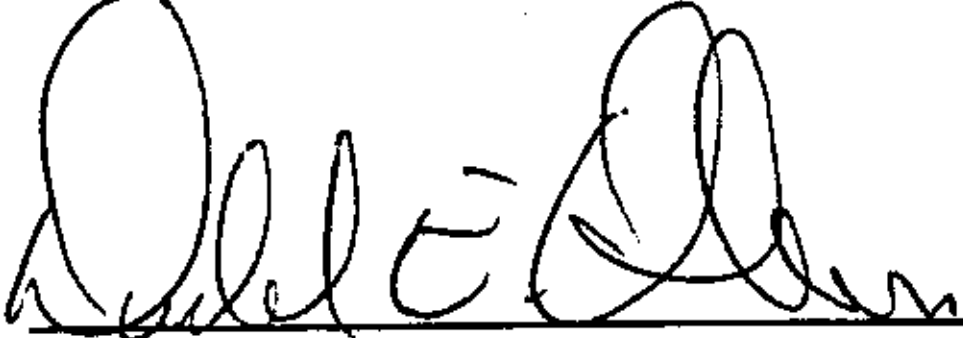
OFFER AND ACCEPTANCE CONTRACT

Page 2 of 4

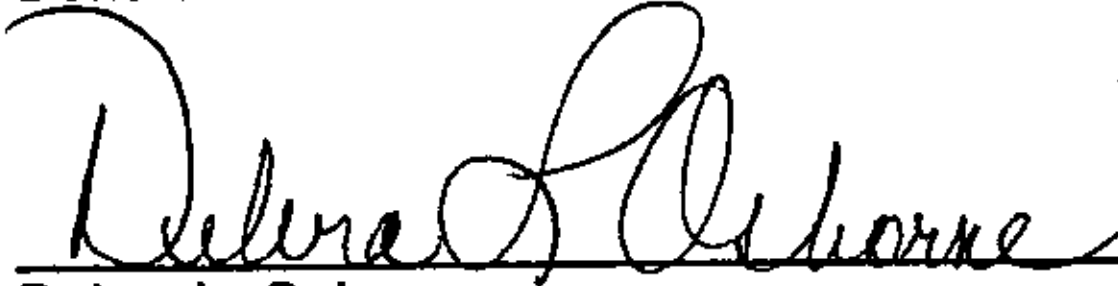
9. The closing date is designated to be thirty (30) days after approval of this contract by the Fayetteville City Council. If the last date of such closing falls on a weekend or holiday, it will be held the following working day. The closing agent will be a mutually agreed upon closing firm with Washington County, Arkansas.
10. Possession of the property shall be delivered to the Buyer on the date of closing.
11. Seller hereby grants permission for the Buyer or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
12. All fixtures, improvements and attached equipment are included in the purchase price. Shake's Frozen Custard, Inc. (owned by Donald E. Osborne and Debra L. Osborne) may take out of the building: the cooler, signage, equipment and decorations related to Shake's business.
13. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
14. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Buyer and Seller shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at Buyer's discretion, Buyer may cure such environmental hazard, and Seller shall indemnify Buyer for all costs associated with said cure.
15. This agreement shall be governed by the laws of the State of Arkansas.
16. This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
17. This contract expires, if not accepted by the Seller on or before the 8th day of November, 2002.
18. **NOTICE: BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO BUYER OF THE \$4,800.00 EARNEST MONEY DEPOSIT.**

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

SELLER:

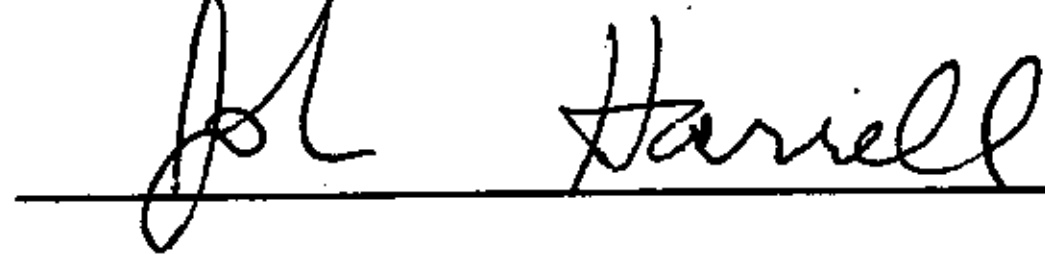

Donald E. Osborne

Date: 11-1-02


Debra L. Osborne

Date: 11/1/02

AGENT OR WITNESS:


J. Harrell

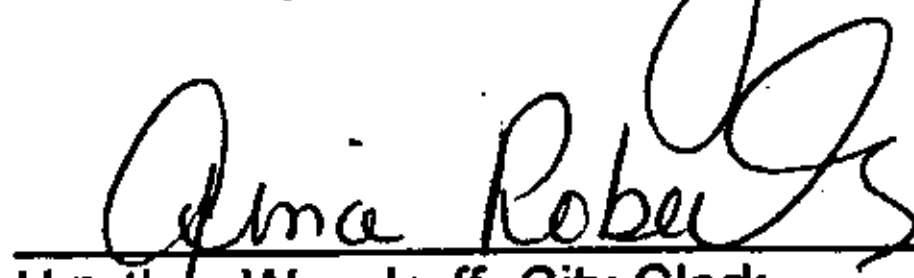
Date: 11-1-02

BUYER:

City of Fayetteville, Arkansas,
A municipal corporation


Dan Coody, Mayor

Date: 10/30/02


Heather Woodruff, City Clerk
Deputy

Date: 10-30-02

(SEAL)

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 5

ACKNOWLEDGMENT

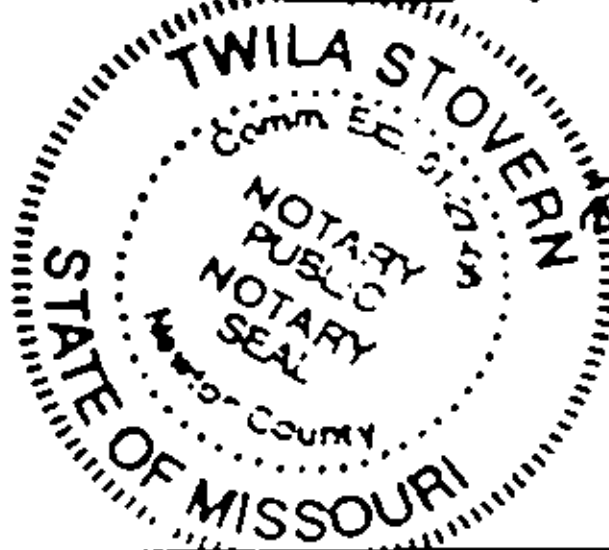
STATE OF Missouri)
)
COUNTY OF Newton) ss.

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

WITNESS my hand and seal on this 1 day of November, 2002.

MY COMMISSION EXPIRES:

1-27-06



Twila Stover
Notary Public

ACKNOWLEDGMENT

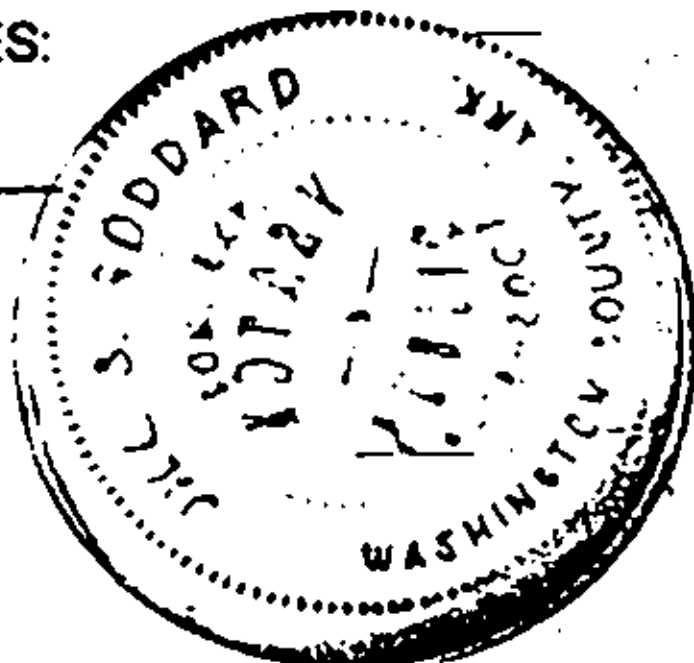
STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

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

WITNESS my hand and seal on this 30th day of October, 2002.

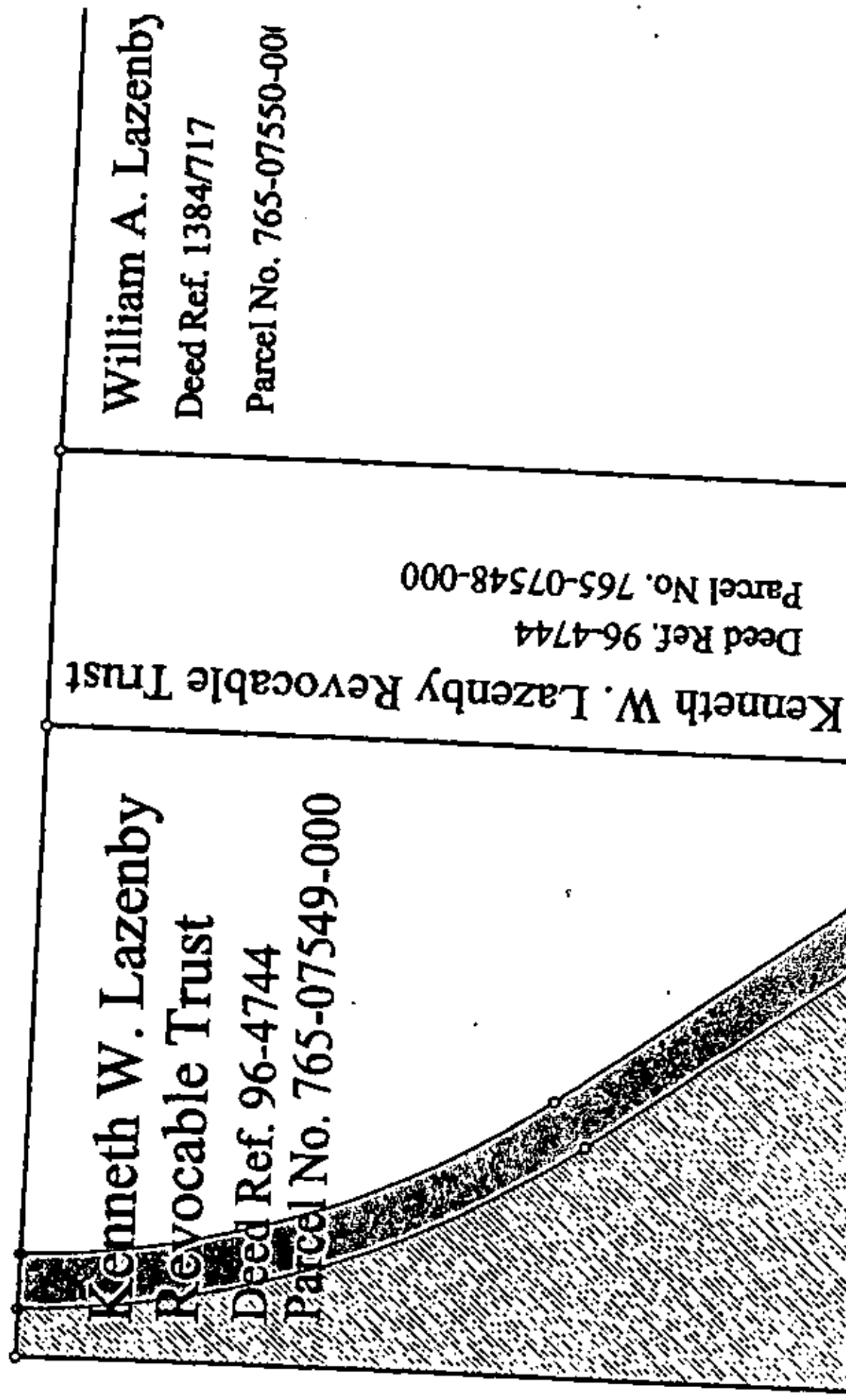
MY COMMISSION EXPIRES:

09-18-2007



Jill S. Doddard
Notary Public

SE-SW-17-16-30



OLD FARMINGTON ROAD

SANG AVENUE

NE-NW-20-16-30

SW-SW-17-16-30

Fayetteville School District No. 1

Deed Ref. 646/201
Parcel No. 765-14592-000

Scale: 1" = 50'

OLD FARMINGTON ROAD

SANG AVENUE
current use as street via Easement 898/185
legally part of Parcel No. 765-14860-000
To be vacated as street

NW-NW-20-16-30

Daybreak Properties Inc.
Deed Ref. 99-94023
Parcel No. 765-14860-000

Donald E. & Debra L. Osborne
Deed Ref. 2000-29178
Parcel No. 765-12164-000

< proposed water/sewer
and drainage easement

PROPOSED AREA
TO BE VACATED

PROPOSED STREET
RIGHT OF WAY

Proposed damage easement

PROPOSED STREET
RIGHT OF WAY

PROPOSED STREET
RIGHT OF WAY

Proposed TCE

Kenneth W. Lazenby
Revocable Trust
Deed Ref. 96-4744
Parcel No. 765-07549-000

Kenneth W. Lazenby Revocable Trust
Deed Ref. 96-4744
Parcel No. 765-07548-000

William A. Lazenby
Deed Ref. 1384/717
Parcel No. 765-07550-000

HARRINGTON, MILLER, NEIHOUSE & KRUG

A PROFESSIONAL ASSOCIATION

ATTORNEYS

113 East Emma Avenue • P.O. Box 687

Springdale, Arkansas 72765-0687

Telephone (479) 751-6464 • Fax (479) 751-3715

e-mail address: mail@arkansaslaw.com

www.arkansaslaw.com

Michele A. Harrington, P.A.

Stephen J. Miller, P.A.

John P. Neihouse, P.A.*

(LL.M. in Taxation)

Wayne Krug (1960-2001)

Angela G. Berkowitz*

Sarah M. Leflar

Thomas N. Kieklak~

Kristen L. Hopkins†

OF COUNSEL

Stephen D. Stitt ~

*Also licensed in Texas

~Also licensed in Florida

* Also Licensed in Oklahoma

~Also Licensed in Georgia

†Also Licensed in Illinois

November 1, 2002

Heather Woodruff

City Clerk

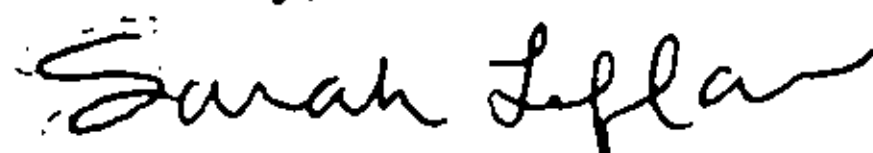
City of Fayetteville, Arkansas

Dear Heather:

Enclosed is a draft of a proposed ordinance reorganizing the Youth Advocacy Committee. Council Member Lioneld Jordan will sponsor the proposal of this new ordinance for ratification by the City Council. I am forwarding it to your office so that it can be discussed at the next meeting to set the agenda for the following council meeting.

Thanks for your assistance in this matter.

Sincerely,



Sarah Leflar

Cc: Lioneld Jordan

Kit Williams

ORDINANCE ESTABLISHING A YOUTH ACTIVITIES COMMITTEE:
PROVIDING FOR ITS COMPOSITION; ITS PURPOSE AND ITS RULES AND
REGULATIONS

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

Section I.

- A. That there is hereby established a committee to be known as the Youth Activities Committee which shall meet a minimum of 6 times per year. The purpose of the Committee shall be as follows:

To create and sponsor projects and events which create opportunities for children and youth of the City of Fayetteville to provide meaningful service to the city and its inhabitants, and which serve to educate children and youth about city government.

- B. This Committee replaces the Youth Advocacy Committee formed pursuant to Fayetteville City Ordinance No. 3875 and Fayetteville City Ordinance No. 4304. The Youth Advocacy Committee was formed primarily to address juvenile crime prevention, and as such duplicates the efforts of other agencies and councils of city and county government. Because of this, the Youth Advocacy Committee is no longer necessary, and should be replaced by a Youth Activities Committee with the purpose described in Section IA above.
- C. The Youth Activities Committee shall issue a yearly report to the City Council on the projects and events sponsored by the Committee.
- D. The Youth Activities Committee Chairperson will inform the Fayetteville Police Department and the staff of the Yvonne Richardson Youth Center and the Fayetteville Boys and Girls Club of the dates and times of all meetings, and will keep staff from these agencies and programs informed of all activities of the Committee.
- E. The Youth Activities Committee shall promulgate rules and regulations necessary for the conduct of committee meetings and other business.
- F. Such committee membership shall be composed of the following:
- One alderman
 - Two parents
 - Three teachers
 - Two at large members

- Four students including one student from each of the city's jr. high schools and one student from each high school.

- G. All teacher and parent members who were appointed to the Youth Advocacy Committee created pursuant to Fayetteville Municipal Ordinance No. 3875 shall continue to serve the terms for which they were appointed to the Youth Advocacy Committee.
- H. All adult members shall serve for a term of two years. All student members shall serve for a term of one year.

I. Appointment to the Committee shall be as follows:

1. The Alderman shall be appointed by the mayor.
2. Citizen positions (including student positions) shall be filled through the selection process as set for in the Rules of Order and Procedure, Fayetteville City Council, Revised and Adopted January 3, 1991, Section H. CITIZENS COMMITTEES, and as may from time to time be revised.
3. The initial terms of this committee shall be as follows shall begin upon appointment, and shall run until August 31, 2003 for student members, and until August 31, 2004 for adult members. Subsequent terms shall run as set forth above.

Section II

- A. The City Council hereby determines that the aforesaid provisions are necessary and unless put into effect immediately, the public health, safety, and welfare of the people of Fayetteville will be adversely affected. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the public health, safety and welfare shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this ____ day of _____, 2002.

APPROVED:

Dan Coody, Mayor

Attest:

BY: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

Crossland Const.
C. 10. Page 1

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of November 19, 2002

FROM:

Louise Schaper Library Urban Development
 Name Division Department

ACTION REQUIRED: Approve a contract adjustment in the amount of \$402,895.84 with Crossland Construction Company Inc. for a portion of the exterior cladding material cost including brick, architectural precast concrete and stone per Exhibit C of the original contract dated May 21, 2002 with Crossland Construction Company. The original contract with Crossland Construction was \$17,633,931; the new contract is \$18,040,752.36.

COST TO CITY:

<u>\$402,895.84</u> Cost of this Request	<u>\$ 21,619,311</u> Category/Project Budget	<u>New Library</u> Category/Project Name
<u>4150-9150-580400 (library fund)</u> Account Number	<u>\$ 18,685,735</u> Funds Used To Date	<u>New Library</u> Program Name
<u>99073-1</u> Project Number	<u>\$ 2,933,576</u> Remaining Balance	<u>Library Construction Fund</u> <u>Sales Tax Improvement Fund</u> Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

[Signature]
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

<u>Marsha Fathig</u> Accounting Manager	<u>11/8/02</u> Date	<u>Nancy Smith</u> Internal Auditor	<u>11/8/02</u> Date
<u>[Signature]</u> City Attorney	<u>11/8/02</u> Date	_____ ADA Coordinator	_____ Date
<u>[Signature]</u> Purchasing Manager	<u>11-8-02</u> Date		

STAFF RECOMMENDATION: Staff recommends approval.

Division Head Date

Hugh Earnest 11-7-02
Department Director Date

Administrative Services Director Date

Cross Reference

New Item: Yes ☒ No

Prev Ord/Res #: 83-02

Orig Contract Date: 5/21/2002
 Contract # 843



DEPARTMENTAL CORRESPONDENCE

TO: Hugh Earnest
FROM: Louise Schaper, Library Director
DATE: November 7, 2002

SUBJECT: Change Order #5 Fayetteville Public Library Building Construction

Background

The cost of construction of the new Fayetteville Public Library was estimated throughout the planning and design process by independent cost estimators. When the winning bid was reviewed, some items exceeded those estimates by considerable amounts. The budget for those items was set aside for future decisions as time did not permit developing alternatives and associated costs. One of those items was the architectural precast concrete (APC) to be used on the two towers, window trim and front entry. The APC was removed from the contract with Crossland Construction and \$450,000 was left in the overall project budget for replacement of this cladding material.

Current Status

Meyer, Scherer & Rockcastle issued revisions to the building elevations and details for pricing to replace much of the APC with brick. In locations where APC was judged to be critical to the image of the library or to durability, it has been retained. APC remains at the building entry, at all sills and coping and at the four canopies on the plaza. Lintels and stair tower cladding have been changed to brick. A small area has changed from APC to stone. The cost reflected in this change order is \$402,895.84; this represents a savings of approximately \$48,000 from our \$450,000 deferred budget for this item.

Recommendation

To approve change order number 5 which allows Crossland Construction Co. to purchase and install exterior cladding material that was not included in the original contract.



Architects & Planners

November 7, 2002

Hugh Earnest
Director of Urban Development
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Ref: Fayetteville Public Library, Change Order #5

Dear Mr. Earnest:

The Architects recommend approval of attached Change Order #5 relative to changes in architectural precast concrete (APC), brick and stone. The amount is within the budget designated for this additional work. Allow us to provide the background for this recommendation.

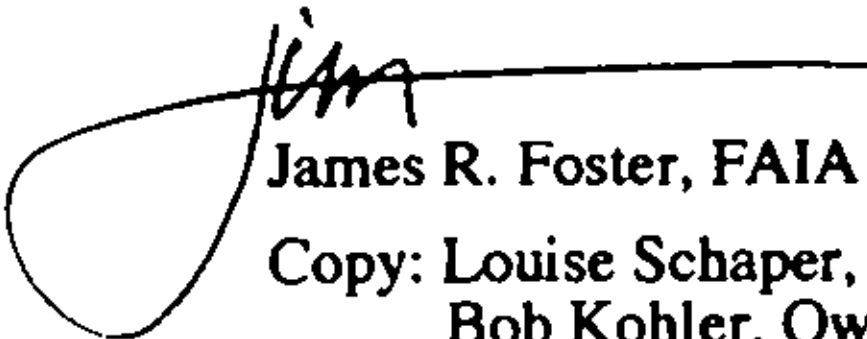
When bids were received the low bid submitted by Crossland Construction Company exceeded the funds available. A number of changes were negotiated to bring the project cost in line with the budget. Analysis of individual costs identified masonry as much higher than estimated. Within the masonry bid, the most significant cost overrun was found to be APC. Time constraints prior to award did not permit developing alternative designs and associated costs. The contract was awarded with a deduction of \$650,000 to delete all APC material. Concurrently, the overall project budget was adjusted to include a deferred cost of \$450,000 for replacement of this cladding material. The recommended change is less than this deferred budget item.

Meyer Scherer & Rockcastle issued revisions to the building elevations and details for pricing to replace much of the APC with brick. In locations where APC was judged to be critical to the image of the library or to durability, it was retained. APC remains at the building entry, at all sills and copings and at the four canopies on the plaza. Lintels and stair tower cladding were changed to brick. A small area was changed from APC to stone. These changes saved over \$247,000 without significantly impacting architectural quality.

Please advise if further information is desired.

Sincerely,

AmirmoezFosterHaileyJohnson



James R. Foster, FAIA

Copy: Louise Schaper, Director, Fayetteville Public Library
Bob Kohler, Owner's Project Representative
Sean Wagner, Project Manager, Meyer Scherer & Rockcastle

AIA DOCUMENT G701-2000

Change Order

(Instructions on reverse side)

PROJECT:

(Name and address)

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

CHANGE ORDER NUMBER:

DATE:

ARCHITECT'S PROJECT NUMBER:

CONTRACT DATE:

CONTRACT FOR:

05

06 NOVEMBER 2002

2000073-00

21 MAY 2002

GENERAL CONSTRUCTION

OWNER ☐

ARCHITECT ☐

CONTRACTOR ☐

FIELD ☐

OTHER ☐

TO CONTRACTOR:

(Name and address)

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST - PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72756

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

ADD ARCHITECTURAL PRECAST CONCRETE (APC) AND BRICK CONSISTENT WITH REVISED DRAWINGS DATED 5/10/02: A251, A252, A253, A254, A351, A501, A502, A503, A504, A505, A508 & A515. ADD BRICK EXTERIOR CLADDING TO TWO STAIR TOWERS. CHANGE APC TO STONE BELOW ELEVATION 1372.46' ON BOLLARDS AND PROVIDE APC CAPS ABOVE IN ELEVATIONS 8 & 10, A253. CHANGE STONE STEP MATERIAL TO BE OWNER PROVIDED. PROVIDE APC AT CANOPIES ON PLAZA DECK BUT DELETE BRACKET DETAIL PORTION OF DETAIL 11/A513.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was \$ 17,633,931.00

The net change by previously authorized Change Orders \$ 406,821.36

The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was \$ 18,040,752.36

The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (increased) (~~decreased~~)

(~~unchanged~~) by this Change Order in the amount of \$ 402,895.84

The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be \$ 18,443,648.20

The Contract Time will be (increased) (~~decreased~~) (~~unchanged~~) by _____ () days.

The date of Substantial Completion as of the date of this Change Order therefore is 08 JULY 2004

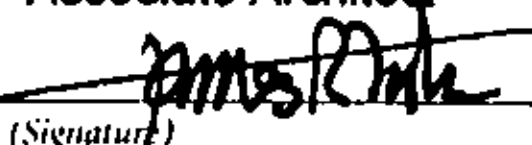
NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive for which the cost or time are in dispute as described in Subparagraph 7.3.8 of AIA Document A201.

Not valid until signed by the Architect, Contractor and Owner.

AFHJ ARCHITECTS
PO BOX 790
FAYETTEVILLE, AR 72702

ARCHITECT (Typed name)

Associate Architect


(Signature)

JAMES FOSTER

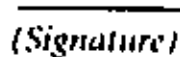
BY

6 NOV 02

DATE

CROSSLAND CONST. CO. INC.
PO BOX 907
ROGERS, AR 72756

CONTRACTOR (Typed name)


(Signature)

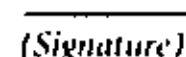
JOHN PRIEST

BY

DATE

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN ST
FAYETTEVILLE, AR 72701

OWNER (Typed name)


(Signature)

DAN COODY, MAYOR

BY

DATE



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AIA DOCUMENT G701-2000
CHANGE ORDER



November 7, 2002

Hugh Earnest
Director of Urban Development
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Ref: Fayetteville Public Library, Change Order #5

Dear Mr. Earnest:

The Architects recommend approval of attached Change Order #5 relative to changes in architectural precast concrete (APC), brick and stone. The amount is within the budget designated for this additional work. Allow us to provide the background for this recommendation.

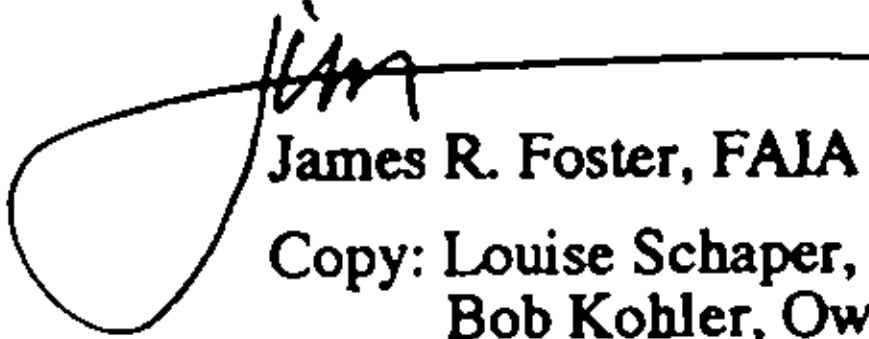
When bids were received the low bid submitted by Crossland Construction Company exceeded the funds available. A number of changes were negotiated to bring the project cost in line with the budget. Analysis of individual costs identified masonry as much higher than estimated. Within the masonry bid, the most significant cost overrun was found to be APC. Time constraints prior to award did not permit developing alternative designs and associated costs. The contract was awarded with a deduction of \$650,000 to delete all APC material. Concurrently, the overall project budget was adjusted to include a deferred cost of \$450,000 for replacement of this cladding material. The recommended change is less than this deferred budget item.

Meyer Scherer & Rockcastle issued revisions to the building elevations and details for pricing to replace much of the APC with brick. In locations where APC was judged to be critical to the image of the library or to durability, it was retained. APC remains at the building entry, at all sills and copings and at the four canopies on the plaza. Lintels and stair tower cladding were changed to brick. A small area was changed from APC to stone. These changes saved over \$247,000 without significantly impacting architectural quality.

Please advise if further information is desired.

Sincerely,

AmirmoezFosterHaileyJohnson



James R. Foster, FAIA

Copy: Louise Schaper, Director, Fayetteville Public Library
Bob Kohler, Owner's Project Representative
Sean Wagner, Project Manager, Meyer Scherer & Rockcastle

AIA DOCUMENT G701-2000

Change Order

(Instructions on reverse side)

PROJECT:

(Name and address)

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

CHANGE ORDER NUMBER:

05

DATE:

06 NOVEMBER 2002

ARCHITECT'S PROJECT NUMBER:

2000073-00

CONTRACT DATE:

21 MAY 2002

CONTRACT FOR:

GENERAL CONSTRUCTION

OWNER ☐

ARCHITECT ☐

CONTRACTOR ☐

FIELD ☐

OTHER ☐

TO CONTRACTOR:

(Name and address)

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST - PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72756

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

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(~~unchanged~~) by this Change Order in the amount of \$ 402,895.84

The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be \$ 18,443,648.20

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The date of Substantial Completion as of the date of this Change Order therefore is 08 JULY 2004

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive for which the cost or time are in dispute as described in Subparagraph 7.3.8 of AIA Document A201.

Not valid until signed by the Architect, Contractor and Owner.

AFHJ ARCHITECTS
PO BOX 790
FAYETTEVILLE, AR 72702

ARCHITECT (Typed name)

Associate Architect

(Signature)

JAMES FOSTER

BY

DATE

CROSSLAND CONST. CO. INC.
PO BOX 907
ROGERS, AR 72756

CONTRACTOR (Typed name)

(Signature)

JOHN PRIEST

BY

DATE

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN ST
FAYETTEVILLE, AR 72701

OWNER (Typed name)

(Signature)

DAN COODY, MAYOR

BY

DATE



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AIA DOCUMENT G701-2000
CHANGE ORDER

STAFF REVIEW FORM

Township Builders
C. 11. Page 1

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of November 19, 2002

FROM:

Sid Norbash
NameEngineering
DivisionPublic Works
Department

ACTION REQUIRED: Approval of: (1) the Change Order #4 to the construction contract with Township Builders, Inc., for Dickson Street Enhancement Project, in the amount of \$195,300. (2) Additional funds for the in-house construction management, in the amount of \$74,700.00. (3) The related Budget Adjustment in the amount of \$270,000.

COST TO CITY:

\$270,002.00 \$3,224,836.00 (Inclg. Contingency) Dickson St. Enhancements Project
Cost of this Request Category/Project Budget Category/Project Name

4470-9470-5809.00 \$3,195,533.00 Street Improvements
Account Number Funds Used To Date Program Name

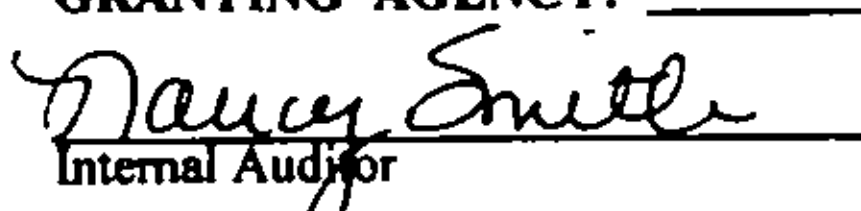
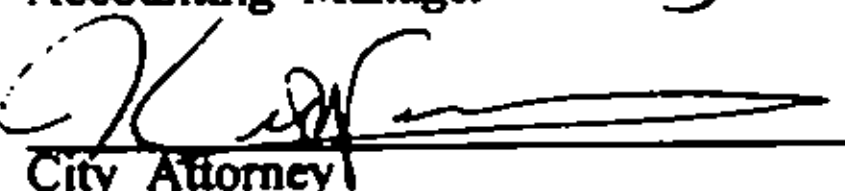
98097-0020 \$29,303.00 Sales Tax
Project Number Remaining Balance Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached (to be furnished)
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:


Accounting Manager 11/8/02
Date
Internal Auditor 11/8/02
Date
City Attorney 11/8/02
DateADA Coordinator Date 
Purchasing Officer 11/8/02
Date

STAFF RECOMMENDATION: Approval of the Change Order #4, extra in-house eng. costs & budget adjustment.


Division Head 11-07-02
Date
Department Director 11-07-02
DateAdministrative Services Director Date Mayor Date

Cross Reference

New Item: Yes No XPrev Ord/Res #: 52-02Orig Contract Date: 3-19-2002Orig Contract Number: 838

STAFF REVIEW FORM

Descrip Dickson Street Enhancement Project
Change Order #4

Meeting Date 11-19-2002

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Greg Boettcher, PWD
Jim Beavers, City Engineer *fs*

From: Sid Norbash, Staff Engineer

Date: November 4, 2002

Re: **Dickson Street Enhancement Project**
Change Order #4 to the construction Contract

Background:

The above referenced project is a Capital Improvement Project in progress, which is scheduled for construction completion in 2003.

Change of Scope:

There are three items that were omitted from the original design. Attached please find the explanation letter from Atkins Engineers, and the justifications for their recommendations.

Attached please find Change Order #4, and the supporting documents containing the description and the breakdown of each cost item.

Recommendations:

The Staff recommends approval of:

- (1) Change Order #4 to the existing contract with Township Builders, Inc., for an increase in the contract, in the amount of \$195,300.00
- (2) The additional amount of \$74,700 for in-house engineering services.
- (3) The related Budget Adjustment in the amount of \$270,000.00

Funding:

Sales Tax Funds.

SN/sn

Attachments: Copy of the Change Order #4 / Budget Adjustment

November 7, 2002

Mayor Dan Coody and Fayetteville City Council
113 W. Mountain
Fayetteville, AR 72701

RE: Downtown Dickson Enhancement Project

Mayor Coody and City Council,

As the design consultant for the Downtown Dickson Enhancement Project, we are writing to recommend that the City Council approve a change order to increase the current contract. The proposed change order will provide compensation to the contractor for three items:

- 1) Additional drainage structures at Arkansas Avenue,
- 2) Backfill of an old, abandoned aqueduct, and
- 3) Correction of an error in the quantity of concrete brick pavers.

The total cost of these three items is \$195,300.00, and the cost details are attached to the change order form. A detailed description of each of these items is included below for your review.

1. Arkansas Avenue Drainage

The Arkansas Avenue intersection slopes southeasterly from the University of Arkansas sidewalk toward the Bank of America driveway. The storm runoff sheets across this intersection. In our design we proposed to let this storm runoff continue to flow across the intersection and not try to rework the slope of Arkansas Avenue at that crossing. We did add new storm drainage inlets and pipes in the south curb of Dickson Street to intercept the flow as it reaches the south curb. During the construction, we discovered an existing inlet and drainage pipe in the northwest curb radius of Arkansas Avenue. The inlet is located such that our new curb would cross over the top of the grate inlet. Since this inlet was found and needs renovation, we recommend that the design be revised to capture the runoff in a new trench grate across Arkansas Avenue. This will reduce the runoff in the intersection making it safer for pedestrian and vehicular traffic. It will also prevent the water from running over the Razorback emblem, reducing maintenance and rehabilitation. The cost for these added drainage features is \$22,382.50.

2. Old Aqueduct

Field research and investigations were carried out during the design to learn what we could about the old aqueduct. During these investigations, we found that both ends of the aqueduct had been previously closed off and the storm water it previously carried had been diverted to a new storm sewer system. We also learned that a corrugated pipe had been placed in the aqueduct and a new sidewalk had been poured over it to serve as a lid or top.

During construction of the proposed storm sewer, the contractor exposed the stone sidewall of the old aqueduct and in the process, dislodged some of the stones that comprise the wall and support the existing sidewalk. With the sidewall exposed, we were able to see that it was not sound and should not be used to support the new sidewalk. Therefore, to improve the stability and safety of the proposed sidewalk, it is recommended that the aqueduct be filled with compacted gravel. The new sidewalk can then bear on the gravel rather than spanning over the open aqueduct and bearing on the old stone wall.

When the aqueduct was exposed during construction, we also learned that there is some existing water in the aqueduct and the corrugated pipe only extends about halfway up the aqueduct. In order to accommodate the existing flow through the aqueduct, we recommend that the corrugated pipe be extended the full length of the new sidewalk.

The additional cost for the work required in the aqueduct is \$15,875.00.

3. Concrete Brick Pavers

The final item concerns the quantity calculation for the concrete brick pavers. Our bid proposal included 13,499 square feet of concrete pavers for Dickson Street. However, the quantity should be 27,500 square feet. We had originally separated the pay items and quantities for the intersections and the crosswalks because it was not decided what type of pavers would be used in each place. When the final decision was made to use the same type of pavers in both the crosswalks and the intersections, we knew that only one pay item was needed. When we deleted the now extra pay item from the bid form we failed to add back the deleted quantity to the remaining pay item. The unit price for concrete pavers is established in the contract but the quantity is only half of what it should be. The omitted quantity must now be added back into the job. The increase in the concrete paver quantity will cost \$157,042.50.

I know that City funds are tight so I deeply regret the pressure this places on you. However, I am convinced that this change order is necessary and I recommend your approval. I hope these explanations are clear. However, we will be glad to answer any questions you may have regarding any of these items. You can reach us at (479) 770-5800, and we will attend the City Council meeting on November 19 as well.

Sincerely,



Gary Carnahan, P.E.
Managing Director

Cost Summary

Project Title: Downtown Dickson Enhancement Project

Project No. 98097-20 Contract No. 02-14 Contract Date 3-19-2002

Contractor: Township Builders, Inc.

Original Contract Price: \$2,948,590.30

As adjusted by previous changes:

Change Order #1 add	\$60,000.00
Change Order #2 add	\$13,244.00
Change Order #3 subtract	\$26,385.00

\$2,995,429.30

Change Order #4

Part A	\$ 22,382.50
Part B	\$ 15,875.00
Part C	\$157,042.50

total \$195,300.00

The new contract price will be: \$3,190,729.30

Revised In-House Construction management \$ 74,700.00

Total Increase as the result of Change Order #4 \$270,000.00

Engineering & Construction Management

Revision to the Cost Estimate

Dickson Street Enhancement Project

As the result of the complexity of this project, and the additional time added by Change Order #4, the in-house engineering expenses are hereby revised and estimated as follows:

City Engineer	\$ 2,772
Staff Engineer	\$26,455
Project Inspector	\$39,146
Survey Crew	\$ 6,327
Total	\$74,700

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year 2002	Department: Public Works Division: Engineering Program: Sales Tax Capital Improvements	Date Requested 11/19/2002	Adjustment Number
----------------------------	--	-------------------------------------	-------------------

Project or Item Requested:
\$270,000 to the Dickson Street Improvements capital project.

Project or Item Deleted:
\$270,000 from the Mount Sequoyah W&S System Upgrade capital project.

Justification of this Increase:

The additional funds are needed to cover the cost of Change Order #4 which is for additional paver bricks, additional drainage work at Arkansas Avenue, drainage channel at West & Dickson.

In addition funding is needed to cover the cost of In-house engineering services.

Justification of this Decrease:

The project is currently on hold.

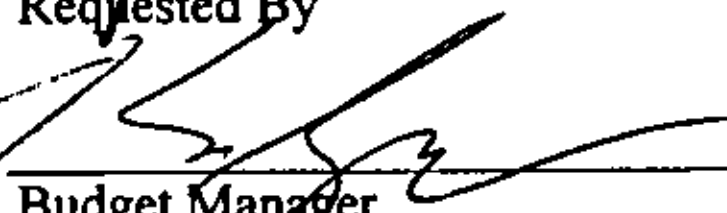
Increase Expense (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	270,000	98097	1

Decrease Expense (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Water line improvements	4470	9470	5808	00	270,000	01023	1

Approval Signatures

	11-07-02
Requested By	Date
	11-7-02
Budget Manager	Date
	11-07-02
Department Director	Date
Administrative Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	(D)	E
Date of Approval	Date		Initial		
Posted to General Ledger	Date		Initial		
Posted to Project Accounting	Date		Initial		
Entered in Category Log	Date		Initial		

Township Builders
C. 11. Page 9CHANGE ORDER NO. 4Project Title: Downtown Dickson Enhancement ProjectProject No. 98097-20 Contract No. 02-14 Contract Date 3-19-2002Contractor: Township Builders, Inc.

The following changes are hereby made to the contract documents:

Addition to the contract:

Section (A) per attached form

\$ 22,382.50

Section (B) per attached form

\$ 15,878.00

Section (C) Per attached form

\$157,042.50**Total** \$195,300.00
=====**Justifications:**

The justifications for the above referenced cost items are outlined in sections 1, 2, and 3 of the letter of Atkins Engineers to the Mayor and City Council.

These items were omitted from their original design.

Original Contract Price:

\$2,948,590.30

As adjusted by previous changes:

\$2,995,429.30

This C.O. will increase contract by:

\$ 195,300.00

The new contract price will be:

\$3,190,729.30

Township Builders
C. 11. Page 10

CHANGE ORDER NO. 4

Project Title: Downtown Dickson Enhancement Project

Project No. 98097-20 Contract No. 02-14 Contract Date 3-19-2002

Contractor: Township Builders, Inc.

The following changes are hereby made to the contract documents:

Addition to the contract:

Section (A) per attached form \$ 22,382.50

Section (B) per attached form \$ 15,875.00

Section (C) Per attached form \$157,042.50

Total \$195,300.00

Justifications:

The justifications for the above referenced cost items are outlined in sections 1, 2, and 3 of the letter of Atkins Engineers to the Mayor and City Council.

These items were omitted from their original design.

Original Contract Price:	<u>\$2,948,590.30</u>
As adjusted by previous changes:	<u>\$2,995,429.30</u>
This C.O. will increase contract by:	<u>\$ 195,300.00</u>
The new contract price will be:	<u>\$3,190,729.30</u>

Township Builders
C. 11. Page 11

Change Order #4
Page 2
Dickson St. Enhancement

CHANGE TO CONTRACT TIME

Township Builders will be granted 102 extra calendar days to complete the additional work.

Therefore the substantial completion date will move from April 15, 2003 to July 26, 2003. The date of full completion will move from August 1, 2003 to November 10, 2003.

APPROVALS REQUIRED

To be effective this change order must be approved by the Owner if it changes the scope or objective of the project, or as may otherwise be required under the terms of the General Conditions of the Contract.

Requested by _____

Date _____

Approved by Contractor John Kucharski G.M.

Date 11-7-02

Approved by Mayor _____

date _____

Township Builders

C. 11. Page 12

Downtown Dickson Enhancement Project

10/2002

Downtown Dickson Enhancement Project

Change Order #4A

Add the following work to the Base Bid to complete Change Order #4A:

Item No.	Estimated Quantity	Unit	Description of Item and Unit Price Bid	Total Amount
1	1	Each	Remove and Dispose of Grate Inlet	
	<u>Six Hundred</u> amount written in words	dollars	(\$ <u>600.00</u>)/EA in figures	\$ <u>600.00</u> . in figures
2	10	Ton	Aggregate Base Course (Class 7)	
	<u>Twenty Two</u> amount written in words	dollars	(\$ <u>22.00</u>)/TON in figures	\$ <u>220.00</u> . in figures
3	20	Gallon	Prime Coat	
	<u>Two</u> amount written in words	dollars	(\$ <u>2.00</u>)/GAL in figures	\$ <u>40.00</u> . in figures
4	4	CY	10" PCC Base Course	
	<u>Ninety</u> amount written in words	dollars	(\$ <u>90.00</u>)/CY in figures	\$ <u>360.00</u> . in figures
5	2	Ton	2" ACHM Surface Course (PG70-22)	
	<u>Fifty</u> amount written in words	dollars	(\$ <u>50.00</u>)/TON in figures	\$ <u>100.00</u> . in figures
6	108	Lin Ft	18" R. C. Pipe Culvert (Class 3)	
	<u>Forty Five</u> amount written in words	dollars	(\$ <u>45.00</u>)/LF in figures	\$ <u>4,860.00</u> . in figures
7	9	Cu Yd	Selected Pipe and Conduit Bedding	
	<u>Twenty</u> amount written in words	dollars	(\$ <u>20.00</u>)/CY in figures	\$ <u>180.00</u> . in figures
8	25	Cu Yd	Selected Pipe Backfill	
	<u>Twenty</u> amount written in words	dollars	(\$ <u>20.00</u>)/CY in figures	\$ <u>500.00</u> . in figures
9	12	Cu Yd	Class A Concrete	
	<u>Three Hundred Fifty</u> amount written in words	dollars	(\$ <u>350.00</u>)/CY in figures	\$ <u>4,200.00</u> . in figures

Downtown Dickson Enhancement Project

10/2002

10 1,165 Lb Reinforcement Steel - Roadway (GR 60)

Zero Dollars and Seventy Cents dollars (\$ 0.70)/LB \$ 815.50
 amount written in words in figures in figures

11 17 Each Inlet Trench Frame and Grate (3 Foot Length)

Seven Hundred ^{S.C.} dollars (\$ 700)/EA \$ 11,900
~~Seven Hundred Eighty~~ amount written in words in figures in figures

12 1 Each Inlet Trench Frame and Grate (1.5 Foot Length)

Three Hundred Ninety dollars (\$ 390)/EA \$ 390
 amount written in words in figures in figures

13 2 Each Manhole Ring and Cover

One Hundred Eighty dollars (\$ 180.00)/EA \$ 360.00
 amount written in words in figures in figures

Subtract the following work from the Base Bid to complete Change Order #4A:

14 23 SY 6" High Early Strength Concrete Paving

Forty One dollars (\$ 41.00)/EA \$ 943.00
 amount written in words in figures in figures

15 10 LF Brick Seat Wall

One Hundred Twenty dollars (\$ 120.00)/EA \$ 1200.00
 amount written in words in figures in figures

Quantities are not guaranteed. Final payment will be based on actual quantities.

22,302 ^{S.C.}
 TOTAL BID FOR CHANGE ORDER #4A..... \$ 63,742 ^(Add)

Township Builders

C. 11. Page 14

Downtown Dickson Enhancement Project

10/2002

The Bidder shall state the price bid in words and figures (written in ink or typed) for each pay item, and the total bid. In case of conflict between words and figures, the words, unless obviously incorrect, shall govern.

Bidder understands that the Owner reserves the right to award the total project, or to reject any or all bids and to waive any formalities in the bidding.

Bidder agrees that this Bid shall be good and will not be withdrawn for a period of 90 calendar days after the scheduled closing time for receiving bids.

Respectfully submitted,

Township Builders Inc.
Firm Name

Spence Churchill - President
By

P.O. Box 7252
Address

Little Rock, Ark. 72217
City, State

11-5-02

- Note : 1) We request that we be able to close the road (when necessary) to do this extra work.
- 2) We request that 21 calendar days be added to the contract time to allow for ordering the materials, delivery of the materials and performing the work.

Spence Churchill

Downtown Dickson Enhancement Project

10/2002

Downtown Dickson Enhancement Project

Change Order #4B

Add the following work to the Base Bid to complete Change Order #4B:

Item No.	Estimated Quantity	Unit	Description of Item and Unit Price Bid	Total Amount
1	120 <i>Eighty Five</i> Amount written in words	CY <i>S.C.</i>	Washed Rock Drainage Backfill <i>85⁰⁰ S.C.</i> dollars (\$ <i>85⁰⁰</i>)/EA <i>in figures</i>	<i>10200 S.C.</i> \$ <i>11400</i> <i>in figures</i>
2	120 <i>Thirty</i> <i>amount written in words</i>	Lin Ft	30" C.P. Pipe Culvert dollars (\$ <i>30⁰⁰</i>)/LF <i>in figures</i>	\$ <i>3600</i> <i>in figures</i>
3	30 <i>Twenty</i> <i>amount written in words</i>	Cu Yd	Selected Pipe and Conduit Bedding dollars (\$ <i>20.00</i>)/CY <i>in figures</i>	\$ <i>600.00</i> <i>in figures</i>
4	3 <i>Three Hundred Fifty</i> <i>amount written in words</i>	Cu Yd	Class A Concrete dollars (\$ <i>350.00</i>)/CY <i>in figures</i>	\$ <i>1,050.00</i> <i>in figures</i>
5	350 <i>Zero Dollars and Seventy Cents</i> <i>amount written in words</i>	Lb	Reinforcement Steel - Roadway (GR 60) dollars (\$ <i>0.70</i>)/LB <i>in figures</i>	\$ <i>245.00</i> <i>in figures</i>
6	1 <i>One Hundred Eighty</i> <i>amount written in words</i>	Each	Manhole Ring and Cover dollars (\$ <i>180.00</i>)/EA <i>in figures</i>	\$ <i>180.00</i> <i>in figures</i>

Quantities are not guaranteed. Final payment will be based on actual quantities.

15875⁰⁰ S.C.

TOTAL BID FOR CHANGE ORDER #4B..... \$ *17075⁰⁰ (Add)*

1 Township Builders

C. 11. Page 16

Downtown Dickson Enhancement Project

10/2002

The Bidder shall state the price bid in words and figures (written in ink or typed) for each pay item, and the total bid. In case of conflict between words and figures, the words, unless obviously incorrect, shall govern.

Bidder understands that the Owner reserves the right to award the total project, or to reject any or all bids and to waive any formalities in the bidding.

Bidder agrees that this Bid shall be good and will not be withdrawn for a period of 90 calendar days after the scheduled closing time for receiving bids.

Respectfully submitted,

Township Builders, Inc.
Firm Name

Spencer Churchill - President
By

P.O. box 7252
Address

Little Rock AR 72217
City, State

11-5-02

Note: We request that 21 calendar days be added to the contract time to allow for this extra work which will go slow due to the unknowns and having to do most of the work by hand.

Spencer Churchill

CHANGE ORDER

No. ~~11~~ 66 S.C.DATE OF ISSUANCE October 30, 2002EFFECTIVE DATE October 30, 2002

OWNER City Of Fayetteville
 CONTRACTOR Township Builders, Inc.
 Contract Downtown Dickson Enhancement Project
 Project: Downtown Dickson Enhancement Project
 OWNER's Contract No. 838
 ENGINEER Alkins Benton - Arkansas

ENGINEER's Contract No. 119804300

You are directed to make the following changes in the Contract Document:
 Description:

Change the quantity for bid item #37 "BRICK PAVERS" from 13,099 square feet to 27,500 square feet. This will result in an increase to the contract amount equal to \$164,044.00- 147,010.50 * S.C.

Change the quantity for bid item #12 "AGGREGATE BASE COURSE (CLASS 7)" from 1,369 tons to 1,825 tons. This will result in an increase to the contract amount equal to \$10,032.00.

Total increase for this change order: \$164,044.00- 157,042.50 * S.C.

Reason for Change Order:

Error in quantity shown on bid form in the contract documents for bid items 12 and 37.

Attachments: (List documents supporting change)

RECOMMENDED:

APPROVED:

ACCEPTED:

By: _____ By: _____
 ENGINEER (Authorized Signature) OWNER (Authorized Signature)

By: Spence Churchill
 CONTRACTOR (Authorized Signature)

Date: _____ Date: _____ Date: 11-5-02

ETCDC 1910-8-B (1996 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specifications Institute.

Note: 1) We request that 60 calendar days be added to the contract for this additional work.

Spence Churchill

* 2) \$0.50 / s.f. can be deducted from our unit price for the additional 14,001 s.f. of "brick pavers" due to the large increase in quantity.

Spence Churchill

STAFF REVIEW FORM

City Clerk
C.12. Page 1

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF November 19, 2002 MAYOR'S APPROVAL _____

FROM:

Kit Williams

Name

Legal

Division

City Attorney

Department

ACTION REQUIRED An Ordinance to Repeal §31.30 (E) (1) Of The Code Of Fayetteville and
Replace It With A New §31.30 (E) (1)

COST TO CITY:

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used to Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget 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

Department Director

Date

Administrative Services Director

Date

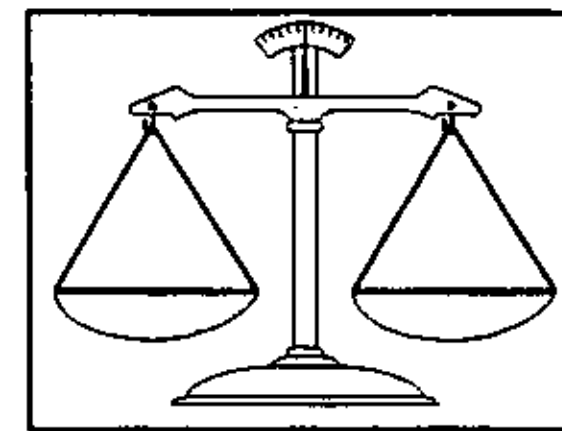
Mayor

Date

New Item: Yes No

Previous Ordinance/Resolution No.: _____

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor
City Council

FROM: Kit Williams, City Attorney

A handwritten signature in dark ink, appearing to read 'Kit Williams', followed by a long horizontal line extending to the right.

DATE: November 8, 2002

RE: Salary for City Clerk

The Fayetteville City Clerk performs many crucial responsibilities for our government and city. The Clerk is the chief election officer ensuring that multimillion dollar elections (\$125 million dollar sewer bond election, 12 million dollar annual sales tax election, etc.) are conducted properly with all legally necessary notifications and publications properly completed. Lack of competence by our City Clerk could invalidate or call into question these million dollar decisions.

Our Fayetteville City Clerk serves as a member of both Fire Pension Board and Police Pension Board which both oversee investments and pension responsibilities in excess of ten million dollars. The Clerk is also the statutorily appointed secretary for these boards and regularly prepares the pension lists for all the retired police and firefighters and/or their survivors.

As you know the City Clerk keeps accurate minutes of all your meetings as well as original copies of all ordinances and resolutions you pass. She witnesses the Mayor's signature on all ordinances, resolutions and contracts.

The bottom line is that her responsibilities justify a base line salary of at least \$45,000.00.

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL §31.30 (E) (1) OF THE CODE OF FAYETTEVILLE AND REPLACE IT WITH A NEW §31.30 (E) (1)

WHEREAS, the Fayetteville City Clerk position's salary in our current Pay Plan is 39.8% below the Average Market according to the last Hay Plan findings; and

WHEREAS, the Fayetteville City Clerk as an elected office holder has many substantial and important duties including elections, bond issuances, and records maintenance, pension board responsibilities, City Council meeting minutes and vote records; and

WHEREAS, the City Council should set a base level salary for the elected City Clerk as it did last year for City Attorney.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals §31.30 (E) (1) of the Code of Fayetteville and replaces it with a new §31.30 (E) (1) as stated below:

"§31.30 (E) (1) Salary for a newly elected or appointed City Clerk shall be \$45,000.00. (The annual salary for a currently serving City Clerk shall be at least \$45,000.00 annually as a beginning salary level.)"

PASSED and APPROVED this the 19th day of November, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

City Attorney
C. 13. Page 1

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF November 19, 2002 MAYOR'S APPROVAL _____

FROM:

Kit Williams

Name

Legal

Division

City Attorney

Department

ACTION REQUIRED An Ordinance to Repeal §31.45 (G) (1) Of The Code Of Fayetteville and
Adding a Revised §31.45 (G) (1) In Its Stead

COST TO CITY:

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used to Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget 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

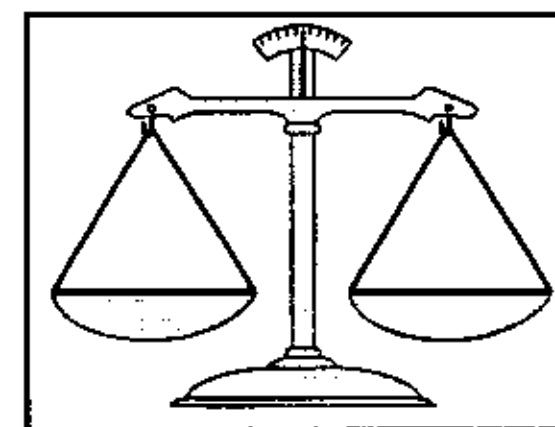
Mayor

Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

DATE: **November 8, 2002**

RE: **Ordinance concerning City Attorney salary level**

As you remember, on January 16, 2002 prior to interviewing City Attorney applicants, the City Council set the beginning annual salary for the to-be-appointed City Attorney at \$65,000.00. Alderman Reynolds had requested the City Council to consider \$69,000.00 and Alderman Davis stated they wanted to leave it around \$65,000.00, but with the option to negotiate depending upon the applicant's experience. However, the beginning salary was set prior to the interviews at \$65,000.00. (Attached are pages 21 and 22 of the minutes showing these discussions and the decision.)

I believe your decision should be codified into the Fayetteville Code of Ordinances and made applicable to any newly appointed or elected City Attorney.

Although my current salary is about \$10,000.00 less than midpoint for the Average Market salary for a City Attorney according to the Hay Group study, I am happy to serve my hometown under the terms the City Council decided upon prior to my selection. I would like to thank the City Council and Mayor Coody for giving me the wonderful opportunity to serve Fayetteville. It is very rewarding personally to assist you where I can in your efforts to enhance and protect the quality of life for our citizens.

City Council Minutes
January 16, 2001
Page 21

information. However, he knew of no legal compunction or any bad thing that would happen to them if they did not.

Alderman Reynolds stated he would like for them to consider the figure of \$69,000 for a City Attorney. They had a municipal judge which worked part time that made \$65,000. He thought an eight to five attorney would respectfully earn \$69,000.

Mr. Rose stated he started out at \$50,000 per year. He thought that would a good job, coming from the Attorney General's office. He had come in at the bottom twelve years ago. He only reminded them that the scale was there independently of him or anyone else. The scale had not been made up out of thin air. It went to other city's and determined what other cities were getting their City Attorney for.

Alderman Santos stated this session was Council meeting chaired by the Mayor and not a Nominating Committee meeting.

Mr. Rose replied it was a City Council meeting in executive session.

Mr. Estes asked if it was a correct understanding that the salary for this interim position would be \$65,000.

Mayor Coody asked if they should determine a number before they went into executive session.

Mr. Rose replied it was dealers choice. They were breaking new ground here. They needed to decide what they wanted to do.

Alderman Davis stated they had indicated that they wanted to leave it around \$65,000, then they could negotiate, depending on the experience they had.

Alderman Santos moved to set the salary at \$65,000. Alderman Thiel seconded the motion.

Alderman Young asked Mr. Rose if he was topped out under the Hay Plan.

Mr. Rose replied yes. He added the nice thing about the Hay Plan was that it was revised very two years. So ever two years he could move out from under that ceiling.

Mayor Coody stated there was a motion to set the salary at \$65,000.

Upon roll call the motion passed by a vote of 5-3. Reynolds, Davis, Trumbo voting nay.

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL §31.45 (G) (1) OF THE CODE OF
FAYETTEVILLE AND ADDING A REVISED §31.45 (G) (1) IN ITS STEAD

WHEREAS, on January 16, 2001, the City Council established by Resolution the starting salary of a newly appointed City Attorney at \$65,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals §31.45 (G) (1) of the Code of Fayetteville and replaces it with a new §31.45 (G) (1) as stated below:

“§31.45 (G) (1) Salary for a newly elected or appointed City Attorney is established at \$65,000.00.”

PASSED and APPROVED this the 19th day of November, 2002.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

**FINAL AGENDA
CITY COUNCIL
NOVEMBER 19, 2002**

A meeting of the Fayetteville City Council will be held on November 19, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES**
2. **ELEVATOR:** Resolution awarding Bid 02-66 in the amount of \$26,246 to ThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.
3. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.
4. **CROSSLAND CONSTRUCTION:** A resolution approving Change Order #5 to the contract with Crossland Construction Company, Inc. in the amount of \$402,895.84. to purchase and install exterior cladding for the New Fayetteville Public Library.

B. OLD BUSINESS

1. **MARTIN LUTHER KING, JR. STREET:** A resolution to designate 6th Street as honorary Martin Luther King, Jr. Boulevard. The resolution was tabled at the November 5, 2002 meeting.
2. **CRYSTAL SPRINGS:** A resolution to amend Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road. The resolution was tabled at the November 5, 2002 meeting.
3. **PLANNED ZONING DISTRICT:** An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.

4. **REPLACEMENT FUND:** An ordinance repealing Ordinance No. 1085 and establishing a replacement and disaster recovery fund. The ordinance was left on the 1st reading at the November 5, 2002 meetings.

C. NEW BUSINESS

1. **VA 02-12.00 and 02-13.00:** An ordinance approving vacation request VA 02-12.00 and 02-13.00 as submitted by Greg House for property located at southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement.
2. **RZN 02-34.00:** An ordinance approving rezoning request RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.8 acres. The request is to rezone to R-1, Low Density Residential.
3. **RZN 02-35.00:** An ordinance approving rezoning request RZN 02-35.00 as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone the property to RS, Residential Small Lot.
4. **RZN 02-37.00:** An ordinance approving rezoning request RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.
5. **RZN 02-38.00:** An ordinance approving RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.
6. **LED TRAFFIC SIGNAL BID WAIVER:** An ordinance waiving the requirements of formal competitive bidding for the purchase of LED traffic signal lenses from Temple, Inc. and declaring an emergency.
7. **LED TRAFFIC SIGNAL LENSES:** A resolution approving the purchase of LED traffic signal lenses from Temple, Inc. in the amount of \$58,003.87 and approving a budget adjustment in the amount of \$58,004.00 for same.

8. **IMPACT FEES:** An ordinance enacting impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within the service areas located within Washington County and other incorporated cities.
9. **OLD MISSOURI ROAD:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by JTK Trust, James T. Keenan and James F. Keenan, trustees, to secure the necessary easements and rights-of-way for Old Missouri Road improvements.
10. **YOUTH ADVOCACY COMMITTEE:** An ordinance reorganizing the Youth Advocacy Board.
11. **TOWNSHIP BUILDERS:** A resolution approving Change Order no. 4 to the construction contract with Township Builders for Dickson Street Enhancement Project, in the amount of \$195,300, additional funds for the in-house construction management in the amount of \$74,700; and the related budget adjustment in the amount of \$270,000.
12. **CITY CLERK:** An ordinance repealing and replacing Section 31.30 (E) of the Code of Fayetteville regarding the salary for the City Clerk.
13. **CITY ATTORNEY:** An ordinance repealing and replacing Section 31.45 (G) (1) regarding the salary for the City Attorney.
14. **ELECTION PROCEDURE:** An ordinance repealing Section 32.01, Election Procedure, of the Code of Fayetteville and enacting a new Section 32.01 to provide for the election at large of all Position 1 Aldermen and the election by Closed Ward for all Position 2 Aldermen.

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
OCTOBER 15, 2002**

A meeting of the Fayetteville City Council was held on October 15, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Young, Marr, Bechard, Davis, Santos, Jordan, Reynolds, and Thiel, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

CONSENT

APPROVAL OF THE MINUTES

MOBLEY CONSTRUCTION: A resolution awarding a construction contract in the amount of \$148,180.00 to Mobley Contractors for the "City-wide Sidewalk Construction" project.

RESOLUTION 154-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CLEVELAND STREET IMPROVEMENTS: A resolution approving a construction contract in the amount of \$1,090,270.00 with Township Builders for Cleveland Street Improvement Project (Hall to Leverett); a 10% project contingency in the amount of \$109,027.00; and the related budget adjustment.

RESOLUTION 155-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CLEVELAND STREET: A resolution approving Amendment #3 to the engineering contract with Crafton, Tull and Associates, Inc. for Cleveland Street Improvements Project (Hall to Leverett) in the amount of \$71,301.69.

RESOLUTION 156-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RIGHT-OF-WAY PURCHASE: A resolution approving a right-of-way purchase from the Arkansas and Missouri Rail Road Company for right-of-way on the west side of Gregg Avenue from Poplar Street to approximately Spruce Street and the approval of a budget adjustment.

RESOLUTION 157-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD MISSOURI ROAD: A resolution approving an engineering contract amendment number two with Garver Engineers in the amount of \$13,698 to the existing engineering

services contract for design and construction management for the Old Missouri Road project.

RESOLUTION 158-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SKYLAR PLACE ADDITION: A resolution to accept money in lieu as park land requirement of the Skylar Place Addition.

RESOLUTION 159-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CORNERSTONE APARTMENTS: A resolution to accept money in lieu as the park land requirement of the Cornerstone Apartments Phase II.

RESOLUTION 160-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LOPFI BENEFITS: A resolution authorizing the transfer of the sworn officers of the Fayetteville Fire Department for LOPFI Benefit Plan #1 to LOPFI Benefit Plan #2, effective January 1, 2003.

RESOLUTION 161-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FBO HANGAR: A resolution approving a construction contract in the amount of \$634,000.00 with Crossland Construction, Inc. for construction of FBO Hangar; a 10 % contingency; acceptance of a grant from the Arkansas Aeronautics Commission in the amount of \$200,000.00 and approval of a budget adjustment.

RESOLUTION 162-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOUTH HANGAR APRON: A resolution approving a construction contract in the amount \$616,207.70 with Tomlinson Asphalt, Inc. for construction of Aircraft Hangar Apron Complex; a 10% contingency and approval of a budget adjustment.

RESOLUTION 163-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Jordan moved to approve the consent agenda. Alderman Marr seconded. The motion carried unanimously.

OLD BUSINESS

RZN 02-23.00: An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Kelson of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential. The ordinance was tabled on the first reading at the September 17, 2002 meeting. Left on table at the October 1, 2002 meeting.

Alderman Davis moved to take the item off the table. Alderman Reynolds seconded. The motion carried unanimously.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Young seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Kim Fugitt, Lindsey Management Company, stated the property was east of 540 and north of Old Farmington Road. They were asking for some of the property to be rezoned to Multi-family residential. The rest of the property they want to have remain as commercial. The property had been zoned prior to the service road being changed to a one lane road. This change has had a negative affect on the property becoming commercial. Common planning practices would have a transition zone from commercial areas to residential areas. In this area they had no transition or buffer between the C-1 and the R-1 zone. When this proposal was brought forward they had staff approval as well as an unanimous approval by the Planning Commission. They were wanting to leave six and a half acres commercial in the hopes that the apartments would lend itself to developing it over time. There are still a lot of opportunities for commercial development along Sixth Street.

Alderman Reynolds stated this property had been purchased by National Home Center. They had done a traffic study and could not warrant putting in a home center there with only one-way traffic. He thought that until they got more citizens out there to support more business they were going to have problems in that area. He thought that the area needed more pedestrians and traffic to support better commercial property.

Alderman Thiel stated they were starting to see a major overhaul at the old IGA shopping center and a new Hampton Inn. Development was starting west of the new Walmart. She felt the area was just now starting to become revitalized

ORDINANCE 4424 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

In response to questions, Mr. Conklin stated the 2020 Plan had a policy on Commercial Nodes and did not encourage strip commercial type zoning or arterial corridors. They have created commercial nodes. They have created commercial nodes around the interchanges at I-540. He was surprised at how slow development has been with regard to development of this corridor and north at Wedington Drive. The hotels and restaurants were providing a regional type commercial use for people traveling in and out of Fayetteville. He was not sure that the commercial zoning in this area needed to be preserved. The commercial areas were already going other places in Fayetteville, based on the three existing shopping centers that were having a very difficult time surviving over the last five to eight years.

Alderman Marr stated at first he was not in support of this because he did not want to encourage growth and create a college on Hwy 62, but he did think that it was important

to have mixed use and to bring residential and commercial together to encourage further development. He thought the city needed to be very careful about rezoning very valuable commercial land in their city that could add to their tax base when they really only have three major exchanges off I-540.

Alderman Davis stated Hwy 62 and I-540 was a very large intersection and it was going to have more traffic. I see this area being rejuvenated. The life and blood of this city is sales tax revenue, it is not property tax. They should not look at this day, but they need to look out five, ten or fifteen years into the future. Other cities have one-way traffic next to expressways and it seems to work in those communities. They are looking at three hundred and twelve apartments at this location. Currently, this council has already approved approximately fifteen hundred apartment units this year. He is pro-business, but he is also looking out for what is best for the city. We have a new sewer going in on the west side of town. We could run into problems with the State of Oklahoma, they might not be able to go on line when they need to, which means that they could have problems with sewer hook ups in future. When people look for a city, to locate a business here they do not look at the number of rental units, they look at the number of R-1 residents, with an income base to determine if they want to come to Fayetteville. He did not want to use those sewer hook ups on apartments he would rather use them for residential development, R-1, single family. Those people would have good jobs and be here for years to come because they have an investment in the community. A tenant is only buying time.

Alderman Young asked Mr. Conklin when was it a good time to start diversifying and getting into mixed use.

Mr. Conklin stated this year they had seen a number of rezonings from Light Industrial/Heavy Commercial to residential. Based on that, there seemed to be a need for additional units. He has also been trying to regulate the number of people within single family homes within some neighborhoods and the pressure they faced as a city with the University trying to expand. His staff has been recommended the type of rezonings which would help provide housing close to the University. They did have an opportunity to provide more residential development on the east side of the bypass, he thought that when they had those opportunities and when they looked at the commercial that they had here, they had an opportunity to provide housing closer to the inner city and the university. He thought that this could be a good thing. He was aware of the issue in regard to the sales tax revenue. The City Council has played a big part in making sure that they had a regional commercial center to the north, CMN Business Park. This was a policy of their General Plan. They also had a policy to encourage regional commercial uses. He thought they could do both within Fayetteville. They were seeing a tremendous amount of pressure for residential and where to do appropriate infill development. He thought that this met their general goals and objectives and provides an opportunity to provide some housing on this side of the bypass.

Alderman Bechard stated, as a percentage of the residential area in the City of Fayetteville, we have a significantly high share of apartments in Fayetteville, almost

twice that of Bentonville and other areas. He is concerned about this. He did not think that wanted to base their foundation of their City in that type of balance. From a service point, from a police stand point, the type of residential that cost the most is apartments. They passed a rezoning along Persimmon a couple of weeks ago, and there are not any homes up yet. There will only be three to four homes nine months from now. The impact of that development to the city has not occurred yet. When they approve projects like a three hundred and twelve apartment complex, they would have three hundred sewer hook ups in nine months. The impact to their sewage system and the rest of their city would be a lot sooner, than if they had homes. They needed to look at the impact at least three years from now. The tax base is also a major concern. I-540 is a major artery. They should go out and find how to fill that space to improve their tax base. They may need to seek out the type of businesses that would improve their quality of life and improve their tax base.

Alderman Jordan stated he was concerned about the increased traffic in the area around the existing school. He thought that they had created these nodes for future tax base.

Alderman Santos stated he thought this was a good development. This was an example of the type of good mixed used developments that they need. The people who live there could walk or ride to school and to the University. When they set the commercial nodes, they did not know how big they needed to be. They just knew that this was a major intersection and that this was where commercial developments were going to be attracted by the road access. This area has been a failing commercial area for a long time. It was still failing and under used. If they were to put these units in they might be able to provide some customers for this area.

In response to questions, Mr. Beotcher stated they had a Capital Improvement Project planned which would align Sang and Hollywood. As soon as they completed the right-of-way acquisition they would be ready to bid the project.

Mr. Kim Fugitt stated every establishment they had mentioned was on Sixth Street or on a street that had two way streets. There had been absolutely no new development occurring north of Sixth Street, with the exception of one, but they were developing their own access off Sixth Street. He thought a commercial development would create as much of a traffic problem as a residential development.

Alderman Davis stated he could see this area being a designation type of development. They would love to have a stadium type theater here. He thought the city should go out and look for these types of people to fill this type of land. If they brought in the right type of business, he really thought it would work. Lindsey has apartments at every intersection. The Mayor had stated that he would like to see Fayetteville look like it does in Rogers where they could see a very attractive office complex or other things of that nature.

Ms. Marsha Beard, an area resident, stated she owned seventy-two units in town. To her all of Lindsey's units looked alike. The main comment that she would get from her

tenants was that her apartments did not all look the same. She was concerned about all of the sewer counts. If they were to use all of the hook ups on all of these big projects, what would happen to the people who wanted to build smaller units. She thought they needed to take that into account.

Alderman Santos moved to suspend the rule and go to the third and final reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody stated he was concerned that after they have driven through cities with apartment after apartment on their major thoroughfare, it makes it look like the community is more of a bedroom community than it is a business community. That was one thing he was concerned about how they appeared to the outside world when people drive through. At the same time the other argument was that if their Planning Staff thought this was good planning and the Planning Commission approved this 8-0, that carried strong weight. He would be very disappointed if they were to see their opportunity on 540, which could be a wonderful commercial area, developed with more and more apartments on it, he thought they would be permanently missing the boat.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 5-4, Bechard, Davis, Jordan, and Thiel voting nay, Mayor Coody voting Yea.

ORDINANCE 4424 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TRAFFIC STUDY

A resolution awarding the engineering and planning services contract for the City of Fayetteville's traffic study to the firm of Bucher, Willis, and Ratliff Corporation in the not-to-exceed amount of \$198,408; approval of an engineering contract contingency in the amount of \$20,000 and approval of a budget adjustment. The resolution was tabled at the September 17, 2002 meeting.

Alderman Santos moved to take the item off the table. Alderman Marr seconded. The motion carried unanimously.

Alderman Davis stated he thought they would be looking at mass transit all along. He thought they may be paying for things that they had already included in the original scope.

Mr. Jim Beavers, City Engineer, stated Swinger had only responded to the scope negotiated with the staff. They had not added any additional items. They had only addressed items that they had specifically asked them to.

Alderman Santos moved to pass the resolution with \$222,388 with the \$20,000 contingency. Alderman Marr seconded.

Alderman Bechard stated that while they were doing this study they should look at how to get the money to do the things the study recommended that we do. He asked Mr. Swinger if this was something that they typically do.

Mr. Swinger stated when they put the original scope together it was in response to the Request for Proposal that came out of the City. They have a whole specialized team that deals with transportation issues.

Mr. Steve Davis stated the City had reauthorized three-quarters of a cent of sales tax for the waste water system improvements. They had one quarter of a cent of sales tax that could support a bond issue. If they wanted to go for a public vote they might consider using that quarter of a cent.

Alderman Davis stated on the last study they had everything with highways and city streets put together and they listed the projects from one to thirty five. What he would like to see them do was to list the highways separately from the city streets. That way they would know what they had the ability to do without having to go to the highway department and get their approval.

Alderman Jordan asked what they were going to do with the plan and how they were going to implement the plan. The plan will only be as good as the people that implement the plan. This was one of the first sets in long range strategic planning for this city. If they did not follow the plan there was no one to blame but themselves.

Alderman Marr stated the city will have to have a sound basis for choosing which project will provide the greatest return for the dollars expended. This would give them a method to do that. It would do it without ignoring parts of their city and the University and historic neighborhoods. He believed that they could be disciplined enough to follow this plan.

Mr. Basam Yada, an area resident, stated he thought the study was important. He recommended that they utilize as much existing information as possible.

Mr. Swinger stated they were going to use all of the available data that they could get their hands on rather than duplicate anything.

Upon roll call the motion passed 7-1, Reynolds voting nay.

RESOLUTION 164-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-27.00

An ordinance approving rezoning request RZN 02-27.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Lenwyn Edens for property located southeast of Wedington Drive and Brooke Lane. The property is zoned A-1, Agricultural and

contains approximately 6.10 acres. The request is to rezone to RMF-6, Low Density residential. The ordinance was left on the first reading at the October 1, 2002 meeting.

Alderman Thiel moved to suspend the rules and move to the second reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Jorgensen stated the request was for the lowest rezoning request that they could make. The reason for the request was to bring it into compliance with it's present use. It is being used as duplexes right now. The owner has the potential to sell the property to Marsha Beard who has units on Betty Jo Drive. This would bring the property into compliance and the property would be cleaned up and the units would be remodeled.

Alderman Davis stated he thought they were making a big improvement here. The units out there need a lot of care.

Mr. Jorgensen stated they had met with the Planning department and thought they had some answers to the Council's questions. There was one unit that was partially burned out, the unit could not be rebuilt until the property was rezoned. Ms. Beard was wanting to rebuild the unit and clean up the existing units. The solid waste department had sent them a letter stating that there had not been any problems in the past with the surface of the road or the ability of their vehicles to collect trash. They did not feel that they would have any problems with the surface of the road.

Alderman Jordan stated he did not have a problem with the existing units, but he would have some problems if anything else went in. It took seven to ten minutes for a fire truck to get out there. He was concerned about the fire protection.

Chief Bosh stated they had talked with Ms. Beard about the placement of a hydrant in the area because they were concerned about water source. They do have response times out there.

In response to questions, Mr. Jorgensen stated there were twenty two units there now. They were looking at adding fourteen more units.

Mr. Conklin stated staff makes recommendations and they follow their ordinance on what it is required for development. They had met with the client and discussed those requirements. They had talked about a hard surface and the ability to turn around. They were comfortable with rebuilding the burned out duplex under the existing conditions. However, they will be subject to all standards and regulations when they develop additional units.

Alderman Bechard stated if they passed this tonight, this would allow them to renovate the burnt out one in the existing conditions.

In response to questions Mr. Conklin stated they would be going through the large scale development process when they build the addition units. At that time all the departments are going to review it, and they will apply their ordinances and look at what is required for apartment complexes. Staff would recommend that they meet the ordinances. There was a question on if she would have to build a city street through this development, she would not have to do that. They did not have minimum asphalt standards for parking lots and private developments. The developers design those with their engineers to make sure that they will work. This six acres is one parcel with the eleven units, they are looking at this as multi-family units. In a multi-family development they are not building standard city streets. They were building parking lots with access aisles.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2, Santos and Jordan voting nay.

ORDINANCE 4425 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

VA 02-8.00

An ordinance approving VA 02-8.00 as submitted by Carole Jones of McClelland Engineers, Inc. on behalf of Ted Belden for property located 485 Vinson Avenue. The request is to vacate a portion of a utility easement.

Mr. Williams read the ordinance.

Ms. Carole Jones stated they had completed all of the water line connections and turned the water back on. The water line and the sewer line has already been abandoned. There are no utilities in the easement now. All of the neighbors are satisfied.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4426 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-28.00

An ordinance approving rezoning request RZN 02-28.00 as submitted by Glenn Carter of Carter Consultants on behalf of Dewayne Provence for property located at 1509 Morningside Drive. The property is zoned R-2, Medium Density Residential and contains approximately 3.34 acres. The request is to rezone to I-1, Heavy Commercial/Light Industrial.

Mr. Williams read the ordinance.

Mr. Carter stated this would allow the owner to build an office building for his existing business.

Alderman Reynolds stated this business employed eighty people. He did a good job in keeping the property clean.

In response to questions, Mr. Conklin stated the office building would have to meet their commercial design standards. There will also be trucks on this site. Commercial design standards would also apply to the landscaping out front and would require that trees be planted and the parking lot landscaped.

Alderman Jordan moved to suspend the rules and move to the second reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and move to the third and final reading. Alderman Santos seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

ORDINANCE 4427 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DEVELOPMENT PLANS AND PERMITS

An ordinance amending Title XV, UDO of the Code of Fayetteville, to provide a date certain for the expiration of approved development plans and permits.

Mr. Williams read the ordinance.

Mr. Conklin stated they were trying to establish some provisions for a time period when they had to begin a project after it was approved by the Planning Commission and what type of actions they had to take. They had some projects that went on for many years. They were proposing a three year time limit. The Planning Commission could grant an extension on the time limits when they were under construction, they could issue a two

year extension. Any conditional uses that had been abandoned for a year were discontinued. All the past approvals and premise will now expire. They were trying to address the plans for undeveloped land and large scale developments that were just sitting down in the Planning division files that had been approved by the Planning Commission years ago.

Alderman Reynolds moved to suspend the rules and move to the second reading. Alderman Marr seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

THE ORDINANCE AS LEFT ON THE SECOND READING.

BID QUOTATIONS

An ordinance to amend Section 34.23 and Section 34.24 of the Code of Fayetteville to change the amount above which quotation bids are required.

Mr. Williams read the ordinance.

Mr. Williams stated this ordinance is a house keeping measure. He thought the City's code should reflect what the State Law required.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Bechard seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

ORDINANCE 4428 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

2002 MILLAGE

An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2002 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mils for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas.

Mr. Williams read the ordinance.

Mr. Steve Davis stated this was normally a routine levy that the city passed every year. This millage levy was different for two reasons. The first was that they had added the millage for the city library that replaced the county library. The other reason that this was different was that on the November ballot there was an item, Amendment 3, which would remove sales tax from food and drugs. This levy needed to be to the County on November 8. Staff was recommending postpone approval of this ordinance until after the election. If amendment 3 is approved, the 2003 impact to the city budget will be approximately between 1.3 and 1.7 million dollars. City Council can levy up to five mils. Each mil brings in approximately \$645,000. They would need 2.1 mils to replace the money lost if Amendment 3 passes. The second year would be a full five mils.

Alderman Marr stated they should look at passing this ordinance, if the Amendment passed, then they could have a special meeting and change the ordinance.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Bechard seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and move to the third and final reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4429 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE TRUCK BID WAIVER

An ordinance waiving the requirements of formal competitive bidding for the purchase of a new 75" aerial ladder fire apparatus from Leeco, Inc. and declaring an emergency.

Alderman Young moved to suspend the rules and add the item to the agenda. Alderman Marr seconded. The motion carried unanimously.

Chief Bosh stated the fire departments only ladder truck had broken down. The repair of the truck was estimated to be \$42,500. The equipment was appraised at \$72,000. They had sent out specs for a new truck which was being presented to them tonight.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and move to the second reading. Alderman Santos seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

Alderman Jordan moved to approve the emergency clause. Alderman Santos seconded. The motion carried unanimously.

ORDINANCE 4430 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE TRUCK

An resolution approving the purchase of a new 75' aerial ladder fire apparatus from Leeco, Inc. in the amount of five hundred one thousand four hundred forty-four dollars and eighty cents (\$501,444.80) and approving a budget adjustment in the amount of sixty-four thousand one hundred forty one dollars (\$61,141.00) for same.

Alderman Davis moved to approve the resolution. Alderman Jordan seconded. The motion carried unanimously.

RESOLUTION 165-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

The meeting adjourned.

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER NUMBER 5 TO THE CONTRACT ENTERED INTO MAY 21, 2002 WITH CROSSLAND CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF FOUR HUNDRED TWO THOUSAND EIGHT HUNDRED NINETY-FIVE DOLLARS AND EIGHTY-FOUR CENTS (\$402,895.84) TO PURCHASE AND INSTALL EXTERIOR CLADDING FOR THE NEW FAYETTEVILLE PUBLIC LIBRARY.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby approves Change Order Number 5 to the contract entered into May 21, 2002 with Crossland Construction Company, Inc. in the amount of Four Hundred Two Thousand Eight Hundred Ninety-Five Dollars and Eighty-Four Cents (\$402,895.84) to purchase and install exterior cladding for the new Fayetteville Public Library. A copy of Change Order Number 5, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 19th day of November, 2002.

APPROVED

By:

DAN GOODY, Mayor

ATTEST:

By:

HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____ (Mayor's Version #2)

A RESOLUTION TO DESIGNATE 6TH STREET
AS MARTIN LUTHER KING, JR. BOULEVARD

WHEREAS, Dr. Martin Luther King, Jr. was a visionary and courageous leader who shined the light of brotherhood and freedom during the dark days of racial segregation in America; and

WHEREAS, Dr. Martin Luther King, Jr. gave his life in the struggle for equality, justice and freedom through non-violent inspirational leadership; and

WHEREAS, it is right and fitting that the City of Fayetteville, as home of the first voluntarily integrated public school system in the South, honor and memorialize Dr. King by designating a major thoroughfare as Martin Luther King Jr. Boulevard.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby designates 6th Street in Fayetteville, Arkansas, as "Martin Luther King Jr. Boulevard" in honor of his contributions and to memorialize Dr. Martin Luther King, Jr.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby requests that the Arkansas Highway Department recognize this memorial designation with appropriate signage on I-540 and the City shall erect appropriate large signs identifying 6th Street as also Martin Luther King, Jr. Boulevard.

PASSED and APPROVED this the 5th day of November, 2002.

APPROVED:

DRAFT

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

Heather Woodruff, City Clerk

RESOLUTION NO. _____

A RESOLUTION TO AMEND RESOLUTION NO. 153-02
TO EXEMPT THAT PORTION OF THE 600 FOOT BUFFER
STRIP NORTH OF CLABBER CREEK LYING WEST OF
DEANE SOLOMON ROAD

WHEREAS, the City Council of the City of Fayetteville adopted the recommendation of the Wilson Springs Business Park Assessment Task Force by Resolution No. 153-02 on October 2, 2002; and

WHEREAS, Recommendation #5 stated that the Task Force "recommends the inclusion of a significant buffer of 'not-to-be-disturbed lands' of at least 600' wide lying north of and parallel to Clabber Creek"; and

WHEREAS, such "not-to-be-disturbed lands" west of Deane Solomon Road blocks the access from Crystal Springs development to Deane Solomon Road; and

WHEREAS, the Fayetteville Planning Commission upon recommendation of the City of Fayetteville Planning Division has for years required the developers of Crystal Springs subdivision to plan for and eventually connect their subdivision to Deane Solomon Road; and

WHEREAS, pursuant to the requirements of the Planning Division and Planning Commission, the developer of Crystal Springs, Phase III, has presented a proposed plat showing the extension of Crystal Drive to intersect through city property that is currently within the 600' buffer zone to Deane Solomon Road with housing lots on both sides.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends Resolution No. 153-02 to exempt that portion of the 600-foot buffer strip north of Clabber Creek lying west of Deane Solomon Road.

PASSED and APPROVED this the 19th day of November, 2002.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

Heather Woodruff, City Clerk

DRAFT

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING FOR THE PURCHASE OF LED TRAFFIC SIGNAL LENSES FROM TEMPLE, INC. AND DECLARING AN EMERGENCY.

WHEREAS, the City of Fayetteville in July 2002, began the replacement of existing conventional traffic signal lenses with high-efficiency LED lenses, which has already saved thousands of dollars in energy costs; and,

WHEREAS, the Arkansas Highway and Transportation Department has now given the City permission to replace additional traffic signal lenses; and,

WHEREAS, the new signals are needed as quickly as possible to ensure adequate traffic safety in the City; and,

WHEREAS, Temple, Inc. has agreed to allow the City to purchase additional lenses at the substantially discounted price of its July 2002 contract; and,

WHEREAS, the City Council finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby waives the requirements of formal competitive bidding for the purchase of LED traffic signal lenses from Temple, Inc.

Section 2. Emergency Clause. That the City Council of the City of Fayetteville, Arkansas, having found that the installation of new traffic signals is essential to provide adequate traffic safety to the citizens of Fayetteville without undue delay, hereby declares this ordinance to be necessary to preserve the public safety, and because of such, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from the date of its passage and approval.

PASSED and APPROVED this 19th day of November, 2002.

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

HEATHER WOODRUFF, City Clerk

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF LED TRAFFIC SIGNAL LENSES FROM TEMPLE, INC. IN THE AMOUNT OF FIFTY-EIGHT THOUSAND THREE DOLLARS AND EIGHTY-SEVEN CENTS (\$58,003.87) AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF FIFTY-EIGHT THOUSAND FOUR DOLLARS (\$58,004.00) FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves the purchase of LED traffic signal lenses from Temple, Inc. in the amount of Fifty-Eight Thousand Three Dollars and Eighty-Seven Cents (\$58,003.87).

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of Fifty-Eight Thousand Four Dollars (\$58,004.00) for same.

PASSED and APPROVED this 19th day of November, 2002

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By:

HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY JTK TRUST, JAMES T. KEENAN AND JAMES F. KEENAN, TRUSTEES, TO SECURE THE NECESSARY EASEMENTS AND RIGHTS-OF-WAY FOR OLD MISSOURI ROAD IMPROVEMENTS.

WHEREAS, the City of Fayetteville desires to commence a street improvement project on a portion of Old Missouri Road; and

WHEREAS, certain portions of land are needed for easements and rights-of way to commence said project; and,

WHEREAS, the owners of these lands have declined to accept the fair market value for these lands, as determined by a professional appraisal; and,

WHEREAS, the City wishes to avoid further delays in the construction schedule for this project.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the City Attorney to file suit forthwith seeking court ordered possession of certain lands owned by JTK Trust, James T. Keenan and James F. Keenan, Trustees, to secure the necessary easements and rights-of-way to commence Old Missouri Road improvements.

PASSED and APPROVED this 19th day of November, 2002.

APPROVED:

By

DAN GOODY, Mayor

ATTEST:

By

HEATHER WOODRUFF, City Clerk

DRAFT

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL §32.01 ELECTION PROCEDURE
OF THE CODE OF FAYETTEVILLE AND ENACT A NEW §32.01
TO PROVIDE FOR THE ELECTION AT LARGE OF ALL
POSITION 1 ALDERMEN AND THE ELECTION BY CLOSED
WARD FOR ALL POSITION 2 ALDERMEN**

WHEREAS, A.C.A. §14-43-307 (b) (2) (B) (ii) provides statutory authority such that the City Council "may provide for the election of one (1) aldermen from each ward citywide and the other aldermen from each ward by the voters of the ward only."

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals §32.01 Election procedures of the Code of Fayetteville and inserts the following in its stead:

"§32.01 Election Procedure.

A. The candidate for alderman, Position 1, of each ward must reside in the Ward, but shall be elected by qualified electors citywide. The names of those candidates shall appear on ballots citywide.

B. The candidate for Aldermen, Position 2, of each ward must reside in the ward and shall be elected only by the qualified electors of the ward from which the person is a candidate. The names of the candidates shall appear upon the ballot only in the ward in which the persons are candidates."

PASSED and APPROVED this the 19th day of November, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and
Board of Aldermen
City of Fayetteville, Arkansas

COPY: Jim Beavers, Bootsie Ackerman, Steve Davis

FROM: Greg Boettcher, P.E. 
Public Works Director

DATE: November 15, 2002

RE: **Downtown Dickson Enhancement Project
Cost Summary Report**

Attached please find a spreadsheet detailing the major construction cost elements of the Downtown Dickson Enhancement Project. This project entered construction with only \$120,273.00 in contingency funds, this 4% of contract amount being well below our practices of 10-15%. To date, the net cost increase has been only \$17,000.00, representing 0.6% of the contract amount.

Due to the marginal construction cost contingency, the major costs associated with the proposed Change Order No. 4 and inspection costs necessitate a budget adjustment. It is recommended that the City Council approve the \$270,000.00 Budget Adjustment to provide a contingency for usual and customary construction issues.

DOWNTOWN DICKSON STREET ENHANCEMENT PROJECT				
FINANCIAL SUMMARY REPORT AS OF NOVEMBER 2002				
PROJECT BUDGET SOURCES	AMOUNTS			
CITY OF FAYETTEVILLE		\$1,238,884.00		
DICKSON STREET IMPROVEMENT DISTRICT		\$300,000.00		
RAZORBACK FOUNDATION		\$30,000.00		
GRANT FUNDING		\$1,500,000.00		
TOTAL		\$3,068,884.00		
PROJECT EXPENSES				
BASE BID CONTRACT TO TOWNSHIP BUILDERS		\$2,848,580.30		
INITIAL CONTINGENCY FUNDS		\$120,273.70		
PROJECT CHANGE ORDERS TO DATE	CHANGE ORDER PURPOSE	AMOUNT AUTHORIZED	AMOUNT USED	
CHANGE ORDER NO. 1	TIME/MATERIALS CHARGES TO RELOCATE SERVICE LINES AND OTHER FACILITIES NOT DENOTED IN CONTRACT SCOPE	\$80,000.00	\$30,000.00	
CHANGE ORDER NO. 2	CONVERT OVERHEAD UTILITY LINES AT INTERSECTION OF CHURCH/DICKSON TO UNDERGROUND	\$13,244.00	\$13,244.00	
CHANGE ORDER NO. 3	ELIMINATE DRAIN PIPING BY CONNECTING LANDSCAPING DRAINS TO STORM SEWER	(\$28,385.00)	(\$28,385.00)	
TOTAL TO DATE		\$46,869.00	\$16,869.00	
CONTINGENCY BALANCE		\$73,414.70	\$103,414.70	
PENDING PROJECT COSTS				
CHANGE ORDER NO. 4		\$185,300.00		
INTERNAL SERVICE CHARGES TO PROJECT		\$74,700.00		
TOTAL		\$270,000.00		
PROJECT FUNDING ALTERNATIVES	AMOUNT OF BUDGET ADJUSTMENT			
FUND THE INCREASED COSTS		\$270,000.00		
FUND AT MINIMUM WITH NO CONTINGENCY		\$198,685.30		
FUND AT SOME INTERMEDIATE LEVEL		???????		
DUE TO ONLY A PORTION OF THE WORK BEING COMPLETED, IT IS RECOMMENDED THAT THE ORIGINAL CONTRACT CONTINGENCY BE PRESERVED TO FACILITATE THE REMAINING PROJECT CONSTRUCTION.				



City of Fayetteville

Solid Waste & Recycling Division

Veteran's Day

Monday, November 11, 2002

The Residential routes for household waste, recycling, and yard waste will run normal schedules. There will be NO change to the residential routes during the week of November 11, through November 15.:

Monday routes will be collected on Monday, November 11.

Tuesday routes will be collected on Tuesday, November 12.

Wednesday routes will be collected on Wednesday, November 13.

Thursday routes will be collected on Thursday, November 14.

There will be no change to the Commercial container and cart routes. They will maintain regular service day(s).

The Solid Waste and Recycling office will be closed for the holiday.

If you have any questions about your solid waste and recycling services, please contact our office on Tuesday, November 12, 2002.

(479) 575-8398

ou always know what's happening in your community and the world.

MORNING NEWS
OGERS BENTONVILLE FAYETTEVILLE

NWAonline.net
ONLINE REGIONAL NEWS SITE

Read the

newspaper

ORDINANCE NO. _____

A ORDINANCE ESTABLISHING AN ADVISORY COMMITTEE
TO BE KNOWN AS THE YOUTH ACTIVITIES COMMITTEE,
SETTING FORTH THE RESPONSIBILITIES OF THE COMMITTEE
THE SELECTION PROCESS FOR MEMBERSHIP; AND
REPEALING ORDINANCES NO. 3875 & 4304.

WHEREAS, the Current Youth Advocacy Committee was formed to address juvenile crime prevention, and as such, now duplicates the efforts of other agencies and councils of City and County government; and,

WHEREAS, the City of Fayetteville, Arkansas desires to foster appreciation and respect for civic involvement and public service among our children and youth.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby establishes an advisory committee, to be known as the Youth Activities Committee, and it shall operate as follows:

- I. **Purpose.** The Youth Activities Committee shall create and sponsor projects and events to give the children and youth of the City of Fayetteville opportunities to provide meaningful service to the City and its inhabitants, and which serve to educate our children and youth about City government.
- II. **Composition.** The Youth Activities Committee shall consist of twelve (12) members as follows:
 - a. One (1) member of the City Council;
 - b. Two (2) parents;
 - c. Three (3) teachers;
 - d. Two (2) at-large members shall be private citizens, who are qualified electors residing in the City of Fayetteville.

- e. Four (4) students, one (1) each from Ramay and Woodland junior high schools, and one (1) each from the East and West campuses of Fayetteville High School.

III. Appointment. The Mayor shall appoint the City Council member to the Committee. The City Council shall appoint all other members (including student members) from those names provided by the Nominating Committee, in the manner set forth at §H(2) of the Rules of Order and Procedure, Fayetteville Mayor/City Council, as may be amended and revised from time to time.

IV. Terms of Office. All teacher and parent members appointed to the Youth Advocacy Committee under the provisions of Ordinance No. 3975 shall serve out the remainder of their present terms. For the purposes of this Ordinance, the initial term for student members shall end on August 31, 2003; for adult members the initial term shall end on August 31, 2004. Thereafter, adult members shall serve two (2) year terms. Students shall serve one (1) year terms. The City Council member shall serve at the discretion of the Mayor.

V. Officers. At the first regularly scheduled committee meeting of each calendar year, the members of the committee shall, by a simple majority, elect from among themselves a Chair and Vice Chair.

VI. Duties of the Chair. The Chair shall preside at all meetings of the committee, and shall inform representatives of the Fayetteville Police Department, the Yvonne Richardson Center, and the Fayetteville Boys and Girls Club of the dates and times of all committee meetings, as well as the projects and events sponsored by the committee.

VII. Meetings. The Youth Activities Committee shall meet at least six (6) times per year to conduct regular business at a time and place that is mutually convenient to the membership. The committee may meet more frequently, as the need shall arise.

VIII. Bylaws, Rules & Regulations. The Youth Activities Committee shall adopt such bylaws, rules, and regulations as are necessary for the conduct of committee meetings and other business.

IX. **Reporting Requirement.** The Youth Activities Committees shall present an annual report to the City Council outlining the projects and events sponsored by the committee during the preceding year.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby repeals Ordinances No. 3875 and 4304 in their entirety.

PASSED AND APPROVED this ____ day of ____, 2002.

APPROVED:

By

DAN GOODY, Mayor

ATTEST:

By

HEATHER WOODRUFF, City Clerk

CITY OF FAYETTEVILLE, ARKANSAS

POLICY AND PROCEDURE

SUBJECT:	Replacement & Disaster Recovery Fund
NUMBER:	GA-5
EFFECTIVE DATE:	December 19, 2002
REVISIONS:	

GA-5.0 PURPOSE:

The purpose of this policy is to provide the guidelines for implementing Ordinance Number _____ titled "AN ORDINANCE REPEALING ORDINANCE NO. 1085 AND ESTABLISHING A REPLACEMENT AND DISASTER RECOVERY FUND" and adopted on November 19, 2002.

I. Establishment of a Disaster Recovery Account in the amount of \$3.0 million dollars. The Accounting Division, Administrative Services Department, City of Fayetteville, Arkansas will establish and maintain a general ledger account entitled Disaster Recovery. The Accounting Division will cause an entry to be made in the amount of \$3.0 million dollars in this account from reserved fund balance. The funds in this account cannot be spent without a specific resolution of the Fayetteville City Council that declares a disaster or emergency and authorizes the expenditure of the moneys in the designated account.

II. The remaining money's (at least \$1,181,665.00) are to be restricted to be used to purchase replacement public safety vehicles for use by the City of Fayetteville Fire Department, Police Department or Animal Services division.

III. An additional use of this fund is to serve as a repository of moneys from the operating divisions funded in General Fund, Street Fund and Parks Development Fund for the purchase of small vehicles and equipment. This policy describes procedures for the purchase, replacement, insurance costs, license fee, repairs and maintenance of items that cost \$10,000 or less currently on the motor pool schedule. These items will be removed from the motor pool schedule. All items meeting this criteria will become the property of the division in possession of the equipment. Fleet operations will no longer charge nor track this equipment through motor pool. The division in possession of this equipment will be responsible for budgeting these items in their operational funds.

GA-5.1 POLICIES & PROCEDURES:

A. Replacement of Equipment:

1. The user Division is responsible for accumulating replacement costs. A replacement expense account will be set up for each division by the Accounting Manager to capture replacement costs. The money recorded in the account, on an annual basis, may be unexpended amounts at the end of the year or a budget

transfer from operations throughout the year. To allow Division Heads a beginning list for maintaining records and schedules, Fleet Operations will provide a listing of equipment indicating purchase price and the projected year of replacement. Stranded capital cost will be left in the Shop Fund and the receiving division will not be billed.

2. When replacing equipment, the Division must follow Purchasing Policy for bid procedures, bid openings, etc. Bid specifications will be cleared through Fleet Operations to maintain consistency and interchangeability. An equipment or fixed asset number will be assigned to each unit for tracking purposes by the Fleet Operations Division. A separate replacement schedule will be developed for each division during the City's annual budget to determine the current year replacement schedule and funding requests.
3. When replacement costs for equipment (that *originally* cost less than \$10,000) exceeds \$10,000, the Division will pay the first \$10,000 and Fleet Operations will pay the difference. The equipment will then be placed on the motor pool schedule and the division will be charged monthly motor pool and replacement costs. Equipment replacement costs that are \$10,000 or less will remain with the division that has possession.
4. Items will not be removed from the vehicle inventory list that Fleet Operations maintains. When a division receives approval to buy an item under \$10,000, they shall phone Fleet Office and get the next available unit number for the item. This will keep all city vehicles and equipment numbered in an organized fashion. This number should be noted on the Purchase Order. For example, if the item is over \$5000, and the unit number is #9079, the fixed asset number in the City's General Ledger will be 709079, as is currently done.

B. Repairs and Maintenance:

1. The Division is responsible for budgeting costs associated with upkeep and repairs of equipment. The costs will be budgeted in the Vehicle & Equipment Maintenance account in the operational budget.
2. Fleet Operations may be used to perform any repairs and maintenance on the equipment. The division will be invoiced by Fleet Operations for the cost of the work performed. The Fleet office should be contacted to schedule the work.
3. The Division may seek outside vendors to perform repairs and maintenance on the equipment. If an outside vendor is chosen, purchasing policy will be followed. Divisions are responsible for performing preventative maintenance services and tracking maintenance through the Municipal Management System (Hansen).

C. Other Costs:

1. Insurance costs and license fees associated with the equipment will be the responsibility of the Division. These costs will be budgeted in the operational budget. The Division is responsible for reporting the equipment to the Purchasing Manager to obtain and keep appropriate insurance coverage and obtain the proper license.

2. Other costs associated with the equipment will be the responsibility of the Division and will be budgeted in the operational budget.

D. Request for Expansion/Replacement Equipment:

1. The Division will complete a Request for Expansion/Replacement Equipment form (Exhibit A, as adapted from the Fleet Operations form requesting new/replacement vehicles/equipment) when equipment is to be added or replaced.
2. The request will be completed and signed by the Division Head and approved by the Department Director, Fleet Operations Superintendent, Budget Manager and Purchasing Manager.
3. The form should clearly state the description and justification of the equipment to be added or replaced.
4. After approvals are obtained, the Division Head will prepare the bid specifications and submit them to the Purchasing Manager.
5. Equipment purchased by a division may be sold/exchanged/transferred to another division. The transferring Division is responsible for completing the required fixed asset transfer forms to move the equipment to the receiving division. The Accounting Division, upon receipt of the fixed asset transfer form, will record the transfer of the asset and prepare the journal entry to record the transfer price to the receiving division. The receiving division will be responsible for adding the transferred equipment to the Hansen system and removing it from its home division.

APPROVAL: _____

Mayor

Date

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER NUMBER 5 TO THE CONTRACT ENTERED INTO MAY 21, 2002 WITH CROSSLAND CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF FOUR HUNDRED TWO THOUSAND EIGHT HUNDRED NINETY-FIVE DOLLARS AND EIGHTY-FOUR CENTS (\$402,895.84) TO PURCHASE AND INSTALL EXTERIOR CLADDING FOR THE NEW FAYETTEVILLE PUBLIC LIBRARY.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby approves Change Order Number 5 to the contract entered into May 21, 2002 with Crossland Construction Company, Inc. in the amount of Four Hundred Two Thousand Eight Hundred Ninety-Five Dollars and Eighty-Four Cents (\$402,895.84) to purchase and install exterior cladding for the new Fayetteville Public Library. A copy of Change Order Number 5, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 19th day of November, 2002.

APPROVED

By: _____

DAN GOODY, Mayor

ATTEST:

By: _____

HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF LED TRAFFIC SIGNAL LENSES FROM TEMPLE, INC. IN THE AMOUNT OF FIFTY-EIGHT THOUSAND THREE DOLLARS AND EIGHTY-SEVEN CENTS (\$58,003.87) AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF FIFTY-EIGHT THOUSAND FOUR DOLLARS (\$58,004.00) FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves the purchase of LED traffic signal lenses from Temple, Inc. in the amount of Fifty-Eight Thousand Three Dollars and Eighty-Seven Cents (\$58,003.87).

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of Fifty-Eight Thousand Four Dollars (\$58,004.00) for same.

PASSED and APPROVED this 19th day of November, 2002.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By:

HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY JTK TRUST, JAMES T. KEENAN AND JAMES F. KEENAN, TRUSTEES, TO SECURE THE NECESSARY EASEMENTS AND RIGHTS-OF-WAY FOR OLD MISSOURI ROAD IMPROVEMENTS.

WHEREAS, the City of Fayetteville desires to commence a street improvement project on a portion of Old Missouri Road; and

WHEREAS, certain portions of land are needed for easements and rights-of way to commence said project; and,

WHEREAS, the owners of these lands have declined to accept the fair market value for these lands, as determined by a professional appraisal; and,

WHEREAS, the City wishes to avoid further delays in the construction schedule for this project.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the City Attorney to file suit forthwith seeking court ordered possession of certain lands owned by JTK Trust, James T. Keenan and James F. Keenan, Trustees, to secure the necessary easements and rights-of-way to commence Old Missouri Road improvements.

PASSED and APPROVED this 19th day of November, 2002.

APPROVED:

By

DAN GOODY, Mayor

ATTEST:

By

HEATHER WOODRUFF, City Clerk

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL §32.01 ELECTION PROCEDURE
OF THE CODE OF FAYETTEVILLE AND ENACT A NEW §32.01
TO PROVIDE FOR THE ELECTION AT LARGE OF ALL
POSITION 1 ALDERMEN AND THE ELECTION BY CLOSED
WARD FOR ALL POSITION 2 ALDERMEN**

WHEREAS, A.C.A. §14-43-307 (b) (2) (B) (ii) provides statutory authority such that the City Council "may provide for the election of one (1) aldermen from each ward citywide and the other aldermen from each ward by the voters of the ward only."

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals §32.01 Election procedures of the Code of Fayetteville and inserts the following in its stead:

"§32.01 Election Procedure.

A. The candidate for alderman, Position 1, of each ward must reside in the Ward, but shall be elected by qualified electors citywide. The names of those candidates shall appear on ballots citywide.

B. The candidate for Aldermen, Position 2, of each ward must reside in the ward and shall be elected only by the qualified electors of the ward from which the person is a candidate. The names of the candidates shall appear upon the ballot only in the ward in which the persons are candidates."

PASSED and APPROVED this the 19th day of November, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

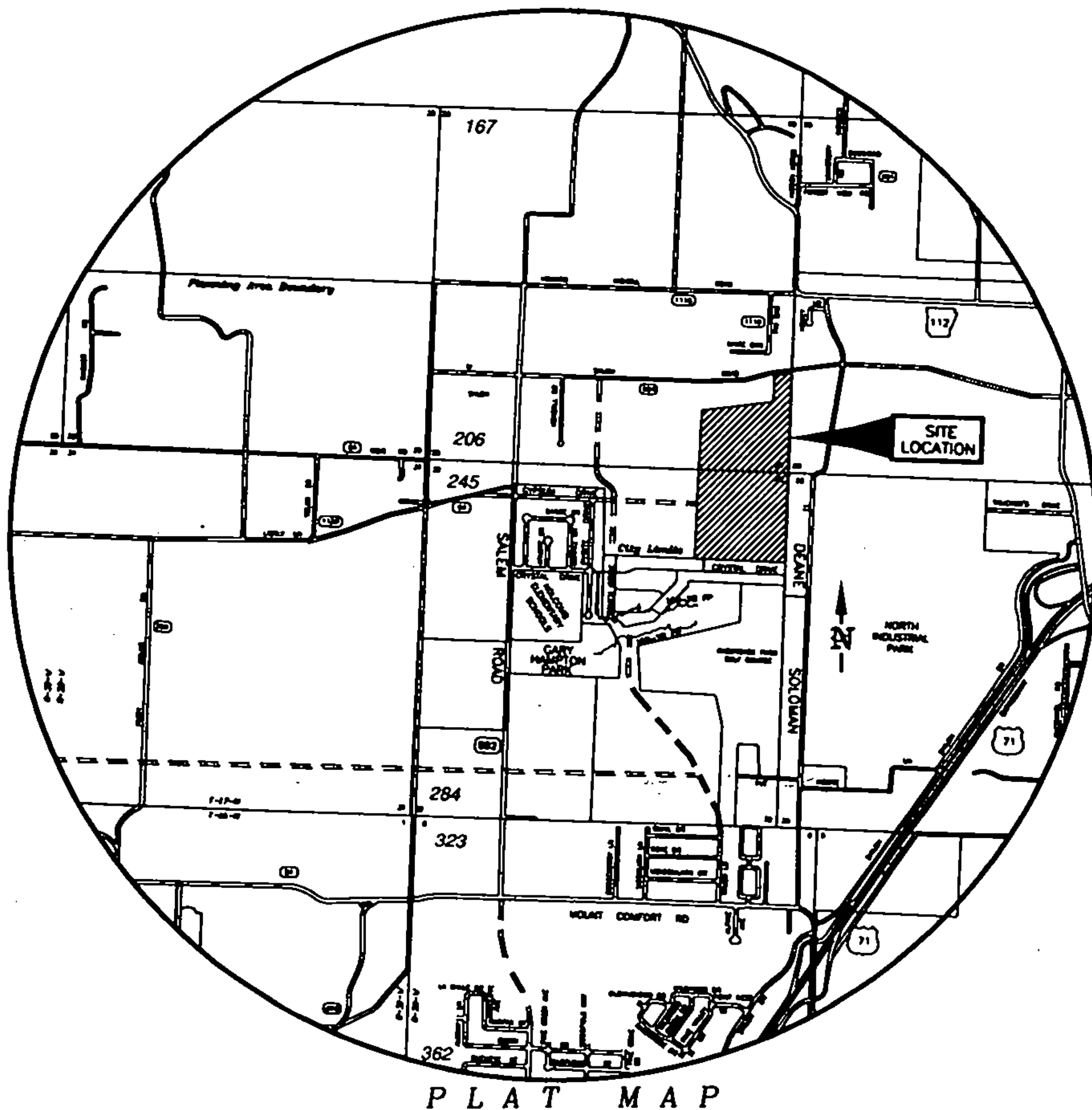
ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT A

BOUNDARY DESCRIPTION

THE NE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 32 AND PART OF THE E $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF SECTION 29, ALL IN T-17-N, R-30-W, THAT PART BEING IN SECTION 29 IS MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SE CORNER OF SAID SECTION 29, THENCE WEST 1320 FEET, MORE OR LESS, TO THE SW CORNER OF THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SAID SECTION 29; THENCE NORTH TO A POINT 384.25 FEET SOUTH OF THE NW CORNER OF THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF THE SAID SECTION 29; THENCE N83°22'18"E 1067.69 FEET; THENCE N02°35'14"E 357.47 FEET TO A POINT 35 FEET, MORE OR LESS SOUTH OF THE CENTERLINE OF COUNTY ROAD No. 894; THENCE NORTHEASTERLY PARALLELING SAID CENTERLINE A DISTANCE OF 268.54 FEET, MORE OR LESS, TO THE EAST LINE OF THE E $\frac{1}{2}$ OF THE SE $\frac{1}{4}$ OF SAID SECTION 29; THENCE SOUTH 1574 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 72.5 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.



Sch legal Annexation

Nov 19, 2002

CRYSTAL
SPRINGS

CC 11/19/02

RECEIVED

NOV 13 2002

PLANNING DIV.

JED DEVELOPMENT, INC.
P. O. Box 1549
Springdale, Arkansas 72765
Phone: 479-751-9591 Fax: 479-756-3325

November 18, 2002

The Honorable Dan Coody, Mayor
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

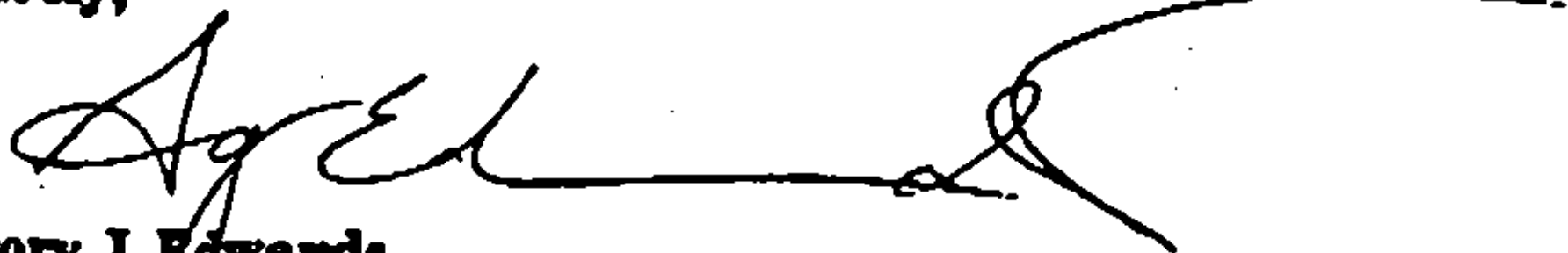
Dear Mayor and Council:

After reviewing my options and talking with Fayetteville City Officials last week, I think I can make Crystal Springs Phase III a profitable development with a fifty percent cost share by the City of Fayetteville for the construction of approximately 270 LF of Crystal Drive across city I-Park property. This will connect Crystal Drive to Deane Solomon Road. This fifty-fifty cost share should include engineering and construction of street, storm drainage, and all public utilities associated with street extension. We would prefer that Milholland Engineering do the engineering so that this extension can be coordinated with Crystal Springs Subdivision. It is understood that the city will grant necessary street right-of-way and other easements.

JED Development will construct water and sewer mains to the east property line of Crystal Springs, and do no street improvements on Deane Solomon Road.

Hopefully this option will be approved by the City as soon as possible because we would like to have construction completed sometime in 2003.

Sincerely,



Gregory J. Edwards

GJE:jo

cc: Milholland Engineering

ODZAIRIK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas



OZARK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas

THE PROJECT

Ozark Adventure is designed to be a family oriented water recreation facility boasting a variety of exciting and fun-filled attractions. Each attraction has its own demographic profile or primary audience, providing entertainment for all members of the family. Wave pools and "lazy rivers" appeal to the widest range of guests, kiddy pools attract the little ones and moms, while waterslides are for the more athletic and adventuresome guest. Support facilities provide necessary services and open additional revenue opportunities. Picnic areas provide space for special events, group outings, along with church and company parties, all representing additional markets and opportunities.



Development Team:

FAMILY RECREATION
AND DEVELOPMENT
CORP.

Project Advisors:

DAVID LEWIS
479.530.1872

JOHN NOCK
479.530.6799

OZARK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas

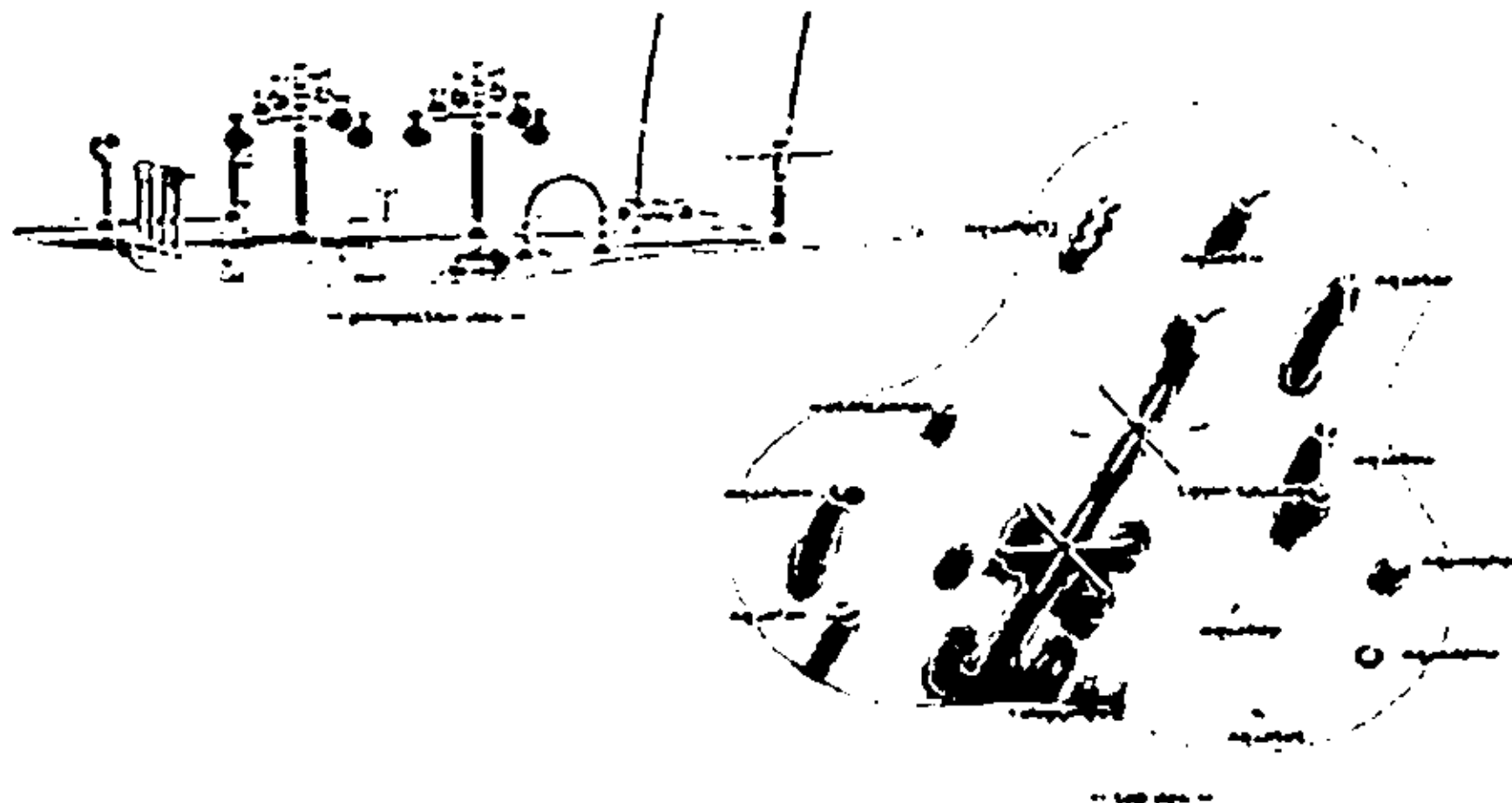
WATERPARK DESCRIPTION

Primary Elements

- 18,000 square foot Wave Pool with a volume of 393,657 gal.
- Large kiddy pool with multiple water elements including fountains, mushrooms, water cannons and tipping buckets.
- Lazy River approximately 750' long and 10' wide containing 179,280 gal.
- Waterslide complex with five slides
 - 40 foot tall tower
 - One 42" wide, 365' long open body flume
 - One 32" wide 277' long closed flume
 - One 42" wide 362' long open flume
 - 20 foot tall tower
 - One 42" wide 128' long open flume
 - One 42" wide 102' lone open flume

Secondary and Supporting Elements

- Two foodservice facilities (a primary unit, backed up by a secondary unit serving soft drinks, snow cones, ice cream or similar products)
- Group picnic area including volleyball and horseshoes
- Bathhouses
- Tube and locker rental
- Gift Shop and Arcade
- Shade structures, lounge furniture and picnic tables



Development Team:

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AND DEVELOPMENT
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OZARK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas

MARKET DEMOGRAPHICS

Northwest Arkansas was selected as the site for Ozark Adventure Waterpark for the following reasons which, when combined, present an outstanding opportunity for success.

- An outstanding population growth rate and an estimated market of 874,000 as defined by the feasibility study. The northwest Arkansas MSA has been defined by the 2000 Census as the sixth fastest growing MSA in the country.
- A very strong economic base with a good standard of living – Strong growth in household income.
- A favorable climate – Temperature and rainfall within acceptable southern norms.
- A strong regional tourism – The NW region is the top tourist destination in Arkansas with a market of over 1.8 million individuals per year.
- A lack of competition – The nearest water parks are located in Tulsa, Hot Springs, Little Rock and Branson, all well outside the market area.
- A long established link between Arkansas and the principals of Family Recreation and Development Company, leading to an appreciation for the Northwest Arkansas's potential for success.

Development Team:

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OZARK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas

BUSINESS STRATEGIES

Marketing Plan Abstract

An effective marketing plan is designed around specific goals and objectives. The primary goal of a waterpark marketing plan is to drive attendance through effective communication with the potential consumer. The description, value and benefits of the product to the consumer must be the focus of all elements of the marketing plan.

The following steps lead to the primary goal of the marketing plan.

- Formulate and coordinate printed material regarding the park.
- Communicate the location of the park.
- Generate an interest and sense of urgency for visiting the park.
- Educate the potential guest on the use of the park.
- Create a lasting impression of quality and value.
- Increase visibility and standing in the market through advertising, publicity, promotions and special events.

In formulating the marketing plan it is beneficial to view the market not as a single entity, but rather an accumulation of smaller semi-distinct segments. This awareness of the local and regional markets allows for the selection of the most efficient tools to reach each market segment and is the key to success. The establishment of a good working partnership with a local advertising agency will aid in the efficient placement of advertising and the creation of effective print materials. The proper coordination of these elements will create an effective and successful marketing program.

The following tools are used in creating a successful marketing program.

- Television and radio advertising
- Newspaper articles and photos
- Billboard and marquees
- Direct mail
- Public relations activities
- Special events targeted at specific market groups
- Educational packages and programs

Development Team:

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AND DEVELOPMENT
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OZARK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas

- Sales promotions, co-op advertising
- Direct sales and telemarketing
- Guest feedback and objective analysis of program results
- Management guidance and budgetary control
- Coordination with operational departments

Market Description and Approach by Category

The distinction between primary, secondary and outer markets is somewhat artificial. Obviously, market segments overlap, television and radio signals cross county lines, people travel in and out of the primary market area and tourists, by definition, are visitors to the core market. These distinctions are important. They provide structure to assist in focusing marketing programs where they are most productive and cost efficient.

I. Primary Market Area

The primary market, as defined in the feasibility study by Theme Park Concepts, Inc., is Washington County. According to Theme Park Concepts, Inc., this market segment should provide an attendance of approximately 36,000 or 18% of the total projected attendance from the resident market and 44,000 or 32% of total projected attendance from the tourist market.

Within the primary market there will be a heavy dependence on electronic media, direct sales and print media designed to acquaint the market segment with the park and bring guest to the gate. A variety of group and direct sales programs will play a substantial role in the primary marketing mix. Corporate partnerships, community involvement and special events will also provide additional sources of attendance.

Additional programs would include billboards, corporate direct mail coupons and web based programs.

Development Team:

FAMILY RECREATION
AND DEVELOPMENT
CORP.

Project Advisors:

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OZARK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas

II. Secondary Market Area

The secondary market is defined by Theme Park Concepts, Inc., as the Northwest Arkansas Region, Ozark Mountain Region, Arkansas River Valley Tri-Peaks Region and the Western Arkansas Mountain Frontier Region. According to Theme Park Concepts, Inc., this segment of the market should provide an attendance of approximately 76,000 or 37% of the total attendance from the resident market and 36,000 or 18% of total attendance for the tourist market. The primary focus will again be on electronic media. Radio, with both cable and broadcast television would be used. Cable TV tends to be significantly less expensive for the coverage and cable systems are frequently open to trade and other forms of partnerships. Direct mail will be used to target business, churches and other groups within the secondary market area.

Billboards, tourist publications, special events and web-based programs will also play a part within the secondary market area.

III. Outer Market Area

The outer market is defined as all other areas not previously identified, or part of the tourist market. According to Theme Park Concepts, Inc., this segment should provide approximately 11,000 or 6% of total attendance from tourism. Attendance from the resident market is negligible. The same media mix, as the secondary market area would be used to cover the outer market. A greater emphasis will be placed on ticket trades and partnerships to acquire the needed exposure. Corporate partnerships and web-based promotions will also be utilized.

IV. Tourism

The tourism component of the projected attendance is approximately 91,000 or about 54% of total attendance. This represents a significant portion of the attendance projections. The State of Arkansas has in place an excellent tourism-marketing program that offers the potential to greatly expand the marketing reach of the waterpark. Opportunities exist to piggyback state marketing co-op participation in state sponsored

Development Team:

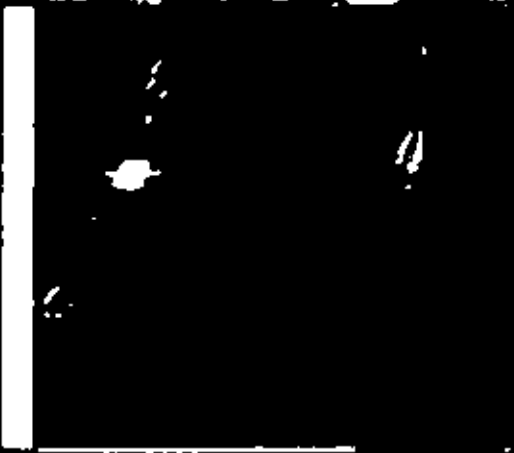
FAMILY RECREATION
AND DEVELOPMENT
CORP.

Project Advisors:

DAVID LEWIS
479.530.1872

JOHN NOCK
479.530.6799





OZARK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas

and subsidized marketing plans. Working in tandem with convention and visitors bureaus will provide excellent opportunities for reaching the tourist. Billboards, tourist publications and other print media provide additional avenues for attracting the tourist. Co-op programs with other attractions along with hotel and motel companies can provide additional exposure to the tourist once they have arrived in the area.

There has been a significant increase in the use of the Internet to shop for travel destinations and plan vacations. All print and electronic media would be tagged with a web site address and contact information. Links to and from other advertising partners will guide individuals to the waterpark web site.

Community Involvement:

It is proposed that The City of Fayetteville will promote the Waterpark as part of the City's Public Park and Recreation facilities.



Development Team:

FAMILY RECREATION
AND DEVELOPMENT
CORP.

Project Advisors:

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OZARK ADVENTURE

A Family Oriented Waterpark, Fayetteville, Arkansas

PROJECT PARTICIPANTS

The planning, development and management of a successful waterpark requires a team of experts well-qualified for the project. The following companies and individuals are involved in the development of Ozark Adventure.

David Lewis and John Nock, Mr. Lewis and Mr. Nock are acting as local business advisors for the proposed waterpark. Their expertise is in the arena of investment banking, business development and project oversight. Lewis and Nock are acting in an advisory role during the planning stages of the project and will further direct in this capacity as required during the operational phase of the project.

Mr. Mike Bala is charged with the responsibility to develop projects from inception through operation. Mr. Bala has over fourteen years of experience with the waterpark and family recreation industry. He will utilize his expertise in park operations and in developing corporate sponsorships and special event management. He is a decorated combat veteran of the U.S. Armed Forces.

Buildings Inc. is a first generation, privately held corporation that has been chosen to act as the general contractor on the Ozark Adventure project. Buildings Inc. is a full service general contractor specializing in a variety of construction capacities including Concrete, Structural Steel, Masonry, and Wood Framed applications.

Pro Parks Inc, of Adamsville, TN. is the slide and kiddy pool elements supplier. In addition, the company will sub-contract the pool design and construction through Memphis Pools. In addition to the equipment, they are supplying design and layout services for the park.

Mr. Ray Bragg is a senior manager within the corporation who brings over thirty years of experience in the management of recreation facilities. He is charged with budget development, staffing, training, and overall park management. Mr. Bragg will provide park layout and design expertise and construction experience. Post-opening, marketing planning and execution and overall park operation will fall under his area of responsibility.

Mr. Jim Harris is a nationally recognized entertainment attorney. Mr. Harris was instrumental in the development and organizational structure of Family Recreation and Development Corporation and serves as legal counsel.

Mr. Christopher Bragg has fifteen years of experience in both the water park and amusement park industry. His expertise includes life guarding, maintenance, foodservice and ticket operations. Mr. Bragg is an Emergency Medical Technician and a Red Cross life guarding instructor, CPR and first aid instructor.

Development Team:

FAMILY RECREATION
AND DEVELOPMENT
CORP.

Project Advisors:

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JOHN NOCK
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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA CITY COUNCIL NOVEMBER 19, 2002

A meeting of the Fayetteville City Council will be held on November 19, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES**
2. **ELEVATOR:** Resolution awarding Bid 02-66 in the amount of 26, 246 to ThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.
3. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.

B. OLD BUSINESS

1. **MARTIN LUTHER KING, JR. STREET:** A resolution to change the name of 6th Street to Martin Luther King, Jr. Street. The resolution was tabled at the November 5, 2002 meeting.
2. **CRYSTAL SPRINGS:** A resolution amending Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road and to authorize the sale of such property. The resolution was tabled at the November 5, 2002 meeting.
3. **PLANNED ZONING DISTRICT:** An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.
4. **REPLACEMENT FUND:** An ordinance repealing Ordinance No. 1085 and establishing a replacement and disaster recovery fund. The ordinance was left on the 1st reading at the November 5, 2002 meetings.

C. NEW BUSINESS

1. **VA 02-12.00 and 02-13.00:** An ordinance approving vacation request VA 02-12.00 and 02-13.00 as submitted by Greg House for property located at southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement.
2. **RZN 02-34.00:** An ordinance approving rezoning request RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.8 acres. The request is to rezone to R-1, Low Density Residential.
3. **RZN 02-35.00:** An ordinance approving rezoning request RZN 02-35.00 as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone the property to RS, Residential Small Lot.
4. **RZN 02-37.00:** An ordinance approving rezoning request RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.
5. **RZN 02-38.00:** An ordinance approving RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.
6. **LED TRAFFIC SIGNAL LENSES:** An ordinance approving a bid waiver and budget adjustment for the purchase of LED traffic signal lenses per prices on Bid No. 02-40, Resolution 109-02 for the period of October 15, 2002 through December 31, 2003 to finish the new traffic signals added to the LED project and purchase LED lenses for future traffic signals installations.

7. **IMPACT FEES:** An ordinance enacting impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within the service areas located within Washington County and other incorporated cities.
8. **OLD MISSOURI ROAD:** An ordinance authorizing the city attorney to seek possession of certain lands located along Old Missouri Road in the City of Fayetteville by the power of eminent domain, in associations with the required right-of-way and easements for the Old Missouri Road improvements. Such property is owned by JTK Trust.
9. **YOUTH ADVOCACY COMMITTEE:** An ordinance reorganizing the Youth Advocacy Board.
10. **CROSSLAND CONSTRUCTION:** A resolution approving a contract adjustment in the amount of \$402,895.84 with Crossland Construction Company for a portion of the exterior cladding material cost including brick, architectural precast concrete and stone. The original contract with Crossland Construction was \$17,633,931.00; the new contract is \$18,040,752.36.
11. **TOWNSHIP BUILDERS:** A resolution approving Change Order no. 4 to the construction contract with Township Builders for Dickson Street Enhancement Project, in the amount of \$195,300, additional funds for the in-house construction management in the amount of \$74,700; and the related budget adjustment in the amount of \$270,000.
12. **CITY CLERK:** An ordinance repealing and replacing Section 31.30 (E) of the Code of Fayetteville regarding the salary for the City Clerk.
13. **CITY ATTORNEY:** An ordinance repealing and replacing Section 31.45 (G) (1) regarding the salary for the City Attorney.
14. **ELECTION PROCEDURE:** An ordinance repealing Section 32.01, Election Procedure, of the Code of Fayetteville and enacting a new Section 32.01 to provide for the election at large of all Position 1 Aldermen and the election by Closed Ward for all Position 2 Aldermen

STAFF REVIEW FORM

Elevator
A. 2. Page 1

XX AGENDA REQUEST

CONTRACT REVIEW

GRANT REVIEW

For the Fayetteville City Council meeting of November 19, 2002

FROM:

Coy Hurd

Building Services

General Services

Name

Division

Department

ACTION REQUIRED:

Accept the bid (and a 5% contingency) for the repair of the freight elevator in the Fayetteville Police Building.

+ approve a contract.

COST TO CITY:

\$26,246

192920

Police Building Improvements

Cost of this Request

Category/Project Budget

Category/Project Name

4470 9470 5400.00

\$15,586

Account Number

Funds Used to Date

Program Name

02047.1

\$177,334

Sales Tax Capital

Project Number

Remaining Balance

Fund

BUDGET REVIEW:

XX

Budgeted Item

Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Margie Farthing
Accounting Manager*10/28/02*
Date*Nancy Smith*
Internal Auditor*10/29/02*
Date*J.P. Whitaker*
City Attorney*10/29/02*
Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION:

C. Hurd
Division Head*Oct 28 02*
Date

Department Director

Date

Steve Davis
Administrative Services Director*Oct 30, 2002*
Date*Dan Coody*
Mayor*10/30/02*
Date

Cross Reference

New Item: Yes No

Prev Ord/Res #:

Orig Contract Date:

Orig Contract Number:

STAFF REVIEW FORM
Page 2

Description: _____

Comments:
Budget Coordinator:

Accounting Manager:

City Attorney:

Purchasing Officer:

ADA Coordinator:

Internal Auditor:

Reference Comments:

12-66
: 10/25/02
: 2:00 PM
OF FAYETTEVILLE

DESCRIPTION: ELEVATOR REPAIR/REBUILD

BIDDER	ITEM ONE
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OTIS ELEVATOR CO

\$28,666.00

JOHN KRUPP ELEVATOR CO

\$24,996.00

Certified by *P. Lisa*
P Vice Purch Mgr

Witness *Eul. M. M. M. M. M.*
Date *10/25/02*

THE CITY OF FAYETTEVILLE, ARKANSAS

MEMORANDUM

TO: Mayor Dan Coody, Members of Fayetteville City Council
FROM: Coy Hurd, Project Manager *[Signature]*
THRU: Gary Dumas, General Services Director
RE: Bid for the repair of the freight elevator in the
Fayetteville Police Department Building
DATE: October 28, 2002

On October 25, 2002, a bid was conducted regarding the needed repair of the freight elevator in the Fayetteville Police Building at 100 West Rock Street. Two companies submitted a bid on that date. The bid submitted by the Otis Elevator Company was \$28,655. The low bid was submitted by the ThyssenKrupp Elevator Company. Their bid was \$24,996. This bid price was inclusive of all costs related to the stated scope of work, including all taxes, fees and permits. The bid of \$24,996 was within the expected range of the cost of this work. We should include a five percent contingency amount to address any possible changes or additions ($\$24,996 \times .05 = \$1,250$; $\$24,996 + \$1,250 = \$26,246$).

It is my recommendation that ThyssenKrupp's bid be accepted, and, that a *Notice to Proceed* be issued to that company to accomplish this work. I remain available to answer any questions or concerns on this matter.

INVITATION TO BID

Elevator
A. 2. Page 5

BID # 02-68	DATE ISSUED: Oct. 9, 2002	DATE AND TIME OF OPENING: Oct. 25th, 2002, at 2:00 p.m.
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BUYER: City of Fayetteville, AR	DATE REQUIRED: 30 days ARO
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F. O. B. Fayetteville, AR	BUYER'S PHONE # (501) 575-8289	GUARANTEED DELIVERY DATE:
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ITEM #	DESCRIPTION	QUANTITY	TOTAL TURNKEY BID
1	Per attached specifications: Furnishing of All Materials, Labor, and Related Items for the: Elevator Rebuild/Repair TOTAL TURNKEY BID: Schedule: Delivery of Jack Casing from factory after excuted contract, 2-3 weeks. Installation of equipment after delivery of equipment to jobsite, 2 1/2 to 3 weeks. 5% bid bond to be submitted with bid 100% performance bond required with successful contract. Terms & Conditions Items 17 through 21 apply. 1. Orginal certificate of insurance is submitted after award of contract. (specimen enclosed) 2. See attached proposal which includes, specifications, completion Schedule and jack information as requested. Note: See special conditions item #1 on Repair Order dated 10/25/02 for hole clause. 3. Jack warranty form attached. Contractor's License No# <u>0022880103</u> RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:	1	(\$24,996.00) \$24,996.00

EXECUTION OF BID

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

UNSIGNED BIDS WILL BE REJECTED	NAME OF FIRM: ThyssenKrupp Elevator Co.	PHONE: (501) 751-0222	FED ID# 62-1211267
	BUSINESS ADDRESS: 5477 S 108th E Ave.	CITY AND STATE: Tulsa OK	
	AUTHORIZED SIGNATURE: 	TITLE: Branch Manager	
	Richard P. Stenger	DATE: 10/25/02	

**SPECIFICATIONS FOR THE REPAIR OF THE FREIGHT ELEVATOR IN THE
POLICE BUILDING (CITY OF FAYETTEVILLE)**

The City of Fayetteville Police Department is requesting bids, with the following specifications, for the repair and restoration of the existing freight elevator in the Police Department Building. The return bid documents should contain, at minimum: specifications on equipment to be installed (along with information on equipment's manufacturer), warranty information, a copy of current liability insurance (\$1,000,000 minimum), and, any other pertinent information for the repair and restoration of the unit. Bid price should account for all labor and materials (with any applicable taxes), and any fees needed to perform and warranty (for a period of one year) the following work:

- Disassemble and remove elevator piston.
- Fabricate new jack cylinder out of heavy seamless steel and wrap with corrosion resistant material.
- Surround the new jack cylinder with PVC pipe, and fill the gap between PVC and jack cylinder with anti-electrolysis liquid (Union-Guard).
- Perform full load capacity test and present results of this test to Building Services representative.

Scope of this project shall result in a fully functional and warranted freight elevator, as a turn-key project.

All work must be performed in an approved and workman-like manner. All work must conform to applicable codes and standards of the elevator industry. The bid price must remain in effect for a period of at least sixty days from the date of the bid opening.

The Bidder will be responsible for any pertinent soil testing and any associated removal and disposal. Bid price should be based upon the retention of the existing casing. One lump-sum payment will be made on completion of this work.

Existing elevator and building may be toured by appointment. Telephone City Representative, Coy Hurd at 575-8361 during regular office hours.

CITY OF FAYETTEVILLE, ARKANSAS
Terms and Conditions

1. All bids shall be submitted in a sealed envelope and must be submitted on forms provided by the City.
2. The item bid and the bid number shall be stated on the face of the sealed bid envelope.
3. Bids received after the date and time set for receiving bids will not be considered.
4. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds.
5. The bid price shall remain good and firm until project is completed.
6. All products delivered shall comply with applicable standards of quality.
7. Any exceptions to the requirements of the City of Fayetteville must be noted on the Bid Form.
8. Prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the furnishing of the items bid. Sales tax is not to be included in the bid price. Applicable Arkansas sales tax laws will apply to this bid, but will not be considered in award of the bid.
9. Each bidder shall state on the face of the bid form the anticipated number of days from the date of receipt of an order for delivery of equipment and installation to the City of Fayetteville.
10. Copy of the warranty shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form.
11. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
12. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
13. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.

14. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at (501) 575-8289 to insure receipt of their bid documents prior to opening time and date listed on the bid form.
15. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request.
16. Bids must be hand delivered or received by mail in the Purchasing Office, Room 306, 113 W. Mountain St. Fayetteville, AR 72701, on or before the time of closing listed on the face of the bid.
- *17. Public improvement bids with a total of \$20,000 or more shall submit certificates of insurance within 10 days of notice of bid award. Certificates of insurance are to be addressed to the City of Fayetteville, showing that the contractor carries the following insurance which shall be maintained throughout the term of the bid. Any work sublet, the contractor shall require the subcontractor similarly to provide the same insurance coverage. In case any employee engaged in work on the project is not protected under Workers' Compensation, the Contractor shall provide, and shall cause each subcontractor to provide, adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workers' Compensation:	Statutory Amount
Comprehensive General & Automotive Liability:	\$500,000
Property Damage Liability:	\$100,000

- *18. Public improvement bids with a total of \$20,000 or more require a 5% bid bond and if awarded, a 100% performance and payment bond to be submitted before notice to proceed is given.
- *19. Public improvement bids exceeding \$20,000 or more require a contractor's license.
- *20. The City shall pay Contractor based on unit prices indicated in contractor's bid proposal. Progress payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
- *21. Contractor shall not assign his duties under the terms of this agreement. All work shall be coordinated directly with the Project Manager, or their designee.

*Applies to construction public improvement projects only, unless otherwise noted.



IMPORTANT SAFETY NOTICE

October 25, 2002

Mr. Coy Hurd
Fayetteville Police Courts Building
100 West Rock
Fayetteville, Ark 72701

Re: New Code Affecting Hydraulic Elevators

Dear Mr. Hurd

This letter is to inform you of an IMPORTANT new provision in the National Safety Code for Elevators and Escalators. The new code, based on the American Society of Mechanical Engineers ASME A17.1-2000, requires that all owners of hydraulic elevators with single-bottom cylinders take remedial action to help prevent a potentially dangerous situation.

Our records indicate that you may have a pre-1971 hydraulic elevator that has a single-bottom cylinder.

Background

A hydraulic elevator is built around a large cylinder assembly. The cylinder assembly includes a piston that is attached to the passenger car of the hydraulic elevator. The elevator passenger car movement is accomplished by pumping oil in or out of the cylinder causing the piston (thus the elevator car) to rise or descend. A catastrophic break in the cylinder can cause the hydraulic fluid to rush out and the piston and attached car to unpredictably and uncontrollably descend.

Prior to 1971, most hydraulic elevators were designed with a single-bottom cylinder (attachment fig A.) On January 1, 1971, ASME A17.1 established a recommendation that was adopted into most state and local elevator codes. The change required double-bottom cylinders (attachment fig. B) for all new hydraulic elevator installations. The change in the code to a double-bottom design was intended to help prevent the situation described above from occurring if underground corrosive action caused a breach in the bottom of the cylinder. However, there are still a number of hydraulic elevators in operation today which have single-bottom cylinders. And while there have been a very small number of such incidents over the past 30 years, when they have occurred, passengers were severely injured and in at least one case the injury was fatal. Due to the possibility of such a catastrophic failure on elevators with single-bottom cylinders, the Code authority of the United States and Canada has required the replacement or modification of all single-bottom cylinders.

Page 2

Recommended Action

Although underground hydraulic elevator cylinders cannot be inspected for corrosion, the system can be monitored for oil loss. A loss of oil may indicate a leak due to corrosion of the cylinder. Such an oil loss should be addressed immediately by removing the elevator from service, performing a pressure test to determine the cause of the oil loss, and correcting the problem before returning the elevator to service.

Owners with buildings that have pre-1971 hydraulic elevator in operation should have their hydraulic elevators inspected by a trained elevator technician to help determine if their elevator contains a single-bottom cylinder or shows signs of a potential cylinder leakage problem.

Future Action to Make Your Hydraulic Elevator Code Compliant

The new ASME A17.1-2000 will likely be adopted by your governing authority in the near future, at which time you will be required to bring any single-bottom cylinder elevator in your building into compliance. However, with safety being the heart of the new Code provision, we encourage you to take appropriate steps now to make sure your elevator is Code compliant.

It is our desire to assist all of our hydraulic elevator customers in assessing their equipment and where needed, help them in taking the necessary steps to meet the new Code requirements. ThyssenKrupp Elevator recommends that system oil levels be routinely monitored on all hydraulic elevators, but until the remedial code work is completed on elevators with single-bottom cylinders, special attention should be given to those units. As such, and as part of our existing full maintenance agreement, ThyssenKrupp will provide, at no cost to you, an "oil loss log" in your machine room for our technicians and the elevator. In addition, your account representative will be contacting you for authorization to perform a pressure test every 6 months on your single-bottom cylinder until remediation work is completed. This would be an increase in the annual interval schedule currently observed. The extra pressure test each year will be an additional cost to the existing full maintenance agreement, but will help reduce the risk of a catastrophic cylinder failure prior to completing the work, which the code requires. Only qualified elevator service technicians should do this testing until the proper cylinder remediation work is complete.

ThyssenKrupp Elevator is a member of the Elevator Escalator Safety Foundation, a charitable organization that promotes the safe and proper use of elevators, escalators, and moving walks through information and educational programs.

Sincerely,
ThyssenKrupp Elevator



Steve Broom
Service/Repair Sales

ThyssenKrupp Elevator
5477 South 108th East Ave
Tulsa, OK 74146
Telephone (918) 665-2040
Fax: (918) 665-2063



Repair Order.

Date: October 25, 2002
Attention: Mr. Coy Hurd
Address: 100 W Rock
City: Fayetteville, Ark 72701
Telephone: (479) 575-8361

Building: Fayetteville Police Courts Building
Address: 100 W Rock
City: Fayetteville, Ark 72701
Service contract #: N/A
Elevator serial #: E-26267

Purchaser authorizes ThyssenKrupp Elevator to perform the following described work on the subject elevator(s) in the above building:

Single-bottom cylinder replacement.

ThyssenKrupp Elevator proposes to furnish the necessary labor and materials to replace the existing cylinder(s) on one (1) hydraulic elevators with an ASME A17.1 – 2000 Code compliant cylinder with a sealed cylinder protection liner.

SCOPE OF WORK:

- ✓ Erect safety/sight barricades, lay protective floor covering around work areas.
- ✓ Suspend and secure (two methods) the elevator in the uppermost portion of hoistway.
- ✓ The hydraulic plunger shall be disconnected, landed and removed from the cylinder, then set aside for reuse.
- ✓ Remove the oil line, shutoff valve, pit channels and buffers from pit area.
- ✓ Jackhammer removal of concrete surrounding jack head.
- ✓ Hydraulic fluid shall be removed from the cylinder and stored in approved containers.
- ✓ Remove existing cylinder from the ground and dispose of properly.
- ✓ Remove hazardous debris from inside of present well casing and store in approved containers (See Special conditions).
- ✓ Install protective PVC (polyvinyl chloride) casing that includes a means of monitoring for corrosive moisture.
- ✓ Apply protective coating to new cylinder to aid in protection against corrosion.
- ✓ Thread and weld cylinder sections together, allow cooling and protective wrap at joints.
- ✓ Install new hydraulic cylinder with double bulkhead bottom made of steel pipe compliant with Elevator Safety Code ASME Code A17.1 – 2000 and the same I.D. and O.D. size as existing cylinder with new jack head.
- ✓ Backfill area between new PVC and hydraulic cylinder with unionguard 160.
- ✓ Replace concrete pit floor with appropriate insulation material.
- ✓ Reinstall hydraulic plunger into new cylinder.
- ✓ Reinstall hydraulic piping, shutoff valve, pit channels and buffers.
- ✓ Attach hydraulic plunger to the platen plate on underside of elevator and properly align.
- ✓ Install new jack seal and gasket (new head provided with cylinder)
- ✓ Provide new hydraulic fluid to the elevator hydraulic system and test for normal operation.
- ✓ Readjust valve, if required, to achieve proper operation.
- ✓ Perform Full Load Safety Test in the presence of state approved Elevator Inspector
- ✓ Disassemble and remove materials, tools and supplies and provide general clean up.
- ✓ Return elevator to service.

SCHEDULE

- 1) Delivery of jack casing from factory after receipt of executed contract, 2 – 3 weeks.
- 2) Installation of equipment after delivery to jobsite would be approximately 2 ½ - 3 weeks.

Special conditions:

- 1) The quoted price is based upon the existing jack hole is plumb and cased or jacketed to prevent hole collapse once the existing jack is removed. The jack hole is clear of rock, water, concrete, debris or any other underground condition which hinders us from freely pulling the existing jack or installing the new jack or which alters the method required to complete the project. If we encounter such conditions, we will notify you immediately and upon execution of a change order, it is agreed that all additional work will be performed on a time and material basis, based on standard billing rates, until the conditions which have caused the delay have been overcome.
- 2) Purchaser agrees to provide a safe, accessible storage area for placement of D.O.T. 55 Gallon containers for the purpose of spoils containment. Any spoils or water testing by others or delays due to such testing are not included in this proposal. The hiring of a disposal company is the responsibility of Purchaser, and MUST be discussed prior to any material being ordered or work being scheduled. ThyssenKrupp will provide environmental services ONLY if this is specifically included under the "Scope of Work" section above. ThyssenKrupp assumes no responsibility and/or liability in any way whatsoever for spoils or other contamination that may be present as a result of the cylinder breach and/or other conditions present on the work site.

- 3) For the purpose of providing this estimate, we assume no unusual conditions as outlined in Items #1-2 above. If necessitated by unusual conditions, a proposal for additional labor and materials shall be submitted to Purchaser for approval prior to performance of additional work. ThyssenKrupp shall not be responsible for delays due to such causes.
- 4) Purchaser will be notified immediately of any circumstances that will require more than the allotted time and materials provided in this proposal. Written authorization will be required for any labor or materials required beyond this original proposal amount.
- 5) All labor estimates included herein are based upon work being performed during regular working days and hours of the trade (M-F, 8:00 a.m. to 5:00 p.m.). Work performed at other times will be in addition to the price indicated herein.
- 6) This proposal includes the State Five Year Full Load Test. If the load test discloses any deficiencies in the operation of the equipment tested, an additional proposal will be submitted for your approval for work needed to put the specific equipment in proper condition and in compliance with the above mentioned specifications. ThyssenKrupp Elevator will exercise caution and care in performing this repair and tests, but will not be responsible for damage done to the building and/or equipment while performing this work.
- 7) Welding affecting the building fire protection system may be required on this project. This will be coordinated with Purchaser.
- 8) Purchaser agrees to furnish suitable parking area with standard truck access.
- 9) ThyssenKrupp Elevator's HDPE jack protection system shall be fully warranted for the effective life of the elevator system while being maintained under ThyssenKrupp Elevator's Maintenance Agreement against any leakage failure of the hydraulic cylinder assembly, irrespective of whether failure is due to any defect in material or workmanship, or in the event such failure is due to effects of corrosion, electrolysis, or microbiological action upon the buried cylinder structure, or any other deterioration leading to underground leakage, unless attributable to earthquakes and/or subsurface movement, settling, shifting of soils, or except for the aforementioned, any other circumstances beyond the control of ThyssenKrupp Elevator.

Purchaser agrees to pay the sum of: Twenty Four Thousand Nine Hundred Ninety Six and 00/100 (\$24,996.00) which includes applicable sales tax and shipping. All work is to be performed during regular working days and hours, unless otherwise indicated herein. No permits or inspections by others are included in this work, unless otherwise indicated herein.

Upon receipt of your written authorization and receipt of required materials and/or supplies, we shall proceed with the repair.

Unless otherwise stated, you agree to pay as follows: 50% upon signed acceptance and 50% upon completion.

This Repair Order is submitted for acceptance within 30 days from the date executed by ThyssenKrupp Elevator.

Purchaser's acceptance of this Repair Order together with the terms and conditions printed on subsequent pages hereof and which are expressly made a part of this proposal and agreed to, and its approval by an executive officer of ThyssenKrupp Elevator will constitute exclusively and entirely the agreement for the work herein described. All prior representations or agreements regarding this work, whether written or verbal, will be deemed to be merged herein, and no other changes in or additions to this agreement will be recognized unless made in writing and properly executed by both parties. This Repair Order specifically contemplates work outside the scope of any maintenance contract currently in effect between the parties; any such contract shall be unaffected by this Repair Order.

No agent or employee shall have the authority to waive or modify any of the terms of this agreement without the written approval of an authorized ThyssenKrupp Elevator manager.

Accepted:

FAYETTEVILLE POLICE COURTS BUILDING

By: _____

(Signature of Authorized Individual)

(Printed or Typed Name)

Title: _____ Date: _____

ThyssenKrupp Elevator Corporation:

5206 S 60th Place

Rogers, Ark 72758

By: _____

(Signature of ThyssenKrupp Elevator Representative)

Steve Broom, Service/Repair Sales

(479) 751-0222

Date: 10/22/02

Approved by: _____

Title: Branch Manager Date: _____

Terms and conditions.

ThyssenKrupp Elevator assumes no responsibility for any part of the elevator equipment except that upon which work has been done under this agreement. No work, service, examination or liability on the part of us other than that specifically mentioned herein is included or intended. It is agreed that we do not assume possession or control of any part of the equipment and that such remains Purchaser's exclusively as the owner, lessor, lessee, possessor, or manager thereof.

Our performance of this contract is contingent upon your furnishing us with any necessary permission or priority required under the terms and conditions of government regulations affecting the acceptance of this order or the manufacture, delivery or installation of the equipment.

We have made no examination of, and assume no responsibility for, any part of the elevator equipment except that necessary to do the work described in this proposal.

It is agreed that ThyssenKrupp Elevator's personnel shall be given a safe place in which to work and we reserve the right to discontinue our work in the building whenever, in our sole opinion, this provision is being violated.

You agree that in the event asbestos material is knowingly or unknowingly removed or disturbed in any manner at the job site by parties other than employees of ThyssenKrupp Elevator or those of our subcontractors, the work place will be monitored, and prior to and during our presence on the job, Purchaser will certify that asbestos in the environment does not exceed .01 fibers per cc as tested by NIOSH 7400. In the event our employees, or those of our subcontractors, are exposed to an asbestos hazard, PCB's or other hazardous substances resulting from work of individuals other than our employees, or those of its subcontractors, you agree to indemnify, defend, and hold ThyssenKrupp Elevator harmless from any and all claims, demands, lawsuits, and proceedings brought against us, or our employees resulting from such exposure. You recognize that your obligation to ThyssenKrupp Elevator under this clause includes payment of all attorneys' fees, court costs, judgments, settlements, interest and any other expenses of litigation arising out of such claims or lawsuits. Removal and disposal of asbestos containing material is your responsibility.

Unless otherwise agreed, it is understood that the work will be performed during regular working hours of the trades involved. If overtime is mutually agreed upon, an additional charge at our usual rates for such work shall be added to the contract price.

In consideration of ThyssenKrupp Elevator performing the services herein specified, you expressly agree to indemnify, defend, save harmless, discharge, release and forever

acquit ThyssenKrupp Elevator, our officers, agents and employees from and against any and all claims, demands, suits, and proceedings brought against us or our employees of any nature whatsoever, including but not limited to loss, damage, injury or death that are alleged to have arisen from or alleged to be in connection with the presence, use, misuse, maintenance, installation, removal, manufacture, design, operation or condition of the equipment covered by this agreement, or the associated areas surrounding such equipment, specifically including claims or losses alleged or proved to have arisen from the joint or sole negligence of ThyssenKrupp Elevator or our employees.

You expressly agree to name ThyssenKrupp Elevator as an additional insured in your liability and any excess (umbrella) liability insurance policy(ies). Such insurance must insure us for those claims or losses referenced in the above paragraph. You hereby waive the right of subrogation.

We shall not be liable for any loss, damages or delay caused by acts of government, strikes, lockouts, fire, explosions, theft, floods, riot, civil commotion, war, malicious mischief, acts of God, or any other cause beyond our control, and in no event shall we be liable for consequential damages.

Should loss of or damage to our material, tools or work occur at the erection site, you shall compensate us therefore, unless such loss or damage results from our own acts or omissions.

You agree that all existing equipment removed by ThyssenKrupp Elevator shall become the exclusive property of ThyssenKrupp Elevator.

We retain title to all equipment supplied by us under this contract, and a security interest therein, (which, it is agreed, can be removed without material injury to the real property) until all payments under the terms of this contract, including deferred payments and any extension is thereof, shall have been made. In the event of any default by you in the payment, under any other provision of this contract, we may take immediate possession of the manner of its attachment to the real estate or the sale, mortgage, or lease of the real estate. Pursuant to the Uniform Commercial Code, at our request, you agree to join with us in executing any financing or continuation statements, which may be appropriate for us to file in public offices in order to perfect our security interest in such equipment.

Certificates of Workmen's Compensation, Bodily Injury and Property Damage Liability Insurance coverage will be furnished to you upon request. The premium for any bonds or insurance beyond our standard coverage and limits will be an addition to the contract price.

If any drawings, illustrations or descriptive matter are furnished with this proposal, they

are approximate and are submitted only to show the general style and arrangement of equipment being offered.

You shall bear all cost(s) for any reinspection of our work due to items outside the scope of this agreement or for any inspection arising from the work of other trades requiring the assistance of ThyssenKrupp Elevator.

All applicable sales and use taxes, permit fees and licenses imposed upon us as of the date of this proposal, are included in the contract price. You agree to pay, as an addition to the contract price, the amount of any additional taxes, fees or other charges exacted from you or ThyssenKrupp Elevator on account thereof, by any law enacted after the date of this proposal.

A service charge of 1 1/2% per month, or the highest legal rate, whichever is less, shall apply to delinquent accounts. In the event of any default of the payment provisions herein, you agree to pay, in addition to any defaulted amount, all attorney fees, collection costs or court costs in connection therewith.

In the event a third party is retained to enforce, construe or defend any of the terms and conditions of this agreement or to collect any monies due hereunder, either with or without litigation, the prevailing party shall be entitled to recover all costs and reasonable attorney's fees.

You hereby waive trial by jury and do further hereby consent that venue of any proceeding or lawsuit under this agreement shall be in Oklahoma City County, Oklahoma.

The rights of ThyssenKrupp Elevator under this agreement shall be cumulative and the failure on the part of the ThyssenKrupp Elevator to exercise any rights given hereunder shall not operate to forfeit or waive any of said rights and any extension, indulgence or change by ThyssenKrupp Elevator in the method, mode or manner of payment or any of its other rights shall not be construed as a waiver of any of its rights under this agreement.

In the event any portion of this agreement is deemed invalid or unenforceable by a court of law, such finding shall not affect the validity or enforceability of any other portion of this agreement.

In the event your acceptance is in the form of a purchase order or other kind of document, the provisions, terms and conditions of this proposal shall govern in the event of conflict.

Federal Insurance Company

BID BOND

Bond No. 81470854-118

Amount \$5% OF TENDER PRICE

**Know All Men By These Presents,
That we, THYSSENKRUPP ELEVATOR CORPORATION
(hereinafter called the Principal),**

as Principal, and the Federal Insurance Company, 15 Mountain View Road, Warren, New Jersey, 07059, a corporation duly organized under the laws of the State of Indiana, (hereinafter called the Surety), as Surety, are held and firmly bound unto

**CITY OF FAYETTEVILLE
(hereinafter called the Obligee),**

in the sum of FIVE PERCENT OF TENDER PRICE Dollars (\$5% OF TENDER PRICE), for the payment of which we, the said Principal and the Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this October 17, 2002.

WHEREAS, the Principal has submitted a bid, dated October 25, 2002, for REPLACE ONE (1) HYDRAULIC JACK CASING FOR THE CITY OF FAYETTEVILLE

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with such bid and give bond with good and sufficient surety for the faithful performance of such contract, or in the event of the failure of the Principal to enter into such contract and give such bond, if the Principal shall pay to the Obligee the difference, not to exceed the penalty hereof, between the amount specified in said bid and the amount for which the Obligee may legally contract with another party to perform the work covered by said bid, if the latter amount be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect.

**THYSSENKRUPP ELEVATOR
CORPORATION
Principal**

By:

**Sharmah Morgan
Contract Administrator**

Federal Insurance Company

By:

Kathy Ness, Attorney-in-Fact



**Chubb
Surety**

**POWER
OF
ATTORNEY**

**Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company**

Elevator
Att A. 2. Page 15
15 Mountain View Road
Warren, NJ 07059

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Kelly A. Parker, David Bowcott, Kathy Ness, Janice Oehm and Jacqueline Miller of Toronto, Ontario-----

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 5th day of March, 2002

Sheryl B. Roberts, Assistant Secretary

Frank E. Robertson, Vice President

STATE OF NEW JERSEY

ss.

County of Somerset

On this 5th day of March, 2002, before me, a Notary Public of New Jersey, personally came Sheryl B. Roberts, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Sheryl B. Roberts being by me duly sworn, did depose and say that she is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By-Laws of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Frank E. Robertson, and knows him to be Vice President of said Companies; and that the signature of Frank E. Robertson, subscribed to said Power of Attorney is in the genuine handwriting of Frank E. Robertson, and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Notary Seal



Karen A. Price
Notary Public State of New Jersey
No. 2231647
Commission Expires Oct. 28, 2004

Notary Public

CERTIFICATION

Extract from the By-Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Sheryl B. Roberts, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing extract of the By-Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U. S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U. S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this 17th day of October, 2002



Sheryl B. Roberts, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY
Telephone (908) 903-3485 Fax (908) 903-3656 e-mail: surety@chubb.com



ThyssenKrupp Elevator

WARRANTY ON JACK CASING REPLACEMENT

PURCHASER CITY OF FAYETTEVILLE, AR

BUILDING LOCATION FAYETTEVILLE POLICE COURTS BUILDING

CONTRACT NO. E-26267

EQUIPMENT SERIAL NO. E-26267

FINAL ACCEPTANCE DATE _____

We warrant the equipment installed by us for a period of ONE YEAR from the acceptance date, in accordance with terms of the contract.
We will provide lifetime warranty on the jack casing as long as ThyssenKrupp Elevator Company is the maintenance provider on the elevator.

We thank you for choosing ThyssenKrupp Elevator.

ThyssenKrupp Elevator

BY *David P. Kelly*

DATE SIGNED 10/25/02

ACORD

CERTIFICATE OF LIABILITY INSURANCE

Elevator
A. 2. Page 17

PRODUCER

NEAR NORTH INSURANCE BROKERAGE INC
SUITE 2000
875 NORTH MICHIGAN AVENUE
CHICAGO IL 60611

Contact: Helen Chen Ph:312-280-5655 Fx:312-202-6170

INSURED

THYSSENKRUPP ELEVATOR CORPORATION

SPECIMEN

Contact:

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURER A: Lexington Insurance Company

INSURER B: Pacific Employers Insurance Company

INSURER C:

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR
MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH
POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	1320252 - PRIMARY POLICY	12/31/2001	10/01/2003	EACH OCCURRENCE \$4,000,000
	☒ COMMERCIAL GENERAL LIABILITY	1320253 - EXCESS POLICY			FIRE DAMAGE (Any one fire) \$2,000,000
	☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person) N/A
					PERSONAL & ADV INJURY \$4,000,000
	GEN'L AGGREGATE LIMIT APPL PER POLICY				PRODUCTS - COM \$2,500 Included
B	AUTOMOBILE LIABILITY	ISAH076842	10/01/2002	10/01/2003	COMBINED SINGLE LIMIT \$2,000,000
	☒ ANY AUTO				BODILY INJURY (Per person)
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident)
	☐ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT
	☐ ANY AUTO				AUTO ONLY: \$1,000
	EXCESS LIABILITY				AGGREGATE
	☐ OCCUR ☐ CLAIMS MADE				
	☐ DEDUCTIBLE \$				
	☐ RETENTION \$				
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WLRC42990346 (AOS) SCFC42990309 (SC, WI)	10/01/2002	10/01/2003	☒ WC STATU-1 ☐ OTH- TORY LIMITS \$1,000,000
					EL EACH ACCIDENT \$1,000,000
					EL DISEASE - POLICY LIMIT \$1,000,000
					EL DISEASE - EA EMPLOYEE \$1,000,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

RE: OTHERS SPECIMEN JOB# SPECIMEN

SPECIMEN

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER

CANCELLATION

\$

SPECIMEN

SPECIMEN

Should any of the above described policies be cancelled before the
expiration date thereof, the Issuing Insurer will endeavor to mail
30 days written notice to the certificate holder named to the left,
but failure to mail such notice shall impose no obligation or liability
of any kind upon the company, its agents or representatives.

Authorized Representative

SPECIMEN

License No. 0022880103

State of Arkansas

Contractors Licensing Board

THYSSENKRUPP ELEVATOR CORPORATION
PO BOX 2177
MEMPHIS, TN 38101

THYSSENKRUPP ELEVATOR CORPORATION

This is to Certify That

is duly licensed under the provisions of Act 150 of the 1965 Acts as amended and is entitled to practice Contracting in the State of Arkansas within the following classification:

SPECIALTY

Elevators, Escalators, Dumbwaiters,
Chairlifts

with the following suggested bid limit UNLIMITED

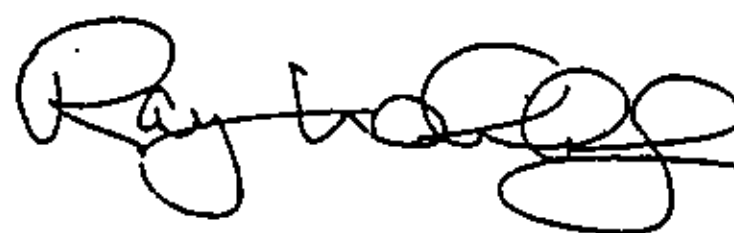
from January 25, 2002 until January 31, 2003

when this Certificate expires.

Witness our hands of the Board, dated at Little Rock, Arkansas



CHAIRMAN



SECRETARY

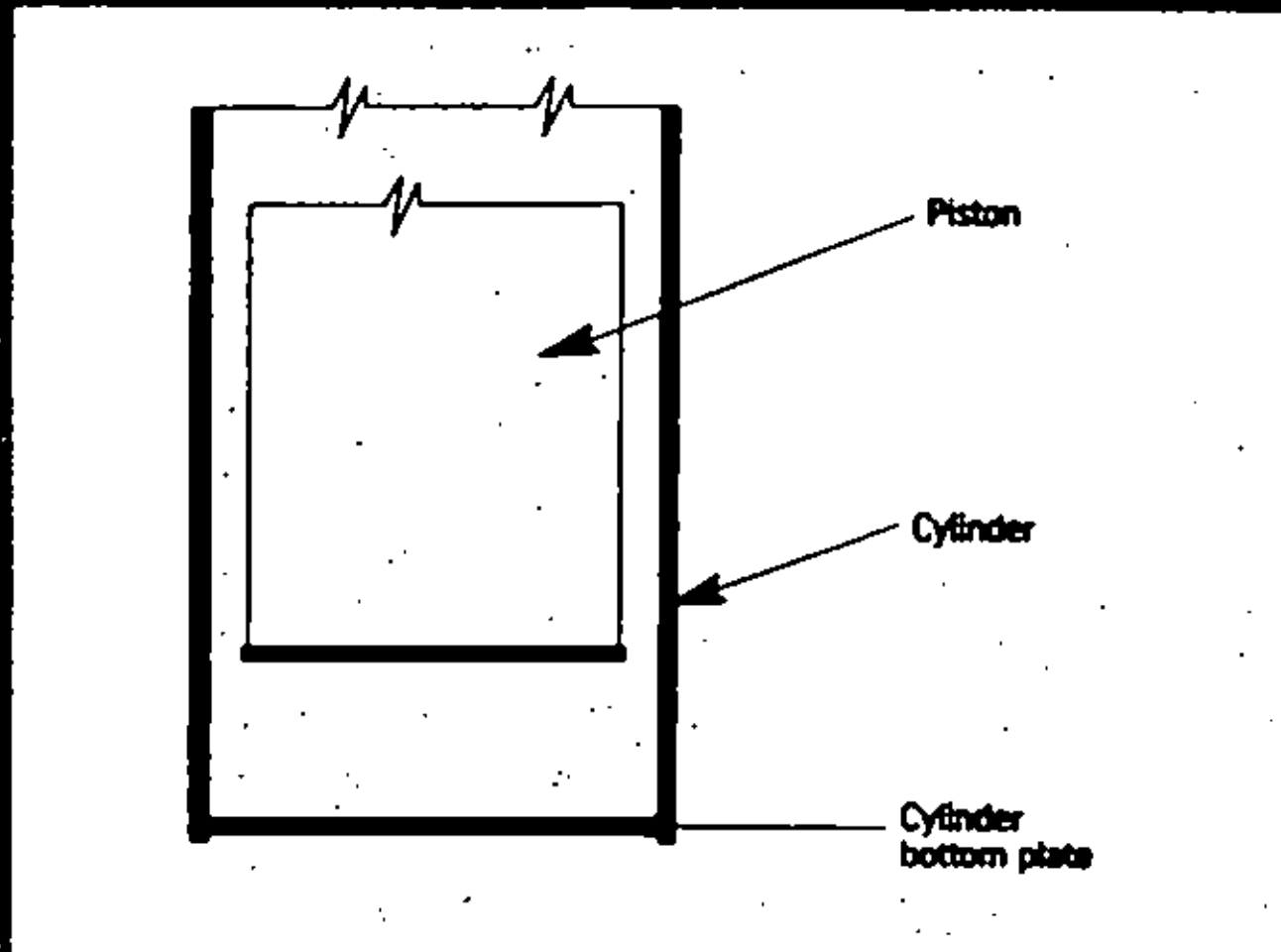
January 25, 2002



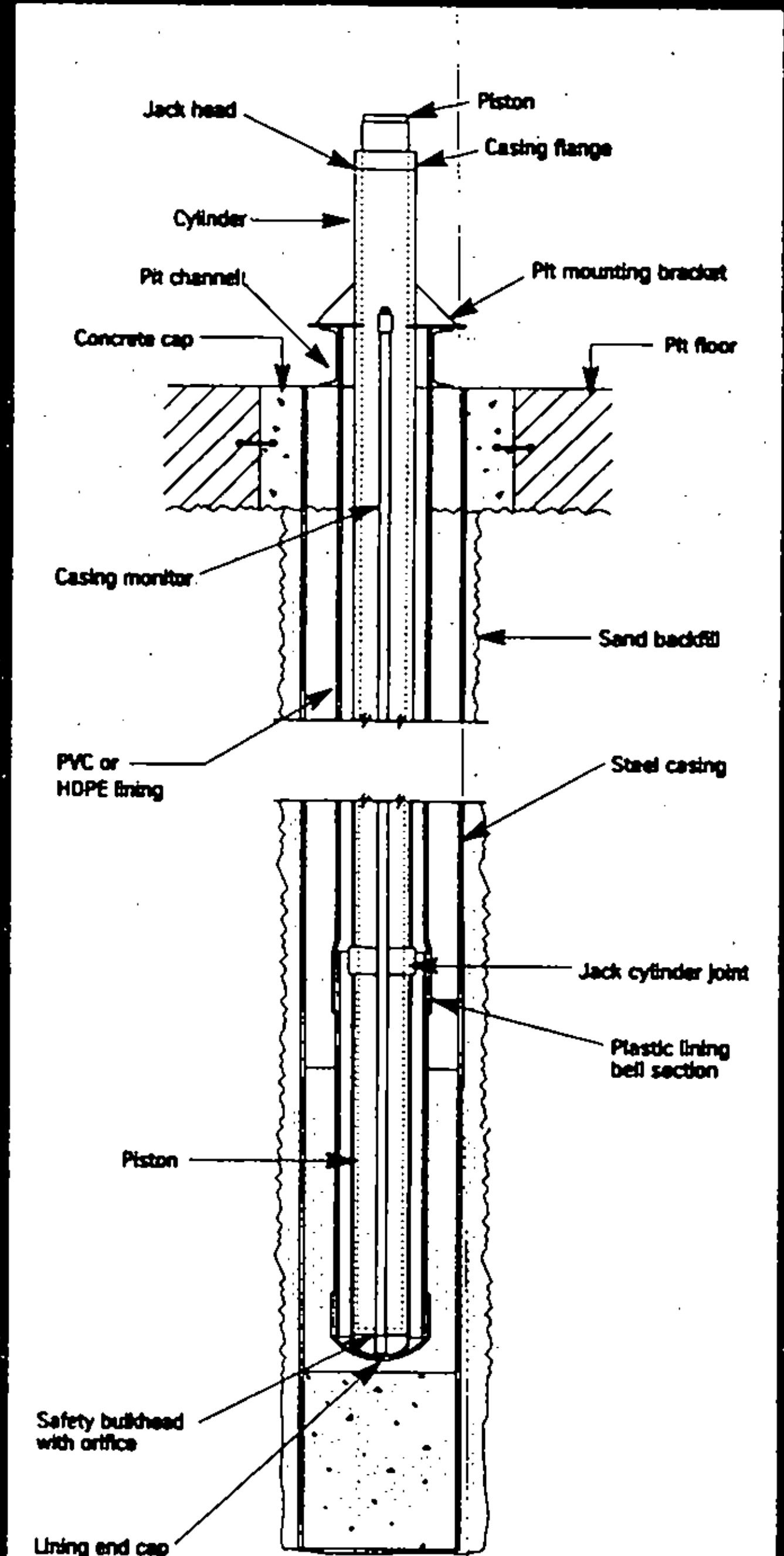
Single-bottom cylinder replacement.

Elevator
A. 2. Page 19

A. Single-bottom cylinder



B. Double-bottom cylinder



The National Safety Code for Elevators and Escalators has a new rule that may affect your hydraulic elevator.

Cylinder corrosion.

The cylinder of a typical hydraulic elevator is installed in the ground beneath the elevator car. Unless the cylinder is installed inside a protective covering, it is exposed to the risk of corrosion and electrolysis. Soil often contains elements that cause reactions that damage the metal composition of a cylinder. This can cause a cylinder to leak oil, which creates environmental contamination and puts passenger safety at risk.

Safety issues.

Most hydraulic elevators operate by pumping pressurized oil into the underground cylinder.

As the oil enters the cylinder, the piston rises and forces the elevator car upward. To lower the car, oil is gradually released from the cylinder back into a holding tank. If there is a leak in the cylinder and no way to control the flow of oil escaping, then there is no way to control the speed of elevator descent. Elevators with single-bottom cylinders are especially at risk.

Code revision.

The ASME A17.1-2000, National Elevator Safety Code has a new provision that requires single-bottom cylinders be replaced with double-bottom cylinders or be equipped with code compliant safeties.

ThyssenKrupp Elevator



Single-bottom cylinder.

Prior to 1971, most hydraulic elevators were designed with a single-bottom cylinder. However, should the bottom plate rupture, there is no safety mechanism to prevent the elevator from descending uncontrollably. Though few incidents like this have occurred, when they have, passengers have been injured.

Buried piping and cylinders are not covered by existing elevator preventive maintenance contracts for obvious reasons.

Many of these outdated single-bottom cylinder designs are still in operation.

A code compliant cylinder has a safety bulkhead, referred to as a double-bottom cylinder.

Double-bottom cylinder.

A17.1 elevator code for new installations began requiring the double-bottom cylinder design in 1971 in order to protect against the catastrophic failure of the bottom plate. This cylinder design features a bottom plate plus a safety bulkhead with a relief orifice. Should the bottom plate rupture, the orifice will limit the speed of the elevator's descent by allowing only a small amount of oil to escape at a time. The result is a safer mode of transportation for passengers.

Additional cylinder protection.

Even with the additional safety provided by the double-bottom cylinder, buried cylinders can still be affected by underground conditions. For multi-section jacks, ThyssenKrupp recommends the cylinder be encased in a sealed PVC (polyvinyl chloride) casing that includes a means of monitoring for unwanted moisture. The plastic lining acts as a barrier against corrosive activities, which could cause damage to the metal of the unprotected cylinder.

Monitoring capability for unwanted water or other liquids, allows maintenance personnel

to protect the integrity of your cylinder by making sure corrosive material is not present inside the lining.

HDPE protection.

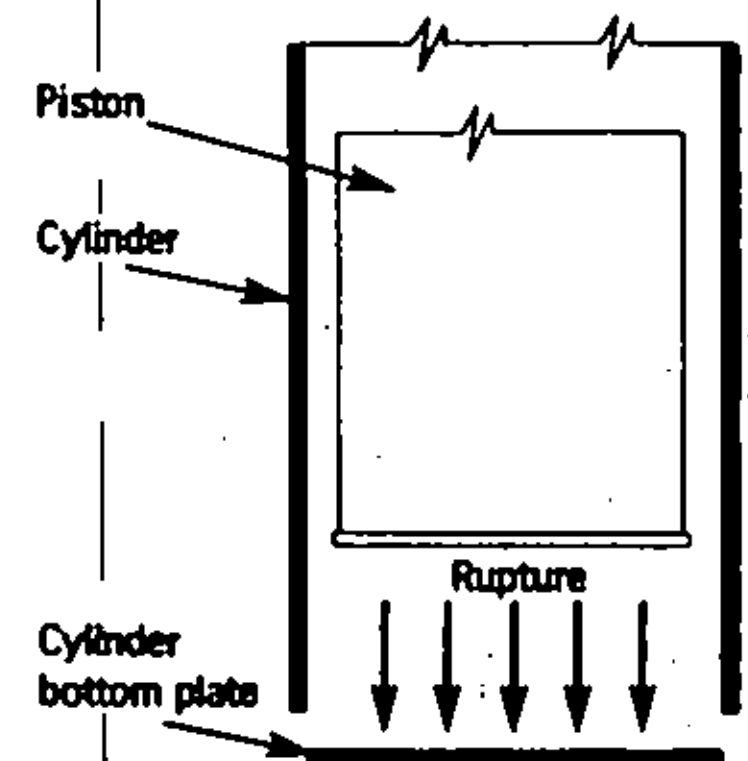
For single-section jacks, ThyssenKrupp's High Density Polyethylene (HDPE) jack protection system is the most advanced corrosion protection system available. HDPE is a high quality, high performance thermoplastic manufactured to meet some of the most stringent quality standards and specifications used in the piping industry.

Our system also includes a bottom cap made of the same HDPE material and is designed to provide an impenetrable seal. An electronic sensor features a miniaturized circuit board, which detects the presence of corrosive material between the HDPE and the cylinder. The end result is a superior product with the durability and flexibility demanded in today's market.

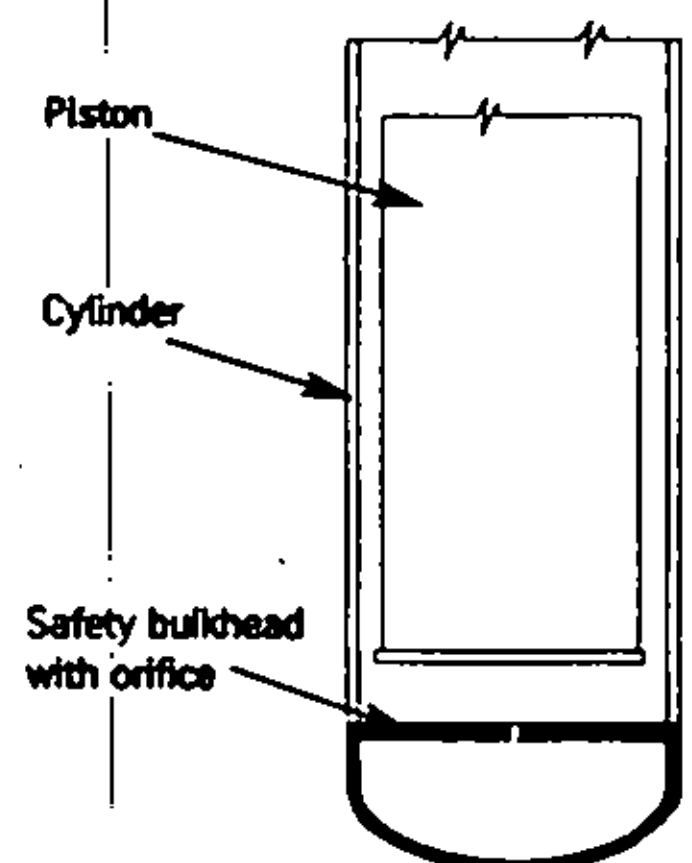
ThyssenKrupp Elevator will warranty the cylinder for the life of the maintenance contract if HDPE is installed.

Our trained professionals are prepared to provide a survey of your elevator to help you determine what corrective actions, if any, may be required to ensure passenger safety and compliance with the code performance requirements.

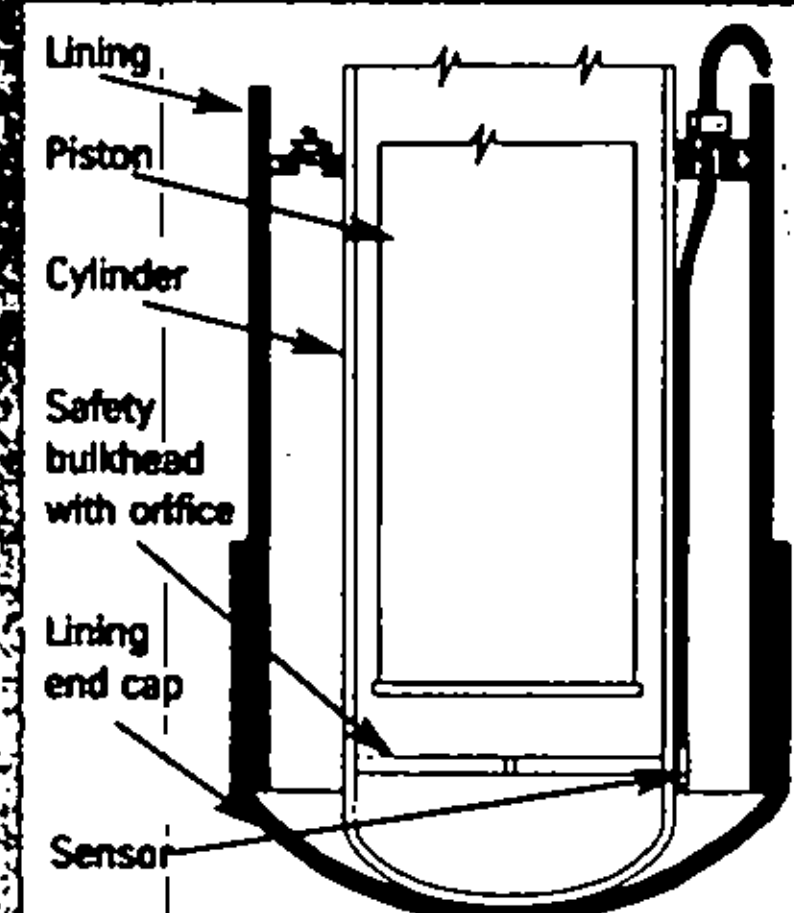
C. Single-bottom cylinder



D. Double-bottom cylinder



E. Double-bottom cylinder protection



All illustrations and specifications are based on information in effect at time of publication approval. ThyssenKrupp Elevator reserves the right to change specifications or design and to discontinue items without prior notice or obligation.

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SBCR 2002
Printed in U.S.A

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P.O. Box 2177

Memphis, TN 38101
Tel: (662) 393-2110
Fax: (662) 342-4309

thyssenkruppelevator.com

STAFF REVIEW FORM

Offer and Accept
A. 3. Page 1

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council Meeting of November 19, 2002

FROM:

Jill Goddard
Name

Engineering
Division

Public Works
Department

ACTION REQUIRED: Approve the Offer and Acceptance Contract for the acquisition of all of Parcel No. 765-12164-000 (Shake's Frozen Custard, 2050 W. 6th Street) for the relocation of the Sang Avenue intersection with Sixth Street and approve the attached budget adjustment.

COST TO CITY:

\$528,000.00

Cost of this Request

\$410,559.00

Category/Project Number

Hollywood Str - 6th & Sang Ave Inter.

Category/Project Name

4470-9470-5809-00

Account Number

\$56,422.00

Funds Used to Date

Street Improvements

Program Name

00019-0030

Project Number

\$354,137.00

Remaining Balance

Sales Tax Capital Improvements

Fund

BUDGET REVIEW:

☒ Budgeted Item

☒ Budget Adjustment Attached

[Signature]
Budget Manager

[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature]
Accounting Manager

11/1/02
Date

[Signature]
Internal Auditor

11/1/02
Date

[Signature]
City Attorney

11/1/02
Date

[Signature]
ADA Coordinator

[Signature]
Date

[Signature]
Purchasing Officer

11/4/02
Date

STAFF RECOMMENDATION: Approval of the Offer and Acceptance Contract and Budget Adjustment.

[Signature]
Division Head

11/01/02
Date

Cross Reference

[Signature]
Department Director

10/01/02
Date

New Item: ☒ Yes ☐ No

[Signature]
Administrative Services Director

11-4-02
Date

Prev. Ord/Res. #: [Signature]

[Signature]
Mayor

11/5/02
Date

Orig. Contract Date: [Signature]

Orig. Contract Number: [Signature]

STAFF REVIEW FORM

Description _____ Meeting Date _____

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

DEPARTMENTAL CORRESPONDENCE

DATE: October 30, 2002

TO: Fayetteville City Council

THRU: Dan Coody, Mayor
Kit Williams, City Attorney
Greg Boettcher, Public Works Director
Jim Beavers, City Engineer
Paul Libertini, Staff Engineer *PK*

FROM: Jill Goddard, Land Agent *JHG*

SUBJECT: Hollywood Street – 6th Street & Sang Avenue Intersection
Project No. 00019
Donald E. & Debra L. Osborne (Shake's Frozen Custard)

The City has been acquiring right-of-way and easements for the relocation of Sang Avenue so that it aligns with Hollywood Avenue to the south and, subsequently, a traffic light can be installed at that intersection with Sixth Street.

The original proposal was to acquire 5,675 square feet (0.13 acre) in right-of-way from Donald E. & Debra L. Osborne, owners of the Shake's Frozen Custard property at 2050 W. Sixth Street (their total parcel being 0.33 acre). The City was then to acquire the portion of Sang Avenue (7,981 square feet or 0.18 acre) to the west of Shake's Frozen Custard from Daybreak Properties, Inc. (the street was initially acquired only in easement, not deed). After this acquisition, that portion of Sang Avenue was to be vacated as a street (with utility easements retained) and ownership transferred to the Osbornes. As they would gain 7,981 square feet and only lose 5,675 square feet plus have new surfacing, curb and gutter, and parking striping, our original offer to them was for an even exchange (zero compensation).

However, Shake's corporate officers were not in favor of an even swap and they were extremely concerned about lost business not just during construction but as a result of no longer having ingress/egress off of Sixth Street. We estimated that severance damages could run as high as \$100,000.00. In addition to that, a counter offer of \$35,000.00 has been received from Daybreak Properties for the portion of Sang Avenue to be vacated and transferred to Osbornes (original offer was \$13,000.00).

Shake's Frozen Custard has offered the City the opportunity to purchase their entire parcel for \$240,000.00. It is staff's recommendation that this is the optimum solution in that we would avoid a settlement made by court action, we wouldn't have to pay severance damages, the contractor wouldn't have to take special precautions to keep access to the business available at all times, we would save the cost of improvements to the property (estimated to be \$50,000.00), we wouldn't have to purchase the portion of Sang Avenue (\$35,000.00 given the counter-offer), and the remaining property not needed for right-of-way could be sold after construction (estimated to be \$100,000.00 as it includes a building).

Right-of-way and easements have already been acquired from the Kenneth W. Lazenby Revocable Trust (\$53,100.00) and William A. Lazenby (\$500.00).

A traffic signal is needed at this intersection for both the school traffic to the north and fire station calls from the Hollywood Avenue station. The master street plan in conjunction with the proposed water park project would divert traffic to Hollywood Avenue and the new traffic signal at Sixth Street.

Presented for your approval is a signed Offer and Acceptance Contract for \$240,000.00 to acquire Parcel No. 765-12164-000 in its entirety. This action would also entail a budget adjustment (attached).

If this purchase is not approved, we stand a good chance of being forced by the courts into buying the entire parcel anyway or essentially paying the equivalent in severance damages and then not having any remainder to sell to recoup costs. This purchase is the deciding point of whether this much-needed project is to be constructed or is to be removed from the C.I.P., keeping in mind that \$53,600.00 has already been paid for right-of-way, plus \$3000.00 in appraisal fees, for a total expenditure to date of \$56,422.00.

**HWY 180 & SANG AVE./HOLLYWOOD AVE.
INTERSECTION IMPROVEMENTS**

ESTIMATED PROJECT BUDGET

Intersection Improvements:	\$483,000	
Contingency 15%:	\$72,000	
<i>Intersection Subtotal:</i>		\$555,000
18" Waterline, 300 feet:	\$30,000	
8" Waterline, 450 feet:	\$45,000	
<i>Waterline Subtotal:</i>		\$75,000
Construction Testing:	\$5,000	
<i>Testing Subtotal:</i>		\$5,000
Right-of-Way:	\$303,000	
<i>R/W Subtotal:</i>		\$303,000
<i>Project Grand Total:</i>		\$938,000
Existing Project Budget:		-\$410,000
<i>Requested Budget Amendment:</i>		\$528,000

**City of Fayetteville, Arkansas
Budget Adjustment Form**

**Offer and Accept
A. 3. Page 5**

Budget Year 2002	Department: Public Works Division: Engineering Program: Sales Tax Capital Improvements	Date Requested 11/19/2002	Adjustment Number
--------------------------------	---	---	--------------------------

Project or Item Requested: \$528,000 is requested in the Hollywood Street - 6th & Sang Ave Intersection capital project.	Project or Item Deleted: \$528,000 from the Mount Sequoyah W&S System Upgrade capital project.
--	--

Justification of this Increase: The additional funds are needed to cover the cost of the right-of-way for the intersection and to replace some of the existing waterline.	Justification of this Decrease: The project is currently on hold.
---	---

Increase Expense (Decrease Revenue)							
Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	528,000	00019	1

Decrease Expense (Increase Revenue)							
Account Name	Account Number				Amount	Project Number	
Water line improvements	4470	9470	5808	00	528,000	01023	1

Approval Signatures		Budget Office Use Only			
Requested By	Date	Type:	A	B	C
	11-1-02				D
Budget Manager	Date	Date of Approval			Date
					Initial
Department Director	Date	Posted to General Ledger			Date
	11-1-02				Initial
Administrative Services Director	Date	Posted to Project Accounting			Date
					Initial
Mayor	Date	Entered in Category Log			Date
					Initial

OFFER AND ACCEPTANCE CONTRACT

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

Parcel No. 765-12164-000

All of Block Numbered Two (2) in Westwood Addition, a replat to the City of Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, LESS AND EXCEPT that portion contained in the Right of Way of U.S. Highway Number 62, and being all of that part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section Twenty (20), Township Sixteen (16) North, Range Thirty (30) West, lying North and West of U.S. Highway 62.

(Also known as Shake's Frozen Custard at 2050 W. 6th Street, Fayetteville, AR.)

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of \$240,000.00.
3. **Contingent Earnest Money Deposit:** The Buyer will tender a check for \$4,800.00 to Donald E. Osborne and Debra L. Osborne, husband and wife, hereinafter referred to as the Seller, as earnest money, which shall apply on the purchase price.
4. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract. A Vendor Form is attached hereto on which the Seller must provide to the Buyer a Tax Identification Number (corporation) or Social Security Number so that the earnest money check can be written and mailed to the Seller within two weeks of the Seller's acceptance of this contract.
5. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
6. The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. The cost of such title insurance policy shall be equally shared by the Seller and the Buyer.
7. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
8. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 4

9. The closing date is designated to be thirty (30) days after approval of this contract by the Fayetteville City Council. If the last date of such closing falls on a weekend or holiday, it will be held the following working day. The closing agent will be a mutually agreed upon closing firm with Washington County, Arkansas.
10. Possession of the property shall be delivered to the Buyer on the date of closing.
11. Seller hereby grants permission for the Buyer or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
12. All fixtures, improvements and attached equipment are included in the purchase price.
13. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
14. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Buyer and Seller shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at Buyer's discretion, Buyer may cure such environmental hazard, and Seller shall indemnify Buyer for all costs associated with said cure.
15. This agreement shall be governed by the laws of the State of Arkansas.
16. This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
17. This contract expires, if not accepted by the Seller on or before the 8th day of November, 2002.
18. **NOTICE:** BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO BUYER OF THE \$4,800.00 EARNEST MONEY DEPOSIT.

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

SELLER:

Donald E. Osborne

Date: _____

Debra L. Osborne

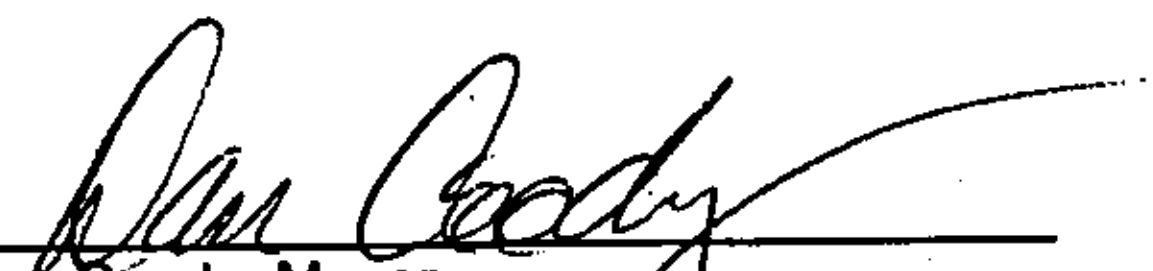
Date: _____

AGENT OR WITNESS:

Date: _____

BUYER:

City of Fayetteville, Arkansas,
A municipal corporation



Dan Coody, Mayor

Date: 10/30/02



Heather Woodruff, City Clerk
Deputy

Date: 10-30-02

(SEAL)

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 5

ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss.

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

WITNESS my hand and seal on this _____ day of _____, 2002.

Notary Public

MY COMMISSION EXPIRES:

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

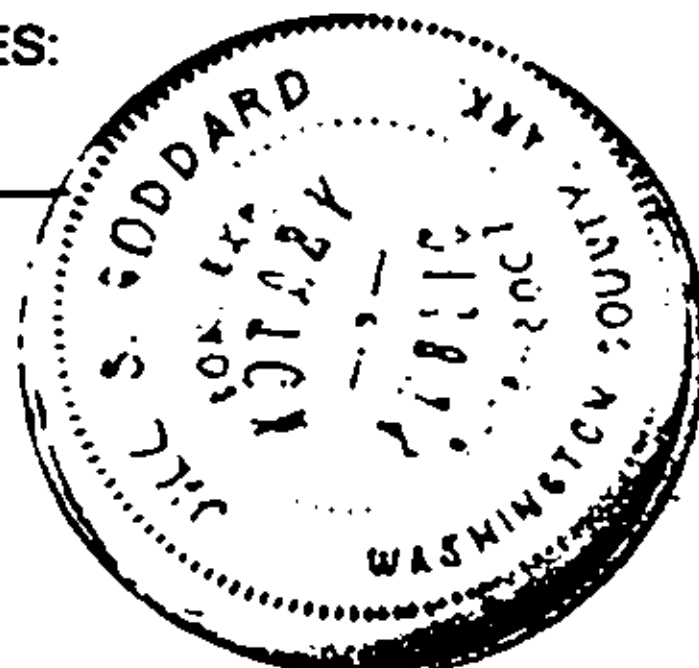
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody and Heather Woodruff**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged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

WITNESS my hand and seal on this 30th day of October, 2002.

Gina Roberts
[Signature]
Notary Public

MY COMMISSION EXPIRES:

09-18-2007



SE-SW-17-16-30

SW-SW-17-16-30

Fayetteville School District No. 1

Deed Ref. 646/201

Parcel No. 765-14592-000

Scale: 1" = 50'

Proposed drainage easement

PROPOSED STREET
RIGHT OF WAY

OLD FARMINGTON ROAD

PROPOSED AREA
TO BE VACATED

OLD FARMINGTON ROAD

NW-NW-20-16-30

Daybreak Properties Inc.

Deed Ref. 99-94023

Parcel No. 765-14860-000

SANG AVENUE
current use as street via Easement 898/185
legally part of Parcel No. 765-14860-000
To be vacated as street

SANG AVENUE

Kenneth W. Lazenby
Revocable Trust

Deed Ref. 96-4744

Parcel No. 765-07549-000

Kenneth W. Lazenby Revocable Trust
Deed Ref. 96-4744
Parcel No. 765-07548-000

William A. Lazenby

Deed Ref. 1384/717

Parcel No. 765-07550-000

PROPOSED STREET
RIGHT OF WAY

Proposed TCE

< proposed water/sewer
and drainage easement

PROPOSED STREET
RIGHT OF WAY

Donald E. & Debra L. Osborne

Deed Ref. 2000-29178

Parcel No. 765-12164-000

NE-NW-20-16-30

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PLEASE RETURN
CITY OF FAYETTEVILLE
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701
(479) 444-3407
FAX: (479) 575-8202

Offer and Accept
A. 3. Page 11

VENDOR FORM

Vendor # _____
(For Office Use Only)

According to the Federal Income Tax Law, the City is required to obtain the information listed below from all individuals and companies with whom we do business. Failure to comply may subject you and/or your company to certain penalties, as well as withholding tax.

Please complete the following:

____ Sole Proprietorship
____ Corporation
____ Partnership
____ Tax-exempt organization under Section 501(a)
____ Foreign Government
____ ☒ Individual
____ Other (please explain)

Tax Identification Number:

____ Federal employer identification number

OR

____ Social Security number (for individual or sole proprietors)

I certify that the above information is true and correct.

Donald E. & Debra L. Osborne
Name of Individual or Business

1102 S. Rangeline
Address

Joplin, MO 64801
City, State, Zip Code

Signature

Date

N/A
Title

Please mail or FAX this completed form to the City of Fayetteville at the above address or FAX number.

DEPARTMENTAL CORRESPONDENCE

To: Greg Boettcher, Public Works Director

Thru: Jim Beavers, City Engineer

From: Paul Libertini, Staff Engineer *Paul*

Date: October 17, 2002

Re: Acquisition of Shake's Property
Sang/Hollywood & 6th Street Intersection

Jim Beavers, Jill Goddard and Paul Libertini met with John Harrell and Corey Osborne of Shake's Frozen Custard on October 3rd to discuss their concerns over the proposed construction project and the City's offer letter. The bottom line is that Shake's wants the City to buy their entire parcel at the appraised value of \$240,000 because of their concerns over direct access and potential loss of 20% of their business.

For comparison, I have constructed the attached spreadsheet showing a comparable project and 4 options for the project at hand. The Sunbridge Drive and College Avenue Intersection is similar to this project in that it closed an existing intersection (Villa Blvd.) with College Avenue and constructed a new intersection to line up with the extension of Sunbridge Drive. In 1998, this project acquired 3 parcels for a total of \$346K which included buying 2 existing buildings for \$88K and paying severance damages of \$24K.

The 4 options are listed below with the total cost being the total project cost of land acquisition for 7 properties.

Option 1: Partial Take of Shake's Property – This includes purchasing the old Sang Ave. easement from Daybreak Industries for \$35,000 and constructing Shake's a new driveway and parking area for \$50,000.

Total cost = \$143,200

Option 2: Partial Take of Shake's Property w/ Severance Damages – \$100,000 was added for severance damages for the Shake's property assuming they force the City to a court settlement.

Total cost = \$243,000

Option 3: Buy Whole Parcel of Shake's Property – The attached Shake's letter offers to sell the entire parcel for the appraised value of \$240,000.

Total Cost = \$298,200

Option 4: Buy Whole Parcel & Sell Remnant of Shake's Property – A conservative estimate to sell the remaining parcel including the building is \$100,000.

Total Cost = \$198,200

As it stands now, the City's offer to Shake's is for \$0 (zero dollars) based on the current certified appraisal. This amount is based on the fact that although the City wants to acquire 5,675 square feet from Shake's, they are purchasing 7,979 square feet of property from Daybreak Industries which will be transferred to Shake's, and then the City will construct a new driveway and parking area on this property for Shake's. In the after situation, Shake's access will be restricted to Old Farmington Road, but in the present situation they have direct access from 6th Street and Old Farmington Road. Although, I personally feel that the proposed site plan for Shake's offers good access through the new signalized intersection, Shake's does not agree. In Option 2, I have factored in \$100,000 as severance damages based on the belief that Shake's will never settle for an "even trade".

Option 4 shows the City acquiring the entire parcel and then turning around and selling the remainder which would bring the total R/W cost down to approx. \$200K which is very reasonable comparing this amount to the \$346K paid for the 1998 Sunbridge/College Project. Even if the City sold the remainder just for the land value of \$70K (8,700 sq. ft. x \$8/sq. ft.), the total project land acquisition cost would be \$230K, which is still reasonable.

Based upon the fact that I believe the City will not be able to acquire the Shake's property for the cost shown in Option 1, I recommend that it would be in the City's best interest to move forward to accept Shake's offer, as shown in Option 4. This would alleviate a long drawn out, expensive acquisition phase with attorney involvement, allow the project to move forward now, allow the City to have more flexibility in constructing the sidewalk away from the back of curb, allow more room for City utilities and provide more room to work in during construction.

Attachments: Spreadsheet
 Shake's Letter 10/3/2002

Sunbridge Drive & College Avenue Intersection Realignment - 1998												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Curry	15,794		4,117	\$128,600		\$3,335	\$46,000		\$23,500	\$201,435	\$12.54
2	Fayetteville Partners	9,088		3,092	\$74,000		\$3,190	\$42,000		\$0	\$119,190	\$12.76
3	U of A Foundation	4,596		4,130	\$23,000		\$2,100				\$25,100	\$5.00
	Totals	29,478	0	11,339	\$225,600	\$0	\$8,625	\$88,000	\$0	\$23,500	\$345,725	\$11.44

PARTIAL TAKE OF SHAKE'S PROPERTY - NO SEVERANCE DAMAGES												
Sang/Hollywood & 6th St (Hwy 180) Intersection Realignment - 2002												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Lazenby Trust	7,981		4,148	\$40,000		\$2,100		\$11,000		\$53,100	\$6.39
5	William Lazenby			513			\$500				\$500	
2	Fay. Public Schools	*2414	4,115		\$0	\$0					\$0	
3	Osborne (Shakes)	5,675	519	978	\$0	\$0	\$0			\$50,000	\$50,000	\$8.81
4	Daybreak Properties	7,979			\$35,000						\$35,000	\$4.39
6	KSK Inv. (Taco Bell)	381			\$1,900						\$1,900	\$4.99
7	McDonalds	777			\$2,700						\$2,700	\$3.47
	Totals	22,793	4,634	5,639	\$79,600	\$0	\$2,600	\$0	\$11,000	\$50,000	\$143,200	\$6.17

* Donated R/W NOT Included in Calculations

NOTES: \$50K shown under Severance Damages is NOT damages, but cost to build Shakes new parking area

PARTIAL TAKE OF SHAKE'S PROPERTY - SEVERANCE DAMAGES												
Sang/Hollywood & 6th St (Hwy 180) Intersection Realignment - 2002												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Lazenby Trust	7,981		4,148	\$40,000		\$2,100		\$11,000		\$53,100	\$6.39
5	William Lazenby			513			\$500				\$500	
2	Fay. Public Schools	*2414	4,115		\$0	\$0					\$0	
3	Osborne (Shakes)	5,675	519	978	\$0	\$0	\$0			\$150,000	\$150,000	\$26.43
4	Daybreak Properties	7,979			\$35,000						\$35,000	\$4.39
6	KSK Inv. (Taco Bell)	381			\$1,900						\$1,900	\$4.99
7	McDonalds	777			\$2,700						\$2,700	\$3.47
	Totals	22,793	4,634	5,639	\$79,600	\$0	\$2,600	\$0	\$11,000	\$150,000	\$243,200	\$10.56

* Donated R/W NOT Included in Calculations

BUY WHOLES PARCEL - SHAKE'S PROPERTY - SEVERANCE DAMAGES												
Sang/Hollywood & 6th St (Hwy 180) Intersection Realignment - 2002												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Lazenby Trust	7,981		4,148	\$40,000		\$2,100		\$11,000		\$53,100	\$6.39
5	William Lazenby			513			\$500				\$500	
2	Fay. Public Schools	*2414	4,115		\$0	\$0					\$0	
3	Osborne (Shakes)	14,375			\$240,000						\$240,000	\$16.70
4	Daybreak Properties	0			\$0						\$0	
6	KSK Inv. (Taco Bell)	381			\$1,900						\$1,900	\$4.99
7	McDonalds	777			\$2,700						\$2,700	\$3.47
	Totals	23,514	4,115	4,661	\$284,600	\$0	\$2,600	\$0	\$11,000	\$0	\$298,200	\$12.57

BUY WHOLES PARCEL - SHAKE'S PROPERTY - SELL REMNANT												
Sang/Hollywood & 6th St (Hwy 180) Intersection Realignment - 2002												
Tract No.	Property Owner	R/W (ft²)	Perm. Esmt. (ft²)	Temp. Esmt. (ft²)	R/W	Perm. Esmt.	T.C.E.	Buildings	Landscape	Severance Damages	Total	Cost/ft² of R/W
1	Lazenby Trust	7,981		4,148	\$40,000		\$2,100		\$11,000		\$53,100	\$6.39
5	William Lazenby			513			\$500				\$500	
2	Fay. Public Schools	*2414	4,115		\$0	\$0					\$0	
3	Osborne (Shakes)	14,375			\$240,000						\$240,000	\$16.70
4	Daybreak Properties	0			\$0						\$0	
6	KSK Inv. (Taco Bell)	381			\$1,900						\$1,900	\$4.99
7	McDonalds	777			\$2,700						\$2,700	\$3.47
	Sell Shakes Remnant	-8,700			-\$100,000						-\$100,000	\$11.49
	Totals	14,814	4,115	4,661	\$184,600	\$0	\$2,600	\$0	\$11,000	\$0	\$198,200	\$13.20

OPTION 1

OPTION 2

OPTION 3

OPTION 4



Shake's Frozen Custard Inc.

244 WEST DICKSON
FAYETTEVILLE, AR 72701

PHONE: (479) 587-9115
E-MAIL: WWW.SHAKESFROZENCUSTARD.COM

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

October 3, 2002

Paul Libertini, PE
Jim Beavers, City Engineer

We appreciate your efforts to improve traffic patterns in the city and particularly appreciate your and Jill's efforts to try to work with us on the access issue, but we have grave concerns regarding how your proposal will effect our business.

Although it may appear to be an even swap as far as land area and parking spaces go, we believe your proposal would devastate our business. We have serious concerns, including but not limited to traffic flow, and the ability to have our product delivered by semi-trailer. Furthermore we are extremely concerned about being taken from three access points down to one and having no direct access off of 6th Street (the people coming off 6th Street will have to turn off 6th Street and then immediately turn against traffic very near a light to get to our store.)

Our business is unique in that 82% is drive-up and access points for vehicles are critical to our success. We frankly question how the appraised value goes up as the access goes down and particularly how the property we would give up with good 6th Street access is worth \$8 a sq. ft. and what we would get with no access to 6th Street and only one entrance point is worth \$10 a sq. ft. Be that as it may, we are proposing to sell our store to the city for your appraised value of \$240,000. We believe this to be the best alternative for the city. Let me elaborate as to how this is beneficial to the city and to Shake's.

Our understanding is that between the land (the to be vacated Sang) and work to restore our parking you would have about \$55 - 60,000 in cost. You have, quite frankly, the ability to "condemn" our property but that includes the responsibility to make us "whole". With so much of our business coming from drive-up and the access problem of one awkward access we believe on a very conservative basis we would lose 20% of our business; but could be much higher. Last year sales were \$337,594 and our marginal (last dollar) profit is about 35%. This would reflect a loss of \$23,631.58 a year or

\$354,473.70 over 15 years (conservative since the 'useful life' of the building far exceeds 15 years).

This figure is not discounted for present value but also includes no assumptions for natural growth in sales. In numerical form:

$$\begin{array}{r} \$337,594 \\ \times .20 \\ \hline 67,518 \times .35 = \$23,631.58 \\ \hline \text{X15 years} \\ \$354,473.70 \end{array}$$

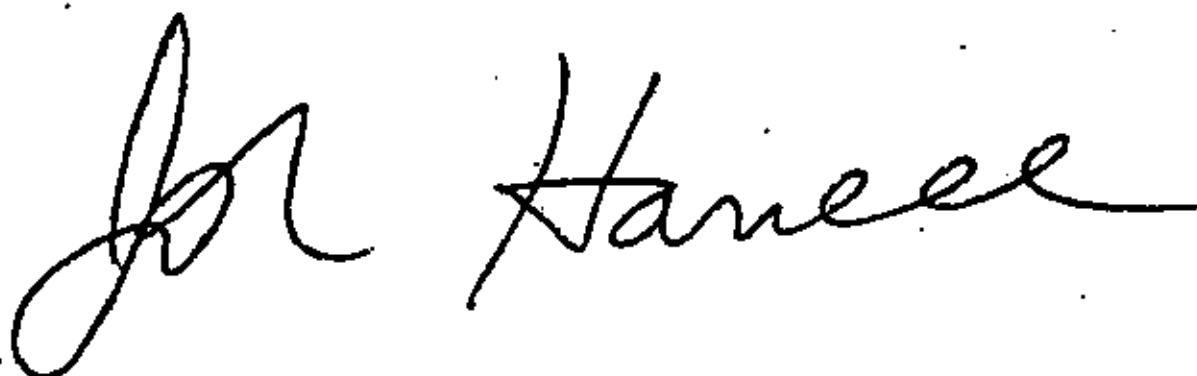
Using this calculation the city's cost would be the \$354,473.70 plus the cost of buying Sang and reworking the property (about \$55,000 or a total cost of \$409,473.70). This doesn't include the effect of disruption of business during construction. In addition to the monetary positive for the city, this proposed transaction would also make the city's construction job easier, make it where the adjacent street wouldn't have to be purchased and certainly saves Shake's a great deal of interruption. We understand the city has budgetary constraints, but we believe this to be in the city's best long-term interest.

Also, frankly it saves us the disruption of business during construction and the ongoing loss of business that would be caused by the loss of access. Please understand, we are willing to forego the cost of a move and what we believe to be an overly conservative appraisal to work with the city to resolve this issue. What we believe to be our very reasonable offer is extended for 30 days (expiring 11-03-02) to help get this situation resolved.

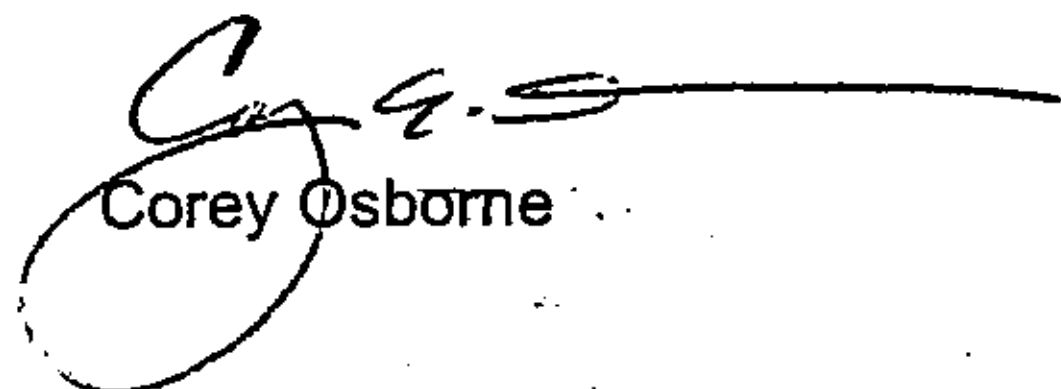
Again, our offer is for \$240,000 (your appraised value) if accepted by 11-03-02. We would ask that the transaction be closed by 1-03-02. We believe this to be a reasonable amount for both sides and would avoid a conflict over the loss of future business.

Thank you for your consideration.

Sincerely,



John Harrell



Corey Osborne

THE CITY OF FAYETTEVILLE, ARKANSAS

June 10, 2002

Donald E. & Debra L. Osborne
1102 S. Rangeline
Joplin, MO 64801

RE: Project No. 00019
Hollywood Street – Sixth & Sang Avenue Intersection
Offer Letter

Dear Mr. and Mrs. Osborne:

The City of Fayetteville is planning the construction of a new intersection of Sang Avenue at Sixth Street (U.S. Hwy. 62). Acquisition of part of Parcel No. 765-12164-000 located at the current southeast corner of Sang Avenue and Old Farmington Road is necessary for these improvements (see attached drawing). Also necessary for this project is a small permanent water/sewer and drainage easement in the northwest corner of the property and a 10 foot wide temporary construction and grading easement west of the right-of-way acquisition area. The temporary construction easement will terminate upon completion and acceptance of the project by the City.

The City of Fayetteville is in negotiations to acquire and subsequently vacate the 50 foot wide portion of Sang Avenue immediately west of your property. It is then proposed to deed this area back to you in exchange for the right-of-way acquisition. This vacated portion of the street would then become your primary parking area. You will no longer have access directly off of Highway 62; however, new pavement, curb and gutter improvements, and a new traffic flow design are all being worked in as a part of this project (see attached drawing).

Because of the benefits to your property, the signed documentation is being requested without compensation. This is based upon the certified appraisal report on your property as prepared by Mark Risk of the Real Estate Consultants, dated December 21, 2000, and updated April 10, 2002. The front page of the appraisal report is enclosed.

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for acquisition and the temporary easement.

Donald E. & Debra L. Osborne
Page 2 of 2, *Offer Letter*

Should you elect to accept this offer, the *Warranty Deed, Water/Sewer and Drainage Easement* and the *Temporary Construction and Grading Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The documents should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the documents if you will advise our office accordingly.

Reduced copies of the *Warranty Deed, Water/Sewer and Drainage Easement* and *Temporary Construction and Grading Easement* are included for your records. We can provide copies of the recorded documents upon your request and at the appropriate time.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements. Please contact Jill Goddard at (479) 444-3407, Holly Jones at 444-3414, or Paul Libertini, Project Engineer, can be reached at 444-3419.

Sincerely,



Dan Coody
Mayor

DC/jsg

Enclosures

**UPDATED
APPRAISAL REPORT
FOR
CITY OF FAYETTEVILLE
Limited Restricted Appraisal Report**

PROJECT Hollywood Street - 6th & Sang Avenue Intersection
COUNTY Washington

PARCEL # 765-12164-000

LOCATION 2050 W. 6th St., Fayetteville, AR
FEE OWNER Donald E. & Debra L. Osborne
ADDRESS 1102 S. Rangeline, Joplin, MO 64801

ESTATE APPRAISED Fee Simple

AREA OF WHOLE .33 acres **AREA OF RESIDUAL** .38 acres

AREA OF PERMANENT R-O-W ACQUISITION 5,675 sq.ft. or .13 Ac.
(Descriptions attached)

Water/Sewer and Drainage Easement 519 sq.ft. or .012 ac.

Temporary Construction and Grading Easement 978 sq.ft. or .022 ac.

ESTIMATED FAIR MARKET VALUE OF THE PROPERTY:

Before		
Land	\$116,000	
Improvements	\$129,000	
Total		\$245,000
After		
Land	\$132,000	
Improvements	\$129,000	
Total		\$261,000

FAIR MARKET VALUE OF PERMANENT R-O-W ACQUISITION \$0

As of 10th day of April 2002

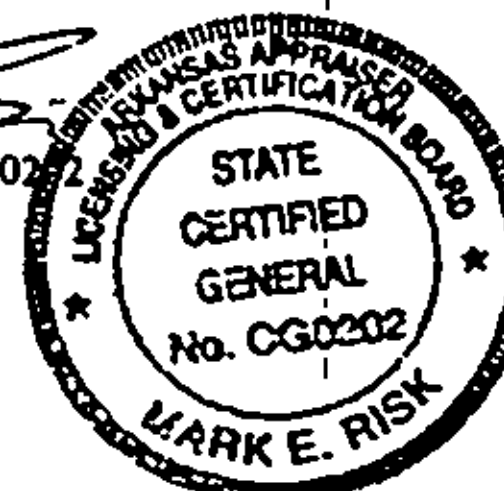
ALLOCATION OF F.M.V. OF TOTAL ACQUISITION

R-O-W	5,675 SF @ \$8.00/SF	= \$45,400	Say	\$ 45,400
Drainage Esmt.	519 SF @ \$8.00/SF	= \$ 4,152	Say	\$ 4,200
T.C.E.*	978 SF @ \$8.00/SF x .10 x 1	= \$ 782	Say	\$ 800
Trees	None			\$ 0
Improvements:	Concrete Parking Area			
	5,675 SF @ \$2.50/S.F.	= \$14,188	Say	\$14,200
Total R-O-W, D.E., T.C.E., & Improvements				\$ 64,600
Less Benefits:	New Parking Area and Land			
	7,979 SF @ \$10.00/SF	= \$79,790		(\$ 79,800)
Total Compensation				(\$ 15,200)
			Say	\$ 0

ATTACHMENTS:

- ☒ Certificate of Appraiser
- ☒ Photographs
- ☒ Site, Improvement, H&B Use Narrative
- ☒ Legal Descriptions
- ☒ Market Data and Cost Approach
- ☒ Survey
- ☒ Tax Assessment Card

Appraiser, Mark E. Risk GAA, #CG0202



* Water/Sewer and Drainage Easement value is based upon fee simple land value.
** Temporary Construction Easement (T.C.E.) value is based upon the fee simple land value multiplied times the Current Yield on 1 Year CDs for a 1 year period plus a premium for inconvenience.

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: Tim Conklin Planning Urban Development
Name Division Department

ACTION REQUESTED: To approve an ordinance for VA 02-12.00 & 13.00 as submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement.

COST TO CITY:

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

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:
Accounting Manager Date ADA Coordinator Date
City Attorney Date Internal Auditor Date
Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the vacation be approved by the City Council.

Division Head Date 11-1-02
Department Director Date 10-04-02
Administrative Services Director Date 11-4-02
Mayor Date 11/05/02
Cross Reference
New Item: Yes No
Prev Ord/Res#:
Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Dawn Warrick, AICP, Senior Planner
THRU: Hugh Earnest, Urban Development Director
DATE: November 4, 2002

VAC 02-12&13.00: (Houses Development, pp 484) was submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement vacations.

Background:

The subject property, located at the southwest corner of St. Charles Ave. and Watson St., contains two portions of an existing drainage easement. This request is to vacate that easement with the intention of developing the site under its current zoning designation of C-3, Central Commercial. The developer plans to process a project proposal in which the drainage will be relocated and new easements established. New easements and drainage improvements are conditions of approval for this requested vacation.

Utility & Adjoining Property Owner Comments:

No objections from the adjacent property owners have been submitted to the City. The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

- Ozarks Electric - NA
- Southwestern Electric Power Company - NA
- Arkansas Western Gas - NA
- SW Bell - NA
- Cox Communications - NA

City of Fayetteville:

- Water/Sewer - NA
- Street Department - NA
- Solid Waste - NA
- Engineering - No objections.

Current Status:

On October 28, 2002 the Planning Commission voted 8-0-0 to forward this request to the City Council with a positive recommendation. The item was considered as a part of the Planning Commission's consent agenda.

Recommendation: Approval of the proposed easement vacations VAC 02-12&3.00

ORDINANCE NO. _____

AN ORDINANCE APPROVING VA02-12.00 and 13.00 TO VACATE AND ABANDON A SECTION OF DRAINAGE EASEMENTS LOCATED AT THE SOUTHWEST CORNER OF WATSON AND ST. CHARLES AVENUE, CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described drainage easements are not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described utility easement:

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

Section 2. That a copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2002.

APPROVED:

DRAFT

By _____
Dan Coody, Mayor

ATTEST:

By _____
Heather Woodruff, City Clerk

EXHIBIT "A"

Easement Description #1:

A fifteen (15) foot wide permanent drainage easement described as being seven and one-half ($7 \frac{1}{2}$) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the northeast corner of lot 8, in Watson's Subdivision of lot numbered 14, block 8, County Court Addition to the City of Fayetteville, Arkansas; thence south 27 degrees 33'22" west 38.08 feet; thence south 74 degrees 44'20" west 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half ($7 \frac{1}{2}$) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33'22" West 38.08 feet; thence South 74 degrees 44' 20" West 158.18 feet.

PC Meeting of October 28, 2002

FAYETTEVILLE

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

Easement Vacation

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner, A.I.C.P.
FROM: Sara Edwards, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: October 24, 2002

Project: VAC 02-12,13.00: (Houses Development, pp 484) was submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement vacation.

No objections from the adjacent property owners have been submitted to the City.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

Ozarks Electric - NA
Southwestern Electric Power Company - NA
Arkansas Western Gas - NA
SW Bell - NA
Cox Communications - NA

City of Fayetteville:
Water/Sewer - NA
Street Department - NA
Solid Waste - NA
Engineering - No objections.

Recommendation: Approval of the proposed easement vacation 02-12,13.00.

Conditions of Approval:

1. Installation of new storm sewer to route the storm water around this site and the dedication of required associated easements. Vacation of the drainage easement will not be complete until the relocated storm sewer is installed and accepted by the City of Fayetteville.

PETITION TO VACATE DRAINAGE EASEMENTS LOCATED IN LOTS EIGHT (8), NINE (9), AND TEN (10) IN BLOCK NUMBERED ONE (1) IN WATSON'S SUBDIVISION OF LOT FOURTEEN (14), BLOCK EIGHT (8) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AND PART OF LOT THIRTEEN (13), OF BLOCK EIGHT (8) OF THE COUNTY COURT ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all owners of the real estate abutting the Drainage Easements hereinafter sought to be abandoned and vacated, lying in Lots Eight (8), Nine (9), and Ten (10) in Block Numbered One (1) in Watson's Subdivision of Lot Fourteen (14), Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and Part of Lot Thirteen (13), of Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate drainage easements which are described as follows:

Easement Description #1:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHEAST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

That the abutting real estate affected by said abandonment of the Drainage Easements are Lots 13 & 14 of Block 9 of the County Court Addition to the City of Fayetteville, Arkansas used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the above described easements.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements and infrastructure to convey drainage through their property as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements and infrastructure to convey drainage through their property as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law, and as to that particular land the owner be free from the easements of the public for the use of said drainage easements.

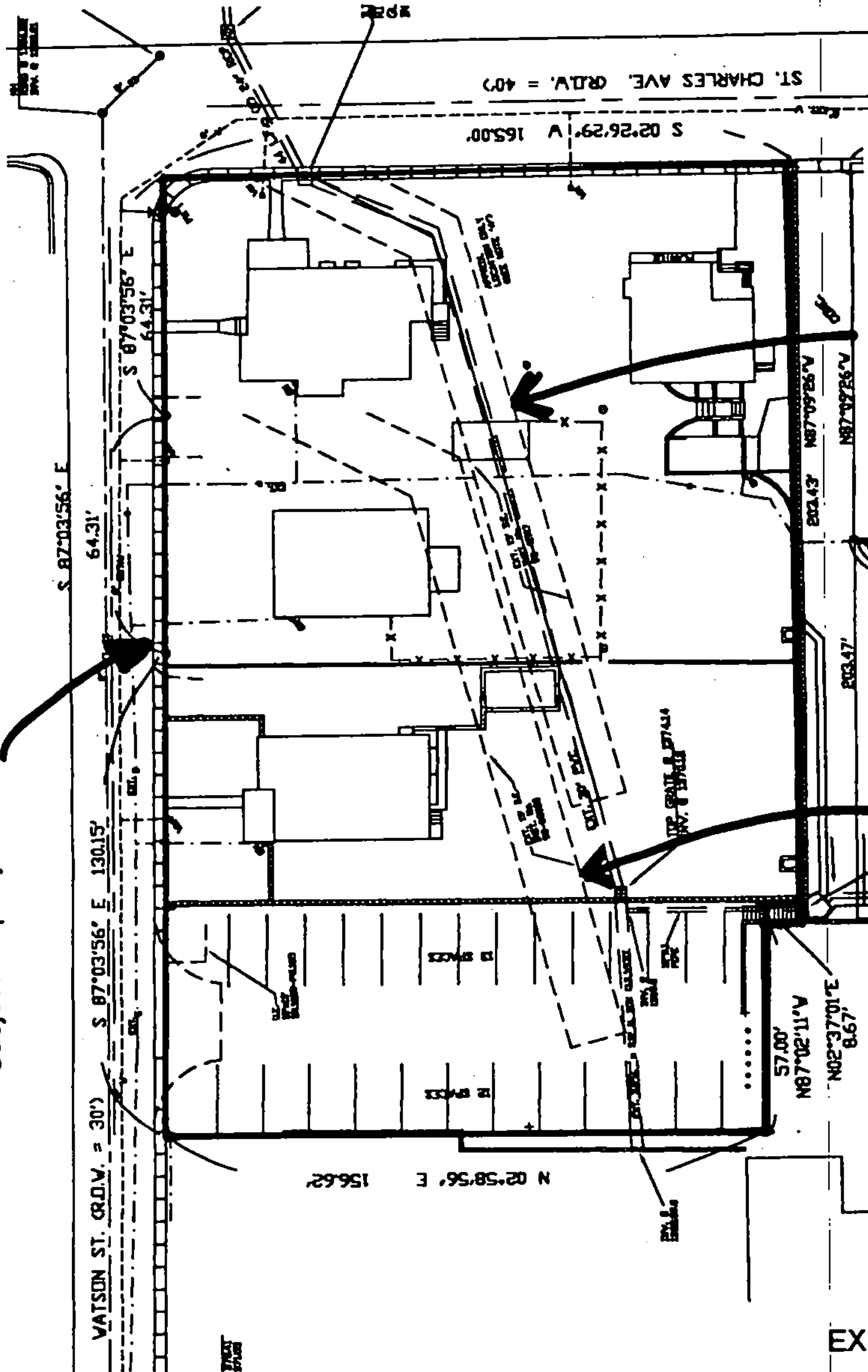
Dated this Seventh (7th) day of October, 2002.

GREG HOUSE

Printed Name


Signature

Subject Property



Easement
Description #1

Easement
Description #2

EXHIBIT A

STR

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ADDITION
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Assessor's Map

LEGAL DESCRIPTION:
Proposed Drainage Easement Vacation

Property Description:

Lots Eight (8), Nine (9), and Ten (10) in Block Numbered One (1) in Watson's Subdivision of Lot Fourteen (14), Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and Part of Lot Thirteen (13), of Block Eight (8) of the County Court Addition to the City of Fayetteville, Arkansas, and as per Plat of said addition on file in the office of Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

Easement Description #1:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHEAST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

Easement Description #2:

A Fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7-1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the NORTHWEST Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33' 22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.



LandWorks, Inc.

758 Fowler Avenue

Fayetteville, Arkansas 72701

Voice 501.444.7769

Fax 501.444.7793

October 7, 2002

Mr. Tim Conklin, AICP
Director of Planning
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

RE: Request for Drainage Easement Vacations
Lots 8, 9, & 10 Located in Block 1 of Watson's Subdivision of Lot 14,
Block 8 of County Court Addition
Fayetteville, Arkansas

Dear Mr. Conklin:

The owners of the above referenced real estate wish to vacate existing drainage easements located within their property. The request meeting the City of Fayetteville requirements is attached in its entirety.

There are two easements of record that are attached for your review. It is believed by the petitioner, and concurred through discussions with you and the Assistant City Attorney, that the two documents represent only one easement, but that the easement across Lot 9 contains an error. The erroneous description starts the easement from the Northwest corner of Lot 8 of Watson's Subdivision, rather than the Northeast. When the easement is plotted properly as beginning from the Northeast corner of Lot 8, it encompasses the existing drainage infrastructure as was the purpose of the drainage easement.

It is the intention of the petitioner to relocate the existing drainage to the approval of the City of Fayetteville Engineering Department and to dedicate easements to the City as necessary to accommodate the drainage and develop the property to its fullest extent allowed by the current zoning. The petitioner expects this request to be approved contingent to the these approvals.

Please do not hesitate to call me if you have any questions regarding this request.
Thank you for your consideration.

Best Regards:

Mandy R. Bunch, PE

PC Meeting of October 28, 2002

FAYETTEVILLE

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

Easement Vacation

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner, A.I.C.P.
FROM: Sara Edwards, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: October 24, 2002

Project: VAC 02-12,13.00: (Houses Development, pp 484) was submitted by Greg House for property located at the southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement. See the attached maps and legal descriptions for the exact locations of the requested easement vacation.

No objections from the adjacent property owners have been submitted to the City.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

Ozarks Electric - NA
Southwestern Electric Power Company - NA
Arkansas Western Gas - NA
SW Bell - NA
Cox Communications - NA

City of Fayetteville:
Water/Sewer - NA
Street Department - NA
Solid Waste - NA
Engineering - No objections.

Recommendation: Approval of the proposed easement vacation 02-12,13.00.

Conditions of Approval:

1. Installation of new storm sewer to route the storm water around this site. Vacation of the drainage easement will not be complete until the relocated storm sewer is installed and accepted by the City of Fayetteville.

Date: _____

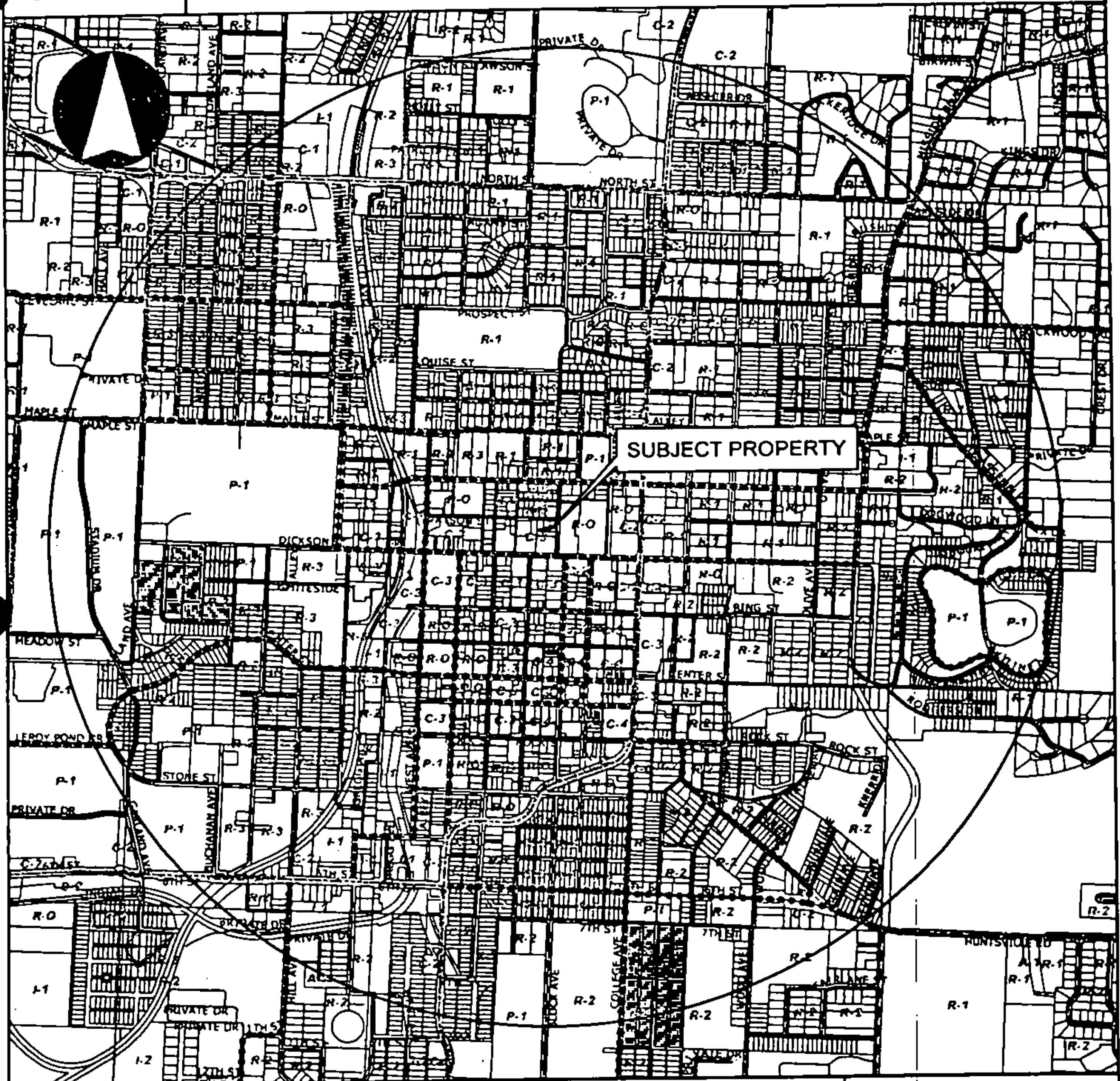
Comments: _____

Date: / /

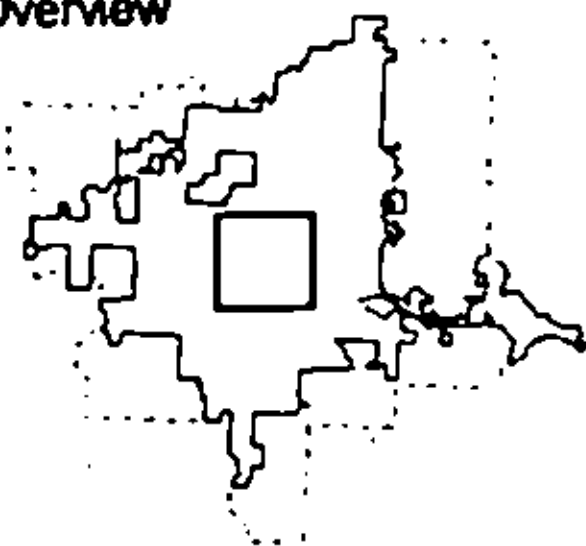
VAC02-12&13.00

One Mile View

HOUSES DEVELOPMENT



Overview



Legend

Subject Property

Streets



Boundary

 Planning Area

City Limits

☐ 100% (100%)

☐ Outside City

Master Street Plan

 Freeway Express Principal Arterial **Mango Artistic**

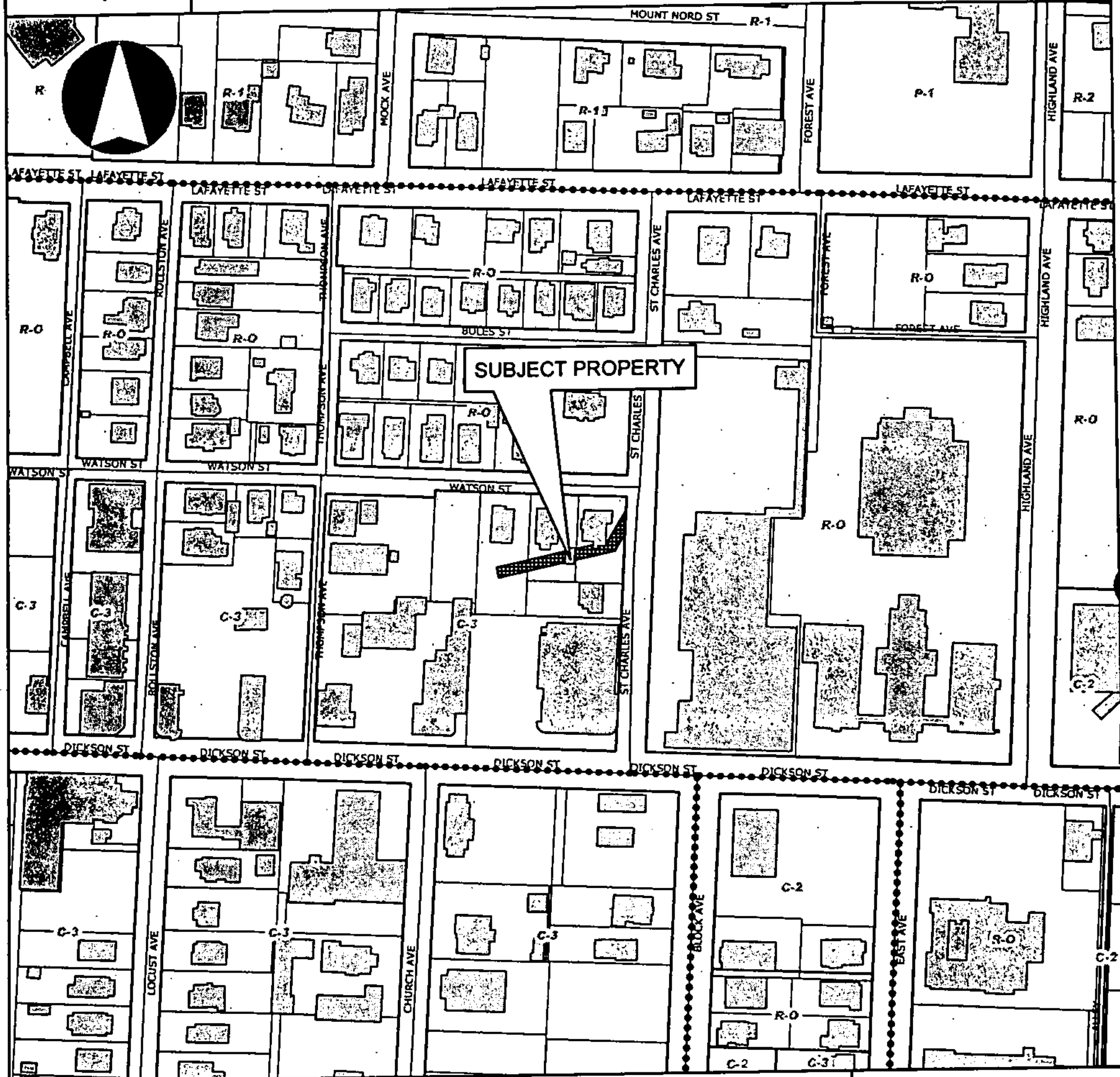
Collector

Historic Collector

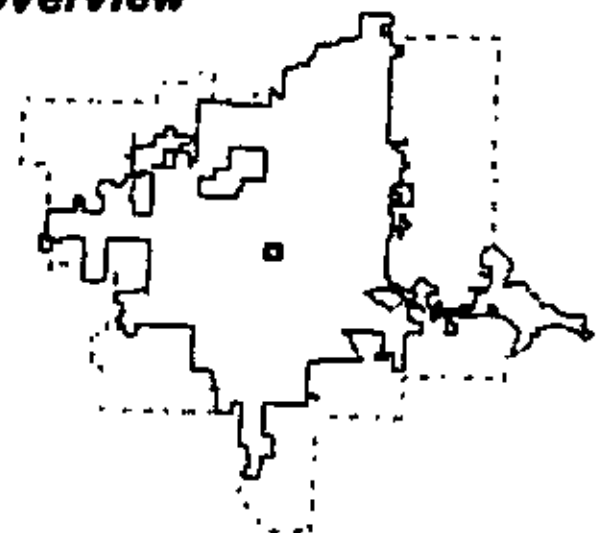
VAC02-12&13.00

Close Up View

HOUSES DEVELOPMENT



Overview



Legend

- | | | | |
|----------------|------------------|--------------------|--------------|
| SPC City | Overlay District | Master Street Plan | City Limits |
| dodpoly | Streets | Freeway/Expressway | Outside City |
| VAC02-12&13.00 | Existing | Principal Arterial | |
| Buildings | Planned | Minor Arterial | |
| Lakes | | Collector | |
| | | Historic Collector | |
| | | Planning Area | |
| | | Zoning | |

0 75 150 300 450 600 Feet

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-1, Low Density Residential.

COST TO CITY:

\$0

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

BUDGET REVIEW:	Budgeted Item	Budget Adjustment	Attached
Budget Coordinator	Administrative Services Director		

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

[Signature]
Division Head
[Signature]
Department Director
[Signature]
Administrative Services Director
[Signature]
Mayor

11-1-02
Date
11-04-02
Date
11-4-02
Date
11-15-02
Date

Cross Reference

New Item: Yes No

Prev Ord/Res#:

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: Nov. 1, 2002

RZN 02-34.00 (1016): Rezoning (Lovell, pp 396) was submitted by Milholland Company on behalf of Roy & Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-2, Medium Density Residential.

BACKGROUND:

Property Characteristics: The subject property is located north of Wedington Drive, between 59th Avenue and Double Springs Road. A single-family house sits on approximately 2.8 acres. Adjacent properties are large lot single family houses and vacant/agricultural land across Wedington.

Proposal: The applicant proposes to split the lot and build a new house. The current zoning classification of A-1 Agricultural has a minimum lot requirement of two acres. Under this zoning classification the applicant cannot split the 2.8 acre lot.

Request: The applicant requested to rezone the property from A-1 Agricultural to R-2 Medium Density Residential.

Findings: Staff recommended denial of the request to rezone to R-2. The requested zoning would permit up to 13 lots and 67 families. The resulting density is inconsistent with the surrounding land use, which is predominantly large lot single-family. R-2 Medium Density Residential is not necessary for this proposal. A zoning of R-1 Low Density Residential is more appropriate and would allow the applicant to split the lot and build a new house.

CURRENT STATUS:

On Oct. 28, 2002, the Planning Commission voted 8-0-0 to forward the request to the City Council to approve a rezoning from A-1 Agricultural to R-1 Low Density Residential. The applicant will accept a rezoning to R-1.

RECOMMENDATION:

Approval of the rezoning to R-1 Low Density Residential.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-34.00 FOR A PARCEL
CONTAINING APPROXIMATELY 2.80 ACRES LOCATED AT 6310 W.
WEDINGTON DRIVE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY
MEL MILHOLLAND OF MILHOLLAND COMPANY ON BEHALF OF ROY
AND STEPHANIE LOVELL.

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 to R-1, Low Density Residential as shown 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 _____, 2002.

APPROVED:

By: **DRAFT**
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"

RZN 02-34.00

A PART OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 10, T-16-N, R-31-W MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTH QUARTER-CORNER [N $\frac{1}{4}$] OF SAID SECTION 10; SAID POINT BEING A FOUND IRON PIN; THENCE S02-29-33W 2628.04 FEET TO THE SOUTHWEST CORNER OF THE SW $\frac{1}{4}$ OF THE NE $\frac{1}{4}$; THENCE S87-46-02E 1322.70 FEET TO THE SOUTHWEST CORNER OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$; THENCE S87-46-02E 470.25 FEET; THENCE N02-21-49E 43.33 FEET TO THE POINT OF BEGINNING; SAID POINT BEING A SET IRON PIN ON THE NORTH RIGHT-OF-WAY OF WEDINGTON DRIVE (AR. HWY 16);

THENCE N02-21-49E 616.67 FEET TO A SET IRON PIN;

THENCE S87-46-02E 198.00 FEET TO A SET IRON PIN;

THENCE S02-21-49W 615.90 FEET TO A SET IRON PIN; SAID POINT BEING ON THE NORTH RIGHT-OF-WAY OF SAID WEDINGTON DRIVE;

THENCE ALONG SAID RIGHT-OF-WAY N87-59-21W 198.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.80 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, ARKANSAS.

RZN 02-34.00 (1016): Rezoning (Lovell, pp 396) was submitted by Milholland Company on behalf of Roy & Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-2, Medium Density Residential.

Aviles: Item six on our agenda is RZN 02-34.00, which is a rezoning request submitted by Milholland Company on behalf of Roy & Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-2, Medium Density Residential. Hi Shelli, would you like to give us the staff report on this?

Rushing: I sure will. This subject property is located north of Wedington Drive. It is between 59th Avenue and Double Springs Road. There is a single-family house that sits on approximately 2.80 acres. The adjacent properties are primarily large lot single-family residential. There is vacant agricultural land across the street. The applicant is proposing to split the lot and build an additional single-family house. The current zoning classification of A-1, Agricultural has a minimum lot requirement of two acres. Under the zoning classification, the applicant would not be able to split the lot. Therefore, the applicant is requesting to rezone the property from A-1, Agricultural to R-2, Medium Density Residential. The R-2, Medium Density Residential district does have a minimum lot requirement of 6,000 sq.ft. which would allow them to split that lot. The General Plan does designate this area as residential. However, the R-2, Medium Density zoning district is not compatible with the existing density in that area. It would allow density of up to 24 families per acre. On this particular property it would be 13 lots or 67 families on this 2.8 acre lot. Therefore, staff is recommending denial of this request primarily because the resulting density is inconsistent with the existing land uses, which are predominantly large lot single-family residential. Also, we find that the R-2 district is not necessary for what the applicant is proposing. They would be able to split the lot, build the additional lot with an R-1 zoning. Therefore, we are recommending denial of the R-2 but are recommending approval of an R-1.

Aviles: Ok, thank you very much Shelli. Is the applicant present?

Jefcoat: I am Tom Jefcoat with Milholland and Company. I did speak with Mr. Lovell today and his intention is to build one additional single-family so he is agreeable to the rezoning to R-1 and would be acceptable to that.

Aviles: Thank you very much.

Shackelford: Just for public record, Stephanie Lovell, who is an applicant, is an employee of Arvest Bank as am I, we don't work directly together, we are in different locations. I was not intending to recuse. I visited with Kit Williams and it was

not recommended that I recuse but I did want to make that part of the public record and will recuse if any Planning Commissioner feels I should.

Aviles: Thanks Commissioner, I don't feel that is necessary from my perspective. Is there anybody else? I will go ahead and take public comment. Is there any member of the public that would like to address us on this rezoning? Seeing no one, I will go ahead and bring it to the Commission and the applicant for discussion and motions.

Bunch: Do we need to deny the R-2 zoning and then make a motion for R-1 or can we go straight forward with an R-1?

Aviles: I think we can just go with the R-1. I believe we have done that in the past. Mr. Williams, is that acceptable?

Williams: I see Tim nodding his head over there. I think you can go directly to make a recommendation to the City Council that they rezone this to R-1.

MOTION:

Bunch: Seeing that the applicant is with the understanding that R-1 is what is necessary to accomplish the job at hand and also that it would give the type densities that staff is recommending. I will move that we forward RZN 02-34.00 to the City Council with our approval.

Aviles: Thank you. I have a motion by Commissioner Bunch, do I hear a second?

Hoover: I will second.

Williams: That was to R-1?

Bunch: Yes, we are recommending R-1 to the City Council.

Aviles: Is there further discussion? Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-34.00 was approved by a vote of 8-0-0.

Aviles: Thank you Renee, the motion carries unanimously. Thank you gentlemen.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of Oct. 28, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 24, 2002

RZN 02-34.00 (1016): Rezoning (Lovell, pp 396) was submitted by Milholland Company on behalf of Roy & Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.80 acres. The request is to rezone to R-2, Medium Density Residential.

RECOMMENDATION:

Staff recommends denial of the requested rezoning based on the findings included as part of this report. A rezoning to R-1 Low Density Residential would be more appropriate for the proposed lot split and construction of an additional single family house.

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: October 28, 2002

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: November 19, 2002 (First reading, if approved)

Comments: _____

BACKGROUND:

Property Characteristics: The subject property is located north of Wedington Drive, between 59th Avenue and Double Springs Road. A single-family house sits on approximately 2.8 acres. Adjacent properties are large lot single family houses and vacant/agricultural land across Wedington.

Proposal: The applicant proposes to split the lot and build a new house. The current zoning classification of A-1 Agricultural has a minimum lot requirement of two acres. Under this zoning classification the applicant cannot split the 2.8 acre lot.

Request: The applicant is requesting to rezone the property from A-1 Agricultural to R-2 Medium Density Residential. R-2 Medium Density Residential has a minimum lot requirement of 6,000 square feet. The proposed zoning designation would permit the owner to split the property as proposed.

Recommendation: Staff is recommending denial of this request. The proposed zoning would permit up to 13 lots and 67 families. The resulting density is inconsistent with the surrounding land use, which is predominantly large lot single-family. R-2 Medium Density Residential is not necessary for this proposal. A zoning of R-1 Low Density Residential is more appropriate and would allow the applicant to split the lot and build a new house.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Vacant	A-1 Agricultural
South	Vacant	C-2 Thoroughfare Commercial
East	Residential	A-1 Agricultural
West	Residential	A-1 Agricultural

INFRASTRUCTURE:

Streets: North: N/A
 South: Wedington Drive (Principal Arterial)
 East: 59th Avenue (Collector)
 West: Double Springs Rd (Minor Arterial)

Water: 8" water line along the southern edge of the property

Sewer: 6" sewer main along the southern edge of the property

LAND USE PLAN: General Plan 2020 designates this site residential. Rezoning this property to R-2 Medium Density Residential is consistent with the land use plan. It is not compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF:

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

Finding: The proposed rezoning is consistent with the Future Land Use Plan, which designates this property as residential. The density of 4 to 24 families per acre permitted in the R-2 Medium Density Residential district is not compatible with surrounding land use, which is predominantly large lot single family residential.

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

Finding: A rezoning is necessary in order for the applicant to proceed with a lot split and construction of a new house. The A-1 Agricultural district requires a 2 acre minimum lot area and will not permit the 2.8 acre property to be split. This can be achieved with the R-1 Low Density Residential district. The R-2 Medium Density Residential district is not justified for the current proposal.

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

Finding: *From Planning:* The proposed zoning could increase traffic danger and congestion. Wedington Dr. is a two lane road at this location. The proposed zoning may permit up to 13 lots on this property (121,968 sq. ft. (2.8 acres) / 9,000 sq. ft. per lot) and up to 67 families (2.8 acres X 24 families permitted per acre). The average weekday two-way volume for 64 units is 422 trips. Traffic counts are not available at this location. Average daily volumes at 59th Ave. and Wedington Dr. in 2001 were 8,300. The addition of 422 trips is a 5% increase.

From Public Works: The proposed rezoning is located on the north side of Wedington Drive (Hwy 16 W.) east of Double Springs Road. At this location Wedington Drive is a two lane highway. The proposed rezoning from A-1 to R-2 may or may not result in additional traffic danger and congestion for this area. The proposed zoning allows a density of 4 to 24 families per acre. That means a development could add 11 to 67 families on this 2.8 acre tract. The access to the developed site and the circulation network within the development shall be reviewed in detail as part of the subdivision or large scale development process. The layout, connectivity, circulation plan, ingress and egress provisions will be reviewed in detail as information becomes available.

From Police: The Police Department states that the rezoning may increase traffic from what it is at present. The rezoning will not impact police functions to the degree that they could not be performed adequately; therefore, the Police Department does not oppose this rezoning request.

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: *From Planning:* The proposed zoning could increase population density and potentially increase the load on public facilities and services. Using an average family size of 2.21 (U.S. Census for the City of Fayetteville) and the potential for up to 67 families, the site could result in 148 additional persons.

From Public Works: The site has access to an existing 8" water line on the south side of the property. A 6" sewer main is also located at the south of this property along Wedington. The proposed rezoning and ultimate development may increase the loading on the existing infrastructure systems. During the development's review and approval process, the adequacy of the existing infrastructure to accommodate the service requirements will be assessed by the developer's consultant and reviewed by city staff. Any inadequacies, lack of availability, need for improvements and determination of responsibility for the infrastructure improvements shall be resolved during the development's review/approval process.

From Fire Department: Fire hydrants will be needed, 20 feet of unobstructed width driving surface. Response time 10-12 minutes.

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

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

§161.03 DISTRICT A-1 AGRICULTURAL

A. Purposes. The regulations of the Agricultural District are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; prevent unsightly development, increase scenic attractiveness; and conserve open space.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities
Unit 6	Agriculture
Unit 7	Animal Husbandry
Unit 8	Single-Family and Two-Family Dwellings

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 4	Cultural and Recreational Facilities
Unit 20	Commercial Recreation; Large Sites

C. Bulk and Area Regulations.

Lot Width Minimum	200 ft.
Lot Area Minimum: Residential	2 acre
Nonresidential	2 acre
Lot Area Per Dwelling Unit	2 acre

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

E. Height Requirements. There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required yard lines.

(Code 1991, §160.030; Code 1965, App. A, Art. 5(I); Ord. No. 1747, 6-29-89)

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

§161.06 DISTRICT R-2 MEDIUM DENSITY RESIDENTIAL

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

B. Uses.

1. Uses Permitted.

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

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 11	Mobile Home Park
Unit 25	Professional Offices

C. Density.

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

D. Bulk and Area Regulations.

1. Lot Width Minimum.

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

2. Lot Area Minimum.

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

Two-Family	7,000 Sq. Ft.
Three or More	9,000 Sq. Ft.
Fraternity or Sorority	2 Acres
Professional Offices	1 Acre

3. Land Area Per Dwelling Unit.

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

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	25

Cross Reference: Variances Chapter 156.

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

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

\$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)

Lovell
Summary of Trip Generation Calculation
For 64 Occupied Dwelling Units of Low-Rise Apartment
October 17, 2002

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	6.59	2.84	1.00	422
7-9 AM Peak Hour Enter	0.09	0.00	1.00	6
7-9 AM Peak Hour Exit	0.38	0.00	1.00	24
7-9 AM Peak Hour Total	0.47	0.70	1.00	30
4-6 PM Peak Hour Enter	0.38	0.00	1.00	24
4-6 PM Peak Hour Exit	0.20	0.00	1.00	13
4-6 PM Peak Hour Total	0.58	0.77	1.00	37
Saturday 2-Way Volume	7.16	2.96	1.00	458
Saturday Peak Hour Enter	0.31	0.00	1.00	20
Saturday Peak Hour Exit	0.27	0.00	1.00	17
Saturday Peak Hour Total	0.58	0.77	1.00	37

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS



..... Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

REGISTRATIONS:

PE: AR, OK, MO

PLS: AR, OK

October 4, 2002

City of Fayetteville
Mr. Tim Conklin, Planner
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: LOVELL REZONING & LOT SPLIT
Project No. S-2304

Dear Tim:

In response to the City of Fayetteville Application for Rezoning, the following is submitted:

5.a. *Current ownership and proposed/pending property sales:*
Roy V. Lovell, Jr. and Stephanie A. (Easterling) Lovell
6310 Wedington Drive
Fayetteville, AR 72704

No pending sales at this time.

5.b. *Reason for requesting zoning change:*
Owner wants to split off older home, rebuild new house

5.c. *Surrounding properties: land use, traffic, appearance and signage:*
To the North: Unimproved, one (1) single family;
To the East: Unimproved with Single Family;
To the South: Arkansas Highway No. 16 and Commercial Development;
To the West: Older Single Family Residential Home and Commercial;
Traffic is low to moderate presently, except school traffic;
Appearance and Signage will be discussed during LSD Review.

5.d. *Water and sewer availability, line size:*
6" Water and 6" Sewer

6.a. *The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and policies and with land use and zoning plans:*
In compliance with City Land Use Map.

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

RZN 02-34.00

C. 2. Page 15

RE.....

PE: AR, OK, MO

PLS: AR, OK

Lovell Rezoning & Lot Split

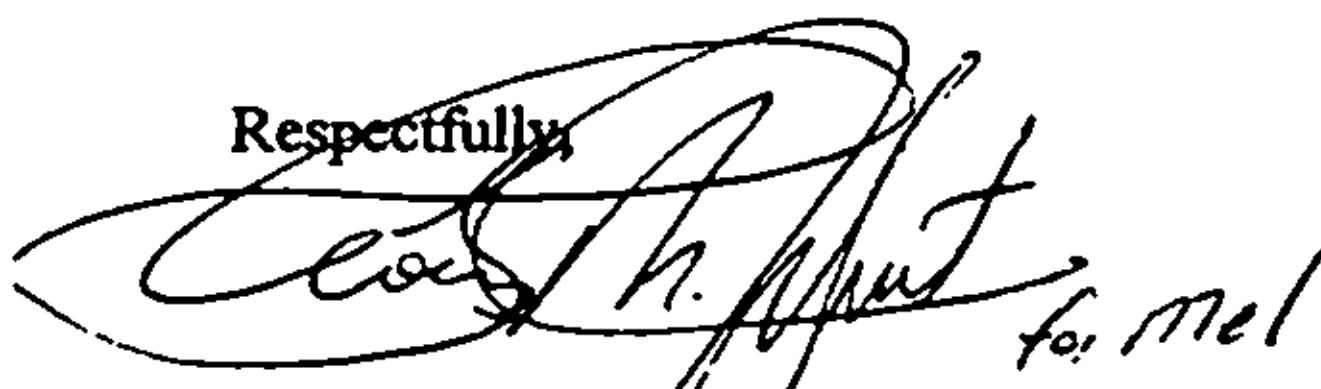
October 2, 2002

Page Two (2)

- 6.b. *Whether the proposed zoning is justified and/or needed at the time of the request:*
Yes, for "Tract Split" (suggested by City Planner)
- 6.c. *Whether the proposed zoning will create or appreciably increase traffic danger and congestion:*
No
- 6.d. *Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities:*
No
- 6.e. *Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:*
Will not allow for additional residential use (in this case, a new house).

Your favorable review is appreciated!

Respectfully,



Melvin L. Milholland, PE, PLS

cc: Roy & Stephanie Lovell
file

C:\MyFiles\FORMS\Fayetteville\Rezone S-2304 Lovell Ltr-Planning.wpd

DOUBLE SPRINGS RD

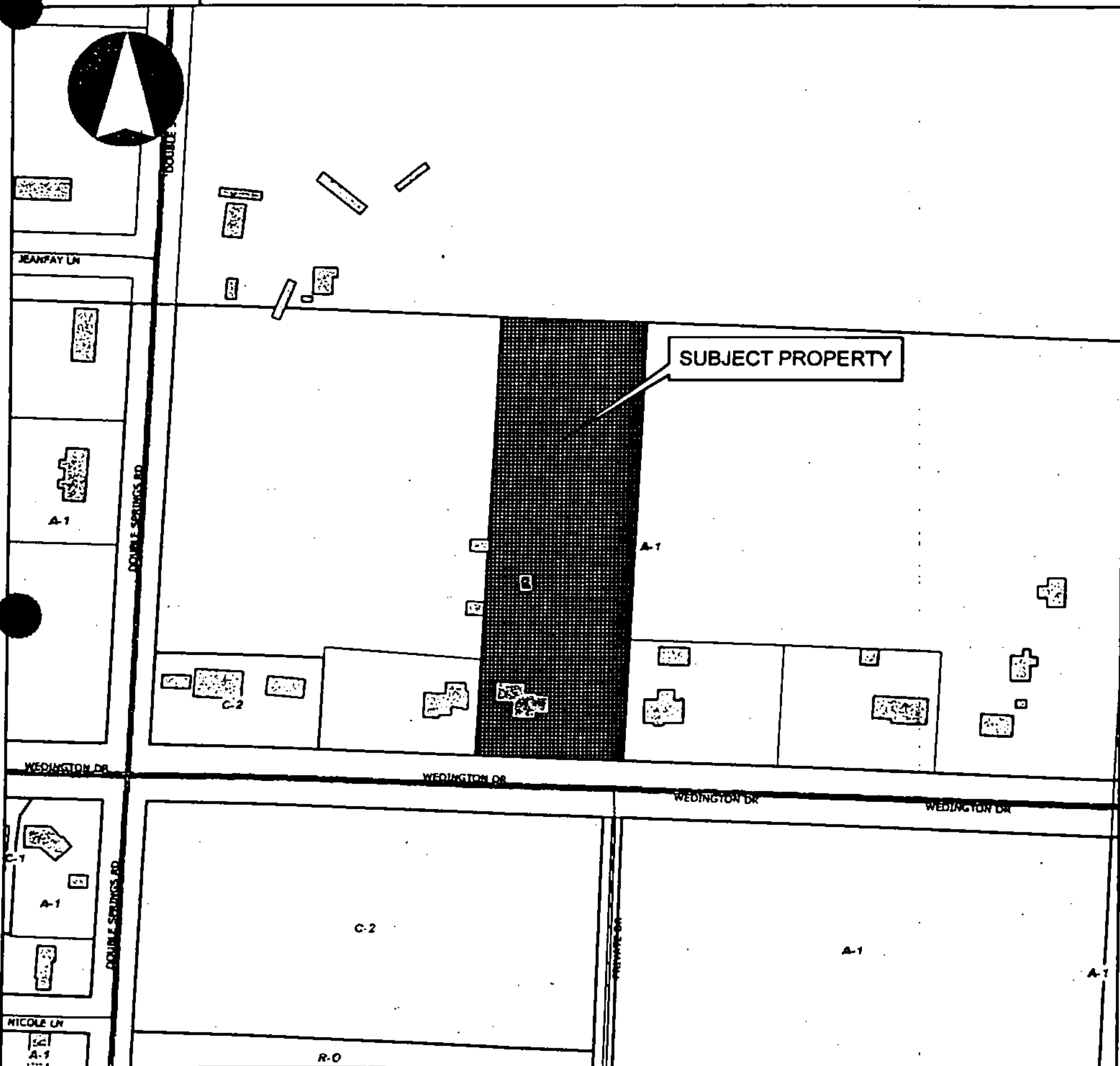
WEDINGTON DR

PRIVATE DR

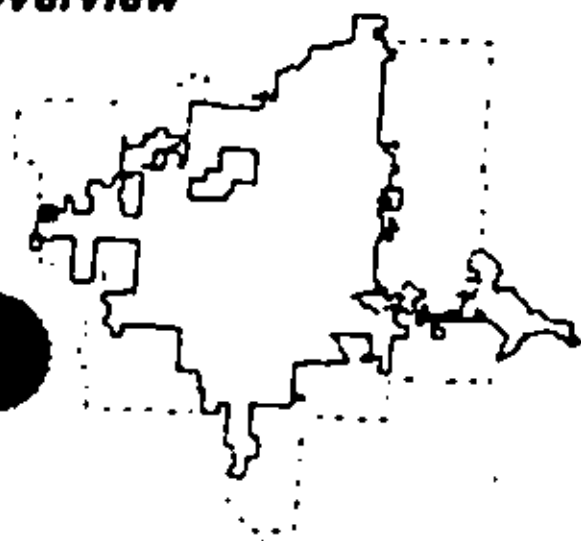
LOVELL

RZN02-34.00

Close Up View



Overview



Legend
Subject Property

RZN02-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

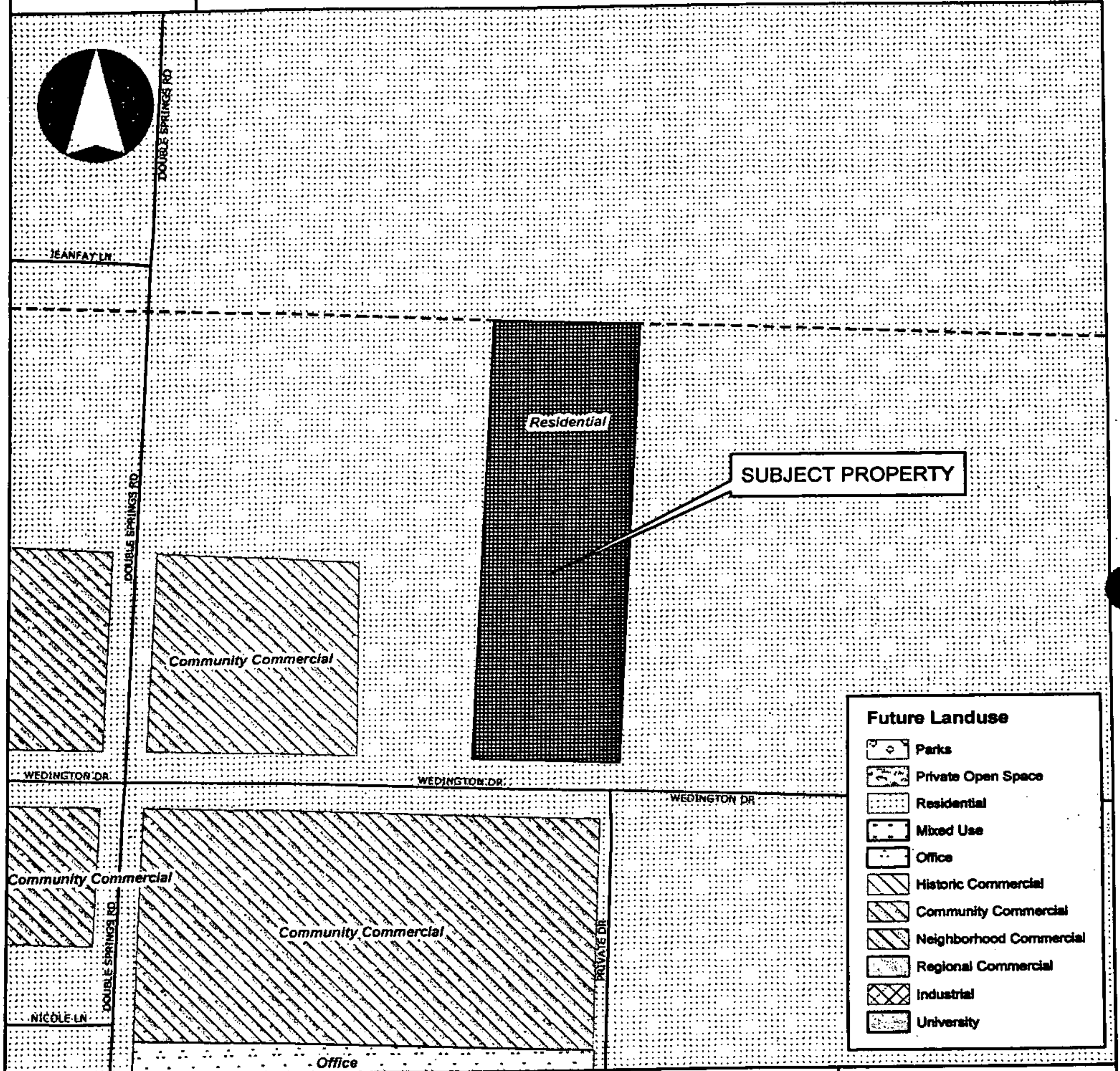
Collector

Historic Collector

0 75 150 300 450 600 Feet

LOVELL

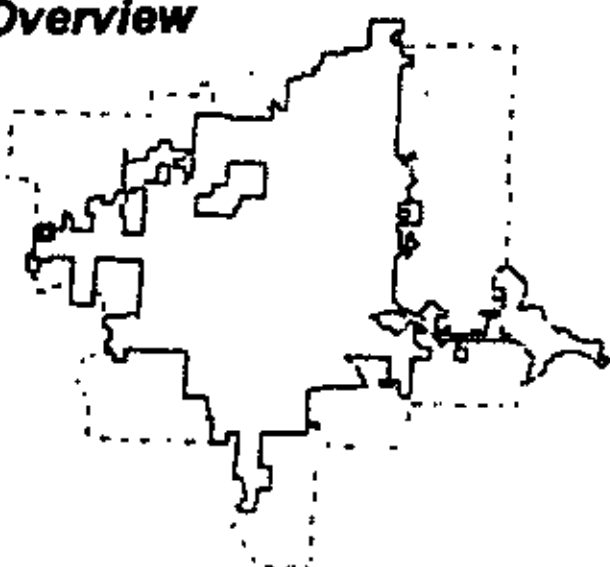
Future Landuse



Future Landuse

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



Legend

Subject Property

RZN02-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

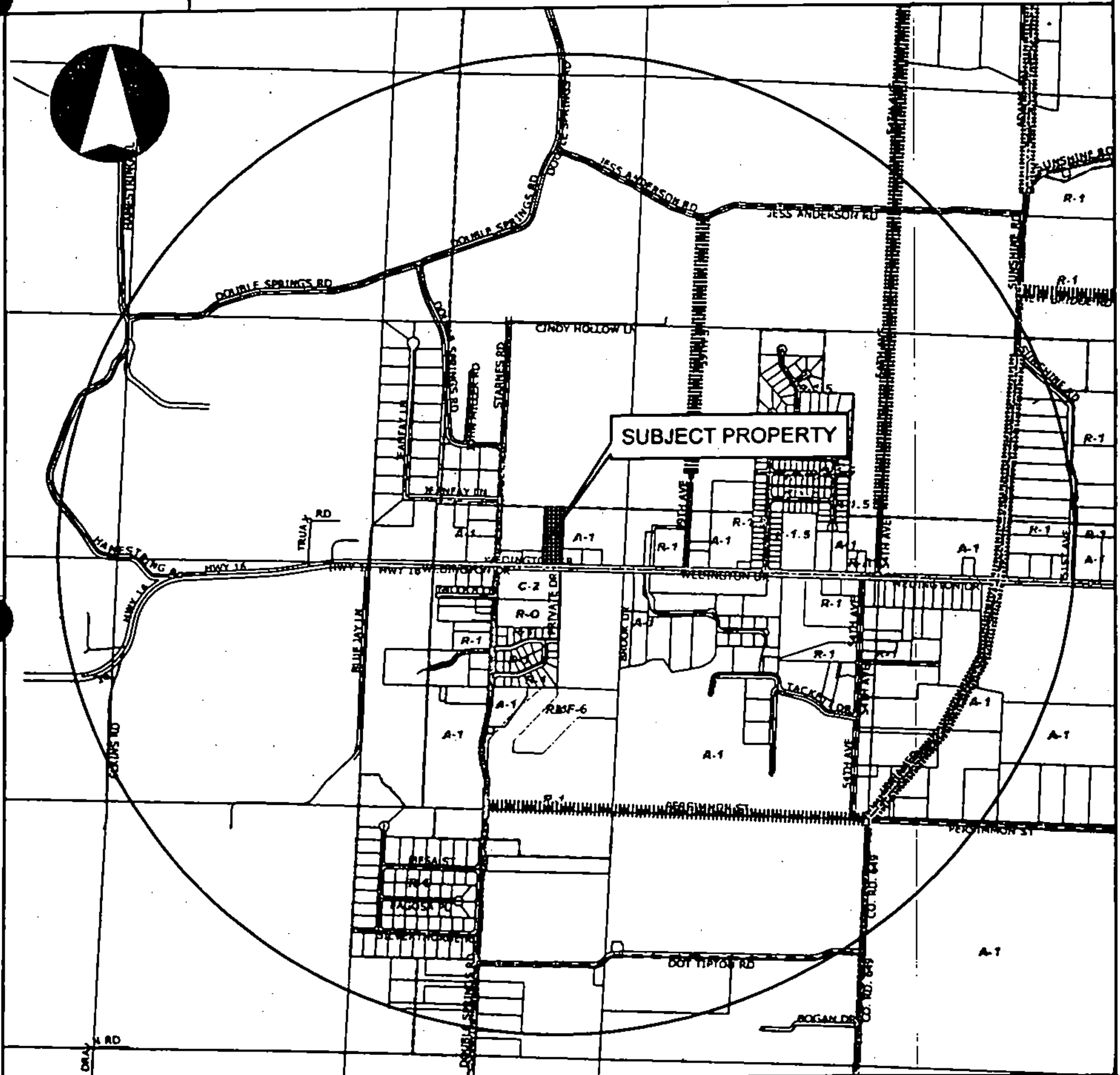
City Limits

0 75 150 300 450 600 Feet

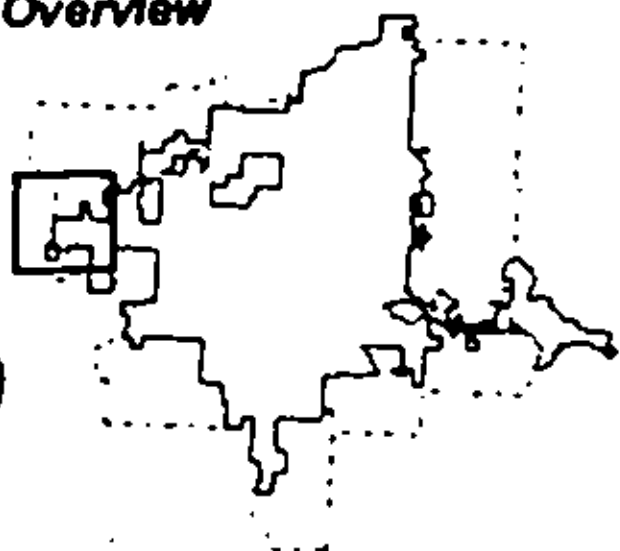
RZN02-34.00

One Mile View

LOVELL



Overview



Legend

Subject Property

RZN02-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM:

Tim Conklin

Planning

Urban Development

Name

Division

Department

ACTION REQUESTED: To approve an ordinance for RZN 02-35.00 as submitted by Patsy Brewer of Habitat For Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to RS, Residential Small Lot.

COST TO CITY:

\$0

Cost of this request

Category/Project Budget

Category/Project Name

Account Number

Funds used to date

Program Name

Project Number

Remaining balance

Fund

BUDGET REVIEW:

Budgeted Item

Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head

Department Director

Administrative Services Director

Mayor

11-1-02

Date

11-4-02

Date

11-4-02

Date

11/5/02

Date

Cross Reference

New Item: Yes No

Prev Ord/Res#:

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: Nov. 1, 2002

RZN 02-35.00 (1017): Rezoning (Habitat (Jerry Street), pp 566) was submitted by Patsy Brewer on behalf of Habitat for Humanity for property located at 1075 & 1093 S. Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to R-S, Residential Small Lot.

BACKGROUND:

Property Description: The subject property is located on the northwest corner of Jerry Avenue and Helen Street. It is a vacant .35 acre lot. The neighborhood is characterized by one and two family structures. The average lot size in the neighborhood is approximately .30 acres.

Proposal: The applicant proposes to split the lot into two separate lots and build single family structures on each lot. The current zoning of R-1 Low Density Residential requires a minimum lot area of 8,000 square feet, requiring a minimum of 16,000 square feet for two lots. The property has only 15,246 square feet and cannot be split under this zoning district.

Request: The applicant is requesting to rezone the property from R-1 Low Density Residential to RS Residential Small Lot. The RS district has a minimum lot size of 6,000 square feet. The applicant would be able to meet the requirements for a lot split with the proposed zoning.

Findings: The land use remains single family which is compatible with surrounding land use and consistent with the General Plan which designates this area as residential. The lot size is slightly smaller than existing residential lots in the neighborhood, however, several of those lots contain duplexes. Therefore, the proposed density is consistent with the adjacent properties.

CURRENT STATUS:

On Oct. 28, 2002, the Planning Commission voted 8-0-0 to forward the request to the City Council for approval.

RECOMMENDATION:

Approval of the requested rezoning.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-35.00 FOR A PARCEL
CONTAINING APPROXIMATELY 0.35 ACRES LOCATED AT 1075 AND
1093 JERRY STREET, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY
PATSY BREWER ON BEHALF OF HABITAT FOR HUMANITY.

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

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

From R-1, Low Density Residential to RS, Residential Small Lot as shown 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 _____, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZN 02-35.00

LOT 10, BLOCK 3, WATSON ADDITION TO THE CITY OF FAYETTEVILLE,
ARKANSAS, AS PER RECORDED PLAT OF SAID SUBDIVISION IN THE OFFICE OF
THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY,
ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of Oct. 28, 2002113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 24, 2002

RZN 02-35.00 (1017): Rezoning (Habitat (Jerry Street), pp 566) was submitted by Patsy Brewer on behalf of Habitat for Humanity for property located at 1075 & 1093 S. Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to R-S, Residential Small Lot.

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 28, 2002

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: November 19, 2002 (If approved, first reading)

Comments: _____

BACKGROUND:

Property Description: The subject property is located on the northwest corner of Jerry Avenue and Helen Street. It is a vacant .35 acre lot. The neighborhood is characterized by one and two family structures. The average lot size in the neighborhood is approximately .30 acres.

Proposal: The applicant proposes to split the lot into two separate lots and build single family structures on each lot. The current zoning of R-1 Low Density Residential requires a minimum lot area of 8,000 square feet, requiring a minimum of 16,000 square feet for two lots. The property has only 15,246 square feet and cannot be split under this zoning district.

Request: The applicant is requesting to rezone the property from R-1 Low Density Residential to RS Residential Small Lot. The RS district has a minimum lot size of 6,000 square feet. The applicant would be able to meet the requirements for a lot split with the proposed zoning.

Recommendation: Staff is recommending approval of the requested rezoning from R-1 Low Density residential to RS Residential Small Lot. The land use remains single family which is compatible with surrounding land use. The lot size is slightly smaller than existing residential lots in the neighborhood, however, several of those lots contain duplexes. Therefore, the proposed density is consistent with the adjacent properties.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Two-family residential	R-1 Low Density Residential
South	Two-family residential	R-1 Low Density Residential
East	Vacant	A-1 Agricultural
West	Single-family residential	R-1 Low Density Residential

INFRASTRUCTURE:

Streets: North: Lee Street (Local)
South: Helen Street (Local)
East: Jerry Ave. (Local)
West: Ray Ave. (Local)

Water: 6" water line located to the south of the site.

Sewer: 6" sewer main located to the south of the site.

LAND USE PLAN: General Plan 2020 designates this site residential. Rezoning this property to R-S Residential Small Lot 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 Future Land Use Plan. Single-family residential is consistent with the surrounding land use.

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 needed in order for the applicant to split the lot and construct two single family structures.

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

Finding: *From Planning:* The proposed zoning should not increase traffic danger and congestion. The RS zoning will permit two families on this property.

From Public Works: The proposed rezoning is located on the northwest corner of Jerry Ave, and Helen St. south of Huntsville Rd. The proposed rezoning from R-1 to R-S may or may not result in additional traffic danger and congestion for this area. The proposed zoning allows a density of up to 7 dwellings per acre. That means this lot could have up to 2 dwellings on this .25 acre tract.

From Police: The Police Department states that the rezoning may increase traffic from what it is at present; the rezoning will not impact police functions to the degree that they could not be performed adequately; therefore, the Police Department does not oppose this rezoning request.

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: *From Planning:* The proposed zoning will not significantly increase population density. The RS zoning will permit two families on this property.

From Public Works: The site has access to an existing 6" water line on the south side and east side of the property. A 6" sewer main is also located along Jerry Ave. and Helen Street. The proposed rezoning and ultimate development is not likely to increase the load on the water and sewer facilities.

From Fire Department: Additional hydrants will be needed with 20 feet of unobstructed width driving surface. Response time is 4-6 minutes.

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

From Chapter 161 Zoning Regulations
Fayetteville Unified Development Ordinance

**§ 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)

*From Chapter 161 Zoning Regulations
Fayetteville Unified Development Ordinance*

§161.11 DISTRICT RS RESIDENTIAL SMALL LOT

A. Purpose. The Residential Small Lot District is designed to permit and encourage the development of detached dwellings in suitable environments.

B. Uses.

1. Permitted Uses.

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

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, Two-Family, and Townhouse Dwellings

C. Density.

	By Right	Conditional Use
Single-Family Dwelling Units Per Acre	7 or Less	8.5

Duplex and/or Townhouse	--	Option: 15% of the Lots, Maximum
-------------------------	----	----------------------------------

D. Bulk and Area Regulations.

	Single-Family	Duplex	Townhouse/ no more than 2 units attached
Lot Width Minimum	60 ft.	60 ft.	30 ft.
Lot Area Minimum	6,000 sq. ft.	6,000 sq. ft.	3,000 sq. ft.
Land Area Per Dwelling Unit	6,000 sq. ft.	3,000 sq. ft.	3,000 sq. ft.

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	08	20

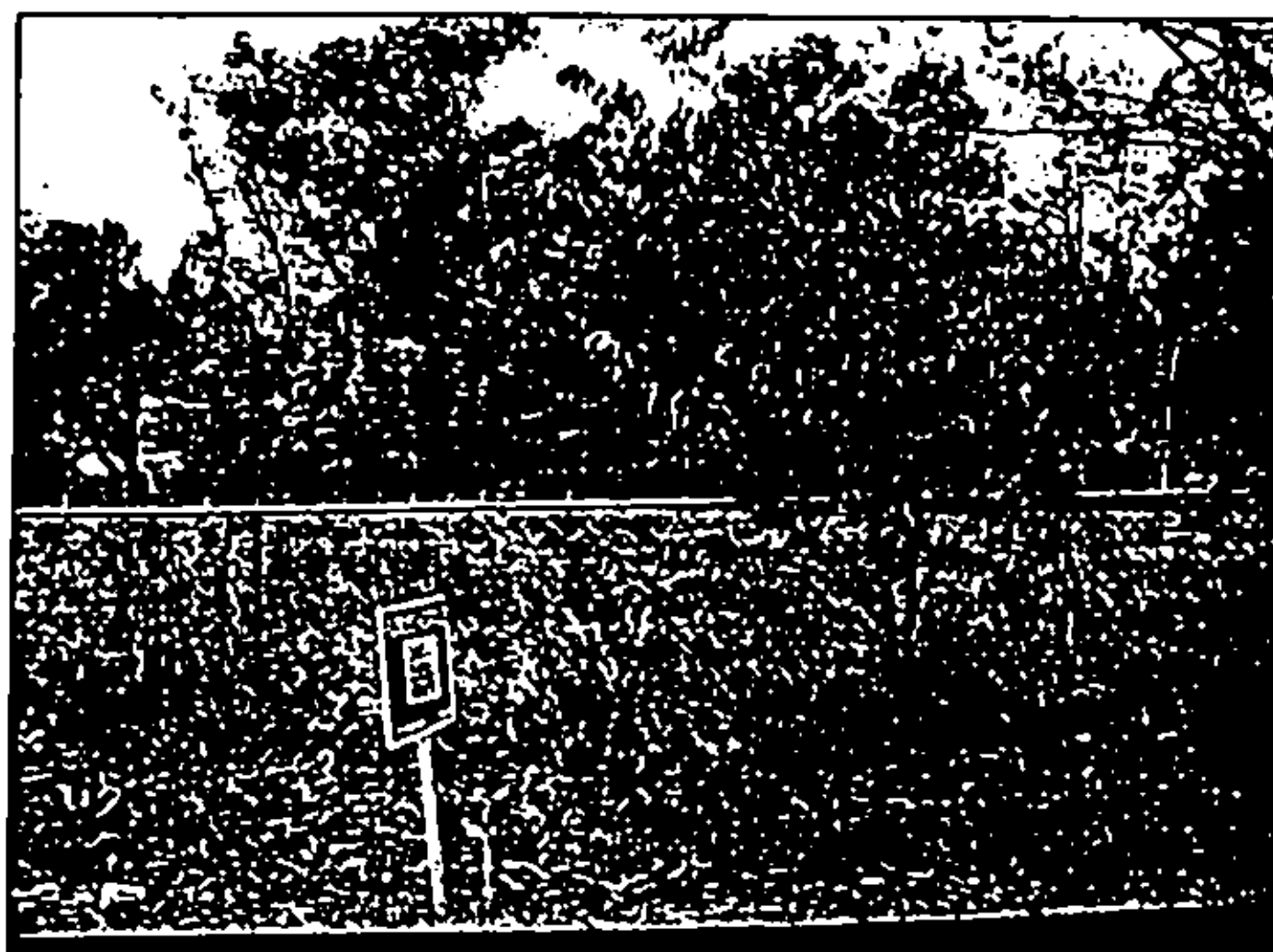
Cross Reference: Variance, Chapter 156.

F. Building Area. The area occupied by all buildings shall not exceed 50% of the total lot area.

G. Height Regulations.

Building Height Maximum	30 ft.
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(Code 1991, §160.046; Ord. No. 3792, §4, 5-17-94)



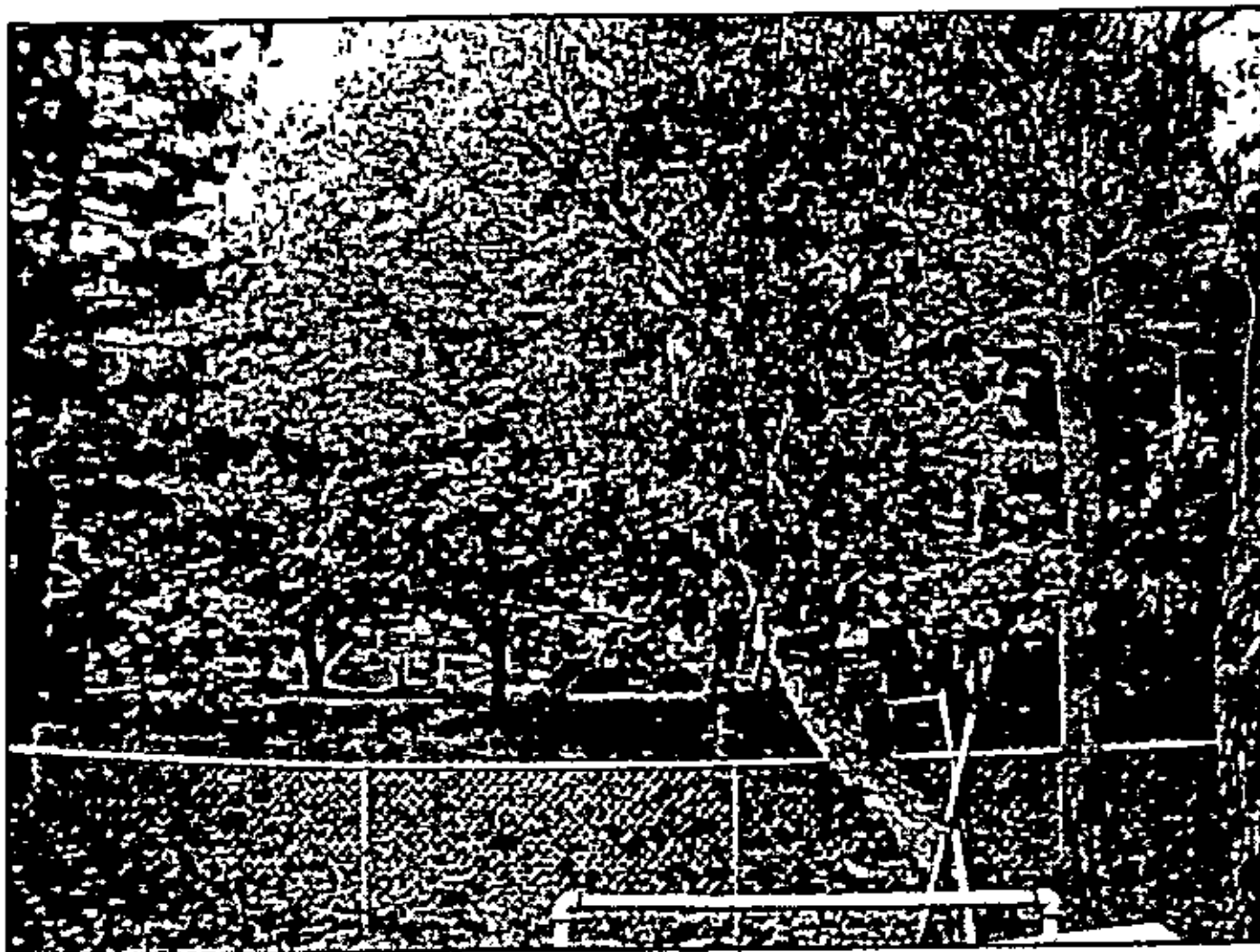
Looking west at site.



Looking north at site.



Looking south of site.



Looking north at the property west of
the site.



Looking east at adjacent property.



Habitat For Humanity
OF FAYETTEVILLE

EXECUTIVE DIRECTOR

Patsy S. Brewer

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Kristen Taylor
David Williams

EXHIBIT A:

The lots meet the frontage requirements but do not meet the 8,000 requirement. Thus, we are requesting a R-S certification.

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Our mission is to partner with God and the community to build basic, affordable homes in southern Washington County



Habitat For Humanity
OF FAYETTEVILLE

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EXHIBIT B:

#5. Questions

- a. Current owner: Habitat for Humanity of Fayetteville
- b. Reason for rezoning request: frontage requirements are met but lots do not meet the 8,000 per lot requirement. Tract A is .17 acres and Tract B is .18 acres. Need to build two single-family dwellings on the property.
- c. The neighborhood is single-family dwellings of similar square footage to the Habitat for Humanity homes (1,100 – 1,200 SF). Most of the homes are also one story, ranch style homes. Our two dwellings would have little impact on the neighborhood traffic. There would be no permanent signage.
- d. 6" sewer line in Jerry Street
6" water line on Jerry Street

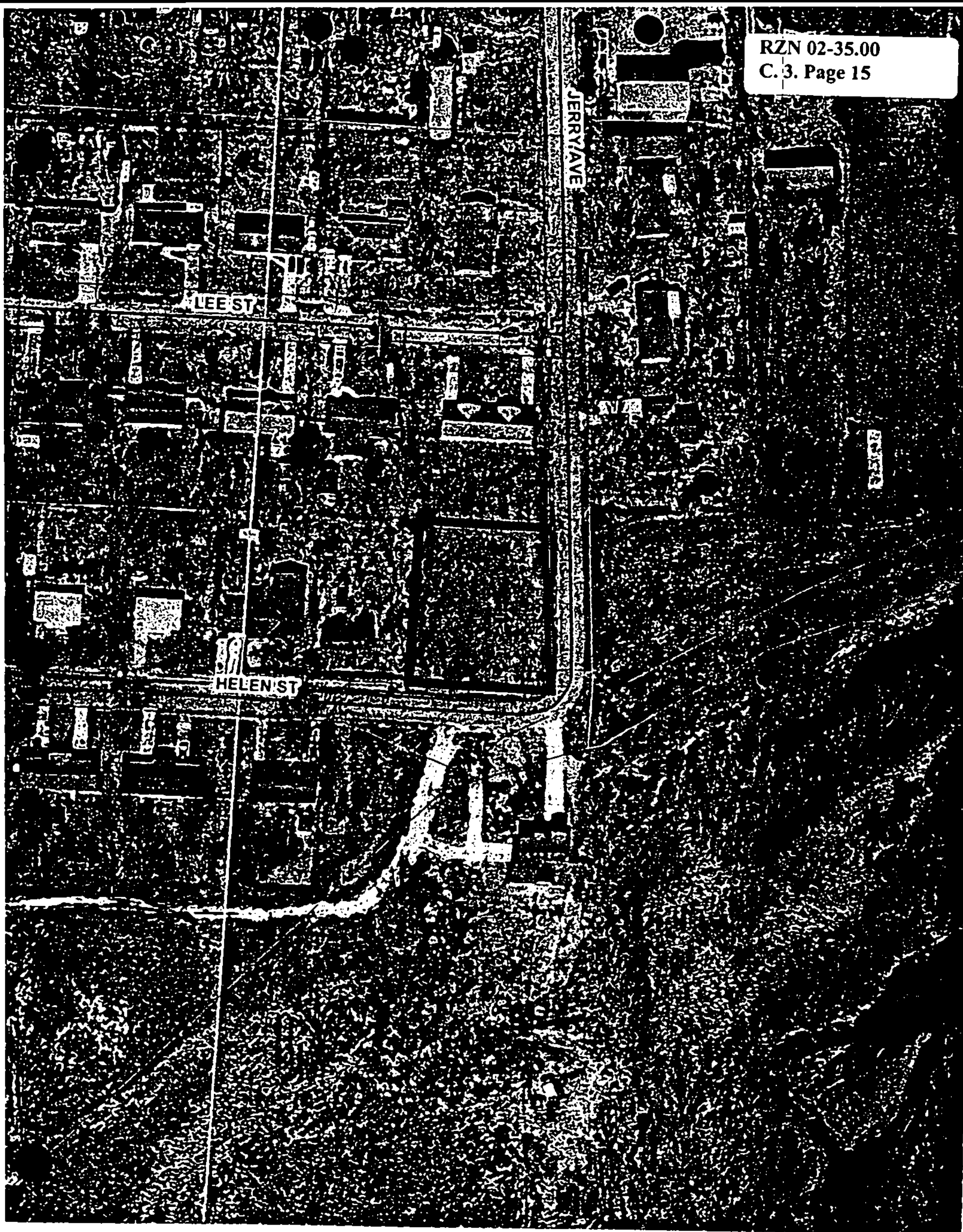
Question 6:

- a. The land use is consistent with Planning objectives, principles and policies and with land use and zoning. The request is for lots of a little less square footage per lot to accommodate two single-family homes.
- b. To better use the property and for the ability to house two Habitat families, the request is necessary prior to the start of construction.
- c. Very little impact on the neighborhood will occur with the addition of one more family in this neighborhood.
- d. Five to six more people will need the services of the city. Possibly four children and two adults. This would have negligible impact on required services.
- e. The land zoning is designated for single-family dwellings. Our use would also be for single-family dwellings.

We have met with the Planning staff to review the application.

Patsy S. Brewer
Executive Director

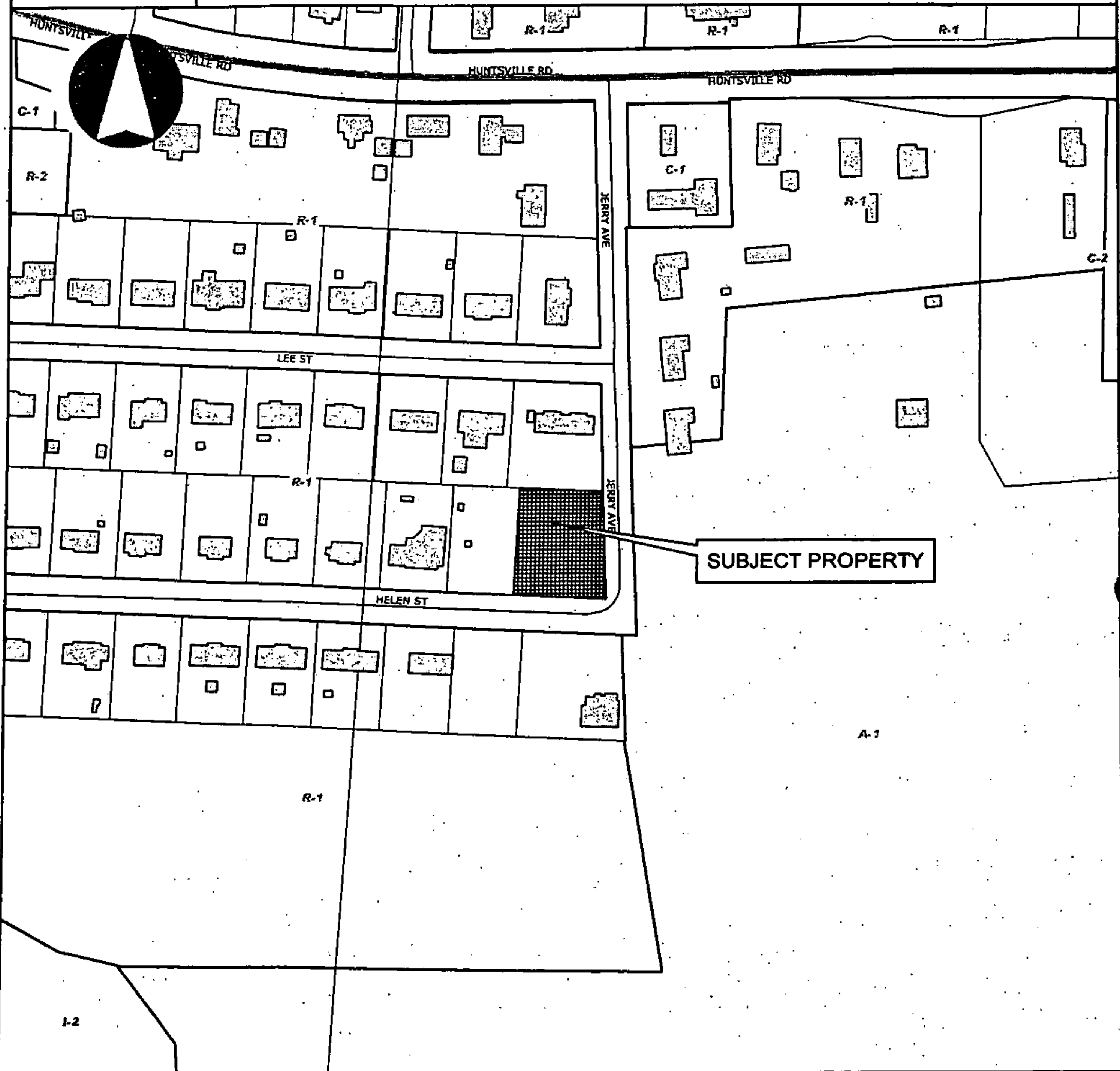
Our mission is to partner with God and the community to build basic, affordable homes in southern Washington County



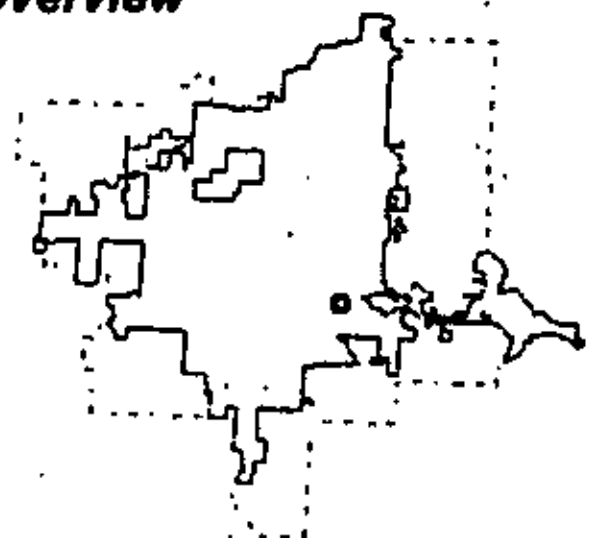
RZN02-35.00

Close Up View

HABITAT



Overview



Legend

Subject Property

RZN02-35.00

Streets

Existing
 Planned

Boundary

Planning Area
 Overlay District
 City Limits
 Outside City

Master Street Plan

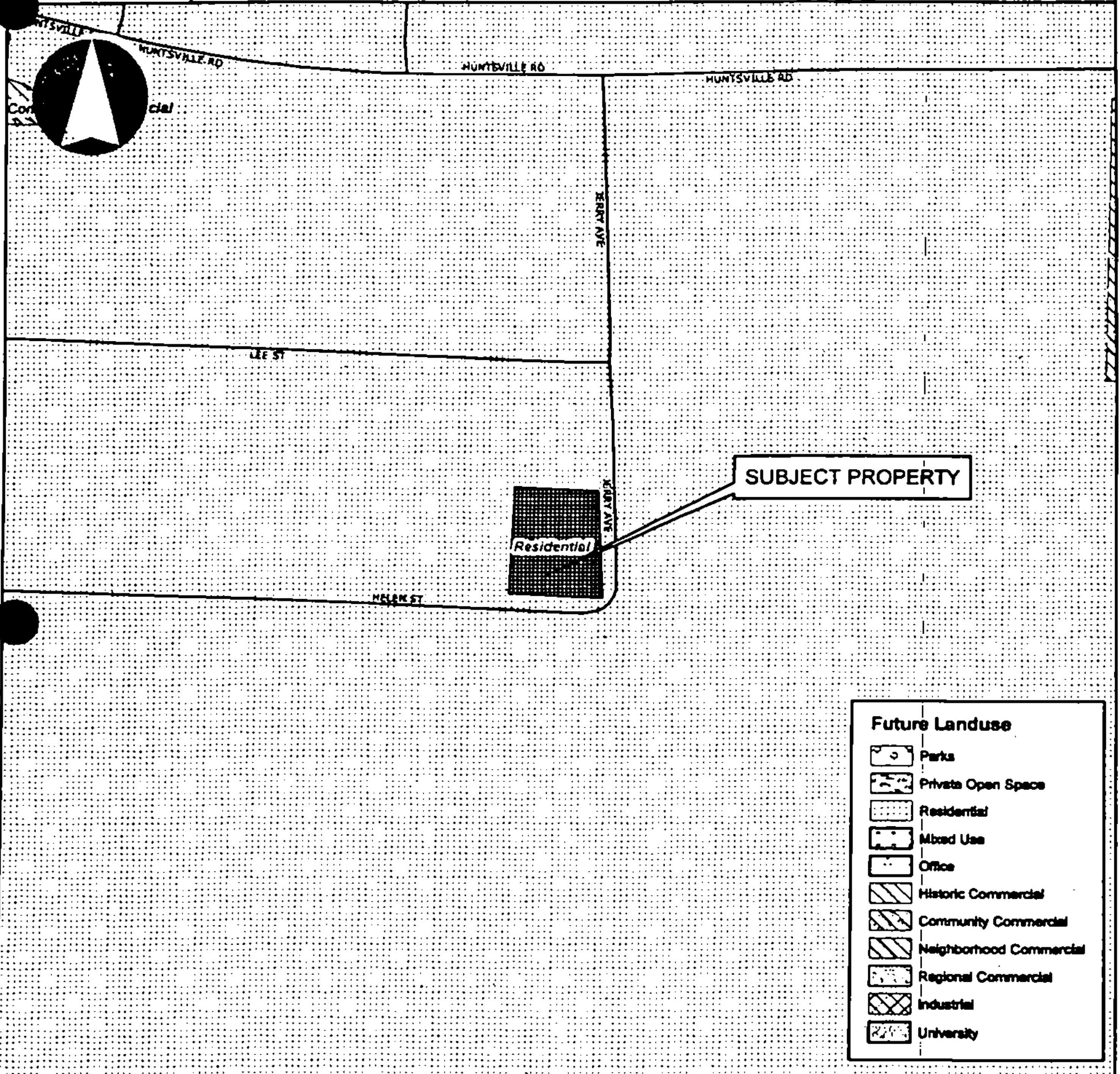
Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

0 75 150 300 450 600 Feet

RZN02-35.00

Future Landuse

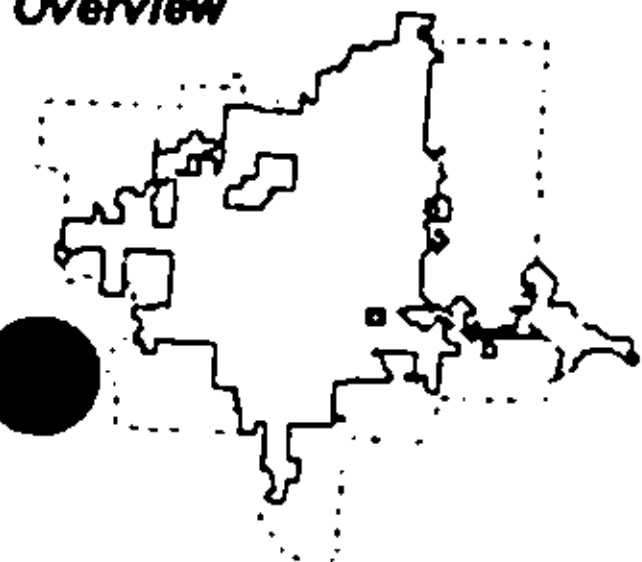
HABITAT



Future Landuse

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



Legend

Subject Property

RZN02-35.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

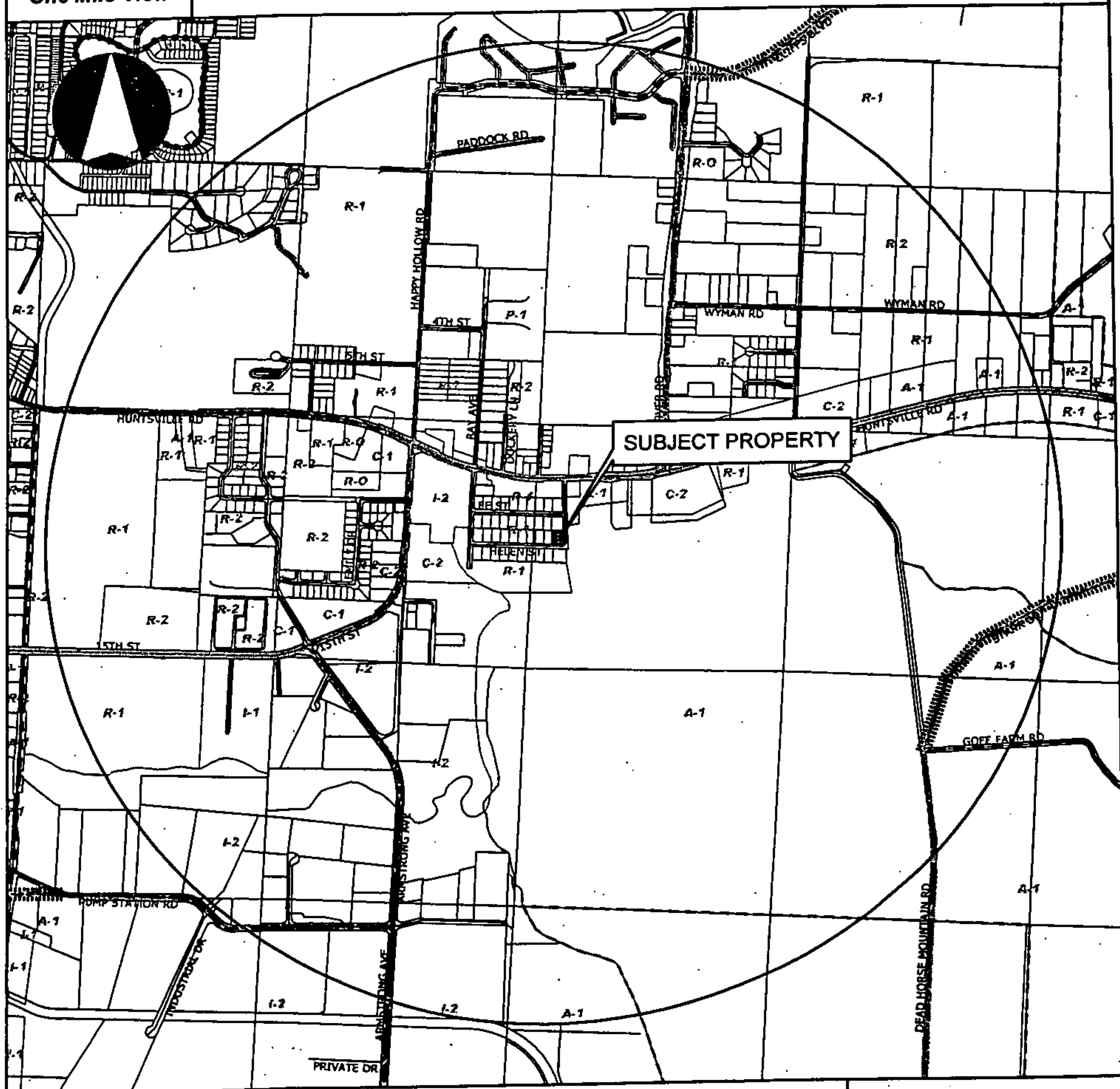
City Limits

0 75 150 300 450 600 Feet

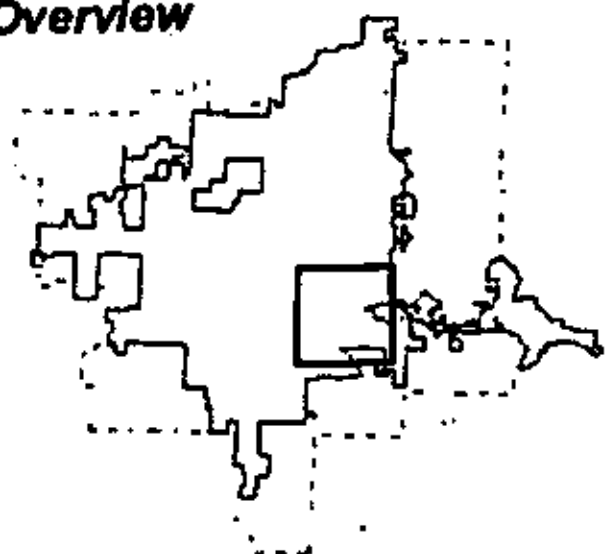
RZN02-35.00

One Mile View

HABITAT



Overview



Legend

Subject Property

RZN02-35.00

Streets

Existing
 Planned

Boundary

Planning Area
 Overlay District
 City Limits
 Outside City

Master Street Plan

Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

RZN 02-35.00 (1017): Rezoning (Habitat, Jerry Street, pp 566) was submitted by Patsy Brewer on behalf of Habitat for Humanity for property located at 1075 & 1093 S. Jerry Avenue. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to R-S, Residential Small Lot.

Aviles: Item seven on our agenda is another rezoning, which is RZN 02-35.00. It was submitted by Patsy Brewer on behalf of Habitat for Humanity for property located at 1075 & 1093 S. Jerry Avenue. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone to R-S, Residential Small Lot. Shelli?

Rushing: This property is located on the northwest corner of Jerry Avenue and Helen Street. It is south of Huntsville Road. Currently it is vacant. The neighborhood is characterized by one and two family structures. The average lot size in the neighborhood is approximately .30 acres. The applicant is proposing to split the lot and build two single-family structures. Under the current zoning district of R-1 the minimum lot area is 8,000 sq.ft. and the current lot area is 15,246 sq.ft. Therefore, they would not be able to split the lot under the current zoning district. They are requesting to rezone the property from R-1, Low Density Residential to RS, Residential Small Lot. The RS district allows a minimum lot size of 6,000 sq.ft., which would permit them to split the lot and build the two single-family structures. The land use plan, General Plan 2020 does designate this site as residential. It is consistent with the Future Land Use Plan. We don't find that this rezoning would increase traffic or significantly increase the population. Therefore, we are recommending approval of the requested rezoning. We find that the land use does remain single-family. Although the lot size will be smaller than what is in the area, the density is still the same as what is in the area. The property to the north and south and southwest are duplexes on .30 acre lots so the density would remain the same.

Aviles: Thank you Shelli. Is there any member of the public that would wish to address us on this?

Orton: I am Marion Orton, 1641 Halsell. Patsy Brewer is out of town so she has asked me to come and represent Habitat. I am on the Site Search Committee. It is difficult to find not only property that is level and that we can afford so that the price of the houses are not run up because of the expensive lots. Habitat builds small houses. This is like 1,100 square feet. Because of the small houses, we feel that this would not detract at all from the neighborhood and we would appreciate your approving it so that two more families may have houses that they can afford.

Aviles: Thank you very much. Is there anybody else that would wish to address us on this rezoning? I will bring it back to the Commission and to the applicant for further discussion.

OCTOBER 20, 2002

Page 19

MOTION:

Shackelford: Obviously Habitat For Humanity is a very noble cause. Based on the fact that staff is recommending this and that the land will remain single-family and it is compatible with the surrounding land uses. I will make a motion that we approve RZN 02-35.00.

Aviles: I have a motion by Commissioner Shackelford, do I hear a second?

Ostner: I will second.

Aviles: Commissioner Ostner has the second. This is a recommendation to City Council. Is there any further discussion? Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-35.00 to the City Council was approved by a vote of 8-0-0.

Aviles: Thanks Renee. The motion carries unanimously. Thank you very much.

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: Tim Conklin Planning Urban Development
Name Division Department

ACTION REQUESTED: To approve an ordinance for RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

COST TO CITY:

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

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:
Accounting Manager Date ADA Coordinator Date
City Attorney Date Internal Auditor Date
Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head
Department Director
Administrative Services Director
Mayor

11-1-02
Date
11-04-02
Date
11-4-02
Date
11/5/02
Date

Cross Reference

New Item: Yes No

Prev Ord/Res#:

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: Nov. 1, 2002

RZN 02-37.00 (1019): Rezoning (Ozark Adventure, LLC, pp 559) was submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

BACKGROUND:

Property Characteristics: The subject property is located south of Sixth Street at the end of Hollywood Ave. These 17.70 acres are vacant on the east side of I-540. The property is surrounded by a mixture of uses, including single-family residential to the north, industrial to the east, and commercial to the west. The 100 year and 500 year floodplain fall 90' along the western portion of the property and approximately 50' of the southern portion of the property.

Proposal and Request: The applicant is proposing to construct a water park at this location. A water park falls under Use Unit 20 Commercial Recreation, Large Sites. The current zoning classification of R-O Residential Office does not permit large commercial recreation sites. The applicant is requesting to rezone the property from R-O Residential Office to C-2 Thoroughfare Commercial. The C-2 district permits Use Unit 20 Commercial Recreation, Large Sites.

Related Issues: On Sept. 17, 2002, the City Council amended the Master Street Plan to relocate the future extension of Hollywood Avenue (south to 18th Street) to the west to connect to Best Way Street. The applicant plans to construct Best Way St. to Hollywood Ave. at the time of large scale development.

Findings: Staff recommended approval of the requested rezoning. The proposed zoning is consistent with the Future Land Use Plan, which designates this area as mixed use and regional commercial, and meets the goals and policies of General Plan 2020. The property is surrounded by a mixture of commercial and industrial uses and limited residential and is an appropriate location for the C-2 zoning district.

CURRENT STATUS:

On October 28, 2002, the Planning Commission voted 8-0-0 to forward the request for approval by City Council.

RECOMMENDATION:

Approval of the requested rezoning.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-37.00 FOR A PARCEL
CONTAINING APPROXIMATELY 17.70 ACRES LOCATED EAST OF
FUTRALL DRIVE, WEST OF BALDWIN PIANO, AND SOUTH OF
HOLLYWOOD DRIVE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED
BY MEL MILHOLLAND OF MILHOLLAND COMPANY ON BEHALF OF
OZARK ADVENTURE.

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

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

From R-O, Residential Office to C-2, Thoroughfare Commercial as shown 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 _____, 2002.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT A
RZN 02-37.00

A PART OF THE SW 1/4 OF THE NW 1/4 AND THE SE 1/4 OF THE NW 1/4 OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID SW 1/4 OF THE NW 1/4; THENCE, ALONG THE NORTH LINE OF SAID SE 1/4 OF THE NW 1/4, S88°56'10"E 199.95 FEET; THENCE S00°00'33"E 1310.49 FEET TO THE SOUTH LINE OF SAID SE 1/4 OF THE NW 1/4; THENCE, ALONG SAID SOUTH LINE, N89°39'41"W 199.91 FEET TO THE SW CORNER OF SAID SE 1/4 OF THE NW 1/4; THENCE, CONTINUING ALONG SAID SOUTH LINE N89°27'52"W 90.97 FEET; THENCE, LEAVING SAID SOUTH LINE, N32°49'01"W 708.70 FEET; THENCE N25°20'59"E 175.17 FEET; THENCE N22°40'01"W 312.00 FEET; THENCE N08°11'59"E 287.76 FEET TO THE NORTH LINE OF SAID SW 1/4 OF THE NW 1/4; THENCE ALONG SAID NORTH LINE S88°16'20"E 479.25 FEET TO THE POINT OF BEGINNING AND CONTAINING 771,317.86 SQUARE FEET OR 17.7069 ACRES, MORE OR LESS, SUBJECT TO ANY AND ALL EASEMENTS OR COVENANTS OF RECORD OR FACT.

RZN 02-37.00 (1019): Rezoning (Ozark Adventure, LLC, pp 559) was submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Aviles: Eighth on our agenda this evening is RZN 02-37.00, a rezoning for Ozark Adventure. It was submitted by the Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial. Shelli, would you like to go over the staff report?

Rushing: Yes. The property is currently vacant. It is on the east side of I-540. It is surrounded by a mixture of land uses. There is some single-family residential to the north, Industrial to the east and Commercial to the west. Portions of the property do lie within the 100 year and 500 year floodplain there along the western and southern portions of the property. The applicant is proposing to construct a water park at this location. The water park falls under Use Unit 20, which is Commercial Recreation Large Site. Under the current zoning classification, which is R-O, Residential Office, that Use Unit is not permitted. Therefore, the applicant is requesting to rezone the property from R-O to C-2, Thoroughfare Commercial. The C-2 District does permit Use Unit 20, which would allow for the proposed water park. Just a couple of related issues, on September 17th of this year the City Council did amend the Master Street Plan to relocate the future extension of Hollywood Avenue. Hollywood Avenue was supposed to extend south to 18th Street and is now relocated and will extend to the west to connect with Best Way Street. The applicant plans to construct Best Way Street to Hollywood Avenue at the time of Large Scale Development. Staff is recommending approval of this request to rezone from R-O to C-2. The proposed zoning is consistent with the future land use plan and meets the goals and objectives of the land use plan and seems to be an appropriate location for C-2. I do want to point out just a couple of items in relation to our General Plan 2020. We have a couple of sections of the plan in regard to regional commercial areas. We have a policy that states "It is equally vital to maintain quality of life in Fayetteville that regional attractions are sited to minimize negative impacts on neighborhoods and the city's transportation network and we find that the proposed location of the water park is with its adjacency to I-540 would limit the amount of internal traffic circulation for this use. Also, guiding policy 9.9(b) from the land use plan states "To encourage continuing improvements and expansion of regional shopping and entertainment attractions." This rezoning would permit the expansion of those entertainment attractions. Finally, the description of Use Unit 20 in the zoning ordinance states that "These types of uses should be developed on large sites in

undeveloped outlying parts of the city." We find that this location is a large vacant site and it is located on the western perimeter of the city.

Aviles: Ok, thank you Shelli. Is the applicant present?

Jefcoat: I am Tom Jefcoat with Milholland Company representing Ozark Ventures. We concur with the rezoning to C-2. Use Unit 20 development, I think is appropriate and I recognize all of the comments that Shelli has made for future planning of this site.

Aviles: Thank you Mr. Jefcoat. Does any member of the public wish to address us regarding this proposed rezoning?

PUBLIC COMMENT:

Vick: Good afternoon, I am Al Vick, a Fayetteville resident. I am a bit concerned about this and I would like to put a different spin. For me, and for some of the people that I have been talking to, this thing is happening very, very quickly. It was just last week that there was a front page article in the paper about this. At this point not everybody that I've talked to has even really figured out where this thing is. I am not even sure that I have yet. According to what the paper said, they are looking to be attracting up to 170,000 visitors for the first year. Now, I want to know what this is going to do to traffic in this area because if we consider, let's break this down, let's say that everybody comes and travels to visit this in a vehicle, four people to a family in a vehicle just on an average, these parks are not going to be open December, January, and February. It is probably only going to be open during the four warmest months of the year, mid-May through mid-September or something like that. If we have a conservative figure and say only 160,000 would be coming and the vehicles that I just described, we are talking about 40,000 vehicles coming to this town. Ok, we already have major traffic problems. People are already moaning and groaning because of the traffic that we have. We have neighborhood associations and people in areas like the historic district who are concerned about the widening of Hwy. 45 and Mission Blvd. going into their neighborhood. Well, when we have so many people coming to the east it is almost a certainty that these roads would have to be widened and traffic is going to flow into this. I am not saying whether this is a good idea or not. What I am proposing is that we slow down on this a little bit because so far the only thing that people have seen or heard about is strictly the propaganda. Nobody has talked about the traffic, nobody has talked about the impact on people's communities and people's neighborhoods that this could potentially have. It is being run through. We only just started hearing about it and it is being run through very, very quickly. What I want to propose is that we slow down on this before they go and buy the land and do all of these things and turn around and say "Wow, we already spent millions of dollars. Now you better approve

this or else we are going to turn around and sue you, the City of Fayetteville." We need to slow it down. Let everyone in the community understand what type of an impact it could potentially have on the City of Fayetteville and then take it from there. If everybody wants to go ahead and have this as an amusement, fine. Please, let's not just run on a lot of propaganda without thinking it through. Thank you.

Aviles: Thanks Mr. Vick. Would anybody else like to address the Planning Commission on this rezoning? Ok, seeing no one, I will go ahead and bring it back to the Commissioners and the applicant for further discussion.

Conklin: You may recall that a couple of meetings ago we did amend our Master Street Plan in order to avoid crossing the creek and causing possible channelization to bridge that creek. The amendment did bring that street for Hollywood back over to Best Way Street, which was constructed as part of the Best Western motel. The applicant is aware that during the development process they will be required to make those street improvements and that connection over to Futrall. With regard to the intersection of Hollywood and Sixth Street, the City of Fayetteville has been working on for a few years now, a capital improvements project to realign that intersection and put a traffic signal there. That is something that the city is working on at this time. I just wanted to bring that up because it is something that city staff has informed the applicant of with regard to traffic and intersection improvements that will be coordinated and made at the intersection of Hollywood and Sixth. Thank you.

Aviles: Tim, just to answer some specific questions about the traffic volume we do have on Page 8.9 of our packet the average weekday and weekend trip general calculations. Could you go over that for us for our benefit and for those that are here and watching on TV?

Conklin: Sure. We used what is called the I.T.E. trip generation software. It is based on studies that they have done in other parts of the country on these type of uses for an amusement park. They are looking at a driveway volume for a 24 hour period of about 1,341 vehicles. I would like to add talking with the developers of this park, their idea is to also attract people that are coming to Fayetteville and staying in the existing motels in Fayetteville. If there is some type of activity going on in town and they are staying in one of the motels in this area, this is some activity that they may go to. I think when you look at the traffic generation rates I don't think it is going to be 100% new traffic being generated to this site. This type of use will also pick up the traffic that is already in the area for different activities and events that are taking place in Fayetteville.

Aviles: Thanks Tim. Did you want to respond to any of these questions?

October 28, 2002

Page 23

Jefcoat: Nothing other than to add to what Tim has said. This is a dual destination use attraction as the developer sees it and as the studies that have been prepared show. The additional internal traffic being located right next to I-540 is access in and on and off of I-540. The additional traffic load on other streets would have a second destination in mind so it would not be just use of the water park.

Conklin: The average weekday two way volume, the Saturday two way volume is 33,190 vehicles so it does increase on the weekends from your average weekday volume. Once again, those streets are shown as collector streets on our Master Street Plan recently amended, including Futrall Avenue as a major intersection of I-540 and Sixth Street. Thank you.

Aviles: Thank you very much.

Shackelford: Tim, I know in past traffic studies that we have seen Sixth Street and I-540 has been one of the higher traffic count areas. Do you have any idea what the current traffic count at that corner is?

Conklin: I don't have those numbers. It would be somewhat of a guess. Those intersections up and down the corridor are experiencing more and more traffic. Sixth Street is a five lane street in this location on both sides and the intersections were recently redone with regard to the off ramps to the north. I think we just recently dealt with that issue on another rezoning. The Highway Department made improvements to help move traffic through this area.

Shackelford: My recollection is that there were several thousand cars that passed this corner on a given day. The point that I am trying to make, I would like to know, we are talking about increasing 1,340 cars a day, I would like to know as a percentage increase of what current traffic is. I don't think that is going to be a tremendous percentage increase over the traffic number that is already there.

Conklin: I think you are probably looking at around 20,000 vehicles a day possibly.

Shackelford: Ok, thank you. You are talking about less than a 5% increase in current traffic a day.

MOTION:

Ward: On that same part of traffic that has been pointed out, most of the traffic would be there and the park would be used during the summer time when we have 10,000 or 12,000 students less in town because of Summer and that would of course be the biggest time it is going to be used. I think this is a fantastic project that is going to be the development or redevelopment of the southwest part of Fayetteville, which is very dearly needed. We have gone out of our way most of the time to try to get anything down in our south part of town so I think

this is a fantastic project and a great idea for our city. With that, I am going to make a motion that we approve RZN 02-37.00 for the rezoning for Ozark Adventure for this 17.7 acres to C-2.

Aviles: I have a motion by Commissioner Ward.

Shackelford: I will second. I would like to concur that I have given a lot of thought to the traffic count in this area as well. I view this as an area where we have made strides to handle the traffic. We have gone to one way provisions on the access roads off of I-540. Obviously, we have had to put infrastructure in place to handle 75,000 people in this corridor for football games on Saturday afternoons as well. I think that as Commissioner Ward has said, this is going to be a great benefit to the city and I think that this is the perfect location for it based specifically on the infrastructure that we have already put in place.

Aviles: Thanks Commissioner.

Church: Just one more comment too, I think that 170,000 number is a very manageable number. I deal with traffic numbers at Northwest Arkansas Mall and our numbers are in the millions every year so 170,000 doesn't sound like something that is not manageable. I think it is very manageable. I think this is a great project for our area and I would be in support of that.

Aviles: I think to address the concerns of the public about the speediness by which this is going or not going, it is going through the same process that any other development would go through. A rezoning first here and then the City Council and then a Large Scale Development. Particularly at the Large Scale Development time, I think Tim has already made the applicant aware that requirements of the Master Street Plan are going to require significant contributions to our streets to improving our infrastructure and so on and so I am not too concerned about the speediness by which this is going. I think there will be plenty of avenue for public comment as it go through the city process. Thank you.

Bunch: A question for staff in a little different vein. Since this is in close proximity to the I-540, there is a good percentage of it that is within the Overlay District. What limitations will that place? I know we don't have a drawing in front of us and a site plan but I would assume that on water parks it may be difficult to satisfy our green space requirements. I just wondered if maybe staff or Mr. Jefcoat could give us a little information on that before this proceeds through the process.

Conklin: They are aware of the Overlay District requirements and we have talked to them about restrictions with regard to the type of sign they can have and they are also aware of the open space requirements and they plan on complying with our

Overlay District standards. I have no indication that they will not be complying with those standards.

Bunch: Thank you.

Aviles: Thanks Tim, is there anybody else? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to forward RZN 02-37.00 was approved by a vote of 8-0-0

Aviles: Thanks Renee. The motion carries unanimously. Thank you Gentlemen.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of Oct. 28, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 24, 2002

RZN 02-37.00 (1019): Rezoning (Ozark Adventure, LLC, pp 559) was submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: October 28, 2002			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: November 19, 2002 (If recommended, first reading)			

Comments: _____

BACKGROUND:

Property Characteristics: The subject property is located south of Sixth Street at the end of Hollywood Ave. These 17.70 acres are vacant on the east side of I-540. The property is surrounded by a mixture of uses, including single-family residential to the north, industrial to the east, and commercial to the west. The 100 year and 500 year floodplain fall 90' along the western portion of the property and approximately 50' of the southern portion of the property.

Proposal: The applicant is proposing to construct a water park at this location. A water park falls under Use Unit 20 Commercial Recreation, Large Sites. The current zoning classification of R-O Residential Office does not permit large commercial recreation sites.

Request: The applicant is requesting to rezone the property from R-O Residential Office to C-2 Thoroughfare Commercial. The C-2 district permits Use Unit 20 Commercial Recreation, Large Sites. The requested zoning district is needed for the proposed water park.

Related Issues: On Sept. 17, 2002, the City Council amended the Master Street Plan to relocate the future extension of Hollywood Avenue (south to 18th Street) to the west to connect to Best Way Street. The applicant plans to construct Best Way St. to Hollywood Ave. at the time of large scale development.

Recommendation: Staff is recommending approval of the request to rezone from R-O Residential Office to C-2 Thoroughfare Commercial. The proposed zoning is consistent with the Future Land Use Plan map and meets the goals and objectives of the land use plan. The property is surrounded by a mixture of commercial and industrial uses and limited residential and is an appropriate location for the C-2 zoning district.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Commercial shopping center (Northwest) Single-family residential (Northeast)	C-2 Thoroughfare Commercial (Northwest) R-1 Low Density Residential (Northeast)
South	Vacant	I-1 Heavy Commercial and Light Industrial
East	Industrial	I-1 Heavy Commercial and Light Industrial
West	Vacant	C-2 Thoroughfare Commercial

INFRASTRUCTURE:

Streets: North: 6th Street (Principal Arterial)
South: 18th Street (Collector)
East: Beechwood Avenue (Unclassified)
West: I-540 (Freeway / Expressway)

Water: Water line available for extension at the northwest corner of the property.

Sewer: Sewer line runs along the northern and western edge of the property.

LAND USE PLAN: General Plan 2020 designates this site Mixed Use and Regional Commercial. Rezoning this property to C-2 Thoroughfare Commercial is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF:

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

Finding: The proposed zoning is consistent with the Future Land Use Plan which designates this area as mixed use and regional commercial. The C-2 Thoroughfare Commercial permits commercial recreation.

Section 9.9 Regional Commercial Areas of the Land Use Plan states "It is vital to Fayetteville's economy that commercial businesses are accessible to their customers, and it is equally vital to maintaining quality of life in Fayetteville that regional attractions are sited to minimize negative impacts on neighborhoods and the City's transportation network." The proposed location for the water park is adjacent to I-540 and will require little use of the city's internal transportation network.

Guiding Policy 9.9b from the Land Use Plan states "Encourage continuing improvements and expansion of regional shopping and entertainment attractions." The proposed rezoning will permit a water park and expand entertainment attractions with the City.

The description of Use Unit 20 in the Zoning Ordinance states that these type of uses should be developed on large sites in undeveloped outlying parts of the City. This location is a large vacant piece of land on the western perimeter of the City.

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 necessary in order to develop a water park at this location.

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

Finding: *From Planning:* The proposed zoning will increase traffic at this location. Using the Trip Generation data for an amusement park of 17.7 acres, the average weekday two-way volume is 1,341 trips. (A water slide park options was available, but required the number of parking spaces in order to calculate trip

generation. Parking space data is not available at this time. An amusement park is the closest land use available.)

From Police: The Police Department states that the rezoning may increase traffic from what it is at present; the rezoning will not impact police functions to the degree that they could not be performed adequately; therefore, the Police Department does not oppose this rezoning request.

From Public Works: The proposed rezoning is located on the south end of Hollywood Ave. and west of Futrall Drive. The proposed rezoning R-O to C-2 may or may not result in additional traffic danger and congestion for this area. The access to the developed site and the circulation network within the development shall be reviewed in detail as part of the subdivision or large scale development process. The layout, connectivity, circulation plan, ingress and egress provisions will be reviewed in detail as information becomes available.

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: *From Planning:* The proposed zoning will not increase population density.

From Public Works: The site has access to multiple water and sewer lines in this area. The proposed rezoning and ultimate development may increase the loading on the existing infrastructure systems. During the development's review and approval process, the adequacy of the existing infrastructure to accommodate the service requirements will be assessed by the developer's consultant and reviewed by city staff. Any inadequacies, lack of availability, need for improvements and determination of responsibility for the infrastructure improvements shall be resolved during the development's review/approval process.

From Fire Department: Access 20 feet of unobstructed width driving surface. Hydrants will be needed for this area. Response time is 2-3 minutes.

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

From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance

§161.12 DISTRICT R-O RESIDENTIAL OFFICE

A. Purpose. The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

B. Uses.

1. Uses Permitted.

<u>Unit 1</u>	<u>City-Wide Uses by Right</u>
<u>Unit 5</u>	<u>Government Facilities</u>
<u>Unit 8</u>	<u>Single Family and Two Family Dwellings</u>
<u>Unit 12</u>	<u>Offices, Studios and Related Services</u>
<u>Unit 25</u>	<u>Professional Offices</u>

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 9	Multi-Family Dwelling - Medium Density
Unit 10	Multi-Family Dwelling - High Density
Unit 13	Eating Places

C. Bulk and Area Regulations.

(Per Dwelling Unit for Residential Structures)

Lot Minimum Width:	Mobile Home Park	100 ft.
	Lot Within a Mobile Home Park	50 ft.
	One Family	60 ft.
	Two Family	60 ft.
	Three or More	90 ft.

Lot Area Minimum:	Mobile Home Park	3 acres
	Lot Within a Mobile Home Park	4200 sq. ft.
	Row Houses:	
	Development	10,000 sq. ft.
	Individual Lot	2500 sq. ft.
	Single Family	6000 sq. ft.
	Two Family	6500 sq. ft.
	Three or More	8000 sq. ft.
	Fraternity or Sorority	1 acres
Land Area Per Dwelling Unit:	Mobile Home	3000 sq. ft.
	Row Houses & Apartments:	
	Two or More Bedrooms	1200 sq. ft.
	One Bedroom	1000 sq. ft.
	No Bedroom	1000 sq. ft.
	Fraternity or Sorority	500 sq. ft., per resident

D. Bulk and Area Regulations/ Setbacks.

Setback lines shall meet the following minimum requirements.

From Street ROW	30 ft.
From Street ROW if Parking is Allowed Between the ROW and the Building	50 ft.
From Side Property Line	10 ft.
From Side Property Line When Contiguous to a R-1, R-2 or R-3 District	15 ft.
From Back Property Line Without Easement or Alley	25 ft.

From Center Line of Public Alley	10 ft.
----------------------------------	--------

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

F. Height Regulations. There shall be no maximum height limits in R-O Districts, provided,

however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any R-1, R-2, or R-3 District an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, §160.041; Code 1965, App. A, Art. 5(x); Ord. No. 1747, 6-29-89; Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80)

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

**§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)

*From Chapter 162 Use Units
City of Fayetteville Unified Development Ordinance*

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.

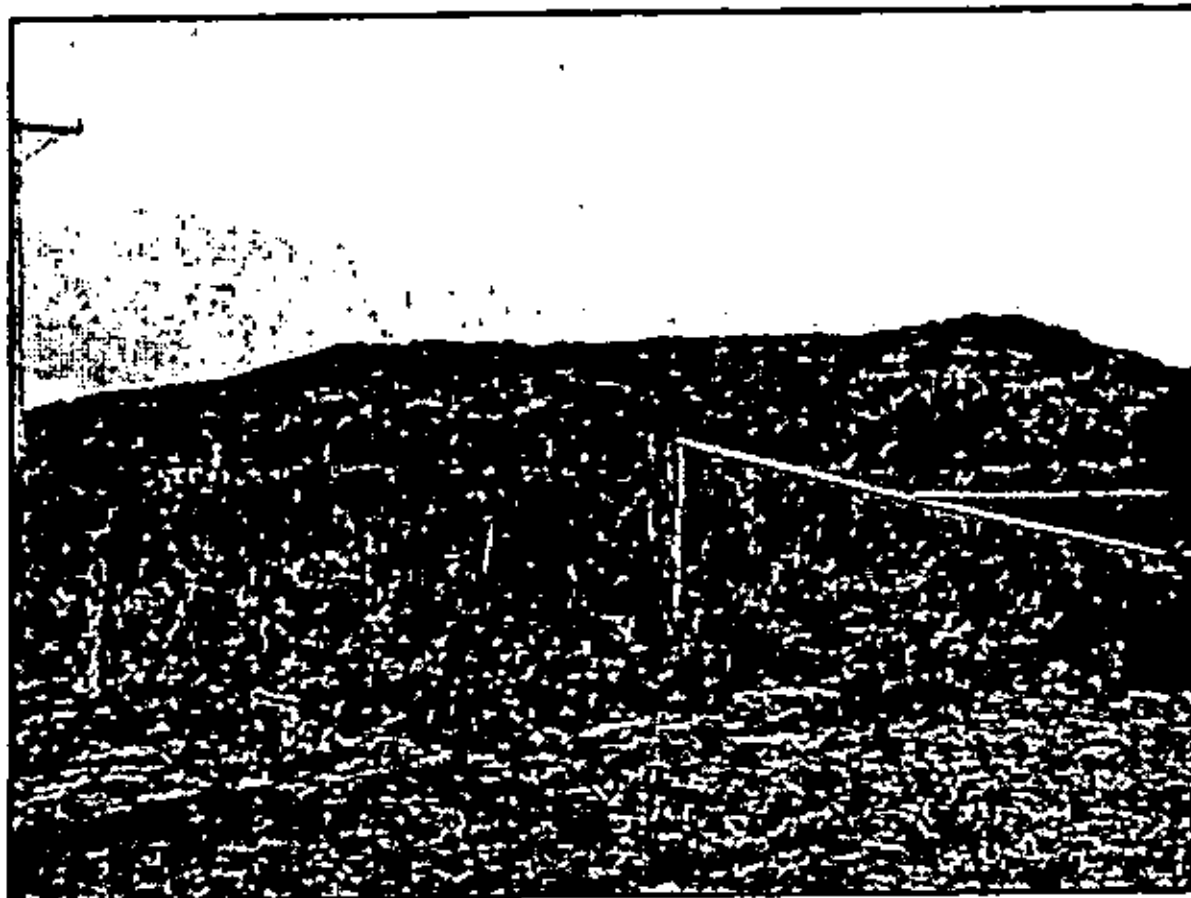
Amusement Park
Drag Strip
Drive-In Theater
Fairgrounds
Fishing Dock
Go-Cart Track
Golf Range
Miniature Golf
Race Track

**Ozark Adventures
Summary of Trip Generation Calculation
For 17.7 Acres of Amusement Park
October 17, 2002**

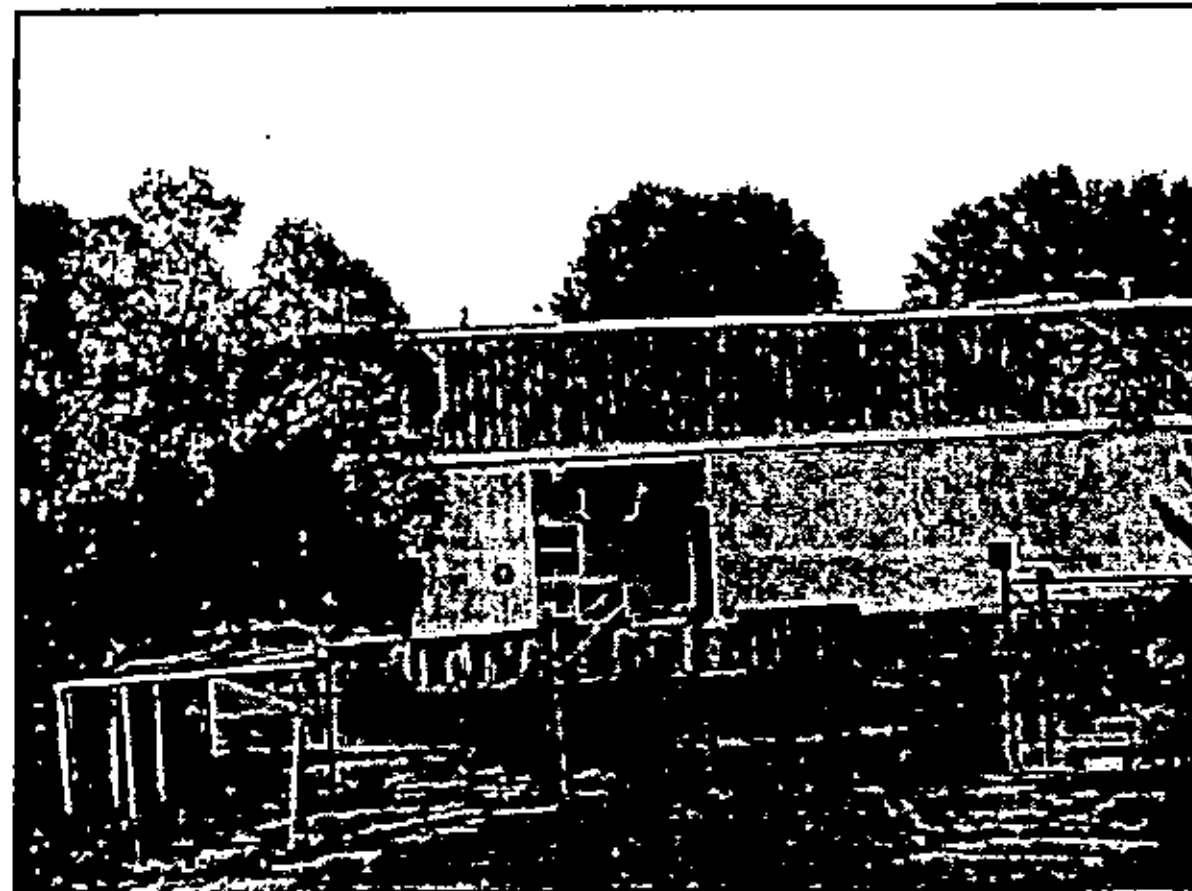
	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	75.76	0.00	1.00	1341
7-9 AM Peak Hour Enter	0.18	0.00	1.00	3
7-9 AM Peak Hour Exit	0.03	0.00	1.00	1
7-9 AM Peak Hour Total	0.21	0.00	1.00	4
4-6 PM Peak Hour Enter	2.41	0.00	1.00	43
4-6 PM Peak Hour Exit	1.54	0.00	1.00	27
4-6 PM Peak Hour Total	3.95	0.00	1.00	70
Saturday 2-Way Volume	180.20	0.00	1.00	3190
Saturday Peak Hour Enter	10.94	0.00	1.00	194
Saturday Peak Hour Exit	7.92	0.00	1.00	140
Saturday Peak Hour Total	18.86	0.00	1.00	334

**Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.**

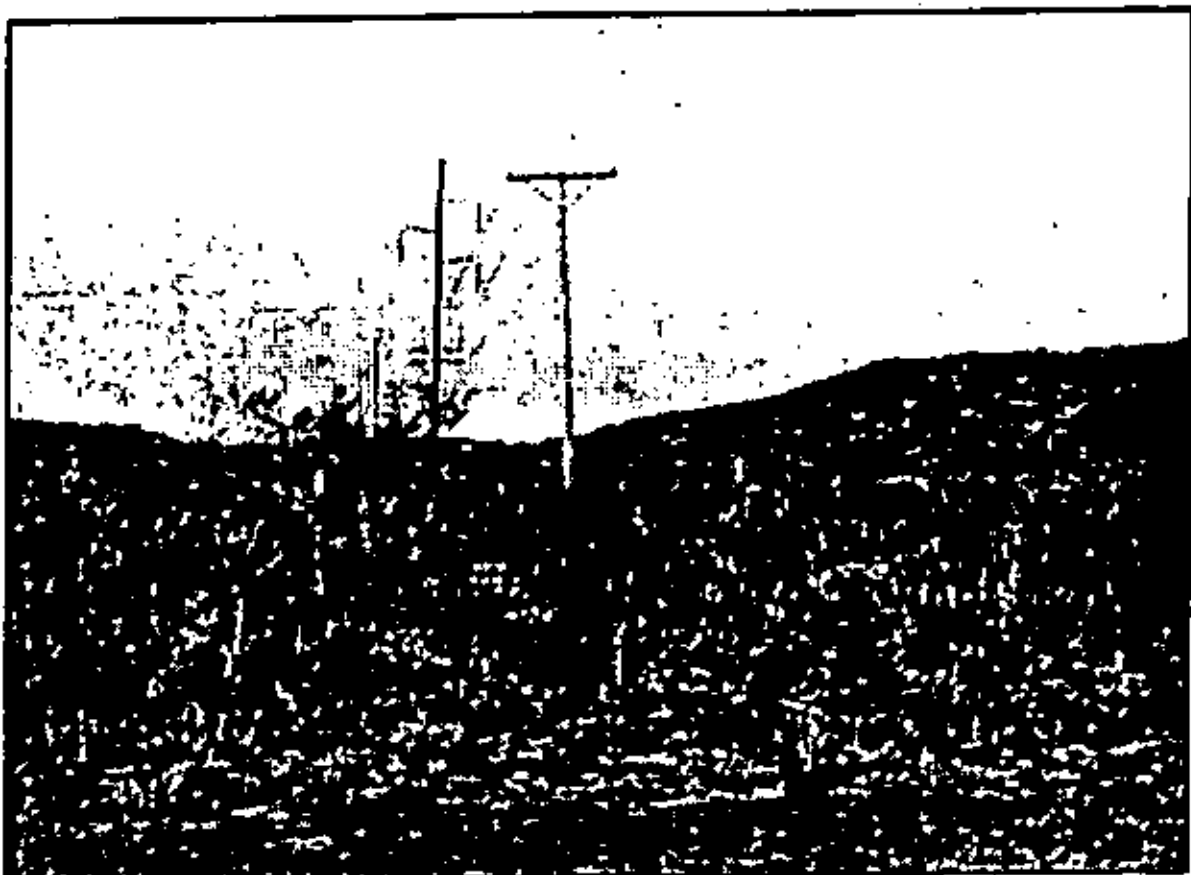
TRIP GENERATION BY MICROTRANS



Looking southwest at site from Hollywood.



Adjacent industrial property to the east.



Looking south at site from Hollywood.



Looking north at adjacent residential property.



Looking east at adjacent industrial property.



Looking northeast at adjacent residential property.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

RZN 02-37.00

C. 4. Page 21

REGISTRATIONS:

PE: AR, OK, MO

PLS: AR, OK

October 4, 2002

City of Fayetteville

Mr. Tim Conklin, Planner

113 West Mountain Street

Fayetteville, Arkansas 72701

RE: PROPOSED WATER PARK REZONING
Project No. E-632

Dear Tim:

In response to the City of Fayetteville Application for Rezoning, the following is submitted:

5.a. Current ownership and proposed/pending property sales:

Tom Bhakha and Hansaben T. Bhakta husband and wife, and Cathy Van Someren,
a married person, and Terry Dill and Sun Dill, husband and wife
c/o Ozark Adventure, LLC
1 West Center Street, Suite #308
Fayetteville, AR 72701

No pending sale - Proposed Water Park

5.b. Reason for requesting zoning change:

Owner wants to construct a water park

5.c. Surrounding properties: land use, traffic, appearance and signage:

Land use in Industrial to East, Commercial to North and West and open, undeveloped to the South.

Traffic is low to moderate, and served by South Futtrall and Hollywood.

Appearance and signage is will be discussed during LSD Review.

5.d. Water and sewer availability, line size:

8" Water and 8" Sewer

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and policies and with land use and zoning plans:

Consistent with City Land Use and Zoning Plans

Milwaukee Company

Engineering & Surveying
Melvin L. Milholland, PE, PLS

REGISTRATIONS:

PE: AR, OK, MO

PLS: AR, OK

Ozark Adventure, LLC, Rezoning

October 4, 2002

Page Two (2)

- 6.b. *Whether the proposed zoning is justified and/or needed at the time of the request:*
Yes, for Commercial Water Park
- 6.c. *Whether the proposed zoning will create or appreciably increase traffic danger and congestion:*
Major Traffic Routes have been planned and developed for Commercial Growth in the area, and this should not impact traffic problems above what's planned for area.
- 6.d. *Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities:*
Not a residential plan nor zone and should not impact area services above what has been planned for area.
- 6.e. *Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:*
Land has been undeveloped as exists for 20 years since the infrastructure was planned and provided to the area.

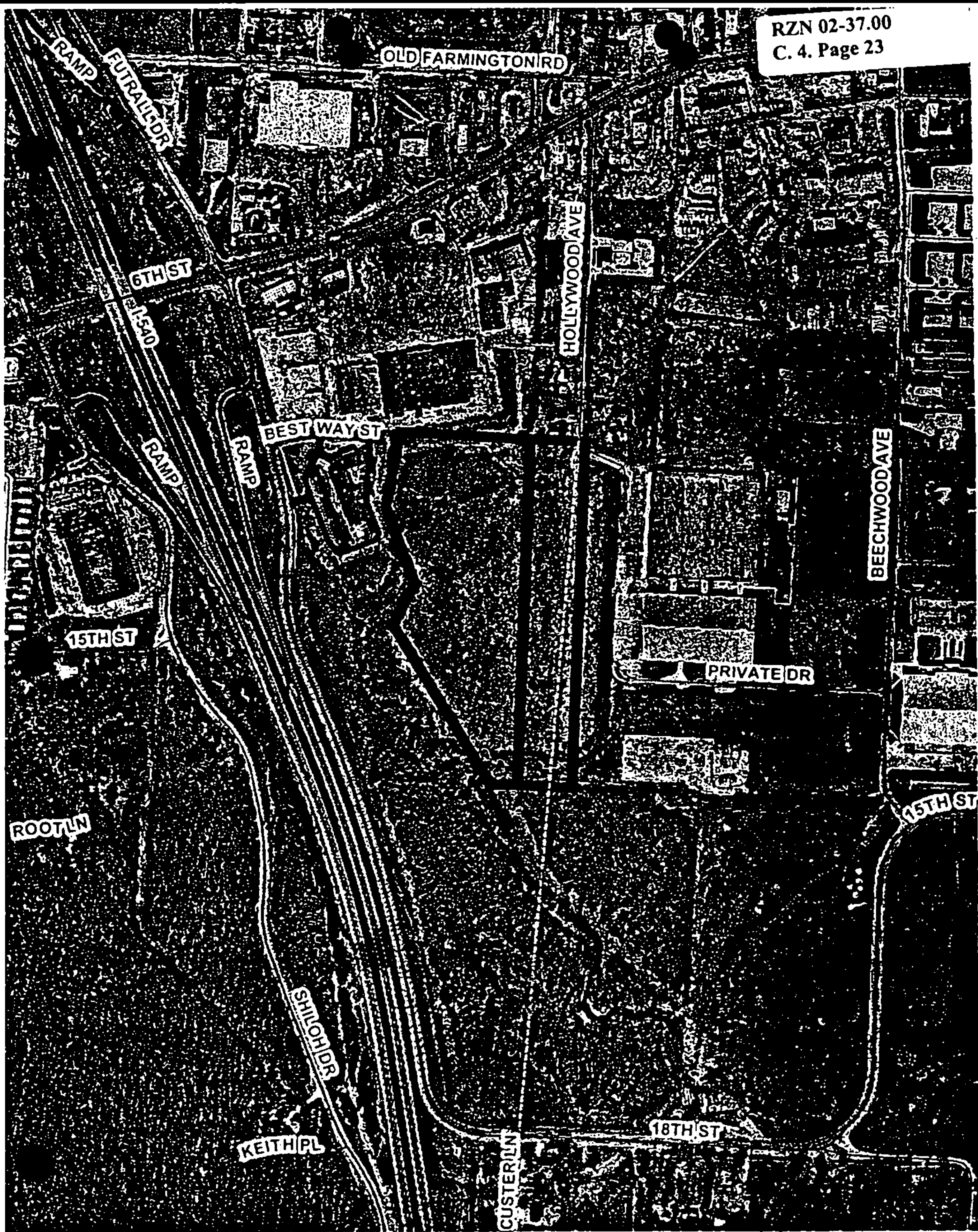
Your favorable review is appreciated!

Respectfully,

for Pat Juma
Melvin L. Milholland, PE, PLS

cc: Ozark Adventure, LLC
file

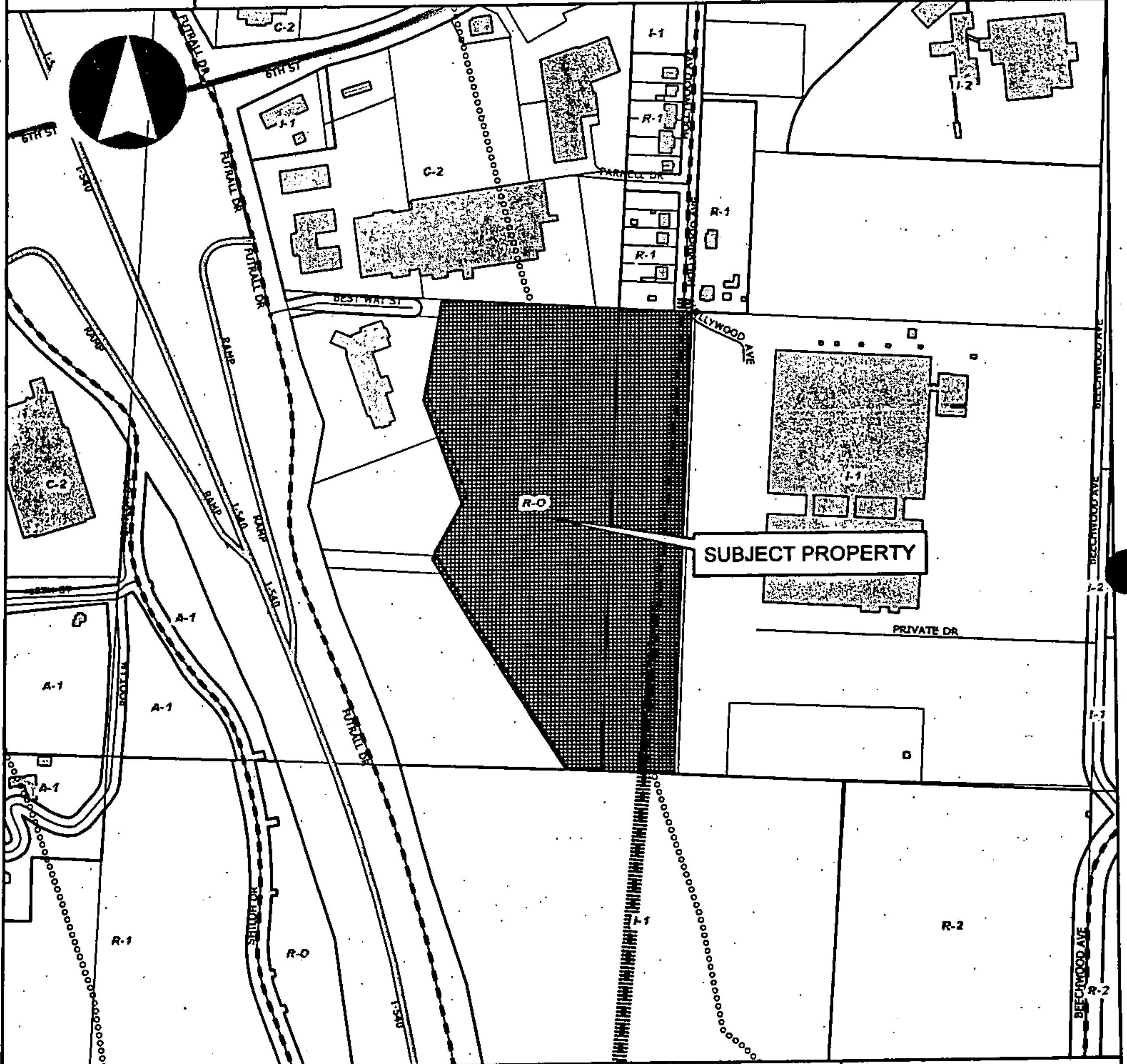
C:\MyFiles\FORMS\Fayetteville\Rezone E-632 Ozark Adv Ltr-Planning.wpd



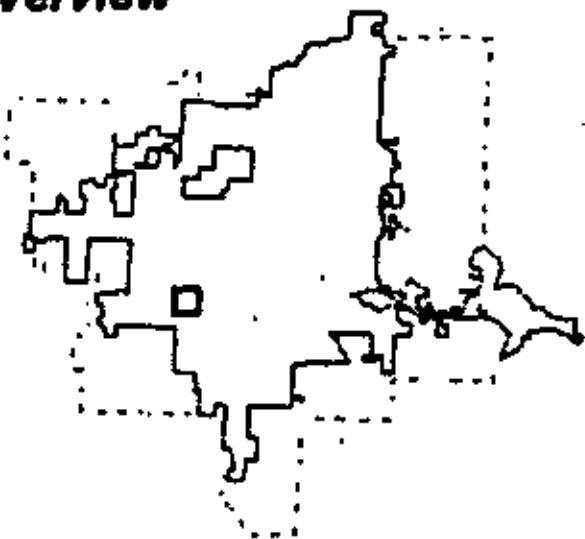
RZN02-37.00

Close Up View

OZARK



Overview



Legend

Subject Property

RZN02-37.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

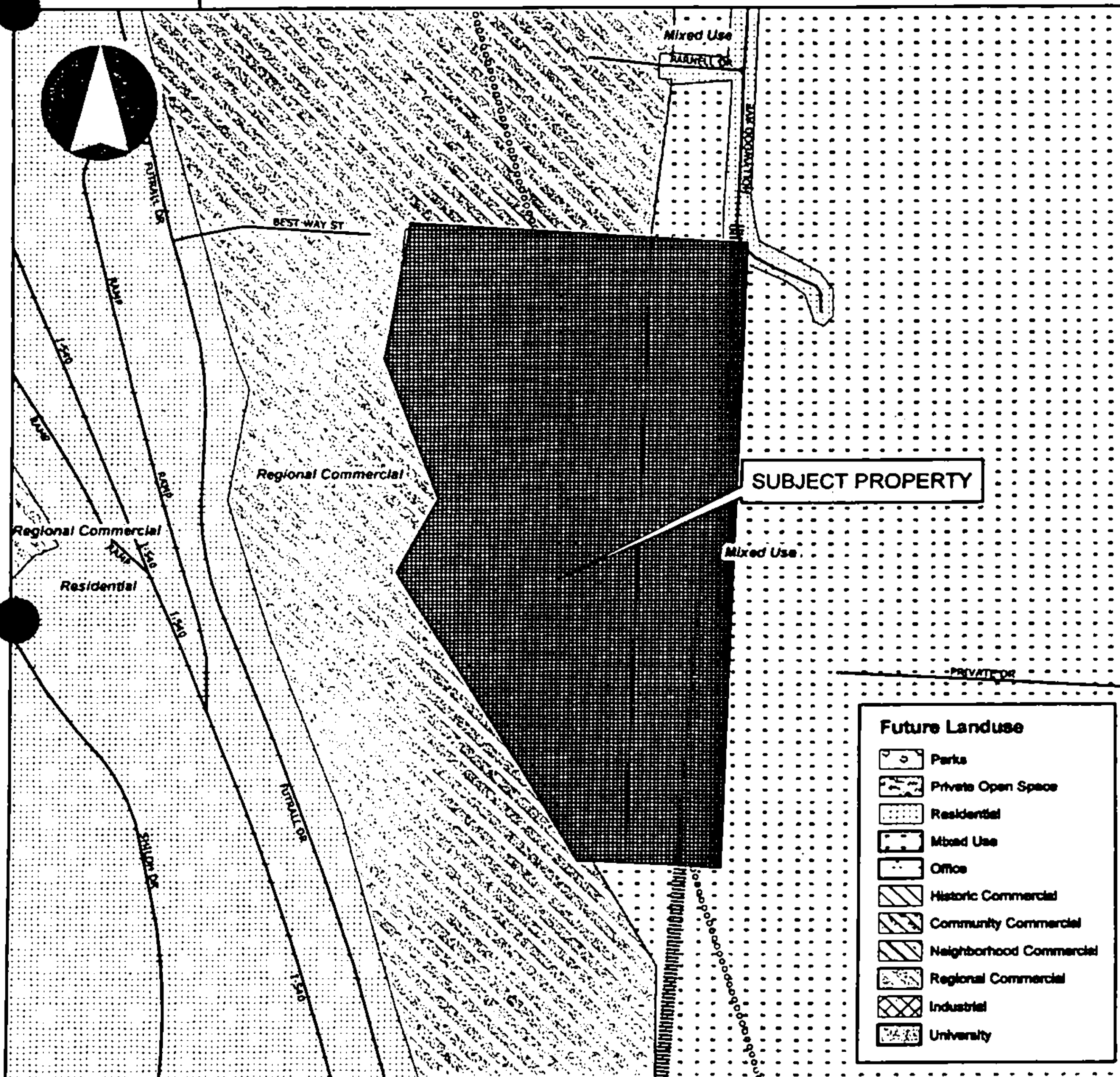
Collector

Historic Collector

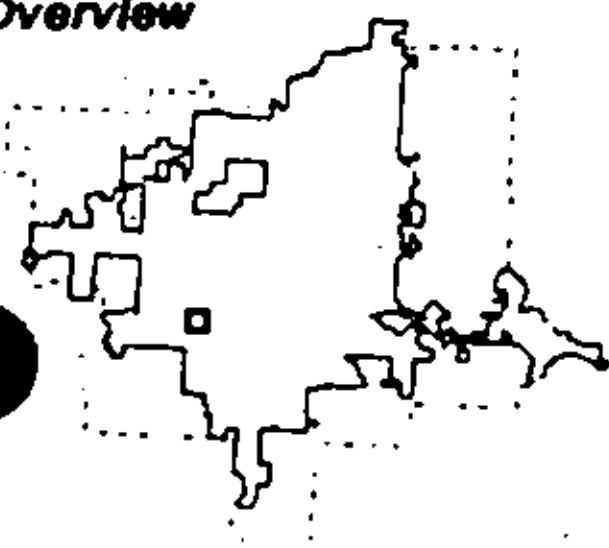
0 125 250 500 750 1,000 Feet

Future Landuse

OZARK



Overview



Legend

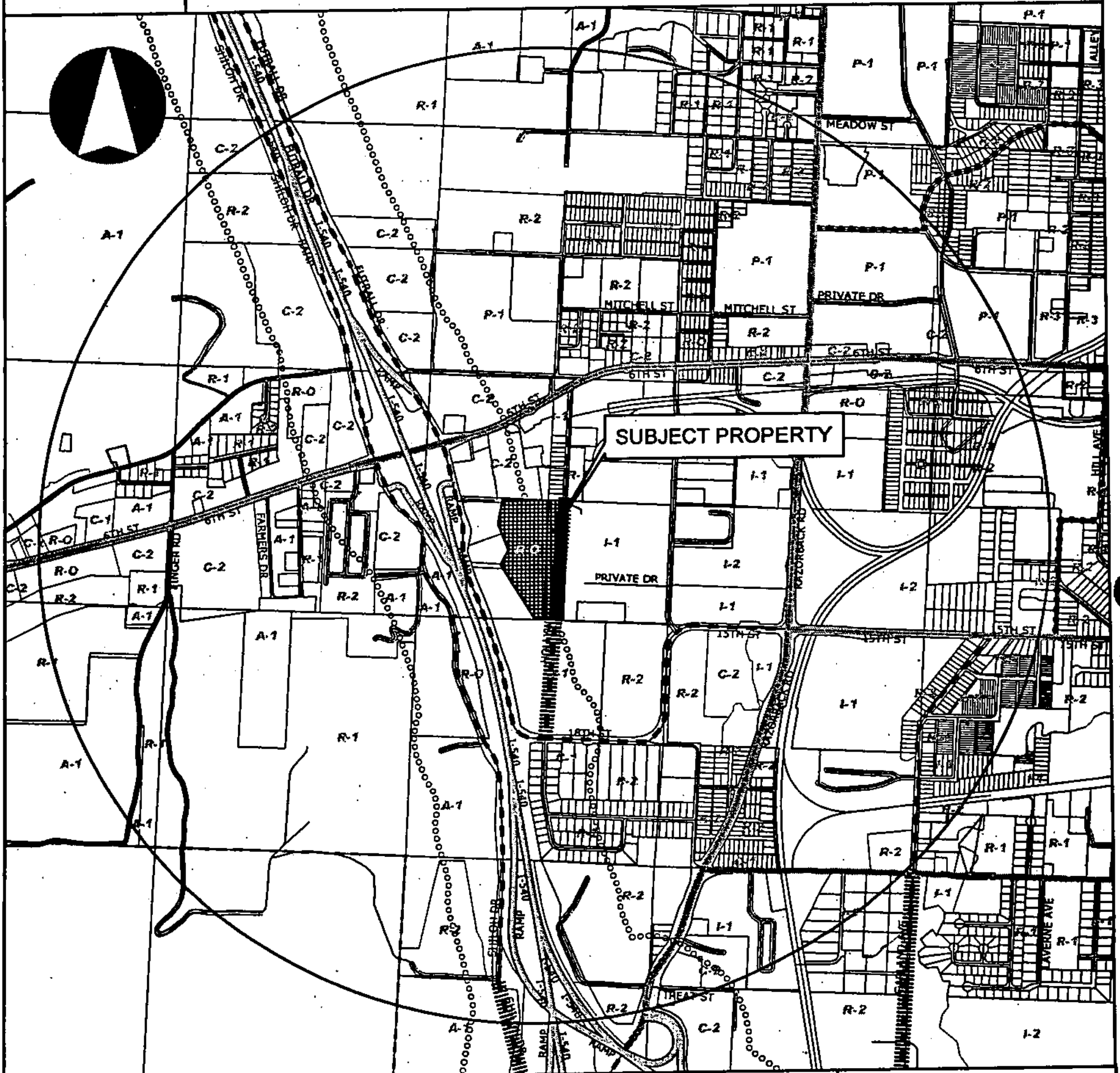
Subject Property
 RZN02-37.00

Streets
 Existing
 Planned

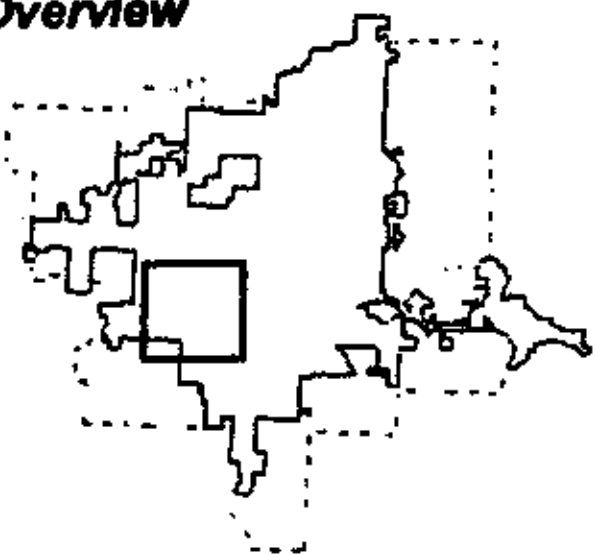
Boundary
 Planning Area
 Overlay District
 City Limits

0 87.5 175 350 525 700 Feet

OZARK



Overview



Legend

Subject Property

RZN02-37.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of November 19, 2002.

FROM: _____
Tim Conklin _____ Planning _____ Urban Development
Name _____ Division _____ Department _____

ACTION REQUESTED: To approve an ordinance for RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

COST TO CITY:

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

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached _____
Budget Coordinator _____ Administrative Services Director _____

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager _____ Date _____ ADA Coordinator _____ Date _____
City Attorney _____ Date _____ Internal Auditor _____ Date _____
Purchasing Officer _____ Date _____

STAFF RECOMMENDATION: Staff recommended approval and on October 28, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head

Department Director

Administrative Services
Director

Mayor

11-1-02
Date
11-04-02
Date
11-4-02
Date
11/5/02
Date

Cross Reference

New Item: Yes No
Prev Ord/Res#: _____
Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CC Meeting of Nov. 19, 2002113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264**PLANNING DIVISION CORRESPONDENCE**

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: Nov. 1, 2002

RZN 02-38.00(1020): Rezoning (Ruble, pp 436) was submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

BACKGROUND:

Property Characteristics: The subject property is located south of Wedington Drive on the west side of 54th Avenue (Collector). A single family structure sits on approximately 2.12 acres. Surrounding properties are single-family residential and agricultural. The property was annexed November 2, 1982 as A-1 Agricultural. Surrounding areas have recently been rezoned from A-1 to R-1, including:

May 1992	5 acres	SW corner of Wedington and 54 th Ave.
Oct. 19, 1993	1.43 acres	796 N. 54 th Ave.
Oct. 17, 1995	.57 acres	5556 Tackett Dr.
June 20, 2000	2.97 acres	831 N. 54 th Ave.
Jan. 2, 2002	41.9 acres	East of Double Springs Rd, South of Owl Creek Sub.

Proposal: The applicant is proposing to split the lot and build a single family structure on the new lot. The current zoning classification of A-1 Agricultural requires a minimum lot area of 2 acres. The applicant will not be able to split the 2.12 acres under the current zoning district.

Request: The applicant is requesting to rezone the property from A-1 Agriculture to R-1 Low Density Residential. The R-1 Low Density Residential district requires a minimum lot area of 8,000 square feet. The applicant will be able to split the 92,347 square foot lot.

Recommendation: Staff recommended approval of the requested zoning. The proposed zoning meets the Future Land Use Plan, which designates this area as residential, is compatible with surrounding land uses, and is consistent with rezoning requests in the area.

CURRENT STATUS:

On October 28, 2002, the Planning Commission voted 8-0-0 to forward the request for approval by City Council.

RECOMMENDATION:

Approval of the requested rezoning.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 02-38.00 FOR A PARCEL
CONTAINING APPROXIMATELY 2.12 ACRES LOCATED AT 625 N. 54TH
AVENUE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY ALAN
REID ON BEHALF OF BETTY RUBLE.

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 to R-1, Low Density Residential as shown 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 _____, 2002.

APPROVED:

By: **DRAFT**
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"RZN 02-38.00

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION ELEVEN (11), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING RAILROAD SPIKE; THENCE N89°51'10"W ALONG THE SOUTH LINE OF SAID 40 ACRE TRACT 165.00 FEET; THENCE N00°30'13"E 636.96 FEET TO A SET COTTON SPINDLE IN 54TH STREET FOR THE TRUE POINT OF BEGINNING AND FROM WHICH A ½" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT OF WAY OF SAID ROAD BEARS N89°51'10"W 32.63 FEET; THENCE N89°51'10"W 282.21 FEET TO A SET ½" IRON REBAR; THENCE N00°30'13"E 326.48 FEET TO A SET ½" IRON REBAR; THENCE S89°51'10"E 282.21 FEET TO A SET COTTON SPINDLE IN 54TH STREET FROM WHICH A ½" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT OF WAY OF SAID ROAD BEARS N89°51'10"W 32.93 FEET; THENCE S00°30'13"W 326.48 FEET TO THE POINT OF BEGINNING, CONTAINING 2.12 ACRES MORE OR LESS THE ABOVE DESCRIBED 2.12 ACRE TRACT BEING SUBJECT TO THE RIGHT OF WAY OF 54TH STREET ALONG THE ENTIRE EAST BOUNDARY.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of Oct. 28, 2002

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: October 24, 2002

RZN 02-38.00(1020): Rezoning (Ruble, pp 436) was submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 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 <u>YES</u>	☐ Approved	☐ Denied
Date: October 28, 2002			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: November 19, 2002 (If approved, first reading)			

Comments: _____

BACKGROUND:

Property Characteristics: The subject property is located south of Wedington Drive on the west side of 54th Avenue (Collector). A single family structure sits on approximately 2.12 acres. Surrounding properties are single-family residential and agricultural. The property was annexed November 2, 1982 as A-1 Agricultural. Surrounding areas have recently been rezoned from A-1 to R-1, including:

May 1992	5 acres	SW corner of Wedington and 54 th Ave.
Oct. 19, 1993	1.43 acres	796 N. 54 th Ave.
Oct. 17, 1995	.57 acres	5556 Tackett Dr.
June 20, 2000	2.97 acres	831 N. 54 th Ave.
Jan. 2, 2002	41.9 acres	East of Double Springs Rd, South of Owl Creek Sub.

Proposal: The applicant is proposing to split the lot and build a single family structure on the new lot. The current zoning classification of A-1 Agricultural requires a minimum lot area of 2 acres. The applicant will not be able to split the 2.12 acres under the current zoning district.

Request: The applicant is requesting to rezone the property from A-1 Agriculture to R-1 Low Density Residential. The R-1 Low Density Residential district requires a minimum lot area of 8,000 square feet. The applicant will be able to split the 92,347 square foot lot.

Recommendation: Staff is recommending approval of the requested zoning. The proposed zoning meets the Future Land Use Plan, is compatible with surrounding land uses, and is consistent with rezoning requests in the area.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Large-lot residential	A-1 Agricultural
South	Vacant	A-1 Agricultural
East	Large-lot residential	A-1 Agricultural
West	Vacant	A-1 Agricultural

INFRASTRUCTURE:

Streets: North: Tacket Drive (Local)
South: Persimmon (Proposed on Master Street Plan – not existing)
East: 54th Avenue (Collector)
West: Glenview Avenue (Local)

Water: 8" water line serves the property

Sewer: 6" sewer main serves the property

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 Future Land Use Plan and compatible with adjacent land uses.

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

Finding: The requested rezoning is needed in order for the applicant to split the lot and construct a single-family structure on the new lot.

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

Finding: *From Planning:* The requested rezoning will not create or appreciably increase traffic danger and congestion.

From Police: The Police Department states that the rezoning may increase traffic from what it is at present; the rezoning will not impact police functions to the degree that they could not be performed adequately; therefore, the Police Department does not oppose this rezoning request.

From Public Works: The proposed rezoning is located on the west side of 54th Ave. south of Wedington Drive. The proposed rezoning from A-1 to R-1 may or may not result in additional traffic danger and congestion for this area. The proposed zoning allows a density of up to 4 families per acre. That means a development could add up to 8 families on this 2.12 acre tract. The access to the developed site and the circulation network within the development shall be reviewed in detail as part of the subdivision or large scale development process. The layout, connectivity, circulation plan, ingress and egress provisions will be reviewed in detail as information becomes available.

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: *From Planning:* The proposed zoning will not significantly alter the population density. It could increase density up to eight families.

From Public Works: The site has access to an existing 8" water line on the east side of the property. A 6" sewer main is also located along the east side of the property. The proposed rezoning and ultimate development may increase the loading on the existing infrastructure systems. During the development's review and approval process, the adequacy of the existing infrastructure to accommodate the service requirements will be assessed by the developer's consultant and reviewed by city staff. Any inadequacies, lack of availability, need for improvements and determination of responsibility for the infrastructure improvements shall be resolved during the development's review/approval process.

From Fire Department: Hydrants will be needed access, 20 feet of unobstructed width driving surface. Response time 8-10 minutes.

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

*From Chapter 161 Zoning Regulations
City of Fayetteville Unified Development Ordinance*

§161.03.DISTRICT A-1 AGRICULTURAL

A. Purposes. The regulations of the Agricultural District are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; prevent unsightly development, increase scenic attractiveness; and conserve open space.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities
Unit 6	Agriculture
Unit 7	Animal Husbandry
Unit 8	Single-Family and Two-Family Dwellings

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 4	Cultural and Recreational Facilities
Unit 20	Commercial Recreation; Large Sites

C. Bulk and Area Regulations.

Lot Width Minimum	200 ft
Lot Area Minimum Residential	2 acre
Lot Area Minimum Nonresidential	2 acre
Lot Area Per Dwelling Unit	2 acre

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

E. Height Requirements. There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required yard lines.

(Code 1991, §160.030; Code 1965, App. A, Art. 5(1); Ord. No. 1747, 6-29-89)

§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.

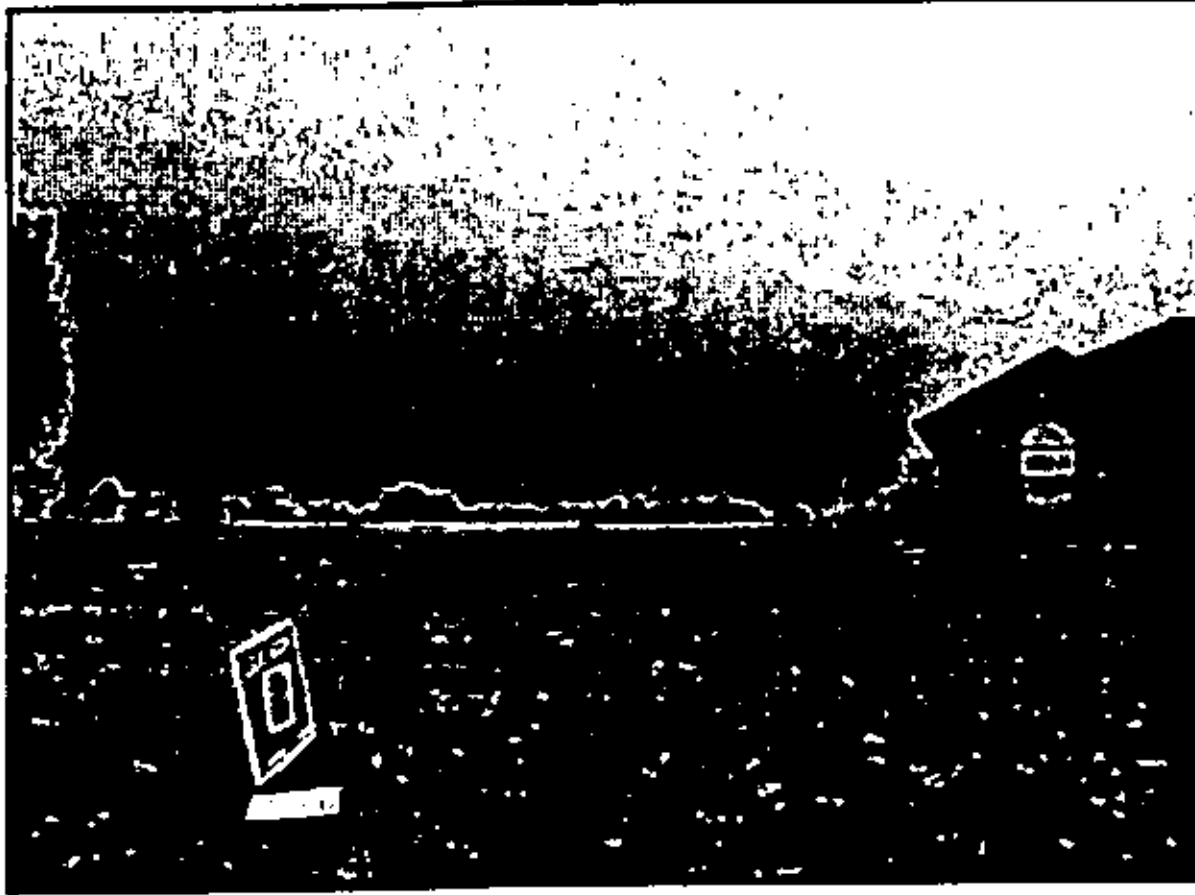
	Single-Family	Two-Family
Lot Minimum Width	70 ft	80 ft
Lot Area Minimum	8,000 sq. ft.	12,000 sq. ft.
Land Area Per Dwelling Unit	8,000 sq. ft.	6,000 sq. ft.

E. Yard Requirements (feet).

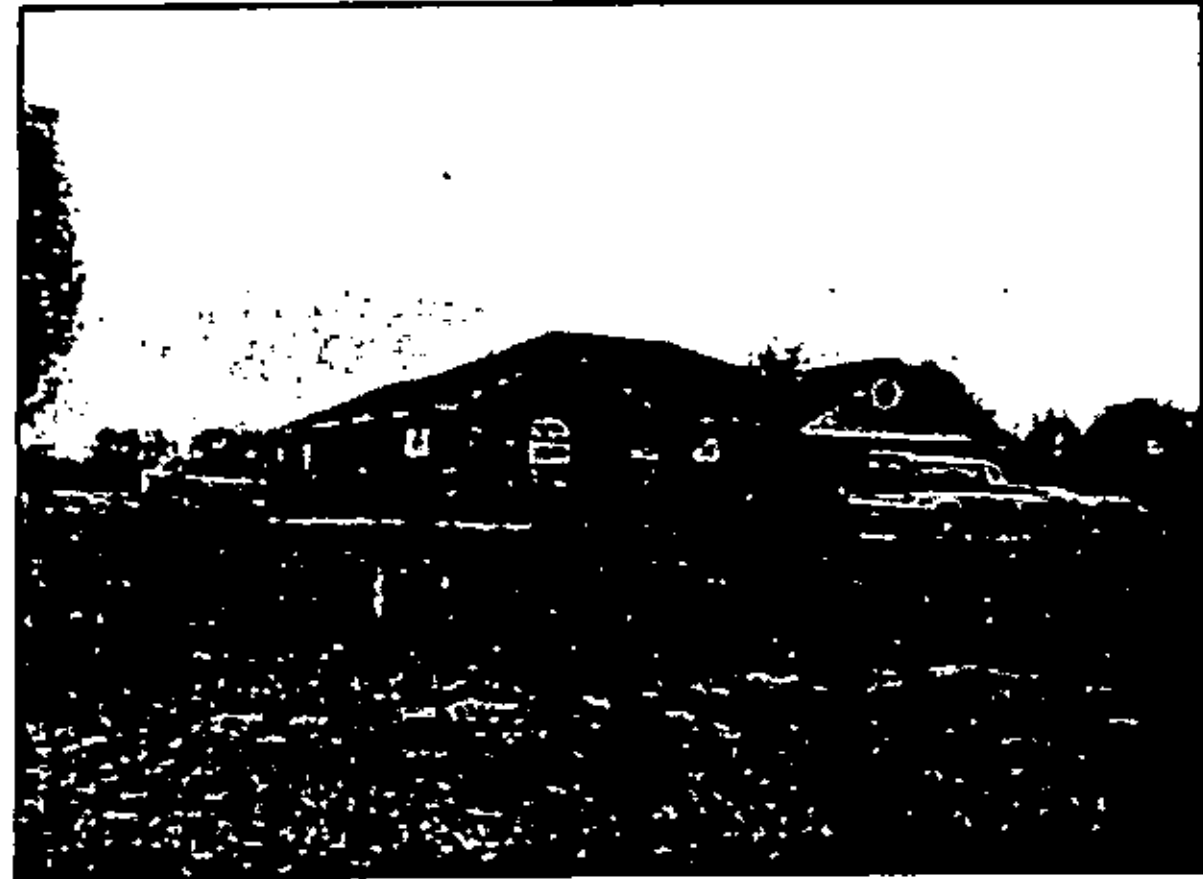
FRONT YARD	SIDE YARD	REAR YARD
25	8	20

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)



Looking west at property.



Looking west at property.



Looking at adjacent property to the east.

RZN 02-38.00(1020): Rezoning (Ruble, pp 436) was submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

Aviles: Ninth on our agenda this evening is RZN 02-38.00 which was submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential. Shelli?

Rushing: This property is located south of Wedington Drive. It is on the west side of 54th Avenue. There is a single family structure that sits on approximately 2.12 acres. It is surrounded by primarily single-family residential, large lot and agricultural uses. This property was annexed in November of 1982. It was annexed in as A-1. I do want to point out that many of the rezonings in the immediate area have been from A-1, Agricultural to R-1 Single-Family Residential. There are five listed in the staff report. The applicant again is proposing to split the lot and build a single-family structure. The A-1 district of course the minimum lot area of two acres. With the property being less than four acres they would not be able to split the property so they are requesting to rezone the property from A-1 to R-1, which would allow them to split their property. We are recommending approval of this rezoning. We find that it is compliant with the Future Land Use Plan, which designates this area as residential. It is compatible with the surrounding land uses and is consistent with many of the rezoning requests in the immediate area.

Aviles: Thank you Shelli. Is the applicant present? I will go ahead and take public comment. Is there anybody here that would wish to address the Commission on this rezoning request? Ok, I will close public discussion and bring it back to the Commission.

MOTION:

Shackelford: Based on the fact that this is in line with adjoining property and staff recommendations, I will make a motion that we recommend RZN 02-38.00 to R-1 to the City Council.

Aviles: Thank you Commissioner. I have a motion by Commissioner Shackelford and just to break things up, I will second it. I notice that the applicant is not present but we did discuss this at length at agenda session and I personally feel quite comfortable with the recommendation. Is there any further discussion? Renee, would you call the roll please?

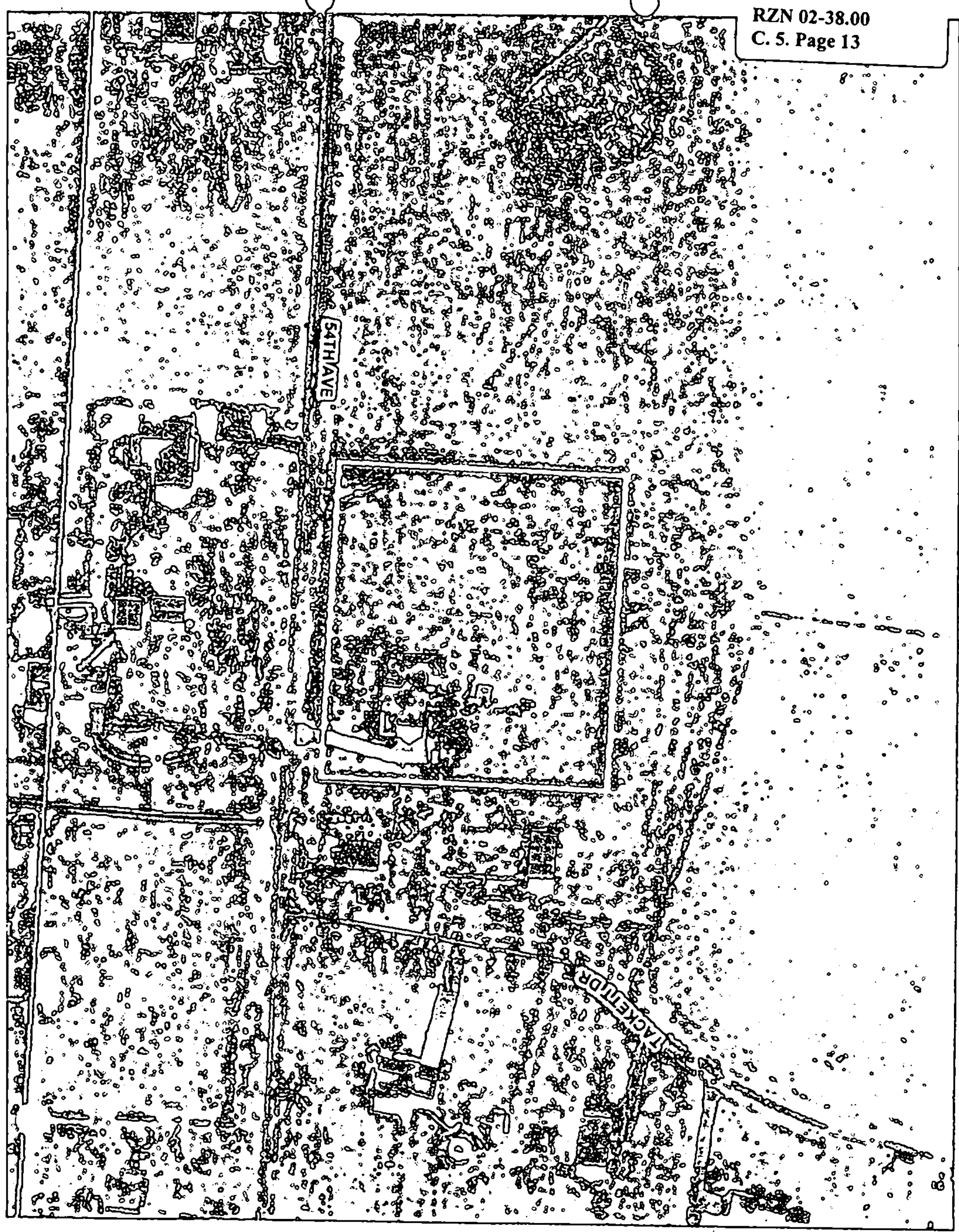
Roll Call: Upon completion of roll call the motion to forward RZN 02-38.00 to the City Council was approved by a vote of 8-0-0.

BETTY RUBLE
PROPERTY REZONING REQUEST

TO: FAYETTEVILLE PLANNING COMMISSION

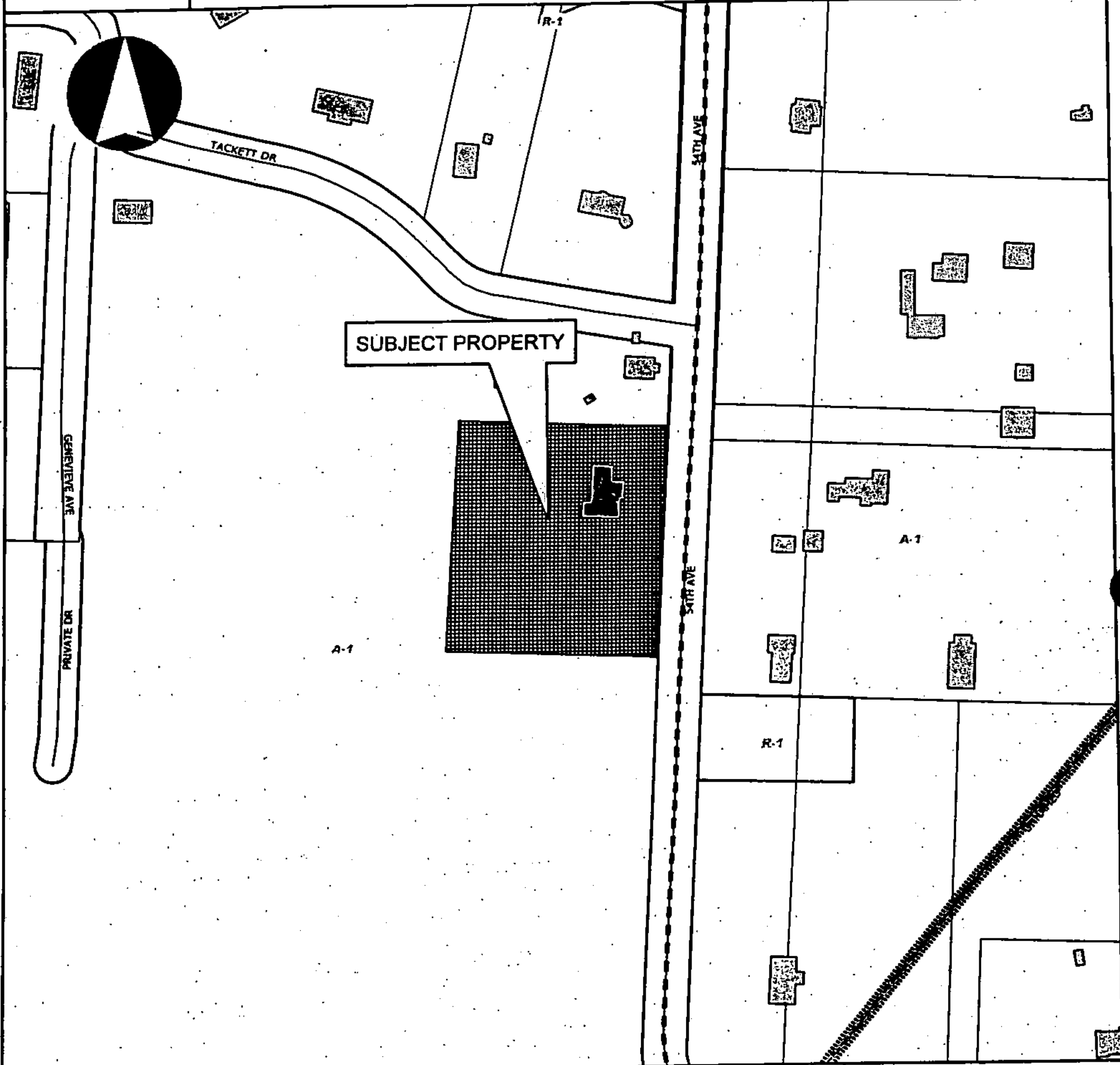
AS OF 10/07/02, BETTY RUBLE IS THE OWNER OF A 2.12 ACRE TRACT OF LAND LOCATED AT 625 N. 54TH AVENUE, FAYETTEVILLE, ARKANSAS. A WARRANTY DEED IS ON FILE IN LAND RECORD 2002-092482 OF THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY, ARKANSAS. MS. RUBLE IS REQUESTING HER PROPERTY BE REZONED FROM A-1 TO R-1 SO THAT SHE MAY SPLIT THE PROPERTY INTO TWO (2) TRACTS. BECAUSE HER PROPERTY IS ONLY 2.12 ACRES, SHE DOES NOT MEET THE AREA AND FRONTAGE REQUIREMENTS FOR SPLITTING HER TRACT UNDER THE CURRENT A-1 ZONING. THE PROPERTIES ADJOINING 54TH STREET ARE RAPIDLY BECOMING SINGLE FAMILY RESIDENCES. ALL PUBLIC UTILITIES, INCLUDING AN 8" WATER LINE AND A 6" SANITARY SEWER LINE SERVE HER PROPERTY.

MS. RUBLE'S REQUEST FOR REZONING IS BASED UPON HER DESIRE TO HAVE HER DAUGHTER BUILD AND LIVE NEXT DOOR TO HER. IN ORDER TO TRANSFER TITLE, IT WILL REQUIRE THE R-1 ZONING DESIGNATION. BECAUSE ONLY ONE (1) ADDITIONAL TRACT IS BEING CREATED, SHE FEELS THERE WILL NOT BE AN APPRECIABLE INCREASE IN TRAFFIC DANGER. NOR DOES SHE FEEL ONE (1) ADDITIONAL TRACT WILL ADVERSELY AFFECT THE DENSITY OF THE NEIGHBORHOOD. FINALLY, BECAUSE OF IT'S SMALL SIZE, THE PROPERTY SERVES NO REAL USE AS AN AGRICULTURAL SITE AND MS. RUBLE ASK THIS PLANNING COMMISSION TO ALLOW HER TO REZONE HER PROPERTY, THUS MAKING IT ABLE FOR HER TO BOTH MAKE BETTER USE OF THE LAND AND HAVE HER DAUGHTER LIVE NEXT TO HER.

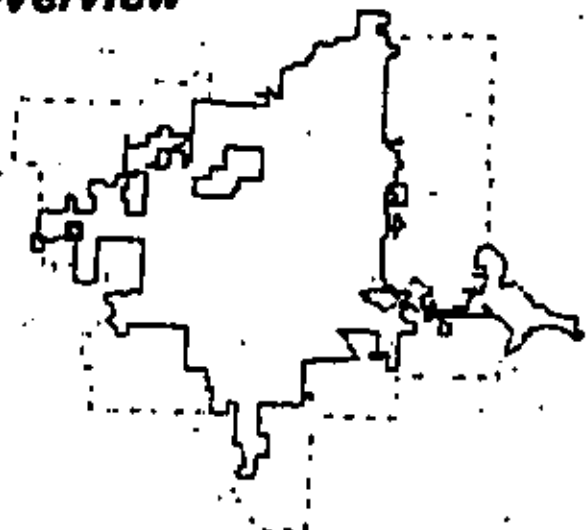


RUBLE

Close Up View



Overview



Legend

Subject Property
RZN02-38.00

Streets
Existing
Planned

Boundary

Planning Area
Overlay District
City Limits
Outside City

Master Street Plan

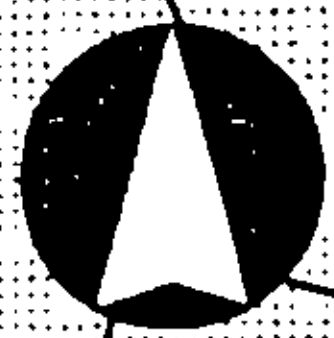
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 75 150 300 450 600 Feet

RZN02-38.00

RUBLE

Future Landuse



TACKETT DR

5TH AVE

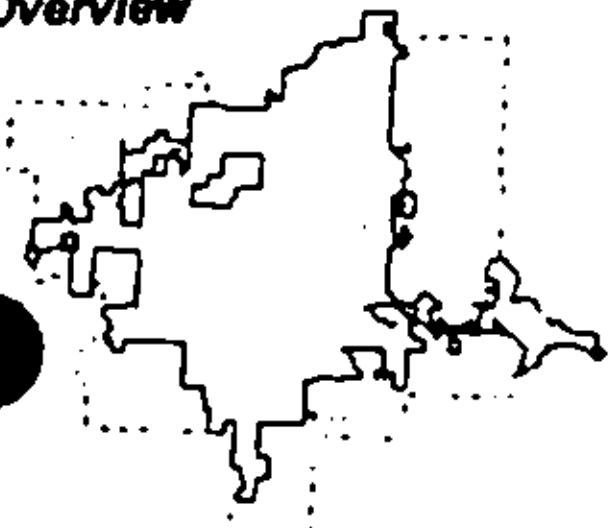
SUBJECT PROPERTY

Residential

Future Landuse

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University

Overview



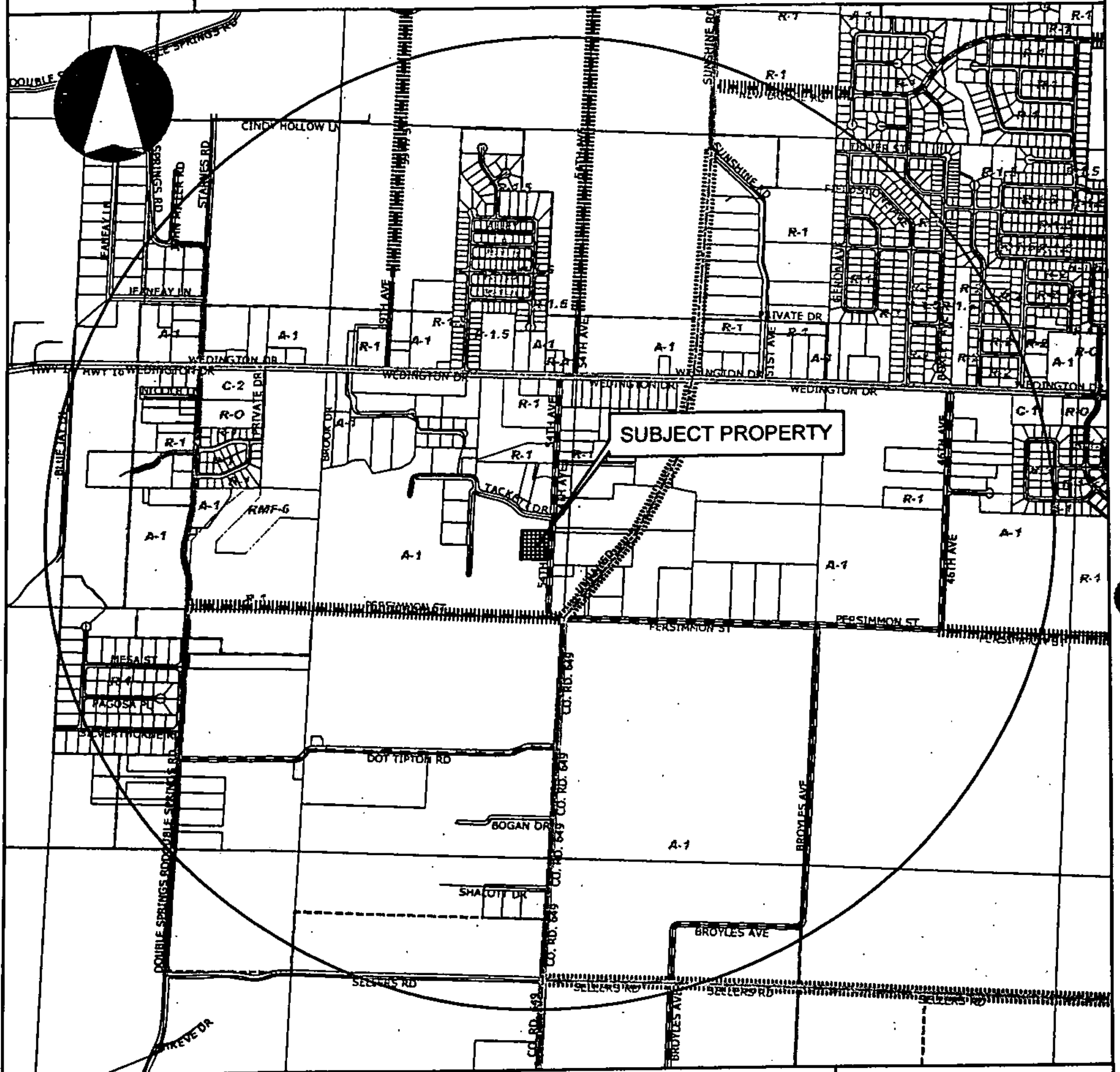
Legend

- Subject Property**
 - RZN02-38.00
 - Streets**
 - Existing
 - Planned
 - Boundary**
 - Planning Area
 - Overlay District
 - City Limits
- 0 75 150 300 450 600 Feet

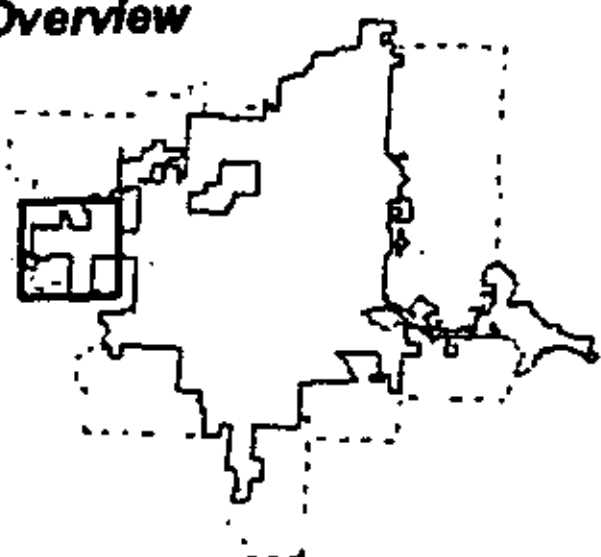
RZ02-38.00

One Mile View

RUBLE



Overview



Legend

Subject Property

RZN02-38.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM

Traffic Lenses

C. 6. Page 1

☒ AGENDA REQUEST☐ CONTRACT REVIEW☐ GRANT REVIEWFor the Fayetteville City Council meeting of November 19, 2002

FROM:

Perry FranklinTraffic DivisionPublic Works

Name

Division

Department

ACTION REQUIRED:

Approval of a Bid Waiver, Budget Adjustment and Emergency Clause for the purchase of LED traffic signal lenses Per prices on Bid# 02-40 Res# 109-02 for the period of 10/15/02 through 12/31/03 to finish the new traffic signals added to the LED project and purchase LED lenses for future traffic signal installations. (Confirmation letter from Temple, Inc. attached)

COST TO CITY:

\$ 58,003.87

Cost of this Request

\$ 185,079

Category/Project Budget

LED Traffic Signals

Category/Project Name

4470-9470-5890.00

Account Number

\$ 185,079

Funds Used To Date

Transportation Imp

Program Name

02026

Project Number

\$ 0

Remaining Balance

Sales Tax Capital

Fund

BUDGET REVIEW:

☒

Budgeted Item

☒

Budget Adjustment Attached

[Signature]
Budget Coordinator[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

[Signature]
Accounting Manager10/31/02
Date

ADA Coordinator

Date

[Signature]
City Attorney10/31/02
Date

Internal Auditor

10/31/02
Date[Signature]
Purchasing Officer11/1/02
Date

STAFF RECOMMENDATION:

[Signature]
Division Head10/31/02
Date

Cross Reference

[Signature]
Department Director11/01/02
DateNew Item: **Yes** **No**[Signature]
Administrative Services Director11-1-02
Date

Prev Ord/Res #: _____

[Signature]
Mayor11/4/02
Date

Orig Contract Date: _____

Traffic Lenses
C. 6. Page 2

RESOLUTION NO. 109-02

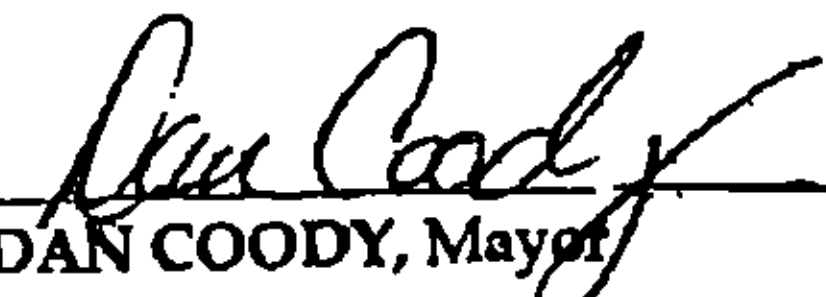
A RESOLUTION AWARDDING BID #02-40 TO TEMPLE INC. OF DECATUR, ALABAMA IN THE AMOUNT OF ONE HUNDRED SEVENTY THOUSAND NINE HUNDRED NINETEEN DOLLARS (\$170,919.00) TO PROVIDE LED TRAFFIC SIGNAL LENSES TO REPLACE ALL 110 VOLT BULBS AND LENSES.

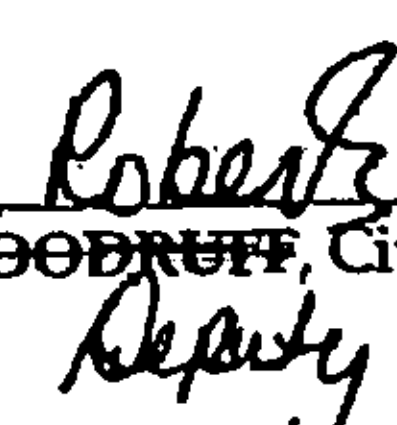
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of Fayetteville, Arkansas, hereby awards Bid #02-40 to Temple Inc. of Decatur, Alabama in the amount of One Hundred Seventy Thousand Nine Hundred Nineteen Dollars (\$170,919.00) to provide LED traffic signal lenses to replace all 110 volt bulbs and lenses.

PASSED and APPROVED this 16th day of July 2002.

APPROVED:

By: 
DAN COODY, Mayor

 
HEATHER WOODRUFF, City Clerk
Deputy

Temple, Inc.
P.O. Box 2066
Doctatur, Alabama 35602-2066
Phone 1-800-633-3221
Fax (205) 353-4578



Serving the South Since 1954!

City of Fayetteville, AR

RE: LED Signal Bid # 02-04

DATE
June 21, 2002
TERMS
NET 30
DELIVERY
30 Days
SALESMAN
Jim Rhodes

CONDITIONS: The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by Temple, Inc. All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control. Prices are based on costs and conditions existing on date of quotation and are subject to change by Temple, Inc. before final acceptance. Freight will be prepaid and allowed unless otherwise noted on this quotation.

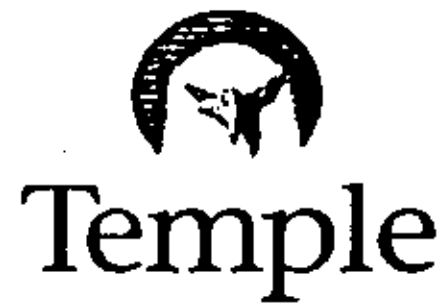
Quantity	Description	Price	Amount
600	12" Red RX-11-40 DR6-RTFB-20A-40	\$57.17	\$34,304.35
600	12" Yellow RX-9 DR6-YTFB-23A	\$66.03	\$39,618.57
550	12" Green RX-11 DR6-GCFB-20A-40	\$119.57	\$65,760.87
100	12" Green >>>> DR6-GCAAN-21A	\$83.70	\$8,369.57
130	12" Yellow >>>> DR6-YTAAN-21A	\$66.03	\$8,584.24
50	12" Ped Full Hand/Outline Man Side/Side PS6-CFC5-01A	\$117.39	\$5,869.57

Price includes Shipping. Does not include tax if applicable tax will be added.

Quote Valid For 90 Days.

Jim Rhodes

Temple, Inc.
P.O. Box 2066
Decatur, Alabama 35602-2066
Phone 1-800-633-3221
Fax (205) 353-4578



Serving the South Since 1954!

City of Fayetteville, AR

RE: LED Signal Bid # 02-04 - Revised Ped Quote for 16 x 18

DATE
July 18, 2002
TERMS
NET 30
DELIVERY
30 Days
SALESMAN
Jim Rhodes

CONDITIONS: The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by Temple, Inc. All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control. Prices are based on costs and conditions existing on date of quotation and are subject to change by Temple, Inc. before final acceptance. Freight will be prepaid and allowed unless otherwise noted on this quotation.

Quantity	Description	Price	Amount
Option 1			
50	16" Ped Outline H/M overlap PS7-CFL3-01A	\$134.00	\$6,700.00
Option 2			
50	16" Ped Full Hand/ Outline Man overlap PS7-CFL2-01A	\$138.00	\$6,900.00
Price includes Shipping. Does not include tax if applicable tax will be added.			

Quote Valid For 90 Days.

Jim Rhodes SENT VIA EMAIL



June 5, 2002

To Whom It May Concern:

Subject: GELcore, GE LED Signals

GELcore is pleased to offer a 5-year warranty on the materials and workmanship of the GELcore, GE LED Signals. Additionally, GELcore will replace or repair LED signal modules that exhibit luminous intensity of less than the minimum values specified in Table 1 of ITE specification VTCSH-Part-2 July 1998, within the first 60 months from the date of delivery.

With the LED Signals backed by the General Electric Company you will be getting quality products. Please don't hesitate to call if you have any questions.

Sincerely,

Matthew Baker
Regional Sales Manager

Southern Regional Office: Phone (321) 633-4050 Fax (321) 633-7033 Email matthew.baker@gelcore.com
GELcore: A joint venture of GE Lighting and Emcore Corporation

**City of Fayetteville, Arkansas
Budget Adjustment Form**

Traffic Lenses

C. 6. Page 6

2002	ent: Public Works	Date Requested	Adjustment Number
	Division: Traffic	10/30/2002	
	Program: Sales Tax Capital		

Project or Item Requested:

\$58,004 is requested in the LED Traffic Signal Lens capital project.

Project or Item Deleted:

\$58,004 from the Traffic Signal Improvements capital project.

Justification of this Increase:

The additional funding is needed to cover additional expenses for the purchase of LED Lens to equip the remaining City signals.

Justification of this Decrease:

There is sufficient funding remaining in project to meet 2002 objectives.

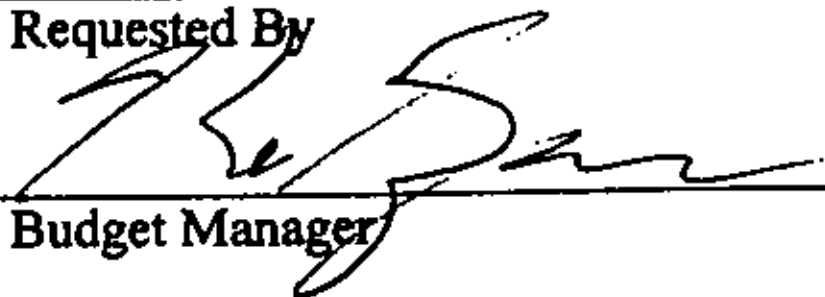
Increase Expense (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Minor equipment	4470	9470	5890	00	58,004	02026	1

Decrease Expense (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Minor equipment	4470	9470	5890	00	58,004	02063	1

Approval Signatures

Requested By	Date
	10-31-02
Budget Manager	Date
Department Director	Date
	11-1-01
Administrative Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	<u>D</u>	E
Date of Approval	Date	Initial			
Posted to General Ledger	Date	Initial			
Posted to Project Accounting	Date	Initial			
Entered in Category Log	Date	Initial			

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

Traffic Lenses
C. 6. Page 7

70490	Vendor Name	TEMPLE INC	Requestion No.:	Date:
2066	State:	AL	P.O. Number:	31-Oct-02
LEUAIUR	Zip:	35602	Expected Delivery Date:	
	FOB Point:	Fayetteville, AR		
	Shp To Code:	110		
	Requester's Employee:	24		
	Extension:	228		

Perry Franklin

Item	Description:	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number	Project/Subproject Number	Inventory \$	Flood Asset \$
1	RED RX-11-40DR6-RFTB-20A-40	168	EA	\$57.17	\$9,604.56	44709470-5890.00	02026,1		
2	YELLOW RX-9DR6-YTFB-23A	168	EA	\$66.03	\$0.00				
3	GREEN RX-11DR6-GCFB-20A-40A	168	EA	\$119.57	\$20,087.76				
4	12" GREEN (ARROW) DR6 GCAAN-21A	56	EA	\$83.70	\$4,687.20				
5	12" YELLOW (ARROW) DR6-YTAAN-21A	56	EA	\$68.03	\$3,809.68				
6	16" PED FULL HAND OUTLINED MAN				\$0.00				
7	PS7-CFL2-01A	112	EA	\$138.00	\$15,456.00				
8					\$0.00				
9	BID # 02-40 (ATTACHED)				\$0.00				
10					\$0.00				
11					\$0.00				
	SHIPPING/HANDLING								

Special Instructions:

COMPLETE THE LED CURRENT SIGNAL PROJECT AND PURCHASE LED'S FOR FUTURE SIGNALS AT BID PRICE

Subtotal: \$53,645.20
Tax: \$4,358.67
TOTAL: \$58,003.87

Approver: _____
Mayor: _____
Admin Services Director: _____
Department Director: _____
Purchasing Manager: _____
Data Processing Mgr: _____



Temple

Temple, Inc.
P.O. Box 2066
Decatur, Alabama 35602-2066
Phone 1-800-633-3221
Fax (256) 353-4578

10/15/02

City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701
ATTN: Mr. Perry Franklin, Traffic Division

Dear Perry:

As we discussed this morning I am writing to confirm Temple's extension for a period of 14 months effective 10/15/02 through 12/31/03 of the pricing for the GELcore LED's that we bid on your current LED retrofit project.

Per the current bid to the City of Fayetteville, AR Temple, Inc. will honor the pricing as addressed above for the following products:

12" Red RX-11 DR8-RTFB-20A-40: \$57.17
12" Yellow RX-8 DR6-YTFB-23A: \$86.03
12" Green RX-11 DR6-GCFB-20A-40: \$119.57
12" Green >>>> DR6-GCAAN-21A: \$83.70
12" Yellow >>>> DR6-YTAAN-21A: \$66.03
12" PED Full Hand/Outline Man Side/Side PS6-CFC5-01A: \$133.69

If you need any further information do not hesitate to contact me.

Sincerely,

Jim Rhodes

Phone 1-800-633-3221
Cell (256) 508-1572
Fax (256) 353-4578
E-mail: jim.rhodes@temple-inc.com or jrhodes368@aol.com

STAFF REVIEW FORM

City Clerk
C.12. Page 1

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF November 19, 2002 MAYOR'S APPROVAL _____

FROM:

Kit Williams

Name

Legal

Division

City Attorney

Department

ACTION REQUIRED An Ordinance to Repeal §31.30 (E) (1) Of The Code Of Fayetteville and Replace It With A New §31.30 (E) (1)

COST TO CITY:

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used to Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget 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

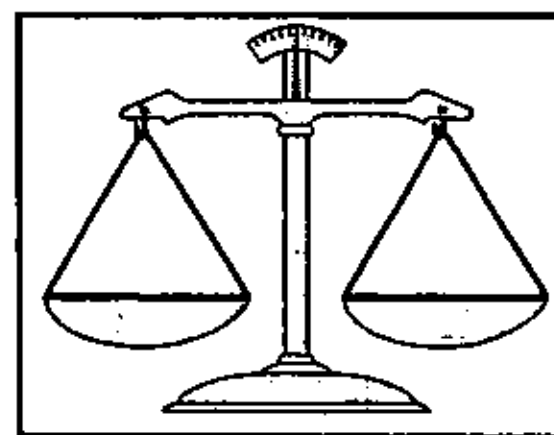
Mayor

Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor
City Council

FROM: Kit Williams, City Attorney

A handwritten signature in dark ink, appearing to read 'Kit Williams', followed by a long horizontal line.

DATE: November 8, 2002

RE: Salary for City Clerk

The Fayetteville City Clerk performs many crucial responsibilities for our government and city. The Clerk is the chief election officer ensuring that multimillion dollar elections (\$125 million dollar sewer bond election, 12 million dollar annual sales tax election, etc.) are conducted properly with all legally necessary notifications and publications properly completed. Lack of competence by our City Clerk could invalidate or call into question these million dollar decisions.

Our Fayetteville City Clerk serves as a member of both Fire Pension Board and Police Pension Board which both oversee investments and pension responsibilities in excess of ten million dollars. The Clerk is also the statutorily appointed secretary for these boards and regularly prepares the pension lists for all the retired police and firefighters and/or their survivors.

As you know the City Clerk keeps accurate minutes of all your meetings as well as original copies of all ordinances and resolutions you pass. She witnesses the Mayor's signature on all ordinances, resolutions and contracts.

The bottom line is that her responsibilities justify a base line salary of at least \$45,000.00.

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL §31.30 (E) (1) OF THE CODE OF FAYETTEVILLE AND REPLACE IT WITH A NEW §31.30 (E) (1)

WHEREAS, the Fayetteville City Clerk position's salary in our current Pay Plan is 39.8% below the Average Market according to the last Hay Plan findings; and

WHEREAS, the Fayetteville City Clerk as an elected office holder has many substantial and important duties including elections, bond issuances, and records maintenance, pension board responsibilities, City Council meeting minutes and vote records; and

WHEREAS, the City Council should set a base level salary for the elected City Clerk as it did last year for City Attorney.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals §31.30 (E) (1) of the Code of Fayetteville and replaces it with a new §31.30 (E) (1) as stated below:

"§31.30 (E) (1) Salary for a newly elected or appointed City Clerk shall be \$45,000.00. (The annual salary for a currently serving City Clerk shall be at least \$45,000.00 annually as a beginning salary level.)"

PASSED and APPROVED this the 19th day of November, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

City Attorney
C. 13. Page 1

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

FOR: COUNCIL MEETING OF November 19, 2002 MAYOR'S APPROVAL _____

FROM:

Kit Williams
NameLegal
DivisionCity Attorney
Department

ACTION REQUIRED An Ordinance to Repeal §31.45 (G) (1) Of The Code Of Fayetteville and Adding a Revised §31.45 (G) (1) In Its Stead

COST TO CITY:

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

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget 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

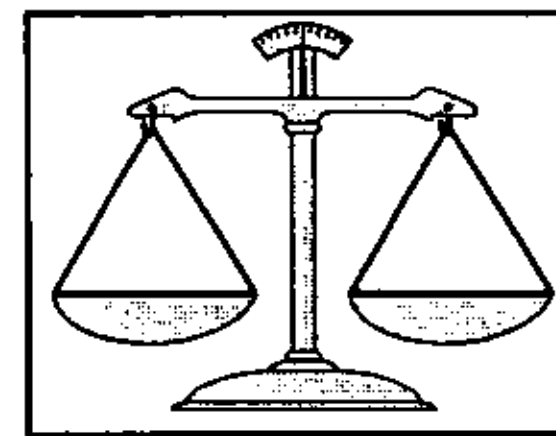
Mayor

Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council

FROM: **Kit Williams, City Attorney**

DATE: **November 8, 2002**

RE: **Ordinance concerning City Attorney salary level**

As you remember, on January 16, 2002 prior to interviewing City Attorney applicants, the City Council set the beginning annual salary for the to-be-appointed City Attorney at \$65,000.00. Alderman Reynolds had requested the City Council to consider \$69,000.00 and Alderman Davis stated they wanted to leave it around \$65,000.00, but with the option to negotiate depending upon the applicant's experience. However, the beginning salary was set prior to the interviews at \$65,000.00. (Attached are pages 21 and 22 of the minutes showing these discussions and the decision.)

I believe your decision should be codified into the Fayetteville Code of Ordinances and made applicable to any newly appointed or elected City Attorney.

Although my current salary is about \$10,000.00 less than midpoint for the Average Market salary for a City Attorney according to the Hay Group study, I am happy to serve my hometown under the terms the City Council decided upon prior to my selection. I would like to thank the City Council and Mayor Coody for giving me the wonderful opportunity to serve Fayetteville. It is very rewarding personally to assist you where I can in your efforts to enhance and protect the quality of life for our citizens.

information. However, he knew of no legal compunction or any bad thing that would happen to them if they did not.

Alderman Reynolds stated he would like for them to consider the figure of \$69,000 for a City Attorney. They had a municipal judge which worked part time that made \$65,000. He thought an eight to five attorney would respectfully earn \$69,000.

Mr. Rose stated he started out at \$50,000 per year. He thought that would a good job, coming from the Attorney General's office. He had come in at the bottom twelve years ago. He only reminded them that the scale was there independently of him or anyone else. The scale had not been made up out of thin air. It went to other city's and determined what other cities were getting their City Attorney for.

Alderman Santos stated this session was Council meeting chaired by the Mayor and not a Nominating Committee meeting.

Mr. Rose replied it was a City Council meeting in executive session.

Mr. Estes asked if it was a correct understanding that the salary for this interim position would be \$65,000.

Mayor Coody asked if they should determine a number before they went into executive session.

Mr. Rose replied it was dealers choice. They were breaking new ground here. They needed to decide what they wanted to do.

Alderman Davis stated they had indicated that they wanted to leave it around \$65,000, then they could negotiate, depending on the experience they had.

Alderman Santos moved to set the salary at \$65,000. Alderman Thiel seconded the motion.

Alderman Young asked Mr. Rose if he was topped out under the Hay Plan.

Mr. Rose replied yes. He added the nice thing about the Hay Plan was that it was revised very two years. So ever two years he could move out from under that ceiling.

Mayor Coody stated there was a motion to set the salary at \$65,000.

Upon roll call the motion passed by a vote of 5-3. Reynolds, Davis, Trumbo voting nay.

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL §32.01 ELECTION PROCEDURE
OF THE CODE OF FAYETTEVILLE AND ENACT A NEW §32.01
TO PROVIDE FOR THE ELECTION AT LARGE OF ALL
POSITION 1 ALDERMEN AND THE ELECTION BY CLOSED
WARD FOR ALL POSITION 2 ALDERMEN**

WHEREAS, A.C.A. §14-43-307 (b) (2) (B) (ii) provides statutory authority such that the City Council "may provide for the election of one (1) aldermen from each ward citywide and the other aldermen from each ward by the voters of the ward only."

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals §32.01 Election procedures of the Code of Fayetteville and inserts the following in its stead:

"§32.01 Election Procedure.

A. The candidate for alderman, Position 1, of each ward must reside in the Ward, but shall be elected by qualified electors citywide. The names of those candidates shall appear on ballots citywide.

B. The candidate for Aldermen, Position 2, of each ward must reside in the ward and shall be elected only by the qualified electors of the ward from which the person is a candidate. The names of the candidates shall appear upon the ballot only in the ward in which the persons are candidates."

PASSED and APPROVED this the _____ day of August, 2002.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

Heather Woodruff, City Clerk

STAFF REVIEW FORM

Old Missouri
C. 8. Page 1

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council Meeting of November 19, 2002

FROM:

Jill Goddard
 Name

Engineering
 Division

Public Works
 Department

ACTION REQUIRED: Passage of an ordinance authorizing the City Attorney to seek possession of certain lands located along Old Missouri Road in the city of Fayetteville, Arkansas, by the Power of Eminent Domain, in association with the required right-of-way and easements for the Old Missouri Road Improvements. Such property is owned by JTK Trust (part of Parcel No. 765-16065-012).

COST TO CITY:

\$5,825.00

Cost of this Request

\$ 1,387,369

Category/Project Number

Old Missouri Road Improvements

Category/Project Name

4470-9470-5809-00

Account Number

\$ 199,591

Funds Used to Date

Street Improvements

Program Name

00050-30

Project Number

\$ 1,187,778

Remaining Balance

Sales Tax Capital

Fund

BUDGET REVIEW:

☒ Budgeted Item

☐ Budget Adjustment Attached

[Signature]
 Budget Manager

[Signature]
 Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature]
 Accounting Manager

11/1/02
 Date

[Signature]
 Internal Auditor

11/1/02
 Date

[Signature]
 City Attorney

11/1/02
 Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Have been unable to reach agreement with property owners for reasons as explained in the following memorandum. Staff recommends condemnation approval, along with an emergency clause, on this property such that initiation of this project will not be further delayed.

[Signature]
 Division Head

10-31-02
 Date

[Signature]
 Department Director

10-31-02
 Date

[Signature]
 Administrative Services Director

11-1-02
 Date

[Signature]
 Mayor

11/04/02
 Date

Cross Reference

New Item: ☒ Yes ☐ No

Prev. Ord/Res. #: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

STAFF REVIEW FORM

Description Condemnation – Old Missouri Road Improvements Meeting Date November 19, 2002

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

DEPARTMENTAL CORRESPONDENCE

DATE: October 31, 2002

TO: Fayetteville City Council

THRU: Dan Coody, Mayor
Kit Williams, City Attorney
Greg Boettcher, Public Works Director
Jim Beavers, City Engineer

FROM: Jill Goddard, Land Agent

SUBJECT: Old Missouri Road Improvements
Project No. 00050
JTK trust (Parcel No. 765-16065-012)

The City has been acquiring right-of-way and easements along Old Missouri Road for street improvements to be constructed in conjunction with the approved and funded C.I.P. project.

A council agenda item seeking possession through the courts of the proposed right-of-way and easement areas from Parcel No. 765-16065-012 owned by the JTK Trust was initially slated to be on the September 17, 2002, agenda. However, this item was pulled at agenda session on September 10, 2002, to allow the property owner time to have an independent appraisal of his property prepared (at his expense), in an effort that a negotiated agreement could be reached.

We are, as of the date of this memo, in receipt of a counter offer from the JTK Trust (James Keenan, Trustee) through his attorney, Charles Trantham, the amount to be based upon a land value of \$100,000.00 per acre (as per his appraisal as prepared by Mark Risk of the Real Estate Consultants). Our offer amount was based upon an independent appraisal received from Tom Reed of Reed and Associates on April 10, 2002. Using Mr. Reed's values, the offer amount was:

Right-of-way:	11,042 sq. ft. @ \$0.50/sq. ft. (or \$21,780/acre)	=	\$5,525.00
Temp. Esmt.:	5,347 sq. ft @ \$0.50/sq.ft. x 10%	=	<u>300.00</u>
			\$5,825.00

Mr. Keenan's counter offer as based on \$100,000.00 per acre would be:

Right-of-way:	11,042 sq. ft. @ \$100,000/acre	=	\$25,350.00
Temp. Esmt.:	5,347 sq. ft @ \$100,000/acre x 10%	=	<u>1,230.00</u>
			\$26,580.00

Time is of the essence in that there have been many unforeseen delays on this project and this is the final acquisition. (Only one other property owner has yet to sign and that proposal went out today. It is in regard to a relocated driveway that has been coordinated with the property owner and we do not foresee any problem with their agreeing to the proposal. The original driveway relocation idea was rejected by the adjacent property owner whose land would have been crossed by the driveway by his refusing to grant an access easement.)

An order of possession can be obtained by the City Attorney's office for this property so that the project can be put out for bid and construction can subsequently start. A negotiated settlement can then be reached before the actual court date.

OLD MISSOURI ROAD IMPROVEMENTS

CASE HISTORY

JTK Trust
James T. Keenan and James F. Keenan, Trustees
c/o Charles Trantham, Attorney
157 E. Colt Drive
Fayetteville, AR 72703

Parcel No. 765-16065-012

Proposed right-of-way acquisition: 11,042 square feet
(approx. 20' strip along Old Missouri Road)
Proposed temporary construction easement: 5,397 square feet

<u>DATE</u>	<u>COMMENTS</u>
5/21/2001	Letter mailed announcing public meeting on May 29, 2001.
5/29/2001	No representative at meeting.
10/3/2001	Letter mailed announcing public meeting on October 30, 2001.
10/30/2001	No representative at meeting.
4/10/2002	Received appraisal from Reed and Associates for proposed acquisition.
5/15/2002	Received revised exhibit from Garver Engineers. It was decided, in an effort to lower acquisition costs and to limit acquisition to just this phase of construction (and after the appraisal was prepared), to widen right-of-way acquisition slightly (but not acquiring all the way to Old Wire Road: and eliminate the permanent easement.
5/16/2002	Offer letter, packet of information, and documents for execution mailed to P.O. Box 494 (address in county assessor's records).
5/20/2002	Packet returned as not deliverable. Mailed out to Charles Trantham, attorney for the Keenans in the past.
6/21/2002	Jill Goddard called Mr. Trantham to talk about the project. Left message for Mr. Trantham to call.
7/5/2002	Jill Goddard called Mr. Trantham to talk about the project. Left message for Mr. Trantham to call.
7/15/2002	JSG told by City Engineer that Dave Jorgensen was doing some engineering work for the Keenans and that Mr. Jorgensen had some questions regarding Old Missouri Road Improvements.
7/19/2002	Mr. Jorgensen came in to go over plans. Said he is in contact with the Keenans and will recommend that they sign the documents as the project is in their best interest.

CASE HISTORY
JTK Trust
Page 2 of 2

7/23/2002 JSG called Chuck Trantham. He said packet has been given to Keenans. He is to check on progress and call.

7/29/2002 JSG called Dave Jorgensen. He will encourage again.

8/9/2002 Notification letter from Greg Boettcher, Public Works Director, packet of information, and documents for execution mailed in care of Charles Trantham.

8/12/2002 Delivery confirmation (USPS) of notification letter and packet.

8/26/2002 Deadline of response (as outlined in letter dated 8/5/2002 and mailed 8/9/2002). No contact from Keenans at all. No contact from Trantham since 7/23/2002. Verbally have been told that Keenans are not happy about access onto the far east end of Farr Lane from new improvement on their property and will not sign Old Missouri documents accordingly.

8/28/2002 Packet prepared for City Council Meeting on September 17, 2002, to seek possession of right-of-way and easement through the courts.

9/9/2002 JSG talked to James F. Keenan. He is not happy with City's appraised amount and may make counter offer. He said he will also meet with Dave Jorgensen to walk off area involved.

9/10/2002 Mr. Keenan talked to Kit Williams (afternoon of agenda session) and Mr. Williams agreed to pull item from agenda to allow Mr. Keenan time to get an appraisal.

10/25/2002 JSG told to call Keenans and see if they had received appraisal. Item to be placed on November 19, 2002 council meeting agenda to seek possession. JSG talked to Mrs. Keenan, Mr. Keenan to call back.

10/29/2002 Mr. Keenan called. Has received appraisal for land value of \$100,000 per acre. He will have Mr. Trantham draft a counter offer. JSG told Mr. Keenan that item seeking possession is slated to be on November 19 agenda, but could be pulled if agreement reached before meeting or that agreement could be reached after order of possession is obtained and before court date.

10/30/2002 Mr. Trantham called. Will be faxing counter offer (to the attention of Mr. Boettcher) on 10/31/2002. JSG told Mr. Trantham, also, that item will be on November 19 agenda seeking possession.

10/31/2002 Received faxed counter offer. As based on \$100,000 per acre, counter offer would amount to total of \$26,580.00. Original offer was \$5,825.00.

Old Missouri
C. 8. Page 6

STOCKLAND & TRANTHAM, P.A.

THOMAS D. STOCKLAND
CHARLES S. TRANTHAM

ATTORNEYS AT LAW
157 E. COLT SQ., SUITE 1 • P.O. BOX 1723
FAYETTEVILLE, AR 72702-1723
TELEPHONE (479) 521-7130
FAX (479) 521-3608

tom@sandrlaw.com

chuck@sandrlaw.com

October 30, 2002

VIA FACSIMILE: 575-8257

Greg Boettcher
Public Works Director
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Project No. 00050
Old Missouri Road Improvements
Tract 33E
Notification Letter of August 5, 2002

Dear Greg:

My client has authorized me to make the following counteroffer in regards to the above-captioned matter. Enclosed, for your convenience is the appraisal prepared by Mark Risk. As you can see from reviewing his appraisal, the real estate is worth \$100,000.00 per acre.

Therefore, my client's offer is to sell only the real estate, which is needed by the city for the street, at \$100,000.00 per acre. The city will put in a sidewalk at its own expense, and the tree-line buffer which will be taken out needs to be replaced with at least no smaller than four-inch diameter trees at 10 yard intervals in a staggered fashion. Moreover, my client would like some kind of defined timeframe in which the project will take.

Once you've had an opportunity to review this offer and consult with other city officials, please give me a call. I await your reply.

Sincerely,



Charles S. Trantham
Attorney at Law

Enclosed
Appraisal

Cc: Client

CST/kgp

THE REAL ESTATE CONSULTANTS

Old Missouri
C. 8. Page 7

1.
5
2

Phone (479) 442-0762

ALTOURS • APPRAISERS • CONSULTANTS •

October 24, 2002

Mr. James Keenan
P.O.Box 909
Fayetteville, AR 72702

RE: Consulting – City of Fayetteville R-O-W Acquisition
Old Missouri Rd. & Rolling Hills
Fayetteville, AR

Dear Mr. Keenan:

In compliance with your request, I've conducted an analysis of the contemplated acquisition of a small portion of your property by the City of Fayetteville along Old Missouri Rd.. The intended use of this report is for your evaluation purposes concerning a settlement with the City.

At your request, I have limited this report to a letter format. This consulting is based upon information gathered from the public records, Washington County, MLS data, the consultant's files, other reliable sources, and an inspection of the subject property and neighborhood. Market data and reasoning supporting my analysis, conclusions, and opinions has been retained in my files.

The opinions set forth in this letter are stated as of October 24, 2002. The subject property was inspected on September 26, 2002 and this date is the effective date of the report. Under the scope of this assignment the consultant performed an inspection of the property from the street and on site. Furthermore, under the scope of this assignment the consultant has performed a limited scope analysis utilizing the Market Data or Sales Comparison Approach.

The term "Market Value" is defined as follows:

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

Page 2

The client has provided the appraiser with legal descriptions and a survey of the partial taking performed by Garver Engineers. The partial taking by the City includes 11,042 sq.ft. or .25 acres of right of way and an additional temporary construction easement of 5,397 sq.ft. or .12 acres. The location of the taking is along the existing eastern right of way of Old Missouri Rd.. The entire subject parcel contains approximately 56 acres. The right of way taking is compensable by the City of Fayetteville. In addition, rent should be paid you for the use of the temporary construction easement. It is my opinion that the partial taking will not damage the remaining property; hence, no severance damage would be owed.

I have evaluated the highest and best use of the subject property. The entire subject tract is presently zoned Single Family Residential (R-1). The site has access to all municipal utilities. The majority of the site is cleared with a gentle slope. The site appears to be well suited for development. It is my opinion that the highest and best use of the subject property would be for a mixed use development of professional office space along the Old Missouri Rd. corridor and single family residential housing for the remainder of the site. Such a use would require a zoning change and large scale development approval by the City of Fayetteville. As you may be aware, a zoning change may be difficult to obtain. However, a combination use of professional office (R-O) and single family housing (R-1) would conform with trends in this general area of Fayetteville and result in the highest value of the property.

I have researched and analyzed a number of sales of properties in the North Fayetteville market area. All data and analysis thereof have been retained in my office file. Obviously, the City's right of way taking is coming out of the portion of the site that has the potential for professional office space and would be the most valuable portion of the subject. I have researched sales of (R-O) zoned sites and sites which were rezoned (R-O) either as a condition of the sale or after the sale took place. These sales are located along Appleby Rd. and Joyce Blvd.. Small-developed tracts of land are selling in the \$4-7.00 per sq.ft. price range while larger tracts purchased for development are selling in the \$35,000 to \$104,000 price range. It is my considered opinion, after an analysis of the market data that the value of the portion of the subject site to be acquired by the City if a rezoning could be and/or became likely to be obtained would be as follows:

ONE HUNDRED THOUSAND per ACRE

This report is considered a limited restricted consulting report and has been prepared for the exclusive benefit of Mr. James Keenan. It may not be used or relied upon by any other party. This report may not be understood properly without additional information in the consultant's work file. Any party who uses or relies upon information in this report, without the preparer's written permission does so at their own risk.

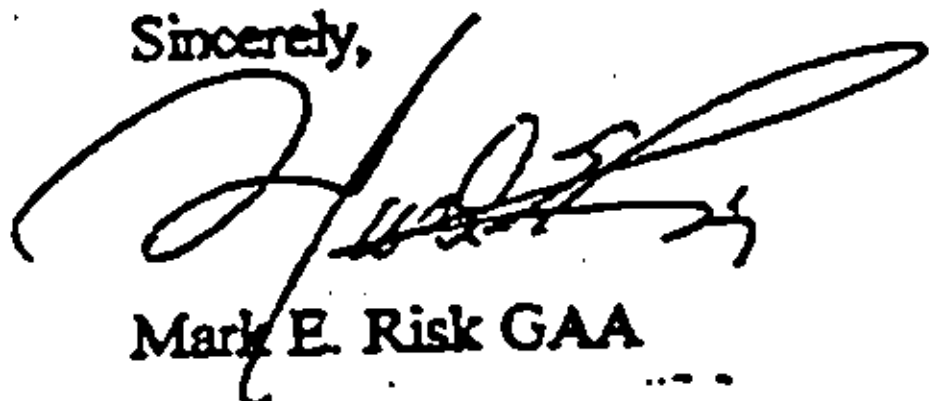
Limited reports are less reliable than complete formal appraisal reports.

Page 3

The undersigned hereby certifies that, except as specifically noted,

1. I have no present or contemplated future interest in the real estate or personal interest with respect to the subject matter or parties involved in this letter, and my employment in this matter is not in any matter contingent upon anything either than the delivery of this report; and, this consulting assignment was not based on a requested minimum valuation, specific valuation, or the approval of a loan.
2. To the best of my knowledge and belief, the statements of fact contained in this letter, upon which the analysis, opinions, and conclusions expressed herein are based, are true and correct. It is assumed that the data provided by the client and researched by the consultant is accurate.
3. This consulting letter sets forth all of the limiting conditions imposed by the terms of my assignment or by the undersigned that affect the analysis, opinions, and conclusions contained in this report.
4. My analyses, opinions, and conclusions were developed and this report has been prepared in conformity with the requirements of the Code of Professional Ethics and the Standards of Professionals Practices of the National Association of Realtors. Furthermore, this report conforms to the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation.
5. I alone have prepared the analyses, opinions, and conclusions concerning the subject real estate that are set forth in this consulting letter.

Sincerely,



Mark E. Risk GAA



Home

Shipping center
Ship
Rates
Supplies
Resource Center
Web Tools
▶ Track & Confirm
Delivery Confirmation
Signature Confirmation
Track & Confirm FAQs

▶ Shipping center

Track & Confirm

Shipment History

You entered 0301 0120 0010 3038 0901

Your item was delivered at 11:42 am on August 12, 2002 in FAYETTEVILLE, AR 72703.

Here is what happened earlier:

- NOTICE LEFT, August 10, 2002, 9:42 am, FAYETTEVILLE, AR 72703
- ARRIVAL AT UNIT, August 10, 2002, 7:47 am, FAYETTEVILLE, AR 72703
- ACCEPTANCE, August 09, 2002, 4:41 pm, FAYETTEVILLE, AR 72701

Track & Confirm

Enter number from shipping receipt

Keyword/Search

keyword

search



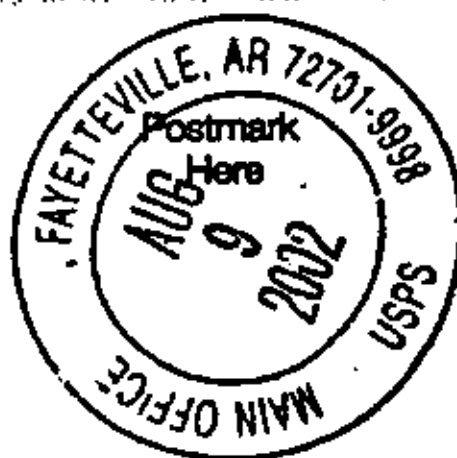
POSTAL INSPECTORS
Preserving the Trust

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U.S. Postal Service Delivery Confirmation Receipt

Post JTK Trust
Add c/o Charles Trantham
157 E. Colt Drive
Fayetteville, AR 72703

DELIVERY CONFIRMATION NUMBER: 1060 9000 0100 0210 1000



POSTAL CUSTOMER:

Keep this receipt. For inquiries:
Access internet web site at
www.usps.com
or call 1-800-222-1811

CHECK ONE (POSTAL USE ONLY)

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☐ Package Services

(See Reverse)

PS Form 162, January 2001

THE CITY OF FAYETTEVILLE, ARKANSAS

August 5, 2002

James T. Keenan & James F. Keenan
JTK Trust
P.O. Box 474
Fayetteville, AR 72702-0474

RE: Project No. 00050
Old Missouri Road Improvements
Tract 33E
Notification Letter

Dear Messrs. Keenan:

The City of Fayetteville's Land Agent Office has forwarded information to you (through your attorney, Charles Trantham on May 16, 2002) regarding needed right-of-way for the Old Missouri Road Improvement Project. Old Missouri Road Improvements has been granted a high priority by the Fayetteville City Council, as evidenced by the formal commitment of funding to this community project. Progress of this construction project is now being hindered by the lack of needed right-of-way; therefore, it is important that your questions be answered and your intentions be known.

Our Land Agents' Office has provided another copy of background information on the right-of-way needed on your property that incorporates the value assigned to this right-of-way by an independent certified land appraiser. This information is enclosed for your review and consideration. Our City Land Agents will gladly meet with you to answer questions or clarify any details regarding this requested land transaction, as well as to resolve concerns over the proposed activities. If necessary for confirmation of the extent of this right-of-way request, city representatives will field mark the needed right-of-way. It is important that we hear from you on this issue, be your decision one of acceptance or rejection. Designated contacts for this project include either Jill Goddard at 479-444-3407 or Holly Jones at 479-444-3414, or in their absence, you may contact City Engineer Jim Beavers at 479-575-8206.

If you should decide to reject this right-of-way purchase offer, either by contacting our land agent to convey your decision or by simply not responding to this communication, the final decision on procuring this right-of-way shall rest with the Fayetteville City Council. Under its powers of eminent domain, the City may elect to file a suit of condemnation in Washington County Circuit Court for this acquisition. This process requires the City to demonstrate that the right-of-way is necessary to serve a public good; whereupon, the Circuit Court of Washington County can allow condemnation of the subject right-of-way. Under such a process, the compensation for the taking must be determined by an independent appraiser (matching the process used to tender the enclosed purchase offer). Once this just compensation is determined, the City may deposit said amount with the Registry of the Circuit Court of Washington County and be granted use of the right-of-way. These funds can be subsequently withdrawn by the property owner regardless of the owner's acceptance of said amount as final compensation. Once the land acquisition has been confirmed by the Circuit Court as an action in the public interest, the only recourse available to property owners is the appeal of the amount of compensation. If the amount of compensation is contested, the subject property owner has entitlement to a trial by jury to determine the just compensation for the condemned right-of-way.

Notification Letter
Page 2 of 2

Obviously the City does not consider condemnation a desired method of acquiring project rights-of-way. The alternatives and processes are outlined for your information only, not as a threat of action. Decisions of this nature are made only by the Fayetteville City Council. To avoid any inequities in our initial land purchase offers, the enclosed compensation is based upon 100% of the value established by an independent land appraiser. Using these principles of fairness and equity, it is believed that any subsequent condemnation appeal would not result in material changes in the compensation. The enclosed offer is believed to represent fair market value for the requested right-of-way.

It is hoped that your review of the enclosed materials will find this offer to purchase acceptable and that you will agree to execute the attached *Warranty Deed* and *Temporary Construction and Grading Easement*. File copies (reduced) are enclosed for your records and a recorded copy can be provided if desired. To allow payment of this offer, the City will also need the enclosed Vendor Form to be completed, with the Tax Identification Number (corporate land owner) or Social Security Number (private land owner) included with such information. For your convenience, a Land Agent can be available to witness and notarize the execution of the land transaction documents, provided you schedule a time and date in advance.

Due to the need for and priority of the Old Missouri Road Improvement Project, a deadline of August 26, 2002 must be established for your response to this offer. Following such date, this matter shall be referred to the Fayetteville City Council.

I urge you to review and consider the enclosed purchase offer, and to not hesitate to contact our Land Agents' Office to discuss any aspect of this matter. (Jill Goddard at 479-444-3407, Holly Jones at 479-444-3414 or, in the alternative, Jim Beavers at 479-575-8206.) We would very much like to hear from you with regard to this issue, even if your decision is to reject our purchase offer.

Your time and consideration on this matter shall be appreciated.

Sincerely,



Greg Boettcher
Public Works Director

GB/jsg

Enclosures

THE CITY OF FAYETTEVILLE, ARKANSAS

May 16, 2002

James T. Keenan & James F. Keenan
JTK Trust
P.O. Box 474
Fayetteville, AR 72702-0474

RE: Project No. 00050
Old Missouri Road Improvements
Tract 33E
Offer Letter

Dear Messrs. Keenan:

The City of Fayetteville is planning improvements along Old Missouri Road from Rolling Hills Drive to Brookhaven Drive, including street, sidewalk/trail, and drainage improvements. Acquisition of a strip of right-of-way along Old Missouri Road is necessary for these improvements (see attached drawing). Also necessary for this project is a 10-foot-wide temporary construction and grading easement adjacent to the right-of-way area. The temporary construction easement will terminate upon completion and acceptance of the project by the City.

The City of Fayetteville hereby offers \$5,525.00 for the acquisition of street right of way (11,042 square feet) and \$300.00 for the rental of the property associated with the Temporary Construction and Grading Easement (5,397 square feet), for a total offer amount of \$5,825.00.

Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for acquisition and the temporary easement.

Should you elect to accept this offer, the *Warranty Deed* and the *Temporary Construction and Grading Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The documents should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the documents if you will advise our office accordingly. Upon receipt of the documents, a check will be requested and you will be paid the amount indicated in this offer letter.

JTK Trust
Page 2 of 2, *Offer Letter*

If you make a final rejection of this offer, you do have certain legal rights which are outlined hereafter. Upon your final rejection of this offer, and if the City of Fayetteville elects to do so, a suit of condemnation may be filed. The amount of just compensation for the use of this property will be determined by an independent appraisal and deposited with the Registry of the Circuit Court of Washington County. You may, at that time, elect to accept the amount deposited as just compensation and the amount will be paid to you thereby disposing of the condemnation suit.

If you do not elect to accept the amount deposited as just compensation, then you may withdraw the amount placed on deposit without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury in the Circuit court to determine just compensation for your lands condemned. In either event, payment of the estimated just compensation will be made available to you.

We, however, ask that you accept the offer made herein by executing the attached *Warranty Deed* and *Temporary Construction and Grading Easement*. Reduced copies of the documents are included for your records. We can provide copies of the recorded documents upon your request and at the appropriate time. Please provide us with a Tax Identification Number (Corporation) or Social Security Number so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements. Please contact Jill Goddard at (479) 444-3407, Holly Jones at 444-3414, or I can be reached at 575-8206.

Sincerely,

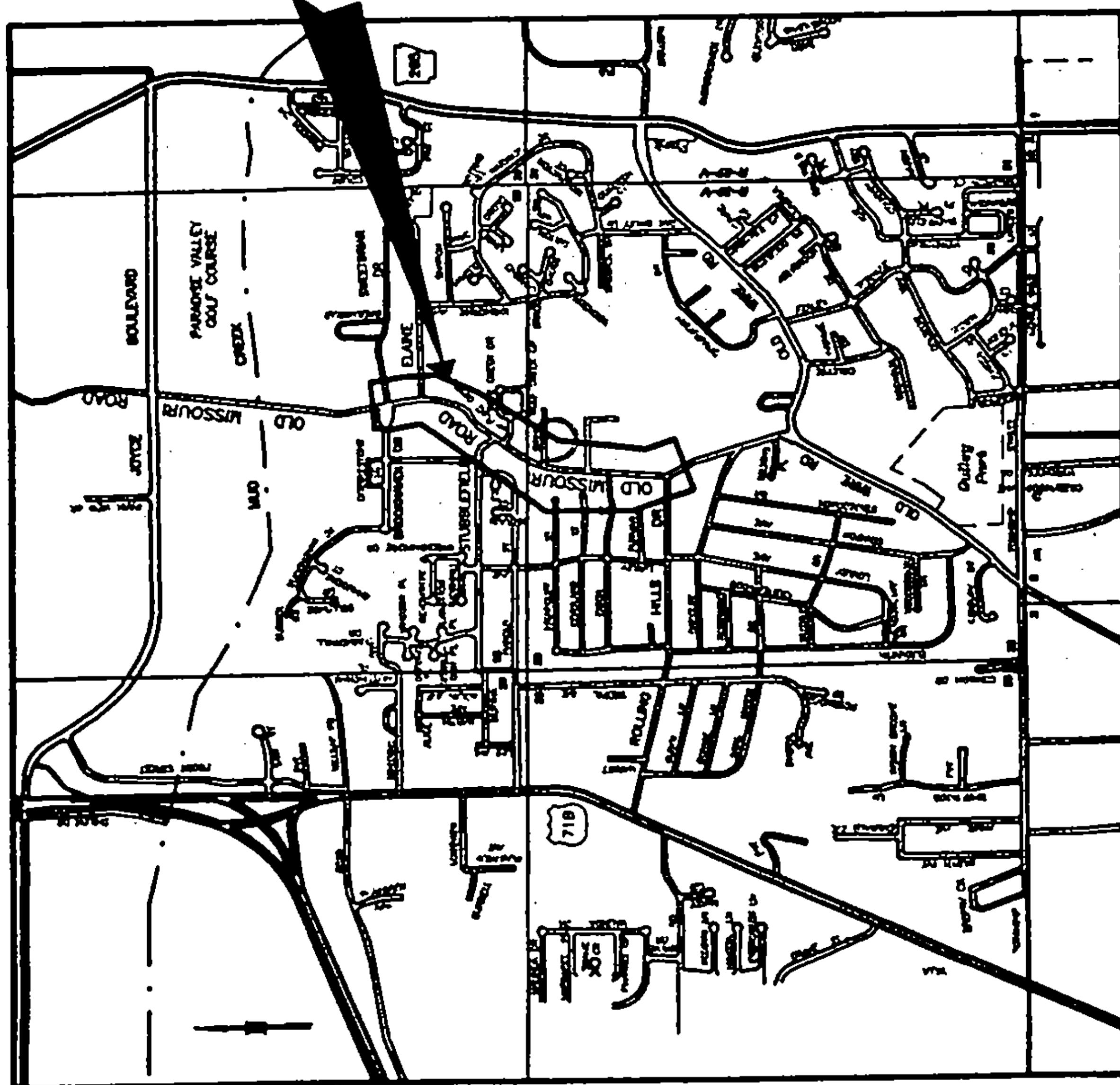


Jim Beavers
City Engineer

JB/jsg

Enclosures

PROJECT	LOCATION
1	2
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350
Road Improvements / Right of Way
No. 765-16005-012

Tract No. JJC

**TRUSTEE'S
WARRANTY DEED**

BE IT KNOWN BY THESE PRESENTS:

THAT WE, James T. Keenan and James F. Keenan, Trustees of the JTK Trust u/t/a dated February 11, 1992, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A part of the Southeast Corner (SE¼) of the Northwest Quarter (NW¼) of Section 36, Township 17 North, Range 30 West, being more particularly described as follows: Commencing at the Northeast corner of said SE¼ of the NW¼; thence North 87° 11' 15" West 495.14 feet, to the Point of Beginning; thence with the existing east right-of-way of Old Missouri Road, South 00° 24' 00" East 153.24 feet; thence South 19° 06' 55" East 396.47 feet; thence leaving said east right-of-way, North 70° 53' 05" East 20.00 feet; thence North 19° 06' 55" West 374.42 feet; thence North 09° 45' 27" West 52.11 feet; thence North 02° 47' 30" East 115.12 feet; thence North 87° 11' 15" West 23.99 feet, to the Point of Beginning and containing 11,042 square feet (0.25 acre), more or less.

The bearings for this description are based on the City of Fayetteville GPS Control Network and may vary from the bearing system previously used in describing the subject property.

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And said Trustees, in behalf of the said Trust, hereby covenant with the said Grantee that said Trust is lawfully seized of said lands and premises; that the same is unencumbered, and that the said Trust will forever warrant and defend the title to the said lands against all legal claims whatsoever.

WITNESS the execution hereof on this _____ day of _____, 2002.

JTK Trust u/t/a dated February 11, 1992

James T. Keenan, Trustee

James F. Keenan, Trustee

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON) ss.

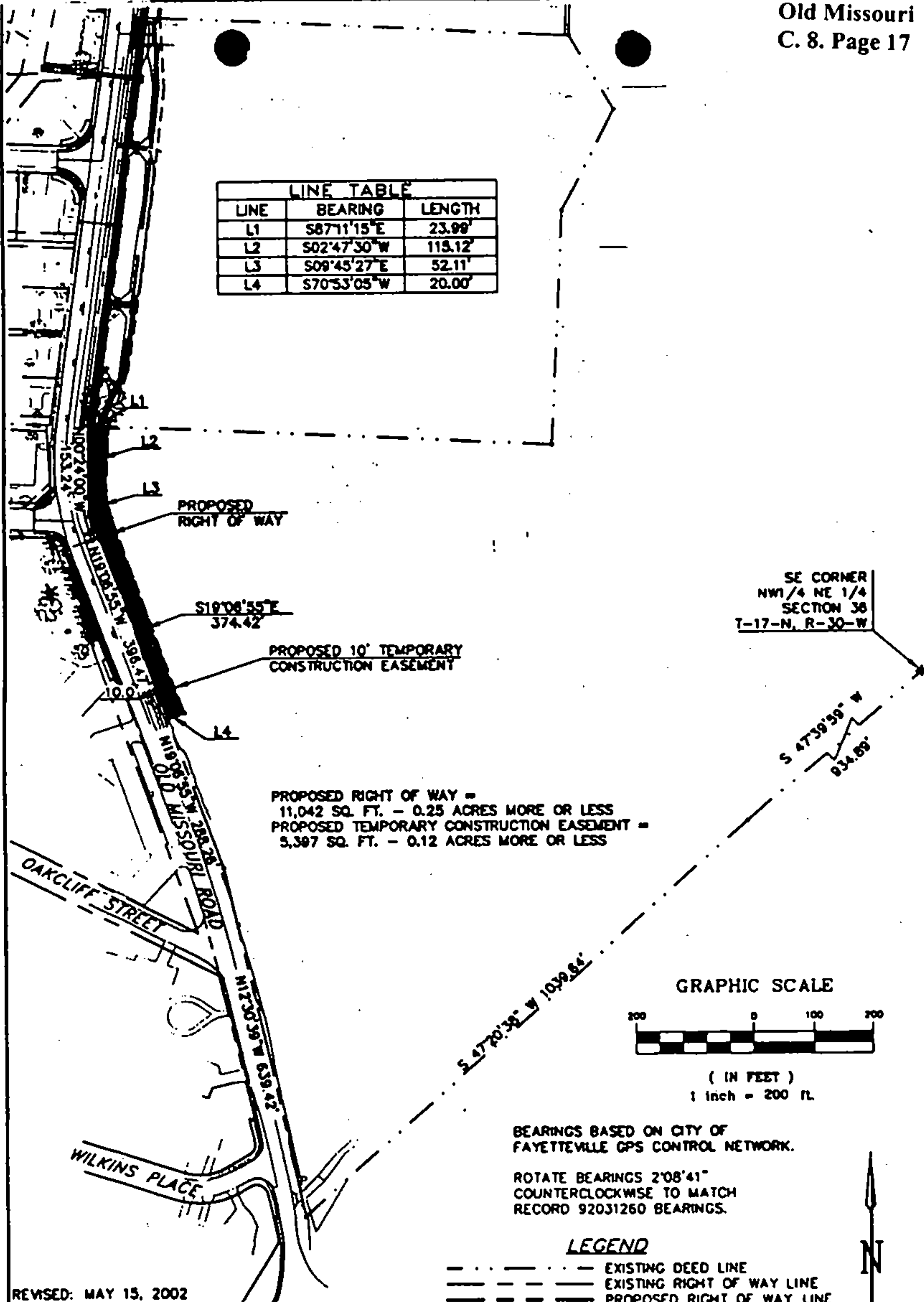
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared James T. Keenan and James F. Keenan, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are Trustees of the JTK Trust u/t/a/ dated February 11, 1992, and that they are duly authorized to execute the foregoing instrument for and in the name and behalf of said Trust, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2002.

Notary Public

MY COMMISSION EXPIRES:

LINE TABLE		
LINE	BEARING	LENGTH
L1	S87°11'15"E	23.99'
L2	S02°47'30"W	115.12'
L3	S09°45'27"E	52.11'
L4	S70°53'05"W	20.00'



REVISED: MAY 15, 2002

OWNERS: JAMES T. KEENAN AND JAMES F. KEENAN
TRUSTEES OF JTK TRUST
PARCEL NUMBER: 765-16065-012
RECORD DEED: 92 31260
SCALE: 1"=200'

Job No. 0108-0030
Date: OCTOBER, 2001

Sheet Number

2

OLD MISSOURI ROAD IMPROVEMENTS
FAYETTEVILLE, ARKANSAS

RIGHT OF WAY
AND
EASEMENT MAP



GARVER ENGINEERS

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PHONE: (501) 827-8100 FAX: (501) 827-8101 www.garverinc.com

J:\Projects\2001\016030 Old Missouri Road\Design\Survey\0070802.dwg

Project No. 00050
Old Missouri Road Improvements
Parcel No. 765-16065-012
Tract No. 33E

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT James T. Keenan and James F. Keenan, Trustees of the JTK Trust u/t/a dated February 11, 1992, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for Old Missouri Road Improvements, to-wit:

PROPERTY DESCRIPTION:(Deed Ref. 92-31260)

Part of the West Half (W $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) and a part of the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 36, Township 17 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Southeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 36, said point being an existing stone; thence S 45 degrees 31' 18" W, 934.89 feet to the Southwest corner of Strawberry Hill Subdivision; thence S 45 degrees 11' 57" W, 1039.64 feet to the east right-of-way of Old Missouri Road; thence along said right-of-way, N 14 degrees 39' 20" W, 639.42 feet; thence N 21 degrees 15' 36" W, 684.73 feet; thence N 2 degrees 32' 41" W, 153.24 feet; thence leaving said right-of-way, S 89 degrees 19' 25" E, 794.96 feet to an existing iron pipe; thence N 0 degrees 36' 39" E, 416.37 feet to an existing large nail; thence N 24 degrees 50' 40" E, 203.53 feet to an existing large nail; thence N 32 degrees 34' 55" W, 152.07 feet to an existing pinch pipe in concrete; thence N 0 degrees 36' 05" E, 475 feet; thence N 89 degrees 13' 13" W, 293.27 feet; thence N 1 degree 02' 24" E 13 feet to an existing angle iron; thence S 89 degrees 06' 52" E 1321.22 feet to an existing iron pin; thence S 0 degrees 40' 49" W, 1213.66 feet to the pint of beginning, containing 57.81 acres, more or less.

LESS AND EXCEPT right-of-way for Farr Lane (Deed Ref. 99-078567 and 99-078568): A part of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 36, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Southeast corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 36, said point being an existing stone; thence North 00° 40' 49" East 1213.66 feet, to a found iron pin; thence North 89° 06' 52" West 140.00 feet, to the Point of Beginning; thence South 63° 04' 36" West 139.04 feet; thence North 89° 06' 52" West 764.24 feet; thence North 00° 36' 05" East 52.41 feet; thence North 89° 13' 13" West 293.27 feet, to a found iron pin; thence North 01° 02' 24" East 13.0 feet to a found iron pin; thence South 89° 06' 52" East 1180.72 feet, to the Point of Beginning and containing 57,305 square feet (1.316 acres), more or less.

LESS AND EXCEPT proposed right-of-way for Old Missouri Road: A part of the Southeast Corner (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 36, Township 17 North, Range 30 West, being more particularly described as follows: Commencing at the Northeast corner of said SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence North 87° 11' 15" West 495.14 feet, to the Point of Beginning; thence with the existing east right-of-way of Old Missouri Road, South 00° 24' 00" East 153.24 feet; thence South 19° 06' 55" East 386.47 feet; thence leaving said east right-of-way, North 70° 53' 05" East 20.00 feet; thence North 19° 06' 55" West 374.42 feet; thence North 09° 45' 27" West 52.11 feet; thence North 02° 47' 30" East 115.12 feet; thence North 87° 11' 15" West 23.99 feet, to the Point of Beginning and containing 11,042 square feet (0.25 acre), more or less.

The bearings for this description are based on the City of Fayetteville GPS Control Network and may vary from the bearing system previously used in describing the subject property.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A ten (10) foot wide temporary construction and grading easement across the above described property, being a part of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 36, Township 17 North, Range 30 West and more particularly described as follows: Commencing at the Northeast corner of said SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence North 87° 11' 15" West 471.15 feet, to the Point of Beginning; thence South 02° 47' 30" West 115.12 feet; thence South 09° 45' 27" East 52.11 feet; thence South 19° 06' 55" East 374.42 feet; thence North 70° 53' 05" East 10.00 feet; thence North 19° 06' 55" West 373.60 feet; thence North 09° 45' 27" West 50.19 feet; thence North 02° 47' 30" East 114.02 feet; thence North 87° 11' 15" West 10.00 feet, to the Point of beginning and containing 5,397 square feet (0.12 acre), more or less.

The bearings for this description are based on the City of Fayetteville GPS Control Network and may vary from the bearing system previously used in describing the subject property.

together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the herein above referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure presently located within said temporary construction and grading easement area.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2002.

JTK Trust w/t/a dated February 11, 1992

James T. Keenan, Trustee

James F. Keenan, Trustee

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

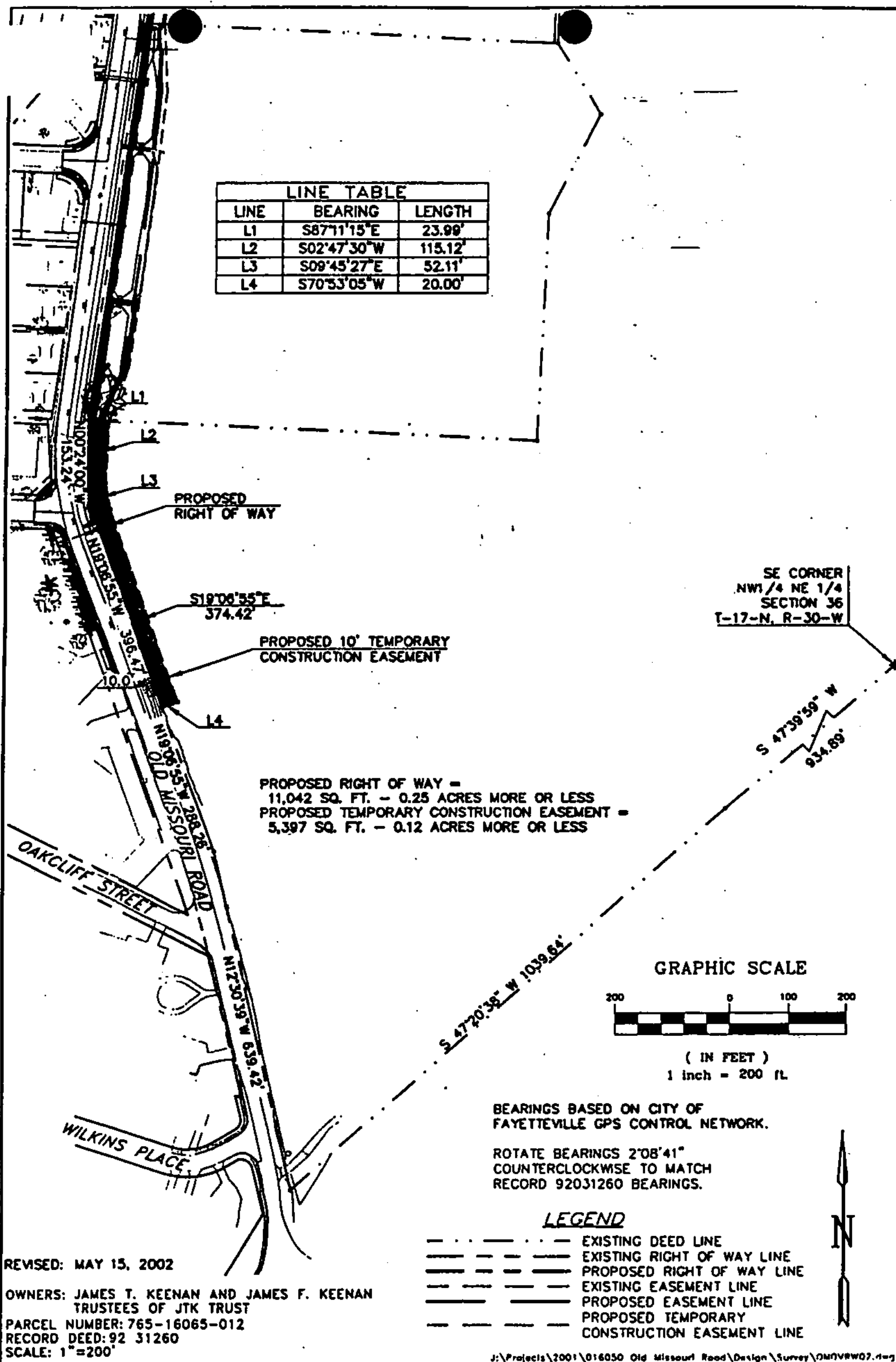
ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared James T. Keenan and James F. Keenan, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are Trustees of the JTK Trust w/t/a/ dated February 11, 1992, and that they are duly authorized to execute the foregoing instrument for and in the name and behalf of said Trust, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2002.

Notary Public

MY COMMISSION EXPIRES:

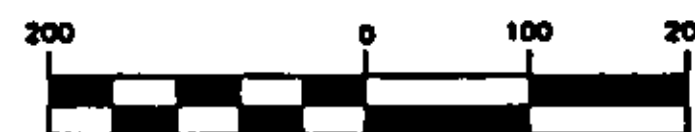


LINE TABLE		
LINE	BEARING	LENGTH
L1	S87°11'15"E	23.99'
L2	S02°47'30"W	115.12'
L3	S09°45'27"E	52.11'
L4	S70°53'05"W	20.00'

SE CORNER
NW1/4 NE 1/4
SECTION 36
T-17-N, R-30-W

PROPOSED RIGHT OF WAY =
11,042 SQ. FT. - 0.25 ACRES MORE OR LESS
PROPOSED TEMPORARY CONSTRUCTION EASEMENT =
3,397 SQ. FT. - 0.12 ACRES MORE OR LESS

GRAPHIC SCALE



(IN FEET)
1 inch = 200 ft

BEARINGS BASED ON CITY OF
FAYETTEVILLE GPS CONTROL NETWORK.

ROTATE BEARINGS 2°08'41"
COUNTERCLOCKWISE TO MATCH
RECORD 92031260 BEARINGS.

LEGEND

- EXISTING DEED LINE
- EXISTING RIGHT OF WAY LINE
- PROPOSED RIGHT OF WAY LINE
- EXISTING EASEMENT LINE
- PROPOSED EASEMENT LINE
- PROPOSED TEMPORARY CONSTRUCTION EASEMENT LINE



REVISED: MAY 15, 2002

OWNERS: JAMES T. KEENAN AND JAMES F. KEENAN
TRUSTEES OF JTK TRUST
PARCEL NUMBER: 765-16065-012
RECORD DEED: 92 31260
SCALE: 1"=200'

J:\Projects\2001\016050 Old Missouri Road\Design\Survey\DMNVW02.dwg

Job No. 0106-6050
Date: DECEMBER, 2001

Sheet Number

2

OLD MISSOURI ROAD IMPROVEMENTS
FAYETTEVILLE, ARKANSAS

RIGHT OF WAY
AND
EASEMENT MAP



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PHONE: (501) 527-9100 FAX: (501) 527-9101 www.garverinc.com

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PLEASE RE Old Missouri
CITY FAYET C. 8. Page 21
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701
(501) 444-3414
FAX: (501) 575-8316

VENDOR FORM

Vendor # _____
(For Office Use Only)

According to the Federal Income Tax Law, the City is required to obtain the information listed below from all individuals and companies with whom we do business. Failure to comply may subject you and/or your company to certain penalties, as well as withholding tax.

Please complete the following:

____ Sole Proprietorship
____ Corporation
____ Partnership
____ Tax-exempt organization under Section 501(a)
____ Foreign Government
____ ☒ Individual
____ Other (please explain)

Tax Identification number: _____

____ Federal employer identification number

OR

✓ _____ Social Security number (for individual or sole proprietors)

I certify that the above information is true and correct.

JTK Trust

Name of Individual or Business

P.O. Box 474

Address

Fayetteville, AR 72702-0474

City, State, Zip Code

✓

Signature

✓

Date

✓

Title

Please mail or FAX this completed form to the City of Fayetteville at the above address or FAX number.

[Return to List](#) [Return to Search](#) [Parcel Map/Plan](#)

Record 1 of 1

Parcel Number: 765-16065-012 **Type:** RV
Location Address: 0
Owner name: KEENAN, JAMES T. ET AL, TRUSTEES
Mailing Address: PO BOX 474 FAYETTEVILLE AR 72702
Lot: **Block:** **S-T-R:** 36-17-30
Addition: 36-17-30 FAYETTEVILLE OUTLOTS
School District: FAYETTEVILLE SCHOOLS
City: FAYETTEVILLE
Legal: PT W/2 NE & PT SE NW 57.81 A.
Current Year: 1995 **Appraised value** **Assessed value**
Land 289,050 57,810
Improvement 0 0
Total 289,050 57,810

TRUSTEES

Date	Book	Page	Grantee 1	Grantee 2	Deed Type	Sale Amount	Revenue Amount
02/11/92	92	31260	KEENAN, JAMES T. ET AL, TRUSTEES	PO BOX 474	WD	0	0.00
SP WD NO REV							
01/01/91	1392	937	KEENAN, JAMES			0	0.00

[Return to List](#) [Return to Search](#) [Parcel Map/Plan](#)

Check Keenan
521-7130

FILED FOR RECORD

SPECIAL WARRANTY DEED
92 JUN 22 PM 2:57

KNOW ALL MEN BY THESE PRESENTS:

WASHINGTON CO AR

THAT James T. Keenan, a single man, hereinafter called "Grantor" for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto James T. Keenan and James F. Keenan, as trustees of the JTK Trust created under a trust agreement dated February 11, 1992, hereinafter called "Grantees", all of Grantor's right, title and interest in and to the following described real property situated in Washington County, State of Arkansas, to-wit:

See Exhibit "A" attached hereto.

This instrument is made without warranty, express or implied, except by, through and under Grantor and subrogated to all prior rights and warranty.

TO HAVE AND TO HOLD the the above-described property with all and singular the rights, privileges and appurtenances thereto or in any way belonging to the said Grantees herein, and their successors and assigns forever.

EXECUTED and delivered this 11th day of February, 1992.

[Signature]
James T. Keenan, a single man

STATE OF ARKANSAS)
COUNTY OF PULASKI) ss.

The foregoing instrument was acknowledged before me this 11th day of February, 1992, by James T. Keenan, a single man, to me known to be the identical person who executed the within and foregoing instrument, and acknowledged that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Commission Expires: 1000
NOTARY PUBLIC
WASHINGTON COUNTY, ARKANSAS

[Signature]
Notary Public

Prepared by:
Wm. Lee Grace, Jr., Esq.
Giroir & Gregory, P.A.
111 Center Street, Suite 1900
Little Rock, Arkansas 72201
(501) 372-3000

92 31260

GIROIR & GREGORY

TEL: 501-374-2380

Jun 11, 92 11:02 No.005 P.03

EXHIBIT "A"

Part of the West Half (W-1/2) of the Northeast Quarter (NE-1/4) and a part of the Southeast Quarter (SE-1/4) of the Northwest Quarter (NW-1/4) of Section 36, Township 17 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Southeast Corner of the Northwest Quarter (NW-1/4) of the Northeast Quarter (NE-1/4) of said Section 36, said point being an existing stone; thence S 45 degrees 31'18" W, 934.89 feet to the Southwest Corner of Strawberry Hill Subdivision; thence S 45 degrees 11'57" W, 1039.64 feet to the east right-of-way of Old Missouri Road; thence along said right-of-way, N 14 degrees 39'20" W, 639.42 feet; thence N 21 degrees 15'36" W, 684.73 feet; thence N 2 degrees 32'41" W, 153.24 feet; thence leaving said right-of-way, S 89 degrees 19'25" E, 794.96 feet to an existing iron pipe; thence N 0 degrees 36'99" E, 416.37 feet to an existing large nail; thence N 24 degrees 50'40" E, 203.53 feet to an existing large nail; thence N 32 degrees 34'55" W, 152.07 feet to an existing pinch pipe in concrete; thence N 0 degrees 36'05" E, 475 feet; thence N 89 degrees 13'13" W, 293.27 feet; thence N 1 degree 02'24" E, 13 feet to an existing angle iron; thence S 89 degrees 06'52" E, 1321.22 feet to an existing iron pin; thence S 0 degrees 40'49" W, 1213.66 feet to the point of beginning, containing 57.81 acres, more or less.

WARRANTY DEED

FILED FOR RECORD

Old Missouri
C. 8. Page 25

KNOW ALL MEN BY THESE PRESENTS:

*99 AUG 27 PM 3 45

That I, James T. Kennan, Trustee of the J.T.K Trust dated February 11, 1992, do hereby grant, bargain, and sell unto the said Grantee and Grantee's heirs and assigns, the following described land situated in Washington County, State of Arkansas, to-wit:

A part of the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of Section 36, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Southeast corner of the NW ¼ of the NE ¼ of said Section 36, said point being an existing stone; thence North 00° 40' 49" East 1213.66 feet, to a found iron pin; thence North 89° 06' 52" West 140.00 feet, to the Point of Beginning; thence South 63° 04' 36" West 139.04 feet; thence North 89° 06' 52" West 764.24 feet; thence North 00° 36' 05" East 52.41 feet; thence North 89° 13' 13" West 293.27 feet, to a found iron pin; thence North 01° 02' 24" East 13.0 feet to a found iron pin; thence South 89° 06' 52" East 1180.72 feet, to the Point of Beginning and containing 57,305 square feet (1.316 acres), more or less.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantees' heirs and assigns, forever. And I, James T. Kennan, Trustee of the J.T.K Trust dated February 11, 1992, the said Grantor, hereby covenants that "I am" lawfully seized of said land and premises, that the same is unencumbered, and that "I" will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS our hands and seals on this 23 day of August, 1999.

THIS INSTRUMENT PREPARED BY:
STOCKLAND & TRANTHAM, P.A.,
P.O. BOX 1723,
FAYETTEVILLE, AR 72702
(501) 521-7130

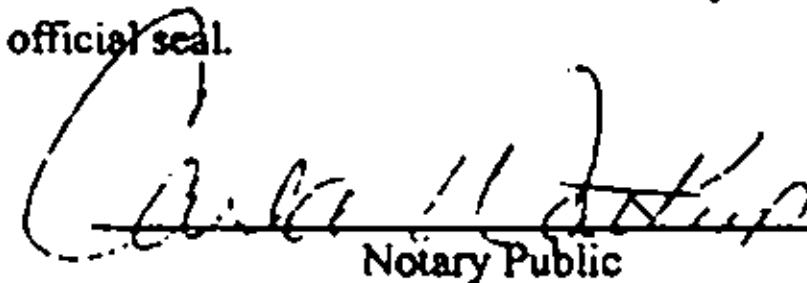
James T. Kennan, Trustee of the J.T.K Trust
dated February 11, 1992

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss
COUNTY OF WASHINGTON)

On this the 23 day of August, 1999, before me, a Notary Public, personally appeared James T. Kennan, Trustee of the J.T.K Trust dated February 11, 1992, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he has executed the same for the purposes therein set forth.

IT WITNESS whereof, I have hereunto set my hand and official seal.


Notary Public

My Commission Expires:



99078567

FILED FOR RECORD

WARRANTY DEED

*99 AUG 27 PM 3 45

KNOW ALL MEN BY THESE PRESENTS:

WASHINGTON CO AR

K. HARNES

That The Raven Foundation, hereinafter called Grantor, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to them in hand paid by The City of Fayetteville, called Grantees, does hereby grant, bargain, and sell unto the said Grantees and Grantee's heirs and assigns, the following described land situated in Washington County, State of Arkansas, to-wit:

A part of the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of Section 36, Township 17 North, Range 30 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Southeast corner of the NW ¼ of the NE ¼ of said Section 36, said point being an existing stone; thence North 00° 40' 49" East 1213.66 feet, to a found iron pin; thence North 89° 06' 52" West 140.00 feet, to the Point of Beginning; thence South 63° 04' 36" West 139.04 feet; thence North 89° 06' 52" West 764.24 feet; thence North 00° 36' 05" East 52.41 feet; thence North 89° 13' 13" West 293.27 feet, to a found iron pin; thence North 01° 02' 24" East 13.0 feet to a found iron pin; thence South 89° 06' 52" East 1180.72 feet, to the Point of Beginning and containing 57,305 square feet (1.316 acres), more or less.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantees and Grantees' heirs and assigns, forever. And The Raven Foundation, the said Grantor, hereby covenants that "it" is lawfully seized of said land and premises, that the same is unencumbered, and that "it" will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS our hands and seals on this 23 day of March, 1999.

THIS INSTRUMENT PREPARED BY:
STOCKLAND & TRANTHAM, P.A.,
P.O. BOX 1723,
FAYETTEVILLE, AR 72702
(501) 521-7130

James T. Keenan, Director of The Raven Foundation

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

On this the 23 day of August, 1999, before me, a Notary Public, personally appeared James T. Kennan, Director of The Raven Foundation known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he has executed the same for the purposes therein set forth.

IT WITNESS whereof, I have hereunto set my hand and official seal.

Notary Public

Expires:

99-78568

22 4517 A

**COMPLETE APPRAISAL ANALYSIS
REPORTED IN A SUMMARY FORMAT**

FOR THE

CITY OF FAYETTEVILLE, ARKANSAS

BY

**REED & ASSOCIATES, INC.
1494 PLAZA PLACE
SPRINGDALE, AR 72764**

RE: Old Missouri Road Improvements
PROJECT NO: 00050
PARCEL NO: 765-16065-012
TRACT NO: 33E
COUNTY: Washington
FEE OWNER(S): James T. Keenan and James F. Keenan,
Trustees of the JTK Trust w/t/a dated February 11, 1992
OWNERS MAILING ADDRESS: P.O. Box 909, Fayetteville, Arkansas 72702

LOCATION OF SUBJECT

PROPERTY: Subject is located along the east side of Old Missouri Road, directly east/southeast from the intersection of Old Missouri Road and Rolling Hills Drive, in the north central part of Fayetteville, Arkansas. The 2000 population of Fayetteville was 58,047, according to the U.S. Census Bureau. Fayetteville is the County Seat of Washington County.

The subject Market Area appears to consist of an area lying east of U.S. Highway 71 Business (North College Avenue), south of Joyce Street, west of State Highway 265 (Crossover Road) and north of Township Street. Property uses visible in the Market Area include single-family and multi-family residential,

commercial, special-purpose, etc. The primary use appears to be single-family residential.

The Market Area appears to be over 75% built-up, with a high occupancy rate.

The topography of the Market Area is undulating to rolling/moderately sloping to steeply sloping. Soil and subsoil conditions are not generally considered adverse to building construction. Overall, drainage is considered adequate.

Utilities available in the Market Area include public water and sewer, natural gas, electricity, telephone service, and cable T.V.

The Market Area appears to still be in the growth stage of its life cycle. New residential and commercial construction and/or development were noted, primarily in the northern part of the Market Area. In addition, several large tracts of vacant acreage were also noted in the Market Area. In our opinion, the outlook for the immediate future is for continuation of the present Market Area life cycle.

DESCRIPTION OF THE

SUBJECT PROPERTY:

Subject site consists of approximately 2,518,200± square feet (SF), or approximately 57.81± acres, however, approximately 57,305± SF (1.316± acres) are located within the existing right-of-way of Farr Lane. Therefore, the usable size is estimated to be 2,460,895± SF, or 56.494± acres. The site is irregular in shape, and has approximately 1,477± linear feet (LF) of frontage along the east side of Old Missouri Road.

The topography of the site is undulating to rolling/sloping. Soil and subsoil conditions are assumed adequate for building construction. The subject property is not located within the 100-year flood zone.

Typical city utilities are available at, or in close proximity to the site. No adverse easements or encroachments were noted on the inspection.

The subject property is zoned R-1, Low Density Residential.

The estimated 2001 property tax, due by October 10, 2002, was \$3,708.39.

The site is improved with a structure known as the "Kennan Tower House." This structure, based on Assessment Records, contains approximately 1,000± SF. At the date of inspection, the building improvements appeared to be in good condition. Only a cursory inspection of the exterior of the building improvements was performed as, in our opinion, the building improvements are not adversely affected by the proposed acquisition.

Site improvements included gravel drive, farm fencing, etc.

The City of Fayetteville is proposing to acquire approximately 7,507± SF (0.17± acre) of the subject site for the widening of Old Missouri Road. The acquisition is located in the west part of the site. Also, the City of Fayetteville is acquiring a general utility and drainage easement containing 21,996± SF (0.50± acre). The utility-drainage easement will be located adjacent to the east of the right-of-way acquisition. In addition to the right-of-way and utility-drainage easement acquisitions, the City of Fayetteville is also acquiring a temporary construction and grading easement, 10' in width, immediately adjacent to the east of the utility-drainage easement. The size of the temporary construction-grading easement is 5,392± SF (0.12± acre). It appears approximately 60± mature pine trees are located within either the right of way acquisition, utility-drainage easement or temporary construction easement. These trees provide contributory value to the site due to providing screening from traffic and noise along Old Missouri Road. The trees create some privacy for the site. There are additional pine trees located along subject's Old Missouri Road frontage, however, these trees are indicated to be located within the existing right of way.

The remainder property will contain approximately 2,453,388± SF (56.324± acres), of which 21,996± SF (0.50± acre) will be encumbered by a new, permanent utility-drainage easement. The building improvements are located on the remaining property. The remainder is considered to have adequate frontage along Old Missouri Road and access from Farr Lane, and the size and layout are considered adequate development.

AREA OF WHOLE: 2,460,895± SF (56.494± acres)

AREA OF REMAINDER: 2,453,388± SF (56.324± acres) of which 21,996± SF (0.50± acre) will be encumbered by a new, permanent utility-drainage easement.

AREA OF ACQUISITION: 7,507± SF (0.17± acre) in permanent right-of-way, 21,996± SF (0.50± acre) in permanent utility-drainage easement and 5,392± SF (0.12± acre) in temporary construction-grading easement.

LEGAL DESCRIPTION (Property): Attached

LEGAL DESCRIPTION (Acquisition): Attached

BASIS FOR LAND VALUE

ESTIMATE: Land sales in the subject area were utilized in estimating the market value of subject both "before" and "after" the acquisition. These sales are summarized later in this report.

ESTIMATED MARKET VALUE OF THE PROPERTY

AS OF
April 5, 2002

BEFORE:

Land	-	-	-	-	-	\$1,230,400	
Improvements	-	-	-	-	-	Not Considered	
Total	-	-	-	-	-	-	\$1,230,400

AFTER:

Land	-	-	-	-	-	\$1,208,200	
Improvements	-	-	-	-	-	Not Considered	
Total	-	-	-	-	-	-	<u>\$1,208,200</u>

Value of Acquisition (Land)	-	-	-	-	-	\$	22,200
Value of Temporary Construction-Grading Easement-	-	-	-	-	-		<u>300</u>

Total Estimated Damage To Market Value	-	-	-	-	-	\$	22,500
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The preceding values reflect terms equivalent to cash to the owners and represent that for real property only.

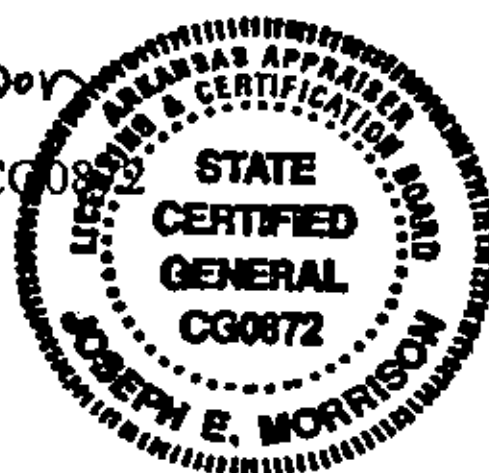
The preceding values are contingent upon the City of Fayetteville, at their expense, putting the land within the general utility-drainage easement and temporary construction-grading easement back to as near original condition as possible.

The reader is referred to additional assumptions and limiting conditions appearing later in this report.

Respectfully submitted,

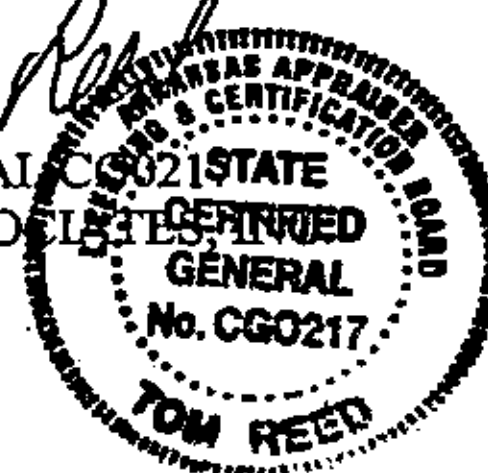
Joe Morrison

Joe Morrison, CG0872



Tom Reed

Tom Reed, MAI, CG0217
REED & ASSOCIATES



SALES COMPARISON APPROACH:

The comparable land sales used in this appraisal are as follows:

Sale No.	1	2	3
Location	N. side of Zion Rd., E. of Hwy. 263 & W. of George Anderson Rd., Fay.	E. side of Hwy. 263, N. of Zion Rd., Fay.	E. side of Hwy. 263 & S. of Albright Rd., Fay.
Grantor/Grantee	Zamberletti/Gary Enterprises Brandon	Parlor/Dunnebrook Development, Inc.	Wood/Dunnebrook Development, Inc.
Sale Date	01/14/00	07/13/99	07/13/99
Recorded	#00-04833	#99-064616	#99-064618
Zoning	Rezoned R-1	Rezoned R-O & R-1	Rezoned R-O & R-1
Size	1,512,403± SF	1,619,996± SF	872,942± SF
Utilities	Typical City	Typical City	Typical City
Topography	Undulating to Rolling	Undulating to Rolling	Undulating to Rolling
Sale Price	\$650,000	\$925,000	\$400,000
Price Per SF	\$0.43/SF	\$0.57/SF	\$0.46/SF
Verified	Public Records & Listing Agent	Public Records & Grantee	Public Records & Grantee
Use	Residential	Combination Office & Residential; Small area of Office	Combination Office & Residential; Small area of Office

Based upon the preceding sales, it is our opinion the indicated per square foot (SF) value for subject in the "before" analysis was:

\$0.50*

2,460,895± SF @ \$0.50 = \$1,230,448

Say \$1,230,400

*Reflects pine trees

Utilizing the same sales in the "after" analysis, it is our opinion the indicated value for subject was as follows:

2,453,388± SF @ \$0.50 = \$1,226,694
Less: Trees and Easement (\$7,500 plus = (18,500)
21,996± SF @ \$0.50 & rounded) \$1,208,194

Say \$1,208,200

The remainder property reflects a per SF value of \$0.4925±.

The estimated value of the temporary construction-grading easement was \$300 (5,392± SF @ \$0.50 @ 10% = \$270, say \$300). Ten percent reflects the estimated annual return on the lease of residential land in the subject Market Area for a one-year term.

PURPOSE OF THE APPRAISAL: The purpose of this appraisal is to estimate the "market value" of the subject property, "before" and "after" the acquisition, as of the effective date.

INTENDED USE: The clients intended use of this report is as a basis for determining just compensation due the property owner(s) as a result of the proposed acquisition of a 7,507± SF (0.17± acre) permanent right-of-way easement, 21,996± SF (0.50± acre) permanent utility-drainage easement and a 5,392± SF (0.12± acre) temporary construction-grading easement by the City of Fayetteville, in connection with the widening of Old Missouri Road. The intended-users of this report are the City of Fayetteville, Arkansas, "and/or their assigns."

PROPERTY RIGHTS APPRAISED: Fee Simple Estate; Easement

EFFECTIVE DATE: April 5, 2002

OFFER AND ACCEPTANCE CONTRACT

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

Parcel No. 765-12164-000

All of Block Numbered Two (2) in Westwood Addition, a replat to the City of Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, LESS AND EXCEPT that portion contained in the Right of Way of U.S. Highway Number 62, and being all of that part of the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) of Section Twenty (20), Township Sixteen (16) North, Range Thirty (30) West, lying North and West of U.S. Highway 62.

(Also known as Shake's Frozen Custard at 2050 W. 6th Street, Fayetteville, AR.)

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of \$240,000.00.
3. **Contingent Earnest Money Deposit:** The Buyer will tender a check for \$4,800.00 to Donald E. Osborne and Debra L. Osborne, husband and wife, hereinafter referred to as the Seller, as earnest money, which shall apply on the purchase price.
4. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract. A Vendor Form is attached hereto on which the Seller must provide to the Buyer a Tax Identification Number (corporation) or Social Security Number so that the earnest money check can be written and mailed to the Seller within two weeks of the Seller's acceptance of this contract.
5. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
6. The Seller shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer. The cost of such title insurance policy shall be equally shared by the Seller and the Buyer.
7. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
8. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 4

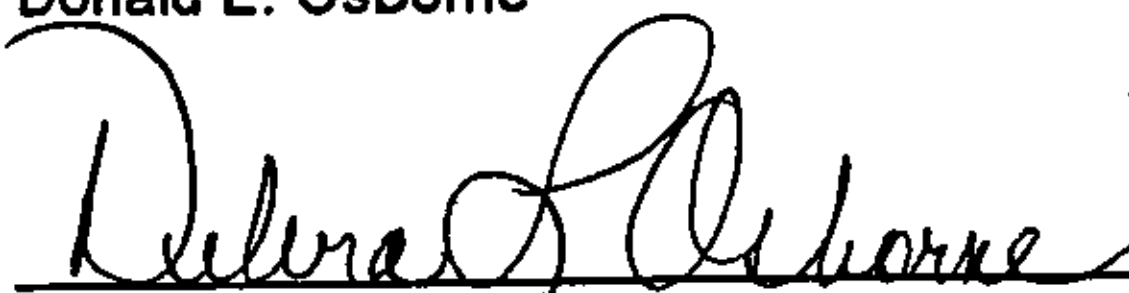
9. The closing date is designated to be thirty (30) days after approval of this contract by the Fayetteville City Council. If the last date of such closing falls on a weekend or holiday, it will be held the following working day. The closing agent will be a mutually agreed upon closing firm with Washington County, Arkansas.
10. Possession of the property shall be delivered to the Buyer on the date of closing.
11. Seller hereby grants permission for the Buyer or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
12. All fixtures, improvements and attached equipment are included in the purchase price. Shake's Frozen Custard, Inc. (owned by Donald E. Osborne and Debra L. Osborne) may take out of the building: the cooler, signage, equipment and decorations related to Shake's business.
13. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
14. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Buyer and Seller shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at Buyer's discretion, Buyer may cure such environmental hazard, and Seller shall indemnify Buyer for all costs associated with said cure.
15. This agreement shall be governed by the laws of the State of Arkansas.
16. This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
17. This contract expires, if not accepted by the Seller on or before the 8th day of November, 2002.
18. **NOTICE: BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO BUYER OF THE \$ 4,800.00 EARNEST MONEY DEPOSIT.**

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

SELLER:

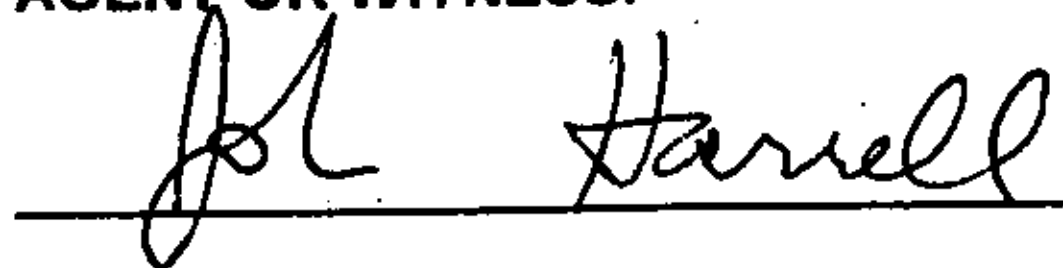

Donald E. Osborne

Date: 11-1-02


Debra L. Osborne

Date: 11/1/02

AGENT OR WITNESS:


J. Harrell

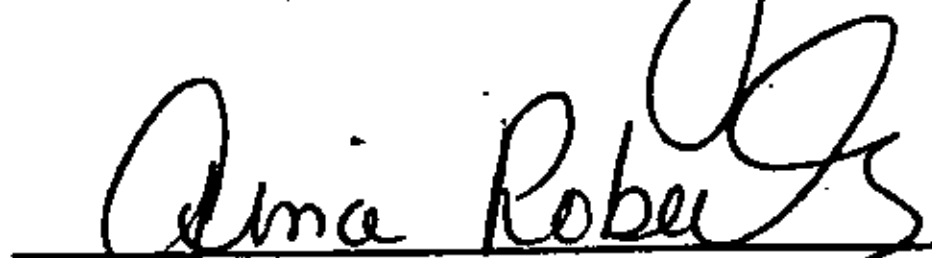
Date: 11-1-02

BUYER:

City of Fayetteville, Arkansas,
A municipal corporation


Dan Coody, Mayor

Date: 10/30/02


Heather Woodruff, City Clerk
Deputy

Date: 10-30-02

(SEAL)

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 5

ACKNOWLEDGMENT

STATE OF Missouri)
COUNTY OF Newton)

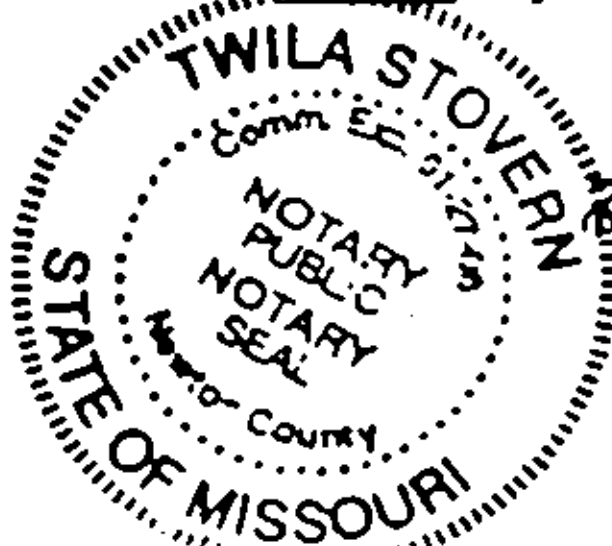
ss.

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

WITNESS my hand and seal on this 1 day of November, 2002.

MY COMMISSION EXPIRES:

1-27-06



Twila Stover
Notary Public

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

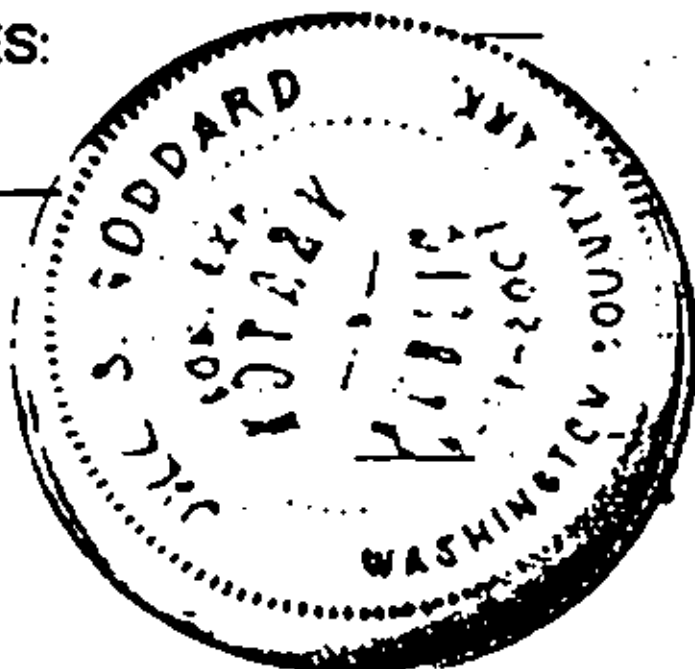
ss.

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

WITNESS my hand and seal on this 30th day of October, 2002.

MY COMMISSION EXPIRES:

09-18-2007



Jill S. Goddard
Notary Public

SW-SW-17-16-30

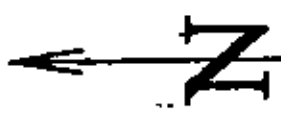
SW-SW-17-16-30

Fayetteville School District No. 1

Deed Ref. 646/201

Parcel No. 765-14592-000

Scale: 1" = 50'



Proposed drainage easement

PROPOSED STREET
RIGHT OF WAY

OLD FARMINGTON ROAD

Kenneth W. Lazenby
Revocable Trust
Deed Ref. 96-4744
Parcel No. 765-07549-000

Kenneth W. Lazenby Revocable Trust
Deed Ref. 96-4744
Parcel No. 765-07548-000

William A. Lazenby
Deed Ref. 1384/717
Parcel No. 765-07550-000

SANG AVENUE

PROPOSED AREA
TO BE VACATED

OLD FARMINGTON ROAD

< proposed water/sewer
and drainage easement

SANG AVENUE
current use as street via Easement 898/185
legally part of Parcel No. 765-14860-000
To be vacated as street

NW-NW-20-16-30

Daybreak Properties Inc.
Deed Ref. 99-94023
Parcel No. 765-14860-000

Donald E. & Debra L. Osborne
Deed Ref. 2000-29178
Parcel No. 765-12164-000

PROPOSED STREET
RIGHT OF WAY

PROPOSED STREET
RIGHT OF WAY

NE-NW-20-16-30

HARRINGTON, MILLER, NEIHOUSE & KRUG
A PROFESSIONAL ASSOCIATION
ATTORNEYS

115 East Emma Avenue * P.O. Box 687
Springdale, Arkansas 72765-0687
Telephone (479) 751-6464 * Fax (479) 751-3715
e-mail address: mail@arkansaslaw.com
www.arkansaslaw.com

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

Wayne Krug (1960-2001)

Angela G. Berkowitz*
Sarah M. Leflar
Thomas N. Kieklak
Kristen L. Hopkins
OF COUNSEL
Stephen D. Stitt^

*Also licensed in Texas
^Also licensed in Florida

*Also licensed in Oklahoma
^Also licensed in Georgia
!Also licensed in Illinois

November 1, 2002

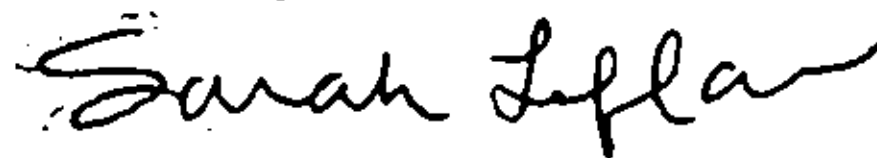
Heather Woodruff
City Clerk
City of Fayetteville, Arkansas

Dear Heather:

Enclosed is a draft of a proposed ordinance reorganizing the Youth Advocacy Committee. Council Member Lioneld Jordan will sponsor the proposal of this new ordinance for ratification by the City Council. I am forwarding it to your office so that it can be discussed at the next meeting to set the agenda for the following council meeting.

Thanks for your assistance in this matter.

Sincerely,


Sarah Leflar

Cc: Lioneld Jordan
Kit Williams

ORDINANCE ESTABLISHING A YOUTH ACTIVITIES COMMITTEE:
PROVIDING FOR ITS COMPOSITION; ITS PURPOSE AND ITS RULES AND
REGULATIONS

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

Section I.

- A. That there is hereby established a committee to be known as the Youth Activities Committee which shall meet a minimum of 6 times per year. The purpose of the Committee shall be as follows:

To create and sponsor projects and events which create opportunities for children and youth of the City of Fayetteville to provide meaningful service to the city and its inhabitants, and which serve to educate children and youth about city government.

- B. This Committee replaces the Youth Advocacy Committee formed pursuant to Fayetteville City Ordinance No. 3875 and Fayetteville City Ordinance No. 4304. The Youth Advocacy Committee was formed primarily to address juvenile crime prevention, and as such duplicates the efforts of other agencies and councils of city and county government. Because of this, the Youth Advocacy Committee is no longer necessary, and should be replaced by a Youth Activities Committee with the purpose described in Section IA above.
- C. The Youth Activities Committee shall issue a yearly report to the City Council on the projects and events sponsored by the Committee.
- D. The Youth Activities Committee Chairperson will inform the Fayetteville Police Department and the staff of the Yvonne Richardson Youth Center and the Fayetteville Boys and Girls Club of the dates and times of all meetings, and will keep staff from these agencies and programs informed of all activities of the Committee.
- E. The Youth Activities Committee shall promulgate rules and regulations necessary for the conduct of committee meetings and other business.
- F. Such committee membership shall be composed of the following:
- One alderman
 - Two parents
 - Three teachers
 - Two at large members

- Four students including one student from each of the city's jr. high schools and one student from each high school.

G. All teacher and parent members who were appointed to the Youth Advocacy Committee created pursuant to Fayetteville Municipal Ordinance No. 3875 shall continue to serve the terms for which they were appointed to the Youth Advocacy Committee.

H. All adult members shall serve for a term of two years. All student members shall serve for a term of one year.

I. Appointment to the Committee shall be as follows:

1. The Alderman shall be appointed by the mayor.
2. Citizen positions (including student positions) shall be filled through the selection process as set for in the Rules of Order and Procedure, Fayetteville City Council, Revised and Adopted January 3, 1991, Section H. CITIZENS COMMITTEES , and as may from time to time be revised.
3. The initial terms of this committee shall be as follows shall begin upon appointment, and shall run until August 31, 2003 for student members, and until August 31, 2004 for adult members. Subsequent terms shall run as set forth above.

Section II

A. The City Council hereby determines that the aforesaid provisions are necessary and unless put into effect immediately, the public health, safety, and welfare of the people of Fayetteville will be adversely affected. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the public health, safety and welfare shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this ____ day of _____, 2002.

APPROVED:

Dan Coody, Mayor

Attest:

BY: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

Crossland Const.
C. 10. Page 1

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of November 19, 2002

FROM:

Louise Schaper
Name

Library
Division

Urban Development
Department

ACTION REQUIRED: Approve a contract adjustment in the amount of \$402,895.84 with Crossland Construction Company Inc. for a portion of the exterior cladding material cost including brick, architectural precast concrete and stone per Exhibit C of the original contract dated May 21, 2002 with Crossland Construction Company. The original contract with Crossland Construction was \$17,633,931; the new contract is \$18,040,752.36.

COST TO CITY:

\$402,895.84
Cost of this Request

\$ 21,619,311
Category/Project Budget

New Library
Category/Project Name

4150-9150-580400 (library fund)
Account Number

\$ 18,685,735
Funds Used To Date

New Library
Program Name

99073-1
Project Number

\$ 2,933,576
Remaining Balance

Library Construction Fund
Sales Tax Improvement Fund
Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

[Signature]
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Marsha Fauthier 11/8/02
Accounting Manager Date

Danny Smith 11/8/02
Internal Auditor Date

[Signature] 11/8/02
City Attorney Date

[Signature] 11-8-02
Purchasing Manager Date

ADA Coordinator Date

STAFF RECOMMENDATION: Staff recommends approval.

Division Head Date
Hugh Earnest 11-20-02
Department Director Date

Administrative Services Director Date

Cross Reference

New Item: Yes ☒ No

Prev Ord/Res #: 83-02

Orig Contract Date: 5/21/2002
Contract # 843



DEPARTMENTAL CORRESPONDENCE

TO: Hugh Earnest
FROM: Louise Schaper, Library Director
DATE: November 7, 2002

SUBJECT: Change Order #5 Fayetteville Public Library Building Construction

Background

The cost of construction of the new Fayetteville Public Library was estimated throughout the planning and design process by independent cost estimators. When the winning bid was reviewed, some items exceeded those estimates by considerable amounts. The budget for those items was set aside for future decisions as time did not permit developing alternatives and associated costs. One of those items was the architectural precast concrete (APC) to be used on the two towers, window trim and front entry. The APC was removed from the contract with Crossland Construction and \$450,000 was left in the overall project budget for replacement of this cladding material.

Current Status

Meyer, Scherer & Rockcastle issued revisions to the building elevations and details for pricing to replace much of the APC with brick. In locations where APC was judged to be critical to the image of the library or to durability, it has been retained. APC remains at the building entry, at all sills and coping and at the four canopies on the plaza. Lintels and stair tower cladding have been changed to brick. A small area has changed from APC to stone. The cost reflected in this change order is \$402,895.84; this represents a savings of approximately \$48,000 from our \$450,000 deferred budget for this item.

Recommendation

To approve change order number 5 which allows Crossland Construction Co. to purchase and install exterior cladding material that was not included in the original contract.



November 7, 2002

Hugh Earnest
Director of Urban Development
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Ref: Fayetteville Public Library, Change Order #5

Dear Mr. Earnest:

The Architects recommend approval of attached Change Order #5 relative to changes in architectural precast concrete (APC), brick and stone. The amount is within the budget designated for this additional work. Allow us to provide the background for this recommendation.

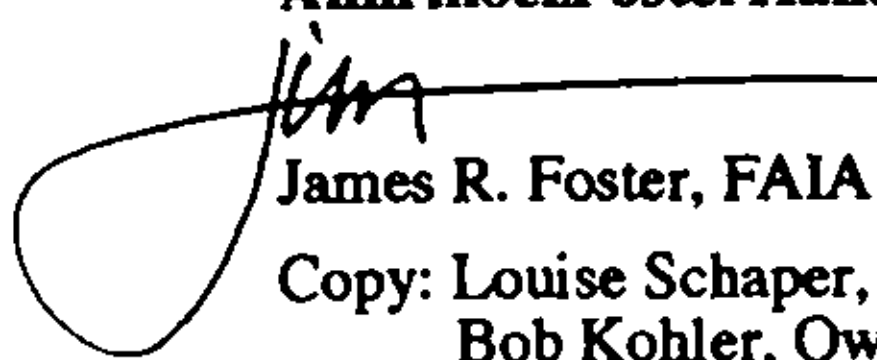
When bids were received the low bid submitted by Crossland Construction Company exceeded the funds available. A number of changes were negotiated to bring the project cost in line with the budget. Analysis of individual costs identified masonry as much higher than estimated. Within the masonry bid, the most significant cost overrun was found to be APC. Time constraints prior to award did not permit developing alternative designs and associated costs. The contract was awarded with a deduction of \$650,000 to delete all APC material. Concurrently, the overall project budget was adjusted to include a deferred cost of \$450,000 for replacement of this cladding material. The recommended change is less than this deferred budget item.

Meyer Scherer & Rockcastle issued revisions to the building elevations and details for pricing to replace much of the APC with brick. In locations where APC was judged to be critical to the image of the library or to durability, it was retained. APC remains at the building entry, at all sills and copings and at the four canopies on the plaza. Lintels and stair tower cladding were changed to brick. A small area was changed from APC to stone. These changes saved over \$247,000 without significantly impacting architectural quality.

Please advise if further information is desired.

Sincerely,

AmirmoezFosterHaileyJohnson



James R. Foster, FAIA

Copy: Louise Schaper, Director, Fayetteville Public Library
Bob Kohler, Owner's Project Representative
Sean Wagner, Project Manager, Meyer Scherer & Rockcastle

AIA DOCUMENT G701-2000

Change Order

(Instructions on reverse side)

PROJECT:

(Name and address)

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

CHANGE ORDER NUMBER:

05

DATE:

06 NOVEMBER 2002

ARCHITECT'S PROJECT NUMBER:

2000073-00

CONTRACT DATE:

21 MAY 2002

CONTRACT FOR:

GENERAL CONSTRUCTION

OWNER ☐

ARCHITECT ☐

CONTRACTOR ☐

FIELD ☐

OTHER ☐

TO CONTRACTOR:

(Name and address)

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST - PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72756

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

ADD ARCHITECTURAL PRECAST CONCRETE (APC) AND BRICK CONSISTENT WITH REVISED DRAWINGS DATED 5/10/02: A251, A252, A253, A254, A351, A501, A502, A503, A504, A505, A508 & A515. ADD BRICK EXTERIOR CLADDING TO TWO STAIR TOWERS. CHANGE APC TO STONE BELOW ELEVATION 1372.46' ON BOLLARDS AND PROVIDE APC CAPS ABOVE IN ELEVATIONS 8 & 10, A253. CHANGE STONE STEP MATERIAL TO BE OWNER PROVIDED. PROVIDE APC AT CANOPIES ON PLAZA DECK BUT DELETE BRACKET DETAIL PORTION OF DETAIL 11/A513.

The original (Contract Sum) (~~Guaranteed Maximum Price~~) was \$ 17,633,931.00

The net change by previously authorized Change Orders \$ 406,821.36

The (Contract Sum) (~~Guaranteed Maximum Price~~) prior to this Change Order was 18,040,752.36

The (Contract Sum) (~~Guaranteed Maximum Price~~) will be (increased) (~~decreased~~)

(~~unchanged~~) by this Change Order in the amount of \$ 402,895.84

The new (Contract Sum) (~~Guaranteed Maximum Price~~) including this Change Order will be 18,443,648.20

The Contract Time will be (~~increased~~) (~~decreased~~) (~~unchanged~~) by _____ () days.

The date of Substantial Completion as of the date of this Change Order therefore is 08 JULY 2004

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive for which the cost or time are in dispute as described in Subparagraph 7.3.8 of AIA Document A201.

Not valid until signed by the Architect, Contractor and Owner.

AFHJ ARCHITECTS
PO BOX 790
FAYETTEVILLE, AR 72702

ARCHITECT (Typed name)
Associate Architect

(Signature)

JAMES FOSTER

BY

DATE

CROSSLAND CONST. CO. INC.
PO BOX 907
ROGERS, AR 72756

CONTRACTOR (Typed name)

(Signature)

JOHN PRIEST

BY

DATE

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN ST
FAYETTEVILLE, AR 72701

OWNER (Typed name)

(Signature)

DAN COODY, MAYOR

BY

DATE



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AIA DOCUMENT G701-2000
CHANGE ORDER



November 7, 2002

Hugh Earnest
Director of Urban Development
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Ref: Fayetteville Public Library, Change Order #5

Dear Mr. Earnest:

The Architects recommend approval of attached Change Order #5 relative to changes in architectural precast concrete (APC), brick and stone. The amount is within the budget designated for this additional work. Allow us to provide the background for this recommendation.

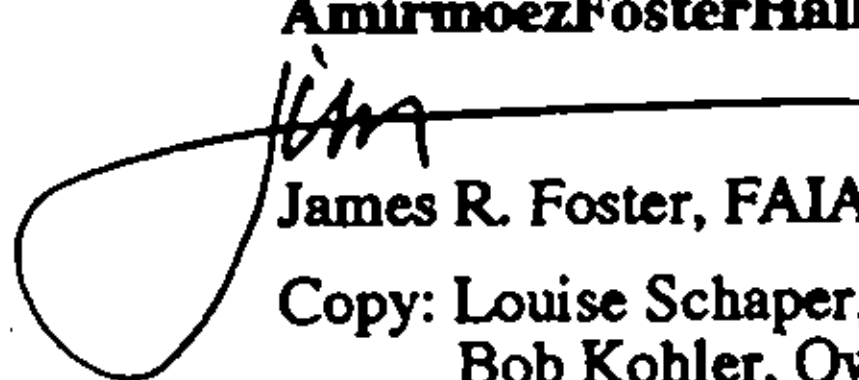
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Please advise if further information is desired.

Sincerely,

AmirmoezFosterHaileyJohnson



James R. Foster, FAIA

Copy: Louise Schaper, Director, Fayetteville Public Library
Bob Kohler, Owner's Project Representative
Sean Wagner, Project Manager, Meyer Scherer & Rockcastle

AIA DOCUMENT G701-2000

Change Order

(Instructions on reverse side)

PROJECT:

(Name and address)

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

CHANGE ORDER NUMBER:

05

OWNER ☐

DATE:

06 NOVEMBER 2002

ARCHITECT ☐

ARCHITECT'S PROJECT NUMBER:

2000073-00

CONTRACTOR ☐

CONTRACT DATE:

21 MAY 2002

FIELD ☐

CONTRACT FOR:

GENERAL CONSTRUCTION

OTHER ☐

TO CONTRACTOR:

(Name and address)

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST - PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72756

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

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NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive for which the cost or time are in dispute as described in Subparagraph 7.3.8 of AIA Document A201.

Not valid until signed by the Architect, Contractor and Owner.

AFHJ ARCHITECTS
PO BOX 790
FAYETTEVILLE, AR 72702

ARCHITECT (Typed name)

Associate Architect

(Signature)

JAMES FOSTER

BY

DATE

CROSSLAND CONST. CO. INC.
PO BOX 907
ROGERS, AR 72756

CONTRACTOR (Typed name)

(Signature)

JOHN PRIEST

BY

DATE

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN ST
FAYETTEVILLE, AR 72701

OWNER (Typed name)

(Signature)

DAN COODY, MAYOR

BY

DATE



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AIA DOCUMENT G701-2000
CHANGE ORDER

STAFF REVIEW FORM

Township Builders
C. 11. Page 1

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of November 19, 2002

FROM:

Sid Norbash
Name

Engineering
Division

Public Works
Department

ACTION REQUIRED: Approval of: (1) the Change Order #4 to the construction contract with Township Builders, Inc., for Dickson Street Enhancement Project, in the amount of \$195,300. (2) Additional funds for the in-house construction management, in the amount of \$74,700.00. (3) The related Budget Adjustment in the amount of \$270,000.

COST TO CITY:

<u>\$270,002.00</u> Cost of this Request	<u>\$3,224,836.00 (Inclg. Contingency)</u> Category/Project Budget	<u>Dickson St. Enhancements Project</u> Category/Project Name
<u>4470-9470-5809.00</u> Account Number	<u>\$3,195,533.00</u> Funds Used To Date	<u>Street Improvements</u> Program Name
<u>98097-0020</u> Project Number	<u>\$29,303.00</u> Remaining Balance	<u>Sales Tax</u> Fund

BUDGET REVIEW:

☒ Budgeted Item ☐ Budget Adjustment Attached (to be furnished)

[Signature]
Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

[Signature] 11/8/02
Accounting Manager Date

[Signature] 11/8/02
City Attorney Date

[Signature] 11/8/02
Purchasing Officer Date

[Signature] 11/8/02
Internal Auditor Date

ADA Coordinator Date

STAFF RECOMMENDATION: Approval of the Change Order #4, extra in-house eng. costs & budget adjustment.

[Signature] 11-07-02
Division Head Date

[Signature] 11-07-02
Department Director Date

Administrative Services Director Date

Mayor Date

Cross Reference

New Item: Yes ☐ No ☒

Prev Ord/Res #: 52-02

Orig Contract Date: 3-19-2002

Orig Contract Number: 838

STAFF REVIEW FORM

Descrip Dickson Street Enhancement Project
Change Order #4

Meeting Date 11-19-2002

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

DEPARTMENTAL CORRESPONDENCE

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Greg Boettcher, PWD
Jim Beavers, City Engineer *fs*

From: Sid Norbash, Staff Engineer

Date: November 4, 2002

Re: **Dickson Street Enhancement Project**
Change Order #4 to the construction Contract

Background:

The above referenced project is a Capital Improvement Project in progress, which is scheduled for construction completion in 2003.

Change of Scope:

There are three items that were omitted from the original design. Attached please find the explanation letter from Atkins Engineers, and the justifications for their recommendations.

Attached please find Change Order #4, and the supporting documents containing the description and the breakdown of each cost item.

Recommendations:

The Staff recommends approval of:

(1) Change Order #4 to the existing contract with Township Builders, Inc., for an increase in the contract, in the amount of \$195,300.00

(2) The additional amount of \$74,700 for in-house engineering services.

(3) The related Budget Adjustment in the amount of \$270,000.00

Funding:

Sales Tax Funds.

SN/sn

Attachments: Copy of the Change Order #4 / Budget Adjustment

November 7, 2002

Mayor Dan Coody and Fayetteville City Council
113 W. Mountain
Fayetteville, AR 72701

RE: Downtown Dickson Enhancement Project

Mayor Coody and City Council,

As the design consultant for the Downtown Dickson Enhancement Project, we are writing to recommend that the City Council approve a change order to increase the current contract. The proposed change order will provide compensation to the contractor for three items:

- 1) Additional drainage structures at Arkansas Avenue,
- 2) Backfill of an old, abandoned aqueduct, and
- 3) Correction of an error in the quantity of concrete brick pavers.

The total cost of these three items is \$195,300.00, and the cost details are attached to the change order form. A detailed description of each of these items is included below for your review.

1. Arkansas Avenue Drainage

The Arkansas Avenue intersection slopes southeasterly from the University of Arkansas sidewalk toward the Bank of America driveway. The storm runoff sheets across this intersection. In our design we proposed to let this storm runoff continue to flow across the intersection and not try to rework the slope of Arkansas Avenue at that crossing. We did add new storm drainage inlets and pipes in the south curb of Dickson Street to intercept the flow as it reaches the south curb. During the construction, we discovered an existing inlet and drainage pipe in the northwest curb radius of Arkansas Avenue. The inlet is located such that our new curb would cross over the top of the grate inlet. Since this inlet was found and needs renovation, we recommend that the design be revised to capture the runoff in a new trench grate across Arkansas Avenue. This will reduce the runoff in the intersection making it safer for pedestrian and vehicular traffic. It will also prevent the water from running over the Razorback emblem, reducing maintenance and rehabilitation. The cost for these added drainage features is \$22,382.50.

2. Old Aqueduct

Field research and investigations were carried out during the design to learn what we could about the old aqueduct. During these investigations, we found that both ends of the aqueduct had been previously closed off and the storm water it previously carried had been diverted to a new storm sewer system. We also learned that a corrugated pipe had been placed in the aqueduct and a new sidewalk had been poured over it to serve as a lid or top.

During construction of the proposed storm sewer, the contractor exposed the stone sidewall of the old aqueduct and in the process, dislodged some of the stones that comprise the wall and support the existing sidewalk. With the sidewall exposed, we were able to see that it was not sound and should not be used to support the new sidewalk. Therefore, to improve the stability and safety of the proposed sidewalk, it is recommended that the aqueduct be filled with compacted gravel. The new sidewalk can then bear on the gravel rather than spanning over the open aqueduct and bearing on the old stone wall.

When the aqueduct was exposed during construction, we also learned that there is some existing water in the aqueduct and the corrugated pipe only extends about halfway up the aqueduct. In order to accommodate the existing flow through the aqueduct, we recommend that the corrugated pipe be extended the full length of the new sidewalk.

The additional cost for the work required in the aqueduct is \$15,875.00.

3. Concrete Brick Pavers

The final item concerns the quantity calculation for the concrete brick pavers. Our bid proposal included 13,499 square feet of concrete pavers for Dickson Street. However, the quantity should be 27,500 square feet. We had originally separated the pay items and quantities for the intersections and the crosswalks because it was not decided what type of pavers would be used in each place. When the final decision was made to use the same type of pavers in both the crosswalks and the intersections, we knew that only one pay item was needed. When we deleted the now extra pay item from the bid form we failed to add back the deleted quantity to the remaining pay item. The unit price for concrete pavers is established in the contract but the quantity is only half of what it should be. The omitted quantity must now be added back into the job. The increase in the concrete paver quantity will cost \$157,042.50.

I know that City funds are tight so I deeply regret the pressure this places on you. However, I am convinced that this change order is necessary and I recommend your approval. I hope these explanations are clear. However, we will be glad to answer any questions you may have regarding any of these items. You can reach us at (479) 770-5800, and we will attend the City Council meeting on November 19 as well.

Sincerely,



Gary Camahan, P.E.
Managing Director

Cost Summary

Project Title: Downtown Dickson Enhancement Project

Project No. 98097-20 Contract No. 02-14 Contract Date 3-19-2002

Contractor: Township Builders, Inc.

Original Contract Price: \$2,948,590.30

As adjusted by previous changes:

Change Order #1 add	\$60,000.00
Change Order #2 add	\$13,244.00
Change Order #3 subtract	\$26,385.00

\$2,995,429.30

Change Order #4	
Part A	\$ 22,382.50
Part B	\$ 15,875.00
Part C	\$157,042.50
-----	-----
total	\$195,300.00

The new contract price will be: \$3,190,729.30

Revised In-House Construction management \$ 74,700.00

Total Increase as the result of Change Order #4 \$270,000.00

Engineering & Construction Management

Revision to the Cost Estimate

Dickson Street Enhancement Project

As the result of the complexity of this project, and the additional time added by Change Order #4, the in-house engineering expenses are hereby revised and estimated as follows:

City Engineer	\$ 2,772
Staff Engineer	\$26,455
Project Inspector	\$39,146
Survey Crew	\$ 6,327
Total	\$74,700

Budget Year 2002	Department: Public Works Division: Engineering Program: Sales Tax Capital Improvements	Date Requested 11/19/2002	Adjustment Number
-------------------------	--	----------------------------------	-------------------

Project or Item Requested:
\$270,000 to the Dickson Street Improvements capital project.

Project or Item Deleted:
\$270,000 from the Mount Sequoyah W&S System Upgrade capital project.

Justification of this Increase:

The additional funds are needed to cover the cost of Change Order #4 which is for additional paver bricks, additional drainage work at Arkansas Avenue, drainage channel at West & Dickson.

In addition funding is needed to cover the cost of In-house engineering services.

Justification of this Decrease:

The project is currently on hold.

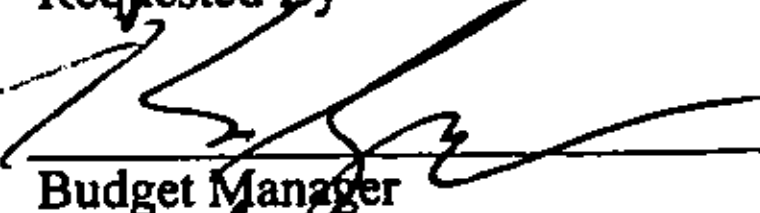
Increase Expense (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	270,000	98097	1

Decrease Expense (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Water line improvements	4470	9470	5808	00	270,000	01023	1

Approval Signatures

	11-07-02
Requested By	Date
	11-7-02
Budget Manager	Date
	11-07-02
Department Director	Date
Administrative Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	<u>(D)</u>	E
Date of Approval	Date		Initial		
Posted to General Ledger	Date		Initial		
Posted to Project Accounting	Date		Initial		
Entered in Category Log	Date		Initial		

Township Builders
C. 11. Page 9CHANGE ORDER NO. 4Project Title: Downtown Dickson Enhancement ProjectProject No. 98097-20 Contract No. 02-14 Contract Date 3-19-2002Contractor: Township Builders, Inc.

The following changes are hereby made to the contract documents:

Addition to the contract:

Section (A) per attached form \$ 22,382.50Section (B) per attached form \$ 15,875.00Section (C) Per attached form \$157,042.50**Total** \$195,300.00

Justifications:

The justifications for the above referenced cost items are outlined in sections 1, 2, and 3 of the letter of Atkins Engineers to the Mayor and City Council.

These items were omitted from their original design.

Original Contract Price:	<u>\$2,948,590.30</u>
As adjusted by previous changes:	<u>\$2,995,429.30</u>
This C.O. will increase contract by:	<u>\$ 195,300.00</u>
The new contract price will be:	<u>\$3,190,729.30</u>

Township Builders
C. 11. Page 10

CHANGE ORDER NO. 4

Project Title: Downtown Dickson Enhancement Project

Project No. 98097-20 Contract No. 02-14 Contract Date 3-19-2002

Contractor: Township Builders, Inc.

The following changes are hereby made to the contract documents:

Addition to the contract:

Section (A) per attached form \$ 22,382.50

Section (B) per attached form \$ 15,875.00

Section (C) Per attached form \$157,042.50

Total \$195,300.00
=====

Justifications:

The justifications for the above referenced cost items are outlined in sections 1, 2, and 3 of the letter of Atkins Engineers to the Mayor and City Council.

These items were omitted from their original design.

Original Contract Price:	<u>\$2,948,590.30</u>
As adjusted by previous changes:	<u>\$2,995,429.30</u>
This C.O. will increase contract by:	<u>\$ 195,300.00</u>
The new contract price will be:	<u>\$3,190,729.30</u>

Township Builders
C. 11. Page 11

Change Order #4
Page 2
Dickson St. Enhancement

CHANGE TO CONTRACT TIME

Township Builders will be granted 102 extra calendar days to complete the additional work.

Therefore the substantial completion date will move from April 15, 2003 to July 26, 2003. The date of full completion will move from August 1, 2003 to November 10, 2003.

APPROVALS REQUIRED

To be effective this change order must be approved by the Owner if it changes the scope or objective of the project, or as may otherwise be required under the terms of the General Conditions of the Contract.

Requested by _____

Date _____

Approved by Contractor James H. Hulse, G.M.

Date 11-7-02

Approved by Mayor _____

date _____

Township Builders

C. 11. Page 12

Downtown Dickson Enhancement Project

10/2002

Downtown Dickson Enhancement Project

Change Order #4A

Add the following work to the Base Bid to complete Change Order #4A:

Item No.	Estimated Quantity	Unit	Description of Item and Unit Price Bid	Total Amount
1	1	Each	Remove and Dispose of Grate Inlet	
	<u>Six Hundred</u> amount written in words	dollars	(\$ <u>600.00</u>)/EA in figures	\$ <u>600.00</u> . in figures
2	10	Ton	Aggregate Base Course (Class 7)	
	<u>Twenty Two</u> amount written in words	dollars	(\$ <u>22.00</u>)/TON in figures	\$ <u>220.00</u> . in figures
3	20	Gallon	Prime Coat	
	<u>Two</u> amount written in words	dollars	(\$ <u>2.00</u>)/GAL in figures	\$ <u>40.00</u> . in figures
4	4	CY	10" PCC Base Course	
	<u>Ninety</u> amount written in words	dollars	(\$ <u>90.00</u>)/CY in figures	\$ <u>360.00</u> . in figures
5	2	Ton	2" ACBM Surface Course (PG70-22)	
	<u>Fifty</u> amount written in words	dollars	(\$ <u>50.00</u>)/TON in figures	\$ <u>100.00</u> . in figures
6	108	Lin Ft	18" R. C. Pipe Culvert (Class 3)	
	<u>Forty Five</u> amount written in words	dollars	(\$ <u>45.00</u>)/LF in figures	\$ <u>4,860.00</u> . in figures
7	9	Cu Yd	Selected Pipe and Conduit Bedding	
	<u>Twenty</u> amount written in words	dollars	(\$ <u>20.00</u>)/CY in figures	\$ <u>180.00</u> . in figures
8	25	Cu Yd	Selected Pipe Backfill	
	<u>Twenty</u> amount written in words	dollars	(\$ <u>20.00</u>)/CY in figures	\$ <u>500.00</u> . in figures
9	12	Cu Yd	Class A Concrete	
	<u>Three Hundred Fifty</u> amount written in words	dollars	(\$ <u>350.00</u>)/CY in figures	\$ <u>4,200.00</u> . in figures

Downtown Dickson Enhancement Project

10/2002

10 1,165 Lb Reinforcement Steel - Roadway (GR 60)
Zero Dollars and Seventy Cents dollars (\$ 0.70)/LB \$ 815.50
 amount written in words in figures in figures

11 17 Each Inlet Trench Frame and Grate (3 Foot Length)
Seven Hundred S.C.
~~Seven Hundred Eighty~~ dollars (\$ 700⁰⁰)/EA \$ 11900 S.C.
 amount written in words in figures in figures

12 1 Each Inlet Trench Frame and Grate (1.5 Foot Length)
Three Hundred Ninety dollars (\$ 390⁰⁰)/EA \$ 390
 amount written in words in figures in figures

13 2 Each Manhole Ring and Cover
One Hundred Eighty dollars (\$ 180.00)/EA \$ 360.00
 amount written in words in figures in figures

Subtract the following work from the Base Bid to complete Change Order #4A:

14 23 SY 6" High Early Strength Concrete Paving
Forty One dollars (\$ 41.00)/EA \$ 943.00
 amount written in words in figures in figures

15 10 LF Brick Seat Wall
One Hundred Twenty dollars (\$ 120.00)/EA \$ 1200.00
 amount written in words in figures in figures

Quantities are not guaranteed. Final payment will be based on actual quantities.

12302 S.C.
 TOTAL BID FOR CHANGE ORDER #4A..... \$ 23,742⁰⁰ (Add).

Township Builders

C. 11. Page 14

Downtown Dickson Enhancement Project

10/2002

The Bidder shall state the price bid in words and figures (written in ink or typed) for each pay item, and the total bid. In case of conflict between words and figures, the words, unless obviously incorrect, shall govern.

Bidder understands that the Owner reserves the right to award the total project, or to reject any or all bids and to waive any formalities in the bidding.

Bidder agrees that this Bid shall be good and will not be withdrawn for a period of 90 calendar days after the scheduled closing time for receiving bids.

Respectfully submitted,

Township Builders Inc.
Firm Name

Spencer Churchill - President
By

P.O. box 7252
Address

Little Rock, AR 72217
City, State

11-5-02

- Note : 1) We request that we be able to close the road (when necessary) to do this extra work.
- 2) We request that 21 calendar days be added to the contract time to allow for ordering the materials, delivery of the materials and performing the work.

Spencer Churchill

Downtown Dickson Enhancement Project

10/2002

Downtown Dickson Enhancement Project

Change Order #4B

Add the following work to the Base Bid to complete Change Order #4B:

Item No.	Estimated Quantity	Unit	Description of Item and Unit Price Bid	Total Amount
1	120 <i>Eighty Five</i> Amount	CY <i>S.L.</i>	Washed Rock Drainage Backfill <i>85⁰⁰ S.L.</i> dollars <i>amount written in words</i>	<i>10200 S.L.</i> (\$ 95⁰⁰)/EA <i>11400</i> in figures in figures
2	120 <i>Thirty</i>	Lin Ft	30" C.P. Pipe Culvert <i>amount written in words</i>	dollars (\$ <i>30⁰⁰</i>)/LF in figures \$ <i>3600</i> in figures
3	30 <i>Twenty</i>	Cu Yd	Selected Pipe and Conduit Bedding <i>amount written in words</i>	dollars (\$ <i>20.00</i>)/CY in figures \$ <i>600.00</i> in figures
4	3 <i>Three Hundred Fifty</i>	Cu Yd	Class A Concrete <i>amount written in words</i>	dollars (\$ <i>350.00</i>)/CY in figures \$ <i>1,050.00</i> in figures
5	350 <i>Zero Dollars and Seventy Cents</i>	Lb	Reinforcement Steel - Roadway (GR 60) <i>amount written in words</i>	dollars (\$ <i>0.70</i>)/LB in figures \$ <i>245.00</i> in figures
6	1 <i>One Hundred Eighty</i>	Each	Manhole Ring and Cover <i>amount written in words</i>	dollars (\$ <i>180.00</i>)/EA in figures \$ <i>180.00</i> in figures

Quantities are not guaranteed. Final payment will be based on actual quantities.

15875⁰⁰ S.L.

TOTAL BID FOR CHANGE ORDER #4B..... \$ *17075⁰⁰ (Add)*

1 Township Builders
C. 11. Page 16

Downtown Dickson Enhancement Project

10/2002

The Bidder shall state the price bid in words and figures (written in ink or typed) for each pay item, and the total bid. In case of conflict between words and figures, the words, unless obviously incorrect, shall govern.

Bidder understands that the Owner reserves the right to award the total project, or to reject any or all bids and to waive any formalities in the bidding.

Bidder agrees that this Bid shall be good and will not be withdrawn for a period of 90 calendar days after the scheduled closing time for receiving bids.

Respectfully submitted,

Township Builders, Inc.
Firm Name

Spencer Churchill - President
By

P.O. box 7252
Address

Little Rock Ark. 72217
City, State

11-5-02

Note: We request that 21 calendar days be added to the contract time to allow for this extra work which will go slow due to the volunteers and having to do most of the work by hand.

Spencer Churchill

CHANGE ORDER

No. 46 S.C.DATE OF ISSUANCE October 30, 2002EFFECTIVE DATE October 30, 2002

OWNER City of Fayetteville
 CONTRACTOR Township Builders, Inc.
 Contract Downtown Dickson Enhancement Project
 Project: Downtown Dickson Enhancement Project
 OWNER's Contract No. 838
 ENGINEER Alkins Bonham - Arkansas

ENGINEER's Contract No. 119804300

You are directed to make the following changes in the Contract Documents:
 Description:

Change the quantity for bid item #37 "BRICK PAVERS" from 13,499 square feet to 27,500 square feet. This will result in an increase to the contract amount equal to \$164,011.00- 147,010.50 * S.C.

Change the quantity for bid item #12 "AGGREGATE BASE COURSE (CLASS 7)" from 1,369 tons to 1,825 tons. This will result in an increase to the contract amount equal to \$10,092.00.

Total increase for this change order: \$164,043.00- 157,042.50 * S.C.

Reason for Change Order:

Error in quantity shown on bid form in the contract documents for bid items 12 and 37.

Attachments: (List documents supporting change)

RECOMMENDED:

APPROVED:

ACCEPTED:

By: _____ By: _____
 ENGINEER (Authorized Signature) OWNER (Authorized Signature)

By: Spence Churchill
 CONTRACTOR (Authorized Signature)

Date: _____

Date: _____

Date: 11-5-02

EJCDC 1910-8-B (1996 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specifications Institute.

Note: 1) We request that 60 calendar days be added to the contract for this additional work.

Spence Churchill

* 2) \$0.50 / s.f. can be deducted from our unit price for the additional 14,001 s.f. of "brick pavers" due to the large increase in quantity.

Spence Churchill

**DRAFT TENTATIVE AGENDA
CITY COUNCIL
NOVEMBER 19, 2002**

A meeting of the Fayetteville City Council will be held on November 19, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES**
2. ~~**FREIGHT ELEVATOR:**~~ A resolution awarding Bid 02-66 in the amount of 26,246 to ThyssenKrupp Elevator for the repair of a ~~freight~~ elevator in the Fayetteville Police Building.
3. **COMPOST TURNER:** A resolution award bid 02-50 to Scott Construction Equipment in the amount of \$245,245 for a self powered compost turner and the sell of a 1994 Ford New Holland Tractor to Williams Tractor in the amount of \$30,119.

B. OLD BUSINESS

C. NEW BUSINESS

1. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.
2. **OLD MISSOURI ROAD:** An ordinance authorizing the City Attorney to seek possession of certain lands located along Old Missouri Road in the City of Fayetteville by the power of eminent domain, in associations with the required right-of-way and easements for the Old Missouri Road improvements. Such property is owned by JTK Trust.
3. **YOUTH ADVOCACY COMMITTEE:** An ordinance reorganizing the Youth Advocacy Board.

↳ Tim - 5-6 ~~two~~ items. → Hugh -

➤ ~~FRISCO~~ → Hugh. ➤ Charlie Jordan. -

Impact fees.

leave for Audobon - Dan.
I540 site.

change order - Dickson Street - Atkin Bonham - Hugh.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of November 20, 20

FROM:

Tim Conklin

Name

Planning

Division

Urban Development

Department

Resolution
ACTION REQUIRED: To approve an ~~ordinance~~ for ADM 01-42.00 as submitted by the Planning Division on behalf of the City of Fayetteville. The request is to amend the Planning Area Boundary.

COST TO CITY:

\$

Cost of this Request

Category/Project Budget

Category/Project Name

Account Number

Funds Used To Date

Program Name

Project Number

Remaining Balance

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and on October 22, 2001 the Fayetteville Planning Commission voted 8-0-0 for approval.

Division Head

Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

Orig Contract Date: _____

Orig Contract Number: _____

Left on
2nd Reading
12-4-01 C.C. Mtg.

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE REVISED PLANNING AREA BOUNDARY MAP AND LEGAL DESCRIPTION FOR THE CITY OF FAYETTEVILLE, ARKANSAS DEPICTING THE TERRITORIAL JURISDICTION OF THE FAYETTEVILLE PLANNING COMMISSION AS AUTHORIZED UNDER ARK. CODE ANN. §14-56-413.

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

Section 1. That the City Council hereby adopts the revised Planning Area Boundary Map and legal description for the City of Fayetteville, Arkansas depicting the territorial jurisdiction of the Fayetteville Planning Commission as authorized under Ark. Code Ann. §14-56-413 and designated by the Planning Commission on October 22, 2001. A copy of the Planning Area Boundary Map and legal description marked Exhibit "A" is attached hereto and made a part hereof.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

HEATHER WOODRUFF, City Clerk

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

501-575-8264

TO: Fayetteville Planning Commission
FROM: Tim Conklin, City Planner
DATE: October 18, 2001
SUBJECT: Update to the Planning Area Boundary Map to Remove Conflicts with Greenland and Farmington

STAFF RECOMMENDATION:

Staff recommends adoption of the revised Planning Area Boundary.

BACKGROUND:

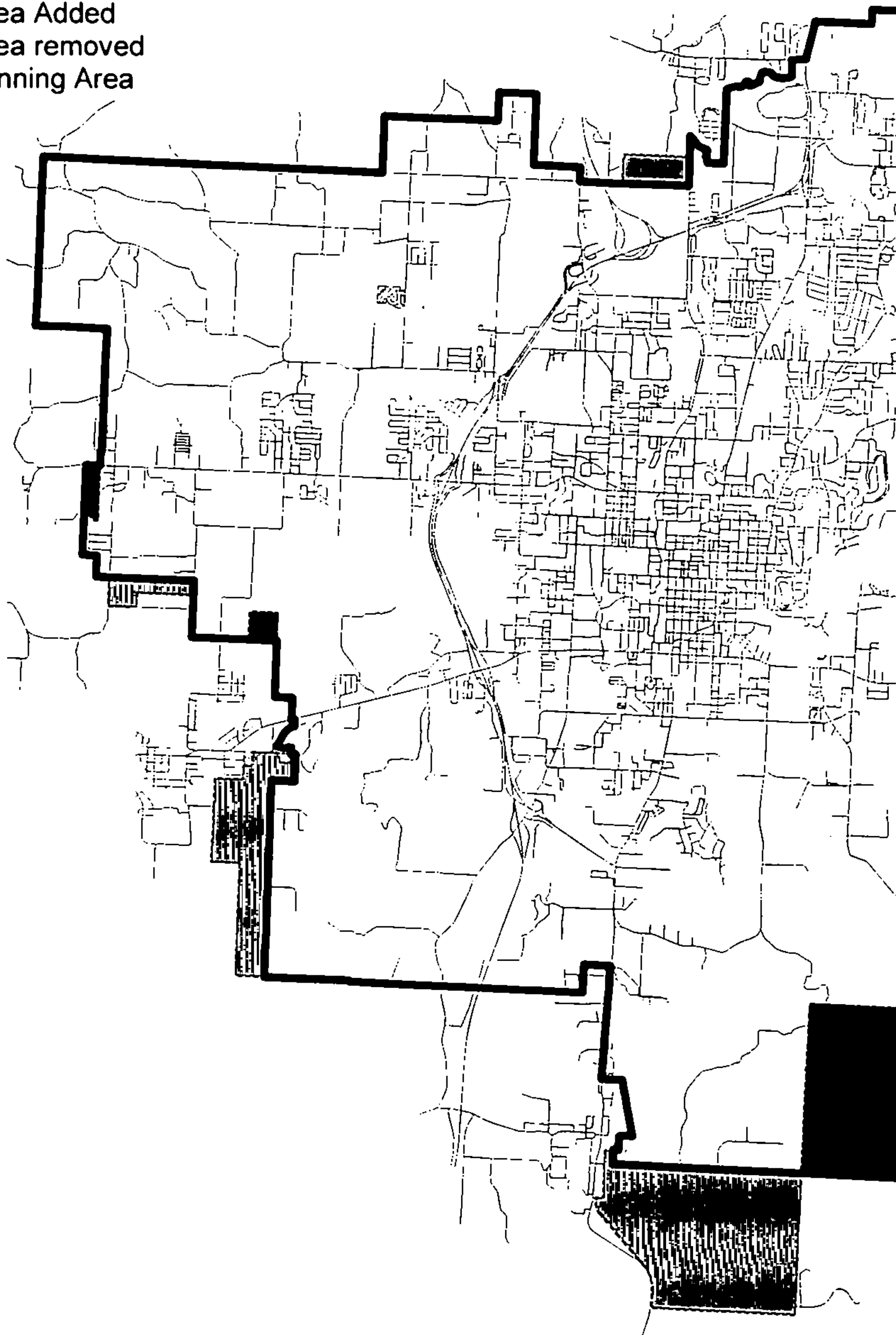
In June of 2000, the Planning Division updated the Planning Area Boundary to reflect revisions due to changes in the City Limits for Fayetteville, Farmington, and Springdale. The 2000 update didn't include resolving the conflicts with Farmington and Greenland. The Northwest Arkansas Regional Planning Commission has been meeting with officials from each City to resolve these conflicts over the past six months.

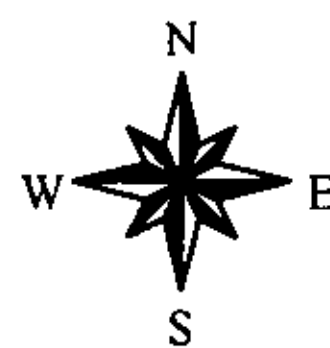
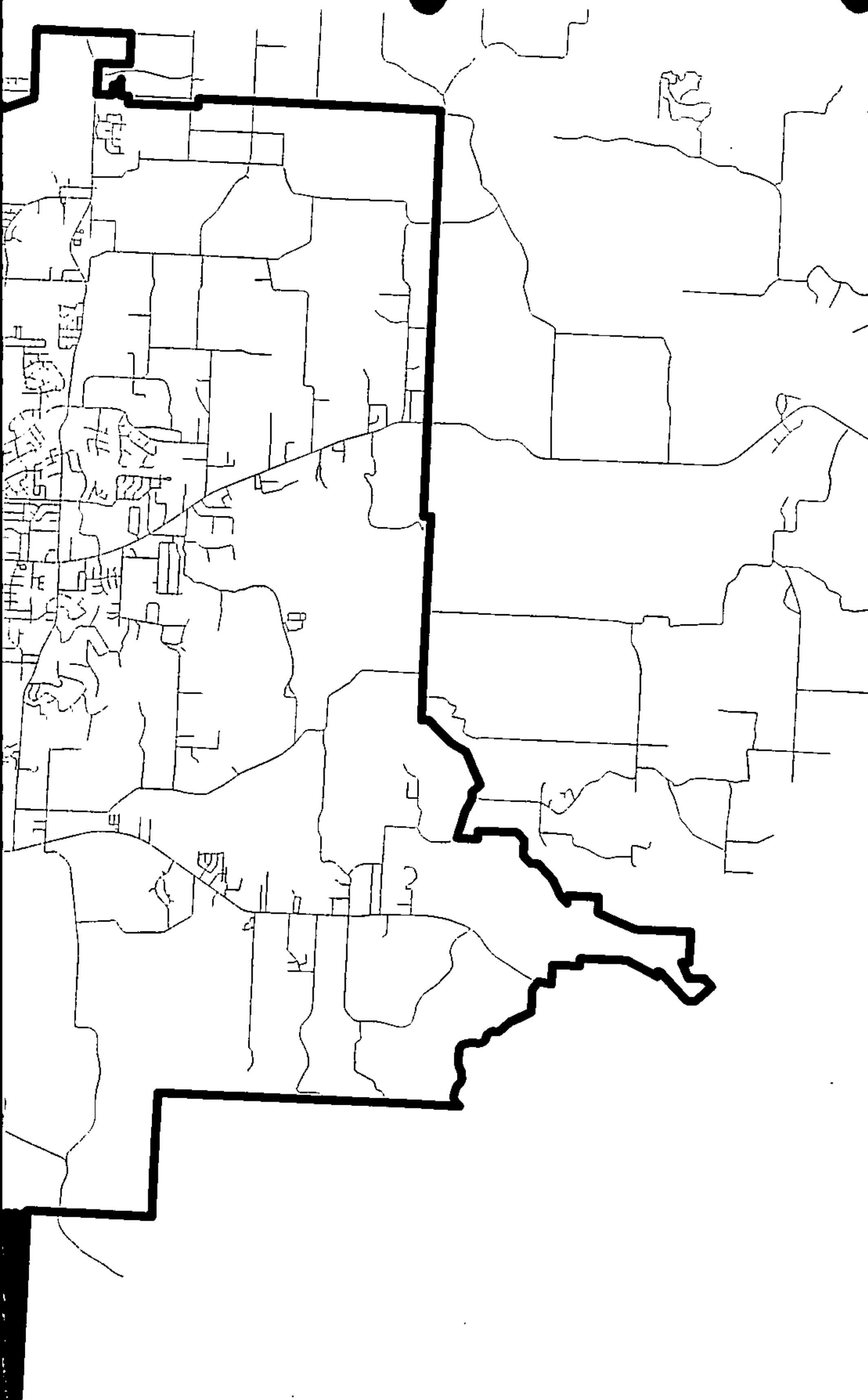
The proposed Planning Area Boundary will result in a slightly smaller area and will incorporate Lake Wilson and surrounding areas and a small area west of Double Springs Road, south of Wedington Drive. The Fayetteville Planning Area will be reduced in four areas to resolve conflicts in Greenland's and Farmington's Planning Area and the City of Johnson.

The current Planning Area Boundary is 57.86 miles long and has an area of 55,142 acres or 86.16 square miles (45.08 sq. miles inside Fayetteville City Limits, 41.08 sq. miles planning area outside City Limits).

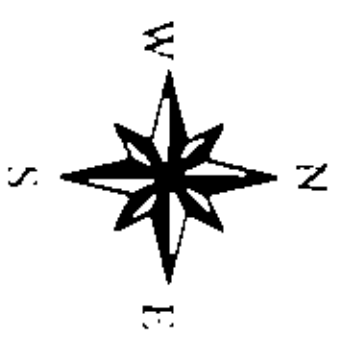
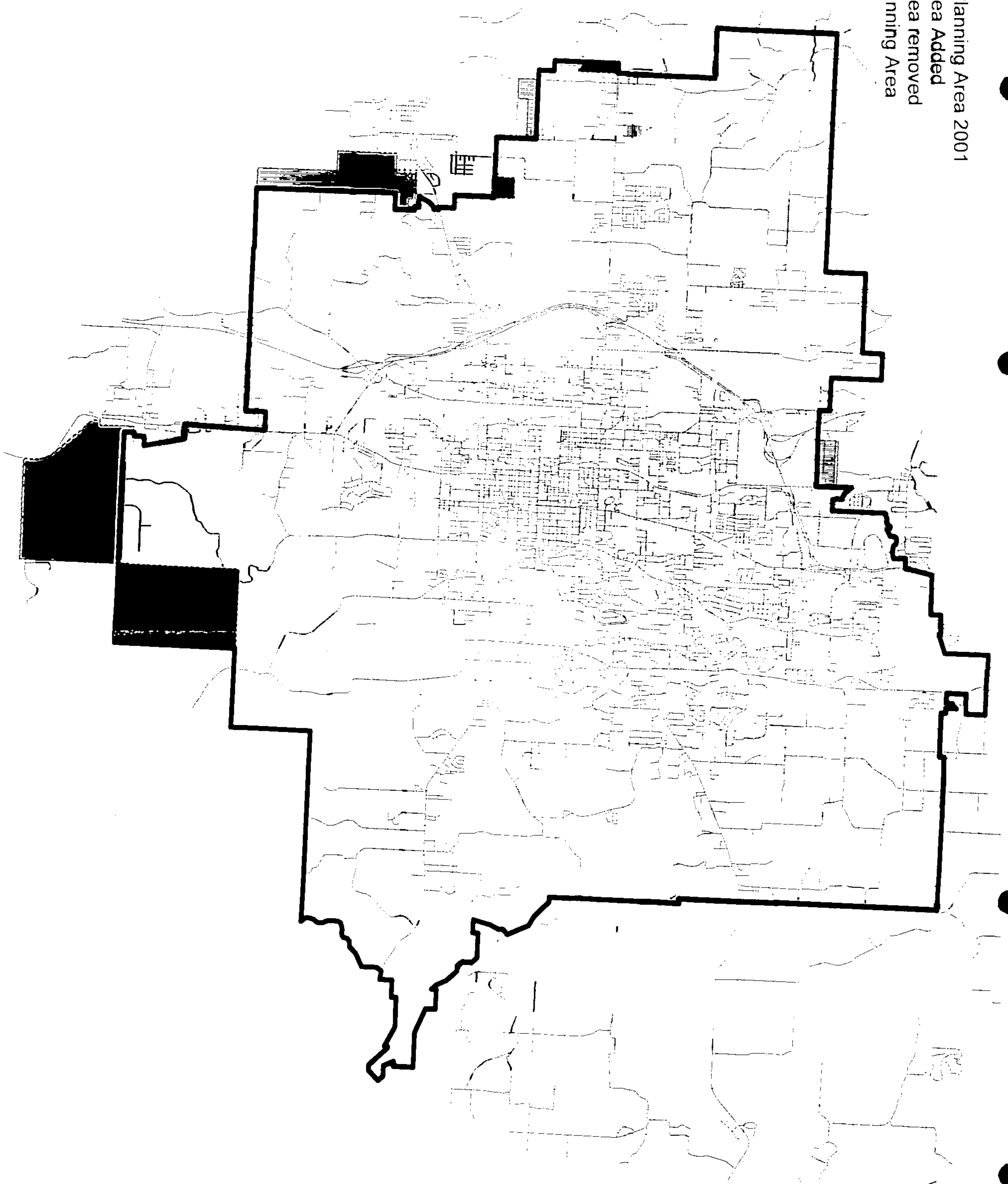
The Proposed Planning Area Boundary is 53.5 miles long and has an area of 54,342 acres or 84.9 square miles (45.08 sq. miles inside Fayetteville City Limits, 39.82 sq. miles planning area outside City Limits). A new legal description is being drafted by the Information Technology Division to incorporate these changes.

- Proposed Planning Area 2001
- Planning Area Added
- Planning Area removed
- Existing Planning Area
- Streets





- Proposed Planning Area 2001
- Planning Area Added
- Planning Area removed
- Existing Planning Area
- Streets



The City of Fayetteville Planning Area
October 22, 2001

Legal Description:

All of Township 16 North, Range 30 West, part of Township 17 North, Range 29 West, part of Township 17 North, Range 30 West, part of Township 17 North, Range 31 West, part of Township 16 North, Range 29 West, part of Township 16 North, Range 31 West, and part of Township 15 North, Range 30 West, and being more particularly described as follows: Beginning at the NW Corner of Section 29, T-17-N, R-30-W, thence along the following bearings and distances:

BEARING	DIST IN FT	DESCRIPTION
S87-30-07E	2653.76	From the NW Corner, 29-17-30
S87-46-28E	1326.58	
S87-46-28E	1326.58	To the NE Corner, 29-17-30
N02-11-14E	1310.05	
S87-47-49E	1350.38	
S87-06-53E	409.64	
S02-11-29W	1324.11	
S02-11-07W	1969.61	
S86-55-00E	2178.69	
S01-56-58W	336.92	
S01-56-58W	330.10	
S86-45-31E	1377.97	
S88-21-03E	598.80	
S88-21-03E	678.17	
S88-21-03E	1303.77	
S86-50-31E	1081.54	
N01-33-42E	1342.89	
N01-37-19E	999.65	
S35-24-51E	114.02	
S45-35-57E	122.01	
S38-29-39E	168.06	
S31-23-27E	51.61	
S40-59-09E	195.04	
S65-47-31E	311.02	
S79-41-14E	50.59	
S26-03-51E	99.20	
S18-49-43W	124.25	
S14-29-41W	107.97	
S08-45-08W	22.92	
S14-56-30E	27.05	
S35-57-41E	43.05	
S26-02-54E	33.91	
S08-16-54E	176.19	
S04-23-57W	21.47	
S86-47-38E	742.20	
N02-12-09E	220.53	
N02-29-06E	1319.99	To the SW Corner, 23-17-30
N02-29-06E	1310.63	
N02-29-06E	630.74	
N75-44-27E	62.42	
N72-26-47E	124.80	

N72-56-14E	125.37
N81-17-40E	107.39
S87-30-44E	59.12
S77-14-14E	65.83
S88-50-23E	126.72
N69-27-27E	21.94
N55-43-54E	45.58
N45-10-01E	76.38
N43-04-59E	81.46
N28-58-08E	29.87
N35-02-36E	79.46
N71-16-15E	32.90
S88-52-59E	57.04
S76-26-19E	33.20
S34-16-03E	31.62
S09-28-05E	20.29
S25-59-25W	24.13
S31-46-36W	27.47
S02-51-55W	22.27
S08-08-12E	23.59
S30-05-09E	24.42
S53-24-44E	24.25
S84-53-09E	37.43
N80-27-08E	40.23
N79-49-55E	44.09
N78-25-56E	47.14
N58-51-31E	55.91
N57-10-41E	155.93
N66-33-18E	32.14
N86-18-42E	17.29
S88-34-09E	22.26
N81-09-53E	25.34
N73-30-21E	15.67
N66-30-57E	13.95
N40-15-20E	18.94
N10-09-36E	32.48
N06-48-30E	103.26
N11-25-26E	59.00
N14-32-46E	117.42
N11-09-03E	37.41
N17-06-47E	37.82
N49-25-08E	46.16
N64-19-37E	48.77
N77-50-13E	58.06
S86-29-40E	145.50
S81-09-24E	94.04
S71-25-37E	66.86
S49-00-19E	199.20
S44-40-07E	64.11
S80-32-39E	77.85
S69-16-47E	86.44
S84-09-37E	185.81
N85-34-25E	69.64
N85-19-45E	139.42
N80-25-56E	147.12
N68-34-19E	105.38
N00-41-01W	759.95

N88-06-22E	390.34	
N88-28-05E	275.63	
S07-53-18W	76.76	
S09-00-16W	62.29	
S10-00-16W	62.29	
S11-00-16W	62.29	
S12-00-16W	62.29	
S13-00-16W	62.29	
S14-00-16W	62.29	
N14-30-16E	1152.80	
N14-00-16E	24.57	
N13-00-16E	24.57	
N12-00-16E	24.57	
N11-00-16E	24.57	
N10-00-16E	24.57	
N09-00-16E	24.57	
N08-00-16E	24.57	
N06-34-24E	45.75	
S87-21-44E	1326.75	To the NE Corner, 23-17-30
S87-21-44E	1315.74	
N02-24-38E	660.00	
S87-21-44E	154.26	
S87-57-37E	1162.23	
S02-28-26W	129.21	
N72-00-19E	1406.39	
N02-23-55E	276.19	
N01-52-02E	1352.43	
N02-23-46E	1306.96	
S87-06-01E	1303.74	
S02-29-12W	17.19	
S87-51-20E	1357.37	
S87-51-20E	1320.00	To the NE Corner, SE/4-NW/4, 18-17-29
S02-51-19W	1327.04	
N87-31-54W	1320.00	
S02-47-57W	1321.35	
S87-31-54E	660.00	
N02-47-26E	425.03	
N75-54-09E	194.96	
N44-38-26E	142.97	
N26-58-34E	117.30	
S02-47-27W	693.31	
S87-31-54E	335.97	
S02-44-57W	330.00	
S87-31-54E	1320.74	
S87-33-02E	1315.15	
S87-35-42E	330.05	
N02-25-05E	330.00	
S87-35-42E	999.02	
S87-35-42E	1329.02	
S87-02-23E	1312.46	
S87-12-13E	1323.74	
S87-21-28E	1338.10	
S87-21-28E	1318.61	
S86-16-00E	1307.13	
S87-00-19E	1286.72	
S02-29-34W	1300.09	To the NE Corner, 21-17-29
S02-30-55W	1317.54	

S02-30-55W	1301.16
S02-30-55W	1306.17
S02-30-55W	1306.17 To the SE Corner, 21-17-29
S02-16-48W	1322.60
S02-16-48W	1317.75
S02-24-54W	1308.26
S02-24-57W	1334.54 To the NE Corner, 33-17-29
S02-03-02W	1330.95
S02-03-02W	1329.49
S02-25-00W	1282.33
S02-25-00W	1319.99 To the SE Corner, 33-17-29
S87-30-05E	333.21 To the NE Corner, 5-16-29
S03-43-14W	1322.76
S02-44-53W	1364.92
S02-44-53W	1357.83 To the SE Corner, 5-16-29
S02-40-04W	1325.73
S02-40-03W	1299.67
S01-45-49W	1326.40
S02-51-00W	660.00
S87-08-19E	331.71
S43-23-22E	917.26
S43-11-17E	463.12
S59-40-01E	739.00
S22-59-13E	747.54
S22-59-11E	781.01
S47-30-37W	461.25
S02-27-46W	329.72
S28-53-57W	591.62
S16-52-22W	1176.06
S86-13-21E	877.64
N03-42-23E	375.37
S87-37-15E	1306.22
S87-07-22E	330.99
S42-23-32E	465.11
S02-58-31W	654.67
S42-23-29E	464.98
S87-08-20E	330.68 To the SE Corner, 16-16-29
S41-39-26E	944.71
S24-04-01E	733.96
S42-07-06E	468.35
N02-38-44E	332.16
S87-17-19E	1319.24
S02-39-35W	663.35
S65-27-02E	1776.73
S87-22-23E	989.18
S87-28-18E	1318.87
S02-27-23W	1321.98
N87-30-25W	331.04
S23-44-51E	736.94
S87-31-28E	657.77
S42-14-52E	464.94
S47-28-00W	933.28
N87-30-57W	329.22
N42-25-05W	1709.09
N87-30-25W	110.00
S02-39-41W	220.00
N60-48-31W	1473.58

N87-27-27W	1318.60	
N87-27-27W	659.30	
S02-39-06W	331.92	
N87-28-43W	1176.74	
S02-37-53W	832.08	
N78-01-46W	531.46	
N77-32-44W	31.24	
S36-58-29W	192.39	
S42-35-51W	214.16	
S02-51-25W	1010.48	
S65-41-05W	1000.97	
S47-51-25W	614.00	
N86-31-40W	331.19	
S48-14-05W	263.41	
S15-44-18W	227.79	
S50-32-46W	158.05	
S77-28-45W	198.55	
N75-28-29W	200.23	
S82-18-32W	268.03	
S72-07-57W	233.82	
S30-16-23W	199.36	
S05-42-52W	504.69	
S10-00-52E	247.69	
S22-45-52E	241.18	
S05-04-59E	324.11	
S25-06-18W	186.58	
S46-59-38W	181.10	
S23-38-36W	231.16	
S12-06-09W	252.67	
S17-36-12E	189.77	
S41-40-56E	312.83	
N86-31-35W	1139.23	
N86-31-35W	1322.15	To the SW Corner, 28-16-29
N87-17-59W	1314.40	
N87-17-59W	1314.40	
N87-17-59W	1314.40	
N87-17-59W	1314.40	To the SW Corner, 29-16-29
N87-17-59W	1320.00	
N87-17-59W	1320.00	
N87-17-59W	1320.00	
N87-18-49W	1072.66	To the SW Corner, 30-16-29
S02-53-56W	2639.76	
S02-53-56W	1319.83	
S02-09-54W	1312.74	To the SE Corner, 36-16-30
N86-49-50W	1320.01	
N86-49-50W	1320.01	
N86-49-50W	1320.01	
N86-49-53W	1304.75	To the NE Corner, 2-15-30
S02-49-59W	1331.99	
S02-49-59W	1331.99	
S02-49-59W	1331.99	
S02-49-59W	1331.99	
S02-55-10W	1314.50	
S02-55-10W	1314.50	To the SE Corner, NE/4, 11-15-30
N87-11-38W	1320.00	
N87-11-38W	1320.00	
N87-11-38W	1320.00	

N87-11-38W	1320.00	
N87-11-38W	1318.45	
N87-11-38W	1318.45	
N87-11-38W	1318.45	
N87-11-38W	1318.45	To the SW Corner, NW/4, 10-15-30
N87-08-43W	1314.82	
N87-09-11W	403.05	
N87-08-40W	911.76	
N87-08-40W	891.00	
N02-40-41E	659.60	
S87-08-40E	240.00	
N02-40-41E	659.60	
S87-08-40E	121.00	
N02-40-41E	25.00	
S87-08-40E	491.23	
N10-16-08W	1266.79	
N09-38-28W	739.68	
N86-33-20W	7.55	
N09-42-26W	676.00	
N87-10-29W	954.76	
N04-29-56E	169.59	
N85-30-04W	10.00	
N04-29-56E	75.00	
S85-30-04E	10.00	
N02-45-25E	164.48	
N07-21-41E	100.12	
N04-29-56E	780.00	
N04-29-56E	220.00	
N02-35-23E	300.17	
N04-29-56E	100.00	
N10-11-40E	76.58	
N03-50-00E	223.82	
N07-21-41E	100.12	
N04-35-35E	2172.65	
N85-24-09W	10.00	
N04-35-51E	831.01	
N87-03-49W	1230.45	
S03-00-37W	1316.28	To the SE Corner, 32-16-30
N87-11-13W	1273.06	
N87-11-13W	46.88	
N87-11-13W	659.97	
N87-11-13W	659.97	
N87-13-35W	1319.02	
N87-13-35W	1319.02	
N87-13-36W	2630.55	
N87-13-36W	3020.71	To the SW Corner, 31-16-30
N01-53-32E	56.87	To the SE Corner, 36-16-31
N87-50-20W	3957.63	
N02-02-10E	2640.00	
N02-02-10E	1320.00	
N02-25-04E	1322.61	
N01-57-34E	1320.47	
N01-57-34E	1320.47	
N02-13-16E	1327.40	
S87-07-43E	1086.78	
N02-08-07E	811.42	
N02-08-07E	510.00	

N87-14-59W	214.58	
N02-45-01E	302.00	
N87-48-59W	148.50	
S73-59-01W	198.00	
N68-42-59W	179.00	
N76-39-59W	195.68	
N35-37-18E	95.19	
N33-05-50E	90.11	
N31-52-05E	150.54	
N30-17-30E	66.02	
N27-08-21E	66.02	
N25-33-46E	107.83	
N28-16-44E	50.23	
N33-42-39E	50.23	
N36-25-37E	58.79	
N39-02-20E	60.16	
N44-22-48E	62.85	
N49-54-34E	64.49	
N52-42-35E	139.35	
N59-13-38E	89.67	
N74-32-42E	137.84	
N02-35-07E	337.76	
S76-04-07W	138.20	
N01-58-07E	1062.48	
N87-38-11W	814.91	
N02-01-17E	1314.19	
N02-14-49E	1347.76	
N87-48-17W	1321.64	To the NW Corner, 24-16-31
N87-44-17W	1322.68	
N87-44-17W	1322.68	
N02-35-16E	1327.39	
N02-35-16E	1327.39	
N87-53-12W	1322.62	
N87-53-12W	1322.62	To the SE Corner, NE/4, 15-16-31
N87-49-37W	1327.01	
N87-50-21W	619.11	
N02-30-45E	1023.83	
N87-50-00W	700.00	
N02-38-08E	1616.30	
N02-04-40E	1319.96	
N02-51-17E	1322.43	
S88-13-33E	660.55	
N02-25-02E	665.07	
S87-47-10E	39.11	
N02-29-48E	1970.96	
N02-20-44E	1333.35	
N02-21-26E	1315.29	
N03-47-46E	1174.66	
N87-20-56W	708.43	
N87-20-56W	1339.56	
N88-27-20W	1327.52	To the SW Corner, 35-17-31
N03-37-57E	1353.55	
N02-25-57E	1340.91	
N02-25-57E	2633.65	
N02-50-36E	2599.89	To the NW Corner, SW/4, 26-17-31
S87-20-33E	1291.43	
S87-20-33E	1351.57	

S87-20-33E	1321.50
S87-20-33E	1321.50
S87-20-33E	1315.85
S87-20-33E	1333.47
S87-12-37E	1304.52
S87-28-29E	1342.16
S87-24-09E	1304.96
S87-24-23E	1318.21
S87-30-07E	1313.89
S86-54-46E	1319.38
N02-08-04E	1325.74
N02-07-22E	1306.93 To the Point of Beginnnning

Containing 54,342.69 acres, more or less, or 84.91 sq. miles.
Area inside City Limits = 28,926.17 acres or 45.20 sq. miles.

ADM 01-42.00: Administrative Item (City of Fayetteville Planning Area) was submitted by the Planning Division on behalf of the City of Fayetteville. The request is to amend the Planning Area Boundary.

Estes: The next item on our agenda is item number 7, this is an administrative item, it was submitted by the Planning Division on behalf of the City of Fayetteville. The request is to amend the Planning Area Boundary. Dawn, do you have a presentation that you would like to make on behalf of the Planning Division?

Warrick: I will start off by telling you that in June, 2000 the Planning Division brought to the Commission an update to the city's Planning Area Boundaries. What that was mainly meant to do was to incorporate and to accommodate changes to the city limits of Fayetteville, Farmington and Springdale as we had all done various annexations prior to that date, they had not been reflected on our Planning Area Boundary. What the revision in June of 2000 did not do was resolve certain conflicts where Fayetteville as well as other jurisdictions had both claimed certain areas within their planning area boundaries. After that was adopted, the Northwest Arkansas Regional Planning Commission stepped up and volunteered to work out those areas of overlap between the various jurisdictions with regard to their planning area boundaries. This evening the Director of the Planning Commission, Jeff Hawkins and one of their planners, John McClarty, are both here to talk to you about what they did to resolve those conflicts and what we are presenting to you this evening is an amended planning area boundary, our GIS division has created a written legal description that matches it. There are five or six changes, some where we are taking in additional land and some where we are giving up some properties that were originally within the City of Fayetteville's planning area. Basically the differences are highlighted in your staff report on page 7.1. The current planning area boundary is 57.86 miles long and contains an area of 55,142 acres which is 86 square miles approximately. Of that 86, 45 is within the city limits of Fayetteville and 41 is within the planning area outside the city limits. That is what we have right now. The proposal this evening is to modify that planning boundary and the effect would be a 53.5 mile long planning area boundary which contains 54,342 acres, 84.9 square miles. Of that again, 45.8 within the city limits and a reduction to a total of 39.82 square miles within the planning area outside the city limits. I will ask either Jeff or John to present the documentation on that.

Hawkins: I'm Jeff Hawkins, I'm the Director of Northwest Arkansas Regional Planning. John has worked on this since before I came to work here. I would like to ask John if he could go over with you the deliberation that he has had with Farmington and Greenland and with your staff.

McClarty: I will kind of explain the process we went through and then if you have any questions you can ask me and our Director here is probably more familiar with some of the legal implications of the planning jurisdictions and territorial jurisdictions. If we get into that level of discussion I might defer to him a little bit. Basically we did have planning area overlaps between Fayetteville, Farmington and Greenland. At the request of really all three cities it was a problem for developers and property owners who had a piece of land that was claimed by both cities as their planning area and they wouldn't know who to go to for a subdivision or a lot split or sometimes they would go to both or neither, it has been confusing for evidently several years. What we did was get the planning areas, we established the areas of overlap and then I went to Tim Conklin and then Jackie Yarbrough of Farmington and Lonnie Meadows of Greenland and we just kind of hammered out what made sense. This map you are seeing here is kind of a reduced version. We took every area of overlap and blew it up on a bigger map. One of the things that we tried to do was we divided the areas of overlap up into either section lines or half sections or in some places it got so minute we were down to quarter, quarter sections. We just had all the parties look and some of it was pretty self evident if a quarter section was contiguous to one city and not the other then we would assign that to the city it was contiguous to and vice versa. Most of it divvied up pretty easily. What you see here, hopefully, I gave three maps to Tim, so I'm hoping that those that were interested really looked at the map closely. From your vantage point there it is hard to see what we've accomplished. I can just show you, these areas right here, a classic example is this right here in Farmington and Greenland both claimed that area. We just tried to take a section line a quarter section and divided it right down the middle. There was a lot of cleaning up. Farmington had some planning areas in their description, some areas that they wanted annexed. This map is just kind of the simple version, the red line is what Fayetteville had and the green is what we are proposing to you. The reason we want to show there is no conflict, this just basically shows Fayetteville losing ground on the planning area but the Greenland map looks the same and the Farmington map looks the same because they are all giving up half of the overlap area. Some of the major differences though is that Greenland had planning area way over here around Lake Wilson so that wasn't a 50/50 split, they just basically gave all that up and then Fayetteville is taking in a big chunk here around Lake Wilson because you have a park over there and it was never in your planning area. We just kind of looked at it as what made sense and one of the rules of thumb is to try to stick with sections and quarter sections so when somebody goes down to figure out what planning area they are in that their legal description will tell them whose planning jurisdiction they are in. The rule of thumb of what might be a city's annexation within the next 20 to 25 years. There has kind of been a tendency of the cities, Greenland, their Planning Commission met and approved this. We talked to them today and they are pulling in some more. It is just kind of the idea that at one time the cities had a tendency to go out as far as you can and take

as much planning area in as you can and we are seeing the reverse of that now because you have rural people that might live five miles away from Greenland or West Fork or Goshen or something and they are wondering why they have to travel in five miles to ask to get a lot split or something. That is kind of what we've come up with, Greenland has agreed to this new planning area and the Farmington Planning Commission will be meeting November 19th to look at these same boundaries. An additional legal aspect of this is that if you approve this today it really needs subject to, there needs to be an agreement between all the cities that you are all agreeing to the territorial jurisdiction here. The law requires basically if two cities are merging into each other that you just go equal distance and then within that equal distance territorial jurisdiction then you can designate your planning area. One of the problems with that is that equal distance line would be this kind of curving, crazy kind of line based on both cities boundaries as they meet each other. It is really better for all parties to have it be along section lines or quarter section lines so the equal distance rule is hard apply real specifically but to not have the equal distance rule apply you need an intergovernmental agreement as to what will be that territorial jurisdiction. Your approval of this plan will need to be contingent upon the cities, which would be the City Councils entering into another intergovernmental, intercity agreement that they are playing with those territorial jurisdictions, that they are not just true equal distances. If you will notice, the Fayetteville planning area comes down and at one places touches the city limits of Greenland. Greenland has to agree to that, which they have, but we need that as a formal agreement. It is kind of a complex issue but we tried to make a simple map and present it to you. I hope you looked at this prior to tonight because it took quite a while to get all the parties to agree and there was quite a bit of work that has gone into making this map. Any questions? That is the end of my presentation.

PUBLIC COMMENT:

Estes: Thank you John. Is there any member of the audience who would like to comment on the proposed adoption of the revised planning area boundary? Seeing none, I will bring it back to the commission for comments, questions of Jeff or John or motions?

MOTION:

Ward: It sounds like the city has done a lot of work on this and it was kind of unfair for citizens that had property in let's say Farmington and Fayetteville had to come through both cities and maybe even the county to get approval on one project so I would like to move for approval of ADM 01-42.00 and that we adopt the new boundaries between all the cities involved and that would also would make it subject to final agreement between all cities involved.

Planning Commission

October 22, 2001

Page 47

Allen: I'll second.

Estes: We have a motion by Commissioner Ward and a second by Commissioner Allen to adopt the revised planning area boundaries. Is there any discussion? Seeing none, Renee, would you call the roll please?

ROLL CALL: Upon the completion of roll call the motion to approve ADM 01-42 was approved by a vote of 8-0-0.

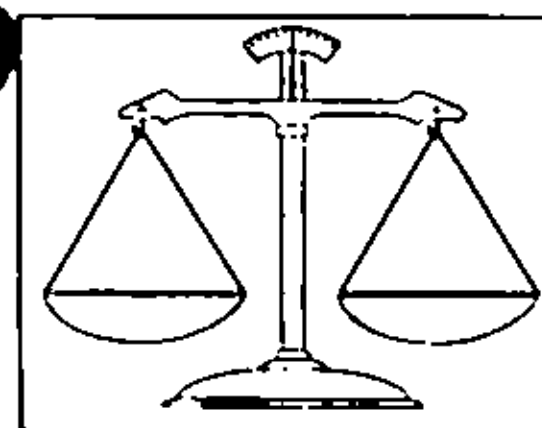
Estes: The motion passes by a vote of eight to zero. Thank you John, thanks Jeff, we appreciate all of your hard work.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor

THRU: Heather Woodruff, City Clerk

FROM: Kit Williams, City Attorney

DATE: November 20, 2002

RE: Passed Ordinances and Resolutions from City Council
meeting of November 19, 2002

The following Ordinances and Resolutions were passed at the last City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **Elevator:** Resolution awarding Bid 02-66 in amount of \$26,246 to ThyssenKrupp Elevator for repair of elevator in Fayetteville Police Building;
2. **Offer and Acceptance:** Resolution approving offer and acceptance contract for acquisition of all property located at 2050 W. 6th Street, for relocation of Sang Avenue intersection and approval of budget adjustment;
3. **Crossland Construction:** Resolution approving Change Order #5 to contract in amount of \$402,895.84 to purchase and install exterior cladding for new Fayetteville Public Library;

4. **Martin Luther King, Jr. Blvd.:** Resolution designating 6th Street as honorary Martin Luther King, Jr. Boulevard;
5. **Crystal Springs:** Resolution amending Resolution 153-02 to exempt 600' buffer strip north of Clabber Creek;
6. **Planned Zoning District:** Ordinance establishing zoning district that permit the combination of development and zoning review into simultaneous process and to eliminate \$166.06 Planned Unit Development;
7. **Replacement Fund:** Ordinance repealing Ordinance No. 1085 and establishing replacement and disaster recovery fund;
8. **RZN 02-35.00:** Ordinance approving rezoning request as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street; property is zoned R-1, Low Density Residential and contains approximately 0.35 acres; request is to rezone to RS, Residential Small Lot;
9. **LED Traffic Signal Bid Waiver:** Ordinance waiving requirements of formal competitive bidding for purchase of LED traffic signal lenses from Temple, Inc. and declaring an emergency;
10. **LED Traffic Signal Lenses:** Resolution approving purchase of LED traffic signal lenses from Temple, Inc. in amount of \$58,003.87 and approving budget adjustment in amount of \$58,004.00;
11. **Youth Advocacy Committee:** Ordinance reorganizing Youth Advocacy Board;

12. **Township Builders:** Resolution approving an amended Change Order No. 4 to construction contract for DSEP in amount of \$195,300, additional funds for in-house construction management in amount of \$74,700 and budget adjustment in amount of \$270,000;
13. **City Clerk:** Ordinance repealing and replacing Section 31.30 (E) of Code of Fayetteville regarding salary for City Clerk;
14. **City Attorney:** Ordinance repealing and replacing Section 31.45 (G) (1) regarding salary for City Attorney.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA CITY COUNCIL NOVEMBER 19, 2002

A meeting of the Fayetteville City Council will be held on November 19, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. APPROVAL OF THE MINUTES

2. **ELEVATOR:** Resolution awarding Bid 02-66 in the amount of \$26,246 to ThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.

3. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.

B. OLD BUSINESS

1. **MARTIN LUTHER KING, JR. STREET:** A resolution to ~~change the name of~~ 6th Street to Martin Luther King, Jr. ~~Street~~. The resolution was tabled at the November 5, 2002 meeting. *Amray Designation of*

2. **CRYSTAL SPRINGS:** A resolution amending Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road ~~and to authorize the sale of such property~~. The resolution was tabled at the November 5, 2002 meeting. *Section 2. New*

3. **PLANNED ZONING DISTRICT:** An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.

4. **REPLACEMENT FUND:** An ordinance repealing Ordinance No. 1085 and establishing a replacement and disaster recovery fund. The ordinance was left on the 1st reading at the November 5, 2002 meetings.

NEW policy & procedure.

[Signature]

C. NEW BUSINESS

1. **VA 02-12.00 and 02-13.00:** An ordinance approving vacation request VA 02-12.00 and 02-13.00 as submitted by Greg House for property located at southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement.
2. **RZN 02-34.00:** An ordinance approving rezoning request RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.8 acres. The request is to rezone to R-1, Low Density Residential.
3. **RZN 02-35.00:** An ordinance approving rezoning request RZN 02-35.00 as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone the property to RS, Residential Small Lot.
4. **RZN 02-37.00:** An ordinance approving rezoning request RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.
5. **RZN 02-38.00:** An ordinance approving RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.
6. *Bid Waiver first*
LED TRAFFIC SIGNAL LENSES: An ordinance approving a bid waiver and budget adjustment for the purchase of LED traffic signal lenses per prices on Bid No. 02-40, Resolution 109-02 for the period of October 15, 2002 through December 31, 2003 to finish the new traffic signals added to the LED project and purchase LED lenses for future traffic signals installations.

7. **IMPACT FEES:** An ordinance enacting impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within the service areas located within Washington County and other incorporated cities.

*Setup Special Mtg
6:30 Monday - Nov 26.*

8. **OLD MISSOURI ROAD:** An ordinance authorizing the city attorney to seek possession of certain lands located along Old Missouri Road in the City of Fayetteville by the power of eminent domain, in associations with the required right-of-way and easements for the Old Missouri Road improvements. Such property is owned by JTK Trust.

9. **YOUTH ADVOCACY COMMITTEE:** An ordinance reorganizing the Youth Advocacy Board.

*Library
Consent*

10. **CROSSLAND CONSTRUCTION:** A resolution approving a contract adjustment in the amount of \$402,895.84 with Crossland Construction Company for a portion of the exterior cladding material cost including brick, architectural precast concrete and stone. The original contract with Crossland Construction was \$17,633,931.00; the new contract is \$18,040,752.36.

11. **TOWNSHIP BUILDERS:** A resolution approving Change Order no. 4 to the construction contract with Township Builders for Dickson Street Enhancement Project, in the amount of \$195,300, additional funds for the in-house construction management in the amount of \$74,700; and the related budget adjustment in the amount of \$270,000.

*Will change
order for annual order*

12. **CITY CLERK:** An ordinance repealing and replacing Section 31.30 (E) of the Code of Fayetteville regarding the salary for the City Clerk.

13. **CITY ATTORNEY:** An ordinance repealing and replacing Section 31.45 (G) (1) regarding the salary for the City Attorney.

14. **ELECTION PROCEDURE:** An ordinance repealing Section 32.01, Election Procedure, of the Code of Fayetteville and enacting a new Section 32.01 to provide for the election at large of all Position 1 Aldermen and the election by Closed Ward for all Position 2 Aldermen

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Hilare Williams, do solemnly swear that I am
Legal Clerk of the Arkansas Democrat-Gazette newspaper, printed and
published in Lowell, Arkansas, and that from my own personal knowledge
and reference to the files of said publication, the advertisement of:

Final Agenda was inserted in the regular editions on
Nov. 18, 2002.

** Publication Charge: \$ 194.46

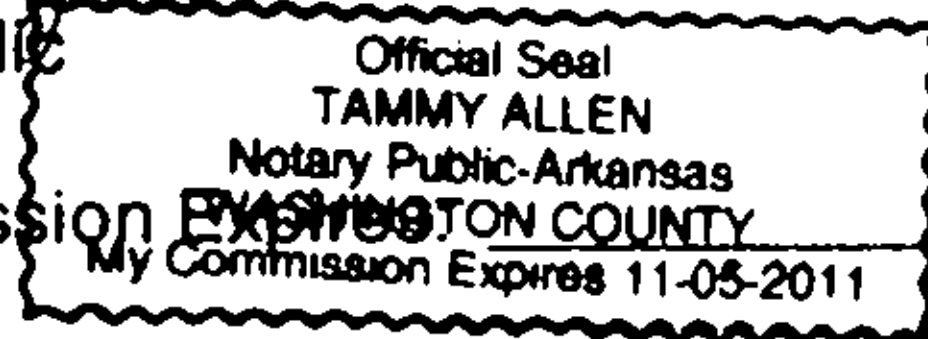
Subscribed and sworn to before me this

18 day of November, 2002.

Tammy Allen

Notary Public

My Commission Expires



** Please do not pay from Affidavit.
An invoice will be sent.

FINAL AGENDA
CITY COUNCIL
NOVEMBER 19, 2002



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A. CONSENT

1. APPROVAL OF THE MINUTES

2. ELEVATOR: Resolution awarding Bid 02-66 in the amount of \$26,246 to ThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.

3. OFFER AND ACCEPTANCE: A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue Intersection with 6th Street; and approval of a budget adjustment.

4. CROSSLAND CONSTRUCTION: A resolution approving Change Order #5 to the contract entered into May 21, 2002 with Crossland Construction Company, Inc. in the amount of \$402,895.84, to purchase and install exterior cladding for the New Fayetteville Public Library.

B. OLD BUSINESS

1. MARTIN LUTHER KING, JR. STREET: A resolution to designate 6th Street as Martin Luther King, Jr. Boulevard. The resolution was tabled at the November 5, 2002 meeting.

2. CRYSTAL SPRINGS: A resolution to amend Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road. The resolution was tabled at the November 5, 2002 meeting.

3. PLANNED ZONING DISTRICT: An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.

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C. NEW BUSINESS

1. VA 02-12.00 and 02-13.00: An ordinance approving vacation request VA 02-12.00 and 02-13.00 as submitted by Greg House for property located at southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement.

2. RZN 02-34.00: An ordinance approving rezoning request RZN 02-34.00 as submitted by Mel Miholland of Miholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wadlington Drive. The property is zoned A-1, Agricultural and contains approximately 2.8 acres. The request is to rezone to R-1, Low Density Residential.

3. RZN 02-35.00: An ordinance approving rezoning request RZN 02-35.00 as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone the property to RS, Residential Small Lot.

4. RZN 02-37.00: An ordinance approving rezoning request RZN 02-37.00 as submitted by Miholland Company on behalf of Ozark Adventure for property located east of Futral Drive, west of Baldwin Park, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

5. RZN 02-38.00: An ordinance approving RZN 02-38.00 as submitted by Alan Field on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

6. LED TRAFFIC SIGNAL BID WAIVER: An ordinance waiving the requirements of formal competitive bidding for the purchase of LED traffic signal lenses from Temple, Inc. and declaring an emergency.

7. LED TRAFFIC SIGNAL LENSES: A resolution approving the purchase of LED traffic signal lenses from Temple, Inc. in the amount of \$58,003.87 and approving a budget adjustment in the amount of \$58,004.00 for same.

8. IMPACT FEES: An ordinance enacting impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within the service areas located within Washington County and other incorporated cities.

9. OLD MISSOURI ROAD: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by JTK Trust, James T. Keenan and James F. Keenan, trustees, to secure the necessary easements and rights-of-way for Old Missouri Road Improvements.

10. YOUTH ADVOCACY COMMITTEE: An ordinance reorganizing the Youth Advocacy Board.

11. TOWNSHIP BUILDERS: A resolution approving Change Order no. 4 to the construction contract with Township Builders for Dickson Street Enhancement Project, in the amount of \$195,300, additional funds for the in-house construction management in the amount of \$74,700; and the related budget adjustment in the amount of \$270,000.

12. CITY CLERK: An ordinance repealing and replacing Section 31.30 (E) of the Code of Fayetteville regarding the salary for the City Clerk.

13. CITY ATTORNEY: An ordinance repealing and replacing Section 31.45 (G) (1) regarding the salary for the City Attorney.

14. ELECTION PROCEDURE: An ordinance repealing Section 32.01, Election Procedure, of the Code of Fayetteville and enacting a new Section 32.01 to provide for the election at large of all Position 1 Aldermen and the election by Closed Ward for all Position 2 Aldermen.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

shw

TENTATIVE AGENDA CITY COUNCIL NOVEMBER 19, 2002

A meeting of the Fayetteville City Council will be held on November 19, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES**
2. **ELEVATOR:** Resolution awarding Bid 02-66 in the amount of 26, 246 to ThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.
3. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.

B. OLD BUSINESS

1. **MARTIN LUTHER KING, JR. STREET:** A resolution to change the name of 6th Street to Martin Luther King, Jr. Street. The resolution was tabled at the November 5, 2002 meeting.
2. **CRYSTAL SPRINGS:** A resolution amending Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road and to authorize the sale of such property. The resolution was tabled at the November 5, 2002 meeting.
3. **PLANNED ZONING DISTRICT:** An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.
4. **REPLACEMENT FUND:** An ordinance repealing Ordinance No. 1085 and establishing a replacement and disaster recovery fund. The ordinance was left on the 1st reading at the November 5, 2002 meetings.

C. NEW BUSINESS

1. **VA 02-12.00 and 02-13.00:** An ordinance approving vacation request VA 02-12.00 and 02-13.00 as submitted by Greg House for property located at southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement.
2. **RZN 02-34.00:** An ordinance approving rezoning request RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.8 acres. The request is to rezone to R-1, Low Density Residential.
3. **RZN 02-35.00:** An ordinance approving rezoning request RZN 02-35.00 as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone the property to RS, Residential Small Lot.
4. **RZN 02-37.00:** An ordinance approving rezoning request RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.
5. **RZN 02-38.00:** An ordinance approving RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

- Soccer fields - location → ? r/o for address.*
6. **LED TRAFFIC SIGNAL LENSES:** An ordinance approving a bid waiver and budget adjustment for the purchase of LED traffic signal lenses per prices on Bid No. 02-40, Resolution 109-02 for the period of October 15, 2002 through December 31, 2003 to finish the new traffic signals added to the LED project and purchase LED lenses for future traffic signals installations.

*Need memo
from Ray re: traffic light
switch in #. electricity.*

7. **IMPACT FEES:** An ordinance enacting impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within the service areas located within Washington County and other incorporated cities.
8. **OLD MISSOURI ROAD:** An ordinance authorizing the city attorney to seek possession of certain lands located along Old Missouri Road in the City of Fayetteville by the power of eminent domain, in associations with the required right-of-way and easements for the Old Missouri Road improvements. Such property is owned by JTK Trust.
9. *if* **YOUTH ADVOCACY COMMITTEE:** An ordinance reorganizing the Youth Advocacy Board. *need consent from C. Attorney.*
10. *Library* **CROSSLAND CONSTRUCTION:** A resolution approving a contract adjustment in the amount of \$402,895.84 with Crossland Construction Company for a portion of the exterior cladding material cost including brick, architectural precast concrete and stone. The original contract with Crossland Construction was \$17,633,931.00; the new contract is \$18,040,752.36.
11. **TOWNSHIP BUILDERS:** A resolution approving Change Order no. 4 to the construction contract with Township Builders for Dickson Street Enhancement Project, in the amount of \$195,300, additional funds for the in-house construction management in the amount of \$74,700; and the related budget adjustment in the amount of \$270,000.
12. **CITY CLERK:** An ordinance repealing and replacing Section 31.30 (E) of the Code of Fayetteville regarding the salary for the City Clerk.
13. **CITY ATTORNEY:** An ordinance repealing and replacing Section 31.45 (G) (1) regarding the salary for the City Attorney.
14. **ELECTION PROCEDURE:** An ordinance repealing Section 32.01, Election Procedure, of the Code of Fayetteville and enacting a new Section 32.01 to provide for the election at large of all Position 1 Aldermen and the election by Closed Ward for all Position 2 Aldermen